





---

ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

---

FIFTEENTH CONGRESS.—FIRST SESSION.

---

THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

---

FIFTEENTH CONGRESS—FIRST SESSION.  
COMPRISING THE PERIOD FROM DECEMBER 1, 1817, TO APRIL 20, 1818,  
INCLUSIVE.

---

COMPILED FROM AUTHENTIC MATERIALS.

---

WASHINGTON:

PRINTED AND PUBLISHED BY GALES AND SEATON,

.....  
1854.



## PROCEEDINGS AND DEBATES

OF

### THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY OF  
WASHINGTON, MONDAY, DECEMBER 1, 1817.

MONDAY, December 1, 1817.

The first session of the Fifteenth Congress, conformably to the Constitution of the United States, commenced this day, at the City of Washington; and the Senate assembled in their Chamber.

#### PRESENT:

DAVID L. MORRIL and CLEMENT STORER, from the State of New Hampshire.

JAMES BURRILL, jr., from Rhode Island and Providence Plantations.

ISAAC TICHENOR and JAMES FISK, from Vermont.

DAVID DAGGETT, from Connecticut.

RUFUS KING and NATHAN SANFORD, from New York.

JAMES J. WILSON and MAHLON DICKERSON, from New Jersey.

ABNER LACOCK and JONATHAN ROBERTS, from Pennsylvania.

JAMES BARBOUR and JOHN W. EPPES, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

CHARLES TAIT, from Georgia.

JOHN J. CRITTENDEN, from Kentucky.

JOHN WILLIAMS, from Tennessee.

BENJAMIN RUGGLES, from Ohio.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

CLEMENT STORER, appointed a Senator by the Legislature of the State of New Hampshire, to supply the vacancy occasioned by the resignation of Jeremiah Mason; JAMES FISK, appointed a Senator by the Legislature of the State of Vermont, to supply the vacancy occasioned by the resignation of Dudley Chase; JOHN J. CRITTENDEN, appointed a Senator by the Legislature of the State of Kentucky, for the term of six years, commencing on the fourth day of March last; JOHN WILLIAMS, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, commencing on the fourth day

of March last, respectively, produced their credentials, which were read; and the oath prescribed by law was administered to them, and they took their seats in the Senate.

JOHN W. EPPES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the fourth day of March last, stated that he had received his credentials, but had neglected bringing them with him, expecting that the Executive of Virginia would forward a duplicate thereof to the Senate, and which he still supposed would speedily be done: whereupon, the oath prescribed by law was administered to him, and he took his seat in the Senate.

On motion by Mr. MACON, the Secretary was ordered to acquaint the House of Representatives, that a quorum of the Senate is assembled, and ready to proceed to business.

On motion by Mr. BARBOUR, a committee was appointed to inquire whether any, and if any, what legislative measures may be necessary, for admitting the State of Mississippi into the Union; and Messrs. BARBOUR, KING, and WILLIAMS, of Tennessee, were appointed the committee.

Mr. BARBOUR presented a copy of the constitution and form of government, as adopted for the State of Mississippi; which was read, and referred to the said committee to consider and report thereon.

On motion by Mr. LACOCK,

*Resolved*, That each Senator be supplied, during the present session, with three such newspapers, printed in the United States, as he may choose, provided the same be furnished at the usual rate, for the annual charge of such papers; and provided, also, that if any Senator shall choose to take any newspapers, other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

Messrs. TICHENOR and MACON were appointed a committee, on the part of the Senate, to join such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him



that a quorum of the two Houses is assembled, and ready to receive any communication which he may be pleased to make to them.

A committee was appointed, agreeably to the 42d rule, for conducting business in the Senate, and Messrs. LACOCK, DICKERSON, and DAGGETT, were appointed the committee.

A committee was also appointed, agreeably to the 22d rule, for conducting business in the Senate; and Messrs. CRITTENDEN, DICKERSON, and RUGGLES, were appointed the committee.

Mr. TICHENOR submitted the following motion for consideration, which was read:

*Resolved*, That a committee of three members be appointed, who, with three members of the House of Representatives, to be appointed by that House, shall have the direction of the money appropriated to the purchase of books and maps, for the use of the two Houses of Congress.

The resolution was ordered to the second reading, and on motion by Mr. WILSON, it was read a second time by unanimous consent, and considered as in Committee of the Whole; and no amendment having been proposed, the PRESIDENT reported it to the House.

On the question, "Shall this resolution be engrossed and read a third time?" it was determined in the affirmative. The resolution was then read a third time by unanimous consent, and passed; and Messrs. DICKERSON, KING, and TAIT, were appointed the committee.

On motion by Mr. TICHENOR,

*Resolved*, That Mountjoy Bayly, Doorkeeper and Sergeant-at-Arms to the Senate, be, and he hereby is, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper of the Senate, which expense shall be paid out of the contingent fund.

Mr. TICHENOR submitted the following motion for consideration, which was read:

*Resolved*, That two Chaplains of different denominations be appointed to Congress, during the present session, one by each House, who shall interchange weekly.

*Ordered*, That it pass to the second reading.

On motion by Mr. WILSON, it was read a second time by unanimous consent, and considered as in Committee of the Whole, and no amendment having been proposed, the PRESIDENT reported it to the House.

On the question, "Shall this resolution be engrossed and read a third time?" it was determined in the affirmative.

The resolution was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and have elected HENRY CLAY, one of the Representatives for the State of Kentucky, their Speaker, and THOMAS DOUGHERTY their Clerk, and are ready to proceed to business.

The Senate then adjourned.

TUESDAY, December 2.

HARRISON GRAY OTIS, from the State of Massachusetts, arrived on the 1st instant, and attended this day.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, to join the committee appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

Mr. TICHENOR reported, from the joint committee, that they had waited on the President of the United States, and that the President of the United States informed the committee, that he would make a communication to the two Houses, this day, at twelve o'clock.

#### PRESIDENT'S ANNUAL MESSAGE.

The following Message was then received from the PRESIDENT OF THE UNITED STATES:

*Fellow-citizens of the Senate  
and of the House of Representatives:*

At no period of our political existence had we so much cause to felicitate ourselves at the prosperous and happy condition of our country. The abundant fruits of the earth have filled it with plenty. An extensive and profitable commerce has greatly augmented our revenue. The public credit has attained an extraordinary elevation. Our preparations for defence, in case of future wars, from which, by the experience of all nations, we ought not to expect to be exempted, are advancing, under a well digested system, with all the despatch which so important a work will admit. Our free Government, founded on the interest and affections of the people, has gained, and is daily gaining, strength. Local jealousies are rapidly yielding to more generous, enlarged, and enlightened views of national policy. For advantages so numerous, and highly important, it is our duty to unite in grateful acknowledgments to that Omnipotent Being, from whom they are derived, and in unceasing prayer, that he will endow us with virtue and strength to maintain and hand them down, in their utmost purity, to our latest posterity.

I have the satisfaction to inform you, that an arrangement which had been commenced by my predecessor, with the British Government, for the reduction of the naval force, by Great Britain and the United States, on the Lakes, has been concluded; by which it is provided, that neither party shall keep in service on Lake Champlain more than one vessel; on Lake Ontario, more than one; and on Lake Erie, and the upper Lakes, more than two; to be armed, each, with one cannon only; and that all the other armed vessels, of both parties, of which an exact list is interchanged, shall be dismantled. It is also agreed, that the force retained shall be restricted, in its duty, to the internal purposes of each party; and that the arrangement shall remain in force until six months shall have expired, after notice given by one of the parties to the other of its desire that it should terminate. By this arrangement, useless expense, on both sides, and, what is of still greater importance, the danger of collision, between armed vessels, in those inland waters, which was great, is prevented. I have the satisfaction also to state, that the Commissioners, under the fourth article of the Treaty of Ghent, to whom it was referred to decide, to

which party the several islands in the Bay of Passamaquoddy belonged, under the treaty of one thousand seven hundred and eighty-three, have agreed in a report, by which all the islands in the possession of each party before the late war have been decreed to it. The Commissioners, acting under the other articles of the Treaty of Ghent, for the settlement of boundaries, have also been engaged in the discharge of their respective duties, but have not yet completed them. The difference which arose between the two Governments under that treaty, respecting the right of the United States to take and cure fish on the coast of the British provinces, north of our limits, which had been secured by the treaty of one thousand seven hundred and eighty-three, is still in negotiation. The proposition made by this Government, to extend to the colonies of Great Britain the principles of the convention of London, by which the commerce between the ports of the United States and British ports in Europe, had been placed on a footing of equality, has been declined by the British Government. This subject having been thus amicably discussed between the two Governments, and it appearing that the British Government is unwilling to depart from its present regulations, it remains for Congress to decide, whether they will make any other regulations, in consequence thereof, for the protection and improvement of our navigation.

The negotiation with Spain, for spoliation on our commerce, and the settlement of boundaries, remains, essentially, in the state it held, by the communications that were made to Congress by my predecessor. It has been evidently the policy of the Spanish Government to keep the negotiation suspended, and in this the United States have acquiesced, from an amicable disposition towards Spain, and in the expectation that her Government would, from a sense of justice, finally accede to such an arrangement as would be equal between the parties. A disposition has been lately shown by the Spanish Government to move in the negotiation, which has been met by this Government, and, should the conciliatory and friendly policy which has invariably guided our councils be reciprocated, a just and satisfactory arrangement may be expected. It is proper, however, to remark, that no proposition has yet been made from which such a result can be presumed.

It was anticipated at an early stage, that the contest between Spain and the colonies would become highly interesting to the United States. It was natural that our citizens should sympathize in events which affected their neighbors. It seemed probable, also, that the prosecution of the conflict along our coast, and in contiguous countries, would occasionally interrupt our commerce, and otherwise affect the persons and property of our citizens. These anticipations have been realized. Such injuries have been received from persons acting under the authority of both the parties, and for which redress has, in most instances, been withheld. Through every stage of the conflict, the United States have maintained an impartial neutrality, giving aid to neither of the parties in men, money, ships or munitions of war. They have regarded the contest, not in the light of an ordinary insurrection or rebellion, but as a civil war between parties nearly equal, having, as to neutral Powers, equal rights. Our ports have been open to both, and every article, the fruit of our soil, or of the industry of our citizens, which either was permitted to take, has been equally free to the other. Should the colonies establish their independence, it is

proper now to state, that this Government neither seeks nor would accept from them, any advantage in commerce, or otherwise, which will not be equally open to all other nations. The colonies will, in that event, become independent States, free from any obligation to, or connexion with, us, which it may not then be their interest to form on the basis of a fair reciprocity.

In the Summer of the present year, an expedition was set on foot against East Florida, by persons claiming to act under the authority of some of the colonies, who took possession of Amelia Island, at the mouth of the St. Mary's river, near the boundary of the State of Georgia. As this province lies eastward of the Mississippi, and is bounded by the United States and the ocean on every side, and has been a subject of negotiation with the Government of Spain, as an indemnity for losses by spoliation, or in exchange for territory of equal value, westward of the Mississippi, a fact well known to the world, it excited surprise, that any countenance should be given to this measure by any of the colonies. As it would be difficult to reconcile it with the friendly relations existing between the United States and the colonies, a doubt was entertained, whether it had been authorized by them, or any of them. This doubt has gained strength, by the circumstances which have unfolded themselves in the prosecution of the enterprise, which have marked it as a mere private, unauthorized adventure. Projected and commenced with an incompetent force, reliance seems to have been placed on what might be drawn, in defiance of our laws, from within our limits; and of late, as their resources have failed, it has assumed a more marked character of unfriendliness to us; the island being made a channel for the illicit introduction of slaves from Africa, into the United States, an asylum for fugitive slaves from the neighboring States, and a port for smuggling of every kind.

A similar establishment was made, at an earlier period, by persons of the same description, in the Gulf of Mexico, at a place called Galveston, within the limits of the United States, as we contend, under the cession of Louisiana. The enterprise has been marked, in a more signal manner, by all the objectionable circumstances which characterized the other, and more particularly by the equipment of privateers which have annoyed our commerce, and by smuggling. These establishments, if ever sanctioned by any authority whatever, which is not believed, have abused their trust, and forfeited all claim to consideration. A just regard for the rights and interests of the United States required that they should be suppressed, and orders have been accordingly issued to that effect. The imperious considerations which produced this measure will be explained to the parties whom it may, in any degree, concern.

To obtain correct information on every subject in which the United States are interested; to inspire just sentiments in all persons in authority, on either side, of our friendly disposition, so far as it may comport with an impartial neutrality; and to secure proper respect to our commerce in every port, and from every flag, it has been thought proper to send a ship of war, with three distinguished citizens, along the southern coast, with instruction to touch at such ports as they may find most expedient for these purposes. With the existing authorities, with those in the possession of, and exercising the sovereignty, must the communication be held; from them alone can redress for past



injuries, committed by persons acting under them, be obtained; by them alone can the commission of the like, in future, be prevented.

Our relations with the other Powers of Europe have experienced no essential change since the last session. In our intercourse with each, due attention continues to be paid to the protection of our commerce, and to every other object in which the United States are interested. A strong hope is entertained, that, by adhering to the maxims of a just, a candid, and friendly policy, we may long preserve amicable relations with all the Powers of Europe, on conditions advantageous and honorable to our country.

With the Barbary States, and the Indian tribes, our pacific relations have been preserved.

In calling your attention to the internal concerns of our country, the view which they exhibit is peculiarly gratifying. The payments which have been made into the Treasury show the very productive state of the public revenue. After satisfying the appropriations made by law for the support of the Civil Government, and of the Military and Naval Establishments, embracing suitable provisions for fortifications and for the gradual increase of the Navy, paying the interest of the public debt, and extinguishing more than eighteen millions of the principal, within the present year, it is estimated that a balance of more than six millions of dollars will remain in the Treasury on the first day of January, applicable to the current service of the ensuing year. The payments into the Treasury during the year one thousand eight hundred and eighteen, on account of imposts and tonnage, resulting principally from duties which have accrued in the present year, may be fairly estimated at twenty millions of dollars; the internal revenues, at two millions five hundred thousand; the public lands, at one million five hundred thousand; bank dividends and incidental receipts, at five hundred thousand; making in the whole twenty-four millions five hundred thousand dollars.

The annual permanent expenditure for the support of the Civil Government, and of the Army and Navy, as now established by law, amounts to eleven millions eight hundred thousand dollars; and for the Sinking Fund, to ten millions; making in the whole twenty-one millions eight hundred thousand dollars; leaving an annual excess of revenue beyond the expenditure of two millions seven hundred thousand dollars, exclusive of the balance estimated to be in the Treasury on the first day of January, one thousand eight hundred and eighteen.

In the present state of the Treasury, the whole of the Louisiana debt may be redeemed in the year one thousand eight hundred and nineteen; after which, if the public debt continues as it now is, above par, there will be annually about five millions of the Sinking Fund unexpended, until the year one thousand eight hundred and twenty-five, when the loan of one thousand eight hundred and twelve, and the stock created by funding Treasury notes, will be redeemable.

It is also estimated that the Mississippi stock will be discharged during the year one thousand eight hundred and nineteen, from the proceeds of the public lands assigned to that object, after which the receipts from those lands will annually add to the public revenue the sum of one million and a half, making the permanent annual revenue amount to twenty-six millions of dollars; and leaving an annual excess of revenue, after the year one thousand eight hundred and

nineteen, beyond the permanent authorized expenditure, of more than four millions of dollars.

By the last returns to the Department of War, the militia force of the several States may be estimated at eight hundred thousand men, infantry, artillery, and cavalry. Great part of this force is armed, and measures are taken to arm the whole. An improvement in the organization and discipline of the militia, is one of the great objects which claims the unremitting attention of Congress.

The regular force amounts nearly to the number required by law, and is stationed along the Atlantic and inland frontiers.

Of the naval force it has been necessary to maintain strong squadrons in the Mediterranean and in the Gulf of Mexico.

From several of the Indian tribes, inhabiting the country bordering on Lake Erie, purchases have been made of lands, on conditions very favorable to the United States, and, as it is presumed, not less so to the tribes themselves. By these purchases, the Indian title, with moderate reservations, has been extinguished, to the whole of the land within the limits of the State of Ohio, and to a part of that in the Michigan Territory, and of the State of Indiana. From the Cherokee tribe a tract has been purchased in the State of Georgia, and an arrangement made, by which, in exchange for lands beyond the Mississippi, a great part, if not the whole, of the land belonging to that tribe, eastward of that river, in the States of North Carolina, Georgia, and Tennessee, and in the Alabama Territory, will soon be acquired. By these acquisitions, and others that may reasonably be expected soon to follow, we shall be enabled to extend our settlements from the inhabited parts of the State of Ohio, along Lake Erie into the Michigan Territory, and to connect our settlements, by degrees, through the State of Indiana and the Illinois Territory, to that of Missouri. A similar and equally advantageous effect will soon be produced to the South, through the whole extent of the States and Territory which border on the waters emptying into the Mississippi and the Mobile. In this progress, which the rights of nature demand, and nothing can prevent, marking a growth rapid and gigantic, it is our duty to make new efforts for the preservation, improvement, and civilization of the native inhabitants. The hunter state can exist only in the vast uncultivated desert. It yields to the more dense and compact form and greater force of civilized population, and of right it ought to yield, for the earth was given to mankind to support the greatest number of which it is capable, and no tribe or people have a right to withhold from the wants of others more than is necessary for their own support and comfort. It is gratifying to know that the reservations of land made by the treaties with the tribes on Lake Erie, were made with a view to individual ownership among them, and to the cultivation of the soil by all, and that an annual stipend has been pledged to supply their other wants. It will merit the consideration of Congress, whether other provisions, not stipulated by treaty, ought to be made for these tribes, and for the advancement of the liberal and humane policy of the United States towards all the tribes within our limits, and more particularly for their improvement in the arts of civilized life.

Among the advantages incident to these purchases, and to those which have preceded, the security which may thereby be afforded to our inland frontiers is pe-

cularly important. With a strong barrier, consisting of our own people thus planted on the Lakes, the Mississippi, and the Mobile, with the protection to be derived from the regular force, Indian hostilities, if they do not altogether cease, will henceforth lose their terror. Fortifications in those quarters, to any extent, will not be necessary, and the expense attending them may be saved. A people accustomed to the use of fire-arms only, as the Indian tribes are, will shun even moderate works, which are defended by cannon. Great fortifications will, therefore, be requisite only in future along the coast, and at some points in the interior, connected with it. On these will the safety of our towns and the commerce of our great rivers, from the Bay of Fundy to the Mississippi, depend. On these, therefore, should the utmost attention, skill, and labor be bestowed.

A considerable and rapid augmentation in the value of all the public lands, proceeding from these and other obvious causes, may henceforward be expected. The difficulties attending early emigrations will be dissipated even in the most remote parts. Several new States have been admitted into our Union, to the West and South, and territorial governments, happily organized, established over every other portion, in which there is vacant land for sale. In terminating Indian hostilities, as must soon be done, in a formidable shape at least, the emigration, which has heretofore been great, will probably increase, and the demand for land, and the augmentation in its value, be in like proportion. The great increase of our population throughout the Union will alone produce an important effect, and in no quarter will it be so sensibly felt as in those in contemplation. The public lands are a public stock, which ought to be disposed of to the best advantage for the nation. The nation should, therefore, derive the profit proceeding from the continual rise in their value. Every encouragement should be given to the emigrants, consistent with a fair competition between them, but that competition should operate in the first sale to the advantage of the nation rather than of individuals. Great capitalists will derive all the benefit incident to their superior wealth, under any mode of sale which may be adopted. But if, looking forward to the rise in the value of the public lands, they should have the opportunity of amassing, at a low price, vast bodies in their hands, the profit will accrue to them, and not to the public. They would also have the power, in that degree, to control the emigration and settlement in such a manner as their opinion of their respective interests might dictate. I submit this subject to the consideration of Congress, that such further provision may be made in the sale of the public lands, with a view to the public interest, should any be deemed expedient, as in their judgment may be best adapted to the object.

When we consider the vast extent of territory within the United States; the great amount and value of its productions; the connexion of its parts, and other circumstances, on which their prosperity and happiness depend, we cannot fail to entertain a high sense of the advantage to be derived from the facility which may be afforded in the intercourse between them, by means of good roads and canals. Never did a country of such vast extent offer equal inducements to improvements of this kind, nor ever were consequences of such magnitude involved in them. As this subject was acted on by Congress at the last session, and there may be a disposition to revive it at the present, I have

brought it into view, for the purpose of communicating my sentiments on a very important circumstance connected with it, with that freedom and candor which a regard for the public interest, and a proper respect for Congress, require. A difference of opinion has existed from the first formation of our Constitution, to the present time, among our most enlightened and virtuous citizens, respecting the right of Congress to establish such a system of improvement. Taking into view the trust with which I am now honored, it would be improper, after what has passed, that this discussion should be revived, with an uncertainty of my opinion respecting the right. Disregarding early impressions, I have bestowed on the subject all the deliberation which its great importance, and a just sense of my duty required, and the result is, a settled conviction in my mind, that Congress do not possess the right. It is not contained in any of the specified powers granted to Congress; nor can I consider it incidental to, or a necessary mean, viewed on the most liberal scale, for carrying into effect any of the powers which are specifically granted. In communicating this result, I cannot resist the obligation which I feel, to suggest to Congress the propriety of recommending to the States the adoption of an amendment to the Constitution, which shall give to Congress the right in question. In cases of doubtful construction, especially of such vital interest, it comports with the nature and origin of our institutions, and will contribute much to preserve them, to apply to our constituents for an explicit grant of the power. We may confidently rely, that if it appears to their satisfaction, that the power is necessary, it will always be granted. In this case I am happy to observe, that experience has afforded the most ample proof of its utility, and that the benign spirit of conciliation and harmony, which now manifests itself throughout our Union, promises to such a recommendation the most prompt and favorable result. I think proper to suggest, also, in case this measure is adopted, that it be recommended to the States to include, in the amendment sought, a right in Congress to institute, likewise, seminaries of learning for the all-important purpose of diffusing knowledge among our fellow citizens throughout the United States.

Our manufactures will require the continued attention of Congress. The capital employed in them is considerable, and the knowledge acquired in the machinery and fabric of all the most useful manufactures, is of great value. Their preservation, which depends on due encouragement, is connected with the high interests of the nation.

Although the progress of the public buildings has been as favorable as circumstances have permitted, it is to be regretted that the Capitol is not yet in a state to receive you. There is good cause to presume, that the two wings, the only parts as yet commenced, will be prepared for that purpose at the next session. The time seems now to have arrived, when this subject may be deemed worthy the attention of Congress, on a scale adequate to national purposes. The completion of the middle building will be necessary to the convenient accommodation of Congress, of the committees, and various offices belonging to it. It is evident that the other public buildings are altogether insufficient for the accommodation of the several Executive Departments, some of whom are much crowded, and even subjected to the necessity of obtaining it in private buildings, at some distance from the head of the department, and with inconvenience to the man-



agement of the public business. Most nations have taken an interest and a pride in the improvement and ornament of their Metropolis, and none were more conspicuous in that respect than the ancient Republics. The policy which dictated the establishment of a permanent residence for the National Government, and the spirit in which it was commenced and has been prosecuted, show that such improvement was thought worthy the attention of this nation. Its central position, between the Northern and Southern extremes of our Union, and its approach to the West, at the head of a great navigable river, which interlocks with the Western waters, prove the wisdom of the councils which established it. Nothing appears to be more reasonable and proper, than that convenient accommodation should be provided, on a well-digested plan, for the Heads of the several Departments, and of the Attorney General; and it is believed that the public ground in the city applied to those objects will be found amply sufficient. I submit this subject to the consideration of Congress, that such further provision may be made in it, as to them may seem proper.

In contemplating the happy situation of the United States, our attention is drawn, with peculiar interest, to the surviving officers and soldiers of our Revolutionary Army, who so eminently contributed, by their services, to lay its foundation. Most of those very meritorious citizens have paid the debt of nature and gone to repose. It is believed, that among the survivors, there are some not provided for by existing laws, who are reduced to indigence, and even to real distress. These men have a claim on the gratitude of their country, and it will do honor to their country, to provide for them. The lapse of a few years more, and the opportunity will be forever lost; indeed, so long already has been the interval, that the number to be benefited by any provision which may be made, will not be great.

It appearing in a satisfactory manner that the revenue arising from imposts and tonnage, and from the sale of the public lands, will be fully adequate to the support of the Civil Government, of the present Military and Naval Establishment, including the annual augmentation of the latter to the extent provided for, to the payment of the interest of the public debt, and to the extinguishment of it at the times authorized, without the aid of the internal taxes, I consider it my duty to recommend to Congress their repeal. To impose taxes, when the public exigencies require them, is an obligation of the most sacred character, especially with a free people. The faithful fulfilment of it is among the highest proofs of their virtue, and capacity for self-government. To dispense with taxes, when it may be done with perfect safety, is equally the duty of their representatives. In this instance we have the satisfaction to know that they were imposed when the demand was imperious, and have been sustained with exemplary fidelity. I have to add, that, however gratifying it may be to me, regarding the prosperous and happy condition of our country, to recommend the repeal of these taxes at this time, I shall nevertheless be attentive to events, and, should any future emergency occur, be not less prompt to suggest such measures and burdens as may then be requisite and proper.

JAMES MONROE.

The Message was read, and two thousand copies thereof ordered to be printed for the use of the Senate.

The Senate then adjourned.

WEDNESDAY, December 3.

ROBERT H. GOLDSBOROUGH, from the State of Maryland, arrived on the 2d instant, and attended this day.

Mr. BARBOUR, from the committee to whom the subject was referred, reported a resolution for the admission of the State of Mississippi into the Union; and the resolution was read twice by unanimous consent, and considered as in Committee of the Whole; and no amendment having been proposed thereto, the PRESIDENT reported it to the House.

On the question, "Shall this resolution be engrossed and read a third time?" it was determined in the affirmative.

The said resolution having been reported by the committee correctly engrossed, it was read a third time by unanimous consent.

*Resolved*, That this resolution pass, and that the title thereof be, a "Resolution for the admission of the State of Mississippi into the Union."

The PRESIDENT communicated a letter from John Gardiner, Chief Clerk in the General Land Office, presenting to the Senate two copies of a map of the bounty lands in the Illinois Territory, engraved for the use of the soldiers of the late army; and the letter was read.

THURSDAY, December 4.

GEORGE W. CAMPBELL, from the State of Tennessee, arrived the 3d, and attended this day.

The PRESIDENT communicated a letter from David Holmes, Governor of the State of Mississippi, with a copy of the constitution, as adopted for the government of that State; which were read.

Mr. DAGGETT gave notice, that, to-morrow, he should ask leave to bring in a resolution authorizing the distribution of certain public documents.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the Senate will on — next proceed to the appointment of the Standing Committees of this House.

FRIDAY, December 5.

OUTERBRIDGE HORSEY, from the State of Delaware, arrived the 4th, and attended this day.

Agreeably to notice, Mr. DAGGETT asked and obtained leave to bring in a resolution authorizing the distribution of certain public documents; and the resolution was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 4th instant, for the appointment of the Standing Committees of this House, and, the blank having been filled with "Tuesday," agreed thereto.

A message from the House of Representatives informed the Senate that they concur in the resolution of the Senate, for the appointment of a joint committee on the arrangements for the Library, and have appointed a committee on their

part. They also concur in the resolution of the Senate, for the appointment of Chaplains.

On motion, by Mr. WILSON,

*Resolved*, That the Senate will, at 12 o'clock, on Monday next, proceed to the election of a Chaplain on their part.

The Senate adjourned to 11 o'clock on Monday morning.

MONDAY, December 8.

MONTFORT STOKES, from the State of North Carolina, arrived on the 5th instant, and attended this day.

The PRESIDENT communicated the credentials of JOHN W. EPPES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the 4th day of March last; which were read, and laid on file.

The PRESIDENT also communicated a report of the Secretary of the Treasury, comprehending the statements relating to the internal duties and direct tax, required by the 33d section of the act of Congress, of the 22d July, 1813; also, a report prepared in obedience to the act, entitled "An act to establish the Treasury Department;" which were read.

The resolution authorizing the distribution of certain public documents, was read the second time, and referred to a select committee; and Mr. DAGGETT, Mr. ROBERTS, and Mr. BARBOUR, were appointed the committee.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Committee of Finance inquire what alterations or amendments may be requisite in the present system of collecting the duties charged on the value of merchandise imported into the United States; and what farther legal provisions are necessary, in order to secure the equal and certain collection of those duties.

Mr. BARBOUR gave notice, that, to-morrow, he should ask leave to bring in a resolution, proposing to the several States an amendment to the Constitution of the United States, on the subject of internal improvements.

TUESDAY, December 9.

The Senate resumed the consideration of the motion of the 8th instant, for instructing the Committee of Finance to make inquiry in relation to the collection of ad valorem duties on importations; and the further consideration thereof was postponed until Tuesday next.

INTERNAL IMPROVEMENT.

Mr. BARBOUR, of Virginia, in pursuance of notice yesterday given, introduced the following resolution for an amendment to the Constitution of the United States, in relation to internal improvements:

*Resolved, &c.*, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid to all intents and purposes, as a part of the

said Constitution: "Congress shall have power to pass laws appropriating money for constructing roads and canals, and improving the navigation of water-courses: *Provided, however*, That no road or canal, shall be conducted in any State, nor the navigation of its waters improved, without the consent of such State: *And provided also*, That whenever Congress shall appropriate money to these objects, the amount thereof shall be distributed among the several States, in the ratio of representation which each State shall have in the most numerous branch of the National Legislature. But the portion of any State, with its own consent, may be applied to the purpose aforesaid, in any other State."

In submitting to the Senate this proposition to amend the Constitution, in respect to the power to establish roads and canals—

Mr. BARBOUR said he felt it due to himself to say, that his opinion had not changed since the last session. He thought now, as he did then, that Congress had the authority already which it was intended to give them by this amendment. He had, in a discussion of some length, which took place during the last session, assigned his reasons for that opinion; their repetition at this time would be impertinent. The fate of the bill which had for its object the appropriation of the bonus of the bank to internal improvements is known to the Senate. The present Chief Magistrate had, he thought, very frankly and properly, disclosed his opinion, and decided it unconstitutional. The impracticability of passing it, with this impediment, through Congress, he presumed, must be palpable. Indeed, he did not know that it was desirable that it should be. It is better, perhaps, in all cases of doubt, to recur to the people—the original and only legitimate fountain of power. For if it were clear that Congress had the power, and it were believed the exercise thereof would be in opposition to the public sentiment, he presumed Congress would forbear to resort to it. The Government being founded on the sovereignty of the public will, it must, it ought to govern. If, on the contrary, the people of the United States wished the measure of internal improvement to be carried into effect, there is no cause to apprehend that the State Legislatures, bringing with them into their councils that will, and the sentiments of their constituents, will withhold the grant of power intended by the proposed amendment. Under the guaranty thus acquired, Congress may proceed with a certainty that they not only have the power, but that it is the wish of their constituents it should be exercised. But if the people should think we have not the power, however they might approve the expediency of the measure, in itself, yet being, in their opinion, out of the limits of our Constitutional power, they, as watchful guardians of the Constitution, could not fail to condemn us. What is the public opinion on this point is difficult to decide, except that we are warranted in saying, if we take the votes of the last Congress as a fair representation, they are nearly equally divided. What course then is better or more conformable to the true spirit of free principles, than to go back to



SENATE.

Internal Improvements.

DECEMBER, 1817.

those who made the Constitution, and who alone have power to alter or amend it, for their interpretation? On the one hand there is safety, on the other there may be error. Even in ordinary acts of legislation, when contrary constructions are given to a law, recurrence is had to the framers for an explanatory law. If it be proper in the last case, it applies more strongly in the former. Some gentlemen say that if they vote for this amendment they compromise themselves as to consistency, and weaken the Constitution. Mr. B. did not perceive the correctness of that view of the subject. On the contrary, the vote in favor of the amendment by those holding the affirmative of the right of Congress already, will manifest a liberality by uniting with those who are of a different sentiment; and none will make a surrender of their opinions. For, if the amendment should be carried, whether the opinion as to the present power of Congress be right or wrong will be insignificant. If it should fail, each will recur to his opinion, as now entertained, and act upon it without any restraint arising from his liberality in uniting with those who differ from him on the constitutionality of this question. The principles of the amendment are derived from the bill of the last session. The very full and elaborate discussion which attended the passage of it is an evidence that its form, on the whole, was the most acceptable. For after having given to Congress the power of appropriating money to the objects of internal improvement, it restrains Congress from exercising this authority without the consent of the State in which the improvement is to be made. This prevents an unpleasant collision. Again, the money is to be equally divided among the States according to their federal numbers. Although it might be more advantageous to concentrate the efforts of the United States on some great object, yet there is a fear and jealousy among the small States, that the large would monopolize the whole. Mr. B. recollected the opinion of a gentleman of the Senate last session, now no longer here, of whom he would say, that, although they differed essentially on many political questions of great interest, yet, upon many points, both his judgment and his views were sound, and entitled to very great respect. It was the opinion of this gentleman that this fund, without the security introduced into the bill, and now a part of the proposed amendment, might become an instrument of intrigue and corruption, and a canal or a road might be weighed against a Presidential candidate, and the scale would be inclined as avarice or ambition preponderated. To avoid a consequence so much to be deprecated, he thought the condition of a fixed apportionment among the States a sound one. In any event he was satisfied that without it all attempts at amendment would prove abortive. The small States, it is to be apprehended, will surrender themselves to these fears, if this guaranty is not given; with it there could be no cause of apprehension, and he could perceive no cause to doubt its success. The right of the

State, with its consent, to appropriate it to objects without its limits is too obvious to need a comment. He would just observe, however, that the cutting a canal between the Delaware and Chesapeake Bay would furnish an illustration; as Pennsylvania, Maryland, and Delaware might unite in the undertaking. Mr. B. wished further to remark, that this proposition was not made with a view unnecessarily to enlarge the powers of the General Government. He was anxious to see the spirit in which it originated kept perpetually in view; namely, that whatever could be as well done by the States as the General Government, the power of doing it should be retained exclusively to the States; while the General Government should exercise its authority on objects exclusively national; and there should be a coincidence of authority only where its exercise should be dictated by necessity or great advantage. The establishing military roads from one end to the other of this extensive empire, or an internal navigation on the same scale, required the resources and the superintending power of the General Government. While all minor objects of internal improvement, particularly affecting the State, may be therefore well and correctly given exclusively to the States, that which is national should belong to the General Government. It was with these sentiments, Mr. B. said, he presented the proposed amendment to the consideration of the Senate.

The resolution passed to a second reading.

The Senate proceeded to the appointment of a Chaplain on their part, and on the ballots having been counted, it appeared that the Reverend WILLIAM HAWLEY had a majority, and was elected.

On motion, by Mr. TAIT, the appointment of the Standing Committees of the Senate, was postponed until Thursday next.

WEDNESDAY, December 10.

ELI P. ASHMUN, from the State of Massachusetts, and GEORGE M. TROUP, from the State of Georgia, severally arrived on the 9th, and attended this day.

The resolution for an amendment to the Constitution of the United States, in relation to internal improvements, was read the second time, and, on motion by Mr. BARBOUR, referred to a select committee, to consist of five members, to consider and report thereon. Mr. BARBOUR, Mr. KING, Mr. LACOCK, Mr. MACON, and Mr. EPPES, were appointed the committee.

A message from the House of Representatives informed the Senate that they have appointed the Reverend BURGESS ALLISON, Chaplain on their part. They have also passed a resolution, directing a distribution of certain laws, among the members of the fifteenth Congress, in which they request the concurrence of the Senate.

The resolution, last mentioned, was read, and passed to the second reading.

Mr. MORRIL submitted the following motion for consideration:

DECEMBER, 1817.

Standing Committees.

SENATE.

*Resolved*, That the President of the United States be requested to communicate to the Senate such information as he may possess, relating to the progress made in surveying the several tracts of military bounty lands appropriated by Congress, in the State of Louisiana and the Missouri Territory, for the late Army of the United States, and the time at which such survey will probably be completed.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Secretary of the Treasury lay before the Senate information of the progress which has been made in the settlement of public accounts, under the act "to provide for the prompt settlement of public accounts;" and that he also state what further legal provisions may be, in his opinion, necessary to insure the speedy settlement of public accounts.

THURSDAY, December 11.

JEREMIAH MORROW, from the State of Ohio, arrived on the 10th instant, and attended this day.

The PRESIDENT communicated a report of the Secretary of the Treasury, comprehending an account of the fund appropriated for the safe-keeping and accommodation of prisoners of war; which was read.

WALTER LEAKE and THOMAS H. WILLIAMS, respectively, appointed Senators by the Legislature of the State of Mississippi, produced their credentials, were qualified, and took their seats in the Senate.

The resolution directing a distribution of certain laws among the members of the fifteenth Congress was read the second time, and referred to the committee to whom was referred, on the 8th instant, the resolution authorizing the distribution of certain public documents, to consider and report thereon.

The Senate resumed the consideration of the motion of the 10th instant, for information relating to the progress made in surveying the military bounty lands; which, having been amended on motion by Mr. MORROW, was agreed to as follows:

*Resolved*, That the President of the United States be requested to communicate to the Senate such information as he may possess, relating to the progress made in surveying the several tracts of military bounty lands appropriated by Congress for the late Army of the United States, and the time at which such survey will probably be completed.

The Senate resumed the consideration of the motion of the 10th instant, for information relating to the prompt settlement of public accounts, and agreed thereto.

STANDING COMMITTEES.

The Senate proceeded to the appointment of the following Standing Committees; and, on motion by Mr. TAIT, it was ordered that they consist of five members each:

*Committee on Foreign Relations.*—Mr. BARBOUR, Mr. MACON, Mr. TROUP, Mr. KING, and Mr. LACOCK.

*Committee on Finance.*—Mr. CAMPBELL, Mr. EPPES, Mr. KING, Mr. TALBOT, and Mr. MACON.

*Committee on Commerce and Manufactures.*—Mr. SANFORD, Mr. HORSEY, Mr. MORRIL, Mr. BURRILL, and Mr. DICKERSON.

*Committee on Military Affairs.*—Mr. TROUP, Mr. WILLIAMS of Tennessee, Mr. TICHENOR, Mr. LACOCK, and Mr. TAYLOR.

*Committee on the Militia.*—Mr. STORER, Mr. NOBLE, Mr. ROBERTS, Mr. MACON, and Mr. RUGGLES.

*Committee on Naval Affairs.*—Mr. TAIT, Mr. SANFORD, Mr. CRITTENDEN, Mr. DAGGETT, and Mr. WILLIAMS of Mississippi.

*Committee on Public Lands.*—Mr. MORROW, Mr. FISK, Mr. TAYLOR, Mr. WILLIAMS of Mississippi, and Mr. HUNTER.

*Committee of Claims.*—Mr. ROBERTS, Mr. MORRIL, Mr. RUGGLES, Mr. GOLDSBOROUGH, and Mr. WILSON.

*Committee on the Judiciary.*—Mr. CRITTENDEN, Mr. BURRILL, Mr. OTIS, Mr. SMITH, and Mr. LEAKE.

*Committee on the Post Office and Post Roads.*—Mr. WILSON, Mr. ASHMUN, Mr. FISK, Mr. RUGGLES, and Mr. STOKES.

*Committee on Pensions.*—Mr. NOBLE, Mr. STORER, Mr. LACOCK, Mr. VANDYKE, and Mr. TALBOT.

*Committee on the District of Columbia.*—Mr. GOLDSBOROUGH, Mr. DAGGETT, Mr. EPPES, Mr. BARBOUR, and Mr. STOKES.

FRIDAY, December 12.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to abolish the internal duties," in which they request the concurrence of the Senate.

The bill last mentioned was read by unanimous consent, and referred to the Committee on Finance.

The PRESIDENT communicated two memorials of the commissioned officers (then of the Mediterranean squadron) under the rank of commanders, remonstrating against the treatment received by Captain Heath, of the Marine Corps, from Commodore Perry, and the proceedings thereon; also against the decision in another case, which occurred at Naples between Captain John Orde Creighton and Midshipman Marsden of the Washington; and praying some legislative provision for the more effectual protection of the rights of subalterns; and the memorials were read.

The PRESIDENT also communicated a memorial from the officers of the Marine Corps, (then in the Mediterranean,) on the same subject; which was read, and referred to the Committee on Naval Affairs.

On motion by Mr. CAMPBELL, the further consideration thereof was postponed until Monday next.

Mr. MACON presented the petition of Joel Rivers, praying permission to purchase four acres of land, near Fort Claiborne, on the Alabama river, to secure the right of a ferry; which was read,



and referred to the Committee on the Public Lands.

Mr. BURRILL presented the petition of D. Lyman and others, a committee acting for and in behalf of the cotton and woollen manufacturers of Providence and its vicinity, praying that the present duties on imported cotton and woollen goods may be rendered permanent, and that provisions may be made more effectually to prevent evasions thereof; and that such further measures for the security and promotion of American manufactures may be adopted, as Congress in their wisdom may deem proper and expedient; and the petition was read, and referred to the Committee on Commerce and Manufactures.

On motion by Mr. CAMPBELL, the standing committees of the Senate had leave to report, by bill or otherwise, on all subjects referred to them.

Mr. DAGGETT submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of passing a law on the subject of bankruptcies, and, if they judge it expedient, to report a bill for that purpose. Also, that the aforesaid committee inquire into the expediency of further provision by law for the punishment of offences committed in places within the exclusive jurisdiction of the United States. Also, into the necessity of further defining piracy and other offences committed on the high seas, and into any defects existing in the laws of the United States for the punishment of crimes and offences.

Mr. DICKERSON presented the memorial of John Dow, and others, manufacturers of iron, praying that a further duty may be imposed on the importation of certain descriptions of iron, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. BURRILL presented the memorial of Charles D'Wolfe, and others, merchants of Bristol, in the State of Rhode Island, praying that provision may be made for granting the benefit of the drawback of duties upon the exportation of certain goods therein stated; and the memorial was read, and referred to the Committee on Finance.

Mr. RUGGLES presented the petition of Hasfield White, praying to be allowed the payment of a sum placed in his hands for public purposes, but lost in action during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of dividing the State of Pennsylvania into two judicial districts, and establishing a district and circuit court of the United States, at the city of Pittsburg, in the county of Allegheny.

On motion by Mr. BARBOUR, the Senate proceeded to ascertain the classes in which the Senators of the State of Mississippi shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires; and, *ordered*, That two lots, No. 3, and a blank, be,

by the Secretary, rolled up and put into the ballot box; and it is understood that the Senator who should draw the lot No. 3, should be inserted in the class of Senators whose terms of service respectively expire in six years, from and after the third day of March, one thousand eight hundred and seventeen, in order to equalize the classes; accordingly Mr. WILLIAMS drew lot No. 3, and Mr. LEAKE drew the blank.

It was then agreed that two lots, No. 1, and No. 2, should be, by the Secretary, rolled up, and put into the ballot box, and one of these be drawn by Mr. LEAKE, the Senator from the State of Mississippi, not classed; and it was understood that if he should draw lot No. 1, he should be inserted in the class of Senators whose terms of service will respectively expire in two years, from and after the third day of March, one thousand eight hundred and seventeen; but if he should draw lot No. 2, it was understood that he should be inserted in the class of Senators whose terms of service respectively expire in four years, from and after the third day of March, one thousand eight hundred and seventeen; when Mr. LEAKE drew No. 2, and is classed accordingly.

Mr. CAMPBELL submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law for authorizing those who hold titles, derived from the State of North Carolina, to lands in that part of the State of Tennessee to which the Indian claim has not been extinguished, to have the boundaries or other land marks of their claims ascertained, and remarked or otherwise identified, in order to perpetuate the evidence to support the same.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. CAMPBELL gave notice that, at the next sitting of the Senate, he should ask leave to bring in a bill to authorize the State of Tennessee to issue grants, and perfect titles, on certain entries and locations of lands therein described.

On motion by Mr. CAMPBELL, the annual report of the Secretary of the Treasury on the state of the finances, communicated the 8th instant, was referred to the Committee on Finance.

#### REFERENCE OF PRESIDENT'S MESSAGE.

On motion by Mr. BARBOUR, *Resolved*, That so much of the President's Message as relates to foreign affairs, be referred to the Committee on Foreign Relations.

On motion by Mr. SANFORD, *Resolved*, That so much of the Message of the President of the United States, as relates to commerce and manufactures, be referred to the Committee of Commerce and Manufactures.

On motion by Mr. CAMPBELL, *Resolved*, That so much of the Message of the

President of the United States, as relates to the finances, be referred to the Committee on Finance.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That so much of the President's Message as relates to roads and inland navigation, and seminaries of learning, be referred to a select committee.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That so much of the Message of the President of the United States as relates to the public lands, be referred to the Committee on the Public Lands.

Mr. ROBERTS submitted the following motion for consideration:

*Resolved*, That so much of the Message of the President of the United States as relates to the surviving officers and soldiers of our Revolutionary Army, be referred to the Committee on Pensions.

#### PUBLIC DEPOSITES.

The PRESIDENT communicated a report from the Secretary of the Treasury, explaining the reasons for not transferring the balances from the State banks to the Bank of the United States; which was read. The report is as follows:

TREASURY DEPARTMENT, Dec. 10, 1817.

SIR: By the sixteenth section of the charter of the Bank of the United States, the deposits of the public money are required to be made in the Bank and its offices, in the places where they may be established, unless the Secretary of the Treasury shall, at any time, otherwise order and direct; in which case the reasons of such order and direction shall be laid before Congress, if in session, and, if not in session, immediately after the commencement of the next session.

The Bank itself, and its offices established at Boston, New York, Baltimore, and this city, commenced their operations at different periods, between the 1st day of January, 1817, and the 4th day of March ensuing.

If the provisions of the section already stated did not impose the obligation to transfer to the Bank of the United States, and to its offices, the public deposits which had been previously made in the State and local banks, no deposit during this interval was made which required the reasons upon which it was directed to be communicated to Congress.

Without inquiring, in this place, whether under the charter the Bank of the United States had a right to such a transfer, I feel it my duty to state, that previous to the 1st day of January, 1817, a proposition had been submitted by this Department to the State and other local banks, for the purpose of inducing them to resume specie payments on the 20th day of February following. As the public money deposited in them was intimately connected with the proposition, it was deemed inexpedient to transfer those balances to the Bank of the United States until the result of the proposition was known.

Nearly contemporaneous with this event, an arrangement was made between the Bank of the United States and the State banks in the cities of New York, Philadelphia, Baltimore, and Richmond, by which the deposits were to be transferred from the State banks embraced by the arrangement to the Bank of the United States and to its offices on the 20th day of February in that year. This arrangement was sanctioned by

the Treasury Department, and was substantially executed by the parties.

As the conditions imposed by this arrangement upon the Bank of the United States were not extended to any other State or local banks than those which were parties to it, in order to induce the banks in this District to resume specie payments simultaneously with the banks already enumerated, it became necessary for the Treasury Department to give them assurances of support during the first months succeeding such resumption. In consequence of this assurance, a considerable portion of the deposits in the banks of Washington and Georgetown was permitted to remain until the 1st day of July last. On the 15th day of March of the same year, a deposit of \$75,000 was made in the Farmers and Mechanics' Bank of Georgetown, which had not previously been one of the depositories of the public money; which sum was transferred to the Bank of the United States at the time that the deposits which had previously been made in the banks of Washington and Georgetown were transferred.

In the States south of this place, the deposits were transferred from the State banks to the offices of the Bank of the United States at the several periods of their commencing their operations.

Shortly after the office at Boston went into operation, a considerable portion of the public money deposited in the State banks was transferred, and paid in specie by that bank. Upon the urgent representations of the State banks, the remainder was assigned for the discharge of the Treasury notes which had been made payable at that place. Such portion of the sum set apart for that object as remained unexpended on the 1st day of July was directed to be paid to the office established at Boston.

Previously to the close of the year 1816, a considerable sum had been deposited in the Bank of Pennsylvania, to the credit of the Commissioner of Loans of the State of Pennsylvania, for the purpose of discharging the Treasury notes which had been made payable at Philadelphia. When the duties of Commissioner of Loans were transferred to the Bank of the United States, on the 1st day of July last, a considerable balance of that amount remained unexpended.

It was, however, represented by the Bank of Pennsylvania that Treasury notes were daily presented to it for payment, and that a transfer of the funds assigned to that object would be inconvenient to the holders; it was thereupon determined to continue to employ that bank as the agent of the Treasury for discharging the outstanding Treasury notes demandable at Philadelphia until the 1st day of October last, when the unexpended balance was directed to be transferred to the Bank of the United States.

By the regulations of the Bank of the United States, its officers were not permitted to receive the bills of any State or local banks except those established in the places where they were respectively tendered in payment. Under this regulation, the bills presented for deposit by the collector of the District of Columbia, and by several of those of the internal revenue of the States of Virginia and Maryland, to the office at this place, were refused.

The frequent repayments by officers of the late army on the final settlement of their accounts at the Treasury presented a difficulty of the same nature. In order to avoid the inconvenience of special deposits in this city, an arrangement was made with the Bank of



SENATE.

Proceedings.

DECEMBER, 1817.

the Metropolis, which has received all sums refused by the office in obedience to those regulations, and has credited the Treasurer of the United States with the amount in specie. The sums so paid remain still principally with the bank. Payments to some extent were also, on the same principle, made into the Bank of Pennsylvania, for some months after the Bank of the United States was in operation; but the sums so paid have been since transferred to the Bank of the United States.

No other cases have occurred during the recess of Congress which are necessary to be presented in this communication.

In declining to transfer the balances which remained in the banks of this District at the time that the office in this city commenced business, and in the cases stated to have occurred in Philadelphia and in Boston, I was influenced by a consideration of the pressure felt by the State and local banks during several months subsequent to the resumption of specie payments, and of the services rendered to the Government by those banks during the period that they were used as places of public deposit by the Treasury. An immediate transfer of the public money deposited in them would probably have produced a pressure upon the debtors of those banks, which might have inflicted upon them evils greatly beyond the benefit which would have resulted from that measure to the Bank of the United States.

In making transfers from the State banks, the special deposits, of which they were in some instances principally composed, presented considerable embarrassment. The Bank of the United States tendered its services for the purpose of exchanging for specie, on bills of the banks in the commercial cities, those deposits which were principally confined to the interior of the Middle and Western States. This offer was accepted; and although great exertions were made by the Bank to effect that object, much remains to be done. Indeed, the amount of special deposits is nearly as large as when the agency of the Bank was accepted. This has arisen from the immense number of local banks scattered over the interior of the States of Pennsylvania and Ohio, most of which ostensibly pay their bills in specie. The paper, however, of these banks is not received in most cases by each other as specie; and the experience which the Bank of the United States, in the execution of its agency, has acquired of the character and standing of many of them, has induced it generally to refuse the bills of those banks.

In order to put an end to an evil which seems rather to increase than to diminish, general instructions have been given to the collectors of the internal revenue to receive the bills of no bank which will not be credited as specie in the Bank of the United States, its offices, and State banks employed as places of deposit, where they are respectively required to make their deposits. As soon as the offices established at Louisville, Chillicothe and Pittsburg have gone into operation, and shall have thrown into circulation a reasonable amount of their bills, they will be made the sole depositories of the public money arising from the sale of lands in the States of Ohio and Indiana, and instructions similar to those already given to the collectors will be given to the receivers of public money in those States.

It is only after this arrangement shall be effected that the Bank of the United States will enjoy, in their full extent, the advantages intended to be secured to

it by the charter. Under the limited enjoyment of those advantages, which general circumstances seemed to impose, the conduct of the Bank is entitled to high commendation. The directors have, in no instance, urged their claim to an earlier transfer of the public money which remained in the possession of the State and local banks. There is much reason, also, to believe, that in its intercourse with the State banks, and in the execution of the agency confided to it by this Department, a spirit of justice and liberality has been constantly manifested.

I have the honor to be, your most obedient servant,  
WM. H. CRAWFORD.

HON. PRESIDENT OF THE SENATE.

MONDAY, December 15.

Mr. WILLIAMS, of Tennessee, presented the petition of Alfred M. Carter, of Tennessee, on behalf of himself and the other heirs of his deceased father, Landon Carter, praying payment for an unliquidated loan office certificate, for five hundred dollars, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. BURRILL presented the petition of Joseph Aborn, surveyor of the port of Patuxet, within the district of Providence, in the State of Rhode Island, praying an increase of compensation, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

Mr. BURRILL also presented the petition of Weaver Bennet, of Cranston, Rhode Island, praying compensation for services during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire what provisions are necessary to give effect to the laws of the United States, within the State of Mississippi.

On motion by Mr. LACOCK,

*Resolved*, That so much of the Message of the President of the United States as relates to the public buildings, be referred to the Committee for the District of Columbia.

Mr. DAGGETT, from the committee to whom was referred a resolution directing a distribution of certain laws, among the members of the Fifteenth Congress, reported it without amendment.

Mr. FISK, presented the petition of Silas Willard, of Barre, Vermont, praying the remission of a bond, forfeited to the United States, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TROUP submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess, touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States of America, as relates to the restitution of slaves, and which has not heretofore been communicated.

DECEMBER, 1817.

Proceedings.

SENATE.

On motion by Mr. NOBLE,  
*Resolved*, That so much of the Message of the President of the United States as relates to the militia, be referred to the Committee on the Militia.

On motion by Mr. TAIT,  
*Resolved*, That so much of the Message of the President of the United States as relates to naval affairs, be referred to the Naval Committee.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on the Judiciary, which, having been amended, was agreed to as follows:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of passing a law on the subject of bankruptcies or insolvency. Also, that the aforesaid committee inquire into the expediency of further provision by law, for the punishment of offences committed in places within the exclusive jurisdiction of the United States. Also, into the necessity of further defining piracy, and other offences committed on the high seas, and into any defects existing in the laws of the United States for the punishment of crimes and offences.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on the Judiciary to inquire into the expediency of dividing the State of Pennsylvania into two judicial districts, and establishing a district and circuit court of the United States at Pittsburg, in the county of Allegheny; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, that so much of the President's Message as relates to roads and inland navigation, and seminaries of learning, be referred to a select committee, and agreed thereto; and Messrs. LACOCK, KING, BARBOUR, OTIS, and MORROW, were appointed the committee.

Mr. BARBOUR submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to communicate to the Senate, such information as he may possess, and which the public interest will permit him to disclose, relative to our pending negotiation with Spain.

The Senate resumed the consideration of the motion of the 12th instant, that so much of the Message of the President of the United States, as relates to the public lands, be referred to the Committee on Public Lands; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, that so much of the Message of the President of the United States, as relates to the surviving officers and soldiers of our Revolutionary Army, be referred to the Committee on Pensions; and agreed thereto.

The bill entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint," was read the second time, and referred to the Committee on Finance.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act to abolish the internal duties," reported it with amendments which were read, and considered.

15th CON. 1st SESS.—2

ed as in Committee of the Whole; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments having been concurred in by the Senate, the amendments were ordered to be engrossed, and the bill read a third time as amended.

Mr. DAGGETT, from the committee to whom was referred the resolution authorizing the distribution of certain public documents, reported it with amendments; which were read.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the expediency of providing, by law, for perpetuating certain land marks; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, that the memorials of the commissioned officers of the Mediterranean squadron, and of the marine officers, then in the Mediterranean, representing certain grievances, be referred to the Committee on Naval Affairs; and agreed thereto.

TUESDAY, December 16.

ISHAM TALBOT, from the State of Kentucky, arrived the 15th instant, and attended this day.

Mr. WILSON presented the memorials of a number of persons residing in the State of Pennsylvania, praying that the internal duties may be abolished, for reasons stated in the memorials; which were read.

Mr. LEAKE presented the memorial of the Mississippi Convention on the subject of certain land claims, and praying some legislative provision in relation thereto; and the memorial was read, and referred to the Committee on the Public Lands.

Mr. LEAKE also presented another memorial from the same convention, praying an extension of the limits of that State, for reasons stated in the memorial; which was read, and referred to a select committee to consider and report thereon, by bill or otherwise; and Messrs. LEAKE, TROUP, and WILLIAMS, of Tennessee, were appointed the committee.

Mr. TICHENOR presented the petition of Ephraim Shuler, De La Fayette Wilcox, and Alphonso Wetmore, first lieutenants of the sixth regiment United States infantry, stating, that during the late war, while engaged in action with the enemy, they received several severe wounds, which have occasioned to each the loss of an arm, and praying pensions in consideration thereof; and the petition was read, and referred to the Committee on Pensions.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of prohibiting any location or surveys being made under military land warrants, on lands in the Virginia military tract, to which the Indian title has not been extinguished, for a period of — months, after the ratification of any treaty formed for the extinguishment of such title. And also, that they inquire what provision should



be made for extending and fixing a boundary line between the lands aforesaid and the public lands of the United States.

On motion, by Mr. ROBERTS, the Committee on Finance, to whom was referred the petition of Joseph Aborn, were discharged from the further consideration thereof, and it was referred to the Committee on Commerce and Manufactures.

Mr. WILLIAMS, of Tennessee, presented the representation of the General Assembly of the State of Tennessee, respecting the grants of lands in that State, by the State of North Carolina; which was read, and referred to the Committee on the Public Lands.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That a committee be appointed to inquire whether any, and if any, what Legislative provision necessary to be made, for ascertaining and establishing the northern boundary line of the State of Ohio; and that they have leave to report by bill or otherwise.

The Senate resumed the consideration of the motion of the 15th instant, that the Committee on the Judiciary be instructed to inquire what provisions are necessary to give effect to the laws of the United States within the State of Mississippi; and agreed thereto.

The Senate resumed the consideration of the motion of the 15th instant, for information touching the execution of so much of the first article of the late Treaty of Peace and Amity, between His Britannic Majesty and the United States of America, as relates to the restitution of slaves, which has not heretofore been communicated; and agreed thereto.

The Senate resumed the consideration of the motion of the 15th instant, for requesting the President of the United States to communicate information relative to our pending negotiation with Spain; and agreed thereto.

The amendments to the bill, entitled "An act to abolish the internal duties," having been reported by the committee correctly engrossed, the bill was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing a distribution of certain laws among the members of the Fifteenth Congress; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to a third reading.

The Senate resumed, as in Committee of the Whole, the resolution authorizing the distribution of certain public documents, together with the amendments reported thereto, which having been amended were agreed to, and the PRESIDENT reported the resolution to the House accordingly; and the amendments having been concurred in, the resolution was ordered to be engrossed, and read a third time.

#### COLLECTION OF DUTIES.

The Senate resumed the consideration of the motion of Mr. SANFORD, of the 8th instant, directing the Committee on Finance, to make in-

quiry relative to the collection of ad valorem duties on importations.

Mr. SANFORD rose and addressed the Chair as follows:

Mr. President: According to the laws now in force, the duties on merchandise imported are of two classes; those which are usually denominated specific; and those which are imposed on the value. The specific duty is charged upon the article, according to some denomination, or quantity; and is determined by the number, weight, or measure of the article; as cigars, by the thousand, teas and sugars, by the pound; wines and spirits, by the gallon, or salt, by the bushel. The duty on the value is a certain proportion of the value; as ten or twenty per centum. The ad valorem duties are calculated, not upon any value which the merchandise may bear, but upon its actual cost in the foreign country from which it came, with an addition of twenty per centum to the cost, if imported from places beyond the Cape of Good Hope, and ten per centum if imported from any other place.

The foreign cost of merchandise is, therefore, the basis of the ad valorem duties; and that cost must be ascertained, in order to ascertain the duties. This principle having been adopted, the provisions of the existing system for the collection of these duties were devised, in order to carry it into effect.

Where the duty is specific, the quantity of goods is ascertained by a public officer, by actual enumeration; weighing, gauging, or measuring, before the goods are delivered to the owner or consignee. Where the duty is on the value, the foreign cost is determined, for the purpose of charging the duty upon it in ordinary cases, by the owner of the goods, or by his consignee, or agent representing him. This is done by an entry of the goods at the custom-house, by the owner, consignee, or agent, who at the same time produces the invoice and bill of lading attending the importation. The entry and the invoice state the prices or cost of the goods, and the person making the entry swears that they are true. When this has been done, the goods are, in ordinary cases, without any farther investigation, concerning their value or cost, delivered to the owner or his agent; and the foreign cost, thus obtained, is the basis upon which the duties are computed.

From the slightest view it is apparent that this method of determining the cost of goods subject to duty on the value, is exceedingly liable to evasion, by untrue statements of the foreign cost upon which the duty is charged. The cost is determined, in most cases, merely by the person who is to pay the duty. The party required to pay the duty; the party whose profit or loss must always depend wholly, or in part, upon the amount of duty charged and paid on the goods; the party interested to reduce the duty as much as possible, is allowed to make his own statement of the cost; and this cost, so stated, is, in most cases, the sum upon which the duties are calculated and paid. Of all temptations to undervalue merchandise, it

does not seem possible to devise one more direct and dangerous than to give to the party who is to state the value all the benefit of an undervaluation.

The present system for the collection of these duties, however, contains provisions which seem to have been considered sufficient, when the system was adopted, to secure the revenue against the effects of danger so obvious and great as that of allowing the party interested, the owner of the goods, or his agent, to determine the sum upon which the ad valorem duties shall be paid. The securities, and the remedies provided by the present system, are these:

1. An entry of the goods must be made by the importer, consignee, or agent. The invoice is to be produced at the time of making the entry. The invoice and the entry state the cost of the goods; and the person who makes the entry, takes an oath that they are true, and contain a just account of the cost.

2. If the merchandise shall not be invoiced according to its actual cost at the place of exportation, with design to evade any part of the duties, the goods, or the value of them, shall be forfeited.

3. If the collector shall suspect that the goods are invoiced at a sum less than that for which they have been usually sold in the foreign country from which they came, he may retain them until an appraisement shall have taken place; when they have been appraised, the duties shall be paid upon the appraised value.

Such are the provisions of the present system applicable to this subject. It is believed, that in fact, and in practice, these provisions are now entirely inadequate to the object of securing fair and just valuations, as the basis of the ad valorem duties.

It seems to have been supposed by the authors of the present system of collection, that the invoice which would appear at the custom-house would be an instrument prepared by the foreign seller of the goods, and transmitted by him to the purchaser or importer, who would produce it upon making his entry. Such an invoice, which is a bill of parcels and prices really furnished by the foreign seller, is, undoubtedly, often produced at the custom-house. But, in the present course of trade, a very great part of the merchandise subject to ad valorem duties, which is now imported, comes attended by invoices prepared in a very different manner.

In many cases the goods are purchased by a partner or agent, who is sent to Europe, or employed there for that purpose. The partner or agent purchases from the foreign manufacturers or merchants, as opportunities are favorable; and often in different parcels, at different times; and perhaps from several persons at different prices. The goods intended for one consignment are collected into one parcel, and it is said that a new invoice of that consignment is prepared by the partner or agent, and sent with the goods to this country.

Another large part of these goods is now sent to this country by foreign merchants, for sale on

their own account. In this case, the goods are purchased from manufacturers, or other merchants, and invoices may pass between the foreign seller and the foreign buyer. But it is understood that the invoices which accompany the goods to this country, are prepared by the merchant who exports the goods, and are of course adapted to his own views and objects.

Another very considerable part of these goods is now sent to the United States by the foreign manufacturers, for sale on their account. In this case the only purchase made by the manufacturer was of the raw material; and the goods have not yet been sold or bought, in their manufactured state. The manufacturer, therefore, thinks himself quite at liberty to place any value he pleases upon his own labor and industry, which have been applied to the raw material. He accordingly prepares an invoice, expressing the value or cost at the lowest sum which he thinks likely to pass the custom-house at the port of importation.

In all these cases, the invoices exhibited at the custom-house do not proceed from any foreign seller of the goods. They are not prepared for any of those objects which are usual or necessary between merchant and merchant, between vendor and purchaser, or between creditor and debtor; but they are, in truth, prepared and sent for the sole purpose of being used at the custom-house, to establish the sum upon which the duties shall be paid; and they are of course adapted to that object.

If in any of these cases the consignor of the goods thinks it expedient to furnish his agent or partner here, with directions concerning the terms upon which the goods are to be sold, he does so. These directions are sometimes given in the form of an invoice, stating the true cost or value of the goods upon which the partner or agent here may be instructed to require a certain advance when he sells. This other invoice is intended, if I may use a cant phrase, to sell by, and not to enter by. As the first invoice is intended for the custom-house, the second is intended for the private use of the partner or agent here, to show him how much the goods really cost, and to be shown by him to those who may desire to purchase, and may wish to know the true foreign cost of the goods. But as the consignee, who is furnished with two different invoices, and produces only one of them to the custom-house, is exposed to the charge of perjury, other courses, free from that danger, are frequently pursued. Instead of a second invoice, the consignee is sometimes furnished with an account of the goods, which does not state their foreign cost at all, but states the prices at which the owner is willing to sell them in this country. This account is entirely silent in respect to the foreign cost of the goods, and expresses nothing contradictory to the invoice of the foreign cost, exhibited at the custom-house. Another course frequently taken, is to send the invoice, which expresses the true cost, to a third person, who is also an agent of the consignor, with instruction and authority to demand and receive the goods from the con-



signee, who makes the entry, after the goods shall have passed through the forms of the custom-house. The second agent thus obtains possession of the goods, while the true invoice of their cost never was in possession of the consignee, who made the entry.

The proofs of the foreign cost, given by the importer, are his entry, his invoice, and his oath. The invoice is a full account of the particular goods composing the consignment, with their foreign prices. The entry, the form of which is prescribed by law, contains a brief statement of the foreign cost, corresponding with the invoice. It is always made in conformity to the invoice, and always states the amount of the cost, as it is stated in the invoice. The oath is also in a prescribed form. It is, in substance, that the invoice and entry are true. When this oath is taken at the custom-house, no question is asked; no inquiry or examination, beyond the oath, takes place, and no farther disclosure whatever is required from the person making the entry, concerning the value or cost of the goods, or concerning any matter stated in the invoice, entry, or oath. After the goods have been entered in this manner, the invoice is returned to the person who produced it, and the entry and the oath remain in the custom-house.

Thus, the foreign cost of the goods is determined by the oath of the person making the entry, for everything rests upon his oath. The cost is, indeed, stated in the entry; but there is no proof that the entry is true, excepting the oath. The cost is also specified in the invoice; but the only proof that the invoice is true, is the oath. The invoice, indeed, specifies the particular articles, and their prices, in detail; but these specifications might be comprised in the entry or in the oath. The entry, the invoice, and the oath, taken together, amount to no more, in effect, than a declaration, upon oath, that the goods cost a certain sum of money. If the cost were stated in the oath itself, the oath would possess all the intrinsic weight which can now be attributed to the entry, the invoice, and the oath united; since, if the invoice and entry are true, the oath specifying the cost would be true, without them; and, if they are false, the oath is false.

The oath taken upon making the entry, also contains a promise that, if the person making the entry shall afterwards receive any invoice different from that exhibited, he will report it to the collector. This promissory part of the oath is useless in practice. No other invoice is reported; and if a second invoice should be produced, the present system is destitute of proper provisions to verify it, or to obtain the duties upon the cost stated in it. The goods pass the custom-house, and go into the possession of the owner, or his agent, immediately after they are entered, and the duties upon the first invoice are paid or secured.

Still it seems to have been supposed, that some additional security to the revenue is afforded by an invoice, independently of an oath, or any other evidence, to show that the invoice is genuine.

It is only upon this supposition, that we can account for the importance ascribed to invoices, in the present system of collection. The owner of the goods must know the price which he gave for them; and he might be required to state that price either without or with an invoice. When an invoice arrives in this country, there is evidently no other tie upon the person who holds it, to produce it at the custom-house, excepting the sanction of the oath which he is required to take. That sanction, if sufficient to bring forth the true invoice, would be equally sufficient to bring forth a true account of the cost, without the invoice. If the importer were required to produce his ledger, in order to show the prices paid or the cost with which he had charged himself, the security to the revenue would not consist in the name of the document required or furnished, but would depend entirely upon the oath which would be employed as a test to discriminate between a true and a false ledger. It, therefore, seems evident that, excepting the provisions of forfeiture and appraisement, which will be considered in the sequel, the efficacy of the present method of determining the foreign cost, depends altogether upon the efficacy of the oath taken upon making the entry.

When the perjury is committed, by swearing that a fictitious invoice is true, the danger of legal punishment is much less than in most cases of perjury. The merchandise was purchased in a foreign country, the price was paid in a foreign country, and the invoice was probably prepared in that country. The fact in question, is, what price was really paid for the merchandise in the foreign country. From the course of the transaction, and the nature of the fact in question, the testimony requisite to maintain a criminal prosecution for perjury can very seldom be obtained in this country. It is improbable that a parcel of merchandise should be purchased in a foreign country, for half of its value; but it still may be a fact that it was so purchased. To support a prosecution for perjury, it must be proved that the merchandise was not purchased at the price stated in the invoice. If the merchandise was, in truth, purchased at any other price, the proof of that fact could, in general, be found only in the foreign country where the purchase was made. In general therefore, the only proof of a false statement of the cost in the invoice which can be offered in this country, is the improbability of the cost stated, resulting from the apparent disproportion between the foreign value and the foreign cost stated. The presumptive evidence can hardly be sufficient to induce a conviction for perjury, and the crime must generally pass unpunished, not because it has not been committed, but because, from the nature of the case, the proofs requisite to inflict punishment can seldom be obtained.

But it is by no means true, that perjury is always committed where an entry is made upon a false invoice. By the regulations of the present system, the entry of the goods may be made by the owner, consignee, or agent. Where the

owner of the goods himself makes the entry, produces a false invoice, and takes the oath prescribed, he plainly commits perjury. In this case, as the owner of the goods must know their cost, and as the only object of an undervaluation in the invoice is to obtain an advantage to the owner, the false invoice must necessarily have been prepared or procured by him, and its falsehood must be known to him.

But where the entry is made by a consignee or agent, who is not himself the owner of the goods, the case is very different in this respect. The consignee or agent, in this case, knows nothing, or may know nothing, of the invoice, except that it is sent to him as genuine and true. He therefore makes the entry upon the invoice which he has received, and takes the oath, stating, in substance, that the invoice produced is the true and only invoice which he has received, and that he has no knowledge of any other invoice or account of the goods, different from that produced. The consignee or agent who makes this use of an invoice, and takes this oath concerning it, is considered as incurring neither legal guilt nor public censure, inasmuch as he is supposed not to know the real cost of the goods, and, if the cost is falsely stated, the benefit of an undervaluation is not for himself, but for others.

The present system leaves the owner of goods, which are about to be imported into the United States, at perfect freedom to consign the goods, or cause them to be consigned, to himself or to any other person. Goods are frequently sent to a consignee or agent here, who is not the owner, in the ordinary course of commerce, and without any view to the duties on the importation. Where the goods are sent to this country by a foreign manufacturer, or a foreign merchant, for sale, on his own account, the consignment is, of course, made to some person, who is a mere agent of the foreign owner. But the consignment may be to an agent in every case; any importation may be made in that manner; and this may be done as well when the owner is in this country, as when he is a resident of a foreign country. It is therefore in the power of any owner of goods which are to be imported into the United States, to consign them, or direct that they shall be consigned, to a person, or agent, who has no knowledge of the foreign cost of goods, who knows nothing of any invoice, except that which is sent to him, and who may, without perjury, enter the goods, and take the oath required at the custom-house.

Thus the owner of goods about to be imported may, in his own pleasure, cause the consignment to be made in such a manner, that the entry of the goods shall be made upon a false invoice, by another person, as consignee. The consignee knows nothing of the foreign cost of the goods, and therefore is supposed not to commit perjury. Yet his oath is received, and allowed to verify the invoice, stating the foreign cost, upon which the duties are charged. The invoice, and the foreign cost expressed in it, are established by an oath; but the penalties of perjury are completely eluded. But it was foreseen that the oath of an

agent, who is a stranger, is the material fact; the foreign cost, concerning which he swears, would afford no security to the revenue. The law, therefore, provides, that when the entry shall be made by an agent, factor, or person other than the owner, or other than the person to whom the goods are ultimately consigned, a bond shall be taken that the real owner shall himself furnish an entry or account of the goods upon oath. But this provision presents no difficulty in practice to those who choose to pay duties merely upon the entry and oath of an agent. Where such is the object, care is taken not to express any secondary or ulterior consignment of the goods to a third person, in the papers exhibited at the custom-house. The only papers required to be produced upon making the entry are the bill of lading and the invoice. These express a consignment in general terms, not distinguishing whether the consignee is the owner of the goods, or the agent, factor, or representative of the owner. At the custom-house no question is put to the person making the entry, no information is required from him beyond the well known forms established by law, and no other disclosure is required respecting the owner of the goods, or their farther destination. The consignee named in the invoice and bill of lading thus stands as the person to whom the goods are ultimately consigned. It does not appear from these documents whether he is owner or agent; no investigation is authorized or allowed, to ascertain whether he is the owner of the goods or not; his oath establishes the invoice which he offers, and upon the cost stated in that invoice the duties are taken. Another device, which is supposed to secure the parties concerned from the charge of perjury, is now frequently practised. Two agents are employed here by the consignor who sends the goods to this country. The goods are consigned to the first agent, with all the usual commercial documents, and among them is an invoice stating the foreign cost of the goods far below the truth. The consignee enters the goods upon this invoice, which is the only invoice received by him. He is, however, instructed to hold the goods, subject to the order of the second agent, and to deliver them to him when they shall be demanded. The second agent is furnished with another invoice, expressing the true foreign cost of the goods; and he is authorized and instructed to receive the goods from the first agent, after the duties shall have been adjusted. The duties are accordingly paid or secured at the custom-house upon the false invoice produced by the first agent; and the goods are immediately delivered over to the second agent, who holds the true invoice. By this legerdemain the duties are paid on a false invoice; the owner of the goods has, through his second agent, the use of a true invoice for every purpose, excepting that of paying duties upon it; and nobody is supposed to commit perjury in this course of proceeding.

The provision, that the goods or their value shall be forfeited, if they are invoiced at less than their actual cost, would seem in theory to



Be a strong security against this species of fraud; and if the loss of the property, or the value of it, were really and certainly to follow the offence, the penalty would be very adequate to the object. But in practice this provision is found to be almost wholly inoperative. Frequent as the fact of false invoices undoubtedly is, it is seldom that a prosecution for such a forfeiture is instituted; and where such prosecutions have been instituted, scarcely an instance is known where one has been successful. The allegation upon which such a prosecution proceeds is, that the goods were invoiced at less than their actual cost at the place of exportation. This fact is, from its nature, exceedingly difficult to be established in this country, by proofs on the part of the prosecution. It may be true that the importer purchased the goods in Europe for one-third of their value; for, though such a case may be rare, it may occur. No witness can be found in this country who is able to say negatively that the goods were not in fact purchased for one-third of their value. In general, therefore, these prosecutions rest wholly upon the apparent inadequacy of price, or the supposed disparity between the foreign value and the foreign cost stated in the invoice. This evidence, resulting from this disparity, is also frequently uncertain on account of the uncertainty of the foreign value. It is at best only presumptive; and, unless the disparity is excessive, is considered scarcely sufficient to establish a charge of fraud. But these prosecutions are generally decided upon proofs produced by the claimant or defendant resisting the forfeiture. The question being what the goods cost in a foreign country, the proofs of that fact must come from that country. The course of proceeding in the prosecution for the forfeiture of the goods, or their value, is, that the claimant or defendant obtains a commission from the court to take the testimony of witnesses in the foreign place from which the goods came. The commission is sent to examine his witnesses, who are to prove the actual cost; and their testimony is taken in writing, and transmitted to the court here. Generally, the witnesses do not fail to give testimony, the goods were truly invoiced according to their actual cost. There is very seldom any positive evidence in contradiction to this testimony, and the court, proceeding upon legal proofs, decides against the prosecution. Thus the question is decided upon testimony appearing fair, indeed, upon paper, but given by witnesses in a foreign country, who may be unworthy of credit, and who at least testify in a manner which does not subject them to the punishment of perjury. Is it surprising that an importer, who has himself committed perjury in making his own entry, should find witnesses in the foreign country who will support his oath with theirs, and prove whatever may be requisite to insure success to the fraud? And it is very natural that the officers of the customs, finding it almost fruitless to make seizures or institute prosecutions for this cause, should seldom attempt them. Nor is there any fault in the courts of law in this respect.

The difficulties which obstruct the operation of this provision of forfeiture result from the system itself. The price given for the goods in a foreign country being taken as a basis for the ad valorem duties, it is unavoidable that the proofs of that price should, in contested cases, be drawn from that country; and if there is danger of perjury in making proof of the fact in the first instance here, the danger of that crime is far greater when the proofs are to be obtained from the foreign country.

The provision that, when the collector shall suspect that the merchandise is not invoiced at the price usual at the place of exportation, he may require an appraisement, would also seem to promise a security against the fraud in question. This provision, though useful in practice, to some extent, is also believed to fall very far short of an adequate remedy. It is insufficient to prevent or correct the fraud of false invoices and entries, for many reasons.

1. It is a power to be exercised when the collector shall suspect fraud. He may exercise it or not, at pleasure.

2. The collector in general derives no personal benefit from increasing the duties of an appraisement. His commissions upon the duties, in any particular case, are, of course, increased by increasing the duties in that case. But, as the amount of the collector's emoluments is limited, and as, in several districts, the ordinary emoluments exceed the amount limited, the additional commissions, in such particular cases, in those districts, may be considered as a part of the excess, and belonging, in effect, to the public, and not to the collector. And in all the districts, as the effect of severity, on the part of the collector is, to turn the importations into some other district where more gentle treatment is received, he will probably lose more by diminishing the total amount of importations into his district than he will gain by increasing the duties upon some particular importations. So far, then, as the personal interest of the collectors is concerned in the exercise of this power, it appears that some of them can gain nothing, and that, in general, they are more likely to lose than to gain by requiring appraisements.

3. The collector cannot require an appraisement until an entry has been made. To require an appraisement after an entry, is to allege, in the most direct manner, that the entry was fraudulent, and to advance a charge of perjury, in some cases, and of fraud in all. It must be at least disagreeable to the collector to select particular persons, and particular cases, as the objects of such a charge.

4. When an appraisement takes place, it is made by two persons, one of whom is chosen by the collector, and the other by the owner of the goods. The law, indeed, directs that these two persons shall be reputable merchants; but there can be no investigation to ascertain whether they are, or either of them is, reputable, or indifferent, or incompetent. The appraiser appointed by the importer may be his secret partner, his agent, or

his friend; or he may be, as his constituent who made the entry often is, a foreign agent, employed in the importation of goods, and in entering them at the custom-house, on account of foreigners. The collector cannot object to him for any reason whatever. In general, the appraiser appointed by the collector may be impartial. The appraiser appointed by the owner of the goods is always at least his firm friend, and very often his real agent.

5. To make a just valuation, it would frequently be necessary that the appraisers should give some time and considerable attention and trouble to the object of their appointment. No compensation is allowed by law to the appraisers for their services. Of course, they receive nothing from the public; and if they, or either of them, receive any compensation, it is from the other party, the importer, who is at liberty to act in this respect as his own interest may dictate.

6. No person is obliged to act as an appraiser. Hence the appraiser appointed by the collector frequently declines to act, the merchants who are most respectable and most competent being often unwilling to engage in these odious investigations. The appraiser selected by the importer is always ready to act; and the collector must either find a person who is willing to act with him, or he must abandon the proposed appraisement, and submit to take the duties upon the invoice and the entry already made.

7. There is no provision for the case of a disagreement between the two appraisers. Either of the appraisers may therefore prevent an appraisement by insisting on a valuation to which the other will not accede. If no appraisement is made, the duties are taken upon the invoice; consequently it is in the power of the appraiser appointed by the importer to prevent any valuation which shall exceed the invoice; and, if such disagreements between appraisers have not often happened, the reason is, that in most cases, their appraisements have not exceeded the invoices in question.

8. The appraisers are required to determine, not what the goods are worth here, but what they cost in the foreign country from which they came. This is often a question of real difficulty. The state of the foreign market, at a particular time, may, in some cases, be known with much exactness. In many others, it is entirely unknown, or known very imperfectly. In all cases the appraisers have an unlimited latitude to adopt any proofs, information, or opinions concerning the foreign value or price which may be acceptable to them.

9. From the considerations stated, it is perhaps not surprising that the goods are frequently appraised at the very lowest sum for which they could possibly, in any circumstances, have been purchased in the foreign country. This, indeed, is the best result for the public which can be expected from this proceeding. More generally, the appraisers, by their valuation, confirm the invoice. In some cases they make inconsiderable additions to it, and in some others they ap-

praise the goods at a less sum than the cost stated in the invoice.

10. Thus the importer, who wishes to evade a part of the duties, attains his object in one way or the other. If his invoice passes without an appraisement, he pays duties on the cost which he has stated. If an appraisement takes place, the duties are paid on the appraised value, which is never high, always very moderate, and sometimes less than the invoice. In either case he pays duties on a value less than that which he gave for the goods.

11. As the invoice is usually confirmed by the appraisement, unless the undervaluation is very exorbitant, the importer is able to judge what reduction, from the true value, he may safely venture to make in the invoice; and the collector may not think it expedient to require an appraisement, where there is no reason to suppose that the public will gain anything by that measure.

12. From these, or other causes, the cases in which appraisements are required by the collectors, are comparatively but few. In addition to the legal power of the collectors, they have been instructed by the Treasury to exercise that power freely, and to require an appraisement wherever there might be reason to suspect too low a valuation in the invoice. Still the power is, in fact, not often exercised, so far as is known: and by far the greatest part of the ad valorem duties is computed and received upon the cost stated in the invoice presented by the owner of the goods, or his agent.

Upon the whole of this part of the subject, it is conceived, that the power of the collector to require an appraisement, though it may operate, in some degree, to prevent great and flagrant undervaluations, is a very partial and ineffectual restraint upon the smaller undervaluations of five, ten, fifteen, twenty, twenty-five, thirty, forty, and fifty, per centum less than the just value, or cost, of the goods. And there is no doubt that the frauds of this kind, from which the revenue suffers most, are false valuations of the latter class; in which the cost expressed in the invoice is less than the real cost by ten, fifteen, twenty, twenty-five, thirty, or forty per centum. It is in these cases that an actual appraisement seldom takes place. When, in these cases, an appraisement does take place, little or nothing is gained by it; and sometimes the value is reduced by the appraisement below the cost stated in the invoice.

Such is the course of things where an invoice is furnished to the custom-house. But it often happens that no invoice is produced. This occurs in two cases: first, where the invoice is really lost, or is not received by the owner, consignee, or agent; and, secondly, where, though the invoice has been received, the person holding it chooses to suppress it, and to pretend that it has been lost or not received. In either case, the course of proceeding is the same. The goods are to remain in the public store until the invoice shall be produced, or an appraisement shall take place; and the owner or agent has the option to



select either alternative. He, of course, chooses an appraisement, which accordingly takes place. The appraisement is made in the same manner as in the case where an invoice is produced and an appraisement is required by the collector. Two persons are appointed, one by the collector, and the other by the owner or agent; these two appraisers determine the foreign value or cost as they think proper; and the duties are then taken upon their appraisement. In this case, there is no charge of fraud in furnishing a false invoice. With this exception, it is evident that all the difficulties, objections, and abuses, which occur in appraisements required by the collector, must also occur, as they do in fact in this case, where an appraisement is required by the importer.

Our law requires that the invoice shall be produced where there is one; but we have no law requiring that the importation shall be attended by an invoice. The only consequence of the want of an invoice is an appraisement; and the advantages of an appraisement to the importer, under the present system, have been stated, and are well known. If the person making the entry swears that he has not received an invoice, when he has in truth received one, which he suppresses, he clearly commits perjury. But it is not at all necessary to expose any of the parties to the perils of this crime. It is in the power of the owner or shipper abroad to send no invoice at all; to withhold the invoice until an appraisement shall have taken place, or to send it to another friend, who may withhold it from the consignee, until an appraisement shall have taken place; or he may direct the consignee to hold the goods until further orders; or he may give an authority to his other friend and agent to demand and receive the goods after the duties shall have been adjusted; or he may direct the consignee to sell the goods at auction. In any of these cases the goods may come to the consignee unaccompanied with any invoice; for want of an invoice they are appraised, and the advantages of that proceeding to the owner are obtained, while no charge of turpitude is supposed to fall upon any of the parties concerned, who, though they have deviated a little from the ordinary course of commerce, have still transacted their business entirely within the limits of the revenue laws.

Thus the foreign costs of the goods is determined, in all cases, either by the person making the entry or by an appraisement; and such is the operation, in practice, of these two modes of determining the sum upon which the ad valorem duties are paid.

The general result of these facts and views is as follows:

1. An invoice of the foreign cost is no security to the revenue.
2. The foreign cost is determined by the oath of the person who makes the entry, in all cases, excepting those in which there is an appraisement.
3. Where there is an appraisement, that proceeding is subject to abuses, greatly injurious to the revenue; which have been stated.

4. The oath required upon making the entry, in order to determine the foreign cost, is no security whatever to the revenue, where the person making the entry is not the owner of the goods. The persons who make entries of goods belonging to others are supposed not to commit perjury; many of them are really ignorant of the foreign cost which their oaths are, nevertheless, allowed to establish; and they are all able to say of this proceeding, in the words of Hamlet, that it is as easy as lying.

5. The penalties of perjury and the forfeiture of the goods are almost inoperative in practice, on account of legal difficulties, and the necessity of resorting to a foreign country to prove the true foreign cost.

6. The checks and remedies for false statements of the foreign cost, provided by the present system, when they operate in practice at all, serve, in general, to prevent or correct only the extreme and most palpable cases of undervaluation, leaving all others to be the prey of unrestrained fraud.

Besides the fraud of false invoices, the present system is exposed to the danger of true invoices, founded upon fictitious sales in a foreign country. Nor is this danger merely imaginary, for instances are known in which sham sales have been made in another country, for the sole purpose of fixing the cost of goods about to be imported into this country. This has been done, particularly in Lower Canada; and goods have even been sold, ostensibly, at public auction, with all the ceremony, and circumstances, and witnesses, usually attending a public sale, for the mere object of establishing a sum upon which our duties should be paid; in such a manner, that, if the price stated should be contested here, the importer might have it in his power to furnish proofs of a sale and purchase at the price stated. This proceeding is, indeed, nothing more than another mode of disguising the real foreign cost of the goods, and could not prevail here if the whole truth should appear. But it is because the whole truth of the real cost, and the fictitious sale can very seldom appear here, that this disguise is not detected, and the artifice has its intended effect upon our duties.

Other minor evasions and falsehoods in invoices occur in practice under the present system of assessing the ad valorem duties on the foreign cost, as stated in the invoice; the recital of which would be too prolix for the present occasion. The most important of these is the practice of disguising a part of the real foreign price of the goods, under the names of commissions, discounts, and other charges, which are deducted from the nominal amount of the invoice; for, by our law, the duty is calculated on the net cost of the goods, excluding such charges.

A very great part, perhaps about one-half, of all the articles subjected to duty on the value, which we import, are manufactures of wool and cotton. In these articles, in which the efforts of art and industry make great and very various additions to the value of the raw material, the

fraud of false statements of the foreign cost is facilitated by the difference of fabrics and the variety of values. This fraud is accordingly practised in these articles to a great extent.

It is more particularly since the termination of the late war with Great Britain that the practice of sending goods to the United States to be sold here, on account of the foreign owner, has been carried to a very great extent. The consignment is made to a person here, who, by whatever name he may be called, is, in truth and effect, a mere agent of the owner of the goods. A suitable person for this agency is sent or selected, who makes the entry, pays the duties, and disposes of the goods for the benefit of his principal. This is the history of many great importations which have been made within the last three years, and which have indeed paid duties to the Treasury, but have paid much less than they should have done. Immense quantities of goods, subject to ad valorem duties, are sent to this country by foreigners, to be entered at the custom-house and pay duties, for account of foreigners, and finally to be sold here, in the first instance, on account of foreigners. The course of proceeding is well understood. The consignee or agent is not supposed to commit his conscience or his character in producing the invoice and making the entry. The principal has only to take care not to grasp too much. If he will content himself with any deduction from the true value of the goods which is not palpably excessive, his invoice, in all probability, passes without objection. If an appraisement is required, the value stated in the invoice is little, or not at all, increased. In either case the foreign owner, who is beyond the reach of our laws, and who has no other object but to obtain the most money for his goods, attains his object, and makes a very important saving in the duties. Where the ad valorem duties are considerable, as ours now are, varying from seven and a half to thirty per centum upon the foreign cost; where, upon the greatest part of the articles, the duties are twenty and twenty-five per centum; and where a considerable part of these duties may be saved by a course of proceeding well understood, and free from legal perils; a course of proceeding which is not only practised, but, under the present system, is easily practicable, it is not wonderful that the course should be pursued which will secure the advantage.

These great importations by foreigners, on their own account, have produced important consequences. They have demonstrated more fully than had been done before, that it is both practicable and easy, under the present system of collection, to evade a considerable part of the duties. They have been the principal cause, it is apprehended, of the very great sales at auction, especially of British manufactures, which have taken place within the period mentioned. The foreign owner, being desirous to obtain the returns of his merchandise as soon as possible, from a country in which he has no establishment, directs it to be sold at auction as soon as it has

passed through the forms of the custom-house. At auction it may sometimes sell for less than at private sale; but the difference is far more than compensated by the saving made in the duties. In a few months he finds his funds replaced to him, and he is ready to repeat the operation. These importations have also, in a great degree, destroyed the business of our own importing merchants. The illicit advantages which the foreigner abroad, and his agent here, obtain in the duties, enable them to undersell our own merchants, who import in the former course of business, and make true entries, upon true invoices. These advantages, enjoyed by the foreigner and his agent, being ascertained, operate as a new cause, producing further importations; which also take the course of those which preceded them. It is in these advantages that we find the principal cause of the revolution which has taken place in the course of this trade, and of the successful competition of foreigners against our own citizens in the importation of these goods. Thus, our own merchants are driven from their business by the fraudulent competition of strangers; a change has taken place in the course and manner of a great part of our importations, and this course of things is facilitated and encouraged by our present system of collecting the *ad valorem* duties.

I am sensible that a peculiar state of things in Great Britain, in 1815 and 1816, contributed much to augment the exportation of British manufactures to this country. The low prices of those manufactures, and the necessity of finding a vent for them, induced the holders to send them to this country, where they expected an advantageous market. The prices being really low, appeared so in the invoices, which were genuine, and because the prices were really reduced, and were, for some time, in a course of decline; these facts served as a convenient pretence for stating them still lower than they really were, in the invoices, which were fictitious. And there is good reason to believe that when the foreign holders of these manufactures had ascertained the success of their sales and savings in this country, they continued, from the ordinary motives of commerce, a course of trade, which, though commenced in some degree from temporary causes, had been found, by experience, to insure them a very decided advantage in the competition with the American importer.

Where one of our own merchants is the importer, and where he himself produces the invoice and makes the entry as the owner of the goods, it is believed that perjury or fraud very seldom takes place. He is deterred not only by the danger of legal punishment, but still more, by the moral restraints which surround him. The horrid nature of the crime of perjury, his religion, his moral sense, his own character, and the salutary control of public opinion, are all restraints which he feels in their proper force. The fair and pure character of our own merchants, as a body, certainly forbids the idea that they are capable of these frauds; and there is no reason to



suppose that they participate in them. It is because they do not participate in them that they suffer by them. If our own merchants had continued to be, as they heretofore were, the importers of these goods subject to *ad valorem* duties, the present system of collection, imperfect as it is, might have been sufficient, for integrity and honor would have supplied the place, and would have had the force of legal regulations.

It is obvious to all that a transient foreigner, the mere factor of a foreign merchant or manufacturer, is not bound to our country or its laws; by the force of morality, honor, personal character, and public opinion, those silken ties of society, in the same manner and to the same extent as an established merchant of our own country. But I mean no illiberal imputation against foreigners in general, or those of any particular country. But I mean that profligate men are found in other countries and sent to this, to act as agents, and carry foreign merchandise through the forms of our custom-houses, while they themselves are unknown to our citizens, unestablished in our country, without reputation at hazard, appearing to-day and disappearing to-morrow, and free from those moral restraints and responsibilities which operate so powerfully upon the merchant who is known and has a fixed residence in any society. These are the men whose oaths determine what duties shall be paid to our Treasury; these are the men, who, with their principals and partners, are the competitors of our own merchants; and by these men it is that our merchants and manufacturers are rendered the victims of a fraudulent competition.

It would be interesting to ascertain accurately what proportion of the goods subject to *ad valorem* duties is imported by our own citizens, and what proportion by foreigners, or on account of foreigners; what part is entered by the real owners, and what part by agents of real owners. But these facts cannot be ascertained from the Treasury or from the custom-houses. The national character of the parties concerned in the importation is never investigated; and the real character of the person making the entry, as owner or agent, is in most cases concealed or disguised under the mask of a general consignment, as has been already stated. It is, however, supposed that more than one-half of the goods subject to *ad valorem* duties, which are now imported into the United States, are entered by persons who, with some difference of forms and names, are in truth the mere representatives of the owners of the goods.

It is impossible to ascertain with exactness the extent to which the revenue suffers by false invoices and appraisements of goods subject to *ad valorem* duties. The records of the Treasury and of the custom-houses would show the difference between the invoices and the appraisements required by the collectors, where there are invoices, and appraisements have been required; but they would show nothing more. This difference would indicate a very inconsiderable part of the loss of the revenue. The difference between the real

value, or *bona fide* foreign cost, and the sum upon which the duties are actually charged and received, is the great and important difference from which the loss to the revenue results. Of this difference nothing appears at the Treasury or at the custom-houses. If it extended to the subduction of one-half, or any other proportion of the *ad valorem* duties, still everything would be fair upon paper. The records of the Treasury would show the entries and appraisements upon which the duties had been paid; but they would show nothing else to establish the real and *bona fide* value or cost upon which the duties should have been paid.

As the records of the Treasury can furnish no material elucidation of the facts and views which have been stated, I have not proposed any formal call upon that department. I have, however, obtained from the Register of the Treasury a statement exhibiting the respective amounts of the *ad valorem* duties and the specific duties distinctly from each other, from the year 1794 to the year 1815, including both those years, which I submit to the Senate. The object of this statement is to show what proportion of the aggregate amount of our imports is subject to duties of the one class, and what proportion to duties of the other class; or, in other words, what part of the revenue is derived from *ad valorem* duties, and what part from specific duties. From this statement it appears—

1. That though the proportion between the amount of the *ad valorem* duties and the amount of the specific duties has varied considerably in the different years, both in the gross sums of each, and also in the net balances of each remaining after the deduction of drawbacks; yet that in each of the years, between 1793 and 1815, the gross amount of specific duties uniformly exceeded the gross amount of *ad valorem* duties, and that the excess was uniformly considerable.

2. That a much greater proportion of the merchandise subject to specific duties has been exported than of that subject to *ad valorem* duties.

3. That in every year between 1793 and 1815, excepting the years 1796, 1809, and 1810, the net amount of specific duties remaining after the reduction of drawbacks paid on exportation exceeded the net amount of *ad valorem* duties remaining after the deduction of drawbacks paid on exportation.

4. That in 1815 the proportion between the respective amounts of the two classes of duties which had generally prevailed before, was not only suddenly but greatly reversed; the gross *ad valorem* duties in that year being \$23,382,849, and the gross specific duties being \$14,784,274.

In order to attain minute accuracy in a comparative statement of the product of the *ad valorem* duties, and the product of the specific duties, in the several years of the period comprised in this statement, it would be requisite to bring into the calculation the different rates of duties which have existed at different times, and also the several changes which have been made in the *ad valorem* class, and in the specific class, by trans-

ferring particular articles from one class to the other. If the investigation were pursued still farther, it would be necessary to take into view the relations of the United States with other countries, in the several years of this period. War and peace; neutrality and belligerent aggressions; our own laws prohibiting or restricting certain branches of commerce; the progress of our own manufactures, and other events have all had their influence upon the proportions between the amount of *ad valorem* duties and the amount of specific duties, which appear in the several years of this period. But minute accuracy, in these respects, is not necessary to the present purpose.

The net amount of the two kinds of duties respectively, in 1815, and the discrimination between the amount of *ad valorem* duties and the amount of specific duties, either gross or net, in the years 1816 and 1817, cannot at present be obtained from the Treasury. In the absence of official materials, it may be assumed, as the best conjecture which can be offered, and as a probable approximation to fact, that the proportion between the net amount of *ad valorem* duties and the net amount of specific duties, in each of the years 1815, 1816, and 1817, is the proportion which exists between the gross amount of *ad valorem* duties and the gross amount of specific duties, in the year 1815; or, in other words, that the net *ad valorem* duties for the years 1815, 1816, and 1817, are to the net specific duties for the same three years, as 23,382,849 are to 14,784,274. This being assumed, and taking the total net amount of duties on merchandise, for the years 1815, 1816, and 1817, to be eighty-four millions, which is somewhat less than it is made by the statements and estimates of the Treasury, it will follow, that of the sum of eighty-four millions, about fifty-two millions have arisen from the *ad valorem* duties, and about thirty-eight millions have arisen from the specific duties. This result, which is not meant to be strictly accurate, may suffice to show, in a general view, how great a part of our imports now consists of articles subject to duty on the value, and how large a part of our revenue is now derived from the *ad valorem* duties. It is also to be remembered that the amount of the *ad valorem* duties would be far greater, if they were collected as well as the specific duties.

But, without including any part of that portion of the *ad valorem* duties which is lost by frauds, it may justly be assumed, that the net amount of *ad valorem* duties is now higher, in proportion to the net amount of specific duties, than the gross amount of *ad valorem* duties is to the gross amount of specific duties, according to former experience, in this respect. Making some little allowance, on this account, in favor of the net *ad valorem* duties, and proceeding upon the facts and principles already stated, we are led to the conclusion that, of the total net revenue now received from merchandise, about two-thirds arise from the *ad valorem* duties, and about one-third arises from the specific duties.

Though it is not possible to ascertain, with exactness, the extent of the loss to the revenue in the *ad valorem* duties, arising from appraisements and false invoices, yet some probable estimate of the amount may be made. I have endeavored to form such an estimate. The amount of the loss I have heard estimated by very intelligent men, at one sixth, and at one-fifteenth part of the total amount of *ad valorem* duties which should have been received; and at all rates, between a sixth and a fifteenth part. Taking all the information which I have been able to obtain, and the estimates and opinions of well informed men, in whose knowledge and judgment I have great confidence, as the basis of my own opinion, I cannot estimate the loss to the revenue, arising from these causes, at less than ten per centum. By this I mean that, taking all the valuations upon which all the *ad valorem* duties are computed, as well those which are fair and just, as those which are fraudulent, and below the true value in various degrees, including also all the appraisements, and speaking of the years 1815, 1816, and 1817, the aggregate amount of all the entries and appraisements, has been less than it should have been, by at least a tenth part of the true cost or value. Thus, if the total amount of merchandise subject to *ad valorem* duties imported in a given period, is of the true value or cost of ten millions, the numerous undervaluations which take place in particular instances, reduce the total amount of the whole to nine millions; and thus a tenth part of the duties which should be paid is lost. I certainly do not profess to be accurate in a case where accuracy is unattainable. I can only say, that I have sought information from every source accessible to me; I have stated the facts as they appear to be from all the information which I have been able to collect; and I am obliged to conclude, that at least a tenth part of the *ad valorem* duties is lost by these frauds.

Estimating, then, that the loss in the *ad valorem* duties, arising from false statements of the foreign cost and appraisement, amounts to ten per centum, and taking the *ad valorem* duties for the years 1815, 1816, and 1817, at fifty-two millions, it follows that the loss to the revenue from these causes, during these three years, has exceeded five millions of dollars. The result will of course vary, according to the principles assumed.

This loss of revenue, whatever may have been its amount, has gone principally to enrich foreigners, at the expense of our own merchants, our own manufacturers, and our own Treasury.

My object, upon this occasion, has been, to bring into one view the provisions of the present system of collecting the *ad valorem* duties, as those provisions are established by law, and at the same time to exhibit a view of the manner in which the *ad valorem* duties are levied in fact; or, in other words, to present to view the theory and the practice of the system, by the side of each other. I have thus endeavored to point out the mischiefs which now occur in the collection of this branch of the revenue, to define their nature, and to state their extent.



Such being the practical operation of the present system of collecting the ad valorem duties, what is the cause of the evil? Is the evil to be ascribed to the officers charged with the execution of the system? I apprehend that it is not to be ascribed to them. I do not suppose it to be the fault of the officers of the customs, that the system operates in this manner. The present system is, I believe, executed as fully and fairly as can ever be expected, from the nature of its provisions. In my opinion, the fault is not in the administration of the system, but it is in the system itself. The basis of this system is the price or cost of the merchandise in the foreign country. That principle having been assumed, it was perhaps inevitably necessary to require invoices and oaths from persons interested, the owner, importer, or agent, in order to establish the foreign price or cost. These proofs are, in their nature liable to great abuse and perversion. It is because these proofs are essential to the present system, and because they are exceedingly liable to abuse, and are abused in fact, that the system itself is supposed to be unsound in this respect, or at least that it is no longer adapted to the present course of trade, and the present rates of duties. The checks and penalties upon false statements of the foreign cost, provided in the present system, are found to be feeble and inadequate in their operation; because, in attempting to enforce those checks and penalties, the same difficulties and the same abuses again occur; for here, as in the first instance, the question still is, what was the foreign cost of the merchandise? a question to be determined by proofs drawn from a foreign country, or by modes of proceedings which the profligate do not fail to pervert to their own illicit purposes.

So far as is known, the principle of making the foreign cost the basis of ad valorem duties, has never been adopted by any other Government, or in any other country; and is peculiar to our system of collection.

It is true that the present mode of determining the value of goods subject to duty ad valorem, has prevailed from the commencement of the present Government to this time. When the present system of collection was first established, the ad valorem duties were low, and the temptation to fraud was comparatively small. Many successive alterations were made in the rates of duty, by which, in most cases, the duties were advanced; but still, our duties, before the late war with Great Britain, were moderate, compared either with those which have since been imposed, or with the duties of other countries. It is probable, that for many years after the commencement of the duties and the system of collection, in 1789, the fraud of false invoices was not often practised; but it is believed that this species of fraud had, before the late war, gradually gained much ground, as the duties were gradually increased, and the methods of accomplishing the object, with impunity, became better understood.

By the act of the first of July, 1812, the duties then existing were doubled, and double duties were to continue for one year after the termina-

tion of the war. These duties were continued, by a subsequent act, until the 30th of June, 1816, when they ceased, and the present duties took their place.

During all these periods, and notwithstanding the augmentations in the rates, the system for the collection of the duties has remained, in substance, the same.

Consulting experience, the sure test of the past, and the safe monitor for the future, we learn, that, in proportion as the duties are increased, the collection is endangered; and in proportion as the duties are increased the Government must diminish its reliance upon the oaths of parties interested, as securities against fraud. It is therefore perhaps, not surprising, that the present system should have been found tolerably successful, in the collection of the low and earlier rates of duty; and that the same system should now be, in some respects, no longer adequate to the collection of duties so considerable as those which now are, and for sometime have been, in force.

I do not possess the means of judging of the extent to which merchandise is clandestinely introduced upon the Northern and Southern frontiers of the United States, in such manner as entirely to avoid the payment of duties. To whatever extent this species of fraud may be carried, upon those frontiers, it certainly does not occur, in any great degree, elsewhere. Laying out of view the loss to the revenue, from clandestine importation, it is believed that there is no other species of fraud, excepting the one in question, of false statements of cost, or under valuations, by which the revenue suffers, in any material degree. Indeed, all the other frauds, which now occur, or have at any time been practised upon the revenue, are trivial and inconsiderable, compared to this. The loss of so much money to the Treasury may, however, be of far less moment to the nation, than the baneful influence of so corrupt and corrupting an example. It is the first great and serious inroad which has been made upon our revenue by fraud. The path has been explored—it has been trodden with success; and will assuredly be pursued, if it shall remain open. The corrupting influence of this fraud, attended as it is, in part, by perjury, is obvious. The contagion of so pernicious an example cannot be too soon or too effectually arrested.

The justice due to our own merchants requires that these fraudulent practices should be corrected. To them the injury is deep and serious, in the same proportion as it is lucrative to the unprincipled.

I forbear to descant upon the subject of domestic manufactures. It is a great subject, closely connected with all the greatest and best interests of this country. I hope and trust that this Government will give to our own manufactures encouragement and support greater and more effectual than they have yet received. But the question whether farther protection shall be given to domestic manufactures is not now under consideration. The present question, so far as it concerns our manufactures, is, whether they shall

really enjoy the protection which has been promised to them by the existing laws. It is, merely, whether the existing duties on imports shall be enforced and effectually collected? Surely the least that can be done for our own manufactures is to levy, in fact, the duties which the existing laws impose. Surely, if there were no other motive, the faith of the Government, as well as the just encouragement due to our own arts and industry, would require that our own manufacturer should not suffer by a fraudulent competition, or lose the protection which the Government meant to give, and which he expected to receive, in the existing rates of duties. A very large part of the foreign articles, now subject to ad valorem duty, come directly in competition with our own manufactures of the like articles; as, for example, all the manufactures of wool and cotton. Hence it is that the frauds which now take place in the collection of the ad valorem duties are as injurious to our own manufactures, as they are to the merchant and to the revenue.

I have thus attempted to place these mischiefs before the Senate. It belongs to the Legislature to provide a fit remedy. It is not my intention to attempt, at this time, a discussion of the various schemes and projects which might be suggested, as amendments to the system of collecting the ad valorem duties, or as substitutes for it. This subject is, in itself, one of much difficulty. The difficulty is perhaps greater in this country than in any other. The nature of our institutions and the genius of the people, forbid the exercise of those arbitrary powers which are invested in the revenue officers of most other countries; and they require, that the powers of our officers should be defined by law, as far as possible. The restrictions which are thus requisite for the security of private rights, become immediately the loop-holes of the law, through which the unprincipled escape with their illicit gains. The security of the revenue, on the one hand, and the freedom of commerce, to the honest merchant, on the other, are the two great objects which are to be reconciled and adjusted to each other, in any system of collection which may be established. These objects may, by wise provisions, be, in a very great degree, reconciled to each other; and we know, that where any abridgement of an unlimited freedom of commerce is necessary to the security of the revenue, the intelligent merchant is the first to approve and applaud judicious regulations, as useful to him as to the revenue, since it is only by such regulation that he and the public can be secured against the stratagems and frauds of the rogue.

But without attempting to discuss, or even to state, the various projects of reformation, which might be suggested, I shall briefly submit a few ideas upon this subject.

If the evasions and abuses which now occur result, as is believed, from the present system of collection, the remedy must be found, in some alteration of the system itself.

A considerable part, perhaps one-fourth or one-fifth in amount of the articles now imported, and

now subject to ad valorem duties, may, with entire convenience, be subjected to specific duties. [Mr. SANFORD here went into a statement of the articles to which he alluded, specifying those which he conceived might be very conveniently charged with duty upon the number, weight or measure, instead of the value.]

The advantages of specific duties over those imposed on the value, in point of security to the revenue, and in their fair and equal operation, are well known. The plan of specific duties is free from those inequalities and uncertainties which must always, in some degree, attend valuations. Such is the excellence of this mode of charging duties, that though our present specific duties, like those ad valorem, are high, compared with the earlier rates, and though the specific duties are in general much higher than those ad valorem in reference to the intrinsic values of the different subjects on which they are respectively imposed, yet it is believed that the specific duties are collected with greater punctuality and certainty, and without any considerable loss to the revenue. This fact likewise shows that the present system of collecting the specific duties is excellent, since it is found to be so by experience; and it also affords a very satisfactory proof that the losses now sustained by the revenue in the ad valorem duties do not result from any want of vigilance or fidelity on the part of the officers of the customs who collect both the ad valorem and the specific duties.

I am aware that the bulk and weight of many of the articles subject to specific duty afford a very important security to the revenue. But if these articles were subject to ad valorem instead of specific rates, it cannot be doubted, that the same evasions and frauds would take place in respect to them which now occur in all the articles now placed in an ad valorem class.

Still the articles, which will probably remain charged with duty on the value, will be very numerous, and of great amount in the aggregate of our imports; and a proper system for the collection of duties imposed on the value will always be necessary.

If it be true, as is believed, that the great source of the present mischiefs is the principle of the foreign cost, and if, as is also supposed, these mischiefs are inseparable from that principle, the principle itself should be abolished. The ad valorem duties, it is conceived, should be imposed and assessed upon the real value, which the merchandise may bear in this country at the time of its importation. The principle of the foreign cost being laid aside, all oaths, invoices, and proofs now required to show the foreign cost, and now so much employed as instruments of fraud, would of course be also abolished. The foreign cost or value being rejected, all the regulations founded on that basis would cease. The additions of ten and twenty per centum, now made to the foreign cost, would cease; and the rates of duty expressed in the tariff, would be simply and truly the whole amount of the duty exacted. The calculations which are now requisite, in order to



convert the foreign denominations of money into our own currency, would be unnecessary; and the revenue could never suffer from any fluctuation in the currency of another country.

If the value of the merchandise here should be made the basis of the ad valorem duties, it would be necessary to revise the rates of those duties, in order to adapt them to the new basis of calculation, and to make the burden upon the intrinsic value of the several subjects, equal to that which they now bear under the present rates, and the present mode of calculation.

The value in question being the value here, if the importer were simply to enter his merchandise without oath, at any value which he might choose to place upon it; and if the merchandise were subject to forfeiture in case of an undervaluation, and to appraisement in doubtful or suspicious cases, the operation of such a plan would, it is supposed, be incomparably better than the operation of the present system. The question in every stage, and in every proceeding, would then be, what is the value of the merchandise in this country; a question always susceptible of satisfactory proof in the port at which the merchandise may arrive. The provisions of forfeiture and appraisement, when applied to the real value of the goods, after they reach our own shores, would probably operate with an efficacy which is scarcely felt, when the question in controversy is the foreign cost of the goods.

Or, instead of the provisions of forfeiture and appraisement, the British system may be adopted. According to that system, the importer enters his goods at any value which he chooses to affix to them. If the officers of the customs think, upon examination, that the goods are undervalued by the importer, they take the goods on account of the Government, and forthwith pay to the importer, from the money in their hands arising from the customs, the sum at which he has valued them, with an addition of ten per centum to his valuation, and the duties paid on the importation. The goods are then publicly sold on account of the Government. If the goods produce more than the sum paid to the importer by the officers of the customs, a moiety of the excess is given to those officers as a reward for their vigilance and fidelity. Thus, the interest of the importer, and the interest of the officers of the customs, are constantly arrayed against each other. It is the interest of the importer to enter his merchandise at a just value; for he is constantly exposed to the hazard of receiving for it no more than the amount of his own valuation, with the specified additions. Thus, the steady and active principle of personal interest, is constantly in exercise on both sides, and is at once the inducement to the importer to enter his merchandise at its fair value, and the inducement to the public officers to wrest it from the importer when it is undervalued by him. Perhaps no scheme of human policy has yet been devised for the purpose of securing fair valuations as the basis of duties, which tends so necessarily to that object in practice, as this plan which is now established and

pursued in Great Britain. This system is found in the statutes of the 27 George III, chapter 13, section 17; and the 54 George III, chapter 121, section 1. It may also be seen in Pope's custom and excise laws, pages 223, 224, and 225.

If, however, it should be deemed inexpedient to make a radical change in our system of collection at this time, the system may receive some amendments, which will perhaps mitigate, though they will probably not cure, the present disorders. The existing plan of appraisements, in particular, may be easily improved, by some alterations adapted to the difficulties and abuses which now occur in appraisements.

These few suggestions concerning a remedy are made merely for consideration. I have no favorite project. The resolution which I submit is purposely expressed in very general terms, in order to present the subject for consideration in its most ample scope. I shall willingly concur in any method or measure which will secure the fair and equal collection of the duties, with proper security at the same time to the private rights of the citizen.

Whatever may be the exact extent of the mischiefs which now exist, they are undoubtedly great, and some remedy is necessary. In every view in which the subject can be considered, it seems equally clear that a proper and effectual remedy must be beneficial, at once to the morals and the revenue, the merchant and the manufacturer of our own country.

When Mr. SANFORD concluded, the resolution was agreed to.

#### WEDNESDAY, December 17.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Alfred M. Carter, reported a bill for the relief of the heirs of Landon Carter; and the bill was read, and passed to the second reading.

Mr. TAYLOR presented the petitions of Martin Rose and William Purcel, praying payment for horses lost, on the Tippecanoe expedition, in the year 1811, while in the service of the United States, as stated in the petitions; which were read, and severally referred to the Committee of Claims.

The Senate resumed the consideration of the motion of the 16th instant, for instructing the Committee on the Public Lands to make inquiry relative to lands in the Virginia military tract; and agreed thereto.

The Senate resumed the consideration of the motion of the 16th instant, that a committee be appointed to inquire what Legislative provision is necessary to be made for ascertaining and establishing the northern boundary line of the State of Ohio; and agreed thereto; and Messrs. MORROW, TALBOT, TAYLOR, KING, and NOBLE, were appointed the committee.

The resolution directing a distribution of certain laws among the members of the 15th Congress, was read a third time, and amended by unanimous consent, and passed.

The resolution authorizing the distribution of certain public documents, was read a third time, and passed.

#### THURSDAY, December 18.

Mr. GOLDSBOROUGH presented the memorial of the representatives of the yearly meeting of the religious Society of Friends, held in Baltimore, praying some further provision by law for suppressing a traffic in negroes and people of color, from the Middle to the Southern States, as represented in the memorial; which was read, and referred to a select committee, to consist of five members, to consider and report thereon by bill or otherwise; and Messrs. GOLDSBOROUGH, HORSBY, SMITH, BURRILL, and EPPES, were appointed the committee.

Mr. FISK presented the petition of John Rice of Barre, Vermont, who states he served as a private soldier in the 4th regiment United States infantry for the term of five years, and praying a bounty in land, for reasons stated in the petition; which was read, and referred to the Committee on Military Affairs.

Mr. STOKES presented the petition of John Hibbert and others, late soldiers in the 43d regiment of the United States Army, praying bounties in land, for reasons stated in the petition; which was read, and referred to the Committee on Military Affairs.

The bill for the relief of the heirs of Landon Carter was read the second time, and considered as in Committee of the Whole; and no amendment having been made thereto, the President reported it to the House, and the bill was ordered to be engrossed, and read a third time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:  
To the Senate of the United States:

In compliance with the resolution of the Senate, of the 11th of this month, I transmit, for the information of the Senate, a report from the Secretary of the Treasury, relating to the progress made in surveying the several tracts of military bounty lands, appropriated by Congress for the late army of the United States, and the time at which such survey will probably be completed.

JAMES MONROE.

DECEMBER 18, 1817.

The Message and report therein mentioned were read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the committee on so much of the President's Message as relates to roads and canals be instructed to inquire into the expediency of providing, by law, for the appointment of commissioners to survey, lay out, and mark, a road from the west bank of the Ohio river, opposite the point where the Cumberland road strikes the same, through St. Clairsville and Zanesville, to Columbus; from thence to the west line of the State of Ohio, in a direction to St. Louis, in the Missouri Territory.

Mr. NOBLE submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of establishing a land office in the eastern part of the State of Indiana.

Mr. EPPES submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of extending for a further time "An act, entitled an act, further extending the time for locating Virginia military land warrants, and for returning the surveys thereon to the General Land Office;" and also the act, entitled "An act authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants."

Mr. MORROW presented the petition of William Edwards, of Warren county, in the State of Ohio, praying compensation for certain services as a surveyor; also, the petition of John G. Stubbs, of Newport, in the State of Kentucky, praying compensation for like services, as stated in the petitions; which were read, and severally referred to the Committee of Claims.

#### FRIDAY, December 19.

NICHOLAS VANDYKE, from the State of Delaware, arrived the 18th instant, and attended this day.

Mr. RUGGLES presented the petition of William Farris, senior, praying compensation as a reward for his invention for propelling boats by means of wheels instead of oars, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. RUGGLES also presented the petition of Samuel Brown, praying compensation for services during the Revolutionary war, as stated in the petition, which was read, and referred to the Committee of Claims.

On motion, by Mr. SMITH, that John Haslett have leave to withdraw his petition, it was determined in the negative.

Mr. WILLIAMS, of Mississippi, called up the memorial of the General Assembly of the State of Louisiana, relative to the land claims of Florida, presented at the last session, and it was referred to the Committee on the Public Lands.

Mr. TAYLOR presented the memorial of the Board of Trustees of the Vincennes University, representing the situation of the institution, and suggesting the propriety of selling the balance of the land in the seminary township, reserved by the act of March, 1804, and vesting the amount in bank stock, for the use of the University, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 18th instant, for instructing a committee to inquire into the expediency of appointing commissioners to survey, lay out, and mark, a certain road, which, having been amended, was agreed to as follows:

*Resolved*, That the committee on so much of the President's Message as relates to roads, inland navigation, and seminaries of learning, be



instructed to inquire into the expediency of providing by law for the appointment of commissioners to survey, lay out, and mark, a road from the west bank of the Ohio River, opposite the point where the Cumberland road strikes the same, through St. Clairsville, and Zanesville, to Columbus; from thence to the west line of the State of Ohio, in a direction to St. Louis, in the Missouri Territory.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Public Lands to inquire into the expediency of establishing a land office in the eastern part of the State of Indiana; and agreed thereto.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Public Lands to inquire into the expediency of extending, for a further time, certain acts, in relation to Virginia military and resolution land warrants; and agreed thereto.

The bill for the relief of the heirs of Landon Carter was read a third time, and passed.

The Senate adjourned to Monday morning.

#### MONDAY, December 22.

Mr. SANFORD presented the petition of Edmund Dana, praying remuneration for losses sustained by furnishing uniform clothing to the United States troops during the late war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. STORER presented the petition of Joseph Storer, collector of the revenue for the district of Kennebunk, praying an increase of compensation, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

The PRESIDENT communicated the petition of William Esenbeck, messenger at the Treasury Department, praying compensation for the loss of personal property, which was in the residence provided for him by the Government, and destroyed by the conflagration of the Treasury Department in August, 1814, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. SANFORD presented the petition of a number of the inhabitants of Oneida county, State of New York, in favor of encouraging manufactures; and the petition was read, and referred to the Committee on Commerce and Manufactures.

Mr. ROBERTS presented the petition of Thomas Robinson and others, a committee in behalf of the surviving officers of the Pennsylvania line of the Revolutionary Army, praying an equitable settlement of the half pay for life, as promised by the resolves of Congress, as stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. OTIS presented the petition of John Peters and Sabin Pond, of Boston, Massachusetts, praying a reimbursement of money arising from a certain brig and cargo, forfeited for a violation of the revenue laws, for reasons stated in the petition;

which was read, and referred to the Secretary of the Treasury.

Mr. NOBLE submitted the following motion for consideration:

*Resolved*, That the Committee on Finance be instructed to inquire what legislative provisions are necessary, if any, to authorize the payment of the three per cent. now due, or that which may hereafter be due, to the State of Indiana, arising from the net proceeds of the sales of the United States' lands lying within the said State, in pursuance of an act of Congress, of the 19th of April, 1816.

Mr. MORRIS gave notice that he should, tomorrow, ask leave to introduce a resolution directing the Commissioner of the General Land Office, to furnish each soldier who may receive a patent, with a description of the quality of his lot as minuted in the field notes of the surveyor.

Mr. DICKERSON gave notice that he should, tomorrow, ask leave to introduce a resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract; and the bill was read, and passed to the second reading.

#### TUESDAY, December 23.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Noah Miller," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. SMITH presented the memorial of Nathaniel Russel and others, merchants and underwriters of Charleston, South Carolina, praying indemnification for French spoliation in the year 1796, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. DAGGETT presented the petition of the Chamber of Commerce of the city of Philadelphia, praying the passage of an act to establish a uniform system of bankruptcy throughout the United States, for reasons stated in the petition; which was read, and referred to the Committee on the Judiciary.

Mr. WILLIAMS, of Mississippi, presented the representation and protest of certain members of the Legislature of the State of Louisiana against the memorial of said Legislature, respecting titles to lands in the Florida district; which was read, and referred to the Committee on Public Lands, to consider and report thereon.

Mr. MORROW presented the petition of John Baptist Valle, of St. Genevieve, praying to be confirmed in his title to a tract of land in the

Missouri Territory, which was granted to him by the Spanish Governor, as stated in the petition; which was read, and referred to the last mentioned committee, to consider and report thereon.

Mr. MORROW also presented the petition of John T. Hall and others, proprietors of land, lying between the Great and Little Miami rivers, situated in the tract purchased from the United States by John C. Symmes, praying relief in consideration of a defect in the title thereof, as stated in the petition; which was read, and referred to the same committee, to consider and report thereon.

Mr. SANFORD presented the memorial of M. Clarkson, President of the American Bible Society, praying the privilege of importing paper, free of duty, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

Mr. ROBERTS presented the memorial of the Philadelphia Bible Society, praying the remission of all duties on stereotype plates already imported, and that they may be permitted to import the sacred scriptures in foreign languages, free of duty, for reasons stated in the memorial; which was read, and referred to the same committee, to consider and report thereon.

Mr. WILLIAMS, of Mississippi, presented the petition of I. P. Kennedy and others, inhabitants of Mobile, praying the demolition of Fort Charlotte in said town, and that the land on which it stands be sold, for reasons stated in the petition; which was read, and referred to the Secretary for the Department of War, to consider and report thereon to the Senate.

Mr. SMITH submitted the following motion for consideration:

*Resolved*, That the Secretary of the Treasury be directed to lay before the Senate a statement of the amount of duties on imported salt, during the years 1815, 1816, and 1817, as far as the returns to the Treasury will permit. Also, a statement, for the same years, of the amount of the allowances and drawbacks paid to vessels employed in the fisheries, and on pickled fish exported.

Mr. DICKERSON laid before the Senate the proceedings of the Legislature of the State of New Jersey, in relation to an amendment to the Constitution of the United States, and instructions to their Senators in Congress, to endeavor to obtain the said amendment; which were read; and, laid on file.

Whereupon, Mr. DICKERSON, agreeably to notice given yesterday, and in obedience to instructions received from the Legislature of New Jersey, asked and obtained leave to introduce a resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; and the resolution was read, and passed to the second reading.

Agreeably to notice given yesterday, Mr. MORROW asked and obtained leave to introduce the following resolution; which was read, and passed to the second reading:

15th CON. 1st Sess.—3

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office furnish each soldier, who may receive a patent for military bounty land, a description of the quality of his lot, as minuted in the field notes of the surveyor.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act establishing a Mint, and the act concerning the Mint," reported it with amendments; which were read.

Agreeably to notice given, Mr. CAMPBELL asked and obtained leave to introduce a bill to authorize the State of Tennessee to issue grants, and perfect titles on certain entries, and locations of land therein described; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 22d instant, for instructing the Committee on Finance relative to the payment of the three per cent. to the State of Indiana; and agreed thereto.

The bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract, was read the second time, and considered as in Committee of the Whole; and, no amendment having been made thereto, the PRESIDENT reported the bill to the House, and the further consideration thereof was postponed until to-morrow.

#### WEDNESDAY, December 24.

A message from the House of Representatives informed the Senate that the House have passed a resolution, providing for the temporary adjournment of Congress; in which they request the concurrence of the Senate.

The resolution last mentioned was read three several times, by unanimous consent, and passed.

Mr. WILLIAMS, of Mississippi, presented the petition of Joseph P. Kennedy, and others, of the town and county of Mobile, praying to be confirmed in certain lands, as stated in the petition; which was read, and referred to the Committee on Public Land Claims.

Mr. WILLIAMS, of Mississippi, also presented the petition of Joseph Bullen, of Jefferson county, and State of Mississippi, praying the right of preemption to a certain tract of land, as stated in the petition; which was read, and referred to the same committee, to consider and report thereon.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Silas Willard; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 23d instant, directing the Secretary of the Treasury to communicate information relative to duties on salt, and agreed thereto.

The bill, entitled "An act for the relief of Noah Miller," was read the second time, and referred to the Committee on Pensions.

The resolution to direct the Commissioner of



the General Land Office to furnish each soldier, who may receive a patent for military bounty land, with a description of the quality of his lot, was read the second time, and referred to the Committee on Public Land Claims.

The resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. DICKERSON, KING, DAGGETT, MACON, and STOKES, were appointed the committee.

The bill to authorize the State of Tennessee to issue grants, and perfect titles, on certain entries and locations of lands therein described, was read the second time.

The Senate resumed the consideration of the bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary of the Virginia military tract; and, on motion by Mr. EPPES, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint;" together with the amendments reported thereto by the Committee on Finance; and, the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and, the amendments having been concurred in, the amendments were ordered to be engrossed, and the bill read a third time as amended.

MONDAY, December 29.

The PRESIDENT communicated a letter from Andrew Allen, of New York, presenting to the Senate a copy of the first Message of President Monroe, printed on gilt leather, after a new and improved method, for which he has recently obtained a patent; and the letter was read.

Mr. RUGGLES presented the petition of John Brown, sen., of the county of Belmont, in the State of Ohio, praying to be released from the payment of duties on certain stills, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. MORRIL presented the petition of John Davis, of the town of Warner, in the State of New Hampshire, representing that he served as a soldier in the Revolutionary war, and praying compensation for his services; and the petition was read, and referred to the Committee of Claims.

Mr. NOBLE presented the memorial of Samuel Jelley, and others, inhabitants of the town "Rising Sun," praying a post route through the same, for reasons stated in the memorial; which was read, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented the petition of Henry

Jones, who served as a soldier in the late war, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. CAMPBELL presented the memorial of the Legislature of the State of Tennessee, on the subject of unsatisfied claims for land in that State, derived under the authority of the State of North Carolina; and the memorial was read, and ordered to be printed for the use of the Senate.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the Committee on the Militia be instructed to inquire into the expediency of augmenting the pay of the militia, when called into the service of the United States.

The bill for the relief of Silas Willard was read the second time.

The Senate resumed the consideration of the bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract; and, no amendment having been made thereto, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the State of Tennessee to issue grants, and perfect titles, on certain entries and locations of lands therein described; and, on motion by Mr. MORROW, it was referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. CAMPBELL, STOKES, MACON, WILLIAMS, of Tennessee, and MORROW, were appointed the committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*  
In compliance with a resolution of the Senate of the 16th of this month, requesting information touching the execution of so much of the first article of the Treaty of Ghent, as relates to the restitution of slaves, which has not heretofore been communicated, I now transmit a report of the Secretary of State on that subject.

DEPARTMENT OF STATE,

December 24, 1817.

The Secretary of State, to whom has been referred the resolution of the Senate of the 16th instant, requesting information touching the execution of so much of the first article of the Treaty of Ghent as relates to the restitution of slaves, which has not heretofore been communicated, has the honor to report to the President, that no answer has been received from the British Government to the proposal made by order of the late President, on the 17th of September, 1816, that the question upon the different construction given by the respective Governments to that article, should be referred to the decision of some friendly sovereign; that the late Minister of the United States in England, before his departure from London, renewed the request for an answer, and that the present Minister at the same Court has been instructed to invite again the attention of the British Government to the subject. All which is respectfully submitted.

JOHN Q. ADAMS.

The Message, and report therein mentioned, were read.

The amendments to the bill, entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with amendments.

TUESDAY, December 30.

The PRESIDENT communicated a report of the Secretary of the Treasury, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st January to the 30th June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowance to vessels employed in the fisheries during the same period, made in obedience to a resolution of the Senate of the 24th instant; and the report was read. Whereupon, Mr. SMITH submitted the following motion for consideration:

*Resolved*, That "a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st January to the 30th June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during the same period," be referred to the Committee on Finance, with instructions to inquire into the expediency of repealing the law laying that duty.

Mr. WILSON presented the petition of Thomas Patten, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. RUGGLES presented the petition of Alexander Macomb, praying to be confirmed in his title to certain islands situate at the mouth of the river Detroit, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 29th instant, for instructing the Committee on the Militia to inquire into the expediency of augmenting the pay of the militia when called into the service of the United States; and agreed thereto.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Noah Miller," reported it without amendment.

The bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract, was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital;" a bill entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army;" a bill entitled "An act for the relief of Samuel Aikman;" a bill entitled "An act for

the relief of Joel Earwood;" and a bill entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri;" in which they request the concurrence of the Senate.

The five bills last mentioned were read, and severally passed to the second reading.

Mr. DAGGETT submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate a statement of the proceedings which may have been had under the act of Congress, passed the 3d March, 1817, entitled "An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive." Also, that the President be requested to give to the Senate such information as he may possess, in relation to any location of land, or settlement made by any individual or individuals, under the aforesaid act.

Mr. ROBERTS, from the Committee on Claims, reported a bill for the relief of William Edwards and John G. Stubbs, (compensating them for their services in surveying lands in the Territory of Illinois;) which was read, and ordered to a second reading.

SILAS WILLARD.

The Senate resumed the consideration of the bill for the relief of Silas Willard.

[Some discussion took place on this bill, from which it appeared that the case was this: that the petitioner was the bail of John M. Willard, who was indicted in the circuit court of Vermont for trading with the enemy in Canada during the late war; that the accused, flying the country, and not standing a trial, his bond was forfeited, and his bail became responsible. He prays relief; and his petition is supported by good evidence that the bail required was excessive; that he has since been reduced to poverty, and is a man of the fairest general character.]

It was not denied that the petitioner merited relief, but it being suggested by Mr. SANFORD that the President was already authorized by law, on the recommendation of the Secretary of the Treasury, to extend relief to insolvent debtors to the United States, in certain cases, and that legislation in this case was unnecessary, the bill was, with the consent of Mr. ROBERTS, the chairman of the committee who reported it, postponed to Friday next.

WEDNESDAY, December 31.

Mr. TROUP presented the petition of Joseph Cumming, administrator of James Murren, deceased; and also the petition of Samuel Parker, executor of George Parker, deceased; praying indemnification for claims to land in the Yazoo purchase, surrendered to the State of Georgia, as stated in the petitions; which were read, and severally referred to the Committee of Claims.

Mr. KING presented a memorial of Richard Varick and others, surviving officers of the Revolutionary Army, representing their services, the engagements under which those services were



SENATE.

Proceedings.

JANUARY, 1818.

performed, and the manner in which those engagements have been attempted to be fulfilled, all praying that provision may be made by law for ascertaining and funding the balances which may be due to them; and the memorial was read, and referred to the Committee on Military Affairs.

Mr. EPPES presented the petition of the Mechanic Relief Society of Alexandria, praying an act of incorporation, for reasons stated in the petition; which was read, and referred to the Committee on the District of Columbia.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Winslow and Henry Lewis," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

On motion by Mr. WILSON, it was read the second time by unanimous consent, and referred to the Committee of Claims.

Mr. BURRILL submitted the following motion for consideration:

*Resolved*, That the committee to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States, on the subject of the African slave trade, as more effectually to prevent said trade from being carried on by citizens of the United States under foreign flags, and also into the expediency of the United States taking measures in concert with other nations for the entire abolition of said trade.

Mr. BURRILL also submitted the following motion for consideration:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the expediency of commencing the erection of the centre building of the Capitol, and of making provision for the speedy completion thereof. That the said committee be also instructed to inquire whether suitable apartments can be had in the Capitol for the reception and accommodation of the Library of Congress; and in case such apartments cannot be had there, to inquire into the expediency of purchasing or erecting a convenient building for the Library.

Mr. TAIT gave notice that he should on Friday next ask leave to bring in a bill in addition to an act making appropriation for repairing certain roads therein described.

Mr. SANFORD gave notice that he would, on Friday next, ask leave to offer a joint resolution, directing the publication of the journal and proceedings of the Convention which formed the present Constitution of the United States, now remaining in the office of the Secretary of State.

The Senate resumed the consideration of the motion of the 30th instant, for referring to the Committee on Finance the report of the Secretary of the Treasury in relation to the duty on salt, with instructions to inquire into the expediency of repealing the law laying that duty; and agreed thereto.

The Senate resumed the consideration of the motion of the 30th instant, requesting information of the proceedings which may have been had

under the act, entitled "An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive;" which having been amended, was agreed to, as follows:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate, a statement of the proceedings which may have been had under the act of Congress, passed the third of March, 1817, entitled "An act to set apart and dispose of certain public lands, for the encouragement of the cultivation of the vine and olive."

Also, that the President be requested, to give to the Senate, such information as he may possess, in relation to any occupation of land, or settlement made by any individual or individuals, under the aforesaid act.

The bill, entitled "An act to remit the duty on a painting presented the Pennsylvania Hospital," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," was read the second time, and referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of Samuel Aikman," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Joel Earwood," was read the second time, and referred to the same committee.

The bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," was read the second time, and referred to the same committee.

The bill, for the relief of William Edwards and John G. Stubbs, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Noah Miller;" and the further consideration thereof was postponed until Monday next.

On motion of Mr. NOBLE, the Committee on Pensions, to whom was referred so much of the Message of the President of the United States as relates to the surviving officers and soldiers of our Revolutionary Army, were discharged from the further consideration thereof, and it was referred to the Committee on Military Affairs.

The Senate adjourned to Friday morning.

FRIDAY, January 2, 1818.

The PRESIDENT communicated the report of the Secretary of the Treasury, on the petition of John Peters and Sabin Pond, of Boston, and the report was read.

On motion of Mr. CAMPBELL, the Committee on Finance, to whom was referred on the 22d ultimo, the petition of William Esenbeck, were discharged from the further consideration thereof; and it was referred to the Committee of Claims.

On motion of Mr. ASHMUN, the petition of John Peters and Sabin Pond, together with the

JANUARY, 1818.

African Slave Trade.

SENATE.

report thereon of the Secretary of the Treasury, this day communicated, was referred to the Committee of Claims.

Mr. LEAKE submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of amending the several laws relative to the sale of public lands.

Mr. SANFORD asked and obtained leave to bring in a resolution, directing the publication of the journal and proceedings of the Convention which formed the present Constitution of the United States, now remaining in the office of the Secretary of State; and the resolution was read the first and second time by unanimous consent; and referred to a select committee, to consist of five members, to consider and report thereon; and Mr. SANFORD, Mr. KING, Mr. MACOM, Mr. EPPES, and Mr. TAIT were appointed the committee.

Mr. TAIT asked and obtained leave to bring in a bill, in addition to "An act making appropriation for repairing certain roads therein described;" and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the Committee on the District of Columbia to inquire into the expediency of erecting the centre building of the Capitol, and of providing suitable apartments for the accommodation of the Library of Congress; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Silas Willard, and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of William Edwards and John G. Stubbs, and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments having been concurred in, the bill was ordered to be engrossed, and read a third time.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Weaver Bennett, made a report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Haffield White, also made a report, together with the following resolution:

*Resolved*, That a bill be reported allowing Haffield White the sum of two hundred and fifty dollars, in full of all his claims on the United States.

The report and resolution were read.

AFRICAN SLAVE TRADE.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the committee to whom was referred the petition of the committee of the yearly meeting of the Soci-

ety of Friends, at Baltimore, on the subject of the African slave trade; and the resolution being read—

Mr. TROUP rose to object to the last clause of the resolution, which contemplated a concert with foreign nations. He thought this a most extraordinary proposition, and asserted that, according to his apprehension, no measure could be adopted more replete with danger to the welfare, to the very existence of this country, than a formal coalition, for any purposes, with any foreign nation whatever. It was a policy, a resort to which ought always to be resisted, and he hoped would be resisted with a firmness not to be overcome. The object of the first part of the proposition, for making our laws against the slave trade more perfect and more effectual, Mr. T. approved, and was willing to co-operate in it. He was ready to go as far as any one, in enforcing, within our own jurisdiction, the abolition of the African slave trade. Within our land line, or water line, even on the high seas, he was willing to enforce our own laws on the subject; but to direct the President to enter into any compact or concert for this object with any foreign nation or individuals, was a step he would never consent to. He could not separate from foreign alliances the idea of foreign politics and foreign wars; and the proposed measure he should view as the commencement of a system of foreign connexions tending to foreign alliances, to which Mr. T. expressed great repugnance. Unless, therefore, the propositions embraced by the resolution were separated, he should be obliged to vote against it.

Mr. BURRILL was pleased, he said, to find that Mr. TROUP had no objection to the main object the resolution had in view, of putting an entire stop to the African slave trade—on this point, he believed, there was no diversity of opinion throughout the country. Mr. B. regretted, however, that such a view had been taken of the concert with other nations proposed to effect the object; because it was only by such concert and co-operation that the slave trade could be abolished. Mr. B. entirely agreed as to the impolicy of foreign alliances; and if the general objection to them applied to the proposition he had submitted, he admitted it would be a sound and substantial one; but he could not view the proposed concert in this light, nor could he conceive that any such disastrous consequences would follow it as had been anticipated by the gentleman from Georgia; that apprehension, he thought, was altogether groundless. Nor was the principle of the proposed concert, Mr. B. said, a novelty in this country. By referring to the Treaty of Ghent, it would be found that our Ministers had either made or received overtures on this very subject, and a provision was in consequence inserted in the Treaty. The concert had been considered as indispensable to bring about the entire abolition of the slave trade; and, Mr. B. said, it had been found impossible to put an entire stop to it without a co-operation among the nations prohibiting it; for, no matter how many



nations prohibit the trade, if one or two are allowed to carry it on, the evil will still exist.

Mr. TROUP replied, that the proposed concert for abolishing a particular traffic on the high seas presupposed resistance, and resistance was to be repressed by the united means of the nations entering into the compact. This, certainly, Mr. T. said, was one step towards, and might be the prelude to, alliances with foreign Powers. Besides, he said, this was not one of those traffics proscribed by the law of nations, though prohibited by our statutes; and he doubted the expediency of such a combination to put down a trade which was thus permitted. If motives of humanity are urged in favor of this measure, let us, said Mr. T., begin at the fountain head. If the policy of this country is to be changed; if the well-remembered parting advice of a wise and good man is to be departed from, and we are to commence a system of "entangling alliances," let us look for some objects worthy of the change; let us aim at the abolition of impressment, and free our seamen from that odious tyranny; or let us enter into the cause of South American emancipation; let us not enter, for the first time, upon a system so fraught with danger, without some such great justifiable motive; without the certainty of accomplishing some object of an importance corresponding with the sacrifice we are to make.

Mr. KING, in the outset of his remarks, adverted to the delicacy of this question; and said that if, in approaching it, he could discover any danger of the present proposition's leading to that kind of connexion which was apprehended by Mr. TROUP, no one would more earnestly deprecate it than himself. But, he said, it was the boast of this nation that it had the reputation of having been the first to begin the abolition of the African slave trade; the Constitutional provision having reference to this subject, certainly looked forward to a time when this country would be ready to use its best endeavors to put down this iniquitous traffic; and, he might add, there was no provision in the Constitution which had been looked to with more general approbation than that one. The example of this country had excited the emulation of other nations, and all of them having any connexion with this trade, except two, had come into the measures for its abolition. Those two had taken time for further consideration, and so long as their decision was suspended, the regulations of other nations would be inefficient; an entire abolition of the traffic in slaves would never be effected until all united to suppress it. It seems to me, said Mr. K., that we are bound by our own principles, and the promise we have held out, to go a little further, if we can, to give effect to what we have undertaken. It was not important, he thought, in doing so, whether the necessary measures commenced with us, or were entered into at the invitation of others. So long, however, he said, as Spain and Portugal permitted this trade, and so long as any of our own people, to their disgrace, continued to pursue it under those flags, it was necessary to

the honor and the interest of this country to concur in any proper measures for its suppression. He could not perceive, he said, how such a measure as this motion looked to, could lead to any such entangling connexion as had been apprehended. What was proposed was an honest and moral concert to put an end to a traffic which is an abomination on the earth. He had no idea of its authorizing the slightest interference with the internal affairs of other nations, or of allowing them to interfere in ours; it could, in his opinion, only redound still more to the honor of our country. An arrangement of the nature suggested, he thought, might be entered into without any great inconvenience, and without any encouragement to that kind of connexion of interests which had been very justly deprecated; and it was, he said, if practicable, a measure which was demanded by a regard for the morals of the country, which our religion itself called for. Nor did he think, Mr. K. said, that it was a sound objection, though there was some force in it, that the proposition originated in this branch of the Government, and not with the Executive. Any branch of the Government, he thought, might express an opinion on any national question; the construction of legislative powers was not so strict as to forbid it; in proof of which, he adverted to the practice in England, whence, Mr. K. said, we took many of our political ideas, where the Parliament often expressed its opinion on subjects of public interest.

Mr. BURRILL made some additional remarks, in reply to Mr. TROUP, and said, that if all nations agreed in prohibiting the traffic, it might not be necessary to enter into any compact on the subject—it would in time, by common consent, become a part of the law of nations. What had been done, he said, to put down the practice, had not repressed and scarcely mitigated the evil. The diminution of the number of nations which still permitted the trade had made the objects of it very cheap on the coast of Africa, and the consequence was that great numbers of the wretched beings were crowded into small vessels, and the evil and cruelty were rather increased than diminished. To cure the evil, the prohibition must be absolute and universal; while it was partial, it must be ineffectual.

Mr. CAMPBELL, without being prepared for a discussion of the subject, said he could not at present see the propriety of adopting a resolution from which no good could result; for we, as legislators, said he, cannot enter into any contract with foreign nations. The Executive only, he said, was the proper branch of the Government to form such an arrangement, and if it had been necessary, he presumed the Executive would have done so; but it would be useless, and therefore improper, for the Senate to act on the subject, because they could not act with effect. It had been remarked, however, that the expression of an opinion by the Senate, might be useful, and that this course was a common practice with the British Parliament. It was common, he knew, for Parliament to address humble petitions to the

King that he would cause certain measures to be executed; but between that practice and ours there was no analogy. When this Congress acted, Mr. C. said, they acted effectually, and did not and ought not ever to undertake what they have not power to carry into effect. There was, perhaps, but a single instance of a departure from this practice in the Senate, when, on one occasion, they recommended to the Executive to send a Minister to a foreign Government. That measure he always disapproved, and he was, on principle, averse to originating any proposition in the Senate, which their Constitutional powers did not enable them to consummate. Besides this, Mr. C. declared his unwillingness to enter into any compact whatever with any foreign Power to regulate our own conduct, or to carry our laws into effect. Two nations had thought proper still to permit the trade alluded to. What compact, said Mr. C., are we to form with others, to induce these nations to forbid it? Are we to require Spain and Portugal to give up this trade? Are we to unite with France and England to urge them to give it up? And, should they yet refuse, are we to attempt to force them by arms to do so? Are we, he asked, prepared to risk a war for this object? He confessed he could not see to what other result the proposition tended.

Mr. BURRILL again briefly addressed the Senate, and read to the tenth article of the Treaty of Ghent, to show that the proposition was not a novelty, and that the United States were specifically pledged to Great Britain to use "their best endeavors" to abolish the trade.

Mr. TROUP replied that, in the very provision referred to, the Executive had cautiously and pointedly abstained from committing the country to any connexion for this object—the article of the treaty stipulating simply that each party would, with good faith, carry into effect its own statutes on the subject of this trade. The article, in short, engaged the parties to do that which, Mr. T. said, would have been done by the United States without any such stipulation.

Mr. KING rose to enter his dissent to the construction given by Mr. TROUP to the article of the Treaty of Ghent which had been quoted. Surely, he said, it would be much more offensive to admit that we would enter into a stipulation with a foreign Government to carry our own statutes into execution within our own territory, where our power is complete, than that we should engage in a concert to suppress a particular trade on the high seas. He would enter into no such stipulation with any Power on earth, even if it had been deemed necessary; but in this case it was not. He thought the true intention of the article was, that the parties would use their joint endeavors to put an end to the traffic. [Mr. K. then proceeded to remark on the circumstances of the case, which he presumed Mr. CAMPBELL had referred to, to which the Senate had volunteered its opinion on a certain subject to the Executive; but it afterwards appeared, on explanation, that Mr. K. and Mr. C. had not referred to the same case. Lest, however, injustice should

be done to Mr. K.'s views of that subject, they are omitted.]

Mr. CAMPBELL, in conclusion, observed, respecting the stipulation of the Treaty of Ghent, that he did not think the provision was intended to oblige either party to carry its own statutes into execution. He presumed it was introduced merely because the subject was at that time fresh in Great Britain, and that country felt anxious to have it introduced into the treaty to give to that instrument some popularity. There was nothing additional to be done in pursuance of the provision, and he viewed it simply as an expression of the pre-existing disposition of the parties to put down the trade entirely.

A motion having been made by Mr. CAMPBELL to postpone the resolution for further consideration, it was postponed to Monday without objection.

The Senate adjourned to Monday morning.

#### MONDAY, January 5.

WILLIAM HUNTER, from the State of Rhode Island and Providence Plantations, arrived the 2d instant, and attended this day.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Anderson; and a bill, entitled "An act in addition to an act, entitled "An act for the relief of John Thompson;" in which bills they request the concurrence of the Senate.

The bills last mentioned were read, and severally passed to the second reading.

On motion by Mr. WILSON, the bill entitled "An act for the relief of John Anderson," was read the second time, by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act in addition to an act, entitled "An act for the relief of John Thompson," was also read the second time, by unanimous consent, on motion by Mr. WILSON; and referred to the same committee.

The PRESIDENT communicated a letter from the Secretary for the Department of War, transmitting a copy of the Army Register of this date, for each member, conformably to a resolution of the Senate of December 15th, 1815; and the letter was read.

The PRESIDENT also communicated a report of the Secretary for the same department, comprehending statements of the expenditure and application of all such sums of money as have been drawn from the Treasury by the Secretary of War, from the 1st of October, 1816, to the 30th September, 1817, inclusive, conformably to "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," passed the 3d March, 1809; and the report was read.

He also communicated another report of the Secretary for the same department, comprehending an account of moneys transferred during the recess of Congress, from one specific appropriation to another, by authority of the President of



SENATE.

Proceedings.

JANUARY, 1818.

the United States, in the year 1817, showing all its application, agreeably to the first section of the aforesaid act; and the report was read.

Mr. STORER called up the memorial of the merchants of Portsmouth, New Hampshire, and its vicinity, praying compensation for the spoliation of French cruisers, presented at the last session; and the memorial was read, and referred to the Committee of Claims.

Mr. ASHMUN presented the petition of sundry inhabitants of the towns of Sheffield, Great Barrington, and West Stockbridge, in the Commonwealth of Massachusetts, and the towns of Canaan, Chatham and Nassau, in the State of New York, praying a post route, for reasons stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads.

The Senate resumed the consideration of the motion of the 31st December, for instructing the committee, to whom was referred the petition of the committee of the yearly meeting of the Society of Friends, at Baltimore, to inquire into the expediency of amending the laws on the subject of the African slave trade; and the further consideration thereof was postponed to Monday next.

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Public Lands to inquire into the expediency of amending the several laws relative to the sale of public lands, and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims on the petition of Haffield White; and, on the question to agree to the resolution, reported as follows:

"That a bill be reported, allowing Haffield White the sum of two hundred and fifty dollars, in full of all his claims on the United States."

It was determined in the negative.

The Senate resumed the consideration of the report of the Committee of Claims on the petition of Weaver Bennet, and the further consideration thereof was postponed to the first Monday in February next.

The bill, entitled "An act in addition to 'An act making appropriation for repairing certain roads therein described,'" was read the second time.

The bill for the relief of William Edwards and John G. Stubbs, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Noah Miller," and the further consideration thereof was postponed until the first Monday in February next.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Joel Earwood," reported it with amendments, which were read.

Mr. MORROW, from the same committee, to whom was referred the bill, entitled "An act for the relief of Samuel Aikman," reported it with an amendment, which was read.

Mr. MORROW, from the same committee, to whom was referred the petition of Joel Rivers,

made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States' lands within the same; and the bill was read, and passed to the second reading.

Mr. CAMPBELL, from the same committee, to whom the subject was referred, reported a bill to allow the benefit of drawback on merchandise, transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Edmund Dana, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner is unreasonable, and ought not to be granted.

The report and resolution were read.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital," reported it without amendment.

Mr. SMITH presented the petition of Joseph W. Page, praying compensation for certain services in procuring evidence of the violation of the embargo law, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. EPPES presented the memorial of Nathaniel Cutting, praying the grant of a tract of land in the reservation of military bounty lands, in consideration of his long and faithful public services; and the memorial was read, and referred to the Committee of Claims.

TUESDAY, JANUARY 6.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of John Rice, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire whether any, and if any, what alterations are necessary in the laws relative to section No. 29, reserved for the support of the Gospel, in the Ohio Company's and John Cleve Symmes's purchase:

On motion by Mr. KING, leave was given to withdraw the memorial of the Mayor, Aldermen,

JANUARY, 1818.

Proceedings.

SENATE.

and Common Council, of the city of New York, praying the reimbursement of certain sums advanced, and expended in the defence of the third military district, with the accompanying documents, presented at the first session of the fourteenth Congress.

On motion by Mr. MORRILL, it was agreed to reconsider the vote on passing to a third reading the bill for the relief of Silas Willard; and, on motion by Mr. FISK, that it be recommitted to the Committee of Claims, with instructions to report a bill, discharging the said Willard from his said recognizance on his paying, for the use of the United States, five hundred dollars, and the costs already arisen in said prosecution, it was determined in the negative; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative.

The Senate resumed the consideration of the report of the Committee on Public Lands, on the petition of Joel Rivers, and in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Edmund Dana, and the further consideration thereof was postponed until to-morrow.

The bill to provide for paying, to the State of Indiana, three per cent. of the net proceeds arising from the sales of the United States' lands within the same, was read the second time.

The bill to allow the benefit of drawback on merchandise, transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to 'An act making appropriation for repairing certain roads therein described,'" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joel Earwood," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendments having been concurred in, they were ordered to be engrossed, and the bill was read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel Aikman," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment having been concurred in, it was ordered to be engrossed, and the bill was read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital;" and no amendment

having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading.

WEDNESDAY, JANUARY 7.

ROBERT H. GOLDSBOROUGH, from the State of Maryland, arrived the 6th instant, and resumed his seat in the Senate this day.

The PRESIDENT communicated a report of the Secretary for the Navy Department, comprehending a statement of the expenditure and application of moneys drawn from the Treasury on account of the Navy Department, from the 1st of October, 1816, to the 30th of September, 1817, inclusive, conformably to "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," passed the 3d of March, 1809; and the report was read.

He also communicated another report of the Secretary for the same Department, comprehending a statement of the contracts made by the Commissioners of the Navy during the year 1817, prepared in obedience to the act of the 3d of March, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments;" and the report was read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill entitled "An act for the relief of Winslow and Henry Lewis," reported it with amendments; which were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of William Ezenbeck, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. TROUP presented the memorial of James Troup and others, inhabitants of the town of Darien, praying that said town may be made a port of entry, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. GOLDSBOROUGH presented the petition of William Lorman and others, inhabitants of Baltimore, praying for the establishment of a system of bankruptcy, for reasons stated in the memorial; which was read, and referred to the Committee on the Judiciary.

Mr. GOLDSBOROUGH also presented the memorial of William Lorman and others, merchants, traders, and manufacturers, of the city of Baltimore, praying the adoption of some further measures to insure the collection of the revenue, paying an ad valorem duty; and also the imposition of a duty upon all sales, by auctioneers, of dry goods, except such as belong to the estates of deceased persons, or insolvents, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. LACOCK presented the petition of Rees Hill, praying to be reimbursed a sum of money advanced by him, on public account, while com-



SENATE.

Encouragement to Manufactures.

JANUARY, 1818.

manding a detachment of militia in the service of the United States, during the year 1813, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of John Hebbert and others, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred, on the 22d December, the petition of Thomas Robinson and others, a committee in behalf of the surviving officers and soldiers of the Pennsylvania line of the Revolutionary Army, were discharged from the further consideration thereof, and it was referred to the Committee on Military Affairs.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Brown, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate the proceedings which may have been had under the act, entitled "An act for the gradual increase of the Navy of the United States;" specifying the number of ships put on the stocks, and of what class, and the quantity and kind of materials procured for ship-building. And also, the sums of money which may have been paid out of the fund created by said act, and for what objects; and likewise the contracts which may have been entered into, in execution of the act aforesaid, on which moneys may not yet have been advanced.

Mr. ROBERTS, from the Committee of Claims, to whom were referred the petitions of William Parcel and Martin Rose, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petitions.

The report and resolution were read.

The Senate resumed the consideration of the motion, of the 6th instant, for instructing the Committee on Public Lands to make inquiry relative to section No. 29, in the Ohio Company's and John Cleve Symmes's purchase; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims on the petition of Edmund Dana; and in concurrence therewith resolved, that the prayer of the petition is unreasonable, and ought not to be granted.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the petition of John Rice; and in concurrence therewith resolved, that the prayer of the petitioner ought not to be granted.

Mr. CAMPBELL submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of requiring by law the nomination of agents to Indian tribes, to be submitted to the Senate for their consent and approbation, in like manner as the nomination of other officers now are.

The amendments to the bill, entitled "An act for the relief of Joel Earwood," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendment to the bill, entitled "An act for the relief of Samuel Aikman," having been reported by the committee correctly engrossed, the bill was read the third time as amended, and passed.

The bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States lands within the same; and no amendment having been made thereto, the PRESIDENT reported it to the House; and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to allow the benefit of drawback on merchandise transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed and read a third time.

#### MANUFACTURES.

On motion by Mr. SANFORD, the petition of a number of the inhabitants of Oneida county, in the State of New York, in favor of encouraging manufactures, presented the 22d December, was ordered to be printed for the use of the Senate.

The memorial is as follows:

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

The petition of the inhabitants of the county of Oneida, in the State of New York, as well manufacturers as others, respectfully sheweth, that the above county contains a greater number of manufacturing establishments, of cotton and woollen, than any county in the State, there being invested in said establishments at least \$600,000.

That, although the utmost efforts have been made by the proprietors to sustain those establishments, their efforts have proved fruitless, and more than three-fourths of the factories remain necessarily closed, some of the proprietors being wholly ruined, and others struggling under the greatest embarrassments.

In this alarming situation, we beg leave to make a last appeal to the Congress of the United States. While we make this appeal, the present crisis, the extensive embarrassments in most of the great departments of industry, as well as the peculiar difficulty in affording immediate relief to manufactures, are fully

JANUARY, 1818.

Encouragement to Manufactures.

SENATE.

seen and appreciated. Yet, your petitioners cannot believe that the Legislature of the Union will remain an indifferent spectator of the wide-spread ruin of their fellow-citizens, and look on and see a great branch of industry, of the utmost importance in every community, prostrated under circumstances fatal to all future attempts at revival, without a further effort for relief. We could not magnify the subject, which we now present to Congress, beyond its just merits, when we state it to be one of the utmost importance to the future interests and welfare of the United States.

Before we proceed further, and at the very threshold, we disclaim all Legislative patronage or favor to any particular class or branch of industry at the expense of the other classes in the community. We ask of Congress the adoption of no measure, for the relief of manufacturers, which is not deemed consistent with sound national policy, and the best interests of the United States at large. But if a compliance with our prayers be the dictate of wisdom, and for the public good; if our application be justified by the examples of all wise and patriotic States; if no Government of modern Europe is so short-sighted, or regardless, of its duties, as not to constantly watch over and yield a steady and protecting support to the manufacturers of the State, we humbly hope this appeal in behalf of American manufactures will not be made in vain.

That clothing for our citizens in peace, and our Army and Navy in war, are indispensable; and that the necessary supply should be independent of foreign nations, are positions that will be controverted by none. The last war afforded most lamentable proof; your soldiers, exposed to the inclemencies of a Northern climate, were at times found fighting in their ranks almost naked. It will not escape observation, that national collision and hostility are most likely to arise with that nation from whom our supplies are principally derived, and that the operations of war must be prosecuted on the ocean; hence, regular supplies being cut off, smuggling, violations of law, with all the concomitant evils experienced in the late war, are the certain consequences. The same disgraceful scenes are to be acted over again, to the deep reproach of the country. If the present manufactures are suffered to fall, the Government will look in vain for means to avert those calamities. Surrounded with many embarrassments, Government, during the war, saw fit to encourage manufacturing establishments; and those who embarked their capital, it is humbly conceived, were warranted in the expectation of such continuing support of Government as should protect their interest against that foreign rivalry and hostility which is now operating to their ruin. They had a right, as they conceive, to expect this from what the Government owed to itself, and to the independence and best interests of the country, as well as from the example of other nations in like circumstances.

In reviewing the discussions on this great question, your petitioners feel themselves justified in saying, that the question has not been at all times fairly met on its true merits. We have been constrained to witness alarm sounded, as though a new principle was to be introduced, and the country now, for the first time, taxed for the mere benefit of manufactures. What can be more untrue and unjust? We need not remind the honorable the Congress of the United States of what is known to all, that, from the first establishment of the Government, special regard has been had, in laying imposts and taxes, to the protec-

tion of domestic manufactures, by increasing the duties on imported articles coming in competition. Again, the tariff, in protecting manufactures, has been represented as taxing the farmer and planter for the benefit of the manufacturer; and, hence, attempts have been made to excite popular prejudice against the latter. We need not dwell on this topic, in showing how unjust to individuals and injurious to the country the charge is. As it respects the manufacturing districts of the United States, there is no distinct class of manufacturers, no separation of the manufacturer and farmer; it is the farmer himself who is the manufacturer; he invests his money in manufacturing stock. With the exception of a few factories, in or near the great towns, by far the greater part of manufacturing stock will be found in the hands of the farmer.

Between different districts or States, one manufacturing and the other not, a different question arises, which resolves itself into a mere equality or apportionment of taxes on the different parts of the Union; and here it will be seen, on a view of the whole system of impost and taxes, that no injustice is done, as the manufacturing districts have, and still do, contribute their full proportion to the public Treasury. Of the internal taxes, it will appear that they have paid an amount greatly beyond the numerical standard or rule of apportionment prescribed by the Constitution. The fact is not here mentioned for the purpose of complaint, but to show how fallacious it is to select the duty on a particular article, to settle the question of equality in the general apportionment of taxes. We might again confidently appeal to the tariff of imports, and ask if the duty is not greater on many other articles than on imported cloths, with the exception of certain coarse and almost useless cottons of the East Indies. This is believed to be the case with most of the specific duties, and eminently so in some instances. Were the Government to proceed much farther than is now contemplated, and bestow premiums for the encouragement of particular branches of industry, examples to justify the measure would be found in the wisest and best administered Governments. While the provision in the Constitution, prohibiting any duty on exports, favors the great staple productions of the South, it injures the domestic manufacturer, and is subversive of the great principle adopted by most nations to restrain the export of the raw material necessary in manufactures. But neither of this provision do your petitioners complain.

We hope to find excuse in the importance of the subject, for submitting to the consideration of Congress the following principles of political economy, which have been adopted by the most enlightened Governments, and are deemed not altogether inapplicable to the United States:

That the public good requires of Government to restrain, by duties, the importation of articles which may be produced at home, and to manufacture as much as possible of the raw material of the country.

That the branches of industry particularly necessary or useful to the independence of the community ought to be encouraged by Government.

That the most disadvantageous commerce, is that which exchanges the raw material for manufactured goods.

That any nation who should open its ports to all foreign importations, without a reciprocal privilege, would soon be ruined by the balance of trade.

The policy of Great Britain, in support of which, no



are, however bloody; no expense, however enormous, is too great a sacrifice, ought never to be lost sight of by the United States. That nation assumes to manufacture for all nations, but will receive the manufactures of none. So tenacious, so jealous is she of the first dawns of manufactures elsewhere, that she binds even the hands of her own colonists. The jealousy of Parliament was excited, nearly a century ago, by the petty hat manufactory of Massachusetts; and an act of Parliament actually passed, in the reign of George the Second, prohibiting the erection of furnaces, in British America, for smelting iron.

The great Chatham, the least hostile to British America of British Ministers, in his speech in the House of Lords, on the address to the Throne, in 1770, expressed his utmost alarm at the first efforts at manufactures in America.

Mr. Brougham, a distinguished member of the British Parliament, recently declared, in his place, that it was well worth while, at the close of the late war, to incur a loss on the exportation to the United States, in order to stifle in the cradle our rising manufactures. It is in vain for any man to shut his eyes against the active rivalry and persevering hostility of British manufactures; and when the capital, the deep-rooted establishments, the improved machinery, and the skill of the British manufacturer, protected, as he always is, by the Government, are considered, it ought not to excite surprise that the American manufacturer, without the support of his Government, is found unequal to the contest. But, yielding to manufactures reasonable support in their infancy, the Government will, at no distant period, find them able to defend themselves against foreign competition and hostility, and, at the same time, make ample returns to the nation for its protecting kindness.

It was the opinion of Mr. Hamilton, former Secretary of the Treasury of the United States, as well as of Sir James Stewart, that no new manufactory can be established, in the present state of the world, without encouragement from Government.

It cost the English Parliament a struggle of forty years, commencing in the reign of Edward the Third, to get the better of the established manufactures of Flanders. It is believed that much less encouragement from Government would place the manufactures of the United States on a secure foundation. While the writers of that nation are seen to highly commend the principle of Adam Smith, that industry ought to be left to pursue its own course, without the interference of the Legislature, the Government has, at all times, and under every vicissitude, turned a deaf ear to the lesson, as though it were intended for other nations, and carried legislative regulations into every department and avenue of industry. The British statute book groans under those regulations. The policy of the Government has proved triumphant; immeasurable wealth flowed in upon the nation, giving it a power and control over other nations never before attained, and so long enjoyed by any people so inconsiderable in numbers.

But let no one imagine that a general system of manufactures is now proposed to be introduced into the United States. We would be understood as limiting our views to the manufactures already established; to say those, which have not already fallen, from the ruin which threatens them.

After all that the present manufactures can supply, there will remain to foreign importation an amount, it

is believed, equal, if not exceeding the means of the country to pay for. That importation, let it be remembered, will be mostly from a country which shuts her ports against the productions of the United States, and keeps them so, unless the necessities of her manufactories, or hunger and sedition opens them; and then the fatal suspension often proves, as the experience of the ill-fated shippers of breadstuffs, the present year, will attest, a mere decoy to ruin. Lord Sheffield, in the year 1783, declared that, except in time of war, there never was a market for American wheat in Great Britain, exceeding three or four years in the whole.

There was a time when the balance of trade, believed in both countries to be generally against the United States, was, in some degree, satisfied or counter-balanced by a favorable trade with the West Indies; but a recent change of policy in the British councils has cut off that resource, and the parent State prefers exposing her colonies to starving, rather than open her ports to American commerce.

It is obvious how much that Government presumes on its advantages over us, on the predilection of our citizens for British manufactures, and the influence of the liberal purchases in the South of the material for her cotton manufactures.

We hope to be excused in repelling the unwarrantable imputation bestowed on manufactories of woollen and cotton as being injurious to the health and morals of the community. On this point we may content ourselves with referring to the healthful sites of our factories, the spacious work-rooms, (required by the necessary machinery,) and appeal to every man who has visited a factory, for testimony against the imputation. What is the experience on the subject? Scotland manufactures not only what is required for its inhabitants, but about five millions of dollars annually in the article of cotton alone, for exportation, and yet, in both its physical and moral character, that nation sustains a high elevation. We look in vain for evidence that the arms of Scotchmen have been withered by their manufactories, nor do we recollect the field of battle in Europe where the arms of any nation were found stronger in conflict.

To swell the tide of prejudice against manufactures, it is said that unreasonable prices for goods were demanded, at the period of the late war. To reason with such objections would be a mere waste of time. We might ask what merchant, mechanic, or farmer, in any age or country, ever forbore to raise his prices according to the demand in the market? It enters into first principles. Did the importer treble his first cost on his cloths, even on smuggled goods, and does he make the charge of extortion against manufacturers? The war unhinged everything, and changed the whole order of society and course of business.

It might have been expected, that the present fallen condition of manufacturers would have soothed prejudice and disarmed hostility. With all their alleged war profits, there are now none so poor. Is it not seen, that the destruction of the present manufactories must inevitably produce the same evils of extravagant prices in the event of a future war, as were experienced in the last?

As to the imputed effect of the tariff, in enhancing the prices of imported goods, it is believed that goods were never so low as under the operation of the present duties; and, so far as competition between domes-

tic and foreign goods has contributed to this, credit is justly due to our manufacturers.

It is objected, that the entire industry of the country may be most profitably exerted in clearing and cultivating our extended vacant lands. But what does it avail the farmer, when neither in the nation from which he purchases his goods, or elsewhere, can he find a market for his abundant crops? Besides, the diversion of labor from agriculture to manufactures, is scarcely perceptible. Five or six adults, with the aid of children, will manage a cotton manufactory, of two thousand spindles.

From the gloomy condition of the manufacturers, the mind, turning to another quarter, is cheered with the brightest prospects to others. In the more Southern States, it is believed, that the amount received, during the last year, from the export of two or three articles of agricultural produce only, exceeds forty millions of dollars.

An appeal is made to the equity, to the patriotism, of the Southern statesman: his aid and co-operation is invoked for the relief of the suffering manufacturers of the Northern and Middle States.

In conclusion, your petitioners humbly pray, that provision may be made by law, for making the duties on imported woollens and cottons permanent; for prohibiting the importation of cotton goods from beyond the Cape of Good Hope, for consumption or use in the United States, (according to the example of several European Governments;) for restraining auction sales, of goods, and for the more general introduction and use of domestic goods in the Army and Navy of the United States.

OCTOBER 1, 1817.

THURSDAY, JANUARY 8.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act allowing compensation to the members of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories, and repealing all other laws on that subject;" a bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria;" and a resolution directing the procurement of certain laws; in which they request the concurrence of the Senate.

The two bills and resolution last mentioned were read, and severally passed to the second reading.

On motion by Mr. SANDFORD, the Committee on Commerce and Manufactures, to whom was referred the memorial of William Lorman and others, merchants, traders, and manufacturers, of the city of Baltimore, on the 7th instant, were discharged from the further consideration thereof, and it was referred to the Committee on Finance.

Mr. LACOCK presented the memorial of John Inskeep and others, merchants and underwriters of the city of Philadelphia, who have suffered from the depredations of French cruisers; representing that, by the convention of September 30, 1800, the claims of American citizens for indemnity for such captures, were relinquished in consideration of certain great political advantages in favor of the United States, whereby

they conceive the United States are bound to discharge those claims which they prevented their citizens from obtaining abroad; and praying compensation therefor; and the memorial was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH presented the memorial of William Wilson, and others, merchants and underwriters of the city of Baltimore, on the same subject; and the memorial was read, and referred to the same committee.

Mr. ROBERTS presented the memorial of the religious society of Friends in Pennsylvania, New Jersey, Delaware, and the Eastern Shore of Maryland, praying a revision and amendment of the laws of Congress for the purpose of more effectually suppressing the kidnapping and internal traffic in the persons of color, as stated in the memorial; which was read, and referred to the committee to whom was referred, on the 18th of December, the petition of the committee of the yearly meeting of the Society of Friends, at Baltimore.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act, in addition to 'An act for the relief of John Thompson,'" reported it without amendment.

On motion by Mr. SMITH, leave was given to withdraw the documents accompanying the bill, providing an additional compensation to the circuit judge of the 6th circuit of the United States, reported at the last session.

On motion by Mr. DAGGETT, the resolution directing the procurement of certain laws, was read the second time, by unanimous consent, and considered as in Committee of the Whole, and having been amended, the PRESIDENT reported it to the House accordingly; and the amendments having been concurred in, the amendments were ordered to be engrossed, and the resolution read a third time as amended.

The bill to provide for paying to the State of Indiana three per cent. of the net proceeds, arising from the sales of the United States lands, within the same, was read a third time, and passed.

The bill to allow the benefit of drawback on merchandise transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise, was read a third time, and passed.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of William Esenbeck; and in concurrence therewith the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of John Brown; and in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the motion of the 7th instant, for requesting information of the proceedings which may have been had under the act, entitled "An act for the grad-



SENATE.

Proceedings.

JANUARY, 1818.

ual increase of the Navy of the United States," and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, on the petitions of William Purcel and Martin Rose; and in concurrence therewith, resolved, that the petitioners have leave to withdraw their petitions.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the petition of John Hebbert, and others; and in concurrence therewith, resolved, that the petitioners have leave to withdraw their petitions.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Winslow and Henry Lewis," together with the amendments reported thereto by the Committee of Claims; and, on motion by Mr. ASHMUN, the bill, together with the amendments, were recommitted to the Committee of Claims, with instructions to ascertain and allow the interest on the amount found to be due the said Winslow and Henry Lewis.

Mr. ROBERTS presented the petition of Joseph Forrest, of the City of Washington, praying compensation for the loss of a certain schooner, called the William Yeaton, chartered in the month of May, 1812, to the agent of the United States to take a cargo of provisions from New York to Laguaira, which was seized and condemned, as stated in the petition; which was read, and referred to the Committee of Claims.

The Senate then proceeded to the consideration of the following resolution offered yesterday by Mr. CAMPBELL:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of requiring, by law, the nomination of agents to Indian tribes to be submitted to the Senate for their consent and approbation, in like manner as the nominations of other officers now are.

Mr. TAIT suggested whether it would not be proper to embrace within the objects of inquiry the appointment also of the Superintendent of Indian Affairs. It was an office of much responsibility, he said; through which was disbursed large sums of the public money, but it was an office at present filled without the concurrence of the Senate.

Mr. CAMPBELL accepted the amendment suggested to the resolution by Mr. TAIT.

Mr. MORROW remarked that he presumed the Superintendent of Indian Trade was meant, as there was no such officer as Superintendent of Indian affairs—the Governors of the Territories were the superintendents of Indian affairs—and suggested as a further inquiry the propriety of providing for the nomination to the Senate also of Indian factors; when,

On motion of Mr. TAIT, to give time for inquiry into the proper objects to be included in the resolution, it was postponed until to-morrow.

FRIDAY, January 9.

ELIGIUS FROMENTIN, from the State of Louisiana, arrived the 8th instant, and attended this day.

Mr. GOLDSBOROUGH presented the memorial of William Patterson and others, of Baltimore, manufacturers of woollen and cotton goods; and others, interested in the support and protection of domestic industry, and the improvement of the useful arts in the United States; praying that the protecting duties of the tariff, as now in operation, be made permanent, and that further Legislative provisions be made for the collection of the impost, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. GOLDSBOROUGH also presented the memorial of the Philanthropic Society of Easton, Maryland, praying some further Legislative provision, for the purpose of more effectually suppressing the kidnapping and internal traffic in the persons of color, as stated in the memorial; which was read, and referred to the committee to whom was referred, on the 18th December, the petition of the committee of the yearly meeting of the Society of Friends, at Baltimore.

Mr. SANFORD presented the memorial of Samuel Campbell and others, manufacturers and vendors of American manufactured paper, in the city of New York and its vicinity, praying the protection of Congress, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

The Senate resumed the consideration of the motion of the 7th instant for instructing the Committee on Military Affairs, relative to the nomination of agents to Indian tribes; which, having been amended, was agreed to as follows:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of requiring, by law, the nomination of Superintendent of Indian Trade, and of agents to Indian tribes, as also of agents for trading-house establishments, to be submitted to the Senate for their consent and approbation, in like manner as the nomination of other officers now are; and, generally, to inquire whether any, and what amendments are necessary to be made in the laws for regulating intercourse, and for establishing trading-houses with the Indian tribes.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making further provision for repairing the public buildings," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was recommitted the bill, entitled "An act for the relief of Winslow and Henry Lewis," together with the amendments reported thereto; reported the same with a further amendment, which was read and considered, as in Committee of the Whole, and disagreed to; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment having been concurred in, it was ordered to be engrossed and the bill read a third time, as amended.

The bill, allowing compensation to the mem-

JANUARY, 1818.

African Slave Trade.

SENATE.

bers of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories, and repealing all other laws on that subject, was read the second time.

The bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," was read the second time, and referred to the Committee on the District of Columbia.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to 'An act for the relief of John Thompson,'" and, on motion of Mr. ROBERTS, it was recommitted to the Committee of Claims.

The amendments to the resolution, directing the procurement of certain laws, having been reported by the committee correctly engrossed, the resolution was read a third time as amended, and passed, with amendments.

MONDAY, January 12.

Mr. DAGGETT presented the petition of Elijah Rice, of the town of Wolcott, in the State of Connecticut, a soldier of the Revolutionary army, praying relief in consideration of his long and faithful services and severe sufferings, as stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. VAN DYKE presented the memorial of Jas. Brobson, Marshal of the State of Delaware, praying an increase of compensation, for reasons stated in the memorial; which was read, and referred to the Committee on the Judiciary.

Mr. MORRIS presented the petition of John Orr and others, inhabitants of New Hampshire, praying a post route, for reasons stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads, with instructions to inquire into the expediency of establishing a post route from Dunstable, in New Hampshire, to Concord, in New Hampshire, on the river road, so called, through the towns of Merrimack, Bedford, Goffstown, Dunbarton, and Bow, to Concord.

Mr. TAYLOR submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of providing, by law, for the sale of the surplus lands which were reserved to satisfy militia and donation claims, in the neighborhood of Vincennes, in the State of Indiana.

Mr. ROBERTS, from the Committee of Claims, to whom was recommitted the bill, entitled "An act in addition to 'An act for the relief of John Thompson,'" reported it with amendments; which were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of William Farris, senior, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Nathaniel Cut-

ting, also made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

The amendment to the bill, entitled "An act for the relief of Winslow and Henry Lewis," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

A message from the House of Representatives informed the Senate that the House concur in the amendments of the Senate, to the bill, entitled "An act for the relief of Joel Earwood," with an amendment, in which they request the concurrence of the Senate.

Mr. ASHMUN submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be directed to inquire into the expediency of providing, by law, for the attendance of witnesses before courts martial.

The bill, entitled "An act making further provision for repairing the public buildings," was read the second time, and referred to the Committee on the District of Columbia.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act, in addition to 'An act making appropriation for repairing certain roads therein described,'" and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act allowing compensation to the members of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories, and repealing all other laws on that subject;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment having been concurred in, it was ordered to be engrossed, and the bill read a third time as amended.

On motion, the Senate proceeded to consider the amendment of the House of Representatives, to their amendments to the bill, entitled "An act for the relief of Joel Earwood," and concurred therein.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the petition of the trustees for the Vincennes University, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

THE AFRICAN SLAVE TRADE.

The following resolution, offered some days ago by Mr. BURRILL, was taken up:

*Resolved*, That the committee, to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States on the subject of the African slave trade, as more effectually to prevent said trade from being carried on by citizens of the United States,



SENATE.

African Slave Trade.

JANUARY, 1818.

under foreign flags; and also into the expediency of the United States taking measures, in concert with other nations, for the entire abolition of said trade."

Mr. BURRILL said, that, at the time he had the honor of moving the resolution, he had not anticipated any objection to it; but, from the debate on the subject on a former day, it appeared that some honorable gentlemen thought it unnecessary to make the inquiry at all, and that any concert with foreign nations, to attain the end proposed, was highly improper and dangerous. The question before the Senate was not upon the adoption of any specified or prescribed line of conduct, for the purpose of putting the finishing hand to the great work of the abolition of the slave trade; it was merely whether it should be referred to a committee to inquire into the expediency of taking measures, in concert with other nations, for this great and benevolent purpose. The committee may inquire, and be of opinion that it is inexpedient to adopt any measures whatever, or at least that it is not proper to take measures in concert with other Governments. If the Senate should refuse an inquiry into the propriety of this course, they might be subjected to the imputation of disregarding the implied obligations of the Treaty of Ghent, by the tenth article of which it is recited, that both the parties are desirous of continuing their efforts to promote the entire abolition of the slave trade, and agree that both shall use their best endeavors to accomplish so desirable an object. If the Senate should refuse the inquiry, it might give rise to unjust surmises and suspicions as to the sincerity of the Government in passing laws for this purpose, and in entering into the stipulations of the Treaty of Ghent. The United States cannot justly be charged with having acted in bad faith, either in making or performing treaties; and, as the United States have the honor of having led the way in the glorious cause of abolishing the slave trade, there can be no doubt that, in making this stipulation at Ghent, our Envoys acted with sincerity, and we hoped were entitled to the merit of having proposed the article. This article, as well as the rest of that treaty, met universal approbation. Ought we, then, to refuse to refer it to a committee, to inquire whether further measures are not necessary, or at least expedient? If any honorable gentleman had moved to go into a Committee of the Whole on this question, would it have been refused? What danger or inconvenience, then, could arise from referring the subject for investigation? This Committee, if convinced that further measures are necessary, would report those measures to the House; and, should they recommend a concert with foreign nations for this purpose, the subject then, having some length and breadth, and dimensions, could be examined and considered. But this could not so well be done now, because there was no specific proposition before the House. There was no such danger to be apprehended as some gentlemen imagined, from the generality of the terms of the proposition now under debate. This is the common and ordinary course in commencing the consideration

of any subject in the Senate, and the Senate should be cautious not to give ground for the disgraceful suspicion that they are not sincere and hearty in this cause of suffering humanity. Every gentleman in this House wishes for the entire abolition of this abominable traffic, and this is the general voice of the country. The gentlemen here representing the slaveholding States, are as decided as any others on this point, and one of those States (Virginia) was entitled, he believed, to the honor of having been the first State to prohibit it. It was better, as the subject had some connexion with others which were of a peculiarly delicate nature, to refer it to a deliberate inquiry in a small committee, than to make it a topic of debate under some general proposition, in which way considerations which did not fairly belong to the subject would insensibly mingle with it.

Some gentlemen, he said, doubted the propriety of the Senate's advising or directing the Executive as to the commencement of a negotiation, or the purposes of it. It was truly singular if the Senate, who were to be called upon for their advice and consent before any negotiation could end in the shape of a ratified treaty, and without whom no ambassador or envoy could even be appointed, could not express their opinion beforehand, as to the propriety or necessity of any proposed arrangement with a foreign Power. They had done it in the case referred to in the debate upon this motion on a former day, by the gentleman from New York, (Mr. KING,) and the gentleman from Tennessee, (Mr. CAMPBELL.) The British House of Commons do it, though that House possesses no part of the treaty-making power, and they had done so in effect in 1783, and on other memorable occasions.

If any measures should be adopted, in concert with other nations, there can be no danger, as some gentlemen apprehend, that we shall, by this means, be entangled in foreign alliances, or involved in war. What nation would be likely to go to war for the slave trade? We have already entered into a concert with Great Britain for this purpose, and we might enter into a like concert with other Powers. All the great Powers of the world, except Spain and Portugal, have already combined, so far as to express their wishes and opinions, and in many instances have gone much further, and have acted in concert with effect. Spain and Portugal may both be influenced by our representations, and induced to co-operate from the desire and the interest they have in conciliating the United States. At least we ought to ask for their concurrence. New governments and republics seemed to be forming, or are forming, in the South; their concurrence in putting an end to the trade is indispensable, if it is ever to be abolished. They have the strongest motives for desiring a good understanding with this country, and would not be deaf to our representations. Should all Christian nations, or a great majority of them, agree upon this point, it would soon be considered a traffic against the law of nations, and this international law must prove more ef-

JANUARY, 1818.

African Slave Trade.

SENATE.

fectual than the municipal laws of separate Governments, acting without concert.

Unless, he said, further steps should be taken, all that had been done would be useless, and worse than useless. The trade being forbidden by some nations, and interrupted by force by Great Britain, the risks of it had increased; many men, who might otherwise have had no scruples of conscience, would not, however, violate the laws of their country, and the consequence was, that the price of the unhappy beings who were the objects of this traffic had fallen very low on the coast of Africa; unprincipled adventurers, restrained by no moral obligation, had engrossed the trade. They crowded the wretches they had purchased for a trifle into the holds of small fast sailing vessels, and the sufferings and mortality of the passage had increased to a frightful degree. It had been lately stated to his Government, by a British officer of rank, Sir James Yoe, that six hundred human beings had been stored aboard a vessel of only one hundred and twenty tons, thirty of whom died in sailing eighty leagues; and enormities of this sort were carried on in sight almost of our shores, and by some, he feared, who had the privileges and the boast of American citizenship.

He would only add, that one cause of our complaint against the late establishment of a pretended republic in Florida, was, that the Government had connived at, and gave facilities to, the carrying on of this trade. The slaves which, under pretext of capture or otherwise, were brought into these places, were smuggled into the United States, in violation of the laws of the United States, and of all the particular States. There was proof, among the documents communicated by the President, that a privateer commanded and manned by Americans under the patriotic flag, as they called it, had taken a slave vessel, also commanded and manned by Americans, and that these slaves had been smuggled into Louisiana in defiance of all law.

With these views of the subject, he hoped the Senate would see the necessity of taking further measures to repress the trade, and at length to put an end to it.

Mr. BARBOUR said, that, while he was decidedly in favor of the main object of the resolution, that of revising the laws, and remedying every defect for the prevention of the wicked trade in question, there was a part of the resolution of which he did not approve, and, if retained, he should vote against it. And hence, least his views might be misunderstood, he felt himself compelled to intrude on the attention of the Senate, while he briefly disclosed his reasons. Before he did this, however, he would make a few general remarks. He felt himself obliged to the gentleman from Rhode Island, for doing justice to Virginia, in admitting she had been the first to protest against this trade. But it was no more than an act of justice; for such certainly was the fact. Her zeal in this good cause has undergone no diminution. The United States followed her example; America stands in the re-

lation to the rest of the world, that Virginia does to America. She took the lead in the humane effort to exterminate this horrible traffic. He rejoiced to see that the great nations of Europe had adopted her precepts, and were imitating her enlightened and philanthropic example. Spain and Portugal constitute the only exception; the former, it is said, with what truth he knew not, has received a pecuniary compensation to abandon the traffic. Should this be true, as he cordially hoped it might be, Portugal will then stand alone. It is reasonably to be anticipated, that she will not be able to resist the incumbent load of the civilized world; when their remonstrances are enforced by the united influence of justice, humanity, and philanthropy. Africa, then freed from those disastrous effects which this trade has produced, may, under the benign influence of peace, reason and religion, indulge a hope, that in the fulness of time she may participate in the blessings of civilization, with all its beneficent effects. Nor was he averse to adopting measures in concert with any nation, which he believed would be calculated to hasten the destruction of this trade. For his part, he feared nothing from an alliance with any nation, whose only object was humanity. No man could more highly appreciate, than he did, the soundness of the political maxim, inculcated by the Father of his Country, in his legacy to the American people—that of avoiding entangling alliances with other nations; yet, with all his reverence for this wise precept and his determination to pursue its suggestions, he felt no apprehension from the concert proposed. A concert like the one proposed is in its character novel; its object is humanity; while alliances denounced by the above wise maxim, have for their object dominion and power, to be acquired by the misery of mankind; to extricate a nation from which, is not unfrequently attended with a violation of honor; or, if executed, it is frequently with the sacrifice of peace, and sometimes with ruin. But what can we fear? Before any such concert can be taken, the terms on which we unite must receive our sanction; a guarantee sufficient to quiet the apprehensions of the most cautious. In so far, then, as the principal project of the resolution is concerned, or the means of effecting it, he would go with the mover; but the part to which he objected, was that proposing that Congress should unite with other nations to produce the object; this he considered to be improper. Congress can act only in its legislative capacity; and by consequence, can enter into no concert with other nations. That has been assigned to another branch of the Government. It is through the Executive alone that intercourse and arrangements with other nations can be effected. Leave it therefore where the Constitution has placed it, without discussing the question how far this body has a right to advise, in its Executive character, the Chief Magistrate, upon the propriety of entering into new arrangements with foreign nations; a question on which there is a difference of opinion. He would content himself by remarking, that



SENATE.

African Slave Trade.

JANUARY, 1818.

he believed such an authority had never yet been exercised; but, be the power as it may, it will be readily conceded that this is not one of the cases which would justify it; or, if it were, this is neither the time nor the manner in which it should be performed. It has been urged, indeed, that, by the Treaty of Ghent, America and Britain, having agreed to use their best endeavors to put an end to this traffic, that this course, as now recommended, may find a shelter from criticism in that article; as it is merely in fulfilment of the obligation thereby contracted. Mr. B. conceived that the article in question had no other object, than to furnish to the civilized world an unequivocal testimonial of the sentiments of the contracting Powers in regard to this trade. Both nations having, therefore, made use of what they esteemed the best method to suppress it, and entertaining, reciprocally, the most entire confidence that they were sincere in their wishes to effect it, either would repel with scorn an insinuation that an article of this kind was necessary to secure, in future, their zealous perseverance in a course which had been previously adopted, of their own mere will, and which rested upon a much surer foundation than compact, namely, upon their sense of its justice, humanity, and propriety. But, waving any advantage to be derived from this view of the subject, and yielding, for argument sake, that the Treaty of Ghent created an obligation on the United States, he would ask if Britain had suggested that this Government had been wanting in its duty? She cannot? Or will any gentleman here insinuate that there is less zeal in the Executive to promote the desired object, than in this House, or the nation? If not, why adopt this anomalous proceeding, and by a legislative act declare the necessity of a concert, and the terms on which it shall be adopted? For if this is not done, why inquire into it? To him, it seemed important that this body should keep within its legitimate sphere, and, when it acts, affectually. Under these impressions, he permitted himself to hope that the mover himself would consent to such a modification of his resolution, as to exclude the objectionable feature; and, thereby conciliating the whole Senate, to obtain a unanimous vote in its favor; otherwise the division which would ensue, while it might be the means of producing a false estimate of our real opinions, would counteract in no small degree the great object, as well of the mover, as of every member of the Senate; namely, a unanimous opinion of the whole body that the traffic is an outrage upon justice and humanity.

Mr. B. concluded by remarking, that if his proposition was not acceded to, he should move to strike out so much of the resolution as proposed that Congress should adopt measures of concert with other nations.

Mr. TROTT said he had no intention, when he objected the other day to a part of the resolution, to involve the Senate in a debate upon it; and he very plainly perceived that, at this stage of it, it would be considered premature to discuss at large the merits of the question. But he would

submit to the Senate if it were competent to them, in union with the President, to pledge the arms and resources of the country, in a concert with foreign Powers, for any object whatsoever. He denied that it could be done in the spirit of the Constitution. It would be a pledge of that which we had not. The arms and resources of the country were confided elsewhere; they were deposited, not with the two, but the three branches of the Legislature; and, in fact, were not even to be found there. The people were essentially the depository of them, and their Representatives the organ. Yet it was proposed to pledge, by an act of the Executive power only, the arms and resources of a nation in concert with foreign Powers, for the abolition of the slave trade. Gentlemen seemed to entertain very different significations of the term concert; for his part, Mr. T. said, he knew of but one signification, which, in its application to the present subject, could legitimately attach to it; a signification sustained equally by the law of nations, the law of diplomacy, as far as he knew such a law, and the universally received acceptance of the term—concert with foreign nations—Sir, what is it but a term for common councils and common efforts? The gentlemen propose to themselves a great object—no less than the universal abolition of the slave trade; other nations, they acknowledge, hold out against them. Will they be content, then, with a concert of common councils? Assuredly they will not. Between nations common councils mean nothing, unless sustained by common efforts; and common efforts between nations mean nothing less than war, if war be necessary for the object. War must be necessary, so long as other nations assert the right and hold to the practice of the slave trade. It is true that you may begin with negotiation, but it is certain that, if negotiation fail, you must resort to war. What would avail a treaty stipulation which would pledge the United States to exert, in concert with Great Britain, their advice and persuasion to induce Spain and Portugal to abolish the slave trade? Spain and Portugal would care nothing about your advice and persuasion, especially when you told them that you intended nothing more. Rhetoric and eloquence are not the instruments of nations for the execution of grand projects. He was well persuaded that the gentleman from Rhode Island meant to deal in something more substantial; idle and insignificant verbiage could not suit his purpose, for, if it did, he already found it in a treaty. This word concert, therefore, Mr. President, means something—it means connexion, combination, alliance, for a given object; it means entangling alliance. You are admonished against entangling alliances; for what reason? Because our Government is of its own kind, insulated, the only Republic in the world, between which and other Governments there is no common principle, no common feeling, no common sympathy; they may combine for their own interests; they may enter into concert for your destruction; they will not be so ready to combine with you either to promote your interests, or in-

JANUARY, 1818.

African Slave Trade.

SENATE.

terests common to you and them. You propose a concert with crowned heads! They never concert with themselves, but broils, and quarrels, and wars, follow in the train. History is full of them; and, if entangling connexions, sir, between monarchs, who wield the sword and the purse, who make peace and war at their will, be fruitful of these mischiefs, what may we not expect when you enter the lists without the means of doing what you engage to do? Gentlemen will say this mode of reasoning is entitled to little weight; it is speculative—admit it; the argument of experience is alone admissible, and the argument of experience is decisive. The only instance which I recollect, sir, of a concert between this country and any foreign Power is that of the French Treaties of 1778. It was a concert, and it turned out a most entangling one. It was a concert, too, for an object near and dear to the American heart; a concert for liberty and independence. A more important object can never present itself. In the one treaty we stipulated the guaranty of the French American possessions; in the other, we stipulated that France (being in a state of belligerency with any other Power) might use our ports freely with her ships of war and prizes. Now, sir, I pray you, how did we fulfil our stipulations? We did not fulfil them at all. We got out of the difficulty, I will not say dishonorably, but as well as we could. I believe, sir, the men who presided over our councils, at the time of which I speak, were honorable men, and were willing to do whatever they could to carry into effect, in good faith, what they engaged to do; but, sir, they could not; they wanted the sword and the purse, and the Constitution had intrusted them to others; they were intrusted to the people. I sincerely believe, sir, that France saw the embarrassing dilemma, and took pity upon us. She saw we could not execute the guaranty without going into the war, and she forbore to press it. But, in consequence of her thus forbearing, she thought she might the more rightfully demand the rigid execution of the other article. We had stipulated to allow French ships of war and prizes to go and come freely, and to remain at pleasure; it was a stipulation partial in effect. France, being at war with England, it admitted to France what it refused to England. It was inconsistent, too, with the spirit of President WASHINGTON's proclamation of neutrality. France having abandoned her claim for the fulfilment of the guaranty, thought she was entitled to a favorable construction of the article relating to ships of war and prizes. She demanded the right of arming, and fitting, and commissioning in our ports. We resisted, and eventually we found ourselves in a war with France. This, sir, is the only instance of a concert between this country and a foreign Power which I recollect; such has been the result of it, and such will ever be the result. It is unavoidable from the nature of our political institutions. We enter into embarrassing stipulations; we are called upon to execute them; we call upon the people to draw the sword and ad-

vance the purse; they answer us, no! we have nothing to do with your treaties of concert or your guaranties; if you are unwise enough to enter into them, you may get out of them as well as you can; you shall not do so at our expense, or with our aid and assistance. And so, sir, they will answer always. They will go to war for rights which belong to them; for their honor, their independence; for interests essentially their own; they will not for rights and interests which are extraneous, and in which they feel no concern. This was the lesson taught by the people to the men who directed our councils on the occasion to which I referred; an awful warning never to put to hazard the peace of this country by connexions with foreign Powers for any objects whatsoever, much less for objects foreign to our interests and our feelings. The treaties adverted to were negotiated under the former Government. It is believed that nothing similar has occurred under the present. Mr. T. said he would no longer tire the patience of the Senate with such desultory remarks; but he could not forbear the expression of his surprise that the proposition of the gentleman should be urged with so much zeal and earnestness, when it was well known to the Senate and the world, that from the origin of the present Government, almost up to the present moment, American citizens, the flesh and blood of the land, had been seized by the Algerines, handcuffed and chained, incarcerated and enslaved, four thousand miles from their homes and the bosoms of their families, and no instance is recorded of a proposition having been submitted to the Senate to advise the President to enter into concert with foreign nations for the abolition of Algerine slavery.

Mr. WILSON called for a division of the question on the resolution, so as to take it separately on its two clauses.

Mr. BARBOUR, observing that the motion he was about to make would supersede that of the gentleman from New Jersey, moved to strike out the latter clause of the resolution.

Mr. MORRILL said, that with peculiar emotions, he asked the attention of the Senate to a few remarks on this subject. It was with extreme diffidence he rose to address the Senate on this occasion. I am not insensible, said he, of the extent of the field on which I enter, nor of my inability to explore it. A subject, sir, co-extensive with the world, in which this extensive Republic have an interest, and on which, by their delegated Representatives, they may express an opinion—whether they will “use their best endeavors” to effect a complete abolition of the slave trade. Sir, upon this it seems there can be but one opinion.

Coming from New England, where slavery is unknown, my prejudices may be strong, my views enthusiastic; but, sir, allow me to be honest, believe me sincere, permit me to be plain. In New England we believe “all men are born equally free and independent”—thus commences our “Bill of Rights.” Whatever their color, powers of mind, property, or rank in society, they are



SENATE.

African Slave Trade.

JANUARY, 1818.

free men—citizens, not slaves. They have a claim to that freedom in this asylum of liberty. These sentiments, sir, commenced with my existence; advanced with my youth; were strengthened with my manhood; and are confirmed with my age. They are not only mine, but universally the sentiments of those whose confidence and affection have exalted me to this honorable station. Shall I not speak their sentiments on this occasion? Shall I not desire the termination of slavery? It is a duty, sir, I owe to myself, my country, and my God. That respectable section of the nation which I have the honor to represent, has a right to demand it at my hand.

When I examine this resolution, sir, I am unable to discover why any objection should be made. In passing it, we do not say we believe it expedient to amend "the laws of the United States on the subject of the African slave trade;" nor that we will enter into any "concert with other nations for its entire abolition." But, sir, we say, we are willing to instruct a respectable committee to examine those subjects, in all their parts and bearings, as to the expediency of the objects suggested, and report to the Senate, which report will then be under the perfect control of the body. The Senate may then approve or disapprove, as its wisdom may dictate. Where then is the difficulty? For myself, sir, I am in favor of the resolution. Permit me to assign a few reasons. It is founded, in part, on an article of the Treaty of Ghent. The words are as follows: "Whereas, the traffic in slaves is inconsistent with the principles of humanity and justice; and whereas, both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed, that both the contracting parties shall use their best endeavors to accomplish so desirable an object." In this, sir, there is nothing very specific, as to the manner in which their desires shall be manifested. But the contracting parties view "the traffic in slaves inconsistent with the principles of humanity and justice," and, therefore, agree to use "their best endeavors" to effect its abolition. How this is to be accomplished, is another point. They may have different views, and, consequently, each may pursue a different course. Therefore, sir, I am perfectly willing to submit the subject to the investigation of the committee, that they may report thereon.

The abolition of slavery was contemplated by the framers of our Constitution. Sec. 9—"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." Here, sir, we see those venerable sages prospectively viewed the period in which we live, when Congress should manifest a disposition to abolish the slave trade. Wise provision! a duty negatively expressed. A provision, sir, which has given rise to a disposition that pervades the United States, to pursue and accomplish the benevolent object. Nay, sir, it is not confined to the United States;

it extends to almost every civilized nation on the globe. A spirit of philanthropy glows in the human breast. Spain and Portugal are the only nations now averse to the object. The views of Spain, in all probability, will soon accord with those of other nations. Then Portugal will be the solitary kingdom whose voice and arm are not raised against this inhuman traffic. Let us proclaim, sir, that these sable mortals have a claim upon our philanthropy and our benevolence.

I am in favor of the resolution, sir, because its object comports with the dictates of reason and humanity. Though black, they are human beings, in human shape. That is not their crime, but their misfortune. We then ought to commiserate, not enslave them. Let exertions be made to raise them from their present state of degradation; assist in the mighty work. Every human affection recoils at their bondage. May every benevolent heart beat high for their freedom, and every human arm be extended for their emancipation. It is a cause, sir, in which the world is engaged. As it was commenced by the United States, let them continue their efforts; let Congress say, with all civilized nations, they will joyfully bear a part to accomplish an object so desirable, so humane.

But, sir, I am in favor of the resolution in a political point of view. Carry the great design into effect, and you place those forlorn objects within the reach of political and moral instruction. The basis on which every good Government most firmly stands, is knowledge and virtue. Diffuse and extend these sacred principles, and you enlarge the basis on which your Government is built; and, in the same proportion you carry the principles of liberty and the rights of man to those who grope in darkness, and aid in the emancipation of those who are bound in the chains of despotism. Virtue and knowledge, sir, are the firm foundation on which this mighty Republic is erected; on which it rises and on which it will continue to rise, so long as those divine principles are nourished, universally diffused and practised. This is what astonishes foreigners when they tread American ground. All classes of society can read and write, can name and give the characters of our rulers, the principles of our Constitution, the genius of our Government, and the nature of our laws. This was the reason, sir, France could not maintain a Republican Government. Knowledge and virtue were not sufficiently diffused through the nation. It was not on account of the extent of her territory, nor the number of her citizens. Monarchy and general ignorance go hand in hand. Despotism and slavery are always companions. This, sir, accounts for the protracted struggle in South America. They have physical strength and the means, but not knowledge and skill, to concentrate their exertions to the best advantage. Did they possess the general information enjoyed in the United States, their independence would be as certain as the rising sun.

Mr. President, I am in favor of the resolution in a moral point of view. We, sir, are a Chris-

JANUARY, 1818.

African Slave Trade.

SENATE.

tian nation. The Bible is our moral guide. Are not its principles sacred, its precepts salutary, and its commands obligatory? Have not the frowns of indignant Heaven, and the threatenings of Jehovah, rested on nations and cities for their ingratitude to their fellow mortals? Babylon—Babylon the great has fallen! What has brought her down? The scene is viewed in prospect. "The merchants of the earth shall weep and mourn over her." In what did her commerce consist? "In gold, and silver, and precious stones, and pearls, and chariots, and slaves, and the souls of men." Ah, Mr. President, this was the climax of their abominations! They had a traffic in slaves and the souls of men. This brought down the judgments of Heaven. That they may be averted from the world, let the inhuman traffic be abolished to the end of the earth.

Mr. KING observed, that the motion was to instruct a committee to inquire whether further measures can be devised, in concert with other Powers, to put an end to the traffic in slaves on the coast of Africa. The debate, said Mr. K., has taken a wider range than from the definite object of the motion could have been anticipated. The advantages or disadvantages of alliances offensive and defensive, and the policy or impolicy of such treaties, as, with the view of acquiring some complicated though important political advantage, pledge the wealth and strength of the United States, are questions of most weighty importance; the discussion of which, however, is not requisite in debating the motion before the Senate. The concert which is alluded to in the motion, is not the union of arms, but of opinion, of example, and of influence, for the purpose of prevailing on Spain and Portugal to accede to the compact already formed among the nations, to put an end to the African slave trade. Equally uncalled for on this occasion, and more to be regretted, is a discussion of the justice and policy of permitting the existence of slavery. This topic is one, said Mr. K., that, from obvious considerations, has at all times been alluded to, even in the Senate, with great reserve; and, at this time, is without application to the motion under consideration, since not only no Senator approves of the traffic, the abolition of which is desired, but the whole Senate condemn it, and the United States were the first among the nations who restrained their people from engaging in it.

By the Treaty of Ghent, the United States stipulated with Great Britain to use their best endeavors to effect the complete abolition of the traffic in slaves on the coast of Africa. If a committee be appointed, they will inquire what has been done in pursuance of this engagement; they will moreover consider what remains to be done, and whether any measures of concert with other Powers, or otherwise, may be calculated to promote the laudable object of this stipulation. The United States have Ministers not only in England, Spain, and the Brazils, but likewise in Russia, France, the Netherlands, and Sweden. These Ministers may be reminded of the very great interest which the United States take in the uni-

versal abolition of the African slave trade; they may be instructed, if they are not so already, to avail themselves, on every occasion, to promote this object; and the concurring representations and influence of many may accomplish what their separate endeavors have hitherto failed to effect. A long depending negotiation with Spain still exists. If we could prevail on Spain to add to the treaty settling our just claims, an article whereby she should engage herself to abolish the African slave trade, and to co-operate with us in endeavoring to prevail on Portugal also to abolish the same, such an article would enhance the value of the treaty in the opinion of the American people, and would not fail to obtain the applause of foreign nations. The object of the motion being of such great importance, the Senate should neglect no opportunity of manifesting their solicitude for its accomplishment; and the inquiry which is proposed may fortunately discover that there are means still in our power, which have not yet been employed in this meritorious service.

But it is objected, that this business belongs exclusively to the President; and, admitting its importance, and the expediency of further exertions, that the Senate have nothing to do or say respecting the same. This objection appears to be of most serious import, as it goes to restrain and limit what is deemed to be the Constitutional power of the Senate. There is some embarrassment in the examination of this objection, and it cannot be fully and satisfactorily done, without adverting to the proceedings of the Senate, in its executive capacity; proceedings which take place with closed doors, and the journal whereof is not published. The observations on this head will, therefore, be of a general nature. Without adverting to the several branches of the executive power, for the purpose of distinguishing the cases in which it is exclusively vested in the President, from those in which it is vested in him jointly with the Senate, it will suffice on this occasion to observe that, in respect to foreign affairs, the President has no exclusive binding power, except that of receiving the Ambassadors and other foreign Ministers, which, as it involves the decision of the competence of the power which sends them, may be an act of this character; to the validity of all other definitive proceedings in the management of the foreign affairs, the Constitutional advice and consent of the Senate are indispensable.

In these concerns the Senate are the Constitutional and the only responsible counsellors of the President. And in this capacity the Senate may, and ought to, look into and watch over every branch of the foreign affairs of the nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when, and under whatever other circumstances, they may think such advice expedient.

There is a peculiar jealousy manifested in the Constitution concerning the power which shall



SENATE.

African Slave Trade.

JANUARY, 1818.

manage the foreign affairs, and make treaties with foreign nations. Hence the provision which requires the consent of two-thirds of the Senators to confirm any compact with a foreign nation that shall bind the United States; thus putting it in the power of a minority of the Senators, or States, to control the President and a majority of the Senate: a check on the Executive power to be found in no other case.

To make a treaty includes all the proceedings by which it is made; and the advice and consent of the Senate being necessary in the making of treaties, must necessarily be so, touching the measures employed in making the same. The Constitution does not say that treaties shall be concluded, but that they shall be made, by and with the advice and consent of the Senate: none therefore can be made without such advice and consent; and the objections against the agency of the Senate in making treaties, or in advising the President to make the same, cannot be sustained, but by giving to the Constitution an interpretation different from its obvious and most salutary meaning.

To support the objection, this gloss must be given to the Constitution, "that the President shall make treaties, and by and with the advice and consent of the Senate ratify the same." That this is, or could have been intended to be the interpretation of the Constitution, one observation will disprove. If the President alone has power to make a treaty, and the same be made pursuant to the powers and instructions given to his Ministers, its ratification follows as a matter of course, and to refuse the same would be a violation of good faith; to call in the Senate to deliberate, to advise, and to consent to an act which it would be binding on them to approve and ratify, will, it is presumed, be deemed too trivial to satisfy the extraordinary provision of the Constitution, that has been cited. On the whole, there appearing to be no sufficient impediment in the way of the proposed inquiry, either as respects its expediency or the authority of the Senate to institute the same, I am in hopes that the motion to refer the subject to a committee will prevail.

Mr. LACOCK said, the resolution before the Senate contained two separate and distinct propositions; the first was the amendment of the laws that prohibited the introduction of slaves into the United States: on this subject there existed no difference of opinion—all agreed an end should be put to this abominable traffic. If the present statutory provisions were not so formed as to effect this object, they certainly required amendment; and no objection could be made to the inquiry, as this was a legitimate subject of legislation. But, said Mr. L., the other branch of the inquiry is of a very different character; it proposed to inquire into the best manner of executing an article of the Treaty of Ghent. The stipulations of this article are, that the contracting parties, the United States and Great Britain, should use their endeavors to put an end to the slave trade. But could this agreement be carried into effect by law? did it furnish a subject of le-

gislation? Laws were made to operate on the people of the United States, and within their jurisdiction, not to effect an arrangement with foreign Governments. This could only be done by treaty; and surely, said Mr. L., the initiatory steps in making treaties should be left with the Executive. But it has been urged by gentlemen in favor of this proposition, that the Senate can act on this subject by virtue of the Constitutional power of this body to interpose their advice and consent in making treaties. This argument cannot avail them; for, if we claim the power, and exercise it, as a part of our executive duties, why is this discussion, on the subject of a treaty, had with open doors? Has this ever been the practice of the Government? The Ministers of those Governments who admit and carry on the slave trade, are accredited by our Government—are on the spot, for aught I know, in the lobby or gallery, while we are discussing the propriety of putting a stop to their traffic in slaves. That this branch of the subject is improper for public discussion, is admitted by the gentleman from New York, (Mr. KING,) who has told you he felt embarrassed by this public discussion; that he is restrained by his situation from making observations that he otherwise would feel authorized to make. This concession on his part should convince every one that the proceedings are irregular. While we are thus openly debating the subject, for aught we know, the President is negotiating with other Powers to effectuate the object we have in view. He is bound, by the Constitution, to see the laws faithfully executed. The Treaty of Ghent has become the supreme law of the land, and it is unfair to presume that the President has neglected his duty. In short, said Mr. L., if we are anxious to have this subject pressed on the Executive, let us close our doors, as in other cases, and make a call on him for information; we shall then be put in possession of the facts officially; we shall know what steps, if any, have been taken, in concert with Great Britain, to put an end to the traffic we all abhor.

The question was then taken on the motion to strike out the latter clause of the resolution, and decided, yeas 16, nays 17, as follows:

YEAS—Messrs. Barbour, Campbell, Eppes, Fromentin, Gaillard, Lacock, Macon, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Troup, and Wilson.

NAYS—Messrs. Ashmun, Burrill, Crittenden, Daggett, Dickerson, Fisk, Goldsborough, Horsey, Hunter, King, Leake, Morril, Morrow, Noble, Ruggles, Tichenor, and Van Dyke.

And on the question to agree to the motion as originally submitted, it was determined in the affirmative.

So it was *Resolved*, That the committee to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States on the subject of the African slave trade as more effectually to prevent said trade from being carried on by citizens of the United States under foreign flags, and also into the expediency

JANUARY, 1818.

Proceedings.

SENATE.

of the United States taking measures, in concert with other nations, for the entire abolition of said trade.

TUESDAY, January 13.

The PRESIDENT communicated the memorial of the President and Directors of the Bank of the United States, praying that so much of the twelfth fundamental article of the 11th section of the act to incorporate the subscribers to the Bank of the United States, as provides for the signing of the bills or notes of the bank, may be so altered and amended as to remedy the great inconvenience and hazard to which the corporation is subjected under the existing provision; which was read, and referred to the Committee on Finance.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Anderson," reported it without amendment.

Mr. TROUP presented the petition of Joseph Bevan, of the county of Effingham, in the State of Georgia, praying remission of duties on a steam engine imported into the United States, for reasons stated in the petition; which was read, and referred to the Committee on Finance.

Mr. ASHMUN presented the petition of David Ames and others, praying an additional duty on imported paper, for reasons stated in the petition; which was read, and referred to the Committee on Finance.

Mr. RUGGLES presented the petition of A. Farquhar, of Richmond, in the State of Ohio, praying indemnification for the loss of bank notes, robbed from the United States' mail, as stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads.

On motion by Mr. CAMPBELL, the memorial of the General Assembly of the State of Tennessee, on the unsatisfied claims for land in that State, derived under the authority of the State of North Carolina, presented the 29th of December, 1817, was referred to the committee, to whom was referred the bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of lands therein described, to consider and report thereon.

The amendment to the bill, entitled "An act allowing compensation to the members of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories; and repealing all other laws on that subject," having been reported, by the committee, correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of the Trustees for the Vincennes University; and in concurrence therewith, the petitioners had leave to withdraw their petition.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the

expediency of providing for the sale of the surplus lands in the neighborhood of Vincennes, in the State of Indiana; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Military Affairs to inquire into the expediency of providing for the attendance of witnesses before courts martial; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act, in addition to 'An act making appropriation for repairing certain roads therein described;'" and, on motion by Mr. TAIT, it was referred to a select committee, to consider and report thereon; and Mr. TAIT, Mr. CAMPBELL, and Mr. LEAKE, were appointed the committee.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire whether any, and, if any, what further provisions by law are necessary to secure to the heirs of soldiers who died, or who were killed in the service of their country, during the late war, the bounty in land to which they are equitably entitled.

WEDNESDAY, January 4.

Mr. DAGGETT presented the petition of Ann Welsh, of New London, Connecticut, representing that her husband, Captain John Welsh, having been killed during the Revolutionary war, in the attempt to take the British garrison at Penobscot, while at the head of his troops, her hopes of support devolved on her brother, George Hurlbert, who was then an officer in the Continental army; but that the latter received a wound in an engagement with the enemy, of which, after languishing in excruciating distress, he died in the year 1783; leaving the petitioner entirely helpless and unprovided for. In consideration of those losses and her present distress, being old and unable to support herself, she prays relief; and the petition was read, and referred to the Committee on Pensions.

Mr. FROMENTIN submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States, a sum equal to the salary of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court.

Mr. MORRIL gave notice that, to-morrow, he should ask leave to bring in a resolution, providing for the distribution of the sixth volume of the laws of the United States, among the members of the present Congress.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to inform the Senate what measures have been taken in pursuance of so much of the third and fifth sections of the act, entitled "An act to authorize



the appointment of a surveyor for the lands in the northern part of the Mississippi Territory, and the sale of certain lands therein described," as relates to the reservation of certain sections, for the purpose of laying out and establishing towns thereon.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom the subject was referred, reported a bill to divide the State of Pennsylvania into two judicial districts; and the bill was read, and passed to the second reading.

Mr. ROBERTS presented the memorial of Paul Beck, junior, and Thomas Sparks, of the city of Philadelphia, manufacturers of shot, praying an additional duty of one cent per pound on imported shot, may be laid, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of William Farris, senior, and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Nathaniel Cutting, and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 13th instant, for instructing the Committee on Military Affairs relative to bounty land; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act, for the relief of John Thompson," together with the amendments reported thereto by the Committee of Claims; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until next Monday week.

#### AMELIA ISLAND.

The following Message was received, yesterday, from the PRESIDENT OF THE UNITED STATES: To the Senate and House of Representatives of the United States:

I have the satisfaction to inform Congress, that the establishment at Amelia Island has been suppressed, and without the effusion of blood. The papers which explain this transaction, I now lay before Congress.

By the suppression of this establishment and of that at Galvestown, which will soon follow, if it has not already ceased to exist, there is good cause to believe that the consummation of a project fraught with much injury to the United States has been prevented. When we consider the persons engaged in it, being adventurers from different countries, with very few, if any, of the native inhabitants of the Spanish colonies, the territory on which the establishments were made; one on a portion of that claimed by the United States, westward of the Mississippi, the other on a part of East Florida; a province in negotiation between the United States and Spain—the claim of their leader as announ-

ced by his proclamation on taking possession of Amelia Island; comprising the whole of both the Floridas, without excepting that part of West Florida which is incorporated into the State of Louisiana—their conduct while in the possession of the island, making it instrumental to every species of contraband, and in regard to slaves of the most odious and dangerous character, it may fairly be concluded, that if the enterprise had succeeded on the scale on which it was formed, much annoyance and injury would have resulted from it to the United States.

Other circumstances were thought to be no less deserving of attention. The institution of a Government by foreign adventurers in the island, distinct from the colonial government of Buenos Ayres, Venezuela, or Mexico, pretending to sovereignty, and exercising its highest offices, particularly in granting commissions to privateers, were acts which could not fail to draw after them the most serious consequences. It was the duty of the Executive either to extend to this establishment all the advantages of that neutrality which the United States had proclaimed and have observed in favor of the colonies of Spain, who by the strength of their own population and resources, had declared their independence, and were affording strong proof of their ability to maintain it, or of making the discrimination which circumstances required. Had the first course been pursued, we should not only have sanctioned all the unlawful claims and practices of this pretended government in regard to the United States, but have countenanced a system of privateering in the Gulf of Mexico, and elsewhere, the ill effects of which, might, and probably would have been deeply and very extensively felt. The path of duty was plain from the commencement, but it was painful to enter upon it while the obligation could be resisted. The law of 1811, lately published, and which it is therefore proper now to mention, was considered applicable to the case, from the moment that the proclamation of the chief of the enterprise was seen, and its obligation was daily increased by other considerations of high importance already mentioned, which were deemed sufficiently strong in themselves to dictate the course which has been pursued.

Early intimation having been received of the dangerous purposes of these adventurers, timely precautions were taken by the establishment of a force near the St. Mary's to prevent their effect, or it is probable that it would have been more sensibly felt.

To such establishments, made so near to our settlements, in the expectation of deriving aid from them, it is particularly gratifying to find that very little encouragement was given.

The example so conspicuously displayed by our fellow-citizens, that their sympathies cannot be perverted to improper purposes, but that a love of country, the influence of moral principles, and a respect for the laws, are predominant with them, is a sure pledge, that all the very flattering anticipations which have been formed of the success of our institutions will be realized. This example has proved, that if our relations with foreign Powers are to be changed, it must be done by the constituted authorities, who, alone, acting on a high responsibility, are competent to the purpose; and until such change is thus made, that our fellow-citizens will respect the existing relations by a faithful adherence to the laws which secure them.

Believing that this enterprise, though undertaken by persons, some of whom may have held commis-

sions from some of the colonies, was unauthorized by, and unknown to, the colonial governments, full confidence is entertained, that it will be disclaimed by them, and that effectual measures will be taken to prevent the abuse of their authority in all cases to the injury of the United States.

For these injuries, especially those proceeding from Amelia Island, Spain would be responsible, if it was not manifest that, though committed in the latter instance through her territory, she was utterly unable to prevent them. Her territory, however, ought not to be made instrumental, through her inability to defend it, to purposes so injurious to the United States. To a country over which she fails to maintain her authority, and which she permits to be converted to the annoyance of her neighbors, her jurisdiction for the time necessarily ceases to exist. The territory of Spain will nevertheless be respected, so far as it may be done consistently with the essential interests and safety of the United States. In expelling these adventurers from these posts, it was not intended to make any conquest from Spain, or to injure in any degree the cause of the colonies. Care will be taken that no part of the territory contemplated by the law of 1811 shall be occupied by a foreign government of any kind, or that injuries of the nature of those complained of, shall be repeated, but this, it is expected, will be provided for, with every other interest, in a spirit of amity, in the negotiation now depending with the Government of Spain.

JAMES MONROE.

The Message and accompanying documents were read.

THURSDAY, January 15.

On motion by Mr. GOLDSBOROUGH, Resolved, That when the Senate adjourn, it adjourn until Monday next, for the purpose of having the necessary repairs made in their Chamber to render it safe for their accommodation.

Mr. WILSON, from the Committee of Claims, to whom was referred the petition of Rees Hill, made report, together with the following resolution:

Resolved, That the petitioner have leave to withdraw his papers.

The report and resolution were read.

Mr. GOLDSBOROUGH presented the petition of William G. Ridgely, of Georgetown, in the District of Columbia, praying that certain bonds given for an alleged violation of the non-importation law, may be cancelled and restored to him; and the petition was read, and referred to the Committee on Finance.

Mr. SANFORD presented the petition of Michael Hogan, of New York city, representing that early in the month of February, 1813, a valuable house belonging to him in the village of Utica, was taken possession of by a detachment of United States' troops, on their march from Buffalo to Sackett's Harbor, and by them used as a barrack, and praying redress for damages sustained in consequence thereof, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. SANFORD, from the committee to whom was referred the joint resolution directing the

publication of the Journal and proceedings of the Convention which formed the Constitution of the United States, reported it with amendments; which were read.

The Senate adjourned to Monday morning.

MONDAY, January 19.

The PRESIDENT communicated a letter from Julie Plantou, proposing to sell to Congress an allegorical painting, of her own design and from her own pencil, drawn from the Treaty of Ghent, commemorative of the glory which it shed around the American name; and the letter was read, and referred to the Committee on Commerce and Manufactures.

Mr. BARBOUR submitted the following motion for consideration:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing naval depots, in such numbers, and such places, as may in their opinion, be most advantageous to the United States.

Mr. MACON laid before the Senate the instructions of the Legislature of the State of North Carolina to their Senators in Congress, to endeavor to obtain an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; which were read, and referred to the committee to whom was referred, on the 24th December, 1817, the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress and the appointment of Electors of President and Vice President of the United States; to consider and report thereon.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act making further provision for repairing the public buildings," reported it without amendment.

Mr. BURRILL presented the memorial of the officers and soldiers of the late Rhode Island brigade of the Revolutionary Army, their heirs and representatives, praying relief as stated in the memorial; which was read, and referred to the Committee on Military Affairs.

Mr. WILSON, from the Committee on the Post Office and Post Roads, to whom was referred the petition of Alan Farquhar, made report, together with the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. NOBLE submitted the following motion for consideration:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Centerville to Jacksonborough, in the State of Indiana.

Mr. RUGGLES submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be



SENATE.

Proceedings.

JANUARY, 1818.

instructed to inquire into the expediency of providing by law for the sale of so much of the tract of one hundred thousand acres of land, granted as a donation to actual settlers in the Ohio company's purchase as should not have been conveyed agreeably to the terms of the grant.

Mr. MORRIL presented the petition of Thomas Wright, who served as a soldier in the Revolutionary War, praying relief, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. DICKERSON presented the memorial of Isaac Briggs, praying certain allowances in the settlement of his accounts, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. MORRIL asked and obtained leave to bring in a resolution, providing for the distribution of the sixth volume of the laws of the United States among the members of the present Congress, and to the delegates of Congress; and the resolution was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 14th instant, for instructing the Committee on the Judiciary to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States a certain compensation for having performed the duties of the judge of the district court of South Carolina. This motion was opposed by Mr. SMITH, of South Carolina, at some length, and supported earnestly by Mr. FROMENTIN, and also briefly by Mr. DAGGETT. Mr. SMITH, however, afterwards withdrew his opposition to the motion, and it was agreed to.

The Senate resumed the consideration of the motion of the 14th instant for requesting information relating to the reservation of certain sections of land, for the purpose of laying out and establishing towns thereon; and the same having been amended, was agreed to, as follows:

*Resolved*, That the President of the United States be requested to inform the Senate what measures have been taken, in pursuance of so much of the act, entitled "An act to authorize the appointment of a surveyor for the lands in the northern part of the Mississippi Territory, and the sale of certain lands therein described," passed the 3d of March, 1817, as relates to the reservation of certain sections, for the purpose of laying out and establishing towns thereon.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Rees Hill; and in concurrence therewith the petitioner had leave to withdraw his papers.

The bill to divide the State of Pennsylvania into two judicial districts was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, directing the publication of the journal and proceedings of the Convention which formed the Constitution of the United States, together with the amendments reported thereto by the select committee; and the amendments having been

agreed to with an amendment, the PRESIDENT reported the resolution to the House amended accordingly; and the amendments having been concurred in, the resolution was ordered to be engrossed and read a third time.

Mr. WILLIAMS, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," reported it with amendments; which were read. [The principal and only material amendment proposed by the committee limits the benefit of the act to such as served to the end of the war on Continental establishment.]

The Senate then resumed the consideration of the bill to allow John Thompson interest on a Revolutionary claim heretofore granted and paid to him by our Government.

After considerable discussion, in which Mr. BARBOUR and Mr. ROBERTS supported, and Mr. DAGGETT and Mr. BACON opposed the bill, the question was taken on ordering the bill to a third reading, and decided in the negative.

So the bill was rejected.

The PRESIDENT communicated a report of the Commissioners of the Navy Pension Fund, containing statements in relation to that fund, made in obedience to the "Act for the better government of the Navy of the United States;" and the report was read.

Mr. TAIT, from the select committee to whom the subject was committed, reported the bill making an appropriation for repairing, and keeping in repair, certain roads, with an amendment, (including that part of the road leading from Columbia, in Tennessee, by the Choctaw agency, to Madisonville, in Louisiana, which lies between the southern boundary of Tennessee and the Indian boundary line near Zadock Brasher's, in Mississippi.)

TUESDAY, January 20.

Mr. ROBERTS presented the memorial of John Keemle, late surgeon in the flying camp army of the Revolution, praying relief, as stated in the memorial; which was read, and referred to the Committee on Military Affairs.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill concerning the district of Brunswick, in the State of Georgia; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Peters and Sabin Pond, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill directing the manner of appointing Indian agents, and continuing the

JANUARY, 1818.

Proceedings.

SENATE.

"Act for establishing trading houses with the Indian tribes."

[This bill provides that the Superintendent of Indian Trade, and agents and assistant agents for Indian affairs, be hereafter appointed by nomination to the Senate, and requires of each of those officers bond, with two securities, in the sum of \$10,000, for the faithful discharge of their respective duties.]

The bill was passed to a second reading.

The resolution directing the publication and distribution of the journal and proceedings of the Convention which formed the present Constitution of the United States, was read a third time, the blank filled with *one thousand*, and the resolution was passed.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Ephraim Shaler, De Lafayette Wilcox, and Alphonso Wetmore, first lieutenants of the sixth regiment United States infantry, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of repealing the third section of an act, passed on the third day of March last past, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory;" and of investing the Legislature of the Alabama Territory with power to regulate the Judiciary thereof, in such manner as it may deem expedient; and also of investing the highest grade of courts which may be established by the said Legislature with jurisdiction in all cases in which the United States shall be a party.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the further consideration thereof was postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making further provision for repairing the public buildings;" and no amendment having been offered thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading.

The Senate resumed the consideration of the motion of the 19th instant, for instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing a certain post route; and agreed thereto.

The Senate resumed the consideration of the motion of the 19th instant, for instructing the Committee on Naval Affairs to inquire into the expediency of establishing naval depots; and agreed thereto.

The resolution providing for the distribution of the sixth volume of the Laws of the United States among the members of the present Congress and Delegates of Territories who have not been supplied therewith, was read the second time.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the expediency of providing for the sale of land granted as a donation to actual settlers in the Ohio Company's purchase; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on the Post Office and Post Roads, to whom was referred the petition of Alan Farquhar, and, in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act making appropriation for repairing certain roads therein described," together with the amendment reported thereto by the select committee; and, on motion by Mr. LEAKE, the further consideration thereof was postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

The claim of the representatives of the late Caron de Beaumarchais having been recommended to the favorable consideration of the Legislature by my predecessor, in his Message to Congress of the 31st January last, and concurring in the sentiments therein expressed, I now transmit copies of a new representation relative to it, received by the Secretary of State from the Minister of France, and of a correspondence on the subject between the Minister of the United States at Paris and the Duke of Richelieu, enclosed with that representation.

JAMES MONROE.

WASHINGTON, January 12, 1818.

The Message and accompanying documents were read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the letter from Julie Plantou to the President of the Senate, proposing to sell to the United States an allegorical painting of the Treaty of Ghent, made report:

That, in the opinion of the committee, it is not expedient to purchase said painting for the United States.

The report was read.

WEDNESDAY, January 21.

The PRESIDENT communicated a letter from the Secretary of the Navy Department, transmitting, for the use of the members of the Senate, forty-two copies of the Naval Register for the year 1818, prepared in obedience to the resolution of December 13, 1815; and the letter was read.

Mr. NOBLE presented the petition of Loring A. Walder and others, praying the establishment



of a post office in the town of Jacksonborough, Wayne county, State of Indiana, for reasons stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads.

Mr. WILLIAMS, of Tennessee, submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to inform the Senate in what manner the troops in the service of the United States now operating against the Seminole tribe of Indians have been supplied, whether by contract or otherwise, and whether they have been furnished regularly with rations.

Mr. DICKERSON presented the petition of Joshua Swain, and others, inhabitants of the county of Cape May, praying that a certain district of country therein described, be made a port of entry; and the petition was read, and referred to the Committee of Commerce and Manufactures.

Mr. BARBOUR presented the petition of John Thompson, praying an allowance of interest on a sum of money which was found due to him on the books of the Treasury Department, by the accounting officers thereof; as stated in the petition; which was read. Whereupon, Mr. BARBOUR gave notice, agreeably to the joint rule, that, after the expiration of ten days, he should ask leave to bring in a bill in addition to an act for the relief of John Thompson.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Peters and Sabin Reid; and the further consideration thereof was postponed until Monday next.

The Senate took up and concurred in the report of the Committee of Pensions unfavorable to the petition of Ephraim Shaler, De La Fayette Wilcox, and Alphonso Wetmore, first lieutenants of the sixth regiment United States infantry, stating that, during the late war, while engaged in action with the enemy, they received several severe wounds, which occasioned to each the loss of an arm; that the loss and wounds subject them to daily pain and inconvenience, although the performance of their duty as officers of the Army has not been suspended on that account since their wounds healed; and soliciting the aid of Congress, so far as to confer on them a compensation equal to their sufferings and expense, by granting to them pensions from the date of their several wounds.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred a letter from Julie Plapton, to the President of the Senate, proposing to sell to the United States an allegorical painting of the Treaty of Ghent; and agreed thereto.

The Senate resumed the consideration of the motion of the 20th instant, for instructing the Committee on the Judiciary to inquire into the expediency of amending the bill, entitled "An act to establish a separate Territorial government for the Eastern part of the Mississippi Territory; and agreed thereto.

The PRESIDENT communicated a letter from JAMES FISK, notifying the resignation of his seat in the Senate; which was read.

On motion, by Mr. FROMENTIN, the President was requested to notify the Executive of the State of Vermont of this resignation.

The bill concerning the district of Brunswick, in the State of Georgia, was read the second time.

The bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes, was read the second time.

The bill entitled "An act making further provision for repairing the public buildings," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of certain laws; and it was referred to the Committee on the Judiciary.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments thereto by the Committee on Military Affairs; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act making appropriation for repairing certain roads therein described," together with the amendment reported thereto by the select committee, which was disagreed to; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the military service of the United States for the year 1818," and also a bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment, previous to the first of January, 1817;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and severally passed to the second reading.

On motion, by Mr. MORROW, the Committee on the Public Lands were instructed to inquire whether provision ought not to be made, to limit and control the issue and location of certificates for lands in lieu of those injured by earthquakes, in the county of New Madrid, in the Territory of Missouri.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill to incorporate the Mechanic Relief Society of Alexandria; and the bill was read, and passed to the second reading.

#### NAVAL DISCIPLINE.

Mr. TAIT, from the Committee on Naval Affairs, to whom have been referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron, made a report, which was read, and, with the accompa-

nying documents, ordered to be printed for the use of the Senate. The report is as follows:

The Committee on Naval Affairs, to whom have been referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron, have had the same under consideration, and report:

That your committee, duly impressed with the importance and delicacy of the subjects referred to them, and anxious to pursue that course which will best comport with the good of the public service and the high duties of the Senate, have given the several memorials all the consideration to which they are entitled.

The memorialists of the Navy and Marine Corps pray that the Senate would institute an inquiry into the proceedings of two naval courts martial, had in the Mediterranean, in the early part of the last year. They complain that those proceedings were such as to impair their confidence in the tribunals which have been established by the laws of the country for the protection of the rights of all who are connected with the Naval Establishment.

The memorialists of the Marine Corps pray that their rights may be guarded by a special act of the Legislature, "or that the rules and regulations for the better government of the Navy be more strictly carried into execution."

Your committee sincerely regret that any circumstances should have occurred which have caused discontents among any portion of the officers of the United States Navy. They have indulged the hope that the high reputation and renown which had been acquired by the Naval Establishment of this country in war, would be cherished and sedulously guarded in the season of peace by every officer of the corps. It is only by a correct deportment, by a rigid discharge of duty, and a strict observance of the laws, that their well-earned fame can be preserved. If these observations are correct, as it regards the individuals, officers of the Navy, they must strongly apply to their tribunals. If naval courts martial, or courts of inquiry, have become so negligent, or so partial and unfaithful in the discharge of their duties, that those who look to them for protection can no longer confide in them, but must resort, in the language of the memorialists, for safety "to those arms with which their country has intrusted them, or to that strength with which nature has endowed them," then, indeed, there is most serious cause of alarm. But your committee do not believe that this is the condition and character of your naval tribunals. They have heretofore been unimpeached. Under their administration the American Navy has attained a character, both at home and abroad, of which the nation is justly proud. In the instances complained of, there may have been some ground for criticism; the proceedings may have been such as not to give entire satisfaction to all; but your committee are decidedly of the opinion that whatever may be the character of the proceedings of the courts martial under consideration, they are beyond the control of the Senate. It has no power that can reach these cases. It has none other than legislative power touching these matters, which in its nature cannot be retrospective. The corrective in such cases is confided by the institutions of the country to the Chief Magistrate, and to that department of the Government would their complaints, perhaps, have been most properly addressed.

There is another view of the subject to which the committee have not been inattentive. It has been considered a fit occasion to look into the laws governing the Navy, in order to discover whether any defects exist which may require legislative correction. Your committee have done so, and, on examination, are of opinion that no legislative proceedings are necessary at this time. The rules and regulations for the government of the Navy, now in force, are those under which it has grown up and acquired a reputation for discipline and efficiency, which your committee believe is not surpassed by any similar establishment. In this state of things, they are of opinion that the causes of complaint, if any, are not in the laws, but in the administration of the laws. As it regards the marines, a description of force most necessary and useful, and which merits the fostering and protecting care of the Government, the committee, on examination, find that they are subject to do duty afloat and on shore, as the Executive, at his discretion, may direct; and that they are "governed by the same rules and articles of war, as are prescribed for the Military Establishment, and by the rules for the regulation of the Navy, heretofore, or which shall be established by law, according to the nature of the service in which they shall be employed." The committee know no footing more proper on which to place the marines than that on which the law has already placed them. Were new rules now to be prescribed for their government and protection, it is believed that none other ought to be prescribed than those which now exist. Your committee therefore repeat, that in their opinion, the defect, if any, is not in the law, but in its execution. Viewing, then, the subjects referred to them in all their bearings, feeling the danger of affecting that discipline which is the vital principle of all military establishments; while they would frown with indignation on every act which savored of oppression, or of maladministration, your committee respectfully submit the following resolution:

*Resolved*, That the Committee on Naval Affairs be discharged from the further consideration of the memorial of the naval officers of the Mediterranean squadron, under the rank of commanders, and of the memorial of the officers of the Marine Corps, of date the 17th of January, 1817.

*Documents accompanying the report of the Committee on Naval Affairs, in the case of Commodore Perry and Captain Heath.*

The memorial of the commissioned officers (of the Mediterranean squadron) under the rank of commanders, to the honorable the Senate of the United States, dated Port Mahon, January 20, 1817.

The undersigned, officers holding commissions in the Navy of the United States, beg leave most respectfully to state to the honorable the Senate of the United States, that, having entered the service early in life, from motives of love of their country, respect for its naval character, and a sincere wish to become useful, they would willingly encounter dangers of any kind, or endure any hardships which the good of the service or the preservation of discipline may make necessary; that, together with a willingness to risk their lives and sacrifice their comforts, they have heretofore felt a firm reliance on the protection which the well-digested laws of their country were intended, by the framers and enactors of them, to afford to officers of every grade, against the wanton exercise of that power



which all military establishments must place in the hands of the superior over the subaltern. Guarding with cautious jealousy their reputation, and their rights against all assaults, which have not been designated by the law for the guardianship and arbitration of the most respectable of all tribunals, (a court martial,) they have witnessed, with the deepest regret, the proceedings on a late transaction which has been brought to the decision of a court composed of the best officers of this squadron, of officers who, from their rank in service, we had hoped would have proved the jealous guardians of our rights as of their own. We beg leave, respectfully, to state the leading circumstances of this case. Captain John Heath, commanding the detachment of marines on board of the frigate *Java*, under the command of Oliver H. Perry, Esq., was so unfortunate as to incur the displeasure of his commander. The merits of the case between these two officers we do not presume to canvass; but we are imperiously called upon to notice the subsequent events. A court martial convened in the harbor of Mahon, on board the *Java*, on the 31st of December, 1816, for the trial of Captain Heath, on charges and specifications, of which the following is a copy:

**CHARGE 1.** Disrespectful, insolent, and contemptuous conduct to me, his superior officer. Specification. That he did, on or about the 22d of July, 1816, on board of the United States frigate *Java*, then standing in the Bay of Naples, on being asked by me "why a certain marine was suffered to appear on deck in so dirty and dirty a dress?" reply to me in an insolent, disrespectful, and contemptuous manner. Specification 2. That he did, late in the evening of the 18th of September, 1816, on board the United States frigate *Java*, then at anchor in the harbor of Messina, cause a letter, written by himself, and couched in language highly improper to be used towards his commanding officer, to be left on my table, in the cabin of said ship. Specification 3. That he did, when sent for into the cabin, and asked "why he took such a time to write me a letter of that kind?" assume a deportment towards me highly provoking and disrespectful. The aforesaid charge and specifications being in violation of a part of the 15th article, and a part of the 13th article of the rules and regulations for the better government of the Navy of the United States.

**CHARGE 2.** Neglect of duty and unofficer-like conduct. Specification 1. That, on or about the evening of the 16th of September, 1816, on board the United States ship *Java*, then at anchor in the harbor of Messina, he, the said Captain John Heath, did, on the marines jumping overboard to swim from the ship, neglect to come on deck, although called and informed of this circumstance, alleging as a reason therefor the subterfuge of his being sick. Specification 2. That he did, when ordered by me, at said time and place, to come on deck and muster the marines, execute that duty in a careless and indifferent manner; and, when the marines were mustered, did neglect to report to me until called and directed so to do. Specification 3. That he did neglect, on the desertion of said marines from the ship, to take those immediate steps for their recovery that became him as commanding officer of the detachment to which they belonged, and were required by the urgency of the case. This charge and specification being in violation of a part of the 20th article and the 28th article of the rules and regulations for the better government of the Navy of the United States.

**"CHARGE 3.** Disobedience of orders. Specification. That he did, at the time and place referred to in the 3d specification of 1st charge, though repeatedly ordered to be silent, continue to speak, although warned of the consequences, and in the same indecorous and contemptuous manner as is therein alleged, thereby violating a part of the 14th article of the rules and regulations for the better government of the Navy of the United States.

O. H. PERRY.

"U. S. SHIP *JAVA*,

"ALGIERES BAY, October 14, 1816."

Of these charges and specifications it will be necessary to observe only, that the offence on which the greatest stress is laid, was committed, as the specification states, on the 22d of July, 1816; that Captain Heath was neither arrested, suspended, nor warned that notice would be taken of this offence; that on the 16th of September, 1816, Captain Heath is again supposed by Captain Perry to commit an offence, for which Captain Perry suspends him from the exercise of the duties of his office; that in the interval between the commission of these two offences, a general court martial convenes in the Bay of Naples, of which Captain Perry is president, and Captain Heath a member; that after Captain Heath had been suspended from duty two days, he addressed a note to Captain Perry, of which the following is a copy:

"U. S. FRIGATE *JAVA*,  
MESSINA, September 18, 1816.

"SIR: On the evening of the 16th instant I was ordered below by you from the quarter-deck of this ship, with these words, or to that effect, 'I have no further use for your services on board this ship.' I have waited until this moment to know why I have been thus treated; and, being ignorant of the causes, request my arrest and charges.

"Very respectfully, your obedient servant,  
"JOHN HEATH, Captain of Marines."

The language of this note Captain Perry considered disrespectful, and summoned Captain Heath into his cabin. Willingly would your memorialists draw a veil over the transaction which then and there took place; most willingly would they bury in oblivion a transaction so disgraceful to the character of an American officer. But justice to themselves forbids it. It appears, by the statement of Captain Heath, and the acknowledgment of Captain Perry, that, after some conversation had passed, Captain Perry, from (as he says) "a disposition to chastise insolence on the spot," gave to Captain Heath a blow, and after having committed this outrage on his person, with much abusive language, ordered him to be confined to his room, and a sentinel placed over him; a measure which hitherto has been considered justifiable in extreme cases only. A little reflection convinced Captain Perry of the impropriety of his conduct, and alarmed him for its consequences; he accordingly, through the medium of another post captain and the first lieutenant of the *Java*, made an overture to Captain Heath of reconciliation, and through them tendered an apology, but insisted on terms of his own dictating. This, Captain Heath having a due regard for his own reputation, for the commission which he has the honor to hold, and for the respectability of his brother officers of the same rank, positively refused to accept, and in his turn preferred charges against Captain Perry. A court martial convened, and, as we have been unofficially informed, for the trial of both;

but Captain Perry remained in the exercise of the functions of his office, while Captain Heath was in close confinement. Of the proceedings of this court your memorialists know but little; they have ere this, they presume, been laid before the honorable Secretary of the Navy. But they know that Captain Perry has sailed for the United States, in command of the *Java*, with the sanction of a court martial, and that of the Commander-in-chief, to support his conduct.

The undersigned have now no guarantee for the safety of their persons, but the use of those arms which the laws of their country have placed in their hands, and that personal strength with which nature has blessed them. To those means they must resort, and on them in future depend, unless the honorable the Senate, to whom they look with filial confidence, as the guardians of their rights, will, by a timely interference, save them from the disagreeable alternative of relinquishing a profession to which they are enthusiastically attached, or becoming in every instance the defenders, not only of their character but of their persons. Placed at a distance from their country, and without the immediate influence of its civil laws, your memorialists rely with confidence on the decisions of the high tribunal to which they now solemnly appeal. Your memorialists trust it will not engross too much of the valuable time of the Senate to institute an examination into the proceedings of this court in these two instances. They beg leave also to state, that a case occurred at Naples, in August last, between Captain J. O. Creighton and Midshipman Marston, of the *Washington*, the decision on which they also consider as tending to destroy the conviction which every officer ought to feel while in the execution of the duties of his office, that the strong arm of the law is extended over him, equally for his protection during good conduct, and for his punishment when he deviates from its rules. If your memorialists have erred in making this appeal, they hope it will be attributed rather to an exuberance than a deficiency of good feeling; and they trust they will ever be found ready to obey the call, and support the cause of their country, in any contest, however unpromising to themselves as individuals.

And your memorialists, as in duty bound, will ever pray.

Thomas Ap Catesby Jones, Lieut. Navy.  
W. B. Shubrick, Lieut. Navy.  
T. T. Auchmuty, Lieut. Marine Corps.  
Christopher Ford, Lieut. Marine Corps.  
George Pearce, Lieut. Navy.  
Beverly Kennon, Lieut. Navy.  
Samuel L. Breese, Lieut. Navy.  
Thomas Nichols, Sailing Master.  
Robert F. Stockton, Lieut. Navy.  
Francis B. White, Lieut. Marines.  
Joseph L. Kuhn, Lieut. Marines.  
W. H. Watson, Lieut. Navy.  
Wm. H. Cocke, Lieut. Navy.  
H. B. Breckenridge, Capt. Marine Corps.  
B. Washington, Surgeon.  
Geo. B. English, Lieut. Marine Corps.  
James Armstrong, Lieut. Navy.  
George Beall, Purser.  
C. S. McCauley, Lieut. Navy.  
Hyde Ray, Surgeon.  
Chas. T. Stallings, Lieut. Navy.  
E. W. Turner, Purser.  
Joseph Cassin, Lieut. Navy.

Gustavus W. Spooner, Lieut. Navy.  
Robert S. Kearney, Surgeon.  
Wm. Hall, Capt. Marine Corps.  
John Harris, Lieut. Marines.  
Henry Olcott, Lieut. Marines.  
N. Webster, Lieut. Navy.  
S. H. Stringham, Lieut. Navy.  
W. K. Latimer, Lieut. Navy.  
L. Rousseau, Lieut. Navy.  
A. M. Montgomery, Acting Surgeon, Navy.  
Robert Field, Lieut. Navy.  
N. L. Montgomery, Lieut. Navy.  
M. D. Nicholson, Lieut. Navy.  
W. Laughton, Lieut. Navy.  
John Cadle, Acting Surgeon, Navy.  
John W. Peaco, Acting Surgeon, Navy.  
M. C. Attwood, Purser, Navy.  
J. L. Morris, Lieut. Navy.

*Memorial of the officers of the United States Marine Corps.*

The officers of the United States Marine Corps, in the Mediterranean, present the following memorial to the honorable Senate and House of Representatives of the United States, and pray that their situation on board ship, and the grievances herein complained of, may claim their serious attention.

The want of established rules and regulations for the Marine Corps, when stationed on board ship, and this difference of discipline in different vessels, have always been productive of serious ills, and have too frequently occasioned unavoidable and unhappy disturbances. The undersigned, therefore, do earnestly entreat, that rules and regulations be established by an act of Congress, wherein the duties of marine officers, when afloat, may be clearly and distinctly defined, and rights and privileges protected.

The undersigned regret the necessity under which they conceive themselves bound, by their duty to the service and themselves, of entreating the honorable Senate and House of Representatives, as the guardians and protectors of their rights, to examine the decision of a court martial held at Mahon, on Captain Oliver H. Perry, of the Navy, under the charges of outraging the rights, feelings, and person of the commanding officer of marines of the United States frigate *Java*, and pray that the protection of their rights and persons be guaranteed by some special act of Congress; or that the rules and regulations for the better government of the Navy be more strictly carried into execution.

John Hall, M. M. C.  
H. B. Breckenridge, Capt. Marines.  
Wm. Hall, Capt. Marines.  
Jn. L. Kuhn, Lieut. Marines.  
Henry Olcott, 1st Lieut. Marines.  
Francis B. White, 1st Lieut. Marines.  
Jn. Harris, 1st Lieut. Marines.  
R. T. Auchmuty, 2d Lieut. Marines.  
Christopher Ford, Lieut. Marines.

PORT MAHON, January 17, 1817.

U. S. SHIP *WASHINGTON*,  
Port Mahon, May 4, 1817.

SIR: I have the honor to transmit herewith an attested copy of a letter written to me by the captains and commanders of the squadron.

I fully concur with those gentlemen in opinion, and shall believe it my duty to comply with their request, so far as to permit the officers complained of to return



SENATE.

Proceedings.

JANUARY, 1818.

the United States, as soon as it can be done without injury to the public service.

I have the honor to be, &c.

I. CHAUNCEY.

Hon. BENJ. W. CROWNSHIELD,  
Secretary of the Navy, Washington.

PORT MAHON, May 4, 1817.

SIR: We, the undersigned, captains and commanders, serving in the squadron under your orders, have heard, with deep regret, that many of the lieutenants, and other commissioned officers, belonging to the vessels under our respective commands, have forwarded to the honorable the Senate of the United States, a memorial, which, in our opinion, is calculated to excite disaffection and insubordination in the Navy, and bring into contempt a service heretofore distinguished by its reputation, order, and good government.

The undersigned wish to be distinctly understood that it is not against petitioning the Legislature for a redress of real wrongs that we now protest, but against the manner, time, and object, of the memorialists, which, if truly represented to us, are as follow: They complain that they have been oppressed, and require that the thirtieth article of an act for the better government of the Navy should be revised, and so amended as to designate particularly the punishment of offenders; and it is believed that they even go so far as to threaten, that, should their imaginary grievances not be redressed, they will resort to their arms for protection. It is also understood that the memorialists have presumed to reflect on the members of two courts martial, composed of officers of long standing in the Navy, that their meetings have been held with apparent secrecy, and the memorial studiously withheld from their command, who would readily sanction any measure having for its object the good of the service. It cannot be denied that it is the bounden duty of officers, more especially when on a foreign station, to cultivate towards each other the most perfect harmony and good will; but it is the opinion of the undersigned, that the conduct of the memorialists is calculated to have a contrary effect. The undersigned are therefore impelled, by a sacred sense of duty we owe to our country and ourselves, to request that you will be pleased to remove all those officers from under our respective commands, as soon as the public service will admit of the same, as we cannot but consider the signers of the memorial as having forfeited all claims to our confidence, and their example as endangering the vessels intrusted to our charge.

We have the honor to be, very respectfully, sir, your obedient servants,

WILLIAM M. CRANE,  
J. ORDE CREIGHTON,  
GEORGE W. RODGERS,  
THOMAS GAMBLE,  
J. I. NICHOLSON,  
EDMUND P. KENNEDY.

ISAAC CHAUNCEY, Esq., Commodore, &c.

A true copy of the original on file.

Attest: J. WATSON, Com. Clerk.

S. SHIP WASHINGTON,  
Port Mahon, May 5, 1817.

THURSDAY, January 22.

The PRESIDENT communicated a report of the Secretary of the Treasury, prepared in obedience

to a resolution of the Senate of the 11th of December, 1817, relative to the progress which has been made in the settlement of public accounts, under the "Act to provide for the prompt settlement of public accounts;" and as to what further legal provisions may be necessary to insure the speedy settlement of those accounts; and the report was read.

Mr. WILLIAMS, from the Committee on Military Affairs, to whom was referred a resolution of the Senate, directing them to inquire into the expediency of providing by law for enforcing the attendance of witnesses before courts martial, made report; which was read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of passing a law, to vest, in the State of Ohio, the power of selling the remaining thirty-five sections of land, in the six miles reservation at the Scioto salt works, and applying the proceeds of the sale to such purposes, for the use of the State, as the Legislature thereof may think proper.

Mr. CAMPBELL presented the memorial of the judges of the circuit court of the United States, for the District of Columbia, praying an increase of salary, for reasons therein stated; and the memorial was read, and referred to the Committee on the Judiciary.

Mr. OTIS presented the memorial of Israel Thorndike, of Boston, formerly of Beverly, in the district of Massachusetts, praying the benefit of drawback on certain goods exported by him, as stated in the memorial; which was read, and referred to the Committee on Finance.

Mr. ROBERTS presented the memorial of William P. Farrand, and others, importing merchants of the city of Philadelphia, praying that some legislative provision may be made, whereby the importing merchants of that city may import merchandise into, or by way of a neighboring port, more especially New York or Baltimore, on giving bonds, with satisfactory sureties, for the payment of the duties in Philadelphia, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

Mr. SMITH presented the petition of Thomas Hall Jervey, surveyor of the port of Charleston, in the State of South Carolina, praying a proportion of the forfeiture of the privateer schooner *Lovely Cordelia*, arrested by him for a violation of the act interdicting the slave trade, and prosecuted to condemnation, as stated in the petition; which was read, and referred to the Committee on the Judiciary.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," reported the same, with amendments; which were read.

Mr. CRITTENDEN, from the Committee on the Judiciary, who were instructed, by an order of the Senate, to inquire into the expediency of allowing to the judge of the sixth circuit court of

JANUARY, 1818.

Proceedings.

SENATE.

the United States, a sum equal to the salary of the judge of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court, made report, together with the following resolution:

*Resolved*, That no compensation in addition to his regular stated salary, ought to be allowed to the judge of the sixth circuit court of the United States, for any duties devolved upon, and performed by him in consequence of the disability of the district judge of South Carolina.

The report and resolution were read.

Mr. TICHENOR submitted the following motions for consideration:

*Resolved*, That the Military Committee be instructed to inquire into the expediency of repealing or modifying so much of the second section of the act establishing the Military Staff, as relates to hospital surgeons and hospital surgeons' mates, and to the appointment of judge advocates.

*Resolved*, That the Military Committee be instructed to inquire into the expediency of a reform, in the provisions of the laws, respecting the emoluments and allowances to the Military and Staff officers of the Army, in order to place them on a more economical establishment.

The Senate resumed the consideration of the motion of the 21st instant, for requesting information in what manner the troops in the service of the United States, now operating against the Seminole tribe of Indians, have been subsisted; and agreed thereto.

The bill to incorporate the Mechanic Relief Society of Alexandria, was read the second time.

The bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the first of January, 1817," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act making appropriations for the military service of the United States, for the year 1818," was read the second time, and referred to the same committee.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the district of Brunswick, in the State of Georgia; and the further consideration thereof was postponed until Saturday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes; and the further consideration thereof was postponed until to-morrow.

On motion by Mr. WILLIAMS, of Mississippi, the report of the commissioners on claims to land in the district West of Pearl river; and also the register of claims to lands in the district East of Pearl river, was referred to the Committee on Public Lands, to consider and report thereon.

The bill, entitled "An act in addition to an act making appropriation for repairing certain roads

15th CON. 1st SESS.—5

therein described," was read a third time, and the blanks were filled each with "five thousand." The bill was then passed.

FRIDAY, January 23.

Mr. FROMENTIN presented the memorial of Jairus Loomis and James Bassett, sailing-masters in the Navy of the United States, praying a portion of the value of the articles captured in a negro fort on the river Appalachicola, which was destroyed by two gun vessels under their command, as stated in the memorial; which was read, and referred to the Committee on Naval Affairs.

Mr. WILLIAMS, of Tennessee, from the Committee on Naval Affairs, to whom was referred the petition of John Keemle, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Isaac Briggs, made report; which was read.

He also reported a bill for the relief of Isaac Briggs; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 22d instant, for instructing the Committee on Public Lands to inquire into the expediency of vesting in the State of Ohio the power of selling the remaining thirty-five sections of land, in the six miles reservation at the Scioto salt works, and agreed thereto.

The Senate resumed the consideration of the motions of the 22d instant, for instructing the Committee on Military Affairs, in relation to the military staff officers of the Army; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the Judiciary, in relation to an allowance of compensation to the judge of the sixth circuit court of the United States; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, who were instructed to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before courts martial; and an amendment having been proposed thereto by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until next Monday week.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the further consideration thereof was postponed until Monday next.



SENATE.

Proceedings.

JANUARY, 1818.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to incorporate the Mechanic Relief Society of Alexandria; and on motion by Mr. BURRILL, the bill was re-committed to the Committee on the District of Columbia, with instructions to report a clause limiting the amount of real and personal property which may be holden by the society, and restraining said society from entering into any banking or commercial operations; and also that it contain a provision that Congress may, at any time, alter or repeal this act.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the last mentioned bill, reported the same, with an amendment; which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes; and, the bill having been amended, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," together with the amendments reported thereto by the Committee on Public Lands. The amendments having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petitions of Joseph Cumming, administrator of James Murren, and Samuel Parker, executor of George Parker, deceased, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioners ought to be granted.

The report and resolution were read.

The Senate adjourned to Monday morning.

MONDAY, January 26.

The PRESIDENT communicated a report of the Secretary for the Department of War, comprehending contracts made by that Department in the year 1817, and those made by the Purchasing and Ordnance departments, for the same period, in compliance with "An act concerning public contracts," passed April 21, 1808; and the report was read.

The Senate resumed the consideration of the motions of the 22d instant, for instructing the Committee on Military Affairs to inquire into the expediency of repealing or modifying so much of the act establishing the military staff as relates to hospital surgeons and hospital surgeons' mates; and of a reform in the provisions of the laws, respecting the emoluments and allowances to the military and staff officers of the Army, in order to place them on a more economical establishment, and agreed thereto.

Mr. TAYLOR presented the petition of Thomas Golden, and others, praying the grant of a certain fractional section of land on the west fork of White river, to include the falls on said river, with a sufficient title, to John Allen and James G. Read, for the purpose of erecting mills thereon, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of John Keemle, and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on the Judiciary, who were instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States, a sum equal to the salary of the judge of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court; and, on motion by Mr. SMITH, the further consideration thereof was postponed until Wednesday next.

Mr. GOLDSBOROUGH submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause a statement of expenditures upon the public buildings, and an account of their progress, to be annually laid before Congress at the commencement of each session.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, on the memorial of certain commissioned officers of the Navy, under the rank of commanders; and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron; and the further consideration thereof was postponed until Wednesday next.

The bill for the relief of Isaac Briggs was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill directing the manner of appointing Indian agents, and continuing the "Act for establishing trading-houses with the Indian tribes;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the district of Brunswick, in the State of Georgia; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed, and read a third time.

Mr. DAGGETT presented the petition of Martin Warner, of Derby, in the State of Connecticut, praying an allowance of bounty on a certain fishing voyage, as stated in the petition; which was read, and referred to the Committee on Commerce and Manufactures.

The Senate resumed, as in Committee of the

JANUARY, 1818.

Proceedings.

SENATE.

Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the bill having been amended, the further consideration thereof was postponed until to-morrow.

Mr. SANFORD presented the petition of Timothy Rossiter and others, who served as officers and soldiers during the Revolutionary war, as therein stated, praying relief; and the petition was read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to incorporate the Mechanic Relief Society of Alexandria, together with the amendment reported thereto by the Committee on the District of Columbia; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petitions of Joseph Cumming, administrator of James Murren, and Samuel Parker, executor of George Parker, deceased; and, in concurrence therewith, resolved that the prayer of the petitioners ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Peters and Sabin Pond.

On motion, by Mr. ROBERTS, to amend the resolution, by striking out after the word "That," to the end thereof, and inserting, "a bill be reported, authorizing the petitioners to have the benefit of a hearing before the Secretary of the Treasury, in the same manner as if a condemnation of their property had not occurred, so far as respects the moiety of the forfeiture vested in the United States," it was determined in the negative—yeas 8, nays 25, as follows:

YEAS—Messrs. Ashmun, Burrill, Daggett, Hunter, King, Morril, Otis, and Roberts.

NAYS—Messrs. Campbell, Crittenden, Dickerson, Eppes, Fromentin, Gaillard, Goldsborough, Horney, Leake, Macon, Morrow, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Troup, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

And, in concurrence with the report, it was resolved that the petitioners have leave to withdraw their petition.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to supply vacancies under commissions of bankruptcy," in which bill they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An

act for the relief of John Anderson;" and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until this day two weeks.

TUESDAY, January 27.

Mr. TAIT, from the Committee on Naval Affairs, reported a bill in addition to an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States; and the bill was read, and passed to the second reading.

Mr. TAYLOR presented the petition of Jeremiah Gregory and others, praying to be permitted to purchase the public lands on which they live, and which they have improved, at the price fixed by law; and the petition was read, and referred to the Committee on Public Lands.

Mr. TAYLOR also presented the petition of the executrix and executors of Touissant Dubois, deceased, praying to be permitted to locate claims of land, which have been confirmed, on such parts of the reserve tract as may be vacant; and the petition was read, and referred to the same committee.

Mr. NOBLE presented the petition of Hugh May, of Indiana, late an ensign in the United States Army, praying reimbursement of expenses attending the prosecution of a suit instituted against him by a recruit under his command, who was liberated on a writ of habeas corpus, as stated in the petition; which was read, and referred to the Secretary of the Treasury.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and the consideration thereof was further postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Isaac Briggs; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed, and read a third time.

The bill, entitled "An act to supply vacancies under commissions of bankruptcy," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," was read a third time as amended, and passed with amendments.

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the petition of William G. Ridgely, of Georgetown, in the District of Columbia, were discharged from the further consideration thereof, and it was referred to the Committee on Commerce and Manufactures.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January, to the 30th of June, 1817, together with the amount paid for bounty on pickled fish ex-



SENATE.

Proceedings.

JANUARY, 1818.

passed, and for allowances to vessels employed in the fisheries, during that period; with instructions to inquire into the expediency of repealing the law laying that duty, made report, together with the following resolution:

*Resolved*, That it is not expedient to repeal the law imposing a duty on salt.

The report and resolution were read.

Mr. TROUP gave notice that, to-morrow, he should ask leave to bring in a bill for the relief of Richard M. Johnson.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the petition of Jos. Bevan, of Georgia, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. MONROE, from the Committee on Public Lands, to whom was referred a resolution, directing "that the Commissioner of the General Land Office furnish each soldier who may receive a patent for military bounty land, a description of the quality of his lot, as minuted in the field notes of the surveyor," made a report thereon; which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the bill having been further amended, on motion by Mr. DAGGETT, the further consideration thereof was postponed until to-morrow.

Mr. TALBOT submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of so far changing the present judicial system of the United States, as to provide for the gradual diminution of the number of the judges who at present compose the Supreme Court, for the restricting the functions and duties of the judges of that court, to the holding the sessions thereof, and the other duties incidental thereto; of establishing and organizing a circuit court in each of the United States in which a circuit court has not heretofore been established, and of providing for the appointment of a competent number of circuit judges for the holding the circuit courts of the United States.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom the subject was referred, reported a bill to alter and amend an act, approved on 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory;" and the bill was read, and passed to the second reading.

Mr. OTIS submitted the following motion for consideration:

*Resolved*, That the Committee of Claims be instructed to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts for the supplies and services of the militia of that State employed during the war, in the common defence, so far as the same may be due upon principles of equity and justice.

The Senate then adjourned.

WEDNESDAY, JANUARY 28.

Mr. TAYLOR presented the petition of Abraham Wiseman, and others, of the State of Indiana, praying permission to alter their entries of lands, which have been erroneously marked; and the petition was read, and referred to the Committee on Public Lands.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom the subject was referred, reported a bill to increase the salaries of the judges of the circuit court for the District of Columbia; and the bill was read, and passed to the second reading.

Mr. DICKERSON, from the Committee to whom was referred the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, reported the same, with the following amendment: "Strike out the whole of the resolution after the enacting clause, and, insert in lieu thereof, the following:

"That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid, to all intents and purposes, as a part of the said Constitution—

"That, for the purpose of choosing Representatives in the Congress of the United States, each State shall, by its Legislature, be divided into a number of districts, equal to the number of Representatives to which such State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of persons, entitled by the Constitution to be represented. In each district the persons qualified to vote shall choose one Representative. That, for the purpose of choosing Electors of President and Vice President of the United States, the persons qualified to vote for Representatives in each district shall choose one Elector. The two additional Electors, to which each State is entitled, shall be appointed in such manner as the Legislature thereof may direct. The Electors, when convened, at the time and place prescribed by law, for the purpose of voting for President and Vice President of the United States, shall have power, in case any of them shall fail to attend, to choose an Elector, or Electors, in place of him or them so failing to attend. The division of States into districts, as hereby provided for, shall take place immediately after this amendment shall be adopted; and afterwards, whenever a census shall be taken, and an apportionment of Representatives under it shall be made; and the same shall not be altered, until a subsequent census shall have been taken, and an apportionment of Representatives under it shall have been made."

Mr. ASHMUN submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing for the security of passengers in stage coaches, in which the mail of the United States may be transported, against danger arising from gross negligence of proprietors and drivers.

Mr. CAMPBELL, from the Committee on Fi-

JANUARY, 1818.

Proceedings.

SENATE.

nance, to whom was referred the bill, entitled "An act making appropriations for the payment of arrearages which have been incurred for the support of the Military Establishment, previous to the first of January, one thousand eight hundred and seventeen," reported the same with an amendment, which was read; and the bill was considered as in Committee of the Whole; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment being concurred in, the amendment was ordered to be engrossed, and the bill was read a third time as amended.

The engrossed bill concerning the district of Brunswick, in the State of Georgia, was read a third time, and passed.

The engrossed bill to incorporate the Mechanic Relief Society of Alexandria, was read a third time, the blank being filled with "forty thousand dollars," and passed.

The engrossed bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes, was read a third time; the blank was filled first, with "first of April next;" second, with "first of March, 1819," and the bill was passed.

The bill for the relief of Isaac Briggs was read a third time, and passed.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the memorial of certain commissioned officers of the Navy, under the rank of commanders; and also the memorial of certain officers of the Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. BARRON, the consideration thereof was further postponed, until next Monday week.

The Senate resumed the report of the Committee on the Judiciary, who were instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States a certain salary, for having performed the duties of the judge of the district court of South Carolina; and the consideration thereof was further postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January, to the 30th June, 1817; together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during that period, with instructions to inquire into the expediency of repealing the law laying that duty; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Joseph Bevan of Georgia, and, in concurrence therewith, resolved that the prayer of the petition ought not to be granted.

The Senate resumed the consideration of the motion of the twenty-seventh instant, for instruct-

ing the Committee on the Judiciary to inquire into the expediency of changing the present judicial system of the United States; which being amended, was agreed to, as follows:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of so far changing the present judicial system of the United States, as to provide for the gradual diminution of the judges who at present compose the Supreme Court; for the restricting the functions and duties of the judges of that court to the holding the sessions thereof, and the other duties incidental thereto; of establishing and organizing a circuit court in each State in the Union, in which a circuit court has not heretofore been established; and of providing for the appointment of a competent number of circuit judges for the holding the circuit courts of the United States.

The Senate resumed the consideration of the motion, of the 26th instant, for requesting a statement of expenditures upon the public buildings, and an account of their progress, to be annually laid before Congress, at the commencement of each session; and agreed thereto.

The Senate resumed the consideration of the motion of the 27th instant, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for the supplies and services of the militia of that State; and the further consideration thereof was postponed until Friday next.

The bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States, was read the second time.

The bill to alter and amend an act approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory," was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the consideration thereof was further postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing that the Commissioner of the General Land Office furnish to each soldier who may receive a patent for military bounty land, a description of the quality of his lot, as minuted on the field notes of the surveyor; and no amendment having been made thereto, the PRESIDENT reported it to



SENATE.

Surviving Officers of the Revolution.

JANUARY, 1818.

the House; and on the question, "Shall this resolution be engrossed and read a third time?" it was determined in the negative.

THURSDAY, JANUARY 29.

The PRESIDENT communicated the report of the Secretary for the Department of War, exhibiting the names of the clerks employed in the several offices attached to that Department, and the sum given to each for the year 1817; and the report was read.

Mr. SMITH presented the memorial of John Hall, late a major in the Marine Corps of the United States, praying relief in the settlement of his accounts, in consequence of his having been robbed of a certain sum of money, as stated in the memorial; which was read, and referred to the Committee of Claims.

On motion by Mr. WILLIAMS, of Mississippi, the Message of the President of the United States, communicated the 20th instant, respecting the claim of the heirs of Caron de Beaumarchais, together with the accompanying documents, was referred to the Committee on Finance.

The Senate resumed the consideration of the motion of the 28th instant, for instructing the Committee on the Judiciary to inquire into the expediency of providing for the security of passengers in stage coaches; which, being amended, was agreed to as follows:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing for the security of passengers in stage coaches, in which the mail of the United States may be transported, against danger arising from gross negligence of proprietors and drivers.

The Senate resumed the report of the Committee on Finance relative to the duty on salt; and the consideration thereof was further postponed until Monday next.

The bill to increase the salaries of the judges of the circuit court for the District of Columbia, was read the second time.

#### SURVIVING OFFICERS OF THE REVOLUTION.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs.

Mr. KING took a comprehensive view of the principal features of the bill, stated his objections to the provision it proposed for seamen, militia, &c., and concluded by moving that the bill be committed, and the committee instructed to amend the same, so as to confine its provisions to a grant of half pay for life to the surviving officers of the Revolutionary army on the Continental establishment, who served for three years, or until the end of the war, including those who were entitled, under any resolve of Congress, to half pay for life; the half pay so to be granted, to

be ascertained by the rank according to which the accounts of the respective officers were finally settled.

Mr. BARBOUR followed, and, after arguing at some length to show the impossibility of providing for all included in the bill, and the impracticability of discriminating between the different classes provided for, moved an indefinite postponement of the bill.

Mr. SMITH said, that, during the discussion of this question, the gentleman from Virginia, (Mr. BARBOUR,) and the gentleman from Massachusetts, (Mr. OTIS,) had contended for the first honors of the Revolution, in the acts of the rival compatriots, Mr. Henry and Mr. Adams. Mr. S. said, if South Carolina could not boast of having been first in the Revolution, he could confidently say she was not the least, nor yet the last. She had performed her ample share. But, if he was to decide to whom the first honor was due, he would say to that band of patriots, who, regardless of the consequences, entered the British ships in Boston harbor and threw the tea overboard. This was the first efficient operation, and posterity would look back upon it with grateful recollection.

Mr. S. said he was well aware of the disadvantages under which he should address the Senate, on the merits of the bill, and the amendment offered by the gentleman from New York, (Mr. KING;) as what he should urge, he plainly perceived, would be in direct opposition to the general sentiment that prevailed in the House, as he was decidedly opposed to the general principles of the bill, as well as to the amendment. If either ought to prevail, he would prefer the bill. The amendment, he thought, was entirely inadmissible. It had for its object a special provision for the officers of the Revolutionary army, in the Continental line, to the utter exclusion, not only of the soldiers of the army, but of the militia of every description; many of whom bore a distinguished part in the contest for the independence of this nation. The bill, as it came from the House of Representatives, was more liberal; it makes provision for the soldiers as well as officers; although it makes no provision for the militia, the bulwark of the nation. It also provides for the distressed seamen and marines of the Revolution. But, says the gentleman who offers this amendment, the seamen and marines, as well as their officers, were well provided for; they were entitled to the prize money. The naval force of the United States, at that time, was very inconsiderable. It consisted of two or three frigates, a few sloops, and a few privateers, which had to contend with one of the greatest maritime Powers in the world. The consequence of which was, instead of enriching themselves, most of them fell into the hands of the enemy, who threw them into prison-ships and dungeons, where many of them lingered out a miserable life, and perished. And such as did survive, with a few accidental exceptions, were left poor.

We are told we cannot provide for all, as the state of the Treasury will not admit of it; and

JANUARY, 1818.

Surviving Officers of the Revolution.

SENATE.

the officers are to be selected as the only objects of the public bounty. And we are told as a reason for this preference, that something is due to the rank they hold in society, and that some distinction must be made between men. This is a language not known to our Constitution. It may do in private life, if a man is disposed to select his society; but, when we are called upon to legislate on the subject, we ought to know of no distinction. It is repugnant to the principles of our Government, and at war with good sense and public justice.

What is the object of this provision? Why, it is said, to relieve the indigent and necessitous; and our benevolence, our sympathies, and our gratitude, are called upon to prompt us to this duty. This is a strange sort of reasoning. Benevolence, sympathy, and gratitude, can draw no line between the officer and the soldier, when both have served their country, and both are indigent. The tide of pity swells as high for the sufferings of the indigent and necessitous soldier, as it can do for the indigent and necessitous officer, if we are really governed by pity. The morsel you intend to bestow will be as sweet to the one as it is to the other. Several gentlemen have told us we must wait, and feel our way; and if, in future, we should find we are able, then the soldiers might be provided for. If the principle is correct, and the claim is a just one, why not provide for both at the same time? This procrastinating, timid policy, which so lately brought this country to the brink of ruin, and from which you were roused by the people, is not so well suited to their genius. They are more magnanimous; and if there exists a debt of justice, or even a debt of gratitude, which their country is bound to discharge, they will submit to be taxed to enable the Government to pay it. The Government is now one hundred millions in debt, and because there is a little money in the Treasury, not immediately wanted, we are endeavoring to establish a pension system to get rid of it, and pave the way, when our debts become due, for laying another tax in the place of the one you have just repealed. Mr. S. was in favor of repealing the internal taxes. It was right to do so. But can we believe the public mind is prepared to pay a tax to maintain a pension system, because it is said that those officers cannot submit to any industrious pursuits for a living? There are thousands of poor who are unable to work that demand your attention in an equal degree. And are you prepared to put all your poor on the pension list?

It is said this is a just debt; that, under the confederated Government, Congress had engaged to make these officers half-pay for life; which they were induced to commute for five years' full pay; and that this five years' full pay was discharged in certificates, which fell a prey to speculation; and the Government ought to pay them over again. As respects those Revolutionary officers, the Government has acted with perfect good faith. It performed with fidelity all its engagements, as far as it had ever promised, or as

far as any hope or expectation had been raised or excited, and that at the earliest possible period within its power, after the conclusion of peace. It was well known that the United States had not the means of paying its army immediately at the close of a seven years' war, in gold or silver. But it is as well known that they did not pay that army in depreciated Continental money. That had gone to oblivion in the hands of those who had given support to the army. Their full pay for real service performed, as well as for five years' full pay after their service terminated, was liquidated and settled at the specie standard; and Government certificates given, which bore interest from the date; and the faith of the nation was most solemnly pledged to redeem them.

With this view the Government, among its earliest acts after the adoption of the Federal Constitution, established the funding system; and these very certificates were worth twenty-six shillings in the pound, and at that price this nation redeemed them. If there was a speculation, the Government had no hand in it. On the contrary, whilst it suffered every other species of public security to perish in the hands of the meritorious holder, it gave a distinguished sanction to these claims, and paid them with scrupulous punctuality. No speculations took place as regarded these certificates until after the funding system was established. These officers were then apprized of their rights, and if they did not think fit to protect them, the Government could not be blamed. Speculations did run high at that time, but the officers were not the victims of it; the soldiers were the persons who fell a sacrifice to its ravages. Many of these officers are honorable men, and stand superior to any such charge; yet it is a fact not to be denied, that many of them enriched themselves by speculating, in their turn, on the poor soldiers, in buying their certificates and land warrants at very reduced prices. It was not in the power of the Government, nor was it the duty of Government, to guard against the speculations that succeeded. It is a monster that pervades every quarter, and almost every department, and if it was the duty of Government to repair its ravages, the treasures of Peru would not be adequate to the demand.

But, Mr. S. said, upon the most mature consideration, he was opposed to both the bill and amendment in any form in which they could be presented. Because he believed no particular merit could be ascribed to any particular portion of the people of the United States, for services rendered during the Revolutionary war, in exclusion to any other portion who espoused that cause. It was as essential, and as indispensable, to the support and maintenance of that war, that many of your citizens should have been engaged in other spheres, and employed in other occupations, as it was that you should have had an army to fight your battles. And one could have been as well dispensed with as the other. This was not a war carried on in your enemy's country, nor were those officers and soldiers sent from home into a foreign country, where they alone



SENATE.

*Surviving Officers of the Revolution.*

JANUARY 1818.

were forced to fight your battles, and undergo the toils of war, without any regard. But this was a war of a very different character. This was a war brought by the enemy into your own country; a war brought to every man's door, and in which every man was obliged to take an active part in some shape or other. Yet every man could not be in the Army. This was a war of a different character from all other wars. It was a war for liberty and independence, in which every soul was engaged, and in which every one contributed, by every means in his power, or your independence would have failed, even if your army had been five times as strong as it was. This was not a mercenary army; not one officer was there for the sake of money; but to do his duty. And it is to be recollected, on this occasion, as in the late war, there was a great solicitude for commissions. It was not only the post of honor, but often a place of safety. Other portions of your citizens were active in the public councils, without whose bold and high-toned measures, taken at the hazard of their lives and fortunes, your army would have sunk into insignificance. Whilst others, from a pure love for their country, fed and clothed your armies, supplied them with wagons and horses, and everything else which they could furnish for its use, without any compensation. By their means, and by their means alone, you were enabled to carry on a seven years' war, without money or credit; a thing unparalleled in the history of any other nation upon earth. They had the ostentatious show of being paid for it in Continental money; which fell dead in their hands, without a single effort on the part of the Government to redeem it. By your Continental money, thousands of the most devoted friends of the Revolution, who lived in affluence and comfort, sunk their whole fortunes in its cause, and are now living in penury and want, with no other consolation than that of dying poor in the cause of their country. They yielded to their misfortunes without a murmur, believing that all were bound to give their aid, and satisfied they had given their full portion. And, because they were not in the Continental army, they have no credit for all those sacrifices. Of what use could an army have been, if this aid had not been afforded, and in this particular way? For you had no other possible means of subsisting it. This was the very life and soul of the army, and the very life and soul of the cause in which they were employed. Without it your army could have done nothing, and you would yet have been under the British Government. It is a maxim brought from another science, which applies as well to governments as to individuals, that you ought to be just before you are liberal. Before you speak of liberality to the Continental officers, redeem your Continental money, and relieve that numerous class of men, widows, and orphans, on whom it has entailed so much misery and poverty. They have a strong claim upon your liberality, your gratitude, and your justice, although they do not assemble around you, in this Hall, as Belshazzar, who is presented in your lob-

by, leaning on his staff, at the moment this subject is called up, as if your cool and impartial judgment stood in need of this artificial aid.

Several gentlemen have, with much confidence, asserted that we are exclusively indebted to the Continental army; that the civil and religious liberty we so pre-eminently enjoy, are the fruits of their toils. Mr. S. said, he was sensible of the great merit of that army; and believed they had done a great deal in the cause of liberty, yet, he had no hesitation in declaring, that they had not done more than they ought to have done; nor had they done more than fell to the lot of every American devoted to his country. That army did not meet the common foe, and repel him from your borders with its single army, and leave all the rest of the community at ease and security under its protecting banners. Gentlemen who believe so, if there are any such, know but little of the character of the Revolutionary war, or the manner in which it was carried on, in the three Southern States of North Carolina, and Georgia. They are perfect strangers to the sufferings and privations, as well as the exertions and patriotism of the people of those States; not of such as belonged to the Continental army, during their worst times there was no such army there, but of the volunteers and patriots, who, inspired with an invincible love of liberty, were determined not to yield. All the Continental army was in the Northern States, even to the troops which had been raised in the Southern States, except a few who were occasionally sent, and who were defeated as soon as they came, and which gave no sort of security to the property, the persons, or the lives of the inhabitants.

Mr. S. said, it was impossible for gentlemen to know the character of that war in the South, unless they had been there to witness it, and he saw but one gentleman in the Senate, (Mr. Macon of North Carolina) besides himself, who had. All the rest were remote from the scene of action, or had since grown up. So it was in the House of Representatives, where this bill originated. Though much distinguished for their talents and worth, yet most of them also were remote, or have been born since that war commenced. Its true character can never be learned from history. The historian never has, nor never will, record many of the most striking events, which so much distinguished it from all other wars, and which so distinguished it as carried on in that section. The historian acquires his knowledge from sources, in most cases, as uninformed as himself, and often bestows the laurels on heroes who never fought the battles. He was not himself far enough advanced in life to bear an active part in the operations of the war, but was old enough to observe all the passing events, and had a perfect recollection of them.

All the Continental troops sent to the southward, previous to 1781, were totally defeated. General Lincoln lost several successive battles, and never gained one, and was, with his whole force, finally taken prisoner. General Gates, who succeeded him, shamefully fled at the fire of the

JANUARY, 1818.

*Surviving Officers of the Revolution.*

SENATE.

first gun, and left the citizens to the mercy of the enemy. These successive defeats left the country entirely exposed. The British not only supported their whole army for two years, by plundering indiscriminately from all who refused to take protection, their cattle, their hogs, their sheep, their corn, rice, and forage of every kind, but they turned loose the savage Indians upon the defenceless frontiers, who butchered them without regard to age or sex. By these disasters, the Tory parties, that everywhere infested the country, became increased, and, with a fury more unrelenting, and no less savage than the Indians, plundered, burned, and murdered wherever they went; and the whole country became a perfect scene of internal warfare. They not only stole and plundered to supply the enemy, but wantonly burned and destroyed to distress the country; they waylaid and murdered the Whigs wherever they found them; sometimes murdered them amidst their families, with their wives and children around them, begging in vain for mercy. They burned up their houses and plantations, and with them everything that could give comfort or support to the distressed women and children, who were reduced to a morsel of bread, and very often could not get that. The British army pervaded the whole country, and, wherever they went, left destruction in their train. That whole country was a wide waste; nothing presented itself but ruins, poverty, and distress. The cultivation of the fields, in many places, was left entirely to the women and children. Plundered of every hog, horse, cow, and everything else for their support, many mothers and daughters, who had seen better times, were obliged to lay down their domestic employments, and go to the fields and work like slaves, without the aid of a horse to plough, to raise a little corn to subsist themselves and their little children; and very often even this hard-earned morsel was plundered from them, or destroyed by the enemy. This picture may appear to be exaggerated, but there are many who know it to be correct, and who remember it with bitter regret.

Whilst their women and children were left in this forlorn situation, the men sought their safety by embodying in such parties as circumstances would allow. If they could not collect a hundred, they could collect fifty, if not fifty, twenty, or ten, or five. Armed with their rifles, with more than veteran bravery, they hung upon the borders of the British army wherever they went; sometimes firing upon the whole army, or cutting off their foraging parties, and circumscribing their ravages, to their great annoyance; and they became the scourge of the Tories in all quarters. This was the foundation of that military force which proved so formidable to the British arms, and gave them the first check in the Southern States. After losing all hopes of any relief from the Continental army, they threw themselves under Campbell, Cleveland, Shelby, Hill, and others, without one Continental officer or soldier among them, and totally defeated Colonel Ferguson, the best partisan officer in the British army, at the

battle of King's Mountain. It was this character of men, who, under Colonel Pickens, as their commander, composed two-thirds of that inferior force, General Morgan's detachment, which completely defeated the British legions and infantry, under Colonel Tarleton, at the Cowpens; and this officer never had been defeated before.

Can it be said these men owe their independence to the Continental army, for whom you are now about to provide? Whether you consider them as patriots, or soldiers, or as sufferers or conquerors, they are entitled to as distinguished a rank as any portion of the Continental army during the Revolution. When these transactions were fresh, and their importance and worth well understood, there was a public opinion, competent to decide, that did them justice. But, when thirty-six years have elapsed, like everything else, not performed by great men, they are forgotten.

Gentlemen have spoken of the militia service as of very little importance during the war; and seem to exclude entirely from any merit all but the Continental army and its officers; and one gentleman has intimated they could not be trusted as regards their veracity and honor. Who fought your battles, sir, before you had a Continental army? Who fought your battles at Lexington, at Concord, and at Bunker's Hill, at the first dawn of the Revolution, that, like the electric spark, pervaded every rank, and gave a tone to the war that only ended with it? These warriors were your militia, collected upon the spur of the occasion, from their shops, and their domestic and rural pursuits; and, roused by the eloquent and immortal Warren, and his compatriots, they displayed an intrepidity not surpassed by your Continental army. Who fought and dispersed that numerous and formidable body of Tories, on Cape Fear, in North Carolina, who were corrupting the minds of all around them? It was the militia, collected upon a single day's notice, who, with their provisions and their blankets on their backs, marched to the scene of action, under General Caswell, with a promptness unknown to any but freemen, and defeated their enemy without the loss of a man, or without costing the Government a single farthing, and restored peace and order to that country for a long time after.

Who defended Charleston on the memorable 28th of June, 1775, before you had any Continental army there? Where the whole British fleet, consisting of two fifty gun ships, several frigates, and a number of smaller armed vessels, were repelled, and some of them burned. The enemy, after a battle of ten hours, were obliged to retire with great loss on their part, and very little on the part of the Americans. The inhabitants of that city contributed much to this defence, and, but for General Moultrie, the whole garrison would have been surrendered by General Lee, who was the superior officer, and who, it is to be recollected, was a Continental officer. Who composed the active corps under Sumter, Hampton, and Middleton? Those gallant men were inferior to none, and did more good than all the



SENATE.

*Surviving Officers of the Revolution.*

JANUARY, 1818.

Continental soldiers you ever had there. Yet there was not a Continental soldier among them; nor does one of them come within the provisions of this bill. Marion raised his men within the British lines; their food was what they could catch, the earth was their bed, and the heavens their covering, and the swamps and marshes were their strong-hold. These men were in this service for more than a year; they fought more battles, gained more victories, killed more British and Tories, in proportion to their own number, than any other class of men upon the continent; and gave more relief to the Americans, and more annoyance to the enemy. These brave fellows never cost their country so much as a single charge of powder; they furnished even their own arms, and they used them like heroes. "These were men that tried men's souls." The Government gave them no pay, and they are excluded from the bounty by the bill before you. These men are not indebted to the Continental army for their independence.

In the two celebrated battles of Guilford and Eutaw Springs, under General Greene, a considerable part of his men were militia. Although there were Continental troops among them that distinguished themselves with great bravery, yet the number was very small; and the militia, and especially at Eutaw Springs, were not inferior to the Continental troops, and did more service. These were said to be the best fought battles during the war. While these scenes were going on in the Carolinas, Georgia, under Clarke, Williamson, and others, was a perfect scene of bloodshed. Notwithstanding all this, they are called ephemeral, and we are told the militia cannot be relied on either as respects their bravery or their honor. Sir, among these militia, there were men as honorable as ever breathed, and as brave as ever drew a sword. And the Government is as much indebted to them for their bravery, perseverance, and sufferings, and owes them as much protection and support, as any portion of the Continental army.

The principle of gratitude has been strongly pressed. It is said we are reproached with ingratitude by the European nations. And what is it they have not said to reproach us? They have said we are barbarous, savage and ignorant; incapable of governing ourselves; that all Republican Governments have fallen; and that we have been ungrateful to our armies. And it was only since the late war, the common people of Europe knew we were white men. But, they have at last found out that we are not only white, but that our Government has some energy. And if they will compare what we have done for our army, with the condition of their own, they will find also that we are grateful. The Kings and Princes of Europe sometimes sell their armies to one another to fight their battles abroad—or they hire them for a job; and all that are not returned, are paid for at a stipulated price. The Hessian troops, attached to the British army during our Revolutionary war, were hired on these terms. However, if any are returned, that are worn

out in service, they are stowed into an hospital for the remainder of their days, but they get nothing else. If there is a favorite officer, he is converted into a lord, and a large pension is settled upon him, and his heirs; and the people are taxed to support them. It is the pensioner who complains of our ingratitude, and not the farmer and mechanic who pay the tax.

This Government gave to each Continental soldier, at the close of the war, his pay for services, and a valuable tract of land, which was giving him the best means in the world to enable him to live happy. It paid the Continental officers for all their services rendered, and five years' full pay after the war had ended; and gave each a large tract of land, which has been a fortune to all who took care of it, and their children after them. In addition to this, there has not been an office of honor or profit in the gift of the United States, or any individual State, which has not been filled by a Continental officer, if he asked for it. And the Government has given to every officer and soldier who has applied, a pension for life, if he had been wounded or disabled in the public service. Let the two be compared, and see on which side the gratitude preponderates, and then let us be told what the despots of Europe say.

Mr. S. said he knew it had become a little unfashionable to speak of the unconstitutionality of a measure. Precedents seem to be more relied upon than the Constitution for our guide. We are imitating the British Parliament, which Judge Blackstone says is omnipotent. They can do anything. They can regulate the succession to the throne. They can give themselves seats for seven years, when elected only for three years. And they can bestow pensions to any amount, and on whom they please; and they have done so, until the nation is sinking under the burden. And yet we are told by the gentleman from Louisiana (Mr. FROMENTIN) that we possess the same powers. One ground for shaking off that government was to get rid of pensions and placemen, and the power of their Parliament. We are the only nation in the world that has a written Constitution, in which all the powers of the Government are expressed and limited. If we err, this is our only standard to which we can recur for correction. But if you produce twenty precedents not in conformity to the Constitution, they cannot alter it; they will show with what familiarity the Constitution has been violated, yet the Constitution will remain the same, and ought to be again resorted to as the only correct guide. Of what avail is the Constitution, if precedent is to govern? Once establish the precedent, and you have no control over Congress but the discretion of its members; and, like the British Parliament, it will soon become omnipotent. If good feelings, as some gentlemen (Mr. OTIS and Mr. CRITTENDEN) have avowed, are to govern your Congress, they will soon become as omnipotent as the British Parliament, and your Government become bankrupt. One of these gentlemen (Mr. OTIS) avows he is governed by good feelings, and that this measure

JANUARY, 1818.

*Surviving Officers of the Revolution.*

SENATE.

originated in good feelings. This, sir, is a miserable guide to a legislator. They are as changeable as any other human passion. It is only fit to be indulged in private life, where it is sometimes useful, and always amiable; but even there it has brought many a man to beggary; and if indulged by the Congress of the United States will soon beggar this nation. Your successors will have the same right to provide for their favorite objects; and when is this system to end? Never, as long as the members of Congress have friends to provide for. We know this passion is more predominant in the young and the gay. Why, then, has the Constitution provided that a member of the House of Representatives shall not be eligible to a seat until he is twenty-five years of age, a Senator thirty, and a President must be thirty-five? It was evidently that the nation might have the benefit of matured judgments and sound discretion to govern in your councils; that your measures might be maturely weighed and bottomed on the principles of esteemed justice, as the only correct standard of sound policy to govern in all cases, and in all times, instead of the good feelings the gentlemen speak of, and which are as fleeting as the winds.

Here is one fact not to be controverted: If you can give a pension to one man you can give it to another, without regard to his character; and if the Constitution does not authorize the power, you have nothing to predicate it on but prerogative. There can be but the two sources: one derived from the Constitution, which can be shown, if it exists; the other derived from prerogative, which is unknown to our Government, except in the modern doctrine of precedents, which is its foundation in all governments. The King of Great Britain has his prerogatives to a great extent, which have nothing but precedent for their origin, and are not even sanctioned by an act of Parliament at this day. So in this country, this prerogative has its origin in precedent, and is maintained upon precedent. And there is no reason why it should not, in a short time, become as formidable as the prerogative in England unless it is checked.

As an argument, it would appear, to avoid an inquiry into the propriety of this measure, we are told such a case can never happen again—that you can never have another Revolutionary war. Will not those brave men who fought your battles, and triumphed so gallantly over the enemy at Chippewa, Plattsburg, Erie, Champaign, Orleans, and on the seas, have the same claim upon their country some thirty-five years hence, when time shall have thrown a veil over all the minute circumstances, and it shall be forgotten that they retired from the army with reluctance, after being abundantly paid and abundantly honored?

Their claim will be as great, and the precedent you are about to make will be followed. One army you say gained your independence, and the other has given it a new character, and made it worth maintaining. They have released your country from its degraded state of impressments,

paper blockades, royal orders in council, and imperial decrees, and given it as high a grade in the scale of nations as your independence. This will be the beginning of a military pension system that posterity may regret.

All the despotisms of Europe have had their foundations in a claim to military merit. All their pensions and places originated in it. All the orders of knighthood and other distinctions now so oppressive; the feudal system, which so completely prostrated the civil liberty of all Europe, against which the wisdom of ages has not been able to prevail, originated in it. All their usurpations, and all their changes of empire, were commenced and supported by it. It was military fame that enabled Cromwell to turn out of doors a British Parliament, and assume the reins of government. It was military distinction that prompted Bonaparte, at the head of his army, to supersede the French Convention, and put himself upon the imperial throne, and devastate almost the whole of Europe. Your own Revolutionary officers, for some of whom you are now providing, at the close of the war associated themselves into a military order, and called it the *Cincinnati Society*, after the celebrated Roman General, Cincinnatus, who left his plough with regret, when called by his country to the head of the army; and after he conquered the enemy and returned in triumph, he laid down his office, and retired back to plough his fields at the age of eighty years. This society, too, made an early effort to perpetuate itself, and ordained that the son should succeed to the military honors of his father. However, it was frowned upon; and they soon found it too much of an exotic to flourish upon this soil, and the hereditary clause was abolished. This hereditary quality was not in conformity to their great prototype. He, with true Roman virtue, returned to perform the duties of a citizen, and maintained himself by the sweat of his brow, after he had laid down the pursuits of a soldier. It is difficult to imagine why our American officers and soldiers did not do so too. Many of them did, and are rich from their own industry. No country upon the globe ever presented more facilities than this. But the Roman virtue has lost its charms, and we are imitating nations nearer our own times. It is not the amount which this measure will cost the nation that is the most objectionable, but the abominable perpetual pension system that is to grow out of it. It may not be immediate; it is to come on gradually, as all other systems of oppression have done. And when we are gone to rest posterity will writhe beneath the yoke, borne down by hearth money, excises, and taxes, to support pensions and places—the curse of a nation.

Mr. GOLDSBOROUGH declared himself opposed to the indefinite postponement, and in favor of the motion of Mr. KING, with some modifications; to give time for which, he wished the postponement of the bill to Monday next, and that it be made the order for that day.

Mr. MORRIL said, he should not, at this late



SENATE.

*Surviving Officers of the Revolution.*

JANUARY, 1818.

our, and advanced period of the debate at which he rose, detain the Senate with many remarks on the subject now under discussion.

The object suggested in the President's Message, said he, and that which is also contemplated by the bill from the House, is to afford relief, by pecuniary assistance, to surviving officers and soldiers of the Revolution, who are now in indigent circumstances. It is intimated that it is possible to frame a bill which shall equitably meet the wants, relieve the necessities, and satisfy the expectations of this meritorious class of our fellow-citizens. I do believe, Mr. President, that the wisdom of Congress is competent to frame a bill, the details of which shall meet all reasonable expectations on this subject. But as the merits of the bill are not immediately under discussion, I pass them to the motion which is directly before the Senate, that the further consideration of this subject be indefinitely postponed. To this motion, sir, I am opposed, and shall assign some reasons. To pass this resolution, would be, in effect, to put this subject at rest; if I may use the expression, to wink it out of sight. So this, Mr. President, I cannot give my assent. We take a concise view of our country previous to the declaration of independence, and the trying scenes through which our fathers passed to gain and establish this independence, I presume we shall be fully satisfied, that the few remaining veterans of the Revolution, bowed down with infirmity and age, deserve the interposing aid of the National Government for their relief, for the mitigation of their wants in their declining years.

What, sir, was our situation antecedent to the old assertion of our independence? We were oppressed, insulted, degraded people. We were burdened with unjust acts and duties, too oppressive, and unreasonable to be endured by a people sensible of their rights and privileges. We were invaded by an armed force. The same power who we had reason to expect would, as a reward, protect our privileges, entered our harbors, blockaded our ports, landed an army on our shores, demolished and burnt our towns, and fought and killed our citizens. These events roused the spirit, called forth the energy, and marshalled the strength of the nation. This was a time that tried men's souls; this was the day in which the patriot and the hero distinguished himself from the sycophant of a deluded monarch. Independence was declared by a new Government, imperfectly organized. Now, sir, it needed the co-operation of the whole strength, patriotism, and energy, of the nation. The heroes of the country flew to arms; they ran to the field of battle; they met the invading foe, and repelled him with undaunted determination.

And what were the sacrifices of those who fought out battles, and achieved the numerous blessings which we enjoy? Many of us, Mr. President, who have seats in this House, who are participating the favors purchased by their toils, and basking in the beams of national glory, were so young minutely to recollect the distresses of

that day. Those who were of age, and were active on that memorable era, have informed us. History has not been silent on a subject so momentous.

Were I to endeavor, sir, to paint to you the sacrifices of those times, I should fail in the attempt. I will only say, they forsook every domestic accommodation; they left their homes and their families, and submitted the cultivation of their farms, in numerous instances to their wives, their little sons, and their daughters, who were under the necessity of laboring in the field to procure subsistence; while they endured the noisome camp, the fatigues of an army, and the dangers of battle. But, sir, their efforts were not unsuccessful; they disputed the ground at the cannon's mouth; they survived the mighty conflict; they obtained the ultimate object—national independence; and some of them now live to enjoy the fruit of their labor, though in indigence and want. These are the characters, Mr. President, whose necessities I wish to relieve. Providence has protracted their years; they are declining under the pressure of poverty and age; they are now petitioning you for assistance. Will you suffer the gray hairs of these veterans of the Revolution to come down with sorrow to the grave? They, sir, have a claim upon your benevolence and humanity—nay, more, your justice. Though some honorable gentlemen suggest that these Revolutionary patriots, having been well paid, have no claim upon the justice of Congress, I am inclined to think otherwise, because I conceive many of the infirmities under which they are now groaning, are in consequence of the privations and exposures endured while in the service of their country. In the camp and the field, their constitutions were broken down; the natural effects of which are, infirmity and distress in advanced years.

Permit me, Mr. President, to ask the honorable members of this Senate, if they are willing to see the warworn soldier of the Revolution hovering round their dwellings, round this Capitol, asking for a pittance, and not manifest a disposition to afford them that pecuniary assistance necessary to supply the cravings of nature, and repair their tattered garments? This is the only tribunal to which they can apply. Shall they seek in vain? Shall those who met the foe at Lexington, Bunker's Hill, Monmouth, and Bennington, supplicate your aid without success? No, sir; we, who possess the blessings procured by their sufferings, have too much magnanimity, too much humanity! They need assistance; they merit assistance. It is to the indigent that I would extend the hand of liberality. And, sir, so long as I have the honor of a seat in this House, I will exert my feeble powers for the mitigation of the necessities of those who, by their valor, toils, and blood, achieved the civil and religious privileges which we now enjoy.

Mr. MAcon, of North Carolina, said, when he came to the Senate this morning, he had no intention or expectation of saying a word on this question, which had excited so much feeling. It

JANUARY, 1818.

*Surviving Officers of the Revolution.*

SENATE.

seemed to him, that the friends of the bill founded their arguments entirely on feeling—a feeling, he was ready to acknowledge, of the most honorable kind; but he was not perfectly satisfied that it was proper to legislate on feeling alone. The Constitution certainly never intended it, or it would not have required a certain age for any appointment; nor did he believe the motion to postpone liable to the objection which had been made; that the friends of the bill were forced to defend it as it was, when they wished to amend it. The motion was agreed by all to be perfectly in order, and it only brought the principle of the bill into debate, which gave both sides the fairest opportunity to urge whatever they thought proper; and this he conceived ought to be the nature of every first discussion, especially when a great and important change was about to be made in the character of a long established law; the principles of which were settled by the Revolutionary Congress, and not attempted, he believed, to be changed before the present session. A debate like the present ought always to take place in every legislature, when motions which only contain first principles are under consideration, and cannot with propriety be omitted.

Mr. M. said he felt more than usual embarrassment in attempting to speak at this time, because there was reason to suppose that a great and decided majority was opposed to him, and it was not agreeable to speak to those who were prepared to vote, but it was all that a minority could do to state their opinions, and because, contrary to the practice of the Senate, two motions, distinct from each other, had been debated at the same time; that of the gentleman from New York (Mr. KING) to recommit the bill to the Military Committee, with instructions so to amend it, as only to include the officers who were in service at the end of the war, and that of the gentleman from Virginia (Mr. BARBOUR) to postpone the bill and motion to a day beyond the session. He would here say, that the observations of the gentleman from New York, in support of his motion, had not convinced him, that a discrimination such as he desired, or any other, could with justice or propriety be made. To discriminate in a satisfactory manner, at any time, or in any country, between those who were equally worthy, was a task not easily performed; that gentleman having failed to show that it could be done, as he with great deference verily believed, it might now be considered as utterly impossible, and would not, in his opinion, be attempted by any other.

Mr. President, when the character, numbers, and wealth of the British nation, to which may be added its constant preparation for war, are compared with the situation of the United States at the commencement of the Revolution, it must prove to all, that every whig in the country had as much as he could do to maintain the independence which the Congress of 1776 had manfully declared, to the joy of the nation, and which the whigs boldly determined to defend at the risk of their lives and their fortunes. It was the day that tried men's souls. The immortal words "Liberty

or Death," on the hunting shirt of every friend of the Revolution, contained nothing but the truth. The practice was according to the motto; but now, no matter what services may have been rendered, unless the persons who rendered them were in the regular army, they are not to receive a cent under the bill, though they may have paid many. The bill does not provide for one half who have equal merit; as to claim, there is none; and the motion of the gentleman from New York will leave a much greater number not provided for. No man can estimate higher than I do the worth and service of the Continental troops, but the fall of Charleston left none in the Southern States, and it is certainly true, that after that event the men commanded by Sumter, Marion, and Jackson, rendered as much service as any in the nation; in fact they had no superiors; they left their wives, their children, their homes and their all, to the rage of a victorious enemy, who was in pursuit of those he declared rebels, and enraged neighbors, in the most gloomy and disastrous period of the great struggle, to fight for their country, its liberty and independence. Nor is there any provision for that man, with his small band of warriors, who started with their parched corn on their backs, into the country, or rather wilderness, mostly inhabited by savages, and gained by their victories a country to the nation, out of which five large States will be added to the Union; indeed two are already added, and a third soon will be. It is scarcely necessary to state that General George R. Clark and his warriors are meant. Can justice, honor, generosity, or feeling, require that all these, together with the widows and children of those who were slain in battle, as well as the deranged officers mentioned by the gentleman from New York, should be taxed to support their fellow patriots, who were at that time, as far as respects the officers, in a more enviable situation? It is well known, that the deranged officers constantly complained of their being deranged, and that they preferred to have been continued in the service; many of them, not willing to stay at home, obtained commands in the militia, and in that way served the country. Nor ought it to be forgotten, that tents and all camp utensils were never plenty, and often scarce, and that the regulars were always first supplied with whatever could be furnished, and that too with the best there was; whatever was left, after furnishing the regulars, was divided among the militia, who were frequently without tents or camp utensils, unless they carried them from their homes, and in many parts of the Southern States these necessary articles were not abundant. In wet and stormy days it was not uncommon to see tents formed by two or three or more men putting together not their blankets, for but very few had them, but bed covers, which had been spun and wove at home; those who were not fortunate enough to carry anything of this kind, stood by trees with bark or whatever they could get to cover their heads to keep the rain off. The character the war then assumed, forbade any article necessary or conve-



SENATE.

*Surviving Officers of the Revolution.*

JANUARY, 1818.

nient to the soldier to be in plenty; there was nothing like it in any other part of the nation, if in the world. In calamity and fury it so far surpassed a common civil war, that the name is improper for it. He knew not by what name to call it; perhaps a domestic war would come nearer to it than any other. In the parts of the country where the Whigs and Tories were mixed, it was neighbor against neighbor, house against house, and neighborhood against neighborhood; destruction and death were the orders of the day; each party hunted the other, either alone or in numbers, as circumstances would permit—neither trouble nor pains were spared to destroy and kill. In many places, houses, fences, and everything necessary to support life, were burnt, leaving the women and children only with the clothes they had on, to depend on a more fortunate neighbor for sustenance and shelter. In some cases this was done, when the husband or son, or perhaps both, were confined in jail, because they were whigs; many plantations were left without stock of any kind, not a horse nor cow, in this forlorn condition to be cultivated by the women and children, who, if they were fortunate enough to gather a part of the corn they had labored to produce, were compelled to beat it in a mortar into meal, or carry it themselves to a mill to be ground, if one was left in the neighborhood. Places may yet be seen where houses were burnt, which yet remain not built on. The rich and the poor who survived, and who would not agree on any terms to remain neutral at home, when parts of the country were overrun by the enemy, shared nearly the same fate, left with nothing but life and liberty.

Many gallant actions were performed in this neighborhood war, which history will never record, and many gallant and patriotic men fell, whose names will in a little time be forgotten in this their beloved country, for which they freely shed their blood and lost their lives. Mebane and Kulp are of the number who were slain in these terrible conflicts, and are now almost forgotten. These engagements were generally fatal and sanguinary in proportion to the few that fought. With permission he would repeat that it could not be just or right to tax these people to give a pension to any, because they were in the regular army; it seemed like taxing the bones of the brave and the ashes of distress; the officers of the army, at the end of the war, received five years' full pay, and both officers and soldiers land from the United States; besides, every State which had back land unsettled, gave land to the same officers and soldiers, which were raised in the State. But it is said that the Continental troops were paid in depreciated certificates, not worth more than one-eighth of their value. This is undoubtedly true; yet they were considered to be more valuable than the State certificates, in which the others were paid. Certificates were then the only currency of the governments; they made all their payments in them. After the fall of the paper money, provisions for the army were frequently taken from families which could

not well spare them. Whenever necessity compelled this, Whig and Tory fared alike; but a certificate was the only payment. The depreciation was a national calamity, from which no one was exempt; it was as general as the liberty we now enjoy, and, though equally free, we are not now equally rich.

We have been frequently told that some of the officers and soldiers of the Continental army are poor. This no doubt was true. He also believed it was equally true that some of the troops which he had mentioned were equally so. This will be the case among every class of men; some will get rich, while others do not; there is a time to get and a time to spend; the industrious and careful will either get rich or comfortable, while those who are not so, will neither be rich nor comfortable. To undertake to provide for those who will not provide for themselves, will, on experiment, be found an endless task; it may suit other countries, but it does not this; it will drain any treasury, no matter how full, and, instead of repealing taxes, new ones ought to be imposed. Pass the bill, and the pension will not do those who do not provide for themselves as much good as it will others, who know their failings, and will take care to be with them when it shall be received. The gentleman from Maryland (Mr. GOLDBOROUGH) wishes the bill to pass, to do away an opinion which had been entertained, that Republics were ungrateful; he did not state it to be his opinion. It was a pleasing fact that the history of the United States did, in the most satisfactory manner, prove that it was not true, as it regarded them, nor did he believe it, as it regarded others. It has been promulgated by the flatterers and sycophants of kings and despots, to become their favorites and pensioners, to live sumptuously on their folly or wickedness, or both, on the profits of the labor of those who were more virtuous and better than themselves. The opinion is founded in idleness and hatred to free Governments, where every man ought to live by the sweat of his own brow—where no man ought to be paid to do nothing. But, do as you will, the same class of people will entertain and promulgate the same opinion; and he was unwilling to attempt to do away the opinion by passing that which he conceived to be an improper and unjust act. He would add, that, in despotic Governments, to complain would be deemed a crime, and that the only liberty enjoyed was that of abusing Republics.

It has been said that the officers of the Revolutionary army would have been severely punished if the United States had been conquered. This, he believed, was not thought of at the time, because no Whig ever calculated on being conquered, and every one had determined not to be. But whether they would have been punished more severely than others, he did not know; all had committed openly what, in that case, would have been deemed treason. He, however, was of opinion that the most severe punishment would not have been inflicted on the army. The history of the times warranted the opinion. He

JANUARY, 1818.

*Surviving Officers of the Revolution.*

SENATE.

rather thought it would have been inflicted on those daring patriots who were members of the first Congress, those who declared independence with the halber about their necks, and those who ordered an army to be raised. These are the men, he thought, on whom vengeance would have been taken. Permit me here, said Mr. M., to state what was certainly true, and that too in praise of a class of men who rarely received praise—that no class of men in the nation had more merit for the Revolution than the lawyers. Where he was acquainted, they were all Whigs; he did not at this moment recollect a single exception. They understood better than most others the rights and privileges of the then colonies, and exerted themselves, with advantage to the country and honor to themselves, to persuade others to examine and understand them; they succeeded, and we now enjoy the benefit. He hoped this digression would be pardoned; he had only given the well-merited praise. He would return to the subject. If the pensions are to be given, because the army deserved well of the country, and some of them are now poor, would it not follow that all who deserved well, and are now poor, ought to receive a pension? Would it not follow that if any members of the Congress he had mentioned, were now alive and poor, that they too, for the same cause, ought to have a pension? It would, he thought, be difficult to give a reason for one, which would not apply as forcibly to the other. The deserving well and being poor, would apply equally to both. He repeated that he wished it to be distinctly understood that he was not denying the worth or merit of the Revolutionary army. God forbid that he should; he never for a moment entertained a single sentiment that even tended toward its dishonor; but he was opposing the principles of the bill, and the motion to recommit, both of which he fully believed were against the principles which carried it into the field. Nor did he mean to class them with the seventeen hundred applicants for office in the late war, which had been mentioned. He, however, felt no hesitation to acknowledge that he approved their conduct; they did what at all times they ought to do—show a willingness to aid their country in defence of its just rights, and to take part in a war which had been emphatically called a second war for independence. Pass the bill, and it makes a precedent for the army engaged in that war and in every other. Precedent is now almost equal to the Constitution, and will probably, in a few years, be quite so. It does not require the gift of prophecy to foretell that thirty or forty years hence, as much may be said in favor of the army engaged in the second war for independence, as we have now heard about the first, though as much may not be said about the state of the country and of the sufferings of the people, because the facts will not warrant it. The troops, however, in the late war, in the uninhabited parts of the country, suffered greatly, and bore their sufferings manfully. The victories obtained by them have not been surpassed in any age or any

country; they were fully equal to those of Lexington and King's Mountain; but the men who fought these two glorious battles are not provided for in the bill, because they were militia.

It is not improper to observe, that pensions in all countries begin on a small scale, and are at first generally granted on proper considerations, and that they increase till at last they are granted as often on whim or caprice as for proper considerations. The bill is an entire departure from any principle heretofore established in this country; it requires little or no proof to get the pension, and it gives to all alike, without regard to disability or meritorious services. The history of the half-pay for life, and the commutation for it of five years' full pay, show as clear as daylight the opinion then entertained by the nation on the subject of pensions, and the bill as clearly shows how much that opinion has changed since, and that the opinion in favor of pensions is fast gaining ground. It seemed to him that it must operate on the mind like sweet poison does on the taste; it pleases at first, but kills at last. The objects to whom they are granted are only thought of at the time, without reflecting that a part of the money to pay them is to be taken from those who are not in a situation to spare it conveniently; the few rich are not apt to complain of taxes, especially if they believe they are intended to promote what they deem the glory and splendor of the country; they take a full share of that to themselves, and they can live well and pay the tax; but it is not so with the poor; every cent taken from him diminishes his comfort and lessens his independence. It is quite probable that some of the poor, who may contribute their mite to pay the pensions given by the bill, may have been reduced to poverty, by the enemy's burning and destroying their property, for fighting on the same side, and probably in the same battles with those who are to receive them. He would just remark, that he did not think this a proper place to speak of our charity at home. Charity is commendable in all men, it is enjoined on all men, but it ought to be so given as not to let one hand know what the other does. Beside, our private worth, whether for charity or any other virtue, is best known to our neighbors, who always duly appreciate it. He had heard so much said of the feelings of gentlemen on this interesting and important question, that he was almost induced to doubt whether he had as fine feelings as others. He, however, hoped he had, but others must judge, not himself; but, whether he had or not, he could not consent to gratify them at the expense of his judgment.

The old Congress is often praised and always deservedly; on the present occasion it would seem proper that their decision should have great weight, as they conducted the Revolution, raised the Army, and settled with it, and gave to each individual whatever was his due, under all the circumstances of his case. It may not be improper to state that that Congress only paid the Continental troops; the militia and State troops were paid by the States to which they belonged,



SENATE.

Proceedings.

FEBRUARY, 1818.

and the States granted and paid them pensions till within a few years past, when the General Government assumed the pension list of each State, placing all the pensions granted for Revolutionary services on the same ground; and this policy, if the bill is to pass, ought now to be followed—that is, to place all having equal merit on the same ground.

The recommendation of this subject to the consideration of Congress by the President, who was a Revolutionary character, had been mentioned. This recommendation, like every other from the Executive, he felt it his duty to examine with deliberation, and treat with respect; he had, however, to regret that he could not agree to pass an act in conformity to it; the reasons for this he had endeavored to state; his regret, however, would be much greater, if all the preceding Presidents had not also have been Revolutionary characters; and he did not recollect at this time that any one of them had made a similar recommendation, though he had not examined their Messages to ascertain the fact, he spoke only from a momentary recollection of a memory not now very good; if the fact was, as he believed, no one could doubt but that one of them, General WASHINGTON, was as much attached to the Army as any man in the nation. He had thought proper to say this much to enable all to decide whether the national opinion was tending towards pensions or not.

As much had been said about our rich Treasury, and but few to provide for, he thought proper to state that neither of these facts had any weight with him; if justice required that the bill should pass, neither the condition of the Treasury nor the number to be provided for ought to be taken into consideration. As to the Treasury being rich, it had been more so some years past, but was emptied without the aid of such a bill as this.

He hoped the gentleman from New York would pardon him for saying, that, whether the national opinion was changing or not, he thought the vote on this motion, and that for passing the bill, would prove that the gentleman and himself were both a little out of fashion. He, however, believed that they would bear it as it became them, without grieving or complaining; each generation would govern itself, and they had had their day. On the exertions of the Whigs in the Southern States, after the fall of Charleston and the sufferings of the people, he could, he was sure, speak month, and not exhaust the subject. He had, however, tired himself, and, he feared, fatigued the Senate. He would, therefore, take his seat.

Mr. OTIS advocated the bill, and opposed the indefinite postponement; and, when he concluded, the Senate adjourned.

FRIDAY, JANUARY 30.

On motion by Mr. SANFORD, the report of the Secretary of the Treasury, communicated the 2d instant, and prepared in obedience to a resolution of the Senate of the 11th December, 1817,

relative to the expediency of further legislative provisions to expedite the settlement of public accounts, was referred to the Committee on Finance.

Mr. HORSEY presented the petition of John Stockton, Commissioner of Loans for the State of Delaware, praying an allowance for office rent; and the petition was read, and referred to the Committee of Claims.

The Senate resumed the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and the consideration thereof was further postponed until Monday next.

The Senate resumed the motion of the 27th instant, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for the supplies and services of the militia of the State; and the consideration thereof was further postponed until Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 22d of this month, requesting to be informed, "In what manner the troops in the service of the United States, now operating against the Seminole tribe of Indians, have been subsisted, whether by contract, or otherwise, and whether they have been furnished regularly with rations," I now transmit a report from the Secretary of War, containing the information required.

JAMES MONROE.

WASHINGTON, January 28, 1818.

The Message and report therein mentioned were read.

Mr. WILSON submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause to be laid before the Senate a statement of all the arms and accoutrements which have been manufactured at the different armories of the United States, with the cost of each stand, and the number delivered to each State respectively, under the act for arming the whole body of the militia.

The amendment to the bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment, previous to the first of January, 1817," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill to divide the State of Pennsylvania into two judicial districts, was read a third time; and, on motion, by Mr. CRITTENDEN, the further consideration thereof was postponed until Monday next.

Mr. RUGGLES gave notice that on Monday next he should ask leave to bring in a joint resolution providing for the distribution of the late edition of the land laws of the United States.

MONDAY, FEBRUARY 2.

The PRESIDENT communicated a report of the Secretary of the Treasury, to whom was referred

FEBRUARY, 1818.

Proceedings.

SENATE.

the petition of Hugh May, of Indiana; and the report was read.

The PRESIDENT also communicated a report of the Secretary of the Treasury, exhibiting the sums respectively paid to each clerk in the several offices of that Department for services rendered during the year 1817, made in obedience to the provisions of the act of April 21st, 1806, to regulate and fix compensation of clerks; and the report was read.

Mr. GOLDSBOROUGH presented the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants and ship owners, praying that certificates of registry may be granted to two vessels belonging to them, as stated in the memorial; which was read, and referred to the Committee of Commerce and Manufactures.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories who shall escape into any other State or Territory;" and also, a bill, entitled "An act for the relief of Israel Smith;" in which bills they ask the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the petition of William G. Ridgely, made a report, together with the following resolution:

"That the prayer of the petition be refused."

The report and resolution were read.

Mr. WILSON presented the memorial of Margaret White, widow of Colonel Anthony Walton White, praying reimbursement of moneys advanced for public purposes by her late husband, during the Revolutionary war, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act making appropriations for the military service of the United States for the year 1818," reported the same with amendments; which were read.

On motion, by Mr. CAMPBELL, the Committee on Finance, to whom were referred the memorial of Paul Beck, jr., and Thomas Sparks, of the city of Philadelphia, manufacturers of shot; the petition of David Ames, and others, praying an additional duty on imported paper; the memorial of Samuel Campbell, and others, manufacturers and venders of American manufactured paper; and also the Message from the President of the United States, together with sundry documents in relation to the claim of the representatives of Caron De Beaumarchais, were discharged from the further consideration thereof respectively.

On motion, by Mr. GOLDSBOROUGH, the Message from the President of the United States, together with the accompanying documents in relation to the claim of the representatives of Caron De Beaumarchais, were referred to a select committee.

15th CON. 1st SESS.—6

tee; and Messrs. KING, MACON, CAMPBELL, BARBOUR, and DAGGETT, were appointed the committee.

Mr. BURRILL submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to report a bill for extending for the term of nine months, from the 1st day of March, A. D. 1818, the time limited for the exhibition of claims for certain land warrants described in the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes," passed April 16th, 1816.

Mr. CAMPBELL offered instructions from the Legislature of the State of Tennessee to use their exertions to procure the passage of an amendment to the Constitution of the United States, relative to the compensation of members of Congress; and moved that they be received and read; and, on motion, the further consideration thereof was postponed until to-morrow.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," reported the same, with amendments; which were read.

Mr. STORER submitted the following motion for consideration:

Resolved, That the President of the United States be requested to cause a statement of the progress made under the act to provide for surveying the coasts of the United States, passed February 10, 1807, and any subsequent acts on the same subject, to be laid before Congress.

Mr. MORROW, from the Committee on the Public Lands, to whom the subject was referred, reported a bill providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes; and the bill was read, and passed to the second reading.

The blanks in the engrossed bill to divide the State of Pennsylvania into two judicial districts, it having been previously read a third time, were filled, and the bill was passed.

Ten days previous notice having been given, Mr. BARBOUR asked, and by consent of two-thirds of the Senators present, obtained leave to bring in a bill, in addition to the act, entitled "An act for the relief of John Thompson;" and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, who were instructed, by a resolution of the Senate of the 14th of last month, to inquire whether any, and, if any, what further provisions by law are necessary to secure to the heirs of soldiers who died or who were killed in the service of their country, during the late war, the bounty in land to which they are equitably entitled, made report, together with the following resolution:

Resolved, That the committee be discharged from the further consideration of this subject.

Mr. BARBOUR gave notice, that to-morrow he should ask leave to bring in a bill, to amend the



SENATE.

Proceedings.

FEBRUARY, 1818.

several acts to promote the progress of useful arts.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 8th of last month, requesting me to cause to be laid before it, the proceedings which may have been had under "An act, entitled 'An act for the gradual increase of the Navy of the United States,' specifying the number of ships put on the stocks, and of what class; the quantity of materials procured for ship building, and also the sums of money which may have been paid out of the fund created by said act, and for what objects; and likewise, the contracts, which may have been entered into, in execution of the act aforesaid, on which moneys may not yet have been advanced; I now transmit a report of the Secretary of the Navy, accompanied by a report from the Board of Commissioners of the Navy, with documents which contain the information desired.

JAMES MONROE.

The Message and accompanying reports and documents were read.

The Senate resumed the motion of the 27th of last month, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for supplies and services of the militia of that State; and the consideration thereof was further postponed until Monday next.

The Senate resumed the consideration of the motion of the 30th of last month, requesting a statement to be laid before the Senate, of all the arms and accoutrements which have been manufactured at the different armories of the United States, with the cost of each stand, and the number delivered to each State respectively; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed the report of the Committee of Claims, to whom was referred the petition of Weaver Bennet; and, on motion, by Mr. BURRILL, the consideration thereof was further postponed until Monday the 16th of this month.

The Senate resumed the report of the Committee on Military Affairs, who were instructed by a resolution of the Senate to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before courts martial; and the consideration thereof was further postponed until Monday next.

The Senate resumed the report of the Committee on Finance, relative to the duty on salt; and the consideration thereof was further postponed until to-morrow.

On motion, by Mr. CAMPBELL, the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriation for the military service of the United States for the year 1818," together with the

amendments reported thereto by the Committee on Military Affairs; and the blank therein being filled with "20,000," the amendments were agreed to; and the PRESIDENT reported the bill to the House amended accordingly; and the amendments having been concurred in, they were ordered to be engrossed and the bill was read a third time as amended.

Mr. DAGGETT submitted the following motion for consideration:

*Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing or altering the law passed in 1812, establishing brevet rank in the Army of the United States.*

TUESDAY, February 3.

Mr. RUGGLES presented the memorial of Thos. Rotch, on the subject of woollen manufactures, praying the protection of Congress; and the memorial was read, and referred to the Committee of Commerce and Manufactures.

Mr. TAYLOR presented the petition of Godfrey H. Belding, late a lieutenant in the Army of the United States, praying an increase of pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. TAYLOR also presented the petition of Robert Sturges, stating that he had entered with the Register of the Land Office at Vincennes, a certain quarter section, which entry was changed by the Register of the said Land Office, without his knowledge or consent, and praying relief; and the memorial was read, and referred to the Secretary of the Treasury.

The amendments to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

Mr. RUGGLES asked and obtained leave to bring in a resolution relative to the distribution of the late edition of the land laws; and the resolution was read, and passed to the second reading.

Mr. CAMPBELL submitted the following motion for consideration:

*Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of establishing, by law, the salaries of Indian agents and assistant agents.*

The Senate resumed the report of the Committee on Finance, relative to the duty on salt; and the further consideration thereof was further postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the petition of William G. Ridgely; and in concurrence therewith, resolved that the prayer of the petition be refused.

The Senate resumed the consideration of the report of the Committee on Military Affairs, who were instructed by a resolution of the Senate of the 14th of last month, "to inquire whether any, and, if any, what further provisions by law are

FEBRUARY, 1818.

Proceedings.

SENATE.

necessary to secure to the heirs of soldiers, who died, or were killed in the service of their country, during the late war, the bounty in land to which they are equitably entitled;" and in concurrence therewith, the committee were discharged from the further consideration of this subject.

The Senate resumed the consideration of the motion, that the instructions from the Legislature of the State of Tennessee to their Senators, offered the 2d instant, be received and read; and, on motion by Mr. CAMPBELL, the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Public Lands to report a bill for extending the time limited for the exhibition of claims for certain land warrants; and the same being amended, was agreed to as follows:

*Resolved, That the Committee on Public Lands be instructed to report a bill for extending, for the term of — from the first day of March, A. D., 1818, the time limited for the exhibition and location of claims for certain land warrants, described in the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes," passed April 16, 1816.*

The Senate resumed the consideration of the motion of the 2d instant, for information of the progress made under the acts to provide for surveying the coast of the United States; and the same being amended, was agreed to as follows:

*Resolved, That the President of the United States be requested to cause a statement of the progress made under the act to provide for surveying the coast of the United States, passed February 10th, 1807, and any subsequent acts on the same subject, and the expenses incurred thereby, to be laid before the Senate.*

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Military Affairs to inquire into the expediency of repealing or altering the law establishing brevet rank in the Army of the United States; and the same being amended, was agreed to as follows:

*Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing or altering the law, passed in 1812, establishing brevet rank in the Army of the United States; and also, whether any, and, if any, what change ought to be made in the present compensation allowed to officers in the line of the Army.*

The bill, in addition to an act, entitled "An act for the relief of John Thompson," was read the second time.

The bill providing for the sale of certain lands in the district of Marietta, and for the location and sale of certain lands in the district of Vincennes, was read the second time.

The bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory," was read the

second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act for the relief of Israel Smith," was read the second time, and referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee; and on motion by Mr. DICKERSON, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the salaries of the judges of the circuit court for the District of Columbia; and on motion by Mr. WILLIAMS, of Mississippi, the bill was recommitted to the Committee on the Judiciary, with instructions to inquire into the expediency of increasing the salaries of the judges of the United States courts, generally, and to report thereon.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Noah Miller;" and on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," together with the amendments reported thereto by the Committee on the District of Columbia; and the amendments being agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments having been concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the memorial



of William Lorman, and others, praying the adoption of some further measures to insure the collection of the revenue paying an ad valorem duty; and also the imposition of a duty upon all sales, by auctioneers, of dry goods, except such as belong to the estates of deceased persons or insolvents, were discharged from the further consideration thereof.

#### WEDNESDAY, February 4.

The PRESIDENT communicated a report of the Postmaster General, containing a list of contracts made in the year 1817; and the report was read.

On motion by Mr. NOBLE, the petition of Hugh May, of Indiana, late an ensign in the United States' Army, together with the report of the Secretary of the Treasury thereon, with the accompanying documents, were referred to the Committee of Claims.

Mr. ASHMUN presented the petition of Vassel White, of Berkshire, Massachusetts, praying a pension for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. WILLIAMS, of Tennessee, submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate, a list of the names of the several agents of Indian affairs, and of the agents of Indian trading-houses, together with the pay and emoluments of each of said agents.

The Senate resumed the consideration of the motion of the 3d instant, for instructing the Committee on Military Affairs to inquire into the expediency of establishing, by law, the salaries of Indian agents and assistant agents; and agreed thereto.

The resolution relative to the distribution of the late edition of the land laws, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The amendments to the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed the report of the Committee on Finance, relative to the duty on salt; and, on motion, by Mr. WILLIAMS, of Mississippi, the consideration thereof was further postponed until this day two weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate

Territorial government for the eastern part of the Mississippi Territory;" and the further consideration thereof was postponed until to-morrow.

The Senate resumed the report of the Committee on the Judiciary, relative to the salary of the judge of the sixth circuit court; and the consideration thereof was further postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes; and a blank therein having been filled, and no amendment having been proposed thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, entitled "An act for the relief of John Thompson;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed, and read a third time.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to the "Act of March 3d, 1809, further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," containing the several statements thereby required; and the report was read.

#### THURSDAY, February 5.

Mr. STOKES presented the representation and remonstrance of the Legislature of North Carolina, in relation to the grants of that State, of land within the State of Tennessee; which was read, and referred to the committee, to whom was referred on the 27th December, 1817, the bill to authorize the State of Tennessee to issue grants, and perfect titles on certain entries and locations of lands therein described.

Mr. OTIS presented the memorial of Moses Grant, and others, of Boston, praying an increase of the duties on imported paper hangings, for reasons stated in the memorial; which was read.

The Senate resumed the consideration of the motion of the 4th instant, for requesting the President of the United States to cause to be laid before the Senate a list of the names of the several agents of Indian affairs, and of the agents of Indian trading houses, together with their pay and emoluments; and agreed thereto.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," with amendments, in which they request the concurrence of the Senate. They disagree to the first amendment of the Senate to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818;" they agree to the 2d and 4th amendments of the Senate to the same bill; and, they also

agree to the third amendment of the Senate to the same bill, with amendments, in which they ask the concurrence of the Senate.

The Senate proceeded to consider their amendment to the bill last mentioned, disagreed to by the House of Representatives, together with the amendments of the House to their third amendment. Whereupon,

*Resolved*, That they insist on their first amendment disagreed to by the House of Representatives; and that they do concur in the amendments of the House of Representatives, to their third amendment to the same bill.

The Senate proceeded to consider the amendments of the House of Representatives to their amendments to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri." Whereupon,

*Resolved*, That they concur therein.

Mr. TROUP, having obtained leave, introduced a bill for the relief of R. M. Johnson, [to reimburse him certain money paid from his own resources for the use of the mounted regiment commanded by him during the war.] The bill was twice read, and committed.

The bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States, was read a third time, and passed.

The bill providing for the sale of certain lands in the district of Marietta, and for the location and sale of certain lands in the district of Vincennes, was read a third time, and passed.

The bill, in addition to an act, entitled "An act for the relief of John Thompson," was read a third time, and passed.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Elijah Rice, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the consideration thereof was further postponed to, and made the order of the day for, Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act, approved the third day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory;" and, the bill having been amended, on motion by Mr. DAGGETT, it was recommitted to the Committee on the Judiciary, further to consider and report thereon.

#### AMENDMENT TO THE CONSTITUTION.

The Senate resumed the consideration of the motion of the 2d instant, that the instructions from the Legislature of the State of Tennessee to their Senators, this day offered, be received and

read. Whereupon, Mr. CAMPBELL submitted the following motion:

*Resolved*, That the amendment to the Constitution of the United States, proposed by the Legislature of the State of Tennessee, and the instructions to the Senators and Representatives of that State, accompanying the same, be received and entered on the Journals.

Considerable debate took place on this motion. The objection to the proposition was, that the wishes of the State of Tennessee were not addressed to the Senate; and that the Senate had no concern with the instructions of any State to particular members of that body. In reply to which argument, it was said that the object of proposing an amendment to the Constitution was to bring it to the attention of Congress, and that it could not be presented to Congress as the act of that State in any other manner than that now proposed.

The question was finally decided in the affirmative—yeas 19, nays 14, as follows:

YEAS—Messrs. Barbour, Campbell, Crittenden, Dickerson, Eppes, Fromentin, Lacock, Leake, Macon, Morrow, Noble, Otis, Ruggles, Sanford, Stokes, Talbot, Taylor, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Ashmun, Burrill, Daggett, Gaillard, Goldsborough, Horsey, Hunter, King, Morrill, Tait, Tichenor, Troup, Williams of Mississippi, and Wilson.

So it was determined that the following resolutions be received and entered:

*Resolved*, By the General Assembly of the State of Tennessee, That the following amendment be proposed to the Constitution of the United States, to wit:

"That no law, varying the compensation of the members of the Congress of the United States, shall take effect, until the time for which the members of the House of Representatives of that Congress by which the law was passed shall have expired.

*Resolved*, That our Senators be instructed, and our Representatives requested, to use their exertions to procure the passage of the foregoing amendment.

*Resolved*, That the Governor of this State be requested to transmit copies of the foregoing resolutions to each of our Senators and Representatives in Congress, and that he also transmit to the Executives of the several States like copies, with a request to lay the same before the Legislatures thereof, soliciting their exertions and co-operation in procuring the said amendment to be adopted and made a part of the Constitution of the United States."

#### FRIDAY, February 6.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the petition of Joshua Swain, and others, inhabitants of the county of Cape May, in the State of New Jersey, made report, together with the following resolution:

"That it is inexpedient to grant the prayer of the petition."

The report and resolution were read.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the Committee on the Public Lands



## SENATE.

## Proceedings.

FEBRUARY, 1818.

be instructed to inquire into the expediency of providing, by law, for the reservation of such tracts of land within the several land districts of the United States as may, in the opinion of the President, be suitable sites for the laying out and establishing towns, and for the sales of the lots therein.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Elijah Rice; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution relative to the distribution of the late edition of the Land Laws; and, the resolution having been amended, the President reported it to the House accordingly; and, the amendments being concurred in, the resolution was ordered to be engrossed, and read a third time.

Mr. OTIS presented the memorial of Thomas B. Wait and Sons, praying that Congress would purchase an additional number of their edition of the State Papers, and authorize a subscription for the succeeding volumes of said work; also asking permission to print any confidential documents not heretofore published, and which may now appear without detriment to the public interest; and that said work may be revised and corrected under the authority of the Secretary of State; and the memorial was read, and referred to the Joint Library Committee.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That the committee appointed on the memorial of the State of Tennessee respecting claims to lands in that State, be instructed to inquire into the propriety of making a reservation of land for the establishment of a military depot, armory, and foundry, on the waters of Shoal creek, in the State of Tennessee.

Mr. WILLIAMS, of Tennessee, presented the petition of Frederick C. Warnack, agent for the heirs of his uncle, Frederick C. Warnack, deceased, who served as a lieutenant colonel of a corps of engineers in the Virginia line, during the Revolutionary war, and in consideration of his services was entitled, under the laws of the State of Virginia, to six thousand acres of land, which his heirs, being aliens, cannot inherit, and praying relief from Congress; and the petition was read, and referred to the Committee on Public Lands.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether any, and, if any, what amendments are necessary in the laws relative to the promulgation of the acts of Congress.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the first amendment, insisted on by the Senate to the bill, entitled "An act making appropriations for the military service of the United States, for the year 1818." They ask a conference thereon, and have appointed managers on their part.

On motion by Mr. CAMPBELL, the Senate agreed to the conference proposed on the disagreeing votes of the two Houses, on the amendment to the bill last mentioned; and Messrs. CAMPBELL, WILLIAMS, of Tennessee, and BARBOUR, were appointed the managers on the part of the Senate.

MONDAY, February 9.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill for the relief of Martin Warner; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH presented the memorial of Richard Frisby, praying compensation for property destroyed by the enemy during the late war with Great Britain, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the committee to whom the subject was referred, reported a bill respecting the transportation of persons of color for sale, or to be held for labor; and the bill was read, and passed to the second reading.

The Senate resumed the report of the Committee on Naval Affairs, to whom was referred the memorial of certain officers of the Navy and of the marine corps attached to the Mediterranean squadron; and the consideration thereof was further postponed until to-morrow.

The Senate resumed the report of the Committee on the Judiciary, relative to the allowance of a certain salary to the judge of the sixth circuit court of the United States; and the consideration thereof was further postponed until Thursday next.

The Senate resumed the report of the Committee on Military Affairs, who were instructed to inquire into the expediency of providing for enforcing the attendance of witnesses before courts martial; and the consideration thereof was further postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Elijah Rice; and on motion by Mr. DAGGETT, the further consideration thereof was postponed until this day two weeks.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the petition of Joshua Swain, and others, inhabitants of the county of Cape May, in the State of New Jersey; and, in concurrence therewith, resolved, that it is inexpedient to grant the prayer of the petition.

Mr. FROMENTIN called up the petition presented at the last session, of sundry inhabitants of the province of Texas, praying a grant of land in the State of Louisiana, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed the motion of the 27th of last month, relative to moneys paid by the State of Massachusetts for the supplies and services of the militia of that State; and on motion by Mr.

FEBRUARY, 1818.

## Proceedings.

SENATE.

OTIS, the consideration thereof was further postponed until to-morrow.

The Senate resumed the consideration of the motion of the 6th instant, for instructing the Committee on the Judiciary to inquire whether any, and, if any, what amendments are necessary in the laws relative to the promulgation of the acts of Congress; and agreed thereto.

The Senate resumed the consideration of the motion of the 6th instant, for instructing a committee to inquire into the propriety of making a reservation of land for the establishment of a military depot, armory, and foundry, on the waters of Shoal creek, in the State of Tennessee; and agreed thereto.

The Senate resumed the consideration of the motion of the 6th instant, for instructing the Committee on Public Lands to inquire into the expediency of providing, by law, for the reservation of such tracts of land as may, in the opinion of the President, be suitable for the laying out and establishing towns; and agreed thereto.

Agreeably to the special order of the day the Senate resumed, as in Committee of the Whole, the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee; and on motion by Mr. DICKERSON, the consideration thereof was further postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of John Anderson;" and the consideration thereof was further postponed until to-morrow.

The resolution relative to the distribution of the late edition of the Land Laws, was read a third time, and passed.

TUESDAY, February 10.

The PRESIDENT communicated a report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the Board subsequent to their report of the 7th of February, 1817, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 6th day of the present month, and the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report; and the report was read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Major General Arthur St. Clair," in which they request the concurrence of the Senate.

The bill last mentioned was read twice by unanimous consent, and referred to the Committee on Pensions.

Mr. TAYLOR, from the Committee on Public Lands, to whom the subject was referred, reported a bill to authorize certain purchasers of pub-

lic lands to withdraw their entries and transfer the moneys paid thereon; and the bill was read, and passed to the second reading.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill supplementary to the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" and the bill was read, and passed to the second reading.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of making provision, by law, to compel a more prompt settlement of the accounts of the paymasters and quartermasters of the late army.

Mr. BARBOUR asked and obtained leave to bring in a bill to promote the progress of useful arts, and to repeal the act heretofore made for that purpose; and the bill was read, and passed to the second reading.

Mr. MORROW presented the memorial of John B. Colvin, respecting the future publications of the laws of the United States, proposing to continue the same; and the memorial was read, and referred to the Committee on the Judiciary.

The Senate resumed the report of the Committee on Naval Affairs, to whom was referred the memorial of certain officers of the Navy and Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. TROUP, the consideration thereof was further postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, who were instructed to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before courts martial; and, on motion by Mr. ASHMUN, the report, together with the original resolution of the Senate, was referred to the Committee on Naval Affairs, with instructions to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before Naval courts martial.

The Senate resumed the motion of the 27th ultimo, relative to moneys paid by the State of Massachusetts for the supplies and services of the militia of that State; and the consideration thereof was further postponed until to-morrow.

The bill respecting the transportation of persons of color for sale, or to be held to labor, was read the second time.

The bill for the relief of Martin Warner was read the second time.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the memorial of James Brobson, marshal of the district of Delaware, praying for some additional compensation to be made to him, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. CRITTENDEN, from the same committee,



to whom was referred the resolution providing for the distribution of the 6th volume of the Laws of the United States among the members of the present Congress, reported the same without amendment.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives to Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and, on motion by Mr. RUGGLES, the further consideration thereof was postponed until Monday the 23d instant.

Mr. DAGGETT presented the memorial of the Milford Marble Company, in the State of Connecticut, praying the imposition of a duty on the importation of foreign wrought marble, for reasons stated in the memorial; which was read.

Mr. LACOCK presented the memorial of the Philadelphia Society for the promotion of American manufactures, praying the adoption of such measures as may protect and encourage the same; and the memorial was read.

#### WEDNESDAY, February 11.

Mr. MORRIL, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Israel Smith," reported the same without amendment.

Mr. MORRIL, from the same committee, to whom was referred the bill for the relief of Richard M. Johnson, reported it with amendments; which were read.

On motion by Mr. MORRIL, the Committee of Claims, to whom was referred the petition of Hugh May, together with the report of the Secretary of the Treasury thereon, were discharged from the further consideration thereof, and they were referred to the Secretary of War.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was recommitted the bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory," reported the same with amendments; which were read.

The following Message was received from the President of the United States:

*To the Senate of the United States:*  
In compliance with a resolution of the Senate of the 13th of February, 1817, I now transmit copies of the reports in relation to the surveys and examinations made, by Naval officers, in co-operation with officers of the Corps of Engineers.

JAMES MONROE.

WASHINGTON, Feb. 6, 1818.

The Message and report therein mentioned were read.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Major General Arthur St. Clair," reported the same without amendment.

The Senate resumed the consideration of the motion of the 10th instant, for instructing the Committee on Military Affairs to inquire into the expediency of making provision, by law, to compel a more prompt settlement of the accounts of the paymasters and quartermasters of the late army; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of James Brobson, marshal of the district of Delaware; and the further consideration thereof was postponed until next Wednesday.

The bill supplementary to an act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" was read the second time.

The bill to authorize certain purchasers of public lands to withdraw their entries, and transfer the moneys paid thereon, was read the second time.

The bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose, was read the second time, and referred to a select committee, and Messrs. BARBOUR, DAGGETT, and KING, were appointed the Committee.

The following Message was received from the President of the United States:

*To the Senate and House of Representatives of the United States:*

As the house appropriated for the President of the United States, will be finished this year, it is thought to merit the attention of Congress, in what manner it should be furnished, and what measures ought to be adopted for the safe-keeping of the furniture in future. All the public furniture provided before 1814, having been destroyed with the public building in that year, and little afterwards procured, owing to the inadequacy of the appropriation, it has become necessary to provide almost every article, requisite for such an establishment; whence, the sum to be expended will be much greater than at any former period. The furniture, in its kind and extent, is thought to be an object not less deserving attention, than the building for which it is intended. Both being national objects, each seems to have equal claim to Legislative sanction. The disbursement of the public money, too, ought, it is presumed, to be in like manner provided for by law. The person who may happen to be placed, by the suffrage of his fellow-citizens, in this high trust, having no personal interest in these concerns, should be exempted from undue responsibility respecting them.

For a building so extensive, intended for a purpose exclusively national, in which, in the furniture provided for it, a mingled regard is due to the simplicity and purity of our institutions, and to the character of the people who are represented in it, the sum already appropriated, has proved altogether inadequate. The present is therefore a proper time for Congress to take

the subject into consideration, with a view to all the objects claiming attention, and to regulate it by law. On a knowledge of the furniture procured, and the sum expended for it, a just estimate may be formed, regarding the extent of the building, of what will still be wanting to furnish the house. Many of the articles being of a durable nature, may be handed down through a long series of service; and being of great value, such as plate, ought not to be left altogether, and at all times, to the care of servants alone. It seems to be advisable that a public agent should be charged with it, during the occasional absences of the President, and have authority to transfer it from one President to another, and likewise to make reports of occasional deficiencies, as the basis on which further provision should be made.

It may also merit consideration, whether it may not be proper to commit the care of the public buildings, particularly the President's house and the Capitol, with the grounds belonging to them, including, likewise, the furniture of the latter, in a more especial manner, to a public agent. Hitherto, the charge of this valuable property seems to have been connected with the structure of the buildings, and committed to those employed in it. This guard will necessarily cease when the buildings are finished, at which time, the interest in them will be proportionally augmented. It is presumed that this trust is, in a certain degree, at least, incidental to the other duties of the Superintendent of the Public Buildings; but it may merit consideration, whether it will not be proper to charge him with it more explicitly, and to give him authority to employ one or more persons under him for these purposes.

JAMES MONROE.

WASHINGTON, Feb. 10, 1818.

The Message was read, and referred to the Committee on the District of Columbia.

The Senate resumed the consideration of the motion of the 27th of last month, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for the supplies and services of the militia of that State, employed during the late war in the common defence, so far as the same may be due upon principles of equity and justice; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor; and the further consideration thereof was postponed to, and made the order of the day for, Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Martin Warner; and no amendment having been made thereto, the President reported it to the House; and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of the 6th volume of the Laws of the United States among the members of the present Congress, who have not been furnished therewith; and the further consideration thereof was postponed until Monday next.

#### AMENDMENT TO THE CONSTITUTION.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee.

Mr. DICKERSON addressed the Chair as follows:

Mr. President, the Legislature of the State of New Jersey, which I have the honor, in part, to represent, have instructed their Senators, and have requested the Representatives of the State, to use their endeavors to obtain the amendment to the Constitution of the United States now proposed. As I acknowledge their right so to instruct, I am disposed to yield a cheerful and ready obedience to their will. It becomes my duty, therefore, to contribute my humble efforts in support of the resolution now on your table. This resolution is substantially the same as that received from the Legislature of New Jersey, and that subsequently received from the Legislature of North Carolina, but differing from both in phraseology. The committee, to whom this subject was referred, have endeavored to improve the language of those resolutions. It has been their aim to make it concise, simple, explicit, and technical. They considered these circumstances as of considerable importance, as, in a Constitutional provision, every sentence and every word should be duly weighed and adjusted.

The amendment now proposed, if adopted, will neither increase nor diminish the relative strength of the two great parties which now divide, and which, in all probability, under their present, or some other denominations, will continue to divide the United States. Yet, in different sections of the country, very considerable alterations will take place, the respective parties gaining in some States and losing in others. And, as these alterations will diminish the strength and influence of the majorities in the respective States, the proposed amendment may be expected to meet with much opposition, but such as I hope will yield to the paramount consideration of the general good. An amendment like this, calculated to oppose the prejudices, to interfere with the private views and private interests, and to restrain the ambition of those by whose votes it must be carried, if carried at all, will necessarily be attended with difficulties, at all times great, and absolutely insuperable in times of party violence. Nothing but the great importance and, indeed, pressing necessity of the measure, can insure its success, even under the most favorable circumstances.

The present moment is peculiarly auspicious for making this attempt, as there is now less of party animosity than there has been at any period whatever since the establishment of our present form of Government. The experience we have already had forbids the hope that the present state of po-



SENATE.

Amendment to the Constitution.

FEBRUARY, 1818.

tical harmony can be permanent, or of long continuance. If the present favorable opportunity suffered to pass by, unimproved, it may never again occur.

The efforts which have been made in several of the States, to obtain an alteration in the Constitution similar to the one now proposed, is a sufficient indication of the public sentiment, and would, independently of other considerations, induce us to give the subject a most serious and laborious investigation. The Legislatures of Massachusetts, New York, Pennsylvania, Virginia, and North Carolina, have, at different periods, discovered a disposition to adopt a system of districting the States, for the purpose of choosing Electors, and a great proportion of the smaller States have manifested the same disposition. Under these circumstances, those who believe that the permanency of our present form of Government in no small degree depends upon the success of this measure, would be inexcusable if they could now relax from their exertions.

In all the discussions respecting this amendment, the provision for the choice of Electors seems to have been the primary object, and in that point of light I have always viewed it.

The most important, the most delicate, and, beyond comparison, the most hazardous operation under our Constitution is the election of a President of the United States. And the difficulties and dangers of this operation increase with the increasing population of our country. To choose a Chief Magistrate for eight millions of people, jealous of their rights, and impatient of control, cannot be effected under the best system of election, without some degree of hazard; but, if we extend our views to a period, not very remote, when our population shall amount to twenty or thirty millions of people, spread over an immense extent of territory, can we suppress our fears, that our present disjointed, discordant, and jarring system, will be found altogether inadequate to the purposes of a fair election? and, of consequence, inadequate to the purposes of preserving the peace and quiet of our country.

I will venture to predict that, whenever a dissolution of our present form of Government shall take place, it will be in consequence of a failure to come at a just expression of the public will in the choice of a President. And when, unhappily, the Government shall be dissolved, and the United States divided into parts by violence, those parts will not be free Republics, but will, of necessity, become military despotisms.

It will be allowed that, in an operation so important as that of an election of a President, every process should be regulated with the utmost exactness and precision; and, yet, there is scarcely an officer, great or small, important or unimportant, in the State government, or in the United States Governments, who is elected or appointed by a rule so undefined, so vague, so variable, so subject to abuse, as that by which we elect the Chief Magistrate of the Union.

It has often been asserted, and, I believe, never denied, that every decisive step in the election of

a President should be perfectly uniform, as well as simultaneous, throughout the United States; and, yet, if we take a view of the Presidential elections for the twenty years last past, it would seem as if uniformity had been carefully avoided. The States not only differ from each other, but differ from themselves. If the discordant systems adopted by the different States were to be permanent, it would afford some security for fair elections. But, so far from this, they are the subjects of constant fluctuation and change—of frequent, hasty, and rash, experiment—established, altered, abolished, re-established, according to the dictates of the interest, the ambition, the whim, or caprice, of party and faction.

Very early under the present Constitution, some of the smaller States adopted the plan of choosing Electors by a general ticket. In this there seemed to be no great inconvenience, as the people at large would generally know the characters of the small number of candidates to be elected; but, as it entirely suppressed the voice of the minorities of the States in which it was adopted, and as it gave to those States an undue weight in the general scale, the procedure was looked upon with a jealous eye by the larger States, some of which have adopted the same plan, not that they have thought it right, but, in order to form a counterpoise to the improper weight of the States previously adopting the rule, and they have justified themselves for adopting a measure they condemn, upon the plea of retaliation and necessity. The measure of voting by a general ticket, in the large States, where the voters can know nothing of the characters of four-fifths of the candidates for whom they vote, is fraught with so much difficulty, uncertainty, and absurdity; is such a total dereliction of every principle of republicanism that some of the States have thought the practice inadmissible, and have adhered to the equitable mode of choosing Electors in single districts; but have had the mortification to see, that, in adhering to correct principles, they have lost a portion of their relative strength; and that, in fact, they have suffered for the exercise of their political integrity.

The Legislatures of some of the States have boldly taken into their own hands, or, perhaps I do not use too strong language when I say they have usurped the power of appointing Electors. This appears to me a dangerous mode, inasmuch as it is in my mind a departure from the spirit if not from the letter of the Constitution.

By the first section, second article of the Constitution, "Each State shall appoint, as the Legislature thereof shall direct, a number of Electors," &c. Under the letter of this section, the Legislatures may direct a vote for Electors by a general ticket, or may divide the States into equal or unequal districts, at their pleasure; but, it appears to me an inadmissible construction of the language of this section, that the Legislature shall direct how they themselves shall appoint. If, therefore, the practice which has hitherto prevailed in several of the States, in this particular,

FEBRUARY, 1818.

Amendment to the Constitution.

SENATE.

is in any degree an infringement of the Constitution, or if there is a well-founded doubt upon this subject, which I think will hardly be denied, then it is highly expedient that the Constitutional remedy of amendment should be applied, and that this procedure should be corrected.

In some of the large States, where a resort to a general ticket for the choice of Electors has been deemed inadmissible on account of its uncertainty and absurdity, and where it has not been deemed correct under the Constitution to appoint Electors by a vote of the Legislature, the majority, not willing to adopt the fair mode of single districts, as that would give to the minority its due weight, have resorted to a mode of forming irregular districts, some large and some small, without regard to the situation or extent of the territory forming the districts. In this the aim has been to secure to the dominant party an undue influence, by suppressing, as far as practicable, the voice of the minority. This system of defeating every purpose of a fair election, has become an art and a science; and is known by the technical term of *gerrymandering*.

This irregular mode of forming districts has admitted of gross abuses, and has brought the greatest reproach upon the States in which it has prevailed. The sinister and ambitious motives of those who have adopted it, are left exposed to the public eye in all their deformity, without the slightest veil or covering. They are calculated to have a pernicious effect upon public manners. They have a tendency to unhinge every principle of moral as well as political rectitude in the minds of the people, and they destroy the respect which we ought to feel for our republican institutions. But, they may have one good effect in showing, in the strongest point of view, the necessity of adopting some uniform and equitable mode of districting the States.

The Legislatures of some of the States, under the vague and uncertain provisions of our Constitution, have resorted to means of a still more dangerous character.

In the State of Pennsylvania, the two Houses of Legislature are elected for different periods; the Senate for four years—members of Assembly for one year; in consequence of which it may frequently happen that the Houses will be of different political sentiments. This did happen in the year 1801, when the United States were agitated with a Presidential election then pending. Thirteen of the twenty-five Senators were of the party then called Federalists, giving to them a majority of one. A very large majority of the opposite character were in the other House, who, having been then recently elected, afforded a very fair representation of the relative strength of the parties throughout the State. The vote of Pennsylvania was considered as decisive of the election. In consequence of the disagreement of the two Houses in the Legislature of the preceding year, no law had been made for choosing Electors. As the time approached for choosing Electors, the Governor convened the Legislature to provide for the case. The majority of the Sen-

ate knew that if they went into a joint meeting with the members of Assembly, they would be outnumbered, and determined that the Electors should be chosen by a concurrent, and not by a joint vote of the two Houses. This was in fact determining that there should be no appointment of Electors; inasmuch as the Houses would never agree as to the candidates, and this was the intention. The thirteen Senators who took this bold and decided stand, conceived it so much an act of political heroism, that they dubbed themselves the Spartan band. And they persisted in this measure, in defiance of public opinion, until the members of the Senate were induced to enter into a disgraceful compromise, by which one-half of the Electors were to be of one party, the other half of the other, except the odd one, who was given to the House of Representatives. So that a vast majority of the powerful State of Pennsylvania was, in fact, represented by a single Elector. In that election the smallest State in the Union had more weight.

In the year 1808, the majority of each branch of the Legislature of Massachusetts were opposed to the Governor of the State, whose assent is necessary to legislative acts. The two Houses appointed Electors without the assent of the Governor to the act or resolution under which they were appointed. As the votes of Massachusetts could not affect the Presidential election, I believe they were not disputed; but, had they been disputed, they would probably have been rejected; at least, Massachusetts, from the imperfection of our system, ran the hazard of losing her vote. In the instance of Pennsylvania, the voice of the majority was suppressed; this was an evil hardly to be submitted to; but, in New Jersey, a much bolder step has been taken; the voice of the majority has been more than suppressed, to use a solecism, for they have been made to speak a language exactly the reverse of their wishes. In the year 1812, by a strange concurrence of circumstances, not necessary to be here detailed, a small majority of the Legislature were in direct opposition to a very large majority of the citizens of the State. By a law, which had been many years in existence, the Electors, as well as Representatives in Congress, were to be elected by the people in a general ticket; the election was to take place early in November. The Legislature met late in October, and only eight days previously to the day of election; under the provisions of the law, nominations had been made for Electors and Representatives in Congress in all the counties of the State. Copies of these nominations had been transmitted to the Executive of the State, from which a general nomination was made out, and transmitted by the Executive to all the county clerks, who had transmitted copies of the same to all the town clerks, by whom they had been duly advertised; all this had been done at considerable expense and trouble previously to the meeting of the Legislature. It will scarcely be believed that any Legislature would, under such circumstances, venture to arrest the progress of an elec-



SENATE.

Amendment to the Constitution.

FEBRUARY, 1818.

so far advanced and so near a completion. The Legislature, however, repealed the election law, and took into their own hands the appointment of Electors. Expresses were sent into the different parts of the State, to give notice of this repeal, but not in time, for the citizens in many towns met and gave their votes for Electors and Representatives without knowing of the repeal of the law. The Legislature appointed eight Electors, not one of whom would have been appointed by the people under the late election law; and this the Legislature well knew, otherwise they would not have taken from the people the right of choosing Electors under the law. By this rash measure, which the people took care to reprobate at the next election, the majority in the State not only lost their vote, but were made to speak a language, as I before observed, exactly the reverse of their wishes.

As we have never experienced any serious mischief from this kind of violence on the part of the State Legislatures, it may be thought that no great danger is to be apprehended. But, we should reflect, that those daring attempts to defeat the public will have not been successful. The result of the election of 1801 was the same as it would have been if Pennsylvania had given its full vote; whether the vote of Massachusetts was received or not, in 1809, it did not affect that election; but here I must observe, that the vote of that State was by no means of the character of that of Pennsylvania, or that subsequently of New Jersey. The vote of New Jersey had no effect upon the election of 1813. But, suppose the kind of violence which took place in Pennsylvania, should be resorted to on a more extensive scale, and that the voice of New York, Pennsylvania, and Virginia should be suppressed by the collision of their Legislatures, and that, by these means, a man, not the choice of the people, should be imposed upon us as President of the United States: what would be the consequence? I will not say civil war; but I do not go too far when I say, the peace of the country would be in great danger. It is true, we have not yet suffered from these measures; but are we never to profit by any experience in which we are not sufferers? Possibly, the first time we suffer from this kind of violence will be that in which the Union will be dissolved.

Under the present system, while the Legislatures take into their hands the appointment of Electors, and can calculate their exact weight in a Presidential election, a boundless field is opened to the intrigues of ambitious men and ambitious States. Combinations may, and no doubt will, be formed, by which the minority in the Union will control the majority, than which, nothing can more certainly tend to the destruction of our Government. Calculations upon this subject have been often made and often repeated. I will submit one for the consideration of the Senate; the whole number of Electors in the twenty States is two hundred and twenty-four, of these one hundred and twelve make a majority, and can elect a President. The States of New York,

New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina, are composed of contiguous territory, and, from their central situation, may be supposed to have an interest in common with each other, and motives of combination not to be found in other States. These six States, one of them a small State, and another but of middle size, have one hundred and thirteen Electors, a majority of the whole; a bare majority in the Legislatures of each of these States can give a President to the United States, even if the other fourteen States were unanimously opposed to him. This is an extreme case, but serves to elucidate the subject, and cannot fail to have an impression, that this kind of abuse may and will be carried to a dangerous extreme, unless some Constitutional check be interposed. Thus, it is evident, that a combination, contemptible for its numbers, may place a President in the Chair of State; but can they support him there? This should be the test. No power should elect a President that could not support him when elected. When the physical strength of the country elect a President, then all is safe; for the power that has created can defend. By the physical strength of the country I mean, not Prætorian bands or standing armies, but the majority of the people, and I pray that they may ever remain beyond the control of any other earthly power.

It may be urged, that the same abuse might take place, even if the States were divided into districts according to the plan proposed, as the voice of the minorities would be suppressed in the different districts. The contingencies upon which such abuse could happen are very remote, as the fractions of votes lost on the one side in one district, would probably be balanced by those on the other side in another district: the probable result of the votes of all the districts, where numerous, would be as fair an expression of the public will as can possibly be obtained, unless we resort to a general vote of the people at large, without regard to the division of the States. The more numerous the districts in a State, the more fair will be the representation. The chances of coming at a just expression of the public will in districts, is greater than that of coming at the same result in States, as the number of districts is to the number of States.

It may be said, that where two candidates contend for the Chief Magistracy, each possessing the qualifications necessary for the high station, it could make no serious difference to the Union which of the two should succeed; and if the candidate having the smaller number of suffrages, upon a fair vote, should succeed by the intrigues of his friends, it would create no dangerous commotion. The danger is not that the affairs of our Government shall be administered by the second, instead of the first, man in the Union, between whom there might be no great difference in point of honor, integrity, talent, or information; but it is from the difficulty of preserving the peace of the country under a President imposed upon us by violence or fraud. Are we to suppose, that a large majority of the people, knowing that

FEBRUARY, 1818.

Amendment to the Constitution.

SENATE.

they possess, numerically and physically, a great preponderance in the general scale of strength, will submit to a Chief Magistrate imposed upon them by the intrigues of faction?

If we presume that a President, however worthy or however able, placed in his Chair by any indirection, shall be quietly submitted to by the citizens of the United States, we presume upon a mildness, a forbearance, a tameness, not to be found in the American character.

Perhaps the larger States will feel a reluctance to adopt a measure, which will in some degree curtail their power of forming combinations with each other, and thus controlling their sister States; but, the very disposition thus to combine and control, is a dangerous and tyrannical principle, and if attempted would lead to counter combinations, on the part of the middle size and smaller States. Besides, there is much more probability of collision than of concert, among the large States. But, their combinations and their collisions are about equally to be dreaded. The plan of having two of the Electors appointed in each State as the Legislature should direct, and the others chosen in districts, is keeping up the Federal feature of our Constitution; as the two to be appointed may be considered as analogous to the Senators, and the others to the Representatives in Congress; and such seems to have been the meaning of the convention, by making the number of Electors equal to the number of Senators and Representatives. This circumstance is not very important, but it has some weight in favor of the proposed amendment—a much greater recommendation is, that it renders double districts for Representatives and Electors unnecessary. There is great simplicity in the plan of single districts; they are but little subject to confusion and mistakes, and as they are to be modelled but once in ten years, there will be but little difficulty in their arrangement.

The present amendment, if adopted, introduces no new principles into the Constitution. It only renders it obligatory upon the States, to adopt a system permanently, which nearly all of them have adopted temporarily, which some have pursued, and which all ought to have pursued uniformly.

It does not abridge the just rights of any State, but adds to the security of all. It throws no obstacles in the way of those worthy patriots who are aiming by fair and honorable means to reach the highest summit of distinction which a great and free people can confer, but it rather promotes their views by suppressing those extensive and dangerous intrigues which agitate the Union, at the approach of every Presidential election.

In a discussion which took place in the Senate upon this subject two years ago, it was mentioned, but not urged, that the provision respecting the election of Representatives to Congress, seemed unnecessary, as Congress had already the power by the Constitution to regulate the election of Representatives. I believe this provision in the Constitution was inserted to guard against a possible case, of a combination of particular States,

to stop the progress of the Government, by refusing to send Representatives to Congress. In this point of view the provision was a wise one, but it will never be resorted to, except in cases when States neglect or refuse to make provision for electing Representatives. Congress could not, under that provision, pass a law, making it obligatory upon the Legislature of a State, to divide it into election districts; and, should Congress attempt to divide the States into districts they would involve themselves in a task of infinite difficulty, as well as one that would bring upon them the highest degree of odium; for, it would be considered as a sort of degradation, on the part of any State, to be divided into districts, without the consent of its Legislature.

Although I think the amendment proposed is much more important as it respects the choice of Electors, than as it respects the election of Representatives, yet, in this, some correction is loudly called for. The unwarrantable means resorted to by the dominant parties in the respective States, to establish and retain an undue share of power, is slowly and imperceptibly sapping the fundamental principles of our Government. A want of respect for popular elections may be considered a most unfavorable symptom in our political progress, yet, what respect can we possibly have for popular elections, exercised under the systems of *gerrymandering* that have been adopted in some States? Such elections are a mere mockery of the right of suffrage.

In our National Legislature, the House of Representatives is emphatically called the popular branch: it ought so to be, and was intended so to be, by the framers of the Constitution. The House of Representatives should be a fair representation, not of the States, as the Senate is, but of the citizens—the people at large. It would be thought preposterous to appoint the Representatives by a vote of the Legislatures, even if the Constitution were as vague in this particular, as it is with respect to the choice of Electors; because, it would leave to the Representative, no feature of a popular branch; yet, generally, we come precisely to the same result, when we choose them by a general ticket. It is equally subversive of the views of those who consider the popular branch the great prop and stay of our Government; yet, we begin to look upon this mode of election, especially in the small States, almost without disapprobation. The large States, if no corrective be applied, will, in their own defence, adopt the same practice; and even the good State of North Carolina, which has hitherto been conscientiously scrupulous upon this subject, and which has long been endeavoring to accomplish this necessary reform in our Constitution, will be compelled to follow the example of her more ambitious neighbors, to adopt a system which she abhors, and to choose her Electors as well as Representatives with a general ticket.

This mode of election, when generally adopted, will be attended with consequences of a dangerous character. It will suspend or destroy every feature of popular election, as it respects Repre-



representatives in Congress. By totally suppressing the voice of the minorities in the several States, it will greatly increase the rancour and bitterness of party. It will give to the geographical divisions of our country an aspect of political hostility; and will cherish an uncharitable, unsocial, and clannish disposition, to which we may already ascribe no small share of the embarrassments and calamities which our Government has heretofore experienced.

When Mr. DICKERSON concluded—

The amendment was advocated by Mr. MACON, and opposed by Mr. BARBOUR and Mr. DAGGETT. The question was finally postponed to Wednesday next.

THURSDAY, February 12.

The PRESIDENT communicated a letter from the Secretary of the Treasury, transmitting a report of the Director of the Mint, giving the result of sundry assays made of the several species of foreign gold and silver coins made current in the United States by an act of Congress passed the 24th of April, 1816; and the letter and report were read.

The bill for the relief of Martin Warner was read a third time, and passed.

Mr. SANFORD presented the petition of William Hill, and others, inhabitants of the city of New York and town of Salem, praying to be allowed the interest on certain debenture bonds, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. DAGGETT gave notice, that to-morrow he should ask leave to bring in a resolution authorizing the further distribution of certain public documents.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of extending the time allowed by the act to provide for designating, surveying, and granting the military bounty lands, approved May 6, 1812, to non-commissioned officers and soldiers of the United States, or their representatives, to present their claims to the Secretary of War for military bounty lands.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was recommended the bill to increase the salaries of the judges of the circuit court for the District of Columbia, reported the same without amendment.

Mr. CRITTENDEN, from the same committee, in pursuance of instructions, reported a bill to increase the compensation of certain judges of the courts of the United States; and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, offered instructions from the Legislature of the State of Mississippi, to their Senators in Congress, on the subject of the eastern limits of that State; which were received and read, and referred to the committee to whom was referred on the 16th of December, 1817, the memorial of the Mississippi Convention, on the same subject.

The Senate resumed the report of the Committee on the Judiciary, on the expediency of allowing to the judge of the sixth circuit court of the United States a certain salary; and the consideration thereof was further postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, supplementary to the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Richard M. Johnson, together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

#### MILITARY SERVICE.

Mr. CAMPBELL, from the managers on the part of the Senate, at the conference upon the subject of the disagreeing votes of the two Houses on the bill, entitled "An act making appropriations for the military service of the United States for the year 1818," made the following report:

"That the conferees of the House of Representatives commenced the conference by stating, that

"By the construction of the law of 1812, which the Committee of the House of Representatives believe to be adopted by that House, the pay of a brevet commission is due only when the officer exercises a command, to which his lineal rank would not entitle him. To such command, under the President's general order of 1816 and 1817, he may be assigned upon special and temporary occasions. It is believed, from the amendment proposed by the Senate, that their construction is not very different from this. The construction of the War Department, however, is very different. The Committee of the House of Representatives consider it wrong to explain or amend any act by which salaries or pay is regulated by the provisions of an appropriation law. But if it were right, the short debate which occurred in the House of Representatives on the Senate's amendment sufficiently proves, that the adoption of that amendment might change a little the ground of argument, but would not terminate the controversy.

"As an amendment of the law of 1812, the provision proposed by the Senate is, therefore, unsatisfactory; and to insist upon an appropriation previous to an amendment, is to insist either that the one body shall conform its appropriations (not to its own construction of existing laws, but) to that of the other body, or that both shall adopt, what both believe to

be erroneous, the construction of the Executive Government.

"The Committee of the House of Representatives believe that respect for the rights of both Houses, requires that the act of 1812 should be amended, by defining more precisely the contingencies in which brevet pay shall be due; or, if this be impracticable, by authorizing it in all cases, or in none. The bill which passed the House of Representatives at its last session may explain the amendment which it then preferred; but it now insists only that the amending law should first determine to whom pay is due, before an appropriation should be made for its payment.

"The Committee of the House of Representatives consider it necessary to fair and free legislation, that appropriations in regard to the propriety or the extent of which the two Houses find, after deliberation, that they still differ, should be separated from those which both consider as necessary to the public service. If either branch of the Legislature determine that it will not make the great mass of necessary appropriations while there remains one unprovided for which it considers to be proper, it throws upon the other branch the necessity of concurring in an appropriation which it may believe that neither the law nor the public interest requires, or of endangering all the appropriations of the Government. The Committee of the House of Representatives hope that the appropriations which both Houses deem necessary will be made; and that the appropriation for brevet officers, which the Senate suggests, will be left to be provided for, when an amendment to the act of 1812 shall determine what that appropriation ought to be."

"The conferees on the part of the Senate admitted that doubts might exist as to the proper construction of the act of 1812, allowing pay to brevet officers, and that it might be found expedient to remove such doubts by an explanatory law, defining, more precisely, the contingencies in which such pay should be allowed; but as, according to the construction given that law by the House of Representatives, as stated by their conferees, which accords, substantially, with that contained in the Senate's amendment, expenditures to a certain extent would be legally authorized under it, and must be supposed to have taken place, and to continue to take place, until the law shall be altered, the conferees of the Senate were of opinion that an appropriation sufficient to cover such probable expenditure ought now to be made, without waiting for the passage of such explanatory law. They did not think such law should be made to have a retrospective operation, so as to affect expenditures legally incurred before its passage; nor could they perceive how the passage of such a law could be deemed necessary to determine the propriety of making an appropriation to meet an expenditure which it could not regulate. They admitted that, generally, it would not be the most correct course to amend a law establishing salaries, or authorizing an expenditure, by a provision in a general appropriation law, though they believed there was no Constitutional or legal objection to such a course; but they stated further: 1st. That the Senate's amendment was not designed as an alteration of the law of 1812, but only expressing the construction of that law, which appeared to the Senate the correct one, and restricting the sum appropriated to the discharge of expenditures incurred pursuant to such instruction; which, it is presumed, may be done on the same principle that other specific appropria-

tions are made applicable to the objects designated, and to no other. 2d. If the objection be to the words in the Senate's amendment, which restricts the application of the sum appropriated to services performed by brevet officers, when acting in their brevet rank, the conferees of the Senate would agree to strike out those words, and have the sum appropriated applicable to services performed by such officers generally, agreeably to the terms of the estimates. Though the conferees of the Senate were willing to admit that, generally, it would not be advisable to embarrass a measure embracing the mass of appropriations deemed necessary, by insisting on one of a doubtful nature, they did not consider the argument as in any degree affecting the present case, the appropriation insisted on by them not being doubtful in its nature; because, according to any fair construction that can be given the law of 1812, and adopting that preferred by the House of Representatives, some expenditure is authorized, and must be presumed to take place under it, before an explanatory law can be passed; and an appropriation to meet such expenditure did not appear to them of a doubtful nature, and on such alone they insisted. It appeared also to the conferees of the Senate, that the construction given the law for several years by the Government, and acquiesced in by the Congress, allowing brevet officers such pay as is now asked, gave those officers reasonable ground to expect a continuance thereof, so long as the law continued in force; and as the expenditure now proposed to be provided for did not arise out of any new construction of the law, and had, at least in part, already accrued, they considered it the duty of the two Houses to provide for it in the general appropriation law, and not leave it to be provided for in an act which may or may not pass; and they could see no ground for postponing the appropriation now insisted on by them, that would not equally apply to any other asked for, to meet an expenditure already incurred, under any law that it might be suggested required amendment.

"The conferees of the Senate stated explicitly they would not insist on making at this time any appropriation, with a view of coercing an expenditure which should accrue subsequent to the period at which an explanatory law relating to the matter in question could be supposed to pass, and which might, therefore, be either authorized or controlled by such law; and though the sum requisite to meet the expenditures that must accrue under the existing law, before it can be altered, could not be exactly ascertained, it might be ascertained with nearly the same accuracy that sums for other objects are, and therefore its uncertainty appeared to them to form no solid objection to the measure.

"For the purpose, therefore, of providing for such expenditure alone as must in any event take place, and leaving the two Houses to act in regard to the subject in future as each should consider correct, without being considered in any manner compromised by the appropriation that might now be made, and anxious to reconcile, as far as practicable, the views entertained by both Houses on this subject, by meeting those of the House of Representatives as far as in their opinion a due regard to correct legislation and the duty they owe the Senate would authorize, the conferees of the Senate proposed, if the conferees of the House of Representatives would agree thereto, to modify the Senate's amendment so as to read as follows:



SENATE.

Surviving Officers of the Revolution.

FEBRUARY, 1818.

"For additional pay, rations, and forage, to officers having brevet commissions, when commanding separate posts, districts, or detachments, requiring them to act in their brevet rank during the months of January, February, and March, of the present year, nine thousand dollars.

"The conferees of the House of Representatives refused to agree to this proposal; and as they neither proposed nor suggested any modification of said amendment, to which they would give their assent, the conference, after being continued as long as there was any prospect of arriving at a favorable result, terminated without the conferees of the two Houses being able to come to any agreement on the subject thereof."

The report was read.

#### SURVIVING OFFICERS OF THE REVOLUTION.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the question recurring on the motion to postpone the further consideration of the bill until the first Monday in July next—

Mr. GOLDSBOROUGH addressed the Chair as follows:

Mr. President, as it appeared to be the disposition of the Senate, when this subject was under discussion some days past, to go into the merits of the bill now before you, upon the question of postponement, submitted by the honorable gentleman from Virginia, I must conform to that wish, although I had much rather that the discussion could have been deferred until the bill had been so modelled as to have approached more nearly to the wishes of all.

I hope the motion for a postponement of this bill to a day beyond the session will not be carried, as I consider it a high and solemn duty incumbent upon us to make some remuneration to the worthy and indigent men who are now presented to our attention. The feelings of all who have delivered their opinions upon this subject seem to be in accordance with the object of this bill; but difficulties arise on every side that appear to be insurmountable, the greatest of which is, to what class of men we shall direct our benevolence. The merits of all have been exhibited to view, and we are told, if we discriminate we shall do injustice; and if we include all, that the finances of the country will be exhausted in the undertaking. It is not my purpose, sir, to detract from the merits of any; but surely, Mr. President, there is any one definite class of men more meritorious than another; if there are any men in this country, who, by their services and sufferings, have rendered themselves most dear to our recollections, and most worthy of our gratitude, they are the officers and soldiers of the Revolutionary Army. If they are infirm, we ought to sustain them; if they are indigent, we ought first to help them.

The objections which have been offered to the question now before us are formidable, from their number and variety. It will be proper for me in the first place to examine these objections, not with the arrogant pretension of effectually doing them away, but of endeavoring to place them in such a point of view as in some degree to impair their force, and to render them less imposing than they have been considered.

It is objected, that the Revolutionary officers and soldiers have no claim against the Government; that all that was ever promised them has been given, and all that was ever stipulated has been complied with. It is not pretended by any of the advocates of this measure that these men have any strict claim in law, but the expectation is most ardently and sincerely entertained that a case can be made out that will authorize (and we hope induce) a grateful country to make them the objects of generous munificence.

By various resolutions of the old Congress, certain officers of the Revolutionary Army were to be placed on half-pay for life. This half-pay was afterwards commuted for five years' full-pay. From whom the proposition of commutation came, is a disputed point; and as I do not know that it has any material bearing upon this question, I will forbear to inquire into it. The origin of the commutation is to be traced to those murmurings and discontents which were exhibited in many parts of the country against the half-pay establishment; and those who were to receive it, notwithstanding the pledges of devotion to their country which they had given in the field, were met with the opprobrious epithets of *hireling*, *mercenary*, and *pensioner*! It is to the prejudice which existed everywhere amongst us, against the country from which we had been separated, and against every establishment similar to her's, that we are to look for the cause of this sensation. It is allowable to call it a prejudice, sir; for, what we term a prejudice now, was a virtue then. The superior officers in the Army, who were the oldest, first agreed to this commutation. At their time of life, the bargain was a pretty good one, if they had been paid in good money; but not so with the young officers, who constituted by far the greater portion. Yet these, under the influence of their superior officers, to whom, from habits of discipline and long-tryed confidence, they had ever looked with a veneration that knew no change, and with an affection that found no limit, at length consented, and accepted the commutation. It seemed to be the last chance—the only hope. No sooner had they accepted the terms, and received the final settlement certificate, as the evidence of the debt due them from the Government, than their necessities forced them into the hands of the remorseless speculator, and they sold the reward of their toils—some for eighteen pence, some for two shillings, and some (more fortunate than the rest) for half a crown in the pound.

Let us pause a moment, sir, and endeavor to estimate the probable sacrifice that was made by these unfortunate men. I shall not in my calculation expect to be perfectly exact, but I shall be

FEBRUARY, 1818.

Surviving Officers of the Revolution.

SENATE.

sufficiently so to enable the Senate to form a clear opinion upon the subject:

Captain's pay per month	- - - - -	\$40
		12
Per year	- - - - -	\$480
		5
Commutation, (five years' pay)	- - - - -	\$2,400
Arrearage due at time of disbanding Army, two and a half years' pay, about fifty per cent. on commutation	- - - - -	1,200
		\$3,600
This, estimated at two shillings and sixpence in the pound, as the final settlement certificates were sold, is reduced to	- - - - -	450

A sum less than one year's pay.

A captain's pay is always taken as a fair average in the Army, on which to found calculation. The pay of a captain was forty dollars a month—four hundred and eighty dollars a year. The commutation of five years' full-pay would amount to twenty-four hundred dollars. There was due at the time of disbanding the Army about two years' and a half pay, or fifty per cent. upon the amount of commutation. This added to the commutation would be twelve hundred dollars more; making in all thirty-six hundred dollars. A final settlement for thirty-six hundred dollars, with a captain, sold by him then at two-and-sixpence in the pound, or thirty-three and a third cents in the two dollars, and sixty-six and two-thirds of a cent, would give him about four hundred and fifty dollars—a sum less than the pay for one year for his whole commutation and arrearages. If it is remarked that the act of selling was his own, I reply, it was his necessity, and not his will, consented—a necessity produced by the incapacity of the country to pay him in money of value.

But, how was it with those who had it in their power to hold their certificates? Let us recur again to the pay of a captain in the Army:

A final settlement certificate to a captain is passed for commutation and arrearages, bearing interest of six per cent. per annum, from the year 1783	- - - - -	\$3,600
Interest for six years	- - - - -	1,296

But, instead of paying the sum, the interest is converted into a three per cent. stock; thus sinking one-half of it, viz: - - - - - \$648

The principal of \$3,600, instead of being paid, is converted into a six per cent. stock, two-thirds of which bears a present interest of six per cent., and the interest of six per cent. on the remaining one-third is deferred (not to be paid) for ten years; making a loss of six per cent. for ten years, on \$1,200, of - 720

Total loss of a captain, by mode of payment - \$1,368

Add interest upon that amount to the present time.

The certificate of final settlement for thirty-six hundred dollars purported upon its face to bear an interest of six per cent. until paid. It was passed

15th CON. 1st Sess.—7

in 1783. Six years afterwards, Congress, unable to pay off these claims, had recourse to the plan of funding them, and instead of paying the six years' six per cent. interest upon the certificate of thirty-six hundred dollars, (which would have been twelve hundred and ninety-six dollars,) they converted that interest into a stock bearing three per cent. interest. Thus, by the very act of conversion, saving to the Government and taking from the captain half the amount of his interest, (equal to six hundred and forty-eight dollars;) for, if any interest was due, it was six per cent. Again. The amount of principal, being thirty-six hundred dollars, was also converted into a stock bearing six per cent. interest, two-thirds of which was to bear a present interest of six per cent. and the interest upon the remaining third was deferred for ten years, saving again to the Government the interest of six per cent. upon twelve hundred dollars for ten years, which is equal to seven hundred and twenty dollars; thus, the Government saved to itself, out of the money due a captain, by the mode of payment which it adopted, six hundred and forty-eight dollars of the interest due him, and seven hundred and twenty dollars by withholding the interest upon one-third of his principal for ten years, making, in the whole, the sum of thirteen hundred and sixty-eight dollars. Instead, then, of paying the captain the amount of principal and interest due him by the evidence of his certificate from under the hand of the Government, their necessities compelled them to have recourse to a system of payment to which the creditor was not a party, that saved to the Government the sum of thirteen hundred and sixty-eight dollars, and took it from him to whom it was justly due. I do not pretend to say, sir, that this constitutes a debt at this time of day, according to, and recoverable by law; but to my mind it creates an obligation to make some remuneration, against which neither time nor circumstances can avail.

I know full well, Mr. President, that it was the depressed condition of the finances of the country at that time, that produced this calamitous state of things. I am aware of it, and I regret it. The condition of the nation, then, was that of an unfortunate debtor, who had stopped payment with a prospect of more ample resources at a future day, and called upon her creditors, who were her benefactors, and made the most equitable and fair composition with them that she could. It is now, sir, when this debtor, our country, is opulent, and powerful, and prosperous, that we desire her to do, what every honorable member in this Senate, I am persuaded, would do in his own private capacity, I mean to remunerate those who had sustained losses in consequence of her former disability to discharge her just debts.

Other objections to this bill are derived from the various classes of men who served and suffered in the Revolution. We are told of those who served in the councils of the country at that time—of those who suffered from the ravages of the enemy, and from the destructive neighborhood wars, which existed in some of the States,



in consequence of a difference of sentiment—and lastly, of the militia. And, as a strengthener to all, we are told, that the States individually have done much for the officers and soldiers of the Revolution. Mr. President, towards those illustrious men who filled the councils of this country, during the great Revolutionary struggle, I can feel nothing but the most exalted reverence, and respect, and admiration. It was to their steady perseverance and unshaken fortitude, that we owe the success of that contest which gave independence to this country. Their wisdom, their constancy, and their fidelity, will ever be remembered. But what they planned in council, your army sustained in the field. If they toiled and watched over your destinies, they had some periods of time that they could devote to their families and their private concerns—they had it in their power to pay some attention to domestic cares—and, in the midst of their faithful labors, their health was taken care of; they were plentifully fed, and comfortably lodged at night. Not so with your army: Half-starved, half-naked, tracked in their course by the blood from their unshod feet, they followed their Heaven-directed leader with heroic constancy and courage—defying the elements—exposed to every vicissitude of season and of weather—bearing up against the multiplied calamities of the most ill provided warfare, they sunk from their toils to catch a moment of repose upon the frozen field, uncovered, except by the skies. Sir, there is no comparison between the sufferings of these men; and as little between their present condition, arising from the difference of that service.

Whatever may have been the misfortunes of those who were injured by the fury of the enemy, or of their neighborhood wars, it is impossible at this time of day to estimate. The case is remediless with all its horrors. We have seen the difficulty, for some years past, of providing for the destruction committed in the late war. Two years have been consumed in establishing the principles which shall govern in those cases, and yet every day a memorial is laid upon our table, asking redress for cases not included in the law. If such difficulties are felt on account of losses of such recent date, how can we hope to redress those where time has swallowed up both the parties and the evidence; and gentlemen must excuse me, sir, for saying, that I do not consider it altogether fair to introduce an impracticable case against us, and then deny that we ought to do that which is feasible, because we don't do that which is impossible.

As for the militia, sir, their services were often useful, often admirable—but their employment was very different from that of the Continental army. The militia were generally employed for short periods, and not taken far from home; their services were mostly performed in defence of their own neighborhood, and their fatigues and exposure were comparatively small when contrasted with that of the regular army. As to their rewards which the States have benevolently bestowed upon such of the officers and sol-

diers as were within their respective limits, it does them much honor, but we cannot shelter ourselves under the charity of others. It was for the nation at large that these men fought and bled; it was for the country they encountered all their hardships, and it is from the national Treasury they ought to be reimbursed.

But the greatest objection of all, is the supposed exorbitancy of the sum necessary for the object. This is the point at which I fear we shall falter. Perhaps a little examination into this point may diminish the obstacles that our alarms have created. There is no certain evidence to which we can have recourse at this time to ascertain, with exactness, the number of surviving officers and soldiers of the Continental army. Various calculations have been made by those who may be supposed to have the most accurate means of information, and these have proved unsatisfactory. The only document we can find upon the subject, is the number of men discharged at the time the army was disbanded, which was about thirteen thousand five hundred—if to this is added one-fourth of that amount, to include those who have been discharged after one, two or three years' service, we shall have in the whole the number of 16,875 men. A better computation can be made of the officers, who are more known in the community, and who are generally recorded in the society of the Cincinnati. They are estimated at rather more than two hundred survivors, being one tenth of the whole. If we calculate the men by this mode, and it will be an extravagant calculation—for in all the estimates of human life the most precarious hold, the greatest mortality, is always found to be among that class of men, who from their condition are most exposed, least attended to, and most destitute of essential comforts. If, I remark, we adopt this mode of calculation, we shall have 1,614 survivors of the non-commissioned officers and privates of the Continental army—a number, one third if not one-half exceeding what any intelligent Revolutionary officer now alive believes to be the true one. Taking then the estimate, at this large calculation, of two hundred officers and sixteen hundred and eighty-seven privates, the whole amount of half pay per annum to each (estimating a captain's half-pay as the measure of that of the officers) would not exceed one hundred and fifteen thousand four hundred and eighty dollars, a sum inconsiderable in itself when compared with the object, and a sum that will diminish in an accelerated ratio every year, until, in ten years from this, there will not be a tenth remaining to be paid. If there is an error in this statement, it unquestionably is by making the estimate too large, and when we come to reflect upon the object to be accomplished, and the means necessary for the purpose, I trust that we shall neither feel hesitation nor reluctance.

It ought not to be objected to this statement, that the disparity in the amount received by each is too great. We do not make that disparity—it is already created to our hand. We take them, officer and soldier, as we find them, and measure

out to each according to what they had been accustomed to receive. There is no other standard that I know of, in conferring benevolences, or honorary pecuniary rewards to military men, than the rank they hold; and if the amount to each soldier is a trifle, the very circumstance of its being small will enable us the better to afford it. But you may rest assured, sir, that, small as it is, it will be wealth and comfort to many poor soldiers—it will smooth the remnant of their road to the grave, and perhaps enable them to close their eyes in peace.

But, Mr. President, there are other motives which, in my judgment, are strong and coercive to the adoption of this measure. I mean those, sir, of national feeling and national character, which are involved in the issue of this bill, and which I do not think we are at liberty by any means to disregard. Shall it be said, sir, that the brave officers and soldiers of the Revolution were abandoned by us in their advanced age and infirmities, to the precarious offerings of public charity; to the protection of the almshouse, and such receptacles of human wretchedness, whilst the Treasury of the country is ample to relieve them? Shall the history of our country add another instance for those with whom "the ingratitude of Republics" is a maxim? Shall the veterans of the Army of Independence, whose wants and infirmities arise from having devoted the best portion of their lives to the service of their country, now languish in penury, neglected by that country? Feeling as I do upon this occasion, sir, I exult in the opportunity which is this day presented me, of doing honor to my country by doing justice to her brave defenders; and I do not now appeal to the cold and calculating policy of the politician, but to the generous hearts that are near me, which will cause us to exhibit a scene not less interesting than that of the Roman charity itself, where the aged and famished fathers of our country shall draw from our bosoms the sources of life, and nutriment, and comfort.

With your permission, sir, I will now call your attention for a short time to the provisions of the bill itself, and to the nature of the amendments offered by the Committee. The bill, as it now stands, appears to be too indiscriminate, and to embrace too much, as by it every fellow that was drummed out of camp, or dismissed the service for the lowest vices, may be the object of reward; there ought certainly to be some test of serving out the period of enlistment, or of honorable discharge. The amendment, on the other hand, is too limited, and will, in my judgment, work a great injustice to many who have nobly signalized themselves in the cause of the Revolution, and are justly entitled to our grateful remembrance. The amendment, sir, confines the benefits of the bill to those alone who served until the end of the war, and debars those who served according to their enlistments for one and two years. It will operate still more unequally when we reflect, that by the language of the amendment, as it now stands, those who entered the service after the capture of Cornwallis, in Octo-

ber, 1781, which was the decisive blow in the conflict, and continued to the end of the war, which from that time was little more than nominal, will be rewarded, whilst those who served in the period from seventeen hundred and seventy-six to seventy-nine—the iron age of the Revolution—will be excluded. I hope this distinction will not be made.

That proviso in the law which obliges invalid pensioners to give up their pensions before they can accept the benefits of this bill, is another very objectionable feature that I cannot assent to. For what, let me ask, sir, is the pension now given to the unfortunate and wounded soldier? It is intended, in some measure, to compensate him for the loss of his limbs; it is designed as a sort of recompense for his privations, and his consequent sufferings. Will you then, sir, in the distribution of your honors and rewards among those who defended the country in arms, underrate the services of those whose mutilated frames are the evidences of those services? The pension you give is a pittance considered in itself; but when compared with the enjoyment and utility of the limb whose loss it is to supply, it is poor indeed. What wealth that you could give from your Treasury, would purchase an arm, a leg, or an eye? And when you are about to confer the reward on valor, will you first tear from the maimed hero the balm that you have given him to staunch his wound? I pray that these victims to their devotion for their country may be suffered to retain this miserable indemnity, and that they may come in for their share, with their more fortunate brethren, of the honorable rewards I hope we shall bestow.

The last objection I shall make, sir, to the bill, is to that clause which provides, that the veteran of the Revolution shall prove himself a pauper to entitle him to the gratitude and reward of his country.

If there are some of these who braved the storm of the Revolutionary war, who are so fortunate as to be wealthy and comfortable in life, and an aversion to confer this bounty on these is the cause of introducing this degrading test, be assured, sir, they are very few in number, and they will never call upon you for the gratuity; or, if they do, it will be to give it to some old and faithful brother soldier who fought by their side; and if such is to be its destination, I sincerely hope they will receive it. But if you defile your intended benevolence with a condition that degrades those who are to receive it, you will frustrate the object of the law; for there are none, I trust, so broken down as not to retain a little spark of a soldier's pride. The high and elevated spirit that would force men from their families, their homes, and their domestic endearments, to risk all that could be dear to the human heart in the field, in defence of a Constitutional principle, cannot bend for a paltry consideration to an act of self-humiliation. That spirit which braved the hazards of the field and the terrors of the law for the establishment of your independence, will not now bend abased before you. It will spurn the polluted bounty you present, and prefer poverty, with all



SENATE.

*Surviving Officers of the Revolution.*

FEBRUARY, 1818.

its pang, to the ignoble sacrifice of a soldier's feeling. No, sir, it will not do to degrade those you mean to reward. It will not do to see that hand, which once grasped the sword that flashed defiance upon your foes, now lifted in humble, supplicating charity, and trembling with decrepitude and age. What you give, give freely—it will become you. Do not cloud the brow with shame, that you wish to cheer with your benevolence; but remember, that much of every good consists in the manner of conferring it, and that you enhance the merit of every gift by a delicate and tender regard to the feelings of those on whom you bestow it.

With these impressions, I sincerely hope that we shall pass a bill for the relief of the surviving officers and soldiers of the Revolutionary war, in which neither the name of pensioner, nor the test of poverty will be admitted; and that the only proof they will be called on to give, to receive their country's bounty, will be, that they served in the Continental Army in defence of American independence.

I again renew the wish I have before expressed, sir, that the motion for postponement will not prevail, but that we shall all cordially co-operate to complete the great object of this bill, and make it worthy of ourselves and our country. That done, I am persuaded that we shall all feel that we have discharged a great duty, and that every heart will bear testimony to the truth of that sublime and heartfelt precept—that it is better to give than to receive.

When Mr. GOLDSBOROUGH concluded—

The bill was advocated by Messrs. DAGGETT, KING, MORRILL, CRITTENDEN, RUGGLES, LEAKE, FROMENTIN, OTIS, and VAN DYKE; and opposed by Messrs. BARBOUR, MACON, and SMITH.

FRIDAY, February 13.

Mr. LACOCK presented the petition of Martin Dubbs, of the city of Philadelphia, praying relief in the settlement of his account for supplies to a large body of militia in the service of the United States, for the defence of the fourth military district, in the autumn of 1814, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, gave notice that to-morrow he should ask leave to bring in a bill for the purchase and distribution of the laws of the United States.

Mr. DAGGETT asked and obtained leave to bring in a resolution, authorizing the further distribution of certain public documents; and the resolution was read, and passed to the second reading.

Mr. MORROW presented the petition of Duncan McArthur, praying to be permitted to locate other lands in lieu of those entered in the land office of Richard C. Anderson, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. LACOCK presented the memorial of a number of journeymen tailors, of the city of Phila-

delphia, praying relief by the imposition of additional duties on the importation of ready-made clothing; and the memorial was read.

The bill, supplementary to the act entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes," was read a third time; the blanks were filled first with "1st of March," and second, with "1st of October," and the bill was passed.

The bill to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon, was read a third time, and passed.

The bill for the relief of Richard M. Johnson was read a third time, and passed.

The bill to increase the compensation of certain judges of the courts of the United States, was read the second time.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color, for sale, or to be held to labor; and, on motion, by Mr. GOLDSBOROUGH, the consideration thereof was further postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole the consideration of the bill, entitled "An act for the relief of Major General Arthur St. Clair," and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading.

#### SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs; and the question recurring on the motion, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 3, nays 30, as follows:

YEAS—Messrs. Barbour, Macon, and Smith.

NAYS—Messrs. Ashmun, Burrill, Campbell, Crittenden, Daggett, Dickerson, Eppes, Fromentin, Gaillard, Goldsborough, Hunter, King, Lacock, Leake, Morril, Morrow, Noble, Otis, Ruggles, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Troup, Van Dyke, Williams of Massachusetts, Williams of Tennessee, and Wilson.

On motion, by Mr. TALBOT, the further consideration of the bill, together with the amendments, was postponed until Monday next.

The Senate adjourned to Monday morning.

MONDAY, February 16.

The PRESIDENT communicated the report of the Secretary of the Treasury, to whom was referred the petition of Robert Sturges; and the report was read, and referred to the Committee on Public Lands.

Mr. DAGGETT presented the petition of Joseph Hall, praying the payment of his commutation of five years' pay, to which he was entitled as

FEBRUARY, 1818.

*Encouragement to Emigrants.*

SENATE.

lieutenant of artillery in the Revolutionary army; and the petition was read, and referred to the Committee on Military Affairs.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the 28th January last I now transmit to the Senate a statement of the expenditures upon the public buildings, and an account of their progress, for the year 1818.

JAMES MONROE.

WASHINGTON, February 13, 1818.

The Message and accompanying documents were read.

Mr. TAYLOR presented the petition of the citizens of the town of Vincennes, praying Congress to vest the fee simple of the common adjoining said town in the trustees thereof, for the purpose of draining and selling the same, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of establishing a post route from Freehold, in the county of Monmouth, New Jersey, through Squancum, Manasquan, Toms river, Cedar creek, and Nanahawkin, to Tuckerton, in the county of Burlington.

Mr. SMITH presented the petition of Alexander Levie, a soldier in the Revolutionary army, praying payment of arrearages, as stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. LACOCK presented the petition of a great number of dry good merchants, traders, and master tailors, in the city of Philadelphia, representing their peculiar grievances, and praying relief; and the petition was read.

A message from the House of Representatives informed the Senate that the House *adhere* to their disagreement to the first amendment insisted on by the Senate to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818."

On motion, by Mr. CAMPBELL, the Senate proceeded to consider the report of the Committee of Conference, on their part, made the 12th instant, upon the subject of the disagreeing votes of the two Houses on the bill last mentioned.

Whereupon, on motion, by Mr. CAMPBELL, the Senate resolved to *recede* from their first amendment to the said bill.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and the bill was read, and passed to the second reading.

Mr. TAIT, from the Committee on Naval Affairs, reported a bill to authorize the establishment of naval depots and dock yards; and the bill was read, and passed to the second reading.

The Senate resumed the report of the Committee on Naval Affairs, to whom were referred the

memorials of certain officers of the Navy, and of the Marine Corps, attached to the Mediterranean squadron; and the consideration thereof was further postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the Judiciary, who were instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States, a sum equal to the salary of the judge of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court; and in concurrence therewith,

*Resolved*, That no compensation, in addition to his regular stated salary, ought to be allowed to the judge of the sixth circuit court of the United States, for the duties devolved upon, and performed by him, in consequence of the disability of the district judge of South Carolina.

The Senate resumed the report of the Committee of Claims, to whom was referred the petition of Weaver Bennet; and the consideration thereof was further postponed until the second Monday in March next.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the expediency of extending the time allowed by the act, approved May 6, 1812, to present claims to the Secretary of War, for military bounty lands; and agreed thereto.

On motion, by Mr. EPPES, the further consideration of the bill, entitled "An act for the relief of Major General Arthur St. Clair," was postponed until Thursday next.

The resolution providing for the further distribution of certain public documents, was read the second time.

Mr. WILLIAMS, of Tennessee, asked and obtained leave to bring in a bill to provide for the purchase and distribution of the laws of the United States; and the bill was read, and passed to the second reading.

On motion, by Mr. GOLDSBOROUGH, the consideration of the bill respecting the transportation of persons of color, for sale, or to be held to labor, was further postponed to, and made the order of the day for, Thursday next.

#### ENCOURAGEMENT TO EMIGRANTS.

Mr. SANFORD presented the memorial of the New York Irish Emigrant Association, praying that a portion of unsold lands (in the Illinois Territory) may be set apart, or granted to trustees, for the purpose of being settled by emigrants from Ireland, on an extended term of credit, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The memorial is as follows:

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled.*

The memorial of the New York Irish Emigrant Association respectfully sheweth: That your memorialists, while they presume most respectfully to solicit



SENATE.

Encouragement to Emigration.

FEBRUARY, 1818.

Our attention, to the helpless and suffering condition of the numerous foreigners who, flying from a compeated mass of want and misery, daily seek an asylum in the bosom of the United States, are emboldened by the recollection that a liberal encouragement to the settlement of meritorious strangers has always characterized the Government and constituted authorities of the Union. The wise and brave founders of its independence held out to the oppressed and suffering of every nation the consoling assurance that in this country, at least, they should find a refuge and a home. The successors of these illustrious men have continued to redeem, in calmer and happier times, the pledge made to philosophy and benevolence amidst various scenes of distress and difficulty. From this humane and beneficent policy America has reaped a rich and happy harvest. She has added to the national resources the moral and physical strength to be derived from so many thousands and tens of thousands, actuated by attachment to her free Constitution, have adopted the nation where liberty has made, and making, her most glorious stand, as the country of their choice.

Your memorialists, in addressing your honorable body, need not seek to enforce by argument the generally received maxim of political economy that the wealth and solidity of a nation consist in the number, the social comforts, and the productive industry of its people. In the dense and crowded States, and under the existing Governments of Europe, these sources of wealth and stability are not always found well combined. It frequently does not happen that the social comforts, or even the productive industry, are proportioned to the number of the people. In the extended territory and scattered population of the United States, however, and under their free and blessed institutions, it is an unquestionable and important truth, that every increase of inhabitants, when wisely and judiciously distributed and settled, adds to the social comforts and productive industry of the whole, and that the excess of population which cannot be considered as giving stability to the various Governments of Europe, if suffered or encouraged to settle here, would incalculably increase our wealth and strength. But that accession is doubly valuable which also brings to the common land, with a mass of laborious industry, unalterable attachment to the laws and constitution of the country. And, surely, to give a wise direction to that industry, and to secure by well-placed kindness that attachment, are among the noblest exercises of legislative authority.

Your memorialists beg leave respectfully to represent that at no period since the establishment of American independence have the people of Europe, particularly the laboring classes, discovered so great a disposition to present to emigrate to the United States. But the people of Ireland, from the peculiar pressures under which that country has so long been placed, have looked hither in the greatest number, and perhaps under the most trying and necessitous circumstances. They come, indeed, not to return and carry back the fruits of casual speculations, but to dedicate to the pursuit of their hopes their persons, their families, their property, their affections, their all.

It is, however, a truth, regretted by those who have the best means of observation, that, for want of guides, their steps, and congenial homes, where all their honest energies might be called at once into activity, and their hardy enterprise turned to their own advantage, as well as to the general good, they remain perplexed, undecided, and dismayed, by the novelty and

difficulty of their situations. They have fled from want and oppression—they touch the soil of freedom and abundance; but the manna of the wilderness melts in their sight. Before they can taste the fruits of happy industry, the tempter too often presents to their lips the cup that turns man to brute, and the very energies which would have made the fields to blossom make the cities groan. Individual benevolence cannot reach this evil. Individuals may indeed solicit, but it belongs to the chosen guardians of the public weal to administer the cure. Nor is the misdirection or the destruction of the capabilities and industry of these emigrants to be regretted only on its own account. The story of their blasted hopes and fortunes is transmitted back, and retailed with malicious exaggeration. Others, possessing more abundant means and more prudent habits, who have been accustomed to look with longing eyes to this free country, and contrast its happiness with the present state of Europe, are discouraged and deterred by their sufferings and misfortunes; and thus a large current of active population and wealth, inclined to flow into and enrich the United States, is dammed up at the fountain-head. A serious consideration of these circumstances induce your memorialists to hope, and most earnestly but respectfully to request, on behalf of those whose interests they urge, that a portion of unsold lands may be set apart or granted to trustees, for the purpose of being settled by emigrants from Ireland, on an extended term of credit. The conditions of this grant your memorialists wish to be such as may give to the settlers its entire benefit, and may exclude all private speculation in others. They also beg leave to suggest, after contemplating the various uncultivated tracts which invite the labor of man, that a situation adapted for a settlement of that description might be found among the lands lately purchased in the Illinois Territory.

Your memorialists are fully sensible that many of the most persuasive arguments in favor of their application must be addressed, and will not be addressed in vain, to the benevolence and sympathies of the Legislature; but they also confidently appeal to its wisdom and patriotism. The lands to which they have alluded, being frontier and remote, are neither likely to be speedily exposed to sale, to be rendered by cultivation subservient to the general prosperity, nor by settlement conducive to the general strength. The portion which might be granted on extended credit would probably be paid for almost as soon as if it had not been brought into the market before its regular turn. During that time, in which it would otherwise remain unproductive, (and therefore unprofitable,) thousands of families would have acquired opulence, would have benefitted the country by its cultivation, by the establishing of schools, the opening of roads, and the other improvements of social and civilized life. They would form a nucleus round which a more abundant population would rapidly accumulate, and all the contiguous lands would be largely increased in value. The small loss which might appear to be sustained by the suspension of interest on the credit (if it should have any existence) will be abundantly compensated by the money and labor that must be almost immediately expended on works of general utility, which the convenience and necessities of the settlers will naturally induce them to accomplish. But who can calculate the physical or moral, or even the pecuniary advantages in time of war, of having such a strong and embattled frontier?

FEBRUARY, 1818.

Great Britain—Extra Duties.

SENATE.

The Irish emigrant, cherished and protected by the Government of the United States, will find his attachment to their interest increase in proportion to the benefits he has received. He will love with enthusiasm the country that affords him the means of honorable and successful enterprise, and permits him to enjoy unmolested and undiminished the fruits of his honest industry. Ingratitude is not the vice of Irishmen. Fully appreciating his comparative comforts, and the source from whence they flow, he will himself cherish, and will inculcate on his children, an unalterable devotion to his adopted and their native country. Should hostilities approach her in that quarter, whether in the savage forms of the tomahawk and scalping-knife, or with the deadlier weapon of civilized warfare, the Irish settlers, with their hardy sons, will promptly repel the invasion, drive back the war upon the enemy, and give to our extended frontier security and repose.

Your memorialists therefore humbly pray your honorable body to receive and listen favorably to their application. And, as in duty bound, they will ever pray, &c.

On behalf of the New York Irish Emigrant Association:

NEW YORK, December, 1817.

THOS ADDIS EMMET, *President*.  
DANIEL McCORMICK, *Vice President*.  
JAMES McBRIDE, *2d Vice President*.  
ANDREW HERRIS, *Treasurer*.  
JOHN W. MULLIGAN, *Secretary*.  
WILLIAM SAMPSON, *Secretary*.

Wm. J. Macnevan,	James Sterling,
Mat. L. Davis,	Wm. Edgar, jr.
J. Chambers,	Matthew Carroll,
Thomas Kirk,	John Mayhue,
D. H. Doyle,	John Heffernan,
John R. Skidde,	Dennis McCarthy,
Robert Fox,	James R. Mullany,
R. Swanton.	

#### SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs.

The question under consideration was a motion made some days ago by Mr. KING to recommit the bill, with instructions to the committee so to amend it as to confine its provisions to a grant of half-pay for life to such of the surviving officers (alone) of the Revolutionary Army as served for three years, or to the end of the war; including those entitled to half-pay for life by any resolve of Congress, the half-pay to be ascertained according to rank, by which the accounts of the officers were finally settled.

The debate was resumed on this subject, and continued till a late hour; in the course of which Mr. KING withdrew his motion to recommit the bill.

The question then recurred on the amendment reported to the bill by the Military Committee, (to confine its application to those who served to the end of the war;) when a motion was made by Mr. GOLDSBOROUGH, and agreed to, to amend

the amendment by inserting the words "or those who served — years."

Mr. CRITTENDEN moved to strike out the words "on Continental establishment," so as to include the militia who served the requisite period; which motion was pending when the Senate adjourned.

The gentlemen who took part in the discussion this day were Messrs. GOLDSBOROUGH, LACOCK, TICHENOR, OTIS, MORRIL, EPPES, CRITTENDEN, DAGGETT, BURRILL, MACON, and SMITH.

TUESDAY, February 17.

Mr. BARBOUR presented the petition of Samuel Miller, a brevet major of Marines, praying payment of the amount of his necessary expenses as bearer of despatches to France, as well as other advances for the service of the United States, and compensation for the loss of baggage, &c., occasioned by the destruction of the Marine barracks at Washington, in August, 1814; and the petition was read, and referred to the Committee of Claims.

A message from the House of Representatives informed the Senate that the House had passed a resolution, directing the Judges of the Supreme Court to be furnished with Wait's State Papers, in which they request the concurrence of the Senate.

Mr. GOLDSBOROUGH presented the memorial of Luke Tiernan and others, in behalf of the Hibernian Society of Baltimore, praying that provision may be made for granting to the emigrants from Ireland a tract of land in the Illinois Territory, on a more extended credit than is now allowed by law; and the memorial was read, and referred to the Committee on Public Lands.

Mr. DAGGETT presented the petition of Phineas Meigs, of Guilford, Connecticut, praying compensation for a house destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

Mr. MORRIL, from the Committee of Claims, to whom was referred the petition of John Stockton, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

The Senate resumed the consideration of the motion of the 16th instant, for instructing the Committee on Post Offices and Post Roads, to inquire into the expediency of establishing a certain post route, and agreed thereto.

The bill to authorize the establishment of naval depots and dock yards was read the second time.

#### GREAT BRITAIN—EXTRA DUTIES.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives:

I lay before the House of Representatives copies of two communications received at the Department of State from the Minister of Great Britain, and submit



to their consideration the propriety of making such legislative provisions as may be necessary for a compliance with the representations contained in them.

By the express terms of that compact it was, when ratified by the two Governments, to be in force for the term of four years from the day of its signature. The revocation of all the discriminating duties became, therefore, the obligation of both Governments from that day, and it is conceived that every individual who has been required to pay, and who has paid, any of the extra duties revoked by the Convention, has a just and lawful claim upon the respective Governments for its return. From various accidents it has happened that, both here and in Great Britain, the cessation of the extra duties has been fixed to commence at different times. It is desirable that Congress should pass an act, providing for the return of all the extra duties, incompatible with the terms of the Convention, which have been levied upon British vessels or merchandise, after the 3d of July, 1815. The British Parliament have already set the example of fixing that day for the cessation of the extra duties of export, by their act of 30th of June last, and the Minister of the United States in London is instructed to require the extension of the same principle to all the extra duties levied on vessels and merchandise of the United States in the ports of Great Britain since that day. It is not doubted that the British Government will comply with this requisition, and that the act suggested may be passed by Congress, with full confidence that the reciprocal measure will receive the sanction of the British Parliament.

JAMES MONROE.

WASHINGTON, Feb. 12, 1818.

Mr. Bagot, Envoy Extraordinary and Minister Plenipotentiary, to Mr. Monroe, Secretary of State.

WASHINGTON, Nov. 18, 1816.

SIR: I have the honor to call your attention to one of the provisions of an act of the United States Congress, passed on the 27th of April last, entitled "An act to regulate the duties on imports and tonnage," which appears to have originated in some misapprehension of the real nature of one of the principal manufactures of Great Britain, and which has had an operation not only very prejudicial to the British manufacturer, but contrary, as it should seem, to the spirit and intent of the second article of the commercial treaty.

By the second article of the commercial treaty between Great Britain and the United States, it is stipulated "that no higher duties shall be imposed on the importation of any articles, the growth, produce, or manufacture of His Britannic Majesty's Territories, in Europe, than are, or shall be, payable on the like articles, being the growth, produce, or manufacture of any other foreign countries."

By the act of the United States to which I have referred, it is, among other things, enacted in the 6th section, that, upon importation into the United States, iron in bars and bolts, except iron manufactured by rolling, shall pay a duty of 45 cents per cwt., and that if bars and bolts, when manufactured by rolling, and, therefore, it shall pay a duty of 150 cents per cwt.

It was probably not known that the bar and bolt iron, manufactured in Great Britain, is in the last process rolled, whereas the same article, both in Sweden and in Russia, instead of being rolled, is, in the

same process, hammered; but when the iron is manufactured into bar or bolt, whether by rolling or hammering, it is in precisely the same progress of manufacture, and is in every respect applicable to the same purposes of use and ulterior manufacture, and consequently is, to all intents, a "like article." But, by the inequality of the duties which have been imposed, it seems to have been imagined that rolled bar and bolt iron is in a stage of manufacture beyond that of hammered iron; and you will observe that this supposition is strengthened by the circumstance of its being classed with anchors, which are in a state of complete and finished manufacture, and are worth £35 per ton in the British market, whilst bar and bolt iron is only worth £11 per ton.

It is to be assumed that, whenever duties are imposed on any foreign article, in a graduated scale proportioned to its manufactured state, it is intended that the duty should be regulated by that state alone, and not by the process by which it is brought to that state.

Iron, in a certain state of manufacture, is to be charged with a certain duty. The means of bringing it to that state, whether by hammering or rolling, is not to be had in consideration; for if it were, the effect would be to force each nation to use exactly the same process, and, what certainly never could have been intended, to check and punish the application of ingenuity and improvement.

Considering, therefore, that the bar and bolt iron manufactured in Great Britain is, according to the true spirit and intent of the second article of the treaty of commerce, in every respect a "like article" with that manufactured in Sweden and Russia, it is hoped that such measures will be taken by the Government of the United States as will allow of its admission to importation at the same rate of duty, and will place the British manufacturer in that state of equality, in respect to foreign nations, as may accord with the undoubted intention of the late treaty of commerce between the two countries.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

CHARLES BAGOT.

Mr. Bagot, Envoy Extraordinary and Minister Plenipotentiary, to Mr. Adams, Secretary of State.

WASHINGTON, Dec. 8, 1817.

SIR: In my letter to the Secretary of the Department of State of the 9th of July, 1816, I had the honor to point out the difference of the periods at which effect had been given, in the two countries, to the Convention of the 3d of July, 1815, and to request that all discriminating duties of a nature similar to those described in His Royal Highness the Prince Regent's Order in Council of the 17th of August, 1815, which might have been levied between the date of that order and the 22d of the following December, upon goods imported into the United States in British-built ships, might be refunded.

No mention having been made in His Royal Highness's Order in Council of alien tonnage duties, they were not adverted to in the application which I had then the honor to make; but as it was known that they had in fact been remitted by Great Britain, the American Legislature, in strict observance of the spirit and intention of the Convention, included them in the act passed on the 3d of last March, authorizing the Secretary of the Treasury to cause repayments to be made of certain alien duties. By this act, how-

over, it was only provided that the alien tonnage duties levied upon British ships in American ports subsequently to the 17th of August, 1815, should be refunded; whereas the same duties levied upon American ships in British ports, were remitted from the date of the signature of the Convention.

In order, therefore, that His Majesty's subjects may partake of the full benefit of the reciprocity intended by the Convention, I have the honor to request that remission may also be made of the alien tonnage duties which may have been levied upon British ships in the ports of the United States between the 3d of July and the 17th of August, 1815.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

CHARLES BAGOT.

The Message and communications therein referred to were read, and referred to the Committee on Finance.

The bill to provide for the purchase and distribution of the laws of the United States was read the second time.

#### SURVIVING SOLDIERS OF THE REVOLUTION.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto, by the Committee on Military Affairs.

The motion, made yesterday by Mr. CRITTENDEN, to amend the bill so as to include the militia of the Revolution, was first under consideration; and, after some debate, in which Messrs. OTIS and TAIT opposed the motion, it was negatived—ayes 7.

Mr. DAGGETT proposed to strike out the words "mariner and marine," to exclude these classes from the benefit of the provision. The motion was supported by the mover and by Mr. KING; and opposed by Messrs. TAIT, EPPES, and BURRILL, and finally lost—ayes 7.

An amendment was then taken up, reported by the Military Committee, requiring the pensions already granted by the General and State Governments to be relinquished, to entitle an applicant to the benefit of this bill.

This proposition produced considerable discussion, in which Messrs. WILLIAMS of Tennessee, OTIS, VANDYKE, LACOCK, TALBOT, EPPES, GOLDSBOROUGH, and MORRILL, bore a part. Before the question was taken,

Mr. OTIS moved to strike out the word "incapacitated," so that no proof of poverty be required. This motion was advocated by Messrs. OTIS and DAGGETT; and opposed by Messrs. WILSON, EPPES, MORRILL, and TALBOT—but, before a decision took place, the Senate adjourned.

WEDNESDAY, February 18.

Mr. HUNTER presented the memorial of the President, Directors, and Company, of the Merchants' Bank, of Newport, Rhode Island, praying the repayment of certain stamp duties, for reasons stated in the memorial; which was read,

and referred to the Committee on Commerce and Manufactures.

Mr. LACOCK presented the petition of Benjamin Wells, of the State of Pennsylvania, praying compensation for his services as forage-master, in the years 1779 and 1780, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill to reduce the staff of the Army; and the bill was read, and passed to the second reading.

Mr. MORROW presented the petition of William Rector, surveyor of the public lands in the Missouri and Illinois Territories, praying additional compensation for past and future services, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

On motion, by Mr. CRITTENDEN, the Committee on the Judiciary, to whom was referred the petition of Thomas Hall Jervey, surveyor and inspector for the port of Charleston, were discharged from the further consideration thereof; and, on motion by Mr. SMITH, it was referred to the Committee of Claims.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories who shall escape into any other State or Territory," reported the same with amendments; which were read.

Mr. WILSON presented the petition of William Gamble, praying compensation for certain services, as stated in the petition; which was read, and referred to the Committee of Claims.

The resolution, brought up yesterday for concurrence, was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January to the 30th of June, 1817; together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during that period, with instructions to inquire into the expediency of repealing the law laying that duty; and, in concurrence therewith, resolved that it is not expedient to repeal the law imposing a duty on salt.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act fixing the compensations of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices;" in which bill they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The PRESIDENT communicated a report of the Secretary of War, showing the expenditure of the moneys appropriated for the contingent ex-



pages of the Military Establishment for the year 1817; and the report was read.

Mr. BARBOUR submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of changing the mode of supplying the troops of the United States by contract, and substituting one cheaper and more efficient, by subjecting the parties undertaking that duty, to military law, in case of delinquency.

The bill adjusting claims to land, and establishing land offices in the districts east of the Island of New Orleans, was read the second time.

Mr. BARBOUR, from the committee to whom was referred the resolution for an amendment to the Constitution of the United States, in relation to internal improvements, reported the same without amendment.

On motion, by Mr. DICKERSON, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, be further postponed to, and made the order of the day for, Wednesday next.

#### REVOLUTIONARY PATRIOTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs.

The consideration of this subject again produced a good deal of debate, chiefly on its details and propositions to alter various features of the bill. The discussion was conducted by Messrs. NOBLE, OTIS, TALBOT, LACOCK, BURRILL, EPPES, MORRILL, GOLDSBOROUGH, and VAN DYKE.

Mr. TALBOT moved to strike out of the first section of the bill, after the word "States," in the tenth line, the following words: "and are, or who hereafter shall be, reduced to indigence, and incapable of procuring subsistence, and who shall have substantiated his said incapacity, in the manner hereinafter directed;" and to add to said bill the following proviso: "Provided, That the benefits of this act shall not extend to any officer whose estate, at the time of such application, is of the value of — dollars, or to any musician or private soldier, whose estate shall, at the time of his application for such pension, be worth the sum of — dollars."

Mr. BURRILL called for a division of the question, and it was taken on striking out the words proposed, and determined in the negative—yeas 14, nays 18, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Goldsborough, Hunter, King, Otis, Stokes, Storer, Talbot, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Dickerson, Eppes, Gaillard, Lacock, Leake, Macon, Morrill, Morrow, Noble, Roberts, Ruggles, Sanford, Smith, Tait, Taylor, Tichenor, and Wilson.

On motion, by Mr. WILSON, the bill, as amended, was ordered to be printed for the use of the Senate.

THURSDAY, February 19.

DANIEL D. TOMPKINS, Vice President of the United States and President of the Senate, attended, and took the Chair.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill regulating the pay and emoluments of brevet officers; and the bill was read, and passed to the second reading.

Mr. TICHENOR submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to inform the Senate, what requisitions were made upon the contractors between the first day of June, 1817, and the 24th of December, of the same year, for deposits of provisions in advance, at the several posts on the frontiers of Georgia and in the adjoining Territory, specifying the date of such requisition, the amount of deposits required, and by whom made.

Mr. LACOCK presented the memorial of the Philadelphia Irish emigrant association, praying that provision may be made for granting to the emigrants from Ireland a tract of land in the Illinois Territory, on a more extended credit than is now allowed by law; and the memorial was read, and referred to the Committee on Public Lands.

Mr. SMITH presented the memorial of David Bailey, of Charleston, South Carolina, praying to be allowed the amount payable by law on certain wines, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. TICHENOR presented the petition of John Sargent, of Vermont, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. WILLIAMS, of Tennessee, presented the petition of David Tate, of Tennessee, praying payment for services as a sergeant in the Revolutionary war, as stated in the petition; which was read, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of Major General Arthur St. Clair," was read a third time.

On motion by Mr. MACON, it having been agreed to take the question on the final passage of the bill, by yeas and nays, a motion was made by Mr. ROBERTS, that the bill be referred to the Committee on Pensions, with instructions to reduce the sum to be allowed as a pension, so as not to exceed that allowed by law to a Lieutenant Colonel; it was determined in the negative—yeas 14, nays 17, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Eppes, Lacock, Leake, Macon, Morrill, Roberts, Ruggles, Smith, Stokes, Tichenor, and Williams of Tennessee.

NAYS—Messrs. Burrill, Daggett, Fromentin, Gaillard, Goldsborough, Hunter, King, Morrow, Noble, Otis, Sanford, Storer, Tait, Talbot, Taylor, Van Dyke, and Wilson.

Mr. SMITH moved to postpone the bill until tomorrow.—Negatived.

Mr. SMITH then commenced a speech against the bill; when an adjournment was moved and carried.

The gentlemen who participated in the debate on the subject of this bill, were Messrs. EPPES, CAMPBELL, OTIS, BARBOUR, NOBLE, MORRILL, FROMENTIN, DAGGETT, KING, TALBOT, MORROW, and VAN DYKE.

FRIDAY, February 20.

The PRESIDENT communicated the memorial of the Governor and Judges of the Territory of Michigan, praying that the boundary line between that Territory and State of Ohio may be run and established, agreeably to the provisions of the ordinance of Congress of 1817, and of the several acts of Congress heretofore passed upon the subject; and the memorial was read, and referred to the Committee on Public Lands.

Mr. MORROW presented the memorial of Jonathan Elliot, praying the patronage of Congress for the publication of Domestic State Papers; and the memorial was read, and referred to the Committee on the Judiciary.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of James Brobson, marshal of the district of Delaware, praying for some additional compensation to be made to him; and in concurrence with the report, resolved that the petitioner have leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Stockton; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Military Affairs to inquire into the expediency of changing the mode of supplying the troops of the United States by contract, and substituting one cheaper and more efficient, by subjecting the parties undertaking that duty to military law, in case of delinquency; and agreed thereto.

The Senate resumed the consideration of the motion of the 19th instant, requesting information of what requisitions were made upon the contractors, between the first day of June, 1817, and the 24th of December, of the same year, for deposits of provisions in advance, at the several posts on the frontiers of Georgia, and in the adjoining Territory, specifying the date of such requisition, the amount of deposit required, and by whom made. Whereupon,

Mr. WILLIAMS, of Tennessee, submitted the following as a substitute therefor:

*Resolved*, That the President of the United States be requested to inform the Senate in what particular instances Benjamin G. Orr, contractor, has failed to furnish rations agreeably with his contract to the troops of the United States, and the amount of money

advanced by the Government for supplies in consequence of such failures; and, also, the amount of money advanced by the Government to said Benjamin G. Orr, at or before the time of said failures.

On motion by Mr. TICHENOR, it was agreed that the further consideration thereof be postponed until Monday next.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate a list of all the pensioners of the United States, the sum annually paid to each, and the States or Territories in which the said pensions are respectively paid.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Henry Jones, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The resolution and report were read.

The Senate resumed the bill, entitled "An act for the relief of Major General Arthur St. Clair," it having been previously read a third time.

Mr. BARBOUR and Mr. MORRILL spoke in opposition to the bill, and Mr. KING in its support; when on the question, "Shall this bill pass?" it was determined in the affirmative—yeas 21, nays 10, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Hunter, King, Morrow, Noble, Otis, Ruggles, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Van Dyke, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Dickerson, Eppes, Lacock, Leake, Macon, Morrill, Roberts, Smith, and Tichenor.

So it was resolved, that this bill pass.

The bill to reduce the staff of the Army was read the second time.

The bill entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices," was read a second time, and referred to a select committee to consider and report thereon; and Messrs. ROBERTS, DAGGETT, and FROMENTIN were appointed the committee.

The resolution directing the Judges of the Supreme Court to be furnished with Wait's State Papers, was read a second time, and referred to the Committee on the Judiciary.

The bill regulating the pay and emoluments of brevet officers, was read the second time.

The Senate adjourned to Monday morning.

MONDAY, February 23.

Mr. STORER presented the petition of Jacob Wendell and others, of Portsmouth, New Hampshire, owners of certain fishing vessels which were captured by the British, carried in and detained in Nova Scotia, praying the usual bounty, upon proofs of the facts, or some other relief; and the petition was read, and referred to the Committee on Commerce and Manufactures. Whereupon,



SENATE.

Proceedings.

FEBRUARY, 1818.

Mr. STORER submitted the following motion for consideration:

*Resolved*, That the Committee of Commerce and Manufactures, to whom was referred the petition of Job Wendell and others, owners of fishing vessels, detained in Nova Scotia, be instructed to inquire into the expediency of providing by law for cases of a similar nature.

The Senate resumed the report of the Committee on Pensions, to whom was referred the petition of Elijah Rice; and the consideration thereof was further postponed until Thursday next.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Henry Jones; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the motion of the 19th instant, requesting information of what requisitions were made upon the contractors for deposits of provisions in advance, at the several posts on the frontiers of Georgia, and in the adjoining Territory, together with the substitute proposed therefor; and the consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the motion of the 20th instant, for requesting a list of all the pensioners of the United States, the sum annually paid to each, and the States or Territories in which the said pensioners are respectively paid; and agreed thereto.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the resolution directing the Judges of the Supreme Court to be furnished with "Wait's State Papers," reported it without amendment.

The Senate resumed the report of the Committee on Naval Affairs, to whom were referred the memorials of certain officers of the Navy and of the Marine Corps attached to the Mediterranean squadron; and the consideration thereof was further postponed to, and made the order of the day for, Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army;" and the bill having been further amended, the President reported it to the House accordingly; and the first and second amendments having been concurred in, the further consideration of the bill was postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House, in testimony of their respect for the memory of the late PETERSON GOODWYN, one of their body, from the State of Virginia, have, unanimously, resolved to wear crape on the left arm for one month.

TUESDAY, February 24.

Mr. GOLDSBOROUGH presented the memorial of John Adlum, proposing to introduce the cultivation of native grapes, and for that purpose praying the lease of one hundred acres of a public

reservation of land in the city of Washington, on the conditions therein expressed; and the memorial was read, and referred to the Committee on the District of Columbia.

On motion by Mr. TAIT,

*Resolved*, That the Senate, as a testimony of respect for the memory of PETERSON GOODWYN, late a member of the House of Representatives from the State of Virginia, will go into mourning, and wear crape round the left arm for thirty days.

Mr. KING presented the petition of Samuel Ward, of New York, praying the renewal of a final settlement certificate, which was lost in the mail, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TAYLOR presented the petition of John Small, of Knox county, in the State of Indiana, praying the confirmation of his title to a tract of land in that State; and the petition was read, and referred to the Committee on Public Lands.

Mr. LACOCK presented the petition of James Moore, of Pennsylvania, praying compensation for services performed in the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. HORSEY presented the petition of John Killgene, stating, that agreeably to his contract with Joshua Humphreys, Esq., an authorized agent of the United States, he delivered to him a quantity of timber, for the purpose of building a seventy-four gun ship, for which timber he has received no compensation, and praying relief; and the petition was read, and referred to the Committee of Claims.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill extending the time for obtaining military land warrants in certain cases; and the bill was read, and passed to the second reading.

Mr. MORROW, from the same committee, to whom the subject was referred, also reported a bill respecting certain sections of land in the State of Ohio, reserved for the purposes of religion; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Stockton; and in concurrence therewith, resolved, that the petitioner have leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 19th instant, requesting information of what requisitions were made upon the contractors for deposits of provisions in advance, at the several posts on the frontiers of Georgia and the adjoining territory, together with the substitute proposed therefor; and the said substitute having been withdrawn, the original motion was amended, and agreed to as follows:

*Resolved*, That the President of the United States be requested to inform the Senate what requisitions were made upon the contractors, between the 1st day of June, 1817, and the 24th of December, of the same year, for deposits of provisions in advance, at the several posts on the

FEBRUARY, 1818.

Proceedings.

SENATE.

frontiers of Georgia, and in the adjoining territory, specifying the date of such requisition, the amount of deposit required, and by whom made. And also the particular instances in which B. G. Orr, contractor, has failed to furnish rations agreeably to his contract; the amount of money advanced by the Government for supplies in consequence of such failures; and also the amount of money advanced by the Government to said B. G. Orr at or before the time of said failures; and also to furnish the Senate with a copy of the articles of contract entered into with the said B. G. Orr, for supplying the army under the command of General Gaines with provisions.

The Senate resumed the consideration of the motion of the 23d instant, for instructing the Committee of Commerce and Manufactures to inquire into the expediency of providing, by law, for cases of fishing vessels being detained in Nova Scotia; and agreed thereto.

Mr. BURRILL gave notice that to-morrow he should ask leave to bring in a bill in addition to an act to promote the progress of useful arts.

The Senate resumed the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army;" and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor; and the further consideration thereof was postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate, requesting me to cause to be laid before them a statement of all the arms and accoutrements which have been manufactured at the different armories of the United States, with the cost of each stand; and the number delivered to each State respectively, under the act for arming the whole body of militia, I now transmit a report from the Secretary of War, with the documents marked A, B, and C, which, together with a report to him, from the Ordnance department, contains the information required.

JAMES MONROE.

WASHINGTON, Feb. 23, 1818.

The Message and accompanying reports and documents were read.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 19th January, 1818, requesting information of measures which have been taken in pursuance of so much of the act to authorize the appointment of a surveyor for lands in the northern part of the Mississippi Territory, passed the 3d of March, 1817, as relates to the reservation of certain sections for the purpose of laying out and establishing towns thereon, I now transmit a report from the Secretary of the Treasury, which, with the letters and charts referred to in it, contains all the information which is desired.

JAMES MONROE.

WASHINGTON, Feb. 23, 1818.

The Message and accompanying report and documents were read, and referred to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory," together with the amendments reported thereto by the Committee on the Judiciary; and the amendments having been agreed to, the PRESIDENT reported the bill to the House accordingly, and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of the 6th volume of the Laws of the United States, and the further consideration thereof was postponed until Monday next.

On motion by Mr. CAMPBELL, the Committee on the Public Lands were instructed to inquire into the expediency of enlarging the district of the surveyor of the lands in the northern part of the Alabama Territory and State of Mississippi, and of increasing his present compensation; and also into the expediency of reserving from sale certain sections of lands in the Alabama Territory, for the purpose of laying out and establishing towns thereon.

Mr. ROBERTS presented the memorial of Richard H. Wilcocks, of the city of Philadelphia, praying for the renewal of the register of a certain ship Augustus, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for the further distribution of certain public documents; and the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for an amendment to the Constitution of the United States in relation to internal improvements, and the further consideration thereof was postponed until Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the purchase and distribution of the Laws of the United States; and on motion by Mr. WILLIAMS, of Tennessee, it was referred to a select committee, and Mr. WILLIAMS, of Tennessee, Mr. ROBERTS, and Mr. WILSON were appointed the committee.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and the further consideration thereof was postponed.



SENATE.

Surviving Officers of the Revolution.

FEBRUARY, 1818.

WEDNESDAY, February 25.

Mr. TAYLOR, from the Committee on Public Lands, to whom the subject was referred, reported a bill to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common, for the use of the inhabitants of the said town; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the committee to whom was referred the bill, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices," reported the same with amendments, which were read.

Mr. DICKERSON, from the Joint Library Committee, to whom was referred the memorial of Thomas B. Wait, and Sons, made report, accompanied by a bill, authorizing a subscription for the eleventh volume of State Papers; and the report and bill were read, and passed to the second reading.

Mr. SANFORD presented the petition of John Trup, of the city of New York, praying the remission of the forfeiture of a vessel and cargo, condemned for a violation of the laws of the United States, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

The bill extending the time for obtaining military land warrants in certain cases, was read the second time.

The bill respecting certain sections of land in the State of Ohio, reserved for the purpose of religion, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1818;" and also, a bill, entitled "An act for altering the time for holding the district court for the district of Virginia;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and generally passed to the second reading.

The bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory, was read a third time, and passed.

The Senate, agreeably to the order of the day, resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; and on motion by Mr. DICKERSON, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Israel Smith;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and the consideration thereof was further postponed until to-morrow.

Mr. BURRILL asked and obtained leave to bring in a bill, in addition to an act, entitled "An act to promote the progress of the useful arts;" and the bill was twice read, by unanimous consent, and referred to the committee to whom was referred, on the 11th instant, the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the salaries of the judges of the circuit court for the District of Columbia, and the blank having been filled with "500," the PRESIDENT reported the bill to the House; and it was ordered to be engrossed and read a third time.

Mr. LACOCK presented the memorial of Charles Biddle, and others, a committee on behalf of the surviving officers of the Revolutionary Army, praying an equitable settlement of the half pay for life, as promised by the resolves of Congress; and the memorial was read, and referred to the Committee on Military Affairs.

Mr. ROBERTS presented the memorial of Anthony Chardon, and others, of Philadelphia, manufacturers of paper hangings, praying that a specific duty may be laid on each piece of paper, and each piece of border, in lieu of the present ad valorem duty, and the memorial was read.

Mr. NOBLE presented the petition of William Hill, and others, citizens of Knox county, in the State of Indiana, praying compensation for property destroyed by the troops in the service of the United States; and the petition was read, and referred to the Committee of Claims.

## SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army."

On motion by Mr. LACOCK to strike out of the amendment agreed to, as in Committee of the Whole, sec. 1, line 12, after "thereof," "or for the term of two years," it was determined in the affirmative—yeas 18, nays 13, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Eppes, Fromentin, King, Lacock, Leake, Macon, Morrow, Roberts, Sanford, Smith, Stokes, Taylor, Tichenor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Goldsborough, Horsey, Hunter, Morrill, Noble, Otis, Ruggles, Storer, Tait, Talbot, and Van Dyke.

On motion by Mr. CAMPBELL, to insert in lieu of the words stricken out, the following: "or during the whole term for which they were engaged, unless they were discharged, or left the service through some derangement of the Army, or, in consequence of their disability, resigned their commissions, or were in captivity or on parole until the close of the Revolutionary war;" it was determined in the negative—yeas 10, nays 21, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Eppes, Leake, Macon, Otis, Smith, Stokes, and Williams of Mississippi.

NAYS—Messrs. Burrill, Crittenden, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, King, Lacock,

FEBRUARY, 1818.

Surviving Officers of the Revolution.

SENATE.

Morril, Morrow, Noble, Roberts, Ruggles, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

On motion by Mr. TALBOT, to insert, in lieu of the words stricken out, the following: "or for the term of nine months, or longer, at any period of the war," it was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Eppes, Fromentin, Goldsborough, Horsey, Hunter, Leake, Macon, Morrill, Otis, Smith, Stokes, Storer, and Talbot.

NAYS—Messrs. Campbell, Dickerson, Gaillard, King, Lacock, Morrow, Noble, Roberts, Ruggles, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The bill having been further amended—

On motion by Mr. CAMPBELL, that it be re-committed to the Committee on Military Affairs, "with instructions to conform the rules and regulations to be observed in substantiating a claim to a pension, and granting the same, under this act, as far as circumstances will admit, to those which are prescribed for obtaining pensions under the act of Congress, of 10th April, 1806;" it was determined in the negative—yeas 8, nays 24, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Lacock, Macon, Morrow, Roberts, and Smith.

NAYS—Messrs. Burrill, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, King, Leake, Morrill, Noble, Otis, Ruggles, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The Senate adjourned.

THURSDAY, February 26.

HENRY JOHNSON, appointed a Senator by the Legislature of the State of Louisiana, to supply the vacancy occasioned by the death of the late William Charles Cole Claiborne, produced his credentials, was qualified, and he took his seat in the Senate.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of William Hill, and others, inhabitants of the city of New York, and town of Salem, made a report accompanied by the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

The report and resolution were read.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred the petition of David Tate, of Tennessee, were discharged from the further consideration thereof.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the memorial of certain officers of the Navy, and also the memorial of certain officers of the Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed to, and made the order of the day for, next Monday week.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom

was referred the petition of Elijah Rice; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The bill to adjust claims to lots in the town of Vincennes, and for the sale of land appropriated as a common, for the use of the inhabitants of the said town, was read the second time.

The bill authorizing the subscription for the eleventh volume of State Papers, was read the second time.

The bill, entitled "An act for altering the time for holding the district court for the district of Virginia," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1818," was read the second time, and referred to the Committee on Naval Affairs.

The bill to increase the salaries of the judges of the circuit court, for the District of Columbia, was read a third time, and passed.

## SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army."

On motion by Mr. LACOCK, to add to the proviso as amended to the first section of the bill, line twenty-third, after "laws," the following, "of the United States, or of any individual State," it was determined in the affirmative—yeas 17, nays 16, as follows:

YEAS—Messrs. Barbour, Dickerson, Eppes, Lacock, Leake, Macon, Morrill, Morrow, Roberts, Ruggles, Smith, Storer, Tait, Taylor, Tichenor, Williams of Tennessee, and Wilson.

NAYS—Messrs. Burrill, Campbell, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Otis, Stokes, Talbot, Van Dyke, and Williams of Massachusetts.

On motion by Mr. GOLDSBOROUGH, to strike out the proviso to the first section of the bill, amended as follows:

"Provided, No person shall be entitled to the provisions of this act, until he shall have relinquished his claim to every pension heretofore allowed him by the laws of the United States, or of any individual State."

It was determined in the negative—yeas 10, nays 21, as follows:

YEAS—Messrs. Burrill, Fromentin, Goldsborough, Hunter, Johnson, Morrill, Otis, Tichenor, Van Dyke, and Williams of Mississippi.

NAYS—Messrs. Barbour, Crittenden, Daggett, Dickerson, Eppes, Gaillard, Horsey, Lacock, Leake, Macon, Morrow, Roberts, Smith, Stokes, Storer, Tait, Talbot, Taylor, Williams of Tennessee, and Wilson.

The bill having been further amended, on the question, "Shall the amendments be engrossed, and the bill be read a third time, as amended?" it was determined in the affirmative—yeas 23, nays 8, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Morrill, Otis, Ruggles, Stokes,



SENATE.

Proceedings.

MARCH, 1818.

Storer, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

**NAVS**—Messrs. Barbour, Dickerson, Lacock, Macon, Morrow, Roberts, Smith, and Taylor.

The PRESIDENT communicated the memorial of John Phillips, at present a resident of the city of New York, an American Revolutionary soldier, stating that he was put on the pension list of the United States, to commence on the 10th day of July, 1811, and praying a pension from the conclusion of the Revolutionary war, up to that time, for reasons stated in the memorial; which was read, and referred to the Committee on Pensions.

After the consideration of Executive business, the Senate adjourned to 11 o'clock, to-morrow morning; to which time the several orders of the day were postponed.

FRIDAY, February 27.

Mr. BARBOUR, from the committee to whom was referred the bill in addition to an act, entitled "An act to promote the progress of the useful arts," reported the same with amendments which were read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of William Hill, and others; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the bill, entitled "An act for the relief of Israel Smith," and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the bill respecting the transportation of persons of color, for sale, or to be held to labor; and the consideration thereof was further postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed until next Monday week.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the establishment of Naval Depots and dock-yards; and, after debate, the further consideration thereof was postponed until Wednesday next.

Mr. BARBOUR, from the committee to whom was referred the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose, reported the same with amendments, which were read.

The amendments to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," having been reported by the committee, correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territo-

ries, who shall escape into any other State or Territory," together with the amendments reported thereto, by the Committee on the Judiciary; and the amendments having been agreed to, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

MONDAY, March 2.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of David Baily, made a report, accompanied by the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Martin Dubbs, also made a report accompanied by the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. TICHENOR presented the petition of Daniel Pettibone, of Philadelphia, praying the renewal of his patent right for certain improvements in preparing and welding cast steel. He also presented another petition of the said Daniel Pettibone in behalf of himself, Ezekiel Chapman, and Josiah Nicholls, on the same subject; and the petitions were read, and respectively referred to the committee to whom was referred, on the 11th of last month, the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose.

Mr. ROBERTS presented the memorial of William Jones and others, citizens of Philadelphia, praying the adoption of measures to obtain the liberation of Richard W. Meade, an American citizen, illegally confined by the Government of Spain; and the memorial was read, and referred to the Committee on Foreign Relations.

The bill, entitled "An act for the relief of Israel Smith," was read a third time, and passed.

Agreeably to the special order of the day, the Senate resumed as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

Mr. JOHNSON presented the memorial of the Mayor, Aldermen, and inhabitants of the city of New Orleans, praying that no law may pass subjecting to sale the commons of the said city, which have always been reserved for the use of the public; and the memorial was read, and referred to the Committee on Public Lands.

Mr. TALBOT presented the memorial of the General Assembly of Kentucky, on the subject of the boundary line between that State, and the

MARCH, 1818.

Fugitive Slaves.

SENATE.

TUESDAY, March 3.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1818," reported the same without amendment.

Mr. DAGGETT communicated the instructions of the Legislature of the State of Connecticut, to the Senators and Representatives of that State in Congress, to use their efforts to procure to be established, within the limits of said State, a naval yard and depot, and the instructions were read, and laid on file.

Mr. TALBOT communicated a resolution of the Legislature of the State of Kentucky, requesting the Senators and Representatives of that State in Congress to use their exertions to procure the extinguishment of the Indian title to all lands in that Commonwealth: Whereupon,

Mr. TALBOT submitted the following motion for consideration:

*Resolved*, That a select committee be appointed to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to the lands lying within the limits of the State of Kentucky, and which is surrounded by the Tennessee, Ohio, and Mississippi rivers, and the Tennessee State line; and that such committee have leave to report by bill or otherwise.

Mr. TAYLOR, from the Committee on Public Lands, to whom the subject was referred, reported a bill for the relief of John Small, and the bill was read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act for altering the time for holding the district court for the district of Virginia," reported the same without amendment.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes; and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom the subject was referred, reported a bill respecting the surveying and sale of the public lands in the Alabama Territory; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of William Hill, and others, inhabitants of the city of New York, and the town of Salem; and in concurrence therewith, resolved that the prayer of the petitioners ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of David Bailey; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be allowed.

Mr. ROBERTS, from the Committee of Claims, to whom were referred the memorial of certain merchants of Portsmouth, in New Hampshire, and its vicinity; the memorial of merchants,

State of Tennessee; and the memorial was read, and referred to the Committee on the Judiciary.

Mr. JOHNSON presented the petition of Anthony Gale, a major in the Marine Corps, praying compensation for services performed as a military agent, as stated in the petition; which was read, and referred to the Committee of Claims.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

The Commissioners of the two Governments, under the fourth article of the Treaty of Ghent, having come to a decision upon the questions submitted to them, I lay before Congress copies of that decision, together with copies of the declaration signed and reported by the Commissioners of this Government.

JAMES MONROE.

WASHINGTON, February 25, 1818.

The Message and accompanying documents were read.

#### FUGITIVE SLAVES.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor, and the bill having been amended, the PRESIDENT reported it to the House accordingly; and, on the question to agree to the amendment made, as in Committee of the Whole, to strike out the 6th section of the bill, amended as follows:

"Sec. 6. And be it further enacted, That no person shall transport or convey by land, from one State to another, or from one State or Territory to another, any negroes, mulattoes, or persons of color, for the purpose of sale, without first recording the name, age, sex, color and stature of every such negro, mulatto, or person of color, in the office of the court of the county where such negro, mulatto, or person of color last resided, together with his own name and place of residence. And any person who shall attempt, or be engaged in the transportation or conveyance by land of any negro, mulatto, or person of color, as aforesaid, without first making the record as aforesaid, a copy of which, under seal and duly attested by the clerk of the court in which such record is made, shall be the only evidence, shall forfeit and pay one thousand dollars for each and every negro, mulatto, or person of color thus attempted to be transported or conveyed by land, one moiety thereof to the use of the United States, the other to any person or persons who shall sue for, and prosecute the same to effect, in any court of the United States having jurisdiction thereof."

It was determined in the affirmative—yeas 23, nays 6, as follows:

**YEAS**—Messrs. Barbour, Crittenden, Eppes, Fromentin, Gaillard, Hunter, Johnson, King, Leake, Macon, Morrill, Otis, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

**NAYS**—Messrs. Burrill, Goldsborough, Horsey, Noble, Roberts, and Ruggles.

On motion by Mr. TALBOT, the further consideration of the bill was postponed until Friday.

15th CON. 1st SESS.—8



SENATE.

Proceedings.

MARCH, 1818.

underwriters, and insurance companies of Philadelphia; the petition and memorial of merchants and underwriters of Baltimore; and the memorial and petition of merchants and underwriters, citizens of the United States, of Charleston, South Carolina, made a report accompanied by the following resolution:

*Resolved*, That the relief asked by the memorialists and petitioners ought not to be granted.

The report and resolution were read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Martin Dubbs; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, regulating the pay and emoluments of brevet officers; and an amendment having been made thereto, the PRESIDENT reported it to the House; and the bill having been amended, it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing the Judges of the Supreme Court to be furnished with Wait's State Papers, and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was passed by a third reading.

WEDNESDAY, March 4.

The bill regulating the pay and emoluments of brevet officers, having been reported by the committee correctly engrossed, on motion by Mr. STORER, it was recommitted to the Committee on Military Affairs.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of John Phillips, made a report accompanied with a resolution, that the petitioner have leave to withdraw his petition. Report and resolution were read.

The resolution directing the Judges of the Supreme Court to be furnished with Wait's State Papers, was read a third time, and passed.

Mr. WILLIAMS, of Mississippi, communicated a resolution of the Legislature of the State of Mississippi, requesting the Senators and Representatives of that State, in Congress, to use their best endeavors with the proper authority to procure the extinguishment of Indian title, to as much of the lands within the limits of that State, as can be procured from the different nations owning the same; and the resolution was read.

The Senate resumed the consideration of the motion of the third instant, for appointing a select committee to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to lands lying within the limits of the State of Kentucky; and the same having been amended—

On motion by Mr. NOBLE, further to amend the

same, by inserting "and within the limits of the State of Indiana," the Senate being equally divided, the PRESIDENT determined the question in the affirmative; and the motion, as amended, was agreed to as follows:

*Resolved*, That a select committee be appointed to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to the land lying south of the Tennessee and east of the Mississippi rivers, and within the limits of the State of Indiana; and that such committee have leave to report by bill or otherwise.

Messrs. TALBOT, KING, MORROW, CAMPBELL, and MACON, were appointed the committee.

On motion by Mr. WILLIAMS, of Mississippi, the resolution of the Legislature of the State of Mississippi, this day communicated to the Senate, was referred to the same committee, to consider and report thereon.

Mr. CAMPBELL submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of extending the provisions of the law prescribing the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom were referred the memorial of certain merchants of Portsmouth, in New Hampshire, and its vicinity; the memorial of merchants, underwriters, and insurance companies, of Philadelphia; the petition and memorial of merchants and underwriters of Baltimore; and the memorial and petition of merchants and underwriters, citizens of the United States, of Charleston, South Carolina.

On motion by Mr. ROBERTS, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The bill for the relief of John Small was read the second time.

The bill, allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes, was read the second time.

The bill, respecting the surveying and sale of public lands in the Alabama Territory, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a resolution respecting an adjournment of the first session of the fifteenth Congress, in which they request the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; together with the amendments reported thereto by a select committee; and, after debate, the Senate adjourned.

MARCH, 1818.

Proceedings.

SENATE.

THURSDAY, March 5.

Mr. SANFORD presented the memorial of Eli Hart, stating that he had, during the late war with Great Britain, loaned to John G. Camp, then Deputy Quartermaster General, sixteen thousand dollars, for part of which sum he was obliged to receive in payment Treasury notes at par, by the sale of which he sustained a great pecuniary loss, and praying relief; and the memorial was read, and referred to the Committee of Claims.

Mr. KING presented the petition of John G. Bogert, of the city of New York, praying to be refunded the purchase money of certain lots sold by the marshal of New York, to satisfy judgments obtained by the United States, against Edward Livingston, on the ground of the said lots being sold from an inaccurate map, representing property to belong to the said Livingston, which never existed; and the petition was read, and referred to the Committee of Claims.

The resolution respecting an adjournment of the first session of the fifteenth Congress, brought up yesterday for concurrence, was read three several times by unanimous consent, and concurred in; and Messrs. DAGGETT, GAILLARD, and TICHENOR, were appointed the committee on their part.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, reported a bill to defray the expenses of the militia, when marching to places of rendezvous; and the bill was read, and passed to the second reading.

On motion by Mr. RUGGLES, Rachael Dohrman, widow of Arnold Henry Dohrman, deceased, had leave to withdraw her petition, presented at the last session of Congress, with the accompanying documents, and the Secretary was directed to retain on file certified copies thereof.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendments reported thereto, by a select committee; and the amendments having been agreed to, the PRESIDENT reported the resolution to the House, amended accordingly; and the amendments being concurred in, on the question, Shall this resolution be engrossed, and read a third time? it was determined in the affirmative—yeas 18, nays 13, as follows:

YEAS—Messrs. Burrill, Campbell, Dickerson, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Morrow, Smith, Stokes, Talbot, Tichenor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Daggett, Eppes, Horsey, Leake, Morrill, Otis, Roberts, Ruggles, Sanford, Storer, Tait, and Van Dyke.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for delivering up persons held to labor or service,

in any of the States or Territories, who shall escape into any other State or Territory."

After debate, on motion, the Senate adjourned.

FRIDAY, March 6.

Mr. GOLDSBOROUGH presented the memorial of the piano forte makers and organ builders of Philadelphia, New York, Boston, and Baltimore, praying an additional duty on the importation of such articles; and the memorial was read.

Mr. JOHNSON presented the petition of Samuel Koln, of Louisiana, praying the confirmation of his title to a tract of land therein described; and the petition was read, and referred to the Committee on Public Lands.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Davis, made a report, accompanied by a resolution, that the claim of the petitioner ought not to be allowed. The report and resolution were read.

On motion by Mr. WILLIAMS, of Tennessee, the Committee on Military Affairs, to whom was referred the petition of Thomas Robinson and others, a committee in behalf of the surviving officers of the Pennsylvania line of the Revolutionary Army, were discharged from the further consideration thereof.

On motion by Mr. WILLIAMS, of Tennessee, that the Committee on Military Affairs, to whom was referred the memorial of Charles Biddle and others, a committee on behalf of the surviving officers of the Revolutionary Army, be discharged from the further consideration, and that it be referred to the Committee of Claims, a division of the question was called for by Mr. ROBERTS, and it was taken on discharging the committee from the further consideration thereof, and determined in the affirmative—yeas 16, nays 9, as follows:

YEAS—Messrs. Crittenden, Eppes, Johnson, King, Lacock, Leake, Macon, Ruggles, Sanford, Storer, Tait, Talbot, Taylor, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Burrill, Dickerson, Fromentin, Horsey, Morrill, Roberts, Stokes, and Van Dyke.

So it was *Ordered*, That the Committee on Military Affairs be discharged from the further consideration of said memorial, and that it be referred to the Committee of Claims to consider and report thereon.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Thomas Wright, made a report, together with a resolution, that Thomas Wright have leave to withdraw his petition. The report and resolution were read.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of John Phillips; and in concurrence therewith, resolved that the petitioner have leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 4th instant, for instructing the Committee on the Judiciary to inquire into the expediency of extending the provisions of the law prescribing the mode in which the public



SENATE.

Fugitive Slaves.

MARCH, 1818.

acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States; and agreed thereto.

The bill to defray the expenses of the militia, when marching to places of rendezvous, was read the second time.

A message from the House of Representatives informed the Senate that the House have concurred in the amendments of the Senate to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," with amendments, in which they request the concurrence of the Senate.

The PRESIDENT communicated a letter from the Secretary of the Treasury, accompanied with a statement of the emoluments of the officers employed in the collection of the customs for the year 1817; which were read.

Mr. ROBERTS presented the petition of Cata Bunnel, of Connecticut, whose son had enlisted during the late war, and was killed in the service of his country, praying the bounty in land to which the heirs of deceased soldiers are entitled; and the petition was read, and referred to the Committee of Claims.

On motion by Mr. CRITTENDEN, the Committee on the Judiciary, to whom were referred the petition of the Chamber of Commerce of the city of Philadelphia, and the memorial of William Norman and others, of Baltimore, praying the establishment of a system of bankruptcy, were discharged from the further consideration thereof respectively.

## FUGITIVE SLAVES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

Mr. SUMNER, of South Carolina, said, when this subject was first brought before the Senate, he had determined to take no part in the debate. But, as it had assumed such a complexion, both as it respects the constitutionality of the provisions of the bill itself and the subject-matter upon which it is founded, as well as the severity of the remarks used by gentlemen opposed to its passage, he considered it his duty to make some reply.

The gentleman from Rhode Island (Mr. BUNNELL) insists that the privilege of the writ of habeas corpus, secured by the ninth section of the first article of the Constitution, will be infringed by this bill, because a person of color taken under it cannot have the right to his freedom tried by the judge before whom the return of the writ of habeas corpus is made. Mr. S. said he pretended to no law knowledge beyond that of other gentlemen, yet he did most unequivocally deny the construction of the Constitution as given by that gentleman. The writ of habeas corpus was never intended to give a right of trial. It merely gives the right to the

person confined to demand an inquiry whether he is held in custody upon a ground warranted by law; and if the judge before whom he is brought finds he is detained by legal authority and upon legal grounds, he cannot discharge him, but is obliged to remand him. If the authority by which he is held appears to be legal, it is perfectly immaterial whether the cause is a just one or not. And when a fugitive from labor has been taken under this law, the cause of his detention will be fully set forth in the certificate by the judge before whom he is to be taken, whose duty it is specially made to do so. Then can it be pretended, after you pass a law prescribing expressly under what proofs a fugitive shall be taken, and that the fugitive shall be specially described by the judge in the order he is to give for his removal, and that the proofs have been satisfactorily made before him the person therein described is a fugitive slave, and belongs to the person who holds him in custody, that another judge has a right to question all this, and take upon himself alone to try his right to freedom, and discharge him? It is impossible. The writ of habeas corpus was never intended to give any such right.

This would give a judge the sole power of deciding the right of property the master claims in his slave, instead of trying that right by a jury, as prescribed by the Constitution. He would be judge of matters of law and matters of fact; clothed with all the powers of a jury as well as the powers of a court. Such a principle is unknown in your system of jurisprudence. Your Constitution has forbid it. It preserves the right of trial by jury in all cases where the value in controversy exceeds twenty dollars. The gentleman has said, if this bill should pass it will enable the Southern planters to take and carry away, not only their own fugitive slaves, but any other person of color, whether he be a free man or a slave. It would enable them to carry off a free white man, and even one of the members of this Senate. Sir, the gentleman from Rhode Island may consider himself as perfectly safe from any such hazard; for, however much we may respect our Northern friends as gentlemen, as lawyers, and as statesmen, we should have no sort of use for them in our cotton fields. Nor should we admire their political instructions to our slaves if they should carry with them their present impressions.

The honorable gentleman has spoken of the practice of the Southern people in kidnapping their free negroes, and calls them man stealers. And the gentleman from Pennsylvania (Mr. ROBERTS) has called them *kidnappers, men stealers, and soul drivers*; and he asks, in a very emphatic manner, who drew this bill, and upon what authority? Or if it was brought in upon the application of any of the abolition societies? And then he answers these questions himself, and says it was not, but that it had been drawn by a cunning lawyer, and was supported by lawyers. Sir, this language does not comport with the moderation which that gentleman expressed a desire

MARCH, 1818.

Fugitive Slaves.

SENATE.

should prevail in this discussion when he addressed the Senate on the subject early in this debate. Is this the language we are to meet when we are suing for our Constitutional rights? The Constitution of the United States has guaranteed to the master a right to pursue his fugitive slave, and has enjoined to the State to which he shall fly to deliver him up. It has not left it optional with the State to which he flies, but has made it imperative that he *shall* be delivered up. And has it come to this, that we must wait for the permission of the abolition societies before a law can be offered to secure the recovery of just rights? This was not more novel than strange.

Mr. S. said, it had been a practice in monarchical governments to discredit lawyers, where they had often been foremost in checking a high-handed tyranny; but he had not expected to hear it practised in the Senate of the United States. The lawyers of this country had nothing to fear upon an investigation of their general character. They had been wanting in no public duty. During the Revolutionary war, as well as the late war, many of them had displayed as much gallantry in the field, and as much ability in the councils, as any men in the nation, whilst these abolition societies were in ease and security at home, following their domestic pursuits, and leaving it to others to fight their battles. Mr. S. said, he was sorry to make these remarks, but they were just, and were forced from him. He admired the moderation and virtue of these people; he thought them worthy of imitation in many respects, but he did not admire their constant efforts to alienate the affections of the people of color from their masters, with whom they lived happy, and by whom they were better provided for than the peasantry of any other country upon earth; or, indeed, in some portions of this country, if the facts given by their writers be correct. Mr. Melish, of Philadelphia, in an essay published only a few days ago, states, that there are in the city and county of Philadelphia at least fifteen thousand people, all able and willing to work, who are either idle or occupied in unproductive labor, and says, that melancholy picture pervades the country throughout. This place is the very centre of emancipation; and if unable to furnish employment for their own population, is there any reason why they should add to this picture of growing distress, by an accumulation of free negroes?

Notwithstanding all that has been said by our northern brethren against us for keeping slaves, they employ their free blacks in all their drudgery, and obtain their labor on better terms than masters do. And although it does not apply to that body generally, yet it is a fact, susceptible of proof, that some who profess to promote this principle of abolition, have seduced the slaves from the neighboring States under promises to secure their emancipation, instead of which they put them to work, and treat them with so much more severity and injustice than their masters, that the slaves either made it known where they were, or run away from these new tyrants and went

back to their former state of slavery, as a better and more desirable condition.

With all this boast about freedom and emancipation, there are only four States that have no slaves. Even the magnificent State of Pennsylvania is a slaveholding State; so is the State of Rhode Island. Those which are non-slaveholding States, with the exception of Ohio, have not long since got rid of them. Rhode Island, New York, and Pennsylvania, previous to taking steps to abolish slavery, furnished the Southern markets with considerable numbers. And the very moment the African trade was opened in South Carolina, in the year 1803, these very States furnished their full proportion of shipping to carry it on. Even our friends in Boston, and other New England States, were willing to help with their shipping; besides, it furnished a market for their surplus rum. So we perceive, whenever interest is concerned, and a little profit is to be made, all this delicacy about slavery is laid aside.

Whilst it was their interest to hold slaves, so long they kept them. Whenever the interest coupled with it ceased, slavery ceased, but not before. After the war, trade revived, especially in the Eastern States; it was found that a negro capital must give way to a commercial capital; which was infinitely more profitable. So it is now with banking capital. Even in the States where slavery exists to the greatest extent, we find many selling off their negroes and vesting the proceeds in bank stock; and especially those who live in the towns and cities. This capital, being so much more profitable than the other, it is constantly increasing. And there are no persons more apt to remonstrate against that crying sin slavery, than such as have just sold off their stock of negroes, and vested the price in bank stock. Slavery, then, becomes very odious. They wish to see it abolished—they do not like to see this traffic in human flesh. But it is because they have got its precious price in a stock that will yield them a three or four-fold profit; not till then can they see its enormity. It is a very convenient thing to be receiving a large profit upon his stock, which is going on under the fostering hand of bank directors, whilst the owner is asleep or taking his pleasure. We have lately seen it published, that some banks have divided as much as thirty per cent. upon their capital, whilst the most successful planter will not receive more than ten, and, very many years, not half that amount. This banking system is what will form the ground-work for overthrowing this species of property, by gradually diminishing the number of its holders, and increasing the bank stock influence. Look how slavery has diminished in the public estimation, as the other system has grown. The States which have taken measures to abolish slavery, have become perfectly bank mad. New York has abolished slavery after ten years, and she is convulsed with banks, and not yet satisfied. There was a late attempt to establish one with a capital of six millions, but it was checked by the Executive. The State of Pennsylvania, already abounding in banks, incorporated forty-seven by



SENATE.

Fugitive Slaves.

MARCH, 1818.

the law—they climbed over the Executive veto to do so; two-thirds of the Senate, and about three-fourths of the House of Representatives supporting it. Many of these banks, without a farthing of capital, drawing a large income from the hard earnings of the honest and unwary part of the community, and absolutely refusing to redeem their paper, without one compunction for the misery and ruin it brings with it. When these very frauds were practising to an enormous degree, without a murmur, except from those who were sinking under it, the feelings of that country were bleeding for the supposed distress of the slaves of the South.

The famous article in the Treaty of Ghent, by which we have guaranteed to England our co-operation in abolishing the African slave trade, is worth notice. Our Commissioners, friendly to banks and opposed to slavery, had no instructions to enter into any such stipulation. Great Britain had not long before abolished that trade; and our Government had done so forty years before, by ordinance of the First Congress, in 1774, and which had been rendered more complete by a law in 1807. It was totally unconnected with the subject of negotiation. We were at war upon other grounds entirely. Not even a question of commerce had ever arisen between the two nations upon it; yet it found its way, an isolated article, into a Treaty of Peace!

The Colonizing Society is another step in this grand scheme. This society intends to send the negroes, and other persons of color, into the wilds of Africa; by which they are to be torn from the land of their nativity, and everything to which they are attached by friendship and habit, and the advantages of civilized life, and left to sink again into all the miserable barbarity of their ancestors. But it is said it will pave the way to general emancipation.

We do by no means suppose that any honorable member of Congress would think of such a thing as a general emancipation; because, independently of interfering with private rights, they know too well that such a measure could not be placed without involving the whole of the United States in an awful situation. But, that a general emancipation is intended there can be no doubt, by the Eastern and Northern States, if they can find means to effect it. The abolition societies are avowedly for it; what else can the very name itself indicate? Although their numerous petitions, now before Congress, purport to extend no further than to prevent kidnapping, yet, look at the language of the petitions. If they had applied directly for emancipation, they could not speak plainer. Connected with these petitions, now in the possession and under the consideration of Congress, is the resolution of the gentleman from Rhode Island, (Mr. BURRILL,) to insert "into the expediency of the United States existing measures, in concert with other nations, the entire abolition of said trade." As this resolution had been once before the Senate, and had been referred by a majority to a committee to report with what nations, and under what reg-

ulations we should connect ourselves to effect this project, Mr. S. said, it would not be out of the way to advert to it, and inquire what hopes we had of a fortunate result. With whom is this Government to connect itself in this desirable work? It would seem that it ought to be with nations whose general policy is favorable to emancipation, and whose subjects enjoy the blessings of civil liberty at home, before we could expect much beneficial aid from their co-operation. We are not to hope for this from Russia, Prussia, and Austria, whose subjects are borne down by the iron hand of tyranny. Their peasantry are bought and sold at home like slaves, and are suffered to be sent to this country and sold in our markets. Nor is it to be hoped for from England, if her policy should dictate to her a different course. She is now riding foremost in this career, because it promises to extend and promote her commercial interest, whilst her millions of paupers at home are dying in garrets, or falling by the way side, and if they assemble, to raise their cry to their rulers for bread, the riot act is read, and then the military is ordered to fire on them. Three of these nations, assisted by the ships of the other, have spread their sceptre over the destinies of Europe, and formed an holy league against its dawning liberties. These are the nations with whom you are to associate to abolish slavery. It is not to be wondered at, under all this influence, with a total want of knowledge of the comfortable condition of the slaves, that our northern neighbors should feel unfavorable to slavery. But most of the northern gentlemen, when they remove to the southward, and when they can see and judge for themselves, have no hesitation in buying slaves. General Greene, to whom the State of Georgia gave a plantation that cost five thousand guineas, and South Carolina ten thousand pounds sterling, for his services during the Revolutionary war, had no hesitation in purchasing a large gang of negroes to cultivate this plantation, notwithstanding he had been raised to the northward, and had been brought up a quaker.

But, there is another perpetual source of misrepresentation, which serves to place it in an odious light to strangers: it is the number of catch-penny prints and pamphlets that are published by persons who know no more of the condition of the slaves than they do of the man in the moon. Go to a bookstore, and you meet prints hung up in some conspicuous place, in large capital letters, "Portraiture of Domestic Slavery," published in Philadelphia; or the "Horrors of Slavery," published in Cambridge, and sold in Boston. These pamphlets contain all the extraordinary cases collected on the high seas, in the West Indies, or United States, together with such inflammatory speeches of travellers, who have no other means of giving to their writings interest, than by dealing in the marvellous; or of fanatic preachers, or speeches in the British Parliament, calculated to inflame without being able to instruct, and suited more to promote a particular policy than to promote the rights of humanity.

MARCH, 1818.

Fugitive Slaves.

SENATE.

At the time the memorials of the several abolition societies were presented to the Senate, some unknown hand had laid on the desk of each Senator a pamphlet, entitled "The Horrors of Slavery, in two parts, by John Kenrick; sold in Boston, price twenty cents." This twenty-cent pamphlet gives many horrible pictures of slavery; and no doubt the author knew this great moving cause, the twenty cents, would multiply in proportion to the extravagance of his descriptions. This twenty-cent pamphleteer, amongst his other good offices, has pointed out Louisiana as a very fit place to colonize all the slaves, after they are emancipated, (which he seems to think a certain event,) and takes care not to lose sight of the fine market it would afford for their manufactures. Mr. S. said, if an emancipation should take place, he would rather see them settled in the Northern States, among their friends, where they could be better superintended. The people of the Southern States would by no means thank Mr. Kenrick for such neighbors; and more especially if they are to be educated like the free negroes in the Northern and Eastern States, if the account given by the gentleman from Connecticut (Mr. DAGGETT) be correct, of which we have no doubt. He says they have fifty white inhabitants for one black, and that there are three public crimes committed by the blacks where there is one committed by a white person. This will make the proportion one hundred and fifty to one. And, if we are to judge from the registers of their penitentiaries, we should believe they have their full share of crimes, even amongst their whites.

This same pamphleteer, after giving us the pious effusions of English travellers, Northern pamphleteers, American map-makers, and British members of Parliament, gives us a pathetic extract from the speech of the late Mr. Pitt, in the British House of Commons, upon the question for abolishing the African slave trade, which, sir, is worth reading. It is in the following words: "The present was not a mere question of feeling. The argument which ought, in his opinion, to determine the committee, was, that the slave trade was unjust. It was therefore such a trade as it was impossible for him to support, unless it could first be proved to him that there were no laws of morality binding on nations, and that it was not the duty of a Legislature to restrain its subjects from invading the happiness of other countries, and from violating the fundamental principles of justice." This, sir, was the language of Mr. Pitt, the celebrated orator and accomplished statesman, who decries the traffic, after his country has filled her colonial possessions with slaves, whilst there was yet an inch of ground for them to cultivate, and to check the growth of the colonies of other rival nations, and under whose policy every nation in Europe has been drenched in blood for twenty years; and who, at the very moment he was remonstrating so strongly against invading the happiness of other countries, and violating the fundamental principles of justice, was planning and carrying on a most cruel and desolating war in the distant regions of Asia—

a war, not of defence, but a war purely for conquest—a war carried on by corrupting and exciting rival chiefs, and then holding out terms of friendship to the conqueror, who is made the tool of further treachery, and who falls, in his turn, a victim to the same perfidy; until England has reduced under her dominions more than seventy millions of people, who pay them tribute, and have no liberty left, but that of worshipping Juggernaut! At no time since the days of civilization has the happiness of other nations been more disturbed or injustice more practised towards them than during the administration of Mr. Pitt. When the sources of our admonitions shall become more pure, we shall no doubt allow them more weight.

But, we are told by these pamphlet writers, that slavery is "a violation of the Divine laws." And the gentleman from New York, (Mr. KING,) in discussing this subject, has told us, "it is contrary to our holy religion." And the gentleman from New Hampshire (Mr. MORRILL) has told us, that in New England, they believe "all men are born equally free and independent;" that "every human affection recoils at their bondage." The gentleman has said, "the Bible is our moral guide;" and says it was for dealing "in gold and silver and precious stones and pearls and chariots and slaves and souls of men, that produced the downfall of the great Babylon." And he seems to think, that, unless we abolish slavery, we shall provoke the wrath of Heaven, and that we shall go next. The gentleman has forgot one of the great offences of that people: it was for taking of usury. The same Bible which he has adopted for his moral guide says: "Take thou no usury of him, or increase; but fear thy God." This part of the Bible must have become obsolete in New England since the introduction of banks. It must now be pleasing in the sight of Heaven to see a dividend as large as twenty per cent. to each bank share. There are as many chariots, as many pearls, as much gold and silver, perhaps, in New England, as there was in Babylon, at the time of its fall; yet they are in no danger till the vengeance of Heaven has fallen on the slaveholding States first, the gentleman seems to think.

Upon this great question, sir, notwithstanding the opinion of honorable gentlemen to the contrary, there have been some very respectable opinions as to the Divine authority in favor of slavery. We all know that Ham sinned against his God and against his father, for which Noah the inspired patriarch cursed Canaan the son of Ham, and said, "A servant of servants shall he be unto his brethren." Newton, who was perhaps as great a divine as any in New England, and as profound a scholar, in a book of great celebrity called his *Prophecies*, in which he endeavors to prove the divinity of the Bible by the many prophecies that are now fulfilling, says that this very African race are the descendants of Canaan, and have been the slaves of many nations, and are still expiating in bondage the curse upon themselves and their progenitors. But it may be said that this is only an opinion of Mr. Newton, and that we



SENATE.

Proceedings.

MARCH, 1818.

can see no reason in it. Mr. S. said, if the gentleman was unwilling to believe Mr. Newton, he would surely believe Moses and the prophets. And if the Senate would indulge him, he would show from the Bible itself that slavery was permitted by Divine authority; and for that purpose he would open to the xxvth chapter of Leviticus, and read as follows: "And the Lord spake unto Moses in Mount Sinai, saying, Speak unto the children of Israel, and say unto them," &c. "39. And if thy brother that dwelleth by thee be waxen poor, and be sold unto thee; thou shalt not compel him to serve as a bond-servant: 40. But as an hired servant, and as a sojourner, he shall be with thee, and shall serve thee unto the year of jubilee." "44. Both thy bond-men and thy bond-maids, which thou shalt have, shall be of the heathen that are round about you: and of them shall ye buy bond-men and bond-maids. 45. Moreover, of the children of the strangers that do sojourn among you, of them shall ye buy, and of their families that are with you, which they begat in your land: and they shall be your possession: 46. And ye shall take them as an inheritance for your children after you, to inherit them for a possession; they shall be your bond-men for ever," &c.

This, Mr. President, is the word of God, as given to us in the Holy Bible, delivered by the Lord himself to his chosen servant Moses. It might be hoped this would satisfy the scruples of all who believe in the divinity of the Bible; as the honorable gentleman from New Hampshire certainly does, as he has referred to that sacred volume for his creed. It might satisfy the scruples of Mr. Kenrick, and the divines who appear so shocked at seeing a father dispose of his slaves to his children by his last will and testament, as they will perceive the scriptures direct them to go as an inheritance. The honorable gentleman says, he speaks not only his own, but the universal sentiments of all those he represents. If he and his friends of New Hampshire have not turned aside after strange gods, it is hoped the authority I have quoted might satisfy them.

The Senate adjourned to Monday morning.

MONDAY, March 9.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants, made a report thereon; which was read, and the memorial, together with the report thereon, were ordered to be printed for the use of the Senate.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was recommended the bill regulating the pay and emoluments of brevet officers, reported the same without amendment.

Mr. DAGGETT, from the joint committee, to whom was referred the resolution of the House of Representatives of the 3d of March instant, on the subject of the adjournment of Congress, reported a resolution fixing the time for the ad-

journalment of the first session of the fifteenth Congress.

The resolution was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, presented the petition of Benjamin S. Smoot and others, praying to be confirmed in their title to a tract of land including the town of St. Stephens, in the Alabama Territory; and the petition was read, and referred to the Committee on Public Lands.

Mr. JOHNSON presented the petition of Henrietta Ross, widow and relict of the deceased Colonel George T. Ross, praying relief in consideration of the services of her late husband; and the petition was read, and referred to the Committee on Pensions.

The PRESIDENT communicated the petition of Asael Clark, a citizen of New York, praying indemnity for a judgment obtained against him for a certain sum of money received by him as judge advocate of a general court martial organized for the trial of militia delinquents in the year 1812, by the then Governor of the State of New York, by order of General Dearborn, the money so received having been paid over to Samuel Edmonds, paymaster general; and the petition was read, and referred to the Committee of Claims.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of William Gamble, made a report, accompanied with a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom the subject was referred, reported a bill for the relief of Cata Bunnell; and the bill was read, and passed to the second reading.

On motion, by Mr. ROBERTS, the Committee on Public Lands were instructed to inquire into the expediency of providing, by law, for the authentication of patents for land in such manner as that the signature of the President of the United States may not be necessary.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1818;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading. The said bill was read a third time by unanimous consent, and passed.

Mr. SMITH presented the petition of William Marshall, of the city of Charleston, praying to be relieved from the payment of certain judgments obtained against him, as collector for moneys not collected; and the petition was read, and referred to the Committee of Claims.

The Senate proceeded to consider the amendments of the House of Representatives to their amendments to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army;" and the 1st, 2d, 4th, 5th, and 6th amendments having been agreed to; and, on the question to concur in the 3d amendment as follows—"lines 2d and 3d, strike out the

MARCH, 1818.

Fugitive Slaves.

SENATE.

words "or of any individual State;" it was determined in the affirmative—yeas 22, nays 10, as follows:

YEAS—Messrs. Burrill, Campbell, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Morril, Otis, Sanford, Stokes, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Dickerson, Lacock, Leake, Macon, Morrow, Noble, Roberts, Ruggles, Smith, and Storer.

So it was *Resolved*, That the Senate concur in the amendments of the House of Representatives to their amendments to the said bill.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the memorial of John Hall, late a Major in the Marine Corps of the United States, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom were referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron; and, on motion, by Mr. TAIT, the consideration thereof was further postponed to, and made the order of the day for, Monday next.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the Committee of Claims to whom were referred sundry memorials and petitions for indemnification for French spoliations; and, on motion, by Mr. BURRILL, the consideration thereof was further postponed to, and made the order of the day for, Monday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Weaver Bennet; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Davis; and, in concurrence therewith, resolved that the claim of the petitioner ought not to be allowed.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Wright; and, in concurrence therewith, the said Thomas Wright had leave to withdraw his petition.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and the bill having been amended, the further consideration thereof was postponed until to-morrow.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in conformity with the provisions of the act of Congress of the 3d of March, 1817, entitled "An act to incorporate the subscribers to certain banks in the District of Columbia, and to prevent the circulation of the notes of incorporated associations within the said District," in relation to the situation of the said

banks respectively, on the 1st day of January, 1818; which was read.

The engrossed resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, was read a third time; and, on the question, "Shall this resolution pass?" it was determined in the negative—yeas 20, nays 13; two-thirds of the Senators present not agreeing thereto—as follows:

YEAS—Messrs. Burrill, Campbell, Crittenden, Dickerson, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Morrow, Noble, Smith, Stokes, Talbot, Tichenor, Williams of Massachusetts, and Williams of Tennessee.

NAYS—Messrs. Daggett, Eppes, Horsey, Leake, Morril, Otis, Roberts, Ruggles, Sanford, Storer, Tait, Taylor, and Van Dyke.

The PRESIDENT also communicated the memorial of the Legislature of the Alabama Territory, remonstrating against the prayer of the memorial of the Mississippi Convention, praying an extension of the limits of that State; and the memorial was read, and referred to the committee to whom was referred on the 16th December, 1817, the said memorial of the Mississippi Convention, to consider and report thereon, by bill or otherwise.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act altering the time for holding a session of the district court in the District of Maine;" also a bill, entitled "An act to alter the time of holding the circuit court, in the southern district of New York, and for other purposes;" and also a resolution fixing the time for the adjournment of the first session of the fifteenth Congress, in which bills and resolution they request the concurrence of the Senate.

#### FUGITIVE SLAVES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

Mr. MORRIL addressed the Chair as follows:

Mr. President, I think it correct and proper for any gentleman who is not in favor of the bill, to present his objections on the second reading, that its friends may have a fair opportunity to amend it. Under these impressions, I make a motion for a recommitment, that any imperfections may be properly laid before the Senate.

I am not insensible, sir, of the peculiar disadvantages under which I address you on the bill upon your table. I am extremely depressed with an apprehension of unfavorable impressions, which may have been erroneously made, on the minds of honorable gentlemen from the South, in consequence of remarks which fell from me on another occasion, upon a subject not altogether foreign from this. Sentiments which originated in the purest motives, and, in my opinion, in perfect coincidence with the spirit of our Constitution;



SENATE.

Fugitive Slaves.

MARCH, 1818.

may, therefore, be allowed this opportunity peremptorily to disclaim any hostility to the provisions of the Constitution respecting slavery; or to any law founded upon the principles and in accordance with such provisions. Sir, I wish it to be distinctly understood, that I have no disposition to deprive slaveholders of that species of property; to aid their slaves in escaping; to detain them when they have escaped; or to impede their exertions in recovering them in a Constitutional and legal manner, without endangering the rights, or infringing the privileges of free citizens.

I very readily acknowledge, that there are provisions in the Constitution which recognise slavery—which I consider a kind of compact by compromise, into which the States mutually entered when they adopted that instrument, about which I have neither a right nor disposition to complain. I hold it, sir, as sacredly binding as any part of this palladium of our rights, and to prevent its due operation is not the wish of my heart; at the same time, I am far from being the advocate or friend of slavery. If I were to be governed by my own personal feelings, independent of any other control, or were I to be guided by my views of the principles of the common law, I should assuredly say, no slavery. But, sir, in my present situation, I deem it my duty to divest myself of all prepossessions and partialities, and, as a legislator, to be directed by the express provisions of the Constitution—the glory of our country, and the admiration of the world.

In investigating this subject, I shall studiously endeavor to avoid any expression which may intentionally implicate the views of the honorable gentlemen, with whom it is my pride to act; and with equal solicitude to avoid such digression from the point, as again to discompose the feelings of the venerable gentleman from New York. But, sir, should I so far, inadvertently, diverge from the *lex parliamentaria*, as to introduce the debates of the other House, I assure you I will not complain if that honorable gentleman should call me to order.

Previous to my adverting to the provisions and details of this bill, it was my intention to make a few observations upon the law now in force upon this subject; the existence of which, in my view, renders the passing of this altogether unnecessary. But, as my remarks have been anticipated by the honorable gentleman from Rhode Island, (Mr. BURRILL,) I shall very concisely observe, that law provides "that when any person held to labor in any of the States or Territories, under the laws thereof, shall escape into any other State or Territory, the person to whom such labor or service may be due, his agent or attorney, is empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the State, or before any magistrate of a county, city, town, corporate, wherein such seizure or arrest shall be made; and upon proof, to the satisfaction of such judge or magistrate, either by oral testimony or affidavit, taken before and certified by

a magistrate of any such State or Territory, that the person arrested doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be a sufficient warrant for removing the said fugitive from labor to the State or Territory from which he or she fled."

In this section of the law, sir, I conceive every provision is made for the speedy recovery of fugitive slaves, that gentlemen can rationally expect or reasonably desire. They have nothing more to do than seize the fugitive, and apply, by themselves or agent, to a judge or magistrate, and prove, to his satisfaction, by oral testimony or affidavit, that the person so seized has fled, and does owe labor or service to the claimant, and the judge or magistrate shall issue his certificate, which shall be sufficient for removing such fugitive to the place from which he or she absconded. This is a concise, plain, and easy course. But, sir, permit me now to examine the bill under our immediate consideration.

The provisions and details of this bill, in my humble opinion, are very deficient, imperfect, and improper. The first section provides "that when any person held to labor, &c., shall escape, &c., the person to whom such labor may be due, or his agent, may apply to any judge of the district or circuit court, &c., or to any judge, or two justices of a court of record, of the State or Territory from whence such fugitive shall have escaped; and upon proof to the satisfaction of such judge or magistrates that such fugitive is a slave, &c., and does owe labor to the person claiming him, and shall become bound in a recognisance, &c., to perform certain acts, then, and in that case, it shall be the duty of such judge of the district or circuit court, or such judge or magistrates of the State or Territory from whence such fugitive shall have escaped, to award a certificate, stating the place of abode of such claimant, and setting forth the name, age, and sex of such fugitive. This certificate shall be verified by the signature of the judge or justice awarding the same, and by the certificate of the clerk, under the seal of his court, (if there be a seal,) that the person signing the certificate first mentioned is a judge or justice of the description required by this act." The second section provides "that on producing such certificate as aforesaid, to any judge of the circuit or district court, or judge or justice of a court of record in the State or Territory to which such fugitive shall have escaped, it shall be the duty of such judge or magistrate to grant a warrant, authorizing any marshal, sheriff, sergeant, constable, or public bailiff of the State or Territory last aforesaid, to apprehend such fugitive, and bring him before such judge or justice. And if it shall thereupon appear to the satisfaction of such judge or magistrate, by the oath of one or more credible witnesses, who shall, upon their own knowledge, swear to the identity of such fugi-

MARCH, 1818.

Fugitive Slaves.

SENATE.

tive, (the owner or claimant being, for this purpose, deemed a competent witness) or by the voluntary confession of such fugitive, that the person so apprehended hath escaped from the State wherein the said certificate was granted, and is the same person named in the said certificate, the said judge or justice shall deliver such person to the owner or his agent, with his certificate thereof, or, at the request of such owner or agent, shall issue his warrant, requiring any marshal, sheriff, sergeant, constable, or public bailiff, of such State or Territory, to take charge of such fugitive, and deliver him to the said claimant, &c., on the confines of the State or Territory last aforesaid; and, by the same process, he shall be conducted to the place from which he absconded.

The most prominent exception which I shall note in the first section respects the character of the officers to be employed to take cognizance of a crime, and aid in carrying into effect the provisions of this bill. In this case, it is made the duty of two magistrates to take the testimony, that such fugitive, being very imperfectly described, is a slave, to award a certificate of this fact, to be verified and certified as therein directed. Here, sir, you call upon a State officer, under the State government, to perform a judicial act authorized by a law of the United States. Upon the services of this officer you have no claim; to demand them you have no power. This certificate, which is the foundation of a warrant, is granted without oath or affirmation, on a mere representation of the case.

By the second section, on producing this certificate, you make it the imperative duty of a justice of the peace to grant a warrant, authorizing a sheriff or constable (as he may please) to apprehend such fugitive, as therein imperfectly described, and bring him before such justice for examination. In this instance, you give as much validity to this certificate of a justice, granted in a distant State or Territory, as is given to a judgment obtained by a solemn decision of the Supreme Court of any State in the Union in any other State. In obtaining judgments or judicial decisions in civil actions you require witnesses upon oath; but here, where the liberty and rights of the citizen may be depending, you require none. Judgments out of the State where they are obtained, are considered no more than *prima facie* evidence of a debt; but in this respect the certificate is made stronger evidence of a fact. Here, contrary to all the ordinary rules in criminal prosecutions, you oblige a justice of the peace to issue his warrant to apprehend a person, without requiring the applicant to give oath or affirmation of the existence of a crime, or of the ground of suspicion. You require him to perform a judicial act, which may seriously and very materially affect the rights of the citizen, whose jurisdiction in civil actions is restricted to thirteen dollars thirty-three cents, and in criminal to six dollars sixty-six cents, by the constitution and laws of the State which gave him judicial existence. These remarks, however, particularly

apply to the State of New Hampshire. By the same section, you require and oblige (or subject to a fine) a constable or sheriff to perform an act under a law of the United States, which exposes and puts in jeopardy the freedom of the citizen, the most valuable privilege he can enjoy or possess here on earth.

The constable, under the laws of the State which are to direct his conduct, is not empowered to serve a precept where the sum demanded exceeds thirteen dollars thirty-three cents. He is chosen by a town, without a commission or responsibility, many times little informed, and generally unacquainted with your laws and the duties required under them. If a sheriff is employed, he is a county officer, appointed by the Governor and Council for five years, and knows no other duties than such as are pointed out to him by the laws of the State in which he lives, and particularly relate to his official conduct within the limits of the county in which he resides.

What is this officer directed to do? To arrest a fugitive upon a warrant, founded upon a certificate illegal in its origin and imperfect in its structure. The only description given of the fugitive by which the officer is to identify and be governed in making the arrests is, "name, age, and sex," which, in fact, is no description. There is neither color, size, nor any other marks required to be given, by which the officer can identify the person, or safely make an arrest.

Here, Mr. President, is a simple statement of facts, as they arise in examining this bill. I shall venture to say, the course here directed is improper. Nay, more: the United States cannot constitutionally demand, or employ, the agency of any other power than its own, to discharge duties and perform services, under criminal laws emanating from Congress. The Constitution of the United States expressly says, "The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and the treaties made, or which shall be made, under their authority."

By this process of the Constitution, we may distinctly see where the judicial power of the United States is deposited—that the laws of the United States are to be explained and enforced only by officers created by the constituted authorities of the United States. Are State and county judges, and justices of the peace, officers made under the Government of the United States? If they are, they are so made by a law of Congress. Will it be pretended that Congress have authority, by a legislative act, to prescribe the duty, create the office and the officer, ordain and establish the court and the judge? The doctrine is preposterous; it is too absurd to be admitted for a moment; it would be an assumption of power inconsistent in its nature and dangerous in its consequences. A part of this duty is confided to another branch of the Government by the express provisions of the Constitution and immemorial usage. The Government of the United States is composed of three distinct branches—



SENATE.

Fugitive Slaves.

MARCH, 1818.

each of which has duties to perform—the Legislative, Executive, and Judicial. They are designed to be kept as distinct and independent of each other as the nature of a free Government will admit. It is the province of the Legislature to make laws, not judges. You have lately passed a law dividing the State of Pennsylvania into two districts, by which a new court is created, but you have not created the judges. To do this by law would have been too manifest a violation of legislative power to be countenanced in this House. These State and county officers are not officers of this Government, and Congress have no claims upon their services as such. It is the duty of the Executive department to appoint officers. For this important feature in the structure of our Government there are many cogent reasons. The law, and the execution of the law, should always emanate from different sources. This is a fundamental principle in a republican Government. And when this principle is abandoned, one of the great barriers to the encroachments of power is annihilated—usurpation is the natural result, and collision must be the unavoidable consequence. It is the business of the judicial power to expound and execute the laws. For these duties the courts are qualified by their previous education and application to the general and particular principles of jurisprudence.

The extent of the several powers and duties of these respective branches of the Government are distinctly prescribed by the Constitution. Each has an orbit in which it may safely revolve, and while it keeps within its own sphere, no danger will result from its legitimate action; but, when permitted to diverge, collision, confusion, and destruction are the inevitable consequences. It is not sufficient that an agent, who performs an act for the United States, be an officer of the United States; it must also appear that his authority to perform that act is derived from a legitimate source, otherwise the act is void. For an officer, in the District of Columbia, to apprehend a person, by virtue of a law of Virginia, would be an illegal arrest, and, of course, void. We may reverse the position. It is not competent for an officer, who executes a law of the General Government, to show that there is such a law; but, that he derived his office from the constituted authority of the United States. Apply this to the State or county officer whom you employ. A warrant, an arrest, a commitment, or trial, presupposes authority, power, and jurisdiction. The granting of a warrant, presupposes authority. To arrest, presupposes power. To commit or try, presupposes jurisdiction.

From what source does the county justice receive authority to arrest a person under a law of the United States? Surely not from the State, nor from the United States. You give him no authority—you cannot. The laws of the General Government do not make him a judicial officer, nor invest him with judicial power. He possesses powers for certain purposes, to be exercised according to the Constitution and laws of that

independent sovereignty from whom he derived all his authority.

On this view of the subject, sir, I am led to the conclusion that Congress has no Constitutional power to authorize an officer, under a State government, to perform a judicial act. As false premises give rise to incorrect conclusions, it may be proper for me distinctly to state and define my view of judicial power and a judicial act. Sound premises render sophistical reasoning unnecessary, and present the force of an argument in a convincing point of view. By judicial power, I understand Constitutional and "legal authority" and discretion to adjudicate on any matter, which is, in some form or way, the subject of litigation and controversy; and he who exercises such authority and discretion, performs a "judicial act." To declare what shall be a rule, or make a law, is an act of legislation; but to apply the law to the case, is a judicial act. Judicial discretion extends only to the application of the rules of law to the facts and circumstances of each case. And this discretionary power of applying the rules of law to the variety of cases which may be presented for adjudication carries with it other incidental powers, as the right to judge of the competency, pertinency, and credibility of evidence. If these positions are correct, it needs no argument to show, that, under the provisions of this bill, the judge or justice exercises judicial power in every instance in which he is authorized to act. On the application of the owner of a fugitive, or his agent, the judge or justice is to decide, in view of the testimony presented, whether he is a slave, and does owe service or labor to the claimant, according to the laws of the State or Territory from which such fugitive may have escaped. This being decided in the affirmative, the claimant, or his agent, enters into a recognisance, on certain conditions, to perform certain acts. In consequence of which the judge or justice grants his certificate, setting forth the name, age, and sex, of such fugitive, which certificate shall be verified by the signature of the person who grants it, and shall be certified by a clerk of a court that such officer is a judge or justice of the description required by this act.

This, sir, I consider a judicial act—not because giving a certificate of a fact is a judicial act, but because the certificate has, in its ultimate operation, the very nature of a warrant. The efficacy given to it, by the provisions of this bill, entirely changes it from the original character of a simple certificate, and makes it a sufficient warrant for a specific judicial act. On presenting this certificate to a judge or justice, in a State or Territory to which the fugitive may have escaped, it is made ample authority for him, nay, you declare it is his "duty to grant a warrant, authorizing a sheriff or constable to apprehend such fugitive and bring him before such magistrate; and if it shall thereupon appear to the satisfaction of such judge or magistrate," by the testimony then produced, "that the person so apprehended has escaped, &c., the said judge or justice shall

MARCH, 1818.

Fugitive Slaves.

SENATE.

'deliver such person to the owner, or his agent, with his certificate thereof, or, at the request of such owner, or agent, shall issue his warrant requiring any sheriff, &c., to take charge and custody of such fugitive, and deliver him," &c. If it shall here appear, on examination, by the testimony offered, that the person named in the certificate, and arrested, is a fugitive, the justice shall deliver him to the claimant, or issue his warrant, and commit him to the custody of an officer. In these instances, I presume, no one will contend that the justice does not perform judicial acts. If it is possible for a magistrate to exercise judicial power, it must be in the performance of the duties above enjoined.

It is not only in granting a warrant, but in determining on the competency of the testimony, and the legality of the duty performed, that this judicial power is exercised; it is the province of a judicial officer to judge of the propriety and exercise the power of issuing a warrant to arrest a person. This, I presume, is a principle universally admitted. "To judge of the grounds of an accusation, on which a warrant to arrest may or may not be issued, is as really a judicial act as the process of trial and condemnation." Neither names of office, forms of evidence, nor degree of criminality have any essential weight in determining the abstract nature and character of judicial power. This capacity to exercise the judgment, in view of testimony, for the purpose of removing doubts, obviating objections, and deciding on matters which are affirmed on the one part and presumed to be denied on the other, is always accompanied with a confidence of trust, the exercise of which, even in the incipient act of a justice of the peace, in granting a warrant to arrest a person, is an exercise of judicial power. This view of the subject perfectly coincides with the opinion of the judges of the Supreme Court of the United States, in the case of Judge Laurence. (3 Dallas's, rep. 53.) During the consular convention with France, Judge Laurence, being district judge of the United States, for the district of New York, was required by the vice consul of the French Republic to issue a warrant to apprehend Captain Barre, commander of a frigate, then lying in the harbor, belonging to the French Republic, as a deserter. The judge deemed it necessary, to justify him in granting a warrant, that the consul should prove by the roll of the ship that Captain Barre was one of the crew of the said frigate. The consul proposed other evidence, but the judge considered this indispensable in consequence of which, application was made to the Supreme Court for a mandamus to compel the judge to issue a warrant. The court, on deliberation, decided the case and refused the mandamus; and, in assigning their reasons and expressing their opinion, say "it is evident that the district judge was acting in a judicial capacity, when he determined that the evidence was not sufficient to authorize his issuing a warrant." Hence, I conclude, that granting a warrant by a justice of the peace is one of those preparatory judicial acts which is a

portion of that judicial power which forms one of the great branches of our Government; and, being such, it can be performed under a law of the United States only, by a judge or justice of the United States, and not by any State or county judge or justice, as such. Were we to examine the principles of the common law on this subject, we should find that granting a warrant in that sense is a judicial act. But, notwithstanding all these Constitutional and legal embarrassments, you call upon the justice and enjoin it upon him to issue his warrant upon the certificate presented by the claimant or his agent. It will be natural for the justice to examine this instrument previous to his acting under it as competent authority; and, on this examination, will he not pause a moment? What is the pretended description given of the person to be apprehended? Only "name, age, sex"—not even stature nor color—which may be justly considered no description. But, further, will not the justice be led to inquire into the legality of this act and the propriety of his performing it? He is not an officer of the United States. From whom does he derive his authority to act in a judicial capacity? To whom is he accountable? What is to govern his conduct? As before observed, considering him a justice of the peace in the State of New Hampshire, he will have recourse to the constitution and laws of that State. This Constitutional instruction will be thus expressed: "No subject shall be held to answer for any crime or offence until the same is fully and plainly, substantially and formally described to him, or compelled to accuse or furnish evidence against himself; and every subject shall have a right to produce all proofs that may be favorable to himself, to meet the witnesses face to face, and to be fully heard in his defence by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places or arrest a person for examination or trial, in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in a warrant to a civil officer to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases with the formalities prescribed by law."

By this fundamental law of the State, we distinctly see that no warrant can be issued to arrest a person unless supported by oath or affirmation, with a special designation of the person to be apprehended. But neither of these is rendered



essential by the bill now under consideration, as has been clearly shown, which I consider a very material defect that ought to be remedied by amendment.

The sentiments of Blackstone on this subject are in perfect unison with those which have been already advanced: "We are now," says Blackstone, Com. 289, 90, "to consider the regular and ordinary method of proceeding in the courts of criminal jurisdiction, which may be distributed under twelve general heads, following each other in progressive order, viz: 1, arrest; 2, commitment and bail; 3, prosecution; 4, process," &c. And, speaking of the arrest, he says "a justice of the peace hath power to issue a warrant to apprehend a person accused of felony, though not yet indicted; and he may also issue a warrant to apprehend a person suspected of felony, though the original suspicion be not in himself, but in the party who prays his warrant; because he is a competent judge of the probability offered to him of such suspicion. But in both cases it is fitting to examine, upon oath, the party requiring a warrant, as well to ascertain that there is a felony or other crime committed, without which no warrant should be granted, as also to prove the cause and probability of suspecting the party against whom the warrant is prayed." The prohibitions of the constitution of the State, and the essential prerequisites laid down by Blackstone, would seem amply sufficient to deter the reflecting magistrate from issuing his warrant to arrest a person, with all the imperfections justified by the provisions of this bill. But, when we recur to the express provisions of the Constitution of the United States, the only instrument which can give legitimacy to this bill, and find its details materially deficient, and, in some respects, directly prohibited, I conceive any further illustrations or arguments would be needless. Fourth article of the amendments—"the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The perspicuity of this article in the Constitution is too clear to receive any additional light by comment; it is too definite to be misapprehended; it is too obligatory to be resisted or evaded.

Mr. President, I observed that Congress have no Constitutional power to authorize officers, commissioned by State Governments, to perform judicial duties under the criminal laws of the United States. Perhaps a moment's attention to the declarations of the Constitution on this subject, may place this position in a clearer point of view. Art. 3, sec. 1, "the judicial power of the United States shall be vested in one Supreme Court, and such inferior courts as the Congress may, from time to time, ordain and establish." Art. 1, sec. 8, "the Congress shall have power to constitute tribunals inferior to the Supreme Court," and,

Art. 3, sec. 2, "the judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and the treaties made or which shall be made, under their authority." These specific declarations define the origin and the extent of the judicial power of the United States, in the most concise and conclusive manner. It distinctly shows from what source this power shall originate; where it shall be deposited; and how far, and to what cases it shall extend. Compare these with that part of the Constitution which defines Executive power. Art. 2, sec. 1, "the Executive power shall be vested in a President of the United States of America." But, however, "in case of the removal of the President from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected." Sir, I do not hesitate to say, Congress are not competent to vest this power in any other officer, while the President lives and holds the office. But why? Because this provision of the Constitution is definite and express—but no more than that which respects the other branch of the Government. The language is perfectly similar. "The judicial power shall be vested," &c., "the Executive power shall be vested," &c. From these express provisions, and positive prohibitions of the Constitution, the power of Congress is defined, in establishing courts of law, and the authority of the courts regulated in the performance of duty.

And it seems to follow, as an inevitable consequence, that Congress have no power nor right to prescribe where the judicial authority shall or shall not vest—they are not competent to say it shall not vest in a supreme and inferior court. No, they may constitute inferior courts, and distribute, and regulate judicial authority among the courts, as provided by the Constitution, but they have no right to invest such power in any manner whatever, differently from that which is explicitly prescribed by the Constitution.

Now, then, a question arises; do the provisions of this bill, requiring and commanding the performance of judicial duties, by State or county officers, ordain and establish an inferior court agreeably to the provisions of the Constitution? This, I presume, will not be pretended. Then the unavoidable result is, that officers commissioned by a State government, should they perform services under the laws of the United States, they are not United States officers; but are officers of courts of the State from which they received their commissions. If they are not transformed, from an officer or court of a State, to an officer or court of the United States, by a legislative act of Congress, then they have no authority to explain or enforce laws emanating from that source. In confirmation of these positions, I must again have

recourse to the opinion of the Supreme Court of the United States, *Martin vs Hunter's Lessee*, 1, Wheaton 334. "In all cases arising under the Constitution, laws, and treaties of the United States, the State courts could not ordinarily, (that is, under the old confederation) possess a direct jurisdiction. Jurisdiction over such cases could not exist in State courts previous to the adoption of the Constitution, and could not afterwards be directly conferred on them; for the Constitution expressly requires the judicial power to be vested in courts ordained and established by the United States."

This opinion has been expressed in strong terms by the supreme courts of several of the principal States in the Union: viz. Ohio, Maryland, Pennsylvania, Virginia, and, I think, New York. No, sir, the transfer of this power to State or county officers cannot be done, it never ought to be done. The United States are an independent sovereignty, entirely distinct from the several State Governments. And each State is an independent sovereignty, as really so, as that of France and England. Hence the United States have no authority to enforce the laws of individual States; nor individual States the laws of other States, or those of the United States. I imagine it is a principle, established by all governments, that the expounding and enforcing of the penal laws of an independent State belongs exclusively to such State. The English courts adhere so rigidly to this salutary principle, that they will not enforce the revenue laws, nor any part of the penal code of any foreign State. The same principle has been scrupulously observed on the Continent of Europe. Even the several United Provinces, uniformly maintained this important doctrine; whose principles of government were more analogous to ours than those of any other nation whatever. In no instance would one Province presume to expound and enforce the penal laws of another. And we are taught, sir, from very high authority, that this principle has been applied, and extended in some instances to civil causes, as in the case of *Gason vs. Wordsworth*, 2, Vesey, 336, where a commission to take testimony being sent from the court of chancery of England to Sweden, the King of Sweden refused to execute the commission; requiring it to be done by some magistrate in Sweden, according to the laws of his Kingdom.

Something not altogether dissimilar to this took place in the State of Maryland, in the case of *McKean vs. Bruff*; a bill of discovery was filed in the chancery court of Maryland, stating that the defendant had knowledge of certain facts, to which he might depose, as material evidence for the plaintiff in a cause depending in Virginia; and therefore prayed that the defendant might be compelled to make affidavit of those facts, to be used in evidence in a suit depending in Virginia. To which bill the defendant demurred; and although the claim to the relief was pressed with great ability and argument, by Mr. Breckenridge, the plaintiff's counsel, the Chancellor sustained the demurrer, on the ground that the court had

no power to compel a witness to give evidence under such circumstances. The fourth article second section of the Constitution, which defines the mode in which a fugitive from justice in one State may be apprehended in another, and remanded for trial to the State whose criminal code had been violated, is a virtual recognition of this general rule, as to criminal cases. Hence, it seems very clear, that this general principle, that one State will not expound and enforce the criminal laws of another, admits of no exception. And, I believe, no State in this Union has violated the general principle, and I conclude they will not. But, here, sir, you command an individual, without any commission or compensation from your Government, to expound and enforce a law of the United States.

But, sir, permit me to take another view of the subject. It is not expedient for the United States to call on State and county officers, under State governments, to perform any duty under the criminal laws of Congress. It is much more suitable, correct, and proper, to empower only the officers of the General Government to execute its laws. It may justly be considered a perversion of the Constitution of the United States, and extremely dangerous, to commit power into the hands of those who are no way officially responsible; and, also, very unjust to exact service without compensation; especially, in many instances, where the State constitution and laws peremptorily prohibit the performance of such official acts with the informalities allowed by the provisions of this bill. With the officers of the United States it is otherwise. They derive their appointment and official existence from your Government, to be employed in your service in the execution of your laws; they are compensated by the General Government, responsible to it, removable and punishable by it, and upon their services you have just claims. But this connexion and mutual obligation between the Government of the United States and individual State and county officers does not, and cannot, exist. They derive their official existence and power from the government of the State in which they reside. The constitution and laws of their State define and regulate their power and duties; the extent of their jurisdiction in civil and criminal causes, and the tenure of their offices. They are commissioned to perform services for the State; they are compensated by the State; they are amenable to the State; they are removable and punishable by the State, and by that only.

Sir, allow me to present another difficulty. The tendency of this principle, if permitted by the States, and carried into general operation, is to derange and confuse the State authorities throughout the Union. If you can reasonably and justly demand the service of one State, or county officer, you may of two—there is no end to the demand. You certainly may, by parity of reasoning, use State and county courts, and officers, as agents to hear, try, and condemn, for any criminal violation of your laws. No distinction can be made—State and county courts may be de-



SENATE.

Proceedings.

MARCH, 1818.

stroyed. For, if the State tribunals can be invested with the jurisdiction, constitutionally, and expressly vested in the judicial officers of the United States, and the numerous, various, and complicated powers and duties of both combined, and invested in the same officer, it is very obvious that, in many instances, conflicting interests would ensue, and it might be extremely difficult, if not impossible, to determine what course might be the most eligible and correct to pursue. Sir, on recurring to the sixth section of this bill, another serious evil presents itself. You call upon a sheriff to perform a service, for which his commission gives him no authority; and you fine him five hundred dollars if he refuse or neglect. If he perform the service, he may be liable to indictment and imprisonment, and, if he neglect the service, he is liable to a fine of five hundred dollars. This liability, in part, arises from the extreme imperfection of the description required by this bill. Nothing but "name, age, and sex." I will illustrate this suggestion by an example: Suppose a person applies to a justice in the extreme part of the county of Rockingham, in New Hampshire, for a warrant to apprehend a fugitive in Portsmouth? The sheriff is governed entirely by the directions in the precept, and the instructions of the agent. He, under the direction of the agent, seizes a person as a fugitive, and conducts him to the justice who issued the warrant. Here he is identified by the agent, delivered over to him, and conducted to Georgia. But, in consequence of the imperfection of the description, the ignorance or design of the agent, on examination in Georgia, he proves not to be the fugitive intended by the certificate. He is therefore discharged, and returns to his home, enters his complaint, and brings his action against the sheriff for false imprisonment, who may, under the operation of this bill, be subjected to all the embarrassments which I have suggested. Add to this, sir, the penalty, which is recoverable for the sole benefit of the slave claimant, together with all damages which may accrue.

Sir, I did intend to make a few remarks upon the ninth section, and also upon the complete suspension of the habeas corpus; but, as many of my reflections have been anticipated by other honorable gentlemen, and as the patience of the Senate, at this late hour, must be nearly exhausted, I will close my remarks, by observing that I present these crude suggestions at this time, that the Committee may consent to a recommitment of the bill, to review it in its various parts, amend it where it is necessary, and present it to the House in a more unexceptionable form.

TUESDAY, March 10.

On motion, by Mr. WILLIAMS of Tennessee, the Committee on Military Affairs, to whom was referred the memorial of Richard Varick and others, surviving officers of the Revolutionary army, were discharged from the further consideration thereof.

The Senate resumed the consideration of the

report of the Committee of Claims, to whom was referred the petition of William Gamble; and, in concurrence therewith, resolved that the petitioner have leave to withdraw his petition.

Mr. STORER submitted the following motion for consideration:

*Resolved*, That the Committee on Post Offices and Post Roads be instructed to inquire into the causes which so frequently prevent the due arrival of the public mail.

Mr. GOLDSBOROUGH presented the memorial of the Mayor, Aldermen, and Common Council of the City of Washington, praying that the 12th and 13th sections of the act of July 1st, 1812, may be modified or repealed, to relieve them from the interference of the Levy Court, and that the avenues and areas formed by such large public ways, diverging from the rectangular streets, with the bridges, trees, and lamps, which may be deemed useful or ornamental to them, may be improved by the United States, and placed under the direction and care of the Superintendent of the Public Buildings, or that such other aid be given to them as to Congress may seem just and reasonable; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. ROBERTS presented the petition of Benjamin G. Orr, and others, citizens of Washington, praying the incorporation of a fire insurance company; and the petition was read, and referred to the same committee.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall; and the further consideration thereof was postponed until Friday next.

The two bills and the resolution brought up yesterday for concurrence were read, and severally passed to the second reading.

The bill for the relief of Cata Bunnell, was read the second time.

On motion by Mr. FROMENTIN, the petition of Anthony Cavalier and Peter Petit, of the State of Louisiana, presented at the last session of Congress, praying the confirmation of their title to a certain tract of land in said State, was referred to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the bill, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices, together with the amendments reported thereto by a select committee; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly, and the amendments having been concurred in, and the bill further amended, the amendments were ordered to be engrossed, and the bill was read a third time as amended.

A message from the House of Representatives

MARCH, 1818.

Fugitive Slaves.

SENATE.

informed the Senate that the House have passed a bill, entitled "An act respecting the district courts of the United States within the State of New York," in which bill they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill extending the time for locating military land warrants, in certain cases; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting certain sections of land in the State of Ohio, reserved for the purposes of religion; and the bill having been amended, on motion by Mr. CAMPBELL, the further consideration thereof was postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the bill authorizing a subscription for the eleventh volume of State Papers; and on motion by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

WEDNESDAY, March 11.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill concerning the bounty or allowance to fishing vessels in certain cases; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Margaret White, widow of Colonel Anthony Walton White, made a report, accompanied by a resolution, that the petitioner have leave to withdraw her petition. The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Benjamin Wells, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of James Moore, also made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition and documents.

On motion by Mr. WILLIAMS, of Tennessee, Thomas Robinson and others, a committee in behalf of the surviving officers of the Pennsylvania line of the Revolutionary Army, and Richard Varick and others, surviving officers of the Revolutionary Army, had leave to withdraw their petitions respectively.

On motion by Mr. ROBERTS, the Committee of Claims, to whom was referred the petition of Joseph W. Page, were discharged from the further consideration thereof, and the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the 15th CON. 1st SESS.—9

motion of the 10th instant for instructing the Committee on the Post Offices and Post Roads to inquire into the causes which so frequently prevent the due arrival of the public mail; and agreed thereto.

The resolution, which originated in the Senate, fixing the time for the adjournment of the first session of the fifteenth Congress, was read the second time.

The resolution from the House of Representatives, fixing the time for the adjournment of the first session of the fifteenth Congress, was read the second time.

The bill, entitled "An act to alter the time of holding the circuit court in the southern district of New York, and for other purposes," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act respecting the district courts of the United States within the State of New York," was read the second time; and referred to the same committee.

The bill, entitled "An act altering the time for holding a session of the district court in the District of Maine," was read the second time, and referred to the same committee.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Samuel Ward; and the bill was read, and passed to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate, requesting information respecting the requisitions that were made on the contractors, between the 1st of June and the 24th of December, 1817, for deposits of provisions, in advance, at the several posts on the frontiers of Georgia, and the adjoining territory; their conduct in compliance therewith; the amount of money advanced to B. G. Orr, and the extent of his failure, with a copy of the articles of contract entered into with him, I now lay before the Senate a report from the Secretary of War, which, with the documents accompanying it, will afford the information desired.

JAMES MONROE.

WASHINGTON, March 11, 1818.

The Message, together with the report and accompanying documents, were read.

FUGITIVE SLAVES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory;" and the bill having been further amended, on motion by Mr. RUGGLES, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 11, nays 18, as follows:

YEAS—Messrs. Burrill, Daggett, Horsey, Hunter, King, Morrow, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

NAYS—Messrs. Campbell, Crittenden, Dickerson, Eppes, Fromentin, Gaillard, Goldsborough, Johnson,



## SENATE.

## Proceedings.

MARCH, 1818.

Leake, Macon, Otis, Sanford, Smith, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

On motion by Mr. DAGGETT to strike out the following section of the bill:

**SEC. 6.** *And be it further enacted,* That whenever the Executive authority of any State in the Union, or of either of the Territories thereof, shall, for or in behalf of any citizen or inhabitant of such State or Territory, demand any fugitive slave of the Executive authority of any State or Territory, to which such slave shall have fled, and shall moreover produce a certificate, issued pursuant to the first section of this act, it shall be the duty of the Executive authority of the State or Territory to which such fugitive shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the Executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause such fugitive to be delivered to the said agent, on the confine or boundary of the State or Territory in which said arrest shall be, and in the most usual and direct route to the place from whence the said fugitive shall have escaped; and the reasonable expense of such arrest, detention, and delivery of such fugitive, shall be paid by the said agent.

It was determined in the negative—yeas 13, nays 16, as follows:

**YEAS**—Messrs. Burrill, Daggett, Dickerson, Horsey, Hunter, King, Lacock, Morrill, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

**NAYS**—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Leake, Macon, Otis, Smith, Stokes, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

On motion by Mr. VAN DYKE, to insert in section 2, line 13, after "certificate," "and doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her;" it was determined in the negative—yeas 11, nays 18, as follows:

**YEAS**—Messrs. Burrill, Daggett, Horsey, Hunter, Lacock, Morrill, Noble, Roberts, Ruggles, Storer, and Van Dyke.

**NAYS**—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, King, Leake, Macon, Otis, Sanford, Smith, Stokes, Tait, Talbot, Williams of Mississippi, and Williams of Tennessee.

The bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments having been concurred in, on motion by Mr. LACOCK, to add the following section to the bill:

**SEC. —.** *And be it further enacted,* That this law shall be and remain in force for the term of four years, and no longer."

The Senate being equally divided, the PRESIDENT determined the question in the affirmative; and, on the question, "Shall the amendments be engrossed and the bill be read a third time, as amended?" it was determined in the affirmative.

THURSDAY, March 12.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the memorial of a com-

mittee on behalf of the surviving officers of the Revolutionary Army, soliciting an equitable settlement of the half-pay for life, as promised by the resolves of Congress, made a report, accompanied by a resolution, that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the petition of Benjamin G. Orr and others, reported a bill to incorporate a fire insurance company in the City of Washington; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of John Adlum, made a report thereon; which was read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Ashael Clark, made a report thereon; which was read. He also reported a bill for the relief of Ashael Clark; and the bill was read, and passed to the second reading.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described; and the bill was read, and passed to the second reading.

Mr. SANFORD presented the petition of Belinda Bowie, of Brooklyn, New York, whose husband, a sailing-master in the service of the United States, was lost in the Epervier, leaving her with five children, entirely unprovided for, and praying relief; and the petition was read, and referred to the Committee on Naval Affairs.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Margaret White, widow of Colonel Anthony Walton White; and in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James Moore; and in concurrence therewith, the petitioner had leave to withdraw his petition and documents.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Benjamin Wells; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The bill concerning the bounty or allowance to fishing vessels in certain cases, was read the second time.

The bill for the relief of Samuel Ward, was read the second time.

The engrossed bill for extending the time for obtaining military land warrants in certain cases, was read a third time, and passed.

The bill, entitled "An act fixing the compensations of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices," was read a third time, as amended, and passed. The title being amended so as to read "An act fixing the compensations of the Secretary of the Senate and Clerk of the

MARCH, 1818.

## Proceedings.

## SENATE.

House of Representatives, of the clerks employed in their offices, and of the Librarian."

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act altering the time for holding a session of the district court in the District of Maine, reported the same without amendment.

Mr. CRITTENDEN, from the same committee, to whom was referred the bill, entitled "An act to alter the time of holding the circuit court in the Southern district of New York, and for other purposes," reported the same without amendment.

Mr. CRITTENDEN, from the same committee, to whom was referred the bill, entitled "An act respecting the district courts of the United States within the State of New York," reported the same with an amendment; which was read.

The Senate resumed the consideration of the bill respecting the transportation of persons of color for sale or to be held to labor; and no further amendment having been proposed thereto, the bill was ordered to be engrossed and read a third time.

On motion by Mr. MORROW, the Senate resumed, as in Committee of the Whole, the consideration of the bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes; and an amendment having been proposed thereto, the further consideration thereof was postponed until to-morrow.

Mr. KING presented the memorial of Aquilla Giles, who was a major in the Revolutionary Army, stating that in December 1782, he received a warrant from the War Office, drawn on the Paymaster General of the Army, for five hundred dollars, being the amount of pay due him for that year, which was not paid, the Paymaster not having funds, and praying the passage of an act authorizing the officers of the Treasury to pay the same, together with the interest thereon; and the memorial was read, and referred to the Committee of Claims.

Mr. HUNTER presented the memorial of Francis Henderson and family, heirs and representatives of John Laurens, deceased, a lieutenant colonel in the Army of the United States, and some time commissioned by Congress special Minister to the Court of France, praying the allowance of a certain claim exhibited in the memorial, with provision for the discharge of the same; and the memorial was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, reported a bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia; and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, presented the memorial of the Legislature of the State of Mississippi, praying the passage of a law giving to the original purchasers who have or may forfeit their lands, on or before the 1st day of May, 1819, the right of pre-emption or preference to purchase

the same; and the memorial was read, and referred to the Committee on Public Lands.

The amendments to the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory," having been reported by the committee correctly engrossed, the bill was read a third time as amended; and, on the question, "Shall this bill pass as amended?" it was determined in the affirmative—yeas 17, nays 13, as follows:

**YEAS**—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, Macon, Otis, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

**NAYS**—Messrs. Burrill, Daggett, Dickerson, Horsey, Hunter, King, Lacock, Morrow, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

So it was *Resolved*, That this bill pass with amendments.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Michael Hogan, made a report; which was read. He also reported a bill for the relief of Michael Hogan; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the establishment of naval depots and dock yards; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of the laws of the Fourteenth Congress among the members of the Fifteenth Congress, who have not been supplied therewith; and the same having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the resolution was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, entitled "An act to promote the progress of useful arts," together with the amendments reported thereto by a select committee; and, the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

FRIDAY, March 13.

Mr. TAYLOR presented the petition of sundry inhabitants of the town of Vincennes, in the State of Indiana, praying to be permitted to change the



## SENATE.

## Proceedings.

MARCH, 1818.

location of certain lands therein described; and the petition was read, and referred to the Committee on Public Lands.

The bill for the relief of Ashael Clark was read the second time.

The bill to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described, was read the second time.

The bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia, was read the second time.

The bill for the relief of Michael Hogan was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall, praying that Congress may pass a law authorizing the allowance of one hundred and fifty doubloons in the settlement of his accounts at the Navy Department, which he states to have been robbed from him; and on motion by Mr. STORER, the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the District of Columbia, to whom was referred the petition of John Adlum; and, in concurrence therewith, the committee were discharged from the further consideration of the petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of a committee on behalf of the surviving officers of the Revolutionary Army, soliciting an equitable settlement of the half-pay for life, as promised by the resolves of Congress; and, on the question to agree thereto, it was determined in the affirmative—yeas 23, nays 3, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Eppes, Horsey, Hunter, King, Lacock, Macon, Morrow, Noble, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, and Williams of Mississippi.

NAYS—Messrs. Goldsborough, Johnson, and Van Dyke.

So it was resolved, that the petitioners have leave to withdraw their petition.

The bill in addition to an act, entitled "An act to promote the progress of useful arts," was read a third time.

*Resolved*, That this bill pass, and that the title thereof be, "An act to extend the jurisdiction of the circuit courts of the United States to cases arising under the law relating to patents."

The resolution directing the distribution of the laws of the Fourteenth Congress among the members of the Fifteenth Congress, was read a third time, and passed.

The bill respecting the transportation of persons of color, for sale or to be held to labor, was read a third time, and passed.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Godfrey H. Belding, late a Lieutenant in the Army of the United States, made a report, accompanied by a resolution, that the petitioner have leave to with-

draw his petition. The report and resolution were read.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

On motion by Mr. MORROW, the Senate resumed, as in Committee of the Whole, the consideration of the bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes; and, the bill having been amended, the PRESIDENT reported it to the House accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the petition of Belinda Bowie, made a report, accompanied by a resolution, that the petitioner have leave to withdraw her petition. The report and resolution were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the Staff of the Army; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting certain sections of land in the State of Ohio, reserved for purposes of religion; and, the bill having been amended, the PRESIDENT reported it to the House accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate adjourned to Monday morning.

MONDAY, March 16.

Mr. STORER submitted the following motion for consideration:

*Resolved*, That the Secretary of War be instructed to procure copies of the existing militia laws of the several States and Territories, with correct reports of the number and organization of their militia, and cause the same to be laid before the Senate on the first week of their next session.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom were referred the memorial of certain officers of the Navy, and also the memorial of certain officers of the Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. TAIT, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom were referred the memorials and petitions of sundry merchants, underwriters, and insurance companies, on the subject of French depredations; and,

MARCH, 1818.

## Proceedings.

SENATE.

on motion by Mr. ROBERTS, the further consideration thereof was postponed until this day two weeks.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall, late a Major in the United States Marine Corps; and the further consideration thereof was postponed until Monday next.

Mr. WILLIAMS, of Tennessee, from the committee to whom was referred the bill to provide for the purchase and distribution of the Laws of the United States, reported the same, with amendments; which were read.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

In compliance with a resolution of the Senate of the 6th of December, and of the House of Representatives of the 24th of February last, I lay before Congress a report of the Secretary of State, and the papers referred to in it, respecting the negotiation with the Government of Spain. To explain fully the nature of the differences between the United States and Spain, and the conduct of the parties, it has been found necessary to go back to an early epoch. The recent correspondence, with the documents accompanying it, will give a full view of the whole subject, and place the conduct of the United States, in every stage, and under every circumstance, for justice, moderation, and a firm adherence to their rights, on the high and honorable ground which it has invariably sustained.

JAMES MONROE.

WASHINGTON, March 14, 1818.

The Message, together with the accompanying documents, were read, and two hundred additional copies thereof ordered to be printed for the use of the Senate.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the United States, of the 31st of December last, requesting the President to cause to be laid before them a statement of the proceedings which may have been had under the acts of Congress, passed on the 3d March, 1817, entitled "An act to set apart and dispose of certain public lands for the encouragement and cultivation of the vine and olive," I now transmit a report from the Secretary of the Treasury, containing all the information possessed by the Executive, relating to the proceedings under the said act.

JAMES MONROE.

WASHINGTON, March 16, 1818.

The Message and accompanying report were read.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the United States, of the 3d of February last, requesting the President to cause to be laid before them "a statement of the progress made under the act to provide for surveying the coast of the United States, passed February 10th, 1817, and any subsequent acts on the same subject, and the expenses incurred thereby," I

transmit a report from the Secretary of the Treasury, containing the information required.

JAMES MONROE.

WASHINGTON, March 16, 1818.

The Message and accompanying report were read.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, reported a bill, supplemental to an act, entitled "An act further to amend the charter of the City of Washington;" and the bill was read, and passed to the second reading.

The bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes, was read a third time, the blank filled with "three," and passed.

The bill respecting certain sections of land in the State of Ohio, reserved for purposes of religion, was read a third time.

*Resolved*, That this bill pass, and that the title thereof be, "An act to vest, in trust, certain sections of land in the Legislature of the State of Ohio."

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the petition of Belinda Bowie; and, in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Godfrey H. Belding; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

Mr. MORROW presented the memorial of Michael Jones, Register of the land office at Kaskaskias, stating the inadequacy of the compensation he has received, and praying relief; and the memorial was read, and referred to the Committee on Public Lands.

The bill to incorporate a fire insurance company in the City of Washington, was read the second time.

The Senate resumed as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and, sundry amendments having been proposed thereto by Mr. JOHNSON, on motion by Mr. TALBOT, the further consideration thereof was postponed to, and made the order of the day for Wednesday next, and the proposed amendments were ordered to be printed for the use of the Senate.

Mr. ROBERTS submitted the following motion for consideration:

*Resolved*, That a committee be appointed to inquire into the expediency of making further provisions, by law, for preventing the introduction of slaves into the United States from any foreign kingdom, place, or country.

Mr. LACOCK presented the petition of Benoni Williams, of Indiana, praying compensation for the loss of sundry articles of clothing while in the service of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.



## SENATE

## Proceedings.

MARCH, 1818.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and, after debate, the Senate adjourned.

TUESDAY, March 17.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, reported a bill to make valid certain acts of the justices of the peace in the District of Columbia; and the bill was read, and passed to the second reading.

Mr. EPPES presented the memorial of Gales and Sexton, of Washington, stating their intention to publish a History of the Proceedings of Congress, and praying a subscription for such number of copies as may be required for the public institutions of the country; and the memorial was read, and referred to a select committee, to consider and report thereon, by bill or otherwise. Messrs. EPPES, KING, and BURRILL, were appointed the committee.

The bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was read the second time.

The Senate resumed the consideration of the motion of the 16th instant, for instructing the Secretary of War to procure copies of the existing militia laws of the several States and Territories, with correct reports of the number and organization of their militia, and cause the same to be laid before the Senate on the first week of their next session; and agreed thereto.

The Senate resumed the consideration of the motion of the 18th instant, for appointing a committee to inquire into the expediency of making further provisions, by law, for preventing the introduction of slaves into the United States from any foreign kingdom, place, or country; and, having agreed thereto, Messrs. ROBERTS, BURRILL, DAGGETT, MACON, and SMITH, were appointed the committee.

Mr. HORSEY presented the petition of John Rudolph, of Wilmington, Delaware, praying compensation for losses sustained in furnishing rations to the army during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

On motion by Mr. MACON, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of giving the assent of Congress to an act of the General Assembly of North Carolina, entitled "An act for the relief of sick and disabled seamen," passed the 23d of December, A. D. 1817.

On motion by Mr. CRITTENDEN, the Senate resumed, as in Committee of the Whole, the consideration of the resolution of the House of Representatives, fixing the time for the adjournment of the first session of the Fifteenth Congress; and, on motion by Mr. DAGGETT, that the further consideration thereof be postponed until next Monday week, it was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Burrill, Daggett, Dickerson, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, John-

son, King, Lacock, Morril, Morrow, Otis, Storer, and Tait.

NAYS—Messrs. Crittenden, Eppes, Leake, Noble, Roberts, Ruggles, Sanford, Smith, Stokes, Talbot, Taylor, Troup, Van Dyke, Williams of Miss., and Williams, of Tennessee.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and, on motion by Mr. KING, the further consideration thereof was postponed until to-morrow. Whereupon,

Mr. KING submitted the following motion for consideration:

*Resolved*, That the President of the United States be, and hereby is, requested to cause to be resumed and completed, a survey of the harbors of Boston, Newport, New York, with the two entrances thereof, of the waters of the lower Chesapeake bay, and of York river, for the purpose that two suitable stations may be selected for the establishment of arsenal ports; that in connexion with, and aid of the naval officers to be employed in this service, officers of the corps of engineers be joined, with instructions to survey the harbors and waters aforesaid, and the islands and shores in and about the same, and to report sketches of the works necessary for the protection of the several places so surveyed, with estimates of the expense of their construction, and of the force requisite to defend the same. That these surveys and reports be laid before the Senate during the first week of the next session of Congress, with a designation of the two stations, which, in the separate or joint opinion of the persons to be employed as aforesaid, are the most fit for the establishment of two arsenal ports as aforesaid.

On motion by Mr. KING, the Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Ashael Clark; and, no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and, an amendment having been proposed thereto, on motion by Mr. KING, the bill, together with the proposed amendment, were referred to the Committee on Military Affairs.

On motion by Mr. CAMPBELL, the Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the Secretary of the Treasury to remit or pay certain alien duties therein described; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common for the use of the inhabitants of the said town; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

MARCH, 1818.

## Proceedings.

SENATE.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the progress of useful arts, and to repeal the acts heretofore made for that purpose, together with the amendments reported thereto by a select committee; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for an amendment to the Constitution of the United States, in relation to internal improvements; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and, on motion by Mr. RUGGLES, the further consideration thereof was postponed until this day two weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for altering the time for holding the district court for the district of Virginia; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the surveying and sale of public lands in the Alabama Territory; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Small, and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to defray the expenses of the militia when marching to places of rendezvous; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

WEDNESDAY, March 18.

Mr. RUGGLES presented the memorial of Shubael Canans, of Michigan Territory, praying to be discharged from the payment of bonds given to secure the duties on merchandise necessarily transported through Canada, on their way from New York to Detroit; and the memorial was read, and referred to the Committee on Finance.

The bill to make valid certain acts of the justices of the peace in the District of Columbia, was read the second time.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants and ship owners, pray-

ing that certificates of registry may be granted to their vessels; and, on motion of Mr. SANFORD, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 17th instant, for resuming and completing a survey of certain harbors and waters for the purpose that two suitable stations may be selected for the establishment of arsenal ports; and the same having been amended, was agreed to as follows:

*Resolved*, That the President of the United States be, and hereby is, requested to cause to be resumed and completed, a survey of the harbors of Portsmouth, Boston, Newport, New London, New York, with the two entrances thereof, of the waters of the lower Chesapeake Bay, and of York river, for the purpose that two suitable stations may be selected for the establishment of arsenal ports; and in connexion with, and aid of, the naval officers to be employed in this service, officers of the Corps of Engineers be joined, with instructions to survey the harbors and waters aforesaid, and the islands and shores in and about the same, and to report sketches of the works necessary for the protection of the several places so surveyed, with estimates of the expense of their construction, and of the force requisite to defend the same.

That these surveys and reports be laid before the Senate during the first week of the next session of Congress, with a designation of the two stations, which, in the separate or joint opinion of the persons so employed as aforesaid, are the most fit for the establishment of the two arsenal ports aforesaid.

The bill, entitled "An act for altering the time for holding the district court for the district of Virginia," was read a third time, and passed.

The bill to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described, was read a third time, and passed.

The bill to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common, for the use of the inhabitants of the said town, was read a third time, and passed.

The bill to defray the expenses of the militia, when marching to places of rendezvous, was read a third time, and passed.

The bill for the relief of John Small, was read a third time, and passed.

The bill respecting the surveying and sale of public lands in the Alabama Territory, was read a third time, and passed.

THURSDAY, March 19.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the report of the Committee on Naval Affairs, to whom were referred the memorial of certain officers of the Navy, and



also of the memorial of certain officers of the Marine Corps attached to the Mediterranean Squadron; and, on motion by Mr. TAIT, the consideration thereof was further postponed until the first Monday in April next.

On motion of Mr. EPPES, the President of the United States was requested to cause to be laid before the Senate, an estimate of the sum necessary for the establishment of two docks for the purpose of repairing vessels of the largest size.

A message from the House of Representatives informed the Senate that they have passed the resolution directing the distribution of the laws of the fourteenth Congress among the members of the fifteenth Congress, with an amendment, in which they request the concurrence of the Senate; and also the resolution directing the publication and distribution of the Journal and proceedings of the Convention which formed the present Constitution of the United States, with an amendment, in which they also request the concurrence of the Senate:

They have passed a bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi;" a bill, entitled "An act to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia;" a bill, entitled "An act for the relief of Abraham Byington;" a bill, entitled "An act to authorize the payment of certain certificates;" a bill, entitled "An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of the said Territory;" a bill, entitled "An act for the relief of General Moses Porter;" and also a resolution authorizing the transportation of certain documents free of postage; in which bills and resolution they request the concurrence of the Senate.

The six bills and the resolution last brought up for concurrence were read, and severally passed to the second reading.

On motion, the resolution authorizing the transportation of certain documents free of postage, was read the second time, by unanimous consent, and considered as in Committee of the Whole; and no amendment having been made thereto, the President reported the resolution to the House; and it passed to the third reading, and it was read a third time, by unanimous consent, and passed.

On motion, the Senate proceeded to consider the amendment of the House of Representatives to the resolution directing the distribution of the laws of the fourteenth Congress, among the members of the fifteenth Congress, and concurred therein.

The Senate proceeded to consider the amendment of the House of Representatives to the resolution directing the publication and distribution of the Journal and proceedings of the Convention which formed the present Constitution of the United States, and concurred therein.

On motion, by Mr. RUGGLES, the Committee on Public Lands were instructed to inquire into

the expediency of extending the jurisdiction and laws of the Territory of Michigan to the eastern boundary of the Illinois Territory.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting claims to land, and establishing land offices in the districts east of the Island of New Orleans, together with the amendments proposed thereto; and, on the question to agree to the first amendment proposed, as follows:

"Sec. 1, line 8, after the word 'several,' strike out to the end of the section, and insert—

"Reports of the Commissioners, and which are derived from the Spanish Government, or claimed by donation, and are, in the opinion of the Commissioner, valid, agreeably to the laws, usages, and customs, of the Spanish Government, be, and the same are hereby, recognised as valid and complete titles against any claim on the part of the United States; and all the British grants contained therein, which have not been subsequently regranted by the Spanish Government, or are not claimed in right of donation, or preference to purchase, granted or authorized by this act, be, and they are hereby, confirmed and recognised as valid."

It was determined in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Burrill, Fromentin, Hunter, Johnson, Macon, Morrill, Talbot, Tichenor, and Williams of Mississippi.

NAYS—Messrs. Barbour, Crittenden, Daggett, Eppes, Gaillard, Horsey, King, Lacock, Morrow, Noble, Otis, Ruggles, Sanford, Smith, Storer, Tait, Taylor, Van Dyke, and Williams of Tennessee.

#### FRIDAY, March 20.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of John G. Bogert, of the city of New York, made a report; which was read. He also reported a bill for the relief of John G. Bogert; and the bill was read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, reported a bill prescribing the mode of commencing, prosecuting, and deciding, controversies between two or more States; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Anthony Gale, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. ROBERTS, from the committee, to whom was referred the petition of Benoni Williams, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. ROBERTS, from the same committee to whom was referred the petition of Richard Frisby, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. ROBERTS, from the same committee to whom was referred the petition of Phineas Meigs, also made a report, accompanied by a resolution, that the prayer of the petitioner ought not to

be granted. The report and resolution were read.

The bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia," was read the second time, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to authorize the payment of certain certificates," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Abraham Byington," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act authorizing the election of a Delegate from Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of General Moses Porter," was read the second time, and referred to the same committee.

Mr. SANFORD presented the petition of Samuel F. Hooker, of Sackett's Harbor, praying compensation for property destroyed by the United States troops during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and, on motion by Mr. EPPES, the further consideration thereof was postponed until Monday next.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill to reduce the staff of the Army, reported the same with an amendment; which was read.

The PRESIDENT communicated the general account of the Treasurer of the United States, from the 1st of January, 1816, to the 1st of January, 1817, as also the accounts of the War and Navy Departments, from the 1st of October, 1816, to the 1st of October, 1817, together with the report thereon; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting claims to land, and establishing land offices in the districts east of the island of New Orleans, together with the amendments proposed thereto; and after debate, the further consideration thereof was postponed until to-morrow.

On motion by Mr. TALBOT, the committee on so much of the President's Message as relates to roads, inland navigation, and seminaries of learning, were instructed to inquire into the propriety and expediency of providing by law for the subscription, on the part of the United States, for certain shares in the "Kentucky Ohio Canal Company," reserved for the United States by the

act of incorporation of the said company, passed at the last session of the Kentucky Legislature.

Mr. KING presented the petition of Catharine M. Smith, of Long Island, New York, praying compensation for a horse killed by a guard of the 42d regiment of infantry, in the month of September, 1814; and the petition was read, and referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing a subscription for the eleventh volume of State Papers; and no amendment having been made thereto, the President reported the bill to the House, and it was ordered to be engrossed and read a third time.

Mr. CAMPBELL, from the committee to whom was referred the bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of lands therein described, reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed until Wednesday next.

On motion by Mr. TALBOT, the committee appointed on the 4th instant, to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to certain lands, were discharged from the further consideration thereof.

The Senate resumed, as in Committee of the Whole, the consideration of the bill regulating the pay and emoluments of brevet officers; and the bill having been amended, the President reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

#### NEGOTIATION WITH HOLLAND.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

In the course of the last Summer a negotiation was commenced with the Government of the Netherlands, with a view to the revival and modification of the commercial treaty existing between the two countries, adapted to their present circumstances.

The report from the Secretary of State, which I now lay before Congress, will show the progress of the conferences between the respective Plenipotentiaries, and which resulted in the agreement between them, then, to refer the subject to the consideration of their respective Governments. As the difficulties appear to be of a nature which may, perhaps, for the present, be more easily removed by reciprocal legislative regulations, formed in the spirit of amity and conciliation, than by conventional stipulations, Congress may think it advisable to leave the subsisting treaty in its present state, and to meet the liberal exemption from discriminating tonnage duties which has been conceded in the Netherlands to the vessels of the United States, by a similar exemption to the vessels of the Netherlands, which have arrived, or may hereafter arrive, in our ports, commencing from the time when the exemption



was granted to the vessels of the United States. I would further recommend to the consideration of Congress the expediency of extending the benefit of the same regulation, to commence from the passage of the law, to the vessels of Prussia, Hamburg, and Bremen, and of making it prospectively general, in favor of every nation in whose ports the vessels of the United States are admitted, on the same footing as their own.

JAMES MONROE.

MARCH 19, 1818.

DEPARTMENT OF STATE, March 17, 1818.

The Secretary of State has the honor of submitting to the consideration of the President the correspondence herewith enclosed, between the Envoys Extraordinary of the United States at the Court of the Netherlands, and the Plenipotentiaries appointed by that Government for the purpose of renewing and extending the Commercial Treaty already existing between the two countries. The failure of this negotiation is to be attributed principally to two obstacles which arose in the progress of the discussions between the respective Plenipotentiaries; one proceeding from an essential principle in the commercial regulations of this country, and the other from a principle of like character in the kingdom of the Netherlands.

The law of March 3, 1815, authorizing a partial repeal of the discriminating duties which operate against foreign shipping, and the merchandise imported in them, required, as a condition of that repeal, the abolition of all discriminating or countervailing duties of any foreign nation to whose advantage it should ensure, so far as they operate to the disadvantage of the United States; and on this condition the acts of the United States, imposing discriminating duties, were declared to be repealed only so far as respects the produce or manufacture of the nation to which the foreign ship or vessel might belong. The law, therefore, required a total abolition of discriminating or countervailing duties in the foreign nation, operating against the United States, and offered only a partial repeal of such discriminating duties, which operated against them, in return. From an imperfect view of the provisions of this act, which can be fully understood only by collating it with the general system and the particular provisions of the acts imposing discriminating duties, part of which only it proposed to repeal, the Government of the Netherlands, and others, appear to have understood it as offering a total repeal of all discriminating duties, as well of tonnage as upon merchandise of every description, without distinction of origin. The power of the President was, however, restricted by the terms of the law. The laws of the Netherlands imposed discriminating duties of tonnage, and on merchandise imported in foreign vessels, but without any distinction with regard to the origin of the merchandise. When, therefore, they revoked their discriminating duties so far as respected the United States, they considered themselves, by the act of Congress of March 3, 1815, entitled to a total repeal of the discriminating duties in the United States, operating against them; not only the tonnage duties, but those upon merchandise, whether of the produce or manufacture of the Netherlands, or of any other country. This was, however, not warranted by the act of March 3, 1815, nor could it be stipulated by treaty, without involving consequences affecting the commercial relations between the United States and other countries. The revocation of the discriminating duties upon mer-

chandise imported in vessels of the Netherlands, would be of little avail, if limited to articles, the produce or manufacture of that country, the principal part of whose exportations consist of the produce and manufacture of others. But, on the other hand, if that distinction in our navigation and revenue laws, should be broken down with respect to one nation, it could be with difficulty, if at all, maintained with regard to any other.

The other difficulty which occurred in the negotiation, related to the admission of vessels of the United States into the colonies of the Netherlands, if not upon the same footing as into the ports of the Netherlands in Europe, at least upon that of the most favored nation. To this it was objected by the Plenipotentiaries of the Netherlands, that certain favors were granted by them to other nations themselves possessing colonies, for the equivalent of similar favors conceded in return, which could not be conceded to a nation possessing no colonies, and therefore not enabled to concede the equivalent. The same objection having been made by the British Government to the admission of vessels of the United States into their colonies, it appears to deserve attention how far the principle itself is justifiable, and how far the United States ought to acquiesce in it. There are various grounds upon which it appears objectionable. 1. Because all the other maritime States, possessing colonies more or less significant, a classification, however general in terms, which applies, by way of exclusion, to the United States alone, is manifestly a measure savoring of hostility to them, as much as if it was applied to them by name. 2. Because the United States not only, by the constant and unparalleled rapid increase of their own population, but by the great enlargement of their territory, and the admission of new States, producing almost all the articles of European colonies in this hemisphere, afford to all the commercial nations of Europe an equivalent similar in principle, and infinitely more valuable than the mere admission to two or three small islands of the West Indies, which is all that some of the European States can grant for access to the colonies of the others. 3. The United States have a just claim to a free trade with most of the colonies of the West India islands, founded in the occasional indispensable necessities of the latter. If the United States should exercise their unquestionable right of meeting prohibition with prohibition, the very existence of these islands would be in jeopardy whenever they should be visited by those hurricanes which so frequently happen among them. It would be ungenerous, and scarcely reconcilable to the principles of humanity, should the United States avail themselves of those calamitous occurrences to stop, on their part, the intercourse which at all other times is interdicted to them. By the laws of nature, no society can be justifiable in adopting measures towards another State, which may compel the latter to retaliate, in self-defence, by measures incompatible with humanity; yet such is the character of the intercourse permitted by several of the European nations between their colonies in the West Indies and the United States. Thus we have seen, within the last half year, the exclusion of our vessels from the ports of several West India islands, and their readmission, announced almost in the same gazettes. That readmission, however, is limited to the time indispensable for saving the colony from famine and utter desolation. There is something so glaringly unequal and selfish in these alternatives of arbitrary interdiction and of compulsory intercourse,

that it is believed the nations of Europe, possessing colonies, cannot fail of being ultimately made sensible of it, and of consenting to establish an intercourse upon principles more permanent and more favorably marked with reciprocity.

In the mean time, as the Government of the Netherlands have placed the vessels of the United States, arriving in their ports, in regard to tonnage duties, on the same footing with their own, it is believed to be consistent with sound policy to extend the same principle to the vessels of the Netherlands arriving in the ports of the United States. The same liberality may be extended to the vessels of Prussia, Hamburg, and Bremen, who, by virtue of the like regulations in their respective ports, have claimed the benefit of the proffer made in the law of March 3, 1815. As an act of Congress is necessary for the purpose, perhaps the most expedient course would be to make it general, and, limiting its operation to the tonnage duties, or charges upon vessels, to declare that no other or higher duties of that description than are paid by vessels of the United States, shall be paid in the ports of the United States by the vessels of any European nation, in whose ports no other or higher duties of the same kind are paid by vessels of the United States, than by the vessels of such European nation itself. The measure in respect to the Netherlands, is of immediate urgency; the regulation in favor of the vessels of the United States there having already been more than a year in force, in the confidence that the corresponding measure on the part of the United States would have been adopted of course, by virtue of the act of March 3, 1815.

JOHN QUINCY ADAMS.

The Message and accompanying report were read.

The Senate adjourned to Monday morning.

MONDAY, March 23.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom the subject was referred, reported a bill for the relief of the President, Directors, and Company, of the Merchants' Bank of Newport, in Rhode Island; and the bill was read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred a resolution of the Senate, instructing them to inquire into the expediency of "extending the provisions of the law prescribing the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States," made a report, "that, in the opinion of the committee, further legislation on the subject is unnecessary and inexpedient;" and the report was read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on Finance be instructed to inquire into the expediency of extending further time to the purchasers of public lands to complete their payment for the same.

The PRESIDENT communicated the memorial of the Legislature of the Alabama Territory, pray-

ing to be invested, by law, with power to incorporate companies for the purpose of constructing turnpike roads, with exclusive privileges and right of toll; and to give such further aid in relation thereto as Congress may deem proper; and the memorial was read, and referred to the committee to whom was referred so much of the Message of the President of the United States as relates to roads, inland navigation, and seminaries of learning, to consider and report thereon.

Mr. LACOCK presented the petition of James Brady, of Westmoreland county, in the State of Pennsylvania, praying the renewal of two warrants for Revolutionary bounty lands, stated to have been deposited by his order in the land office, and which cannot now be found; and the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall; and the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Anthony Gale; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Benoni Williams; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Phineas Meigs; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Frisby; and the further consideration thereof was postponed until Thursday next.

The bill for the relief of John G. Bogert was read the second time.

The bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States, was read the second time.

On motion by Mr. BARBOUR, the Message from the President of the United States, of the 19th instant, and communicated the 20th, together with the accompanying report of the Secretary of State, in relation to a negotiation which was commenced with the Government of the Netherlands, was referred to the Committee on Foreign Relations.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Cata Bunnell; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution which originated in the Senate, fixing the time for the



SENATE.

Proceedings.

MARCH, 1818.

adjournment of the first session of the fifteenth Congress; and on motion by Mr. ROBERTS, the further consideration thereof was postponed until to-morrow week.

Mr. BARBOUR gave notice, that to-morrow he should ask leave to bring in a bill to augment the salaries of certain officers therein mentioned.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the bounty or allowance to fishing vessels in certain cases; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel Ward; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act altering the time for holding a session of the district court in the District of Maine;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The bill authorizing a subscription for the eleventh volume of the State Papers, was read a third time, the blank filled with "1,300," and passed.

The bill regulating the pay and emoluments ofrevet officers, was read a third time, and passed.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and the bill having been amended, on motion by Mr. TAIT, the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting claims to land and establishing land offices in the districts east of the island of New Orleans.

On motion by Mr. MORROW, to strike out, section 3, "all the claims to land," and insert, in lieu thereof, "the United States for ever relinquish any claim whatever to the lands embraced by the several claims," it was determined in the affirmative—yeas 21, nays 9, as follows:

YEAS—Messrs. Burrill, Campbell, Crittenden, Daggett, Dickerson, Eppea, Gaillard, Horsey, Hunter, King, Morrow, Noble, Otis, Roberts, Ruggles, Smith, Stokes, Storer, Taylor, Tichenor, and Van Dyke.

NAYS—Messrs. Fromentin, Johnson, Lacock, Macdon, Morrill, Sanford, Talbot, Williams of Mississippi, and Williams of Tennessee.

The bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I lay before the Senate a report from the Secretary of the Navy with the estimate of the expense which

will be incurred, by the establishment of two dock yards, for repairing vessels of the largest size.

JAMES MONROE.

WASHINGTON, March 23, 1818.

The Message together with the accompanying report and estimate were read.

On motion, by Mr. BARBOUR, the Message from the President of the United States, transmitting the correspondence between the Department of State, and the Spanish Minister residing here, showing the present state of the relations between the two Governments, was referred to the Committee on Foreign Relations.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill for the relief of Israel Thorndike, and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to alter the time of holding the circuit court in the southern district of New York, and for other purposes;" and the bill having been amended the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time, as amended.

Mr. DICKERSON gave notice that to-morrow he should ask leave to bring in a resolution directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison and Governor Shelby, and for other purposes.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act respecting the district courts of the United States within the State of New York," together with the amendment reported thereto by the Committee on the Judiciary, the amendment was disagreed to, and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill was read a third time as amended.

TUESDAY, March 24.

Mr. SMITH presented the petition of John Haslett, of the city of Charleston, praying an act may be passed remitting the penalties by him innocently incurred on the importation of thirty-six puncheons of rum in the brig Margaret, Captain Halm, from Porto Rico, in July, 1812, as stated in the petition; which was read, and referred to the Committee on Finance.

On motion, by Mr. DAGGETT, the Message from the President of the United States, transmitting a statement of the proceedings which may have been had under the act of Congress, passed on the 3d of March, 1717, entitled "An act to set apart and dispose of certain public lands, for the encouragement and cultivation of the vine and olive," was referred to the Committee on Public Lands.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom the subject was referred, reported a bill declaring the consent of Congress to an act of the Legislature of the

MARCH, 1818.

Case of Richard W. Meade.

SENATE.

State of North Carolina, for the relief of sick and disabled American seamen; and the bill was read, and passed to the second reading.

Mr. RUGGLES presented two petitions of sundry inhabitants of the State of Ohio, praying the establishment of a certain post route; and the petitions were read, and referred to the Committee on Post Offices and Post Roads.

Mr. ROBERTS presented the memorial of Benjamin G. Orr, requesting an investigation of his conduct, as contractor for supplying the troops in South Carolina and Georgia; and the memorial was read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Bate;" a bill, entitled "An act to extend the privilege of franking to vaccine agents of States or Territories;" a bill, entitled "An act authorizing the legal representatives of William Daniel to file, with the proper register of the land office, a Spanish patent for a tract of land lying in the State of Mississippi;" a bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government;" a bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners;" a bill, entitled "An act for the relief of Narcissus Broutin and others;" and a bill entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowell;" and also, a resolution directing the Secretary for the Department of State to prepare an index to the acts and resolutions of Congress, after the close of every session; in which bills and resolution they request the concurrence of the Senate.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Alexander Levie, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. BARBOUR asked and obtained leave to bring in a bill to increase the salaries of certain officers of Government; and the bill was read twice by unanimous consent.

The bill for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans, was read a third time; and the blanks having been filled, on the question, "Shall this bill pass?" it was determined in the negative—yeas 9, nays 12, as follows:

YEAS—Messrs. Campbell, Daggett, Gaillard, Morrow, Roberts, Ruggles, Smith, Van Dyke, and Williams of Mississippi.

NAYS—Messrs. Burrill, Dickerson, Eppea, Fromentin, Horsey, Hunter, Johnson, Lacock, Macon, Stokes, Storer, and Talbot.

So the bill was rejected.

The amendments to the bill, entitled "An act to alter the times of holding the circuit court in the southern district of New York, and for other purposes," having been reported by the committee correctly engrossed, was read a third time as amended, and passed.

The title was amended so as to read "An act to alter the times of holding the circuit court of the United States for the district of Connecticut."

The amendments to the bill, entitled "An act respecting the district courts of the United States within the State of New York," having been reported by the committee correctly engrossed, the bill was read a third time as amended; and the title was amended by striking out the word "district."

Resolved, That this bill pass with amendments.

CASE OF R. W. MEADE.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the petition of sundry citizens of Philadelphia, asking the interposition of Congress in behalf of Richard W. Meade, an American citizen, unjustly and wantonly confined in a dungeon in Spain, by the authority of that Government, made a report; which was read, as follows:

The Committee of the Senate on Foreign Relations, to whom was referred the petition of sundry citizens of Philadelphia, asking the interposition of Congress in behalf of Richard W. Meade, an American citizen, unjustly and wantonly confined in a dungeon in Spain, by the authority of that Government, have given to the subject the deliberation its importance deserved, and beg leave to submit the following report: It appears from the documents, R. W. Meade is an American citizen, who went to Spain in the year 1803 on lawful business; that in the year 1806, such was the confidence of the Government in his integrity, that he was appointed Navy Agent for the United States at the port of Cadiz; a station which he held until the time of his confinement. Such was the correctness of his deportment, as to have been appointed by the tribunal of commerce at Cadiz, with the consent of all the parties concerned, assignee of a bankrupt, the amount of whose estate involved a high responsibility. He performed the duties thus devolved upon him, honestly; and, having collected for distribution fifty thousand dollars, he several times petitioned the tribunal to permit him to remit this sum to the creditors of the bankrupt resident in England; the only proper course left him to pursue, inasmuch as he had, when appointed agent of the bankrupt, given his bond to that tribunal conditioned to take charge of the effects of the bankrupt, and to be responsible solely to the tribunal for the proceeds, being prohibited under the penalty of the bonds from disposing of the funds without the sanction of the tribunal. A controversy having arisen between the creditors and bankrupt about the distribution, Meade offered the money to either, if they would give bond, with sureties, to the satisfaction of the tribunal of commerce, by which his own might be cancelled. This they were unable to do. The tribunal, of its own accord, and unexpectedly, decided that Meade should, on the following morning, place the money in the King's treasury, until the parties litigant should give the security required; it being declared that all Meade's property should be sequestered in the case of non-payment at the time limited. The money was forthwith paid by Meade into the treasury, in treasury notes equal to specie, and hence acknowledged by the Treasurer, that the deposits had been made in due form, under his inspection, in effective specie, and that



whenever the tribunal should order its payment, His Majesty would pay it in the same coin.

Notwithstanding this judgment, and the discharge thereof, by the payment aforesaid, Mr. Dermot, the agent for the British creditors, brought suit against Meade in the same court to recover the very sum he had heretofore paid in conformity to its own judgment. The court awarded judgment against Meade a second time for this money. The latter appealed to the superior tribunal, called Abradas. During its pendency, it is charged by Meade, that the cause was removed, by the interposition of the British Minister, to the council of war, and, by the same interposition, his arrest and confinement were procured, from which he could be relieved only by a repayment of the money. He has languished in confinement from the 2d of May, 1816, down to the last accounts from Spain.

The Representative of this nation at that Court has repeatedly appealed to His Catholic Majesty for the relief of Meade; and the appeal has been in vain—the Court of Spain having refused either to restore the money deposited in its own treasury, by order of its own competent judicial authority, or to release the person of Meade from the long confinement to which he had been doomed; and, finally, the President of the United States, whose peculiar province is to take cognizance of subjects of this kind, has caused a representation on the subject to be made to the Minister of Spain to the United States, demanding his immediate liberation. Nothing but a confidence that this representation will produce the desired result, would have restrained your committee from recommending the adoption of measures of severe retribution.

Your committee are of opinion, that it is due to the dignity of the United States to adopt, as a fundamental rule of its policy, the principle, that one of its citizens, to whatever region of the earth his lawful business may carry him, and who demeans himself as become his character, is entitled to the protection of his Government, and whatever intentional injury may be done him should be retaliated by the employment, if necessary, of the whole force of the nation.

#### MEDALS TO HARRISON AND SHELBY.

Mr. DICKERSON, agreeably to notice given yesterday, asked leave to introduce a resolution offering the thanks of Congress to Major General William Henry Harrison and Isaac Shelby, late Governor of Kentucky, for their distinguished bravery and good conduct in capturing the British army under command of Major General Proctor, at the battle of the Thames, in Upper Canada, on the 5th of October, 1813.

I should not, said Mr. DICKERSON, at this late day, highly as I think of the merits of those officers who, in co-operation with the hero of Lake Erie, turned the tide of war in our favor, bring forward the present resolution, if no similar attempt had heretofore been made in their favor, but would leave their fame to rest upon the testimony of impartial history, which has already done ample justice to their characters.

Two years ago a resolution like the present was reported to this House by the chairman of the Committee on Military Affairs, by direction of that committee. This resolution was opposed on two grounds, applying solely to General Harrison, as I have been informed, for I had not then the honor of being a member of this body: the

first, that an inquiry was at that time depending before the House of Representatives into the official conduct of General Harrison as commander in chief of the northwestern army, upon charges which, if well founded, were calculated essentially to injure his character; the second, that a rumor prevailed that General Harrison had discovered some reluctance in pursuing Proctor and his army after Perry's victory on Lake Erie, and that he had been forced to the pursuit by the remonstrances of Governor Shelby, and that this information had been derived from the declarations of Governor Shelby. These charges, utterly unfounded as they turned out to be, were deemed a sufficient reason for postponing a decision of the report of the committee until the result of the inquiry before the House of Representatives should at least be known. The resolution, after some discussion, was referred to the committee who reported it, further to consider and report thereon. As the session was near its close no further report was made, and indeed no further report could with propriety have been made, until the investigation before the House of Representatives should be brought to a termination. This did not happen till the 23d of January, 1817, a little more than a month before the termination of a very important session, when the public business of the most pressing kind required the entire attention of Congress, so that this subject could not with propriety have been renewed until the present session.

As the friends of General Harrison have it now in their power completely to obviate every objection heretofore made to the passage of this resolution, it is their duty to bring this subject again before Congress, more especially as the journals of this House, if left unexplained, imply a censure upon the conduct of General Harrison, which certainly was never intended. I will confess, for one, that on a perusal of the journals of this House, the military reputation of General Harrison sunk in my estimation; and I believe this confession might be made by three-fourths of the citizens of the United States who read the proceedings of Congress, and who had not an intimate knowledge of the character and conduct of General Harrison. I should reproach myself for having suffered such an impression to be made upon my mind, if the means of correcting it had also been found upon the journals. Those journals did not then afford the means of correct information upon this subject, nor do they till this day.

As to the first objection, that an investigation was depending in the House of Representatives into the official conduct of General Harrison, the result of that investigation was in the highest degree honorable to his character. The committee to whom the subject was referred were unanimously of opinion that General Harrison stood above suspicion of being implicated in the charges exhibited against him, and that in his whole conduct as commander-in-chief of the northwestern army he was governed by a laudable zeal for and devotion to the public service and interest.

The second objection made to the passage of the resolution, if well founded, was calculated to give to Governor Shelby the entire and exclusive merit of having urged the pursuit of Proctor and his army. But Shelby, generous as he is brave, disclaims this exclusive merit, and in a letter, which I beg leave to read, denies in the most positive terms having used the language ascribed to him; and he gives to General Harrison the highest praise for his promptitude and vigilance in pursuing Proctor; for the skill with which he arranged his troops for meeting the enemy, and for his distinguished bravery during the battle. He states that the duties of General Harrison, as commander-in-chief of the northwestern army, were in the highest degree arduous; but that, from the zeal and fidelity with which they were performed, they could not have been committed to better hands. Of these particulars no one could know better, no one could judge better, than Governor Shelby. I have many other documents and papers to show that Governor Shelby was not mistaken in the statements which he has made, which I will read if any doubt shall be expressed upon this subject. I trust, however, that no such doubt will be entertained, and am confident that honorable gentlemen will now, upon a full knowledge of the facts, feel a pleasure in awarding to General Harrison that testimony of applause which a sense of duty induced them formerly to withhold.

I shall not pronounce any encomiums upon the gallantry of the venerable patriot, the intrepid hero, Governor Shelby. His distinguished services during the late war, as well as those of the Revolutionary war, will be remembered to the latest posterity. Of him and the brave officers and men who, under the command of General Harrison, achieved the glorious victory at the battle of the Thames, one sentiment pervades the Union, that they merit every mark of distinction which Congress and a grateful country can bestow. Mr. D. then offered the following resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be and they are hereby presented to Major General William Henry Harrison, and Isaac Shelby, late Governor of Kentucky, and through them to the officers and men under their command, for their gallantry and good conduct in defeating the combined British and Indian forces under Major General Proctor, on the Thames, in Upper Canada, on the fifth day of October, one thousand eight hundred and thirteen, capturing the British army, with their baggage, camp equipage, and artillery; and that the President of the United States be requested to cause two gold medals to be struck, emblematical of this triumph, and presented to General Harrison and Isaac Shelby, late Governor of Kentucky.*

The resolution was read and passed to a second reading.

WEDNESDAY, March 25.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the petition of Richard H. Wilcocks, made a re-

port, "that the petitioner should have leave to withdraw his petition;" and the report was read.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Abraham Byington," reported the same without amendment.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Thomas Patten, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Eli Hart, made a report, accompanied by a bill for the relief of Eli Hart; and the report and bill were read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi," reported the same without amendment.

The seven bills and the resolution brought up yesterday for concurrence were read, and severally passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Catharine M. Smith, administratrix on the estate of J. D. Smith, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. DICKERSON presented the petition of Samuel Kirkendall, of New Jersey, who was captain of militia in the Revolutionary war, and is now reduced to indigence, praying relief; and the petition was read, and referred to the Committee on Pensions.

The bill for the relief of Israel Thorndike, was read the second time.

The bill for the relief of the President, Directors, and Company of the Merchants' Bank, of Newport, in Rhode Island, was read the second time.

The bill declaring the consent of Congress to an act of the State of North Carolina, for the relief of sick and disabled American seamen, was read the second time.

The resolution directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison and Governor Shelby, and for other purposes, was read the second time.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred a resolution of the Senate, instructing them to inquire into the expediency of "extending the provisions of the law prescribing the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States," and concurred therein.

The Senate resumed the consideration of the



report of the Committee of Claims, to whom was referred the petition of Phineas Meigs; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

Mr. TROUP submitted the following motion for consideration:

*Resolved*, That the Committee on the Militia be instructed to inquire into the expediency of setting apart, and appropriating the dividends which shall arise from the shares held by the Government in the Bank of the United States, to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Anthony Gale; and the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Alexander Levie; and, on motion by Mr. NOBLE, it was recommitted to the Committee on Pensions, further to consider and report thereon.

The Senate resumed the consideration of the motion of the 24th instant, for instructing the Committee on Finance to inquire into the expediency of extending further time to the purchasers of public lands to complete their payments for the same; and agreed thereto.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and, on motion by Mr. TAIT, the bill, together with the Message of the President of the United States of the 23d instant, upon that subject, was referred to the Committee on Naval Affairs, to consider and report thereon.

The engrossed bill for the relief of Cata Bunnell, was read a third time, and passed.

The engrossed bill for the relief of Samuel Ward, was read a third time, and passed.

The engrossed bill concerning the bounty or allowance to fishing vessels in certain cases, was read a third time, and passed.

The bill, entitled "An act altering the time for holding a session of the district court in the District of Maine," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to incorporate a fire insurance company in the City of Washington; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the purchase and distribution of the laws of

the United States, together with the amendments reported thereto by a select committee; and the amendments having been agreed to, and the bill further amended, on motion by Mr. NOBLE, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington;" and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to make valid certain acts of the justices of the peace in the District of Columbia; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of lands therein described, together with the amendments reported thereto by a select committee; and the amendments having been amended were agreed to; and the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, on the question, "Shall this bill be engrossed, and read a third time?" it was determined in the affirmative—yeas 20, nays 2, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Daggett, Dickerson, Gaillard, Horsey, Johnson, King, Morrow, Noble, Otis, Roberts, Ruggles, Storer, Tait, Tichenor, Van Dyke, Williams of Tennessee, and Wilson.

NAYS—Messrs. Macon and Stokes.

#### SEMINOLE INDIANS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I now lay before Congress all the information in the possession of the Executive, respecting the war with the Seminoles, and the measures which it has been thought proper to adopt, for the safety of our fellow-citizens on the frontier exposed to their ravages. The enclosed documents show, that the hostilities of this tribe were unprovoked, the offspring of a spirit long cherished, and often manifested towards the United States, and that, in the present instance, it was extending itself to other tribes, and daily assuming a more serious aspect. As soon as the nature and object of this combination were perceived, the Major General commanding the Southern division of the troops of the United States, was ordered to the theatre of action, charged with the management of the war, and vested with the powers necessary to give it effect. The season of the year being unfavorable to active operations, and the recesses of the country affording shelter to these savages, in case of retreat, may prevent a prompt termination of the war, but it may be fairly presumed that it will not be long before this tribe, and its associates, receive the punishment which they have provoked, and justly merited.

As almost the whole of this tribe inhabits the country within the limits of Florida, Spain was bound, by the Treaty of 1795, to restrain them from committing hostilities against the United States. We have seen, with regret, that her Government has altogether failed to fulfil this obligation, nor are we aware that it made any effort to that effect. When we consider her utter inability to check, even in the slightest degree, the movements of this tribe, by her very small and incompetent force in Florida, we are not disposed to ascribe the failure to any other cause. The inability, however, of Spain, to maintain her authority over the territory, and Indians within her limits, and in consequence to fulfil the treaty, ought not to expose the United States to other and greater injuries. When the authority of Spain ceases to exist there, the United States have a right to pursue their enemy, on a principle of a self-defence. In this instance, the right is more complete and obvious, because we shall perform only what Spain was bound to have performed herself. To the high obligations and privileges of this great and sacred right of self-defence will the movement of our troops be strictly confined. Orders have been given to the General in command, not to enter Florida, unless it be in pursuit of the enemy, and in that case, to respect the Spanish authority, wherever it is maintained, and he will be instructed to withdraw his forces from the province, as soon as he shall have reduced that tribe to order, and secure our fellow-citizens, in that quarter, by satisfactory arrangements, against its unprovoked and savage hostilities in future.

JAMES MONROE.

WASHINGTON, March 25, 1818.

The Message and accompanying documents were read, and two hundred additional copies thereof ordered to be printed for the use of the Senate.

#### STAFF OF THE ARMY.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army, together with the amendments reported thereto by the Committee on Military Affairs; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and, on the question to concur in the following amendment agreed to as in Committee of the Whole:

SEC. 6. *And be it further enacted*, That after the first day of June, 1819, the present system of supplying the Army with rations be abolished, and that in lieu thereof there shall be appointed by the President, by and with the advice and consent of the Senate, one commissary general, with the rank, pay, and emoluments of colonel of ordnance, who shall, before entering on the duties of his office, give bond and security, in such sum as the President may direct, and as many assistants, to be taken from the subalterns of the line, as the service may require, who shall receive twenty dollars per month, in addition to their pay in the line, and who shall, before entering on the duties of their office, give bond and security, in such sums as the President may direct. The commissary general, and his assistants, shall perform such duties, in purchasing and issuing of rations to the Army of the United States, as the President may direct.

SEC. 7. *And be it further enacted*, That supplies for the Army, unless in particular and urgent cases

15th CON. 1st SESS.—10

the Secretary of War should otherwise direct, shall be purchased by contract, to be made by the commissary general, on public notice, to be delivered on inspection, in the bulk, and at such places as shall be stipulated; which contract shall be made under such regulations as the Secretary of War may direct.

SEC. 8. *And be it further enacted*, That the President may make such alterations in the component parts of the ration as a due regard to the health and comfort of the Army, and economy may require.

SEC. 9. *And be it further enacted*, That the commissary general, and his assistants, shall not be concerned, directly or indirectly, in the purchase or sale, in trade or commerce, of any article entering into the composition of the ration, allowed to the troops in the service of the United States, except on account of the United States; nor shall such officer take and apply to his own use any gain or emolument for negotiating or transacting any business connected with the duties of his office, other than what is or may be allowed by law; and the commissary general, and his assistants, shall be subject to martial law.

SEC. 10. *And be it further enacted*, That all letters to and from the commissary general, which may relate to his office duties, shall be free from postage.

It was determined in the affirmative—yeas 25, nays 5, as follows:

YEAS—Messrs. Barbour, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Horsey, King, Lacock, Macon, Morrill, Morrow, Noble, Otis, Ruggles, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Troup, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Dickerson, Roberts, Tichenor, and Wilson.

The bill having been further amended, by adding a proviso limiting its duration, it was ordered to be engrossed, and read a third time.

THURSDAY, March 26.

Mr. ROBERTS, from the Committee of Claims to whom was referred the petition of John Rudolph, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition and documents. The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill entitled "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," reported the same without amendment.

Mr. NOBLE, from the Committee on Pensions, to whom was recommitted the report on the petition of Alexander Levie, reported the same amended, which was read and considered; and in concurrence therewith the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Frisby; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom



was referred the memorial of John Hall; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Catharine M. Smith, administratrix of the estate of J. D. Smith.

On motion by Mr. KING to amend the resolution reported, by striking out the word "not," the Senate, being equally divided, the PRESIDENT determined the question in the affirmative. So it was

*Resolved*, That the prayer of the petitioner ought to be granted.

On motion by Mr. KING, it was referred to the Committee of Claims, with instructions to report a bill accordingly.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Thomas Patten; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the petition of Richard H. Wilcocks; and in concurrence therewith the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on the Militia to inquire into the expediency of setting apart and appropriating the dividends which shall arise from the United States' shares in the Bank of the United States, to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States; and agreed thereto.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to establish the Flag of the United States; and also a bill, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of John Bate," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners," was read the second time, and referred to the Committee on Pensions.

The bill, entitled "An act authorizing the legal representatives of William Daniel to file with the proper Register of the Land Office a Spanish patent for a tract of land lying in the State of Mississippi," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government," was read the second time, and referred to the same committee.

The bill, entitled "An act for the relief of Nar-

cissus Broutin and others," was read the second time, and referred to the same committee.

The bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowell," was read the second time, and referred to the same committee.

The resolution, directing the Secretary for the Department of State to prepare an index to the acts and resolutions of Congress after the close of every session, was read the second time, and considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The bill, entitled "An act to extend the privilege of franking to vaccine agents of States or Territories," was read the second time, and referred to the Committee on the Post Office and Post Roads, to consider and report thereon.

The bill for the relief of Eli Hart, was read the second time.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the memorial of Shubael Canans, of the town of Detroit, made a report, accompanied by a bill for the relief of Lewis and Antoine Dequindue; and the report and bill were read, and the bill passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Michael Hogan; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until this day two weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for an amendment to the Constitution of the United States, in relation to internal improvements; and, on motion by Mr. DAGGETT, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the affirmative—yeas 22, nays 9, as follows:

YEAS—Messrs. Burrill, Campbell, Crittenden, Daggett, Eppes, Gaillard, Horsey, Hunter, Lacock, Morrill, Morrow, Ruggles, Sanford, Storer, Talbot, Taylor, Troup, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Dickerson, Fromentin, Macon, Roberts, Smith, Stokes, Tait, and Tichenor.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting and deciding controversies between two or more States; and the bill having been amended, on motion by

Mr. EPPES, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John G. Bogert; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The bill to incorporate a fire insurance company in the City of Washington, was read a third time, and passed.

The bill to reduce the staff of the Army having been reported by the committee, correctly engrossed, was read a third time; and the blanks being filled,

*Resolved*, That this bill pass, and that the title thereof be, "An act regulating the staff of the Army."

The bill supplemental to an act, entitled "An act further to amend the charter of the City of Washington," having been reported by the committee correctly engrossed, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of land therein described was read a third time; and it was

*Resolved*, That this bill pass, and that the title thereof be, "An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,' passed the eighteenth of April, one thousand eight hundred and six."

The bill to make valid certain acts of the justices of the peace in the District of Columbia was read a third time, and passed.

The bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia, was read a third time, and passed.

#### INCREASE OF SALARIES.

The Senate resumed the consideration of the bill to increase the salaries of the Heads of Departments and of the Attorney General.

Various propositions were received and disposed of, respecting the increase proper to be made, the impropriety of discrimination in fixing the compensation of these officers, &c.

The bill was finally amended, so as to fix the salaries of the Secretaries of State and of the Treasury at \$6,500 each; the Secretaries of War and of the Navy at \$6,000 each; that of the Attorney General at \$3,500; and that of the Postmaster General at \$4,000;—to commence on the 1st January last.

In this shape, the bill was ordered to be engrossed for a third reading.

FRIDAY, March 27.

Mr. WILSON, from the Committee on the Post Office and Post Roads, to whom was referred the bill, entitled "An act to extend the privilege of

franking to vaccine agents of States or Territories," reported the same with an amendment; which was read.

Mr. WILSON, from the same committee, who were instructed by a resolution of the 29th January, "to inquire into the expediency of providing for the security of passengers in stage-coaches in which the mail of the United States may be transported, against any danger arising from gross negligence of proprietors and drivers," made a report; which was read.

Mr. TROUP submitted the following motion for consideration:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of changing the post route between Milledgeville and Darien, so that the same may pass directly from Montgomery court-house to the town of Darien, by Tatnall court-house.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Anthony Gale; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Rudolph; and, in concurrence therewith, it was resolved that the petitioner have leave to withdraw his petition and documents.

The bill for the relief of Louis and Antoine Dequindue, was read the second time, and considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Bate," reported the same without amendment.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowell," reported the same with an amendment, which was read.

Mr. WILLIAMS, of Mississippi, from the same committee, to whom was referred the bill, entitled "An act authorizing the legal representatives of William Daniel to file with the proper register of the land office a Spanish patent for a tract of land lying in the State of Mississippi," reported the same without amendment.

The bill entitled "An act to establish the flag of the United States," was read the second time, and referred to the Committee on Naval Affairs.

A bill entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," was read the second time, and referred to the Committee on the Judiciary.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Vassel White, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.



SENATE.

Proceedings.

MARCH, 1818.

Mr. RUGGLES, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Catharine Smith; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the President, Directors, and Company of the Merchants' Bank of Newport, in Rhode Island; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Israel Thorndike; and, on motion by Mr. TALBOT, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill declaring the consent of Congress to an act of the State of North Carolina for the relief of sick and disabled American seamen; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The Senate then resumed the consideration of the following joint resolution:

*Resolved, &c.,* That the thanks of Congress be and they are hereby presented to Major General William Henry Harrison, and Isaac Shelby, late Governor of Kentucky, and through them to the officers and men under their command, for their gallantry and good conduct in defeating the combined British and Indian forces under Major General Proctor, on the Thames, in Upper Canada on the fifth day of October, one thousand eight hundred and thirteen, capturing the entire British army with their baggage, camp equipage, and artillery; and that the President of the United States be requested to cause two gold medals to be struck emblematical of this triumph, and presented to General Harrison, and Isaac Shelby, late Governor of Kentucky.

The resolution was modified by striking out the word *entire*, in the twelfth line, and ordered to be engrossed for a third reading.

The bill for the relief of Michael Hogan was read a third time, and passed.

The bill for the relief of John G. Bogert was read a third time, and passed.

The bill to increase the salaries of certain officers of Government was read a third time, and passed.

The resolution directing the Secretary for the Department of State to prepare an index to the acts and resolutions of Congress after the close of every session, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Abraham Byington;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

Mr. WILSON presented the petition of Lemuel H. Osgood, a lieutenant in the Army of the United States, and late quartermaster in the 3d regiment of artillery, stating his loss of certain papers and vouchers at the battle of Oswego, by which he is prevented from settling his accounts,

and praying relief; and the petition was read, and referred to the Committee of Claims.

Mr. HORSEY submitted the following motion for consideration:

*Resolved,* That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of increasing the compensation of the postmaster at Georgetown, in the State of Delaware.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Eli Hart; and no amendment having been made thereto, the PRESIDENT reported it to the House; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative.

The Senate adjourned to Monday next.

MONDAY, March 30.

Mr. DAGGETT, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act to provide for the erection of a court house, jail, and public offices within the county of Alexandria, in the District of Columbia," reported the same without amendment.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act to alter the flag of the United States," reported the same without amendment.

On motion by Mr. CRITTENDEN, the Committee on the Judiciary, to whom was referred the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States, and to repeal the acts therein described,'" were discharged from the further consideration thereof, and it was referred to the Committee on Foreign Relations.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Lemuel H. Osgood; and the bill was read, and passed to the second reading.

On motion by Mr. RUGGLES, the Committee on Pensions were instructed to inquire into the propriety of placing Adam Creen, of Monroe county, Ohio, on the pension list.

The PRESIDENT communicated sundry documents, referred to in the report of the Secretary of State, of the 14th instant, accompanying the Message of the President of the United States of the same date, transmitted from the Department of State; which were read, and referred to the Committee on Foreign Relations.

The bill for the relief of Catharine M. Smith was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom were referred the memorial of certain merchants of Portsmouth, in New Hampshire, and its vicin-

MARCH, 1818.

Proceedings.

SENATE.

ity; the memorial of merchants, underwriters, and insurance companies, of Philadelphia; the petition and memorial of merchants and underwriters, citizens of the United States, of Charleston, South Carolina; and in concurrence therewith, resolved that the relief asked by the memorialists and petitioners ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants; and in concurrence therewith, resolved that the prayer of the memorial ought to be refused.

Mr. FROMENTIN presented the representation of the Legislature of the State of Louisiana, soliciting the demolition of Fort St. Charles, in New Orleans, the removal of other public establishments, and the sale of the lots on which they are situated; and the representation was read, and referred to the Committee on Public Lands.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate relative to the pensioners of the United States, the sum annually paid to each, and the States or Territories in which the said pensioners are respectively paid, I now transmit a report from the Secretary of War, which, with documents marked A, and B, contain all the information required.

JAMES MONROE.

WASHINGTON, March 28, 1818.

The Message and accompanying report and documents were read.

The Senate resumed the consideration of the report of the Committee on Post Offices and Post Roads, who were instructed, by a resolution of the 29th January, "to inquire into the expediency of providing for the security of passengers in stage coaches in which the mail of the United States may be transported, against any dangers arising from gross negligence of proprietors and drivers;" and in concurrence therewith, the Committee were discharged from the further consideration thereof.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Vassal White; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 27th instant, for instructing the Committee on Post Offices and Post Roads to inquire into the expediency of changing the post route between Milledgeville and Darien; and agreed thereto.

The Senate resumed the consideration of the motion of the 27th instant, for instructing the Committee on Post Offices and Post Roads to inquire into the expediency of increasing the compensation of the postmaster at Georgetown, in the State of Delaware; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and decid-

ing controversies between two or more States; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution from the House of Representatives fixing the time for the adjournment of the first session of the Fifteenth Congress; and the same having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the resolution was read a third time as amended.

The resolution was read a third time, as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory;" and on motion by Mr. MORROW, the further consideration thereof was postponed to the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, "entitled 'An act for the relief of John Bate,'" and no amendment having been made thereto, the PRESIDENT reported it to the House; and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

The bill for the relief of the President, Directors, and Company of the Merchants' Bank at Newport, in Rhode Island, was read a third time, and passed.

The bill declaring the consent of Congress to an act of the State of North Carolina, for the relief of sick and disabled American seamen, was read a third time, and passed.

The resolution directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison, and Governor Shelby, and for other purposes, were read a third time, and passed.

Mr. BARBOUR then, observing that the passage of this resolution had removed from his way the obstruction which had impeded heretofore the proposition he was about to submit, gave notice that he should, on to-morrow, ask leave to introduce a resolution for giving the thanks of Congress to Colonel Richard M. Johnson, for his gallantry and good conduct in charging the enemy on the Thames in Upper Canada on the 5th October, 1813.

The bill, entitled "An act for the relief of Abraham Byington," was read a third time, and passed.

The bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi;" was read a third time, and passed.

On motion by Mr. DAGGETT, the further consideration of the engrossed bill, supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was postponed until to-morrow.

Mr. ROBERTS, from the Committee of Claims,



SENATE.

Proceedings.

MARCH, 1818.

whom was referred the petition of certain citizens, inhabitants of Knox county, in the State of Indiana, made a report, accompanied by a resolution, that the petitioners have leave to withdraw the petition and papers. The report and resolution were read.

Mr. BURNELL presented the petition of Smith Slocum, of Pawtuxet, in the State of Rhode Island, praying a pension; and the petition was read, and referred to the Committee on Pensions.

The bill for the relief of Louis and Antoine Pequindue, was read a third time, and passed. The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the legal representatives of William Daniel, to file with the proper register of the land office a Spanish patent for a tract of land lying in the State of Mississippi;" and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Borel," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill was read a third time, as amended.

The bill from the other House extending the privilege of franking to the vaccine agents in the several States and Territories, was taken up; and on motion of Mr. CRITTENDEN, who thought such a provision unnecessary, a bad precedent, and subject in itself to abuse, the bill was postponed to the first of July next [rejected] by a vote of 17 to 12.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

Previous to adjournment, the VICE PRESIDENT informed the Senate that he should not attend the Senate, after this day, for the remainder of the session, his private concerns requiring his attention.

The Senate adjourned.

TUESDAY, March 31.

The VICE PRESIDENT having retired from the Chamber, on motion of Mr. KING, the Senate proceeded to the choice of a President *pro tempore*,

as the Constitution provides; and the honorable JOHN GAILLARD was elected.

On motion by Mr. GOLDSBOROUGH, the Secretary was directed to wait on the President of the United States, and acquaint him that the Senate have, in the absence of the Vice President, elected the honorable JOHN GAILLARD, President of the Senate *pro tempore*.

The Secretary was also directed to make a similar communication to the House of Representatives.

Mr. RUGGLES presented the petition of a number of citizens of the State of Ohio, representing the severity and injustice of a late regulation requiring all payment for public lands to be made in the notes of the Bank of the United States, and its branches, and praying relief; and the petition was read, and referred to the Committee on Finance.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill for the relief of Michael Jones; and the bill was read, and passed to the second reading.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred the petition of Henrietta Ross, widow of Colonel George T. Ross, were discharged from the further consideration thereof.

Mr. GOLDSBOROUGH submitted the following motion for consideration:

*Resolved*, That, in addition to the harbors and waters ordered to be surveyed by a resolution of the 18th of this month, for the purpose that two suitable stations may be selected for the establishment of arsenal ports, the President of the United States be, and he hereby is requested, for the purpose aforesaid, to cause a survey to be made of the harbor of Annapolis and of the adjacent waters of the Severn.

On motion by Mr. SANFORD, the Committee on Commerce and Manufactures, to whom were referred the following petitions and memorials, to wit: the petition of sundry inhabitants of the county of Oneida, in the State of New York, cotton and woollen manufacturers; the petition of D. Lyman and others, a committee acting for and in behalf of the cotton and woollen manufacturers of Providence and its vicinity; the memorial of William Patterson, and others, manufacturers of woollen and cotton goods, in the city of Baltimore; the memorial of John Dow, and others, manufacturers of iron; and the memorial of Thomas Rotch, on the subject of woollen manufactures; were discharged from the further consideration thereof respectively.

On motion by Mr. TAIT, the Message from the President of the United States, of the 16th instant, transmitting, in obedience to a resolution of the Senate of the 3d of February last, a report from the Secretary of the Treasury respecting "the progress made under the act to provide for surveying the coast of the United States," was referred to the Committee on Naval Affairs.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act confirming the claim of Tobias Rheams, to a tract of land granted to

MARCH, 1818.

Honors to Colonel Richard M. Johnson.

SENATE.

him by the Spanish Government," reported the same with an amendment; which was read.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the petition of William P. Farrand, and others, importing merchants of Philadelphia, made a report accompanied by a resolution, that the prayer of the petitioners ought not to be granted. The report and resolution were read.

The amendment to the bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowel," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The engrossed bill, supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was read a third time; and, having been amended by unanimous consent, it was passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriation for the support of the Government for the year 1818;" the bill, entitled "An act concerning the Territory of Alabama;" and a resolution directing the printing and distribution of the act to provide for the surviving officers and soldiers of the Revolutionary Army; in which bills and resolution they request the concurrence of the Senate.

The two bills and the resolution last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act making appropriation for the support of Government for the year 1818," was read the second time, by unanimous consent, and referred to the Committee on Finance.

The bill for the relief of Lemuel H. Osgood, was read the second time.

The bill limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid, was read the second time, and considered as in Committee of the Whole, and, having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution which originated in the Senate, fixing the time for the adjournment of the first session of the fifteenth Congress; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall; and the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Frisby; and, on motion by Mr. GOLDSBOROUGH, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of certain citizens, inhabitants of Knox county, in the State of Indiana; and, in concurrence therewith, the petitioners had leave to withdraw their petition and papers.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Catharine M. Smith; and no amendment having been made thereto, the PRESIDENT reported it to the House; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to alter the flag of the United States;" and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and it was referred to the Committee of Claims.

#### HONORS TO COLONEL R. M. JOHNSON.

Agreeably to notice given, Mr. BARBOUR asked and obtained leave to bring in a resolution requesting the President of the United States, to present to Colonel Richard M. Johnson, a sword, as a testimony of the high sense entertained by Congress of the daring and distinguished valor displayed by himself and the regiment of volunteers under his command, in charging the enemy on the Thames, in Upper Canada, on the 5th October, 1813; and the resolution was read twice by unanimous consent, and considered as in Committee of the Whole, and having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the resolution was ordered to be engrossed, and read a third time.

On introducing the proposition for causing a sword to be presented to Colonel R. M. Johnson—

Mr. BARBOUR said, in availing himself of the notice given on yesterday, of asking leave to introduce a resolution, whose object would be to present to Colonel Richard M. Johnson some testimonial of the high sense entertained by the nation of the distinguished services rendered by him on the 5th October, 1813, in the battle of the Thames, he considered himself bound to make a few remarks, disclosing the propriety of granting the leave asked.

As to the distinguished merit of Colonel Johnson, he presumed there could be no difference of opinion; the only objection that could possibly present itself would be, the time when the resolution was presented, or possibly the grade which Colonel Johnson held in the army. To remove these, if they exist, was all that devolved on him. As to the objection of time, it will at once be removed by reflecting on that which has just occurred—the vote of thanks which has been awarded in favor of General Harrison and Governor Shelby. It is not unknown that rumor, the result



SENATE.

*Honors to Colonel Richard M. Johnson.*

MARCH, 1818.

envy, or some other bad passion, had attempted to throw a shade around the character of that distinguished commander. He felt as he ought, and sought an investigation, to vindicate his character from the foul aspersions which had been cast upon it. It, after some delay, took place, and resulted in an honorable acquittal. In the mean time the venerable Shelby was, at his own request, withheld from the notice of the nation, as regarded the distinguished services he had rendered—Shelby, a name which can never be mentioned without awakening, in every American bosom, emotions of gratitude. I see in this illustrious character a display of that love of country and chivalrous spirit which conceived and effected our independence, and, unabated by age, it remained to vindicate those rights, to the establishment of which, in his more youthful days, he had so essentially contributed; but, he is as generous as he is brave, and he refused to accept a tribute of respect, whose indirect consequence might have been a reflection on the Commander-in-chief, to whose zeal, patriotism, and capacity in conducting this campaign, he always bore a grateful testimony. Colonel Johnson, influenced by the same sensibility, peremptorily refused to his friends the permission of bringing this subject before the Representatives of the people. I, however, will barely remark, in regard to the commanding General, that, with the regrets which the delay of justice to this citizen must necessarily create, will be mingled some consolation in the reflection, that his character has been entirely preserved from the censure which had been improperly cast upon it; and that the meed now dispensed has the sanction of the deliberate judgment of the nation, unbiassed by passion or the fever of the moment. He will now receive it with a grateful feeling, as the highest reward which freemen can give, or a freeman receive.

With regard to Colonel Johnson, it is due to him to say, this proposition is now made without his consent. Mr. B. however, who took a pride in calling him his friend, took the responsibility upon himself, because he thought it would be an act of consummate injustice, were no lasting memorial to be erected to the valor which he so signally displayed on the occasion alluded to. Another motive with Mr. B. was, a notification on the part of Colonel Johnson, of his retiring from public life. While he regretted this event as a serious loss to the public councils, he was perfectly satisfied that his reasons were sufficient to justify it. While upon this subject he would barely add, that he was satisfied it would not be deemed an exaggeration when he asserted, that no man in Congress had performed more service than Colonel Johnson. In addition to the just claims of his own particular constituents upon him, what part of the Union is it from which applications have not been made and cheerfully attended to by this patriotic citizen? So much for the first objection that might possibly be made, although he did not anticipate it. As to the second difficulty, that might exist in the opinion of some gentlemen, the grade of Colonel Johnson—if there

were no precedent applicable to this case, Mr. B. would have had no difficulty in fixing one. It is the attribute of all Governments to adapt their proceedings to the endless vicissitudes which human affairs continually present. The valor displayed by Colonel Johnson is unsurpassed by any example in the annals of mankind. But it is not now necessary to press this question, because you have a precedent in the case of McDonough and his associates, in the distinguished victory gained by them on Lake Champlain, over a British squadron, and some others. Mr. B. said, he should but ill represent the feelings of his friend, or his own, if, in asking for this tribute of respect, anything could be inferred from what is said or done, unfavorable to those patriotic officers holding grades between Colonel Johnson and the Commander-in-chief. It was but justice to them to say, that, had it been their good fortune, on the day of battle, to have had the post of honor, they would have acquired those laurels so dearly earned by Colonel Johnson. Generous as brave, so far from looking with an eye of envy upon this honorable tribute of gratitude, dispensed in behalf of this distinguished citizen, they will warmly participate in the fine feelings with which Colonel Johnson will receive this mark of his country's distinction.

As to the merit of Colonel Johnson to this evidence of our gratitude, Mr. B. said, he had already declared that upon this point there could be no difference of opinion. To expatiate upon it, would be unnecessary; yet he could not dismiss this subject without briefly enumerating some of the leading acts of his public life, so far at least as they connect themselves with the question under consideration.

Let it then be remembered that he was zealously in favor of the war. Not content with the distinguished place he held in the councils of the nation, he patriotically resolved to vindicate with his own arm those rights which he had so manfully asserted while voting for the declaration of war. He erects his standard and proclaims his purpose, and, although much was to have been expected from the patriotism, the zeal, the enterprise, and courage of Kentucky—a people Mr. B. delighted to honor, as, in addition to their merit, he considered them his own kindred, thousands of his near and highly respected relations being there—although, he said, much was to have been expected, yet, when we reflect upon the devotedness of those old and young, rich and poor, rallying around the standard of their country, we see a new subject of admiration.

In doing justice to those patriots, let it not be understood that any invidious distinction is intended to be made in their favor. Mr. B. said he well knew that illustrious examples of courage and patriotism were exhibited in other portions of the Union, and on all proper occasions he was prepared to lift his feeble voice to do them ample justice. But, to return to the patriotic volunteers, who embodied at the call of Colonel Johnson, displaying a spectacle as honorable to themselves as to Colonel Johnson—manifesting the

APRIL, 1818.

*Proceedings.*

SENATE.

high confidence they reposed in this their illustrious citizen—these brave men, leaving their homes and their domestic blessings, and, weighing the honor of their country and the defence of her rights, against the privations and hazards of war, willingly accepted them as an equivalent. Undeterred by the difficulties or dangers to which they are about to be exposed, they fearlessly commit themselves to the trackless desert, to the secret danger of the ambuscaded savage, or the more open perils of their less savage ally. A night of misfortune had shed its disastrous gloom over our affairs. It was given to Commodore Perry to turn back the tide of adversity upon the fountain from which it flowed. Lake Erie was reserved for the display of the brilliant superiority of American bravery and seamanship over our then haughty foe—achieving a victory, which, in the language of President Madison, will fill an early page in our naval annals, as having never been surpassed in lustre, however much it may have been in magnitude. The way having been opened, the commanding General and his veteran associate, with promptitude, availed themselves of the opportunity thus offered, to throw themselves in the enemy's country, and pursuing, with unanimity and with an unexampled rapidity, (of which pursuit Colonel Johnson led the van,) speedily overtook them. The battle is arrayed; the post of honor, for such he made it, is assigned Colonel Johnson. The enemy have the Thames on the left; a British regiment, seven hundred strong, has also a ravine on the right, beyond which was the celebrated Tecumseh, at the head of fifteen hundred savages—a force truly formidable. When we refer to the commander, of whom it may be said, unless his character has been greatly exaggerated, that, had he been favored with the embellishments of civilized life, and the benefits of military experience, he would have been one of the most distinguished captains of the present eventful period; to which, when we superadd that his associates were acting under the impression of their being under the particular favor of Heaven, it well may be said that the force thus to be encountered was indeed formidable. This force, so placed, and so formidable to ordinary minds, presented nothing alarming to the mounted regiment. Colonel Johnson divides his regiment, say one thousand strong—one battalion placed under the command of Colonel James Johnson, who gave, in accepting his station under a younger brother, an honorable evidence of his patriotism; the other battalion, headed by himself, passed a defile, and placed itself on the right of the marsh. The bugle was to announce the readiness for attack. The sound is heard, and, mingled with the watchword, victory or death, floated along the line. The British force was overwhelmed in an instant; they threw down their arms, and on their knees supplicated mercy. Although there was a long account of unatoned-for blood, impiously shed by this united British and Indian force, and retaliation justified even to their entire extermination, yet, at the cry of mercy, the sword was imme-

diately sheathed, and the guilty survived. Far different was the conflict with the savage foe; there man was opposed to man, in single combat, rifle to rifle, and tomahawk to tomahawk; wounds and death were mutually dealt out. Colonel Johnson, early in the combat, received two severe wounds, attended with the loss of much blood. In this trying crisis an ordinary courage would have retired from the combat; on him it had a different effect. It seemed to impart to him new courage, which manifested itself in a prodigy of valor, which loses nothing in a comparison with the most splendid achievement recorded in the whole extent of "backward time." Calling around him twenty spirits, the bravest among the brave, he resolved, at their head, to precipitate himself on the fiercest part of the conflict, where Tecumseh in person commanded, and who was the soul of the battle. Of these daring spirits, composing the forlorn hope, one only escaped. The others were all cut down, some to rise no more; the remainder mangled by numerous wounds, of which the subject of the present resolution had his melancholy share. Bleeding, exhausted by effusion of blood, and alone, his fate seemed inevitable, when Tecumseh, cool and collected, approached with his unerring rifle and ruthless tomahawk. It pleased Providence to interpose. Amidst universal carnage, and in the teeth of approaching death, Colonel Johnson remained undismayed, and hurled at Tecumseh that death which had been prepared for him. This is the man and the services to which Mr. B. wished an honorable testimony to be erected, one more lasting than that which is found in evanescent papers of the day. If, anything was necessary to be added in support of the high claims of this distinguished citizen upon the gratitude of his country, it would be found in the honorable notice taken of him by the commanding General, and repeated, in the most flattering manner, by President Madison, in communicating the result of the battle to Congress. But it is more than unnecessary to furnish any additional proofs. Wherever there is an American, the courage and services of Colonel Johnson are known and applauded. Mr. B. indulged a hope, bordering on confidence, that the measure he now proposed would receive the unanimous consent of the Senate, for in that unanimity its principal merit would consist.

WEDNESDAY, April 1.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Ann Welsh, made a report unfavorable to the prayer of the petitioner; and the report was read.

Mr. LEAKE, from the committee to whom the subject was referred, reported a bill to alter and establish the boundary line between the State of Mississippi and the Alabama Territory; and the bill was read, and passed to the second reading.

On motion, by Mr. GOLDSBOROUGH, the Committee on the District of Columbia, to whom was referred the memorial of the Mayor, Aldermen,



the Common Council of the City of Washington, on the 10th of last month, were discharged from the further consideration thereof.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Narcissus Brutin and others," reported the same with amendments; which were read.

The Senate resumed the consideration of the motion of the 31st ultimo, for requesting the President of the United States, for the purpose therein mentioned, to cause a survey to be made of the harbor of Annapolis, and of the adjacent waters of the Severn; and agreed thereto.

The resolution requesting the President of the United States, to present a sword to Colonel Richard M. Johnson, was read a third time, and passed unanimously.

The bill for the relief of Michael Jones was read the second time.

The bill limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid, was read a third time, and passed.

The bill, entitled "An act concerning the Territory of Alabama," was read the second time.

The resolution directing the printing and distribution of the act to provide for the surviving officers and soldiers of the Revolutionary Army, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Lemuel H. Osgood; and, no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

Mr. ROBERTS, from the committee to whom the subject was referred, reported a bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808," and to repeal certain parts of the same; and the bill was read, and passed to the second reading.

Mr. BARBOUR, from the Committee on Foreign Relations, reported a bill concerning navigation; and the bill was read, and passed to the second reading.

On motion, by Mr. BARBOUR, it was read the second time, by unanimous consent; and, on his motion, the further consideration thereof was postponed to, and made the order of the day for, Friday next.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the bill, entitled "An act in addition to the Act for the punishment of certain crimes against the United States, and to repeal the acts therein described," reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, prescribing the mode of commencing, prosecuting, and deciding, controversies between two or more States; and, on motion by Mr. CAMPBELL, the further consideration thereof was postponed until the

first Monday in May next, it was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Gaillard, Goldsborough, Horsey, Macon, Otis, Ruggles, Sanford, Stokes, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Hunter, Johnson, King, Morril, Morrow, Noble, Roberts, Storer, Talbot, Taylor, and Wilson.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Samuel F. Hooker, made a report, accompanied by a bill for the relief of Samuel F. Hooker; and the report and bill were read, and the bill passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Joseph Thorn;" a bill, entitled "An act making further appropriations for the construction of the Cumberland road; and a bill, entitled "An act fixing the time for the next meeting of Congress;" and also a resolution for the appointment of a joint committee, to take into consideration, and report what business is necessary to be acted upon before the close of the present session; in which bills and resolution they request the concurrence of the Senate.

The resolution last mentioned was read three times, by unanimous consent, and concurred in; and Messrs. DICKERSON, ROBERTS, and BURRILL, were appointed the committee.

The three bills last brought up for concurrence were read, and severally passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, was ordered to be engrossed, and the bill was read a third time as amended.

#### THURSDAY, April 2.

On motion by Mr. WILLIAMS, of Mississippi, the Committee on Public Lands were instructed to inquire into the expediency of authorizing the sale of the land attached to Fort Charlotte, in the town of Mobile.

Mr. JOHNSON presented the petition of the Mayor, Aldermen, and inhabitants of the city of New Orleans, praying a donation in land, to enable them to build an addition to the Charity Hospital, for the accommodation of strangers suffering under epidemic diseases, and a further donation for the use of the Board of Trustees of the College of New Orleans, in lieu of the house and lot granted to them by the Spanish Government, which has been by Congress converted into a court-house; and also praying that a lazaretto may be established and maintained at public ex-

pense at the English Turn; and the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Ann Welsh; and agreed thereto.

The bill to alter and establish the boundary line between the State of Mississippi and the Alabama Territory, was read the second time.

The bill for the relief of Samuel F. Hooker, was read the second time.

The bill entitled "An act for the relief of Joseph Thorn," was read the second time, and referred to the Committee on Commerce and Manufactures.

The bill entitled "An act making further appropriations for the construction of the Cumberland road," was read the second time, and referred to the committee to whom was referred so much of the Message of the President of the United States as relates to roads, inland navigation, and seminaries of learning, to consider and report thereon.

The bill entitled "An act fixing the time for the next meeting of Congress," was read the second time.

The amendment to the bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government," was read a third time; and having been further amended by unanimous consent, the bill was passed with amendments.

The bill for the relief of Lemuel H. Osgood, was read a third time, and passed.

On motion by Mr. WILLIAMS, of Tennessee, the Committee on Military Affairs, to whom was referred the memorial of the officers and soldiers of the Rhode Island brigade; and, also, the petition of Joseph Hull, were discharged from the further consideration thereof respectively.

On motion by Mr. BURRILL, leave was given to withdraw the memorial of the officers and soldiers of the Rhode Island brigade, their heirs and representatives.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Michael Jones; and the bill having been filled with "one thousand five hundred," the PRESIDENT reported the bill to the House accordingly; and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the legal representatives of William Daniel to file with the proper register of the land office a Spanish patent for a tract of land lying in the State of Mississippi; and on motion by Mr. BURRILL, the further consideration thereof was postponed until the first Monday in July next.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land

Office, and for designating the western boundary line of the Virginia military tract," with amendments; in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act for the relief of the legal representatives of George Pearson;" a bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes;" and, also, a bill, entitled "An act to change the name of the District of Erie, in the State of Ohio;" in which bills they request the concurrence of the Senate.

The three bills last mentioned were read, and severally passed to the second reading.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to extend the time for locating Virginia land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract; and on motion by Mr. MORROW, they were referred to the Committee on Public Lands.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Aquila Giles; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the bill having been amended, on motion by Mr. WILLIAMS, of Mississippi, that further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 13, nays 18, as follows:

YEAS—Messrs. Dickerson, Lacock, Macon, Morril, Morrow, Noble, Roberts, Ruggles, Sanford, Storer, Talbot, Williams of Mississippi, and Wilson.

NAYS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Otis, Smith, Stokes, Tait, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

#### FRIDAY, April 3.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Francis Henderson, made a report, accompanied by a bill for the relief of Francis Henderson; and the report and bill were read, and the bill passed to the second reading.

The bill for the relief of Aquila Giles was read the second time.

The bill entitled "An act for the relief of the legal representatives of George Pearson," was read the second time, and referred to the Committee on Public Lands.

The bill entitled "An act to provide for the publication of the Laws of the United States, and for other purposes," was read the second time, and referred to the Committee on the Judiciary.

The bill entitled "An act to change the name of the District of Erie, in the State of Ohio," was read the second time, and referred to the Committee on Commerce and Manufactures.



SENATE.

*The Navigation Bill.*

APRIL, 1818.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of William P. Farrand and others, importing merchants of Philadelphia; and on motion by Mr. ROBERTS, the further consideration thereof was postponed until the first Monday in May next.

The Senate resumed the consideration of the report of the Committee of Claims, on the memorial of John Hall, and the further consideration thereof was postponed until Monday next.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act to authorize the payment of certain certificates, reported the same without amendment. Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act relating to appropriation for the support of Government for the year 1818," reported the same with amendments; which were read and considered as Committee; and having been agreed to, the President reported the bill to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees;" a bill, entitled "An act for the relief of Gad Worthington;" a bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher, and company; Thomas Clifford and Son, and Thos. Clifford, of Philadelphia, and Charles Wirgman of Baltimore;" a bill, entitled "An act for the relief of Joan Rodgers;" and a bill, entitled "An act for the relief of certain friendly Creek Indians, the mixed blood;" in which bill they request the concurrence of the Senate. They have also passed a bill, which originated in the Senate, to provide for paying to the State of Indiana, three per cent. of the net proceeds arising from the sales of the United States' lands within the same, with an amendment; in which they request the concurrence of the Senate.

The Senate preceded to consider the amendment of the House of Representatives to the bill mentioned; and the further consideration thereof was postponed until to-morrow.

Mr. TAIT, from the Committee on Naval Affairs, reported a bill to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States;" and the bill was read, and passed to the second reading.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill, confirming Anthony Cavalier and Peter [?] in their claim to a tract of land; and the bill was twice read by unanimous consent.

Mr. MORROW, from the same committee, reported a bill, authorizing the disposal of certain [?] of public ground in the city of New Orleans [?] town of Mobile; and the bill was read, and passed to the second reading.

The bill for the relief of Michael Jones was read a third time, and passed.

The bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," and to repeal certain parts of the same, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States, and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Narcissus Broutin and others," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the President reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill was read a third time as amended.

Mr. BARBOUR gave notice, that he should ask leave to-morrow to bring in a resolution authorizing a subscription for the edition of "Statistical Annals, embracing views of the population, commerce, navigation, fisheries, public lands, post office establishment, revenues, mint, military and naval establishments, expenditures, public debt, and sinking fund of the United States."

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the Territory of Alabama;" and no amendment having been made thereto, the President reported it to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing the printing and distribution of the act to provide for the surviving officers and soldiers of the Revolutionary Army; and, on motion by Mr. TALBOT, the further consideration thereof was postponed until the first Monday in July next.

Mr. KING submitted the following motion for consideration:

*Resolved*, That the Secretary of the Treasury, do report to the Senate, the sum of the funded debt of the United States, bearing an interest of seven, six, and three per cent.; distinguishing the amount of each, that has been paid by the subscribers towards the capital of the Bank of the United States, distinguishing also the sums of the respective species of funded debt paid on account of the several instalments to the said bank. Stating the sums and species of funded debt sold by the bank; how much thereof was purchased or redeemed by the United States, and how much has been sold without the United States.

## NAVIGATION BILL.

The Senate resumed the consideration of the bill concerning navigation, reported by the Committee of Foreign Relations on Wednesday.

[The first section provides, that from and after the 30th of September next, the ports of the United States shall be and remain closed against every

APRIL, 1818.

*The Navigation Bill.*

SENATE.

vessel owned wholly or in part by a subject or subjects of His Britannic Majesty, coming or arriving from any port or place in a colony or territory of His Britannic Majesty, that is or shall be, by the ordinary laws of navigation and trade, closed against vessels owned by citizens of the United States; and every such vessel, so excluded from the ports of the United States, that shall enter, or attempt to enter the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

The 2d section provides, substantially, that any British vessel entering our ports, shall, on her departure, if laden with the productions of the United States, give bonds not to land her cargo at any of the British ports prohibited in the first section, and to forfeit vessel, tackle, &c., if she attempts to sail without so giving bond.

The 3d section enacts the manner of recovering the penalties, accounting for them, &c.]

Mr. BARBOUR, of Virginia, said, as the organ of the committee who reported the bill, it was expected of him by the Senate that he should disclose the views of the committee on this interesting subject.

It certainly behooved the Senate to give this subject its most serious attention, and to act only upon the most mature deliberation; for remember, when once adopted, it must be adhered to. To recede, would be to insure an endless duration to the serious evils of which we complain, and, what is still of more consequence, it must be attended with a diminution of character. Any policy, adopted by the unanimous consent of the nation, founded in justice and wisdom, and sustained by perseverance, must finally be felt and yielded to by any and every nation on which it operates. The object of the bill under consideration, is to relieve from the effects of measures adopted by Great Britain in relation to our commercial intercourse with her North American colonies and West Indies; measures exclusively against us, as injurious to our navigating interest as they are offensive to our dignity. The invidious policy of which we complain, and which is attended with such unpleasant effects, may be summed up in a few words. She has shut her ports in the possessions formerly alluded to, against American vessels and American property. Not a cock-boat, not an atom of anything that is American, does she permit to enter, while she modestly insists to bring everything that she pleases from these possessions to the United States, and to purchase, and exclusively to carry the produce and manufactures of the United States in return; that is, she insists upon, and we have been tame enough to submit to it, to enjoy exclusively the whole of this valuable intercourse.

The evil has been of long standing; it commenced upon our becoming an independent people. She was not generous enough to forget that we had been enemies, nor wise enough to profit by a liberal policy. She would have found in the same language, the same habits, the same feelings; and in the kind affections inseparably

attending two people of a common origin, except when repressed by injustice or oppression, she would have found in these circumstances sure guarantees to an uninterrupted, friendly, and, to her, highly beneficial intercourse. But other counsels prevailed, and displayed a new proof of the mortifying truth that small, indeed, is the portion of wisdom that directs the government of human affairs. Hence, the moment she acknowledged our independence, she immediately denounced against the United States all the rigor of her colonial system—departing from it only in such parts as would promote her interest, and render it more injurious and humiliating to us. She superciliously rejected all offers at negotiation. The United States, without a common head, and pursuing among themselves an insulated, and frequently a selfish and an unwise policy, became the foot-balls of Great Britain, who, watching, as she always does, with a sleepless eye, whatever is to affect her commerce, seized instantly upon her defenceless prey, and pushed her exclusive system to the uttermost of endurance. In this spirit, instead of being content with enforcing towards us the real colonial system, which was, that the trade should be exclusive through and with the mother country, she permitted the produce of her dependencies to be brought directly to this country, and the produce of this country to be carried back directly to them, but both operations to be effected exclusively by British shipping, to the consequent exclusion of the American shipping from the transportation of the produce even of America. So injurious were the effects resulting from our commercial intercourse, and so entirely unable were the United States to counteract these effects in their then disjointed condition, that our sanguine anticipations from the successful result of our Revolution, began fast to dissipate, and no little solicitude to be experienced in regard to the future. This state of things produced a convention of the States, and finally resulted in our present happy Constitution. I am authorized to say, from the best authority, that it is to this cause chiefly, if not entirely, that we are indebted for this greatest blessing of Heaven. In looking through the history of mankind, and tracing the causes which contribute to the rise and downfall of nations, it frequently becomes a subject of curious speculation, when we see the most propitious results flowing from apparently injurious causes and the worst passions of mankind converted into the means of furthering some beneficent purpose of Providence. Little did the statesman of Britain think, when indulging his thirst for cupidity or revenge, that he was to become the involuntary benefactor of America, by essentially contributing to the order of things which now exists, and which, under Providence, will insure us an endless succession of power, of prosperity, and of happiness.

The new Government being organized, it turned its attention to the particular subject intrusted to its care. Unfortunately, however, other objects, both foreign and domestic, interposed before its



deliberations ripened into action. Europe was agitated by a convulsion the most important in the annals of the world, whether we regard its nature, its extent, or its effects. During this troubled state of the world, the policy now under consideration, engaged the attention of Congress. The result of the effort at that time is known to the Senate—the causes leading thereto lie out of the proper sphere of the present discussion. Mr. B. was sent to England—he negotiated a treaty—much of it as relates to the trade in question, situated in nothing; but such was the condition of the nations of Europe, that we enjoyed, from the necessities of England, what we had a right to expect from her justice. America became the center of the world, and her commerce, her shipping, and her wealth, increased in the most astonishing ratio, till at length America, in her turn, felt the effects of war, and its frequent privations. Peace was no sooner established, than Great Britain resorted to her colonial system, and all its abuse. The more intolerable, as it is exclusively directed against us, inasmuch as she indulges to the vessels of other nations an intercourse withheld from us; a course aggravated by the consideration that she stands alone in this policy, American vessels being admitted into the French, Spanish, Dutch, and Swedish colonies. This course, so injurious to our interest, and so offensive to a just pride, claimed the immediate attention of the Government, and efforts were made to obtain redress by a treaty; the result is known. Mr. B. begged leave to read so much of President Madison's Message at the last session of Congress, as regards this subject. Here you receive the door of negotiation is closed; all hope of redress in that way is desperate, and he relies upon Congress to interpose. Independently of the respect due to the recommendation of a President of the United States, there were other considerations which would give a weight to this opinion of Mr. Madison. When it is recollected, that he devoted the whole of his most useful life to his country, with motives always pure, and with a judgment but little liable to err, guided as he was by a superior genius; when such a man, from the commencement of the Government, down to the moment of his quitting public life, with the benefit of thirty years' observation and experience, invariably entertains the same opinion, and, in his last solemn appeal to the nation, strongly inculcates the propriety of the measure now under consideration, Mr. B. was justifiable in saying a recommendation thus sustained would derive from the Senate a degree of consideration far beyond that arising from mere official respect. In addition to this, we have been advised by President Monroe of his fruitless attempts to procure redress by negotiation, and he also submits to Congress the propriety of interposing by regulations, whose effects will produce that which he has in vain sought to obtain by negotiation. This question, then, solemnly addresses itself to the patriotism, and to the wisdom, and to the dignity of the Senate. Will you patiently stand by and fold your arms together, in apathetic indifference,

while Great Britain pursues a policy towards us as unjust as it is injurious, or will you, with becoming firmness, taking justice as your guide, and equality as your object, adopt a measure, whose effect will be to retort the invidious policy on its first parent, and enable us to address her in a quarter where she is never deaf to her interest?

Mr. B. said, there was a general rule in regard to intercourse with all nations he was willing to adopt, or enforce, as a fundamental principle of our policy—perfect reciprocity; to mete out the same measure to each that was dispensed to us. Who can or will object to this rule? A different one supposes an inferiority. But every American Senator would scout such an assertion. Sir, the same rules are applicable to the intercourse of nations as to that of individuals. Where is the man worthy of the name, who would not indignantly reject a proposed intercourse with another, on the degrading terms that he should not visit his house but under circumstances of degradation, while the other should claim access when, and how, and upon what terms he himself dictated? Nations are but aggregations of men, and Mr. B. could perceive no reason why they should make, in their aggregate capacity, a surrender of that attribute, self-respect, so essential to the genuine dignity of man. Upon this ground alone, with due deference to the opinion of others, it seemed to him Congress were bound to interpose; but he should but feebly discharge his duty, were he to leave the question here. For the sake of method and perspicuity, however, Mr. B. proposed further to discuss the subject, under three heads:

1. The extensive and injurious effects of the policy complained of, as it regards our shipping interest.

2. He would undertake to show that redress was attainable, and would be produced by the proposed measure.

3. That entire prohibition of all intercourse was better, than seeking to effect it by heavy duties.

Before he commenced the proposed investigation, he would make a preliminary remark. He took it for granted, that it was the settled policy of the nation to become a naval power. Perhaps there is no one question upon which there is more unanimity. From one extremity of the nation to the other there is but one sentiment, but one wish, everywhere expressed, and that is, that it may go on to increase; and in fond anticipation, judging from the lustre of its achievements during the war, they see, in its increase, an increase corresponding with the resources of the nation—the guarantee of our safety and glory. But these fond hopes are all illusory, unless wisdom directs our councils. Vain, foolish, your resolutions to build ships, unless you protect your navigation. It is not to the superior fixtures of your vessels, or the ampleress of their supplies, you are to look for victory, but to the number and experience of your sailors. If you suffer the Power who looks with jealousy on your rising commerce, and with envy on the glory of your navy, to exclude you from the participation of those advantages which of right, as being derived

from nature, belong to you, abandon all thoughts of an efficient marine, and withdraw from the ocean. But, Mr. B. would proceed to show the effects of the policy complained of. These will be classed under two heads; first, as it regards the tonnage employed directly between the United States and the colonies of Great Britain; and, second, the indirect effect on the intercourse between this country and the European possessions of Great Britain.

#### 1. The direct trade of the colonies.

The amount of tonnage employed in this trade may be stated as equal to 138,000, round numbers. This result is arrived at by a perusal of a communication from a very intelligent citizen of the United States, who resided in the West Indies, and who has been intimately acquainted with the trade for thirty-five years; and, further, his statement is said to be founded on an official document. He predicates his statement upon the calculation that Jamaica is equal in its trade and productions to all the West India possessions of Great Britain beside. From the 30th of September, 1803, to the 30th of September, 1804, 69,525 tons of shipping entered Jamaica alone from America, but Jamaica only employs one-half; hence, 138,000 tons may be presumed to have sailed from America to all the West Indies, to man which, taking as an estimate five men to a 100 tons, requires upwards of 6,000 seamen. From any participation in this we are entirely excluded. Did this result from the superior advantages which Great Britain naturally possessed over us, or from any regulation she had adopted, founded in justice, while it might be a subject of regret, it could not be of complaint? But such is not the fact. It is by an assumption on her part, and a tame surrender on ours, of that which has been awarded us by nature herself. But the loss of tonnage, and the consequent non-employment of seamen, are not limited to the direct intercourse merely, but materially affect what Mr. B. proposed as the second view of this subject, the navigation between the United States and the European possessions of Great Britain. This proposition will be most easily illustrated by an example: a British ship arrives in the United States, direct from Great Britain, with a cargo, unloads in one of our ports, takes in a cargo of lumber, goes to the West Indies, delivers it, and, finding freight scarce, she sails to New Orleans, procures a load of tobacco, cotton, &c., and proceeds to Great Britain; here two or three of the freights belongs of right to the shipping of America, as being the growth of America. Yet British ships, from the policy complained of, monopolize the whole. An American vessel going from a Northern or an Eastern port with a view to take a cargo for Europe, goes in ballast to New Orleans. Even from the colonies in North America vessels are daily entering our ports, laden with plaster, fish, and the product of their colonies; these are commuted in some ports of the United States for such cargoes as are wanted in the West Indies, whither they sell or exchange their cargo, and procure a freight in the produce

of the islands. Again, British ships engaged in the West India trade, frequently leave home with cargoes of little value, such as crates of earthenware, coal, salt, come to the United States, procure cargoes for the West Indies, and return home freighted with the productions of the islands; while the American trade is limited to a direct trade only with the possessions of Great Britain in Europe. They return, generally, in ballast. The bulky supplies furnished by America require, perhaps, one hundred vessels to be transported to Great Britain, while what they receive in return (the costly fabrics of British manufacture) may be brought back in some two or three. That the result of this unequal contest should be unfavorable, cannot be matter of surprise. That it has not been more so, is accounted for only by the industry and enterprise of our seafaring people. Your ports and harbors, however, exhibit melancholy proofs of the decline of our shipping interest, and it is impossible to contemplate the spectacle without experiencing sincere regret, as well for the misfortune of the individuals whose hopes of independence have been the victim of this unjust policy, as for the alarming consequences in a national point of view; the drying up the spring from which flows our maritime strength.

The second point of view in which Mr. B. proposed to discuss this subject, is redress within our hands; and is it likely to result from the proposed measure?

To understand this question correctly, it will be necessary to advert to the amount of the imports from the dependencies in question, as also the exports; the constituent parts of both, and the capacity of the United States to supply herself elsewhere, with those productions, which from habit have become somewhat essential to comfort.

1. As to imports: he felt it necessary to state that the facts he was about to employ had been furnished him by an honorable member of the other House, (Mr. SEYBERT,) who had extracted them from a statistical work written by himself, founded on official documents, with a view of which Mr. B. had been favored; and he owed it to that gentleman to state, that he considered it by far the most valuable compilation of the kind he had ever seen, which ought, by some means, to become public property; and he should consider himself bound, if he could discover that such a motion would be favorably received, to lay a resolution on the table to effect that object; but, to proceed, he begged leave to exhibit the following document:

*A Statement showing the quantities of the Merchandise enumerated, which were annually imported into and exported from the U. States, calculated on the average of the ten years, from 1803 to 1812, both inclusive.*

ARTICLES.	Quantity annually imported.	Quantity annually exported.
Rum, . . . . . gallons	7,512,415	679,322
Molasses . . . . . do.	7,389,465	24,679
Coffee . . . . . pounds	40,142,664	23,963,981
Sugar . . . . . do.	120,613,131	66,943,661



SENATE.

The Navigation Bill.

APRIL, 1818.

Statement showing the quantities of Rum, Molasses, Coffee, and Sugar, annually imported into the United States from the countries enumerated, calculated on the average of the three years from 1802 to 1804, both inclusive.

COUNTRIES.	Rum, estimated at 70 cts. a gal.	Molasses, estimated at 50 cts. a gal.	Coffee, estimated at 25 cts. a lb.	Sugar, estimated at 12 1/2 cts. a lb.
British West Indies	4,069,550	604,994	1,895,809	12,557,434
Spanish do.	76,256	18,307	369,792	2,964,760
French do.	1,198,860	67,830	911,322	11,366,529
Dutch do.	400,590	625,114	3,363,998	11,671,079
Portuguese do.	648,318	2,698,928	18,044,723	29,473,665
Other do.	74,495	2,414,011	2,029,865	20,192,874
Value in dollars	2,800,000	300,000	4,500,000	1,500,000

Statement showing the value of the American produce which was annually exported from the United States to the countries enumerated, for the years 1802, 1803, and 1804.

COUNTRIES.	1802.	1803.	1804.
British West Indies	\$5,624,647	\$6,315,667	\$5,473,218
Spanish do.	209,547	400,848	209,707
French do.	845,695	1,061,618	1,523,106
Dutch do.	1,323,092	1,600,667	454,645
Portuguese do.	3,016,463	1,742,368	2,876,364
Other do.	363,261	1,725,662	2,806,112

By which it appears that, except in the article of rum, the entire interdiction of the colonial trade with the British dependencies would affect only the carrying trade of the United States under any circumstances; but he should presently advert to the state of the trade of a later period, by which it would be seen that, upon the restoration of a general peace, each nation had aspired to its own share, and, in consequence, that of the United States had proportionably diminished. But, at the stage of investigation, it appears from the table furnished, that the United States imported 7,500,000 gallons of rum, exporting only 260,000, less to be consumed in the United States, say 7,000,000, of which 4,000,000 came from the possessions of Great Britain; to which, when we add the vast quantity made in America from molasses, together with the large quantities of ardent spirits distilled from native productions, the mind is filled with amazement and regret at the consumption of this most pernicious article in the United States. If this measure were to be attended with the entire exclusion of this baneful spirit, the man who duly appreciates the morals and health and character of his country, would find an ample indemnity; but, putting considerations of this kind apart, what would be the result in a commercial point of view? If our people will use ardent spirits, the breadstuffs now sent to purchase this article would immediately find a market at home, by being converted into a spirit of a less pernicious kind; so that, in regard to this article, it can produce, were it to

be entirely shut out, no serious effect upon our commercial prosperity. The next article, viz., molasses, it will be seen that the colonies of Great Britain produce only 600,000, about one-twelfth part of what we consume; but a large portion of which is manufactured into rum, of which he had already said enough, and proving, he hoped, that whatever deficiency may be produced in that article will be a national benefit. We see, also, that of the article of coffee the United States imported 40,000,000 lbs., only 2,000,000 of which came from the British colonies. But, by the document so often alluded to, it is seen that we exported 24,000,000, leaving to be consumed in the United States only 16,000,000; hence the quantity from the British possessions would attach itself only to the quantity exported. Of sugar we imported 120,000,000, and exported 66,000,000; 12,000,000 of this came from the British possessions. But as we had for exportation 66,000,000, the entire exclusion of that article from the British possessions would act only on the quantity to be exported. Mr. B. said he was thus full on this particular branch of the inquiry, as he had heard an opinion expressed by some, that possibly our prohibitory system might affect the price of those articles, which our habits caused us to enumerate, if not among the necessities, at least among the comforts of life. On the contrary, the facts referred to clearly evince that we are entirely independent of Great Britain; that supplies, far beyond our wants, may be procured elsewhere, and the only diminution will be in the export trade; the extent of which, compared to the tonnage put out of employment by the system of which we complain, is so utterly insignificant as to be undeserving of notice. In addition, it will be a sacrifice of a small portion of shipping interest of one kind, to procure an infinitely greater advantage to another; of which all may participate.

The table marked E (that marked D being intentionally omitted, as embracing a portion of time during the war) discloses the great diminution of the exports of America since the restoration of peace, when, as stated before, each nation had been endeavoring, and had in part succeeded, to enjoy its just proportion of shipping interest. The quantity of rum imported in 1816, was 4,200,000; 2,500,000 of which were imported elsewhere than from the dependencies of Great Britain. 8,000,000 gallons of molasses, 7,500,000 of which are subject to the same remark. 25,000,000 lbs. of coffee were imported, 23,000,000 of which came from other regions than the British islands. 48,000,000 lbs. of sugar were imported; 42,500,000 of which are subject to the same remark. Hence it seems that, in the year 1816, we imported from the possessions of Great Britain 1,700,000 gallons rum, 500,000 gallons molasses, 2,000,000 lbs. coffee, and only 7,500,000 lbs. sugar; and yet, with our own supplies of that article, we were able to export, say, from 9,000,000 to 10,000,000 lbs., 5,000,000 more than were wanting for home consumption, if that from Great Britain had been totally excluded. We

APRIL, 1818.

The Navigation Bill.

SENATE.

also see, notwithstanding our increased population, that our importation of rum was minus by 3,000,000 gallons than for any year, on an average, from 1802 to 1812, inclusive. The deficiency must have been supplied by spirits distilled from American productions.

Mr. B. feared, however, he wearied the patience of the Senate with these details, and would proceed, therefore, to the exports from this country to the dependencies in question. It seems that these may be estimated at, say 6,000,000; and the question to be discussed is, what will be the influence of this measure upon the price of the article thus exported. If it be necessary to admit that Great Britain can do and will do without them, then it would be in vain to disguise the fact, that the price of these articles would diminish, and in so far the value impaired, and, by consequence, the agricultural interest injured. But if it were to be revealed from Heaven, that this would be the consequence, still he hoped that agriculturists were prepared, when a just regard to the interests and to the character of their country required it, to make the sacrifice which the emergency called for. He would here take the liberty to state, that he was himself a farmer; that he derived not a cent from any source except what he dug from the earth; that it had not been his fortune to amass money by embarking in any paper speculation whatever; he represented farmers and agriculturists; his interest was like theirs, and he therefore presumed he spoke their sentiments, when he proclaimed his readiness to look across any sacrifice of their interest, when the welfare and dignity of the whole people of the United States demanded it.

It is but due to frankness to say, that they consider the sacrifices heretofore made by them, with a view to preserve our maritime rights, was but illy reciprocated by those whose more immediate interest was concerned. He made no allusion to this subject with a view to awaken unpleasant emotions, nor to open wounds which had already bled enough; for his ardent wish was, that oblivion would forever erase from our history the page which forms a record of these transactions; it was mentioned solely with a view to announce to all whom it might concern, that the same love of country and the same sensibility to its rights continued to form the public sentiment, and that they hold everything as comparatively insignificant when weighed against these high considerations. He had mentioned it also for the further object of warning those who, under the influence, real or pretended, of a jealousy that agriculture was hostile to commerce; a jealousy the less reasonable, as the agriculturists had been at least as prompt to encounter sacrifices as any other portion of the community, of warning such, if at any future time a cry of that kind should be attempted, to look at the history of this measure, in which they would see a security against their sickly apprehensions. The world will see this measure originating from no particular quarter, party, or interest—its foundation is as broad as

the empire. In discussing its probable duration, no hopes need be indulged of division. The public sentiment is as undivided as its true interests are indivisible. Shades of difference may indeed exist as to the manner or effect of interposing; but all agree as to the injustice of the policy complained of. But is it true that a sacrifice, to any extent, is to be expected? He thought not; and, for himself, he claimed less credit for the amount of the sacrifice, which, as an agriculturist, he was called on to make, than for the promptitude with which he was prepared to encounter it.

Mr. B., in stating that he thought the sacrifice to agriculture would be trifling, went upon the ground that people must eat—and, if food be for sale, and famine has the means of purchase, it will buy. This, then, presents at once, the fair question—can Great Britain get her supplies of bread, meat, and those things essentially connected with the prosperity, if not the existence, of the colonial possessions? The conversion of the islands from sugar-growing to breadstuff-growing plantations is thrown out of the question—the interest of Great Britain is a sufficient security, that that will not be attempted. From whence, then, is she to get her supplies, if not from the United States? Her North American colonies, except Canada, are themselves importers of breadstuffs; and Canada, at least for the present, raises but little if any, more than is necessary for her own consumption. Great Britain herself has been indebted, for several years, almost for her existence to the supplies of breadstuffs imported from this country. And with all that she could procure, famine has pressed so hard upon her subjects as to drive them into into tumult and disorder. The Peninsula is also indebted to us for her support in part. France, in happier times, might possibly have an excess—in her present calamitous condition, she too feeds upon the over-abundant granary of America. Mr. B. held it therefore as out of the question, to say, these dependencies can be supplied anywhere but from America. If this be true as to breadstuffs, it is no less so as to lumber. She may, indeed, procure some scanty supplies of this article from her North American colonies, but not sufficient to produce any sensible relief, if she be excluded from the United States. The communication before alluded to, from which he had taken many of the facts already stated, presents this subject in a strong light; but, as it was in every gentleman's possession, he would not, as he had enough to do beside, pursue this view of the subject any further, but content himself with referring the Senate to the document. But where can Nova Scotia and New Brunswick get the means of payment, if the supplies are procurable elsewhere than in America. They have nothing but those to sell—nobody buys their plaster but the people of the United States. That they should quarrel with us, is laughable enough, if it did not betray a feeling towards us calculated to excite regret. It is readily admitted, that when a man begs bread, and you give him a stone, you having treated him unkindly, he may be offended; but when we have given bread for stone, it is en-



SENATE.

*The Navigation Bill.*

APRIL, 1818.

arely inconceivable upon what principle they could have interdicted our intercourse; unless, indeed, imitating the example of their superiors, they concluded, that a people who would so far forget what was due to themselves as to pocket one insult, might another. But, to pass on, what will probably be the result of this measure? Great Britain will either retrace her footsteps, and, taking council from her interest, rather than her jealousy, will put our intercourse on an equal footing, and at last find, that true policy consists in an open, liberal, and friendly intercourse. Instead of committing her honor by this course, she will excite our respect. A magnanimous nation, one who is great and powerful in her resources, can use nothing by a just and liberal policy—or, if she fail to do this, and pursues her policy, the offspring of other days, she must have an entrepot. But that will be to our advantage, when contrasted with her condition. The presumption is that this entrepot will be in the West Indies. Her trade, being confined to the islands, will expose her seamen to that destructive climate, while ours will be relieved from its consequences by staying there but a short time, and continually returning to the United States. The present is most fit time for the adoption of the measure. Our convention with Great Britain will terminate on the 4th of July, 1819. Our commercial intercourse must then be established by treaty, or by mutual systems of legislative regulations. The former is greatly preferable: because the latter is continually generating little irritations unfavorable to that peace and friendship which we wish to see forever preserved between this country and Great Britain. But, if it be attempted by treaty, what reasonable hope can be indulged of any better success than heretofore, if you forbear to do anything. Thou fool, said Hercules, help yourself, and then Heaven will assist you. Let us do likewise. She can then no longer withhold from us that justice to which we are entitled, and which it is to be believed, has been withheld, from an anticipation, justified indeed by length of time, that we should make no effort to do ourselves justice. The result of this day, it is to be hoped, will prove, that there are extremes beyond which injustice will not be endured by an American Senate. But if you thus acquiesce in the pretensions of Great Britain, what security have you, that all the minor Powers will not attempt the same policy? Beware of submission! With nations, as with individuals, meekness and crouching rarely stay the hand of insult or injury; it but too often provokes it. The coward not unfrequently is tempted to lay in a stock of reputation, by playing the hero on a subject unwilling to resist, or incapable. These lesser Powers, one of the smallest, begins to inculcate upon us, that we have no equivalent to offer for the West India trade.

It is time then to take a stand. Let your demands be founded in justice. Let your purpose be firm—firm as your everlasting mountains—adopt the broad principle, to treat all nations as they treat you. If they talk about a want of

equivalent, unroll the map of your country, and expose to their astonished eyes the boundless extent from the cataract of Niagara to the mouth of the Columbia—tell them of the variety of your climate, and of the fertility of your soil—of its vast productions, so essential to their commerce, and even to their existence; and, when you shall have so done, let them know, it is but the first dawns of your future wealth and power. Let them learn, that your population duplicates itself in twenty years; that it is animated by a spirit of enterprise, which has prompted them to leap the boundaries heretofore prescribed to the reach of the human mind, and in unexplored regions to discover new secrets in the arts and sciences; and that of all this, under Providence, freedom is the creator and preserver; and that it has not entered into the mind of man to conceive the pitch of elevation to which we are destined. When you have told them this, arrogance itself must be dumb.

Mr. B. feared he had already trespassed on their patience. He would, therefore, hurry across the last proposition, which is, that a direct and entire exclusion is better than a half-way system, that of onerous duties. The duties will either prevent the intercourse, or it will not. If it prevent, it approaches, circuitously, what we propose directly. This is an open system. We tell Great Britain our intercourse in this way is forever closed. If, however, the duty system should not stop the intercourse, the object of the bill is lost. It is not revenue we want—of that we already have more than enough—and you tax the people wantonly. It is to do justice to our shipping, and to maintain our maritime rights, that alone will justify the measure. By stopping intercourse at once, this object is effected. By the other, you may lose, and can't win.

The time of its commencement being the 30th September next, is to prevent those speculations and losses which not unfrequently attend any sudden and violent interruption of a long existing commerce.

When Mr. BARBOUR had concluded—

Mr. KING addressed the Chair as follows: Agriculture, manufactures, and foreign commerce, are the true sources of wealth and power of nations; agriculture is the chief and well-rewarded occupation of our people, and yields, in addition to what we want for our use, a great surplus for exportation. Manufactures are making a sure and steady progress; and, with the abundance of food and of raw materials, which the country affords, will, at no distant day, be sufficient, in the principal branches, for our own consumption, and furnish a valuable addition to our exports.

But, without shipping and seamen, the surpluses of agriculture and of manufactures would depreciate on our hands; the cotton, tobacco, bread stuffs, provisions, and manufactures, would turn out to be of little worth, unless we have ships and mariners to carry them abroad, and to distribute them in the foreign markets.

Nations have adopted different theories, as respects the assistance to be derived from navigation; some have been content with a passive

APRIL, 1818.

*The Navigation Bill.*

SENATE.

foreign commerce—owning no ships themselves, but depending on foreigners and foreign vessels to bring to them their supplies, and to purchase of them their surpluses; while others, and almost every modern nation that borders upon the ocean, have preferred an active foreign trade, carried on, as far as consistent with the reciprocal rights of others, by national ships and seamen.

A dependence upon foreign navigation subjects those who are so dependent, to the known disadvantages arising from foreign wars, and to the expense and risk of the navigation of belligerent nations—the policy of employing a national shipping is, therefore, almost universally approved and adopted; it affords not only a more certain means of prosecuting foreign commerce, but the freight, as well as the profits of trade, are added to the stock of the nation.

The value and importance of national shipping and national seamen, have created among the great maritime Powers, and particularly in England, a strong desire to acquire, by restrictions and exclusions, a disproportionate share of the general commerce of the world.

As all nations have equal rights, and each may claim equal advantages in its intercourse with others, the true theory of international commerce is one of equality, and of reciprocal benefits; this theory gives to enterprise, to skill, and to capital, their just and natural advantages; any other scheme is merely artificial; and so far as it aims at advantages over those who adhere to the open system, it aims at profit at the expense of natural justice.

The colonial system being founded in this vicious theory, has, therefore, proved to be the fruitful source of dissatisfaction, insecurity and war. According to this system, the colonies were depressed below the rank of their fellow subjects, and the fruits of their industry and their intercourse with foreign countries, placed under different regulations from those of the inhabitants of the mother country; it was the denial to Americans of the rights enjoyed by Englishmen, that produced the American Revolution—and the same cause, greatly aggravated, is working the same effect in South America.

Among the navigators and discoverers of the fifteenth and sixteenth centuries, the Dutch became highly distinguished, and, by enterprise, economy, and perseverance, made themselves the carriers of other nations, and their country the entrepot of Europe—and it was not until the middle of the fourteenth century, that England passed her navigation act, which had for its object to curtail the navigation of the Dutch and to extend her own.

According to this act, the whole trade and intercourse between England, Asia, Africa, and America, were confined to the shipping and mariners of England; and the intercourse between England and the rest of Europe was placed under regulations which, in a great measure, confined the same to English ships and seamen.

This act was strenuously opposed by the Dutch, and proved the occasion of the obstinate naval

wars that afterwards followed. England was victorious, persisted in her navigation act, and, in the end, broke down the monopoly in trade which the Dutch possessed.

That in vindication of her equal right to navigate the ocean, England should have resisted the monopoly of the Dutch, and freely expended her blood and treasure to obtain her just share of the general commerce, deserved the approbation of all impartial men. But, having accomplished this object, that she should herself aim at, and in the end establish, the same exclusive system, and on a more extended scale, is neither consistent with her own laudable principles, nor compatible with the rights of others; who, relatively to her monopoly now, are in the like situation towards England in which England was towards the Dutch, when she asserted and made good her rights against them.

By the English act of navigation, the trade of the colonies is restrained to the dominions of the mother country, and none but English ships are allowed to engage in it.

So long as colonies are within such limits as leave to other nations a convenient resort to foreign markets for the exchange of the goods which they have to sell, for those they want to buy, so long this system is tolerable; but if the power of a State enables it to increase the number of its colonies and dependent territories, so that it becomes the mistress of the great military and commercial stations throughout the globe, this extension of dominion, and the consequent monopoly of commerce, seem to be incompatible with, and necessarily to abridge the equal rights of other States.

In the late debates in the English Parliament, the Minister, in the House of Lords, stated "that instead of seventeen thousand men, employed abroad in 1791, forty-one thousand were then (1816) required, exclusive of those that were serving in France and in India. That England now has forty-three principal colonies, in all of which troops are necessary; that sixteen of these principal colonies were acquired since 1791, and six of them had grown into that rank from mere colonial dependencies." And, in the House of Commons, the Minister, alluding to the acquisitions made during the war with France, said "that England had acquired what, in former days, would have been thought romance—she had acquired the keys of every great military station."

Thus, the commercial aggrandizement of England has become such, as the men who protested against monopoly, and devised the navigation act to break it down, could never have anticipated; and it may, ere long, concern other nations to inquire whether laws and principles, applicable to the narrow limits of English dominion and commerce, at the date of the navigation act, when colonies and commerce, and even navigation itself, were comparatively in their infancy; laws and principles aimed against monopoly, and adopted to secure to England her just share in the general commerce and navigation of the world,



SENATE.

*The Navigation Bill.*

APRIL, 1818.

ought to be used by England to perpetuate in her own hands a system equally as exclusive, and far more comprehensive, than that which she was the chief agent to abolish.

Our commercial system is an open one—our ports and our commerce are free to all—we neither possess, nor desire to possess, colonies; nor do we object that others should possess them, nor do we thereby the general commerce of the world be so abridged, that we are restrained in our intercourse with foreign countries wanting our supplies, and furnishing in return, those which we stand in need of.

But, it is not to the colonial system, but to a new principle, which in modern times, has been incorporated with those of the navigation act, that we now object. According to this act, no direct trade or intercourse can be carried on between a colony and a foreign country; but by the free port bill, passed in the present reign, the English contraband trade, which had been long pursued, in violation of Spanish laws, between English and Spanish colonies, was sanctioned and regulated by an English act of Parliament; and since the independence of the United States, England has passed laws, opening an intercourse and trade between her West India colonies and the United States, and, excluding the shipping of the United States, has confined the same to English ships and seamen; departing by this law not only from the principles of the navigation act, which she was at liberty to do, by opening a direct intercourse between the colonies and a foreign country, but controlling, which she had no authority to do, the reciprocal rights of the United States to employ their own vessels to carry it on.

Colonies being parts of the nation, are subject to its regulations; but, when an intercourse and trade are opened between colonies and a foreign country, the foreign country becomes a party, and has a reciprocal claim to employ its own vessels equally in the intercourse and trade with such colonies, as with any other part of the nation to which they belong.

Governments owe it to the trust confided to them, carefully to watch over, and by all suitable means to promote, the general welfare; and while, on account of a small or doubtful inconvenience, they will not disturb a beneficial intercourse between their people and a foreign country, they ought not to omit the interposition of their corrective authority, whenever an important public interest is invaded, or the national reputation affected. "It is good not to try experiments in States, unless the necessity be urgent, or the utility evident; and well to beware, that it be the reformation that draweth on the change, and

England alone excludes our vessels and seamen from the trade opened between her West India colonies and the United States. In the same trade between the United States and the colonies of France, Spain, Holland, Denmark and Sweden, our vessels and seamen are alike employed, as those of the parent countries, respectively.

not the desire of change that pretendeth the reformation."

In this case, the importance of the reformation is seen and acknowledged by every one, and the delay that has occurred in the making of it may call for explanation.

We are unable to state with accuracy the tonnage and seamen employed before the Revolution, in the trade between the territories of the United States and the other English colonies, but it is known to have been a principal branch of the American navigation.

The colonies that England has since acquired from France, Spain, and Holland, together with the increased population of the old colonies, require more ships and seamen to be employed in the trade now than were engaged in it before the independence of the United States.

Without reference to the tonnage and trade between the United States and the English West India colonies, during the late wars between England and France, which, by reason of the suspension of the English navigation act, and the neutrality of the United States, will afford no standard by which the tonnage and trade of peace can be ascertained, the present custom-house returns are the best documents that we can consult upon this subject. According to a late report from the Department of the Treasury, the tonnage employed in this trade during the year 1816, which may be taken as an average, amounted to one hundred and two thousand tons, requiring between five and six thousand seamen. There may be some error in this return, though we are not able to detect it; the magnitude and importance of the shipping and seamen engaged in this trade, will be more readily understood by comparison than otherwise. The tonnage thus employed exceeds the whole tonnage employed by the English East India Company in its trade with Asia; is nearly a moiety of the American and English tonnage employed between the United States and England, and her possessions in Europe; is equal to the American tonnage employed between the United States and England, and is almost an eighth part of the whole registered tonnage of the United States.

To the loss of profits, which would accrue from an equal participation in this trade, may be added the loss of an equal share of the freights made by the vessels engaged in it; the amount whereof must be equal to two millions of dollars, annually. Other advantages are enjoyed by England, by the possession of the exclusive navigation between the United States and her colonies, and between them and England. Freights are made by English vessels between England and the United States, between them and the English colonies, as well as between those colonies and England. English voyages are thus made on the three sides of the triangle, while those of the United States are confined to one side of it, that between the United States and England.

But the money value of this great portion of our navigation, claimed and hitherto enjoyed by England, although an object that deserves the

APRIL, 1818.

*The Navigation Bill.*

SENATE.

public protection is not the most important view in which the same should be considered by the Senate. We must learn wisdom from past times; and while the experience of the father is too often lost on the son, this ought not to be the case in the affairs of nations, which living from age to age, and profiting by long experience, should become wiser as they grow older. The present condition of nations, and especially that of the inhabitants of our own continent, merits our watchful attention, and admonish us to cherish our national resources, and seasonably to devise, and perseveringly to build up, those establishments, that our present safety demands, and which may be commensurate with our future destiny.

Justice and moderation, which we confidently hope may preside over and guide our public councils, have not been found to be a sufficient armor for the defence of nations. "Wisdom, in the ancient mythology, was represented as armed, because experience had proved that good examples and noble precepts fail of their efficacy, unaccompanied by a power to enforce them." To defend ourselves, our houses, our harbors, and our commerce, from foreign aggression and violence, a navy is acknowledged to be necessary. From the land side we are safe—against dangers from the ocean, a navy will prove to be our cheap, our sure, and most efficient defence.

Although a subject of doubt heretofore, this truth is now so well understood, and so universally admitted, that it would be to mispend the time of the Senate to enter into its development.

An efficient navy never has existed, and cannot exist, without a commercial marine; and the maritime history of Europe, which abounds with instruction on this subject, demonstrates this political truth, that the naval power of every nation is in proportion to its commercial shipping. Money may build ships, but the navigation of the great ocean only can make seamen, and it is in connexion with this view of the subject, that the exclusion of our shipping and seamen from the navigation between the United States and the colonies of England, derives its chief importance.

The prosperity and safety of nations are promoted and established, by institutions early and wisely adapted to these ends. A navy being such an institution, and our experience having proved its importance, it has become the duty of Congress to adopt and to enforce those regulations that are necessary to its efficient establishment. None more efficacious can be devised, than such as encourage and increase the shipping and the mariners of the country, and, for this purpose, exclude those of a foreign Power from a principal branch of our own navigation; a branch that now educates and holds ready for service in the navy of England, and which would educate and hold ready for service in our own Navy, were the United States, instead of England, in the prosecution thereof, a body of several thousand seamen.

But, by passing this act, shall we not cut ourselves off from those supplies which our habits

have rendered indispensable? Will not the English colonial markets, for supplies hitherto purchased among us, and imported to them, be lost, and shall we increase our navigation by adopting the law?

The documents that have been communicated to the Senate, by the chairman of the Committee of Foreign Relations, (Mr. BARBOUR,) satisfactorily prove that we are independent of the English colonies for a supply of sugar and coffee for our own consumption; our annual re-exportation of these articles exceeding the quantity of them annually imported from the English colonies; and, in respect to rum, the other article imported from these colonies, its exclusion will be the loss to England of its best and almost only market; and its place will be readily supplied by other foreign rum and by brandy; or, which is more probable, by domestic spirits distilled from grain.

The exports from the United States to the English West India colonies have been estimated at four millions of dollars annually; the problem has been disputed ever since the independence of the United States, and still remains to be solved, whether these colonies could obtain from any other quarter the supplies received from the United States. To make this experiment effectually, further restrictions and regulations may become necessary, which it is not now deemed expedient to propose. If the question be decided in the negative, the supplies will be continued from the United States, and our shipping will be benefited.

If the articles heretofore supplied from this country can be obtained elsewhere, we must find out other markets for our exports, or the labor employed in preparing them must be applied to some other branch of industry. We have the power, and hereafter it may become our policy, as it is that of other countries, to resort to a regulation, the effect of which would go far to balance any disadvantage arising from the loss of the English colonial markets. We import annually upwards of six millions of gallons of West India rum, more than half of which comes from the English colonies; we also import, every year, nearly seven millions of gallons of molasses: as every gallon of molasses yields, by distillation, a gallon of rum; the rum imported, added to that distilled from imported molasses, is probably equal to twelve million of gallons, which enormous quantity is chiefly consumed by citizens of the United States.

If the importation of rum and molasses, for distillation, be prohibited, it would require four millions of bushels of grain for distillation to supply an equal quantity of ardent spirits; and, in this way, our agriculture would be indemnified for any loss it might suffer by losing the English colonial markets.

As respects the timber and lumber trade, including staves and woods, in all the forms in which we prepare them for exportation, should no foreign markets be found to supply those which, by the imposition of high duties, we have lost in England, and those which, by the passing



SENATE.

*The Navigation Bill.*

APRIL, 1818.

of this bill we may lose in the English and India colonies those who are engaged in this precarious and generally ill-paid and unprofitable business, will hereafter confine their supplies to our domestic wants, which constantly increase, and to the foreign markets, that are neither affected by English duties, nor the bill before us.

The timber of the country is becoming scarce, and more and more an object of public concern. The forests upon the frontier of the ocean, and on the great rivers leading to it, are nearly destroyed. In other countries, and even in Russia, the improvident waste of their timber, especially in the neighborhood of their great iron works, is becoming a national inconvenience.

Masts, spars, pine and oak timber, fit for naval purposes, and for the numerous uses for which super and wood are wanted, were far more abundant, and of better quality formerly, and within the memory of men now living, than they are at the present day; and a little more care and economy in the use of our timber even now, will confer an important benefit on posterity. The probability, however, is that, as respects our valuable timber, we shall not want foreign markets so long as we have to spare.

As a general rule it is correct, that every person should be free to follow the business he may prefer. Since, by the freedom, sagacity, and enterprise of individuals, the general welfare is commonly promoted. There are, however, exceptions to this principle; and, as general rules affect universally individual concerns, and measures adopted for the common welfare may sometimes interfere with private pursuits, from the nature and spirit of society, the latter must give way for and yield to the former; and in this case the general welfare, and the interest that all have in the encouragement and protection of the shipping and seamen of the country, take precedence over the private and individual interests of persons, whose occupations may thereby be somewhat affected.

Toucing the last point, whether we shall increase our own navigation and seamen by passing the bill, it may be observed: If England meet us in the temper that we hope she may do, and enter into a reciprocally beneficial arrangement concerning the navigation of the two countries, our shipping will acquire thereby a portion of the carrying trade now exclusively possessed by England. If she persist in her exclusive system, and thus compel us to meet restriction by restriction, we shall not be losers by this course, but all ultimately be gainers. According to the English navigation act, as well as the act of Parliament, that departs from it, and opens an intercourse between the English colonies and the United States, we are excluded from any share in the navigation between these colonies and the United States. No notice is taken of the occasional navigation of the latter act, because, by the double competition created by the Americans themselves, as sellers and buyers in the English colonies, the intercourse is probably disadvantageous, rather than beneficial to us. According to the permanent law, English shipping only brings to

us her West India supplies, and takes in return the articles wanted in these colonies. If English shipping be no longer employed in this service, and the articles formerly sent to these colonies are exported to other markets, or the supplies received from them are sought for, and imported into the United States from other places, the vessels of the United States will be employed in this service, and so the navigation and mariners of the country will be encouraged and increased.

It will be found, as it has been heretofore, that new markets will be discovered, as well to purchase our surpluses as to supply our wants, should those be lost with which we have formerly had intercourse.

But why has a measure of this importance been so long deferred? The explanation which this question requires cannot be made without some reference to the history of our communications with England since the peace of 1783, as well as to the views and policy of men and parties that have in succession influenced our public affairs.

As, according to the powers of England, notwithstanding the acknowledgment of our independence, neither trade nor intercourse could be carried on between the United States and her dominions, it became necessary after the treaty of peace to pass some act whereby this trade and intercourse might be prosecuted, a bill for this purpose was introduced into the House of Commons by the Administration which concluded the treaty of peace with the United States. The general scope and provisions of the bill correspond with the liberal principles which were manifested in the treaty of peace. They plainly show that the authors of this bill understood that the true basis of the trade and intercourse between nations is reciprocity of benefit; a foundation on which alone the friendly intercourse between men and nations can be permanently established. The preamble of this bill declares "that it was highly expedient that the intercourse between Great Britain and the United States should be established on the most enlarged principles of reciprocal benefit to both countries;" and as, from the distance between them, it would be a considerable time before a treaty of commerce, placing their trade and intercourse on a permanent foundation, could be concluded, the bill, for the purpose of a temporary regulation thereof, provided, that American vessels should be admitted into the ports of Great Britain, as those of other independent States, and that their cargoes should be liable to the same duties only as the same merchandise would be subject to if the same were the property of British subjects, and imported in British vessels; and, further, that the vessels of the United States should be admitted into the English plantations and colonies in America, with any articles the growth or manufacture of the United States, and with liberty to export from such colonies and plantations to the United States any merchandise whatsoever, subject to the same duties only as if the property of British subjects, and imported or exported in British vessels; allowing, also, the same bounties, drawbacks, and exemptions, on

APRIL, 1818.

*The Navigation Bill.*

SENATE.

goods exported from Great Britain to the United States in American vessels, as on the like exportations in British vessels to the English colonies and plantations.

The persons benefitted by the English exclusive system of trade and navigation were put in motion by this bill, which was earnestly opposed, and, after a variety of discussion, postponed or rejected. About this period Mr. Pitt, who had supported this bill in the House of Commons, resigned his office of Chancellor of the Exchequer, as his colleagues in Lord Shelburne's administration had before done. The coalition administration that succeeded introduced a new bill, which became a law, vesting in the King and Council authority to make such temporary regulations of the American navigation and trade as should be deemed expedient.

Sundry Orders in Council were accordingly made, whereby a trade and intercourse in American and English vessels between the United States and Great Britain were allowed; and, with the exception of fish oil, and one or two other articles, the produce of the United States, imported into Great Britain, was admitted freely, or subject to the duties payable on the like articles imported in English vessels from the American colonies.

An intercourse and a trade in enumerated articles were also opened between the United States and the English West India colonies, but with a proviso, (the principle whereof is still maintained against us,) whereby American vessels were excluded, and the whole trade confined to English vessels.

After a periodical renewal of these orders for several years, the regulations that they contained were adopted by, and became an act of Parliament. This act was afterwards modified, and rendered conformable to the provision of Mr. Jay's treaty, the commercial articles of which expired in the year 1803—not long after which date England passed a new act of Parliament concerning the American navigation and trade. This act maintains the exclusion of American vessels from the intercourse between the United States and the English colonies, and confines the same, as former acts and Orders in Council had done, to English vessels; it repealed the settlement of duties pursuant to Mr. Jay's treaty; and, giving up the policy of the enlarged and liberal system of intercourse which had been proposed in Mr. Pitt's bill, it repealed such parts of all former acts and orders as admitted the productions of the United States, either freely, or, on paying the same duties only as were payable on the like articles imported from the English colonies and plantations; and placed all articles the produce of the United States, imported in American vessels, on the same footing as the like articles imported in foreign ships from other foreign countries. This new footing of our trade with England, the importance whereof is well understood by those who are engaged in supplying her markets with masts, spars, timber, naval stores, and pot and pearl ashes, may be regarded as de-

cisive evidence of a complete change of policy concerning the American trade and intercourse—which, however unsatisfactory, as respected the colonial trade, has become more so by the foregoing provision of this act of Parliament.

The policy that manifested itself in the treaty of our independence, and which is seen in the bill to regulate the trade and intercourse between England and the United States, prepared by the Administration that made the Treaty of Peace, was to unite in a firm bond of friendship, by the establishment of trade and intercourse on the solid basis of reciprocal benefit, a people politically separate, living under different governments, but, having a common origin, a common language, a common law, and kindred blood; circumstances so peculiar, as not to be found between any other nation. Instead of this policy, one of a different sort is preferred—one that England has a right to prefer; and against the many evils of which, we must protect ourselves as well as we are able to do. The intricate, countervailing, and perplexing code of commercial intercourse, founded in jealousy, and the rival establishments and pursuits of the Powers of Europe bordering upon, and constantly interfering with, each other, has been adopted and applied to the United States—a people, agricultural more than manufacturing or commercial, placed in another quarter of the globe, cultivating, and proposing to others, an open system of trade and intercourse; and herein, as in many other important discriminations, differing from the nations of Europe, and therefore not fit subjects to which these restrictive and jealous regulations are applicable.

Our policy is, and ever has been, a different one. We desire peace with all nations; and the wars of maritime Europe have taught us that a free system of trade and intercourse would be the best means of preserving it.

With these principles as our guide, at the negotiation of the Treaty of Peace in 1783, our Ministers were authorized to conclude a treaty of commerce with England on this basis; but no treaty was concluded. Afterwards, and when a temporary trade and intercourse were opened by England, looking, as we supposed, to a treaty of Commerce, Congress instructed Messrs. Adams, Franklin, and Jefferson, to renew the overture of a treaty of commerce, which was done through the English Ambassador at Paris, in the year 1784; but no correspondent disposition being shown by England, this second overture failed.

The interest and prejudice of those who were benefitted by the monopolies and exclusive system of England, were opposed to any treaty with this country, on the principle of reciprocal advantage. The political writers of that day, under the influence of these partial views, or not sufficiently appreciating the true theory of commerce, contended that it would be folly to enter into engagements by which England might not wish to be bound in future; that such engagements would be gratuitous; as, according to their interpretation, Congress possessed no power, under the confederation, to enforce any stipulation into



which they might enter; that no treaty that could be made would suit all the States; if any were necessary, they should be made with the States separately; but that none was necessary; and those who talked of liberality and reciprocity in commercial affairs, were either without argument or knowledge; that the object of England was, not reciprocity and liberality, but to make as many sailors and as much shipping as possible.\*

This unequal footing of our foreign commerce, and the language made use of by England at this juncture, served still more to increase the public discontent; especially as it was plainly avowed that England ought to render the trade with us as exclusively advantageous to herself as her power would enable her to do. Congress having power, under the Confederation, to impose countervailing and other corrective regulations of trade, the States separately attempted to establish regulations upon this subject. But, as only a few of the States joined in this measure, and as the laws that were passed for this purpose differed from each other, the experiment completely failed.

In this condition of our navigation and trade, subject to foreign restrictions and exclusion, without a power at home to countervail and check the same, Congress resolved to make another effort to conclude a commercial treaty with England. For this purpose Mr. Adams, since President of the United States, was appointed, and went to England. Mr. Adams resided in England for several years; but found and left the Government unchanged, and equally as before declined to make with us a treaty of commerce.

This further disappointment, with the deprecating condition of our navigation and trade, joined to the embarrassment of the public finances, produced what no inferior pressure could have done; it produced the General Convention of 1787, that formed the Constitution of the United States. Had England entered into a liberal treaty of commerce with the United States, this convention would not have been assembled. Without suspending it, the adherence of England to her unequal and exclusive system of trade and navigation, gave to this country a Constitution; and the countervailing and equalizing bill now before the Senate, arising from the same cause, may assist us in establishing and extending those great branches of national wealth and power, which we have such constant and urgent motives to encourage.

The establishment of the Constitution of the United States was coeval with the commencement of the French Revolution. The sessions of the General Convention at Philadelphia, and of the Assembly of Notables at Paris, were in the same year.

Laws were passed by the first Congress assembled under the new Constitution, partially to correct the inequality of our navigation and trade

Sheffield, Chalmers, and Knox.

with foreign nations; and a small discrimination in duties of impost and tonnage was made for this purpose.

Afterwards, in the year 1794, a number of resolutions on the subject of navigation and trade were moved in the House of Representatives, by a distinguished member of that body. These resolutions had a special reference to the refusal of England to enter into an equal commercial treaty with us, aimed at countervailing her exclusive system. Other and more direct resolutions, bearing on England, were also proposed by other members, and referred to the inexecution of the Treaty of Peace, and to the recent captures of American vessels, by English cruisers, in the American seas.

The policy of these resolutions was doubted; they were therefore strenuously opposed, and the extraordinary mission of Mr. Jay to England suspended their further discussion.

The French Revolution had by this time become the subject of universal attention. War had broken out between France and England. The avowed policy of our own Government to avoid war, and to adhere to a system of neutrality, was much questioned; and for a time it was matter of great uncertainty whether the country would support the neutrality recommended by the President.

The universal dissatisfaction, on account of the commercial system of England, the inexecution of the articles of peace, the numerous captures by orders of the French Government, of our vessels, employed in a trade strictly neutral, combined with our friendly recollections of the services of France, and our good wishes in favor of the effort she professed to be making to establish a free constitution, constituted a crisis most difficult and important.

It was in these circumstances, that President Washington nominated Mr. Jay as Envoy to England. The Senate confirmed the nomination, and the immediate effect was, the suspension of the further discussion of the important resolutions before the House of Representatives.

England seems never to have duly appreciated the true character and importance of this extraordinary measure. France well understood and resented it. Mr. Jay was received with civility, and concluded a treaty with England on all the points of his instructions. When published, it met with great opposition. The article respecting the West India trade, had been excluded from the treaty by the Senate, by reason of the inadmissible condition or proviso that was coupled with it—with this exception, it was finally ratified by the President.

Although the treaty did not come up to the expectation of all, in addition to the satisfactory arrangements, concerning English debts, the unlawful capture and condemnation of our vessels, and the delivery of the ports, points of very great importance, it contained articles regulating the trade, navigation, and maritime rights of the two countries. No treaty that could have been made with England would, in the highly excited

temper of the country, have satisfied it. But, to those whose object it was to prevent the country from taking part in the war between France and England, and to prevail upon it to adhere to a system of impartial neutrality; who, moreover, believed, that the safety, and even liberties of the country were concerned in the adoption of this course, the treaty proved a welcome auxiliary.

It suspended the further agitation of difficult and angry topics of controversy with England; it enabled the Government to persist in, and to maintain, the system of neutrality which had been recommended by the Father of his Country—a policy, the correctness and benefits of which, whatever may have been the disagreement of opinion among the public men of those times, that will now scarcely be doubted.

During the continuance of this treaty, further though ineffectual attempts were made to establish a satisfactory intercourse with the English colonies in the West Indies, and, likewise, to place the subject of impressment on a mutually safe and equitable footing.

The commercial articles of this treaty expired in 1804, no proposal having been made to renew them. A subsequent negotiation took place, but nothing was definitively concluded. The Peace of Amiens was of short duration. Another war took place between France and England; no maritime treaty existed between the United States and England; and the manner in which England exercised her power on the ocean; the great interruption of the navigation and trade of neutral nations; the numerous captures of their ships and cargoes under the retaliatory decrees and orders of France and England, with other vexatious occurrences, revived the former angry feelings towards England, and greatly contributed to the late war with that nation.

This war was closed not long after the conclusion of the general peace in Europe; and the Treaty of Ghent was followed by a meagre commercial convention, made at London, and limited, in its duration, to a few years only.

Neither the spirit of the negotiation, nor the scope of the articles, afford any evidence that England is inclined to treat with this country on the only principle on which a commercial treaty with her can be desirable. Her decision on this point seems to be beyond question, as our latest communications inform us that her ancient system will not be changed; and, in case we are dissatisfied with its operation, that England has no objection to our taking any such measures concerning the same, as we may deem expedient—an intimation that puts an end to further overtures on our part. Such is the explanation why the measure now proposed has been so long deferred.

During the Confederation, Congress were without power to adopt it.

The treaty concluded by Mr. Jay, in 1794, the relaxation of the navigation and colonial laws, during the war between France and England, and the advantages derived from our neutral trade while this war continued, rendered the measure inexpedient during this period.

And the expectation since entertained that a more enlarged and equal treaty of commerce and navigation, applicable, in its provisions, to peace as well as war, might be substituted in place of the present commercial convention, has hitherto suspended the interference of Congress.

This expectation must be given up; England has apprized us of her decision to adhere to her ancient and exclusive system of trade and navigation, and the only alternative before us, is to submit to the regulation of our own navigation by England, or to interpose the authority of the Constitution to countervail the same. There can be no hesitation in the choice.

The bill before the Senate, is in nothing unfriendly towards England—it is merely a commercial regulation, to which we are even invited; a measure strictly of self-defence, and intended to protect the legitimate resources of our own country from being any longer made use of, not as they should be, for our benefit, but to increase and strengthen the resources and power of a foreign nation.

The time is propitious; causes that formerly prevented the union of opinions in favor of this measure no longer exist; the Old World is at peace; and each nation is busily employed in repairing the waste of war, by cultivating the arts, and extending the blessings of peace—England has come out of the most portentous war that Europe has ever suffered, not only unbroken, but with increased power.

Her agriculture, manufactures, and commerce, were cherished; were without interruption, and increased, while those of neighboring nations were suspended, interrupted, or destroyed.

Her colonies and dependent territories, have been greatly enlarged, at the expense of her enemies; and regions, with which we and others once had trade and intercourse, having fallen under the dominion of England, are now closed against us.

We have no other questions depending with England, except those concerning impressment\* and the fisheries,† and their settlement, can, in no manner, be affected by the passing of this act.

\* With the English laws of allegiance and impressment we have no other concern than to exempt our citizens from their application. We do not desire the service of English seamen, and England should be the last to seize our citizens and force them into her service. She disclaims this purpose, but persists in a practice, to discover and impress her own seamen, that, unavoidably, subjects ours to her violence.—Whatever her rights may be, they should be so used as not to hurt ours. This is a precept of universal justice—a regulation may be devised, that if not perfect in every case, would be so generally correct, that, considering the difficulty of the subject, it ought to be satisfactory.

† As regards the fisheries, those of the ocean, not within the territorial limits of any nation, are free to all men, who have not renounced their rights; those on the coasts and bays of the provinces, conquered in America, from France, were acquired by the common sword, and mingled blood, of Americans and English-



SENATE.

Proceedings.

APRIL, 1818.

England is a great and illustrious nation, having attained to this pre-eminence by generous and successful efforts, in breaking down the civil and religious bondage of former ages. Her patriots, her scholars, and her statesmen, have adorned her history, and offer models for the imitation of others.

We are the powerful descendants of England, desiring perpetual friendship, and the uninterrupted interchange of kind offices and reciprocal benefits with her. We have demonstrated, in circumstances the most critical, constant and persevering evidence of this disposition. We still desire the impartial adjustment of our mutual intercourse, and the establishment of some equitable regulations, by which our personal and maritime rights may be secure from arbitrary violation. A settlement that, instead of endless collision and dispute, may be productive of concord, good humor, and friendship: and it depends on England whether such is to be the relation subsisting between us.

If this bill become a law, it must be followed up by ulterior provisions, if requisite, to give to it complete effect. Either the intercourse must be reciprocally beneficial, or it must not be suffered to exist.

Mr. MACON spoke in support of the bill; after which—

The question, "Shall the bill be engrossed and read a third time?" was taken, and determined in the affirmative—yeas 32, nays 1, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Morril, Morrow, Noble, Otis, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAY—Mr. Eppes.

SATURDAY, April 4.

Mr. STORER, from the Committee on the Militia, to whom was referred a resolution respecting the expediency of setting apart and appropriating the dividends which shall arise from the shares held by the Government in the Bank of the United States to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States, reported—

"That it is inexpedient, at this time, to make the appropriation contemplated by the resolution;" and the report was read.

On motion by Mr. STORER, the Committee on the Militia, to whom was referred a resolution instructing them to inquire into the expediency of augmenting the pay of the militia when called

men—members of the same empire, we, with them, had a common right to these fisheries; and, in the division of the empire, England confirmed our title, without condition or limitation—a title equally irrevocable with those of our boundaries, or of our independence itself—

—*Litiusque rogamus.*

*Innocuum et cunctis undamque, auramque, patenter.*

into the service of the United States, were discharged from the further consideration thereof.

Mr. DICKERSON, from the joint committee, appointed to take into consideration what business is necessary to be acted upon before the close of the present session, made a report, which was read.

Mr. LACOCK, from the committee to whom was referred the bill, entitled "An act making further appropriations for the construction of the Cumberland road," reported the same without amendment.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred the bill, entitled "An act authorizing John Taylor to be placed on the list of Navy pensioners," were discharged from the further consideration thereof, and it was referred to the Committee on Naval Affairs.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," reported the same with an amendment; which was read; and, on motion by Mr. CRITTENDEN, the Committee on the Judiciary, to whom was referred the memorial of John B. Colvin, respecting the future publication of the laws of the United States, and also the memorial of Jonathan Elliot, praying the patronage of Congress to the publication of Domestic State Papers, were discharged from the further consideration thereof respectively.

The Senate resumed the consideration of the motion submitted by Mr. KING, on the 3d instant; and the same having been amended, was agreed to as follows:

*Resolved*, That the Secretary of the Treasury do report to the Senate the sum of the funded debt of the United States, bearing an interest of seven, six, and three per cent.; distinguishing the amount of each that has been paid by the subscribers towards the capital of the Bank of the United States; distinguishing also the sums of the respective species of funded debt paid on account of the several instalments to the bank; stating the sums and species of funded debt sold by the bank; how much thereof was purchased or redeemed by the United States; how much has been sold without the United States; and how much is now held by the bank.

The amendments to the bill, entitled "An act for the relief of Narcissus Broutin, and others," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, entitled "An act concerning the Territory of Alabama," was read a third time, and passed.

The bill, entitled "An act making appropriation for the support of Government for the year 1818," was read a third time as amended, and passed.

The bill for the relief of Francis Henderson, was read the second time.

Mr. BARBOUR asked and obtained leave to bring in a resolution, authorizing a subscription for the edition of Statistical Annals proposed to

APRIL, 1818.

Proceedings.

SENATE.

be published by Adam Seybert, of Philadelphia; and the resolution was read, and passed to the second reading.

The bill concerning navigation was read a third time; and having been amended by unanimous consent, on the question, "Shall this bill pass?" it was determined in the affirmative—yeas 31, nays 2, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dickerson, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Lacock, Macon, Morril, Morrow, Noble, Otis, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Eppes and Wilson.

So it was *Resolved*, That this bill pass, and that the title thereof be, "An act concerning navigation."

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the memorial of the American Bible Society, praying the privilege of importing paper free of duty, and the memorial of the Philadelphia Bible Society, praying the remission of all duties on stereotype plates already imported, and that they be permitted to import the sacred scriptures in foreign languages, free of duty; and also the memorial of the President and Directors of the Bank of the United States, praying certain amendments to the act incorporating said bank, were discharged from the further consideration thereof respectively.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to the Act for the punishment of certain crimes against the United States, and to repeal the acts therein described," together with the amendments reported thereto by the Committee on Foreign Relations; and, on motion by Mr. BARBOUR, the bill, together with the amendments, were committed to the Committee on Foreign Relations further to consider and report thereon.

The bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Gad Worthington," was read the second time, and referred to the Committee on Finance.

The bill to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States," was read the second time.

The bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of John Rodgers," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of

certain friendly Creek Indians, of the mixed blood," was read the second time, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the amendment of the House of Representatives to the bill, entitled "An act to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States lands within the same;" and, on motion by Mr. CAMPBELL that the Senate disagree thereto, it was determined in the affirmative—yeas 22, nays 8, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dickerson, Eppes, Gaillard, Goldsborough, Johnson, King, Macon, Morril, Morrow, Otis, Smith, Stokes, Storer, Tait, Talbot, Williams of Mississippi, and Wilson.

NAYS—Messrs. Fromentin, Noble, Ruggles, Sanford, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

So it was *Resolved*, That the Senate disagree to said amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

On motion by Mr. NOBLE, the Committee on Pensions, who were instructed by a resolution of the Senate, to inquire into the expediency of placing Adam Crum on the pension list, were discharged from the further consideration thereof.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of General Moses Porter," reported the same, with amendments; which were read.

The Senate adjourned to Monday morning.

MONDAY, April 6.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees," reported the same without amendment.

Mr. ROBERTS, from the same committee, to whom was referred the bill, entitled "An act for the relief of John Rodgers," also reported it without amendment.

Mr. FROMENTIN presented the petition of Hiacynth Laclotte, of the city of New Orleans, praying the remission of the duties charged on the plate and engravings imported from France, representing a view of the battle of the 8th of January, 1815, in defence of the city of New Orleans; and the petition was read, and referred to the Committee on Finance.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to change the name of the district of Erie, in the State of Ohio," reported the same without amendment.

Mr. RUGGLES presented the petition of John



SENATE.

Proceedings.

APRIL, 1818.

Brooks, of Belmont county, in the State of Ohio, praying the remission of certain duties on his distillery, which accrued during the time he was unable to use it, as stated in the petition; which was read, and referred to the same committee.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the petition of Smith P. Slocum, of Pawtuxet, in the State of Rhode Island, made a report, accompanied by a resolution, that the report of the petitioner ought not to be granted. The report and resolution were read.

The bill, authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile, was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall, praying that Congress may pass a law authorizing the allowance of one hundred and fifty doubloons in the settlement of his accounts at the Navy Department, which he states to have been robbed from him; and the resolution having been amended, by striking out the word "not," it was resolved that the prayer of the petitioner ought to be granted; and the Committee of Claims were instructed to report a bill accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Major Loring Austin, and George R. Wells;" a bill, entitled "An act for the relief of Major General Jacob Brown;" a bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario, and the head of the river St. Lawrence;" and also, a bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina;" in which bills they request the concurrence of the Senate. They have also passed the bill, which originated in the Senate, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes," with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the last mentioned bill; and it was referred to the Committee on Military Affairs.

The four bills last brought up for concurrence were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of Major General Jacob Brown," was read the second time by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Major Loring Austin and George R. Wells," was read the second time by unanimous consent, and referred to the same committee.

The bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario, and the head of the river St.

Lawrence," was read the second time by unanimous consent, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina," was read the second time by unanimous consent, and referred to the last mentioned committee.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain Judges of the Courts of the United States; and Mr. BARBOUR was requested to take the Chair.

On motion by Mr. FROMENTIN, to fill the blank in line 6, with "five thousand," being the yearly compensation to the Chief Justice, it was determined in the affirmative—yeas 25, nays 4, as follows:

YEAS—Messrs. Barbour, Burrill, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Morrow, Otis, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Macon, Morrill, Talbot, and Wilson.

On motion by Mr. WILLIAMS, of Mississippi, to fill the blank in line 33, with "three thousand six hundred," being the contemplated compensation to the judge of the district of Louisiana, it was determined in the negative—yeas 5, nays 27, as follows:

YEAS—Messrs. Fromentin, Gaillard, Johnson, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Campbell, Daggett, Dickerson, Goldsborough, Horsey, Hunter, King, Lacock, Leake, Macon, Morrill, Morrow, Otis, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, and Wilson.

The compensations of the judges of the districts of Massachusetts, of the two districts of New York, the two districts of Pennsylvania, the district of Maryland, of Virginia, of North Carolina, of South Carolina, of Georgia, of Kentucky, and of Tennessee, was fixed at two thousand a year; and that of the judges of the districts of Maine, of New Hampshire, of Rhode Island, of Connecticut, of Vermont, of New Jersey, of Delaware, of Ohio, of Indiana, of Mississippi, and the territorial judges, at one thousand five hundred dollars each, all to commence in July next; in which shape the bill was ordered to be engrossed for a third reading.

The resolution authorizing a subscription for five hundred copies of Statistical Annals, proposed to be published by Adam Seybert, was read the second time, and referred to a select committee, to consist of five members, with instructions to inquire also into the propriety of subscribing for the work of Timothy Pitkin; and Messrs. BARBOUR, KING, DAGGETT, HUNTER, and DICKERSON, were appointed the committee.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill, to suspend for a limited time, the sale or forfeiture of lands for failure in completing the

APRIL, 1818.

Proceedings.

SENATE.

payment thereon; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of John Hall, late a major of marines; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom were referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron of date the 17th January, 1817; and in concurrence therewith, the Committee on Naval Affairs were discharged from the further consideration thereof.

## TUESDAY, April 7.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Anderson;" a bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" a bill, entitled "An act respecting the organization of the Army, and for other purposes;" and also, a bill, entitled "An act for the relief of John Work," in which bills they request the concurrence of the Senate.

The four bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of John Anderson," was read the second time, by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," was read the second time, by unanimous consent, and referred to the Committee on Public Lands.

The bill, entitled "An act respecting the organization of the Army, and for other purposes," was read the second time, by unanimous consent, and referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of John Work," was read the second time, by unanimous consent, and referred to the same committee.

Mr. LACOCK presented the petition of Samuel Smith, attorney for Elisha Allen, an ensign, who acted as wagon-master to a brigade, praying additional allowance of pay therefor; and the petition was read, and referred to the Committee of Claims.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners," reported the same without amendment.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred

the amendment of the House of Representatives to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes," reported the same without amendment.

Whereupon, on motion by Mr. WILLIAMS, of Tennessee,

Resolved, That the Senate disagree to the said amendment, and ask a conference on the disagreeing votes of the two Houses.

Mr. WILLIAMS, of Tennessee, Mr. LACOCK, and Mr. TAYLOR, were appointed the managers at the said conference, on the part of the Senate.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of the legal representatives of George Pearson," reported the same without amendment.

Mr. MORROW, from the same committee, to whom was referred the amendments of the House of Representatives to the bill, entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office; and for designating the western boundary line of the Virginia military tract," reported the same without amendment; and the Senate concurred therein.

The bill for the relief of John Hall, late major of marines, was read the second time.

The bill to suspend for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon, was read the second time.

The Senate resumed the consideration of the report of the Committee on the Militia, to whom was referred a resolution respecting the expediency of setting apart and appropriating the dividends which shall arise from the shares held by the Government in the Bank of the United States, to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States; and, on motion by Mr. MACON, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Smith P. Slocum, of Pawtuxet, in the State of Rhode Island; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and establish the boundary line between the State of Mississippi and the Alabama Territory; and, on motion by Mr. LEAKE, the further consideration thereof was postponed until the first Monday in July next.

The bill to increase the compensation of certain judges of the courts of the United States, was reported by the committee correctly engrossed, and the blanks having been filled, on the question, "Shall this bill pass?" it was determined in the affirmative—yeas 19, nays 14, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Daggett, Fromentin, Gaillard, Goldsborough, Horsey,



SENATE.

Proceedings.

APRIL, 1818.

Hunter, Johnson, King, Leake, Otis, Sanford, Smith, Stokes, Tait, Taylor, and Van Dyke.

NAYS—Messrs. Crittenden, Dickerson, Eppes, Lacock, Macon, Morril, Morrow, Noble, Roberts, Rugles, Storer, Talbot, Williams of Mississippi, and Wilson.

So it was, *Resolved*, That this bill pass, and that the title thereof be, "An act to fix the compensation of certain judges of the courts of the United States."

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being agreed to, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act fixing the time for the next meeting of Congress;" and the further consideration thereof was postponed to, and made the order of the day for, Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the payment of certain certificates;" and the bill having been amended by striking out the third section, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, it was ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Aquila Giles; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1800," and to repeal certain parts of the same; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming Anthony Cavalier and Peter Petit in their claim to a tract of land; and, no amendment having been made thereto, the PRESIDENT reported it to the House accordingly; and it was ordered to be engrossed, and read a third time.

On motion by Mr. CAMPBELL, the memorial of the President and Directors of the Bank of the United States, praying certain amendments to the act incorporating said bank, was recommitted to the Committee on Finance.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Francis Henderson; and, on motion by Mr. WILSON, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An

act to provide for the publication of the Laws of the United States, and for other purposes," together with the amendment reported thereto by the Committee on the Judiciary; and, the amendment having been agreed to, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States;" and, the bill having been amended, the PRESIDENT reported it to the House accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making further appropriations for the construction of the Cumberland road;" and, no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of General Moses Porter," together with the amendments reported thereto by the Committee on Public Lands; and, the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and, the amendments being concurred in, they were ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the legal representatives of the said William Dewees;" and, no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Rodgers;" and, no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to change the name of the district of Erie, in the State of Ohio;" and, no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile; and, the bill having been amended, the PRESIDENT reported it to the House accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

WEDNESDAY, April 8.

The bill for the relief of Aquila Giles was read a third time, and passed.

The amendments to the bill, entitled "An act for the relief of General Moses Porter," having

APRIL, 1818.

Proceedings.

SENATE.

been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, confirming Anthony Cavalier and Peter Petit in their claim to a tract of land, was read a third time, and passed.

The bill to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States," was read a third time, and passed.

The bill authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile, was read a third time, and passed.

The amendment to the bill, entitled "An act to authorize the payment of certain certificates," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, entitled "An act making further appropriations for the construction of the Cumberland road," was read a third time, and passed.

The bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees," was read a third time, and passed.

The bill, entitled "An act for the relief of John Rodgers," was read a third time, and passed.

The bill, entitled "An act to change the name of the district of Erie, in the State of Ohio," was read a third time, and passed.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Smith P. Slocum, of Pawtuxet, in the State of Rhode Island; and the further consideration thereof was postponed until the first Monday in July next.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Major General Brown," reported the same with amendments; which were read.

A message from the House of Representatives informed the Senate that the House agree to the conference proposed on the disagreeing votes of the two Houses, on the amendment of the House of Representatives to the bill, entitled "An act to direct the manner of appointing Indian agents, and continuing the 'Act for establishing trading-houses with the Indian tribes,' and have appointed managers at the said conference on their part. They have passed the bill which originated in the Senate, entitled "An act regulating the Staff of the Army," with amendments; in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments;" a bill, entitled "An act for the relief of Thomas Miller and Stephen Baker;" a bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster;" a bill, entitled "An act for the relief of Frederick Brown;" a bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States;'" a bill, entitled "An act for the relief of Seth Sprague, and others;" and also a bill, entitled "An act making appropriations for the public

buildings, and for furnishing the Capitol and President's house;" in which bills they request the concurrence of the Senate.

The seven bills last brought up for concurrence were read, and severally passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1803," and to repeal certain parts of the same; and, the bill having been amended, the further consideration thereof was postponed until to-morrow.

The bill, entitled "An act making appropriations for the public buildings, and for furnishing the Capitol and President's house," was read the second time, by unanimous consent, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments," was read the second time, by unanimous consent, and referred to the Committee on the District of Columbia.

The bill, entitled "An act for the relief of Seth Sprague, and others," was read the second time, by unanimous consent, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States,'" was read a second time, by unanimous consent, and referred to the Committee on the Public Lands.

The bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster;" the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker," and the bill, entitled "An act for the relief of Frederick Brown," were severally read the second time by unanimous consent, and referred to the Committee of Claims.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the bill, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein described," reported the same with amendments; which were read.

On motion by Mr. WILLIAMS, of Tennessee, the Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act regulating the Staff of the Army," and concurred therein.

The Senate resumed the consideration of the bill for the relief of Samuel F. Hooker; and no further amendment having been made thereto, it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes;" and the bill having been further amended, on motion the Senate adjourned.



THURSDAY, April 9.

SAMUEL W. DANA, from the State of Connecticut, took his seat in the Senate.

On motion by Mr. BARBOUR, it was unanimously agreed to suspend the third rule for conducting business in the Senate, as it respects the honorable Mr. DANA, to wit: "Every member when he speaks shall address the Chair, standing in his place, and when he has finished shall sit down."

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States from and after the first day of January, in the year of our Lord 1808," and to repeal certain parts of the same; Mr. BARBOUR was requested to take the Chair, and the bill having been amended, the President resumed the Chair, and it was reported to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The bill for the relief of Samuel F. Hooker was read a third time and passed.

A message from the House of Representatives informed the Senate that they have passed the bill, which originated in the Senate, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia," with an amendment, in which they request the concurrence of the Senate. They have also passed a resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals and other purposes, in which they request the concurrence of the Senate.

The resolution last mentioned was read twice by unanimous consent, and referred to the Committee on Naval Affairs.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia;" and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes;" and the bill having been further amended, the President reported it to the House accordingly; and the amendments being concurred in, were ordered to be engrossed, and the bill was read a third time and amended.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Hall, late major of marines; and the bill

having been amended, the President reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time—yeas 18, nays 12, as follows:

YEAS—Messrs. Campbell, Daggett, Fromentin, Gailard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Morrill, Otis, Sanford, Storer, Tait, Talbot, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Crittenden, Dickerson, Lacock, Macon, Morrow, Roberts, Ruggles, Taylor, Tichenor, Williams of Massachusetts, and Wilson.

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the petition of John Haslett, and also the petition of Hiacyth Laclotte, were discharged from the further consideration thereof respectively.

Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford, of Philadelphia, and Charles Wirgman, of Baltimore;" and also the bill, entitled "An act for the relief of Gad Worthington," reported them severally without amendment.

## BANK OF THE UNITED STATES.

Mr. CAMPBELL, from the same committee, to whom was recommended the memorial of the President and Directors of the Bank of the United States, reported a bill supplementary to the act entitled "An act to incorporate the subscribers to the Bank of the United States," and the bill was read twice by unanimous consent, and considered as in Committee of the Whole; and no amendment having been made thereto, the President reported it to the House; and the bill was amended. Mr. C. also laid on the table the following document:

TREASURY DEPARTMENT, April 7, 1818.

SIR: I have been informed by the president of the Bank of the United States that the board of directors have applied to the Congress of the United States for permission to issue bills and notes signed by other persons than the president and cashier of that bank. The intimate connexion which necessarily exists between that institution and the department of the Executive Government confided to my direction may render it excusable on my part to present to the Committee on Finance, under whose consideration the subject has been placed by the Senate, some of the reasons which appear to be necessarily connected with the application. It is not my intention to urge the sanction of the committee to the particular modification sought by the bank. I shall attempt only to satisfy the committee that, under the existing provisions of the charter, as construed by the corporation, it is impossible to put into circulation an amount of bills of suitable denominations to supply the necessary and indispensable demands of the community.

The president and cashier of the bank have to sign and countersign all the bills of the bank and of its various offices. They have, in addition to the ordinary duties of president and cashier of a bank, to perform all the duties of commissioner of loans for the State of Pennsylvania, and of agents for the payment

of pensioners of every description for that State. They are necessarily charged with the general superintendence of all the offices established by the bank, from the District of Maine to the State of Louisiana, involving a most extensive correspondence, and imposing upon them an examination of the weekly returns of those offices. This examination is necessarily imposed upon those officers, who are bound to watch over the interests of the bank generally, and to supply the wants of the different offices; to transmit specie where there is a demand for it, and to withdraw it from points where, from the course of trade or other causes, it may have temporarily accumulated. The duty of transmitting the public funds wherever required within the United States demands and receives their unremitting attention. From the view here presented of the various and important duties assigned to them by the charter, many of which are so intimately connected with the Government as to constitute them highly important officers, it will be readily perceived that but a very small portion of their time can be devoted to the mechanical labor of signing bills and notes. It may, indeed, be said that the corporation, having the power of appointing such officers and servants as the interest of the institution may require, may appoint other officers, who may be charged with the superintendence of the interests of the institution generally, and of course with the correspondence, and distribution of the capital of the bank among the different offices, according to their various wants and necessities arising out of the course of trade, or any other cause. Such a course might, indeed, be pursued; but it would be an entire inversion of the established principle of action, not only in institutions of this nature, but of right reason, when applied to all associations whatsoever.

The signing of bills and notes is a mere mechanical act. The superintendence of an institution so extensive and complicated, intimately connected not only with the Government, but with all the wants and conveniences of society, especially influencing in a very high degree the commercial transactions of the nation, requires intellects of more than ordinary elevation, and information as various as the wants and conveniences of civilized society. To metamorphose the highest officers of the institution into mere machines, the operations of which are to be confined to tracing certain characters infinitely repeated, whilst subordinate officers or servants are invested with duties requiring the highest order of intellect and the most extensive degree of information, would indeed be an inversion of the established ideas of the moral fitness of things.

It is not my intention, nor is it the wish of the bank, to relieve the president and cashier from the mechanical labor of signing bills. This duty will always be performed by them, as far as a due attention to their other and more important duties will permit.

The reasons and facts which I have presented, in order to prove that it is impossible for the president and cashier to sign the bills necessary to the wants and convenience of the community, are supported by the experience of the bank. Twenty offices have been established, and applications for others remain suspended from the impossibility of furnishing them with bills for circulation. Two of those which were organized more than six months past have not yet been supplied with bills to commence operations. Several of those established in the Western country have been so scantily supplied as to render their operations extremely circumscribed. That established at Augusta,

15th CON. 1st SESS.—12

in Georgia, will probably be abandoned, on account of the impossibility of supplying it with bills to make the employment of capital profitable. It is understood that the measure is now under the consideration of the directors. It will be hardly necessary to prove that the failure to supply the different offices with a proper amount of bills of suitable denominations can be the result of nothing but the impossibility of furnishing that supply under the provisions of the charter. The failure must be ascribed to this impossibility, or to the negligence of the officers of the bank. The character and standing of the gentlemen to whom the neglect would be imputed forbid the admission of the charge. It may, indeed, be alleged that the labor of issuing bills will be daily diminished, as the supply will always be increasing. To this it may be answered, that the number of offices for some time to come will be increased, and that, as the labor of signing bills diminishes, the time necessarily devoted to the superintendence of the multiplied and varied concerns of the bank will increase; that, according to the course of trade, bills issued in one section of the Union will accumulate in another; and that, although a portion of those bills may in the ordinary course of trade find their way back, or be diffused over other portions, so as to diminish in a considerable degree such an accumulation, yet a considerable portion of them will remain where they are not wanted, whilst local deficiencies will be created in other places. If the bank is enabled to issue bills so as to meet the demands of the community for them, it will be its interest to supply the local wants thus created by new emissions, rather than to incur the expense and risk of transmitting those which have accumulated in particular districts to where they are wanted. This source of demand for new bills, together with the necessary supplies for lost or worn bills, will find ample employment for two persons who shall be devoted to the issuing of bills. If the bank is enabled by Congress to facilitate the issuing of bills, any surplus which accumulates in particular districts will be destroyed, and new ones issued to supply their place, and circulated where they are demanded. It is the practice with the Bank of England never to reissue their bills. It is not believed that any additional security is derived to the bank or to the community from this practice. It is mentioned simply to present to the mind of the committee the extensive means which that institution possesses of issuing bills. It is confidently believed that neither the governor nor deputy governor of that bank ever signs a bill.

I understand that the proposition of the bank is to authorize the presidents and cashiers of the various offices to issue bills for their offices respectively. This proposition appears to me to be injudicious. The multiplication of signatures upon bills, beyond the necessity of the case, is an evil which ought not to be permitted. It is, however, urged in favor of it that the bills of the offices are intended for local circulation, and that the signatures of the president and cashier of an office will be more likely to be known by their own districts than those of the president and cashier of the bank itself. This argument is specious rather than solid. Not one man in a hundred who receives bills or notes of the bank can have any other knowledge of the handwriting of the persons whose names are signed upon the bills than that which he derives from the frequent examination and comparison of the signatures upon the bills which he receives. It is, moreover, manifest from what has already been stated, and



SENATE.

*Bank of the United States.*

APRIL, 1818.

it is established by universal experience, that bills issued at the offices will circulate in the most distant parts of the nation from the place of their issue. As the organization of the bank becomes more perfect, and the principles upon which it acts become more extensively known; as it will by experience be enabled to correct the eccentricities of its officers, and discard any errors which its own directors may, from inadvertence, or from some real or supposed pressure, have committed, the circulation of its bills will become general, and the idea of locality be entirely laid aside. It would, therefore, in my humble opinion, be unwise to permit the presidents and cashiers of the offices to issue bills under their own signatures alone. Two officers, whose time should be exclusively devoted to signing of bills and notes, with the occasional aid of a cashier of the bank in signing bills of large denominations, would give to the bank all the facilities which are due regard to the interests of the community can require.

In closing this communication, it may be proper to state that, independent of the convenience of the community and the interest of the bank, the Government itself has a direct interest in conferring upon the bank the authority of issuing notes and bills with more facility than it at present enjoys. According to existing laws, specie and the bills and notes of the Bank of the United States are alone receivable in all payments to the Government. It requires no argument to prove that the contributions of various kinds required by the Government from the citizens cannot at this time be paid in specie. It is not in the power of Congress to give to its citizens this ability. An act of Congress will not bring from foreign regions the gold and silver coin necessary to effect this object. But it can cause to be put in circulation a sufficiency of what it has made a legal tender, to enable the citizens who may owe the Government to discharge their debts. That the necessary supply of this currency has not been furnished is notoriously manifest; that the failure to furnish this supply has been the result of the incapacity of the bank to sign bills according to the provisions of the charter, has, I trust, been satisfactorily established.

The bill now upon your table for the relief of the purchasers of the public land is in a considerable degree the result of that incapacity. It is certainly true that if the banks had not been improvidently multiplied in certain sections of the Union, the Bank of the United States and its offices would have consented to receive as specie from the officers of the Government the bills or notes of the local banks, which would have in some degree prevented the pressure which is now operating so oppressively in the northwestern section of the country.

This paper, however, it must be recollected, is no legal tender. It could become so only indirectly, through the agency of the Bank of the United States. However stable the banks in that section might have been under a different state of things than that which unfortunately exists, the people would have been equally unable as at present to discharge their duties to the Government according to law; and this inability would necessarily be ascribable to the incapacity of the bank to sign the amount of bills necessary to enable the community to discharge its debts to the Government. The Congress is now apprized of the emergency. Specie and the bills of the Bank of the United States alone are receivable at the Treasury. Specie cannot be obtained for that purpose. Bills of the Bank of the United States cannot be put into circulation to a sufficient amount for that object, because the officers of the bank are not able to sign them. The power ought to be given, the bills of other banks ought to be receivable, or further time ought to be allowed the public debtor to make his payments. Sound policy, probably, would require the application of the first and the last of these remedies. The power of issuing bills with more facility would not afford relief so promptly as to supersede the necessity of suspending temporarily the time of payment. The suspension of payment, unaccompanied by other relief, would probably find the public debtors at the expiration of the suspension but little improved in their capacity to discharge their debts.

In addition to the foregoing considerations it may be proper to state that lands to a great amount will be sold in the course of the Summer, Autumn, and Winter of the present year, in the Michigan and Missouri Territories. The bills of the Western banks, which circulate almost exclusively in those Territories, have not that credit and currency in many instances which would justify their receipt at the Treasury if the law permitted it. There is therefore great danger that much loss will be sustained in the sale of those lands for the want of a sound circulating medium in that section of the Union. The losses which the Treasury has already incurred by the receipt of bills and notes of banks which have already failed, or whose credit is doubtful, strongly indicate the necessity of avoiding further loss from that source, even at the risk of incurring a greater in the depreciated price which may consequently be received for the public lands. It has already been ascertained that, of the special deposits received during the years 1815 and 1816, more than \$250,000 are of a description which justifies the most serious apprehension of the eventual loss of the greatest portion of that amount. It is my duty to suggest the propriety of giving more efficient remedies against corporate bodies for the recovery of debts. The power of summoning the debtors of the corporation as garnishers, as in cases of attachment against absent debtors, is respectfully submitted to the consideration of the committee.

I remain, with sentiments of the highest respect, your most obedient and very humble servant,  
WM. H. CRAWFORD.  
HON. G. W. CAMPBELL, *Chairman Com. Finance.*

FRIDAY, April 10.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario and the head of the river St. Lawrence;" and the bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina;" the bill, entitled "An act for the relief of Seth Sprague and others;" and also the bill, entitled "An act for the relief of Joseph Thorn," reported the same severally without amendment.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker," reported the same with amendments; which were read.

APRIL, 1818.

*Proceedings.*

SENATE.

The Senate resumed the consideration of the amendment of the House of Representatives to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia;" and disagreed thereto.

Mr. BARBOUR presented the memorial of Richard Bland Lee, commissioner under the claims' law, praying additional compensation for his services; and the memorial was read.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals, and other purposes, reported the same without amendment.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with the resolution of the Senate, requesting me to cause to be laid before them a list of the names of the several agents of Indian affairs, and of the agents of Indian trading-houses, with the pay and emolument of the agents respectively, I now transmit a report from the Secretary of War, which contains the information required.

JAMES MONROE.

WASHINGTON, April 9, 1818.

The Message and accompanying report were read, and referred to the Committee on Military Affairs.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate respecting the supplies of the Northwestern army, within certain periods therein specified, by contractors, commissaries, and agents, and the expense thereby incurred, I now transmit to them a report from the Secretary of War, which, with the documents accompanying it, will afford the information required.

JAMES MONROE.

APRIL 10, 1818.

The Message, together with the report and accompanying documents, were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Anderson," reported the same without amendment.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act making appropriations for the public buildings and for furnishing the Capitol and President's House," reported the same with amendments.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments," also reported the same with an amendment.

The Senate resumed the consideration of the bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill to suspend for a limited time the sale or forfeiture of lands for failure in completing the payment thereon; and the bill having been amended, the PRESIDENT reported it to the House accordingly, and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to incorporate the Columbian Institute, for the promotion of arts and sciences;" a bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes;" a bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed;" a bill, entitled "An act for the relief of Benjamin Berry;" a bill, entitled "An act for the relief of Mary Sullivan;" a bill, entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased;" and also a bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased;" in which bills they request the concurrence of the Senate.

The seven bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act to incorporate the Columbian Institute, for the promotion of arts and sciences," was read the second time by unanimous consent, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes," was read the second time by unanimous consent, and referred to the Committee on the Militia.

The bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed," was read the second time by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Benjamin Berry;" the bill, entitled "An act for the relief of Mary Sullivan;" the bill, entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased;" and also the bill, entitled "An act for the relief of the widow and children of John Graeff, deceased," were severally read the second time by unanimous consent, and severally referred to the Committee of Claims.

The amendments to the bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes," having been reported by the committee, correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," and to repeal certain parts of the same, was read a third time, and passed.

The bill for the relief of John Hall, late major of marines, was read a third time, and passed.



SENATE.

Statistics of the United States.

APRIL, 1818.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners;" and on motion of Mr. TAIT, the further consideration thereof was postponed until the first Monday in July next.

## STATISTICS OF THE UNITED STATES.

Mr. BARBOUR, from the committee to whom was referred the resolution authorizing a subscription for five hundred copies of Statistical Annals, proposed to be published by Adam Seybert, and the purchase of a certain number of copies of a Statistical View of the Commerce of the United States, by Timothy Pitkin, made a report, accompanied by a bill authorizing a subscription for the Statistical Annals by Adam Seybert, and the purchase of Pitkin's Statistics; and the report and bill were read, and the bill passed to the second reading.

The report is as follows:

That the manuscript of Dr. Seybert's work has been submitted to their inspection, and, in their opinion, it combines a mass of various and valuable facts and materials, collected with thorough diligence from authentic documents, lucidly and conveniently arranged and methodized. Its main object appears to be to furnish complete information as to the past and present state of the population, navigation, commerce, manufactures, army, navy, public lands, and finances of the United States, and a series of important facts in relation to these and other connected subjects, is condensed into tabular forms and statements, exhibiting in one view an entire and comparative history of each subject. To this work much time, industry, and ability must have been devoted; and it forms a vast depository of information, the whole of which is useful and interesting, and some of which, from the configuration of the public offices and other untoward events, is now, perhaps, nowhere else preserved. It must be apparent, then, that this work must be deemed necessary and acceptable to every functionary of the Government of the United States, either in its administrative or legislative departments. It was principally for their use the work was designed. It will expedite and facilitate the performance of their respective duties, and it is therefore natural and proper that it should receive their protection and encouragement. It appears to the committee altogether hopeless that the publication of these Statistical Annals can otherwise be obtained. It will not be undertaken by the author at his own risk. From the variety of numerical tables the expense of printing would considerably exceed that of ordinary books; and as profit cannot be expected from the sale of a work which, from its nature, can never be in a certain sense popular, there is no inducement to stimulate the enterprise of a bookseller. Works of a similar description in other countries have frequently been published at the national charge; and surely there is something in the nature of our liberal institutions that ought to induce us, as freely as any other nation, to give publicity to all we have done, as fully to develop the principles of our policy, and to ascertain as clearly the causes of our prosperity. And it may be added that the best mode of deriving benefit from experience, of rendering what is valuable in our system of political economy permanent, and of reforming what is injudicious and erro-

neous, can best be suggested by a systematic collation of the facts and principles on which that system is established.

The most of the foregoing remarks are likewise strictly applicable to Mr. Pitkin's published work, entitled "Commercial Statistics of the United States." It is a work of undoubted merit and utility; its facts are drawn from authentic official documents, and its numerical tables and calculations exhibit great industry and accuracy of research. It is understood that, intrinsically valuable as this work is, it has produced little or no profit to the publisher or the author; and it appears to the committee it would be unjust and ungrateful to distinguish one of these works by the praise and patronage of Congress, and leave the other unnoticed and unrewarded. The committee are therefore of opinion that a subscription for both these works ought to be authorized, and report a bill for that purpose.

SATURDAY, April 11.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Major Loring Austin and George R. Wells;" the bill, entitled "An act for the relief of Jonathan Amory, junior, and of the representatives of Thomas C. Amory, deceased;" the bill, entitled "An act for the relief of Benjamin Berry;" the bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased;" and also the bill, entitled "An act for the relief of Mary Sullivan," reported the same severally without amendment.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of the legal representatives of George Pearson;" and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The bill authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics, was read the second time.

The bill to suspend for a limited time the sale or forfeiture of lands, for failure in completing the payment thereon, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to the Act for the punishment of certain crimes against the United States, and to repeal the acts therein described," together with the amendments reported thereto by the Committee on Foreign Relations; and the amendments having been agreed to, the bill was reported to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

A message from the House of Representatives informed the Senate that the House insist on their amendment to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia." They ask a conference upon the subject of the disagreeing votes of the two Houses, and have appointed

APRIL, 1818.

Proceedings.

SENATE.

managers on their part. They have passed a bill, entitled "An act for the relief of Jonas Harrison;" a bill, entitled "An act for the relief of John Dillon;" a bill, entitled "An act for the relief of a company of rangers;" a bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson;" a bill, entitled "An act for the relief of volunteer mounted cavalry;" and a bill, entitled "An act for the relief of Henry King;" in which bills they request the concurrence of the Senate.

The Senate resumed the consideration of the bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" and, after debate, adjourned to Monday morning.

MONDAY, April 13.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act for the relief of John Work," reported the same without amendment.

On motion by Mr. TAIT, the Committee on Naval Affairs, to whom was referred the memorial of Jairos Loomis and James Basset, sailing masters in the Navy of the United States; also the resolution instructing them to inquire into the expediency of providing by law for enforcing the attendance of witnesses before naval courts martial; and also the bill to authorize the establishment of naval depots and dock-yards; together with the Message of the President of the United States of the 23d of March, 1848, upon that subject, were discharged from the further consideration thereof respectively.

The bill, entitled "An act for the relief of Henry King," was read the first and second times by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson," was read twice by unanimous consent, and referred to the same committee.

The bill, entitled "An act for the relief of volunteer mounted cavalry," was read twice by unanimous consent, and, on motion by Mr. LACOCK, referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of a company of rangers," was read twice by unanimous consent, and referred to the same committee.

The bill, entitled "An act for the relief of John Dillon," was read twice by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Jonas Harrison," was read twice by unanimous consent, and referred to the same committee.

The amendments to the bill, entitled "An act in addition to the Act for the punishment of certain crimes against the United States, and to repeal the acts therein described," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, entitled "An act for the relief of the legal representatives of George Pearson," was read a third time, and passed.

On motion, it was

*Resolved*, That the Senate insist on their disagreement to the amendment of the House of Representatives to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia," and agree to the conference proposed thereon.

Mr. DAGGETT, Mr. GOLDSBOROUGH, and Mr. BURRILL were appointed the managers on the part of the Senate.

The Senate resumed the consideration of the bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States, [authorizing the appointment of a Vice President and Deputy Cashier, for the greater facility of signing the bills:] and the bill having been amended, on the question, "shall this bill be engrossed and read a third time?" it was determined in the affirmative—yeas 17, nays 14, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dana, Dickerson, Epes, Hunter, King, Lenke, Morrow, Otis, Stokes, Storer, Tait, Tichenor.

NAYS—Messrs. Fromentin, Gaillard, Horsey, Lacock, Macon, Noble, Ruggles, Sanford, Smith, Talbot, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill fixing the compensation of Indian agents and factors; and the bill was read twice by unanimous consent.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the Message from the President of the United States of the 19th March, 1818, respecting a commercial agreement with the Netherlands, reported a bill concerning tonnage and discriminating duties in certain cases; and the bill was read twice by unanimous consent.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose, together with the amendments reported thereto by the select committee; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until the first Monday in July next.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the memorial of John Brooks, of the State of Ohio, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read, and agreed to.

On motion, by Mr. CAMPBELL, the Committee on Finance, to whom was referred the report of the Secretary of the Treasury, prepared in obedience to a resolution of the Senate of the 11th of December, 1817, relative to the prompt settlement of public accounts, were discharged from the further consideration thereof.

Mr. WILLIAMS, of Tennessee, from the managers on the part of the Senate, at the conference



SENATE.

Illinois Territory.

APRIL, 1818.

on the amendment of the House of Representatives to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes," made the following report:

That the committee of conference on the part of the Senate met the committee on the part of the House of Representatives on the disagreement relative to the said amendment, and agreed to recommend to the two Houses—

1. That the Senate recede from their disagreement to the said amendment.
2. That the said bill be further amended, by striking out of the second section thereof, in the first line, the word "first day of April next," and inserting instead "eighteenth instant."

## ILLINOIS TERRITORY.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," together with the amendments reported thereto by the Committee on Public Lands.

A motion was made, by Mr. TAIT, to postpone the further consideration thereof until the fourth day of July next.

This motion was debated, and was supported by Mr. TAIT, not from any disposition to oppose the admission of this State into the Union, but on the ground that there was not sufficiently authentic information that its population was forty thousand, as stated from conjecture, or even that its population was sufficient to entitle it to a representative in Congress.

To this argument, Messrs. MORROW, TALBOT, and BARBOUR, replied, and opposed the postponement, believing the evidence on this head to be so strong as to admit of no doubt.

The question on the proposed postponement was decided in the negative—yeas 4, nays 29, as follows:

YEAS—Messrs. Daggett, King, Sanford, and Tait.  
NAYS—Messrs. Barbour, Burrill, Campbell, Crittenden, Dana, Dickerson, Eppes, Fromentin, Horsey, Hunter, Johnson, Lacock, Leake, Macon, Morrill, Morrow, Noble, Otis, Ruggles Smith, Stokes, Storer, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

The amendments having been agreed to, and the bill further amended, the bill was reported to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

TUESDAY, April 14.

On motion, by Mr. SANFORD, the Committee on Pensions were directed to inquire into the propriety of granting a pension to George Bell.

Mr. HORSEY submitted the following motion for consideration:

*Resolved*, That the Secretary of the Treasury prepare, and lay before the Senate of the United States,

immediately after the commencement of the next session of Congress, a statement showing what sum was actually paid by the subscribers, on account of the capital stock of the Bank of the United States, at the several times of payment prescribed by the charter, in gold and silver coin, and what sum in the funded debt of the United States. Also, showing the amount of capital stock of the said bank, as the same may then be, specifying what proportion thereof is of gold and silver coin, and what proportion is of the funded debt. Also, showing the amount of the debts due to the said bank, specifying the amount due at Philadelphia, and the amount due at the offices of discount and deposit, respectively. Also, showing the amount of the money deposited, specifying the amount thereof deposited at Philadelphia, and the amount deposited at the offices of discount and deposit, respectively, and discriminating between the amount of the deposits made by individuals, and the amount made on account of the public. Also, showing the notes in circulation, specifying the amount payable at the bank in Philadelphia, and the amount payable at the offices of discount and deposit, respectively.

Mr. BARBOUR presented the petition of John B. Timberlake, praying provision for an equitable adjustment of his accounts, as purser, with the Navy Department; and the petition was read, and referred to the Committee on Naval Affairs.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act respecting the organization of the Army, and for other purposes," reported the same with amendments; which were read.

The Senate resumed the consideration of the committee of conference on the amendment of the House of Representatives to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes," recommending to the two Houses—

1st. That the Senate recede from their disagreement to the said amendment.

2d. That the said bill be further amended, by striking out of the second section thereof, line one, the words, "first day of April next," and inserting instead, "eighteenth instant."

Whereupon, *Resolved*, That they disagree to the first recommendation of the committee of conference; that they agree to the second recommendation of the said committee; and that the bill be amended accordingly.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act fixing the time for the next meeting of Congress;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, was ordered to be engrossed and the bill read a third time as amended.

Mr. EPPES presented the memorial of Daniel Brent and others, clerks employed in the Executive offices of the Government, praying the attention of Congress to the importance of their duties, and the inadequacy of their compensation; and the memorial was read.

Mr. MORROW, from the Committee on Public

APRIL, 1818.

Proceedings.

SENATE.

Lands, to whom was referred the bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States,'" reported the same without amendment.

Mr. MORRILL, from the Committee of Claims, to whom was referred the petition of Samuel Smith, attorney for Elisha Allen, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

The amendments to the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," having been reported by the committee correctly engrossed, the bill was read a third time as amended and passed.

The bill, supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States," was read a third time, and passed—yeas 18, nays 15, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dana, Dickerson, Eppes, Hunter, King, Leake, Morrow, Otis, Stokes, Storer, Tait, Taylor, and Tichenor.

NAYS—Messrs. Fromentin, Gaillard, Goldsborough, Horsey, Lacock, Morrill, Noble, Ruggles, Sanford, Smith, Talbot, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act in addition to 'An act to incorporate the subscribers to the Bank of the United States.'"

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning tonnage and discriminating duties in certain cases; and the bill having been amended, it was reported to the House; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics; and the bill having been amended, it was reported to the House; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill fixing the compensation of Indian agents and factors; and the bill having been amended, it was reported to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major General Brown," together with the amendments reported thereto by the Committee of Claims; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act for the relief of John Dillon;" also, the bill, entitled "An act for the relief of Jonas Harrison;" reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Gad Worthington," and no amendment having been made thereto, it was reported to the House, and passed to the second reading.

Mr. STORER, from the Committee on the Militia, to whom was referred the bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes," reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario and the head of the river St. Lawrence;" and no amendment having been made thereto, it was reported to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Seth Sprague and others;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker," together with the amendments reported thereto by the Committee of Claims; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill was read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and no amendment having been made thereto, the PRESIDENT reported it to the House, and, on the question, "Shall this bill be read a third time?" it was determined in the negative; so it was rejected.

A message from the House of Representatives informed the Senate that the House recede from their amendment, to which the Senate have disagreed to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the 'Act for establishing trading-houses with the Indian tribes,'" and that they agree to the amendment proposed to the said bill in the second recommendation. They concur in the amendments of the Senate to the bill, entitled "An act to provide for the publication of the laws of the



SENATE.

Proceedings.

APRIL, 1818.

United States, and for other purposes," except the seventh and eighth, to which they disagree. They have passed the bill, entitled "An act for the relief of Isaac Briggs," with an amendment, in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act for the relief of John B. Dabney;" a bill, entitled "An act for the relief of James Mackay of the Missouri Territory;" and a bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold;" in which bills they request the concurrence of the Senate.

The three bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of John B. Dabney," was read the second time by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Jas. Mackay, of the Missouri Territory," was read the second time by unanimous consent, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold," was read the second time by unanimous consent, and referred to the same committee.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act for the relief of Isaac Briggs," and non-concurred therein.

The Senate proceeded to consider their amendments, disagreed to by the House of Representatives to the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes."

Whereupon, *Resolved*, That they recede from their seventh amendment to the said bill, and insist on their eighth amendment, disagreed to by the House of Representatives.

On motion, by Mr. CAMPBELL, the committee on the memorial of the State of Tennessee, respecting claims to lands in that State, who were instructed to inquire into the propriety of making a reservation of land for the establishment of a military depot, armory, and foundry, on the waters of Shoal creek, in the State of Tennessee, were discharged from the further consideration thereof.

WEDNESDAY, April 15.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom were referred the bill, entitled "An act for the relief of volunteer mounted cavalry;" and also the bill, entitled "An act for the relief of a company of rangers," reported the same, severally, without amendment.

Mr. MORRILL, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Captain Henry Gist, and Captain Benjamin Johnson;" and also the bill, entitled "An act for the relief of Henry King," reported the same, severally, without amendment.

Mr. GOLDSBOROUGH submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to direct the proper officer to lay before the Senate, at an early period of their next session, a list of the useless officers of the customs, with the names of their offices, salaries, emoluments, and the places where held; specifying such as it may be proper to suppress and discharge in consequence of their unproductiveness, the inconsiderable services rendered, or of any other cause.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of certain friendly Creek Indians, of the mixed blood," reported the same with amendments; which were read.

The Senate resumed the consideration of the motion submitted on the 14th instant, and the same having been modified, was agreed to as follows:

*Resolved*, That the Secretary of the Treasury procure, and lay before the Senate of the United States, immediately after the commencement of the next session of Congress, a statement showing what sum was actually paid by the subscribers, on account of the capital stock of the Bank of the United States, at the several times of payment prescribed by the charter, in gold and silver coin, and what sum in the funded debt of the United States. Also, showing the amount of the capital stock of the said bank, as the same may then be, specifying what proportion thereof is of gold and silver coin, and what proportion is of the funded debt. Also, showing the amount of the debts due to the said bank, specifying the amount due at Philadelphia, and the amount due at the offices of discount and deposit, respectively. Also, showing the amount of the money deposited, specifying the amount thereof deposited at Philadelphia, and the amount deposited at the offices of discount and deposit, respectively, and discriminating between the amount of the deposits made by individuals, and the amount made on account of the public. Also, showing the notes issued and the notes in circulation, specifying the amount payable at the bank in Philadelphia, and the amount payable at the offices of discount and deposit, respectively.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joseph Thorn;" and no amendment having been made thereto, the PRESIDENT reported it to the House; and, on the question, "Shall this bill be read a third time?" it was determined in the negative. So it was rejected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

The bill, entitled "An act for the relief of Gad Worthington," was read a third time; and, on the question, "Shall this bill pass?" it was determined in the negative. So the bill was rejected.

The bill, entitled "An act for the relief of Seth

APRIL, 1818.

Funded Debt.

SENATE.

Sprague and others," was read a third time, and passed.

The bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario, and the head of the river St. Lawrence," was read a third time, and passed.

The bill to abolish the port of delivery established at the mouth of Slade's creek, in the State of North Carolina, was read a third time, and passed.

The bill authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics, was read a third time, and passed.

The bill concerning tonnage and discriminating duties, in certain cases, was read a third time, and passed.

The bill fixing the compensation of Indian agents and factors, was read a third time, and passed.

The amendments to the bill, entitled "An act for the relief of Major General Brown," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendment to the bill, entitled "An act fixing the time for the next meeting of Congress," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive Departments," together with the amendment reported thereto by the Committee on the District of Columbia; and the amendment having been disagreed to,

On motion, by Mr. DAGGETT, to strike out of section one, lines 6 and 7, "north of the buildings at present occupied by those Departments, and on a line parallel therewith;" and to insert, "on any of the public squares, or open spaces, as shall be directed by the President of the United States, east of Sixth street, west, except the Capitol Square;" it was determined in the negative—yeas 16, nays 19, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Dana, Dickerson, Gaillard, Hunter, Lacock, Morrill, Roberts, Sanford, Smith, Stokes, Tait, Tichenor, and Wilson.

NAYS—Messrs. Barbour, Campbell, Eppes, Fromentin, Goldsborough, Horsey, Johnson, King, Leake, Macon, Morrow, Noble, Otis, Ruggles, Storer, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

And no amendment having been made to the bill, it was reported to the House; and, on the question, "Shall this bill be read a third time?" it was determined in the affirmative—yeas 25, nays 10, as follows:

YEAS—Messrs. Barbour, Campbell, Daggett, Eppes,

Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Macon, Morrow, Otis, Roberts, Ruggles, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Dana, Dickerson, Lacock, Morrill, Noble, Smith, Tichenor, and Wilson.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States;" a bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district, whereof Belfast shall be the port of entry;" a bill, entitled "An act to increase the compensation of deputy postmasters in certain cases;" a bill, entitled "An act providing for the deposit of wines and distilled spirits in public warehouses;" a bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" and, also, a bill, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the second day of March, 1791,'" in which bills they request the concurrence of the Senate.

The six bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" the bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States;" the bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district, whereof Belfast shall be the port of entry; and also, the bill, entitled "An act providing for the deposit of wines and distilled spirits in public warehouses," were severally read the second time by unanimous consent, and severally referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the second day of March 1791,'" was read the second time by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act to increase the compensation of deputy postmasters in certain cases," was read the second time by unanimous consent, and referred to the Committee on Post Offices and Post Roads.

#### FUNDED DEBT.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate, of the 4th instant, requiring him to report to the Senate the amount of the funded debt of the United States, bearing an interest of seven, six, and three per cent., which has been paid by the subscribers towards



## SENATE.

## Funded Debt.

APRIL, 1818.

the capital of the Bank of the United States; distinguishing the amount of each which has been paid upon the several instalments; stating the sums and species of funded debt sold by the Bank; how much thereof was redeemed by the United States; how much has been sold without the United States; and how much is now held by the bank; and the report was read, as follows:

TREASURY DEPARTMENT, April 15, 1818.

SIR: In obedience to a resolution of the Senate of the 4th of April, instant, requiring the Secretary of the Treasury to report to the Senate the amount of the funded debt of the United States, bearing an interest of seven, six, and three per cent., which has been paid by the subscribers towards the capital of the Bank of the United States, distinguishing the amount of each which has been paid upon the several instalments; stating the sums and species of funded debt sold by the bank; how much thereof was redeemed by the United States; how much has been sold without the United States; and how much is now held by the bank; I have the honor to submit the statements A and B, and such parts of the correspondence between this Department and the president of the bank [Nos. 1, 2, 3, and 4] as relate to this subject; which, together, furnish all the information required by the resolution, which it is in the power of the Department to furnish.

It may be proper, however, to observe, that the bank had sent to Europe two millions of the funded debt, which had been paid by the subscribers, which was intended to be sold or pledged for the purpose of raising specie. When the redemption of the stock held by the bank was about to be effected, it was not known whether the whole or any part of the stock in Europe had been sold. The Board of Directors concluded that stock sold by the bank without the United States, in conformity with the charter, could not be redeemed at the will of the Government; and that, as it was probable that the stock then in Europe had been sold or pledged, it could not be redeemed. This construction was rejected by the Treasury; but an offer was made to receive from the bank an equal amount of the same kind of stock, provided the bank would, as the agent of the Commissioners of the Sinking Fund, purchase it at its own expense, and deliver it at par to the Government. This proposition was accepted by the bank, and has been carried into effect.

The only sum remaining in the hands of the bank, subject to redemption at the will of the Government, is the \$421,668 58, admitted to be in the hands of the bank, by the letter of the president, (marked No. 4.)

This amount will be immediately redeemed according to the provisions of the charter.

I have the honor to be, your most obedient and very humble servant,

WM. H. CRAWFORD.

HON. JOHN GAILLARD,

President pro tem. of the Senate.

A.

The Register begs leave to report to the Secretary of the Treasury that the funded debt of the United States, on the 31st December, 1817, is stated at the following sums:

Six per cent. stocks	\$70,011,081 74
Three per cents.	13,464,862 35
Seven per cents.	8,830,879 49
	92,106,823 58

That the following sums were extinguished of the public funded debt, by payments made by the subscribers towards the capital of the Bank of the United States:

Six per cent. stocks	\$11,471,256 24
Three per cents.	2,253,221 45
Seven per cents.	332,984 60
Old six per cent. and deferred stocks, unredeemed amounts	107,916 95
	14,165,379 24

That the statement from the Bank of the United States, which accompanies this report, and is respectfully referred to, exhibits the amount received from the subscribers to the said institution on account of the several instalments, and exhibits the sum and species of funded debt sold by the bank without the United States, and of the replacing of the same by purchase, and included in the sum herein stated of \$11,471,256 24 six per cent. stocks, as more particularly explained by the bank in their note at the foot of the said statement.

That the foregoing sums of	\$92,106,823 58
And	14,165,379 24
With the 5 per cent. loan of	7,000,000 00
And, extinguished by purchases, (other than the instalments paid to the Bank of the United States, before stated,) as per accounts settled at the Treasury	1,716,725 86
Amount to	114,988,928 68
Add reimbursement of old six per cent. and deferred stocks in 1817	1,603,998 34
And temporary loans paid off in 1817	550,000 00
	117,142,927 02

Deduct the amount of stock issued on the redemption of Treasury notes in the year 1817	1,335,121 54
--	--------------

Leaves the amount of the funded debt, on the 1st January, 1817, including temporary loans, as stated on the 28th November, 1817, and referred to by the Secretary of the Treasury in his report, dated the 5th December, 1817, to Congress - 115,807,805 48

Note.—It will be perceived, upon a comparison of the statement made by the Bank of the United States with this statement, that there is a variation in the amount of the six per cent. stock of \$43,767 13, stated less by the bank than in this statement, and which, on re-examination, may affect the balance of stock remaining in the possession of the bank in six per cent. stock, stated at \$316,589 33.

Respectfully submitted,

JOSEPH NOURSE, Register.

TREASURY DEPARTMENT,

Register's Office, April 14, 1818.

APRIL, 1818.

## Funded Debt.

SENATE.

B.—A Statement of Funded Debt of the United States, received on account of the respective instalments to the capital of the Bank of the United States, and of the disposition thereof.

Instalments of Funded Debt, &c.	Six per cents.	Three per cents.	Seven per cents.	Old six per cents.	Deferred six per cents.
Received on account of the first instalment	\$6,173,878 46	\$1,092,109 19	\$65,221 52	\$38,317 36	\$29,006 54
Received on account of the second instalment	5,127,949 64	1,136,725 14	232,925 62	335,707 06	135,649 05
Received on account of the third instalment	442,250 34	166,107 46	35,167 46	340,622 29	42,427 81
Totals	\$11,744,078 44	\$2,393,941 78	\$333,314 60	\$714,546 71	\$201,083 40
Of the above, there has been redeemed by the United States	\$9,427,489 11	\$2,353,221 45	\$332,984 60	\$374,196 35	\$156,764 31
Sold in London	(a) 2,000,000 00				
In possession of the Bank of the United States, redeemable at the will of the Government of the United States	316,589 33	140,720 33	330 00	340,350 36	42,319 09
Totals	\$11,744,078 44	\$2,393,941 78	\$333,314 60	\$714,546 71	\$201,083 40

(a) This sum, pledged in London for the purpose of procuring specie for the bank, and sold there, is redeemable at the period stated in the certificates of the said stock; but as the Secretary of the Treasury, in behalf of the Commissioners of the Sinking Fund, claimed the right of redemption at the will of the Government, the bank, in conformity to the compromise proposed by the Secretary of the Treasury, in behalf of the Commissioners of the Sinking Fund, did purchase, as the agent of the said Commissioners, an equal amount of similar stock, and delivered the same at the par value thereof, the bank paying the difference between the par value and the actual cost of the said stock, conditioned that the terms of redemption of the two millions sold in London should be according to the

periods stated in the certificates thereof; which agreement has been duly confirmed by the Secretary of the Treasury.

W. JONES, Pres't.

BANK OF THE U. S., April 9, 1818.

No. 1.

TREASURY DEPARTMENT,  
June 30, 1817.

SIR: To enable the Commissioners of the Sinking Fund to redeem the debt held by the bank, it will be necessary to transmit to this office a descriptive list, showing the amount of the different descriptions in its possession.

Upon the receipt of this list, a warrant will issue at the Treasury in favor of the bank, bearing date on the first day of July of the present year. The warrants for the amount sent to Europe, and directed to be sold, will be transmitted to the bank as soon as it shall have completed the purchase of an equal amount.

An impression has hitherto prevailed, that the seven per cent. stock subscribed to the bank could not be redeemed under the existing law, as the rate to which the Commissioners are limited in their purchases is below that to which it was subscribed to the bank; but, upon a more deliberate examination of the provisions of the third section of the act to provide for the reduction of the public debt, doubts have arisen on the subject. The use of the words "purchase and redemption," in that section, presents rather a confused idea, as there is a manifest distinction between the terms, both in theory and practice.

The question will be more deliberately examined, and the result communicated to the bank before the warrants are issued. I have the honor to be, &c.

WM. H. CRAWFORD.

W. JONES, Esq., Pres't U. S. Bank.

No. 2.

BANK OF THE U. S., July 3, 1817.

SIR: I have had the honor to receive your letter of the 30th ultimo, and now transmit the enclosed descriptive list of the funded debt held by the bank, agreeably to your request; which list includes the two millions sent by Mr. Sergeant, to wit:

In 6 per cent. stock of 1814	\$7,236 83
6 per cent. stock of 1815	392,886 82
6 per cent. stock of eleven million loan	329,450 00
6 per cent. stock of seven and a half million loan	122,176 64
6 per cent. stock of sixteen million loan	926,068 34
6 per cent. stock of ten million loan	68,376 47
6 per cent. stock of six million loan	153,804 90
	\$2,000,000 00

Owing to the irregularity of some of the Commissioners, the negligence of others, and the want of information from some of the loan offices, as to the Commissioners by whom the stock was transmitted in order to be transferred to the bank, the amount of the funded debt is yet imperfect, and not sufficiently defined to enable the bank to give an accurate detailed list. In many cases surplus sums have been delivered to the Commissioners, owing to the distance between the places of subscription and the loan offices; and, in many of these cases, the Commissioners have errone-



SENATE.

Proceedings.

APRIL, 1818.

ously transferred the whole amount to the bank instead of the specific sum subscribed, and of course the bank will have to retransfer these surpluses to the subscribers. In other cases deficiencies appear, and, until these errors can be corrected, the statement will exhibit but an approximation, which, however, cannot be far from the truth.

Some funded debt will no doubt be paid on account of the third instalment, and as soon as it may be practicable to furnish a complete and correct statement of the whole of the funded debt received on account of the capital stock of the bank, it shall be transmitted to the Department. The paper herewith enclosed, and the explanations which I have the honor now to submit, will exhibit all the information on the subject which it is at this time in the power of the bank to afford.

I have the honor to be, with great respect, sir, your obedient servant,  
W. JONES, *Pres't.*  
Hon. W. H. CRAWFORD.

No. 3.

TREASURY DEPARTMENT,  
April 6, 1818.

SIR: By referring to your statement of the Bank of the United States of the 23d ultimo, it appears that there is in possession of the bank funded debt of the United States, of various descriptions, four hundred and twenty-one thousand six hundred and sixty-eight dollars and fifty-eight cents. As the same statement presents an item of funded debt pledged as security for bills and notes discounted, it is presumed that the former must be stock paid to the bank by the subscribers. The amount held in Europe is also stated to be \$2,954,364 26. I will thank you to inform me, as early as possible, whether the first item, and the difference between the last-mentioned sum and \$2,000,000, is not stock held by the bank, subject to the right of redemption secured to the United States under the charter.

I will also thank you to give me such information, in conformity with the enclosed resolution of the Senate, as you can readily furnish. I am, &c.

WM. H. CRAWFORD.  
WM. JONES, Esq., *Pres't Bank U. S.*

No. 4.

BANK OF THE U. S., April 9, 1818.

SIR: I have had the honor to receive your letter of the 6th instant, and hasten to submit the information therein required.

The statement herewith enclosed contains all the information required by the resolution of the Senate of the 4th instant, and also exhibits the actual amount of the balance of funded debt subscribed by individuals, companies, and corporations, to the capital of the bank, and now remaining in its possession, redeemable at the will of the Government.

The statement of the 23d ultimo, to which you refer, exhibits the sum of \$421,668 58,\* which is the actual

\* The actual value of the stock described in the last item of the enclosed statement, at the rate at which it was subscribed, is \$436,156 54; the difference between this sum and that in the statement of the 23d ultimo, \$14,487 96, is not regularly accounted for by the Commissioners, but the whole is included in the statement now rendered.

value of the balance abovementioned, reduced according to the rates at which the several species of stock were subscribed.

The item in the above statement designated "bills discounted on personal security and pledged funded debt," is stock belonging to and standing in the name of the borrowers, and held by the bank as collateral security for the payment of their respective obligations.

The amount stated to be pledged in Europe is the two millions of six per cent. stock originally pledged and ordered to be sold in London; the sale had not been finally closed at the last dates received, but was progressing as fast as the partial demand for our stocks would admit. The last price quoted is 104½, including dividend. This item in the statements of the bank rendered to the Treasury remains unaltered, waiting for the final account of sales, and the orders to transfer the balance of the stock to the European purchasers.

The \$54,267 26 included in that item is not in fact funded debt, but the premium paid by the bank on the two millions purchased under the compromise with the Commissioners of the Sinking Fund, and charged in that item until the final account of the sale of the two millions in London shall be received, from which it is hoped the bank may be reimbursed.

I have the honor to be, with the highest respect, sir, your obedient servant,

W. JONES, *Pres't.*

Hon. WM. H. CRAWFORD,  
*Secretary of the Treasury.*

THURSDAY, April 16.

Mr. WILSON, from the Committee of Claims, to whom was referred the petition of Lieutenant Samuel Brown, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his papers. The report and resolution were read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum," reported the same without amendment.

He also reported the bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district, whereof Belfast shall be the port of entry," without amendment.

The Senate resumed the consideration of the motion of the 15th instant, in relation to offices of the customs; and the same having been modified, was agreed to as follows:

*Resolved*, That the President of the United States be requested to direct the proper officer to lay before the Senate, at an early period of their next session, a list of such offices of the customs, with the name of their officers, salaries, emoluments, and the places where held, as it may be proper to suppress and discharge, in consequence of their unproductiveness, the inconsiderable services rendered, or of any other cause.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the President of the United States

APRIL, 1818.

Public Buildings.

SENATE.

be requested to cause to be laid before the Senate, as early as possible in the next session, a full statement respecting the navy pension fund; specifying particularly the captures from which the said fund has been formed; how much from each; and at what times received; in what stocks the moneys belonging to said fund have been vested; at what times, and by whom as agent; what has been the annual income from the stocks belonging to said fund, and what has been done with the surpluses, if any, after paying off the navy pensioners.

The bill entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments," was read a third time, and passed.

The amendments to the bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals, and other purposes; and the resolution having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the resolution be read a third time as amended.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John B. Dabney," reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major Loring Austin and George R. Wells," and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Berry;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Mary Sullivan;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

## THE PUBLIC BUILDINGS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the public buildings

and for furnishing the Capitol and President's House," together with the amendments reported thereto by the Committee on the District of Columbia; and the amendments having been agreed to with a further amendment—

On motion by Mr. LACOCK, to strike out from the end of the sixth line of the first section, to the end of the ninth line, as follows:

"For procuring materials, laying the foundation, and other preparations for the centre building of the Capitol, one hundred thousand dollars."

It was determined in the negative—yeas 6, nays 24, as follows:

YEAS—Messrs. Eppes, Lacock, Morrow, Stokes, Taylor, and Wilson.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Macon, Morrill, Otis, Roberts, Sanford, Smith, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The bill was then reported to the House amended as follows:

Strike out the 19th, 20th, and 21st lines of the first section.

Sec. 1, line 26, strike out "thirty," and insert "twenty."

Same section, line 27, after "dollars," insert, "for making good a deficiency in the appropriation of the past year for furnishing the President's House, ten thousand dollars."

Sec. 2, line 5, strike out "presiding officer thereof," and insert, "Vice President of the United States."

The amendments having been concurred in, Mr. MACON moved to strike out "for furnishing the President's House, twenty thousand dollars."

This motion was advocated by Mr. MACON and Mr. EPPES, at some length, and briefly by Mr. WILSON; and opposed by Mr. KING and Mr. BARBOUR; after which the question was taken on the motion and decided in the negative—yeas 11, nays 22, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eppes, Macon, Morrow, Ruggles, Talbot, Taylor, Tichenor, and Wilson.

NAYS—Messrs. Barbour, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Lacock, Leake, Morrill, Otis, Roberts, Sanford, Smith, Stokes, Storer, Tait, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The amendments were then ordered to be engrossed and the bill was read a third time as amended.

FRIDAY, April 17.

A message from the House of Representatives informed the Senate that the House have passed the bill which originated in the Senate, entitled "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808, and to repeal certain parts of the same," with amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An



SENATE.

Proceedings.

APRIL, 1818.

act to continue in force, from and after the thirtieth of June, 1819, until the thirtieth of June, 1826, the fourth paragraph of the first section of the act, entitled "An act to regulate the duties on imports and tonnage, and for other purposes," in which bill they request the concurrence of the Senate.

The bill last mentioned was read twice by unanimous consent, and referred to the Committee on Commerce and Manufactures.

Mr. SANFORD, from said committee, reported the said bill without amendment.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808, and to repeal certain parts of the same." Whereupon, *Resolved*, That they concur therein.

Mr. VAN DYKE presented the petition of Thos. Fletcher, Sidney Gardiner, John Stoddart, and Rufus Tyler, of the city of Philadelphia, proprietors of a new and useful improvement for making screws of wire, commonly called "wood screws," praying a specific duty may be laid on the importation of such articles; and the petition was read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States;" and also the bill, entitled "An act providing for the deposit of wines and distilled spirits in public warehouses," reported them severally, without amendment.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act to incorporate the Columbian Institute for the promotion of arts and sciences," reported the same without amendment.

The Senate resumed the consideration of the motion of the 16th instant, requesting a full statement respecting the navy pension fund, to be laid before the Senate as early as possible in the next session; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Lieutenant Samuel Brown; and in concurrence therewith, the petitioner had leave to withdraw his papers.

The bill entitled "An act for the relief of Mary Sullivan," was read a third time, and passed.

The bill entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased," was read a third time, and passed.

The bill entitled "An act for the relief of Benjamin Berry," was read a third time, and passed. The bill entitled "An act for the relief of Major Floring Austin and George R. Wells," was read a third time, and passed.

Mr. LACOCK submitted the following resolution for consideration, which was read and passed to the second reading:

*Resolved*, That Robert Tweedy, Tobias Simpson,

and George Hicks, assistants to the Sergeant-at-Arms and Doorkeeper to the Senate, be paid, out of the contingent fund, two dollars per day for each day they may have attended the Senate during the present session of Congress; and that Charles Tims be also allowed two dollars per day for his attendance during the present session of Congress.

The amendments to the bill entitled "An act making appropriations for the public buildings and for furnishing the Capitol and President's House," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals, and for other purposes, having been reported by the committee correctly engrossed, the resolution was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Work;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act respecting the organization of the Army, and for other purposes," together with the amendments reported thereto by the Committee on Military Affairs; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States;' and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Dillon;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Jonas Harrison;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of volunteer mounted cavalry;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of a company of rangers;" and, on motion by Mr. WILLIAMS, of Tennessee, the

APRIL, 1818.

Proceedings.

SENATE.

further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry King;" and, after debate, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of certain friendly Creek Indians of the mixed blood," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and on the question to agree to strike out of section 1, line 13, "one dollar," being the rate of duty per hundred weight, on iron in bars and bolts, manufactured without rolling, it was determined in the affirmative—yeas 19, nays 15, as follows:

YEAS—Messrs. Barbour, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, King, Leake, Macon, Morrill, Otis, Smith, Stokes, Storer, Tait, Taylor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Dickerson, Horsey, Hunter, Lacock, Morrow, Noble, Roberts, Ruggles, Sanford, Talbot, Tichenor, Van Dyke, and Wilson.

The amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

SATURDAY, April 18.

The PRESIDENT communicated a letter from Benjamin O. Tyler, presenting to the Senate a

copy of the Declaration of American Independence, lately executed and published, being the first and only fac simile copy of the signatures of that important document ever copied or published; and the letter was read.

Mr. WILSON, from the Committee on Post Offices and Post Roads, to whom was referred the bill, entitled "An act to increase the compensation of deputy postmasters in certain cases," reported the same with an amendment, which was read.

The resolution to authorize the pay to the assistants to the Sergeant-at-Arms and Doorkeeper of the Senate, was read the second and third times by unanimous consent, and passed as follows:

*Resolved*, That Robert Tweedy, Tobias Simpson, and George Hicks, assistants to the Sergeant-at-Arms and Doorkeeper of the Senate, be paid out of the contingent fund two dollars per day for each day they may have attended the Senate during the present session of Congress, and that Charles Tims be also allowed two dollars per day for his attendance during the present session of Congress.

Mr. JOHNSON submitted the following motion for consideration:

*Resolved*, That the reports of the commissioners for the districts east and west of Pearl river, in West Florida, relative to land claims, together with the memorials, petitions, and other papers addressed to the Senate upon the same subject, be referred to the Secretary of the Treasury, and that he be directed to report a plan to the Senate at their next session for the adjustment of the claims to land in the said districts.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Frederick Brown," and also the bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster," reported the same, severally, without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district whereof Belfast shall be the port of entry;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John B. Dabney;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

The said amendment having been reported by the committee correctly engrossed, the bill was read a third time, as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Columbian Institute for



the promotion of arts and sciences;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill was read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act providing for the deposit of wines and distilled spirits in public warehouses;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill to be read a third time as amended.

The said amendments having been reported by the committee correctly engrossed, the bill was read a third time by unanimous consent, and passed.

Mr. LACOCK submitted the following resolution for consideration:

*Resolved*, That there be paid out of the contingent fund of this House, to Robert Tweedy, Tobias Simpson, and George Hicks, the sum of one hundred dollars each for extra services.

On motion by Mr. FROMENTIN, to strike out before George Hicks, the word "and," and to insert thereafter, "and Charles Tims," it was determined, in the negative—yeas 7, nays 19, as follows:

YEAS—Messrs. Daggett, Fromentin, Johnson, Sanford, Smith, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Burrill, Gaillard, Goldsborough, Hunter, Lacock, Leake, Morrill, Morrow, Noles, Otis, Roberts, Ruggles, Storer, Tait, Taylor, Tichenor, Van Dyke, and Williams of Mississippi.

The resolution was then read the second and third times by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States," and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill to be read a third time as amended.

The said amendments having been reported by the committee correctly engrossed, the bill was read a third time as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to continue in force from and after the 30th of June, 1819, until the 30th of June, 1826, the fourth paragraph of the first section of the act, entitled 'An act to regulate the duties on imports and tonnage, and for other purposes,'" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill read a third time as amended, and the said amendment having been reported by the committee correctly engrossed, the bill was read a third time, as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry King;" and, on motion by Mr. TICHENOR, the further consideration thereof was postponed until the first Monday in June next.

A message from the House of Representatives informed the Senate that the House do not concur in the first amendment of the Senate, to the bill, entitled "An act making appropriations for the public buildings, and for furnishing the Capitol and President's house;" and they do concur in the residue of the amendments to the said bill. They have concurred in the amendments of the Senate to the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States,' and to repeal the acts therein mentioned," except the seventh amendment, which they do not concur in. They have passed the bill, which originated in the Senate, entitled "An act concerning tonnage and discriminating duties in certain cases," with amendments, in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act to regulate and fix the compensation of the clerks in the different offices;" a bill, entitled "An act for the relief of Madame Poideven;" a bill, entitled "An act supplementary to the several acts making appropriations for the year 1818;" a bill, entitled "An act supplementary to the several acts relative to direct taxes and internal duties;" a bill, entitled "An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri;" a bill, entitled "An act for changing the compensation of the receivers and registers of land offices;" a bill, entitled "An act for the relief of Major General John Stark;" a bill, entitled "An act for the relief of Cornelia Mason;" a bill, entitled "An act to establish and alter certain post roads;" and also a bill, entitled "An act concerning invalid pensions;" in which bills they request the concurrence of the Senate.

The ten bills last mentioned were read, and severally passed to the second reading. The bill, entitled "An act to regulate and fix the compensation of the clerks in the different offices," and also the bill, entitled "An act for the relief of Madame Poideven," were severally read the second time, by unanimous consent, and severally referred to the Committee of Claims.

The bill, entitled "An act supplementary to the several acts making appropriations for the year 1818," was read the second time, by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act supplementary to the several acts relative to direct taxes and internal duties," was read the second time, by unanimous consent, and referred to the Committee on the Judiciary.

The bill, entitled "An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri;" and also the bill, entitled "An act for changing the compensation of the receivers and registers of land offices;" were severally read the second time, by unanimous

consent, and severally referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Major General John Stark;" and also the bill, entitled "An act for the relief of Cornelia Mason;" were severally read the second time, by unanimous consent, and severally referred to the Committee on Pensions.

The bill, entitled "An act to establish and alter certain post roads," was read the second time, by unanimous consent, and referred to the Committee on Post Offices and Post Roads.

The bill, entitled "An act concerning invalid pensions;" was read the second time, by unanimous consent, and on motion by Mr. LACOCK, the further consideration thereof was postponed until the first Monday in June next.

The Senate proceeded to consider the first amendment, disagreed to by the House of Representatives to the bill, entitled "An act making appropriations for the public buildings, and for furnishing the Capitol and President's house." Whereupon,

*Resolved*, That they recede therefrom.

The Senate proceeded to consider their seventh amendment to the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States,' and to repeal the acts therein mentioned;" disagreed to by the House of Representatives." Whereupon,

*Resolved*, That they recede therefrom.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act concerning tonnage and discriminating duties;" and they were referred to the Committee on Commerce and Manufactures.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of James Mackay, of the Missouri Territory," reported the same with amendments.

Mr. MORROW, from the same committee, to whom was also referred the bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold," reported the same with amendments.

The PRESIDENT communicated a letter from the Hon. GEORGE W. CAMPBELL, notifying the resignation of his seat in the Senate; which was read, and on motion by Mr. WILLIAMS, of Tennessee, the PRESIDENT was requested to notify the Executive of the State of Tennessee of this resignation.

*Seven o'clock in the evening.*

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act supplementary to the several acts relative to direct taxes and internal duties;" reported the same without amendment, and the bill was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

On motion by Mr. WILLIAMS, of Tennessee, 15th CON. 1st SESS.—13

Alfred M. Carter, of Tennessee, had leave to withdraw his petition and papers; and the Committee on Military Affairs, to whom was referred the petition of Alexander Levie, were discharged from the further consideration thereof.

On motion by Mr. MORROW, the Committee on Public Lands, to whom was referred, the memorial of the Mayor, Aldermen, and inhabitants of the city of New Orleans; the petition of Duncan McArthur; the memorial of the Mississippi Convention; the petition of Alexander Macomb; the petition of Joseph Bullen; the petition of John T. Hall and others; the petition of sundry inhabitants of the town of Vincennes; the petition of James Brady, of Pennsylvania; the petition of Thomas Goldin and others; the petition of Samuel Kohn, of Louisiana; the petition of the executrix and executors of Touissant Dubois, deceased; the petition of Jeremiah Gregory and others; the petition of John Baptist Valle, of St. Genevieve; the memorial of the New York Irish emigrant association; the memorial of the Philadelphia Irish emigrant association; the memorial of a number of inhabitants of the province of Texas; the petition of Benjamin S. Smoot and others; and also, the memorial of Luke Tierman and others, in behalf of the Hibernian Society in Baltimore; were discharged from the further consideration thereof, respectively.

On motion by Mr. VANDYKE, the Committee on Pensions, to whom was referred the petition of John Sergeant, of Vermont, and also the petition of Samuel Kerkendall, of New Jersey, were discharged from the further consideration thereof, respectively.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of B. and P. Jourdan and brothers;" in which they request the concurrence of the Senate. They have also passed the bill, which originated in the Senate, entitled "An act to increase the salaries of certain officers of the Government, with amendments, in which they also request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives, to the bill last mentioned; and, on the question to agree to the fifth amendment, to wit: Line 5, after the word "dollars," where it occurs the last time, insert the following, viz: "to the Chief Justice of the United States, five thousand dollars, and to each of the judges of the Supreme Court, four thousand five hundred dollars," it was determined in the negative—yeas 13, nays 13, as follows:

YEAS—Messrs. Barbour, Burrill, Fromentin, Horsey, Hunter, Johnson, King, Otis, Sanford, Stokes, Storer, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Eppes, Gaillard, Lacock, Macon, Morrill, Morrow, Roberts, Smith, Tait, Talbot, Taylor, Williams of Mississippi, and Wilson.

And it was *Resolved*, That the Senate agree to the 1st, 2d, 3d, and 4th amendments, of the House of Representatives, to the said bill, with the following modification, to wit:

That the salaries of the Secretaries of State, Treas-



SENATE.

Proceedings.

APRIL, 1818.

ry, War and Navy, respectively, be fixed at six thousand dollars.

That the Senate disagree to the fifth amendment, and agree to the sixth amendment, to the said bill.

The bill last brought up for concurrence, was read twice, by unanimous consent, and referred to the Committee on Military Affairs.

The amendments to the bill, entitled "An act respecting the organization of the Army, and for other purposes," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The amendments to the bill, entitled "An act for the relief of certain friendly Creek Indians, of the mixed blood," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The amendments to the bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The amendments to the bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased," was read a third time, and passed.

The bill, entitled "An act for the relief of John Work," was read a third time, and passed.

The bill, entitled "An act for the relief of John Dillon," was read a third time, and passed.

The bill, entitled "An act for the relief of Jonas Harrison," was read a third time, and passed.

The bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States,'" was read a third time, and passed.

The bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes," was read a third time, and passed.

The bill, entitled "An act for the relief of volunteer mounted cavalry," was read a third time, and passed.

Mr. MORRIL, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Major General John Stark," reported the same without amendment.

On motion, by Mr. VAN DYKE, the Committee on Pensions, who were instructed to inquire into the propriety of granting a pension to George Bell, were discharged from the further consideration thereof.

Mr. KING, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the 2d day of March, 1799,'" reported the same with amendments, which were read, and considered as in Committee of the Whole; and the amendments having been agreed to, the PRESIDENT reported the bill to the House

amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill read a third time as amended.

The Senate adjourned to Monday morning.

MONDAY, April 20.

Mr. MORROW presented the petitions of sundry inhabitants of the State of Ohio, praying the establishment of a land office at Piqua; he also presented the petition of Rufus Easton, with copies of documents; The petition of John Jarrot, of Missouri; the petition of John Myers, of Missouri; and the petition of Jeduthan Kendal, of Missouri; and the petitions were severally read, and laid on file.

On motion by Mr. ROBERTS, the Committee of Claims, to whom was referred the petition of Thomas Hall Jervy, surveyor and inspector of the port of Charleston; the petition of Samuel Miller, brevet major in the service of the United States; the petition of Joseph Storer, collector of Kennebunk; and also the resolution of the Senate, of the 11th February, 1818, instructing them to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts for the supplies and services of the militia of that State, employed during the late war in the common defence, so far as the same may be due upon principles of equity and justice, were discharged from the further consideration thereof respectively.

On motion by Mr. LACOCK, the committee to whom was referred the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying to be empowered to incorporate companies for the purpose of forming turnpike roads, &c., were discharged from the further consideration thereof.

On motion by Mr. KING, the committee to whom was referred the Message of the President of the United States respecting the claim of the heirs of Caron de Beaumarchais, were discharged from the further consideration thereof.

On motion by Mr. TAIT, the Committee on Naval Affairs, to whom was referred the petition of John B. Timberlake, praying an equitable adjustment of his accounts, as purser, with the Navy Department, were discharged from the further consideration thereof.

On motion by Mr. BARBOUR, the committee to whom was referred the petition of Daniel Pettibone, of Philadelphia; and also the petition of Daniel Pettibone for himself, Ezekiel Chapman, and Josiah Nicholls, were discharged from the further consideration thereof respectively.

On motion by Mr. WILSON, the Committee on Post Offices and Post Roads, to whom was referred the petition of Loring A. Waller, and others, of Jacksonborough, in the State of Indiana, praying the establishment of a post office, were discharged from the further consideration thereof, and it was referred to the Postmaster General.

The amendments to the bill, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and ton-

APRIL, 1818.

Proceedings.

SENATE.

nage," passed the second day of March, 1799," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and further amended by unanimous consent, and passed.

Mr. MORRIL, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Cornelia Mason," reported it without amendment; and the bill was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri," reported it without amendment; and the bill was considered as in Committee of the Whole; and, on motion by Mr. TAIT, the further consideration thereof was postponed until Monday next.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for changing the compensation of receivers and registers of the land offices," reported it without amendment, and the bill was considered as in Committee of the Whole; and having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended. The bill was then read a third time, as amended, by unanimous consent, and passed.

Mr. KING, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the several acts making appropriations for the year 1818," reported the same without amendment, and the bill was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the amendment of the House of Representatives to the bill, entitled "An act concerning tonnage and discriminating duties in certain cases," reported the same without amendment. Whereupon

*Resolved*, That the Senate concur therein.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the compensation of certain deputy postmasters in certain cases;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill to be read a third time as amended.

On motion that the bill be now read a third time, it was objected to as being against the rule.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Madame Poidevin," reported the same without amendment, and the bill was con-

sidered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading, and it was read a third time by unanimous consent, and passed.

Mr. WILSON, from the Committee on Post Offices and Post Roads, to whom was referred the bill, entitled "An act to establish and alter certain post roads," reported the same with amendments, which were read and considered as in Committee of the Whole; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act to regulate and fix the compensation of the clerks in the different offices," reported the same with amendments; which were read and considered as in Committee of the Whole, and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended. The bill was then read a third time as amended, by unanimous consent, and passed.

Mr. KING, from the Committee on Finance, to whom was referred the bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed," reported the same without amendment; and, on his motion, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Mackay, of the Missouri Territory," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended. The bill was then read a third time, as amended, by unanimous consent, and passed.

Mr. FROMENTIN submitted the following motion; which was read and considered:

*Resolved*, That after six days from the commencement of a second or subsequent session of any Congress, all Legislative business, which at the close of the next preceding session remained undetermined in the Senate, shall be resumed and acted on in the same manner as if an adjournment had not taken place.

And, on the question to agree thereto, it was determined in the negative.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amend-



SENATE.

Proceedings.

APRIL, 1818.

and accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended. The bill was then read a third time as amended, by unanimous consent, and passed. The title was amended so as to read, "An act for the relief of John Seybold."

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and the bill was read a third time by unanimous consent, and passed.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Anderson," reported the same without amendment; and, on his motion, the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the motion of the 18th instant, "That the reports of the commissioners for the districts east and west of Pearl river in West Florida, relative to land claims, together with the memorials, petitions and other papers addressed to the Senate upon the same subject, be referred to the Secretary of the Treasury; and that he be directed to report a plan to the Senate, at their next session, for the adjustment of the claims to land in the said districts; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major General John Stark;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill be read a third time as amended.

On motion that the bill be now read a third time, as amended, it was objected to, as being against the twelfth rule for conducting business in the Senate.

On motion by Mr. FROMENTIN, that the said bill be suspended, so far as it respects the said rule, it was determined in the negative.

A message from the House of Representatives informed the Senate that the House do not agree to the modifications proposed by the Senate to their first, second, third, and fourth amendments to the bill, entitled "An act to increase the salaries of certain officers of Government;" and that they insist on their fifth amendment to the said bill.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned; Whereupon, On motion by Mr. MAGGETT,

*Resolved*, That they insist on so much of their modification of the first, second, third, and fourth

amendments of the House of Representatives as applies to the salaries of the Secretary of State, and Secretary of the Treasury; that they recede from so much of their modification of said amendments as applies to the salaries of the Secretary of War and Navy; and that they recede from their disagreement to the fifth amendment.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of B. and P. Jourdan, brothers," reported the same without amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for transferring the claims in the office of the Commissioner, to the Third Auditor of the Treasury;" in which bill they request the concurrence of the Senate.

The bill last mentioned was read twice by unanimous consent, and referred to the Committee of Claims, to consider and report thereon; and the bill having been reported from said committee without amendment, it was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate, a copy of the rules, regulations, and instructions, for the naval service of the United States, prepared by the Board of Navy Commissioners, in obedience to an act of Congress, passed 7th of February, 1815, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners."

JAMES MONROE.

WASHINGTON, April 20, 1818.

The Message and accompanying documents were read.

A message from the House of Representatives informed the Senate that the House adhere to their disagreement to the modification proposed by the Senate, to the first and second amendments of the House, to the bill, entitled "An act to increase the salaries of certain officers of Government."

The Senate proceeded to consider the amendments adhered to by the House of Representatives to the bill last mentioned. Whereupon, on motion by Mr. BARBOUR, the further consideration of said bill was postponed until Monday next.

The Senate adjourned to five o'clock in the evening.

*Five o'clock in the evening.*

The amendments to the bill, entitled "An act to establish and alter certain post roads," having been reported by the committee correctly engrossed, the bill was read a third time as amended by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of B. and P. Jourdan, brothers;" and no amendment having been made thereto, the

APRIL, 1818.

Adjournment.

SENATE.

PRESIDENT reported the bill to the House; and it passed to a third reading.

On motion, that the bill be now read a third time, it was objected to by Mr. LACOCK as being against the twelfth rule for conducting business in the Senate.

On motion by Mr. JOHNSON, that the said rule be suspended, so far as it respects the said bill; it was determined in the negative.

A message from the House of Representatives informed the Senate that the House have concurred in the amendment of the Senate to the bill, entitled "An act to establish and alter certain post roads;" except the latter, to which they have disagreed.

The Senate proceeded to consider their amendment to the bill last mentioned, disagreed to by the House of Representatives, and receded therefrom.

On motion by Mr. MACON, a committee was appointed on the part of the Senate, jointly with such committee as may be appointed on the part

of the House of Representatives, to wait on the President of the United States, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn. Mr. MACON and Mr. KING were appointed the said committee.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Mr. MACON reported from the joint committee, that they had waited on the President of the United States, who informed them that he had no further communication to make to the two Houses of Congress.

*Ordered*, That the Secretary inform the House of Representatives that the Senate, having finished the Legislative business before them, are about to adjourn.

Whereupon, the PRESIDENT adjourned the Senate to meet on the third Monday in November next.



## PROCEEDINGS AND DEBATES

OF THE

### HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY  
OF WASHINGTON, MONDAY, DECEMBER 1, 1817.

MONDAY, December 1, 1817.

This being the day appointed by the Constitution of the United States for the meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

*From New Hampshire*—Josiah Butler, Clifton Claggett, Salma Hale, Arthur Livermore, John F. Parrott, and Nathaniel Upham.

*From Massachusetts*—Benjamin Adams, Samuel C. Allen, Walter Folger, jr., Joshua Gage, John Holmes, Marcus Morton, Jeremiah Nelson, Benjamin Orr, Albion K. Parris, Nathaniel Ruggles, Zabdiel Sampson, Henry Shaw, Nathaniel Silsbee, Solomon Strong, and Ezekiel Whitman.

*From Rhode Island*—John L. Boss, jr.

*From Connecticut*—Uriel Holmes, Ebenezer Huntingdon, Jonathan O. Moseley, Timothy Pitkin, Samuel B. Sherwood, Nathaniel Terry, and Thomas S. Williams.

*From Vermont*—Heman Allen, Samuel C. Crafts, William Hunter, Orsamus C. Merrill, Charles Rich, and Mark Richards.

*From New York*—Oliver C. Comstock, Daniel Cruger, John P. Cushman, John R. Drake, Benjamin Ellicott, Josiah Hasbrouck, John Herkimer, Thomas H. Hubbard, William Irving, Dorrance Kirtland, Thos. Lawyer, John Palmer, James Porter, John Savage, Philip J. Schuyler, Tredwell Scudder, John C. Spencer, Henry R. Storrs, James Tallmadge, jr., John W. Taylor, Caleb Tompkins, George Townsend, Peter H. Wendover, Rensselaer Westerlo, James W. Wilkin, and Isaac Williams.

*From New Jersey*—Benjamin Bennett, Joseph Bloomfield, Charles Kinsey, John Linn, and Henry Southard.

*From Pennsylvania*—William Anderson, Andrew Boden, Isaac Darlington, Joseph Heister, Joseph Hopkinson, Samuel D. Ingham, William P. Maclay, David Marchand, Robert Moore, John Murray, Thomas Patterson, Levi Pawling, Adam Seybert, Jacob Spangler, Christian Tarr, James M. Wallace, John Whiteside, and William Wilson.

*From Delaware*—Louis McLane.

*From Maryland*—Thomas Culbreth, John C. Herbert, Peter Little, George Peter, Philip Reed, Samuel Ringgold, Samuel Smith, and Philip Stuart.

*From Virginia*—William Lee Ball, Philip P. Barbour, Burwell Bassett, William A. Burwell, Edward Colston, Robert S. Garnett, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas Newton, James Pindall, James Pleasants, Alexander Smyth, George F. Strother, Henry St. George Tucker, and John Tyler.

*From North Carolina*—Weldon N. Edwards, Daniel M. Forney, Thomas H. Hall, George Mumford, James Owen, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, Felix Walker, and Louis Williams.

*From South Carolina*—Joseph Bellinger, William Lowndes, Henry Middleton, Stephen D. Miller, and Sterling Tucker.

*From Georgia*—Joel Abbott, Thomas W. Cobb, Zadock Cook, Joel Crawford, John Forsyth, and William Terrell.

*From Kentucky*—Richard C. Anderson, jr., Henry Clay, Joseph Desha, Richard M. Johnson, Anthony New, Tunstall Quarles, jr., George Robertson, Thomas Speed, David Trimble, and David Walker.

*From Tennessee*—William G. Blount, Francis Jones, George W. L. Marr, and John Rhea.

*From Ohio*—Levi Barber, Philemon Beecher, John W. Campbell, William Henry Harrison, and Samuel Herrick.

*From Louisiana*—Thomas B. Robertson.

*From Indiana*—William Hendricks.

#### ELECTION OF SPEAKER, &c.

A quorum, consisting of a majority of the whole number of members, being present, the House then proceeded to the choice of a SPEAKER. On counting the votes, it appeared that of 147 votes given in, there were for HENRY CLAY, 143; for SAMUEL SMITH, 6; blank, 1.

So that Mr. CLAY was declared to be duly elected Speaker; and, being conducted to the Chair, the usual oath was administered to him, by Mr. BASSETT; when the SPEAKER made his acknowledgments to the House in the following terms:

"If we consider, gentlemen, the free and illustrious origin of this assembly; the extent and magnitude of the interests committed to its charge; and the brilliant prospects of the rising confederacy, whose destiny may be materially affected by the legislation of Congress,



H. or R.

Standing Committees.

DECEMBER, 1817.

The House of Representatives justly ranks amongst the most eminent deliberative bodies that have existed. To be appointed to preside at its deliberations, is an exalted honor, of which I entertain the highest sense; and I pray you to accept, for the flattering manner in which you have conferred it, my profound acknowledgments.

"If I bring into the Chair, gentlemen, the advantage of some experience of its duties, far from inspiring me with undue confidence, that experience serves only to fill me with distrust of my own capacity. I have been taught by it, how arduous those duties are, and how unavailing would be any efforts of mine to discharge them, without the liberal support and cheering countenance of the House. I shall anxiously seek, gentlemen, to merit that support and countenance, by an undeviating aim at impartiality, and at the preservation of that decorum, without the observance of which, the public business must be illy transacted, and the dignity and the character of the House seriously impaired."

The members having been severally qualified by taking the oath to support the Constitution, the House proceeded to elect a Clerk. On counting the ballots, it appeared that 144 votes were given in, all of which were for THOMAS DOUGHERTY, who resumed his place as Clerk of the House.

THOMAS CLAXTON was then re-appointed Doorkeeper, BENJAMIN BURCH Assistant Doorkeeper, and THOMAS DUNN Sergeant-at-Arms, without opposition.

After the usual incipient proceedings, and interchanging messages with the Senate, the House adjourned to twelve o'clock to-morrow.

## TUESDAY, December 2.

Several other members, to wit: from New Jersey, ESHRAIM BATEMAN; from Virginia, WILLIAM J. LEWIS; and from Tennessee, THOMAS CLAIBORNE and THOMAS HOGG, appeared, produced their credentials, were qualified, and took their seats.

Mr. HOLMES, of Massachusetts, from the joint committee appointed yesterday to wait on the President of the United States, reported, that the committee had performed that service, and that the PRESIDENT answered, that he would make a communication to the two Houses of Congress to-day, at 12 o'clock.

A Message, in writing, was then received from the PRESIDENT OF THE UNITED STATES, which was read and referred to the Committee of the Whole on the state of the Union; and five thousand copies thereof ordered to be printed for the use of the members of the House. [For this Message, see Senate proceedings of this date, page 42.]

## WEDNESDAY, December 3.

Several other members, to wit: from Pennsylvania, JOHN SERGEANT; from Virginia, PETERSON GOODWYN and THOMAS M. NELSON; and from South Carolina, WILSON NESBITT, appeared, produced their credentials, were qualified, and took their seats.

The SPEAKER laid before the House a letter from John Gardiner, Chief Clerk in the General Land Office, accompanied with two copies of a map of the bounty lands in the Illinois Territory, engraved for the use of the soldiers of the late army; which was ordered to lie on the table.

## STANDING COMMITTEES.

On motion, by Mr. SMITH, of Maryland, the House proceeded to the appointment of the Standing Committees, pursuant to the rules and orders of the House. They are as follows:

*Committee of Ways and Means*—Mr. Lowndes, Mr. Smith, of Maryland, Mr. Burwell, Mr. Pitkin, Mr. Abbott, Mr. Sergeant, and Mr. Trimble.

*Of Elections*—Mr. Taylor, Mr. Tyler, Mr. Merrill, Mr. Shaw, Mr. Boss, Mr. Whitman, and Mr. Strong.

*Of Commerce and Manufactures*—Mr. Newton, Mr. Seybert, Mr. Moseley, Mr. Irving, of New York, Mr. McLane, Mr. Crawford, and Mr. Kinsey.

*Of Claims*—Mr. Williams, of North Carolina, Mr. Rich, Mr. Bateman, Mr. McCoy, Mr. Huntington, Mr. Schuyler, and Mr. Walker, of Kentucky.

*For the District of Columbia*—Mr. Herbert, Mr. Miller, Mr. Peter, Mr. Boden, Mr. Strother, Mr. Claiborne, and Mr. Cobb.

*On the Public Lands*—Mr. Robertson, of Louisiana, Mr. Anderson, of Kentucky, Mr. Mercer, Mr. Campbell, Mr. Hendricks, Mr. Terry, and Mr. Marr.

*On Private Land Claims*—Mr. Herrick, Mr. Heister, Mr. Pindall, Mr. Hogg, and Mr. Tompkins.

*On the Post Office and Post Roads*—Mr. Ingham, Mr. Blount, Mr. Barbour, of Ohio, Mr. Townsend, Mr. Jeremiah Nelson, Mr. Colston, and Mr. Terrill.

*On Pensions and Revolutionary Claims*—Mr. Rhea, Mr. Wilkin, Mr. Ruggles, Mr. William P. Maclay, Mr. Sherwood, Mr. Ellicott, and Mr. Owen.

*Of Public Expenditures*—Mr. Desha, Mr. Anderson, of Pennsylvania, Mr. Garnett, Mr. Cushman, Mr. Culbreth, Mr. Hunter, and Mr. Holmes, of Connecticut.

*On the Judiciary*—Mr. Hugh Nelson, Mr. Hopkinson, Mr. Spencer, Mr. Edwards, Mr. Beecher, Mr. Livermore, and Mr. Hale.

*Of Accounts*—Mr. Little, Mr. Bennett, and Mr. Allen, of Massachusetts.

*Of Revision and Unfinished Business*—Mr. Savage, Mr. Whiteside, and Mr. Westerlo.

*On the Expenditures in the Department of State*—Mr. Forsyth, Mr. Hasbrouck, and Mr. Scudder.

*On the Expenditures in the Treasury Department*—Mr. Lowndes, Mr. Allen, of Vermont, and Mr. Marchand.

*On the Expenditures in the War Department*—Mr. Johnson, of Kentucky, Mr. Tucker, of South Carolina, and Mr. Herkimer.

*On the Expenditures in the Navy Department*—Mr. Pleasants, Mr. Storrs, and Mr. Sampson.

DECEMBER, 1817.

Reference of the Message.

H. or R.

*On the Expenditures in the Post Office*—Mr. Ingham, Mr. Hubbard, and Mr. Huntington.

*On the Expenditures on the Public Buildings*—Mr. Tucker, of Virginia, Mr. Drake, and Mr. Orr.

## REFERENCE OF THE MESSAGE.

On motion of Mr. TAYLOR, of New York, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. SMITH, of Maryland, being called to the Chair.

The President's Message was the subject of consideration.

Mr. TAYLOR moved a series of resolutions, embracing the following references of various parts of the Message:

"Resolved, That so much of the Message of the President of the United States as relates to the subject of Foreign Affairs, and to our commercial intercourse with British Colonial ports, be referred to a select committee.

"That so much as relates to military affairs; so much as relates to an improvement in the organization and discipline of the militia; so much as relates to naval affairs; so much as relates to the improvement of the Indian tribes in the arts of civilized life; so much as relates to roads, canals, and seminaries of learning; so much as relates to the illicit introduction of slaves from Amelia Island into the United States; so much as relates to the public buildings, and to the erection of new edifices for the accommodation of the Heads of Departments and the Attorney General; so much as relates to the surviving officers and soldiers of the Revolutionary army, be severally referred to select committees, with leave to report by bill or otherwise.

"That so much as relates to manufactures be referred to the Committee of Commerce and Manufactures; so much as relates to the subject of revenue and the internal taxes, be referred to the Committee of Ways and Means; so much as relates to the purchase of lands from the Indian tribes, to the Committee on Public Lands.

The first resolution having been read for consideration, Mr. CLAY (the Speaker) moved to amend the same by adding to the end thereof the following words:

"And that the said committee be instructed to inquire whether any, and if any what, provisions of law are necessary to insure to the American colonies of Spain a just observance of the duties incident to the neutral relation in which the United States stand, in the existing war between them and Spain."

Mr. CLAY said, that his presenting at so early a period of the session this subject to the consideration of the House, was in consequence of certain proceedings which he had seen represented in the public prints as having taken place before certain of our courts of justice. Two or three cases bearing on this subject had come to his knowledge, which he wished to state to the House. The first had occurred at Philadelphia, before the circuit court of the United States held in that city. The circumstances of the case, for which however he did not pretend to vouch, having seen them through the channel already indicated, were these—if they were incorrectly stated, he was happy that a gentleman had taken his

seat this morning from that city, who would be able to correct him: that nine or ten British disbanded officers had formed in Europe the resolution to unite themselves with the Spanish patriots in the contest existing between them and Spain; that to carry into effect this intention they had sailed from Europe, and in their transit to South America had touched at the port of Philadelphia; that, during their residence in Philadelphia, wearing, perhaps, the arms and habiliments of military men, making no disguise of their intention to participate in the struggle, they took passage in a vessel bound to some port in South America; that, a knowledge of this fact having come to the ears of the public authorities, or, perhaps at the instigation of some agent of the Spanish Government, a prosecution was commenced against these officers, who, from their inability to procure bail, were confined in prison. If, said Mr. C., the circumstances attending this transaction be correctly stated, it becomes an imperative duty in the House to institute the inquiry contemplated by the amendment which I have proposed. That this was an extraordinary case was demonstrated by the fact of the general sensation which it had excited on the subject in the place where it had occurred. Filled as that respectable and populous city is with men differing widely on political topics, and entertaining various views of political affairs, but one sentiment, Mr. C. said, prevailed on this subject, which was favorable to the persons thus arraigned. With regard to the conduct of the court on this occasion, he would say nothing. The respect which, whilst he had a seat on this floor, he should always show to every department of the Government; the respect he entertained for the honorable Judge who had presided, forbade him from pronouncing the decision of that court to have been unwarranted by law. But he felt himself perfectly sustained in saying, that if the proceeding was warranted by the existing law, it was the imperative duty of Congress to alter the law in this respect. For what, he asked, was the neutral obligation which one nation owed to another engaged in war? The essence of it is this; that the belligerent means of the neutral shall not be employed in the war in favor of either of the parties. That is the whole of the obligation of a third party in a war between two others. It certainly does not require of one nation to restrain the belligerent means of other nations. If those nations choose to permit their means to be employed in behalf of either party, it is their business to look to it, and not ours. Let the conduct of the persons prosecuted be regarded in its most unfavorable light; let it be considered as the passage of troops through our country, and there was nothing in our neutral obligations forbidding it. The passage of troops through a neutral country, according to his impressions, was a question depending on the particular interest, quiet, or repose of the country traversed, and might be granted or refused, at its discretion, without in any degree affecting the obligations of the neutral to either of the parties engaged in the controversy. But



surely, Mr. C. said, this was not a case of the passage of troops, the persons apprehended not being in sufficient number; not organized or equipped in such a manner as, under any construction, to constitute a military corps.

On this case he would detain the House no longer, he said; for he was satisfied they could not but agree with him, if the law justified the proceeding that had taken place, that law ought to be immediately amended. Other cases had occurred in which it appeared to him it became the Congress to interpose its authority. Persons sailing under the flag of the provinces had been arraigned in our courts, and tried for piracy; in one case, after having been arraigned, tried, and acquitted of piracy, the same individuals, on the investigation of a Spanish officer or agent, had been again arraigned for the same offence. The gentleman from Massachusetts would correct him if he was wrong, for the case had occurred in the town of Boston. We admit the flag of these colonies into our ports, said Mr. C.; we profess to be neutral; but if our laws pronounce that the moment the property and persons under that flag enter our ports, they shall be seized, the one claimed by the Spanish Minister or Consul as the property of Spain, and the other prosecuted as pirates, that law ought to be altered if we mean to perform our neutral professions. I have brought the subject before this House thus promptly, said Mr. C., because I trust that in this House the cause will find justice; that, however treated elsewhere, on this floor will be found a guardian interest attending to our performance of the just obligations of neutrality. Hitherto he said, whatever might have been our intentions, our acts have all been on the other side. From the proclamation of 1815, issued to terminate an expedition supposed to be organizing in Louisiana—an expedition existing only in the mind of the Chevalier de Onis—down to the late act, whether the measure was a proper one or not he did not say; his confidence in the Executive led him to suppose it was adopted on sufficient grounds—down to the order for suppressing, as it was called, the establishments at Amelia Island and Galveston—all the acts of the Government had been on one side; they all bore against the colonies, against the cause in which the patriots of South America were ardently engaged. It became us, he said, to look to the other side, honestly intending neutrality, as he believed we did. Let us recollect the condition of the patriots; no minister here to spur on our Government, as was said in an interesting and it appeared to him a very candid work recently published in this country, respecting the progress of the South American revolution; no Minister here to be rewarded by noble honors in consequence of the influence he is supposed to possess with the American Government. No; their unfortunate case, Mr. C. said, was what ours had been in the years 1778 and 1779—their Ministers, like our Franklins and Jays at that day, were skulking about Europe imploring inexorable legitimacy one kind look—some aid to terminate a

war afflicting to humanity. Nay, their situation was worse than ours; for we had one great and magnanimous ally to recognise us, but no nation had stepped forward to acknowledge any of these provinces. Such disparity between the parties, Mr. C. said, demanded a just attention to the interests of the party which was unrepresented; and if the facts which he had mentioned, and others which had come to his knowledge, were correct, they loudly demanded the interposition of Congress. He trusted the House would give the subject their attention, and show that here, in this place, the obligations of neutrality would be strictly regarded in respect to Spanish America.

Mr. SERGEANT rose, in consequence of the gentleman having appealed to him, not to enter into any discussion of the question presented by the amendment, but to speak of the facts which were within his knowledge. The statement made by the Speaker was substantially correct; it was also correct that the circumstance had occasioned considerable sensation among all parties in the city of Philadelphia. Mr. S. recapitulated the principal facts, adding, that the vessel in which these persons embarked was laden with munitions of war. As respected the views and intentions of the persons apprehended, Mr. S. said, he believed they had neither any intention nor any idea of violating the laws of the United States, and that their conduct had been perfectly decorous and correct. The court had thought they had offended against the act of Congress of the last session; or were so far at least of that opinion, that they thought it necessary to detain them. The bail demanded was not high; but they were not able to procure it, and were, therefore, committed to jail. It was because of the correct deportment of these persons, that the sentiment in their favor had been so general—but no complaint was made of the court, for which the same respect was entertained with which the Speaker himself had regarded it. He had mentioned these facts only that the House might, when the time came for acting on it, be aware of the construction put on the existing law, so far as any had been given.

The amendment moved by Mr. CLAY to the first resolution was agreed to without opposition.

The Committee of the Whole rose and reported their adoption of the several resolutions moved by Mr. TAYLOR, with the amendment; which the House agreed to, *nem. con.*, and the committees were ordered to be appointed accordingly. They are as follow:

*On so much of the President's Message as relates to Foreign Affairs.*—Messrs. FORSYTH, HOLMES of Massachusetts, BARBOUR of Virginia, ROBERTSON of Louisiana, PORTER, ORR, and GOODWYN.

*On Military Affairs.*—Messrs. JOHNSON of Kentucky, BLOOMFIELD, REED, T. M. NELSON, NEBBITT, FORNEY, and GAGE.

*On the Militia.*—Messrs. HARRISON, SMITH of Virginia, QUARLES, WILLIAMS of Connecticut, JONES, LINN, and MORTON.

*On Naval Affairs.*—Messrs. PLEASANTS, SILS-

FRIDAY, December 5.

Two other members, to wit: from Pennsylvania, WILLIAM MACLAY, and from Virginia, BALLARD SMITH, appeared, produced their credentials, were qualified, and took their seats.

On motion of Mr. SEYBERT, a committee was appointed to inquire into the expediency of revising and amending certain acts concerning the Mint establishment of the United States, and that they have leave to report by bill. Messrs. SEYBERT, BALDWIN, and IRVING, of New York, were appointed the committee.

On motion of Mr. SOUTHARD, the House then proceeded to the appointment of a Chaplain for Congress on the part of this House, and the reverend Messrs. BALCH, CONE, LAURIE, ALLISON, CUMMING, ADDISON, and BROWN, were put in nomination. Two ballottings took place without an election; on the third, Mr. ALLISON received 84 votes, and was duly elected.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the annual statements relative to the internal duties and direct tax, as required by the 33d section of the act of the 22d of July, 1813; which were ordered to lie on the table.

#### SPANISH AMERICAN PROVINCES.

Mr. ROBERTSON, of Louisiana, offered the following resolution for consideration:

*Resolved*, That the President of the United States be requested to lay before the House of Representatives such information as he may possess and think proper to communicate, relative to the independence and political condition of the provinces of Spanish America.

The resolution having been read—

Mr. ROBERTSON said that he supposed there would be no objection to the adoption of the resolution which he had just submitted to the consideration of the House. He found, from the late Message of the President, that the attention of the House, as well as of the nation, had been, in a general way, directed to the situation of the provinces of Spanish America. The President had observed, too, and very truly, that the citizens of the United States sympathized in the events which affected their neighbors. Mr. R. said that, as far back as the year 1811, this subject had excited considerable interest; that a committee had been raised; the declaration of independence and the constitution of Venezuela, with other information, laid before it by the then President, and a report on them submitted to the House. The report, among other things, expressed much good will towards the Venezuelans, and an intention to acknowledge their independence whenever that independence should be achieved. From that time till the present, silence had been observed in regard to the affairs of that part of the continent. The reason was obvious: we were soon after engaged in war with England, and since the peace, our own pressing concerns had occupied our attention.

The President has spoken, sir, of the interest and the sympathy we feel in the affairs of our

THURSDAY, December 4.

Three other members, to wit: from Pennsylvania, HENRY BALDWIN; from Maryland, THOMAS BAYLEY; and from Virginia, JAMES JOHNSON, appeared, produced their credentials, were qualified, and took their seats.

Mr. SERGEANT presented a petition of the managers of the Pennsylvania Hospital, praying the remission of the duties charged on the importation of a painting of "Christ healing in the Temple," which was presented by Benjamin West, of London, to the said hospital.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. COMSTOCK, the Committee on Military Affairs were instructed to inquire into the expediency of making provision, by law, for the commutation into money of the military bounty lands granted by Congress.

A message from the Senate informed the House that the Senate have passed a resolution, "for the admission of the State of Mississippi into the Union." They have also passed a resolution "for the appointment of a joint committee, to consist of three members of each House, who shall have the direction of the money appropriated for the purchase of books and maps for the use of the two Houses of Congress," and have appointed the committee on their part. And they have also passed a resolution for the appointment of two Chaplains to Congress, during the present session, one by each House, who shall interchange weekly; in which said resolutions they ask the concurrence of this House.

The resolution for the admission of the State of Mississippi into the Union was read twice, and committed to a Committee of the Whole tomorrow.

The resolution for the appointment of a committee to have the direction of the money for the purchase of books, &c., was read, and concurred in by the House, and Messrs. SEYBERT, WHITMAN, and MIDDLETON, were appointed of the said committee on the part of this House.

The resolution for the appointment of Chaplains was read, and also concurred in by the House.



southern neighbors. Perhaps it may be said, with truth, that no subject excites, throughout the civilized world, a stronger interest than the contest in which the provinces of Spanish America are engaged. Every wind that blows wafts to our shores the schemes and speculations of European statesmen and politicians; from the frozen regions of the North to the milder climes of the Peninsula, it elicits remark and commands attention. Even Alexander, he who indites epistles about peace and bible societies, while he whets the sword of battle and prepares the weapons of destruction, he, it is said, is about to furnish his Cossacks to add to the horrors of, as it is already called, the war of death. The thunders of the Pope, too, the head of the Christian church, began to be heard, and no doubt we shall soon see his anathemas giving up the people of South America, body and soul, to the punishments due here and hereafter to the crimes of rebellion and republicanism. If, then, to governments across the Atlantic, the situation of this people be thus interesting, surely it is not a matter of surprise that the citizens of the United States should with some solicitude turn their attention towards them. Every Republican in the United States must lament their disasters and exult in their triumphs; they do but follow the example we have set them; we owe our glory and our fame to resistance to arbitrary power, and the people of Spanish America, and all others, groaning under oppression, must owe their elevation and worth of character to the same circumstance. They do but follow in our footsteps; it is in vain to deny or disguise the fact; it is known throughout the world—what- ever of injury despotism or priestcraft have sustained, whether from the revolution of France, or that which now, I hope, flourishes in our hemisphere, is laid to the account of our glorious Revolution, and the excellent principles of our Constitution.

It is to be regretted, Mr. Speaker, that our acquaintance with the people of Spanish America is not more particular and intimate than it is: we entertain but one sentiment about them—our feelings are all in unison; yet we differ and dispute on a variety of points, which it is desirable should be no longer suffered to remain in doubt. Mexico, Peru, Chili, Buenos Ayres, Venezuela, New Grenada, are they independent? Are they struggling for independence, or have they yielded to their European tyrant? Have they made known their situation to the Executive Department? Have they demanded to be recognised as independent sovereignties? do they govern themselves? elect their agents, legislature, executive, and judiciary? lay and collect taxes, raise and support armies and navies? It is possible that these facts are in the possession of the President; it is very well known that there have been agents, men of high respectability, sent publicly from the governments of Venezuela, New Grenada, Buenos Ayres and Mexico, to this country, and, for anything I know to the contrary, from other provinces. It is probable that they have not remained silent, but whatever they may have said

has not been made known to this House, or to this nation. As our Government is essentially popular, I wish information to be given to the people. I wish for information, that our judgments may sanction sentiments our hearts so warmly approve. I do not mean, Mr. Speaker, to commit myself in regard to my future course—it must, to a certain extent, depend upon circumstances. This House will act as circumstances may require, but, for myself, I have no hesitation to say, that, if it shall appear that the provinces of Spanish America, or any of them, are really independent, no earthly consideration shall prevent me, in my public character, from acknowledging them as sovereign States.

Mr. FORSYTH said he was too well acquainted with the temper of the people of the United States on this subject, to oppose any motion for inquiring into it; such was not his object; but he knew, from experience, that some inquiries were proper and some dangerous. In this case, he thought that all which could be known ought to be known; but he suggested to the mover of the resolution, whether it was not too broad in its call on the Executive, and whether it ought not to contain the usual qualification of excepting such information as the President might deem the communication of incompatible with the public interest. Mr. F. presumed the President had communicated all that he knew, or all that he wished Congress to know on the subject; and as it was usual in requesting information of the Executive, to ask for such only as the public interest would, in his opinion, permit to be disclosed, he proposed so to modify this motion; in which shape only could he consent to vote for it.

Mr. ROBERTSON signified his ready assent to Mr. FORSYTH's proposition.

The resolution passed *nem. con.* as modified, and a committee of two was appointed to wait on the President with it.

The House adjourned to Monday.

MONDAY, December 8.

Several other members, to wit: from Massachusetts, JONATHAN MASON; from Virginia, ARCHIBALD AUSTIN and JOHN FLOYD; and from Ohio, PETER HITCHCOCK, appeared, produced their credentials, were qualified, and took their seats.

NATHANIEL POPE, from the Illinois Territory, and JOHN SCOTT, from the Territory of Missouri, having also appeared, and produced their credentials as Delegates to represent the said Territories in the Fifteenth Congress of the United States, were also qualified, and took their seats.

Mr. BEECHER presented a petition of the ministers, elders, and sundry members of the Christian society called "Menonists," in the State of Ohio, praying to be permitted to commute the fines which are or may be imposed on them for non-performance of military duty, into labor on the public roads, highways, or other public improvements.—Referred to the committee on that part of the President's Message which relates to the Militia.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report upon the state of the finances; which were referred to the Committee of Ways and Means.

Mr. JOHNSON, of Kentucky, reported a bill authorizing a commutation of soldiers' bounty lands.

[The first section of this bill provides that the soldiers of the late and present army shall be allowed to commute their land patents or claims for money, at the rate of one dollar and forty cents per acre, to be paid in four annual instalments, by the pension agents appointed in the several States; provided that there be in all cases a complete relinquishment of all claims on said lands by the commutators to the United States. The second section of the bill makes the appropriation necessary to carry the first into effect.]

The bill was twice read and committed.

Mr. JOHNSON, also, from the committee to whom had been referred the petition of John Bates, reported a bill for his relief; which received the usual course of two readings and commitment.

On motion of Mr. FORSYTH, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of making Darien, in the State of Georgia, a port of entry and delivery.

On motion of Mr. INGHAM, of Pennsylvania, a joint resolution was passed to a third reading authorizing a distribution of the new edition of the laws of the Union to such members of the present Congress as have not received them.

On motion of Mr. HENDRICKS, of Indiana, the Committee on the Public Lands were instructed to inquire into the expediency of authorizing Joel Earwood to transfer to other vacant lands in the Jeffersonville district any moneys he may have paid on the northeast quarter of section twenty-one, township six, and range nine in said district.

On motion of Mr. NELSON, of Virginia, the House resolved itself into a Committee of the Whole on the resolution from the Senate for admitting the State of Mississippi into the Union. The constitution of the State having been read through at the suggestion of Mr. TAYLOR, the Committee rose and reported their agreement to the resolution; which was then read a third time and finally passed.

AMELIA ISLAND AND SPANISH PATRIOTS.

Mr. RHEA offered for consideration the following resolution:

*Resolved,* That the President be requested to lay before the House of Representatives any information he may possess, and think proper to communicate, relative to the proceedings of certain persons who took possession of Amelia Island, at the mouth of the St. Mary's river, near the boundary of the State of Georgia, in the Summer of the present year, and made an establishment there; and also any information he hath, and may think proper to communicate, relative to an establishment made, at an earlier period, by persons of the same description, in the Gulf of Mexico, at a place called Galveston, within the limits of the United States, as we contend, under the cession of Louisiana; to-

gether with the reasons inducing him to issue orders to suppress the said establishments.

Mr. RHEA said that the establishments referred to in the resolution he had just offered, had already excited much attention throughout the country, which would be still more attracted to that point by the order given to suppress them. His object in offering this motion was to obtain such information as might satisfy the minds of the American people on the expediency of that measure.

Mr. FORSYTH moved to strike out the last clause of the proposed resolutions. It would be an extraordinary course for the House to ask for the reasons of the measure in question, when they were distinctly and satisfactorily avowed in the Message of the President. To call upon him, after that exposition to explain the reasons for his conduct, would be to cast a severe reflection on the Executive, as implying dissatisfaction at the reasons already given. For his own part, Mr. F. said, the conduct of the Executive appeared to him to have been perfectly correct; but he had no objection to any information desired, if asked for, unconnected with the clause he had excepted to.

Mr. HUGH NELSON of Virginia, twice addressed the House on the main subject of the resolution, but, being interrupted in his remarks by incidental circumstances, we have connected his observations in the following report of the substance of them. A few remarks are added, which the interruptions referred to, prevented him from making. Mr. N. was decidedly in favor of the motion. Like the honorable SPEAKER, who had alluded to this matter when in Committee of the Whole the other day, Mr. N. said, he felt his confidence in the Executive not diminished; like him, he felt confident that the measure of the suppression of these establishments, was founded, in their opinion, in a just sense of propriety, and in a desire to promote the public weal; and he believed that, for the satisfaction of the public, and for a just vindication of the Executive, these documents should be exhibited. I cannot but believe, said he, that the public will see, that, in this measure, the conduct of the Government has been marked by a due respect to the rights of the Spanish provinces, and a vigilant and prompt attention to the rights and interests of our own country. It is the best interest of the Spanish provinces, embarked in the noble cause of emancipating themselves, to give evidence to the world, that all their proceedings are the result of just and sound principles; to repel and refute, by a high-minded and magnanimous conduct, the malignant and calumnious representations, which would place them in the grade of savages and barbarians. A just regard to the opinions of the civilized world; a due estimate of their own dignity and self respect, will lead them to disclaim all connexion with these piratical establishments. Their own interest would lead them to co-operate in the extinction of these hordes of buccaneers. There was a time when the union of McGregor, distinguished by his gallant exertions in the patriot cause of the



H. or R.

Spanish American Provinces.

DECEMBER, 1817.

Spanish provinces, with their naval commander Bury, and supported by some of the high-minded and gallant spirits of our own late military establishment, might have led to the opinion that it was a bold and valorous enterprise, to wrest from their oppressors a portion of their territory, and bravely to wage the war in the assailable dominions of the Spanish monarch. But the moment for that opinion is gone by—McGregor has abandoned them. Posey, and the other gallant spirits of this country, no more give color to the enterprise. And have they not themselves given further proofs, if proofs are wanting, that they are but a horde of buccaneers, invading our own territory, and plundering our own citizens? See the accounts from Savannah. To believe that these settlements are sanctioned by the Patriots, would be to degrade them from the high and dignified station which they hold in our estimation. What the Patriots should themselves countenance such establishments, would be further to descend from the highest pinnacle of honorable elevation, to the lowest abyss of humiliation and contempt. Men embarked in the glorious and magnanimous struggle for freedom and the rights of man, can never stoop to the condition of buccaneers, banditti, and pirates.

That the pulse of every lover of freedom should beat high, in sympathy with the asserters of the rights of man in every region, is consonant to the nature of man; but that ours should throb with delight at the success, and recoil to the heart on the defeat, of our neighbors, our brothers, inhabiting the same continent, migrating thither about the same period, and under circumstances very similar—with our brothers who were lately suffering, as we did, from the cold and unfeeling oppressions produced on them by their kindred and their friends—is surely not to be wondered at. Similitude of sufferance in a similar and virtuous cause, will find no limit to its feeling. But feeling will not give us the correct standard whereby the course and conduct of the legislators entrusted with the guardianship of the rights and interests of their constituents, but just now successfully emerged from the same arduous and exalted struggle, should be regulated. This feeling must be tempered with sound discretion. Experience must teach us a little prudence. Who is there amongst us, of the most ardent of those whose feelings beat most high in the cause of revolutionary France, and who were most violent in denouncing the conduct and pacific policy of the great Father of his Country, for attempting to restrain those feelings within the limits of a sound and discreet prudence, who did not, when experience had shown us the mad policy of implicating our destinies with hers, who did not offer homage to the wisdom, virtue, and patriotism of that great man? I was one of those who, as loudly as any other, denounced the proclamation of neutrality, and the—as we then called it—arbitrary, illegal, and unconstitutional interference of the Executive, to restrain us from cooperating with our allies in the cause of freedom and the rights of man. The sagacity and virtue

of the patriot now receives that homage and respect which the wild extravagances and ardent intemperance of youth then most vehemently denied. So will posterity act and decide, as to the conduct of our present Administration. However amiable and estimable this ardent sympathy with our Southern brethren, nobly redeeming themselves from an oppressive and odious bondage, may appear, yet a course dictated by sound discretion, and guided by caution and prudence, in an Administration, must meet their approbation. Although some among us may see, in the conduct of the Administration, a one-sided policy; may see, in every one of their acts, from the proclamation of 1815, issued to suppress an expedition said to be organizing in Louisiana, to the order of suppressing the establishments at Amelia Island and Galveston, that all those acts have been on one side; that they all bore against the provinces, against the cause in which the Patriots are engaged; yet, sir, I cannot doubt, that when this course shall be calmly and dispassionately scanned and examined, the judgment of the American people, and of an impartial posterity, will applaud the course, and see in it the result of a wise, virtuous, and patriotic policy. They will discern, in the proclamation issued by Mr. Madison, and in his declarations to the Spanish Minister, that the flag of the Patriots in our ports should be equally respected with every other, nothing but a determined adherence to the dictates of a just and impartial neutrality. They will see in the course of policy pursued by the new Administration, as marked out to us in the President's Message, that the conduct of the Government has been most conciliatory and friendly; as friendly as it could be without engaging in the war on their side. In the declaration, that this contest is regarded, not in the light of an ordinary insurrection or rebellion, but as a civil war between parties nearly equal, having, as to neutral Powers, equal rights, our Government has gone before every Power, and has advanced, in an eminent degree, the interests of the provinces. It has given them countenance, and will increase for them the respect of other nations. The measure now taken is a strong one in their favor. The President, in his Message, has spoken of their rights as being equal to those of Spain. He has sent agents to communicate with them as the Governments *de facto*, and has declared the right of this Government to hold such communications with the provincial authorities. The agents are, it is true, informal, and have no commissions; yet their communications will be not the less respected. Going thither in a vessel of war, will give the stamp of authority to these communications, and cause them to be well received and attended to. This measure in itself, goes far towards a recognition of their independence; it is everything but an express acknowledgment. It gives them the advantages of such acknowledgment, without its disadvantages, and also without too great a commitment of the United States. The other part of the Message, which declares that the United States will not profit of their in-

DECEMBER, 1817.

Spanish American Provinces.

H. or R.

dependence, will have a beneficial effect in favor of the provinces. It will dissipate the jealousies of England, and other Powers, and lessen the desire, on their part, to oppose the independence of the provinces. The Government has, therefore, done all that a wise policy and a benevolent feeling towards the provinces could require. They have, also, obeyed the imperious duty of a just neutrality. In the determination to require nothing peculiarly advantageous to the United States to be conceded, on the part of the provinces, a proper regard is had to their situation, and to the embarrassments under which they might be thrown by any undue concessions made. We all recollect, with grateful feelings, the conduct of France towards us in our Revolutionary struggle; but we all remember, too, the embarrassments experienced by us during their revolution, from the guarantee which, by treaty, we had made of their West India possessions. It is wished that the provinces should never be placed in a situation similar to ours, so as thereafter to be subject to any embarrassment from stipulations made by them. They are to be left free to consult their own best interest, and their own true policy. The daily intelligence which we receive from the Island of Amelia, proves the wisdom and prudence of our Government in endeavoring to suppress these establishments. The world will do homage to the magnanimity and justice of the Spanish provinces in renouncing all connexion with these settlements. It will raise the character of the United States, by showing their determination to put down all piratical establishments; that the movements of a people contending for their liberties, are totally different from the establishments of pirates and buccaneers. In entertaining the opinion that the provinces never sanctioned them, as is believed, we show respect to the colonies, and raise their character. It is the interest of the colonies to disavow them, and thereby raise their character with us and with the European Governments. It cannot be doubted they will disavow them, and they amongst us who stimulate them to an opposite policy, are not their real friends, but their worst enemies.

Mr. HOLMES, of Massachusetts, said he should never be opposed to any call for information on any subject, when wanted by the House. But it appeared to him that the call now proposed was unnecessary, since the resolution adopted the other day would embrace the information now desired. He thought the House should wait a day or two, to see whether they would not obtain, without any further call, all the information they desired from the Executive. With this view he moved that the resolution should lie on the table.

Mr. NELSON opposed the motion, urging some of the arguments comprehended in the above substantial statement of his remarks, as a reason against delay.

Mr. ROBERTSON, of Louisiana, read the resolution adopted the other day, calling for information respecting the state of the colonies of Spain in South America, that gentlemen might judge

whether it comprehended the information now desired. It might be that, under this resolution, the President would consider that East Florida formed a portion of the colonies of South America, as well as any other province; and would transmit therefore all the information required in relation to Amelia Island, &c. Yielding to the suggestion of the gentleman from Massachusetts, that in a day or two the House would receive the information desired, Mr. R. thought it would be as well to let the resolution lie until the President's answer to the other call should be received. If that did not comprise the desired information, this resolution might then be taken up and passed.

Mr. MILLER, of South Carolina, was opposed to the proposed postponement of this motion; the objects of which and of that which passed the other day, he said, were totally distinct. The object of that was to inquire into the political state of the Spanish colonies; the design of this was to satisfy the nation that the Executive had acted on sufficient grounds in the course it had taken in regard to Amelia Island and Galveston. This, he said, was a reason sufficient to induce him to vote against laying the resolution on the table. If that motion should not prevail, he should vote for the amendment proposed by Mr. FORSYTH, because the facts on which it was founded would certainly disclose the reasons of the measure. The Speaker had the other day intimated, on the floor of this House, his opinion that every act of the Government, from the proclamation against the expedition said to be fitting out at New Orleans in 1815, to the present day, had been hostile to the Spanish Patriots. Now, Mr. M. said, he looked upon the information called for by the resolution as necessary to repel the reproach, from so high a source, thus thrown on the Government. He therefore hoped the resolve would be suffered to pass.

Mr. JOHNSON, of Kentucky, said he had not understood the Speaker, in debate the other day, to have intimated that every act of the Government had been hostile to the Patriot cause; but that they had leaned to one side of the question; had borne more against the Patriots than against Spain. And, if our acts had any operation at all, who could deny, Mr. J. asked, that what the Speaker had said, was the fact? Was not the proclamation of 1815 of that nature? It was issued in consequence of representations of the Spanish Minister. Being issued at his instance, if it had any bearing at all, must it not have had a leaning against the Spanish Patriots? With regard to the seizure of Amelia Island, if that measure had any operation at all in regard to the two parties, must it not be against the Patriots? Theirs, he said, was a cause which he would not now advocate; but the sentiment avowed by the Speaker was his sentiment; one which he would avow in this House and every where; that whenever our acts had had a tendency to one side or the other, it was to the injury of the Patriots. Not that the Speaker meant to say, any more than himself, that our Government intended hostility to that cause; for, Mr. J.



H. or R.

Spanish American Provinces.

DECEMBER, 1817.

aid, he understood him to have unequivocally said, he had no doubt it would appear that the reasons of the Executive for the measure in question had been sufficient to justify it. Mr. J. was in favor of laying the resolution on the table, until it was ascertained whether the resolution was or was not necessary, in addition to that passed the other day.

Mr. RHEA opposed the motion to lay this resolution on the table, contending that its object was totally distinct from that passed the other day. That proposed an inquiry into the state of foreign nations; this proposed an inquiry into our own concerns—into a matter perhaps embracing a question of peace or war, and on which therefore Congress ought to have full information. It not laid on the table, Mr. R. said he should have no hesitation in voting for the amendment proposed by Mr. FORSYTH.

Mr. HARRISON said that he hoped the resolution would not be permitted to lie upon the table, but that it would be sent to the President for the purpose of obtaining a more detailed account of the circumstances which led to the order for occupying Amelia Island than the Message at the opening of the session contained. The reasons assigned in the Message were not, in his estimation, sufficient to authorize that measure. That which seemed to be most relied upon was, that a negotiation was pending between this country and Spain, for the cession to us of their claim to the Floridas; a fact which, being known to the whole world, ought to have prevented the South American Patriots from attempting any military enterprise against them. Mr. H. said that he could not see the subject in this light.

If, as he believed, Amelia Island gave to the belligerent party which possessed it, a decided advantage in harassing the commerce of the other, he could not conceive that any delicacy towards us, in consequence of the pending negotiation alluded to, should have prevented their taking it. In the unequal contest in which they are engaged—unequal from the disparity of aid and countenance which they have received from all the Governments of the civilized world—they have a right to resort to a measure which would produce great advantages to them, and which was not forbidden by any known maxim of the law of nations. Belligerents sometimes, indeed, in defiance of that law, will occupy a neutral territory, in anticipation of a supposed intention of their adversary. But in this case the territory was not neutral; it was the property of Spain, in the possession of Spain, and a fair object for the martial enterprise of the Patriots. And if, said Mr. H., they had succeeded in conquering all the Spanish part of the Floridas, he did not doubt but it would be as easy to obtain it from them as from the King of Spain. Mr. H. fully agreed with the sentiment expressed the other day by the SPEAKER, that, however well intended or necessary—and he had no doubt that they were well intended, and perhaps necessary—had been the acts of our Government in relation to the war between Spain and her colonies, he was con-

strained to believe that they had borne with unequal pressure upon the cause of the Patriots.

Mr. HOLMES, of Massachusetts, said he regarded the information sought by the resolution as exceedingly important. The fact of the suppression of the establishments at those places so often referred to, attracted the attention of the nation; and he was therefore in favor of the earliest official information on the subject, that the House might understand on what grounds the Executive of the United States had undertaken to suppress these establishments. Mr. H. was, however, of opinion that this resolution was unnecessary, being embraced in the general call made a few days ago, for information on the political state of the Spanish provinces, of which East Florida, embracing Amelia Island, was one; and the same reasoning would apply to Galveston, situated on territory equally claimed by Spain and the United States. If, however, the information now desired should not be necessary, Mr. H. said he should be one of the first to vote for it, considering it highly important. The intention to seize on these establishments had struck him with some surprise, he said, when first informed of the fact; but he had no doubt the reasons for the measure would prove satisfactory to all. He would go with any gentleman, at any time, into an inquiry into the conduct of the Executive; but he thought gentlemen were going too fast now to call specifically for information which it was probable might reach the House before this second call could reach the President. He therefore hoped it would be laid on the table.

The question to lay the resolution on the table was then taken: For the motion 75; against it 81. So the motion was lost.

Mr. RHEA having accepted Mr. FORSYTH's proposed amendment as part of his own motion, the main question was taken on the resolution, and decided in the affirmative, without a division; and a committee ordered to be appointed to wait on the President therewith.

TUESDAY, December 9.

Another member, to wit: ELIAS EARLE, from the State of South Carolina, appeared, produced his credentials, was qualified, and took his seat.

Mr. MCCOY presented a petition of Peter Stone and Mary his wife, an honest couple in his district, who represent that they have been united in wedlock's happy bonds for seven and twenty years, in which time they have added to our population twenty children, nineteen of whom are living, and whom they have maintained by the product of their manual labor. Conceiving themselves entitled to the favor of Congress on that score, they pray for a donation of public land, to make their declining years more easy to them. The petition was referred to the Committee on Public Lands.

A petition was presented from C. Hammond, contesting the election of Mr. HERRICK, of Ohio, a member of this House, on the ground of his having, at the time of his election, and until a few

DECEMBER, 1817.

Proceedings.

H. or R.

days before he took his seat here, held the office of Attorney of the United States for the district of Ohio. This petition was read, and referred to the Committee of Elections.

Mr. LOWNDES, from the Committee of Ways and Means, to which was referred so much of the President's Message as relates to revenue, made a report thereon, which was read; when Mr. L. reported a bill to abolish the internal duties; which was read twice, and committed to a Committee of the Whole.

Mr. SEYBERT, from the select committee appointed on the 5th instant, reported a bill, supplementary to the act establishing the Mint, and to the act concerning the Mint, which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims under the act of the 9th of April, 1816, communicating "reports of the facts," in the cases of Thaddeus Mayhew, of Louisiana; of William Eadus, of New York; and of the executor of Mrs. George Thompson, deceased, of Virginia; which were referred to the Committee of Claims.

On motion of Mr. TUCKER, of Virginia,

*Resolved*, That the President of the United States be requested to cause to be laid before the House of Representatives information of what roads have been made, or are in progress, under the Executive authority of the United States; the States and Territories through which they pass or are intended to pass; the periods when they were ordered to be made, and how far they have been executed.

Mr. SPENCER, of New York, offered a resolution, with a view to enable him to act understandingly on the Commutation bill; which, after some desultory conversation as to the particular form of it, was adopted in the following shape:

*Resolved*, That the Secretary of War be directed to communicate to this House the number of warrants issued for military bounty lands, by virtue of any laws of Congress, to soldiers who served during the late war against Great Britain; the quantity of land included in those warrants; and the probable quantity of land which will yet be necessary to satisfy claims for bounty lands under those laws.

The engrossed resolution, directing a distribution of certain laws among the members of the Fifteenth Congress, was read the third time, and passed.

Mr. WALKER, of North Carolina, after referring to cases within his knowledge, in which minors who served in the late army had not, because of their minority, received a bounty in land on their discharge from the army, moved the following resolution:

*Resolved*, That it is expedient to provide by law, that all minors who were regularly enlisted, in the late or present Army of the United States, and who served twelve months or upwards, and have been honorably discharged, shall be entitled to an adequate bounty in land, or to an adequate commutation of such bounty in money.

15th CON. 1st SESS.—14

This resolve was referred to the same Committee of the Whole, to whom were referred Mr. JOHNSON's resolutions.

Mr. WHITMAN, of Massachusetts, offered for consideration the following resolution:

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of providing by law for the apprehending and securing foreign seamen, deserting from foreign vessels while in the ports of the United States, contrary to their engagements to serve on board such vessels.

Mr. W. made a few observations, to show the necessity of such a regulation as that which he now proposed, arising from its expediency, and demanded also by reciprocity. A similar provision existed, he said, in all foreign ports, by which our masters of vessels were able to secure their seamen; and our laws secured to our own vessels in our ports the like privilege. It was obviously expedient, therefore, to extend this provision to foreign vessels also, in regard to which it was more necessary, and to which the remedy was not applicable, unless in cases where it had been erroneously applied by a misapprehension of the law in the case.

The resolution was adopted without opposition.

Mr. CLAIBORNE, of Tennessee, moved a resolution instructing the Committee on Pensions to inquire into the expediency of establishing by law an office for the payment of pensions and Revolutionary claims, within the district of West Tennessee.

Mr. C. explained the object of his motion; which was predicated on the fact, that owing to the location of the pension agent for Tennessee, a person in West Tennessee having business with him might with more ease resort to this city, could it be here transacted, than he could travel to the residence of the agent, &c.

The motion was agreed to.

On motion of Mr. TAYLOR, of New York,

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of exempting from taxation the military bounty lands in the Missouri and Illinois Territories, for five years after the patents therefor have been issued.

On motion of Mr. INGHAM, of Pennsylvania, the committee on post roads were instructed to inquire into the expediency of establishing a post road from Fort Montgomery, in Monroe county, in Alabama Territory, to Blakely, in Mobile county; and.

On motion of Mr. ALLEN, of Vermont, the same committee were instructed to inquire as to establishing a post road from Burlington to Craftsbury, thence through Strasburgh to Barton, in Vermont.

On motion of Mr. MCCOY, of Virginia,

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the law laying a duty on imported salt, granting a bounty on pickled fish exported, and allowing a bounty to vessels employed in the fisheries.



H. or R.

Judiciary—Military Affairs.

DECEMBER, 1817.

## THE JUDICIARY.

Mr. CLAIBORNE, of Tennessee, moved the adoption of the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether any, and, if any, what alterations and amendments are necessary to be made in the Judiciary.

Mr. C. said, that perhaps no subject would come before the House at the present session, of more importance to the people, than that embraced in his motion. A good Judiciary is certainly indispensable to protect the rights and interests of the people. That certainly cannot be said to be a good one which fails to administer justice. Such, however, Mr. C. said, was the fact in regard to the country he represented. One circuit judge was assigned to Kentucky, Tennessee, and Ohio; the labors of that circuit were too herculean for the constitution of any man whatever. The consequence was, that in Tennessee, being the last district in the judge's circuit, where the cases before the court are numerous and important, there were no trials—for the last five years there had not been perhaps twenty causes disposed of. The time of the judge was so divided as to make it impossible for him to devote the necessary time to the court in Tennessee. Unless some remedy was provided, there was in that State an operative denial of justice as to the laws of the United States. It was unnecessary for him, he said, to go now into detail, and state what alterations in his opinion ought to be made in the judiciary system. That was a wide field, which he had no doubt would be properly explored by the committee having that subject in charge, and fully acquainted with its merits. He hoped that something would at least be done for the relief of the people of Tennessee.

Mr. HOPKINSON, of Pennsylvania, rose, merely to mention the fact, that, at the last session of Congress, two important bills had been reported on this subject by the judiciary committee, but not acted on by the House. He invited the attention of gentlemen to these bills, to see how nearly or remotely they approached to their ideas of a necessary reform of the judiciary.

Mr. CLAIBORNE's motion was agreed to.

## MILITARY ESTABLISHMENTS.

Mr. JOHNSON, of Kentucky, with a view to ascertain the sense of the House on certain points, that the labors of the Military Committee should not be unnecessarily troublesome to the House, and laborious to themselves, submitted the following resolutions to the consideration of the House:

1. *Resolved*, That it is expedient to provide, by law, for the widows of soldiers of the regular army, who were killed in battle, or died in service, during the late war with Great Britain.

2. *Resolved*, That it is expedient to provide, by law, for the disbanded and deranged officers of the Army of the United States, who served in the late war against Great Britain, by donations in land, viz: to a major general, 1,280 acres; a brigadier general, 1,120 acres; a colonel and lieutenant colonel, 960 acres each; a

major, 800 acres; a captain, 640 acres; and subalterns, 480 acres.

3. *Resolved*, That it is expedient to establish, by law, three additional Military Academies, viz: one in the vicinity of Fort Dearborn, in South Carolina; one in the vicinity of Newport, in Kentucky; and one in the vicinity of Harper's Ferry, in Virginia; one-third of the cadets to be the sons of the officers and soldiers of the late army, who died in the service of the United States in the late war.

4. *Resolved*, That it is expedient to establish, by law, an additional National Armory, to be located on the western waters.

5. *Resolved*, That it is expedient to organize, by law, a corps of invalids, to be composed of one thousand men.

6. *Resolved*, That it is expedient to provide, by law, for the repeal of so much of an act of Congress, of the sixth of July, 1812, as authorizes additional pay and emoluments to brevet rank, in the armies of the United States.

7. *Resolved*, That the Military Peace Establishment of the United States shall consist of eight thousand men, including the corps of invalids: *Provided*, That the corps of engineers, the general staff, and the ordnance department, shall be retained as at present established: *And provided, also*, That no part of the army shall be disbanded in consequence of said reduction, but the same shall be effected by permitting vacancies, as they occur, to remain.

8. *Resolved*, That it is expedient to provide, by law, for one additional ration for each of the commissioned officers of the Army of the United States.

9. *Resolved*, That the Committee on the subject of Military Affairs be instructed to report bills, embracing the objects of the beforementioned resolutions.

Mr. JOHNSON accompanied the introduction of these resolutions with a number of remarks appropriate to them individually and as a whole. The first he considered as bottomed upon the principles of consistency and impartiality, which ought to belong to the acts of the Government; which required that the provision made for the widows and orphans of the militia should be extended to those of the soldiers in the Regular Army of the United States. The second resolution embraced a proposition heretofore repeatedly presented to the consideration of the House, and in the adoption of which he thought justice and the honor of the nation were concerned. It had been ascertained to a certainty, he said, what number of officers had been disbanded, and what number retained; and, from a calculation which had been accurately made, it appeared that less than a million acres of land would be required to extend these donations to the officers of the late army, whilst the bounty of land to the privates of that army would require about eight millions of acres. The subject of the Military Academy, repeatedly recommended to Congress by the Executive, and favorably reported on by committees of this House, which was the subject of his third resolution, Mr. J. said, he thought it his duty again to present to the House. In the provision respecting the sons of deceased officers and soldiers of the late army, he had not included the Revolutionary army, because there were no in-

DECEMBER, 1817.

Representative Qualifications.

H. or R.

stances in which the provision could probably operate. The proposition contained in the fourth resolution had been likewise frequently presented to the attention of Congress by the Executive, and by committees of the House. The measure it embraced he considered as of vital importance, appealing to the affections and humanity of the House, and one which, he was happy to say, had never been rejected in the House, but always crushed by the weight of more urgent measures towards the close of the sessions. The fifth resolution he had presented out of respect to the decision of the House at the last session on the same subject, which decision had been arrested in the other branch of the Legislature, but which he again presented, as it might now meet a different fate. The ground of the proposition was, that brevet rank had its basis in honor and not in emolument, which was now incorrectly attached to it. The sixth resolution, for the reduction of the Army, Mr. J. considered as growing out of those he had already offered. He had often seen, since he had a seat on this floor, that members had refused to vote for a particular proposition without an equivalent, or something like a system, which would make an objectionable proposition palatable. As the other propositions he had offered embraced some additional expenditures, he had thought it his duty to propose a reduction of the rank and file of the army to 8,000, to afford, without added expense, the opportunity of establishing these new institutions, which would strengthen the arm of the Government much more than the proposed reduction would weaken it. For, he said, he believed that the several propositions he had made, adopted together, would be worth to the United States, at any time it had occasion for them, full thirty thousand men. The seventh proposition was a renewal of one which had been agitated at the last session of Congress, and in regard to which the War Department had fully coincided with the military committee, that such a provision would not only be very convenient, but likewise economical to the United States. In regard to the eighth and last resolution, Mr. J. said it had been the opinion of the late Secretary of War (Mr. Crawford) that, in order to keep up to its complement the army of 10,000 men, it would be necessary to augment not only the pay of the officers but of the soldiers; one of these objects he had introduced into his series of propositions. In presenting these resolutions, Mr. J. concluded by saying, he had no apology to make to the House; he had only to consult his own bosom what his duty urged him to do, and act accordingly, never making any motion in this House with a view to give trouble to it, &c.

The several resolutions were received, and referred to a Committee of the Whole House for consideration.

WEDNESDAY, December 10.

On motion of Mr. POPE, the petition of sundry inhabitants of the Territory of Illinois, concern-

ing land titles, confirmed by former governors of the northwestern territories, presented on the 14th of January, 1817, and the petition of sundry inhabitants of Prairie du Chien, presented on the 24th of January, 1817, were referred to the Committee on the Public Lands.

Mr. JOHNSON, of Kentucky, presented sundry documents in support of the petition of Gabriel Winter, which were also referred to the same committee.

On motion of Mr. HARRISON, the petition of sundry inhabitants of the river Raisin, presented on the 6th of February, 1817, were referred to a select committee; and Messrs. HARRISON, FLOYD, and BALDWIN, were appointed the committee.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill to remit the duty on a painting presented to the Pennsylvania Hospital; which was read twice and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, under the act of the 9th of April, 1816, communicating "reports of the facts" in the cases of William T. Nimmo, Joseph Janney, Lawrence Muse, and William Gordon, William Henderson, and Mottram Ball, all of the State of Virginia; of John I. Pattison, Benjamin H. Mackall, John Manning, John G. Mackall, Mary Frazier, Levy court of Calvert county, and John Ireland, all of the State of Maryland, with the evidence accompanying each; which were referred to the Committee of Claims.

The SPEAKER laid before the House a letter from the Secretary of State, enclosing reports upon the petitions of Winslow and Henry Lewis, and Joseph Forrest, referred to him at the last session of Congress; which were referred to the Committee of Claims.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing an account of the fund appropriated for the safe-keeping and accommodation of prisoners of war, conformably to the provisions of the act of the 3d of March, 1817; which were ordered to lie on the table.

## REPRESENTATIVE QUALIFICATIONS.

Mr. FORSYTH, of Georgia, offered for consideration the following resolution, to obtain a decision on a question raised by a memorial yesterday presented, contesting the election of a member from Ohio, and which Mr. F. considered of great importance:

*Resolved*, That the Committee of Elections be instructed to inquire and report what persons elected to serve in the House of Representatives have accepted or held offices under the Government of the United States since the 4th day of March, 1817, and how far their right to a seat in this House is affected thereby.

The adoption of this resolution was warmly opposed by Mr. TAYLOR, of New York, and Mr. JOHNSON, of Kentucky, and was also opposed by Mr. SEYBERT, of Pennsylvania, Mr. LIVERMORE, of New Hampshire, and Mr. W. P. MACLAY, of Pennsylvania, and was supported by Mr. FORSYTH.



H. of R.

Repeal of Internal Duties.

DECEMBER, 1817.

It was opposed as a novel proceeding, imposing inconvenient and extraordinary duties on the Committee of Elections, by requiring them to go through the alphabet from A to Z, and inquire into the qualifications of every member of the House. It was also opposed as imputing impurity to the House, not justly attributable to it; since the fact of taking the oath to support the Constitution was *prima facie* evidence that the member taking it was conscious of having violated no provision of that instrument. If we inquire into the qualifications of members, why not also into others, equally prescribed by the Constitution? It was time enough to inquire into the rights of members to their seats, when any specific allegation was made as to the want of qualification of any one or more of them.

To which the mover (Mr. FORSYTH) replied, by expressing his surprise at the opposition to his motion. There was nothing in it, he said, which accused any part of this House, or any member of it, of improper conduct. It neither charged the House with suffering members to remain who ought not, nor any member of the House with remaining when he ought not. The object was to inquire whether persons in certain situations had a right to a seat or not. It was presumed that those gentlemen so situated had examined their own rights, and were convinced of their title to seats here. But as he very much doubted the right of any person so situated to a seat in this House, he wished to have the question settled. If the House should be of his opinion, he should see with great regret any gentleman so situated return even temporarily to his constituents—for temporarily he was sure it would be, and that the House would at the next session, if not at the close of this, have the aid of their judgments and abilities. As to specifying the members who would fall under this rule, Mr. F. said he did not know all there were; he had been informed that there were ten or eleven members, whose right to a seat depended on the decision of this question—he did not know them; if he did, he should have no objection to comprehend their names in his motion. He concluded his observations by disclaiming the intention to impute the least blame to gentlemen who had taken their seats under these circumstances; for they had no doubt satisfied themselves on the question.

The question on the resolution was taken, when there appeared in favor of the resolution 85, against it 85.

The House being equally divided, the SPEAKER, assigning as his reason his desire to have the Constitutional question fully investigated, voted in favor of the motion; which was therefore adopted.

#### REPEAL OF INTERNAL DUTIES.

The House resolved itself into a Committee of the Whole on the bill to abolish the internal duties.

The report of the Committee of Ways and Means, which accompanied the bill, is in the following words:

The Committee of Ways and Means, to whom has been referred so much of the President's Message as respects revenue, report—

That they have supposed that they should best comply with the intentions of the House, by directing their first attention to the repeal of the internal duties, which occupied its deliberations during the latter part of its last session, and has been since recommended by the President. From the report of the Secretary of the Treasury, it appears that the clear revenue which will have accrued during the year 1817, will be about twenty-four millions and a half of dollars, while the ordinary annual expenditure, (including the provision for the extinguishment of the public debt,) is estimated at less than twenty-one millions and a half. While the committee do not consider the importations of the last three years as furnishing a certain criterion for those of future years, they believe, that, without a diminution of our exports, which is not to be anticipated, or a very considerable reduction in their value, the estimate of a revenue under the present laws, of \$24,525,000, as made by the Secretary of the Treasury, may be safely relied on for many succeeding years. No doubt can be entertained, under the circumstances of the United States, as to the propriety of reducing a revenue so far exceeding their ordinary expenses, and the committee recommend a general repeal of the internal duties. This will leave, according to the estimates of the Secretary, a revenue of about twenty-two millions, exceeding the ordinary expenditure by something more than half a million.

Some difficulties will always be found in determining the period at which the collection of a tax shall cease. The consideration, however, of the large proportion of the internal duties which will become payable in January, induces the committee to recommend that all internal duties should terminate with the year 1817.

The entire amount which will have accrued to the Government on account of the internal duties, exclusive of the direct tax, from the 1st of January, 1814, to the 31st of December, 1817, may be estimated at more than seventeen millions, and the receipts for the same time at upwards of fifteen millions.

The following statement will show the receipts of each of the three first years, with an estimate of those of the fourth year.

Accruing duties.		Duties received.	
1814—	3,262,197 12 -	-	1,910,995 01
1815—	6,242,503 55 -	-	4,976,529 86
1816—	4,633,799 34 -	-	5,281,111 98
1817—	3,002,000 01 -	-	3,000,000 00
Total, 17,140,500 00 -		-	15,168,636 85
Expenses of collection on sums received.			
1814—	148,991 78, or 7 8-10 per cent.		
1815—	279,277 67, or 5 6-10 do.		
1816—	253,440 42, or 4 8-10 do.		
1817—	180,000 00, or 6 do.		
Total, 861,709 87, or 5 7-10 per cent.			

The charges of collection upon this revenue have certainly been higher than those upon the impost. These have, however, been very different at different times. Mr. Gallatin estimated them, in 1800, at something less than six per cent. on moneys collected from the people. Mr. Dallas, in one of his reports, supposes them, including fees, to be about five per cent.

DECEMBER, 1817.

Repeal of Internal Duties.

H. of R.

and they have been still lower in the three last years. This difference in the expense of collecting internal and foreign duties, will not appear extraordinary, when we remember how few are the domestic products, which are subject to duty, and of foreign, which are exempt from it; how long and regularly the impost has been acquiring maturity and improvement, and how frequent have been the changes, and how short the duration of our system of internal revenue.

In abandoning that portion of our taxes which is considered as the most inconvenient, neither Congress nor the nation will form so exaggerated a notion of these inconveniences, as to deter them from again applying to the same resource, when the necessities of the State shall require it. It is one of the duties of Congress to provide, when it can do so, that the revenue shall be collected from sources which may comport with public convenience; but it is a higher duty to provide, from whatever sources the Constitution may have opened to its operation, such a revenue as shall not permit the fate of war, and the most important interests of the nation, to depend on precarious and often extravagant loans. The Government can have no reasonable fear but that the circumstances which make internal taxes necessary, will find in the people a disposition promptly to pay them. The committee believe that in any future emergency, which shall require a resort to these taxes, the House of Representatives will, unhesitatingly, perform their peculiar duty, by instituting them on a scale suited to the occasion.

The bill having been read through—

Mr. LOWMEYER, the chairman of the Committee of Ways and Means, made a few remarks of the same bearing as the reasoning of the above report. He took occasion also to say, that it was due to candor and to himself to add, that he should have individually thought it better, instead of a total repeal, to have made a modification of the duties, so as to reduce their amount and lighten their burden, but still to leave part of the system in operation. Believing, however, that the expectation of the total repeal was such as to render vain any attempt to discriminate, or to modify, he had concurred in the course adopted by the committee of recommending a total repeal, in preference to retaining the whole.

Mr. WILLIAMS, of North Carolina, heartily concurred in the sentiment of the gentleman from South Carolina, that these taxes ought not to be retained for the purpose of adding to the surplus in the Treasury. He rejoiced that, whether gentlemen voted on the subject from the spontaneous determination of their own minds, or the recommendation of the Executive, the taxes were to be repealed. He congratulated the country, that from this time the people would be exempted from a system as unequal in its operation as it was unjust. Our citizens, he said, had sustained it with a patience and long suffering which was remarkable, and afforded a pledge that, should it be necessary hereafter again to resort to internal taxes, the Government might do so, and trust to the good sense of the people for their justification. The people, he argued, were always willing to pay taxes, when the necessity of them was apparent. But, for more than a year past, that neces-

sity had not existed for the internal duties, and, therefore, the people had demanded the repeal of them. Mr. W. referred to the estimates of the revenue from imposts, for the present and last years, to show that the actual product had nearly doubled the estimate, as had been shown and predicted by the gentleman from Virginia, who was his able coadjutor at the last session, (Mr. JOHNSON,) and himself. He mentioned these facts, he said, to show that, if there was any blame anywhere for the occurrences of last session having reference to this subject—and blame had been imputed—the blame belonged to those who opposed the repeal of the taxes at that time, and not to those who advocated it. We rejoice, now, said Mr. W., that the President has thought proper to recommend the measure, and that there appears to be an unanimous disposition at this time favorable to it.

No further remarks being made on the general object of the bill—

Mr. TALLMADGE, of New York, moved to amend the bill so as to except the duties on sales at auction from the general repeal proposed. He assigned as a reason for this motion, that he believed that tax to have a beneficial operation, as imposing an additional burden, however small, on foreign products, protecting the fair dealer, and so far also serving as an encouragement to our manufactures.

Mr. LOWMEYER opposed the motion, though not unaware of the beneficial effects imputed to the duty on sales at auctions, in which he himself, in a degree, believed. But he opposed the retaining it, because it would require the machinery of taxation to be retained for this object, making the collection of the duty very expensive and inconvenient to the Government. The benefits arising to the community from the tax, he said, would not probably be lost, for he believed, that when the tax was relinquished by the United States, it would be immediately substituted by a like tax, wherever it was important, for, corporation and State purposes.

Mr. TALLMADGE spoke in support of his motion, and anticipating the contents of petitions on this subject which he expected would be laid before Congress at the present session, he took a view of the process by which, by the aid of vendue sales, foreign merchants deprived the Government of a part of its revenue, and superseded the fair merchant in the market, &c.

Mr. WHITMAN, of Massachusetts, opposed the motion. In some of the large importing cities, he admitted, the Government might, with much propriety, derive a revenue from this source, where the duty would have the operation attributed to it by Mr. TALLMADGE; and, if a discrimination could be made, he should be willing that in those commercial depots the tax might be suffered to remain. But, he said, in the smaller seaports, in the towns and villages, this duty was, almost without exception, levied on the necessitous and the poor, whom it was neither the policy, nor could it be the desire of the House to make liable to a tax, to the exclusion of others.



He believed, besides, that the cost of collection of the tax, if retained alone, would not fall short of the amount of the duty, if it did not exceed it.

Mr. STORRS, of New York, supported the motion on the same grounds as Mr. TALLMADGE, and stated extensively the operation of the system, under which the country was deluged with goods by the foreign dealers, with advantages in their favor, by the aid of the vendue system, which favored false invoices, against which no fair merchant could compete. He argued, besides, that in so far as the operation of this duty was to favor the fair merchant, and to embarrass the foreign merchant in his object of glutting our market with foreign supplies, it operated as an encouragement to our manufactures. As to the operation of this tax on the poor, the numerous exceptions from its operation, contained in the law, in a great degree obviated that objection.

Mr. SMITH, of Maryland, opposed the motion, also at some length. The object of the gentlemen from New York was very desirable, could it be obtained by retaining this duty. But that, he argued, was impossible. He admitted, to the extent his belief in the existence of extensive frauds on the revenue, against which he thought scarcely any provision would be sufficient to guard. A duty on sales at auction, to produce the desired effect, ought to be so high as to amount to a prohibition, discriminating, however, between the articles exposed for sale, and applying the duty particularly to dry goods. He did not know, he intimated, but he might go with the gentlemen in favor of some measure of this nature when fairly presented to the House. But he thought that question should be taken up on its own footing, and not be suffered to interfere with the repeal of the small unimportant existing duty, &c.

Mr. CLAY (the Speaker) also opposed the amendment; at the same time that he did not materially differ from the gentlemen from New York in their views of the evils arising from the circumstances they had referred to. But he argued, and proceeded to show that some of those evils did not proceed from sales at auction, but from defects in our revenue laws, or in the administration of those laws; to which subject he earnestly invited the attention of the Committee of Ways and Means, as greatly to be deprecated. The system of sales at auction Mr. C. did not consider an evil of such magnitude as represented; but, fairly conducted, as a benefit to the community, as affording goods to interior merchants, &c. at a less cost of commission, profit, &c. than if brought from the shelves of the wholesale dealer. Mr. C. dwelt on the importance of protecting our manufactures, by correcting abuses of the revenue system. He believed the fair dealer had much cause to complain, and was happy in saying that he believed the frauds in the revenue to which he had referred were not attributable to the American merchant, but to the host of dealers cast on our shores by the present state of Europe, and invited here by the prospect of advantageous markets. The remedy was not to be

found, he concluded by saying, in a duty of one per cent. on sales at auction; you must go deeper: it was in the entries at the custom-house, &c. that the evil must be sought and corrected.

Mr. TALLMADGE said he and his colleague had been entirely misunderstood if it was supposed that the simple retention of this duty was their sole object. Their intention, he said, was to pursue the subject in detail, the present motion being intended only to bring the matter before the House, with the hope of obtaining a decision favorable to their ultimate views. Although not objecting to an augmented duty on sales at auction, as suggested by Mr. SMITH, he thought it would be better to suffer the present duty to remain, and let the auctioneers go on in their usual course in preference to breaking in upon the system, and then reinstating it, &c.

Mr. LOWNDES spoke again in opposition to the motion, on the ground that the repeal should be total or none. If one exception were granted, the same reasoning would admit others till the object of the bill was defeated. Mr. L. replied to suggestions which had fallen from Mr. SMITH and Mr. CLAY. He was not persuaded that any decisive injury resulted from sales at auction; and if not productive of considerable convenience to the community, they would not be generally resorted to. He was not, therefore, in favor of putting a stop, by prohibitory duties, to a mode of traffic generally adopted, and convenient both to the buyer and seller. To the continuance of the present duty he was decidedly adverse, if for no other reason, for the great inconvenience which would attend the collection if retained.

Mr. STORRS stated the manner in which he thought the duty might be readily collected, through the agency of collectors of the ports, &c.

The question being taken on Mr. TALLMADGE's motion, it was decided in the negative by a large majority.

Mr. LITTLE, of Maryland, moved to amend the bill by introducing a provision that if, during the late war, any distillers had received licenses from the Government which they were prevented from using by the events of the war, on proper representation to the Treasury of such cases, the duties paid should be refunded in proportion to the time lost.

Mr. LOWNDES suggested that this was a provision too general, and related to cases on which the House could decide individually with more propriety than in a general manner.

Mr. LITTLE declined withdrawing his motion, and stated the case of a gentleman in Baltimore during the late war, all whose workmen in his extensive distillery were withdrawn for military service, and not only their time, but the materials provided had been destroyed. He thought this a proper opportunity for providing for such cases generally.

Mr. L.'s motion was negatived.

The question was put on reporting the bill to the House—

Mr. BALDWIN, of Pennsylvania, expressed his desire of further time to reflect on this subject,

thus early called up. He was not satisfied, he said, from what he had seen, that the expenses of the Government could be paid without the aid of the internal taxes. It was very doubtful to him, from the slight view he had taken of the Treasury report, whether they could safely be repealed. He found, in that report no estimate was made for the additional expenditure for public buildings, and for several other objects. A bill was now before the House, he said, for commuting military bounty lands for money. The amount of expenditure this measure would involve, would be ten millions of dollars. There was in the estimates no provision for this contingency. In looking at the estimates he did not see from what source these moneys were to accrue, if voted. So important a bill as this, he thought, ought not to be hurried through the House. It had come by surprise on the members, who could not have had time fully to examine the details of the bill. For himself he was not disposed to act on the calculations of others, when he had time to make his own. He thought he saw weighty reasons why the bill should not pass as it stood; and he did not know that the public exigency required a bill of this kind to be hurried through without affording time, to the new members particularly, to examine how far the calculations of the revenue at the Treasury would agree with the fact; to compare the estimates with results, and see how former predictions on this head had been verified. For his part, Mr. B. said, he should be unwilling, on coming here at the next session, to pass a law for a loan to supply any deficiency in the revenue. Mr. B. concluded by moving to rise and report progress, and ask leave to sit again.

Mr. LOWNDES opposed the motion with great reluctance, because desirous to afford time to every one to reflect on public measures; but the reason why an early decision on this bill was urged, had been freely stated by the committee in their report, and he hoped would be satisfactory. It would be supposing very material errors in the Secretary of the Treasury, as well as in the Committee of Ways and Means, to presume, after the statements they had made, the probability of a deficiency in the revenue, when it was estimated that, in the year 1819, there would be a surplus of nine millions in the Treasury, after paying the liberal appropriation for the redemption of the public debt.

Mr. BALDWIN, referring to the Treasury report, said, that it appeared that the balance estimated to be in the Treasury in 1819, was stated to be applicable to the redemption of the Louisiana stock.

Mr. PITKIN, of Connecticut, said, that from the examination which the Committee of Ways and Means (of which he is a member) had made of the subject, the House need be under no apprehension of any want of money. As to the Louisiana stock, the Government might or might not redeem it at the time specified, being bound only to redeem it in instalments of three millions annually, then to commence. The estimates of

revenue heretofore made by the Treasury, Mr. P. said, had fallen much below the mark. They had last year calculated on twelve millions from imposts; the actual product had exceeded twenty. There was not the least apprehension of any deficiency of revenue. If there were, he might remind the House that, of the ten millions annually appropriated for the payment of the public debt, after the present year, and certainly after the payment of the Louisiana debt, five millions only can be applied to the payment of the public debt, except to the remnant of the old deferred stock. The remaining five millions must then either be idle in the Treasury until the year 1825, or be applied to the purchase of debt above par, if it cannot be got at par. It would be seen, therefore, that no difficulty could be apprehended from the want of revenue. Mr. P. added, if it were not important that this bill should pass within the present year, he would, with pleasure, consent to its postponement.

The question was then taken on Mr. BALDWIN's motion, and negatived.

The Committee rose and reported their agreement to the bill, without amendment.

On the question to engross the bill—

Mr. BEECHER, of Ohio, said he was not sufficiently acquainted with this subject to act conclusively on it, and he presumed others might be in the same situation. To give them time to examine, he moved to adjourn.

This motion was lost by a large majority; and the bill was ordered to be engrossed for a third reading to-morrow.

THURSDAY, December 11.

On motion of Mr. PARRIS, the Committee on Naval Affairs were instructed to inquire into the expediency of altering the rank and emoluments of surgeons in the Navy of the United States.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of providing by law for the establishment of land offices for the sale of the public lands in the Missouri Territory, at the following places: at the town of Arkansas, in the county of Arkansas; at the town of Jackson, in the county of Cape Girardeau; at the seat of justice, in the county of Lawrence; and at the seat of justice, in the county of Howard.

On motion of Mr. HOLMES, of Massachusetts, Resolved, That the committee on so much of the President's Message as relates to roads, canals, and seminaries of learning, be instructed to inquire into the expediency of providing by law for constructing a navigable canal to unite the waters of Lake Michigan with the waters of the Mississippi.

Resolved, That the same committee be instructed to inquire into the expediency of providing by law for constructing a navigable canal to unite the waters of Tennessee river with the waters of the Tombigbee.

Resolved, That the same committee be instructed to inquire into the expediency of provi-



ding by law for improving the navigation of the Tennessee river.

On motion of Mr. SAMPSON, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post road direct from the east parish of Bridgewater, through Halifax, Plympton, and Kingston, to Plymouth in Massachusetts.

On motion of Mr. HENDRICKS, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing William Samuel, of Harrison county, in the State of Indiana, on the pension list.

The same committee were also instructed to inquire into the expediency of placing James Andrew, of the county of Orange, and State of Indiana, on the pension list.

Mr. BASSETT submitted the following proposition of amendment to the standing rules and orders, which was read and laid on the table until to-morrow:

When any motion or proposition is made, the question, "Will the House now consider it?" shall not be put unless it is demanded by some member, or is deemed necessary by the Speaker.

On motion of Mr. BASSETT, the Committee of Accounts were instructed to inquire into the manner in which the contractor performs his engagement for printing and for stationery to this House, and report thereon.

On motion of Mr. FORSYTH, the Secretary of War was directed to lay before this House the account of the sums awarded to the different claimants by the Commissioner under the act entitled "An act authorizing the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," passed the 9th of April, 1816, and the Act to amend the said act, passed the 3d of March, 1817, the species of property for which they were respectively awarded, distinguishing what sums have been paid, and the causes which delay or prevent the payment of the residue.

On motion of Mr. MARR, the Military Committee were instructed to inquire into the expediency of making provision for such officers and soldiers of the militia as have become disabled in consequence of diseases contracted while in the service of the United States, and for the widows and orphans of those officers and soldiers who, from like causes, have died since their return home.

On motion of Mr. SPENCER, the Committee on the Judiciary were instructed to inquire whether any, and if any, what legal provisions are necessary to prescribe the effect which the public acts, records, and judicial proceedings of each State shall have in the courts of every other State. And that the same committee be also directed to inquire whether any, and if any, what further provisions by law are necessary to insure a more prompt publication of the Laws of the United States, and a more speedy and general distribution of them throughout the Union.

On motion of Mr. MERCER,

*Resolved*, That the President of the United States be requested to cause to be laid before this House a return of the present strength of the Army of the United States, with the distribution thereof among the several military posts which it is designed to protect, together with any information which he may be able to afford, respecting the competency of such force to preserve and defend the fortifications among which it is distributed, and to aid in constructing and to defend such other military works, if any, as it may be in the contemplation of the Government to erect for the more effectual security of the United States, and of the several Territories thereof.

On motion of Mr. COBB, a committee was appointed to inquire into the claims of certain detachments of the militia of Georgia for services performed in the defence of that State during the years 1793 and 1794, by order from the Executive of that State under a discretionary power communicated by the War Department, with leave to report by bill or otherwise. Messrs. COBB, ALEXANDER SMYTH, WILLIAMS, of North Carolina, TERRILL, MASON, BENNETT, and EARLE, were appointed the committee.

On motion of Mr. SMITH, of Maryland, the Committee of Ways and Means were directed to inquire whether any, and if any, what amendments are necessary to the act entitled "An act to regulate the duties on imports and tonnage."

The bill for continuing the Mint establishment at Philadelphia passed through a Committee of the Whole, having been called up by Mr. SEYBERT. The bill was ordered to be engrossed for a third reading without opposition.

#### REPEAL OF INTERNAL DUTIES.

The engrossed bill for the abolition of the internal duties was read the third time.

Mr. WALKER, of North Carolina, said he had no doubt of the passage of the bill; but, as the House was about to take leave of an old acquaintance, the internal taxes, which this bill proposes to repeal—on which he cheerfully congratulated his fellow citizens—he called for the yeas and nays on the passage of it.

The question having been stated "Shall the bill pass?"

Mr. HOPKINSON, of Pennsylvania, rose. To oppose a measure which had been recommended by the President, and would most probably be most joyfully received by a great majority of the people, he said, would be an effort so utterly hopeless of success, as almost to amount to an absurdity. He should not attempt it; but at the same time it seemed to him to be both an official and conscientious duty to express and act upon the opinion he really possessed upon every important question of legislation upon which he was called upon to vote. In the performance of this duty, he said, but without troubling the House with an unnecessary and useless discussion, I must give my voice against the total repeal and extinction of our system of internal taxation. I hold it to be unwise in any nation,

particularly in a nation now mingling largely, and somewhat keenly, too, in the great national concerns of the world, and of course exposed to all the dangers resulting from such connexions, to deprive itself of the only sources of revenue which it can command and rely upon at all times and in all seasons, whether the political atmosphere be disturbed and shaken by the storms of war or reposes in the tranquillity of peace. We are not without a sad and calamitous experience on this subject; and have seen and felt how ruinous it is to wait until the enemy lines our coast and cuts off the possibility of receiving supplies to our Treasury from external sources, before we set about to organize a system for producing revenue from within. If the people are ever so willing to bear the burden when necessary, the time required to raise the revenue will be a period of embarrassment to the Government, of distress to the public credit, and disreputable loans, allowing a heavy discount to the lender. I would avoid such calamities by keeping up a reasonable and moderate system of internal taxation on objects properly selected and judiciously collected. I have no fondness for oppressing the people. Why should I have? I must expect to bear my share of the burden. But it is better to draw a moderate supply from them in the time of their prosperity than to come down upon them with a pinching oppression in the day of difficulty. The honorable chairman of the Committee of Ways and Means, with the discretion and reflection which belong to him, admits the proposed repeal is founded on our state of peace, and its probable continuance with all the world, and frankly declares that if our foreign relations were otherwise, he would oppose the repeal. Are we not, sir, trusting too much to this *if*? Yes, sir, if we could be assured of perpetual peace, we might do many excellent things, and avoid many evils. Do we not keep our army and navy because war may come? And should we not for the same reason keep up the means, and the only means, by which we can maintain this army and navy when their aid shall be required? We are to expend a million a year to augment the navy, and much more than this to support the army, both of which will be useless if we are never again to be troubled with war. Besides, sir, if I do not misjudge some indications already exhibited, we are about entering a path which, if pursued, may lead us to tread down the powerful hypothesis resting on this momentous *if*, and bring us again to the field of slaughter. If we really have too much money, (which, by the bye, is a story we heard once before,) why not remove the impost from salt; reduce the tonnage; reduce the duties on sugar, coffee, tea, and other articles, no longer luxuries, but necessities of life for the poor as well as the rich, why not expend the surplus in the internal improvement of our country, so loudly called for and so much required? I shall trouble the House no further on this subject than to say that, while I oppose the general destruction of all the internal taxes, there are some of them I would gladly dispense with.

Mr. BALDWIN, of Pennsylvania, said, it appeared to him to be a singular thing, that whilst, only three years ago, Congress were legislating these taxes into existence, and paying a premium of thirty per cent. to the usurers for money, they should now be legislating on what was called a surplus revenue; not surplus in fact, but in anticipation. He knew, he said, that it was not permitted to him, and to other young members, to take time to give a due examination to the subject—he had requested it yesterday, and been refused, and he was therefore obliged to go into the subject without much consideration. Referring to the estimate of the Treasury, of the expenditures for the ensuing year, he found a variation between those for the present year and for the next, for which he could not account. The estimate for the Army, for instance, was two millions less this year than the last—on what data formed he did not know. Nothing had appeared which satisfied him that Congress could do justice to the country in taking off the taxes on estimates of this kind, when there was no certainty that they were correct. If we have this surplus revenue, why not, as had been justly remarked by his colleague, take off the taxes from the necessities of life? It had been said, that the imposts were collected at less expense than the internal revenue. But what was the comparative expense to the consumer? If he pays his money in taxes directly to the collector, he pays no more than that; but if he pays it on the increased price of the commodities he consumes, he pays heavy commissions likewise to the importer, the wholesale and retail dealer, through whose hands the articles pass. I do not know, said Mr. B., why we in the West, who are so much interested in this view of the question, should be permitted to pay our taxes directly to the Government, instead of paying the increased amount charged on foreign goods. The repeal of these taxes, he said, he believed to be fraught with consequences highly injurious to manufactures, as tending to produce objection to the imposition of any protecting duties on imported manufactures, which would be asked of Congress. He was sure, he said, that public opinion did not require the repeal of the internal duties; and, he believed, that those who should vote for this bill, under the impression that they ought to follow, and were following, public feeling, would find they were taking a wrong course. He believed that the repeal would be unpopular; that the people were no longer to be misled by names, and already saw that it was better to pay their taxes directly than indirectly to the Government. Mr. B. said, he was unwilling to trust to the assurance of the Committee of Ways and Means, that taxes would be again laid whenever necessary. When were these taxes laid, Mr. B. asked? Not until the third session after the war was declared; it was not until the Government was destitute of means, that the taxes were imposed—and before the proceeds of them flowed into the Treasury, the stock of the Government had been hawked about to any bidder, and the Govern-



ment itself had become the prey of every shark usurer in the stock alleys of the nation. When the taxes should be again wanted they would be again delayed, till the nation was on the verge of bankruptcy. However those might think who recommended the measure, and those who were now precipitating it through the House, the public opinion, he was satisfied, was on the other side. He represented a part of the country which might be supposed to be interested, and the people there were opposed to the repeal, which he believed with them, to be hostile to the best interests of the West. Mr. B. said, he did not wish to enlarge on the subject—he knew it was useless; and if the gentlemen who were pressing forward the measure thought they were running the race of popularity, he should impede their progress but a few minutes. But he wished gentlemen to reflect a moment, whether the substantial interests of the country would not be seriously injured by the measure. It would appear to him, he said, before repealing these taxes, they ought to wait towards the close of the session, and see what expenditures Congress might authorize. Propositions for providing for the widows and orphans, of soldiers killed in battle, for erecting three additional military academies, for establishing a corps of invalids, &c., were before the House, and a bill had been already reported for commuting soldiers' lands for money, which, if passed, would of itself require ten million dollars. Whence is this money to come? In reply to the suggestion of a want of present objects to which to apply the surplus of revenue, Mr. B. said, that objects could not be wanting as long as the twenty-one millions of stock of the United States subscribed to the National Bank remained unredeemed. It appeared from the Treasury report, that during the present year only eighteen millions of stock had been redeemed altogether: among the particulars of information, the want of which he felt, Mr. B. said, he should like to know how much of this eighteen millions was that which had been subscribed to the bank, and what portion was of other stock. If ten or eleven millions of that stock were, as he presumed, yet redeemable, it would take away one strong argument for the repeal of the taxes, by affording an object to which to apply the surplus revenue. There were, Mr. B. concluded by saying, various considerations which pressed on his mind against the passage of this bill; but he wished not to take up the time of the House. He had briefly stated some of the reasons why he conceived the bill impolitic and of a ruinous tendency to the important interests of the country.

Mr. SERGEANT, of Pennsylvania, next spoke to the question. In the threshold of his remarks, he disclaimed all intention to enter into the race for popularity, which had been spoken of. On a subject of this kind, there ought to be a belief that the members were all actuated by fair motives, particularly on a question where, it appeared to him, the weight of the argument was in favor of the repeal; and it was to endeavor to show,

that, in voting to repeal the internal duties, the members of the House might act from reason, and not from a desire of popularity, that he rose. In the first place, with respect to the system of internal taxation, he said he was not apprized how the argument applied which recommended the continuance of a system; because the greater part of the system which had been established, the very bone of it, had been taken out, and there remained some half dozen of taxes which seemed to have been left, not as constituting a system certainly, but to guard against the possible chance of a deficiency in the revenue. Let gentlemen look at the taxes remaining, and see whether they did not present themselves in that view to them. Now, it appeared to him, Mr. S. said, instead of talking about maintaining a system, gentlemen should turn their attention to the taxes individually, and see whether there was any one of the taxes which, on the ground of its own merits, ought to be preserved. To at least four out of six of the taxes which remain, Mr. S. said he had, on general grounds, decided objections, and would prefer very much, if the revenue derived from them was necessary, that it should be collected from other objects. He instanced as a duty particularly objectionable, that on the refining of sugar—a valuable branch of domestic industry—which, at former periods, had been specially fostered and encouraged, by drawbacks, &c. This branch of manufactures was exceedingly oppressed by this tax, as was well known to many members who represented the towns where it was carried on. The tax on retailers of foreign articles was also extremely oppressive, falling without discrimination on every one who was honestly endeavoring by retailing to obtain a livelihood, and who was obliged to mix the smallest particle of foreign produce in his assortment: and we have seen the small dealers vanish under the operation of the tax. The duty on stamps too was objectionable, as operating only on a particular class of citizens, and that class the industrious and enterprising one. It operated not on the capitalist; not on the man who has money—for he has no occasion to go into bank for more—but on those who are benefitting the public by their activity and employment of borrowed capital. To the remaining taxes he had no particular objection, and if he saw any necessity for it, would be willing to continue them. But why continue them? To be prepared for war hereafter, and not overtaken by difficulty when it comes? If ever (said Mr. S.) there was a period in this country when there was a stronger possible appearance of a continuance of peace, he had no knowledge of it. He knew not from what quarter hostilities could be expected; and he was sure he saw no disposition in this House to involve the nation in war. Mr. S. said he would not recur to that period when these taxes were laid, nor say whether it was too soon or too late; but the argument which had been derived from that retrospect seemed to him to prove too much. For a man puts on his armor when he goes into battle, and when he comes out he puts

it by. If you foster the interests of the citizen, by relieving him from burdens in those avocations which enrich him and the country, it is then you prepare the armor to be put on in war. Mr. S. said he had still another objection to retaining these taxes. He believed we could not long have a surplus in the Treasury. If we began with a large surplus, means would speedily be found of spending it, and that probably in projects not the most useful or advantageous to the community: and, if the taxes were retained, we should find ourselves soon without a surplus, and in the case of emergency instead of reinstating repealed taxes, would have to lay new taxes, in addition, to the same amount as those already existing. He would not inquire, he said, whether it was popular to keep the taxes on or take them off; but he held it to be the duty of this House to the people, when there was revenue enough to meet the public expenditure, not unnecessarily to continue the public burdens.

Mr. HOLMES, of Massachusetts, said, the prayer of every Republic ought to be, give me neither poverty nor riches. A young Government, like a young man, was very apt to be ambitious; and when we have money, we have an opportunity of gratifying that ambition. Another objection to having more money than we want, was, that it created too many calls on the Treasury. We have already found out that we have a small surplus in the Treasury; and it has already generated a great many claims on it. He presumed that, before the end of the session, where there was one thousand dollars of surplus, there would be a million of demand. It would be rather a singular position to find the House of Representatives in, that they who hold the purse-strings of the nation should be urging money into the pocket of the Executive. We are told by the Executive, said Mr. H., that there is no need of these taxes; on that branch of the Government would fall the responsibility, if the Treasury should become as empty as some apprehended, and we should require money when we cannot obtain it. As regarded a system of internal taxation, Mr. H. said he hoped that he should never see, in this country, such a system established. He hoped internal taxation would only be resorted to when the exigencies of the country required it; and then, and then only, would the people endure it. It is odious to the people; so much so, in principle, that there was great objection, at the formation of our Constitution, to giving to the Congress the power to lay internal taxes. He said he believed that at this time, whether it was popular or unpopular to relieve the people from these taxes, it would be best for them to be repealed; as indeed he rather inclined to believe that the people themselves thought. He should be unwilling, for himself, to take any share of the responsibility of continuing a broken system, as it had been aptly described—an imperfect and unequal system of internal taxes. If the system were a perfect one; if it bore equally on all classes of citizens; if it were such a system as was both necessary and proper, there might be a

reason for retaining it: but, having none of these qualities, he would put an end to this mutilated fabric of taxation. He was, he said, in favor of keeping up the Army as a military school; the Navy, too, he hoped would be always cherished, to defend our rights on the ocean, as it once has done. Both these objects should be well attended to; but, if we had already revenue enough for both, and for all other expenses of the Government, and for the rapid redemption of the public debt, without the aid of these taxes, why should they be retained? He was for giving an opportunity for our people to be prosperous, that, when their direct aid shall again be necessary, they may be in a condition and disposition to come forward and cheerfully contribute it. But, Mr. H. said, he apprehended the recurrence of no such state of things as we had lately seen. Our trials have passed: we have seen the worst evils of our day.

Mr. BARBOUR, of Virginia, said that, although he was satisfied this bill would pass, and although, when he came into the House to-day, he had nothing like an intention of uttering one word upon it, he thought it his duty to vindicate the principles which guided him in his vote on the bill before the House. He premised that, in giving his vote for this bill, he was in no degree influenced by a desire for popularity, except that be a desire for popular favor which prompts us to decide correctly, according to our impressions, when the interest of the nation is concerned. Passing from that remark, he came to the question whether, under existing circumstances, it be or be not good policy to retain the system proposed to be repealed. He begged leave to remark that, according to his idea of the theory of our Government, it was never expected by the framers of the Constitution that internal taxation was to be a permanent policy of our Government. Looking into the book from which we derive most of our ideas on the theory of our Government, and which might be regarded as a contemporaneous exposition of the Constitution, it appeared that taxes on exports were expected to be the principal source of revenue. This was not only the intention as he believed, of the framers of the Constitution, but it was most correct in principle, because most convenient to the people. He would not go into an examination of the relative merits of the two systems of internal and external taxation: it was sufficient to remark, on this head, that the one was compulsive, the other voluntary. In any event, the system of exterior taxation was to be continued; and, if it were abundantly productive for the necessities of the Government, what need to retain, also, the system of interior taxation? What, Mr. B. asked, are taxes? Contributions of the people to the maintenance of the Government when its wants are such as to require them. When it is demonstrated that any part of these taxes are not wanted, it is not only the duty of Government, but it is its soundest policy to repeal them. Are they, then, wanted? said Mr. B. Look at the exhibition of the state of our finances, and a bare glance



H. OF R.

Repeal of Internal Duties.

DECEMBER, 1817.

gives an answer to the question. It appears that such is the state of our revenue, that we have within the past year redeemed eighteen millions of a public debt, the whole amount of which did not much exceed an aggregate of a hundred and twenty millions. It appeared, also, that after the Yazoo stock and Louisiana debt were paid off, we should have, not only a sum equivalent to all the expenditures of the Government, but exceeding that amount by five millions annually, up to the year 1825, which is the moment that the war loan of 1812 is redeemable, by the terms of the contract for it. Shall we undertake, then, to lay or to continue taxes, because we do, but because we may, want the money? I shall not, said Mr. B., be among the number of those who refuse to lay taxes when the present necessities of the Government require it, or when it is probable that they will. But he said, he held it to be bad policy to lay taxes when not wanted; not only because useless, but because the people could always make the use of their own money, and to collect it in the Treasury would be to withdraw the means by which manufactures, agriculture, and commerce were fostered and the national wealth enlarged. And to withdraw it for what? To lie in the Treasury? It could not, Mr. B. said, be the object of gentlemen to take from the people money which was advantageously employed in their own occupations, and thereby enhancing the general prosperity, to become a mere *caput mortuum* in the Treasury of the United States, and thus lose the advantage of capital otherwise actively employed. The wealth of the people is the wealth of the Government, which is enriched by the prosperity of the people. It remained to be seen whether the Government could use the revenue arising from internal duties. Mr. B. proposed to show that they could not. In 1819, he said, the Louisiana debt would be extinguished. What then should be done with the surplus revenue? Should it lie idle, or should the Government go into the market and purchase up the public stock? That stock was already above par; and was it not evident that every dollar purchased, at least until the time approached when it might be redeemed, would contribute to put it up above par? From Mr. B.'s examination of this point, he inferred the Government could not make use of the proceeds of these taxes, if they should be retained. He could not see the correctness of the reasoning, he said, which would lead the House to the conclusion that, because it was proper in peace to prepare for war, therefore money should be drawn from the pockets of the people which could not be used. He would keep up a small army; he would increase the navy, because it could not at once be called into being on occasion. But though a navy could not, a system of taxation might, and there was therefore the less occasion unnecessarily to draw money from the pockets of the people. If the Government did not redeem that part of its funded debt which constituted its portion of the capital of the Bank of the United States,

the money accruing to the Treasury, without these taxes, could not be used; but, if that stock was to be redeemed, which was optional with the Government, still there would be money enough without these internal taxes for all the purposes of the Government. Was it not then wise policy to repeal the taxes? Was it not a wise policy to repeal them because the people looked for it? The internal duties were considered as war taxes, imposed for the occasion, and cheerfully paid; but would not be willingly borne when the necessity which called for them had ceased. In a time of peace, moreover, to keep up two systems, one of internal and one of external taxation, was extremely inconvenient: and when the system of internal taxation was reduced to its present extent, the expenses of collection bore too large a proportion to the amount, and put into the pockets of the collectors what would be much better in the pockets of the people. In short, every consideration, Mr. B. said, recapitulating those which he had adverted to, combined to bring his mind to the conclusion that this bill ought to pass. There is no nation in the world, he added, there never was a nation, whose sinking fund bore so large a proportion to its debt as this. Look at the English sinking fund; compared with ours it is scarcely dust in the balance. Mr. B. said he desired to see a large sinking fund; but there was a point beyond which that ought not to be increased; because its burden became, by the augmentation of our population, every year diffused over a greater surface, and with less pressure on each individual. Whilst he would not suffer the national debt to lie as an incubus on the nation, he would not discharge that debt by oppressing the people. Mr. B. concluded by saying that the internal taxes were now useless; worse than useless, as having the effect of rendering a large amount of the capital of the country unproductive; that they were unnecessary now, and unnecessary prospectively; because, whenever necessity demanded it, there was energy enough in the people to call into action the resources of the nation; and sufficient for the day was the evil thereof.

Mr. JOHNSON, of Virginia, said he had not intended to have opened his lips on this question, and should not have done so but for the remarks of the member from Pennsylvania, (Mr. BALDWIN.) He, it seemed, would not enter into the race of popularity. With due respect to the Chair, Mr. J. said, he had thought this remark ought to have received its animadversion—

The SPEAKER, interposing, said, that the remark had not escaped his attention, and would have been noticed by him, had he not presumed it to have been inadvertently made, and not intended to bear that construction which might be given to it.

Mr. BALDWIN rose in explanation. He had not intended, he said, to use the expression in an offensive sense; he had no design of that sort. He meant merely to say, if any gentleman were disposed to run the race of popularity, he would not join in it. If what he had said was liable to

DECEMBER, 1817.

Repeal of Internal Duties.

H. OF R.

any harsher interpretation, he was sorry, as it was not his meaning.

Mr. JOHNSON resumed the floor. He said he did, at the last session of Congress, present to the House a statement founded on facts, by which he proved, from official documents, beyond the possibility of doubt, that for no legitimate object could those taxes be desirable; and had then also shown how oppressively they had acted on his constituents. The first gentleman up from Pennsylvania, (Mr. HOPKINSON,) seemed to anticipate a war, in telling the House that the nation was, he apprehended, about to tread in a perilous path; and that therefore these taxes ought to be retained to guard against a deficiency of revenue in such event. These poor two and a half millions, Mr. J. suggested, would go but a little way towards this object; but if wanted, they might be again imposed. How that gentleman acted (Mr. HOPKINSON) during the late war, Mr. J. said, he did not know; but, said he, I appeal to history, to the Journal of the House, to show how I acted. I never shall shrink from the duty of imposing taxes when the necessities of my country require it. I voted a tax of more than one-fourth of its product on the most extensive manufacture of my constituents. I voted to pledge the soil on which I live, in which rest the bones of my ancestors, to pay the war debt. But I am not disposed, nor will I consent to continue a tax which is unnecessary and injurious, when the necessities of the country do not require it. Mr. J. here referred to the Treasury estimate of last year, reasoning from it, that there was no fear of a deficiency of revenue for the future. In that report the Secretary furnished the following estimate of the amount which would be received from three successive years, from customs, viz:

For 1817 - - - - -	\$18,000,000
1818 - - - - -	12,000,000
1819 - - - - -	18,000,000
	48,000,000

By the report of the present session, instead of \$48,000,000, for the same period, \$66,000,000 would be derived from this source. If on the former estimate, without a reduction of the Army, or diminution of any expense contemplated by existing laws, the internal taxes could have been dispensed with, as was clearly established, no doubt can now exist that they ought to be repealed. Patriotism requires that the people should be relieved from them. Could it then, be necessary, Mr. J. asked, to continue these taxes, so little productive, and so very inconvenient to the people, merely to guard against imaginary evils? He hoped the bill would pass.

Mr. HOPKINSON again spoke, principally in explanation, and in reply to his colleague, (Mr. SERGEANT.) His system, he concluded by saying, was now singular, and seemed to excite surprise. But it had not been singular at the last session, when the same proposition as that now pending was before this House, and was rejected. The war was then gone—it had been some time—and if there was any force in the idea of the pledge

to repeal the taxes at the end of the war, he asked why they were not repealed at the last session, seeing so unanimous a determination to repeal them now? He should give his vote, with the most perfect respect for the motives and conduct of all from whom he differed in opinion on this occasion, against the bill.

Mr. PITKIN, of Connecticut, rose to correct an erroneous impression which appeared to exist on the mind of Mr. BALDWIN, respecting the amount of public debt paid in as part of the capital stock of the Bank of the United States; which amount, it being optional with the subscribers to pay either in stock or in gold and silver, Mr. P. showed, had, owing to the recent rise of stocks above par, been considerably less than by law it might have been. He understood, that of the debt thus subscribed, the Commissioners of the Sinking Fund had already paid every cent, not only the six, but the seven per cent. stock, all but their own seven millions, which bore but five per cent. interest, and might or might not be paid, at the pleasure of the Government. The taxes, therefore, were not wanted to redeem that stock. The same gentleman had also noticed various projects on the table of this House, which might occasion the expenditure of money. When that honorable gentleman had been longer in this House, Mr. P. said, he would know that there might be many projects offered, which would involve the expenditure of money, but which would never pass. But, was the House to legislate on the possibility of expenditures being authorized? Surely not. Some of these taxes, Mr. P. said, were not only inconvenient but oppressive; he instanced the dollar carriage tax, producing, small as it was, \$70,000, and operating with extensive and vexatious inconvenience in particular small States. He regretted extremely that the gentleman from Pennsylvania had not more time to examine the facts respecting the revenue and estimates, to enable him to decide with more satisfaction to himself; but the peculiar situation of this bill forbade a delay, which he should otherwise be glad to afford to gentlemen desiring it. If the gentleman had examined the bill and the whole subject with that acuteness of which he knew him to be capable, he would not have supposed that gentlemen, in voting for the repeal, were running a race of popularity.

Mr. SMITH, of North Carolina, rose, since other gentlemen had adverted to the oppressiveness of particular taxes, to speak of a tax which operated grievously on the district which he represented—the tax on distillation. Who were the distillers, he asked, and particularly of whiskey? Were they the farmers who lived on the seaboard, and obtained great prices for their crops of grain; or were they the farmers of the back country, producing much grain, and at a great distance from market, and under the necessity of converting it into spirit, to get it in that shape to a market? It was the latter class, he said, who paid a considerable portion of that tax, which also heavily affected those who converted into spirit the produce of their orchards. The tax on distillation



was, in fact, a tax on agriculture, almost as much as the direct tax. It was, besides, unequal, as he showed by various illustrations. He denied, also, in respect to this tax, the justness of the argument, that the consumer paid the tax; because, he said, the tax prevented the distiller from coming into competition with foreign liquors, and thus threw the burden of the tax on him. He thought the distiller had the same right to bring his complaint into this House, and to ask a redress for his interest, as the manufacturers of iron, sugar, or any other product. Relying himself on the report of the Secretary of the Treasury, and satisfied with the report of the Committee of Ways and Means; having also experienced the unequal and inconvenient operation of these taxes, he was determined to vote for the repeal of them.

The question on the passage of the bill was determined in the affirmative—yeas 161, nays 5—see follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Becher, Bellinger, Bennett, Bloomfield, Blount, Boone, Boss, Burwell, Butler, Campbell, Clagett, Claiborne, Coffin, Colston, Comstock, Cook, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Desha, Drake, Earle, Edwards, Ellicott, Floyd, Folger, Forsyth, Gage, Garnett, Goodwyn, Hale, Hall of North Carolina, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hubbard, Hunter, Huntingdon, Ingham, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lewis, Linn, Little, Livermore, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mercer, Merrill, Miller, Moore, Morton, Newley, Mumford, Murray, H. Nelson, T. M. Nelson, Nebitt, New, Newton, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasant, Quarles, Reed, Rhea, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb, S. Smith, Bal. Smith, Alex. Smyth, J. S. Smith, Southard, Spangler, Speed, Spencer, Strong, Strother, Stuart, Tallmadge, Tarr, Taylor, Terrill, Terry, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania—161.

NAYS—Messrs. Baldwin, Hopkinson, Middleton, Nelson, and Storrs—5.

So the bill was passed.

FRIDAY, December 12.

The SPEAKER laid before the House a report of the Secretary of War of the number of warrants for military bounty lands, issued by virtue of acts passed for that purpose, to soldiers who served during the late war, with the quantity of

land included in such warrants; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, containing in obedience to the 16th section of the act incorporating the Bank of the United States, his reasons for not transferring the deposits of the public moneys in certain places to the said bank or its branches; which letter was ordered to lie on the table.

The SPEAKER also laid before the House a report from the Secretary of the Treasury on the petition of William Taylor and Ezekiel Walker; which was referred to the Committee of Ways and Means.

The Committee of the Whole, to which is committed the bill authorizing the commutation of soldiers' bounty lands, were discharged from the consideration of the same; and it was committed to the Committee of the Whole, to which is committed sundry resolutions moved by Mr. Mr. JOHNSON, of Kentucky, on the 9th instant.

Mr. HOPKINSON, of Pennsylvania, from the Committee on the Judiciary, reported a bill to establish a uniform system of bankruptcy throughout the United States; which was twice read, and committed.

Mr. TAYLOR, of New York, at the instance of the Committee of Elections, introduced the following resolution, under the impression that it proposed a course the most respectful to the House, if not the only manner in which the committee could execute the duty required of them:

*Resolved*, That the President of the United States be requested to communicate to this House, whether any, and, if any, which of the Representatives named in the list hereto annexed, have held any office under the United States since the 4th day of March, in the year 1817; designating the office or offices they have respectively held, the time of appointment and acceptance of the said offices; whether the same are now held, and, if not, when the same were severally resigned.

[Annexed to the resolution was a list of the names of the members of the fifteenth Congress.]

The resolution was agreed to, and a committee appointed to present the same to the President.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Alexander Worster, of Massachusetts, lately an officer of the Army, who prays indemnification for damages recovered from him by the friends of a minor whom he had enlisted and detained as a soldier, under the belief that said minor was of full age.

On suggestion of Mr. LITTLE, of Maryland, after some conversation, in which the principle of the report was controverted, the report was referred to a Committee of the Whole.

Mr. PARRIS, of Massachusetts, from a select committee to whom was referred the petition of Noah Miller, Inspector of the Port of Penobscot, who prays for a pension in consequence of disability incurred by a wound received whilst in the execution of his duty, reported a bill for his relief; which was twice read, and committed.

Mr. SAVAGE, of New York, made a report from the Committee of Revision and Unfinished Business.

Mr. BLOOMFIELD, of New Jersey, from the committee to whom was referred so much of the President's Message as relates to the surviving Revolutionary patriots, reported, in part, a bill concerning certain surviving officers and soldiers of the late Revolutionary army.

[This bill provides that every commissioned and non-commissioned officer or soldier, who had served in the Army during the war which terminated in the Treaty of Peace with Great Britain in 1783, and reduced to indigence, or by age, sickness, or any other cause, may be unable to procure subsistence by manual labor, shall receive half pay during life, equal to the half of the monthly pay allowed to his grade of service during the Revolutionary war—provided, that no pension thus allowed to a commissioned officer shall exceed the half pay of a lieutenant-colonel.]

The bill was twice read and committed.

The motion submitted by Mr. BASSETT, of Virginia, to amend the rules of the House, was taken up and agreed to. [The question of consideration, which has heretofore been a matter of much contention in the House, in the days of party conflict, is thus expunged from the rules of the House.]

On motion of Mr. EDWARDS, of North Carolina, the Committee on the Public Lands were instructed to inquire what further provisions are necessary in the existing laws, for the more effectual prevention of frauds by the purchasers of the public lands.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of making further provision by law for the final adjustment of land claims in the Missouri Territory.

On motion of Mr. MOORE, of Pennsylvania, the Committee on the Post Office were instructed to inquire into the expediency of authorizing an extra compensation to the Postmaster at Beavertown, in Pennsylvania.

On motion of Mr. McLANE, of Delaware, the committee on so much of the Message of the President as relates to roads and canals, were instructed to inquire into the expediency of authorizing the Secretary of the Treasury of the United States to subscribe for stock in the company incorporated under the name and style of the Chesapeake and Delaware Canal Company, or any other company now, or hereafter to be, incorporated for similar purposes, to be paid by the appropriation of the public lands, or by any surplus money in the Treasury of the United States.

A report was received from the Department of State on the petitions of Antoine Bienvenue, Peter La Coste, and Jacques Villere; which was referred to the Committee of Claims.

The engrossed bill, supplementary to the act for the establishment of the Mint (for continuing the same at Philadelphia) was read a third time, and passed.

The House then resolved itself into a Com-

mittee of the Whole, on the bill for the relief of John Bate.

This bill, which proposes to indemnify Mr. Bate for certain losses sustained by the overflow of a Saline rented by him from the Government, occasioned a debate of some length, involving the principle, as well as the facts, which lasted till the usual hour of adjournment, when the bill was postponed for further consideration.

The House adjourned to Monday.

MONDAY, December 15.

Two other members, to wit: from Pennsylvania, JOHN ROSS, and from Mississippi, GEORGE POINDEXTER, appeared, produced their credentials, were qualified, and took their seats.

Mr. SILSBEE presented a petition of sundry inhabitants of Essex county, in the State of Massachusetts, praying that the act imposing duties upon imported salt may be repealed; or that the act granting bounty to vessels employed in the fisheries may be so altered or modified as that the bounty on small vessels may be equal, per ton, to the bounty granted to large vessels.—Referred to the Committee of Ways and Means.

Mr. ROSS presented a petition of the cotton and woollen manufacturers residing in Providence and its vicinity, in the State of Rhode Island, praying that the duties at present imposed on imported cotton and woollen goods may be rendered permanent, and that provisions may be made more effectually to prevent evasions of the payment of said duties; and that such further measures may be adopted for the security and promotion of American manufactures as Congress may deem proper and expedient.

Mr. BLOOMFIELD presented a petition of sundry inhabitants of the counties of Burlington and Gloucester, in the State of New Jersey, praying that additional duties may be imposed on the various species of iron imported into the United States.

Mr. WENDOVER presented a petition of the merchants and traders in the city of New York, praying that a duty of not less than ten per centum may be imposed on sales at auction of foreign merchandise; and that additional provisions may be enacted to secure the payment thereof, as well as of the import duties, to prevent frauds, and to secure the petitioners and other honest and fair dealers a due participation of the benefits arising out of the foreign commerce of the United States.

*Ordered*, That the said petitions be referred to the Committee of Commerce and Manufactures.

Mr. ROBERTSON, of Louisiana, presented a letter addressed to him as chairman of the Committee on the Public Lands, respecting islands in the various rivers flowing through the public lands; which letter was referred to the Committee on the Public Lands.

On motion of Mr. PINDALL, a committee was appointed to inquire into the expediency of providing more effectually by law for reclaiming servants and slaves escaping from one State into



another; and that the said committee have leave to report by bill or otherwise; and Mr. PINDALL, Mr. BRECHER, and Mr. ANDERSON, of Kentucky, were appointed the committee.

On motion of Mr. ALLEN, of Vermont, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of authorizing the payment to the present holder of the amount of a loan-office certificate, No. 9948, signed by Samuel Hillegas, and countersigned by J. Lawrence, and bearing date January 10, 1780; which certificate has never been paid.

On motion of Mr. BARBER, of Ohio, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post road from Marietta to Lancaster, by the route through Oliver's settlement, on the head waters of Wolf Creek, and a road from Warren, by Parkman and Burton, to Painesville.

The unfinished business of last sitting (the bill for the relief of John Bate) being called over—

Mr. JOHNSON, of Kentucky, said the bill involved not only equitable and judicial inquiries, but also a variety of facts to be established on testimony exhibited to the House. And as such an inquiry interfered with business peculiarly legislative, he thought it had better be referred for an investigation to a different tribunal; and, having confidence in the abilities and just disposition of the head of the department most proper for the investigation, he moved that the case be referred to the Secretary of the Treasury, to report thereon.—Agreed to.

Mr. LOWNDES, of South Carolina, made a report on the petition of John McConnel and Luke Hoff, praying a remission of duties on licenses for distilling, the one on account of sickness of the party obtaining the license, the other on account of the dryness of the season, which rendered the business unprofitable. The report, which was adverse to the prayer of the petitioners, was concurred in, *nem con.*

Mr. RHEA, of Tennessee, from the Committee on Pensions and Revolutionary Claims, made a report on the petition of Daniel Evans, unfavorable thereto; which was read and concurred in, but afterwards reconsidered, and ordered to lie on the table.

Mr. RHEA, from the same committee, made a report unfavorable to the petition of Richard S. Morris, who prays for reimbursement of a lost certificate for Revolutionary services or supplies. This report was opposed by Mr. BASSETT of Virginia, and Mr. LIVERMORE of New Hampshire, to whom Mr. RHEA replied.

On motion of Mr. FORSYTH, the report was ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the committee to whom was referred the report of the Secretary of State on the petition of Winslow and Henry Lewis, who pray indemnification for certain losses sustained by the application, to other purposes than their use, of certain moneys deposited in the Chancery of the United States

Consulate at Tunis, reported a bill for the relief of Winslow and Henry Lewis; which bill was twice read, and committed.

On motion of Mr. COMSTOCK, of New York, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the claim of Sylvanus Townsend for reimbursement of two old loan office certificates.

#### AMELIA ISLAND AND GALVESTON.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 8th of this month, I transmit, for the information of the House, a report from the Secretary of State, with the documents referred to in it, containing all the information of the Executive, which it is proper to disclose, relative to certain persons who lately took possession of Amelia Island and Galveston.

JAMES MONROE.

WASHINGTON, December 15, 1817.

#### DEPARTMENT OF STATE,

December 13, 1817.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 8th instant, requesting the President to lay before the House any information he may possess and think proper to communicate, relative to the proceedings of certain persons who took possession of Amelia Island, at the mouth of St. Mary's river, in the Summer of the present year, and made an establishment there; and, relative to a similar establishment previously made at Galveston, has the honor to submit to the President the accompanying papers containing the information received at the respective Departments of State, the Treasury, and the Navy, upon the subjects embraced in the resolution.

The above documents and accompanying papers were ordered to be printed.

#### EXPATRIATION.

Mr. ROBERTSON, of Louisiana, offered the following resolution to the House:

*Resolved*, That a committee be appointed to inquire into the expediency of providing, by law, for the exercise of the right of expatriation; and that they have leave to report by bill or otherwise.

Mr. ROBERTSON said that, for a very considerable length of time, he had wished this question to be decided by that tribunal to whom the decision of it belonged. He had, some years ago, offered a resolution similar to this, which was then not adopted; whether on account of the war in which we were then engaged, or for what other considerations he had never been able to decide. The question which had arisen during the late war made a decision of it necessary. It would be well recollected, that among the soldiers of the United States were many individuals, natives of Great Britain, who were taken prisoners of war, and, according to the doctrine of the British Government, an odious doctrine, reprobated, he believed, by every other Government, were treated as traitors fighting against their

Government; and that, if this construction had been consummated, our Government had menaced severe retaliation. But, with what consistency could the United States take the ground of retaliation, when they themselves had never recognised, in regard to our own citizens, what we demanded of Great Britain in regard to hers? So far as proceedings have been had on this point, Mr. R. said he was led to believe this right had been denied to our citizens. He would not dwell on the particulars of the decision on this subject by Judge Ellsworth some years ago, but merely state that Isaac Williams, a citizen of the United States, became a citizen of the French Republic, and was thereafter fined and imprisoned, by the decision of our courts, for making war on Great Britain, on the ground that he could not divest himself of the allegiance he owed to the United States. It was certainly proper, he said, that there should be some decision of the Legislature on a question of this nature and magnitude, which, at present, depended on the opinions of the Judiciary; and, as far as acts of Congress can regulate the judicial opinions, that such directions should be given on this head as he thought were obviously just and necessary. He had thought proper to make these remarks, because, although he believed the right to be clear, and that the Government would maintain it, as they ought to do, if they possessed the respect which is professed for the principles of liberty and for civil rights—a decision of the Legislature on the subject was more important at this moment, from considerations growing out of the present relations between the United States and foreign nations. By the existing treaty with Spain, a citizen of the United States, holding a commission under any Government at war with Spain, while we are at peace with her, is considered as a pirate. This extraordinary provision of the treaty must have escaped the attention of that power in our Government which makes treaties, or it would have been rejected, as well for its cruelty as because it is an act of legislation to define and punish piracies, and not a power confided to the treaty-making authority. To say nothing more of that, however, Mr. R. observed, that he deemed it necessary to protect the citizens of the United States from punishment, due only to piracy, when found with commissions in their hands from any Government at war with Spain. He wished to see our citizens at perfect liberty to become citizens of what nation they chose, on such terms as that nation should prescribe. It would appear, from what he had said, Mr. R. remarked, that there was not that neutrality in our conduct towards the two parties, in the war between Spain and her colonies, which we all profess. In this respect, the parties were certainly not on the same footing; since a citizen of the United States in the employ of Spain against the colonies is not considered as a pirate, but engaged in the service of the colonies against Spain, he is. He did not know that this fact would have induced him to have brought the question before the House, but for

15th CON. 1st SESS.—15

the deep impression he felt of the justice and propriety of adopting the principle, abstracted from the existing state of things. But it was the more necessary to reduce the principle to legislation, because of the situation in which the want of it has placed us in regard to foreign nations.

The motion of Mr. ROBERTSON was adopted without opposition, and without a division; and Messrs. ROBERTSON of Louisiana, MASON of Massachusetts, POINDEXTER, ROSS, and FLOYD, were appointed the committee.

#### PENSIONS TO SUFFERERS IN WAR.

Mr. HARRISON, of Ohio, offered the following resolution:

*Resolved*, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the expediency of continuing the pensions which now are or have been heretofore allowed to the widows and orphans of the officers and soldiers who were killed or who died in the service of the late war, for a term of five years beyond the periods at which they shall respectively cease under the existing laws.

Mr. H. said, that, as the resolution only contemplated an inquiry, he would detain the House but a few minutes only, with the motives which induced him at this time to bring it forward. Some of the pensions which had been granted, said he, have already expired, and others will expire, probably, before the session of Congress closes. Amongst the latter is that which was granted to the widow and orphan of the late Brigadier General Pike. In descending the Ohio river, said Mr. H., the eye of the inquisitive stranger is attracted by the humble dwelling which shelters the widow and orphan of that distinguished hero. Should his curiosity carry him further, and he should be induced to visit the abode of this interesting family, he would find, however humble the exterior, that neatness, frugal hospitality, and comfort, were to be found within its walls—that the lady had expended a proper portion of her pension in the pious purpose of educating her daughter. But, said Mr. H., if the visit should be repeated at the end of a year, and the law which the resolution contemplated should not pass, it would be found that the comforts of which he had spoken had fled, or that the means of procuring them were obtained by the personal exertions of the lady herself. From my knowledge of her situation, said Mr. H., I can state, with confidence, that her dependence for a comfortable support rests upon the generosity—no, sir, not on the generosity, but on the justice of this nation; for, can there be, under Heaven, a juster claim than that which is presented by a widow, under such circumstances? In fighting your battles she has lost a husband—he has bled that his country might be great, might be free, might be happy. But our advantage has been to her an insuperable misfortune. It has thrown her

"On the wide world, without that only tie

"For which she wished to live, or feared to die."

It is our duty to supply, as far as we can supply, the loss she has sustained. There are other cases, sir, which form the strongest claims



upon the justice and the honor of the nation. Let me not be told, said Mr. H., that the Government has performed its contract by giving the five years' pension which was provided at the commencement of the war. Sir, the contract was all on one side, and it would have been immaterial what had been its provisions. The noble spirits of Allen, of Hart, and of Pike, would have met your enemy with as much zeal and devotedness as if the provision for their families had been such as they would have dictated; no personal consideration would have withheld them from the field of glory. But, said Mr. H., there are moments when the claims of nature will have their full effect. I have seen, said he, the wounded and expiring warrior in that awful moment, when the martial ardor which had filled his bosom had been suspended by the pain which he felt—when the sacrifice being made, naught of public duty remained to be performed—then it is, sir, that the thoughts of his family would fill him with the greatest solicitude. A beloved wife and children left friendless and unprotected—the latter without the means of education, and both without support. In such a situation, said Mr. H., I have heard amidst the fervent aspirations to Heaven for their happiness, a consoling hope expressed that his country would not forsake them. Shall we, sir, not realize that hope? The country, said Mr. H., may be engaged in another war; if it should be the case, let us commence it with the benedictions of the widow and the orphan upon our heads. Let not their prayers ascend to Heaven charged with accusations against your justice and humanity. But, said Mr. H., I am anticipating a thing that cannot happen; the resolution will pass, as will a law that will be reported in obedience to it.

The motion of Mr. HARRISON was not opposed, and was adopted.

#### INTERNAL IMPROVEMENTS.

Mr. TUCKER, of Virginia, from the committee appointed on so much of the President's Message as relates to roads, canals, and seminaries of learning, made a report in part, which was read, and committed to a Committee of the Whole House on Friday next. The report is as follows:

The committee, to whom was referred so much of the President's Message as relates to roads, canals, and seminaries of learning, respectfully report, in part, that they have taken into consideration the subject referred to them, and bestowed on it that attention to which, by its importance, it is so eminently entitled. Involving, as it is supposed, a great Constitutional question on the one hand, and intimately connected, on the other, with the improvement, the prosperity, the union, and the happiness of the United States, it presents the fairest claims to candid and diligent investigation. Nor is it without additional interest from the division of opinion to which it has heretofore given rise between the Executive and Legislative branches of the Government; a difference which, in the indulgence of the rights of free opinion, will be still found to exist between the sentiments promulgated in the Message of the President, and those which will be advanced by your committee in this report; nor do they conceive

that the expression in the Message of the President, of an opinion unfavorable to the Constitutional powers of the General Government, should be permitted to have any influence on the disposition of Congress to legislate on this interesting subject. For, if the Constitutional majority of the two Houses should differ with the Executive Department, the opinion of the latter, however respectable, must yield to such an expression of their will. On the other hand, if from deference to an opinion promulgated in an Executive communication, Congress should refrain from entering upon the consideration of a question involving Constitutional doctrine, it might happen that the opinion of the President would prevent the enactment of a law, even though there should be the Constitutional majority of two-thirds of both Houses in its favor. Thus, by the introduction of such a practice, the Presidential veto would acquire a force unknown to the Constitution, and the legislative body would be shorn of its powers from a want of confidence in its strength, or from indisposition to exert it. Whilst your committee are perfectly aware that nothing like this is contemplated by the Executive branch of the Government, they presume the House of Representatives will scrupulously avoid a course which may be construed into a dereliction of their privileges. They deem it, therefore, not improper to offer some considerations upon the question of the Constitutional powers of the General Government to pass laws for the improvement and construction of roads and canals, with the consent of the States.

As it is obvious, however, that these several subjects of legislation do not rest upon the same foundations, and that one of these may be within the sphere of the Constitutional powers of Congress, whilst the others may belong exclusively to the States, it is proposed to treat them separately; and the subject of the improvement and construction of public roads, which appears to your committee most clearly to be deducible to the powers vested in the General Government, will be first taken into consideration.

An accurate attention to the real points of difference on this subject, will greatly contribute to free the controversy from unimportant and irrelevant considerations. To attain this, we have only to compare what is manifestly admitted on the one hand, with what is claimed and contended for on the other.

The laws of antecedent Congresses, approved by successive Executive Magistrates themselves, will be resorted to, as affording evidence of what may be regarded as conceded to be within the powers of the General Government. The commendable jealousy which they have manifested of all encroachments of State power, and their scrupulous adherence to the most rigid principles of construction, in the interpretation of the Constitution, affords a sure guarantee that more has not been admitted than may fairly be assumed within the provisions of that instrument. Taking, then, the acts of both the Executive and Legislative branches of the Government for our guide, we shall find it clearly admitted that there are some cases, at least, in which the General Government possesses the Constitutional privilege of constructing and improving roads through the several States.

Thus, by the act of the 29th of March, 1806, confirmed, amended, and enlarged, by subsequent acts, a road was directed to be laid out and constructed from Cumberland, in the State of Maryland, to the State of Ohio, upon obtaining the consent of the States through which it should pass. The fund provided for this no-

ble undertaking, was to consist of the proceeds of the sales of certain lands, the property of the United States, in the State of Ohio; so that this act furnishes the double admission, that "roads may be laid out by Congress through the several States, with their consent;" and that the expenses of constructing such roads may Constitutionally be defrayed out of the funds of the United States. The act was approved by the President, in office, in 1806, and other acts confirming, amending, and enlarging it, were passed by subsequent Legislatures, in the years 1810, 1811, and 1815, and approved by the President, in office, at those periods; nay, more, the three last acts contained appropriations to the amount of \$210,000, payable out of any moneys in the Treasury, but reimbursable out of the Ohio fund; a fund which might or might not prove adequate, and which, in point of fact, is believed hitherto to have been insufficient.

Similar to this act in some of its provisions, and analogous in principle, are the acts of April 21st, 1806, and of the 3d of March, 1817, authorizing roads to be opened from Nashville and Reynoldsburg, in the State of Tennessee, to different points in the Mississippi Territory. But these acts go still further than the former, in omitting to require the previous consent of the State of Tennessee, through whose territories a part of the roads was to pass, and in directing the expenses of making them to be defrayed out of the public Treasury of the United States, without providing for its reimbursement in any manner whatsoever.

But lest the influence to be derived from these admissions should be deemed to be weakened by the consideration, that the collision of opinion on the Constitutional question has arisen since the passage of those laws, your committee will beg leave to refer to the date of the last act abovementioned, and to certain transactions of a date subsequent to the important and well remembered difference of opinion between the Executive and the Legislature at the last session of Congress. Since that period, they have satisfactory information that a road has been directed by the Executive of the United States to be improved, at the expense of the General Government, and doubtless for military purposes. This road is laid out from Plattsburg, or its vicinity, in the State of New York, to Sackett's Harbor, in the same State.

It is presumed that it is to be constructed at the expense of the General Government, and it is understood that the previous assent of the State has not been procured. From this act, therefore, of the Executive branch of the Government, emanating from that source at a late date, it would seem fair to infer, that the Constitution is admitted to have conferred upon the General Government a power, in some cases, to make roads, and to defray the expense of their construction out of the funds of the United States. And as the power is not denied in all cases, your committee will attempt to show that Congress has the power—

1. To lay out, improve, and construct, post roads through the several States, with the assent of the respective States. And,
2. To open, construct, and improve, military roads through the several States, with the assent of the respective States.
3. To cut canals through the several States, with their assent, for promoting and giving security to internal commerce, and for the more safe and economical transportation of military stores &c., in time of war; leaving, in all these cases, the jurisdictional right over the soil in the respective States.

In examining the soundness of these positions, your committee will not find it necessary to resort to what is called a liberal construction of the Constitution. They might, indeed, contend that as the powers here attributed to the United States are not in derogation of State rights, (since they can only be exercised by their assent) there is less reason for adhering to extreme rigor of construction. Where the authority claimed by the General Government is oppressive in its character, or dangerous in its tendencies; where it is asserted without deference to State assent, and in derogation of State power; where it is calculated to aggrandize the Union, and to depress its members, there may be some reason for holding the representatives of the nation to the "letter of their authority."

But where the power sought to be exercised is beneficial in its effects, and only felt in the blessing it confers; where it is not proposed to act, except with the assent of the party which is to be affected; where the measure is more calculated to increase the opulence and the power of the State, than to aggrandize the Union at its expense, it might fairly be contended that a less rigorous construction of the Constitution would be justifiable. It is neither unprecedented nor improper to construe the same instrument, liberally, where the interests of the contracting parties will be thereby promoted, and to adhere to a greater strictness where injury may arise to either by an interpretation too latitudinous. That the powers in question are neither dangerous in their tendencies, nor calculated to prove injurious to the States, would seem fairly inferable from the recommendation to amend the Constitution, and from the importance so justly attached to these objects on all hands.

But your committee, nevertheless, do not conceive it necessary to call to their aid the liberal principles of construction which the occasion might justify. They disavow any use of the general phrase in the Constitution to provide for the common defence and general welfare, as applicable to the enumeration of powers, or as extending the power of Congress beyond the specified powers; and they admit that to support their positions, it must appear that the powers contended for are expressly granted, or that they are both "necessary and proper" for carrying into execution some other express power.

That Congress, with the assent of the States respectively, may construct and improve their post roads, under the power "to establish post offices and post roads," seems to be manifest, both from the nature of things and from analogous constructions of the Constitution. It has been contended, indeed, that the word *establish*, in this clause of the instrument, comprehends nothing more than a mere designation of post roads. But if this be true, the important powers conferred on the General Government, in relation to the Post Office, might be rendered in a great measure inefficient and impracticable. In some States a power is vested in the inferior tribunals or county courts, to discontinue roads at their discretion; a post road designated by Congress might thus be discontinued, to the great embarrassment of the Post Office establishment. If the power to establish confers only the authority to designate, Congress can have no right either to keep a ferry over a deep and rapid river, for the transportation of the mails, or to compel the owners of a ferry to perform that service; and yet our laws contain an act, acquiesced in for more than twenty years, imposing penalties on ferrymen for detaining the mail and on other persons for retarding or obstructing its



passage. It would be difficult to discover how this power of imposing penalties can be supported, either as an original or accessory power except upon principles of more liberal construction than those now advanced. There are, therefore, not a few who believe that, under the authority to "establish" post roads, Congress have express power to lay out, construct, and improve roads for the transportation of the mails.

But, however this may be, the authority which is conferred by the Constitution to make all laws which shall be "necessary and proper" for carrying into execution the enumerated powers, is believed to vest in the General Government all the means, which are essential to the complete enjoyment of the privilege of establishing post offices and post roads. Even without this clause of the Constitution the same principle would have applied to its construction; since, according to common understanding, the grant of a power implies a grant of whatever is necessary to its enjoyment.

Taking these principles for our guide, it may be asked, if, under the narrow rules of construction contended for, the right of transporting the mails would not be held entirely at the will of the States respectively; on the other hand, if the United States have the privilege of establishing post roads, and are under the corresponding obligation of transporting the mails, is it not essential to the performance of this duty and to the enjoyment of this power, that they should have the right (with the assent of the respective States) to throw bridges over deep and rapid streams, to remove embarrassing and dangerous obstructions in the roads which they have the privilege of using, to level mountains which impede the velocity of transportation, and to render passable the morasses which intersect the roads through various parts of the Union? Can it be supposed, that the Convention, in conferring the power and imposing the duty of transporting the mails, (in its nature a matter of national concern,) intended to vest in Congress the mere authority to designate the roads over which it should be carried? Can it be denied, that the right to render a road passable is "necessary" to the enjoyment of the privilege of transporting the mails; or can it be denied that such improvement, with the assent of the States, is proper? And, if "necessary and proper," is it not justified as an incidental power?

It is indeed from the operation of these words, "necessary and proper," in the clause of the Constitution, which grants accessory powers, that the "assent of the respective States" is conceived to be a pre-requisite to the improvement even of post roads. For, however "necessary" such improvement might be, it might be questioned how far an interference with the State jurisdiction over its soil, against its will, might be "proper." Nor is this instance of an imperfect right in the General Government without an analogy in the Constitution; the power of exercising jurisdiction over forts, magazines, arsenals, and dock yards, depending upon previous purchase by the United States, with the consent of the State.

Admitting, then, that the Constitution confers only a right of way, and that the rights of soil and jurisdiction remain exclusively with the States respectively, yet there seems no sound objection to the improvement of roads with their assent. For if, by the 10th amendment, this right is reserved to the States, it is within the power of the State to grant it, unless the United States are incapable of receiving such a privilege. But by various acts of the Government, whose

validity has never been questioned, it appears to possess not merely the power of receiving so unimportant a privilege as this, but of acquiring territory *ad libitum*. The acquisition of Louisiana, one of the happiest events of our political history, evinces the power of this Government to acquire territory by treaty from foreign nations. The cession of the Northwest Territory by Virginia shows that, under the strict principles of the old Confederation, which had so few features of nationality, the United States were deemed to have the power of acquiring lands even from the States of the Confederacy. The Georgia cession, completed about the year 1802, is finally decisive of the practical and undisputed exercise of a power in the General Government to receive a cession of territory from any member in the Confederacy, under the present Constitution. But if the General Government have the power to aggrandize itself by the acquisition of Territories, can the inferior privilege be denied them of receiving from a State the right of making or repairing the roads over which they are compelled to transport the mails through the Union?

Moreover, it seems to be admitted that the United States have, since the Georgia cession, a Constitutional right to make and repair roads in the ceded territory. If, then, by the transfer of the territory, Georgia could give, and the United States receive, the right to make roads within it, it is difficult to imagine a substantial objection to the validity of a grant to make a road, without a transfer of the territory.

2. Your committee conceive that the General Government has the power of making and opening military roads with the assent of the respective States, with a view to the common defence of the nation.

The power of opening a road during actual hostilities, for the purpose of transporting military stores, and marching troops to points that are menaced, has never yet been called in question. In truth, without such a power, the United States must fall a prey to foreign enemies; so that it seems fair to assume, that, whenever a military road becomes necessary for the national safety, it is in the power of the General Government to construct it. Of this necessity, that Government can be the only judge; and if the power of judging of this necessity be in them, the Constitutional power to act must of course be conceded. In the exercise of this discretion, a very general sentiment at present prevails in favor of preparations during peace for a state of war. And if the power of judging when it is necessary be admitted, the Constitutional right to do it at any time must be allowed.

It is not proposed to enter upon the delicate inquiry whether this right can be exercised by the General Government without the assent of the respective States through whose territories a road is constructed in time of peace, with a view to military operations in any future wars. Leaving this question for discussion whenever the occasion may call it forth, your committee are content, in this report, to assert the right to exercise this "necessary" power with the assent of the States.

Having taken this cursory view of the principles of the Constitution, in relation to the construction of roads by the United States, it may not be unimportant to examine what has been the practice under its provisions. The laws of the Union and the acts of the Executive branch of the Government, though they cannot be relied on to support acknowledged error, may safely be referred to in aid of our inquiries as to the proper construction of the Constitution.

Among the most conspicuous of the analogies af-

forded by the acts of Congress, is the establishment of the Cumberland road already mentioned. This road has been constructed under the authority of the United States, with their funds, and through several of the States, with their assent. It has received the sanction of several distinct representative bodies, and of two Presidents of the United States. In short, if precedent alone were wanting, this act would furnish it.

Passing over the road from Nashville to Natchez, and the road from Reynoldsburg to a part of the late Territory of Mississippi, directed by an act of the last session of Congress, both of which afford precedents no less strong, we come to the military road lately directed by the Executive authority to be constructed, from Plattsburg or its vicinity, to Sackett's Harbor. This road is not to be constructed with any express assent of the State through which it passes, nor by the authority of Congress, but the President has deemed it necessary as a military road, and has ordered it to be made accordingly; a measure, the advantages of which are understood to be so palpable, as to have given great satisfaction in the country where the road is made. Hence, however, the question results, whether the exercise of this power by the President is not an express admission of the right of the General Government to open military roads even in time of profound peace, when they are believed to be necessary; and, if the power of judging of this necessity is possessed by the Executive, it cannot, it is presumed, be denied to the yet more important organ of the nation's will—the Legislature of the Union.

3. As to canals. It will not be necessary to recapitulate the arguments already used on the subject of roads, some of which will be found strongly applicable to canals. It may suffice to add, that the power to make canals and roads, for the promotion and safety of internal commerce between the several States, may justly be considered as not less incidental to the regulation of internal commerce than many of the powers exercised under the authority to regulate foreign commerce are accessory to that power. The embarrassments of the nation during war, from the want of good roads and canals, both in relation to trade and the transportation of cannon and military stores, have been too recently and sensibly felt to be forgotten. Vested with the power of making war, the Constitution could never have intended the General Government should make it under such disadvantages. If there be any part of that instrument which demands a liberal construction, it is that which confers on the Federal Government the power of making war, and the duty of protecting the Union from foreign hostility. With a Navy yet insufficient to insure the safe conveyance, coastwise, of troops, of implements of war, and military stores, and destined to contend with an enemy whose command of the sea enables them to assail, in rapid succession, the most distant positions, we have been compelled, from the want of an internal water communication, to encounter the most wasteful extravagance in the transportation of the means of defence. From the same cause, the internal trade between the States has been, during war, trammelled and embarrassed, and even cut off; and the productions of one portion of the community have rotted on their hands, while distant parts of the United States were suffering for the want of them.

It is true that the wants of the Union cannot confer power under the Constitution; but they may justly be touched upon as affording aid in its construction. They must have been clearly foreseen, and must have

been supposed to be provided for. If the power to carry on war implies "the necessary and proper" means of conducting it to a safe and proper issue, and if, without the use of these means, the burdens, and the privations, and the miseries of war, are to be indefinitely increased, and its issue (always doubtful) rendered yet more precarious and unprosperous, are we not justified in presuming these means to have been contemplated as being vested in the General Government? Are we not justified in asserting this "necessary" power—the power of constructing roads and canals—at least with the assent of the States?

If your committee have not erred in attributing to Congress a Constitutional power to make roads and canals, either as an original or accessory power, it would seem that no doubt could remain of the right of applying our revenues to those purposes. If, indeed, the power was denied to the General Government of constructing roads and canals themselves, a question might still arise, whether it had not power to appropriate part of the revenue "to aid in the construction of roads and canals by the States."

There is perhaps no part of the Constitution more unlimited than that which relates to the application of the revenues which are to be raised under its authority. The power is given "to lay and collect taxes to pay the debts and provide for the common defence and general welfare of the United States;" and though it be readily admitted, that, as this clause is only intended to designate the objects for which revenue is to be raised, it cannot be construed to extend the specified powers of Congress, yet it would be difficult to reconcile either the generality of the expression or the course of administration under it, with the idea that Congress has not a discretionary power over its expenditures, limited by their application "to the common defence and general welfare."

A few of the very great variety of instances, in which the revenues of the United States have been applied to objects not falling within the specified powers of Congress, or those which may be regarded as incidental to them, will best illustrate this remark.

Thus, it can scarcely be conceived, that, if construed with rigor, the Constitution has conferred the power to purchase a Library, either specifically or as a "necessary" incident to legislation. Still less, perhaps, can the pious services of a Chaplain, or the purchase of expensive paintings for ornamenting the Hall of session, or various other expenditures of similar character, be considered as "necessary" incidents to the power of making laws. Yet, to these and to similar objects have the funds of the United States been freely applied, at every successive session of Congress, without a question as to the constitutionality of the application.

It would be yet more difficult to reduce, under the specific or accessory powers of Congress, the liberal donation to the wretched sufferers of Venezuela, or the employment of our revenues in the useful and interesting enterprise to the Pacific.

The bounties allowed for the encouragement of the fisheries form another expenditure that does not fall under any of the powers granted by the Constitution; nor could it fairly be considered as inferrible from the powers granted, upon the strict principles sometimes contended for. The same objections would apply to actual bounties paid to manufacturers for their encouragement, and to the indirect encouragement given to them, and which operates as a bounty to one class of the community and as a tax upon the rest. These and



H. OF R.

Commutation of Soldiers' Pay.

DECEMBER, 1817.

variety of other appropriations can only be justified upon the principle that the general clause in question has vested in Congress a discretionary power to use for the "general welfare" the funds which they are authorized to raise.

Nor is there any danger that such a power will be abused, while the vigor of representative responsibility remains unimpaired. It is on this principle that the framers of the Constitution mainly relied for the protection of the public purse. It was a safe reliance. It was manifest that there was no other subject on which representative responsibility would be so great. On the other hand, while this principle was calculated to prevent abuses in the appropriations of public money, it was equally necessary to give an extensive discretion to the legislative body in the disposition of the revenues; since no human foresight could discern, nor human industry enumerate, the infinite variety of purposes to which the public money might advantageously and legitimately be applied. The attempt would have been to legislate, not to frame a Constitution; to foresee and provide specifically for the wants of future generations, not to frame a rule of conduct for the legislative body. Hence proceeds the use of this general phrase in relation to the purposes to which the revenues may be applied, while the framers of the instrument, in the clause which concludes the enumeration of powers, scrupulously avoid the use of so comprehensive an expression, and confine themselves to the grant of such incidental power as might be both "necessary and proper" to the exercise of the specified powers.

Nor is it conceived that this construction of the Constitution is calculated to give that unlimited extent to the powers of the Federal Government which by some seems to have been apprehended. There is a distinction between the power to appropriate money for a purpose, and the power to do the act for which it is appropriated; and if so, the power to appropriate money "for the general welfare" does not by fair construction extend the specified or incidental powers of Government. Thus, in the case under consideration, if the power to make a road or dig a canal is not given, the power of appropriating money cannot confer it, however generally it may be expressed. If there were no other limitation, the rights of the respective States over their soil and territory would operate as a restriction.

What this appears to be a safe as well as fair construction of the Constitution, it is also that which has been practically given to it since the origin of the Government. Of this, the instances already mentioned furnish some evidence; and it is apprehended, that, upon the rigid principles of construction asserted both in regard to the enumeration of powers and the appropriation of revenue, the acts of the Federal Government, including all its branches, will exhibit a continued series of violations of the Constitution, from the first session after its adoption, to the present day.

It would behoove us to turn over the statute book, and deliberately examine how, upon these principles, the laws giving bounties to fishermen; encouraging manufactures; establishing trading-houses with the Indians; erecting and constructing beacons, piers, and light-houses, purchasing libraries; adorning with paintings the Chamber of Congress; giving charity to suffering foreigners; constructing roads through the different States; and establishing banks—can be reconciled to the provisions of the Constitution. If as has been

remarked by high authority,\* the Constitutional question can be "precluded by repeated recognitions, under varied circumstances of the validity" of the exercise of power by Congress, "in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation," the advocates for these powers in the General Government can find little difficulty in supporting the pretension.

From all these considerations, your committee submit it as their opinion, that Congress has the power to construct roads and canals through the several States, with the assent of the States, on such terms as may be agreed on, leaving the jurisdictional rights in the States, respectively. To these and other national improvements, which may be found to be within the Constitutional powers of the Government, they think it advisable that the interest of the Government in the Bank of the United States should be appropriated. They forbear to give greater length to this report, by enlarging on the important advantages to be derived from these national improvements. They also forbear at this time to offer the details of any plan upon the subject, presuming it most proper to obtain the sense of the House of Representatives, in the first instance, on the general proposition. For this purpose, they respectfully submit the following resolution:

*Resolved*, That, in order to promote and give security to the internal commerce among the several States; to facilitate the safe and expeditious transportation of the mails, by the improvement of post roads, with the assent of the respective States; to render more easy and less expensive the means and provisions necessary for the common defence, by the construction of military roads, with the like assent of the respective States; and for such other internal improvements as may be within the Constitutional powers of the General Government;—it is expedient that the sum to be paid to the United States, by the twentieth section of the act to incorporate the subscribers to the Bank of the United States, and the dividends which shall arise from their shares in its capital stock, be constituted as a fund for internal improvement.

#### COMMUTATION OF SOLDIERS' PAY.

The House then resolved itself into a Committee of the Whole on the bill for the commutation of soldiers' pay.

Mr. JOHNSON, of Kentucky, as chairman of the Military Committee, stated a number of facts bearing on the subject of the bill. The number of men in the service at the close of the war was ascertained to have been 34,000; the number who died in service or were killed in battle was estimated at about 17,000; making in the whole about 50,000 soldiers (and heirs of soldiers) entitled to the bounty in land. For this number eight millions of acres would be required. But it was a number overrated; and he did not believe that 40,000 would come forward to claim the land bounty. Of the whole number of 50,000, he calculated that not more than half would commute for money—say 25,000. To pay this number the proposed commutation would require five millions of dollars, or 1,250,000 annually for four

\* The Message of the President, in 1814, returning the Bank bill of that year.

DECEMBER, 1817.

Proceedings.

H. OF R.

years; which mode of payment had been selected as well with a view to the benefit of the soldiers as to the relief of the Treasury. The committee, he said, had no doubt but the annual proceeds from the very land commuted would be sufficient to defray the whole amount; which would remove all objections of a financial nature, and he was not aware of any other. The measure, he hoped, would have the effect of cutting off all speculation, of which there was so much complaint, and by which the soldier was deprived of his rights under the influence of his necessities.

A debate of some length arose on this bill, and particularly on its details, which did not, however, result in any final decision. Among others—

Mr. HOLMES, of Massachusetts, doubted much the policy of the bill, and feared that Congress, in passing it, would be legislating for the benefit of the speculator, and not of the soldier. To obviate this effect as far as he could, he proposed an amendment, going to defer the operation of the bill to a distant day, that general notice might be given of it.

Mr. CLAY (the Speaker) supported the measure by much zeal, and by arguments favorable to the soldier, and adverse to the speculator. He did not, however, entirely approve of the details of the bill; to which he moved amendments, going to exclude any but original grantees from the benefit of the provision, and reducing the commutation to one hundred dollars for every 160 acres, and two hundred dollars for every 320. These amendments, however, he waived for the present, to give place to a motion to strike out the first section of the bill, in order to try the principle of the bill.

Mr. HOLMES, of Massachusetts, Mr. STORRS, of New York, Mr. SMITH, of Maryland, and Mr. CLAGETT, of New Hampshire, successively expressed their fears that it would be impossible so to arrange the details of the bill as to prevent its being converted to the benefit of the speculator. That the object of the bill is laudable was allowed; but, in addition to the objections of mere detail, it was also suggested, by some one or other of the gentlemen, that Congress had done their duty liberally, and had no need to do more; that the public funds could be better employed, if to spare; and, finally, that, if Congress once legislated on the subject, they would never see the end of supplementary laws, and individual claims for relief.

To all which Mr. CLAY briefly replied, that objections to the present details of the bill were no arguments at all, because the bill was open to amendment, and all that was necessary could be made, the House having once decided the principle. The principle of commutation he showed was so far from new, that Congress had already adopted it in regard to the heirs of deceased soldiers, allowing them the option of a limited pension in lieu of bounty land.

On the suggestion of Mr. LIVERMORE, of New Hampshire, the subject having been opened, and

opinions interchanged on it, to give time to reflect more upon them, the Committee rose, reported progress, and obtained leave to sit again.

And the House adjourned.

TUESDAY, December 16.

Mr. WILLIAM P. MACLAY and Mr. SERGEANT respectively presented petitions of sundry inhabitants of the State of Pennsylvania; which petitions respectively pray that additional duties may be imposed on pig iron, castings, and bar iron imported into the United States.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. WILLIAMS, of North Carolina, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post road, from Norfolk, in Virginia, by the Great Falls of the Roanoke, in North Carolina, and through the town of Danville, in Virginia, to the State of Tennessee.

On motion of Mr. WHITMAN, the Committee on Pensions and Revolutionary Claims were directed to inquire into the expediency of continuing the pensions granted to invalids of the Army, who served in the late war, in case of their decease before the expiration of the term of five years, from the time of granting the same, to the widow or children of such deceased invalid, if any he has left, or shall leave, to the end of the said term.

On motion of Mr. ALEXANDER SMYTH, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing Henry Leonard, a soldier in the militia, who had his right arm disabled by the accidental discharge of a musket, while in the service of the United States, at Norfolk, on the list of pensioners.

On motion of Mr. TALLMADGE, the Secretary of State was directed to communicate to this House a copy of the account of M. M. Noah, late Consul of the United States at Tunis, and a copy of any instructions given to him by the Department of State, respecting the ransom of prisoners at Algiers; and any information in his Department relative to the application, by M. M. Noah, of any moneys in his hands, as such Consul.

On motion of Mr. COBB, the Committee on the Judiciary were instructed to inquire into the expediency of repealing so much of the third section of an act, entitled an "Act to establish a separate territorial government for the eastern part of the Mississippi Territory," as requires "that no judge shall sit more than twice in succession, in the same court;" and, also, so much of the said section as require more than one general court to be holden in each year, at the seat of government of said Territory.

On motion of Mr. SERGEANT, the Clerk of the House was directed to procure, for the use of the House, three copies of Dallas's Reports, three copies of Cranch's Reports, and three copies of Wheaton's Reports.

A message from the Senate informed the House



that the Senate have passed the bill, entitled "An act to abolish the internal duties," with amendments, in which they ask the concurrence of this House.

The following resolution was submitted by Mr. BASSETT.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the daily compensation of the members of the Senate and House of Representatives, and Delegates for Territories, shall, until further provided for by law, be the same as in the year 1813.*

The resolution was read; and, on the question, Will the House now proceed to consider the same? it was determined in the negative.

Mr. HERBERT, of Maryland, reported a bill, to incorporate the Columbian Insurance Company of Alexandria; which was twice read, and committed.

Mr. NELSON, of Virginia, from the Committee on the Judiciary, made an unfavorable report on the petition of Richard Jeffries; which was ordered to lie on the table.

On motion of Mr. SCOTT, Delegate from Missouri Territory, it was

*Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of providing, by law, for the better regulating the leasing and working the public lead mines belonging to the United States in the Missouri Territory, in such a manner as to protect the leasees in the quiet enjoyment of their leases, and to enable the Government to collect its rents.*

*Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of providing, by law, for the leasing and working the Salines belonging to the United States in the Missouri Territory, on such part thereof as it shall be deemed advisable to put into operation for public use.*

#### CERTIFICATES AND INDENTS.

Mr. RHEA, of Tennessee, offered for consideration the following resolution:

*Resolved, That the Committee on Pensions and Revolutionary Claims be instructed to inquire into the expediency of suspending, for one year, so much of the act, entitled "An act making further provision for the support of the public credit, and for the redemption of the public debt," passed the third day of March, 1795, as bars from settlement or allowance certificates, commonly called loan-office and final settlement certificates, and indents of interest.*

Mr. R. said, that it was well known that, in June, 1798, a law was passed, suspending the operation of the statute for one year, and giving that time for the settlement of outstanding Revolutionary claims. He had heard it said, of a former Committee of Claims, that, while this statute existed in force, hope could not enter the door of the chamber in which they sat. Such certainly at present was the case with the Committee of Pensions and Revolutionary Claims, of which he was a member. He could see no possible reason why the just claims outstanding against the Govern-

ment since the Revolutionary war, should not now be liquidated and paid off. On this subject, if it were necessary, Mr. R. observed that he could say a great deal. He had often felt warm when he had heard reports made in this House adverse to the just claims of such petitioners; and it was with no little violence to his own feelings that he had been compelled to make the report of yesterday, which had been ordered to lie on the table. He hoped his present motion would be agreed to, and that the committee would report a bill to suspend the operation of the act of limitation for one year at least. The nation, he said, was rich. The time had been when claims of this character had been laid over on the plea of poverty; that reason existed no longer, and he hoped that all just claims against the Government would now be paid.

The resolution was agreed to without opposition.

#### NATIONAL FLAG.

Mr. WENDOVER submitted for consideration the following resolution:

*Resolved, That a committee be appointed to inquire into the expediency of altering the flag of the United States, and that they have leave to report by bill or otherwise.*

Mr. W. said, in submitting this motion, that he should make but few remarks on this subject, not being a novel one; a bill relative thereto having been reported at the last session, but laid over from the pressure of business deemed of more importance. Had the flag of the United States never have undergone an alteration, he certainly should not, he said, propose to make a further alteration in it. But, having been altered once, he thought it necessary and proper that an alteration should now be made. It was his impression, and he thought it was generally believed, that the flag would be essentially injured by an alteration on the same principle as that which had before been made, of increasing the stripes and the stars. Mr. W. stated the incongruity of the flags in general use, (except those in the Navy,) not agreeing with the law, and greatly varying from each other. He instanced the flags flying over the building in which Congress sat, and that at the Navy Yard, one of which contained nine stripes, the other eighteen, and neither of them conformable to the law. It was of some importance, he conceived, that the flag of the nation should be designated with precision, and that the practice under the law should be conformed to its requisitions.

The motion was agreed to without opposition.

#### PETITION OF JOSEPH FORREST.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petition of Joseph Forrest, made a report unfavorable to the prayer of said petition; which was read, and concurred in. The report is as follows:

That the petition, with accompanying documents, was, by a resolution passed on the 26th of February

last, referred to the Secretary of State; that, in compliance with said resolution, the Secretary has submitted to the House of Representatives a report, which the committee beg leave to insert in their report, with a view to bring the subject more distinctly before the House.

The report of the Secretary of State appears to the committee to be final as to one point, viz: that the United States were charterers, but not insurers of the voyage, and, therefore, are not liable, by any principle of contract or retributive justice, to the petitioner. And although the committee perfectly accord in the generous sympathies expressed for the sufferings of a fellow-citizen, yet they cannot think it would be right for Congress, in this case, to follow the impulse of those feelings. On this point, however, the Secretary of State has given no opinion, but submits it to the discretion of the Legislature.

The claim may present itself in a point of view still stronger, when we reflect that the sufferings of the petitioner have been induced by embarking on a voyage for charitable purposes to a distant land. But the committee think we should not in the meantime forget that the relief afforded to foreigners in distress proceeded alone from the munificence of the Government. The petitioner had only the custody of the benefaction, not an interest in it; he asked, and no doubt received, for the use and risk of his vessel, precisely the same as if it had been destined to pursue "a voyage of ordinary traffic or indifferent intercourse." The petitioner cannot, in the opinion of the committee, be entitled to share with Government the beneficence of character which this transaction might impart. In deciding the case, therefore, they must return to the more regular, better settled, and, in their opinion, safer principles of justice, as applicable to an ordinary contract. And here the committee are happy to say again, that the opinion of the Secretary of State is in perfect accordance with their own, "that the United States are not bound by their covenants to indemnify the petitioner for his loss." They think this the only safe criterion to be adopted by Congress. The feelings of generosity are too indefinite to be admitted as a rule of conduct in a series of legislative acts.

Individuals may—yes, it is their duty to bestow seasonable gratuity on meritorious objects; but on individuals these demands will be limited. The number of them, if satisfied to their full extent, cannot be supposed to draw after them intralment and distress as a consequence to the benefactor. If they did, they would cease to be obligatory; for it is a plain rule of morality, that, to take from those who want in order to give to those who want, adds nothing to the sum of human happiness.

Of a nature similar to acts of individual beneficence was the measure of the Government for relieving the inhabitants of Venezuela from the afflicting calamities of an earthquake. Our own citizens, similarly situated would be entitled to, and would unquestionably receive, the most active, the most liberal munificence of Government. But the case of the petitioner is of a different kind; he prays relief from an ordinary accident, a common casualty, the loss of a vessel, such as might happen every day. Once adopt the principle that cases of this sort are to be relieved, and who can define the limit at which it may be possible to withhold munificence from the claims of suffering and distressed humanity? Every vessel wrecked at sea; every house consumed by fire; every field devastated by storm; in

short, every accident resulting from any fortuitous concussion of elements, either natural or moral, would be the basis of an equal claim to your indulgent consideration. That they would multiply beyond all proportion to your ability to meet them, needs no comment to make it obvious to the House. Not only so, but distress in assumed, if not hypocritical forms, might assail you, till the burden imposed on the citizens for the purposes of general or unlimited relief would far exceed the misfortunes you should propose to alleviate. The committee think they see great danger in acting on such extended (perhaps some would say generous) principles. They see, on the other hand, great safety, if not a paramount duty, in conforming their decisions to the simple precepts of justice. If in the present case Congress should grant relief, may not a great number of cases, appealing with equal force to your generosity, arise during the present session? Allow one, and all of them must be entitled to the same benevolent respect, or Congress would be liable to the charge of invidious discrimination. It requires only a moderate foresight to discover that, instead of performing the duties assigned them by their constituents, instead of attending to the general concerns of the nation, Congress must, in a few years, be altogether employed in acts of charity and beneficence to individuals. Such a result, the committee think, would be as incompatible with the duties they owe their fellow-citizens, with that vigilance and attention generally to the affairs of the people whom they represent, as it would be inconsistent with the rules of wholesome legislation. They, therefore, recommend to the House the following resolution:

*Resolved, That the prayer of the petition ought not to be granted.*

The Secretary of State, to whom, by a resolution of the House of Representatives of the 26th of February last, were referred the petition of Joseph Forrest, and the documents accompanying the same, has the honor of submitting the following report:

In the month of May, 1812, the schooner William Yeaton, George Travers, master, belonging to the petitioner, was chartered, at New York, by James Christie, as agent of the Government of the United States, to carry from New York to Laguayra, in South America, a cargo of flour, being part of a donation granted by the Congress of the United States to the inhabitants of that country, which had recently been afflicted by the calamity of an earthquake. In the charter-party for his voyage, the petitioner's agent, George Davis covenanted, among other things, that the said schooner should "be made ready, fitted, and provided by the said George Davis with all necessary and convenient things for such a schooner bound on the proposed voyage, and furnished with sufficient men and all other necessities during said voyage;" and the United States covenanted to pay for the cargo to be put on board the said schooner by them at the rate of one dollar and fifty cents for every barrel of flour, seventy-five cents for every half-barrel of the same, and forty cents for every bushel of corn, as the full freight and compensation for the proposed voyage, with a deduction of five per cent. for payment before the vessel sailed from New York; and it was agreed that the petitioner's agent, George Davis, should have the privilege of carrying to Laguayra on board of said schooner four passengers.



These were all the covenants stipulated on the part of the United States in the charter-party.

The vessel sailed from New York on the 28th of May, provided with a special passport, under the seal of the United States and the signature of the President, declaring that she was bound from the port of New York with a cargo of provisions intended as a donation from the Government of the United States to the unfortunate inhabitants of Venezuela, who had suffered by the late earthquakes there. She arrived at Laguayra on the 1st of July, 1812.

Before she had entirely discharged her cargo, the place, which had been in a state of revolt against the authority of Spain, was taken by the royal forces, and the vessel, with several others alike situated, was seized and condemned for a breach of the Spanish colonial laws, in going to the place without permission from any Spanish authority. The sentence of the court alleges that it was notorious to all the inhabitants of the United States, having been published in the gazettes, that all foreign vessels going to Laguayra, then in a state of insurrection, without a certificate of the Spanish Consul at the port of their departure, would, by virtue of repeated royal ordinances, be seized and confiscated; that, had the object of the Government of the North really been to relieve the unhappy inhabitants of Venezuela, who had suffered the desolation of an earthquake, the Spanish Consul could not have refused the aforesaid certificates when applied to such acts of humanity; and hence the court inferred it as clear that the sole object of the Government of the United States was to support the people of Venezuela in the obstinacy of their criminal independence; and that the voyage of the vessels in question, of which the petitioner's schooner was one, was to infringe the royal Spanish regulations, or to elude their fulfilment under such pretexts.

In the ensuing month of October the vessel was restored to Captain Travers, at the instance of Don Onis. A survey was made of her by four masters of American vessels, under authority of the Consul, Mr. Lowry, to ascertain the damages to the owner occasioned by the detention. They reported that the vessel had not suffered much damage; but they awarded to the owner twenty-four dollars a day demurrage for eighty-nine days of detention, from the day of her seizure to that of her restoration.

In the meantime, the war between the United States and Great Britain had commenced. It was impracticable for Captain Travers to freight, or even to bring back the vessel to the United States. He was obliged to sell her for the payment of the necessary expenses; and the proceeds of the sale were inadequate to defray them.

The loss was total. The only question is, upon whom must it fall—the United States or the petitioner? No express covenant in the charter-party binds the United States to indemnify the owner for arrest or detention of the vessel by a foreign Prince or State. It is not perceived that there was any implied contract to that effect. It was a subject to be covered by a policy of insurance, like the dangers of the sea. The United States were charterers, but not insurers of the voyage.

There is another point of view in which the question may be placed, more favorable to the claim of the petitioner, but upon which it must rest with the discretion of the Legislature to decide. The real object of the voyage was to perform a national act of benefi-

cence and humanity for the relief of foreigners suffering under one of the most awful visitations of Heaven—an earthquake. It also happened that they were, at the time, suffering under a calamity no less dreadful, though inflicted by their fellow-creatures—they were in a state of civil war. The authority of the sovereign against whom they were struggling was at that time not recognised in the United States. There was no Spanish consul, acknowledged as such by the Government of the United States, and to whom the petitioner or master of the vessel could have applied to obtain that certificate which, in the estimation of the royal authorities at Laguayra, was indispensable to save her from seizure and confiscation. Those royal authorities, in a state of expulsion when the vessel was chartered and sailed from New York, by one of the vicissitudes of the war recovered possession of Laguayra immediately after the arrival of the vessel there. The seizure and confiscation of the vessel were not occasioned, therefore, by any fault or neglect of the master of the vessel, or of its owner.

The object of the American Government was not, as the passions of the moment misconstrued it, to foster and foment rebellion; it was not even ordinary traffic or indifferent intercourse. It was a virtuous impulse of the highest order; it was beneficence, to relieve the distress of other nations and tongues. In the fervor of this generous sentiment, if the Congress justly concluded that they were discharging their most imperative duty to their constituents by appropriating their money to alleviate the distresses of a distant and foreign land, would not the same, or at least a congenial sentiment, warrant them in extending their bounty to their own citizens, who, in the very act of carrying their munificence into effect, fall into unmerited misfortune? Will they suffer their own countryman to find his ruin in the very fulfilment of their gratuitous kindness to foreigners? As an ordinary question upon a contract, the subscriber respectfully reports it as his opinion that the United States are not bound by their covenants to indemnify the petitioner for his loss. Whether the consistency of benevolence, in a transaction founded altogether upon the basis of sacrificing pecuniary interest to a higher principle, requires that the prayer of the petitioner should be granted, he is bound to leave to the beneficent feeling and deliberate judgment of the House.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

#### COMMUTATION OF SOLDIERS' PAY.

The House resumed the consideration, in Committee of the Whole, on the bill for the commutation of soldiers' pay.

The question being on striking out the first section of the bill—

Mr. SAWYER, of North Carolina, opposed the bill by a variety of arguments, but principally on the ground of the heavy demand it would create on the Treasury. Money, he said, was power. He did not wish to live to see another empty Treasury. We had enough of that during the last war; and if that war had continued another year, he did not know what would have been the consequence. After advancing various illustrations of the value of a full Treasury, Mr. S. added, that he considered this bill as merely offering a premium on speculation. It was surpris-

ing, he said, how industrious we are when we get a little money into the Treasury to get it out again—no prodigal was ever more anxious to lavish a rich inheritance. For his part, he wished that there could be stationed at the door of the Treasury an angel with a flaming sword, to prohibit entrance to all who had not a pass from the Genius of Economy, and countersigned by the hand of Justice.

Mr. CLAY (Speaker) rose to read to the House a new bill, by way of amendment to that now under consideration, which he should propose, if the House decided to reject the motion now pending. The proposed amendment consisted of several sections, providing distinctly for the three classes of those who had obtained patents, those who had obtained warrants, and those who had as yet applied for neither; provisions calculated equally to guard the Treasury, Mr. C. conceived, and to protect the interest of the soldier; and so worded, as to exclude from the benefit of the act all but original grantees, holding in their own possession the evidence of their right to the commutation. Mr. C. explained the operation which he anticipated to the various provisions of the bill. With regard to the doubts which had been expressed of the legislative power, Mr. C. said he had not the remotest doubt, and could not conceive of a doubt on the subject. Neither had he the smallest doubt that any contract made with any soldier for his right to bounty land, prior to the emanation of his patent, was totally void. The speculation which was anticipated in the quality of the land, by which the best would be retained by the soldier or bought by the speculator, and the worst be returned, by the process of commutation, to the Government, was guarded against in the amendment he had read. Mr. C. said, he believed, indeed, that the Government could not make a better speculation than in the repurchase of the public domains, which, he was compelled to admit, with the gentleman from Maryland, (Mr. SMITH,) had been rather wastefully bestowed; in a manner justified, however, by the circumstances of the times, when men were wanting, and we had no money, but had land in plenty to offer them. The amount of money the measure might draw from the Treasury would be most economically applied by such an appropriation of it as he advocated.

Mr. DESHA, of Kentucky, thanked his colleague for the amendment he had proposed. He was perfectly satisfied, he said, that there was not a man in the House who had not sympathized with the soldiers in the sacrifices they were obliged to make of their land; he was satisfied the proposed amendment would obviate the objections which had been suggested to the measure, and benefit the Government and the soldier, and not the speculator. If the amount of commutation were fixed at one dollar per acre, the soldier would know he could get \$160 for his land, and the speculator must bid higher. Mr. D. was satisfied that all the lands were worth two dollars per acre, and the Government would be a great gainer by such commutations as were made. Mr. D. expressed

his hope, therefore, that the motion to destroy the bill would be withdrawn.

Mr. STORRS, of New York, was opposed to the proposition for commutation in any shape, contending that its operation would be to benefit the speculator, and not the soldier whom it proposed to relieve. He went into a view of the mode in which it would have this operation. The soldier could not, he said, present in person his patent, warrant, or claim at the Treasury; it would cost him, generally, more than the whole value of his land to do it. He must do it by deputy; and this bill would give greater facility to the speculator than he now possesses of filching from the soldier the greater part of his commutation, which to receive would require a mere order from the soldier, after his patent or relinquishment was deposited, in favor of any man who should have shaved it for him. To pass the proposed bill would be merely sowing a new crop of dragon's teeth, from which would spring up a fresh set of harpies, worse than those of which we now complain. The value of the land was daily better understood and appreciated by the soldier as well as the public, and the danger of his being imposed on, Mr. S. suggested, would every day be lessened. He could not well imagine, he said, under what right of legislation the right of the patentee to the land could, after a specified time, be barred, as proposed in the amendment which had been read by the Speaker; or how his vested right to the fee simple of the land could be taken from him by any subsequent act of Congress. Mr. S. made sundry other objections of detail to the measure of commutation, all which combined assured him it would be a measure worse than useless to the soldier, and not beneficial to the Government.

Mr. HARRISON, of Ohio, advocated the bill, and replied to the main objections which had been proposed to its proposed details. He considered the measure highly important to the Government, and to the soldiers, and equally beneficial to both, and deprecated its being defeated by arguments against details susceptible of amendment in such a manner as to obviate the objections. The claimants, he believed, would be at no cost, as suggested by Mr. STORRS, in procuring their commutation. He would answer for all the Western country, that their Representatives in Congress would, with pleasure, perform the duty gratuitously for them, and he hoped he might, in like manner, answer for those from New York. He believed the passage of such a law would have the valuable effect to take the soldier out of the hands of the speculator, without the Government being called upon to purchase but a very small proportion of these lands. As to the idea of speculations in good or in bad lands, Mr. H. said the laws of the country provided that the soldier should have good land for his bounty; and if, among the land set apart for satisfying the soldier's claims, there was any bad land, it ought to be thrown back on the Government. A part of the land surveyed had been reserved as bad, and if more of the indifferent land



These were all the covenants stipulated on the part of the United States in the charter-party.

The vessel sailed from New York on the 28th of May, provided with a special passport, under the seal of the United States and the signature of the President, declaring that she was bound from the port of New York with a cargo of provisions intended as a donation from the Government of the United States to the unfortunate inhabitants of Venezuela, who had suffered by the late earthquakes there. She arrived at Laguayra on the 1st of July, 1812.

Before she had entirely discharged her cargo, the place, which had been in a state of revolt against the authority of Spain, was taken by the royal forces, and the vessel, with several others alike situated, was seized and condemned for a breach of the Spanish colonial laws, in going to the place without permission from any Spanish authority. The sentence of the court alleges that it was notorious to all the inhabitants of the United States, having been published in the gazettes, that all foreign vessels going to Laguayra, then in a state of insurrection, without a certificate of the Spanish Consul at the port of their departure, would, by virtue of repeated royal ordinances, be seized and confiscated; that, had the object of the Government of the North really been to relieve the unhappy inhabitants of Venezuela, who had suffered the desolation of an earthquake, the Spanish Consul could not have refused the aforesaid certificates when applied to such acts of humanity; and hence the court inferred it as clear that the sole object of the Government of the United States was to support the people of Venezuela in the obstinacy of their criminal independence; and that the voyage of the vessels in question, of which the petitioner's schooner was one, was to infringe the royal Spanish regulations, or to elude their fulfilment under such pretexts.

In the ensuing month of October the vessel was restored to Captain Travers, at the instance of Don Onis. A survey was made of her by four masters of American vessels, under authority of the Consul, Mr. Lowry, to ascertain the damages to the owner occasioned by the detention. They reported that the vessel had not suffered much damage; but they awarded to the owner twenty-four dollars a day demurrage for eighty-nine days of detention, from the day of her seizure to that of her restoration.

In the meantime, the war between the United States and Great Britain had commenced. It was impracticable for Captain Travers to freight, or even to bring back the vessel to the United States. He was obliged to sell her for the payment of the necessary expenses; and the proceeds of the sale were inadequate to defray them.

The loss was total. The only question is, upon whom must it fall—the United States or the petitioner? No express covenant in the charter-party binds the United States to indemnify the owner for arrest or detention of the vessel by a foreign Prince or State. It is not perceived that there was any implied contract to that effect. It was a subject to be covered by a policy of insurance, like the dangers of the sea. The United States were charterers, but not insurers of the voyage.

There is another point of view in which the question may be placed, more favorable to the claim of the petitioner, but upon which it must rest with the discretion of the Legislature to decide. The real object of the voyage was to perform a national act of benefi-

cence and humanity for the relief of foreigners suffering under one of the most awful visitations of Heaven—an earthquake. It also happened that they were, at the time, suffering under a calamity no less dreadful, though inflicted by their fellow-creatures—they were in a state of civil war. The authority of the sovereign against whom they were struggling was at that time not recognised in the United States. There was no Spanish consul, acknowledged as such by the Government of the United States, and to whom the petitioner or master of the vessel could have applied to obtain that certificate which, in the estimation of the royal authorities at Laguayra, was indispensable to save her from seizure and confiscation. Those royal authorities, in a state of expulsion when the vessel was chartered and sailed from New York, by one of the vicissitudes of the war recovered possession of Laguayra immediately after the arrival of the vessel there. The seizure and confiscation of the vessel were not occasioned, therefore, by any fault or neglect of the master of the vessel, or of its owner.

The object of the American Government was not, as the passions of the moment misconstrued it, to foster and foment rebellion; it was not even ordinary traffic or indifferent intercourse. It was a virtuous impulse of the highest order; it was beneficence, to relieve the distress of other nations and tongues. In the fervor of this generous sentiment, if the Congress justly concluded that they were discharging their most imperative duty to their constituents by appropriating their money to alleviate the distresses of a distant and foreign land, would not the same, or at least a congenial sentiment, warrant them in extending their bounty to their own citizens, who, in the very act of carrying their munificence into effect, fall into unmerited misfortune? Will they suffer their own countryman to find his ruin in the very fulfilment of their gratuitous kindness to foreigners? As an ordinary question upon a contract, the subscriber respectfully reports it as his opinion that the United States are not bound by their covenants to indemnify the petitioner for his loss. Whether the consistency of benevolence, in a transaction founded altogether upon the basis of sacrificing pecuniary interest to a higher principle, requires that the prayer of the petitioner should be granted, he is bound to leave to the beneficent feeling and deliberate judgment of the House.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

#### COMMUTATION OF SOLDIERS' PAY.

The House resumed the consideration, in Committee of the Whole, on the bill for the commutation of soldiers' pay.

The question being on striking out the first section of the bill—

Mr. SAWYER, of North Carolina, opposed the bill by a variety of arguments, but principally on the ground of the heavy demand it would create on the Treasury. Money, he said, was power. He did not wish to live to see another empty Treasury. We had enough of that during the last war; and if that war had continued another year, he did not know what would have been the consequence. After advancing various illustrations of the value of a full Treasury, Mr. S. added, that he considered this bill as merely offering a premium on speculation. It was surpris-

ing, he said, how industrious we are when we get a little money into the Treasury to get it out again—no prodigal was ever more anxious to lavish a rich inheritance. For his part, he wished that there could be stationed at the door of the Treasury an angel with a flaming sword, to prohibit entrance to all who had not a pass from the Genius of Economy, and countersigned by the hand of Justice.

Mr. CLAY (Speaker) rose to read to the House a new bill, by way of amendment to that now under consideration, which he should propose, if the House decided to reject the motion now pending. The proposed amendment consisted of several sections, providing distinctly for the three classes of those who had obtained patents, those who had obtained warrants, and those who had as yet applied for neither; provisions calculated equally to guard the Treasury, Mr. C. conceived, and to protect the interest of the soldier; and so worded, as to exclude from the benefit of the act all but original grantees, holding in their own possession the evidence of their right to the commutation. Mr. C. explained the operation which he anticipated to the various provisions of the bill. With regard to the doubts which had been expressed of the legislative power, Mr. C. said he had not the remotest doubt, and could not conceive of a doubt on the subject. Neither had he the smallest doubt that any contract made with any soldier for his right to bounty land, prior to the emanation of his patent, was totally void. The speculation which was anticipated in the quality of the land, by which the best would be retained by the soldier or bought by the speculator, and the worst be returned, by the process of commutation, to the Government, was guarded against in the amendment he had read. Mr. C. said, he believed, indeed, that the Government could not make a better speculation than in the repurchase of the public domains, which, he was compelled to admit, with the gentleman from Maryland, (Mr. SMITH,) had been rather wastefully bestowed; in a manner justified, however, by the circumstances of the times, when men were wanting, and we had no money, but had land in plenty to offer them. The amount of money the measure might draw from the Treasury would be most economically applied by such an appropriation of it as he advocated.

Mr. DESHA, of Kentucky, thanked his colleague for the amendment he had proposed. He was perfectly satisfied, he said, that there was not a man in the House who had not sympathized with the soldiers in the sacrifices they were obliged to make of their land; he was satisfied the proposed amendment would obviate the objections which had been suggested to the measure, and benefit the Government and the soldier, and not the speculator. If the amount of commutation were fixed at one dollar per acre, the soldier would know he could get \$160 for his land, and the speculator must bid higher. Mr. D. was satisfied that all the lands were worth two dollars per acre, and the Government would be a great gainer by such commutations as were made. Mr. D. expressed

his hope, therefore, that the motion to destroy the bill would be withdrawn.

Mr. STORRS, of New York, was opposed to the proposition for commutation in any shape, contending that its operation would be to benefit the speculator, and not the soldier whom it proposed to relieve. He went into a view of the mode in which it would have this operation. The soldier could not, he said, present in person his patent, warrant, or claim at the Treasury; it would cost him, generally, more than the whole value of his land to do it. He must do it by deputy; and this bill would give greater facility to the speculator than he now possesses of filching from the soldier the greater part of his commutation, which to receive would require a mere order from the soldier, after his patent or relinquishment was deposited, in favor of any man who should have shaved it for him. To pass the proposed bill would be merely sowing a new crop of dragon's teeth, from which would spring up a fresh set of harpies, worse than those of which we now complain. The value of the land was daily better understood and appreciated by the soldier as well as the public, and the danger of his being imposed on, Mr. S. suggested, would every day be lessened. He could not well imagine, he said, under what right of legislation the right of the patentee to the land could, after a specified time, be barred, as proposed in the amendment which had been read by the Speaker; or how his vested right to the fee simple of the land could be taken from him by any subsequent act of Congress. Mr. S. made sundry other objections of detail to the measure of commutation, all which combined assured him it would be a measure worse than useless to the soldier, and not beneficial to the Government.

Mr. HARRISON, of Ohio, advocated the bill, and replied to the main objections which had been proposed to its proposed details. He considered the measure highly important to the Government, and to the soldiers, and equally beneficial to both, and deprecated its being defeated by arguments against details susceptible of amendment in such a manner as to obviate the objections. The claimants, he believed, would be at no cost, as suggested by Mr. STORRS, in procuring their commutation. He would answer for all the Western country, that their Representatives in Congress would, with pleasure, perform the duty gratuitously for them, and he hoped he might, in like manner, answer for those from New York. He believed the passage of such a law would have the valuable effect to take the soldier out of the hands of the speculator, without the Government being called upon to purchase but a very small proportion of these lands. As to the idea of speculations in good or in bad lands, Mr. H. said the laws of the country provided that the soldier should have good land for his bounty; and if, among the land set apart for satisfying the soldier's claims, there was any bad land, it ought to be thrown back on the Government. A part of the land surveyed had been reserved as bad, and if more of the indifferent land



should revert to the Government by this measure, it would be a measure of justice, and no more than we had solemnly promised to the soldier. Mr. H. made some remarks to show that the proceeds of the sales of public lands would be greater than some gentlemen had supposed, and amply sufficient to cover the immediate expenses of this measure, if adopted.

Mr. HOLMES, of Massachusetts, in consequence of the call made on him to withdraw his motion to strike out the first section of the bill, rose to defend the position he had taken. He avowed that he was the last man who would be disposed to urge anything against the soldier; he would not merely say, the soldier was already paid, and for that reason refuse to give him more aid; he would not insist upon the pound of flesh as stated in the bond, but if the soldier needed the aid of Government, although once paid, the Government ought to extend its charity to him. Our soldiers, he said, had indeed been paid, and well paid; some of them so well, that they had received an hundred and twenty-four dollars of bounty, in money, and an hundred and sixty acres of land, and never served the Government at all. Did the Government mean to act on the principle of charity to those who had served it? Mr. H. asked. And, if it did, were these soldiers the class most deserving its bounty? He believed not; but that it would be more properly applied to the disbanded officers, and particularly to the grade from captain downwards. The private soldier had been well paid, and clothes and arms found him; the officer, clothing and arming himself upon the pittance allowed him, had sought for glory for his reward—but, before he obtained it, he had been disbanded and cast upon the world. Mr. H. said he should be for relieving this meritorious class of men; but not so much for adding to the rewards already bestowed on the soldier. But, he proceeded to argue, if the measure was expedient, on this ground, it would not in practice answer the expectations of its advocates. He referred to the arguments originally urged in support of the bounty law, to show that one of the objects of the land bounty had been avowed to be the settlement of our frontiers by military men, in order to defend the country from invasion by the savages. That object, he intimated, appeared to be cast aside by the advocates of this bill, who were now anxious that the land should revert to the United States. Mr. H. proceeded to examine the details of the amendment suggested, to show that, in every shape, speculators would derive the principal advantage from this bill. Notwithstanding warrants were not transferable, there were means, he said, by which the property of these soldiers might be alienated by them; for instance, by power of attorney authorizing a person to transfer all lands that belong to the constituent, and that power rendered irrevocable, with a covenant of further assurance, &c. But, Mr. H. asked, are we not doing worse than aiding the speculators? Is not the Government becoming the grand speculator? Is it not going to speculate

on the soldier? The minimum price of our land, he said, was two dollars per acre, and we are going to buy it from the soldier at half that price! This would not only be fixing the price for ourselves, but for others; for the lands would not sell for more than the Government gave for them. On the whole, Mr. H. concluded by saying, he was inclined to think, that in any shape the bill would not benefit the soldier.

Mr. CUSHMAN, of New York, next addressed the Chair, on the same side as Mr. HOLMES, denying that any substantial benefit could result from the passage of the bill, either to the soldier or to the nation. He questioned the certainty of the proceeds of the sales of the lands commuted being sufficient to pay the amount of the commutation; deducing his argument from the amount of sales of public lands heretofore, he concluded that it would require twelve years' proceeds of the sales of public lands to answer the object. This would certainly be a heavy tax on the Treasury. Mr. C. denied the probability of speculators coming into the market with the soldiers' lands for sale; because, as it appeared from the President's Message, that speculators had purchased at the public sales large quantities of the public land, awaiting the benefit of the rise expected to take place in them. But, if the speculators should come in competition with the Government, the whole amount they could sell would not sensibly affect the public receipts from the sale of the public lands. These were a few of Mr. C.'s remarks.

Mr. HUNTINGDON, of Connecticut, was opposed to striking out the first section of the bill. His object was not to increase the bounty of the soldiers, but to give an opportunity to gentlemen to propose amendments. He thought it perfectly fair to allow gentlemen to make the bill as perfect as they could, and to reserve the right of voting against the bill thereafter, if he thought proper.

Mr. COMSTOCK, of New York, said, in the commencement of his remarks, that it might not be prudent for a man who had spent the greater part of his life in mixing up medicines, to mingle in the conflict of lawyers on this question; but the interest he felt in it, superseded such considerations. He was decidedly opposed to striking out the first section, because, as he proceeded to show, he thought Congress could legislate with propriety and beneficially on the subject. The Government, in granting this bounty land, he admitted, had been liberal, but not too much so; but we have to deplore that speculation has grown out of it which required the interposition of the Legislature; which, he argued, ought not to be withheld on the plea that abuses might grow out of any legislation on the subject. In proof of existing abuses, he said, it was well known that rights to one hundred and sixty acres had been repeatedly sold by the soldiers at this place, at the rate of one hundred and sixty acres for fifty dollars; and, if he had chosen to have availed himself of the improvidence of a poor soldier before he left home, he might have obtained his

right for ten dollars; and they had frequently been sold, he presumed, at from ten dollars to one. If such an evil admitted of no remedy, it was a prodigy. But Mr. C. thought there was a remedy, and that this bill would afford it. Even the stand which had been already taken in this House, would have the most beneficial effect, as it would convince the soldier that many gentlemen on this floor believed his land to be worth vastly more than his fellow-soldiers had sold for. When he offered the motion which had given rise to the introduction of this bill, Mr. C. said he had hoped something would grow out of it; and if, unfortunately, the bill should not pass, he believed the agitation of the question would be found to have cured much of the evil.

Mr. LIVERMORE, of New Hampshire, next expressed his views on the main subject of the bill. He thought the measure neither sustainable on the principle of justice, nor on that of munificence—justice requiring only that the Government should fulfil its contract with the soldiers, &c. He did not think it consistent with the dignity of the United States to turn speculator and purchase land from the soldier at a certain price, that it might be sold out at a double rate. The idea of purchasing lands on speculation he thought novel, and unworthy of the Government, if not unauthorized by the Constitutional powers of Congress. If munificence was the argument on which the measure was to be sustained, he thought there were a thousand ways in which it could be more advantageously employed, even in favor of the soldier. Soldiers, he said, always had been speculated on, and you might as well attempt to shield his body from the bayonet of an enemy, as to shield the soldier from the arts of the speculator, by any provisions of law. Mr. L. was in favor of striking out the section, because he believed the measure would be of no benefit to the soldier, and was inexpedient as regarded the Government.

Mr. CLAY vindicated the amendment which he had suggested from misconceptions which had prevailed in the course of the debate on it. In reply to the objection made by Mr. STORRS to the power of barring the soldiers' rights, in certain cases, Mr. C. denied its force, and showed that such a power had been repeatedly exercised by the Government in carrying into effect its general power to levy taxes, &c. As to the necessity the soldier would be under of procuring his commutation by an attorney, Mr. C. said he did presume there was no gentleman who had the honor of a seat on this floor who would hesitate to receive and remit, to any soldier, his commutation without expense to him. To those who entertained such squeamish fears of the Government engaging in speculation, Mr. C. said, he could use no argument. If they could calmly view the spectacle of the sale of one hundred and sixty acres of land for ten dollars, and could be alarmed at the idea of speculation on the part of Congress, no argument would move them. The idea of commutation, Mr. C. said, was not new; it runs through our statute book; it began with

the soldier of the Revolution, and has been applied to the heirs and representatives of the same class of men to whom it was now proposed further to extend it. Hundreds of cases might be found in which the Government had offered a present less for a greater contingent value; and nothing like the reproach of speculation was justly chargeable on this measure. Here was a vast public domain, cast away by the Government from the necessity of the times; and what was now proposed to him who was about to be rifled of their share of it by speculators? To take, in lieu of the sum he is to get from the speculator, a sum vastly larger. Mr. C. quoted a letter he had just seen from an officer in one of our forts expressing his hopes that this bill would pass, and stating some of the impositions practised on the soldier within his knowledge. He could not enter, he said, into the feelings of gentlemen who could look down into the garrisons of the country, and see these shameless speculations, and not make an effort to redeem the land from this vile reproach. Nor could he agree with gentlemen who had Constitutional scruples on this subject. This was so fashionable now-a-days—the Constitution had become so much a nose of wax in the hands of politicians—that no argument from it excited surprise. The land of the country, and the money of the country, were perfectly within the power of Congress; and he was not aware of any clause in the Constitution forbidding them to exchange the one for the other. He admitted that justice, so denominating strict law, did not require this measure at the hands of Congress; but it was a mixed measure of gratitude, of justice, and of policy—a consultation of the interest of the soldier, and a prevention of most odious speculation. Decided how it might be, if rejected, he should avail himself of the consolation of the gentleman from New York (Mr. COMSTOCK,) that whatever might be the fate of the bill, its introduction might have had the effect, by reaching the ear of some solitary individual, of enabling him to get something nearer the value of his land right than he would otherwise have gotten.

But, said Mr. C., the strong box! the defenders of the Treasury were alarmed at the vast out-goings this bill might cause. Mr. C. said their alarm was needless. The Government might not have, perhaps, to pay twenty thousand dollars in a year for commutation money—for the effect and the great value of the measure would be to fix the market price at a sum higher than the commutation; which, however, the soldier would have the option to take, if he could not get more. With regard to the settlement of the country, which it was feared would be defeated by this measure, Mr. C. said that he came from a part of the country which was anxious to see the forests felled and the savannahs redeemed to cultivation; and, if he believed in the supposed effect of the measure, he should be of a different opinion. But there was nothing in that argument; for the soldier who intended to settle his land would yet do it, the commutation bill



H. of R.

Estimate of Appropriations.

DECEMBER, 1817.

notwithstanding. This bill would not prevent the settlement of an acre, &c.

Mr. SOUTHARD, of New Jersey, viewing this as a great question of national policy, affecting not only the national property, but the rights of forty thousand individuals, and which therefore ought to be maturely considered, moved that the Committee rise.

Mr. SERGEANT, of Pennsylvania, seconded the motion, in order to move a recommitment of the bill, with instructions to report a provision for substituting a pension for life in lieu of the proposed sum of money to be given by way of compensation. He did not, he said, wish that the Government should embark in this business by way of speculation. The interest of the soldier alone should be consulted. As to land it was of no value generally, to him, because, for the most part it was so situated that it was impossible for him to get at it; because he was generally ignorant of its value, and did not even know how to go about to get his title. A pension during life might be of some service to him, and was greatly preferable to a sum given at once, which would be wasted as soon as received.

The Committee rose, and after Mr. JOHNSON, of Kentucky, protesting against pensioning fifty thousand men for life, Mr. SERGEANT'S wish was overruled, and the Committee had leave to sit again.

WEDNESDAY, December 17.

Another member, to wit: from North Carolina, JOSEPH H. BRYAN appeared, produced his credentials, was qualified, and took his seat.

Mr. ROBERTSON, from the Committee on Public Lands, reported a bill for the relief of Samuel Arkman, and a bill for the relief of Joseph Earwood; which were severally twice read, and committed.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of John G. Mackall; which was read, and concurred in.

On motion of Mr. POINDEXTER, the Committee on the Judiciary were instructed to inquire what provisions are necessary to give effect to the laws of the United States within the State of Mississippi.

On motion of Mr. HOLMES, of Massachusetts, a committee was appointed to inquire into the expediency of providing, by law, for the pay of the members of the Senate and House of Representatives, and the Delegates from the Territories of the United States; and the said committee had leave to report by bill or otherwise.

Mr. LIVERMORE, of New Hampshire, moved that this committee consist of twenty members, that one might be selected from each State, and thus bringing thereto the views and impressions of the various parts of the country, might agree upon a report which would save the House the alternative of exhibiting itself before the world in the unpleasant attitude of debating its own compensation. This number being objected to

by Mr. HOLMES, who wished the usual number of seven to be appointed, Mr. LIVERMORE withdrew his motion, and a committee of seven were ordered to be appointed; and Messrs. HOLMES of Massachusetts, PITKIN, ANDERSON of Kentucky, MOORE, STORRA, ABBOTT, and NEWTON, were appointed the said committee.

On motion of Mr. HARRISON,

*Resolved*, That the Secretary of War be, and he is hereby instructed to report to this House the amount of the pensions which have been granted to the widows and orphans of deceased officers and soldiers of the late war, specifying the number of each grade of officers to whose widows or children the pensions have been granted.

On motion of Mr. TYLER, the Committee on the Judiciary were instructed to inquire into the expediency of causing offices to be erected for the safekeeping of the records, papers, and documents, of the several district courts of the United States, at or near the places of holding said courts, respectively.

On motion of Mr. SERGEANT,

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of authorizing the judges of the district courts, in the several districts, and the judges of the Supreme Court of the United States, within their respective circuits, to supply any vacancies that may have happened, by reason of the death, resignation, or disability, of the general commissioners of bankruptcy, appointed by the President under the authority of the act, entitled "An act to amend the judicial system of the United States," where the same may be necessary to complete the execution of any pending commission of bankruptcy.

A message from the Senate informed the House that the Senate have passed a resolution "authorizing the distribution of certain public documents;" and they have also passed the resolution "directing a distribution of certain laws among the members of the Fifteenth Congress," with amendments, in which resolution and amendments they ask the concurrence of this House.

The resolution authorizing the distribution of certain public documents was read the first and second time, and ordered to be read a third time to day. It was accordingly read the third time, and passed.

The amendments to the resolution, directing a distribution of certain laws among the members of the Fifteenth Congress, were read, and concurred in by the House.

The amendments proposed by the Senate to the bill, entitled "An act to abolish the internal duties," were read, and concurred in by the House.

#### ESTIMATE OF APPROPRIATIONS.

The SPEAKER laid before the House the following communication from the Treasury Department, which was ordered to be printed, with the accompanying documents:

DECEMBER, 1817.

Claims for Losses in Michigan.

H. of R.

#### TREASURY DEPARTMENT, December 17, 1817.

SIR: I have the honor to transmit herewith for the information of the House of Representatives, an estimate of the appropriations for the service of the year 1818, amounting to \$10,925,191 62, viz:

For the Civil List - - - - -	\$1,070,708 02
For miscellaneous expenses - - - - -	490,308 51
For intercourse with foreign nations - - - - -	487,666 64
For the Military Establishment, including arrears, and Indian department - - - - -	6,265,132 25
For the Naval Establishment, including the marine corps - - - - -	2,611,876 20
	<hr/>
	\$10,925,191 62

The funds out of which the appropriations for the year 1818 may be discharged, are the following:

1. The sum of six hundred thousand dollars, annually reserved by the act of the 4th of August, 1790, out of the duties and customs, towards the expenses of Government.

2. The proceeds of the stamp duties, and the duty on sugar refined within the United States.

3. The surplus which may remain of the customs and internal duties, after satisfying the pledge for which they are pledged and appropriated.

4. Any other unappropriated money which may come into the Treasury during the year 1818.

I have the honor to be, very respectfully, sir, your most obedient servant,

WM. H. CRAWFORD.

The Honorable the SPEAKER  
of the House of Representatives.

#### CLAIMS IN MICHIGAN.

The SPEAKER laid before the House a letter from the Secretary of State, transmitting his report on the petition of sundry inhabitants of Detroit, in the Territory of Michigan, referred to him on the 6th of February, 1817, which were referred to the committee on the 10th instant, on the petition from sundry inhabitants on the river Raisin, in the said Territory.

The report is as follows:

The Secretary of State, to whom, by a resolution of the House of Representatives of the 6th of February last, was referred the petition of sundry citizens of the United States, inhabitants of the district of Detroit, in the Territory of Michigan, has the honor of submitting the following report:

The petitioners allege that they have suffered great losses of property by the violation, on the part of the British forces, and especially by the Indian savages, then acting as auxiliaries under them, of the capitulation by which, on the 16th of August, 1812, the Territory of Michigan was surrendered to the British General Brock; one article of which capitulation stipulated that private persons and property of every description should be respected.

That, by this violation of the capitulation, the petitioners acquired a just claim upon the British Government for indemnity and satisfaction, which they expected the Government of the United States would have prevailed upon that of Great Britain to make, by paying the petitioners for all the losses and damages sustained by them in consequence thereof.

That the United States, having concluded a Treaty of Peace, and subsequently a Commercial Treaty, with Great Britain, without mention being made of the Territory of Michigan, or of these claims of the petitioners, they have thereby lost their claim of redress and indemnity upon the British Government; but that the obligation of making it has thereby devolved upon the United States, to whose justice and liberality they appeal accordingly for remuneration and payment.

Extracts from the documents upon the records of the Department of State are herewith annexed, serving to show the liberal principles upon which the Government of the United States were desirous of proceeding in terminating the war, and at the same time the anxious care with which they urged a provision of indemnity for the citizens of the United States who had suffered loss or damages such as those complained of by the petitioners. This provision was insisted on until it was distinctly known that the only alternative to its abandonment was the inevitable continuance of the war.

How far the United States themselves are answerable to their individual citizens for the losses and damages occasioned by the enemy, and unhappily incident to the condition of war, it is for the wisdom of Congress alone to determine.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE, Dec. 16, 1817.

[Extract from letter of instructions, dated Jan. 28, 1814.]

Mr. Monroe, Secretary of State, to the American Plenipotentiaries appointed to treat of peace between the United States and Great Britain.

On the claim to indemnity for spoliation, I have only to refer you to what was said in the former instructions. I have to add that, should a treaty be formed, it is just in itself, and would have a happy effect on the relations of the two countries if indemnity should be stipulated on each side for the destruction of all unfortified towns and other private property, contrary to the laws and usages of war. It is equally proper that the negroes taken from the Southern States should be returned to their owners, or paid for at their full value.

Extracts from the projet of a treaty of peace submitted by the American Plenipotentiaries to the British Commissioners at Ghent on the 10th of November, 1814, and returned by the latter with accompanying remarks.

ART. 10. His Britannic Majesty and the United States shall, by all the means in their power, restrain the Indians living within their respective dominions from committing hostilities against the territories and citizens or subjects of the other party. And both Powers also agree, and mutually pledge themselves, if, at any time, war should unhappily break out between them, not to employ any Indians, nor to admit of their aid and co-operation in the prosecution of the war against the other party.

[ART. 10. Inadmissible.]

ART. 13. It is agreed that indemnity shall be made by His Britannic Majesty to the citizens of the United States for all losses and damages sustained by them during the late war between Great Britain and France, and prior to the commencement of the present war, by reason of irregular or illegal captures, seizures, or con-



H. OF R.

Commutation of Soldiers' Pay.

DECEMBER, 1817.

demnations of vessels and other property, under color of authority, contrary to the known and established rules of the law of nations. And it is also agreed that indemnity shall be made by each of the contracting parties to the citizens or subjects of the other party for all losses and damage sustained subsequent to the commencement of the present war, by reason of the seizure or condemnation of the vessels or cargoes belonging to the subjects or citizens of the one party, which, in the ordinary course of commerce, happened at the commencement of hostilities to be in the ports of the other party; and by reason of the destruction of unfortified towns, and the pillage or destruction of private property, and the enticement and carrying away of negroes, contrary to the known and established rules and usages of war between civilized nations.

[Ann. 13. Inadmissible.]

The first part of the tenth article appears to be unnecessary, and the stipulation contained in the whole of it altogether inadmissible. Though His Majesty's Government sincerely hopes that a renewal of the war between His Majesty and the United States may be far distant, yet the undersigned cannot consent to enter into any engagement as to what shall be the conduct of their Government if such a war should unfortunately occur.

With respect to the thirteenth article, the indemnifications proposed by it, as applied to the actual circumstances of the war, are so unprecedented and objectionable, that any further perseverance of the American Plenipotentiaries in requiring them is not anticipated by the undersigned; if, however, contrary to expectation, indemnifications of this kind should be required, all hope of bringing the negotiations to a favorable issue must prove abortive. The undersigned are instructed explicitly to declare that, as their Government makes no claim on account of losses sustained by British subjects arising out of a war declared by the United States, so neither can their Government agree to make compensation for losses sustained in such a war by the American people.

#### COMMUTATION OF SOLDIERS' PAY.

The House then again resolved itself into a Committee of the Whole on the bill to provide for commuting the bounty lands of the soldiers of the late Army, the motion to strike out the first section being still under consideration.

Mr. BALL, of Virginia, rose in opposition to the bill. It was impossible, he said, for any legislative provision to put down speculation on the soldiers; and even if it could be put down, it would drive from the market all purchasers, all competition, and thus do an injury to that class who might be benefited by a fair sale. If the bill were to pass in the present shape, the soldier would be told by the speculator that the Government knew the value of his land, had fixed a price on it, but was unwilling or unable to pay that price; he would offer to advance the money to the soldier, but would demand a premium for prompt payment. It would, Mr. B. said, be as well to attempt to stop a steamboat with a straw as to prevent a prodigal soldier, used to dissipation, from becoming the prey of speculation. Mr. B. referred to the cases of Revolutionary soldiers who had petitioned for relief in vain; those brave men who had fought for our independence, and broken the bands of tyranny asunder; of whose

toils we now enjoyed the benefits. Their petitions were neglected, their very names forgotten. When these war-worn veterans received justice in this House, but not till then, could he hear, without a blush, of liberality to others, or would he vote for this bill.

Mr. ANDERSON, of Kentucky, thought much of the objection which had been urged against the bill arose from a small class of cases, which would not comprehend more than three thousand. But, he contended, if it could be shown that the great number to whom patents were yet to issue would be benefited by the bill, it was not a sufficient objection that those would not participate in it who had sold their patents. If good would come to the many who are yet to receive patents, he cared not for those who had received and sold theirs; nor could they charge the Government with injustice or a want of generosity to them. In making this commutation, the soldier received more than he would get from speculators, and the Government would also receive advantage from the change. In doing this, Mr. A. said, he disregarded the character which was imputed to the transaction; and if he could benefit the soldier he cared not for the name of speculator. But this could not be: the soldier himself would enter his everlasting protest against so unjust a reproach, while he enjoyed the benefit of the act. It was true, as was argued, that this bill might not entirely stop speculations on the soldier; but, if they still took place, Mr. A. said, the amount of sacrifice would be much less. The security being good, it would be the remoteness of payment alone which could sink the value of the commutation. Mr. A. adverted successively to the objections, that the Government could not spare the money, and that this act would retard the settlement of the territory; and entered into various arguments in reply on these points. He commended the present system of managing the public lands, and said no change in it was necessary: it had all the effect which could have been anticipated or conceived, and would soon diffuse through our whole territory one widespread population. He argued, also, that this bill would exalt the reputation of the Government for justice and liberality, and would prove a solid benefit in future wars by facilitating the enlistment of men. This he thought an important consideration, and ought not to be overlooked. If this measure was not adopted, the lands would fall into the hands of a few holders, who would dispose of them to the detriment of agriculture, or at a price less than the minimum price of the public lands; and the lands thus disposed of had been selected for their goodness, and were the best in the country. These consequences, as well as others, Mr. A. said, could be, and ought to be, avoided by the passage of the bill.

Mr. COLSTON, of Virginia, said it was admitted there was no moral obligation to pass the bill; it was advocated only in the spirit of liberality to the soldier. To show the expediency of this measure, Mr. C. entered into a course of reasoning to prove the greater obligation and necessity there existed for abolishing the duties on various

DECEMBER, 1817.

Commutation of Soldiers' Pay.

H. OF R.

imports, and thus relieving the laboring class from very heavy burdens. Among other objects, he referred particularly to the duty on brown sugar, the consumption of which was nearly twenty millions of pounds; and of coffee, of which was consumed eleven millions of pounds, the latter of which bore a duty of five cents a pound; these and the duty on salt, added together, amounted to many millions which were annually taken out of the pockets of the people. He asked whether it was right in Congress to take any step which would render the continuation of these heavy duties necessary? and referred to the Treasury report to show that our resources were inadequate to spare the funds necessary to carry this bill into effect and leave in the Treasury the sum which it was agreed ought to remain there. He protested against continuing the existing burdens on other classes of the community for the benefit of these soldiers, who had received such enormous bounties during the war—even if the bill would be beneficial to the soldiers, which he doubted; as in his opinion to make the commutation payable in instalments, as was proposed, would place them in worse circumstances than before. On a proper occasion, Mr. C. said, he could show feeling for the soldiers as well as other gentlemen; but in providing for them he could not forget the millions laboring under inconvenience from the taxes which were laid on the necessities of life; and concluded by declaring he could not vote for this bill in any shape whatever.

Mr. BALDWIN, of Pennsylvania, followed in support of the bill. He thought it very incorrect to suppose this bill would favor the speculator; because, if the Government offered nothing for the land, the speculator would be without competition, and the soldier left to his mercy. Mr. B. referred to the history of the lands given by Pennsylvania, by Virginia, and by the United States to the Revolutionary soldiers, to show the great depreciation which would probably take place, without the interference of Government. The Revolutionary bounty lands of Pennsylvania had actually been sold for four cents an acre, and those of Virginia and the United States for about thirty-three dollars per hundred acres. But if the Government were now to offer even one hundred dollars for the present bounty, it would interpose a very great barrier to speculation. And admitting all the alleged ingenuity of speculators, still there would be many cases benefited by the bill; the others would be no worse off than they were before. It would be a sufficient reason with him, Mr. B. said, to support the bill, if he thought he could rescue one-tenth of them from speculation. He adverted to the opinions respecting the validity of powers of attorney, and argued that a power was irrevocable only where there was an interest legally acquired; but in this case there was a special provision of law that the title should not vest in the attorney. It was absurd to suppose Government would make a purchase, and not take from the seller the power of selling to others; and it was a plain rule of

15th CON. 1st SESS.—16

law, that a second purchaser, not knowing of a previous purchase, and having no notice, would be left in complete possession, if the title-papers had been left in the hands of the seller. He contended that the soldier had strong claims; that, moreover, in this case the nation would acquire a valuable estate, and that it was a fair subject of legislation. In reply to the objection that the revenue would not justify this measure, Mr. B. said he held those responsible for supplying the funds who had insisted on diminishing the revenue by repealing the taxes. The House had been told the other day that the Treasury was overflowing; now, that it was empty. He insisted that all fair and laudable appropriations must be made, and the money must be in the Treasury to meet them; it was too late to plead against a proper appropriation, that there was no money. Mr. B. adverted also to the Constitutional objection which had been stated yesterday, and asked if gentlemen could be serious in disputing this power, which had been exercised by the Government for five-and-thirty years.

Mr. LIVERMORE, of New Hampshire, again addressed the Committee at some length in opposition to the bill, chiefly in illustration and defence of the arguments he had advanced yesterday.

Mr. STORRS, of Massachusetts, also spoke again briefly in opposition to the bill. He reviewed a part of Mr. BALDWIN's arguments, some of which he said proved too much. The rule of law which had been stated, he said, was never extended in law or equity to a voluntary purchaser, as the United States would be in this case. By fixing a minimum price, he admitted it might lop off some of the speculators; but until a barrier could be erected to the folly and avarice of the soldier and the rapacity of the speculator the bill would be useless, for the evil would remain untouched.

Mr. HOLMES, of Massachusetts, said he should always rise with pleasure to defend his remarks from any inconsistency with which they might be charged. He did remark, yesterday, that a power of attorney might be executed before the issuing the patent, giving a general authority to convey all lands acquired and to be acquired, and it would authorize the attorney to sell the soldier's land after the patent was drawn; and though this opinion had been denounced as one which would render a judge liable to impeachment, he still was not able to discover how either himself or the opinion could be subject to such animadversion. The gentleman from Pennsylvania (Mr. BALDWIN) conceives, said Mr. H., that he has discovered that the evil which I deprecate is cured in the very case which I stated; that the interest of the attorney being apparent in the title of attorney, such conveyance would be void. If so, I will only observe that he, on the other hand, has stated a case—that of a letter of attorney—where the interest is not apparent, in which a conveyance might be made in spite of the constituent, and be valid. I still insist that a conveyance under a power which might be executed would be good. But while he was speaking of that gentleman's remarks, Mr. H. said he



would notice Mr. BALDWIN's reasoning relative to the repeal of the internal taxes; and said he could not yet perceive how it could be inferred, that if those taxes may be repealed we are bound to make this commutation to the soldier. I deem it possible, said Mr. H., that we may not need those taxes, and yet not be authorized to unlock the Treasury for every occasion. Did it follow, he said, that if this tax on the people may be dispensed with, we have money enough to repurchase lands which we do not want? Mr. H. considered the right question to be, whether the nation could afford to purchase back this land, upon the prospect of the advantages which might result to the soldier. He felt no such squeamishness as had been ascribed to the opposers of this bill. He did not perceive why there was to be given to the soldier but half as much as the Government asked for the land. If the land is worth more, said Mr. H., let us not speculate upon the soldier. If it is worth no more, we fix a price, and diminish the price of these lands in the market; and, by taking back the greater part of these lands, we diminish the prospect of the settlement, and consequently the value of those lands retained by the soldier or his heirs. In this way the Government itself reduces the value, and puts a weapon in the hands of the speculator, to induce the soldier to sell cheap. The impression is easily made, said Mr. H., that we who oppose this bill are opposed to the interest of the soldier. No, sir; so long as I shall have the opportunity of expressing an opinion on the subject, I shall always support and defend the rights and interests of the defender of my country. But our feelings in this case are misconstrued. The advocates of this bill introduce to us the war-worn veteran: with the eye of the imagination you behold him coming from the way of the wilderness, supported by a crutch and a wooden leg; pale is his visage, and marked with a scar; naked and lacerated is his head, where the scalp was torn by the merciless savage. You survey the victim of your country's glory; the tear starts in the eye; the blood freezes in the veins; Champlain, Bridgewater, Erie, and Orleans, rush into the mind; an eternal load of gratitude presses you down; you throw open the strong box, "There, my good fellow, take to your satisfaction, and God Almighty bless you!" He pockets the money. Again you survey this mouldering monument of your gratitude; but upon further examination you find that his leg was not wood, but flesh and blood; his crutch dwindles to a cane: you inspect the scar on his face, and discover that it is a beautiful dimple; you examine the wound where the scalp was torn, and find that he had been only shorn a little too close by his barber; you throw off the soldier's coat, and behold a smart, spruce, sprightly, young speculator, with his pockets crammed full of warrants, and patents, and powers of attorney. That was the man for whom you intended to legislate. This is the scoundrel for whom you have legislated. But the fraud is discovered when it is too late.

Mr. BEECHER, of Ohio, said, the views of the friends of the bill were honorable, as the object was to relieve the soldier and shut the door against speculation; and if this could be accomplished he would concur with them; but he contended that this could not be done, and that there were more important matters of legislation which required all the funds they had a right to demand of the people. The Treasury, he conceived, was not so abundant as had been represented, nor did he think the surplus estimated a large one for this nation. It was proper, therefore, Mr. B. said, to see if the appropriation required could be afforded, and he went into an examination of the anticipated resources, to show that it could not. Mr. B. took, incidentally, a pretty extensive view of the national policy on several subjects, particularly the subject of domestic manufactures, which he believed would sink without further and greater encouragement, and argued that a proper regard for these and other great objects now before the House—the proposed provision for the Revolutionary patriots, the invalid corps, &c., which he enumerated and dwelt on, was incompatible with the sacrifice of millions of money for the object now under consideration; neither did he think the soldiers deserved that additional bounty. But he would be willing to commute with them after other necessary objects had been attended to; though, he argued, that it would be much better to leave soldiers in possession of their land, which they would, in a large proportion, settle and improve, and leave to their children, than, by buying it, give them the means of indulging their bad propensities to excess and ruin.

Mr. JOHNSON, of Kentucky, commenced his remarks, by denying that the principle of this bill was charity, as had been alleged—the subject was one of policy. We get, said he, in the commutation more than a *quid pro quo*, more than an equivalent; for the Government would give one hundred dollars for what was worth three hundred. He called the attention of the Committee to one fact, which was, that the Yazoo speculation itself did not present a scene of greater speculation than would be exhibited if sixteen millions of acres were put into market, in the hands of men so necessitous, as now many of them were, as to be asking charity in the streets; and this land, too, of the best quality. He did not contend that there was a legal obligation to do this act; but there certainly was a moral obligation, whether the soldier be viewed either as vicious or ignorant—he was to be viewed as a starving object, no matter from what cause; and there was a moral obligation to take him out of the hands of speculators. To justify this bill, Mr. J. referred to the former practice of the Government, and to the recommendation of the late President of the United States, to whom Mr. J. paid the tribute of his highest respect for his virtues, his talents, and his long and faithful services. The right to pass this bill was clear; and shall we, said he, let the time forever pass unimproved, because there be no legal obligation for it?

He maintained, that the House could suppress speculation, and that this bill would do it. He would say, that they should take the land for less than its value, should receive no more than the commutation price, and he would do anything short of violating the Constitution, to enforce it. Mr. J. dwelt warmly on this point, and urged the Committee not to let the moment for this measure pass away forever. As for charity, he knew it was out of the question. There had been none extended to the gallant officer, and he expected none for the soldier, unless he came here and held up his bleeding hand or his mutilated stump, to beg for it. On the plea of charity, therefore, he did not support the passage of the bill, but it was on the score of sound policy, and that alone.

Mr. CLAY (Speaker) again rose, partly in reply to the opponents of the bill, and partly on its details. In ninety-nine cases in a hundred, he said, the patentees who intended to sell their land had probably already done so. There was another difference between the patentee and those who were yet to receive their land—the former knows the value of his land, while the others do not; one will take advantage of the commutation, the others will not. Thus would arise a difference in the provision which should be made. In discussing the details of the bill, Mr. C. said, he had no doubt it was in the power of the Government to compel the purchasers to give in notice of their titles, or make any other regulation of property for its registration or security. He denied that the Government would be, in this case, a voluntary purchaser, in the sense suggested; it was a repurchase of estate, and a case in which the subsequent purchaser would hold without notice from the previous purchaser. Mr. C. read the act granting the bounty, to show that it was impossible for the soldier to alienate his right to the land before obtaining a patent; and said, he should be glad to find some of the speculators, some of the knowing ones, taken in, who had endeavored to deprive the soldier of his hard-earned property. By fixing a value on this land, Mr. C. said, it would immediately rise in market; and, if the commutation was settled at one hundred dollars, he did not believe they would have to pay fifty thousand dollars annually; and so fully was he convinced of the expediency of this measure, he declared his belief, that if Government had to borrow the money at six per cent. to make the purchase, it would still be a great gainer, besides the consideration of alleviating the soldier. Mr. C. remarked, in reference to the just censures which had been denounced against speculation, that he did not attach speculation, in its odious sense, to many of the purchasers—there were many purchases fairly made. It was to those who dogged the soldier to the grogshops, and who misrepresented to him the value of his land, that he attached the epithet in its execrable sense—it was against such that he would extend the arm of the Government. Mr. C. said, this property had been parted with at a moment of great pressure and public need; and

it was incumbent on the Government, now that it was able to do so, to take it back; when, at the same time, by doing so, you render a service to yourself and to the party from whom it was received.

Mr. CLAY then, for the reasons already stated in the proceedings of this day, offered a substitute for the bill, which he had prepared, (Mr. HOLMES having for that purpose first withdrawn his motion to strike out the first section;) when the Committee of the Whole rose, reported progress, and obtained leave to sit again.

#### THURSDAY, December 13.

Mr. SHAW presented a petition of sundry manufacturers of cotton and woollen goods, in Berkshire county, in the State of Massachusetts, praying that further measures may be adopted for the security and encouragement of domestic manufactures.—Referred to the Committee on Commerce and Manufactures.

Mr. POINDEXTER submitted the following proposition of amendment to the rules and orders of the House; which was read, and ordered to lie on the table:

*Resolved*, That the standing rules and orders of the House be amended, in this, to wit: that the Committee on Private Land Claims shall consist of seven members.

Mr. ROBERTSON, of Louisiana, reported a bill making provision for the establishment of additional land offices in the Territory of Missouri; which was read twice, and committed.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom were referred sundry reports of facts, in particular cases, submitted for his decision, by the Commissioner of Claims, for lost property, &c., made reports unfavorable to the cases of John Manning, for Caroline Fenwick; of the Levy Court of Calvert county; of John I. Patison; and of John Ireland; which reports were severally referred to a Committee of the Whole.

On motion of Mr. RICH, of Vermont, a report of a similar nature, made on another case yesterday, was reconsidered, and referred to the same Committee.

Mr. LITTLE, of Maryland, from the Committee of Accounts, presented a report, as required by the order of the House, on the manner in which the printing of the House is executed, exculpating equally the Clerk and Contractor from blame. After some conversation, this report was laid on the table.

Mr. TAYLOR, of New York, submitted for consideration the following resolution:

*Resolved*, That the Secretary for the Department of War be instructed to report to this House a list of those persons who have been added to the pension list since the report made to the House of Representatives, from that Department, bearing date May 28, 1813, designating the number of each pensioner as he stands on the roll of the respective districts or agencies, his rank or quality, and the amount of annual stipend at present allowed to each person.



H. of R.

Commutation of Soldiers' Pay.

DECEMBER, 1817.

Mr. T. intimated his reasons for requiring this information. A proposition was now before the House for giving a bounty in land to disbanded officers. It was fit that the House should know how many of those officers already stand on the pension list of the United States. A proposition was before the House, also, to extend for five years the pensions now allowed to sufferers by the late war. Mr. T. wished to know how many were those pensioners, and to what amount.

On motion of Mr. MERCER, of Virginia,  
*Resolved*, That the Secretary of War be directed to report to this House a list of all the officers who held brevet rank in the Army of the United States, at the close of the late war, noting their respective lineal rank at the time at which their brevet rank was conferred on them; together with a list of all the officers of the present Army who now hold a brevet higher than their lineal rank, and of these the number and grade of all such officers as actually receive, in virtue of their brevet rank, greater pay or emolument than they would be otherwise entitled to by law.

On motion of Mr. T. M. NELSON, of Virginia, was

*Resolved*, That a committee be appointed to inquire into the expediency of providing by law for extinguishing the Indian title to certain lands south of Green River, in the State of Kentucky, which were set apart by the State of Virginia for satisfying the claims of certain Revolutionary officers to military bounty lands, of making such other provision, in relation thereto, as justice may recommend.

*Resolved*, That the same committee also inquire into the expediency of providing by law for satisfying the claims of those Revolutionary officers who were entitled, in virtue of sundry resolutions and acts of the General Assembly of Virginia, to military bounty land, to be laid off on the northwest side of the river Ohio, between the rivers Miami and Scioto, (now part of the State of Ohio,) which claims remain unprovided for, in consequence of the quantity of arable land having proved insufficient therefor.

[This motion produced some debate. In the shape in which it was first offered by the mover, it proposed to declare the measure therein proposed to be "expedient." To this it was objected, that it was expedient to investigate before deciding; and the mover consented to put his motion in the shape of an inquiry into the expediency of the proposed measure, and in that form the motion was finally adopted. Objection was made to it in its new shape by Mr. PIRKIN of Connecticut, and Mr. POINDEXTER of Mississippi, and doubts were expressed by Mr. DESHA of Kentucky,) on the ground of a defect of power in the House to pass an act for extinguishing Indian titles; which was of itself an Executive, and not a Legislative act. To which objections, Mr. T. M. NELSON, Mr. BARBOUR, Mr. GARNETT, and Mr. MERCER of Virginia, replied, that inquiry only was proposed, and not the expression of any opinion; that the inquiry would embrace as well the powers of Congress as the expediency of the measure—both of which, they contended, were unquestionable.]

## COMMUTATION OF SOLDIERS' PAY.

The House having again resolved itself into a Committee of the Whole, on the bill for the commutation of soldiers' pay, the question was taken on agreeing to the amendment of detail, (being a substitute for the bill before the Committee,) proposed by Mr. CLAY; and decided affirmatively—96 gentlemen rising in its favor.

The amendment of Mr. CLAY being then open for amendment, was read over for that purpose.

Mr. T. M. NELSON having moved to fill the blank for the amount of commutation with \$160, (or one dollar per acre,) the question was decided in the negative, by a majority of about 20 votes.

Mr. CLAIBORNE, of Tennessee, on the principle that, if the bill passed—to which, however, he was altogether opposed—the Government ought not to speculate on the soldier, by giving him less than its own price for the same article, moved to fill the blank with \$320, (or two dollars per acre.) Negatived, ayes 25.

Mr. COBB, of Georgia, having moved to fill the blank with \$120 (or seventy-five cents per acre,) it was decided in the negative, ayes 48.

Mr. HARRISON, of Ohio, moved \$130, and Mr. LITTLE, of Maryland, \$150; both of which were negatived.

Mr. CLAY then moved to fill the blank with the sum originally proposed by him, of \$100, though he confessed he should have preferred one dollar per acre. He was under the impression, however, that the bill had a better chance to pass in this shape than with a higher sum, and it would yet produce much good.

On this question the House divided thus: For the motion 75, against it 78.

A second count being called, the vote stood thus: For the motion 84, against it 67.

The amount of commutation was therefore decided to stand at \$100 for 160 acres.

The Committee proceeded in the consideration of the bill, and made thereto a variety of amendments, on which much desultory debate took place.

The question being stated, "Shall the Committee rise and report the bill?" Mr. WHITMAN, of Massachusetts, assigned the reasons which would induce him to oppose the bill.

On motion of Mr. SPENCER, of New York, the Committee rose, reported progress, and obtained leave to sit again.

FRIDAY, December 19.

Another member, to wit: from Delaware, WILLARD HALL, appeared, produced his credentials, was qualified, and took his seat.

Mr. MERCER presented a petition of the representatives of the yearly meeting of the Religious Society of Friends, held in Baltimore, praying that further provisions may be made for the security of persons of color, who are free or entitled to freedom, at a given period, in the traffic of slaves from the Middle to the Southern States, which was referred to a select committee; and Messrs. MERCER, COMSTOCK, DARLINGTON, TER-

DECEMBER, 1817.

Proceedings.

H. of R.

BILL, and EDWARDS, were appointed the committee.

Mr. RHEA presented a petition of the General Assembly of the State of Tennessee, praying that the titles to lands in that State, derived from the State of North Carolina, previous to the cession of Tennessee to the United States, may be confirmed.—Referred to the committee appointed yesterday, on a resolution submitted by Mr. THOMAS M. NELSON, concerning the military bounty lands granted by the State of Virginia.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill in addition to the act, entitled "An act for the relief of John Thompson," which was read twice, and committed.

Mr. TAYLOR, from the Committee of Elections, made a report on the certificates and other credentials of members, which was read and ordered to lie on the table.

The House took up the proposition submitted yesterday by Mr. POINDEXTER, to amend the rules and orders of the House, and the same was concurred in; and Mr. POINDEXTER and Mr. CLAIBORNE were then added to the Committee on Private Land Claims, conformable to the said amendment.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of the heirs of Landon Carter," in which they ask the concurrence of this House.

On motion of Mr. HARRISON, of Ohio, the following rule was adopted:

"The Speaker shall have power to admit persons to seats in the hall, during the sitting of the House, who belong to such Legislatures of foreign Governments as are in amity with the United States."

[There was some little debate on a proposition of Mr. H. NELSON, of Virginia, to amend this motion, so as to authorize the Speaker to admit on the floor any Representatives of the South American Provinces—that they might stand on the same footing in this respect as foreign Ministers. After the debate (or rather, conversation) referred to, in the course of which Mr. HARRISON protested against the introduction of extraneous matter into his proposition, the motion of Mr. NELSON was negatived.]

On motion of Mr. HARRISON, the order of the day for the House to resolve itself into a Committee of the Whole, on the report of the committee appointed on so much of the President's Message, as relates to roads, canals, and seminaries of learning, was postponed until the first Monday in January next.

On motion of Mr. MERRILL, the Secretary of War was instructed to furnish a statement, showing the names of the several persons to whom land warrants have issued, and extra pay been allowed, subsequent to the 3d of March, 1817, under the act, entitled "An act granting bounty in lands, and extra pay to certain Canadian volunteers," and the acts supplementary thereto, together with the names of the agents or attorneys, to whom said land warrants were delivered, and

the money paid, particularly noting such, if any, as were, or are, connected with the public offices; and also to state, whether any, and if any, what information he may have received, relative to impositions practised on claimants, by persons pretending to be agents, authorized by the Government.

Mr. WENDOVER submitted the following, which was read and ordered to lie on the table for one day:

*Resolved*, That the standing rules of this House be so amended that not more than — bills shall be committed to the same Committee of the whole House; and that such bills shall be analogous in their nature; which analogy shall be determined by the Speaker.

On motion of Mr. CAMPBELL, a committee was appointed to inquire into the expediency of allowing further time for the officers and soldiers of the Virginia line, on Continental establishment, their heirs or assigns, entitled to bounty lands within the tract reserved by the State of Virginia, between the little Miami and Scioto rivers, to complete their locations, with leave to report by bill or otherwise; and Messrs. CAMPBELL, GARNETT, and SMYTH, of Virginia, were appointed the said committee.

On motion of Mr. HERBERT, the Secretary of the Treasury was directed to lay before this House a statement of the amount of receipts into the Treasury from imposts, internal taxes, and other sources of revenue within the District of Columbia, specifying the sum received in each year, since the assumption of the jurisdiction by Congress in 1801; also a statement of the amount of registered tonnage, employed in the carriage of goods, wares, and merchandise, in the foreign and coasting trade of the District.

On motion of Mr. SILEBEE, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of so amending the laws making appropriations for the establishment of custom-houses, which are now confined to principal districts, as to authorize the application of such appropriations as have already been, or may hereafter be, made to any district within the United States, where the Secretary of the Treasury shall think such establishments will best promote the public interest.

The House having again resolved itself into a Committee on the bill for the commutation of soldiers' bounty lands, some further discussion on amendments to it took place, in which Messrs. FORSYTH, POINDEXTER, CLAY, and ROBERTSON, of Kentucky, bore part; when the Committee rose, and reported the amendments to the bill; which were ordered to lie on the table, and to be printed for the more easily understanding thereof by the members before called upon to give a final vote on them.

The bill from the Senate, entitled "An act for the relief of the heirs of Landon Carter," was read twice, and committed.

The bill for the relief of Noah Miller, passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.



## SURVIVING REVOLUTIONARY SOLDIERS.

The House having resolved itself into a Committee of the Whole on the bill concerning the surviving soldiers of the Revolutionary war,

Mr. LINN, of New Jersey, moved to strike out the word "war" in the bill, which makes the provisions of the bill applicable to all persons who served for any time in the Revolutionary war, and to insert, in lieu thereof, "Army of the United States," so as to confine the bill to the surviving officers and soldiers of the Revolutionary army. As the bill at present stood, Mr. L. said nearly every person in the United States of sufficient age, and in a state of indigence, would be embraced in it; for few of them but had been in some grade, and at some time or other, in the service.

At the suggestion of Mr. BLOOMFIELD, of New Jersey, this motion was withdrawn for the present.

Mr. BLOOMFIELD delivered his impressions in respect to the operation and scope of this bill. He made a statement to show what were his views of the probable number of applicants under this bill, if it should pass; and the annual amount of the expenditure it would occasion. The Jersey brigade, he said, consisted, during the war, of four regiments; there were forty officers to each regiment, making in the whole one hundred and sixty. On the 4th of July last, as he was enabled from personal knowledge to state, there were, living but twenty of those officers, being precisely one-eighth of the whole number. Taking this fact for his guide, as the proportion of survivors, he said, there were in the Continental army sixty-eight battalions, of whom about seventeen thousand men were killed or died in service; and at the close of the war, it was a well known fact, the battalions did not average more in each than two hundred and fifty; making in the whole seventeen thousand men—of whom, say about one-eighth (being generally not of as regular habits as the officers) were living; that is, seventeen thousand. Estimating the proportion of applicants for the pension at one-sixth, would make three hundred and forty. The full pay of the Revolution, six and two-thirds dollars per month to each, of these, would amount to \$2,295 per month. Of the officers, the whole original number he estimated at two thousand seven hundred and twenty; of whom, supposing one-eighth to have survived, as in the instance of the Jersey brigade, there were now living about one thousand three hundred and forty. Of this number, he supposed one-tenth of the whole would become applicants for pensions—say thirty-four; at the full subaltern Revolutionary pay of seventeen dollars per month, their pensions would amount to \$578 per month. The monthly pension for both officers and soldiers, on this estimate, would be \$2,873, and the annual amount only \$34,376—an amount which must daily decrease. But, instead of full pay pension, the bill, as it now stood, provided only for half pay. Would this House be satisfied, Mr. B. asked, with giving to these men, borne down with age and service, a pension of three and a

third dollars a month during the small remainder of their lives, whilst they had given the soldiers of the late war (no disparagement to them) eight dollars per month? He hoped not; and therefore moved to amend the bill so as that the amount of pension should be for every officer seventeen dollars per month, and for every soldier eight.

Mr. TUCKER, of Virginia, moved to amend the amendment, so as to make the pensions twenty and eight.

The amendment to the amendment was agreed to without objection, after a few observations from Mr. COMSTOCK.

Mr. HOLMES, of Massachusetts, suggested an amendment to the bill, going to make its phraseology more precise in regard to those to whom it should apply; because, as at present worded, it would entitle to a pension not only all who were in need of it, but those also who, though in affluence, were disabled by age or infirmity from procuring subsistence by manual labor.

Between Mr. COLSTON, of Virginia, and Mr. ORR, of Massachusetts, an amendment was moved to the bill, that every officer or soldier, who served in any manner during the Revolutionary war, and now surviving, should be entitled to the pension abovementioned—the one to twenty, the other to eight dollars per month.

On this motion a desultory debate arose, in which the following sentiments were expressed by the gentlemen to whose names they are subjoined.

Mr. COLSTON objected to the qualification of indigence, required by the bill, to entitle the surviving Revolutionary officer and soldier to the benefit of its provision. Let not the soldier, said he, by whose bravery and sufferings we are entitled to hold seats on this floor, be required to expose his poverty to the world, and exhibit the proof of it, to entitle him to relief. The incorporation of such a provision in the bill he considered as degrading to the House. In what light was this bill to be regarded? Was it to be considered as an act of justice? It was less than justice, having suffered these meritorious men to have remained for years unrewarded, to offer to the poor remains of them the right to a pension during life, clogged with such conditions. As an act of beneficence, he should be ashamed to hear it supported on this floor. On this subject, Mr. C. said he hoped a liberal spirit would prevail; and that, for the short remnant of their lives a pension would be given to all who survived of the soldiers of the Revolution.

Mr. ORR accorded fully in the sentiment of Mr. COLSTON. On the first perusal of the bill, he was struck with the thought, what must be the feelings of the high-minded officer of the Revolution, compelled to produce in open court the proofs of his own indigence; and he hoped the House would amend that part of the bill.

Mr. HARRISON, of Ohio, avowed his high respect for the survivors of the Revolution, and his sincere desire to contribute to their comfort in old age. But, he said, the amendment now proposed went too far, because it would embrace every

one who had shouldered a musket, even for an hour, during the Revolutionary war. As to those who had seen serious service, so far from having claim to the meed of liberality, the amendment would be but a measure of justice, as no bounty had been accorded to them. Persons, however, covered with scars and borne down by length of service in those days, ought not be confounded with those who had been called out for an hour or a day. Some of the militia, he thought, were as well entitled to this pension as any regulars, of whom the Jersey militia might be particularly mentioned. But he wished to have the operation of the bill limited to such as should have served six months or more.

Mr. SOUTHARD, of New Jersey, did not like the word "shall," as applied to the receipt of pensions: "shall receive pensions," he said was making the bill compulsory. Some of the survivors, he said were wealthy; towards them he felt gratitude for the services they had rendered their country; but he would not extend to them the same measure as to the indigent and the afflicted. Some of those who survive, the war itself had made rich—the wealth of some of them was almost unbounded, and, in some cases, he was sorry to say, it was acquired by speculating on the soldiers' claims. Such characters he was not in favor of putting on the pension list of the United States. Under the amendment proposed, said Mr. S., there are many gentlemen in my view, who would become pensioners—perhaps myself among them, if I chose to be compelled to take one. There were many men on this floor, he believed, who deserved the gratitude of the country, but who would not accept a pension at its hands.

Mr. SMITH, of Maryland, said, that, in draughting the bill, the select committee had conformed it pretty much to the words of the message; and he believed it was their desire, to confine it to the survivors of the army of the Revolution. Except one indeed, the committee who reported the bill was composed entirely of officers of the Revolution, and would have felt a delicacy in introducing a bill on the very liberal principles which some gentlemen had advocated. But if this House chose to extend the provisions of the bill to all survivors, he should not, for one, object. He might not, under the rules of the House, be permitted, as one interested, to vote on the question; nor should he vote on such a question—nor would he take the pension. But he should not object to the amendment, since there seemed to be a pretty general sentiment prevailing, that, if the House chose to be liberal, it should be to all alike. If he thought, however, that such an amendment would endanger the fate of the bill, he should certainly adhere to the bill as it originally stood.

Mr. BLOOMFIELD opposed the amendment, as it might prejudice the fate of the bill, the provisions of which he thought were already sufficiently comprehensive. If the Message of the President had contained not a word on the subject, he should have considered it equally his duty to agitate this question. He concluded a number of other observations, opposing a proposed

postponement, by saying, he hoped to have the satisfaction of seeing this bill pass the House before the holidays.

No question was taken on the amendment, when the Committee agreed to rise and report progress, and obtained leave to sit again; and the House adjourned to Monday.

## MONDAY, December 22.

Another member to wit: from Pennsylvania, ALEXANDER OGLE, appeared, produced his credentials, was qualified, and took his seat.

Mr. MASON, of Massachusetts, presented petitions from manufacturers of cotton and woollen goods, in Waltham, Dedham, Brunswick, Lancaster, and West Boylston, in the State of Massachusetts, praying that further aid and encouragement, may be granted to domestic manufactures.

Mr. STORRS presented a similar petition from sundry inhabitants of Oneida county, in the State of New York.

Mr. WESTERLO, Mr. SOUTHARD, Mr. HALL, of Delaware, and Mr. BASSETT, respectively presented petitions from sundry manufacturers of iron, praying that additional duties may be imposed on pig iron, bar iron, and castings, imported into the United States.—Referred to the Committee of Commerce and Manufactures.

Mr. HOPKINSON presented a petition of the surviving officers of the Pennsylvania line of the Revolutionary Army, praying that the whole amount of the half pay, secured to the officers of the said army, by a resolution of Congress, may be granted to them, with a deduction of the commutation thereof, for five years full pay.—Referred to the committee appointed on so much of the President's Message, as relates to the surviving officers and soldiers of the Revolutionary Army.

Mr. HOPKINSON, also presented a petition of the Chamber of Commerce, of the city of Philadelphia, praying for the establishment of an uniform system of bankruptcy.—Referred to the Committee of the Whole on the bill for that purpose.

Mr. COBB, from the committee appointed to inquire into the claims of certain detachments of the militia of Georgia, for services performed in the years 1793, and 1794, made a detailed report, which was read; when Mr. C. reported a bill for the payment of certain militia claims, of the State of Georgia, which was read twice, and committed to a Committee of the Whole.

On motion by Mr. MCCOY, of Virginia,  
Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of increasing the price at which the public land shall be sold hereafter.

On this question there was a division; the resolution was agreed to by a majority of twenty or thirty votes.

On motion by Mr. BASSETT, of Virginia,  
Resolved, That the Secretary of the Navy be required to communicate to this House the measure taken, if any, to give effect to the act passed



H. or R.

American Manufactures—Army and Fortifications.

DECEMBER, 1817.

on the 26th February, 1811, for the establishment of Navy hospitals; if nothing has been done, to show the cause why the statute has been neglected, and whether it be necessary to repeal the same.

On motion of Mr. PORTER, of New York, the Committee on the Judiciary were instructed to inquire into the expediency of increasing by law the compensation of the Marshal of the northern district of the State of New York.

A letter was received from the Secretary of State, in reply to a resolution of this House of the 16th, requesting copies of certain accounts of M. M. Noah, stating, that the accounts therein referred to had been transmitted to this House on the 8th instant.

On motion of Mr. BASSETT, the Committee on the Judiciary were instructed to inquire whether the moneys deposited, from time to time, in the district court of the United States for the district of New York, have been faithfully applied, and that said committee be invested with power to send for persons and papers.

The bill for the relief of Noah Miller was read third time, and passed.

## EXPATRIATION.

Mr. ROBERTSON, of Louisiana, from the select committee to whom the subject had been referred, reported a bill providing the manner in which the right of citizenship may be relinquished.

[The bill proposes to provide that when any citizen, by application in writing to the district court of any district of the United States, in open court, and there to be recorded, shall declare that he relinquishes the character of a citizen, and means to depart out of the United States, he shall be thenceforth considered as having exercised the right of expatriation, and as being no longer a citizen of the United States; that such person shall be held as an alien forever after, and shall not resume the rights of citizenship without going through the same process of naturalization as other citizens.]

## AMERICAN MANUFACTURES.

Mr. JOHNSON, of Kentucky, offered the following resolution:

*Resolved*, That the Committee on Commerce and Manufactures be instructed to inquire into the expediency of providing by law for clothing the Army and Navy of the United States exclusively in American manufactures.

In offering this motion, Mr. J. said it would not be proper for him to detail the facts, or advance the reasoning which led him to the conclusion that the measure he proposed to inquire into was expedient. But he would say that he should not have thought of introducing this resolution, if he did not believe the cloth of American manufacture could be obtained at a reasonable rate. One of the objections to making a provision by law such as was contemplated, and the only one which appeared to him to have any force, was that, by destroying the competition between domestic and foreign articles, the Government would be obliged to pay higher for the same articles than they now do; but it would be seen by gentlemen that such

augmentation could only be momentary; and, Mr. J. said, the competition of the manufacturers among themselves would be so great, he had no doubt, as to give the article to the Government at the lowest possible price. The practice of the War Department, already, was to give a preference to the domestic fabric, but that preference was given with reference to the cost of the article; a system which produced not only uncertainty, because of the fluctuating state of the foreign market, but uncertainty, consequently, to the calculations of the manufacturer. In relation to the Navy, Mr. J. said, he did not know that his project was practicable; if it was, it would be necessary perhaps to give a discretionary power on this head to the commanders, when on foreign stations. But he hoped no objection would be made to an inquiry on the subject, and that the committee would favor the House with an early report.

The motion was agreed to.

## ARMY AND FORTIFICATIONS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*

In compliance with a resolution of the House of Representatives, of the 11th of this month, requesting to be informed of the present strength of the Army of the United States, its distribution among the several military posts, which it is designed to protect, and its competency to preserve and defend the fortifications among which it is distributed, and to aid in constructing such other military works, if any, as it may be deemed proper to erect, for the more effectual security of the United States, and of the Territories thereof; I now transmit a report from the Secretary of War, which contains the information desired.

JAMES MONROE.

DECEMBER 22, 1817.

In compliance with the resolution of the House of Representatives, requesting the President of the United States "to cause to be laid before the House of Representatives a return of the present strength of the Army of the United States, with the distribution thereof among the several military posts which it is designed to protect, together with any information which he may be able to afford respecting the competency of such force to preserve and defend the fortifications, amongst which it is distributed, and to aid in constructing, and to defend such other military works, if any, as it may be in the contemplation of the Government to erect, for the more effectual security of the United States, and of the several Territories thereof;" the Secretary of War has the honor to make a return of the present strength of the Army of the United States, with the distribution thereof among the several military posts.

The Military Establishment, as it now stands, is sufficiently extensive to keep the fortifications in a state of preservation, but is wholly inadequate to defend them against a regular attack by a force of sufficient strength and skill. To garrison the forts on the maritime frontier alone would require, according to the best information and estimates of this Department, more than thrice our present number, to repel the assaults of such a force. The portion of the army stationed in the neighborhood of fortifications now erecting, are employed to aid in constructing them; but

DECEMBER, 1817.

Surviving Revolutionary Soldiers.

H. or R.

only an inconsiderable number has yet been so engaged, owing to its dispersed situation. Though not immediately comprehended in the resolution of the House, it is but justice to the army to observe, that it has been employed to a considerable extent, the last year, in the construction of roads, arsenals, and other public works connected with the defence of the country.

The existing fortifications are thought to be wholly insufficient in the event of a future war. As the declaration of war is the act of the whole community, justice, honor, and humanity require that every portion of the country should, as far as possible, be protected against its ravages. This is among the most sacred duties of the Government; and, impressed with its importance, a board of the most skillful officers in our service has been constituted, to examine the whole line of our frontier, and to determine on the position and extent of works that may be necessary to the defence of the country. This great work is not yet completed; and in its present state it is impossible to speak with any precision as to the extent to which our fortifications ought to be carried. The soldiers will be able to render important aid in constructing the works that may be determined on, but, "from the composition of the army," they can only come in aid of regular and professed workmen.

J. C. CALHOUN.

[The detailed and particular statement accompanying the report from the Adjutant General's office, states the actual number of the present Peace Establishment at 8,221, including officers.]

The report was ordered to lie on the table.

## SURVIVING REVOLUTIONARY SOLDIERS.

The remainder of this day's sitting was spent in Committee of the Whole, on the bill concerning the surviving officers and soldiers of the Revolution. There was much debate, occasionally eloquent, but generally desultory, on amendments proposed to the bill, but involving also its principles.

Mr. STROTHER said, that he had not intended to trouble the House with any observations upon the passage of this bill; but he could not remain silent, when, by the proposed amendment, a feature was endeavored to be incorporated into it, which, to him, appeared to narrow the operation of the bill, and to strip it, at least, of one moiety of its merit. Is it just, or is it politic, he asked, to discriminate between the Continental line and the State troops, and the militia? What is the professed object of the bill? To provide for the indigent soldiers of the Revolution. What is the feeling or sentiment from which it springs? He said he had hailed the introduction of this bill as an auspicious circumstance—as a gratifying evidence of the re-connexion of public feeling with the principles of the Revolution. If gratitude be the feeling or sentiment from which this bill springs, by what principle would you limit and confine it to the Continental line? Is the reason to be found in the bright page of your Revolutionary history, or in what celebrated system of ethics will you find its justification? If, said he, you look to the magnitude of the boon conferred, how awful is the debt of gratitude! Mark this mighty empire arising into existence from peril

and from blood, and then sit down, if you can, and, by cool arithmetical calculation, draw a line of discrimination between those who gratuitously bestowed upon you that freedom and that prosperity you now enjoy. But why, said he, shall the militia be excluded the nation's bounty? Did they not assist in the conflict? Did they not, half armed and undisciplined, meet the invading foe, and assist in repelling him from your shores? The battle ground of Guilford speaks their eulogium; Bunker's Hill is the imperishable monument of their valor. If motive gives character to action, the indigent militiaman has the highest claim to the interposition of this Government. That love of liberty and country, which elevates man to his highest destiny, was the sole emulating principle which gave courage to their hearts, and strength to their arms, in the hour of battle. Here were motives as pure, and achievements as brilliant, as illustrate the proudest nations of antiquity. Sir, said Mr. S., it is with the deepest regret that I am driven to the comparison. I would ask that hand to perish, that would snatch one leaf from that laurel that adorns the brow of the Revolutionary army; but it must be admitted that the Continental army, had a mixed and compound motive; the holy flame that then electrified the country no doubt burnt bright in their bosoms; but they were surrounded by all the pride, pomp, and circumstance of glorious war; ambition had his prize in view, and avarice his reward. But why shall this invidious distinction be drawn in our legislative provisions? Let national pride, let national gratitude, obliterate it forever. Length of service, said he, is a criterion of merit equally fallacious and unjust. With the best possible disposition to render services, unfavorable circumstances may doom one soldier to waste his energies in inglorious ease, whilst others, favored by more auspicious fortune, may, within a comparatively short period, have frequently been led to battle, and, by their personal prowess, have contributed to the emancipation of their country. Within the experience of many members of this Committee, these facts have occurred, and they are within the observation of all; shall we, then, be asked, with these facts ringing in our ears, and occurring recently before our eyes, admit a principle so deceptive and so inequitable? Sir, said Mr. S., I had viewed this bill in a different light; I had considered it emanating from feelings of mingled respect and sympathy; as a homage paid to that stoic fortitude and heroic courage that reclaimed a hemisphere from slavery; as a tribute of respect to sages who conceived and framed a Government, embracing in its gigantic arms an entire continent, protecting its inhabitants in the enjoyment of freedom and happiness. This House, said he, cannot more appropriately evince these feelings than by rejecting the proposed amendment. All who contributed to build up our magnificent political fabric, should be embraced in the wide circle of gratitude. Permit not him, who, in the pride of vigor and of youth, wasted his health and shed his blood in freedom's cause, with desponding heart



H. of R.

Judicial Records.

DECEMBER, 1817.

and falsied limbs to totter from door to door, bowing his yet untamed soul to melt the frozen bosom of reluctant charity! No, sir, he said, the nation should seek out these noble ruins of that splendor and cheer them into a forgetfulness of their wrongs and their sorrows, in the evening of their days. Mr. S. concluded by remarking, that he flattered himself the amendment would not obtain. The object of the bill seems to connect gratitude and charity, service and distress. The beams of national charity should not be concentrated on the head of the enlisted soldier; the beams of national beneficence should equally visit the domicile of the militiaman, and convey comfort to his fireside.

Messrs. BLOOMFIELD, WALKER, GARNETT, HARRISON, COMSTOCK, PALMER, LIVERMORE, TRIMBLE, and RHEA, successively joined in the debate.

The principal question before the Committee of the Whole was on the amendment proposed by General HARRISON; which was to strike out the two first sections of the present bill, and insert, in lieu thereof, other sections, providing that every Revolutionary officer and soldier, who formed a part of the Military Establishment of the United States at the close of the war, or who previously thereto served not less than three years, and received an honorable discharge, shall receive a pension; if an officer, of half pay; if a private, of five dollars per month; but no officer's pension to exceed the half pay of a lieutenant colonel, &c.

The question on this motion was not taken before the Committee rose, reported progress, and obtained leave to sit again.

TUESDAY, December 23.

Mr. SERGEANT presented a petition of the Board of Managers of the American Bible Society, praying that all letters and packets sent to, or from the president, secretaries, and treasurer, on the business of the Society, may be sent free of postage, under such regulations as Congress may think proper to impose; which was referred to a select committee; and Mr. SERGEANT, Mr. BRYAN, Mr. MEXICER, Mr. TAYLOR, and Mr. MORTON, were appointed the committee.

Mr. SERGEANT also presented a petition of the Board of Managers of the Philadelphia Bible Society, praying that the duties imposed on stereotype plates, already imported into the United States, and designed for the printing of the Holy Scriptures, may be remitted; that all duties incurred on the importation of the said Scriptures, printed in foreign languages for gratuitous distribution, may also be remitted, and that inspired writings in foreign languages, hereafter imported, may be imported free of duty.—Referred to the committee last appointed.

On motion of Mr. FLOYD, a committee was appointed to inquire into the expediency of extending the privilege of franking to one person in each of the States and Territories of the United States, who shall be appointed by the Governor or Le-

gisature thereof, for the purpose of distributing the vaccine matter, within such State or Territory; and that they have leave to report by bill or otherwise; and Mr. FLOYD, Mr. ABBOTT, and Mr. SEYBERT, were appointed the committee.

Mr. ROBERTSON made a report on the letter from the Secretary of the Treasury, concerning the islands in the rivers passing through the public lands; which was read, and the resolution therein contained was concurred in by the House, as follows:

*Resolved*, That it is inexpedient, in this particular, to alter the law regulating the surveys of the public lands.

On motion of Mr. HOLMES, of Massachusetts, the Committee on the Judiciary were instructed to inquire into the expediency of providing, by law, for appointing justices or conservators of the peace, or other magistrates, authorized to enforce the execution of the laws of the United States.

On motion of Mr. HERRICK, the Committee on the Judiciary were instructed to inquire into the expediency of providing, by law, for increasing the compensation paid to jurors and witnesses, summoned to attend the several courts of the United States.

## JUDICIAL RECORDS.

Mr. HUGH NELSON from the Committee on the Judiciary, who were instructed to inquire whether any, and if any, what legal provisions are necessary to prescribe the effect which the public acts, records, and judicial proceedings of each State, shall have in the courts of every other State, made a report thereon, which was read; when, Mr. N. reported a bill to prescribe the effect which certain records and judicial proceedings of the courts of each State, shall have in every other State of the United States; which was read twice, and committed to a Committee of the Whole.

The report is as follows:

That, upon inquiry, it is ascertained that various and contradictory decisions have been made upon the construction of the act of Congress entitled "An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated so as to take effect in every other State," which was passed the 26th May, 1790. In some of the courts it has been decided that the records of judgments coming from other States authenticated in the manner prescribed in the act are upon the same footing as foreign judgments; that they are merely *prima facie* evidence of the debt or demand, which evidence may be inquired into and rebutted by extraneous proof; and, finally, that the original cause of action may be again investigated. In other courts, it has been decided that such records are conclusive evidence of the debt, and cannot be impeached but upon some ground or fact occurring after the rendition of the judgment.

Your committee are of opinion that Congress has not yet executed the power given by the Constitution of prescribing the effect which such records shall have. At all events, so much doubt rests upon the question, that, in the opinion of your committee, it is highly expedient that Congress should interpose by a law which will produce uniformity in the decisions throughout the Union, and which, by the establishment of a fixed

DECEMBER, 1817.

Indemnity for Slaves—Case of Mr. Meade.

H. of R.

and certain rule, will give confidence and security to commercial men in every part of the United States. They have therefore prepared a bill, which is herewith presented.

## INDEMNITY FOR SLAVES.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villere, citizens of Louisiana, made to the House the following report; which was concurred in by the House:

That the petitions and accompanying documents were, by a resolution of the 29th of January last, referred to the Secretary of State; that the Secretary of State has submitted to the House a report, (hereto annexed,) which the committee beg leave to adopt as a part of their report.

The Committee of Claims would at any time undertake with great diffidence to discuss principles of national law, or settle questions of conventional right. But at this time it would, in their opinion, be peculiarly delicate, if not premature, for Congress to adopt any measure whatever. It would seem to them more correct that the subject of the petitions should await the result of a negotiation now pending between the Governments of the United States and Great Britain. They therefore recommend to the House the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petitions and documents.

DEPARTMENT OF STATE, Dec. 12, 1817.

The Secretary of State, to whom, by a resolution of the House of Representatives of the 29th of January last, were referred the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villere, citizens of Louisiana, has the honor of submitting the following report:

The petitioners complain that when the British forces retreated from the island of Orleans, at the close of the late war, they carried away a considerable number of slaves belonging to them; the restoration of which was, after the ratification of the treaty of peace, demanded by General Jackson, conformably to the first article of that treaty, of the British commanding officer, General Lambert, and by him refused; and they apply to Congress for indemnity for the loss of their property.

Subsequently to the reference of these petitions, a Message from the President to the Senate of the United States was, on the 7th of February last, transmitted, to that body, with all the documents then in the possession of this Department relating to the subject of these petitions; a printed copy of that Message and of those documents is herewith transmitted, which it is respectfully requested may be received as part of this report. By them it will be seen that a different construction has been given by the British Government to that part of the first article of the Treaty of Ghent which relates to the restitution of slaves captured during the war, from that contended for by this Government. That, according to their construction, the British Government have not considered themselves bound to make restitution of any of the slaves or other property thus taken and carried away; and that the difference of opinion between the two Governments remaining, after all the amicable discussion between them of which the subject was susceptible, a proposal was made, on the part of the United States, on the

17th of September, 1816, that the question should be referred to the arbitration of some friendly Power. To this proposal no answer from the British Government has yet been received. Their attention to it was again invited by the late Minister of the United States in England, before he left London, and has been urged anew in the instructions to his successor.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

## THE CASE OF MR. MEADE.

Mr. TRIMBLE, of Kentucky, offered for consideration the following resolution:

*Resolved*, That the President of the United States be requested to cause to be laid before the House any information he may be able to communicate relative to the impressment and detention of Richard Cowles Meade, a citizen of the United States.

Mr. T. said that, having offered the resolution, it might be expected that he would give some explanation of the case to which it alludes. He had a right to presume that every member of the House had heard of the confinement of Mr. Meade. More than three years ago that gentleman had been incarcerated in a Spanish dungeon, where he had ever since remained. It was within his (Mr. T.'s) recollection, that many persons had expected that the last Congress would have caused an inquiry to be made into the subject; but, since that period, the case had assumed a new character, of most extraordinary complexion. It was well known, he said, that Mr. Meade is a citizen of the United States, and he believed, was, at one time, an accredited Consul, resident in some part of the Spanish dominions. Either character ought to have protected him from violence and outrage. But, unfortunately for him, they did not. The causes which produced his confinement were unknown to Mr. T.—they were probably buried in the vaults of the Inquisition. That, however, was of little consequence, if the facts which he was about to state were true; and that they are true was evinced, he said, by a document which he held in his hand, and which, he said, struck the mind with as much force as if it was marked with the characters of official certainty. I am prepared, said he, to admit, that if a citizen of the United States shall violate the penal or criminal code of any other country, he must submit to the punishment which may be inflicted on him; but such is not the case of Mr. Meade. It was not contended, he said, that the person in question had violated the letter or spirit of any part of the penal or criminal code of Spain—and, on the contrary, the document which he held in his hand afforded the highest evidence that there was no cause of complaint against him. Upon some urgent and vigorous remonstrances being made on this subject by our Minister, Mr. Erving, a public notorious royal order was issued. Mark me, sir, said he—a public notorious royal order, announcing to Spain, to America, and the whole world, that there was no cause for the detention of Mr. Meade, and directing his immediate release. How the



H. of R.

Surviving Revolutionary Soldiers.

DECEMBER, 1817.

aching heart of Mr. Meade must have throbbed and swelled with the prospect of leaving in a few hours his loathsome, pestilential dungeon, to breathe once more the free and wholesome air! How it must have sunk and died within him, when the doors of his "prison house" were unbarred by a meagre minion, who had come skulking through the vaults of those dungeons of death, with another secret order. Mark it, again, sir—another secret order issued at the same time, under the same royal signature, commanding his keeper to hold the prisoner at his peril. Yes, sir, one order, public and notorious for his releasement, and another secret order for confinement, of the same date, and under the same royal signature. If these facts be true, the case stands without a parallel in ancient or modern times. Even the case of Czerny George has no similitude; he was a monster, executed by the Turk, because he had, in cold blood, thrust his sabre through the heart of his own king. Whereas Mr. Meade is acknowledged to be an innocent victim, suffering under royal displeasure. I will not attempt, said Mr. T., to paint the horrors of a Spanish dungeon, or the agonings of hope at protracted confinement. It is not my wish to excite public feeling, and I utterly disclaim all intention of connecting this subject with other questions, now under discussion, or which may fall under discussion, between this Government and Spain. Mr. T. agreed also that he had entire confidence in the late and present Executive heads of the Government, and had no doubt that everything which could be done had been done in behalf of Mr. Meade. But he held it the duty of this House to inquire into this (he would again call it) extraordinary case, and, if the facts and circumstances shall require it, make such expression of his opinion as will add weight and force to future executive exertions. If the case were as well-founded rumor told, he for one was ready to volunteer his arm in defence of Mr. Meade, and brave the storm, unfearing consequences. For, said he, while I have the honor of a seat in this House no lawless despot shall lay an angry finger on a fellow-citizen of mine, without the hazard of bringing that finger to the block. He was one of those, he said, who were willing to believe that we ought not at this time uselessly to embroil ourselves with any foreign Power; and he was thoroughly satisfied that it is our best and wisest policy to husband our resources, our men, our arms, to meet the coming conflict with the only nation that dare strike us upon the land or on the water—the only nation that can send us a Hannibal, or whom we shall revisit with a Scipio—that nation who has already sacked our infant Rome, and whose proud Carthage we shall one day humble in the dust, and sweep with the besom of retributive desolation. But, said he, there are no present circumstances, or looked for events, that ought to incline us to harden our ears, that we may not hear the calls of a suffering citizen, imploring our protection. So, I think it was, upon being asked, "What

form of Government is best?" replied, "That form in which the smallest insult offered to the meanest citizen is considered an injury to the whole community." Could a better maxim be adopted in a Government like ours? Is there anything which so exactly accords with the principles of our Constitution? This, it is true, is but a single instance of individual oppression; but the outrage done to the personal rights of the victim; the infraction of national law; and the affront, the insult offered to our Government, is exactly the same as if half a million had been incarcerated; for he held that our system of Government is the true poetic chain, which links us together as a band of brothers—and

"If from that chain a single link you strike,  
"Ten, or ten thousand, break the chain alike."

We are bound, sir, said Mr. T., under our Constitution, to protect the life, liberty, and property of every citizen of our country. But where may he claim that protection? Or rather, where shall his right to claim it cease? Is it confined to the limits of the Union? or does it not extend to the remotest region of the globe, which is visited by our people? May the citizen claim it against the savages of the Western wilds, and is he not entitled to it among the still more lawless chieftains of a decaying, perishing, and ruined monarchy? It is not in this land of liberty that the citizen need call for protection; here it comes, as it were, unbidden, to encompass him about; but when oppression falls upon him in a foreign land, among strangers, friendless and unprotected, his supplicating voice should not be heard in vain; for everything which is obligatory in the social compact, or honorable in humanity, calls for and commands your protection, as if he stood upon the sacred soil that gave him birth. Who of us, said Mr. T., in the condition of Mr. Meade, would not ask this inquiry of this House? Which of us will refuse it? for the honor of my country I hope there is not one.

The motion of Mr. T. was agreed to without opposition or further debate.

#### REVOLUTIONARY SURVIVORS.

The House having resolved itself into a Committee of the Whole on the bill concerning the surviving officers and soldiers of the Revolutionary war—

Mr. FORSYTH regretted that the amendments proposed by the gentleman from Ohio had not been printed, as the object he had in view was not understood by the Committee. Every gentleman who had discussed the subject since they were introduced appeared to think it was proposed to extend the provisions of the bill to all the surviving officers of the Revolutionary army. This was not the case. The proposition is to change the application of the principle, and, to a certain extent, to enlarge the provision of relief; but the principle of the bill and the amendments were essentially the same. Both contemplated relief to indigence only. If he understood the proposition, (and if he did not he hoped to be corrected) the alterations proposed were: To

DECEMBER, 1817.

Surviving Revolutionary Soldiers.

H. of R.

render it unnecessary for the persons claiming the benefit of the act to establish the fact of their poverty by proof: every indigent officer and soldier who asked, as such, were to receive the pension offered by the Government on the production of the evidence of service during the Revolutionary war; it was left to his own honor to determine how far his poverty entitled him to the bounty of Government: To graduate the amount of pension by the rank of the officer, clogged with the limitation of the original bill, that no pension should exceed the half pay of a lieutenant colonel: To give to every Revolutionary officer in the service of the United States since the peace of 1783, and who has been disbanded, pay according to the rank he last held in the Army. Mr. F. was friendly to the first part of this proposition; he did not think that it was either ridiculous or disgraceful for an individual to confess his indigence, and accept a support from the Government of this country; but he was anxious to save those who ought to be relieved from the humiliating necessity of searching for evidence of the precise quantum of their property, or producing surgeons' certificates of the state of their bodily strength. He was aware that some impositions would be practised, but he preferred that the Government should lose a few hundred dollars to the risk of depriving a single suffering officer or soldier of the pittance proposed to be allowed, from the operation of even a false delicacy. As, however, the original bill, by mere verbal modification, would produce the same end, he should vote against the amendment proposed; because of its connexion with the other alteration he deemed inadmissible. The graduation of the pay according to rank was a work of unnecessary detail; it could make the limitation but a few dollars difference to the highest rank, and, Heaven knows, twenty dollars per month was but a poor subsistence for any man who had ever been accustomed to live like an officer. Besides, the Committee were relieving the wants of the suffering, not regulating the emoluments of rank; and he was confident no general officer would regret that, after being reduced to the half pay of a lieutenant colonel, an ensign should have the same allowance that was given to himself. Mr. F. was at a loss to understand the ground upon which the last proposition was defended; upon what principle the rank of an officer of the Army subsequent to 1783 was to be considered as entitling him to the emoluments given to those of the same rank prior to that period. If a discrimination was made, it ought to be in favor of those who never had been subsequently employed. Those retained in service, or subsequently reappointed, had, to a certain extent, enjoyed the bounty of the Government: instead of deserving more, they were, on that account, entitled to less than their fellow officers, who have not experienced the same good fortune. Mr. F. was, therefore, opposed to the proposed change. With the great majority of the House, he was disposed, after the verbal modification to which he had

alluded should be made, to vote for the bill without scanning too curiously the motives of his conduct. It was enough for him to know, that there were men, the recollection of whose services always inspired the most grateful emotions, in want, to desire to relieve them. So far as it could be done without the violation of principle, or the establishment of a dangerous precedent, if his voice could effect it, it should be done. He must protest, however, against the doctrine advanced by several gentlemen, that these individuals had claims upon the justice of the country for pecuniary assistance. An honorable gentleman from Kentucky, (Mr. TRIMBLE,) and the honorable gentleman from the State of Maryland, (Mr. SMITH,) had told the Committee that some remuneration was due, since the commutation of five years' full pay for the promised half-pay for life was forced upon the officers at the close of the war. The preamble of the resolution of Congress offering this alternative declares that the offer was made at the request of the Army—a boon granted to their solicitation, and for the reasons stated in their petition to that body. At this day it is too late to complain of their choice. The Government, according to its ability, dealt with them as with all its creditors, and distinction cannot be made in their favor without injustice to all those to whom it was indebted. It is unfortunately true, that before the United States could redeem its moneyed obligation, the original claimants had parted with their right; and, although the Treasury paid every shilling in the pound, principal and interest, those who earned did not receive the allowance. The time was when a just discrimination in their favor might have been; but the opportunity was sacrificed to the chimerical notion of laying deep and broad the foundation of the public credit, by securing immense wealth to those who had speculated upon the supposed public insolvency. The obligation of money was paid to those to whom the right of receiving it was assigned. That improvidence, or necessity, or want of just confidence in the resources of the country, induced the original holders to part with their demands, is to be deeply regretted; but the fault was not ours, and it is not in our power to remedy it. We owe the Revolutionary officers no debt. Mr. F. said, he spoke not of the moral obligation for the achievement of independence and the security of public and individual liberty. The benefits which they had bestowed were infinite, and no pecuniary recompense could discharge the vast amount. But even here a suitable recompense had been afforded. Those who resisted the invasion of the rights of the people, and secured their enjoyment, who established the independence of their country, have enjoyed, in common with their fellow-citizens, those inestimable blessings. Nay, more, they have been, at all times, the peculiar objects of the patronage of the Government, and of the people's love. Revolutionary service is the passport to office and to the confidence of their fellow-citizens. There are some instances of a contrary character, but



H. of R.

Proceedings.

DECEMBER, 1817.

they are only exceptions to a general rule, arising from some unfortunate political opinions, or from the character of the individual. Of the truth of this statement, a reference might be made to the history of the public offices in the General Government. Even under his eye there were striking examples of it. What gave to the honorable chairman who reported the bill (Mr. BLOOMFIELD) the undeviating support of his fellow-citizens in New Jersey; that raised him from obscurity to office, until he was elected to the Executive Chair, and thence as their Representative in this Hall? Was it his pure integrity, his good sense, his upright character, and undeviating political consistency? There were many men in New Jersey who, in all these qualities, might hope to equal him; but to all these he added the important requisite of Revolutionary service. The other honorable member of the committee, who was the zealous advocate of the bill, (Mr. BENTLEY)—what had secured to him, for so many years, the confidence of the State of Maryland, or of the district in which he lives? He served during the Revolutionary war. Living in a city, Mr. B. would not call it factious, but certainly distinguished by the violence of its political feelings, what has at all times enabled him, if not to satisfy its expectations, at least to escape the consequences of its resentment? Is it his powerful intellect and extensive commercial information; his industry and his zeal? In all these he has formidable competitors. It is because, even when filled with resentment at a portion of his political conduct, they could not consider his claims for their suffrages without the glorious defence of Maryland rising unbidden to their view. Every State government would furnish similar illustrations. Revolutionary officers and soldiers gave steadiness to the movements of the Legislative bodies, added wisdom and dignity to the Judiciary, and nerved the arm of Executive power. Even those who have partaken of none of these advantages, who are old and helpless, steeped to the lips in poverty, have they not the consoling, the glorious reflection, that their toils and their sufferings are the causes of the prosperity which is springing around them? Where is the selfish reptile, who, under such circumstances, will not exclaim, "I am amply rewarded!" This is not the cry of fond enthusiasm, but the dictate of sober reason. The severest mortal agony is amply repaid by the consciousness of having raised our country to its elevated rank—of having contributed to the felicity of millions of the human race.

The debate continued on the main subject and on the proposed amendment of Mr. HARRISON. In the debate Messrs. BLOOMFIELD, S. SMITH, HARRISON, COLSTON, BALDWIN, CLAGETT, HOPKINSON, RHEA, ROSS, and INGHAM, bore part. The amendment proposed by Mr. HARRISON, was ultimately rejected; as also was a previous question for the rising of the Committee, in order to postpone the subject.

The Committee then went on further to amend the bill, on suggestion of various members. In

the proposition and discussion of these amendments, Messrs. PETER, BLOOMFIELD, LIVERMORE, PARRIS, RHEA, BENNETT, BEECHER, HARRISON, TERRY, FORSYTH, SMITH of North Carolina, TAYLOR of New York, TALLMADGE, WHITMAN, CLAGETT, PALMER, and STORER, took part.

Among the successful motions was one by Mr. PARRIS, to include the "officers and mariners who served in the Navy of either of the States, or of the United States," thus placing the Revolutionary officers of the Navy on the same footing as those of the Army.

The Committee of the Whole rose, about four o'clock, and reported the bill as amended.

The House took up the amendments reported by the Committee; when various propositions were successively made and discussed to disagree to or amend many of them.

The House having at length gone through the amendments, the bill was ordered to be engrossed, as amended, *nem. con.*, and read a third time tomorrow.

Mr. SPENCER then offered a joint resolution, that the two Houses should adjourn on Wednesday, the 24th instant, to meet again on Monday, the 29th instant. The resolution was twice read, and ordered to be engrossed for a third reading—was subsequently read a third time and passed—yeas 84, nays 63.

And the House adjourned.

WEDNESDAY, December 24.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act for the relief of the heirs of Landon Carter, deceased." The bill was reported without amendment, and referred to the Committee on Pensions and Revolutionary Claims.

The SPEAKER laid before the House a report on the petition of John Bate, to him referred; which was ordered to lie on the table, but was subsequently taken up, and referred to the Committee of Claims.

The bill for the relief of Joel Earwood; the bill for the relief of Samuel Arkman; a bill making provision for the establishment of additional land offices in Missouri Territory, severally passed through a Committee of the Whole, and were ordered to be engrossed for a third reading.

The bill for the further relief of John Thompson passed through a Committee of the Whole, and was rejected; but was subsequently, at the instance of Mr. JOHNSON, of Kentucky, reconsidered, and ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the "bill by which the right of citizenship may be relinquished."

On suggestion of Mr. LOWNDES, that this was a subject of too much importance to be acted on with so thin a House, Mr. ROBERTSON, of Louisiana, (the author of the bill,) consented to its postponement, by the Committee rising, and obtaining leave to sit again.

On motion of Mr. DRAKE, of Massachusetts, the Committee of Commerce and Manufactures

DECEMBER, 1817.

Surviving Revolutionary Soldiers.

H. of R.

were instructed to inquire into the expediency of granting bounties to manufacturers who manufacture a given number of yards of woollen and cotton cloths of a certain width, and that a permanent fund be appropriated for that purpose.

#### SURVIVING REVOLUTIONARY PATRIOTS.

The bill providing for certain surviving officers and soldiers of the Revolutionary Army was read a third time.

A motion was made by Mr. LOWNDES to recommit the bill to a Committee of the Whole House, with instructions "to limit the benefit of the act to soldiers who were enlisted for a term of three years, or for the war, and who did not desert; and to officers who continued in the service of the United States to the conclusion of the war in 1783, or were left out of the service in consequence of disability, or in consequence of some derangement of the Army."

The question being stated on thus recommitting the bill, Mr. EDWARDS moved to amend the said instructions by striking out the words "three years," and to insert in lieu thereof the words "one year."

And the question being taken thereon, it was decided in the affirmative.

Mr. JOHNSON, of Kentucky, said, a proposition had been made, if he understood correctly, by the gentlemen from South Carolina, to recommit the bill to a Committee of the whole House, with instructions so to amend it as to limit the benefits of the act to soldiers who were enlisted for a term of three years, or for the war, and who did not desert, and to officers who continued in the service of the United States to the conclusion of the war in 1783, or who were left out of the service in consequence of disability, or of some derangement of the Army.

Mr. J. said, he was opposed to such limitation. The discrimination would exclude many officers and soldiers, one-half at least, who were embraced in the present provisions of the bill. It now provides, said Mr. J., for officers of every grade who served in the Revolutionary war, and who are now in a state of indigence, and unable to procure a livelihood by their own exertions, the sum of twenty dollars per month to each; and eight dollars per month to each of the gallant soldiers of the Revolution, who are thus reduced to penury and inability. It is well known to all, that the great contest in which the United States were engaged, for the establishment and defence of their independence, substantially terminated in 1781, when General Washington, at the head of the combined forces of the Union, compelled the British General Lord Cornwallis to surrender, and led captive the legions under his command. After that glorious event, many officers and men retired to private life and civil pursuits, under the full conviction that the conflict was then at an end; and the event justified their conclusion. The forces of the contending parties, from that time, confined themselves to the duties of the camp; and if skirmishing parties sometimes came into contact, it was more by casualty than design.

To confine the bounty of the Government, therefore, to those who continued in the service until the Treaty of Peace, would be to exclude one-half of those who braved the danger of the field in devotion to their country's cause, and are now entitled to protection and support. Nor can I concur in the sentiment that it is necessary for a soldier to have served for the term of three years to entitle him to the gratitude of his country. Will this amendment embrace the volunteers who traversed the Western wilds with General Clark? Will it embrace the militia, upon whom draughts were made in all cases of emergency—who were called upon in every crisis of the Revolution, and who never failed, in the hour of trial and danger, to come to the help of the Lord against the mighty? Whatever sentiment may prevail as to their inefficiency, experience confirms the opinion that they were equally useful, and equally important in their place, with the gallant soldiers of the Continental line. I do not, therefore, see the propriety of requiring this term of service. It is needless to call to the recollection of this House the many glorious achievements of our Revolutionary heroes, which demonstrate the fact that not three, nor even one year's services is necessary to render the most essential benefits to the cause of independence. They naturally crowd upon every mind whenever that struggle becomes the theme of contemplation, and bear conviction to the heart that these heroes of liberty, from whose fortitude and valor the present blessings of our country have, in a great measure, resulted, are really entitled to the gratitude and consideration of the Government.

Mr. J. said, it was sufficient, in his opinion, to guard against imposition, by making service and poverty the basis of the bill. He was unwilling to add greater limitations, or any principle, which would restrain, beyond these points, the bounty and generosity of the nation.

I have attended, said Mr. J., to the deliberations upon this subject, with great anxiety, for a week past, and with heart-felt felicity, have marked the disposition of the House, beyond what has been manifested on any former occasion, to provide for the war-worn soldiers of the Revolution. My eyes, said he, have been constantly fixed upon the venerable patriot from New Jersey, (Gen. BLOOMFIELD) who has so frequently presented himself to the House in favor of his gallant countrymen and faithful compatriots in arms. With gratitude to heaven, do I view the agency of Divine Providence, in bringing him into this House, with the frost of seventy Winters upon his head, to plead the cause of those who breasted the storm of the Revolution. The sympathetic ardor in which that venerable patriot has discharged his duty, both to his country and to his brethren in arms, combined with the unaffected modesty of his manner, has excited the deepest sensibility. I have abstained from taking part in the debate, fearing that it might have injured the cause; but I hope to be excused on the present occasion, in troubling the House, particularly when I discover that the chairman of the



H. R.

Remission of Duties.

DECEMBER, 1817.

committee who reported the bill, is exhausted with fatigue, and the bill is now on its passage.

A crisis, and to me, said Mr. J., an awful crisis of this business has arrived. Recommit the bill, and I fear it is lost forever, amid the diversity of opinions which we discover upon the subject. Some would confine the benefits of the bill to the Continental troops; others would extend them to the State troops and militia. Some would embrace in its provisions the rich as well as the poor; others would limit the bounty to the needy. Some would provide for those only who served during the war; some for those who served three years; some would limit the term of service at one year, and some at six months. Some would exclude the felon and the traitor, and others would embrace, indiscriminately, all who braved the dangers of the field. Amidst these jarring opinions, if we recommit the bill, it may be lost forever.

I am satisfied, said Mr. J., to provide for the surviving officers and soldiers of the Revolution, who are poor and needy, and who cannot procure a livelihood by their own exertions. Very few of these worthies now remain, and but few of these will claim the benefit of this country. Many distinguished citizens of the United States are now engaged, by associations and contributions, to provide a refuge of safety and repose for the unfortunate Africans among us, and it is said, that the territory already in contemplation upon their native continent. The moral and religious world is zealously engaged in the meritorious work of forming numerous missionary societies, and in bestowing liberal donations, to disseminate the heavenly doctrines of the Gospel, and the sublime principles of Christian morality, even among the benighted Hindoos, as well as among the benighted of America. Every enlightened class is now engaged in the holy work of distributing the word of God to the poor, both in our own and in foreign domains. Even the monarchies of Europe are at this moment uniting in measures to secure the continent of Africa from the curse of the slave trade. In this age of philanthropy, while contemplating these benevolent undertakings, the mind naturally turns to the indigent American, and inquires, with anxious solicitude, whether the officer and soldier of the Revolution are not equally worthy of our regard. With pleasure we behold the world, upon the broad basis of universal charity, embracing in its benevolence the best gifts of the Creator, and extending those gifts to the universe. But, superadded to the common obligation of benevolence, we are bound, by the strongest ties of gratitude and justice, while we reap the fruit of their toils and perils, to administer this last consolation which hoary age can enjoy at our hands. In tracing the history of nations, we see but few States in which liberty has been enjoyed, and in these few States it has found but a transient abode. In the general prevalence of despotism, liberty has maintained an existence only upon the mountain's brow, and in craggy cliffs, which scarcely presented sufficient charms to

invite the cupidity of tyrants; and now, not a foot of soil in the universe can boast the freedom which we enjoy. But here a happy scene presents itself. And all the luxuries of nature, sweetened with Heaven-born liberty, wanton around us; and this liberty is the fruit of these men's valor. Their happiness or misery, for the little remnant of their days, awaits the fate of this bill. In that book which inculcates the purest sentiments of benevolence, we read of a pool where the sick, the lame, and the halt, waited for the troubling of the waters, to be healed of their miseries. Here, sir, have the officer and soldier of the Revolution been waiting for these thirty-five years for the troubling of the waters; and, I beseech you, let not their hopes be blasted. At a moment like this, when expectation is all alive, disappointment would be more than their trembling limbs could sustain; but your favorable decision this day will confer that reward which will smoothe the declivity of life, and secure the dying blessing of the friends of liberty, the benefactors of their country.

But, sir, I will not further trespass upon your time. I thank the House for the patience with which they have listened to these remarks. When I arose, it was not my intention to have detained you thus long; but an earnest solicitude for the founders of American independence would not suffer me to say less; and I trust the decision will show that it were needless to say more.

After a considerable debate, in which Messrs. MILLER, OGLE, and RHEA took part, a division of the question being required, it was taken on recommitting the bill, and decided in the negative, ayes 57.

The question was then taken on the final passage of the bill, and decided in the affirmative without a division.

#### REMISSION OF DUTIES.

The bill for the remission of the duties on the painting presented by Benjamin West to the Pennsylvania Hospital was then taken up in Committee of the Whole.

Mr. NEWTON, of Virginia, said the object of the bill under consideration was to remit, to the Pennsylvania Hospital, the duties on a painting, called "Christ in the Temple, healing the Sick," presented to that institution by Benjamin West. The British Government, with a liberality and promptitude that does honor to it, remitted every charge incident to the exportation. The reception of it in this country would, Mr. N. said, be trusted, be met by the Government in a spirit not less gracious and liberal. The munificence of this celebrated artist—a munificence, the exercise of which belongs only to genius of a superior order, and of extensive acquirements—would, he hoped, be acknowledged in such a manner as to manifest the sense this Government entertains of the respect shown by him for this nation. The painting, Mr. N. added, is considered as the *chef d'œuvre* of his pencil. The present is designed as a memento of the love that illustrious man bears his native land. It is also

DECEMBER, 1817.

Proceedings.

H. OF R.

highly complimentary to the taste and judgment of this nation. The painting, moreover, reflects honor on this country, and extends its fame, as it is the production of an American. Permit me, said Mr. N., to congratulate my country on her rising fame. The genius and skill displayed by Trumbull, by Stewart, by Vanderlyn, by Sully, by Peale, and many others, secure to each an imperishable fame, and to their country, renown. A new epoch has commenced—its progress is auspicious. The Grecian, Italian, Flemish, French, and British schools, will be rivalled and equalled, in time, by our own. I congratulate those who are endowed by genius, but whose means are too limited to enable them to seek, in distant regions, the acquirements necessary to form and fix their judgment, and to give to their taste the characters of delicacy and correctness, on the prospect they have of completing their studies in their native land, under political institutions that give to genius their full scope, and the enjoyment of its creations, and that leave to emulation the influence of developing its powers. The inspiration thus kindled, diffused and made active, will bestow on their works whatever can delight and enchant the mind, and soften and meliorate the heart. Mr. N. asked pardon for this trespass. Had he said less—and less he could not have said—he should not have performed his duty, and done justice to his feelings. He hoped the bill would pass unanimously.

The bill was reported to the House, ordered to be engrossed, and subsequently read a third time, and passed.

MONDAY, December 29.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, made an unfavorable report on the petition of James Bursiel; which was agreed to.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made unfavorable reports on the petitions of Roswell Woodworth, of James Prince, of Jacob Greer, and of Abraham Byington; the two first of which were agreed to, and the third, on motion of Mr. EDWARDS, laid on the table. The report on the case of A. Byington was, on motion of Mr. RICH, so far modified as to discharge him, in part, from the debt for which he is responsible as security, (that part partaking of the nature of a penalty,) and the report, as amended, was recommitted to the Committee of Claims, to bring in a bill accordingly.

Mr. PINDALL, from the committee to whom the subject had been referred, reported a bill to amend the act respecting the recovery of fugitives from justice, and persons escaping from the service of their masters, [providing the means to be pursued for the recovery of slaves escaping into another State, and affixing the penalties for harboring such fugitives or obstructing their recovery, &c.] The bill was twice read and committed.

The SPEAKER laid before the House a report from the Secretary of War, made in pursuance 15th CON. 1st SESS.—17

of a resolution of the House, embracing a list of all officers who held brevet rank in the Army at the close of the late war, their lineal rank at the time of receiving the brevet; and a list of officers of the present Army who hold brevet rank higher than their lineal rank, and the number and grade of such officers as receive, in virtue of their brevet rank, greater pay or emoluments than they would otherwise be entitled to by law; which report was ordered to lie on the table, and be printed.

The SPEAKER also laid before the House a report from the Commissioner of Claims, of the facts of the cases of Richard Mansfield, of William B. Holmes, and Mary Sears, and of Samuel Hughes, referred to him; which was referred to the Committee of Claims.

The SPEAKER communicated also a report (of facts only) from the Secretary of the Treasury, on the petition of John Peters and Saben Pond, which had been referred to him. The report was ordered to lie on the table.

Mr. POINDEXTER offered the following motion:

*Resolved*, That a committee be appointed to inquire into the expediency of authorizing the President of the United States to exchange with the Choctaw and Chickasaw tribes of Indians, or either of them, lands belonging to the United States, west of the Mississippi, for lands now in the possession and occupancy of said tribes of Indians, or either of them.

On motion of Mr. CONN, (after some conversation with the mover, and his assenting thereto,) the resolution was amended by including therein the "Creek and Cherokee" Indians, whose territory, within the limits of Georgia, Mr. C. thought it equally important should be obtained by the United States. In this shape, and after, on motion of Mr. TAYLOR, referring the inquiry to the Committee on the Public Lands, instead of a select committee, the resolution was agreed to.

The House resumed the consideration of the motion submitted by Mr. WENDOVER, of New York, for so amending the rules and orders of the House that not more than three bills shall be referred to the same Committee of the Whole. [In support of this motion, Mr. W. made a statement of the practice of the House under the present rules, inferring from it that the practice of referring so many bills to one committee tended to the procrastination of business, and operated frequently as a denial of a consideration of the subject of the bills so referred.] After some further remarks from Mr. BASSETT and Mr. TAYLOR, the motion was agreed to.

Mr. TAYLOR, of New York, submitted for consideration the following resolution:

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office cause to be engraved a plate of the Surveyor General's official map of the military bounty lands in the Territory of Illinois, and cause to be printed six hundred copies thereof, subject to the future disposition of Congress.

Mr. T. explained his object in moving this resolution, which was to procure, at a small expense,



H. R.

American and British Tonnage.

DECEMBER, 1817.

to each soldier, along with his bounty land, a portion which its location, &c., should be designated, and which would enable him better to estimate the value of his land. Such a provision, he thought, would be as useful to him as any other provision, in respect to securing him from the arts of the speculator, that Congress could make. The cost he had inquired into, and found that it would not exceed a few cents for each copy.

This motion was supported by Mr. HOLMES, of Massachusetts, and others, and was ordered to be engrossed for a third reading, by a vote of 69 to 38.

The amendments of the Senate to the Mint bill, which go to limit its provisions to five years' continuance in force, were taken up, and agreed to.

The engrossed bill for the relief of S. Aickman, the engrossed bill for the relief of Joel Earle, and the engrossed bill for making provision by law, for the establishment of additional land offices in the Missouri Territory, were severally read a third time, and passed.

The bill for the relief of Winslow and Henry Lewis, passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

#### APPOINTMENT OF MEMBERS TO OFFICE.

The following Message was received from the President of the United States:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives, of the 12th of this month, requesting to be informed whether any, and which of the Representatives, in a list thereto annexed, have held offices since the 4th of March last, designating the offices, the times of appointment and acceptance, and whether they were at that time so held, or when they had been resigned, I now transmit a report from the Secretary of State, which contains the information desired.

JAMES MONROE.

DECEMBER 29, 1817.

DEPARTMENT OF STATE, Dec. 26, 1817.

The resolution of the House of Representatives of the 22d of this month, requesting the President to communicate to that House whether any, and which of the Representatives named in the list thereto annexed, have held offices since the 4th of March last, designating the offices, the times of appointment and acceptance, and whether they were at that time so held, or when they had been resigned, having been referred to this department, the Secretary has the honor respectfully to report to the President as follows:

Mr. Holmes, of Massachusetts, Commissioner under the 4th article of the Treaty of Ghent, appointed 1st February, 1816, resigned 24th November, 1817.

Samuel Herrick, of Ohio, Attorney of the United States, appointed 19th December, 1810, resigned 29th November, 1817.

David Cruger, of New York, postmaster at Bath, appointed 29th June, 1815, resigned 1st December, 1817.

John Earle, of South Carolina, postmaster at Cen-

treville, appointed in April, 1815, resigned 12th June, 1817.

Thomas H. Hubbard, of New York, postmaster at Hamilton, appointed 11th March, 1813, resigned 23d October, 1817.

Samuel C. Crafts, of Vermont, principal assessor for the sixth collection district, appointed 4th January, 1815, resigned 5th June, 1817.

George Robertson, of Kentucky, principal assessor for the seventh collection district, appointed 4th January, 1815, resigned 5th June, 1817.

George Mumford, of North Carolina, principal assessor for the tenth collection district. No resignation has been received from Mr. Mumford.

Levi Barber, of Ohio, receiver of public moneys at Marietta, appointed 3d March, 1807, resigned 1st December, 1817.

John F. Parrott, of New Hampshire, naval officer for the district of Portsmouth, appointed 23d April, 1816, resigned 15th November, 1817.

JOHN QUINCY ADAMS.

Referred to the Committee of Elections.

#### PETITION OF A. WORSTER.

The House having resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Alexander Worster, Mr. HOLMES, of Massachusetts, moved to reverse the report, which is unfavorable to the petition. This motion was supported by the mover, and opposed by Mr. WILLIAMS, of North Carolina, the chairman of the Committee of Claims.

[The case is that of an officer enlisting a minor, through erroneous information, who prays Congress to indemnify him for loss sustained in consequence of damages recovered from him by the relatives of said minor.]

The Committee agreed to reverse the report, 63 to 48; and the Committee having risen, the question of concurrence in this decision being put, and the yeas and nays thereon having been required by Mr. POINDEXTER,

On motion of Mr. HOPKINSON, who desired further time to inquire into the facts, the report was ordered to lie on the table, 65 to 61.

#### AMERICAN AND BRITISH TONNAGE.

On motion of Mr. PITKIN,

Resolved, That the Secretary of the Treasury be directed to lay before the House a statement of American and foreign tonnage employed in the foreign trade of the United States in the years 1815 and 1816, and, as far as practicable, in the year 1817, distinguishing the nations to whom the foreign tonnage belonged; also, a statement of American and British tonnage employed in the trade between the United States and the British dominions in Europe for each of the said years, distinguishing the amount employed between the United States and the united kingdom of Great Britain and Ireland, and the other British European dominions.

That the Secretary of the Treasury be also directed to lay before the House a statement showing the amount of British tonnage in the trade between the United States and the British West

DECEMBER, 1817.

Military Bounty Lands.

H. OF R.

Indies, and between the United States and the British North American colonies in 1815, 1816, and 1817, containing the amount entered in and cleared from the American ports in each of said years.

Resolved, That the Secretary of the Treasury be directed to lay before the House a statement showing the quantity of sugar, coffee, ruin, molasses, and cocoa imported into and exported from the United States in each of the years 1815, 1816, and 1817, together with the countries and places from whence the same were imported, and the quantity imported from each country and place.

In submitting his motion, Mr. PITKIN briefly remarked on the importance of the information which the resolutions called for, and the necessity there was for the House being in possession of it, particularly in certain interesting questions which would come before the House on the subject of trade and navigation.

TUESDAY, December 30.

Mr. TRIMBLE presented a petition of the Abolition Society of Kentucky, praying that the plan, at present before the National Legislature, for colonizing the free people of color, may be carried into effect.—Referred to the Committee appointed on the petition of the representatives of the annual meeting of the society of Friends in Baltimore.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office; and for designating the western boundary line of the Virginia military line," in which they ask the concurrence of this House.

The bill was read twice, and referred to the committee appointed on the 17th instant, on the subject.

Mr. H. NELSON, from the Committee on the Judiciary, reported a bill providing for the due execution of the laws of the United States within the State of Mississippi; and the bill was twice read, and committed.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, reported a bill for the relief of Colonel John Anderson, indemnifying him for the amount of damages, (four hundred dollars,) recovered from him for acts done in the performance of his military duty; which was twice read, and committed.

Mr. HERRICK, from the Committee on Private Land Claims, to whom was referred the petition of the legal representatives of Elisha Winter and of William Winter, praying confirmation of their titles to certain lands in the Missouri Territory, made a report thereon, accompanied by a bill for the relief of the petitioners; which was twice read, and committed.

The bill to incorporate the Columbian Insurance Society of Alexandria passed through a Committee of the Whole; and, its merits having

been briefly explained by Mr. HERBERT, the bill was ordered to be engrossed for a third reading on Monday.

A motion was made by Mr. ROBERTSON, of Louisiana, to go into a Committee on his Expatriation bill, but was negatived.

On motion of Mr. BASSETT, but at the instance of Mr. CLAGETT, the House agreed to reconsider the report of the Committee of Pensions, (yesterday concurred in,) unfavorable to the petition of James Burceil; and the report was ordered to lie on the table.

The engrossed bill for the relief of Winslow and Henry Lewis, was read the third time and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, communicating, in obedience to a resolution of the House, a statement of the receipts into the Treasury from imports and other taxes within the District of Columbia since the year 1801; also the amount of registered tonnage in the said District; which was referred to the Committee on the District of Columbia.

Mr. MERCER offered for consideration the following resolution:

Resolved, That the committee to whom was referred the memorial of the American Colonization Society, be instructed to inquire into the expediency of making such further alterations in the laws prohibiting the citizens of the United States from engaging in the African slave trade, as may more effectually secure their intended operation; and that the said committee have leave to report by bill or otherwise,

In offering this motion, Mr. MERCER made a few remarks, which his distance from the reporter caused to be indistinctly heard. He said that if any apology were required of him for it, it would be found in the Message of the late President of the United States, in which the attention of the House was forcibly called to this interesting subject. Transactions of the nature referred to by the resolution, Mr. M. said, daily occurred under the American flag, disgraceful to the American name—a name dear to all who heard him—a flag glorious in its renown—and these transactions of a character injurious alike to the prosperity and honor of mankind.

The motion was agreed to, *nem. con.*

#### MILITARY BOUNTY LANDS.

The engrossed joint resolution, introduced by Mr. TAYLOR, of New York, authorizing the Commissioner of the General Land Office to have engraved a copy of the Surveyor General's map of the military bounty lands in the Territory of Illinois, and to cause to be printed six hundred copies thereof, was read the third time.

Mr. JOHNSON, of Kentucky, said he had made some inquiries on this subject, and had ascertained that the expense would be much greater than had been supposed; that the maps would cost from two to three dollars a copy, and, if there was no objection on that ground, he feared they could not be executed in time to be of service to those now possessing patents. Another objection with him was, that the map proposed was to com-



H. R.

*The Act of Neutrality.*

DECEMBER, 1817.

and only a part of the land surveyed. He would prefer, if one was engraved at all, that it should embrace the whole military land. But, inasmuch as he could see no great advantage in the proposition, but a considerable expense, he was opposed to it altogether.

Mr. TAYLOR stated, in reply, that he had been understood as to the supposed expense. He had been informed by the Commissioner of the General Land Office that a map of the military land in Illinois Territory could be engraved for five hundred dollars, and the engraving, paper, and printing might amount to three or four dollars each; but there were fifty thousand soldiers to whom patents had and would issue, who would be benefited by this map—amongst whom, if the expense was averaged, it would not exceed four or five cents each. It was not necessary that each soldier should have a copy; the maps might be sold at the court-houses of the different counties, &c., as that many soldiers might have access to and derive all necessary information from one copy. The map at present published of the military bounty lands, he thought, did not give the requisite information; that which was now proposed might be so completed in two or three months at furthest, if executed in the manner of other maps of the public lands, and the benefit be extended to all except the few soldiers who had parted with their patents, &c.

The question on the passage of the resolution was then put, and negatived by a large majority. So the resolution was rejected.

## THE ACT OF NEUTRALITY.

Mr. MILLER, of South Carolina, submitted for consideration the following resolution:

*Resolved,* That a committee be appointed to inquire into the expediency of so amending the fourth section of the act passed on the 3d of March, 1817, entitled "An act more effectually to preserve the neutral relations of the United States," as to embrace within the provisions thereof the armed vessels of a Government, at peace with the United States, and at war with any colony, district, or people, with whom the United States may be at peace.

Mr. MILLER called the attention of the House to the act of the last session, wherein it would be seen that, by an oversight, certainly, because it could not have been the intention of the House, that the vessels of Old Spain might now enter our harbors and increase their force, while those of the colonies were prohibited from so doing. The omission of the words, "district or people," in this part of the act, gave to it a force as to the vessels of the colonies which it did not possess in regard to Spain, who was not at war with any "Prince or State" at peace with the United States. The operation of the law thus exclusively favored Old Spain, which, Mr. M. repeated, never could have been the intention of the House. The act, as it originally passed this House, contained no such provision; and the error could only be accounted for by its having passed when returned from the Senate without due attention. It was the deliberate sense of Congress, at the last ses-

sion, that the United States ought to assume an attitude entirely neutral, in the contest between Spain and her colonies; but this act having a different aspect, he had thought it his duty to bring the subject to the view of the House, that it might immediately act on this point. It was true that a committee of this House was already charged with the whole subject; what they meant to do in relation to it he knew not; perhaps they might intend to offer an entirely new system; but, on this point, he thought Congress ought to act without reference to any general system. The partial error should be rectified by a special act.

Mr. FORSYTH said it might be recollected by the House, that the Committee on Foreign Relations were specially charged with the whole subject of the neutral relations of the United States. That committee, he stated, had not reported, because they had not received all the information they wished from the Executive offices, but which they were in hourly expectation of receiving. When received, the committee would report with promptitude. Mr. F. vindicated the Committee on Foreign Relations of last session, and the House, from participation in the error which was apparent in the act; for, as the gentleman from South Carolina had truly stated, it was the object of the House of Representatives, and, he believed, of the Congress, to pass an act to preserve to each party all its rights as a neutral nation. The bill which passed this House was framed for that special purpose, and would have answered it. The Senate, preferring a different form for the bill, had struck out the whole of it except the enacting clause, and passed the bill as the act now stands. The bill which passed the Senate was brought into this House after ten o'clock on the last night of the session. At that hour it was impossible to give the bill so critical an examination as, under different circumstances, it would have received; and this verbal inaccuracy had been overlooked; for he was satisfied, he said, that the error itself had been one of inadvertence, merely.

In conclusion, Mr. F. observed, he could say with confidence that, if the Committee on Foreign Relations did nothing else on the subject referred to them, they would attend to this object; and he therefore hoped the House would not, by this resolution, take the subject out of their hands.

Mr. MILLER said that, the reason which the gentleman from Georgia had offered why the committee had not reported, was the very reason why he had proposed this motion. That committee had before it other matters requiring deliberation and further information; but it was no reason for refusing to remedy a particular error, that the committee wished to form a system. If that argument prevailed, and the President were to delay until the last day of the session the information desired, there would be no opportunity of correcting a mere verbal inaccuracy, self-evident, requiring no information, and of merely making a particular act what Congress originally intended it should have been. Incidentally referring to

DECEMBER, 1817.

*Commutation Bill—Georgia Militia Claims.*

H. OF R.

Cobbett's letter on the subject of the act in question, in which this error was alluded to, Mr. M. said, he would avail himself of any suggestion from any quarter having for its object to place the United States in an entirely neutral position. The moment he was placed in possession of the fact of an inequality in any of our laws on this head, that moment he was for acting on it, without waiting for the report of a system which had no necessary connexion with it.

Mr. HOLMES, of Massachusetts, seeing that the subject was already generally referred to the Committee on Foreign Relations, moved to amend the proposed resolution, so as to refer it to that committee instead of a select committee.

Mr. MILLER, regarding such a reference as a special charge to that committee, accepted Mr. HOLMES's amendment as part of his motion.

Mr. FORSYTH said, if the House, indeed, thought it all-important that this error should be immediately corrected; that it was important to the interest of the colonies and of the United States, that the error should be corrected the moment it was pointed out by Mr. Cobbett, or by anybody, this resolution might have some claim to the favor of the House. But, Mr. F. said, no evil had arisen, nor would arise, from the error, before it is corrected; he would say, without fear of contradiction, that no Spanish vessel had been armed, or had her armament increased, since the passage of that act, or would be now. As this subject was already in the view of the committee, and within the scope of its duties, Mr. F. hoped this special instruction would not be given.

Mr. EDWARDS, of North Carolina, concurred in opinion that the proposed alteration of the law ought to be made; but he had full confidence in the committee which was already charged with the investigation of the subject, and it was no more than ordinary courtesy, after the assurance received from the chairman of that committee, (Mr. FORSYTH,) that this special instruction should not be given. He therefore moved that the resolve lie on the table.

Mr. MILLER said, in addition to the general propriety of his motion, he had just received information that vessels of war were actually building in New York for the use of the Spanish Government. But, he said, if no inconveniences have resulted from the defect of the law, it does not follow that they may not. To rescue this House from the imputation of a partiality which it had never been their intention to have manifested, he was desirous to have the subject immediately and specially acted on.

Mr. FORSYTH said, if the gentleman's information was correct, that armed vessels were preparing for the use of Spain in our ports, that was a case amply provided for already by the law. The Government of the United States is authorized to seize and its courts to condemn such vessels, one half to the use of the informer, the other half to the use of the Treasury. The section in which the error had been detected, referred only to an increase of the armament of foreign vessels already armed: a former section of the same act

amply provided for the case the gentleman had cited.

The question to lay the resolution on the table, was decided in the affirmative—79 to about 50 votes.

## COMMUTATION BILL.

The House, on motion of Mr. JOHNSON, of Kentucky, resumed the consideration of the bill to commute the bounty lands of the soldiers of the late Army. The question being on concurring in the amendments reported to the House by the Committee of the Whole—

Mr. ROBERTSON, of Louisiana, rose for the purpose of offering an amendment, which would essentially change the features of the bill; in doing which, he entered somewhat into an examination of the merits of the principle of the commutation, which he decidedly approved. This amendment, in substance, authorizes every soldier, on surrendering his warrant at the land office to be cancelled, to receive a certificate of the quantity of land surrendered; and where patents have issued, the patentee to surrender his patent to the Commissioner of the General Land Office within months after the passage of this act, in order to avail himself of the provisions thereof, and deposit at the same time an affidavit that he has not transferred or sold such patent to any person whatever, and receive a certificate therefor; and for these certificates such soldier or his agent shall receive certificates of stock bearing an interest of six per cent. per annum, redeemable at the pleasure of the Government, or within five years, at the rate of one dollar per acre for the land for which the warrant or patent has been surrendered, &c. Mr. R. thought the bill important, both as it regarded the soldier and the United States, but infinitely more important to the interest of the latter. It was all-important, he argued, that these lands should be taken out of the hands of speculators, and be redeemed by the nation. His amendment offered conditions to the soldier much more liberal, at the same time that it would be more convenient to the Government than the provisions of the present bill. The interest of both parties would be preserved, and the community rescued from that speculation which would, without this bill, certainly take place. Mr. R. dwelt some time on the policy of this measure—the expediency of which he illustrated by several arguments—and on the advantages of the change which he proposed in the bill.

The amendment offered by Mr. R. having been read—

On motion of Mr. JOHNSON, of Kentucky, the proposed amendment was ordered to be printed and the whole subject to lie on the table.

## GEORGIA MILITIA CLAIMS.

On motion of Mr. COBB, of Georgia, the House resolved itself into a Committee of the Whole, on the bill providing for the payment of the claims of certain detachments of the militia of Georgia, for services in defence of that State, in the years 1793 and 1794.

Mr. COBB observed, that the filling the blank



H. of R.

Georgia Militia Claims.

DECEMBER, 1817.

necessarily involved the merits of the bill, for, before the committee could be required to fill the blank with a certain sum, they should be satisfied whether anything was due. He hoped he should be able satisfactorily to convince the committee of the justice of the claim, and that the sum proposed was the proper amount to be appropriated.

Mr. C. said that the pacification of the Indian tribes which was anticipated by the treaties made with them between the years 1787 and 1792, was not accomplished. In the year 1792, the tribes upon the Northwestern frontiers of the United States, from British intrigues, as was then and yet is believed, assumed an attitude of widely extended hostility. Nor was it long before their hostilities terminated in a war, so dreadful in its character, that the people of the Northwest yet have cause to remember it with grief and sorrow. The tribes upon the frontiers of the State of Georgia, as savage in their character, and more formidable in point of numbers, were not much less inclined to hostility. They were subject to the same influence which had been exercised upon their Northern brethren, aided by that of Spain, with which power the United States were at that time in warm dispute, about the navigation of the Mississippi river, and for other causes. The intrigues of Spain were at that time well known, and scarcely denied, as the public documents of the day amply testify. Of this any gentleman could satisfy himself by consulting the volume of secret documents, lately published. From these causes, Mr. C. said, in the years 1792-3, the situation of the inhabitants upon the Western frontiers of Georgia, was alarming to an indescribable degree. Suffice it to say, as had once before been said upon the same subject, that the peaceable citizen knew not, when he retired to repose, that he would ever awake; or, if he did, that he might not be roused by the horrid yell of the savage war-whoop, and but to behold his helpless family the bleeding victims of the Indian tomahawk and scalping knife.

It was not to be expected, that the Executive of Georgia would calmly behold the blood-chilling scenes of murder and depredation, at that time but commencing upon the frontiers of the State. Had he done so, he would have merited and received the curses of his countrymen and posterity. Fortunately, the Executive chair of the State was then filled by one who was ever feelingly alive to the sufferings of his fellow-citizens. He now reposes in the grave! But his virtues and his patriotism are yet remembered, and his loss deplored. I allude, said Mr. C. to the late Governor Telfair.

Early in the year 1792, he made the necessary communications to the War Department. On the 27th of October of that year, the Secretary of War, by letter, gave him a most ample discretionary power, as the extract following will show. "If the information you may receive, shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures

for the defence thereof, which may be in your power, and which the occasion may require." It is impossible that words better suited to conferring an ample discretionary power could have been used. The Governor of Georgia is constituted the judge of the danger and of the amount of the force. The state of the frontiers required that such a power should be conferred, at that particular time, and it was conferred. It was necessary, because of the uncertainty of the extent to which the Indians would carry their hostility. It was necessary, because of the difficulty, and trouble, and expense, of bringing a militia force into action, none of which should be encountered, if to be avoided without danger.

In acting under this power, the Executive of Georgia acted with caution and prudence. The power was conferred in October 1792. From that time, until the month of April, 1793, the dangers increased, and acts of depredation and murder multiplied on the frontiers. Longer delay of action would have been criminal. On the 23d of April, 1793, Governor Telfair addressed the following letter to John Habersham, then the agent of the United States for furnishing supplies in Georgia: "Sir, the very critical situation to which the frontier settlers are reduced, from the late murders and depredations committed by the Indians, renders it indispensable that means be taken to guard against their inroads. I have made the communications to the War Department, and, in the interim, have to request your issuing orders to the contractors to provide rations for such part or parts of the militia of this State as may be called into service, to be furnished at the several stations and places of rendezvous. In order that you may be informed how far such a measure is correspondent with the system adopted by the General Government, I herewith furnish a certified copy of a clause of a letter from the Secretary of War, dated 27th October 1792," (the one already read,) "on the subject of Indian affairs." Upon the receipt of this letter, with the extract referred to, the agent, Mr. Habersham, had not a doubt as to the powers of the Governor. He conceived them to be so ample, so unbounded indeed, that he did not hesitate a moment to give to the Governor an assurance, that his requisition for supplies should meet with prompt attention. The reply of Mr. Habersham, dated on the same 23d of April, will at once prove this. "Being of opinion," says he, "that I shall be justified by the aforesaid clause in doing so, I shall immediately give directions to the contractor, who is now here, to furnish supplies to such of the militia as may be drawn out under the sanction of your Excellency, and will communicate the same to the Secretary of War, and the commanding officer of the federal troops in this State without delay." Under this power, and under these arrangements with the officers of the United States, the Governor of Georgia proceeded to call the militia into service. Need it be again said, how properly?

Mr. C. said that it was greatly to be regretted, that the pay rolls, which only would afford evi-

DECEMBER, 1817.

Georgia Militia Claims.

H. of R.

dence of the precise force called into the field, and their time of service, had been destroyed in the conflagration of the public buildings in this city by the British in the year 1814. He was happy, however, to have it in his power to assure the Committee, that, from information which he had received, and which he was disposed to credit, a duplicate of the pay rolls was yet in existence in the State of Georgia. For all the purposes of correct legislation, there was sufficient evidence to be found in certain estimates, which have not been destroyed, and which were calculated from the pay-rolls before their destruction. From these, the names of most of the officers, with the number (without the names) of their men, and the length of their terms of service, could be ascertained. The estimates, together with a letter from the Secretary at War to the Governor of Georgia, show that, at one period, there were from eight hundred to one thousand two hundred militia in the field. The estimates also proved the fact, that the militia were mostly detached for short terms of service, and were discharged when the danger of the frontiers no longer required their services.

Even upon the supposition, that the full number of twelve hundred men had been kept in service from April, 1793, until June, 1794, (at which day they were disbanded,) he thought that he should be able to show to the Committee, that the force was not disproportioned to the danger which threatened. The frontiers of the State of Georgia extended along the borders of two nations of Indians, at that time equally hostile. The whole extent of the exposed frontier was upwards of four hundred miles from the Tugeloo river around the western parts of the State, to the mouth of the St. Mary's river. It is well known, that all that British and Spanish intrigues could do, was done to excite both these nations to a war. North Carolina, South Carolina, and the territory which has since been created into the State of Tennessee, were engaged in an active war, as well of defence as invasion, with the Cherokees and Upper Creeks, to whose ravages the upper parts of the State of Georgia were equally as much or more exposed. On the southern frontier were the Lower Creeks, who had already commenced the work of death and slaughter. The frontier, in its whole length, was but thinly inhabited. Add to all these considerations the fact, that the Governor of Georgia was confined to defensive operations only, and was restricted from prosecuting the war by invading the Creek nation. The fact will be learned from the letter of the Secretary of War to the Governor of Georgia, dated the 30th May, 1793. Had the wishes of Governor Telfair been attended to, upon this subject—had he been permitted to carry the war into the heart of the enemies' country, as he one time prepared to do, and by which only can an Indian war be effectually terminated, this application for so large a sum would not now be made at the hands of Congress. From this measure he was however turned by the positive orders of the War Department in September, 1793. But,

under all these circumstances, Mr. C. thought that the Committee would be convinced, that a less force than the one employed, would have been ineffectual even for the purpose of invasion, and he thought that any one, at all acquainted with Indian warfare, would be convinced, that it would be less effectual for defence. He was also willing to submit to the Committee, whether the Governor of Georgia exercised the discretion and the power conferred upon him in an incautious or imprudent manner.

Soon after the militia was called into service, the power of the Governor of Georgia was suspended, by a letter addressed to him from the Secretary of War, dated on the 30th of May, 1793. This letter is of the most extraordinary character. It declared, "that, from considerations of policy, at this critical period, relative to foreign Powers, and the pending treaty with the northern Indians, it is deemed advisable to avoid, for the present, offensive expeditions into the Creek country. But, from the circumstances of the late depredations on the frontiers of Georgia, it is thought expedient to increase the force in that quarter for defensive purposes. The President, therefore, authorizes your Excellency to call into and keep in service in addition to the regular force stationed in Georgia (which at that time could not have exceeded one hundred, and were of no use) one hundred horse and one hundred foot, to be employed under the orders of Colonel Gaither, in repelling inroads, as circumstances shall require." One hundred horse and one hundred foot to repel the inroads of two of the most savage and warlike tribes of Indians upon the whole continent, on a frontier extending upwards of four hundred miles! Sir, said Mr. C., the destruction and overthrow of such a force would have been but a pastime with the tribes. But it is not now my design to question the propriety of this policy. Before, however, the order could be executed, and the troops disbanded, on the 10th day of June, 1793, only ten days thereafter, the Executive of the United States seems to have been sensible of its impropriety, and, accordingly, in a letter to the Governor of Georgia, he says—"The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered indispensable. You are the judge of the danger, and will undoubtedly proportion the defence to exigencies. The President, however, expresses his confidence, that as soon as the danger which has induced you to call out so large a body of troops, shall have subsided, that you will reduce the troops to the existing state of things, indeed to the number mentioned in my letter of the 30th ultimo, duplicates of which have been forwarded, provided the safety of the frontiers will admit the measure." If any doubts could have existed of the power given to the Governor of Georgia, before the receipt of this letter, they were put to rest thereafter. By this, he was expressly made the judge of the degree of danger, and of the number and extent of the force. It contains an acknowledgment of the fact, that



H. or R.

Georgia Militia Claims.

DECEMBER, 1817.

A large body of troops had been called into service, but considers the measure as having been indisputable. It expresses a hope that the force will be reduced, yet leaving the Governor to judge of the safety of the frontiers will admit the resolution to take place.

After the receipt of this letter the Governor could not have mistaken his powers. To afford complete evidence, however, of this fact, Mr. C. called the attention of the Committee to a letter of the same date, (10th June, 1793,) from the War Department to the Governor of South Carolina, in which he is requested, "that, in case the frontiers of Georgia should be seriously invaded by large bodies of Indians, he would, upon the request of the Governor of Georgia, direct such parts of the militia of South Carolina to march to the assistance of Georgia, as the case might require; for the expenses of which the United States would be responsible." Here again is the Governor of Georgia recognised, as being the judge of the necessity of the call, and clothed with power of making the request of the Executive of South Carolina. But, it also contains evidence of another fact, that the detachment of the force by the order, or at the request of the Governor of Georgia, was at the expense of the United States.

The report of the committee at this session, upon the claim, says, that there is no evidence that this power was conclusively withdrawn from the Governor of Georgia, until February, 1794. It is, however, a letter of the 19th July, 1793, which Mr. Dearborn, Secretary at War, in his report, seems to think contained in it enough to amount to an order, withdrawing the power. This letter was sent by Constant Freeman, who had come to the State of Georgia as agent of the War Department, for the express purpose of superintending all matters in which that department was concerned on that frontier. This letter contains an express order. Although the Secretary at War must have been apprized of the Governor's proceedings to a period as late as June 18th, of which date he acknowledges to have received letters from the Governor, yet does he bestow no reserve for measures already adopted. His power is not withdrawn. The judgment and discretion which he had previously been required to exercise, was not questioned. On the contrary, from the month of September, 1793, until February, 1794, although the Department must have known the numbers and proceedings of the militia, no order was sent to disband the men. On the 22d February, 1794, a positive order was sent, and from 1st of June thereafter, the whole force called out, except certain specified corps, were dismissed. Even this order contains an expression, significant of the belief of the War Department, that the United States were liable for the expenses of the militia in service previous to that time. For it declares, that the United States would not, thereafter, be pledged for the expenses. This can mean nothing else than that the United States held themselves previously pledged; especially as, until that period, the issue of supplies

of provisions had never been prohibited. That the Governor of Georgia did not consider his powers withdrawn is evident. The militia were retained until Governor Telfair went out of office, and for some months after Governor Matthews came into it. Even if the letter of 19th July, 1793, should be considered as an order to discharge the force called out, yet another argument in favor of this claim is to be derived from these facts. The claim is made by the individual persons performing the services, and not by the State. The Governor had power from the General Government to call them into service in the first instance. It was the duty of the militiaman to obey—it did not belong to him to call for the orders issued to his superiors, that he might judge whether his superiors had pursued them; nor ought he to be deprived of his pittance of pay, if his superiors have either neglected or exceeded their orders. If the power, by which he was called out, was, in the first instance, sufficient, his retention in service is not his fault, nor should he be the loser.

But, there are other arguments of the justice of the claim. It is a fact, that the whole force, be their numbers great or small, which was ordered into service by Governor Telfair, was furnished with provisions, and other supplies, by the United States' contractors, during the whole time of service, and his accounts were admitted and paid two years after the troops were disbanded. Certainly this fact, were there no others, would, of itself, be conclusive evidence, that the Executive of the United States considered the militia to have been in their service.

There is another circumstance well worthy of consideration. All other militia in service, during the same period, have been paid by the United States. Those of the Northwestern Territory, (now Kentucky and Ohio,) those of South Carolina, and those of the Southwestern Territory, (now State of Tennessee,) which last were waging a war of invasion, against positive orders, have all been paid by the Government. Upon what principle of justice, then, can the militia of Georgia alone be excluded from the equally hard-earned reward of services equally meritorious?

Sir, said Mr. C., let it not be said that the Governor of Georgia exceeded his authority—I hope I have proved that his authority was ample, and that he did no more than his duty, to the discharge of which he was urged by the very critical situation of the State over which he presided; nor let it be said, that the force detached was greater than necessary, because the murders and depredations of the Indians had in some measure ceased. The truth is, they did not cease, and, if less frequent, it was because of the character and imposing numbers of the force detached. With equal impropriety can it be said, that the State of Georgia is liable for these services. If I am correctly informed, there is not to be found, upon the records of the Legislature of that State, a single act or resolution directing the militia to be called out. The Constitution of the United States had intrusted the General Government with the com-

DECEMBER, 1817.

Proceedings.

H. or R.

mon defence, so that the State there left the payment of this claim. Although frequent application has been made to the Legislature of that State, the claimants have uniformly been referred to the United States—they now, probably for the last time, ask justice at your hands; they can ask for it nowhere else, and they richly deserve it. Many a citizen, now basking in the sunshine of peace, has been saved by their services from an early and a bloody grave; they were ever ready when the hour of danger approached; many of them were soldiers, tried soldiers of the Revolution, and the names of some of the younger part of them are to be found on the list of those who fought and bled under General Floyd in the late war; many have filled, and some yet fill offices of high trust and honor in the State. It remains for this nation to show whether to such men they will any longer furnish a pretext for saying "Republics are unjust, and my country is a Republic."

Mr. C. said he would not much longer detain the Committee. The sum with which he proposed to fill the blank, was the sum calculated by the Secretary at War to be due for all the services performed, as well by the particular corps of two hundred horse and two hundred foot expressly ordered into service, as by the militia called into service under the general authority given to Governor Telfair in the documents already read to the Committee. It might appear somewhat strange that anything should yet be due to the particular corps expressly ordered; yet it was true that there yet remained unpaid to them the sum of \$13,159 63. "The remaining sum of \$129,375 66," says the Secretary at War, "is for services which were not considered by the Executive of the United States, nor by the agent of the War Department, as fully authorized by the General Government, and for which no payments have been made." The Secretary is of opinion that these services "not fully authorized" ought, in justice, to be paid up for the year 1793. Mr. C. could see no reason why, if they were paid to that time, payment for the full period of service was not equally just. Any principles of justice which would extend to those who served in the latter part of the year 1793, would extend to those who served in 1794.

Mr. STORRS, with a view of giving time for further investigation of the grounds of this claim, moved that the Committee rise; which was agreed to. And the Committee obtained leave to sit again.

WEDNESDAY, December 31.

Another member, to wit: from South Carolina, JAMES ERVIN, appeared, produced his credentials, was qualified and took his seat.

Mr. TUCKER, of Virginia, presented a petition of the President and Directors, of the Auxiliary Colonization Society, of Frederick county, in the State of Virginia, praying that the plan at present before the National Legislature, for colonizing the free people of color of the United States, may be adopted and carried into effect.—Referred to

the committee appointed on the petition of the representatives of the annual meeting of the society of Friends, in Baltimore.

On motion of Mr. STORRS, the Committee on Public Lands were instructed to inquire into the expediency of providing, by law, for the introduction into all patents hereafter to be issued, for lands sold or granted by the United States, of a reservation, to the use of the United States, of all gold and silver mines.

On motion of Mr. HUNTINGTON, the Secretary of War was directed to lay before this House a return of the arms and military stores furnished to the respective States, under the provisions of the laws of 1808, appropriating, annually, the sum of two hundred thousand dollars "for the furnishing arms and military equipments to the whole body of the militia of the United States;" and also to inform this House on what principle the distribution has been made.

On motion of Mr. HUNTINGTON, the Committee on the Post Office and Post Roads were instructed to take into consideration the expediency of providing, by law, to authorize the Governors of States and Territories, for the time being, to receive and transmit through the post offices all official communications free of postage.

On motion of Mr. TALLMADGE, after a few remarks, explaining that, without some such provision, the widow of the lamented Lawrence would be in a few months utterly destitute of the means of support, it was

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of continuing the pension of half pay to the widow of Captain James Lawrence, deceased, during her widowhood; or, in case of its sooner termination, to his infant daughter, until she arrives to the age of twenty-one years.

Mr. ROBERTSON, from the Committee on the Public Lands, who had been instructed to inquire what further provisions are necessary for the more effectual prevention of frauds in the purchase of lands, made a report adverse to any further provisions on the subject.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, reported a bill for the relief of John Anderson, of the Michigan Territory, which bill was twice read and committed.

Mr. EDWARDS offered the following resolution:

*Resolved*, That the President of the United States be requested to cause to be laid before this House information of the number of States which have ratified the 13th article of the amendments to the Constitution of the United States, proposed at the second session of the 11th Congress, [prohibiting any citizen of the United States from accepting or retaining any title of nobility, pension, office or emolument, without the consent of Congress, from any foreign Prince or Power, &c.]

Mr. EDWARDS stated that his motion was induced by some doubts whether the article referred to had been ratified by a sufficient number of the States to make it a part of the Constitution, although it appeared as such, he perceived, in the copies printed for the use of the members of the



H. or R.

House; and it was desirable that a fact so important should be placed beyond question. The motion was agreed to without opposition.

Mr. JOHNSON, of Kentucky, submitted a joint resolution to authorize the publication of the laws of the United States within the several States and Territories of the United States, (authorizing the publication in any number of newspapers deemed proper, not exceeding six;) which was to be read, and referred to the Committee on the Judiciary.

The bill for the relief of John Anderson passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

The House then resolved itself into a Committee of the Whole on the bill to provide for the due execution of the laws of the United States in the State of Mississippi.

To that provision of the bill which fixes the salary of the district judge, as reported by the Judiciary Committee, Mr. POINDEXTER objected, and entered into several statements, exhibiting the arduous duties which would devolve on that officer, and the probable amount of his necessary expenses, to show that the provision proposed for him in the bill was inadequate; and that the subject might be again examined, and more correctly settled by the select committee, who could do so with more ease and facility than could be done in Committee of the Whole House, Mr. P. moved that the Committee rise, and report progress.

The Committee of the Whole then rose and reported progress, and, on the suggestion of Mr. POINDEXTER, was refused leave to sit again; and, on his motion, the bill was then recommitted to the Committee on the Judiciary.

## INTEREST ON CLAIMS.

On motion of Mr. COLSTON, the House took up for consideration the bill in addition to the act for the relief of John Thompson, [authorizing a review of his claim formerly adjusted and settled, and the payment of such interest as may appear due.]

Some discussion took place on the subject, in which Messrs. COLSTON and RHEA warmly and at some length advocated the equity of the petitioner's right to interest on a claim so just as that on which it was founded.

Mr. HOPKINSON questioned the propriety of allowing the interest in this case, when it had been refused in others equally strong, and so argued that it seemed to amount to a rule, and mentioned particularly the case of General St. Clair, who to this day was denied interest on money actually advanced out of his own pocket for the public use.

Mr. JOHNSON, of Kentucky, denied that there was any rule on the subject, or that the practice of Congress was uniform in refusing interest, and he cited the case of the widow of the late Alexander Hamilton, who, not for money advanced by her husband, but only for services rendered, received interest on the amount of her claim.

Mr. COLSTON replied also to Mr. HOPKINSON, and quoted other examples in similar cases, to show that the practice of the House authorized this allowance.

Messrs. SHERWOOD, BAYLEY, WM. P. MACLAY, LIVERMORE, and OGLE, also took part in this discussion favorable to the petitioner; the two first-named gentlemen and the last speaking also on the subject of the case of General St. Clair, which had been incidentally introduced. Mr. OGLE, particularly, protested against the present occupation of the House, spending their time, he said, in hunting for some statute or some bar to the just claim of a man who had, in the Revolution, given all his worldly goods and a part of his blood in support of the independence of his country. And now, in 1817, and on the very last day of the year, after the lapse of so long a time, he was sorry to see the House engaged in searching for precedents to keep this veteran out of his just claim. For his part, Mr. O. said, if there was a statute as strong as brass itself, or as solid as the pillars of the Capitol, he would blow it to powder to do justice to a soldier of the Revolution, and that soldier, too, such a man as John Thompson. As to the case of the aged St. Clair, Mr. O. said that was a subject which ought not to be mentioned in this House in the face of day; the treatment of that man ought to be spoken of here only in the night.

The bill was finally ordered, *nem. con.*, to be engrossed and read a third time.

## JUDICIAL RECORDS.

After refusing successively to take up the bill to authorize expatriation, and the bill respecting the claims of the State of Georgia for militia services rendered in 1792 and 1793, the House went into a Committee of the Whole on the bill to prescribe the effect certain records and judicial proceedings of the Courts of each State shall have in every State, and in the Courts of the United States.

The bill received some amendments, and considerable discussion took place on its details, in which Messrs. PINDALL, STORRS, STRONG, of Massachusetts, H. NELSON, of Virginia, EDWARDS, BALDWIN, WHITMAN, LIVERMORE, SPENCER, and BEECHER joined.

After the Committee had spent some time on the subject, Mr. CLAY (Speaker) rose, and observing that as—either from its being the last day of the year or from some other cause, he knew not what—the House seemed less interested in this subject than its importance merited, moved that the Committee rise; which being agreed to, the Committee rose, reported progress, and obtained leave to sit again. And the House adjourned to Friday next.

FRIDAY, January 2, 1818.

Another member, to wit: from Massachusetts, TIMOTHY FULLER, appeared, produced his credentials, was qualified, and took his seat.

Mr. SETTLE presented a petition of the Manu-

mission and Colonization Society of North Carolina, praying that the plan at present before the National Legislature, for colonizing the free people of color of the United States, may be adopted and carried into effect.—Referred to the committee appointed on a petition from the representatives of the annual meeting of the Society of Friends, in Baltimore.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of Purley Keyes, which was read; when Mr. L. reported a bill for the relief of Purley Keyes and Jason Fairbanks; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS reported a bill for the relief of Abraham Byington; which was read twice, and committed to a Committee of the Whole.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill to authorize the payment of certain certificates; which was read twice, and committed to a Committee of the Whole.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia; which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was recommitted the bill to provide for the due execution of the laws of the United States within the State of Mississippi, reported the same without amendment; and the bill was committed to a Committee of the Whole on Monday next.

Mr. HUGH NELSON, from the same committee, who was instructed to inquire into the expediency of altering the third section of the act to establish a government in the Territory of Alabama, made a report thereon; which was read, and ordered to lie on the table.

Mr. NELSON, from the same committee, who was instructed to inquire into the expediency of building offices for the safe-keeping of the records of the district courts, also made a report thereon; which was read and ordered to lie on the table.

Mr. NELSON, from the same committee, who was instructed to inquire into the expediency of increasing the compensation of the marshal of the northern district of New York, made report, which was read, and the resolution therein contained was concurred in by the House, as follows:

*Resolved*, That it is not necessary to increase the compensation to the marshal of the northern district of New York.

On motion of Mr. JOHNSON, of Kentucky, the Committee of Claims were instructed to inquire into the expediency of providing, by law, for extending the provisions of an act, entitled "An act, providing for the payment of claims for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes."

On motion of Mr. PINDALL, the Committee on the Judiciary were instructed to inquire into the

expediency of establishing a district court in Virginia, west of the Alleghany mountains.

The SPEAKER laid before the House, a letter from the Secretary of State, communicating his report on the petition of Richard Mitchell, jr. and others; which were read and ordered to lie on the table.

On motion of Mr. LIVERMORE, it was ordered that the Clerk procure to be printed for the use of this House, six hundred copies of a report, bearing date the 20th February, 1800, made by James McHenry, then Secretary of War, on the subject of claims of certain citizens of the State of Georgia, for compensation for military services rendered from the 23d of April, 1793, to the 25th of July, 1794, and all other reports of the Secretary of War on the same subject, together with the documents accompanying the said reports.

The following joint resolution, submitted by Mr. WHITMAN, was read twice and ordered to be engrossed and read a third time on Monday next:

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That thirty copies of the laws, passed at the first and second sessions of the Fourteenth Congress, remaining in the office of the Secretary of State, be by him deposited in the office of the Clerk of the House of Representatives for the use of the members thereof.

An engrossed bill, entitled "An act in addition to the act, entitled 'An act for the relief of John Thompson,'" was read the third time and passed.

An engrossed bill for the relief of John Anderson, was read a third time. [This bill proposes to allow to Colonel Anderson \$400, being the amount of two judgments obtained against him for the estimated value of certain private property destroyed by his orders, in the discharge of his duty as an officer of the army, on the Northwestern frontier.]

This bill would have passed without debate, but that Mr. LOWNDES objected to its passing *sub silentio*, lest it might be brought into precedent hereafter, to justify the indemnification of officers for like judgments obtained against them, on the evidence of the judgment merely, without proof of the suits having been duly defended. This suggestion gave rise to an exposition of the circumstances of this claim by Messrs. WILLIAMS, of North Carolina, MCCOY, WALKER, of Kentucky, JOHNSON, of Kentucky, BEECHER, and RICH; from which it appeared that the claim was one of unexceptionable character, and that ample evidence to that effect had been exhibited to the Committee of Claims. There was a motion to recommit the bill, which was negatived by a large majority; and the bill finally passed without opposition.

## JUDICIAL RECORDS.

The House again resolved itself into a Committee of the Whole, on the bill to prescribe the effect of certain records and judicial proceedings.

This bill, as reported by the Judicial Committee, at the instance of Mr. SPENCER, and verbally amended, provides—



That the record of any final judgment or final decree, in any suit of any court of any State, when authenticated in the manner required by law, shall have the same effect given to it in every court of the United States, and of every other State, as such record would have by law or usage, if offered as evidence in any other court of the State from which the said record shall be taken: *Provided*, That no such record shall be deemed conclusive against the parties thereto, their heirs, executors, or administrators, or persons claiming under them, or either of them, unless it shall appear on the face of such record that the party against whom such record shall be alleged, his testator, intestate, ancestor, devisee, or grantor, had been personally served with process to compel his or their appearance, in the suit in which the record was made, or that such party had actually appeared in the same suit, and in the same court, before the rendition of the judgment or the passing of the decree: *And provided, further*, That no lien or charge shall be created, by any such final judgment or final decree upon any real or personal estate, situated out of the State at the time when such judgment was rendered or such decree was passed.

**SEC. 2.** That whenever manuputors, or bail, or sureties for the personal appearance of any person, in any court of any State, shall produce to a judge or justice of some court of record in any other State, the recognizance of bail, or the copy of a bail-piece, or a copy of the instrument by which such manuputors, bail, or sureties, became bound, duly authenticated according to law, it shall be the duty of such judge or justice to certify, upon some part of such recognizance, or copy of a bail-piece, or instrument as aforesaid, that the same is duly authenticated according to law, and thereupon to endorse the same with his own proper name, with the date of doing so; which certificate and endorsement, with the recognizance, or copy of a bail-piece, or instrument as aforesaid, shall have the same effect to authorize the said manuputors, bail, or sureties, to arrest and take their principal to such other State, and remove him to such place as shall be proper and necessary, for the purpose of surrendering him in their discharge, as the said recognizance, copy of a bail-piece, or other instrument as aforesaid, might or could have by law or usage in the State where such bail was given.

The amendment moved by Mr. STRONG, when the subject was last under discussion, having been withdrawn—

Mr. COBB proposed to amend the bill, so as that judgments of one State, carried to another State, should be regarded as foreign judgments, and not entitled to the effect they would have in the State in which they may have been rendered.

This motion Mr. C. supported by a variety of remarks and illustrations of the different effects of judgments in the different States, which would produce inconvenience, and frequently injustice, under the provisions of the bill as it now stands.

Mr. SPENCER opposed the amendment, as going to change the whole principle of the bill. In vindicating the object and the details of the bill, the principal benefit he anticipated from it was, that it would give a confidence and extent to the commercial credit of the country, which it now wanted from the absence of some such provision, which was a great impediment to the increase of the trade between the Atlantic cities and the western coun-

try; the merchant fearing to credit, from apprehended difficulty in the recovery of his debts. If, however, Mr. S. took occasion to say, the passage of this bill had no other effect, it would have the important effect of compelling the parties going with records from one State into another, to make them more formal, and in some measure to correct the loose manner in which too generally the proceedings of our courts are now conducted.

Mr. COBB defended the amendment, and replied generally to Mr. SPENCER, and, particularly, that the formality of proceedings, on which that gentleman had predicated the bill, did not prevail to any extent in the country, particularly in the southern and western States, and that therefore the bill, as it now stands, might occasionally have an improper operation.

Mr. WILLIAMS, of Connecticut, opposed the amendment moved by Mr. COBB. It was not only the dictate of reason, but, he argued, conformable to the spirit and almost to the letter of the Constitution, that judgments obtained in one State should not be mere prima facie evidence in another. It was an extraordinary doctrine, he argued, that the decisions of the courts of one State should have no more effect in another, and be no more recognised, than the decisions of any petty foreign court, constituted we know not how—founded on the opinions of we know not whom. The intention of the Constitution was, he contended, and such was the construction formally given to it by the Supreme Court—that the decision of a State Court should be conclusive between the parties, as well in one State as in another.

After some other debate, the question was taken on the amendment, and decided in the negative.

Mr. BALDWIN, expressing himself of the opinion that the same weight ought not to be given to every description of record, moved to amend the bill by striking out the first section, and inserting, in lieu thereof, the following, in which he said he had hastily embodied his ideas of what the law ought to be:

"That the record of any final judgment or decree, given or rendered after the personal service of process on the defendant or defendants, or his or their appearance in any suit of any court of record or chancery of the United States, or of any State or Territory, when authenticated in the manner required by law, shall be prima facie evidence of all matters therein contained in every court of the United States, and of every other State and Territory, in any suit, action, or bill brought thereon. And if such judgment or decree shall be rendered after trial by jury, or a hearing on the merits of the cause, then such record shall be conclusive evidence of all the matters and things therein contained in the courts of the United States, or of any State or Territory, in any suit, action, or bill, brought to recover the sum awarded, or the performance of the act or thing adjudged, awarded, or decreed in the judgment or decree originally rendered."

Mr. SPENCER considered this amendment as so essentially varying the bill that he would scarcely object, were it not that the gentleman had acknowledged it to have been hastily penned, and, this bill, he assured him, had been draughted

with care and attention. He hoped the gentleman would be prevailed on to withdraw his motion.

At this stage of the proceedings, on motion of Mr. DESHA, the Committee rose, reported progress, and obtained leave to sit again.

#### PENSIONS TO WOUNDED OFFICERS.

The following resolution, submitted by Mr. COMSTOCK, was read and committed to the Committee of the Whole to which is committed the resolutions submitted by Mr. JOHNSON, of Kentucky, on the 9th of December last:

*Resolved*, That it is expedient to provide, by law, for placing on the pension list the officers of the Army who have been wounded in battle during the late war with Great Britain.

Mr. COMSTOCK said he did not rise to say much on the resolution he had just had the honor to present. He did not think the occasion required him to go into the subject at any considerable length. But he deemed some explanation of the motives which had induced him to this measure, due to the subject, to the House, and to himself. He hoped, therefore, to be indulged while he proceeded to make a few observations. The House, he said, had not yet to learn that wounded officers of the Army were not placed on the pension list by common usage and design. If a contrary practice had, in a few instances, obtained, as he was informed it had, and some wounded officers of the Army were found on the pension-roll, the fact could be accounted for only in this way: A few wounded officers had availed themselves of the pension laws before the reduction of the Army, shortly after the close of the war. When this reduction was made, a very small number of these were retained in service; no reference having, he presumed, been had, on this occasion, to the list of pensioners. Mr. Speaker, said Mr. C., the services and sufferings of the Revolutionary officers and soldiers have ever been duly appreciated by the people and by their Representatives. It would be casting a dishonorable imputation upon the virtuous and enlightened citizens of the United States, to suppose that they could be unconscious of the exalted merit of those who have endured for them nakedness, starvation, and toil, and braved so many dangers in fighting their battles. Nor did they brave only the dangers of the field; they subjected themselves to the fate of rebels, had the contest been disastrous. Their conduct must have called down upon them the unmingled fury of the regal Government under which they were held. It is true, indeed, said he, that the Revolutionary officers and soldiers have not, in all cases, been sufficiently rewarded. This has been owing partly to the want of means in the Government, and partly, he feared, to an improper procrastination. But I rejoice, said Mr. C., that the day of retribution has at length arrived. On the recommendation of a President whose blood was freely shed in the arduous contest which established our independence, and inspired with the sentiments and feelings of the

venerable reporter and advocate of a bill to reward the few survivors of that contest, we are about to accord to them that assistance which they need, and to which they are entitled by every principle of justice and of gratitude. Mr. C. said he anxiously improved this auspicious period in our history, to invite the House to the subject in question. Mr. Speaker, continued he, it will be recollected that a proposition was made a few sessions since, to bestow a gratuity in land upon the officers of the late army, according to their respective grades.

Some honorable gentlemen were, at that time, unwilling to confer this gratuity, without discrimination, upon those officers who entered the Army just before the termination of hostilities, and who had been constantly employed in the recruiting service, as well as upon those who had endured the privations and perils of the field, in rendering long and signal service to their country. None were found, I believe, said Mr. C., that felt disposed to withhold the bounty of their Government from the latter class of officers; all were ready to reward exalted merit. For myself, said he, it would ever gratify the finest feelings of my heart to aid the passage of any law necessary to do them justice. This, however, said he, may be considered a digression; he merely suggested it to show that no such objection could be sustained against the resolution, or against a bill of which it might be the foundation. The wounded officers of your army have manifested the physical and moral qualities necessary in the soldier. They have largely shared the sufferings and dangers incident to their profession. They have not wasted their time in the pleasures of the ball room, and in the amusements of fashionable circles, remote from fatigue, alarm, and conflicts. They have relinquished their employments and professions, sacrificed their means of acquiring wealth, and, foregoing the endearments of domestic life, have sought the tented field. They have met your enemy, trodden the bloody arena, sustained your eagles, and achieved victory in the jaws of death. They have borne from the plain of battle the laurels of conquest; but have returned, seamed with scars, disfigured by frightful wounds, or deprived of their limbs. In these consist their pretensions as soldiers. In these they exhibit the mournful, yet proud, monuments of their valor and devotion to their country. When contemplating this subject, said Mr. C., a number of names are presented to my view, which I will beg leave to pronounce in your hearing. Among the wounded officers of your army, I behold the names of Majors Larabee, Wetmore, and Birdsall, with Lieutenants Shaler and Wilcox. Major Larabee lost his left arm at the battle of Brownstown, under the command of General Miller. This General, distinguished in so many engagements, I leave, said Mr. C., to the pen of the faithful historian; suffice it to say that his fame is more imperishable than brass or marble. The sensation which the battle of Brownstown produced throughout the Union can never be forgotten.



Major R.

Pensions to Wounded Officers.

JANUARY, 1818.

Our affairs, at that time, wore rather an unfavorable aspect. When dangers thickened around the Spartan band, their unconquerable spirit rose commensurate with the crisis. They manifested contempt for danger, and an invincible determination to conquer or to die. They attacked and routed the allied forces of the enemy, drove them from their lodgments, and left the field in triumph. Some of our countrymen were slain; but with the loss of an arm Major Larabee survived, and has ever since continued in the service. The amputation of his limb has not lessened his usefulness. The reports of the Army sufficiently evince his active service. Major Wetmore lost his right arm, in a bold and dangerous enterprise, on the Niagara station, in the last campaign, under the command of an honorable gentleman of this House. Though he has lost a most useful member, he has lost none of that proud sensibility which characterizes the American soldier. He has constantly served, with honorable distinction, in various capacities in the Army. I think, said Mr. C., that I was introduced to this young man when he could reach to me his right hand in the salutation of friendship; but that he can do no more forever. Major Birdsall was dreadfully wounded in the face when the night assault was made on Fort Erie. It had become his duty to dislodge the enemy from the momentary possession of that bastion which was afterwards blown up. A few moments after this awful catastrophe, when he was standing on a twenty-four pounder, very near this fatal spot, dispensing orders to his troops, and cheering them to victory, a ball entered his stomach, carried off almost one half of his lower jaw, and lodged in the lateral and hinder part of the neck. It has, very recently, been extracted. Language cannot express the sufferings he had sustained. Repeated and extensive ulcerations had supervened. The left shoulder, from the continuity of its parts with those wounded and elevated, had fallen below its natural position. The dressings for the wound must be removed and renewed several times a day; certainly as often as food is taken, and sometimes more frequently. The constant oozing of the saliva, through the unclosed wound, soon wets not only the dressings, but also the collar and cravat. Now, sir, said Mr. C., I must not be too technical and minute in a description upon this occasion. We see, however, that sufferings, expense, and trouble have not driven Major Birdsall from the service. He continues, with his acknowledged skill and ability, to discharge its duties with universal approbation. With Lieutenants Shaler and Wilcox, who were wounded in the campaign of 1814, I have not, said he, the pleasure to be acquainted, nor do I know their particular history. But they are in the Army; and their wounds clearly indicate that they have sought the post of honor, and challenged the esteem and reward of their country. The former has lost his left, and the latter his right arm.

But, Mr. Speaker, the allowing of an officer pay and pension at the same time, may be conceived

inadmissible. It may be said, that an officer entitled to a full pension according to his rank must be totally disabled, and by consequence incompetent to afford efficient service to his country. Mr. C. said, the words "total disability," used in the pension laws, are indefinite in their meaning. The phrase, he said, was obviously relative. If the words were taken in their most extensive and unqualified sense, they would import death itself, or something approaching near that state. For, if a man possessed only a very small share of corporeal and mental power, he could exercise it in some way towards procuring a livelihood. Nevertheless, an officer deprived of an arm, leg, or eye, is totally disabled in the view of the laws, judging from the interpretation they have received in practice, and is therefore entitled to a full pension, in proportion to his grade. But will it be contended that these injuries, essential as they are, disqualify an officer to discharge the duties devolved upon him? I trust not, sir, said Mr. C. I do not conceive that the being able to shoulder a barrel of cider, or to chop off logs, is an important qualification in an officer. Lord Nelson did not possess the physical ability necessary to accomplish such things when he fought those battles that have ranked him among the most illustrious of naval heroes, and gilded the pages of British history.

Sir, said Mr. C., would a pension make the condition of the officers I have named more eligible than if they had never been wounded? Surely not. What value shall be put on the wounds of these officers? What is the amount of the inconvenience, expense, and torture, which they have borne, and continue to sustain? Would they have bartered their active limbs for a pension? No, sir; they risked more than their limbs, when, inspired by nobler motives, they took up arms and fought for their country! Their talents and good conduct have continued them in the Army. They are able to serve you in peace or in war; and should you place them on the pension roll, how can it be shown that this act of sheer justice ought to exclude them from a participation in military employment and promotion?

Mr. Speaker, the war is ended; the din of arms does not continue to salute our ears; our eyes are no longer pained with beholding garments rolled in blood. We are prone to forget these things; but the wounded soldier, and those who depend on him for protection and support, have much reason to remember them. Though our wounded officers of the Army are not disqualified for military service, their habits, and the loss of former business and employments, have disqualified them for other pursuits.

Mr. Speaker, let us accord honor and assistance to the brave!

"All things are common, but the warrior's fame:  
That glows eternal in the mouths of men."

In anniversary orations and songs we are called "a band of brothers." Let us evince by our conduct the sincerity of our fraternal affection. I am unwilling to join in these professions, if they are

JANUARY, 1818.

Proceedings.

H. OF R.

unmeaning. It is not enough to say to a naked and hungry brother, "Be thou clothed and fed." Tears of sympathy should bedew our cheeks, and streams of munificence should issue from our hands. Sir, said Mr. C., it is not among the least blessings of a republican Government that its burdens are equally borne, and its advantages equally enjoyed. Let us, Mr. Speaker, do equal and exact justice to every class of citizens. Then our free institutions, based in the affections of the people, shall manifest to the latest ages the memorials of Columbian wisdom and valor. I hope, said Mr. C., that the resolution will be referred, and that something may result from it beneficial to the wounded officers of the Army, and honorable to the nation. I hope that Government will at least place them above embarrassment, and enable them to support themselves, and those whom Providence may have committed to their care and protection. It must gratify every benevolent heart to see the children of the wounded defenders of their country's rights enjoying those social advantages which the gallantry of their fathers has nobly contributed to secure and perpetuate.

Adjourned to Monday.

MONDAY, JANUARY 5.

Mr. ROBERTSON presented the petition of the Mayor Aldermen and inhabitants of the city of New Orleans, praying, that in any sale of the vacant and unimproved grounds, within the said city, their rights may be respected, by reserving from sale such parts thereof, as have been, from the first settlement of the place used in common for the health and convenience of the inhabitants of said city.—Referred to the Committee on the Public Lands.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a list of persons who have been placed on the pension roll of the United States, transmitted in obedience to a resolution of the 17th ultimo; which was ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a list of persons who have been added to the pension list of the United States since the 28th of May, 1813, transmitted in obedience to a resolution of the 18th ultimo; which was ordered to lie on the table.

The SPEAKER also laid before the House, a letter from the Secretary of War, transmitting an account of moneys transferred during the late recess of Congress, from one specific appropriation to another, showing the application of the same; which was referred to the Committee on Public Expenditures.

The SPEAKER also laid before the House, a letter from the Secretary of War, transmitting statements of the expenditure and application of all such moneys as have been drawn from the Treasury by him, for the year ending 30th September, 1817; which was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of William Edwards and John G. Stubbs," in which they ask the concurrence of this House.

An engrossed resolution "Directing the procurement of certain laws," was read the third time, and passed.

Mr. ROBERTSON, from the Committee on Public Lands, who were instructed to inquire into the expediency of advancing the price at which the public lands are held for sale, made a report on that subject, concluding with a recommendation to the House to adopt the following resolution:

*Resolved*, That it is inexpedient at the present time to increase the price of those public lands required to be sold.

The report was read, and ordered to lie on the table.

Mr. ROBERTSON, from the same committee, to whom was referred the petition of Edmund Dana, and others, praying to be allowed to purchase a considerable body of public lands on certain accommodating terms, reported unfavorably thereto. The report was read, and concurred in.

Mr. FORSYTH, from the Committee on Foreign Relations, reported a bill in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned. The bill was twice read.

Mr. HOLMES, of Massachusetts, from the select committee appointed to consider the subject, reported a bill allowing compensation to the members of the Senate and House of Representatives of the United States.—[The bill fixes the compensation at the rate of nine dollars per diem, and nine dollars for every twenty miles travelling to and from Congress.] The bill was twice read, and committed.

Mr. FLOYD, of Virginia, from a select committee, reported a bill to extend the privilege of franking to the vaccine agents of States and Territories, which was twice read, and committed.

Mr. JOHNSON offered for consideration the following resolutions:

*Resolved*, That the committee on the subject of the militia be instructed to inquire into the expediency of providing by law for organizing the general staff of the militia of the several States, upon the principle of the general staff of the Army of the United States, as far as practicable.

*Resolved*, That the committee on the subject of the militia be instructed to inquire into the expediency of providing by law a system of military discipline for the militia of the several States and Territories.

Mr. JOHNSON said, it was generally known that a very great and radical difference existed between the militia staff and the staff of the Army of the United States; and he was anxious to bring the question before the committee on the subject of the militia, that one might be made to conform to the other as far as practicable. There was another subject of great importance, in his opinion, and that was the want of



H. OF R.

Ohio Contested Election.

JANUARY, 1818.

some uniform system of military discipline for the militia of the several States. For, within a very few years, the Army of the United States had been governed in its discipline by Steuben, by Duane's Infantry and Riflemen, by Smyth's Infantry, and now by a late compilation by a court martial, which applies chiefly to the infantry discipline. In the meantime, no regular system had been adopted for the militia, and he thought it was time that we should discharge the duty imposed upon Congress by the Constitution of the United States, by fixing upon a mode of uniform discipline for the militia of the several States.

The motion was agreed to.

Mr. JOHNSON, of Kentucky, moved that the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of increasing the salary of the Postmaster General.

Mr. J. said, he looked at the great responsibility and increasing duties of this officer, and he was anxious to bring the subject before the proper committee; that many years had elapsed since the salary was fixed at its present rate. It was well known that the Postmaster General had the appointment of postmasters in various parts of the United States, amounting to nearly the number of four thousand; that the contractors and other agents appointed and selected by him amounted to about one thousand; and the revenue, independently of defraying the expense of the establishment, had averaged about one hundred and fifty thousand dollars per annum. In making this motion, Mr. J. said, he looked to these important duties, and the high responsibility of the Postmaster General; but had he taken into consideration the personal merits of the officer, and his faithful discharge of his various duties, his opinion would be confirmed, that no officer in the Government was entitled to greater consideration by the House.

On motion of Mr. MIDDLETON, the Committee on the Judiciary were instructed to inquire into the expediency of making compensation by law to the honorable William Johnson, jr., one of the associate judges of the United States, for extra services, he was called upon to perform during the inability of the late district judge of South Carolina.

The engrossed bill to incorporate the Columbian Insurance Company of Alexandria, was read a third time, and passed.

#### OHIO CONTESTED ELECTION.

Mr. TAYLOR, of New York, from the Committee on Elections, to whom was referred the petition of C. Hammond, contesting the election of Mr. HERRICK, a member of this House from the State of Ohio, on the ground of his having held an office under the United States, subsequent to the fourth day of March last, made a report; which was read, and referred to a Committee of the Whole. The report is as follows:

That on the 19th December, 1810, Mr. Herrick was appointed Attorney of the United States for the district of Ohio, which office he accepted, and held until his

resignation thereof, on the 29th November, 1817. In October, 1816, he was elected one of the Representatives of the State of Ohio, for the Fifteenth Congress. The result of the election was publicly announced on the 7th January, 1817, in the presence of the Senate of that State. On the 15th September, 1817, the Governor executed a certificate of Mr. Herrick's election, according to the law of Ohio, which was received by him on or about the 30th day of the same month. Mr. Herrick, therefore, continued in office almost nine months after the fourth of March last, and two months after receiving the certificate of his election. It does not appear, on the part of the memorialist, and it is denied, on the part of Mr. Herrick, that he performed any act as Attorney of the United States, after the said 30th September. He, however, continued in office, was liable to perform its duties, and was entitled to its salary, until his resignation. Congress met December 1, 1817, and Mr. Herrick took his seat, on that day, in the House of Representatives.

The 6th section of the first article of the Constitution provides, that "no person holding any office under the United States shall be a member of either House, during his continuance in office." The incompatibility is not limited to exercising an office, and at the same time, being a member of either House of Congress; but it is equally extended to the case of holding; that is, having, keeping, possessing, or retaining, an office, under such circumstances. If the membership of Mr. Herrick commenced either on the 4th of March or the 30th of September, 1817, he has vacated that membership by holding an office incompatible therewith.

We do not find that the question of incompatibility has been agitated in the House of Representatives on more than two occasions. The first case was that of John P. Van Ness, which occurred during the second session of the Seventh Congress. The Committee of Elections were then instructed to inquire whether Mr. Van Ness, one of the Representatives from the State of New York, had not, after his election, and after he had occupied a seat of a member, accepted and exercised the office of a major of militia, under the authority of the United States, within the Territory of Columbia. Mr. Van Ness freely admitted the fact, as alleged, and thereupon the House unanimously resolved that he had thereby forfeited his right to a seat as a member of the House.

The other case was that of Philip Barton Key, decided at the first session of the Tenth Congress. Mr. Key's seat was impeached, among other grounds, upon this: that, at the time of his election, and until a few days, either before or after he took his seat, he held, from the British Government, in his own right and name, the half-pay pension of a captain of infantry. The facts were briefly these: Mr. Key served as an officer in the British army, without the limits of the United States, from 1778 until 1783, when the corps to which he belonged was disbanded, and the officers placed on half-pay. The pension was paid, either for the benefit of himself or his assignee, until the month of December, 1805, when he received six months half-pay: in January, 1806, he wrote to his agent in London, directing him to resign his claim to half-pay, and also to rank, if any could be supposed to exist; but it did not appear that anything had been done in pursuance of that letter, nor indeed that it ever had been received by his agent.

On the 6th of October, 1806, Mr. Key was elected

JANUARY, 1818.

Ohio Contested Election.

H. OF R.

a Representative of the State of Maryland, for two years, commencing on the fourth of March, 1807. On the 24th of October following, he addressed a letter to Mr. Erskine, then His Britannic Majesty's Ambassador at Washington, referring to the letter written to his agent, and repeating his resignation in a formal manner. This letter was not delivered to Mr. Erskine until the 28th or 29th of October, which was two or three days after the meeting of Congress, and after Mr. Key had taken his seat in the House of Representatives. Upon these facts the House decided that Mr. Key was entitled to his seat.

In regard to the several cases of Messrs. Turner, Dawson, and others, mentioned in the answer marked C, filed by Mr. Holmes, on the part of Mr. Herrick, we think a single remark sufficient. It does not appear that the House of Representatives was made acquainted with the existence of these cases. It cannot, therefore, be considered to have acquiesced in that of which it was ignorant.

The decisions of the House of Commons, under the statutes 5 William and Mary, chap. 7; 11 William III., chap. 2; and 12 and 13 William III., chap. 10, may serve to shed some light upon the subject under consideration. The first of these statutes enacts that no member of the House of Commons shall, at any time, be concerned, directly or indirectly, or any other in trust for him, in the framing, collecting, or managing, any of the duties granted by that or any future act of Parliament, except the commissioners of the Treasury, and the officers and commissioners for managing the customs and excise. The second act extends the disqualification to officers of the excise, declaring them incapable of sitting, voting, or acting as members; and the last mentioned act applies the same provisions to all officers of the customs.

Many members of the House of Commons were, at different times, expelled for violations of these statutes; but the facts are reported in terms so general, that it is impossible in most cases to determine whether the offence was committed before or after the member took his seat in the House. We find, however, two cases where the particulars are stated. The first case was decided on the 13th February, 1698, under the act above mentioned of the 5 William and Mary. It is the case of Mr. Montagu; and it is stated as follows by Hatsell, in his precedents of proceedings in the House of Commons. The new Parliament was made returnable on the 24th of August, 1698, and was directed to sit for the despatch of business on the 29th of November. Mr. Montagu had been a commissioner of stamp duties, but, in the commission which passed in September, 1698, he was left out; it appeared that he had acted under the former commission till the 4th of October, 1698. But, having informed the House that he did not qualify himself as a member till the 29th of November, and so conceived himself not to be within the law, he is, upon the question, called in to take his place, and a committee is appointed to draw up and state the matter of fact. It does not appear that the committee ever made report.

The other case is reported as follows: On the 5th of February, 1708, Sir Richard Allen was, on the hearing of his petition, declared to be duly elected for Dunwich. On the 7th of February he surrenders an office in the customs for life, to which he had been appointed in May, 1678. On the 8th of February, this surrender is enrolled, and on the 9th of February, he desires the sense of the House, before he takes his seat, on the clause of the 12 and 13 of William III., chap.

15th CON. 1st SESS.—18

10, which relates to the officers of the customs: and, upon reading the letters patent and surrender, he is permitted to take his seat.

Persons elected to the House of Commons become at one time members for certain purposes, and at another time for other purposes. Thus, immediately upon executing the indenture of return by the sheriff or other returning officer, the person elected becomes entitled to the privilege of franking, although the day at which the Parliament is made returnable may not have arrived. Yet he is not a member, for he may thereafter be a candidate for election in another district, at any time before the Parliament is made returnable, and the return actually filed in the Crown Office. From the time last mentioned, he becomes a member so far that he cannot be a candidate for another district, but yet may thereafter hold an office incompatible with membership, and upon resigning his office, he may immediately qualify and take his seat in the House. It has often been decided by their Committee of Elections, that a person holding an office incompatible with membership is, nevertheless, capable of prosecuting his claim to a seat. After examination of all the Parliamentary registers, histories, and journals within our reach, we have found no case where a person elected to the House of Commons was brought in on a call of the House, before he had voluntarily appeared, qualified, and taken his seat, nor do we find any instance of a person having been expelled until after such time.

A very particular case occurred on the 10th of February, 1620: Sir John Leech having been duly elected a member of the House of Commons, and appearing to take the oaths of allegiance and supremacy, was asked, whether he had not already sat in the house of that Parliament, in violation of the statute. He confessed that, on the Wednesday morning previous, he did sit in the House a quarter of an hour being unsworn. For this offence Sir John was not expelled, but it was resolved that he was disabled to serve in the House; and a new writ of election was issued to supply the vacancy, in the same manner as if no election and return had taken place. The same course of proceeding has been pursued when a person, duly elected and returned, comes into the house and refuses to be sworn. Such was the case of Mr. Archdale, in the year 1698, who, being elected and returned, came into the House of Commons and said, he was ready to serve if his affirmation of allegiance could be accepted instead of his oath. The House resolved that it could not. Mr. Archdale, still declining to take the oath, was refused admittance to a seat, and a new writ was issued to supply his place. This case is more peculiar, because a person elected to the House of Commons, cannot relinquish his right to a seat either before or after qualification, otherwise than by accepting an incompatible office. But by refusing to be sworn, he may do that indirectly which he is not permitted to do directly. We have seen several similar cases which occurred in the Colonial Assembly of New York, but not now having access to the journals, we are unable to report the particulars.

Persons elected and returned to the House of Commons may be chosen members of committees before they appear and qualify. But it is allowed for a reason similar to that which, in courts of law, permits a declaration to be filed *de bene esse* before the defendant appears in court. In both cases the act is conditional; and it is ineffectual, unless the condition of appearance be performed.

The practice of this House, which does not allow the



appointment of persons to be members of committees, until they shall have taken their seats, is obviously more reasonable and convenient than the other. It was decided, as early as the first session of the second Congress, in the case of John F. Mercer, who was chosen to supply a vacancy in the representation of the State of Maryland, occasioned by the resignation of William Pinkney, that a representative elect might declare his election before taking a seat, and before the first session of the Congress to which he was elected. We do not find that the question has since been agitated, although similar cases have often occurred. Our rule in this particular is different from that of the House of Commons; it is also better, for it makes our practice conform to what is fact in both countries, that the act of becoming in reality a member of the House depends wholly upon the person elected and returned. Election does not of itself constitute membership, although the period may have arrived at which the Congressional term commences. This is evident from the consideration, that all the votes given at an election may not be received by the returning officer in season to be counted, whereby a person not elected may be returned, and take the seat of one who was duly elected. Neither does a return necessarily confer membership, if he in whose favor it be made should be prevented taking a seat as the organization of a House of Representatives, he might find, upon presenting himself to duty, that his return has been superseded by the admission of another person into the seat for which he was returned.

At an election, held in the State of Georgia, in October, 1804, Thomas Spalding was duly chosen a Representative to the Ninth Congress; but because the votes of three counties were not returned to the Governor within twenty days after the election, Cowles received a certificate, and took his seat. Mr. Spalding afterwards presented his petition. The House vacated Mr. Mead's seat, and admitted Mr. Spalding. In April, 1814, Doctor Willoughby was elected a Representative of the State of New York, to the Fourth Congress; but by reason of a clerical error, of which the inspectors, in returning certificates of votes to the office of the county clerk, General Smith was declared duly elected, and a certificate of election was accordingly delivered to him; but he having omitted to take his seat at the commencement of the session was, on the ninth day thereafter, declared not entitled, and thereupon Doctor Willoughby was admitted in his stead.

Several other cases might be cited where persons were returned, who never in fact became members, and where others became members who were not returned. Neither do election and return create membership. These acts are nothing more than the designation of the individual, who, when called upon in the manner prescribed by law, shall be authorized to claim title to a seat. This designation, however, does not confer a perfect right, for a person may be selected by the people, without certain qualifications, without which he cannot be admitted to a seat. He is, nevertheless, so far the representative of those who elect him, that no vacancy can exist until his disqualification be adjudged by the House. Yet it would be easy to state cases where he would not be permitted for a moment to occupy a seat, notwithstanding the regularity of his election and return. To no practical purpose could he ever have been a member. So also if a person duly qualified be elected and returned, and die before the organization of a House of Representatives, we do

not think he could be said to have been a member of that body, which had no existence until after his death. We say which had no existence; for we consider that conceit altogether fanciful which represents one Congress succeeding to another as members of the same corporation. It has no foundation either in fact or in the theory of our Government. Each House of Representatives is a distinct legislative body, having no connexion with any preceding one. It commences its existence unrestrained by any rules or regulations for the conducting of business, which were established by former Houses, and which were binding upon them. It prescribes its own course of proceeding, elects its officers, and designates their duties. Even joint rules for the government of both Houses of Congress, are not binding upon a new House of Representatives, unless expressly established by it. Although the Fourteenth Congress had never assembled, the Fifteenth would have met under the Constitution, clothed with every legislative power, as amply as it was enjoyed by the Thirteenth. The Constitution does not define the time for which Representatives shall be chosen. It is satisfied, provided the choice take place at any time in every second year. The rest is left to the discretion of each State. Accordingly, in some States Representatives are usually chosen for one year and seven months, and in other States for a longer time.

The privilege of exemption from arrest, granted by the Constitution to Representatives before a meeting of the House and after its adjournment, furnishes no argument in favor of their membership at such times. Exemption from arrest is a privilege as old as the Parliament of England. There it is extended not only to members, but to their servants, horses, and carriages. Our Constitution adopts the very words of the common law, but restricts the privilege to members. In both countries the object is the same, not the benefit of the member, but of the public service. It is an essential incident to the right of being represented, and a consequence of that right. But that membership is not coextensive with the enjoyment of that privilege is manifest, from the consideration that such a construction might make the members of one Congress continue in office, not only after the Congress had expired, but also after the next Congress was actually in session. This construction, therefore, is not only absurd, but it serves to illustrate the fallacy of that suggestion which fancies the Representatives of one Congress succeeding to the seats of their predecessors as members of the same corporate body.

The privileges of franking letters and exemption from militia duty, are not granted by the Constitution. They are established by law, and liable to be changed at the will of the Government. They have been extended and may be restricted as public convenience shall require. Previous to the last Congress, the privilege of franking was not enjoyed until after the commencement of each session. But as that does not prove negatively that persons elected to the House of Representatives, were not members before that time; so the existing law does not prove affirmatively that they are. It is true that the words "members of the House of Representatives," are used as descriptive of the persons to whom the privilege is granted, but it certainly was used without intending thereby to express an opinion, much less to decide, when membership commences, and probably without in any wise advertent to that inquiry. The late war had created claims in every part of the country, which it was found convenient to send by mail to those who were elected

to Congress in the several districts, previous to their leaving home. The law was passed with a view to the convenience of these public claimants, as well as to that of the Representatives elected. We have seen that in England this privilege is enjoyed before the commencement of membership, and probably for a reason similar to that abovementioned.

It is not now necessary to inquire what construction ought to be given to the act which exempts "members of both Houses of Congress" from the performance of militia duty. We do not know that it has ever received a judicial exposition, and we presume that the practice under it, by the officers of the militia, furnishes no very high authority on the Constitutional question before us.

In regard to the danger apprehended from Executive influence in the concerns of legislation, we might rest satisfied with the remark that the business of forming a constitution is not confided to us; ours is a more humble duty, it is to expound the text by a fair interpretation; we can neither add nor diminish; the object of our inquiry is, not what ought to be, but what is.

Whoever looks into the Constitution will find provisions to guard the entrance of the legislative hall against those whose personal and immediate interest would be advanced, by perpetuating offices and increasing salaries; but he will find none for the purpose of excluding the influence of Executive patronage. The framers of the Constitution either did not apprehend danger from that source, or they thought it impracticable to prevent it without hazarding still greater mischief. The great offices of the Union are objects of high and honorable ambition; they are left as open to the members of this House as to others, and they can only be obtained through Executive favor. Nay, laws may be passed on the last day of a Congress creating offices and fixing their salaries, and on the next day the members, by whose votes they were created, may be appointed to fill them. The only antidote provided against an abuse of this pervading influence is the elective franchise. No dependant on the Executive can take a seat in this House. If any member become such, his seat is vacated, his power returns to the people. By a faithful and intelligent exercise of it, they may correct errors and punish delinquency. This is the regenerating principle of the Constitution. If this remedy fail, it will be in vain to look for another. The Constitution was provided for a brave, wise, and virtuous people. If the citizens of the United States ever cease to deserve this character, our present political institutions will be found unsuited to their condition. This is the only Constitutional answer we can give to the suggestion of possible danger from Executive influence.

In fine, we have examined the memorial of Mr. Hammond with deliberate attention, and are of opinion that Mr. Herrick has not rendered himself incapable of being a member of this House, by reason of having held the office of Attorney of the United States after the 4th of March and until the 29th of November last. We subjoin hereto the said memorial marked A, Mr. Herrick's answer, marked B, and also an answer filed by Mr. Holmes on the part of Mr. Herrick, marked C, and respectfully submit the following resolution:

*Resolved*, That Samuel Herrick is entitled to a seat in this House.

The following is the petitioner's memorial:

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled.*

The memorial of the undersigned, a citizen of the United States, and a resident and elector in the fourth Congressional district of the State of Ohio, respectfully represents:

That at the general election held in the State of Ohio, in the month of October, in the year 1816, Samuel Herrick, Esq., was duly elected to represent the fourth Congressional district of the State of Ohio, in the Fifteenth Congress of the United States. That on the 7th of January, 1817, agreeably to the laws of said State, he was declared duly elected by the Governor and Secretary of State, in the presence of the Senate of said State. That he has obtained a certificate of his election, has appeared and taken the oaths required by law, and now holds and occupies a seat in your honorable body, as one of the Representatives of the State of Ohio.

Your memorialist further sheweth, that, at the time Mr. Herrick was elected a member of the House of Representatives, he held the office of United States district attorney for the Ohio district, which office Mr. Herrick continued to hold, and continued to perform the duties thereof, and to receive the compensation attached thereto, until the month of September, in the year 1817; nor is it known to your memorialist that Mr. Herrick has yet resigned the said office.

Your memorialist further sheweth, that the office of United States district attorney is an office created by a law of the United States, and the persons appointed to discharge the duties of said office are nominated and appointed by the President, by and with the advice and consent of the Senate of the United States, and hold their offices during the pleasure of the President, and, besides perquisites of office, receive an annual compensation from the Treasury of the United States.

Your memorialist further sheweth, that by the sixth section of the first article of the Constitution of the United States, it is, among other things, provided and declared that "no person holding any office under the United States shall be a member of either House (of Congress) during his continuance in office."

It is conceived that the Congress of the United States is a political institution of continual duration. Composed of the President, the Senate, and the House of Representatives, it must always be in existence while the Government exists. The members of all its component parts, though appointed for different, are still appointed for determinate periods. The moment the term of the predecessor expires, that of the successor commences, unless for some cause such successor had not been elected in the manner pointed out by the Constitution. The commencement of every term is upon the 4th of March, that of the President every fourth, that of the Senate every sixth, and that of the House of Representatives every second year. And although it may possibly happen that the seat of a single member, or the representation of one or more States, may be vacant, yet this fact cannot possibly affect the continual existence of the institution itself, for if the Congress once ceases to exist, the Government must from that instant be terminated.

As the members of the House of Representatives are appointed for but two years, and the other branches are appointed for a longer period, the election of a new House of Representatives is considered as con-



H. or R.

Ohio Contested Election.

JANUARY, 1818.

starting a new Congress. The present Congress is designated the 15th Congress of the United States: but its description must be referred to the members who compose the Congress, and not to the institution itself. Though, at the end of the biennial term of the Representatives, that branch of the Congress becomes necessarily disorganized; still the Congress exists. The other branches are in complete organization, and the members of the representative branch are legally in existence, ready to be organized should occasion require it.

All the rights and all the privileges of their station attach to the members elect, the moment their term commences. There can be no space of time between the termination of one Congress and the commencement of another. The Fifteenth Congress existed on the 4th of March, 1817, as certainly as it now exists. The members of the Senate and of the House then elected, but who had not qualified themselves to act by taking the necessary oaths, were, notwithstanding this fact, members of Congress. The terms of Mr. Otis, in the Senate, and of Mr. Herrick, in the House, commenced at the same instant of time. Both were members: the President's proclamation convening the Senate called Mr. Otis to the immediate performance of his duties; but it could not constitute him a member of Congress. A proclamation convening the House of Representatives would have operated in the same manner upon Mr. Herrick; and certainly, notwithstanding that the States of Virginia and North Carolina had omitted to appoint their representation, the President could have called the Fifteenth Congress to meet upon the 4th day of March, 1817.

This opinion seems to have prevailed, that a person elected a member of Congress is not, in fact, a member until he shall have declared his acceptance of the appointment, by taking the oaths necessary to qualify him to discharge his duties on the floor. This opinion assumes that, although the appointment is complete, and the term commenced, still the seat remains vacant until the person appointed shall signify his pleasure upon the subject. This position is regarded as wholly untenable.

Either Mr. Herrick was a member of Congress on the 4th of March, 1817, or he was not a member. If he was a member, there could be no vacancy; if he was not a member, by what authority does he now occupy this seat?

The Constitution of the United States provides, "that the times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof;" and it also provides that "when vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies." On the 14th of February, 1812, the Legislature of Ohio prescribed that, on the second Tuesday of October, 1812, the electors in that State should elect suitable persons to represent that State in Congress, for a term of two years, to commence on the 4th day of March, 1813; and they further prescribed, "that at every period of two years, from the said second Tuesday of October, the electors of each Congressional district in that State shall, in like manner, vote for a suitable person to represent that State in the Congress of the United States, for the term of two years, to commence on the 4th day of March next thereafter."

Under these provisions of constitutional and statute law, on the second Tuesday of October, 1816, Mr.

Herrick was elected to represent the State of Ohio in Congress, for the term of two years, to commence on the 4th day of March, 1817. By this election the Constitution of the United States, and the law of Ohio, were completely executed. Their office was performed, and no election could be held, except to fill a vacancy, until the recurring term of two years. If, after this, Mr. Herrick should die before the meeting of Congress, the Executive must issue his writ to supply the vacancy; and it seems difficult to comprehend how, if Mr. Herrick never was a member of Congress, his death could leave a vacancy to be filled by special election.

That persons elected members of Congress are legally members before they qualify by taking the oaths, is evident, from the practice under the Constitution, in various particulars. It is provided, by the sixth section of the Constitution, that the members of Congress shall be privileged from arrest in certain cases, during their attendance at the session, and in going to and returning from the same. This privilege attaches to the members before they take the oaths, when going to attend the first session after their election. If they were not members until the oaths were taken, this could not be the case.

The militia law of the United States exempts "the members of both Houses of Congress" from the performance of militia duty. This exemption has always been considered as attaching to the members from the commencement of their term. And, in like manner, the privilege of franking is claimed and exercised by the members elect before they take their seats. In the cases here enumerated, the practice is undoubtedly predicated upon the hypothesis, that the persons elected to Congress are members from the commencement of their term.

If, then, according to the Constitution, the person elected a member of Congress becomes a member upon the day at which his term commences, your memorialist conceives that upon that day he must be capable, under the Constitution, of occupying his seat in the proper House. A person holding upon that day an office under the United States is not thus capable. On the 4th of March, 1817, Mr. Herrick held the office, and received the emoluments of United States district attorney for the Ohio district. This is an office under the United States, and the Constitution expressly declares, that "no person holding any office under the United States shall be a member of either House of Congress during his continuance in office." He shall not be a member. If Mr. Herrick was not a member while he held his office, he cannot now be a member. If he was a member, and at the same time held an office under the United States, it would seem that the Constitution is inoperative in his particular case.

The language of the Constitution is clear and explicit. It did not mean to prohibit a person from performing the duties of a Senator or Representative, and the duties of any other office at the same time. Its object was to render the holding of an office under the United States, and the appointment of a member of Congress, utterly incompatible. The interpretation by which Mr. Herrick can hold his seat, permits him to be a member of Congress, to enjoy the privileges and exemptions of a member of Congress, and to continue for nine months afterwards, and longer if he pleases, to hold and receive the emoluments of an office under the United States. Your memorialist most respectfully begs leave to insist that this interpretation

JANUARY, 1818.

Ohio Contested Election.

H. or R.

never was contemplated by the framers of that instrument. Its purposes cannot be mistaken. It intended, by shutting out from both Houses the dependants and the creatures of the Treasury, to close the doors of the Legislature against undue Executive influence. And this was done to preserve the American Congress from the baneful consequences of that indirect and invisible system of bribery which corrupted and disgraced the British Parliament.

The provision of the Constitution occasions an absolute incapacity. A person elected to Congress, who, after the commencement of his term, continues to hold or accepts an office under the United States, is incapable of membership in the one case, and in the other vacates his own seat. Adopt a different construction, and Congress may soon be filled with men who receive Executive appointments after their election, and resign them only long enough to serve Executive purposes in the Legislature. Surely it cannot be necessary in an upright, intelligent, and enlightened legislation, that Congress should strain for an interpretation of the Constitution, by which they may retain among them as members men so fond of distinction, or so greedy of gain, as to place themselves upon a level with the menial instruments of the most corrupt Government upon earth. For here your memorialist must beg leave to suggest, that it can seldom happen that a high-minded and honorable man would wish to retain an employment under those whom, in discharging a trust of great confidence, he may soon be compelled to oppose or control.

The view which your memorialist has taken of this subject, carries conviction to his mind that Mr. Herrick, by retaining his office, rendered himself incapable of a seat in Congress; that, consequently, he has, by his own act, vacated his appointment, and has no right to a seat in your House. Your memorialist, therefore, prays that your honorable body will examine into the matters herein alleged, and that you will vacate the seat now occupied by Samuel Herrick, Esq., as a Representative in the fifteenth Congress from the fourth Congressional district in Ohio.

And your memorialist will pray, &c.

C. HAMMOND.

LETTER OF MR. HERRICK.

To the Hon. Mr. TAYLOR,  
Chairman Committee of Elections:

SIR: The question submitted for the consideration and report of the committee is, whether a person elected a Representative to Congress on the second Tuesday of October, 1816, received the certificate of his election about the 1st day of October, 1817, and who has held the office of Attorney of the United States, before and after the 4th of March, and down to the 29th of November, 1817, and no longer, is entitled to his seat as a member of Congress in the House of Representatives on the first Monday of December following, under the Constitution of the United States, or not. This is the question, and those are the facts which make the case for the report of the committee. I am thus particular in stating the facts which make the case, in order that it may be decided upon its own peculiar merits, unconnected with the facts and circumstances which may relate to the case of any other gentleman, (if any such there are,) whose situation may be similar in some, though not in all, respects to mine. Not because I know, or even suspect, that the facts connected with this case are more favorable to

my holding my seat, than the facts relating to the case of any other gentleman may be favorable to him; but because I think it just that this, like every case of individual right before this, as before every other tribunal, should stand upon its own base, and be decided according to the facts and circumstances of each particular case. The Constitution, by which the several departments of the Government has been created, is the only authority essentially connected with, or that has any bearing on the question. As well may we call to their aid the by-laws of the corporation of the City of Washington or of Alexandria, in giving a construction to that instrument, as the laws of the State of Ohio, or of any other State in the Union. I mean no disrespect to the laws of any State. They are all wise and proper, I presume, within their respective spheres; but they have no bearing on the question. Taking the Constitution for our only text and guide, does it prohibit a person, thus situated, from becoming a member of Congress? I think not. He is not precluded, either by the words or the spirit of the Constitution. That part of the Constitution, and the only part that is regarded as prohibitory, in the sixth section of the first article, reads as follows: "And no person holding any office under the United States shall be a member of either House during his continuance in office." What, sir, is necessary to constitute a person a member of Congress within this provision of the Constitution? Does the mere act of the people, by electing him their Representative, either in fact or in law, make him a member of Congress? I think not, sir. For, if so, the mere nomination of the President, or the mere nomination of the President with the approbation of the Senate, may constitute a judge in law or in fact of one of your courts an Ambassador, a Consul, or any other officer, which the President and Senate have the power, under the Constitution, of appointing; and that, too, with or without the consent of the person thus nominated, without any evidence of his acceptance, and without his taking the oath of office as prescribed and required by law; a doctrine which, I presume, would not be contended for even by the memorialist himself. And yet this position, as preposterous as it manifestly is, is nevertheless correct, if the election of a Representative by the people, without any act on his part, evidencing his consent, or proving his acceptance, will constitute him a member of Congress. So far is this from being the law, as it regards this case, that I believe in every instance, as well under the Government of the United States, as under the several State governments, there is always one or more acts to be performed, both by the candidate or contemplated officer, and by the Government or people, as the case may be; all of which must be performed before any person can be constituted an officer, either in law or in fact; and such is peculiarly the case as it respects a member of Congress. First, the people must elect him. Second, the votes must be canvassed. Third, his election must be duly proclaimed. And, fourth, the evidence of his election, and certificate of the fact, must be made out and furnished him by the Executive of the State. All these acts are required to be performed by the people and the Government, and that, too, before the person elected is bound even to know that he is elected; and even then it would be unreasonable to say that the person elected should not have some little time to reflect on the subject, and to make up his mind whether he would resign one office to accept of another. But the performance of all the acts above-mentioned do not



constitute him a member of Congress. He is merely a Representative elect; an inchoate or inceptive member.

There are yet two other acts to be performed, one by the Government, another by the inchoate member, or the Representative elect, before his right to his seat is consummated, and before he is, agreeably to the language and spirit of the Constitution, a member of Congress. He must appear in this place, and consent to take the oath as prescribed to support the Constitution, and the Speaker must administer that oath to him. This act of his, in consenting to take the oath, is the only legal evidence known to your Constitution of laws, of his having accepted the office; and his having taken the oath, is the only legal evidence that he is, in law and in fact, a member of Congress—the other acts enumerated having also been performed. This case may be assimilated to that of any other contract made when the people or the Government for one party, and an individual the other party; or to that of a contract made by two individuals; the act of both to the contract must be proved, or it is no contract. If all the acts which I have enumerated are not necessary to be performed, to constitute a member of Congress, how many are necessary? Where is the dividing line drawn? And by what is it drawn? The Constitution has drawn no line between the performance of the whole or a part of those acts. And upon the same principle that the performance of any one of those essential acts and conditions to constitute a member may be dispensed with, the whole may be dispensed with, and a person is equally a member of Congress, with or without the consent of the people, or of his own consent. It is contended that a Representative elect, in the State of Ohio, and before he takes the oath required by the Constitution, was, on the 4th of March last, a member of Congress, or he was not a member; if a member, he could not hold the office of attorney; and if not a member, there was a vacancy, and the Executive should or might have issued a writ, ordering a new election to fill the vacancy. To support this position, a statute of Ohio is cited, and which, it is said, provides for the election of a Representative on the second Tuesday of October, for the term of two years, to commence on the 4th day of March thereafter. That there is such a statute is not denied. I have, however, before entered my protest against the propriety of dragging in the statute of any State, to control or vary the correct meaning and construction of the Constitution of the United States. From whence, sir, did the Legislature of Ohio derive their authority to pass a statute determining when the office of a member of Congress shall begin, or when it shall end, or how long it shall continue? Surely not from this Constitution. The only power given by the Constitution to the State Legislature on this subject, is that of prescribing the times, places, and manner of holding elections; fourth section, first article. The second section of the first article of the Constitution provides for the election of Representatives every second year by the people of the several States, without fixing any time when the office shall commence. As, then, neither the Constitution, nor any law made by the authority of the instrument, fixes the time when the office of a member of Congress begins, it is but fair to conclude that it was the intention of the Convention that the office should commence at the time the oath was administered to the Representative by the Speaker, and not before. Or otherwise, that convention of states-

men, good and wise as they were, would expressly have fixed on some other and earlier period, and not have left the question open for construction.

I accord with the position assumed, that a Representative elect, on the 4th of March, and before he takes the necessary oath, was a member of Congress, or he was not a member, within the sixth section of the first article of the Constitution: I maintain the negative of this position. If a Representative elect was, on the 4th of March, and before he took the oath, a member, then not only all the rights and privileges of a member instantly attach to him, but also all the rights and privileges of the people on their Representative, as instantly attached to them. I presume it will not be said that the rights of the Representative elect of the people attach to him before the rights of the people on him attach to them. No, sir. Those respective rights have a simultaneous beginning: and suppose the President had thought proper, on the 4th of March, or soon thereafter, to have called an extra session of Congress, (as he had a right to do,) and the Representative elect, before he had taken the oath, had been summoned to attend at this place, and refused obedience to the summons, could his obedience have been forced? No, sir. And suppose, on the 1st of December, the Constitutional period for the meeting of Congress, the House had met, and there not being a quorum to do business; suppose a member elect, but who had not been sworn into office, was walking the streets of this city, attending to his ordinary private concerns, with the certificate of his election in his pocket, as made out by the Executive of the State, could the House compel the attendance of such Representative elect? Or suppose the Sergeant-at-Arms should seize the Representative elect, and drag him before the House, *vi et armis*, and Mr. Speaker should rise with his bible in his hand, and order him to be sworn, and to repeat the form of the oath after him, and the Representative should refuse, by saying he would not repeat the oath, he would not be sworn, and that he would not perform the duties of a member: I ask, would not Mr. Speaker, and would not the House, to use a homely phrase, be at the end of their tether? And why? Because a Representative elect cannot perform any duty enjoined upon him by law, before he has taken the oath of office, and he cannot take the oath before Congress convenes, and which is the only legal, unequivocal, and certain evidence that he has accepted the office, and has become a member. Nor do the rights and privileges of a member of Congress instantly attach to a Representative elect on the 4th of March, and before he takes the oath of office. If he, indeed, takes the oath on the 4th of March, I agree that his rights and privileges attach to him, in the manner as prescribed by the Constitution, so soon as he takes the oath, and not before.

It will be perceived, sir, that there is an evident distinction running throughout the Constitution, between the meaning of the word representative and the word member. The word *representative*, as used in the Constitution, signifies a person who has been elected, but not *qualified to act*; to him the rights and privileges of a member do not attach. The word *member* signifies a person who has not only been elected, but has taken the oath of office. It means a member; *de jure* and *de facto* to him the rights and privileges do attach. Thus, for example, in the fourth section of the first article, "the times, places, and manner of holding elections for Senators and Repre-

sentatives shall be prescribed in each State by the Legislature thereof;" not for Senators and members. And again, by the fifth section of the first article, "each House shall be the judge of the elections, returns, and qualifications of its own members," not of its own representatives, "and a majority of each shall constitute a quorum; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members," not the attendance of absent representatives. "Each House may determine the rules of its proceedings, punish its members," not its representatives, "for disorderly behavior, and, with the concurrence of two-thirds, expel a member," not expel a representative. And the sixth section of the first article, called the *prohibitory* section, does not say that a person holding any office under the United States shall not be a representative during his continuance in office. It says, no person holding, &c., shall be a member of either House during his continuance in office. And however it may have been the fact in some instances, that Representatives elect, before they were qualified and took their seats in the House, may have claimed exemptions from the performance of military duties, (as is alleged by the memorialist,) and the benefit of the privilege of franking letters, &c., (though I do not know that it is a fact that any gentleman has done it—I can answer for one that I have not done it,) yet I very much doubt whether the practice is warranted by the true construction and spirit of the Constitution. Again, sir, if the Convention who framed the Constitution intended that no person holding office under the United States should be a Representative elect during his continuance in such office, they would have employed the necessary and appropriate language for the expression of that intention, as they certainly were capable of doing, and not employed the language here used.

If such had been their intention, the Convention would have employed the same language which they have used in the second section of the first article, where they have clearly expressed such intention, when they say, "No person shall be a Representative who shall not have attained to the age of twenty-five years, been seven years a citizen of the United States, and an inhabitant of that State in which he shall be elected." So in the first section of the second article, "No Senator or Representative, or person holding any office of trust or profit under the United States, shall be an Elector." Here the Convention has not only said that a person holding an office under the United States shall not act as an elector, but that he shall not be a candidate; *he shall not be appointed an elector*.

I have only to add, sir, that if a contrary doctrine prevails, it will have the effect, in many instances, of defeating the views and thwarting the wishes of the people. It will have the effect, in some instances, of limiting the number of persons out of whom the people will be permitted to select their candidate for a member of Congress. I can assure you, sir, that I should not have permitted my name to be used as a candidate, if I had not most conscientiously believed that I had the right, lawfully and equitably, to hold the office of attorney (as inconsiderable as the emoluments of that office are) until I took the oath as a member of this House. For, by taking a seat in this House, I have not only resigned the office of Attorney of the United States on the 29th November, (which I did cheerfully at the time,) but shall also suffer a considerable loss by neglecting the practice of my profession as a lawyer, which has heretofore been profitable. The latter

loss I believed would be as great as my pecuniary circumstances could comfortably sustain for the honor of holding a seat in this House, without resigning the office of attorney, long before I became in fact a member of Congress.

I have the honor to be, &c.,

SAMUEL HERRICK.

WASHINGTON, Dec. 29, 1817.

Answer of Mr. Holmes, filed in behalf of Mr. Herrick.

Mr. Herrick is duly elected a Representative in the Congress of the United States from the State of Ohio. At the time of his election, and until after the 4th of March last, he held the office of the U. S. Attorney for the District of Ohio; which office he resigned before the commencement of this session of Congress.

Upon these facts his right to a seat is contested. In the sixth section of the first article of the Constitution of the United States, it is provided that "no Senator or Representative shall, during the term for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office." The first clause affects the office, the last the membership. The first prohibits the Executive from taking away a Representative from the people, and very properly extends it to the whole period "for which he is elected." And it guards against the temptation to create offices for our own emolument.

Had the prohibition, in the other clause relating to membership, been intended to extend to the same period of time, it would have been so expressed; the sentence would have then stood, "and no person holding any office under the United States during the time for which he was elected, shall be a member of either House." The changing the phraseology in the same paragraph, would not have been without design; the prohibition does not extend to the time for which he is elected, nor even in which he is a member, but is expressly limited to his continuance in office.

When the Constitution disqualifies a person from serving the people as their Representative, the reason of the disqualification is apparent. By the second paragraph of the second section of the same article, no person shall be a Representative who shall not, when elected, be an inhabitant of the State. The inhabiting is required at the time of his election, that the people may know his ability and his principles, and he may understand their interests and inclinations.

The first and principal inquiry then is, was Mr. Herrick, in the sense intended in this clause of the Constitution, a member of this House "during his continuance in office?"

It would be difficult to perceive how a person can be a member of either House until he has met with the others, taken the oath, and submitted to the usual organization. Before this he has no powers as a member. He can do no act in that capacity. He is, to be sure, a Representative or member elect, but he is not a member of the House until that House shall have judged of his "election, return, and qualification."

A person cannot be a member until he accepts the appointment. This is not done until he appears and expresses his willingness to act, or, at least, claims some privilege of his election. Many members do not



receive their credentials until they arrive at the Seat of Government. A notice that they are chosen does not make them members, nor is it evidence of their acceptance. When they elect to act, they signify their acceptance; when they are qualified, they become members.

The word "member" is used, throughout the Constitution, to signify a constituent branch of an organized House. Thus the House of Representatives is composed of members, &c. The Senate may convict, on impeachment, with the concurrence of two-thirds of the members present. Each House shall be the judge of the election, &c., of its own members, may punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member. At the desire of one-fifth, the yeas and nays of the members are to be entered on the journals, and there is no instance in which they are spoken of as members, except as constituting a House, unless the power to compel the attendance of absent members is an exception. If this power extends to compelling the attendance of those who have never taken their seats, it would seem that in one instance the Constitution describes persons as members before they are qualified. But it is at least doubtful, whether a minority of the House can exercise forcible means to bring in a man who has never taken the oath, nor submitted to its rules. It is not readily perceived what officer could be employed to execute a *capias* upon a member-elect, in a remote part of the country, who had never submitted to the authority of the House, nor testified his acceptance of his place.

The expression is intended to extend to those only absent themselves after they are qualified, it is an exception. But, at most, it is not an exception. It speaks of the House compelling the attendance of absent members, or members elect. The word "qualifies" the meaning. Besides, it only proves that the Representatives are called members after the commencement of the session, which might be safely admitted.

When they are spoken of in the Constitution in relation to other times than while in session, they are invariably called Senators and Representatives, and not members. Thus no person shall be a Representative who shall not have attained to the age of twenty-five years, and, when elected, be an inhabitant of the State; so of a Senator. The times, &c., of holding the elections of Senators and Representatives shall be prescribed by the Legislatures of the States. Senators and Representatives shall receive a compensation, and be privileged from arrest. These privileges embrace the time in which they are members, and more; including their going and returning. No Senator or Representative shall, during the time for which he is elected, be appointed to any civil office, &c.; and then comes the clause under consideration, that no person holding an office shall be a member.

This being the solitary instance, among so many, in which the word is extended beyond the session, there should be some good reason for this difference of its meaning. Now, what is the reason? Does the office influence the election? The objection comes too late. It seems to be agreed that a person may hold his office at least to the time of his election.

Does it influence the conduct of the member? The office ceases before he begins to act. There are very good reasons why a person shall not be a member during his continuance in office. His duties as a Representative are not to be interrupted by the duties

of his office, nor his motives perverted by Executive influence. If, before he is called to act as a Representative, he is disencumbered of the office, the former reason ceases; and why does not the latter? Can it be pretended that, because he has had an office, the influence continues after the office ceases? Is a Representative purified if he resigns an office on the third, and polluted if he holds it to the fourth of March? A doctrine like this leads to the most palpable absurdities. The election in New York is twenty months before the usual session in which the Representatives are to serve; that in Tennessee, about four months. Suppose a gentleman in each State to be appointed to an office of the same kind, on the same day. They both hold their offices up to the day in which the election takes place in Tennessee, resign on the same day, are chosen to Congress, and take their seats. Yet, because the gentleman from New York held his office, after the 4th of March, and after his election, and the gentleman from Tennessee held his to the same time and up to his election, the latter is qualified, and the former disqualified. Here are two gentlemen, who hold their offices and take their seats contemporaneously, and one is admitted and the other rejected, and the reason is, that the one would be under Executive influence, and the other would not. It is a poor compliment, indeed, to those venerable sages who framed the Constitution, to suppose them capable of such palpable absurdities.

At the time the Federal Constitution was framed, an opinion had long prevailed that Executive and judicial officers ought not to partake in legislation. It was deemed expedient that the three departments of Government should be kept distinct, lest members of a Legislature, holding offices under the Executive, might be too much inclined to yield to his will, and extend his power. But it would have betrayed unreasonable jealousy to apprehend that gratitude for past, or hopes of future favors would lure a member from his duty. Had the framers of the Constitution apprehended any danger from this source, they would have defined and equalized the time that an office must be executed, before the incumbent could act as a legislator. And they would have especially extended their prohibition to a period after the legislator's power had expired. Men are less inclined to be influenced by gratitude for past, than hopes for future benefits. Selfishness induces the belief that when the office is executed, the account is balanced. But the hopes of future smiles afford a much stronger inducement to a member to forget his constituents, and cling to the Executive.

But it is insisted that Congress is a perpetual body, and as soon as one House expires another springs into existence. Visionary as is this theory, it becomes us to notice it. The Constitution has provided that the House shall be composed of members chosen every second year, but has not defined at what time their period shall commence. It is the law that has established the 4th of March as the commencement of the two years within which a Congress shall meet and act. The time of election, however, is still left with the States. In Virginia, North Carolina, and Tennessee, the Representatives are chosen after the 4th of March. If membership commences at this time, the Representatives of those States must be excepted, or be members before they are chosen. And should the other States postpone their elections until after the 4th of March, which they have a right to do, this doctrine of a perpetual Congress would be sub-

verted, and still the Constitution and the liberties of the people would be safe.

But it is said that because, by the Constitution and laws, Representatives are entitled to privileges before and after their sessions, this implies that they must be members while these privileges exist. This argument proves too much—Congress might be summoned to meet on the 4th of March. They must set out for the Seat of Government, and would be exempt from arrest before the former Congress expires. But they cannot be members while another Congress exists. They may, and generally do, hold their last session until the 4th of March, when their term expires. They are, however, exempt from arrests during their return, but they are not members during that time. The truth is, that while going to become members, and returning after they have ceased to be members, they are entitled to this privilege. The same reason will apply when speaking of their right of franking letters, or any privileges granted by law.

But it is apprehended that a Representative would resign his office and take his seat, upon a bargain with the Executive that he should be reappointed. If this objection deserves a serious answer, it may be observed that this clause in the Constitution, in its utmost extent, is no cure for the evil. Before the election, or after and before the 4th of March, the resignation would always be made under a promise of reappointment. Were we disposed to indulge in suspicion, we should have much more reason to fear a contract for a new appointment than a reappointment. But the Constitution has provided against neither. To suppose it possible, would be a slander upon any Executive, and betray a jealousy totally unworthy a free and enlightened people.

The State constitutions afford a very good commentary upon the clause under consideration. The incompatibility is generally confined to the power of acting. In few instances it extends to eligibility, but in none to the precise time for which the person is elected.

By the constitution of Massachusetts, formed in 1780, executive and legislative powers cannot be exercised by the same person.

By that of Virginia, formed in 1776, the exercise of the powers of the different departments of the Government at the same time is prohibited.

By that of Delaware, of the same year, certain officers are made ineligible to either House, and members accepting of offices vacate their seats.

By that of New Jersey, of the same year, no person holding an office of profit, &c., shall be entitled to a seat in the General Assembly; but, on his being elected, and taking his seat, his office shall be vacated. There are instances which happened during the Revolution, at a time when the corruptions of Parliament were deprecated and magnified.

Several of the State constitutions, adopted since that of the United States, have copied the words of that instrument in this particular.

By that of Georgia, however, the person holding an office shall not be allowed to take his seat.

By that of Tennessee, no person of the above description shall have a seat.

By that of Mississippi, laid on the table during this session, the prohibition commences with the first session after the election. With such expressions of the opinions and inclinations of the people before them, the framers of this Constitution made the provision in question; and it seems impossible to doubt their

intention to prohibit merely the exercise of the powers of the different departments of the Government by the same person at the same time.

Were this construction a novel one, and resisted by the uniform practice of this House, the propriety of urging this doctrine might be reasonably doubted. Had the indulgence of the practice proved dangerous to the independence of the House, or the liberties of the people, it would be our duty to correct it. But ever since the first organization of the Government, repeated instances of the kind have occurred, and those even stronger than that of the member objected to. Mr. Tracy, of Connecticut, while a Senator of Congress, was appointed by the President to the performance of some office relating to the Indians, the duties of which encroached upon the session of Congress, but he finished the duties, took, and retained his seat.

Mr. Dawson, a member from Virginia, between the first and second session of the Congress for which he was elected, was appointed as a messenger to France. He performed the duties of his appointment, returned, and resumed and retained his seat.

Mr. Turner, of Massachusetts, claimed the seat occupied by Mr. Baylies. The House decided in his favor. He resigned the office of postmaster, and immediately took his seat.

Mr. Worthington and Mr. Morrow, Senators in Congress from Ohio, were, in 1812, appointed by the President to make a treaty with certain Indians in that State. They attended to the duties assigned, after the 4th of March, and returned, took, and retained their seats.

In nearly every Congress since the commencement of the Government, postmasters have been returned as members, and such members have almost uniformly held their offices after the 4th of March succeeding their election. Since the year 1800, are, among others, the following cases: Benjamin Tallmadge, Erasmus Root, Matthew Lyon, Thomas Gholson, Samuel McKee, S. Dana, E. Wickes, and H. Tracy. When a Representative is fairly elected by the people, every doubt should weigh in his favor. Unless the construction of the Constitution is plainly against him, he should retain his seat. But when the letter and the spirit of the Constitution, and its rational and practical construction, are favorable, there seems no plausible reason why a member should be disturbed.

J. HOLMES.

#### CASE OF ELIAS EARLE.

Mr. TAYLOR, of New York, from the Committee of Elections, made a special report on the case of ELIAS EARLE, who held the office of a deputy postmaster subsequent to the fourth day of March last, declaring him entitled to a seat in this House; which was read, and referred to the Committee of the Whole on the case of Samuel Herrick. The report is as follows:

"The Committee of Elections, to which was referred a resolution of the House of the 10th of December, 1817, and a message of the President of the United States, of the 29th of the same month, report, in part:

"That, in the month of April, 1815, Elias Earle was appointed postmaster at Centreville, in the State of South Carolina; that, at the last Congressional election in that State, he was elected one of its Representatives to this House. On the 10th of February,



H. OF R.

Judicial Records.

JANUARY, 1818.

1817, the Governor executed a certificate of his election, which Mr. Earle states to have been received by him in April or May following. On the 10th of September, 1816, he addressed to the Postmaster General, and sent, by mail, a letter, requesting it to be accepted as his designation as postmaster, and recommending the appointment of a Mr. Tillinghast, who was accordingly appointed; but having omitted to execute the bond required by law, he was never commissioned. The office continued to be executed in the name of Mr. Earle, and he superintended the same until the 12th of June, 1817, when his connexion with it ceased, as appears by the message above mentioned.

"We subjoin hereto a letter from the Postmaster General, marked (A.) and copies of two letters of Mr. Earle, marked (B.) and (C.) which are designed to be considered as part of this report, and respectfully submit the following resolution:

"Resolved, That Elias Earle is entitled to a seat in this House."

(A.)

GENERAL POST OFFICE, Dec. 30, 1817.

Elias Earle, Esq., being postmaster at Centreville, South Carolina, September 10, 1816, sent a resignation, and recommended Daniel H. Tillinghast to be his successor. An appointment was sent to Mr. Tillinghast, who never executed the bond. On the 12th of June, 1817, by letter, Mr. Earle recommended John Morris, Jr., to be appointed postmaster. The appointment was sent to Mr. Morris, who also declined. During the above period, Mr. Earle superintended the direction of the office, though he considers his resignation to relate back to 1816.

R. J. MEIGS, Jr.

(B.)

CENTREVILLE, Sept. 10, 1816.

SIR: You will be so good as to receive and accept of this as my resignation as postmaster at this place, and I also take the liberty of recommending Daniel H. Tillinghast as postmaster, in my place. In answer to your inquiries where I was born, I can only say, in Virginia. Your obedient servant,

ELIAS EARLE.

To the POSTMASTER GENERAL.

(C.)

CENTREVILLE, June 12, 1817.

SIR: Enclosed is a receipt paid Alexander Waddle for the amount of forty dollars, returned by your order, which amounts to upwards of twenty more than is due you, by the returns forwarded to you last mail from this office, which I paid at your request, and which can be settled for. This office is for several months without a postmaster, although I wrote to you last September, and lately again. I hope you will name Mr. John Morris, Jr., as it is impossible I can keep any charge of it, as I am almost constantly from home. It has hitherto been tolerably well attended to.

Your obedient servant,

ELIAS EARLE.

To the POSTMASTER GENERAL.

JUDICIAL RECORDS, &amp;c.

The House then resolved itself into a Committee of the Whole, on the bill to prescribe the effect of certain records and judicial proceedings.

The question being on an amendment proposed by Mr. BALDWIN to the bill, as a substitute for the first section—

Mr. ROSS opposed both the bill and amendments at some length, on Constitutional grounds, as well as on the ground of expediency. If the principle of the bill was correct, he said, declaring as it did, that judgments rendered in one State should be of equal effect in any other State, the provisions of the bill ought to have gone further, and declared every act of the Legislature of any State to be of equal force in any other State; for the two declarations would have been in principle the same. The Constitution had given to Congress the power to declare what should make a record authentic, but not to prescribe its effect in any other State; and any other construction than this, Mr. R. considered as tending to the establishment of a consolidated Government. In regard to the expediency of the bill, Mr. R. said he viewed every attempt to change the common law as injurious; and he was therefore opposed to this bill. Leave the question to the decision of common law, and fewer evils would result from it, he said, than from any legislative provision. In the course of a speech of half an hour, Mr. R. enforced these general views by a variety of illustrations and references to the practices prevailing in the different States, &c. With respect to the argument of its extending commercial credit, on which Mr. SPENCER the other day justified the bill, Mr. R. did not allow it the force claimed for it; for, he said, he would not agree to pass the bill to enable the New York merchant, when his customer had come there from Kentucky, to spring the trap upon him, compel him to confess judgment, or go to prison for want of bail, and that judgment to have the same effect given to it in Kentucky as it would have had in New York.

Mr. POINDEXTER spoke to the amendment; which he considered radically defective in giving the same force to judgments in other States as they would have had in the State in which they were given. He took a legal view of the question, as connected with the practice in the courts of the several States, the variance of which he showed would make the provisions of the amendment unequal in their operation.

Mr. STRONG, in the course of a few observations he made on the question, said he did not know whether any amendment to the bill would make it palatable to him; but he certainly thought the amendment much preferable to the bill, inasmuch as the amendment gave to judgments in one State a conclusive effect in another, only in cases where it appeared on the record there had been a trial.

Mr. BALDWIN spoke in support of his amendment; which, he said, went to vary the bill in all its essential features, as he showed in the course of his remarks. He drew a comparison between the bill and his amendment, showing why he preferred the latter.

Mr. SPENCER replied to those who had supported the amendment, and vindicated the original bill by a series of arguments drawn from the prevailing practice and the principles of law. He avoided replying to the Constitutional objection Mr. ROSS had advanced, as not being on this incidental

JANUARY, 1818.

National Flag.

H. OF R.

question fairly before the House. He insisted, however, on the effect the bill would have in sustaining commercial confidence, and in strengthening the ties which bind the States together by making their co-operation more harmonious. In conclusion, he submitted to gentlemen (repeating Mr. WILLIAMS's remark) whether they would not give to the records of the courts of the respective States the same effect which was now allowed to the records of any petty court in the West Indies.

The question was then taken on Mr. BALDWIN's motion to amend the bill, and negatived.

Other amendments were proposed to the bill, some of which were agreed to, and others rejected; in the proposition and discussion of which Messrs. STORRS, ORR, TERRY, BEECHER, ROSS, PINDALL, STRONG, FORSYTH, SPENCER, and LIVERMORE, bore part. In the course of the debate,

Mr. HOPKINSON gave at large, but with precision, his views of the Constitutional objection suggested by Mr. ROSS. He was of opinion that Congress were entirely at liberty to act on the subject, and that it was expedient to do so, on account of the variety of constructions now given to the law on the subject. He saw no objection to the bill, on the ground some had taken, that it would put the parties in a worse situation than they were in before; on the contrary, the bill would clear up much ambiguity, and, so far as it had effect, would be more favorable to the party sued than the present practice. Mr. H. made a perspicuous argument to sustain his legal view of the question.

When the Committee rose for the day, a motion by Mr. FORSYTH was under consideration to strike out the second section of the bill.

The Committee obtained leave to sit again.

TUESDAY, January 6.

Mr. MASON, of Massachusetts, presented a petition of sundry manufacturers of paper, praying that a duty of two dollars per ream may be imposed on all paper imported into the United States.—Referred to the Committee of Ways and Means.

Mr. HARRISON presented a petition of Martha Perry, widow, daughter of the late Captain Joshua Huddy, of New Jersey, who, in the Revolutionary war, was cruelly and wantonly put to death, by a band of Tories; praying for a pension.—Referred to the Committee on Pensions and Revolutionary Claims.

Mr. HERBERT presented a petition of the Columbian Institute, for the promotion of arts and sciences, established at the City of Washington, praying for an act of incorporation.—Referred to the Committee for the District of Columbia.

Mr. STROTHER presented a petition of Armistead T. Mason, contesting the election and return of Charles F. Mercer, as one of the members of this House, for the State of Virginia, and praying to be admitted to a seat in the House, in the place of the said Charles F. Mercer.—Referred to the Committee of Elections.

Mr. JOHNSON, of Kentucky, presented a petition of sundry emigrants to the United States from Switzerland, praying that twelve townships of land, lying in some one of the Territories of the United States, may be granted to them upon the same terms and conditions as were granted, at the last session of Congress, to sundry emigrants from France.—Referred to the Committee on the Public Lands.

The SPEAKER laid before the House sundry depositions and documents, on the subject of the contested election of Charles F. Mercer, a member of this House from the State of Virginia; which were referred to the Committee of Elections.

Mr. MCCOY, from the Committee of Claims, to whom was referred the petition of John Bate, with the report of the Secretary of the Treasury thereon, and the bill for his relief, reported the said bill with an amendment; which was read and agreed to by the House, and the bill was committed to a Committee of the Whole.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill confirming the claim of William Daniel, or his legal representatives, to a tract of land in the State of Mississippi; which was read twice and committed to a Committee of the Whole.

Mr. HERRICK also reported a bill, confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government; which was read twice, and committed to the Committee of the Whole last appointed.

Mr. PARRIS, from the committee appointed on so much of the President's Message as relates to the Public Buildings and to the erection of additional public edifices, reported a bill making further provision for repairing the public buildings; which was read twice, and committed to a Committee of the Whole.

The bill from the Senate, entitled "An act for the relief of William Edwards and John G. Stubbs," was read the second time, and committed to a Committee of the Whole.

NATIONAL FLAG.

Mr. WENDOVER, from the committee appointed to inquire into the expediency of altering the flag of the United States, made a report, which was read; when Mr. W. reported a bill to alter the flag of the United States; which was read twice, and committed to a Committee of the Whole.

The report is as follows:

That they have maturely considered the subject referred to them, and have adopted, substantially, the report of the committee to whom was referred the same subject at the last session of Congress, as forming a part of this report. The committee are fully persuaded that the form selected for the American flag was truly emblematical of our origin and existence as an independent nation, and that as such, it having met the approbation and received the support of the citizens of the Union, it ought to undergo no change that would decrease its conspicuity, or tend to deprive it of its representative character. The committee, however, believe that an increase in the number of States in the Union since the flag was altered by law suffi-



ciently indicates the propriety of such a change in the arrangement of the flag as shall best accord with the reasons that led to its original adoption, and sufficiently point to important periods of our national history.

The original flag of the United States was composed of thirteen stripes and thirteen stars, and was adopted by a resolution of the Continental Congress on the 14th of June, 1777. On the 13th of January, 1794, after two new States had been admitted into the Union, the National Legislature passed an act that the stripes and stars should, on a day fixed, be increased to fifteen each, to comport with the then number of independent States. The accession of new States since that alteration, and the certain prospect that at no distant period the number of States will be considerably multiplied, render it, in the opinion of the committee, highly expedient to increase the number of stripes, as every flag must, in some measure, be limited in its size, from the circumstance of convenience to the place on which it is to be displayed; while an increase would necessarily decrease their magnitude, and render them proportionally less distinct to distant observation; this consideration has induced many to retain only the general form of the flag, while there actually exists a great want of uniformity in its adjustment, particularly when used on small private vessels.

The national flag being in general use by vessels of almost every description, it appears to the committee of considerable importance to adopt some arrangement calculated to prevent in future great or expensive alterations. Under these impressions, they are led to believe no alteration could be made more emblematical of our origin and present existence, as composed of a number of independent and united States, than to reduce the stripes in the flag to the original number of thirteen, to represent the number of States then contending for and happily achieving their independence, and to increase the stars to correspond with the number of States now in the Union, and hereafter to add one star to the flag whenever a new State shall be fully admitted.

These eight alterations will, in the opinion of the committee, meet the general approbation, as well of those who may have regretted a former departure from the original flag, as of such as are solicitous to see in it a representation of every State in the Union.

The committee cannot believe that in retaining only thirteen stripes it necessarily follows they should be distinctly considered in reference to certain individual States, inasmuch as nearly all the new States were a component part of, and represented in, the original States; and inasmuch, also, as the flag is intended to signify numbers, and not local and particular sections of the Union; nor can the committee view the proposed inconsiderable addition to be made on the admission of a new State in the light of a departure from that permanency of form which ought to characterize the flag of the nation. The committee respectfully report a bill.

#### COMPENSATION TO MEMBERS, &c.

On motion of Mr. HOLMES, of Massachusetts, the several orders of the day preceding the bill to fix the compensation of the members of the Senate and House of Representatives, were postponed, and the House resolved itself into a Committee of the Whole on the said bill.

[The bill provides that the daily compensation of the members, during their attendance on Con-

gress, shall be nine dollars, and the allowance for travelling to and from the seat of Congress, at the rate of nine dollars for every twenty miles of the distance.]

Mr. ROSS, of Pennsylvania, by way of trying the sense of the Committee on the subject, moved to strike out the word *nine* and insert the word *six*, as the amount of daily compensation.

The question on this motion was loudly called for, indicating a disposition to take the sense of the House without debate.

Mr. DESHA said, he should support the motion made by the gentleman from Pennsylvania, however unfashionable it might be, which was to strike out the word *nine* and insert *six*, and, he suspected, should be found in a small minority; but that should not prevent him from discharging his duty. It is a little mortifying, said he, to see such extreme anxiety manifested on the occasion. Does it look dignified in this body, because they are immediately interested in this measure, to see them urge it forward to the exclusion of all other business, that is entitled to precedence under the rules of the House? I sincerely wish that we may not have the same scene acted over again, that was acted the first session of last Congress, when the compensation bill, of famous memory, was on the carpet. This bill contemplates giving the members nine dollars per day, and nine dollars for every twenty miles in travelling to and returning from the Seat of Government. Do the gentlemen seriously believe that the people will submit to this without a murmur? If they do, I suspect they will be most egregiously mistaken. It may be deemed vanity in me to suppose, that any reasons I could advance, in opposition to this measure, would have a tendency to change the minds of gentlemen; and, indeed, the subject has been so long maturing before the committee, which was ordered to prepare and report the bill, that, it is presumed, gentlemen have principally made up their minds; but, notwithstanding which, it is a duty I owe those whom I have the honor to represent, as well in compliance with my own feelings, to express my sentiments against the bill, and whatever duty leads to I trust I shall never shrink from. Disorder, however it may be calculated to embarrass, shall not drive me from the floor. I regret extremely that the committee, to whom the resolution was referred, to prepare and report a bill on the subject of the daily allowance of the members, had not left a blank in the bill, and left the Committee of the Whole the privilege of filling the blank with whatever sum they might think proper. Why this deviation from the usual course? I appeal to gentlemen to say, if this does not look like forestalling opinion. When I understood who were the gentlemen that composed the committee, I anticipated the recommendation of high pay, because they are professional gentlemen, and, I presume, accustomed to receiving high fees. My anticipations are realized. They have recommended nine dollars per day, and nine dollars for every twenty miles in travelling to and returning from the Seat of Government. It is in

the nature of things for those who make their money lightly to permit it to go freely, and are generally advocates for extravagant salaries, or high pay; but gentlemen ought to recollect that we are not legislating for any particular class of men, but for the whole community; that we are legislating for the people. Sir, who filled the public purse, and who fought your battles in the late war, by which you were prevented from being engulfed in the vortex of tyranny? The people. But, sir, I am afraid the services of the people are soon forgotten by the fashionable legislators of the day, who assume the right to rule the councils and dictate to the nation. Compare even our former pay with the pay of those who fought our battles, and see if it loses anything by the comparison.

Nine dollars per day! We commence our session at twelve o'clock, and have generally terminated them this session at about three, amounting to about three dollars per hour. Would not the honest and industrious farmer or mechanic, who rises early and works late, and, by his greatest exertions from one end of the year to the other, considers he is doing a good business, if, not getting rich, he can save at the end of the year, clear of all expenses, between fifty and a hundred dollars; I say, would not such men think three dollars per hour high pay, and ought not the opinions of such men to be respected? They certainly ought. I view such men as the life and sinew of liberty, whose feelings are worthy of being consulted, and whose opinions ought to be respected.

Mr. Chairman, it is not in my nature to anticipate evil, but I am fearful, from the disposition I see manifested, that we are about to have an extremely extravagant and expensive Government; and who are to bear the burden of expense? The people. And, in case you should again be involved in war, who fight your battles but the people? Then ought not their opinions to be respected? It is true, the internal taxes have been removed, and the expenses of Government are to be defrayed by the revenue arising from duties on importations; but who ultimately pays these duties? The people. I grant that it is a voluntary tax—whoever purchases foreign articles pays the duty; but still it is a tax, and the people bear the burden of it. Then, I repeat it, ought not their feelings to be consulted, and their opinions respected?

Sir, can gentlemen be so blind and insensible as not to see and understand what are the feelings and opinions of the people on the subject of the pay of the members of Congress? Is it possible that gentlemen can have forgotten the extraordinary agitation of the public mind, and the conflicts that occurred previous to and about the last election of members of Congress, owing to the circumstance of the members of last Congress having raised their pay; which agitation produced such a change in the minds of the members, that the law, which passed by a considerable majority, for raising their pay, was repealed at the last session by a considerable majority?

Mr. Chairman, I view it as a duty we owe to the people of the United States to fix the allowance of the members of Congress on its former footing, at six dollars per day. I regret extremely that it was not done last session. It ought to have been done, as it was not only proper in itself, but because the people expected it, and, if it had, we would not only have avoided much difficulty, but have satisfied the public mind, which with me, however unfashionable it may be, is an object of the greatest consequence. The feelings of the people on this subject were well understood—they had expressed them in plain language, and in an audible voice, as a proof of which you may, by casting your eyes around, see how few of the members, who were honored with seats in last Congress, were permitted to take seats as members of the present Congress. Is not this proof conclusive, that the people are opposed to the pay of the members being raised so enormously high?

Sir, however gentlemen may disregard public opinion, I have (although I flatter myself that I possess, at least, a common share of independence) not been taught to do so; I view it as a principle, not only ingrafted in the nature of our Government, but as its strength, an essential to its welfare and perpetuation. When I accepted the office of Representative of the people, I considered myself under a moral obligation to represent them, as far as I could understand their views and feelings, to the utmost of my capacity, and not particularly to represent myself. When the views of the people I have the honor to represent have not been expressed, or cannot be ascertained, then I am not only at liberty, but bound to exercise my judgment for their benefit and advantage. Sir, who elected and delegated the power of a Representative to me but the people, and would not I be guilty of a dereliction of duty by betraying the trust reposed in me, as also subject myself to the charge of a breach of the moral obligation if I failed, when I knew their sentiments, to represent them accordingly?

Mr. Chairman, I said that I viewed it as the strength of this Government to pay respect and have a strict regard to public opinion. We have frequently heard it insinuated, and sometimes expressed on this floor, that money or wealth is the strength of a Government. Gentlemen must certainly forget under what kind of Government they live when they make such declarations; they must be thinking of monarchical or despotical Governments; I admit that money or wealth is the strength of such Governments; but, will what constitutes the strength of monarchical or despotical Governments be the main pillar or strength of a republican Government; a Government of the people? No, sir, it is the confidence of the people that constitutes the strength of a republican Government. Sir, while ever the Representatives of the people or public agents continue to act so as to retain their confidence, they have nothing to fear at home, nor from abroad; taxes will be paid to any amount without a murmur, and personal services cheerfully rendered; this is what constitutes the main pillar



or strength of your Government. Then, sir, when such beneficial effects are to arise from it, are not gentlemen, situated as we are, having the honor to represent thirty-five thousand free people, under a moral obligation to pay attention to, and act up with the will of the people, when ascertained by positive expression or strong implication? Sir, I admit, in some of the large towns, where people are in the habit of spending money freely, where the streets are measured by the strides of aristocratic grandeur, where economy would be laughed out of countenance, and where extravagance may be said to be the order of the day, that there are numbers in favor of extravagant salaries or high pay. I admit, in some of the smaller towns in the interior, among some of the storekeepers and clerks, and another class of gentlemen, who have been accustomed to making their money tight, and with whom it has been said, that prodigality in public expenditure is characteristic, that the cry is for high pay; the latter class, perhaps, because they consider a seat in Congress a more honorable, eligible, and pleasant situation than that of being engaged in the drudging business of individuals, and would be willing, if the pay were raised high enough to come up to their ideas of money-making, to quit their drudging business for seats in Congress. But, sir, are we to form a judgment on this subject in favor of raising the pay of members of Congress enormously high, because some aristocratic characters in large towns, or those in other situations who are looking forward for offices of prominence, cry aloud for it? No, sir, we must look to the yeomanry of the country, and the handicraftsman, the ostensible supporters of Government, (who, if they are not so clamorous, are more substantial,) for public opinion. Will any gentleman say, that the farmer and mechanic are crying out in favor of raising the pay of the members of Congress? Those men who fill the public purse, and fight their country's battles in time of difficulty? Here is where you must look for the true criterion by which to judge of public opinion. I say, will any gentlemen undertake to set forth on this floor, that they are in favor of extravagant pay? I believe they will not. Although the word economy is unfashionable, I consider economy one of the principal pillars on which our republican fabric stands; permit it to be removed, and the fabric immediately totters, and ultimately falls to the ground. High pay will necessarily produce extravagance. The contagion will ramify and spread until the whole body politic is disordered, and ultimately becomes weak and imbecile, when demagogues will rise, take advantage of its imbecility, overturn the republican fabric, and on its ruins build up tyranny, which cannot, taking into view our present feelings on political matters, be a desirable order of things. Then, would not wisdom dictate the policy of being cautious in not adopting any measure, however plausible it might be, and however gratifying to our feelings momentarily, that might have the most distant tendency to produce such a state of things?

Mr. Chairman, it has been said that members of Congress were worse paid than any other officers of Government. I deny the fact; it is true that the President of the United States and the foreign Ministers are better paid than members of Congress, and, perhaps, some of the subordinate officers of Congress, according to grade; but, as to the latter, honor or patriotism has no agency in their acceptance of offices; emolument is the consideration which influences them; but I hope that is not the case with members; at least I know it ought not to be. It is true members ought to receive what would enable them to live genteelly, and be enabled to save some money; which they can do if they do not go into unnecessary extravagance, or pay any attention to economy, on the former pay, six dollars per day, and six dollars for every twenty miles in travelling to and returning from the Seat of Government. No, sir, the most of our civil officers, and nearly all the military, are worse paid than members of Congress; and what plea have we to justify us in raising our pay but the depreciation of money? Sir, could we, and look justice in the face, refuse to raise the pay of all the officers of the Government, both civil and military, in proportion to what we raise our own; because the same plea of the depreciation of money would operate in their case that does in ours; are we prepared for such a state of things? I believe we are not; neither do I believe the people would bear us out in them. It is lamentably true that money has depreciated; and what is the cause of this depreciation? Certainly the great excess of bank paper that has been thrown into circulation, for which, if Congress have not been entirely blameable, they have contributed their proportion towards it by setting the example of chartering a number of banks; and one, particularly, in its character such a prodigious machine, that I fear it will ultimately operate as a curse on the land, by changing the politics of the Government, and finally giving law to the nation.

Mr. Chairman, it is frequently said, that if we want talents on this floor we must bid up high for them; that men in lucrative employments or professions will not come here unless you raise the pay pretty high; which is an acknowledgment that patriotism, or the honor of serving freemen, could have no agency in bringing such men here, and that their sole object in coming here would be money. I hope I never shall see this Hall filled with characters who would make money the first consideration in coming here. Whenever money is made the first consideration in coming here you will see all the evil passions, incident to the nature of man, set to work, in order to enable them to secure seats in Congress, when liberty, the best blessing of man, will be on the totter, and will soon pass away. Gentlemen talk of talents. Sir, I draw a wide distinction between what is commonly called talents, and real mind, solid judgment, accompanied by a considerable portion of common sense. We have seen visionary characters here who were, by some, called men of talents, because they could cull

flowers and make long speeches, when they possessed nothing like solid mind, sound judgment, and but a very scanty share of common sense. I don't want to see this Hall filled with such characters; they would make dangerous legislators. I don't want to see the House of Representatives changed from a deliberative body to a talkative assembly. Sir, I want to see this Hall filled with solid mind, sound judgment, accompanied by a great portion of common sense, (which, by the by, is the best kind of sense in times of difficulty,) men of general information, liberal minds, and patriotic feelings. Such men can be had without bidding up so high. Patriotism, with the former pay of six dollars per day, together with the liberal travelling allowance of six dollars for every twenty miles in coming to and returning from the Seat of Government, will always fill your seats with such characters, with whom safety is to be found. If the people wish to have their business conducted in a safe and economical manner, having an eye to the perpetuation of civil liberty, they will send men here whose interest is the same as their's; they will send men here who will be advocates for liberality without extravagance.

I have thought proper to take this view of the subject; but in doing so I have had considerable difficulty to encounter from the extreme disorder arising from an over anxiety for the adoption of this weighty matter, and an apparent determination to prevent any member from expressing his sentiments; which disorder I take extremely unkind, as I am not in the habit of detaining the House often with long speeches. In the view I have thought proper to take of the subject, I have avoided personalities—not only because personalities ought to be avoided in deliberative bodies, but because it was in compliance with a rule I had laid down for myself in setting out in life, which was, never wantonly to wound the feelings of my fellow man, nor to suffer my own to be assailed with impunity.

Mr. CLAY (Speaker) said, he felt himself called upon to make a single observation on a part of his colleague's remarks. He was quite sure, he said, it was not the intention of his colleague to suggest anything like impropriety in the House in regard to the selection of the committee to whom this subject had been referred. But he rose to say, that two principles only had guided the officer, whose arduous and sometimes painful duty it was to select committees, in appointing the committee in question; the one was, to select a majority of the committee from the new members, who, being fresh from the people, might be supposed best to understand their views; the other, to distribute the committee, as much as possible, through the various parts of the continent. The question of their professions he did not inquire into, nor till this moment did he know it, and, he assured the Chair, he had not a knowledge of the views of a single member as to the compensation, except as to one member, (from Connecticut,) who had expressed his views respecting it by a vote which he gave at the last

session, &c. Regarding the subject of this bill, Mr. C. said, he trusted he should not be found to occupy a single moment of the time of the House in discussing it. Every member had certainly by this time made up his mind on this subject, and he did not suppose that any argument here could have any effect on its decision. At the same time, he said, he should be sorry to see his worthy colleague, or any other member, restrained in the slightest degree from the exercise of the indubitable right he possesses, to offer his sentiments to the House.

Mr. HOLMES, of Massachusetts, said, the gentleman ought not to attribute blame to him, if any there was, for urging the consideration of this bill. It was not taken up to-day on the suggestion of his own mind, but at the instance of other gentlemen. Nothing, Mr. H. said, could induce him to enter into the debate on this subject, which he knew would be to no purpose.

Mr. OGLE, of Pennsylvania, replied to a part of Mr. DESHA's remarks. He, too, represented farmers, but not men who wished persons to labor for them at a certain loss. Would any respectable farmer, himself, Mr. O. asked, agree to leave his farm to manage itself, when he knew that, if he did, that he and his family would become beggars? Certainly he would not—he pays those who work for him, and would expect to be paid himself for his sacrifices and labor in the discharge of public duties; and it was a correct principle, he added, that public officers should be paid for their services. In regard to the sort of talent necessary for Congress, Mr. O. suggested that a graduated scale of compensation might be made, if, by trepanning, the brains of all the members could be taken out, and their actual value ascertained by weight—in which case he did know but he might himself come in for small pay. But nine dollars a day, he humbly thought, was a compensation small enough for a just recompense for attendance here; and, though he represented farmers, he had never heard it suggested that that was too much. On this subject, Mr. O. said, he had no instructions from his constituents; he should vote, therefore, not for popularity, but for what he conscientiously believed was just. He most sincerely believed, he repeated, that men who served the public ought to be paid; and, he did not consider it a reasonable expectation that men were to devote their lives to this object purely from patriotism. He hoped, he said, putting these considerations out of view, that a majority of this committee would, on this occasion, give correct votes—not with a view to re-election, but to justice.

The question was then taken on striking out *nine* and inserting *six*, as the daily compensation, and negatived.

Mr. LINN, of New Jersey, then moved to strike out *nine* and insert *eight*; which motion was negatived by a small majority.

Mr. BASSETT, of Virginia, moved to strike out *nine*, and insert *nothing*; which would leave the bill open for any sum; which motion was negatived.



Mr. SOUTHWARD, of New Jersey, then moved to reduce the allowance for travelling expenses, from nine to six dollars for each twenty miles; which motion was also negatived.

Some merely verbal amendments were made to the bill, and the Committee rose and reported the bill.

The bill being immediately taken up by the House—

Mr. PARRIS, of Massachusetts, moved to strike out the word *nine*, as applying both to compensation and to mileage, and to insert *six*, in lieu thereof.

Mr. HARRISON, of Ohio, in explaining what would otherwise appear an inconsistency in the vote he was about to give, said, that he was aware that, in order to preserve in Congress talents of a proper grade, and to enable men of moderate property to come to Congress without less, a higher compensation was necessary than had heretofore been allowed to members of Congress. But, said he, holding, as we do, the key of the Treasury, we ought not to do ourselves even justice before we do it to others, whose claims are stronger and of longer standing. Whenever justice was done to the sufferers in the war of the Revolution, and not until then, they should be prepared to do justice to ourselves.

Mr. ROSS required the yeas and nays on the question now pending.

On suggestion of Mr. COLSTON, of Virginia, the question was so divided, as to take it separately on the compensation and on the mileage.

Mr. OGLE said he should still vote as he had done in Committee, not allowing to the suggestion of the gentleman from Ohio the weight he attached to it. Every man showed his patriotism and generosity by personal acts; and, to accomplish the object that gentleman had spoken of, said Mr. O. I would distribute among these sufferers one half of my pay—and, whilst I have a half remaining, no poor, distressed soldier shall want one half of it. But, Mr. O. said, he well knew Government was able to pay all just claimants; and he would not, for his part, deny justice to one, because the country had hitherto neglected to do justice to others.

The question was then taken on striking out *nine* and inserting *six*, as the daily compensation of the members, and decided in the negative—yeas 68, nays 101, as follows:

YEAS—Messrs. Baldwin, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Boes, Burwell, Campbell, Comstock, Desha, Earle, Edwards, Ellicott, Gage, Harrison, Hendricks, Herbert, Herrick, Heister, Holmes, of Massachusetts, Huntington, Johnson, of Kentucky, Lewis, McLane, W. P. Maclay, Marr, Mercer, Moore, Morton, Murray, New, Parris, Patterson, Peter, Quarles, Reed, Rhea, Rich, Ross, Sampson, Sawyer, Scudder, Settle, Seybert, Shaw, Sherwood, Silabee, S. Smith, Bal. Smith, J. S. Smith, Southard, Spangler, Stuart, Tarr, Taylor, Townsend, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Ball, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Bryan, Butler, Clagett, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Cruger, Cushman, Darlington, Drake, Ervin, of South Carolina, Folger, Forney, Forsyth, Fuller, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Hitchcock, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, Lowndes, W. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Middleton, Miller, Moseley, Mumford, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Ogle, Orr, Owen, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Porter, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Savage, Schuyler, Slocumb, Alexander Smyth, Speed, Spencer, Storrs, Strong, Strother, Tallmadge, Terrill, Terry, Tompkins, Tucker, of Virginia, Upham, Wallace, Wendover, Whitman, Williams, of New York, and Wilkin.

The question was then taken on striking out *nine* and inserting *six* dollars as the allowance for every twenty miles' travel to and from Congress; which motion was decided by yeas and nays—for the amendment 93, against it 76, as follows:

YEAS—Messrs. Anderson, of Pennsylvania, Baldwin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Blount, Boden, Boes, Burwell, Campbell, Colston, Comstock, Crafts, Desha, Earle, Edwards, Ellicott, Ervin of South Carolina, Forsyth, Gage, Garnett, Hall of Delaware, Hall of North Carolina, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, of Massachusetts, Huntington, Irving, of New York, Lewis, Linn, Little, McLane, W. Maclay, W. P. Maclay, Marr, Mercer, Merrill, Moore, Morton, Murray, Jeremiah Nelson, H. Nelson, New, Parris, Patterson, Pawling, Peter, Quarles, Reed, Rhea, Rich, Ringgold, Ross, Sampson, Sawyer, Scudder, Settle, Seybert, Shaw, Sherwood, Silabee, S. Smith, Bal. Smith, J. S. Smith, Southard, Spangler, Stuart, Tarr, Taylor, Townsend, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Kentucky, Austin, Barber of Ohio, Bryan, Butler, Clagett, Claiborne, Cobb, Cook, Crawford, Cruger, Cushman, Darlington, Drake, Floyd, Folger, Forney, Fuller, Hale, Harrison, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Johnson, of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Livermore, Lowndes, McCoy, Marchand, Mason of Massachusetts, Middleton, Miller, Moseley, Mumford, T. M. Nelson, Nesbitt, Ogle, Orr, Owen, Palmer, Parrott, Pindall, Pitkin, Pleasants, Poindexter, Porter, Richards, Robertson of Kentucky, Ruggles, Savage, Schuyler, Slocumb, Alexander Smyth, Speed, Spencer, Storrs, Strong, Strother, Tallmadge, Terrill, Terry, Tompkins, Tucker, of Virginia, Upham, Wendover, and Williams of New York.

So this amendment was carried.

Mr. LITTLE, of Maryland, then moved to strike out *nine* and insert in lieu thereof *eight* dollars as the daily pay.

Mr. BASSETT said that he had voted against eight dollars in the Committee of the Whole, because he preferred six. He should now vote for eight, because he could not succeed in obtaining six.

Mr. POINDEXTER, of Mississippi, said that, as the travelling allowance had been reduced to six, the pay ought to be reduced to the same rate; for that certainly the travelling was the most laborious part of the duty to perform for those who lived at any distance from the Seat of Government.

Mr. JOHNSON, of Kentucky, concurred entirely in the opinion that the travelling was the hardest part of the Representative's duty, in a pecuniary view, and for which members had not heretofore been sufficiently paid. There were occasions on which we were under an obligation to perform gratuitous services for our country; but surely this was not one of them. He too, he said, should vote for the reduction of the pay, because he hoped the mileage and the pay, whatever they were fixed at, would be at the same rate.

The question on reducing the daily pay from nine to eight dollars, was decided in the affirmative—yeas 99, nays 79, as follows:

YEAS—Messrs. Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Bellinger, Bennett, Bloomfield, Blount, Boden, Boes, Burwell, Campbell, Claiborne, Comstock, Cook, Crafts, Cruger, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Gage, Garnett, Hale, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Huntington, Johnson of Kentucky, Lewis, Linn, Little, Livermore, McLane, W. Maclay, W. P. Maclay, Marr, Merrill, Moore, Morton, H. Nelson, T. M. Nelson, New, Parris, Peter, Pleasants, Poindexter, Porter, Quarles, Reed, Rhea, Rich, Richards, Robertson of Louisiana, Ross, Sampson, Savage, Scudder, Settle, Seybert, Shaw, Sherwood, S. Smith, Bal. Smith, J. S. Smith, Southard, Spangler, Speed, Tarr, Taylor, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Anderson of Kentucky, Barber of Ohio, Beecher, Bryan, Butler, Clagett, Cobb, Colston, Crawford, Cushman, Darlington, Folger, Forney, Forsyth, Fuller, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Lowndes, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Miller, Moseley, Mumford, Murray, Nesbitt, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Pawling, Pindall, Pitkin, Ringgold, Robertson of Kentucky, Ruggles, Sawyer, Schuyler, Silabee, Slocumb, Alexander Smyth, Spencer, Storrs, Strong, Strother, Stuart, Tallmadge, Terrill, Terry, Wendover, Whitman, and Williams of New York.

So the daily pay was fixed at eight dollars.  
15th CON. 1st SESS.—19

Mr. LITTLE then moved to reconsider the vote by which the travelling expenses had been reduced to six dollars, with a view to fix it at eight; which would make it stand on the same footing as heretofore, but at a little higher rate.

Mr. STROTHER, of Virginia, intimated, for the information of the House, that he meant, when he had an opportunity, to move to strike out eight dollars, and insert six, for the daily pay, and for reasons he assigned. His wish had been, he said, that ample compensation should be given for services rendered; that, in discharging their important duty, the members of this body should be able to support themselves independently. Finding, however, that his views could not be accomplished, he would bend to what the House had been assured was public opinion; he would sacrifice the conviction of his mind to the momentary feeling of the country. It had been said, by a gentleman from Kentucky, (Mr. JOHNSON,) whose remarks would always have weight with him, that the duty of travelling was the most laborious a Representative had to perform. That gentleman, Mr. S. said, has had a wide experience. With industry unceasing, and honesty unsuspected, he has been for many years attending the duties of his station here—and his opinion is entitled to weight. If, therefore, six dollars was considered by the House as sufficient allowance for mileage, it was all-sufficient as a recompense to the members when stationary here. Being about to take a course, which, connected with his former votes, would, without explanation, assume the appearance of discrepancy—an idea he abhorred as an individual, or as a member—he had thought it his duty to make these remarks. They were drawn from him by the necessity, which every man in public life is under, to keep far from him the suspicion of a want of firmness, or of vacillating policy.

Mr. LITTLE thought it necessary, after what the gentleman had said, to show that such conduct as he had referred to was certainly not imputable to him, (Mr. L.) I did, indeed, vote to strike out nine and insert six, not that that sum accorded with my views, which were to fill up the blank for pay and that for mileage, each, with eight dollars. This was a matter of opinion, on which men must judge for themselves. Having himself acted consistently, he imputed no incorrect motives to others, and he hoped none would be imputed to him.

Mr. COMSTOCK, of New York, said he should vote in favor of the proposed reconsideration. His mind had arrived at the conclusion, that the compensation ought to be eight dollars per diem for attendance, and eight dollars for every twenty miles travel. When the question was between nine and six, he had voted to strike out nine, but with the wish that eight should be ultimately substituted for it.

Mr. HARRISON also favored the motion for reconsideration, which he supported by forcible arguments. Gentlemen living on the stage line, whose votes had carried the reduction from nine to six, were perfectly unapprized, he believed, of



the expenses and labors of those who were obliged to travel wretched roads with their own horses, &c.

Mr. PITKIN, of Connecticut, declared himself of the opinion that the allowances for pay and for mileage ought to be the same. This principle had been long settled, approved, and acquiesced in; and he hoped would not now be varied. He hoped, therefore, gentlemen would not be deterred from voting for a reconsideration of the former vote on this point, by any consideration foreign to the merits of the question.

The question on reconsideration was then taken, and decided in the affirmative, and the allowance for mileage was fixed at eight dollars for every twenty miles, by a considerable majority.

Mr. STROTHER then rose to make the motion he had indicated, to strike out the word eight and insert six dollars, as the daily pay; but the motion was decided to be out of order, the House having already refused to insert the word six.

Some verbal amendments, involving no principle, but which produced considerable conversation, were then disposed of.

The question having been stated, "Shall the bill be engrossed and read a third time?"—

Mr. STORRS, of New York, said he should vote for the bill, embracing an allowance of eight dollars per day. In so doing, he sacrificed his own opinion, which was in favor of a higher sum. He was the more induced, however, to agree to vote for the rate of eight dollars, because no gentleman who was of the committee who reported that bill had expressed himself in favor of a lower rate of allowance than that now established by the bill, of eight dollars per day, and eight dollars for mileage.

Mr. HOLMES, of Massachusetts, begged leave to correct the gentleman, for he had himself been in favor of six dollars per day, and six dollars for travelling allowance.

After an unsuccessful motion, by Mr. COBB, to burn, and an equally unsuccessful attempt by Mr. MORTON, to have the yeas and nays ordered on the question, the bill was ordered to be engrossed for a third reading to-morrow, without a division.

#### WEDNESDAY, JANUARY 7.

A message from the Senate informed the House that the Senate have passed bills from this House of the following titles, to wit: An act for the relief of Samuel Aikman, and an act for the relief of Joel Earwood; with amendments, in which they ask the concurrence of this House.

The said amendments were read and severally referred to the Committee on the Public Lands. On motion of Mr. MERCER, a committee was appointed to inquire into the expediency of causing to be printed the secret journals of the proceedings of the Congress of the United States, down to the Treaty of Peace in 1783, together with the correspondence of the Government of the United States with the Ministers and Agents

thereof in foreign countries, down to the same period of time; and that the same committee be also instructed to inquire into the expediency of causing to be printed the journal of the General Convention which framed the Constitution of the United States, and that the committee have leave to report by bill or otherwise.—Messrs. MERCER, BALDWIN, FORSYTH, PLEASANTS, and SPENCER were appointed the committee.

On motion of Mr. P. P. BARBOUR, the House proceeded to the consideration of a report of the Committee of Pensions, adverse to the prayer of the petition of Edmund Brooke; which report Mr. B. moved to reverse.

This motion gave rise to considerable debate, in the course of which Mr. BARBOUR and Mr. MERCER opposed the report and Mr. RHEA supported it. The debate resulted in referring the report to a Committee of the Whole for further consideration.

Mr. RICH, of Vermont, after observing that it appeared to him the business of the session had so far progressed that the House should meet at the usual hour of eleven instead of twelve, made a motion to that effect.

This motion was opposed by Messrs. JOHNSON, of Kentucky, LIVERMORE, MERCER, and RHEA, who attributed the unusual progress of business at the present session to the time which that rule allowed to the committees to mature business for the consideration of the House, &c.; and was supported by Mr. RICH, who remarked that the House had sat later in consequence of the lateness of the hour of meeting, and that in fact no time was gained, but some inconvenience felt, from the present arrangement.

The motion was finally ordered to lie on the table.

#### CONTEMPT OF THE HOUSE.

Mr. WILLIAMS, of North Carolina, rose, and addressed the House in the following words:

Mr. Speaker, I lay before the House a letter addressed and delivered to me by a person called Colonel John Anderson. That man has mistaken me much. Wherever I am known, at this place and in the country from whence I came, no attempt of the kind would have been made. I feel it a duty to lay the letter and the statement thereon, made by myself, before the House. My feelings are too much excited, nor would it be my duty to make any remarks on the subject. It is for the House to determine what shall be done.

The papers handed, by Mr. WILLIAMS to the Clerk, were then read as follows:

WASHINGTON, Jan. 6, 1818.

HONORED SIR: I return you thanks for the attention I received on my claims to pass so soon. Mr. Lee will hand you some claims from the River Raisin, which will pass through your honorable committee; and I have a wish that the conduct of the British in that country may be related in full on the floor of Congress; which will give you some trouble in making out the report, and supporting the same. I have now to request that you will accept of the small sum of five hundred dollars, as part pay, for the extra trouble I

give you; I will present it to you so soon as I receive some from Government. This is confidential, that only you and me may know anything about it; or, in other words, I give it to you as a man and a mason—and hope you belong to that society. Sir, should it happen that you will not accept of this small sum, I request you will excuse me; if you do not accept, I wish you to drop me a few lines; if you accept, I wish no answer. I hope you will see my view on this subject; that it is for extra trouble.

I will make out a statement, and present the same to the committee, which will be supported by General Harrison, Colonel Johnson, Mr. Hubbard, Mr. Meigs, Postmaster General, Governor Cass's report as commissioner, and others. Relying on your honor as to keeping this a secret, and your exertions in passing these claims as soon as possible, I need not inform you, that we are as poor unfortunate orphan children, having no representation in Congress—so must look on your honorable body as our guardians. Pardon this liberty from a stranger.

I am, with high esteem, your most obedient and humble servant,

JOHN ANDERSON.

The Hon. LEWIS WILLIAMS.

After breakfast this morning, George, a servant, came into the dining room, and told me that a gentleman was in my room waiting to see me. I stepped into my room, and Colonel John Anderson was there. He handed me a letter, observing at the same time, that he had prepared that letter for me, and that, perhaps, it would require some explanation. I read over the letter with attention; and, having done so, observed to Colonel Anderson it was a very surprising communication. I then started to Mr. Wilson's room, immediately adjoining my own. When, in the act of opening my own door, he begged I would not show the letter. I made no reply to this, but stepped into Mr. Wilson's room, and asked him to do me the favor to walk into my room. This Mr. Wilson did, following on immediately behind me. After we had got into my room, in the presence of Colonel Anderson, I handed the letter to Mr. Wilson, and, observing that it was a very extraordinary communication, requested him to read it. When Mr. Wilson had read, or was nearly done reading, the letter, I told Colonel Anderson that I repelled, with indignation and contempt, the offer he made to me in the letter. Colonel Anderson said, he asked my pardon; that it was designed only as a small compensation for the extra trouble he expected to give the Committee of Claims in examining the claims from the Michigan Territory, and exposing the conduct of the British during the war; that it was foreign from his intention to attempt anything like a bribe; and requested me to burn the letter, or to give it to him. I told him I should do neither; that his offence was unpardonable, such as I could not forgive, and ordered him to leave the room instantly. Col. Anderson then begged pardon, and asked forgiveness with excessive earnestness. I told him I would listen to none of his apologies; that his offence was an attack upon the integrity of Congress generally, and upon mine personally and particularly; that no one should ever have my pardon, or expect my forgiveness, who should suppose me capable of such an influence as he had attempted to practise upon me. Again, I told Colonel Anderson to leave my room. He advanced to the door, where he stood for some time, endeavoring to obtain my pardon, as he said. I told him

it was in vain to ask it; that, as a member of Congress and of the Committee of Claims, it was my duty to examine his claims, and, if just, support them; if unjust, oppose them; that his offer was an attempt to influence my mind in opposition to my duty, and, as such, could not be forgiven. He then desired me either to burn the letter, or give it to him. I replied that I should do neither, and again ordered him to leave my room. Whereupon, he did leave the room. Mr. Wilson, after talking on the subject of the letter for some time, suggested to me the propriety of calling in Mr. William P. Maclay. I stepped to his room; but, as Mr. William P. Maclay was not in, I asked Mr. William Maclay, the room-mate of Mr. William P. Maclay, to come to my room. He complied with my request; and, shortly after he arrived in my room, Mr. William P. Maclay also stepped in. These gentlemen, Messrs. Wilson, William Maclay, and William P. Maclay, were in my room at the time the servant called to Mr. Wilson, and said a gentleman was below wishing to see him. Mr. Wilson walked out of the room, and was gone a few minutes. After he returned, he observed that Colonel Anderson was the person who had sent for him; that Colonel Anderson's business was to obtain his interference to put a stop to further proceedings on the subject of his letter to me. The precise conversation between Mr. Wilson and Colonel Anderson can be related by the former with minuteness.

LEWIS WILLIAMS.

JANUARY 7, 1818.

The papers having been read through, Mr. W. WILSON, of Pennsylvania, referred to in the above narrative, handed in a statement of the facts which fell under his observation, entirely corroborating those stated by Mr. WILLIAMS, as far as they came under the observation of the former.

Mr. FORSYTH, of Georgia, moved that the House do come to the following resolution:

*Resolved*, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending the House, commanding him to take into custody, wherever to be found, the body of John Anderson, and the same in his custody to keep, subject to the further order and direction of this House.

Mr. HARRISON, of Ohio, rose in consequence of his name having been referred to in Colonel Anderson's letter. He had met with Colonel Anderson, he said, in the course of his military service, and had always heard him regarded as a highly respectable man; and well knowing his services, and the sufferings of his family, during the war, he had felt a warm interest in his favor. In the course of this morning, Colonel Anderson had sent for him and his friend, Colonel Johnson, out of the House, and, with all the agitation belonging to terror or to conscious guilt, had informed them of his having done an act which he feared would be regarded, as Mr. H. was sure it would by every member, as calling for the severest animadversion. They had informed him, Mr. H. said, that they would not justify his conduct; nor, were it brought before the House, could they say anything in extenuation of it.

Mr. JOHNSON, of Kentucky, expressed his sincere regret on account of the occurrence which had just taken place, not on account of the indi-



H. OF R.

Compensation to Members.

JANUARY, 1818.

equal implicated—though, surely, he was to be pitied—but on account of the gentleman from North Carolina, who, on this occasion, had taken that course dictated by a just sense of his own honor and the dignity of his official station; and on account of the suffering inhabitants of Detroit and Michigan, generally, that they should have replaced their confidence in one, whom, until this day, Mr. J. said, he had himself held in the highest estimation. It must have been infamy of motive, or the grossest ignorance of the nature of the Representative character that could have produced this unwarrantable conduct.

Mr. TERRY, of Connecticut, inquired whether, according to our forms of proceedings, and to our Constitutional provisions, a general warrant, as proposed, could be issued? Was it not opposed, in itself, in its nature, to the principles of civil liberty?

The SPEAKER observed that, in the practice of the House, happily, instances were extremely rare, where such a warrant became necessary; and such case had occurred within his observation. But there could be no doubt, when an offence was committed against the privileges or dignity of the House, it was perfectly in its power to issue a warrant to apprehend the party offending.

Mr. FORSYTH turned to a case on record—and he was sorry there was such a case on record—where this proceeding had taken place, in the year 1795, in which a bribe in land had been offered to one or more members. Mr. F. then confirmed his motion to the terms of that precedent, as above stated, from which it had before a little varied.

Mr. LIVERMORE, of New Hampshire, asked, for information merely, whether the facts on which the warrant was to be issued, should not first be substantiated by oath. The statement came, he knew, from a most respectable source; but was not an oath necessary to justify such a warrant?

The SPEAKER said—Certainly not.

The question on Mr. FORSYTH's motion was then taken, decided in the affirmative, and ordered to be entered *unanimously*.

The warrant was forthwith issued.

#### COMPENSATION TO MEMBERS.

The order of the day being announced for the third reading of the bill on this subject, Mr. HARRISON said, he was persuaded that the members of this House who had voted for a compensation beyond the ancient allowance of six dollars, had voted under great embarrassment, pressed, as they were on the one hand by a sense of duty and of justice, and on the other by that delicacy which must be felt when they were acting as judges in their own cause. He thought, however, that there was a mode by which their feelings would be saved, and which, if adopted, would be as highly acceptable to the people as it would be honorable to their representatives. It would evince a disinterestedness and magnanimity which could not fail to produce the most happy effects, and finally fix the compensation at the sum which their disinterested judgments

should deem right. Being satisfied that it was a question to be determined rather by feeling than argument, he would say no more, but submit a resolution to recommit the bill, with instructions to amend it so as to fix the compensation for the present Congress at six dollars, and for the ensuing Congress at eight dollars.

On suggestion of Mr. MILLER, of South Carolina, the question was so divided as to be first taken on recommitment simply, without instructions.

Mr. WILLIAMS, of North Carolina, said, he hoped the motion made by the gentleman from Ohio would prevail; the occurrences of this morning would prevent him from taking so much share in the advocacy of this motion as he would otherwise do. But, said he, notwithstanding my indisposition, notwithstanding the late excitement of my feelings, I cannot permit this motion to be decided without offering my reasons in favor of it. The principal reason now offered in favor of the bill is, that the depreciation of money makes it necessary to increase the compensation of members. On this point let one fact be stated. During the period of the thirteenth Congress, a proposition was made to increase the pay of members. The reason assigned at that time in favor of the motion was one of those we now hear—the depreciation of money. But if my recollection serves me, that proposition was almost unanimously rejected. The depreciation of money was then at its height, if the term can be applied to such a state of things; and if the depreciation of money had no effect on that decision, surely it can have none now. Since then money has appreciated—the banks now pay specie for their notes; commerce flows in its ordinary channels; the necessities of life are to be purchased at a cheaper rate than formerly; and in every respect the measure never was less called for since its first agitation than it is at present. Another reason in favor of recommitting the bill for the purpose of reducing the amount of compensation to be allowed to members is, that when the subject was tried at the first session of the last Congress, many gentlemen conceived it indelicate to vote money into their own pockets; no one could suppose that the members who composed the House at that time, would vote more money into their own pockets than they honestly thought they, as well as every subsequent Congress, were entitled to receive. But, notwithstanding my full conviction of the disinterestedness of every gentleman on that occasion, I did feel a delicacy on the subject which alone would have restrained me from voting in favor of the proposed increase. I would oppose the present increase on the same ground. Questions of this sort must be determined by every gentleman's own feelings. What I could do another might refuse; and what he could do with perfect freedom I might object to. The feelings of a gentleman must be his only guide; and as they belong exclusively to himself, no one has a right to interfere with his determination. The argument which has always been offered in sup-

JANUARY, 1818.

Compensation to Members.

H. OF R.

port of the increase of pay, is founded on the supposition of a principle entirely too selfish. Our constituents have seen the fallacy of it. If a man enters the public service when the compensation is eight dollars a day, but would abstain from that service when the compensation is only six, it is evident that money, and not the good of the country, may be considered the governing motive. How much this will detract from that high value, that reverential regard in which patriotic labors have ever been held, I shall not now undertake to describe. The public service, in every age and country, at least in every republican age and country, must be attended by some sacrifice of personal ease or individual emolument. Without this, why should the disinterestedness of the patriots of ancient and modern times have ever been so celebrated? I do not mean to impeach the motives of gentlemen in voting for this bill. Their motives in voting for this bill, and every other bill on this floor, must be considered honorable and correct. I mean, therefore, only to say, that the argument adduced in support of the bill is founded, as I think, on the supposition of a principle entirely too selfish; and that in it I can see no room for the exercise of those virtues which have distinguished the illustrious men of every age and country. I, sir, have always been in favor of six dollars; when the question was brought before us at the first session, and also at the second session of the last Congress, I was opposed to the increase of pay. I see at the present session no reason for changing the vote heretofore given; and I hope that the bill allowing eight dollars will be recommit- ted, for the express purpose of allowing to members only six. These, with some other remarks not heard, were delivered by Mr. W. in opposition to the bill, and in favor of the recommitment.

Mr. CONN, of Georgia, said that he too was in favor of a recommitment of the bill, but not for the reasons suggested by the gentleman from North Carolina. Nor could he conceive upon what foundation it could be urged, as a reason for reducing the daily pay to six dollars, that to make it a higher sum was voting money into their own pockets. The fact being that there was now in existence no law on the subject, the matter stood precisely in the same situation as when it was taken up by the first Congress under the Constitution. The question then is, said Mr. C., as if we were legislating for the first time on the subject, what is the proper compensation? I have no fear, said Mr. C., of being charged with voting money into my pocket. The Constitution contains a provision requiring us to fix our own compensation; and, in the part of the country which I represent, it is expected that the Representative of the people shall vote for such a compensation as he ought reasonably to receive. On this subject, as on all others, Mr. C. said he should, as expressed by a gentleman some days ago, vote exactly according to his own opinion. He felt himself trammelled by no instructions, by no expression of public opinion. Perhaps, he said, it

was a happy thing for him that he represented a State where this doctrine of the right and obligation of instruction was out of the question. In that State, the Representative in the Legislature of the State is sworn to act according to his own judgment; and, Mr. C. said, he did not suppose that he was sent to this body on any different principle. He should vote to recommit the bill, he said, on the ground that the compensation it allowed was too small, in favor of which position he could adduce a great number of reasons. Most of them were old and hacknied, it was true; therefore it was not necessary to go over them in detail. But he certainly thought them very strong. He called upon any gentleman, for instance, who was in his situation, and, in so doing, he called upon a majority of the House, whether he would say that six dollars per day were a sufficient compensation? Putting out of view the argument that a sufficient compensation was necessary to put the members beyond the reach of Executive influence; putting aside the consideration that persons low in fortune ought to be enabled to come here, let us see, said Mr. C., whether there be not a stronger reason for an augmented compensation. I, said he, am a married man. To be sure I do not wish the public to support the whole of my family; but if I were to say I did not wish my wife to come with me to the session, it would be the same as if I were to say I am ashamed of my wife. Unless gentlemen similarly situated were prepared to say this, he could not see why they should be squeamish in allowing themselves a little of something to maintain their wives. If any gentleman situated as himself would make a calculation of what it would cost him to bring his wife here, not every session, but at every other session—and that was little enough in all conscience—he would find that six dollars per day would leave him in debt. Calculating the compensation at eight dollars per day, a member bringing his wife only with him would find, that, after paying his and her board, that of a servant and the horses that brought them here, he would have but six dollars per week left for his contingent expenses. He would ask any man of common feeling, he had almost said of common sense, whether six dollars a week was anything like sufficient for that object? A man, to keep within his allowance, must at once make up his mind to immure his wife, to shut her from the face of day, because he cannot afford to put her in an apparel fit to appear abroad. This reasoning, Mr. C. said, might appear novel; but it was nevertheless true. A gentleman who had no family, wife or child, would at the same rate have a surplus of thirty dollars a week for his clothing and contingent expenses; and, Mr. C. asked, whether this was more than sufficient for the necessary expenses of any gentleman—a term, which he hoped, was well understood in the House. His opinion was, that the compensation contained in the bill was too small even for a single man, but certainly for a man with a family. He was therefore in favor of recommitment; but under a hope that so far



H. OF R.

Compensation to Members.

JANUARY, 1818.

from reducing the compensation to six dollars, it could be increased to nine for a single man, and give for a gentleman who will bring his family with him. In expressing this hope, he said, he had another view. Some gentlemen appeared to be very fond of serving in this House from patriotism, pure patriotism. If there should be any gentleman who wished, under this consideration, not to take nine dollars, Mr. C. wished to be authorized to take just as much less as they pleased, and leave it to those who were willing to take more, to fight it out with their constituents. Mr. C. said he was willing to leave that matter with his constituents; if they believed him right, they would return him here again; if otherwise, no doubt they would leave him out, and he should retire to a business which was infinitely more profitable to him than that of a legislator at nine dollars per day.

The question was then taken on the motion to recommit the bill, and decided in the negative—yeas only 47.

The bill to fix the compensation of Senators, Representatives, and Delegates in Congress, was then read a third time; and the question having been stated, "Shall the bill pass?"

Mr. MOSELEY, of Connecticut, said he did not like the purpose of detaining the House with a speech on the present bill; so far from it, he rejoiced at the prospect of its being disposed of without a protracted debate, for he believed no possible good could result from it. The subject was as well understood as it ever could be. Gentlemen who were members of the last Congress must surely be satisfied with the long and tedious discussion which then took place; and gentlemen now present, who were not then members, he presumed were no less familiar with the subject, and some of them perhaps in situations to obtain more useful light and knowledge upon it than those confined within these walls. But, while he rejoiced at the prospect of a decision of this question without another Winter's debate, he regretted extremely that the honorable gentleman from Kentucky (Mr. DESHA) should suppose that there existed a disposition in the House to press the bill through with too great precipitation, and without due deliberation. Mr. M. considered the power confided to Congress by the Constitution of determining the compensation for their services as the last which should be abused; and he said he should be as unwilling as any gentleman to give his vote for a compensation which he should deem extravagant. He voted for the bill as reported by the committee, and he was satisfied with it in its present state. A dollar more or less could not greatly affect the Treasury, nor vary the fortunes of those who might be entitled to receive it. And as it respects those gentlemen who seem to think six dollars per day the only suitable compensation for members of Congress to receive at all times and under all circumstances, he rejoiced, on their account, that the satisfaction from that sum was no greater, because honorable gentlemen in the minority, should the bill pass, would no doubt feel themselves as

much bound by its provisions as though it had met with their entire approbation; and in proportion as the amount should exceed what, in their estimation, was just and right, must be their regret at being compelled to receive it.

Mr. DESHA, of Kentucky, rose, in justification of his remark, on yesterday, that the bill had been hurried to its passage. He had, he said, done ample justice to the House, and he wished he could say, with the same truth, that the House had done the same justice to him. So far from this, however, Mr. D. said, he never witnessed in this House before so great a degree of indecorum and impropriety towards any member. He wished not to wound the feelings of any one, but he must most pointedly censure the treatment extended to him yesterday. Had he been singled out for rudeness by any individual member, he should have no difficulty how to proceed—man could always meet man—but that was not the case. Mr. D. then proceeded to remark on the bill itself, and said there was no good reason for increasing the compensation at this time, at so extravagant a rate. The plea of the depreciation of money was much weaker now than it was four or five years ago, when a proposition to increase the pay of the members was laughed out of countenance; and, for his part, Mr. D. said, he felt it a great indelicacy, believing as he did, that it was unnecessary, to vote to themselves this high compensation. Six dollars, he maintained, was a sufficient compensation; and he was still of opinion that the people would not be satisfied at the pay being raised above that sum. After repeating more at large some of his arguments of yesterday, Mr. D. said, that he himself represented a people as liberal and as high minded as any others in the Union, and he was certain they disapproved an addition to the former compensation.

Mr. STRONG, of Massachusetts, commenced his remarks by the observation that it was enough for any man to answer for his own faults, without taking on his shoulders those of others. He regretted, he said, that the gentleman from Kentucky had been three times interrupted in his speech yesterday, by disorder in the House. He regretted that the gentleman had declared so, and that a true report of his speech had gone abroad. Was not this, Mr. S. asked, a disgrace to the House? Was it true? Except a little interruption when the gentleman rose, by the call for the question, (which he presumed it was the right of every gentleman to make,) Mr. S. said, the disturbance had been entirely in the gentleman's own imagination. Not only, however, would the report of yesterday's debate circulate through the papers, but of this day's also, in which the statement had been repeated. If true, said Mr. S., we ought to bear it; if not, we ought not to submit to the imputation. What is the representation which goes abroad to the people? Why, that, whilst debating about fixing our own compensation at a rate enormously high, as the gentleman had stated, this House had been so lost to a sense of its own dignity, as not

JANUARY, 1818.

Public Buildings.

H. OF R.

to suffer a member to speak in opposition to it. Mr. S. was not willing that this representation should go out to the public uncontradicted.

Mr. OGLE, of Pennsylvania, said, he should, in voting against this bill, fortify himself by a strong authority, wherein we learn that a man who will not provide for his own household, is worse than an infidel, and one who denies the faith. Was he, he asked, to sit here and destroy the comfort of his own family? If Congress had, in 1791, fixed the compensation at six dollars per day, when they were living in Philadelphia at a board of perhaps four dollars per week, nine was certainly as small an allowance as ought now to be made. Mr. O. said, he should vote against the bill, because he did not believe he should do himself justice by taking eight dollars per day. If, in consequence of his vote, the bill perchance should fail, Mr. O. said, he could afford to spend this Winter here for nothing; like the old veterans of the Revolution, they fought for nothing, said he, and surely we can afford to sit here for nothing. If gentlemen were conscientiously to examine and express their own feelings, divested of every extraneous consideration, Mr. O. said, he was satisfied that there was at this moment a majority of the House who did not think nine dollars per day too great a compensation. Would a farmer, a hirer of laborers, expect men to work for him for nothing, because he was a great and rich man, merely for the honor of being his servants? Certainly not; nor, did Mr. O. believe, that the people of the United States wanted their representatives to come here and work for them for nothing. Gentlemen talked about public opinion. Why, he said, if you walk through a meadow, in which there are fifty bullocks and fifty grasshoppers, you will find the grasshoppers make the most noise. This was the case with the public opinion they were told of—it was not the opinion of the solid people of the United States. Call at the grogshops, and you may find it; but, call at the house of a real farmer, who earns his bread by the sweat of his brow, and he will tell you he wants no man to come here and serve him for nothing.

Mr. DESHA rose, and adverted to what had fallen from Mr. STRONG, which he thought required explanation. He wished to know whether that gentleman meant to intimate that he (Mr. DESHA) had yesterday or to-day intentionally stated what was not correct?

Mr. STRONG said, he meant to state nothing of the gentleman's intentions. He meant to say that he thought the House, on yesterday, remarkably attentive to the gentleman's remarks, and he appealed to every other gentleman of the House whether the fact was not so. If it was so, said Mr. S., ought we to suffer the imputation to the contrary to go forth? I did not mean to say, said Mr. S., that the gentleman said what was not true, but that he had stated what appeared to me not to be the fact.

The question on the passage of the bill was then decided, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachu-

setta, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Ball, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Bryan, Butler, Clagett, Claiborne, Colston, Comstock, Cook, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Drake, Earle, Ellicott, Floyd, Forney, Forsyth, Fuller, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Herkimer, Hitchcock, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, W. Maclay, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Middleton, Moore, Moseley, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Orr, Owen, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Porter, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Savage, Schuyler, Scudder, Settle, Slocumb, Alexander Smyth, Spangler, Speed, Storrs, Strong, Stuart, Tallmadge, Tarr, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Walker of North Carolina, Wallace, Wendover, Williams of New York, Wilkin, and Wilson of Pennsylvania—109.

NAYS—Messrs. Baldwin, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Burwell, Campbell, Cobb, Desha, Edwards, Ervin of S. Carolina, Folger, Harrison, Hasbrouck, Hendricks, Herbert, Herrick, Heister, Holmes of Massachusetts, Huntington, Lewis, Livermore, McLane, Marr, Mercer, Miller, Morton, Mumford, Murray, New, Ogle, Parris, Poindexter, Quarles, Reed, Rhea, Ross, Sampson, Sawyer, Shaw, Sherwood, Silsbee, S. Smith, B. Smith, J. S. Smith, Southard, Spencer, Strother, Taylor, Trimble, Tucker of South Carolina, Tyler, Walker of Kentucky, Whiteside, Whitman, Williams of Connecticut, and Williams of North Carolina—60.

So the bill was passed, (at eight dollars per day and eight dollars mileage,) and sent to the Senate for concurrence.

## PUBLIC BUILDINGS.

On motion of Mr. PARRIS, of Massachusetts, the House resolved itself into a Committee of the Whole, on the bill making further appropriation for repairing the public buildings.

Mr. P. explained the occasion of the introduction of the bill for a partial appropriation, which was to cover arrearages which required payment, and to make a partial appropriation for going on with the works, &c. He moved to fill the blank for the amount of appropriation, as instructed by the select committee, with \$200,000.

Mr. BURWELL, of Virginia, said he should have been much gratified to have seen something in the shape of estimates to sustain this appropriation. He adverted to the various appropriations heretofore made, and the necessity of some definitive system which should set a limit to expenditure, and prevent future claims for arrearages.

Mr. PARRIS said, in reply, that the amount of arrearages was about \$80,000. The reason why no estimate was now produced was, that, at the last session, a very minute calculation had been made of the necessary expenditure, and, judging from the President's house, (the cost of which had been less than the estimate,) that calculation had been uncommonly correct. The committee had many objects before them, on which they



H. of R.

Case of Colonel Anderson.

JANUARY, 1818.

wished to make a general report; but what was wished was, that enough should be appropriated to pay the arrearages, and to meet the expenses which should be necessary during the present session, before the latter part of which the general appropriation bill would probably not pass. If the select committee had proposed too large an appropriation now, nothing was easier, gentlemen chose, than to reduce the amount. The proposed sum was agreed to, and the Committee rose and reported the bill to the House; and it was ordered to be engrossed for a third reading.

## JUDICIAL RECORDS, &amp;c.

The House then again went into a Committee of the Whole, on the bill to give effect to the judicial records and proceedings of one State in the States. Mr. FORSYTH's motion to strike out the second section being still under consideration—Mr. F. advocated his motion at some length, which he was briefly supported by Mr. STORRS; and the motion was opposed much at large by Mr. CALDWIN, and supported at some length by Mr. LIVERMORE. At a late hour before the question was taken, the Committee rose, reported progress, and obtained leave to sit again.

THURSDAY, January 8.

Another member, to wit: from New York, DAVID A. OGDEN, appeared, produced his credentials, was qualified, and took his seat.

The SPEAKER presented petitions from sundry inhabitants of the Territory of Missouri, praying that the said Territory may be erected into a State, and admitted into the Union; on an equal footing with the original States.—Laid on the table.

Mr. PLEASANTS, from the Committee on Naval Affairs, reported a bill authorizing John Taylor to be placed on the list of navy pensioners; which was read twice and committed to a Committee of the Whole.

On motion of Mr. LINN, a committee was appointed to inquire into the expediency of establishing by law, a standard of weights and measures; and Messrs. LINN, PITKIN, SEYBERT, LOWNDES, and OGDEN, were appointed the committee.

The following resolution submitted by Mr. WALKER, of North Carolina, was read and ordered to lie on the table:

*Resolved*, That it is expedient to inquire whether any and if any, what alteration is necessary in the several laws now in force, to make a further provision for the purpose of issuing warrants to the soldiers of the Army of the United States, in order to obtain their patents for their military bounty lands, promised them at their enlistment; and that this subject be committed to the Committee on Military Affairs.

Mr. LIVERMORE submitted the following resolution:

*Resolved*, That the Committee on Private Land Claims be instructed to inquire, whether, in any case, a longer time than is already prescribed by law ought

to be allowed for the redemption of lands sold for direct taxes, and purchased by collectors in behalf of the United States, pursuant to law.

On motion of Mr. POINDEXTER, the said resolution was amended by directing the inquiry to be made by the Committee on Private Land Claims.

On motion of Mr. RICH, the said resolution was then further amended, by adding thereto the following:

"And that the said committee be also instructed to inquire into the expediency of making provision by law, to enable persons whose lands may have been sold for the payment of the direct tax, to redeem the same by paying such sum only, as said lands shall be justly charged with, together with reasonable costs and interest."

The resolution was then agreed to as amended.

An engrossed bill, entitled "An act making further provision for repairing the public buildings," was read the third time and passed.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to provide for paying to the State of Indiana three per cent. of the net proceeds, arising from the sales of the United States' lands within the same; "An act to allow the benefit of drawback on merchandise transported by land conveyance, from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise;" in which bills they ask the concurrence of this House.

The first of the said bills from the Senate was read twice, and referred to the Committee on the Public Lands.

The last mentioned bill from the Senate was read twice, and referred to the Committee of Ways and Means.

## CASE OF COLONEL ANDERSON.

The SPEAKER having apprized the House that the Sergeant-at-Arms had taken the body of John Anderson, pursuant to the warrant to him directed, and held him in custody, Mr. FORSYTH, of Georgia, submitted for consideration the following resolution:

*Resolved*, That a Committee of Privileges, to consist of seven members, be appointed, and that the said committee be instructed to report a mode of proceeding in the case of John Anderson, who was taken into custody yesterday by order of the House; and that the same committee have leave to sit immediately.

Mr. BEECHER, of Ohio, rose in opposition to this proceeding. The offence of this man, in every sense but a legal one, he was not disposed to deny. But it was another question, whether the House was justified in the course it was about to pursue. Was any authority therefor given in the Constitution? None. Was any law to be found on the statute-book giving it? None. The mode of punishing bribery was, to resort to a court of justice, and there only could it be punished. In this House, he said, it was impossible to proceed correctly in a trial for an offence of this character; and the trouble proceedings of this kind would impose on the House, and the

JANUARY, 1818.

Case of Colonel Anderson.

H. of R.

evil of delay they would cause in their ordinary legislative business, afforded strong reasons, if others were wanting, to consult their authority, and see whether in fact the House possessed any authority to act on the case. The fifth section of the first article of the Constitution, he said, provided that each House might determine the rules of its own proceedings; but no part of the Constitution gave to the House authority to arrest and bring forward any individual for improper conduct to any member of this House. The courts of the country had made, in their practice, what is called a common law; but, Mr. B. said, if there existed any common law to justify these proceedings of the House, it was unknown to him. The great powers assumed by the Parliament of Great Britain in this respect, had been a matter of great complaint in that country; and he presumed it would not be contended that the practice of that body was to form a rule of conduct for this House. Neither, Mr. B. said, did he think it essential that this House should possess the power of arresting and bringing individuals to trial before us; the courts of justice being open to prosecution and redress for any injury of this sort. The House, as any other legislative body, possessed inherently the power to protect itself from indecorum and insult; but it had no power to confine and commit individuals for acts done elsewhere. He did not believe the House possessed authority to arrest an individual in this case, any more than for an assault and battery on a member at any distance from the Seat of Government—a power which, he contended, the House did not possess. In another part of the Constitution, he said, particular privileges were accorded to members; and the enumeration of particular powers, in any instrument of that character, was an exclusion of all others. For other injuries received, than those in violation of that clause of the Constitution, Mr. B. said, members have the same redress as any other individuals. Mr. B. said, he did not believe the House ought to have the power it was about to exercise; the Constitution had not given the House any such power, nor had it been conferred upon them by any law.

Mr. FORSYTH said, if the position of the gentlemen was correct, the House had already violated the Constitution. The object of the proposed appointment of a committee was to inquire how the House ought now to proceed. If the committee concur with the gentleman from Ohio, they would report that the individual now in custody ought to be discharged; if otherwise, they would report what further course the House ought to pursue. But, Mr. F. said, admitting that all the gentleman had said was true, it was no reason why this committee should not be appointed. Mr. F. did not wish to be understood as doubting the power of the House, because he believed it had full power to proceed; and he knew that this House and the other branch of the Legislature had, in other cases, exercised similar powers. Until he was convinced, by solemn investigation, that the House did not possess

the power, he would not, for one, consent to refrain from its exercise in the present case.

Mr. LIVERMORE, of New Hampshire, hoped, he said, that but one resolution would pass the House on this occasion, and that this one should be, that John Anderson be discharged. First, he said, on account of the irregularity of the proceeding in the first instance. Our ideas, said he, of Congressional privileges, appear to rest on our knowledge of British Parliamentary privileges; which, he conceived, were widely distinct in their natures. In Great Britain the Legislature possesses all power; and almost every act of the Parliament becomes a part of the Constitution of the land. That is an unlimited Legislature. The Congress of the United States, he said, was differently constituted. In a case of this kind occurring in Great Britain, an oath would not be required; but, said Mr. L., we are, in this respect, restricted in our power by the express declaration in the Constitution, that no warrant shall issue except sustained by oath. This provision, he said, being contained in the fourth article of the amendments to the Constitution, had more weight with him than if contained in the original instrument, having been the result of the after-thought and mature deliberation of the nation. Far be it from him, Mr. L. said, to suggest that full faith should not be given to anything advanced by the honorable member from North Carolina; as a man he believed him implicitly, but as a member not at all—no more than, as a judge, he would believe a man in court without an oath. The word of the Chief Justice of the United States himself would not be taken in court except on oath. Mr. L. said he greatly respected the gentleman he had referred to, but he did not consider the House at liberty to take a step which would compromise the meanest man in the United States, except on the oath of his accuser. Besides, said Mr. L., we have no authority over John Anderson, admitting the charge against him to be substantiated. There is no statute of the United States, though there are in most of the individual States, declaring bribery an offence. Far be it from me to contend that this body cannot protect itself; that we can do by our own rules and regulations, but we cannot extend them beyond the verge of this House. The Sergeant-at-Arms might command the whole military force of the United States, could it possibly become necessary, to put out of this House a man disturbing its peace. Mr. L. said, he knew very well there was a precedent on record of a course similar to that now proposed; and he also knew that the most eminent men of the United States deprecated that decision when it took place. When the subject was before the Congress, in 1800, he believed those who favored the proceeding sustained themselves on the authority of the practice of the British Parliament; they were a high-handed party majority, full of British notions, and fond of British precedents. Those who were opposed to that course were the whole body of the Republican members, with the great Jefferson at their head. Mr. L. hoped, he repeated,



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

that, but one resolution would pass on this occasion; and that it should be, that the warrant for the apprehension of John Anderson had been irregularly and improperly issued, and that he be before forthwith discharged.

Mr. TUCKER, of Virginia, said he should not do his duty, if he did not, on the present question, give the gentleman from Georgia his hearty support; not that he was certain he should give him the same support in all his views of this subject. The proper course, in the opinion of Mr. T., would be, to provide by a general law for the punishment of contempts against either House of Congress; but, he asked, was it not the duty of the House on this, and on every other occasion, to deliberate in that manner which afforded the best lights on any subject, and which it became the dignity of the House to pursue? No matter how light the subject might be that was proposed to the consideration of the House, he should not choose to act on it, without calling on the committee of the House to take it into their particular consideration, and to produce a clear and connected view of it. And was this an occasion on which, by a hasty procedure, to depart from that course? Would the House at once declare that its members might be approached by the vilest miscreants on the face of the globe, and that it could take no steps to protect their rights? Is any member prepared to say, that there exists in this House no power to repel the approaches of bribery and corruption? The Constitution creating this body is a dead letter—mere waste paper—said Mr. T., if we have no power to protect ourselves from violence of this description in the exercise of our duties. The part of the Constitution giving to Congress all power necessary to carry into effect the delegated powers, has no value, if it does not apply to the present case. For his part, Mr. T. said, he had no manner of doubt as to the power of this House to protect itself, and none of the expediency of the course now proposed. But, at the same time, he doubted the propriety of suffering the laws to remain in their present situation, so as to compel the House to act in this way. Until a general law should pass, Mr. T. said, he had no doubt the House had the power to punish itself, to punish any person who should attempt to bribe one of its members. The proper course, he conceived would be, warned by this incident, to appoint a committee to report a bill to punish such offences, &c. He should not commit himself at present as to the final course for the House; but it appeared to him that every member, from the necessity the House was under of protecting itself, would wish to see that course pursued which would best promote a due consideration of the subject—which was the usual process of referring the subject to a committee.

Mr. HOPKINSON, of Pennsylvania, rose in support of the proposition before the House. This question, he said, was not a new one; it had been heretofore solemnly debated and adjudged; and all the objections now expressed had been brought forward in their greatest force, without

effect; and the precedent then established was entitled to respect. In that case to which he referred, it was well known a full opportunity was given for the freest discussion; the parties arraigned at the bar having been heard by their counsel on this question. But, Mr. H. said, the weight of that precedent was attempted to be destroyed in a most extraordinary manner by the honorable gentleman from New Hampshire, who had intimated that the House at that day did not decide the question on a knowledge of the provisions of the Constitution, but on party principles. Mr. H. begged the gentleman from New Hampshire to tell the House how he knew the motives of the members of that Congress; how he acquired the power to enter their hearts, and see that they did not decide this question on our own laws, but on those of a foreign country? Why did he seek to condemn them and their decision, by a sort of allusion, which, Mr. H. said, as an argument, would not be listened to on this floor? That respectable and enlightened Congress, Mr. H. said, had decided the question before them on the principles of our own Constitution and law; if their decision was corroborated by the practice of the Legislature of any other country, there was nothing in that circumstance to weaken the force of the precedent. But the Republican members opposed that decision! Are questions of this sort, Mr. H. asked, to be decided by the particular political denominations of those who voted *pro* or *con*? Is that to be the rule by which decisions on such questions are to be received or regarded as precedents? If so, as gentlemen took the liberty sometimes of exchanging sides in politics, that which was law to-day might not be to-morrow; and the question would be forever unsettled. The question now raised, Mr. H. considered as having been decided by an authority which though not decisive, was yet entitled to the highest respect, and ought to be respected. The observations of the gentleman from New Hampshire having been disposed of, which ought never to have been made, Mr. H. proceeded to notice some other views which had been thrown out. It had been objected to the legality of the procedure, that the statement on which the warrant was founded, was not on oath. Was not the representation of a member of this House, he asked, a sufficient ground of proceeding? The character of this House must be sunk to a low ebb, if the representations of its members were not to be received as true. In the case of Randall and Whitney, the proceedings of the House had been similar to those of this day; information of the facts was given by members in their places, and the House proceeded, as in the present case, without calling on the members to take the book and testify that what they had stated was true. In such cases, said Mr. H., we have ever been guided by precedent, and we have done right. But, it was said by the gentleman from Ohio, that there was nothing to be found in the Constitution to justify this proceeding. When, Mr. H. said, the Constitution gave being to this

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

body, it gave to it every attribute necessary to its security and to its purity. The courts of justice, which had been mentioned, do exercise similar power; any attempt to obstruct the due course of justice, or to corrupt its source, is an offence punishable in a summary manner. It was equally necessary such a power should reside in this House; because, if persons hanging about this hall, with their private claims, and besetting the paths of the members, offering them bribes for their votes and influence, were to be referred to the courts of justice for their punishment, there was no protection for the independence, none for the feelings, none for the character of this House. If we are careful that the laws be purely administered, ought we not to be equally so that they are purely made? Is the juror who administers the law to have protection, and the legislator who makes the law to have none? That the courts have the power to punish contempts, is a matter, said Mr. H., which could not be doubted here; and that the Legislature possesses the same power, was to him clear, and for the same reason. Adverting to the provision of the Constitution, which privileged members of Congress from arrest during their attendance at the session of their respective Houses, and on going to and returning from the same; if the gentleman will tie us down to the letter of the Constitution, said Mr. H., how would he punish a man who should arrest a member contrary to this provision? Would he sue him at law? And where do you find in the Constitution anything by which you shall know how to proceed to punish him? Would not the gentleman do it in the way in which we are going on? And why? Because, said he, we possess the power to protect ourselves in the exercise of our duties. How would the gentleman proceed in the case of the arrest of himself and half a dozen of members, whose votes would turn the scale on a pending question of the highest moment? Discharge the members, and they might be arrested again, if there was no summary process against the offender. If there was no redress in such a case, but to turn the person offending over to suit or to indictment in the courts, the Constitutional provision was a mere illusion. But gentlemen themselves did not agree. One, said he, refers the House for redress of their complaint in the present case to the courts of justice; the other says that bribery is no offence, there being no law to punish it; of course the courts are not open to the complainant. So that, between them, Congress is in a strange predicament. We are, without remedy, at the mercy of every infamous man, who is disposed, either for the purpose of private malice or personal emolument, to play off his arts against the Representatives of the people. Mr. H. concluded by saying that he hoped the House would decide that it had the power, not only to protect its existence, but to preserve its character so pure and unsullied as to be exempted even from suspicion.

Mr. FORSYTH rose to correct an extraordinary mistake which the gentleman from New Hamp-

shire had fallen into in regard to the precedent to which he had referred. That precedent was found in the Journal of the year 1795, before the division of parties, which has since existed, had taken place. It was not, therefore, a party question, but a great Constitutional point, which was then decided. On referring to the Journal for the final vote, it appeared that seventy-eight members had voted in the affirmative, and but seventeen against it. For another fact he was indebted to the information of a gentleman who was in a situation to have known it, that, of those seventy-eight, thirty-nine were subsequently on the Republican side of the question, and known as Republicans in the great parties into which the country soon after divided. Among these were some of the names most dear to the Republican party, and by this he meant no reflection on those who differed from them on that question. He need only refer to the names of Gallatin, Giles, Baldwin, Findley, and many others of the same grade—and were not these Republicans? They were; and each would bear a comparison with any man who had ever since called himself a Republican. They were the master spirits who headed the Republican party when it became one, and guided it in all its movements. But, Mr. F. said, he should be glad to find out how the gentleman discovered the great name of Jefferson to support him in his doctrine? That great man was not then a member of Congress; nor, Mr. F. said, did he know that he had expressed any opinion on the question. He did not find in the Manual composed by him any expression of an opinion that the Constitution had been violated by that decision. There was a statement of the arguments on both sides of that question; but so far from expressing the opinion that the Constitution had been violated, the Manual considered the question as unsettled. It was settled, then, on the ground that this body, and all others, corporate as well as individual, had the right to protect themselves from insult and violence. How, Mr. F. asked, would gentlemen proceed to punish an individual in the gallery of this House, who should consider it a great theatre, and exercise the privilege which insolent persons use in the gallery of a theatre, of disturbing the audience and annoying the performers? Suppose some person who was unfriendly to a member speaking, or who did not like the monotonous tone of his voice, should amuse himself by throwing nuts or apples at his head; by hissing on the one hand, or applauding on the other; by what authority would the House exercise the power of driving him away, or taking him into custody? Could any one doubt the power? But was it to be found, in so many words, in the Constitution? Gentlemen might say, this would be within our own walls, and therefore a different case from that now under consideration. Mr. F. regarded them as standing on the same footing; within and without, here or in any part of the city, if a member was insulted in the discharge of his duty, this House had, in his opinion, the right and the power to punish the of-



H. or R.

Case of Colonel Anderson.

JANUARY, 1818.

lender. He hoped, at all events, the House would make the inquiry, and not stay its proceedings in this case, until something stronger had been alleged against them than anything he had heard.

Mr. PITKIN, of Connecticut, said he did not rise to debate the power of this House; for, he said, unless the House had some power to protect itself and its members in their persons and integrity, from violence or insult, they might as well adjourn and go home. But he rose to refer to one or two cases which had occurred subsequently to that which had been particularly referred to, to see how far the House had proceeded. A case had occurred, in 1810, of an assault and battery on a member of this House, not within the walls of the House, not during its sitting, and originating in circumstances having no relation to his duty as a member of the House; but while here, attending his public duty, that gentleman had been considered as under the protection of the authority of the House, and the House had accordingly taken cognizance of the assault; and justly—for, if the House had not power to protect its members while going and coming therefrom, it was in vain for them to sit here. In another case, a committee had been appointed to inquire into the promulgation of certain secret proceedings of the House. The individual promulgating them was brought to the bar of the House, and compelled to answer the questions propounded to him. If he had refused to answer the questions put to him, undoubtedly he would have been committed to prison for that contempt. Having no doubt of the power of the House in this respect, he hoped the House would act as proposed.

Mr. LIVERMORE again rose. He said he should suppose that no one had understood him to say that the Republicans were right or wrong, or that the Federalists were right or wrong, or to draw any distinction between the parties into which the country had been divided. He respected good men of all parties, and none other but good men of any party. He had said that an oath was necessary to support a warrant, and produced the Constitutional provision, "that no warrants shall issue, but upon probable cause, supported by oath or affirmation." How am I answered? Why, that every member of this House is entitled to such high credit, that his word is as good as any other man's oath. The Chief Justice of the United States is sworn to support the Constitution, and to administer justice; but he is not therefore sworn to everything, and his mere word would not be taken in this matter in controversy in any court. But, it seemed, that the rights of individuals were to be uprooted, and an express provision of the Constitution disregarded, on the word of a member, because he was sworn to support the Constitution. Mr. L. said he had as high an opinion of the credit to which members of this House were entitled, as any man could have, but he could not, in such a case as this, believe them, except on oath, considering himself bound to protect the

rights of every individual in the United States, &c. The gentleman from Pennsylvania, Mr. L. continued, had found fault with some of his expressions. A man cannot take his words out of his mouth, look at them, put them in again, and speak as he could wish; and Mr. L. said he might have gone further than he intended.—Whether those who established the precedent of 1795 were Republicans, or be they whom they might, they had acted on precedents drawn from the British Parliament, a body whose powers in this respect were not analogous to those of the Congress of the United States. The Parliament of Great Britain is a perpetual convention, of which every law and practice becomes a part of the constitution. But we are a limited Legislature, and the Constitution controls us. And when such a question as this is presented, how shall we get over it? Mr. L. disclaimed any intention to accuse those who established the precedent in the case of *Whitney and Randall*, of having acted wrongly, against conviction. God forbid he should have said so; but, if he had been a little warm on the subject when up before, perhaps the gentleman from Pennsylvania, (whom no man respected more than he,) had warmed himself as well as the gentleman from New Hampshire. Let that gentleman, however, reconcile the proceeding of Congress to that provision which he had referred to. It was no way to put a man down to say, that one man's word is as good as another man's oath. It was saying what the Constitution had not left the House at liberty to say. But, it was asked, could Congress do nothing to protect themselves? Must they be trampled on, and spit upon, without remedy? Mr. L. said he had admitted before, and he now repeated, that the Sergeant-at-Arms, within the House, might command the whole force of the country, the Army and Militia, and, supposing such a case possible, might bring a seventy-four up the Eastern Branch to fire upon the Capitol; but the House had not the extensive power for which gentlemen now contended. Suppose he were to rise and say, that, as he was coming here, the Governor or Chief Justice of New Hampshire had offered him a bribe; would this House send out its warrant and bring him here? Would this be Constitutional? He hoped not. If the procedure would not be warrantable as to such men, neither would it to the meanest man in the State, for no man there was a slave; and Mr. L. would not stretch the power of the Government to oppress the meanest or the greatest. As to the suggestion of the gentleman from Virginia, to pass a law on this subject, Mr. L. highly approved it. Let us, according to the system of Mr. Jefferson, hang up rules for the inspection of all, which may direct the conduct of the citizen, and, if they are broken, punish the offender. But, with such views, would the gentleman punish poor Anderson, because he sinned against a law before the law was made? Mr. L. did not like such doctrine. He concluded by saying that, though what he had said might be thrown away, he had thought it his duty to offer it. He

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

might have been warm, he said, but it was time to be warm when a man could no longer keep himself cool.

Mr. SERGEANT, of Pennsylvania, said, as the motion now before the House, was merely for the appointment of a committee of inquiry, he could see no reasonable objection to it. The matter proposed to be inquired into was not, he said, a question merely between the individual accused and the House; but it was one in which the nation was interested; and the House would commit as great an error if they neglected to inflict a proper punishment on the offender in such a case, as if they were to inflict punishment where no offence had been committed. The immediate question was not, whether the members of the House were assailable by bribes; whether their feelings were to be wounded with impunity; whether they were liable to the arts of seduction; but it was a general question whether the House would or would not inquire what authority it had to punish those offending in this respect. If we have the authority, said Mr. S., we are bound to inflict punishment in the case before us; for if the offence supposed to have been committed shall be proved, can any case occur hereafter more requiring the exercise of the powers of this House? If you will not exercise what power you possess now, there is no species of attempt which may not be made with impunity on the honor or on the feelings of this House; there is no practice, however corrupt, which may not be attempted. For upon whom was this attempt made? Upon a member who is at the head of the Committee of Claims, that committee whose business it is to determine between the claims of individuals and the interest of the United States, coming in conflict before them; in doing which the chairman of that committee has to contend, on the part of the United States, against the interest, urged in every possible shape, of the individuals whose claims are preferred to this House. And would the House allow the member who occupies that station of sentinel at the door of the Treasury, to be placed in a situation to be exposed to all the gross and corrupt attempts which may be made on him, if they are permitted to be made with impunity? Surely not. If, then, Mr. S. repeated, the House would not, in the present case, exercise the power of punishing for contempt, there never would occur one in which it would.

As to the question immediately before the House, Mr. S. said, a reference to a committee was the usual course in all matters coming before the House. Why not then pursue the usual course in a matter of as much importance as this? It appeared to him, indeed, that course was inevitable; the House had gone so far in its proceedings that it was impossible to stop at this stage, unless it could be shown more clearly than it had been, that the warrant which had issued was altogether without authority.

There were, Mr. S. said, in the present, as there must be in all similar cases, two offences committed; the one, a crime for which the individual

might be handed over to the courts of justice for the punishment; the other an offence against this House, for which the individual might be proceeded against and punished in a summary manner. He did not say that both these courses might not be pursued. But he did admit that the question whether the House should or should not interfere, was at all times a question on which a sound discretion must be exercised when the case arises. In this way he would answer the gentleman from New Hampshire, who had supposed extreme cases. This House, said Mr. S., may certainly in such cases rely on its own discretion, that it will not be impelled into a course which is unjust. The case now before the House was not such a case, however, but one of a totally different character. If the House proceeded no further now, the privileges of the House were surrendered in every case, unless for what should be done in the face of the House. If the doctrine of the gentlemen from Ohio and New Hampshire prevail, said Mr. S., we shall be assailable at our door, on the staircase, everywhere until we come into this House, and this House is organized. Was this possible? And yet, he said, he did not suppose cases as extreme as those put on the other side.

As to the omnipotence of the British Parliament, to which was imputed their extensive privileges, Mr. S. said that Parliament consisted of two branches, the Lords and the Commons, exercising legislative authority. But the authority exercised by those bodies in the punishment of contempts, and in the protection of their privileges, was not a legislative act; not an act of Parliament at all, but of the individual houses. The House would see at once the distinction between the exercise of the legislative authority, and of the right and power of self-protection; and the gentleman from New Hampshire would see that his remarks on the omnipotence of the British Parliament afforded no argument against the exercise of power in regard to the privileges of this House, somewhat analogous to those of the British House of Commons. Neither was it correct, Mr. S. said, that the Houses of Parliament, in respect to privileges, were omnipotent. Gentlemen might recollect a case which had occurred during the trial of Warren Hastings, when a clergyman by the name of Logan, thinking Hastings unjustly dealt by, entered into an acrimonious vindication of him against the charges preferred by the House of Commons. That House did not in that case proceed with a summary process, but directed a prosecution to be commenced against the publisher; and that case had since become famous by the name of the prosecution against Stockdale.

Mr. S. said, he was free to confess that with respect to many of those distant attacks upon the House in public prints, or otherwise, which appeared to touch the House and yet scarcely reached it, he should say, leave them to the ordinary administration of justice; but when the hands of corruption were extended to this House, he hoped the Constitution would never fail the



H. of R.

Case of Colonel Anderson.

JANUARY, 1818.

He is in exercising an authority at once, because it is an offence which punishment ought to follow, and to follow speedily. For, said he, if practices of this kind are indulged; if members of this House exposed to such attempts, are to be left individually to follow the persons to punishment, we may calculate on the indisposition of the member to remain here to prosecute to conviction, and there are so many chances of escape that there is reason to apprehend there will occur many instances of this character—not quite so strong, I trust—but of minor grades, which the chance of impunity will encourage.

Mr. S. concluded by saying that he held it to be the solemn duty of the House, if they have the authority under the Constitution, not to flinch from the exercise of it; because the exercise of it was of high importance not to this House only, but to the people of the United States, whose dearest interests are concerned in it.

Mr. BALL, of Virginia said, if this proposition to appoint a committee had been made in the first instance, he should have had no objection to the proposed inquiry. But he was under the impression that this inquiry into their power ought to have been had before the warrant was issued. Suppose this person had been in a distant part of the country, in the District of Maine, for example; would this House arrest him, bring him here, and then inquire whether they had power to do so or not? Would not this be a grievance of the highest character against the laws of the land and against the Constitution itself? Supposing, after gutting a person, accused of conspiracy, to all this inconvenience, and holding him in disgrace, it should appear that he was not amenable to the authority of this House; would not this proceeding have been manifestly wrong, and an oppression of the citizen? Had we not better, said Mr. B., suffer a thousand insults, than trample on the personal liberty of the citizen? The liberty of the citizen was guarded by the express provisions of the Constitution; and he would not, he said, exercise any authority restraining it, unless unsupported by the Constitution. That was his guide; he had taken an oath to support it, and that instrument provided that no warrant shall issue, unless supported by oath. The warrant against John Anderson had, therefore, issued in contradiction to the Constitution. The proper course would be to discharge him from the warrant which had been illegally issued; to investigate the subject; and, if it should be decided that he was amenable to the House, then to arrest him and punish him, but not, otherwise, to proceed further in the business.

Mr. HUBBARD, of New York, rose to suggest, that, reasoning from the context, the provision of the Constitution which had been quoted, referred only to courts of justice, and could not be construed to apply to warrants of the description now under consideration.

Mr. JOHNSON, of Kentucky, said he had no objection to vote for the resolution, if it contemplated merely an inquiry into the proper mode of proceeding. Whilst, on the one hand, he said,

he was at all times ready and willing to support the Constitutional rights and privileges of the House, and was willing, with that view, to go on with the inquiry, he was, on the other hand, bound to protect the citizen from the arbitrary exercise of discretion on the part of the House. Wherever there was guilt, he hoped there would be no shrinking from investigation. When it was proposed to bring to the bar that individual now accused, whom he had known as a hardy warrior in his country's service, with the frosts of many winters on his head (not that he would say anything to justify the late conduct of that individual,) Mr. J. said, he had not shrunk from the authority of the House. Mr. J. was opposed to this resolution if it was intended to examine the accused before a committee; he was opposed to any course of proceeding but bringing the individual before the House: he wished to see his face; he wished to hear the testimony of those who had known him from his infancy, as to his general character. On this occasion, Mr. J. said, he felt himself to stand in the character of a judge: to examine and punish the accused according to his guilt, but on the other hand to protect his rights whilst arraigned before this House without law to protect him. It was due to the House and to the individual, that he should be brought before them, that circumstances of aggravation or mitigation should be adduced; and if he was found guilty, with corrupt intention, of offering a bribe to a member of this House—whose character, said Mr. J., stands on a basis needing no encomium from me—if the man should have been so far depraved as to commit this outrage, under no circumstances of mitigation, Mr. J. said he would go, as far as the Constitution would justify him, to punish him. This was no longer a personal question; the member who had so honorably brought forward this charge was no longer an insulted individual, any more than he (Mr. J.) It was the House that was insulted; it was for it to punish the offender, if it had the power.

Mr. FORSYTH, of Georgia, said he did not suppose it possible for any gentleman to misunderstand the object of the motion before the House; which was, not to examine John Anderson, but to inquire what further steps it would be proper to pursue in the case.

Mr. JOHNSON said he had no sort of objection to the resolution.

Mr. BALL rose to say, in reply to the suggestion of the gentleman from New York, that he had not referred to the clause of the Constitution which he had quoted, without having first determined, in his own mind, the true construction of it. The gentleman said that the provision in question referred only to judicial proceedings. Is not this, Mr. B. asked, a judicial proceeding? Will any gentleman contend we can legislate a man into prison? If we are to punish him, it is from a judicial power inherent in this body. If, in punishing him, we act in a judicial capacity, (which will not be denied,) an oath is necessary to justify a warrant for his apprehension.

JANUARY, 1818.

Case of Colonel Anderson.

H. of R.

Mr. TERRY said that, on this occasion, it appeared to him, to use a vulgar adage, gentlemen leapt before they came to the stile. With respect to the Constitutional provision for the protection of individuals, if a warrant contrary to law was before a court of justice, where strict law prevails, the court would not *ex officio* quash it, if the party concerned submitted to it. It was proper, Mr. T. said, that Colonel Anderson should have the opportunity of objecting to it. If he did so, Mr. T. reserved to himself the right to decide whether the warrant had been issued constitutionally or not. In the present state of the proceedings, he said, the House ought not to decide: if conscious of his offence, the individual might not think it advisable to object to the authority of the House.

Mr. BEECHER, of Ohio, again addressed the Chair. A man, he said, is either free, or he is not. If free, he was entitled to exemption from every species of arrest not authorized by law. I contend, said Mr. B., that it is our duty, if we find we have proceeded wrongly, to correct the procedure as soon as possible. Where will this end? When will you put a stop to it? He denied the discretionary power of the House to punish at pleasure, according to the doctrine of the gentlemen from Pennsylvania. It was time to examine rigorously what was the power of this House in that respect: for, he believed, according to the Constitution of the country, no man could be punished on the supposition that he had committed a crime, but on the ground that he had infringed some law. The Constitution provides that no *ex post facto* law shall be passed; that no citizen shall be deprived of life, liberty or property without due process of law; and that no person shall be held to answer for a capital or otherwise infamous crime without presentment or indictment by a grand jury. Is this man, or is he not, said Mr. B., deprived of his liberty without due process of law? Is he accused of a crime? If so, where is the law defining it? Or, have we the privilege of making anything criminal which we may choose to call a crime. How will you punish the person whom you decide to be guilty of a crime your own will has constituted? By imprisonment at discretion? That, said Mr. B., is a power I do not wish to possess. Again, he said, the Constitution required that the trial of all criminal prosecutions should be by jury. Was this a trial by jury? If this man has trespassed on his neighbor's rights, Mr. B. said, the courts are open for redress. The individual now in custody is accused of an offence for which there is no punishment; but, it is contended, that in the exercise of our discretion, we may inflict it to any extent we think fit. It was a doctrine maintained by the courts of our country, that no man should be punished for an act which he did not know was a crime when he was committing it. But, it was contended, that there was a power inherent in this body to take such measures as will protect its own integrity. Our integrity, Mr. B. said, is to be protected by other means than those which may be adopted by this

House to prevent individuals from assailing it. How far, he asked, does the jurisdiction of this House extend, on the principles for which gentlemen contend? All over the United States? Or is it circumscribed, and by what limits? A bribe might be offered to a member before he came here; if the member discloses it after his arrival, have we a right to send for the offender? Mr. B. said he could not accede to this doctrine.

But it was said that this resolution provided a way in which a thorough investigation of the subject might be had; and therefore it ought not to be objected to. Mr. B. objected to it, because, he said, it was the duty of every man, here and elsewhere, to protect the rights of the citizen, of the invasion of which there was more danger than that the rights of this House would be trampled under foot, and the nation thereby sustain injury. If, said he, we are to be organized as the grand inquest of the nation, invested with discretionary power, we are possessed of a power dangerous in the extreme. Let us not now, said he, establish a principle and doctrine that in time may be productive of everything iniquitous and injurious. To what extent might not this doctrine lead? If for what is said or done out of doors, citizens may be required to answer at our bar, every man in the nation is liable to be arraigned at our will and pleasure, although in conscientiously opposing and reprobating our measures he has exercised no more than his Constitutional right, &c.

If solitary precedents might be found on the Journals of the exercise of such a power by the House, it was time now to put a stop to it. It was time now to stop, and inquire whether the House is possessed of power to enable it to bring before it at pleasure whomsoever it chooses to arraign for a supposed breach of supposed privileges. That, Mr. B. said, was the question he wished to have put, and which he wished the House seriously to decide.

Mr. COMSTOCK, of New York, said he did not rise to detain the House, but to say that he thought, unless this or a similar resolution passed, (for appointing a committee) the patience of the House would be put to a severer test than it had yet been, by the protraction of a debate arising from the want of a definite proposition before the House, which it would be the business of a committee to present. Many observations, it appeared to Mr. C., had escaped gentlemen in the course of the debate that had already taken place, which might have been offered with more propriety when this man should be brought before the House, and exhibit the evidence, if he has any, to extenuate his guilt. It would then be more proper that it was now to comment on his character and on all the circumstances of the transaction. At present, Mr. C. said, he would forbear any remarks on that head; he thought that enough had been disclosed to justify what had been already done.

The resolution was finally agreed to, and Messrs. FORSYTH, HOPKINSON, TUCKER, SER-



H. OF R.

Judicial Records—Case of Colonel Anderson.

JANUARY, 1818.

ANT, JOHNSON, of Kentucky, PITKIN, and TAYLOR, were appointed a committee accordingly.

The House then proceeded to other business, though the case of Colonel Anderson was subsequently resumed, as will be seen.

The engrossed bill, making a further appropriation (of \$200,000) for repairing the public buildings, was read a third time, and passed.

## JUDICIAL RECORDS, &amp;c.

The House then spent some time in Committee of the Whole, on the bill to prescribe the effect of certain records and judicial proceedings.

The question being still on striking out the second section of the bill, which was opposed by Mr. H. NELSON and advocated by Mr. BARBOUR:

Mr. SPENCER had risen to defend the section, when information having been given that the committee on the case of Colonel John Anderson were ready to report.

The Committee of the Whole rose, reported progress, and obtained leave to sit again.

## COLONEL ANDERSON'S CASE.

Mr. FORSYTH, from the committee appointed today, made a report recommending that the House do come to the following resolution:

*Resolved*, That John Anderson be brought to the bar of the House, and interrogated by the Speaker, on written interrogatories, touching the charge of writing and delivering a letter to a member of the House, offering him a bribe, which, with his answers thereto, shall be entered on the minutes of the House. And every question proposed by a member be reduced to writing, and a motion made that the same be put to the Speaker, and the question and answer shall be entered on the minutes of the House. That, after the interrogatories are answered, if the House deem it necessary to make further inquiry on the subject, the same be conducted by a committee to be appointed for that purpose.

Mr. BEECHER made a motion to refer the report to a Committee of the Whole House.—*Negatived*.

Mr. BEECHER declared this resolution to propose, in his opinion, a novel procedure. The question was to be brought to the bar to be interrogated; for what? To criminate himself? If he speaks the truth, he must criminate himself. Was this House, Mr. B. asked, to be converted into an inquisitorial court? For such proceedings were proposed, adverse to the right of the accused, as were in other courts sedulously avoided, and as were contrary to the principle of the Constitution, that no person shall be compelled, in any criminal case, to be witness against himself. Mr. B. protested against this proceeding, which, he said, ought not to be adopted.

The report was agreed to without a division.

Mr. BEECHER moved that counsel be allowed to the accused.

Mr. SERJEANT suggested that it would be time enough to do that when the prisoner asked for it.

Mr. BEECHER said it was the right of this individual, placed in so novel a situation, to have his privilege pointed out to him, which otherwise he might not know.

Mr. TUCKER read a resolution that the Speaker be authorized to inform the accused that he might ask counsel, &c.

Which was superseded by an intimation from the Speaker, that he should consider it a duty, if no objection was made, to give the accused information on this head.

The Sergeant-at-Arms was then directed to bring his prisoner to the bar of the House.

On his appearance, the SPEAKER directed a chair to be given to him, and addressed him to this effect:

"John Anderson, you are no doubt aware that you are brought before this House in consequence of having written and delivered to a gentleman, who is a member and chairman of a committee of this House, a letter, of the contents of which you are apprized. Before I proceed to propound to you any interrogatories on this subject, I will apprise you that, if you have any request to make of the House; if you wish for counsel, for reasonable time, for witnesses, for any of those privileges belonging to persons in similar situations, the House is disposed to grant it. If you do not wish for time, for counsel, or for witnesses, the Speaker will proceed to put to you such interrogatories as may seem proper."

To this the prisoner at the bar replied, in substance, although indistinctly, that, in his peculiar situation, he desired the assistance of counsel; he desired time until to-morrow, and the opportunity of summoning witnesses to testify to the character he had sustained through life.

Whereupon the Sergeant-at-Arms was directed to take the prisoner from the bar.

Some conversation took place as to the precise mode of proceeding, which resulted in drawing up a resolution that the Speaker be authorized to inform the accused that the House comply with his requests.

Mr. HERRICK moved to amend the motion, so as that the accused be furnished previously with a copy of the written interrogatories to be put to him.

To this Mr. FORSYTH objected, because it would be inconsistent with the object of this examination. The object was to ascertain whether the accused admitted or denied the offence imputed to him. If he denied it, it would be for the House to substantiate it; if he admitted it, it was for the House to proportion its decision thereon to the magnitude of the offence.

Mr. HERRICK withdrew his first motion, and moved that the accused be furnished with a copy of the letter which was the ground of this proceeding; to which was added, on suggestion of Mr. RICH, a copy of the statement of Mr. WILLIAMS accompanying the letter.

Thus amended, the resolution according these privileges to the accused, was agreed to.

The prisoner having been remanded to the bar of the House, the SPEAKER addressed him nearly as follows:

"John Anderson, I am directed to inform you that, pursuant to your request, you are at liberty to engage such counsel as you may think fit; that the Clerk of the House will furnish you with such subpoenas for

JANUARY, 1818.

Organization of the Militia.

H. OF R.

witnesses as you may think proper, and that you will also be furnished with a copy of the letter on which the proceedings are founded, and of the statement of an honorable member of this House which accompanied it. I am further directed to inform you that to-morrow at one o'clock is the time assigned for further proceedings in this case."

And then the Sergeant-at-Arms withdrew from the bar with his prisoner.

The House adjourned at a late hour.

FRIDAY, January 9.

Another member, to wit: from Rhode Island, JAMES B. MASON, appeared, produced his credentials, was qualified, and took his seat.

Mr. JOHNSON, of Kentucky, from the committee of investigation on so much of the public accounts and expenditures as relate to the War Department, made a report respecting a certain contract entered into with the Government by Col. Elias Earle, on the 3d of February 1815, while a member of the House of Representatives, explaining the nature of the transaction, and exonerating Colonel E. from any blame under the circumstances of the case; which report, together with one of the last session on the same subject, was ordered to be printed.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, to whom was committed the amendments proposed by the Senate to the bill, entitled "An act for the relief of Samuel Aikman," reported the agreement of the committee to the same; which were concurred in by the House.

Mr. ROBERTSON also reported the agreement of the committee, to the amendments proposed by the Senate to the bill, entitled "An act for the relief of Joel Earwood," with an amendment; which was read and concurred in by the House.

A message from the Senate informed the House that the Senate have passed the resolution from this House, "directing the procurement of certain laws," with an amendment, in which they ask the concurrence of this House.

## ORGANIZATION OF THE MILITIA.

Mr. HANCOCK from the Committee appointed on that part of the President's Message which relates to the militia, made a report; which was read; when Mr. H. reported a bill to provide for organizing, arming, and disciplining the militia; for calling them into the service of the United States; for governing them therein; and for compensating them for their services; which was read twice and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred so much of the Message of the President as relates to the militia have had that subject under consideration, and beg leave to report, that the Constitution grants to Congress the following powers in relation to the militia, to wit: To provide for organizing the militia; for arming them; for disciplining them; for calling them into the service of the United States; for governing them therein; and for compensating them for their services; which powers the committee have considered separately.

15th CON. 1st Sess.—20

1. The committee are of opinion, that, in organizing the militia, it would be a great improvement to divide them into two classes, with a view to train diligently, and to provide to arm immediately, the young men, and exempt the elderly men from the sacrifice of time which effective training would require—the organization of the militia might remain in all other respects nearly as heretofore established.

2. The Constitution having made it the duty of Congress to provide for arming the militia, this power is not duly exercised by merely enacting that the militia shall arm themselves. A law to that effect, unsanctioned by penalties, will be disregarded, and, if thus sanctioned, will be unjust, for it will operate as a capitation tax, which the opulent and the needy will pay equally, and which will not be borne by the States in the proportion fixed by the Constitution. The committee do not approve of putting public arms into the hands of the militia when not necessary. That mode would expose the arms to be lost and destroyed. They conceive that Congress should provide arsenals, from which the militia of every part of the United States could draw arms when necessary, which would be a sufficient exercise of the power to provide for arming the militia.

3. Congress having power to provide for governing the militia only when they are in the service of the United States, and the authority of training them belonging to the State governments, the committee have not deemed it proper that Congress should prescribe the time to be devoted to training, or the manner in which that object will be best effected. It is the duty of the State Legislatures to enact the necessary laws for that purpose. The committee deem it a sufficient exercise of the power to provide for disciplining the militia, to direct the appointment of the necessary officers, to prescribe their duties, and to provide a system of discipline, comprehending the camp duties instruction, field exercise, and field service of the militia.

4. The committee are of opinion, that the regulations for calling forth the militia may remain substantially as at present existing. That the President should, in all cases, address his orders immediately to some officer of the militia, and not to the Executive of any State. The Governor of a State is not a militia officer, bound to execute the orders of the President; he cannot be tried for disobedience of orders, and punished by the sentence of a court martial.

5. In providing for governing the militia in the service of the United States, it has appeared to your committee that the senior class might be exempted from being marched out of the State to which they may belong; that the junior class, composed of ardent and vigorous men, the efficient force of the nation, should, when called into service, continue therein some time after having acquired the knowledge and habits of soldiers; that the officers should, by their own consent, be continued still longer in service, as military knowledge, principles, and habits, are most essential to the officers, who are the soul of an army. It has also appeared to your committee, that those principles would be best acquired by the officers of the militia, in serving with officers of the regular troops on courts martial, for the trial of offenders either of the regular troops or militia.

6. The compensation to the militia for their services, consisting of pay and allowance for clothing, and of pensions in case of disability by wounds re-



ceived in the service, the committee would allow to remain nearly as heretofore fixed by law.

The committee, acting according to the foregoing principles, report a bill to provide for organizing, arming, and disciplining the militia; for calling them into the service of the United States; for governing them therein; and for compensating them for their services.

#### AMENDMENT TO THE CONSTITUTION.

Mr. HARRISON submitted the following proposition of amendment to the Constitution of the United States; which was read and committed to the Committee of the Whole, to which is committed the bill this day reported, for organizing, arming, and disciplining the militia, &c.

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring therein, That the following amendment to the Constitution of the United States, be proposed to the Legislatures of the several States; which, when ratified by the Legislatures of three-fourths of said States, shall be valid to all intents and purposes as a part of the said Constitution:*

*Congress shall, concurrently with the States, have power to provide for training the militia, according to the discipline prescribed for that purpose, and whilst engaged in that service, they shall be subject to the rules and regulations prescribed for the government of the militia; when in the military service of the United States; and also, to provide for teaching, in the primary schools and other seminaries of learning in the several States, the system of discipline prescribed for the militia.*

[In offering his resolution, Mr. HARRISON remarked, that it would be recollected he presumed, that a similar proposition had been laid on the table by him at the last session. In doing so he was not with an expectation that anything would be done on the subject at that time, but it was to draw the public attention to the subject, and prepare the way for a decision at the present session. The bill which had been reported on the subject embraced all the provisions within the power of Congress respecting it which the committee had thought necessary; but as the Constitution had expressly reserved to the States the right of training and disciplining the militia, the adoption of the resolution might be deemed necessary; and he wished therefore that it might be committed to the same committee to whom the bill had been referred, that the whole subject might thus be presented to it for deliberation, &c.]

#### CASE OF COLONEL ANDERSON.

Mr. SPENCER offered for consideration the following preamble and resolutions:

The House of Representatives, entertaining great doubts of its possessing the competent power to punish John Anderson for his contempt of the House, and the outrage upon one of its members:

*Resolved, That all further proceedings in this House against the said John Anderson, do cease, and that he be discharged from the custody of the Sergeant-at-Arms.*

*Resolved, That the Attorney General of the United States be directed to institute such proceedings against the said John Anderson for his said offence as may be*

agreeable to the laws of the United States and of the District of Columbia.

*Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of any contempt of the Senate or House of Representatives of the United States, and of any breach of the privileges of either House.*

Mr. SPENCER, of New York, observed, that in submitting the resolutions which had been read, his object was to procure a decision of the House on the abstract question of its right to proceed in the case of Colonel Anderson. He had offered them in this stage of the proceedings, because no opportunity had yet been given to take the sense of the House, and with a view also of preventing the influence of those feelings, which the demerits of the case might excite, in producing a decision that calm and deliberate reason might not sanction. It was more consistent, also, with the dignity of the House, that we should retrace its proceedings, if they were wrong, from our own impulse, rather than be compelled to do so on the motion of the accused or his counsel.

Mr. S. unequivocally condemned the conduct of the accused; and his indignation at the enormity of the offence had, he confessed, carried him too far in endeavoring to punish it. The only apology I have to offer, said Mr. S. is to be found in that universal burst of feeling which spread through the House on the disclosure of the base transaction. But time for reflection has succeeded to the impetuosity of feeling; and, being perfectly convinced that we were wrong, I take the first opportunity to acknowledge my error, and to expiate it, by submitting the resolutions on your table.

In deciding this question, we act as judges, and we must demand the very letter of the law to authorize our decision. With the propriety, or expediency, or necessity of having some law on the subject, we, as judges, have nothing to do. We act not as legislators, but in a judicial capacity, in a cause between us and the accused; and we are as strictly bound by the law of the land as any court of justice can be. Let us, then, search for that law. If it is to be found at all, it is either in the Constitution, in the laws of the United States, or in the law of Parliament. The friends of the procedure have been in vain called upon to point out the express power given by the Constitution. So far from doing so, they have not, as yet, answered the objections which the Constitution itself interposes. The 4th article of the amendments provides, "that no warrant shall issue but upon probable cause, supported by oath or affirmation," and that it shall describe the person to be seized. In the present case, a warrant has been issued, directing a person to be seized, without being supported by oath or affirmation. But we have been told, that the clause is only intended to regulate courts of justice. There is no such limitation in the amendment; but, admit it, and what is gained? The issuing of process to bring in a party to answer is in itself a judicial act; all our proceedings in the case

are founded upon the idea of our being a court for this purpose. By the 5th amendment it is provided that no person shall be held to answer for an infamous crime unless on indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in service. If any doubt should exist as to the universality of the prohibition, the excepted cases which it mentions shows conclusively that it was intended to apply to all others. Here there is no presentment, and no one will contend that it is one of the excepted cases. The same amendment provides that no person shall be compelled to be a witness against himself in a criminal case. We are about to propound interrogatories to this man; if he refuse to answer them, what are you next to do? Will you treat the refusal as another contempt, and punish him for it; and thus compel him to bear witness against himself? Or will you persist in making a vain effort at power, when you know you must retire discomfited and disgraced? The 6th amendment provides for the trial by jury. In no sense of the word can this House be deemed a jury; we are not returned by an Executive officer; we possess not the qualifications of jurors, and the right of challenge of course could not be allowed.

From this examination, it results, then, that if we proceed against this man for a crime, as some have contended, our measures are wholly unconstitutional, illegal, and void. If we proceed against him at all, it must be for a contempt amounting to a breach of the privileges of the House. The most diligent research has not enabled me to discover either the word or the idea of a contempt as applied to Congress, in either the Constitution or laws of the United States, and I venture to affirm that neither of them is to be found there.

But it is said the House, from necessity, must have the power of punishing contempts, and that without it we should be unable to legislate. I deny, as broadly and as generally as the assertion is made, the existence of any such necessity. It is sufficient for your purposes, to exercise the natural right which every citizen possesses, in his self-defence, of removing any interruptions in the discharge of your duties. It is strictly on the right of self-defence, and while it will authorize you to remove any cause of interruption in your business, and to prevent the offender from entering your galleries, it will not justify you in going a single step further. The necessity does not require that you should punish the offender; it does not require that you should pursue him beyond your own mansion. Your deliberations are unaffected by his punishment. And I cannot conceive how it can be deemed necessary to our employments here to take any notice whatever of an offence which does not interrupt our debates nor retard our business. Is it contended that the power to punish for contempts is inherent in the House? If there be any meaning in the term, it must be that without the power you cannot act as legislators; that is, that it is essential. There can be no other inherent rights than those which are absolutely necessary. And, then, it results

in the same question of necessity which has been already discussed.

A gentleman from Virginia yesterday alluded to that part of the Constitution giving to Congress the powers necessary to carry into execution those which were specially granted. I cannot for a moment imagine that that gentleman intended to quote that clause as giving to this House executive and judicial powers. But to prevent misapprehension, permit me to quote it; it is this: "that Congress may make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Not that this House may exercise these powers, but that this Congress, composed of the three branches of the Government, may make laws to execute the incidental powers. It does not even authorize this House to make the law, much less to usurp the judicial authority in deciding on it, or the executive in enforcing it. Between us and those powers the Constitution has erected an insurmountable barrier. In this case, there being no law, we, as a co-ordinate branch of the Legislature, have no right to make it. If then it be true, that it is both necessary and proper, for carrying into execution the powers vested in Congress, that contempts of either House not amounting to an actual interruption of business, shall be punished, here is your authority for passing a law to define the crime and to prescribe the punishment. And I do, in the utmost extent, admit that Congress have the incidental power of passing all laws necessary and proper to attain the objects contemplated by the Constitution. Indeed, it is a principle as dear to me as any other in our Government; a principle so strengthened, confirmed, and rooted in my mind, that intellect and understanding must go with it when I yield. But until a law is passed, there can be no crime, for crime consists in the violation of a law; and there can be no punishment, for that is the judgment of law, not of a court, upon the crime. The argument reported by Mr. Jefferson to have been used in the Senate of the United States, in the case of the editor of the Aurora, is so applicable to this part of the subject, that I must beg the indulgence of the House for quoting it: "In requiring a previous law, the Constitution had regard to the inviolability of the citizen as well as of the member; as should one House, in the regular form of a bill, aim at too broad privileges, it may be checked by the other, and both by the President. And also as, the law being promulgated, the citizen will know how to avoid offence. But if one branch may assume its own privileges without control, if it may do it on the spur of the occasion, conceal the law in its own breast, and, after the fact committed, make its sentence both the law and judgment on that fact; if the offence is to be kept undefined, and to be declared only *ex re nata*, [as the case arises] and according to the passions of the moment, and there be limitation either in the manner or the measure of the punishment, the condition of the citizen will be perilous indeed!" Perilous, sir! it will be the condition a slave, dependent



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

upon the arbitrary will of another. And is not the very proposition to exercise such a tremendous power, and under such circumstances, enough to appal us? Here are we assembled as accusers, witnesses, jurors, and judges; the offended party, sitting in all these capacities, and burning with indignation at a flagrant outrage; and we are called upon to make the law, to decide upon it, and to punish in our own case!—to decide what? Whether an offence has been committed against an unknown law;—to punish how? according to the dictates of our own feelings! As one, sir, I do not trust myself with such powers; and sure I am that no body of men under Heaven shall ever, with my consent, exercise them against me. Your power over your own members is defined; I know its extent; but the authority now claimed has no other limits than those of passion, and no other restraints than those of pride.

An argument is attempted to be drawn from the fact, that the courts and Legislatures of the different States, and of England, exercise the power claimed. With regard to the law of Parliament, in England, it is a peculiar branch of the common law; declared by the two Houses from time to time. That law is not recognised in the United States Government or its courts, except so far as it has been expressly adopted. Repeated decisions of the courts have put that question at rest. I utterly disclaim and deny, therefore, the authority of the law of Parliament as applicable to Congress. We reject some of the forms of the body, and adopt others; but I trust we have not admitted, and never will admit into our institutions, the despotic principles which have too often disgraced its proceedings, especially in cases of privilege.

With respect to the different States, the common law, with special exceptions, has been either expressly or impliedly adopted, or its principles have been enacted in statutes, and that law has conferred upon the State courts and Legislatures the power of punishing for contempts. The practice of the States, therefore, furnishes no example for us. The authority claimed is not given by our Constitution or laws; and it cannot be derived from the common law, because we do not recognise the law itself. Besides, the State Legislatures possess other and very different powers from those belonging to Congress. Our authority is limited by certain fixed and definite landmarks; their powers are plenary and ample; they possess all that are not delegated to us. We are a branch of a limited Government for certain prerogatives and special purposes; they are Governments for all other purposes, without any limitation of power other than that prescribed by their own constitutions. The cases, therefore, are not analogous, and from their practice we can derive no sanction.

The authority of the courts of the States to punish for contempts, is upon the same foundation. They have acquired it by the adoption of the common law, or by express statutes. The courts of the United States maintain the same power by virtue of a law of Congress. The first

Congress which assembled under the Constitution, composed of the framers of that instrument, have given their construction of it in the law which they passed in September, 1789; by which authority is given to all the courts of the United States "to punish, by fine or imprisonment, all contempts of authority in any cause or hearing before the same." If all courts possess the inherent power contended for, then did that venerable body, to whose labors we so frequently appeal, commit the solecism of granting that which was already possessed. Far from it, sir. They knew that they were originating an entirely new system, and they intended that it should emanate from their hands complete, and as perfect as they could make it. It was an experiment—it was entirely new; nothing like it had existed—it began above. Intending to limit it, it became as necessary to give sufficient powers for the execution of the contemplated purposes, as it was to prohibit the assumption of those which were not granted. Such was the course pursued, and our Government, like our courts, possesses no powers but those contained in the compact which spoke it into existence.

I have done, sir, with the plea of necessity—the tyrant's plea, which is always used when there is no other to justify harsh and rigorous measures, or exorbitant powers. The next argument which I have to meet is that of precedent; the eternal refuge and expedient of a cause that shrinks from inspection, and would hide itself in the obscurity of example. But, fortunately for our country, the examples of the exercise of this power are so few, that there is little danger that the case of Anderson will be mingled with the common rubbish of precedent. It will be regarded, because it occurred in a season of profound political tranquillity, when there were no party passions to stimulate our animosities or influence our decisions; and yet this very case, occurring at such a period, ought to induce us to distrust the precedent of all others. When an atrocious insult was offered to one of the most respectable members of this House, a gentleman who bears the very impress of integrity, and whom none but the most weak or the most profligate could think of approaching improperly, after viewing those lines which the Almighty has written on his countenance; when such an insult was offered to such a man, and that man our fellow-member; when such an indignity was offered to this House, who could stop to inquire whether the first weapon he seized to smite the offender, was or was not strictly lawful? I confess that as one I took the weapon offered in the warrant for apprehending Anderson, without thinking of the consequences of its use, and without caring for them. For this rashness I have atoned as far as I was able; and it has taught me a lesson which I am now improving—to distrust those precedents which I fear have been established under the operation of similar feelings.

But, sir, I have a general objection to precedents in legislation, not to forms; they are essential to the despatch of business and to accuracy.

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

But I do object to any two or three cases furnishing a rule for decision. For what purpose is a new Congress assembled every two years, if it is to be bound by the determination of its predecessors? From the very nature of legislation there can be no precedent. Each Congress is supreme, and each law must be passed upon its own merits. You may, indeed, refer to the proceedings of a former Congress, as expressing the opinions of gentlemen entitled to great weight, but surely you are not bound by them. Hence arises the difference between the effect of precedents in a court of justice and in a Legislature. In the former some fixed rule is necessary, that suitors may know their rights; in the latter, when it is not a question of right, each case furnishes its own rule.

In the particular case of contempts, there is the same objection to our being bound by precedents; and that is derived from the circumstance that, there having been no law defining the crime, and prescribing its punishment, each case must, in common charity, be supposed to have been determined upon its own merits. Had there been a law the crime would have been known, and the precise turpitude of the offence would have been determined by that standard; so that a precedent might then have been some evidence of the extent and application of the previous law. But as there was no law, we are compelled to infer that one was made to reach the case, and made, of course, only for that case. So that, in the language of Mr. Jefferson, (speaking of precedents in cases of contempts,) "the judgment on any particular case is the law of that case only, and dies with it. When a new, and even a similar case arises, the judgment which is to make, and at the same time apply the law, is open to question and consideration, as are all new laws."

But if you adopt these precedents, how far will you go with them? Is this House prepared to go the full length of the tether which has been stretched by the English Parliaments? The cases which have occurred in this country are confessedly founded on them. How much further will you follow them through the scenes of violence and passion which produced them? The English Parliament has decided that the privilege of a member arises by force of the election, and that he possesses it even before a return be made. Some of the members on this floor were elected nearly two years since. Have we been all this time clothed with the mantle of privilege? It has been decided also by that Parliament, that any assault upon the person, or any attack upon the reputation of a member, although in a matter not connected with his official duties, is a breach of privilege. Is this House prepared to punish all the aspersions upon the private characters of its members which have been made within two years? Will you send your Sergeant-at-Arms to the District of Maine for any editor of a newspaper who may have traduced any member of this House? Should you exercise your power to that extent, I need not ask how much time this House would have left to discharge its ordinary

legislative duties. You must either take the whole power furnished by these precedents, or you must reject the whole; for there is no dividing line between any of them. Permit me to pursue this doctrine still further. It has been decided in England, that any interposition of the King to affect any measure before either House of Parliament, was a breach of privilege. Luckily for that Parliament, there was a prerogative that met the privilege; as the King could do no wrong, he could not be punished; and for that reason, I presume, among others more important, the attempt to punish was not made. But, sir, the decision remains among the precious bundle of precedents, ready to be produced when occasion may require. Suppose, then, what cannot with propriety be supposed, except for the purpose of illustration, that the President should think proper to interpose on a subject before Congress, and should tell us that it was not worth our pains to legislate upon any particular measure, because he had determined to put his veto on it; should we venture to send our Sergeant-at-Arms for the President, and bring him to our bar? No man in his senses could think of it. Where, then, will you stop? If you once acknowledge the principle that the common law established by the precedents of the English Parliament is our law, where, at what point will you arrest your career in the course of privilege and prerogative? If we borrow from England the doctrine of privilege, why may not any future Executive loan for a short time that of prerogative? One step more; create a star-chamber judiciary to sanction and enforce your claims, and we shall have reached the goal of our course. The whole doctrine is uncongenial with our institutions; it has no root here; it cannot flourish, even if it were watered by the tears of any who may cast a longing, lingering look behind, at the charms of aristocracy, and the comforts of despotism.

In the proceedings against this man, we have arrived at the brink of an abyss, where it much behooves us to pause and reflect; a single step may cast us into it, without our having sounded its depth or measured its extent. Let us hesitate before we spring into it; and if we be determined to plunge, let us at least explore the ground, and know where we are to land.

I cannot apologize, I disdain to make an apology for having brought this subject to the consideration of the House. Its infinite importance will vindicate me. If the House should be determined to proceed in the exercise of the power claimed in this instance, I shall at least have the consolation of reflecting that I have discharged my duty in protesting against that power, as a violation of the charter of our liberties, and as jeopardizing, in an imminent degree, the personal liberty of the citizen.

MR. ANDERSON, of Kentucky, declared that he should support the resolutions offered to the House. His only objection was to the expression of doubt contained in the preamble; he felt no doubt, and thought the prisoner should be instantly discharged. It might indeed produce some mor-



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

tion, for the House now to retrace its steps, and to make a public acknowledgment of its imbecility, but he thought this course much preferable to the assumption of the Constitutional powers now contended for. He himself participated in the justification, but felt the necessity of giving the most prompt correction to the error which had been committed in issuing the warrant. It was not a better now to arrest the proceedings, than to conduct the case through an examination, and be compelled to adopt that course; an idea then might justifiably arise that the discharge was produced by a belief that the man was innocent, or that the case did not merit punishment. It should be placed on its true ground; the prisoner should be immediately discharged, from a want of power in this House to punish. If this power be possessed, it is indeed most novel and extraordinary. In every other case, an act, which is punishable, must, by a previous law, have been declared an offence. In this, the guilt of the individual does not rest on any statute previously passed and promulgated, but on the feelings and passions of this House. In vain do we demand the law, which has declared the act an offence at the time of its commission. In vain may the prisoner look for the rule of his conduct in the statute book of his country. There is no law declaring the act, we are about to punish, a contempt or an offence of any kind; our opinion of its criminality has been locked within our own breasts, and never can be constitutionally declared except by a law of Congress. No other tribunal has ever yet dared to assume such a power, and if it be exercised, no citizen in this country can be safe. But if the doctrine is recognised that we can declare an act after it is committed an offence, according to our views of the privileges of this House, or the nature of contempts, we are at once plunged in a sea of perplexity. There is no subject on which the varying minds of men differ more. That act which one will declare the grossest contempt, will, by another, be thought perfectly harmless. We shall have no previous standard by which we can measure the act; the fact of its being an offence will depend on the warring and differing views of members of this House. If we reserve to ourselves the power of declaring every paragraph in the newspapers defamatory or libellous, as our feelings may direct, and which no law has forbidden, we are indeed possessed of powers, of which the people of this country have little thought, and which, by reading the Constitution, they can never find.

However, it should be conceded that this was an offence, unless there has been a punishment previously affixed by law, we are still powerless and must arrest these proceedings. By what authority can we award any punishment, or imprisonment, in preference to any other? There is none in the Constitution, and there is no law on the subject. What necessary connexion is there between contempt and imprisonment? They seem to be spoken of as if one was a necessary consequence of the other. It arises, Mr. Speaker, from the provisions of the common law, and the

usages of the British Parliament, which are fastened about our recollections, and are difficult to be shaken off. We forget that the powers of the House of Commons depend on precedents formed by their own decisions, and ours only on special grants in the Constitution. This House alone cannot create a punishment which has not been affixed by law; by both branches of the Legislature. An apt illustration of the idea is found in the provisions of the Constitution, which define treason, and empower Congress to prescribe the punishment. If this power had never been exercised, and no statute had been enacted to declare the punishment, no court in this country could have created one. No judge would have dared to pass a sentence of death or imprisonment for a day. The vilest traitor that ever lived, can be punished only according to law in this land. The same observations apply to piracy, and felonies, committed on the high seas. Until Congress shall exercise the powers given by the Constitution, and define the crimes and declare the punishment, no tribunal in this country can supply the defect, and dare to punish according to the common law, or in any other way. If we can impose a penalty, which has not been assigned to a specific crime, there is then no boundary to our powers. When we determine that this House possess the power of punishment, then the species or degree is only matter of selection. Who can prescribe the limit? We have no standard to regulate or bind our power, but our own feeling. We can range through every gradation of punishment, from a simple reprimand to death. And when the principle of punishment is decided, we may to-morrow be boldly debating whether we shall reprimand, imprison, brand, or gibbet this man. If this resolution be rejected, we shall, in effect, decide that the House of Representatives possess the power not only of declaring any act an offence, but of selecting and inflicting a punishment heretofore unknown to the laws, and even to ourselves. These are indeed tremendous powers, and such as I believe have never been granted.

The gentleman from Georgia (Mr. FORSYTH) asked, yesterday, what would be the course of this House, if a person in the galleries should insult a member by hissing, or throwing nuts at his head? The question has been answered by the gentleman who last addressed you. But those who support the power of the House, must remember that they do not extricate themselves from the difficulty of propounding perplexing questions. They hold the affirmative of the proposition, and cannot expect us to follow them, unless they show the way clearly and distinctly. The answer, however, which he would give, and which would release the House from all embarrassment, would be to pass a law accurately defining every offence, and assigning a punishment to each. On the subject of our power to give such a law operation within the District of Columbia, there can be no doubt. The power of "exclusive legislation in all cases whatsoever," was given to enable Congress to place at a distance everything which could overawe its pro-

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

ceedings, or in any way obstruct its impartial deliberations. Any law may be passed which is necessary to insure to a member of the House perfect exemption from insult, and to enable him in every way impartially and fearlessly to discharge his duties. Within the "ten miles square" there was no difficulty; for the pettiest offender within the District could be punished only by authority of an act of Congress, either specially embracing the case, or adopting the laws of Virginia or Maryland on the subject. It is possible that a doubt might be created as to contempts, or other offences against the privileges of the House, committed beyond this exclusive jurisdiction; and we must then resort to the authority "to make all laws which shall be necessary and proper for carrying into execution" the powers of Congress. But in no event could much practical inconvenience result, as it could very rarely happen that any contempt, shown beyond the District, could seriously obstruct the transaction of the public business.

It has been urged that the State Legislatures and courts of justice punish contempts, and it is demanded, if Congress shall not exercise this power. No legislature or court can exercise it without law. In all the States they are authorized either by statutes specially, or by the common law, recognised by the statutes or the State constitutions. Congress can by law prescribe a punishment, and the mode of awarding it. Until this is done, one House cannot make the offence, and then punish it. He thought the warrant should be set aside. Still he could cast censure on no one, as no member of the House had voted for the warrant more promptly than he did. If the prisoner had then been present, it was probable he would not have postponed the punishment, even to read the Constitution.

Mr. FORSYTH, of Georgia, said, he would not follow the gentlemen through the long course of their arguments. He relied on their own admissions, as abundantly sufficient to justify the proceedings which had been and which were proposed to be adopted.

It is admitted that we have power to suppress disorder in the gallery, to remove the offender from the hall. Is not this removal of a citizen of the United States, of a freeman, from your gallery, in which, while it continues open, he has as much right to sit there as we have to sit here, a punishment for a crime or contempt which he has committed? Is it not, if not justified by law, an assault, and false imprisonment, for which the officer acting under your orders is answerable, by suit and by indictment? Whence arises the power? Will gentlemen point to the clause of the Constitution which confers it? Here then is a case in which, from the necessity of the case, no gentleman will venture to deny the existence of the authority to punish, and the propriety of its exercise. But does it stop here? Are we permitted to remove the nuisance only beyond the walls of this room. Extends it no farther? Cannot our deliberations be interrupted at the door, and on the staircase? The same

reasoning will apply to all portions of the House and to the street. Does it stop here? Will you permit the beating of drums and the firing of cannon under your windows, in the street, in front of this hall? Can we not remove such nuisances, and prevent their recurrence, by the punishment of those who caused them, for their contempt to this body? Certainly no one can deny it. We have, therefore, by admission, the power within and without these walls. Where is the limit, Mr. F. said? It was limited only by the jurisdiction of the United States, because to the extent of the jurisdiction was the necessity of the legitimate exercise of the power.

Mr. F. did not conceive those clauses of the Constitution, quoted by the gentleman from New York, applicable to the present case. The person in custody is charged with a contempt, punished summarily in all cases—not for an offence indictable and punishable by the ordinary course of judicial proceedings. Every gentleman, whether of the profession of the law or not, will know the distinction, and that these clauses of the Constitution were framed without any view to the exercise of this power to punish contempts, and without any intention to prevent its exercise.

But we are told, that this miserable man is called here to answer to some unknown law. He was somewhat at loss to understand the force of the remark; if it was meant to convey the idea, that there is no law of Congress defining the bribery of a member of Congress as a crime, and affixing an appropriate punishment, it was true. But if it meant, what it can only mean, if used with an application to this case, that we proposed to make an action, in itself innocent, criminal, and punishable, Mr. T. said, he must express his astonishment at the declaration. Ignorant indeed must be that man, who does not know that this action was not criminal in the highest degree. Every man carries in his own bosom a faithful monitor, instructing him how enormous is such an offence. He has committed an offence against a law known to him and to all mankind, for which, Mr. F. trusted, he would be punished as far the power of the House would permit.

Mr. F. said, the gentleman from New York acknowledged the force of precedents in judicial proceedings; there they are highly useful landmarks, not to be departed from without danger; but in legislative proceedings they are dangerous things. Mr. F. could not perceive the propriety of the distinction. A precedent in one place is omnipotent; in another a succession of precedents are to be disregarded. The judgments pronounced in similar cases, by the House of Representatives, were assailed, on the ground that they were established under the influence of passion. The gentleman, Mr. F. apprehended, had not examined the history of the cases to which he referred; he would find that they were established on due deliberation. If he would compare the conduct of this House, and that of the House of Representatives in '96, in the case of Randall and Whitney, he would find that suf-



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

Recent cooling time had been furnished the House of Representatives before the commission of the fact. This House, yesterday, under the influence of violent indignation, adopted unanimously the proposition to arrest the offender. To-day we are cool enough to examine with critical accuracy and scrutinizing care, into the extent of our Constitutional authority to protect ourselves from the approaches of corruption, or the assaults of violence, while in the performance of our public duties. In the case of Randall, the offender was brought day after day before the House; he had counsel who defended his cause, and urged all the suggestions in his favor which his case would justify. He was, by a majority of four to one, deliberately condemned and deliberately punished, by a confinement of three weeks, for the contempt he had committed.

The gentleman from New York had read to the House the arguments which were made use of on an occasion subsequent to that to which Mr. F. had referred, against the power of the House, and the observations of Mr. Jefferson thereon. Mr. F. called the attention of the House to the arguments, which the gentleman had not read from the same authority. In debating the validity of an order issued by the other branch of the Legislature—an order of an extraordinary character, Mr. F. said, and one which he would not have consented to issue—for the apprehension of the editor of a newspaper, it was insisted, in support of it, that every man by the law of nature, and every body of men, possesses the right of self-defence; that all public functionaries are essentially invested with the powers of self-preservation; that they have an inherent right to do all acts necessary to keep themselves in a condition to discharge the trusts confided to them; and whenever authorities are given, the means of carrying them into execution are given, by necessary implication; that thus we see the British Parliament exercise the right of punishing contempts; all the State Legislatures exercise the same power, and every court does the same; that if we have it not, we sit at the mercy of every intruder who may enter our doors or lobby, and, by noise and tumult, render proceeding in business impracticable; that, if our tranquillity is to be perpetually disturbed by news of defamation, it will not be possible to exercise our functions with the requisite coolness and deliberation; and that we must therefore have a power to punish these disturbers of our peace and proceedings.

That precedent, therefore, was established, Mr. F. said, on the inherent right of the House, to do all that is necessary to the due exercise of the trust confided to them. This was the foundation on which, in this particular case, the power of the House was vested.

There was a certain class of powers, Mr. F. said, every day exercised by this House, somewhat analogous to that which was the subject of dispute. Whence was derived the power, which was frequently exercised by this House, and which was even frequently conferred on its sub-

ordinate committees, of sending for persons and papers? Did any one doubt the right of the House to do this? Was the right, which was of every day's practice, doubted? [Some gentleman here intimated that he did question this power.] Mr. F. said the power existed from necessity. How could the House ascertain the guilt or innocence of a public offender, whose conduct should be arraigned before it, without that power? It was essentially necessary that it should have it, to compel the attendance of witnesses, and the production of papers in their possession. That power had therefore been, and always must be, exercised without dispute; though there was nothing in the Constitution conferring that power on the House. The power arose by necessary implication from the duty imposed upon the House of examining into the conduct of the officers of the Government. Was not the analogy between the cases perfect? Here, said he, we have exercised the power of bringing a man before us for an offence which, if permitted to pass unpunished, will render it a disgrace, instead of an honor, to be a member of this House. Mr. F. concluded by saying, he trusted that in this case the House would do all they had hitherto done; that they would examine the accused, whether he denies or admits the charge; and, the offence being proved upon him, that he would be duly punished.

Mr. BARBOUR, of Virginia, said, that he was induced to ask the indulgence of the House whilst he submitted his view of this subject, not only because there was a great Constitutional question involved, but because he had acquiesced in the issuing of the warrant, upon which he was now decidedly of opinion that the House ought not further to proceed.

We are called upon, said he, to decide this question! whether the House of Representatives have the power to punish the person at its bar, for an attempt to bribe the chairman of one of its committees. After the most mature deliberation which he had been able to bestow upon the subject, he said he was satisfied that the House had not that power; that he would endeavor to state, as succinctly as he could, the reasons upon which that opinion was founded.

The attempt imputed to the person at the bar of the House, and about which there was no doubt, in point of fact, seemed to him to present itself in these two points of view: First, as a crime, to be punished because of its own enormity; secondly, as a breach of the privileges of a member of this House. As to the first proposition there could be but one opinion. The act complained of is one of the most abhorrent kind; but the word *crime, ex vi termini*, imported a violation of some law, either in the omission of some act enjoined by it, or in the commission of some act forbidden by it. That law must have been enacted by the legislative power—that is, by the consent of the two Houses of Congress. Now, as it was conceded on all hands that no such law had passed, as it was clear that no such law could now pass, so as by an *ex post facto*

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

operation to relate back, and embrace this case; as, too, the execution of a law, by the infliction of punishment, belonged to judicial cognizance, the conclusion followed, too clearly to require further comment, that the act committed, or attempted to be committed, could not be punished by this House as a crime within itself. He spoke not here of the common law, which punishes crimes against the laws of morality—that law did not exist in relation to the United States; and if it did, this was not the tribunal to enforce it. We come now, said Mr. B., to the great question in this case, it is this: Was the attempt complained of a breach of the privileges of a member of this House? He said he would attempt to show that it was not.

If, indeed, this question was to be decided by the *Lex Parliamentaria* of Great Britain, he would not undertake to say what might be the decision; but, said he, we have a much better and surer guide—we have the Constitution of the United States to point out the course which we ought to pursue. It was that instrument, he said, which called into existence every department of the Federal Government, and which created this House as a branch of one of those departments; it was that which marked out the powers of the Legislature as a whole, and the powers of this House as a constituent part, as well as the privileges of its members.

By reference to the Constitution, it would be found that the matter of privilege was not left to construction. The framers of that instrument were deeply versed in the nature and history of Parliamentary privileges. They knew that, though they were undefined, because they had been said to be undefinable, they were marked with one strong characteristic feature—that they had perpetually advanced, that they had never retrograded. They therefore, in the sixth section of the first article of the Constitution, had accurately defined the privileges of members; they made them to consist, first, in a qualified exemption "from arrest during their attendance at the session of their respective Houses, and in going to, and returning from, the same;" and, secondly, "that for any speech or debate in either House, they shall not be questioned in any other place." Here, then, was the extent of our privileges.

He thought that, according to this universal principle of construction, that the mention of one thing was the exclusion of another, it was obvious that the Constitution had intended to restrain privilege, and tie it down to the particular cases stated in the section which he had just cited. But to put this subject in a point of view, if possible, still stronger, he begged leave to refer the House to the third section of Jefferson's Manual, in which will be found an enumeration of the privileges claimed by the British Parliament. That enumeration embraced, besides many others, the two cases mentioned in the Constitution. Hence it must be most obvious, that the Constitution did not intend to adopt the Parliamentary law upon the subject of privilege; because, as

that covered a much larger ground, if it had been intended to have given the whole, it is difficult, if not impossible, to assign a reason why it should have been thought necessary, by special enumeration, to have given a part.

There was no man in the House, he said, who could hold the attempt which had been made in greater abhorrence than himself; but whilst he considered it a daring attempt at wickedness, an outrageous insult to the feelings of the member, and as calculated to excite the detestation of all good men, yet it was not, as he thought he had proven, a breach of privilege. If it were not, then there could be no principle on which the House could pretend to take cognizance of it. There were many insults which might be offered to the members of this House, for which they had no remedy but those which were open to every other citizen. And, indeed, he referred the House to the same section of the parliamentary manual, to which he had before called their attention, to show, that, in a case of acknowledged breach of privilege, as, for example, the arrest of a member, the effect of such unauthorized arrest is, that the member is entitled to be discharged, and the persons concerned in the arrest are liable to action or indictment for their injurious violation of the member's privilege; but he did not believe that even in that case the House could inflict any punishment on the persons concerned for a contempt itself. But gentlemen had taken another ground in debating this subject; they had said that the mere creation of a legislative body, *ipso facto*, imparted to that body certain rights, and, amongst others, the right of self-defence; that as they had the power, so it was their duty to keep themselves pure; and for that purpose to punish any attempt upon the integrity of its members. This reasoning, said Mr. B., is too broad. Congress is the creature of the Constitution; it has, therefore, as he had observed in a former part of his argument, just those powers, and those only, which the Constitution had given it; and whatever powers are not given we must be content to think were not thought necessary. To Congress, composed of the two Houses, it had given the legislative power which it granted. But this was clearly no act of legislation; first, because it was a proceeding proposed to be carried on by one branch of Congress; and, secondly, because it did not propose to provide a punishment for future cases, but to inflict it upon one which had already occurred. But, besides the legislative power granted to Congress, as composed of the two Houses, there were certain powers granted to each of the Houses respectively. Let us then see what are given to the House of Representatives. They are all to be found in the second and fifth sections of the first article. He said there was no power given the House affirmatively to inflict punishment upon persons not members for any offence either against the House or its members. Was it to be inferred from the powers which were given? So far from it, he said, that he thought the inference deducible from the nature of the powers given almost irresistible,



H. or R.

Case of Colonel Anderson.

JANUARY, 1818.

that such power was not intended. The great argument had been that the creation of the Legislature imparted to it certain inherent powers as of its nature and existence. Now, sir, said he, let me ask, what power could be more inherent in a legislative body, than that of appointing their own Speaker? And yet this power is expressly given. What could be more inherent than the power to determine their own rules of proceeding? And yet this was expressly given. What could be more inherent than the right of punishing one of its own members for disorderly behaviour? And yet this was expressly given. He asked whether the giving powers like these, which, if there be any such thing as inherent powers, would have been so considered, did not amply testify that the Constitution meant to leave this subject to doubtful construction, but on the contrary, to give to the whole of the legislative body which it created, as well as to its several parts, the laws of its and their existence, and to impart to them by grant the powers necessary to the performance of their several functions. Sir, the framers of the Constitution meant to guard as carefully against the latitude of construction which might be given to indefinite powers, as they did against indefinite privileges; they therefore determined to bring both power and privilege to a Constitutional standard, so that they might be easily measured. It would have been a vain thing to have circumscribed Congress in its legislative power, if the two Houses which compose it had been left, like the British Parliament, to range at large in the wide field of inherent powers, and to grant indefinite privileges. If, said Mr. B., the House has power to take cognizance of this case and to punish it, where would they stop? This insult to the attempt upon one of the members was committed not in this House, but in the District of Columbia; suppose it had been committed in the extreme part of the United States, would our jurisdiction have reached the offender there, and would our Sergeant-at-Arms have been sent to arrest him? The consequences to which this doctrine would lead seemed to him to show that it could not be sustained. Nor, said he, is there so much danger to be apprehended from the contrary doctrine as gentlemen seem to suppose; he thanked God the attempts which had been made were but few, and in each instance had failed; if they should hereafter be repeated, he hoped and believed there was a long, very long, tract of future time between us and that period when they should prevail; if any attempt of this kind fail, the man who makes it is foiled in his wicked attempt, and covered with disgrace; if unhappily it should ever succeed, we have a Constitutional remedy at hand: by expulsion, we may drive from us the unworthy member, and, having cut off the gangrenous limb, the rest of the political body will be restored to health. True, sir, the expulsion of a member requires the concurrence of two-thirds; but does any gentleman doubt for a moment but that if the acceptance of a bribe were proven, two-thirds, ay, three-thirds, would

instantly unite in a vote for the expulsion of him who should have accepted?

But, gentlemen have asked if the House have not the power now contended for, whence is derived the power to remove noise and disturbance from the gallery? Whence the power to send for persons and papers in prosecuting an inquiry before a committee? In relation to the first, he answered, that, by the Constitution, each House had a right to determine the rule of its proceedings; now it was competent for the House, in establishing the rules of its proceedings, to say whether any person should come within the walls or not; to say that when they were thus admitted, they might continue so long as they conducted themselves in an orderly manner, and, when they act otherwise, that the Doorkeeper whom the Constitution authorized it to appoint, by the authority given it to appoint its officers, should turn out such disorderly person; accordingly one of our rules directs, in substance, that the Speaker shall take care to have all disorder removed from the gallery. It is, said Mr. B., our House, provided for the purposes of legislation; as we have a right to say who shall come in, and when, so also have we a right to say, when the persons admitted by our courtesy shall be put out. In relation to the second, he said, the same power to establish the rules of our proceeding and to appoint our officers, to which he had before referred, authorized us to prescribe the manner in which any inquiry of which we have Constitutional jurisdiction shall be conducted, and to appoint a Sergeant-at-Arms for executing the necessary process, &c., for carrying on that inquiry; but these rules must have relation to the object of carrying on some business which was properly before the House or its committees.

Mr. B. said, that he had now given his view of the question before them; he hoped he had satisfied the House that it had not the Constitutional power to punish the person at its bar. But, if there were even a doubt upon the subject, he called upon gentlemen to recollect, that in ordinary cases a party was tried under some pre-existing law announced to the people; that one power enacted the law and another executed it; that neither the Legislature enacting, nor the Judiciary expounding was a party; but that here, in the same sentence, they were called upon to announce the rule, and to give judgment, by applying that rule to the particular circumstances before them; and that too, said he, in a case in which we ourselves are the parties. We thus legislate and adjudge in our own case. This has been said to be the very definition of tyranny. Sir, said Mr. B., I am not afraid that this House would practise oppression in the particular case before us; but, let it be remembered, that constitutions and laws are not made for good men and good times, but for bad men and bad times; as, on the one hand, experience has shown, that men, as men, will do wrong; so, on the other hand, the same experience shows that men, as political agents, ought to be controlled by some checks. Laws are intended for the first; constitutions for

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

the second. With regard to the individual at the bar of the House, whatever may be our feelings towards him, it should be remembered that, in his person, we are settling a great question of Constitutional law.

Mr. ROBERTSON, of Louisiana, asked the attention of the House for a few moments. He would not travel over the ground which had been so well and so fully occupied by gentlemen who had preceded him. He would not repeat their arguments, nor restate their views, further than was necessary to explain and to connect his own opinions. Thus restricted, he had but little to add. Before, however, entering on the subject, he would remark, that he did not agree with the gentleman from Kentucky, in the mortification he had expressed at being compelled to retrace his steps. When the detestable conduct of Anderson was made known to the House, it produced strong and universal indignation; under the impulse of honest feelings, they had unanimously resolved to bring the culprit before them; but now they had had time for reflection, reason resumed her empire over the mind, and he (Mr. R.) was prepared, although reluctantly, to abandon the impulses of sentiment, for the colder dictates of judgment.

The gentleman from New York (Mr. SPENCER) has, with great ability, pointed out the rights of the citizen, and very satisfactorily shown, that, without a denial of them, we cannot proceed further in the present prosecution. But yet something more was left to be done. The rights of the citizen under the Constitution are sometimes made to yield to powers vested in the Government, or the departments thereof; and the gentlemen from Kentucky and Virginia (Messrs. ANDERSON and BARBOUR) have, with much clearness and precision, demonstrated that there is no power vested in this House by which it may prostrate rights otherwise so positively secured to the citizen. These rights, again I say, have been fairly stated by the gentleman from New York; and, in the case now before us, however infamous it may be, they remain untouched by any legitimate exercise of the power of this House.

The Congress of the United States possesses none but delegated powers, both in regard to the community, and the two Houses of which it is composed. Each House, and each member, has its rights; but they are not arbitrary—they are not left to be asserted at pleasure—they are written down and clearly ascertained. It is with this latter branch of the subject that we are now alone concerned; and no farther concerned than as it respects the privileges of the House, or its members. The privilege of the House, under the Constitution, consists in the power it possesses over its own members and proceedings; the privilege of the members, in their exemption from arrest, and from being questioned elsewhere for what is said in the House. Is Anderson's offence a breach of privilege? Surely not, if there are no other privileges than those enumerated. But it is a contempt, an insult; it is all

that, and more. But the Constitution and laws of the United States are silent on these subjects; and, although I will not say that we have no power to legislate on them, I do think that we cannot act on them without previous legislation. With a view to a better understanding of this subject, I have examined, with some care, the constitutions of the different States of the Union; and I find that, although the State Legislatures are said to have plenary power to represent their constituents completely, and to possess all powers not expressly denied them, that yet it has been thought better to define and limit their powers than to leave them in the breasts of those for whose more immediate and personal benefit they were to be exercised. Accordingly, the constitutions of New Hampshire, Massachusetts, Maryland, South Carolina, Ohio, Georgia, Tennessee, and Vermont, define the privileges of the respective Houses of their Legislatures in the same manner as is observed in the Constitution of the United States: while others of the States, where privilege is not defined, expressly give all powers necessary for a branch of the Legislature of a free and independent State. The Houses of the State Legislatures would not contend for other privileges than those expressly given, although it is generally true that they possess all powers not expressly denied. How, then, can this House, which has no powers but such as have been granted, contend for privileges not enumerated in the Constitution?

But, say gentlemen, this is a question not of privilege, but of contempt, of insult, of disrespect. Privileges are defined and limited, but we are the sole judges of our powers in regard to contempt. It would seem, then, from this view of the subject, that our powers, in respect of privilege, cannot be so extended as to embrace contempts and insults; but that here we stand on better grounds, for we can not only create the power, but judge of its extent. Thus, sir, are we weak and restricted where power is given; but, if it be not given at all, strong and irresistible.

The States, jealous of legislative bodies more responsible than the Senate and House of Representatives of the United States, have not left with their own immediate Legislatures unlimited and discretionary power in regard to contempts, insults, and other similar offences. They have not only said in what they shall consist, but how they shall be punished; and I can find no offence whatever, of this description, punishable by either branch of any State Legislature, unless it be committed in presence of the House. Thus it is provided by the constitutions I have before spoken of, that each House may punish any disrespect, by disorderly behaviour, in its presence, by imprisonment, not exceeding thirty days, in some of the States, and twenty-four hours, in others. But the powers of the State Legislatures would not reach the case before us, because, if it be a contempt or insult, it is not offered in presence of the House; and, if it be anything done not in its presence, or view, that the House



H. or R.

Case of Colonel Anderson.

JANUARY, 1818.

can punish, then it must be a breach of privilege; but privilege, is freedom from arrest and question, for observations made in the House, and nothing more.

Taking, then, into consideration the satisfactory views of the gentlemen who have preceded me, together with the provisions of the State constitutions, I am forced to conclude, that the House can punish no citizen for any act whatever, done or committed without their presence, unless it be a breach of privilege, or breach of a privilege given by the Constitution; and, further, that it can punish no contempt, insult, or outrage, that is not offered in its presence. The infamous proposition of Anderson is not a breach of a privilege; it is a contempt, an insult, an outrage, but it is not done in presence of the House, and is, unfortunately, punishable in neither case. The doctrine I contend for, however convenient and restrictive, is explicit and defined, and at the same time sufficiently broad to protect this House and its members in the free exercise of their rights. While, on the other hand, the principles of gentlemen, who contend for power to punish the act under consideration, are vague and unsatisfactory, unlimited and uncontrolled but by their own discretion.

Mr. TUCKER, of Virginia, said there was one thing at least in which he would most heartily concur with the gentleman from New York, who had offered these resolutions to the House; that the exercise of the power of committing for a contempt of this body, was of so embarrassing a character; and was, in some respects, so little consonant with the general principles to which we yield our assent, that it was desirable another mode should be adopted of punishing offences of so deep a dye, without bringing the offender for his trial and punishment before the body whose privileges had been infringed, and whose dignity had been insulted. It was for this reason that, on a former day, he had intimated an intention of submitting to the consideration of the House a resolution similar to one of those now under consideration, directing a bill to be reported for the punishment of the offence of bribing, or attempting to corrupt a member of Congress. It was for this reason also that, however heinous the offence of the party whose case was now before the House, he was, on the present occasion, disposed to manifest towards him the greatest moderation and forbearance. He was so averse to the exercise of a power to punish, where the offence and the punishment are so undefined, and where the tribunal which judges cannot fail to be animated with indignation against the offender, that he was inclined, on the present occasion, to dismiss the party, after the offence had been inquired into, without farther punishment than the reprimand of the Speaker; and to provide for any future case by the enactment of a law imposing penalties adequate to the offence.

But, while he was disposed to this course, he could not assent to the proposition of the gentleman from New York, which disavows any authority in this House to punish the offence, as a

contempt. It appeared to him essential that this power should exist in the House of Representatives, though it might be wise in them to relieve themselves for the future from the embarrassment of exercising the privilege themselves, by providing for its punishment by law. While he could not doubt of the Constitutional powers of the House on this occasion, he would ask gentlemen what would be our situation, if we were without such powers? What would be the effect of promulgating to the world that the House of Representatives was at all times to be approached with impunity by the vilest corruption? That bribes might be offered, without hazard, by the most infamous of mankind, and that the Constitution had left this body without the means of preserving pure the fountains of legislation, and of protecting itself from so vile a contamination! He should hesitate much before he should adopt a proposition which might lead to such dangerous results; and he should be diligent in examining the principles of the Constitution before he could give his assent to a doctrine which would sap the purity of this body, for the preservation of which that Constitution was so solicitous.

Nor was he disposed to coincide in the opinion of the gentleman from Virginia, (Mr. BARBOUR,) that, as it is at least doubtful whether we possess the power asserted, we should decline the exercise of it. He was not satisfied that there was a reasonable doubt of our powers. Ingenuity may throw obscurity and difficulty around every proposition. Nor did he perceive what part of the Constitution prescribed to us as a rule, to reject the exercise of every power where doubt could be thrown around it. On the contrary, in taking the solemn oath to support the Constitution, to which another gentleman had so emphatically alluded, he felt himself equally bound to preserve to the Federal Government, and to this body, their just powers, as to guard against encroachment on the rights of the States, or an extension of the powers of the Union. It was equally the duty of every member of this body to prevent the most vigorous and useful branches from being lopped off, as to array himself in opposition to every assertion of unconstitutional powers. Upon all occasions of this kind, however doubtful and embarrassed might be the question, it was the solemn duty of every member to examine it according to the best lights which Heaven has given him, and to pronounce fearlessly the result. It was this course he should endeavor to pursue in presenting a very few remarks on the Constitutional powers of this House.

There were, he observed, two kinds of powers granted by this Constitution: enumerated powers, and incidental or accessory powers; the first expressly specified in the Constitution, the latter falling under the general grant of all "necessary and proper powers," which terminates the enumeration of the powers conferred on the General Government. The latter, indeed, would have existed independent of that clause, since, according to the principles of common reason, when a power is given to do an act, a power of em-

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

ploying the means necessary to its execution is also given, by implication.

While, therefore, it is readily admitted, in relation to these two classes of powers, that the power now asserted is not expressly given, it is confidently alleged to be fairly incidental to the power of legislation; and it will be contended—That the power to punish bribery of a member of this House, is vested somewhere in the Federal Government; and, that this power of punishing belongs to the House of Representatives, independent of the other branches of Government.

That a legislative body should exist without any power to punish the offence of bribing its members, is a proposition which seems too monstrous to be alleged. Hence it is that gentlemen seem disposed to acknowledge a power in the Legislature to pass a law which shall prescribe a punishment for the offence, though they deny the power of this House to proceed to consider and treat it as a contempt. And where, let me ask, can gentlemen who are so technically accurate in the construction of the Constitution, discover that clause of the instrument which expressly grants the power to enact such a law? There is none. The boundaries of the Constitution cannot be laid down with mathematical precision, by the square and compass. They must be ascertained by the principles of sound reason and common sense, and by the exercise of a just discretion. While, therefore, we cannot discover the power even to legislate on this subject, in the express provision of the instrument, it is doubtless fairly incidental to the power of legislation. It is inconceivable that the convention which framed the Constitution should have intended the creation of a legislative body, which should be without the power of self-protection; without the right to assume to itself freedom from disturbance; without the means of securing order in its deliberations; and without the privilege of preserving itself entirely free from the influence of fear, or the corruptions of gold. Some of these incidents to legislation, gentlemen have been compelled to admit. In what a situation should we be, if our deliberations were to be affected by the hisses or the applause of the gallery; if an obnoxious member were to be put down by the threats or tumult of the audience, and a favorite speaker cheered on a favorite subject by shouts of approbation? Can gentlemen deny that we have power to prevent these things? The gentleman from Virginia appears to confine us, even under these circumstances, to the remedy of excluding those who are riotous. Within the walls alone have we power to act, and then only power to exclude—not to punish. Suppose, then, the rioter returns, or betakes himself to the street, and throws stones at your windows. He is without your doors. Have you no power over him? Have you not accessarily even those powers which every court of justice possesses, without the express provisions of law? If you have not, the situation of this body is deplorable indeed. If you have, where will you draw the line of

distinction? What is more important, even in the order and decorum of the House, than the preserving the mind of every member free from the suggestions of fear—the seductions of profit—the grovelling desire of gain—the influence of corruption? What shall we say if an attempt be made to control, by threats or by a challenge, the free and deliberate exercise of his judgment, by the representative of the people? Though the challenge be given without the walls, is not its effect to be felt within; and is it not this (and not the place where the act is done) which must be considered as determining the powers of Congress? The principle on which it can interfere in any case, is the right to prevent its deliberations from being disturbed; and whether this disturbance be produced by an act in the gallery, in the street, in the highway, or in the closet, the body must equally have the power to secure to itself the exercise of free will in the discharge of its legislative functions. And if these principles be correct—if they justify a right to punish occasional disorder, how much more important the privilege of preventing the inroads of corruption, at the same time so insidious and so fatal?

But the gentleman from Virginia, who has argued this question with his usual ability, relies very confidently on that clause of the Constitution which secures to members freedom from arrest; and from the expression of the privileges contained in this clause, he argues that no other privilege can be presumed to have been intended. But, in an instrument like this, in which so many instances occur of surplussage, and of the express grant of powers, which (though not expressed) would have followed as incidental, no fair argument can be deduced from the express mention of one privilege against the existence of others. To exemplify this position; the Constitution gives the power of "declaring war," and the power of "raising armies and creating navies." Might not the power of making rules for the government of the land and naval forces be fairly considered as incidental? Could it have been intended by the convention to confer the power of raising an army without the power of governing it? And yet we find that, though this power would have been fairly considered as accessory, yet it is inserted among the express or enumerated powers. Nor is this the only instance in the Constitution—they are frequent. They proceed from the imperfection of all human transactions, an imperfection from which, in these respects, our Constitution is not free.

It is not therefore fair to conclude that we have, as a body, no other privileges, even if some privileges be granted expressly by the Constitution. But there is, in truth, a distinction between the privileges of members and the privileges of the House. The first would have no existence but for the provision of the Constitution, the latter cannot but exist as an incident to legislation. The former are those which are specified in the clause referred to; the latter are more extensive in their character, and a breach of them



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

constitutes what is generally considered and designated a contempt.

Mr. T. said that if it had been sufficiently established that the power of punishing an attempt to bribe a member of this House is vested by the Constitution somewhere in the Federal Government, it would be not less easy to prove that the power must exist in this House independently of the other branches of the Government. In other words, however advisable it may be to provide by law for the punishment of the offence, this House may protect itself, even if there be no such law. For how do we deduce the power to pass a law? From the delegation of an express power? By no means; but from the necessity of its existence to enable the legislative body to perform its high and important functions, without the taint of corruption. If, then, this necessity gives the power at all, it equally requires the authority to exercise it to be vested in this House, independently of the Senate, and particularly of the Executive. For, if the House of Representatives can only be protected by the passage of a law, it must depend for its protection on the Senate at least, and perhaps on the Executive also. And what may not be the situation of this House if it is hereafter to depend for its privileges, and its protection from the influence of corruption, upon the Executive branch of the Government? It is that branch of the Government from which, according to the true theory of our free Constitution, the greater danger of corruption is to be feared. It is from that branch of the Government that the purity of the legislative body has been always most in danger, and by which it has been always most assailed. Gentlemen will not understand me as having the remotest allusion to the present Executive, for whom, under varying circumstances, whether popular or unpopular, I have always entertained respect. But we are told, and truly told, by the gentleman from Virginia, (Mr. BARBOUR,) that laws and constitutions are made for bad men, and have their deep foundations laid in the iniquity of our nature. When the days of purity and virtue shall have passed away, and an Executive Magistrate shall attempt to influence this House, or any of its members, by its corruptions, how deplorable will be the condition of this body, if it must depend upon such an Executive to give its assent to laws to preserve the House of the people from such pollution! What are the petty attempts of such a man as John Anderson to the dangerous and fatal influence and intrigues of a designing and artful Chief Magistrate, if such should ever fill the Presidential chair? Can it be on such an one that the convention could ever have intended we should depend for our protection from the assaults of violence, or the wiles of corruption? Can that convention, whose work contains so many evidences of jealousy of Executive power and influence, have intended that this body should look to its power to punish a crime, to that branch of the Government which the history of the world has taught us, is under a constant tempta-

tion to commit it? I think not, sir; and while I feel satisfied that the power to punish exists somewhere, the same train of reasoning, convinces me that that power exists here, independent of every other branch of the Government, if we choose so to exert it.

Mr. T. said there were other views of the subject which he had been desirous of presenting; and particularly some remarks in reply to the latter part of the argument of the gentleman from Virginia, (Mr. BARBOUR,) who seemed to have conceded, by some of his positions, what he had so strenuously opposed in the commencement of his observations. But he should forbear to detain the House any longer, as other gentlemen were probably desirous of offering their views of the subject.

Mr. MERCER rose immediately after Mr. TUCKER, and addressed the House in substance as follows:

If the honorable gentleman who had just sat down felt it necessary to terminate his argument abruptly, rather than consume the time of the House, much more does it become me, sir, at this late hour of the day, to apologize for detaining you one moment longer.

Nor should I offer any observations on the subject of the present debate, if I were not inclined to sustain the authority of the House upon grounds somewhat different from those who have preceded me.

The resolutions on your table, Mr. Speaker, involve the decision of three distinct propositions. Has this House the power to punish contempt? Is the act charged upon the prisoner a contempt? Have the proceedings of the House been such as to warrant his further prosecution?

Does this House derive from the Constitution the power of punishing a contempt? My honorable colleague, who just preceded me, in a spirit of accommodation, I have no doubt, has proposed to introduce a bill to punish by law an attempt to bribe a member of Congress. If the power of punishing such an act is comprehended among the privileges of this House, the wisdom of any such law may well be questioned. Were the contemplated law restricted to a description of that particular species of contempt to which our consideration is now turned, it would not lead to the inference that this House recognised no other. And if, to obviate this difficulty, a complete enumeration were attempted of every possible insult to the privileges, rights, and dignity of this House, the proposed law would be swelled to the size of the largest volume on your table. It may also be doubted whether a right which this House does not derive from the Constitution can be created or protected by an act of ordinary legislation. Those gentlemen who are desirous for a law to define the privileges of this House and to provide for punishing the contempt of them, admit their existence, as well as the power of this House to punish their violation, by the mode of reasoning which they have adopted.

Before I inquire into the origin of this power, allow me to disavow every feeling which could

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

militate against the most deliberate and impartial exercise of my judgment. I cannot but deplore the unhappy situation of the prisoner, whose head is bleached by the snows of many winters, and who, if really guilty of the atrocious act imputed to him, is an object of still greater commiseration, as his turpitude is without the extenuation of youth or inexperience.

Sir, said Mr. M., I never beheld a criminal arraigned at the bar of justice without this feeling, nor have I found it difficult to obey the legal injunction to believe the innocence of the accused until he has been heard in his defence and judicially convicted. This maxim of christian charity is comprehended in that admirable system of practical wisdom which has been repeatedly referred to in this discussion; a system matured by the experience of ages, adopted by the universal assent of the people of the United States, and denominated the common law.

It is to this system that I resort for the authority of this House to punish a contempt; to define the act to be punished; to determine the mode of proceeding against the accused; and, if guilty, to ascertain the quality, and measure the extent of his punishment.

And I do so, not because the common law confers these powers on this House, but because it defines that written Constitution from which we derive them.

Sir, there is not an entire article, not a solitary section, scarcely a line of that instrument, which can be correctly understood, or practically enforced, without a recurrence to this law.

If you desire to know the import of an English word, you turn to the lexicographer of England; for a phrase of statutory law you consult the statute which contains it, and the precedents by which it has been expounded. The terms of the common law must be also defined by a recurrence to the law itself, comprised in the treatises and illustrated by the history of the nation from whom we derive it.

The Constitution not only uses the terms and phrases of this law, but expressly recognises its existence. The seventh article of the amendments provides, that "in suits at common law, when the value of the controversy shall exceed twenty dollars, the right of trial by jury shall be preserved: and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law;" of that law which gentlemen have asserted to have no existence under this Government, and against which the honorable member from New York would inspire us with apprehension and alarm.

That honorable member, in his late impressive address, admitted that the two Houses of the British Parliament possess the power of punishing contempts; that the *Lex Parliamentaria*, or usages of Parliament, is a part of the common law, although he denies a similar authority to the House of Representatives and Senate, the two branches of the Congress of the United States.

Universal consent has applied the maxims of this law to the protection of all our State and Federal courts, and why should it be denied to this House? What are we, said Mr. M., and how acting at this moment? As a court, of which you, sir, are the presiding and we the associate judges. The original of the British Parliament, the ancient Wittenagemotte, was a court, and one of its branches is the highest judicial tribunal in England. Both Houses of Congress have powers strictly judicial in their nature and application. If a Federal or State court, consisting of a single judge, is invested, by common-law construction, with authority to punish contempts of its authority and dignity, this assembly of judges may constitutionally exercise the same authority. That Constitution which confers on the representatives of the nation the power of legislation, and denominates this body a House of Representatives, clothes it with the common-law attributes appertaining to its office and its title.

Sir, said Mr. M., why this indignation against the common law? Our forefathers defended it, in the Old World, against Norman invasion, ecclesiastical fraud, and royal encroachment. They brought it hither; they planted it; and we have flourished beneath its shelter.

The common law! Had I the tongue of Henry, I would portray to you its excellence. He who implored the Convention of Virginia to reject this Constitution because it did not expressly adopt this law in all its maxims, the most eloquent champion that American liberty ever drew to her support, regarded this Constitution, which he had not tried, with suspicion, and the law under which he had lived with confidence and affection.

The doctrine which I advance, in relation to this Constitutional question, is congenial with the purest American feeling. The common law is that of the land which gave me birth. It is the law of every State of this widely extended Union. On its broad and solid basis rest the free constitutions of these States, as well as that noble structure which is committed to our care.

Sir, this law was not that of my remote progenitors. Erin's green turf, and the brown heath of Caledonia, although my eye never beheld them, are, I acknowledge, dear to my heart. This feeling is not inexplicable. Who is so base as to hear an insinuation against his father's name and not feel the life-blood mount to his cheek? Sir, this feeling binds us, not only to our ancestors, but to the land which gave them birth; it flows from the same fountain with that stronger sentiment which binds us to our own natal soil. It is not at war with the impulse of general benevolence, or callous to the merits of other nations. I can turn my eye across that channel along which my fancy has just conducted me, and exclaim in the language of the sweetest bard of Ireland—

"Gay, sprightly land of social mirth and ease,  
Pleased with thyself, whom all the world can please!"



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

How altered is this scene! Sir, the tear of pity start from every eye at the sufferings of a misguided, much oppressed, but gallant nation.

Do we look for the monuments of our own glory no farther back than the glorious era of 1776? Are we ashamed of the achievements of our British ancestors, that we have begun to condemn their laws? Who can speak or think of freedom without recollecting the names, of Locke, Hampden, and of Sydney?

Sir, I beg pardon for this digression. It was forced from me by the cloud which I thought I gathered on the brow of the House when referred to the common law as the expositor of the American Constitution.

The colonists of Great Britain brought their laws with them to America. Their new lot was not without difficulties and dangers. The savage lurked in his covert. The forest was to be opened to the light of cultivation. It was not a time, it is to sit down in order to deliberate and to change their laws. Had they possessed the leisure, they had not the inclination, to innovate upon the established customs and usages of their fathers. Those emigrants who united with them, from other countries, took the laws as they found them, and, if so inclined, they had not the power to change them.

These laws, and the habits of thinking, from which they sprung, and on which the laws themselves reacted, were incorporated with every political institution which they founded. The Parliament of England, and the courts of Westminster, were the models of their legislative assemblies, and of their judicial tribunals. Their constitution, their powers, their forms of proceeding, and their rules of decision, were sometimes prescribed by their laws, but generally left to implication, from the great fountain of practical wisdom—the common law of England.

I appeal to my colleagues, if this constitution had been formed contemporaneously with that of Virginia, would not the same power to punish contempts attach to the House of Representatives and Senate of the United States, as unquestionably belongs to the corresponding branches of the General Assembly, the House of Delegates and Senate of Virginia? From the form of the Speaker's chair to the power of expelling a member, the character and authority of the House of Delegates is derived, without any express Constitutional provision, from the House of Commons, the archetype of the popular branch of every State Legislature, as it is of this House.

The force of the argument which this analogy furnishes, is not impaired by the consideration that the Federal Constitution is of more recent structure. It is the act of the people of the United States, as itself proclaims; and, referring expressly to the common law, in one of its articles, intelligible throughout, except by the aid of that law, we have a right to resort to its maxims in the present inquiry. If this power is essential to the House of Commons, so it must be presumed that the people of these States regarded it to be,

and so must we consider it in relation to the two Houses of this Legislature.

It has been urged that many extravagant doctrines would arise from this source of constructive authority. Where, it is asked, shall this House stop in its use? The Revolution of 1776 answers this question. It necessarily lopped off the regal and aristocratical branches of this law. This limitation of the common law relieves the rule of construction, for which I contend, from all that could alarm our fears. It is founded, I am inclined to believe, in judicial decisions throughout the United States. By the unanimous judgment of the General Court, the highest criminal tribunal of Virginia, the principle has been extended so far, as to authorize a defendant, indicted for a libel at common law, to give the truth in evidence. This House derives, therefore, from the common law, no privileges which it ought not to possess.

One of my colleagues has contended that all the privileges of this House are expressly enumerated by the sixth section of the first article of the Constitution, and restricted to exemption from arrest, in certain specified cases; and from responsibility elsewhere for any speech or debate in the House. And hence, with great apparent plausibility, he infers that the House possesses no other privilege, and has authority to punish no other contempts, except such as are committed in violation of these. I answer to this argument, it has already been contended by the honorable member who last addressed the House, that this clause of the Constitution may be justly regarded as the result of that extreme caution which induced the convention to insert in it what might otherwise have been inferred; a caution which is discernable in other parts of this instrument. To the illustration which he has furnished, many others may be added; as, for example, the very first article of the amendments. The greater part of these are designed to serve the purpose of a bill of rights, for which so many opponents of the Constitution had most zealously contended. It cannot be presumed that if this amendment had not been made a part of the Constitution, Congress would have prohibited the free exercise of religion, have abridged the freedom of speech, or obstructed the right of the people peaceably to assemble and to petition for a redress of grievances. I am, however, led involuntarily to another explanation of the expediency of expressly incorporating in the Constitution the two privileges to which my colleague has referred; an explanation, which is in strict harmony with all the views that I have taken of the general power of this House to punish contempts of its privileges. Every other privilege of this House, except those which are enumerated, will be found to be consistent with the obvious and equal rights of the people. The enumerated privileges are limitations of those rights, and, but for the express grant of them by the people, it might have been doubted whether the character of our republican institutions did not forbid their exercise. In fine, these enumerated privileges protect the

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

members of this House, against the common and dearest rights of the citizen—the rights of property and reputation. The privileges for which I contend would protect the House from their injuries, from fraud, violence, and injustice.

It cannot be justly inferred, therefore, that the enumeration of these privileges excludes the Constitutional exercise of all others. The Constitution which had sought to enumerate these, must have been satisfied with general terms of vague signification, or proceeded to an enumeration of particulars, which no Constitution ever did attempt to embrace. If it is admitted, and it seems to be generally conceded, that the House has power to punish contempts committed against its peace and dignity within this hall; then the object of the supposed enumeration totally fails, and with it this pretended limitation to the authority of the House, to punish contempts wherever they may be committed.

I will not unnecessarily consume the time of the House, in attempting to prove that an attempt to corrupt one of its members, while engaged in the discharge of his duties, is a contempt of its authority and dignity. The honorable member from Georgia, in an early stage of this debate, and the gentlemen who have since followed him, have completely occupied this ground; nor has it been contended by any of our opponents, that such would not be a contempt of the House of Commons. I hasten, therefore, to inquire, whether this House has proceeded legally in the arrest of the prisoner?

The honorable member from New Hampshire will, on examination, perceive that the warrant for the arrest is not, as he contended, a general warrant. It describes the prisoner by name. But it has been urged, with more apparent force, that it is unsustained by any oath or affirmation, and therefore is in violation of the fourth article of the amendments to the Constitution, which provides that no warrant shall issue but upon probable cause, supported by such evidence. The Constitution certainly supposes the judge who issues the warrant, not to be himself personally cognizant of the fact on which it is grounded. He may issue a warrant on "probable cause, supported by oath." It is certain, conviction of the truth of the fact must supersede the necessity of any oath, to say nothing of the absurdity to which such a doctrine might lead. A judge is assaulted and beat as he enters the court in which he is about to sit alone; will it be contended that he shall first make oath of the fact, and then issue his warrant for the apprehension of the offender? In this case the witness is a member of the House by whom the warrant is issued—a judge, in whose presence the alleged fact occurred. The warrant itself is issued on the signature of the Speaker, but by the order of the House, whose act it is, and therefore the act also of the member on whose information the warrant was issued.

Before I close my remarks, I cannot forbear noticing an observation of the honorable mover of the resolutions on your table, upon the precedents which have been so aptly and forcibly ad-

duced, to sustain the authority of the House to punish the particular contempt which has given rise to this debate.

It has been contended, sir, that precedents are dangerous to liberty; that they favor the inroads of power upon the rights of the people. Such, I must confess, sir, is not my doctrine. It has been correctly said, by a profound judge and an able civilian, that the multiplicity of laws constitutes the security of the citizen. So, sir, does the multitude of precedents which, sanctioned by usage, operate with the force of law.

Precedents established in good times, stay, in disastrous days, the rage of faction, and the hand of tyranny—a Pharos erected on the margin of a stormy sea, by the light of which the mariner may anchor or steer his bark in safety.

The case of Randall, in 1796, to which the honorable member from Georgia called the attention of the House, forcibly as he has used it, was entitled to yet higher respect, from a consideration which had not occurred to him. The honorable member stated that it had arisen before the formation of parties in our public councils. He has certainly mistaken the history of the day. I was then but a boy, and am perhaps older than the honorable member. I may be allowed to remind him of facts which had an important bearing in support of this precedent. Does the honorable member recollect nothing of the controversy of the assumption of the State debts, the first Bank of the United States, the ratification of the British Treaty; nothing of the attempt to impeach Alexander Hamilton; nothing of those angry passions which in those days shook the Administration of WASHINGTON to its foundation? [Mr. FORSYTH explained. He referred, he said, to the division of the parties by their present names.]

Mr. M. proceeded: A member whispers to me, that they were called Federalists and anti-Federalists. This denomination, sir, was applied at an earlier day than that of which I now speak. The title of Democrats succeeded to that of anti-Federalists, and Republicans to this again. Yes, said Mr. M., the Federalists suffered themselves to be outwitted in yielding the popular title to their opponents—a prominent cause, I have no doubt, of their ultimate discomfiture.

I have not called the attention of the House to this topic, in order to revive unpleasant recollections, but for a more legitimate and useful purpose. Even in the times of party dissension and political animosity, 78 members voted in support of that authority of this House, which is now questioned, and 17 only against it; while the majority were equally divided between the two rival parties.

A precedent entitled to higher confidence could not be adduced. It is a precedent, too, directly in point; establishing not only the general authority of the House to punish contempts, but a contempt of the same species with that which has occasioned this debate.

Mr. ROBERTSON supported the resolutions.

Mr. ERVIN, of South Carolina, next rose. He said, after erudition had produced all its learning



and eloquence to embellish the subject before the House, he rose to address it with considerable embarrassment; and his diffidence was increased by immediately succeeding an honorable gentleman (Mr. MERCER) who had given so great a display of talent. I am incapable of following him, said Mr. E., into the beautiful fields of imagination, where reason loses her powers of connection, and where judgment must yield the sceptre of decision. It is alone the prerogative of genius to riot in the luxuries of fancy, and not only to investigate, but irradiate, all subjects presented to it for discussion. The task which I shall assign myself is more humble. I shall, in the cold and uninteresting terms of technical phraseology, endeavor to convince this honorable body that the resolutions ought to be adopted, and that it possesses no power to punish, unless in pursuance of some provision of law or constitution; and there being none, the defendant ought to be discharged. I shall vote his discharge with considerable reluctance. The insult he has offered to this honorable body is without palliation or excuse. We heard, said Mr. E., that in the war his services were beneficial to his country. Our judgment, tempered with the honorable feelings of patriotism, passed a part of his accounts by a flattering majority. Not satisfied, he yet dared to insult the integrity of this House through the medium of the honorable chairman of the Committee of Claims, with the offer of a bribe.

The common law has been appealed to as the source from whence this House derives its power to punish in case of a breach of privilege. As a standard of construction, I admit the propriety of the appeal to enable us to ascertain the meaning of technical terms, derived from the common law, and which have been ingrafted into our Constitution. But as a rule of our conduct, and obligatory on our present decision, I deny the correctness of the application. For it must be recollected that the common law, which I admit is the wisdom of ages, is merely the municipal regulation of a foreign Power; and until it is made of force by the Constitution, which forms our rule of conduct, ought not to govern us.

I beg leave now, sir, to call your attention to what I conceive to be the privileges of the House, and the powers of the House to punish for a breach of those privileges. The first great power which it possesses is an inherent power of self-defence, analogous to the fundamental natural right which every man possesses of defending himself. It is in both cases merely defensive. The natural right results from man's relative situation in this state of existence. The duties which he owes to his God, his neighbor, and himself, beget rather let me say, impose on him this power; nay, the obligation of self-defence is necessary to a complete discharge of those great duties. In like manner, every article in your Constitution which confides a trust or imposes an obligation to perform for the good of the people acts of legislation, creates and gives this power to enable you to perform those acts, and

discharge, with due faith, the high trust which has been confided to you; and as, in the exercise of the natural right, a man is justified to make use of any force necessary to repel a personal injury, so, likewise, in the exercise of your inherent power, this House is justified to prevent or remove any annoyance within or without the walls of this House, which would tend to disturb its deliberations, or prevent it from the due performance of any of its duties. But, sir, you would not in either case be justified to make use of any force or restraint by way of punishment; for, in the case of the natural right, the use of any force, other than that which is necessary to overcome the offending force, would constitute an act of aggression. So, the exercise of force by the House, in the way of punishment, would not be justified by the inherent power, it being merely defensive. The exemption from arrest, and the privilege of not being questioned in any other place for any speech or debate in either House, constitute more of your privileges; for, although they tend to promote the immediate benefit of members in their individual capacity, they are yet the privileges of the House; and the House can, in both cases, punish any member who should waive his privilege without their consent.

These, sir, are, in my estimation, the legitimate and Constitutional privileges of Congress; and yet, sir, for the want of legal provision, they may with impunity be trampled on and set at defiance, not only by the defendant at your bar, but by any man in this great community. Is it correct, sir, to say that this inherent right extends beyond the limits which I have assigned it? That, by virtue of our election, we are politically amalgamated, and that the reception of an insult on the shores of the Atlantic would tremble along the sympathetic line, and agonize your feelings beyond the mountains? No, sir; I contend that out of the boundaries of this District we have no protection, no privilege, except those granted by the first article of the sixth section of the Constitution, other than the protection of other great and good men—that of virtue, and the privilege of convicting falsehood with truth, and confounding guilt by innocence. Mr. Speaker, behold the delicacy of our situation! A man arraigned at your bar for a most atrocious insult, and yet we have not the power to punish him. Although armed with plenary sovereignty, and the exclusive powers of legislation in all cases whatever in this District; although invested with authority to make all laws which may be necessary and proper to carry into execution all our powers, and to punish the breach of any of our privileges, yet we suffer these powers to slumber in criminal repose. As we pass along the streets, scorn may point the finger of contempt at us, defamations may teem from the press, arraigning the correctness of our conduct, and impeaching the purity of our intentions; nay, impudence and insolence may beard us at the very threshold of the great council of the nation, and without the provisions of law we cannot punish. Much has

been said, sir, about State Legislatures, the judges of the United States, and State judges, possessing the power of punishing for contempt. I can speak with confidence in relation to this power in the State which I have the honor of representing. There, the Legislature, the judges, and even the justices of the peace, possess this power, not by arbitrary assumption, but by the provisions of the constitution and the principles of the common law, made of force in that State by an act of the colonial government, and which act is recognised and continued in force by a provision in the constitution of that State. In relation to the judges of the courts of the United States, we all know that they derive their power from an act of Congress which recognises the principles of the common law. And I think, upon inquiry, it will be ascertained that the Legislatures and judges of the several States possess this power by some provision in their laws or constitutions. Numerous precedents have been appealed to. I shall not suffer my mind, sir, to be governed, nay, influenced, by any precedents which, in my judgment, sanction error. It is, moreover, contended that, admitting there is no express provision in the Constitution which gives, without the aid of legislation, a power to punish in case of a breach of privilege, yet that this House, on account of the difficulty of annexing a punishment adequate to every breach of privilege, does possess a discretionary power *ex necessitate rei*. Mr. Speaker, it is no compliment to say that I would as lief trust this dangerous power in the possession of this honorable body as in any other known to our institutions; for in every case in which corruption has dared to approach you with its impurity, or raise its detestable glance to the elevation of your virtues, you have uniformly repelled it with indignant contempt. But, sir, I am unwilling to trust this power with any man or body of men. The time may come when our political virtue may have passed away; when corruption may have sapped the foundation of our boasted institutions; when the independence of this House may be lost, and seen bowing, with sycophantic smiles, at the shrine of Executive favor; nay, sir, when the very exertion of the physical force of the people will but operate to their own destruction. It is on these accounts that I wish all our proceedings may be sanctioned by law and Constitution. I feel a desire that gentlemen who advocate this power would pause a moment, and analyze its character. It is plenary sovereignty, armed with powers legislative, judicial, and executive. It is a power capable of passing laws *ex post facto*; of declaring that act criminal, *ex re nata*, which before was innocent. It is a power unknown and undefined, which lies dormant until, in a moment of angry feeling, it proclaims its laws, which are carried into execution by infuriated justice. Odiious tyranny! Most frightful despotism! More terrible than the laws of Caligula, or the rescript of the Roman Emperors.

Mr. Speaker, at the pedestal of your seat I swore that I would defend the Constitution of

my country. I will defend it, sir. But I sit here in a two-fold capacity—not only to defend the Constitution, but to protect the rights of the people; and as long as I have the honor of a seat on this floor, I will never sit in silence, and see their rights illegally invaded. In legal contemplation, the poorest man lies intrenched behind the rampart of laws; nay, clothed in the garb of plebeian humility, sits enthroned on the altar of liberty; and the power which can, without law, drag him from this sanctuary to punishment, destroys all idea of criminality, and makes him a sacrifice.

I tender my grateful acknowledgments to this House for the attention with which it has honored me.

When Mr. ERVIN concluded, on motion of Mr. HOLMES of Massachusetts, the House adjourned at past 4 o'clock, without having come to any decision on the question before them.

#### SATURDAY, January 10.

The SPEAKER laid before the House a letter, directed to the Congress of the United States, from a certain Carl Theodore Mohr, residing in Wollendorf, Germany, offering to come to America upon certain conditions, and to establish a manufactory of porcelain; which was ordered to lie on the table.

On motion of Mr. SERGEANT, the Committee of Ways and Means were instructed to inquire into the expediency of allowing a drawback upon refined sugar exported from the United States.

#### AMELIA ISLAND.

Mr. MIDDLETON, from the committee on so much of the Message of the President of the United States as relates to the illicit introduction of slaves from Amelia Island into the United States, made the following report:

The committee to whom was referred so much of the President's Message as relates to the illicit introduction of slaves from Amelia Island, having carefully taken the matter committed to them into consideration, respectfully report:

That having applied to the Department of State for information respecting the illicit introduction of slaves into the United States, they were referred by the Secretary of State to the documents transmitted to this House by the President's Message of the 15th December last, consisting of various extracts of papers on the files of the Departments of State, of the Treasury, and of the Navy, relative to the proceedings of certain persons who took possession of Amelia Island in the Summer of the past year, and also relative to a similar establishment previously made at Galveston near the mouth of the river Trinity.

Upon a full investigation of these papers, with a view to the subject committed to them, your committee are of opinion, that it is but too notorious, that numerous infractions of the law prohibiting the importation of slaves into the United States have been perpetrated with impunity upon our Southern frontier; and they are further of opinion, that similar infractions would have been repeated with increasing activity, without the timely interposition of the naval force under direction of the Executive of our Government. In the



H. OF R.

Amelia Island.

JANUARY, 1818.

course of the investigation, your committee have found it difficult to keep separate the special matter given to their charge, from topics of a more general nature, which are necessarily interwoven therewith; they therefore crave the indulgence of the House, while they present some general views, connected with the subject, which have developed themselves in the prosecution of their inquiry.

It would appear from what had been collected from these papers, that numerous violations of our laws have been lately committed by a combination of freebooters and smugglers of various nations, who located themselves in the first instance upon an uninhabited spot near the mouth of the river Trinity, within the jurisdictional limits of the United States, as claimed in virtue of the treaty of cession of Louisiana by France. This association of persons organized a system of plunder upon the high seas, directed chiefly against Spanish property, which consisted frequently of slaves from the coast of Africa; but their conduct appears not always to have been regulated by a strict regard to the national character of vessels falling into their hands, when specie or other very valuable articles formed part of the cargo. Their vessels generally sailed under a pretended Mexican flag, although it does not appear that the establishment of Galveston was sanctioned by or connected with any Government. The presumption, too, of any authority ever having been given for such an establishment, is strongly repelled as well by its piratical character, as by its itinerant nature; for the first position, at Galveston, was abandoned on or about the 5th of April last, for one near Matagorda, upon the Spanish territory; and at a later period this last was abandoned and a transfer made to Amelia Island, in East Florida; a post which had been previously seized by persons, who appear to have been equally unauthorized, and who were, at the time of the said transfer, upon the point, it is believed, of abandoning their enterprise, from the failure of resources, which they expected to have drawn from within our limits, in defiance of our laws. There exists, on the part of these sea-rovers, an organized system of daring enterprise, supported by force of arms; and it is only by a correspondent system of coercion that they can be met and constrained to respect the rights of property and the laws of nations. It is deeply to be regretted that practices of such a character, within our immediate neighborhood, and even within our jurisdictional limits, should have prevailed unchecked for so long a time; more especially, as one of their immediate consequences was to give occasion to the illicit introduction of slaves from the coast of Africa into these United States, and thus to revive a traffic repugnant to humanity and to all sound principles of policy, as well as severely punishable by the laws of the land.

By the 7th section of the act prohibiting the importation of slaves, passed in 1807, the President is fully authorized to employ the naval force to cruise on any part of the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of that act, in order to seize and bring in for condemnation all vessels contravening its provisions, to be proceeded against according to law.

By the joint resolution of the Senate and House of Representatives of 15th January, 1811, and the act of the same date, the President is fully empowered to occupy any part or the whole of the territory lying east of the river Perdido, and south of the State of Georgia, in the event of an attempt to occupy the said territory,

or any part thereof by any foreign Government or Power; and, by the same resolution and act, he may employ any part of the Army and Navy of the United States, which he may deem necessary, for the purpose of taking possession and occupying the territory aforesaid, and in order to maintain therein the authority of the United States.

Among the avowed projects of the persons who have occupied Amelia Island, was that of making the conquest of East and West Florida, professedly for the purpose of establishing there an independent government; and the vacant lands in those provinces have been, from the origin of this undertaking down to the latest period, held out as lures to the cupidity of adventurers, and as resources for defraying the expenses of the expedition. The greater part of West Florida being in the actual possession of the United States, this project involved in it designs of direct hostility against them; and as the express object of the resolution and act of 15th January, 1811, was to authorize the President to prevent the province of East Florida from passing into the hands of any foreign Power, it became the obvious duty of the President to exercise the authority vested in him by that law. It does not appear that among these itinerant establishments of republics, and distributors of Florida lands, there is a single individual inhabitant of the country where the republic was to be constituted, and whose lands were to be thus bestowed; the project was, therefore, an attempt to occupy that territory by a foreign Power. Where the profession is in such direct opposition to the fact; where the venerable forms, by which a free people constitute a frame of government for themselves, are prostituted by a horde of foreign freebooters for purposes of plunder; if, under color of authority from any of the provinces contending for their independence, the Floridas, or either of them, had been permitted to pass into the hands of such a Power, the committee are persuaded it is quite unnecessary to point out to the discernment of the House the pernicious influence which such a destiny of the territories in question must have had upon the security, tranquillity, and commerce of this nation.

It is a matter of public notoriety, that two of the persons who have successively held the command at Amelia Island, whether authorized themselves by any Government or not, have issued commissions for privateers, as in the name of the Venezuelan and Mexican Governments, to vessels fitted out in the ports of the United States, and chiefly manned and officered by our own countrymen, for the purpose of capturing the property of nations with which the United States are at peace. One of the objects of the occupation of Amelia Island, it appears, was to possess a convenient resort for privateers of this description, equally reprobated by the laws of nations, which recognise them only under the denomination of pirates, and by several of the treaties of the United States with different European Powers, which expressly denominate them as such.\* It was against the subjects of Spain, one of the Powers with which the United States have entered

\* See the Treaty of Peace with France, 1778, art. 21st, United States Laws, vol. 1, p. 88; with the Netherlands, 1782, art. 19, vol. 1, p. 162; with Sweden, 1783, art. 23, vol. 1, p. 190; with Great Britain, 1794, art. 21, vol. 1, p. 218; with Prussia, 1785, art. 20, vol. 1, p. 238, and 1797, art. 20, p. 256; with Spain, 1795, art. 14, vol. 1, p. 270.

JANUARY 1818.

Case of Colonel Anderson.

H. OF R.

into stipulations prohibiting their citizens from taking any commission from any Power with which she may be at war for arming any ships to act as privateers, that these vessels have been commissioned to cruise; though, as the committee have observed, no flag, not even that of our own country, has proved a protection from them. The immediate tendency of suffering such armaments, in defence of our laws, would have been to embroil the United States with all the nations whose commerce with our country was suffering under these depredations; and, if not checked by all the means in the power of the Government, would have authorized claims from the subjects of foreign Governments for indemnities, at the expense of this nation, for captures by our people, in vessels fitted out in our ports, and, as could not fail of being alleged, countenanced by the very neglect of the necessary means for suppressing them. The possession of Amelia Island as a port of refuge for such privateers, and of illicit traffic in the United States of their prizes, which were frequently, as before stated, slave ships from Africa, was a powerful encouragement and temptation to multiply these violations of our laws, and made it the duty of the Government to use all the means in its power to restore the security of our own commerce, and of that of friendly nations upon our coasts, which could in no other way more effectually be done than by taking from this piratical and smuggling combination their place of refuge.

In order, therefore, to give full effect to the intentions of the Legislature, and in pursuance of the provisions of the above recited resolution and acts, it became necessary (as it appears to your committee) to suppress all establishments of the hostile nature of those above described, made in our vicinity, the objects of which appear to have been the occupation of the Floridas, the spoliation of peaceful commerce upon and near our coasts by piratical privateers, the clandestine importation of goods, and the illicit introduction of slaves within our limits. Such establishments, if suffered to subsist and strengthen, would probably have rendered nugatory all provisions made by law for the exclusion of prohibited persons. The course pursued on this occasion will strongly mark the feelings and intentions of our Government upon the great question of the slave trade, which is so justly considered by most civilized nations as repugnant to justice and humanity, and which, in our particular case, is not less so to all the dictates of a sound policy.

Your committee anticipate beneficial results from the adoption of these measures by the Executive, in the promotion of the security of our Southern frontier and its neighboring seas, and in the diminution of the evasions, latterly so frequent, of our revenue and prohibitory laws. The experience of ten years has, however, evinced the necessity of some new regulations being adopted in order effectually to put a stop to the farther introduction of slaves into the United States. In the act of Congress prohibiting this importation, the policy of giving the whole forfeiture of vessel and goods to the United States, and no part thereof to the informer, may justly be doubted. This is an oversight which should be remedied. The act does indeed give a part of the personal penalties to the informer, but these penalties are generally only nominal. As the persons engaged in such traffic are usually poor, the omission of the States to pass acts to meet the act of Congress, and to establish regulations in aid of the same, can only be remedied by Congress legislating

directly on the subject themselves, as it is clearly within the scope of their Constitutional powers to do.

For these purposes your committee beg leave respectfully herewith to report a bill.

Mr. MIDDLETON then reported a bill in addition to the former acts prohibiting the introduction of slaves into the United States; and the bill was twice read, and committed.

The report was not read, but ordered to be printed.

#### COLONEL ANDERSON'S CASE.

The SPEAKER laid before the House the following letter and enclosure, yesterday received by him from John Anderson:

JANUARY 9, 1818.

SIR: Unwilling to be deprived, by any circumstances whatever, of an opportunity to explain to the honorable House of Representatives the motives which have actuated my recent conduct, I beg leave to announce my wish to waive, with that object, any Constitutional or other question which may have arisen.

I enclose a letter which I had the honor this morning to prepare for the consideration of the House.

I am, sir, with profound respect,

JOHN ANDERSON.

Hon. HENRY CLAY,

Speaker of the House of Reps.

WASHINGTON, Jan. 9, 1818.

SIR: Considering the honorable body before whose bar I am shortly to appear as the guardian of those rights which, as a citizen, I possess, and relying upon the generous feelings of its members, I have been induced to forego the privilege extended to me of employing counsel, lest it might be supposed that I was inclined to shelter myself by legal exceptions. As the novelty of my situation may, however, tend to surround me with embarrassment, it is my wish, should the rule of proceeding adopted by the House not oppose the course, that such questions as I have reduced to writing, be propounded to the respective witnesses by the Clerk, and that he should read the explanation and apology which I have to make.

JOHN ANDERSON.

Hon. HENRY CLAY,

Speaker of the House of Reps.

The letter having been read—

Mr. FORSYTH rose to move that these resolutions be laid on the table. We owe it, said Mr. F., to our own dignity, to the dignity of the members of this House, that the investigation of the offence of John Anderson should proceed. The inquiry which has arisen into the extent of the privileges and powers of the House may be resumed afterwards, and decided. But let us see, said he, what will be the consequence of our proceeding in the present course, and being diverted by this inquiry from the examination of the accused. A person offers a bribe to a member of this House, the House orders the offender into custody—the letter of the accused, which is the foundation and the evidence of the charge, refers to certain officers of the Government, and members of this House, as prepared to support the claims to which he alludes. Instead of calling this person before us, and seeing how far we can substantiate the charge, the proceeding is stopped, by the reso-



H. of R.

Case of Colonel Anderson.

JANUARY, 1818.

tions before us, and the protracted debate which follows. May not this course, said Mr. F., put a strange construction on the matter? Malicious persons may say, and there are many such, it is the intention of the House to stifle a dangerous inquiry, not to settle an important Constitutional question. To avoid any possibility of such an imputation, let us, said Mr. F., suspend the consideration of these resolutions, and proceed in the examination of the accused.

Mr. PITKIN observed, that the object of the resolutions was, to turn the accused over to the Executive officers; if they pass, the United States Attorney would be directed to prosecute him. But why not, before this, said Mr. P., bring the accused before us, and hear his explanation on the subject? An additional reason for this course, Mr. P. thought, was the request of the accused to come before the House. After examining and hearing him, Mr. P. said, the House could decide whether they ought to pass the resolutions, and turn him over to another tribunal.

Mr. SPENCER said, the remarks of Mr. PITKIN applied only to the second resolution, and not to the first; and he hoped the motion would not be agreed to. He did not, he said, possess such a feeling of dignity as to do, or persevere in anything which he thought improper; and in the conscientious discharge of his duty he should never look beyond the walls of the House for his motives. In this case, however, said he, malice itself could not impeach the motives of the House; for a proposition to direct the officers of the United States to proceed against the accused, could not, by any ingenuity, be construed into a disposition to stifle the inquiry. He therefore hoped the House would proceed and determine the abstract principle, without any reference to the merits of the case, and without considering whether John Anderson can make an acceptable apology or not.

Mr. HARRISON was in favor of laying the resolutions on the table, and proceeding immediately to the examination of the accused. It was not to be supposed that, because he was one of those referred to by John Anderson, as willing to support his claims, that he felt the slightest wish to avoid an examination of that individual. Mr. H. said, so far from disclaiming a readiness to support the claims of which Anderson is the agent, he felt bound in the strongest manner to aid them. Independently of a conviction of their justice, Mr. H. said, those claims came from a people and a Territory for which he felt a peculiar interest. He was therefore unconscious of any appearance of impropriety in being included among those whom the accused named as disposed to aid in his suit before the House.

Mr. FORSYTH replied to Mr. SPENCER, that all must know the extent of human malignity. Every one acquainted with our political history must, he said, be sensible how far the motives and the conduct of this House may be questioned and misrepresented; and he knew that the ingenuity of malice was such that it could, and probably would, impute false and impure motives

to the course which the House was pursuing; and his object was, by going at once into an investigation of the matter, to leave no pretext whatever for a misconstruction of the conduct of the House. The gentleman admitted there was no law under which the person accused could be indicted; to refer him to the Attorney General or District Attorney then was idle; we know no investigation can take place.

Mr. HOPKINSON was unfriendly to the motion to lay the resolutions on the table. After all, it was a mere question of order in the proceeding; but, he said, as the question had already been discussed much at large, and as it must be decided in the end, he thought it was better to do so now, after having gone so far into it, than afterwards to have all that has been done to go over again. At any rate, Mr. H. hoped the House would not abandon the question without bringing it to a decision. A strong reason for prosecuting the inquiry now before the House was, Mr. H. said, that a majority of the gentlemen who delivered their sentiments were on one side; and those on the other side, he said, ought to have an opportunity of submitting also their views of it. He had no idea that the House wished to shrink from an investigation of the latter, whatever appearance it might have, or might be given to it.

Mr. POINDEXTER said, that although he denied the power of the House to punish the individual who had been arrested under the warrant of the Speaker, and whose case was under consideration, he should vote to lay the resolutions offered by Mr. SPENCER on the table. The letter addressed by the accused to the Speaker, which had been read for the information of the House, proposes, on his part, submission to the authority of the House, with a view to explanations and apologies, which he says he is prepared to make. I am willing, said Mr. P., to afford him this opportunity. If the House should be satisfied, after hearing the excuse which may be made by the accused, for his extraordinary conduct, or the apology which he may offer in mitigation of the offence, we shall be enabled to waive for the present a decision of the great Constitutional question which has been raised on this occasion, and which is calculated to embarrass the proceedings, and occupy much of the time of this body. With a hope that this might be the result of the proposed explanation, and that suitable provision may be made by law for similar cases, should they hereafter occur, and thereby remove the embarrassment which we experience in the case now under consideration, Mr. P. said, he should support the motion to lay the resolutions on the table.

Mr. DESHA was in favor of laying the resolutions on the table. John Anderson prayed to be heard; and if we find, said Mr. D., that he can exonerate himself from the offence, I wish it to be done; because this debate may continue yet many days, all which time the accused must remain in custody, if not heard before. After his examination the discussion can be resumed, and the question settled.

JANUARY, 1818.

Case of Colonel Anderson.

H. of R.

Mr. RICH inquired whether the accused had expressed a wish to be heard at once. If so, Mr. R. was willing to lay the resolutions on the table, and hear him; but, if not, he was opposed to the motion.

Mr. BEECHER remarked, that one reason with him for not wishing to lay the resolutions on the table was, that he had no idea of receiving a petition from a man who was held in custody. Mr. B. was not disposed to hold the accused in custody a moment longer than he had the right; but he was in favor of first trying if the House possess that right or not. I am not willing, said Mr. B., to get rid of this question by permitting the party to come in here, and give evidence against himself, or by allowing him to come forward and admit our jurisdiction in the case.

Mr. PINDALL made a few remarks in coincidence with those of Mr. POINDEXTER, of which he expressed his approbation.

The motion to lay the resolutions on the table was decided in the negative—ayes about 30; and the question then recurred on the adoption of the resolutions.

Mr. POINDEXTER, of Mississippi, then rose. He said that the importance of the Constitutional question involved in the question under consideration, he trusted would afford him a satisfactory apology to the House for the time which he might occupy in delivering his opinions in relation to it. He regretted that the investigation which he had been enabled to give this case did not justify him in proceeding to pass judgment on the accused (John Anderson) for the offensive and highly indecorous letter which he had addressed to an honorable member of this body. Sir, said Mr. P., no gentleman can feel with more sensibility than myself the nefarious and insulting offer which was made by this man to the honorable member from North Carolina, (Mr. WILLIAMS,) and, through him, the indignity offered to this House, by an attempt so corrupt in its inception, and so futile in its result. Such criminal and unwarrantable conduct deserves the severest punishment which the laws of the country would sanction, and the reprobation which it would doubtless receive of every good man in society. But, said Mr. P., I am called on, in the character of a judge, to determine the nature of this offence, to apply the law which governs it, and to estimate the degree of punishment which its magnitude demands. In the discharge of these high and responsible duties, it is incumbent on me to examine, with care and attention, the powers which I am to exercise, and the sources from which my authority is derived. If I am satisfied on these points, I shall feel justified in taking cognizance of the case, and, by applying the law to the evidence, render such a decision as shall preserve the Constitutional privileges of the honorable body to which I belong, without in any manner violating the sacred rights secured to the meanest citizen, and of which he cannot be deprived, so long as our political institutions shall remain unimpaired. But, sir, while I am disposed to guard with becoming zeal our own privileges,

and to give a liberal construction to the Constitution, in relation to the power which we may possess to suppress every attempt to disturb our legislative proceedings, I am bound to respect the rights of the people, and to protect them also from oppression, in the exercise on our part of arbitrary, undefined discretion. I admit the principle which has been contended for by some gentlemen, in the course of the debate, that every tribunal, whether it be legislative or judicial, possesses inherently and of necessity the power to protect itself from interruption in the discharge of the duties assigned to it by the Constitution. Without this authority, there would be an end of legislation, and courts of justice would become contemptible and ridiculous. If one or more individuals, within the walls of the House, while we are in session, deliberating on the important subjects which are submitted to us, as one branch of the National Legislature, should, by unusual and unnecessary noises, or by insulting expressions or conduct, interrupt the calm, dignified, and deliberate proceedings of this body, I should consider the removal of such disorderly persons, and their subsequent confinement, so as to prevent a repetition of the offence, a right necessarily appertaining to this and every other deliberative assembly. So if by the firing of guns, beating drums, throwing stones at the windows, or any other violent means, we are disturbed while in the exercise of our Constitutional functions, the same principle of self-protection which applies to every independent department of the Government, and which is inseparable from its very existence, would justify the arrest and confinement of the offenders. I will apply the same principle to every act which disables a member, so that he is rendered incapable of discharging his ordinary duties in the House, as a Representative of a portion of the American people. Taking these premises as the reasonable limitation of the separate authority of either House of Congress to punish contempts, permit me to ask gentlemen who would extend that authority to cases occurring in the recess of the Legislature, whether they would consider an unusual noise in the gallery, or the firing of guns, or other tumultuous conduct around the building in which we sit, after an adjournment, a contempt of the House, and, on the succeeding day, proceed to arrest the persons concerned, and punish them by imprisonment? I cannot believe that any honorable gentleman would push this doctrine to such extremities; and, to my mind, the conclusion is irresistible, that no act, however offensive, can be construed into a contempt of this body, which does not directly interfere with and disturb its deliberations while in session, or disable some one of its members, so that he cannot discharge the trust reposed in him by his constituents. Suppose, sir, a challenge should be delivered to a member of this House, at his lodgings—suppose it should even menace personal chastisement—and, in the event of a refusal on the part of the member to meet his antagonist, he should be published to the world as a man destitute of honor, of integrity, and of personal courage; would you



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

and your Sergeant-at-Arms with a warrant, and sentence the citizen who had thus insulted the feelings of a Representative to the confines of a loathsome jail? Or would it not comport more with our dignity, and a proper respect for the laws of our country, to refer the subject to the ordinary courts of justice, whose province it is to try and punish offenders of this description? To it it appears evident that the latter alternative would invariably be adopted. For, although the feelings of the member might be grossly insulted, the business of the House would not thereby be disturbed or impeded. In considering the doctrine of contempts, it may be useful to inquire what would amount to a contempt of a judge while in the discharge of his judicial duties. I presume it will not be contended, that, in this particular, we have a power paramount to the courts established under the Constitution. If a man in open court pronounce the judge on the bench to be a scoundrel, or impute to him partiality in his decisions, or use any other insulting language, he is guilty of a contempt, and the court may immediately proceed to fine and imprison him. Again, if a man in open court places on the bench a libellous or insulting letter, offering a bribe, or charging the judge with partiality in his official character, or interrupts the order and decorum essential to a correct administration of justice, he would be guilty of a contempt, and liable to punishment in a summary way. But the same conduct in the recess of the court would not be considered a contempt, according to any principle or practice with which I am acquainted. The publication of a libel on the character of a judge, or a charge of partiality in his decisions, addressed to him in a private letter, at a time when he is not in the discharge of his judicial duties, are offences punishable only by indictment, in the same manner as if the libellous matter had been written or published of a private person. I apply the same rule to the Representatives of the people, and would adopt the same remedies, under similar circumstances. What then, Mr. Speaker, the fact of which we are to adjudge John Anderson guilty of a contempt of this House? It is a single, and admits of no ambiguity. This man, during an adjournment of the House, and at the private room of the honorable gentleman from North Carolina, handed to him a letter highly criminal and insulting, containing an offer of a bribe for services to be performed in his legislative capacity. I ask, sir, if this act interferes with or disturbs our deliberations on this floor? Certainly not. It was a vain, foolish, and wicked effort to mislead the judgment of an honorable gentleman, by pecuniary temptations and rewards. It was spurned with indignation, and the purity of this body remains uncontaminated.

The crime which this man has committed might not pass unpunished; but to me it does not appear to fall within the definition of a contempt, and, therefore, cannot form an exception to any other crime of which the courts of justice alone have jurisdiction. But it is said that the letter which constitutes the basis of these pro-

ceedings is a breach of privilege; and reference has been had to parliamentary law in support of this opinion. Sir, I beg gentlemen to reflect for a moment, before they recognise all the absurdities which are to be found in precedents drawn from the British House of Commons. Besides the catalogue of exemptions so emphatically exposed by the honorable gentleman from Virginia, (Mr. BARNOUR,) many others, equally repugnant to the principles of a free constitution, are to be found in the records of the House of Commons; extending, under the vague, undefined, and unlimited doctrine of privilege, protection, from arrests in civil cases, to the wife, the servants, and other domestics of a member. Their goods cannot be seized in execution, and even on a judgment rendered before the commencement of the privilege. Nor are they bound to obey a summons to give evidence in a court of justice. A British subject was, in a case which I find reported, imprisoned five days for striking the servant of a member of Parliament. Are gentlemen prepared to adopt these exclusive privileges, and apply them as they may find it necessary to the representatives of a free people? I cannot believe that any honorable member within these walls would desire to stand in a circle of exemptions and immunities so abhorrent to every principle of free government. What, sir! will it be contended that not only the person, the feelings, and the purity, if you please, of a Representative, shall be held sacred, but that his servant also is entitled to more than ordinary respect from the multitude? and by the strong arm of power, this House will inflict, at its own discretion, suitable punishment on him who dares to infringe the rights of this privileged class! The master, servants, and retinue, all come within the wide scope of the broad jurisdiction exercised by the British House of Commons in cases of this nature. But we are told that reason and common sense are to govern our decisions, and not the law of Parliament, *in extenso*. I should be thankful to any gentleman who would designate, with precision, the point at which we are to stop in reference to British precedents; if we admit their application in one case, why deny it in another? There the law of privilege is undefined, and so, we are informed, it is here, and so it must remain, because, say its advocates, it would be impossible to enumerate all the cases which might require the interposition of this House, in the protection of its members. If, then, the law in both countries is unbounded in its extent and application, the practice must correspond in all its ramifications, or be altogether disregarded. We must build up a system of our own, founded on reason and common sense. Sir, these favorite expressions may mean one thing to-day and another to-morrow; they mean anything to suit the necessity of the case to which they are applied. I deny, in their whole extent, the validity of parliamentary precedents; I discard them from my mind in deliberating on the question now before the House; I take as the rule of my conduct the Constitution and laws of my own country, and the construc-

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

tions given to them since the establishment of this Government. Having endeavored to show, I trust satisfactorily, that the act of writing and delivering a libellous or insulting letter to a judge in the recess of a court, or to a member of either House of Congress, when not in session, could not be deemed a contempt, or a breach of privilege, I shall proceed to investigate the authority of this House to arraign, try, and punish, an individual for a crime which cannot be distinguished from the general class of the indictable offences cognizable in the ordinary courts of judicature. From whence, sir, do we derive the power to proceed in the case under consideration? Are we to look for it in the code of common law, which has been called by an honorable gentleman from Virginia (Mr. MERCE) the bulwark of our liberties; or is it to be found in the statutes passed by Congress; or in some provision of the Constitution, either express or implied? With regard to the common law, on the excellence of which that honorable gentleman has so eloquently descanted, I totally deny its existence in the United States, as a nation. The sages and patriots who laid the foundation of this Government, have carefully avoided its adoption; and the courts have never assumed jurisdiction, more especially in criminal cases, which is not expressly given in the Constitution or the laws made in pursuance thereof.

On this subject I hope I shall be pardoned, for referring to the opinion of a judge, than whom none more enlightened has sat on the bench of the Supreme Court of the Union; (I allude to the late Judge Chase.) Mr. P. then stated the substance of the case as follows: Robert Warrall was indicted at common law, in the district court of Pennsylvania, for having written a letter to Tench Coxe, Commissioner of the Revenue, making proposition for a contract for the building of a light-house, and offering to Mr. Coxe seven hundred pounds, if he accepted the terms proposed. The jury returned a verdict of guilty, and a motion was made in arrest of judgment. On this motion Judge Chase delivered an opinion, from which I will proceed to read one or two sentences, as applying to the point in discussion. "This is an offence highly injurious to morals, and deserving the severest punishment; but, as it is an indictment at common law, I dismiss at once everything which has been said about the Constitution and laws of the United States. In this country every man sustains a two-fold political capacity; one in relation to the State, and another in relation to the United States. In relation to the State, he is subject to various municipal regulations, founded upon the State constitution and policy, which do not affect him in his relation to the United States. For the Constitution of the Union is the source of all the jurisdiction of the National Government; so that the Departments of the Government can never assume any power that is not expressly granted by that instrument, nor exercise a power in any other manner than is there prescribed." The strict analogy between

that case and the one now under consideration, must be obvious to every gentleman; and the principle of the decision is to my mind conclusive and unanswerable. It has, on several occasions, received the sanction of the Supreme Court, and may now be considered as a settled law. I imagine the gentleman from Virginia would find it a difficult task to tell us what that common law is, on which he has pronounced his eloquent eulogium. Is it, sir, the common law of New Hampshire, of Massachusetts, of New York, of Virginia, of Kentucky; or is it that incongruous system of common law of England, which is fraught with so many absurdities? The most valuable principles of which are drawn from the civil law, with the single exception of the right of trial by jury. Will the gentleman have the goodness to put his finger on the code he so highly recommends? I presume the attempt to do so would lead him into perplexities, from which he would be glad to escape by yielding the pursuit. The United States can have no common law as a nation; and this arises from the limitations within which the National Government is confined by the written constitution which put it into existence. If then we cannot resort to that widely diffused and fruitful source of power, to justify the proceeding against the accused in this case—and for one I protest against the establishment of a precedent, so dangerous in its tendency, and so uncertain in its extent and application—let us examine the statutes of our own country, and ascertain whether they contain any provision which confers the right claimed by the advocates of this measure.

The simple declaration, that the statute can be found which, in the remotest degree, gives jurisdiction to either branch of the National Legislature over any crime, whatever may be its dignity, (the case of impeachment excepted,) is sufficient to put this part of the subject at rest. No, sir; our laws have not been violated; nor is there any clause in the Constitution which either expressly, or by fair implication, contains the grant of power which the House is called upon to assume. What are the privileges secured to us in that instrument?

"Article 3, section 6. They (Senators and Representatives) shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest, during their attendance at the session of their respective Houses, and in going to and returning from the same; and, for any speech or debate in either House, they shall not be questioned in any other place."

Are gentlemen prepared to overleap the barriers of the Constitution, and take shelter under the practice of the British House of Commons? To adopt the law of privilege and prerogative, so hateful to the principles and feelings of a free people? To what purpose are the powers of Congress limited, by a solemn written charter, if those thus intended to be restrained can at pleasure transcend the limits prescribed? Sir, I fear the precedent which we are about to establish in this case, under the influence of excited sensibility, will, in my humble conception, prostrate the



OF R.

Case of Colonel Anderson.

JANUARY, 1818.

very salutary guards placed by the wisdom of our fathers around the temple of liberty. The cause of John Anderson, humbled and degraded as he has rendered himself by his own criminal conduct, is the cause of my constituents, and of every man in the nation. The encroachments of power never yield; they must be resisted in their inception, or, by slow degrees, they steal upon the rights of the citizen until resistance will be vain and nugatory. No man in this country can be punished, who has not infringed some known law, recognised and promulgated prior to the offence; nor in any other manner than according to forms pointed out in the Constitution, or the laws made in pursuance thereof. A departure from this leads directly to the very door of despotism. The will of the despot decides both the law and the measure of punishment, guided only by his own discretion, and what may appear to be the necessity of the case. But I trust, sir, we yet feel respect enough for personal liberty to acknowledge the supremacy of the laws, and where they have not been violated, we are bound to acquit. An act, innocent at the time it is committed, can never be made criminal by subsequent legislation. As well might you print the statutes in Greek, and hang them up so high that they cannot be read, as to punish an individual who has been guilty of no crime which contravenes the existing penal laws of the country. Yes, sir, I should consider my rights as well secured in the one case as in the other, and I would not give one cent to choose between them. But, to sustain the power of the House on this occasion, we are referred to the common law, to parliamentary law, and to the practice of Congress on similar occasions. Having disposed of the two first of these auxiliaries, as altogether inapplicable to and inconsistent with the principles of a free Government, I beg the indulgence of the House, while I retrospect on the precedents which have arisen since the adoption of the Federal Constitution. The case of Randall and Whitney is the only instance where a power analogous to that now claimed, has been exercised by the House of Representatives. That case was decided under very great excitement, and some of the most enlightened statesmen, then in Congress, voted against the measure. Since that period there is not, within my knowledge, a single case which recognises the authority of the House to punish offences which do not interfere with, or disturb, its deliberations. Mr. Randolph, of Va., was insulted, and even assaulted, in the theatre, at Philadelphia, for a speech which he had delivered on a proposition to reduce the Military Establishment of the United States. The outrage having been committed by a marine officer, holding his commission at the will of the President, and being a direct violation of one of the Constitutional privileges of a member of either House of Congress, Mr. Randolph made a written communication to Mr. Adams, then President of the United States, on the subject. The circumstance came before the House of Representatives, through an Executive message; and, yet, they declined inflicting any

punishment on the offender. In this case, the privilege violated was among those enumerated in the Constitution, and the attention of the House had been invited to it by the Chief Magistrate, as a fit subject for their animadversion. Notwithstanding these facts, the House, after much discussion, did not even reprimand the person charged with this infraction of their privileges.

The newspapers, in every part of the Union, bestow upon the two Houses of Congress, collectively and individually, the most unlimited abuse, menacing them with public indignation, for votes, either given, or to be given, on questions of great national importance; and yet, sir, we do not send the Sergeant-at-Arms to arrest and bring the editors before us to answer for these attempts to corrupt the fountain of legislation. And is it not equally culpable to induce a member to vote contrary to his own judgment by threats, as it would be to produce the same result by promises of reward and favor? The effect on public justice and morality is the same in either case, and it is against the evil consequences of such attempts which we are to guard. While on this subject, permit me, sir, to mention a case which must be within the recollection of many gentlemen on this floor. During the discussion which took place in the Senate on the renewal of the charter of the old Bank of the United States, the editor of a newspaper in Baltimore, whose name I do not distinctly remember, charged an honorable member of that body, now a citizen of Kentucky, with having received extraordinary accommodations at that bank, as a consideration for the vote which he had pledged himself to give in favor of a renewal of the charter. A gentleman from Georgia, then a member of the Senate, and now at the head of the Treasury Department, animadverted, with great force, on the unwarrantable conduct of the editor, who was, he said, at that time, in the gallery of the Senate, where he could not be without the invitation of a Senator. It is impossible to conceive of a more outrageous attack on the feelings and integrity of a member of any legislative body than the one to which I have referred. And, although the individual who made it was at that time within the walls of the House, the Senate, who were assuredly not ignorant of its powers, nor insensible to the insult offered to one of its members, took no step whatever with a view to the punishment of the editor; but, to show their indignation at a calumny so base and unfounded, they seized the first opportunity which presented itself, of electing the honorable member who had been thus calumniated to the Chair of the Senate. I would ask if it be not even more criminal to charge a Representative or Senator with having received a bribe for an important vote, than to offer a reward for extra services, in relation to the claims of private individuals? I do not pretend to justify the one, nor would I extenuate the other; but, if the purity of this body is to be preserved by its powers to punish every attempt on the integrity of its members, it ought to be ex-

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

tended from Louisiana to Massachusetts, and no vile printer who should dare to attribute an improper motive, or hold out inducements, to a member of this House, which might in any manner control his judgment, should go unpunished, so long as we can afford a Sergeant-at-Arms to arrest and bring him to the bar of the House.

Finding a variety of conflicting precedents, in relation to the practice of Congress, in this particular, I shall not feel myself bound to respect them on either side, but shall consider this as a case of the first impression. I will not consent to be governed by the laws and usages of Great Britain or of any other country, on a question touching the liberty of the citizen. I look into the Constitution and statute book of my own country for a definition of my rights, and those of the community at large. If the accused in this instance has been guilty of a crime, and that he has I cannot doubt, he is entitled to a fair and impartial trial by jury. By a reference to the sixth article of the amendments to the Constitution of the United States, we find "that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; and to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence." Are we about to deprive this unfortunate man of these sacred rights; to immolate them on the altar of Congressional privileges, and thereby establish a precedent which may drag to the bar of some future Congress the most respectable citizen in the Union, who may become offensive to one of its members? Is there no other rights guaranteed to the people of the United States which interdict to this House the power to proceed in this case? "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall he be compelled in any criminal case to be witness against himself." Is there any indictment, or any presentment of a grand jury against the accused in this case? most certainly not. Will he not, if tried and punished by this House, be liable to an indictment or presentment of the grand jury of this District, and if found guilty to the like punishment, as if these extra judicial proceedings had not been taken? I imagine it will not be pretended that he could plead his conviction here, in bar of any subsequent prosecution. You exhibit to the world the solemn mockery of a judicial tribunal, possessing criminal jurisdiction, consisting of one hundred and seventy members. You bring to the bar of the House this poor man, John Anderson, who has offended

against what you are pleased to call your *privileges*. He is compelled to answer such questions as the Speaker may ask him; "to be witness against himself." He is deprived of the right of trial by jury, and may be prosecuted and punished a second time for the same offence. And, in addition to all this, when you are asked to designate the law which the accused has violated, you refer him to the common law of England; to the law of Parliament, under the head of privileges; and, for your power, to reason and common sense. Sir, I have often heard, in courts of justice, the doctrine advanced, that ignorance of the law is no excuse for him who offends against its provisions; and the maxim is a salutary one, for it is the duty of every man to know the laws of his country; but we, in our wisdom, go one step farther, and require a man to answer for the violation of a law deposited in the bosoms of one hundred and seventy judges, and to receive such punishment as may be thought necessary to preserve the dignity and independence of those by whom the sentence is pronounced. But we have been told by an honorable gentleman from Virginia, (Mr. TUCKER,) that we possess all the powers necessary and proper for carrying into effect those expressly delegated in the Constitution, and that it is a power adherent in every legislative body to punish a breach of privilege. On the subject of privilege I have already delivered my sentiments; I cannot pass the limits of the Constitution. As to incidental or inherent powers, they seem to me to be only such as are necessarily attached to some independent substantive powers of legislation, enumerated in the Constitution. Thus the power to send for persons and papers, is incidental to the power of originating impeachment. And the same principle will apply as to all the subordinate regulations essential to carry into operation every specified grant of power. But a new substantive power of legislation, not specified in the Constitution, cannot be exercised as an auxiliary to one which is specified—for example, the power to declare the punishment of treason would not authorize the establishment of a Supreme Court, and such inferior courts as the situation of the country might require; and yet it must be admitted that, to prescribe the punishment of treason, without these courts, to carry the system into operation, would be altogether ineffectual. But to establish judicial tribunals, is not a power subordinate to, but must necessarily be independent of, any other grant of power, and therefore could not be considered as incidental to any other branch of legislation, however they might be connected in their practical operation. I object also to the exercise of implied powers in a case of a criminal nature. In such a case the power ought to be particularly conferred, so as to have no doubt as to its validity and extent. But, Mr. Speaker, that article of the Constitution which gives to Congress power to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

The Government of the United States, or in any department or office thereof," refers in express terms to legislation: "To make all laws which shall be necessary and proper." It gives no inherent power to either branch of the National Government, but enables the Legislature to make such laws as may be requisite to give effect to the powers delegated. In the preceding clause Congress is vested with ample authority to exercise exclusive legislation in all cases whatever in this District, not exceeding ten miles square. Have we then, sir, fulfilled the trust reposed in us, by making the necessary laws to protect the members of this body from insult, bribery, and corruption within this District, over which we possess such unlimited power? Sir, we have not; and this is the more to be lamented, because the practice of the two Houses, with respect to privileges and contempts, ought to be uniform; ought to be regulated by law, that neither should, on any occasion, under the sudden impulse of feeling, exercise an arbitrary discretion, inconsistent with the right, the security, and property of the citizen. The nature of the punishment ought to be defined; for, although we claim the right to imprison, it is not pretended that we can inflict a fine, which is unquestionably a lower grade of punishment, and is often inflicted in cases where imprisonment is forbidden. But it has been intimated by some gentlemen who have participated in this debate, that the clauses of the Constitution to which I have referred do not give to Congress the power to legislate on the subjects of bribery and corruption and the privileges of its members. Sir, permit me to refer those gentlemen to the opinions of men, celebrated for their exalted virtues and talents, relative to the power given to Congress over the ten miles square. These opinions were expressed in the Convention of Virginia, assembled to deliberate on this Constitution. The celebrated Patrick Henry, whose memoirs were read with so much pleasure by his countrymen, inveighed against this unlimited power of legislation, and deprecated its consequences at some future period. He was answered by Mr. Madison, the late Chief Magistrate of the United States, and Judge Pendleton, who was an ornament to the bench of the Supreme Court of Virginia, that "this clause does not give Congress power to impede the operation of any part of the Constitution, or to make any regulation that may affect the interest of the citizens of the Union at large. But it gives them power over the local police of the place, so as to be secured from any interruption in their proceedings. What then is the power? It is that Congress shall exclusively legislate there, in order to preserve the police of the place, and their own personal independence; that they may not be overawed or insulted."

This is a fair exposition of the power, given by the founders of the Constitution. We may pass all laws necessary and proper for carrying into effect our delegated powers; we may exercise exclusive legislation over this District, to regulate its police, and protect ourselves from being over-

awed or insulted; but until these laws shall be enacted I deny the inherent power of this House to arraign and punish a citizen for a supposed breach of the privilege. And while, sir, I shall ever cherish a proper respect for the dignity and the legitimate privileges of this honorable body, I hold still more sacred the Constitutional rights of the citizen, and shall therefore vote to discharge John Anderson from the custody of the Sergeant-at-Arms.

Mr. HOLMES, of Massachusetts, said the question had been yesterday triumphantly put by his honorable friend from New York, (Mr. SPENCER,) Are we a jury? I, said Mr. H., readily answer no. We are a legislative body, representing eight millions of citizens—a body exercising as important acts of sovereignty as can be exercised, except by the Sovereign of Heaven; and the single question is, can this legislative body protect and defend itself from insult and abuse? If, said Mr. H., a judicial court is treated contemptuously, it seems agreed that the offender may be punished. Should a court of the United States be created by statute, without the power to punish contempts being specially granted, no one will deny that this power is incident to its Constitution. There are courts in the United States which constantly exercise these powers without any special grant. Should a judge of one of these courts, in going from the courthouse to his lodgings, be met and horsewhipped for something relating to his duty as a judge, will it be contended that this act would not be punished as a contempt? Why, then, sir, said Mr. H., is this power incident to a judicial which is denied to a legislative tribunal? If protection and security be essential to the one, they are peculiarly so for the other. I do not insist so much on the common law's giving this right. It is a right essential and inherent in every legislative body, that it shall protect itself. If no precedent existed, if the Constitution, the rules and the laws were silent, I would contend for this right of self-preservation. The framers of the Constitution were acquainted with legislative assemblies and their rights. The rules of the House of Commons, and of the Colonial and State Assemblies, were familiar to them. Had they entertained a doubt of the right in every legislative body to protect itself against violence and corruption, they would have provided for its security. We are invested with authority to legislate for the people. To us is committed the protection of their lives, liberties, and property. How are we to perform these duties if we have no power to defend ourselves against insult?

The gentleman from Mississippi (Mr. POINDEXTER) admits that we have the power to punish a contempt. We only differ, then, in defining the act. He would remove an offensive person from the House, and would defend the body from interruption; but, at the same time, he seems to contend that we have no power but that expressed in the Constitution; hence I was at a loss to perceive how his conclusion would follow his premises. The Constitution gives no express

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

power to punish for contempt; yet he would punish, and still insist upon a literal adherence to the Constitution. It is probable that I did not understand him.

I regret that I did not distinctly hear the gentleman from Louisiana, (Mr. ROBERTSON,) as I always expect to be edified by his remarks. His account of the State constitutions in defining this power, I apprehend, is essentially incorrect. In some of the States this power is expressly given; that of Massachusetts provides for the punishment of any who threatens harm to a member in the place where the General Court is sitting. In other States the power is exercised where it is not expressly delegated. The practice in the Colonial Assemblies has accorded with this claim of the right of this House. And surely it could never have been intended to leave the House of Representatives of the United States destitute of a right, exercised by the most petty Provincial Assembly. Sir, I do not resort to common law. I take the ground that the framers of the Constitution knew what was meant by a legislative body, and that they never intended to give us the powers of legislators, and, at the same time, to deny us the means of exercising those powers. If, while we are performing our duties, any one may offer a member a bribe, and we are destitute of the powers to prevent, arrest, or punish the offender, we exhibit to the world a most singular spectacle of imbecility.

But my honorable friend from Virginia (Mr. BARBOUR) takes strong ground. He opens the Constitution, and insists, unless the instrument expressly gives this power, you have it not. He takes his positions so strong, and urges and defends them with such ability, as seems to invite and defy opposition. I confess that it is with great caution and reluctance that I meet that gentleman in the field of argument; he is an opponent whom I should always prefer to avoid. But as his course is open, frank, manly, and fair, I am bound to hazard the presumption to meet him. He states that exemption from arrest and from accountability for words spoken in the House, are the only privileges expressly given by the Constitution, and infers that all others are, therefore, excluded. That expressly to include one thing, impliedly excludes others, is a principle which I readily admit; but its application to this case I am obliged to deny. These privileges extend to times and places beyond the reach of this House. The privilege from arrest commences before and continues after the existence of this House. It exists before and after the person claiming it is a member. There may be no House organized to protect them in these privileges; special provision, therefore, was necessary, that they might seek relief from the judicial tribunals. To be shielded from accountability for language used in the House is more extensive, and continues during the life of a member.

It is true that the privilege from arrest includes the time of the session, and more. This, however, is a privilege against the operation of a general law. Both of these privileges are protec-

tions from acts otherwise lawful. Is it to be inferred, therefore, that there is no security against acts which are unlawful? Singular, indeed, would it be, that our Constitution should take care to guard the Representatives against arrest for just debts, before, and after, and during the time of their attending the session, and at the same time deny the House the privilege to protect itself from abuse and violence. The very circumstance that the Constitution has given to members these privileges, when they are out of the power and protection of the House, and has not guarded the body collectively from fraud and violence, is conclusive evidence that it was believed and understood that self-protection was inherent or incidental. So far, therefore, is this grant of privileges from excluding the power for which we contend, that it supports and confirms it.

And here, sir, I will take the liberty to reply to an objection offered by the gentleman from New Hampshire, (Mr. LIVERMORE.) He states a strong case. Suppose, says he, in coming to this place, I should have been insulted by the governor or a judge of New Hampshire, and should complain to this House, could they send their Sergeant-at-Arms and bring him by force, to answer for the contempt? I should think not. This would be an abuse of a person before he had become a member. This House did not exist when the act was done. The insult was not to this body. Until that gentleman appears, is qualified, and takes his seat, we have no right to his services, and no power over his actions; and hence an insult to him is not an insult to us. My doctrine is this: as soon as a member is subject to our rules, he is entitled to our protection, and every violence or indignity offered to him, as a member, is a contempt of the House. Cases of doubtful character might be stated: if a member, while absent with leave, should be treated contemptuously, can the House send for and punish the offender? Upon my hypothesis, perhaps not, the member not being subject to our control. Suppose him absent without leave; he, having violated our rules, may have forfeited our protection. When these cases of doubt shall happen, it will then be our duty to decide them. It is sufficient for us that the case under consideration is of a bribe offered to an acting member, while the House was sitting, and for the purpose of influencing our deliberations and perverting our decisions.

But the honorable gentleman from Virginia, aware of the consequences to which his doctrines will lead, has endeavored to answer every objection. He admits that we have the exclusive right to this House; and, to prevent disturbances and interruptions, we may exclude from its galleries those who are rude or uncivil. This is all the answer which he gives us; this is the only cure for our inability to punish contempts. While the honorable member from New York (Mr. SPENCER) was denying our powers to punish, a case well nigh happened in the galleries which would have put his principles to the test. There was a little disturbance, and the gentleman was



on the point of calling for that protection which he was then attempting to prove this House could not afford. It, however, gave me some consolation that, instead of asking the people to be so obliging as to suspend their conversation until we should have finished our debate, the Speaker ventured very promptly, to order the noise to be suppressed. All the admission, however, that we can extort from the gentleman from Virginia is, that we have a power to turn out an intruder, if he be rude or uncivil. But suppose that a person in the galleries should amuse himself by throwing stones at the Speaker: before your Sergeant-at-Arms can overtake him he is in the street, out of your power. He is removed, but the abuse of the Speaker remains, and the indignity to the House is unatoned. Suppose while that or some other gentleman was debating, some bully should enter and take him by the throat or nose, and before the Sergeant-at-Arms could interfere he should be pitched headlong down the stairs, and the perpetrator should be off: What is the remedy? Why, forsooth, the person injured might go to a magistrate and make oath, and if he could find the offender, arrest and try him for an assault and battery, fine him in some twenty shillings, and the next day he would return to your galleries and laugh in your face. This remedy, by removal, is all we are allowed. The aggressor, from without, might throw stones at or beat drums under your windows: he might stand at your door, and horsewhip a member as soon as he entered the street, for his conduct on this floor; and this is a private injury, done to a private individual, and to be punished by the ordinary process of law! Some Cromwell, with a few myrmidons, might enter your hall, and with their bayonets drive the members out of the windows like a flock of sheep; and the remedy is, to re-enter and expel them if you can!

But why cite cases? That under consideration is a case of singular atrocity. The chairman of your Committee of Claims is an officer of the first responsibility. To him you have intrusted the keys of your Treasury. His compassion is to be tempted by the repeated importunities of the necessitous. He should set his face like a flint against the clamorous lurkers round your Treasury. He is your guardian angel, with a flaming sword turning every way, to defend this sanctuary of the people. He is faithful, vigilant, and honorable. He holds the purse-strings of the nation, and the man must have a good case, and good luck in the bargain, who shall induce him to untie them. But John Anderson wants money—he does not climb up some other way, and endeavor to enter the back door or the windows—he advances boldly to the front, seizes the keeper, and attempts to wrest from him the keys. You are advised of this atrocity, and indignantly order the culprit to be brought before you. But you are gravely told that this is an act which you have no power to punish or prevent—sympathy succeeds indignation. A citizen is deprived of his liberty! A storm gathers on our brow, the lightning of indignation flashes in the eye, and

the thunder of eloquence bursts from the lips. But when an honorable member of our House is insulted and abused, and ourselves scandalized by a foul attempt to corrupt us, our philosophy returns. We discover wonderful composure; become mild as a Mayday morn, "soft as the gentle zephyr's breath," "calm and unruffled as a summer's sea when not a breath of wind flies over its surface." Why this extreme in favor of this man? I trust it springs from the most honorable feelings of the human heart; but fear that those feelings may pervert our judgments.

We are told that precedents are dangerous, and ought not to be trusted. Precedents which I have been taught to believe were the buoys and beacons to point out to the political mariner the course he is to steer his ship, to avoid the rocks, shoals, and quicksands which lay in his way, are now converted into the syren which lures him to whirlpools and inevitable destruction. Well, let them go. If our own decisions smell too strong of party, cast them aside. If foreign rules have become too musty, or savor of royalty, reject them. If State or Provincial practices are too local, we will not trust them. And, as God Almighty has implanted in the heart of man the principle of self-defence and self-protection, so let this political body, representing eight millions of people, establish the precedent that it has the power to repel and punish aggression, and announce to our constituents and the world, that no one can, with impunity, insult us with a bribe.

Mr. STORRS, of New York, said that, protracted as the debate had been, he would rely on the candor and patience of the House while he offered some remarks on a question deeply involving its dignity, purity, and independence. He should consider the passage of these resolutions a public calamity, and was unwilling to repress his disapprobation of them, and the doctrines they assumed, by a silent vote. Specious as the objections which had been made to the exercise of the power in question might appear, and plausible as the arguments urged in support of the resolutions were, yet, in his judgment, they would, on careful examination, be found to have originated from a postulate altogether inadmissible. The fancied distinction which gentlemen had drawn between the sovereignty of the States and of Congress, was fallacious, and without any just foundation in the structure of our Government. Though the legislative powers of Congress are limited to the specific objects designated by the Constitution, yet its sovereignty in the exercise of these is absolute and unlimited, except by the fundamental principles of all civil governments whatever. But it was not necessary to rely even on this exposition of the unsoundness of the distinction which had been made.

He would call the attention of the House, and particularly of the honorable gentleman from Virginia, (Mr. BARBOUR,) to a part of the Constitution which, in his remarks on yesterday, he had omitted to notice. Over the District of Columbia, Congress, by the eighth section, first article of that instrument, have the power of "ex-

clusive legislation in all cases whatsoever." The capacity of Congress is, therefore, two-fold; the one including the exercise of certain powers of legislation relating to the States; the other, the powers and attributes of sovereignty, as a National Legislature. Within this District, said Mr. S., our power is equal to, and co-ordinate with, the most unlimited sovereignty. In other times, the declaration of the Parliament of Great Britain, that they possessed the right to exercise exclusive legislation over America in all cases whatsoever, was considered the very perfection of despotism. Whatever it might have been in a body where America was unrepresented, yet the phrase itself defines a power sovereign in its nature, and uncontrollable in its operation. This clause of the Constitution appears to have been adopted by the Convention with this express design. Since gentlemen had, in the course of the argument, resorted to the authority of names, and to the dogmas of civilians, he would ask their attention to an opinion of the late Executive of the Union, to be found in a work justly considered the text-book of construction. In that part of the Federalist which was from the pen of Mr. Madison, when considering that clause to which he had referred, the language is so emphatic, and peculiarly applicable to the question now before the House, that he would read the extract: "The indispensable necessity of complete authority at the seat of Government, carries its own evidence with it. It is a power exercised by every Legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted, but its proceedings interrupted with impunity." Can a more palpable exposition of the futility of the assumption on which these distinctions are founded be offered? Will the effect of these observations be evaded by referring them to the power of self-preservation? The whole scope of them assumes, as an axiom, that the supremacy of Congress, at least within this District, is clothed with all the attributes of sovereignty which are vested in the State governments. The offence committed by John Anderson against the privileges of the House has, therefore, been perpetrated in our own exclusive territorial jurisdiction. Whatever doubts might be suggested in cases which have been started of a libel from a Philadelphia printer, or a breach of privilege by an arrest of a member, made in New Hampshire, this case is widely different in this respect. The offender has not assailed us from another concurrent jurisdiction; he has invaded that which is exclusively our own; he has violated our privileges within our own undisputed boundaries, and is amenable to us as sovereigns of the national territory. Mr. S. said that the power of Congress, as well as of every other legislative body, to punish for contempt or breach of privilege, (he cared not by which name it was called,) was inseparably annexed to, and included in, the power itself to legislate. I assure my honorable colleague (Mr. SPENCER) that necessity is a word as odious to my ears as it can possibly be to his.

It has been, with much reason, called the plea of tyrants, and was often truly so. But it is not necessary to resort to this plea, in that sense of it, to support the Parliamentary powers of the House; nor would he insist that this power was to be appropriated to themselves by the House as a separate incidental right, if gentlemen disliked the expression. The House possessed it on the well-established and undisputed maxim, that whenever a grant of any power whatever is made, every other power requisite to the complete and perfect enjoyment and exercise of it, is included, of consequence, in the grant itself. Those powers which had been termed incidental or necessary, might, with more propriety, be considered as branches of the original grant, and, from their nature, rather included in than annexed unto it. It is admitted that punishment may rightfully be inflicted for contempts committed within the walls of the House, or in its immediate view; but this power is exercised on the principle of self-preservation only. Were this true, it would resolve itself into the exertion of mere blind, physical power. It would become a law of force merely. Nor should we require any delegation of it from any source whatever. The right we have collectively, even as occupants of the building, and, individually, as men. The power of punishing for contempts is a moral, legal power, including judicial discretion, and relying for its exercise on known and fixed rules, and founded on moral system. In exercising it, even in cases of contempt committed within the House, we must first deliberate and adjudge, and, afterwards, execute. Did we proceed on the principles of self-preservation merely, it would authorize the infliction of punishment without the previous adjudication of a contempt. But, said Mr. S., we have been met with Constitutional objections, derived from the forms of our proceedings. The honorable gentleman from the State of New York (Mr. SPENCER) has read to the House that amendment which declares that no person shall be held to answer for a capital or otherwise infamous crime unless on indictment or presentment of a grand jury, &c. The obvious answer to this objection is found in the remark, that a breach of the privileges of this House is not a capital offence, nor does the conviction create that infamy which, by the common law, disqualifies the party as a witness, or imposes any other legal disabilities. Nor is the intervention of a grand jury necessary in this case. That amendment of the Constitution must apply only to prosecutions under the laws of the United States. But, said Mr. S., the offender may in this way be punished twice for the offence; and the honorable gentleman from Mississippi (Mr. POINDEXTER) has pressed upon the House that amendment of the Constitution also. We are not proceeding against John Anderson for the crime of bribery. The charge is a breach of the privileges of the House; and, although it is involved in an attempt to bribe one of its members, yet, in relation to this House, it is a distinct offence. Nor is the case without analogy in the code of



H. or R.

Case of Colonel Anderson.

JANUARY, 1818.

our criminal jurisprudence. Should one, by the felonious burning of a dwelling-house, produce the death of its inhabitants, would it be seriously contended that the felon had not rendered himself obnoxious to indictment for murder as well as arson? And, were not either offence capital, must he not suffer the punishment of both. Wherever an act involves in its nature, or produces in its consequences, two distinct substantive offences, the offender must answer separately for every infraction of the law. It was emphatically asked, said Mr. S., by the colleague of the honorable gentleman from Virginia, (Mr. BARBOUR,) from whence does this House derive the power to send for persons and papers? What has been the answer to the question? It has been said, that although it is admitted that no particular part of the Constitution has expressly delegated this power, yet it is inferred from a concurrent construction of the power to regulate its own rules and proceedings, and the power to appoint its officers. Gentlemen, in furnishing this solution, were it the true one, have surely not been aware of its applicability to the very case now before the House. What has been done in this case? What have been our unanimous proceedings against John Anderson? The warrant of the Speaker has been issued, in compliance with an express rule of the House, entered on its Journals, and the Sergeant-at-Arms, in the execution of his duties, in obedience to the precept, has arrested the person of Anderson. Mr. S. disclaimed, however, to rest the power of sending for persons on these principles of construction, but referred it to those already stated. But, said he, the rights of the people are said to be in jeopardy. He could hardly suppose that the punishment of a man for an attempt to bribe the House would create any alarm. My political course, for the last ten years, has been such that I believe no one will accuse me of disregard to the rights of the people, or a disposition to yield them up quietly to the encroachments of the General Government: yet I trust that I have never lost sight of its dignity and authority.—Should I seriously ask my constituents, whether the punishment of a miscreant, who had offered to contaminate with a base bribe an honorable member of this House, was within our legislative powers? The last reflection which would occur to them would be, that their liberties had any concern in the question.

Mr. PINNALL, of Virginia, said he had understood the honorable mover of the resolution now before the House, to admit that this House might in some instances proceed to punish contempts of its authority or privileges, and that the authority of the House to punish a disturbance or insult occurring in its presence or galleries would not be questioned. If the House has a legitimate power, said Mr. P., to punish a contempt in any case, and that authority be a limited one, it follows that the House should proceed to inquire whether an alleged offence is within the boundary of its jurisdiction, previous to any final order to inflict punishment. This inquiry could

only be made by investigating and ascertaining the fact charged as an offence. The resolution, therefore, to arrest the prosecution seems premature, as we should first hear evidence and ascertain facts, in order to enable us to determine whether the offender (if committed) be within the sphere of our admitted jurisdiction. If this House can, in any case, punish a contempt, the present discussion should resolve itself, not into a question whether the House can punish, but into the inquiry whether the fact proved or charged be within the bounds of its legitimate power. Although the gentleman from New York (Mr. SPENCER) admits the power of the House to punish for contempts in some cases, it seems that other gentlemen, who support his resolutions, assume the broad ground of denying that the House can exercise such an authority in any case. This conflict of principles between the supporters of the resolutions, must necessarily produce embarrassment on any one who goes in quest of acknowledged principles to enable him to arrive at a correct conclusion. Gentlemen, however, who totally deny the power in question, have the candor to acknowledge that the House may perform certain acts by its incidental authority, the performance of which acts they contend is not the exercise of the power of punishment. The honorable gentleman from Kentucky (Mr. ANDERSON) admits that the House may order its officer to remove any disorderly person from the gallery who disturbs the transaction of business or the decorum of our proceedings. Our Sergeant, then, in this instance, restrains such disorderly person for a time of his liberty, and, having him in custody, removes him from the gallery into the street; if gentlemen will advert to the means and object of punishment, not as defined by the common law, (for its authority has been denied,) but, according to the notions entertained by writers upon natural law or ethics, they will find such means and object predicable of this act of our officer, for the means of punishment operate by a restraint upon the natural liberty of individuals, the object of punishment is to obtain security against the act of the offender. The Sergeant arrests the culprit in the gallery, or whilst assaulting our windows from without, and thereby restrains his liberty, and this restraint is imposed with a view to obtain security from the insults of the offender. I ask gentlemen to define punishment and the power of punishment, in their own language, so as to include all punishments, and exclude everything else, and I venture to predict that the definitions may be affirmed of the conduct of our officer while removing the culprit from our gallery. The power of punishment may be exercised in the instance mentioned, and, by a view of the source from whence that power is derived, it will evince a flow of authority sufficiently broad to include other cases. You punish disorder in your presence, or in your gallery, because it impedes, molests, or disturbs you in the performance of your Constitutional duties; you are entitled to punish every obstruction to the

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

due performance of those Constitutional duties, whether the obstruction or insult proceeds from the turbulent shouting of the thoughtless, or assaults of blows or bribes by the strong or designing. You punish an insult offered to the whole House in the performance of its duty; but the House, in the ordinary performance of its duty, divides its labor and imposes portions of that duty upon its committees; these committees, frequently from necessity, subdivide their labor among its members, and offences and obstructions which may have a tendency to impede a committee, or its chairman, or members, from the duty thus imposed or required by the House, are contempts not punishable by the committee or its members, but by the House; for members, while laboring in committee, by order of the House, are not less in the performance of their Constitutional duty than when addressing the Speaker on this floor, consequently the privileges are coextensive with their transaction of business in the committee. If a turbulent man disturbs fifty members by casting stones through our windows, will you hesitate to punish him, until it can be ascertained that a majority of all the members here have been frightened by the assault? My honorable colleague (Mr. BARBOUR) has given an uncommon derivation of the right of the House to suppress disturbances in its gallery; he supposes we may build or hire a house, of which we become the masters, and he imagines our right to remove an individual from the gallery is built on the same foundation with the right of any private man to control his own household. I would ask my honorable colleague, what course we ought to pursue, if rioters should overcome our Sergeant and hold forcible possession of the galleries? On such an event I conceive that one of these methods only could give relief: 1st. We must apply for the assistance of a justice of the peace and constable; or, 2d, Prosecute an action of ejectment against the rioters; or, 3d, Resort to the physical power of the individual members here to assist our officer; or, 4th, Direct the Sergeant-at-Arms to summon the citizens of the United States to his aid. I believe it will not be seriously contended that we ought to apply to a justice of the peace to obtain the desired relief; yet, as well the resolutions before us, as the arguments of gentlemen would lead us to that application. They say they wish leave to make a law to punish certain contempts; that there is no such law; and that this House cannot punish offenders without such previous law. They wish to send the case of John Anderson to the Attorney General; but as there is no law to punish the offence, the courts of record whose province it is to execute the laws cannot punish the offender; our attorney, therefore, could (by the doctrine advanced) do no more than apply to a justice of the peace, to bind the offenders to their good behaviour by recognizance, and exhibit the anomaly of a National Legislature, begging a justice of the peace to interpose his discretionary powers to protect them from attacks which might subvert or suspend the

15th CON. 1st SESS.—22

exercise of the legislative authority. If my alternative proposition be correct in its shape, and if I may reject its first three branches, by affirming that this House would not be under the necessity of applying to a justice of the peace, or prosecuting an action of ejectment, or resorting to the physical force of individual members; it will of course follow, that the Sergeant-at-Arms may summon the citizens of the United States to his assistance in quelling a riot in our presence; and, if the Sergeant has such authority, or can derive it from our command, it must be the consequence or effect of some political or municipal power vested in this House—a power which my colleague, I trust, will agree, cannot be exercised by the mere owner of a private house. This public power of your officer to summon the people of the United States to his assistance, may be called a political, or municipal, or civil power, as gentleman please; but I must beg them to consider the derivation of his power. It is not expressly delegated by the Constitution, and is, therefore, an implied power; and every rule of interpretation that justifies the inference of this implied power will equally authorize the implication of all the powers necessary to defend and secure the privileges of this House.

The House possesses an inherent power to preserve its own privileges—a power inseparable from the power of legislation granted by the Constitution. This power derogates not from the rights of the States or the people, but is derived from those rights. It is by the grant or command of the States and people we exercise the powers confided by the Constitution; and, inasmuch as they intend we should, at all hazard, execute those powers, they must, of necessity, have intended that we should suppress all obstructions to their due exercise. We cannot excuse ourselves for omitting to execute, or for the undue exercise of those powers, by informing our constituents we were hindered and insulted by menaces and offers of blows and bribes, inasmuch as the Constitution has given us the power of appointing our own officers. The gentleman from Virginia (Mr. BARBOUR) admits our authority to make a Sergeant-at-Arms; the Constitution has not defined the duty of that officer; and since we are left to arrive at his duty by inference, what is more natural than to believe that his duty consists in executing our commands to preserve our privileges?

It is proposed to enact a law to punish breaches of privilege, on the assumed ground that such breach cannot be punished until made a crime by law; but how, if we are insulted and obstructed from public business, whilst endeavoring to make that law? How, if we are compelled by force and insult, to desist from legislation? The grant of powers by the Constitution must then cease, because we refuse to assume a power which we here see is absolutely necessary to enable us to perform our duty. I concur with gentlemen in discarding the authority of Parliamentary precedents. Neither this Government, or its depart-



ments, are indebted to precedents for their faculties. Our Constitution is not forty years old, and precedents more recent than its origin would not influence me to warp the interpretation of that instrument. Yet I am at a loss to know why some gentlemen imagine that the power so frequently exercised by the British House of Commons, derogated from the liberty of the people. The increase of the privileges of that House has been acquired by inroads upon the royal prerogative. Before the extension of their privileges, the great danger apprehended was the power claimed by the Crown to imprison the Commons, and not the power claimed by the Representatives of the people to defend their own privileges. Precedent is a shelter for imbecility. The Commons, originally the most helpless branch of the British Government, resorted to precedents and gradual encroachment on prerogative to establish their privileges, on which so vitally depended the interests of the people. But the House of Representatives derives its privileges from a just interpretation of the Constitution, and asks no aid from precedents, when claiming merely a power essential to the exercise of its duties. I am opposed to granting leave to bring in a bill to punish breaches of privileges, because we already possess the power to punish, derived from a higher source. If a power to defend our own privilege cannot be implied from the Constitution, we cannot pass a law to enable ourselves to assume such a power. If the different branches of the Legislature are not independent of each other, the purposes of the framers of the Constitution are not obtained; yet we are necessarily dependent on the Senate, if under the necessity of procuring its assent, to enable us to preserve those privileges essential to the exercise of our duties. It is the province of the judiciary to expound and enforce the laws of the United States. By embodying the privileges of this House in acts of Congress, we refer their discussion exclusively to the courts, and thereby subject the independence of this House to the control of those courts. I most cheerfully agree, that the judiciary is an independent and co-ordinate department of this Government, but am not willing to acknowledge its authority paramount to the authority of this House, in relation to matters which concern its privileges. And, were it possible to waive all these objections, I deem it impracticable to enumerate and define the contempts which may be offered, as it would be impossible to define the contempts offered to any other supreme court.

My colleague (Mr. BARBOUR) infers, from the enumeration of privileges in the Constitution, that the authority now claimed does not exist. A reference to the enumerated privileges will show, that the framers of the Constitution were sensible that this House would possess privileges which it was deemed unnecessary to enumerate; for the enumerated privileges are such as were not incidental to the powers of legislation. Exemption from arrest might be construed as waived, by a member who became a merchant, or voluntarily contracted debts after his privilege had

commenced. It might have been doubted, whether a person elected was a member until he accepted his office, by taking his seat or taking the oath to support the Constitution. Moreover, the privileges enumerated are such as must be frequently discussed in vacation. If a member be arrested in returning from the session, the courts must have a law to govern them in regard to his privilege. If a member be sued for slanderous words spoken in debate, the courts must be informed of the law which is to govern their decision; but as to privileges, incidental to the powers of legislation, and which the House itself may assert and preserve, it was unnecessary to enumerate them.

It is objected, that the exercise of the power to punish by this House might infract the fifth article of the amendments to the Constitution, which provides that a man shall not be twice put in jeopardy for the same offence; and that any punishment inflicted by this House would not exempt the culprit from another punishment, under the sentence of a criminal court. This objection assumes as granted the question we are now discussing. True, no man shall be twice punished or twice put in jeopardy for the same offence; and if we have no power to punish him, the criminal court might punish him again. But I insist that we have the power. If we have the power, then the sentence of this House, and the fifth article of the amendments, will bar any further prosecution, for the same offence, before any other tribunal. The fourth article of the amendments to the Constitution provides, that no warrant shall issue but upon oath or affirmation; and gentlemen have excepted to the warrant against John Anderson, as having issued without an oath to support it. This article of the Constitution furnishes a rule as to the proof necessary to authorize the emanation of a warrant; but when no proof is necessary, this rule has no application; and no proof can be necessary when a crime is committed in the presence of the tribunal authorized to examine it, or when that crime is confessed, or when the offence consists in a contempt of that tribunal. The contempt here was committed in the presence of one of the judges of privilege; and as the judge of a court of record can take a recognizance, which, when returned, becomes a part of the record, so the Chairman of the Committee of Claims can make a report, to which the House will allow credit until contradicted.

Those who question the title of this House to punish contempts of its authority, demand that we shall point out the limits of this power of punishment. To this demand it might be replied, that an ambiguity in relation to the extent of such power, or a diversity of opinion in regard to its precise limits, could afford no argument against its existence, although it might furnish (at least in the minds of some gentlemen) a strong motive to have some exact boundaries interposed by an amendment to the fundamental institutions of the Union. But the source from whence the power is derived has in past times, and probably

will in future, as to all practicable purposes, furnish a guide to the exercise of the authority. The right, nay, the duty, of preserving inviolate those privileges which are essential to the faculties of the Constitution, dictates to this House the power of punishment; the power, therefore, must be co-extensive with the privileges of the House, and the punishment to be inflicted, in any case, should be proportioned or increased, as the nature or violence of the attack upon the privileges of this branch of the Legislature might impair or endanger its independence or integrity. The power of courts of justice to punish for contempts, does not admit of greater certainty in its measurement than the jurisdiction now claimed for this House; yet we never hear of objections to the exercise of this power by the courts, on account of any pretended uncertainty of its extent. The gentleman from Mississippi would confine the power of punishment, by a court, to contempts offered in its presence. A little reflection, I am satisfied, will convince that honorable member that the courts can punish contempts of their authority, whether offered in court or in the country, in term time, or vacation; that such contempts are punished, and such punishments warranted by principle, precedent, and practice. If contempts be offered openly in the presence of the court, whilst sitting, it inflicts punishment without further inquiry; but if offered in the country, or out of immediate view, the offence charged must be properly reported and proved, to induce the court to interpose its authority. So the chairman of a committee cannot, by his own mere authority, punish a contempt, but this House may, when the offence is reported, proceed to punish the offender.

MONDAY, January 12.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency and policy of amending the act, entitled "An act relating to settlers on the lands of the United States;" so that all settlers on public lands, who have not leased from the United States, shall remain thereon, in peaceable possession, one year from the expiration of the existing laws on that subject.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of providing by law, for the making disposable, like other public lands, such parts and portions of the lead mines and salt springs in the Missouri Territory, as shall be deemed not of sufficient extent or value to be retained by the Government, reserving such only as shall be deemed of sufficient extent and value for the public use.

The House took up the amendments proposed by the Senate to the resolution "directing the procurement of certain laws;" and the same, being read, were concurred in.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Winslow and Henry Lewis,"

with an amendment, in which they ask the concurrence of this House.

#### CASE OF COLONEL ANDERSON.

The House then proceeded to the consideration of the resolutions offered by Mr. SPENCER, touching the case of Colonel John Anderson.

Mr. QUARLES, of Kentucky, rose. This, he said, being a great Constitutional question, involving the privilege of the members of Congress on one side, and the rights of the citizen on the other; and it appearing, from the indulgence already given to the debate, that the House was willing and disposed to hear a full and ample discussion of the subject, by every member who chose to exercise that right, was his apology for offering the remarks he was about to make.

I, said Mr. Q., for one, deny—first, that the House have the power to punish John Anderson; and, secondly, deny that it should possess that power; and contend that the most dangerous consequences may result from the recognition and exercise of it. Let us, said Mr. Q., investigate the situation of this case, and see how it really is. It seems that the accused wrote to the Honorable LEWIS WILLIAMS, Chairman of the Committee of Claims, and delivered to him, in his private room, or at his private lodgings, a letter proffering him a bribe. I am willing to place this case in its strongest possible situation, and admit that he did actually offer him a bribe of five hundred dollars for reporting favorably to claims which he had pending before that committee—an act at which there was an universal burst of indignation manifested by this House, upon the communication of the honorable member, rising in his place, and relating the case and infamous attempt upon his integrity; an action, about the turpitude of which, there seemed then to be, and I am confident exists now, universally in the walls of this House, but one opinion. If we possess the power to punish the act of John Anderson, it seems to me, with deference to the opinions of gentlemen who differ from me on this subject, that we derive it either from the Constitution of the United States, or some statutory provision made conformably thereto, or the *Lex Parliamentaria*, or Law of Parliament of Great Britain.

The framers of the Constitution of the United States, being acquainted with the disposition which had been manifested by the House of Commons of the Parliament of Great Britain, who derived their power immediately from the people, and were presumed to be acquainted with the interest, the will, and the feelings of their constituents, and responsible to them, at the returning elections, for a faithful and honest discharge of their duties—and knowing that there had been an accumulation of privileges which had been assumed and arrogated to themselves (the said members of Parliament) which had produced many exemptions and immunities to that body, and thereby encroached upon the rights of the people; and the framers of our political institutions, knowing also the love of power which was natural not



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

only to man in his individual, but also in his corporate capacity, adopted this wise provision in our Constitution, which will be found in the first article and sixth section thereof—speaking of the members of Congress and their privileges, this expression is used: "They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place." There being a variety of other privileges secured to the British Parliament, and these also being a small portion of those enumerated at the time our Constitution was framed, and the whole of the others of the British Parliament being known to the enlightened founders of our political institutions, it seems to me that the adoption of these alone by them, clearly evinced a disposition that the enumerated privileges, and those explicitly defined, should be the only ones secured to the member of Congress—they being essential for national purposes, by securing his services, which were conceived of more importance to the nation than his detention could be, which would only exist in the instance or suit of a private individual, and for his benefit; when, by the member being prevented from attending to his legislative business, thirty or forty thousand people would be left without a representative.

Many arguments have been drawn from an analogy between this House and courts of justice, possessing the power to fine and imprison for a contempt of their authority. I will answer that, by denying that any court of the United States, or of any State in the Union, possesses the power of fining and imprisoning for any contempt, unless the power is derived by the recognition of the common law ingrafted in the Constitution, giving that right, or by statutory enactment. Many arguments also have been advanced, attempting to show that all bodies have the inherent power of self-preservation and protection, and consequently possess the power of punishing for any act which will tend to corrupt and contaminate them in the discharge of their various duties. Whilst I am willing to admit that corporate bodies have the same inherent powers that a private individual has, in protecting his mansion, which would enable him to repel force, and remove from his house any person that invades his domicile; and that he might apportion his force to the violence offered; I am very far from admitting that either an individual, in his own right, has the power to punish, or that a corporate body has; the power of self-preservation and protection does not necessarily give the power to punish. Can there be an example of any corporate body that ever did exist in a free country, or a country of laws, inherently possessing and exercising any other than the power of self-preservation and protection? Was the attack of John Anderson an attack upon the corporate capacity of this House, that will authorize us to bring him before us and punish him? Did it interrupt our deliberations?

Was it a contempt which offered molestation or violence to our discussions? Was it in the walls of the House, or the pulchre thereof? Was it in the committee room? No. Then by what power, either inherent, or upon the analogy of courts of justice, can we have the power to punish? Suppose, for the sake of argument, a judge was in his room at his private lodgings, and he should be insulted by being offered a bribe; could he punish the person unless he was by the Constitution or law made a conservator of the peace, and an attempt to bribe was such a breach thereof? I imagine he could not. It only remains for me to show, before I dismiss the first division of the subject, that the *Lex Parliamentaria*, or Law of Parliament of Great Britain, cannot apply to this case. It is not incorporated in our Constitution, or adopted by any feature thereof, (except giving the privileges and exemptions clearly defined, and about which there can be no doubt,) and enumerated in the article and section before noticed by me. There are with me other strong reasons why we ought not to exercise or attempt the exercise of the power to punish the accused; it is well known there is an honest difference of opinion which pervades this body; whether we have the ample and complete power to punish for the alleged offence; it only being secured to us, if it is possessed at all, by construction. This House are not now to learn, that the great Constitutional privilege of the law of *habeas corpus* is secured to us, and can only be suspended in times of invasion and rebellion; neither of which exists now.

Suppose, that, during the pendency of this debate, John Anderson would petition, and obtain from the Judge of the District of Columbia, the writ of *habeas corpus*, and the judge, in the exercise of his judicial powers, should entertain an opinion, which all this House, who deny the power of this body to punish, also entertain; would he not release him from his confinement? It is certain he would. And what a curious spectacle, and I had almost said farce, would we have been exhibiting! Just as we decide, this House has the power to punish the accused, and order the Sergeant-at-Arms to bring in John Anderson, we should be informed that he was liberated by the judge of this District. I will now notice the arguments of the gentleman from New York (Mr. STORRS.) If I understand that gentleman, I think he said, that the Constitution of the United States, giving Congress the power to make laws for the District of Columbia, and plenary legislation over it, vested them with the same power that the legislative bodies of the States have over their respective States; and that thereby we were vested with the power contended for. I will barely observe that the plenary power of the legislation over this District is vested in the Congress, consisting of two branches thereof, and if the power to make laws for our Government, and the people of this District, was possessed by one branch of the National Legislature, the convention of both would be useless; either might convene and pass resolutions, which would

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

have all the force of laws regularly passed in this District.

It appears to me that I have shown that no power derived from the Constitution or from the *Lex Parliamentaria* or law of Parliament of Great Britain, or inherent, self-preserving, and protecting power, can justify our punishing John Anderson, it being yielded by all parties that there is no statutory provision vesting us with it. It will now be my duty to show, according to my method, pointed out in the commencement of the argument, that we ought not to possess that power; that it might some day or other shake the very foundation of our political institutions. In times of peace, harmony, and quiet in the country, no danger is to be apprehended; and, so long as a majority of this House are honest, and disposed to preserve the purity of our political institutions, there is no danger. These were not the times which the framers of our Constitution had in view. It was in factious times, of great party heat in the country, wherein the privilege of the members of Congress and of the citizen might be involved, that we were intended to be restrained and our powers defined. Were we all virtuous, were we all wise, were we all disposed to act, now and at all times hereafter, correctly, there would need no checks. Constitutions and laws are framed for the protection of the rights of the innocent and harmless, from the aggression of the corrupt and violent. If we exercise the power of punishing for a contempt, which is not defined, and arrogate to ourselves privileges we are not possessed of, only by construction, where is the stopping point? Could it not be extended to an attempt to bribe us at our homes, before we set out to this place? It seems to me it might with as much propriety. And would any man say, that he could send for a person upwards of one thousand miles from home, for the commission of an offence not known to exist, only by a strained construction? It has been reiterated in argument, that we have the power and ought to punish this man, to preserve the incorruptibility and purity of this House from attempts to bribe us. My answer to this is, that we never shall legislate ourselves honest and pure; and if we are to keep out corruption in this way, the purity of the House is not worth preserving: if there is no other inducement to the performance of good acts than what is produced by protection to the member in punishing the villain that offers us a bribe, I fear our virtuous acts would not be many. What good can result from it? The honest correct statesman will, on every occasion of an act of this kind, treat, as the honorable chairman of the Committee of Claims has done this, the attempt with that indignation which is another, amongst the many evidences, of his qualifications, to discharge the trust reposed in him by his constituents and this House; and the time of its members will again be occupied probably several days in discussing the propriety of the inquiry: all sides yielding, that no precedent is conclusively to bind a future Congress on this subject; and, should a proposition be made by an infamous or corrupt man to

a member destitute of morality or honesty, the bribe is received, and there is an end of it. Why is it necessary or more proper that we should possess the power of preserving our purity and morality, than every other officer of the Government, in whose purity and morality the country is materially interested? And why should we have powers and privileges which no other person in this Government could or would dare to exercise? Is not the President of the United States an officer of as much importance in this Government as a member of Congress? Does he not draw his power from the whole people of these United States? Is he not the great Federal Head, possessing the executive, and, at the same time, legislative powers, to a certain extent? Is it not as important that his purity and morality should be preserved and protected, as the purity and morality of a member of Congress? Is he not a component part of the Legislature, to all the practical purposes of law-making? Cannot he put his veto on all bills which have passed the National Legislature, and thereby prevent their enactment, unless sanctioned by two-thirds of both branches thereof? It very frequently happens, that bills pass by a small majority of the Congress, and that these bills, some of them, are of the utmost importance to the United States. I will suppose one of this description has passed, and in the manner I have mentioned; and an offer should be made to the President to withhold his signature upon receiving a large sum as a bribe, and the consequence of his complying with the request of the infamous person who makes an attempt upon his integrity, would be, to prevent the enactment of the bill; would not this be a gross attempt to corrupt the Chief Magistrate of this nation, for the purpose of preventing a salutary bill from passing, which would conduce to the interest and prosperity of the people? I answer that it would. Suppose the President, feeling the force of the injury attempted to be done the country, and under the self-preserving and protecting power now contended for by many gentlemen of this House, should assume and arrogate to himself the power of punishing the person, and should order him to be fined and imprisoned therefor, judging himself of the magnitude of the offence and the extent of the punishment. What a clamor would be raised by the people of these United States! Executive patronage and influence, so much now agitated, would cease to be spoken of, and the attention of all classes of people would be directed to an inquiry, by what power, either vested in him by the Constitution or the laws of the land, did he exercise it? The answer of self-preserving and protecting power, inherently possessed by him, would not satisfy them; and this great Republic might be convulsed thereby. Suppose he should be walking in the streets of Washington, and the vilest ruffian in Christendom should commit an actual battery upon him, or should even enter his house, or rather the house assigned him by the Government, and in the same commit upon him an assault and battery, and the President should



der him to jail, and inflict a fine upon him, at his own discretion. Would he have the power to do so? There is no doubt he would not. Why then should we be invested with the right of preserving and protecting our privileges, when officers of other departments of the Government, equally as important as that to which we belong, have to resort to the judicial tribunals of the country for redress for this very same kind of attack made upon them? And by whom an attempt to exercise any other power would call down the universal execration of all persons in the country. Suppose an offer should be made to the directors of the Bank of the United States, at Philadelphia, to bribe them to discount a note with insufficient security. This is a corporation created by the United States, who have an interest in the purity of the conduct of its directors. Would the self-preserving power and protecting right enable them to punish the offender by an act of theirs, unconnected with the aid of judicial interposition? I imagine it would not. And I will ask, why they have not this power? Because it is not essential to the existence of the institution; it does not follow as a right incidental to their creation; or, gentlemen have it, there is no inherent power. Another reason, and forcible one, with me, why we should not possess the power now contended for is, that there is no law apprising the citizens of the United States of the extent of the power contended for. And the liberties of any people are in great danger when the same body has the power to accuse, the right to make the law, the authority to adjudicate upon the violation of it, and the strength to enforce it simultaneously. It is at war with every principle of our political institutions, which guarantee the right of the humblest citizen equally with the most exalted personage. Some gentlemen have argued, and particularly the gentleman from Virginia, (Mr. RANDALL,) that he should be unwilling to permit the rights and the privileges of this House to be curtailed or limited by the check of the Senate, the veto of the President, on passing a law to define them. So far as they are defined, I should be unwilling myself; but as every other person in the community, however exalted he may be, is obliged to submit to an encroachment on his right, and such as it is maintained this House now *inherently* possesses the power to punish, to be adjusted by the adjudication of courts of justice of the country, I can see no good reason why we should be exempt from the same mode of redress. Why is it that this land is sought as the asylum of the admirers of freedom and lovers of liberty of all other countries, who fly from oppression and grinding despotism? It is because it is understood and believed that this is a country of laws, based upon a free Constitution of proper checks and balances, and known to the citizen; and that there are no privileged orders here; and that the rights of the humblest citizen are equally protected with the most distinguished personage. Before I sit down, I will object to that part of the resolution which points out the duty of the Attorney for the United States in inquiring into

and punishing this attack upon one of our members. Having no right or power to punish ourselves, and believing we possess none to direct an inquiry into the alleged offence, by referring it to a tribunal over which we, as one branch of the National Legislature, possess no control, and, being unwilling to prejudge the case of any person, and bring him to the bar with the weight of this branch of the National Legislature against him, I am not willing to proceed further than the discharge of the accused, being thoroughly convinced that we do not possess, and ought not to possess the power contended for by gentlemen who hold the other side of the question.

Mr. McLANE, of Delaware, said that he could not permit himself to pass upon the important subject before the House, without submitting the reasons upon which the conviction in his mind had been formed. He had supposed that the present question had long ago been put at rest, and that, after a solemn decision in the year 1796, in a case similar in its nature to the present, and after the practice under, and repeated recognitions of that decision, for a period of more than twenty years, that the subject would not have been again disturbed, and that the power of this House to punish a contempt upon its own body would not now have been doubted. But, said he, Mr. Speaker, it seems that we live in an age when Constitutional scruples, and doubts of the powers of Congress, have become fashionable, and it is not unworthy of remark that these doubts multiply as we recede from the times in which this instrument was formed, and lose sight of those men who assisted in its formation, when, and by whom, it is fair to infer its spirit and meaning were at least as well understood as they can be at the present day. He thought that, whatsoever reason there might once have existed to apprehend that the powers of the General Government were too great; he believed there was much more reason at the present time to fear that they were not great enough, and that the disposition had become so prevalent to abridge our Constitutional power, that we ought to be very backward in voluntarily surrendering any portion of it. By this mode of confining us to the strict letter of the Constitution to take away powers of which we have been in the exercise from the period of its formation, the power of the General Government was in danger of being annihilated. In this way we might go on lopping off, one by one, the branches of our authority, until Congress would be left a naked trunk, without a limb by which its functions could be exerted. He would be as unwilling as any gentleman to advocate an extension of these powers beyond their just limits, but he was quite as unwilling, from any motive whatsoever, to circumscribe them in a narrower compass than a liberal and reasonable construction of the Constitution, according to its true spirit and import would justify. The present attempt appeared to him to be even more dangerous, than any that had been previously made; it not only confined us with unusual strictness to the objects actually enumerated in the

Constitution, but also denied us the means necessary to effect the objects so delegated.

The resolution now before the House proposes to discharge John Anderson from the custody of the Sergeant-at-Arms, by whom he has been arrested under a warrant issued by the Speaker; and it is advocated upon two grounds; first, that this House has no power to punish for a contempt; and, secondly, that the warrant issued without oath. The first of these propositions has been attempted to be supported under those articles of the Constitution, which provide "that no person shall be deprived of life, liberty, or property, without due process of law;" "that no person shall be held to answer to a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury;" "that in all criminal prosecutions, the accused shall enjoy the right of a speedy public trial by an impartial jury;" and "that no warrant shall issue but upon probable cause supported by oath or affirmation;" and, also, that as, by the Constitution, only two privileges are secured to the members of Congress, they have no others, and it has even been contended that, for a breach of these, this House has no power to punish. I shall not attempt, Mr. Speaker, said Mr. McLANE, to deny the existence or the soundness of these provisions, but I do deny altogether their application to the present case; they are totally beside the question now before the House, and have reference to a case which does not exist.

John Anderson is not now charged with the crime of bribery. We are not now about to try him for a "capital or otherwise infamous crime," or to inflict upon him the punishment which would follow his conviction upon such a trial; but we are proceeding against him for a contempt of the rights and dignity of this House; and although the act which he has committed, and which constituted the contempt, may also involve the guilt of bribery, this is a distinct offence, for which he is amenable to another tribunal. It would be the duty of that tribunal to avenge the injury done to the public peace and morals; it is ours to protect ourselves from the outrage and indignity upon our deliberative functions. I have heard, with great surprise, from the honorable gentleman from New York, (Mr. SPENCER,) that a man could not be twice tried for the same offence; and that therefore, as John Anderson may be tried for bribery, he is not liable to be proceeded against in any other manner. There is nothing more fallacious than this mode of reasoning; for although it may be conceded that a man cannot be twice punished for the same offence, yet it is perfectly clear that the same act may comprehend within it two, or even more offences, each of which is liable to distinct remedies and different punishments, and very frequently before separate tribunals. The crime which may be involved in the act which is the ground of the contempt, is no otherwise an offence against this House than as it may tend to aggravate the degree of indignity which is offered to it, and the House never could proceed to

try it, as it would not be in its power to inflict the adequate punishment; but it cannot be indifferent to the outrage committed upon its own character, or deprived of the power of punishing it, merely because the individual might be exposed to a trial at law, which, if he were to undergo, it would not purge the contempt. Such a mode of reasoning would involve this inconsistency, that for minor offences this House might punish for the contempt, but of those of a more atrocious character it could take no notice. I hold it to be undeniable that every act which offends against the public, and at the same time encroaches upon the rights of natural or artificial persons, may be prosecuted by either or all of the parties who are affected by it. Their injuries are distinct, and they must therefore pursue separate and distinct remedies. In the one case it is a public, in the other it is a private wrong; in the one, a public prosecution is the remedy, in the other, it must depend upon the nature of the person to whom the wrong has been done. Numerous instances might be cited in illustration of this principle, but I will content myself by mentioning one or two, which must be perfectly familiar to the professional experience of the honorable gentleman from New York. An assault and battery committed upon the person of an individual involves both an offence against the public, and an injury to the person upon whom the outrage has been committed. For the former, the person committing the offence is liable to an indictment and a fine for a breach of the peace; for the latter, he may be proceeded against at the suit of the individual, by whom damages may be recovered for the injury sustained. These remedies may both be prosecuted at the same time. The case of a libel is still stronger. Here the libeller is subject to an indictment, and may be proceeded against criminally for the offence against the public peace and morals, and may also be sued by the individual slandered for the injury to his reputation; and if the libel had relation to a judge or court, and implicated his official conduct, or if it concerned any business at the time undergoing a judicial investigation, the libeller might also be proceeded against and punished for the contempt. So in the case under consideration. If there has been committed a public offence, leave it to its appropriate remedy, and let us pursue that by which alone the offence against this House can be redressed.

It is impossible, Mr. Speaker, that these provisions in the Constitution ever meant to apply to cases of this description. They can only refer to public prosecutions for public crimes, which member of this House is the subject; and yet, must be proceeded against in a particular manner, and which draw after them the loss of life, and most generally of character; but they never could be taken to apply to the summary proceedings for a contempt. A contempt is not of itself a crime; it is not so much the act as the circumstances under which it is committed, and the body who is affected by it, that constitutes the contempt.



H. or R.

Case of Colonel Anderson.

JANUARY, 1818.

If these provisions in the Constitution were to be received in the sense contended for, they would apply equally to every tribunal, and courts of justice would, for this reason, be stripped of their power to punish for a contempt. But has it ever been contended that the powers of courts, in this respect, have been less since the adoption of this Constitution than before? Sir, the courts are in the daily exercise of this power, and in no instance that I have heard of has it been contested. Nothing is more common than for courts to exercise this power over their officers, in enforcing a strict performance of their duties—and this, too, in cases where there are no other remedies. If a marshal or sheriff collect money under execution process, and refuse to pay it over, the party entitled to receive it may either sue the officer for the amount, or call upon the court to interpose its summary powers to compel the payment. Sir, will gentlemen deny the power of this House to exercise a similar authority over their officers? Suppose, Mr. Speaker, an order of this House be made in a case clearly within the Constitutional compass of its legislative powers, such as directing a disorderly person to be removed from the gallery, or a noise under our windows to be suppressed; suppose, sir, we direct our Sergeant-at-Arms to execute this order, and he refuses—to deny the House the power of proceeding against the officer in such case, as for a contempt, in disobeying the order, would be to render it utterly powerless and imbecile.

Nor, Mr. McLane said, was the case now under consideration one of a breach of the privilege of an individual member, and could not be affected by the provision in the Constitution, though it should be susceptible of the interpretation which had been given to it. He entertained, however, no doubt of the power of the House to punish any outrage upon the individual members during the continuance of the session. But, said he, the two cases of privilege enumerated in the Constitution are personal; they are the privilege of the person, and are rather an abridgment of the privileges to which he would have been otherwise entitled, according to the usages of Parliament, and to guard against an undue extension of these privileges. They were also necessary for the protection of the member in the recess, and at times when the House could not interpose to afford it. But the privileges of the House, or the body of the members collectively, are nowhere defined in the Constitution; they could not be defined, for they were as numerous as the diversity of human incident, and they were therefore left at large, in the same manner as they existed before the Constitution itself was formed. He could not doubt the House would have a right to interpose in support even of the individual privileges secured by the Constitution, and to cover the person of a member with its shield and protection, where he might be taken from their body by the power of arrest, or the rude hands of violence. This interference might become necessary to our deliberations; the judicial power might not be at hand, and the slow

pace of legal inquiry might not afford a remedy. At any rate a court could not prevent a repetition of the offence; and therefore, unless this House had the power, the privilege would be nugatory, and the proceedings of this body might be totally interrupted. It was not necessary, however, to discuss this question; and he was unwilling to embarrass the subject with anything that did not strictly appertain to it.

Anderson is not charged with a violation of individual privilege, but he is accused of a breach of the privileges of the House—privileges which entitle this body, in its legislative capacity, to deliberate upon the important business before it, unawed by disorder within, and untainted by corruption without. The injury in this instance is not to the individual, Mr. WILLIAMS, but to this body collectively. It is an attempt to poison the source and very fountain-head of our power, and to prostrate the dignity of this House to the infamous purposes of bribery and corruption.

The privileges of the House, as such, consist in the right of protecting its own proceedings, of deliberating in safety, and in preserving the purity of its deliberations from all interruption. Its power consists in enforcing and exercising those privileges. Such a power is inherent in, and incidental to, its very existence, because it is absolutely necessary to the due discharge of its functions. It is the right of self-preservation, which belongs equally to artificial as to natural persons. The right and power of preserving this body from outrage and violence, and of preserving its deliberations incorruptible, is not less than that of an individual to maintain his own self-protection.

Whenever a power is raised for any special objects and purposes, the means of executing the power are necessarily conferred at the same time as indispensably incident to its very existence. It would be absurd to delegate powers, and at the same time deny the means of carrying them into effect.

In the creation of political institutions, the great fundamental objects of their existence only can be enumerated; but the instruments by which these objects are to be accomplished cannot be enumerated, because they cannot be foreseen. When, therefore, the great power of legislation was given, it cannot be supposed that the lesser power of conducting that legislation would have been denied.

The particular means to which the institution must resort, in the performance of its duties, must depend upon circumstances, upon the exigencies of the times, and upon the nature of the duties it may be required to perform, which the clearest foresight could not anticipate. But, as a principle of general natural law, all powers necessary to self-preservation of the body created, and proper in the execution of the trusts confided to it, are incidental, and pass as of course. No Constitutional provision would be requisite to give them, and, unless they were denied in express terms, they would continue inherently in the nature of the body or institution. Must not their necessity have been foreseen? And can it be im-

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

agined, sir, that they would not have been given, if it had not been supposed they would belong, of course, to the body created?

It will surely be conceded that a power to protect us in the discharge of our public functions exists somewhere; it cannot be contended that this House was committed to the vicissitudes of the political and moral world without any protection whatsoever. Would any gentleman expose himself to such a situation if this were the case. But, if this House do not possess it, where is it to be found? Where is the power lodged? If not with this House, we should, I fear, look in vain for it elsewhere. We cannot seek it of the courts; they possess no power to punish a contempt offered to this House; it is not an offence against them; it is not an offence against the public; it is not an offence in which damages for individual injury may be recovered; it is not an offence for which an indictment would lie, or for which a civil suit could be instituted. It is a matter exclusively between this House and the individual by whom the act is committed; a court of justice could not interfere; it would be destitute of the means of judging of the nature or extent of the injury. Whether it be a contempt, or in what degree it may interfere with our deliberations, or encroach upon the prerogative of the House, we must be the sole judges, for we alone can know.

Mr. Speaker, was the right of preserving its own order and quiet ever denied to any public body? Nay, sir, it has been admitted in several instances, in the course of this debate, that we have the power to suppress noise and disorder, whether in or out of the House; but if we possess the power to remove these unimportant obstacles, it must be allowed us to guard against the approaches of vice and corruption. Give me leave to say, sir, that the power in such cases is even more necessary than in any other. If, sir, the liberties of the citizens are to be endangered from an abuse of our powers, it will be brought about by the artifices of corruption, which makes its way through the dark and circuitous paths of vice, and seldom dares the broad face of power.

Upon this House, Mr. Speaker, has been devolved the important duty of honestly performing its share of the business of legislation. We are the immediate depositories of the power and the rights of the people, and purity of legislation is our first and great duty. Anything which has a tendency to corrupt or pollute our deliberations is not only subversive of the rights of the citizen, but destructive of all confidence in this assembly. Representing, as we do, the American nation, we cannot respect them without respecting ourselves.

It is admitted that we have the power of superintending the conduct of the members of our own body, and may punish, or even expel them for disorderly conduct. This, to be sure, is a Constitutional power; because, without this provision, if we could have exercised the power at all, it would have been with fewer restrictions than the Constitution has imposed. But, sir, it

is as incumbent upon this body to preserve its dignity, by guarding the conduct of others in relation to it, as in regulating that of its own members; it is not less liable to the assaults of pollution from without, than of disorder within its walls. Sir, we are responsible to this nation for the performance of these important duties, and for the protection of our deliberative character; if we debase it ourselves, or suffer others to do so, we are guilty of a violation of our trust.

This power of the House, then, Mr. Speaker, is purely an incidental power, derived from an inherent right to defend its own existence, founded in a principle of self-preservation. It is not, as has been supposed by our adversaries, any part of the power of legislation, but an incident to that power. This doctrine, Mr. Speaker, is all-important in this discussion; for it is in this that the great error of gentlemen, who deny the power, has taken root. They first consider it a part of legislative power, and then agree that, inasmuch as it is not among the enumerated powers in the Constitution, it is not possessed. Sir, we are not now proceeding in our legislative capacity in the performance of our share of any object designated in the Constitution; but we are about to remove out of our way a nuisance which interrupts our peace, and prevents us from faithfully performing those duties. It is, therefore, wholly immaterial what may be the objects of our legislative power, specified in the Constitution, or in what degree they are limited, since the right to effect those actually delegated, whether small or great, would be the same. The degree or extent of the legislative powers cannot affect the right of exercising them; if the House possesses any legislative power at all, it must possess the means of protecting that power, whatever it may be.

Our power in this respect, Mr. Speaker, is referable to the same great common source whence all other bodies and functionaries derive it—from which it is derived by courts of justice and the Legislature of the individual States, to whom it is admitted to belong. Courts of justice do not exercise the power by virtue of legislation; they possess no legislative power, and no instance can be given in which they ever have asked of any Legislature to confer it. Besides, sir, an act of legislation is the act of both Houses of Congress and the President, or a Constitutional majority of both Houses; but the power now proposed to be exercised is on the part of this House alone, and properly too, for neither of the other branches has any concern with it.

The State Legislatures exercise the same power, not as an act of legislation, but as an incidental right; not because their powers are unlimited and supreme, because they are neither. They possess only limited powers; they are limited by their own written State constitutions, and they are limited by the Constitution and laws of the United States, to which they are subservient. Sir, they exercise it as a judicial act of that branch of the Legislature whose privileges are invaded, and it would be preposterous to contend that the House of Representatives possess less means to



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

carry into effect the powers delegated to them, than the same branch of any State Legislature could possess to execute the objects of their trust. This power, then, Mr. Speaker, being thus defined, it will be found to be both reasonable and safe, and circumscribed in its extent by the reasons and principles in which it is founded; thus will be obviated one of the arguments which has been pressed with great vehemence upon this occasion. He alluded to the observation which was first made by the honorable gentleman from Kentucky, (Mr. ANDERSON,) and since often repeated in debate, that this power was indefinite, and, if exercised for a day, it might be for a year, or any greater length of time. But this power to punish, not a contempt, being a power for our own protection, can only be exercised so long as we are in danger; founded in the necessity of our self-preservation in the discharge of our official duties in this body, it would cease to be exercised when the body ceased to perform its functions, and, therefore, could never be exercised in the recess of Congress, nor could any imprisonment be extended beyond the duration of the session. Few instances would occur to render it necessary to extend the power so far; there could be no disposition upon the part of the House to abuse it, and if a case really occurred to render its exercise absolutely indispensable, it would be worse than weakness itself if it did not possess it. The same answer may be given to all the imaginary evils which gentlemen have suggested in bringing persons from the most remote parts of the United States for insults offered to the Representative in the recess of Congress.

If, then, Mr. Speaker, the power of the House to punish for a contempt be established, as I apprehend it is, the exercise of that power must always be a matter of sound discretion, to be determined by this House, in reference to the particular case. What does or does not amount to a contempt, will always be a proper subject of deliberation; and it is certainly not difficult to imagine many cases in which it would, no doubt, be improper for the House to exercise it, but to prove the existence of the power in one case, it is not necessary to show that the House possesses it in all cases; if it possess it in a case proper for its interference, it is enough. In this view of the subject, Mr. Speaker, it becomes an important question whether it is proper for the House to exercise the power in the case now before them?

Upon this part of the case, Mr. McL. said, it was important to recur to the distinction between the individual member and body of members collectively; with the former he had at present no concern; the insult, in this instance, had been offered to the House, through its authorized official organ, the Committee of Claims, and he could not well conceive of one of greater enormity, or a fouler complexion. This vile and infamous attempt to bribe was not made to Mr. Williams in his individual capacity, as a member of this House, to receive his single vote; though, if this had been all, it would, in my opinion, have been a gross contempt of the House; but it was

made upon him as a public functionary of the House, in relation to his official duty as chairman of the committee; it was intended to pervert the deliberations of that committee to an act of fraud and injustice, through which pollution would have flowed to this House. Sir, this House had referred a part of its own power and duties to this committee, to be prepared and digested for our consideration; and this committee, in the discharge of these powers, bear about with them the powers and presence of the House; their deliberations are, in fact, the deliberations of the House in a different form; to this committee is referred the very business of John Anderson, and he attempts to lure this House into the commission of a breach of its Constitutional duties, by means of a bribe. It was the power and deliberations of the House which it was designed to subvert, and was made in their constructive, if not their real, presence. Suppose, sir, the House had resolved itself into a Committee of the Whole upon the claims of John Anderson, and that, during our deliberations, he had entered the door of the hall, and laid his infamous proposition upon the desk of your Clerk, or thrown it into the lap of your chairman; would this not have been such a contempt for which we could have punished? Sir, it is not less so because it was made to the Committee of Claims, to whom the subject was referred, with the same powers as could have been confided to the Committee of the Whole. Nay, sir, it poured pollution into the very source of our legislation upon this subject. If the contempt be as great, the reasons for noticing it are stronger than if it had been committed in any other manner; it is through such a channel, if in any, that it would be possible to contaminate the proceedings of this House. Few persons, however depraved, possess means to hire, by bribe, a sufficient number of individual members to their purpose; and there are still fewer who would pursue a more open course, more exposed to detection; but if they can find your power concentrated in the hands of a few, and these few commanding the confidence of the House, then, and then only, will they be likely to attempt their purposes. Mr. Speaker, it is not because I suppose any member of this House is accessible by such means, that I say the danger becomes greater; the high-minded honorable conduct of the chairman in this instance, is a sure pledge of the fate which awaits any attempt upon the integrity of this body. But, sir, the insult is not the less because it is repelled; and the repetition of the indignity is the evil to be prevented. The offer of a bribe to a man who was capable of receiving it, would be no indignity to him. Sir, can any man offer a higher indignity to this House, or meditate a more serious blow upon its deliberations, than to suppose its members capable of receiving a bribe, and to make that offer in direct unequivocal terms? And, sir, shall we suffer it to pass without its merited punishment? Mr. Speaker, must we stand by, and see the torrent of corruption breaking loose from its mounds, and rolling through this House, without the pow-

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

er to check its progress? Shall we behold the mercenary knave entering your committee rooms, purse in hand, and not arrest his arm? Will we allow bribery and corruption to lurk about our doors, and not drive them thence? And shall we suffer the gentlemen of our committees to be assailed by their insolence, without shielding them with the power and authority of this House?

Sir, if ever there was a proper case for the interposition of the power, it is the one before the House. If we do not exercise it in this instance, the dignity of this body is prostrated, and, in future, we must not only arm the members of this House with virtue to spurn the offer, but with physical force to punish the insult. Sir, it is the duty of this House to do it for them; and I hope, on the present occasion, they will discharge it.

But, Mr. Speaker, some gentlemen tell us, we should first legislate; pass a law, say they, and then you can punish; and they even say it is our fault that this has not been done before. I ask, sir, why pass a law? To give us the power? The power must pre-exist the law, or the law would be void. Gentlemen say this House has no power to punish for a contempt, because it is not given by the Constitution; then surely, sir, the power to pass a law for that purpose is not given. Here, indeed, a case might be made to meet the Constitutional objection; the objects of our legislative power being limited, we could exercise no others. But, sir, the power being incidental, it must exist without the law, and could not be varied by any act of legislation which could be passed. It is a power founded in the eternal principles of self-preservation and self-protection, and no law could either enlarge or diminish its extent; nor, sir, could a law operate even to define the punishment, since, as I have already shown, this is defined by the very nature of the power itself. Why, then, I repeat, sir, pass a law? It could only serve as the rule of our own conduct, with which no other person could have any possible concern. Sir, I doubt very much whether the Senate would not send us back such a law, as tending to establish a principle subversive of their own powers of self-preservation.

Some gentlemen have also said that we cannot proceed to punish for a contempt, without having previously established some rule upon the subject, under the power given in the Constitution, to make all necessary rules for our own proceedings. But, sir, these rules, in giving power, would even be less than a law; and if it be admitted that we could proceed under such a rule, it is conclusive that the power was possessed independent of it. Sir, the nature of a rule is to prescribe merely the course which we will be willing to pursue in the execution of our powers, and, if this be established, either by a written rule or by long usage, the end is answered. Give me leave, then, Mr. Speaker, to inquire if there does not now exist such a rule? Sir, what is the rule of '96? Then the House exercised a similar power; and it being the first occasion for the exercise of the power, they prescribed a rule at the

time, which has been adhered to in all subsequent times.

When we consider, Mr. Speaker, the men by whom, and the time at which, this rule was adopted, it deserves much more consideration than an ordinary rule of this House. Sir, when this rule and this precedent was established, the General Government had but just risen into life; the apprehensions of the powers which had been delegated to it were yet active; the jealousy on the part of the State governments was in full vigor; and none of those passions which had been excited in the course of the struggle through which this great instrument had to pass, had subsided. Many of those men who assisted in exercising this power on that occasion, had contributed their share in forming the Constitution; by them it had been sifted, either in the convention or in the States, section by section, and they not only knew what power it meant to confer, but what power it would be dangerous to give under it. In such a time, under such feelings, and by such men, was this rule adopted; and I hesitate not to say, that to my mind it comes clothed with the highest authority.

But, it is said, sir, that John Anderson has been arrested without an oath, and that he ought, therefore, to be discharged. I will freely confess that this is the only part of the subject upon which I have had any difficulty; and I will not disguise from the House that I at first entertained very great doubts of the propriety of the course we have pursued. I am now perfectly satisfied that in this case no oath was necessary, but that, if it were, it is not now a good ground to authorize his discharge.

Sir, the provision in the Constitution, upon which this objection is founded, can have no reference to a case of this description; it relates to the case of an arrest, upon the information of an individual, upon the suspicion of a crime, for which the party is to undergo a trial by jury, or suffer the punishment incident to such offences, and the oath is required in aid of probable cause only; it is designed to prevent justices from issuing warrants upon slight grounds, or where there does not exist substantial proof that the party is liable to arrest. But whenever the proof is plenary, either in the knowledge of the party issuing the warrant or from facts indubitable, an oath is not necessary. Sir, there are many cases in which arrests are made without any warrant at all, and it is the duty of conservators of the peace to do so, whenever they believe the ends of justice require it.

Nothing is more common than to arrest individuals under process, in civil suits, without oath; and it is done upon the principle that the Constitutional provision relates exclusively to the cases of crimes or offences against the Republic.

But, Mr. Speaker, this objection does not go to our power, nor does it deny the propriety of exercising it in this particular case, but merely relates to the irregularity of its exercise. But, sir, if it has been shown that the present is a case in which the power should be exercised, then,



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

though the objection might be good against the arrest, it is no reason why the House should not detain the prisoner. It does not follow, because the arrest was illegal, that therefore the party should be discharged; for notwithstanding the illegality of the arrest, if the House, upon an inquiry, should be satisfied that the individual is guilty, they will detain and proceed to punish him. Mr. Speaker, this is not only a sound principle of law, but it is the practice in every part of our country. Suppose a man arrested and committed by a justice of the peace, without oath, and is afterwards taken before a judge upon a habeas corpus; if the judge should be satisfied that there was sufficient ground to detain him, would he remand the prisoner, notwithstanding the original arrest was irregular? Sir, this is necessary to the ends of justice; and if it were otherwise the greatest criminals would be permitted to escape.

Having the power, then, Mr. Speaker, let us bring John Anderson to the bar of this House; if he admits the fact, all difficulty will be removed; if he denies it, we can then proceed to prove it, in legal form, and inflict upon him such a punishment as the high atrocity of his offence may demand.

I am too sensible, Mr. Speaker, of the great influence which the House has already extended to me, to trespass any longer upon their time. But, sir, I cannot conclude without reminding gentlemen, that the eyes of this nation are now turned to our conduct, they feel the indignity which has been offered, and they will expect at our hands such a course as will wipe out the insult and prevent its recurrence.

Mr. ALEXANDER SMYTH, of Virginia, said it was with reluctance he rose to address the House; but the question had become very important; on the one hand were the privileges of this House, on the other the rights of a citizen. He would, therefore, request the attention of the House while he delivered his opinion upon the question before it.

He would first notice the objections that had been made to the warrant on which John Anderson had been arrested and brought to the bar of the House. It had been said that the arrest was illegal, because the warrant was not issued on oath or affirmation. Mr. S. said he would call the attention of the House to the fourth article of the amendments to the Constitution, on which the objection rested. It was search warrants that were prohibited to be issued without oath or affirmation. The article declares the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures; that no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. He contended that the article did not extend to warrants issued by a court; that if a grand jury should make a presentment of their own knowledge, of a capital crime, the court would issue a warrant for the apprehension of the offender,

without oath or affirmation; and that case, he said, was similar to the present, where the Speaker had issued his warrant by the order of the House, on satisfactory evidence.

It has been contended, Mr. S. said, that the privileges secured by the fifth and sixth articles of the amendments to the Constitution, will be violated, should we punish Anderson for a contempt of this House. It is therein provided, that none shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury; and that, in all criminal prosecutions, the accused shall enjoy the right to a trial by jury. Mr. S. said the object of those articles was to prevent prosecutions in such cases by information; that the article which requires a presentment or indictment, would not apply to the case of one charged in the federal courts with bribing a judge; for, as the offence was only punishable by fine and imprisonment, it is not such an "infamous crime" as can only be prosecuted by presentment or indictment. And, said Mr. S., these articles have no relation to this case, which is a proceeding against the prisoner for a contempt. All the courts in all the States punish persons for contempts, by fine and imprisonment, at discretion, without an oath; such proceedings are by no means to be regarded as criminal prosecutions, within the meaning of the amendments to the Constitution.

It is contended, said Mr. S., that, as certain privileges of members of both Houses are enumerated in the Constitution, they are entitled to no other privileges, and that the House has no privileges. The privileges enumerated are personal privileges, such as are pleadable in the State courts, or any other courts, and were inserted in the Constitution that they should be so pleadable. The privileges of the House are not defined; it was very proper that they should be left undefined. It would have been dangerous to have attempted to define them; for no human foresight could foresee the various ways in which they might be violated. The dignity and security of Congress requires that the privileges of the two Houses should remain undefined; therefore, each House is left to judge of its own privileges, and to determine what is a contempt against itself.

By the fifth section of the first article of the Constitution, each House is the judge of the elections, returns, and qualifications, of its own members—a majority to constitute a quorum—a smaller number may compel the attendance of absent members, in such manner and under such penalties as each House may provide. Each House may determine the rules of its proceedings—punish its members for disorderly behaviour—and two-thirds may expel a member. By the second section of the same article, the House of Representatives may choose its own officers. The House of Representatives is a court, having authority to judge the Representatives of the people—having authority to send for any one of them—to arrest him at the distance of a thousand miles—to bring him here in chains—and to imprison him. What further punishments and penalties they might in-

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

flict, I will not inquire. The House is a court, with authority to try certain causes, to arrest certain persons, and to inflict certain punishments and penalties; in other words, it is a court of limited jurisdiction, as all courts are. Why shall this court, the greatest of all courts, be denied the power possessed by every other court, of protecting its authority by punishing contempts? Shall a member of this House be punishable for disorderly conduct, and every ruffian who may approach it be at full liberty to behave as disorderly as he pleases? The power to punish a member was expressly given, because otherwise the House might not have possessed it, as a court cannot punish one of its members. The right to punish others for contempts it was not necessary to give; it resulted from the powers expressly given.

Why is it that this power to punish for contempt, by fine and imprisonment, is given to every court, even to those of the most limited jurisdiction? It is because the administration of justice should be sacred. That is the chief end of government; and if that fails, all the other powers of government are useless. Therefore the court, however limited its jurisdiction, is not under the necessity of depending on any other body of men for protection. If you were to erect a court for the regulation of the markets in the City of Washington, it would possess this power, although not expressly given. The power of protection must be present, and its execution instantaneous, or it cannot be effectual.

The House of Representatives is a court, created by the Constitution and the people, and has, as incidental to its creation, the power possessed by all other courts of protecting itself from interruption and insult. Every reason in favor of the possession of this power by a court applies with equal force in favor of the claim of the like power by a legislative body. As the court cannot hear and determine without order and safety, so the legislative body cannot deliberate and decide without order and safety. The creation of a legislative body alone confers privileges on the body. The power to legislate includes the right to deliberate, to debate freely, under no restraint, fear, or influence. This perfect freedom cannot exist without the right of self-protection. The legislative power being expressly given, the means of legislation—the power to execute the power expressly given—is also given: it is an incidental power. Hence, the House has the right to preserve the liberty, the safety, of its members, and their minds from undue influence.

The House must have protection: to that end it must be able to protect itself. A free Legislature cannot exist without the power of protecting itself. To look to the Executive or the Judiciary for protection, would be for the superior power to look for protection to the inferior. Congress prescribes the other departments their rule of action, and is unquestionably the supreme power of the nation. If protection to the Legislature is afforded by the Executive or Judiciary, it must be by law. But Congress had a right to protection before the law existed, before the Ju-

diciary existed, and before the President had any legal power. Congress then had a right to protect itself; it still has the same right.

The House of Representatives possesses the same power to punish contempts that the British House of Commons does, and for the same reason, not because it is the common law of England, but because reason (the basis of the common law, that gave this power to the House of Commons, as incidental to their legislative power) gives it also to this House. Every State Assembly has the same power, and several of them have exercised it. But it is said this power is derived from the common law, which is not the law of the Federal Government. It is true, the courts of the United States cannot take cognizance of crimes which exist only at the common law, because their jurisdiction is specially limited to certain described cases, and to cases arising under the Constitution and laws of the United States. But the common law was the law of those who framed the Constitution—of those who adopted it—and it is in force here. It was the law of Maryland, and is in force in the District of Columbia.

Some protecting power seems to have been conceded to the House by all those who have opposed the exercise of it in John Anderson's case. One gentleman allows that we have power to clear the galleries, because our rules authorize it. Then the House must have possessed the power before the passage of the rule, or else the rule could not have been passed. Does the Constitution confine our power to the galleries? Does reason confine our power to the galleries? Another gentleman will extend our authority as far from the House as a stone can be thrown: he will preserve the windows of the House. Another gentleman will go as far as the *purlieus* of the House. Why not go as far as the lodging-rooms of the members? Why not extend it as far as the bounds of the District of Columbia? One gentleman would punish the offender, if a member, as he came to the House, should he be so disabled as to be incapable of attending. The gentleman did not inform us that he would punish for less than a total disability. Would not the gentleman agree to punish the offender who should shoot at a member as he came to the House, with intention to prevent the member from voting on a particular question, even although he should escape unhurt?

It seems then to be admitted by all that the House has some protecting power: we differ principally as to the extent of the power. If the House has any protecting power, it is not because it is specially given, for none is specially given; it is because the power is essential. Then the House has some protecting power, because it is essential; then it has *all* the protecting power that is essential. The power which we contend for is deemed essential, because, unless a legislative body can protect itself against assaults, interruptions, and insults, it cannot act.

It has been said we have hired a house, and may turn out an intruder. The house is hired



H. or R.

Case of Colonel Anderson.

JANUARY, 1818.

by the United States. Are we really without any authority here but that of tenants at will?

It has been objected that the privileges of the House are not defined, either by the Constitution or by the laws. I answer, it would have been dangerous to have defined those privileges by the Constitution, and they cannot be defined by law. A law cannot confer the power that we seek to exercise. Congress cannot by law give any power to Congress. This I suppose to be evident. Neither can Congress pass a law that the House of Representatives can carry into execution. If you pass a law, that must be for carrying into execution some of the enumerated powers of Congress, the Government, or of some department or officer of the Government. Therefore, no law can be passed for carrying into execution the powers of this House. No law can be passed prescribing how this House shall judge of elections; how it shall compel the attendance of members; or what penalties or punishments it shall inflict on disorderly members. The Constitution leaves all such questions to be decided by each House respectively. Each House shall determine the rules of its proceedings.

If you pass a law on the subject of the privileges of the House, you cannot carry it into execution. The Judiciary must judge of it—the Executive officers must execute it. By attempting to pass a law on the subject, you submit the privileges of this House to the judgment of the Senate, and the privileges of each House to the opinion of the President. The Judiciary can only redress wrongs long after they are committed; the House requires present protection, and it would be extremely unjust to intrust the privileges of the House to the Judiciary.

It is now twenty-two years, said Mr. S., since the House of Representatives, sitting at Philadelphia, decided in Randall's case, by a majority of near five to one, to punish a person who attempted to bribe a member at his lodgings. That was a case in point, and entitled to the greater weight as no party considerations entered into the decision, and an equal number of members of both parties were in the majority. It is also worthy of remark, that that decision took place at Philadelphia, where the Congress did not possess that exclusive right of legislation which it possesses here. The authority of that case has not been shaken, but has been repeatedly confirmed. In some subsequent cases no punishment was inflicted; but the right to punish for contempts was asserted, if the facts require it.

I have heard it said that precedents cannot settle a Constitutional question. Such questions are legal questions, and, when frequently decided the same way, should be regarded as settled, as the law should become certain.

Let us see if the offence of John Anderson is not a contempt against this House, and one of the most atrocious kind. What is a contempt? An insult, I presume—a want of due respect. Anderson has seen the gentleman from North Carolina selected as Chairman of the Committee of Claims, who are to examine and report on all demands

against the Treasury; selected to fill a station, of all others, requiring to be filled by a man of integrity and capacity. Anderson offers to this gentleman a bribe of five hundred dollars. Is not this tantamount to saying, that there is not a man of integrity in the House of Representatives? Is it not equal to an express affirmation that there is not a member of the House who cannot be bribed with five hundred dollars, to betray the interests of his country? What contempt could be offered to the House greater than this? None greater could be offered. Every member should feel this insult.

Had Anderson committed a hundred murders, or robbed a hundred temples, the offence which he would have committed against society would have been less than that which he has attempted. He has attempted to corrupt this House; to render the Congress of the United States unworthy of their sacred trust, and a disgrace to the nation. The traitor who should advance in arms against this Government, would be justly less odious than he who would attempt, by corruption, to destroy its virtue.

I hope, said Mr. S., the inquiry will proceed, and that we shall inflict on the offender such punishment as we have authority to inflict.

Mr. SETTLE, of North Carolina, said, he was aware that the late hour of the day, and the protracted stage of this debate, made it an unfavorable time for a young member to make his first essay—but he hoped the House would pardon him in asking the indulgence of their already wearied and almost exhausted patience for a short time. And while he could not have the presumption to believe he should be able to change the decided opinions of others, he would not, therefore, decline submitting the reasons which would determine his vote on this question; one which he conceived involved the powers of this House to protect itself free in its deliberations, by punishing for contempts, on the one side, and the rights of a citizen on the other.

In that country, said Mr. S., from which we derive some lights in the science of jurisprudence, if not in that of legislation, the courts, from the most limited jurisdiction up to the high court of Parliament, claim and exercise the right, as incidental and inherent, to punish for contempts to their authority. And in this country all, from a justice of the peace, sitting in judgment on the trial of warrants, up to the Supreme Court of the United States; and all legislative bodies, have heretofore claimed and exercised the same. Mr. S. said it seemed to be a correct principle, bottomed on reason and sanctioned by precedents, that all legislative bodies and all courts, either under the constitution of a State or that of the United States; and whether those courts take for the rule of their decision the common or statute law, have, by the act of their creation, the right, *ipso facto*, to protect themselves from violence and indignities, by punishing those acts as contempts to their authority. Mr. S. said, whenever a right is granted or duty enjoined, everything necessary to the fair and perfect enjoyment of

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

the right, or to the faithful and honest performance of the duty, is necessarily contained in the grant or injunction, if there be no exceptions clearly and expressly made. He said he would illustrate the correctness of this position, by supposing the ordinary case of contract between two individuals whereby one should grant to the other a part of his land, entirely surrounded by the residue of the tract, and without any agreement as to right of way; the grantee would, by virtue of the grant, have the right to use all necessary means to the perfect enjoyment of the estate granted. Or, he said, if one of our Generals, or other officers, in leading our army to any point to meet an enemy, should, in the discharge of his duty, find it necessary to accelerate the transportation of his troops by opening roads through the territory of the States, and, in the further discharge of his duty, should think it necessary to destroy bridges and ferries, the property of private individuals, it is proper and correct; and his right to do the same will be conceded. He said he did not select these cases for the reason that he had any preference for them to others equally illustrative of the correctness of the position he had taken; and he said it was difficult, if not impossible, to find or imagine a case in which these rights have not uniformly been considered as inherent in all grants of power or interest, and in all injunctions of duty, unless expressly and unequivocally denied.

The framers of our Constitution, with these impressions as firmly fixed on their minds as were the principles of virtue in their hearts, framed the instrument under which we sit; and have thereby given this House a right, not merely from courtesy, but, by the 4th section of the first article of that instrument, enjoined the solemn and important duty on us of forming a separate and independent branch of the Congress of the United States, to meet once a year, to deliberate on the rights and interests of the citizens, and to use our efforts in the passage of laws calculated to protect and secure the same. He said it seemed, then, clearly and necessarily to follow, from this duty imposed on this House by the good people of the United States, that it possessed the right to protect itself in its deliberations free, as well from interruption which might be produced by noise in the gallery, in or about the House, as from any of those effects which might possibly result from attempts to practise on the integrity of its members. But, Mr. S. said, it has been stated that the House does not derive this power to punish for contempts from any clause in the Constitution expressly and specifically giving the same. This, he said, was not denied; and it was equally true that there were many powers which are not expressly given by, but may, notwithstanding, be legitimately exercised under the Constitution. He said that instrument, 1st article, 2d section, gives this House the sole power of impeachment. Can it then be denied the power to send subpoenas for witnesses, and *subpoenas duces tecum* for witnesses and papers, to enable it to exercise this right of orig-

inating impeachments against the delinquent officers of the Government. Again, if the witnesses subpoenaed to appear before you should refuse, condemn your authority, and set you at defiance, I ask if this House has not the authority to attach the witness for his contempt? And, further, if the witness so attached should be rescued from the custody of the Sergeant-at-Arms, if this House has not the power to punish for a contempt to its authority the person so committing the rescue? He said, with due deference to the opinions of others, he was decided in his conviction the House could constitutionally exercise its authority in these instances, in the manner he had just stated; not from any specific grant in the Constitution, but under the authority of a right inseparably connected with, and incidental to the power of this House to originate impeachments.

Exposed and defenceless would be the situation of this House without the power contended for, liable to all the embarrassments which malice or corruption could invent, and if not entirely prevented, greatly obstructed in the discharge of its legislative duties; without this power, your several committees, useful and necessary auxiliaries to this House in the discharge of its duties, would be wholly unprotected; and without this power, your committees who wait on the Chief Executive with resolutions, requesting him to cause to be laid before this House official information on matters deeply affecting the interest of this nation, and requiring legislative interference, might be prevented from executing their duty, and compelled to return to this House by the conduct of some desperate individuals, under the influence of malice or corruption. He said, he would not mention any other case in addition to those already stated by the gentleman from Massachusetts (Mr. HOLMES) demonstrating the exposed and feeble condition in which this House would be placed, and the consequent suspension of public business, without the power to protect itself and punish contempts. He conceded, however, finished the powers of the House might be, no circumstances could justify the exercise of any not given expressly, or by fair implication; but the power of self-preservation is so natural, reasonable, and essential to the existence of this body, and so clearly given by the act of its creation, nothing short of an express denial would seem to authorize us in deciding that it does not belong to the House.

Sir, said Mr. S., the power on the part of this House to protect itself, by removing disturbances which are created within the walls of the House and without the walls, is conceded by the supporters of these resolutions; but they limit your power even to remove by the walls of the House, and deny all authority to punish; and to prove the correctness of this position, our attention has been called to that clause in the Constitution, giving to this House the power of punishing its own members, and, with the concurrence of two-thirds, of expelling a member; again, to that clause which privileges Representatives from



arrest in civil cases, and from being questioned for any speech or debate in the House in any other place; and, further, they say, the power contended for is discretionary, and ought not, therefore, to be exercised. He said, he would leave the arguments, drawn from the first proposition, on the ground on which they had been placed by the conclusive answer given to them by the gentleman from Virginia, (Mr. PINDALL.) That the framers of the Constitution intended to give the power, and to obviate all doubt which might have arisen from the want of an express grant of it to this House, to punish, and even expel, a member possessing the same rights and privileges here with his judges, and not thereby to deny the right of the House to protect itself from the violence and abuse of all others. In relation to the second proposition, he said he could little more than repeat the answer of the gentleman from Massachusetts (Mr. HOLMES) to all the arguments deduced herefrom.

These privileges, said Mr. S., enumerated in the Constitution, are personal, attached to the Representative, and attend him wherever he may be, whether in Washington City, Boston, or New Orleans, and, if their privileges are violated, all courts are bound to accord to the Representative the benefit of his privilege; and they cannot be considered as excluding or disparaging the power of this House to punish for contempts. Mr. S. said, although we had been feelingly and eloquently told this discretionary power was without limitation as to the nature and extent of punishment, and the execution of a citizen would be as legal under its exercise, as would be a reprimand from the House, or imprisonment; he could not but believe there were many limitations marking its extent, independently of the many checks and corrections which this discretion in itself affords. This House cannot, for any offence, under any circumstances, inflict greater punishment than imprisonment during the session; and he hoped the time never would arrive when the boundaries to the powers of this House would be transgressed. Even the tyrant himself, regardless of the ordinary limits of his power, would, in endeavoring to transcend these limitations, find at least an obstacle in the Constitution, denying the power of inflicting cruel and unjust punishments. He asked, wherefore such alarm and apprehension at the discretionary power of this House? Are we strangers to its existence in this country, and have only heard of it, for the first time, in the case of Colonel Anderson? No, sir. The legislative bodies and courts, ever since their first establishment, and justices of the peace, since their first appointment in this country, have been and are now constantly in the exercise of the same. He believed it never had been used oppressively in this country; and while it preserved order and decorum in their bodies, it rather promoted than injured the great cause of civil liberty; and he hoped the power contended for would at all times be used by this House to attain the same objects for

which it is confessedly vested in courts and other legislative bodies.

But, sir, said Mr. S., it has been said, that all the difficulties and embarrassments in which the House would be placed, by the adoption of the principles for which the friends of these resolutions contend, can be remedied. How? he asked; by going before a justice of the peace in the District of Columbia, and entreating him to interfere, with the authority of his power, to protect this House; and it will be done accordingly. Yes, sir, suspend the important business of this House, to go before a justice of the peace, and be bound over as witnesses to the court of which this justice may be a member, to prosecute a contempt to this House! Mr. S. said he could not believe it was the intention of the wise framers of our Constitution to have placed this House in that condition.

He said it was not his intention to reflect, in the slightest degree, on the motives of those from whom he differed in opinion on this question; and although he could not believe with them, in the conclusiveness of their arguments, to deprive this House of the power contended for, he could not but admire the source from which they arose. It is, said he, a virtuous and scrupulous regard for the rights of a citizen; but, believing, as he did, that the power contended for was inherently possessed by the House, clearly derivable from the power which created it, and coeval with its existence; and that the same has not been reserved or taken away, expressly or by implication, he could but so decide; and if, after examining the case of the accused, he be guilty of the offence charged against him, he said he would vote for such punishment as the offence merited, and the power of the House authorized.

Mr. RHEA rose next, to make a motion. It was with reluctance, he said, he attempted to say anything relative to a subject that had already been so ably discussed. He did not expect to offer anything new in the debate that had occupied the House several days. The object he had in view was, that the House should come to a determinate conclusion, and end this debate by changing the form of the proposition contained in the preamble to the resolution under consideration. The present proposition, Mr. R. said, was a negative, at least of a doubtful nature; he therefore would move to amend it by striking out the words "entertaining great doubts of its." If this amendment is made, said he, the proposition will then be affirmative, and the argument on an affirmative proposition. To attempt to prove that the House of Representatives has power in this case, seems like an attempt to prove that the sun now shines. A power to punish for contempts, said Mr. R., necessarily and essentially exists in the House of Representatives, and is an attribute of its being. The House of Representatives is, by the Constitution, the sovereign people of these United States, in their representative capacity; a contempt of this House is, therefore, a contempt of the sovereign people in the aggregate. Strange then, said he, appears the reason-

ing that denies to this House the power to punish for contempt. The people of the United States ordained and established the Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty. The Constitution gives existence to the Congress of the United States, of which this House is a co-ordinate branch. And shall this House not have power to do justice to itself for contempts? Shall it not have power to insure its own tranquillity against contemptuous disturbers? Shall it not have power to provide for its own defence against any attempts to violate, by contempts, its rights and privileges? Shall it not have power to secure to itself the liberty of free, pure, and uncorrupt legislation? Let the answers be made, said Mr. R., the conclusion is inevitable. Free, pure, uncorrupt legislation, requires the existence of this power, as an essential attribute.

Mr. BARBOUR, of Virginia, said, he hoped the House would indulge him a short time, whilst he endeavored to answer some few of the most prominent arguments which had been urged on the other side of the question.

He said, that one of the positions which he had taken the other day, in argument, was this, that the Constitution of the United States had accurately defined our privileges, and that the act complained of was not a breach of the privileges thus defined. And how, sir, has it been attempted to drive me from this position? Why, the member from Massachusetts (Mr. HOLMES) has said, that those were the personal privileges of the members; that they were given to them for their protection when out of the House, and when, therefore, the House could not protect them. Sir, an attention to the language of the Constitution, in which these privileges are defined, will show, beyond the possibility of question, that this construction cannot be sustained; for one of them, that is exemption from arrest, is given to members, not only whilst going to and returning from the House, but expressly also during their attendance at its session; thus it was most palpable, that this one, at least, belonged to them, as well in as out of the House. The gentleman had attempted to draw a distinction between the privileges of the members and those of the House; he said, he did not well understand what was meant by this distinction; he thought the House had no other privileges but those which belonged to the members of which it was composed. He thought too that it would not be sufficient to prove privilege; gentlemen must prove power; for what is the question between us? It is, whether the House of Representatives has power to punish an insult offered to one of its members. Now, sir, the very nature and meaning of privileges imply only immunity, or safety to the person who possesses it; thus, exemption from arrest, exemption from question elsewhere, for anything said in debate, are privileges; that is, they are immunities and protections; but they are of a character utterly distinct from that active principle of pow-

er, which must be proven on the other side to justify this House in inflicting punishment for any insult, either to one of its members or to itself. We are then brought to the real question in this case—which is, has the House the power contended for or not? He had attempted the other day to show, that the powers of this House were marked out, and that the one contended for was not amongst them. Gentlemen were constrained to admit, that it was not expressly given, but continued to press the doctrine of inherent powers. What, sir, is meant by this term inherent? If by it be meant any powers independent of the Constitution, then, said he, I utterly deny the proposition. Before that instrument, this House did not exist; of consequence, the same creative instrument which called it into existence, imparted to it its powers, and prescribed to it the rules of its action. But, say gentlemen, the mere creation of this House implied certain powers as necessarily incident, and without which it could not fulfil the purposes of its institution. He said, he had indulged, the other day, in a style of argument, which, if he might be allowed the expression, he would call interrogative. He had then asked, and he now repeated the question, what powers could be more incident to this House than those of choosing its own Speaker, and determining its rules of proceeding? And yet, as he had said, these were expressly given. He was satisfied that these powers were of that nature, which gentlemen would call incident; if they were, he asked, (and he hoped he should receive an answer,) why some of the incidental or adherent powers were given, and others were not given, but were left to be sought for by means of implication and doubtful construction? But, say gentlemen, a legislative body, without the means of self-defence, without the powers of self-protection, is an anomaly in the political world; and we are asked, do we mean to deny to the Congress of the United States the possession of those powers? He said, that he denied them to the extent contended for, and he denied the exercise of them in the manner contended for; that, in his argument the other day, he had not discussed the right to legislate upon the subjects of contempts and outrages committed against the House; it was not the question before us. The question in this particular case is, not whether we have a right to pass a law upon the subject, but, whether we have now a right to act upon it; not whether the two Houses, by a legislative act, may prescribe a rule; but, whether this House may, in this case, act by itself, upon some rule alleged to be already in existence. Besides, one of the resolutions now before us, proposes to inquire, by the Judiciary Committee, into the propriety of legislating on the subject. But, since that question was now brought directly to our view, he would say, that he did not deny the power of Congress to punish by law, any disturbance or force, of any kind, which actually interrupted their legislative proceedings; and this would furnish, he thought, a complete answer to all the extreme cases which had been put by gentlemen;



such as throwing stones against the windows, &c.; in short, it would embrace the whole range of interruption to the progress of our business, from the outrage or violence of a single individual, up to the case of our being menaced with an armed force. Thus, it would satisfactorily appear, that Congress was covered, by the Constitution, with all the armor necessary for its defence. If the act done amounted to actual violence and interruption of our legislative proceedings, it might be punished by law; if it fell short of that, and came within the range of a mere contempt to the House, it could not be punished, nor was it necessary to our defence that it should be. The difference then between the gentleman and himself was this: on their side, the power to punish for a mere contempt was claimed; on his part, that power was denied in any shape; on their side, the power to punish actual interruptions to legislation, was claimed as being within the competency of this House alone; on his part, such a power was admitted, if exercised in the shape of a law, and confined to such occurrences as actually impeded the progress of business.

But the gentleman from New York (Mr. STORRS) supposes that he has found a conclusive argument upon this subject, by referring to the power to exercise exclusive legislation over the ten miles square. Now, sir, what is the power of legislation? It imports, by the very force of the term, the power of making laws. If, then, we were now inquiring into our power of making a law upon the subject, the gentleman's argument would, at least, be applicable in its nature; though, even in that point of view, he would only be able to prove, that we had a right to punish bribery, as a violation of morality, as a crime within itself; but not as a contempt to this House, or as a breach of its privileges. But, said Mr. B., our power to legislate is not the question; the case before us is not characterized by any one circumstance which defines legislation. To legislate was, as he had before said, to declare by law, passed with the consent of the two Houses, an act, thereafter committed, to be an offence; and that law was to be applied by another tribunal to the particular case; but this is a proceeding, with a view to inflict punishment upon an individual, by the judgment of this House, for an act already committed, and which, therefore, must now be an offence. The character, then, in which this House must act, if it act at all in this case, is judicial. The argument of the gentleman, then, amounted, in substance, to this, that because Congress had power to make the act in question an offence punishable by law, therefore, this House has now a right to punish that act without such law. It was not sufficient for the purpose of the gentleman's argument to show a power to legislate; he must go further, and show that the power had been exercised by the passage of a law; that the act had been made a punishable offence, and that we were constituted the tribunal to pass upon it.

But the gentleman has endeavored to derive

some advantage from this argument, by presenting it in another view, which he would now examine. That gentleman had said that, as there was a grant of exclusive legislation, all the incidents of legislation passed with it, and he contended that the power in each House to punish a contempt was one of those incidents. Sir, said Mr. B., whatever powers the two Houses may have, it is not in this part of the Constitution that we are to seek for them. Upon examination it will be found that it is one of the clauses of the eighth section, the whole object of which is to enumerate the powers of Congress. It will be found, also, that a previous section of the same article has for its object the enumeration of the powers of each House respectively. The Houses then are created, and their powers defined, in a previous part of the Constitution. He thought it, therefore, a singular position to assume, that though the Constitution contained a section purporting to define their powers, yet we were not to seek for them there, but in a section, or the clause of one, which purported to define not the powers of the Houses, but of Congress, composed of the two Houses. As well might the gentleman attempt to maintain the converse of the proposition, that when we wish to know the powers of Congress, we must look to the section which defines those of the respective Houses. To test this reasoning, let us suppose that this clause had been omitted; would this House, then, have had the power contended for? If it would not, there is an end of the doctrine of inherent powers; if it would, then this clause was not necessary to impart it. He thought the true doctrine was, that it did not possess such a power, either inherently, or by any proper construction of this clause. After this view of the gentleman's argument, he would not say, as that gentleman had said of him, that he had placed him in a situation from which there was no escape; but, with deference, he would submit it to the House, whether that gentleman or himself was in this perilous situation.

Another gentleman had admitted that the power must be derived from the Constitution, and that it was not expressly granted. He attempted, however, to derive it by this process of reasoning: a legislative body, says he, is created, and, by the mere act of its creation, the power in question belongs to it, as one of those which, according to the usage and understanding of the country, belong to other legislative bodies. The gentleman illustrated his meaning by stating, that the Constitution, in speaking of a jury, did not define its character; and that after having fixed what should be a quorum of this House, it did not direct that a majority should decide the questions before it; that, therefore, we must suppose that it intended to refer to, and adopt what was the understanding and usage of the country in both these cases. The answer, he thought, was clearly this: in both the cases stated, the understanding and usage of the country were referred to, only to fix the meaning of a term, or to settle the mode in which a body which was con-

stituted should act; thus, in the case of the jury, we understand, by the established custom of the country, that the word means twelve men, who must be unanimous in their verdict; in the other case, we understand, that unless where a different number is expressly required, a majority of the legislative body is to decide; but, in neither of these cases, do usage and understanding give a power; they only define the manner in which a power given is to be exercised. But the effect of the reference made to them by the gentleman would be to give a new power—to give it, too, in addition to a specified enumeration of powers. The gentleman's argument would have had more application to the case, if the Constitution had merely created the legislative body, and gone no further; but where itself defines the powers of the two Houses, he could not think that it intended to refer to any other standard for them but itself.

Much reliance had been placed, in the course of the debate, upon the circumstance that the courts and Legislatures of the several States, were in the habit of exercising the power of punishing for contempts. Mistaken analogy was one of the most fruitful sources of error in human reasoning. If we set out upon wrong principles, our reasoning, however correct it may be in relation to our premises, must conduct us to wrong conclusions. The present case, he thought, was a strong exemplification of this remark. It had already been correctly stated, that the power which the State courts exercised was derived from the common law; and as that did not exist, as applicable to the United States, he thought that argument conclusive to prove that no analogy could be derived from them. In relation to the State Legislatures, besides the forcible arguments which had been urged by others, and which he would not repeat, he would ask whether we were sufficiently informed of their constitutions, to say that they were framed like that of the United States? He would ask, for instance, did they define the privileges of the members? Did they specially enumerate certain powers as belonging to the respective Houses? If they did not, then they were not sources from which any reasoning could be drawn, as applicable to the two Houses of Congress. Besides, sir, upon gentlemen's own principle, has any one informed us that, in a case like the present, any State Legislature has punished for a contempt? He said that he had not had an opportunity of examining this question in relation to the British Parliament, in a manner satisfactory to himself, but he would observe that Junius contended most earnestly that the rightful power of the House of Commons to punish for contempts, did not extend further than to those which fell out immediately in their view, or directly interrupted their proceedings. He knew that Junius was a partisan writer; but he referred to the celebrated Attorney General, Mr. Noye, and to Sir Edward Coke, as going a good way to support him in his position. He said he should be glad to hear gentlemen say whether the House could punish for a contempt,

even in a case of acknowledged breach of privilege, as for an arrest of a member; he thought himself that it could not. He would ask gentlemen, too, how their doctrine would stand with the Constitutional provision in relation to the habeas corpus? If the doctrine be correct, that for every contempt to this House a person is liable to be committed; and if, as gentlemen are obliged to contend, we are the sole judges of that contempt, then the writ of habeas corpus, in relation to contempt to this House can never be effectual, because that can only deliver persons illegally confined; but, according to the argument of gentlemen, the confinement under the warrant of the Speaker of this House must always be legal, for we have a right to commit for a contempt, and we are the sole judges of it. Mr. B. said he could have wished to have replied much more at large to the various arguments which had been urged on the other side of the question, but the length to which the discussion had been protracted, as well as the late hour of the day, admonished him that he ought not to trespass longer upon the patience of the House.

The debate was continued during the remainder of the sitting by Messrs. LOWNDES and LIVERMORE.

TUESDAY, January 13.

Mr. COMSTOCK presented a petition of Doctor James Smith, agent for the dissemination of the vaccine matter, praying that further measures may be adopted to insure the free supply of vaccine matter to every citizen of the United States; and that additional pecuniary aid may be afforded, so as to enable him to keep up an uninterrupted supply of the said matter; which was read and referred to a select committee; and, Messrs. COMSTOCK, FLOYD, HOOG, ABBOTT, and HALL, were appointed the committee.

The SPEAKER presented a petition of the President and Directors of the Bank of the United States, praying that the act of incorporation of the said bank may be so amended as to authorize the president and cashier of its several offices of discount and deposits to sign and countersign the notes to be issued at said offices; which was referred to a select committee; and Messrs. SARGEANT, SMITH, of Maryland, TALLMADGE, ROBERTSON, of Kentucky, and TERRILL, were appointed the committee.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act allowing compensation to the members of the Senate and House of Representatives, and the Delegates from Territories, and to repeal all other laws upon that subject," with an amendment; in which they ask the concurrence of this House.

The said message was read and ordered to lie on the table.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, made a report on the petition of sundry emigrants from Switzerland, which was read and the resolution therein



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

contained was concurred in by the House, as follows:

*Resolved*, That the prayer of the petitioners ought not to be granted.

A Message, accompanied by sundry documents, was received from the President of the United States, communicating to Congress the fact of the United States forces having taken possession of Amelia Island.—Ordered to lie on the table.

## MILITARY PENSIONS.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill providing for half-pay pensions, invalid pensioners, and for other purposes; which was twice read by its title and committed.

[The provisions of this bill are substantially the following:

The first section gives to the Secretary of War the power of placing upon the pension list all officers and soldiers of the Revolutionary war, who are entitled to such by the provisions of the act making provision on this subject, in the year 1816. Rules and regulations of force, or hereafter to be made and put in force, as to the admission of the officers and soldiers of the militia, and the regular soldiers, on the pension roll of the United States, are made applicable to the invalids of the Revolution and of the Indian wars, placing all entitled to pensions on an equality.

Section second extends the half-pay pensions of five years to the widows and orphans of the officers and soldiers of the militia, and others, now entitled by law, for a further term of five additional years, which will make the pension, if adopted, equal to half-pay pensions to widows and orphans of ten years.

Section third provides half-pay pensions, for the term of five years, for the widows of the soldiers of the regular army, who were killed in battle, or who died in the service, during the late war.

Section fourth extends half-pay pensions to all such widows as lost their husbands after their return home from the military service of the United States, provided they died within six months after such return, and of diseases contracted in the service.

By the fifth section, indigent mothers, who have lost an only son in the military service of the United States, provided such son died without wife or children, are to be provided for.

Section sixth provides that every widow, whose husband was killed in battle, or died in the service of his country, during the Revolutionary war, shall receive half-pay pension for five years.]

## JUDICIAL FEES.

Mr. HOPKINSON moved the adoption of the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to prepare and report a bill of fees for the officers of the United States, in the courts of the United States.

Mr. HOPKINSON observed, in offering this resolution, that it was well known there was no uniform rule on this subject in the different courts of the United States. It was not, however, to establish uniformity only, but something like justice also, that he offered this motion: for, if his information was correct, there were in some of the States impositions practised which were a

disgrace to the United States. In one which he would mention, in the State of New York, a degree of outrageous imposition existed which would shock every member who heard him. In that State, Mr. H. said, if he was truly informed, there had been one thousand prosecutions against retailers of spirit, for not taking out their licenses; upon each of these cases, untried, the fees of the District Attorney were sixty dollars, amounting to the sum of sixty thousand dollars in the whole. These were the fees of the District Attorney alone; but including those of the Marshal and Clerk, each case was burdened with about one hundred and forty dollars costs. If such practices were legal, said Mr. H., they ought to be no longer so: if they are illegal, they ought to be suppressed.

The resolution was agreed to, *nem. con.*

## CASE OF JOHN ANDERSON.

The House resumed the consideration of this subject.

Mr. SERGEANT delivered his sentiments at large in relation thereto.

Mr. SPENCER rose for the purpose of withdrawing the preamble altogether, and leaving the resolutions alone for consideration. His motive for this course, he said, was to baffle the object of Mr. RHEA's motion, which proposed to change the preamble from a negative to an affirmative proposition. It would be recollected, Mr. S. remarked, when the subject was referred to a committee, it was that they might make a report on the powers of the House, in this case, and that, under that expectation, he had voted for the reference. The committee, however, had simply recommended the examination of the accused, and a mode to be observed in the investigation. Since, then, the friends of this course had not submitted any affirmative motion respecting the powers of the House to proceed in the course recommended, with a view of bringing that point forward for previous consideration and decision, he had offered the preamble and resolutions now before them. He wished not now to change the character of the proposition under discussion, and, to prevent it, he begged leave to withdraw the preamble.

Mr. TALLMADGE, of New York, then rose and said, it afforded him great pleasure to witness the candor and the frankness of the gentleman on this occasion. It was characteristic of his honorable colleague, (Mr. SPENCER,) from New York. He was gratified to see him thus promptly withdraw any words from the proposed resolutions which tended to prevent a full and fair discussion of the principles in controversy. The honorable gentlemen from Kentucky and from Virginia, (Mr. ANDERSON and Mr. BARBOUR,) who had become conspicuous by their arguments against the power of this House in the case under consideration, had also fairly met the controversy, and had denied, with great apparent success, the right of this House to maintain its jurisdiction in cases of contempt and breaches of its privileges. The advocates of the present resolution to discharge

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

John Anderson, have boldly and fairly maintained the controversy; they have said, those who allege that this House possess the power and the right hold the affirmative, and are called upon to maintain the proposition, and show the title for the exercise of this right. Sir, said Mr. T., while our opponents have thus boldly called us into the field of argument, we desire it may be expressly understood, that the friends of the supposed power in this House disdain all subterfuges, and disclaim all equivocations on this subject. They wish to meet and to decide the controversy. The motion to amend, made by the gentleman (Mr. RHEA) from Tennessee, was not made by the procurement of the friends of the power of this House; and, Mr. T. said, he disclaimed all benefit from it. He admitted the advocates for the power held the affirmative, and were bound to maintain it, or yield the controversy, and discharge the prisoner. He had no disposition to avoid the point of dispute.

Sir, said Mr. T., different gentlemen, who agree in the same conclusion, will arrive at that conclusion by different modes of reasoning. He did not wish to impugn or acknowledge the reasoning of his associates who had preceded him. But it was due to himself to say, while he agreed with them in the conclusion, he could not accord with them in their reasoning which led them to such conclusion. They have undertaken, said Mr. T., to derive this power in the House to punish for contempt and breach of its privileges from the Constitution, or from the common law. This, sir, said Mr. T., has called forth able and elaborate arguments on the construction of the Constitution and the powers delegated by it, and those supposed to be derived from the common law. And, in reply, we have been told that the Constitution did not grant the power, and that the common law was not adopted in this country; and thus the friends of the power had wholly failed in their deduction of title. Sir, said Mr. T., for myself, I disclaim to hold this right in the House from either the Constitution or the common law. He admitted it was a question of doubt whether the common law had been adopted in this country; but as he did not deem it relevant to the present question, or essential to it, he should not pursue the argument on this occasion, while he should cheerfully discuss the question whenever it was material. But, sir, said Mr. T., while I thus excite surprise in disclaiming to hold this power under the Constitution or the common law, I do maintain that this House possesses the power, as incidental to its existence, and an inseparable attendant upon its formation. The Constitution created this House, and gave it existence. The power of self-defence and self-preservation follows as an incident, an inseparable attendant, and a necessary consequence. The functions of the Constitution terminated with the formation of this House; and we ask not to deduce this right of self-defence and self-protection from any construction of the Constitution, while we claim this right to the House as inherent and self-evident to its existence. Our opponents have denied this

power to the House; they have said we have no common law, and it is not delegated by the Constitution, and have, therefore, called on us to show the authority for the power which we claim. Let me, in return, ask any one of those gentlemen to show their individual right to use any means of self-defence. The right is not given in the Constitution; there is no statute, and they say there is no common law. But, yet, no man doubts that each individual has the right of self-defence and self-preservation; and that this right is incidental to his existence, and that he possesses it as a right derived from nature. In like manner does every corporate body, formed for judicial or legislative purposes, possess the right of self-defence and self-protection, as an inseparable attendant upon its formation. This, said Mr. T., is the extent of the power which we claim. And this power has been claimed and exercised by every legislative body or judicial tribunal recorded in history. This power was claimed and exercised by all courts in our own as well as in every other country. The gentlemen could not show by what right courts of law possessed this power. It was not given by the Constitution, nor by any statute; and yet it was claimed by them, and daily exercised.

It has been said, that the Constitution provides, "that the trial of all crimes, except impeachment, shall be by jury;" and that any exercise of power by this House is therefore prevented. In like manner does the *magna charta* provide, "that no man shall be taken or imprisoned, except by the legal judgment of his peers, or the law of the land." And yet the Parliament of Great Britain, and all their courts of justice, have constantly proceeded, by attachment and summary process, to prevent all interruptions, and remove all obstructions in the course of their business; to enforce their orders, and to punish for contempts of their authority. If the learned gentlemen will examine law books, they will find it advanced as a principle of English jurisprudence; that attachments are granted, at the discretion of the court, to enforce all rules and orders, and for any contempt of court; that attachments are granted for threatening the life of a prosecutor in a criminal action; that it is a high-handed contempt, punishable by attachment, to scandalise a court, or a suitor, or attempt undue influence while proceedings are pending. In the fourth vol. of Bl. Com., p. 285, it is said, that "attachments are as old as the laws; for laws, without competent authority to secure their administration from disobedience and contempt, would be vain and nugatory. A power, therefore, in the courts of justice to suppress contempts, by an immediate attachment of the offender, results from the first principles of judicial establishments, and must be an inseparable attendant upon every tribunal." The learned commentator proceeds to remark, that some writers have endeavored to derive this right of attachment, by construction, from an ancient statute; while he insists it is not derived from any law, but is an inseparable attendant upon every tribunal, and



OF R.

Case of Colonel Anderson.

JANUARY, 1818.

results from the first principles of judicial establishments.

But, said Mr. T., we have been accused, in this debate of having a "banking" for the common law; and possibly some gentlemen may not consider the preceding authorities very satisfactory. I therefore beg leave to call the attention of this House to the decisions and the practice of the courts of justice in our own country. They will be found abundantly to support the power for which we now contend; and at the same time to give construction to the Constitution, and to demonstrate that this power to punish for contempts and to enforce self-protection is incidental to the existence and self-preservation of the courts. It must be summary; from its nature it is to be applied to the circumstances; and it must be discretionary; and that the offences to which this power is to be applied do not come within that class of crimes contemplated by the Constitution, and for which is guaranteed the trial by jury. The object of the contemplated power is not for punishment as such, but as a means to support the authority of all courts, and protect themselves in the performance of the duties enjoined upon them. In the case of the *United States against Goodwin*, in 7th vol., *Cranch's Reports*, p. 32, an application was made for an attachment against a printer for a libel on Congress, in publishing that they had passed a law, in secret session, giving \$2,000,000 to Bonaparte. The court very properly decided that they had not power to punish for contempts against other bodies, and could not grant the attachment; and that, to punish the offender for it as a crime, required the intervention of a grand and petit jury. But the court, at the same time, established the principle for which we now contend; and adjudged that they had the power to punish for contempts and contumacious conduct against themselves. The opinion of the court, in this case, is so much in point to the present debate, and so important, Mr. T. said, he would beg the indulgence of the House to read a part of it:—"The only ground on which it has ever been urged that this jurisdiction could be maintained is, that upon the formation of any political body an implied power to preserve its own existence and promote the end and object of its creation, necessarily results to it. But, without examining how far this consideration is applicable to the peculiar character of our Constitution, it may be remarked that it is a principle by no means peculiar to the common law. It is coeval, probably, with the first formation of a limited Government, belongs to a system of universal law, and may as well support the assumption of many other powers as those more particularly acknowledged by the common law of England. But, if admitted as applicable to the state of things in this country, the consequence would not result which is here contended for. If it may communicate certain implied powers to the General Government, it would not follow that the courts of that Government are vested with jurisdiction over any particu-

lar act done by an individual, in supposed violation of the order and dignity of the sovereign power. The legislative authority of the Union must first make an act a crime, affix a punishment to it, and declare the court that shall have jurisdiction of the offence. Certain implied powers must, necessarily, result to our courts of justice, from the nature of their institution. But jurisdiction of crimes against the State is not among those powers. To fine for contempt, imprison for contumacy, enforce the observance of order, &c., are powers which cannot be dispensed with in a court, because they are necessary to the exercise of all others. And so far our courts, no doubt, possess powers not immediately derived from statute. But all exercise of criminal jurisdiction in common law cases, we are of opinion, is not within their implied powers."

Again, in 4 *Cranch* 93, in the case of *Bollman and Swartwout*, the court say, "they deem it proper to declare, that it disclaims all jurisdiction not given by the Constitution or by the laws of the United States. But that this opinion is not to be considered as abridging the power of the courts over their own officers, or to protect themselves and their members from being disturbed in the exercise of their functions. It extends only to the power of taking cognizance of any question between individuals, or between the Government and individuals."

Here then, said Mr. T., the principles for which we contend are established by the Judiciary of the United States. They claim to possess the right; they pretend not to deduce their title to this right from the Constitution, or the law, but profess to hold it as an incident and necessary means of self-preservation. Every circuit and district court of the United States claims and exercises the same power. They do not consider the command of the Constitution, that all crimes shall be punished only on trial by jury, as being applicable to the necessary power to prevent the interruption of their business, and punish for contempts against their authority. Sir, said Mr. T., it is not long since Judge Van Ness, of the New York district, had two printers before him for handling too rudely some proceedings in his court. It is not long since Judge Story, at the circuit court of Massachusetts, attached a person for attempting undue influence, while proceedings in a case were pending before the court. If, then, said Mr. T., we find the courts of the United States claiming and exercising this power, may we not ask our opponents, from whence these courts derive their power? That they have it, is not to be doubted—that they do not derive it from the Constitution, or from any law, is equally certain. That it is a necessary incident and inseparable attendant upon every tribunal, is an undeniable proposition. Can it then be possible, said Mr. T., that this power, so necessary to all order in courts, so essential to the due administration of justice, should be vested in all judicial tribunals, as an inseparable attendant, and yet be denied to the Legislature

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

of our country? Can it be possible, said he, that inferior tribunals should be vested with the rights of self-defence and the power of self-protection, while this right and this power is denied to Congress? And are they to be told, they must supplicate protection from the inferior tribunals of their own creation, and, when interrupted in the progress of legislation, they must tamely wait a judicial inquiry and a trial by jury? Can it be possible that reason, law, or the Constitution, should be thus careful to protect and purify the streams of justice, and yet deny to the fountain the means of protection and defence against poison and pollution?

Mr. T. said, he had made several ineffectual attempts to obtain the floor at an earlier stage of the debate. If he had been so fortunate, he should have attempted to examine the subject in all its bearings. But the ground had been so fully occupied, and so ably discussed, by his associates who had preceded him, that it only remained for him to endeavor to obviate some few of the objections which had been made against this power, which in his opinion, had not been sufficiently answered. This would necessarily require a desultory course of argument, which he hoped the House would appreciate as resulting from an intention to avoid the ground which had been successfully occupied by those who had preceded him. He in particular wished the benefit of the remarks which had fallen from the gentleman from South Carolina, (Mr. Lowndes,) on the construction of the Constitution and the common law; because those remarks so well accorded with his own sentiments, and were so immediately applicable to the present subject. Sir, said Mr. T., the 5th and 6th clauses of the amendments to the Constitution have been read to this House, and pressed into consideration, as having taken away and abridged any power in this House to punish, by summary proceedings, for breach of its privileges, and which might otherwise have been supposed to have existed. He said, these clauses of the amendments to the Constitution provided, "that no person should be held to answer an infamous crime, unless on indictment;" and secured a "trial by an impartial jury." But, said Mr. T., these clauses of the Constitution have no relation whatever to the question under consideration. They secure the rights of the citizen, and provide a mode of trial in all accusations of a criminal nature; but they do not impair the power of the courts in all proper measures of defence and self-protection. These clauses in the Constitution form the basis of legislation, and fix the land-marks to regulate courts of justice in the trial of all crimes. From the practice of the courts, it is evident that they do not consider them as applicable to offences by contempts and interrupting the proceedings of the courts. A recurrence to the usurpations, and the injustice resulting from the prerogatives of the Crown, and the usages of the courts of common-law jurisdiction, will satisfactorily explain, in this respect, the meaning of our Constitution. The Crown claimed the right to issue mandatory letters, un-

der the great and privy seal, to proceed by information, ex-officio, and to issue State warrants, to arrest subjects at discretion; while the Star Chamber and Exchequer Courts also executed summary and oppressive jurisdiction over the liberties and the lives of citizens. To limit these powers, and to guard against like acts of oppression and abuse, was the evident and commendable intention of our Constitution; and it can, by no construction, abridge or have relation to the powers necessary to enforce the order and self-preservation of a court of justice.

Because the Constitution provides for the members of Congress "privilege from arrest and freedom of speech," it has been urged that the idea of all other privileges has been necessarily excluded. Gentlemen ought to observe, that the privileges provided are personal. They are privileges of the members, and not of this House. The one was necessary to be given, and is therefore secured by the Constitution; the other followed as an incident to the formation of this House; therefore it is not mentioned. The clause in the fifth section, providing "that each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member," confirms the preceding construction. While this House, from its formation, possesses as an incident the power to remove all interruptions, and to enforce its protection, this incidental authority would not extend to a power over the conduct and the morals of its own members. Suppose, said Mr. T., a member of this House should be notoriously guilty of stealing; the incidental authority in this House to protect itself, in the ordinary progress of legislation, would not reach the case. He would occupy a lone seat, without the power of this House to remove him. And yet, without the delegated authority to punish and to expel, we should be compelled to be offended with his presence. The result, therefore, is, that the individual privilege of members is secured by the Constitution, and the power of the House over its own body is expressly provided, while the authority for self-protection is nowhere mentioned; because it follows as a necessary incident and an inseparable attendant on the formation of the body.

We have been told, said Mr. T., with great emphasis by my colleague, (Mr. SPENCER,) that the plea of necessity, under which this power has been attempted to be supported, is the tyrant's plea. The honorable gentlemen from Kentucky (Mr. ANDERSON) and from Virginia (Mr. BARBOUR) have concurred in the assertion, and have pressed with great ardor the odious aspect of this plea. But, said Mr. T., these gentlemen ought to recollect it is a maxim with political writers, that it is not the rigor, but the inexpediency of laws or acts of authority, which makes them tyrannical. You may inflict, said he, the punishment of death, and it is either a just or tyrannic act, in reference to the offence for which it was inflicted. But, said Mr. T., will gentlemen cry out tyranny, and talk of the rights of man, be-



cause this House attempts to protect itself from insult, and to maintain its purity in the progress of legislation? This love of liberty is highly commendable, and I speak of it not as a matter of accusation, while I do say, it is the excess of liberty which has borne away the feelings of gentlemen—made them lose sight of the object of inquiry, and induced them to forget the real subject of discussion. A villanous and unsuccessful attempt to corrupt the integrity of an honorable member of this House is the subject; and yet, when we arrest the offender, we are induced to forget our own privileges, while we listen to elegant harangues from gentlemen on the other side of the House, about the privileges of a member and the rights of man! The ardor and the zeal displayed upon this occasion have had the effect to decoy gentlemen from the ground of dispute, and have involved this House in a discussion concerning the common law and the liberty of a citizen. The enthusiasm of liberty had burst forth with such a constellation of talent, and with an aspect so imposing, it had even made the wrong appear the better reason." We have been told, said Mr. T., by the gentleman from Virginia, (Mr. BARBOUR,) that reasoning from mistaken analogy was the most fruitful source of error; and, Mr. T. said, in his opinion the gentleman's speech had been a most brilliant elucidation of the correctness of his position. He had lost sight of the insulted dignity and the violated rights of this House, while he had dwelt, and pressed, with great force upon its consideration, the infringement of John Anderson's rights. It is at least, said Mr. T., a case of conflicting rights. If the prisoner has rights, so have this House. Whose rights are violated, is the question. The prisoner, as a free and independent citizen, has a right to walk through the public avenue. As an abstract proposition, no one dare deny it. Yet if, in the exercise of this right, he should be rode over by a carriage in the lawful pursuits of its business, the question arises, which was out of place, and which was in the wrong. If gentlemen will enlist their feelings for one side of the question, and for one class of rights, they will ever be in an error. Mr. T. said he wished it to be distinctly understood. For, said he, be it spoken to the honor of this House, John Anderson has no defenders on this floor; while the principles of liberty, upon which his case may depend, and which may establish precedents to involve the rights of others, have many honorable and able defenders here.

Mr. T. said, while himself and his associates began at A, their opponents commenced at B. While we, said he, discuss, and endeavor to maintain, the power and privileges of this House, our adversaries discuss the rights and the privileges of a citizen. They maintain their arguments with general propositions; which, while they ought not, and cannot be denied, are evidently irrelevant and inapplicable to the real subject of inquiry. If we thus start from different propositions, and pursue different courses, we can never hope to arrive at the same termination. Sir, said

Mr. T., issue your warrant against that honorable gentleman, (Mr. BARBOUR,) who has denied the power of this House with such ardor and ability, and bring him before your bar. He would stand there in his native innocence, with a heart as pure as his head is sound. He would demand of you the cause of his arrest, and you could make no response. Then, and then only, would commence the tyranny of which gentlemen have so feelingly spoken. Then would be presented a case of violence—an instance of outrage upon the liberty and the rights of a virtuous citizen. Then all the zeal, the eloquence, and the talents which have been displayed on this occasion would be justly called forth. It would be applicable to the subject of inquiry. But, said Mr. T., reverse this scene; state the facts as they are; call John Anderson to your bar. He would stand there, covered with vice, shrouded in infamy, and with corruption marked upon his front. Would he dare to prate of the rights of man, and talk of the liberties of a citizen? Should he demand the cause of his arrest, to him you could respond. The true question would then be fairly stated. It would not be the invasion of John Anderson's rights, but the insulted dignity of this House—an unprincipled attempt to corrupt the Legislature of your country, and poison your national councils. Where, then, is the tyranny, the violated liberties, and the outraged rights, of which gentlemen have so loudly spoken? Shall such an act of villany and of danger pass off with impunity? Shall we be told that this House have not the right and the power to guard, and to protect, and to defend their own body in the just and ordinary performance of its legislative duties? Shall we be disturbed with impunity within the walls of this House, or shall the vicious and the unprincipled drum beneath your windows, and interrupt the progress of legislation, and we sit here without the power to prevent it?

[Mr. BARBOUR, of Virginia, rose to explain, and said it was not denied that the House had the power to keep order, and quell any disturbance within these walls.]

Mr. T. said the explanation of the honorable gentleman had given him the argument for which he was contending. Do gentlemen admit the power to keep order within the walls of the House? I ask them, said Mr. T., from whence they derive that right? It is not delegated in the Constitution; we have no statute providing the power; the common law is not adopted in this country. I call upon the gentleman, said Mr. T., to show the authority for the exercise of this right. The admission of this right is an admission of the question in controversy. Yet, so strongly have the gentlemen felt the imperious necessity of this power for the good order of the House, they have yielded it, with a limitation to the walls of the building, and thereby yield the point in dispute. The gentleman from Virginia (Mr. BARBOUR) has, indeed, endeavored to guard against the conclusion, by deriving the power from the right of property, as occupants of the building.

Sir, said Mr. T., the denial of this power to a judicial or a legislative body has been reserved for this occasion, and for the ardor of this debate. If I am not greatly mistaken, said Mr. T., there is no instance in the history of courts, or the proceedings of Parliament, in which the existence of this right has been denied. It is even admitted by all partisan writers, among whom he would mention Junius as the most conspicuous, whilst the abuse of the power was strongly controverted, and its limitation was eloquently maintained. Here then, said Mr. T., is a solution of the whole difficulty. The existence of the right is admitted. The extent of the right and the expediency of its exercise are questions of great moment, and upon which there is abundant room for difference of opinion. Here is the ground upon which our opponents ought to have taken their stand. The question, therefore, resolves itself into a question of expediency as to the exercise of the power. How are the facts? Do they sufficiently call for the interposition of this House? Here is to begin the inquiry the oppression and the injustice of which gentlemen so much fear; if, in the exercise of this power, the House shall go beyond the necessary maintenance of its just dignity, and its due protection and self-preservation in the performance of its duties. Party times have produced excesses, and exhibited acts of party violence. But the abuse of a power can never be urged as an argument against its existence, while it may be justly urged against the expediency of its exercise. Do the facts now before us warrant any further proceeding on the part of this House? An attempt has been made to bribe a member of this House, the chairman of the Committee of Claims. The importance of this attempt is best known by adverting to the course of business on this floor. All the business of this House is referred to the several committees, and it is the constant order to dispense with the reading of the papers and documents. It is, in substance, confided to the different committees, whose reports are generally conclusive, and without which this House could never progress in their business. What is the result? An attempt has been made to corrupt the man who holds the purse-strings of your Treasury; to bribe a member of this House in the performance of his legislative duties. He could not, he said, imagine a more daring act of high-handed villany. He most sincerely hoped every member of this House was proof against the baneful influence of such attempts. But he was unwilling to proclaim that we did not possess the power to punish them, and to suffer the perpetrators to prowl about our House and offend it with their presence. What, said Mr. T., is it no offence to bribe a member of this House—pollute the fountain of legislation, and poison the source of all laws? Upon the deliberations of this House depend the question of peace or war. The prosperity and the happiness of our country, the liberty and the lives of a free people are dependent upon our deliberations. An attempt to corrupt your national councils is an offence of such magnitude as to embrace within

itself, as a sub-division, every other crime known to your laws. Ruin and disaster, treason, stratagem, and spoil, follow in its train. Its consequences are too immense to describe, "too vast, too boundless, to explain." And when we arraign at our bar such a culprit, are gentlemen to forget the dignity, the duties, and the privileges of this House, and, in their undue jealousy of vested powers, to talk of the rights of man and the privileges of a citizen? It is the misapplication of a virtuous love; it is the enthusiasm and madness of liberty which impels to such a course.

Mr. T. proceeded to answer several other objections, and to urge some additional arguments; and finally concluded, that, in his opinion, it was a clear case that the House possessed the power, and that they ought to proceed and arraign John Anderson at their bar; and if, upon investigation, the charge should be found to be true, to pass upon him such sentence as the honor and a just regard to the future safety of this House should require.

Mr. HOPKINSON spoke as follows: If I considered the resolutions now under discussion to have no other effect than to provide for the escape of an insignificant individual from the punishment most justly due to his gross and dangerous offence; if I did not consider them as prostrating the dignity and safety of the Representatives of the people of the United States, I should not ask your indulgence while I offer my remarks upon them. But it is one of those cases in which great principles arise out of a petty transaction; and important consequences must follow from the decision which shall be made. In the outset of the discussion, let us correctly understand who are the parties in the controversy. It has been represented that the rights and liberties of the citizen, concentrated and personified in John Anderson, are found on one side of the question, and the personal privileges of the members of this House on the other. This is not a correct view of the subject. The members of this House personally, individually, as for themselves, claim nothing in this argument; they ask no protection; they assert no privileges. The pretension, such as it is, is made in our collective, representative capacity; standing in the place of the whole people of the United States, maintaining their dignity, asserting their rights, providing for their safety. It is we then that are with the people, and the people with us, in this controversy; and on the other side we see but John Anderson, an acknowledged criminal, who has insulted, and endeavored to corrupt, the Representatives of the people of the United States, to the great injury and disgrace of the people. If, therefore, I could ever be influenced in my conduct here by mere popularity, I could never feel myself safer in that respect than at this moment. Having thus stated the parties to the dispute, let us inquire into the points of difference between us. In doing this I would lay this particular case out of view, as indeed the discussion has resolved itself into an abstract question of right and power. We contend this legislative body of the people of the



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

United States has, and must necessarily, from the very nature and uses of its existence, have, within itself, and of itself, the power to protect itself and its members, while acting under its authority and in its service, from every attempt to overawe its deliberations by violence, or pollute them by corruption. This, we say, is a power inherent in, and inseparable from, the very existence of the body—created with it, and derived from the same authority. All this is denied by our opponents.

You will observe, sir, I keep out of view, in stating this proposition, every idea of punishment or an offence or crime; thus avoiding a great mass of objections growing out of that view of the subject, and founded on the provisions in the Constitution for the trial and punishment of crimes. Consider the right contended for solely as a protecting, not as a vindictive or punishing power, and of course the exercise and extent of the right is determined and limited by the protection required, be that more or less. Is there, sir, any right, is there any principle, more familiar with the nature of man than this, of self-protection from every species of injury? Do I say, with the nature of man? I add, with the nature of every living being. The meanest reptile, the feeblest animal that crawls and breathes upon the earth, asserts and exercises it; repels, to the utmost of its strength, every hostile assault, and considers its own preservation as the first of its duties. Nor, indeed, is this all-pervading principle confined to animal life; the vegetable world claims it also. The rose presents a thorn to the hand that assails it too rudely; and the sensitive plant shrinks from the touch of pollution. Is this House, then, the only body, natural or political, which must bare itself, unresistingly, to the violence of the ruffian and the corruptions of the depraved?

No, sir, we maintain that the people of the United States, in creating it, intended to create, and did create, a perfect, complete, and efficient being, competent to all its uses, and efficient in every power necessary for them; and not a miserable, deformed, powerless being, to be trodden upon without redress, and despised with impunity. Such is our ground. What, then, is opposed to opinions apparently, at least, so strong and unimpeachable? Why, sir, the Constitution—the rights of the citizen—the danger of privileges undefined and undefinable. It is not denied that other similar bodies in other countries as well as our own; that courts, great and small, down to a petty justice, possess the power now contended for; but the Congress of the United States must not have it, because of the provisions of the Constitution. Where are they, then? In what article or section of that instrument? I agree, most explicitly, that it is vain to show the reasonableness, the necessity, the antiquity, the universality of the principle we contend for, if the Constitution prohibits it to us. In that case we must abandon it. I surrender every thing to that supreme power. But, sir, I may be permitted to say, that if the Constitution of the United States really has taken from this body a power heretofore belonging to every similar body, we

have a right to expect and demand that it be clearly and explicitly shown; and that it would be most easy to show it. Yet we find the gentlemen who hold this ground have no concert or agreement as to what part of the Constitution contains this important prohibition. One finds it in certain provisions, which he asserts to be clear and conclusive; another infers it from certain given powers, which are alleged to be exclusive of all others; and a third class deduces it from the nature and spirit of our Government. Now, sir, it is not unfair to say that a prohibition so difficult to be fixed to any part of the Constitution, really exists in no part of it; and that we need not fear to violate an instrument which takes so little care of itself in this respect.

The honorable gentleman from New York, who introduced the resolutions, relied on express prohibitions, which he thought he discovered in those parts of the Constitution which require an oath previous to the issuing of a warrant; which protect the citizen from being called to answer for any crime, unless on the presentment or indictment of a grand jury, securing him from being put twice in jeopardy for the same offence; and which assure to him a public trial by an impartial jury. The security of these important rights is found in the fourth, fifth, and sixth amendments of the Constitution. I shall omit to trouble the House in the answers I had intended to make to these several objections, because they have been sufficiently refuted already, and because, in the subsequent stages of the debate, they seem to have been abandoned by every body. I consider them to have died a natural death, and would not disturb their repose. As to our having issued the warrant for arresting Anderson, without a previous oath of his offence, it is obvious that, if the objection be well founded, it comes too late; and can be no reason for passing the resolution directing his discharge. The utmost effect would be to acknowledge and correct the error, and detain him until it was done. But, in truth, it was no error, provided we have power to proceed in the case at all. I need not repeat what has been so well said, to show that the clause in the Constitution on this subject has not, and never was intended to have, any possible relation to a case like this. It looks wholly to other objects. I defend the warrant without oath on this ground. We assume the right to act at all in the case, from the powers we allege to be necessarily vested in every public body; and, this established, we look to the mode of proceeding in the exercise of this power, to the precedents and practice of similar bodies, acting in similar cases. We take the whole system together, as well the power claimed as the means of giving it effect and operation. Now, without looking to the precedents of the British Parliament, we have the example of our Congress, in a case in every respect the same with this, even to the nature of the offence. In the case of Randall and Whitney, so often mentioned, the warrants were issued on the representation of the facts made by members in their places, and it never was required that

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

they should verify their representations by an oath. So in every other instance.

The honorable gentleman from New York having established himself, as he supposed, on his Constitutional ground, of which I shall make no further remark, proceeded to assault that of his opponents. He says we resort to necessity, that plea of tyrants. Why, sir, it may be the plea of tyrants, but assuredly it is not exclusively theirs. It is the plea of everybody, whenever it exists. It is regarded by everybody, and recognised by the law. Your courts daily depart from general and established rules, on the plea of necessity. Men are permitted to justify or excuse themselves, on this plea, for acts otherwise indefensible; nay, inasmuch, that the necessity a man may be under to save his own life may justify his taking that of another. I hope, therefore, we shall not fall under a heavy condemnation for resorting to this plea, if we fairly make out a case under it. This, however, is denied. We are told that, as regards any actual violence to the House itself, disturbing its proceedings, there is no necessity for this proceeding, because you may put out or remove the offender. First, let me ask the gentlemen who are so liberal as to grant us this power, and yet will allow us nothing not found in the Constitution, where they find it in that instrument; and if they claim a right, and imply or assume, from necessity, so far, what is to prevent other gentlemen who think the necessity goes much farther, from implying or assuming it to the extent of their notions of the necessity? Can it be pretended that this necessity, that is the necessity of preventing actual violence and interruption to the body while sitting, calls for no more than the right of putting out the offender; and that the moment he is thrust over your threshold your power over him ceases? What, sir, is the value of putting him out, without the right of keeping him out? This, then, is substantially the great difference, and the only difference between us. Our opponents are satisfied with the right of putting the offender out of our hall, and we claim the further right of keeping him out. Without this he may return instantly, again and again, and the time and attention of this body would be wholly consumed in this pitiful contest with a ruffian. The right to put out is worth nothing, while you couple it with a right and power to come in. I here again disclaim the commitment by the House for a contempt, to be in the nature of a punishment; it is entirely a power of protection; if, therefore, it shall be judged necessary, to prevent a repetition of the offence, to commit the offender to custody, it may be done on the strictest principles of self-preservation and self-protection, and without any infringement of those parts of the Constitution which provide for the prosecution and punishment of crimes. So far in relation to assaults made upon the House collectively; and I should think it is manifest the necessity exists to the whole extent we contend for. Is it not also so as regards the personal security of the individual member, acting under the authority and in the service of the House, and

therefore, I should think, entitled to the whole protection of the House? Sir, every member of this body, and more especially such as compose the important committees, is in a peculiar manner exposed to a variety of assaults upon his honor, his feelings, his integrity, and his person; which the citizen is wholly free of. Did the people place us in these posts of danger, uncovered and unarmed for self-defence? Peculiar hazard demands and justifies peculiar safeguards; and the people of the United States are not so unwise or unjust as to say to us, you shall encounter uncommon dangers and have no more than common protections. For their own sakes they could not say so; for, inasmuch as it is for them we act and legislate, it is all-important to them we should do so without fear, without favor, and, above all, without corruption. The disgrace may be ours, but the injury will be theirs. When you, Mr. Speaker, acting as the organ of this body, place a gentleman at the head of an important committee, do you mean to throw him on his own personal means of security in the exercise of the duties you impose upon him? If so, who hereafter will accept the appointment, or discharge the duty? I beg gentlemen to consider in what situation they will place the Chairman of the Committee of Claims, who brought this affair before the House, if they pass these resolutions. It will be to say to him, you have been grossly insulted by this man; your honor has been violated; your feelings outraged; but really it is no affair of ours; it is a matter between you and John Anderson, which you must settle with him as you can. If you can sue or indict him, the courts are open to you; but if this cannot be done, you must resort to your own means in your own way. I beg gentlemen seriously to reflect, whether any man of feeling or honor will serve you or the people upon such terms as these. If members of Congress are to resent and redress personal affronts and injuries, attacks made upon them as members of Congress, and only because they are so, the people hereafter must choose their Representatives, not for their wisdom, experience, and integrity, but for the strength of their nerves, and the power of their arms.

The honorable gentleman from New York next attacks us for relying on precedents to support us, declaring that they are the expedient of a bad cause. Not so say my books and experience. On the contrary, I have been taught to consider an adherence to precedents as the certainty of the law; as the great safety of every right to the citizen. To have the law fixed, and to know what it is, is the great desideratum in the administration of justice, civil and criminal; inasmuch that learned judges have said it is of more importance, in many cases, that the law should be certain than right. If precedents are disregarded; if what is the rule of action to-day was not the rule yesterday, and will not be so to-morrow, what guide has the citizen for his conduct; what security has he for his person, his property, his most sacred rights? What, then, are the precedents we rely on, in support of the power in cases of contempt?



H. or R.

Case of Colonel Anderson.

JANUARY, 1818.

they are furnished from the examples of the British Parliament; of our own Congress; of our State legislatures; and of every court in the country; making a body and weight of precedent which we cannot disregard without more confidence in ourselves, and more responsibility than I am willing to assume. Whatever difference there may be in the manner or extent of exercising the power, the principle is essentially the same in all. I beg leave to inquire into the objections of these several authorities; first premising, that I do not mean to found the right upon them, or to consider them as creating or giving the right, but merely as evidence of its existence and utility. They furnish argument rather than authority. First, as to the usage of the British Parliament. I will not be understood as pretending that this usage has any binding force upon this House of any sort, or in any degree; but I say, there is such a similarity in many of the great principles of the construction of the British Government and our own, that we may wisely take into our consideration what they have found expedient and safe to be done in similar circumstances. We may look to them for instruction in legislation as we do in law, medicine, or any of the sciences; we may use the lessons of their experience and the light of their knowledge, without degradation or subserviency. But, to break us up in this part of our argument, we are told, with some exultation, that this is the common law of England, and which has no authority or force in this country, and that it has been so repeatedly decided by the Supreme Court of the United States. Both positions are unfounded. In the first place, the power in question is not derived from the common law of England; and, in the second place, the Supreme Court never has decided that that common law has no force or authority in this country; but exactly the reverse. As to the first point; the right we contend for has neither its origin or its authority in the common law of England. It is the law of nature and necessity. It is a coeval with the first assemblage of men that ever met together for deliberation or action; for, without it, they could neither have deliberated or acted. It is long antecedent to the common law of England, and the existence of England herself; and now known and practised where neither England or her common law have ever been heard of. You will find it asserted and understood equally by the legislative assemblies of Greece, and at the council fires of the Cherokees. It belongs to no state of society or period of time, but is as universal, as the law of self-preservation from violence and injury. The decision of the Supreme Court on the common law of England, if we can properly say anything has been decided, applies only to the question, whether the courts of the United States have jurisdiction of offences at common law; that is, whether they can undertake to try and punish a crime, the trial and punishment of which is not expressly given to them by the Constitution, or some law of the United States. Even this limited question can hardly

be said to be settled; although two honorable gentlemen in the course of this debate—the one highly respected in his professional, and the other in his judicial character—have declared it has been repeatedly decided, they have not been good enough to refer us to these repeated decisions.

The gentleman from Mississippi read the opinion of a single judge of the Supreme Court, with whom, I believe, the doubt originated; but this cannot be called the opinion of the court. And the gentleman from New York referred to another case, which, it is true, as far as it goes, was the opinion of the court. But it passed without argument; and the judges of the Supreme Court have been so far from considering the question settled by that case, that, so late as in the year 1816, they invited an argument of the question, some of them indeed declaring they considered the point settled, and others as expressly saying they did not so consider it; and all being willing to hear the argument, which is never allowed on a decided question. Let that point, however, be or be not decided, it is widely different from the position now taken that the common law of England has no force or authority in the courts of this country; the contrary of which is recognised almost daily by every court in the country. It is remarkable that its authority has been particularly acknowledged, and by the Supreme Court too, in the very matter of contempt; the whole manner of proceeding in cases of that kind being derived from the common law. The gentleman from New York, in order to prove that, even in relation to contempts, the courts act under a statute of the United States, and independent of the common law, has referred to an act of Congress, passed 24th September, 1789; by the 17th section of which it is enacted that the courts of the United States shall have power to grant new trials, for reasons heretofore allowed, &c., to impose and administer all necessary oaths, &c., and to punish all contempts of authority in any cause or hearing before them; and this is the law relied upon to show that the common law has been driven out of our courts. Really I may say to the gentleman, in relation to this act, "I thank thee for that word;" for if there ever was an act of a Legislature which recognises the power of the common law, and relies upon it for all its force, efficacy, and execution, it is the very one referred to. The courts are to grant new trials, for reasons for which they have been usually granted. And how are the courts to discover what these reasons are, but by the decisions of courts founded on the common law? They are to impose and administer all necessary oaths; is no reference to be had to the common law to ascertain what oaths have been considered as necessary and proper to be imposed and administered? They are to punish contempts against their authority; and how shall they decide what is or is not a contempt of that authority, in the understanding of the law, but by reference to precedents and the common law? May a judge of the United States call anything a contempt, and punish it as such and in his own way, his

JANUARY, 1818.

Case of Colonel Anderson.

H. or R.

pride or caprice may choose to call so? And are the citizens of this country thus exposed to danger without any known rule by which they may avoid it? Where, then, is the rule? It can be found in no statute of the United States; and if we reject the aid of the common law, we are absolutely without a guide or rule, either for the court or citizen. The truth is, sir, there is no case of legal controversy, civil or criminal, which can be carried through our courts, from its commencement to its final issue, without in some stage of it, or in some manner, applying to the common law. If, however, the precedents of the English Parliament are to have no weight with us on this occasion, what objection can be made to those of our own Congress, sitting under the same Constitution which governs us, and having the same obligation to observe it? Several cases have been produced, in which the Congress have exercised the power of proceeding in the way we are proceeding, against a citizen guilty of a contempt of its authority; and one of them precisely the same as this. It is not controverted that all the State Legislatures assume this power, and, in some instances, have exercised it; and it cannot be questioned, that every court in the country, from the highest to the lowest, even to a justice of the peace, has exercised this power, it never having been doubted, nor its utility and necessity denied. This mass of precedent proves, beyond all question, that, by a sort of universal consent, it has been conceded and understood that every body, created either to make or administer the laws of the country, must have a power within itself, and independent of the other tribunals of justice, to protect itself from violence, from insult, from everything and everybody that would interrupt or corrupt its deliberations and decisions; and that the use and exercise of this power must be left, in a great degree, to the sound discretion and responsibility of the body exercising it. Assuredly, sir, there is not more danger of an abuse of this power by this body, the immediate Representatives of the people, and returning to the people every two years for their approbation or condemnation, than by the Legislatures of the States, and the numerous courts of justice spread in every part of the country. And may we not safely believe, too, that all these Constitutional objections are fanciful and unfounded, since we find the exercise of the power has been assumed by all the public bodies I have mentioned, undisturbed and uncomplained of?

The honorable gentleman from Virginia (Mr. BARNOUR) places his opposition to our proceeding upon ground wholly different from the honorable gentleman from New York. He does not pretend to discover any absolute prohibition of this power in the Constitution; but comes at it argumentatively, by inference. The gentleman maintains his argument, not only by rejecting altogether the doctrine of implied, inherent or incidental powers in Congress, but thinks he finds provisions in the Constitution which, by fair inference, at least, negative the power now contended for. He relies, first, on the 6th section of

the 1st article, which relates to the privileges of members of Congress; and, second, on the general ground that the power we claim, not being found among the enumerated powers of the House, it follows that it does not possess it; in both points, relying on the known maxim that these affirmative grants or expressions of right must be taken to be exclusive of all others. We will consider the objections separately. As to the first, the section of the Constitution alluded to, provides that Senators and Representatives shall, in all cases except treason, felony, and a breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place; and it is contended that this section contains all the privileges intended to be given to either House of Congress, or their members; there being no right to assume any power not thus given. Before I consider this section, and the argument raised upon it, I would beg leave to warn gentlemen how they adopt or warrant this rigid manner of construing the Constitution and the powers of Congress under it. They may be binding themselves in fetters that may hereafter sit uneasy upon them; and when they shall desire to come at some great good, by a more liberal and enlarged construction of that instrument, they may find themselves unable to move by their own sentence.

But to the objection: It is the danger of every argument of this sort, that it must be overthrown by a single exception. If I maintain that a particular clause in the Constitution contains all the power intended to be given on that subject, and it can be shown that there exists any power not there given, the argument is destroyed; it is proved that all the power was not intended to be expressed, and the barrier at once broken down, the whole subject is thrown open to be governed by general and acknowledged principles and precedents in similar cases. I ask, then, whether it can be pretended, that the section referred to really contains the whole system and doctrine of privilege, extended for the protection of Congress and its members? Has not the contrary been admitted again and again, by every gentleman who has shared in this debate? If, then, it does not contain the whole, where are we to look for the rest, but to the sources to which we have applied? In the first place, it is obvious that this section provides nothing for the protection of the House, collectively, while actually sitting and deliberating on the public business. How then can it be the whole law and power of privilege? Surely it was known to the framers of the Constitution, that it was possible the body of Congress might be disturbed by violence or rude interruption, as well as that one of its members might be arrested or questioned for his speech in the House; and yet they have so carefully provided for the lesser evil, leaving the greater one without guard. This is a strange omission in a deliberate, digested system of the privileges of Congress, intended to ex-



clude every pretence of every other power for its protection. The truth must be, that there were certain known and accustomed privileges and powers in every legislative body, which were not intended to be taken away or diminished, further than they may be considered to be regulated or limited in the particular cases mentioned. If indeed the convention intended, for the protection of the citizen from arbitrary and undefined power, to fix precisely the whole power of parliamentary privilege, and to exclude everything which before had been so considered and used, they would have put the matter past all doubt, by saying so; and not leave so important a change in the received doctrine on the subject, to the uncertainty of inference and argument. But how is the House, in actual session, to be protected against violence and interruption? We are told that, in such a case, we may put the offender out. But I ask, by what authority are you to lay your hands on a citizen and thrust him out of your doors? I do not find this power in the Constitution; and I am told that I must not go out of the line and the letter of that charter of our rights. Why here it is agreed that the necessity of the case justifies his removal, and that we may exercise the force required, because this is our House; and any man may remove an intruder from his own house. As to the necessity, if that is once admitted as giving power, it must be given to the whole extent of the necessity; and that must be judged of by every member, and every House of Congress for itself. Where then is the Constitutional barrier? Precisely where we would place it—in the necessity of the case, fairly and discreetly judged of and decided by the body offended, governing itself by established principles and precedents. As to our deriving the right from the right we have in this House, as our House, and on the same principles on which we would assert it in relation to our private property, I ask if the gentlemen can possibly be correct in this suggestion, however ingenious? This is not our House, as private property is, nor do we hold it in the same right or on the same principles. It is not our castle, as our homes are, from which we have a right to exclude anybody and everybody, as we may please. Can we shut our doors and say that nobody shall be admitted within these walls but ourselves? The experiment would be a dangerous one. Not so in relation to our private dwellings. The public has provided these buildings for our use and occupation, while transacting the public business, but has neither given us a right of exclusive property in them, nor parted with its ownership. The right, therefore, to exclude a disturber cannot rest on this ground; and if it could it would be useless, unless coupled with the further right to prevent him from returning, or disturbing you from without. I would only further remark on this point, that even this right to the exclusive possession of your own house, and to expel an intruder, is a common-law right, provided for by no statute of the United States, and cannot, therefore, avail those gentlemen in this debate who would banish the common law from our land. Another

essential defect in this system of privilege, said to be contained in this section of the Constitution is this, that it provides no means for its own execution; gives no remedy for its violation. When the cases shall occur you will be unable to know how to proceed to vindicate this Constitutional right, and what punishment you may inflict upon the offender. If a member is arrested during his attendance on the House, how shall he be discharged? Where shall he seek his remedy and protection, if not here? If no power exists here to protect him, because no such power is expressly granted by the Constitution, must he go, in custody of the officer, to the court issuing the writ, at whatever distance it may be, and petition them to be permitted to return to his public duty? And must he wait until the court shall please to signify its will upon his application? And should the court not be in session, must he obtain his writ of habeas corpus, and submit his case, and the rights and interests of the 35,000 citizens he represents, to the pleasure of a single judge? If he is so fortunate as at last to be dismissed, what security has he that on his return he may not be arrested again and again? This privilege, this high Constitutional privilege, is not worth a farthing on these terms. These may be called extreme, improbable cases; but, sir, we may look to such cases. The time may come, has it not already been? when the great question of peace or war may hang on one or two votes, and when it might be worth while to resort to extreme expedients to promote or prevent it. So of other important subjects of legislation.

Again, sir, the Constitution guarantees the member of Congress from being questioned elsewhere for any speech or debate made here. But if we are bound down to the letter of the Constitution, and may assume no power not there expressly given, what will you do if a member shall be questioned, and rudely questioned, and menaced with personal injury for his speech made in debate. You have no remedy, and the boasted privilege is an idle mockery. To remove difficulties so obvious, it has been suggested, in Mr. Jefferson's Manual, as well as in the course of this debate, that we should pass a law on the subject of contempts, and prescribe the mode of proceeding. I beg to ask, sir, what sort of law would you pass? Not, surely, to describe the offence, or fix the cases or conduct that shall be deemed contempts! for if these are limited to the two instances put in the Constitution, you cannot enlarge them by law; you are as much restricted and bound by the Constitution in legislating as in any other exercise of power. Shall we, then, pass a law to prescribe the mode of proceeding, and fix the punishment? If your law shall give to yourselves the right to proceed and punish the offender in a summary way, it is at once obnoxious to almost all the Constitutional objections that have been urged against us now. It will be said, with equal force and propriety, that we, the injured party, constitute ourselves the accuser, the judge, the witness, the everything; and we can have no more right to pass such a law than

to proceed without one—nothing would be gained to the citizens by it. If, on the contrary, this law shall turn the offender over to the courts for trial and punishment, it will be utterly inefficient to any good purpose; it may punish the wrong, but cannot prevent the injury. If the public weal shall suffer in some important measure by the arrest and detention of two, three, or more of their Representatives, no punishment of the offender will afford any remedy for the evil. Besides, the members of Congress, either during the sitting or afterwards, as the case may be, must neglect their duties, or be detained from their homes, to attend on the courts of justice to prosecute and testify in these cases of contempt. But a conclusive answer, in my mind, to the proposal to pass a law on this subject, is this, that no such law has ever yet been passed or moved; and we have, therefore, the deliberate opinion of fourteen Congresses that no such law ought to be passed. Nor has the point been overlooked or unattended to. The subject has been before Congress on several occasions, but the result has always been the same—to leave the power of the House, as well as the mode of proceeding, to the known and settled rights of similar bodies, without any legislative interference or regulation. What this power was, and how it had been exercised, were well known to the convention, and doubtless intended to be assumed by Congress on the same principles, and used in the same manner as other legislative and judicial bodies had used and exercised them.

The second point of the honorable gentleman from Virginia, I understand to be this, that the Constitution expressly grants and defines the powers of this House, as such, but gives none such as is now claimed, and therefore it must be understood to be denied. It will be perceived that the argument of this point depends upon the same principle on which the gentleman supported his first point, to wit: that the express grant of powers upon any subject necessarily excludes all others; and, of course, this point also is disposed of by showing any cases, however inconsiderable, in which powers not enumerated or assumed by the House are admitted without question. It is denied to us to look to what other similar bodies have done, or to draw any authority from such sources; because, it is said, all this was well known to the framers of the Constitution, and would have been inserted if intended to be given. Nothing is to be presumed, nothing implied. But it has been well observed, that we daily do look to the conduct and course of proceeding of other legislative bodies, and take them for our rule and guide in the construction of the Constitution; for instance, when it speaks of a "quorum to do business," how do you ascertain how many members shall make a quorum but by a reference to the precedents and practice of other bodies? so also, when it speaks of a jury, &c. It is answered, I acknowledge, ingeniously, to this, that we may look to such authority for the use and explanation of terms; but not for the assumption of power. Be it so; and does not this House assume powers, and high and important powers, on the same au-

thority, and without any express grant of them in the Constitution? Do you not take to yourselves, and even impart to your committee the power of sending to the extreme limits of the Union for persons and papers, whenever it is deemed necessary for the public good? What power can be more absolute, more inconvenient to the citizen, or a bolder intrusion upon his person and privacy? Yet we find it not in the Constitution; and justify it only as an incidental power arising from necessity, and sanctioned by the usage of similar bodies. But might we not say, in the tone of the gentleman's argument, that as there is no express authority given to each House of Congress to compel the attendance of absent members, it must be taken to be exclusive of any power to compel the attendance of any other person. The argument is in all respects the same with that urged against us, and the conclusion equally clear and irresistible in both cases, if the premises be admitted. So, sir, we appoint a Sergeant-at-Arms, in the usage of other legislative bodies, but no such officer is named in the Constitution. It is answered to this, that a power is given to the House to appoint its officers; very true, but still you do and must refer to practice and usage to determine what those officers are and ought to be; and, what is still more important, to ascertain the power and duties of those officers, none of which are prescribed in the Constitution. We find in the rules of the House, the duties of the Sergeant-at-Arms prescribed in a very general way; and his fees or compensation for some of them fixed; among which it will be seen there are allowances for the arrest and custody of prisoners taken by order of the House, from which it would seem to have been expected that on some occasions and for some causes, the House has power both to arrest and keep the person of a citizen; unless it shall be confined solely to the case of absenting members, which construction the terms of the rule negative. I ask, sir, by what right, on the gentleman's argument of exclusion, do you pay the Sergeant-at-Arms, and the other officers of the House? An express power is given to fix our own compensation, and if this is to be taken to exclude every other power on the subject of compensation, we have no right to pay the attending officers of the House. But the right arises from the obvious principles of necessity and justice, which must form a part of the Constitution, for without them it cannot be executed.

By turning, sir, to other parts of the Constitution, it will be seen that vastly greater powers than are now claimed are exercised by construction and reference to known usage and principles; and that this doctrine of exclusion cannot be maintained. In the general powers of Congress, authority is given to constitute tribunals inferior to the Supreme Court; and in the 2d sec. of the 3d article, the judicial power is described in very general terms. But what has been done under these few lines of the Constitution? A variety of courts has been created and organized, exercising most of their powers from known and established usage and precedents; provision has been



made for the trial and punishment of offences; in short, the whole machinery of the administration of justice, civil and criminal, has grown by implication out of two or three general clauses in the Constitution. I would, for a moment, advert again to the doctrine of exclusive construction. In the enumerated powers of Congress it is declared they may "define and punish piracies and felonies committed on the high seas, and offences against the law of nations." And in another part of the Constitution, treason is expressly defined, and the punishment prescribed. Now what is the argument from these facts on the gentlemen's exclusive principle?—That inasmuch as the Constitution has defined one crime; (as it has defined two privileges) and has also expressly designated the offence which Congress shall power to define and punish, therefore Congress has no power to define or punish any other crimes or offences; and all our penal code is an unconstitutional usurpation of power, and void. But we find that neither Congress, nor the courts have yielded to this argument. We have passed laws defining and punishing perjury, forgery, bribery, &c., and the courts have gone on to execute these laws without compunction or doubt. In conclusion of my remarks upon this subject, I repeat, that I dismiss the idea of punishment, legally speaking, for contempts to the House; and consider the power altogether as a protecting one; and the nature and extent of the power proves it to be so. We may commit the offender to close custody, because that may be necessary to prevent a repetition of the offence; and we may continue him in custody as long as, in our discretion, may be necessary for this prevention; but we cannot extend it beyond the sitting of Congress, because beyond that period it is impossible the danger can exist, or the guard be necessary. I leave the subject, sir, with a sentiment of Chief Justice McKean, in the case of Oswald, where, also, the power of the court was denied: If we have not a power to punish for contempt of our authority, we shall soon become so truly contemptible that no contempt can be committed against us.

Mr. RHEA, of Tennessee, said, the preamble to the resolutions having been withdrawn, and therefore with the amendment that he had offered to it, the resolutions now stood uncovered, and present themselves to this House for argument and decision. He would now make another attempt to get clear of them, so that the person charged with the contempt might be speedily brought in, and his troublesome business be ended. He therefore moved to amend the said resolutions by striking out all of them after the word *resolved* in the first, and to insert in place thereof the following: "That this House possesses competent power to punish John Anderson for his contempt of the House, and his outrage upon one of its members. Therefore, resolved, that the Sergeant-at-Arms be directed to conduct John Anderson to the bar of the House." If the resolutions were withdrawn, this proposed amendment would go with them, and the object he had in view would be attained.

Having offered his amendment to the resolutions, Mr. R. proceeded to offer some remarks on the resolutions, in the order in which they presented themselves. The object of the first resolution, said Mr. R., is, that John Anderson be discharged from the custody of the Sergeant-at-Arms. This proposition infers that either the person charged did not commit a contempt, or if he did, that this House has not power to punish it. But the gentlemen who oppose the proceeding against him do not deny that he has committed an offence. And if the power of this House to punish be denied, for what reason was the preamble to the resolution, together with the proposed amendment, withdrawn, and the House thereby then prevented from directly deciding on the question of power? The withdrawing the preamble, and with it the proposed amendment, implied the admission of the power. The object of the second resolution, said he, is, that the person charged may be delivered over to be prosecuted by the Attorney General for his offence. If the consequences of the adoption of this resolution be attended to, it can have but little support. The manner in which a prosecution for the alleged offence may be instituted and pursued in a court of justice has not been declared, and I am not at present inclined to give any opinion respecting it. The third resolution proposes that the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of any contempt of the Senate or House of Representatives of the United States, and of any breach of the privileges of either House. Mr. R. said he was not prepared to vote for the adoption of this resolution. It appeared to incline towards a sedition law. If the proposed amendment be adopted, these resolutions will be set aside, the proceedings against the person charged will soon be ended, and he will be discharged. Exceptions are taken to the word *punish*, but a definition is not offered. The word *punishment* is an extensive term, comprehending every species. To reprimand is to punish. The person charged is in the custody of the Sergeant-at-Arms; that is a punishment. Is there any other word, in the same language, equivalent to the word *punish*? If so, let it be named, that it may be substituted; if there be not, why except to the word? The good and virtuous have rights as well as those of another character; and if the rights of the latter are protected, the rights of the former require protection. What are the rights of this House? To be free in deliberation; to be pure in principle; to be correct in decision, in as high a degree as the present state of human existence can extend to;—are rights of the House of Representatives of the Congress of the United States. Whatever will go to violate any of these rights is a contempt, and a breach of the privileges of this House. The term *House*, here used, is not intended to signify this House, composed of walls and materials, in which we sit and deliberate. The term, by a well-known figure, signifies they who sit in it: they are the Representatives of all the people of this nation. The ap-

proach to this House ought to be by the avenue of purity. The eternal rules of right govern this question; and there is a moral principle that ought to govern every man who approaches this House, in which the majesty of the sovereign people, in their representative capacity, does reside.

Mr. RHEA's amendment was not decided when the House adjourned.

#### WEDNESDAY, January 14.

Mr. GAGE presented a petition of sundry manufacturers of paper in the State of Massachusetts, praying that a duty of two dollars a ream may be imposed on all paper imported into the United States.—Referred to the Committee of Commerce and Manufactures.

Mr. IRVING, of New York, presented a petition of the Mayor, Aldermen, and Commonalty, of the city of New York, praying that provision may be made for the adjustment and final settlement of their claims and accounts in relation to the defence of the city and port of New York during the late war with Great Britain, upon just and liberal principles.—Referred to the Committee of Claims.

Mr. LOWMEDE, from the Committee of Ways and Means, made a report on the petition of Joseph Thorn, accompanied by a bill for the relief of Joseph Thorn; which bill was read and committed.

Mr. L. also reported a bill making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the 1st January, 1817; and also a bill making an appropriation for the Military Establishment of the United States for the year 1818; which bills were committed.

Mr. T. M. NELSON, from the committee, to whom had been referred the Senate's bill extending the time for locating Virginia military land warrants, and returning the surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract, reported sundry amendments thereto; which were read and committed.

On motion of Mr. PARRIS, the Committee on the Judiciary were instructed to inquire into the expediency of requiring further security from the clerks of the several circuit and district courts of the United States, and providing by law for keeping the records of said courts, in the places where the same shall be respectively holden.

On motion of Mr. TARR, the committee appointed on so much of the President's Message as relates to roads, canals, and seminaries of learning, were instructed to inquire, and report to this House, whether any, and if any, what further provisions are necessary, by law, for completing that part of the United States' turnpike road lying between Cumberland in the State of Maryland, and Wheeling in the State of Virginia.

#### CASE OF JOHN ANDERSON.

The House resumed the consideration of the resolutions submitted by Mr. SPENCER, on the 9th instant, in relation to the case of John Anderson,

15th CON. 1st SESS.—24

and the question recurred on the amendment proposed by Mr. RHEA, and depending yesterday at the time of adjournment: whereupon, Mr. RHEA modified his said amendment to read as follows:

"That this House possesseth competent power to punish for contempts of its authority: therefore, *Resolved*, That the Sergeant-at-Arms be directed to conduct John Anderson to the bar of this House."

And the question being stated to agree to the said amendment as modified—

Mr. CLAGETT spoke as follows:—After the elaborate and learned discussion of the subject under consideration, I should not, at this hour of the debate, trouble the House with any remarks, if, in the laudable effort to preserve the Constitutional privileges of this House, honorable gentlemen had been more particular in noticing the form as well as substance of the three resolutions lastly introduced, and upon which it will be our duty to decide. To these resolutions, sir, I shall, principally apply my remarks. The resolutions referred to are as follows:

1st. "*Resolved*, That all proceedings against John Anderson cease, and that he be discharged from the custody of the Sergeant-at-Arms."

2dly. "*Resolved*, That the Attorney General be directed to institute process against John Anderson, agreeably to the laws of the United States or of the District of Columbia." And,

3dly. "*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of any contempt of the Senate or House of Representatives, or any breach of privilege of either House."

These resolutions, sir, were originally introduced with a preamble attached to them; and though that preamble was yesterday withdrawn, the arguments were founded upon it; and the impression remains, and ought to be noticed. The preamble was in the following words: "This House entertaining great doubts of its possessing competent power to punish John Anderson for his contempt of this House, and his outrage upon one of its members, *Resolved*," &c. (as above.) Now, sir, with or without this preamble ought these resolutions to be adopted? Are they not incompatible with each other, and inconsistent with the proceedings and with the dignity of this House? Surely they are. These resolutions, taken collectively with the arguments, are predicated upon a breach of privilege, and contempt of this House, and an outrage committed against one of its members. Yet, by the first resolution, he is to be discharged! By the second, the Attorney General is directed to institute process against him, agreeably to the laws of the United States, or of the District of Columbia; when, in fact, we have been told by some of the advocates for his discharge, (and truly too,) that there is no law of the United States or of this District to meet this case. The third resolution evinces this fact; it directs that the Committee on the Judiciary be instructed to inquire of the expediency of providing by law for the punishment of any contempt against the Senate as well as this House, or any breach of privilege of either



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

House. Surely, sir, we cannot adopt these resolutions without compromising the privileges and dignity of this House. Nay, sir, these resolutions presuppose an adjudication; when, in fact, John Anderson has not been fully heard; nor has he been pronounced guilty of an offence. And what have we to do with the privileges of the Senate; or they with ours? There can be no amalgamation of the privileges of the two Houses. And again, sir, if we adopt these resolutions, though we discharge him from the custody of our Sergeant-at-Arms, and direct the Attorney General (who has no law in the case) to institute process against him, we, virtually at least, pronounce him guilty, without having heard him in his defence; which I can never assent to. Let us, then reject these resolutions, as incompatible with each other, and irrelevant to the subject under consideration, and return to the process by which John Anderson was arrested and arraigned before us; and however unpleasant the task, let us meet the subject promptly. And now, sir, permit me, very briefly, to add a few words as to the power of this House in reference to its own preservation. But, first, I have been surprised that any should deny this power. Great eloquence and powers of rhetoric have been displayed by the honorable gentleman who deny this power. Great indeed must that eloquence be which shall convince me that this House has not such power; or that we are not bound, upon this occasion, to exercise it. Gentlemen have denied the right of calling to our aid either the *lex parliamentaria* or the common law. Sir, highly as I esteem the principles of the common law, I will lay that, together with the law of Parliament, out of the case; and, in support of the privileges of this House, stand or fall with the Constitution. The Constitution created this body as one essential branch of the Legislature of the nation. By a grant of power to legislate, all attributes necessary to its perfection, and its complete enjoyment of that power, are, *ex re nata*, also granted; and among the most essential of all attributes (and without which legislative powers could not exist) is the privilege of free and undisturbed deliberation: deprive this body of that attribute, and the power of legislation is at an end. It follows, then, as a necessary consequence, that a disturbance of deliberation is a breach of privilege. Affect one member, and the whole body is affected. Did not the House of Representatives of the United States so pronounce it when, in December, 1795, they imprisoned Randall and Whitney for contempt? They did. And without such power the Government could not have existed. And what were the offences of those men? Similar to this of John Anderson except that they were less aggravated. Those offenders attempted to corrupt members in their individual capacity; but this is an attempt upon the honorable chairman of one of your most important committees, who, as has been remarked, holds the keys of your Treasury." Is not this an offence? Is not this a breach of the privilege of this House? Is it not an attack upon the purity and dignity of this House?

Surely it is; it is an act *malum in se*. Sir, I respect, and will defend, to the utmost of my power, the liberties and the rights of my constituents, and of my fellow-citizens at large; it is my duty, and I take pleasure in it. And I believe, by defending the privileges of this House, we preserve those liberties—yes, sir, and we defend the Treasury too. Let us, then, put a stop to attempts of this kind by the prompt application of a remedy. Let us preserve our privileges and our treasure from the grasp of unhallowed hands. Let us encircle this honorable member with our protection; and convince the nation and the world that this body has a due sense of its own integrity and dignity, and will punish for contempt—and that whoever has claims upon this body, or its committees, for justice, must approach, as to a pure fountain, with clean hands. And let us adopt the language of a learned and pious writer, "*procul, O procul este profani!*"

Mr. WHITMAN, of Massachusetts.—It was not my intention to have troubled the House upon this subject. I had hoped that some gentleman, in the course of his remarks, would have embraced my view of it. I will not now, however, occupy much of your time. It is a few hints only which I would suggest.

I regret, sir, that the process made use of in this case had not received a different denomination. Misnaming things is not unfrequently a source of much error. If the process against John Anderson had been denominated, as it should have been, an attachment, which is its proper name, much of the perplexity which has so much disturbed the minds of some gentlemen would have been avoided. On resorting to the Constitution they would there have found nothing about probable cause, supported by oath, as a pre-requisite to the process. Making use of the term warrant, though erroneously, has occasioned gentlemen, not conversant with subjects of this kind, to apprehend that our proceeding was repugnant to the Constitution.

The proceeding by attachment for contempt is authorized by the principles of the common law. It is sanctioned by usage; by the practice of all tribunals of justice, and all legislative bodies. It is, in fact, this which makes the common law. Gentlemen seem much disposed to quarrel with this common law. But, sir, what is it? If gentlemen would like the phraseology better, it is nothing more nor less than common sense. It is that wisdom which is sanctioned by the experience of ages; which has been agreed to in all times, and in all places, as constituting the perfection of reason.

Gentlemen have said that the common law is unknown to the Constitution; that the Supreme Court have decided that it neither adopts nor recognises it. In this they certainly deceive themselves. In one of the articles of the Constitution it is provided, that no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law. Again, sir, the courts of the United States have cognizance of all suits between

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

individuals not living in the same State, &c. Now, sir, there is no law pointing out the mode in which such suits shall be instituted, nor the proceedings to be had between parties litigating. Nor is there a single principle prescribed for the government of their decisions in an action of any kind whatever. Volumes, without number almost, would be requisite to contain all the principles which might thus be brought into operation. These are only to be found in the code of the common law. As to crimes against the United States, the Court may be considered as having decided that they do not exist unless pointed out by statute. Even in this opinion, however, the Court were not unanimous.

But, sir, no courts in the Union will more promptly proceed against individuals by way of attachment for contempts, than will the courts of the United States. And why is it so? It is because it is essential to the due exercise of the duties assigned them. If at any time Government appoints a body of men to perform certain specified duties, it, at the same time, of necessity, grants all the powers, whether specified or not, essential to their performance. The first law of nature, self-preservation, will as necessarily belong to such bodies as to individuals. What is this law of nature? It is the common law. It is this which has settled, defined, and prescribed its nature, its extent, and its limits.

Finally, sir, without the aid of the common law, it would be utterly impracticable to proceed one step under the provisions of the Constitution. It is interwoven with every article of it; and is predicated upon its known previous existence. Without it the Constitution would be a mere skeleton, without vitality. It is the very atmosphere in which it breathes, and without which it would expire as suddenly as would an animal without the atmosphere in which it breathes.

It will be conceded, sir, if an infuriated individual should be about to assail me, that I should have a right to seize and hold him till the danger of his doing me harm would be over. This is all that is claimed by this House. As to the matter of punishment, I shall not contend that we have anything to do with it. So far as it may be punishment to the individual to be restrained from doing harm, it is the result of necessity on one part, and of misconduct on his; but is not to be considered, by any means, in the nature of punishment for an offence, inflicted as such. If we find individuals lurking about our walls, besetting the members in their approaches to the House, or on their way from it, or at their lodgings, with views and in a manner calculated to disturb the fair and regular course of proceeding in transacting the business of legislation, it can make no difference whether it be by open violence or by more sly and insidious attempts. Will gentlemen say that the House cannot arrest and restrain such offenders? Shall we not have the same power as would an individual? Shall we not take the offender into custody, and restrain him till he shall have given satisfactory evidence that danger is no longer to be appre-

hended? In doing this we should merely, as we sometimes say in relation to property, sequester the individual for the present as a security or guarantee to our safety. This would in no wise be a trial, conviction, and condemnation, as for an offence.

Our opponents, to maintain their doctrine, are compelled to be at war with all precedent. We are exercising no other powers that have heretofore been uniformly exercised by the House. But we are never to have here anything like *res adjudicata*. However solemnly a question may have been decided, it matters not. The precedent in the case of Randall and Whitney is admitted to be precisely in point. It was decided by the House, upon the most mature deliberation, after it had been pending nearly three weeks, and by an almost unanimous vote. And yet this weighs nothing. We must now again go through a tedious discussion of a week or more, to arrive at the same result. It would certainly be better if we could have some principles acknowledged and settled for our government in cases of this kind.

Gentlemen had no hesitation when this procedure was first proposed. The sense of the House, upon its first impression, was unanimous in favor of it. How did this happen? Gentlemen will not say that they were surprised into it; that they were actuated by a momentary gust of passion, and were unmanned, and not governed by reflection. They cannot say this. Whence was it, then, that there was this perfect coincidence of sentiment? It was, sir, the force of habit, of education, of a uniformity of thinking and acting upon this subject throughout every part of this country, from which gentlemen are here assembled. It had its origin in the all-pervading influence and acknowledged principles of the common law. Every man knows that the legislative bodies of our respective States, without any statutory provision on the subject, but from the absolute necessity of the case, have uniformly, and without hesitation, exercised this authority.

It is not unfrequently the case, sir, that we find ourselves compelled to return to our first impressions. After losing ourselves for a time in a maze of reasoning, we find no resting place other than that from which we started. This, I am confident, must now be our case.

Before I sit down, I would beg gentlemen to consider the humiliating posture in which this House will be placed should we stay further proceedings. We must say, in effect, that we have done wrong; that we have violated the personal privileges of—whom? of John Anderson—and, sir, in that case, we could not stop there. The least we could do, would be to ask his pardon.

Mr. FORSYTH, of Georgia, said, he had the same claims to the indulgence of the House that had been urged by the gentleman from New York, (Mr. SPENCER.) He had been instrumental in procuring this discussion, by offering the resolution first adopted, in relation to John Anderson. The House had admitted the justice of this claim upon their attention in the one case



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

and he felt assured they were willing to admit it to the other. He should, however, feel criminal if he much longer delayed the final decision of the question; and he rose not with a view to enter into the merits of it, much less to examine the different views in which it had been presented by the several gentlemen who had considered it. His first objection was to discharge an obligation to the gentleman from Pennsylvania, (Mr. SARGENT.) The case of General Thompson, which occurred under the Old Congress, was cited by him; its force was attempted to be weakened by his colleague, (Mr. ROSS,) who thought it was a case clearly within the privileges of Congress, as defined by the Articles of Confederation. An extract from the records of that day, would show this to be a mistake. General Thompson came before the Congress of that day, on a charge of a breach of the express privileges of its members. In the course of the investigation he committed a violation of the privilege of the body. The resolution, with a preamble, adopted, was:

"A memorial from Brigadier William Thompson, having been read, and it appearing that the said memorial contains opprobrious language against, and scandalous reflections upon, the character of a member present in Congress: Resolved, That the said Brigadier William Thompson has, by offering the said memorial, been guilty of an insult to the honor and dignity of this House, and a breach of its privileges."

This was adopted, after an attempt to get rid of it, by a call of the previous question, by a vote of seven yeas to two, and two were divided; the numerical vote was eighteen to seven. Among those in favor of the resolution, were some of the members of the Convention who framed the present Constitution. It was, therefore, a judgment pronounced by the Old Congress, on the very point now at issue. While the attention of the House was directed to that august assembly, he asked leave to point it particularly to the proceedings of that body at a subsequent period, to show how far their privileges and their powers were believed to extend. In the year 1783, after the disbandment of the regular army, a few factious soldiers, among the new levies of the Pennsylvania line, marched to Philadelphia, and were joined by part of the army stationed there, to compel the President and Council of the State to grant certain demands which they presented. It so happened that they appeared around the House in which Congress was sitting, but without any intention to control or disturb its proceedings. What course was adopted? Their own resolutions will best explain their conduct and its motives. The first resolutions were:

"Resolved, That the President and Supreme Executive Council of Pennsylvania be informed that the authority of the United States having been this day grossly insulted, by the disorderly and menacing appearance of a body of armed soldiers about the place within which Congress were assembled; and the peace of this city being endangered by the mutinous disposition of the said troops, now in the barracks, it is in the opinion of Congress necessary that effectual

measures be immediately taken for supporting the public authority.

"Resolved, That the committee on a letter from Colonel Butler, be directed to confer, without loss of time, with the Supreme Executive Council of Pennsylvania, on the practicability of carrying the foregoing resolution into effect; and that, in case it shall appear to the committee that there is no satisfactory ground for expecting adequate and prompt exertions of this State for supporting the dignity of the Federal Government, the President, on the advice of the committee, be authorized and directed to summon the members of Congress to meet on Thursday next, at Trenton or Princeton, in New Jersey, in order that further and more effectual measures may be taken for suppressing the present revolt, and maintaining the dignity and authority of the United States.

"Resolved, That the Secretary at War be directed to communicate to the Commander-in-Chief the state and disposition of the said troops, in order that he may take immediate measures to despatch to this city such force as he may judge expedient for suppressing any disturbance that may ensue."

It appearing that the President and Council of Pennsylvania did not or were unable to take the necessary measures to correct and punish the violators of the rights of the State sovereignty, and the authors of the contempt of the Federal authority, the President assembled Congress at Princeton, and the first act after their meeting was to adopt another resolution, directing General Howe, and one thousand five hundred men, to march to Philadelphia, suppress the mutiny, arrest and punish the soldiers who were concerned in it, and disarm all who were engaged in it. This order was executed by that officer, and the soldiers subsequently pardoned by Congress for the share they had in the transaction. Here was a practical illustration of the doctrine of the privileges of a legislative body, of a Congress, not a collection of ambassadors, the only species of Congress which occurred to the gentleman from New York, (Mr. SPENCER,) but a Congress vested with legislative powers, and acting under the Articles of Confederation, the chrysalis of the Constitution of the United States. Could it be imagined that those members of that Congress, who were subsequently of the Convention, would have passed the Constitution from their hands, without ingrafting into it this protecting power, if they had not believed it was the necessary incident of the creation of the legislative bodies, and the consequence of the duties assigned to them, respectively? Mr. FORSYTH would detain the House a few moments on the merits of the question, endeavoring to avoid a recurrence to those arguments which had been already presented. The decision about to be made, was no longer a test of the capacity of this body to protect itself; it went much deeper; if affirmative, it struck at the root of the most important power vested in it by the Constitution.

The duty imposed by the Constitution to legislate for the Union, and provide for the various interests of every class of the community, and while making this provision to avoid improper sacrifices of the one to the promotion of the

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

others, was at once both arduous and delicate; but this House was vested with still higher duties. The framers of the Constitution, convinced, by the experience of all other nations who have attempted to establish free Governments, of the danger to which liberty is always exposed, thought it necessary to guard against the encroachments of arbitrary power. Judging that the time might arrive when a President would conspire with corrupt and ambitious men, of his own country or of a foreign nation, to change his temporary and limited authority to a permanent and despotic power, they supposed a sufficient barrier was erected to defeat such conspiracy, by giving to this House the power of impeachment, and the Senate the authority to judge and punish the offender, when brought to their bar by the charges of the Representatives of the people, and convicted by proper evidence. Has it not occurred to the members of this House, especially to those who support the resolutions on your table, that the efficacy of this provision resides wholly in the power of this House and of the Senate, respectively, to issue process of attachment for contempt? Strange as it may appear, the truth of this proposition is beyond dispute. But, for this now called dangerous and alarming stretch of our Constitutional authority, the terrible engine of impeachment is a bugbear to frighten childish corruption; but the scorn and contempt of full-grown villainy. A practical illustration will best show the correctness of this position. A President forms treasonable designs against the United States. By one of those fortunate events which, in the order of Providence, usually occurs to defeat the machinations of guilt, a partial discovery of the design is made, and an inquiry is instituted; you ascertain the sources from which accurate and certain information is to be procured. How are you to compel obedience to your call upon the witnesses, who are known to possess all the information necessary for your purpose? How are you to compel the production of the treasonable correspondence in their custody? By attachment for contempt. Sir, it is vain to say we can provide by law for such an occurrence. Such provision is impossible. You may make laws, but these laws are nugatory. You may provide penalties, but to inflict them must be judicial process, trial, conviction and sentence. The inevitable delay is ruinous to the country, and gives to the traitors the time to consummate their horrible designs. But even the guilty witness, the contemner of your authority, escapes the punishment provided by your law. The same Constitution under which you defined his offence, and annexed an appropriate punishment, gives to the President, for whom he commits it, the power of pardoning the offender. You have the consolation to know that he is convicted, and he has the consolation of laughing at an impotent branch of the Legislature, called, in derision, the Grand Inquest of the Nation! It is not impossible, however, but that sufficient evidence may be procured to justify the exhibition of articles of impeachment. They are carried to the Senate. How is

this august body to perform its functions? How will it compel the appearance of the accused, and the attendance of the witnesses? By process of attachment for contempt. Can any legal provision be made so effectual as to render a resort to this process unnecessary? Or rather, is not such resort indispensable, both to the safety of the country and rights of the accused? If regular judicial process is essential, you must apply to the courts of the Government; and we should see the novel and ridiculous exhibition of the highest court of criminal jurisdiction in the nation, applying for the enforcement of its authority to the subordinate tribunals. It may be objected, however, that these remarks apply solely to the case of crimes, in the examination of which the two Houses of Congress are quasi courts, and as such have the ordinary powers of courts. This objection cannot be made by the friends of the resolution, and if made by others is not satisfactory. It is not applicable to the subject of the present dispute. On all claims presented by individuals, *vs.* the General Government, Congress is a court of civil jurisdiction, to decide justly between the parties. To perform this duty, so far as it regards the compulsory production of evidence, it must be vested with the same powers. The members of its Committee of Claims may, without a violent metaphor, be considered as masters in chancery, whose duty it is to report facts in every case to the House, and the rules applicable to them. Certainly this resemblance is quite as strong as the resemblance between this House and a court in the originating impeachments.

But Mr. F. was apprehensive he was trespassing on the already exhausted patience of the House. He prayed its members not to be deterred from exercising a necessary authority, by the fear of incurring the charge of stretching their personal privileges. For his own part, he was not disposed to extend personal privileges a hair-line beyond the limits of the Constitution. The distinction between the privileges of the House and the individual had been accurately distinguished, and there was no danger of confounding them, while the Representatives of the people were disposed to do their duty. When they were not, there was another corrective in the power of the people. To justify their conduct, we have the example of the Old Congress and of the House of Representatives in many instances since the adoption of the new Constitution, and the examples of the State Legislatures in similar cases. He did not refer to these as examples merely, but as arguments to support the construction which was given to the Constitution by those who had exercised, and are now willing to exercise, this necessary authority. To deter us, we have the arguments drawn from the list of personal privileges in the Constitution, that these were all that the Constitution intended should be given or enjoyed; while those who use the argument are compelled to acknowledge a necessity for the exercise of greater power to protect the House in the execution of its duties—an acknowledgment so inconsistent with their



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

doctrine, that they resort to a variety of expedients to obviate the consequences of the admission. The most ingenious of these is that of the honorable gentleman from Virginia, (Mr. BARBOUR,) who finds an authority to preserve decorum in the galleries of the House in the clause which authorizes each body to form rules for its government. As we have the right to say to the people whether they shall come into the gallery, we have the right to prescribe the terms upon which they shall be admitted; and in directing our Speaker to preserve order, we have prescribed these terms. A short examination will show that this is only plausible. The term of the Constitution, *House*, metaphorical; it means the members, collectively, in each body. The power to prescribe rules for each House cannot extend, therefore, to any person who is not of the House. Persons in the gallery are in the Hall, but they are not of the House; and an extension of the rule to embrace the persons in the gallery, is stretching the meaning of a term in the Constitution much further than we are disposed to extend its incidental powers. But this argument rests upon another ground; that, having a right to prohibit their entrance into the House, we therefore have a right to prescribe the terms upon which they shall be admitted—a sort of contract well understood and perfectly explained by the sweeping power given to the Speaker to preserve order. This power given to the Speaker is but the echo of the Constitutional provision, and, like it, applies to the members and officers of the House, and not to the building. The visitors in our gallery are not parties to the contract. The idea of contract for decorous behaviour, whose consideration is a seat in our gallery, is at least a novelty. Contracts were, he believed, never made for the prevention of disorderly conduct. The fallacy of this reasoning must be obvious to those who would consider the necessity of going beyond the *House* to preserve decorum. In the street we have no right to prescribe terms, since that is common property; and if annoyed, then the House must submit, unless by virtue of our exclusive legislating power over the District this also is included in our authority to prescribe the terms of contract into which the citizens shall enter who come into it. From this, follows again, as a corollary, that the same authority is possessed wherever the Congress of the United States has exclusive jurisdiction—over all forts, light-houses, and over the Territories of the United States.

The gentleman from Mississippi (Mr. POINDEXTER) has endeavored to find the true distinction, and supposes that he discovers it in the power to prevent or punish any offence which prevents a member from performing his duty. If he is disabled by beating, the party inflicting the chastisement is punishable by the House. It was well remarked by the gentleman from Virginia, (Mr. SMYTH,) that the member from Mississippi did not say what was to be done if the member was not disabled; but the inference is irresistible, upon his own principle, that the offender is not punishable if inability of the member is not the con-

sequence of the offence. The example produced of an escape from death by a member who was shot at and missed while coming to the House, to prevent his attendance, illustrated fully the weakness of this distinction. Mr. F. said he considered that the rule must be founded on the connexion of the offence committed on a member with his duties to the House. If any member should forget his own character, and insult a citizen, he had no right to protection; and if beaten, the House ought not to interfere. But if a blow, or a threat, or improper means of any kind, were used to prevent a member from attending to discharge his duties, or to control the free exercise of his judgment, the person offending was amenable to this body for a contempt of its privileges, and punishable by attachment for contempt.

Mr. F. apologized for the desultory remarks he had offered on this subject. The resolutions were altogether unexpected, when introduced, and his observations upon them were the crude suggestions of the moment. He had ample time since to arrange and digest his ideas on the subject, but could not have given them in this shape, without bringing again into view the same considerations which had been already presented, in the strongest light, by those who preceded him in the discussion.

Mr. BEECHER spoke as follows:—Mr. Speaker, I have now the possession of the floor. Although at a late period of the debate, it is the first convenient opportunity that has occurred since the question has been presented to the House in its present form. I have nothing to offer as an apology for the exercise of this right, but its intrinsic value and the importance of the principle in discussion; nor can I promise that the time I shall require the attention of the House will be momentary. I hope to say something pertinent, instructive, and worthy the candid attention of this assembly. My views and feelings relative to the question are known to those who hear me, and, perhaps from a pertinacious and an unwise adherence to my own opinion, in opposition to the exercise of a power that generally seems to be recognised as legitimate. My practical political information is very limited, and my acquired knowledge, relative to matters of this political moment, is too circumscribed to make me comprehend and elucidate my views of this controversy in the manner it is susceptible of, or with any hopes, at this time, of success, when I am advised of the phalanx of talents that are in array in opposition, composed of men who, from experience and application, have meritoriously acquired a commanding reputation and influence. Now, also, I am justified in saying there are those here who coincide with me in opinion, who have acquired, and worthily have, the reputation of being men of talents and information, and who, in the exposure of this question, have most amply evidenced that it has not been obtained unmeritedly; and others who, by their labors on this occasion, have richly entitled themselves to the honor of being registered among the literati and statesmen of our country.

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

Mr. Speaker, there have been some suggestions brought into this discussion by the gentleman from Massachusetts (Mr. HOLMES) that I am unwilling to let pass unnoticed. He has said that the friends of John Anderson are all at once transformed from indignation to sympathy, and that the thunder of eloquence is heard in behalf of liberty and the poor oppressed Anderson. But, when an honorable member of this House is scandalized by a foul attempt to corrupt us, they are composed, mild, and gentle as May, &c.—directly charging those who are opposed to the exercise of the power, with being governed by motives of friendship for the accused, and of being associated in feelings with, and in favor of, a man charged of being guilty of acts subversive of every moral and honorable principle, and such as demonstrate him to be destitute of these, and those charges supported by the most honorable and disinterested evidence; and not only this, but that they are devoid of the common and ordinary feelings of respect for themselves, and honorable men, and for virtue! To that gentleman, and to those who have heard this debate, appertaining to our power, privileges, and dignity, I leave it to be decided, whether those imputations (if without foundation) are not an attack more flagrant and outrageous, upon the honor and integrity of the persons to whom they are applied, and upon the dignity and privileges of this House, than are the doings of John Anderson as charged upon him. I will cast the mantle of charity over this gentleman, and say, that I do not believe he intended any disrespect to the House, or any member; but that, incidentally, those expressions were used to make a beautiful sentence, and to give himself the fortunate opportunity to round it off with a couplet of pastoral verse.

Mr. Speaker, it has been alleged and urged, as conclusive, against those who object to the exercise of this power, that they do not agree in the grounds of objection, and that, therefore, they are wrong, and we have the power. I do not agree that the allegation is correct; for I believe our objections have been only and generally that we find no express grant of the power in the Constitution, nor the grant of any power, in the exercise of which, necessarily, we must have and exercise this power—that it was a power not in its nature legislative, but judicial, and, as such, belonged to another department of the Government, the judiciary. And, by way of illustration, we have contended that, in the exercise of this power, we must combine and exercise the powers of the several departments of our Government in the one; and, therefore, it is dangerous to civil rights and liberty, and also destructive to the beauty, harmony, and order of our political institution, as ordained and established by our Constitution. But, admit the charge to be correct, is the conclusion inferrible, or reasonable, or, in truth, can this course of argument have any weight? But, on the contrary, may we not return the argument on the gentlemen with great propriety and force, if they have not concurred in the source from whence they have a right to

exercise this power? They have the affirmative, and are required, in the course of argument, to show from whence the authority comes, and where the grant is constituted and given. They admit we have no powers or privileges, but by a grant derived from the people. Have they not derived it in argument from almost as many sources as there are persons that have taken part in this debate? Those who opened the discussion on the side of power, rested themselves upon the Constitution, and on an inherent power growing out of the creation of this House, and here only did they contend for the grant of the power. From this position, and these pretensions, they were completely beaten by the clear, impressive, and illustrative arguments delivered by the gentleman from Virginia (Mr. BARBOUR.) Others claim to find it in the common law, and from the usages and customs of Colonial and State Legislatures, and from the law and power exercised by the courts of judicature. Another from the law of necessity; another from the law of self preservation; and another from precedents. Thus variously and adroitly have gentlemen taxed their talents and learning to find the grant of this power. If, in a court of justice, a person should demand a specific article, or right, and should claim his right to demand, sometimes upon one ground; and, at other times, upon different and variant principles, we should at least be constrained to say, his title was doubtful, and inevitably against him, if he claimed to have it, if at all, from an acknowledged instrument, in which the demandant's pretended right was not expressly recognised, and that such instrument contained these terms, "the powers not delegated to the grantee by this instrument, nor prohibited to the grantor, are reserved to the grantor."

Mr. Speaker, gentlemen have, in a considerable degree, relied upon the common law. I contemplate to derive much aid in this controversy from the same source. It becomes necessary, therefore, that we come to an understanding of what is meant by the common law. The common law is of great antiquity—"It is the offspring of time. Time is said to be the wisest of things; and if the child partakes of the qualities of the parent, it may, with propriety, be pronounced to be the wisest of laws." In a general sense, the common law cannot be said to have its origin in or from any particular country. It has existed, and been respected at all times, and in every country where civilization and knowledge have had influence. This law is a set of rules and principles resulting from experience and necessity. At different times and places, the law will be dissimilar. It is characteristic of a system of common law, that it can be accommodated to the circumstances, the exigencies, and the conveniences of the people by whom it is appointed. Its authority entirely depends upon its being received, adopted, and approbated. From the history of the common law, in ancient or modern legal history, you will find it, in its converging course, run into one uniform system, mellowed by time, and improved by experience. It is a



law produced, extended, translated, adopted, and moulded by practice and consent. This law is nothing more than the history of experience, and to it all wise men will resort for instruction and information; and from it, they will be able to select a course and principles that are just, useful, and necessary; and to avoid such as are dangerous, destructive, and pernicious. It is an inestimable quality of this law, that it is progressive and improvement, unless restrained by the rude hand of ambition. The common law of different Governments, in many respects, necessarily must be different, the fundamental systems being unlike; but, as they approximate each other in this respect, will their common law assimilate, and will be resorted to for instruction and example by each other.

Common law may, with propriety, be said to be an auxiliary to the written law. It does not contravene or control the written law, but is resorted to as a helpmate in the construction and application of the written law.

The common law of England, as an entire code, has never been adopted in any of the United States, nor even while they were the colonies of England. The history of the past settlements in America, will amply confirm this idea. Several of the provinces, by a compact, and others by a legislative act, adopted for their government the statutes and common law of England, so far as they were applicable and consistent with their condition. The written and unwritten law of England, as respects the absolute and relative rights of persons, and the administration of justice, are not dissimilar to those adopted in these United States. Indeed many of the written laws of the United States are either in substance copies of the English statutes, or declaratory of the common law of England. Therefore may our courts, in those respects, look to the experience to be found in those proceedings for information and instruction in doubtful matters of controversy; but not for the purpose of finding the law of this country, or a rule from which they cannot depart. Much of the written and unwritten laws of England are absurd, and derogatory to, and subversive of the natural and inalienable rights of man, and repugnant to the most valuable and fundamental features and principles of our Governments and institutions; and particularly so in regard to the origin of fundamental power, and the distributive and limited exercise thereof. Those laws, and the proceedings under them, are to be known and consulted by all in authority here, only with the view to avoid them. The criminal law of England is much more rude and imperfect than the civil. The penalties of those laws are uncertain, arbitrary, and, in an extreme, sanguinary. Such laws are not adapted to the genius and nature of our Government, and are only the fit appendages of a Government based upon power, and continued by a tyrannical exercise of it. The history of the criminal law in these United States will furnish a clear illustration upon this subject. The criminal laws have

been progressively meliorated. The discretionary and sanguinary features have steadily been giving place to certain, fixed, and humane principles and laws. Much yet remains to be done before our criminal laws will have acquired a proper finish.

The importance and necessity of certainty in the criminal law, are well expressed by a great teacher in these words: The knowledge of this branch of jurisprudence, which teaches the nature, extent, and degrees of every crime, and adjusts to it its adequate and necessary penalty, is of the utmost importance to every individual in the State; for no rank or elevation in life, no uprightness of heart, no prudence or circumspection of conduct, should tempt a man to conclude, that he may not, at some time or other, be deeply interested in these researches. The infirmities of the best among us, the vices and ungovernable passions of others, the instability of all human affairs, and the numberless unforeseen events which the compass of a day may bring forth, will teach us, upon a moment's reflection, that to know, with precision, what the laws of our country have forbidden, and the deplorable consequences to which a wilful disobedience may expose us, is a matter of universal concern. In proportion to the importance of the criminal law, ought also to be the care and attention of the legislature in properly forming and enforcing it.

Mr. Speaker, I have thus briefly attempted to show that the criminal common law is inapplicable to our just ideas of criminal law, and that, upon general and correct principles, it ought not to be recognised. But, I also contend, that the Federal Government has no criminal common law; that no person can be punished by the United States for the doing any act, other than such as are made criminal by the Constitution, or some statute of the United States; and that the United States courts have no common law jurisdiction in criminal cases. These positions are sanctioned by the opinion of Judge Chase, in 2 Dallas's Reports; by Chief Justice Marshall, in the case of *Livingston vs. Jefferson*; and by the court in the case of *Bollman and Swartwout*; by Judge Tucker, in his appendix to the 4th vol. *Black. Com.*; and, by implication, from the law of Congress giving to the court the power to punish contempts. Yet, I admit it is necessary, prudent, and wise in our courts to resort to the common law for forms of proceedings, and to ascertain the legal and technical meaning of the terms and words used by the legislature in their criminal laws, as we refer to the common English dictionary for the precise meaning of a word, it being evident, and reasonable to believe, the terms and words were adopted by the legislature, to be understood in that sense; but that our courts are to look to the common law for a catalogue of the crimes, and the pains and penalties to be punished and inflicted in this country I utterly deny.

The gentleman from Virginia (Mr. MERCER) passed many very flattering compliments upon

the common law to recommend it to our consideration. For the same purpose, I will attempt a definition of the common law—and permit me to adopt the most ancient within my recollection, but one that has been accepted as correct by all its advocates, from that time to the present day. Plato defined the common law to be, that which was taken up by the common consent of a country; that it was the golden and sacred rule of reason; and that it is nothing else but common reason—that refined reason, which is generally received by consent of all. Sir E. Coke, after saying much in commendation of the common law, concludes with this: "No man ought to be wiser than the law, which is the perfection of reason." Chief Justice Marshall, in the case before cited, defines the unwritten law to be, "Human reason, applied by courts; not capriciously, but in a regular train of decisions, to human affairs, according to the circumstances of the nation, the necessity of the times, and the general state of things." And this reason, which is the body and soul of the common law, is not the knowledge, experience, or information of any one man; but it is the knowledge, and experience, and information of many, arising from lights, mutually and successively communicated, improved, and improving. With this view and understanding of the common law, I will call the attention of the House to some principles of it, which I hold to be peculiarly applicable to us as a nation, and, with a striking aptitude, apply and explain the present controversy; that the legitimate power of government is in the people to be governed; that, for the purposes of government, it is necessary for the people to grant to certain portions of themselves limited powers, to be exercised for the advantage of society; that the powers delegated should be distributed into proper departments; that the departments should be kept distinct, and to be exercised by different members; that unlimited and discretionary powers are dangerous, and ought not to be permitted, and that powers not granted remain with the people. The predominance of those principles was the substantial causes that led to the adoption of the several State constitutions and this federative compact. Gentlemen have said that we must resort to the common law to enable us to understand the terms used in the Constitution. I am ready to admit the fact, and will go further, and say, it is the key by which you open the windows of the Constitution, and are enabled to comprehend exactly the powers allotted to the several departments established by that instrument.

Mr. Speaker, liberty and civil rights have, on either hand, a threatening enemy: on the one, tyranny; on the other, licentiousness. In order to guard against the latter, proper powers ought to be duly distributed; and it is not less important, that the judicial should be distinct from, and independent of, the legislative department. To these leading principles the people of the United States have, in forming the Constitution, manifested the highest regard.

They have placed the judicial power not in Congress, but in courts. The Congress are to make laws, commanding what is right, and prohibiting what is wrong; and the courts are to apply, according to the principles of right and justice, the Constitution and laws, to matters of controversy between the Government and individuals, or between individuals. These general positions I deem correct and pertinent, and will be properly applied, without further attention on my part.

May it please—Sir, I had nearly adopted a mode of address more familiar to me, but not so customary in this place. Indeed, it is doubtful what is the proper form to be adopted in the present form of proceeding. Legitimately and constitutionally, I know I am required to address you by the honorable appellation of Mr. Speaker; but, constructively, I am admonished by the character of the present proceedings, and the arguments of gentlemen opposed to my opinion, that I am bound to address you in the common-law language of, "may it please your honor." On my left, a member in his place says he, as a member of this court, is anxious to express the reasons which will govern him in giving judgment in this cause; on my right, another declares we are now sitting as a court, and as a judge he is bound to presume the accused innocent until he is proved guilty; and, on every side, the advocates for power pronounce that we are acting in a judicial capacity. That this House can be transformed into a court, and thus organized, proceed to accuse, arrest, try, and adjudge a citizen guilty of an offence, is an idea that deserves much consideration before it is accredited. Let us not deceive ourselves by the use of words. Are we a court of the United States? Such we must be if we are a court at all. A court is designed to be a place where justice is judicially administered. In what manner is the judicial power of the United States to be exercised, and by whom? The third article, first section, of the Constitution, will answer this interrogatory, which is in these words: "The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish." This, I apprehend, is a full and entire disposition of the judicial power appertaining to the United States. This House is not the supreme or inferior court, contemplated in the Constitution. The Supreme Court is established by the Constitution; Congress has the power to establish inferior courts, but this can only be established by a law; and by a law Congress can make neither itself nor either branches thereof, a court. Because the judges to be appointed must be nominated by the President, if of the Supreme Court, and appointed by the Senate; if of an inferior court, may be appointed by the President, by the courts of law, or the Heads of Departments, Congress adopting a law to that effect. When thus appointed, to hold their offices during good behaviour.

The second section of the third article defines the judicial power vested in the courts, by the



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

first section of the same article. The judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, &c. This House charge, that a citizen has been guilty of committing an offence, for which he ought to be punished. Legal guilt consists in an act committed or omitted, in violation of a public law, either forbidding or commanding it. Every crime is a breach and violation of a public right and duty, for which the public has the remedy; and, in this country, the people are the prosecutor. The criminal act done may, as is most usually the case, have been an injury to an individual; for this he has a civil remedy, but the injury to the public must be redressed by a public prosecution. And this prosecution is a legal inquiry into the guilt or innocence of the accused, and is only and properly cognizable by the judicial power.

This view demonstrates that it is a judicial power that is sought to be exercised, and that there is no express grant of the power to this House in the Constitution, but expressly to the courts. But the gentlemen from South Carolina and Virginia (Messrs. LOWMEYER and TUCKER) say it is to be had by a liberal construction of the Constitution. It appears to me to be an unprecedented liberality of construction that is demanded in this case.

By construction, a certain power is desired to be given to one department that is positively vested in another, by the same instrument; and the power is sought to be exercised by a department, diametrically repugnant to, and inconsistent with, the letter and spirit of the Constitution, and, I conceive, in violation of every settled rule of construction. The plain import and meaning of the words and parts of an instrument, taken together, is the legal and binding effect of it. And if, by an inartificial use of terms or sentences, difficulty, or an ambiguity arises in construction, a resort may be had to the objects intended to be obtained by the parties to the instrument, to remove the apparent difficulty or ambiguity, and thereby so to construe it as to attain the purposes intended. There are no words or sentences of a doubtful or of an ambiguous meaning used in the Constitution, in the constituting and granting the general powers of Congress, it being entirely legislative; but, in the extent it may legislate, there may be room for doubt and construction. The power of legislating, in a limited extent, is vested in Congress, and that alone; except in certain particular cases, which are in the express terms granted, but not necessary here to be considered, not in any manner affecting this question, only as showing the opinion the framers of the Constitution had of the necessity that existed of specially giving the power to the legislative department, of acting in instances not properly and clearly belonging to such department.

It is contended that, inherently, this House possesses the power to punish for contempts and breach of privilege—to support this idea, gentlemen have resorted to the law of nature, the law of necessity, and the common law, as recognised

by courts of justice in punishing contempts. Each of those considerations requires examination. That man, in a state of nature, has the right to protect himself, and that it is his duty to exercise that right, is not denied. It is equally correct, that man, in a state of nature, has the right of chastising such as do him an injury, and to redress his wrongs in all and every respect in his power; but how far are these principles recognised in civil society? To the extent they have been adopted, I will allow gentlemen to have the use of them; but, so far as they deduce arguments from natural law, that is inapplicable to a state of civil society, I demand that they be rejected. To what extent is the law of self-protection recognised by our municipal law? It authorizes an individual to use all necessary force to prevent and protect himself or his property from actual attempted injury; but if, in his person, reputation, or property, he has received an injury, he is not permitted to redress himself by force. For this, however great the indignity, however great the injury may have been to his feelings, property, or person, he must apply through the law to the courts of justice for a remuneration. The natural inherent right of redress, is surrendered by man upon entering into civil society, and the society engages by proper laws to secure to the injured party a legal remedy for individual injuries, and reserves to itself the power of declaring such acts criminal as policy may dictate, for the peace and honor of society, and to inflict all necessary pains and penalties to insure the enjoyment of individual and public rights. The law secures to every member of society the possession and use of his property in such manner as shall seem proper to himself: provided, such use is not inconsistent with the rights of others; therefore, a person rightly in the possession of a house, may exclude every other person at his pleasure, and he may by force prevent any one from entering against his will; and in case the proprietor may have consented, in the ordinary course of civility, to admit another into his house, he has the right to order him to depart, and upon a refusal may use every necessary force to remove him; and if the trespasser's physical force is superior to that of the proprietor's, he may call to his aid his servants or friends, and, by their assistance, remove the intruder; and, in thus doing, they will not be answerable to the person removed for any injury he may have sustained in the encounter, provided they did not use unnecessary force; yet, if the intruder had done injury to the house, or to the possessor, he may have his action and recover the damage received, in the due course of law; but he could not recompense himself by taking property from the trespasser, nor imprison, or in any other manner punish him for the indignity done to himself or to the peace of society. The remedy for this belongs to that society of which he is a member, and to which he had gave up the natural and inherent right to redress and punish; and this is to be accomplished by criminal laws and prosecutions.

It is a right secured to every member of society

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

that he shall enjoy his possessions uninterrupted, so that if his mansion, out-house, or yard, is attacked by the rude and lawless, in a riotous and boisterous manner, he may use all necessary force to remove such interruption; and if, to prevent the injury, it becomes necessary, he may capture the wrong-doers and detain them in custody such reasonable time as it may require to deliver the offenders over to the civil magistrate. But the injured individual cannot try and adjudge the offending individuals guilty and inflict punishment. If a man's person is attacked with force, he may defend himself, and, if capable, prevent the impending injury. This is what may properly be denominated a preventive remedy; notwithstanding, by a resort to this remedy, an injury may not have been effected to the extent intended, yet for the injury received there is a legal remedy, and for the malignity done to the laws of society, the public has the right to punish the offenders. There are many injuries and indignities which one man may offer to another, and the one thus assailed has no remedy other than such as the law furnishes—as if one man should offer another a bribe, or inducements to commit perjury, or any other immoral or criminal act. The law does not allow the injured or insulted person to castigate the miserable agent of this turpitude, nor has he any remedy at law for his wounded feelings or the indignity offered. The preventive remedy is the noble exercise of his moral and intellectual faculties in indignantly rejecting the offer, and this is the safe and substantial remedy against corruption and degradation. Policy dictates that such practices should be made criminal by law, and then the public will have the power to punish, and by example and coercion rescue individuals from such insults. A person's reputation may be injured in the most wanton and insulting manner in his presence and hearing, and yet he has no power to redress himself only by an appeal to the law.

In case a member of society apprehends and believes that certain individuals meditate and intend to do him a personal injury, the law does not permit him to seek out such secret enemy and by force disable him from doing the intended injury, but he must apply to the civil magistrate for that purpose. Thus it is demonstrable that the law of self-protection is not recognised by our municipal law farther than to the repelling instant force by instant repulsion as a preventive, not a punishing or a remunerative power, except in the recapture of property that has been feloniously taken, or in the instant caption of felony and notorious offenders, for the purpose of being delivered up to the civil magistrate.

Having so far as is connected with this question considered the rights and remedies allowed to persons in civil society, I will inquire what character and place this House (technically) holds in civil society. The law recognises two descriptions of persons—natural and moral, or artificial. The latter in legal language are called corporations, and are described to be persons in a political capacity, created by law. These moral

persons are not in a state of natural liberty, but are subject to the law; theirs is a civil existence; their rights, powers, and privileges, in many respects, are the same as have natural persons, and in no case do they possess the power to control or examine the conduct of natural persons in a greater degree than can another natural person, unless by a special grant made by law. Corporations are public and private, aggregate and sole—aggregate where composed of two or more natural persons, and in its organization, has one of its members designated as its head, who as such is the efficient agent of this moral existant. This class includes the House of Representatives. This corporation is erected by the Constitution, and made an independent branch of the legislative department of this Government.

These moral personages cannot commit crimes, cannot be punished, cannot be bribed, nor cannot be seen or handled; these members may be beaten and may be injured like other natural persons, and have in their individual capacities the same physical and legal remedies, and none other, or greater, unless expressly granted to them; neither has the corporation in its corporate capacity any cognizance of those natural persons who may have injured any of its members, unless by special grant—inherently nor incidentally, constructively nor by implication, can such a power be obtained. It is an exercise of sovereign power. The power assumed is substantive, not collateral, and, according to the principles upon which Government and legitimate power is said to exist in this country, cannot be had but by grant. Any act done to a member of a corporation that amounts to an offence or crime, or a breach of the peace, is, in a legal point of view, an injury to the public, for which the remedy is a public prosecution. The idea that it is also an offence against the corporation, for which it can punish and imprison the offender at discretion, is to me novel, and fraught with many dangers.

If the individual or the corporation sustained any injury or damage, they have their legal remedy in the courts of justice.

To what extent those moral persons may or can own, or possess, real or personal property, depends entirely upon the purposes for which the incorporation was made. But, it may be asserted as a fact, that every public aggregate corporation must necessarily possess an house, and this possession gives to the corporation the entire and absolute control of it to every extent that a natural person could have. But, says the gentleman from Pennsylvania, (Mr. HOPKINSON,) this is not our house, it is private property, we cannot use it as we would our own castle. This doctrine is certainly incorrect, for I hold it a clear principle in law, that a person having the possession and the right to possess an house, although not the proprietor in fee, that he may exclude all persons from such house, or such part thereof, as his pleasure may deem necessary and convenient.

And this House has recognised, and is now daily in the exercise of such power, in obedience to the 12th rule, which provides "that no person,



except members of the Senate," &c., shall be admitted within the Hall of the House of Representatives; and by the 11th rule, this House has declared, that in case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker shall have power to order the same cleared; and frequently has this House exercised the right of closing the doors and excluding all without distinction. Thus, I apprehend, it is an acknowledged principle, that natural and artificial persons have the right, at their pleasure, to exclusively possess their domicile, and may use necessary means to remove or exclude others therefrom. This House, therefore, having this right and power, it is sufficient for all necessary and useful purposes. It has been found adequate to the protection of individuals, aided by law and the ordinary administration of justice; and can it with propriety be said, that for the purposes of protecting this House, the favorite of the nation, from insult and disturbance, it is necessary that it should be endowed with increased and extraordinary powers? I most confidently hope not. The natural and substantial protecting power for this House is to be found in the public opinion, the affection and respect of the people, and in the sense and judgment of all good citizens, which will at all times surround, strengthen, and protect it (if we faithfully pursue the objects for which it was instituted) more effectually than an host of armed warriors, or than the fancied magic charms of inherent powers. I know that at times partial interruptions and disturbances may occur in the galleries from inattention, accident, and perhaps from inebriation; but, upon a demand from the presiding officer of this House, is not order instantly restored, and upon a command that a rude and impertinent individual be removed, and thereby the attention of an insulted public drawn upon him, is he not disarmed and rendered harmless; does not your officer remove him without difficulty? Experience is acknowledged to be the best instructor. The experience of thirty years has justly established the fact, that the power and right to remove and exclude from this House has furnished to it an ample and efficient protection against insult and disturbance during its sessions. I therefore hope, sir, we may not, by the fascinating and deceitful charms of power, be stimulated and emboldened to make a sacrilegious attack upon the pure and free principles of our admired political institutions.

Gentlemen have triumphantly said, that in conceding the right and power to remove, the contest is given up. It is a common saying, that a man in frightened circumstances will catch at shadows; and that a man in the pursuit of an object is blind and deaf to everything that is opposed to his wishes; and I cannot but believe that the arguments and pretensions of those on the other side of this question are a most conclusive proof of the verity of the maxims. The course of the argument is, that by conceding the power to remove from a particular place, it is a concession of the power to arrest in any place, and to bring into the place from whence you have

the power to remove; that by conceding the power to suppress disturbances in one place, it is a concession of the power to do it in every place; and that by conceding the power to remove from one place, because of a disturbance, it is a concession of a power to hear and determine whether disturbances have not been committed elsewhere; and if an individual is thus adjudged guilty, to fine and imprison at discretion. The fallacy of this course of argument is self-evident, and the deductions are apparently preposterous and inconclusive.

But gentlemen further contend that this right and power is not sufficient for the protection of this House, and therefore, from necessity, it must have a greater and further power: say they, your officer may, by superior force, be tumbled from your galleries; that you may be forced from that most honorable seat in a most disgraceful manner, and the members, one by one, led by the nose, and hurled into the street; your authority trampled down, and our physical powers insufficient to withstand or repel the insolent attack. It is then inquired, with much concern and vehemence, are we to submit and calmly abide the indignity? Will we not avenge the wrong and disgrace? Will not submission be such a course of conduct as must evidence a want of respect to ourselves, and a scandalous surrender of honor and duty? Apply the supposed case to the President of the United States, to the heads of Departments, or even to any honest, honorable yeoman in society, and then ask, what is to be done? I answer, as I have before attempted to show in argument, the appeal for redress must be to the law and the regular constituted authorities, as the ordinary remedy; that being found insufficient, to resort to the law of nature, and apply force against force, and the strength of parties must be the arbiter, as the extraordinary remedy. If necessity is to furnish the rule for this House, equally so will it give the power to the President and the several departments to punish for contempts and breach of privileges; for, so far as dignity or indignity are concerned, it will apply to the members of every co-ordinate department of the Government. And are gentlemen willing to extend to those the discretionary and unlimited power sought for themselves? They, in their turn, might be made to feel the baneful effects of such doctrines. But, sir, the supposed incidents from which they have deduced the necessity upon which they predicate the right to exercise the power, are improbable, not to be expected, and rest only on the extreme of conjecture, and are not, therefore, a proper basis upon which to found a fair argument, or from which to deduce useful, safe, and practicable principles. The supposition places the country in a state of insurrection, and the insurgents as possessing the physical force. The case put is not an ordinary but an extraordinary one, and must have an extraordinary remedy. I must confess there is an aptitude in the supposed case and the power sought to be exercised by this House, which may with aptness be termed the supposable and extraordi-

nary powers of the House of Representatives; and the case and right, as respects this House, have no better foundation than illusory conjecture and supposition. But what is the antidote proposed for this supposed evil? Gentlemen say, all will be well if it is but admitted that the House has the power to punish for a contempt and breach of privilege. How is this wonderful working admission to accomplish so much?

The Speaker and members, wandering in the commons, are to issue a warrant and deliver it to the Sergeant-at-Arms, and thus armed he is to arrest the mob, reduce confusion to order, and reconduct the honorable Speaker and Representatives into the hall. Thus at one time your officer is supposed to be as powerless and inefficient as thin vapor, at another a being irresistible, and in his course bearing down the infuriated multitude without hazard or trouble. This House nor Congress itself cannot command the services nor control the actions of a man beyond the walls of its habitation, except in particular cases mentioned in the Constitution, only by laws enacted; and such commands are to be carried into effect by the other department of the Government.

Congress has exclusively legislative power, and may in its discretion enact laws forbidding dangerous and vicious practices; and to the extent that acts are made unlawful are citizens punishable for transgression; but Congress cannot, by legislation, give to itself cognizance of criminals or crimes, so as to be their triers. It is contended that this House as a body corporate have certain privileges, for the infraction of which the infractor is liable to punishment. We require that those privileges may be defined and made known by a law, and that the pains and penalties incurred by a breach of them should be fixed and established. To this it is objected, that it would be a labor of danger and difficulty, that it would require volumes of laws to do it; that the Senate might not assent to the passage of a law; that the President would not approve it; that the courts might not faithfully and willingly execute such a law, and that it would be submitting the extent, and the manner of securing our privileges to the control, judgment, and discretion of others, and therefore we should not be independent. To what extravagances, inconsistencies, and distrusts will not honorable men resort in argument to support a favorite opinion! The citizen must be left to learn the law by which he is to be bound, and by which he is to be punished, from intuitive perception or divination, and a system of law, so voluminous and intricate, as in itself to furnish an excuse to the legislature for the non-compilation and non-enactment, and yet insisted upon as being vitally important to the due and undisturbed performance of legislation. The President and Senate are not to be trusted in this exercise of their legitimate powers in forming laws, nor the courts in administering them, in reference to the undefined and undefinable privileges of the House of Representatives. The House of Representatives are to be the sole legislators, and the only expositors of this criminal code. I am con-

strained to believe that such a state of things, and the existence of and exercise of such powers is entirely repugnant to American political and juridical propriety.

It has been objected that Congress has not the power to legislate upon this subject. To which I answer by referring to the last clause of the eighth article of the first section of the Constitution, which reads thus: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, vested by this Constitution in the Government of the United States, or in any department or office thereof." Can any one be so sceptical as to say Congress may not pass laws, making it penal to offer a member of this House a bribe, to assault or beat a member while attending at the seat of Government, or unlawfully to imprison him, or to interrupt this House while in session, or the members in going to or from the House? And will not all concur in saying that it is the duty of Congress so to legislate, if made necessary by the dissolute manners and morals of the people? And will not all agree that ample and full power is given by the Constitution to Congress, by legislative provisions, to protect itself from insult and interruption, and its members free, pure, and uncorrupted? And, also, will not such a course be in accordance with, and conformable to, the generally admitted principles of our Constitution, and more congenial to our accepted opinions of legal certainty and civil liberty? But we have been gravely told by the gentleman from Massachusetts, (Mr. HOLMES,) that it is beneath the dignity of the representatives of eight millions of people to apply to the petty courts for the administration of justice, or for the redress of wrongs. However such suggestions may awaken our pride and ambition, I cannot conceive that they will or can assist our judgment. Neither can I consent to believe that it is decorous or proper for the legislative department of the Government to cherish expressions or examples that may have an effect to weaken the confidence of the public in the other co-ordinate departments. The principle suggested, also, is grossly incorrect and fallacious, and can only find a lodgment in the mind of such as are bewildered in the chase after exclusive privileges and fanciful dignities, the welcome bantlings of aristocracies and monarchies. But, by the way of giving strength to the strong, we are reminded that the members of this House are the immediate representatives of the people, and as such are we to be insulted, and turned over to the courts of justice for redress? The distinction intimated by concealed implications is, that the judicial power is not connected with the people by a relation so strong as that of the legislative power. But, in the language of the Hon. Judge Wilson, it is high time that we should chastise our prejudices, and that we should look upon the different parts of the Government with a just and impartial eye. The executive and judicial powers are now drawn from the same source, are now animated by the same principles, and are now directed to the same ends with the



legislative authority. They who execute, and they who administer the laws, are as much the servants, and therefore as much the friends of the people, as they who make them. The character, and interest, and glory of the two former are as intimately and as necessarily connected with the happiness and prosperity of the people, as the character, and interest, and glory of the latter are. Besides, the execution of the law, and the administration of justice under the law, bring it home to the fortunes, and farms, and houses, and business of the people. Ought the executive or the judicial magistrates, then, to be considered as foreigners? Ought they to be treated with a chilling indifference?

It is usually supposed that the representative is not greater than those he represents; but here it is contended that, beyond the powers we possess as mere legislators, we are in a degree ennobled, and are encircled by a system of jurisprudence as men, not applicable to the members of society generally, and that it would be undignified in us to submit our rights and wrongs to the ordinary rules and courts of justice. The adoption of such ideas and opinions are not required by necessity, nor authorized by propriety or legal fitness.

The gentleman from Pennsylvania (Mr. HOPKINSON) has attempted to show by argument that this House must necessarily have and exercise the power of summarily punishing, or proceeding for contempts, to secure to the nation the services of the members, and to the members the freedom of speech in debate. He inquires, if a member is arrested during his attendance on the House, how shall he be discharged? Where shall he seek his remedy and protection, if not here? I answer, not here, but to the judicial department must the appeal be made; to that source to which every citizen must resort for redress and legal protection, unless, by some express exemption, an especial and extraordinary remedy has been established and provided. Exemptions from the operation of general laws are not, nor ought they to be, encouraged in any free government, and emphatically so in this country. They are dangerous, invidious, and perplexing. The Constitution has given a right; if that right is violated the same instrument has provided the remedy, and the manner and place where it is to be enforced; the second section of the third article, "The judicial power shall extend to all cases in law and equity arising under this Constitution," &c.

This Constitutional remedy, say gentlemen, would occasion great delay—the delay might produce enormous injury and great personal inconvenience; therefore, say they, we conceive it to be inexpedient to be bound by it, but deem it expedient and necessary to adopt another remedy more summary and efficient, and less inconvenient to ourselves. I must protest against the idea that this House are to be governed in giving a construction to the Constitution, or in the exercise of a power, by what we may consider to be expedient and convenient. This being wise, in this particular, above what is written, is danger-

ous and heteroclitical. If a member is arrested, the question arises, is the arrest legal or illegal? This is a strict question of law, and can only, constitutionally, be decided by the judicial power. The Constitution recognises the right to arrest a member under certain circumstances. Suppose a member be arrested on a charge of treason, or for any breach of the peace, by virtue of a warrant issued on an indictment, this House should send their warrant, and arrest the officer for the contempt and breach of privilege, the officer should plead, by way of an excuse, his warrant issued by competent authority, would not this present an issue either of law or facts (as the pleadings might be) to be tried? Properly and constitutionally, would this House be a court to decide the controversy?

Suppose a member to be arrested upon a complaint which was entirely without foundation. If the warrant was legally issued, would it not, in law, be a complete justification to the officer? And could this House inquire into the innocence or guilt of the member, and, upon the first being established, discharge him from the custody of the law; or, upon his guilt being proved, bind him in bonds to appear for further trial; or to punish him for the offence in a criminal point of view; or, for failure of giving acceptable bail, commit him for trial? If I am answered in the affirmative, it would be in effect giving to this House jurisdiction of the criminal acts of its members, to the exclusion of the established courts of criminal jurisdiction, and would also be an interruption of, and an innovation upon, the ordinary and known criminal jurisprudence of the country; and, I fear, in times of difficulty, might be a dangerous engine in the hands of the majority, as respects the minority and civil magistracy. The officer returns the process, "I have taken the defendant, but he has been discharged from custody by the order of the House of Representatives." The officer is proceeded against by the legal authority for neglect of duty. I do not hesitate to say, the gentleman would blush to plead such discharge as a legal excuse. And, sir, if it would be a legal excuse, it must be because this House is a court of criminal jurisdiction. Are gentlemen ready to make such an avowal?

Sir, it would be the duty of such officer to execute the process, and, when served, to hold the member in his custody, and return him according to the mandate of the warrant, unless otherwise directed by some legally constituted judicial authority. And in case your Sergeant, with his warrant, backed by every member of this House, were to interpose, with force, to rescue the prisoner at his peril, the civil officer must detain such member in his custody, and to that end he might command the power of the county, and such opposers would be liable to punishment, upon an indictment. Were this honorable House to issue its mandate, warrant, or other process, directed to the Supreme Court of the United States, or any other independent court in this country, directing them to stay all further proceedings against a

member of this body, or to discharge him from the custody of the law for any cause whatsoever, or to arrest any officer of the said court, for the legal execution of any process to such officer directed, I trust but little respect would be given to such mandate or process. And if the officer of this House should pertinaciously insist upon executing such mandate or process, he would immediately be found within the four walls of a prison as an offender against the peace and dignity of the society, for interrupting the due administration of justice.\*

Again, say gentlemen, if we are bound down to the letter of the Constitution, and may assume no powers not there expressly given, what will you do if a member shall be questioned, and rudely questioned, and menaced with personal injury for his speech made in debate? I am bold to answer, that we can do nothing, merely as the House of Representatives, if it be done beyond the limits of our tenement. If the member is fearful of personal injury, the law has furnished him the preventive remedy of binding over the aggressor to keep the peace. And all that is secured to a member by these words in the Constitution, "and for any speech or debate in either House, they shall not be questioned in any other place," is, that if an action shall be commenced for words used in debate, he may plead that matter, and it shall be a full defence, be the words ever so slanderous, false, or malicious. But, we are told, if this House, as a body corporate, have no remedy, the boasted privilege is an idle mockery. No rights or privileges are esteemed valuable, by these men of power, or of any importance, if held only by the ordinary legal tenure. Nothing will satisfy them short of privileges, the

\* In the reign of Queen Anne, in 1704, several free-men, of the borough of Aylesbury, had been refused the liberty of voting at an election for a member of Parliament, though they proved their qualifications as such; the law in this case imposes a fine of £100 for every such offence. On this principle they applied to Lord Chief Justice Holt, who desired the officer to be arrested. The House of Commons, alarmed at this step, made an order of their House, to make it penal for either judge, counsel, or attorney, to assist at the trial. However, the Lord Chief Justice, and several lawyers, were hardy enough to oppose this order, and brought it on in the King's bench. The House, highly irritated at the contempt of their order, sent a sergeant-at-arms for the judge to appear before them; but that resolute defender of the laws, bade him, with a voice of authority, begone; on which they sent a second message, by their Speaker, attended by as many members as espoused the measure. After the Speaker had delivered his message, his lordship replied to him in these remarkable words: "Go back to your Chair, Mr. Speaker, within these five minutes, or you may depend on it I will send you to Newgate; you speak of your authority, but I tell you I sit here as an interpreter of the laws, and a distributor of justice, and, were the whole House of Commons in your belly, I will not stir one foot." The Speaker was prudent enough to return, and the House were equally prudent to let the affair drop.

extent and manner of using them, to be dictated by their own unlimited discretion. The tenure by which the citizen holds his life, liberty, reputation, and property, is too uncertain, unsafe, and imbecile. We are, by arguments and fearful suggestions, urged to believe that our privileges are rights so essential and so delicate, that if they are not sustained and cherished by something more potent and more congenial than the ordinary established laws of the country, they will languish and die, and with them, in one promiscuous ruin, will be lost the nation's last best hope.

If the doctrine contended for be correct, that the House of Representatives have the power, at their discretion, to imprison a citizen for what they may suppose to be a rude questioning of a member, for what he has said in debate, permit me to ask where would be the liberty of speech to the citizen, where would be the liberty of the press, and where would be the liberty of investigation? It must be answered, in the close custody and keeping of this House. Is such the much-loved and boasted theory of our free institutions? I rejoice that it is otherwise, and that its features are more inviting and its form more substantial. The citizen will question, and it is his duty to question, what we do here, what we say here, and how we, in all respects, employ our time and talents here; he will question our judgments, our honesty, our integrity, and our capacities in every particular; and from this questioning, before our term of service may have expired, many of us may be compelled, much against our will, at an after period, to return to the walks of private life; and, may I not add, that to the exercise of this sovereign right, we all look with holy zeal, and with a steadfast confidence, as the anchor of our political liberty and happiness? But if the citizen, in thus questioning the conduct and character of a Representative, does maliciously and falsely defame his reputation, the Representative, as a man, has a legal remedy, by an action at law, to be prosecuted in the courts of judicature, not in this House. Such are what I conceive to be the equal rights of the citizen, whether in or out of office, in our Government of laws, and such is what I believe to be civil and legal liberty.

This course of argument, we are informed by several gentlemen, will be making the legislative department subordinate to, and dependent upon, the judiciary. In this view of our arguments, as connected with the controversy and the structure of our Government, they are in a radical error; and from this inaccuracy on their part, has come a multitude of untenable positions and arguments. Their premises being unsound, their deductions of course must be incorrect. Their first principle seems to be, that the House of Representatives are an independent body, composing an entire whole, when, in fact, it is but a part of a general system, consisting of limited, independent, and dependent parts, in all, making a perfect whole. I have heretofore said that our Government consisted of three great departments—the legislative, judicial, and executive; and that



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

they are and properly ought to be, in the exercise of their allotted powers, independent as well as distinct. I have also attempted to show in what consisted legislative, judicial, and executive powers; these enumerated powers, when brought into action, making an entire whole, each being limited, as applied to individuals and to society, necessarily must act as a check and control upon each other. This independence, within defined limits, and mutual dependence as one political body, seems not to be comprehended, or, if understood, not admitted in argument or in practice. In this House proceed to make the law, accuse, and condemn for the breach of it, and to execute such judgment by imprisoning the offender, such a course would be the combining and exercising the powers of the three departments by the one, which is the consummation of tyranny.

And here I beg the indulgence of the House, while I read a few sentences from the honorable Judge Wilson's works. He was a member of the Convention that formed this Constitution—whose sentiments and feelings were entirely American—a man profound in judgment and erudition, and almost unequalled as respects political, constitutional, and common-law learning:

"Though the foregoing great powers—Legislative, Executive, and Judicial—are all necessary to a good Government; yet it is of the last importance that each of them be preserved distinct, and unmingled in the execution of its separate powers, with either, or with both of the others. Here every degree of confusion in the plan will produce a corresponding degree of interference, opposition, combination, or perplexity in the execution. Let us suppose the Legislative and the Executive powers were united in the same person—can liberty or security be expected? No. Let us suppose all the three powers of Government to be united in the same man or body of men; miserable, indeed, would this case be. Liberty and security in Government depend not on the limits which the rulers may please to assign to the exercise of their own powers, but on the boundaries within which their powers are circumscribed by the Constitution. The independence of each power consists in this, that its proceedings, and the motives, views, and principles which produce those proceedings, should be free from the remotest influence, direct or indirect, of either of the other two powers. But further than this the independency of each power ought not to extend. Its proceedings should be formed without restraint, but when they are once formed they should be subject to control. We are now led to discover that, between these three great powers of Government, there ought to be a mutual dependency as well as a mutual independency. Let us now describe their dependency. It consists in this, that the proceedings of each, when they come forth into action, and are ready to affect the whole, are liable to be examined and controlled by one or both of the others. The salutary consequence of the mutual dependency of the great powers of Government is, that if one part should, at any time, usurp more power than the Constitution gives, or make an improper use of its Constitutional power, one or both of the other parts may correct the abuse, or may check the usurpation. The total disjunction of these powers would, in the end, produce the very union against which it seems to pro-

vide. The Legislature would soon become tyrannical, and would assume to itself the rights of the Executive and Judicial powers. The important conclusion to be drawn from the premises which we have established, is, that in Government the perfection of the whole depends on the balance of the parts; and the balance of the parts consists in the independent exercise of their separate powers; and when their powers are separately exercised, then, in their mutual influence and operation on one another, each part acts and is acted upon, supports and is supported, regulates and is regulated by the rest."

Again, the same writer, in speaking of the checks established by our charter, says:

"The effects of this salutary regulation, necessarily resulting from the Constitution, are great and illustrious. In consequence of it the bounds of legislative power—a power the most apt to overleap its bounds—are not only distinctly marked in the system itself, but effectual and permanent provision is made, that every transgression of those bounds shall be adjudged and rendered vain and fruitless. What a noble guard against legislative despotism!"

"This regulation is far from throwing any disparagement upon the legislative authority of the United States. It does not confer upon the Judicial department a power superior, in its general nature, to that of the Legislature, but it confers upon it, in particular instances, and for particular purposes, the declaring and enforcing the superior power of the Constitution—the supreme law of the land."

The powers that this Government possess are derived by delegation from the people; and in the establishment of the judicial department for the administering of justice under the laws, they have reserved expressly to themselves, to be by them exercised personally, an important and inestimable portion of the power proper and necessary to be exercised in administering criminal justice.

"The trial of all crimes, except in case of impeachment, shall be by jury;" art. 3, sec. 2. The people of the United States were not contented merely with this general reservation of this right and power, but have, in the fifth and sixth amendments to the Constitution, enlarged it, and in a degree specifically declared the manner in which the general reserved power shall be applied and exercised by the Government. "No person shall be held to answer for a capital, or other infamous crime, unless on presentment or indictment of a grand jury, &c., nor be deprived of life, liberty, or property, without due process of law," &c. And "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury." Those provisions were not embodied in the Constitution as mere idle speculations, and there to remain a dead letter, but as a substantial, safe, and active part of the system. The sacrifices of civil rights, of personal liberty, and even of life, had been so flagrant and tyrannical in the Government of every country known to us in history, under the pretence of administering criminal justice, that it was believed to be fundamentally necessary to restrain and limit the several departments of our Government in this particular. The words used in the Constitution—"the trial of all crimes;" "no person

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

shall be held to answer for a capital or other infamous crime;" and, "in all criminal prosecutions," are as broad and comprehensive in the meaning as could have been adopted from our language, to secure the right of a jury trial in criminal cases. I contend this Constitutional right cannot be taken from the citizen, even by the supremacy of legislative power. Can we do that indirectly, or by implication, which we cannot by direct means? If it may be, can be, or shall be done, this boasted instrument becomes, in the hands of the designing, artful, and ambitious politician, the yawning sepulchre of our civil rights.

Why is it that this House have, at this time, stayed legislation? Why have we accused a citizen? And why have we, in the form of a criminal process, snatched from a man his liberty? Certainly not because he has done a lawful act, or an act indifferent, but, on the contrary, because this House allege that he has committed, or attempted to commit, an unlawful act, for which he is subject to be imprisoned—to be punished.

In legal language, every act that is declared to be unlawful by the laws of society, and for which the actor is subject to punishment of any kind whatever, is denominated a crime. Every legal inquiry into the guilt or innocence of an individual, is a criminal proceeding; and the inquiry upon which the guilt or innocence of the accused is decided, is the trial. Have we not accused, have we not arrested, and are we not now anxious to hear and decide upon the innocence or guilt of a citizen, and finally, from which there is nor can be no appeal, and without the intervention of a grand or traverse jury, and, if thus convicted, to punish him by imprisonment, or in some other form?

But we are told in argument by our opponents, "that every idea of punishment for an offence or crime is kept out of view;" it is well, for if it was permitted to be viewed and applied properly to this proceeding and controversy, the result must inevitably be different from the one they seek. By excluding that which is proper and pertinent, and admitting what is improper, then in argument any conclusion may be made except the correct one. Again, we are told, in the same spirit of disguise, that they "disclaim the commitment, by this House, for a contempt, to be in the nature of a punishment; it is entirely a power of protection."

The law recognises two kinds of protection; self and legal protection. The former, as I have attempted to show, is the right permitted to moral or natural persons, by physical means, to prevent an immediate threatened injury, or to stay an actual commenced and continuing forcible aggression. The latter, that which is provided in the criminal code of laws, to be rendered effective through the instrumentality of the judicial and executive powers of the Government. From the course of the arguments, I apprehend it is under the head of self-protection, this power is claimed; that it cannot be brought within this clause, I

15th Cox. 1st Sess.—25

trust I have before satisfactorily proved, and will only add that this is the first time I ever heard it seriously and boldly contended, that, under the pretence of self-protection, a person could gravely sit down, make out his warrant, and have arrested his distant wrong-doer, and thereby have the aggressor brought before the injured party for trial—in a word, that he could assume to himself and exercise all the power and forms of a court of criminal jurisdiction; and in name disclaim, yet in effect accomplish the resulting consequences, as applied to others, and still stand justified—such is a system of administering justice and a kind of doctrine peculiar in their nature, and dangerous in their tendency.

Much reliance has been placed upon the acknowledged power exercised by the courts of justice, in the punishing of contempts. In the English criminal jurisprudence, this doctrine is much more extensive than is recognised in practice by our criminal law; it extends to the mal-administration of certain officers, to contempts against the king's prerogative, against the king's person, and against the king's title, these are offences not tried by the king in person, but by the judicial power, and are thus referred to a disinterested tribunal, to secure equal justice and safety to the subject. This monarch seems not to be so excessively wedded to his privileges, as the representatives of a free and independent people, or not so jealous and suspicious of the judicial power. But the criminal law, as applied to the offence of contempt, in this country, is derived from the law punishing contempts against the king's palaces or courts of justice. In the English Government the king is supposed to be the fountain of all power and justice. The courts for the administration of justice are supposed to be established by him for the purpose of doing equal justice. Every wilful and corrupt, or attempted interruption of the pure current of justice, is an offence against the public peace, and a contempt to the king as the fountain—and is denominated in law as contempt to the king's courts. Not as gentlemen suppose, punishable as being an indignity to the men who are the judges, and a breach of their privileges, but, as a wrong and injury done to the public.

In this country the people are the source from which our courts derive all their powers, and as such are the fountain or repository of justice—all wilful interruptions, to the due administration of justice, are in a common law sense, a breach of the peace, and against the dignity of the people, and the legally constituted authority to hear is and determine according to law every offence against the judiciary. In the hearing and deciding upon a contempt, the judges of the court are in no greater manner interested, concerned, or known, than in the trial of any or every other crime against society. Thus it is to be seen, that contempts, as embraced by the law, are crimes, and are properly cognizable, only within the judicial department of the Government. The courts are solely the constituted agents of both parties, mutually appointed in the social compact to decide.



In answer to our objections, to unlimited and discretionary power, we are told the courts have it—admitted, does it establish the fact, that this House has any right to possess it? I admit that the undefined, and in a degree unlimited powers possessed and exercised by the courts in this respect, are contrary to my general idea of propriety, and that fixed certainty which ought to characterize criminal law. But, the existence of it in the judiciary is far less to be dreaded than in this House, as the abuse of it may at any time be corrected by the legislative power, in limiting and defining it, or by divesting the courts of the power entirely. But, where is to be found the power to constrain, control, or limit the abuse of it here?

The Constitutional limitations and distribution of powers, and the mutual checks and balances are therein wisely established, and greatly tend to the security of liberty and national prosperity and happiness. Let us not rely too much on the honesty of intention, the wisdom and moderation with which we may assume and exercise powers, that those who may hereafter fill our places, being less wise, less honest, and more ambitious, may use to the most deadly consequences, and to subvert the most hateful purposes.

A word as to precedents—a just and prudent adherence and obedience to them. But, a blind or an unexamining confidence and obedience to them I must controvert.

In determining the extent of powers and jurisdiction granted to the departments of Government, precedents should be scrutinized with great care and caution; and whenever they tend to enlarge the powers in doubtful cases, to be obeyed with great circumspection, and not at all, if, on examination, they are found to be unreasonable, unconstitutional, or dangerous. It is the nature of man, and especially of those in power, to extend, rather than curtail, their powers; and certain safety and duty are to be found within the clear and undoubted limits of the grant. Further to illus- trate my views upon this point, I will give the following quotations: "Why should a point be received as law, merely because one man, or a succession of men, have said it is law, any more than another point should be received as reason, merely because one philosopher, or a set of philosophers, have said it is reason? In law, as in philosophy, should not every one think and judge for himself? *Stare decisis* may prevent the trouble of investigation; but it will prevent also the pleasure and the advantage of improvement. Implicit deference to authority, as I have declared on more occasions than one, I consider as the bane of science; and I honor the benefactors of mankind, who have broken the yoke of that intellectual tyranny, by which, in many ages, and in many countries, men have been deprived of the inherent and inalienable right of judging for themselves. But how natural it is, for one extreme to vibrate with violence to its opposite one! Though authority be not permitted to tyrannize as a mistress, may she not be consulted as a skilful guide? May not respect

be paid, though a blind assent be refused to her dictates?"

Judge Johnston, in his opinion in the case of Bollman and Swartwout, says:—"But I deny that a court is precluded from the right, or exempted from the necessity of examining into the correctness of its own decisions, or those of any other tribunal. Strange would be the doctrine, that an inadvertency once committed by a court shall ever after impose on it the necessity of persisting in its error. A case that cannot be tested by principle is not law, and in a thousand instances have such cases been declared so by courts of justice." If we have been able to show, that the power, sought to be exercised by this House is unconstitutional, or even doubtful, unreasonable, impolitic, or dangerous, I am confident, that the impulse of the moment, the necessity, nor the weight of precedent, will not induce this House to adopt the principle, or further sanction the recorded example.

If I have erred in the adoption of the principles and constructions that I have advocated, it is erring on the side from whence danger is not to be apprehended. History, in no page within my recollection, proves, that, from the non-exercise of doubtful powers, by those who were intrusted with authority, the liberties of that country have been lost, or that the liberty, life, property, or reputation of any individual has thereby been sacrificed. But, on the other hand, does not the continued volume of history, in almost every page, give us incontestable evidence, that one-half of the miseries the human family have had to undergo and sustain, have had their origin from the exercise of assumed powers by those in authority? And have not those tyrants and destroyers of human happiness, and of mankind, justified themselves under the law of necessity, the law of self-preservation, and the law of discretion, which is known in substance, limit, or extent, only as it is put into practice, as avarice, ambition, or revenge, may have dictated?

Messrs. ROSS, RHEA, SPENCER, and BURWELL, addressed the Chair on the main question, and Mr. HOPKINSON and Mr. STORAS on incidental points.

The sitting was prolonged to a late hour, the question being loudly called for in the interval between each member's speech; but an adjournment finally took place, without having come to a decision, on the motion of Mr. BURWELL, who, with many others, wished to have the present shape of the proposition so varied as to enable the House, in their voting on it, to express a definite opinion.

THURSDAY, January 15.

On motion of Mr. SERGEANT, the report of the committee on the memorial of Mary Graeff was reconsidered, and referred to a Committee of the Whole.

On motion of Mr. BARBOUR, the Committee on Post Offices and Post Roads were instructed to inquire into the expediency of exempting from

postage all letters and packets relative to the militia, to and from the Adjutant General of the respective States and Territories.

#### CASE OF COLONEL ANDERSON.

The House resumed the consideration of the case of Colonel Anderson. The following resolutions moved by Mr. RHEA, by way of amendment, being yet under consideration:

"Resolved, That this House possesseth competent power to punish for contempts of its authority.

Therefore, Resolved, That the Sergeant at Arms be directed to conduct John Anderson to the bar of the House."

Mr. RHEA, with a view to put his amendment in a shape more acceptable to gentlemen, modified his motion for amendment, so as to make the first resolution read as follows:

"Resolved, That this House possess adequate power to punish for contempts against it.

Mr. PITKIN assigned the reasons why he wished to avoid placing on the Journal anything affirming the authority of the House on the one hand, or denying it on the other; and, to escape the alternative presented to the House by the proposed resolution and amendment, he moved to postpone indefinitely the consideration of the main question and the amendment proposed thereto.

After some questions to the Chair, and explanations therefrom, respecting the effect of such a postponement, that effect was pronounced from the Chair to be, to place the question in the state in which it was when the motion of Mr. SPENCER was first made; and, if this course was pursued, that the House would be at full liberty to take any course in respect to John Anderson, which, in its opinion, was within the scope of its Constitutional powers.

Mr. RICH, of Vermont, said he hoped that the motion of the gentleman from Connecticut would not prevail; for, after the very able and long discussion which this subject had undergone, it was due to this House and the nation that the sense of the House should be taken on some proposition distinct from the case of John Anderson, in order (if he might be allowed the expression) that the law may be settled in relation to the principle, so far as it could be done, by a solemn decision of the House. With a view to that object, said he, it was my intention, could I have obtained the floor, to have moved an amendment to the amendment offered yesterday by the gentleman from Tennessee. I therefore hope the motion for a postponement will be rejected, that I may still have an opportunity to submit an amendment, having for its object a disavowal of the right to try and punish for offences, and a declaration that the House will abstain from no measures which may be necessary to preserve its deliberations free from interruption, and its members and officers from insult or injury. In order, then, that the House may be informed of the amendment I propose to offer, should an opportunity be afforded me, I will read in my place the one I had prepared.

[Here Mr. R. read the proposed amendment, and concluded by saying]—

I hope, sir, the subject will not be passed by without a distinct decision of the House upon the principle, aside from all considerations of the guilt or innocence of John Anderson.

[Subsequently, during the pending of the resolution for bringing John Anderson to the bar of the House, Mr. R. remarked]—

He was desirous of obtaining a decision of the House, which should narrow the grounds of the inquiry when John Anderson shall have been brought in, and for that purpose he would now propose, as an amendment to the resolution, that which he had a short time since read to the House.

[The amendment having been announced from the Chair, Mr. R. proceeded]—

I am, sir, among the number who do not believe that this House has a right to sit in judgment, or inflict penalties upon any one, except its own members; but admitting our right to proceed to the trial and punishment of John Anderson was free from all doubt, it is, in my opinion, inexpedient, because more is to be lost than gained by the procedure. For such is the character of the transaction that the bare knowledge of it is sufficient to draw down upon the head of the perpetrator the execrations of the whole community; consequently, no act of this House can add materially to his sufferings, while, by persevering in the trial, much of our time will be consumed, and much of the people's money expended.

Again, I hold it to be inexpedient, because a large assembly is, of all tribunals, the most improper for the trial of offences, especially when it is the injured party; and, lastly, it is inexpedient to furnish, by our example, a precedent for proceedings in a case affecting the rights of a citizen, in the absence of known rules, except in one of the most urgent necessity, which I am sure this is not. For deplorable indeed must be the state of society, and strangely degenerated must be the Representatives of this nation, before any serious injury can be apprehended from attempts upon the integrity of its members. My life for it, sir, until the people of this nation shall have lost their affection for this Government, attempts like the one under consideration, will but very seldom be repeated; and surely this body can never suffer a material injury from an unsuccessful attempt to bribe one of its members. Until it shall be believed, then, that an attempt can be made with success, I hope we shall leave the assailants to seek repose, under the frowns and indignation of an enlightened and virtuous people.

I will never admit, said Mr. R., that it is possible for a man, who has the honor of representing, in this House, thirty-five thousand of the only free people of which the world can boast, so far to forget the dignity of his station as to be capable of receiving a bribe from any one. Therefore, the only consequences which attempts of this kind can draw after them are the irritation of feeling they may produce; consequences not of sufficient magnitude to justify the waste of



time which must result from an investigation before the House. I shall, therefore, vote against proceeding with the trial; but should it be the wish of the accused to make an apology to the House, I would permit him to do so, and proceed again to the business of legislation. Was it not, however, for the proceedings which have been had in the case, I would permit no apology to be made within these walls, but leave him to apologize to the citizens of his country, against whom, rather than against this House, the offence has been committed. Should the amendment be adopted, the only inquiry that will remain for the House to make is, whether there be danger of further interruption from John Anderson?—the only proper inquiry in the case.

After explanatory remarks from various members, among whom were Messrs. RHEA, TALLMADGE, BALLARD SMITH, and CULBRETH—

The question was taken on postponement, and decided in the affirmative—for indefinite postponement 117, against it 42, as follows:

**YEAS.**—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Bayley, Bennett, Bloomfield, Blount, Boden, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Colston, Cook, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellicott, Floyd, Folger, Forsyth, Gage, Hall of Delaware, Hall of North Carolina, Harrison, Herbert, Heister, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Jones, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Miller, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, New, Ogden, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pitkin, Pleasants, Reed, Rhea, Richards, Ross, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, S. Smith, Bal. Smith, Alexander Smyth, J. S. Smith, Storrs, Strong, Strother, Stuart, Tallmadge, Taylor, Terrill, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

**NAYS.**—Messrs. Allen of Massachusetts, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Beecher, Bellinger, Cruger, Culbreth, Edwards, Ervin of South Carolina, Forney, Fuller, Garnett, Hale, Herkimer, Herrick, Hitchcock, Hogg, Kinsey, Kirtland, Lawyer, Linn, Livermore, Merrill, T. M. Nelson, Poindexter, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Sawyer, Shaw, Silsbee, Speed, Spencer, Tarr, Walker of Kentucky, and Williams of New York.

The propositions before the House were indefinitely postponed.

Whereupon, Mr. TALLMADGE offered the following resolution for consideration:

*Resolved*, That John Anderson be forthwith brought to the bar of this House.

Mr. RICH proposed to amend the resolution by adding thereto the following:

*And that he have an opportunity of offering to the*

House any explanation of his alleged offence which he may think proper.

This motion Mr. RICH supported by observations regarding the general question, in which he opposed the expediency of proceeding further than he had suggested in the present case.

After a few observations from Mr. SERGEANT, however, Mr. RICH withdrew his proposition.

Mr. RICH subsequently moved to insert an amendment, denying the power of the House to judge or punish any individuals, its own members excepted; which motion was negatived by a large majority.

Mr. CULBRETH then moved to strike out the whole of Mr. TALLMADGE's resolution, and to substitute, by way of amendment, the following:

*Whereas* John Anderson is in custody for an offence which this House does not possess the Constitutional power to try, or right to punish: *Therefore*, *Resolved*, That the said John Anderson be discharged from the custody of the Sergeant at Arms.

And the question was taken on the amendment thus proposed, and decided in the negative—yeas 47, nays 119, as follows:

**YEAS.**—Messrs. Allen of Massachusetts, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Beecher, Bellinger, Cruger, Culbreth, Edwards, Ervin of South Carolina, Forney, Fuller, Garnett, Hale, Hall of North Carolina, Herkimer, Herrick, Hitchcock, Hogg, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Linn, Livermore, Merrill, T. M. Nelson, Poindexter, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Ross, Sawyer, Shaw, Silsbee, Bal. Smith, Speed, Spencer, Tarr, Trimble, Tucker of South Carolina, Walker of Kentucky, and Williams of New York.

**NAYS.**—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Bateman, Bayley, Bennett, Bloomfield, Blount, Boden, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellicott, Floyd, Folger, Forsyth, Gage, Hall of Delaware, Harrison, Herbert, Heister, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Jones, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Miller, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, New, Ogden, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Reed, Rhea, Richards, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Southard, Storrs, Strong, Strother, Stuart, Tallmadge, Taylor, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Tyler, Upham, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

So the House refused to agree to the amendment proposed by Mr. CULBRETH.

The question was then taken on the motion that "John Anderson be forthwith brought to the bar of this House," and decided in the affirmative, by yeas and nays—118 to 45, as follows:

**YEAS.**—Messrs. Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Bateman, Bayley, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellicott, Floyd, Folger, Forsyth, Gage, Hall of Delaware, Harrison, Herbert, Heister, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Jones, Linn, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Miller, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, New, Ogden, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Reed, Rhea, Richards, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Spangler, Storrs, Strong, Strother, Stuart, Tallmadge, Taylor, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Tyler, Upham, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

**NAYS.**—Messrs. Allen of Massachusetts, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Beecher, Bellinger, Cruger, Culbreth, Edwards, Ervin of South Carolina, Forney, Fuller, Garnett, Hale, Hall of North Carolina, Herkimer, Herrick, Hitchcock, Hogg, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Merrill, T. M. Nelson, Poindexter, Porter, Quarles, Rich, Robertson of Kentucky, Ross, Sawyer, Shaw, Silsbee, Bal. Smith, Southard, Speed, Spencer, Tarr, Trimble, Tucker of South Carolina, Walker of Kentucky, and Williams of New York.

Whereupon the Sergeant-at-Arms brought the prisoner to the bar, and the SPEAKER propounded to him the following interrogatories, to which he made the replies thereto:

1. Do you acknowledge yourself to be John Anderson? *Answer.* Yes.
2. Did you write and deliver to Lewis Williams, a member of this House, the letter of which a copy has been furnished to you by the Clerk? *Ans.* I did.
3. From what part of the city did you write the letter? *Ans.* I wrote it at Mr. Bestor's, where I board.
4. What is the amount of your own claims, which you are attempting to liquidate? *Ans.* About \$9,000.
5. What is the amount of others which you are soliciting? *Ans.* About \$21,000.
6. Have you any interest in the latter? *Ans.* None of a pecuniary kind, but am influenced in their pursuit by motives of charity.
7. Had you any authority from the persons you represent to make the offer contained in your letter? *Ans.* I have a general power-of-attorney to do for them as I would do for myself, but had no instructions to make that or any other offer.
8. Are you acquainted with any persons now in the city soliciting the claims of others? If so, name them. *Ans.* I am. There is a Mr. Pomeroy, who is soliciting his own claim, and Col. Watson, who is a general agent.
9. Have you made any other offer to any person? *Ans.* No.
10. Did you consult or advise with any person before you wrote and delivered the letter. *Ans.* I did not.

11. Who is the Mr. Halbard you mention in the letter? *Ans.* He is a gentleman I became partially acquainted with during the troubles at the River Raisin. I have not seen him since that time till I arrived in this city at the commencement of the session of Congress, and did not recognise him until he made himself known to me.

12. Has he any claims to solicit? *Ans.* None to my knowledge.

13. Have you any witnesses to examine, or defence to make, in justification or explanation of your conduct? If you have, the House is now ready to hear you.

The prisoner at the bar then called upon his witnesses, viz: Gen. Harrison, Col. Johnson, members of the House; Mr. R. J. Meigs, Postmaster General; Capt. Gray, Mr. Cyrus Halbard, Capt. Larrabee, Col. Joseph Watson, Mr. John H. Piatt, Capt. S. D. Richardson, Mr. Pomeroy, Lieut. Conway; who, all being previously sworn, delivered in their testimony.

The testimony was uniform, as far as the knowledge of the witnesses extended, in giving the accused a high character for probity, correct deportment, and patriotic conduct. It is too diffuse for publication entire. That of Col. R. M. Johnson is selected as a specimen of the general tenor of the evidence.

Mr. JOHNSON, having been called on by the prisoner to give to the House any information in his possession touching his character and conduct, testified to this effect: That his knowledge of the character of Col. John Anderson was not derived so much from personal intercourse as from the information of others; but, so far as his personal information extended, was corroborated by it. When Mr. J. was on the Northwestern frontier, Col. Anderson was a fugitive from Detroit, on the River Raisin, as Mr. J. had understood; and, being well acquainted with the frontier of that part of the United States, attached himself to the mounted regiment. How long he acted in that capacity Mr. J. did not recollect. As far, said Mr. J., as his conduct came within my own knowledge, I considered him a very gallant and a very brave man. In relation to the information he had from other quarters, there was a general consent of opinion that during the war Colonel Anderson had been considered not only a gallant and patriotic man, but a man of integrity, who had made uncommon sacrifices of nearly all his property from his devotion to the cause of the country. Mr. J. said he did also understand from several sources, that Col. Anderson, at the risk of his own life, did, at the River Raisin, rescue individuals from the hands of the savages. Mr. J. had further understood, he said, that Col. Anderson had refused the command of a regiment, offered to him by the British commander, when the enemy had possession of that country; and Col. Elliott, on being pressed to repeat the offer, said, that he knew the character of Col. Anderson fully, and that he knew he would as soon submit to have his head chopped off as to accept of it. Of John Anderson, said Mr. J., in relation to his conduct to me at the last session and at this



if can say, without prejudice to the merits of others, I have never known an individual, whose losses were so great, and who knew I was disposed to advocate his claims, to take up so little of my time, and to be as modest in urging his claims. All these circumstances together had given to Mr. J. a high idea of the integrity, of the gallantry, and of the patriotism of Col. Anderson.

Other facts than those above mentioned were established by ample testimony, descriptive of the sufferings and steadfastness of John Anderson in the cause of the country during the war, &c.

In the course of the examinations of witnesses in the sitting of this day, in the case of Colonel Anderson, the following incidents arose:

Colonel Joseph Watson, one of the witnesses, being called a second time by the SPEAKER, was questioned and answered as follows:

Question. I thought I understood you to say that you had some claims on the Government yourself?

Answer. No, sir, I am agent for the settlement of claims, for which purpose I have opened an agency in this city, where I receive claims from every part of the country.

Q. Has it been customary, do you know, in any cases whatever, that any of the officers of the Government, in settling claims, have received from the claimants any compensation for extra services?

A. I presume the question is expected to be answered from personal knowledge: I have no personal knowledge of any such compensation having been received.

Q. Have you received any information of such practices, and if you have, from whom?

A. I have heard such things intimated.

Q. By whom, and as to whom?

A. I have heard it intimated that clerks in some of the public offices were in the habit of transacting business as agents, and of receiving a commission for so doing.

Q. Specify, if you can, who gave you the information, and what clerks were named.

A. Information of that sort was received by me in a letter from a person of the name of Samuel How, who resides near Presque Isle, who said that he had engaged to pay a particular clerk five dollars for obtaining a land warrant for him.

Q. Do you recollect the name of the clerk?

A. Not accurately enough to repeat; but the letter at the disposal of the House, if it chooses to call for it.

I have an impression as to the name, but not so clear and distinct as to give it in evidence.

By the Speaker.—Bring the letter with you to the House to-morrow.

The witness then retired, but was again called and interrogated:

The Speaker. Is that single instance you have referred to the only one you have heard of?

Witness. I would state to the House that I am very willing to afford it all the information in my power to afford, which it may require. But I cannot but state, that I feel a delicacy in mentioning the names of persons who have been reported to act as agents. Being myself an agent, I might be suspected of improper motives for making such a disclosure. But, being under oath, if the House insists, I must obey.

The Speaker.—The House insists on your reply to the question.

Witness.—I proceed, then, to perform what is now my duty. Understanding now that I am held under an obligation to state everything, even as to general intimation, that I have heard, I proceed. I have understood, that, in the land bounty office, there are—

Thus far had the witness proceeded, when he was interrupted.

Mr. Cobb rose, and questioned the propriety of going into an inquiry of the kind now commencing, in this manner. The House, he admitted, had a right to the information it was now proposed to obtain; but it ought to be sought in a proper manner. He put it to the House, whether, by this kind of loose information, the reputation of probably good men ought to be exposed to public obloquy on mere rumor and intimation? He was willing at all times, to give his vote for exposing improper conduct, but he wished it done by evidence, which this hearsay was not.

Mr. HOLMES, of Massachusetts, said, if what the witness had to state was from letters, he should desire to hear it; but if from rumor merely, he should question exceedingly whether the House ought to impeach the reputation of any individual in the Government by this sort of loose inquiry. He suggested that the Speaker should direct the inquiry as to the source of the information about to be stated by the witness, before the name of any clerk was mentioned.

Mr. STROTHER regretted that he deemed it necessary to make some remarks. Through the progress of this business, he said he had remained silent, being willing to be instructed by the wisdom of others more experienced in public business than himself. But he considered the course now proposed as certainly incorrect, involving the character of individuals when they had no opportunity of defending themselves in such a manner as, without just cause, might blast their reputation forever. It was certainly a correct principle; one which would ever guide his course, to investigate the conduct of public servants, and to probe corruption to its source. This was an important duty, particularly confided to this House. But, he said, in performing that duty, it became the House to pursue the course which reason prescribes, and usage sanctions, by a special inquiry into that subject. In inquiring into the guilt or innocence of John Anderson, are we to involve, by loose implication, the character of the officers of our Government? Shall we, by such a course, overwhelm, as with a blighting mildew, the characters of men, in some instances gray with length of years, in others of youths rising into life around the parental board? This is a course, said Mr. L., derogatory to the House, and injurious to the individuals, who, though innocent, may be accounted otherwise by rumor. If suspicion rested on the mind of any member of malversation in office, let a committee be raised, as usual, to inquire into it. It became a republican Government, based in virtue and integrity, to investigate imputed fraud, on the first suggestion of it; and, if it exists, to drive it from among us. He flattered himself that the House would not at present proceed further in this business.

The SPEAKER said, he had to suggest to the House, that, really, he had himself no information on this subject previous to the examination of the witness, which he had not anticipated would lead to the development of circumstances which he did not suspect. But the question he had put was presented to him by a member for that purpose. The witness answering the question, with a qualification as to his personal knowledge, he (the SPEAKER) had thought it necessary, and yet thought it necessary to pursue the inquiry—not that rumor would be a fit ground to act on, but as it would develop the source whence accurate information could be obtained.

Mr. T. M. NELSON pressed the House to proceed in the inquiry. He hoped and believed that every branch of the Government was pure and incorruptible; but, said he, the smallest speculation having crept into any department of our Government, whether distinguished for authority or servitude, let us nip it in the bud; and if it be found to exist but in the lowest grades of service, I shall rejoice. Vice and immorality can be best attacked and exterminated when in the germ.

Mr. TALLMADGE was under the impression that it would be irregular in the House to permit its attention to be drawn off from the case of John Anderson to an entirely different subject. Mr. T. said that enough had already transpired, with some intimations he had heard, and indeed had seen in the public prints, to determine him, if no other member did, to submit a proposition for inquiry into this subject. He, therefore, took this occasion to say to this House, that, when in order, he would offer a resolution to that effect; and suggested that the House should now proceed in the trial of John Anderson.

The SPEAKER said, the only point for the House to decide was, whether the House should or should not proceed in the examination of the witness before them.

Mr. Cobb did not wish to be understood, in the few observations he had made to desire to preclude any investigation of the conduct of the officers of Government of any grade; which, if proposed, he was as willing as any one to support. But what earthly relation, he asked, could there be between the facts the witness was about to develop, and the case of John Anderson? Supposing the fact established that clerks in the public offices had been in the habit of taking bribes, he did not see how that fact would make John Anderson more innocent or more guilty. He objected to this procedure, moreover, of holding up the characters of our officers improperly before the public. Those officers are not here to speak for themselves; and a very little thing, spoken in this way, might go to the destruction of their character. In a proper manner, he added, none would more cheerfully second any motion for inquiry into these matters.

Mr. HOLMES, of Massachusetts, said he was well aware that, when under the influence of any particular excitement, there is danger that we may act wrongly. We were in a little danger, said he, the other day, and should take cau-

tion from experience. When the question was first put to the witness, and he hesitated to answer, Mr. H. confessed he had felt his curiosity excited, and he wished to hear his answer; but, when the suggestion was made that the answer of the witness might operate to injure the character of one who was entirely innocent, he said he had paused. Enough had occurred to convince him that an inquiry should be made, and he was about to put a motion to that effect on paper. But, on more mature consideration, he thought that the House would be more cool in the morning, and better prepared to act. He, therefore, moved to adjourn; and the motion was agreed to.

FRIDAY, JANUARY 16.

Mr. POPE presented a petition of the Legislative Council and House of Representatives of the Territory of Illinois, praying that the said Territory may be formed into a State government, and that the State, when formed, may be admitted into the Union, on an equal footing with the original States; which was referred to a select committee; and Messrs. POPE, CLAIBORNE, JOHNSON of Kentucky, SPENCER, and WHITMAN, were appointed the committee.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, made a report on the petition of George Pearson, which was read; when, Mr. R. reported a bill for the relief of George Pearson; which was read twice, and committed to a Committee of the Whole.

Mr. R. also reported a bill for the relief of John Jones; which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON, from the Committee on the Public Lands, to whom had been committed the bill from the Senate, entitled "An act to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States lands within the same," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to provide for the publication of the laws of the United States and for other purposes; which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the annual statement of the tonnage of the United States on the 31st of December, 1816; which was read, and ordered to lie on the table.

A message received yesterday from the President of the United States, in relation to the claim of the representatives of the late Caron de Beaumarchais, was read, and referred to the Committee of Ways and Means.

#### THE PUBLIC OFFICES.

The SPEAKER laid before the House the following letter, which he had received from Joseph Watson, the witness who was yesterday interrogated on the subject referred to in the letter:



H. OF R.

The Public Offices.

JANUARY, 1818.

WASHINGTON, January 16, 1818.

SIR: I comply with the injunction of the House, in giving at its disposal the letter alluded to in the answer given by me yesterday to a question which was unexpectedly propounded. Although the letter will speak for itself, yet, in reference to myself, I should observe that at the time the question was answered, my impression was that the letter particularly mentioned that the person therein named was attached to the office of the Secretary of War: that impression must have originated at the time of reading the letter, from the similarity of names.

I beg leave, sir, to avail myself of this opportunity to explain the cause of my hesitating to answer the question alluded to. I then considered it as irrelevant to the subject about which I had been sworn to testify, and hesitated for the purpose of canvassing my right to refuse an answer, and the expediency of subjecting myself to the implications which would have been the concomitants of that refusal.

Unwilling to be dragged before the eye of the public on a question to which (adverting to my pursuits) so much delicacy is attached, I trust it will not derogate from the high respect I entertain for the honorable body over which you, sir, have the honor to preside, that I would state that the information which I have been called upon to afford, may be officially obtained from the Treasurer's warrant book, and the report of the Secretary of War, which was some time since called for by the House. I will add, however, that, regardless of the consequences, I shall endeavor to submit myself of any duty which the injunction of the honorable House of Representatives may require from me. I cannot refrain to express my belief that there are clerks who transact agency business, whose small salaries and large families cannot fail to palliate the impropriety of the course.

I have the honor, sir, &c.

JOS. WATSON.

The letter enclosed states merely that he had employed Mr. L. Edwards to procure certain commissions for him at five dollars each, &c.]

The letter having been read—

Mr. HOLMES, of Massachusetts, offered for consideration the following resolution:

Resolved, That a committee be appointed to inquire whether any, and what clerks or other officers in either of the Departments, or in any office at the Seat of the General Government, have conducted improperly in their official duties; and that the committee have power to send for persons and papers.

Mr. COMSTOCK objected to this inquiry now, since the letter just read had shown that the person referred to yesterday was not a clerk; and there remained no probable ground on which to institute an inquiry. If any gentleman would say he had probable cause to believe in malpractice by the clerks, there would be a ground for the proceeding.

Mr. TAYLMADGE intimated that in some districts of the country an impression did prevail on the minds of some persons that there were incorrect and collusive practices in the public offices. The time had not long passed, he said, when he had been one of those. He explained a particular circumstance, of extremely forbidding aspect, which, on his arrival here, he had thought it his duty to inquire into, and which, on the

inquiry, had been cleared up to his entire satisfaction. He therefore urged, as suspicions were afloat, which the honor of the Government required should be cleared up, it was equally due to the individuals implicated and to the country that the inquiry should proceed.

Mr. HOLMES explained his views in offering the resolution, and specifically stated, as a foundation for it, that he had been informed that there was certain business which the clerks did within certain hours; that for what they did after those hours, in some cases compensation had been received from claimants. He did not say the fact was so, but the rumor afforded a fit occasion for inquiry; for, really, he added, if all the clerks now employed in the public offices were not sufficient to do the public business in such a manner as to make it unnecessary for a claimant to employ an agent to get it done, it was high time to remedy the evil.

Mr. COMSTOCK hoped the motion would be agreed to; but, at the same time, expressed his pleasure in giving testimony to the honorable and correct conduct of the clerks in the public offices, as far as he was acquainted with it. Some suspicions, however, to the contrary had gone abroad, and that was a sufficient reason for the inquiry.

Mr. PARRIS was also in favor of the motion; not that he had any knowledge of frauds in the offices. But, as has been said, certain office hours have been established, say from 10 to 3. Having had considerable business to do for his constituents with the public offices, he had found it invariably the case that the heads of the offices were there attending to business before the clerks belonging to them. There were clerks, he said, who were for days together not at their office. This, he said, was a subject of some interest to the public, and ought to be inquired into. At present the clerks come when they please, and turn the key and go when they please.

Mr. HARRISON said, he could not conceive it possible that, for the conduct referred to by Mr. PARRIS, the clerks were as much to blame as the Heads of Departments who permitted it; and who ought, therefore, to come in for their share of the inquiry.

Mr. STORRS said, that the particular allegation, whether true or false he did not know, was of misconduct on the part of the clerks in the public offices. The resolution, embracing in its scope the whole machinery of Government, did not afford to the committee any indication of the particular inquiry they were expected to make. If, on every occasion of mere rumor, the House was to appoint committees to investigate the conduct of all the officers of the Government, there was an end at once to legislation, for which no time would be left. Rather he said, let every inquiry be limited to the object; then some good may be expected to result from it. He moved to amend the motion so as that it should be the duty of the committee only to inquire "whether any and what clerks, in any of the public offices, have received any other compensation than that prescribed by law."

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

Mr. ROSS was in favor of the inquiry. The clerks in the offices, he said, have no right to receive pay for extra services; and there was danger attending the practice, when it was recollected of what nature were the duties confided to many of them; that of scrutinizing accounts, in regard to which it was self-evident how much depended on the integrity of the clerks. He was the more induced to desire this inquiry, from having heard it rumored, before he left home, that the clerks here do receive pay to a considerable amount, for acting as agents, and getting business through the offices. If so, he hoped such regulations would be adopted, as should put them beyond the reach of temptations too strong for human nature.

Mr. HOLMES opposed the limitation proposed by Mr. STORRS. Whilst we are not over-jealous, said he, I hope we shall not be over-delicate in regard to public officers. He did not think this was a time when the House ought to feel any particular delicacy on the subject. We are told there is money enough in the Treasury, and to spare; the superfluity is a temptation to use it. The time of tranquillity; the present moment, when parties are not worrying each other, is the time to look at the responsibility of the officers of the Government. Let us not be too delicate in our inquiries; if the officer be an honest man, if he be a faithful agent, he will court this inquiry; if otherwise, it is no reason for our shrinking from it, that it will be disagreeable to him.

Mr. LOWNDES stated a fact, bearing on this question, which had come to his knowledge; that, rumors having reached their ears of incorrect practices in the offices, under the color of agencies, the Heads of Departments were deliberating on a rule to prohibit all clerks from acting as agents. Permission had perhaps been occasionally given, under the impression that it would be a general benefit for clerks to act as agents; but an impression appeared to exist, how correctly he did not say, that this permission had been sometimes abused.

The motion of Mr. STORRS was negatived, in the end.

Some further conversation on amendments took place; when

Mr. PINDALL objected to this resolution, because of its indefinite extent, and because it proposed inquiries which were expressly the duty of more than one standing committee of the House. He agreed that this House ought to have a general inquisitorial power to examine and detect abuses; but he said, in making this inquiry, the House was about to assume that power over the different departments of the Government, which belonged to the Executive, and would in so doing impair the Executive responsibility; for which reason, strongly urged, Mr. P. was opposed to the inquiry. He was also opposed to it, because it was not supported by facts to the extent to which it went; and because it proposed to impose on one committee a general inquiry too laborious for them to perform. If the committee to be appointed were willing to assume the responsibility, he was not willing to impose it on them.

Mr. BLOOMFIELD called for the yeas and nays on the question of the passage of the resolve. He wanted to see, he said, who were for forming this House into an inquisition. He censured the present proceeding strongly, as without foundation, and tending to take responsibility from those to whom it belonged.

Mr. AUSTIN urged the inquiry proposed. When the hands of rapacity were extended, and corruption had been proffered to this House, would the House refuse to inquire into alleged abuses of a similar character in other departments of the Government? We, the Representatives of the people (said he) may be considered as the Grand Jury of the Nation; and, when we have reason to believe that any officer of the Government, whatever be his situation, has conducted himself incorrectly in his station, it is our duty to bring him before us, to answer for his conduct.

Mr. EDWARDS said he was no advocate for an inquisition, and yet he should vote for the resolve. Nor was he so uncharitable as to suppose the inquiry would result to the prejudice of the public officers. A sense of justice to them, together with a desire to ferret out guilt, if it existed, induced him to favor an inquiry into the justice of suspicions, which however, appeared to him to rest on a slender basis.

Mr. RICH, not being satisfied in his own mind as to the propriety of the present course, moved to lay the resolution on the table.

Mr. WHITMAN, thinking the proposed inquiry would infringe on the responsibility of the Heads of Departments, and that it moreover involved a sort of scrutiny into the minutiae of the public offices, not consistent with the dignity of the House, proposed to amend the resolve so as that it should only direct the Heads of the several Departments to inquire into this matter, and report thereon to the House. [But his motion was declared not to be in order.]

Mr. SOUTHARD said he was surprised to hear so much opposition made to an inquiry of this sort; which he had never witnessed on any former occasion.

The question was at length taken on the resolution, which was agreed to by a large majority.

#### COLONEL ANDERSON'S CASE.

John Anderson was then remanded to the bar of the House, and proceeded in the further examination of his witnesses.

General P. B. Porter, William O'Neale, and W. P. Rathbone, were then examined as witnesses in behalf of the accused, whose testimony was to the same effect as that given yesterday.

Mr. WILLIAMS, of North Carolina, was then called upon by the accused, who put to him this question:

Question. Did I ever directly or indirectly, by any verbal communication, offer you any reward or inducement, to influence your good opinion in favor of my claim, or of any other claims?

Answer. You never made me any verbal offer of the kind.

Colonel Anderson. That is all I wished the House to know from your testimony.



H. OF R.

Case of Colonel Anderson.

JANUARY, 1818.

Mr. Williams. I presume, if you had made me any such offer, the House would have known it, without your asking it.

Mr. WILSON, of Pennsylvania, being also called upon, testified that Colonel Anderson had disclaimed, on finding that the letter had offended Mr. WILLIAMS, any intention of offering the money to him with any other view than as a compensation for extra trouble.

On further questions by the SPEAKER to John Anderson, it appears that the accused is a native of Scotland, came to this country at three years old, and is a naturalized citizen.

The SPEAKER then said, he had been instructed to propound to the prisoner the following interrogatory, to which Colonel Anderson made the reply subjoined:

*Question.* In writing the letter to Lewis Williams, a member of this House from North Carolina, in which you offer to him the sum of five hundred dollars, for services to be performed by him in relation to claims for losses sustained during the late war, had you or had you not any intention to induce him to support your claims against his own convictions of their justice, or to interfere with the discharge of his legislative duties, or to offer any contempt or indignity to the House of Representatives?

*Answer.* No, sir—I call God to witness to that, which is the most sacred appeal I can make. I repeatedly assured him, that the offer was made without any wish to influence his opinion in any degree.

The accused was then questioned whether he had other witnesses to examine; he replied in the negative. The SPEAKER then called upon him for the defence which he had intimated it was his intention to offer.

The prisoner, then addressing the Chair, with much earnestness, in a brief manner, stated the same palliations of the offence with which he stood charged, as are explained more at large in the following address, which he concluded by delivering to the Clerk, by whom it was read:

"Arraigned at the bar of the highest tribunal of the nation, for an alleged infringement of its privileges, an attack upon its dignity, and the honorable feelings of one of its members, to express the sincere regret I experience, and to apologize for the error I have committed, ought not to suffice. To that body and to myself, I owe an explanation of the motives which governed my conduct. That I have been found in the ranks of our country's defenders, is known to many; and that I have sustained a character unblemished by any act which should crimson my withered cheeks, has been amply proven to you, by men, whose good opinions are the greatest boon of merit. The commencement of the late war found me environed by all the comforts of life; blessed with a sufficiency of property to enable me to wipe from the face of distress the falling tear, and to flatter myself that want was not to salute me before the return of peace. The fallacy of my hopes has been too clearly demonstrated, by the ravages of the war on the borders of Raisin, (my residence) and the destruction of all the property which my industry had amassed. After having seen the streets of Frenchtown overgrown with grass; sighted unavailingly over the ashes of my own and my neighbors' houses, and witnessed their necessities;

reduced to sustain life by means of wild animals, (muskrats,) whose very smell is repulsive to the stomach; I gladly hailed the beneficence of my Government in the enactment of the law, usually called the property act, and, in the month of January, 1817, I took leave of my friends and fellow-sufferers, and repaired to this city to manage their claims; on my arrival, I found that the act under which they expected relief had been suspended, and I was forced to return with this unwelcome information; tears of disappointment suffused the countenances of every one—my heart sympathized with theirs, and I then determined to prosecute their claims to a result. With this view, I had been in this city more than a month; over-anxious to accomplish my object, exalted with the success which had attended some of the claims, and convinced that the Committee of Claims was overwhelmed with business, my inexperience in reference to legislative proceedings induced me to suppose that, to insure despatch, I might without impropriety approach the chairman of the committee with a proposal to compensate him for extra trouble." That I have erred, grossly erred, I am convinced, and my only consolation is, that error is no crime, when it is of the head, not of the heart. Had I acted with less precipitation, and consulted the views of others, I should not at this time find myself in the disagreeable dilemma that I am. I should have acted more consistent with myself. Whatever semblance my request of secrecy may assume, I can with truth aver that its basis in my mind was a desire that those for whom I act should have to acknowledge their increased gratitude for the promptitude with which their claims should have been acted upon.

"It cannot be denied, that, after being assured that my own claims would be allowed, I had less cause to think of obtaining by corruption the payment of claims which I almost knew the justice of Congress could not refuse in the sequel. Despatch, then, was all I wished for—all I could gain;—and I think that the world and this honorable body will admit that the benefit of the relief would be in proportion to the time which should elapse in affording it; at least, that in this view it would be appreciated by those who have yet fresh in their recollection that a husband, a wife, a father, a child, a brother, or sister, was tomahawked, shot, or burnt alive, by the savage enemy, their hearts inhumanly torn from their bodies, and whilst yet smoking with the vital heat, were triumphantly exhibited to their weeping eyes. Let it be recollected that they have witnessed, whilst wandering without shelter, and almost unclothed, the heart-rending scene—dead bodies exposed to the voracious appetites of the swine, and these animals eagerly contending for a leg or an arm! Lest this picture may be supposed to be exaggerated, I annex the correspondence which took place between the Hon. A. B. Woodward and General Proctor, in the year 1813, and shortly after the event occurred. Let it be known that most if not all the articles they could collect from the ruins of their houses were generously—most generously—appropriated in the purchase of prisoners of war, for the purpose of screening them from the bloody tomahawk; that these purchases were made under such circumstances as not to entitle them to reimbursement under the "Act relating to the ransom of American captives of the late war." And let it also be known that such are the sufferings, such the merits of the claimants I represent. And I feel confident that the clouds of indignation which for a moment threatened to burst over my frosty head will

JANUARY, 1818.

Case of Colonel Anderson.

H. OF R.

be dispelled by the benign influence of philanthropy—an influence which has ever, and I trust ever will, characterize my conduct.

"That I should be anxious to afford a prompt solace to the sufferings of my fellow-citizens will not be wondered at when it is known that they extended every kindness and protection to my family, (from whom I was separated during the most of the war,) and at a time when the Indians were accustomed to dance before the door of my house, calling upon my wife to come out and select her husband's scalp.

"Relying upon the maxim, that 'To err is human, to forgive divine,' I throw myself upon the indulgence of this honorable body, and the magnanimity of the honorable gentleman whose feelings I have had the misfortune to wound. If my services form no claim to indulgence, perhaps my sufferings and those of my family may. I stand here to meet all the consequences of an error committed without any sinister intention.

"In conclusion, I must be permitted to remark, that, during my confinement, from which I have forborne to adopt any legal measures to extricate myself, the only feelings of pain which have had access to my breast were those produced by the knowledge that an opinion was prevalent, that, presuming on the misfortunes of my fellow-sufferers, I had bought up their claims at a very reduced price. If this honorable body would permit, I would, under the solemnity of an oath, call upon God to bear testimony that this opinion is without basis.

JOHN ANDERSON.

"JANUARY, 1818."

The prisoner being asked if he had anything further to say, and answering in the negative, was taken from the bar, and the House proceeded to deliberate on the course now proper to be pursued.

Mr. FORSYTH offered for consideration a motion in substance like that which was ultimately adopted, but which proposed Wednesday next as the day on which John Anderson should be brought to the bar.

A variety of propositions, suggestions, and remarks, were made on this occasion, which it would be difficult, if it were important, accurately to report.

One motion, on which the yeas and nays were taken, is worthy of particular notice. It was made by Mr. POINDEXTER, to strike out of that passage which charged John Anderson with being guilty of a contempt against the privileges of the House, the words *the privileges of*; thus denying the House to have any privileges not conferred on them by the Constitution. This motion was negatived—108 to 54.

The will of the House was ultimately consummated by the passage of a resolution, in the following words:

"Resolved, That John Anderson has been guilty of a contempt and a violation of the privileges of the House, and that he be brought to the bar of the House this day, and be there reprimanded by the Speaker for the outrage he has committed, and then discharged from the custody of the Sergeant-at-Arms."

Whereupon, John Anderson was brought to the bar of the House, and addressed by the SPEAKER, as follows:

"John Anderson: You have been brought before this House upon a charge of having committed a breach of

its privileges, in attempting to bribe one of its members, filling a high and responsible situation. The House has patiently heard you in your defence, and, in proportion to the pleasure which it has derived from the concurrent testimonies in support of your character and good conduct heretofore, is its deep regret that you have deliberately attempted to commit a crime so entirely incompatible with the high standing you have heretofore maintained. You have the less apology for the attempt which you made, because you had yourself experienced the justice of this House but a few days before, by the passage of two bills in your favor, founded on petitions presented to the House. Your attempt to corrupt the fountain of legislation—to undermine the integrity of a branch of the National Legislature—is a crime of so deep a dye that even you must acknowledge and be sensible of it. And if, John Anderson, you could have been successful in such an attempt—if it were possible that Representatives of the people could have been found so lost to their duty as to accept your offer—you must yourself see the dreadful consequence of such a deplorable state of things: In your turn you might fall a victim; for your rights, your liberty, and your property, might in the end equally suffer with those of others. The House has seen with pleasure, that, at a very early period after making your base offer, you disclaimed, with symptoms of apparent repentance and contrition, any intention to corrupt the integrity of a member; and, in directing me to pronounce your discharge, the House indulges the hope that, on your return home, you will be more fully convinced of the magnitude of your offence, and by the future tenor of your life endeavor to obliterate, as far as it may be possible, the stain your conduct on this occasion has impressed on the high and honorable character you appear to have previously sustained. You are discharged from the custody of the Sergeant-at-Arms."

Whereupon, John Anderson was discharged from custody, and the House adjourned to Monday.

MONDAY, January 19.

Mr. LOWMEYER made a report on the petition of Gad Worthington, which was read; when, Mr. L. reported a bill for the relief of the said Gad Worthington; which was read twice, and committed to a Committee of the Whole tomorrow.

The Committee of Ways and Means were discharged from the further consideration of the claim of the representative of the late Caron de Beaumarchais, and it was referred to the Committee of Claims.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees; which was read twice, and committed to a Committee of the Whole.

The Committee of Elections were discharged from a further consideration of the petition of Armistead T. Mason, contesting the election of Charles F. Mercer; and leave was given to withdraw the same.

On motion of Mr. NEWTON, the Committee on Commerce and Manufactures were instructed to



H. OF P.

Military Appropriations.

JANUARY, 1818.

inquire into the expediency of erecting a light-house, at Windmill Point, on the Chesapeake bay.

On motion of Mr. HARRISON, the Committee on the Public Lands were directed to inquire into the expediency of authorizing the State of Ohio, to sell thirty-five sections of land, heretofore granted to the said State, for the support of the Scioto salt works, but which are no longer useful for that purpose.

On motion of Mr. HOPKINSON, the Committee on the Judiciary were instructed to inquire what fees have been charged and received by the district attorney, of the southern district of the State of New York, in prosecutions brought by him against retailers of spirits for vending them without license; and, also, what fees have been received and charged in the same cases, by the other officers of the United States, in the courts of the United States, in the said southern district of the State of New York, and that said committee have power to send for persons and papers.

The amendment proposed by the Senate to the bill entitled "An act for the relief of Winslow and Henry Lewis," was read, and concurred in by the House.

The amendment proposed by the Senate to the bill, entitled "An act allowing compensation to the members of the Senate and members of the House of Representatives of the United States, and Delegates of Territories, and repealing all other laws upon that subject," was read, and concurred in by the House.

Ordered, That a letter from Joseph Watson, laid before this House on the 16th instant, be referred to the committee, appointed on that day, to inquire into the conduct of certain clerks and other officers of the General Government.

## MILITARY APPROPRIATIONS.

On motion of Mr. LOWNDES, the House having resolved itself into a Committee of the Whole on the bill making appropriations for the support of the Military Establishment for 1818; the several appropriations passed without opposition, except one which provides for the appropriation of thirty-five thousand dollars to compensate such brevet officers as may be placed in service in such situations as to entitle them to pay according to their brevet rank.

This provision Mr. LOWNDES moved to strike out of the bill.

Whereupon, a debate arose on the expediency of continuing this allowance.

Those who supported the motion to strike out this section, were Messrs. LOWNDES, CLAY, SERGEANT, and REED of Maryland; and those who opposed it, were Messrs. MERCER, HARRISON, GOLB, BALDWIN, and SMYTH. Mr. CULBRETH and Mr. TAYLOR also expressed their views of it.

The motion was founded on the absence of any necessity for employing brevet officers in situations, entitling them to pay beyond that attached to their lineal rank, and was supported on that and other grounds. It was opposed on the ground that, as the law now authorizes the employment

and extra pay of such officers when commanding separate posts, &c., it contains a compact which the Government ought not to annul, between it and the officers; and, also, on the ground that, while the law exists, the appropriations ought to be made accordingly.

The motion to strike out this clause prevailed by a large majority.

The remainder of the bill having been gone through, the bill was reported to the House, and was ordered to be engrossed.

TUESDAY, January 20.

The Committee of Claims were discharged from the further consideration of the claim of the representative of the late Caron De Beaumarchais, and it was referred to a select committee; and Messrs. BASSETT, BALDWIN, SPENCER, INGHAM, and ERVIN of South Carolina, were appointed the committee.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the relief of certain friendly Creek Indians of the mixed blood; which was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore; which was read the first and second time, and committed to a Committee of the Whole to-morrow.

Mr. SERGEANT, from the Committee appointed on the petition of the President and Directors of the Bank of the United States, by leave of the House, reported a bill to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" which was read twice, and committed to a Committee of the Whole.

Mr. BASSETT, from the committee appointed on the petition of Commodore John Rodgers, made a report thereon; which was read; when Mr. B. reported a bill for the relief of Commodore John Rodgers; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. HITCHCOCK, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of changing the name of the "district of Erie," in the State of Ohio, so that the same may be hereafter known by the name of "the district of Cuyahoga."

Mr. BASSETT submitted the following amendment to the standing rules and orders of the House; which was read, and ordered to lie on the table until to-morrow:

"Every subject which, by leave of the House, shall be made the special order of the day for any particular day, shall, on that day, have precedence of all other orders of the day, except the unfinished business of the preceding day."

The SPEAKER laid before the House, a letter from the Secretary of the Treasury, transmitting his report of such "measures as may be neces-

JANUARY, 1818.

Brevet Rank—Honors to Kosciusko.

H. OF R.

sary for the more effectual execution of the laws for the collection of the duties on imported goods, wares, and merchandise;" which was referred to the Committee of Ways and Means.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting the annual report of the Commissioners of the Navy Pension Fund; which was ordered to lie on the table.

The SPEAKER also laid before the House a report of the Secretary of the Navy in relation to naval hospitals, made in obedience to a resolution of the 22d ultimo, accompanied with a report of the Commissioners of Naval Hospitals upon the subject of hospitals generally; which was referred to the Committee on Naval Affairs.

The bill making appropriations for the arrears of military supplies, was ordered to be engrossed for a third reading.

## BREVET RANK.

The House then resumed the consideration of the report of yesterday's Committee of the Whole, on the military appropriation bill for the year 1818.

The question to concur in the amendment which strikes out the allowance of \$35,000 to defray the expense of extra pay to brevet officers, who hold separate commands of districts or posts, according to their brevet rank—gave rise to much debate, of considerable interest, and was at length decided by yeas and nays. Messrs. MERCER, INGHAM, HARRISON, ROBERTSON, and PALMER, opposed the amendment, and Messrs. LOWNDES, PITKIN, JOHNSON of Kentucky, and FORSYTH, supported it.

On the one hand, it was said that a strained construction had been given to that provision of the law of 1812, which authorizes pay according to the brevet rank, to such brevet officers of the Army as are employed on separate stations, which provision was meant only to apply to necessary detachments, &c.; that the House had at the last session endeavored to remedy what they thought an evil in this respect, by an express provision of law, which had been rejected in the Senate; that, in the only way in which it was probable the object could be reached, it was proper for the House to attempt it, by refusing, in the exercise of their legitimate power, the appropriations required for that object; that if the construction given by the Executive to the law was correct, it was yet inexpedient to continue it, for reasons connected with the good of the service, and with the principle of equal justice to all officers similarly situated; and that brevet rank was in itself, especially under its present construction, injurious to the interests of the Army, and of the nation.

On the other hand, it was urged, that the law of 1812, so far as it regarded brevet rank, was in the nature of a compact, which this House ought not to violate; that the Executive had correctly construed the law, and could not well have done otherwise, particularly with the four brevet Major Generals, than by placing them on

separate command; that at present, of seventy-two brevet officers, about twenty-seven only were so stationed as to entitle them to brevet pay; that the number of brevet officers would daily diminish, and soon be entirely merged in the lineal rank, as they became entitled to promotion; that it was inexpedient to rob these officers, whose high character and services were generally acknowledged, of this little pittance, &c.; that, if it were admitted too great a latitude had been taken in the administration of the law, it could only be corrected by a modification or repeal of the law, and not by this indirect course, which would have the effect merely to shift the responsibility from the shoulders of the Executive officers on those of this House.

By such, and similar arguments, the motion was defended and opposed. On the question, the House agreed to concur with the committee in striking out the provision for brevet pay by a vote of 130 to 30, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Boss, Bryan, Burwell, Butler, Campbell, Claiborne, Cobb, Comstock, Cook, Crafts, Crawford, Culbreth, Cushman, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Folger, Forsyth, Fuller, Gage, Garnett, Hale, Hall of Delaware, Hendricks, Herbert, Herrick, Heister, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Johnson of Virginia, Johnson of Kentucky, Kinsey, Lawyer, Linn, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Merrill, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, Nesbitt, New, Newton, Owen, Parrie, Patterson, Pawling, Pitkin, Porter, Quarles, Reed, Rhea, Rich, Richards, Robertson of Kentucky, Rugles, Sampson, Savage, Sawyer, Schuyler, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Slocumb, Ballard Smith, J. S. Smith, Southard, Spangler, Speed, Strong, Stuart, Tallmadge, Tarr, Taylor, Tompkins, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Baldwin, Ball, Blount, Cloggett, Colston, Cruger, Forney, Harrison, Ingham, Irving of New York, Jones, Kirtland, Mercer, T. M. Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Pindall, Pleasants, Poindexter, Robertson of Louisiana, Seybert, Alexander Smyth, Spencer, Storrs, Terry, and Williams of New York.

The remaining amendment was then concurred in by the House, and the bill was ordered to be engrossed and read a third time to-morrow.

## GENERAL KOSCIUSKO.

Mr. HARRISON submitted the following resolution; which was read, and ordered to lie on the table:

Resolved, That a committee be appointed, jointly



with such committee as may be appointed on the part of the Senate, to consider and report what measures it may be proper to adopt to manifest the public respect for the memory of General Thaddeus Kosciusko, formerly an officer in the service of the United States, and the uniform and distinguished friend of liberty and the rights of man.

Mr. HARRISON accompanied his motion with the following observations:

The public papers have announced an event which is well calculated to excite the sympathy of every American bosom! Kosciusko, the martyr of liberty, is no more! We are informed that he died at Soleure, in France, some time in October last.

In tracing the events of this great man's life, we find in him that consistency of conduct which is the more to be admired as it is so rarely to be met with. He was not at one time the friend of mankind, and at another the instrument of their oppression;—but he preserved throughout his whole career those noble principles which distinguished him in its commencement—which influenced him at an early period of his life to leave his country and his friends, and in another hemisphere to fight for the rights of humanity.

Kosciusko was born and educated in Poland, of a noble and distinguished family—a country where the distinctions in society are perhaps carried to greater lengths than in any other. His Creator had, however, endowed him with a soul capable of rising above the narrow prejudices of a caste, and breaking the shackles which a vicious education had imposed on his mind.

When, very young, he was informed by the voice of fame that the standard of liberty had been erected in America—that an insulted and oppressed people had determined to be free, or perish in the attempt. His ardent and generous mind caught, with enthusiasm, the holy flame, and from that moment he became the devoted soldier of liberty.

His rank in the American army afforded him no opportunity greatly to distinguish himself. But he was remarked, throughout his service, for all the qualities which adorn the human character. His heroic valor in the field, could only be equalled by his moderation and affability in the walks of private life. He was idolized by the soldiers for his bravery, and beloved and respected by the officers for the goodness of his heart, and the great qualities of his mind.

Contributing greatly, by his exertions, to the establishment of the independence of America, he might have remained, and shared the blessings it dispensed, under the protection of a chief who loved and honored him, and in the bosom of a grateful and affectionate people.

Kosciusko had, however, other views. It is not known that, until the period I am speaking of, he had formed any distinct idea of what could, or indeed what ought, to be done for his own. But in the Revolutionary war he drank deeply of the principles which produced it. In his conversations with the intelligent men of our country, he acquired new views of the science of govern-

ment and the rights of man. He had seen, too, that to be free it was only necessary that a nation should will it, and to be happy it was only necessary that a nation should be free. And was it not possible to procure these blessings for Poland? For Poland, the country of his birth, which had a claim to all his efforts, to all his services? That unhappy nation groaned under a complication of evils which has scarcely a parallel in history. The mass of the people were the abject slaves of the nobles; the nobles, torn into factions, were alternately the instruments and the victims of their powerful and ambitious neighbors. By intrigue, corruption, and force, some of its fairest provinces had been separated from the Republic, and the people, like beasts, transferred to foreign despots, who were again watching for a favorable moment for a second dismemberment. To regenerate a people thus debased—to obtain for a country thus circumstanced, the blessings of liberty and independence, was a work of as much difficulty as danger. But, to a mind like Kosciusko's, the difficulty and danger of an enterprise served as stimulants to undertake it.

The annals of these times give us no detailed account of the progress of Kosciusko in accomplishing his great work, from the period of his return from America to the adoption of the new constitution of Poland, in 1791. This interval, however, of apparent inaction, was most usefully employed to illumine the mental darkness which enveloped his countrymen. To stimulate the ignorant and bigotted peasantry with the hope of future emancipation—to teach a proud but gallant nobility that true glory is only to be found in the paths of duty and patriotism—interests the most opposed, prejudices the most stubborn, and habits the most inveterate, were reconciled, dissipated, and broken, by the ascendancy of his virtues and example. The storm which he had foreseen, and for which he had been preparing, at length burst upon Poland. A feeble and unpopular government bent before its fury, and submitted itself to the Russian yoke of the invader. But the nation disdained to follow its example; in their extremity every eye was turned on the hero who had already fought their battles—the sage who had enlightened them, and the patriot who had set the example of personal sacrifices to accomplish the emancipation of the people.

Kosciusko was unanimously appointed Generalissimo of Poland, with unlimited powers, until the enemy should be driven from the country. On his virtue the nation reposed with the utmost confidence; and it is some consolation to reflect, amidst the general depravity of mankind, that two instances, in the same age, have occurred, where powers of this kind were employed solely for the purposes for which they were given.

It is not my intention, sir, to follow the Polish chief throughout the career of victory which, for a considerable time, crowned his efforts. Guided by his talents, and led by his valor, his undisciplined illy-armed militia charged with effect the veteran Russian and Prussian; the mailed cuirassiers of the great Frederick, for the first time,

broke and fled before the lighter and appropriate cavalry of Poland. Hope filled the breast of the patriots. After a long night, the dawn of an apparently glorious day broke upon Poland. But, to the discerning eye of Kosciusko, the light which it shed was of that sickly and portentous appearance, indicating a storm more dreadful than that which he had resisted.

He prepared to meet it with firmness, but with means entirely inadequate. To the advantages of numbers, of tactics, of discipline, and inexhaustible resources, the combined despots had secured a faction in the heart of Poland. And, if that country can boast of a WASHINGTON, it is disgraced also by giving birth to a second Arnold. The day at length came which was to decide the fate of a nation and a hero. Heaven, for wise purposes, determined that it should be the last of Polish liberty. It was decided, indeed, before the battle commenced. The traitor Poniski, who covered with a detachment the advance of the Polish army, abandoned his position to the enemy and retreated.

Kosciusko was astonished, but not dismayed. The disposition of his army would have done honor to Hannibal. The succeeding conflict was terrible. When the talents of the General could no longer direct the mingled mass of combatants, the arm of the warrior was brought to the aid of his soldiers. He performed prodigies of valor. The fabled prowess of Ajax, in defending the Grecian ships, was realized by the Polish hero. Nor was he badly seconded by his troops. As long as his voice could guide, or his example fired their valor, they were irresistible. In this unequal contest Kosciusko was long seen, and finally lost to their view.

"Hope for a season bade the world farewell,  
And Freedom shriek'd when Kosciusko fell."

He fell covered with wounds, but still survived. A Cossack would have pierced his breast, when an officer interposed. "Suffer him to execute his purpose," said the bleeding hero; "I am the devoted soldier of my country, and will not survive its liberties." The name of Kosciusko struck to the heart of the Tartar, like that of Marius upon the Cimbrian warrior. The uplifted weapon dropped from his hand.

Kosciusko was conveyed to the dungeons of Petersburg; and, to the eternal disgrace of the Empress Catharine, she made him the object of her vengeance, when he could be no longer the object of her fears. Her more generous son restored him to liberty. The remainder of his life has been spent in virtuous retirement. Whilst in this situation in France, an anecdote is related of him which strongly illustrates the command which his virtues and his services had obtained over the minds of his countrymen.

In the late invasion of France, some Polish regiments, in the service of Russia, passed through the village in which he lived. Some pillaging of the inhabitants brought Kosciusko from his cottage. "When I was a Polish soldier," said he, addressing the plunderers, "the property of the

peaceful citizen was respected." "And who art thou," said an officer, "who addresses us with this tone of authority?" "I am Kosciusko!" There was magic in the word. It ran from corps to corps. The march was suspended. They gathered round him, and gazed, with astonishment and awe, upon the mighty ruin he presented. "Could it indeed be their hero," whose fame was identified with that of their country? A thousand interesting reflections burst upon their minds; they remembered his patriotism, his devotion to liberty, his triumphs, and his glorious fall. Their iron hearts were softened, and the tear of sensibility trickled down their weather-beaten faces. We can easily conceive, sir, what would be the feelings of the hero himself in such a scene. His great heart must have heaved with emotion, to find himself once more surrounded by the companions of his glory; and that he would have been upon the point of saying to them—

"Behold your General! come once more  
To lead you on to laurel'd victory,  
To fame, to freedom."

The delusion, could have lasted but for a moment. He was himself, alas! a miserable cripple; and, for them! they were no longer the soldiers of liberty, but the instruments of ambition and tyranny. Overwhelmed with grief at the reflection, he would retire to his cottage to mourn afresh over the miseries of his country.

Such was the man, sir, for whose memory I ask from an American Congress a slight tribute of respect. Not, sir, to perpetuate his fame—but our gratitude. His fame will last as long as liberty remains upon the earth; as long as a votary offers incense upon her altar, the name of Kosciusko will be invoked. And if, by the common consent of the world, a temple shall be erected to those who have rendered most service to mankind, if the statue of our great countryman shall occupy the place of the "Most Worthy," that of Kosciusko will be found by his side, and the wreath of laurel will be entwined with the palm of virtue to adorn his brow.

WEDNESDAY, January 21.

Another member, to wit: from Massachusetts THOMAS RICE, appeared, produced his credentials, and took his seat.

The House proceeded to consider the amendment proposed yesterday by Mr. BASSETT, to the standing rules and orders of the House, and the same being modified to read as follows:

"Every subject which, by leave of the House, shall be made the special order of the day for any particular day, (and which shall in all cases be decided without debate,) shall, on that day, have precedence of all other orders of the day, except the unfinished business of the preceding day."

The question was taken to agree thereto, and determined in the negative.

A message from the Senate informed the House that the Senate have passed "a resolution directing the publication and distribution of the journal, and proceedings of the convention which



H. OF R.

Judicial Records—Kosciusko—Indian Affairs.

JANUARY, 1818.

formed the present Constitution of the United States," in which resolution they ask the concurrence of this House.

Engrossed bills of the following titles, to wit:

An act making appropriations for the payment of the arrears which have been incurred for the support of the Military Establishment previous to the 1st of January, 1810; and.

An act making appropriations for the support of the Military Establishment of the United States for the year 1818, were severally read the third time, and passed.

## JUDICIAL RECORDS.

The remainder of the day was spent in Committee of the Whole in debating the bill prescribing the effect of certain judicial records.

Mr. PAWLING, Mr. PINDALL, and Mr. STORRS, delivered speeches of considerable length against the bill, and Mr. SPENCER replied, also at considerable length.

The Committee having risen, and the bill being before the House—

Mr. FORSYTH, to try the principle of the bill, which, having been so largely debated, must by this time be perfectly understood, moved to postpone the bill indefinitely.

The question on this motion was taken without debate, and decided in the affirmative by a large majority.

So the bill, after so much learning, labor, and ability displayed upon it, was finally rejected.

THURSDAY, January 22.

Mr. FLOUNT presented a petition of the third convention of the Manumission Society of Tennessee, praying that some measures may be adopted to ameliorate the condition of the slave population of the United States.—Referred to the Committee appointed on the petition of the representatives of the annual meeting of the Society of Friends, in Baltimore.

Mr. LOWDES, from the Committee of Ways and Means, to whom was referred the bill from the Senate, entitled "An act to allow the benefit of drawback, on merchandise transported by land conveyance, from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise;" reported the same without amendment, and it was ordered to be read a third time to-morrow.

On motion of Mr. BARBER, of Ohio, the Committee on the Public Lands were instructed to inquire into the expediency of increasing the salary of the register and receiver of public moneys at Marietta.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act in addition to an act, making appropriations for repairing certain roads, therein described," in which they ask the concurrence of this House.

The bill was read twice, and committed to the committee appointed on that part of the President's Message which relates to roads, canals, and seminaries of learning.

The resolution from the Senate, directing "the publication and distribution of the journal, and proceedings of the convention which formed the present Constitution of the United States," was read twice, and committed to the committee appointed by this House on the 7th instant, upon that subject.

## GENERAL KOSCIUSKO.

Mr. HARRISON, of Ohio, having withdrawn the resolution he offered for consideration yesterday, to which he understood there was considerable objection, on the ground of its being in a joint form, moved, in lieu thereof, a resolve to the following effect, with a view to expressing the sense of this House alone on the subject:

*Resolved*, That this House, entertaining the highest respect for the memory of General Kosciusko, his services, &c., the members thereof will testify the same by wearing crape on the left arm for one month.

After some debate, in which this motion was supported by Mr. HARRISON, and opposed by Messrs. REED, FORSYTH, and DESHA—

Mr. HARRISON withdrew his resolution altogether, seeing it was opposed, and that the want of unanimity would destroy its value—satisfied that, in moving and supporting it, he had acquitted his conscience.

[In the short debate on this question, the merits of Kosciusko, the advocate of freedom, and the friend of man, were fully admitted; but, it was shown, that no such respect as was now proposed had been paid to any of the departed worthies, native or foreign, who had aided in the achievement of our independence, except in the single case of General WASHINGTON, which was admitted to be an exception to all general rules. Having as recently as 1810, refused a like tribute to the memory of Colonel William Washington, on his decease, it was too late now, it was deemed, to commence a new system in this respect.]

## INDIAN AFFAIRS.

Mr. SOUTHARD, from the committee appointed on so much of the President's Message as relates to Indian Affairs, made a report upon the subject, which was read; when, Mr. S. reported a bill, for establishing trading trading-houses with the Indian tribes, and for the organization and encouragement of schools for their instruction and civilization; which was read twice, and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred so much of the President's Message as relates to Indian affairs, report: That the capital appropriated for prosecution of Indian trade was, in 1809, augmented from \$200,000 to \$300,000; which sum, by succeeding acts, has been continued down to this period. Of the capital thus appropriated, \$290,000 have been drawn from the Treasury, and actively employed under direction of the Superintendent of Indian Supplies. Under the various laws enacted for the support and encouragement of Indian trade, eight factories or trading posts have been established at the following points:

1. Fort Mitchell, Georgia.
2. Chickasaw Bluffs, Mississippi Territory.

JANUARY, 1818.

Naval Discipline.

H. OF R.

3. Fort Confederation, on the Tombigby river.
4. Fort Osage, on the Missouri river, near the mouth of the Osage.
5. Prairie du Chien, on the Mississippi, near the mouth of the Wisconsin river.
6. Ordered to Sulphur Fork, on Red river, formerly at Natchitoches.
7. Green Bay, on the Green Bay of Lake Michigan, Illinois Territory.
8. Chicago, Lake Michigan.

The committee deem it unnecessary to present a detailed view of the profits and loss of each particular agency, and submit, in relation to the general establishment, that it has been a losing institution, owing, it is presumable, to adventitious circumstances, originating in our late belligerent state, and not growing out of any defect in the organization or government of the trade. From the first operation of this traffic, up to December, 1809, it sustained a loss of \$44,538 36. Since that period the trade has been more successful, it having yielded a profit, on the capital actually vested in the merchandise, of about \$15,000 annually, after covering a loss of \$13,369, which accrued in consequence of the capture of several trading posts by the enemy during the late war.

In this view of the subject the committee have not embraced an item of \$20,000, annually disbursed at the Treasury for the Superintendent and his clerks, the factories, &c., and which, when applied to the concern, as necessarily it must be in making an estimate of profit and loss, will absorb the profits arising from the funds employed in trade, and furnish an annual charge against the establishment of \$5,000. This annual loss being sustained by the Treasury, pursuant to appropriations for the pay of the Superintendent and his assistants, is a loss to the Government but not to the concern, in the diminution of its capital, which, under all circumstances, remains stationary.

The act passed 29th of April, 1816, giving to the President the discretionary power of licensing foreigners to a participation in the Indian trade, is less exceptionable in theory than in practice. With all the guards of the act and precautions of the Executive, it has been found impracticable, under dispensing power, to avoid the admission of men of vicious habits, whose conduct tends to interrupt the peace and harmony of the United States and the Indian tribes; nor can such be introduced while the door is left open to foreign traders; either admit or exclude all. A system partial in its character will, by inhibiting a worthy applicant, do him injustice; and, by permitting the fraudulent speculator, the savage for whom the provision is made and the country are wronged. The Executive must rely on recommendations in the exercise of the power deposited with him, and, no doubt, is often deceived in the character of persons recommended to Presidential patronage.

The committee are apprized that the exclusion of foreigners will be attended with a momentary irritation, and a temporary expense to the nation, as the inhibition will devolve on the Government an obligation to increase its trading posts and augment Indian capital, so as to supply the wants of such tribes as are now dependent on foreign trade. The prosecution of this policy will be strongly aided by the additional vigor with which the system will inspire the commercial enterprise of the American citizen. The committee has been unable to ascertain with any degree of accuracy the amount of capital employed by foreigners

15th CON. 1st SESS.—26

in this trade, consequently it is somewhat at a loss to suggest the amount necessary to fill the vacuum that may be occasioned by the withdrawing of foreign capital; but, from the best lights which have been afforded, the committee are induced to believe that — dollars, in addition to the present appropriations, having the auxiliary exertions of individual enterprise, and aided by a superintendence at St. Louis, or some other suitable place, could be amply sufficient to accomplish what must be desirable in the Government—the supply of those dependent upon its humanity upon terms advantageous to both.

Your committee further report, that they consider supplying the Indian tribes with such articles of merchandise as are necessary to meet their pressing wants is not only an act of humanity, but sound national policy; and that every measure that would tend to civilize those savage tribes ought to be pursued by the United States. Your committee are induced to believe that nothing in the power of Government to do would have a more direct tendency to produce this desirable object than the establishment of schools at convenient and safe places amongst those tribes friendly to us. Your committee are aware that many plausible objections may be raised against the proposed measure, but we believe that all difficulties on this subject may be surmounted, and that the great object may be carried into practical effect. In the present state of our country one of two things seems to be necessary—either that these sons of the forest should be moralized or exterminated. Humanity would rejoice at the former, but shrink with horror from the latter. Put into the hands of their children the primer and the hoe, and they will naturally in time take hold of the plough; and as their minds become enlightened and expand, the Bible will be their book, and they will grow up in habits of morality and industry; leave the chase to those whose minds are less cultivated, and become useful members of society.

Great exertions have of late years been made by individuals and missionary societies in Europe and America. Schools have been established by those humane and benevolent societies in the Indies, among the Hindoos and Hottentots; and notwithstanding that superstition, bigotry, and ignorance, have shrouded those people in darkness for ages, thousands of them have already yielded to instruction.

The Government has no such difficulties to encounter; no Bibles or books to translate into foreign or other languages. Only establish some English schools; the experiment may be tried at a very small expense. The committee believe that increasing the number of trading posts, and establishing schools on or near our frontiers for the education of Indian children, would be attended with beneficial effects both to the United States and the Indian tribes, and the best possible means of securing the friendship of those nations in amity with us, and, in time, to bring the hostile tribes to see that their true interest lies in peace, and not in war. And therefore the committee report a bill.

## NAVAL DISCIPLINE.

Mr. JOHNSON, of Virginia, rose for the purpose of submitting to the House a proposition for amending the act of 1800, establishing rules for the government of the Navy. He begged leave to premise that he was a friend to the Navy; that he considered it a most important portion of the military defence of the country—and an



H. OF R.

Naval Discipline.

JANUARY, 1818.

establishment, which, of a size and force proportioned to our resources, and under wholesome and just regulations, he believed would always be found of the most essential service, as well in defensive as in offensive operations. But, his attention having been called by recent circumstances to the act to which he had referred, he was, on mature deliberation, fully convinced that the act ought to be amended. He had seen, he said, a distinction made by the provisions of that act between the superior and inferior officers of the Navy, which, in his opinion, would disgrace the most despotic Government in the world. He asked if the superior officers of the Army and Navy had not sufficient distinction over the inferior officers in the honors, and in the emoluments of their station, and in the rewards and gratitude of the public? When, forgetful of self-respect, and of their duty to the public, they should commit crimes, why should a distinction still be made between them and their inferiors? In this country, he understood, that all men, committing crimes, equally violate the laws, and ought therefore to stand on the same footing. The only difference between them should be this: that stronger testimony would, in the opinion of the jury, be required to convict a man of a fair, high and honorable character, than one of a different description. Will you, said Mr. J., make the distinction that one officer shall be punished by death for an offence which, in another, is punishable by a simple reprimand? Look at the law of the government of the Navy. You will find that the inferior who commits an assault on a superior officer, forfeits his life! Why punish him more severely than for the like offence you would any other citizen of the United States? If any other citizen commits an assault, even on the officer, what is his punishment? If it be within a State, he is liable to an indictment, and to fine and imprisonment, light in proportion to the lightness of his offence; he is also liable to satisfaction for damages by the party injured, where the damages given are proportioned to the injury received. Why should so important a distinction in this respect be made between officers and citizens? As this law had been passed many years ago, and as perhaps the attention of the members had not been particularly directed to it, Mr. J. read, for their information the following clauses of it:

Art. 14. No officer or private in the Navy shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, on pain of death, or such other punishment as a court martial shall inflict."

Art. 20. No commanding officer shall, of his own authority, discharge a commissioned or warrant officer, nor strike nor punish him otherwise than by suspension, or confinement, &c. Any commanding officer offending herein shall be punished at the discretion of a court martial."

I presume, said Mr. J., no question to be more clear than that no court can impose the penalty of death, unless the power to punish by death be

expressly given. How incompatible is such a distinction, as is contained in these clauses, with the genius and spirit of our Government! What a libel on the principles of freedom and equality everywhere claimed in the United States! To what ridicule would it subject the inferior officer who should boast of the Declaration of Independence and the equality of rights in this country. I ask if the discrimination be just? If the offences committed by the superior officers be not the most likely to prove injurious to the service? the most calculated to produce demoralizing and bad effects by their example? I have no question that all evil and bad examples set by men high in office, and in the confidence of the country, descend on society with the accumulated force of gravity. Yet, whilst the same act, if performed by an obscure subaltern, would be ridiculed and condemned—if performed by some distinguished and popular favorite, it would, if not openly approved, at least find many apologists. The true policy of this Government is to afford equal protection to all; to deal out equal and exemplary punishments against all offenders. If any distinction be made, I would punish with most severity the man high in office, the popular idol, who should become forgetful of his duties and obligations to society. There is little danger that the rights of the superior officer in the Navy will be violated, his person attacked, or his feelings insulted, by those under his command. Experience, and recent occurrences, prove to us, that the subaltern officer is in a very different situation. I allude to a recent occurrence on the Mediterranean station. It has been published to the world, and, so far as I am informed, never contradicted, that, whilst on that station, a most distinguished naval officer, Captain Perry, did so far forget his own dignity as to order in his presence Captain Heath, of the Marine Corps, and first load him with the most vulgar and abusive epithets, and then proceed to inflict blows on his person—and immediately order him under an arrest. Can such conduct be tolerated in this country? I hope, I trust not. But Captain Perry has submitted to, and received the sentence of a court martial. I will not at present speak of the proceedings of that court. I am not possessed of the facts in a way to authorize me. If the present resolution should be adopted, it is my intention to call for the proceedings of that court. Sir, if Congress do not interpose its aid to prevent the recurrence of similar abuses in that department, I shall consider the sun of glory, which had risen with such unusual splendor on the Navy of the United States, as shorn forever of his beams. What man of honor, under existing circumstances, with the present law, would either enter your Navy himself, or permit his son to do so? I would as soon become the miserable slave, who licks the dust from the foot of despotism, as to enter, with the commission of a subaltern officer, the Navy of the United States, with the existing law, under the command of a proud, supercilious, and tyrannical commander. I believe that no acts of distinguished valor, and great importance to

JANUARY, 1818.

Naval Discipline.

H. OF R.

society, were ever performed except by those who possess strong passions. Passions are the winds which fan the sacred flame of human genius. When regulated and properly directed, they raise the owner of that rare gift to the most sublime heights of glory and renown. But, when irregular and unrestrained, they as frequently precipitate the possessor of the most brilliant genius into the gulf of ruin and destruction. It is the province and the duty of the Legislature, by salutary laws, to curb and restrain the wild, irregular, and pernicious sallies of human passion.

No man, said Mr. J., deserved more of his country for his gallantry than Captain Perry, the hero of Lake Erie; he who, during the late war, shed the brightest beam on this nation by which its course was lighted. Sir, said Mr. J., I should despise myself, if I possessed a heart so cold as not to participate in the general feelings of respect, gratitude, and admiration for the man who, by his prowess, achieved such unfading glory to the nation. But the most radiant beam which ever played about the head of the hero may be obscured, and the most blooming laurels may become tarnished by subsequent acts of tyranny and oppression. Who can behold, without the deepest regret, and without being ready to drop a tear for the frailty of poor human nature, the hero, surrounded by the trophies of military fame and renown, basking in the sunshine of popular favor, enjoying the respect and confidence of his own nation, and commanding the respect and applause of foreign nations—stooping from his elevation, forgetful of his own dignity and the principles of justice, bringing before him a subaltern officer—first bestowing on him vulgar and scurrilous abuse, and then violating his person by blows! Sir, the American flag, wherever it waves, whether it floats in the soft, voluptuous, and demoralizing air of the Mediterranean, or glitters in the northern blast, should afford protection, complete and ample protection, to every citizen who sails under it, from the common sailor who stands before the mast, to the proud commodore who commands the squadron.

I hope the resolution will be adopted. I am influenced by no other consideration than a regard to justice, and a just regard for the true and lasting prosperity of the navy. To all the parties, Captain Heath, Captain Perry, and Commodore Chauncey, I am a perfect stranger.

Mr. J. then handed to the Chair the following resolution:

Resolved, That the Committee for the Department of the Navy be instructed to inquire into the expediency of so amending the act entitled "An act for the better government of the Navy of the United States," approved April 23, 1800, which imposes the penalty of death on an officer or private in the Navy, who shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, as to make the punishment, in case of an officer, a forfeiture of his warrant or commission, and dismissal from the service; and in the case of a private, dismissal from the service; and so to amend the said act as to subject the superior officer who shall

strike, or draw, or offer to draw, or raise any weapon against his inferior officer, to a forfeiture of his commission, and dismissal from the service. And further, to provide that no officer dismissed from the service of the Navy of the United States, for either of the causes above enumerated, shall be reinstated by the President of the United States.

Mr. HARRISON, of Ohio, said he had always made it a rule to vote for inquiry into any subject, when proposed by a member. In consistency with that rule, he should vote for this motion; but he thought it proper to say, that the resolution contained principles which he could never sanction in the shape of law, and on which, therefore, he reserved to himself the right to decide when the question should in that shape come before the House.

Mr. SMITH, of Maryland, suggested the propriety of referring the subject generally to the committee for inquiry, without specifying any particular amendment to the laws for the government of the Navy.

Mr. FORSYTH, of Georgia, moved to amend the resolution by striking out the first part of it, so as to confine the inquiry to that part of the act referred to, which relates to the punishment of a superior officer for misconduct to an inferior. He could not think it necessary to inquire into the expediency of the remaining part of the proposition, since, to amend the laws as therein proposed, would have a tendency to destroy subordination; at the same time, however, he agreed with the gentleman from Virginia, as to the necessity of providing for the punishment of a superior officer who so far forgets the respect due to his country and to his station, as to treat his inferior with contumely and violence. With respect to the circumstances which had given rise to this motion, Mr. F. said he knew no more than any other member of this House. The case referred to, as he and others had seen it stated, appeared to be an extraordinary one; but, he said, he had always reserved to himself the right to form an opinion on such transactions when all the circumstances should be before him, and not on the *ex parte* statement of any of the parties concerned.

Mr. JOHNSON said he hoped the proposed amendment to his motion would not be adopted; for, if his whole proposition should be incorporated into the existing acts, it would not even produce an equality of punishment. Under the present law, for an assault of an inferior on a superior officer, courts martial were authorized to award the sentence of death; whilst, reversing the facts, the offender was liable to no other punishment than dismissal from the service. Why, he asked, this difference? Mr. J. said he had no doubt thousands of instances might be found in which the hearts of the inferior officers were actuated by as patriotic and honorable sentiments as that of the superior officer, who struts on the quarter-deck with his pair of epaulettes. Was there any reason why a distinction should be made, in our laws, between persons who commit crimes of the same grade? When on the land



H. R. 8.

Commutation Bill.

JANUARY, 1818.

our laws were so ameliorated as to punish even a soldier in the second degree, with imprisonment in a jail or penitentiary—(such was the case in Virginia, and in Pennsylvania, and in other States)—why punish an officer in your service by death for a mere assault? But it was said that an equalization of punishment for these offences would produce insubordination. He conceived not; for even if the laws were amended as he proposed, the inferior officer committing the offence would be liable to be disgraced from the service. If a superior officer should commit a like offence, with the stronger inducements of patriotism and respect for the laws which belong to higher station and maturer age to refrain from it, no higher punishment would await him. Mr. J. repeated, that he trusted the amendment would not prevail.

Mr. PLEASANTS, of Virginia, said that before the amendment had been moved by Mr. FORBES, he was about to object to the resolution on the ground of the specific direction it contained to the committee as to the particular points to be inquired into. He thought the subject a proper one for inquiry, as respected the duty of the House and the interest of the nation. He would not give any opinion on the transactions adverted to as having occurred in the Mediterranean, because he had seen but one side of the question, to which indeed much respect was due, and the more so as no reply had been made to it. That statement, he very much regretted to say, did set the conduct of the officer who had stood so high in his esteem, in a point of view which he had regarded with pain. His objection to the inquiry was of a limited nature, when, it appeared to him, the whole law, or the several laws on the subject, should be open to the investigation of the committee. The committee would then inquire whether abuses had been committed, and direct their attention to the means of preventing them for the future. He should vote against the present amendment, and, if it was negatived, should propose an amendment for a general inquiry.

Mr. FORBES withdrew his motion, with the intimation that, he should not have made it, had he been apprized that the chairman of the Naval Committee (Mr. PLEASANTS) meant to make any motion on the subject.

Mr. PLEASANTS then moved to amend the resolution before the House, so as to read as follows:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire whether any, and, if any, what alterations are proper to be made in the several laws for the government of the Navy."

Mr. JOHNSON said, as his object was accomplished in drawing the attention of the House and of the committee to the particular point which he wished to see investigated, he would accept the proposed amendment as a modification of his own motion.

And thus modified, the resolution was agreed to.

Mr. JOHNSON then submitted the following resolution, the adoption of which, he thought, followed as a necessary consequence of that just agreed to:

*Resolved*, That the Secretary of the Navy be directed to report to this House the proceedings of a certain court martial, ordered by Commodore Isaac Chauncey, on the Mediterranean station, for the trial of Captain Oliver H. Perry; also, the proceedings of a court martial, on the same station, ordered by the same officer, for the trial of Captain John Heath, of the Marine Corps."

The resolution was adopted without opposition.

#### COMMUTATION BILL.

On motion of Mr. JOHNSON, of Kentucky, the House proceeded to the consideration of the bill, now lying on the table, for the commutation of soldiers' bounty lands, with the amendments proposed thereto.

Mr. GARNETT, of Virginia, moved to postpone indefinitely the whole subject, believing that it had been so widely debated as to make further debate thereon not necessary to ascertain the sense of the House.

Mr. JOHNSON, of Kentucky, said he did not, after all that had been said, intend to enter into the debate; but contented himself with calling the yeas and nays on the question.

Mr. COBB, of Georgia, made some observations to show why he thought the bill ought not to be indefinitely postponed; because he believed that the passage of a bill on the principle of this, would be important not only to the interests of the improvident soldiers, whose case had been generally referred to in the former debate, but to those also of a different character, whose interest and wish it was not to settle the lands which they receive from the Government, preferring to remain in the Southern country. He regarded the measure also as one of policy; inasmuch as the depreciated rates at which the warrants passed into the hands of speculators, besides the United States losing the value of these lands, deteriorated also the value of other lands belonging to the Government. Enlarging on these views of the subject, Mr. C. expressed his opinion very decidedly to be, that some such act ought to pass, and in the shape proposed by Mr. ROBERTSON's amendment, to give a certain quantity of United States' stock in lieu of money, for the land warrants, the certificates of which, he thought, being of small amount, and bearing interest, would circulate freely from hand to hand, and would be more acceptable to the holders of the warrants than any price the speculators could give.

Mr. LINN.—After so much has been said, both by the friends and opposers of this bill, it may appear vanity in me, a young member in this House, to attempt to make any remarks, with a view to throw new light on this subject. I shall, however, beg the indulgence of the House for a few moments, while I offer some of the reasons that will govern me in giving my vote on this question.

The friends of this bill, sir, profess to have three objects in view: first, to prevent speculation, secondly, to benefit the soldier; and, thirdly, to benefit the Government itself. These are certainly great and desirable objects; and if we can obtain

JANUARY, 1818.

Commutation Bill.

H. or R.

them, or even a part of them, it may excuse for the time we have spent in deliberating and debating upon the subject; and if I could be persuaded that any one of these objects would be obtained, I should hesitate before I gave it my negative.

But, sir, can these objects be obtained by the passage of this bill? Will it prevent speculation? No, sir, I apprehend it would rather encourage and facilitate it. What would the speculator, with the law in his hand, say to the poor soldier who wanted to get money for his land? He would naturally magnify his difficulties; he would tell him of the distance he must go, of the expense and trouble; he would say to him, your land is not worth more than \$100; that is the value your Government has put upon it: this you can have, but in order to get it you must encounter all this expense and trouble. Come, my good fellow, (he would say to him) if you want money, I will give you 50 or 60, or perhaps 70 dollars, in cash, and you will have no more trouble about it: and no doubt a bargain would be struck. And this would be the way the soldier would be cheated out of his land.

I think, sir, it is vain to attempt to stop speculation. Is it not daily practised, even in regard to our moneyed institutions? Scarcely a member in this House, sir, but has got paper in his pocket that would command the specie in the State he is from, that will not be received in this city but at a discount of from two to ten per cent. I merely mention this to show, that it is vain to expect by this bill to save the soldier from the hands of the speculator.

Sir, I do think the best and safest course is to let the soldier alone, and give him his land according to contract; and do not undervalue it so much as to induce him to almost give it away.

By this time, sir, the value of those lands begins to be known, and the soldier will be able to get more, even from the speculator himself, than you are about to offer.

When the Government agreed to give the soldier bounty land, they intended to guard him from his own imprudence as well as from the cunning arts of the speculator. Those guards ought to be continued; the soldier ought to have time to reflect, and to consult his friends, after he returns home, and after he becomes a free man, before he has power to sell and convey. I will venture to predict, sir, that if we take off those restraints, and enable the soldier to sell as soon as he is intitled to his bounty, more than half, yes I think I may say, nine-tenths of all who are willing to sell their land would do so before they leave the camp. Being far from home, and not knowing nor regarding the value of the land, the officers would be able to purchase it for a mere trifle; whereas, if they have time to mingle with their country friends, and receive their counsel and advice, they would be more likely to get something like its value.

But, sir, to take another view of this subject, and look a few years forward, supposing it should turn out that a very considerable proportion of our soldiers should commute their land to Gov-

ernment for money, what might we expect to hear in a very short time? Would they not make application to Government for remuneration? We might then be told, (and told with truth,) that we had gotten their land for \$100, and had sold it, at the least, for \$320; and that it would be an act of injustice to withhold the surplusage from the war-worn soldier who had fought your battles and bled in the defence of his country's dearest rights. Sir, I fear that there would be a long tail to this business, and scarcely an end to legislating upon it. Is it not better to stop before we get into difficulties, and leave the soldier in the enjoyment of that bounty his country has so generously given him, and not pass a law that will have the effect to undervalue it.

For these reasons, sir, and many more that might be urged, I am opposed to this bill. Believing no one of the objects intended will be obtained, believing that no good will be effected by the passage of this bill, and that much evil may be the result, I shall vote for the indefinite postponement.

Mr. LOWNDES opposed the postponement in a short speech. If an arrangement, he said, could be made in respect to the bounty lands, at once beneficial to the soldier and the Government, there could be no doubt of the expediency of its adoption. That the measure before the House would be beneficial to both, he had no doubt, for reasons which he stated at large. The soldier, he conceived, would be benefitted by receiving for his land warrant a price higher than that now given, which he understood from various quarters was not more than from fifty to seventy-five dollars; whilst the Government would be benefitted by reclaiming into its possession, and withdrawing from the market a body of land, the extent of which might, for some years, reduce the value of the land of the United States in that market. The loss the United States might sustain from that competition, Mr. L. calculated might be, all circumstances considered, from sixty-two to seventy-five cents for each acre thrown into the market; and that price, therefore, it would be decidedly the interest of the Government to give for these lands. Having demonstrated that the measure, therefore, would equally benefit the United States and the soldier, he had no doubt of its expediency. At the same time he objected to the amendment last proposed, to give, in lieu of money, stock bearing an interest of six per cent.—because it would not be in effect equally beneficial to the soldier, and not as beneficial to the United States, whose money in the Treasury was not worth six per cent. per annum, (the interest it was proposed the certificates should bear,) which was demonstrated by the fact, that it could not obtain at par its own six per cent. stock.

Mr. ROBERTSON, of Louisiana, rose in opposition to the proposition for postponement. The benefit of this measure to the soldier could not be doubted; but, if it were, it was entirely at the option of the soldier to avail himself of the provisions of the bill or not—his rights, therefore, not being in the least affected by it. As to the



United States, Mr. R. contended, that the benefit of the measure would be, if possible, still greater, by bringing all that land again within its power, which, if thrown into market in competition with the United States, would set at naught all the calculations of the Secretary of the Treasury, or of the Committee of Ways and Means, on the product of the annual sales of the public lands. The lands included in the military survey were of greater value than was generally known, and infinitely more important to the United States than his friend (Mr. Lowndes) appeared to estimate them; as it was probable they would, in the course of a few years, sell for three or four dollars per acre, &c.; and he could not see why they should be valued at less than they would sell for. Thus an important advantage would accrue to the United States, and at the same time a striking benefit to the soldier, by the adoption of the measure; it was now proposed to reject.

The question was at length taken on the proposition to postpone indefinitely; and the vote thereon stood—for the indefinite postponement 77, against it 77, as follows:

**YEAS.**—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Basour of Virginia, Bateman, Beecher, Bland, Bryan, Butler, Clagett, Claiborne, Colston, Cruger, Husham, Drake, Edwards, Ellicott, Folger, Foster, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hopkinton, Hubbard, Hunter, Huntington, Ingham, Johnson of Virginia, Kinsey, Kirtland, Lawyer, Linn, Livermore, McLane, W. Maclay, W. P. Maclay, McGee, Marchand, Middleton, Moore, Newton, Ogle, Orr, Paxling, Potter, Rhea, Savage, Sawyer, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb, J. S. Smith, Speed, Spencer, Storrs, Strother, Tarr, Thompson, Tyler, Upham, Westerlo, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

**NAYS.**—Messrs. Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Bassett, Bayley, Bellinger, Bennett, Bloomfield, Boden, Burwell, Campbell, Cobb, Cook, Crafts, Crawford, Culbreth, Deha, Earle, Floyd, Forsyth, Gage, Hale, Harrison, Hendricks, Heister, Irving of New York, Johnson of Kentucky, Jones, Little, Lowndes, Marr, Mason of Massachusetts, Mercer, Merrill, Moseley, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, New, Ogden, Owen, Parris, Parrott, Patterson, Peter, Pindall, Poyants, Quarles, Reed, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Rugger, Sampson, Silsbee, S. Smith, B. Smith, Alexander, Bayth, Southard, Spangler, Strong, Stuart, Tallmadge, Taylor, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, and Whitman.

The House being thus equally divided, the Speaker, declaring the pleasure it gave him to give his vote to preserve in existence a measure which he believed to be fraught with the greatest benefit to the soldier and to the nation, voted against the proposed indefinite postponement. So the question was rejected.

The question then recurred on the amendment

moved by Mr. ROBERTSON, which proposed to substitute stock of a certain description in lieu of money, as the commutation of the soldiers' right to bounty lands.

Mr. JOHNSON, of Kentucky; Mr. SMYTH, of Virginia; Mr. BUTLER, of New Hampshire; and Mr. PETER, of Maryland, expressed their views on the subject, the two former at greater length, and the latter incidentally.

Mr. ROBERTSON's proposition was eventually negatived 76 to 65.

Mr. SMYTH, of Virginia, then moved to change the amount of commutation to be given for each 160 acres, by adding the word "sixty" to one hundred and sixty dollars.

Mr. SMYTH said he preferred the amendment of the honorable Speaker, (Mr. CLAY,) which proposed a commutation in money, to the amendment of the gentleman from Louisiana, (Mr. ROBERTSON,) which proposed a commutation in stock, if the former could be amended by raising the sum to be given to the soldier for his land to one dollar per acre. The merits of the soldiers had been already amply enforced. They deserved regard, and if we can benefit them, and at the same time greatly promote the public interest, it is expedient to do both. He would, he said, advocate the expediency of passing the bill in the form proposed by the honorable Speaker, with the amendment suggested, on the ground that it would promote the interest of the Illinois Territory, and the interest of the Treasury.

As to the interest of the Illinois Territory, Mr. S. said he would observe, that the accumulation of large quantities of land in the hands of a few persons he deemed a circumstance most pernicious to the prosperity of any country. He presumed that the gentlemen from Kentucky and Tennessee would be able to confirm that assertion. Where such an accumulation happens, said Mr. S., the lands are kept out of cultivation, and an enormous inequality of landed estate is produced. Experience has proven the superior wisdom of the laws of the United States, which establish the mode of selling the public lands. They are offered as they are wanted—a part at a time—and sold in small quantities, at such a price as prevents engrossing. The lands thus sold are purchased by men who settle on and improve them immediately. But should speculators obtain possession of large quantities of the lands, they will not cultivate them, neither will they sell them immediately; and should they lease the lands, the system of agriculture introduced will be wretched; improvements will be unknown; the people will be abject, and the State will have neither the population nor the resources to which it will be entitled, and which it would have obtained had the lands been wisely distributed.

The prosperity of the Illinois Territory requires that we should, if possible, recover the lands improvidently given away, and that we should adopt that mode of sale best calculated to fill the country with a numerous and industrious people. It is desirable to have a compact population from this place to the Mississippi. The Illinois Terri-

tory is the only vacancy, and repurchasing the lands is the only mode likely to produce a dense population in a short time. Neither soldiers nor speculators are well fitted to make new settlements. Should the bill pass, instead of the speculator you will purchase from the soldier, and sell to the settler; but you will do it in a manner more fair and liberal; in short, in a manner dictated by a regard for the public welfare; whereas the speculator, as well in making his purchases as his sales, will be regulated in his conduct solely by the consideration of his own interests.

Let us see, said Mr. S., how the interests of the Treasury will be affected. You are selling land; you obtain from the sale a growing revenue; it doubles in about five years. In 1810 you sold lands to the amount of \$696,000, and in the first half of 1815 you sold lands to the amount of \$697,000. Land is the only article you have for sale; and, if you think proper, you may be without a competitor in selling unimproved lands. You desire to sell for the price of two dollars per acre, and to have the land settled and improved immediately, thereby to increase your resources. Will you then allow five millions of acres of the best land to fall into the hands of speculators at fifty cents per acre? If you do, whatever may be their course, the Treasury will be injured. If they sell, they will overstock the market which you supply, and they will have obtained money which you would have obtained. If they hold up the land they will keep it unproductive, and receive a profit from the rise of its value which you would have received. And then you will have competitors in the market in selling new lands, which will lessen your revenue from that source. Your interest may be compared to that of a manufacturer, who ought to sacrifice anything rather than his manufacture, the only article he has for sale. Should he pay for their services with the article which he manufactures his workman, equally improvident and necessitous as your soldiers, they will sell at a reduced price to dealers, who will undersell the manufacturer. Prudence will instruct him to keep up the article which he manufactures, to prevent its becoming too plenty in the market, and thus to command for it a ready sale at a good price. Such should be the policy of the Government as to new lands. Let us, therefore, preserve our monopoly of the sale of new lands, and use it for the public good. So very important is the object to be attained, that we would make a sacrifice to attain it, if thereby we can benefit the soldier and the Territory. But I conceive that, instead of making a sacrifice, we shall benefit the Treasury considerably.

The proposition contained in the amendment of the gentleman from Louisiana, to give the soldier six per cent. stock for his land bounty, I disapprove. Those soldiers who reside in the cities, might, perhaps, sell their stock without a loss, but those who reside remote from the cities would still be preyed upon by speculators, to whom they must and will sell their claims. It is better that we should create stock, if necessary, sell it for

the money, and pay the soldier. There is another feature in the amendment of the honorable Speaker, which recommends it to me—the claim of the soldier is made assignable. It was, I conceive, an error ever to have declared that the claim of the soldier should not be assignable; for if any property is made inalienable, or any security for money declared not to be assignable, the one or the other will unquestionably be of less value than if made alienable or assignable. The soldier will sell his claim; and every obstacle which shall be thrown in the way of the purchaser will have no other effect than to reduce the price which will be received by the soldier. The speculator will indemnify himself for the risk or loss in some cases, by offering a smaller price for the claim of the soldier. Mr. S. concluded by expressing a hope that the amendment of the gentleman from Louisiana would be rejected, and that, with the amendment which he had suggested, the bill would pass.

The question on Mr. SMYTH's motion was decided in the affirmative—ayes 76.

Further debate ensued on amendments to the details of the bill; in the consideration of which Messrs. TAYLOR, HOLMES, of Mass., BALDWIN, and EDWARDS took part.

Before the House got through the subject, a motion was made to adjourn, which prevailed.

FRIDAY, January 23.

Mr. WILLIAMS, from the Committee of Claims, made a detailed report on the petition of Major Loring Austin, which was read; when, Mr. W. reported a bill for the relief of the said Major Loring Austin, which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to supply vacancies under commissions of bankruptcy, which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. POPE, from the committee appointed on the petition of the Legislative Council and House of Representatives of the Territory of Illinois, by leave of the House, reported a bill to enable the people of the Illinois Territory, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; which was read twice, and committed to a Committee of the Whole, on Monday next.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives  
of the United States:

In compliance with a resolution of the House of Representatives, of the 9th of December last, requesting information of what roads have been made, or are in progress, under the authority of the Executive of the United States, the States and Territories through which they pass or are intended to pass, the periods when they were ordered to be made, and how far they have been executed; I now communicate a report from the Secretary of the Treasury, and likewise, a report



H. of R.

Commutation Bill.

JANUARY, 1818.

from the Secretary of War, containing the information which is required.

JAMES MONROE.

WASHINGTON, January 23, 1818.  
The Message was read, and ordered to lie on the table.

On motion of Mr. INGHAM, a select committee was appointed to inquire what alterations are necessary to be made in the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads and for other purposes;" and Messrs. INGHAM, BRYAN, PARRIS, MOSELEY, TYLER, WHITMAN, and TALLMADGE, were appointed the said committee.

On motion of Mr. SMITH, of Maryland, the Committee on the Public Lands were instructed to inquire into the expediency of providing, by law, for the introduction into all patents, hereafter to be issued for lands sold or granted by the United States, of a reservation to the use of the United States, of all copper mines, and of the expediency of authorizing the Secretary of the Treasury to lease any copper mines, the property of the United States, for a term not exceeding seven years.

On motion of Mr. HERRICK, the Committee on Roads and Canals were instructed to inquire into the expediency of providing, by law, for the appointment of commissioners to survey, lay out, and mark a road, from the west bank of the Ohio river, opposite the point where the Cumberland river strikes the same, through St. Clairsville to Columbus, from thence to the western line of the State of Ohio, in a direction to St. Louis, in the Missouri Territory.

On motion of Mr. ROBERTSON, of Louisiana, the Secretary of the Treasury was requested to lay before the House a statement of the salaries, and an estimate of the present and future emoluments of the respective registers and receivers of public moneys, at the different land offices of the United States; and also, the amount of the salaries and emoluments of the several surveyors general, and principal deputy surveyors.

On motion of Mr. FORSYTH, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of regulating, by law, the number of passengers to be brought into the United States, by American or foreign vessels, according to the tonnage of the vessels.

On motion of Mr. COBB, the Committee on the Public Lands were instructed to inquire into the expediency of establishing into a separate land district all that part of the Alabama Territory which lies south of an east and west line, to be drawn from the boundary line dividing the State of Mississippi from said Territory, through Fort Williams, to the western boundary of Georgia; and also, into the expediency of appointing a surveyor of all public lands in the said district; of surveying, in the manner prescribed by law, such public lands, (to which the Indian title has been extinguished, and which are not already surveyed,) and of offering the same for sale as soon as possible.

Mr. TUCKER, of Virginia, from the committee on so much of the President's Message as relates to Roads, Canals, and Seminaries of Learning, to whom was committed the bill from the Senate, entitled "An act in addition to an act making appropriation for repairing certain roads therein described," reported the same without amendment; and the bill was committed to said the Committee of the whole House, to which was referred, on the 15th ultimo, the report of the committee on the subject of internal improvements.

The bill from the Senate, entitled "An act to allow the benefit of drawback on merchandise transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise," was read the third time, and passed.

## COMMUTATION BILL.

The House resumed the consideration of the bill to provide for the commutation of soldiers' bounty lands. An amendment of some importance, moved by Mr. TAYLOR, yesterday, was agreed to, yeas 78, nays 45. No other amendment having been offered—

The question was stated, on ordering the bill to be engrossed for a third reading.

Mr. HOPKINSON, succinctly delivered the reasons for his opinion against the passage of the bill.

Mr. ROBERTSON replied to Mr. HOPKINSON, and defended the bill.

Mr. HOPKINSON rejoined.

The question was then taken on the passage of the bill to a third reading, and determined in the negative—yeas 80, nays 82, as follows:

YEAS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Bellinger, Bennett, Bloomfield, Boden, Burwell, Cobb, Comstock, Cook, Crafts, Crawford, Culbreth, Desha, Earle, Ervin of South Carolina, Forsyth, Fuller, Gage, Hale, Harrison, Hasbrouck, Hendricks, Herrick, Heister, Hunter, Ingham, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Little, Lowndes, Marchand, Mason of Massachusetts, Mercer, Merrill, Morton, Moseley, Murray, H. Nelson, T. M. Nelson, New, Ogden, Ogle, Owen, Parris, Parrott, Patterson, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Sampson, Silsbee, Ballard Smith, Alexander Smyth, Southard, Spangler, Tallmadge, Taylor, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, and Whitman.

NAYS—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bateman, Beecher, Blount, Boss, Bryan, Campbell, Clagett, Claiborne, Colston, Cruger, Cushman, Drake, Edwards, Ellicott, Forney, Garnett, Hall of Delaware, Hall of North Carolina, Herkimer, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Johnson of Virginia, Kirtland, Lawyer, Lewis, Linn, Livermore, McLane, W. Maclay, W. P. Maclay, McCoy, Marr, Mason of Rhode Island, Middleton, Moore, Mumford, Jeremiah Nelson, Nesbitt, Newton, Orr, Palmer, Pawling, Pitkin, Porter, Rhea, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb,

JANUARY, 1818.

Claims for Houses Burned in War.

H. of R.

J. S. Smith, Speed, Spencer, Storrs, Strong, Strother, Tarr, Terry, Tompkins, Tyler, Upham, Westerlo, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

And so the bill was rejected.

## CLAIMS FOR HOUSES BURNED IN WAR.

On motion of Mr. WILLIAMS, of North Carolina, the House resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the claim of J. Pattison, and several other claims of a like nature, referred to the same committee.

[This claim is for a house, situated on the banks of the Patuxent, destroyed by the enemy during the late war, on account of previous occupation by provisions and by supplies issued therefrom to a detachment of militia in the service of the United States, and for other similar reasons, as the petitioner desires to establish by the testimony of two or three witnesses. The claim is one of those laid before the Commissioner of Claims, and by him, according to the provisions of the law of the last session, transmitted to the House of Representatives for their decision on the fact.]

After some conversation on the question of proceeding in the consideration of this subject on this or at a future day—

Mr. WILLIAMS, of North Carolina, delivered at considerable length, and with much perspicuity, the views of the committee on the general principles on which these cases rest, and also on the evidence in this particular case.

After a few observations from Mr. SMITH of Maryland, and Mr. FORSYTH, the Committee rose, and reported their concurrence, not only in the case of Mr. Pattison, but also in several other cases, which rest on the same principle, and on nearly the same description of evidence.

The question on concurrence with the Committee of Claims in rejecting the petition of Mr. Pattison, was agreed to.

The question being next proposed on the claim of John Ireland, for a house destroyed because occupied by a part of Commodore Barney's men, his rigging, &c., and the report recommending its rejection having been read—

A debate arose on the merits of the claim, and the amount of the testimony, in the course of which Messrs. SMITH of Maryland, HARRISON, REED, ROBERTSON of Louisiana, PETER, BAYLEY, and PALMER, opposed the report adverse to the claim, and Messrs. WILLIAMS and FORSYTH supported it.

At length, this and other reports were laid on the table, the hour growing unusually late, and the House adjourned to Monday.

MONDAY, January 26.

Two other members, to wit: from Massachusetts, JOHN WILSON, and from North Carolina, JAMES STEWART, appeared, produced their credentials, were qualified, and took their seats.

Mr. LOWNDES, from the Committee of Ways

and Means, made reports on the petitions of John Fields, John Barney, and of sundry importing merchants of Philadelphia; which reports were read, and the resolutions therein contained were concurred in by the House, as follows:

Resolved, That the prayer of the petitioners, respectively, ought not to be granted.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, reported a bill to continue in force an act, entitled "An act relating to settlers on lands of the United States;" which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill respecting the organization of the Army of the United States, and for other purposes; which was read twice, and committed a Committee of the Whole.

Mr. JOHNSON also reported a bill for the relief of John Work, which was read twice, and committed to the Committee of the Whole last appointed.

Mr. SERGEANT, from the committee appointed on the petition of the American Bible Society, by leave of the House, reported (in part) a bill for the remission of duties upon stereotype plates, and upon bibles and testaments in foreign languages, imported by societies or associations, for the gratuitous distribution of the Holy Scriptures; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. PARRIS, from the committee appointed on so much of the President's Message as relates to the public buildings, and the erection of new edifices for the accommodation of the Heads of Departments and the Attorney General, made a detailed report upon the subject, which was read; when Mr. P. reported a bill to provide for erecting additional buildings for the accommodation of the several Executive departments, which was read twice, and committed to a Committee of the Whole. The bill is as follows:

A Bill to provide for erecting additional buildings for the accommodation of the respective departments.

Be it enacted, &c., That the Commissioner of the Public Buildings cause to be erected, under the direction of the President of the United States, two buildings suitable for offices for the Executive departments, to be placed north of the buildings at present occupied by those departments, and on a line parallel therewith; each of said buildings to contain forty rooms of convenient size.

[SEC. 2. Is merely a section making an appropriation.]

Mr. PINDALL submitted the following resolution, which was read, and ordered to lie on the table:

Resolved, That a docket of the bills, resolutions, and reports, depending in the Committee of the whole House, showing their order of precedence, be printed each week for the use of the members.

A motion was made by Mr. BLOUNT, that the House do reconsider their vote on Friday last, concurring in the report of the Committee of Claims, on the petition of Henry Williams. And on the question, Will the House reconsider the said vote? it passed in the affirmative. The



H. R.

Fugitives from Justice—Remission of Duties.

JANUARY, 1818.

report was then committed to a Committee of the Whole, to-morrow.

The engrossed bill, entitled "An act to supply vacancies under commissions of bankruptcy," was read the third time, and passed.

#### FUGITIVES FROM JUSTICE, &c.

The House resolved itself into a Committee of the Whole, on the bill to amend an act, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters."

The bill is one of considerable importance to the holders of slave property particularly, as going to make that law efficacious, which is at present little better than nominal.

Much discussion took place on the details of the bill, which were explained and illustrated by Mr. PINDALL of Virginia, and by several other gentlemen. Some amendments were made to the bill, the discussion of which occupied the whole of the day's sitting, and was not concluded, when the Committee rose, and obtained leave to sit again.

TUESDAY, JANUARY 27.

Mr. WILLIAMS, of Connecticut, presented the petition of Elizabeth Eaton, the widow of the late General William Eaton, stating the services and sacrifice of her late husband in the public service, the poverty in which he left her and her children, the loss of two of her sons, one in the naval, and the other in the military service of the United States, and praying that some provision may be made for her maintenance, and for the support and education of the children of the said General Eaton.—Referred to the Committee on Military Affairs.

Mr. CLAIRBORNE presented a remonstrance of Andrew Jackson, in behalf of himself and in right of his wife, and as agent for the heirs and representatives of Colonel John Donelson, deceased, stating, that by the act of the State of Georgia, of the 20th February, 1784, the said Donelson was appointed one of the commissioners for laying out a new county, in the Big Bend of the Tennessee river, for which services he became entitled to a large tract of land lying in said county, which they have been unable to obtain, for reasons set forth in the petition, and soliciting a conveyance thereof to him, and the heirs of the said Donelson; which was referred to a select committee; and Mr. CLAIRBORNE, Mr. COBB, Mr. HOGG, Mr. SETTLE, and Mr. CRAWFORD, were appointed the committee.

Mr. CLAIRBORNE also presented a similar petition of George W. Sevier, for, and in behalf of himself, and the other heirs and representatives of the late General John Sevier, deceased; which was referred to the committee last appointed.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Benjamin Birdsall and William S. Foster, which was read twice, and committed to a Committee of the Whole.

On motion of Mr. MASON, of Massachusetts, the claim of the State of Massachusetts for ex-

penditures to their militia for their services during the late war, together with the documents on the files of this House, were referred to a select committee, to consider and report thereon; and, Mr. MASON, of Massachusetts, Mr. WHITMAN, Mr. ORR, Mr. BURWELL, Mr. QUARLES, Mr. TALLMADGE, and Mr. MASON of Rhode Island, were appointed the committee.

On motion of Mr. BURWELL, the Secretary of War was directed to lay before this House, a statement of the claim of the State of Massachusetts, for the expenses of calling out the militia of that State, during the late war, and the reasons why those claims have not been settled by that Department.

#### REMISSION OF DUTIES.

The engrossed bill to remit the duties on stereotype plates and Bibles, in foreign languages, imported for the use of the American Bible Society, was read the third time, and the question stated, "Shall the bill pass?"

Mr. STROTHER, of Virginia, rose, not to urge the principal objections which he entertained to this bill, but to call the attention of the House to what he considered an imperfection in its provisions. The sum involved in this bill, he said, was of little importance; but the course now pursued might give rise to proceedings, hereafter, of more consequence; and he thought it best to resist the principle in the outset. Mr. S. referred to the absence of some provision to insure the privilege from abuse. The bill proposed to exempt from duty all the bibles, &c., which had been imported by certain societies, but what security was there that these books would be appropriated to the purposes contemplated in remitting the duties? He knew it would be said, the individuals concerned were men of honor and integrity; but this was not, in his mind, a sufficient reason for departing from the correct principles of legislation. Such a security was usual in other similar cases: and from the broad turnpike of legislation marked out by those who have gone before us, we ought to be scrupulous, said Mr. S., how we depart. He admitted that the object of the bill was to extend a favor to individuals engaged in noble purposes, to encircle the community with the mild spirit of Christianity, and correct passions hostile to happiness and good government—purposes, said Mr. S., which are dear to us all; but, in extending this benefit, even for these purposes, we should not violate a correct principle of legislation, by omitting to guard the privilege against possible abuse. The general principle involved in this bill, Mr. S. said, he would not disturb—that, he knew, was a hazardous thing. He was unwilling, in trivial matters, to awaken passions which should forever sleep. Yet, as he was aware that this bill might be the entering wedge to more serious objects, Mr. S. said he would reserve to himself, in voting on this occasion, the right of acting hereafter on similar propositions with perfect freedom. But, although not disposed to dispute the passage of the bill on its general principles, he should, without the in-

JANUARY, 1818.

Remission of Duties.

H. OF R.

roduction of the provision he had referred to, feel himself under the necessity of voting against it.

Mr. SERGEANT made a few remarks in explanation, and in reply to Mr. STROTHER's objections. The operation of the bill was confined to cases that had occurred, he said, and of course there was no necessity for the guards against frauds which had been suggested; and the amount of the importations was but small. A bill for a similar object had, on a former occasion, passed both Houses of Congress, which contained no such provision; it was not deemed necessary. Mr. S. urged the high character of the individuals composing the society, as obviating the necessity of the penalty suggested; and as such a provision had not heretofore been introduced into similar bills, it would be remarkable and invidious, he thought, to commence with this case, in which the individuals were so far above suspicion. It would, moreover, Mr. S. said, be difficult to form a law which would secure the privilege from possible abuse. But, he repeated, the Government had the best security in the character of the persons at the head of the institution for which the bill was intended; and he submitted it to the gentleman, whether it would not be unjust to make this the first instance of such a provision. This bill was spoken of, Mr. S. said, as an entering wedge to more important purposes. To this he would reply, that the remission of duties was not new, but had often been granted; and he did not therefore consider the remark applicable to this case. To the effects apprehended from the principle of this measure, &c., he was willing to give an opportunity for full and free discussion, without any reference to this bill, which he thought free from any such danger as had been expressed.

Mr. STROTHER rejoined, and remarked, that the consciousness that his inexperience in the business of legislation might probably lead him into error, had induced his silence on the subject, until the present moment; he had, until now, refrained from expressing his disapprobation of this measure. I am told, said Mr. S., that this is no entering wedge to more objectionable measures. It may be so—to me the subject is new; but my opinions are unshackled, and my apprehensions have urged me to make a modest inquiry into the expediency of passing the bill in its present shape. I know that fashion has placed its seal on this subject, and I know how strong that is. If, however, Mr. S. said, his recollection was not incorrect, a bill similar to this had once been negatived.

Constitutional scruples on this subject, Mr. S. said, he had not urged, and would not urge against the bill, only because he wished not to handle that sacred instrument on every occasion, and to make it too common. From that consideration he had determined to vote for the bill, though without committing himself upon any subsequent proposition of a similar character, provided the bill was made to conform to his ideas of correct legislation. When we legislate for the proudest heroes, or the best patriots of our country, they

who have borne the nation triumphantly through the greatest difficulties, said Mr. S., do we not annex the very same conditions and precautions as to the lowest individual; and wherefore make an exception in the present case? The invidious discrimination did not attach to these favored individuals. Even the gallant man, Mr. S. said, who has breasted the storm in the service of his country, received no such exemption, his *ipse dixit* was not received here as sufficient assurance; and Mr. S. was unwilling then to extend this distinction to any, how high soever their character. Do we not require the strongest evidence in support of the highest claims, and shall we not ask the same of these gentlemen? They are not exempt from human imperfections and frailties, and we are bound, said he, to extend to them the same principles of legislation as we do to others. Mr. S. repeated, he would not go fully into the expediency of the bill. He knew the perilous position he occupied in expressing his opinions on it, and the danger of opposing it, on its merits; but the path of duty he would not abandon, by permitting the bill to pass unopposed without the usual security that it would not be perverted to purposes not contemplated in its enactment.

Mr. SERGEANT said, the gentleman's recollection was, in one respect, erroneous. The bill to remit the duties on certain stereotype plates, imported by the Bible Society, was not negatived by the President; but by being sent late in the session, the President did not act on it, and not being returned to Congress, the bill did not become a law. Mr. S. repeated, that the provision contended for was not usual, and supported his opinion by some examples. Among those who were exempted from the duty of postage, for instance, Mr. S. mentioned several cases in which the law did not provide against an abuse of the privilege. This, he said, would be the first instance of such a provision. It would appear invidious. He believed it was unnecessary, and hoped it would not be inserted in the bill.

Mr. INGHAM said, the bill contained a general provision to remit all duties which had accrued on the importation of bibles, &c., for the Bible Society; but as it was more usual for these societies to order their books through some merchant than to their own order, the objection to providing against the abuse of the privilege was not so strong as had been urged. Mr. I. adverted to the circumstance that this bill had not gone through the usual course, as a reason perhaps why its details were now investigated. It had been ordered to be engrossed for a third reading without going through a Committee of the whole House, which was the customary course. If this bill involved a great Constitutional principle, it ought to have received the usual direction in its progress. Certain it was, Mr. I. said, that the President did suffer a similar bill to expire by retaining it until the adjournment of Congress. It was no less certain that the object of this bill was to grant money from the public Treasury for the benefit of an association which may be fairly denomi-



H. R.

Proceedings.

JANUARY, 1818.

ated a religious establishment, and the Constitution expressly prohibited Congress from legislation on the subject of any religious establishment. And is it come to this? Are we so much afraid that we must tremble when we approach this subject, and dare not resist a measure of this character? The question had been justly called a delicate one, but when looking to the Constitution, and exercising his honest convictions, he should not feel its delicacy. As this bill had passed through without the ordinary forms, Mr. R. moved that it now be laid on the table, with the view, if it should afterwards be called up, to move for its commitment.

Mr. SERGEANT said, if this course had been proposed when the bill was first taken up, he could not have objected; but if gentlemen were not in their places when the bill had been considered, it was unfair now to complain of the course which had been taken. He did not know if it involved any Constitutional question, and was sorry to see any obstacle now thrown in the way, &c.

The question on laying the bill on the table was then decided in the affirmative—ayes 84, noes 62.

The House then proceeded to the consideration of the bill respecting fugitive slaves, &c., the consideration of which occupied the remainder of the day; and the Committee rose before the subject was completed.

WEDNESDAY, JANUARY 28.

Mr. ROBERTSON, of Louisiana, presented the petition of Thomas Shields, a purser in the Navy of the United States, on the New Orleans station, stating that with an inferior force he captured, during the late war with Great Britain, a vessel under the British flag, the cargo of which has been condemned as lawful prize of war, one half of the proceeds of which have been awarded to the United States, and praying that, inasmuch as his force was greatly inferior to that of the vessel he captured, that part of the proceeds which has been paid over to the United States, may be granted to him and his associates.

*Ordered*, That the said petition be referred to the Committee of Ways and Means.

Mr. JONES presented a petition of John W. Pinpoint, John Catron, Richard Tankersly, and Isaac Thomas, praying for a grant of two, three, or four townships of public land, on the Alabama river, or its tributary waters, at two dollars an acre, payable in ten years, in five equal payments, in which they propose to settle a colony of German and Swiss immigrants.

On motion of Mr. SCOTT,  
*Ordered*, That the petition of Pierre Baribeau, presented on the 24th of January, 1817, be referred to the Committee on Private Land Claims.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Israel Smith, which was read; when, Mr.

W. reported a bill for the relief of Israel Smith; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. HENDRICKS presented a petition of Bernhard Steiner, of Switzerland, in Europe, praying that he may be permitted to purchase a township of public land, in the State of Indiana, for which he will pay one-eighth of the purchase money immediately, one-eighth in two years, and the balance at the expiration of ten years, upon which he proposes to settle a colony of Swiss immigrants.

*Ordered*, That the said petitions be referred to the Committee on the Public Lands.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the relief of Josiah Bullock; which was read twice, and committed to a Committee of the Whole.

Mr. NELSON, from the Committee on the Judiciary, reported a bill, providing an additional compensation to the circuit judge of the sixth circuit of the United States; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. POINDEXTER, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry and delivery, at the town of Shieldsborough, on the bay of St. Louis, in the State of Mississippi.

On motion of Mr. STORRS, the Secretary of the War Department was requested to communicate to this House, a statement of the cases in which counsel has been employed to assist the judge advocates of the Army of the United States, since the first day of August, 1812; the names of the counsel so employed, the compensations paid to them, respectively, and the fund out of which the same have been paid; and the expenses of the several courts martial which have been held since that time, for the trial of officers of the Army.

A motion was made by Mr. RICH, that the Committee of the Whole, to which is committed the bill to amend the act, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," be discharged from the further consideration thereof, and that it be committed to the Committee of the Whole to which is committed the bill, supplementary to the act, to prohibit the importation of slaves within the jurisdiction of the United States, passed the 2d of March, 1807; and the question being taken thereon, it passed in the negative.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," with amendments; and they have passed bills of the following titles: An act directing the manner of appointing Indian agents, and continuing the "Act for establishing trading-houses with the Indian tribes;" an act concerning the district of Brunswick, in the State of Georgia; an act to incorporate the Mechanic Relief Society of

JANUARY, 1818.

Fugitives from Justice.

H. OF R.

Alexandria; and, an act for the relief of Isaac Briggs, in which amendments and bills, they ask the concurrence of this House.

#### FUGITIVES FROM JUSTICE, &c.

The order of the day on the bill "respecting fugitives from justice, and persons escaping from the service of their masters," having been announced—

Mr. RICH moved to commit the bill to a different committee, with a view of considering the propriety of certain amendments. After some little discussion, the motion was negatived.

The House then resolved itself into a Committee of the Whole on the bill.

The question was on an amendment proposed by Mr. RICH to the bill, which has for its object the preventing the transportation, in any manner, of any negro, mulatto, or person of color, without having previously carried the same before some judge or justice of a court of record, and giving sufficient proof of their being slaves, and the property of the person by whose authority they are so removed, under the penalty of a sum not exceeding ten thousand dollars.

This amendment Mr. STORRS had proposed to amend, by substituting in lieu thereof, a new section, in the following words:

"That, if any person without colorable claim, shall knowingly and wilfully procure or cause to be procured any such certificate or warrant, [of his property in any particular individual] with intention, under color or pretence thereof, or the provisions of this act, to arrest, detain, or transport, or cause to be arrested, detained, or transported, any person whatsoever, not held to labor or service as aforesaid, he or she, on conviction thereof, shall suffer imprisonment, not exceeding fifteen years, or fined not exceeding five thousand dollars, or both, in the discretion of the court before whom such conviction shall be had."

Messrs. STORRS and PINDALL advocated the amendment to the amendment, on the ground of the difficulty of the subject, the very magnitude of which was a sufficient reason, it was said, why it should not be appended to this bill, but ought to be made the subject of a separate act.

Mr. RICH vindicated his own amendment, on the ground of the enormity of the crime of kidnapping, repeated cases of which had occurred, and which appeared to him to require the interposition of the Legislature.

The amendment to the amendment was agreed to, and then incorporated in the bill, by a considerable majority.

Mr. CLAGETT said, he should make but few remarks upon this occasion. Since this bill has been under discussion, said he, I have given it due attention, but have not been able to perceive a satisfactory reason for its passage; nor am I without surprise, that it should have so many advocates. The law of 1793, in pursuance of the 2d sect. 4th art. of the Constitution, enacts, "that when a person, held to labor or service in any of the United States, or in either of the Territories, under the laws thereof, shall escape into any other of the said States or Territories, the

person to whom such labor or service may be due, his agent or attorney, shall have power to seize or arrest such fugitive, and take him or her before any judge of a circuit or district court of the United States, residing or being within the State, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall have been made, and upon proof, to the satisfaction of such judge or magistrate, that the person so seized, doth, under the laws of the State from whence he fled, owe service or labor to the person claiming him, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, which shall be a sufficient warrant for removing such fugitive to the State from whence he fled." And, by the same law any person who shall obstruct such claimant in seizing a fugitive, or rescue him after seizure, or harbor or conceal him, knowing him to be a fugitive, shall incur a penalty of five hundred dollars to the use of such claimant, and be also liable to the party for all other damages by him sustained. Sir, however I may differ in opinion from some honorable gentlemen upon the question of right to this service, abstractly considered, I do not hesitate to say, that the clause of the Constitution, under which we legislate, is imperative—that it is a part of a solemn compact between the several States in the Union, and we are bound to carry it into complete effect. But does not the law cited, secure to the claimants all the rights which the Constitution guaranteed to them? Certainly it does. By the law now in force, the claimant may, in the first instance, without a warrant, arrest the fugitive, and carry him before a tribunal for examination. This is a great latitude, and there is danger of an abuse of this power to the injury of the free citizen, who may never appear before such tribunal! If any amendment of this law be necessary, it is to restrain the claimant from an abuse of power; but no such amendment has been proposed. The courts of the United States are the only proper tribunals to take cognizance of the subject; and magistrates of a State, as such, are not bound by your law. Why, then, make this amendment?

But, sir, while we are scrupulously guarding from encroachments one clause of our Constitution, let us be cautious lest we infract another, equally important. It is not only my duty, but my sincere desire, to preserve every part of this sacred instrument, upon which our national happiness depends. And now, sir, let me solicit your attention to the 9th sect. of the 1st art. of this Constitution, in these words: "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." Will not this bill, if it pass into a law, virtually suspend the writ of habeas corpus—at least its effect? In my opinion it will: for this bill provides, if such writ issue, and it shall appear, upon its return, that the supposed fugitive was arrested under this law, (and it may be by order of a justice of the peace) such fugitive shall be remanded into the custody of the officer who arrested him.



H. R.

Fugitives from Justice.

JANUARY, 1818.

For these reasons, sir, I shall give a negative to the bill on your table.

Mr. PINDALL said, the bill professes to impose duty, to be performed by stated judges, in relation to the recovery of runaway slaves. The enactment of the bill does not, it is said, imply that the opinion of the House, or the friends of the bill, may be on the question of the power of Congress to impose any other duties on the State courts.

A gentleman mentioned, during the debate, as an objection to the bill, that it imposed duties upon State judges and officers, to which Mr. PINDALL (the chairman of the committee that reported the bill) replied, that those who believed the subject involved the broad question, whether Congress had the right in all cases to require the execution of its laws through the instrumentality of State officers would, if so disposed, be able to say much in favor of the power. Indeed, some might contend, with plausibility, that the question ought to be considered as settled; or an argument of the same or similar to that derived from what has been called *contemporaneous practice*, might be deduced from the earliest acts of this Government. Congress had repeatedly passed laws depending for their execution on State courts. This consideration might, in the estimation of some gentlemen, weigh against the objection of members from Massachusetts, but he (Mr. P.) would not rely upon it.

He said it was possible that the framers of the Constitution did not wish that the right of Congress to impose duties upon State officers should be extensively with the powers of legislation granted that instrument, and yet may have intended that such a power should exist in some cases, or under some circumstances. Although he would intermingle with the abstract inquiry, whether Congress could, in all its legislative province, impose upon a judicial or ministerial State officer an obligation to execute the laws of the Union, would insist on his right to exercise the power in the instance contemplated by the bill. The sense of the Constitution on which the bill rested, declared that no person, held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due. This clause, he said, was a regulation between the respective States, conferring rights on some States and obligations on others; but the right, when exerted for the benefit of the slaveholder, manifests itself by means of the laws of his State; for the clause just quoted speaks of persons held to labor in *one State, under the laws thereof*. The laws of the State are made known, interpreted, and expounded by the official acts and decisions of State judges and officers.

Again: the slave, taking refuge in another State, shall be delivered up. This duty of delivering up the slave is not imposed on private men or individuals, as in a state of nature, or it might never be performed; besides, private men are not

necessarily supposed to have the slave in their possession or power. The duty of delivering up the slave is imposed on the State, and the State, as all other civil or social political powers, necessarily, or at least usually, acts by the intervention of its officers.

It being thus shown, in regard to this clause of the Constitution, that a right and corresponding obligation are established between different States, which, by ordinary interpretation, depend for their development and exercise upon the proper officers of each State; and it being admitted on all sides that Congress has the power to regulate the due exercise of that right, and enforce the performance of that obligation, it follows that Congress can make a law to regulate the conduct of these State officers in the performance of their duty.

Further debate took place on the bill, and on an amendment proposed by Mr. BALDWIN.

Mr. FULLER then, after an ingenious speech of considerable length, moved to strike out the first section of the bill, with a view to destroy it entirely, on the ground that it transcended the Constitutional provisions on the subject. He also took exceptions to various features of the bill.

Mr. STRONG, in a more decided manner, expressed his opposition to the bill, on the ground that the act already in existence on that subject had gone full far enough in carrying into execution the Constitutional provision on that subject; which he regarded as a compact, the mode of executing which the non-slaveholding States had reserved, and were at liberty to judge of when proposed to them, &c.

Mr. COBB replied to the two gentlemen from Massachusetts, vindicating the rights of the holders of that description of property, as secured by the Constitution, as inalienable, and as inviolable on any pretext by those who were averse to the toleration of slavery, &c.

Mr. STRONG rejoined.

Mr. HOPKINSON stated certain objections to the form of this bill, under which he thought it possible that freemen might be apprehended as slaves, without the necessary means of redress.

Mr. HOLMES, of Massachusetts, made some remarks, of a nature conciliatory to the prejudices existing on both sides of this question; and intimated that, though he was not in favor of all the provisions of this bill, he should vote against striking out the first section, because he thought that the bill might be so moulded as to be unobjectionable to any.

Mr. CLAY (Speaker) then engaged in the debate, being called up by the peculiar interest which the State of which he is a Representative has in the passage of the bill. The nature of slave property, its evils, and the rights of its possessors, were illustrated with great force, and the necessity for the passage of an act of this sort sustained by many arguments, in a speech of considerable length.

Mr. BALDWIN rose on the question of construction which had been given by some gentlemen to the Constitutional provision; which, he contend-

JANUARY, 1818.

Fugitives from Justice.

H. or R.

ed, conferred on Congress full power to legislate on the subject so as to give the strongest security to the holders of slave property.

The motion to strike out the first section was negatived by a large majority.

Some further amendments having been made to the bill, the Committee rose, and reported the bill as amended, and the House adjourned.

THURSDAY, January 29.

Mr. SERGEANT presented a petition of the Pennsylvania Society for promoting the abolition of slavery, praying that such amendments may be made to the act of 1793, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," as will more effectually secure the rights of people of color, who are free, or entitled to freedom; which was read and ordered to lie on the table.

A motion was made by Mr. MCCOY, that the House do reconsider their vote of yesterday, concurring in the report of the Committee of Claims, on the petition of Zachariah McGirt; and the question being taken thereon, it passed in the affirmative; and the report and petition were recommitted to the Committee of Claims, with instructions to examine the validity of the evidence upon which the claim is founded.

An engrossed bill, entitled "An act for the relief of Israel Smith," was read the third time, and passed.

The amendments proposed by the Senate to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," were read and referred to the Committee on the Public Lands.

The bill from the Senate, entitled "An act, directing the manner of appointing Indian agents, and continuing the 'Act for establishing trading-houses with the Indian tribes,'" was read twice, and referred to the committee appointed on so much of the President's Message as relates to Indian Affairs.

The bill from the Senate, entitled "An act concerning the district of Brunswick, in the State of Georgia," was read twice, and referred to the Committee of Commerce and Manufactures.

The bill from the Senate, entitled "An act to incorporate the Mechanic Relief Society of Alexandria," was read twice, and referred to the Committee on the District of Columbia.

The bill from the Senate, entitled "An act for the relief of Isaac Briggs," was read twice, and referred to the Committee on the Public Lands.

FUGITIVES FROM JUSTICE, &c.

The House having resumed the consideration of the bill to amend the act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters"—

Mr. RICH moved to recommit the bill to the committee to whom has been referred the memorial of the annual meeting of the Society of Friends at Baltimore, with a view of so amend-

ing the bill as to guard more effectually the rights of free persons of color. This motion he enforced by urging the oppressions to which these people were now subjected, and the necessity of some regulation on the subject, which he thought might be very properly connected with this bill.

Mr. PINDALL objected to the recommitment, especially as the House had already once decided against doing so on the same ground of the want of necessary connexion of the proposed amendment with the bill.

Mr. SMITH, of Maryland, suggested that the subject of the protection of free people of color, being of a distinct nature from this, was already before a committee who would without doubt make a special report on the subject. Under this impression, Mr. S. said he should vote against the motion for recommitment.

Mr. RHEA was also opposed to the recommitment, and made some general remarks respecting slavery, in the course of which he intimated his opinion that the Government had shown its aversion to slavery in every manner in its power, and could not do more, unless by an arbitrary abolition of slavery, which no one would propose. If slavery must exist, as guaranteed by the Constitution, he was surprised at the opposition made to ridding it of some of its evils, by preventing escapes, &c.

Mr. LIVERMORE said, although not favorable to the bill, he should vote against a recommitment, because he wished that those who were friendly to the bill might have the opportunity, by amendment, to make it as perfect as possible.

Mr. W. P. MACLAY was in favor of recommitment. Admitting the force of the Constitutional provision, which secured the right of proprietors to reclaim their runaway slaves, he was not for going further than necessary; and appeared moreover to be highly impressed with the importance of connecting with this bill a provision to prevent the apprehension of free persons of color, under pretence of their being slaves.

The question on recommitment of the bill was decided in the negative, without a division.

Further debate took place on the question of concurrence in some of the amendments made to the bill in the Committee of the Whole, and on several other amendments proposed, in the course of which Messrs. PINDALL, SERGEANT, SPENCER, BALDWIN, RICH, TERRY, BEECHER, and others, actively exerted themselves.

Mr. SERGEANT made a proposition, having in view to materially change the nature of the bill by making judges of the State in which the apprentices, slaves, &c., are seized, the tribunal to decide the fact of slavery, instead of the judges of the States whence the fugitives have escaped. This was negatived by a large majority.

Mr. RICH made several successive attempts to procure amendments to the bill, relaxing some of its provisions, which were successively negatived.

The debate, though not very interesting, was zealously persisted in to a late hour.



H. R.

Case of R. W. Meade.

JANUARY, 1818.

The question being on ordering the bill to a third reading—

A motion was made by Mr. W. P. MACLAY to postpone the bill to Monday next; which motion was negatived—79 to 62.

After two or three ineffectual motions to procure an adjournment, and to further amend the bill—

The question was at length taken, "Shall the bill be engrossed and read a third time?" and decided, by yeas and nays: For the bill 86, against it 55, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Bassett, Bayley, Beecher, Beltinger, Bloomfield, Blount, Bryan, Burwell, Campbell, Claiborne, Cobb, Cook, Crawford, Cruger, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hall of New-York, Hall of North Carolina, Harrison, Hogg, Holmes of Massachusetts, Hubbard, Johnson of Virginia, Johnson of Kentucky, Lewis, Linn, Little, Lowndes, McLane, McCoy, Marchand, Marr, Mason of Massachusetts, Middleton, Moore, Mumford, H. Nelson, Nesbitt, Newton, Owen, Palmer, Patterson, Peter, Pindell, Pleasants, Poindexter, Porter, Quarles, Reed, Rhea, Ringgold, Robertson of Kentucky, Ruger, Sampson, Sawyer, Settle, Slocumb, S. Smith, Stafford Smith, Alexander Smyth, Southard, Speed, Spencer, Stewart of North Carolina, Storrs, Strother, Stuart, Tompkins, Trimble, Tucker of South Carolina, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Bateman, Bennett, Boss, Butler, Cliggett, Crafts, Culbreth, Folger, Fuller, Hale, Hendricks, Herck, Hitchcock, Holmes of Connecticut, Hopkinson, Hunter, Huntington, Ingham, Irving of New York, Kinsey, Lawyer, Livermore, W. Maclay, P. Maclay, Merrill, Morton, Murray, Jeremiah Nelson, Orr, Parrott, Pawling, Rice, Rich, Richards, Savage, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Spangler, Strong, Tarr, Taylor, Terry, Upham, Wallace, Wyndover, Williams of Connecticut, Wilkins of New York, Wilkin, and Wilson of Pennsylvania.

The bill was then ordered to be read the third time to-morrow.

FRIDAY, January 30.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, communicating "reports of the facts" in the cases of John Anderson, Jean Baptiste Jerome, Gabriel Gelfroy, and Jean Baptiste Beaugroud, Jean Baptiste Conture, George McDougal, and Hubert La Croix, all of the Territory of Michigan, with the evidence accompanying each; which was referred to the Committee of Claims.

On motion of Mr. PALMER, the report of the Secretary of the Treasury on the petition of Samuel Buell, together with the petition, was referred to the Committee of Ways and Means.

Mr. OGLE, from the committee appointed on the petition of General Arthur St. Clair, reported a bill for the relief of Major General Arthur St. Clair; which was read twice, and committed to the Committee of the Whole to-day.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting copies of the proceedings of the court martial for the trial of Captain Oliver Hazard Perry, and also of the proceedings of the court martial for the trial of Captain John Heath; which was read and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the first of January, 1817," with an amendment in which they ask the concurrence of this House.

On motion of Mr. SMITH, of Maryland, Resolved, That the President of the United States be requested to cause to be laid before the House such information as he may possess, (and which may be communicated without injury to the public interest,) relative to the claims of the merchants of the United States for their property seized and confiscated under the authority of the King of Naples.

#### CASE OF R. W. MEADE.

A Message yesterday received from the PRESIDENT OF THE UNITED STATES was read, as follows:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives, of the 22d of December last, requesting information relative to the imprisonment and detention in confinement of Richard W. Meade, a citizen of the United States, I now transmit to the House a report from the Secretary of State, containing the information requested.

JAMES MONROE.

WASHINGTON, Jan. 29, 1818.

#### DEPARTMENT OF STATE.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 23d of December last, requesting the President to cause to be laid before the House any information he may be able to communicate, relative to the imprisonment and detention in confinement of Richard W. Meade, a citizen of the United States, has the honor of submitting to the President the accompanying papers received at the department on that subject, with a letter addressed to the Minister of Spain, residing here since the resolution of the House, and the answer received from him.

JOHN QUINCY ADAMS.

Mr. Adams to Mr. Onis.

DEPARTMENT OF STATE,  
Washington, Jan. 26, 1817.

SIR: I am directed by the President of the United States to invite your immediate attention, and to urge that of your Government, to the case of Richard W. Meade, a citizen of the United States, who has been confined since the 2d of May, 1816, in the prison Santa Catalina, at Cadiz.

It has been repeatedly represented to your Government by the Minister of the United States at Madrid, that the imprisonment of this person was under a sen-

JANUARY, 1818.

Remission of Duties.

H. OF R.

tence of a tribunal at Cadiz, condemning him to pay a second time a sum of money, which, by virtue of a prior decree of the same tribunal, he had already paid into the Royal Treasury. This fact has never been denied or contested by your Government. It has been proved to them by the attestations and certificates of their own officers.

It was to have been presumed that, upon the first moment that such a fact was authentically presented to your Government, an order would instantly have issued from it for the discharge of Mr. Meade from his imprisonment. The President regrets that after so many and such urgent representations in his behalf by the Minister of the United States at Madrid it should yet be necessary to address this call upon the most common principle of justice to you. I am instructed by him to say, that in renewing this demand for Mr. Meade's immediate liberation, he confidently expects it will not be in vain.

I pray you, sir, to accept the assurance of my very distinguished consideration.

JOHN Q. ADAMS.

Mr. Onis to Mr. Adams.

WASHINGTON, Dec. 29, 1817.

SIR: I received your note dated the 26th of this month, in which, by order of the President, you communicate to me what appears to have taken place in Spain, in the case of a law suit against Richard W. Meade, a citizen of these States, in order that I should make the necessary representations on this subject to the King my master, and solicit his release from confinement.

In compliance with the wishes of the President, and yours, sir, I shall, with great pleasure, make this request in favor of Mr. Meade, although I am not informed of the details of the suit instituted against him, nor of those which have produced his confinement.

Confiding in the just intentions of the King, and his high consideration for the United States, I must hope that His Majesty will attend efficaciously to this request, and use his authority in having justice promptly done to Mr. Meade, that the laws may be observed with the strictest impartiality, and no motive or pretext left to doubt of the immaculate (acendrada) purity which has ever been acknowledged as the particular attribute of the Spanish Magistracy. I renew my respects to you, sir, and pray God to preserve you many years.

LUIS DE ONIS.

#### REMISSION OF DUTIES.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of the pew-holders of the Monumental Church, in Richmond, unfavorable thereto; which was read.

[This petition asks for the remission of the amount of duties which have become payable to the Treasury on the importation of an organ for the said church from abroad.]

Mr. TYLER moved to reverse the report of the committee.

This motion gave rise to a short debate of considerable interest. The following sketch presents a mere summary.

Mr. TYLER supported his motion with eloquence and feeling. He depicted the nature of the calamity which the Monumental Church was erected to commemorate, and gave a just tribute

15th CON. 1st SESS.—27

to the merits of those who fell a sacrifice to it, and the feelings of their friends who survived it. He then referred to various cases in which Congress had, for the encouragement of the progress of philosophy and of the fine arts, remitted duties on importations. Was it not as reasonable, he asked, to encourage a respect to the fine feelings of our nature, to which the erection of the church was owing, as to encourage the progress of the fine arts? In reference to the remission of the duties on the importation of the Tripoline monument, would Congress, he asked, contribute to give perpetuity to the memory of our naval heroes and not to that of a great national calamity; when, too, granting the prayer of the petition, Congress would pour oil into the wounds which time had not healed? Mr. T. adverted to the act of the present session, remitting the duties on the picture imported for the Pennsylvania Hospital. Our case, said he, I consider much more strong. By the exhibition of that picture, a considerable revenue will accrue to the hospital, from which, in a short time, the duties might have been defrayed. As to the present case, if the duty should be remitted, whilst the Treasury would not feel the sum taken from it, Congress would afford to the citizens of Richmond, who have wept tears of blood over this calamity, the best evidence in our power that we sympathize with them.

Mr. SMITH, of Maryland, said, the committee had been of opinion, on examining this case, that such an organ might have been procured in the United States, as there were several manufactories in the United States, from one of which a very good one had been procured for Baltimore. If the indulgence now proposed were extended to the church at Richmond, it would be reasonably expected at the hands of Congress by other religious societies. There was nothing in this case to take it out of the general rule, being well assured the proprietors of the pews in that church were well able to pay the duty.

Mr. TYLER made a few remarks in reply to Mr. SMITH, principally by way of protesting against refusing this small boon, on the ground of the encouragement of American manufactures.

Mr. HOPKINSON stated, as what he understood to be the general principle of the revenue laws, that duties should be collected from objects imported for the purposes of trade, and on which the importers calculate on a profit. He thought it a very different case, when, for the benefit of public institutions, or for religious purposes, or for the encouragement of the arts, any society should import articles of foreign fabric at its own expense and for its own use. Strongly impressed by the considerations urged by Mr. TYLER, he was in favor of remitting this duty.

Mr. POINDEXTER was opposed to granting the petition, and adverted to the petition of the American Bible Society for the remission of duties on certain stereotype plates imported, which he considered precisely similar to this, and it had been laid on the table. Mr. P. also referred to the case of the Baptist church, in the present



Dr R.

Remission of Duties.

JANUARY, 1818.

State of Mississippi, which, some years ago, petitioned for the pre-emption right to a certain tract of land, whereon to erect a church. An act passed both Houses of Congress, granting them this privilege, which was rejected by the President, on the ground that it gave an exclusive privilege to a religious society. A religious society at Richmond, it appeared, had erected a church, and thought proper to send abroad for an organ and ornaments, on which a duty had become payable. By remitting that duty, Mr. P. said, Congress would grant an exclusive privilege, and in extent, which, at a future day, might be of serious consequence. If he were to indulge his feelings merely, Mr. P. said, he should vote for this sooner than for almost any other object; but he would not give a vote which should extend, for any reason, an exclusive privilege to any religious society. That, he said, was a principle of legislation which he considered fixed by precedents already established.

Mr. HOLMES, of Massachusetts, replied to Mr. P. on Dexter's argument drawn from precedent; which, as far as he understood it, so far from being conclusive, was about as broad as it was long. If any weight at all belonged to the case brought into precedent, in which both Houses had passed, and the President rejected, a measure, it was in favor of this claim. It was the opinion of the two Houses, it appeared, that the bill in question ought to have passed; which opinion was counteracted by the veto of the President.

With all due deference to the Executive authority, Mr. H. said he should on any occasion link the affirmative of a majority of both Houses of Congress, at least as strong as the single negative of a President. He felt not that alarm, he said, which some had expressed, at granting favors to religious societies. We may grant them, he said, without danger, as great privileges as we may to other societies. We may, and frequently do, grant to an individual the right of pre-emption to a tract of land; and he could not see any evil which could arise from granting the same favor to a church. The present case did not appear to Mr. H. to be liable to the objection of its being a grant of peculiar privileges. He hoped it would not be considered any prejudice to the spirit it possessed in other respects, that this application came from a religious society; and, considering the nature of the object on which a remission of a duty was proposed, as eloquently described by the gentleman from Virginia, Mr. H. could not see any objection to granting it. He voted for laying on the table the bill for remitting duties on the importation of stereotype plates for printing Bibles, which had been referred to, could not be regarded as a rejection of it, as many other subjects which had received the attention of Congress during the session were in the same situation. But that case, Mr. H. said, was not similar to the present. Bibles, he remarked, are sacred things; but they are also articles of commerce, and many persons make a living by buying and selling them. It was impos-

sible any profit could be made out of this organ, the claim for a remission of duties on which, therefore, stood on higher ground.

Mr. LOWNDES said, he hoped the motion to reverse the report would not be agreed to. He concurred entirely in regard to the force of former precedents, in the opinion of Mr. HOLMES, that the expression of the deliberate opinion of this House was entitled to at least as much confidence as that of any other branch of Government. But what, in the case referred to, had been the *deliberate* opinion of the House? The bill might have passed without objection through both Houses; but, when returned by the President with his objections, and submitted to what might be called the deliberate voice of this House, a large majority concurred in the views taken by the Executive. The precedent, therefore, was one of a decision of this House as well as of the Executive. Assuredly, Mr. L. said, if it be right that a particular species of property imported should be exempted from duty, the rule should be a general one, equally applicable to all. In discussing the tariff of duties which now exists, and which he might say had been formed with care and labor, no proposition was thought of for exempting organs from duty, nor for exempting from duty all manufactures intended for the use of churches; nor would such a proposition have been agreed to had it been made. If, under a general rule, similar articles ought not to be exempted from duty, Mr. L. contended there was nothing in this particular case to make it an exception, especially as the article was of a description which might have been procured at the manufactories in this country.

Mr. MERCER supported the motion of Mr. TYLER by a brief argument on the question, and an earnest appeal to the sensibilities of the House. In replying to the objection that to grant the petition would be to confer exclusive privileges on a religious institution, Mr. M. argued that this was not a privilege, and could not properly be so regarded, being a grant of a particular duty which has actually accrued to the United States. Nor would the grant be an indulgence to a particular religious society, since the Monumental Church had been erected by contributions from religious societies of every denomination, to commemorate that event which had been so feelingly described by his honorable friend. The motive of the petition, he said in the course of his remarks, he believed, was not merely to save the few hundreds of dollars of duty, but probably sprung from a finer feeling—from a desire to obtain, in some manner, the expression of the sympathy of Congress in the regrets of those who would never cease to lament the shocking catastrophe on which the church was founded. Mr. M. referred to cases on which Congress had exercised powers analogous to that embraced in this proposition. For instance, he said, they paid at every session a compensation to the Chaplain, who, by his daily prayers to the Throne of Grace, sheds a calm over the deliberations of this body, &c. Congress had also legislated in cases of a description

JANUARY, 1818.

Fugitives from Justice.

H. OF R.

very similar, by exempting from duty all philosophical apparatus, &c., &c., imported for the use of any society incorporated for philosophical or literary purposes. Having relaxed the revenue laws in these respects, why not extend the favor further? Why not extend it to the instrument which is to accompany the solemn anthem to the only true God, as well as to philosophical instruments, and to statuary or painting? Mr. M. made many other remarks, not distinctly heard by the reporter, but in the same spirit as the above.

Mr. TYLER rose to refer to a precedent found in the statute book, distinctly supporting the proposition he had made, which he read. It was an act of recent date, remitting the duty on certain stereotype plates, imported in 1815 for the use of the Bible Society of Baltimore. The case which he now supported stood on higher ground. And how, he called upon gentlemen to say, could they discriminate between the present case and that of the remission of duties on the painting for the Pennsylvania Hospital, for which purpose an act was passed at the present session?

The motion to reverse the report was then negatived, and the report was agreed to.

#### FUGITIVES FROM JUSTICE, &c.

The House having resumed the consideration of the bill providing for the recovery of fugitive slaves, and the question having been announced to be on the passage of the bill—

Mr. ADAMS, of Massachusetts, opposed the bill at much length; on the ground principally that, in guarantying the possession of slave property to those States holding it, the Constitution did not authorize or require the General Government to go as far as this bill proposed, to render the Constitutional provision effectual; that the bill contained provisions dangerous to the liberty and safety of the free people of color in other sections in the Union; and that, in securing the rights of one portion of the community, he could not consent to jeopardise those of another.

Mr. ANDERSON, of Kentucky, spoke some time very earnestly in support of the bill, and in reply to the objections urged by the gentlemen who had at different times opposed it.

Mr. LIVERMORE, of New Hampshire, submitted the reasons for his intention to vote against the bill. He was willing to go to the necessary extent in securing to the owners this species of property, permitted as it was by the Constitution; but the bill contained no sufficient guard to the safety of those colored people who resided in the States where slavery was known only by name. The bill provided that alleged fugitives were not to be identified and proven until they reached the State in which the person seizing them resided; and this would expose the free men of other parts to the hazard of being dragged from one extreme of the country to the other—though this fear was not strengthened by any want of respect for the wisdom and justice of the Southern judiciaries, to which he paid the highest compliment; but the feelings entertained on the subject in the South, he feared, would make less secure the

liberty of any colored man carried there, and charged with being a fugitive.

Mr. MASON, of Massachusetts, delivered at length his motives for approving the bill. The Constitution, formed in the spirit of compromise, had guarantied this kind of property to the Southern States, and as it appeared from the insufficiency of the existing laws, that the proposed bill was necessary to secure this right, he was willing to adopt the measure, as he was always willing to approve any measure to effect what the Constitution sanctioned. The possible abuse of anything was no argument against it, if otherwise expedient, and on this ground he was not prepared to reject the feature of the bill so much opposed. The judicial tribunals of the South, he had no doubt, would decide on the cases as correctly as those of the North, and on this subject perhaps more so, as, he believed, so strong was the feeling on this subject in the latter section of the country, and so great a leaning was there against slavery, that the juries of Massachusetts would, in ninety-nine cases in a hundred, decide in favor of the fugitive. His feelings on this bill were also somewhat interested; as he wished not, by denying just facilities for the recovery of fugitive slaves, to have the town where he lived (Boston) infested, as it would be, without an effectual restraint, with a great portion of the runaways from the South.

Mr. HOLMES, of Massachusetts, followed his colleague in submitting his reasons for approving the bill, and to reconcile the apparent contradiction in a gentleman from his part of the country appearing as the supporter of this bill. His course on this, as on other measures, was based on his duty as a Representative for the whole Union, instead of local interests. This measure, it appeared, was necessary to secure the Constitutional rights of a large portion of the States; and, as to the provision so strongly objected to by some gentlemen, he did not think it competent in Massachusetts to try a question between a Southern master and his slave; it was a kind of question, with which his constituents, to their honor, were not familiar, and he wished them to remain so. He did not believe the freedom of a single man in the North would be endangered by this provision of the bill; the *habeas corpus* would prevent it; and he went into various arguments to prove that the bill was expedient, and free from the evils apprehended by other gentlemen.

Mr. RHEA made some observations in support of the bill, and in reply to the arguments against it. So long as this property was authorized, there could be no doubt of the right of the holder to pursue it, and carry it back without hindrance to the place from whence it escapes. He thanked Heaven, this nation was not chargeable with the odium of introducing this species of property; it was an evil entailed on it; and this bill was in conformity with the principles of the compact which guarantied this property to its holders. There was little danger of persons going from the South to claim free men as their property; such a fear was without foundation. He always



H. R.

*Fugitives from Justice.*

FEBRUARY, 1818.

in hearing distinctions made between the slaveholding States and others; nearly all the original thirteen States had held slaves, and circumstances had enabled some of them to be rid of the evil, the only feeling they ought to entertain towards the others, is, compassion that they are not so fortunate.

Mr. STORRS, of New York, entered into a number of arguments in support of the bill. He referred to and reasoned on the words of the Constitution, to show that the bill was consonant to its provisions, and did not exceed the limits within which Congress were authorized to legislate on the subject. He expressed his pleasure at the liberality which had been manifested by some in its discussion, but should like to see a little more displayed by gentlemen from the North, as an evidence they were willing to sacrifice some of their old prejudices to the spirit of harmony and mutual benefit.

Mr. WHITMAN, of Massachusetts, admitted the necessity of some additional regulations on this subject, as the existing law appeared inadequate; but he could not vote for this bill in its present shape. He objected to that provision, which makes it penal in a State officer to refuse his assistance in executing the act. This feature, he remarked, would prevent his voting for the bill, as its penalties would require the State officers either to resign, or perform an act which might be repugnant to their feelings, and render their official stations frequently disagreeable. Furthermore, he did not believe Congress had the right to compel the State officers to perform this duty—they could only authorize it; and, as he believed the bill might be made effectual without this objectionable provision, he hoped it would be re-combined, and receive the necessary modifications. In reference to a remark of his colleague, (Mr. Mason) he had no doubt that justice would be administered under this act by the tribunals of Massachusetts if the duty were devolved on them, as impartially as in any other part of the Union, notwithstanding the prejudices they felt on the subject; yet he did not doubt that exact justice would also be rendered by the tribunals of the South, where prejudices were felt of an opposite character.

Mr. WILLIAMS, of Connecticut, was called up by the remark of Mr. STORRS, and admitted that, if he could not, and had not banished all his local prejudices, he ought to have done so. Mr. W. then entered, at large, into an examination of the bill into his reasons for opposing it unless it was altered in some of its features, and to show that in its present shape it was calculated to excite angry feelings and rouse strong prejudices in those parts of the country where slavery was not tolerated. This effect would be produced by that provision under which a free man of color might be unjustly seized and dragged to a remote part of the country, and his liberty endangered, if not destroyed. In attempting, properly, he admitted, to secure the right of property to one class of citizens, it was unjust that the rights of another class should be put in jeopardy, when, too, as he con-

tended, the danger might be avoided, in one case, without impairing the benefit in the other. Although he wished not to interfere between a slave and his master, yet he argued that the right ought to be tried in the State in which the fugitive should be arrested; and compared the case to that of a runaway apprentice, who could not be seized and carried away by the ex parte testimony of the person claiming him.

The question on the passage of the bill was then taken, and decided in the affirmative—yeas 84, nays 69, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Bassett, Bayley, Bellinger, Bloomfield, Bryan, Burwell, Campbell, Cobb, Colston, Cook, Crawford, Desha, Drake, Earle, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herbert, Herkimer, Hogg, Holmes of Massachusetts, Hubbard, Johnson of Virginia, Johnson of Kentucky, Lewis, Little, Lowndes, McLane, McCoy, Marchand, Marr, Mason of Massachusetts, Mercer, Middleton, Moore, Mumford, H. Nelson, Nesbitt, New, Newton, Ogden, Owen, Palmer, Patterson, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed, Rhea, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Rugles, Sampson, Settle, Slocumb, S. Smith, B. Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Tompkins, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Ball, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Culbreth, Cushman, Folger, Fuller, Gage, Hale, Hendricks, Herrick, Heister, Hitchcock, Hopkinson, Hunter, Huntington, Ingham, Irving of New York, Kinsey, Kirtland, Lawyer, Livermore, W. Maclay, W. P. Maclay, Merrill, Morton, Murray, Ogle, Orr, Parrott, Pawling, Pitkin, Rice, Rich, Richards, Savage, Scudder, Sergeant, Seybert, Shaw, Sherwood, Silabee, Spangler, Strong, Tallmadge, Tarr, Taylor, Terry, Townsend, Upham, Wallace, Wendover, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania.

Ordered, That the title be, "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

The House adjourned to Monday.

MONDAY, February 2.

Mr. SCOTT presented a petition of sundry inhabitants of the Territory of Missouri, praying that the said Territory may be erected into a State government, and admitted into the Union on an equal footing with the original States; which was ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Benjamin Berry; which was read, when Mr. W. reported a bill for the relief of the said Benjamin Berry, which was read twice, and committed to a Committee of the Whole.

Mr. W., from the same committee, also made

FEBRUARY, 1818.

*General St. Clair.*

H. or R.

a report on the petition of Miller & Barker; which was read, when Mr. W. reported a bill for the relief of Thomas Miller and Stephen Barker, which was read twice, and committed to a Committee of the Whole.

On motion of Mr. INGHAM, the Commissioner of the Public Buildings was directed to communicate to this House a copy of the original deed of conveyance to the trustees of the United States for the public lots in the city of Washington, and such other information as may be in his possession, relating to the location of the public offices on the President's square.

On motion of Mr. SILSBEE, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of so amending the "acts regulating the collection of duties on imports and tonnage," as that masters of vessels which may stop for supplies, or in consequence of adverse winds or weather, at the port of Martha's Vineyard, within the district of Edgartown, on their way to other ports of the United States, may not be compelled to make entry of their vessels or to pay hospital money or tonnage duty, at any of the ports within said district, nor to proceed from the port at which the vessel may arrive to any other port within that district, for the purpose of making a report.

On motion of Mr. ROBERTSON, of Louisiana, the Secretary of the Treasury was directed to cause to be laid before this House the reports of the several boards of commissioners appointed for the settlement and adjustment of land claims in the State of Louisiana and Territory of Missouri.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting reports made in obedience to a resolution of the 19th of December last, upon the subject of land warrants issued and extra pay allowed since the 3d of March, 1817, under the "act granting bounties in land and extra pay to certain Canadian volunteers," and the act supplementary thereto; which were ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting two statements, showing the quantity of land in each of the land districts, the quantity which has been sold, and the quantity remaining for sale, together with the emoluments of the registers and receivers of the land offices for four years preceding the 1st of October, 1817; which was referred to the Committee on the Public Lands.

Mr. BASSETT submitted to the House a bill for organizing, classing, and arming the militia, and for calling them forth to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the laws heretofore passed for those purposes, to be taken up upon the consideration of the bill reported at the present session by Mr. HARRISON, from the committee on that part of the President's Message which relates to the militia. The bill was ordered to lie on the table.

The amendment proposed by the Senate to the bill, entitled "An act making appropriations for

the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the 1st of January, 1817;" was read and referred to the Committee of Ways and Means.

GENERAL ST. CLAIR.

The House then, by a small majority, resolved itself into a Committee of the Whole on the bill for the relief of General Arthur St. Clair.

This bill gave rise to a discussion which occupied the Committee until sunset, in the course of which the motives of the act of 1810, for the relief of General St. Clair, the act of limitations, the merits of the petitioner, the justice of his claim, &c., were all brought into view, as well as the propriety of various amendments offered to the bill.

Mr. ERVIN, of South Carolina, spoke as follows:—At the commencement of this debate, I had no idea of intruding any observations of mine upon the attention of this Committee; but, in justice to my feelings, I cannot now be silent. The integrity of the petitioner has been questioned, and his account denounced as incorrect. It is a case, now, not so much of calculation, as of feeling, and I address you with mingled sensations of pity and regret; pity, for the character of this venerable Revolutionary officer, and regret, that his claim should have met, in this House, with a solitary opponent. I, therefore, rise, not merely to defend the correctness of his claim, but to endeavor to shield from the tarnish of dishonor that fame which is no longer his, but the inheritance of his country. Send not, I beseech you, his claim to the Treasury Department. Many of the vouchers, which might have tended to evidence their correctness, may have been lost through the lapse of years, or the casualties of war. Again, sir, his demand is for the interest of eighteen hundred dollars. In the Treasury Department they allow no interest. To send it there, then, is tantamount to a rejection. But in this House, which is, or ought to be, the fountain of general justice, the principle to pay interest has been adopted, and precedents are already established. Here, then, let us decide upon their correctness or incorrectness. But, I am told, adopt the amendment proposed by an honorable member from Georgia, and my objections will be removed—that the proposed amendment gives to the head of the Treasury Department equitable powers. Specify and define those powers, that I may judge of their propriety; for, if the powers thereby intended to be given are calculated to arm the head of that Department with discretionary powers, to admit or reject the claim, as to him may appear right and proper, without being governed by the rules of office or regulations of law, I am in duty bound to oppose it. Not, sir, that I doubt the talent or integrity of the officer who presides over, and confers honor upon that department, but, because powers of that description, in a free Government, ought never to be resorted to, unless in cases of imperative necessity.



Now call your attention to General St. Clair's claim:—It is for the interest of eighteen hundred dollars, which, he alleges, he advanced, during the Revolutionary war, to Major Butler for the United States, and which sum was expended for his benefit, and produces to you the receipt given to him by Major Butler for that sum. Duly to appreciate the value of this loan, it is only necessary to advert to the time when it was made. It was at the dawn of our Revolution, when the liberties of our country were struggling into existence. At this interesting moment, he early and generously stepped forward in their defence against the unparalleled Power, whose legions had trampled Spain and France, and whose flag waved in proud triumph round the universe. Under these appalling circumstances, his country sought him beyond the mountains, and demanded his services—he left the endearment of his family, and the security of private life, to encounter, for the very country, whose Government now repels his claim, the dangers and destruction of war. It is, however, contended, by the honorable the Speaker, that this receipt admits of two constructions. I admit the fact: but will we consult the equity, or even the interest of our country, by adopting a construction, which, whilst it debases the individual, degrades the country? But I contend that the construction given to the receipt, by the honorable the Speaker, is contrary to every rule of construction with which I am acquainted. He contends, with zeal and much eloquence, that the money which was advanced, and from which the receipt was given, may have been public money which had been placed in his hands by the then Government. Where is the evidence to prove that fact? It is very material; if such evidence does exist, the House is entitled to it; and if none is produced, we are at liberty to presume that none exists. Again, sir, every circumstance, connected with this interesting distressed Revolutionary soldier, repels such an idea. He fought with Amherst in the West, and conquered Wolfe on the plains of Abraham; at Ticonderoga he merited, if he did not obtain, victory; he rose superior to the weakness of humanity, and yielded himself a sacrifice to his integrity; he there could have reaped bloody honors, and, perhaps, deathless renown, by the destruction of the brilliant army, which afterwards contributed to the triumph at Saratoga; the adoption of his advice saved your army at Trenton; he was one of your Major Generals during the Revolutionary war; he presided over the former deliberations of your Congress; he was a friend of WASHINGTON, and shared the confidence of that great man to the day of his death. And can it be possible, that a man thus elevated, by those circumstances which usually tend to ennoble human character, can submit to the degradation of presenting to the Government of his country a false account for the pitiful sum of four or five thousand dollars, and be trembling on the brink of the grave? The idea is too debasing, it is ungenerous—it ought not to be entertained for a moment. Seven long years he has literally begged at your doors;

committees after committees have said his accounts ought to be paid. If you think otherwise, reject them; but why will you debase him—why will you add insult to injury? Recollect his services, and O! let his gray hairs pass in peace to the grave! But again, I have always been taught to believe, that it is a correct rule of construction, when an instrument of writing is presented to you, susceptible of two constructions, you are bound to permit that construction to prevail which will operate most strongly against the obligor and most in favor of the payee or obligee. Apply this rule of construction to the case now before you, and further comment is unnecessary, the conclusion is irresistible.

The opponents of the claim tell us, if it is rejected, they will join and vote him so many hundred dollars a year. Mr. Chairman, I have no idea of introducing under the garb of public sympathy, a pensioned corps, other than that already established, composed of unfortunate individuals disabled in the military or naval service of my country. Let us first be just, and, with the public money, generous only in case of necessity.

The acts of limitation have been appealed to as barring the claim of the petitioner. Sir let them bar, and prevent fraud and injustice, but not right, nor the claims of Revolutionary merit in distress. Let them prevail in the departments of the Government; enforce them, if you please, in the courts of law, but in this temple of justice they are inoperative—they vanish before legislative discretion. An honorable gentleman from Pennsylvania (Mr. HOPKINSON) whom I have always listened to with pleasure and edification, has anticipated me in one idea in relation to the act of limitation. He has very properly remarked, that your committees have not only acknowledged the correctness of the claim, but recommended its payment, and that the House, acting upon that recommendation, have not only sanctioned their reports, but have paid the principal of the claim which, in legal contemplation, takes the claim out of the act of limitation. It does more; it not only takes it out of the act of limitation, but proves one of two things, either that the claim is correct, and that the interest ought to be paid, or that the committees who recommended payment, and the Congress which paid, paid an illegal and improper account. But I contend, and hope I shall be able to prove to the satisfaction of this Committee, that this claim has never been embraced by your acts of limitation. Acts of limitation commence their operation, not from the time of making a contract, or the time of its execution, but from the day assigned for payment; for example, a note dated 1st of January, 1817, payable the 1st of January, 1818, when will an act of limitation commence its operation? Every mind anticipates the answer—from the day of payment; this principle being established, let us inquire into the nature of General St. Clair's claim: it is of the nature of a debt payable on demand, which excludes the idea of any particular day of payment; in such cases a discretionary power is left with the payee or obligee to

make the demand, which is evidenced by proof of a formal demand, or, what is the more usual way, by the entry of mesne process in the hands of the sheriff; in either way the act begins to run only from the time of the demand. General St. Clair's claim, if I am correctly informed, was presented in 1810, and has been preferred from that time to the present; your acts of limitation therefore cannot affect it. The correctness of the claim being established, as his advocate in my official capacity, I demand for him the payment. And how is he paid? Injustice still presents these acts of limitation—as a payment for what? The claim? Yea, more; for sleepless days and nights; for services the most eminent, rendered at a time which emphatically tried men's souls; when patriotism was denounced as treason, and defeat was slavery or death. Mr. Chairman, if the claim is doubtful, and if I shall stand here alone, I shall vote to relieve the distresses of the Revolutionary soldier. Lamented ingratitude! Thus have your soldiers been paid; they who fought for your liberties and independence. After the Revolutionary war, they looked up to their Government for justice; wounded and disabled they performed an annual pilgrimage to your House; year, after year, they petitioned for their wages; at last, tired with their complaints, acts of limitation were passed; just or unjust, their claims were forever barred. Hope, the last consolation of the miserable, being thus cut off, numbers retired beyond the mountains and pined out a miserable existence. This session, the glorious few whom death had not relieved, driven by want, once more approached you; they dropped the tone of remonstrance; they assumed the accents of humanity and distress, and begged for bread; you felt the appeal, and, with a promptitude honorable to yourselves and grateful to the people, you voted a partial relief. O! that they had been made partakers of the thousands that are expended in which the heart would have united with the judgment in approving the expenditure. Mr. Chairman, we have listened to the prayers of the subaltern, let us not discard the claim of the chieftain; pay him his account; fill his heart with gratitude; send comfort to the humble mansion which now shelters him from the rude storm of the mountain; he will thank you, and in his last moments will give to his country all that he has to give—his blessing.

A motion, made by Mr. FORSYTH, to amend the bill by directing the accounting officers of the Treasury to adjust the claim of General St. Clair, and allow him the principal and interest of whatever amount may appear to be due, any law to the contrary notwithstanding, was under consideration, when the Committee rose, and obtained leave to sit again.

TUESDAY, February 3.

Another member, to wit: from Massachusetts, ELIJAH H. MILLS appeared, produced his credentials, and took his seat.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred the amendment proposed by the Senate to the bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the 1st of January, 1817," reported the agreement of the committee to the said amendment. The amendment was then concurred in by the House.

Mr. LOWNDES made a report on the petition of Jonathan Amory, jr., which was read, when Mr. L. reported a bill for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased; which was read twice, and committed to a Committee of the Whole.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred the petition of Morton and Sneed, reported a bill to authorize payment in certain cases on account of Treasury notes which have been lost or destroyed; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS made an unfavorable report on the petition of Basil Shaw, of Tennessee, who prays compensation for a slave killed whilst in his employ in the military service, by a cannon ball, before New Orleans, on the morning of the 8th of January; which was read and concurred in.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill to incorporate the Columbian Institute for the promotion of arts and sciences, which was read twice, and committed to a Committee of the Whole.

Mr. H., from the same committee, to whom was referred the bill from the Senate, entitled "An act to incorporate the Mechanic Relief Society of Alexandria," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. COMSTOCK, from the select committee to whom was referred the memorial of Dr. James Smith, agent for vaccination made a report, expressive of their confidence in the efficacy of vaccination, and of their satisfaction at the manner in which Dr. Smith has discharged the duties belonging to him as agent therefor; but declaring their opinion that vaccination can be efficaciously disseminated among the Army and Navy of the United States, by the surgeons thereof, without incurring any additional expense.—Concurred in.

Mr. FORSYTH submitted the following resolution; which was read, and ordered to lie on the table till to-morrow:

*Resolved*, That the Committee of Ways and Means be instructed to inquire whether the Bank of the United States is authorized, by its charter, to receive as pledge or security for loans made to individuals or corporations, a transfer of public debt made to the bank, or to any officer thereof, and if, in their opinion, such transfers are not authorized by the act of incorporation, to report to the House some effectual mode of preventing them from being hereafter made.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An



H. or R.

Case of R. W. Meade.

FEBRUARY, 1818.

making appropriations for the military service of the United States, for the year 1818," with amendments; and they have passed a bill, entitled "An act to divide the State of Pennsylvania into two judicial districts," in which bill and amendments they ask the concurrence of this House.

The amendments to the first-mentioned bill were read, and referred to the Committee of Ways and Means.

The bill from the Senate, entitled "An act to divide the State of Pennsylvania, into two judicial districts," was read twice, and committed to the Committee on the Judiciary.

Mr. LOWNDES, after briefly explaining the liability of the Government to be defrauded of its revenue by drawbacks on the re-exportation of foreign liquors, from the absence of any means of identifying them, except the marks on the casks, &c., moved the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of making provision by law for allowing foreign wines and distilled spirits to be deposited in the stores of the Government, and of limiting the drawback on exportation to such as shall have been so deposited.

The resolution was agreed to.

#### CASE OF R. W. MEADE.

Mr. TRIMBLE submitted for consideration the following resolution:

*Resolved*, That the demand made by the President of the United States upon the King of Spain for the liberation of Richard W. Meade, a citizen of the United States, detained in confinement in the Castle of Santa Catalina, at Cadix, ought to be supported and executed by vesting the President with authority to make reprisals in the event of a failure on the part of Spain, promptly to discharge the said Meade.

Mr. TRIMBLE said he had submitted this resolution with a view of moving that it should, together with the Message of the President, and the documents accompanying the same, be referred to a Committee of the whole House for Friday next. Being up, he took occasion to say, that it would appear from the documents, that the statements of the particulars of this case heretofore perceived through the medium of the newspapers, were substantially correct, and that the charge, on the part of the Spanish Government, was as great as it had been supposed. On examination, it would be found that our Government, in this respect, was different from any other that had ever existed: Congress alone having the power to authorize reprisals, whilst in every other Government that power is vested in the Executive authority. The demand made by the President, Mr. T. said, was, in his opinion, a pretty strong one; and, if Spain should refuse to comply with it, he was further of opinion, that the House was bound to enforce the demand of the Executive, by clothing it with the proposed power. In bringing this subject before the House, he had submitted this resolution, which he hoped would ultimately be adopted, and, he would add, in such a shape that no room should be left for secret or direct or for treachery.

Mr. LOWNDES said he was not prepared to express any definite opinion on this subject, not having yet examined the documents in relation to it which had been recently transmitted to the House. But he took it for granted that the case would present two questions for consideration: first, whether Congress should act on it at all; and, secondly, what particular steps should be taken, or powers granted to the Executive. It was a matter of some importance, before acting on any particular proposition, to determine whether the House would act at all on the subject: and, this being a matter of importance, it ought to be deliberately and cautiously examined and acted on. Under this view of the subject, he suggested that it would be proper that some time should be given for consideration. He therefore thought it would be a proper course to lay the resolution on the table, not with any view to prevent the discussion of it, but that it might be taken up whenever time should have been given to look over the documents. With respect to the particular object of the resolution he should, at this time, say nothing, being doubtful whether it contemplated authorizing the Executive to issue letters of marque and reprisal in the usual form to our vessels, or a reprisal on the person of any subject or subjects of Spain.

Mr. PITKIN concurred entirely in opinion with Mr. LOWNDES as to the necessity of deliberation and caution, in the consideration of a proposition of this moment. The House was advancing on difficult ground, and ought to tread it lightly and warily. For his part, he said, he was not at present for doing anything on the subject, it being in the hands of the Executive. But, at any rate, he desired time for reflecting on a proposition which could only be regarded as a measure of war, depending on a certain contingency.

Mr. TRIMBLE said, as to the terms of his resolution, he had made them general, for the purpose of allowing any modification of the resolve that the House might choose. It appeared to him, Mr. T. said, that he differed from the gentleman from Connecticut in regard to what was the duty of a nation. For instance, said Mr. T., if that gentleman himself were confined in the prison of Santa Catalina, or any other prison, without just cause, I would be ready to make war for his release, if necessary. I would not stop to calculate consequences when brought into competition with personal liberty. In relation to the motion to lay the resolution on the table, he had not the least objection to it, having moved to refer it to the Committee of the Whole, only because he thought that course more respectful to the House.

Mr. PITKIN said he did not mean to deny that there might be cases in which war would be justified to rescue a fellow-citizen from imprisonment or slavery; but he had no idea of making war for any such purpose, without examining well the grounds of it, and certainly not when the subject was in the course of investigation by a different department of the Government.

Mr. TRIMBLE said he was misunderstood in being supposed to contemplate war by his motion.

FEBRUARY, 1818.

General St. Clair—Military Appropriations.

H. or R.

So far from the proposition it embraced being a measure of war, it was admitted by all writers on the subject to be a measure to prevent war, and had been so used by all nations. It was not therefore a war measure, but a measure to prevent war. It might lead to war, he granted, as any other collision between nations might; but in itself it was not war, nor was it so intended.

Mr. FORSYTH inquiring whether the documents on this case were before the House, the SPEAKER answered that they had been ordered to be printed, but were not yet sent in.

The motion to lay the resolve on the table, was agreed to, *nem. con.*

#### GENERAL ST. CLAIR'S CLAIM.

The House then resumed the unfinished business of yesterday, and again went into a Committee of the Whole on the bill for the relief of General Arthur St. Clair.

The debate on the merits of this case, and on the propriety of Mr. FORSYTH's amendment, was resumed and continued with increased ardor and unusual eloquence, until after four o'clock, when the Committee rose, by the casting vote of the Chairman, and obtained leave to sit again.

On motion of Mr. COBB, it was

*Resolved*, That the Secretaries of the Treasury and War Departments do cause to be laid before this House, a statement of the accounts of General Arthur St. Clair with the General Government, both before and since the adoption of the Federal Constitution, to be found in their offices, respectively, and, if the same have been settled and balanced, showing in what manner, and at what dates the same were settled and balanced.

WEDNESDAY, February 4.

Mr. STRONG presented a petition of Moses Sanderson, praying for an increase of the pension heretofore granted to him.

Mr. BLOUNT presented a petition of Samuel Douthet, praying to be paid for property belonging to a certain Malechia Motlow, deceased, of which he was robbed by the Cherokee Indians, in the year 1782, the Government having subsequently, by treaty with the said Indians, relinquished to them all property which they had taken from the citizens of the United States.

*Ordered*, That the said petitions be referred to the Committee on Pensions and Revolutionary Claims.

Mr. ROBERTSON, from the Committee on the Public Lands, to whom was referred the amendments proposed by the Senate, to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," reported the same with amendments; which were agreed to by the House.

On motion of Mr. FORSYTH, the House proceeded to consider the resolution submitted by him yesterday, and the same was agreed to by the House.

On motion of Mr. PINDALL, the House proceeded to consider the resolution submitted by

him on the 26th ultimo, and the same being read, was disagreed to by the House.

The SPEAKER laid before the House a letter from Albion K. Parris, communicating information that he has addressed a letter to the Governor of Massachusetts, resigning his seat as a Representative from that State, in the Congress of the United States; which was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," with amendments; in which amendments they ask the concurrence of this House.

#### MILITARY APPROPRIATIONS.

Mr. LOWNDES from the Committee of Ways and Means, made a report on the amendment of the Senate to the bill making the annual appropriations for the Military Establishment; which was read, and made the order of the day for this day.

The House then, on motion of Mr. LOWNDES, suspended the preceding orders, and forthwith resolved itself into a Committee of the Whole, on the said report.

The first amendment made by the Senate to the bill, was the insertion of a provision appropriating twenty thousand dollars for additional pay, rations, &c., to officers having brevet commissions, when commanding separate posts, districts, or detachments, requiring them to act in their brevet rank.

This amendment the Committee of Ways and Means recommended to the House to disagree to, and, on this question, the debate was revived, which had engaged the House when the bill was first introduced; embracing in its scope the expediency of continuing brevet emolument, the propriety of defeating an existing law by refusing the appropriations necessary to give it effect, &c. The gentlemen who joined in the discussion, were Messrs. LOWNDES, MERCER, HARRISON, CLAY, SMITH of Maryland, TERRY, HOPKINSON, STORES, COLSTON, and FORSYTH.

The question was finally decided against the Senate's amendment.

The Committee agreed successively to the other amendments of the Senate, which produced no debate; and rose, and reported their proceedings to the House.

The House took up the report of the Committee of the Whole, and, on the question to concur with the Committee of Ways and Means, and with the Committee of the Whole, in their disagreement thereto, it passed in the affirmative—yeas 125, nays 32, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Barbour of Va., Bassett, Bateman, Bayley, Bellinger, Bennett, Bloomfield, Boden, Boss, Bryan, Burwell, Butler, Campbell, Claiborne, Cobb, Comstock, Cook, Crafts, Culbreth, Cushman, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Folger, Forsyth, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hendricks, Herbert, Herrick, Heister, Hogg,



H. OF R.

General St. Clair.

FEBRUARY, 1818.

James of Massachusetts, Holmes of Connecticut, Hubkinson, Hubbard, Hunter, Huntington, Johnson of Virginia, Lawyer, Linn, Little, Lowndes, McLane, MacLay, W. P. MacLay, McCoy, Marchand, Merrill, Mills, Moore, Morton, Moseley, Mumford, Murray, Nelson, H. Nelson, Nesbitt, New, Newton, Owen, Patterson, Pawling, Pitkin, Porter, Quarles, Reed, Rice, Rich, Richards, Ringgold, Robertson of Kentucky, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, Sherwood, Silabee, Slocomb, S. Smith, Bal. Smith, I. S. Smith, Southard, Spangler, Speed, Stewart of North Carolina, Strong, Strother, Stuart of Maryland, Tallmadge, Tarr, Taylor, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

**YAYS**—Messrs. Baldwin, Ball, Blount, Colston, Cruger, Forney, Fuller, Harrison, Herkimer, Ingham, Lag of New York, Jones, Kinsey, Livermore, Mercer, T. M. Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Pindall, Poindexter, Robertson of Louisiana, Robert, Alex. Smyth, Spencer, Storrs, Terry, Williams of New York, and Wilson of Massachusetts.

The residue of the amendments proposed by the Senate to the bill were then concurred in by the House, with amendments to the third.

THURSDAY, February 5.

On motion of Mr. WHITMAN, the Committee on the Judiciary were directed to inquire into the expediency of altering the time of holding the district court, now by law holden at Portland, Maine, and for the District of Maine, on the last Tuesday of May, annually, to the first Tuesday of June, annually.

A message from the Senate informed the House that the Senate insist on their first amendment to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818;" and agree to the amendments proposed by this House to their bill amendment to the said bill; and they have passed bills of the following titles, viz: "An act in addition to an act, entitled 'An act for the relief of John Thompson;'" "An act in addition to an act, giving pensions to the widows and orphans of persons slain in the public or private armed vessels of the United States;" "An act, providing for the sale of certain lands in the district of Marietta, and for the location of claims, and sale of certain lands, in the district of Vincennes;" in which bills they ask the concurrence of this House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the reports of the several Boards of Commissioners, for the settlement and adjustment of Land Claims in the State of Louisiana and Territory of Missouri; which was referred to the Committee on the Public Lands.

#### GENERAL ST. CLAIR'S CASE.

The House then resumed, in Committee of the Whole, the consideration of the bill for the relief of Major General Arthur St. Clair.

After some further debate, the question was taken on Mr. FORSYTH's motion to refer the settlement of the claim to the Treasury Department, and negatived by a large majority.

Mr. CLAY, then, after offering his reasons, moved an amendment to the bill, providing for placing General St. Clair on the pension list, and allowing him an annual pension of — dollars, and moved to fill the blank with six hundred dollars.

Mr. HARRISON moved to fill the blank with the sum of one thousand, which, after two counts, was carried—ayes 80, noes 73.

The question was taken on Mr. CLAY's amendment, with the blank thus filled, and negatived—ayes 68, noes 80.

Mr. TAYLOR, of New York, then moved an amendment directing the Secretary of War to place General St. Clair on the pension list, at the rate of — dollars per month, payable as other pensions are.

Mr. HARRISON moved to insert, before the clause directing the annual pension, a provision for paying to General St. Clair the sum of four thousand three hundred and thirty-six dollars, in full of his claim against the Government.

This motion was negatived—ayes 61, noes 88; and, the question recurring on Mr. TAYLOR's motion—

Mr. PALMER moved to fill the blank with fifty dollars as the monthly pension.

Mr. TERRY moved eighty, which was negatived—ayes 68, noes 78.

Mr. STORRS proposed seventy-five dollars per month, which was also negatived—ayes 67.

Mr. HARRISON moved the sum of seventy, which was also lost—ayes 71, noes 77; and

The sum of sixty was eventually agreed to—75 to 71; and, thus amended, Mr. TAYLOR's amendment was adopted by a large majority; after an unsuccessful motion by Mr. LIVERMORE to make the pension to commence on the 4th of July instead of March.

The Committee of the Whole then rose, and reported the bill, as amended, to the House.

The House having taken up the report of the Committee of the Whole—

Mr. TAYLOR, of New York, moved to strike out sixty as the amount of the proposed monthly pension, and to insert fifty.

This motion was decided by yeas and nays in the negative—yeas 73, nays 90.

Mr. MERCER then proposed an amendment, providing that General St. Clair should receive for the remainder of his life the half of the full pay attached to the rank which he filled in the Army at the close of the Revolutionary war; and also proposed, as part of the amendment, a preamble to the bill, expressive of the high sense entertained by Congress of the virtue and services, &c., of General St. Clair.

This motion not being in order unless previously considered in a Committee of the Whole—

Mr. MERCER, to attain his object, moved the recommitment of the bill to a Committee of the whole House; which motion was rejected by a

FEBRUARY, 1818.

Proceedings.

H. OF R.

large majority, and the amendment with it of course.

Mr. HARRISON made an unsuccessful attempt to revive the motion made in Committee by Mr. CLAY; and the question was then taken on concurring with the report of the Committee of the Whole, granting a pension of sixty dollars a month, and decided in the affirmative—yeas 122, nays 90, as follows:

**YAYS**—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Ball, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Blount, Boss, Bryan, Butler, Campbell, Colston, Comstock, Cruger, Culbreth, Cushman, Drake, Earle, Ellicott, Ervin of South Carolina, Forney, Fuller, Gage, Garnett, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hubbard, Huntington, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Livermore, Lowndes, McLane, W. MacLay, Marchand, Mason of Massachusetts, Mercer, Middleton, Mills, Moore, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, Newton, Ogden, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Poindexter, Porter, Quarles, Reed, Rice, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Savage, Sergeant, Settle, Seybert, Shaw, Sherwood, Silabee, S. Smith, Bal. Smith, Alexander Smyth, Spencer, Storrs, Strong, Strother, Stuart of Maryland, Tallmadge, Tarr, Terrill, Terry, Trimble, Tucker of Virginia, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of New York, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

**NAYS**—Messrs. Abbott, Austin, Bassett, Boden, Burwell, Claiborne, Cobb, Cook, Crafts, Crawford, Desha, Edwards, Folger, Forsyth, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hunter, Ingham, Lawyer, Linn, W. P. MacLay, McCoy, Merrill, Morton, T. M. Nelson, Rhea, Richards, Sampson, Sawyer, Scudder, Southard, Spangler, Speed, Taylor, Townsend, Tucker of South Carolina, and Williams of North Carolina.

Mr. MERCER then moved the following amendment, by way of preamble: "Whereas the Congress of the United States entertain a high sense of the tried integrity, as well as of the civil and military virtue of Arthur St. Clair, late President of the Congress, and Commander-in-Chief of the Army of the United States, whom they learn, with regret, has been reduced, by misfortune, to extreme poverty."

This motion was negatived—ayes 61, noes 81; and the bill was ordered to be engrossed and read a third time to-morrow.

FRIDAY, February 6.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Paul Robinson.

Mr. RICH moved to reverse this report, (the object of the petition being to obtain indemnification for damages recovered of him by a Canadian for property seized from him, under the

impression it was military stores, during the late war.) After some debate on this motion, it was negatived, and the report was ordered to lie on the table for further examination.

Mr. WILLIAMS also made an unfavorable report on the petition of Major John Whistler; which was referred to a Committee of the Whole.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the relief of John Kennedy and Henry Nail, or their legal representatives; which was read twice, and committed.

Mr. SPENCER, from the Committee on the Judiciary, reported a bill for the relief of Elbert Herring; which was read twice, and committed.

The amendments of the Senate to the bill to incorporate the Columbian Insurance Company of Alexandria, were read, and concurred in.

Mr. SOUTHARD, from the Committee on Indian Affairs, to whom was referred the Senate's bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes, reported the same without amendment; and it was referred to a Committee of the Whole, to whom was referred a bill previously reported by the same Committee, respecting the civilization and education of Indians.

The SPEAKER laid before the House a letter from the Secretary of War, stating that the report to this House from the War Department, dated on the 20th February last, contains all the information to be found in that Department, in relation to the claims of the State of Massachusetts, for expenses of calling out the militia of that State during the late war, and the reasons why they have not been allowed; which was read, and ordered to lie on the table.

On motion of Mr. BARBOUR, of Virginia, the Committee of Ways and Means were instructed to inquire into the expediency of authorizing the President to distribute an additional sum amongst the Assessors of the United States, for extra services.

On motion of Mr. HOPKINSON, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing for the payment of the expenditures made in laying down and taking up buoys in the river Delaware, in the Lazaretto channel, about twelve miles below the city of Philadelphia; and also for defraying in future, the expense of taking up and laying down the said buoys when required.

On motion of Mr. FORSYTH,

**Resolved**, That the President of the United States be requested (if, in his opinion, not inconsistent with the public interest) to lay before this House the correspondence with the Government of Spain, to which the letter of George W. Erving, the American Minister near that Court, of the 25th October, 1816, communicated with his Message of the 29th January, 1818, refers; and any subsequent correspondence between the two Governments on the same subject.

Mr. FORSYTH and Mr. MOSELEY were appointed a committee to present the said resolution to the President.



H. or R.

Case of George Mumford.

FEBRUARY, 1818.

The bill from the Senate, entitled "An act in addition to an act, entitled 'An act for the relief of John Thompson,'" was read twice, and committed.

The bill from the Senate, entitled "An act providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes," was read twice, and committed to the Committee on the Public Lands.

The bill from the Senate, entitled "An act in addition to an act giving pensions to the widows and orphans of persons slain in the public or private armed vessels of the United States," was read twice, and referred to the Committee on Naval Affairs.

The House took up the Senate's message, insisting on their amendment to the military appropriation bill, (respecting brevet pay,) and agreed to insist on its disagreement thereto, and to ask of the Senate a conference thereon. To manage such conference, on the part of the House, Messrs. LOWMEDE, SMITH of Maryland, and PITMAN, were appointed.

The engrossed bill for the relief of Major General Arthur St. Clair, was read a third time, and passed.

The House resolved itself into a Committee of the Whole, on the resolutions submitted by Mr. JOHNSON of Kentucky, and Mr. WALKER of North Carolina, on the 9th December last, and on the 11th concerning half-pay pensions, invalid pensioners, and for other purposes; and after debate the Committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. STORRS, the Secretary of War was required to communicate to the House statement of the balances now due, respectively, from such persons now or heretofore acting in the Quartermaster and Paymaster's departments, whose accounts have not been settled for the period of more than one year previous to the 27th day of December last.

#### CASE OF GEORGE MUMFORD.

Mr. TAYLOR, from the Committee of Elections, made a report, accompanied by sundry documents, amongst which is a letter from Mr. Mumford to the committee, on the case of George Mumford, a member of this House from North Carolina, whose right to a seat has been questioned, because he had not, previously to attending the House, resigned the office of Principal Assessor in his district. The report concludes, on the ground that the duties and compensation of the office (and of course the office itself) had expired, that George Mumford is entitled to a seat in the House.

The report was read, and committed. It is as follows:

The Committee of Elections, to which was referred resolution of the House of Representatives of the 10th of December, 1817, and a Message of the President of the United States, of the 29th of the same month, report:

That in the year 1813, subsequent to the passage of the act for the assessment and collection of direct

taxes and internal duties, George Mumford was appointed principal assessor of the tenth collection district of North Carolina; that he accepted the said office, and executed the duties appertaining thereto, under the several acts afterwards passed, laying direct taxes upon the United States; and that he has not resigned the said office.

In the month of August, 1817, he was elected a Representative of the said State; and on the first day of the present session he was qualified, and took his seat in this House.

The act of July 22, 1813, under which Mr. Mumford held his appointment, was prospective and without limitation. No law then existed laying a direct tax. But as Congress intended resorting to that system of revenue, it was enacted "that, for the purpose of assessing and collecting direct taxes," the United States should be divided into collection districts, and a principal assessor appointed for each district. If this act has neither expired nor been repealed, Mr. Mumford is still in office, and cannot rightfully be a member of this House. But by the second section of the act, to provide additional revenues for defraying the expenses of the Government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same, approved January 9, 1815, the said act was repealed, except so far as the same respected collection districts, internal duties, and the appointment and qualification of collectors and assessors; in all which respects it was enacted that the said act should be, and continue in force for the purposes of the last mentioned act. The act of 32d July, 1813, so far as the same was not repealed, was thereby limited to the duration of that act, and was continued in force only for its purposes. By that act a direct tax of six millions of dollars was annually laid upon the United States, and apportioned agreeably to the provisions of the Constitution. At the first session of the Fourteenth Congress that act was modified, by repealing so much thereof as laid an annual tax of six millions, by reducing the same to three millions, and by limiting its continuance to one year; and it was expressly enacted that all the provisions of the act of January 9, 1815, except so far as the same had been varied by subsequent acts, and except the first section thereof, (which related to the apportionment of the tax,) should be held to apply to the tax of three millions thereby laid. Thus the act of July, 1813, was again limited, and continued in force for the purpose of the three million tax, laid March 5, 1816. Whenever those purposes were fulfilled, that act expired, and of course all offices created by it ceased to exist.

By the letter of the Secretary of the Treasury, hereto annexed, enclosing a report of the Commissioner of the Revenue, it appears that the entire tax assessed in the tenth collection district of North Carolina, was accounted for previous to the 1st December, 1817, and that no official duty then remained to be performed by Mr. Mumford, the principal assessor of that district. His said office, therefore, expired previous to his taking a seat in this House. The committee, therefore, respectfully submit the following resolution:

*Resolved*, That George Mumford is entitled to a seat in this House.

This report, together with the following communication from George Mumford, was committed

FEBRUARY, 1818.

Case of George Mumford.

H. or R.

ted to the same Committee of the Whole to which is committed the report in Samuel Herrick's case.

*Mr. Mumford's communication to the Committee of Elections.*

To the Hon. JOHN W. TAYLOR,

*Chairman of the Committee of Elections:*

SIR: Being about to defend myself against what appears to be a charge that implicates my honor and my character, I ask your attention whilst I make such an exposition as shall exonerate me from the imputation of having taken a seat in Congress contrary to the Constitution, or contrary to the principles of an honest man and a gentleman.

Before I enter into the argument, I will briefly relate the facts as far as they are recollected. I was appointed principal assessor at the commencement of the system of direct taxation, and continued until its termination, which happened at the last session of Congress, previous to which term I had discharged all the duties assigned me by the law, and had settled all my accounts. I did not write a letter to any person, saying that I had resigned the office, for it would at that time (whatever it might since) have been extremely ridiculous, as the office had left me. Some time, however, in the Spring, I received a letter from the Commissioner of the Revenue, written under the authority of the act of 3d of March last, which was calculated to clothe me with new power, so that any of the duties which might not have been finished should be completed. I do not recollect having performed any duty after the receipt of that letter. The election at which I was chosen was held on Thursday, the 11th of August. On the Thursday following the sheriffs of the three counties, viz. Rowan, Randolph, and Chatham, composing the tenth district of North Carolina, met, declared me to be duly elected, and gave me their joint certificate to that effect. Early in October I left home for Portsmouth, in New Hampshire, and when on my way I arrived in the city of Raleigh, and presented that certificate to the Governor, who, on receiving it, gave me a commission as a Representative, bearing date at that time. As I passed through this place, I intended to have remained here a few days, and meant to have called on the Commissioner of the Revenue, for the purpose of giving him all the information I could relative to the probable business that might arise in the course of the completion of the collection by the collector. This visit was due from respect to an officer under whose direction I had served, and which, though not official, would have been proper, and which should have been paid had it been in my power. Having remained at Portsmouth, out of my assessment district, during the intervening period, I returned to this place on the last day of November, and on Monday, the 1st of December, I appeared in the Representative Hall, was qualified by taking the oath to support the Constitution, and took my seat. When, as soon as the resolution inquiring what members held offices was adopted, I made a written communication of my circumstances to the chairman of the Committee of Elections.

This, sir, is the history. You will now please to indulge me while I make some remarks, and, in attending to them, you will be good enough to bear in mind that the inquiry is, whether I am a member of Congress or not; whether I am in the House or not—a question so plain, that it was not without some difficulty that I brought my mind into a train of reasoning to prove it. Indeed, if I had not so much at stake,

and if it was not that the question, plain as it appears to me, seems to be doubted by them, or some of them, whose opinions I am bound to respect, and whose votes may be injurious to my rights, I should hardly trouble you to discuss the question. It is more than doubted, for it appears to be taken for granted, that, if a person holds an office up to the time of his qualification as a member, it would affect his seat; and it further appears to be taken for granted, that, if a person has held an office at any time since the 4th of March, or subsequent to his election as a Representative, it ought to affect his seat; and that a person who has held an office must write a letter to some one, saying that he resigns it, otherwise the omission would be considered a proof that he continued to hold the office, notwithstanding his qualification and taking his seat.

I contend for the contrary of all these propositions, and hope I shall place them in so clear a point of view as to leave no doubt on your mind; and, in doing so, will give you the plain words of the Constitution, attaching to them the plainest and most obvious meaning of which they are susceptible. Be so good as to turn to it, and you will find that it is in the second clause of the second section of the first article, that the qualifications of a Representative are enumerated, viz: "No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen;" and these are all that are enumerated as qualifications. After going through with the House of Representatives, the Constitution begins with the Senate, and, in the third clause of the third section of the same article, enumerates the qualifications of a Senator in these words, viz: "No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen; and these are all that are enumerated as qualifications of a Senator. After having thus mentioned, in express terms, the qualifications of each; after having said what shall entitle a person to a seat as a Representative, and what a Senator; after having gone through everything relative to the person of each, until you get to the last clause of the sixth section, it then provides that "no Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding [continuing to hold] any office under the United States shall be a member of either House during his continuance in office." What, let me ask, was the object of this clause? What did the people intend to guard against, when they spoke these words? Let us inquire; and we cannot do so as effectually in any other way, as by seeing what would have been our situation if this clause, or any part of it, had been omitted in the Constitution. Suppose, then, that that whole clause had been omitted, what would have been the consequence? Would there have been anything to have prevented the same person from holding United States offices while he was a member while he held such offices? You must say not. Then may we not fairly conclude that that clause, taken altogether, was intended to prevent the occupancy of both at once: but suppose the latter part only, viz: "no person holding any office under the United States shall be a member of either



H. or R.

Case of George Mumford.

FEBRUARY, 1818.

House during his continuance in office:" suppose he had been omitted, what then would have been left that would have prevented a member from being appointed to, or from holding any office, except such as happened to have been created, or to have had their emoluments increased during the time for which he was elected? Surely nothing. Then may we not fairly conclude that this part of the clause was intended, not so prevent the appointment of a member to an office, nor to prevent his acceptance of it; not to prevent the people from choosing an officer to be a member, nor to prevent his acceptance and qualification as such; but to provide that, although you may be appointed to an old office, although you may be elected to serve as a member, you shall not, during your continuance in office, be a member; you shall not, during your continuance as a member, be an officer? Now, sir, let us suppose that the first part of the clause only had been omitted, would there have been anything to prevent a member from being appointed to a new office as well as he can to an old one? As certainly not. This part of the clause was, therefore, intended to provide, not merely that a member should not hold a new office during the time he was a member, but that he should not hold it at all during the time for which he was elected. Indeed, sir, if the words that make the latter part of this clause, viz: "and no person holding any office under the United States shall be a member of either House during his continuance in office," had stood alone; if they had been intended to have contained all the condition that should have entitled a person to a seat, it would have been a forced construction, and not less forced than unreasonable and unjust to say that a person who had qualified and taken his seat as a member, ought to have it vacated, because he had held an office, without any proof or suggestion that he was then holding it; and especially after hearing him declare (as I do, and as I did to the committee) that he does not hold, or continue to hold, any office under the United States, and that he has not discharged any duties of any such office since his election as a Representative. Is it not decorous, after a man has taken the oath to support the Constitution, and thereby qualified himself, and taken his seat as a member, to insist that he does hold an office, which is as much as to say that he has violated the Constitution and his oath, without having any evidence that he has discharged, or attempted, or wished to discharge, other duties than those of a member? But, sir, these words, viz: "and no person," &c., do not stand alone. They are not a part of a clause merely; they are a part of a sentence. They are included in a period with others, divided only by a semicolon. Their very situation and connexion proves that they were not intended to contain the only condition which should entitle a person to a seat as a member; that having been provided for in the second clause of the second section, as before mentioned. The object of that clause must have been simply to declare that no officer should be a member, and of course that no member should be an officer, viz., that no person shall be both at once; this must have been the intent and meaning of that part of the clause, because, if the other meaning, viz., that no officer should be a member until he had formally resigned, had been intended, would not the convention, instead of putting them where they are, have added them to the second clause of the second section, thus: "no person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years

a citizen of the United States, and who shall not, when elected, be an inhabitant of the State in which he shall be chosen; and no person holding any office under the United States shall be a member of either House during his continuance in office;" and even then, sir, it would have been very ambiguous, leaving a doubt whether you must resign, or whether your acceptance of a subsequent appointment did not, in itself, vacate the office. Here it may not be improper to remark that a resignation, viz., a written communication, saying that you resign, is a thing that does not appear to have been contemplated as necessary, it not having been either described or prescribed.

From all which, it seems to be clear that no person holding an office under the United States can be a member, and it is equally clear that no person being a member can hold an office. This will bring the question to what it ought to be, viz., whether a member does, by being appointed, and qualifying as an officer, vacate his seat; and whether an officer does, by being elected, returned, and qualified as a member, vacate his office; or, to reduce them to a single proposition, whether an officer or a member must resign the commission, office, or appointment which he holds, before he can be Constitutionally authorized to discharge the duties of one which is subsequently conferred upon him.

If, sir, you will now suffer yourself to resort to common sense and common usage, (for here the Constitution is silent,) I think you will find that a resignation would in many cases be as unnecessary as it would be absurd, and that in all cases when a person goes from one appointment to another under the same general authority, it is not necessary, though in many it is useful, and in all it is respectful. Leaving it to be necessary only in cases where the person wishes to withdraw from the authority under which he is acting, to place himself under his own or that of another, and then it is not necessary as a means of releasing himself from the employment, but that he may vacate it quietly, that he may save himself from the sentence of a court. Is it not the universal practice and understanding relative to all offices and appointments (which are incompatible) that the accepting the last, viz., the being Constitutionally and legally initiated into the last, virtually dissolves or vacates the first? Is there an exception, from a village council and constable to the Congress and President of the United States?

Suppose the United States, or the President and Senate, in the name and under its authority, was to appoint a member of the House of Representatives to be Secretary of War, could he not accept, qualify, and enter upon the duties of the War Department until he had either said or written to the House, or to the people of his district, or to some body, that he resigned his seat? He might have been appointed *pro tem.* before Congress had assembled; could he not act as Secretary until the House met and received his resignation? Suppose the Legislature of North Carolina should choose a member of the House of Representatives as one of her Senators, would the Senate refuse to receive him as such until he had proved that he had said, or sung, or written a resignation of his seat there? Would they have stopped their proceedings, after having suffered him to take his seat, to inquire into such a fact? Does the Constitution require it? Does common sense demand it? Suppose the House of Representatives had contended that, as he had not resigned, he was still a member of that body, could a

FEBRUARY, 1818.

Case of George Mumford.

H. or R.

justification have been found in the Constitution for an attempt to compel his attendance?

Suppose the people should elect a man who was a collector to be a Representative, would he, besides the qualifications enumerated in the Constitution, be obliged to produce proof that he had resigned his collectorship. To whom must he resign? Do you say, to the Secretary of the Treasury? He did not appoint him. Must it be to the President, or the Senate, or to both? May it be sent by mail? It may miscarry. Who proves that you did not send it? And is the Secretary of the Treasury to send to the House of Representatives and claim his once subordinate, and take him from the high and important duties assigned him by his constituents, because forsooth a letter did not happen to get on safely? And does the House intend to expel a member, because it does not appear that he has written a few lines to the Secretary of the Treasury informing him of what it is his duty to know, and what he cannot help knowing, viz., that the person who was collector is now a member, and of course no longer a collector, the two being incompatible by the Constitution, which he has sworn to support, and which it is supposed is before him? But suppose the people should choose one who had been a principal assessor, (I say had been;) one who had discharged the duties of his office as long as there were any to perform; one who had continued in that office as long as that office had continued to exist under the laws prescribing the duties of the assessor, must he still be considered to be an assessor because a law was passed at a session subsequent to the termination of all his duties, authorizing the Secretary of the Treasury to give the assessors new and distinct powers? Must he still be considered an assessor notwithstanding he has told you in the oath he has taken, qualifying himself as a member, that he holds no office, civil or military, under the United States? Has he not told you so, and does he not now declare to you the same thing in writing? Must he still be considered an assessor, whether he agreed to act under this last direction or not, (to the performance of the duties of which there was no compensation allowed?) Surely not. Shall I take the liberty to refer you to the act appointing assessors, and the act renewing their authority? On reading them you will find that all the duties were performed—they were obliged to be performed previous to the commencement of the last session of Congress, if done agreeably to any law then existing.

You will find, from the tenor of the law of the 3d of March last, that Congress acted under the impression that the power of the assessors and that of the Treasury Department had ceased, else why renew it? And having renewed it without affixing any compensation, was I bound to accept it—did I accept it? I say I did not; I performed no duty under it. And does not the very omission to perform the duties amount to a refusal to accept a new office?

But, sir, a resignation is necessary in some cases, as I have stated. A constable cannot fairly and quietly vacate his office by merely abstaining from the duties of it, or by refusing to act, nor can an assessor or any other officer; he must give notice to the authority that appointed him of his intention, or he will be liable to be sued. But suppose the same court who had appointed him constable should appoint him sheriff, what then? I say he must give notice of his intention to accept, and after acceptance and a regular initiation into the last office, the first is vacant;

for where is the necessity of a resignation, that is, a notice that he intends to quit his constableness, when that information is contained in the notice of acceptance of the sheriffalty? A judge cannot leave the bench to accept an appointment given him by another authority, without resigning, viz., without giving notice; he must discharge the duties assigned him until he gives notice to the person or persons authorized to fill the vacancy of his intention to withdraw; and he is liable if he does not, for otherwise it would be in his power not only to refuse justice, but to prevent any other person from being appointed to dispense it. But suppose the Legislature of a State was to elect one of its judges to be Governor, where would be the necessity of a resignation of his seat on the bench? If he came forward, and became qualified as Governor, all they would or could want to know would be whether he was Governor, and that, being before their faces, they would, as in duty bound, proceed to fill the vacancy on the bench. Suppose a Legislature were to elect one of the judges to be a Senator in Congress, it would, to be sure, be decorous for him to say immediately whether he intended to accept the Senatorship or not, that they might proceed, during their session, to fill the vacancy, but it is not an imperative duty; he may go through a summer's circuit, and appear in Congress hall on the first Monday of December afterwards, and take his seat. If he did not resign his seat on the bench, viz., say that he accepted the Senatorship to the Assembly, he could do so at any time to the Governor. If he did so while they were in session, they would fill the vacancy; if he did so to the Governor, he and his council would fill it *pro tem.* If he did not give this notice, he would be bound to perform the duty until he took his seat as Senator, and would be liable to be impeached if he refused or neglected to do so. Would the Senate, on his arrival, enter into an examination of his conduct? Would they require anything except an assurance that he was duly elected Senator, and that he came under the description of the third clause of the first article of the Constitution? They would not, for some of the States permit their State officers to be members of Congress, and some do not: it is a matter therefore that Congress have nothing to do with, and they would not trouble themselves to inquire into it. When a State officer has been elected, and has taken his seat as a member of Congress, his State is bound to know it, without notice from him by way of resignation; yet it often prevents difficulties, and is always respectful to give notice of your intentions; they cannot help knowing it, for he is, as to the office he held, politically dead.

Suppose an assessor wishes to retire from his office, he must resign; the Treasury Department must have notice of his intention, in order to provide that the public service shall not be injured, and the assessor would and ought to be liable in damages if he left his duty, the same as if he neglected it; but when the President and Senate have appointed him to a different and incompatible station, is not his acceptance of that a sufficient notice to the President that he is no longer an assessor, and would he not proceed to recommend another to fill the vacancy? Will any one contend that he would not or ought not until the assessor had resigned? Surely not. And is not the case much stronger when it is not merely the President and Senate (who are but servants of the people) that make the appointment, but the people themselves? Must the assessor go, or send, or write to some one of



H. OF R.

Case of George Mumford.

FEBRUARY, 1818.

other servants of the same master to ask him to permit the transaction? Is not the President bound to know and to provide for the vacancy in an office which they have, before his face, made vacant, and made it his duty to fill? Do you suggest that he might not know it? Would not the Commissioner of the Revenue, when he saw the officer with whom he had been in the habit of transacting business, sitting as a member of Congress, know it? Would he know the office was vacant if he saw the officer laying down? and would that be plainer than seeing him sitting as a member of Congress? And are they not equally incompatible so long as we have nature and the Constitution for our guide?

Does the President, or the Secretary of State, or of the Treasury, or the Commissioner of the Revenue, recognise me as an assessor? Would they not frown indignantly on the man so lost to every sense of propriety and of virtue as to attempt to continue to hold an office under their absolute control, after he had taken the oath to support the Constitution, and his seat as a member of Congress? Would they not be equally guilty to suffer it? Can they, now that I have taken my seat as a member of Congress, transact business with me as an assessor, without a violation of the oaths that they have taken? Would they not be liable to impeachment for continuing or attempting to continue a man in the execution of the duties of an office after that man had become a member of Congress? Is not that one of the ways in which an undue executive influence could be exercised in this House? Besides, sir, in all cases where it is necessary that a resignation should be sent, it is equally necessary that it should be received, and as important that it should be agreed to, and all for the reasons before given, viz., to enable the officer to retire quietly. But to contend for this proceeding in all cases, would put completely in the power of the heads of departments, by refusing to accept, or by omitting to acknowledge the receipt of a resignation, to prevent any one who held an office from taking his seat as a member of Congress. Now, sir, will it be contended that the President, or the Secretary, or the Commissioner, (either of whom pretends to recognise me as an assessor,) intended, by saying in their report, "that no resignation had been received from Mr. Mumford," to fix upon him the stigma of having violated the Constitution and his oath, and to deprive him of his reputation, and his constituents of the Representative of their choice? Impossible. If I am asked why the resolution required information "whether any offices were at that time (12th December) so held," and why, by the answer given, "that no resignation had been received from Mr. Mumford," it is left to be inferred that he is yet in office, I could answer that it would not have been proper for the President (or the Secretary of State) to have expressed an opinion as to Mr. Mumford's qualifications as a member; he had simply stated the facts, viz., that Mr. Mumford had been appointed to an office heretofore, and that no resignation had been received. He could not with propriety say whether a resignation was or was not necessary, nor (when the extent of the question is understood) could it be expected that he would answer as to whether any of the members held offices at that time. No inference ought therefore to be drawn from the report either of these points. Suppose, sir, that I had held an office after the 4th of March; what then? I am not elected as a Representative until August. Suppose that I had held an office up to the 1st of

December, does it follow that I held it up to the 12th, and that I continue to hold it now? Does my having held prove that I do hold?

Do you ask when I became a member? When does a man become a witness, or a juror, or a husband? Can they become so in an instant? Can you make a mathematical point? Is a man married until the last ceremony is performed, yet has he not privileges as a bridegroom; and have not witnesses, and jurors, and Representatives, privileges also? When does a quill become a pen? Before you have put your knife to it, it is a quill; at the instant it is nibbed, it is a pen, and not before.

But, after all, it may be asked, what great object of State policy is expected to result from knowing the offices, the time of appointment, of acceptance, and of resignation, by persons who are now members of Congress? Some invidious person might suppose that it was intended that the few names on the list should be known and held up to public view as suspected of Executive influence. Some spiteful enemy might insist that it was intended that Mr. Mumford (who was appointed, accepted, and served to the end in the unthankful and laborious office of principal assessor, and who, after having so served, had received, in his election to a seat in Congress, the reward due only to the faithful) should be so held up. But, inasmuch as there is another way of vacating an office besides dying, resigning, and dismissing; as there is such a thing as political death as to an office without political disgrace; and as the office which he held has become vacant in that way, it would seem to become the moral duty of those who have cast the odium to wipe it off. It may be said, however, that it was not intended or expected that he would have been touched in this business. Sir, I believe it; I am convinced that he was not thought of when that resolution was introduced and passed, but the ill-natured will not be disposed to view it so favorably, which leaves it to be lamented that a stone should have been thrown in the dark. Only suppose, sir, that, instead of looking back, that resolution had looked forward; and instead of asking the President to tell how many of the members he was secretly and unconstitutionally keeping in office, (for this is really the question,) it had been required of him to communicate whether any, and to which, of the members of the House of Representatives he had promised an appointment, designating the office, the time proposed, whether it was to be accepted, and how far a right to a seat was affected thereby, this stone would not have fallen on my head.

Sir, the cautious had better look forward for danger than backward. Being convinced that it could not have been intended to charge me with a wrong, by a resolution in which I am not named, nor to find me guilty by a report that does not say that I hold an office, I shall rest my case here; indeed, sir, I believe I should have paid a better compliment to your understanding and to that of the House, if I had rested it in silence, and I should have done so, but that the language of the resolution, affecting to be the language of the House, made it my duty to treat it with more attention. Sir, I became a member of Congress on Monday, the 1st day of December; I have held no office, nor have I discharged the duties of any since I became officially informed of my election, and, as I possess all the qualifications prescribed by the Constitution, I trust that you will so report.

Very respectfully, I am, sir, yours, &c.,

GEORGE MUMFORD.

FEBRUARY, 1818.

Amendment to the Constitution—Colonial Trade.

H. OF R.

## AMENDMENT TO THE CONSTITUTION.

A Message was received from the President of the United States, transmitting a report of the Secretary of State, in compliance with a resolution of this House, requesting information concerning the ratification by the States of an article which is printed in some late copies of the Constitution, but which, it appears, has not yet officially received the sanction of three-fourths of the States in the Union.

[The amount of the report from the Department of State, is, that the 13th article of the amendments to the Constitution of the United States has been—

Ratified by	1. Maryland,	December 25, 1810.
Do.	2. Kentucky,	January 31, 1811.
Do.	3. Ohio,	January 31, 1811.
Do.	4. Delaware,	February 2, 1811.
Do.	5. Pennsylvania,	February 6, 1811.
Do.	6. New Jersey,	February 13, 1811.
Do.	7. Vermont,	October 24, 1811.
Do.	8. Tennessee,	November 21, 1811.
Do.	9. Georgia,	December 13, 1811.
Do.	10. North Carolina,	December 23, 1811.
Do.	11. Massachusetts,	February 27, 1812.
Do.	12. New Hampshire,	December 10, 1812.
Rejected by	13. New York,	March 12, 1811.
Do.	14. Rhode Island,	December 15, 1814.
Do.	15. Connecticut.	
Uncertain,	16. South Carolina.	
Do.	17. Virginia.	

The Secretary of State, in the course of last month, addressed a letter to the Governor of Virginia, and to the Governor of South Carolina, requesting information as to any final decisions by those States in relation to this amendment, but had not received answers thereto on the 3d instant.]

The report lies on the table.

MONDAY, February 9.

Another member, to wit; from the State of South Carolina, ELDERED SIMKINS, appeared, produced his credentials, was qualified, and took his seat.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill "to continue in force, from and after the 30th of June, 1819, until the 30th of June, 1826, the fourth paragraph of the first section of the act "to regulate the duties on imports and tonnage," which was twice read and committed.

Mr. NEWTON also reported a bill, "to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" and to disallow the drawback of duties on the exportation of powder.

[The duties to be substituted for those now existing are, on iron pigs, fifty cents per hundred weight; on iron castings, seventy-five cents per hundred weight; on nails four cents per pound; on iron in bars and bolts excepting iron manufactured by rolling, one dollar per hundred weight; and on alum, two dollars per hundred weight.] The bill was twice read and committed.

Mr. CLAIBORNE, from the select committee to 15th Con. 1st Sess.—28

whom was referred the remonstrance of Major General Andrew Jackson, as one of the representatives of John Donelson, praying for the allowance of a certain quantity of land granted by the State of Georgia out of the land ceded by that State to the United States, at a period long anterior to said cession, reported a bill "for the benefit of Thomas Carr and others;" which was twice read and committed.

Mr. WILLIAMS made a report on the petition of Major General Jacob Brown, which was read; when Mr. W. reported a bill for the relief of the said Major General Jacob Brown, which was read and committed to the Committee of the Whole, on the bill for the relief of Major Loring Austin.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the Third Auditor of the Treasury, in relation to the accounts of General Authur St. Clair, in obedience to a resolution of the House, of the 3d instant; which was ordered to lie on the table.

The SPEAKER also laid before the House the annual report of the Commissioners of the Sinking Fund, which was ordered to lie on the table.

The SPEAKER also laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting "a report of the facts" in the case of John Chalmers, of the City of Washington, with the evidence accompanying it, which was referred to the Committee of Claims.

## COLONIAL TRADE.

Mr. FORSYTH, from the Committee on Foreign Relations, to whom was referred so much of the President's Message as relates to the commercial intercourse of the United States with the British West India islands, North American colonies, and the petitions of sundry inhabitants of different parts of the District of Maine, upon the subject of the said intercourse, made a report, which was read; when Mr. FORSYTH reported a bill, supplementary to the act, regulating duties on imports and tonnage, passed the 27th April, 1816, which was read twice and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred that part of the President's Message which relates to the commercial intercourse of the United States with the British West India islands and North American colonies; and also the petition of the inhabitants of the different parts of the District of Maine, on the same subject, report: That, by the statement marked A, annexed to this report, it appears that the average amount of duties upon merchandise annually imported into the United States from the British West India islands and North American colonial possessions, from 1802 to 1816, excluding the period from the commencement of the restrictive system to the termination of the late war, exceeds two millions of dollars. The value of this merchandise, upon which these duties accrued, is supposed to be equal to seven millions of dollars per annum. The statement B. shows that the average annual amount of exports to the same places, principally of domestic production, up to 1817, excluding the time of the operation of the restrictive system and the continuance of the war, have exceeded six millions



H. OF R.

Colonial Trade.

FEBRUARY, 1818.

hundred thousand dollars. The statement C. shows that in the year 1815 the amount of duties on merchandise imported in American vessels from the British West India islands and North American colonial possessions was, to the amount of duties on merchandise imported in British vessels, as one to four; in 1816 as one to five and a half, or two to eleven. Taking the ratio of 1816 as the basis of calculation, it is believed to afford the safest and most solid, as experience shows a constant diminution of the amount of duties on goods imported in vessels of the United States, it is estimated, supposing the same proportion exists in the exports, that American vessels engaged in the transportation annually of 2,177,924 dollars worth of merchandise, and British vessels 122,076 dollars worth of the most bulky articles of commerce, one half of which are of the growth, production, or manufacture of the United States. This equality in the advantages of this commerce, to the injury of the navigating interest of this country, arises from the rigorous enforcement of the colonial system of Great Britain as to the United States, while it is relaxed as to other nations who are friendly to the British empire, and have colonial possessions. The freedom of the commerce which is carried on in American vessels arises from accidental and temporary suspensions of the system which the Governors of the islands, &c. are permitted, under the pressure of dire necessity, to direct—an employment for our seamen in vessels precarious and momentary, rather irritating and tantalizing than profitable. This intercourse appears to the committee in the worst possible state, regards the navigation of the United States, while it is in the best for that of Great Britain. Justice and policy require, on the part of every wise Government, the best exertions to secure to its own citizens a perfect equality in the transportation of merchandise with the people of every nation respectively with whom it has commercial intercourse. Some Governments are governed by a policy more contracted, desiring to give to their navigators the exclusive transportation of their native products, while they desire to participate in carrying the productions of other countries. The committee are satisfied that the United States will never be governed by the selfish views of the latter class, nor trust that it has not been, nor will it ever be, regardless of the just motives of the former. So far as a duty to protect the navigating interest. This duty can be performed in relation to the subject of this report, by a conventional stipulation with Great Britain, formed upon the basis of reciprocity, or by legislative acts, operating exclusively against the British navigator engaged in this trade. With the first made this House has no further concern than to know that the other branch of the Government has performed its duty. Repeated and hitherto unavailing applications have been made to the British Government. It is not, however, surprising that they have been unsuccessful, since no adequate motive at present exists to induce Great Britain to arrange this intercourse by convention. The offer contained in the articles annexed to this report, the most rational and reciprocally advantageous of any ever made, may be considered as dictated by a spirit of accommodation, which, under the pressure of adequate motives, might be forced into a determination to grant all that we could reasonably ask or they be expected to yield. The three first articles, with some practicable modifications, would, by the adaptation of our commercial laws to the stipulation contained in them, confining the com-

merce strictly to those articles which Americans were permitted to carry, would place the trade upon as favorable grounds as could be expected. It would, no doubt, in a short time, be followed by a complete abandonment of the residue of the present jealous system of exclusion. The committee cannot, however, but approve the prompt rejection of this proposition, since these articles are connected with another altogether inadmissible, without a departure from what they deem the settled policy of this country, in relation to the trade with the Indians within its jurisdiction. The British ministry having assured the Government that these articles were all that could be granted, consistent with their opinions of the best interest of the British empire, there is no longer any hope of effecting this desirable object by negotiation. It remains for Congress to determine what course is to be pursued. If it were possible to separate the interest of one class of the community from that of another, it must be obvious that, however fatal to the navigator, the present state of things is not injurious to the cultivator of the soil. The productions of his labor are carried with facility to a ready market, and he receives in return all those articles which taste and habit have rendered necessary to his comfort. But this separation is impossible, and the necessary connexion between the two interests is apparent, when it is remembered that the competition of American with foreign navigation is essential to keep down the expense of transportation always paid by the cultivator and consumer. If this injury is not now apparent, it will ultimately be felt when the total ruin of the navigating interest will deprive us of the power to remedy the evil.

The committee forbear to press those important considerations of preparation for national defence so inseparably connected with this inquiry. They feel that there is on this point but one sentiment among the Representatives of the people and in the nation. Experience, prudence, gratitude for the glory shed upon our country, and the confident and delightful anticipation of future renown, all conspire to insure the necessary sacrifices for the preservation and interest of the seamen of the United States. This object, so far as it may be promoted by a participation in the commercial intercourse with the British American colonies, may be effected by a trifling and temporary sacrifice of the interests of agriculture. A slight knowledge of the situation of the British West India colonies authorizes the position that a commerce with the United States is essential to their prosperity, if not to their existence. The best market for the sale of their surplus products is found here, while the grain, provisions, and lumber, articles of the first necessity, received in return, are procured on terms infinitely more advantageous than they are to be had for their use in any other part of the world. But for occasional supplies of those articles from the United States, some of the islands would be deserted by their inhabitants, or a change produced in their agriculture, ruinous to their commercial interest. The people of the United States are in a very different situation. The British West India market is convenient, but not necessary to their accommodation. All the articles imported from them can be procured abundantly, upon terms equally advantageous, from other quarters. The annexed tables, marked D and E, show the amount of imports of the chief articles of their production from the British West Indies, &c., and the proportion it bears to the whole amount of imports of similar articles from other West India islands, &c.

FEBRUARY, 1818.

Proceedings.

H. OF R.

Many of these can be, and are procured from other quarters of the world, with which commerce in American vessels is not restrained. The demand for all can be supplied without a recourse to the British West India islands, and a supply from other quarters will be obtained by the employment of American vessels and American seamen, in common with the vessels and seamen of the country from which it may be brought. The only danger to be apprehended is, that the cultivator, losing the British West India market for the sale of his exports, would lose with it the ability to procure the commodities he formerly received in return. The extent of this danger depends upon the correctness of the position laid down; that this commerce is essential to the British West India islands, and only convenient to the United States. If the necessities of life can only be, or are procured on terms infinitely more advantageous here than anywhere else, it follows they will still be carried to the British West Indies, if not directly under a convention between the two Governments, circuitously through some mutually friendly port. It is perfectly true that the West India islands are capable of producing all that is necessary for their own subsistence; but this must be at the expense of their commercial importance; the abandonment of the most profitable, for, to them, an unprofitable cultivation. The general use and consequent high price of West India produce will insure a continuance of the usual course of agriculture, and will, as heretofore, operate a bounty upon the growth of breadstuffs in the United States. In favorable seasons and in peaceful times, Europe affords a surplus of human aliment, and supplies are to be found on the African coast of the Mediterranean; but these come loaded with the increased expenses and the dangers of the lengthened transportation of heavy articles. In the event of one of those desolating tempests, of but too frequent occurrence in these otherwise favored regions, destroying in an instant the labor of a life, and scattering the hoards collected by prudence for the subsistence of the colony, the distance from these places of relief renders timely assistance to the unfortunate impossible. The North American colonies cannot furnish these necessary supplies. The navigation of the principal river which carries the greatest portion of her stores to the ocean, is closed the better part of the year, and is not practicable at that season which is usually marked by these calamities. It is believed, too, that by far the largest portion of the apparent exports of Canada of breadstuffs, and even of lumber, &c., are carried from the United States. There must be at all times a dependence, to a certain extent, upon this country. And if a conventional relaxation is not produced by a prohibition of this direct intercourse, or the imposition of such charges as shall amount almost to prohibition, it follows that the trade will be circuitous. In this event the export trade, instead of being carried on exclusively in British bottoms, will be prosecuted in American vessels, and the vessels of that foreign nation in whose ports the parties may, by tacit arrangement, meet for the exchange of their commodities. The return cargoes, if of British growth, will, under the navigation act of the United States, be brought wholly in American vessels.

The only question remaining to be examined is as to the mode of effecting this desirable result. By total prohibition of all intercourse, or by burdensome charges on the trade, if confined to British vessels? The committee believe that the latter is to be preferred, and

have accordingly reported a bill. There is no essential difference between them, except as the one or the other is more or less inconvenient in its execution. The effect of onerous duties is more slow, but equally certain; the pressure will soon be felt, and the beneficial consequences gradually follow. The stream of commerce will easily and naturally flow into the desired channel, without the risk of those dangers which a sudden and violent effort to divert it might produce. A short time will prove the efficacy of this arrangement, and justify its continuance, modification, or abandonment. It is recommended, too, by its facility of execution. It requires no further alteration in the existing laws. It is not necessary to arm, for its enforcement, the petty officer of the customs with powers dangerous and odious to a free people.

For further and more detailed information on the subject of this report, the committee refer the House to a document marked F, furnished from the Department of State.

TUESDAY, February 10.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill for the relief of John Dillon, which was read twice and committed to a Committee of the Whole.

Mr. LOWNDES also reported a bill for the relief of Jonas Harrison, which was read twice and committed to a Committee of the Whole.

A Message was received from the President of the United States, in relation to furnishing the President's House and the care of the public buildings, which was read and referred.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, reported a bill, supplementary to the several acts for the adjustment of land claims in the State of Louisiana, and Territory of Missouri; which was read twice and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of a company of rangers, commanded by Captain James Biggar, in the years 1813 and 1814, which was read; when, Mr. J. reported a bill for the relief of a company of rangers, which was read twice and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill for the relief of Captain Benjamin Johnson and Captain Henry Gist, which was read twice and committed to a Committee of the Whole last appointed.

On motion of Mr. BUTLER, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing on the pension list, John Taylor, a soldier in the Revolutionary Army.

On motion of Mr. PITKIN, the Committee of Ways and Means were instructed to inquire into the expediency of making provision, by law, for extending the term of credit for duties on articles imported from the West Indies.

On motion of Mr. HOPKINSON, the Committee on the Judiciary were instructed to inquire into the expediency of increasing the salaries of the Judges of the Supreme Court of the United States.



H. OF R.

Pensions to Soldiers' Widows, &amp;c.

FEBRUARY, 1818.

Promotion of Mr. ALEXANDER SMYTH, the Commissioner on Pensions and Revolutionary Claims were instructed to inquire into the expediency of granting a pension to Daniel Hyden, a soldier of the Revolution, who received several wounds, and is now indigent, and unable to support himself.

The SPEAKER laid before the House, a letter from the Commissioner of the Public Buildings in the City of Washington, enclosing a copy of one of the original deeds, of conveyance to the trustees of the United States, for the grounds in the said city, and copies of the correspondence, relating to the location of the public offices on the President's Square; which was referred to the committee on so much of the President's Message as relates to the Public Buildings, and the erection of additional edifices for the accommodation of the Executive Departments and of the Attorney General.

The SPEAKER also laid before the House, a report of the Secretary of State on the petition of Cook and Richaud, which was read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate agree to the conference asked by the House, on the disagreeing votes of the two Houses, on the first amendment proposed by the Senate to the bill, entitled "An act making appropriations for the military service of the United States, for the year 1818," and have appointed managers on their part; and they have passed a resolution "relative to the distribution of the late edition of land laws," in which they ask the concurrence of this House.

The said resolution was read twice, and committed to the Committee on the Public Lands.

#### REMISSION OF FORFEITURE.

Mr. LOWMEDE, from the Committee of Ways and Means, made a report on the petition of Nathaniel Goddard and others, formerly owners of the ship Ariadne and her cargo, which was read; when, Mr. L. reported a bill for the relief of the owners of the ship Ariadne, and of her cargo; which was read twice and committed to a Committee of the Whole. The report is as follows:

That the facts upon which the decisions of Congress probably depend in this case appear to be correctly stated in the petition, and confirmed by the documents which accompany it. The Ariadne and her cargo have been condemned as prize of war, on the ground of her having on board, at the time of capture, a license which secured her from molestation by British cruisers on her voyage to Spain, after the declaration of war in 1812. The object of the petitioners is to secure the remission of the forfeiture which accrues to the United States.

It seems very certain that the exposure to condemnation, on the principles of national law, of a merchant vessel which employed an enemy's license or passport, was not generally admitted by our professors of law, nor known by the Legislature when the voyage in question was undertaken; under such circumstances, the petitioners urge that their error was unintentional, and their ignorance venial. They observe, that subsequent to the capture of the Ariadne, an act prohibiting the use of these licenses was proposed in Con-

gress and rejected; and they might add, that this rejection could not have resulted from an opinion that the trade was unlawful without a new expression of the legislative will, because Congress had provided for the case of a trade much more clearly illegal, under an enemy's license, to an enemy's port. Where the Executive department of the Government has the power to remit a forfeiture, it constitutes, in the opinion of the committee, in ordinary cases, an objection to legislative interference; but it would be hard to apply this principle to a case in which (as is stated in the letter of the Secretary of the Treasury which accompanies this report) "it has been determined by the Executive authority that relief cannot be granted by the Executive department." The Secretary adds, in the same letter, that if the penalty had been within the jurisdiction of the Secretary of the Treasury, it would have been remitted upon proof of the facts stated in the petition. Upon the principles upon which remission has been ordinarily granted by the Department, the committee submit a bill for the relief of the petitioners.

#### PENSIONS TO SOLDIERS' WIDOWS, &c.

The House then resolved itself into a Committee of the Whole, on the bill "concerning half-pay pensions, &c., and for other purposes."

The first section of the bill goes to equalize the pensions allowed for services in the Revolutionary and late war, and to assimilate the mode of paying them.

A motion, which was under consideration when this subject was before the House on Friday last, to amend the bill, having been agreed to, Mr. BURWELL moved to strike out the second section of the bill, which is in the following words:

"That in all cases where provision has been made by law for five years' half-pay to the widows and children of officers and soldiers who were killed in battle, or who died of wounds received in battle, or who died in the military service of the United States, during the late war, the said provision shall be continued for the additional term of five years, to commence at the end of the first term of five years in each case respectively, making the provision equal to ten years' half-pay."

This motion was opposed by Mr. JOHNSON, of Kentucky, Mr. WALKER, of North Carolina, and Mr. SOUTHWARD; and was supported by Mr. LIVERMORE.

Mr. JOHNSON, of Kentucky, said he had ascertained the number of widows who had been placed on the pension list for five years' half-pay, in consequence of the death of their husbands while in the military service of the United States. These data would furnish calculations as accurate for the annual appropriation which would be necessary to meet the expenditure, as the duties of legislation required. The list included all the cases of orphans whose mothers had married again, or died before the decease of the soldier, whose service constituted the claim. The whole number now on the pension list, said Mr. J., is fourteen hundred and four, and the number of applicants whose papers are defective, and suspended for additional proof, or which have not been acted on, is fifty, making together fourteen hundred and fifty-four cases. These, at \$48 per

FEBRUARY, 1818.

Pensions to Soldiers' Widows, &amp;c.

H. OF R.

annum each, the sum allowed in the cases of private soldiers, if extended for five years beyond the term of the present provision, will amount annually to nearly \$70,000. As the number of officers is small, in proportion to that of privates, it will be a liberal allowance, in the calculation, if we estimate the sum at \$100,000 per annum, which will be amply sufficient to meet the claims of those who have been placed on the pension list, and whose papers have been presented for adjudication.

It is impossible to ascertain the number entitled to the provision who have not yet applied; but it will be universally admitted, that, of the whole number embraced in the law, a very small proportion remains yet to be presented—so small a proportion, indeed, as not to require any serious argument, or to present any serious difficulty. The act providing for the relief of the widow and the orphan, has been in existence for several years. They are known to be needy, and most of them have found active and intelligent friends to prepare and present their respective cases. Very few, therefore, remain to be adjusted. The annual sum of \$100,000, then, will undoubtedly be found entirely sufficient to provide relief for the widows and orphans of fourteen hundred and fifty-four patriotic citizens, who have sacrificed their lives in defence of the country. This sum to each individual, we know, is small; but to the destitute, the helpless, the disconsolate subjects of this bounty, it will prove an essential benefit. It will alleviate their afflictions, at best too severe. It will bind up the broken hearted and pour into their bleeding wounds the balm of consolation. Bring this unfortunate groupe in review before us; let the image, not of imaginary but of real bereavement, and consequent distress, be drawn in its full magnitude before our eyes. Behold fourteen hundred and fifty-four weeping widows, and more than a thousand helpless orphans, in all the despondency of woe; and while their sighs and groans penetrate the heart, and extort from the eye a sympathetic tear, remember that the blessings of independence, which we enjoy, have been sealed with the blood of those whose glorious, though untimely deaths, have left these widows and orphans thus comfortless. They are the widows and the orphans of the great American family—they belong to the Republic, and it is our solemn duty to provide for them. They have claims upon our gratitude that we have not satisfied; we are happy in the return of peace, but the widow remains sorrowful; no class of our citizens has such imperious claims upon our charity and our justice.

If we had to tax labor and poverty to maintain them, objections might be urged, but this is not the case; the annual appropriation for this desirable object would be small in comparison to the revenue and present resources of the nation. The whole system of internal taxes had been repealed, and the revenue from the duties on importations from foreign countries, and other miscellaneous resources, amounted, annually, from \$25,000,000 to \$30,000,000. The wealth of the nation yields

this rich harvest without compulsion, without taking from the hand of labor the bread which it has earned. And by this happy condition of our country we have resources sufficient to discharge our obligations to the sufferers in the late war, without imposing burdens upon the people; and the faithful discharge of these obligations will gratify the wishes of the American people—nothing less will satisfy them. A virtuous people, fond of liberty, have not forgotten the services nor sacrifices of those who have fallen in the second conflict for independence; nor will the cry of the widow be heard in vain. But I have asserted that they have claims upon our justice; justice requires that equal claims or sacrifices should meet with equal rewards. In the case of the wounded soldier, we have made provision for him during life. In the case of a private soldier, the greatest disability, the loss of a hand or a leg, will entitle him to the sum of \$96 per annum, in the form of a pension during life. Where the soldier has fallen in battle, or has died in the service, his widow has about \$48 per annum for five years, provided she remains a widow; for, let it be recollected, that, in case of marriage, the pension ceases. Compare the claims of the wounded soldier and helpless widow; who can deny their equal claim? Who can estimate, in money, the loss of limbs, or the loss of a bosom friend to the female character? We do not ask for a remuneration, but a small annual stipend for a few years, that pinching poverty may not drive the starving widow nor the helpless orphan into the streets to beg for bread; and here the poor wounded soldier would have an advantage over the widow, for he could live by the charity of the world, if not provided for by the protecting gratitude of his country; but the destitute female, the widow, would have to languish and die, or, by seeking the bounty of the world, must subject herself to insults, and, in many cases it would lead to more disastrous consequences. It here appears evident that we might contend for a permanent provision for the widow during her widowhood; but we contend only for five years of her widowhood, in addition to the five years already allowed her. In the State of New Jersey, which suffered so much during the Revolutionary war, I am informed by a worthy member from that State, and a worthy patriot of that revolution, (Mr. SOUTHWARD,) that the widow was placed upon the pension list for life, or during widowhood. This noble example would be worthy of our imitation. Such bounty will not be extended in vain; it has its great reward. We have provided pensions for upwards of three thousand five hundred wounded soldiers, which require an annual appropriation of about \$400,000; then I hope that we shall not refuse this temporary relief to the widow and her helpless offspring. We are called upon annually to vote millions for other objects—for the army, for the navy, for fortifications, for the civil list; these appropriations are connected with the safety of the country. The same liberal policy should induce us to sanction this provision; for however impe-



H. R.

Pensions to Soldiers' Widows, &amp;c.

FEBRUARY, 1818.

it is my duty to vote for other appropriations, it would be so grateful to my feelings as this, and none, in my opinion, will produce more happy consequences to the country.

Mr. SOUTHWARD said, that from the strong opposition made a few days since, when this subject was under consideration, he was of opinion that the section would be stricken out; but he was opposed to the motion, and in favor of retaining the section. It was not so much his intention to inquire into the amount necessary to meet the object contained in the bill, as the justice and equity of the proposed measure, for these are principles paramount to every other consideration. In regard to the laws relative to the enlistment of soldiers for the late war, Government had fulfilled its obligation with perfect fidelity. But said Mr. S., permit me to inquire, whether, in point of equity, all has been done that ought to be done, for the relatives of the deceased soldier. The Government, or rather Congress, are representatives of the great mass of the people; and, as such, are, or ought to be, the faithful guardians of those helpless widows and feeble children, whose husbands and fathers have perished in battle, contending for the liberties of our country. I would ask, sir, if the services of the soldier have been fully rewarded? Does not equity demand something more at our hand? Who can fully estimate the value of a soldier in arms in the day of imminent danger? Without them, your politicians would be useless, and your placemen would bear their parchment in vain.

The parties, if I may so call them, interested in this important question, exhibit a very striking contrast. On the one hand, I see a powerful Government, a wealthy nation, with a treasury abundantly replenished, equal to all the demands of justice and humanity. On the other hand, I behold weeping widows, helpless orphans, in a land of plenty, crying aloud for bread. Viewing, as I do, the merit of our warriors; their glorious achievements during the late war; the high character which this nation sustains, both at home and abroad, the fruit of their valor; I must regard those men as worthy the gratitude of their country, and the needy families of those who lost their lives in the conflict, as entitled to the attention of the Government. We are assured by the honorable gentleman from Kentucky, who reported the bill, that \$100,000 will meet the object, and cover the whole expense. May not this be called a small sum, when compared with the great and important object to which it will be applied, and the consequent benefits that must and will result from it?

Mr. S. said Mr. S., in monarchical and despotic Governments, injustice and oppression may arise; but in a Republic, a different line of conduct must be pursued. The interest of despots is to lay upon the body of their subjects the iron yoke of poverty, and by oppression to extort obedience and command their services. But our interest is to be just and liberal to that class of citizens on whom the liberty and independence of the country so much depend. Do ample justice

to surviving widows, and they will teach their sons to revere the Government that has nourished them in their feeble infancy—that country which became their protector when deprived of a father's guardian care.

The observation of the gentleman from Kentucky, (Mr. JOHNSON,) relative to the policy of New Jersey at the close of the Revolutionary war, I have no doubt had allusion to myself, as the person with whom he had conversed upon the subject. I confess, sir, when I first cast my eye cursorily upon the bill, the policy of the measure seemed somewhat doubtful; but, on more mature deliberation, the principle of the bill presents itself to my mind in a different light. From a review of the Revolutionary war, connected with its glorious consequences, and firmly persuaded that the same spirit which actuated the soldiers of the Revolution, animated also the army of the late war, in defending the rights that their fathers won, I must regard the provision contemplated in the bill as perfectly consonant with justice and wisdom. Well knowing the just and liberal policy adopted by the Legislature of New Jersey at the close of the Revolutionary war; having witnessed its beneficial effects, as developed in the operation, both in relation to the regular army and the militia; and recognising the same principles in this bill as it now stands, I am opposed to the motion for striking out the second section, which has regard to the widows and orphans of the militia who have fallen in the country's defence.

Mr. S. observed, that at the close of the Revolutionary war, the Legislature of New Jersey placed on the pension list of the State, the widows of those who had fallen in battle, or who died in the service, and gave them half-pay for life, or during their widowhood. Considering, said Mr. S., the services rendered and sufferings endured, we deemed the reward not too great for us to give, nor for them to receive. The struggle was arduous; the contest long; and the prize contended for immense. The pensions have been paid, and the difficulties, which were only imaginary, have vanished. The annual amount called for, has gradually decreased. Few now remain in the land of the living, and in a short time not one will remain to claim the bounty of the Government. In this provision, every patriot of New Jersey is happy in the reflection, that, without injury to ourselves, we have done ample justice to the bereaved. Let the same course be adopted by the General Government, and you will bind the affections of the rising generation to the Government, while you give a pledge of your beneficence to the future defenders of our rights, which will afford the most perfect security to the liberties of the nation against all foreign aggressions. Let tyrants oppress their slaves, and compel them to fight the battles of their oppressors: but such a system of policy will not suit the genius of a Republic. Gratitude is due to the men who fight your battles and maintain your liberties. Let a liberal policy guide the Councils of our nation, and you will

FEBRUARY, 1818.

Proceedings.

H. OF R.

attach bravery and merit to your standard. Regard the widow of the fallen soldier; feed and nourish his orphan children; let the Government become their guardians; impress these ideas on the public mind; let them realize your bounty; and your liberties will be secure.

I hope in God, sir, we may never witness another war; but should we ever be so unfortunate, be assured that the policy suggested in this bill will be found salutary; while a contrary course will appal the spirit of the country, and endanger, if not entirely subvert, your liberty.

Nine-tenths of the men who fight your battles, if not indigent, are far from being affluent in their circumstances. The money proposed to be drawn from the Treasury will be well applied. It is not to be exported to foreign countries, nor shut up in private coffers. It will circulate freely among you, while it brings relief to the distressed; and when called for by the Government, will be freely returned by those who will have benefitted by its circulation.

These observations, Mr. S. said, he had felt it his duty to make on this interesting question, and hoped the section would not be stricken out.

The motion to strike out the section was negatived, &c., ultimately, by a considerable majority.

Mr. HITCHCOCK moved to amend the section so as to extend the continuation of the pension to motherless children of deceased soldiers under sixteen years of age, as well as to the widows.

This motion was negatived.

The third section is in the following words:

"That in all cases where any soldier of the regular Army shall have died while in the service of the United States, in the late war, or in returning home from said service, leaving a widow, such widow shall be entitled to receive the sum of forty-eight dollars annually, for the term of five years, as a half-pay pension; and in case of the death or intermarriage of said widow, before the expiration of the term of five years from the death of the husband aforesaid, the half-pay for the remainder of the term shall cease."

Mr. PINDALL moved to strike out of this section the words "or intermarriage;" which motion was supported by the mover and Mr. TAYLOR, and opposed by Messrs. JOHNSON, HARRISON, and T. M. NELSON. Mr. SMITH, of Maryland, also joined in the debate on the general merits of the bill, to which he was opposed.

Mr. T. M. NELSON moved to amend this section so as that the pensions to be granted by it should take date from the 4th day of March last. Negatived.

Mr. COBB moved to strike out the above section from the bill; which motion was supported by himself, and opposed by Mr. HARRISON, and was negatived by a very small majority.

The fourth section is in the following words:

"That in all cases of half-pay pensions, embraced by this act, and all other acts of Congress making provision for half-pay pensions, the same shall extend to all cases where the party died within six months after his return home, of diseases contracted in the service during the late war with Great Britain."

Mr. LINN moved to strike out this section;

which motion was opposed by Mr. BARBOUR, and Mr. COMSTOCK, and was negatived by a large majority.

Other amendments were proposed and variously decided, on which, as well as those already noted, considerable desultory debate took place.

The fifth section of the bill provides that the widow of any officer or soldier killed in battle or who died in service during the Revolutionary war shall have a pension, if of a soldier, of forty-eight dollars per annum, if of an officer, of one hundred dollars per annum.

The sixth section provides that in all cases where an indigent mother has lost her son in battle, if he has left no widow or children, she shall receive a pension of forty-eight dollars per annum for five years.

No attempt was made to strike out these two sections.

After having gone through the details, the Committee rose and reported the bill to the House, and the House adjourned.

WEDNESDAY, February 11.

Mr. PETER presented a petition of sundry inhabitants of the south-east part of the City of Washington, praying that an act may be passed, authorizing the erection of a toll bridge across the Eastern Branch of Potomac river, from Smallwood's wharf.—Referred to the Committee for the District of Columbia.

Mr. WILLIAMS reported the bill from the Senate, entitled "An act for the relief of Isaac Briggs," with an amendment, which was read, and, together with the bill, committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report on the petition of John Wilmot, which was read; when Mr. S. reported a bill for the relief of the said John Wilmot, which was read twice, and committed to a Committee of the Whole.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the final adjudication of the claims to land, in the Missouri Territory, of the legal representatives of Elisha and William Winter, Gabriel Winter, and the legal representatives of Jacque Clammorgan; which was read twice, and committed to a Committee of the Whole.

Mr. SILSBEE, from the Committee on Naval Affairs, to whom was referred the bill from the Senate, entitled "An act in addition to an act giving pensions to the widows and orphans of persons slain in the public or private armed vessels of the United States," reported the same without amendment, and the bill was committed to a Committee of the Whole on Monday, the 23d instant.

On motion of Mr. MILLS, the Committee of Ways and Means were instructed to inquire into the expediency of exempting from duty the articles of Sicilian sumac and merino wool, imported into the United States.

The SPEAKER laid before the House a letter



Mr. R.

Pensions to Soldiers' Widows, &amp;c.

FEBRUARY, 1818.

from the Secretary of War, transmitting a report prepared in obedience to a resolution passed at the last session, concerning contracts for the supply of fire-arms, the expenditure at each of the national armories, and the number, species, and quality of arms manufactured and repaired, at each of the armories; which was read, and ordered to lie on the table.

The engrossed bill for the remission of duties upon stereotype plates, and upon bibles and testaments in foreign languages, imported by societies for associations, for the gratuitous distribution of the Holy Scriptures, was committed to a Committee of the Whole to-morrow.

## PENSIONS TO SOLDIERS' WIDOWS.

The House then took up the report of the Committee of the Whole on the bill concerning half-pay pensions, &c, and agreed, successively, to all the amendments thereto reported by the Committee.

Mr. HARRISON then moved to strike out the 3d section of the bill, which provides, "that in all cases where any soldier of the regular Army shall have died while in the service of the United States, in the late war, or in returning home from said service, leaving a widow, such widow shall be entitled to receive the sum of forty-eight dollars annually for the term of five years, or a half-pay pension; and in case of the death or remarriage of said widow, before the expiration of the term of five years from the death of the husband aforesaid, the half-pay for the remainder of the time shall cease;" which motion Mr. H. subsequently withdrew; when

Mr. COLSON renewed the motion to expunge the section on which considerable debate took place.

The motion was supported by Messrs. MOORE, of Pennsylvania, and COLSTON, and opposed by Messrs. TAYLOR of New York, HOLMES, of Massachusetts, SPENCER, COMSTOCK, OGLE, WALKER of North Carolina, T. M. NELSON, JOHNSON of Kentucky, and HARRISON; and finally negatived—yeas 48, nays 99, as follows:

YEAS—Messrs. Abbott, Adams, Ball, Barbour of Virginia, Bateman, Blount, Boss, Burwell, Campbell, Colston, Desha, Edwards, Forsyth, Garnett, Hall of North Carolina, Hasbrouck, Hendricks, Hogg, Holmes of Connecticut, Hopkinson, Huntington, W. P. Maclay, McCoy, Marchand, Marr, Moore, Orr, Owen, Pitkin, Quarles, Rhea, Scudder, Slocumb, Bal. Smith, Bal. Smith, Stewart of North Carolina, Storrs, Tarr, Terrill, Terry, Townsend, Trimble, Tucker of Virginia, Tyler, Westerlo, Williams of Connecticut, and Williams of North Carolina.

NAYS—Messrs. Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Barber of Ohio, Bayle, Beecher, Bellinger, Bennett, Bloomfield, Bryan, Bayle, Claggett, Claiborne, Comstock, Crafts, Cruger, Culbreth, Cushman, Darlington, Earle, Ellicott, Ervin of North Carolina, Floyd, Folger, Forney, Fuller, Gage, Holmes of Delaware, Harrison, Herbert, Herkimer, Hitchcock, Holmes of Massachusetts, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, McLane, W. P. Maclay, Mason of Massachusetts, Mercer, Merrill, Mid-

dleton, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, T. M. Nelson, New, Newton, Ogden, Ogle, Palmer, Parrott, Patterson, Peter, Pindall, Poindexter, Porter, Reed, Rich, Richards, Ringgold, Robertson of Louisiana, Ruggles, Sampson, Savage, Sawyer, Sergeant, Settle, Seybert, Sherwood, Silabee, Simkins, Southard, Spencer, Strong, Stuart of Maryland, Tallmadge, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, Williams of New York, Wilkin, and Wilson of Pennsylvania.

Mr. HARRISON then moved to amend the section, by making the pension commence from the first of March, 1817, instead of from the death of the husband; on the ground that it would be more beneficial to the widow and convenient to the Treasury to pay the five years' pension gradually, than in a gross sum, which would be payable under the section as it stood.

This motion was negatived—yeas 44.

Mr. HITCHCOCK proposed so to amend the bill, as to confine the pensions to the widows of such soldiers as enlisted prior to the 10th of December, 1814; which motion was agreed to without opposition.

The question was then taken on ordering the bill to be engrossed and read a third time, and decided in the negative—yeas 65, nays 79, as follows:

YEAS—Messrs. Anderson of Kentucky, Barber of Ohio, Beecher, Bellinger, Bloomfield, Bryan, Butler, Campbell, Colston, Comstock, Cruger, Culbreth, Earle, Ellicott, Ervin of South Carolina, Floyd, Forney, Fuller, Gage, Harrison, Hendricks, Herkimer, Hitchcock, Holmes of Massachusetts, Hunter, Irving of New York, Johnson of Kentucky, Kinsey, Lawyer, Little, Marr, Mason of Massachusetts, Mercer, Merrill, Moseley, Murray, T. M. Nelson, New, Ogle, Palmer, Parrott, Patterson, Pindall, Porter, Quarles, Reed, Ringgold, Robertson of Louisiana, Silabee, Simkins, Ballard Smith, Southard, Spencer, Stuart of Maryland, Tallmadge, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, Williams of New York, and Wilkin.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Ball, Barbour of Virginia, Bateman, Bayley, Bennett, Blount, Boss, Burwell, Claiborne, Cobb, Crafts, Cushman, Darlington, Desha, Drake, Edwards, Folger, Forsyth, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Huntington, Kirtland, Linn, Livermore, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Moore, Morton, Mumford, Jeremiah Nelson, Ogden, Orr, Owen, Pitkin, Poindexter, Rhea, Rich, Richards, Robertson of Kentucky, Ruggles, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb, J. S. Smith, Stewart of North Carolina, Storrs, Strong, Tarr, Taylor, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Tyler, Upham, Westerlo, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

So the bill was rejected.

Mr. STORRS, under a belief that the bill had been rejected from a dislike to the 3d section, or some other feature, and that, divested of the ob-

FEBRUARY, 1818.

Boundary Lines.

H. OF R.

jectionable provisions, the bill would pass, moved to reconsider the vote just taken, that the bill might be modified and rendered acceptable to the House.

This motion, after some discussion, was negatived—yeas 53, nays 86; and the House adjourned.

THURSDAY, February 12.

A Message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Martin Warner;" in which they ask the concurrence of this House.

The said bill was read twice, and committed to the Committee of Commerce and Manufactures.

Mr. SERGEANT offered a joint resolution, directing the Judges of the Supreme Court to be furnished each with a copy of Wait's State Papers; which was twice read and ordered to be engrossed for a third reading.

Mr. EDWARDS, of North Carolina, offered the following resolution for consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of making some provision for the widows of such soldiers of the militia as died after reaching their homes in consequence of diseases contracted whilst in the service.

Mr. E. said, that a principle similar to that contained in this resolution was contained in the bill which was yesterday rejected, and he believed a large majority of the House were in favor of that provision, but had voted against the bill on account of other provisions, highly objectionable, which it contained. His motion was intended again to bring the subject before the House.

The motion was agreed to.

Mr. HARRISON gave notice that on to-morrow he should ask leave to introduce a bill to extend for a further term of five years the pensions granted to the widows and orphans of officers and soldiers of the militia who were killed in battle, or died in service during the late war. He pursued this course because he did not wish to trouble the Military Committee with it, they having already reported favorably on it, among other objects, in the bill yesterday rejected, and having at present enough of other business on their hands.

Mr. SMITH, of Maryland, after adverting to the unfavorable report of the Committee of Claims, on the petition of Samuel Hughes, which had been laid on the table, moved a resolution relative to the same, which, after some discussion between Mr. WILLIAMS and Mr. SMITH, was agreed to, directing the Secretary of the Navy to lay before the House any information he may possess relative to the destruction by the enemy of Samuel Hughes's cannon foundry, employed in the service of the department, the quantity of cannon and shot on hand at the time, what measures, if any, were adopted by the department for its protection, what time the cannon and shot were permitted to remain at the foundry after being proven, &c.

Mr. McLANE offered for consideration the following resolution:

Resolved, That the President of the United States be requested to communicate to this House a letter from Arthur Lee to the Committee of Foreign Relations, dated at Paris, October 6, 1777, and also a letter from Benjamin Franklin, Silas Deane, and Arthur Lee, to the Committee of Foreign Relations, dated 7th September, 1777, if such letters are now to be found, and, if not, that he communicate to this House whether such letters ever were received, the contents thereof, and in what manner they have been lost.

On inquiry by Mr. FORSYTH into the object of this motion, Mr. McLANE stated, that he wished to have these papers with a view to a proper decision on certain claims of the heirs of Caron de Beaumarchais. He had understood, from authority that he fully relied on, that such letters had been received, and had been in the Department of State, affording more information on the subject of these claims than any documents in possession of the House, &c.

The motion was agreed to, *nem. con.*

On motion of Mr. CUSHMAN, the Committee on Military Affairs were instructed to inquire into the expediency of making further provision by law to enable any soldier entitled to bounty land who has received an honorable discharge or a military land warrant, and is unable to produce the same, to obtain a patent.

On motion of Mr. BASSETT, leave was given to the committee on the claim of the heirs of Caron de Beaumarchais to exercise the power of sending for persons and papers.

## BOUNDARY LINES.

Mr. BURWELL, in rising to make a motion, said that there was a subject referred to the Committee of Ways and Means which would probably excite some notice when the general appropriation bill should be reported, and respecting which his motion was intended to procure some information which might be necessary to a correct understanding of it. Under the Treaty of Ghent, certain Commissioners had been appointed to ascertain the boundary lines between the United States and the British northern provinces. By the estimates of appropriations submitted to the House, it appeared that the House was called upon to appropriate \$32,666 to defray the expenses of these Commissioners for the present year, of which fifty thousand dollars was for "contingent expenses" for the present and past year. At the last session there had been appropriated thirty-four thousand some odd hundred dollars for this object. He thought he was perfectly warranted in saying, that it would require, under the present plan, from five to ten years to complete the survey of the boundaries. If so, the expenses of ascertaining them would amount to a larger sum than the object could be worth. There was another point on which the House would probably desire information; which was the appointment of agents to the three commissions, with salaries equal to those of the Commissioners. Now, Mr. B. said, he had examined



the different articles of the treaty, and he could find in it no authority given to the Commissioners to appoint these, though a power was expressly given to them to appoint secretaries. One of these boards also had ceased to exist, he presumed, as the gentleman who had been the Commissioner on the part of the United States was now a member of this House; notwithstanding which the House was called upon to appropriate for the three boards. To obtain information on these points, he moved the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to lay before this House a statement of the moneys paid for defraying the expenses of the Commissioners under the fourth, sixth, and seventh articles of the Treaty of Ghent, specifying the items of expenditure and the claims at this time presented for payment.

The resolve was agreed to, *nem. con.*

#### MILITARY APPROPRIATIONS.

Mr. LOWNDES, from the Committee of Conference on the disagreeing votes of the two Houses on that part of the general military appropriation bill which respects extra pay to officers of brevet rank when on separate service, made a detailed report, stating the views of the committee of this House adverse to that appropriation, and the argument by which the conferees on the part of the Senate sustained their preference of it. It appears that the committees of the two Houses failed without being able to come to an agreement, each retaining its own opinion.

After the reading of the report, Mr. LOWNDES, remarking that the views taken of the subject by the committee rendered unnecessary the attempt to elucidate it by any further remarks from himself, moved that this House do adhere to its disagreement to the amendment of the Senate which proposes an appropriation for the brevet extra pay.

Mr. MERCER, suggesting that the length of the report was such as to prevent a due comprehension of the force and scope of its reasoning by hearing it once read, therefore moved that the report lie on the table and be printed; which motion was agreed to. The report is as follows:

The Committee appointed on the part of the House of Representatives to confer with a committee of the Senate, on the subject of the disagreeing votes of the two Houses, on the amendment of the Senate to the bill making appropriations for the military service of the United States for the year 1818, have met the committee of the Senate, in pursuance of their appointment. They considered it right to offer to the committee of the Senate the following exposition of the views which they supposed the House of Representatives to have taken in disagreeing to the amendment of the Senate, in the hope that it might obviate or lessen the difficulties which separated the two Houses.

By the construction of the law of 1812, which the committee of the House of Representatives believed to be adopted by that House, the pay of a brevet commission is due only when the officer exercises a command to which his lineal rank would not entitle him. Such command, under the President's general

order of 1816 and 1817, he may be assigned, upon special and temporary occasions. It is believed, from the amendment proposed by the Senate, that their construction is not very different from this. The construction of the War Department, however, is very different. The committee of the House of Representatives consider it wrong to explain or amend an act by which salaries or pay is regulated by the provisions of an appropriation law. But if it were right, the short debate which occurred in the House of Representatives on the Senate's amendment, sufficiently proves, that that amendment might change a little the ground of argument, but would not terminate the controversy.

As an amendment of the law of 1812, the provision proposed by the Senate is, therefore, unsatisfactory, and to insist upon an appropriation previous to an amendment, is to insist either that the one body shall conform its appropriations, not to its own construction of existing laws, but to that of the other body, or that both shall adopt, what both believe to be erroneous, the construction of the Executive Government.

The committee of the House of Representatives believe, that respect for the rights of both Houses requires that the act of 1812 should be amended, by defining, more precisely, the contingencies in which pay shall be due, or, if this be impracticable, by authorizing it in all cases, or in none. The bill which passed the House of Representatives, at its last session, may explain the amendment which it then preferred; but it now insists only that the amending law should first determine to whom pay is due, before an appropriation should be made for its payment.

The committee of the House of Representatives consider it necessary to a fair and free legislation, that appropriations, in regard to the propriety or the extent of which the two Houses find, after deliberation, that they still differ, should be separated from those which both consider as necessary to the public service. If either branch of the Legislature determine that it will not make the great mass of necessary appropriations while there remains one unprovided for, which it considers to be proper, it throws upon the other branch the necessity of concurring in an appropriation which it may believe that neither the law nor the public interest requires, or of endangering all the appropriations of the Government. The committee of the House of Representatives hope that the appropriations which both Houses deem necessary will be made, and that the appropriation for brevet officers, which the Senate suggests, will be left to be provided for when an amendment to the act of 1812 shall determine what that appropriation ought to be.

The committee of the Senate, in answer to these observations, supported their amendment by arguments, which they have since reduced to writing, and which the committee of the House of Representatives are thus enabled to report more accurately than they could otherwise have done.

The conferees on the part of the Senate admitted that doubts might exist as to the proper construction of the act of 1812, allowing pay to brevet officers, and that it might be found expedient to remove such doubts by an explanatory law defining more precisely the contingencies in which such pay should be allowed; but as, according to the construction given that law by the House of Representatives, as stated by their conferees, which accords substantially with that contained in the Senate's amendment, expenditures to a

certain extent would be legally authorized under it, and must be supposed to have taken place, and to continue to take place, until the law shall be altered, the conferees of the Senate were of opinion that an appropriation sufficient to cover such probable expenditure ought now to be made, without waiting for the passage of such explanatory law. They did not think such law should be made to have a retrospective operation so as to affect expenditures legally incurred before its passage; nor could they perceive how the passage of such a law could be deemed necessary to determine the propriety of making an appropriation to meet an expenditure which it could not regulate. They admitted, that generally it would not be the most correct course to amend a law establishing salaries or authorizing an expenditure by a provision in a general appropriation law, though they believed there was no Constitutional or legal objection to such a course; but they stated, further—1st. That the Senate's amendment was not designed as an alteration of the law of 1812, but only expressing the construction of that law which appeared to the Senate the correct one, and restricting the sum appropriated to the discharge of expenditures incurred pursuant to such construction, which it is presumed may be done on the same principle that other specific appropriations are made applicable to the objects designated, and to no others. 2d. If the objection be to the words in the Senate's amendment which restrict the application of the sum appropriated to services performed by brevet officers when acting in their brevet rank, the conferees of the Senate would agree to strike out these words and have the sum appropriated applicable to services performed by such officers generally, agreeably to the terms of the estimates. Though the conferees of the Senate were willing to admit, that generally it would not be advisable to embarrass a measure embracing the mass of appropriations deemed necessary, by insisting on one of a doubtful nature, they did not consider the argument as in any degree affecting the present case, the appropriation insisted on by them not being doubtful in its nature; because, according to any fair construction that can be given the law of 1812, and adopting that preferred by the House of Representatives, some expenditure is authorized and must be presumed to take place under it, before an explanatory law can be passed; and an appropriation to meet such expenditure did not appear to them of a doubtful nature, and on such alone they insisted.

It appeared also to the conferees of the Senate, that the construction given the law for several years by the Government, and acquiesced in by Congress, allowing brevet officers such pay as is now asked, gave those officers reasonable ground to expect a continuance thereof so long as the law continued in force; and, as the expenditure now proposed to be provided for did not arise out of any new construction of the law, and had, at least in part, already accrued, they considered it the duty of the two Houses to provide for it in the general appropriation law, and not leave it to be provided for in an act which may or may not pass; and they could see no ground for postponing the appropriation now insisted on by them that would not equally apply to any other asked for to meet an expenditure already incurred under any law that it might be suggested required amendment.

The conferees of the Senate stated explicitly they would not insist on making, at this time, any appro-

priation, with a view of covering an expenditure which should accrue subsequent to the period at which an explanatory law relating to the matter in question could be supposed to pass, and which might therefore be either authorized or controlled by such law. And, though the sum requisite to meet the expenditure that must accrue under the existing law, before it can be altered, could not be exactly ascertained, it might be estimated with nearly the same accuracy that sums for other objects are; and therefore its uncertainty appeared to them to form no solid objection to the measure.

For the purpose, therefore, of providing for such expenditure alone as must in any event take place, and leaving the two Houses to act in regard to the subject in future as each should consider correct, without being considered in any manner compromised by the appropriation that might now be made; and anxious to reconcile, as far as practicable, the views entertained by both Houses on this subject, by making those of the House of Representatives, as far as in their opinion a due regard to correct legislation and the duty they owe to the Senate would authorize, the conferees of the Senate proposed, if the conferees of the House of Representatives would agree thereto, to modify the Senate's amendment, so as to read as follows:

"For additional pay, rations, and forage, to officers having brevet commissions, when commanding separate posts, districts, or detachments, requiring them to act in their brevet rank, during the months of January, February, and March, of the present year, nine thousand dollars."

The committee of the House of Representatives did not consider this modification as in any material degree lessening the objection to the Senate's amendment. They should prolong their report unreasonably, if they were to repeat the answers which were given to the arguments of the committee of the Senate. In one respect they seem to have been misunderstood. The committee of the Senate consider them as admitting, that, under a just construction of the law of 1812, some expenditure must be presumed to take place, and to require an appropriation in this year; but they have made no such admission. In the Army of the United States there is notoriously a number of officers, in every high grade, disproportionately great, when compared with the number of men whom they command. And, if brevet officers are entitled to additional pay only when they command posts requiring them to act in their brevet rank, (and such is the construction of the Senate,) it may reasonably be presumed, that, while peace continues, there will nowhere be found that deficiency of lineal rank which will require brevet officers to act.

As the conferees of the Senate thought the objection urged by those of the House of Representatives to the course pursued by the Senate, that it made the passage of the large number of appropriations in which both Houses concur, depend upon that of one in respect to which they differ—an objection inapplicable to the subject—the committees were obliged to separate, without agreeing on the subject of the Senate's amendment. The committee of the House of Representatives regret that such has been the result, and have only to hope, that, if they have mistaken or misapplied the principles which ought to regulate the conduct of the two Houses, on the subject of appropriation bills, that their errors may be corrected by the wisdom of the House.



## CASE OF R. W. MEADE.

Mr. SERGEANT called the attention of the House to a resolution laid on the table by Mr. TRIMBLE a few days ago, and now lying there, together with certain documents transmitted to the House by the Executive on the same subject. That they related to a matter of great importance, the House was aware, and so appeared to be the public. Mr. S. did not mean to express any opinion at this time on the course which it would be proper to pursue in respect to it; but he would say, that it was a subject on which it became the House to proceed with great deliberation and caution, but at the same time with firmness, if, upon a full examination of the facts, it should appear proper that the House should proceed in it at all. This question was of higher importance than respected Mr. Meade merely; as it involved the sole question of the capacity of the Government to extend protection to its citizens—and certainly no question of greater moment could ever present itself. Questions of this sort might sometimes lead to great national consequences, and ought therefore to be closely investigated and accurately examined. It was with this view (in which he had the concurrence of the mover of the resolution) he moved that the resolution and the documents relating to the case of R. W. Meade be referred to a select committee, to examine and report the facts.

Mr. TRIMBLE assented to this course. It was perhaps proper, that there should be a report of a committee stating all the facts, and bringing them to one point of view; and he was satisfied with a course having that object in view.

Messrs. SERGEANT, TRIMBLE, HOPKINSON, BUTLER, CLAIBORNE, FLOYD, and SIMKINS, were appointed the said committee.

## MILITARY PEACE ESTABLISHMENT.

The House then resolved itself into a Committee of the Whole on the following resolutions, submitted by Mr. JOHNSON, of Kentucky, at an early period of the session, and now, for the first time, taken up:

1. *Resolved*, That it is expedient to provide, by law, for the widows of soldiers of the regular army, who were killed in battle, or who died in service, during the late war with Great Britain.

2. *Resolved*, That it is expedient to provide, by law, for the disbanded and deranged officers of the Army of the United States, who served in the late war against Great Britain, by donations in land, viz: to a major general, 1,280 acres; a brigadier general, 1,120 acres; colonel, and lieutenant colonel, 960 acres; major, 800 acres; and subalterns, 480 acres.

3. *Resolved*, That it is expedient to establish, by law, three additional military academies, viz: one in the vicinity of Fort Dearborn, in South Carolina; one in the vicinity of Newport, Kentucky; and one in the vicinity of Harper's Ferry, in Virginia: one third of the cadets to be the sons of the officers and soldiers of the late army, who died in the service of the United States in the late war.

4. *Resolved*, That it is expedient to establish, by law, an additional armory, to be located on the western

5. *Resolved*, That it is expedient to organize, by law, a corps of invalids, to be composed of one thousand men.

6. *Resolved*, That it is expedient to provide, by law, for the repeal of so much of the act of Congress of the 6th of July, 1812, as authorizes additional pay and emoluments to brevet rank, in the Army of the United States.

7. *Resolved*, That the Military Peace Establishment of the United States shall consist of eight thousand men, including the corps of invalids, provided that the corps of engineers, the general staff, and the ordnance department, shall be retained as at present established. Provided, also, that no part of the Army shall be disbanded, in consequence of said reduction, but the same shall be effected by permitting vacancies, as they occur, to remain.

8. *Resolved*, That it is expedient to provide, by law, for one additional ration for each of the commissioned officers of the United States.

9. *Resolved*, That the Committee on the subject of Military Affairs, be instructed to report bills, embracing the objects of the foregoing resolutions.

No debate took place on these resolutions, but the question was successively taken on them.

And they were all rejected except the fourth, which was passed over, (on account of information on that subject having been called for from the military department,) and the 6th, which was agreed to by a large majority as there was for rejecting all the others.

The following resolution had also been referred to the same committee, on motion of Mr. WALKER, of North Carolina:

*Resolved*, That it is expedient to provide, by law, that all minors who were regularly enlisted in the late or present Army of the United States, and who served twelve months and upwards, and having been honorably discharged, shall be entitled to an adequate bounty of land, or a commutation of such bounty in money.

This resolution, after a good deal of debate and an amendment, in which Messrs. WALKER, STORRS, COBB, EDWARDS, LITTLE, and RHEA, took part, was rejected.

There had been referred to the same committee, on motion of Mr. COMSTOCK, of New York, a resolution, that it is expedient to allow a pension to officers of the present army who were wounded in the service during the late war.

This motion was also rejected by a large majority.

The Committee then rose and reported its proceedings to the House.

The question being on concurrence in these several votes—

Mr. JOHNSON, of Kentucky, said, he considered himself in some measure bound to support the resolutions with some remarks; that the subjects involved the defence and security of the nation; and, of all the various duties which devolved upon the National Government, none could be more important than that which concerned the national defence. Donations to the disbanded and deranged officers of the late army; the establishment of three additional military academies, at Fort Dearborn, South Carolina, Newport, Kentucky, and Harper's Ferry, Vir-

ginia; the organization of a corps of invalids of one thousand men, and the establishment of a national armory on the Western waters, are the principal measures embraced in the propositions under consideration. In the discharge of the solemn duty of placing the country in a state of security against invasion and violence from foreign communities, we find ourselves limited in our measures, and those must be selected least burdensome to the people, and least dangerous to liberty. And, in making propositions which would require considerable expenditure, I have proposed at the same time to retrench other sources of expense equal to the sum required to carry into complete operation the measures recommended for the adoption of the House. In time of peace we are called upon to make preparation for war. Roads and canals opening communications between the most distant parts of the community, and leading to the extremities of the Union; military depots, arsenals, and magazines, well furnished with the munitions of war and military equipment; fortifications on the seaboard, and strong garrisons on the territorial frontier; a classification of the militia; a small regular force, and, not the least important, the most efficient organization of the physical power of the nation for military purposes in time of war. For come it will. We have had examples enough to convince us of this, if we were not furnished with lessons of experience from the history of wars and the acknowledged depravity of the world. Perpetual peace we cannot expect, no matter how just, how virtuous, how unambitious we act towards other Powers. And the feuds and quarrels in which the most virtuous are constantly involved, warn us to beware of our own indiscretions as well as to expect the violence and aggressions of other Governments. We must rely upon the militia for the first moments of war, and for every great emergency during the war, as it has been already conceded that a large military establishment in time of peace is dangerous to liberty and burdensome to the people. A weak and inefficient militia is equally dangerous to liberty. In the one case liberty is destroyed by a Cæsar, with the instrument of power in his hands; and, in the other case, the want of concert and organization, liberty is lost by some invading force. These dangers must be equally avoided. An efficient militia in time of war will very soon supply the regular Army with efficient soldiers, and in fact such a force would only be your militia, under a more durable form, with all the affections, ties, and attachments of citizen soldiers; this is the character of our regular Army. The exploits of Jackson and Brown, of Scott, Ripley, Gaines, and Miller, at Chippewa, Bridgewater, Fort Erie, together with the brilliant defence of Fort Harrison by Major Z. Taylor, of Fort Stephenson by Colonel Croghan, the battle of Brownstown, the defence of Fort Meigs, all, and many more will stand as monuments to the power of our militia population converted into a disciplined corps. In this military preparation of the population of

the nation we must not overlook the strength and efficacy of the moral power of the community; this moral power is indispensable to our happiness and safety. And we have done much to organize and control it, that it may be brought to the help of the Government in the hour of peril, and difficulty, and danger. Such is the provision for the wounded soldier, the half-pay pension to the widow and orphan, and for the gallant citizen who sacrificed his horse, his gun, and other property in the military service of his country, without his fault or neglect.

But on this subject much remains to be done. Having given the faithful soldier his bounty lands, it becomes now our duty to extend the same bounty in donations of land to the disbanded and deranged officers of the late Army, as a just reward for their meritorious services, and in the discharge of that promise which was held out to them at the commencement of the late war, provided they should acquit themselves with honor. The expectations of the country have been fully realized, the boon is demanded, and the people urge us to give it; and the claim of the officer is more imposing than it would be in any of the Governments of Europe. There the military profession is a trade—a permanent occupation—a certain maintenance for the officer and his family. In the United States the call is sudden, the service temporary, the pay and emoluments terminate with the service; the personal sacrifice is great, and inasmuch as this sacrifice is made for the security of the nation and in defence of our liberties, the crisis having passed by, the honor of our arms having been maintained, and rich in lands, the rewards should be extended. In continuation of this system of strengthening and organizing this moral power, I have proposed the corps of invalids, who are to perform stationary service, while we discharge the debt of gratitude to those who have fought the battles of the country and secured to us the enjoyment of our independence.

But it is indispensable that your militia should be based upon military science, and, for the purpose of military education, I have proposed military academies. The classification of your militia, the diffusion of military science, the physical power of the States, animated by the spirit of liberty, would present a shield to the country. This cheap mode of military preparation in time of peace for the period of war would have this other great advantage, of strengthening the arm of Government without any of the evils or demoralizing effects of large standing forces in peace. If I were to hazard an opinion, I should say, that each military academy, well organized, would be equal to an army of twenty thousand men without incurring the expense of a thousand. Skilful generals and subordinate officers will always command efficient forces. We only want scientific officers and practical men of engineers, artillerymen, &c., at the head of our armies, in time of war, to make them invincible. We have a memorable example of the truth of this assertion in the commencement of the French



revolution, when the French militia, controlled and disciplined by officers well skilled in the military art at the various military schools in every part of France, were too powerful for the combined veteran troops of Austria, Prussia, and other Powers of Europe. The spirit of liberty, controlled by intelligent officers, made the French army victorious in every conflict. We are taught by the history of nations, that a people may possess the spirit of liberty, and not the means or the power to maintain it against the encroachments of tyranny. The aboriginal inhabitants of America, and less civilized nations than the United States, are warriors from habit, and inured to toils to which we are strangers; constant exposure to cold, hunger, and the use of the rifle, or some other warlike weapon, prepares them for the fatigues of a campaign, and the dangers of a battle. In such a case the same military preparation is not requisite.

In case of war we must be involved with some of the nations of Europe. Their power and authority rest upon the basis of large standing armies; and, as the United States maintains its authority by resting upon the confidence and affections of its citizens, in case of war, our militia, our citizens, must come into direct conflict with the regular army and veteran troops of Europe. Military preparation is now much more important than it was previous to the American Revolution. The early settlement of the country, the ordinary pursuits and athletic exercises of the inhabitants, prepared them for the fatigues and dangers of a military life. In the progress of society, moral and physical causes more or less impair or pervert this character for military enterprise and glory. These causes, moral and physical, can and should be counteracted by other causes equally powerful. In monarchical and other absolute Governments, the monarch or despot has no interest in resting upon an armed population for defence; hence the increase of towns and cities, population and riches. The pursuit of wealth introduces luxury and effeminacy, and destroys the capacity of the people for martial exploits. The exceptions to these consequences do not invalidate the truth of the declaration. In the United States, where the great mass of the people are industrious and laborious farmers, manufacturers, and mechanics, and enterprising tradesmen, who must be the main reliance in defence of their own rights, and compose, principally, the militia of the States, these deleterious effects cannot result under our free institutions. Preparatory and precautionary measures are taken by the National Legislature. It is very interesting to observe the changes which have taken place in the art of war. In very early times, before the use of gunpowder and fire-arms, citizens were called upon to defend their own territory, or invade others, without compensation. A campaign generally ended the contest. Men multiplied, and society increased, the citizen soldier was paid for his services; and, even as early as the ages of the Grecian Republics, large armies were kept in perpetual employ-

ment, and paid by taxes upon the people. And we are taught this fatal lesson, that, in every great revolution of which we read in history, a standing army has been the fatal and bloody instrument which has been used in the hands of ambitious men, by which it has been effected. The great army of veteran troops, commanded by Philip of Macedon, not only demolished the Persian monarchy, but the liberties of Greece; the well organized and gallant militia of Greece were conquered and dispersed in the conflict. The existence of Rome was threatened by the veterans under Hannibal, until the Roman militia were converted into a disciplined force. The ruin of Carthage and the elevation of Rome, was effected by this well organized force, under Scipio, who gained the victory over Hannibal at Zama, by the superiority of the discipline of his forces. The army, which decided the fate of Carthage, was retained in service, and the Roman forces, after this continued to be principally a standing army, conquering all the kingdoms of the earth, and the existence of Roman liberty and the power of Rome were at last destroyed by this standing army in the hands of Cæsar. After the subversion of the Roman power, Europe was divided into provinces and petty kingdoms, and by changing the means of war, from the feudal militia to standing armies, all the monarchies of Europe were established, and the means of self-government taken from the people. These remarks are made to prove the necessity of always depending upon the population of a country for its preservation and liberty, and the necessity of preparation in peace for the period of war. The Grecian Republics inured the citizens to gymnastic exercises, and the Romans had the Campus Martius; but, in most of the States, the muster of our militia is merely nominal. War has changed its character—it is more obstinate and more bloody—we must examine its character, and prepare accordingly; it has become an art; it cannot be taught in a day; it involves many branches of science. The wealth, the happiness, the power, and the freedom of the United States excite the enmity and hatred of other Powers, and of course we are more likely to be embroiled than any other nation; then, let us rest upon the diffusion of military knowledge and science among the people; the classification of the militia, the moral power of the nation, and the spirit of liberty. As the proposition to establish a national armory has not been reported to the House, I shall reserve my remarks on that subject until it is called up.

When Mr. JOHNSON sat down—

The votes in Committee of the Whole were severally concurred in.

When the sixth resolve was under consideration, Mr. ROBERTSON, of Louisiana, moved to amend it by adding to it a proposition to this effect: that the Military Committee be instructed to inquire into the expediency of educating, at the Military School of the United States, the sons of all officers, non-commissioned officers, or privates, who have fallen in fighting for their country.

After considerable discussion, in which Mr. WILLIAMS, of North Carolina, Mr. SMITH, of Maryland, Mr. JOHNSON, of Kentucky, Mr. FORSYTH, Mr. LOWNDES, and Mr. MERCER, took part, the amendment was negatived, not, it is believed, from an objection to the principle it embraced, but to its introduction in this manner.

After the whole of the resolutions had been disposed of, and the 6th referred to the Military Committee, to bring in a bill—

Mr. ROBERTSON renewed, in a separate form, the proposition he had failed just now in carrying by way of amendment; but it grew late, and the House adjourned without coming to a decision on it.

FRIDAY, February 13.

Mr. MASON, of Massachusetts, presented a petition of Thomas B. Wait & Sons, stating that they are preparing for the press a third edition of their State Papers, and praying that Congress would authorize a subscription for an additional number of said work, and for its continuation; also, that they may be permitted to publish from the files of this House, and from the records of the Secretary of State, such confidential documents as may now be printed without detriment to the public interest.—Referred to the Joint Library Committee.

Mr. TAYLOR presented a petition of the New York Emigrant Society, praying that a tract of ten townships of public land, in the Territory of Illinois, may be vested in trustees, and set apart for, and sold to, Irish emigrants, on a credit beyond what is now given by law.

Mr. BALDWIN presented a similar petition from sundry Irishmen, the descendants of Irishmen, and other inhabitants of Pittsburg and its vicinity, in the State of Pennsylvania; and

Mr. SMITH, of Maryland, presented a similar petition of the Hibernian Society of Baltimore.

Ordered, That the said petitions be referred to the Committee on the Public Lands.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill making appropriations for the support of the Navy of the United States for the year 1818; which bill was twice read, and committed.

Mr. L., from the same committee, reported also a bill for the relief of John B. Dabney; which was twice read, and committed.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill repealing so much of the act of July 6, 1812, as allows extra pay and emoluments to brevet rank; which was read, and (after some conversation on the course it should take, and after once deciding against a commitment, but which decision subsequently was reconsidered and reversed) was committed to a Committee of the whole House.

On motion of Mr. J. S. SMITH, the Secretary of the Treasury was requested to lay before the House a statement of the number of tons of bar iron, iron in pigs, and cast and rolled iron, that has been imported into the United States annually,

and from what countries, from the first of May, 1812, to the first of May, 1817; and, if any, what quantity has been exported during the same period.

On motion of Mr. ROBERTSON, of Louisiana, the Committee of Ways and Means were instructed to inquire into the expediency of amending the laws in relation to the salaries and emoluments of the Registers and Receivers of Public Moneys.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, on the petition of Joseph Wellington Page; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a report from the Secretary of War on the petition of Brigadier General Moses Porter; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting sundry statements in relation to the accounts of Major General St. Clair, in obedience to a resolution of the House of the 3d instant; which was read, and ordered to lie on the table.

In pursuance of notice given yesterday, Mr. HARRISON obtained leave to bring in a bill to extend for a further term of five years the pensions heretofore granted to the widows and orphans of the officers and soldiers who died or were killed in the late war. The leave asked was given by a vote of 55 to 52; and Mr. HARRISON, Mr. MOORE, Mr. JOHNSON, of Kentucky, Mr. STORNS, and Mr. STEWART, of North Carolina, were appointed a committee to prepare and bring in the same.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: An act for the relief of Richard M. Johnson; An act supplementary to the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" and, An act to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon—in which bills they ask the concurrence of this House.

The former of the said bills was read twice, and referred to the Committee of Claims; and the two latter were severally read twice, and referred to the Committee on the Public Lands.

The House took up the report of the conferees on the part of this House on the subject of the disagreeing votes of the two Houses; and on motion of Mr. LOWNDES, the House resolved to adhere to its disagreement to said amendment.

#### MILITARY EDUCATION.

The House then resumed the consideration of the resolution yesterday offered by Mr. ROBERTSON, of Louisiana, to instruct the Military Committee to inquire into the expediency of educating at the military school of the United States the sons of all officers, non-commissioned officers, or privates, who have fallen in fighting for their country.

After disposing of several propositions to amend



H. or R.

Office of Claims—Bankrupt Law.

FEBRUARY, 1818.

the resolution, and some discussion of its objects, substitute was offered by Mr. MOORE, of Pennsylvania, as follows; which, after being amended by expunging the words in brackets, was agreed to:

That the Committee on Military Affairs be instructed to inquire into the expediency of bringing in a bill embracing the following principles, viz: That in all applications hereafter for the admission of cadets into the Military Academy at West Point, a preference shall be given to the sons of the officers, non-commissioned officers, and soldiers who were killed in battle, or died in the service of the United States in the late war, giving a preference to those least able to educate themselves, and best qualified for the military profession, [and to be distributed as equally as practicable throughout the several States and Territories, according to the ratio of representation.]

In this shape the resolution was adopted by a considerable majority.

## OFFICE OF CLAIMS.

Mr. JOHNSON, of Kentucky, offered the following motion for consideration:

*Resolved*, That the Secretary of War be directed to report to the House of Representatives his opinion as to the propriety of continuing the Office of Claims for the term of one year, from the 9th of April next; and if, in his opinion, this office should not be continued, in what branch of the War Department would it be proper to transfer the duties of the Commissioner, to investigate the claims for lost property.

Mr. POINDEXTER questioned the propriety of calling on the Head of a Department for his opinion as to the propriety or expediency of continuing an office.

Mr. WILLIAMS, of North Carolina, remarked that a similar resolution was already referred to the Committee of Claims, and if they had deemed it expedient to call on the Secretary of War, they would have done so. It was proper to call for facts from a Department, but not for opinions, and the House was as well qualified to judge of the propriety of continuing this office as the Secretary of War. The course proposed was irregular, and he disapproved of it, though it was with reluctance that he opposed a call for information.

Mr. JOHNSON, of Kentucky, said this resolution was different from that which had been referred to the Committee of Claims, and there was no irregularity in calling upon a department to know what branch of it a particular business could best be referred to. The Secretary of War had a control over this business to a certain extent, and he was best able to give information on the subject. The Office of Claims had been created for certain purposes. This office was about to expire by law, and he thought it perfectly proper and regular to call on the Secretary of War, as he was particularly qualified by his acquaintance and control over the Claims concerns, to say whether the further continuance of the office was necessary; and if not, to what branch of his department it could most properly be referred. At length, Mr. J. said, he should deem it his duty to bring this subject forward in some way or

other. After establishing an office for the settlement of claims, would it be proper, he asked, at the end of two years, to close the door against all which may not have been brought forward? So partial and unjust a course he hoped was not intended; and his object was to investigate the subject early enough in the season to provide for the settlement of all claims heretofore legislated for.

Mr. TAYLOR, of New York, did not think Congress would feel bound to withhold any just claim, because it might decide any particular office no longer necessary. He was unwilling to call on the department for any opinion, but had no objection to call for any information it might possess, tending to affect the expediency of the continuance of the Office of Claims; and moved so to change the words of the resolution first in *italic* as to conform it to his wishes.

This proposition was agreed to by Mr. JOHNSON.

Mr. FORSYTH then moved to amend the resolution by striking out all the last part thereof, printed in *italic*, which required the opinion of the Secretary of War, as to what branch of the department it would be proper to refer the duties of the Commissioner to. Which motion was agreed to; and, thus modified, the resolution was adopted.

## BANKRUPT LAW.

The House then, on motion of Mr. HOPKINSON, resolved itself into a Committee of the Whole on the bill to establish a uniform system of Bankruptcy throughout the United States.

The reading of this bill (which contains fifty-four printed folio pages) occupied the remainder of the sitting. After the reading was finished the Committee rose, obtained leave to sit again, and the House adjourned to Monday.

MONDAY, February 16.

Mr. WILLIAMS, of North Carolina, made a supplementary report on the petition of John Ireland, which had, on his motion, been recommended to the Committee of Claims.

This report adduces, as further testimony against the claim of John Ireland, a letter addressed by Commodore Barney to a member of the House, denying the fact that the destruction of the house for which compensation is claimed was attributable to the occupation thereof by the flotilla men under his command, &c.

On this report some little debate took place, in which Mr. STUART questioned the force of this sort of epistolary declaration, in contradiction to the opposing evidence of several persons on oath; and Mr. SMITH, of Maryland, questioned the correctness of a particular part of the report. To both of these gentlemen Mr. WILLIAMS, of North Carolina, replied.

The report was ultimately ordered to lie on the table.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of B. & P. Jourdan, which was read; when Mr. W. reported a bill for

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. or R.

the relief of B. & P. Jourdan, brothers, which was twice read, and committed to a Committee of the Whole.

Mr. WILLIAMS also made a report on the petition of Madame Poidevin, which was read; when Mr. W. reported a bill for the relief of Madame Poidevin, which was read and committed to a Committee of the Whole.

Mr. WILLIAMS also reported the bill from the Senate, entitled "An act for the relief of Richard M. Johnson," without amendment; and the bill was committed to a Committee of the Whole.

Mr. LOWMEDE, from the Committee of Ways and Means, reported a bill fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives and the clerks employed in their offices, which was read the first time.

An engrossed resolution "directing the judges of the Supreme Court to be furnished with Wait's State Papers," was read the third time and passed.

On motion of Mr. TYLER, the Committee on the Judiciary were instructed to inquire into the propriety of altering the time of holding the United States court for the district of Virginia, directed by law to be holden in the city of Richmond, from the twelfth to the second day of April, in each year.

On motion of Mr. WILLIAMS, of New York, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing John Miller upon the pension list, from the 20th of October, 1812.

On motion of Mr. BLOOMFIELD, the Committee on Foreign Relations were instructed to inquire into the expediency of establishing the residence of a consul at Mogadore, in the empire of Morocco.

[Mr. B. assigned as a reason for this motion the advantages which would result from a consulate there, &c., and particularly from the opportunity it would afford of redeeming from captivity our shipwrecked mariners and other citizens who might be unfortunate enough to fall into the hands of the Arabs, &c.]

Mr. TARR offered for consideration a motion to the following effect:

"That the Committee on Military Affairs be instructed to inquire into the expediency of granting a tract of one hundred and sixty acres of land to each surviving soldier of the late Revolutionary army who enlisted for three years and faithfully served out the term of their enlistment."

Mr. T. said that the class referred to was a very meritorious description of men, who had never been provided for heretofore, but who, he thought, ought now to be provided for in the manner which he proposed.

The motion was agreed to, but not without a considerable number of negative votes.

## BANKRUPT LAW.

The House then resolved itself into a Committee of the Whole on the bill to establish a uniform bankrupt law.

15th CON. 1st Sess.—29

The first section of the bill having been read—

Mr. HOPKINSON, of Pennsylvania rose. He observed he was happy to obtain the attention of Congress to this interesting subject, at a period in all respects so favorable to a full and fair discussion of its merits, and a just and impartial decision upon them. That he was so deeply impressed with the importance of the bill to a great, valuable, and suffering portion of the people represented here, that he rose to explain and enforce it with an anxiety by no means calculated to aid him in the attempt. Mr. H. said he found encouragement, however, in the profound tranquillity of the country, so favorable to the consideration of our domestic concerns; in the fraternal harmony now so prevalent in this Hall; and in that spirit of accommodation and kindness which would always be found among the Representatives of a people desirous of promoting each other's happiness, of aiding each other's necessities, and advancing the general prosperity. If, under auspices so favorable, the bill to establish a uniform system of bankruptcy shall be rejected as unwise and impolitic, Mr. H. would consider the question so decided, at least for many years, and that it would be a waste of the time of the House to attempt it again.

Mr. H. said it was not his intention at this time to enter into the details of the bill, but to give a general view of the nature, objects, and probable effects, of the system proposed—to exhibit the existing evils which require to be redressed, and explain the efficacy of the remedies provided by this bill. Mr. H. called on those gentlemen whose constituents might have no immediate interest in these remedies, not on that account to refuse them to others, to whom they were in the highest degree essential.

Mr. H. here gave a general historical view of the relation of creditor and debtor under Roman law, with the tyrannical and cruel power afforded to the former over the persons of the latter, and his family; the amelioration of the condition of the debtor under the milder influence of the Christian Emperors, and gradual progress of the same principles in England and other commercial countries; observing, that, in proportion as the people of a country advanced in civilization and refinement—became commercial, and acquired a just knowledge of the interests of commerce—the condition of the debtor, when really honest and unfortunate, had improved, and the power of the creditor to gratify his malignant passions, by wanton and useless cruelty, had been restrained and abridged.

In the origin of the bankrupt system of England, the bankrupt was considered a criminal; "But at present, (says Blackstone,) the laws of bankruptcy are considered as laws calculated for the benefit of trade, and founded on the principles of humanity as well as justice." If such is the character of a bankrupt law, need it have any further recommendation to our attention and favor? We know the importance of trade, and we acknowledge the obligations of humanity and justice, as fully as any people. The subject seems



H. or R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

have been considered in the same light by the framers of our Constitution, who have, therefore, among the enumerated powers of Congress, expressly granted the power "to establish uniform laws on the subject of bankruptcies." Mr. H. said he considered this as a declaration of the will of the people that Congress should act on this subject, at least so far as to establish a uniform rule. It binds us to no particular system, it is true, but it does enjoin upon us, most impressively, to provide some one which shall be uniform in its operation on the different States, giving a certain known rule, and preventing those numerous and obvious evils that must arise from various and conflicting systems in the different States, by which the relation between debtor and creditor—interesting to all classes of our citizens—must never be changing, be imperfectly understood, and be daily producing inequality and injustice between the creditors and debtors residing in different States.

Mr. H. contended it was the duty of Congress to carry into effect the will of the people, thus solemnly declared; not indeed by an imperative, absolute command, but in a way that cannot be misunderstood, and ought not to be disregarded, without the most clear and cogent reasons. He insisted, that when the several States parted with this power, it was only to attain that uniformity of system which could be established only by the General Government; and that the States, having surrendered the power for this purpose, had no fair claim on the General Government not to disappoint this expectation, but to apply the power to the uses intended by the grant of it.

Mr. H. here enlarged upon the general duty of Congress to take up and organize all the powers in the Constitution, and explained the difficulties that have arisen with some of the States, only because Congress have been relying upon State courts for the execution of many of the laws, instead of organizing and bringing into action all the judicial power of the United States. Mr. H. therefore, in the first place, relied upon this Constitutional obligation in support of the bill, or of some law upon this subject which shall produce uniformity in relation to it.

In the next place, Mr. H. contended that the example and experience of every commercial nation known to us, was authority not to be disregarded. He then explained the reasons for such a system as applied to commercial men, rather than other citizens, arising from the nature and extent of their business; the hazards to which they were exposed from the enormous credits they were obliged to give in the course of their business; from their distant connexions and agents, to whose fidelity and capacity they must trust so much; from the dangers of all the elements; from the political change in their own and foreign countries; and, in short, from every quarter and source from which danger and ruin can come. Mr. H. contended that a business thus peculiarly exposed, required peculiar regulations and protections; without which, men would not embark in it. He thought this protection pecu-

liarily necessary to this country; young, enterprising, and comparatively deficient in capital even for the business that, on commercial principles, may fairly be done. The country too wants all the labor, and industry, and energy of all its citizens, and cannot afford to have many thousands of them bound hand and foot, at the wantonness and will of their creditors, without the possibility of producing by this bondage the least reduction of the debt; while the debtor is subjected to incalculable suffering, and the community to a most serious loss. It is delightful, said Mr. H., to anticipate what a mass of talent and industry will be set loose by the passage of this bill; and which is now daily diminishing and perishing in hopeless want and useless inactivity.

Mr. H. then contended that the unusual hazards and losses to which our commercial men have been exposed for many years by the great and sudden changes in the political relations of the world, against which no prudence could guard, entitled them to all the care and indulgence of the Government. He said that the country had grown rich and prosperous by commercial enterprises, which had been ruinous to the individuals engaged in them. That the public Treasury had been filled with duties paid on goods, for which the merchant had never seen the first cost; that there had been instances of merchants failing who had, within a few years, paid millions into the general coffers. Have such men, said Mr. H., no claim upon the country? Shall we turn coldly from them in the hour of their misfortune, while we riot in the wealth produced by their exertions, and are made glad by the prosperity which has grown from their ruin? Shall we leave them to waste and perish, while no man living receives the least benefit from their sufferings; nor the least gratification either, unless it be that of the demon?

The third ground on which Mr. H. maintained the necessity of passing the bill, was the situation of the insolvent laws now existing in the different States, and the ruinous and disgraceful effects produced by them. Mr. H. here explained at large the nature of those insolvent provisions; their inequality, uncertainty, and injustice; threatening to destroy all credit, all confidence, in the country; to make the commercial intercourse between the States so unsafe, that its extent must be greatly abridged, and we shall become aliens to each other. He then considered the effect of the insolvent laws, as regards the debtor, the creditor, and the community. It was unjust, he said, as regards the debtor, because it makes no distinction between honest misfortune and criminal prodigality. The principles of the insolvent laws require only a full surrender of the property in the possession of the insolvent at the time of his application; but the manner in which he has lost the rest, whether by extravagance, waste, gambling, or the indulgence of any other folly or vice, cannot affect his right of discharge. Is it consistent with justice or sound policy, to deal out the same measure of indul-

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. or R.

gence to such a man, as you give to one who, in the fair and usual prosecution of his business, without the impeachment of fraud, perhaps not even of imprudence, finds himself stripped of all his property, and unable to satisfy the demands of his creditors? The insolvent laws make no distinction in the cases, while the bill on your table puts it in the power of the creditors to make a discrimination so essential to justice and policy. In the case of the honest unfortunate debtor, the law is as much too rigorous as in the other case it is too mild. In what condition do you place him? He becomes the eternal slave of his creditors, without yielding to them the profits of a slave. He is dead to every exertion; he is lost to all usefulness; he has no means to earn a farthing; no inducement to make the attempt. When embarrassments distract his efforts, and difficulties crowd upon him, he exhausts himself in unavailing struggles to the last, because he sees that, whenever he ceases to do so, he must be forced to a jail. This is the certain end of his career. He is put there to starve and perish within its walls, while his miserable wife and children starve and perish without. And why is this done? Does not the voice of humanity cry out against it? Does not the policy of society condemn it? Is not every sound sentiment of justice outraged? Why will you permit a cruel and merciless man to imprison another at his will; to shut him from the fair light of Heaven; to deprive him of the sweet air we breathe; to pals his limbs, and break his heart? For some dangerous crime? No, unless misfortune be a crime. For some loathsome vice? No, unless poverty be always vice. To what use, for what good purpose, is this permitted and done, to the creditor or to the community? To the creditor, nothing; for gold is not found in the vaults of a jail, and debts are not paid with sighs and groans. To the community, worse than nothing: lasting, serious injury; the loss of the labor, the industry, the talents, of many a useful citizen; often the charge of maintaining his family, made destitute and miserable. Mr. H. remarked that another unfortunate effect of the insolvent system was to put it entirely out of the power of the insolvent ever to retrieve his affairs. His friends are driven from him—knowing that, should he afterwards appear in business, even with their means and assistance, a suspicion of fraud, in which they might be implicated, would arise. It would be supposed the insolvent had secreted the funds with which he again appears, and that his charitable friends had lent themselves to the fraud. Besides, as whatever might be found in his possession would be liable to the grasp of his creditors, it is obvious there is no inducement to his friends to furnish him with their assistance and funds, nor for the insolvent to desire that they should. He therefore drags on, living partly on miserable, and often dishonest expedients, and the charity of those who do not become weary of his wants. If the insolvent laws, said Mr. H., are so pernicious in their effects upon the debtor, let us see how much better they are in relation to the rights

of the creditor. They subject him to the grossest frauds in every shape, and from every quarter. They place him in a position with his debtor, which offers every temptation to the latter to cheat him, and furnishes him amply with the means of doing so. The first right of a creditor would seem to be a full and fair opportunity of inquiry into the affairs of the insolvent; of knowing how he became unable to pay his debts; what property remains to be applied to them; and what has become of the rest. This never is afforded, and never can be, under an administration of an insolvent law. The nature of the proceeding forbids it—the tribunal before which the examination takes place is not calculated for it, and the whole affair has become a mere mockery, which the vulgar attend for their amusement, and nobody looks to for any advantage. The notice given to creditors is such as cannot reach one-half of them; the means of detecting fraud are so incompetent, that it is idle to resort to them; the discoveries to be made must depend so entirely on the examination of the insolvent himself, who has been taught, by the experience of thousands, how to pass the ordeal, the court considering this business as a sort of intrusion on their more important duties; in short, the whole proceeding, from its commencement to its termination, is a mockery so contemptible in its progress, and so inefficient to any one good result, that creditors submit to be defrauded rather than appear as parties in such a proceeding, with a full knowledge that their opposition will be effectual neither to discover the frauds of their debtor, nor prevent his discharge.

What can be the amount or utility of the examinations which take place under these laws, when the court will appoint one or two days for one or two hundred cases, and will generally find the time amply sufficient for all the inquiry to be made? Mr. H. said, he had known as many as one hundred insolvents discharged in one morning; had seen them sworn off by six and eight at a time, each struggling to get his hand upon the book, repeating the oath, or rather parts of it, altogether; and exhibiting a scene of confusion equally disgusting and iniquitous. But the monstrous evils of these insolvent systems are found not so much in what is wrongfully done under them, as in that which may be rightfully or rather lawfully done. And here, said Mr. H., we open upon that boundless field of fraud, corruption, and ruin, in which we see the various modes resorted to, to give preferences to particular creditors, to the utter exclusion of others equally meritorious and just; by which those funds which should be fairly distributed to alleviate the losses of all, are bestowed on a few, who may be preferred by caprice, by friendship, by blood, or by future expectations, held out to the debtor. The whole power and machinery of assignments, judgments, attachments, are brought into action to promote and secure a purpose so immoral and unjust; but at the same time so authorized by the law as to be placed beyond the reach of morality or justice. Nor does the mischief go no further



to secure an unjust preference between creditors of equal claims; but the means by which this may be done furnish also a full opportunity to place property in the hands of friends and relations, to whom nothing is due, to come afterwards to the use of the insolvent himself. Mr. H. said, that, under the patronage of these insolvent laws, the merchants had now established a code of laws for the payment of their debts, which is at once destructive of all commercial credit, and of every principle of moral justice; they have, what they are pleased to call their debts of honor, and their debts of business; and the former is preferred to the exclusion of the latter. Endorsements are considered of the first class; yes, the endorser, by whose aid he has been enabled to sustain his credit long after it ought to have sunk; by whose means he has been enabled to make purchases of goods from honest, unsuspecting vendors—this endorser finally carries off the property, perhaps the very goods purchased by their immediate proceeds, and the sellers of them obtain not a farthing from the wreck. To say nothing of the moral injustice of such distinctions, observe the effect it has upon the commercial interest and prosperity of the country. The debts of the failing merchant may be \$100,000—his property may amount to \$50,000—of course, a fair distribution of his effects would afford to each creditor fifty per cent. of his debt, and the loss would then be ruinous to none. But he is permitted to give the whole of his estate to his creditors of honor, they may receive the full amount of their debts, and the others, equally meritorious at least, obtain not a cent, perhaps not their entire ruin. A strong case of this sort was lately stated in a Philadelphia paper, and is but one of many which occur almost daily. A merchant, said Mr. H., whose dealings have been very extensive, but who has lately failed, assured me that his destruction was owing entirely to this system of preference; for had he but had a fair proportion of the effects of his debtors who had previously failed, he would have been able to continue his business; but, whenever such failure occurred, he found all the property appropriated to a few favorites of the debtor. This shocking and destructive system, said Mr. H., can be broken up only by a general bankrupt law, by which the effects of an insolvent trader shall be taken from his caprice as well as his greed, and put into the hands of those who will distribute them in just proportions among those whose claims are equal. Mr. H. made some further illustrations of the pernicious effects of these preferences, made entirely at the will of the debtor, at a time when, in truth, all his control over his property ought to have ceased. But, said Mr. H., one of the best uses of a bankrupt law yet remains to be mentioned. It is the inducement it holds out to an embarrassed man, when he finds his affairs irretrievable, to surrender them into the hands of his creditors, before everything is wasted in violent efforts to save himself. At present, seeing nothing before him but a jail, to be followed by a perpetual bondage;

and knowing that these consequences are precisely the same, whether he pays to his creditors one-half of their debts, or not one cent, he plunges on in mere despair; postponing the catastrophe as long as possible; diminishing his property by desperate expedients; dragging into the vortex of his ruin every friend from whom he can obtain either credit or money; and, finally, falls, bringing down with him all who have trusted him, and spreading his misfortunes to every point within his reach and influence.

If, said Mr. H., such are the inconveniences and injuries to the creditor, the debtor, and the community, under the present insolvent system, what advantages do they possess to counterbalance the evil? What has the creditor? Nothing but the chance, the valueless chance, of his obtaining his debt from the future acquisitions and earnings of his debtor; it is a right, it is true, but it is an empty, worthless, unproductive right; which may, indeed, be used to gratify malice; to satiate revenge, to oppress the afflicted, to tread on the fallen; but to obtain the debt, never. How is this property, which is to pay the debt, to be obtained? Can the insolvent earn it by his industry, when you place him in a situation in which industry will be useless? Can he earn it without capital? and you will not suffer him to have one that may not be torn from him in a moment. Can he even rely on the aid of his friends, when it would be idle in them to afford him the means of helping himself, knowing they could not place it at his disposal for an hour? It is an undeniable truth, that the very right the creditor has to the future earnings of the debtor is destructive of itself, and renders it impossible that any such earnings can ever be obtained; the mere circumstance that he cannot hold or enjoy what he may acquire, will prevent the attempt, if not the desire to acquire it.

Mr. H. appealed to experience, and asserted that of the many thousands of persons who have been discharged by insolvent laws, he had never heard of one who afterwards paid his debts; and concluded, that this right of the creditor was a mere fallacy and delusion, and ought not to weigh a feather against the great and manifest usefulness of a bankrupt law. He asserted, that you take from the debtor every stimulus to exertion, every hope of reinstating himself; that you make him a rogue from necessity; you compel him to live by stealth; to feed and clothe himself and his children by fraud; for, on this strict principle, that all he may afterwards have is the property of his creditors, it is evident that he supports life by that which does not belong to him; and exists, from day to day, by a sort of petty pilfering. How does this humble the spirit of a man; how does it degrade his character and corrupt his principles! When misfortune overtook him, he may have been honest and honorable; but, if he continues so under the corrupting influence and merciless lash of an insolvent law, it will be miraculous. How different is the case if you put this man at large, his honor unimpaired, his self-respect not destroyed, to exercise his powers of mind

and body, to use his friends, and reassume his usefulness in society, improved by experience, and chastened by misfortune! Again, said Mr. H., if there is no instance of an insolvent's afterwards paying his debts, how few are there, in which he has had any property, of any consideration, to surrender to his creditors? No property, real or personal, is the usual return—and for the reasons already mentioned; he has no inducement to stop until every farthing is gone; but every inducement to go on to the last extremity; and it is not in the power of the creditor to stop him, as he may under the bankrupt law. Mr. H. mentioned some cases, where considerable property had been obtained by the powers of the bankrupt law, which would have been lost under the insolvent system.

The obvious recommendations of a bankrupt law, said Mr. H. are these: 1st. It furnishes ample time and means to the creditors to investigate the conduct of the debtor before his bankruptcy, to ascertain the cause of it, and inform themselves of the fulness and fairness of the surrender of his effects, and to grant or withhold his discharge, as they shall find him worthy of it, or otherwise. 2d. It puts the citizens of different States on a footing of equality in their mutual dealings; and gives a known and certain rule on the subject. 3d. It puts our citizens on a footing with foreigners in their relations of debtor and creditor. 4th. It overreaches all preferences and partial assignments; and fairly distributes the property among the creditors in proportion to their debts. 5th. It offers fair inducements to embarrassed men to make a surrender of their affairs, before they have squandered their property and involved their friends. 6th. It will restore to society a great mass of industry and talent, now lying useless, indeed burdensome, to the community; and, lastly, it will pay a just respect to the rights of humanity, which are outraged by the power the creditor now possesses over the whole life of his debtor.

Mr. H. said, the most difficult question, in relation to the bill, would be presented by the first section. It will be found to differ essentially from the English bankrupt law, as well as from that passed here in 1800. An attempt is now made to limit the extent of the operation of the law, and bring it back to what was, certainly, its original object and design. Although it was in the beginning intended for traders, and all the reasons and policy, urged in its behalf, apply to such men, yet it is well known that, by a long course of judicial decisions, the provisions of the law had, by degrees, been extended to every man who could bring himself within the terms "buying and selling," although clearly his principal occupation was of a different description. This construction is now so established in England, that, although the judges constantly complain of it as a departure from the real object of the law, they do not feel themselves at liberty to unsettle it. As our law of 1800 followed the terms of the English statutes in this respect, we also adopted the construction that had been given to them;

and, said Mr. H. I believe much of the evil and unpopularity of that law may be traced to this source. In framing the bill now proposed, all these judicial decisions had been carefully examined, and specially excepted, and some general words of description adopted, calculated to keep the law within its proper legitimate bounds; and excluding those persons "whose living is substantially gotten by mechanical labor, though with some mixture of buying and selling;" a limitation taken from the recommendation of the Judges of the Court of King's Bench. In introducing this restriction, it is presumed not only that the law is brought back to its first and proper objects, but that it will be more acceptable to the people of this country, who seem to have complained of the universality of the former system.

When Mr. HOPKINSON concluded, the House adjourned.

TUESDAY, February 17.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill explanatory of the act authorizing the sale of certain grounds belonging to the United States, in the city of Washington; which was read twice, and committed to a Committee of the Whole.

Mr. LOWMEES, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1818; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. COMSTOCK, the Committee on Military Affairs, were instructed to inquire into the expediency of making further provision by law for the maintenance and support of Catharine Low, who, since the commencement of the late war, has lost her husband, two sons, and a son-in-law, in the military service of the United States, and is in indigent circumstances.

On motion of Mr. SAWYER, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing by law for staking the channel of Currituck Sound, from the inlet to Powell's Point.

The bill fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices, was read the second time, amended, and ordered to be engrossed and read a third time to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

Conformably with a resolution of the House of Representatives, of the 6th of this month, I now lay before that House a report received from the Secretary of State, with the copy of the correspondence referred to, and requested by that resolution.

JAMES MONROE.

WASHINGTON, Feb. 12, 1818.

The Message was ordered to lie on the table.

A Message was also received from the President of the United States in relation to discriminating duties, and extra duties paid under the



convention with Great Britain.—Referred to the Committee of Ways and Means.

#### UNIFORM BANKRUPT LAW.

The remainder of the day was spent in Committee of the Whole on the bill to establish a uniform system of bankruptcy throughout the United States.

Having made a motion to strike out the first section of the bankrupt bill—

Mr. TYLER, of Virginia, said, that he was governed, in submitting this motion, solely by a desire to economise time. Should the Committee be opposed to the principle of the bill, there could be no necessity to delay its rejection, or impose on its friends the task of amending its various sections. It is always with embarrassment, said Mr. T., that I present myself to the view of the House, in the debate on any subject, and nothing could be better calculated to increase that embarrassment, than the circumstance of finding myself in opposition to the honorable member from Pennsylvania, (Mr. HOPKINSON,) who so ably and elaborately addressed you on yesterday. I am a novice in argument; he, an old and experienced veteran. My thoughts, which are our forces in debate, are undisguised and undisciplined; those of the honorable gentleman are well trained and regularly arranged in order of battle. I have ventured my little skiff upon the water, and when it shall sink and be forgotten, his more noble bark will have outlived the storm, and floated in triumph on the waves. So be it, sir. I have obeyed the influence of duty in having presented this motion, and I shall submit, composedly, to any result.

The honorable gentleman, said Mr. T., on yesterday, demanded of this House, to carry into execution all the powers of the Government, and represented it as our bounden duty, in every instance in which the Constitution gave the power, to exercise it. The gentleman's position leaves us no alternative. Our discretion is taken from us; our volution is gone. If the gentleman be correct, we are stopped at the threshold of this inquiry; inasmuch as the Constitution confers on Congress the power to adopt a uniform system of bankruptcy, according to his doctrine, we are not to inquire into the expediency of adopting such a system, but must yield it our support. Here, sir, I join issue with that gentleman. What, sir, asked Mr. T., is the end of all legislation? Is it the public good? Do we come here to legislate away the rights and happiness of our constituents, or to advance and secure them? Suppose, then, by carrying into effect a specified power in the Constitution, we inflict serious injury upon the political body; will gentlemen contend that we are bound by a blind fatality, and compelled to act? Sir, such a doctrine cannot be supported even by the distinguished talents of that gentleman. The powers of this Constitution are all addressed to the sound discretion of Congress. You are not imperatively commanded, but authorized to act, if by so acting the good of the country will be promoted.

Having, as I trust, said Mr. T., overthrown this position of the honorable gentleman, I will now, by the indulgence of the Committee, proceed to investigate the propriety of adopting this bill. If there was no other objection to its adoption, the circumstance of its conferring exclusive privileges on a particular class of society, would secure to it my opposition. Sir, I am in principle opposed to the grant of exclusive privileges. The very nature and genius of our Government is opposed to any such grant. But even if I was disposed to yield this principle in any case, I could not do so in this. Are not the farmer, the manufacturer, the mechanic, equally entitled with the merchant, to your protection, to the benefits of your laws? This bill is confined to the merchant. What has the agriculturist and mechanic done to forfeit their claims to your justice, your liberality? Look to the events of the late war. Who fought your battles? Who conquered at New Orleans? Who, in fact, caused the star-spangled flag to wave in triumph over the proud cross of St. George? Sir, said Mr. T., let me not be understood as detracting from the merit of the merchant, many of them, also, deserved well of the country. Their money was liberally contributed to relieve our necessities. They furnished the sinew; and the other classes to which I have alluded, the bone and muscle. They are all, then, entitled to your patronage. Why, then, let me ask, is this bill limited to only one class of the community? You are told that, by relieving the merchant of his debts, you offer him new stimulants to industry and exertion; that, when a load of debt is pressing on him, his energies are cramped and oppressed; that, by relieving him from such pressure, they are again awakened into a new existence. With the honorable man I should hope, sir, said Mr. T., that when involved, a desire to meet his engagements, to comply with the principles of integrity, would be found a sufficient stimulus to exertion. But admit that it is not so, I ask, sir, if the farmer, the mechanic, the manufacturer, would not be operated on in the same way with the merchant? Would not the same inducements produce on each the same effects? Are they composed of different materials, or made up of the same flesh and blood? I esteem the conclusion inevitable.

But, continued Mr. T., it has been contended that this indulgence should be extended to the merchant, because of the superior risk he encounters in his adventures. His property is afloat upon the ocean—a flaw of wind is enough to ruin him; at this moment he is rich, at the next poor. True, but is not the farmer and manufacturer intimately connected with all his transactions? Who furnishes the articles for his adventure; who loads his ship? Sir, the interest of each class is connected and interwoven with the interest of every other class; and if the merchant fails, he brings ruin also upon the agriculturist and manufacturer. But, it has been insinuated, and may be hereafter urged, that, *ex vi termini*, a bankrupt law can only apply to merchants; that the framers of the Constitution must have received the word as

it is received in England. Although I am ready to admit that reference must be had to the common law, in order to obtain the proper signification of legal terms used in the instrument under which we act; yet, I cannot well imagine why we should resort to the statute law of that country, especially when the States of this Union had adopted bankrupt laws, not in name, but in substance, prior to the formation of this Constitution. The civil law also was well understood by those who framed this instrument, and that law, in this respect, applied to all classes in the community. But, even if we resort to the English law, the courts will be found to have decided many persons not merchants to be embraced in its provisions. The honorable gentleman from Pennsylvania gave, in the course of his remarks, a conclusive argument on this subject. He stated, and stated correctly, that inasmuch as each State had an insolvent or bankrupt system of its own, from whence evil might arise, the authority was vested in Congress to adopt a general regulation for the purpose of insuring harmony among the States, and introducing a uniform system of justice. From all this, I conclude that the law ought to be general in its provisions, and made to embrace every class of the community.

But, sir, said Mr. T., I will candidly state that if the present bill was general in its provisions, yet I could not yield it my support. I regard it wrong in principle and injurious in its detail; and I contend that, if passed in its present form, it would not operate beneficially to the mercantile interest.

Does the prudent trader require its provisions? He never ventures upon any hazard to the whole amount of his capital; he is satisfied with a regular, slow, but certain profit. If visited by misfortune, arising from any unforeseen occurrence, he has, in the general, taken care to reserve a sufficiency to meet his engagements, and to act the part of an honest man. These are the men who constitute the pride and boast of your mercantile character. They require no legislative provision, operating as a receipt in full of all demands; and if such men should, against all reasonable calculations, be unfortunate, their creditors will understand their real interest, and indulge them on their contracts. Will not the creditor understand his own interest as well as the honorable member from Pennsylvania? Will they not also know that their debts will not be discharged by confining the body of their debtor in jail? Sir, a prison is no place in which the debtor can retrieve his ruined fortune, or comply with his engagements. I appeal, said Mr. T., to the experience of every member of this Committee, if it be not a fact, that indulgences are almost in every case, in which an honest man has fallen into misfortune, extended to him by his creditors. I repeat, then, that the fair and prudent trader does not wish for this law. Upon whom, then, will it operate beneficially? Who will seek refuge under its provisions? The bold, dashing, and thoughtless adventurer. He commences life without capital; his first flight is made with paper wings;

he goes into bank, obtains an accommodation—secures, as far as practicable, his endorser—runs in debt to the artist—purchases, on a credit, from the farmer and manufacturer, and puts to sea. If successful, he complies with his engagements, and is rich; if otherwise, he takes a receipt in full under this bill—pays off thousands by an oath, and is in no worse condition than at first. He is then thrown back again upon society, not to pursue a more prudent course, but to react his former extravagances. You have made him more adventurous by this bill; he even now deserts the insurance office; for, by so doing, if successful, he secures to himself the amount of the insurance, and, if otherwise, he resorts again to the wholesome medicine of this law. Mark him still further: to-day he is insolvent; to-morrow he is free from debt. He again adventures. Let us imagine him successful. The winds have been more prosperous—the cloud no longer lowers; he is rich. What is his course then? Does he pay off his debts? No, sir; he dashes through your streets, said Mr. T., in all the pride of wealth, and laughs in the face of his, perhaps, starving creditors. Is this honorable? And yet is not this bill calculated to produce these effects? Can it be regarded dishonorable in him to pursue this course when your law points to it, and justifies him in it? Is it not to be presumed that your laws are based on honor, on justice? I charge gentlemen to beware lest, in their exertions to ameliorate the condition of the debtor, they inculcate dishonorable and unworthy principles. Sir, said he, the member from Pennsylvania exposed to us on yesterday the evils arising under the existing State systems. In order to excite our sympathies in favor of this bill, he told us that at this time there were 70,000 insolvents in the United States. I did not understand whether merchants alone were taken into the estimate, or whether all classes were embraced. But, in order to have derived any weight from this view of the subject, ought not the gentleman to have contrasted our situation with the situation of some country in which this, his favorite scheme, is in operation? Look to England, the country from which we borrow this system; there they enjoy the full benefit of this bankrupt law, and yet I will undertake to say that in England alone, unconnected with Scotland and Ireland, and whose population does not, by many millions, exceed our own, the proportion of insolvents in that country and this will at least be found to be in the ratio of a thousand to one.

Mr. TYLER then said, that, in his judgment, this law was calculated to introduce fraud to an extent certainly never witnessed in this country. Sir, said he, will not this bill, should it pass into a law, become here what it is on the other side of the water? What has been the course of things there? Has the embezzlement of effects been prevented there? The Parliament has gone so far as to make the concealment of effects by the bankrupt punishable with death; and yet how often is the crime committed? Every inducement is held out by the law to dishonesty—a starving wife and children implore bread and



H. of R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

protection at the hands of the husband and father; your law tempts him to secure it for them by concealing his money or effects, by proclaiming to him, "be secret for some three or four months, until the present storm has subsided—until your creditors have given you a certificate of discharge, and then you may in safety enjoy the fruits of your dishonesty." But, sir, what more does it do? Why, it holds out the temptation in one hand and the punishment in the other. Conscious of the difficulty of preventing fraud, what way does this bill undertake to guard against it? You first put the man upon his oath; you then hold out inducements to informers; and even this is not all. No, sir, said he, you then lay upon the wife to give testimony in condemnation of her husband, thereby breaking up the marital bonds, and altering the established laws of society. The lovely, delicate, trembling female, is rudely dragged before the tribunal created by this bill, and reduced to the condition of either swearing falsely, or of convicting her husband of perjury. Away then, say I, with a system to be executed only by such means. Sir, said Mr. T., you wish your citizens to be honest and virtuous; do not by your legislation, hold out an invitation to a different state of things. A republican Government can only be supported by virtue; and the end of all our legislation should be to encourage our fellow-citizens in its daily practice. "Once a debt, always a debt," is a sound rule of policy. The honorable gentleman (Mr. Hopkinson) asked if we would place the debtor at the mercy of the creditor. No, sir, said Mr. T., does by no means follow from the rule I have laid down. Imprisonment is not necessary to enforce it. Let me refer you to the law of Virginia. We have adopted in that State the civil law rule. The execution is levied on the body; the debtor gives notice of his intention to the creditor, delivers in a schedule of his effects on oath, and is discharged from confinement; but the debt still exists; if at any future day he acquires property, he is still liable; nay, if he has sworn falsely, and he is not detected until his death, even then the creditor levies his execution and obtains his due. I contend then, said Mr. T., that the inducement to dishonesty is nothing in magnitude to what it is under this bill. But, the honorable gentleman stated that the debtor had it in his power, under our State laws, to select the creditor who should be first paid; is it not so, also, under this bill? may he not with a perfect knowledge of his situation pay off a favorite creditor, before he commits any act of bankruptcy? The gentleman further says, that the debtor may convey his property to a friend, for this own benefit, with a view of defrauding his creditors. I know not what system of jurisprudence prevails in Pennsylvania, but in Virginia the whole transaction could be investigated in a court of equity and the deeds rendered void. But, sir, said he, in order to give to this bill the support of this House, it is not only necessary to point out defects in existing systems. Gentlemen must prove that this scheme is as nearly

perfect as can be expected. Its warmest friends cannot pronounce it perfect. Let me remark here, sir, said Mr. T., that nothing is more difficult to prevent than fraud—it works under cover, and hides itself from the eye of legislation. If you attempt to punish it, you only drive it to seek out paths more unfrequented—labyrinths the more inexplicable; I do not even ask therefore for absolute perfection, but the imperfections of this bill are obvious and palpable.

Sir, continued Mr. T., I have another strong objection to the bill; I regard it as the most fruitful, possible source of litigation. Look again to England for experience. I submit it to legal gentlemen to say if it has not produced there more litigation than any other subject whatever. The bench of the jurist groans under folios containing innumerable cases arising under the laws of bankruptcy in England. Look to our own short experience of three years, when a similar law was in operation here; cases arising under it have not yet been settled, although fifteen years have passed by since its repeal. A bill has passed this House at this session, appointing new commissioners in some case where almost all originally appointed have departed this life. The fact is, sir, that the commissioners and assignees are generally the only persons benefited—they run away with the money and leave the empty purse to the creditor. These, then, are some of the happy effects of this holy bill.

But, sir, the honorable member from Pennsylvania has urged upon us the passage of this bill, on the ground that a preservation of union required it. You must have a general system, he tells you, for the purpose of increasing harmony among the citizens of the different States. Let me tell you, sir, that instead of producing harmony, I believe that this bill would be an apple of discord to the people. How would those classes excluded from its operation like the discrimination it proposes to make? Would the mechanic or farmer like to be told by the merchant, "you shall linger in jail for your debts, while I am released under the law of Congress?" Sir, said Mr. T., I do not fear a dissolution of this Union. These States are bound to each other by a unity of interest, and their strength will, it is to be hoped, endure forever. I apprehend more danger from a consolidation of power here than from anything else. We are not satisfied with our powers as they are, but we are ever evincing a restlessness to increase them. Project after project is laid upon your table, by which we ask of the States a surrender of some new power. Upon the whole view of this subject, then, Mr. T. said that he was disposed to leave this question to be settled by the Legislatures of the different States. He observed, by way of conclusion, that he had been induced to take part in this debate from his peculiar situation. He represented a district partly commercial and partly agricultural; he felt a strong desire to promote the interest of every part of the community; he had, however, never heard a whisper in Richmond from any merchant, that they

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. of R.

wished any law of this sort. From my knowledge of the character of the merchants in that city, said he, I feel satisfied that they do not wish to seek shelter from their engagements under a bankrupt law—they ask for no law operating as a receipt in full to their creditors. Let me give you an instance of their course, as presented by the papers of that city, and I believe truly presented. Two young gentlemen commenced the mercantile business, and from some untoward occurrence, failed in trade; their creditors assembled, compromised with them, and discharged them from their demands; they commenced business again and were successful, and they have torn up their discharge, and paid up every cent of their former debts. This is the conduct which will characterize the truly honorable merchant. But this bill, as I have said before, will render honorable a different course. Leave men, then, sir, to follow the dictates of their own integrity, and your course will accord with the admonitions of policy and wisdom.

Mr. HOLMES, of Massachusetts.—Bankruptcy is the distribution of the property of an insolvent debtor among his creditors, in proportion to their respective claims. The object is to discharge the unfortunate merchant or dealer, after he shall have delivered up his property for the use of his creditors.

Were this to be confined to the honest and fair dealer, and not liable to be perverted to purposes of fraud, I would most cheerfully aid in the design. The motives of the advocates of the bill are unquestionably laudable, and many worthy objects would, undoubtedly, experience a salutary relief by its operations. But as this bill contemplates a system, it is our duty to consider its future effects.

In countries where buying and selling are the principal employment, where much active capital is needed, and transfers are frequent, it may be good policy to encourage and protect enterprise. If the nation is concerned in the success of traffic; if the habits of the people lead them to other employments, less beneficial to the interest, or consistent with the policy of the Government, to protect the unfortunate dealer might be deemed correct. England is a nation of merchants and manufacturers. The latter depends upon the former for a market. The hazard requires some security, and a bankrupt system may be necessary. Holland affords very little trade from her home productions. Her active capital is rapidly fluctuating. She may need a bankrupt system to encourage her trade, and inspire her adventurers with confidence. If the spirit of enterprise needs to be roused, if speculation languishes, if stock on hand accumulates, and foreign produce is scarce and dear, it may be doubted whether some stimulus is not wanting to inspire the merchant.

In a country, commercial as ours, the aid of the Government is required when commerce is dangerous, and its avails are wanted. The restrictions imposed on us by the belligerents, and the consequent necessities and dangers of commerce, might have required the encouragement of any

merchants but ours. The British and French had united to destroy our trade; to cross the ocean became exceedingly hazardous, and the risks of the merchant were imminent. To have encouraged credit, by giving the debtor a pledge against losses, might have been policy. The prospect and danger of a war might have produced an additional inducement.

But in time of general peace, when trade is seeking its accustomed channels; when we have more carriers than can find employ, and more importations than can find a market, to absolve the debtor from debts which he shall contract, is holding out a lure to rank speculation, highly injurious to the interests of society.

It is a general principle, that good policy requires that those who promise should pay. The reason must be good and the necessity great which allows us to dispense with it. Neither the distresses of a few, nor the clamors of many, should induce us to pass a law, which absolves men from their debts. The effects on society should be considered before we venture on such an experiment.

I represent, sir, many worthy, respectable merchants and dealers, whose interests I would cherish; and some unfortunate ones, whose condition I would relieve. Could the honest child of misfortune exclusively receive the benefit of this act, I would vote for its passage. But I know the effects of the former system, and I fear the same result.

Are gentlemen willing that this act shall be merely retrospective? Will they confine it to the relief of those already in distress? Will they be content to apply the sponge to debts already contracted? There would be strong reasons for this. The men incurred misfortune in times of great hazard, and when the country and the revenue required their enterprise. Many made fortunes, but many were involved in ruin. I regret to see these men pressed down to the dust, without the hope of relief. But even such a measure is attended with its difficulties. It might afford inducements to others to engage in rash and imprudent enterprises, in the hope of similar aid.

But present relief is not the object of this bill. You are to establish a system, and it is proper to consider its effects when viewed prospectively; in this view it has been chiefly considered by the gentleman from Pennsylvania, (Mr. HOPKINSON,) its principal advocate. The labor and industry which that gentleman has bestowed on this subject, and the able manner in which he has explained and defended it, demand our respect and our candor. Probably he has made it as perfect as it can be, and surely has represented it as perfect as it is. I will endeavor to examine some of its prominent features, and consider some of his reasons in its favor.

The gentleman intimates that the States have parted with their right to enact a bankrupt system, and, as they have delegated the power to Congress, we are bound to exercise it. Sir, is it certain that we must exercise every power granted in the Constitution? Have we no discretion whether the exercise of the power be necessary,



S. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

at what time? Is the Constitution imperative upon the Legislature, that they shall instantly put in action every power granted by the Constitution? Then truly we must pass the bill, whether we will or no. But I apprehend that a fair construction of the Constitution will scarcely warrant this doctrine. Congress shall have power to fix the standard of weights and measures; this has never been done, nor has the duty ever been deemed imperative—"to borrow money;" but I should think they had some discretion whether or no it were necessary—"to provide and maintain a navy;" but only as in their discretion shall be needed—"to raise and support armies;" but surely they are not always obliged to have an army—"to declare war;" but, upon the gentleman's reasoning, we must do it immediately, and of course be always at war, because we are obliged to exercise all our powers.

But the gentleman further contends for the necessity, on the ground that the States are obliged to resort to insolvent laws, and that the exercise of this power by the United States will prevent them. I confess, sir, I do not perceive by what process of reasoning he comes to his conclusion. If this power given to the United States, of itself, and whether exercised or not, prohibits the States from passing bankrupt laws, creating this law cannot do more. But neither this power nor any other power delegated to the United States, is exclusive, unless the States be prohibited its exercise. If Congress should never see fit to fix the standard of weights and measures, will it follow that the States cannot do it, and that we can have no weights and measures? But if insolvent laws are bankrupt laws, the power in the Constitution, upon the gentleman's own hypothesis, prohibits them in the States, whether this power be exercised by us or not. If they are not bankrupt laws, to exercise the power given by the Constitution cannot affect them. This law, therefore, can have no effect upon the insolvent laws of the States, and they would remain unimpaired, notwithstanding this act. The result would be, that in those States where there are insolvent laws a debtor might have the benefit of both; or, failing to obtain a discharge under one, he might fly to the other. This double system of relief would, it is feared, operate as a double system of fraud; and we are told that these insolvent laws are most fraudulent in their effects. Now, the design of both is the same: the object is to relieve the debtor by a distribution of his property. The extent of this relief constitutes the only difference, and the motive to fraud will probably be in proportion to the relief afforded.

But it is said that the creditor as well as debtor is to be profited by this act. However beneficial it may be to the merchant who is a creditor, that debtor should become a bankrupt, I apprehend that creditors generally would experience very little profit from it. If even among merchants both are benefited, I strongly suspect that the public would be injured. No encouragement to speculation is necessary. If both borrower and lender have stronger inducements, there will be

more running in debt, and consequently more bankrupts. The ardor for speculation is already too strong, especially among the young men of small capital: if their progress is slow and tempered with caution, their prospects are sure.

The gentleman speaks feelingly of merchants; and for this sensibility for the unfortunate, I accord him my thanks, and join in his sympathies. But I cannot agree with him, that the merchants are entitled to this boon for having, as he says, paid millions into your Treasury. Sir, who furnished the funds? I have heard, until I am disgusted, the heretical, exploded doctrine, that it is the merchant who furnishes and pays the impost. But what is the source of this revenue? Is it not the product of your lands, your waters, and your labor? Whence the cargo exported which purchased the cargo imported, upon which the impost tax is paid, but from the sources which I have named? And, sir, who but the consumer of the imported article pays the tax? Another benefit which we are taught to expect is, that when a man finds he is failing, he will be induced the sooner to stop. I should draw directly the opposite conclusion. If he proceeds, he may disentangle himself; but, should he fail at last, he has nothing to lose: his debts are discharged; he may begin again with equal prospects. Instead of encouraging a man to stop, it would surely encourage him to go on.

Could this single benefit result, an equitable division of losses, without increasing hazard and fraud, I would vote for this bill. But the experience of the last bankrupt act has taught us lessons which ought long to be remembered. We then saw men rich to-day, bankrupt to-morrow, and next day in full business and great style, while the poor farmer or manufacturer, who had been ruined by their extravagance, must suffer the penalties of the law in a jail.

But we are further told that it will put us on an equality with foreigners. If the act be fairly executed, and the neighbors and endorsers of the bankrupt derive no benefit from their proximity, the distant creditor will be most benefited. If so, the American creditor of a debt in Europe, where there are bankrupt laws, is on better ground than the European creditor of a debt in America, where there are none. But if the neighboring creditor has, from his situation, an advantage over him at a distance, it must be from the facilities to fraud which the law furnishes. To restore those to freedom who are now in thralldom; to give effect to the principles of humanity and religion, are objects worthy of an enlightened and benevolent mind. Mercy is an attribute of deity; it is twice blessed—in him who gives and in him who receives it. But mercy has no fellowship with iniquity.

If, while we relieve the distressed, we encourage fraud, we are not the faithful representatives of the people.

Thus, sir, I have endeavored to answer some of the prominent reasons in favor of this bill, given in the very able argument of the gentleman from Pennsylvania, (Mr. HOPKINSON.) The evils of

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

which he complains are more than balanced by the dangers with which this system is fraught. New laws require much judicial exposition, and are a fruitful source of litigation. Many lawsuits must be originated, and much time and property consumed, before we can arrive to anything like a regular system. The single fact that the other act has been repealed twelve or fifteen years, and yet this very session we have been obliged to pass a law to revive a commission under that act which is not yet finished, and the commissioners dead, is pretty strong proof that litigation and delay are the necessary attendants of such a law.

But, sir, this is not all. You are creating new and extraordinary tribunals, unknown to the people. Boards of commissioners, with extraordinary powers to search, seize, and imprison, are among the ministers of this law. You tempt men to commit crimes, and are obliged to increase the punishment as you create the temptation. The right to trial by jury is impaired, confidence is destroyed, and vice and immorality are encouraged.

Is not enterprise sufficiently active, is not temptation to speculation sufficiently strong? This act will seduce thousands of industrious and virtuous young men from safe and honest employments, and plunge them into speculation, which will ruin their friends and destroy their morals.

To take the case of an existing bankruptcy, and try the operation of this bill upon it, is not treating the subject fairly. Let the merchant or trader commence with the prospects which this bill affords before him, and I ask what will be his course? You can punish him for frauds in concealing his effects, but not for improvident or rash speculations. He may be successful, and make his fortune; or he may fail, and his debts will be discharged by the operation of the law. Where he has everything to gain and nothing to lose, he will incur any hazard at the expense of his friends, his honor, and his morality.

This bill will be a substitute for insurance. If he can save the premium, he saves it to himself; if the ship is lost, she is lost to the creditors.

Besides, sir, it promotes idleness, and turns men from agricultural and manufacturing employments, into business, for which they are not fit, and which they do not understand. Though labor is essential to virtue, we are too apt to esteem it as a curse. To young men the temptation is strong to commence trade, and when this can be done at the risk of others, it is irresistible. Hence, sir, your law will draw thousands from the pursuits of manufactures and agriculture, and place them where they will be worse than useless. They will run all hazards; they will even become smugglers and law-breakers, if they can do it upon other men's means.

But this bill is designed exclusively for one class of citizens. The manufacturers and farmers are excluded. Were there no other objection, this odious discrimination would, in my mind, be fatal. If the bill is necessary, it is so for all; and why discriminate? While the mer-

chant is relieved, and his debts are discharged, the farmer is in prison on account of the failure. Is this right? Is this that fair and equal justice which is due to all the citizens? You will include brokers, a class of men not entitled to the greatest commiseration.

These, I suppose, are entitled to favor from the great and necessary risks they incur. But the farmer, who is content with small and almost imperceptible profit, is ruined by the speculations of the broker, and he is entitled to a prison, and the broker to freedom. Sir, let us strike out the first section of this bill, and thus prevent a system so full of mischief and destitute of good.

Mr. PINDALL, of Virginia.—The clause of the Constitution of the United States, which enables Congress to establish uniform laws on the subject of bankruptcies, furnishes an anomaly, when considered in connexion with any source of interpretation to which we are authorized to resort. In settling the meaning of other phrases or technical terms found in this instrument, we are accustomed to resort to the laws of nations; the maritime law, the common law of England, the civil law, or some other unwritten law, or known rule of interpretation. But the complex idea represented by the term *bankruptcy*, has no determinate development in either of these unwritten laws, or any common-place source of construction. The expression itself, as well as the subject-matter to which it is applicable, being derived, at least to us, from the laws of England, as enacted by the Parliament of Great Britain, I am constrained to admit our obligation to recur to these British statutes, when seeking the objects of the legislative power conferred on Congress. But, having thus arrived at the object or subject-matter of our delegated power, it must on all sides be conceded, that its modifications and conditions (if introduced into any code) will depend on the legislative discretion of Congress.

The bill now before us was introduced into Congress a year since, and the friends of the measure, having taken ample time to digest its several parts, I had expected, that, in introducing this elaborate system from Great Britain, some alteration in its form, or modification in feature, would have been suggested. It seemed quite improbable, that a code so extensive in its principles and complicated in its details, formed on the English meridian, would be suited in all its parts to this extensive country, differing in so many respects from the British Island, or rather to these confederated countries, already regulated by systems of laws, differing materially, not only from British laws, but from each other. In undertaking the task of reading the fifty pages on which the bill dwells, I had been flattered with the hope, and probably the vanity, of finding something of the homespun, some indigenous feature which might at least gratify an American taste. My anticipations, however, have been disappointed; the bill is presented to us in the shape of its first importation from Europe. It wears the English aspect with which it was embarked from the metropolis of the British empire.



H. or R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

The terms of the Constitution of the United States certainly permitted the Judiciary Committee to report the bill in this shape, and as such I am willing to enter into a discussion of its merits. But, permit me first to notice some of the remarks with which the gentleman from Pennsylvania (Mr. HOPKINSON) has introduced this voluminous bill to the attention of the House. That honorable member, if I understood him, holds Congress bound to enact a system of bankrupt laws in consequence of that clause of the Constitution which enables it to legislate on the subject. It is admitted that the framers of the Constitution might have imposed such an imperative obligation on Congress, but they have not done so. The power to pass laws on the subject of bankruptcies is conferred in terms of the large import in which the numerous other powers of legislation are dealt out by the Constitution, and no one will venture to assume, as a general principle, the obligation of Congress to pass laws in every case where it may have a right to do so. The framers of the Constitution had themselves the power to legislate on this subject, and any detailed practical regulations they might have inserted in the Constitution would have been carried into execution as the supreme law of the convention omitted to make any such regulation, and was contented to refer the power to Congress, being now possessed of that power, to determine for itself as to the propriety of its exercise. If the honorable member only intended to insist that Congress would be under a moral obligation to legislate of bankrupts whenever the circumstances of the country required such a measure, I will yield the proposition, but by this, without more, the bill under consideration achieves no aid.

Although I have read this voluminous bill with all the attention of which I am capable, I cannot boast of any intimate knowledge of its practical details, by reason of a want of experience with regard to the objects of commerce which it proposes to regulate. It is, however, incumbent on the friends of this bill to give us all the light which may enable us to determine whether it is proper to innovate on the pre-established laws of the country; and, until this be done, I give the gentlemen notice, that in every charge of ignorance of commercial objects, I am furnished with a new weapon of attack against the bill, for I never can and never will vote for a system of laws while ignorant of its utility. Many of the States of the Union (and I believe the greater number, if not all,) have adopted regulations with regard to insolvencies. These insolvent laws have been passed under circumstances of a more intimate knowledge of the condition and wishes of the people of the respective States than Congress can boast of, or is likely at any time to obtain. The people, from the time of the revolution, to the present day, have been contented with these State systems, which are preferred to bankrupt laws, by reason precisely of all the circumstances in which they respectively

differ from bankrupt laws. The State which I have the honor to represent in part, the policy of which is not dissimilar to that of some other States, has adopted the statutes of Elizabeth against frauds, with insolvent laws, which permit unfortunate debtors to be exempt from imprisonment, on surrendering their effects for the benefit of their creditors. It is true, that any estate the debtor may acquire after his discharge from imprisonment, may be made liable to the payment of his debts, but I have never heard complaints of the injustice of such a measure from either creditors or debtors. The courts of law yet adhere to the old common-law notion of giving the preference to the diligent creditor who first applies for justice, and suffering the dilatory suitor (where the effects of the debtor are insufficient) to abide by the consequences of his own neglect. But our court of chancery is open to a bill of discovery and account in behalf of creditors against insolvent or fraudulent debtors, and not only relieves against fraud, but has a practice of marshalling debts and apportioning effects, with as great justice and small expense as could possibly be effected by the bankrupt system now proposed. The evils so eloquently denounced by the honorable member from Pennsylvania, show that the laws of one or two States, as regards frauds and insolvencies, are productive of inconveniences, and should have a correction from some quarter. Why not obtain relief from the State Legislatures? Their power to administer the proper remedy cannot be doubted, and their disposition to do so ought not to be called in question. True, Congress has the power to make a system of bankruptcy, but may not, and I hope will not, think it expedient to exercise that power at present. Whenever this authority is carried into execution, it is admitted on all sides, that the system must be uniform, and will, of necessity, either totally or partially repeal the insolvent laws of all the States. But one, two, or three States, should not, by reason of inconveniences peculiar to themselves, and which they have the faculty of themselves to obviate, induce this Government, by the introduction of this huge code, to which the people are strangers, to rob all the other States of the Confederacy of the familiar and well-tried laws, which have always been popular because peculiarly adapted to the local habits and circumstances of the places in which they obtain. The few States that have sores of this sort, are not entitled to bring their calamities into common stock, when it is so evident that a mere exertion of their own free will can furnish an adequate relief. If the laws of Pennsylvania are deficient as regards frauds and insolvent debtors; if this deficiency is willing on her part; if she boasts of her contempt for courts of chancery that have been so instrumental in other States in detecting frauds, and marshalling claims against unfortunate debtors; shall she be admitted in this confederate council to produce her wretched polity, and call for a remedy which, while it may administer some sort of comfort to her, entails a thousand

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. or R.

strange and odious regulations on the neighboring States, who have troubled you with no complaints in this respect? Will any State that voluntarily mangles her own police, and of choice assumes an odious attitude, be entitled to demand the punishment of all her neighbors, by the application of caustics suitable only to her own condition?

The gentleman from Pennsylvania has convinced me of the inefficiency of the insolvent laws of that State, he has shown that those laws are ill executed, that the application of insolvents for relief are so numerous as to require the daily labor of the courts, that lassitude prevails in the courts, that the notice usually served on the creditor is a formal mockery, and that hundreds are availing themselves of the relief of the insolvent laws, whilst their creditors make no attempt to sift the good faith or purity of such transactions. I will ask the gentleman to reflect whether the General Government can cure such of these evils as transcend the authority of the State Legislature. A bankrupt system will transfer the jurisdiction of these cases to the federal court; but that court will consist of the same description of persons with the State courts, and the laws of the United States compel the federal courts to adopt the rules of practice which prevail in the State courts. So much, therefore, of the gentleman's complaint as imputes the disease to the numerous instances of insolvency, or the neglect of creditors or their attorneys, or officers of court, or a relaxed practice, will admit of no relief from the exertions of this Government.

We are told of the great advantages England has derived from the bankrupt system; if this be a consideration to induce us to adopt that system in its true English dress, then let us have it as England took it. The system in that country stole into existence under the ambush of four or five centuries. I am not convinced that England could have borne, or that the people of that country would have suffered the sudden and instantaneous introduction of that complex and multifarious system; and in that country the attempt to make a total revolution in the mercantile law by a single dash of the pen, as is instanced here, would have required an exertion and risk which no politician has ever encountered. Our country, as well as England, may be able to bear up under this system, but she must do so, as England has done. We have somewhere read or heard of the robust laborer, who could carry an ox on his shoulder, but he acquired the power to do so by beginning with the animal whilst a young calf. So the heavy bankrupt code has gradually increased to its present bulk by nineteen different acts of Parliament, made in the reigns of twelve successive princes, and graduated, from time to time, to the public strength and circumstances.

The gentleman from Pennsylvania has, I think, carried us to the 34th year of Henry the 8th, for the first act of Parliament on the subject of bankruptcy, but there is an act of Parliament on that subject, enacted before the 34th year of Henry the 8th, which must have escaped the attention

of the gentleman, as I am unable to discover that any of its provisions have been adopted by the bill now before the committee. I mean the statute made by reason of the ill practices of the Lombards, many of whom were in the habit of contracting debts, and absconding from the kingdom without paying those debts. That act provided, that where one of them contracted a debt, and proved insolvent, the other merchants should be liable to the creditor. This act was, by its terms, confined to the Lombards, or guilds, or companies, but in truth extended to all the merchants engaged in foreign commerce, because all so engaged then held the liberty of trafficking by grants from the Crown, or license of companies or corporations engaged in particular branches of trade, and such Englishmen as embarked their capital in foreign trade, effected their object by investing their money in the stock of the Lombards or guilds, or by trading under their protection or license. If the citizen, denizen, and alien merchants of our seaports, could persuade themselves to submit for half a century to a regulation similar to this act of Parliament, and to pay to the yeomen and artificers all the debts contracted by the merchants who might fail, they might acquire, with the people of this country, such a popularity and influence as to induce the Government to place them in a condition superior to that of our other fellow-citizens. To such a test of patriotism our merchants would not willingly submit, nor would any one be so illiberal as to require it. Yet the submission without murmur to that severe regulation was a condition precedent the acquirement by the merchants of England of those odious, exclusive rights which placed them above His Majesty's other subjects—the same privileges that are so modestly demanded of our Government by the alien and citizen merchants of our trading towns.

The honorable gentleman from Pennsylvania has ushered this bill before us with a description of its character and origin, which certainly entitles it to the greatest attention. The principle of the bill, he says, is not derived from the bloody law of the twelve tables, which commanded that the body of an insolvent debtor should be cut in pieces and distributed among his creditors in proportion to their demands, or that inhuman law of Rome, which subjected him to imprisonment, hard labor, and stripes, and his family to slavery; but is derived from the mild law of cession introduced by the Christian emperors, which compelled the unfortunate debtor only to surrender his effects for the benefit of his creditors, and I understand the gentleman to state that this law of cession had its origin in, and owned its character to, the Christian religion.

If this bill was entitled to the mild character affirmed of it, (which is not admitted,) yet it might be difficult to deduce its provisions from the Christian religion. The New Testament contains no commercial regulations, nor does it furnish materials from whence a system of bankruptcy could be drawn. Indeed, the only instance of speculation among the primitive Christians or



Apostles, of which we hear, would not probably have dictated a mild commercial code. Judas Iscariot was the only person among them who could have claimed admission into the privileged order of merchants; he carried the money bag, and possibly was of the description of persons called dealers in exchange, as mentioned in the first section of this bill; but his proving a traitor and *felo de se* could not have given the early Christians any very exalted notion of the occupation by which he imbibed the avarice which led to his guilt and death. We are commanded, it is true, to forgive those who trespass against us; but if the Government, under pretence of complying with this command, grants a certificate to the merchant which shall operate as a receipt against a debt due a Christian, that Christian himself would be thereby deprived of the opportunity of fulfilling his duty, as it would be impossible for him to forgive a debt, or comply with the command, when the debt itself is annihilated by the act of Government. But if the gentleman from Pennsylvania, who stands first in an honorable profession, should be consulted with regard to this command, he would probably say that there was a difference between trespasses and debts, and that a command to forgive those who trespass against us, did not extend to the extinguishment of debts. I, sir, sincerely profess Christianity; and, inasmuch as the gentleman has connected the origin of the system of this bill with that religion, I pledge myself to vote for the bill whenever he shows me any command to do so, on the authority of the New Testament.

Sir William Blackstone extols the mildness of the bankrupt laws with as much vehemence as the friends of this bill can do. He, too, deprecates the bloody twelve tables and the law of imprisonment of unfortunate debtors; after which he introduces the English bankrupt system, by which the bankrupt is punishable with death for seven different offences, which were never before considered as crimes, and is placed in the pillory and has his ears nailed and cut off for an eighth offence, which the good old common law considered as an innocent act.

I will for a moment yield all opposition to the principle from which the gentleman from Pennsylvania has started; but would that honorable member abide with me on that principle, and not forsake me, whilst on his own ground? I will at all hazards try the experiment. That gentleman, after rejecting several cruel and awkward systems of polity, has expressly adopted the Roman law of cession as correct in principle, and the foundation of the policy he seeks to introduce. To this then I yield my assent. The Roman law of cession, however, only exempted the body of the debtor from imprisonment on surrendering his effects for the benefit of his creditors, and any estate he might thereafter acquire was subject to his creditors' demands. Hence it is evident that the bill now before us is essentially different from the law of cession, which more intimately resembles the insolvent laws which are already in force in several of our States, and may be enforced in

all of them, without the interference of the Government of the United States.

This bill, if passed, will introduce a system of exclusive privileges and extraordinary liabilities, as respects a particular order or class of men. It is therefore odious. If it could be shown that the privileges the merchants are to enjoy above those possessed by the rest of our fellow-citizens would not overpay them for the extraordinary liabilities they are to incur, yet my objection would remain. The privilege of being exempt from the ordinary laws of society ought not to be granted, except in cases of imperious necessity. In enumerating my objections to this bill, I shall confine myself to its essential features, or to such of its provisions as its friends will admit must remain in the bill, if it passes.

The Army consists of an order of men who betake themselves to the military profession. It is governed by the martial law, which confers exclusive privileges and extraordinary liabilities. On this account, the law martial has at all times been disrelished by ourselves and our ancestors as an intrenchment upon that just equality of rights which ought to prevail in a free country. It is therefore but seldom resorted to, and only when necessity demands its use. But the system of bankruptcy now proposed—without any pretext of necessity—is infinitely more frightful and disgusting than the law martial. The soldier is the object of the martial law, and the merchant is the object of the bankrupt system. But the law martial confines itself to the camp and to the Army, whereas the bankrupt system not only operates on the merchant, but, by authorized and irregular incursion, assaults the social and civil rights of the farmer, the mechanic, and the laborer. Any of these, by the fifteenth, seventeenth, or twenty-fourth sections of the bill, may be compelled to appear before the merchant tribunal of this system, to swear, not only as witnesses, but in relation to matters involving their own interests; to answer questions which may lead to their own conviction and punishment as criminals; are liable to imprisonment for an indefinite period, at the will of this tribunal. They are moreover liable to be punished as criminals, if convicted of concealing a bankrupt, and are subjected to penalties for demanding a debt due to themselves, if that debt be adjudged unjust or fraudulent. When a commission of bankruptcy issues, the commissioners must be merchants, under the usual pretence that they are best acquainted with mercantile transactions, and the assignees will be merchants. These commissioners have judicial powers, and constitute a court; and although a jury may sometimes be called to decide disputed facts, it will be a jury of merchants, as has uniformly been the case in England. The yeoman, on discovering that his merchant debtor is in doubtful circumstances, applies for relief to the common-law court of his State, to which he has been accustomed to look for redress. His application is rejected, and he is referred to the merchant tribunal of commissioners, who he is informed will settle all claims

against the debtor, who is then deprived of the authority to pay his own debt. On applying to the commissioners, he is required to take the great oath that he is himself an honest man, or that his debt is just and not fraudulent; and now, when he expects to receive his money, the commissioners refuse even to look at his account, until he submits to the condition that he will suffer himself to be criminally punished if his demand shall be adjudged an unjust one. On humbly submitting to this condition, he is told that he may lay in his claim, and prosecute his suit before the court of commissioners. He gets five shillings in the pound. But at another time, discovering that his debtor has ability to pay the debt, he again seeks justice; but is now met with an answer similar to the ancient plea of the benefit of clergy. His debt is extinguished without payment, and without his knowledge or consent, because his debtor was a merchant. In one respect, this privilege or certificate of bankruptcy is more vexatious than the ancient plea of the benefit of clergy. When this latter plea was alleged, a certain method of deciding its verity was always at hand. The person who claimed the benefit received the book; if he could read, he was a clerk, and therefore discharged; if he could not, he was a layman, and therefore tried and punished. But whether a man was such a trader as was subject to the commission, and entitled to the certificate, has been hitherto a question of unceasing difficulty. The friends of this bill admit, and indeed contend, that it is all-essential to confine its liabilities to merchants only. The description liable to a commission of bankruptcy is as certain as the like descriptions in the English system, which is as perfect as the nature of the subject will admit. Yet the yeoman and artificer will frequently be harassed by attempts to subject them to the law. The grazier, as such, is declared by the bill not to be liable; but if he trades, although not liable as a grazier, he is as a trader, and all men trade some. The statute of the twenty-first year of James I, provided that "every person who uses the trade of merchandise" should be liable to a commission. Sir John Walstenholme threw in a few guineas to contribute to the cargo of a ship fitting out on a voyage to the West Indies, and in consequence of the failure of some of the merchants concerned in the vessel or cargo, a commission of bankruptcy was taken out against Sir John, and the Court of King's Bench decided that he was liable to the commission; and in consequence of this, the Parliament, in the fourteenth year of Charles II, passed an act to abolish the commission against him. By several acts of Parliaments, in the reigns of William III, Anne, and George I, the stockholders of the Bank, of the East India Company, the South Sea Company, the London Assurance Company, and of the Royal Exchange Company, were exempted from liability to commissions of bankruptcy. I think the honorable member will admit, that he can find no terms of distinction more explicit than the statute of 21 James I, which I have quoted; for the ambiguous nature of the subject-matter

affords nothing more certain. Yet the abuse to which the bankrupt system necessarily tends, made it necessary to pass the several acts of Parliament, to rescue individuals from injustice. The Parliament of Great Britain can pass *ex post facto* or retrospective laws of favoritism, or bills of attainder; but has Congress the power or disposition to walk in that course of legislation? Either Congress, after it enacts this system, must annually interfere, by retrospective laws concerning individuals, or our country under the system must suffer hardships, which by the experience of England have proved intolerable.

The Parliament has powers which enable it to regulate all other objects of legislation into a consistency or conformity with the bankrupt system; but Congress, having no legislative authority over a variety of other analogous objects, will find it difficult, if not impracticable, to suit the system to each State of the Confederacy. One instance of this inconvenience will suffice, as it will suggest to any one how they may be multiplied without end. A servant embezzles his master's money, absconds, and becomes a bankrupt. A commission issues; his master might have recovered it by an action of assumption; he may therefore prove it as a debt under the commission; he must therefore do so. This money being all the servant is possessed of, is divided among all the creditors in proportion to their demands, and the master may not be able to receive more than a tenth or fifteenth part of his own money. Parliament, in such cases, possessing not only the legislative powers of Congress, but of the States also, with a disposition to render everything subservient to the bankrupt system, would pass a law, making the offence of the servant in embezzling the money felony; on the conviction of which a writ of restitution issues to restore his money, and this, being in a suit at the prosecution of the king, would take place of any commission of bankruptcy. Congress could make no law or regulation to govern such a case, other than by some general rule in a bankrupt law; but this rule being to operate upon the same subjects in different States, and the object of the rule being differently modified by the laws of each State, your act would have a very different operation in one State to what it might have in another.

The temptations to fraud which this bankrupt system holds out, require for their counteraction penal laws and punishments too sanguinary for imitation in America. The system offers the merchant a full receipt against all his debts, whenever he chooses to abandon his affairs and accept such receipt; and any money or property that he has the art to conceal, or clandestinely invest in the funds or name of his confidential friends, will be a gain to himself. The temptation, therefore, to commit fraud is stronger than at common law, or under the good old statutes of Elizabeth for the suppression of frauds, or the ordinary insolvent laws, which give no acquittance for debts unless they be paid; in consequence of which, property concealed during the



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

stormy contest with creditors, is, when brought to the light, subjected to their claims. Accordingly, in England, the bankrupt system deals in punishments, the cruelty of which is unknown to the common law, or the ordinary statutes against frauds which operate among the agriculturists. The statute 21 James I. makes it necessary that the bankrupt should prove that his ability arose from casual loss; and, on his failure to do so, he is to be set on the pillory, and have one ear nailed to the same, and cut off. The statute of George II enacts, that any bankrupt who shall fail to surrender himself to this tribunal of merchants within forty-two days after their proclamation or notice, shall be put to death; if he refuses, after surrender, to submit to be examined, he shall be put to death; if he fails to conform, from time to time, to the law and the commands of the commissioners, he is punishable with death; if he does not fully disclose all his estate, he forfeits his life, and incurs the same punishment for not delivering up the estate; if he does not truly disclose a variety of conveyances or transactions which occurred before his bankruptcy, he is to be put to death; and if it shall be decided that he has concealed, or in anywise embezzled, effects to the value of £20, his life is forfeited. Let not the friends of this bill derive any assistance from the circumstance of the bill contemplating milder punishments than the British statutes do. Be assured that, if the system is now adopted, all the bloody penalties of the English code must be adopted with it; if not now, yet shortly after the operation of the system shall prove their necessity. The cruel punishments of the British system were not resorted to, until experience commanded their adoption; for, although the bankrupt system began its operation in the time of Henry VIII, it was not until the reign of George II, the bloody list of penalties I have recited was enacted. If we are not to introduce this machine of bankruptcy gradually, and by piecemeal, as was done in England; if gentlemen are determined to have the benefit of European experience, and take the voluminous and complicated system as it prevails in England, why not give the same credit to the experience of that country with regard to the necessity of capital punishments to repress the multiplied frauds to which the system gives birth? Have not the merchants of our country manifested the same activity, and ingenuity, and avidity of gain, with the English merchants? And when we introduce the English model, holding out precisely the same inducements to fraud, will it not have the same effect upon the nerves of our traders, and require the same medicine as has been required in that country? Think you, sir, that the English code of death has been only a dead letter? Richard Town was executed on the gibbet in 1717 for concealing his effects. Alexander Thompson was put to death in 1756, for failing to surrender within forty-two days after the proclamation of the commissioners. The newspapers give us an account of a late execution under the statute of George II. At an early period we

find Lord Hardwick wincing under an application for an order to require the commissioner's clerk to attend the Old Bailey with his papers, to aid in a prosecution of death under the bankrupt system, and the numerous applications to Lord Maclesfield to suspend commissions of bankruptcy, and thereby arrest their bloody prosecutions, were so perplexing, and consumed so much time, that it became necessary to adopt general rules of practice, that it might be known when he would supersede commissions, or permit death to claim its prey.

The 25th section of this bill, which has been so properly noticed by my honorable colleague, (Mr. TYLER,) imposes a burden upon the wife, which places her in a state of warfare with her duty and affection; yet, in the opinion of the friends of this bankrupt system, she ought to be placed in that condition; and I acknowledge that if the system must be adopted, its temptations are such as to make an inroad against the sanctity of the connubial relations necessary. I will, however, beg the attention of the Committee to the situation in which the wife is placed by this mercantile code. On the marriage of a female, her property is placed at the disposition of her husband, and the common law puts it out of her control. If the husband makes any disposition of his property to the use of his wife, such disposition would be void, if made to the prejudice of his creditors; but if he received a portion with his wife, and makes a settlement on her, (even a voluntary settlement,) not disproportioned to the advancements he received with her, the presumption is that such settlement is bona fide; but the bankrupt system comes and sweeps away everything which the wife may have derived from her ancestors, and annihilates every transaction of her husband for her benefit, however the same may be founded in justice. But this is not the fullness of her calamity, as inflicted by the dictates of this bill. The family mansion is violated by brute force; for the good old common law maxim, that every man's house is his castle, is repealed by this bill, and the breaking of doors is its common-place dialect. She is seized by the common constable, or by some messenger, to whom she is a stranger, and dragged before the merchant court martial. She is there informed that she must be examined as a witness touching the affairs of her husband, not for him, but against him, and against herself; that she must not only answer concerning his civil concerns and matters of mere property, but must, under oath, disclose his secrets, as they were imparted to her in connubial confidence, and that she must, as a witness, depose to facts which may lead to her husband's conviction of crimes, and his punishment, by ten years' imprisonment.

The commissioners of bankruptcy, at this stage of cruelty, as if anticipating the revolt of natural feelings against the injustice of this requisition, point the unhappy victim to a dungeon, yawning for her reception, and inform her that she can only escape the peril of her situation by a compliance with their commands, in becoming

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

the prosecutrix of her husband. Indeed, sir, by these means you may triumph over the mercies of your victim. She consents (if consent it be called) to take the oath, but she thereby incurs no obligation to tell the truth to these commissioners. An oath, as a witness, is a *promise*, in the presence of God, to declare the truth touching the matter in question. A promise, by the law of nature, only derives its obligation from the free will and consent of the promiser. If the promise be extorted by force, it imposes no obligation, because the free will of the promiser is wanting. Such a promise, in a state of society, imposes no obligation in conscience, unless the tribunal who enforces the oath has a just right to do so. But no human tribunal can require a *feme covert* to take an oath to violate that matrimonial confidence or connubial relationship which sacredly subsists between her husband and herself, because she has previously vowed, before the altar of the Almighty, to an alliance to her husband, which your oath of bankruptcy would force her to violate. An oath to a robber or ruffian is not to be performed; and I believe the casuist will agree with me, that an oath, tendered by a legal tribunal, under a positive law, can impose no obligation repugnant to a duty enforced by the moral law or laws of nature. This bill seems to consider the merchant's wife as its natural enemy, and it wars against her by a departure from justice and magnanimity; for the bill leaves in force, and adheres to, the common law rule, that her property belongs to her husband, and is liable to his debts; but it repeals the common law principles, which operate in her favor, and would protect her person from molestation, on account of the derangement of the affairs of her husband.

This bill having violated the sanctity of the relationship between husband and wife, humbled her, and stifled domestic comforts, proceeds to prostitute the decorum of our judiciary tribunals. I do not mean the strange tribunals erected by this system, but the ordinary courts of justice, which are the property of all the people and of the country. By the 49th section, special pleadings—an institution established by the wisdom of ages—the usual mode of insuring justice—the only method of sifting the verity of litigants, and the common avenue through which suitors march in seeking the redress of wrongs—is abrogated in favor of these merchant commissioners, merchant assignees, and merchant bankrupts, whereby the very structure of our courts of justice is unhinged, to extend to these traders an advantage (if an advantage it be) which the rest of our citizens are not entitled to; yet, I am constrained to acknowledge that, if we must adopt the bankrupt system, the provision to exempt the merchants from the necessary forms of proceeding imposed on other citizens should also be adopted, as an essential feature of that polity; for when your bankrupt commissioners shall outrage public feeling, by the disturbance of the tranquillity of a neighborhood, when they compel not only the trader, but the yeoman and me-

15th CON. 1st SESS.—30

chanic, to become self-accusers of ignominious crimes, when they shall have stormed the domestic dwelling of the matron, arrested her person by forcing doors and breaking windows, and consigned the innocent wife to a dungeon, for refusing to rise up as the accuser of her husband—when these events, I say, shall have transpired, and when the sufferers shall have carried their complaints to the ordinary courts of justice and demanded redress, it would not do, it would never answer the views of this bankrupt system, that your bankrupt agents should be compelled to appear and regularly plead their defence and go to trial as other citizens are forced to do. No, sir, the defence of the merchants could not abide so open and candid an investigation; the juries might be composed of men, and, although you at the trial place the bankrupt system before them on one side, justice would stare them out of countenance on the other. It is therefore necessary, if you take this system, to dispense with the forms of justice whenever the commissioner becomes endangered before your courts; or, in other words, to give him some advantage or surprise over his opponents; to throw some fictitious weight into the scale to counterbalance the heavy consideration of natural justice with which he has commenced hostilities.

The bankrupt system began to introduce itself into England, at a period of history by no means favorable to equal rights or public liberty; at a period when the various different orders of men were struggling for exclusive privileges, and each combination sought to aggrandize itself at the expense of the community. The clergy aspired to a peculiar and exalted station, and claimed to be exempt from the municipal laws of the country which governed the laity—the civilians sought to place themselves and their controversies out of the pale of the common law—the artificers complained that the general laws which governed agriculturists were unfitted to their taste, and demanded the privilege of governing themselves by means of guilds and corporations, which might secure and amplify such of their rights as they were unwilling to hold in common with their fellow-subjects—the Crown claimed and exercised the power of issuing patents, granting exclusive rights and whole branches of trade to particular subjects and orders of men, and frequently, by exercising the power of dispensing with laws, distinguished favorite classes, by exempting them from the observance of laws by which the nation was governed.

At this epoch of time, when the authority of the Barons was on a rapid decline, and before the yeomanry had acquired that stable influence, by which they were afterwards distinguished; at this time, I say, the merchants claimed and obtained the first introduction of a system of laws by which they were to be governed, and from which other men were to be excluded. After the introduction of this system into England, it probably would not have obtained its present gigantic size, or indeed long retained its exist-



ence, but for a concurrence of circumstances, which I hope will not take place in our country. At an early stage of its ravages in that country, we find Lord Coke exclaiming, "we have feigned the name, as well as the wickedness of bankrupts, from foreign nations." I cannot persuade myself that the bankrupt system in England would have survived the enlightened views which led to the Revolution and adoption of the bill of rights, but for the condition of the Government, the introduction of the funding system, and the absolute dependence of the Government upon the advances which it continually derived from mercantile loans—these causes certainly retarded the progress of that country to liberty, for, after the abolition of the prerogative power to grant exclusive privileges, and dispense with laws, the Parliament itself, frequently influenced by Ministers, depending upon annual loans, usurped the very power which had been so odious to the people, and, for the purpose of raising revenue or facilitating loans and public credit, put nearly every channel of foreign and home trade into the hands of particular orders of men or incorporated companies.

The bankrupt system has a cruelty peculiar to itself, in this, it creates and holds forth a temptation too strong to be resisted, and cruelly punishes the weakness which yields to that temptation. Review all the offences so heavily punished by this bill; then, suppose for a moment, that the bankrupt system has no existence, and you immediately discover that, without this system, the offences are impossible, and cannot occur, from whence it is evident that the bill manufactures not only the punishment, but the offence and every inducement which can produce the offence. The common law and the statutes of Elizabeth against frauds, which apply to all the people, do not exhibit the bloody punishments which we find in the English bankrupt system, which applies exclusively to merchants, and the reason is evident; neither the common law or acts of fraud make any attempt to bribe the wickedness of their victims, by the offer of a full receipt against just debts, as the acts of bankruptcy do. The pretenses on which the bankrupt system was brought into England, and from time to time modified, have been as various as can well be imagined. It has sometimes been pretended that this exclusive code of law for merchants, would contribute to enrich the country by encouraging adventures; by this view, the merchant who was to receive all the profits of the adventure, if it proved fortunate, was relieved from the loss, if it proved fatally unfortunate, and this loss was thrown on his creditors, as well farmers as merchants, and by an unequal and adventurous burden, for he might fail, owing one man one thousand pounds, another one hundred pounds, and another but ten pounds. It is true, as the gentleman from Pennsylvania has remarked, that the merchant frequently embarks his all on the winds and waves. But by making the other members of society, who receive no share of his profits, his insurers, you convert the

business of the merchant (which still involves uncertainty) into a lottery with all prizes and no blanks, for, if successful, he takes all the profits, and if unsuccessful, you discharge him from the loss, by relieving him from his debts. This would probably encourage trade; but I see no reason for bribing the yeoman and mechanic to invest their capitals in this lottery.

The most early laws of bankruptcy of the reign of Elizabeth confined themselves to English merchants, under the pretext of encouraging them in preference to alien merchants—but the English merchant afterwards discovered that frauds might be committed on the revenues of foreign countries, and advantages acquired in certain branches of their trade, by carrying on his business, fictitiously, in the names of aliens from those foreign countries who reside in England; and he observed the advantage of having the capital so employed, or the nominal owners of it within the benefits of the bankrupt system, and the bankrupt acts were consequently extended to alien merchants. Hence the benefit of the extension of the system to aliens, if a benefit it can be called, was produced in consequence of the frauds of the English merchants, and to facilitate their fraudulent practices.

I have as great respect as any gentleman here, for the character of the honorable merchant—I have a sincere respect for him in his station as a merchant, and, if he aspires to a seat here, I truly respect him on this floor. But when he comes here, I expect him to leave his speculations of profit and loss in his counting room, and would as soon see him produce a pack of cards in this hall, as seeking to imprint the character of those speculations upon the complexion of this Government. The merchants of this country have not the same pretext with the merchants of Europe, for demanding separate privileges, or an exemption from the code which is to govern the whole country. The trading men of Europe find themselves surrounded by privileged orders of men, and fraternities exercising peculiar rights, and something like self-defence may suggest to them the claim of similar rights on their part. A merchant of Europe, wishing to embark his capital in trade, finds all the most profitable branches of trade occupied by companies or corporations, who, by royal favors are entitled to exclude others. He is permitted to engage in the business only by buying the freedom of some corporation, or buying an admission fine or mulct; he, therefore, may naturally look for some peculiar favor or privilege in return for his money; but in this country he is exempt from the vexation of corporations or Government companies, and finds no privileged orders of men to contend with him, or set the example of such ambitious pretensions.

The present attempt, I fear, authorizes a suspicion that the merchant here desires to become the same veteran of intrigue that he has been in England. We have left the nobility and priesthood in Europe, and we place the merchant here in a condition that he can have no pretext of

ambition; yet we find him demanding a code of laws in which the mountaineers are not to participate; and we are even told by the honorable member from Pennsylvania, that the merchants have for some time been governed by a voluntary code of their own. When we see our merchant girding on the armor, or calling for the shield, which are only excusable in the contests with the privileged orders of Europe, it is time to guard ourselves with suspicions of his design. Having no combinations of privileged men here to struggle against him with similar strength, he may turn his warfare against a population with the same cruel inequality which existed between the Spartans and their unarmed helots. But if you are determined to confer this privileged code on the merchants, and hence create an order of men with exclusive privileges, then I pray you to organize one or two other distinct orders of men, with similar exclusive privileges, who may be able to contend with the merchant, and whose mutual jealousies, and watchings, and balanced strength, may afford some security to the inhabitants of the country.

In the reign of Elizabeth, an act of Parliament provided, that no person should follow any trade, or set any other to work at such trade, without having served a seven years' apprenticeship. It further provided, that if any laboring person, under twenty-one years of age, should be required by any householder, having and using half an acre of plough-land, at least, in tillage, to be an apprentice and to serve in husbandry, he should do so, or on refusal, and complaint to a justice of the peace, be committed to a prison until he should be contented to serve. Further, the justices of the peace of every shire, riding, or liberty, were directed yearly, at every general session, to be holden or kept next after Easter, to limit and rate the wages of all laborers.

Here we see that the yeoman and master mechanic had an equivalent for the exclusive privileges granted to the merchant in the same reign, for the act I have mentioned gives equally important benefits to them. The merchant was aggrandized at the expense of the community, of whom the farmer and mechanic were part, and they in their turn were aggrandized at the expense of the same community, whereof he was a part. But all was at the expense of the poor and laboring class of the community. The homely old adage of *honor among thieves*, was adhered to between them, for although the yeoman, master mechanic, and merchant, by combination, plundered the rights of the poor and laboring population, as among themselves they made a fair and equal division of the spoils. But if you grant exclusive privileges to the merchant, what equivalent have you for our farmers and mechanics? If you could prevail on yourself to give them something like the benefits of the last acts of Parliament I have mentioned; yet your power to do so fails, for you have no right to legislate with regard to the farmer and his laborers, or the mechanic and his journeymen or apprentices, nor can you attempt it without infringing the State

sovereignities. When I claim in behalf of the agriculturist the equivalent, the *quid pro quo*, for the many peculiar privileges you are about to grant by this mammoth code to the merchants, you are forced to shelter yourself under the plea of insolvency.

The gentleman from Pennsylvania has forcibly urged upon our consideration the propriety and convenience of uniformity throughout the United States on the subject of bankrupt laws. This view of the subject is plausible, as will any view of any subject be, when supported by the superior talents and learning of that gentleman, nor would, nor could I, upon this or any other occasion, be thought to question the purity of his motives. But, really, sir, this passion for uniformity over the continent, from Maine to the Mexican Gulf, which is coming so much in vogue, may be pregnant with untold evils. It will be extremely difficult, if possible, for this Government by uniform internal regulations to give a system of laws suitable and satisfactory to so many States, containing a population accustomed in a great measure to dissimilar laws. The domestic peace and tranquillity of each State (an object certainly more desirable than schemes of sublimity and uniformity which appear so well on paper) can better be obtained and secured by the State Legislatures, who are more intimately acquainted with the will and wants of their constituents than we can be. Gentlemen seem to take as granted, that uniformity of the laws of the several States is an object of immense importance; but this has not been proved, nor can it be admitted. Those engaged in particular branches of trade should, and I believe usually do, inform themselves of those regulations of the parts or places to which they trade, which particularly concern their branches of business. The famous Hanseatic League, that was exalted by its trade to a condition so prosperous, as to excite the jealousy and fears of Europe, consisted of cities, each of which had an internal police peculiar to itself, and the same may be said at this time of the ports of the Netherlands, of the commercial towns at or near the mouths of the great rivers north of Holland, and of the trading places on the Baltic; yet we hear of no injury to the prosperity of these countries, which could be attributable to this circumstance.

The bill now before us, in its present shape, requires a merchant to be indebted, at least, in the sum of \$1,000, to be within its purview, but whether the amount of debt shall be limited, or, if limited, to what sum, would be a matter of detail subject to our discretion. If you do not limit the debt, or limit it to a small sum, the consequence will be, that men who have been trusted with small sums, not on the credit of their visible property, but from a confidence in their industry, frugality, and future acquisitions, will bar the recovery of these small debts by the provisions of your law, merely because they do not possess funds of payment, although they retain that source of credit on which the debts may have been contracted—I mean their capacity for industry and acquisition of funds. But, if, on the other hand,



require debts of considerable magnitude to be the trader within the law, will it not be said (and with too much plausibility) that you legislate for the wealthy, and enact the stupendous code exclusively for their benefit? This patchwork system, if adopted, literally creates and protects a privileged order of men in our country, and this privileged order, the mercantile class, assumes the same attitude in relation to the farmer, the mechanic, and the country inhabitants, that the company of British merchants do in relation to the unhappy and oppressed natives of the East Indies; and although the privileged class will not immediately exercise all the power of the East India Company, it will have an improper and most advantage over the industry and wealth of the country. This bill is objectionable in all its parts, in every shape, and under any modification it can assume; its evils, which are numerous, pervade the whole country, not only the trading towns, but the interior, will, in truth, invade the mountains, and intrude themselves into every village, which becomes the residence or retreat of any man possessing property, or having the address to become indebted. I shall, therefore, with pleasure give my vote in support of the motion of my honorable colleague to strike out the first section, with a view to destroy the bill itself.

The Committee rose, reported progress, and obtained leave to sit again.

WEDNESDAY, February 18.

Mr. ROBERTSON, from the Committee on Public Lands, to whom was referred the bill from the Senate, entitled "An act supplementary to the act entitled 'An act further extending the time for issuing and locating military land warrants, and for other purposes,' and the bill from the Senate, entitled 'An act to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon,'" reported said bill, without amendment; and they were ordered to be severally read a third time to-morrow.

Mr. ROBERTSON, from the same committee, to whom was also referred the resolution from the Senate, "relative to the distribution of the late edition of the land laws," reported the same without amendment, and it was read a third time and passed.

Mr. HERICK, from the Committee on Private Land Claims, reported a bill for the relief of Daniel Burrutt, Gibson Clark, and the legal representatives of Hubert Rowel, which was read twice, and committed to the Committee of the Whole, to which is committed the bill confirming the claim of Tobias Rheanus to a tract of land granted by the Spanish Government.

Mr. HERICK, from the same committee, also reported a bill for the relief of Narcissus Broutin and others, which was read twice, and committed to a Committee of the Whole last mentioned.

Mr. H. NELSON, from the Committee on the Judiciary, reported a bill for the more convenient

organization of the courts of the United States, and for the appointment of circuit judges. [Providing that the judges of the Supreme Court shall, from and after April next, cease to perform the duties of circuit judges; that the Supreme Court shall consist permanently of one chief justice and four associate justices, whenever vacancies shall reduce it to that number; that this court shall be holden in May and December, annually; that there be appointed eight circuit judges, to hold circuit courts twice a year in the several districts, in conjunction with the district judges, &c.] The bill was twice read, and committed.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting reports of the facts in the cases of Whitmore Knaggs, of the Territory of Michigan; of Tobias E. Stansbury and William Stansbury, and of Hickman Johnson, guardian of Juliet Eliza Sellers, of the State of Maryland, with the evidence accompanying each; which was referred to the Committee of Claims.

An engrossed bill, entitled "An act to fix the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and the clerks employed in their offices," was read the third time, and passed.

On motion of Mr. HUBBARD, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of increasing the pension of Lieutenant Aaron Stafford, of the New York militia, late an Adjutant in the service of the United States.

On motion of Mr. SLOCUM, the Secretary of War was requested to lay before this House information whether any of the paymasters of the armies of the United States, during the late war, have failed to perform their duty in making their returns and settlements, and the names of such delinquents, and the reason why coercive measures have not been used to compel a performance of duty.

On motion of Mr. DRAKE, the Clerk of this House was directed to furnish each of the members of Congress with a printed copy of the reports of the Committee of Commerce and Manufactures, made 13th of February and 6th of March, 1818.

On motion of Mr. EDWARDS, the Committee on the Public Lands were instructed to inquire into the expediency of adding to the land district established at St. Stephens, in the Alabama Territory, the lands lately acquired from the Chickasaw and Choctaw Indians, and adjacent to said district.

#### BANKRUPT BILL.

The House then again resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy.

Mr. SERGEANT, of Pennsylvania, remarked, that, from the course which had been taken by the opponents of the bill, its provisions seemed to be understood as having no object but the relief of debtors, and those of a particular class. One

gentleman, indeed, appeared to have a glimpse of a more extended operation, for his objection was that the bill imposed extraordinary liabilities, and conferred peculiar privileges, upon the mercantile part of the community; but it did not seem to have occurred to him that the imposition of extraordinary liabilities might of itself be an adequate inducement for granting some peculiar privileges. The truth is, that the bill now under consideration, and every well conceived bankrupt law, proposes, chiefly, the security and advantage of the creditor. The ultimate relief afforded to the debtor is only an incident, though an incident, undoubtedly, of great importance, whether it is regarded in its connexion with the public interests, with the demands of justice or the duties of humanity. The question which presents itself to the consideration of an enlightened Legislature is simply this: if, from motives of public policy, you deem it necessary to exercise over a certain description of citizens the summary power of arresting them in their career, upon indications appearing of weakness and probable approaching failure; of taking their property out of their hands, and distributing it among their creditors, for the satisfaction of their debts, what terms ought you to grant to those over whom you have exercised this authority? An interesting question it must at all times be, and at the present time it has a peculiar interest from circumstances which I shall perhaps have occasion to advert to hereafter.

My purpose, in the first place, is to state very briefly why the bill is and ought to be confined in its operation to the persons described in the first section, that is, to those engaged in trade. And in this I have in view to meet an objection that I find has had a considerable influence upon the minds of members. Why, it is said, why not extend the provisions to all classes of the community? Why confine them to a single class? The answer is a very plain one. The design of the Constitution was to vest in the Government of the United States such powers as were necessary for national purposes, and to leave to the States all other powers. Trade, commercial credit, and public or national credit, which is intimately allied to it, were deemed, and rightly deemed, to be national concerns of the highest importance. In the adjustment of our Government, at once national and federal, they were intended to be confided, and were confided to the care of the public authority of the nation. It is too much the fashion everywhere to indulge in general censure of classes or professions. When merchants are the subject of discussion, we hear of speculators, and even worse; when protection is asked for manufactures, we are told that manufacturers are extortioners, and there is often danger that the great interests which are connected with their occupations may be lost sight of in the prejudice raised against the individuals engaged in them. But, whatever may be said of the merchants, it is nevertheless certain that trade, trade carried on by merchants, and commercial credit, are favorable objects of the Con-

stitution. It is in fact to a regard for trade, to the obvious necessity of a system that should be adequate to its protection, to its regulation and support, that we are indebted for the Constitution itself, and all the blessings we enjoy or promise ourselves from that instrument. The commissioners who met at Annapolis in September, 1786, delegated by the States of New York, New Jersey, Pennsylvania, Delaware, and Virginia, assembled in consequence of a resolution of the State of Virginia, "to take into consideration the trade of the United States; to examine the relative situation and trade of the said States," &c. Their report, grounded upon the suggestion "that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the Federal Government, that to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the federal system," recommended the plan of a convention, with enlarged powers, to prepare such a system. The recommendation was adopted. The convention that formed the Constitution was assembled. This Constitution was the result, and "commerce with foreign nations and among the several States" was one of its chief concerns.

The power to "regulate commerce with foreign nations and among the several States," would have been inadequate to its purpose without the concession to Congress of certain auxiliary powers. They were granted. Among them, and I advert to it as having the nearest affinity to the power now more immediately under consideration, was the authority to establish a national judiciary, with jurisdiction over controversies between foreigners and citizens, and over those between citizens of different States. What was the view of the convention in giving to the foreigner, and to the citizens of other States in relation to the debtor, a forum such as this? To secure to him, as far as practicable, a fair and impartial administration of justice, to place him above the reach of local feeling and local prejudice, beyond the sphere of those influences that may, by possibility, affect the State tribunals, in contests between their citizens and others. This was the immediate, but what was the ultimate object? To protect and encourage trade, to support and invigorate commercial credit, by the security offered.

The power "to establish uniform laws on the subject of bankruptcies" is of the same character. For the construction of this power, I do not think it necessary to resort to verbal criticism. It does not appear to me that we need inquire whether the term "bankruptcy" had a definite meaning, to which we are limited, nor whether we are bound to follow the model of the statutes in England, or any State bankrupt laws that may have existed here before the Constitution was framed. For the present purpose, the general spirit and scope of the Constitution furnish a sufficient guide. The design of that instrument was to occupy national ground, and leave the



rest to the States. Who are the persons, then, that in the relation of debtor, stand connected with foreigners and with the citizens of other States? Who are the persons that in the same relation stand connected with domestic and foreign trade, and with the commercial and public credit of the country? The answer will be at once, they are the merchants, the traders, the dealers, by whatever name you may be pleased to call them, whose business it is to buy, and sell, and circulate what is produced at home or imported from abroad. Other persons may contract the same relation, but it is occasionally and by accident only. These (merchants or traders) do so habitually, constantly, and in the regular course of their business. Again, in what other class of citizens has the nation the same sort of interest? I wish not to be misunderstood. The nation has an interest in the prosperity of all her citizens, and of every branch of industry. Agriculture, the essential basis of national strength and wealth, deserves to be cherished and supported. For manufactures, every day becoming more and more interesting to this country, I trust that much will be done to afford protection and support. I declare myself willing to go as far in measures to support and protect them, as may be necessary—a declaration which I am willing should be understood either literally or generally, to give it the most positive meaning. But let it be considered for a moment what is the sort of interest the nation has in the trading part of the community, and it will immediately be seen how important is the power to control them. Take the whole amount of your imports, add to it the whole amount of your exports, and many one can estimate the value of it) of your internal trade for consumption. The great aggregate circulates by means of the trader, and is in his hands. When the farmer or the planter carries his crop to market, he does not become a shipper, and enter into the mystery of invoices, and bills of lading, and policies of insurance; he sells it to the merchant. By the hands of the merchant, too, the Government receives its revenue. With such a mass of public and national interest concentrated in the concerns of this class of society; with such a power, in the nature of their occupations, to influence trade, and credit, and revenue, I am satisfied that the controlling power of Congress was intended to reach them.

We are on national ground, then, intended by the Constitution to be occupied in making a bankrupt law for merchants and traders, and others immediately connected with trade. Can we go farther? Without undertaking to say we cannot, under any circumstances, I am free to confess that I see no necessity for it, and there are objections of no inconsiderable magnitude. Beyond this limit, none occurs to me as assignable short of an entire comprehension of all descriptions of persons. To say nothing of the impolicy of exerting the summary and sweeping authority of a commission of bankruptcy over farmers, and manufacturers, and mechanics, it would be a plain

encroachment upon the rights of the States. Was it intended that Congress should regulate their internal concerns? This is left to the States themselves. Why then should we undertake unnecessarily to interfere? And we should interfere to a most enormous extent, if we should attempt, by any means, to regulate or to affect the relation of debtor and creditor within the States, upon the comprehensive plan suggested. The argument is, to my mind, decisive, and it brings us back to the ground originally taken, where we may safely stand, assured that we are within the limits of Constitutional duty—from which we cannot depart, without the risk of doing what is at once unnecessary and inexpedient, perhaps unconstitutional. The discrimination which is thus indicated by the spirit of the Constitution, and by the theory of our Government, is conformable also to the terms used by the Constitution. Bankrupt laws, as distinguished from insolvent laws, have a sufficiently appropriate signification, determined by experience and practice. Their most uniform feature, whatever other differences may have existed, has been that, in their principal operation, they were usually confined to the commercial class; to that class which is most extensively intrusted with the property of others, which is most engaged in hazardous adventure, and whose good or ill fortune, and, if you please, good or ill conduct, have the most extensive influences. I would not, however, be understood as meaning to give any positive limitation, in this respect, to the power. It is possible that circumstances may arise, that would render a more comprehensive description necessary; and then we should be called upon to say whether the Constitution permitted such a construction. At present this is not the case; the broad line is sufficiently marked between the national ground which the National Legislature ought to occupy, and those subjects of internal regulation which may be sufficiently provided for by the State Legislatures.

It is certainly true, that the merchant or trader may be, and commonly is, indebted to persons residing in the same State with himself; and it is equally true, that the bankrupt law will operate upon debts of this description, as well as upon debts due in other States, and beyond the limits of the United States. The objection, however, has very little weight. If this operation were an evil, it would be only an incidental one, such as, in a greater or less degree, belongs to every human system. The work of legislation must be at an end, if it can never go on without the perfect assurance that it will produce pure, unmixed good, that it will precisely accomplish its object, without producing any consequences in themselves to be deprecated. I will not stop to illustrate, for every man will find the illustrations lying in every direction about him. But it is not an evil; it is a part of the object of the bankrupt law and a part of the result contemplated by the Constitution in conferring the power. The Constitution looks to the mass of commercial dealing—to the character of commercial dealing—to the sum of the relations arising from it, and the sum of the

effects produced by it upon trade—upon credit—upon the nation, and upon society. It regards, also, the entire mass of commercial dealing, not the individuals engaged, as the object of national concern. Is any other discrimination practicable? Suppose you should attempt to exclude creditors residing within the same State with the debtor, one most unjust consequence would immediately follow. You exclude these creditors from a participation in the bankrupt's estate; that is, you divide it among one set of creditors, to the exclusion of another, not less meritorious. Or, suppose you admit them to participate, but upon different terms of not being barred by a certificate this would be a discrimination in their favor, both unjust and impolitic, and tending directly to weaken and undermine the foundation of credit; it would be palpably repugnant not only to the policy, but to the very terms of the Constitution, which gives us authority to make uniform laws on the subject of bankruptcy.

Still less force is there in that objection which would confine the operation of the law to cases between merchant and merchant, excluding all creditors who are not traders. If the exclusion should be entire; that is to say, if you were to distribute the estate of the bankrupt only among creditors who are traders, giving no part to the farmer, the manufacturer, the mechanic, or others, it would be unjust. If you give them a portion of the estate, without affecting them by the certificate, it is unjust as well as impolitic, for the reason I have before stated. In either case, (and this remark applies to both the objections,) you lose sight of and defeat the very object of the power, which owes its existence in part to the extent and nature of the relations between the merchant and others.

The question which remains for the consideration of the House, is, shall this power now be exercised? I do not mean to contend that, because we find it in the Constitution, therefore we are bound to keep it always in exercise. My honorable friend and colleague, (Mr. HOPKINSON,) did not say so, and he has been misunderstood by those who have endeavored to illustrate the extravagance of the position by reference to the power of making war. It is a power to be exercised by Congress in their discretion, with this guide, however, to direct them, that the framers of the Constitution thought it a power fit and proper to be exercised by Congress, and not to be left to the States; they, therefore, supposed it not merely possible, (for a mere possibility would not have afforded a sufficient motive for its insertion,) but highly probable that a state of things would exist, rendering an uniform bankrupt system not only convenient, but absolutely necessary. Whatever arguments, therefore, are urged against such a system, simply as such, (and most of the arguments we have heard are of that description,) intended and tending to show that it is at all times, and under all circumstances, an evil; every argument, too, that is grounded upon the supposed adequacy of State legislation to accomplish the design of the Constitution, is

an argument that might, with propriety, have been addressed to those who framed, and to the States when deliberating upon the adoption of that instrument; it is, in truth, an argument against the Constitution itself, and ought to be applied, not to prevent the passage of a law, but to produce an amendment.

Can a state of things ever be supposed to exist, more imperiously calling upon Congress for their interposition, with a view to the results which the power is to be considered as having been intended to produce? This question will be more satisfactorily answered by considering, in the first place, for a few moments, the general provisions of the bill, as they relate to the interests of the creditor.

The bill proposes in the first section that, upon the proof of certain facts, indicating, unequivocally, that a merchant's or trader's concerns are in a state of irretrievable embarrassment and disorder, and that he is rapidly approaching to a state of insolvency, or already arrived at it, a creditor may cause a commission of bankruptcy to be issued against him. The effect of the proceeding is to take out of his hands all the property he may have in his possession, or may be entitled to, and place it in the custody of persons appointed by the law, for the purpose of equal distribution among all his creditors, without distinction, in proportion to the amount of their respective debts. Nothing can be fairer or more reasonable than this. The details of the bill, so far as they concern the creditors, are all directed to the object I have stated, to accomplish the honest surrender of property by the debtor, and the equal distribution among his creditors. Is not something of this kind required? Those members who represent commercial districts, are prepared to answer the question from experience; and those who have not had the same means of information, may, notwithstanding, arrive at the conviction of the necessity by the simple process of reason.

The State insolvent laws (with, I believe, but one exception) proceed only upon the application of the debtor. They do not operate till he himself thinks proper to petition, and then they give him relief in such manner as they deem most advisable. Some, by general laws, commit the authority to judicial tribunals; some exercise it themselves, by direct legislation upon existing cases; some have permanent regulations; others pass occasional laws; some few grant the most extended relief, discharging from the debt; the greater part, only the limited relief of immunity from imprisonment. Their views, in all these cases, are directed, as in other matters, by State, and not by national policy, and so they ought to be. This policy is different in different States; but, in all, it is liable to be embarrassed by the very omission of Congress to provide for the case which, by the Constitution, is committed to their care, inasmuch as it throws upon the States, individually, the almost invincible difficulty of endeavoring to conciliate and consolidate interests and views that can scarcely be made to harmonize. New York, being high-



or R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

commercial, may be very much influenced by commercial feeling in her local legislation on this subject. Pennsylvania, not long ago, passed a special insolvent law for the city and county of Philadelphia. This was an effort to describe commercial cases by local limits, and may be plainly traced to the same fruitful source of embarrassment; an embarrassment that would no longer have an existence, if Congress would exercise their authority, and, by withdrawing from the State legislation the subject of commercial bankruptcy, leave the States free to pursue each its own appropriate policy upon the cases of insolvency; cases that, from their nature, are essentially dependent upon each other and much less extensive considerations.

The great defect, however, of the State insolvent laws is the one I have mentioned. They leave until the insolvent asks for relief. In the mean time he is consuming, or wasting, or mismanaging the property, that ought to satisfy his debts; and, when he comes for relief, has nothing to surrender. The uncontrolled authority over his estate, too, occasions a resort to expedients which, in a general view, ought not to be permitted; expedients that have become almost consecrated by practice, but are not, on that account, less exceptionable. The failing merchant is influenced in the distribution of his property, not by any general considerations of justice, but sometimes by feelings of regard for particular creditors, or even by regard only for himself and his future prospects. He pays one, and leaves nothing to pay another; why? because one is a friend or neighbor, the other is not; one has lent him money, or endorsed his paper, the other has only sold him goods; one importunes him, the other has not the opportunity; making thus certain arbitrary distinctions, natural enough, but not defensible upon any just general principles. Sometimes, and not seldom, his distribution has reference only to himself. Is he most intimately connected with domestic creditors? He may secure their good will and future aid by giving them a preference to his foreign creditors. Is he most nearly connected with foreign creditors? He preserves their confidence, and lays a ground to hope for their future assistance, by giving the preference to them; and, among creditors of the same kind, he may adopt a similar distinction. The object of the bill is to prevent all such doings, and to bring back the distribution to the only fair rule, the rule of impartial equality. I do not pretend to pursue the mischiefs that exist in all their details—suffering a failing debtor to make his own preferences, permitting him to extort terms of composition from his creditors, and the like. I refer to these things, briefly, to show that circumstances call for the incorporation of a bankrupt law into the code of the United States for the protection of the creditor, and the preservation of commercial integrity and commercial credit.

It would be a sufficient answer to the argument which supposes that the States may do all that is necessary, to say, that the Constitution does not permit us to think so, or why did it give the

power to Congress? The States cannot make uniform laws on the subject, nor laws that will operate beyond their own territory, much less that will have any foreign operation. The States, in their local legislation, must be chiefly governed by local views; this is the theory of the Constitution; and, by the clause in question, they have, themselves, not only conceded the principle, but they have also conceded the fact, that the power in question is one of national, and not of local concern. How can this argument be urged with anything like even a plausible appearance, by those who, in another instance, endeavor to deduce the principle, not from the express words of the Constitution, but from the mere proof of the fact. You have upon your table a most important report upon the subject of internal improvement. Is there any express authority given to Congress by the Constitution to legislate on this subject? The answer is plain—there is not. Whence is the authority derived? From the fact, merely, that national improvements, by roads and inland navigation, may be necessary for the common defence and general welfare. And cannot this be done by the States? The answer again is, no. The States, individually, are not competent to the care of the national concerns. They may and do make roads for themselves, and it may happen that these will be so made in reference to each other, as to produce, by their combination, what is desired—national thoroughfares, for national convenience and national defence. But it may happen otherwise. I warn those who argue thus, who derive the power itself from the necessity and convenience of its exercise, against sending back to the States a power which the States themselves, upon similar reasoning, have expressly granted to Congress.

The interest which the United States, as a creditor, have in this question, ought not to be overlooked. One of the communications made by the Secretary of the Treasury, during the present session, (I cannot lay my hand upon it,) states that the preference intended to be secured to the United States, is defeated by partial assignments and dispositions of property made by the public debtors. The steady and regular collection of the public revenue, so important to the public service, is, at all times, worthy of the attention of Congress; and it must therefore be considered as a powerful recommendation of a bankrupt law, that it would effectually remedy the evil complained of. The wisdom of the Legislature may be able, perhaps, to devise other remedies; I know of none (and I do not say it without some reflection) that will be effectual, and not be liable to very great objections.

Upon the remaining part of the subject, that which relates to the condition of the debtor, I shall, at present, say but a very few words, not only because it has been fully and distinctly put before the committee by my honorable friend and colleague, (Mr. HOPKINSON,) but because it will be more proper to consider it when we arrive at that part of the bill which contains the provisions for his relief. The general design is to discharge

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

him altogether, provided two-thirds of his creditors shall agree. The Commissioners are bound to sign his certificate, if he has been guilty of no fraud; but that will not discharge him. Two-thirds of his creditors must concur, and as they may either give or withhold their assent, at their discretion, without assigning any reason, they will, of course, be determined in their decision, by a general and comprehensive view of the whole conduct of the debtor. Has he been unfortunate? They will agree to his discharge. Has he been unjust, has he been careless, extravagant? They may, at their pleasure, refuse it. Is there anything unreasonable in this? If, by a summary process, you take all from the debtor, if he has fairly surrendered everything to his creditors, satisfied a large majority of them that he has been the victim of misfortune, not of misconduct, ought he to be held in subjection to the merciless resentments, or the merciless avarice of a few, and be condemned, at their pleasure, to idleness and despair? And for what purpose? Society is deprived of the benefits of his exertions; he is himself deprived of the use of those faculties which have been given to him; and for what? Does the creditor gain by it? Has he a chance of obtaining more? I have the authority of experience for saying, that the chance is not worth estimating. Look at the operation of those laws, which grant only a partial discharge. Is a creditor in a better condition for the hold he has upon the future earnings of the debtor? One of two consequences inevitably follows; the debtor either sinks into a state of hopeless and helpless inaction, or conceals the fruits of his industry by various contrivances that are hurtful to him and to the public morals. Besides, we must never forget, that it is for misfortune that this provision is to be made; for misfortune, which no prudence can avert or prevent, but which is inseparably incident to the pursuits of those who are proposed to be comprehended in this law. But I forbear, at present, to press this part of the case.

I would beg leave to remark, however, that I confine myself to the exemption of the earnings of his industry. I have no objection to give to his creditors whatever he may afterwards acquire by gift, devise, descent, or any other means, in short, but his own exertions. Of these he should have the full benefit, not only for his own sake, but for the sake of society.

It was not my intention to notice the objections to particular parts of the bill, nor will I at this time notice them. There are two or three objections of a more general character, upon which I will ask the indulgence of the Committee to say a very few words.

A system, it is said, must be a bad one, and contain in itself very strong temptations to fraud, which requires such bloody penalties as are to be found in the English statutes. The whole penal code of England is deeply stained with blood. When Blackstone composed his Commentaries, he mentioned, with regret, that of the offences which a man may commit, no less than one hundred and forty were capital felonies, punishable

with death. How many may have since been added by statute to the catalogue I do not know. The bankrupt laws of England are in the spirit of the rest of this code, and their penalties are no better evidence of the temptations offered by those laws, than are the penalties in the laws for securing life and property, that the security of life and property offers a great temptation to the perpetration of murder and robbery. You may trace it, if you please, to the state of society; you may trace it to the error of the Legislature, or to a general want of humanity in their institutions, to extreme prodigality in the punishment of death, but not to the mere existence of laws for securing life and property.

Again; it is said, that a bankrupt law must be a source of endless litigation, and the evidence of it is a bill that passed some time ago for completing the execution of commissions under the former law. To make this argument available, it would be necessary to know how many cases were finished, and how many remain incomplete. It might be useful, then, to compare the proportion of each, with the cases of each kind under the State insolvent laws. The comparison would be decidedly in favor of the bankrupt law, unless, indeed, the cases under the insolvent law are considered as terminating with the discharge of the debtor, for, in truth, very little more ever comes of them. It may be well, however, to remind the honorable member who thinks the want of a court of chancery of so great importance, that a system without it must be a wretched system; it may be well to remind him that one of the chief objections to a court of chancery, so commonly urged, is, that its proceedings are interminable. But I am sensible that I have already trespassed too long.

Mr. SMITH, of Maryland.—The Committee having refused to rise, and being called upon to take the floor, I will attempt to give my views of the bankrupt bill, now under consideration; oppressed by a violent head-ache, I fear that I shall give little satisfaction to myself, and less to the Committee.

If, Mr. Chairman, I understood the bill as explained by the gentlemen from Virginia, (Mr. TYLER, and Mr. PINDALL) I should certainly vote with them for striking on the first section. They call it a bill to give peculiar privileges to the traders of the United States; that it will raise up a privileged order in the nation, which will endanger the Union. A privileged order, Mr. Chairman, and that order composed of bankrupts! The idea is surely laughable. What, (said the first gentleman, Mr. TYLER) have the merchants done that they should be clothed with those high privileges? They, it is true, lent their money to Government: and money is the sinews of war; for so much they have credit. But it is to the yeomanry, the mechanic, and other classes, we are to look for the bone and marrow; to the body of merchants he refuses to acknowledge their personal aid. He may be right as to some parts of the United States; certainly not so where I am acquainted.



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

Mr. TYLER here explained, by saying, that he had not intended to detract from the merits of the merchants, and that his expressions did not admit of such a construction.]

Mr. S. continued. I know, said he, no distinction of classes. During the late war, all rendered personal services when necessary—the farmer, the mechanic, the merchant, the lawyer, all their duty. The list of killed and wounded at Baltimore will show as many merchants in proportion to numbers, as that of any other description of citizens. I claim no particular merit for them; I only ask of the gentleman to believe, that he will find among the young merchants names and bones as strong and as firm as he will among those of any other profession or class of citizens.

When the gentleman last up (Mr. PINDALL) must have been some time in Congress, he will discover the impolicy, the great impropriety of attempting to excite feelings in the minds of members hostile to any class of our citizens; his good sense will teach him, that all have equal rights to approach this body by memorial, and that it is his duty to attend to their wants; he will see, that he is travelling out of the line of propriety when he makes the attempt (unworthy of his talents) to throw a stigma against any class of citizens.

[Here Mr. PINDALL rose, and declared that he meant no personal allusion.]

Certainly, Mr. Chairman, the gentleman made a personal attack; it was general and severe against the whole class of merchants and traders. He likened them to Judas Iscariot; he told us "Judas was a money changer, a trader, a dealer in exchange, and could have claimed admission into the privileged order of merchants, under the first section of this bill." The gentleman's zeal against the merchants has induced him to misquote even the Scripture. Judas did not carry the money bag, as he has stated; he was not a money changer; he never dealt in exchange; he was no trader, unless the gentleman means to say that his selling his master constituted him a trader. But who, Mr. Chairman, were the purchasers? I am informed by a gentleman near me that they were lawyers. But I do not find that the Jews had lawyers, so called, among them. The great enemies of our Saviour were scribes and Pharisees, and they were the recorders and expounders of the law, and may be considered as what we call lawyers.

The gentleman (Mr. PINDALL) has given a pledge to the gentleman from Pennsylvania, to say that if he will prove to his satisfaction, that the Christian doctrine enjoined a forgiveness of debts, he will vote for the bill. If I prove that the Good Book does contain that doctrine, the gentleman will, I trust, redeem his pledge. Apprehensive that the gentleman from Pennsylvania would cavil at the Episcopal version of the Lord's prayer, I protested against construing the word trespass into debt. Mr. Chairman, the Episcopal church says the prayer thus, "and forgive us our trespasses as we forgive those who trespass against us;" but,

sir, neither you nor I were taught the prayer in those words; no, sir, we were taught agreeably to the literal translation. Let the gentleman look to the Testament, Greek, or English, and he will find the words are, "and forgive us our debts as we forgive our debtors." Here, sir, we are distinctly enjoined to forgive our suffering fellow mortals; nay—we make it a condition of our prayer, that on our forgiving our debtors we trust that it will afford to us a hope that our sins may be forgiven. Let the gentleman consider well his situation: he will forgive no man, although he relinquishes all his property. Once a debtor always a debtor, is the creed of the gentleman. Again, our Saviour declared forgiveness of debts in a parable. A certain King called on his debtors to pay the debts due to him. One man appeared and claimed a forgiveness of his debt, for that he was unable to pay. The King ordered him into confinement, but the man prostrated himself—that is, he entreated to be heard—and, if situated as some of our unfortunate merchants are, he would have said, Your honor and the interest of the nation requires a restrictive system, succeeded by a war; my ships lay idle, they became rotted, and those which cost forty talents have been sold for ten, and I have thereby been ruined, and am rendered unable to pay my debts. Did the King answer as the gentleman would have done? No, sir; he ordered the man to be discharged, and his debt to be forgiven. Here, sir, the gentleman must see a forgiveness of debts enjoined. But, sir, what followed? The man departing, met his debtor, seized upon him, and (holding to the creed of the gentleman) was hurrying him to jail, for he forgave no man. The King remanded the unjust man, charged him with cruelty towards his neighbor, and punished him by close confinement. If the gentleman had read the Good Book as attentively as he had Lord Coke, he would have known that the doctrine of the Christian religion is love and forgiveness towards each other. "Do unto others as you would that others should do unto you," is the commandment given to all Christians. I trust the gentleman is convinced, and must, as a man of honor, redeem his pledge.

The gentleman has endeavored to fill our minds with terror, to excite horror against the bill, by detailing a variety of cases under the bankrupt law of England punishable with death. Well, sir, and what are the sanguinary laws of Great Britain? What bearing on the bill before us? In it you find no sanguinary feature. The gentleman would find the same cause of apprehension on the discussion of any law for the punishment of crimes. The British law punishes with death; we, for similar crimes, by fines, imprisonment, or hard labor for a term of years. Such flights of fancy, such reasoning from unfounded premises, are unworthy of the talents of the honorable gentleman, and more experience will induce him to refrain from the use of them in this House.

The gentleman understands the bill as for the benefit of the debtor, and asks, why is it not applicable to all classes as well as the traders?

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

Why may not the farmer also have an easy mode of being relieved from his debts? His idea is bottomed on the acts of insolvency, not on a bankrupt law—not on this bill, for this bill is intended to protect the creditor against fraudulent conduct on the part of the debtor. Under the insolvent law, the debtor applies for a release from his debts, or in some States for the benefit of the act to prevent the confinement of his person. The bill before us provides, that whenever the creditors discover that the debtor is using means to defraud them, by concealing his property, by disposing of it in trust, by securing one creditor to the injury of others, or by other acts, with intention to defraud them, they may, under the provisions of this bill, make him a bankrupt, and compel him to deliver up all his property; to disclose any that he may have fraudulently conveyed to others in trust; to discover any property that he may have concealed; to account for money improperly paid to favorite creditors; in fine, to show a fair state of his affairs, so that all the creditors may have a fair and honest dividend of the bankrupt's estate. If the debtor acts honestly, and delivers up all that he has, and shows that he has committed no act of fraud, he is discharged from his debts, provided that two-thirds of his creditors in value and number, shall subscribe his certificate; that proportion of number will not liberate him, nor of value; he must obtain two-thirds of both number and value to his certificate, or he is not to be liberated. Is that not sufficient? Would a humane man ask better security? But if that number is not sufficient, the gentleman can propose three-fourths. No, sir, the gentleman says, that if there be one creditor who will not consent, he ought not to be free. One cruel, avaricious creditor shall keep the unfortunate debtor hung up for life on the tenter-hooks of despondency and despair, and thus incapacitate him forever from being able to provide for his family; thus unnerving his industry, for who will trust a man over whom a heavy debt hangs, in the hands of an inexorable creditor, in whose power it will be to seize on his earnings at his pleasure? It is not in human nature to labor, to use exertions under such circumstances. And will the gentleman commit the happiness of his fellow-citizen to the will of one creditor? Yes, said the gentleman, once a debtor always a debtor. "I stand by the law; I will have my contract, most grave and potent signors. The law of Venice gives it to me; I will have my law; I will have my pound of flesh." And will you, Mr. Chairman—will this honorable House, concur with the gentleman, in holding an unfortunate debtor bound for life, after he has honestly delivered up all that he has of property? No, sir, I will not, cannot, believe it possible.

The gentleman says the law ought to be general, to include all classes. Would he subject the farmer to the severity of a bankrupt law? If he would, I cannot. One third of my constituents are agricultural, and I cannot consent to subject them and their estates to the provisions of this bill; nor do I believe there are many in this

House who would.\* What is the first section? If a trader depart from the State; remains absent therefrom; conceals himself, keeps in his house, so that process cannot be served; or departs from his dwelling; procures himself to be arrested, or his lands or goods to be attached, distrained, or taken in execution; shall conceal his goods; shall make a fraudulent conveyance of his property; shall admit a fraudulent security; shall remain in prison two months, or shall escape therefrom; for any of these, and for some other acts, the creditors may bring him under the bankrupt law, and compel him to deliver up his land and all his property to his creditors. I believe, Mr. Chairman, that the farmers would not thank the honorable gentleman for subjecting them to such a law; they would by no means consider it as a favor conferred on them; they would rather be excused from having the honor to belong to such a privileged order—a privilege that would enable their creditors to sell their land by a process so summary.

The gentleman objects to the 19th section; that section provides, that if any person against whom a commission has issued, shall commit any fraud, as described in this section, or shall not, within forty-two days, surrender himself, he may be punished by being imprisoned not less than twelve months, nor more than ten years. The gentleman told us that, for such an offence, the English law punished with death; but was it fair for him to say that the section punished with ten years' imprisonment in every case where the person did not surrender himself in forty-two days? Was it fair for him to conceal that the punishment might be only twelve months? Was it fair for him to conceal from the House that the very next section authorized the judge to extend the time fifty days beyond the forty-two days? And is such punishment too severe for a debtor who attempts to defraud his creditors, or refuses to surrender agreeably to law? The gentleman here has changed his ground, and has found out that the law is not made for the debtor alone. Does the gentleman mean to encourage fraud? No, sir, I am sure he does not.

The 21st section displeases the gentleman. What is the complaint? That when the bankrupt (made so under the law) shall refuse to surrender, and shall have concealed his property, his doors may be broken open. I can see nothing oppressive in that measure. A commission must have been issued, and he ought to be compelled to deliver up his effects to the law for distribution.

The 24th section is also grievous to the eye of the gentleman, and what is it? That a person who conceals a bankrupt, knowing him to be such, may be imprisoned not exceeding twelve months, and fined to the amount of one thousand dollars. And would not such an offence merit such punishment?

The 26th section provides, that, if a bankrupt

\* A motion to make the bill general, was made, and only thirty members voted for it.



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

honestly, he shall be allowed a per centage on his estate.

The 37th section provides, that the bankrupt before he can obtain a certificate of discharge, must make oath that he has made a full discovery of all his property, and that the consent of his creditors has been fairly obtained.

The 61st section provides, that a priority of satisfaction for debts due the United States shall continue.

The 62d section provides, that liens, existing at the date of this act, shall be valid.

A great objection is made to the wife being compelled to give testimony in the case of her husband. It will seldom happen, and can only when she is suspected of having herself concealed or disposed of the effects of her husband—and certainly it cannot be very severe to compel her to discover what she may have concealed, with intent to defraud the creditors of her husband. The great object of the bill is to prevent fraud and collusion; to secure to the fair creditor a fair proportion of the effects of the debtor; and as a reward for his honesty (in relinquishing all his property) to discharge him from his debts.

But it is said, that the farmer has not a fair chance with the merchant; on the contrary, the provisions of the bill put all on a footing. Let us take a view of the unfortunate debtors about to fail. The custom-house requires two securities to each bond, and the merchants are under the necessity of becoming security for each other; they cannot avoid it. Such debt is considered the first debt of honor; the Government must be paid, and the person about to fail secures, if possible, the friends who were his securities on the custom-house bonds. No merchant can obtain a discount at bank without an endorser; of course, they must endorse for each other, and, if the person finds he cannot go on longer with his business, he secures the friend who has endorsed for him, and stops payment, when there is probably little left to divide among his other creditors; and the planter or farmer, if a creditor, will always find that his debt is lost—nay, sometimes a great price is promised him for his crop, to enable the debtor to secure his securities. One of the objects of the bill, is to prevent or correct such conduct. If the debtor happens to reside in New York or Maryland, he applies as an insolvent debtor, and is discharged from all his debts without much trouble; if he is of some other State, he can remove into one of those States, and, after a certain term of residence, apply under the acts of insolvency, and receive, without difficulty, a release from his debts. In Massachusetts they proceed somehow by attachment, which answers their purpose; in Pennsylvania and Virginia, the debtor, in delivering up his property, secures his person from arrest, and may remove into Maryland, and be released from all his debts, after a legal residence. The framers of the Constitution foresaw the present condition of the States, and wisely provided that Congress should have the power to pass a uniform bankrupt law. And surely it is time that we should adopt some

rule that shall be uniform throughout the Union. We have become a great commercial people, and ought to adopt a system that shall give to the foreign debtor a fair share of the effects of a bankrupt debtor, and some rule by which the debtor may be prevented from fraudulently disposing of his property, to the injury of his creditors. Such a system is to be found in the bill now under consideration, and I trust it will be adopted.

The gentleman (Mr. PINDALL) said, that if a merchant shall aspire to the honor of a seat in this House, his day book and ledger, his accounts current, and calculations of profit and loss ought to be left in his counting-house. The gentleman, then, thinks that a seat in this House is an honor rather too high for a merchant to aspire to it. For if the people will send a merchant, he will not consider himself contaminated by his presence; but trusts he will come here free from prejudice. I refrain from retorting this observation on the gentleman, from respect to the other gentlemen of the bar. I wish the gentleman had left his own prejudices at home; they appear to have misled him in the course of debate. The gentleman will, however, accept the tender of my high consideration for his great condescension. The gentleman has expressed his great alarm lest the merchants should monopolize all power, and therefore would exclude them from a seat in Congress, and thus secure more power to the class to which he belongs.

The gentleman is alarmed that this law will extend itself over the Alleghany; and why not? If a trader from the gentleman's district shall purchase goods at New York, and vest their proceeds in land, the bill would authorize the creditors to obtain a commission of bankruptcy against him, and the land thus obtained could be sold. How is it now? The debtor in Virginia vests his creditor's money in land, swindles and laughs at him. The land cannot be sold in Virginia for debt; it may be extended, and the profits applied, but where will any gain arise, unless the land be well managed? And here, Mr. Chairman, is the secret of the opposition of both gentlemen from Virginia. They are not willing to subject the land to be sold for payment of just debts.

The gentleman has told us of guilds, Lombards and merchant traders, of the steel yards, in London. He says that they were bound for the debts contracted by each other, and asks whether we are willing to bind the merchants to pay the debts of each other?—Mr. Chairman, what a question! If, however, he will grant monopolies, such as those foreign merchants in England possessed, to a number of merchants of the United States, they will certainly undertake to be answerable for the debts of each other. The gentleman has lately been reading Anderson on Commerce, and must know that those companies existed in London at a time when England had no native merchants; when she depended on the Hanse Towns for her commerce, and on the Lombards, as bankers—when those foreigners laid the whole nation under contribution, as did the Scotch factors in

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

Virginia and Maryland, prior to the Revolution; and that it was necessary to pass such a law, as a corrective to frauds. The bill before us is intended to correct frauds, but in a more rational way.

Mr. Chairman, I think I have shown that this bill creates no monopoly—no exclusive privilege to the traders; that it will tend to prevent frauds on the part of debtors, will create uniformity throughout the Union, will do no injury—but that benefit to the commercial character of the United States may and will result therefrom.

After Mr. SMITH had concluded, Mr. TYLER stated that he had hoped that no expression used by himself would have been misapprehended by any gentleman; and more especially he had flattered himself that when he had disavowed any such intentions as the gentleman from Maryland had ascribed to him, such disavowal would have been accepted. I did not inquire, said Mr. T., what the merchants had done to merit our favor, but I did ask what the farmer, the manufacturer, and the mechanic, had done to forfeit their claims to your patronage: two propositions, very dissimilar in character. Mr. T. said, that he had supposed no merchant could have been offended at his remark, when he had assigned to that class so important a part of the political existence, as its sinews. The gentleman from Maryland tells us, that he also has agricultural constituents, and he has claimed for the merchants the sinew, the bone, and the marrow. What part of the political anatomy will he assign to that portion of his constituents who are farmers and mechanics? Will he make them the hair of the head, to be shorn off at pleasure, or the dust of the feet?

Mr. SMITH rejoined a remark or two in explanation of his allusion to Mr. TYLER. He claimed some bone and some marrow for the merchants, as well as for the agriculturists.

The Committee then rose, reported progress, and asked leave to sit again; which Mr. BASSETT in vain objected to granting, the leave being accorded by a large majority.

THURSDAY, February 19.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to which was committed the bill from the Senate, entitled "An act concerning the district of Brunswick, in the State of Georgia," reported the same without amendment, and it was ordered to be read a third time to-day.

The SPEAKER laid before the House a letter from the Secretary of the Treasury transmitting a statement of the moneys paid for defraying the expenses of the commissioners under the fourth, sixth, and seventh articles of the Treaty of Ghent; which was read, and ordered to lie on the table.

Bills from the Senate of the following titles, viz:

An act concerning the district of Brunswick, in the State of Georgia;

An act supplementary to the act, entitled "An

act further extending the time for issuing and locating military land warrants, and for other purposes;" and,

An act to authorize certain purchasers of public lands to withdraw their entries, and transfer the moneys paid thereon; were severally read the third time, and passed.

On motion of Mr. HUNTINGTON, the Committee of Ways and Means were instructed to examine an act, entitled "An act regulating the currency within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France, and five franc pieces," passed in the first session of the 14th Congress, and ascertain whether the same does not require legislative interposition. The said act, in the first word of the 10th line of the first section, reads seventy, when it is obvious, from the rest of the section, it should read twenty.

## BANKRUPT BILL.

The House again resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy.

Mr. MILLS, of Massachusetts, said, the great importance of the subject now before the Committee to the commercial portions of the Union, and particularly to the State which he had the honor, in part, to represent, was the only motive which could induce him, in the present state of his health, to mingle in this debate. But viewing it, said Mr. M., as I do, of vital moment to the interests of this country, of vastly more importance than any subject which has for years been submitted to your consideration; and knowing, as I do, the anxiety with which the eyes of thousands, now suffering in wretchedness and poverty for the want of such a system, are directed to your deliberations, I must beg the indulgence of your patience, while I submit for your consideration a few remarks, to show the necessity of some uniform system of bankruptcy throughout the United States, and while I endeavor also to answer some of those objections which have been urged against the adoption of such a system.

Sir, said Mr. M., the gentleman from Virginia, (Mr. PINDALL,) who has occupied so large a portion of our time in this discussion, has, I am sure, with no improper views, drawn our attention to a great variety of considerations, not necessarily involved in any bankrupt system, and most certainly forming no part of that which has been, with so much industry and care, presented for our adoption. So deeply does he seem to have imbibed the conviction, that every such system must be radically wrong, and productive of nothing but gross frauds and sanguinary punishments, that he has been unable to bestow upon it that unbiased and candid examination which is due to a measure of so much importance. Permit me, then, sir, to recall the attention of the Committee to the real question which the motion now before them presents to their consideration. The motion is to strike out the first section of the bill; a motion which, by parliamentary usage, has nothing to do with its details, but goes only to



the principles necessarily embraced in the measure. The question, then, now before you, is not, will you pass this bill with all its provisions, limitations, and penalties? but, will you adopt a system of bankruptcy which shall be uniform in its operation throughout your country, according to all, within its purview, the same protection, and extending to them the same remedy? If the gentleman from Virginia is dissatisfied with that provision which makes the wife liable to be examined as a witness, in certain cases, to discover the frauds of her husband, let him wait till that provision is distinctly under consideration, and move to expunge it. If he objects to that section which authorizes the commissioners to break the doors of the bankrupt, who may have concealed his property from his creditors, let him adopt the same course. If he wishes to extend the operation of the bill to other citizens than those already embraced in it, let him introduce an amendment to that effect. If, in short, he is opposed to the details of the bill, or those parts only which point out the mode by which the principal objects may be attained, and the penalties imposed on those who are guilty of an infraction of its provisions, parliamentary usage and common courtesy alike require that such modifications should be attempted as will give it the fairest prospect of meeting the wishes of a majority. Still less, sir, ought a measure of this kind to be defeated, by calling into action those prejudices which may have been imbibed against the laws, the jurisprudence, or the commercial regulations of other countries. Once establish the principle, that the situation of the country is such as to require the exercise of that power with which the Constitution has vested you upon this subject, and whether the prominent features of your system shall be drawn from the commercial code of Napoleon, or the acts of the British Parliament, will be a mere question of expediency, to be determined by their relative merits, and their analogy to your habits and institutions. Sir, I shall not stop here to inquire into the extent of the obligation imposed on you by the Constitution. It is enough for me to find the power "to establish uniform laws on the subject of bankruptcies throughout the United States," expressly delegated to Congress by that instrument, and to satisfy myself that the exigencies of the country require its exercise, to appreciate the weight of this obligation. Too long already has this delegation of authority remained a mere dead letter in that compact; and too long have those for whose benefit it was introduced, called upon you to give it life and energy and action. Look to the commercial nations of Europe; none of them are destitute of some regulations, by which the relations subsisting between a creditor and his unfortunate or fraudulent debtor are governed, calculated for the protection of the honest and the deterrence and punishment of the dishonest. Let us no longer form an exception to that great commercial family, of which we are so distinguished and prominent a member; but let us profit by the wisdom and experience of others. Indeed,

in no other nation does a system of this sort appear to me to be so necessary. In most other countries, the laws which prevail in one portion of the empire are, upon every subject, and especially commercial subjects, the same which prevail in another portion. They have no separate sovereignties, nor conflicting regulations. A system of bankruptcy there is not necessary for the purposes of uniformity, for all their laws are uniform.

But in this country what is your situation? A confederation, formed of twenty distinct, and, in respect to their internal regulations, independent sovereignties, with laws (especially in regard to the collection of debts,) varying from, and in many respects contrary to, each other. In some of the States, attachments are made upon mesne process, in others the remedy is against the body of the debtor; in some, a judgment operates as a lien upon all his estate, and in others most of his estate is free from all but a nominal liability for his debts. In many of the States there are insolvent laws, indeed; but in no two States are their provisions, or the practice under them, alike, I believe, unless it be that in all the person of the debtor is discharged, and the creditor, especially the distant one, seldom receives any portion of his debt. Sir, this complicated state of uncertainty, diversity, and hostility, ought not to continue. The business of the merchant requires that he should give and receive extensive credit in different States. To do this with safety, the rules which govern the relation of debtor and creditor, should be correctly defined and well understood. Where is the merchant, nay, where is the member of this House, who can tell you the regulations of the different States upon this subject? Sir, this debate has shown that they are not within the knowledge of any individuals here. "Miserable indeed," we are told, "is the situation of that people where the laws are vague and uncertain."

Ask the planter of South Carolina or Georgia, what security the laws of Massachusetts give him for a debt due from the merchant in Boston. Or, ask the merchant in Boston or New York, by what means he is to collect his money from his factor or consignee at the South. Each, sir, will be suspicious of the other. The planter of the South would be apprehensive that the process of attachment which prevails in Massachusetts, would enable some more fortunate creditor in the vicinity to secure his debt, by sweeping away the property of the merchant in Boston; and, on the other hand, the merchant would be equally apprehensive of some legal exemption or general assignment of the property of the consignee, or the operation of some act of insolvency, which should place that property beyond his reach. Thus is that mutual confidence, so necessary to mercantile credit and commercial enterprise, entirely destroyed. And even between States in the immediate vicinity of each other, as New York and Massachusetts, a sort of "border war" is continually carried on, by the process of attachment on the one side, and the laws of insolvency on the

other, equally detrimental to the rights of the creditor and the moral integrity of the debtor.

The present system, also, or rather the present want of system, deprives the Government of the benefit of that precedence or priority over individuals, which your revenue laws intended to secure in regard to such debtors as should not have sufficient property to pay all their debts; for in States where attachments prevail, for the benefit of the attaching creditors, in the order in which they are made, it is very clear that the whole estate of the debtor may be seized upon by individual creditors, before the bond to the Government falls due, or before it is known that he will be unable to pay his debts. And in States where insolvent laws are in force, the very apprehension of this priority induces the debtor, before he takes the benefit of those laws, to assign his property to some favorite, or perhaps fictitious, creditor; and in either case the Government is left remediless. The documents furnished by the Secretary of the Treasury, and now upon your table, complain of the existence of this evil, and an inquiry into facts will show that it is of no inconsiderable extent. Sir, thousands, and sometimes hundreds of thousands of dollars, have been annually lost to your Treasury in this way, and, as the Constitutional guardians of that Treasury, your duty requires that an effectual remedy should be provided. Such a remedy, it is confidently believed, is now offered. The debts due to the Government are chiefly from merchants, upon custom-house bonds; and if, upon the happening of one of the events described in the first section of this bill as an act of bankruptcy, commissioners should be authorized to seize upon the property of the merchant, few cases indeed would occur where that property would not be more than sufficient to pay the entire debt of the Government, thus entitled to priority.

But, says the gentleman from Virginia, (Mr. PINDALL,) "let the State Legislatures pass insolvent laws." Sir, a slight consideration of the subject will show that these laws would afford a remedy altogether inadequate to the evils intended to be provided for by this bill. Indeed, in my humble judgment, many of the evils under which the mercantile portion of the community now labors, result from the operation of the State insolvent laws. At any rate, sir, the same uncertainty, resulting from a want of uniformity, and the various systems of different States, would exist to perplex and harass the distant creditor.

Besides, gentlemen greatly err in considering insolvency and bankruptcy as synonymous. They are not convertible terms. A man may become insolvent without ever having committed an act of bankruptcy, and he may commit an act of bankruptcy, and yet have sufficient property to pay all his debts. Instances have occurred, rarely I admit, where a trader in Great Britain has done that which justified the suing out a commission of bankruptcy against him; his property has, consequently, passed out of his control into the hands of commissioners; and upon a full

settlement of his concerns, every honest creditor has received his twenty shillings in the pound. Indeed, one of the principal advantages of a bankrupt law is, that, upon the happening of certain events, which indicate fraud or imprudence in the trader, it enables the creditors to interpose and arrest his career of indiscretion or dishonesty, by securing his property for the equal benefit of all, in proportion to their respective claims. It is, in contemplation of law, at least, an adverse proceeding on the part of the creditors against the debtor, for the purpose of divesting him of his property, and preventing its being fraudulently conveyed or concealed, and of obliging him to make a full and fair surrender of his property, and disclosure, under oath, of all his transactions in relation to it; and, according to the present bill, it is not until two-thirds in number and value of his creditors, people most interested in the inquiry, are satisfied that he has so surrendered and disclosed; that he has made no secret or fraudulent conveyance, and in all things conducted himself honestly in this behalf, without giving preference to one over another, that he can be entitled to his discharge.

Very different is the course of proceeding usually adopted, I believe, under the insolvent laws. The man who intends to avail himself of their liberal provisions, finding himself embarrassed, and foreseeing the fate that awaits him, makes his own arrangements to meet it. The debts of his father, his brothers, his endorsers, his favorite, or perhaps his most unfortunate creditor, are paid in full, and having divested himself, at his leisure, of all his property, he then, at his own instance, or on the application of his friends, is permitted to pass through the requisite ceremonies of discharge, although, perhaps, in some cases, not more than one-fourth of his creditors may have any actual notice of the proceedings, or any opportunity of examining into his affairs. Instead, therefore, of opening the door to frauds, as the gentleman from Virginia has said this bill would do, it will, in my apprehension, most effectually tend to prevent those frauds which are now so prevalent among us.

The temptations to fraud will not be increased, and you will be furnished both with the means of detection and the power of punishment; and I have yet to learn that men are deterred from offences by the impunity with which they may be committed, or that crimes are multiplied by the infliction of punishment upon the offender.

Most of the States have already, I believe, as has been suggested, insolvent laws of greater or less efficacy. But this is not the case in all. The State, sir, which you, (Mr. LIVERMORE, of New Hampshire,) and the State which I have the honor, in part, to represent, have not as yet adopted them—and from the little I have known of their operation, without pretending to be intimately acquainted with their provisions, I do not covet what some gentlemen seem disposed to consider so great a blessing. Inconvenient and unequal as is our system of attachments, I am by no means disposed to exchange it for the insolvent



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

systems with which I am acquainted. Still, sir, great fraud and injustice are sometimes practised under our laws, and great inequality is frequently produced where no fraud is intended. The vigilant, the sharp-sighted, or the unfeeling creditor may always get the preference of the indulgent and compassionate, or the distant one. Frauds, too, may be committed by the debtor, which it is impossible to detect or punish. Preference may be given to favorite creditors, upon the case of a failure, and fictitious debts created, against which no defence can be made by the bona fide creditor. A trader, in contemplation of bankruptcy, may make his note, without consideration, to his most confidential friend, for any amount; a process of attachment may be immediately sued out upon the note, all the debtor's property seized, without any affidavit on the part of the creditor of the justice of his claim, and no person on earth can oblige him to disgorge his plunder; nor will any one be allowed to dispute the validity of the demand in a court of justice, except the debtor himself. Here, indeed, sir, is a strong temptation to fraud, the temptation to provide for one's own family, without any means of detecting or defeating it. Against such and so many evils surely some remedy, more efficacious than the State insolvent laws, is imperiously demanded.

But, sir, are you sure that, since the adoption of the Federal Constitution, the State Legislatures have any legitimate authority to pass those laws? By that instrument it is contended Congress alone have power to establish a uniform system of bankruptcy, and the States are expressly prohibited from passing "any laws impairing the obligation of contracts." So far, therefore, as these laws impugn either of these provisions, so far they transcend the powers retained by the States. Upon this subject, however, I wish not to be understood as giving an opinion, or attempting to sustain an argument. The question is still in *nubibus*. One judge of your Supreme Court, of great respectability, has given an opinion against their constitutionality; and another of equal respectability in their favor. And it now remains for the full court to decide the difficult and important controversy.

We are told, too, that a bankrupt system would prove a fruitful source of litigation, and that the property of the debtor would be swallowed up by the commissioners and assignees. Sir, in answer to this objection I can speak only in respect to those States with whose laws I am best acquainted, and there, sir, I can assure the gentleman, so far from increasing, it would blight and destroy all most plentiful harvest of litigation. By the bill now under consideration, a single process is to settle the concerns of the debtor with all his creditors. Whereas, under the laws of attachment, hundreds of suits are sometimes commenced in rapid succession, each creditor pursuing his own interest alone, and in this multiplicity of suits and general scramble for property, I leave it to the gentleman from Virginia (Mr. PINDALL) to decide how much would find

its way to the pocket of the creditor, and how much to the officers of the law, or which would derive the greatest benefit from this procedure.

But it is said by the gentleman from Virginia, (Mr. PINDALL,) that this is a "system of exclusive privileges and extraordinary liabilities;" that it will create a privileged order in the community, inconsistent with our republican institutions, by conferring favors upon the merchant at the expense of the agriculturist; and the honorable gentleman has called our attention to the origin and progress of the bankrupt laws of England in proof of this position. Sir, can that gentleman, with all his ingenuity and historical research, persuade you that, in the reign of Henry the Eighth, the merchants were a favored class of British subjects? Can he persuade you that the sturdy Barons and extensive landholders, who composed the Parliament of that and the subsequent reign, were disposed to sacrifice the interests of agriculture to the personal aggrandizement of the merchant? No, sir, examine the history of those times; look at the preambles of the statutes of 34 Henry VIII, as well as those passed in the reigns of Elizabeth and James the First, and to the penalties contained in them, and you will at once perceive that the interest and security of the creditor, were solely consulted in these early times. That, in regard to the debtor, the laws were considered as highly penal, calculated to restrain imprudence, extravagance, and negligence—enacted at a time when, in the quaint language of my Lord Coke, "the English merchant had rioted in three kinds of costliness, viz., costly buildings, costly diet, and costly apparel, accompanied with neglect of his trade and servants, and thereby consumed his wealth."

The system now proposed confers no exclusive privileges, it imposes no extraordinary liabilities. It extends equal security to every creditor, protection to the honest but unfortunate debtor, and holds the rod of correction over the dishonest, the profligate, and the fraudulent. Is this too much for the merchant to ask at your hands? But it is not as the friend of any particular class of the community, that I call upon you to establish this system. It is because I believe it will contribute to the protection and support of the great interests of the nation. If I believed that the interest of the country required that a bill should be passed for the protection of agriculture, no one would more readily support it. But, as the Representative of an agricultural district, I will not consent that the farmer, whom I represent, merely for the non-fulfilment of a contract, in which the public has no interest, shall be made liable to a commission of bankruptcy, suffer his houses and his lands to be transferred to assignees, and his estate to be administered upon in his lifetime. Neither public policy, nor individual security, requires that this course should be pursued with the farmer; while both unite in extending it to the merchant.

The one "pursues the even tenor of his way" in a limited sphere, encountering but few risks beyond the reach of ordinary calculation; while

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

the other, in his more extended sphere of action, is exposed to ruin by events against which no human foresight can guard; the misfortunes of others, the elements of nature, the varying policy of his Government, and the injustice or rapacity of other nations, are alike the cause of his destruction.

The protection and encouragement of commerce, sir, has ever been considered as essential to the prosperity of this nation. The situation of your country, the hardy enterprise of your people, and the provisions of your Constitution, alike impress upon your consideration the importance of trade. What, sir, induced the Eastern and commercial States to wish for the establishment of your present form of Government? It was not solely that they might rely upon the strength of your arm for protection and defence; but that their intercourse with other nations might be favored and facilitated, and the interests of trade cherished and extended. For this they gave you the control of their revenue—the power to establish courts of justice—to regulate commerce, foreign and domestic, and to establish a uniform system of bankruptcy. Sir, for all the encouragement which commerce receives at your hands, it makes a most ample and liberal return. It is commerce that adorns and embellishes society; it diffuses the comforts and elegances of life, wealth, and the means of information through your land, promotes and encourages the arts—extends the hand of munificence in the cause of literature and science—erects asylums for the miserable and the destitute—establishes liberal, and humane, and moral, and literary, and religious institutions, and covers the face of your country with the smiles of intelligence and the radiance of hope? Who is it, sir, that fills the coffers of your Treasury with wealth? The merchant. Who sustained and resuscitated your sinking credit, when driven to your "utmost need?" Who are the nursing fathers of that hardy and intrepid race of men that established your renown upon the ocean, and "plucked from the deep the drowning honor of your country?" Surely, sir, the interest and the pursuits of the merchant require some consideration from a Government which has received such fruits at their hands.

But, sir, there is one other objection urged by the honorable gentleman from Virginia, (Mr. PINDALL,) so novel and extraordinary in its character, that I cannot permit myself to pass it over in silence. The gentleman complains that a complete system of bankruptcy is to be "palmed upon us" at once; although the English system has been the work of three centuries, and is contained in nineteen different statutes. Sir, where does this argument tend? Would the gentleman lead us back to the ages of barbarism, and oblige us to pass, by gradual advances, to a state of civilization? Are we to reject the improvements of ages, and to disregard the progress of society, in the arts, the sciences, and in civil polity? Would the gentleman be willing to have this argument applied to the science of law, in

15th CON. 1st SESS.—31

which, I understand, he is a distinguished proficient? Would he throw aside the forms of proceeding now in use in our courts, because the system was introduced complete, though the lapse of ages was necessary to perfect it in England? Would he discard that admirable system of logic to be found in special pleading, the use of which is so familiar to him, for the loose and irregular and vague form of proceeding *ore tenus*? The great principles of civil liberty, upon which all our institutions are founded, are not to be disregarded, because they sprung up in other ages, and arrived, by slow degrees, to that state of perfection in which we adopted them. Sir, we have been singularly favored by Providence. No night of barbarism ever overshadowed our country. Like the fabled goddess from the brain of Jupiter, we sprung into national existence, in the fulness of stature, and all the maturity of wisdom.

Sir, I will no longer detain the Committee. Believing that the adoption of a uniform system of bankruptcy will subserve the interests of the Government, and promote the prosperity of this great community, I hope the motion to strike out the first section of this bill will not prevail.

Mr. TUCKER, of Virginia, said, that in asking the attention of the Committee to a few remarks on the subject of the bill under consideration, he was aware he solicited from their accustomed politeness what a very natural impatience at this stage of the discussion might be disposed to deny him. But, while the principles of the bill were so ably and zealously defended by gentlemen who were the peculiar representatives of the mercantile interest, it became more than ever the duty of those who came from agricultural districts to scrutinize its principles for themselves, and to resist a system which they believe pregnant with evil, partial in its operation, and bearing hard on a class of the community who ask for no assistance from the legislative body, and too rarely find it sufficiently attentive to their interests.

We have been reminded, sir, by the gentleman from Massachusetts, (Mr. MILLS,) that the subject now peculiarly under discussion is of a more circumscribed character than it seemed to be supposed by those who went before him: that the motion to strike out the first section of the bill involves not the inquiry whether *this* bankrupt law shall become a legislative act, but whether *any* bankrupt law shall pass; that by striking out this section the whole system is negatived, and we virtually declare our determination to make no effort to remedy the many and serious evils which flow from a diversity in the State systems of insolvency. He recommends, therefore, to those who may be averse to particular provisions in this bill, to seek its amendment rather than to produce its destruction. But the effort, sir, would be vain. We have sufficiently, though informally, ascertained that the most zealous advocates of the bill regard as essential certain provisions to which the majority of the Committee are disposed, I trust, to give a decided negative. Are gentlemen willing to strike out that clause which provides



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

by the release of the bankrupt from his debts upon receiving his certificate? I understand them to consider the bill without this provision as not worth a rush; with such a provision, it never can receive my consent. Are they disposed, in consequence with the avowed principle of making this a law between merchant and merchant only, to insert a proviso, that as the debt of the farmer or mechanic to the merchant cannot be discharged by bankruptcy, so neither shall the debt of the merchant to the farmer or mechanic be annulled by the operation of the act? Such a principle seems to be founded in the law of reciprocity, and if the act be confined to merchants, it should affect only debts which are due to that favored class of the community. But, will gentlemen accept the modification? I understand them to consider it as inadmissible. Will they consent to insert a proviso, that nothing contained in the act shall have the effect of exonerating any person who may become bankrupt under it, from debts existing before its passage? If they do not, it is retrospective—*ex post facto*—and unconstitutional; and I, for one, cannot give it my vote. But I understand its warmest advocates would not listen to such a proposal. Indeed, the allusion on yesterday of the gentleman from Maryland to the difficulties and embarrassments among the merchants having resulted from the embargo and restrictive systems, proves but too clearly that we are now legislating rather for events that are past, than for those that are in prospect. This principle of the bill, then, is likewise considered essential by its friends, and as furnishing an insuperable obstacle to its enemies. Finally, will gentlemen consent to modify that provision which enables two-thirds of the creditors by their vote to release the interest of the other third—which enables one man to release the debt of another without his assent? This, like the other schemes which a disposition to conciliate the mercantile interest might suggest as the basis of a compromise, is likewise considered inadmissible.

Thus situated—with the friends of the bill strenuous in maintaining certain principles, without which they would cease to support it, while those very provisions form an insuperable objection to others—what hope can there be of so shaping it as to make it palatable to the variety of tastes in this committee? To me it appears palpable, that if the bill is to pass at all, it must pass in its present shape. And, as I am decidedly opposed to its principles, I shall vote in favor of the motion of my colleague, and thus endeavor to put an end to an unprofitable labor that may last for weeks, and perhaps months, without the possibility of an accommodation, and without, after all, passing any bill whatever.

We were told, Mr. Chairman, in the opening of this matter, by the gentleman from Pennsylvania, (Mr. HOPKINSON,) that the provision of the Constitution was imperative in relation to a bankrupt bill, and that we were constitutionally bound to enact one. I am happy to find, however, from the explanation of his colleague, (Mr. SERRENT,) that we are not to understand this posi-

tion so broadly as the gentleman from Massachusetts naturally apprehended. It seems that we are only to consider it as a Constitutional injunction to pass a bankrupt bill whenever it shall be necessary, or the state of society shall require it. If this be all, we are happily absolved from a Constitutional discussion, and the question resolves itself, as we at first conceived it, into a question of expediency.

We have been told, too, that this phrase in the Constitution having been used in reference to the British laws, and those laws having confined its provisions to traders, and provided that the debtors should be discharged from all prior debts upon obtaining a certificate, we must understand the Constitution as having contemplated similar provisions. The argument proves too much. If the terms of the Constitution compel us to adopt any particular provisions of the British bankrupt system, we are equally compelled to adopt all; since it is impossible from its context to discern which it directs us to pursue and which to reject; and thus, under this instrument, the Congress of the United States would be reduced to the humble office of re-enacting in terms the provisions of the British statutes, so fortunately provided for us by our British progenitors. But the truth is, that the Constitution uses this term without reference to a particular system, but in relation to systems of bankruptcy generally; some of which contain a principle abrogating the bankrupt's debts while others do not; and some doubtless embracing more classes of the community than others have deemed it expedient to comprehend.

In truth, however, on this latter point it would be scarcely important to raise a Constitutional question. All agree that expediency forbids an attempt to embrace in the provisions of the bankrupt law the husbandman, the planter, and mechanic. No one would deprecate such an attempt more than myself. It would be impracticable. It is not suited to the character of those classes of the people. They must change the whole course of their habits and manners before they could bear the operation of such a system. To them it would be inexpressibly inconvenient and oppressive. But the inexpediency of this extension to them offers no answer to the objection to the bill that it is partial in applying only to merchants. It is of the essence of that objection, that the law cannot be so framed as to avoid being either partial in its provisions or oppressive in its operation. Either of these objections ought to be fatal and conclusive.

As to the clause which exonerates the bankrupt from his debts, there is the less reason for presuming such a provision implied in the terms of the Constitution, as the principle has not been universal in bankrupt laws. These laws existed in England one hundred years before it found its way into them, and unless my memory deceives me it never formed a part of the French law, until since the adoption of the federal Constitution. This body is, therefore, I presume, untrammelled, as to the character of the law which it shall pass, and it will be my chief object to show

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

that, with this favorite principle in the bill, it is inexpedient that it should become a law.

It is this clause of the bill, Mr. Chairman, which I regard with most hostility. It contains a flagrant invasion of private right. It expressly impairs the obligation of contracts, by absolving a man from a debt which he never has discharged. In doing this we are infringing one of the first great principles of natural justice—a principle interwoven with all our moral feelings, and which forms indeed one of the most marked distinctions between a republic and a despotism. To this principle the Constitution, too, has set its seal. It inhibits to the States the power "to pass any law impairing the obligation of contracts;" and that power which has been so carefully withheld from the State sovereignties of this confederacy, is now attempted to be exercised by us. Can we be disposed lightly to violate this great principle of justice? Can we disregard the moral sentiment and the sanction of the Constitution, unless a great and imperious necessity demands of us to act? I will not stop to inquire whether we have constitutionally a right to enact laws impairing obligations, any more than the States. But this I will venture to assert, that before we encroach upon this forbidden ground, and violate what has been held sacred by the Constitution, the necessity must be great and imperious; the advantages must be certain and important, not speculative and trivial.

We are told, indeed, that the debts of bankrupts are not to be extinguished, unless a majority of creditors, in number and in value so decide. But the invasion of private right is not less conspicuous, since their decision will not only operate to extinguish their own debts, which they have a right to release, but the debts of dissenting creditors, over which they ought to have no control.

Let us then dispassionately examine, Mr. Chairman, whether the evils complained of are as great, and the benefits anticipated as extensive, as the zealous advocates of the bill appear to contemplate.

Perhaps there is not a fairer mode of deciding on the effects of a system, than to refer to the opinions of able men, who have witnessed its practical operation. I recollect to have heard within a few days past one of the most enlightened and distinguished men of the present Congress (a member of the other House) state that, in conversation with Lord Chancellor Eldon, and perhaps, also, with the then Chief Justice of the King's Bench, they had acknowledged that, upon a candid review of the effects of the bankrupt system in Great Britain, it was extremely problematical whether it did most harm or good. If we confide in these opinions, there is certainly no such decisive advantages to be derived from the system as to induce us to overthrow a principle that we are disposed to regard as sacred. But we have still further evidence afforded, at least as to the opinion of this nation, on the subject of the bankrupt system, by the conduct of the States. From 1776 to 1788 they had the sole

power of passing bankrupt laws. Since that period they seem to have conceived that they possessed powers on the subject; but only two have ever passed a law exonerating the debtor from his debts on becoming insolvent and surrendering his property. And shall we pay no regard to this strong indication of national feeling on the subject of bankrupt systems? In all Governments, in our own particularly, we should scrupulously attend to the national feeling in relation to the laws that are to govern the nation. We should fit the coat to the shoulders for which it is intended; if we do not, it may chafe and fret us, but never will be of service.

There is, however, a yet stronger indication of national sentiment on the subject of bankrupt laws, and a farther evidence of their being found inconvenient and pernicious upon experiment. In the year 1800 a bankrupt bill was passed, and limited to a period of five years. In the year 1803 a motion was made for its repeal. I beg gentlemen to reflect on the state of things at that time. Parties were then in complete array against each other. This had been one of the last measures of the Federal Administration. Never, since the commencement of this Government, was more to have been expected from the influence of hostile party feelings upon the decision of the legislative body. But, on this occasion, those who were in the habit of daily and animated contention, with one consent suspended their hostilities, and turned their arms against this common enemy—the bankrupt system—which they seem to have looked upon as some hideous monster. "The lion and the lamb" laid down together; the Griswolds and the Danas, the Randolphs and the Macons, of that day, were for once found in conjunction. They were not satisfied to permit the act to expire by its own limitation, but they determined to strike it from the code. The repeal passed almost by acclamation; ninety-nine votes being in favor, and only thirteen against it. Here, then, I conceive, was an explicit declaration of national sentiment, and of the opinion of practical and able men, on an experiment, of the effects of which they had themselves been the witnesses. Will gentlemen be deaf to the lessons of experience—the opinions of those who saw the operation of the system, and the plain indications of public sentiment? The convictions of the nation have been further manifested by subsequent events. Fifteen years have elapsed since the repeal of the bankrupt law—years more disastrous to the merchant than any former period. Within that time they had to encounter not only the common risks of commerce, but the extraordinary hazards of an irregular state of the world. Orders in Council, Berlin and Milan decrees, embargo, non-intercourse, and restriction, seemed to baffle their mercantile calculation, and to threaten them with ruin. Yet, during all this period, no bankrupt law has had existence; and now, in these halcyon days, the gentleman from Pennsylvania tells us the fairest occasion is offered for this experiment; now, when all the fair risks of the mer-



H. R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

cha. I may be safely insured against, and the commercial speculator alone is in danger of ruin.

It seems to me that the advocates for a system of bankruptcy are misled by two very common but very erroneous principles of action—a wish to prevent inevitable evils, and a desire to encourage everything. Nothing can be more groundless than the hope that, by our legislation, we can prevent the misfortunes incident to our nature, and our pursuits. In taking a burden from one shoulder it falls on another, and, like bucketers, in stopping one hole we make two. So, too, we must encourage every thing: the manufacturer must be encouraged by duties; the merchant must be stimulated to mercantile enterprise by sponging his debts if he fails. And on what do these encouragements operate as a burden? On the farmer and the planter. They also ask for nothing but to be permitted in peace to follow their plough, and to make a livelihood by their hard and honest labors. On them falls the burden of encouraging manufactures; and on them, too, will fall, as I expect to show, no little evil from this bankrupt system.

It has been said that you must hold out some safety to the merchant—some assurance of protection, or he will not venture; a stimulus is wanting to excite to mercantile enterprise; without it our commerce must languish, and every class of society will feel the pernicious effect. Such a stimulus is wanting. Can gentlemen really believe that the commercial enterprise of this country wants a stimulus, when they cast their eyes to the events of the last twelve years; when they see the merchants fearlessly running the gauntlet through the Berlin and Milan decrees, and British Orders in Council, enriching this country, as we have been told, and of course enriching themselves? That such has been the result would seem fairly inferrible from a fact which I have heard stated on good authority, that most of the insurance offices have made large profits in the course of their business. There would seem, therefore, no fair reason for holding any stimulus necessary to mercantile enterprise. Let us see, however, how this bankrupt system will operate on the mercantile class, and on the other classes of the community.

As to the merchants, as some sensibility has been manifested by the gentleman from Maryland in relation to their character, I beg leave, before I enter upon this part of the subject, to show any disposition to reflect upon them as sinners in society. My daily intercourse with that gentleman, and with another, to whose purity and honorable feelings it gives me pleasure to pay the tribute of my respect, would of itself have forbidden the indulgence of any sentiment of prejudice towards that respectable body of men. But after all they are but men. There are some good and some bad among them; and unless it can be shown (and I am sure even the gentleman from Maryland will not attempt it,) that there is something so refining and purifying in mercantile pursuits, as to cleanse us of the impurity of our nature—unless it can be shown

that merchants are not comprehended in the meaning of that book which the gentleman is so fond of quoting, where it declares to us that the heart of man is prone to evil and most desperately wicked, I must be permitted to assume that there are many fraudulent persons engaged in trade. Sir, I speak it under authority—the authority of the advocates of the bill. They tell us that this law is made for the creditor; to prevent the numerous and infamous frauds that daily occur under the insolvent laws. Now, as this law is to operate only on merchants, it is manifest that the numerous frauds spoken of must, at least to a very important extent, be frauds of the mercantile community.

Assuming, then, that there is not less disposition among insolvent merchants than among other insolvents to commit frauds, let us see what will be the operation of this law on the honest and on the dishonest.

To discover the effect upon the honest merchant, compare the course of things under the insolvent laws of the country with that which must take place under this act. At present he enjoys the common rights of his fellow-citizens—the common law of the land. But by this act he finds himself stripped of these privileges; he is treated like a culprit; his home is broken open; even his wife is, under heavy penalties, compelled to disclose those confidential communications which the laws of our land consider as sacred; and he finds himself branded on the forehead, and classed forever with a set of men who, from the frauds too frequently practised under the system, are looked upon with suspicion and distrust. He will postpone as long as possible these dire evils. For what is his compensation? A certificate, and the extinction of his debts; an extinction of no value to him, because he will have honor enough to pay them, should fortune once more smile on his exertions. Gentlemen have enlarged upon these provisions with a view to show that they give no privilege to the debtor. They have spoken of the harsh character of the law. I agree with them. It is horse medicine I admit. It confers no privilege on the honest merchant I acknowledge; on him it operates only as an oppression.

But how is it with the knave? Under the insolvent laws, whatever property he acquires, after his discharge, is liable to his debts. If, then, he makes a fraudulent conveyance of real estate, or fraudulent transfer of personal property, whenever he takes it back, it is again liable; and as, by leaving it in the hands of an accomplice, it may be endangered by his frauds or by liability for his debts, a sort of necessity exists for again assuming the ownership; whereby it becomes subjected to the debts he had contracted before insolvency.

Consider his situation under this act. He commences business (as I understand is frequently the case) almost entirely upon borrowed capital. He perseveres for some time in a course of punctuality and industry; extends his credit to a large amount; gradually secures to himself a hand-

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

some fortune by fraudulent investments and deposits with convenient friends; and then breaks and sponges his debts. Now he begins to draw, by degrees, these funds again into his hands, and his growing wealth is attributed to returning good fortune. What is it to a man of this character, that he has been compelled to endure the severities of this act, when, at the close of the transaction, he pockets one hundred thousand dollars, and lives at his ease the balance of his days? Sir, I cannot resist the conviction, that this act is harsh and oppressive to the upright, and holds out temptations to the knave, of which he will not fail to avail himself. It is a conviction, neither prejudiced nor visionary. The sober writings of the jurist, and the pen of the satirist, alike bear testimony to the innumerable frauds of bankrupts under this system. The laws themselves attest them. Why are they marked with such severity? I speak, sir, of the bloody code of the British bankrupt law. It has been properly referred to on this occasion. Gentlemen tell us we should yield to the experience of that nation in relation to the necessity of the system. Why not be governed by their experience with respect to the punishments essential to its support? And what is that system? If the bankrupt conceals his effects, hang him! If he makes a false disclosure, hang him! If he makes fraudulent conveyances, hang him! And thus, throughout the code, the frauds which a century has been gradually developing, have been attempted to be restrained by severe, yet, perhaps, unavoidable punishments. Yes, sir, for if we have a system which holds out such temptations to fraud, the punishments must be severe. You have endeavored to avoid this evil. The punishments in the bill are moderate indeed; but you attempt to bind Samson with a packthread. What, to a man of desperate character, will be the punishment of a year's imprisonment, compared with the enjoyment of an ample fortune, with the power of running away from his character to some remote part of this extensive continent? Nothing!

Sir, it has been said, by the gentleman who introduced this subject to the Committee, that a bankrupt law operated as an insurance, protecting the unfortunate debtor, in some measure, from the consequences of his losses. It is true, sir; it is an insurance, but without any of the ordinary principles of the association. It is compulsory, unequal and unjust, not voluntary, equitable and fair. It is an insurance neither according to our interests or our capacities, but governed by the arbitrary dominion of chance. Let me suppose a case. With a capital of ten thousand dollars, I become the creditor of a brother merchant to the amount of half that sum; the gentleman from Maryland, worth five hundred thousand, is a creditor to a like amount; our debtor fails, and I am practically his insurer to the value of half my fortune, whilst the gentleman from Maryland scarcely feels this insignificant deduction from the ample profits of his trade. Where is the justice or policy of an insurance upon such principles? If there must be an insurance

against the losses of trade, whether proceeding from misfortune or imprudence, let it rather be established on principles like those which my learned colleague has spoken of as once having had existence. Let it embrace the whole body of the merchants, and let the burden fall on every shoulder according to its ability to bear it.

Let us now see, Mr. Chairman, what will be the probable effects of this system upon the rest of the community. To my mind it will operate indirectly as a burden upon them. By this act, if a merchant owes a farmer, the insolvency of the merchant, and the certificate of his brother merchants, extinguishes the debt; but if the farmer owes the merchant, the farmer's insolvency does not extinguish the debt. This is unequal and unjust, and must operate as a burden upon the husbandman. Consider them in classes; every day extinguishing some debt from the mercantile class to the farming class; but no debt from the farming class to the mercantile class can ever be extinguished. Does it require any reasoning to show that, by this operation, the merchant must, upon the whole, be the gainers? And is not this act thus indirectly a tax upon the farmer for the benefit of the merchant?

Let us suppose (to bring the matter home to our affairs) that I have in deposit, with a merchant of Alexandria, a thousand barrels of flour, which he sells without my authority, and becomes my debtor for its amount. He becomes bankrupt, procures a certificate, and is exonerated from my demand. On the other hand, I owe to a merchant of the same place a like sum: I calculated on paying it with the fund I had accumulated, and which my unprincipled debtor had wasted. Deprived of the means of payment, I, in my turn, become insolvent; but my debt is not annulled; it is to hang upon my exertions during the balance of my days, while my debtor is absolved, and may be rioting in newly acquired or fraudulently retained wealth. I ask gentlemen who represent agricultural districts, what reply they would be prepared to give to one of their honest, plain-dealing constituents, placed in such a situation, who should make a forcible appeal to him on the injustice and inequality of this system of bankruptcy? For my own part, I know of none. I should consider myself as defenceless, though armed with all the arguments which this able debate has developed.

But we are told, sir, of the innumerable evils that follow in the train of the insolvent laws of the States, and that these evils will be remedied by the passage of a bankrupt bill. The first of these is the want of uniformity, and the gentleman from Massachusetts, (Mr. MILLS,) with the good sense which distinguishes whatever falls from him in debate, has dilated upon the evils of uncertainty and want of uniformity in commercial concerns, and has explained the unequal operation of the insolvent laws. But this want of uniformity (which, by the way, if I am not misinformed, exists even between England and Scotland, the bankrupt laws of the former having no operation in the latter) will not, cannot be pre-



H. of R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

repealed by the passage of this bill. It is not contemplated to repeal the insolvent laws—there is an express provision in the bill declaring that they shall not be repealed, except so far as relates to those who become bankrupts under this new system of things. They are then to be repealed only as to the merchants, and left in full operation as to all other classes of the community. Is this uniformity? The evils of the insolvent system, which have been most zealously portrayed by every gentleman who has spoken, are to be removed only from the mercantile community, and the farmer and mechanic and country merchant are still to groan under these evils. Every exception on the part of the friends of the bill to prove the ills of the present system only serves more strongly to fix upon their project the charge of inequality and partiality.

If it be true, as must be admitted, that the insolvent laws are a grievance and require to be assuaged to each other, it would behoove us rather to devise an insolvent system which might redress existing abuses, without attempting to introduce the principle which exonerates the bankrupt from his debt. Is it essential to the correction of the insolvent system; is it essential to its uniformity, to insist on this obnoxious principle? Is it not better to make the experiment without it, as was done in Great Britain for one hundred years, before it found a place in their bankrupt code?

But the partial repeal of the insolvent system of the States, and the partial operation of the bankrupt laws, will moreover have an oppressive and injurious effect upon certain classes of the community. I speak now particularly of the country merchant; his creditors in the seaport towns are armed with this powerful engine for the collection of their debts. This system, which has deservedly been portrayed as so harsh and unrelenting, is put into operation against him with all its severities. He on his part has his debtors. Who are they? The farmers, planters, and mechanics; men against whom he cannot use this efficacious weapon; men who are not within the bankrupt law, and to whom this decreed insolvent system of the States will still continue to apply. Thus, while the bankrupt law is used as an instrument against him, it cannot be made use of in his favor. He is crushed by its power, while (if the representations of gentlemen are correct) his debtors will elude his grasp by the delusions of the insolvent system.\*

Another evil which has been touched upon by the gentleman from Pennsylvania, (Mr. HORTON,) is the supposed disposition of debtors,

This unequal operation is peculiarly conspicuous, when we reflect that, by the bankrupt law, the lands of the country merchant (and most of them possess some real property) will be seized by the commissioners for his debts to the merchants of the seaports, while in some States the lands of his country customers are not sold to him except in a mode which bears no comparison with the prompt measures of the bankrupt

under the present insolvent laws, to pay the foreign creditor in preference to the home creditor; an evil which he supposes will be remedied by this bill. The gentleman admits I do not misconceive him. To my mind, sir, this idea is a delusion; probabilities are just the reverse of what he has supposed. Let us examine the subject a little nearer.

Under the insolvent law the insolvent debtor knows that all the property he acquires after the oath of insolvency is liable for his debts; it is then his interest to pay off those immediately around him, because they are incessant spies upon his conduct and his affairs; if they are not paid off, he may expect to be pressed by them whenever his circumstances improve; every dollar he acquires they have their eyes upon. But the foreign creditor, once baffled by an insolvent oath, is not apt to be so troublesome; the debtor does not find it therefore necessary to pay him as soon as those who, from their proximity, are more likely to press their just and unsatisfied demands. This, sir, is not mere speculation; instances have fallen under my own observation that satisfy me that the usual course of things is such as I have represented.

Such, sir, are my objections to this system of bankruptcy: objections chiefly growing out of that clause which exonerates the bankrupt from his debts. With every disposition to yield to the mercantile community an accommodation which they solicit, I cannot consent to the system so long as it contains this feature; and the passage of any bankrupt bill, without it appears entirely hopeless. I will conclude by expressing the hope that this body will not give its sanction to a law that oppresses the honorable dealer, while it facilitates the iniquitous schemes of the dishonest; a law that infringes private rights, impairs private contracts, breaks down the great safeguards of the law, sets up new tribunals unknown to the Constitution, with powers the most arbitrary and oppressive, and leads by its great temptations to the commission of innumerable frauds.

Mr. STORRS, of New York, said, after the able exposition which has been made to this Committee by gentlemen who have preceded me in this debate, not only of the particular details of this bill, but of the general policy and necessity of adopting this measure, I can scarcely hope to acquire their patient attention. Indeed, sir, I should not have occupied any of their time did I not believe that, as well the peculiar state of our commercial interest as the particular provisions of this bill, have by some of the gentlemen who have warmly opposed it, been greatly misapprehended. The only question which is fairly presented by the motion of the honorable gentleman from Virginia, (Mr. TYLER,) to strike out the first section of the bill, is the expediency of legislating at all on the subject. The details of the bill may be hereafter so modified or improved as to make it acceptable to all. I heard with much regret and anxiety the remarks of the honorable gentleman who made this motion, and his colleague, (Mr. PINDALL,) for the course of their ar-

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. of R.

gument seemed to have received its impulse either from strong and alarming jealousy of the mercantile interest of the nation, or from fears that this measure conferred some peculiar privileges on one portion of the community, to the exclusion of the rest. It is at all times an ungracious task to draw invidious distinctions between the merits of particular classes of citizens; nor should I seek to repel the insinuations which have been thrown out in the debate against the mercantile character of the nation, had not my own observation convinced me of the injustice of those imputations. They have no interest distinct from the rest of the community, and whatever doctrines are calculated to array in hostility against each other the different classes of our national interests, deserve no sanction or encouragement in this place. Though gentlemen may deem them harmless here, the effect of their adoption will be felt and deplored elsewhere. With whatever sincerity it may be pressed in the warmth of debate, and however honorable the feelings of duty which prompt it, yet, next to direct and open attempts at disunion, no doctrine can be urged, which, in its consequences, will prove more pernicious to our peace and prosperity, than that which teaches the agriculturists of the nation that their interest requires the discouragement of commercial men. The history of our country is little else than the history of our commerce. Most of the general powers vested in Congress by the Constitution are adapted solely to a commercial people. From what class of our citizens have we derived in a great measure that characteristic of national enterprise which highly distinguishes us above all other nations, and of which we so much and so justly boast? For what but the safety of our "ships and vessels" were our ports locked up for years by an embargo? For the preservation of what "essential sources of wealth and strength" was the restrictive system adopted and enforced? For the security and protection of what interests were millions of treasure exhausted, thousands of lives sacrificed, our frontiers and maritime towns desolated through a fierce and vindictive contest of arms? When, before this debate, was the time when gentlemen thought our seamen were entitled to no protection against the violent policy of other nations? That our honor required no exertion of the national strength for the security of our merchants against the rapacious edicts of European potentates? For what does one of our gallant fleet even now sweep along the shores of Africa, displaying our "star-spangled banner" to the Moorish infidels of Barbary? It is, sir, to teach them the instructive lesson that our commercial prosperity and security is identified with our national honor. What, then, should have produced at this day this strange revolution of doctrine? Is our commerce more secure or more prosperous? Do commercial men suffer under no embarrassments which should recommend them to the favorable notice, to the justice, and, if gentlemen please, to the kindness of the national councils? Is not the preservation of mer-

cantile credit the basis on which all commercial faith and prosperity is founded? For in reviewing the effects which the embargo, the restrictive system, the war, nay, our late convention with Great Britain produced, and which yet operate on the agricultural prosperity of the country, the most cursory observation must have deeply impressed on the public mind at least one important truth, that in the same proportion that our commerce has been depressed and embarrassed, in the same degree has the tide of ruin been pressed back to the primary source of our wealth, the agricultural industry of the nation. We have not yet recovered from the extraordinary state of things which has existed in the world for the last ten years. It cannot be denied that the policy which our Government deemed it proper to pursue has largely, though incidentally, contributed to produce those commercial embarrassments which require the necessity of now adopting some general system of liberation to the unfortunate, and providing hereafter for the better security of creditors. Our merchants might, therefore, fairly expect that we should more readily listen to their complaints and more cheerfully correct the evils under which they suffer.

The honorable gentleman from Virginia (Mr. TUCKER) has told us, that the agriculturist forms the only class in the nation which never petitions for support or favor from the General Government; that, while our tables are loaded down with memorials from merchants and manufacturers, the farmer never asks the national arm to be extended for his peculiar relief. This remark, emanating from that section of the country represented by the honorable gentleman, indeed, surprised me. For, in our Constitution itself, the protection of one of the most extensive agricultural interests of the nation is displayed in some of its most prominent and remarkable features. The provision for the re-delivery of fugitives from the service of their masters, and the prohibitions which it imposes on the States, on a point connected with personal liberty, contains a valuable security of one species of property existing among us, indispensable to its protection. But a few days have passed since the House was engaged on the bill, now sent to the Senate, concerning fugitives from service, reported by the colleague of the honorable gentleman. It was, on that occasion, urged that, in the fair and liberal discharge of our duty, we were required to give, by every legislative means within our power, complete efficacy to this provision of the Constitution; that it was justly expected by the slaveholding States that Congress should interpose its authority, and protect the agricultural interests of the South in the enjoyment of that species of property which was thus recognised and which the national faith was pledged to preserve. The appeal was not made in vain. The liberality manifested on that bill by gentlemen representing commercial States, was such as claimed some sympathy and reciprocity of feeling for their own interests and sufferings. It was justly hoped that they would have found equal liberality of senti-



H. R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

ment from gentlemen more exclusively representing the agricultural interest of the South. I would further ask the attention of the Committee to another part of the Constitution; the rule which fixes the ratio of representation in this body. Can gentlemen discover nothing here which was designed to confer peculiar, and such is the condition of many of the States that I might add exclusive, privileges on the agricultural interest of particular sections of the Union? The history of our Constitution declares the causes which produced these concessions of power. I will not say they were extorted, but they were yielded as a sacrifice to the Union, to the future happiness and prosperity of the country. The consideration that these distinguished privileges have been uninterruptedly enjoyed, and their effect on the interest of the Southern States deeply felt and realized, should have allayed the excitement of those jealousies which can only be pernicious to the general welfare. It was also foreseen by the framers of our Government, that the times would arrive when other interests would require the establishment of a uniform system of bankruptcy. All commercial nations had experienced the necessity of adopting some regulation on that subject. Much as even the late Emperor of France affected to despise the mercantile character of the British nation, yet he incorporated into the commercial code a complete system of bankruptcy. Although the foreign commerce of France was annihilated, it was found indispensable to the preservation of all mercantile credit, and the security of her internal trade, that some system should be established; and it is but a just tribute to this part of the code, which I say that, in my judgment it was more perfect in its general provisions, more just towards creditors, and more humane towards honest debtors, and better calculated for the suppression of fraud and the encouragement of integrity, than any other which has come under my observation. We will suspect that this system was introduced from any predilections which were entertained by this potentate for mercantile professions. I do not agree with gentlemen, that the exercise of this power should longer continue to be intrusted to State regulation. In this country, it would have been unwise, for causes which now exist, to confide these systems to the discretion of the State Legislatures. Our dear-bought experience has already proved the wisdom and necessity of vesting this power in the General Government. It is a power exclusively vested in Congress, for no system could be uniform or useful, which depended, for its permanency or character, upon the territorial jurisdiction or caprice of twenty different State Legislatures. It was from the view of evils of this nature, and arising from these sources, that the first propositions were adopted under the Confederation which led to the formation of our present Constitution. The first resolution introduced into the Old Congress, with a view to the better organization of the Government, was, by Mr. Witherspoon, of New Jersey, on the 3d day of July, 1781, and is in

these words: "that it is indispensably necessary that the United States, in Congress assembled, should be vested with a right of superintending the commercial regulations of every State, that none may take place that shall be partial or contrary to the common interest." It is true, as the honorable gentleman from Virginia has said, that nothing imperative in the Constitution requires us to exercise this power at any time. It was, however, like many other powers, intrusted to the integrity, as well as the wisdom of Congress; and it was presumed that when evils like those under which commercial men now suffer should spring up among them and render the interposition of Congress necessary, that a sense of duty to the nation would alone prompt the application of the proper Constitutional remedy. Before particularly noticing the first section of this bill, I would ask the attention of the Committee to the nature of some of those evils under which creditors throughout the nation have largely suffered. A creditor of the Southern States, on pursuing his Northern debtor, finds in Massachusetts that an attachment has dispossessed him of his whole estate for the benefit of some other individual creditor more vigilant. In New York, a judgment voluntarily confessed and perfected, has acquired preference on his real estate, to the exclusion of all others, or an insolvent act, of which he had never heard, has discharged him from all responsibility. In Virginia his landed estate is for all useful remedial purposes exempt from charges for the payment of his debts. These partial, and, in many cases, unjust, municipal regulations will be prostrated, and the creditor may rest in security that his interests will everywhere find impartial protection in the application of the remedy which this bill provides. It is worthy the consideration of gentlemen from the South to consider the course of trade between them and the Northern States. While they remain almost exclusively agricultural, and the North continues commercial, the natural consequences of their intercourse is the accumulation of extensive balances in favor of the Southern States. To them, therefore, the preservation of the mercantile credit of the Northern seaports is of vital importance to their interests, and it is well worth the reflection of gentlemen to consider to what degree this bill secures to them the fair participation of the estates of their Northern debtors; a considerable portion of these consist, too, of the shipping merchants; a class of commercial men, whose prosperity is peculiarly dependant on accident, and who are particularly exposed to the temptations of speculations in foreign markets.

A careful examination of the provisions of the measure now before us, will satisfy gentlemen that it does not, as has been suggested, encourage systems of gambling speculations, or promise indemnity against the consequences of hazardous adventures; nor do the insurance offices offer any security against the evils which exist. Gentlemen have probably been misinformed, also, when they suppose that the insurance offices of the sea-

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. R.

ports have accumulated large fortunes. In that State, which I have the honor to represent, many of them, though discreetly managed, have become bankrupt; and I believe that a public statute provides specially for the insolvency of these particular institutions. Though it may incidentally afford relief to many unfortunate, though honest men, yet such will not long resort to the remedies which it offers for their emancipation from misfortune. The acts of bankruptcy enumerated in the first section of the bill, embraces a different class of merchants. The power of this measure is directed chiefly against collusive transfers of property to favored or fictitious creditors; the dishonest embezzlement and concealment of effects and fraudulent evasions of punctuality and responsibility. These evils can only be corrected, and the success of these practices frustrated by an application of the power created by this bill. The greater portion of the subjects of this law, will never consider it as conferring on them any peculiar or extraordinary or enviable privileges. The honorable gentleman from Virginia (Mr. TYLER) expressed an opinion that if any benefits were to result from the measure, impartiality demanded of us that the farmer should not be excluded from participating in them with mercantile men. I am somewhat at a loss to discover precisely, in what part of this bill the farmer is excluded from its real benefits. If the honorable gentleman intended that we should understand his objection to be, that this class of community are expressly exempted from becoming subjects of bankruptcy, and the farms not made subject to the summary process which is applied to the effects of the merchant, I must differ with him in my estimation of the benefits of this exemption. As a debtor, his true interests and the nature of his property forbid the application of the unusual remedy which this measure provides; as a creditor, he is not excluded from his just share of the bankrupt's estate, and as the merchant often becomes his debtor in the purchase of his produce, all the additional securities of this bill are extended to him. In neither relation, therefore, are the privileges which it is supposed to create denied to the agricultural interests of the country. At this late period of the debate, I will occupy the time of the Committee no longer. Believing, as I do, that the measure is required from us by a just and impartial regard to one of the most important national interests; that it is fraught with incalculable benefit to every class of community, and that it cannot justly be viewed with jealousy by any; I hope that its passage will not be defeated by the success of the motion to strike out the first section of the bill.

Mr. WILLIAMS, of Connecticut, apologized for rising at this stage of the debate, when the question was called for; and he felt the more reluctance when he found the gentleman from Virginia, when up, (Mr. TUCKER,) thought it necessary for him to request their indulgence. That the question before the Committee embraced a subject of so much importance that he would ask the attention of the Committee while he raised

his voice, feeble as it was, against the motion then under consideration.

That there were difficulties, serious difficulties, existing in relation to the subject under consideration, he was ready to admit—that there were objections of weight to the bill, he should not deny. This was to be expected from a subject of such magnitude and extent; but this formed no reason, in his mind, why it should not be considered. He would not pledge himself as to the vote he would give upon the final passage of the bill, but he would not agree to the motion now pending, because it seemed to deny an inquiry into a subject all important to many in the community. And although the subject seemed to be complicated; although the details are long, and the sections numerous, the objects of the bill are few and simple. They are, first, to make provision for the creditors of the bankrupt, by an equal distribution of all his property; and then to grant some relief to the bankrupt himself. As to the first, the equal distribution of the property of a man who has become unable to pay all his creditors, it would seem to be an object worthy the consideration of the Legislature.

Bankruptcy ordinarily, although not necessarily, supposes the party to be unable to pay all his creditors. What in such a case, is the most proper mode of distributing the property he may possess among those to whom he is indebted? It can be done only by suffering the debtor to make this distribution himself, or permitting the creditors to scramble for the property, or by taking it into the hands of the law, that all might share alike, in proportion to their debts. The gentleman from Virginia (Mr. TUCKER) says, if the debtor be honest, he will himself make a fair distribution of his property, and if he is not honest, you ought not to provide for him. But is even an honest man the best judge in his own cause? May not an honest man have partialities to gratify, and friends and relations who may be his creditors, whom he would feel as if he must prefer? In cases where the wisdom of the Legislature might hesitate, and where conflicting claims exist which might require a chancellor to decide, will you leave it to the party himself? Besides, at a time when circumstances, arising frequently from unexpected embarrassments in his affairs, have led the party almost to a state of distraction, can it be supposed that he will, even with his friends about him, sit down, and calmly and coolly make the most just and equitable distribution of his property among his creditors? Will you then leave his property to be taken upon legal process by his creditors, giving the preference to him who uses what is called legal diligence? The consequence of this will be, that while some are paid, others are unpaid—while some get all their debts, others get nothing—that the wary, the suspicious, and sometimes the malicious, absorb the whole property of the unfortunate debtor in the payment of their own debts, and the attending expenses, while the distant creditors—the unsuspecting creditors, and those least able to protect themselves, are left without any part of the estate. Is



H. R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

not, then, vastly better to attempt to make an equal distribution of the property? In case of the death of a person who is insolvent, the laws of most of the States have provided that the property shall be equally divided among his creditors. In the case of this, the civil death of the merchant, is not the reason equally strong, equally able?

The other object of the bill is to relieve the man who has thus delivered up his property (on certain terms) from any further liability to those creditors. And in fair cases is not this equally laudable? Has not a principle of this been recognised in all commercial countries? It is well known to exist in England, and it is recognised there, with certain modifications, it is known in France, and the principle is recognised in every insolvent law of the States. It would, therefore, seem to be founded upon principles of justice. But it is said you ought not to discharge the debt, and it seems to be supposed you are taking from one man his property, and giving it to another; whereas, in fact, you are only taking from the creditor a right to imprison his debtor for life, and a right to snatch away the child which he may have provided for his children—a right which can be of no value to the creditor, but which may be productive of infinite mischief to the debtor; a right which, in a fair case, no respectable man would wish to exercise, and which, therefore, he would willingly resign. Can this right be of any service to the creditor, except to gratify resentments? Have gentlemen ever known an instance where a debtor, having been stripped of all his property, and then suffered to remain in constant dread of imprisonment, and of having his earnings taken from him, has paid the debts which thus hung over him, or had even the heart to make an effort for that purpose? If not, of what value is such a right to his creditor? But it is said you are giving a privilege to these debtors. And what is this privilege? Is it one which gentlemen would themselves be willing to receive with its burdens? A privilege of having their houses broken open, their property, and books, and papers seized, and their wives compelled to be witnesses against them. Would gentlemen consent that such privileges should be extended to all the members of the community? It has indeed been complained that the clauses so harsh were in this bill, and yet we are told of the privileges conferred by this bill. As some compensation for this, it is indeed further provided that after the bankrupt shall have delivered up all his property, and made a full disclosure of his circumstances; if the commissioners will certify that he has made a fair disclosure, and conformed to the requirements of this act; and if two-thirds in number and value of the creditors will consent, he shall be discharged from his debts.

If this be a privilege, it is one dearly earned; and if it be a privilege, accompanied by such sacrifices as gentlemen would not require of other persons than merchants, surely it ought not to be objected that it does not extend to other persons.

But if it is to be considered a privilege, is not the peculiar situation of the merchant, as it respects the Government, such as demands it? He is the collector of all, or nearly all, your revenue; in the course of this business he must, as was remarked by the gentleman from Maryland, necessarily become responsible for the obligations of others to the Government, and not unfrequently has to sacrifice his own property to discharge them. Again, the measures of the Government, in relation to your concerns with foreign nations, are more peculiarly felt by him. Do you lay an embargo, his business is suspended; do you pass a non-intercourse or non-importation act, he must seek new channels of commerce; do you declare war, his property upon the ocean becomes the prey of the enemy. It is said, indeed, he may insure; he may or he may not have made insurance; if he has, the underwriter has only taken his risk, and may, in his turn, require the same aid from the Government.

But the gentleman last up from Virginia says, we are not now in danger of war. But will gentlemen say that we can hope always to remain at peace, or that we are to wait for the moment when war commences? If Congress were upon the question of declaring war, would they suffer their deliberations to be interrupted by an attempt to pass a bankrupt law? No, sir, it is only in a time of peace that a law of this magnitude can receive the attention it demands.

But it is not a privilege granted to an individual for his own sake, or even for the sake of his family; but it is a privilege, rather a right, of the society of which he is a member, who has claims upon his services and upon his talents, which will probably be entirely lost, if, after your laws have taken from him all that he has, they shall still subject him to be answerable for the claims of his creditors.

It is said, let the States pass their own insolvent laws. But the individual States can make no uniform system of bankruptcy. Their laws will be as various as the States. Merchants in foreign countries, and even in different States, cannot know what the laws of the respective States are; and consequently under what circumstances they might expect their debts discharged; and should they attempt to search them out, the laws would change during the time they spent in this pursuit; indeed, the knowledge of them would require the study of a life. Again, it is a question pending before the Supreme Court, now sitting in this city, whether a State can constitutionally pass an insolvent law, the power to establish a uniform system having been expressly delegated to Congress; consequently, all those who, in the various States, have conformed to those laws, are now wholly uncertain with respect to the security they expected to derive under them.

But if the States do possess the power, so far as regards the citizens of their own States, it will not be regarded by the courts of another State as against their citizens; and, consequently, all the benefit that such laws are to those who

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

owe debts in other States is, that it makes the jail limits co-extensive with the boundaries of the State; and if the insolvent leaves his own State, he may be subject to an arrest, notwithstanding his supposed protection. These are some of the reasons why Congress should exercise this power, if it is to be exercised at all, rather than the States; and as Congress have and are exercising all the powers expressly given them by the 8th section of the 1st article of the Constitution, (except that relating to weights and measures,) it seems as if this subject was of that kind as peculiarly to require their interposition, if indeed there ought to be any laws upon the subject, as in no other way can there be that uniform system contemplated by the framers of the Constitution.

It is, however, said, that a system of this kind will encourage the bold speculator; but when it is recollected, that two-thirds in number and value of his creditors must give their consent to the discharge, it will be a check sufficient to restrain the bold speculator; and if we compare the merchant of Great Britain, who acts under this system, with the American, who does not, it is believed that it will be found, that there is not less caution nor more enterprise and speculation in the former than in the latter. When, therefore, the objects of this bill were so important, it was to be hoped that it would not be rejected in the manner proposed, by striking out the first section.

FRIDAY, February 20.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to divide the State of Pennsylvania into two judicial districts," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. HUGH NELSON, from the same committee, reported a bill to establish a judicial district in Virginia, west of the Alleghany mountain; which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON also reported a bill for altering the time for holding the district court for the district of Virginia; which was read twice, and ordered to be engrossed and read a third time.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a return of the arms and military stores furnished to the respective States, under the act of 1808, for arming the militia of the United States, in obedience to a resolution of the 8th ultimo; which was ordered to lie on the table.

On motion of Mr. FORSYTH, a committee was appointed to inquire into the expediency of changing the mode by which the Army of the United States is subsisted, with leave to report by bill or otherwise; and Mr. FORSYTH, Mr. JOHNSON, of Kentucky, Mr. HARRISON, Mr. MERCER, and Mr. PETER, were appointed the committee.

The bill making the annual appropriation for the support of the Navy passed through a Committee of the Whole; and it was ordered to be engrossed for a third reading.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting, in obedience to a resolution of the House of the 11th December last, an account of the sums awarded by the Commissioner under the act of the 9th April, 1816, for the payment for the property lost during the late war, and the act of the 3d March, 1817, supplementary thereto, describing the species of property paid for, with sundry documents in relation to the subject embraced by the resolution; which were ordered to lie on the table.

## BANKRUPT BILL.

The House then again went into a Committee of the Whole on the Bankrupt bill, the question being on striking out the first section.

Mr. MASON, of Massachusetts, rose and requested to submit a few observations to the consideration of the Committee. His mind had received a deep impression from the importance of the subject, and he represented a portion of the Union deeply interested in the passage of some act of the Government.

The bill now before the Committee is in consequence of memorials from respectable bodies of merchants, inhabiting the four great cities upon the Atlantic coast, and by adverting to those memorials, you find the most respectable signatures, and an uncommon unanimity of sentiment. I regret much the jealousies and shades of political hostility which have manifested themselves in the course of the debate to this class of men. They are citizens, and not foreigners, inhabiting different apartments under the same roof, members of the same family, and dependent upon each other for mutual prosperity, united together with variant interests, to promote which a spirit of conciliation and compromise is at all times necessary; and such is the spirit of our Constitution. It is not contended they are perfect; the bill upon your table is evidence that unworthy men are found among them. They are subject to human imperfections in common with the planter, the farmer, and the mechanic. They hope only they have no more than their proportion. They have not been drones in the community, but by their exertions and prosperity, while enriching themselves, they have quadrupled the wealth of their country. They hold, at different times, possession of a great portion of the active stock and merchandise, and receive and sell all the produce of the planter and agriculturist. They manage all the fiscal operations, all the banking institutions, and they are your immediate agents in receiving, collecting, and paying the impost and revenue. They state to you the nature of their trade; that it is, at all times, attended with hazard; that credit is its vital principle; that they are obliged to loan to each other their names and responsibilities in the procurement of money; and that this practice is the only one which can be adopted, and essentially



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

ly necessary to the collection of the imposts. The law of the United States has prescribed this mode. They are liable to losses, from misfortune, from fraud, from unforeseen and incalculable embarrassments; the frequent revolutions in politics and government, and from that necessary dependence upon each others credit and calculations. They literally embark their all upon the ocean, and oftentimes their best efforts are as uncertain as that is unsteady. They state to you the present discordant systems in some, and the want of any in others of the United States; the inefficiency in all of them, and their total inadequacy to the protection of their property.

They now ask your aid and protection, that they may have some uniform system throughout the Union; that equal justice may be administered to all of them; that they may have some control over their debtor and his conduct, when he himself has demonstrated he has no property but theirs remaining in his hands, and not a sufficiency of that to discharge their demands; that there may be no unjust preferences, and that they may have voice in the distribution of his effects; that all may be put upon the same footing, and that contracts upon the same moral principle, may receive the same proportion; that they may furnish inducements to the honest debtor, when in adverse circumstances, to consult his creditors, to expose his books, make known his misfortunes, and deliver up his effects. In making these requests, they are not unmindful of the principles of humanity. They do not calculate upon receiving the whole of their demands; but are willing to take their respective proportions, and give to their debtors a discharge; in doing this, it is not his immediate interest they consult, but their own, and founded, as they think, upon universal experience.

It would apply to the candor of gentlemen, and ask whether this prayer is unreasonable? Whether anything can be found therein unjust or rigorous? Some gentlemen say exclusive privileges are prayed for. Sir, the merchants ask for no exclusive privileges, unless it be a privilege to accept ten shillings, and perhaps five, for twenty, that has been paid. Neither can it be called a privilege to the debtor, unless it is considered a privilege to be stripped of his property, and left naked, helpless, and penniless, with possibly a family and children dependent upon him. They can have no objection to admit the planter, the agriculturist, and the mechanic. It cannot militate with their views; it cannot obstruct them in the accomplishment of their wishes, nor be in opposition to their interests. The fact is, the planter, the farmer, and the mechanic do not wish it. They will not accept of such a privilege. The nature of their pursuits do not require it; and they are not liable to the risks and exposure of the merchant, and accordingly we hear the honorable gentleman from Virginia saying his constituents are content with their present insolvent laws; and the honorable gentleman from Massachusetts, while he is contending for the passage of this bill in behalf of his commer-

cial constituents, is, at the same moment, protesting against the admission of his agricultural constituents to its provisions.

But the gentleman from Virginia says it will multiply crime, and seven new crimes are made under the bankrupt laws of England. Sir, the fact is, the crimes now exist, and are daily practised in society with impunity. The conduct of the fraudulent in the concealment and withholding of his property, is just as bad as the man who puts his hand in your own pocket and robs you of your money. It is to prevent these crimes by checks and punishments that this law is now asked for. They are not new, they already exist, and are created by the very principles of your insolvent laws. They are countenanced by the law, the debtor is referred to them, and his conduct is predicated upon them.

But do these evils exist? A very small attention to the insolvent laws through the States will demonstrate them. They are different in different States—no two systems are alike. It is impossible for the distant creditor to become familiar with them, or stand upon the same ground of equality with the domestic creditor. They are confined to the State, and depend altogether upon the debtor's oath; and their operation is confined solely to his application. No control is given to the creditor at any period of their process, and the debtor's effects are put beyond his reach. In some States, and unfortunately in my own, concealment and preference are effected by the aid of law, fictitious debts are created, and property is secured by attachments without affidavits, and the property changed and held beyond the control of the creditor. He has no right to be heard. It is an affair between the debtor and his friend, and judgment passes by consent and default. With the want of judgment and discretion in individual creditors, the insolvent laws tempt the honest man to become a rogue, and however upright and pure the intention in the outset, the honest debtor finally finishes under their operation with the same character, as the fraudulent debtor in the first instance. By advert- ing to the almost universal practice under them, it will become apparent. A young person commences trade with a small capital and with good character; with a reliance upon his friends and the purity of his conduct, he adds a credit to his principal, and trusts his adventures upon the ocean. He for a time is successful, but finally meets with those hazards that baffled his calculations, and he finds that he has not added to the sum he commenced with. By the aid of credit, and the negotiation of paper, he still continues his business, and endeavors to support his credit by meeting his demands. He is obliged to make use of evasion, and he commences this first departure from strict integrity, until he becomes so embarrassed, he is convinced he must finally fail. Still actuated by the principles of integrity, he secures his property remaining, with a view of calling a meeting of his creditors, and offering them the whole, to be distributed among them in proportion to their respective demands, provided

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

they will take it and give him a discharge. He states to them his course of conduct, that it has been his misfortune, and not his fault, and offers a complete surrender. Each creditor is apt to suppose his own debt a peculiar one, and there is found some one among the many, that will not give him his discharge. It results, that he is driven to the necessity of continuing the concealment of his property, and making no division at all. He is obliged to live upon this property, and is lessening it daily. He becomes irritated against his creditors; he thinks them cruel and unrelenting, and he accustoms his mind to his determinations to prevent their obtaining their just dues. He finally is guilty of prevarication and conduct which, in other circumstances, he would be ashamed of. He departs from that honorable, upright course he commenced with, and considers himself at war with those to whom he stands justly indebted. It is in adversity only that our trials present themselves. It is no difficult task to act well our parts in prosperity: it accords with our interests—it supplies us with means. It is in adversity only the truly virtuous are above temptation. His creditors grow impatient, and he is sued and thrown into a prison. The benefits of the limits are granted to him, and they are so extensive, that he finds that it is only to exchange his comforts to a different quarter of the city, by the renting of a new house, and at the same or greater expense. He becomes dispirited, negligent, and wasteful, and lives in this situation upon his creditors' money, and at their expense, until he apologizes to his conscience, and takes the insolvent's oath, bringing himself within the practice, and down upon a level, with the debtor, who commenced with fraud, and who arrived at the same end, by a shorter route. This, sir, is the course of ninety-nine in a hundred of the cases which occur. If, on the other hand, this system was in operation the debtor would have an inducement to disclose his affairs at the commencement of his embarrassments. It would not have been in the power of a single creditor to have prevented a dividend and distribution. The debtor would have been restored to society, and if his misfortunes arose from accident, he would have found friends who would have aided and assisted him in his future exertions. His integrity would have remained unimpeached, and he would not have been tempted to a course of conduct of which he himself is ashamed. But it is said you have still a lien upon him; his debt is not discharged. And, sir, let me ask, what that is worth? Can there be a solitary instance produced, of a debtor who ever discharged his debts after taking this advantage of the insolvent laws, and swearing himself out of prison? Is there an instance known where a single cent has been recovered? True it is the Government, in all their acts of discharge from confinement, continue their hold upon the future property of their debtor; but have they ever received the least benefit therefrom? Does it not amount, as the honorable gentleman from Pennsylvania has said, to a mere valueless right? What does your Treasury say

about priority? That the insolvent laws of the respective States, have almost annihilated the benefits of it; and I have been informed from respectable sources that from two to four hundred thousand dollars will be lost to the Treasury this year from that cause. Now, sir, with the bill upon your table, the whole sum would be obtained, for no dividend is contemplated until the Government's debt is first discharged. The evil may not be the same in all the States, and it is possible, with the aid of chancery powers, Virginia may be contented with her present insolvent system. But let it be remembered that Virginia is not a trading State, and therefore less liable to those evils which abound in commercial States.

But the honorable gentleman from Virginia says that this bill will not operate upon prudent men; here compromise will take place, and cites the case which occurred at Richmond. Two partners, men of integrity, who adventured at sea, and were unfortunate. Upon being acquainted with their misfortune, they called together their creditors, who, being assured of their conduct, took their several proportions, and gave them a discharge. And these men of high honor, still retaining a strong and proper sense of their moral obligation, having afterwards been prosperous in their future business, paid to their former creditors the whole of their remaining debts, with interest. Now, sir, it appears to me, the gentleman could not have cited a case more illustrative of the principles of this bill. It is the design of this bill to hold out this inducement; to produce this very settlement, and to give to the honest debtor a second chance to retrieve his affairs, and support his family, and, if able, to complete and fulfil his moral obligation, and be legally discharged. But let me ask, if one of these creditors had been found maintaining the doctrine of the gentleman, once a debt and always a debt, and adhering to that doctrine, what would have been the consequence? He would not have given his assent to a discharge. No dividend would have taken place; all future exertions, and all assistance from friends, would have been prevented, and the parties would have been compelled to have expended, for their maintenance, the money and property of their creditors. If the fact was correct, that compromise does and will take place with the honest and unfortunate in most cases, it would do away, in a great degree, the necessity of this bill; but experience pronounces otherwise. No, sir, a unanimous consent among creditors for compromise, is a very uncommon case, either with misfortune or fraud, and amounts almost to a prohibition for a debtor to ask it, with any hope of success. Individuals will be found, who maintain the above doctrine of once a debt and always a debt, and who will refuse their assent to compromise and discharge, however visionary and hopeless their prospect of future payment may be. Not so with the British creditor, and I think it will be conceded they are as alive to their interest as any men in the commercial world. From experience they have proved



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

the first offer to be the best offer, and they generally accept of it. They well know their debtor must live, and upon their property, and of course the offer of to-morrow will be less than that of to-day. It is from no regard or feeling for the debtor, but from motives of interest alone, their conduct is guided.

It is to remedy the above evil that two-thirds only are made requisite, instead of a unanimous consent. But, says the gentleman, it will induce a system of fraud, and we are directed to England for proof. I have always supposed that checks have a tendency to prevent crimes, and not produce them. We cannot make the law perfect; we cannot guard against the ingenuity of man, and establish a system at a moment that shall meet every case. But we have a consolation at hand; we cannot be in a worse situation than we now are. The whole, at present, is a system of fraud, increasing daily to an alarming degree, and aided by the insolvent acts now in operation.

It is said that the bill will produce a source of litigation. But surely settlement will not produce litigation. In the State I have the honor to represent we have been peculiarly unfortunate; we have never been able to procure any law, not even an insolvent law; and the adoption of any system for the relief of creditors has been successfully opposed by gentlemen of the profession from the country towns. If they were actuated by such a motive, that such a system would produce litigation, I have only to remark, it redounds so much the more to their honor and patriotism.

But it is said, it bears too great a similitude to the British statute; it is not sufficiently indigenous. They have already had nineteen statutes, and been four centuries in enacting and amending them. Can there, sir, be any impropriety in taking the advantage of their experience? If the bill that is now introduced by the committee had resembled the one enacted by the statute of Henry VIII, omitting all the amendatory statutes, there would have been more reason in the remark; but to profit by all their experience, is the mark of wisdom. We look to them as a great commercial people; as having experienced the evils that now oppress us, and we necessarily attend to the means they have adopted to check and remove them. They know the value of commerce; they have no jealousies against merchants; they consider commerce as their vitality; and, though it has cost them nineteen statutes and four centuries, they are not discouraged. They do not lose sight of their object, and persevere in preserving the system. Though not able to furnish all the necessary guards against frauds, it can be no reason that no guards should be furnished. As well we might say, we would have no punishments for frauds upon our revenue laws, because those laws still continue to be evaded, and the revenue defrauded; or have any laws against counterfeiters of our coin and notes, because we have not been able to detect and break them up.

It is also said that the British laws are severe

and most of the punishments are death; and yet, in four centuries, two solitary instances are only produced in a country where death is almost the exclusive punishment for every crime. But this remark cannot apply to this country, where our jurisprudence is more mild, and punishment is proportioned to crimes. I forbear going into the details of this bill; they are open to amendment, and may be so varied and modified as to be more acceptable to the Committee. But, sir, upon the whole, I cannot see any feature of this bill unreasonable. It is designed to put all our citizens upon an equal footing; its tendency is to prevent fraud; it holds out an inducement to an unfortunate man to surrender to his creditors his property, belonging to them, before he has wholly expended it; and it gives them a control over the fraudulent and dishonest who are indebted to them. By giving to the debtor a discharge, it restores him to society, and gives to him an opportunity of retrieving his circumstances, educating his children, and becoming useful himself. There are many instances, under the former bankrupt law, of debtors, who had been discharged under its provisions, paying afterwards to their creditors the whole of their debts, with interest; and it ought to be remarked, that if the debtor does not surrender the whole, he remains liable, his discharge notwithstanding.

It has been stated by the honorable gentleman from Pennsylvania, that there are upwards of seventy thousand who now are held by their creditors, and who have taken the benefit of the insolvent laws. They are, of course, without the reach of them, and live upon their creditors' property in defiance of them. They are useless to society, and are without inducement to habits of industry or morality. They have solicited their creditors to take all they possess, but have found them cruel and inexorable. By their embarrassments they are deprived of the aid of their friends, and they are by force driven to the paths and practice of vice. And this number is in the habit of receiving continual additions. Is it not a subject worthy of attention? Ought not some means to be adopted to check this increasing evil, and these men be restored to society? The property now in their possession would be returned to their creditors, and many of them, perhaps most of them, upright but unfortunate, provided with materials to commence a second and a more prosperous pursuit. I cannot but hope the subject will be found meriting the attention of the Committee, and the bill upon the table receive their support.

Mr. COLSTON spoke in support of the bill and against striking out the first section.

Mr. HOPKINSON said, he was not insensible of the impatience manifested by the Committee under the discussion of this bill; and, on an ordinary occasion, would not, for his own sake, intrude himself again upon its attention. But he considered the subject of too much importance to those whose interests he was bound to maintain, to be abandoned on any personal considerations. He was not in the habit of asking the ear of this

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

House either often or long, and he now did it reluctantly, but as he believed necessarily. Mr. H. said, it was his intention to confine himself to the objections which had been made, from various quarters of the House, to the bill on the table; to state them fairly and distinctly; to answer them with candor and precision, and to avoid any repetition of the remarks with which he had introduced the bill, except so far as a recurrence to his principles might be found necessary to repel the attacks made upon them. In the commencement of this debate, Mr. H. said, he had stated several grounds, sufficient, in his judgment, to support the bill, and prove the necessity of adopting some general and uniform system to govern and regulate the extensive and complicated relations between creditors and debtors. He had relied, in a limited manner, on the Constitutional obligation to provide some such system; he had urged the example and experience of every commercial nation in the world; he had endeavored to show that it was peculiarly necessary here, from the nature of our confederated Government; the commercial intercourse kept up between the several States, essential to the prosperity of all; and, above all, from the provisions and practical effects of the insolvent laws of the several States, destructive of all honest dealing; of all commercial confidence and credit; and of every moral principle and feeling. How have these matters, certainly weighty, been assailed or removed? They have been untouched and unapproached; they remain unimpeached, both in point of fact and argument; and if they have a strength sufficient to sustain the bill, that strength is unimpaired. My remarks upon the Constitutional point have been entirely misunderstood, although I thought I took care to preserve them from misinterpretation. I have never contended, said Mr. R., that there is an absolute, indispensable, Constitutional obligation on Congress to pass a bankrupt law; but I do contend, that it comes so recommended to us by the Constitution, and by the people, who speak in and by that Constitution, that we may not disregard it; that it is our duty to exercise the power, to execute the trust, unless, on a full and fair investigation of the subject, it shall be manifestly unwise and injurious to the nation to do so. I do contend, that this high and general duty ought not to be dispensed with on doubtful reasons; on hypothetical arguments, drawn altogether from a presumed abuse of the law; much less from an indulgence of old prejudices or local views and interests. It is a great national object of legislation; it should be decided on national principles; it is deeply interesting to a vast and valuable portion of the people of this country; it should, therefore, be considered in relation to those interests, and determined on a fair comparison between the good it will certainly produce to this class, and the evil it may inflict, if any, on the rest of the community. This Government is founded on a compromise of interests, and every one has a fair claim to attention and regard.

What reply, said Mr. H., has been made to the

argument drawn from the experience of other commercial nations? An honorable gentleman tells us, that, as to France, and Spain, and Holland, we have no certain information of the nature of their provisions on this subject; and, of course, cannot judge how far they support the system now proposed. It is, said Mr. H., enough for me they have some system, which is uniform, certain, and known, by which the creditor is some way protected from fraud, the debtor from oppression, and the community secured in the advantages of a just and equal commercial intercourse between its citizens, and secured from the evils which must result from twenty different and conflicting systems, by which that intercourse is rendered uncertain and unsafe. It is agreed, however, that the English system is substantially the same with that now offered to the Committee, excepting such changes as the nature of our institutions, laws, and habits, has rendered proper. Is there then any nation to whose experience and wisdom on commercial matters we may look with more confidence than to England? I know of none. But to weaken the force of this authority, an honorable gentleman says, some other gentleman has told him, that Lord Eldon told that gentleman he doubted very much the advantage of the bankrupt laws of England. And of what importance is this opinion of Lord Eldon, or any other Lord, against the opinion of the British Parliament—of the British nation? It is very likely that an English Lord has very little interest in a bankrupt law, and may, therefore, imagine it is of very little importance to anybody. This, however, is not the opinion of those whose duty it is to look to every interest in the nation; to promote the prosperity of every interest, and devise and enact regulations suitable for every interest. The subject has not passed, *sub silentio*, in the British Legislature; on the contrary, of late years, it has repeatedly come under notice and discussion. Various amendments have been introduced, principally, I believe, by Sir Samuel Romilly, who has given a most special attention to the subject; but it never entered into his head that the whole system was pernicious, and ought to be repealed; nor has any such proposition been made by anybody in the English Parliament. This conversation opinion, therefore, of Lord Eldon is entitled to no consideration; and had he given it any himself, he would hardly have ventured its utterance.

Thusam I warranted in saying that the grounds on which I originally placed this bill remained unshaken, indeed untouched; and its opponents have rather resorted to the details for the materials of their opposition. I shall follow them here also, and shall not ask much time of the Committee in making my reply. Let me first, however, deal on this subject with that frankness and fairness which I hope always to maintain. This is a motion to strike out the first section of the bill; intended to discover the sense of the House on the general principle or subject-matter of the bill, in order that the time of the Committee may not be consumed in examining, amending, and ar-



MR. R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

regarding its details, when at last there may not be a majority of the House friendly to it, let it be modified as it may. It is obvious that, in this state of the question, gentlemen may vote against supposing of the bill in this way, who nevertheless may have insuperable objections to some of its details. That there may then be no misunderstanding on the subject, I will state explicitly that I consider essential vital provisions, without which I could not myself vote for the bill. Those gentlemen, therefore, who will not accept it with these provisions, are fairly advised they will not be dispensed with, and give their votes accordingly. In the first place, I consider the limitation in the first section, of the operation of the law to traders, to those persons who really live by buying and selling, as absolutely necessary to be retained, because such persons only are within the reason and policy of the act, and because it is by this limitation only we can prevent those abuses and evils which mainly produced the unpopularity of the former bankrupt law, and which are greatly felt and complained of in England. In the second place, I hold the entire and absolute discharge of the debtor, after he has fully surrendered all his property, and satisfied the commissioners and a specified portion of his creditors of the honesty of his conduct, in relation to the causes of his failure, his department under his difficulties, and the fulness of the surrender of his effects; also to be indispensable to the great uses of this law, and without which I cannot support it. My reasons for offering this and other advantages to embarrassed men have been already explained. As to the less important details of the bill, I profess myself ready and willing to accommodate them to the wishes of gentlemen, knowing that no changes will be desired that must be destructive of the whole. With this avowal, I proceed to notice those objections to the bill which have struck me as requiring an answer. I find some general errors pervading all of them, which I will endeavor to remove. The opponents of this bill have uniformly treated it as a measure for the benefit of the debtor only, overlooking entirely the numerous provisions for the security of the creditor; the power afforded to him to prevent and detect fraud; the inducements to an early surrender and honest disclosure of the effects of the bankrupt, and the penalties inflicted on dishonesty; all of which are calculated to discover and obtain for the use of the creditor the whole property of the debtor by a fair and equal distribution. The benefit thus afforded to the creditor is as ample and effectual as, under the circumstances, justice, or reason, or policy can require; and the power taken from him is only that of exercising a wanton and useless cruelty over the life and happiness of the unfortunate. A great portion of the remarks urged against the bill has its foundation in another error. Gentlemen have tasked their ingenuity to imagine cases of hardship and injustice to a creditor, which may by possibility happen after this law is enacted. This may be all true, but does it furnish any sound objection to it? It

amounts to no more than this: that, even under this system, creditors will not always obtain their debts from their failing debtors; and that frauds may sometimes happen in spite of all that we can do to prevent them. And does anybody doubt this? Murders and larcenies, and every crime on your penal list, are perpetrated from day to day, but it was never therefore imagined there should be no laws to prevent and punish crimes. You must consider this bankrupt system not as professing to create property to pay debts, but only to aid the creditor in obtaining such property as his debtor possesses for that purpose; not as banishing vice and fraud from the dealings of men, but as diminishing them by the joint operation of rewards and punishments. You must consider it in comparison with the insolvent laws which now govern these matters, and fairly decide between the effects of one and the other. It is enough that the bankrupt law affords no encouragement or facilities to fraud; but does all that, perhaps, can be done to prevent it. Another error, which has been a fruitful source of objection, is this. Gentlemen take for granted that every bankrupt is a rogue, a criminal, and may be treated as such; that he is entitled to no commiseration from anybody; and that any law which may alleviate his sufferings or improve his condition is really a violation of the rights of justice and morality. Nothing can be more unjust than this opinion. Many, very many of these men are the true victims of misfortune; and some of them cannot be charged even with imprudence. They retain the respect of society and the affection and confidence of their friends; and are not those corrupted outcasts in whose fortune or fate no honest man should take any concern.

The great attempt to break down this bill has been made by exciting the jealousy and hostility of the agriculturist and manufacturer against it. They are told we are raising up a privileged order of men in society; who are to have rights and immunities denied to others, and enjoy favors of peculiar indulgence. Really, from representations of this sort, one would suppose that, instead of imploring the rights of humanity for a suffering band of unfortunate and ruined merchants, we were endeavoring to institute some new order of nobility. I pray you, sir, and the Committee, in imagination, to bring before you this highly privileged order; then judge, and say if there be anything in them that should alarm the fears or awaken the jealousies of the most sensitive friends of equal rights. Array them before you; look at their countenances, humbled by a long course of misfortune; their spirits broken by mortification; their garments shabby and tattered; their whole appearance bespeaking the wants of poverty and the negligence of despair. In this group of wretchedness you will see, too, mothers and children, even more dejected, more pitiable, than the authors of their sufferings. This, sir, is the privileged order of which you have heard so much. It is the *Order of Misery*.

One honorable gentleman, from Virginia, has told us that he appears on this floor in behalf of

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

the agriculturists, to prevent this formidable evil; this distinction of rights to their prejudice. I have no desire on this or any other occasion to create jealousies among the different occupations of our citizens, which may disturb the harmony of the whole, and are without any just foundation. But when that honorable gentleman considers this bill such an invasion upon the rights of the farmer that he thinks it incumbent upon him specially to appear in their behalf, and for their protection; when he tells us they are the more entitled to this protection, because for themselves they ask nothing, they get nothing, they desire nothing; it is impossible to withhold the remark that if there be any privileged order of citizens among us, at least in the State in which that honorable gentleman resides, it is these very unpretending, unassuming landholders. Who does that gentleman represent here? Landholders, and only them. Who but a landholder had a right to vote either for him or against him? Who but a landholder can be voted for to any office? Nay, to be trusted as a juror in that State, you must be a proprietor of its soil. I do not mention these things in the spirit of complaint or reproach. It is not for me to arraign the wisdom or policy of those who govern Virginia or any other State; but assuredly the landholder of Virginia is the last man in our country who should be so delicate about privileges, or stands in need of protection against them. We have had, from other gentlemen, a comparative display of the usefulness and importance of the three great classes of society; the agriculturist, the merchant, and the manufacturer. This is an old subject, that has been discussed a thousand times; and I thought had settled down, after so much toil and controversy, where common sense would have placed it in the beginning. They work all together; they are mutually and equally necessary to each other; the business of the country flows through them all in a continued circulation; they are parts of one great whole, and an injury or benefit to any one of them is immediately felt by the others. It has been strenuously insisted that the farmer should be entitled to what are called the benefits of this law; that is, that he should be entitled to have a commission of bankruptcy taken out against him in the manner and for the acts prescribed in the law. I will not repeat the arguments of my colleague to show that the Constitutional power under which we are acting, was intended to be applied only to commercial men and their transactions, and cannot in the true spirit and meaning of the Constitution be extended further. I think it is most obvious and demonstrable, that, if we had the power to include the farmer within the provision of a bankrupt system, it would be utterly impolitic and unjust to do so. I mean as regards the farmer himself; and that these privileges, as they are termed, so proper and beneficial, when applied to the merchant, would be absolutely destructive of the agriculturist. Look at the acts of bankruptcy specified in the bill, and authorizing a commission; and see what would be their effect upon the farmer.

15th CON. 1ST SESS.—32

Reflect upon the reason of the power placed in the hands of the creditor of the one, and observe how totally inapplicable it is to the condition of the other. The acts of bankruptcy may be divided into two classes; those which indicate fraud, and those which furnish unequivocal evidence that the effects of the debtor are inadequate to the payment of his debts. In both cases the law arrests the course of the debtor; takes his property and affairs out of his hands, and appropriates his effects to the use of his creditors. Now, the difference between the farmer and merchant, in this respect, consists in this; that, from the nature of their business and the nature of their property, the same act which would be satisfactory evidence of the insolvency of the merchant, and therefore justifies a commission of bankruptcy against him, is no evidence of the insolvency of a farmer, and therefore ought not to justify the same proceeding against him. For instance, it is an act of bankruptcy in a trader to remain two months in prison for debt; and why is it so? Because, considering the facility with which a trader may obtain money, while he retains his credit, by notes and banks and various accommodations in use among commercial men; considering the facility with which he may raise funds on his stock in trade, by pledging or selling it, it may fairly be concluded that neither his credit nor stock, nor both, are competent to the payment of his debts when he suffers himself to be so long imprisoned for a debt; in short, that he is insolvent, and ought no longer to be trusted to continue his business or dispose of his effects; and the law therefore puts a stop to both. How different is the case of the farmer. He, generally, lives, where the complicated system of mercantile credit and accommodation is unknown; and where money is not heaped together in known places for the use of those who can furnish the customary security for repayment; his property, though valuable, is unwieldy, and can neither be easily turned into money, nor pledged for loans, except in ways altogether ineffectual for sudden emergencies. Is it not obvious, then, that the inability of such a man to pay a debt, and his consequent imprisonment for a time, may be no evidence of his general insolvency, or the incompetency of his property to meet every demand upon it? The capital of the merchant is a fund which he may always command to its whole extent for the payment of his debts, while the farmer must depend not upon the capital, which is his land, and must not be separated from him, but upon his profits on the produce of his capital. This comes only at fixed periods; this may not always instantly have a market; and it is, therefore, notorious, that a farmer really worth twenty or thirty thousand dollars may sometimes be unable to command one thousand. Would you, therefore, make him a bankrupt? Would you take possession of his farm, his stock, his everything, and turn him out without a home? Would you sell, under any circumstances of disadvantage, his land, his cattle, his utensils; and discover, after you have ruined him beyond redemption, that his property exceeds



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

amount of his debts—that no man would have a farthing by him had his business continued; and that those facts and circumstances which, in the case of a trader, are conclusive proofs of general insolvency, are no evidence whatever of this state of things with a farmer? It is, therefore, as the friend of the agriculturist, that I would exclude him from the provisions of the bankrupt law; that I would not expose him to a power which might crush him to atoms, in violation of every principle of policy and justice. But, while I would not expose the farmer, to the injuries of the law, is it not equally true that I afford him its most valuable benefits? He is, above all men, (when a creditor,) interested in the passing of this law; for by it only can he hope for any part of the property of his insolvent debtor. The case has been strongly put by the honorable gentleman from New York. The planter of the South sends his cotton to his rice to the merchant of the North; the merchant fails, and the planter comes to look for his property or his money; he finds that, although unknown to him, this man has long been in a tottering condition; that his cotton has gone to stop this or that pressing demand, or pay this or that favorite creditor, while he who was distant, and therefore not importunate or dangerous, has been disregarded and defrauded. How would this be under the operation of a bankrupt law? The fraud would have been prevented—these preferences overthrown, and the distant creditor permitted to receive an equal and just proportion of the property of his debtor. The law would guard him when he could not guard himself, and watch for him when he could not observe the mischief that was working against him.

But another, and, I may say, most extraordinary objection, has been urged, with great earnestness, against this law. The honorable gentlemen who make it may be, and I presume are, very sincere in the apprehensions they have expressed on this point; but I fear, the uncharitable world will hardly give them credit for it. A bankrupt law, we are told, is productive of controversies, and the law should be rejected because it will increase litigation. Really, when I hear gentlemen of our profession expressing this tender sensibility on the subject of litigation, and deprecating any measure which may, by any possibility, increase it, I cannot but say, "*timeo Danaos dona ferentes*." But I beg them to dismiss this groundless solicitude for the public peace, or let it rather become the friend of the bill before us. Nothing is more obvious or demonstrable than that the effect of an uniform system of bankruptcy; of the adoption of general, consistent, and known rules to govern the relations of debtor and creditor throughout the United States, must necessarily be to diminish litigation. This is the necessary tendency of certain and known rules on any subject, and on this most especially. A bankrupt system in its general features, and, indeed, in most of its details, has been so long established and in full operation in England, that a question can scarcely now arise under it that has not received a judicial decision; which, of course, would have

its weight in our courts. There is, at this time, as little unsettled matter in the bankrupt law of England as any other part of her jurisprudence. How is this with respect to our insolvent laws? What litigation, what endless strife may not be apprehended from the operation of twenty various, conflicting, irreconcilable systems upon the same subject? The tribunals who administer these laws are as various and dissimilar as the laws themselves; here it is the Legislature—there some common law court, and in another place a chancellor. The mode of proceeding, so important to be known to the creditor, changes with the nature of the tribunal, and the creditor has lost his right before he has discovered how or where he should pursue it. The effect of the discharge is not more uniform; in some places the person of the debtor only is liberated; in others the debt is wholly discharged. When we inquire into the influence of the discharge in other States, the result is still more uncertain; nay, it is absolutely inscrutable. I venture without fear on the assertion, that there is not a lawyer in this House who can answer the inquiry. If you ask the court in Pennsylvania whether it will regard the insolvent discharge of another State, you cannot receive a direct answer affirmatively or negatively; you will be told that the answer to this question depends upon the answer to another; that is, whether the other State recognises the discharges of Pennsylvania; in which case, as a matter of courtesy, Pennsylvania will regard the rights of the citizens there. The personal liberty of the citizen is thus made to depend not on any known law, but on the courtesy of courts; and you may, at the same moment, see a citizen of one State discharged from arrest, and another committed to prison, under precisely the same circumstances, except this reciprocal, capricious, arbitrary courtesy. Certainly, then, we have here abundant sources of litigation; all of which will be dried up under an uniform system of law. But there is still another; there is a constant struggle among the creditors of one embarrassed for advantages; for assignments; for preferences in all their forms; and the harassed, distracted debtor endeavors to quiet and satisfy them all. The result is, a resort to lawyers for counsel in the concoction of these advantages; and, finally, an appeal to the courts to decide upon the claims of the candidates. If, then, this dread of litigation works so strongly in the minds of the opponents of this bill, I hope we shall see them among its warmest friends.

I will now consider an objection which I have reason to believe has no inconsiderable influence with some of the members of the Committee. It is alleged that the experiment of a bankrupt law has been once fairly tried, and found so pernicious in its effects that it was repealed in a very short time with an unanimity almost without example. This argument should have very little force in a Congress of the United States, when we look round and see how entirely it has been disregarded in relation to other subjects to which it has an equal application. An experiment was

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

made of a Bank of the United States, and at the expiration of its charter it was deemed either so useless or so pernicious that a renewal of the charter was refused; and yet a subsequent Congress, in defiance of this decision of their predecessors, re-established a Bank of the United States. What law was ever repealed with so much unanimity, I may say with such loud acclamation of applause, as that passed in the Presidency of Mr. Adams, creating a system of internal taxation? But this was thought no reason why it should not afterwards be re-enacted. These instances only show that good laws may be rashly repealed; and that honorable men, when brought to vote upon them, will do so without recurring to former opinions or prejudices, but on a full consideration of their merits. At least they show that laws, even if once properly repealed, may afterwards, under other circumstances, or by the light of more experience, be found wise and necessary. But to meet the objection, as particularly applied to the bankrupt law, I have already suggested, and will not repeat my observations on this point, that the unpopularity of the law of 1800 was mainly owing to the generality of its provisions, embracing professions and classes of men not within its original design or policy. This evil is guarded against in the present bill; which also differs from the former law by the introduction of several important amendments for the benefit of the creditor, and the security of bona fide transactions with the debtor, unknown in 1800. The effect, therefore, of the law now offered must not be judged of by the former law; nor should it be condemned by a standard to which it is so dissimilar. Again, sir, I deny that the former act had a fair trial, or the people a fair opportunity of judging, by that experiment, of the legitimate operation and uses of a bankrupt system. The commercial importance and enterprise of the United States began with the adoption of the present Constitution, and before the year 1800 had extended themselves beyond example. In the same period Europe became convulsed with revolutions and war, and neutral commerce exposed to the arbitrary violence of the contending Powers. The consequence of this state of things was inevitable; our country grew extravagantly and suddenly rich by the aggregate of our commercial exertions, while individuals were daily falling into ruin by the unexpected orders and decrees, and the unauthorized violence of the belligerents. Remember, sir, that in all this time we had no bankrupt law; and the unfortunate trader had no recourse for relief but the mercy of his creditors, or the refuge of the insolvent acts; which could be obtained only by a surrender of the remnant of his fortune. The consequence was, that when, in 1800, the bankrupt law was enacted, there had accumulated a vast mass of insolvent debtors who had previously been stripped of every cent. These men were necessarily the first to fly to the assistance and protection of the bankrupt act to enable them again to embark in business and retrieve their losses or earn their bread. The public then saw hundreds of men

obtaining the discharge afforded by the system, who surrendered little or nothing to their creditors, and were indeed, in many instances, enabled to pay the expenses of a commission only by the kindness of their friends. They saw, too, that in almost all the cases the commission was evidently taken out at the instance of the bankrupt himself, although pretending to be a proceeding of the creditor against the bankrupt. Can we wonder then that the public should exclaim, if this is the effect of a bankrupt law, it is really intended only for the debtor, and affords nothing to the creditor? The real truth of the matter is, that these evils grew not out of the bankrupt law, but from the want of it; and it is most unjust to charge upon the system those mischiefs which were engendered when it did not exist, and which never would have had birth if it had existed. If, in the period mentioned, there had been a bankrupt law, the debtors would have run on until all they had was wasted; and the complaints which have been made would never have been heard.

The fair, the just and legitimate operation of the law of 1800, was never experienced. It came into action loaded and encumbered with all the frauds and sins of the insolvent laws; which it was obliged to clear off before it could exercise its proper functions and prove its usefulness. And so will it be with the law now before us, should it pass. It will have much of the same sort of difficulty, to struggle with; much of the same reproach to encounter; and it must pass through this ordeal before its true character and excellence will be developed. But, I venture most confidently to predict, that when this trial shall be passed, and the system shall be seen in the full and fair exercise of its power and uses, it will be found an invaluable auxiliary to commerce; a strong security to the creditor against fraud and injustice; and a blessing to the unfortunate debtor. It is contended that the concerns between the creditor and his debtor require no legislative regulation; that we should leave creditors to themselves; they know how best to take care of themselves; and, on the other hand, are the best judges of the conduct and merits of their debtor, and will be sufficiently disposed to favor him when really unfortunate. It is enough to answer to this argument that all experience is against it; and we daily see it disproved in both of its parts. We daily see that the creditor is not able to protect himself against the frauds and contrivance of his debtor; and we also see that the most honest and deserving debtor will find some one or more of his creditors inaccessible to reason or pity, and who can, without remorse, behold him lingering on in hopeless poverty. Still it should be observed that this law does not take the case entirely out of the hands of the creditor, as the insolvent acts do. Much is left to the discretion and feelings of the creditors, two thirds of whom in number and value must concur before the bankrupt can obtain his certificate of discharge. On the very principles then of the gentlemen who use this argument, there can be no danger in trusting the administration of this law to the



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

creditors themselves, or so great a portion of them. Again, we are told that this law is made for the bold dashing speculator; who will plunge into trade without capital; run into debt as deeply as his credit will carry him; and then clear out under this law, to commence the same career again; and run through the same course of extravagance and fraud. I may reply to this, that such a case may safely be trusted to the creditors; even if you would not trust the commissioner and judge; and, when all must unite in granting the certificate, there is no very alarming danger of such abuses. The act itself has a guard against such extravagance or profligacy. It will be found that in case of a second bankruptcy, no certificate shall be granted unless the effects surrendered are sufficient to pay every creditor seventy-five per cent. of his debt and in case of a third bankruptcy, nothing but a full payment of every debt can exonerate the future effects of the bankrupt from the claims of his creditors.

It has been urged, not without plausibility, that, inasmuch as the bill before us does not propose to repeal the State insolvent laws, it will not attain that uniformity contemplated by the Constitution, and so much insisted on by its friends. Several answers present themselves to this argument. In the first place, if the term bankruptcies in the Constitution is to be taken in its limited, technical sense, we then fulfil the Constitutional power and design, when we enact uniform laws respecting them among merchants or traders. Secondly, if the bill does not take up the whole Constitutional power, or rather does not do all that might be done under it, it affords no reason against it as far as it goes. The manner of exercising the power is certainly left to the discretion of Congress, and we think it has been clearly shown to be inexpedient at least to extend it further than is now proposed. And lastly, the uniformity, so much required and desired, applies not so much to the transactions of persons all residing in the same State, as to those in which some of the parties reside in one State, some in others, and some in foreign countries. Almost all the cases of this last description will fall within the power and provisions of the bankrupt law; while the operation of the insolvent laws will be confined almost altogether to the minor dealings of persons in the same State, and indeed generally in the same neighborhood; and the rule applied to them, as between the parties, will be equal and uniform, even under the insolvent law.

An honorable and eloquent gentleman from Virginia, (Mr. TYLER,) has declared it to be a fixed principle with him, that once a debt always a debt; and he therefore opposes a law which assumes to discharge a debt without the consent of the creditor. It would seem to me a much more just and reasonable rule that, while a debt, all the property of a debtor, of every description, should be answerable for it, in a manner best calculated to pay the debt promptly and certainly. And yet, in the State represented by that gentleman, the real estate of the debtor is inaccessible to the

claims of his creditor; I mean the fee-simple of such estate. It is true you may take one-half of it, and appropriate the income or profits of that half to pay the debt; a process of payment so tedious, so troublesome, and uncertain, as to amount, practically, almost to an exemption of real property from the payment of debts; and so far affirms the maxim of once a debt always a debt, as to afford very little chance of its ever being paid. I mention this instance to show that the rights of the creditor to a rigid exaction of his debt from the means of his debtor, are not so uncontrolled or sacred as has been suggested, but are made to submit to the higher power and policy of general convenience and utility. I beg leave to refer the gentleman to another still stronger infringement of his maxim. Every State of this Union, and every other country with whose laws we are acquainted, has statutes of limitation, by which they debar a demand however just and unquestioned, that is not claimed in a given period. This is an arbitrary rule of society for general convenience, and having no relation or respect to the particular cases to which it may be most unjustly applied. So far, then, from its being the understanding of the law that once a debt always a debt, it may be once a debt and not a debt six years afterwards, though not a farthing of it has been paid, or is pretended to have been paid. What can show more strongly than this, how absolutely society undertakes to regulate the concerns between creditors and their debtors, and to discharge the obligations between them, for reasons of general policy and convenience, without any regard to abstract notions of rigid right as between the parties? It is nothing to say that this is done on a presumption that a debt so long neglected has been paid, or to prevent claims being brought forward after the evidence of the defendant may have been lost. It is enough for us that this is the presumption and reason of the law, not of the parties nor of the contract, in many cases directly against the truth of the fact; and if the right of the creditor may, in this case, be governed and defeated on this presumption or reason, it may be done in another case for another, and proves decisively that such interference with the obligations of contract is not considered a violent or unauthorized proceeding in any Government. I promise, in writing, to pay a man a thousand dollars on demand; of course, leaving it to him to make the demand when his pleasure or convenience may dictate. No, says the law, we will change this contract, and compel you to make this demand in a certain time, which we deem reasonable, or you shall forfeit all right to the recovery of the debt. And why should the law not say this? This boasted right to the debt, or at least the means of enforcing its payment, without which it would be of little value, is given by the law, and of course must be justly given on such terms as the law shall deem to be essential to the interests of the whole community, for whom the law is made. The application of these provisions to the principles of the bankrupt law, and the discharge thereby granted to a debtor is

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

obvious. One honorable gentleman thinks the bill unconstitutional, because it impairs the obligation of contracts. I am at a loss to understand how the exercise of an express power, given to us by the Constitution, can be a violation of that instrument. If there be a general prohibition on this subject, the enactment of a bankrupt law is an express exception to it. The same gentleman would have no objection to the law if it were retrospective only, but he cannot assent to its prospective operation. But certainly, as far as it affects contracts, the exception is stronger in relation to the past than the future, which will be made after the provisions of the bill are publicly and perfectly known, and may be considered to enter into every contract after it is so known.

An honorable gentleman from Virginia (Mr. PINDALL) has gone beyond all the opponents of this bill in the number, variety, and, I may say, novelty of his objections; yet I do not find very many of them which require of me to detain the Committee to answer them. In truth, generally speaking, if well-founded, they apply to the English bankrupt system, and not to that now offered to us. The gentleman has delighted to recount, again and again, the sanguinary features of the British statutes on this subject; to array and portray them in every change of language; and press them upon our imagination with all the force in his power. He tells us there are seven crimes punishable with death by those statutes, and argues, most inconclusively, that, because this system requires for its support such excessive punishments in England, we therefore must also adopt them for the preservation of ours. Is it not a sufficient answer to all this part of the gentleman's argument, which is no inconsiderable part of the whole, that the bill before you contains no such punishments; and that, if at any time hereafter it shall be proposed to introduce them, it will then be in the power of the Legislature to refuse to admit them, and to repeal the whole law if its use and execution shall be found impossible without them? It is really a hardship upon the supporters of this bill that they are compelled to defend it not only for what it does contain, but for what it does not and probably never will. The English bankrupt law, in respect to its penalties, only preserves the character of the whole penal code of that country; and we might as reasonably refuse to enact laws for the punishment of burglary, perjury, forgery, or larceny, because these crimes are punished with death in England, and if it be found necessary so to punish them there, it must be equally so here. The gentleman says he is willing to take the Roman law of cession, to which I alluded in the opening of this discussion, and that by that law the person only, and not the future effects of the debtor, were discharged from liability. Sir, I mentioned not this law as the model we should pursue, but as the first step taken to soften the condition of the debtor, and abridge the cruel rights of the creditor, which had been most cruelly and wantonly abused. I am not, therefore, willing to take this law of cession—to stop at the first

step of improvement—but would go on, and take advantage of every further improvement which experience, and wisdom, and humanity, have dictated and adopted. Why should we be told that the British bankrupt system stole into existence; or, to speak more properly, that it is the gradual fruit of long experience—of attentive observation and profound political wisdom—and that we are about to do, with a single dash of a pen, what was so slowly and adroitly done there. I understand the sentiment to be, that we boldly propose to adopt, in mass, a system, which even in England could not be introduced but cautiously and by piecemeal. What is there in this remark more than that we take advantage of the lessons experience has taught them? Do we not the same thing on other subjects? In science, in arts, in manufactures, in everything, do we not at once seize upon them in their most improved state, although they may have been stealing to that state for years or for centuries?

In giving a very short history of the laws regulating the power of a creditor over his debtor, in different ages of the world, I mentioned that, in Rome, it was under the reign of the Christian Emperors, that the rights of humanity came to be regarded on this subject, and the rights of the creditor to be restrained within reasonable bounds, so as to prevent the exercise of useless cruelty and wanton oppression. I did mention that this was one of the blessings and triumphs of Christianity, which teaches and commands forbearance, and kindness, and charity, from man to man, in all situations, and under all circumstances. This incidental remark, which, if it deserves notice, certainly cannot deserve reproach, has afforded an occasion to the honorable gentleman from Virginia (Mr. PINDALL) to exhibit himself in a new character. We have often seen and admired him as a learned lawyer, a sound logician, and a skilful debater. But now, for the first time, he has presented himself to us as a wit. He tells us the Christian religion, he has been taught, has nothing in it for the regulation of commerce: he finds no bankrupt law in the Old or New Testament; and that none of the Apostles was a merchant, except Judas Iscariot, and he sold his master. I am far from finding fault with the gentleman for endeavoring to enliven a dull debate with the brilliancy of wit; on the contrary, my only regret is, that he has not been more successful. Sir, had he been satisfied with making the bill before you the object of his merriment, or even the author of the bill, I assure you he would have met with no complaint from me. But, when he selects, for this purpose, the Scriptures of God, and the Apostles of Christ, he will pardon me for saying the joke was equally ill-judged and misplaced. The same honorable gentleman has considered the interference of this law, with the mode practised in Virginia, of marshalling the debts of an insolvent by a Court of Chancery, as a serious objection to it, at least in Virginia; and goes on to say, that if this is not the case in Pennsylvania, it is owing to our wretched system of jurisprudence, being without



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

Court of Chancery. When the gentleman pronounces this sweeping condemnation of our system, it is but fair to ask him if he certainly knows what it is; if he knows in what manner these Chancery powers are distributed to our common law courts; and how conveniently they are exercised by them. I can assure the gentleman that some of our best lawyers, who may be supposed to be competent judges of the subject, are so far from thinking a Court of Chancery would be any improvement to our system, that they would by no means see it introduced.

The right to examine the wife of the bankrupt for the discovery of concealed property, but for no other purpose, has furnished a ground of vehement opposition to the bill; but, in my opinion, with a very little reason. It is said to be making her a witness against her husband. This is not the case; the examination is only touching property concealed; it is here the evidence may accidentally affect her husband; but she cannot legally or properly be called as a witness against her husband. But if it were so, why is not the objection been carried, on the same principle, a step further; and why has it not been said that you shall not examine the bankrupt, because no man can be called upon to testify against himself? The objection would be stronger, inasmuch as compelling a man to bear witness against himself, is a stronger case than to compel any other person whatever to do it. But there is a clear and decisive answer to this objection, on general principles; it is founded on a common rule of evidence, doubtless very wise, and proper to be observed in the usual administration of justice. But after all it is but a rule of social policy, founded in convenience rather than abstract right or justice; and being the creature of social policy, it must be accommodated to it. When, therefore, a new tribunal is raised, to attain a special object, and the adoption of this rule by this tribunal would defeat or embarrass it in accomplishing the desired object, why should it not be dispensed with? There is nothing novel in this principle; we see it daily in practice. Follow the trial of a commercial cause, a controversy on an insurance, or a bill of exchange, and you will see evidence received not admissible by the common law, in suits of a different character. It is unnecessary to enumerate instances; they are familiar and numerous. So, in your Courts of Admiralty, not only all the forms of the common law are disregarded, but the trial by jury laid aside.

Ten or twenty claimants, with several rights and no joint interest, are permitted to prosecute together; and why is this? Because the nature of the court, and the matters to be examined and decided by it, require this sort of proceeding; and so when a tribunal is erected to settle the affairs of a bankrupt, to distribute his effects among his creditors, and secure them from the fraudulent concealment of these effects, there is nothing unreasonable or unjust in giving powers necessary for this purpose, which good policy might withhold from ordinary courts or ordinary

occasions. Nor is there any more reason for the complaint against the power given to the commissioners to break doors, trunks, &c., in the day time, to get possession of goods, books, &c., belonging to the bankrupt; and yet this is called a violation of the sanctity of a man's house, which is said to be his castle. And why should it not be violated to prevent fraud and robbery, as well as by bail for taking the person of his principal, and in many other instances, showing that this common law rule too is made to accommodate itself to more important rights and duties? The objection to holding out rewards to informers of concealed effects, is still more extraordinary and groundless. Who will complain if a reasonable inducement is offered to persons who may have it in their power to discover concealed property of a bankrupt? The reward is not for an accusation and conviction of some crime, but for the actual discovery and production of property, which otherwise, perhaps, would never have come to the knowledge of the commissioners, and would, consequently, have been lost to the creditors. Will the creditor complain that some small part of the effects thus brought to his use is appropriated to reward the individual by whose labor or vigilance it was obtained? If, however, it is pretended to be impolitic, on general principles, to encourage informers by tempting rewards for their services, I beg to refer the honorable gentleman to the whole system of our revenue laws, where he will find the same thing in almost every page. The whole execution of these laws, and also the embargo laws, the non-importation acts, &c., were made greatly to depend upon the aid of informers, whose efforts, therefore, are invited by the most liberal rewards—by large portions of what may be obtained by their services.

Some other observations have been made in opposition to this bill, which it was my intention to notice; but I feel how irksome this question-and-answer sort of argument is, and I shall omit to pursue it further. That frauds have been committed under bankrupt laws, and may be committed under this, is most true; but this only proves the incompetency of human authority entirely to restrain human vices, or prevent the commission of crimes. We do not, therefore, decline the attempt, or refuse to enact statutes to punish the criminal, and prevent, as far as possible, the offence. It is enough for this, or any other law, that it affords no facilities to frauds; that it offers no encouragement to the fraudulent; but that all its provisions are calculated to restrain and punish them, and to encourage and invite the unfortunate still to retain their integrity, and do justice as far as they have the means.

Mr. Chairman, our deliberations and proceedings on this bill are watched and followed by many an aching eye and throbbing heart. There is an accumulation of distress in our community which can be only thus relieved, hardly to be imagined by those gentlemen who do not inhabit the commercial portions of our country. Thousands, whose enterprise, too daring, or most unlucky, has enriched their country and ruined

FEBRUARY, 1818.

Death of Mr. Goodwyn.

H. OF R.

themselves, now look to you for their emancipation from a slavery more intolerable than chains of iron, for it weighs upon the heart, more immovable than bolts and bars, for death only can afford an escape. An incalculable mass of talent, industry, and energy, bound in icy fetters, will spring again into action, improved by experience and chastened by misfortune. Thousands will be seen striving and laboring in the paths of useful industry, who are now sunk in a torpid inactivity, borne down with a weight of debt, which no effort on their part can shake off or lighten. Look at the families of these unfortunate men, once in the enjoyment of every comfort, perhaps of too much luxury, now doubtful, from day to day, of the bread that is to feed and the raiment that is to cover them. Children growing up with neglected educations, and mothers weeping with unavailing tears. If, maddened by a scene like this, the distracted husband and father would go forth to make some effort for the relief of those so dear to him, he finds at his door some inexorable creditor, armed with the power of the law, and shrinks back into his dwelling of wretchedness, in hopeless despair. What a heavenly task is it to redeem so much misery, to banish so much distress, to shed the joyful rays of hope and life upon so much affliction, to reanimate the sinking heart, to reassure the despairing spirit, and restore the energies of industry and the bustle of business within those walls where silence, and wretchedness, and lethargy have so long held their gloomy reign!

After Mr. HOPKINSON concluded his speech, the question was taken on striking out the first section of the bill, and decided in the negative. For striking it out, 64; against striking it out, 71.

The Committee then rose, reported progress, and obtained leave to sit again.

A motion was made to adjourn to Monday, which was ineffectually opposed by Mr. COBB, and the House adjourned to Monday.

MONDAY, February 23.

## DEATH OF MR. GOODWYN.

After the usual form of reading the journal of the preceding day's sitting, Mr. NEWTON, of Virginia, rose to announce to the House the death of his colleague, Colonel PETERSON GOODWYN.

On me (said Mr. NEWTON) devolves the melancholy duty of informing this House of the death of our late worthy associate, Mr. PETERSON GOODWYN, of Virginia. Mr. Goodwyn died at his seat in Virginia on the 21st of this month. He has performed and finished his duties here, and with a clear conscience, and in the full expectation of the reward of his virtues, he has gone for a time to repose with his ancestors in the tomb. In amiableness of disposition, in suavity of manners, in acts of benevolence and charity, in steadiness of friendship, and in love and devotion to the republican institutions of his country he was surpassed by no man.

Mr. NEWTON offered the following resolution, which was unanimously agreed to:

*Resolved*, That the members of this House will testify their respect for the memory of PETERSON GOODWYN, deceased, late a member of this body from the State of Virginia, by wearing crape on the left arm for one month.

Mr. NEWTON then submitted the following resolution, which was also unanimously agreed to:

*Resolved*, That a message be sent to the Senate, informing them that this House, in testimony of their respect for the late Colonel PETERSON GOODWYN, one of their body from the State of Virginia, have unanimously resolved to wear crape on the left arm for one month.

And then, on motion of Mr. FORSYTH, the House adjourned.

TUESDAY, February 24.

Mr. POINDEXTER presented a petition of sundry inhabitants of that part of the State of Mississippi, which was formerly a part of the Spanish province of West Florida, praying that certain grants, made by the former Spanish Government, of extensive bodies of land for the purpose of speculation, may not be confirmed.—Referred to the Committee on the Public Lands.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill to authorize the apprehension of foreign seamen deserting the vessels to which they belong; which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, to which was referred, on the 14th ultimo, the petition of sundry inhabitants of the Territory of Illinois, made a report thereon, which was read; when, Mr. R. reported a bill confirming certain claims to land in the Illinois Territory; which was read twice, and committed to a Committee of the Whole.

Mr. BASSETT, from the committee to whom was referred the Message from the President of the United States in relation to the claim of the heir and representative of the late Caron de Beaumarchais, made a detailed report upon the said claim, which was read; when, by leave of the House, Mr. B. reported a bill, relative to the claim of the heir of Caron de Beaumarchais; which was read twice, and committed to a Committee of the Whole.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:* Conformably with a resolution of the House of Representatives of the 12th instant, I lay before that House a report which I have received from the Department of State, with a copy of the letter communicated with it.

JAMES MONROE.

WASHINGTON, Feb. 18, 1818.

The Message and accompanying documents were read, and referred to the Committee of the Whole, on the bill relative to the heir of Caron de Beaumarchais.

Mr. CLAGETT, from the select committee, to whom was referred the petition of John Fair-



H. OF R.

Duties on Iron.

FEBRUARY, 1818.

field, as also the petition of Mehitable Cole, made a report on the said petition, which was read; when, by leave of the House, Mr. C. reported a bill, granting to Mehitable Cole the land therein mentioned; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill respecting invalids; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill for the admission of cadets into the Military Academy; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill for the relief of William B. Lewis; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill concerning widows of the militia; which was read twice, and committed to a Committee of the Whole.

Mr. MASELEY, from the select committee to whom was referred the petition of Andrew Law, by leave of the House, reported a bill authorizing the renewal of a patent heretofore granted to Andrew Law; which was read twice, and committed to a Committee of the Whole.

*Ordered*, That the letter of the Secretary of War, received on the 20th instant, transmitting sundry statements and other documents in relation to the execution of the act for the payment for property lost in the late war, be referred to the Committee of Claims.

Engrossed bills of the following titles, viz: "An act making appropriations for the support of the Navy of the United States for the year 1818;" and "An act altering the time for holding the district court for the district of Virginia"—were severally read the third time and passed.

On motion of Mr. HUNTINGTON, the Secretary of War was directed to lay before the House a copy of all contracts made for furnishing rations to the troops within the State of Georgia, for the years 1817 and 1818; that he also inform this House whether any demands for rations in advance had been made during said term, and if so, whether said demand has not been complied with; specifying the time when, and by whom the said demand was made, and the place at which said rations in advance were directed to be deposited. And also give information whether any advances in money have been made by the War Department to enable the contractor to comply with said demands for rations in advance, and the amount of money advanced, and the time when; and give such further information, if within his knowledge, as will enable the House to judge correctly respecting the failures which have taken place by the contractors during the aforementioned period.

#### OUR RELATIONS WITH SPAIN.

Mr. FORTY, in rising to offer the following resolution, adverted to the documents communicated to the House by the Executive, from time to time, on the subject of our negotiations with the Spanish Government, and observed, that it

would be seen by these documents that attempts had been made, by negotiations at Madrid and with the Spanish Minister in this country, to bring the matters in dispute with that Government to a final settlement, but it had always been evaded by the Spanish Government. The House had been informed by the President that a negotiation was then pending in Washington, and it was very important, Mr. F. thought, the House should be informed of the result, or the state of that negotiation. For his own part, Mr. F. said, he was perfectly tired of negotiating on our differences with Spain. There had been ample time for each Government to know its determination on the subject, and it was time to know what prospect there was of its termination. Mr. F. then submitted the following resolution, which was agreed to without opposition, and a committee appointed to communicate it to the President:

*Resolved*, That the President of the United States be, and he is hereby, requested, if in his opinion it is not inconsistent with the public interest, to lay before this House so much of the correspondence with the Government of Spain as will enable Congress to judge what ground there is for expecting an amicable and speedy adjustment of the differences between that Government and the United States.

#### DUTIES ON IRON.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting two statements respecting the importation of sundry species of iron, in obedience to a resolution of the House of the 13th instant; which was read, and ordered to lie on the table. The papers are as follow:

The enclosed papers are submitted to the consideration of the Committee of Ways and Means, who can, if judged expedient, add a clause to the bill for amending the collection laws, in conformity with the suggestions of the Attorney General.

WM. H. CRAWFORD.

FEBRUARY 5, 1818.

The Attorney General will have the goodness to inform me whether the opinion given upon the questions presented in the within letter is correct.

If the iron proved to be different from what it was represented to be, would it not have been liable to forfeiture, especially upon the party's availing himself of the mistake to the injury of the Government?

WM. H. CRAWFORD.

NEW YORK, Feb. 3, 1818.

SIR: Permit me to state, for the consideration of the Secretary of the Treasury, that several cases have recently occurred in this district, which indicate a defect in the existing laws for the collection of duties. Several cases have lately happened, and the bonds sent to me for collection, in which the penalty of the bond is insufficient to cover the amount of duties liquidated and ascertained as due the United States. The existing laws require one suit only to be brought against both the principal and surety. The proceeding is joint against both, and they plead jointly for their defence, that at the time the bond became due and payable, the amount mentioned in the condition of the bond was

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

tendered to the collector. The fact was so, and I dare not take issue upon it. I have lately discontinued two suits upon this state of the pleadings, where the penalty of the bond in each case was \$600, the condition \$300, and the duties liquidated at \$800. No want of attention could be attributed to the officers of the customs, for the entry was of hammered iron; but, upon unlading the iron, it was found to be rolled instead of hammered, and liable to a high instead of a low duty. The only remedy in this case is, to prosecute the importer for the difference in a special action; and this remedy is ever very questionable. It has been decided in the circuit court of the United States for the first circuit, by Judge Story, that the obligors to a custom-house bond have their election either to pay the sum mentioned in the condition, or the liquidated duties, and that this alternative is for their benefit. (*The United States vs. Thompson et al.*, 1 Gallison, 388.) The supreme court of this State has decided, that upon the acceptance of the custom-house officers of a bond for duties, the claim of the United States is confined to the bond, which extinguishes all other claims for the duties. (*Tom vs. Goodrich et al.*, 2 Johnson's Rep., 213.) If these rules of law are correct, the United States are without remedy in the cases I have stated. It is certainly but reasonable that the alternative in the condition of the bond should be for the benefit of the United States, and that the obligors should be bound to pay either the sum mentioned in the condition, or the amount of duties, (at the option of the United States,) to be ascertained as due, and arising on the merchandise entered, &c. I apprehend that both of the decisions to which I have referred would be deemed law in the courts of the United States in this district, and preclude the United States from recovering the real amount of duties due, either in a suit upon the bond, or in an action against the importer; first, because the parties to the bond have tendered the amount specified in the condition; second, because, having received at the custom-house a bond for the duties, the claim of the United States must be confined to the bond.

I have the honor to be respectfully, sir, your most obedient servant.

JONATHAN FISK.

Hon. W. H. CRAWFORD, Sec'y of the Treasury.

WASHINGTON, February 21, 1818.

SIR: I have not been in a hurry to answer your questions on Mr. Fisk's letter, (which is now returned,) because it relates to no specific case which requires despatch, and because I was anxious to learn from the judges of the Supreme Court the course of adjudication in their respective circuits on the questions growing out of it.

Mr. Fisk states correctly the points decided in the cases which he cites, and I cannot learn that they have been differently decided. The law, I think, had better be amended; but, instead of wording the condition of the duty bond in the old form, and giving the United States the option of taking either the sum expressed in the condition of the bond or the real amount of duties, let the penalty be set at a sum which shall be certainly sufficiently large to cover the amount of duties; and let the condition (naming no sum) be to pay the amount of duties as they shall be ascertained at the custom-house on unlading the ship. This proposition is the result of a conference with the Chief Justice.

The particular kind of iron not being included in the manifest is, in my opinion, forfeitable under the law as it now stands.

I have the honor to be, sir, with the greatest respect and esteem, your obedient servant.

WM. WIRT.

Hon. WM. H. CRAWFORD.

#### THE BANKRUPT BILL.

The House then again resolved itself into a Committee of the Whole on the Bankrupt bill.

Mr. SPENCER moved to amend the first section, by striking therefrom the words "*merchant and other*," and subsequent parts thereof, to make it conform to the first alteration. The object of his motion was to deprive the bill of its partial feature, to make its provisions general to the community, and to embrace all other classes as well as the mercantile; and Mr. S. proceeded to submit his reasons at length, for desiring to include the agricultural and manufacturing parts of the community—particularly the latter—and his objections to a bill embracing the mercantile class alone; incidentally dwelling on the necessity of some general and uniform law on the subject of bankruptcy.

Mr. BEECHER thought the amendment inexpedient—particularly to the full extent it contemplated—though it might not be improper to apply the bill to the manufacturing part of the community; and in illustration of these opinions, and of his ideas in favor of a general system of bankruptcy, he argued at some length.

The question was then taken on Mr. SPENCER's motion, and decided in the negative.

Mr. SPENCER then moved to insert after the word *merchant* the word *manufacturer*, for the purpose of extending the application of the bill to the latter class of the community; and stated his intention, in case his motion prevailed, to move to enlarge to five thousand dollars the debt necessary to entitle a creditor to apply for a commission of bankruptcy; which extension would remove the objection that the admission of manufacturers would include a number of petty artificers, not contemplated by the bill.

To this, Mr. HOPKINSON replied, in substance, that this extension of the debt, to include manufacturers, would exclude many traders whom it was the object of the bill to relieve.

The question was then taken, and the motion negatived, without a division.

Mr. CLAY rose, and observed that he had, on Friday last, voted against striking out the first section of the bill; and if he supposed that by one or two weeks' discussion the House could agree on a bill useful to the country, he should be willing to proceed, and devote that time to the measure. But, after the experience of Friday last, Mr. C. confessed that he feared all the labor which could be bestowed on the bill would be thrown away—particularly since the decisions which had just taken place on the modifications proposed by Mr. SPENCER. This opinion he offered as an apology for the motion he rose to make, which was to reconsider the vote on striking out



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

the first section, that the sense of the Committee might be ascertained on the principle of the bill, after it had decided to retain the feature just moved to be expunged.

The motion to reconsider the vote of Friday was agreed to—ayes 69, noes 58; when

Mr. CLAY, for the reasons before stated, renewed the motion to strike out the first section of the bill.

This motion was decided, without debate, in the negative—ayes 63, noes 66. By a second count, the ayes were 68, the noes 71.

Mr. WILLIAMS, of North Carolina, believing, notwithstanding the vote just taken on the first section, that there would ultimately be a majority of the House against the bill, and for the purpose of ascertaining by the yeas and nays the true sense of the House at once, he moved that the Committee rise, that it might be refused leave to sit again, and the question then decided in the House.

Mr. MERCER opposed this motion, and took occasion to express his disapprobation of the course pursued on this subject, in aiming to destroy the bill in the outset by moving to strike out the first section. It was always allowed by parliamentary justice and parliamentary courtesy to the friends of a measure to make it as perfect as they could before the sense of the House should be taken on the principle of the proposition. On this occasion, he believed that there was a majority of the House against the bill, and he was therefore surprised to learn the result of the vote on Friday on striking out the first section. For his own part, he was not ashamed to confess that his opinion had been changed on this subject, by the able and conclusive arguments which had been urged by his friend (Mr. HOPKINSON) in its favor. The friends of the bill ought not to despair, therefore, and he hoped they would be permitted to proceed in maturing the measure.

Mr. CLAY remarked, that his object in the course which he had taken was the economy of the time of the House. It was true, that all the indications disclosed of the sense of the House were in favor of the bill; but if any course could be adopted to save materially the time of the House, it was fair to try it on this measure; because, if it were taken up regularly, and the whole sixty-four sections discussed, which would consume only or two weeks, it was very probable that the bill would be lost by the variance of opinion on some of its important details. Mr. C. enumerated some of the provisions on which probably an invincible difference of opinion would exist, and particularized the feature which requires the consent of two-thirds of the creditors, which he thought incompatible with the only principle that justified the passage of a bankrupt law at all, which was to relieve a man from his creditors on his surrendering all his property, and restoring him to society. This and other provisions would, he was confident, consume much time, which, after all, he expected would be to no purpose; and for this reason he had endeavored at once to anticipate the final decision.

Mr. HOPKINSON said the bill had stood the shock of the vote to strike out the first section, and the Committee had decided to go on, and see if they could not agree on some system for this important object. He was as unwilling as any one to consume uselessly the time of the House, but he was opposed to a premature rejection of the measure, particularly after the repeated refusal of the Committee of the Whole to strike out the first section. As to the provisions which had been referred to, it would be time enough when those features were acted on to see whether the Committee would agree on them to any practicable purpose, and then act accordingly. He suggested therefore the propriety, if it could be done, of first bringing up the provisions alluded to, that the sense of the Committee might be obtained, and see whether it would be worth while to proceed with the other details.

Mr. WILLIAMS having previously withdrawn his motion for that purpose—

Mr. TUCKER, of Virginia, in accordance with the suggestion of Mr. HOPKINSON, moved that the Committee by general consent agree to take up first for consideration the thirty-sixth section of the bill, (which provides for the permanent discharge of a bankrupt from all debts contracted previously to his bankruptcy, having surrendered all his property to his creditors, &c.)

Mr. BARBOUR having intended, when this feature of the bill should come up for discussion, to offer some remarks on it, but unwilling to trouble the Committee at so late an hour of the day, hoped (if it was the intention of the friends of the bill to argue this provision at all) that the Committee would now rise.

The Committee, on motion of Mr. TERRY, then rose, reported progress, and, after some opposition thereto, obtained leave to sit again.

Mr. EDWARDS then, for the purpose of trying conclusively the sense of the House on this subject, moved that the Committee of the Whole be discharged from the further consideration of the bill, and that it be indefinitely postponed.

Before this question was put, on motion made, the House adjourned.

WEDNESDAY, February 25.

Mr. LITTLE presented sundry resolutions of the General Assembly of the State of Maryland, upon the subject of the defence of the maritime frontier of that State, and offering to cede to the United States, free of expense, any portion of their territory upon which it may be determined to establish a naval depot.—Laid on the table.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. ROBERTSON, of Louisiana, from the Committee on Public Lands, to which was referred the bill from the Senate, entitled "An act providing for the sale of certain lands in the district of

FEBRUARY, 1818.

Lands to Emigrants—Uniform Bankrupt Law.

H. OF R.

Marietta, and for the location of claims, and sale of certain lands in the district of Vincennes," reported the same without amendment, and it was ordered to be read a third time, to-morrow.

Mr. ROBERTSON, from the same committee, also made a report on the petition of sundry inhabitants of the Prairie du Chien, which was read; when, Mr. R. reported a bill for the relief of the inhabitants of Prairie du Chien, which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON also reported a bill for the relief of William Barton, which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of Benjamin Pool, which was read; when, Mr. L. reported a bill for the relief of the said Benjamin Pool, which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. LOWNDES also reported a bill supplementary to an act, entitled "An act to regulate the collection of the duties on imports and tonnage," passed the 2d of March, 1799; which was read twice, and committed to a Committee of the Whole.

After referring to the inconvenience often experienced by Committees of the House, particularly that of Elections, from a want of the statutes of the respective States, Mr. TAYLOR of New York, moved the following resolution, which was agreed to:

*Resolved*, That the Clerk of the House procure a copy of the last edition of the statutes of the several States, to be kept in his office, for the use of the members.

On motion of Mr. HUBBARD, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing Oliver Pilsipher, late a private in the 76th regiment of New York militia, on the pension list.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to alter and amend an act, approved the 3d day of March, 1817, entitled 'An act to establish a separate territorial government for the eastern part of the Mississippi Territory,'" in which they ask the concurrence of this House.

The said bill was read twice, and committed to the Committee on the Judiciary.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the Commissioner of Claims, in answer to the resolution of this House of the 13th instant; which was read, and referred to the Committee of Claims.

CREDIT FOR LANDS TO EMIGRANTS.

Mr. ROBERTSON, from the Committee on the Public Lands, made an unfavorable report on the petition of the Irish Emigrant Society, of New York, Philadelphia, Baltimore, and Pittsburgh, which was read and ordered to lie on the table. The report is as follows:

The Committee on Public Lands, to whom was referred the petition of the Irish emigrant associations of N. York, Philadelphia, Baltimore, and Pittsburgh, have had the same under consideration, and report: That the petitioners ask that a portion of the public land lying in the Illinois Territory, may be set apart for the purpose of being settled by emigrants from Ireland, to whom it is requested the lands may be sold on an extended credit. For the reasons urged in favor of this application, the Committee refer the House to the petitions themselves.

The following specific propositions were also submitted to the consideration of the Committee by the agents of the petitioners, viz:

1. That the Secretary of the Treasury should be authorized to designate and set apart — townships, each of six miles square, in the Illinois Territory, east of the military bounty lands, each alternate section thereof to be settled by emigrants from Ireland, and sold to them at two dollars per acre, on a credit of four years for one-third, eight years for one-third, and twelve years for the last instalment, with interest upon the several sums.

2. That the Secretary of the Treasury should be at liberty to reject applications, unless the applicant emigrants should be satisfactorily recommended to some of the Irish Emigrant Associations, as moral and industrious men.

3. That no contract should be made with any emigrant, unless he would engage to improve at least twenty, of each one hundred acres, and erect a tenement suitable for his abode.

4. That no contract should be binding upon the United States, nor title vest in any emigrant settler, unless he had made the improvement and settlement abovementioned, and fully paid for the land contracted for.

5. That no contract should be made, or patent issued, to any settler or his heirs, for more than six hundred and forty acres.

6. That in every instance in which the conditions of improvement, settlement, and payment should not be complied with at the expiration of the term of twelve years, the Secretary of the Treasury should cause the lands so forfeited to be sold, for the benefit of the United States: provided, that in every case in which payment in part had been made, the sum or sums paid should be refunded to the emigrant settler or his heirs.

The Committee refer to their reports on several analogous cases, some of which have been sanctioned by the House, others which still lie on the table, for the reasons that induce them to recommend the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.

BANKRUPT BILL.

The House then again proceeded to the consideration of the Bankrupt bill.

The question being on Mr. EDWARDS's motion, to discharge the Committee of the whole House from the further consideration of the bill, and to postpone it indefinitely.

Mr. WHITMAN, of Massachusetts rose. In the section of country, said Mr. W., in which I live, a very considerable number of unfortunate merchants are looking with great anxiety for the adoption of a measure similar to that now under



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

consideration. This being the case, I cannot reconcile it to a sense of duty to suffer this bill to be rejected without an effort, on my part, to contribute my mite towards, if possible, a better understanding of the subject.

The merchants, generally, throughout the Union, may, undoubtedly, be considered as soliciting this measure. The benefits to be derived from it are, in the first instance, to be felt by them; and the pains and penalties to be suffered are exclusively confined to them. Of these pains and penalties, however severe, the merchant does not complain. Yet it is on the severity and novelty of these penalties that some gentlemen have grounded their opposition. But the merchant makes no such objection. The honorable gentleman (Mr. SMITH) from Maryland, who may, emphatically, be styled the representative of the merchant upon this floor, makes no such objection. Why, then, should these penalties have such terrors for other gentlemen whom they do not and never can affect?

But this law, it is said, is to confer peculiar privileges upon a particular class of men. Be it so. I grant it. But, sir, these privileges, if conferred, would injure no other class. If they would, I should hesitate. On the contrary, in my opinion, the conferring these privileges will ultimately tend much more to the benefit of the public than the merchant. It is, sir, the agriculturist that will finally reap the benefit of this measure. I agree that the agricultural interest in this country is paramount to all others; and above all ought to be cherished. It is from the agriculturists that we derive the articles of primary importance and necessity. This class of men composes at least nine-tenths of the population, and the most worthy population of our country. Their interest is, therefore, in whatever we may do, to be first consulted.

But, sir, it may be laid down as a fixed principle, of which there can be no doubt, that whatever encourages commerce is beneficial to agriculture. They go hand in hand. The matrimonial connexion itself, is not more intimate than is this union between commerce and agriculture. If the husband flourishes and becomes affluent, his wife participates of his good fortune—if otherwise, she becomes a drudge and a slave. And it is so with the merchant and the farmer; when the former is prosperous and acquires wealth, the condition of the farmer is ameliorated. If the merchant is unsuccessful, the farmer can have no ready market for his surplus produce. The consequence is that he cannot avail himself of funds wherewith to increase his comforts and conveniences; he cannot erect and finish new buildings; he cannot hire and pay laborers; he cannot improve and render permanently better the farm he occupies. Necessarily he may get; but he must labor under every disadvantage. It is not so when commerce flourishes; he then gets a high price for everything he can spare; he can then march forward with a sure and steady progress to wealth and ease. His taxes are paid, his farm improved,

his buildings repaired and adorned, his family educated, and the beauty and prosperity of the country generally promoted.

Hence it becomes our duty to do everything in our power for the encouragement and protection of the merchant, with a single eye to the prosperity of the agriculture of our country. If experience were necessary to convince the people of this truth, we have had it abundantly. Whoever will look back to the period anterior to the embargo of December, 1806, and contrast the state of things which then existed, with that which followed, will see how essential the commercial is to the agricultural prosperity of our country. Before that time the commerce of this country was unparalleled. The like of it was never before witnessed. The consequence was, that wealth and prosperity were diffused throughout our country. Our country towns and villages grew and flourished. The eye of the traveller was everywhere regaled with the view of increasing industry and prosperity.

On the adoption of the restrictive system (of which it is not now my purpose to complain, it may have been wise) the scene was changed. The merchant, alone, felt the first shock; but its influence finally reached the farmer; and though its approach to him was more slow, it was on the whole not less severe. It blasted his prospects. It did not overwhelm and plunge him in utter ruin, as, in many instances, it did the merchant. But its influence crept upon him gradually and unperceived, and blasted and blighted his future prospects. His farm no longer exhibited marks of improvement. Did his house or his buildings need reparation, they must, nevertheless, remain as they were. Travel where you would, everything wore a gloomy and sickening aspect. Before this time the farm itself, independent of any improvement, had gradually increased in value. But under this depression of commerce it depreciated. And finally, no class of the community felt more sensibly this retrograde movement in the affairs of our country than did the farmers themselves.

Hence, we see the intimacy in the connexion between the prosperity of the merchant, and the prosperity of our country. It becomes us, then, by every means in our power, to encourage this class of our citizens. Whatever regulation we can make for that purpose we are bound in duty to make. Be it for the benefit of the merchant, in the first instance, it will, nevertheless, turn out finally, to be for the general benefit of our common country.

But, sir, the merchant is entitled to this regulation from the peculiar nature of his liability to misfortune. If the merchant is overwhelmed, it is in the nature of his business that it should be from unforeseen accident, and also sudden. Not so with the farmer or planter. Their ruin is, almost always, gradual, and from known causes, within their control. Their capital consists in real estate, which nothing short of an earthquake or some other violent concussion of nature, which seldom or never happens, can affect or

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

destroy. It is the income only of the farmer that is at all precarious. On the other hand it is the merchant's capital that is at all times at hazard. Every effort of the merchant is surrounded with danger; the very basis on which he stands is every moment liable to be swept away.

Gentlemen have said the merchant may insure. So indeed he can as to some risks, but not as to all. He may insure against sea risks and capture. But are these all the risks to which the merchant is liable? Indeed they are not. The risks which overwhelm him are more frequently, and almost always, those against which he can have no insurance. A merchant, in shipping a cargo to a foreign port, must make the best calculation he can upon the market there; and, after all, he may be utterly deceived. Though from the last advices the market may be good, yet, before his cargo will reach them, some great political change, or some embargo or restrictive system there, or the sudden influx of property of the same kind to that market, may ruin the voyage. Again, the merchant to whom the cargo may be consigned for sales and returns may fail with the whole proceeds in his hands. The master of the ship, cargo belonging to the owner, may be guilty of barratry and run away with, or convert the whole, fraudulently, to his own use. Again, the cargo from a foreign port shipped in return, in coming to a port in this country, may from want of judgment or a change in events come to a bad market. We cannot be insensible to the risk our merchants have been subjected to from, perhaps, the wise and necessary measures of our own Government. If we recur again to the embargo of December, 1806, we shall have an instance of this the most oppressive. The course of trade before that time, among exporters had been to purchase up, in the Fall, after harvest, the products of our country, and store them for exportation. As the ships of the merchant, then out, arrived, or as he could procure others, this produce, in the course of the ensuing year, would be exported.

At the time of laying the embargo, in 1806, which was late in December, the products of the country had been thus purchased, and were on hand. To raise funds to enable the merchant to pay for these products, he had been in the habit of drawing bills of exchange on the merchant in Europe to whom these products were to be sent, payable at such future periods, to wit, at sixty or one hundred and twenty days after sight, as the merchant would suppose to be sufficient to enable him to send out his cargoes to meet them. These bills were negotiated in the market for cash; and with this cash the merchant paid for his produce. The bills were then remitted to the merchant abroad on whom they were drawn. The merchant who drew them, then, set himself to work to set forward his cargoes. Before he got them off, however, in 1806, and, in many instances, even after his vessels were loaded, the embargo was laid and enforced. The consequence was, that the bills, after being kept till due, were returned, protested for non-payment. They then

became payable in this country, with the addition of — per cent damages, besides interest and costs. The property, at the same time, with which those bills were to have been paid, instead of having gone to a market where it would have afforded a profit to the merchant, had remained on hand, and had fallen fifty per cent. in value. His ships, also, instead of earning him money, were rapidly decaying at the wharf. The consequence was, that this class of merchants, the most valuable to the agricultural interest, from one end of the Union to the other were sunk in irretrievable ruin. Much the same was the case with the merchant engaged in the circuitous trade of importing and exporting foreign merchandise. The nature of this trade rendered it unavoidable that the merchant should have constantly on hand store-houses full of foreign commodities to be exported. For this he was generally indebted. It was unavoidably incident to large commercial enterprises that it should be carried on upon extensive credit. This class of merchants, as well as the former, were caught with their goods and their ships on hand; and, while their ships were running to destruction, their goods were reduced to one half the original value. This description of merchants, generally, fell a sacrifice also. Here, then, we see a series of risks, against which no human foresight could have provided, and against which there could be no insurance, and to which the failures in ninety-nine cases in a hundred which have happened in the United States, are to be solely attributed. A set of merchants of as much enterprise and of as fair reputations as ever existed in any country, have fallen victims to the measures of our own Government. Is it not due, then, from this Government to liberate them, if possible, from a portion of the misery which has thus been brought upon them? Their property cannot be restored to them, but they can be rendered free agents; they can be set at liberty and left to their own personal exertions. They can be restored to usefulness, to their families and to their country.

The state of things now existing in the different States in the Union demands this interference of the Legislature of the Union. The merchants throughout the world are one great family, having intercourse and connexion with each other. A law common to them all is highly desirable. Hence it is, that we hear of the law merchant, which already exists in several particulars in relation to this class of men throughout the civilized world. It is our duty, at least, to produce as much of a uniformity throughout the United States as possible. Our merchants, from one end of the Union to the other, have a constant intercourse with each other. How important, then, is it that we should have but one code of laws for their regulation? We all wish to diminish the risks to which they are subject, as much as possible. If the laws should be the same throughout the Union, they would be enabled to predicate their calculations accordingly. As it now is, a merchant in one State knows not what to expect in case of the failure of his correspond-



H. OF R.

Uniform Bankrupt Law.

FEBRUARY, 1818.

ent in any other State. In some States there are insolvent laws, in others there are none. In some States the body is exempted from arrest and the property subject to attachment; in others the body is liable and the property not. And in every State those nearest the insolvent secure their debts wholly, while those at a distance get nothing. Hence it is, that confidence between merchants in different parts of the Union is impaired. If the system now in contemplation should be adopted, it would be otherwise. The distant merchant would know the ground on which he stood, as well as the merchant near at hand; he would feel assured that, at any rate, he should get something for his debt; that it would not be a total loss.

It is objected, that the debt of the merchant to the farmer is to be discharged; whereas, the debt which a farmer might owe a merchant would not be. This is no objection to the bill. The farmer will thus have a privilege conferred upon, rather than injury done him. The farmer lives remote from the commercial town in which his merchant is always to be found. When a merchant fails, his endorsers, and sureties, and friendly creditors, are always about him, and secure his whole effects; and the farmer, in every instance, sustains a total loss; he does not know of the total failure till the property is all gone. Pass this law, and it would be otherwise; the farmer would stand as good a chance as the most favored creditor or security; he would come in for an equal dividend. Now, sir, would this be no privilege worth securing to the farmer? And could he not, for the sake of it, afford to give up a worthless chance against a debtor, who had been stripped of everything?

This system will, like every other, undoubtedly be abused; there is no human regulation that will not be. Fraud will be practised. Make what regulation you will, attempts will be made to evade it. The restrictive system was productive of more fraud and perjury than any other ever adopted in this country. The possibility of abuse is no argument against any measure. The question should be—will the measure, on the whole, be productive of benefit? What will be the situation of the merchant without this regulation? He will be compelled, from necessity, to commit fraud. It is not in human nature to resist the impulse to it. Even our religion teaches us, that he that will not provide for his own, is worse than an infidel. If a merchant foresees that his ruin is approaching; that he has no hope to save himself and his wife and children from misery and beggary, but by secreting as much of his property as possible, and placing it where he can command it as his necessities may require, can we expect that he should refrain from doing it?

But, sir, the great objection to this bill is, that it will exonerate the debtor, after he is divested of every cent of property, and after an equal distribution of it among his creditors, from further liability. Without this principle in the bill, it would be utterly useless. A demand against a

man who had been deprived of his utmost farthing, would be worse than useless. It would, as has been well remarked, be the very cause why the debtor could never afterwards acquire any property, with which to make further payment. If there was property that he might otherwise inherit, this circumstance would induce the debtor to so contrive it that no creditor should ever avail himself of a particle of it. Go into merchandising he could not, because visible property is essential to carrying it on, and this the creditor would instantly seize. This naked claim against a naked debtor, would only enable a creditor to gratify a vindictive and vile disposition. I am, sir, astonished at the quarter from which the opposition to this feature in this bill, has come. We find almost the whole delegation of a certain section of the Union, arrayed in solid column against it. "Once a debt, always a debt," is their maxim. Really, sir, I had thought that the peculiar characteristics of gentlemen from this quarter, were liberality, humanity, and generosity. Little did I think to hear of this maxim as a governing principle with them. Where do they find this maxim? Is it in their political institutions? I never before heard of anything like it in any part of the Union. Is it in the religion we profess? No, sir; in that we are commanded not only to forgive seven times, but seventy times seven. Will these gentlemen expect the Great Judge, at the final retribution, to say to them, "once a debt, always a debt," and hold them to account accordingly? If not, I would put it to them to consider whether it would not be best to begin here to practise a little of that doctrine which may at last be found more suitable to their condition.

Finally, I would beg gentlemen to revise their objections to this bill, and see if they really ought to defeat its final passage.

Mr. BARBOUR, of Virginia, said that he felt a disposition to offer to the consideration of the House some of the reasons which would induce him to vote for an indefinite postponement of the bill. He said that he had risen at an earlier stage of the discussion, with an intention of going into the question at large; but having been at that time anticipated by another gentleman, and many of the general views which the subject presented having been since noticed in debate, he should now confine his remarks principally to the provisions of the thirty-sixth section. He was the more disposed to pursue this course, because the friends of the bill had distinctly declared that they considered this section as of its very essence, and that if it were not retained, they did not consider the residue as worthy of their acceptance. Since, then, the fate of the whole measure was identified with that of this section, if he could show that it contained a principle which ought not to be sanctioned by this House, it would be sufficient to sustain the motion for indefinite postponement; for, he would ask, to what purpose shall we continue to debate upon the bill, or proceed in the modification of its details, if one of its provisions be such as to prevent its final passage?

FEBRUARY, 1818.

Uniform Bankrupt Law.

H. OF R.

The thirty-sixth section declares, that when a bankrupt shall obtain a certificate in the manner prescribed, he shall be entirely discharged from all his previous debts and contracts. The propriety or impropriety of this section, then, is resolvable into a single inquiry, namely, is it right or just, under any circumstances, for a Legislature, in regulating the relation between creditor and debtor, to absolve the latter from the obligation of his contracts, or to exempt his property from liability to the fulfilment of them? He did not deny that Congress had power to enact the provision in question; that is to say, there was no written Constitutional prohibition; but we were under the same limitation as all other Legislatures, and as we ourselves were upon all other subjects, it was our bounden duty to exercise a sound discretion, and so to legislate as to enforce the observance of the principles of good faith and the dictates of justice. It was because he thought that this section of the bill, though certainly not so intended, put it into the power of those who were so disposed, to act in violation of those principles, that he was decidedly opposed to it, and he would now proceed directly to state his reasons for this opinion.

There are two descriptions of promises by which we impose upon ourselves an obligation; the first is, where we promise something, without the expectation of an equivalent; this is in its very nature, a gratuity, a benevolence. True it is, we give to the person to whom it is made, a right to expect a performance; but it is an imperfect right, and our obligation is imperfect also, for rights and obligations are always correlative; of consequence, these are neither the subject of municipal regulations, nor of judicial cognizance. The other kind of promises is directly the reverse of this; they are founded entirely upon the expectation of an equivalent, or something in return; their language is this: in consideration of a given portion of your labor, or your property, I oblige myself to pay you so much, as is estimated by us both to be the value of that which I have received. Whenever, therefore, the terms creditor and debtor are mentioned, this idea at once presents itself, that the one cannot be creditor without having parted with something valuable; that the other cannot be debtor without having received something valuable. If then we, by legislative enactment, discharge the debtor from his contract, it amounts to this: we, by compulsion, convert a contract intended to be founded on an exchange of equivalents into a gratuity in favor of the debtor; we leave in his possession what he has received, and which, having been received by him, is beyond the control of the law, and we put it into his power to refuse to pay what he had promised to the creditor, and without the expectation of which the contract would never have been made; in a word, we force an individual to be charitable against his will. He would exemplify his idea upon the subject by stating an individual case: a merchant, in consideration of produce purchased, agreed to pay the farmer one thousand pounds,

having received property of that real value; he becomes bankrupt, and his then estate pays only fifty per cent. of his debts; the farmer, then, receives only five hundred pounds where he had contracted for a thousand; what becomes of the remaining five hundred pounds? The merchant is discharged from it; the farmer loses it; and, therefore, the effect of the law operating upon this transaction is, that the seller is made to take one-half of the value of his property; one-half of what the buyer promised to give, and without which promise he would not have gotten the property.

This was surely an act of injustice, inasmuch as it was a violation of the perfect right of one of the parties, to demand the whole of what was due to him by a bona fide contract. What are the reasons offered in support of this principle? It was said that humanity and policy conspired to recommend its adoption; that as it respected the individual, after he had given up his all except the pittance which was allowed him, it was cruel to keep him borne down by the pressure of enormous debts which he could not pay; and that, as it respected society, an emancipation from those debts was necessary, in order to restore to society one of its members in a situation to be useful. If this provision had gone no further than the relief of the bankrupt's person, he would admit the force of the argument founded on the principles of humanity; for the law ought never to be made use of as the means by which to gratify the caprice, the malignity, or any other improper feeling of one man towards another; and as the confinement of the debtor's person, not only did not in any degree contribute to the payment of the debt, but on the contrary put it out of the debtor's power to make any efforts whatever towards the attainment of that object, it might fairly be urged that the deprivation of human liberty, under these circumstances, when no correct motive could be assigned, was so much causeless harm, which the law should not permit to be inflicted. But none of this reasoning applied in favor of the exemption of property from liability. It never could be said, with any propriety, that there was anything wrong or oppressive on the part of the creditor, in endeavoring to procure either the whole or part of the equivalent which his debtor had promised for something valuable which he had received; and, considering it as an act of humanity, he would ask, whether it was not more proper for the debtor to depend upon the will of the creditor for some indulgence, some act of mercy, than to reverse their situations, and make the creditor depend upon the debtor for an act of justice? To decide otherwise would be to subvert the very foundation of the principles of legislation; and to take care of imperfect rights, not only in preference to, but at the expense of perfect rights.

But, say gentlemen, policy demands it. He would remark, in the first place, that arguments of policy must be extremely strong, indeed, when the object in view is to be effected at the expense of justice. But let us examine them: It is said



that when a man knows that every cent which he may make will be at the mercy of his creditors, he will feel no motive to exertion. In answer to this he would say, that with an upright and honorable man a desire to pay his debts would be a strong motive; with one of a contrary character, indeed, it could not operate. Men of the first kind would discharge their debts if ever they became able; those of the other would not, let them acquire ever so much property. This provision, then, it seems, would be of no avail, except in favor of the very description of person who ought not to be benefited by it. The man of integrity would not need it; his creditors, knowing his character, and seeing his exertions, would give him every reasonable indulgence; the man of a contrary character, ought not to have it in his power to put his creditors at defiance, though he may afterwards acquire abundant means to discharge their debts. But, further, it would hold out a temptation to this latter class to commit some act of bankruptcy, when, by great and continued exertions, they might have paid their debts to the utmost farthing; for, sir, such a man would reason thus: If I prosecute the business in which I am engaged, the whole fruits of my labor will be for the benefit of my creditors, and, after years of industry and toil, I may just be able to pay them; if, on the contrary, I avail myself of the benefit of the bankrupt law, I may with one dollar pay two, procure a quietus from my creditors, and the future efforts of my whole life will be for my own benefit; and, peradventure, he may renew his business, not only with the pittance which the law allows him, but with some hidden capital, which, by the collusion of a friend, may be concealed from the knowledge of his creditors. Let not gentlemen say that this would be the case of a fraudulent bankruptcy, to which the benefit of the law would not extend; for, if he gave up all, according to the first idea suggested, it would be fair within the very words of the law. If he concealed a part, according to the other suggestion, by the collusive aid of some friend, that friend could now advance it to him, under the name of a loan, or some other such pretence, and the creditors would have no knowledge of the fraud, which would, therefore, in this respect, be the very same as if it did not exist. But suppose, for argument sake, it should be admitted that a person thus situated, should be so overwhelmed with the gloom of his own prospects, as to give up in despair, and make no efforts to meliorate his condition, then there arises another objection to this provision, which proves its injustice in the most striking manner. Many of the most numerous, as well as important classes of society, are utterly excluded from its benefit. Now, if we will only suppose the individuals who compose these other classes, to be equally stimulated by hope, and equally distressed by despair, with those who are embraced by the bankrupt law, it will be at once seen that we leave much the largest portion of the community in that hopeless state which gentlemen deprecate, with this aggravation, that

others are relieved whilst they are kept in a state of thralldom. If, then, the first view which he had taken of this subject were correct, this provision ought to be rejected, because, as a principle of abstract justice, it was wrong to exempt any part of a man's property from the payment of his debts, and because he thought there was no consideration, either of policy or humanity, strong enough to overrule that principle, as applicable to this subject. But, if gentlemen should differ with him upon this point, then this section ought to be rejected, because it afforded a relief to one member which it denied to another of the same community, when it might happen that the one to whom it was denied needed it only because of the failure of the one to whom it was extended.

It had been contended that there were other instances in which debtors had been discharged from their debts; and the acts of limitation were relied on in proof of the proposition; he said he utterly denied that they bore any kind of analogy to the question; they were founded upon this principle, that in the lapse of time parties might be deprived of evidence, either by the death of witnesses or the loss of vouchers, and that, in the happening of such events, claims might be supported which might otherwise be proven to have been paid; to obviate this, various acts of limitation have been enacted, declaring that after certain prescribed periods no recovery shall be had of debts which might originally have been just; but this proceeds expressly upon the idea that the debts may probably have been paid; the bankrupt law, on the contrary, recognises the debts as existing, by providing payment, as far as the present estate of the bankrupt extends; and though the debt is admitted not to have been paid, yet it declares that no property which the debtor may thereafter acquire, shall be liable to its payment; the marked and characteristic difference, then, between the case supposed and the one now under consideration, is this: that, in relation to the acts of limitation, we do not lose our debts in despite of us; we are at liberty to prosecute our suits within the times prescribed, and, if we do, the law interposes no bar to our recovery; the loss then, if any should ever occur by the operation of these laws, is chargeable upon ourselves; but, by the provisions of this section, if a certain proportion of the creditors consent, the other creditors are compelled by the law, whether they will or not, to lose their debts forever, except such parts as the present estate of the bankrupt may be able to pay.

He said there was a class of cases in which it was competent to legislate in relation to the obligation of contracts; such, for example, as those made by persons of insufficient capacity, those founded upon an immoral consideration, or such as were against public policy; but it would be observed that in all these, the law had relation to the moment when the contract was made, and declared that it never did have any legal validity; the parties in these cases were on equal terms; but the principle to which he had alluded was entirely different from the one embraced in

the section now under consideration; because that section has relation to, and operates upon, contracts, the legal validity of which is in no degree called in question, and in which the parties are placed upon the unequal footing which he had mentioned in a former part of his argument—that is, that the creditor had parted with the equivalent on his side; and the law, unable to place him in *statu quo*, by the restoration of that equivalent, yet comes in aid of the debtor, by absolving him from any future liability for his part of the contract. He believed that he might challenge the friends of this bill to show any instance in which the law, recognising the original validity of a contract, destroyed its obligation in consequence of any after state of circumstances, in which the creditor had no agency, over which he had no control, and without his consent.

He said he had now finished the view which he proposed to take of this particular provision; he hoped he had succeeded in proving, that if the House were determined to pass a bankrupt law, it ought not to contain this principle; the consequence was, that, as this was considered by its friends as the very soul of the system, and as, therefore, no valuable object could be attained by further inquiry into the details, it was better that the bill should at once be indefinitely postponed.

He said, before he resumed his seat, he would make a few remarks of a more general nature, in relation to the subject at large. It had been said, in the course of the debate, that, as this measure was loudly called for by one portion of the community, it ought to be accorded to them by those who were not particularly interested in it. This remark would justly be entitled to weight, if those who demand this system were alone to be affected by it; but, sir, said Mr. B., it cannot be necessary for me to press upon the recollection of the House, that although the bankrupt is the more immediate object of the bill, yet its operation extends to all with whom he has entered into contracts; they may belong to every other class of our citizens, and therefore there is no man whose interests may not be affected by it, unless, indeed, the creditor has no interest in a law, which is to absolve his debtor from the obligation of his contract.

It is indeed true, that only one class of our citizens can become bankrupts under this bill, and that circumstance constitutes a very strong objection against it; it was of no importance, for the purpose of his argument, whether the bill was so framed, from the Constitutional necessity, as some had contended, of confining it to mercantile men, or whether it was from motives of policy; such was the bill, and we were to discuss it, as it was. Let us then examine the reasons assigned in argument, in favor of this discriminating feature. If they can be met and refuted; if it can be shown that there is no sufficient reason for the discrimination, then it will follow, that, as the gentleman insist it is a good bill for one class, it ought not to pass because it does not, and, as some think, cannot embrace the other

classes of society. It is said that merchants are peculiarly exposed, by the nature of their pursuits, to sudden and ruinous losses; that they commit all to the winds and waves, and that, therefore, they may be rich to-day and poor to-morrow. He said he admitted that commerce was a pursuit accompanied by many risks; but he would also say, that the merchant who at one time committed his all to the winds and waves, displayed a rash and too adventurous spirit of enterprise, and one which ought not to be encouraged by any facilities which a bankrupt system might afford. The prudent merchant not only guards against the improvidence of putting his whole capital afloat at once, but takes the further precaution of insuring that part, which he does put afloat; in these two considerations, which a common share of prudence would suggest, might be found a great diminution of the risk, which had been so emphatically described. But says the gentleman from Massachusetts (Mr. WHITMAN) there are risks which may ruin the merchant, which insurance does not reach. And he states the case of a merchant purchasing produce and shipping it to a foreign port, where, by various accidents, he may be obliged to sell it, at its original cost, or even at a loss. Let me, sir, present the other side of the picture. Suppose a contrary state of circumstances, and that he should sell at four or five times the original cost, does the farmer receive any share of this immense profit? He does not, sir. He then who receives all the gain, cannot complain that he is to bear the loss. If he says that he encounters greater risk than those engaged in any other pursuit, the answer is, that, as his risk is greater, so his gain is also, and the possibility of the one is the equivalent for that of the other.

But, sir, gentlemen speak as if the farmer were exposed to no danger; he wished it was so, but unfortunately, it was far otherwise; he is exposed to the seasons, and to the effect of political circumstances. The experience of the last four or five years will furnish a practical illustration of each of these risks. In 1814 flour was sold in Virginia at two dollars and fifty cents; in 1816, a very unpropitious season curtailed the corn crop in an extraordinary degree; and for several years past, the wheat crop has been essentially injured, and in some instances almost destroyed.

In relation to the high eulogium which had been passed upon the merchant, their great utility to the country, and the immense sums which they paid into the Treasury, he would only say, that he did not pretend to deny their merits or their utility; he did not intend to go into a view of the comparative value of commerce, agriculture, and manufactures to the country; he would only say that they were all useful, and that of course the citizens who respectively engaged in these pursuits were all valuable members of society; but he supposed it would be admitted, that they each pursued that course which, in their opinion, their interest dictated; and that, in promoting their own interest, they advance that of the community also.



H. OF R.

Henry King.

FEBRUARY, 1818.

The friends of this bill have pressed another argument very urgently upon the House; they had said that under the insolvent laws of the several States, the grossest frauds were committed in paying off a few favorite creditors; that therefore it was absolutely necessary to pass this bill, by which the distribution *pro rata* would be made of the bankrupt's estate among all his creditors, and thus equal justice be done. He said, that, whatever frauds might have been practised under the insolvent laws, he thought he could prove that, even in that point of view, this bill did not furnish so effectual a remedy as was supposed; by looking into its provisions, it would be found that all payments which a bankrupt might make before an act of bankruptcy or even after he had committed the act, before the creditor knew of it, were declared to be good and effectual; and such a provision was indispensable; otherwise a person could never be safe in dealing with a mercantile man, if a subsequent act of bankruptcy were to destroy the legal effect of a previous transaction. Let us then suppose this bill passed, and a merchant, seeing his affairs to be in a state of decline, proceeds to pay off entirely a few favorite creditors, and a few days afterwards commits an act of bankruptcy; here, sir, is a complete system of favoritism; the debts, though due to a few individuals only, may take four-fifths of his whole estate, and yet, being paid before the act of bankruptcy, the payment is good; this bill then furnishes no effectual remedy for this great evil of preference to creditors. He said he would not detain the House further; he would conclude by observing that whether he considered the objections to the particular section which he had first remarked upon, or those that applied to the bill in general, he was brought equally to the conclusion, that the motion for indefinite postponement ought to prevail.

Mr. LIVERMORE, Mr. BALDWIN, and Mr. BEECHER, then spoke in opposition to the motion to postpone the further consideration of the bill.

The House having refused to agree to a motion for adjournment, the question on the motion to postpone the bill indefinitely was taken by yeas and nays—yeas 82, nays 70, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bateman, Bellinger, Bennett, Blount, Boden, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Comstock, Cook, Crafts, Crawford, Desha, Earle, Edwards, Floyd, Forney, Garnett, Hale, Hall of North Carolina, Herrick, Holmes of Massachusetts, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Wm. Maclay, W. P. Maclay, McCoy, Marr, Merrill, Morton, Mumford, Murray, Hugh Nelson, Nesbitt, Newton, Owen, Patterson, Pindall, Pleasants, Quarles, Rhea, Richards, Ringgold, Robertson of Louisiana, Sampson, Savage, Scudder, Settle, Shaw, Simkins, Slocumb, Ballard Smith, Alexander Smyth, J. S. Smith, Spencer, Stewart of North Carolina, Strother, Tarr, Terrill, Tripple, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of Kentucky, Wallace, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Massachusetts,

Allen of Vermont, Anderson of Pennsylvania, Baldwin, Bayley, Beecher, Boss, Colston, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Folger, Forsyth, Fuller, Hall of Delaware, Harrison, Hasbrouck, Herbert, Herkimer, Heister, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Kirtland, Lawyer, Little, Livermore, Lowndes, McLane, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Moore, Mosley, Jeremiah Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Poindexter, Porter, Reed, Rich, Robertson of Kentucky, Ruggles, Sawyer, Schuyler, Sergeant, Seybert, Sherwood, Tallmadge, Taylor, Terry, Tompkins, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Wilkin, and Wilson of Massachusetts.

So the House determined that the bill be indefinitely postponed, that is, rejected.

A question arose, whether the Committee of the Whole, raised on the said bill, and to which was subsequently committed the bill "to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges," was dissolved by the vote last taken: Upon which, the SPEAKER decided, that the Committee of the Whole was dissolved by the said vote, and that the last mentioned bill was, consequently, in the House: Whereupon, it was ordered that the said bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, be committed to a Committee of the Whole, to-morrow.

THURSDAY, February 26.

On motion of Mr. JOHNSON, of Virginia.

Resolved, That the Secretary of the Navy be directed to report to this House, the proceedings of the court martial, ordered by Commodore Isaac Chauncey, at the instance of Midshipman Marston, for the trial of Capt. John Orde Creighton, and that he be also directed to lay before this House, the memorial of the midshipmen and other officers in the Mediterranean squadron, forwarded to that Department, and emanating from the proceedings of the court martial held for the trial of the said Captain John Orde Creighton.

Ordered, That the letter from the Secretary of the Navy, transmitting copies of the proceedings of the courts martial for the trials of Captain Perry and Captain Heath, be referred to the Committee on Naval Affairs.

HENRY KING.

At the instance of Mr. ANDERSON, of Kentucky, the House proceeded to the consideration of the report of the Committee on Pensions on the petition of Henry King, for the payment of moneys due to him for Revolutionary services. [In this case a committee of a former Congress had unanimously reported very favorably on the justice of the claim, but that it was barred by the statute of limitation; since which report, the evidence on which that claim was founded, and which was then exhibited to Congress, has been destroyed by fire in the War Office.] The report is unfavorable, on the ground of a defect of evidence.

FEBRUARY, 1818.

Expatriation.

H. OF R.

Mr. ANDERSON moved to amend the report so as to reverse it, with a view to the introduction of a bill authorizing the adjustment of the claim of Mr. King at the Treasury on equitable principles, and spoke in support of the motion.

Mr. REED stated his recollection of services rendered by the applicant in the Quartermaster's department.

Mr. RHEA supported the report of the committee on the ground of a deficiency of evidence; and moved to refer the report to a Committee of the Whole, and to have the documents read by Mr. ANDERSON printed.

Hereon further desultory debate took place, in which Messrs. ANDERSON, EDWARDS, JOHNSON, STROTHER, W. P. McCLOY, COMSTOCK, SOUTHARD, RHEA, OGLE, and HUBBARD, took part. The debate resulted in an agreement to Mr. RHEA's motion.

#### EXPATRIATION.

The House then resolved itself into a Committee of the Whole on the bill to provide the manner in which the right of expatriation shall be exercised.

Mr. ROBERTSON, of Louisiana, rose and said, that the subject to which he had called the attention of Congress was of great importance; more important, perhaps, than interesting. It does not belong (said he) to that class of cases which command our attention, occupy our time, and excite our feelings. There is nothing pecuniary about it; it simply concerns the rights of man; and, in these halcyon times, when the rights of governments, of whatever description, are so well understood and so universally acknowledged, I do not know that a question of this sort may not be considered as ungracious. It is certainly our first wish in this country to cultivate a good understanding with foreign Governments, to soothe their hatred and banish their jealousies. And I do not know, as liberty and the rights of man are, by common consent, kept out of view in Europe, if it would not be more politic and conciliatory to say nothing about them here. Having ventured, however, to introduce the question, I will proceed to present my opinions to the Committee. That I may not be considered as having in view our situation in regard to other nations, I think proper to repeat what I have before said as to motives. Many years ago I submitted to Congress the same proposition; it received opposition where I expected it and where I did not expect it. It was considered, as most principles are that are not borrowed from the common law—that beautiful system which, next to special pleading, receives the most rapturous encomiums from a certain quarter in this House—as fraught with great mischief; it was said to interfere with pending negotiations; to encourage desertion, piracy, and I do believe every sin in the decalogue. However, it was found convenient to get rid of it. I then pledged myself to the House to bring it forward again. I now redeem that pledge; and although it be not borrowed from England, and although it may be supposed to

carry along with it some effects which may prove beneficial to the reviled cause of the patriots of South America, and may be very odious to the friends of Ferdinand, for rescuing from the crime of piracy certain of our citizens abandoned by their country under our treaty with that most respectable monarch—I say, notwithstanding all this, I will continue to press the truth of the principle for which I contend as long as I shall hold a seat in the councils of the nation. I do not propose, Mr. Chairman, to take the affirmative of this question, and prove by argument the right of expatriation. I consider it as an acknowledged, a natural right; and I demand of those who contend for the right of government to the perpetual allegiance of the citizen to show and support that right. Man has natural rights, government has none. Let the enemies of human rights—at all times the real innovators—support their claim. The friends of liberty have too long submitted to the charge of being innovators; while tyrants and despots have always deserved to be so considered. But whatever the vial of holy oil may do for kings of France, and whatever Heaven may have been impiously said to have promised the King of Spain, in payment for certain embroidered petticoats; whatever may be right as to kings of England, who are not, like the Pope, infallible, but who simply can do no wrong; whatever may be their right divine, here, at least, in the United States of America, government has no natural, no divine rights. Let them who contend for the right of the Government to the perpetual allegiance of its—what? Slaves? No, masters show that power. Here is the Constitution, the charter of its power; out of it it shall not go. Is any such power to be found here? No; then it does not exist. But the principle for which I contend exists in the Constitution. It is liberty; it is the right to pursue happiness; it is an inalienable right conferred on man by his Creator; it is a necessary consequence of the power of naturalization. It is absurd to talk of the right of our Government to naturalize, and of another to the allegiance of its subjects so naturalized; yet I have seen some ingenious quibbling in support of this nonsense, and perhaps may hear more. It is a clear principle, then, that every free man has a right to quit his country, whether his country by birth or adoption, and to live in some other, whether it be for the benefit of his health, or to procure the necessities, conveniences, or luxuries of life, or because he may prefer the political institutions of some other country to those of his own, or for any other reason whatever. I presume it was by the exercise of the right of expatriation, that from the garden of Eden the human race has spread over the whole world. It was among the first rights that mankind practised, and, perhaps, was never denied in ancient or modern days by any other than the English, Chinese, and perhaps the Hottentot Governments. I presume if they have constitutions, although I have never been so fortunate as to see them, that this power is expressly given; and all I demand of its advo-



H. OF R.

Expatriation.

FEBRUARY, 1818.

ates here is, to point it out in our Constitution. In discussing this subject further, I shall rather give its history, than examine its existence. The Scriptures are full of instances in which it was exercised; the Jews expatriated themselves from Judea, and settled in Egypt; again changed their abode, and resided in Canaan; and now live wherever they please, if not prevented from doing so by the persecuting zeal of Turks and Christians. The Greeks, according to Anacharsis, practised both naturalization and expatriation. The instances are too numerous and notorious to mention. It is sufficient to advert to the story of the celebrated Spartan lawgiver. Lycurgus, in leaving his country—that country which became so illustrious from obeying his precepts—extracted a promise from his fellow-citizens, that the laws he had given them should not be altered or abrogated during his absence. He left his country, with the intention of never returning to it; and he never did return. It is probable, at least, that in his code there was no law to prohibit expatriation; and yet he is as celebrated, and his memory is as much respected, as that of Thor and Woden, who, it is believed, were the authors of the principle of perpetual allegiance. The Romans, in this respect, were as wise and as liberal as their great archetypes. The apostrophe of Cicero, though well known, cannot be too often quoted: "O glorious right—by the Divine favor obtained for us by our ancestors in the commencement of the Roman name; by which no man can be the citizen of more than one country; by which no man can be compelled to leave it against his will, nor remain in it against his inclination! This is the firmest foundation of our liberty—that every man should have an absolute power to retain or abandon his right at his election." I refer with pleasure to those ancient and illustrious nations—illustrious for the brilliancy of their actions, and for the manliness and independence of their principles. They excite more of my admiration than the Goths and Anglo-Saxons, who flourished at a period of time emphatically denominated the dark ages, when the absurd idea of perpetual allegiance originated.

For the truth of this principle, we shall be turned over to Sir Matthew Hale, my Lord Coke, and other distinguished worthies of the law; but, as they were better acquainted with municipal than universal law, I think it probable that, in this country, and in this era of human improvement, they will not be considered as authority. What can they weigh against the practice of all nations, except that to which they belonged—against the principles of really enlightened legislators and jurists of every age and of every country? I do not mean to enter into any nice or technical discussion, but I will merely mention, that I believe even in England the question is considered as a moot point. In France, in 1793, then Republican France, when liberty appeared to dawn upon benighted Europe, the right of expatriation was expressly recognised; the loss of citizenship was made to depend on naturalization

in a foreign country, or in accepting any office from any other than a popular Government. The Constitution of 1793 deserves great respect; it abounds in sound and excellent principles; it could not do otherwise; it emanated from enlightened heads and pure hearts, and is superior to any form of government the world had ever before seen, except our own, with which it will bear by no means an unfavorable comparison, and from which many of its principles were borrowed. I do not hesitate to support my opinions by adverting to France at the period to which I allude; indeed, at all times, I have thought as well of her as of any of her neighbors. For a while she maintained a noble struggle for freedom, and now that, from sinister events, both her liberty and her independence are cloven down, I feel towards her a mingled sentiment of compassion and contempt—compassion for her enslaved and subjugated state—contempt for her tame acquiescence. But I hasten to leave distant times and distant countries to contemplate the cheering prospect which our own country affords; not that on this subject it commands unqualified approbation; for, notwithstanding the Declaration of Independence; notwithstanding the Constitution which gives to Government the right of naturalizing foreigners, and thus admits the right of foreigners to expatriate themselves; notwithstanding the right is generally admitted by our most intelligent politicians—by our legislators and judges—yet it so happens that the enjoyment of the right is denied; and this brings me to the consideration of the question, whether it be expedient, in the words of the resolution, to secure by law the exercise of the right of expatriation? I contend it is proper to do so, because of the decisions of our courts, the opinions of our judges, and of certain principles contained in some of our treaties. It will be admitted that, whenever the citizen is denied the enjoyment of a right, or whenever the manner by which he may exercise it is involved in doubt, it then becomes the duty of the Legislature to interfere—to announce the right, and to prescribe the manner by which the enjoyment of it shall be secured. Nothing that can be regulated by legislation should be left to the discretion of judges; freemen should be governed by laws, and not by judges. If I show, then, that the right of expatriation has been denied, and the enjoyment of it, when admitted, also denied, I think there will be no hesitation, on the part of the Committee, to declare and secure the right by express law. In the case of Isaac Williams (2 Cranch, 82) Judge Ellsworth decided, that a citizen of the United States could not dissolve the connexion between himself and his country. Isaac Williams emigrated from the United States, settled in France, and became a citizen by being naturalized according to law, two years before the war broke out between that country and England. On the happening of that event he received a commission to cruise against the enemy; he did so, and was successful in making captures. He was subsequently arrested, and tried in the United States

FEBRUARY, 1818.

Expatriation.

H. OF R.

district court of Connecticut for engaging in hostilities, as a citizen of the United States, against England, a nation with which we were at peace. He was found guilty, fined, and imprisoned, by Judge Ellsworth, who explicitly denied the right of expatriation, and asserted that the common law of England was the law of the United States. Here then we have, on the part of a judge, a clear denial of the right.

In the case of Talbot and Jansen, (3 Dallas, 133,) in the Supreme Court of the United States, Judges Patterson and Iredell seemed to admit the right of expatriation, while Cushing and Rutledge acknowledged the importance of the principle, but declined giving any opinion; yet Judge Iredell, notwithstanding his admission of the right, after stating that it was in proof that Talbot had gone to the West Indies, and had taken an oath of allegiance to the French Republic, says, that he does not think that taking such an oath, and being admitted a citizen there, in itself, is evidence of a bona fide expatriation, or discharges the obligation an individual owes to his native country. For all practical purposes, then, the opinion of Judge Iredell is no better than that of Judge Ellsworth. But the judges before whom this important question arises, and by whom it must be decided, themselves declare the expediency of legislative interference. Patterson expressly says, that "a statute of the United States relative to expatriation is much wanted, especially as the common law of England is, by the constitution of some of the States, recognised and adopted." Besides, ascertaining by positive law the manner in which expatriation may be effected, would obviate doubts under the subject, notorious and easy of apprehension, and present the rule of civil conduct in a very interesting point." Iredell also remarks, that "all the contentions about expatriations in the courts, have arisen from a want of the exercise of this authority; that differences of opinion exist as to the manner of effecting expatriation; that some hold that it is a natural inalienable right in each individual; that it is a right upon which no act of legislation can lawfully be exercised, inasmuch as a Legislature might impose dangerous restraints upon it, and of course it must be left to every man's will and pleasure to go off when and in what manner he pleases." He proceeds to assign his reasons for differing from this opinion, but I shall follow him no further; it is immaterial to my view whether he be right or wrong. I have nothing to do with the correctness of the opinions of the judges; I am only concerned with the fact. These opinions go to deny the right of expatriation; to deny the enjoyment of the right, and to invite, as well as to demonstrate the propriety of legislative interposition. Why, then, should Congress leave, vague and undefined, questions so important to the citizen, and so embarrassing to the tribunals of the country? I now come, Mr. Chairman, to another fact, to which I briefly alluded, and which furnishes additional reasons in support of the bill now under consideration.

The United States have uniformly expressed a wish to be neutral and impartial in their relations with Spain and the revolutionary States of South America. The Government professes to be desirous of placing them on a footing of exact equality; to view them as independent Powers, entitled to equal respect and similar rights. Whether they are so considered or not, I have no intention at this time to inquire. But I will show, from our Treaty with Spain, that the situation of the revolutionary governments of South America is infinitely disadvantageous, when compared with that of their enemy. This, however, is no charge against our Government. The Treaty with Spain was entered into long before the revolt of the colonies, and cannot be affected by that event; but a state of things now exists that ought not to be suffered to continue. I am far from recommending any violation of that instrument. I do not mean to touch its provisions; but I do mean, if the House will hear me out, to rescue the citizens of the United States from the infamy cast upon them, and the penalties denounced against them by one of the most extraordinary and abominable principles that ever found its way into the code of any nation pretending any kind of regard for the rights of liberty and of man. And in doing this, if the holy cause of the patriots of the South shall be promoted, without any breach of obligation on our part to any other Government, it will be to me a source of high and unfeigned satisfaction.

By our Treaty with Spain (article 14) it is provided, "that no citizen of the United States shall apply for, or take any commission or letter of marque, for arming any ship or ships to act as privateers against the subjects of His Catholic Majesty, or the property of any of them, from any Prince or State with which the said King shall be at war; and if any person of either nation shall take such commission, he shall be punished as a pirate."

By what authority the President and Senate agreed to such an article, I will not stop to inquire. I content myself with saying that they had no authority; that they transcended their powers; that the Constitution of the United States gives to Congress the power to define and punish piracies, and not to the President and Senate. But the unequal operation of this article in the contest now raging between Spain and the Government of South America, ought, as far as it is in our power to do so, to be obviated. The operation is this: a citizen of the United States taking part with the people of South America is to be considered as a pirate, whilst, on the other hand, if he take part with Spain, no such penalty awaits him. Put it, then, in his power to avoid this hazardous situation. Let him, if actuated by a noble wish to aid a brave people struggling for freedom, if he choose to do so, cease to be a citizen of the United States; he does no more than he has a right to do, and the United States stand absolved from the consequence of his conduct. He is no longer a pirate; he no longer violates any law, or pretended law, of the United States;



H. of R.

Expatriation.

FEBRUARY, 1818.

seases to be amenable here for his acts. All this, however, although necessary to protect man in the enjoyment of his rights, although just and beneficial to a cause to which I most cordially succeed, merely adds strength to the reasons in favor of the great principle for which I contend. I contend for the right of expatriation, in its own abstract truth. It was true from the beginning of time, and forever will so remain. Slaves have denied it, and slaves have acceded; but it is no less true on that account. I support it on its own intrinsic merits; long before the patriot cause of the South excited our sympathies, or our antipathies, I submitted the proposition to Congress, and, whatever be its fate, I will never forget or abandon it.

This brings me to the last point in the present inquiry. Is the bill reported by the committee suitable to the purposes for which it was intended? Does it secure the exercise of the right of expatriation? It has one advantage at least; it is simple and easy of comprehension. In the language of Judge Roane, speaking of the Virginia law, it does not presume to give the right; it points out the manner by which it may be exercised. It provides that the citizen intending to expatriate himself, shall state the fact on the records of a court of the United States; and that, on his departing and going out of the United States, he shall be considered as having exercised his right of expatriation. It is in substance a copy of the Virginia act, and with me the example of that State has great weight. The object of the committee was to secure to the citizen the exercise of the right; the bill seemed to them well calculated to effect that end; it involves no disputed principles; its details give rise to no embarrassment. It is, however, open to amendment, and, if in its present form it does not meet the approbation of the House, it can be so shaped as to do so.

I will concisely recapitulate the views I have submitted.

I have considered expatriation as a natural right bestowed on man by his Creator—held by no Government or law, but by a tenure superior to both. I have shown from history that it has been so considered at all times, by the wisest, best, and greatest men; that it was freely practised, and clearly admitted, by illustrious nations, ancient and modern—I allude to Greece and Rome, and Republican France; that England is the only country where it is denied; that it is acknowledged very generally throughout the United States; that it is denied by some of our courts, and its enjoyment refused by all; that, as a necessary consequence, if the citizen is to be protected in the exercise of his rights, legislative interference becomes necessary; and finally, that the judges themselves have urged upon Congress the expediency of passing some act on this important and interesting subject. I have nothing more to add—I thank the Committee for the attention they have been pleased to bestow on me.

Mr. ANDERSON, of Kentucky, said, that of the existence of the right, he had no doubt, and that

probably it would not be denied or doubted in the debate. An inquiry, however, into the Constitutional power of Congress to prescribe the mode of enjoying this right, should precede all observations on the policy of the measure or any examination of its operation on the citizen. In stating an opinion that this power was not possessed, he might incur the imputation of being unnecessarily scrupulous, but he felt assured that the standard by which he would measure the Constitution and ascertain its meaning, would not justify such an imputation; that the rules by which he would abide, should be of a character which all should declare liberal and fair. In the spirit of these liberal rules, he did not demand an express grant of power, but would renounce his opinion, if a clause could be shown from which the power of Congress to prescribe the mode in which the citizen should renounce his citizenship could be fairly inferred; or if it could be shown that the exercise of this power was necessary or convenient for the exercise of any other, given either expressly or impliedly.

In maintaining the negative of this proposition, the ordinary benefit of knowing the ground of an adversary was lost; he did not know on what clause its friends would rest for its support; but, although deprived of this usual source of argument, the inspection of the Constitution afforded one incapable of answer: it showed the absence of every clause which could imply or intimate such a power. And it might be as boldly asserted that the bill under consideration was in no way necessary or even conducive to the execution of any of the enumerated powers. Even under this latitude, which is probably greater than, according to correct construction, the friends of the bill could of right demand, it cannot be supported. If, then, the power is not expressly or impliedly granted, and is in no way promotive or auxiliary to the exercise of any other, all question must cease.

Several persons in conversation have urged the opinion that the section which declares that "Congress shall have power to establish a uniform rule of naturalization," conveys or implies a power to pass laws to prescribe a manner of expatriation; but this is an implication surely inadmissible under any known rule of construction. Such an interpretation would support the idea that the grant of an authority to effect one object always conveyed a grant to effect its correlative. Will it be contended that a power to impose duties on imports, conveys a power to impose duties on exports? Or that a power to legislate on the one subject implied an authority in any way to legislate on the other? Does the power to "borrow money on the credit of the United States" contain one to lend money? A construction like this would prostrate common sense and render it necessary that the grant of every power should be accompanied by a prohibitory clause, negating all right to legislate on its converse. But if, indeed, the ordinary rules of interpretation are to be applied, the result will be very different, as the introduction of the one would strongly imply the

FEBRUARY, 1818.

Expatriation.

H. of R.

intended omission of the other. The insertion of the power to naturalize, furnishes evidence, negatively, that the other was omitted from design, and not from inattention. As the general subject was before the members of the convention, if a general power to legislate in both cases had been intended, it may be fairly said that the intention would have been effectuated in the same way. No adequate reason can be assigned for expressing that design in the one and omitting it in the other case. The conviction on the mind is then complete, not only that the power is absent, but is absent from intention. So far, then, from the friends of the bill receiving any aid from this clause, the only admissible inference from its introduction is altogether adverse to their proposition.

But it has been said, that this section declares the opinion of the convention, that a subject or citizen may expatriate himself or renounce his allegiance to the country of his birth. To this, Mr. A. most promptly acceded; it does prove incontestably, that they did not doubt the right. The convention would not have authorized Congress to naturalize the subjects of foreign States, if they had not acknowledged the right of the foreigner to renounce his allegiance to his native country and assume a new one here. A contrary doctrine would lead to the wildest consequences; it would declare that those who had taken the benefit of our naturalization laws were still bound to a foreign dominion; that in the event of a war they would be traitors to their former government, and that this Government would be absolved from all obligation to protect them. The laws which we have passed giving facilities, and of course holding out invitations to the subjects of foreign nations to come and live among us, must be bottomed upon the indisputable right of the foreigner to assume an allegiance to us, and of course to renounce every previous obligation inconsistent with it. Under any other view, our laws inflict the deadliest injury on the unfortunate man who takes the benefit of them. Then, although this clause does in effect contain a recognition of the right of the American citizen to expatriate himself, the mistake arises from not attending to the important distinction between the acknowledgment of a right and the grant of a power to prescribe the manner of enjoying that right. The first is incontestable, both on principles independent of the Constitution and on the recognition virtually contained in the power to naturalize; but the other is in no way conveyed or implied. The policy of granting or withholding the power, may not be so easily seen; and indeed, in cases of plain omission, such an inquiry could only result in useless and perplexing labor. In ambiguous cases, the intention of the lawgiver furnishes a fair means for ascertaining the sense of the rule, but where no doubt can arise on the language, the motive or cause for the omission may be a curious and indeed valuable matter of speculation to the future legislator, but can be in no way beneficial to the correct exposition of the written instrument. Here the introduction of

the power to pass laws on the subject of naturalization arose from the fact, that emigration to our country was common, interesting, and was deemed desirable; that a probation was thought necessary to give a safe assurance that the emigrant had renounced all foreign propensities and was attached to the principles of our Government; that it was also necessary that this probation should be uniform, and finally, that this could only be effected by submitting the subject to the Federal Legislature. In the other case, not one of these reasons could have any operation; any law declaring the manner in which citizenship should be renounced might be thought unnecessary, because, while naturalization consisted of a number of acts created or varied by the municipal regulations of each country, expatriation consists of a single act, a departure from the country with the intention of a permanent abode abroad. This may be a very imperfect conjecture of the reasons which had effect; many others may have existed much stronger than these, but in no way can the result be varied.

A very high authority in support of the opinion, which he maintained, arose from what had in the late edition of the laws been published as the 13th amendment to the Constitution. This amendment had not, he believed, been fully ratified; it had passed through both Houses of Congress with a majority of two-thirds, and had received the sanction of only twelve States; two others have not yet acted on it. But, inasmuch as he only referred to it, as to the opinion of wise men most solemnly given, it was not very material to the present purpose, whether it had received the sanction of twelve or of thirteen concurring legislatures. The amendment is in these words: "If any citizen of the United States shall accept, claim, receive, or retain any title of nobility, or honor, or shall, without the consent of Congress, accept and retain any present, pension, office, or emolument, of any kind whatever, from any Emperor, King, Prince, or foreign Power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them or either of them." The introduction of this article declares the opinion of the highest tribunal in the United States, the only tribunal which can alter or amend the Constitution under which we live, that Congress could not declare the acts which should amount to a renunciation of citizenship; otherwise there would have been no necessity for this last resort. When it was settled that Congress could not declare that the acceptance of a pension or an office from a foreign Emperor amounted to a disfranchisement of the citizen, it must surely be conceded that they could not declare that any other act did. The cases to which their powers before this amendment confessedly did not extend, are very strong, and induce a belief that Congress could not in any case declare the acts which should cause "a person to cease to be a citizen." The want of power in a case like this, where the individual has given the strongest evidence of attachment to a foreign



potentate and an entire renunciation of the feelings and principles of an American citizen, certainly establishes the absence of all power to pass a bill like the present one. Although the intention with which it was introduced, and the title of the bill declare that it is to insure and foster the right of the citizen, the direct and inevitable effect of the bill, is an assumption of power by Congress to declare that certain acts when committed shall amount to a renunciation of citizenship.

If this right of expatriation was given or created by the Constitution, it might plausibly be contended, that we could direct by law the manner of its exercise, but since, as he thought, it depended on principles entirely unconnected with it; and was not enlarged, restricted, or in any way affected by it, he could not assent to the position. Rights which are created by the Constitution, but which are comparatively few, (for constitutions always restrict rather than enlarge them,) can be controlled, and the mode of their exercise prescribed; such are the rights of voting for representatives, or of electing the President. The idea that Congress can pass this bill merely because the citizen has the right, is certainly incorrect; numberless instances may be cited of the underivable existence of the plainest rights about which we cannot legislate; he can alienate or purchase lands, devise his inheritance, or vote for State officers, but Congress can pass no law either to control or secure their enjoyment.

If it be asked what tribunal possesses the authority of declaring the acts which shall amount to an expatriation, I reply, said Mr. A., that the proposition which I endeavored to maintain in this debate only requires that I should show that the Congress of the United States does not possess it. If the power exists in any legislative body, it is in the State Legislatures. Some of them have exercised the power by passing laws; and if a citizen of Virginia has pursued the mode prescribed by the State, an unhappy question, and most vexatious collision, would arise, if the Federal Government should still require his allegiance, and deny the validity of his renunciation, until he had also followed the course prescribed by her, and had submitted to requisitions in addition to those he had previously pursued, and which the statute of his State had declared made him no longer a citizen. And this view of the subject strongly impresses the conviction, that Congress cannot constitutionally act, for surely the authority of declaring what shall disfranchise the citizen of a State, is an authority too great for us to presume its surrender, even if the 9th amendment had not declared that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." So that under every consideration the people or the States form, in this case, the depository of the power, and Congress can have no just claim.

But the absence of all power from the State Legislatures would not vest it in us, and would only leave the subject in a situation possibly more

beneficial to the citizen than any other; and it may safely be asserted that it is at least problematical, whether the right is not better secured, its unrestrained enjoyment more fully assured, by denying to any body the power of controlling, affecting or legislating on it. Various considerations arise to diminish any regret at the want of it. There are indeed many rights which require legislative provisions to enable the citizens to have the full benefit of them: the right of trial by jury, of election, of obtaining "justice without sale, denial, or delay," are all of this kind. But there are many, also, which require no law to give the citizen unqualified and absolute enjoyment of them. The right of assembling to discuss public measures; of petitioning for redress of grievances; the liberty of the press, require no such aid: all they ask, for the freest exercise, is to pass no law; abstain from all legislation on the subject. There are still others of a more delicate character, about which it is not only unnecessary, but dangerous to legislate: the right of worshipping Almighty God according to the dictates of our conscience, is emphatically of this kind. There are many others of the same class. Their perfect enjoyment depends on the entire absence of all legislative control; their very existence consists in a freedom inconsistent with all legislation. But no bill could be passed on this subject, which would not, in some degree, restrict the exercise of the right. Although under the language of the present one, that restriction was very slight, still it was one to the whole extent of the effect of the law. In proportion to the operation of the law, would be the embarrassment produced by it to the exercise of the right; and this would be the case under any phraseology you could adopt, although it might be enacted, as he knew it was intended, to aid and not to embarrass.

But the passage of this bill would establish a precedent, which might produce a consequence utterly subversive of the right; if we can declare that any acts previous to emigration are necessary to produce a valid expatriation, we could at any time alter the present requisition and declare that other acts, more expensive and inconvenient, were necessary, and in this way claim and assert a power, which would enable Congress to require a mode so inconvenient as to amount to an entire denial. If we can require the citizen to make an abjuration in a court of justice, we can as certainly require him to give notice of his intention for one or two years, or any period of time which our policy or caprice may direct. And it is not a slight objection, that any foreign legislature might take advantage of this precedent, set by an American Congress, and declare that no subject could renounce his allegiance, except by complying with forms inconvenient or impossible, and in this way deny, in a manner borrowed from us, what we say can be denied to no one. Do we not invite the British Parliament to pass similar laws? Do we not acknowledge not only their power, but the policy of doing it? If we yield this, then we have yielded everything. It contains an acknowledgment that the citizen or

subject cannot throw off his allegiance to his native government without complying with any regulations, which that government may prescribe. What then is the situation of the unfortunate emigrant, allured to our shores by our naturalization laws? He comes, passes the required ordeal, and becomes an American citizen; but as he has not complied with the previous requisition of the British statutes, the validity of which we recognise by passing this bill and assuming similar powers, he is still bound by his foreign allegiance. We should never adopt any course which could for a moment countenance the idea that those who have been admitted by our laws had not every privilege and safety which the American citizen has.

The emigration, which is rapidly taking place between different States of the Union, has never rendered necessary the passage of any bill for releasing the individual from his obligations to his parent State. His departure with the intention of permanent absence, is considered a forfeiture of all the rights appertaining to him in his character as a citizen of that State; although it might be urged that many cases of ambiguous nature might occur, where there was an absence, but it could not be ascertained with certainty whether it was only temporary or permanent, still no State has deemed any law necessary to declare the acts which should produce a forfeiture of State citizenship.

The situation of a young man arriving at the age which releases him from parental authority, is an analogous case, and may illustrate my idea. The fact of arriving at the age, under the previous general law, which declared the period at which the privileges of a freeman should be assumed, of itself produces the result, and pronounces the emancipation; so, he would consider that the fact of departure, with the necessary intention under the laws, which exist at all times and places, and require no amendment, produced of itself an expatriation.

Mr. A. said he knew that it was on the goodness of our Government and the purity of its administration, that we ought only to rest for safeguards, against any general inclination of the American people to leave our country. Whenever the republican institutions of the country, the freedom of its laws, and the impartial administration of public justice, shall have ceased to preserve their attachment, he would never raise legal fences against their emigration; he would permit them to go wherever better fortunes or fairer destinies invited them. No artificial barrier should be raised to prevent man from seeking his happiness, wherever brighter prospects or a kinder sun invited him. No human institutions should bind him to one country, when his heart and his hopes were fixed upon another. It is not our policy to retain those, who from judgment, caprice, or any other cause, domestic or political, have ceased to be happy and tranquil under the Government. It is not only best for them, but safest for us, that they should go. While he entertained these opinions, and should on all proper

occasions act upon them, he still thought the present bill unnecessary and unconstitutional.

Mr. JOHNSON, of Kentucky, said, that the right of expatriation was recognised by the declaration of our independence in 1776, and founded on the immutable principles of self-government. The act of expatriation was the exercise of the privilege of locomotion, and the seeking our individual happiness without infringing upon the rights of others; it was emigration with a view to abandon our residence and citizenship in one country, for a permanent residence in another. The denial of this self-evident principle was of no modern date; it had its origin in the day of feudal tenures, where men, as tenants, were the property or servants of the proprietors of the soil, which was divided among the chieftains who destroyed the Roman Empire with their innumerable warriors, and the tenants were compelled to take the oath of fealty—the oath to be true to the landlord. From the idea of perpetual fealty or obligations in this case of feudal tyranny, the same ridiculous idea of perpetual allegiance to a particular sovereign or Government was transferred to some of the monarchies of Europe, and particularly recognised and ingrafted into the political system of Great Britain. In the days of antiquity, the times of Grecian and Roman liberty, the idea of perpetual allegiance was unknown, and the right of expatriation not doubted. To me it has always appeared as much a political fiction as the legal proceedings in the name of John Doe and Richard Roe, in the case of ejectments. That fiction has no likeness or parallel but in this case. What, Mr. J. asked, is acknowledged to be the basis of allegiance or duty to our country? Protection. This is the basis; and yet it is pretended by the advocates of perpetual allegiance, that, while, beyond the jurisdiction of that country to which they pretend we owe this allegiance, although permanently settled down and naturalized in any other country, the individual who is out of the protection of his native country still continues to owe that allegiance which would make it treason to be found in the ranks of his adopted country, defending its rights and liberties. Upon this principle, in the late war, Irishmen, and others, who had abandoned their native country, and who had taken up a permanent residence with us here, were treated as rebels and traitors, and sent to England as such, until it was determined by the President of the United States to retaliate upon British officers and soldiers who had been taken as prisoners of war. And, although it is very convenient for kingly Governments to contend for the perpetual allegiance of their subjects, the uniform practice of all nations proves the fallacy and incorrectness of the theory. There is not a nation in Europe which does not permit the citizens and subjects of other Powers to become citizens or subjects of their respective dominions. This general practice proves the correctness of the principle that the right of emigration is immutable and inalienable. Shall we sanction a doctrine that would deprive the sub-



H. OF R.

Expatriation.

FEBRUARY, 1818.

jects of a despotic Government of the right and the power of seeking a country more happy and free? What are the ties that should bind us to our native country? Protection and freedom, liberty of conscience, liberty of speech and of the press, rights of persons and right of property. When these blessings shall not be secured to, and enjoyed by, the citizen, his obligations cease; his Government is no longer worth his regard and support; and he may and should seek an asylum in some more favored spot, and live in the country of his adoption. Indeed, under all circumstances, I contend that the right of expatriation is as sacred a right, as inalienable, as the rights of persons and of property, the liberty of speech and religion. None of these can be limited or controlled, without violating the fundamental principles of freedom. In a Government of laws, and where the political institutions of the country are congenial with principles of liberty, the duties of a citizen, the love of country, moral and religious obligations, the ties of affinity and consanguinity, together with a thousand other considerations, are a sufficient and the only sure guarantee to the existence of free Governments; and we cannot deny the right of emigration to our own citizens, without denying it to Irishmen, Englishmen, and to all other nations on the globe. The doors of this great city of refuge, the United States, would have to be closed against the oppressed and persecuted. And, if the right of expatriation was denied, what would become of the clause in the Federal Constitution which delegates to Congress the power to establish a uniform rule of naturalization? Here, again, we find the principle of expatriation, the power to naturalize foreigners, and to make them a part of the great American family by adoption; and, when settled down among us, they are as much bound by honor, duty, and law, to defend and support the United States, as native citizens, notwithstanding the British doctrine to the contrary, which inculcates the idea that the King of England has a right to the support of his native-born subjects at all times, and in all places, upon the pretence that all such naturalized subjects have a right to the King's protection, wherever located. What protection can England extend to her native subjects when settled and naturalized in the United States, or in any other country? If the British Government had the disposition, what protection can be given by a sovereign of a foreign Government to the naturalized citizen of the United States?

But it was idle to talk of this protection, if it were practicable, when the subject has abandoned his native State, and become a fugitive from every kind of oppression and persecution which degrade the character of mankind; yet this imaginary protection, which denies to him the right of locomotion, of seeking happiness in any clime, and becoming a resident and citizen of any other country, is called the birthright of Englishmen. Protection, said Mr. J., is the basis of political obligation, and, while the citizens of a country, we are bound to defend the soil and

support the Government. But allegiance may be destroyed by acts of oppression on the part of the Government, and the right to protection may be forfeited by the citizen, by the perpetration of crimes which doom him to exile or imprisonment for life. What is the universal practice of nations? Examine the history of Governments. Nations have withdrawn that protection which is the basis of allegiance, by transfers of whole provinces of people to other sovereigns. It was changed by the expulsion of the Moors from Spain; by the voluntary exile of the Huguenots from France; by a revocation of the edict of Nantz; by outlawry, by banishment, by perpetual imprisonment. Individuals have equal rights, and they have, in all ages, exercised them; as communities they have exercised them. In the American Revolution; in the French Revolution; in the present struggle in Spanish America, the right of throwing off allegiance has been exercised. As to individuals, every vessel from Europe gives us evidence of the exercise of this right, and the principle of self-preservation operates in the case. If a subject of Great Britain shall find it impossible to subsist himself and family there, shall he not seek bread in a land of plenty? When the Government to which he owes obligations shall fail in its protection to its members, shall the unfortunate sufferer be deprived of the privilege of seeking protection elsewhere? If denied the right of worshipping God according to his own faith, shall he not seek a land where he can sit down under his vine and fig tree, where none can make him afraid?

But it seems to be doubted whether it be correct to legislate upon this subject, even by those who acknowledge the right of expatriation in its fullest extent. But the judicial decisions of this country against this right make it not only expedient, but indispensable, to point out a mode by which an individual may declare his intention to abandon his permanent residence and citizenship. If you do not this, you jeopardize this vital principle. In one case you place yourself in the power of the court, for here the right of expatriation can alone be tried judicially; and in the other case you place yourself in the power of individuals, who go beyond sea, and who assume or renounce the rights of citizenship, as it may suit them best. If you arraign him for a violation of your neutrality, or of the laws of the country, he denies his citizenship, and claims the right of expatriation. If he is oppressed by foreign nations, he may claim redress as an American citizen, and may have renounced his citizenship. If a citizen violates the laws of the country, let him be punished; if he is oppressed, and his rights disregarded, by a foreign Government, let him be protected. In all these cases what do we propose? To point out a simple mode by which record evidence may be produced of the exercise of the right of expatriation. The individual must go into court and record his intention to renounce his citizenship.

It is as necessary that you should establish a uniform rule of expatriation, and secure the

FEBRUARY, 1818.

Expatriation.

H. OF R.

right, as to establish a uniform rule of naturalization, by which a foreigner may become a citizen by adoption. In our intercourse with foreign nations, it is necessary for the security of the Government, and indispensable to the security of individuals. As well might it be contended that, because the right of property is a sacred right, we cannot secure it by pointing out the evidence of property. If we had no rule of evidence on this subject, the property of individuals would depend upon the discretion of the judiciary; a discretion in which I have confidence, but to which I never will trust the rights of any man when the legislative department can furnish the remedy against an abuse of it. If the citizen has the right of locomotion and of expatriation, who shall prescribe the rule to regulate the exercise of it? Whenever this right is brought into controversy some rule of evidence must be prescribed. This rule must be prescribed by the courts, by the individual, or by the laws. I prefer the establishment of the rule by law, and let the courts and individuals conform to it.

With this view of the case, Mr. J. said, he left the subject to the decision of the House.

Mr. PINDALL commenced his speech by some remarks as to the character and object of the bill. He had once improperly understood its honorable friends as viewing it merely in the light of a regulation affording a record to those who might be interested in proving such an expatriation as might be made without the aid of any new law; but it was now evident that its friends introduced it in order to effect an important change of rights, with regard to their existence or non-existence under our present institutions, else why complain of the decisions of the courts, and imagine, as the gentleman from Louisiana has done, that the evils thus complained of are not to exist after the passage of the bill, or that Jonathan Williams, who was convicted in Connecticut under existing laws, would have been acquitted by the operation of this bill? It is, then, proposed to sever the tie of allegiance. Mr. P. said it was a rule as well of the moral law of nature as of the laws of society, (and therefore might be considered as a maxim,) that an obligation could only be released by the consent of the person who held the right to which it corresponded; allegiance imports an obligation on the citizen or subject, the correlative right to which resides in the sovereign power: allegiance in this country is not due to Congress, but to the people, with whom the sovereign power is found; it is, therefore, by the people only that any alteration can be made of the existing institutions with respect to allegiance. I admit that the people might have conferred this power on Congress, by the Constitution, but join the honorable member from Kentucky (Mr. ANDERSON) in challenging the production of the claim that gives the power or authorizes its inference. The power to establish a uniform rule of naturalization cannot be made to comprehend the power to change the law of expatriation. Naturalization, which con-

fers the rights and obligations of citizenship, is the contrary of expatriation, which divests those rights and obligations. A process of reasoning to show that Congress possessed only the right to naturalize, would authorize the affirmation that it did not possess the right to expatriate, in like manner as any other proposition may be negated by an argument, the conclusion of which arrives at its contrary. Allegiance is fitted to sovereignty, and, whenever we discover sovereignty, we affirm that a correspondent allegiance must exist somewhere. The States of this Union are sovereign, and a celebrated writer of this country has justly said that every citizen sustains a two-fold political capacity first, with respect to the State; secondly, with respect to the United States. I beg leave to ask whether this bill is only to release the expatriated man from his allegiance to the General Government, or from his allegiance to this Government, and to the State government also? To an answer that he stands released from both allegiances, I reply that our power certainly fails, for the allegiance to the State responds to the State sovereignty, over which it is evident we have no control. But if it be answered that he is only to stand released from the allegiance due the United States, and may remain a citizen of the State, I would produce the second section, first article of the Constitution, by which it is provided that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States. This clause would certainly then destroy every effect the friends of the bill are in quest of.

Had the Constitution permitted the passage of this bill, there are no considerations of policy or expediency to recommend it. It would afford a shelter for the traitor and pirate, who might resort to its provisions as a préface to a warfare against their own country, or to enable them to shun the consequences of our treaty with Spain, which treated such of our citizens as should accept commissions to cruise against our allies as pirates; and, although the gentleman from Louisiana, on moving the resolution which gave birth to this bill, condemned that article of the Spanish treaty as a novelty, it seems that similar articles have been inserted in our treaties with several other of the European Powers. The bill, by releasing our citizens from the obligation of treaties, would justly subject this country to an imputation of ill faith. A treaty imposes obligations not only upon the Government, but on all the citizens of the United States. This Government, undertaking to release its own citizens from the obligation of treaties, by pronouncing them citizens or aliens, (at its own pleasure,) would adopt the policy of the dishonest man, who, having bound himself in a bond by his true name, sought to exempt himself from its payment by changing his name. Indeed the attempt bears too strong a resemblance to the instances of fraud against treaties that are so frequently quoted by way of illustration by writers on national law.



H. OF R.

Expatriation.

FEBRUARY, 1818.

The gentleman who introduces this bill is guided by the purest motives; but I must be pardoned for saying that no one will ever avail himself of its provisions without motives of idleness or criminality. What good motive or commendable views can actuate any one who will resort to its purview? My inquiry is not whether an innocent motive will generally prevail in such instances, but whether a good motive can possibly have place in any such instance? If any other country can be pointed out, by the institutions of which naturalization is only permitted in behalf of those who shall have expatriated themselves from the Government of their nativity, it would be manifest that our citizens, who sought a residence in that country, might find an excuse for resorting to the aid of this bill, but I have never heard of that country.

It is not now necessary to discuss the correctness or errors of the common law doctrine of allegiance, which seems to have so little authority with the gentleman from Louisiana; and I am willing, during this discussion, to admit (if gentlemen imagine themselves aided by that admission) that the right of expatriation exists. This concession is made on the presumption that the friends of the bill comprehend under the term *allegiance* an obligation on the part of the citizen to obey all the laws or the commands of the supreme power, and that they wish to inculcate as true, that a citizen, having become naturalized in another country in which he takes his residence, has exempted himself from the municipal power and legislative authority of his native country. But, although he thereby becomes exempted from all obligation to obey the municipal laws of his native country, I would not admit (even for argument's sake) that his native sovereign is under any obligation to treat him only as a common enemy if found in arms against the country of his nativity. I do not derive the right of his native sovereign to treat him with greater severity than as a common enemy, from the terms used in our common-place definition of what is called the social compact; nor do I deduce this right from the notion of his country having conferred a benefit which he can never repay in having protected him in the helpless period of infancy, whilst unable to protect himself. But the relations of society create between its respective members, and with its sovereign, a confidence in which aliens do not habitually participate, and, although a member finally quits the society, he remains bound by ties of gratitude, not to use the means, talents, and information acquired through the favor and protection of his native country, for its injury and destruction; if he does, he palpably violates the duty of gratitude growing out of the former confidence of his sovereign; it is this ingredient which distinguishes treason from other crimes, and distinguishes his act of hostility from the assault of a common alien enemy. Although I yield to the gentleman from Louisiana that I will not set up the doctrine of perpetual allegiance, or that of the English common law, I cannot concur with him in the

opinion that the emigration of our first parents from Paradise, or the Israelites from Egypt, or the practices of ancient Greece or Rome, can afford us any light on the question of expatriation. The removal of our first parents from Paradise was not only with the consent of the only sovereign that presided over their destiny, but was contrary to their own consent; besides, this notion of expatriation supposes a change from the jurisdiction of one sovereign to that of another, and I know the gentleman cannot mean to contend that Adam and Eve on removing to the earth became absolved from the power of their Creator. Again, the removal of the children of Israel from Egypt was with the consent of the Government of that country; indeed, that consent to their expatriation was deemed of such importance as to authorize for its attainment the expense of all the wonders and calamities which were exhibited and inflicted during the correspondence between Moses and Pharaoh. With regard to the practice of Athens and Rome, we have the authority of Plato and Cicero to say, that laws existed in those countries which permitted the emigration of the inhabitants, which laws of course proceeded from the consent of the sovereign authorities. The Constitution of the United States (so often quoted on such occasions) affords but little light on such questions. A man might by possibility be naturalized or receive all the social rights of a native citizen, although relations continued to subsist between him and his former sovereign; for, although an act of Congress speaks of an oath of abjuration, there is no syllable or hint of such an oath to be found in the Constitution. If the assumption of the possibility of retaining a prior allegiance after naturalization had been made, it would no doubt have met the usual objection, drawn from the inconsistency of two allegiances in force at once, by imposing on a man sometimes the necessity of fighting for and against a country. This objection might be obviated, indeed its shape is improper, as it travels from particulars to generals, in striving to arrive at a general principle by an inference from a particular concurrence of circumstances, and this without resorting to the method of induction; or, if the objection is insisted on as legitimate argument, I would oppose it by another argument equally legitimate, and of the same character. Thus, expatriation is unlawful if it imposes an unlawful act; it is unlawful that any man should kill his father; but an expatriated man, placed in the military service of his adopted country, may be forced to kill his father. I acknowledge this argument unsound, because it partakes of the nature of the objection against which it is urged.

Others might combat the objection by observing, that the entangling obligations of allegiance are produced by the acts of the individual, who might therefore abide in the difficulty; to this, however, I would not resort, for it is the weapon of the professors of the English common law, whose authority is not respected by the gentleman from Louisiana. I would, however, ask,

FEBRUARY, 1818.

Expatriation.

H. OF R.

whether an expatriated man could be guilty of a crime by hostilities, when *forced* by his adopted to fight his native country? as an act, to be criminal, must be voluntary. Or, if such hostility be criminal, whether his adopted country can have any moral power to force him to the battle? It may probably be said that the denizen can perform all the duties of two allegiances, during peace, and that either country may employ him during war, inasmuch as it is not unlawful in war to usurp the resources of the enemy. In fine, it might be correct to say, that war is a resort to force and violence, and a suspension of right, from which no inference, with regard to the nature and extent of legal rights can be deduced, and that a person having contracted two allegiances, is placed by war and circumstances over which he has no control, under obligations which are incompatible, in consequence of which one or both of the ties must cease, as has been the case sometimes with penal statutes, where a man, by the concurrence of events, which were not foreseen by the law makers, was compellable, under the terror of penalties, to omit and to perform the very same act; but here again we are only introduced to the difficulty, for the question is, on which side, if either, shall he bear arms in the case proposed? While I disclaim the capacity or disposition to solve so many difficulties, I deem it evident that these and innumerable other questions and inconveniences of awkward posture are the consequences of forsaking the good old tracks of our ancestors. They considered this thing of expatriation as a prejudice, as an evil inflicted for crime, and did not disturb themselves by any solicitude for those who voluntarily submitted to its condition. Whereas the ingenuity of later times seeks to rank this thing among our rights which are to be regulated and secured by statutes. The mover of this bill tells us of the expatriation of ancient times, but he has evidently glided into the common error of modern and popular writers, who confound the notion of *expatriation* with that of *emigration*, and, by proving the right to emigrate, assume the right of expatriation.

Virginia is the only State that has adopted an expatriation law, but she did so under circumstances that do not exist with this Government. She passed the act immediately after her independence was acknowledged. Her citizens had all been subjects of the British Empire, and numbers of them at such an important juncture might have wished a choice to remain the native of either part of the severed Empire. Be the policy what it may, it was then an evidence of magnanimity on her part. That law has probably remained in her code, from some impressions that the adoption of the Federal Constitution made it improper in that State to modify, repeal, or meddle with the subject. While I admit that but little harm has resulted from the Virginia act, I must remark that it has never produced anything desirable, and would, in my estimation, serve better as an ornament to a museum, than as a legislative precedent. But will the bill now

before us be equally innocent with the Virginia act? Will it remain harmless and inefficient? I have too much respect for the talents of the honorable member from Louisiana, to believe that he intends to pass a law to remain a dead letter. When that gentleman girds on his sword, he intends to do and will do some execution, by having a bill that will take effect, and, although I have the utmost confidence in the rectitude of his motives, I must vote against a bill which I think will effect no good, but much evil.

Mr. T. then moved to strike out the first section of the bill.

Mr. LOWMEYER said, he should at this time of the day not long detain the Committee; but, intending to vote for striking out the first section of the bill, he was disposed to assign some of the reasons which induced him to do so. He concurred entirely with the gentleman last up, that no practical benefits could be expected from the bill, and he agreed with a gentleman who spoke before him, (Mr. ANDERSON,) that, if the House were to pass it, they would transcend their Constitutional powers. On some subjects he might not be so scrupulous, as in the present, in adhering literally to the grants of power in the Constitution; but, in acting on a question which, like this, involved the decision as to who shall vote for officers, &c., the House ought to be more than usually scrupulous in the examination of its own powers. It was true, Mr. L. said, that this bill did not propose to give new rights or to take away those which exist, but was introduced with a view of carrying into effect a Constitutional principle, and to secure the free exercise of a right, the existence of which is admitted. But, if the Constitution had intended to give to Congress so delicate a power, it would have been expressly granted. That it was a delicate power, and ought not to be loosely inferred, Mr. L. said appeared in a strong light, when it was said, and could not be denied, that to determine the manner in which a citizen may relinquish his right of citizenship, is equivalent to determining how he shall be divested of that right. The effect of assuming the exercise of these powers will be, that by acts of Congress a man may not only be released from all the liabilities, but from all the privileges of a citizen. If you pass this bill, said he, you have only one step further to go, and say that such and such acts shall be considered as presumption of the intention of the citizen to expatriate, and thus take from him the privileges of a citizen. This view of the subject, Mr. L. said, was very much strengthened by the circumstance referred to by Mr. PINDALL, of the proposition of an amendment to the Constitution which made the act of acceptance of a title from any foreign Government a forfeiture of citizenship. That amendment, though not finally agreed to, had the sanction of two-thirds of the members of both Houses, and of a majority of the States; and this concurrence of opinion showed, as far as the opinion of the community could be expressed, that their opinion is, that questions affecting the right of the citizen were



H. OF R.

Expatriation.

FEBRUARY, 1818.

questions to be regulated, not by the laws of the General or State Governments, but by Constitutional provisions. If there was anything essential to our notion of a Constitution, Mr. L. said, it was this: that while the employment of the physical force of the country is in the hands of the Legislature, those rules which determine what constitutes the rights of the citizen, shall be a matter of Constitutional provision.

In regard to the right of expatriation, it was sufficiently recognised by Congress. After passing laws of naturalization, there could remain no doubt of the acknowledgment of Congress of the principle for which the friends of the bill contended; neither could there be a doubt of the general opinion of the country in favor of it. But it did not follow, that it was necessary, in order to explain this abstract principle, that Congress should go on and declare the circumstances under which and the manner by which the citizen may divest himself of his allegiance. There are innumerable cases of rights, which we do not deny, but should never dream of securing by any act of legislation. We admit the right of rebellion against tyrannical government, and found our revolution and independence on the right of revolt. Yet, Mr. L. said, no one ever thought of passing a law to regulate the exercise of it. In the same manner we admit the right of expatriation, but think no legislation necessary to secure it, even had the Constitution conferred on us the power to pass laws upon the subject.

Though he should still have voted against the bill, yet he should not have risen to oppose it at a moment when the House was fatigued and impatient for the question, if he had not thought the bill more than merely harmless, or unnecessary, or inconvenient. He could see no instance, he said, in which, as it appeared to him, such an act would be employed advantageously to the individual, and for the benefit of the country; but he did see instances in which it might be employed to the prejudice of both. He thought that, in case of conflicts between us and foreign Powers, respecting seamen, for instance, the existence of such a provision on our statute book would produce considerable embarrassment. He supposed several cases, by way of illustration, that of seamen particularly, in which difficulty would be produced by such a law, and which was of itself a sufficient objection to passing it.

In concluding his remarks, Mr. L. said he thought the gentleman from Louisiana had misunderstood the clause of the Treaty with Spain, to which he had alluded. Mr. L. was not, he said, about to defend that clause; but similar stipulations were contained in almost half the treaties of the present century—though he fully concurred with the gentleman in the opinion, that this frequency did not justify them. Did that clause, according to the construction which in practice it had received, mean more than this: That those who serve in the naval or military force of another Power than that of which they are citizens, should not be protected by the nation to which they belong? Mr. L. asked gentlemen

whether, in any case, any country had ever pretended to act on a different principle from this? If an American citizen, for example, engaged in the service of the colonies of Spain, fall into the hands of Spain, he is liable to any punishment in the power of Spain to impose. If, on the other hand, an American citizen in the army or navy of Spain be taken by the forces of the colonies, he, too, has no claim to protection from the American Government. It was true, there was no treaty with the colonies authorizing such a procedure by express stipulation. But, said Mr. L., is there a man in this House, or of the present age in the world, who supposes that, for the want of such a treaty, the colonial authorities would be compelled to respect, as an American citizen, him who took up arms against them as a Spaniard? The fact was, he said, that the clause which had been referred to was a mere sample of the verbiage to be found in all the old treaties; and admitted, more recently, not because there were any peculiar reasons for inserting it, but because there were no particular reasons for excluding it.

Mr. ROBERTSON, of Louisiana, replied at large to the objections of Messrs. ANDERSON, PINDALL, and LOWNDES, and particularly to the remarks of the latter respecting the clause in our Treaty with Spain. It might have been inserted, he admitted, in the manner the gentleman had suggested; but, in the actual posture of affairs, it had a bearing of unjustifiable severity on the Patriots, subjecting our citizens to death (as pirates) being taken in arms against Spain, instead of subjecting them, as citizens of other countries, to the established laws and usages of war among civilized nations, &c.

Mr. CLAY also took the same view of the clause of the Spanish Treaty, and referred to the case of certain persons arraigned for piracy at Boston, as illustrating it.

The Committee then rose, reported progress, and the House adjourned.

FRIDAY, February 27.

Mr. JOHNSON, of Kentucky, presented a petition of John H. Piatt, late a contractor for supplying provisions to the Northwestern army, in the late war with Great Britain, stating that he expended large sums of money for, and sustained various losses in, the public service, for which he cannot obtain remuneration without the interposition of Congress, and praying that an act may be passed for his relief.—Referred to the Committee on Military Affairs.

Mr. NELSON, from the Committee on the Judiciary, to which was committed the bill from the Senate, entitled "An act to alter and amend an act of the 3d of March, 1817, to establish a separate territorial government for the eastern part of the Mississippi Territory," reported the same without amendment, and it was committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An

FEBRUARY, 1818.

Irish Emigrants' Petition—Expatriation.

H. OF R.

act to increase the salaries of the judges of the circuit court for the District of Columbia;" and they have passed the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," with amendments; in which bill and amendments they ask the concurrence of the House.

The bill from the Senate, entitled "An act to increase the salaries of the judges of the circuit court of the District of Columbia," was read twice and referred to the Committee on the Judiciary.

The bill from the Senate, entitled "An act providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes," was read the third time and passed.

The amendments proposed by the Senate to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," were read and referred to the committee appointed on so much of the President's Message as relates to said officers and soldiers.

## IRISH EMIGRANTS' PETITION.

The House having, on motion of Mr. TAYLOR, of New York, proceeded to the consideration of the report of the Committee of the Whole adverse to the petition of the New York Irish Emigrant Society, praying to be allowed to purchase a body of public land in Illinois Territory, on an extended credit, on condition of actual settlement, and paying interest on the purchase money:

Mr. TAYLOR moved to amend the report by striking out the word "not," so as to reverse the report.

On this motion there arose a debate, which continued for four hours, in which Messrs. TAYLOR, JOHNSON, of Kentucky, BALDWIN, FORSYTH, DESHA, COMSTOCK, LIVERMORE, TALLMADGE, and SPENCER supported the petition, and Messrs. ROBERTSON, of Louisiana, J. S. SMITH, POINDEXTER, WILLIAMS, of North Carolina, COBB, and MERCER, opposed it.

The question on this motion was finally taken, by yeas and nays, after a full discussion, and decided: For the amendment 71, against it 83, as follows:

YEAS—Messrs. Adams, Anderson of Pennsylvania, Baldwin, Bellinger, Bennett, Boden, Butler, Clagett, Comstock, Crafts, Crawford, Cruger, Cushman, Darlington, Desha, Drake, Ellicott, Ervin of South Carolina, Floyd, Folger, Forsyth, Fuller, Gage, Hale, Harrison, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Holmes of Massachusetts, Hubbard, Hunter, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Little, Livermore, Merrill, Moore, Murray, H. Nelson, Newton, Ogle, Palmer, Parrott, Patterson, Peter, Porter, Reed, Rhea, Rich, Richards, Sawyer, Sergeant, Silsbee, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Tompkins, Townsend, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Williams of N. York, and Wilkin.

NAYS—Messrs. Abbott, Allen of Massachusetts, Allen of Vermont, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bayley, Beecher, Blount, Boss, Bryan, Burwell, Campbell,

Claiborne, Cobb, Colston, Cook, Earle, Edwards, Forney, Garnett, Hall of Delaware, Hall of North Carolina, Hitchcock, Hogg, Holmes of Connecticut, Huntington, Irving of New York, Johnson of Virginia, Jones, Lowndes, McLane, McCoy, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Morton, Moseley, Mumford, Jer. Nelson, T. M. Nelson, Nesbitt, New, Orr, Owen, Pindall, Pitkin, Pleasants, Poindexter, Quarles, Rice, Ringgold, Robertson of Ky., Robertson of Louisiana, Sampson, Savage, Scudder, Settle, Seybert, Shaw, Sherwood, Simkins, Slocumb, Bal. Smith, Alex. Smyth, J. S. Smith, Stewart of North Carolina, Terrill, Terry, Trimble, Tucker of Virginia, Tucker of S. Carolina, Tyler, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts.

So the amendment was negatived; and the House resolved, according to the report of the committee, that the prayer of the petition is inexpedient, and ought not to be granted.

SATURDAY, February 28.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill for the relief of Thomas Hall Jervey; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT submitted a joint resolution, authorizing the President of the Senate and Speaker of the House of Representatives to close this session, by adjournment of their respective Houses, on the — day of March next; which was ordered to lie on the table.

## THE EXPATRIATION BILL.

The House being thin, a motion was made to adjourn; which was lost—yeas 41, noes 67—and the House then again resolved itself into a Committee of the Whole on the Expatriation bill.

The question under consideration being the motion to strike out the first section of the bill, which was as follows:

*Be it enacted, &c.,* That, whensoever any citizen of the United States shall, by a declaration in writing, made and executed in the district court of the United States, within the State where he resides, in open court, to be by said court entered of record, declare that he relinquishes the character of a citizen, and shall depart out of the United States, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be considered no citizen:

The debate on the bill, and on topics incidentally introduced by some of the speakers, occupied the remainder of the day. Messrs. COBB, McLANE, FORSYTH, CLAY, JOHNSON of VIRGINIA, and ROBERTSON of Louisiana, engaged in the discussion.

Mr. McLANE, of Delaware, said, that after the observations which had been made by the other gentlemen who had preceded him in debate, he would not have intruded himself upon the time of the Committee, but for the purpose of submitting some views of the subject which did not appear to him to have been yet given, and particularly in relation to our treaty with Spain, which had been rendered important in this discussion. He would therefore ask the indulgence of the Committee for a few minutes, while he urged



H. or R.

Expatriation.

FEBRUARY, 1818.

those reasons which would induce him to oppose the bill, and support the motion to strike out the first section. He was aware that this was a very favorite bill with the honorable mover, who, no doubt, anticipated much good from a law of the kind proposed. But, sir, said Mr. McL., if I can succeed in convincing that honorable gentleman that Congress have not the Constitutional power to pass such a law, and that, if they had, it would be inadequate to one very principal object anticipated from it, he will, it is to be presumed, not feel very anxious about its fate.

Mr. McL. said he would not, upon the present occasion, either affirm or deny the right of a citizen to expatriate himself, because he did not conceive it to be necessary to the argument of the particular subject before the Committee. He would content himself with inviting the attention of gentlemen generally to the origin and principles of the right, as it had been assumed, and upon which alone it could exist. This, he said, would be absolutely necessary, in order to ascertain the power by which the exercise of the right could either be controlled or regulated.

The right of expatriation, if it exist at all, is a civil right, commensurate with civil society and civil institutions. In a state of nature such a right could not be known, because, in such a state the relation of citizen and country did not exist. Then the inhabitants of the State were not restricted to any particular spot, or subjected to the control of any community; the wide world was before them, and they were at liberty to roam wheresoever they pleased, and select the place best calculated to supply their wants and comforts, and to change it again whensoever they should think proper, either from interest or caprice. It was not until they united themselves into societies and communities, in which their own self-government was merged in civil institutions, that any restraint would be imposed upon this general freedom. In giving up the liberties of a state of nature, and entering into civil society, they necessarily contracted certain mutual obligations, by which the exercise of their natural rights would be regulated. The individual contracted obligations to his community or country, and the community to him, upon which the safety of all materially depended, and which neither could disregard without jeopardizing that safety. He admitted that the happiness of the individual and the community constitute the objects of the association.

It is only necessary, therefore, said he, for the present argument, for me to insist, and to ask gentlemen to concede, what I apprehend will not be denied, that the exercise of this right must be consistent with these obligations: that a citizen should not abandon his country without good cause, or in the necessary and lawful pursuit of happiness; that he cannot divest himself of his duties to his country in the hour of her peril, nor sacrifice all his obligations to her imminent injury and ruin, and therefore that the exercise of the right should be regulated by rules resulting from the nature and force of civil obligations.

The bill now before the Committee would seem to imply the recognition of these principles. It proposes to make the Government a party to the act, dissolving the tie between the citizen and his country, and to prescribe the terms upon which it will consent to the dissolution. Such a right cannot be a barren one. The power to prescribe rules upon any subject necessarily implies the power of judging of the propriety and extent of the rules.

If, then, Mr. Chairman, said Mr. McL., the exercise of the right of expatriation should be consistent with the essential and fundamental principles of civil obligations, and if any regulation of its exercise is to emanate from the civil power, it should proceed from that power to whom the obligation is due; from the supreme or sovereign power of the state or community of which the citizen is a member, and to whom he owes his allegiance. It is to such a power alone that these obligations have any relation. The question then presents itself, Is the Government of the United States such a power, and can Congress exercise it? I apprehend not.

The powers of the General Government are not absolute, but limited; they are confined to certain specified, enumerated objects, raised for especial purposes. The supreme sovereign power is in the people of the United States, acting through the different State governments. Prior to the organization of the Federal Government, the sovereignty of the States was absolute and complete, and the natural and civil allegiance of the citizen was exclusively due to the particular State of which he was a member. By that State alone could the right of expatriation have been regulated.

In its organization, the General Government was Federal, and not National, and, in the extent of its powers, it is Federal and not National; and the natural allegiance of the citizen to his State is neither absolved nor infringed by his connexion with the Government of the United States. He simply contracts certain duties to the General Government, in no degree inconsistent with his allegiance to the State sovereignty. This is perfectly clear, from the nature of the Government. It was formed not by the citizens of the United States, but by the citizens of the respective States, acting as members of their several political communities, and designed for the protection of State rights. A civil relation thus created to the General Government, never can be construed to abrogate the natural relation between the citizen and his State; on the contrary, we find that this relation is in full force in all essential points. The right of the State to require of its citizens militia services, and subject them to trials by court martials; to inflict punishment for the commission of crimes; to regulate the acquisition of property, and the rules and principles of descent, and, in short, to exercise, almost without limit, an authority over the persons and rights of their citizens; but, above all, to regulate and punish treason against the State. The second section of the fourth article of the Constitution of the Uni-

FEBRUARY, 1818.

Expatriation.

H. or R.

ted States recognised the crime of treason against a State, by providing for the apprehension of the criminal, though I apprehend such a recognition would not be required to render it entirely clear. The capacity to commit treason against the State, results from natural relation between the citizen and its sovereignty, and, though treason may also be committed against the United States, it results more from the express provision of the Constitution, than from any natural relation subsisting between the citizen and the Government. If, therefore, said Mr. McL., a citizen of the United States could be released from his duties to the General Government, he would nevertheless continue a citizen of the State, and his relation to the State government would be even more absolute than it was before. But, sir, as the States have an interest in preserving the obligation of the citizen to the performance of his duty to the United States, it may well be questioned whether the General Government can release him from those duties without the consent of the State. So long as a citizen remains a citizen of a State, a State has a right to require the power of the General Government in aid of his protection, and it cannot withhold it. This is of the very essence of the compact between the States and the General Government. By this compact, the protection of the rights of persons and property is fairly stipulated, and it cannot be dispensed with, in regard to one, without the consent of all. This compact constitutes the citizens of the State citizens of the United States. The relation to the State government was the basis of the relation to the General Government, and therefore, as long as a man continues a citizen of a State, he must be considered a citizen of the United States. I affirm that the Government of the United States cannot withhold its protection from, or dispense with its duties to any man, while he remains a citizen of any individual State, and that any act of the General Government, absolving him from such duties, would be inoperative.

It then becomes an important question, which this Committee must decide, whether Congress can destroy the relation of citizenship between a citizen and a State?

The only powers possessed by Congress are those enumerated in the Constitution, or such as are incidental to the execution of those enumerated. It will not be contended that the power in question is expressly given; it is nowhere to be found in the Constitution; and, as was well remarked by the honorable gentleman from Kentucky, (Mr. ANDERSON,) it is not necessary to the execution of any express power. I cannot discern any reference which it has to either the powers or objects of the Government.

The fundamental object of the General Government being shown to be the protection of the States in their sovereign rights, the measure now proposed would appear to be opposed to the object, since it tends to sever the ties by which the State communities are held together, and puts the citizen beyond the protection of both the State and the General Government. Such a power,

15th CON. 1st SESS.—34

carried to an extent easily conceivable, might interfere, materially, with State rights, and drain the States of their population, against their evident policy, and contrary, perhaps, to their express laws. Sir, I do not know whether such a law as is now contemplated, does not go the whole of this extent; it annihilates the authority of the State over the citizen, without its interposition, at the mere will and pleasure of the individual. It cannot, reasonably, be imagined that the States ever designed to surrender this portion of their sovereignty; it strikes immediately at the root of their existence, and does not in any degree conduce to the objects of the Union.

There is no instance in which the General Government possesses any control over the personal rights of the citizen, in his relation to the individual State. Such is always exclusively the object of State jurisdiction. The instances in which it can exercise a power over the persons of individuals, at all, are few, are confined to their relations to the Federal Government, and expressly defined in the Constitution. But the power of regulating expatriation, implies indefinite supremacy over the personal rights and effects of the individual, in all their relations.

Each State in the Union is a distinct, independent sovereignty, and without some provision to the contrary, a citizen of one would be a foreigner in another, liable to all the disabilities of that situation. It was essential, however, for the great purposes of the Union, that such an inconvenience should be guarded against, and it was therefore declared, that "the citizens of each State should be entitled to all privileges and immunities of citizens in the several States." It was this provision that dictated the necessity of vesting in Congress the power "to establish a uniform rule of naturalization," lest the interests of one State might be jeopardized by an improvident admission of citizens into another. But, even this power of naturalization would not have been possessed, unless it had been expressly delegated. There is, perhaps, nothing more necessary and natural to a sovereign State, than the power of admitting foreigners to the rights of citizenship. It was therefore inherent in State sovereignty, and surrendered for the reason mentioned. But the power of divesting the right of citizenship, and of regulating the exercise of the right of expatriation, is one of a very different character, productive of different and important consequences, equally an attribute of sovereign power, but in no degree connected with the power of naturalization, and therefore cannot be supposed to have been surrendered at the same time. I conclude, therefore, said Mr. McL., that Congress, having no power to destroy the relation between a citizen and his State, cannot, Constitutionally, pass any law that could denaturalize him from the United States.

But, sir, said Mr. McL., if it were perfectly clear, that Congress possess the power, the exercise of it, at this time, and in the manner proposed, would be highly unwise and inexpedient.

He begged leave, in the first place, to remark,



H. or R.

Expatriation.

FEBRUARY, 1818.

that this was a novel attempt. It was not justified by the example of any other nation, nor demanded by any particular reason, at present existing in the affairs of our country, in the condition of our people, or the nature or extent of our population. The reasons should be cogent to require any legislative interposition in such a subject. It would be enough to recognise the right, and leave it to its ordinary exercise. It is one of those delicate and extreme rights which shake the foundations of civil Government. Legislative interference can effect no good, but may produce much harm. The exercise of the right of expatriation looks to a state of things always to be deplored; it pre-supposes some fault in the country deserted, or discontent or disaffection in the member abandoning it. He spoke here of *expatriation*, and not of *emigration*. No man should entirely abandon his country, without good cause, and no country should increase the facilities of doing so, until she was in a situation to dispense with her citizens consistently with the happiness of both parties. By encouraging the practice of expatriation, we strip it of the guards with which its own nature has surrounded it, and not only render it excusable but even fashionable to abandon one's country at any time and under all circumstances. By this bill a man throws off his country, with the same facility that he lays aside his coat, and with little more form or solemnity. The effects of such a system would be to weaken the love of country, so necessary to individual happiness and national prosperity, the great basis of our Republican institutions.

It appeared to him that, in the present situation of the United States, it was our policy to encourage emigration hither, rather than to throw open the door of expatriation from the country. Our immense tracts of unsettled land, and a sparse population, invite the industrious of all nations. Our manufacturing interests are competent to employ more industry than they can command; the labor of our country bears no proportion to the demand, and every sort of skill and industry may find ample and profitable employment. In this situation of things, the inducements with the citizen to remain, are equal to those on the part of the Government to preserve him, and he should be encouraged to pursue them.

Mr. McL. said, the manner and effect of this bill were equally objectionable on the score of expediency.

It turns the citizen at large, upon the world, for all objects good or bad, without home and destitute of a country. It enables him to cut himself loose from the ties of civil life; an enemy to the laws of all nations, entitled to protection from none! It does not require him to go in the pursuit of business or happiness; he is not obliged, first, to select his residence, or become the citizen of another country, but from motives of caprice or ill humor, he at once exonerates himself from every sort of civil obligation. The commission of treason, and the objects of plunder and spoil, are equally legalized by this bill. He may go forth "*hostis humani generis*," and

seek his subsistence by preying upon the property of others. Sir, we cannot pass such a law, consistently with our own dignity as a great nation, or with the duties we owe to the rest of the world. It would be an act of folly to expose our citizen to expatriate himself to the injury of his own country, and a disregard of justice, to permit him to do so to the injury of others. By this bill, a citizen may be reverted to a state of nature. Nay, sir, in relation to the rest of society, to a condition infinitely worse. What is there to prevent such a man from depredating upon his own country, after that country has voluntarily absolved him from all his obligations, without requiring proof of any legitimate object upon his part?

He begged gentlemen to consider to what such a system may lead. By this bill, the restless and enterprising spirits of the country, instead of being directed to industrious occupations at home, are furnished with the means of gratifying the most improvident schemes. They avail themselves of this law, and enter upon a life of plunder upon the ocean; the privateers infesting the seas on our Southern coast may be filled with them. Such a course may not always continue, but it lasts long enough to give them habits and principles of vice inimical to civil life. When the system of plunder can be no longer pursued, what is to become of them? They can find no resting place abroad, and naturally turn back to their repudiated country, to the families and friends formerly deserted, and thus, after sending them forth to be tainted in the schools of depravity and licentiousness, we are compelled to receive them back, to pollute society with their example. It cannot be expedient to pass a law which may be productive of such consequences.

The principal reason which has been mentioned in favor of passing this law at the present time, said Mr. McL., was, in his opinion, the strongest objection that could be urged against it.

It is said that, under our treaty with Spain, a citizen of the United States, taking a commission from the enemies of Spain, is to be treated as a pirate, and, because our citizens are in the habit of embarking in the cause of the South American patriots, we should get rid of the rigor of this treaty, by enabling such as may think proper to go, to cease to be citizens of the United States.

He was not prepared to say how far Spain would be compelled to respect a municipal regulation of this description, but he thought this particular circumstance superadded to our general obligations of neutral justice and policy. The United States, he said, was bound to execute the treaty in good faith, and could not, by any indirect act, evade it. Without this law it is admitted, it would be unlawful for our citizens to engage in the controversy, and they would be liable to be punished if they did. The law is, therefore, to enable them to violate the treaty. We are, by an indirect measure, to dispense with neutral obligations by which we would otherwise be bound. I insist, sir, said he, that, in this way,

FEBRUARY, 1818.

Expatriation.

H. or R.

we become a party to the contest, and injure our faith. He was not hostile, he said, to the cause of these patriots; he wished them success in their struggle; it was an object worthy of success, and if they are capable of enjoying civil liberty and a free Government, he hoped they would obtain them. Nor did he feel any predilection for Spain, certainly he had no reason to entertain any; but he did feel an interest in the honor and reputation of his country, and was unwilling to do an act by which they might be tarnished. He believed there was no necessity to multiply causes of dispute with Spain; they were likely to be sufficiently abundant; but, said he, let us be blameless, let us have nothing wherewith to reproach ourselves. Let us not do covertly what we should be unwilling to do openly and in public. It has been said that this provision in the treaty is void; that Congress alone have the power to define piracy. Then, sir, said Mr. McL., if it be so, there is no occasion for this law to evade it; if the treaty be void, no punishment could follow its violation on the part of a citizen.

Mr. McL. said, he would not stop to discuss the Constitutional question, nor how far Congress would be bound to pass a law, in execution of the treaty; he would merely remark, that the treaty does not define piracy. It is a contract between the United States and Spain, containing a stipulation which the parties had a right to make, and annexing the punishment of a pirate to the violation; but it does not constitute the offence piracy. Much less does it undertake to define the crime of piracy generally. But, at most, the punishment only would be void, which relates to the individual simply; the stipulation upon the part of the Government, would, nevertheless, be obligatory upon the United States.

What he meant to say, was, that, without this treaty, this nation could not, consistently with her neutral obligations, do any act to encourage her citizens to take part in the contest between Spain and her colonies. She could not, perhaps, absolutely restrain them, though they would take the consequences of their own acts. Without this treaty, Spain would have the right to consider a citizen of this, or any other country, privateering against her commerce, under a commission from her colonies, until they have established their independence, a pirate. Under such circumstances, any nation, would so consider him. Spain certainly does not recognise the independence of these colonies; no nation in Europe has yet acknowledged them. Our own Government has not done so, and until the proper branch of the Government has acknowledged them, the judicial tribunals of the country could not so consider them. Their commissions, would, therefore, be void, and the man found plundering on the ocean under them, would be a pirate.

But, said Mr. McL., this bill would not even effect the object which it is intended to answer. It would place the citizen in a worse situation, in this respect, after he had availed himself of the provisions of the law, than before. If Spain would treat as a pirate a citizen of the United

States, found in the service of her colonies, *a fortiori* would she view him in the same light when he could no longer seek our protection. A man, who should take the benefit of this law, and become what may be termed a citizen of the world, would be the victim of any Power, who should please to visit upon him her cruelty or resentment. Let me ask then, sir, what would be the condition of a repudiated American, captured in the service of the patriots? Owned by no country, owing allegiance to none, an outlaw from all nations, and a fugitive from the country of his birth, and what would be his claims to clemency or even justice? If, as to him, the laws of civilized warfare be disregarded, and a cruel arbitrary power be exercised, who is to interfere? Not the nations of Europe, for in his fate they have neither any interest or sympathy; not the United States, for they have voluntarily dissolved their obligation, and committed him to his destiny. I repeat it, therefore, sir, that this bill would not answer the end which has been attributed to it; it would tempt the enterprising to greater danger, and lure the ignorant to ruin!

Mr. McL. said, we were to consider this law as a permanent system, and we should look to the effects it may have upon our own country. Some have already been adverted to; others may be mentioned. It furnishes to the corrupt and profligate a much more easy avenue to escape from the restraints of justice, and from the most ordinary individual responsibilities, than is consistent with individual interests or public morals. The indolent and depraved may, by it, be enabled to throw a numerous family upon the public charity, and escape themselves to the walks of folly and licentiousness.

In a crisis of public difficulty and danger, it may prove very embarrassing to the country. Such a crisis has occurred, and it may, therefore, occur again. In our late war, it became the duty of the nation to put forth the strong arm of its power, and command a large physical force; the ordinary revenues of the country, and liberal pecuniary rewards were insufficient to fill the ranks of our armies, and, had the war continued, it would have been absolutely necessary to have impressed our citizens into military service; gentlemen will recollect, that such a measure was actually proposed. But, should such a crisis ever arise in future, is there no apprehension that many would be found to evade the danger, under the facilities of the expatriation law? When we consider the nature of that portion of society, upon which such a system would most likely fall, the numerous classes of the community unrestrained by the ties of property or the influence of pride, and the powerful disrelish which some men have to military life, it is reasonable to conclude that such, in many instances, would be the case. Let us not then, sir, introduce a system, exposed to such evils, and in a great measure legalizing the commission of them.

Mr. McL. said, that he had not intended, when he rose, to occupy so much of the time of the Committee—he considered the subject of very



H. or R.

Expatriation.

FEBRUARY, 1818.

great importance, and fraught with evils of a most serious magnitude. He concluded by expressing a sincere hope that the first section of the bill would be stricken out.

Mr. JOHNSON, of Virginia, said he felt humiliated by the debate which had taken place on the subject now under deliberation. To hear the old feudal doctrine of perpetual allegiance advocated on this floor, said Mr. J., as it has been by the gentleman from Delaware, (Mr. McLANE;) the doctrine resulting from a system which, from time immemorial, has borne down and oppressed most of the wretched subjects of Europe. A doctrine which was unknown in England, until the reign of William the Conqueror; who, by great art and address, prevailed upon the English people to adopt the feudal system, from which the doctrine of perpetual allegiance sprang.

I had not expected at this period of peace, tranquillity, and prosperity, when it is said that no distinction of party exists, when all are pretending to grow into the Republican fold, to hear the fundamental principles on which this Government rests for its support, questioned, much less denied to exist. Although no person has had the hardihood to deny the right of the citizen to expatriate himself, yet arguments are used, which, if they be correct, go conclusively to prove that the citizen cannot and ought not to enjoy the means essential to the exercise of this right. The gentleman from Delaware (Mr. McLANE) contends that allegiance is a contract between the citizen and the sovereign power of the country, which cannot be cancelled without the consent of both the contracting parties. He then charges the honorable gentleman from Louisiana (Mr. ROBERTSON) with introducing the bill on your table, in order to aid the patriots of South America. I well recollect the introduction of a similar proposition, by the gentleman from Louisiana, during the Thirteenth Congress, and the effect at that time produced on the Federal gentlemen of the House. Our attention is invited by the gentleman from Delaware (Mr. McLANE) to the deplorable situation of the country during the late war. The difficulties we had to encounter in raising an army are described in glowing terms. Our being driven almost to the adoption of a system of conscription is artfully introduced. And we are gravely admonished by the gentleman that if we pass the present bill—in the event of another war, another period of difficulty—to avoid fighting the battles of their country, of asserting its honor, defending its liberty and independence, our citizens will avail themselves of its provisions, and exercise the right of expatriation. Can this be possible, Mr. Chairman? If it be, I hope it is confined to the citizens of the State of Delaware. I am confident that no Virginian would ever abandon his country in the hour of danger, would ever expatriate himself, to avoid fighting her battles, defending her honor, her liberty, and her independence. If, however, there be such an one, I should have no difficulty in fixing his doom; I would furnish him the means of expatriating himself to a region from whence he never should

return. Is there any man who would dare to avow such a principle? No sir. He would shrink from the light like the recreant felon. He would dare not meet the scrutinizing eye of investigation. I hope there is not a square foot of soil within the jurisdictional limits of the United States which nurtures such a miserable and depraved wretch.

What, sir, is the true question for the Committee to decide? Do the citizens of the United States possess the right to expatriate themselves? Has Congress the power to legislate competently on the subject? and is it expedient that a complete and perfect act of legislation shall now take place? I answer that the citizens of the United States do possess the right in the most ample, unlimited, and unlimitable degree. If I be asked from whence I derive the right—I point to Heaven. It is in that great charter by which nature secured to man the right to seek happiness wheresoever he could enjoy it. I would disdain to derive the right from any of the little petty sovereignties or Governments on earth. Does it require any act of the Government to enable the citizen to exercise and enjoy this right? I contend not. The moment a citizen changes permanently his residence, and takes the oath of allegiance to the Government of the country in which he has fixed his permanent residence, he has exercised this right. All claims of the Government which he has abjured cease to exist. But the decisions of our courts are cited—a long case has been read, the case of Jonathan Williams, who had regularly expatriated himself from Virginia, and become a citizen of France, and who was tried and punished by one of our Federal courts. The remedy is at hand. It was an act of tyranny and oppression for which the judge ought to have been impeached. As it respects the right, this is a plain question. No man has, no man will dare openly to deny it. The warmest advocates of the feudal system—the warmest friends of English principles and English law will not deny the right. How does the conduct of England agree with the dictates of her jurists? Two years' service in their navy, *ipso facto*, makes an alien, a foreigner, a citizen of England. Can any Government presume to naturalize foreigners and deny the right of expatriation? Such pretence ought to subject a Government to ridicule and scorn.

But, sir, has Congress the Constitutional power to legislate on this subject? Here, I am sorry to remark, that those who profess Constitutional scruples, as they are called, are treated with derision. It is not the first time that such unfashionable scruples have been thus treated during the present session. The honorable SPEAKER has told us that nine out of every ten questions decided during the present session have produced these qualms and scruples. He very satirically remarked, that he hoped that, in the course of one hundred years, all these doubts and scruples would be settled. I fear they will, sir. A member here has two tribunals to whom he is accountable. He is accountable to his immediate con-

FEBRUARY, 1818.

Expatriation.

H. or R.

stituents for the faithful discharge of his public duties; he is accountable to a different and a higher tribunal, for the discharge of those duties which pertain to his conscience. But, sir, how can Congress, by its act, dissolve the ligament which binds the citizen to the government of his State? destroy the rights of person and property, secured by the government of the State? change the rules of evidence by which the rights of citizens of the same State in the courts of the same State are to be decided? Although I was not on the theatre of public life during the existence of the Stamp Act, which passed during the Administration of Mr. Adams, sometimes called the Reign of Terror, (I think very properly,) I very well remember the excitement produced in Virginia by that act. It was contended to be a violation of the Constitution of the United States, and an infraction of the State authorities, because it changed the rules of evidence by which the rights of citizens of the same State in the courts of the same State were to be decided. Will not precisely the same effect result from the passage of the bill on your table? Put the case that a citizen of a State should regularly pursue the provisions of that bill, in the event of its being enacted into a law, and should expatriate himself from the United States. If the powers of Congress to enact such law be Constitutional, could the citizen, after having expatriated himself, hold real estate in any State within the Union? Should he claim title to real estate, either by descent or purchase, and attempt to assert his title by action, would he not be met by the objection that he was an alien and incapable of taking and holding real estate? That this would be the result is unquestionable. This, then, is a measure which, if adopted, would interfere with the municipal regulations of the States—would be calculated to destroy rights not derived from the Government of the United States, and to discharge obligations not due to the United States. Believing, as I do, that no such power exists in the Congress of the United States, I am constrained to vote in favor of striking out the first section of the bill. But, sir, I hope Congress will not legislate on the subject in such manner as to cast the slightest shade of doubt on this right of the citizen—which I consider perfect and inalienable. Introduce but the doctrine of perpetual allegiance, that baleful scion from the odious stock the feudal system, and you will have tolled the death bell to the liberties of the people of this country.

Mr. McLANE again rose, in reply to Mr. JOHNSON, of Virginia. He said, that he should not again have troubled the Committee with any further remarks, especially in reply to the member (Mr. JOHNSON) who had just resumed his seat, if that member had not been pleased to refer to him and the State he had the honor, in part, to represent. Mr. McL. begged leave to assure that member that he would at all times find the people of Delaware, collectively and individually, ready to assert and defend their rights, and the honor of their country. The conduct of the

people of that State, during the last war, was a pledge of their disposition upon this subject.

Mr. McL. said, he did not refer to the conscription law, with a view of reviving party heat and animosity. He felt too much the importance of the present state of feeling in the country, to disturb it. He believed the prosperity of the nation greatly depended upon a temperate state of parties; and deprecating, as he did, the violence of party heat, he should be the last to revive it, though he should never shrink from an avowal and maintenance of those principles which he had always professed and cherished, whenever a proper occasion should present itself.

In regard to the conscription law, it speaks its own character, and the inference could not be avoided. It was the last resort of the Government, and the ranks could not be filled without it. If soldiers could have been procured for patriotism or money, in any part of the United States, he presumed the Government would not have recommended a measure by which they were to be forced into the service. He did not mean to censure the Government for advising the measure. He believed an occasion might exist when it would be necessary to exert the whole physical force of the nation, and in such a crisis he thought the Government would be justified in using all the means in their power. But, Mr. McL. said, he did insist that the man who would serve his country in the hour of her danger, only by the means of force, would elude that force if he could, even by an expatriation law, and he should not descend to inquire in what State or district in the United States he might be found.

Mr. COBB, of Georgia, said, the object of the bill under discussion was not to change any known law, acknowledged to be in force in the United States. Its object was to declare that the principle of perpetual allegiance, known only to the common law of England, so many of the other principles of which, are in force, has no binding efficacy upon the people of this country. In reasoning upon such a law, said he, it is indispensably necessary that all terms necessarily used should have a definite and clear meaning attached to them.

By allegiance, as it is explained by the judges of our own courts, and as it is defined by those who have preceded me in debate, we mean, "that tie by which the Government and the citizen are connected;" from which protection is promised, and submission expected; protection being the duty imposed upon the Government, and submission upon the citizen, with their corresponding duties. Expatriation is the dissolution of this tie; it is the act of throwing off the character of citizen—of declaring that protection is no longer expected, and consequently claiming to be freed from the duty of submission. The friends of this bill, of which I am one, say that the citizen can, as a matter of natural right, exercise this act of expatriation whenever he pleases, and that of this right no human laws can deprive him. If I understood the gentleman from Virginia, (Mr. PIR-



H. OF R.

Expatriation.

FEBRUARY, 1818.

ALL) even he does not deny the power of the citizen to exercise this right, and yet, in the next breath, he attempted to prove that there was no such right; that there is and must be, in every citizen, a principle of gratitude so eternal in its obligations, as that it cannot be discharged. What is this but the English common law upon the subject? The gentleman has used almost the very words of Sir William Blackstone. He ought also to have adopted the reasons of the same writer, and have traced this gratitude to the principles of universal law, preached by himself only, and which no other can understand. To say this principle of universal law is so utterly incomprehensible, that I have heard of but one thing more supremely ridiculous, and that is, the "immaculate purity of the Spanish monarchy," about which we have learned something from the pen of the Spanish Minister, during the present session. Such a principle of universal law is a vain brother of this immaculacy, and no head but such as could comprehend the latter is able to understand the former. It was to be hoped that doctrines like these were out of fashion; but, like Judge Ellsworth, the honorable gentleman from Virginia cannot dispense with the common law, rather that part of it which does not and ought not to prevail in this country, for the best of reasons, that it is not founded in common sense.

It would not be understood as denouncing the common law; on the contrary, in its genuine principles I find a safe and sure guarantee of the rights of the citizen.

But even in England the absurdity of the doctrine of perpetual allegiance is obvious, because of its inconsistency with other principles equally admitted, and founded in better reasons. England also maintains the doctrine of naturalization. What is naturalization but the act of conferring upon a foreigner all the rights of a citizen, by the acquisition of which he at the same moment imposes upon himself all the duties of a citizen? Can there be such a thing as the naturalized citizen of two States? Can all the duties of the citizen be claimed by two States, each having a right? Certainly not. For the act by which all the rights of citizen are acquired, and all the duties are imposed, necessarily presupposes that the connexion between the individual and any other State is dissolved. Wherever naturalization, then, is permitted, the right of expatriation is admitted; and all measures which have a tendency to curtail this right is tyranny. The creatures of kings, and the slaves of despots, may venture to assert a contrary doctrine, but it ought never to come from the mouths of freemen.

The right being admitted, the next inquiry is, in the manner of its exercise be pointed out by law? Many gentlemen, equally friendly to the principle, doubt the Constitutional power of Congress to legislate on the subject. For myself I entertain no doubt. In my opinion, it is clearly incidental to the power of establishing "an uniform rule of naturalization." It necessarily results from it—it is, indeed, a correlative power. Or, if Congress can establish a rule by which

the rights of a citizen may be acquired, the power to prescribe the rule by which these same rights may be relinquished, is a necessary and unavoidable result. It is an incident, having a direct connexion with the defined power, and growing out of it; the one cannot be conceived without the other. In the case of naturalization, the rule is prescribed by which an act of the individual may be performed. The bill under consideration does no more. It is the simple declaration of the manner in which a voluntary act, in the exercise of a natural right, may be performed. To suppose that Congress have a power to declare to the citizens of other Governments that they can prescribe the manner in which, by the performance of certain acts, citizenship in the United States may be acquired, and that the same Congress have no power to declare the manner in which they may be relinquished, is to me incomprehensible.

But a gentleman from South Carolina (Mr. LOWMEDE) seems to think that our rule of construing the Constitution should be more rigid, in cases where the law to be made is to divest a citizen of his rights. According to my view of this law it has no effect upon the right, other than its admission; it imposes no restraint; it requires the performance of no conditions as necessary to its exercise. It is simply declaratory of a manner of its exercise, leaving to the citizen a discretion of power to do it or not, as he pleases. But the gentleman from South Carolina thinks that the gradation from such a law to a presumption of relinquishment of the right of citizenship, is extremely easy, and therefore that this law is objectionable. The truth is, that at this time we can only arrive at a knowledge of the exercise of this right by such a presumption as he wishes to avoid. It is to remove any difficulties arising from such presumption, that this law is introduced. At present, when a citizen has left the country and entered into a foreign service, or taken the oath of allegiance to some other Government, we presume he has expatriated himself. But even our courts of justice will not receive this as conclusive evidence of the fact. The same gentleman, however, is apprehensive that it may place a citizen in the situation of an outlaw—that is, that he shall be the citizen of no country; that, having relinquished his citizenship in the United States, he will, until he has performed some act by which he becomes a citizen of another Government, be, as it were, a citizen of the world. Was the act of expatriation the act of the Government, the reason would have weight. But when it is considered that the citizen is placed in this situation by his own act, without constraint, it strikes me that this Government should not be very anxious about his fate or his situation. The anxiety and the care of the Government ceases at the moment it is released from the duty of protection.

Another gentleman from Kentucky (Mr. ANDERSON) has supposed this right to be so perfect that Congress cannot legislate upon it. Did no difficulties attend its exercise, I admit there would be no necessity to legislate. But I cannot

FEBRUARY, 1818.

Expatriation.

H. OF R.

conceive that, when there are difficulties, any rights can be so perfect as to render their protection by law unnecessary or improper. The principal design of legislation is to guarantee and to protect these rights when violated. In vain may it be declared that the rights exist, if the manner of their exercise is not pointed out. Equally unfounded is another argument from the same gentleman, that this law would embarrass the right. Did I believe so it should have my negative; but, inasmuch as the law does no more than to point out a plain and easy manner of performing the act, I cannot conceive that the right exercised in that act is embarrassed, especially as the law does not declare it is the only manner.

The honorable gentleman from Virginia (Mr. PINDALL) seems apprehensive that the law will have some effect on State sovereignty. I cannot conceive that it will. Is it possible to become a citizen of the United States without becoming a citizen of some State or Territory at the same moment? I presume not. It is much more certain and evident, that when a person has renounced the character of a citizen of all the States, he cannot thereafter, until naturalized, according to the Constitution and laws of the United States, claim to be the citizen of any State. State sovereignty, then, as retained after the adoption of the Federal Constitution is not affected by this law in any way. But I am more astonished at this honorable gentleman's declaration that no instance of expatriation can be shown. Without pretending to much knowledge of history, I will call the gentleman's attention to three cases. Prince Eugene was a Frenchman, yet he commanded the German armies against France, and was considered a German officer. Marshal Saxe was not a Frenchman, yet he commanded the French armies against his own countrymen, if I am not mistaken. General Patkul was born in the Swedish dominions; it was his misfortune to be taken prisoner by Charles XII, while engaged in war against him. The King of Sweden upon that occasion adopted the English doctrine, and caused him to be put to death, and for that act drew upon himself the execrations of the civilized world.

It remains for me to show the necessity of legislating upon this subject. Had no difficulties arisen heretofore; had this natural right never been denied, no such necessity would exist. But it is the misfortune of the country, that even a change of Government, and forty years of independence, have not been sufficient to eradicate our deep-rooted prejudices in favor of English laws and English doctrines, however incompatible with the principles of our free Constitution. They are manifest even upon this floor, and on this very subject. The common law, in all its provisions, has been the theme of panegyric. As I before observed, I do not deny the benefits resulting from the adoption of such of its principles as are founded in the laws of nature and the reason of mankind, and to such even the Federal Constitution has a due regard. [Mr. Cobb here read the 5th, 6th, and 7th articles of the amend-

ments of the Constitution.] But the right of expatriation has been denied, in express terms. It was denied by Judge Ellsworth, in Williams's case, 2 Dallas 82. [Mr. Cobb read the case at length.] What security, then, is there that this right will not again be denied, or what better evidence can be given that it will be denied than that it has been denied? Other judges have, to be sure, explicitly admitted it, and among those are some of the judges of the Supreme Court. But they have different ideas upon the subject. One takes one view of the subject, concerning which another entertains doubts. One supposes that the right is inalienable. Another cannot go so far. One thinks it may be exercised in time of war. This another denies. One supposes that expatriation absolves from all allegiance, and that the subject of it becomes to all intents and purposes a foreigner. Another cannot go so far. One thinks that removal out of the United States, and taking the oath of allegiance to another Government, is sufficient evidence of the exercise of the right. Another thinks this evidence insufficient. Two of them, however, are explicit in saying there is a necessity for some general law upon the subject. [Mr. Cobb here read many extracts from Johnson's case reported in 3 Dallas, for the purpose of showing the difference of opinion prevailing among the judges, and the necessity of legislating on the subject.] I am sensible, Mr. Chairman, continued Mr. C., that I have trespassed too long upon the patience of the Committee; my thanks are due for the attention they have given me. I cannot, however, dismiss the subject without expressing my earnest wish that this law may be passed. It is due from the nature and character of our Government. The principle of the bill contains an assertion of one of the great rights of man. In this country only are these rights now understood and asserted. Driven from all other parts of the earth, here has liberty erected her standard, and here only has she found a refuge. There is a glimmering of freedom to be sure in the Southern part of our continent, but it is surrounded by the clouds of ignorance and superstition, which I much fear will ultimately extinguish the flame. My hopes are, however, that these fears will be groundless. Need I say that I am willing by all means, consistent with my duty and love for my own country, to aid the patriots of South America in the struggle in which they are engaged? I am of opinion that the passage of this law will contribute to their aid. It will increase the facilities of adding to the strength of their armies, without involving the United States with Spain, under the treaty with that Power. By that treaty we are bound to restrain our citizens from committing hostilities against Spain. We would certainly not be bound to restrain those who are no longer our citizens.

The question was at length taken on striking out the first section of the bill, and decided in the affirmative, by a small majority.

The Committee rose, and reported to the House this decision; and, after refusing to adjourn, or to



H. or R.

Proceedings.

MARCH, 1818.

by the bill on the table, the question was taken on concurring with the Committee in striking out the first section of the bill, (considered equivalent to rejection,) and was decided in the affirmative—yeas 70, nays 58, as follows:

**YEAS**—Messrs. Abbott, Adams, Allen of Vermont, Baldwin, Ball, Barbour of Virginia, Bayley, Beecher, Mount, Boss, Campbell, Clagett, Colston, Cruger, Cushman, Darlington, Drake, Earle, Edwards, Elliott, Ervin of South Carolina, Folger, Hall of Delaware, Hasbrouck, Herbert, Hitchcock, Hogg, Holmes of Conn't, Huntington, Lawyer, Livermore, Lowndes, McLane, W. P. Maclay, Marr, Mason of Rhode Island, Merrill, Middleton, Mills, Moore, Morton, Mumford, Nelson, H. Nelson, Ogden, Ogle, Orr, Parrott, Pindall, Pleasants, Porter, Reed, Rice, Richards, Ruggles, Seudder, Sergeant, Sherwood, Slocumb, A. Smyth, Stuart, of Maryland, Tallmadge, Taylor, Trimble, Wendover, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Massachusetts.

**NAYS**—Messrs. Barber of Ohio, Bassett, Bateman, Bellinger, Bennett, Boden, Butler, Cobb, Comstock, Crafts, Desha, Forsyth, Fuller, Garnett, Harrison, Hendricks, Harkimer, Herrick, Heister, Holmes of Massachusetts, Hunter, Irving of New York, Johnson of Virginia, Jones, Kinsey, W. Maclay, McCoy, Murray, M. Nelson, Nesbitt, Newton, Patterson, Quarles, Rhea, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Sampson, Savage, Sawyer, Seybert, Shaw, Silsbee, B. Smith, Southard, Speed, Spenser, Stewart of North Carolina, Strother, Tarr, Terrill, Tompkins, Tucker of South Carolina, Tyler, Walker of Kentucky, Whiteside, and Wilson of Pennsylvania.

The remaining sections of any bill, after the first is stricken out, have usually been disposed of by a motion of course; but, on this occasion, the procedure was objected to by Mr. JOHNSON of Virginia, and by Mr. ROBERTSON, on the ground that the bill was yet capable of amendment, and might be put into a declaratory shape, or amended in some way to recognise the right (acknowledged by all, but controverted by certain judicial decisions) of expatriation. To whom Mr. LOWNDES replied, that the proceeding now proposed was parliamentary, and would tend to the utter confusion of the proceedings of the House, if sanctioned; since there would be no end to any question, if it could be debated, and solemnly decided, and then again debated and decided.

Before settling this mooted point of order, a motion to adjourn finally prevailed, after being once or twice refused.

MONDAY, March 2.

The SPEAKER presented a memorial of the General Assembly of the State of Kentucky, on the subject of the boundary line between that State and the State of Tennessee, praying for the passage of an act directing the proceedings in the Supreme Court of the United States, by which one State having a subject of difference with another, may have the same legally decided.—Referred to the Committee on the Judiciary.

The SPEAKER also laid before the House a report of the Secretary of the Navy on the petition

of Charles Van Dyke; which was read and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement of the names of persons who have received public money for paying the troops in service during the late war, and who have failed to render their accounts in obedience to a resolution of the 18th ultimo; which was referred to the Committee on Military Affairs.

The SPEAKER also laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting reports of the facts in one hundred and three cases, all of the State of New York, with the evidence accompanying each, taken under a second commission, attended by a special agent on the part of the United States. Referred to the Committee of Claims.

Mr. ROBERTSON, of Louisiana, presented a petition of the General Assembly of the State of Louisiana, praying that the titles to lands generally in that part of the said State formerly comprised within the province of West Florida, may be confirmed.—Referred to the Committee on the Public Lands.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, made an unfavorable report on the petition of Stephen Clapp; which was read, and ordered to lie on the table.

Mr. PLEASANTS, from the Committee on Naval Affairs, reported a bill authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren; which was read twice, and committed to a Committee of the Whole.

Mr. HARRISON, from the committee appointed for that purpose, reported a bill to extend for a further term of five years the pensions heretofore granted to the widows and orphans of the officers and soldiers who died or were killed in the late war; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. T. M. NELSON, the Committee on Naval Affairs and the Committee on Military Affairs were instructed to inquire into the expediency of amending the laws granting pensions to invalids so as to require of the pensioners evidence of a continuation of the disability which entitles them to pensions at the time of each application for the payment thereof, and to provide also that whenever any pensioner shall accept an appointment of profit under the General Government, his pension shall cease.

The SPEAKER laid before the House a letter from the Governor of the State of Maryland, transmitting a resolution of the General Assembly of that State, respecting the selection and appropriation of a site for the monument to the memory of Major General the Baron de Kalb, ordered to be erected by a resolution of Congress of the 14th October, 1780.—Referred to the Committee of Ways and Means.

Several Messages were received from the PRESIDENT OF THE UNITED STATES.

The first of said Messages is as follows:

MARCH, 1818.

Emoluments of Collectors.

H. or R.

To the Senate and House of Representatives of the United States:

The Commissioners of the two Governments under the 4th article of the Treaty of Ghent having come to a decision upon the questions submitted to them, I lay before Congress copies of that decision, together with copies of the Declaration signed and reported by the Commissioners of this Government.

JAMES MONROE.

WASHINGTON, February 25, 1818.

Decision of the Commissioners under the fourth article of the Treaty of Ghent, by Thomas Barclay and John Holmes, Esqs.

Commissioners, appointed by virtue of the fourth article of the Treaty of Peace and Amity between His Britannic Majesty and the United States of America, concluded at Ghent, on the twenty-fourth day of December, one thousand eight hundred and fourteen, to decide to which of the two contracting parties to the said treaty the several islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do respectively belong, in conformity with the true intent of the second article of the Treaty of Peace of one thousand seven hundred and eighty-three, between his said Britannic Majesty and the aforesaid United States of America.

We, the said Thomas Barclay and John Holmes, Commissioners as aforesaid, having been duly sworn impartially to examine and decide upon the said claims according to such evidence as should be laid before us on the part of His Britannic Majesty and the United States, respectively, have decided and do decide, that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do and each of them does belong to the United States of America; and we have also decided and do decide, that all the other islands, and each and every of them, in the said Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do belong to his said Britannic Majesty, in conformity with the true intent of the said second article of said treaty of one thousand seven hundred and eighty-three.

In faith and testimony whereof, we have set our hands and affixed our seals at the city of New York, in the State of New York, in the United States, this twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventeen.

JOHN HOLMES,  
THOS. BARCLAY.

Witness: JAMES T. AUSTIN, Agent, U. S. A.  
ANTH. BARCLAY, Secretary.

Declaration of the Commissioners under the fourth article of the Treaty of Ghent.

NEW YORK, November 24, 1818.

SIR: The undersigned, Commissioners appointed by virtue of the fourth article of the Treaty of Ghent, have attended to the duties assigned them; and have decided that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do each of them belong to the United States of America, and that all the other islands in the Bay of Passamaquoddy and the island of Grand Menan, in the Bay of Fundy, do each of them belong to His Britannic Majesty, in conformity with the true intent of the second article of the Treaty of Peace of one thousand seven hundred and eighty-

three. The Commissioners have the honor to enclose herewith their decision.

In making this decision it became necessary that each of the Commissioners should yield a part of his individual opinion: several reasons induced them to adopt this measure, one of which was the impression and belief that the navigable waters of the Bay of Passamaquoddy, which by the Treaty of Ghent is said to be part of the Bay of Fundy, are common to both parties for the purpose of all lawful and direct communication with their own territories and foreign ports.

The undersigned have the honor to be, with perfect respect, sir, your obedient and humble servants,

JOHN HOLMES,  
THOS. BARCLAY.

The Hon. J. Q. ADAMS, Secretary of State.

The second Message is as follows:

To the House of Representatives of the United States: I lay before the House a report from the Secretary of State, together with the papers relating to the claims of merchants of the United States upon the Government of Naples, in conformity with the resolution of the House of the 30th of January last.

JAMES MONROE.

WASHINGTON, February 28, 1818.

The third Message is as follows:

To the House of Representatives of the United States: I communicate herewith to the House of Representatives a copy of a letter from the Governor of the State of South Carolina to the Secretary of State, together with extracts from the journals of proceedings in both branches of the Legislature of that Commonwealth, relative to a proposed amendment of the Constitution; which letter and extracts are connected with the subject of my communication to the House of the 6th instant.

JAMES MONROE.

February 27, 1818.

The Messages were severally read, and ordered to lie on the table.

EMOLUMENTS OF COLLECTORS.

The SPEAKER laid before the House a report of the Secretary of the Treasury, in obedience to a resolution of the 28th of February, 1817, requiring him to report whether any, and if any, what alterations or modifications are required to be made in the several acts fixing the emoluments of the collectors of the customs, naval officers, and surveyors; which was referred to the Committee of Commerce and Manufactures. The report is as follows:

TREASURY DEPARTMENT, Jan. 8, 1818.

In obedience to a resolution of the House of Representatives of the 28th of February, 1817, requiring the Secretary of the Treasury to report to the House, at their next session, "whether any, and if any what, alterations or modifications are required to be made in the several acts fixing the emoluments of collectors of the customs, naval officers, and surveyors," I have the honor to report:

A general arrangement for regulating the emoluments of the officers of the customs throughout the United States, according to the services which they are respectively required to render, the expenses to which they are subjected, and to other circumstances, calculated to have an influence upon a subject of this nature.



H. OF R.

Expatriation.

MARCH, 1818.

Among these circumstances may be enumerated the relative value of money, and the comparative salubrity of the climate in which they are severally called upon to perform their duties.

Proceeding upon these principles, it will be discovered that the emoluments of the collectors in the Southern States must necessarily be higher than in the Northern, or even in the Middle States.

In fixing the commissions of the collectors of Boston, New York, Philadelphia, Baltimore, Norfolk, Charleston, Savannah, and New Orleans, for the purpose of enabling them respectively to receive the maximum of the emoluments to which they are limited by the existing laws, I have been influenced not only by the circumstances which have been already explained, but also by the consideration that in those ports the whole time and attention of the collectors are equally required for the proper discharge of their duties. The principal difference between them consists in the greater or less expenditure of money in clerk hire, which in all of them will be paid out of the public Treasury. In reducing the commissions of the collectors of the large ports, where considerable surpluses have been paid into the Treasury during the year 1816, due allowance has been made for the excessive receipts of that year. The great amount of the revenue arising from the customs during that year must be constantly kept in view, to avoid the danger of overestimating the emoluments to which collectors of the ports next in grade to those which have been enumerated will be entitled. The receipts from the customs for that year have been ascertained to exceed \$36,000,000; whereas, those of succeeding years are estimated at \$20,000,000. There must, therefore, be made a reduction in the commissions of that year, in the proportion of sixteen to thirty-six, in order to ascertain the commissions for any series of successive years, at the same rate of commission.

Taking this rule of calculation for our guide, I am persuaded that the rate of commission proposed in the statement which accompanies this report will not be considered too great.

In many of the small ports, where salaries are allowed not only to the naval officers and surveyors, but to the collectors, no information is possessed except that which is presented by comparing the gross amount of their receipts with the receipts of other officers of the same class, where revenue to nearly the same amount is secured. This rule must necessarily be imperfect; but it is hoped that the local knowledge of the members of the different sections of the Union may correct the inequalities likely to result from that imperfection.

The strong temptation to smuggling which is presented through the whole extent of our inland frontier, and the small amount of the fees and commissions which are received in the districts into which that line of our frontier is distributed, has, from the best information which has been obtained, rendered it necessary to increase the salaries of the collectors of those districts.

In relation to the naval officers and surveyors of the customs, there can be no difficulty in determining that their emoluments are generally an inadequate compensation for the services which they render.

It is therefore respectfully proposed that the fees of office be generally increased twenty-five per centum upon the rates now established by law.

It is also proposed that the fees received by the col-

lector be equally divided between the collector, naval officer, and surveyor; the naval officer paying one-fourth, and the surveyor one-fifth of the expenses of office-rent, fuel, and stationery of the custom-house.

All of which is respectfully submitted.

WM. H. CRAWFORD.

#### EXPATRIATION.

Mr. JOHNSON, of Virginia, submitted some additional remarks on the subject, and, after expressing the regret he should feel if the House, during a season so auspicious to a candid decision, were, by the course it should adopt on this subject, led to an erroneous construction hereafter of its sentiments on the right of expatriation; and anxious that it should not be dismissed without the declaration of some affirmative opinion thereon, that would prevent such a misconception, moved, by way of amendment, the following substitute for the remaining section of the bill:

"That whereas sundry persons, who had been citizens of the United States of America, and who had exercised the right of dissolving the connexion which bound them to the United States in the character of citizens, by voluntarily and regularly becoming citizens or subjects of other Governments, have been held bound to answer in the character of citizens, in the courts of the United States, for offences alleged to have been committed subsequently to the exercise of this right, and for which citizens only would be amenable in the said courts. And whereas in the Declaration of Independence of the thirteen United States of America, the following truths are held to be self-evident: That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; therefore be it enacted, and it is hereby expressly enacted and declared, that all men do possess the right to seek their happiness in any climate and under any form of government they may elect; and that, consequently, the right to dissolve the connexion which binds the individual to the Government of the United States, in the character of citizen, and to form a similar connexion with any other Government, is equally inalienable, and founded on truth equally self-evident."

Mr. COLSTON, of Virginia, moved that the whole subject be indefinitely postponed.

Mr. WILLIAMS, of North Carolina, said, that as it had been announced from the Chair that the merits of the original bill were now open for discussion, he should venture to trespass on the attention of the House a few moments. He should not, however, occupy more time of the House, than if a limit had been assigned him.\*

When the subject was first introduced by the gentleman from Louisiana, I thought it, said Mr. W., a measure of indifferent concern. It appeared to me equally unimportant whether it was adopted or rejected by the House; for, according to

\* Mr. Williams had requested to be informed by the Chair whether it would be in order to discuss the question first submitted by the gentleman from Louisiana. The Speaker replied that gentlemen might take just as wide a range in the debate as they should think proper.

MARCH, 1818.

Expatriation.

H. OF R.

the impressions then upon my mind, very little good or mischief could flow from it. But subsequent reflection has convinced me that it is a measure of serious importance—that it will be "the direful spring of woes unnumbered" to our country. Hence I am impelled by a sense of duty to offer my views upon the subject, though the attempt will be very much against my previous determination.

What occasion is there for a law such as is now proposed? We have gotten on very well in our national career, without the aid or benefit of any measure of the kind. Our fellow-citizens have improved in the knowledge and practice of agriculture; commerce has spread its sails over every sea, and yielded to the Treasury its valuable returns; manufacturing establishments have sprung up in many parts of the country, and seem to be fixed on a basis not to be shaken; a taste for learning and the fine arts has rapidly advanced. In short, our prosperity is unrivalled and unprecedented in the history of the world. From small beginnings, as a nation, we have grown to be a great, a powerful, and happy people; and all this has happened without the intervention of such a law as is proposed by the gentleman from Louisiana. Mr. W. said, that in his individual as well as legislative capacity, he was always satisfied to do well in the positive degree; that he should not hold himself guiltless were he to attempt to do better, unless perfectly convinced that he should be successful. Will any gentleman undertake to become sponsor for the success of this measure? Will he interpose himself, like a guardian angel, and defend us against all the pernicious effects which may result from the contemplated change in our national attitude? I presume not. Then, sir, I am unwilling to enter on so hazardous an enterprise; I am unwilling to adopt any measure, which, when it is beheld through the vista of futurity—when viewed in all its remote consequences—does not appear perfectly harmless. We now enjoy happiness in a high degree—positive and certain. If we pass this bill, we have no assurance of being rendered more happy, but a probability of being rendered more unhappy. To give a certainty for an uncertainty is at war with all the maxims of common sense in public as well as private life, and this alone would determine me against the bill.

Who wants this bill—the virtuous or the vicious? Let me not be misunderstood, said Mr. W.; when I ask who wants this bill, it is not intended to impute any improper motive to the gentleman from Louisiana, (Mr. ROBERTSON,) or the gentleman from Virginia, (Mr. JOHNSON.) I know these gentlemen too well, not to be convinced that they are incapable of any improper motive. With these gentlemen I am happy to act in concert on most questions before this House. Like them I must on all occasions discharge what I consider to be my duty, and consequently must sometimes differ from them. Therefore I trust it will be considered an honest difference of opinion only, and not a disposition to impute error, when I ask, who wants this bill? The gentle-

man from Louisiana or Virginia do not want—either of them would disdain—to take advantage of it. Does any other honorable gentleman in this House want it? No. Does any honest farmer, planter, merchant, mechanic, lawyer, or physician, want it? No. Every honest man in the country, of whatever occupation or pursuit he may be, would disdain to become the beneficiary of this measure. On the contrary, he would abjure the man who would take advantage of it; he would hold him unworthy of the dignity and blessings attending the condition of a free man—as unfit for self-government, and altogether prepared for the meridian of tyranny. I take it then for granted, that it is not the virtuous, but the vicious (if there be any such) who would avail themselves of the benefits of this measure. Now, sir, is it right that we should legislate for them; that we should pass, for the benefit of the vicious, a law which may involve, if not sacrifice, the interest of every other man in the community? If the interest only of the vicious and abandoned is concerned in the issue of this question, let us stop all further proceedings; for their interest is not worth to the nation one moment of the time of this House.

But if the interests of all classes were concerned, and the measure was thereby rendered an object of national importance, we should be precluded from adopting it for the want of Constitutional power. Mr. W. said he heartily concurred with gentlemen who had taken this exception, because in no part of the Constitution had he been able to discover anything authorizing the exercise of such a power. There were reasons for granting certain powers in the Constitution, and there were other reasons for not granting other powers. The first reason which struck him as being likely to have influenced the Convention not to grant power in this respect, is, that the power of locomotion, or the right of expatriation, is one of those natural and inalienable rights which you cannot regulate without circumscribing it. Well might the convention, under this view of the case, have refused to invest Congress with the power of legislation. It is one of the first laws of our nature that man shall pursue his substantial happiness, his own best good, and, to whatever quarter of the globe he may be invited by his desire for his happiness, or a wish to promote his interest, thither he must be at liberty to go. The Constitution says, all power not delegated to Congress or prohibited to the States, is reserved to the States respectively or to the people. The right of expatriation then must be reserved to the people, as it is not delegated to Congress or prohibited to the States. On no other footing could the convention have left it, because it would have been unsafe to invest Congress or the State Legislatures with a power to regulate or control it. Take, for example, a case, which might frequently happen. You say your citizens shall not expatriate themselves without compliance with certain established forms; they must go before a judge or magistrate and formally renounce their allegiance to the Gov-



H. OF R.

Expatriation.

MARCH, 1818.

ernment of the United States. From this moment, and not before, they are at liberty, by the provisions of this bill, to leave the country. At present every one of our citizens is free to depart whenever he pleases. But, pass this bill and he will be restrained. When he wants to leave the country, perhaps in twenty-four hours, he must travel two or three hundred miles; present himself before the judge or other officer whom you may designate, and formally renounce his allegiance to the Government. In this case, is not the right of expatriation abridged? Is not the citizen circumscribed in the exercise of the right? There are many other ways in which the right may be impaired, or the exercise of it circumscribed by the operation of such a law as the one now proposed. In the instance mentioned, it must be obvious to every one, that, instead of confirming and establishing the right, or facilitating to the citizen the exercise of it, you subject him to restraint and inconvenience.

The framers of the Constitution would also have found inseparable objections, against the exercise of this power by Congress, from the nature of our political institutions. We have a General Government, for general purposes, and State government, for special purposes. Our political system is not complete, it is true, but yet it will be found harmonious in all its parts; anything therefore which tends to interrupt the harmony or destroy the machinery of the system, must be inconsistent with the system itself. The allegiance of the citizen is due not only to the Government of the United States, but to the government of the particular State in which he may reside. It was very satisfactorily shown the other day by the gentleman from Virginia (Mr. PINDALL) that if Congress should pass a law giving to the citizen the power of renouncing his allegiance to the General Government, it would not at the same time enable him to renounce his allegiance to the State Government. Pass this bill, then, and you have presented to you the strange anomaly of a citizen renouncing his allegiance to the General Government, but yet remaining bound in allegiance to the State Government. The Constitution of the United States says "the citizens of any State shall be citizens of the respective States." If you pass this bill, a person may renounce his allegiance to the General Government, but yet he will remain a citizen of the State in which he may reside, and consequently of the United States. It appears to me a strange incongruity, a downright absurdity in politics and legislation, that a man should renounce his allegiance to the General Government, and consequently to the United States, but yet, by the constitution of any State over which we have no control, he should remain a citizen of that State and consequently of the United States. Such absurdity will evince most clearly that the framers of the Constitution never intended that Congress should exercise the power for which the advocates of this bill now contend. But there is another absurdity attending it, still more objectionable and dangerous. The Constitution

of the United States says, the members of Congress in each State shall be elected by the persons qualified to vote for members of the most numerous branch of the Legislature in that State.

In North Carolina every free man who has paid tax has the right to vote for members of the most numerous branch of our Legislature. This, sir, is a great and inestimable right, of which I think we may deservedly boast. The right of suffrage with us is not limited to freeholders alone, as in some States. In the exercise of this right, I hope we never shall be restrained or limited, but at the expense both of our treasure and our blood. I know, sir, that the people whom I have the honor, in part, to represent, never can, nor ever will consent to any limitation of the right of suffrage, as secured to them by the Constitution of their own State, and guaranteed by the Constitution of the United States. They hold it to be an invaluable right, and in its defence they would sacrifice their lives and their fortunes. I also know, sir, that the citizens of that State are honorable and virtuous; that not a man in that community would avail himself of the benefits (if indeed they can be called such) of this measure. But, suppose a citizen of North Carolina should renounce his allegiance to the Government of the United States, according to the provisions of this bill. Suppose he should, notwithstanding that renunciation, choose to remain, bound in allegiance to the State of North Carolina, and consequently a citizen of that State. Although he might have renounced his allegiance to the General Government, and have become a foreigner with regard to the United States, yet he would, as a citizen of North Carolina, be entitled to vote at every election for members of Congress, and to participate fully in all the national concerns. You have then presented to you another strange anomaly, of a citizen participating fully in all the concerns of the very Government which he has renounced, and to which he has solemnly declared he will no longer be subjected. This consequence you cannot preclude; and it is at variance with all our notions of the principles of self-government. We proceed upon the idea that, as our citizens are interested in the Government, they therefore have a right to participate in its concerns. But by the operation of this bill, after any one has renounced the Government; after he has solemnly declared to the world that he has no interest in it, and will no longer be subject to it, he is still allowed to partake of its concerns and share in its management. Such results are inevitable and unavoidable, and prove the impracticability of the measure from which they would flow.

The gentleman from Louisiana (Mr. ROBERTSON) who introduced this bill; the gentleman from Virginia (Mr. JOHNSON) who has advocated it, and all the other gentlemen, who have taken that side of the question, concur in the opinion that the measure is necessary for the good of our fellow-citizens! What, sir! will our fellow-citizens thank us for making them

MARCH, 1818.

Expatriation.

H. OF R.

foreigners? Will they feel grateful for the compliment we pay them in supposing they are so tired of our happy country that they wish to become aliens? Shall we believe that, like children, they are surfeited with sweetmeats, and wish to taste the bitterness of despotism? No, sir, I cannot believe this, for I have already shown that no honorable man in these States, no virtuous citizen of the community, can or will take advantage of any such law, that the vicious and abandoned are the only persons who will avail themselves of its benefits. But, if any respectable class of our society should be disposed to alienate themselves, the fact of their doing so proves the absurdity of the law. You profess to legislate for the benefit of your own citizens, but these benefits convert your citizens into foreigners. You ought to legislate for the good of those who remain in the country and continue citizens; but this law is for the good of those who leave the country and become foreigners. I have always understood that the basis of correct legislation is a reciprocation of benefits; that is, the Government bestows a benefit on the citizen; the citizen in return bestows a benefit on the Government; but, by the operation of this bill, the Government bestows a benefit on the citizen, which benefit converts him into a foreigner, and, *ipso facto*, places him in a situation in which he can make no beneficial returns to Government. Sir, let it not be said again, that in passing this bill we legislate for the good of our fellow-citizens. On the contrary, we legislate them out of political existence in our own country; we convert them into aliens; we legislate for foreigners, and thereby destroy the very basis of all legislation, because we bestow a benefit and receive nothing in return. This is another of those incongruous effects likely to flow from the passage of this bill.

But the principle of the bill is fraught with the seeds of dissolution to all human society. Here, sir, let me not be misunderstood; I have more than once already avowed that I admit the right of expatriation. There is no gentleman in this House a stronger advocate for the right than myself. But I admit it, on the principle laid down in the Constitution, which is consistent with the peace of the world and the good of mankind. The principle assumed by this bill is as unconstitutional as it is inconsistent with the peace of human society, and therefore I object to it.

The gentleman from South Carolina, (Mr. LOWMYER,) when contending against the necessity for legislation on this subject on Friday, said "the right of expatriation was recognised in the Constitution; that the sentiments of the American people in relation to that right were clearly deducible from the provision in the Constitution giving Congress the power to pass uniform laws of naturalization." Sir, I was pleased to hear that gentleman make the observation, because, from the well known acuteness with which he views all subjects, I was satisfied it must have considerable weight in the decision to be pro-

nounced by the House. Subsequent reflection has strengthened the opinion I then formed, and it is with some surprise, I have understood, that doubts are yet entertained as to the distinctness or sufficiency of that provision of the Constitution. To my mind there can be no doubt. The Constitution declares "that Congress shall have power to pass uniform laws of naturalization." The convention would never have delegated such a power, unless it had been *right* in their estimation that it should be exercised. Congress, pursuant to this delegation of power, have passed "laws of naturalization." If it is *right*, then, that such laws should be passed, it is *right* that foreigners should leave their native country, and become the subjects of naturalization according to the laws we may have passed. If it is *right* that foreigners should leave their native country, and become naturalized citizens of the United States, it is unquestionably *right* that they should *expatriate* themselves. The doctrine of expatriation, and the sentiments of the American people in regard to it, are so plainly inferrible from this provision of the Constitution, that it would be a waste of time to enter more at large into this part of the discussion. For certainly no gentleman will say or think that it would be wrong for foreigners to expatriate themselves, when our naturalization laws invite them to do so. It is not necessary, then, that we should pass any law in order to announce more distinctly to the world our sentiments on the subject.

While we all agree as to the right of expatriation; while we admit that it is natural and inalienable, we may yet differ as to the mode in which it is to be exercised, and the time when it is to attach to the individual claiming it. For my part, I think the principle assumed in the Constitution the only safe and correct rule.

The great difference between gentlemen on the other side of the question and myself is this, that they go beyond the principle laid down in the Constitution, while I wish to be confined within its limits. They say that the right of expatriation attaches to the individual upon his leaving his native country; we contend, on the other hand, that the right attaches not upon his leaving his native country, but upon his becoming the citizen or subject of the country to which he may have gone. The difference between us then is as to the point of time at which the right attaches, and not as to the existence of the right itself.

Mr. W. said, he supposed it would be readily admitted that it was necessary every human being should be subject to the laws of some society. We have yet to learn and practise the doctrine, that reason alone is sufficient to restrain mankind. Though some philosophers of the modern school might contend for this, yet, said Mr. W., the experience of mankind in all ages, and the practice of our own Government, will at once refute such idle theory. If men are not the subjects or citizens of some regularly established Government, they will not be controlled by any law. Absolve them from the restraints of law,



H. OF R.

Expatriation.

MARCH, 1818.

and, in lieu of peace, concord, and happiness, you introduce error, contention, and misery. He should then, Mr. W. said, take it for granted, that, for the peace of the world, and for the happiness of mankind, it was necessary that every human being should be the subject or citizen of some Government.

Will any law which you can pass make one of your citizens a British subject? No. This must be done by the British Government itself. England, on the other hand, with her fleets and armies to aid her, could not make one of her subjects an American citizen, without our consent. If an American citizen becomes a British subject, it must be by the operation of British laws; and, if a British subject becomes an American citizen, it must be by the operation of some law of the United States. Should an American citizen settle in England, and become a British subject, we acknowledge he has a right to do so, because he has a right to expatriate himself. But any law which you may pass will be of no avail; it will not enable him to become a British subject. Then the right of expatriation does not attach upon the act of his leaving the United States, but upon the act of his becoming a British subject, according to the laws of the British Empire. So, again, sir, if a British subject chooses to become an American citizen, the right of expatriation attaches to him, not on his leaving England, but on his being naturalized, according to the laws of the United States.

Upon this principle has the Constitution placed the right of expatriation. The framers of that instrument looked with a sort of prescience into the consequences of measures. They saw that it was necessary every human being should be under the wholesome, the salutary restraints of law; that this could not be done if the right of expatriation should attach to a person upon leaving his native land; and therefore the provision of that instrument extends only to foreigners naturalized in our country, and not to citizens who may be disposed to leave the United States. If this bill should pass, and every citizen should expatriate himself, do you know the country to which he will go? Will he by the operation of this bill be naturalized in the country where he may think proper to reside? No. But if this bill is passed into a law, may not any citizen of the United States throw off his allegiance, not only to our Government, but to all other Governments? May he not thus become absolved from the restraints of all law, and rendered a pest to society. If he throws off his allegiance to the United States, and does not become the subject of Spain, Great Britain, France or of any other Government, he will not be controlled by any human laws, and is placed in a situation to annoy the peace of the world without the fear of punishment. Suppose this bill is passed; suppose one hundred citizens of the State of Louisiana should take advantage of it, and should become expatriated and let loose from the bonds of our society, they are citizens to-day, expatriate themselves to-morrow, and on the next day turn pirates in

the Gulf of Mexico, or adjacent seas. There is nothing in the law of nations to define the particular number which shall constitute a separate independent Power. When therefore you send your vessels of war to scour these seas, to capture and bring in for condign punishment those who have been committing depredations on your commerce, what will be the result? If you take them, and are about to punish them as pirates, they meet you with your own act in their hands. They tell you "we are not citizens of the United States; we are not the subjects of any other Government; but yet we are a separate and independent Power: we therefore demand of you 'not to punish us as pirates, but to treat us as prisoners of war.'" Such will be the effects of the measure proposed. If it is right that we should adopt it, is it equally incumbent on other nations to do the same. The advocates of the measure have asserted, as an argument in its favor, that we should endeavor, by adopting it, to take the lead of all other nations in defence of the rights of mankind; that we should set an example to the people of every other country. Then, sir, if all other nations should enact a similar law, (and it is right they should, if we do it,) what must and will be the consequences? The bonds of social order are dissolved; mankind, instead of being subjected to the wholesome restraints of law in regularly established Governments, are converted into so many gangs of banditti, without reason or rule, mutually preying upon other's lives and fortunes. I know, sir, that such consequences are not anticipated, much less intended by the gentleman from Louisiana, (Mr. ROBERTSON,) or the gentleman from Virginia, (Mr. JOHNSON,) and I hope they will not understand me as impeaching their motives, when I say that this measure tends to the most calamitous results. On most other occasions, I am happy to think and act with those gentlemen, but, on this, I must sacrifice my feelings of friendship for them to my convictions of duty. The difference between them and myself is not wide, but is of the utmost importance. They contend for the right of expatriation, and I do the same. It is the point of time when this right attaches to the individual claiming it, that makes us differ essentially. They think the right attaches to the individual when he leaves his native country. I contend the right attaches, not when he leaves his native country, but when he becomes the citizen or subject of the country to which he may have removed; although this difference may appear small, yet it is essential. Their principle tends to dissolve all human society, because it discharges a person from one Government without subjecting him to some other. My principle tends, I think, to preserve the existence of human society, because it will not discharge a person from one Government till he becomes subject to another. Gentlemen will excuse me for repeating that the principle of the bill is contrary to the Constitution; that it tends to dissolve all government, in releasing men from the restraints of law before it is known to what other countries they

MARCH, 1818.

Expatriation.

H. OF R.

may have gone, while on the other hand it may be affirmed that the principle for which we contend is Constitutional; that it preserves the existence of government and the happiness of mankind, in not discharging men from the restraints of one society till they have incurred obligations to another. Let not this difference be construed to mean that we deny the right of expatriation. No such thing; for we differ only as to the time at which the right attaches, not as to the existence of the right itself.

The gentleman from Kentucky (Mr. JOHNSON) has told us that the right of expatriation was deducible from the numerous instances of banishment which have occurred in every age. Sir, I have always understood that banishment was to be considered as the infliction of a punishment; as the forfeiture, not as the assertion, of a right on the part of the individual banished. General Moreau, for example, was banished from the French Empire, and it was certainly a punishment inflicted on him by the constituted authority of France. Even this may be cited as an argument in favor of our position. For General Moreau, when banished, had a right to settle in some country where there was a regular government. The nation to which he was banished was bound to receive him. He was not to be turned loose upon the world, but had a right to live under the laws of regular government. Such rights could not belong to the person banished, if it were not necessary (as I before said) for the peace of the world, and the happiness of mankind, that every human being should live under the restraints of some society.

The gentleman from Louisiana told us this measure was necessary to relieve the United States from the teasing importunities of the agents of Old Spain, now in this country. He said our Government was tormented upon the subject of restraining our citizens from interfering with the contest now raging in South America; but, if we passed this bill, we should not be responsible for the conduct of such as had expatriated themselves, and therefore should hear no more importunate representations on that head. Sir, to my mind, this would be a reason for not passing the bill. We know that the state of affairs between Spain and the United States is at this time very critical. So far from attempting anything to induce collision, it would be our duty to protract that event as much as possible. Sir, the gentleman knows very well that we could not be exempt from liability for the conduct of our citizens. Would not the act itself be with Spain a cause of war against the United States? Suppose we were to pass a law declaring that any of our citizens might invade Spain whenever they thought proper, and plunder and bring off the property of her subjects: would not this be a just cause of war? Suppose, again, that, in order not to be responsible, we pass this bill; that a number of our citizens expatriate themselves, and carry on war against the provinces of South America; how much would this differ from a law expressly and directly authorizing them to invade Spain?

Would it not be doing that indirectly which we would not do directly? Certainly, sir, we should be liable in one case as well as in the other. We cannot legalize plunder and invasion, either directly or indirectly. Every nation is responsible to the society of nations for the laws it may pass. If the laws be such as to interrupt, by their necessary and inevitable operation, the peace and security of other nations, they are a just cause for war against the Power so offending. If the law before us would have any operation, or produce any effect, it must be to permit our citizens to interfere in the contest between Spain and her colonies. It will present to them facilities for that purpose, which they do not now possess. Is it prudent or just, in the present critical posture of affairs between us and Spain, that any attempt of the kind should be made? No, sir: our better course would be to steer clear of any conflict whatsoever, either with Spain or the confederated Powers of Europe. Instead of passing laws giving facilities to our people to take part in their troubles, let us stand aloof; let us rather restrain ourselves within the bounds of reason, justice, and sound national policy.

Many more reasons, said Mr. W., might be assigned against the bill; but, as he had already detained the House longer than he intended, he should conclude with expressing the hope that it would be rejected. He did not intend to occupy so much time, because he thought the discussion was limited. But, having understood from the Chair that the whole subject was open, he trusted he should not be considered as obtruding upon the time or attention of the House, in explaining the reasons which would govern his vote. The subject is an important one; it is important in regard to the abstract principle involved in it; it is more important in relation to the practical consequences likely to flow from it, especially in the existing critical state of affairs between the United States and the Government of Spain. Sir, let us do no act which may tend to disturb the present happy and prosperous condition of our country. Let us adopt no measure which directly or indirectly may accelerate the commencement of war between us and any other nation. The effect of this bill, if passed into a law, will, I fear, be to bring on, to hasten collisions between us and the Government of Spain.

Mr. ROBERTSON, of Louisiana, replied, and spoke briefly in support of the opinions he had previously expressed.

Mr. ABBOTT, of Georgia: Before the amendment was proposed, which is now before the House, I voted for striking out the first section of the bill, because I believed Congress had no power to legislate on the subject. Citizens of the United States have a right to choose the best means in their power to secure to themselves the enjoyment of life and liberty; whether they seek the enjoyment in this or any other country. They can be restrained only by the rights of others. A right to remain in this country, or to remove from it, is intimately combined with those general rights of man which were derived



H. or R.

Expatriation.

MARCH, 1818.

from nature, and which gave origin to this Government. By the exercise of those rights the people devised the Constitution, organized a system of government, and animated it with official power. But while they vested Executive, Legislative, and Judicial power in this organized system, they expressly declared, that they retain to themselves all the rights that are not therein enumerated, viz: "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people."

The people have delegated no power to Congress to define a rule for expatriation. A free exercise of the will in the people, is as unrestrained by the Constitution in relation to expatriation, as it is in relation to their choice of men to fill offices. A right to the free exercise of the human will, on the subject now before the House, is beyond the reach of Congress. It is the gift of God—a right which the people of this country enjoy as free as air, and pure as heaven's blessing. You approach it with unhallowed hands—and were it possible to reach it, the touch would be pollution.

The bill proposes a rule, by which a citizen may absolve himself from allegiance to his country. What is meant by allegiance between the free people of the United States and the Government, is not subject to the interpretation given to it in European States. In England the word allegiance is made to mean a kind of political faith, by which a subject is bound in obedience to the will of his sovereign—and the obligation is considered perpetual and indissoluble. But no such interpretation can be given to it here. In this country the sovereignty of the Government is limited and defined. Its sovereignty is confined to the limited application of power, which the people have delegated in the Constitution to the three great departments; and allegiance, due from the people to this sovereignty, consists simply in their obligation to obey the laws that are constitutionally enacted. All other sovereignty is in the people, which is undefined and undefinable. Allegiance, therefore, in this country, consists in an obligation to obey certain defined powers the people have delegated, and that are exercised by the Government—while all other allegiance consists in obedience to their own will. The powers delegated to the Governmental departments amounts to but "a little brief authority," compared to the rightful powers the people have retained to themselves. I therefore consider the people to have the inalienable right to obey the operations of their own will, in any manner not in violation of acknowledged and constituted authorities; and that Congress is not vested with any authority over the right in question. The amendment proposed by the honorable gentleman from Virginia, appears to possess no other efficiency than a mere declaratory expression of the opinion Congress entertains of the right citizens have in regard to expatriation. This is as far as we can go. I have, therefore, made up my mind to vote for the amendment, because it may have some weight in decisions of the courts on subjects of this sort, when it is expressly under-

stood that the Congress of the United States can recognise no power vested in the departments of the Government, touching the right of expatriation.

Mr. JOHNSON, of Virginia, said, he took great pleasure in assuring the honorable gentleman from North Carolina, (Mr. WILLIAMS,) that he reciprocated most completely all the feelings of regard and sentiments of respect which he had been pleased to express for him.

The gentleman's argument, said Mr. J., has been based on the following objections to the proposition under consideration:

1. That it is calculated to circumscribe the right of expatriation, by requiring persons to attend (frequently at a considerable distance) some officer of the Government, to renounce the character of a citizen.

2. That it is calculated to legislate the citizens out of their rights.

3. That the proposition or substitute contains, within its own bosom, seeds of disease and misery to all mankind.

4. That it is calculated to convert the citizens of the United States into a gang of banditti.

5. That a man does not exercise the right of expatriation by leaving the country—but by becoming the citizen of another Government, as Great Britain.

6. Concludes by a supposition, that a law should pass authorizing the citizens to leave the United States, and commit hostilities against Spain; from which supposition case he derives the most fearful and direful results.

It will be my province to show that no single objection urged by the gentleman is applicable to the question before the House. What, sir, is the question before the House? A merely declaratory provision, calculated to exclude the inference that the Congress of the United States had, by rejecting the bill reported by the honorable gentleman from Louisiana, (Mr. ROBERTSON,) decided against the right of the citizen to dissolve the connexion which binds him to this Government, and seek his happiness in any other country, and under any other form of Government more congenial to his tastes and feelings, or which should meet more completely the sanction of his judgment. The substitute now under consideration prescribes no rule—requires no act to be performed by the citizen preparatory to the exercise of this inalienable right. It merely affirms that to be true, which, in the declaration of our independence, is held not only to be true, but to be truth of that high description which is termed self-evident. That when the right has been exercised, the individual ceases to be responsible in the character of citizen, in the judicial tribunals of the country, for acts which citizens only are bound to answer, and for which alone they are responsible. It does not even fix the rule of evidence by which the exercise of the right is to be tested. It does not even define, or attempt to define what shall furnish evidence, that the individual has exercised the right of dissolving the connexion which bound him to the Government

MARCH, 1818.

Expatriation.

H. or R.

of the United States in the character of citizen—a right which all admit to exist.

Is there any attempt or any provision in the proposed substitute which, by the most strained and tortured construction, can justify the idea that the citizens of the United States are to be legislated out of their rights as citizens? Anything which justifies the idea of converting them into a gang of banditti? Anything in this abstract proposition which merely recognises the principles in your Declaration of Independence, calculated to hold out to your citizens inducements to embark in the cause of the patriots of South America, or to commit hostilities against Spain? Can it be pretended that this declaratory act contains a single feature or provision calculated to authorize the citizens of this country to commit acts of hostility against Spain or any other nation? By what magic is it to convert your citizens into hordes or gangs of banditti? It asserts no new principle. It asserts no principle which any gentleman has had the boldness to deny. It claims no right which all that oppose the measure do not admit to exist; yet the honorable gentleman from North Carolina (Mr. WILLIAMS) has contended that this substitute contains in its bosom the seeds of disease and misery to all mankind. How has imagination conjured up such fearful and dreadful phantoms? This substitute is intended to secure the rich fruit to the people of this country produced from the seed sowed during the Revolutionary war—seed sowed by the hands of patriotism, and watered by the blood of the brave and gallant men who achieved for us a freedom which we seem to fear to enjoy. Why are we to be influenced by the relative situation of Spain and her subjects? Has any foreign Government the right to complain of our municipal regulations—the regulation of our internal police? The moment we shall be prepared to admit this doctrine, we cease to hold the rank of an independent nation. The Government of Spain or any other nation on earth has the same right to complain of our form of government, of our Declaration of Independence, as the Spanish Government or the Government of any other foreign country would have to complain of the enactment of the substitute on your table into a law. Shall we change our Government, abjure the principles contained in our Declaration of Independence, in order to propitiate the miserable fanatic who disgraces the Spanish nation by being permitted to reign over it? The truth is, that the gentleman has mistaken the proposition before the House. His arguments might have had some application to the section of the bill stricken out on Saturday, but are perfectly irrelevant to the question under consideration.

Why so much sensibility, so much dread at approaching this subject? Is there any subject connected with the interest, the prosperity, and the happiness, of the people of the United States, which their Representatives fear to approach? Ought there to be any subject which the Representatives of this enlightened, high-minded people should fear freely to investigate? Yes, sir, there

15th CON. 1st SESS.—35

is one on which freedom is not exercised—religion. From my ignorance of the laws of the other States, I must be permitted to refer to the laws of Virginia. Our temple of liberty is a plain one. It occupies, perhaps the middle ground between the rude pyramids of Egypt, and the more elegant structures of Attica and Palmyra. Still it is commodious, strong, and beautiful. Yet there is scarcely a stone in the building which has not been placed or adjusted by our illustrious and patriotic Jefferson, or which has not received its cement from his hand. There is not a pillar in the temple which was not either reared by him, or which did not receive from him its last finish and polish. There is not a great fundamental right which the people enjoy, which did not receive from him some security to perpetuate its enjoyment, and to extend its blessings. The man against whom the tongue of calumny has sometimes dared to express its impotent rage! But his virtues, his patriotism and fame will live, when monuments of brass and marble shall be crumbled into dust and ashes. They will live as long as virtue shall be revered and civilization shall exist.

Our predecessors did not fear to approach this subject. This illustrious and distinguished patriot and statesman, drew the law of Virginia, defining the mode by which the citizens of that State should exercise the rights of expatriation. We have proved by experience, that test of truth, the operation of the law; from its bosom has sprung no plant to disturb the repose of the people of Virginia, or to cast a shade on the felicity of others.

The honorable gentleman from North Carolina (Mr. WILLIAMS) will pardon me for the comparison, but his speech reminds me very much of the practice of the British Government, as contrasted with its doctrine. His arguments have all been founded on a misapprehension of the question before the House. The lawyers and jurists of England are everywhere fulminating the doctrine of perpetual allegiance, whilst the practice of the Government is in direct hostility with the doctrine; a doctrine which was imported into that country by a foreigner, William the Conqueror, who introduced the feudal system, and with it the doctrine of perpetual allegiance. What has been the practice of the Government, or those who administer it? Have they ever hesitated to make their doctrine yield, on all occasions, to policy? Have they even hesitated to import a king when their policy required it? Who was the grandfather of their present wretched and degraded monarch? Was he not a foreigner? How did he discharge the obligation of perpetual allegiance to his former Government? Are they not in the daily habit of naturalizing foreigners? Two years' service in the British navy, *ipso facto*, makes a foreigner a citizen of England. Are they not perpetually inviting and holding out temptations to artificers, and useful mechanics, to become citizens of Great Britain? But, sir, I will not undertake the ungrateful task of reconciling the inconsistencies of that miserable and deluded



H. OF R.

Expatriation.

MARCH, 1818.

Government—that Government, which has done more to oppress, enslave, and curse mankind, than any other Government on the globe. If all the blood and tears which it has caused to flow, were collected in one grand reservoir, they would float the largest ship in the British navy, with the whole royal family on board.

Mr. LOWNDES spoke much at large in illustration and support of the opinions offered by him previously in the debate, against the original bill, and in reply to various gentlemen who had supported the bill.

Mr. REXA said the respect he owed to the House, made it necessary for him to state the reasons inducing him to vote as he had done, and would do, on every question arising on the subject under consideration. He said it was with hesitation, and a consciousness of inability to treat the subject as it merited, that he attempted to speak respecting it. He was about to walk, as it were, on holy ground; the subject involved considerations of high importance to the peace and happiness of this nation. Being unwilling to give an affirmative vote on any question arising on this subject, he had voted against striking out the first section of the bill: he desired to meet the principle of the bill by a direct vote.

The word "allegiance" has been used in this discussion. The true intent and meaning of that word may not be the same when applied to governments in which an individual is sovereign, as it is when applied to the Government of the United States. In the former it may be said to signify a binding or swearing to one individual chief, who is sovereign, who is said to be the fountain of power, and can do, as they say, no wrong. In the United States this word "allegiance" may be said to mean that solemn obligation, either express or implied, which every individual citizen is bound by to every other citizen; and, the people being sovereign, the obligation or allegiance of every individual, either express or implied, is to the sovereign people, or, in other words, it is that bond of union that unites the social compact, and collects in one integrity the sovereign people of the United States of America.

If a law be enacted on this subject, will it be of any force? The judges of the Supreme Court of the United States may decide in similar cases, as they have heretofore done; they may deem it expedient to take the Constitution into view, and if they do, will such law be efficient? He said he would give no opinion on this point. The judges would, if brought before them, decide this question. The Constitution of the United States is a sublime principle, operating, in every direction, for good, and conferring political happiness on every one who will choose to live under it. He said he frequently desired to have had power to discover the ideas, relative to each clause, had and entertained by the great men who formed it. That discovery cannot be made otherwise than by contemplating the clauses and words of the Constitution; by comparing things existing, and designed to exist, with their opposites and by viewing political good and evil in

a positive as well as in a negative consideration. The Constitution contemplates people and territory; it provides for the augmentation of the people of the United States, but not for diminution; and a diminution not sanctioned is not protected. The integrity of territory is maintained, and may be enlarged, but not diminished; diminution and dissolution seem in this case to be convertible terms. Augmentation of the people is contemplated. Not only that which arises from internal population, but that also which arises by additions from foreign countries, under the power "to establish a uniform rule of naturalization." "New States may be admitted by the Congress into this Union." This declared power intends enlargement of territory, as well as augmentation of people.

The wise men who gave existence to the Constitution could not prescribe limits to the number of the people; but they might by it have prescribed limits to territory. That they did not do. The declaration that new States may be admitted by the Congress into this Union, manifests that their object was an enlargement of territory. Hence, then, may be inferred, that the Constitution provides for augmentation of the people and enlargement of territory, but not for diminution of either. Provision is made for the enjoyment of, and participation in, the rights of civil and religious liberty, but not for a relinquishment of them. To expatriate, to relinquish, to abandon, is not denied; it is left to the operation of free volition, on the ground that the principle of perpetual allegiance does not exist in a republican government, or government of the people.

The Constitution is a free-will offering to the happiness of mankind. "We, the people of the United States," are blessed with it; let us preserve it inviolate. The Constitution invites, and he who will and can, may participate in it, and in the good it communicates; but it leaves the human will free to act under the reason of the perfection of its principles, and says to no one, "Go away." The Constitution prescribes a form of government, strong, powerful, and surpassing in vigor; but, notwithstanding this, civil and political happiness and peace are its objects. It will not be disturbed by a voluntary abandonment of it by any one on whom the sublimity of its principles, the beauty of its perfections, and the happiness it communicates, have no influence. The Constitution contemplates a mighty empire; but that empire is founded on the free volition of the sovereign people. It grasps no one in an iron embrace, but invites to happiness by the persuasion of benevolence.

The Almighty Creator made the earth for man; and as he has divided it into various climates and regions, and as mankind are divided politically and civilly into different governments and institutions, and religiously into several denominations, so every man, in pursuit of happiness, has an inalienable right to determine the country of his residence, the government of his choice, and the religion of his hope and faith; that determi-

MARCH, 1818.

Proceedings.

H. OF R.

nation will rest on the ruling principle of the soul, that exists itself in love of country, love of government, and love of religion.

Mr. ROBERTSON replied at large to Mr. LOWNDES and others.

Mr. EDWARDS stated the reasons which would induce him to vote on this occasion against the indefinite postponement.

The question was then taken on postponing the bill indefinitely, and negatived—yeas 73, nays 88, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Baldwin, Bayley, Beecher, Boss, Claggett, Colston, Cruger, Cushman, Darlington, Drake, Earle, Ellicott, Folger, Hall of Delaware, Hasbrouck, Herbert, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Kirtland, Lawyer, Livermore, Lowndes, McLane, W. P. Maclay, Mason of Massachusetts, Mason of Rhode Island, Merrill, Middleton, Mills, Morton, Moseley, Mumford, Jeremiah Nelson, H. Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Pawling, Pindall, Pitkin, Porter, Reed, Rice, Richards, Ruggles, Schuyler, Scudder, Sergeant, Settle, Sherwood, Slocumb, Alexander Smyth, Stuart of Maryland, Tallmadge, Taylor, Terry, Upham, Walker of North Carolina, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Massachusetts.

NAYS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bellinger, Bennett, Blount, Boden, Bryan, Burwell, Butler, Campbell, Claiborne, Cobb, Comstock, Cook, Crafts, Crawford, Desha, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Fuller, Gage, Garnett, Hale, Hall of North Carolina, Harrison, Hendricks, Herkimer, Herrick, Hogg, Holmes of Massachusetts, Hunter, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Little, W. Maclay, McCoy, Marr, Moore, Murray, T. M. Nelson, Nesbitt, New, Newton, Owen, Patterson, Pleasants, Quarles, Rhea, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Sampson, Savage, Seybert, Shaw, Silsbee, Simkins, Ballard Smith, J. S. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Strother, Tarr, Terrill, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of Kentucky, Wendover, Whiteside, and Wilson of Pennsylvania.

The question recurring on Mr. JOHNSON'S substitute—

Mr. BARBOUR moved to strike therefrom the words "enacted, and."

After some conversation on this motion, it was negatived—ayes 67, noes 76.

Mr. PITKIN made a few remarks against the substitute, and was replied to by Mr. JOHNSON, of Virginia; after which the question was taken on Mr. JOHNSON'S proposition, and decided in the negative: For the amendment 64, against it 77.

Mr. ROBERTSON, of Louisiana, then offered the following substitute to the remaining section of the bill:

"That in all prosecutions which may hereafter be instituted against any person for having engaged in military or naval service for or against any foreign Power, when without the jurisdiction of the United States, who, before the commission of the fact with

which he may stand charged, shall have been a citizen of the United States, but shall have exercised his right of expatriation by becoming a citizen or subject of any foreign State or community by adoption, it shall be lawful for such person to give such fact of expatriation in evidence upon the general issue; and if upon the trial of such person so charged as aforesaid, he shall prove such fact to the satisfaction of the jury, he shall be discharged from such prosecution."

To give time for a little reflection on this new proposition, Mr. TRIMBLE moved that the amendment be laid on the table and be printed; which was agreed to.

TUESDAY, March 3.

Mr. ROBERTSON, of Louisiana, from the Committee on Public Lands, to whom was referred the petition of Charles Smith, a wealthy citizen, who wishes to build a church and school-house at his own expense, if Congress shall grant him the pre-emption right to a certain tract of prairie land whereon to build the same, made a report thereon, expressive of their high respect for the motives and object of the petitioner, but adverse to his prayer on general principles. The report was concurred in.

Mr. SOUTHARD, from the committee on the subject, made a report unfavorable to the prayer of certain persons, who pray to be incorporated for the purpose of trade with certain Indian tribes; which was read and concurred in.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill to incorporate a company to build a bridge over the Eastern Branch of Potomac, from the southern termination of Eleventh street, east, in the city of Washington; which was read twice, and committed to a Committee of the Whole.

The Committee of Ways and Means were discharged from the further consideration of the resolution of the General Assembly of Maryland, respecting the monument ordered to be erected to the memory of Major General the Baron de Kalb.

Mr. REED submitted the following preamble and resolution:

Whereas a resolution was passed by the Congress of the United States, on the 14th day of October, 1780, in the following words, to wit:

Resolved, That a monument be erected to the memory of the late Major General the Baron de Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

"Sacred to the Memory of THE BARON DE KALB, Knight of the Royal Order of Military Merit, Brigadier of the Armies of France, and Major General in the service of the United States of America. Having served with honor and reputation for three years, he gave a last and glorious proof of his attachment to the liberties of mankind and the cause of America, in the action near Camden, in the State of South Carolina, on the 16th of August, 1780, when leading on the troops of the Maryland and Delaware lines against superior numbers, and animating by his example to deeds of valor, he was pierced with many wounds, and on the 19th following expired, in the forty-eighth year



H. OF R.

Duty on Salt—Adjournment of Congress.

MARCH, 1818.

of his age. The Congress of the United States of America, in gratitude to his zeal, services, and merit, have erected this monument."

*Resolved, therefore,* That the foregoing resolution be referred to a select committee, with instruction to report a bill to carry the same into effect.

The question was taken, "Will the House now consider the said resolution?" and determined in the negative.

## DUTY ON SALT.

Mr. LOWNDES, from the Committee of Ways and Means, who were instructed to inquire into the expediency of repealing the duty on salt, made a report against repealing the duty; which was read, and referred to a Committee of the Whole. The report is as follows:

That the letter from the Secretary of the Treasury, with the statement which accompanies it, which they report to the House, explains the principal objections to the repeal of the duty in question, which have induced the committee to concur in the opinion of the Secretary.

TREASURY DEPARTMENT, Jan. 5, 1818.

SIR: In reply to your letter of the 12th ultimo, enclosing a resolution of the House of Representatives, instructing the Committee of Ways and Means "to inquire into the expediency of repealing the law laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" requesting any information or opinion which I may think proper to communicate, and particularly an estimate of the revenue which has accrued from the salt duty in the years 1816 and 1817, I have the honor to submit a statement of the revenue accruing from that duty during the years 1815, 1816, and the first two quarters of 1817, and of the amount paid upon the exportation of pickled fish, as well as of the allowances to vessels employed in the fisheries.

Deducting the bounty and allowances from the gross amount of duty, and apportioning the remainder between the two years and a half, the period within which it has accrued, the annual average revenue arising from that duty is estimated at \$810,016. But as the war prevented importations to any considerable extent during the first quarter of the year 1816, if that quarter should be omitted in the estimate, the annual revenue arising from the duty on salt during the period embraced by the statement would exceed \$900,000. By comparing the revenue of the first two quarters of the year 1817 with that which accrued in the year 1816, it appears that there has been a considerable diminution during the latter period; it may, therefore, be unsafe to estimate it above \$800,000 a year.

The revenue in the annual report of the Treasury has been estimated for the year 1818 at \$24,525,000, including the internal duties, which have been since repealed. The revenue for that and for the next two years may be estimated at \$22,025,000. The expenditures for the same year have been estimated at \$21,946,351 74, which being deducted from the estimated revenue, there would remain a surplus of revenue, beyond the expenditure at present authorized by law, of \$78,643 26.

It therefore appears that, if the salt tax shall be repealed, there will be a deficit in the revenue of more than \$700,000 annually, until the proceeds of the

lands in the State of Mississippi and in the Alabama Territory shall be applicable to the current expenses of the Government. During this interval the deficit will have to be supplied by the balance estimated to be in the Treasury on the 1st day of January of the present year.

As it is uncertain what appropriations may be made during the present session of Congress, beyond those authorized by existing laws, and upon which the estimates of expenditure for the year 1818 are founded, it is impossible to determine whether the balance in the Treasury will be equal to the supply of the deficiency which the repeal of the duty upon salt will create. It may be proper also to observe, that, after paying the interest of the public debt, and reimbursing the old six per cent. and deferred stock, according to the principles of the funding system, the appropriation of ten millions of dollars, constituting the sinking fund, will be unequal to the discharge of the Louisiana debt during the years 1818 and 1819. The deficiency was intended to be supplied from the balance remaining in the Treasury, under the provisions of the act of the last session of Congress, providing for the redemption of the public debt. A reduction of the balance in the Treasury, so as to prevent its application to this object, ought to be carefully guarded against.

I have the honor to be, your most obedient and very humble servant,

WM. H. CRAWFORD.

Hon. WILLIAM LOWNDES,

Chairman of the Com. of Ways and Means.

*Statement showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January to the 30th June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during the same period.*

Duty on Salt:	
From 1st Jan. to 31st December, 1815,	\$855,449 40
From 1st Jan. to 31st December, 1816,	1,100,745 70
From 1st January to 30th June, 1817,	232,183 74
Bounty.	
From 1st Jan. to 31st December, 1815	
From 1st Jan. to 31st December, 1816,	\$586 80
From 1st January to 30th June, 1817,	1,836 20
Allowances.	
From 1st Jan. to 31st December, 1815,	\$1,811 74
From 1st Jan. to 31st December, 1816,	84,736 26
From 1st January to 30th June, 1817,	76,786 43

TREASURY DEPARTMENT,

Register's Office, Decem. 18, 1817.

JOSEPH NOURSE, Register.

## ADJOURNMENT OF CONGRESS.

The House then, on motion of Mr. SERGEANT, proceeded to the consideration of the proposition, submitted by him a few days ago, contemplating the adjournment of Congress on the — day of March instant.

Messrs. SERGEANT, BASSETT, GARNETT, and JOHNSON, of Kentucky, supported this proposition generally, on the ground that the session had been already so far prolonged, as that the business which had been transacted bore no proportion to the length of the session; that, unless some certain limit were fixed to the session, the business of the House would progress with no greater despatch, and that at last, let it be never

MARCH, 1818.

Georgia Militia Claims.

H. OF R.

so far extended, much would be left undone that ought to be done; that sessions of such length are not necessary in time of peace, in the transaction of ordinary business; and that it was natural for men to relax in any pursuit, of business or of duty, to which a termination is not fixed, and proportionably to accelerate their progress when approaching the certain termination of their labors.

To which course of reasoning Messrs. LOWNDES, SIMKINS, HARRISON, PITKIN, TUCKER, and TAYLOR replied in substance, that the best way to avoid the public censure, which gentlemen had deprecated, was not to adjourn before the business was done, but to hasten its progress to completion, and thus remedy the evil that was complained of; that it was utterly impracticable to adjourn within the time proposed, without wholly overlooking much of the business now on the table, some of which had been already for years before the House, and which the present was a peculiarly proper time for acting on; that, as to the comparative length of the present and former sessions of Congress, it was a fact that there had been before one of the committees of the House at the present session, more business than there was ten years ago before all the committees of the House together; that, on general principles, it is inexpedient to tie up the two Houses to adjourn at a given day, since, of necessity, the business transacted within the last days of sitting must be inconsiderately done, and frequently attended by serious mistakes, &c.

Among other motions made on this subject was one to postpone the further consideration of the resolution to the first Monday in April next, which was negatived.

A motion was made by Mr. HERRICK to amend the resolve, so as to fix on the 20th of April as the day of adjournment, and this motion was negatived.

Mr. HOLMES then moved to amend the resolve, so as to fix on the 10th day of April for adjournment.

On this motion the yeas and nays were ordered.

Mr. TAYLOR then renewed a motion, which had been twice before negatived, to lay the resolve on the table, with the view of allowing him time to offer a motion for appointing a committee to inquire into the subject, which he and Mr. LOWNDES contended, being the usual mode, was the proper one in this case.

The motion to lay the bill on the table was at length agreed to by a vote of 81 to 78; and Mr. TAYLOR, of New York, offered for consideration the following resolution:

*Resolved,* That a Joint Committee of both Houses be appointed to consider and report when the present session of Congress may be terminated.

The resolution was read once, twice, thrice, passed, and sent to the Senate for concurrence.

## GEORGIA CLAIMS.

The House then resolved itself into a Committee of the Whole, on the bill authorizing the pay-

ment of certain claims of Georgia militia, for services rendered during the years 1793-14.

Mr. CONN spoke at some length, recalling the attention of the House to the observations he had made at an early period of the session in support of this claim, and adducing some further arguments drawn from facts not in his possession when he first expressed his views of the subject.

Mr. TERRILL, of Georgia, addressed the Chair as follows:

Mr. Chairman, I will detain the Committee a short time, by making some observations on the bill before you, making compensation for services rendered long since by the Georgia militia. I was one of a select committee directed to inquire into the nature of the claims for which that bill is intended to make provision, which inquiry has resulted in the conviction of their justice. It becomes, therefore, my duty, under this impression, and especially so, as one of the immediate representatives of those who hold these claims, to show the Committee the grounds upon which this opinion is founded.

I am aware, sir, that the strength of these claims is diminished, by the length of time which has elapsed since the performance of the services; I am also aware that they have to contend with prejudices, very naturally rising up in opposition to them, from the fact of their having been acted on more than once by Congress. These are objections, however, which are not substantial; and, if I may judge of the future by past acts of justice and liberality, they will have but little weight with this Committee.

From an examination of the documents which have been collected and offered to the Committee, I think it will appear most clearly that the services of the Georgia militia, as stated by the present applicants, were necessary for the safety of the State; were rendered under the direction of the General Government; and are entitled to compensation by the General Government. I will attempt to simplify the investigation of these claims, by considering them in two points of view.

Was the Governor of Georgia authorized to call out the militia of the State for its defence, with discretionary power? Was this power used beyond the necessity?

And I apprehend, if it shall appear that authority was delegated to the Governor of Georgia, for the purposes of defence, and that the necessity existed for the exercise of this power, there will arise no objection to the passage of the bill on your table. Before I attempt to show that the Executive of Georgia was empowered by the General Government to call out the militia, I will advert transiently to the situation of the United States in regard to the Indian tribes, near the time when the services were performed, for which compensation is now claimed; and to the laws passed by Congress to authorize the President, in case of danger, to call out the militia of the States.

From the termination of the Revolutionary



war, to the period alluded to, and, indeed, for some time after, all the nations of Indians on the frontiers of the United States were restless, disposed upon the least excitement to hostility, occasionally making inroads upon the frontier, and committing murders; and with some of them there existed a state of actual war. To such an extent was this disposition manifested, and so serious was this war, that in one of the letters of the Secretary to the Governor of Georgia, he assigns it as the reason for not affording protection to the State by the regular troops. And it is to be recollected, that some of these wars were waged with great perseverance and fierceness, by an enemy no way contemptible, and against whom success, though eventually certain, was not determined by a single battle.

All the acts of Congress passed from 1789 to 1795 to authorize the Executive to call out the militia, for national purposes, give especial authority to repel invasion from Indian tribes; and the degree and extent of the danger made it constantly necessary that the militia should be used. The number of the acts, and the different times at which they were passed, having expressly in view the protection of the frontier, show conclusively its exposed situation. I believe it will not be said that any part of the frontier of the United States was exempt from this exposure. From Canada to the southern boundary of Georgia, a line only of territorial demarkation separated the inhabitants from Indian lands and Indian neighbors.

I will bring to the recollection of the Committee some of those acts having immediate relevance, and from which, through the medium of the Executive of the United States, the Governor of Georgia derived his authority. In September, 1789, April, 1790, March, 1791, March and May, 1792, acts were passed to enable the President to afford protection and prevent invasion, from the Indians, by the militia, or to call them out in case there was imminent danger of invasion.

I will now inquire, from the documents, if the Executive of Georgia was authorized to call out the militia whom we now ask you to pay? In the year 1792 the Governor of Georgia had made frequent communications to the Executive of the United States, on the subject of Indian hostility, and towards the close of it the appearances of danger had so multiplied, as to make reparation for defence absolutely necessary. In answer to a communication to the War Department, for that purpose, a letter, dated October 27, 1792, to the Governor of Georgia, contains the following instruction: "If the information you may receive shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof, as may be in your power, and which the occasion may require."

In consequence of this unlimited power, and upon facts sufficiently strong, the Governor informed the agent of the United States (Mr. Habersham), that "the very critical situation to

which the frontier settlers are reduced, from the late murders and depredations committed by the Indians, it is rendered indispensably necessary that means be taken to guard against their inroads. He is, therefore, requested to furnish rations for the militia whom he had then called out for that purpose."

I ask, sir, if the recited paragraph does not give powers altogether ample? And if the facts then in the knowledge of the Governor were not sufficient to justify the measures taken to call out the militia? What kind of proofs would you have required of hostile designs? To what extent would you have allowed this disposition of the savages, thus manifested, to have been carried before you would have thought it necessary to use your power?

The instructions from the War Department, next after those of the above letter, are in the communication of the 30th May, 1793, in which the forces intended for the defence of Georgia are designated, and are of a different description, and less in number than those employed by the Executive; for the reason that "it did not yet appear that the whole of the Creek nation were disposed to hostility, or to engage in war." And how much reliance is to be placed on the appearances given by Indians even of friendship? But allow that the whole of the nation were not actually engaged in war, or disposed to do so, their numbers were such, that one-half, or one fourth, would have made it necessary to have employed more than one hundred foot and one hundred horse, the limit of the provision in this letter. It is acknowledged that this letter limits the power of the Governor, in the forces to be employed, to the number above mentioned; unless it may be necessary for him "to resort to the Constitutional provision to which he is referred in case the State of Georgia should be seriously invaded by large bodies of Indians;" an occurrence which it seems to me would have rendered the reference unnecessary, and the power therefrom derivable, useless. It is useless, indeed, in Indian warfare, to wait for an invasion before you call out your forces for protection. But, sir, I apprehend the State governments have the power to use their forces, and make every preparation for defence, without waiting for an invasion.

These instructions, however, could not have reached the Governor, or have been acted on, before others were given. On the 10th of June, in consequence of information received at the War Department, the Secretary, by order of the President, constitutes the Governor of Georgia the sole judge of the danger, its probable duration, and recognises the forces already called out. He says: "The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable. You are the judge of the degree of danger and of its duration, and will undoubtedly proportion the defence to exigencies. The President, however, expresses his confidence that as soon as the danger, which has induced you to

call out so large a body of troops, shall have subsided, you will reduce the troops to the existing state of things; indeed to the number mentioned in my letter of the 30th ultimo, duplicates of which have been forwarded; provided the safety of the frontiers will admit the measure." This letter of instructions surely needs no comment. But, sir, on the 19th July, the Executive of Georgia received a despatch from the War Department, referring him to the letter of 30th May, for instruction as to the number and description of forces to be employed, and observes: "It is to be hoped, from no information having been received of any late depredations of the Creeks, that they may be brought to a sense of their crimes, and be prevailed upon to give up at least some of the authors thereof." It will be perceived by the Committee, that this letter of instructions is founded upon the supposition that the danger had diminished, because no information had been received of any late depredations of the Creeks, and could have been intended to give direction to the course of the Executive only upon that fact. The reason why no depredations had been recently committed, may be easily explained, without supposing any change in the disposition of the Creeks. The very forces which were then in service operated to prevent them.

But, upon comparing this letter with the instructions of the 22d February, it will appear that it was not intended to affect the discretionary power of the Governor of Georgia, and that it had been so considered; for the Secretary of War, of the above date, referring to this body of militia, remarks, "that if this number, or indeed any excess of the force hereafter described, should continue to be kept up in ordinary cases, the President of the United States desires it to be explicitly understood by your Excellency that the General Government will not be pledged for the expense thereof."

Suppose, sir, you give any other construction to these different letters of the 27th October, 30th May, 10th June, and 19th July, nothing like effective measures could have been adopted, no regular system could have been put in operation for militia service; and here I will remark, that when militia have been called out by the proper authority, have entered your service under this impression, and have done all that you required of them, they should be paid without hesitation and without construing too critically the instructions which they have obeyed; otherwise you may weaken their confidence in, and attachment to, the Government.

The power delegated to the Executive of Georgia was not used unnecessarily; a few facts only I think will be sufficient to establish this proposition. In March, 1793, application was made to the President by the Delegates from Georgia for the establishment of magazines of arms, ammunition, and for calling into service the militia of the neighboring States. About this period the Governor of South Carolina had been written to on this very subject by the Executive of the

United States, directing him to afford assistance for the frontier protection of Georgia, expressly declaring that the General Government would be responsible for the expenses incurred. On the 29th April Governor Blount found it necessary, from the danger which threatened the Territory (now Tennessee) from the Upper Creeks and "mass" of Lower Cherokees to visit the seat of government, to concert measures for its defence. Was not Georgia equally exposed? At this time a hostile disposition pervaded the whole of the Indian tribes to the southwest, and the United States were engaged in actual war with the Cherokees. In a letter from Governor Blount, he states, that, from information from the Indian country, one chief had one thousand six hundred warriors; and it is now generally known, that most, if not all the tribes near the Floridas, were supplied with arms and ammunition by the Spanish authority. The number of Indians on the frontiers of Georgia and Tennessee, it will be recollected, were greatly beyond what they are at present. Was it an improper use of the forces of the State to employ ten or twelve hundred to guard the whole frontier against an enemy of from six to ten thousand, a frontier of four hundred miles in extent? Would one hundred foot and one hundred horse have been sufficient to prevent savage incursion on a frontier extending in a semi-circular line, from the head-waters of the Savannah river to the mouth of the St. Mary's? Let me ask what would have been the consequence, if the Executive of Georgia had neglected to use the amplest means for the defence of the State, I will say frontier, for it was all frontier!—what the consequence if the Indians had made such an incursion as was contemplated? Would it have been said that he had not the power to use the physical force of the State? Would the General Government have been charged with neglect or indifference? What would have been the feeling in the country produced by the massacre of fifty or an hundred families? Was there in the then posture of affairs no such prospect? When almost all the inhabitants were occasionally fortified? What are the forces which you now have in that very country? Four thousand or upwards; and, not long since, incursions have been made and massacres committed. Was it indiscreet in the Executive of Georgia to keep up a force of twelve hundred against ten times the number of your present enemy? There is sufficient reason to believe that the then Executive of the United States expected that these troops should be paid by the General Government. Muster and pay rolls were directed to be sent on to the proper department. The letter of the 22d February, part of which has been read, recognises these forces; and a letter of the same date, to the agent of the United States, (Mr. Habersham,) directs that, in future, no supplies should be furnished to a number greater than one hundred foot and one hundred horse. An additional, and perhaps the strongest, proof that the General Government felt bound to pay the forces theretofore called



out, is furnished by the fact, that some time after the termination of Indian hostility in that part of the country, the United States settled with her agent and paid him for the supplies furnished these very troops. How can you separate the claim for payment for services, when you acknowledge yourself bound to support the troops who performed them? And here, sir, let me remark, that if you refuse payment for the services performed by these militia, you make them a solitary exception. Militia called out by the General Government at the same time, in different States and Territories, have been all paid; and in no instance that I know of have any militia who performed services been refused payment. The militia of both the Carolinas, of the South-western Territory, called out under precisely the same circumstances, have been paid.

I have not attempted to calculate exactly the amount of these claims; but, to show that from April, 1792, to February, 1794, or as soon thereafter as the militia could be discharged, they are entitled to compensation for services so long since rendered. This is all they ask, and I will say that no militia were more meritorious, more patriotic, or performed more faithfully their duty.

After some amendments had been made to the details of the bill, a motion was made to strike out the first section of the bill—

Mr. TALLMADGE rose in support of the motion, the merits of which he examined with reference to the documents on which it had been sustained, as well as to the old age of the claim, and its repeated rejections in former days, and during the Administration of Washington, when the real nature of the claim was better understood, he said, than it possibly could be at the present day. He also took the ground against this claim, that it was intended and understood by some of the Commissioners at least, and so reported by a committee of the House, to have been merged in the amount of \$1,250,000, which the United States agreed to pay to Georgia for the territory ceded by that State to the United States.

Mr. FORSYTH replied to Mr. TALLMADGE, point by point. He denied that long denial of justice ought to constitute an obstacle to its final award, or that repeated refusals ought to be plead in bar to a just claim. He went into a full examination of the grounds of the claim, which he sustained with earnestness. In regard to Attorney General Lincoln's unsupported impressions respecting the liquidation of this claim by the convention between Georgia and the United States, which had been quoted by Mr. TALLMADGE, he refused them any weight whatever, particularly when there was direct testimony by two other of the Commissioners, positively denying the correctness of Mr. Lincoln's impressions. Mr. F. concluded his comprehensive views of this question by expressing his earnest hope, that justice would at length be done to these claimants.

The question was then taken on striking out the first section of the bill, and decided in the negative, 60 to 59.

The Committee then rose and reported the bill

to the House; but, before coming to any decision thereon, the House adjourned.

#### WEDNESDAY, March 4.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the petition of Captain Samuel C. Reed, on behalf of the officers and crew of the armed brig General Armstrong, which was read; when Mr. P. reported a bill, authorizing a sum of money to be distributed among the officers and crew of the said late private armed brig, the General Armstrong; which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting a copy of the proceedings of the court martial, and of the memorial of the midshipmen and other officers, called for by the resolution of this House of the 26th ultimo; which was referred to the Committee on Naval Affairs.

#### EXPATRIATION BILL.

The question under consideration being on the adoption of the following substitute offered by Mr. ROBERTSON, of Louisiana, as an amendment to the remaining section of the bill:

"That in all prosecutions which may hereafter be instituted against any person for having engaged in military or naval service, for or against any foreign Power, when without the jurisdiction of the United States, who, before the commission of the fact with which he may stand charged, shall have been a citizen of the United States, but shall have exercised his right of expatriation, by becoming the citizen or subject of any foreign State or community, by adoption, it shall be lawful for such person to give such fact of expatriation in evidence, upon the general issue; and, if upon the trial of such person so charged, as aforesaid, he shall prove such fact to the satisfaction of the jury, he shall be discharged from such prosecution."

Mr. FORSYTH made an unsuccessful motion to amend the substitute so as to require that the citizen desiring to expatriate himself should cause to be recorded in the office of the clerk of a district court twelve months previous notice of his intention.

Mr. TERRY moved to strike out of the third line of the substitute, the words "for or," which motion was supported by the mover, and by Mr. COLSTON, and opposed by Messrs. EDWARDS, ROBERTSON of Louisiana, and LOWNDES, and negatived by a large majority.

Mr. LIVERMORE moved to strike out of the 12th line the words, "give such fact of expatriation," and insert, "give the fact that he has been naturalized in some foreign State;" which motion was supported by the mover in a few remarks, and agreed to.

On motion of Mr. LIVERMORE, the words, "or community," were stricken from the 10th line; and,

On motion of Mr. CRAWFORD, the words "by adoption," following in the same line, were also stricken out.

Mr. MERCER, after briefly explaining and sup-

porting the proposition he rose to offer, moved to strike out after the word "have," in the 7th line, the words "been a citizen of the United States, but shall have exercised his right of expatriation by becoming," in the 9th line, and inserting the word "become," to accommodate the sense; which motion was agreed to.

Mr. LOWNDES, after remarking that the act of naturalization, to be valid, ought to be made within the jurisdiction of the Government of which the person becomes a subject, moved to insert, after the word "State," in the 10th line, the words "while within its jurisdiction;" which was agreed to without a division.

Mr. MERCER next moved to insert after "United States," in the 5th line, the words, "and not in hostility against the said States;" which was agreed to, 65 to 59.

The next amendment proposed was by Mr. TALLMADGE, to insert, after "have," in the 8th line, the words "bona fide and voluntarily;" which motion prevailed; when,

No other amendment being offered, the question was stated on adopting the amendment as amended; and which is as follows:

"That, in all prosecutions which may hereafter be instituted against any person for having engaged in military or naval service for or against any foreign Power, when without the jurisdiction of the United States, and not in hostility against the said States, who, before the commission of the fact with which he may stand charged, shall have bona fide and voluntarily become the citizen or subject of any foreign State, while within its jurisdiction, it shall be lawful for such person to give the fact of his having been naturalized by some foreign State, in evidence upon the general issue; and if, upon the trial of the person so charged, as aforesaid, he shall prove such fact to the satisfaction of the jury, he shall be discharged from such prosecution."

Mr. PITKIN submitted some arguments against the amendment, and was replied to by Mr. ROBERTSON, of Louisiana.

Mr. TRIMBLE then read an amendment, which, for reasons which he offered at large, he wished incorporated into the bill; the object of which, substantially, was to recognise the right of a citizen to enter into the service of any foreign Government with which his country may be at peace, without thereby forfeiting his right of citizenship at home, &c.

Mr. FORSYTH replied to some of the arguments used by Mr. TRIMBLE in support of the principle he had proposed to introduce into the bill.

Mr. TRIMBLE then, after observing that the discussion of this principle might be referred with more propriety, perhaps, to the consideration of the Neutrality bill reported by Mr. FORSYTH, when it should come up for consideration, and not wishing to press a proposition now, of the success of which he was not sanguine, withdrew his motion.

Mr. RHEA offered his reasons at some length against the substitute under consideration; after which the question was taken on Mr. ROBERTSON'S substitute for the second section, and car-

ried by yeas and nays—for the amendment 93, against it 61, as follows:

YEAS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Bellinger, Bloomfield, Blount, Boden, Burwell, Butler, Campbell, Claiborne, Cobb, Cook, Crafts, Crawford, Cruger, Desha, Earle, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Fuller, Gage, Garnett, Hale, Hall of North Carolina, Harrison, Hendricks, Herbert, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, W. Maclay, W. P. Maclay, Marr, Mercer, Moore, Morton, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Ogle, Owen, Parrott, Patterson, Pleasants, Quarles, Richards, Ringgold, Robertson of Kentucky, Sampson, Savage, Sawyer, Silsbee, Simkins, Alexander Smyth, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Tarr, Terrill, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Whiteside, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Vermont, Austin, Baldwin, Beecher, Boss, Clagett, Colston, Comstock, Cushman, Darlington, Drake, Ellicott, Folger, Hall of Delaware, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Livermore, McLane, McCoy, Mason of Massachusetts, Merrill, Middleton, Mills, Moseley, Jeremiah Nelson, Ogden, Orr, Palmer, Pawling, Pindall, Pitkin, Reed, Rhea, Rice, Rich, Robertson of Louisiana, Ruggles, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Slocumb, Bal. Smith, Stuart of Maryland, Tallmadge, Taylor, Terry, Tompkins, Wendover, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Massachusetts.

Mr. WILLIAMS, of North Carolina, after entering briefly into an explanation of his reasons, offered, as an additional section to the bill, a provision, in substance, that no person availing himself of the bill, and becoming expatriated, should ever after be permitted to be again naturalized a citizen of the United States.

Mr. RICH moved that the whole subject be indefinitely postponed, declaring that the bill had assumed a character which, however disposed to vote for the original bill, he thought would answer no good purpose, and to which he was therefore opposed.

Mr. TALLMADGE submitted, much at length, his reasons for disapproving the bill, and for supporting its indefinite postponement.

Mr. ROBERTSON replied to some of Mr. TALLMADGE'S arguments, and stated the reasons which placed him in opposition to the bill as it had been amended, his main objection being the principle included in the second amendment offered by Mr. MERCER, denying the right of a citizen to fight in defence of his adopted country—even against the country from which he might have expatriated himself.

Mr. JOHNSON, of Kentucky, spoke a short time in support and illustration of the opinions he had previously submitted in the debate.

Mr. LOWNDES after stating his belief that Mr. MERCER'S second amendment was adopted by



H. or R.

Georgia Claims—Surviving Officers and Soldiers.

MARCH, 1818.

the House without being aware of its full effect, and declaring that, for one, he had given his assent to it without fully apprehending, from the part of the substitute in which it had been inserted, the extent of the principle it involved, moved (Messrs. WILLIAMS and RICH having withdrawn their motions to give an opportunity therefor) to reconsider the vote on that amendment.

On this motion Mr. MERCER entered into a general justification of the amendment in question; after which the motion to reconsider was agreed to; and the question then recurring on the second amendment offered by Mr. MERCER, thus reconsidered, it was decided in the negative.

Mr. LOWNDES then moved to insert after the word, "State," in the 9th line, the words "and whilst the said foreign State shall not be in hostility against the said United States."

This motion was opposed by Mr. ROBERTSON, and negatived without a division.

Mr. WILLIAMS then renewed his motion to add the section which he had just before offered and withdrawn; which motion was also negatived without a division.

The question was then taken on ordering the bill to be engrossed for a third reading, and decided in the negative—ayes 64, noes 75.

So the bill was finally rejected.

#### GEORGIA MILITIA CLAIMS.

The House then took up the report of the Committee of the Whole, on the bill providing for the payment of certain claims from the State of Georgia, for military services rendered in 1793, and 1794.

The Committee had reported the bill, filled up with the sum of \$143,500; which amendment the House refused to concur in.

Mr. COBB then moved to fill the blank with \$140,000, and spoke at some length, and earnestly in favor of the bill and his motion; which, however, was negatived.

Mr. TAYLOR, thinking the House had clearly indicated its hostility to the bill, moved its indefinite postponement.

This motion brought on a very long and animated debate, in which Messrs. FORSYTH, COBB, BALDWIN, and MERCER, strenuously advocated the bill; and Messrs. LIVERMORE and TALLMADGE opposed it; the latter very earnestly, and at much length.

The question on postponing the bill indefinitely was ultimately, about half-past five o'clock, decided in the negative—yeas 54, nays 64, as follows:

YEAS—Messrs. Allen of Vermont, Bateman, Bayley, Boss, Butler, Claggett, Comstock, Crafts, Drake, Folger, Gage, Hall of Delaware, Hasbrouck, Hogg, Holmes of Connecticut, Hubbard, Hunter, Irving of New York, Kirtland, Lawyer, Linn, Little, Livermore, W. Maclay, W. P. Maclay, McCoy, Merrill, Morton, Mumford, Palmer, Pawling, Pitkin, Porter, Rice, Rich, Richards, Ringgold, Sampson, Savage, Scudder, Seybert, Slocumb, Ballard Smith, Spencer, Stewart of North Carolina, Tallmadge, Taylor, Tompkins, Up-

ham, Wendover, Westerlo, Williams of Connecticut, and Williams of New York.

NAYS—Messrs. Abbott, Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bellinger, Bloomfield, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Darlington, Edwards, Ellicott, Floyd, Forney, Forsyth, Garnett, Hall of North Carolina, Harrison, Hendricks, Hubbard, Herrick, Hitchcock, Holmes of Massachusetts, Hopkinson, Huntington, Johnson of Kentucky, Kinsey, Lowndes, McLane, Mason of Massachusetts, Mercer, Middleton, Mills, Moseley, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Orr, Owen, Parrott, Patterson, Pindall, Pleasants, Reed, Rhea, Robertson of Kentucky, Ruggles, Sergeant, Simkins, Speed, Terrill, Tucker of Virginia, Tucker of South Carolina, and Wilson of Mass.

#### THURSDAY, March 5.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill, supplementary to the several acts relative to direct taxes and internal duties; which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to increase the salaries of the judges of the circuit court for the District of Columbia," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. NELSON, from the same committee, who were instructed, on the 22d December last, to inquire whether the funds of the district court of New York have been faithfully applied, made a report thereon; which was read, and ordered to lie on the table.

Mr. NELSON reported a bill respecting the district courts of the United States, within the State of New York; which was read the first time.

#### SURVIVING OFFICERS AND SOLDIERS, &c.

Mr. BLOOMFIELD, from the committee on that part of the President's Message which relates to the surviving officers and soldiers of the Revolutionary Army, to which was referred the amendments proposed by the Senate to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," reported the same with an amendment; which was read, and concurred in by the House.

The first part of the first section of the said bill, as proposed to be amended by the Senate, is as follows:

That every commissioned officer, non-commissioned officer, musician, and private soldier, who served in the war of the Revolution until the end thereof, or for a term of nine months, or longer, at any period of the war, on the Continental Establishment, and every commissioned officer, non-commissioned officer, mariner, or marine, who served at the same time, and for a like term, in the naval service of the United States, who is yet a resident citizen of the United States, is, or hereafter, by reason of his reduced circumstances in life, shall be in need of assistance from his country for support, and shall have substantiated his claim to a

MARCH, 1818.

Georgia Militia Claims.

H. or R.

pension in the manner hereinafter directed, shall receive a pension from the United States.

A motion was made by Mr. EDWARDS, in order to enlarge the provisions of the bill, and make them as comprehensive as he could, to strike out of the Senate's amendment the words "on the Continental Establishment." This amendment would have the effect to embrace all who served for nine months in the military service, and were in service at the end of the war, thus including the militia as well as the regulars.

This motion gave rise to considerable debate, in which Messrs. EDWARDS, SIMKINS, and STROTHER, urgently supported the motion, and Messrs. PALMER and BLOOMFIELD opposed it.

In favor of the motion, was adduced the important services of the militia during the Revolution, frequently of the highest importance, and always more meritorious than those of the regulars, because not under the impulse of professional inducements and obligations.

Against the motion the main argument was, the impolicy of the amendment, as tending to defeat the bill on its return to the Senate, whose disposition on the subject had been sufficiently indicated by the amendments it had already made to the bill. The merit of the services of the militia was not denied, but the difficulty of discriminating between those who served occasionally and those who served for a particular term of time, was mentioned, as constituting an obstacle to any provision on the subject.

The question on this motion was decided in the negative—yeas 60, nays 91, as follows:

YEAS—Messrs. Abbott, Austin, Ball, Barbour of Virginia, Blount, Boden, Bryan, Burwell, Claiborne, Cobb, Cook, Crawford, Desha, Edwards, Floyd, Forney, Garnett, Hall of North Carolina, Hogg, Hunter, Johnson of Virginia, Johnson of Kentucky, Jones, Little, Marr, Mason of Rhode Island, Mercer, Merrill, Mills, Mumford, H. Nelson, Nesbitt, New, Orr, Owen, Pindall, Pitkin, Pleasants, Porter, Quarles, Reed, Ringgold, Sampson, Settle, Simkins, Slocumb, Bal. Smith, Alexander Smyth, Speed, Stewart of North Carolina, Strong, Strother, Tarr, Taylor, Terrill, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, and Williams of Conn.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Baldwin, Barber of Ohio, Bassett, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Boss, Butler, Campbell, Claggett, Colston, Crafts, Cruger, Cushman, Darlington, Drake, Earle, Ellicott, Folger, Forsyth, Fuller, Gage, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Linn, McLane, W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Middleton, Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Palmer, Parrott, Patterson, Pawling, Rhea, Rice, Rich, Richards, Robertson of Kentucky, Ruggles, Savage, Sawyer, Scudder, Sergeant, Seybert, Shaw, Sherwood, Silsbee, J. S. Smith, Southard, Spencer, Stuart of Maryland, Tallmadge, Terry, Tompkins, Townsend, Tyler, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, and Wilson of Pennsylvania.

Mr. BAYLEY moved to amend that part of the Senate's amendment, which provides that the relief contemplated should not be allowed to any of those officers and soldiers who are already on the pension list of the United States, or of any individual State, by striking thereout the words "or of any individual State." This motion was supported by Mr. BAYLEY, and opposed by Messrs. EDWARDS and BLOOMFIELD, as going to destroy the principle of the bill, which was to relieve only the indigent. This motion prevailed by a vote of 79 to 61.

Mr. MCCOY further moved to amend, by striking out "nine months," the term of service required to have been performed to constitute a claim to the bounty of Congress, and inserting, in lieu thereof, "three years." This motion was decided in the negative.

After some other amendments of detail proposed by Messrs. J. S. SMITH, AUSTIN, and others, the question was taken on agreeing to the amendments of the Senate, as amended, and agreed to; and the bill was returned to the Senate for concurrence in the amendments to the amendments of that body.

#### GEORGIA MILITIA CLAIMS.

The House resumed the unfinished business of yesterday, being the bill for the payment for services rendered by certain Georgia militia in 1793, and 1794.

Mr. COBB moved an amendment to the bill, with a view to obviate the objection which had been thrown against the bill, and which he feared might defeat it, requiring that the sums claimed and proven to be due, to the satisfaction of the Secretary of War, should be paid "to the person or persons who performed such services, or his or their legal representatives;" thus preventing the payment of these claims to assignees, or persons who may have bought up the claims. The motion was agreed to.

Mr. COBB then moved to fill the blank in the bill with the sum of \$109,130 65, being the sum which, according to the report of Secretary Dearborn in 1803, was due for services performed up to the end of the year 1793; and also the same sum as was embraced in the bill which last year passed the Senate, and failed in this House only from the lateness of the session. Mr. C. then proceeded to reply to the remarks of Mr. TALLMADGE yesterday, and particularly to the argument against the claim which was founded on the policy of that day, as contradicting the calling out such a force as twelve hundred men for the frontier defence—an argument which he replied to with great force and feeling.

Mr. SPENCER then rose in opposition to the bill, on the ground that the services proposed by the bill to be compensated, were not rendered under the authority of the United States, as he contended from the documents; and, not being so authorized, ought on no pretence to be compensated by the United States; if, for no other reason, because it would establish a dangerous precedent. He also objected to the incompleteness of the



H. or R.

Proceedings.

MARCH, 1818.

documents which had been brought to the view of the House relative to this claim.

Mr. FORSYTH replied to Mr. SPENCER, controverting his positions, and vindicating the claim from the doubtful character which he had imputed to it, at some length.

Mr. SPENCER rejoined.

Mr. ADAMS, of Massachusetts, spoke at some length in support of the claim, on the ground of the evidence in favor of it, which he critically examined.

Mr. RICH delivered his views of the claim, which were rather doubtful than adverse; but, after lending an attentive ear to the discussion, he yet doubted; and, doubting, could not vote for the claim.

Mr. TUCKER, of Virginia, advocated the admission of this claim, on the ground of the duty of the General Government to afford protection to every of the United States that it does to any of them; and that, in pursuance of this principle, the claim ought to be paid, on the evidence by which it is sustained.

Mr. LIVERMORE assigned some further reasons in opposition to the claim, because of the defect of authority from the United States for the employment of this force.

Mr. FORSYTH quoted the case of the recent payment for the militia of Maryland, employed without express authority from the United States, because the urgency of the case did not allow time for it.

Mr. WILLIAMS, of North Carolina, stated the same fact in regard to the late services of the militia of North Carolina.

Mr. REED confirmed substantially the fact stated by Mr. FORSYTH, and stated the circumstances under which the militia had been called out, particularly on the Eastern Shore of Maryland.

Mr. CLAIBORNE stated the circumstances of the payment of militia employed in Tennessee during the late war, without authority from the General Government, against the Indians in two cases, who had been promptly paid by the Government of the United States.

The question was at length taken on filling the blank in the bill, as moved by Mr. COBB, and decided thus: for the motion 74; against it 74.

The Speaker (Mr. H. NELSON then acting as Speaker) voted in the affirmative, and the motion was agreed to.

The question was then taken, "Shall the bill be engrossed for a third reading?" and decided by yeas and nays—for the bill 70, against it 90, as follows:

Yeas—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bellinger, Bloomfield, Boden, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Earle, Edwards, Ellicott, Ervin of South Carolina, Forsyth, Forsyth, Garnett, Hall of North Carolina, Harrison, Hendricks, Herrick, Hitchcock, Holmes of Massachusetts, Huntington, Johnson of Va., Johnson of Kentucky, Kinsey, Lowndes, McLane, Mason of Massachusetts, Mercer, Middleton, Mills, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, New,

Orr, Owen, Parrott, Peter, Pindall, Pleasants, Quarles, Reed, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Simkins, Alexander Smyth, Strother, Terrill, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, Williams of North Carolina, and Wilkin.

Nays—Messrs. Allen of Vermont, Barber of Ohio, Bateman, Bayley, Beecher, Bennett, Blount, Boas, Bryan, Burwell, Butler, Clagett, Comstock, Crafts, Cruger, Cushman, Darlington, Desha, Drake, Folger, Fuller, Gage, Hale, Hall of Del., Hasbrouck, Herkimer, Heister, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of N. York, Jones, Kirtland, Lawyer, Linn, Little, Livermore, W. Maclay, W. P. Maclay, McCoy, Marr, Mason of Rhode Island, Merrill, Moore, Morton, Mumford, Palmer, Patterson, Pawling, Pitkin, Porter, Rhea, Rice, Rich, Richards, Sampson, Savage, Sawyer, Schuyler, Seudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Silabee, Slocumb, B. Smith, J. S. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Trimble, Upham, Wallace, Wendover, Westerlo, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

And so the bill was rejected.

FRIDAY, March 6.

Mr. BUTLER presented a petition of John Stark, a Major General in the Revolutionary Army, representing his necessitous circumstances, and praying that the bounty of the National Government may be extended to him in the decline of his days, in consideration of his faithful services in the defence of his country: which was referred to a select committee; and Messrs. BUTLER, RICH. ANDERSON, of Kentucky, MERCER, LIVERMORE, HOPKINSON, and MILLS, were appointed the committee.

The SPEAKER presented a petition of the General Assembly of the State of Ohio, praying that a road may be laid out and made, at the expense of the United States, from the settlements in the said State, to those in the Territory of Michigan, previous to the sale of the land through which said road may be made.—Referred to the Committee of the Whole on so much of the President's Message as relates to roads, canals, and seminaries of learning.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to alter the time of holding the circuit court in the southern district of New York, and for other purposes; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. NELSON also reported a bill altering the time for holding a session of the district court in the District of Maine; which was read twice, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. TUCKER of Virginia, the Committee on Military Affairs were instructed to inquire into the expediency of authorizing the proper accounting officers of the War Department to credit and settle the accounts of Harold Smyth, late a captain by brevet in the Army of

MARCH, 1818.

Internal Improvements.

H. or R.

the United States, and quartermaster at Fort McHenry, in such manner, and upon such terms, as shall be equitable and just.

On motion of Mr. HARRISON, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing in some convenient situation in one of the Western States, a branch of the General Post Office, for the purpose of making contracts for the conveyance of the mail, and to correct abuses in that Department.

On motion of Mr. BALDWIN, the Committee on the Public Lands were instructed to inquire into the expediency of providing by law for allowing to any person or persons, who will purchase any portion of the public lands, not less than one entire township, at two dollars an acre, bearing interest from the date of the purchase, an extended credit, beyond the time allowed to purchasers under the existing laws.

Mr. CLAIBORNE submitted the following resolution; which was read, and ordered to lie on the table:

*Resolved*, That the President of the United States be requested to lay before this House a statement of the expenses incurred under the 4th, 6th, and 7th articles of the Treaty of Ghent, specifying the items of expenditure in relation to each.

A motion was made by Mr. REED that the House do now proceed to the consideration of the resolution submitted by him on the 4th instant, in relation to the erection of the monument to be erected to the memory of the late Major General the Baron de Kalb.

And the question being taken thereon, it was again determined in the negative.

#### SUBSCRIPTION TO CANAL STOCK.

Mr. HENDRICKS rose to offer the resolution that follows, and said that perhaps he owed an apology to the House for bringing up this subject at so late a day; that he had intended at an earlier period of the session to have submitted the proposition to the House, but until he had procured the statute of the Legislature of Indiana incorporating that company, he thought it improper to trouble the House with it; that that statute had recently come to hand; that it incorporated the company named in the resolution with a capital of one million of dollars, for the purpose of making a canal around the falls of the Ohio. The importance of this undertaking, said Mr. H., is so intimately connected with the commerce and the general prosperity of the whole Western country, it is so obvious, and so generally known, that many remarks on the occasion would seem altogether unnecessary. The interests of Kentucky, Virginia, Pennsylvania, Ohio, and Indiana, above those obstructions, he said, were identified with the success of the work, and the interests of the low countries and the further west would also be greatly promoted by removing those obstructions. These falls, he said, presented the only obstacle known to the navigation of the Ohio; the work was deemed very practicable, and one which might speedily be accomplished. He would pre-

sent a clearer and a more general detail to the Committee when they should be authorized to take the subject into consideration. This subject, he said, was important also in a more national point of view. The ordnance and military stores for the extensive countries of the West must pass down the Ohio; from the falls of the Ohio to the southern head of Lake Michigan was the nearest and the best route for the military stores and supplies destined for Chicago. Michilimackinac, Fort Gratiot, at the outlet of Lake Huron, and other fortifications westwardly to the Mississippi; that a military road between those places presented itself as a measure of the utmost importance, and was a measure which at a future day he should bring before the House. Mr. H. then offered the following resolution, which was agreed to:

*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of authorizing the Secretary of the Treasury to subscribe, in behalf of the United States, for any number of shares not exceeding six thousand, in the Jeffersonville Ohio Canal Company, in the State of Indiana.

#### INTERNAL IMPROVEMENT.

The House having gone into a Committee of the Whole on the report of the committee appointed on so much of the President's Message as relates to internal improvement, the following resolution, recommended by the select committee to the adoption of the House, was read:

*Resolved*, That in order to promote and give security to the internal commerce among the several States; to facilitate the safe and expeditious transportation of the mails, by the improvement of post roads, with the assent of the respective States; to render more easy and less expensive the means and provisions necessary for the common defence, by the construction of military roads, with the like assent of the respective States; and for such other internal improvements as may be within the Constitutional powers of the General Government, it is expedient that the sum to be paid to the United States by the 20th section of the act to incorporate the subscribers to the Bank of the United States, and the dividend which shall arise from their shares in its capital stock, be constituted as a fund for internal improvement.

Mr. SAWYER rose to move that the Committee rise. He doubted whether there was a Constitutional majority of Congress in favor of the resolution; and as the President's objections to it were already known, without such a majority it would be useless to discuss the question. It was known also that there was now before the Senate a proposition to amend the Constitution, so as to give to Congress this power, which was an evidence that that branch thought such a measure first necessary to enable Congress to exercise the power. To prevent a tedious and useless debate, and to save time, Mr. S. therefore moved that the Committee rise and report progress, that the House might postpone the subject indefinitely.

Mr. TUCKER, of Virginia, hoped the Committee would not rise, and, in reply to Mr. SAWYER, he referred to the rules of the House to show that it was improper in the discussion of a motion here,



to allude to the proceedings of the other branch. He declared that no duty could be more disagreeable to him than to undertake the task which devolved on him, as chairman of the committee which reported the resolution, of advocating the proposition; but such support as he could give to it he was ready to afford, and he hoped the Committee would proceed to its consideration. There was no ground to say that there was not a Constitutional majority for the measure; but this argument was the very reason why he would go on. He would not be bound by the deliberations of one branch of the Government or the declarations of another. If gentlemen were really anxious to save time, let the advocates of the proposition be heard, and then let the House decide whether they will adopt the measure. Another reason for proceeding was the number of petitions before the House on this subject. Shall they be disregarded, said Mr. T., because the President has said he cannot sanction this measure, and we thus say to the people, we fear to oppose the President's veto? A majority of the last Congress had decided that it possessed this power, and Mr. T. trusted that the proposition would be discussed now, and its strength tested by the present.

Mr. CLAY (Speaker) hoped the Committee would at once engage in this debate, and, instead of agreeing to the course moved by Mr. SAWYER, he wished that gentleman would withdraw his motion, and that the gentleman who reported the resolution (Mr. TUCKER) would be permitted to explain the views and arguments of the Committee in recommending the resolution; and he hoped that, instead of taking shelter behind the Executive declaration, the gentleman from North Carolina (Mr. SAWYER) would get up and make a Constitutional speech on the subject. Mr. C. trusted that the House would not avoid the discussion, but meet the subject as men should meet it, and decide on it fairly.

Mr. CLAGETT was in favor of the Committee's rising, and of preventing a waste of the time of the session. He was opposed to spending a long time on this subject, without the probability of a Constitutional majority for it, after the Executive had officially avowed that he could not sanction it without an amendment to the Constitution, &c.

Mr. MERCER was of opinion that the motion was sportive, its object was to save time, because, if the Committee rose, and a motion was made in the House to postpone its further consideration, its merits would come up and be debated as fully as they could now in Committee. The objection urged against the discussion of the measure, Mr. M. said, he should have understood, had it been heard in the times of Domitian or Nero, but he could not see its propriety, or feel its force at this day and in this House. Without feeling in his heart a sentiment at war with the dignity of the President, or with respect for his opinions, yet the Executive avowal was no reason for dispensing with a full consideration and discussion of the proposition, and he hoped it would proceed.

Mr. SAWYER, in reply to Mr. CLAY, said the honorable Speaker had called on him for a Constitutional speech on this subject, but Mr. S. did not think it necessary to undertake to prove, by argument, that the proposition was unconstitutional. To him it was a matter of faith and feeling, and, in matters of faith, we may lay reason aside. Mr. S. said he had taken an oath to support the Constitution, and, in his conscience, he could not reconcile a vote in favor of this resolution, with the oath he had taken. It was sufficient for him that there was no express provision in the Constitution granting this power. Does this House, said Mr. S., wish to hear long speeches? Have we not already had so many, that wearied patience had cried out, enough, enough! Every gentleman's mind had been long made up, Mr. S. said, on this subject, and where was the use of wasting the time of the House, when it was certain that no member's mind would be changed if the subject were to be discussed for weeks. He should not withdraw his motion.

The question was taken on Mr. S.'s motion, and negatived by a large majority.

Mr. TUCKER, of Virginia, said, that in introducing this subject to the attention of the Committee, he felt it his duty to commence by a grateful acknowledgment of their politeness in refusing to rise and avoid a discussion which was rendered important by such a variety of considerations. The numerous petitions upon our tables, and on which the select committee cannot act until it receives the directions of this body; the repeated recommendations of the subject to our attention by successive Executives; the existence of discordant opinions between different branches of the Government on the Constitutional question; and the importance of the measure proposed; all unite in demanding the serious deliberations of the House of Representatives on the subject under consideration. Nor shall I, sir, said Mr. T., be deterred from a due investigation by any apprehensions of an unfavorable result. It is intimated, indeed, that the Executive department having declared its opinion on the subject, it is an hopeless effort to attempt in this body to control that opinion by a Constitutional majority. I will not permit such a consideration to influence my course upon this occasion. I will not upon such a suggestion yield in hopeless despair the prospect of availing ourselves of the power vested in us by the Constitution. Nothing indeed would urge me more powerfully to take up the question and decide it for ourselves than the fact of an Executive Message on the subject; since, if this House is to be dissuaded from an attempt to legislate on an important subject, by a suggestion of Executive opinion, its Constitutional powers are gone.

In fulfilling the task which has devolved upon me, and which I am fully sensible is far too weighty for my shoulders, I shall endeavor to merit the indulgence of the Committee by avoiding a dry and uninteresting recapitulation of what is advanced in the report upon your table. I shall, therefore, for the present waive a further discussion of the Constitutional question, resting

it upon the report, until some of the able gentlemen in opposition shall have spoken, and I shall then hope for the indulgence of the Committee in replying to what may fall from them. At present I would solicit their attention to some considerations on the importance of the proposition, and to some explanation of the views of the committee in offering the resolution in its present form.

I have on another occasion reminded the House of the various recommendations of this subject to the consideration of Congress. In the year 1806, the unprecedented flourishing condition of our finances induced Mr. Jefferson, then President of the United States, to make it a special subject in his Message to Congress on the opening of their session. In pursuance of this recommendation, the legislative body passed a resolution calling upon the then Secretary of the Treasury, Mr. Gallatin, for a report on the subject of roads and canals, which was accordingly presented in the Spring of 1808. But, before the subject was acted upon, perhaps, indeed, before the report was made, the golden vision was fled; the unprosperous state of our affairs left no reason to hope that we should soon possess the means of carrying on the important national improvements that had been suggested, and the plan was accordingly abandoned. From that period for four years our difficulties only increased, until we were at length engaged in a war, which demanded all our resources and all our exertions. The war, however, had not been terminated a year before the rapidly increasing revenues of the United States again induced President Madison to recommend the subject to the consideration of Congress. An ineffectual effort was made to appropriate funds for these important services at the last session by an act which was finally rejected by the President, and the subject is again submitted to our consideration by the late Message to the legislative body.

In all these considerations there seems to have been no difference of opinion as to the propriety of vesting in the General Government the important power of undertaking great national improvements—of constructing roads and canals, and opening and perfecting the navigation of rivers. I speak, sir, of improvements of general and national concerns; for, as to those matters of inferior importance which fall more properly under State regulation, I have found no one either disposed to interfere with them, or inclined to the opinion that they are within the Constitutional powers of the General Government. The national character of the object is that which gives it both its importance and constitutionality, and it is not to be wondered, that, whilst there is such a diversity of opinion as to the construction of the Constitution, there cannot be found a statesman who has expressed a sentiment unfavorable to the possession of this power by the General Government. The considerations which support this opinion are numerous and weighty, and not unworthy of being mentioned in this discussion. The magnitude of these undertakings, of itself, furnishes an insuperable obstacle to their being

left to the unassisted efforts of the States. Can gentlemen really believe that the great scheme of internal seaboard navigation, extending from the harbor of Boston, by a chain of artificial and natural canals, to the mouth of the St. Mary's, can ever be effected by State authority? Does not the connexion of the different parts, forming one great whole, require that this noble plan should not be defeated by the want of exertion, or of funds in any particular State, through which the works must be constructed? Shall the whole scheme fall through because the little State of Delaware, less interested than other portions of the Union, finds the weight of that great work, the Delaware and Chesapeake Canal, too much for her powers? Shall the same work be prevented by the jealousy of a particular city within the State of Maryland, lest her rapid growth should be impeded by the facilities which it will afford to the back country farmer and merchant in reaching the Philadelphia market? Shall the great Cumberland road which binds the East and the West be abandoned because the central country in which it is made derives little advantage from its construction? Shall the Dismal Swamp Canal still linger for want of aid? Shall the navigation of the coterminous rivers remain incomplete because the adjoining States cannot command the funds, or agree upon the terms of their improvement? or, finally, because the Constitution of this Union has forbidden them to contract, and they can do nothing without concert?

In vain shall we have received from the hand of nature this most beautiful country—more remarkable than any in the world for its great facilities for internal communication—if the aggregated powers of the nation are not to be devoted to the completion of what is more than half finished to our hands. We have before us too many instances of the inefficacy of State efforts, to permit ourselves to be deluded by the hope that these great works can be effected by State exertion. Look at the fine river which runs before your very doors, the navigation of which has been languishing for thirty years, and which would have been within the last year completely obstructed for want of locks, but for a fortunate loan to the company of the funds, for their completion. Look at your roads within twenty miles of this metropolis; in such a state that the Representatives who travel here are in constant and imminent danger of breaking a limb or their necks. Look at these, and say whether we have reasonable ground of hope, that the great and desirable object of public improvement is likely to be attained by the efforts of the States? The expectation is futile. Those who are most interested in any particular improvement, will not have the power of making it; those who have the power will want the means or inclination. The great canal of New York, important it is true to that State, is still more important to the western part of Ohio and Indiana, and to the vast tracts of public land possessed by the United States, in those regions. Shall this work be left, then, to the unas-



H. or R.

Internal Improvements.

MARCH, 1818.

sisted efforts of the State of New York? The connexion of the navigation of the Kenawha and James rivers, by a great road and other improvements, important indeed to Virginia, is also extremely important to the Western States. Shall Virginia alone contribute to perfect it? The canal at the falls of Louisville is a matter of deep interest to the States of Pennsylvania and Virginia, as well as to Kentucky and Ohio; and shall these be left unaided in the completion of a work, from which the others are to derive so great additional advantages, and which is in no small degree, indeed, a matter of national interest and concern? They have indeed, it appears, determined to attempt some concert for the attainment of this great object. But they can make no compact without the assent of this body, and there is little hope of their making any effectual arrangement. In short, the want of funds—the want of harmony—the want of unity of views, and the want of exertion, will continue to hang upon our efforts, and prevent the improvement of our country, unless what is national in its character be placed under national control.

How different is the situation, how different the powers and resources of the Union in relation to these great objects. Securing, as we do here, a perfect concert of action, we possess ample resources which the States cannot command. Experience has proved to us, that the only fruitful source of revenue here is the impost. Whilst the States are confined to the unprofitable imposition of direct taxes, our customs are increasing with wonderful rapidity. The opening of new countries; the spreading of our population to the West; the augmentation of our numbers, must continue to increase them. What shall we do with these overflowing revenues, as Mr. Jefferson asked on another occasion? Shall they lie useless in our coffers? Shall the attempt be made to lessen the impost, to the destruction of our infant manufactures? Will the temper and opinions of the nation justify us? Shall we not be deafened with the clamors of manufacturers if we take off or lessen the burdens upon foreign commodities? Are we not now appealed to, most feelingly, to raise the impost still higher for their protection? What then shall we do with these increasing revenues? We shall either waste them in what will produce no benefit to the nation, (for the expectation of keeping our money is futile,) or we shall find it necessary to apply them in the great objects of internal improvement; thus, adding to the comfort and the happiness of the people, the wealth and the resources of the nation, the union and the harmony of the States, and the protection and defence of the Confederacy against the inroads of a foreign foe.

But why, it is asked, not amend the Constitution? The answer is easy. Those who do not believe we possess the power, are right in wishing an amendment. Those who believe we have it, would be wrong in referring it to the States; and as the Committee were of this opinion, they could not recommend an amendment. For, if

an amendment be recommended, and should not be obtained, we should have surrendered a power, which we are bound to maintain if we think we possess it. In swearing to support this Constitution, we are not less solemnly bound to maintain all the just powers of the Federal Government, than to preserve the States from its encroachments. We have no right, therefore, to put in jeopardy a power we believe to have been given us. We must decide according to our conscience, on the Constitutional question, and not refer the matter to State decision. There is no part of this Constitution which declares that doubtful questions shall be referred to the States. If there had been such a provision, it would doubtless not have rendered it necessary in such cases to obtain the acquiescence of three-fourths of the members of the Confederacy. Suppose we think we possess the power, but refer it to the States for their decision. Six small States may deny it to us, against the general sentiment of the rest of the Union. But suppose we exercise the power, and the States deny its existence. They have, by the Constitution, the power of controlling us. They may provide that we shall not exercise it. It is true they must have a concurrence of fifteen out of twenty States to effect this negative amendment. It seems indeed as if the struggle was to get the vantage ground which we occupy, if we believe ourselves invested with this power. Such indeed is the peculiar situation of things at the present moment, that it is pretty certain that three-fourths of the States would concur in neither opinion. A majority, it is believed, are in favor of the exercise of this power by the General Government. But, whilst it is evident that no negative amendment can be passed, it is equally certain, that a proposition to amend the Constitution, by giving this power to Congress, would also fail; because those States which believe we have the power, would oppose an amendment. They would be right in doing so. For every unnecessary amendment only serves to narrow and circumscribe the construction of the instrument, and, whilst it gives one power, furnishes a weapon by which ten more may be wrested from us. Thus, while it would seem to increase, it in fact diminishes the authority of the General Government, and we should soon find ourselves entangled in inextricable difficulties of construction, arising from injudicious and unnecessary amendments.

I am aware, Mr. Chairman, of the great outcry which has been raised against this proposition. It would be an affectation in me to pretend to be deaf to the tocsin which has been sounded on this occasion. The cry of alarm, sir, comes from a quarter which I cannot but respect and venerate. It is from a part of my parent State. But, whilst I shall always listen with the utmost deference to her admonitions, I must in a matter of conscience pursue the dictates of my own reflections; and I trust that I shall not find it difficult to show that the position I have assumed is neither novel nor dangerous but has been sanctioned by some of our greatest statesmen, and has not been without the approbation of the Legislature of Virginia her-

MARCH, 1818.

Internal Improvements.

H. or R.

self. The only difference is, sir, that when these principles and these powers which I advocate, were formerly avowed, they had the support of great and illustrious names; and that was received as oracular wisdom from them, which from my feeble pen is deemed novel and daring, and dangerous, and absurd.

I have said, sir, that my opinions are neither dangerous nor novel. Where is the danger to be apprehended from the exercise of this power of expending our revenues, with State assent, in national improvement? The only pretext has been, that this power in the hands of the Government will increase its patronage. Sir, I am no friend to Executive patronage. But it is not this patronage which is dangerous. It is the power of appointing to office the members of the legislative body. If gentlemen will unite with me in taking away this power, they will lessen much more the patronage of the Government than it will be increased by roads and canals. But the danger they apprehend has escaped all those great men who have recommended that the powers of the Federal Government should be enlarged on the subject of roads and canals. Mr. Jefferson, Mr. Madison, and the present Chief Magistrate all recommend it. They could not have regarded it as dangerous, but they saw that it would be beneficial.

Nor is the reasoning or the opinion of the committee marked by anything novel or unprecedented. I will beg leave to compare some of its principles, with those avowed in a report to Congress on the subject of the Massachusetts militia claims, made by the Secretary of War, Mr. Monroe. The parallel then will be found to be striking. The committee have said, (page 5.)—"The authority to make all laws which shall be necessary and proper, for carrying into execution the enumerated powers, is believed to vest in the General Government all the means which are essential to the complete enjoyment of the privilege of establishing post offices and post roads. Even without this clause the same principle would have applied: since, according to common understanding, the grant of a power implies a grant of what is necessary to its enjoyment." (Page 7.)—"Of this necessity the Government can be the only judge, and, if the power of judging of this necessity be in them, the Constitutional power to act must be in them also."

So much for the committee. Let us now hear the report of Mr. Monroe, then Secretary of War: He says, speaking of the powers in relation to the militia: "In the instances under consideration, powers are granted to Congress for specified purposes in distinct terms. A right to carry powers thus granted into effect, follows of course. The Government to whom they are granted must judge of the means necessary for the purpose, subject to the checks provided by the system." If any doubt existed on this point in any case on general principles, and I see cause for none, it cannot in the present, a power having been explicitly granted to Congress by the Constitution, to pass all necessary and proper laws for carry-

15th CON. 1st SESS.—36

ing into execution the powers vested in the General Government."—Report, as printed this session, page 22.

This, sir, is, I conceive, a correct and able exposition of the great principles of the Constitution in relation to specified and implied powers; and is in perfect unison with the principles of the report of the select committee.

But it is said we have called in the aid of precedent. The committee being about to cite various exercises of power, sometimes strongly analogous to that contended for, and sometimes much more doubtful, observe, (page 7.) "The laws of the Union, and the act of the Executive branch of the Government, though they cannot be relied on to support acknowledged error, may safely be referred to in all of our inquiries as to the proper construction of the Constitution."

Let us see if there is anything novel in this idea. Mr. Madison, in rejecting the Bank bill in 1814, expressly declares that he considered "the Constitutional question precluded by repeated recognitions under varied circumstances of the validity of the exercise of a power to establish a bank by Congress, in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications in different modes of a concurrence of the general will of the nation."

In the report on the Massachusetts militia claims, Mr. Monroe, after supporting, by an able course of reasoning, his view of the Constitution, adds, in order to enforce and fortify it, these remarks: "The construction given to the Constitution by the Executive, is sanctioned by legislative authority, by the practice of the Government, and by the assent and acquiescence of all the States since the adoption of the Constitution to the period of the late unhappy differences." He then proceeds to cite the instances of the construction given by the Executive department in support of his opinion.

I shall not stop now, to show why these opinions appear to me to have their foundations laid in good sense and profound knowledge of political affairs. It is enough for me at present to show, that so far from being novel, these opinions of the committee have been promulgated by our best and ablest men.

But, it is not only in the reasoning of the committee that a coincidence is discovered with long received opinions of our most distinguished statesmen. The very opinion which they have expressed was entertained and avowed, and advanced, in a report made to Congress by that celebrated man, Mr. Gallatin, while Secretary of the Treasury under Mr. Jefferson's administration.

In pursuance of a resolution of the Senate in March, 1807, requesting him to prepare and report "a plan for the application of such means as are within the powers of Congress, to the purposes of opening roads and making canals," he made, after twelve months' reflection, and under the administration and auspices of Mr. Jefferson, a detailed report, from which I beg leave to read the following passage—page 78:



H. R.

Internal Improvements.

MARCH, 1818.

The manner in which the public money may be applied to such objects, remains to be considered. It is evident that the United States cannot, under the Constitution, open any road or canal without the consent of the State through which such road or canal must pass. In order, therefore, to remove every impediment to a national plan of internal improvements, an amendment to the Constitution was suggested by the Executive, (Mr. Jefferson,) when the subject was recommended to the consideration of Congress. Until then obtained—the assent of the States being necessary for each improvement—the modifications under which that assent may be given will necessarily control the application of the money. It may however be added, that in relation to the specific improvements already suggested, there is hardly any which is not already authorized by the States, respectively, or so immediately beneficial as to render it highly probable that no material difficulty will be experienced in that respect."

The money may be applied in two different ways: The United States may, with the assent of the States, undertake some of the works at their sole expense, or they may subscribe a certain number of shares of the stock of companies incorporated for the purpose. Loans might also, in some instances, be made to such companies."

At present, the only work undertaken by the United States at their sole expense, and to which the assent of the States has been obtained, is the road from Cumberland to Brownsville. An appropriation for this purpose may be made at any time. In relation to all other works, the United States have nothing at this time in their power," (the assent of States in no other case having been obtained, and the Constitution not authorizing an improvement without their assent,) "but, to assist those already authorized, either by loan, or by becoming stockholders. The only companies incorporated for effecting some of the improvements considered in this report as of national and great importance, are the Chesapeake and Delaware canal, the Susquehanna canal, and the Dismal Swamp companies."

It would be a waste of time to comment on this passage. No one can read it without being sensible that the opinion of the writer corresponded precisely with that of the select committee; that he considered the Congress as possessed of the power to appropriate its money for roads, and to construct roads and canals, with the qualification, however, of obtaining the assent of the States.

From the year 1808 till the first session of the Congress, I do not perceive that this subject was again agitated; but at that session a recommendation was received from the Executive, which was conceived to admit that Congress possessed certain powers in relation to these subjects, though not as extensive perhaps as the interests of the nation might require. [Here Mr. TUCKER read a part of Mr. Madison's Message.] In consequence of this Message, a bill was brought at the next session by an honorable gentleman who now forms a part of the Administration, (Mr. CALHOUN,) and whose aid it is a subject of the deepest regret that we do not possess on the present occasion. The principles of that bill were correspondent with those of the resolutions before you, and were supported by its mover with

an ability that illustrated every subject which he touched, and a vigor of genius which insured success to every measure that he advocated. It passed triumphantly through both Houses, and was presented for the signature of the Executive. To the great and general disappointment and surprise of its advocates, it was rejected; and it is peculiarly their misfortune that the revival of the proposition has devolved from its able supporter on the feeble hands to which it has at this session been committed.

Besides these decisive evidences that there is nothing novel or extraordinary in the proposition before the Committee, I beg leave to mention the cases of the Cumberland and Plattsburg roads. The Cumberland road is constructed from the banks of the Potomac, through parts of Maryland, Pennsylvania, and Virginia, to the river Ohio. The road has been made by the United States, and at their expense. Three or four laws have been passed, at different times, appropriating money for its construction, and these have received the assent of two Presidents, (Mr. Jefferson and Mr. Madison.) It will be my object, before this discussion closes, to prove that the construction of this road does not differ in principle from the power asserted to exist in the Federal Government by these resolutions. At present, such a discussion would be premature.

The act was not only passed by the General Government, but the three States through whose territories the road was to be made promptly passed laws giving their assent to the act of Congress. It is some consolation to me, on this occasion, when I seem to be considered in array against my State, to reflect that the State of Virginia was among the first to pass this act of assent. I think it was in the year 1806 that she gave her assent to the law.

The Plattsburg road is made without legislative authority, except that, in the contemplation of the employment of our soldiers in the construction of military roads, an addition *per diem* of fifteen cents was allowed by the last Congress. Under this authority alone a road has been directed to be constructed for military purposes, from Plattsburg to Sackett's Harbor, even without the assent of the State, and in a time of profound peace. Without calling in question the validity or propriety of any of these acts, they are regarded as exculpating the committee entirely from the hardihood of advancing bold and novel and dangerous propositions. With that view only they are at present introduced.

Sir, I should be sorry, indeed, if the only protection for State rights was to be found within these walls, and if the existence of the States was to be endangered by any proposition made here. The safety and integrity of the States, in my humble judgment, does not depend so much upon the barriers which this instrument has erected, as upon the very existence of the State governments. It is in this existence that they will always find their security. It is in the fact that there are in the confederacy twenty organized, legalized assemblies, ready and able to thwart

MARCH, 1818.

Internal Improvements.

H. or R.

the views, and check the progress of the Federal Government, when improperly administered. It is in the fact that, according to that great principle of our nature, which binds the human affections most strongly to what we enjoy in exclusion of others—to everything in which we have a distinct and separate property, rather than to what we hold in partnership or in common. It is in the fact, that from this principle the citizens of each State love their own Commonwealth better than the General Government, that we are chiefly to rely for the preservation of the sovereignty of the States. Let but a serious conflict of right exist between the two, and this must always yield. Let but this Government attempt to put down the States, and in every State the bold and intrepid defenders of State rights will rally round these organized bodies, drawing into their ranks even their members in the Federal Legislature, and annihilating a sovereignty, which, after all, is but a creature of their will. Your Congress cannot even be elected and assembled without their agency and assent. Sir, I have no apprehension of danger to the State authorities, so long as they preserve their Legislatures. What would have become of the British Monarchy if, during the troubles of 1794, there had been in its dominions twenty well organized assemblies, which met under authority of law to consult, and act about public affairs, and who carried with them to the hall of their deliberations the warm affections of the people? It would have crumbled into the dust. And so will it be with this Government, if the time shall ever come when, forgetting that it is but the breath of the nation, it shall venture seriously to invade the rights of the States. But it must be on some serious occasions. Less occasions must be met by amendment. If we do wrong, our constituents may cast us from their confidence; the States may pass an amendment declaring we shall not exercise the power we claim. With all these checks, let us act fearlessly, according to our consciences, assert the power if we think we possess it, well assured that if we are wrong, the evil will be speedily remedied, without any essential hazard or injury to the political body.

Sir, whilst there seems to be no real danger to the liberties of the people or the integrity of the States, in this proposition, its importance and the benefits which it promises to the nation, cannot but forcibly present themselves to the mind of every member of this Committee. Look around us upon the present state of the country. Possessed of every natural advantage, there are many parts of it as unimproved as a wilderness, so far as respects the means of intercommunication. The members of this body have every morning the subject most feelingly presented to their consideration. Every morning we are turning in hopeless disappointment from our post offices, deprived even of the consolation of hearing from our distant connexions, from the failure of mails on account of impassable roads. This Constitution imposes the duty of carrying the mail, but we are without the means of carrying it, either with

safety or rapidity. Our husbandmen and planters in their turn waste a third of their labors in getting their produce to market. Even in the country where I reside, not eighty miles from tide-water, it takes the farmer one bushel of wheat to pay the expense of carrying two to a seaport town; and thus one-third of his labor is lost. Are we engaged in war, matters are still worse. Flour will be twenty dollars a barrel at Charleston and Boston, and two-and-a-half or three where I reside; and yet, for want of internal navigation, it is impracticable to avail ourselves of the price, and save our fellow-citizens from scarcity. The nation suffers yet more. An enemy on the ocean assails in rapid succession the most distant points, and we are incapable of meeting him. Our artillery, in transportation to distant parts of the Union, costs us one thousand dollars a gun; our stores have been expensive in proportion—our flour has been as high as ninety dollars, as I have understood, and it was said that the extra-expenditure of the Western campaign, for transportation alone, would have built us a navy on the Lakes, and secured us the conquest of Upper Canada. Such are the evils we encounter—and this too in a country more remarkably characterized by the beneficence of nature, than any other in the world. With a sea-coast stretching from Boston to St. Mary's, not only indented with fine harbors, adapted for foreign trade, but offering singular facilities to an internal communication on its rivers and bays, and in an extraordinary natural canal formed by the sea islands and inlets along the coast of the Carolinas and Georgia, more can be effected at a small expense than any other nation has been able to accomplish. On the western boundary of our settlements, the Mississippi, running parallel with the Atlantic coast, offers to the whole Western population the great advantages of trade; while the rivers from the Alleghany, running to the East and to the West, and emptying into the Atlantic and Mississippi, seem to bind together the whole by an indissoluble bond of union. It is to the preservation of this Union, that national improvements will chiefly tend. Our confederacy has become vastly extended, and by that extent the stability of the Union is probably endangered. Government is always feeble in the remote corners of its territory. It is the immutable destiny of extended empire. It is for us then to lessen distance, by facility of intercommunication. And when we shall have effected this great object, we may look to a degree of permanence in our institutions, which never can be realized while our people are separated from each other by impassable mountains and impenetrable morasses. Permit me, however, to read on this subject the strong language of Mr. Madison, in his Message to Congress at a late session—he says:

"Among the means of advancing the public interest, the occasion is a proper one for recalling the attention of Congress to the great importance of establishing, throughout our country, the roads and canals which can best be executed under the national authority. No objects within the circle of political economy so



richly repay the expense bestowed on them; there are none the utility of which is more universally ascertained and acknowledged; none that do more honor to the Government whose wise and enlarged patriotism duly appreciates them. Nor is there any country which presents a field where nature invites more the art of man to complete her own work, for his accommodation and benefit. These considerations are strengthened, moreover, by the political effect of these facilities for inter-communication, in bringing and binding more closely together the various parts of our extended confederacy."

I shall not detain the Committee by any exposition of a plan of internal improvement. The able report of Mr. Gallatin, before alluded to, affords much information on this interesting subject, and to that I will beg leave to refer. The question now before us would not justify my enlarging upon it, if I possessed the power. But I beg leave to remind the Committee that, for the completion of canals coastwise from Boston to St. Mary's—for the improvement of the navigation of some of our most important rivers, in the East and in the West—for the construction of such great roads as the national interest seemed to require, Mr. Gallatin supposed a sum of twenty millions of dollars would suffice. The bank fund, together with such of the Western lands as are already by compact devoted to the purposes of internal improvement, will probably, therefore, meet the expenditure. There is the more reason to indulge this expectation, as the contemplated improvements must be the work of time, and as the interest upon the bank fund, and the proceeds of the sales of the public lands, will probably not fall far short of the annual expenditure. When we consider the flourishing state of our finances, and reflect upon the vast sums which are expended upon less important objects, I trust we shall not hesitate to appropriate liberally to this great purpose of internal improvement. It is a fact that our expenditures in the erection, repairs, and rebuilding of the public edifices in this city, will have cost, before their completion, as much as the whole estimated expense of the canal navigation from Boston harbor to the mouth of St. Mary's river, on the extreme Southern frontier of the United States. The cost of that navigation Mr. Gallatin estimated at about - \$3,050,000

The public buildings originally cost -	\$1,200,000
The rebuilding has already cost -	800,000
And the completion of the wings and centre building, and of the President's house, may fairly be estimated at -	1,000,000
Making -	\$3,000,000

Besides the erection of two additional offices now contemplated.

Whilst, therefore, we manifest a just liberality in some respects, let us not be blind to the great interests of the nation, or pursue a false economy in relation to the improvement of the face of our

country. Let us recollect that the whole expense which we may incur will be fully reimbursed in a few campaigns, should we again be involved in war, by the great saving to the nation which these facilities will produce. Let us husband our resources; let us not waste them upon unworthy objects, but devote them liberally to the promotion of the comfort and happiness of the people, and of the property and union of this great Confederacy.

Mr. ADAMS, of Massachusetts, submitted his reasons in opposition to the resolution.

Mr. B. SMITH, of Virginia, said: As it is probable that few of the members of Virginia will vote for this resolution, and as I shall be one of that few, I have, in yielding to a sense of duty, with no little reluctance, prevailed upon myself to ask of the Committee its indulgence, while I shall endeavor, in as concise a manner as possible, to present the reasons which will influence me in my vote. I trust that the resolution will be adopted, as it is one which I conceive to be intimately connected with the welfare of this country. At the same time, considering its magnitude, I despair of placing it in that strong and advantageous point of view to which it is so eminently entitled. The advantages to be secured by it, and which will accrue to the country from an easy and enlarged intercourse between its various parts, present to my mind considerations strongly intermingled with its best interests. At present I am not advised of any measure that could be the result of our deliberations, which would contribute more to the advancement of the general prosperity of the nation, or to the preservation of its political existence, than the one which is now the subject of consideration. If the improvement contemplated should be effected, of which there is no doubt, provided the resolution be adopted and a bill thereupon be passed, the extremes of this wide extended, and still extending Republic will be approximated, a sympathy of feeling introduced, a happy and harmonious connexion formed throughout the whole, based upon a reciprocity of interests, the most indissoluble of all ties, the surest and strongest guarantee of permanency to the Union. No longer will that supposed dissimilarity of interests, which is said heretofore to have existed between the various sections of this Union, be a pretext of jealousy and complaint on the one part, or a source of fear and alarm on the other. The general diffusion of mutual benefits will form a sanctuary, behind which all sectional feeling arising out of geographical situation may be happily extinguished, and this country be permitted, with an accelerated though steady motion, to advance on to that high destiny to which the God of nature hath allotted it. Sir, said Mr. S., whether we consider this resolution in relation to a state of peace or war, it can but be apparent to gentlemen to be pregnant with consequences of the deepest national concern. In time of peace it will prove a fountain of wealth, and, in that of war, the sinew and the strength of the nation. The expediency of its adoption, nay, I might here say

its necessity, is clearly to be seen in the mirror of past times. In the late war, when this country was subjected to an accumulation of suffering, doomed to be deprived, nearly, of all the benefits of external commerce, its interior was but the weeping image of its own decayed and withered state, for the want of those vehicles of safe, easy, internal intercourse, which it is now the object of this resolution to afford. In addition to this, for the want of these facilities, our Government was subjected to an enormous accumulation of expense, arising out of the almost insuperable difficulties incident to the transportation of its troops and other means of defence. Those troops oftentimes paralyzed in their exertions, delayed on their marches, and thereby opportunities afforded to the enemy of committing with impunity their dark and infernal deeds of plunder, conflagration, and other offences of a much deeper die. To obviate an occurrence of like scenes, so afflicting and shocking to humanity, to prevent similar disadvantages, will be more or less, as I contend, the effect of this resolution, should it be adopted. Good roads and navigable waters winding and insinuating themselves in every direction, through this extensive country, will be to the great body politic what the veins and arteries are to the natural system. Mr. Chairman nature has done much for this country; she has been bountiful and lavish in her gifts to it; it behooves the Government, therefore, to extend its fostering hand to make them useful. This cannot be more effectually done than by making good roads in your country, and rendering those water-courses therein navigable, which are practicable of being made so. History affords us some instructive lessons on this subject; she is not silent as to the immense advantages arising to a nation, from its possession of extensive, easy inland communications. To what cause has she ascribed the early improvements of certain countries in their agriculture and manufactures? Has she not ascribed it to their possession of the facilities afforded by the means of an extended inland chain of intercourse? To what cause has she placed the opulence of the ancient Egyptians, Chinese, and Indians? Has she not placed it to their enjoyment of similar advantages? On the other hand, to what cause has she assigned the degraded, wretched, and barbarous state of those who inhabit the inland parts of Africa? Has she not attributed it, measurably, to their want of like conveniences? Sir, the agriculture and manufactures of all countries are more or less dependent upon the easiness and extent of their interior interchanges. Why then should we, with the experience of the late war, and with those historic truths beaming before us and lighting up our path, longer delay the improvement of those natural advantages which our country has thus presented to us? Is it because an opinion is entertained that Congress has no right to legislate upon the subject of roads and canals? If such be the opinion, then am I at issue with it.

The right in Congress to construct post roads may be fairly claimed from the seventh clause of

the eighth section of the first article of the Constitution, taken in connexion with the 18th clause of the same section. What, sir, are the words of these clauses? "Congress shall have power to 'establish post offices and post roads, to make all 'laws necessary and proper for carrying into 'execution the foregoing powers, and all other 'powers vested by this Constitution in the Government of the United States, or in any department or office thereof.'" The clause first mentioned, by the force of the words "to establish post offices and post roads," carries along with it, and in my opinion gives to Congress not merely the power to designate, but that of forming, opening, or constructing said roads; and the latter clause, while it expresses the necessary power that may be exercised by Congress in relation to the execution of its primary ones, renders the exercise of it dependent upon a mere question of expediency, in determining of which many considerations of a relative nature may present themselves. This latter clause being incidental, or accessorial, as it is, to the execution of the primary powers—if the fact be admitted, which to my mind cannot fairly be denied, that good roads are necessary to an expeditious and safe transportation of the mails, and to the support of the post office establishments—then is it manifest that the power to establish post roads is not merely that of pointing them out, but of opening and making them efficient; and that, as in the exercise of this incidental power, it must not only be necessary to the execution of some primary one, but also proper, that is, expedient, or, in other words, politic, the assent of the States through whose territories these roads may be intended to pass, might be made a prerequisite. This assent being obtained, the expediency to open and improve them will thereby be sanctioned, and no improper feelings excited. In the exercise of this power to construct post roads, the legal authority of the States over the soil through which they may pass is not thereby divested, but this their jurisdiction remains undiminished. The act of opening and keeping said roads in repair, either by the national funds alone, or by them in aid of those of the States respectively, only confers upon the General Government an efficient right to use them as the means of facilitating certain national purposes. This, sir, appears to me to be a just exposition of the instrument; for as on the one hand it manifests a most scrupulous regard for State authority, so on the other, it gives to Congress a power, the exercise of which is more or less essential to, and congenial with, its federate national character. It has been urged against the exercise of this power on the part of Congress, that this having been based upon the previous assent of the States thereto to be had, is an evidence of the non-existence of such a power. This appears to me to be a *non sequitur*. For, when I advert to the Constitution, I not only find substantive, but also incidental as well as qualified powers therein granted. These several characters of powers will be exercised according to the objects of them, their supposed operations and results.



H. R.

Internal Improvements.

MARCH, 1818.

For example, the power to regulate foreign commerce is external in its operations, and general in its effects, and therefore is, and will be, exercised without the consent of the States; but that of constructing post roads, whether specifically or incidentally given, though general in its result, is local and internal in its operations, and therefore expediency might well suggest its exercise with and by the consent of the States through which the roads may pass. It has also been objected to the exercise of this power, and I therefore may anticipate it again, that if the States are unwilling to keep these roads in a good state and condition for the transportation of the mail, the presumption is, they would not consent that post roads should be opened therein under the authority of Congress. This presumption does not reasonably arise; for it may easily be conceived that though the States, as such, might be unwilling to impose burdens upon their people for making and keeping in repair roads destined for national purposes, they might cheerfully yield their assent that they might be made and kept in order by means of funds drawn equally alike from all the people of the States. Should the States, however, be unwilling to have roads opened therein under the authority of Congress, it could not in the smallest degree, in my mind, impair the right of Congress to make them without such consent, provided that just compensation be made to individuals whose soil may thereby be affected. If, though I doubted on the instrument itself as to this power, that doubt would not be a little lessened, when I discover, as I have, from the document some time since laid upon our table, the instances in which it has been independently exercised, (with the exception of the Cumberland road, opened by the consent of certain States,) both by the executive and legislative branches of the Government. This executive and legislative exercise of the power, and the complacency therein on the part of the nation, may be considered as so many decisions on the instrument or law itself, as thereby to afford a key to its rightful construction. If the reasoning which I have urged, to show that Congress has the right to construct post roads be considered as satisfactory, the like, when applied to military roads and canals, both considered as necessary to the military operations of the country, and the latter, more particularly, as affording facilities, and giving life and activity to its internal commerce, may also evince that Congress has a right to construct them under the powers which it possesses of declaring war, regulating commerce among the several States, coupled with the power of making all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof. I would, here ask, why and wherefore is it that Congress is annually engaged in making appropriations to defray expenses incident to light-houses? Is it not because they afford facilities to the external commerce of the country? And will not canals

afford like facilities to its internal commerce? They certainly will; and, in addition thereto, will, together with military roads, be necessary to the success of the military operations of the country. It may be said though, by the opponents of the power, that the sites of these light-houses, in order to give Congress exclusive jurisdiction over them, must be acquired by the consent of the State or States in which they are. Be it so; and the conclusion follows that, as there cannot be the same kind of divestiture of right on the part of the States over the canals that may be opened under the authority of Congress therein, so, also, their previous consent is not an indispensable pre-requisite to the opening of the same. Further, it has been wisely ordained that Congress shall be inhibited not only from imposing duties on articles exported to foreign countries, but from imposing them on those which may be taken from one State to another. Again: by no regulation of the external or internal commerce of the country can Congress give a preference to the ports of one State over those of another; nor can vessels bound to or from one State be obliged to enter, clear, or pay duties in another. I might here ask if the power to regulate commerce among the several States was designed originally to mean nothing more than a system of rules, what subject-matter is left on which this power to regulate internal commerce is to operate?

Sir, it does appear to me that the power to regulate commerce among the several States may consistently, and without a perversion of words, be considered as involving that of giving direction to said commerce to and from every part of the Union; and that therefore Congress has a right to open canals as necessary to that direction. Though I should be mistaken in this view, still has Congress the right to construct them as necessary to the military operations of the country. I will not detain the Committee longer than to observe, that though I am of opinion that Congress has the right to construct roads and canals as necessary to an expeditious and certain transportation of the mails, to the support of the Post Office establishment, and to the strengthening of the military defences of the country, and as affording facilities, and giving life and activity to its internal commerce, still I am induced to believe that expediency suggests, for the present, its exercise with and by the consent of the States through whose territories they may pass.

Mr. CLAGETT, of New Hampshire.—Mr. Chairman, the subject under consideration is among the most important upon which we can be called to decide—it is a Constitutional and great national question; and, as I had the honor to be one of the committee to whom it was referred, and having been unable to acquiesce in the report, I deem it a duty to the House and to myself, to assign the reasons which have governed me; and, for this purpose, I request the attention of the Committee of the whole House.

This resolution recommends the establishing a fund, and presents the following specific objects only, to which that fund is to be applied, viz:

MARCH, 1818.

Internal Improvements.

H. OF R.

"The promotion and security of internal commerce among the several States, the improvement of post roads, with the assent of the respective States, and the construction of military roads, with the like assent of such States;" but, then, sir, by a subsequent sweeping clause, it embraces "all such other internal improvements as may be within the Constitutional powers of the General Government;" and this latter clause is not without its meaning.

Sir, although three objects only are specified, almost of the whole of this elaborate report, which is now before the public, and is recorded in your Journals, is intended to establish a power in Congress to construct roads and canals in general, and without limitation. And this is now evinced by the argument of the honorable chairman of the Committee on Internal Improvements, who introduced the report. Yes, sir, a "latitudinous" constructive power is contended for. We are told that Congress has this power and ought to exercise it. And we are also told, that "the success of an appeal to the people for an amendment of the Constitution would be hopeless." Sir, is this a good reason for exercising such a power, because the people are unwilling? Surely it is not; and this course is dangerous. Are not the people sovereign? Are they not jealous of their rights? And are not the powers of Congress limited? Yes, sir, most certainly they are. By the 10th article of the amendments of the Constitution, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." Where, then, is this power found?

The report says: "The committee do not conceive it necessary to call to their aid the liberal principles of construction which the occasion might justify." They disavow any use of the general phrase in the Constitution "to provide for the common defence and general welfare," as applicable to the enumeration of powers, or as extending the powers of Congress beyond those specified in the Constitution; and they admit that, to support these positions, it must appear that the powers contended for are expressly granted, or that they are both necessary and proper for carrying into effect some other express power; and for this power they principally rely upon the eighth section, first article of the Constitution, "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

Sir, by what rule of construction can this clause be applied to the construction of roads or digging canals? If it can be so applied, then, by a parity of reasoning, we may extend it to the building of boats, manning them, and even furnishing goods and merchandise. This might be acceptable to the States immediately benefited, and it might have "their assent;" but how would it affect the other States in the Union? Would they be satisfied with such "internal improvement," such a "regulation of commerce," or with such a monopoly in those favored States? I think not.

But, by the same rule of construction, why not build merchant ships and furnish them for foreign commerce? The rule is equally applicable; and, by the same rule, you might extend your roads and canals into the Indian country. But, sir, this is not the intent and meaning of the Constitution. It means no such thing; it does not authorize Congress to create commerce, but to regulate and cherish that which already exists, in order that the benefits should be equally felt throughout the whole nation.

Mr. Chairman, it has been said, in support of this resolution, that the United States present a wide field for internal improvement. Sir, I feel pride in admitting this fact, and in the belief that the people of the several States, equally sensible of it, are making great progress in it; and that the time is not far distant when internal improvement will be carried to high perfection. But this is no argument in favor of Constitutional power in Congress to construct roads and canals. But the question is, have we such power? It is admitted in the report that the wants of the nation cannot confer power; but it is there said, those wants may justly afford aid in construing the Constitution. Sir, if the power be granted, no such aid is wanted; if not granted, such wants give no aid.

But, in the same report it is said, "when power is only felt in the blessings it confers, a less rigorous construction is justifiable;" and again, in the same report, it is said: "There is no danger that such power will be abused while the vigor of representative responsibility remains unimpaired; and that upon this principle the framers of the Constitution mainly relied for the protection of the public purse!" Sir, I cannot admit this doctrine; it is too "latitudinous;" it is dangerous: and, by the same rule, under the terms "common defence and general welfare," you might enact laws for each State; such laws might confer blessings, but perhaps they would not be cordially received. The several States claim the power, and will exercise it, of enacting their own laws; nor will it be contended that Congress have this power.

The powers of Congress are limited to certain objects, and cannot be extended without an amendment of the Constitution. This Constitution has granted to Congress the power of "exclusive legislation in all cases whatsoever, over such District, not exceeding ten miles square, as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall belong, for the erection of forts, magazines, arsenals, dock yards, and other necessary buildings; and to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof." These are great and extensive pow-



H. of R.

Internal Improvements.

MARCH, 1818.

ers, but they are guarded with jealousy, and scrupulously limited.

Suppose Congress should deem it necessary to extend the boundary of this District twenty, instead of ten miles square; and suppose Virginia and Maryland, or any State contiguous, should assent to it; would such a measure be proper? Could you accept of such cession, or extend the District? No, sir; you could not accept of the cession, nor could you extend the District one rod. Again, sir, suppose you wanted a small spot of ground whereon to erect a fort or magazine, could you constitutionally take possession of it, or even purchase it of the owner, without the consent of the State wherein it might be? No, sir, not one foot. Nor could you, with such consent, unless express power for that purpose had been given you, any more than you could extend the limits of this District. Where, then, is this power, without or with the consent of the State, to construct roads and canals? It is not found in the Constitution, and it does not exist. Why, then, make this appropriation? Where establish this fund? It is hoped that the "voice of representation" will be sufficient to prevent it. But, sir, why press this subject in opposition to the "deliberate and settled opinion" of statesmen, who are entitled to high confidence and respect? Why not make the appeal to the people in a Constitutional way, agreeably to the recommendations of the late President Madison, as recorded in the Journals of the last Congress, and, in the Executive Message, recommended to both Houses of Congress the present session? Sir, it has been said we are not to be governed by Executive influence. I admit it; and I believe no member of this House would be more zealous in preserving the separate Constitutional powers of each branch of the Government, or more tenacious of the right of personal opinion than myself. Yet, upon a subject of such magnitude as the present, if my opinion was different from those cited, I should think it no dishonor, but a duty as well as sound policy to pause and consider. But, sir, when it is avowed in this report, that "the sentiments advanced in the Executive Message give additional interest to the measure," an impetus to the introduction of the resolution; if I had no doubt of Constitutional propriety, I have strong doubts of the propriety of such a procedure, and, until those doubts are removed, my opposition will be firm. And, sir, I will give my vote against the resolution.

Mr. Lowndes rose to propose a modification of the proposition before the Committee. He thought it would be better to separate the Constitutional question embraced by the resolution from the question of expediency. After the adverse opinions of two Presidents had been expressed, Mr. L. thought it was proper to settle the Constitutional question, and in doing so it would best to present it free from the question of expediency, or from any embarrassments of detail; in which shape the decision would be more unequivocal, and gentlemen might vote for either branch of the proposition, and against the other,

with perfect consistency. He therefore moved, by way of amendment, the following substitute for the resolution under consideration:

*Resolved*, That, under the Constitution of the United States, Congress has power to appropriate money for the construction of post roads, military and other roads, and canals, and for the improvement of water-courses, with the assent of the States in which they may lie.

*Resolved*, That it is expedient that the sum to be paid to the United States by the 20th section of the act to incorporate the subscribers to the Bank of the United States, and the dividends which shall arise from their shares in its capital stock, be constituted as a fund for internal improvement.

Mr. JOHNSON, of Virginia, wished this subject to be fairly discussed, but could not see the necessity of separating the questions. He asked if the House would consent to sit debating merely abstract questions of Constitutional powers? He presumed no act would ever be performed until members were convinced of the convenience, the necessity, or the expediency of it, and then they would inquire, and it would be time enough to inquire, into their powers to effect it, &c.

Mr. TUCKER and Mr. TALLMADGE were in favor of the amendment.

Mr. EDWARDS inquired whether it was intended to question the power of Congress merely to appropriate money for the object, or the power of effecting the object of appropriation? to which

Mr. LOWNDES replied, that his object was, substantially, to bring forward, for decision, the right of passing such a bill as that of the last session, on this subject.

Mr. HOPKINSON observed, that, as he held that Congress had this power, with or without the consent of the States; and as he doubted whether the words, "with the assent of the States," could, according to order, be afterwards stricken out, if the amendment were now agreed to; and as he could never sanction with his vote any proposition recognising this condition as necessary to the power in question; he moved that those words be stricken out of the proposed substitute.

Mr. TUCKER, of Virginia, spoke in explanation of the views of the committee in their report. It was not intended to declare that Congress had this right without the consent of the States, (and he was inclined to believe it had not,) but merely to say that, with that consent, Congress had the power, and might exercise the right. Mr. T. then entered into the question of the extent of the power, as contended for in the report, at some length.

Mr. HOPKINSON also went somewhat at large into an examination of the question, arguing that the power of the General Government in this case was independent of the State authority or State assent; that the Constitution had not recognised State assent as necessary in any case in the exercise of any power it granted. This power, Mr. H. said, was contended for on three grounds. Its exercise was claimed under the power to establish post roads, under that to pro-

MARCH, 1818.

Internal Improvements.

H. of R.

vide for the general welfare, and under the power to regulate commerce between the several States; the right now claimed was justified as a correlative of one of these three powers, and, as neither of these powers was held dependent on the assent of the States, the minor right growing out of them could not be. As, therefore, this right rested on the Constitution, he hoped it would not be referred to the assent of the States, for though such an admission might be considered, if not necessary, at least harmless, yet he viewed it as neither harmless nor safe, but as a concession which might hereafter be productive of danger. It was improper to admit words which would hereafter render it doubtful on what ground Congress acted, and, as he was opposed to those, in principle, he hoped they would be expunged.

Mr. LOWNDES, while he concurred entirely in Mr. HOPKINSON's views of the Constitution, and though Congress might possess the power independently of the States, yet defended the propriety of retaining the words, and referring the exercise of the power within the States to the assent of the States, as the only course by which any good was likely to grow out of the proposition, &c.

Mr. MERCER was opposed to the amendment. If Congress had the right without the assent of the States, it certainly had it with that assent; and, as the assent of the States could neither give nor impair any Constitutional right, he hoped the words would be retained.

Mr. CLAY had no doubt that the Constitution had invested Congress with this power independently of any State authority; but still, though he held this opinion, he did not consider anything yielded by exercising it under the assent of the States. It was similar to acts of conciliation between neighbors, where the rights of one party might be unquestionable, &c., cases of which he supposed to illustrate his ideas.

Mr. HUGH NELSON rose to express his disapprobation of the course which had been given to this discussion. He thought Mr. HOPKINSON ought to withdraw his motion, and Mr. LOWNDES his also, and let the discussion proceed in the course from which it had been diverted. The champions of this measure had been heard; the report had been made and defended; the Ajax Telamon of the party had hurled his lance; and when Æneas prepared for the conflict, and was about to cast his javelin, Minerva interposes with a cloud, and puts an end to the contest.

Mr. CLAY, in reply, (alluding to a call he had, before Mr. HOPKINSON's motion, made on the opponents of the measure to come forward in the debate, at a moment when no gentleman had risen,) asked where was his friend Hector when that invitation was given, and why he had not accepted it?

Mr. LOWNDES was unwilling to withdraw the amendment. If the Constitutional question was to be discussed, perhaps it might as well come up on the present motion as on any other.

After some further remarks on the course of the proceeding by Messrs. TALLMADGE and SER-

GEANT, Mr. HOPKINSON observed, in allusion to the quotation from Homer, that, as, in contending for the dead body of Patroclus, the two armies were drawn into a general engagement, the same effect seemed probable on this motion, he moved that the Committee now rise; which was concurred in, and the House adjourned.

SATURDAY, March 7.

Mr. SERGEANT, from the joint committee to whom the subject was referred, reported a resolution that the President of the Senate and the Speaker of the House of Representatives be authorized to adjourn their respective Houses on the 13th of April next. This resolution was read twice, and ordered to be engrossed for a third reading on Monday.

On motion of Mr. MORTON, the Committee on so much of the President's Message as relates to roads, canals, and seminaries of learning, were instructed to inquire into the expediency of providing by law for constructing a navigable canal, to unite the waters of Massachusetts Bay with the waters of Narragansett Bay, and Long Island Sound, by Taunton river.

On motion of Mr. TOMPKINS, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of extending for five years to the widow and infant children of John Paulding, deceased, one of the incorruptible captors of Major Andre, the annual pension heretofore granted to the said John Paulding for his distinguished merit.

The resolution yesterday moved by Mr. CLAYBORNE, in the following words, was taken up:

*Resolved*, That the President of the United States be requested to lay before this House a statement of the expenses incurred under the 4th, 6th, and 7th articles of the Treaty of Ghent, specifying the items of expenditure in relation to each."

The resolution having been amended by inserting the word *fifth* instead of *fourth*, was agreed to.

Engrossed bills of the following titles, viz: An act altering the time for holding a session of the district court of the District of Maine; and an act to alter the time of holding the circuit court in the southern district of New York, and for other purposes; were severally read the third time, and passed.

Mr. JOHNSON, of Kentucky, gave notice that on Monday next, he would move for leave to bring in a bill authorizing the people of the Michigan Territory to send a delegate to Congress.

## INTERNAL IMPROVEMENT.

The House then proceeded to the order of the day on the question of roads and canals; and the remainder of the day was consumed in debating it.

Mr. LOWNDES having withdrawn his proposed substitute, the question recurred on the resolution originally reported by the select committee.



H. OF R.

Internal Improvements.

MARCH, 1818.

Mr. A. SMYTH, of Virginia, addressed the Congress and said: Those questions which arise respecting the extent of the powers of the Government of the United States, may justly be regarded as among the most important that can come before this body. While it is our duty to maintain, unimpaired, the just powers of Congress, we should be careful not to usurp any of the power of the State governments; and not to encroach on the rights reserved to the people. If the Federal Constitution requires any amendment, it is believed that those required are such as would render more distinct the line of separation between the powers of the General Government and the State governments, so that there shall be no ground for variance; no conflicting claim to power, such as would leave all general interests and foreign relations, exclusively to the General Government; and all local interests and internal concerns, exclusively to the State governments; and let them have no concurrent jurisdiction. Therefore, in every case where the State Legislatures have clearly a right to legislate, and our right to legislate is doubtful, I would not claim it. Let us rather diminish than increase the number of subjects, with regard to which the Federal Government and the State governments have concurrent jurisdiction. Let us leave to the State Legislatures power to do good also.

The powers which it was intended to confer by the Constitution on the General Government, were to make war, to make treaties, to regulate commerce, to levy money, and the corresponding executive and judicial duties. War, foreign intercourse, and commerce, were the great objects of the Constitution. The power to raise money, and the necessary executive and judicial powers, are the means given to attain those objects. Internal police, the power of making and administering civil and criminal law, were intended, with the exception of a few enumerated cases, to be left to the State governments.

It is contended by the select committee, as I understand, that Congress have power to raise money to be appropriated to make roads and canals, and to pass the laws for making such roads and canals by the assent of the States. On the contrary, it is contended that Congress have no authority to appropriate money to make roads and canals, or to pass laws for making such roads and canals, either with or without the assent of the States. The latter position is that which I wish to attempt to maintain.

The committee support this claim to power in the General Government to make roads and canals, as being necessary and proper to carry into execution the power expressly granted to regulate commerce among the several States. They say that roads and canals will promote and give security to internal commerce, and render less expensive the means and provisions of defence. If reasons like these will justify the exercise of power, then Congress may regulate agriculture, the markets, and the manufactures, as by so doing they may diminish the expense of defence; and they may take upon themselves the sole admin-

istration of justice, so far as relates to contracts, under the pretence of giving security to internal commerce.

Sir, if such reasons are satisfactory, Congress may go still farther. I understand the argument of the select committee as if it was stated thus: Congress having power expressly granted to regulate commerce among the several States, have incidental power to do whatever will facilitate and give security to internal commerce. Canals will facilitate and give security to internal commerce; therefore, Congress may construct canals. But the major proposition is denied. If that proposition can be maintained, then Congress may assume the whole internal legislation of the nation; the whole administration of justice; the whole police, as well of the country as of cities; for all these will facilitate and give security to internal commerce.

The internal commerce that is to be regulated by Congress, is commerce among the several States, excluding the regulation of commerce between the different places in the same State. By the grant of power to regulate commerce among the several States, I presume it was intended that Congress alone should lay duties on imports from another State, designate ports, prescribe rules for the coasting trade, grant licenses, and so on.

The select committee say that the power to make roads and canals is not less incidental to the power expressly granted to regulate commerce among the several States than many of the powers exercised in relation to foreign commerce are incidental to the power to regulate foreign commerce; and several examples are produced of the exercise of power by Congress, which the committee deem as little incidental to any of the powers expressly granted as that under consideration.

I do not take upon myself the task of maintaining the constitutionality of all the past acts of Congress; more especially, I shall not attempt to defend the act for making the Cumberland road, and the act for giving fifty thousand dollars to the people of Venezuela; neither of which acts were authorized by the Constitution. With respect to the other acts mentioned in the report of the select committee, if they were violations of the Constitution, they will not sanction a violation of the Constitution by us; and, if they are consistent with the Constitution, they are too dissimilar to that which it is now proposed to pass, to furnish a precedent. The power which it is now proposed to exercise is, the power to legislate respecting internal police and local interests, with the assent of the States, and to appropriate the money of the whole nation to the disposal of particular States, for the advancement of local interests.

The select committee say that Congress have power to establish post roads; and that, to this power is incidental a power to remove the mountains, and construct the roads. Suppose I were to grant this—are they post roads, and post roads only, that you propose to make. The resolution of the select committee is to form a fund for in-

MARCH, 1818.

Internal Improvements.

H. OF R.

ternal improvement; the bill of the last session directed the application of such a fund to the making of roads and canals, and the improvement of the navigation of water courses.

Is not the express grant of power, to establish post roads, an exclusion of all claim to power to establish any other kind of roads, except post roads? It seems to me to be so. If a general power to establish and make roads had been intended to be given, or had been considered as incident to the power granted to regulate commerce among the several States, a special grant of power to establish post roads only, would not have been given. The special power to establish post roads being granted, the general power to establish all kinds of roads is not granted to Congress.

All powers which are not granted to the General Government are retained. What is the power granted? Power is granted to establish post roads. Then the power to make post roads is retained. But should it be decided that "to establish," signifies "to construct," I will ask again, what is the power granted? You answer, to establish and construct post roads. Then the power to establish and construct all other roads is retained.

If we possess power to make post roads, and are to exercise it, let us do it at our own pleasure. Let us not ask leave to exercise our powers; nor bind ourselves to expend exactly seven times as much in the State of Connecticut as in the State of Mississippi. I trust that we will exercise the powers granted by the Constitution freely, as the general welfare may require. Should we provide that so much of the public money as may be allotted to make post roads shall be expended in each State, as shall be such State's proportion, according to the rule of representation, will we not thereby establish a precedent by which to ascertain the sums to be expended in each State for fortifications, or for any other permanent object whatever? The tendency of such a precedent would be pernicious. The public moneys should be expended wherever the public good shall require the expenditure.

Let us well consider the extent of the power given by the Constitution to Congress to establish post roads. Let us examine in what sense this word "establish" is used by the framers of the Constitution. We read in that instrument of establishing justice, establishing a constitution, establishing a rule, establishing offices, establishing courts. To establish, means, as used in this instrument, to give a legal existence. The power to establish post roads, is a power to give existence to post roads, as such. A power to construct the roads is not "necessary," as thirty years' experience has proved. And such a power is not "proper," because it must conflict with the authority of the States to construct their own roads. Such having been during thirty years the construction given to the clause of the Constitution granting to Congress power to establish post roads, I conceive that it should be considered as settled.

One of my colleagues, who spoke yesterday, (Mr. B. SMITH) contended, that "to establish," means "to form." But, a clause of the Constitution says, that the ratification of nine States shall be sufficient for the establishment thereof. There, "establish," means to give legal existence and effect. The Constitution had been previously formed, the conventions in the States established it.

If the power of Congress to establish post roads authorizes the construction of the roads so established, the President has already the power to construct all the roads which you have established. You have exercised your Constitutional power already, and nothing remains for you to do but to make the necessary appropriations. The President has power to execute the laws; and if establishing post roads authorizes their construction, the power and the duty are already with him.

Let us see what would be the effect of a power in the General Government to construct post roads. The States have their road laws; they have laid out the roads, condemned and paid for the ground, and their courts have established the roads; surveyors and laborers have been appointed to keep them in repair. The agents of the President, with their laborers and a code of federal road laws, come and take possession of these State roads; what becomes of the authority of the States over their roads? Are the surveyors and laborers of the States discharged, or is a contest for powers to succeed?

In other places the States have established turnpike companies; these companies have constructed roads, built bridges, and set up gates. The agents of the President, with their laborers, come and possess themselves of the roads and the bridges. What will become of the rights of the companies? Will they be at an end? Or will they receive tolls, while the General Government bears the expense of keeping the roads in repair?

Whatever solution of these difficulties may be offered, it seems obvious that there will be such a conflicting of jurisdiction and of interests, such an interference with the internal and local concerns of the States, as the people, in adopting the Constitution, never intended to produce.

The select committee say, that "the General Government" have power to make military roads; and therefore they infer that Congress have power to construct roads and canals, which will facilitate military operations. It does not follow, that because the President has, from the nature of the powers expressly granted to him, an incidental power to make military roads in time of war that therefore Congress, without power expressly granted, may assume power to make commercial roads in time of peace, because they may happen at some future time to facilitate military operations.

The President is commander-in-chief of the military force; in time of war he may construct roads for the march of troops and conveyance of stores; and he may dig canals to forward his operations as did Cræsus, Cyrus, and Julian; in doing which, I contend that he is under no obli-



H. of R.

Internal Improvements.

MARCH, 1818.

gave to ask the consent of any one. It is the President who makes war. Congress declare it, and furnish him with the means; but they cannot direct his military operations. As he commands the army in time of peace, he may employ the soldiers on fatigue duties; but if he would make a road in time of peace, I will say, that he must obtain the consent of the proprietors of the soil. The State Governments have no authority to forbid the owners of the soil to permit it; and Congress have no authority to protect the road by penal laws, or to wrest from the citizen his property.

Military roads are roads made by military men for military purposes. The admission that the Commander-in-Chief may cause such roads to be made, when necessary in time of war, affords no foundation for the claim of power on the part of Congress to make roads and canals. The power to make military roads is an Executive and military power.

It is said by the select committee that a military road has been made in the State of New York since the termination of the late war, under the orders of the President. The act of making a military road, by the President, without the assent of any one, would be equivalent to an assertion that he himself possesses the power; and would have no tendency to prove that Congress possess such a power, to be exercised with the assent of the States. The precedent, if it exists, proves, if it proves anything, that Congress have not the power; but, I have understood that no such road has been made by order of the President. The commander of the Northern army has repaired a road.

The select committee seem to suppose that the assent of the States is to enlarge the powers of Congress, and to authorize them to pass laws for constructing roads and canals, and for keeping them in repair. Such assent, in the form of an amendment of the Constitution, would give this power, and in no other form can the assent of the State Legislatures confer this power.

It is a fundamental principle, that all power is derived from the people. To Congress the people have granted certain specified legislative powers; and the people of each State have granted to the legislature thereof certain other legislative powers; the people have also granted power to the State Legislatures to enlarge the power of Congress in a particular way, that is, by an amendment of the Constitution.

It will be recollected that no State Assembly can diminish the power of their successors. They can pass no irrevocable laws. If the consent of a State shall be given by law in one year, it may be withdrawn in the next. And it would be highly expedient to commence an extensive system of improvement, with power held by so precarious tenure.

I should ask, can a State Legislature transfer their power to Congress? Can the Legislature of Virginia, for example, transfer their legislative power, and enable Congress to legislate for Virginia as for the District of Columbia? Certainly

they cannot. And if they cannot transfer the whole of their legislative power, they cannot transfer a part. The States individually may cede territory to the United States, but they cannot individually cede additional power. Such additional power can be conferred on the General Government only by an amendment of the Constitution.

The people have withheld from Congress the power not delegated to them. If a power withheld from Congress is with the State Legislature, they alone may exercise it. If it is with the people, it cannot be exercised by any legislative body until they shall have granted it. Legislative power, when granted, is not transferable; nor can it be exercised by substitute; nor in any other manner than according to the constitution granting it.

If it shall be held that a State may, by its consent, increase the legislative power of Congress, it may hereafter become the duty of Congress to legislate for the roads in one State, for the poor in another, and for the administration of justice in a third. And, should the project offered by the select committee be adopted, we may be making roads and canals in ten of the States, while the other ten may reject our solicitation of additional powers with disdain. And would not the law be most partial and unjust, which would grant large sums to a part of the States, while the others were receiving nothing? Would it not be a highly objectionable state of things, should Congress possess powers in some of the States, that Congress did not possess in them all?

If we are to legislate by the assent of the States, the assent conferring the power should be first given; for, if we have not the power without the assent of the States, as the assent has not been given, we have not the power.

Congress can pass no law otherwise than in pursuance of the Constitution. If an act of Congress is passed in pursuance of the Constitution, it becomes the supreme law of the land, without the assent of any State. Then an act, which is not a law without the assent of a State, can never become a law, for it cannot have been passed in pursuance of the Constitution.

A power has been granted to Congress to exercise legislation over places purchased by consent of the State Legislature, for forts, magazines, dockyards, and other needful buildings. This specification of a particular case, in which the assent of a State may authorize Congress to legislate, excludes the claim of power to legislate by the consent of a State in any other case. And in that case the consent is given to the purchase, not to the act of legislation. The power to legislate is granted by the Constitution.

By requiring the consent of the States, you, in effect, acknowledge that you do not possess power, by the Constitution, to make roads and canals; and I think I have shown that the consent of the States will not confer it. And they ought not to grant their consent; for, as in forming the social compact, the individuals should retain all those rights which it is not necessary that they should

MARCH, 1818.

Internal Improvements.

H. of R.

resign for the good of the whole, so the State government should retain all those powers which they can exercise as efficiently as the General Government; and we ought not to ask their consent. Shall we pass acts on which each of the States will have a negative? Shall we appropriate a fund to the use of the States which not one of them may accept?

The select committee have not said whether the State courts or the Federal courts are to grant the views, and writs of *ad quod damnum*, and to establish the roads. The bill of the last session made an appropriation for roads, &c., which were to be designated by the concurrent jurisdiction of Congress and the State Legislatures. I ask, who are to pass the necessary laws for making the roads, and keeping them in repair? If we have power, let us ask the consent of no one. I am not at all disposed to appropriate the funds of the nation to execute the laws of particular States. I entirely disapprove of Congress executing a power by permission of a State Legislature.

It is contended by the select committee that, even if Congress have no power to construct roads and canals, they may, notwithstanding, give money to aid in the constructing of roads and canals by the States; that there is a distinction between a power to appropriate money for a purpose, and a power to do the act for which the money is appropriated. I deny to Congress the right to appropriate one shilling of the money of the people, except for the purpose of executing their own powers, or the powers of the Government, or the powers of some department or officer of the Government; for, no money can be drawn from the Treasury except in consequence of appropriations made by law; and no law can be passed, except such as is necessary and proper to carry into execution the powers granted to Congress, those vested in the Government of the United States, or in some department or officer thereof.

When, therefore, a question arises, whether Congress may appropriate money for a certain purpose or not, the answer must depend on that which shall first be given to another inquiry, whether it is necessary and proper for carrying into execution the powers of Congress, or of the Government of the United States, or of some department or officer thereof; and if it is not thus necessary and proper, Congress cannot pass the law to make the appropriation.

The appropriation of money, which the select committee propose to make, is not an appropriation of money for the general welfare; it is for the improvement of particular sections of country. In making war, maintaining armies and navies, regulating commerce, maintaining a judiciary, and so on, the whole people are concerned; but it is not so as to particular roads and canals. And as roads and canals are of local concern, they ought to be made by local impositions. Suppose that a law should pass according to the proposition of the select committee, and that, in Maryland, the fund should be applied to make a road from Annapolis to this city; that, in Virginia, the

fund should be applied to make a road from Winchester to Richmond; should these roads be said to be of general concern, or to provide for the general welfare?

The power of levying money is expressly granted to Congress; and the object is declared to be, to pay the debts, and provide for the common defence and general welfare of the United States. It is properly admitted by the select committee, that the clause grants no power but to raise money. The common defence and general welfare are to be provided for, by expending the money raised in the execution of the other powers expressly granted.

If Congress have greater latitude in making appropriations than in passing other laws, it is not given to them by the Constitution. It results from the circumstance that there exists no check on this power of the National Legislature, except solemn promises of its members to support the Constitution. There is little probability of a question respecting the constitutionality of an appropriation law being brought before the judiciary. And as there is no efficient corrective of the power of the Legislature to pass acts of appropriation, we should be the more scrupulous and careful not to transcend the Constitutional authority granted to us by the people.

It does not remove the objection to this appropriation that all the States may share therein. Should that equal participation be considered as removing the objection, then we may make a like appropriation to defray the civil list of each State.

The "beneficent effects" of the proposed measure are urged as furnishing an argument in favor of a liberal construction, that is, a stretch of the Constitution. But, who were they that ever seized upon power not granted to them, and did not offer the same argument in their justification? Cæsar, Cromwell, and Napoleon, overturned the liberties, and seized upon the whole power of their respective nations, with a view to produce "beneficial effects," according to them. The powers of Congress should not be extended by construction, in any case. Should that be done, all the advantages of a written constitution will be lost. Our Constitution will be no better than that of England, where the rule of construction is, that whatever has been done may be done again. Although the select committee say that the power will only be felt in "the blessings it confers;" yet the Constitution does not grant to Congress every power that may confer blessings. Every usurpation is dangerous in its tendency. Every additional power tends to the aggrandizement of the General Government. Every surrender of power that the States can be lured to make, tends to their degradation.

I dislike the aspect of this proposition. It will operate as an offer of money in exchange for power. If this power is to be asked for, let the State Legislatures decide upon the expediency of granting it, before you place within their reach a sum of money, upon condition that they will agree to give you up this power. A State will



H. of R.

Internal Improvements.

MARCH, 1818.

have no alternative but to grant the consent required, or submit to the greatest injustice.

Suppose that a State Legislature should refuse its assent, not choosing that the power of the General Government should be exerted in making roads within its territory; what will become of its share of the fund? It is to be withheld, and to remain suspended as a lure to induce the State Legislature to surrender their Constitutional powers.\* Meantime the fund will be in the name of the State, and daily augmenting; and sooner or later the largeness of the sum will overcome all scruples; the State Legislatures will accept of the money, for the benefit of the State, and surrender their rights. If such measures are adopted, you may purchase one power after another, from one State after another, until this Government, like the rod of Aaron, shall have swallowed up all the rest.

The appropriation would be truly for State and local purposes, and could not be said to be for the general welfare. I deny the right of Congress to raise a revenue to be distributed among the several States. The people would not be willing to be taxed to improve particular spots even within their own States. The States which would be most benefited by the appropriation are those which would need assistance in making internal improvements the least. Mississippi and Indiana are the States whose wants most require an expenditure of this kind; and in which such an expenditure would truly promote the general welfare; as every dollar laid out would produce two to the Government, in the advanced price of new lands. Where the population is dense, and the country already highly improved, a much greater sum will be allowed to a given extent of country, than will be allowed to a like extent, where the population is sparse and the country unimproved. Thus, to the extensive State of Mississippi you will give (should your bank stock produce six per cent.) \$2,500 annually, a sum sufficient to make half a mile of artificial road. To commence the internal improvement of that State with such a fund, would be ridiculous.

The plan proposed is actually injurious to the public interests, in this, that it contemplates the improvements being made wholly by the public power; whereas, when roads and canals are made by corporations, the funds of individuals are employed, and those who use the improvement pay for it. Experience has proved that works of this kind are most economically made, and best managed, by associations of individuals. So soon as the wants of society shall render such works profitable, individuals will associate, unite their efforts, and construct the works. And it would be unpolitic to invest either private or public capital in them, unless when completed they would prove profitable. The State Legislatures will be the best judges when, and upon what conditions, to sanction such associations; and

such were the provisions of the bill of the last session rejected by Mr. Madison.

their legal sanction, without pecuniary aid, will be sufficient. I have been told that in Massachusetts, the most highly improved State in the Union, not a dollar has been given by the Government towards making internal improvements.

The proposition is either useless, or it is but an *entering wedge*. Unless a State shall be allowed funds sufficient to make five miles of artificial road annually for each Representative she has here, internal improvement will, in some of the States, progress slowly. To make that improvement, estimating the expense by the cost of the Cumberland road, would require an annual sum of nine or ten millions of dollars. Consequently the people are to be taxed by Congress to raise the money to make local improvements, to be designated by the State governments.

In that event, the revenue to be raised by the General Government must be greatly increased; and that revenue being raised whenever internal taxes are imposed, by a general system, less adapted to the situation of the people of each State than their own revenue laws, will be the more oppressive.

The apparent advantage held out to the States is delusive; for, if one million of dollars shall be diverted from general use to the internal improvement of a State, that State must repay the money in some other way for general use; perhaps by a direct tax at the commencement of the next war. It is best to leave the improvements to be made, and the mode of raising the money, to the State Legislature.

A proposition has been offered to the House by a gentleman from the North, for clearing and rendering navigable the Tennessee river. Let us see what effect the scheme of the select committee might have in attaining that object. Half a million would perhaps effect it. The shoals are in the Alabama Territory; some ten or fifteen years hence that Territory will become a State, and be entitled to two or three thousand dollars annually from the proposed improvement fund. I leave it to you to calculate within what time that fund will clear and render navigable the Tennessee.

With respect to the precedents which have been referred to by the select committee, to prove that Congress may make the appropriation, because Congress have made other appropriations as little authorized, I will notice them briefly. As to the appropriations which have been made for the library and certain paintings, I will remark, that a library and furniture for their halls are "necessary and proper" to enable Congress to legislate with knowledge and convenience. In the selection of books and articles of furniture, we may expect a difference of opinion. Each House is authorized to appoint its officers, and consequently have a right to determine what officers are necessary; there are some who suppose a chaplain to be necessary. The bounties granted to fishermen, are authorized by the power to regulate commerce; by which power, without reference to any other, Congress might impose a duty on every article imported, and grant a

MARCH, 1818.

Internal Improvements.

H. of R.

bounty on every article exported from the United States. The establishment of Indian trading houses is authorized by the power to regulate commerce with the Indian tribes. The erection of beacons, piers, and light-houses, is authorized by the powers to regulate commerce, maintain a navy, and to erect all needful buildings. The act giving money to the people of Venezuela, is admitted to be unconstitutional. The act for making the Cumberland road is also believed to be unconstitutional; that for making the road from Nashville to Natchez, having been passed in pursuance of a treaty made with the Chickasaw Indians, may not be liable to the same objection. But, as the law for making the Cumberland road passed without a question having been made as to the authority of Congress to pass it, the Constitutional question remains undecided. Indeed, Congress seem to have been sensible of a deficiency of power, when enacting that the Cumberland road should be made. They have passed no laws for the protection of the road.

The discovery of this power was late in making. Had it been fairly deducible from any express grant of power contained in the Constitution, I should presume that Patrick Henry, George Mason, John Jay, or some other of the illustrious men who opposed or recommended its adoption, would have discovered this power, and mentioned it in their arguments, either as an objection or as a recommendation.

The opinions of Mr. Madison and the present Chief Magistrate, have been most deliberately formed and given, that Congress have not this power. I form my judgment by that of no man; but I consider the opinions of those two gentlemen as entitled to particular respect. They were both members of the convention who framed the Constitution, and of a convention who adopted it. They both have expressed a desire (in which I by no means concur) that Congress should obtain this power. But they both declare that Congress does not possess the power.

In construing the Constitution, it is material to inquire, how did the framers understand it? How did those who adopted the Constitution understand it? How did the people understand it? It may be confidently answered, that they all understood the power to make and to take care of the roads would be left to the States. According to this general understanding, the Constitution should be construed and administered.

At the time of the adoption of the Constitution, Patrick Henry, lamenting the degradation of the State governments, said that no power would be left to them but to take care of the highways, to take care of the poor, and so on, and so on. Had he lived until this time, he would have found that neither of those powers are to be left to the State governments. Congress are to construct the highways and maintain the poor.

My colleague, the chairman of the select committee, (Mr. TUCKER,) has quoted the report on internal improvement, made by Mr. Gallatin while he was Secretary of the Treasury, to prove

that this Government may construct canals by the assent of the States. As I do not admit that the opinion of the gentleman himself is any authority, although expressed after having reflected a year upon the subject, I cannot admit that the opinion of Mr. Gallatin, given without discussion or consideration of the objections made to the execution of power by such assent, is authority. And as Mr. Gallatin can with facility accommodate his opinion to the situation in which he finds himself at any time placed, his opinion has with me the less weight.

My colleague observed that the projected line of internal navigation coastwise, cannot be completed without the exercise of this power by Congress, because the Constitution prohibits compacts among the States. But such compacts may be entered into by the States, with the assent of Congress; and that assent will never be withheld when the object of the compact is truly beneficial. And it is by no means sufficient for those who support this claim of power, to prove that such a power might be used beneficially by Congress. It is necessary to prove that Congress do actually possess this power. He said that the States want resources. But surely there are none of the States that could not conveniently raise resources equal to their proportion of the bank fund. The State of Virginia has devoted a considerable capital to the purpose of aiding associations of individuals for the purpose of making roads and canals. I have shown that the States will gain nothing in the end by the scheme proposed. A sum from the public Treasury will be disbursed in making improvements within their jurisdiction in time of peace, which they will be compelled to restore by taxes laid in time of war.

The gentleman from Virginia (Mr. TUCKER) told us that, unless we adopt the scheme proposed, we can make no use of our surplus revenue. This is not the first time that we have heard an anxiety expressed as to the mode of disposing of our surplus revenue. I apprehend no concern need be felt respecting that subject. Let it be recollected that we have had but one administration that diminished the national debt. Our expenses have increased with our resources, and will continue to increase. The national debt was augmented during the administration of Mr. Adams, and much more considerably during the administration of Mr. Madison. I will suggest to you in what way you will dispose of your surplus revenue for some time to come. You can dispose of one hundred millions in paying your debt; another one hundred millions will complete your fleet, naval depots, and docks; another one hundred millions will build your fortifications, and provide your arsenals; and fifty millions will provide and equip your militia to take the field.

When you have done these things, you may repeal a part of the imposts. Would not the gentleman be pleased to see agriculture relieved from the heavy taxes she now pays in duties on imports, for the benefit of manufactures? Is it not desirable that those taxes which fall principally on the poor and middling classes of society



H. R.

Internal Improvements.

MARCH, 1818.

should be repealed? Should your Treasury still be low, you may subscribe for or purchase the stock of turnpike, canal, and river navigation companies; and thus form a fund, to remain untouched until wars shall make it necessary to convert the stock into money. You will thus give encouragement to internal improvement, by a fiscal operation, to which there can be no Constitutional objection, and you will have the means of commencing war with success, without having your credit depressed, and being compelled to borrow money at an exorbitant premium.

The select committee have very often repeated in their report, that the assent of the States is necessary to confer this power to make roads and canals on Congress. The State Legislatures have been alarmed; they have not suspected that the States were to be invaded. On yesterday several distinguished members of the House mentioned that Congress possess power, without the consent of the States, to make roads and canals. Thus it seems we are to purchase the power from the States who will sell it, and then the residue we are to take it by force. I wish the State governments to be on their guard; I wish the friends of State rights to make a stand against measures, the effect of which is to lure the great States to grant their consent, and then to wrest from the weaker States their rights by the strong hand of power.

Mr. BARNOR, of Virginia, said, that having on yesterday intimated his intention of taking part in this debate, he now rose for the purpose of expressing his ideas upon the subject. The first thing which he considered it necessary to do, was to clear the way for the discussion; to disembarass it of all extraneous matter, and to call the attention of the Committee to the question before them. A great deal had been said as to the various and important advantages derivable from a system of internal improvement; we have been told that nature had done much for the United States; and that with the aid which might, by roads and canals, be given to our natural advantages, not only individual prosperity, but public convenience and economy would be greatly promoted. He should not deny that the improvement of the country was a desirable object; but, in the position which he should attempt to maintain, were correct, that is, that this system was not within the Constitutional powers of Congress, then all reasoning of this sort was wholly inapplicable. It would be properly addressed to us, if we were now discussing an amendment to the Constitution, which had for its object the giving the proposed power to the Federal Government; whenever that question shall be presented, it will behoove us to consider it with the greatest attention, and to decide it with the utmost deliberation; for, however desirable the object was, he thought it a matter of very serious doubt whether the power to accomplish it ought to be taken from the individual States and given to the United States; he thought we could not be a caution too guarded, when we were called upon to disturb that political balance which our

ancestors had settled between the several governments of this country.

The great desideratum which the convention had in view, was to devise a scheme of government which should combine the greatest practicable individual happiness and liberty with the necessary degree of national strength; they were deeply versed in the history of other times and Governments as well as their own; they had thence learned to know, that, whilst on the one hand, a single Government, embracing a large extent of territory, was incompatible with the freedom of the citizen; on the other, an association of independent States, bound together by nothing but the loose band of a mere confederacy, was like a rope of sand, and constantly in danger of falling to pieces by its own weakness. Their wisdom and experience produced the Constitution under which we live as the best system by which to effect these two great objects. To the Federal Government it had given powers few and defined, such as war, peace, negotiation, &c., which called either for the strength of the national arm, or the union of the national will. With the State governments, it had left all the remaining powers which constitute sovereignty; all those which relate to the lives and liberties of the people, and to the internal improvement, order, and prosperity of the State. He believed he had quoted, if not the words, at least the substance of the *Federalist*, No. 45, in relation to this subject. He repeated, then, that he should, at all times, with the greatest caution, attempt to disturb this political balance; his fear was, that by continued diminutions of State powers, they would ultimately become so inconsiderable in political importance, compared with the General Government, as to furnish from that very circumstance a strong argument for one national consolidated Government. Under the influence of these considerations, he doubted extremely whether he would give the power, if we were now called upon to decide that question; nay, he was inclined to believe that he would not. But we are not now about to make a constitution, but to expound one; the question, therefore, is, not what power ought to be given to us, but what has been given to us. It would be his endeavor to show, that the Constitution of the United States had not given to Congress the power of making internal improvements in the several States.

With a view to proceed with something like system, he would take up the subject in the order in which it was discussed in the report. It had admitted this principle, to wit, that, to sustain the power, it must be shown, either that it was expressly granted, or that it was both necessary and proper, as an incident to the execution of some power which was expressly granted. In further pursuance, then, of the order of the report, and taking the principle which itself had admitted, he would endeavor to show that we were not authorized to construct either post roads or military roads, or to dig canals, either by any power expressly granted or properly to be inferred.

MARCH, 1818.

Internal Improvements.

H. or R.

First, then, as to post roads, and as to the express power to construct them, the text of the Constitution was short; it was in these words: "Congress shall have power to establish post offices and post roads." The advocates of the resolutions say, that the power to establish authorizes them to construct. We say, that it gives us power to designate what roads shall be mail roads, and the right of passage or way along them, when so designated. His colleague who preceded him to-day had gone at length into the meaning of the word "establish," in itself, and as derived from various other parts of the Constitution. He should offer to the Committee some other views upon the subject. He said he utterly denied, for his own part, any authority to legislative construction; but as it was greatly relied upon in the report, and in argument also, and as perhaps the Committee might be, in some degree, influenced by it, he would beg leave to show what had been the legislative construction upon this very question, merely as an offset to the instances cited on the other side. As early as February, 1792, Congress passed an act, the title of which was "to establish post offices and post roads." The first section of this act established many roads as post roads. It was continued, amended, and finally repealed, by a series of acts, from 1792 to 1810; all of which have the same title and the same provisions, declaring certain roads to be post roads; from all of which it is most manifest, that the Legislature supposed they had established post roads in the sense of the Constitution, when they declared certain roads, then in existence, to be post roads, and designated the routes along which they were to pass. As a further proof upon this subject, the statute book contained many acts, passed at various times during a period of more than twenty years, discontinuing certain post roads. No gentleman would undertake to say, that these went further than to declare that they were no longer post roads; in the States, on the contrary, when roads were discontinued, they were actually shut up. The argument then stood thus: as, in States, discontinued roads were actually shut, and as by the laws of Congress they only ceased to be post roads, the discontinuing by States was the opposite of constructing, the discontinuing by Congress was the opposite of declaring them to be post roads. But he would go yet a step further, and show to gentlemen a legislative construction, the authority of which, he was sure, they themselves would not submit to. One of the sections of the act of 1810 provides, that, when roads shall be obstructed by gates or fences, or be out of repair for want of bridges or fences, the Postmaster General shall report the same, that Congress may establish another along the same main direction. From this it would seem that Congress considered that they not only had not power to construct post roads, but that even after an existing road was established as such, if it were obstructed or out of repair, they had no remedy but the establishment of another.

After having offered this offset of legislative 15th CON. 1st SESS.—37

construction, which he thought would more than balance the account on the other side, he would now repeat, that, in his opinion, it ought not to influence the Committee either way; and he would, therefore, proceed to refer the Committee, in support of his opinion, to what he considered better authority. In the first place, then, it was material to carry our recollection back to the history of the times when the Constitution was adopted; the country was not then new, but on the contrary, it had long been settled, and, as may be fairly presumed, had all those roads which the necessity or convenience of the people required; it was also fairly to be presumed, that the State governments which then were, and long had been, in existence, and which were abundantly competent to the purpose, would continue to make such roads as the increasing necessity or convenience of the people might require. Let it be remembered that they were to be post roads; no portion of the country can require a post road until it shall have been previously settled, and until there shall have arisen an intercourse of some kind between its different points; the same circumstances, then, which would require a mail road, would have previously required, in the nature of things, a road for other purposes. A strong argument, too, he thought, was derivable from the practice of Europe, with which the framers of the Constitution must be supposed to have been intimately acquainted. Upon looking into the books upon public law, and particularly *Martens*, it would be found that the different States of Europe had established posts, and, for their mutual convenience, had combined them upon their frontiers, and had, by common consent, and sometimes by treaty, a list of which would be seen in the book just referred to, stipulated a free passage for the posts through their respective territories. It seemed to him, then, probable that the Constitution intended nothing more by this provision than to enable Congress to do, by law, without consulting the States, that which he had shown had long been done in Europe, either by acquiescence or by treaty stipulation; and when it is considered that the roads were already in being, all the power which it was necessary to give, was that of designating the mail routes through the country, that thereby there might be unity of design, and continuity in the line of mails. As a still further proof of the propriety of his construction, he referred to the *Federalist*, number 42, where it would be seen that this subject was disposed of in a single paragraph, declaring it to be such a harmless power, as not to require further comment; upon this construction, it was a harmless power, but it would be far otherwise if it had been contemplated to be as extensive in its operation as is now contended for; for it is said that we have a right to cut roads wheresoever we may think proper, through the United States, and to use timber, stone, and every other material necessary for their construction. If this be the case, there is nothing to prevent us from pursuing what we consider the most judicious plan; we may, therefore, turn-



H. R.

Internal Improvements.

MARCH, 1818.

them, and for that purpose may incorporate a company. Suppose a State legislature to incorporate a company at the same time, and for the purpose of turnpiking the same road, he should like to hear gentlemen say which government would prevail in this collision; but, in incorporating a company, we may fix the toll to be demanded; we may inflict penalties for not paying it, and we may prescribe what carriages shall be permitted to pass upon it, as, for example, but those of the broad-wheel kind. If we do all this, we must have right of jurisdiction, and some right of property in the soil too; for we cannot prescribe toll, &c., without right of jurisdiction, and we cannot take the timber, and other materials necessary for the construction of the roads without some right of property in the soil. Now he had always thought that, as the States possessed both those rights at the adoption of the Constitution, they still retained them, unless they had transferred them. Have they done so? Let the last clause but one of the 8th section of the 1st article answer the question. In that clause Congress are expressly authorized to have jurisdiction from the States, over such district not exceeding ten miles square, as, by the cession of particular States and their acceptance, shall become the seat of the Federal Government; and both jurisdiction and right of soil over such places as should be purchased with the consent of the legislatures of the States, for the erection of forts, arsenals, magazines, dock yards, and other needful buildings. It seemed to him impossible to conceive that the framers of the Constitution could have thought it necessary to insert a distinct and substantive power to purchase such inconsiderable spots as these, an acre of land, for example, and at the same time intend to convey, by implication, the right to construct roads throughout the whole country, with the consequent right to use timber, &c., and to exercise jurisdiction over them. Gentlemen had said, unless Congress had the power which they contended for, that the mail roads might be obstructed or discontinued at the will of the State authorities. That consequence did not at all follow from his position; for he had admitted that we had a right, by the Constitution, to the use of the roads, or a right of way; whenever, therefore, we had by law declared a particular road to be a mail road, we had, until the law was repealed, such an interest in the use of it, as that it was not competent for the State authorities to obstruct it.

If he were right, in his idea, as to the extent of the power expressly granted in relation to post roads, it would require but little argument to prove that a power to construct could not be derived as an incident, for it was a contradiction in terms; it was a solecism in language to say, that the incidental power could be greater than the principal one. The principal power pointed out the end to be effected, and the incidental one was only the means to attain that end. But he had shown, as he hoped, that the object to be effected was only the designation of the mail

route, and, therefore, no power could extend further, which included only the means of effecting it.

He came next, in the order of the discussion, to military roads; as it respects these, it is not pretended that there is anything like an express grant in the Constitution of a power to construct them; the advocates of the resolutions, then, must derive this power, if it exist at all, by implication. They had referred it as an incidental power to the authority given by the Constitution, to declare war, and to raise and support armies. With a view to explain his ideas upon this subject, it would be necessary here, to go into some general remarks upon the nature of implied or incidental powers. He would attempt to lay down what he considered a correct principle, which was, that to justify a power, as an incident to some other, it must have a natural, direct, and obvious relation to the principal power. He believed he could illustrate his meaning more clearly by an example; he would, therefore, state a case which he had mentioned in debate during the last session. The Constitution gives us power to lay and collect taxes; a necessary incident to the attainment of this end, was the appointment of collectors. He would not say that this example furnished the precise limit to the extent of incidental powers, because neither the science of morals nor of politics, in their nature, admitted of the precision which belonged to mathematics, but it furnished a pretty good exemplification of his idea. If you adopt the principle, that everything falls within the pale of incidental powers, which remotely conduces to the attainment of any specified object, if you pursue the long chain of connexion between end and means, to the extreme link to which that chain extends, you go beyond the range of necessary and proper laws; you effectually break down all the barriers of the Constitution, and remove every limitation intended to be imposed upon us. Let us see to what point this doctrine would lead us. The Constitution gives us power to provide and maintain a navy. Ship building requires a particular kind of timber, live oak for example; if there be but a small portion of our country which produce it, shall we be at liberty to send our agents forth, to cut it down, without consulting the owners? If so, can we go a step further and seize the land upon which it grows, with a view to its preservation? These would conduce to the maintenance of our navy. Let us now for a moment, turn our attention to what would aid us in raising an efficient army. It is a very common opinion that early education is the most effectual mode of acquiring proper habits of discipline and military knowledge in general. Have we a right to establish primary schools throughout the United States, for the purpose of accomplishing this object? If we have, we must have houses, and houses require timber for their construction and soil for their foundation; have we a right to seize all these things? Can we, after the manner of the Spartans, take the children of the country from their parents, at an early age, claiming them to be the

MARCH, 1818.

Internal Improvements.

H. OF R.

property of the public, to have them brought up in the course of military education? If we cannot do all these things, then we cannot, under the name of an incidental power, do whatever will remotely conduce to the attainment of an object which is granted. We must adopt some other rule, and he knew of none better than the one which he had stated, that the incident must have a natural, direct, and obvious relation to the principal. The power to construct roads, has no such necessary connexion with the powers of declaring war, and raising and supporting armies. It is said, however, that for the want of them, vast injury was sustained during the war, and enormous sums of money expended. Sir, inconvenience will not justify a construction of the Constitution in itself incorrect, for the purpose of removing that inconvenience; but he would furnish to the gentleman a Constitutional remedy. Transport your ordnance and other munitions of war, in time of peace; build other armories, if those which we have be not enough, and establish arsenals and magazines in convenient places. But, it has been asked, if a road be indispensably necessary for our Army, will you deny the power to make it? He said, cases of great urgency or necessity, might be stated, in which he would not deny it; if, in time of war, an army should be so situated as not to be able to march to the attack of the enemy, or to retreat from one, without making a road, as if, for example, there were none in the direction required, in such a situation they would possess the power; as being, for the particular purpose, a necessary incident to the right of carrying on war. But the case supposed is altogether different from the principle of these resolutions. They propose a permanent system of roads, giving the United States a right of jurisdiction over them, as well as a right of property in the soil; whilst the case which he had stated furnished a right, which, being derived from necessity, continued no longer than the cause which created it, and, therefore, the moment that necessity passed away, the right passed with it. Upon this principle a road never would be made, but when and where it was wanting; whereas, upon the principles of the resolutions, we should be attempting to construct military roads without knowing that a single American soldier would ever march upon them. We know not with what enemy we shall next be engaged in war; we might construct a military road upon our Northern frontier, and the first march of our armies might be to our Southern—and so, precisely the reverse of this state of things might occur. In exercising the right which he had just mentioned, of making a road in time of war, for the purpose which he had stated, we should only do that which, under some circumstances, one foreign State would have a right to do in the territory of another. But, say gentlemen, if you have the right in time of war, you must have it in peace, also, by way of preparation. That consequence did not at all follow. He would at once state to the Committee a case in which a right in war would be admitted, whilst no gen-

tleman would undertake to contend for it in peace. We have at this time no right to destroy any private house in the City of Washington; but, let it be supposed that we were now in war, and that the same house intercepted the operation and effect of one of our batteries, we should, without difficulty, raze it to the foundation. It is not correct in them to say, that whatever right we have in war equally belongs to us in peace also.

The next subject which the report discussed was our right to make roads and canals for commercial purposes, and this was referred, as there was no pretence of a special grant, to the power to regulate commerce amongst the several States; to regulate was to prescribe, to direct. He therefore understood the power to regulate commerce amongst the several States to authorize us to prescribe the terms, manner, and conditions on which that trade should be carried on; such, for example, as establishing ports, granting clearances, regulating the coasting trade, &c. The history of the times, upon adverting to it, would show that the object in granting this power was to prevent those feuds and strifes which experience had shown would arise between the States, in consequence of some being more and others less advantageously situated for commerce, unless it was referred to some common head to prescribe general regulations in relation to it, which would bear alike on all. He, therefore, could not for a moment entertain the idea that, under the power to regulate commerce, it was intended to make the way or to dig the channel along which it was to pass. To place this subject in a strong point of view, he would observe that the same clause gives us power to regulate foreign commerce, and that amongst the several States. Now it was most obvious that, in relation to foreign commerce, the power to regulate did not relate to the creating the channel by which it was to be carried on. That, sir, was done from the creation of the world; it consisted of the unfathomable waters of the great deep. He would leave it to the friends of the resolutions to show how the very same word, used in a particular clause in relation to two subjects, could be construed to mean one thing as it respected one of them, and a different thing as it respected the other. It had been said, however, that Congress, as incident to the regulation of foreign commerce, had exercised the right of erecting beacons, piers, and light-houses; and that the making roads and canals bore as close a relation to the regulation of domestic commerce, as those did to that of foreign. In the first place, he denied that the relation was as direct as the other. But, upon inquiry, it would be found that the erection of beacons, piers, &c., was not referred by Congress to the regulation of foreign commerce, but to that clause which empowers them to purchase sites for forts, arsenals, &c. He proved this by referring the Committee to the first volume of United States Laws, page 666-7, where there was a long list of cessions reported, of sites for these very erections. Let not gentlemen say



H. OF R.

Internal Improvements.

MARCH, 1818.

this clause did not warrant it. If Congress thought so, and legislated under that idea, it destroyed any force which there might be in it, as a legislative construction in relation to their power to regulate foreign commerce. He had already said that such construction ought to have no weight; and he should, in the further progress of his argument, assign his reasons at large, when he came to discuss what gentlemen called the weight of precedent.

He had thus far endeavored to prove that Congress had not the power claimed to make roads and canals, either expressly or incidentally, without the assent of the States. He came now to another proposition which the report discusses, to wit: that we have the power with the assent of the States. He believed it to be impossible to maintain this position. The argument in support of it seemed to be this, that though Congress have no right, of their own mere will, to make the proposed improvements, yet, as the soil, say gentlemen, belongs to the several States, it is competent for them to yield their assent, and that, in that event, there cannot be a possible objection. This argument is met at the very threshold with this question: Although one State may consent to have the public money expended within its limits, have the other nineteen consented that their money shall be so expended? If they have not, as he should attempt to prove, it scarcely required argument to show, that the consent of one State to receive the expenditure of the money of the other nineteen, did not justify us in making this expenditure without the consent of the others. But he would pursue this idea of the consent of the States a little more closely. If we have the power given us by the Constitution, we do not want their assent; if we have it not, their assent, in the mode proposed, cannot give it to us. He would make a few remarks upon each branch of this proposition. To say that I have the power to do an act, which yet you have a right to say, I shall not do, and upon your saying which I must forbear, is equivalent to saying I have the power, and yet have it not. The principle is plainly this: every power, unless limited by the terms in which it is granted, is absolute; it conveys the ability to effect its object, without consulting the will of any but the person who is to exercise it; nor do the few cases mentioned in the Constitution in which the consent of the States is made necessary, form any exception to this principle; for in those the consent is required only in getting the subject upon which power is to operate; when that is done, the power over it is exercised entirely at the will of Congress. If the whole mass of legislative powers, then, which the 8th section of the 1st article gives to Congress, there is not one, to the exercise of which the assent of the States is necessary, and, if it be not necessary to the express powers, it is not to those which are incidental.

It was as clear a principle, that if we have not the power, the assent of the States in the mode proposed, cannot give it to us; the Constitution provided, within itself, the way by which any

enlargement of our powers shall be obtained; it is this: Congress shall, whenever two-thirds of both Houses deem it proper, propose amendments, or, on the application of two-thirds of the State Legislatures, shall call a convention to propose them, which, when ratified by three-fourths of the States, in either of the modes pointed out in the 6th article, shall be a part of the Constitution.

This difference in the mode of proceeding is not a matter of form; on the contrary, there is the soundest reason in it. In the first place, it does not leave the question to the will of a few States, but obviates that difficulty by requiring that all should be consulted, and that the power shall not be exercised without the concurrence of three-fourths. The propriety of this course depends upon this obvious truth, that the Constitution is a compact, and that it is a violation of all correct principles to permit that compact to be altered in any of its stipulations, at the will of one of the parties to it, without even consulting the others. But there is another most important reason for pursuing this course: the Constitution, having been ratified by conventions in the several States, and those conventions having been the immediate representatives of the people of the States, in their highest sovereign character, whatever provisions it contains have been agreed to by the whole people of the United States; they have then agreed that it may be altered in the manner prescribed; but they have not agreed that it shall be altered in any other manner, even though it should be with the consent of the Legislatures; for the State Legislatures themselves act under constitutions; they meet in their character, as ordinary legislators, not as a convention. It is not competent then for them in that character to give to the Federal Government any powers over their constituents, either as it respects their persons or property, which that Government does not possess by the Constitution. Their acts would indeed be binding when called on, under the provisions of the 6th article, to decide upon proposed amendments. He spoke of them now, however, as mere legislators, without reference to that state of things. He denied, then, that the Legislature of Virginia could transfer to another Government any right in or over the soil other than that which the Constitution had authorized them to do. He said he felt that he had now arrived at the conclusion, that, if Congress had not the power in question *without*, they could not have it *with*, the assent of the States, except in the Constitutional mode.

But another view of this subject had been presented, substantially to this effect: Congress, it is said, is intrusted, by the Constitution, with the transportation of the mail; nothing can contribute more effectually to a safe and expeditious transportation of the mail, than good roads; hence, say gentlemen, the power to construct roads is necessary, and, when a State shall give its assent, it is proper also, and; being both necessary and proper, it falls within that clause of the Constitution which authorizes us to pass all laws neces-

MARCH, 1818.

Internal Improvements.

H. OF R.

sary and proper to execute the several powers of the Government. To say that the assent of the States was required to make a measure, though necessary, proper within the meaning of this clause, would be at once to destroy the whole force of the provision—and, he would add, its meaning also. The select committee had, in their report, said, that this clause was only the enactment of a principle of construction, which would have existed without it; namely, that where a power, or right, was granted, everything necessary to the execution of the one, or the enjoyment of the other, passed with it. According to this rule, whenever a power is expressly given, and another is claimed as an incident, we have only to inquire, whether it be necessary to the execution of the granted one. If it be, it is proper, not because this or that person, or State, consents to it, but because it is necessary. In a word, its necessity constitutes its propriety. Let us see what might be the practical operation of the principle contended for. We wish to make a great turnpike road from North to South—we ask leave of the States—New Hampshire consents, Vermont refuses; Massachusetts consents, Connecticut refuses, and so on; he would suppose every State in the Union, in alternate succession, to consent and refuse. Upon this supposition, every other link in the chain of internal improvement would be broken—for, though it would be necessary in all, yet, according to the doctrine of gentlemen, if some refuse, it would not be proper in all. In those where it might be both necessary and proper, we might go on; but in those where it would be necessary only, we must stay our hand. Gentlemen had complained of this doctrine as subjecting the General Government to the will of the States. For his own part, he could not conceive a construction, which would produce a more complete dependence upon that will, than the one which he had just noticed, and, as he hoped, refuted.

Another great principle had been advanced in the course of this debate, which he would now examine. It was, that though Congress had no power to make roads and canals, yet they had a right to appropriate money, to aid in the construction of those which should be undertaken by the States. Gentlemen had said, that they disclaimed any use of the words, "common defence and general welfare," as giving any substantial power. It was perfectly indifferent to him, from what words, or what clause they derived it, or by what name they called it—if they possessed the power included in this proposition, the Constitution which affected to impose limitations upon us, and to give us a few delegated powers only, was mere paper and packthread. His idea as to the correct construction of that instrument, was this:—That the common defence and general welfare, were the ends proposed to be attained—the enumerated powers which followed, were the means of attaining them; and that money was the instrument, as far as it was necessary, by which those powers were to be executed. In support of this construction, he would refer the

Committee to the forty-first number of the Federalist, in which the question is strongly asked, for what purpose could the enumeration of particular powers be inserted, if these, and all others, were meant to be included in the preceding general powers? There could be but one answer to this question—that the specification was intended to operate as a limitation of the general words which preceded it. If, then, the proposition were correct, that we must look to the enumeration of particulars, for the extent of our powers, we must look to the same source, for the extent of our right of appropriation. For why, sir, was the right of raising money, by taxes, given us? He would answer, that money was, to the body politic, what blood was to the natural body. It gave to it its life and vigor, and enabled it to perform its functions. The power of raising it, then, was given to us, as he had already remarked, as the instrument by which we were enabled to execute our other powers. What were they? Those which were enumerated, and the necessary incidents which they involved. To those, then, must the power of appropriation, in his opinion, be limited; but, take the principle of an unlimited right of appropriation, and it brings us to this conclusion, that what the Government has not a right to do, it yet has a right to cause to be done, by means of the use of the public money. Thus, sir, suppose Congress had no right to raise armies, yet, upon this doctrine, they might appropriate money to enable the States to do it. Though Congress had not been authorized to build a navy, yet they might cause one to be built, by advancing money to all, or some of the States for that purpose, and, to bring the doctrine home directly to the present question—though it should be admitted, that they had no right to make roads and canals, yet they can effect the same object, by making the State governments the undertakers, and themselves advancing all the necessary funds, and thus any and every power, to the execution of which money was necessary, (and it is necessary to most,) might be acquired in the same way. Unless, then, the application of money shall be construed to extend to the objects of the specified powers, and their necessary incidents only, the Constitution will be chargeable with the palpable inconsistency of intending to impose limitations upon us, and at the same time furnishing us, by means of the tax-laying power with an instrument, by which we may, at pleasure, throw off those very limitations.

The only other view of the subject, he believed, which now remained to be answered, was the reference which had been made by gentlemen to precedent, in support of the ground which they had taken. If he considered it necessary, he would show that many of the precedents which had been cited, rested upon grounds altogether different from what gentlemen would seem to suppose, by the use which they proposed to make of them. The purchase of Louisiana, for example, was effected by the treaty-making power, and therefore, in no point of view, could it be applicable as a precedent for this, which is a legisla-



H. R.

Internal Improvements.

MARCH, 1818.

tion. The employment of a Chaplain, which has been referred by gentlemen to the power of appropriating money, it would be found rested upon a different principle. As early as 1790, a law was passed fixing the compensation of the officers of the House of Representatives, and, among others, of a Chaplain. This clearly proves that the appointment of Chaplain was referred by the House to the power of choosing its officers. Now, for the purpose of his argument, it was perfectly unimportant, as he had remarked concerning another instance of legislative construction, whether this idea was right or not. For, though it should be wrong, yet, as that was the principle upon which Congress acted, it derived its force as a precedent in support of any other principle. But he would go no further with the cases cited; because he denied that, in relation to the construction of the Constitution, precedent ought to have any weight. We differ widely, in this respect, from Great Britain. Their Constitution consists of a series of legislative acts, the fundamental principles of the Government alterable at the will of the Legislature. Thus, we have a British Parliament first annual, then biennial, and then septennial; and the very Parliament, too, which was elected for three years, extending the period of its own existence to seven; and, in that act, the monstrous political anomaly of being both the creator and creature. Let them, if they please, act upon the principle, that what yesterday was fact, to-day is doctrine; let them, if they please, justify their acts, by saying that their predecessors had set them the example. Our Government rests upon a different foundation; upon a written charter which defines our powers, and defines their boundaries. If the previous Congress shall have given to this charter a construction which is right, we should follow it, because it is right. If, on the contrary, they shall have given a wrong construction, we should discard it, because it is wrong. Error does not change its nature by repetition; it is error still. And let it not be urged upon us, that the facts of justice submit to the authority of precedent. There is no point of comparison between report and legislature; but, on the contrary, they present a contrast in every aspect in which they can be viewed. The former decides upon a case in which a few individuals are concerned; the latter is called upon to legislate upon a constitution, in the preservation of which, a whole people, and millions yet unborn are interested. The former decides a mere private controversy between others; the latter decides a principle of construction, upon which depend the number and extent of their own powers. The rule, therefore, which courts have adopted, that it is not so material what the law is, as that it should be certain, can never be extended to Congress; for, surely, it will not be said that it is more material to have a fixed rule of construction than that the rule should be right; once establish this principle, and the powers of Congress depend, not upon the Constitution, but their own will. But there is yet a stronger distinction between a court

and legislature than any which he had mentioned, to wit: in the nature of their functions, the province of the court is to decide what the law is, that of Congress is to determine what the law shall be; it is of the very essence of the legislative function; that the acts of every preceding legislature are repealed by every succeeding one; if a court pass a final judgment, no matter how erroneous, it can never reverse it; and, if it be the court of the last resort, the error must perpetually remain. On the contrary, if we pass a law, which proves to be an inexpedient one, either we ourselves, at our next session, or the Congress which succeeds us, can repeal it at pleasure. What, then, are all our amendatory and repealing acts, but so many conclusive arguments against the doctrine of legislative precedent? Whenever we do so amend or repeal, we decide differently, either in whole or in part, from those who went before us, and in so doing prove, beyond doubt, that we are not bound by precedent. The ordinary grounds to repeal were, that a particular law was inexpedient; for his part, he could not conceive anything which could be more inexpedient, than a violation of the Constitution. If he were told that he ought to decide any question otherwise, because those who had gone before him had done so, he would answer, that he should never sacrifice his opinion or his conscience to those of any man living; he would suppose that they had pursued the best lights of their judgments, and he, acting upon as high a responsibility, would take the liberty of doing the same. But, even take gentlemen upon their own principles, and he would ask, how many precedents will suffice to fix a rule? Will one or two be sufficient, or must there be more? Again, this country had once been divided into two great parties; and though there seemed to be a political calm at present, the same thing might happen again. Let us suppose, then, that one party establishes a precedent; the other party gets into power, and, not liking the source from which it sprang, discards it, and fixes a different one. In the vicissitudes of political events, the first party comes into power again; here, then, as far as previous decisions have gone, there is precedent against precedent, and liking the one first set best, they therefore discard the second, and establish the first. Let us suppose another revolution to take place between those who are in and those who are out of power; and the same scene would be re-acted; and thus, that Constitution, which was intended to be settled upon the firmest foundations, would be subject to be whirled about, the sport of every political gust. He would conclude by expressing his hope, that the resolutions would not pass.

Mr. CLAY (Speaker) said, he had certainly no ground to-day to urge the complaint which he had yesterday made, that gentlemen had not presented themselves in opposition to the report, or that, in opposing it by argument, they had failed to consume any portion of the time of the Committee. He would not be understood as insinuating, that the time of the House had been unpro-

MARCH, 1818.

Internal Improvements.

H. OF R.

fitably employed in listening to what had been said on the subject; on the contrary, the argument which the House had just heard, and that which had preceded it, had met the question with an ingenuity and ability rarely exceeded. But, he said, he must enter his protest against some of the general principles which had been advanced in relation to the construction of the Constitution.

Mr. C. begged leave, in the first place, to state, that he had imbibed his political principles from the same source as the gentleman who had last addressed the Committee. From the celebrated production of Mr. Madison, when a member of the Virginia Legislature, of the period of 1799—which, if it had been the only paper which had ever emanated from his luminous pen, would have stamped his character as an eminent statesman—from that paper, and from others of analogous principles, he had imbibed those Constitutional opinions which had influenced his political course. If he differed from those gentlemen who professed to acknowledge the same authority, the difference was not as to principles, but as to the application of them. At the period which gave birth to those papers, Mr. C. said, the State to which he belonged, and that from which he sprang, bore a conspicuous part in arresting the career of a mad administration. The attempt then was to destroy the Constitution by a plethora; but he begged the gentleman from Virginia to reflect, that that was not the only malady by which the Constitution could be afflicted; another complaint, equally dangerous to that Constitution, was an atrophy; and if, said he, I do not go along with them in the water-gruel regimen they would administer to the Constitution, in construing it to a dead letter, and reducing it to an inanimate skeleton, let me not be charged with abandoning principle, but let them answer to the charge of thus attenuating the strength of that instrument.

He protested, he said, against construing this Constitution, as one would a bill of indictment, where any hole, through which a criminal might creep, was so much gained to the ingenious advocate. On looking at the political condition of this country we discover twenty local sovereignties having charge of their interior concerns, and of whatever regards the rights of property and municipal regulation, and one great sovereignty, for the purpose of general defence, for the preservation of the general peace, and for the regulation of commerce, internal and external. These objects, for which the General Government was established, ought to be constantly kept in view; and he would act contrary to the interest of his country who should deny to the Constitution—the sheet-anchor of the national safety—that vigor which is necessary, in the exercise of its powers, to fulfil the purposes of its institution, and to carry this country to the high destination which it is one day to reach.

In expounding the instrument, he said, constructions unfavorable to personal freedom, or those which might lead to great abuse, ought to be carefully avoided. But if, on the contrary, the con-

struction insisted upon was, in all its effects and consequences, beneficent; if it were free from the danger of abuse; if it promoted and advanced all the great objects which led to the confederacy; if it materially tended to effect that greatest of all those objects—the cementing of the Union, the construction was recommended by the most favorable considerations. He subscribed entirely to the doctrine, that power in the General Government was deducible only from express grant, or as fairly incident to the express grant. But, in interpreting the Constitution, we were not to shut our eyes against all those lights which common sense and experience had furnished in expounding all instruments. We were to look at the whole Constitution; at the history of the times when it was adopted; at contemporaneous expositions; and, above all, at the great aim and object of its framers. And he would say he hoped, without giving just cause for alarm, that he would give to the Constitution, in all that relates essentially to the preservation of this Union, a liberal construction. In cases where the power is admitted to reside somewhere in the General Government, but it was doubtful in which branch, he would contend that it belonged to Congress, as the safest repository. He would not yield his assent to what, he feared, was the too fashionable and prevailing sentiment, that of aggrandizing the Executive branch, and disparaging the Legislative. It appeared that a power was perfectly harmless when exercised by the President, and that the tocsin of alarm was sounded the moment that Congress dared to act on the same power. He never could admit, he said, that the President should take an airing in his barouche, or a Major General a promenade, with his suite of aids-de-camp, and exercise the power of ordering roads, in time of profound peace, wherever they pleased, and that the Constitution had denied the power to Congress. And yet, what had this Committee been told to-day? Why, that Cræsus, and Cyrus, and Napoleon, had exercised the power of constructing military ways; and, therefore, it was inferred that the President of the United States possesses it. What! said Mr. C., are we come to this—that imperial powers shall be ascribed to our Executive? Or, was it possible that a mere military officer might order a road, and construct it, and yet that power should be denied to the Legislative branch of the Government? And, said he, we are not only desired to acquiesce, with folded arms, in this Executive and military power, but more: whenever an appropriation, in the form of an allowance to the soldiery for fatigue duty, is asked to complete any such road, we are now, according to one of the justly reprobated doctrines of 1798, to acquiesce in the appropriation, being under a moral obligation to submit to the demand and not daring to question it.

In proceeding to a closer view of the question before the House, Mr. C. admitted that it was not one of expediency merely, but a compound question of Constitutional power and expediency. He admitted that, if the Constitution denied the power to Congress, no principle of expediency



H. or R.

Internal Improvements.

MARCH, 1818.

would authorize the exercise of it; and he would meet gentlemen on that ground. He admitted, also, that if the Constitution did not give the power without the assent of any State or States, short of the number required to authorize an amendment to the Constitution, Congress could not exercise the power. The power exists without the consent of the States, or not at all; although, in the exercise of that power, it might be prudent, and discreet, or highly proper, to consult the States, whose local and private interests were to be seriously affected by any road or canal passing through them.

What was the nature of the power proposed to be exercised, which had produced this attempt to excite alarm—this call upon the friends of State rights to rally around the State authorities, and contest every inch of ground with those who favored his report? One who had not considered the nature of this power, but had gathered his ideas from the course of the debate, would suppose that Congress were about to introduce some plague, or pestilence—some gorgon dire—which was to destroy the liberties of the country. And of what power was such language used? Of a power to promote social intercourse; to facilitate commerce between the States; to strengthen the bonds of our Union; to make us really and truly one family—one community in interest and in feeling. What was there alarming in such a power? So far from viewing it with alarm, Mr. C. said, if the Emperor of Russia were to offer to make turnpike roads in the State of Kentucky, or in any other State in the Union, (though he should be unwilling to accept of such a boon without compensation,) he should yet be happy to have it done. The power, then, was not of an offensive nature. If the power were harmless; if in all its operations it could have no other than a beneficial effect; it was one in regard to which he could be disposed to give to the Constitution a more liberal construction than if it were otherwise. There were various considerations, besides the character of this power, which would prevent its abuse in any shape. The first of these considerations was to be found in the nature of this body, composed of nearly two hundred members, coming from every part of the Union, having but little connexion with each other. Before the power in question could be exercised in regard to any particular object, that object must be one of striking and prominent national importance; the conflicting and various interests of this Union must be reconciled in its favor, and Congress must be clearly satisfied of its utility, and of its tending to the general benefit. This alone, he said, was an almost insuperable difficulty in the way of acting on this subject; and the great danger was, not that the power would be improperly used, but that the legislation under it would be too restricted, and that frequent instances would occur of objects truly national in their character being neglected or not executed, from the impossibility of producing a concurrence of all in relation to them. There was a further difficulty, he said, in relation to the means to be applied to those objects.

We have, fortunately, by the creation of the Bank of the United States, got into our possession an unexpected sum of money which may be thus applied. But suppose we had not, said he, do you imagine that any gentleman would move for a direct tax, or any other tax, with a view to this object? He believed not; and he assured the Committee there was no ground of apprehension of the power's being abused by excessive legislation, but that, owing to the difficulty of concentrating the general opinion upon the end, and of uniting in the mode of raising the means, the just apprehension was that too little would be done.

In regard to the principles of construction of the Constitution, Mr. C. repeated, there was no essential difference between himself and the gentlemen who had spoken—particularly the last, (Mr. BARBOUR)—though, he said, the gentlemen had certainly pushed, in their application, those rules of interpretation further than I am disposed to go; for, (if the gentleman will excuse me,) the pleasure with which I heard his argument, was something like that which a surgeon may be disposed to feel when a skilful operator is amputating a limb or dissecting a body; and the ingenuity which he displayed in frittering away the Constitution is not consistent with my idea of the great principles of 1797, in which I profess implicitly to confide.

What was the object of the Convention, Mr. C. asked, in framing the Constitution? The leading object was UNION. He called the attention of the House to that letter, signed by the Father of his Country, which accompanied the Constitution, when proposed to the States for their ratification, and which unfolds the views of the Convention at the time of adopting that instrument. The following is an extract:

"In all our deliberations on this subject, we kept steadily in view that which appears to us the greatest interest of every true American—the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."

Union, then, Mr. C. repeated, peace external and internal, and commerce, but most particularly union and peace, were the great objects of the framers of this Constitution, and should be kept steadily in view in the interpretation of any clause of it; and, where it was susceptible of various interpretations, that construction should be preferred which tends to promote the objects of the framers of the Constitution, to the consolidation of the Union, not in the alarming sense of the phrase, but in that sense in which it was used in the quotation he had just made. With respect to union, he said, this was a moment in which he might be allowed some reflections on that head. We are told, said he, that in these hal-

MARCH, 1818.

Internal Improvements.

H. or R.

cyon days there is no such thing as party spirit; that the factions by which the country has been divided, are reduced to their primitive elements, and that this whole society is united by brotherly love and friendship; and, indeed, the President of the United States has himself observed, in his Message at the commencement of the session, that he "is happy to observe that the benign spirit of conciliation and harmony which now manifests itself throughout our Union, promises to such a recommendation (an amendment to the Constitution) the most prompt and favorable result." Sir, said Mr. C., I do not believe in this harmony, this extinction of party spirit, which is spoken of; I do not believe that men have ceased to be men, or that they have abandoned those principles on which they have always acted hitherto. We have had, to be sure, what may be considered strong proofs of it: we have seen, during the late tour, the people of those parts through which the President passed, rise *en masse*, as the audience at the Theatre Français or Covent Garden, upon the entrance of the Sovereign, to greet, to honor, and to salute him; we have seen that part of the audience from whom, for sixteen years before, nothing had been heard but scoffs and abuses, groans and hisses, enthusiastically join in the general applause, and swell the triumph. These are perhaps strong proofs—I hope they are solid—of this state of peace and harmony throughout the Union, of which the President speaks. Whether that concord now exists or not, however, union is an object which ought always to be kept in view by the American Legislature, and particularly should not be lost sight of in construing the Constitution.

With these general remarks, Mr. C. said, he would proceed to follow gentlemen in their argument on the Constitutional question. Having yielded to gentlemen the rule of construction for which they contended, that Congress could exercise no power not expressly communicated, or not proper and necessary to carry communicated powers into effect, he stated at once the extent of the position he meant to assume and maintain: that Congress have the power to make roads and cut canals without the assent of the States. He contended that they have the power to do that which appeared so alarming to gentlemen, to fell the oak of the mountain, to gather the stone which has slept for centuries useless in its bosom, and therewith construct roads—with the qualification which the Constitution has provided in one of its amendments, that, when the Government takes private property, it is bound to make compensation therefor. He would go further: when the road is once made, he contended that Congress have a jurisdiction, concurrent with the States, over the road, for the purpose of preserving it, but for no other purpose. In regard to all other matters occurring on the road, whether of crime, or contract, &c., or any object of jurisprudence unconnected with the preservation of the road, there remained to the States exclusive jurisdiction.

"Congress shall have power to establish post

offices and post roads," says the Constitution; and, to put that proposition in its clearest point of view, Mr. C. said it would be necessary to connect with this clause the last branch of the grant of enumerated powers to Congress; when the clause would thus read: "Congress shall have power to establish post offices and post roads, and to make all laws which shall be necessary and proper to carry into execution the power to establish post offices and post roads." What laws, then, were necessary to establish post roads? If, said Mr. C., the gentleman really be the Achilles he has been represented to be, here I have him by the heel. What is the power to establish post roads? Does it merely mean to adopt, to designate, what has before existed? That was the gentleman's proposition; but he would show, from the well-ascertained meaning of the word itself, and from the sense in which it was used in the clause under consideration, and in other parts of the Constitution, that *establish*, meant to make, to build, to construct. He would not, he said, trespass on the patience of the House by introducing a dictionary as authority in this case; but if gentlemen would refer to any dictionary for the meaning of the word *establish*, they would find it was not to designate, but to make, to construct. The meaning of the expression was strongly illustrated, he said, when applied to post offices, to which it referred as well as post roads. Could the expression "to establish post offices," mean to designate some offices already established by State authority? That would be absurd; for, there being no post offices previously established, there were none to adopt or designate. To establish a post office, then, was to make an office; to build or hire one, and to provide all the appurtenances. "To establish," then, had not the meaning which was contended for; and it was those persons who construed away the meaning of the instrument, and not those who were for adhering to the Constitution, and giving to it that vigor which its framers intended, who were chargeable with doing violence to its provisions.

Mr. C. then referred to another part of the Constitution, to show, that the word *establish* not only meant to make, or to construct, in the general signification of the word, but that, wherever it is used in the Constitution, it is in that only true and proper sense of the word. Thus, in the clause, "Congress shall have power to establish a uniform system of naturalization." Did it mean—and on the gentleman lay the burden of proving that it did mean—that Congress have the power only to designate some pre-existing rule? And was any man so absurd, when that question was discussed a few days ago, as to say, that the power to "establish a uniform system of bankruptcy," left to Congress no option to adapt the system to the wants, or agricultural and commercial condition of the country?

Further, this word "establish" occurred in the first clause of the Constitution—"We, the people of the United States, in order to form a more perfect union, establish justice, &c., do ordain and



H. or R.

Internal Improvements.

MARCH, 1818.

establish this Constitution for the United States of America." In what sense, Mr. C. asked, was the Constitution thus "established?" Was it a mere adoption of a form of Government already in existence? No. There are principles in that instrument which are to be found in no Constitution previously existing. This establishment was constructing a Constitution, not adopting a Confederacy, in being prior to the Constitution. The word occurred in other parts of the Constitution, Mr. C. said, and was undeviatingly used in the sense for which he contended. For example, the judicial power of the United States shall be vested in the Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." What was Congress at liberty to do in establishing these courts? Were they bound to take some State local judicial system, or to look for those systems required by the wants and interests of the Confederacy? There is not a gentleman who hears me who will not agree, that, in this case, the word *establish* is used in one sense, and only one sense, as authorizing Congress to construct a system according to the extent and convenience of the country.

Let us, said Mr. C., look at the nature of this power. I contend, that all the governments in the United States are established for the benefit of the people, and that the powers given to them are many duties—a solemn trust, to be exercised by the governors for the benefit of the governed. What, then, was the object of this power to establish post-offices and post roads? It was to diffuse information, to circulate intelligence, for commercial, military, and social purposes, that all parts of the country might derive the benefits intended from the Constitution. What were the qualities necessary to give to such an object the greatest perfection of which it is susceptible? For Mr. C. said, he laid it down as a principle, that it was the duty of the Government to give to any trust committed to its charge, the greatest perfection of which it is susceptible, having a just regard to all the great interests of the community. Generality, certainty, and celerity of transmission, were the qualities to be consulted in the establishment of post roads. What sort of certainty was it, if, on the principle of gentlemen, the mail is liable to be interrupted, say in time of war, between the Seat of Government and New-Orleans, the most defenceless point in the Union, at the mere caprice of any county court choosing to change a road, or commit any other trespass, and we, in the execution of this important power, are to submit to it? For, even the provision in the Virginia law, which had been referred to, availed nothing in argument, since the same Legislature which enacted might repeal it. Mr. Bland said here, in explanation, that he had mentioned the provision of the laws of Virginia, but incidentally—he had then said, that the United States had the right of way over any road, which was once declared a mail road.]—Then resumed Mr. CLAY, all is conceded that I want. If I now understand the gentleman, then, we have the right of way over mail roads, and

it is so conferred upon us, by virtue of this Constitution, that no Virginia gentleman, or Virginia court, can interrupt that right. What sort of right of way was that, Mr. C. asked, where there was no road? If Congress have the right of way, have they not also the means to make that right efficient? What! said he, is it contended that we have the right of way for the purpose of circulating intelligence, and that we possess no power to improve and make that right of way effectual? A mail road is designated; being so declared, it is admitted, that the county courts cannot change it; that the State cannot change it, was a fair consequence from that conclusion. But the object for which the road was originally established, by the local authority, has ceased. There is no longer any motive for its reparation or preservation. The local authority will not, therefore, repair it. The local authority cannot be acted upon by the General Government to compel its reparation. The General Government has not the right to repair it. According to the argument on the other side—it cannot remove a fallen tree, or any other impediment. It has, it is true, the right of way, but it has no right to get along this way. If the gentleman will excuse the expression, I cannot view a power, thus qualified, thus admitted, at the same time that it is substantially denied, in any other than a ridiculous light.

But it appeared, that the gentleman was alarmed at the consequences of the exercise of this power by the General Government, because the State governments, having a like power, would sometimes come in collision, and a conflict of authorities might ensue. Mr. C. said he felt no alarm on this head. The power of the General Government to lay taxes, he presumed, was not questioned. Suppose the General Government should lay a tax on a particular article, and the State government should also tax it. The gentleman himself had said we have the power to appoint collectors—and he was surprised he had yielded even so much, and that he had not denied the power to appoint collectors, since every man might be required personally to come to the Treasury, and place his money there. Suppose a collision should arise between the two collectors, as to which had the paramount right—which would prevail, Mr. C. would not say; it was a legal question, which the gentleman from Pennsylvania in his eye, (Mr. HOPKINSON) could answer better than he—but he had stated the case, to show, that wherever there is an *imperium in imperio*, as in our form of government, there necessarily will be collisions. In such cases, reason, moderation, and good sense, must come into the councils of the Government, and reconcile this conflict of jurisdictions as they can. A power to establish a Bank of the United States, is asserted and exercised by the United States, which some of the States deny; and they have already attempted to exclude the branches of that bank, by imposing taxes on them. Here, Mr. C. said, was another collision; and perhaps he should be accused of hostility to the States, when he said, that he believed they had not the power to exile these banks; and that, the power

MARCH, 1818.

Internal Improvements.

H. or R.

being granted to the United States, the States individually had no power to exercise any control over the banks thus established, but by the Constitutional process of election, changing their Representatives on this, and on the other floor of Congress. The case which had been supposed, of roads established by the General and State authorities, running parallel, was not likely to occur. No, said he, depend upon it, the States will accept, with avidity, the bounty proposed to be bestowed on them, and will not refuse a great benefit from any fastidious jealousy of the hand which offers it.

Under his construction of the Constitution, Mr. C. said, there could arise no collision between the Governments. The circulation of the intelligence of the country was an object of great importance, it would be confessed; in respect to which, an inequality now exists in the condition of the citizens of various parts of the country, which, although acquiesced in from necessity, would be an unceasing object of solicitude and remonstrance until remedied. What, he asked, was the inequality of the situation, for instance, of members on this floor, coming from different parts of the country? For seven successive mails, said he, for the want of the exercise of this right of way, we have inquired in vain at the post office for letters from the West, informing us perhaps of the fate of some sick friends and relatives at home, or of the state of our private concerns, and for seven successive mails have we been held in painful suspense; whilst gentlemen from the seaports have received their daily intelligence with that sort of certainty and celerity which every part of the United States ought to experience. Could it be said, he asked, that the Government was exercising its powers properly, when such an inequality prevailed in respect to different sections of the country? Did it become gentlemen, not subject to this inconvenience, to which we are constantly exposed every session of Congress, to say, that they would deny to other parts of the Union, the great interior, western and other sections of the country, the same advantages which they derive from the celerity and certainty of the mails? He conceived not, and he would not impute to them that intention.

The friends of the power of the General Government, for which he contended, might stop here. It was not necessary for them to turn to other parts of the Constitution; for, having proved the power to make post roads, it was certainly no objection to the power that these roads might also be used for other purposes. It was rather a recommendation that other objects, beneficial to the people, might be thus attained, though not within the words of the Constitution. Whence the power he asked, the great, the interesting power, which Congress are invoked by so many petitions to exercise, of promoting the manufactures of the country? There is no such power in the Constitution. But Congress have the power to levy taxes; and, under that power, might so apportion the taxes, that, besides raising a revenue, the manufactures of the country might be pro-

moted; which was never thought of as an objection to the exercise of the power of laying taxes. And, said he, having the power to establish post roads, may we not, at the same time, after having constructed them, allow them to be used for other purposes, connected with the good of society?

Here, then, he repeated, the power of making roads might be rested, as in express terms granted by the Constitution. But, he said, there were other parts of the Constitution to which, also, he would call the attention of the Committee, which would equally, in his judgment, authorize this power by derivation.

The power to use the physical force of the country to repel invasion, suppress insurrection, &c., was one conferred by unquestionable grant, the several clauses respecting which he would not fatigue the Committee by quoting; but there was one clause which did not attract general notice, to which he would point their attention. "The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence." Thus, for every possible purpose to which it could be necessary to resort to force, Mr. C. said, the Constitution had clothed the Government with complete power to exercise the physical force of the nation. He begged leave to state here, that every man who looks at the Constitution in the spirit to entitle him to the character of an American statesman, must elevate his views to the height which this nation is destined to reach in the rank of nations. We, said he, are not legislating for this moment only, or for the present generation, or for the present populated limits of these States; but our acts must embrace a wider scope—reaching northwardly to the Pacific, and more southwardly to the river Del Norte. Imagine this extent of territory covered with sixty, or seventy, or an hundred millions of people. The powers which exist in this Government now will exist then, and those which will exist then exist now. For I have no idea of the powers which come into existence on occasions—such, for instance, as the right of way, which gentlemen admit to belong to an army on its march. The powers now exist in all the modifications and extent of which they would be susceptible for the wants and purposes of the population which hereafter will animate the surface of our extensive country. Suppose, then, the country to be only a little more populous than it is at present. Look at the line of the Atlantic, and that of the Mississippi—look how nature invites you to make perfect the geographical advantages which she has granted to you; and, keeping in view the great principle of preserving the Union of the States, see how essential is the power, how important its exercise, of connecting these two great lines by means of roads and canals. Moral causes have a powerful operation; and the migration of people from the Atlantic to the Western States will produce an affinity and consanguinity



H. of R.

Internal Improvements.

MARCH, 1818.

between the population of the East and of the West, which will last for a long time; but dependent upon it, when society is settled down, as it will before long be, these moral causes will lose their effect. I hope it will not be whilst I live, said Mr. C.; but the man who does not look forward to another state of things, when physical causes will have their influence, is unworthy of having a place here. What, then, Mr. C. demanded, ought we to do? We ought, by the means within our power, to counteract the operation of these physical causes. Recollect, said he, that, with regard to the Mississippi, a new epoch has been produced in its navigation by the genius of Fulton. But, notwithstanding all the facilities thus given to the navigation of that river and its tributary streams, it is my settled conviction, that, if the General Government penetrates through the intervening mountains by roads, connecting the navigable streams on each side of them, and by such links as, for example, the great canal of New York—an object which he regarded as of the first-rate importance; if the Government, at thus counteracting physical effects by physical means, the result will be forever to retain two-thirds in value of the commerce in foreign commodities of Ohio, Kentucky, Western Pennsylvania, Indiana, Illinois, &c., in the old channels. With regard to the articles of foreign produce, of great weight, or of great bulk and little value, or of great fragility, they may generally take the course of the Mississippi; but of the valuable commodities, in relation to which expense of transportation was a subordinate consideration, three-fourths would still pass from the Atlantic cities to the Ohio, &c. Could, then, a better basis for the Union, a stronger tie to connect the various parts of the country together, be conceived, than that of which he had spoken? Foreign commerce, said he, is the spoilt daughter of the Government. We deck her out in the most precious and costly jewels; we light up her way by Winslow Lewis's inventions; we send agents abroad to every clime and every sovereign, from the Emperor of Hayti to the Czar of Moscow, to prosecute her interests. But when the old respectable matron Agriculture asks us for something for her accommodation, gentlemen will not give her a gown even of Virginia cloth.

But Mr. G. asked, was it possible the Constitution had prohibited to Congress the power to regulate commerce between adjoining and contending States? He never had been more astonished than by the argument of the first gentleman who spoke this morning, (Mr. SMYTH,) and his able, ingenious, and learned colleague. The power given by the Constitution to regulate commerce "among the several States" applied, according to their doctrine, only to the regulation of the coasting trade. And am I, said Mr. C., who come from the interior of the country, to be told that the Constitution was made for the Atlantic margin of the country only; that, in regard to the great power of regulating internal commerce, Indiana, Ohio, Kentucky, Tennessee, and, indeed, all parts of the interior, are to be wholly

denied the benefit of it? The Constitution has no such limited meaning. It was intended to be commensurate with the boundaries of our country, to cover all parts alike, to give activity to all its commercial resources; and we, who are not washed by its tide-water, have as much right to the benefit of its provisions as any other part of the country.

The power to regulate commerce with foreign nations, Mr. C. said, was conferred on Congress in precisely the same terms as that of regulating commerce among the several States: the two powers therefore must have an equal latitude of construction. What was the interpretation which, by the daily acts of Congress, the first of these grants of power had received? When the question arose between the State and General Governments, respecting the right of a particular power, he admitted it was no plea for either to offer to the other that it had already exercised that power; but, if he could show that, under a given clause of the Constitution, a power had been exercised by Congress, favorable to a particular interest—and he, representing an analogous interest, asked the power to be exercised for his benefit, it was no argument in the mouth of Congress, that, having exercised the power in one instance, it could not be exercised in the other. Congress, under the power to regulate foreign commerce, had provided for the erection and maintenance of light-houses, established buoys and piers, built custom-houses, &c., and given every possible facility to it; and all these powers, in all their variety and extent, had been incidentally derived from the power to regulate commerce. It was the bounden duty of Congress to repeal all these laws, or to pass acts of an analogous character, for the benefit of the internal commerce of the country. How otherwise was internal commerce, or commerce among the interior States, to be regulated or facilitated, but by the exercise of the power for which he contended, and which the gentleman from Virginia denied? It ought not to be overlooked, in this view of the question, that no State can enter into a compact with another State, being forbidden by the Constitution. If, for example, Kentucky, or any adjoining State, should desire to have a road or canal passing through the territories of both, for their mutual accommodation, there was no way in which the object could be accomplished. It could be effected by the General Government alone, by keeping the object of union in view, in construing the Constitution, and giving to the clause respecting internal commerce that construction which had been given to the clause respecting foreign commerce; and which it was equally the duty of Congress to give in regard to the one as to the other.

There was one part of this subject, Mr. C. said, which he touched with no improper intention, and with all the delicacy which belonged to it. It is not a question in regard to the revenue of the country, how it is to be raised; but it is a question of no unessential character, how the revenue, when raised, is to be expended—the places

MARCH, 1818.

Internal Improvements.

H. of R.

where it is to be disbursed, and on what objects. Would it be contended that, in respect to the twenty-five millions to which our revenue has risen, and to the fifty or sixty millions to which it may rise, that there is no object in the interior worthy of the application of any part of it, but that it must all be lavished on the margin of the ocean? That Boston, and Norfolk, and New York, and Portsmouth, were to be left to scramble on the great questions of naval depots, for the fruits of the expenditures of those national establishments, and that the great agricultural body of the country was to be the passive spectator of the gains of the seaboard from the labor of the interior? Was he to be told that from that interior one continued stream of riches was to flow into the Treasury of the United States, without a single drop falling to fertilize the soil through which it passes? Or, would it not be admitted that equal justice to all parts of the country required that the revenue should be more equally distributed for the benefit of the respective parts of it? The power then to regulate the foreign commerce of the United States, having received its exposition, such as he had stated it, from the earliest date of the Constitution, it was an argument of irresistible force, addressed to this Government, to induce it to repeal those laws, or to extend equal facilities to the internal commerce of the country.

With regard to precedents, as bearing on this question, the Committee could not have but observed, Mr. C. said, that, with the gentleman from Virginia, when the precedents in point bore against the honorable gentleman, they were wholly rejected, and it was abominable to tie down the minds of the members by rules of construction, from whatever authority derived. But when those precedents were in favor of his doctrine, said Mr. C., we find the gentleman referring to the acts by dates and titles; and in this manner the gentleman had endeavored to show that the clause in the Constitution respecting the establishment of post roads meant designation merely. There was, Mr. C. said, one complete answer to this argument, derived from the acts passed in the infancy of this Government, when the Treasury was impoverished; it was not at all extraordinary that the Government did not at that period undertake to construct roads or cut canals—it would have been extraordinary indeed if they had done so under such circumstances. The laws passed at that day were passed without any discussion in relation to the subject, as far as he had heard, and could therefore, by no implication, be construed to involve a surrender of the power.

The gentleman had yielded, that a military road might be constructed by the Government, under a concurrence of circumstances, viz., first, a state of war; and, secondly, a condition of the Army requiring the road to effect a particular military operation. Prudence, Mr. C. said, forecast, the providing for contingencies, a preparation in peace for war, were favorite themes of the present day; and well might they be dwelt

upon, and enforced upon the Committee and on the nation, after the experience of the late war. He asked of the honorable gentleman from Virginia, (Mr. SMYTH,) who bore a commission in the late war, whether some of those disastrous scenes which occurred in its progress might not have been prevented, had we have had good roads provided in anticipation, for the collection and transportation of our physical force and military means? If such roads had then existed, we should have had, Mr. C. said, a different result to the campaign which terminated in the ignominious surrender of Hull, and to some other campaigns, with a particular reference to the occurrences of which he would not, at present, trouble the House. If the exigencies of the occasion had been anticipated and provided for, would that disgraceful scene have happened at the Capital, to which no American could recur without feeling the blood fly into his face? Would it have happened, if the means of intercourse had been properly improved, from which we should have called for the means of the country for its defence? He confidently answered that it would not.

But the gentleman had asked, would we make a road for ordinary purposes, under the power to make a military road? Yes, said Mr. C., I would. It is no objection to constructing a post road or military road, that it may also be used for the purpose of circulating the commodities of the country, for the purpose of travelling, or, in short, for any of the general purposes of commerce and of society.

If, Mr. C. said, he were disposed to trespass longer on the time and patience of the House, the state of his health would not permit it; he would, therefore, hasten to close his remarks. He rested the power for which he contended on the provisions of the Constitution, construed with a due and necessary regard to the objects with a view to which it is formed. We are not to look at that instrument, said he, with the eye of an ingenious advocate, who is seeking to screen from merited punishment a convicted felon. You are, said he, to take into view the great destinies of our country; to reflect, that the powers granted by the Constitution are the same at all times; that they apply with precisely the same extent to a population of five as of fifty millions. You are to look to the great purposes for which the Constitution was made. That of union was the first and dearest object, to which the attention of the country was turned in all its deliberations; and, although I should be the last to deny that you are to find your power to do a particular act in the specific grants in the Constitution, when you apply to them rules of construction, you are not to forget the purposes of the Constitution, and the duties you are called on to fulfil, that of preserving union being one of the greatest magnitude. The facilitation of commerce among the several States being greatly promotive of that object, ought to receive our attention. The transportation of military force and means, for the preservation of internal tran-



H. R.

Internal Improvements.

MARCH, 1818.

quency, or for repelling foreign aggression, being important to the execution of either of these duties, it ought to be provided for with a due force, by the construction of roads and of canals. To these purposes, and to the circulation of intelligence necessary to the existence of our Government, it is indispensable that we should have them; whilst, by so doing, no legitimate power of the State governments is intruded upon, no attribute usurped—for to them is left every municipal power, and every power essential to sovereign character as federal States.

Resting the maintenance of the proposition under consideration on such grounds, Mr. C. said he should not stop to notice that part of the argument relating to the consent of the States. He would, however, require it as preliminary to exercising the power within any State, not that it was necessary, but because it was desirable; and with that prudence and moderation which should characterize the acts of the Government relating to its internal policy, the power perhaps ought not to be exercised without such consent.

After returning his thanks to the Committee for the attention with which they had favored him, Mr. C. resumed his seat.

Mr. BARBOUR said that, in the course of his remarks, the SPEAKER had thought proper to refer to a part of his argument, and apply to it the epithet "ridiculous." He had risen to say, that it was his habit in debate to observe the most perfect politeness to his opponents; and that he had always endeavored, and he would advise the SPEAKER to that course, to prove their arguments ridiculous, rather than to call them so; because, if an argument was ridiculous, the House would discover it—if not, the epithet, not applying, would recoil on him who used it. It is not for me, said Mr. B., to determine whether I so elevate my vision, or see so far into futurity, as to entitle myself to the character of an "American statesman." But, on this head, I would say, that neither the pretensions of the gentleman who had made the remark, however elevated, nor mine, however humble, can be either exalted or depressed by such remarks.

Mr. CLAY said he was always obliged to any one for advice; when good, he should follow it, when otherwise, he should not. He had applied the epithet ridiculous, he said, to the gentleman's argument, and not to himself. I may not, said Mr. C., have the same elevated opinion of what the gentleman chooses to submit to the House, as he has himself. What I said was, that as the gentleman admitted that we have the right of way over post roads, to deny the use of that right is ridiculous. I did not mean, in what I said, to claim for myself the character of an American statesman. I did not deny it to the gentleman from Virginia—I think he is an eminent statesman—an ornament to his country, and to this House, in which I am happy to serve with him. We view the Constitution, however, with different eyes; he considers everything retained to the States from the General Govern-

ment as something snatched from a foreign Power. I consider it as a Government co-ordinate with them, and the true construction, I think, is to give to it all that vigor and vitality which rightfully belong to it.

Mr. BARBOUR said, in rejoinder, that he was still of opinion, on which, however, it was for the House to decide, that the error was in the SPEAKER's observations, and not in his (Mr. B.'s) argument.

And the Committee rose at a late hour, and the House adjourned.

MONDAY, March 9.

JOHN CROWELL appeared, produced his credentials, was qualified, and took his seat as the delegate from the Territory of Alabama.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of Thomas B. Farish, which was read; when Mr. W. reported a bill for the relief of Thomas B. Farish; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. LOWMEDE, from the Committee of Ways and Means, reported a bill for changing the compensation of receivers and registers of the land offices; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. BASSETT, from the committee on that part of the President's Message which relates to the public buildings, and to the erection of additional offices, reported a bill making appropriations for the public buildings, and for furnishing the Capitol and President's house; which was read twice, and committed to a Committee of the Whole, to which is committed the bill to provide for erecting additional buildings for the accommodation of the Executive departments.

Mr. BUTLER, from the committee appointed on the petition of Major General John Stark, by leave of the House, reported a bill for the relief of the said Major General John Stark; which was read twice, and committed to a Committee of the Whole.

The House proceeded to the consideration of the report of the Committee of Pensions, on the petition of Henry King; and, after considerable debate, the report of the committee against the claim was reversed, by a vote of 66 to 56, on the motion of Mr. ANDERSON, supported by himself, Mr. JOHNSON of Kentucky, and others; and opposed by Messrs. RHEA, SHERWOOD, and others; and the committee was instructed to bring in a bill to authorize the equitable settlement of this claim at the Treasury.

In pursuance of notice given on the 7th instant, Mr. JOHNSON, of Kentucky, asked and obtained leave to bring in a bill authorizing the people of the Michigan Territory to send a delegate to Congress; and Messrs. JOHNSON of Kentucky, POINDEXTER, and HENDRICKS, were appointed a committee to prepare and bring in the same.

The SPEAKER laid before the House a letter from the Commissioner of Claims, transmitting a report of the facts in the cases of Hannah

MARCH, 1818.

Adjournment of Congress.

H. or R.

Davis and others, who claim compensation for property destroyed in the military service during the late war; which letter and documents were referred to the Committee of Claims.

The SPEAKER also laid before the House the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, March 6, 1818.

SIR: In conformity with the provisions of the act of Congress of the 3d March, 1817, entitled "An act to incorporate the subscribers to certain banks in the District of Columbia, and to prevent the circulation of the notes of unincorporated associations within the said District," I have the honor to state, that the presidents and directors of the banks embraced by the said act, have deposited in this Department statements of the situation of the said banks, respectively, on the 1st day of January, 1818.

From an attentive examination of these statements, I am of opinion that the concerns of these banks have been prudently conducted; that there is no just reason to doubt their solidity; and that there exists no cause of danger, arising from any kind of mismanagement. I have the honor, &c.

WILLIAM H. CRAWFORD.

Hon. HENRY CLAY,

Speaker of the House of Reps.

The report was ordered to lie on the table.

ADJOURNMENT OF CONGRESS.

The resolution providing for the adjournment of Congress on the 13th day of April next, received its third reading.

Mr. POINDEXTER, after observing on the impropriety of tying up the hands of the House in respect to the length of the session, when there was so much business on the table, &c., moved to postpone the further consideration of the resolution to Monday next.

Mr. TAYLOR was opposed to the postponement, believing that Congress might adjourn on the day fixed, if its proceedings were accelerated by the curtailment of debate; and nothing but a determination to a contrary course appeared to him to justify a postponement of the question.

Mr. EDWARDS was of opinion that, with a proper economy of time, the subjects before the House might be disposed of by the 13th of April.

Mr. BALDWIN was in favor of the postponement. There were, he said, upwards of a hundred subjects referred to Committees of the Whole, and nearly as many reports of committees lying on the table, which had not been so referred. If Congress were to adjourn on the 13th of April, how were they to dispose of upwards of two hundred subjects, many of them requiring the construction of entire systems? He knew not why a disposition should be manifested to close this session without accomplishing this object. He adverted to the great topics of manufactures, of navigation, of revenue, &c., before the House, all of which would require much time; and demanded why, in the haste to adjourn, their importance should be overlooked?

Mr. HARRISON said, he believed that, by a proper economy of time, the House might dispatch all the business before it by the 13th of

April; but he was willing to let the resolution lie on the table to see whether the House was disposed to economize its time, of which he saw but little prospect at present. In addition to the objects of importance enumerated by Mr. BALDWIN, he mentioned the subject of the militia. Was it possible, he asked, that the House could adjourn the present session without acting on this subject? He hoped not; besides the many letters addressed to him, as chairman of the committee on the subject, urging the necessity of acting on it, he had been informed that the State of Georgia had declined re-enacting its militia law at its late session, on the express ground of a hope and belief that Congress would not suffer this session to pass away without acting on it.

The question on postponing the resolution to Monday, was decided in the negative—yeas 54.

Mr. FORBETH remonstrated against the passage of this resolution, which, he said, would place the House in an awkward situation. Heretofore the two Houses had determined to adjourn only when they believed they might do so without prejudice to the public business; but, reversing that practice, it was now proposed to fix on a day of adjournment without reference to the state of public business, and to adjourn whether it were transacted or not. Whence the necessity for this extraordinary course? Was a stimulant necessary to induce the House to attend to business? He hoped, from self-respect, the House would not act on this principle; especially when, by doing the business of the House speedily and properly, the two Houses might, without this premature resolution, be able to adjourn at an early day. He therefore moved to postpone the further consideration of this resolution to the first Monday in April.

This motion was negatived.

The question was then taken on the original proposition, and decided in the affirmative—yeas 101, nays 46, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bateman, Beecher, Bellingier, Bloomfield, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Colston, Comstock, Cook, Cruger, Cushman, Darlington, Desha, Earle, Edwards, Ellicott, Forney, Fuller, Gage, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Heister, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hubbard, Irving of New York, Johnson of Kentucky, Lawyer, Livermore, McLane, W. P. MacLay, Marr, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Morton, Murray, Hugh Nelson, T. M. Nelson, Ogden, Ogle, Owen, Patterson, Pawling, Pindall, Pleasants, Porter, Quarles, Rhea, Rich, Richards, Robertson of Kentucky, Ruggles, Sampson, Schuyler, Scudder, Settle, Seybert, Sherwood, Slocomb, Ballard Smith, J. S. Smith, Spencer, Stewart of North Carolina, Strong, Tarr, Taylor, Tompkins, Townsend, Trimble, Tucker of South Carolina, Tyler, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Baldwin,



H. R.

District Courts of New York.

MARCH, 1818.

Baker of Ohio, Bennett, Blount, Crafts, Crawford, Folger, Forsyth, Harrison, Herkimer, Hopkinson, Huntington, Johnson of Virginia, Jones, Kinsey, Mann, Little, Lowndes, Middleton, Moore, Mumford, Jeremiah Nelson, Orr, Palmer, Parrott, Peter, Phipps, Reed, Ringgold, Savage, Sawyer, Shaw, Simkins, S. Smith, Alexander Smyth, Speed, Stuart of Maryland, Terrill, Terry, Tucker of Virginia, Walker of North Carolina, Whitman, and Wicks.

## DISTRICT COURTS OF NEW YORK.

The bill respecting the District Courts of the United States for the district of New York, was taken up on its second reading; and the question having been stated on ordering the bill to be engrossed for a third reading—

Mr. FORSYTH requested, from the chairman of the Judiciary Committee, information why the House was called upon to legislate so frequently respecting the courts for the district of New York. Not long since a law was passed authorizing one of the district judges to perform the duties of another, who was sick, &c. Mr. F. said he could not understand why it was necessary to make the district of New York continually an exception to the general judiciary system of the United States.

Mr. H. NELSON said that the ill state of the health of one of the judges, which made the partition law referred to necessary, still continues; and as a judge could not be removed on account of ill health, there was no remedy but by the law. In the House was now called on to re-enact. There had been also some difficulty between the judges as to notice necessary from one to require the attendance of the other; for which it was one of the objects of the bill to provide a remedy.

Mr. FORSYTH then said he should like to know how long this state of things was to continue. He was correctly informed, he said, that individual who was too sick to perform his judicial functions, was in the habit of every year travelling the United States, from one end of the country to the other. Whilst his health did not allow him to attend his official duties, it allowed him to travel from New York to Charleston and back every year. Mr. F. said, he differed from the gentleman from Virginia in opinion in one particular: he thought there was a remedy, and a very obvious one, for this grievance. If an individual hold an office under the United States, the duties of which he is unable to perform, he ought to quit it. If the state of his health detain him from the performance of his duties, and he do not quit his office, it is the power of the House, said Mr. F., to appoint a remedy by an impeachment; and, in preference to this mode of legislating for a particular case, he should be glad to see that course resorted to.

Mr. H. NELSON said that the Committee had seen no remedy but that which they had submitted. It was perfectly competent, however, for the gentleman from Georgia to propose the course which he had suggested, if he thought it the proper one, though the Judiciary Committee had

been of a different opinion. But, even in that case, it was necessary to pass this bill, in order that the court should not cease to be held; the bill only proposing to continue provisions which had previously existed, but had been limited in their duration.

Mr. LIVERMORE said, that perhaps gentlemen were not aware of all the circumstances of this case. This was not a bill to create a distinct or additional judge for the district of New York, nor to create any additional expense; for two districts already existed in the State, to each of which a judge was apportioned by an act passed some years ago, in the enacting of which he believed the gentleman from Georgia had some agency. This was merely to continue in force an act of a temporary nature, a renewal of which had become necessary in consequence of continued disability of one of the judges.

Mr. FORSYTH said the gentleman was mistaken in supposing that he had any agency in passing the act of 1812.

Mr. SPENCER rose to state some facts applying to this case. A law substantially similar to this had existed, but expired on the 4th day of March last. The only question, therefore, was whether it was necessary to continue that law? To prove that it was, he need only say, that unless this bill should pass, there is no court for one of the districts of New York. It was therefore indispensably necessary that the bill should pass. If the gentleman asked for the cause of the frequent legislation on this subject, of which he had complained, it was because the acts heretofore passed in relation to it had been temporary. There was another reason requiring the passage of this bill. By the several acts dividing the State into two districts, &c., a doubt had arisen—inasmuch as the old district in New York had been abolished, and two new ones established in lieu of it—what had become of the business in the old court. One judge had decided that the northern court had no jurisdiction over cases before the old court, even where the seizures had been made within that district. The other judge had, however, gone on and tried the cases, and the parties had acquiesced. Other of those cases were yet pending, in respect to which this bill was extremely important. Mr. S. repeated the remark, that whatever might be the conduct of the judge, it was indispensable that there should be a court, and therefore that this bill should pass, as the former law regulating the proceedings of the courts had expired, and at present no process could issue from them. So much for the features of this bill. Mr. S. said, he did not know whether it was necessary to follow the gentleman from Georgia in the allusions he had made to the conduct of the judge. To remove erroneous impressions, however, which the gentleman's observations might have produced, and to afford information for the gentleman himself, (if he would receive it,) he would remark, that the judge in question had travelled annually, from the North to the South, as the gentleman had stated, but it was for the benefit of his health. That health had been sacrificed to his public duty,

MARCH, 1818.

Internal Improvements.

H. OF R.

when, whilst Judge Patterson was sick, and could not attend the courts, the judge who had been referred to had for two years been occupied in doing all the business of the court, and business too of the most laborious and important nature. In the Summer season, said Mr. S., that judge now generally holds the courts; when the Winter commences, he goes to the South, as it is well known the extreme cold of the Northern regions does not permit those afflicted with pulmonary complaints to remain there in safety during the Winter; and by these excursions his health had been greatly benefited, and probably his life preserved. If, however, Mr. S. said, any gentleman thought that the judge had in this or any other respect acted improperly, he hoped that an inquiry would be instituted into his conduct, and that it would be thoroughly investigated. But no suggestion on that head ought to be permitted to arrest the passage of this bill.

The bill was ordered to be engrossed for a third reading.

## INTERNAL IMPROVEMENT.

The House then again resolved itself into a Committee of the Whole, on the report of the committee on the question of internal improvement.

Mr. CUSHMAN, of New York, said, that, from the course of argument pursued by gentlemen who were unfriendly to the resolution under debate, it became important, in the threshold of his remarks, to endeavor to determine the correct rules of interpretation, by which we were to test the extent of the Constitutional powers of Congress. He could not concur with the honorable gentleman from Virginia (Mr. BARBOUR) in the confined and rigid rule of construction, as illustrated by the example adduced, upon which his argument had proceeded, or in the conclusions to which it had conducted him. In terms, however, it was not particularly objectionable, for he readily subscribed, and he had not heard it denied, that the incidental power must have a natural and obvious relation to the principal power; but the case put in illustration, which the gentleman says exemplifies his idea, distinctly confines implied powers to those indispensably necessary. For what, he asked, could be more indispensably incident to the power of collecting taxes, than that to appoint a collector? Nor could he discover a sanction for the rule thus understood, either in the Constitution itself, in the history of the causes which led to its formation, or from a reference to the variety and magnitude of the national interests, which it was formed to cherish and protect. In such an instrument, precision in anything more than the outline was obviously impracticable; it distinctly marks the form of Government. The division and distribution of powers in the act of legislation are defined. The leading substantive powers are enumerated, and our opponents concede that a multitude of implied powers are vested in Congress, as incident to the specified powers, and indispensable to their execution. But, to prescribe by what acts of le-

15th CON. 1st SESS.—38

gislation the express or implied power should be exercised, had not been attempted. It would, indeed, have been found impracticable; and hence, the enumeration of general powers is followed by the grant of power to make all laws necessary and proper for carrying into execution the specified powers, and all others vested in the General Government.

There was a point of difference, Mr. C. said, between the friends and opponents of the resolution, whenever the subject of the incidental powers of this Government was agitated, at first view apparently trivial, but which had an important influence in the formation and application of any rule of construction. The opponents of the resolution bring into the discussion of this subject views and principles not greatly dissimilar to those which dictated and governed the old Confederation. In that instrument, although formed with a view to a union which should enable the Government to concentrate all the physical power of the nation for defence and protection, the pertinacity with which the States retained the powers of sovereignty evinced that the preservation of that sovereignty unimpaired was an object paramount to every other.

The Constitution, he said, was formed upon a different principle, and for the attainment of higher objects. It was instituted with a single eye to the preservation of freedom, and the happiness of the people. Whatever had been, and yet may be, the force of our attachment to the local Governments, which he hoped and trusted we should never cease to cherish, the convention stripped them of their highest attributes of sovereignty, and concentrated those powers in this Government. And, we could now best obtain a full and just view of the divisions of powers between the General and State Governments, by regarding them as organized at the same period. Although a part of the States had independent powers anterior to the Constitution, nearly half have been formed or added since its adoption. Soon, a large majority of the States will have derived their qualified sovereignty from a relinquishment of the powers of Congress over their territory. When we come to the discussion of this subject, therefore, we are to banish from recollection the jealousies and the reluctance with which part of the States yielded to the demands of national interest and relinquished a portion of the local sovereignty. Compare the constitutions. Look at the objects of the division of power, the sphere of action described for each, to determine the powers possessed by each for effecting the security, the prosperity, and the glory of the nation: not only for the present moment, but for ages to come. It is in the spirit of these views, he contended, they were to form rules to test the extent of implied powers, and to select the means of exerting all our powers.

But, gentlemen on the opposite side have said, that to fix a fair rule of interpretation it is material to resort to the construction put upon the instrument by its framers and by the people at the time of its adoption. Sir, said Mr. C., I will sub-



H. or R.

Internal Improvements.

MARCH, 1818.

to their position. And what is the evidence derived from these sources of the extent of implied powers? Look at the instrument. Although he did not lay stress upon the preamble of the Constitution, as containing a grant of power, yet it was worthy of regard, as comprising a summary of the design of its formation; and viewing it in connexion with all parts of the instrument, his mind was irresistibly led to the conclusion that powers of legislation for national objects, co-extensive with the national exigencies, not only for present but future times, in relation to all the interests which belong to the States, as one community, were designed to be vested in the government of the Union. Had the strict rules, as defined by gentlemen, been applied by the framers to the eighth section of the first act, in the succeeding section is there an express provision limiting the power, to prohibit the importation of slaves for a specific period; to suspend the writ of habeas corpus; or to create a nobility? To which of the enumerated powers have these an immediate and express relation? Yes, we have the authority of the framers, that, without express restrictions, these powers might have been constitutionally exercised under the general grant. The people, in their scrutiny of the instrument at its adoption, applied far more liberal rules than our opponents prescribe to test the extent of implied powers. The extent of implied powers formed a prominent subject of alarm, and opposition to its adoption. A multitude of amendments, to limit in quantity the implied powers, were proposed; in some instances, to the number of thirty in a single State; and, sir, it is worthy the notice of our opponents, that, among the amendments proposed, was one from the State of New York, to deprive Congress of the power to lay out, construct, and repair roads, under the grant to establish post roads "without the consent of the States." But, governed by the rules of the honorable gentleman, would these propositions have been necessary, or even rational? Sir, the amendments which have been adopted, afford a practical refutation of the assumption that Congress have no implied powers but such as have an immediate and direct relation to those enumerated. In the sense of our opponents, so recondite are the implied powers which these amendments qualify or prohibit, that it is difficult, if not impracticable, to decide to which of the enumerated powers they were incident. Take the first. Under what express power could we have enacted laws prohibiting the free exercise of religious sentiment? No one of the amendments prescribes a new rule of interpretation. Qualifying or abridging incidental powers merely, these are many proofs of their existence, their necessity, and extent, generally. He knew reliance had been placed on the 10th amendment by the friends of the limited rule, as analogous to the 2d article of the Confederation. What is its history? An abortive attempt was made in the convention to incorporate the second article of the Confederation in the Constitution. On its adoption, five States recommended an amendment, containing,

in substance, its restrictions. The subject again came under solemn deliberation in the first Congress. The 10th amendment, without impairing the vigor or limiting the extent of delegated powers, either express or implied, was proposed. In both Houses an amendment was attempted, limiting the powers of the Constitution to those "expressly" delegated, and the proposition was discarded by large majorities. The 10th amendment thus leaves implied delegated powers, precisely where it found them.

If these strict confined rules of interpretation are applied to test the constitutionality of the laws enacted by the first Congress, and the general course of legislation down to the present time, the history of our legislation would be a record of continued usurpation upon the rights of the States. For, in selecting the means to carry into effect the powers of the Constitution, whenever the object of legislation has been committed to its charge, Congress have exercised a power commensurate to the end; with no other restraint upon the means, than a regard to the undoubted powers of the State governments, and the personal rights of the citizen interposed. This they have prescribed as the rule of construction, drawn from the Constitution itself.

Upon these principles of construction, under the first administration, in aid of the fiscal interests of the Government, in the first Congress, a National Bank was established, which has again been deliberately re-established. In aid of the agricultural interests of the nation, and to protect the Western States from vexatious interruptions in the export of their products, a territory was purchased at the expense of fifteen millions, equal in extent to the original States. Gentlemen shrunk from the force of this precedent, and referred the act to the treaty power. But, whether acquired by treaty or legislation, was immaterial. Congress provided the means, and gave the act all its effect. Guided by the same policy, while one application of revenue favored the interests of agriculture, by means of onerous protecting duties, imposed, not for purposes of revenue, but prohibition, Congress had exerted the power to create and establish manufactures. He might marshal a host more, but these would suffice. They were strictly implied powers, having direct relation to no specific delegated powers. Yet, their existence was acknowledged, and their exercise required by the highest national interests.

But opposed, as the strict rules of interpretation advanced by his opponents were, by evidence furnished in the Constitution itself, by a reference to the great design of its formation, and by the general scope of our former policy, he was not confined to this view of the subject alone to sustain the resolution under debate. A consistent and fair construction of the grant in the third paragraph of the 8th section of article 1st, he contended, fully authorized the exercise of the power. What is the grant? "Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The word regulate being

MARCH, 1818.

Internal Improvements.

H. or R.

used to confer the whole power conferred over each of these subjects of legislation, its force being necessarily the same throughout the clause, to determine the extent of our powers and duties in one case, will establish the rule for each. We recur to the design of the grant, to the intention of the framers. Take the first subject named—foreign commerce. Is it denied that the whole power of legislating concerning it, was designed to be vested in Congress? And how has the power to regulate foreign commerce been uniformly exercised? He answered, without fear of contradiction, by a liberal use of every means usual among commercial Powers; in the use of revenue, by purchase of soil, and by bounties, we have steadily pressed forward to create, encourage, and extend it. No measures have been neglected, no expedient omitted, in the sagacity of Government to discern, and within the means of fair legislation to effect, for its interests. He would give one or two cases in illustration: the navigation act of the last session is an exercise of the power to encourage commerce through the medium of direct aid and exclusive privileges to American seamen. The aid is as real and effectual as if bestowed in the shape of direct bounty. To promote the interests of commerce, Congress has made expensive provision for the aid of disabled seamen in the merchant service, and liberally applied revenue for the establishment and support of marine hospitals. In exercise of the same power, we have established, and continue to support, throughout the coast, light-houses and beacons, at an enormous annual expense. To encourage the fisheries, by various acts, Congress give a clear bounty of four dollars per ton to the owners and seamen of vessels in this employ, besides a direct bounty on fish exported. This policy commenced in 1794, was sanctioned by the last Congress; and by a late Treasury report, the direct aid to this single employment is seventy thousand dollars annually. In fine, the whole course of legislation shows an uniform understanding of the extent of our powers concerning foreign commerce, and accords with the construction which the framers put upon the word regulate. Under it, we have all ordinary powers of legislation for the various interests of commerce; limited only, in their exercise, by the sound discretion of the Legislature.

Equally broad has been the power exercised in relation to the Indian trade, under the power to regulate it. Here Congress have exerted an exclusive control, and, when productive, monopolized the whole profits of this branch of commerce—surely, with no design to usurp power, but from strong convictions of duty. Pursuing the course marked out by the Congress of the Confederation, this Government has applied the national revenues to erect trading-houses, to organize and maintain an expensive agency department, and finally appropriated from the Treasury three hundred thousand dollars for a fund to conduct and sustain an Indian commerce. So far from questioning the Constitutionality of the various acts to which he had referred, it had been

expressly admitted by an honorable member, (Mr. A. SMYTH,) in regard to most of them, in the course of the debate. In relation to foreign commerce and Indian trade, therefore, the construction for which he had contended was sustained. Allow the same power under the word regulate, as connected with commerce between the States, which it imparts to aid foreign commerce and Indian trade, and the point, namely, that the Constitution confers on Congress the power to legislate in the use of the ordinary means to promote and encourage commerce between the States, is established. If, then, the natural, usual, and efficient means, to aid and facilitate this internal commerce, be an expenditure of revenue for the construction of roads and canals, which he understood was conceded, these means we had the Constitutional power to use, if the exercise of the power did not obviously trench upon the rights of the local sovereignties.

He now came to consider whether the rights of State sovereignties interposed any Constitutional impediment to the exercise of the power, in the manner proposed in the resolution. Here the objections of gentlemen had been arranged under two positions, which he would attempt to examine. The one was, that this power could not exist in Congress, to be exercised with the assent of the States; the other, that its independent exercise would be a direct violation of the sovereignty of the States.

Although he held that the power was unqualified, and that the assent of the States was unnecessary to its exercise, the necessity of the assent of the States did not disprove the existence of the power. He conceded that the Constitution could be amended only in the mode prescribed by three-fourths of the States, and that the assent of a State would not authorize the exercise of an unconstitutional power. The inference, however, that the assent of a State could not authorize or give effect to an act of Congress, did not follow, except upon the further assumption that all the powers of Congress could be exercised by the use of all Constitutional means, independent of the States; that their consent would authorize no act, in the exercise of a power, not equally legal without such assent. This assumption was refuted, not only by the uniform tenor of legislative proceedings, but by the letter of the Constitution. By some of its provisions we have powers which can be exercised in a particular mode—only by consent of the States. By others, the consent of a State imparts new powers. Take an instance of each: We have powers of exclusive legislation over our territory; with the consent of the States we exercise the same power in this District. Again, by the consent of two States Congress may abolish the Government of one, and unite them together. Here the effect of consent is to confer a new power, not to authorize the exercise of one already possessed, over a new subject. The States also, said Mr. C., may exercise most important powers by consent of Congress. Thus Maryland, Rhode Island, South Carolina, and Georgia, by consent of Congress, have imposed a



H. R.

Internal Improvements.

MARCH, 1818.

upon tonnage. With like consent they may exercise new powers to keep troops and in time of war enter into compacts with each other, with a foreign Power, and even wage wars. But to meet this answer, furnished by the Constitution itself, to the objection that the efficacy of assent, we are told, substantially, that every power, unless limited in the terms of the grant, is absolute, and its exercise in every Constitutional mode is dependent alone on the will of its possessor. If, then, I show that Congress possess any implied power, however small, which can be exercised only by consent of a State, the position is overthrown. Sir, our statute book contains numerous acts, the Constitutionality of which cannot be doubted or denied, deriving all their force from the assent of a State. He would particularize: When the Constitution was framed, Congress possessed power to form three States of the Northwest Territory. By consent of Virginia, since obtained, we have acquired the power to form five States of that Territory, which has been, in part, exercised. In the imposition of the late direct tax, the law itself contained important provisions, which changed the mode of raising the revenue, which depended for their power and effect on the consent of the States. He might mention the purchase of the Mississippi Territory, and the consent of Georgia subsequently obtained, which conferred on us the power to erect it into two States instead of one; and to all the laws authorizing the formation of new States, which contain legislative provisions of no force till sanctioned by the assent of those States.

The next, and most important objection to the resolution was, that the independent exercise of the power of Congress would be a direct invasion of the sovereignty of the States. Sir, what is sovereignty, but the power of legislation? Whence is it derived, and where is the sovereignty over the people of the United States vested? Clearly it emanates from the people, and is vested in the National and State Governments. The adoption of the Constitution effected an alteration in the distribution of sovereign power, which had escaped the notice of those who resorted to the Articles of Confederation for the measure of State sovereignty. The Confederation was a compact between distinct and independent sovereigns, the second article of which provided, that each power retained its sovereignty; a treaty of alliance, offensive and defensive; with no other sanction for the fulfilment of its principal stipulations than the sword. A non-compliance with the requisitions of Congress was a violation of the compact, for which the community, not the citizen, was answerable. The Constitution had a different origin. Its powers, like those of the State governments, are derived immediately from the people. Assembled in conventions within each State, they recalled from the State governments the portion of the sovereign power necessary to constitute a National Government; conferred upon the General Government powers of legislation over the citizen as well as the State,

for national objects; modified the State governments in the Constitution itself; qualified a portion of their remaining powers; imposed new duties, and left the residue of sovereignty in the States. Thus constituted, the General and State Governments, each with powers of sovereignty, are organized over the same people; the one with legislative powers, which regard the national interests, the other, concerning the local interests over the territories of the Union; the General Government is clothed with exclusive legislative powers, and with a concurrent sovereignty within the limits of the States. But the gentlemen from Virginia (Mr. SMYTH and Mr. BARBOUR) discover an insurmountable objection to the existence of this power in Congress in the possession of a similar power by the State legislatures, within their limits, which might be impaired or defeated. If this objection has force, it equally disproves the existence of any concurrent power whatever; for, at each step in its exercise, collisions might arise, and this evil be realized. Yet, have not both Governments undisputed concurrent powers to execute process, civil and criminal, at the same moment, on the persons and property of the citizen; to use the same highways, to require the attendance, in their several courts, of jurors or witnesses; and is not the same property liable to supply the revenues of each? That collisions may arise, and the powers of our Government be unavoidably suspended by action of the other, is indisputable. This results from the nature of our system. It however disproves the existence of no one concurrent power; and should the imaginary contest, suggested by the gentlemen, arise, the paramount authority of Congress is established by the express letter of the Constitution in article sixth, in all cases of concurrent powers. The existence of concurrent sovereign powers in the General and local Governments over the Union, presented a view of the subject which removed another objection with which the resolutions had been encountered—it was this: That the exercise of the power in question rested upon the right of exclusive jurisdiction. If this distinction be sound, if exclusive sovereignty is necessary to the exercise of the power, then the States have not this power within their respective limits, possessing, as they do, only a limited concurrent sovereignty. But this power in the State government we all assert. Its existence did not, then, depend upon the right of exclusive sovereignty. Nor was the power, Mr. C. said, in any government dependent upon the right of soil, as had been suggested. This would reduce the power to a mere incident to the right of property. Purchase from the citizen would be a prerequisite in its exercise of the power. The right of soil and of sovereignty were not the same. For all public purposes, where necessity requires it, every efficient government has the power to invade the right of soil, and all other property of the citizen, without purchase, but not without equivalent. And this necessity is determined by the Government. This power may as properly be exercised to make roads

MARCH, 1818.

Internal Improvements.

H. OF R.

and canals in time of peace, as to demolish a house, form an encampment, and seize provisions in a period of war. In such cases of necessity alone could Government invade the right of property in the citizen. In relation to the right of soil, then, the Governments, being concurrent, were upon the same footing. Each could take the soil, or other property of the citizen, when necessary to the exercise of their powers, and neither could touch it but in such an emergency. He hardly needed to add, that this necessity must be urgent; but, he repeated, the urgency in the one case might as properly be the demand of the public convenience as in the other for the public defence. Sir, in no instance has the power to make roads and canals been expressly granted to a legislature. It is incidental in every government (from the necessity of intercourse between citizens,) and that government may have access to all parts of the State in the exercise of its authority and duties. It was indispensable to any government. Indeed, the fifth amendment expressly recognises and qualifies the right in Congress to take any property of the citizen, when necessary, in providing "that private property shall not be taken for public use without just compensation."

The power in Congress to make roads and canals for national objects, Mr. C. said, was inferrible from another consideration. Have the people intentionally withheld this power from both the General and State Governments? It would hardly be pretended. If it cannot be exercised by the States independently, Congress possess it; or the people, by a sort of treason against their vital interests, have deprived themselves of its benefits. But a State does not, cannot, possess it beyond its limits. The Constitution prohibits compacts between the States, for all purposes, whatever, without consent of Congress. This is not only the spirit, but the letter. It received a practical illustration in the second session of the first Congress in 1790, when a formal application was made to Congress by Virginia and North Carolina, and permission obtained, to enter into a compact to make a canal between Pasquotank and Elizabeth river. Our opponents, said he, contend that the powers and rights of the States are equal. He would show them that in four of the States, under the express recognition of their constitutions, Congress had asserted and exercised the power to make roads within their respective limits, or to apply the national revenue for their internal improvement, not in an isolated case or for a limited period, but generally, and while the Government should endure. Not only had large appropriations been made by law, but the obligation, on our part, to continue those appropriations was irrevocable.

Mr. C. referred to the statute book, and the constitutions of Ohio, Louisiana, Indiana, and Mississippi, in proof of the fact. The act of Congress of 1802, authorizing the people of Ohio to organize a State government, contains propositions to the State Convention, for their free acceptance or rejection, to which is invited the

attention of the Committee. Besides a gift of the invaluable Saline, and an immense tract of land distributed in every township of the State, Congress offered to apply five per cent. of the proceeds of the public lands within the State, to the construction of roads to and through the State, under the exclusive direction of Congress, upon the single condition, that the State stipulated not to tax the lands of purchasers from the United States, for five years after the sale. The convention embraced the offer, and Congress is irrevocably bound to make these internal improvements in Ohio. Shall we be told, that this is a commutation of a tax, which Ohio had a right to raise from the public land? The fact is otherwise. By the fourth article of compact, in the ordinance of 1787, and now in force, relative to the whole Northwest Territory, it is stipulated, that no tax shall be imposed on lands, the property of the United States, by the new States, which may be formed of the Territory. The State, then, had no power to tax the public lands. It was not required, as a condition, to renounce the power. But even had there been a commutation for a tax, which the State had the power to raise from the public land, this, at farthest, would only have authorized an adjustment of the amount. It would have been a power like that exercised in the late act imposing a direct tax, to which he had already referred, authorizing a commutation and a deduction of fifteen per cent. if paid by the State. Did this confer the power on the State to control its use? In the case before the Committee, the use, the application of the fund, to objects of internal improvement, involves, according to the doctrine of our opponents, the exercise of a distinct power. If they admit, that Congress might thus acquire or exercise the power, it is a concession of the argument, and fully sustains the resolution. For, if the power can be acquired by any compact with the State, the question is ended. Congress, then, have the power of constructing roads, in Ohio, by the express provisions of its constitution, and the obligation to exercise it is imperative and irrevocable. If we might appropriate five per cent. of the public lands to that object, which appropriation had already produced upwards of half a million, we might appropriate any larger amount. The power had no limit but in the discretion of Congress.

Passing to Indiana, we find Congress possessed a similar power, as recognised by its constitution. The propositions to Indiana, in the act for her admission into the Union, differed from Ohio only in this: In Indiana two per cent. of the fund bestowed for her improvement, is to be applied by Congress in constructing roads leading to the State, and three per cent. is given, to be applied to construct roads and canals within it, under the direction of its Legislature.

The acts to enable the people of Louisiana and Mississippi to erect State governments, and their constitutions, show, that we possess the same powers in those States. Here Congress presented not even an option to the people. It was among



H. of R.

Internal Improvements.

MARCH, 1818.

the indispensable conditions of their admission into the Union, that they renounced the right to the public lands of the United States. But, admitted, three per cent. of the proceeds of the public lands were given, to be applied to internal improvement, part by Congress without, and part by the Legislature within those States. In these cases, there was no pretence of commutation. Congress, without consulting these States, and without the concurrence of their will, has appropriated a fund for their internal improvement.

Are we prepared, he asked, to condemn all the laws of Congress as acts of usurpation? Have these States surrendered their rights? If Congress have the power to make like appropriations for the internal improvement of each State. If the constitutionality of these acts is denied by the honorable member, (Mr. BARBOUR,) he is then at issue with himself; and devolves on the Committee the necessity of deciding between the doctrine and his vote, for the Journal shows that the appropriation offered to Indiana for roads and canals, so late as the last session, was sanctioned by the authority of his own name. Thus, he stands the case. The power of applying the national revenues to construct roads and canals over territory held by cession, is conceded; it is here Congress have powers of exclusive legislation. It is limited only by discretion over the thirds of the surface of the Union; and yet, this is but an implied power, incident to the power to make needful rules and regulations respecting the territory." To deny Congress the power to extend the benefits, possessed by the States just named, to the older States, is to say, that our powers to supply revenue are unequal over the several States. Nay, more, that the original States conferred on Congress the power to apply the revenues at its discretion to improve their territory and the States, which might be erected within it, all comprising a surface of more than three-fourths of the Union; and expressly barred themselves from the benefits of like appropriations. After the able, and, he thought, sure refutation of the objections which had been urged to the power of making post and military roads, by the honorable member who had just sat down, he would not detain the Committee on that part of the resolution. Without a reliance on the letter of the Constitution; but, from the admission made, that the power to establish post roads conferred the rights of way, in every necessary direction, the necessity, in the exercise of the right, of making the way passable, he thought, left no substantial difference upon that point. And with regard to military roads, said Mr. C., the only remaining ground of controversy is, whether the right, which, it is conceded, exists as incident to the military power, shall be exercised in time of peace, by preparation to meet the exigencies of war, or delayed till war exists, and to the moment the use of a road is indispensable, before we begin to construct it. But, if the view of the character and extent of our implied powers, and the nature of the sov-

erign authority of Congress over the Union, which he had presented, were in any degree correct, there could be no discrimination between our power in time of peace to construct a road, or a fortification for military defence. If, then, the power of making roads and canals, or appropriating the revenue to that object, is possessed by Congress, he thought, on the question of expediency, it would readily appear that the various national interests required its immediate exercise. It was demanded by the dictates of the policy which requires naval preparation for war in time of peace; by the interests of internal trade, by the claim of the interior and agricultural States, to a full participation of the benefits of the Union, and by the interests of foreign commerce. He would not re-examine the situation of the Atlantic frontier, in a period of war with our commercial rival. The necessity of an inland chain of communication from North to South, its practicability, and the disproportion between the expense and, immense benefits, had already been forcibly urged upon the attention of the Committee. The necessity of similar means of communication between the Atlantic and the Lakes, advanced an equal claim to our consideration. During the late war its benefits would have been incalculable. With regard to a minor consideration—the expense, in that short period, the single charge to this Government for transportation from the tide-waters of the Hudson to the several lakes, it was not extravagant to say, exceeded two millions, four-fifths of which would have been saved by a canal transportation.

He had alluded to the fair claims of the interior States. Sir, have they not an equal claim with the navigating States, to the aid of the National Government—to the bounty of the Treasury? Let us not disregard their just demands. The vast fund of the public lands is the common property of the States. By an estimate, founded on the acknowledged extent of our territory, we have now for sale more than sixteen hundred million acres of land susceptible of cultivation. Soon the annual proceeds of sales, already exceeding a million and a half, will amount to many millions. While a portion of this branch of revenue, by a wise policy, is appropriated to improve some sections of the Union, and an amount exceeding the whole is annually applied to the aid of foreign commerce, and in extending the fostering care of Congress to other great interests of the nation; interests connected by indissoluble ties, all conspiring to increase the wealth, strength, and security of the nation; can we, he asked, refuse some aid to internal commerce, thus approximating the interior States to the seaboard? Give them markets—multiply and enhance the value of their products—and finally admit them to a full participation in the benefits of a paternal Government. While desirous to recommend these interests to the encouragement of Congress, he could not concur with the honorable member who immediately preceded him, (the Speaker,) and sustained the resolution with distinguished ability, in the sentiment that the interests of foreign

MARCH, 1818.

Internal Improvements.

H. of R.

commerce have been too fondly cherished—that it had become the spoiled child of the nation. No, said Mr. C., to commerce, invigorated, expanded, and cherished by that genial system of protection and encouragement, which was adopted by the profound practical wisdom of the first Administration, should, in a great degree, be ascribed our unexampled growth, and present proud situation in the rank of nations. Thus sustained, it has filled your Treasury, invigorated agriculture and the seaboard with cities and wealth, and animated every department of active industry, and in less than thirty years raised the nation to an elevated, and, he hoped, a durable greatness. Sir, it is unwise, as it is unnecessary, to decri our commercial policy; that the interests of the interior may attract our care. All interests have equal claims. Our abundant resources are adequate to the aid of all. But let us not be told from another quarter, that the interior sections of the Union, while they ask the aid, have no share in the burdens of Government.

By their consumption of the imports, said Mr. C., the interior States contribute to the very fund which you apply for the interests of foreign commerce. They equally participate in the burdens of war. Nay, sir, when you have recourse to the direct tax, the war tax as it has been termed, apportioned in the ratio of the population, and not the wealth of a State, it falls upon the interior with a severe and unequal pressure. It was, he said, due to candor to remark, that duties on imports being the ordinary sources of revenue, direct encouragement to commerce had become the immediate interest of finance; that agriculture and internal commerce, urging no similar appeal to the interest, had not hitherto sufficiently attracted the attention of Government, or participated in its benefits. To a considerable extent, also, has this nation for years been indirectly contributing to the immediate aid of manufactures. He would not be understood to denounce this policy; far from it. A just regard to the national interests, as well as faith, requires that measures adopted to create should now be continued to sustain them. But the benefits of this branch of national improvements surely were prospective, and in the infancy of manufactures the protecting duties which their interests require, as they enhance the price of the foreign article, and the manufacture operates as a proportionate tax on the consumer, for the immediate encouragement of the manufacturer; therein departing from the exercise of the specific power for raising revenue, and effectually exerting that of establishing manufactures. Have the Constitutional powers here exercised ever been denied? He asked, then, upon what color of pretence could Congress, adhering to that construction of the Constitution which authorizes the indefinite application of revenue to encourage foreign commerce—to create and sustain manufactures—with what appearance of consistency can you withhold like aid to objects of internal improvement, claiming equally the national encouragement, as inseparably allied to the national prosperity? Beyond the benefits of de-

fence, in which all equally participate, what advantage, the interior States emphatically ask, do we derive from the Union? And without a fair equivalent, by what principles of justice are we required longer to sustain a policy, which, for the present, depresses the value of our products and enhances that of the imports, by excluding the foreign merchant, through the medium of tonnage and onerous discriminating duties, from a free competition in our market, making us directly tributary to the interests of commerce and manufactures?

If the interests of internal trade and agriculture demand this aid, from their prominent importance, as objects of national concern, will it be denied that roads and canals are the natural, direct, and necessary means? The commerce of interior States is, through others, to an Atlantic market. The intermediate States are not bound to provide facilities for transportation? Is there no remedy? How important soever, the remote State has no power to effect it. What results? The improvement is made so far only as subserves the interest of the intermediate State, and, when rival interests exist, the property of the remote State is sacrificed.

Sir, I will not trespass upon your time by a repetition of the objects which claim the exercise of this power. They were forcibly presented at the opening of the debate. You have viewed them in detail, estimated their cost, and seen their importance, for purposes of national defence and internal commerce. There are, however, some considerations which invite one or two additional remarks. The importance of an immediate exercise of that power, said Mr. C., is forcibly urged by a recurrence to the condition of our northern frontier. Bounded as we are, in that direction, by a chain of lakes, of equal extent with the Atlantic frontier, with a soil surpassed in fertility by no portion of the Union, and populating as it is with a rapidity unexampled, in a few years the export of a population equal to that of the Union when this Government was instituted, will pass into the northern lakes. Without canal communications between the lakes, the Mississippi, and the rivers of the Atlantic States, the immense export of this section of the Union, embracing more than five States, descends the St. Lawrence. What are the inevitable consequences? The interests of that section, for any beneficial national object, are severed from the Union. The immense value of one-fifth of our commerce is sacrificed not only, but contributes to the ascendancy of England.

Sir, canals are the only permanent remedy. But the evil is not wholly in prospect; it already exists, and is even now keenly felt from another quarter. To what cause do we impute the ruinous condition of our commerce with the British West Indies, which has been so forcibly urged upon our attention by a recent report of a committee? Look at the statement of the export. From Vermont alone, it exceeds a million. From New York, Ohio, and Michigan, it exceeds another. The whole yielding a freight which



H. of R.

Internal Improvements.

MARCH, 1818.

Hamples its value in the foreign market. We are not now to learn that the West Indies cannot now subsist but by supplies from the United States. Possessed of our own means, we can force a trade on principles of perfect reciprocity; but, without canals to attract this produce from Canada to Atlantic channels, we not only give employment to an immense British tonnage, but enable her to subvert her West Indies with our own products, and by her navigation, inviting her to exclude us all participation in her colonial trade. Not only are they the carriers of the products of the West, but we are compelled to receive her colonial exports from her ships. Can this Government, he asked, number over this complicated and growing evil? Can we without alarm anticipate the consequences which this state of things will entail upon our revenue, from the facilities of smuggling, at a thousand points? Or the influence it will soon be able to exert, over the western section of the Union? Sir, shall slight considerations deter us from a prompt application of an effectual remedy? It is perfect; it is within our view; it is already marked by the practical wisdom and enterprise of the State which I have the honor in part to represent; the improvement is already commenced; the canals to unite Erie and the Hudson with the Hudson are in successful progress. Mr. C. said he could not refer to this great national undertaking with any ordinary mention of pleasure. In relation to it, however, he would indulge but the single remark, that, whether viewed in reference to the magnificence of its design, the variety and magnitude of the national interests it is destined to subserve, and the benign influences it will extend over the endless regions of the West; all conspire to characterize it one of the proudest monuments of national glory, which has been projected by the wisdom or attempted by the power of a State. The speedy accomplishment of this noble design, demanded alike by the interests of commerce, foreign and internal; of revenues of our Western States, and our western lands; upon the score of justice as well as policy, calls for that liberal aid at our hands, which has hitherto been unsuccessfully solicited. Sir, I trust we do not urge a hopeless appeal to the sagacity of the Eastern States, when we ask their aid in measures to secure the success of improvements, which will enable them effectually to reclaim one branch of their trade from ruin; withdraw from England the commerce in our products, which gives employment to hundreds of her ships, and transfer the profits to our own.

But, said Mr. C., we are told, where doubts of our Constitutional power to legislate are entertained, it is expedient to refer to the people for a grant of the power. He considered this doctrine utterly indefensible. Extraordinary powers indeed would this principle devolve upon a doubting minority. The authority of the Constitution opposes it. What is the Constitutional rule? Legislate, where a majority in each House concur in the expediency and constitutionality of a law.

With this sanction, unless arrested by the President, bills become laws, and, in the teeth of the veto, it is expedient to legislate where two-thirds concur. Again, it is as imperatively our duty to recommend an abridgment as an enlargement of our powers, and far from cause of alarm at the spirit of encroachment on State power, so feelingly deprecated, we know Congress have recommended twelve amendments, to define and abridge their powers. As citizens of the United States, we have a common interest in their independence and power, and a common attachment to their institutions. One branch is dependent for political existence on the legislatures, and the other on the voluntary suffrage of the people. Possessing legislative power by such a tenure, and continually recurring to the people for its continuance, has not early and more recent experience, forcibly demonstrated their controlling powers, and that even an artificial gust of popular indignation can blight and wither our dreaded energies?

If there be a cardinal principle in free Government, it is, that the will of the majority is the supreme law. It is the basis of all legitimate power; it is the foundation of our Constitution. But, once organized, permanency required the form of Government should not be changed without a concurrence of three-fourths of the States. Let us not confound distinctions. This rule is not established for the construction of the instrument, or designed to govern in acts of legislation. It is the rule of amendment only. As the immediate guardians of the powers of the Constitution, we are bound, by our oaths, to support it in its vigor and power. If a majority believe we have the power, would it not be as just a test of its existence, to apply for an amendment to divest Congress of the power to make roads and canals, as for a grant of the power?

Sir, we have heard of the admirable facilities provided to remedy defects in the Constitution by amendments. What is this boasted remedy, so often attempted and so often defeated? Two-thirds of both Houses concurring that a power is desirable and not possessed, can recommend an amendment, and three-fourths of the States have the power to adopt it. And are gentlemen prepared to resort to this test, to determine what laws we may enact, what means we may use, in the exercise of our Constitutional powers? But even the power of three-fourths of the people to amend the Constitution is theoretical merely. A majority in six States, all containing a population less than 700,000, a population unequal to that of either of three single States, not a twelfth of the whole, control the construction of powers, and prevent an amendment. Upon a question like this, should we not foresee that considerations of local rather than national interest would prevail; that it might be resolved into a cold calculation of relative benefits? Upon a question like this, can you look for that spirit of deference and concession in the absence of that necessity which, with all its coercive energy, united barely a majority of the people on the adoption of the Constitution.

MARCH, 1818.

Internal Improvements.

H. of R.

Upon these considerations, however, he would forbear to dwell. An application for an amendment, as had been recommended, he should regard as a virtual surrender of the power. In a case of much doubt, he could not reconcile it to a sense of the duty of Congress, considered as the immediate guardians of the Constitution, to submit to a course in relation to any of its powers, which would jeopardize their existence. But, in the present case, with an entire conviction of the existence of the power, and believing that its exercise was demanded by a regard to the highest interests of the nation, he hoped the resolution would be adopted.

Mr. AUSTIN, of Virginia, said he felt somewhat embarrassed, at this late hour of the day, to attempt to deliver his sentiments upon the subject now under consideration; but, some few days since, it would be recollected, the honorable Speaker, one of the noble sons of Virginia, whom she was always proud to acknowledge, had invited, or rather challenged, her representation to meet him in this contest. He said, weak as she might be, the Old Dominion was always ready and willing to furnish her quota, although she might be vanquished in the combat. Under these circumstances, he was compelled to engage in the unequal contest. It appeared to him it had become somewhat fashionable to enter a protest against those principles in which we differ; and the honorable Speaker had entered his protest against the principles of construction which had been contended for by those opposed to the resolution now under consideration. Mr. A. said he, in like manner, would beg leave to enter his humble protest against that liberal and expanded construction of the Constitution which had been contended for by the honorable Speaker. It had been said by him that he protested against this water-gruel system of construction; that those who construed it in this way were unfit for politicians. Mr. A. said that, in whatever light, as a politician, he might be viewed, it was not material to him; but he would remind the honorable Speaker that the principles of construction, limited and water-gruel as they might be, which were contended for by those opposed to the resolution, were such as had conducted us through two wars in safety, peace, and harmony. Mr. A. said, we have been told, that by adopting this liberal and expanded construction of the Constitution, by giving to the General Government this power of making roads and canals, &c. will produce union, peace, and tranquillity through these United States; and this seemed to be too generally admitted; but he thought very differently, and would take this occasion to say that he denied the whole theory and its ideal consequences. He said he would call the attention of the Committee to the peace, union, and tranquillity which now existed between the States; that they were content; that the moment Congress assumes this power of internal improvement, you throw out the apple of discord among the States; they will then begin to scramble, and quarrel who shall get the most, and where shall be the places of this internal improvement;

and, instead of producing this fancied union, peace, and tranquillity, so eloquently described by gentlemen, it would turn out to be an internal division and commotion, instead of internal improvement.

The honorable Speaker had said, the great objects of the Constitution were union, peace, and consolidation, but did not thereby mean to use the word consolidation in an alarming or offensive sense. He too (Mr. A.) thought the objects of the Constitution were peace and union; but it was not material in what sense the honorable Speaker used the word consolidation, since it appeared to Mr. A. that the consequences resulting from the honorable gentleman's construction would lead to consolidation and a prostration of State rights.

We had been told by the honorable Speaker that the Constitution was made not merely for a few millions of people, but intended to embrace perhaps fifty millions or more, and that it was calculated to answer these great objects. He (Mr. A.) would agree that the Constitution was wisely framed to answer all these great objects, and to last under all times and circumstances, if we resort to the Constitution for our guide. And, although he could not extend his views to those ages, yet if we are to expand its construction according to the extended views which some gentlemen take of it, he thought it could no longer be considered as our guide; we are left to the whim, and caprice, and elevated views which some gentlemen consider as beneficial to attain their ideas of national grandeur and greatness. In pursuing this fancied object, he would remark that it did seem to him that some gentlemen had taken such an eagle flight that they had soared entirely out of view of the Constitution, and forgotten it; and, being accustomed to power, had considered themselves invested with all authority. He said that the powers now claimed to be in the General Government, by the resolution on your table, would not produce the beneficial effects of union and tranquillity, but discord in the States and among the people, and he would advert to a part of the honorable Speaker's argument to prove this conclusion. The honorable Speaker had said that the Eastern States had long enjoyed the benefits of commerce; that it was now time for the Western people to have their share of the benefits of the Government, in having their country improved by roads and canals. If the Western people begin thus early to complain, so soon as we begin this division of the funds of the nation, would it not excite State bickerings, and tend to disunion, instead of union? We were told by the honorable Speaker that agriculture had been long taxed for the benefit of commerce, and that now she too in her turn has a right to a portion of this revenue to be laid out in roads and canals; but that this small aid is denied her, even when he offers to give her, the old lady, a Virginia cloth gown. Sir, said Mr. A., it would seem that the old lady has not been quite so well dressed and decorated as her noble son of the West would wish her; and she not being accustomed to these



H. R.

Internal Improvements.

MARCH, 1818.

decorations, it is proposed to stimulate, and aid her with a present, a Virginia cloth gown, as best suited to her declining age and humble views. It would seem, at first view, that this present would be acceptable to her; but when she inquires the reasons why this present is made her, she is at first informed, it is from pure affection. Well, and is nothing in return expected? She is answered, nothing that will injure you in the least; only a small matter is asked as a compensation for this Virginia cloth dress. And what is that, my son? Nothing more than to permit me to make a few roads and canals through your farm, to be made and used at my discretion, as I may think proper and right. The old lady is startled at this proposal, that her son cannot wait till her death for full enjoyment of her property, but for this present she is to release a part of her soil and the jurisdiction over it.

The honorable Speaker, in construing the Constitution, had resorted to various parts of it to show the sense in which the word "establish" was used. He had cited, "to establish an uniform rule of naturalization." To which he, Mr. A., would answer, that the only sense in which the word "establish" was there used, was to give to Congress the power to make an uniform rule upon that subject, but, that a further power from that word, as there used, could not be derived; as, for example, could it be contended, under the power to establish an uniform rule of naturalization, that Congress would have the right to seize the person of the alien? Could it be contended, that, under the power to establish a judiciary, as mentioned by the honorable Speaker, a right was conveyed to seize and take possession of all the court-houses and jails belonging to the States, as an incidental or implied power, resulting from the power to establish a Judiciary? He apprehended not; and yet these consequences would result, if the construction and reasoning be applied to them which had been to the power to establish post offices and post roads.

We were told by the honorable Speaker that the surrender of Detroit would have been avoided by good roads; he, Mr. A., had always listened to that gentleman with great pleasure, because his statements and arguments had given him considerable information. He now learned, for the first time, that the surrender of Detroit was occasioned by bad roads; he had, heretofore, been led to believe that that disaster was owing to the misconduct of the commanding officer, either to his misfeasance, malfeasance, or nonfeasance; he had even understood that the officer was arrested and tried for that misconduct, and that he had been found guilty by a regular tribunal; that, if the disaster had happened in consequence of the badness of the roads, it would have been unjust in that tribunal to have condemned the officer for the surrender of a post, which must have happened, not from any fault in the officer, but from the badness of the roads, over which he could have had no control, and for which he, in justice, ought not to have been accountable.

The honorable Speaker has said that the dis-

graceful scene which took place at Washington, during the war, was on account of not having a military road. Mr. A. said it was an easy matter now to pack all the disasters which happened during the war upon the roads, and which properly belonged to the persons who managed and commanded at the particular places; but would the facts and circumstances warrant such a deduction? He apprehended not; he had never understood that, at Washington, there was any want of military stores, or other munitions of war, which could have occasioned the disgrace, but, on the contrary, he had supposed there was an abundance of the materials of defence, if they had been properly used.

As a further argument in favor of this new system, we have been told of the great expenditures which happened during the war, in the transportation of military stores, &c., in consequence of the badness of roads, and for the want of military roads. He would beg gentlemen to consider that, when all their fancied plans were accomplished, and their roads made, if the enemy, in another war, should not choose to attack them at the same point, that there will exist the same necessity for new military roads, and, of course, we must begin a new system of roads and expenditures at the close of every war.

Sir, said Mr. A., the honorable Speaker has, in concluding his remarks, contended that the construction of the power necessary for the general purposes of the Constitution, ought to be upon large and extended views for sixty millions of people. He would beg leave to differ with him, in that liberal large and extended view of the Constitution; and although, as a politician, he could not extend his views to those times—the process of reasoning which governed him, in construing that instrument, were drawn from more humble sources—he would adopt a mode of construction to the Constitution which would enable it to survive, and be transmitted to them unimpaired.

Sir, said Mr. A., on this occasion we have had much learning displayed, and quotations from the opinions of others; the opinions of Mr. Jefferson, Mr. Madison, and the present Chief Magistrate, and others, in relation to the construction of this instrument. He said he had consulted no authority but the Constitution itself, and the facts and circumstances necessarily incident to it, as his guide; that, although much respect was due to these great men for their services, their wisdom, and their talents, yet their opinions could form no rule for his conscience upon the construction of the Constitution. That it would be recollected by the honorable Speaker, that before he, Mr. A., was permitted to take his seat in this House, he had administered an oath to him on the Holy Evangelists, to support the Constitution. For the rectitude of the opinion which he was bound to give upon this Constitutional question, he was accountable to God and his country, and which he should attempt to perform according to his best judgment. He said that our Government differed from all the govern-

MARCH, 1818.

Internal Improvements.

H. OF R.

ments of ancient times; that we are bound by written rules, and legislate by them, while those considered themselves as invested with the sovereign authority of the people; that in the construction of this written instrument (the power under which we act) we must examine it by its parts and its context; that if any power under this instrument be claimed, it must be shown in the Constitution to be expressly granted; that, if it be not expressly granted, but dubious, it must then be an implied power, necessary to the grant of the express power. Taking these rules for his guide, he should proceed to consider this Constitution as a power of attorney, executed by all the States in solemn form, and should, therefore, (if it might not be amiss in comparing small things to great ones) take the same mode and apply the same principles of construction to the Constitution, and be governed in the same way, that he would, when he resorted to a power of attorney, under which he acted, to ascertain the power and authority which the grantor had delegated to him to execute for him.

The report of the committee, then, has founded this right to make and construct post roads, upon that part of the Constitution which is to be found under the eighth section of the first article, in these words: "to establish post offices and post roads;" and the committee, by way of establishing the position taken by them, have proceeded to say what is admitted on all hands to be within this Constitutional provision; they have taken, and assumed for admitted, the very subject in controversy; it is this very matter which we contest; we are at issue upon this very point; and he felt some consolation we had arrived at it, as it had been seen that the advocates of this power had differed among themselves as to the grounds upon which it should be claimed; but, at length, they had made out their declaration, and set forth their claim of power, which he should attempt to oppose. The committee have resorted to various acts of Congress as precedents, and various acts of its Executive Magistrates, to show this construction and admission, contended for by them. His honorable colleague (Mr. BARBOUR) had given a full answer to these precedents; and he would only add that, in courts of justice, precedents were not authority, unless they had been decided upon the principle in contest; that when the judgment or the mind had never been called on to act, it could not be said to be precedent; the courts themselves would disregard such precedents, and much more would the Legislature, under like circumstances. He would then call on gentlemen to say whether, in any solitary instance of these precedents, relied on by them, whether legislative or executive, the question of constitutionality had ever been stirred? he knew of no instance himself. Then, said he, shall the mere inadvertent acts, either of the Legislature or Executive, be a rule to guide us in the construction of this instrument, under which the power is claimed? He thought these precedents ought not to be resorted to, and would therefore only notice one of them, the road from Platts-

burg to Sackett's Harbor, which seemed to be much spoken of and relied on; and he would inquire, what were the circumstances? There were troops stationed at these points; there was a road already established from one place to the other, by State authority; it became necessary for the transportation of military stores, &c., from one place to the other; the troops were stationed there, and idle; and they had been directed by the President to work on the road, which had been done. The President had claimed no jurisdiction over the road; he had not substantially interfered with any State or individual authority, and if he were to claim authority or jurisdiction over the road, Mr. A. would not hesitate to say, that it was an assumption of power, and unconstitutional; but nothing of this kind had been done, and therefore could form no precedent or obligation on us; that, whenever the Executive Magistrates had been officially called on to decide upon this Constitutional question, they had decided that the Constitution gave no such right.

But, sir, it is said, in the report of the committee, that we have the right to make and construct post and military roads, by the assent of the States through which they pass. This position he could not admit. The powers granted, and intended to be granted, by the Constitution, were absolute powers; they were intended to be given, free of any condition, restriction, or limitation, and to be so used under the Constitution; it could not, therefore, he thought, be contended that, for any power vested in Congress under the Constitution, they should be compelled to ask the assent of the States to legalize this power; to exercise it in this way, would be to shackle the powers of the General Government. Thus, do we ever pass laws upon condition that a State may agree, or not, to legislate upon any subject, for the fulfilment of which we are to ask the assent of the States. He thought we could not, nor ought we to derive powers from the States in this way. If we were about to declare war, should we pass the law upon condition that the State of Virginia, or any other State, gives her assent? If so, it might follow that the State would refuse her assent, and remain at peace, and be exempt from all the expenses attendant on the war, as well as the exposure of her men. No, sir; let us not legislate in this way; let us not derive powers in this way, by holding out this bait of assent to the States. If we have the power, let us assert it directly, and not lull them into security. By thus meeting the question directly, the States will examine for themselves, and be more prepared and composed to meet such a state of things; no additional argument could, therefore, be drawn from exercising this power by the assent of the States, but, on the contrary, seemed to him to be a conclusive reasoning to show, that we cannot derive a power to legislate in this way. But if, as is contended by gentlemen in the argument, we have the absolute right, under the Constitution, to construct post roads, let us see to what extent this principle of reasoning and construction will lead us. If then, Congress possess the power,



S. or R.

Internal Improvements.

MARCH, 1818.

under the Constitution, to construct and claim jurisdiction over post roads, they have the same power to construct, establish, and make post offices. We possess the power over one post road, we possess the power over all the post roads. Thus, we find ourselves, by this construction of the Constitution, in possession of all the post roads in the United States; and we are equally in possession and jurisdiction of all the post offices or places where the post office is established; and we are told there are about four thousand post offices.

Thus, sir, by this mode of construing our constitutional power, it will lead us into the possession of the soil over which all these roads pass, and into the possession of all the post houses, and on which they are built. It would then be the power of the Postmaster General, who has the right of establishing post offices, to take possession of any house or lot of land, in town or country, for the post office, and that, contrary to the will of the owner, as being an incidental power necessary to the Post Office Establishment. And, while upon this subject, he would notice a remark of the honorable Speaker, who said that the General Government had a right to rent, hire, or build, a post office; he would not discuss whether they might not hire a house, but he would say they had any right to build and acquire property; and if it were intended to use this power as an incidental power or right, in opposition to the rights of individuals or States, to wit: that they were compellable to yield to this power of right, he should deny it in any way in which it may be claimed or applied. His honorable colleague (Mr. B. SMITH,) while speaking on the subject, in describing the great benefits resulting from this imaginary system of internal improvements, had told us that that the roads and canals might be compared to the veins, arteries, and sinews, of the human body—that they were the political veins, arteries, and sinews, of the General Government, or body politic; but he hoped his honorable colleague would also collect, that they were the political veins, arteries, and sinews of the State governments, and that they belonged to the States before and since the adoption of the Constitution, and that they had always been in the possession and enjoyment of them ever since, and it would be now too sudden a transfer of all this political life, and blood, and strength, to the General Government, by a mere constructive incidental power, which he believed the Constitution would not warrant; nor did he think the framers of the Constitution, or the States, could ever have intended to convey. He would therefore beg gentlemen seriously to reflect what extensive powers, jurisdiction, and soil, we were about to assume to ourselves over the several States; whether it will be so likely to produce union and peace, as they imagine; and whether it will not tend to a consolidation of the powers and rights of the State governments in that great power of the General Government, which may overturn all the rest, contrary to the plain import of the Constitution, which, he thought, could only

mean a mere description of the post route and the place for the office.

But, it has been said, we have a right to establish military roads in time of war; he would deny that, under the Constitution, any such right was conveyed—it was not necessary to convey such a right; for, if it became necessary in time of war to cut a military road, it was only a mere act of necessity, a mere trespass, to be excused by the necessity of the occasion, and remuneration for the act; it arose by the laws of necessity or self-defence, and could confer no right. Every individual has a right, by the laws of nature, to defend himself—he does not acquire this right by Constitutional law, or by legislative aid, but it is incident to the law of self-preservation; thus, if one man assaults another, and the assailant is killed by the other in his defence, the act is excused, because, by the laws of self-preservation, he was forced to commit the act. But, it would not follow, that he should be excused in killing any other man, who should approach him peaceably. But, the reasoning of the committee, and the arguments of gentlemen, go much further; they say, in time of war we have a right to cut military roads, as a necessary power implied from the power of making war, and they extend this power a little further in time of peace. Thus, in time of war, by force, you cut a military road, and, in time of peace, you claim this road as belonging to you. The act, therefore, in time of war, which is nothing more or less than a trespass, is converted, in time of peace, to give you jurisdiction and the right of soil; if there be such a magic power in the Army, that, whatever they touch in time of war gives the Government right and jurisdiction in time of peace, it would follow that rights in this Government could be acquired by conquest; and it might not be surprising, after another war, that the Government had a right to claim all the roads along which troops had at any time marched during the war. He would illustrate this construction of the committee, by an example mentioned by his honorable colleague, (Mr. BARBOUR,) that, in time of war, to defend our army, or to annoy our enemy, it might be necessary to prostrate the house of an individual, and, in time of peace, he should think it just and right to pay the individual for this trespass, this damage done to his property; but, according to the mode of construction adopted in relation to military roads, the Government, instead of paying for the injury, would be vested with the right of soil on which the house stood, because it became necessary in time of war to prostrate it. In time of war, you cut a road in Canada, (and he had no doubt that some had been cut during the late war,) it followed, then, according to those principles of construction, that we had a right to hold it in time of peace. But, it might be said, we have no claim to any of the lands of Canada, and, he thought, it might be said with great truth, that we have no claim upon the lands of the States—they have not conveyed to us any such rights or powers—each State is sovereign, distinct, and independent, and exercises all

MARCH, 1818.

Internal Improvements.

H. or R.

the acts of sovereignty within it, in the same manner that Canada does, and is only bound to each other by the Constitution, which may be considered as a league or confederation between them.

If the report of the committee, and the arguments of gentlemen, be right in giving the Government this power of making post roads, post offices, and military roads, it will be necessary to point out the way in which States or individuals are to be deprived of their property, and paid for their soil taken for these purposes, as was remarked by his honorable colleague, (A. SMYTH.) The States have been in the regular possession and exercise of this right; they can issue their writs of *ad quod damnum*, to condemn the property of individuals; they have their officers and jury to execute these proceedings: but he would ask gentlemen upon what part of the Constitution they could found this right? An honorable gentleman from New York, (Mr. CUSHMAN,) if he, Mr. A., understood that part of his argument, seemed to derive power from that part of the Constitution in the fifth article of the amendments, which declared, "nor shall private property be taken for public use without just compensation;" he, Mr. A., could not construe that part of the Constitution in such a way as that the Government might thereby acquire title to the soil. But he understood the plain meaning of it to be, and have allusion to those cases in time of war, in which the property of an individual had been destroyed for public purposes, or taken temporarily for public use, many cases of which might be imagined. He said, that according to the powers now claimed for the General Government, a post road or a military road may be wanted through a man's farm; his house may be wanted for a post office; can the Government, against the will of the individual, or by his consent, carve out any mode under the Constitution, by jury or otherwise, so as to ascertain the value of the soil, and acquire title? He did not think they could; as being very important rights, vested in the people and in the States; possessed, known and exercised by them. He would ask if these claimed powers and rights, on the part of the General Government, were no encroachment on State rights—on individual rights? thus to take possession of their soil, level mountains, remove obstructions, make bridges, &c. These grants he thought, could not be found or implied in the Constitution. But his honorable colleague (Mr. SMITH) had contended, that the making post and military roads, and digging canals, was no exercise of jurisdiction. Mr. A. said, for his part, he did not know, nor could he conceive, what was an exercise of jurisdiction, if this were not. If his neighbor could, at his will and pleasure, make roads and cut canals through his farm, and use them when he pleased, he, Mr. A., should conceive it to be exercising jurisdiction, if his freehold were thus invaded.

Mr. Chairman, said Mr. A., if these powers belong to the General Government, you must make a new set of judges, justices, conservators of peace, officers, &c., to be scattered along all

these post and military roads, through the United States, with power to remove obstructions, to keep them in repair, and to be paid salaries as a matter of course; and it may become necessary, hereafter, to lay a tax to pave all the roads, and to keep them in repair. But it had been said, we need not fear these things; we need not fear to trust Congress; that in the organization of our Government we were secure; that the people have a right to turn us out once in two years; but if this be a sufficient security, he would ask why it was necessary to have had a Constitution, with certain defined powers? Why not have relied upon Congress, without limitation? depending entirely upon this check of the people, upon re-election?

But it is said that this measure will be beneficial to the States; that we can improve, beautify and adorn them; that they are poor, and not able to perform these great objects. He thought the States were able to perform whatever might be necessary, and that they could manage better themselves than we could for them. That if they did not improve so highly as we thought they ought, they were doing for themselves; and States as well as individuals took a pride in governing their own estates, to suit their own taste, and preferred to retain their own authority.

Sir, suppose we assume to ourselves this power, and according to our plans of internal improvement, and national greatness, we lay off this Union on a plan or scheme somewhat like a map of this city, in which the streets lead to and from the Capitol and President's house; with fine paved roads from this point, for honorable gentlemen to travel to and from their homes to Congress, and some twenty or thirty years hence your Seat of Government is removed to the West, say to Louisville or elsewhere; and this is not impossible: what then, sir, will become of all your national improvements, and benefits? Must you not begin again, and have a new set of roads to carry you to this new Seat of Government? Another consequence will probably arise from this national system; it will no doubt be the object of those, who may be intrusted with the execution of this great national scheme, to extend their views upon a national scale; they may, in pursuing this plan, disregard the commerce and the convenience of a city or State, because they are going upon a large national plan; they may wish to concentrate, and make a kind of national commerce, or in other words, to have everything upon a large scale, and overlook the petty interest of a State. It commonly has been and may be the object and the interest of a State, to concentrate its commerce at its capital, or elsewhere, to suit its own interest and convenience; he would take for example the cities of Philadelphia, Baltimore, and Richmond; the policy of whose States was to concentrate the commerce of each at those places; but the General Government may so direct their national plans, as to draw the trade, by their roads and canals, to a different place; and thereby defeat the object and the interest of the State, the people and the commercial town.



R.

Internal Improvements.

MARCH, 1818.

The honorable chairman of the committee who made this report, had, in opening this subject, called our attention to the large expenditures which had been laid out on the Capitol and other public buildings, and had reminded us of the greater utility and benefit to the public, in laying out the funds of the nation in internal improvements. He had informed us that, by a report of Mr. Gallatin, a few millions of dollars would be sufficient to effect most of the objects of these national canals. He hoped the honorable gentleman would recollect, that, whenever a public building was commenced, a report was commonly made of the sum necessary to complete it; but when it was found on experiment, that this sum was annually wanted, till it amounted at last to five times as much as was originally contemplated; so he apprehended in relation to Mr. Gallatin's report—that after we had once begun, we must go on, and, appropriate, year after year, till we spent the treasures of the nation upon these projects; that it was fitting up offices for those undertakers for life as it were; that it was extending the patronage and influence of the Government much more than it had been, and much farther than he had any wish to see it extended. But we had been told, as a reason for adopting the system, that most of our revenues arise from commerce, and that they belong exclusively to the General Government, and that we have now no money in the Treasury. In answer to which he would state, that we had adopted a new system of government, which in practice he would see extended and cherished; that he hoped it would continue; that we had a debt of about one hundred millions of dollars still to pay; that he did not wish this Government to pursue the European system, in permitting this debt to hang over us; but he wished us to manage like prudent farmers, and those were the best who conducted themselves most advantageously, in keeping themselves clear of debt. Let us, like them, pay off our national debt, get even with the world, and be new in our practice as we are in theory; and, should a period ever arrive, when we have surplus money in the Treasury, there would then be found no difficulty among the States, in amending the Constitution so as to enable each State to obtain its portion of this fund, or to dispose of it as experience may suggest.

Mr. A. said Mr. A., it is said in the report of the committee, that the transportation of the mail would be entirely dependent on the will of the State governments, unless the power there claimed be vested in the General Government. The very object and intention of the General Government is explained, that, while on the one hand it is contended that this power may be exercised, by the assent of the States, it is evidently that the power is wished to be enjoyed absolutely and independent of State authority. No inconvenience has hitherto been felt, nor can it be likely that any will result, by permitting the jurisdiction over the soil to remain with the State governments; it seemed to him, therefore, that it was a mere struggle in Congress to obtain

power. The roads, he said, leading through the States are the public property of the States, they cannot therefore be stopped, because they are wanted for the citizens of the State; they have been, in most instances, the property of the citizens, and have been condemned by State authority for the roads; they are free as ways for all the citizens of their own States, as well as for every citizen of the United States; the citizens cannot therefore be stopped, by any discrimination of the persons who are to pass them, because they are free for all persons; the mail, therefore, of the United States could not be impeded, unless the particular State were in a state of insurrection, and used force to stop the mail; and if she were in this state of insurrection, the Constitution has provided a remedy, and given power to the General Government to quell the insurrection; and therefore it cannot be a necessary, incidental, or implied power in Congress, to have or claim the territorial rights of soil over the roads of the States. There is such a thing as a right of way in one man, while the soil belongs to another; the person thus having the right of way, has no claim to the right of soil; all the citizens of the State, and of the United States, have a right of way along the established roads of each State; but neither the citizen nor the Congress has the right of soil, because that of right belongs to the State, having been condemned or appropriated for that purpose; whenever therefore Congress shall claim a right of way, different from any other citizen, he would deny that right. But, it is said, the road may cease, or be changed at the will of the State or by the courts of the States, without the assent of Congress; that is true, and so he contended it ought to be. Who is most interested in the road? Is it the State or the citizens of the State, or Congress? Is not the road for their benefit? Is it not for their convenience, that it is established as a road? Is it not on their application to Congress declared a post road? Does Congress designate the route for the benefit of the Government, or for the people, who make the application to Congress? Certainly it is established at the instance and for the benefit of the people, and whenever the people find it to their interest or convenience to cease or change the road, the State possesses the right and authority to alter, change, or amend it.

The honorable SPEAKER had said, "A mere county court change a road?" He would answer, yes, "a mere county court." And pray, said Mr. A., what are they? Are they not composed of the same materials as we are? May they not possess as much information as we do? He would say they knew as much about their rights as we did; and that whenever, in the opinion of the people of a State, a road ceases to be a road of public utility, he would ask, should the States and the courts of the States possess the power to abolish the road, or change it to suit their convenience; or ought this power to be vested in Congress, because it had been used as a post road? He would say that a fair construction of the Constitution, as well as reason, would decide that it

MARCH, 1818.

Internal Improvements.

H. or R.

ought to belong to the States and to the courts of the States. Could it be reasonably contended, that, for an alteration of one of these roads, the people from Mississippi, Georgia, and other distant States, are to become humble petitioners to Congress, to use their territory in their own way? He thought not. He thought the local authorities were much better judges when and where there should be new roads, or former ones altered, than Congress could be. He said it is beneficial to the people, and therefore they ask your mails to pass their State roads; it is beneficial to the General Government, when the States or people thus ask and permit your mails to pass, and for which the one pays and the other receives a revenue; but they will not, in this mere passage, give you a right of jurisdiction and soil.

Mr. A. said he would now proceed to examine another part of the subject, in relation to the power of making canals; and much of the reasoning in relation to the roads would be applicable to this subject; but, as the power was claimed from another clause in the Constitution, it might be necessary to take a slight view of it.

The right then claimed by Congress to make canals is said in the report of the committee to be derived from a clause in the Constitution, in the eighth section, in these words: "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Thus, sir, under the power to make war, to establish post roads, and to regulate commerce among the States, or from some of them, the committee have claimed the right in Congress to level mountains, cut canals, make roads, &c. If this construction be a true one, it would seem to him, that, upon the same principles, it would not be a great stretch of construction to say that Congress have the right, and may, if they find it necessary, level the State governments and their authorities. "To regulate commerce!" Can it mean to invest Congress with the power of cutting canals? It appeared to him that no construction could be more foreign from the true intent and meaning of the Constitution. He supposed that to regulate commerce among the States would intend some general rule or law operating equally upon all; but to take possession of a particular quantity of soil, in a particular State, for the purpose of cutting a canal, could not, he thought, be a power granted or derived from the Constitution to regulate commerce among the States. The States are distinct and independent sovereignties; but if you take a portion of their territory to cut canals, they are no longer independent sovereignties; but, on the contrary, dependent on the will of the General Government. Under the term "to regulate commerce with the Indian tribes," have you a right to cut a canal through their territory, and thereby claim jurisdiction over their soil? If you have, this Constitution is a most expanded instrument, and will give to Congress much power and territory over the Indians without treaty.

Can you, under the power to regulate commerce with foreign nations, cut a canal through the Spanish territory, and thereby seize upon

Amelia Island, merely because you have a Constitutional right to regulate commerce with that nation? The evident and plain meaning of the Constitution, he thought, was that you may regulate commerce among the States by some general law not interfering with their sovereignty or territorial rights; that you may by treaty and law, make a compact with the Indian tribes, in relation to the commerce of those tribes and the United States; that you may by treaty make a compact with the Spanish nation, and by law carry that treaty into effect, which is to regulate the commerce of that nation and the United States; that you have no right under the Constitution to take possession of the soil, either of the States, the Indian tribes, or foreign nations, to cut canals under the term of regulating commerce. Indeed such powers as these, instead of regulating commerce, might entirely destroy it; because you lay hold and seize upon the subject out of which commerce is to arise between the States, Indian tribes, and foreign nations. The honorable Speaker has resorted to various parts of the Constitution, as apposite to prove his construction of that instrument. Mr. A. said he would beg leave to state an analogous clause in the Constitution, and to draw a parallel between them. The Constitution has given Congress the power "to coin money, to regulate the value thereof, and of foreign coin." Because you have the power to coin money, can you seize the ore or bullion? Because you have the right and the power to regulate the value of coin, can you seize upon the cash of the individual? Because you have the right to regulate foreign coin, can you possess yourself of the money of the foreigner who chances to be within your territory? Thus, sir, by implying power, you may cut a road, dig a canal, level a mountain, seize the property of a State or individual. Under this system of implied power, you may claim the mine of an individual, you may cut a road or a canal, or level a mountain, to get to it, and may seize and take its contents, under the term "coining money, and regulating the value thereof." He would not say that this would ever be resorted to, but he thought he might say that it was as fair to draw the conclusions which he had drawn, as the conclusions which had been drawn in relation to cutting canals, from the source from whence that power had been drawn. He had used it in argument to show that this mode of construing the Constitution would lead to dangerous consequences; and that, in the construction of an instrument of this magnitude, it would be better if we were to consider ourselves even bound to a literal construction; because, if a great benefit were likely to result from such a power being vested in Congress, a reference to the people, the fountain of power, would remedy the evil, by an amendment to the Constitution.

Mr. A. did not think with his honorable colleague (Mr. TUCKER) that we now possess this power, and in all cases of doubt, he thought we should apply to the people in the Constitutional way; but his friend was unwilling to make this



H. of R.

Internal Improvements.

MARCH, 1818.

reference to them, because he believed we already possessed this power, and did not think a sufficient number in the Constitutional way would give it. Mr. A. said he would never fear to trust the people; we had trusted them in much more dangerous and difficult times during the war—when they were hard pressed; they had been always faithful, and supplied what was necessary, and as well as we did, what was necessary to be done, or withheld: that he, Mr. A. would submit this power in Congress, if the people thought proper to give it, although, so far as his vote could go, whenever that question should be submitted to the people, he would never consent to amend the Constitution, so as to vest the power in Congress. He thought it a power they ought to have, and would wish it to remain, where it has been, in the State governments.

But, sir, should we decide we have this right under the Constitution, to lay out and construct roads, and dig canals, through the States, the one difficulty arises which I have mentioned. How are we to condemn the lands through which roads and canals are to run, and on which post offices are to be built? Are we to derive these powers which the States possess, in condemning lands for public uses, by the assent of the States? Can we receive power in this way? He thought not, because the Constitution had designated the mode and the manner in which new grants of power are to be acquired. Sir, said Mr. A., there is no limitation or bounds to power thus gained. You imply one power, and then you give to imply another to carry that power into execution. Thus the implied power becomes an original, and you have to imply a dozen others incidental. Thus you may go on *ad infinitum* until you have no power whatever left upon which the State governments may act; their authority by degrees ceases, and they become contemptible, and the whole is swallowed up in the General Government. The honorable Speaker said, that contracts, devises, and the punishment of murder was left to them, (even upon these new roads;) but he, Mr. A., could not tell how long that would remain with them, for it might hereafter be found convenient, or expedient, even to take that authority from them, and to leave you for the State governments or your courts to act on, in the same ratio you taken them, until no one will care to accept an office or trust under them.

Mr. Chairman, said Mr. A., if the States give this right to Congress to make roads and canals for them, and she fails to make and to improve them, have the States any power left to compel her to do so? If the Congress should designate the route of the road, or canal, and should afterwards fail to construct or improve them, and the States should afterwards attempt to exercise this right, they may be told, that the right, and jurisdiction, and power, over those places belong in Congress, and that the States have no authority. Thus will be the States actually dependent on the will of the General Government for the improvement, and passage

through their own territory. Sir, said Mr. A., if we examine the Constitution by its general tenor, it will be difficult to give Congress this power now contended for. The Constitution has expressly granted little spots of earth, a few acres, for the erection of forts, arsenals, docks, &c.; and yet, while its framers were thus cautious in specifying these few acres of land, which are to be purchased by the express assent of the States, it is contended, we may imply power enough in the Constitution to take millions of acres from the States, for making roads and canals. Could it be believed, that the framers of that instrument would act so cautiously and carefully, to avoid the assumption of power in the General Government, and yet they should form an instrument by which they were granting millions of acres by mere implication; he thought too well of the wisdom of those great men, of whom the world could scarcely furnish their equals, to suppose them guilty of such folly and inconsistency. Mr. A. said, he had said that the States ought to manage for themselves, and that they were competent to that object. Many of them had begun the subject of internal improvement already, and we ought not to intermeddle and take it out of their hands, but let them improve for themselves, and, if they do not do it as well, they satisfy themselves, and we have no right to complain. He hoped gentlemen would view things as they really are, and should be; that it was necessary in the political world, as well as the natural, that things should be kept distinct and separate, because by this the whole order was preserved. Thus the person of man is free, dependent on his own will for his conduct; his house, his home, is sacred; his farm, still a larger sphere, not subject to encroachment, unless he has violated some law or duty which authorizes power to touch him by its officer; his county, or township, still a larger sphere, but still not subject to be interfered with by the regulations or officers of the neighboring county. These, all composing a larger political circle, called a State, and all the States forming one federal Union, acting on them by general regulations, yet each retaining its particular sovereignty, and the exercise of its own rights, within its limited jurisdiction, so as not to be encroached on by the other. If, then, sir, you give to any part of this political machine the powers which belong to any other part, and especially to this great federal head, you thereby diminish, and finally prostrate, all the inferior powers, which are intended as regular checks and balances against this great political wheel. It was then safe, he said, in his opinion, to preserve all the local and sectional jurisdictions, powers, and interest, which some gentlemen seemed so anxious to get rid of, in order to prevent the accumulation of power; and he would say, even some party feeling too, which, like the feelings of nature, warn and guard us against aggression; that these barriers ought not to be broken down by the amusing name of internal improvement, which, he feared, might aid in our final ruin.

MARCH, 1818.

Internal Improvements.

H. of R.

Mr. A. said, that as a further illustration that Congress cannot derive power to legislate upon any subject by the assent of the States, he would beg leave to compare the Constitution to a contract, or copartnership, into which thirteen persons had entered as partners; that each person had parted with, or deposited so much of his estate to be managed for their sole use and general welfare; that these partners had appointed thirteen agents for the purpose of conducting and managing this partnership estate for them; that these agents afterwards should require further power to conduct, as they thought, better. He would ask, whether these agents could make any new contract by the assent of any one of them, so as to bind the original persons? He thought these agents could not; their power extends no farther than over the funds which have been intrusted to them by the parties to the contract. That whenever a new contract is made, or the former one intended to be altered, this right of making or altering belongs to those who were parties to the original agreement, and not to the agents. Then, sir, according to this rule, the States, and the people of the States, have parted with a portion of their rights, which, under the Constitution, is vested in Congress as their agents. Could it be said, that this agency could acquire new rights by the assent of the States; that, whenever this power is acquired, it must be done by the originals, in the way which the Constitution had pointed out by a Constitutional concurrence of the Legislatures of the States, or by the conventions of the States as declared in the Constitution; the only way by which powers could be obtained, and not by a mere legislative majority in Congress by the assent of the States.

Mr. A. said he would detain the Committee with only a very few other remarks; that he would remind them of the old Confederation which had carried us through the Revolutionary war without any of these powers being claimed or asked for as necessary; that when the Constitution was formed, it was in principle the same as the old Confederation, except some few additional powers, which experience had suggested as necessary, the appointment of a Chief Magistrate, and some few others; that this new instrument had conducted us through the late war to peace and harmony, without these powers being possessed, or claimed as necessary; that it was capable of conducting us to any distant period, unless we apply these new principles of construction to it; that, if we do, there is no need of a Constitution at all, but we may trust all to the Congress as Britain does to its Parliament. He said he was considerably exhausted; he thanked the Committee for their attention, and would say no more.

Mr. SIMKINS, of South Carolina, said, he rose (at that late hour) to address the Committee under as serious impediments as perhaps ever fell to the lot of a young speaker. The immense importance of the subject, the length of time it had been under consideration, and the exalted talent which had already been developed in the present

15th CON. 1st SESS.—39

discussion, together with his own incompetency, had created in him a diffidence of which he found it impossible to divest himself. But, said he, no obstacle, however great, shall deter me from raising my voice and recording my vote in favor of a subject on which the future destiny of my country greatly depends. It has been attempted by the enemies of the resolution under discussion to separate the general expediency of the measure proposed by the Committee from the Constitutional question thereon; but the first was indissolubly connected with the last—so much so that it was impossible to state the powers delegated to Congress, without bringing strongly into view the measure of expediency, so "necessary and proper" to be adopted to carry those powers fully into effect. I beg leave, therefore, Mr. Chairman (said Mr. S.) to present a short view of the distinguished advantages which would result should Congress act with an energy and wisdom suited to its dignity on this subject.

Internal improvement, then, would increase the real wealth of the country by the speedy introduction of a spirit of industry and commerce. This had been the case in all countries which had been chequered with roads and canals; that no country on earth was capable of greater improvements in this regard than our own; that the East with the West, and the North with the South, would be incited by the strongest principles of interest to reciprocate commercial favors. This sort of improvement would, in fact, be the only means of rendering our country truly independent; it would give us resources when cut off from foreign commerce by wars with that nation with whom we are most likely to come in collision. At such a time the Southern and Western States would feed the manufactories of the North and East with the raw material, and not only thereby clothe your armies, but furnish the means of paying taxes and raising a revenue, when the want of them would be most severely felt. Roads and canals would be of the most indispensable importance in another and a most obvious point of view. They would enable you, with ease, to concentrate your forces, transport your cannon, military stores, and munitions of war. The vast expense and unparalleled inconvenience suffered, during our late war, for want of these facilities, should inculcate a lesson, which ought never, for a moment, to be forgotten by an American legislator.

But what I deem, said Mr. S., more important than all, and although most eloquently portrayed by the honorable Speaker on Saturday, yet not sufficiently adverted to and kept in mind in this debate, is the consolidation of this growing country. There is not so great an evil which can assail a people, spread over such a vast surface, as local jealousies—as unfounded in their nature as dangerous in their consequences. I cannot here omit turning your attention to the unparalleled increase and rising importance of the Western country; and I have heard it said, Mr. Chairman, but never without pain and indignation, that the great ridge of mountains, dividing it



from the Atlantic States, would be the line of separation at some future day! If, then, you wish to rear up the foundation of this baleful era, let me conjure you to make easy the communications between the two, by means of roads, and, so far as practicable, by navigation. It was said in debate, at the last session of this body, and never contradicted, that a distance beyond the mountains, which now takes eight days' travel, by the improvement of a good road might be done in three. This shows what might be done in elevating our views to great national objects. Let us, then, by doing what is easily in our power, unite and cement, by trade and intercourse, the most distant parts of this great continent, so that, instead of being split into parties and factions, by a mere ideal difference of interests and principles, we may constitute one united, harmonious, and prosperous family!

But, it is said, that, however admonished by expediency or interest, we cannot make roads and canals, or improve navigation, because it is unconstitutional to do so. Before we can have views calculated to give a fair and natural construction to the powers of Congress, as delegated in the Constitution, let us, Mr. Chairman, go back and examine the articles of the old Confederation, and see the defects in it, which were the foundation and occasion of the adoption of the present instrument. The ruinous deficiency of these articles of association was in that great want of energy in the General Government, which alone was calculated to preserve the Union. This want of strength related to three particulars mainly: a want of power to raise money for national purposes; a want of power to raise men for "the common defence" of the continent; and a want of power to regulate commerce, both foreign and internal. These powers were all at that time vested in the States, and were once thought to be important ingredients of State sovereignty. But, what did experience prove? That the Government of the Union then existed only in name, being wholly destitute of strength and substance. Let us, then, Mr. Chairman, keep steadily in view these alarming defects, which rendered it indispensably necessary to call a convention of the several States to adopt a new order of things; this was done, and to show the objects which pressed with most weight on the minds of the convention, I call the attention of the Committee to the preamble of the Constitution: "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare," &c. And, again, in the 8th section of the 1st article, wherein the powers are delegated to Congress, the power to "lay and collect taxes, &c., to pay the debts, and provide for the common defence and general welfare of the United States," &c., first arrests the attention of the convention. Now, although the power to provide for the common defence and general welfare is said to be too general to imply the giving of power for any specific object, yet I deem it of the utmost importance; for, let it be remembered, that it is inserted in the very first

clause of the section, and in the midst of one of the most important enumerations of power.

If, however, it be admitted, that the force of these particular words is restricted by subsequent specifications, yet we find in those specifications a power "to declare war," "to raise and support armies," "to provide and maintain a navy," "to provide for calling forth the militia," &c., and that Congress has power "to make all laws which are necessary and proper for carrying into execution the foregoing powers," &c. The expressions, to provide for the common defence, may be fairly taken into view, as of great weight in the construction of the powers incidental to those expressly delegated. To free the wise men, who framed the Constitution, from absurdity, it must be admitted that, in giving to Congress the power of declaring war and defending the nation, the power to make laws for carrying on this war, in the most energetic manner, must have been also given; for the power to make all laws which may be necessary and proper for carrying into effect the powers expressly given, is also expressly delegated in the Constitution. Who, then, are to be the judges of what laws are or may be necessary and proper? I answer, the members of Congress. Will they exercise it discreetly? I, for one, have full confidence that they will. Clothed with this important power, and acting under the solemn obligations of their oaths and duty, I have no fears of a vague, indefinite assumption of powers; and least of all am I afraid of a consolidation of State sovereignty, or a destruction of State rights, by men coming from, and identified with, the people of the States, elected for only two years, and then returning to the bosom of the States, in whose Legislatures most of them have served, and many of them will again serve. This alarm about State rights has been gotten up and encouraged by gentlemen most strangely. It would really seem, that both the State and General Governments were not the Governments of the same people, identified by the same interests. The late war has shown that, at times of great national peril, the danger is not from too much strength in the General Government, but too much weight in the great States, who make a stand to unnerve and palsy the arm of national power!

But, it is said, that, although Congress must judge of what laws are necessary and proper, yet this necessity must be an absolute indispensable one. In the sense in which this absolute necessity is contended for, said Mr. S., I deny the proposition. According to this construction, the powers of Congress would not be worth a feather, for the wheels of Government could not move. The power is given to lay and collect taxes; but, it might be contended by the sticklers for absolute necessity, that the power of immediate levy by distress (the present method) instead of a regular suit instituted, was not absolutely necessary, and, therefore, not given to Congress. Again, in the power to provide and maintain a navy, it might be said, that our pres-

ent naval board was by no means necessary; for that an efficient Secretary might be quite adequate. Indeed, in the power to declare war, it might even be said, that the power to carry it on, not being expressly given, was denied to Congress. Such strict constructions would launch us into an ocean of uncertainties, and fritter away all of the Constitution that is worth preserving.

The power, then, to make roads and canals for military purposes, for the more easy concentration of troops, transportation of arms, and all sorts of warlike stores, I infer as necessarily incident to the power of declaring and carrying on a war; and, if we can make roads and canals for military or warlike purposes, it is no argument against the power, that they may, and will be used for commercial purposes. It will, therefore, not be of great importance, whether or not the power of making roads and canals, for commercial purposes alone, is given to Congress, in its general power "to regulate commerce with foreign nations, and among the several States." That this power is fairly inferrible from the power "to declare war, raise and support armies," &c., derives great strength from the 10th section of the 1st article, which expressly forbids the States from "keeping troops or ships of war in time of peace, or from entering into any agreement or compact with another State," thereby rendering it impossible for States to construct any road or canal of great importance, which must necessarily run into two or more States, by their own agreement. The idea of the existence of this power derives also additional confirmation from the 4th section, article 4th, in which the United States guaranties to each State a republican form of Government, and to protect each of them against invasion and domestic violence. It is not only in Congress, but exclusively there; for of what importance would it be, if any or every State has a right to impede it, or stop the United States from a free exercise of it? Such a state of things would involve this manifest absurdity—that the National Government is solemnly pledged to provide for the common defence, (and this provision should be made in peace, for in time of war it would not be possible to do it,) and yet had not the power of this first and most important of national duties!

There is another foundation given in the Constitution for the exercise of a power to make roads and canals; it is the privilege given Congress to raise a fund of its own, by laying and collecting taxes, which may be expended for the common defence and general welfare, or in any way Congress may deem it expedient; so that certain specified prohibitions in the Constitution are not violated. In this point of view, the assent of any State to improvements about to be made, either by roads or canals, in its own territory, may be important; for, although by the Constitution, "no man's private property can be taken for public use, without just compensation," yet the United States have the power, with their own money, to contract with any State or indi-

vidual for the use of its soil, either for roads or canals, having the civil jurisdiction over such road or canal, in the State through which it would run. The power of Congress to contract, or expend its money for any beneficial purposes whatever, is exemplified in a thousand instances throughout your statute book; and no good reason can be shown why this Government may not purchase and hold the right of way through any State or Territory; or, should such State refuse to sell, the Constitution has still given us the power to use such right of way whenever the public good may require it, provided just compensation therefor be made to the owners of the soil.

That part of the Constitution which gives Congress the power of establishing post offices and post roads, is so clear and express, and was so unanswerably demonstrated by the Speaker on Saturday, that I will not detain the Committee in endeavoring to make more plain that which is too obvious for doubt, although the gentleman from Virginia, (Mr. Austin,) who has just taken his seat, has reiterated the alarm about State rights, and has denied the United States a right of way even for post roads, in case a State should resist it. The only difficulty in this question, arises from a narrow, technical, lawyer-like view of the Constitution; if we elevate our views to the great national purposes for which the Constitution was adopted, and look fairly at the instrument, all doubt must vanish.

When Mr. S. concluded, the Committee rose, and the House adjourned.

#### TUESDAY, March 10.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of Thomas Griffin, which was read; when Mr. L. reported a bill directing the payment of certain bills drawn by General Armstrong, in favor of Thomas Morgan; which was read twice, and committed to a Committee of the Whole.

Mr. LOWNDES also reported a bill supplementary to an act to provide for the redemption of the public debt; which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the case of Mottram Ball, transmitted to this House by the Commissioner of Claims, which was read; when Mr. W. reported a bill for the relief of Mottram Ball, which was read twice, and committed to a Committee of the Whole.

Mr. McLANE, from the Committee of Commerce and Manufactures, reported a bill regulating passenger ships and vessels; which was read twice, and committed to a Committee of the Whole.

Mr. T. M. NELSON, from the Committee on Military Affairs, reported a bill regulating the payments to invalid pensioners; which was read twice, and committed to a Committee of the Whole.

Mr. POINDEXTER, from the Committee on Pri-



H. R.

Internal Improvements.

MARCH, 1818.

Land Claims, reported a bill for the relief of the legal representatives of the late John Barton and for the relief of the legal representatives of the late Peter Trouillet, of the Alabama Territory; which was read twice, and committed to Committee of the Whole.

Mr. FORTNEY, from the same committee, reported a bill for the relief of William King, which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of William Barton.

Mr. FORTNEY also reported a bill for the relief of certain volunteer mounted cavalry, which was read twice, and committed to a Committee of the Whole, to which is committed the bill for relief of a company of rangers.

Mr. BRYAN, from the select committee appointed on the 23d January last, reported a bill to regulate and fix the compensation of clerks, in different offices; which was read twice, and committed to a Committee of the Whole.

Mr. MASON, of Massachusetts, from the select committee, appointed on the 27th of January last, on the subject of the claims of the State of Massachusetts, for expenses incurred in calling her militia in the late war, made a detailed report upon the subject, which was read; when Mr. M. reported a bill to authorize the settlement and payment of certain claims of the State of Massachusetts; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. FLOYD, the President of the United States was requested to lay before this House, any information he may possess, which can be communicated without injury to the public good, relative to Augustus Pierre Choteau, Elias Demun, and their company; Robert McNaught, James Baird, and their company; likewise, J. Farro; captured by the forces of the King of Spain, and confined in the prisons of Santa Fe, and that he communicate any information he may possess relative to the place where captured.—Messrs. FLOYD and SMYTH, of Virginia, were appointed a committee to present the said resolution to the President of the United States.

A motion was made by Mr. TAYLOR to amend the standing rules and orders of the House, by adding thereto the following:

"After six days from the commencement of a second, or subsequent session of any Congress, all legislative business, which, at the close of the next preceding session, remained undetermined in the House where it originated, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

The said amendment was read, and ordered to lie on the table.

The engrossed bill respecting the District Courts of the United States within the State of New York, was read the third time, and the question stated on its passage.

Mr. PORSYTH offered some remarks on the hasty progress of the bill to its present stage, and objected at some length to the object, and some of the provisions of the bill; and

Mr. COBB moved the recommitment of the bill, for the purpose of investigation and amendment.

After a few remarks in reply by Messrs. SPENCER and TAYLOR, some in favor of commitment, by Mr. SERGEANT, and some explanatory, by Mr. HUGH NELSON, the motion was negatived, and the bill was passed and sent to the Senate for concurrence.

## INTERNAL IMPROVEMENT.

The House then resumed the unfinished business of yesterday; and again went into a Committee of the Whole, on the resolution reported by the select committee on the subject of internal improvement.

Mr. JOHNSON, of Virginia, commenced the debate on this day, as follows:

Mr. Chairman, I hope the temporary embarrassment and excitement which resulted from the question as to the order of debate, will not prove unfavorable to candid, deliberate, and attentive investigation. Before this great, important, Constitutional question, the little rules of order and of etiquette fade and dwindle into insignificance. At the close of the remarks made by the gentleman from Virginia, (Mr. B. SMITH,) who confined himself principally to the expediency of the proposition, and urged some arguments to prove the benefits which would result from a correct system of internal improvement, I confess, from the known candor and liberality of the gentleman from South Carolina, (Mr. LOWMEDES,) I was somewhat surprised that he should have submitted amendments to the resolution reported by the select committee, which were calculated to devolve on this Committee the decision of the abstract question of right or power in the Congress of the United States to construct roads and canals through the several States, with the assent of the States. This mode of examining the subject would have trammelled debate, and would have stripped the power of many of its odious colors. It is by examining into the manner by which this power is to be exerted and carried into effect, that we are enabled to test most clearly its character, and to determine how far it can be clearly derived from the Constitution of the United States. I am happy that the candor and magnanimity of the gentleman have prevailed, and induced him to withdraw his amendments. [Here Mr. LOWMEDES explained, stating that, after the debate should be closed, he intended to renew the proposition.] Sir, I perfectly understood the gentleman. All the benefits will result to the freedom of debate, by withholding the amendments, which could result from their entire abandonment. I know the delicacy of the ground which I occupy; I feel the delicacy of the situation in which the Committee is placed, to be called on to decide on the Constitutional powers of the body to which it belongs. I am not entirely ignorant of those qualities and propensities of the human heart, which attach man to power, and call into use and activity all his ingenuity to derive for himself power and authority, from sources even the most doubtful.

MARCH, 1818.

Internal Improvements.

H. OF R.

Yet I feel the most perfect assurance that this honorable Committee will pause and examine, with care and deliberation, this great question, involved, as it is, with Constitutional difficulties on the one hand, and pointing with the other to a state of melioration and improvement in the condition of the country, before whose beauty and splendor blooming Eden itself would wither.

The question, whether Congress has the Constitutional power to construct roads and canals through the several States, with the assent of the States, or to apply the revenue of the United States, when raised in a Constitutional manner, to those objects, depends on a true and sound construction of the Constitution. It involves all those doctrines which have divided the people of this country into two great political parties, under the denomination of Republicans and Federalists. The first have contended, and do contend, that the powers of the Federal Government are all specific in their character, and clearly and carefully enumerated and defined, drawing after them, by implication, no means as "necessary," but those, without which, the grant of the power would be nugatory." The latter have contended, and do contend, for a broad and liberal construction of the Constitution; not always agreeing as to the mode of deriving an express authority from some specific grant in the Constitution, but generally concurring in the extent of the implied and resulting powers which flow from the instrument. From this source, of implied powers, which has been made to increase by every touch of the hand, and to expand into wide and more irresistible streams, by those who contend for liberal construction, has been derived the authority to exercise municipal legislation within the limits of the States; to create corporations, such as banks; to introduce systems of internal improvements, &c. In the year 1791, the power to incorporate a national bank produced a most elaborate and able investigation into the Constitutional powers of Congress, particularly into that class denominated implied powers. It was in that year that the very ingenious and able report of the late Alexander Hamilton, on the Constitutionality of a national bank, was submitted to President Washington. It was at that period that the two great parties became distinctly and clearly marked. Mr. Jefferson, the then Secretary of State, opposed, in the most lucid, clear, and convincing manner, the dangerous doctrine of implied and resulting powers. He laid down the rule, viz., "that no means are to be considered as necessary but those, without which the grant of the power would be nugatory." But, Mr. Hamilton succeeded in convincing General Washington that Congress did possess the Constitutional power to create such a corporation; aided by the powerful influence which the opinions, even the name, of Washington had on public opinion, the measure was successfully carried through Congress, and, to the mortification and disappointment of the Republicans, (at that time,) the old Bank of the United States was incorporated.

Mr. Hamilton, who certainly discovered the

greatest zeal for the incorporation of a national bank, and who, in the management of the argument, discovered an ability at least equal to the zeal which he displayed, did not attempt to derive this great, and, to say the least, doubtful, power of creating corporations from the sweeping clause in the Constitution. Although I do not consider Mr. Hamilton as very high authority, I must, on this occasion, be permitted to refer to his celebrated report on the "Constitutionality of a National Bank." He remarked, "to establish such a right, it remains to show the relation of such an institution to one or more of the specific powers of the Government." He then attempted, by an elaborate train of reasoning, to prove the following propositions: That it had "a relation, more or less direct, to the power of collecting taxes; to that of borrowing money; to that of regulating trade between the States; and to those of raising and maintaining fleets and armies." To all the reasoning urged by Mr. Hamilton, the arguments contained in the opinion of the then Secretary of State, (Mr. Jefferson,) furnished the most convincing and satisfactory answer. With permission of the Committee, I will refer to his argument and reply, on the subject of regulating commerce. He remarked, "to erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce; so does he who raises a bushel of wheat, or digs a dollar out of the mines; yet, neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling."

My honorable colleague, (Mr. TUCKER,) the chairman of the committee which reported the resolution under consideration, although he went at some length into the views of the committee on the question, has not attempted to sustain, by any connected system of argument, the affirmative proposition, that Congress had the Constitutional power to construct roads and canals through the several States, or to apply the revenue of the United States to these objects, either with or without the assent of the States. The gentleman complained of attacks which had been made on him; that the tocsin of alarm had been sounded, and that he felt these attacks with more sensibility, in consequence of the source from which they came. I am persuaded that he cannot believe that the members from Virginia have at all contributed to produce these attacks. He must be too sensible of the personal respect which they entertain for him, of the sacred regard which they have for the freedom of opinion, to believe them capable of swelling the clamor against any man for exercising that high and inestimable privilege. The honorable gentleman, in support of the Constitutional power, has referred to contemporaneous constructions of the Constitution, as given by the Congress of the United States in a variety of laws. These have been collated with great care, and presented in a most imposing manner. I here enter my protest against such authority. What! shall the exercise of a



H. OF R.

Internal Improvements.

MARCH, 1818.

power by the National Legislature, legitimate the right? Shall the usurpation of power by that branch of the Government, because it has not been resisted by force, amount to legislative adjudication, and furnish precedent by which to limit the powers of the Government? Have we not a written Constitution, where all the powers of the Government are enumerated and clearly defined? Who, vain and sinful dust and ashes, shall dare to interpose between the creature and his Creator, to settle affairs of conscience, and offer expiation to the deluded and self-condemned victim, whom precedents have misled, for the injuries he may commit! I very well remember the ingenious introduction of this doctrine of legislative adjudication, on the rights and powers of the legislative body, by the late Mr. Dallas, in a very distinguished and able report on the constitutional power of Congress to incorporate the Bank of the United States. I remember the only astonishing effect which it produced on the members of the Government. It was the first time that I had seen the odious doctrine boldly advanced by a gentleman of high standing and responsible character.

Permit me, sir, to invite the attention of the committee to some precedents which were introduced at an early period after the adoption of the present Government; precedents which grew up under the Administration of that illustrious and venerable statesman and patriot, WASHINGTON—that man who has been emphatically and properly styled the Father of his Country; whose opinions were so highly respected in this country, as to be calculated to consecrate error. He sent Chief Justice Jay on a foreign mission—he approved and signed the first bank charter. His successor, Mr. Adams, felt the force of the precedent. Shortly after his inauguration he despatched Chief Justice Ellsworth on a foreign mission. The framers of the Constitution of the United States presumed it possible for a President of the United States to commit a crime. They provided for the event, and prescribed in the Constitution the mode of impeachment and trial. The Chief Justice of the United States is the only officer of the Government who is expressly and peremptorily required by the Constitution to preside on the trial of the President. If, then, the President of the United States can legally and constitutionally remove, beyond the limits of the United States, the only officer who is expressly required to preside at his trial; if the precedents, furnished at the commencement of the Government by the two first Presidents of the United States, furnish the correct rule for construing the Constitution, ask what security results to the people of the United States against the crimes and oppressions of their Chief Magistrate, from that clause of the Constitution which prescribes the mode of trial and impeachment? It would be but a beautiful illusion. During the Administration of Mr. Adams the alien and sedition acts were passed. They form precedents which furnish the legislative construction—if you please, legislative adjudication, of the Congress by which they were

enacted, of the Constitutional power of Congress on these subjects. These laws were not forcibly opposed. The sedition act was enforced in Virginia, in the case of Callender—enforced so completely as to produce the death of the miserable and unfortunate victim. I very well remember the sensation produced in Virginia, with few exceptions throughout the Union, by this act. Yet legislative precedents and contemporaneous constructions are resorted to, to prove the Constitutional powers of Congress to incorporate banks, to construct roads and canals through the several States, with the assent of the States. Permit me once again to invite the attention of the Committee to the argument and opinion of Mr. Jefferson, (a name which I can never mention without respect,) founded on the following important fact, in reference to the constitutionality of a national bank, viz., the rejection by the Convention of a proposition to empower Congress to make corporations, either generally, or for some special purpose; to which Mr. Hamilton made the following reply, in his report, already referred to: "What was the precise nature and extent of this proposition, or what the reasons for refusing it, is not ascertained by any authentic document, or even by accurate recollection. As far as any such document (authentic certainly) exists, it specifies only canals. If this was the amount of it, it would only prove that it was thought inexpedient to give a power to incorporate for the purpose of opening canals; for which purpose a special power would have been necessary, except with regard to the Western territory; there being nothing in any part of the Constitution respecting the regulation of canals." In the year 1791 the late President, (Mr. Madison,) in a very distinguished and eloquent speech delivered in Congress on the National Bank, on the question, whether the Constitutional power existed in Congress to create such a corporation, stated the following important fact: "This power was proposed to be vested in Congress, in the original plan proposed by the committee of the Convention, among the enumeration of powers which now form the eighth section of the first article, but that, after three days' ardent debate on the subject, in that body, the power was rejected and stricken out, upon the principle, that it was a power improper to be vested in the General Government." Here, then, we have the opinions—not the opinions, but the evidence, of three of the most distinguished actors on the public theatre, at the time the Constitution was adopted, two of them (Mr. Hamilton and Mr. Madison) members of the Convention, against this doctrine of precedent and implication. But, sir, I may be told that the opinions of the parties to a contract, or compact, can neither alter, restrain, or enlarge its meaning; that the compact may even contain greater powers than were intended by the contracting parties. Be it so. I am not disposed to deny that it is to the instrument itself—the Constitution—to which we are to look for the powers conferred on the Government, and not to the opinions or adjudications of others for correct in-

MARCH, 1818.

Internal Improvements.

H. OF R.

formation. Nor, sir, did the acquiescence of the majority of the people of the United States, under the operation of the law incorporating the old Bank of the United States, the alien and sedition acts, give to them the sanction or character of Constitutional measures. The people of this country are a grave, reflecting, and intelligent people; they had not forgotten the perils, the dangers, and the difficulties through which they had passed, in that glorious Revolution by which they had achieved their independence. They disdained to resort to force—to the sword—for redress against the wrongs and misdeeds of their own public servants. They felt and knew that the remedy was in their own hands, to be sought and obtained through the Constitutional and peaceable medium of elections. They accordingly displaced those who had misrepresented them in the Legislative and Executive branches of the Government; supplied their places by those who were willing to bow to the supremacy of the Constitution, and the will of the nation. The alien and sedition acts were suffered to expire—the law incorporating the old bank, after a dreadful struggle, was suffered to die a natural death. Harmony between the people and the Government was restored, and the Constitution permitted to hold its proper rank as the supreme law of the land.

The old doctrine of implication was suffered to sleep until a most gloomy period of the late war. A national bank was then thought of as a mean, or expedient, to enable the nation to prosecute that war. It was represented as the only means to a successful prosecution of the war. I felt the same Constitutional scruples then which I feel now. I voted against the measure. I did not believe that the physical and moral energies of the people of the United States required the aid of any stock-jobbing, paper-shaving system, to enable them to assert and maintain their rights and independence. The result proved the correctness of the opinion. The gentleman from Virginia (Mr. TUCKER) refers us to the practice of the Government under the Constitution: The Cumberland road; other roads, as from Nashville to Natchez, &c., particularly the military road lately directed by the Executive authority to be constructed from Plattsburg, or its vicinity, to Sackett's Harbor. In reference to the latter road I am not particularly informed as to the facts, nor am I responsible for the acts of the Executive. I stand here as the apologist for no man's errors. If it be true that the President has ordered the construction of such a road, I have no hesitation in saying that, in my humble opinion, he has transcended his power. In reference to the practice of the Government, and the several laws on the subject of roads, they no more establish the Constitutional right of Congress to legislate on the subjects, than the sedition act, passed during the administration of Mr. Adams, proves the Constitutional authority of Congress, at this time, to pass laws restraining the freedom of the press.

The cases cited, in which the revenues of the

United States have been applied to the objects, not falling within the specified powers of Congress, prove nothing. It renders it necessary to make the inquiry, have they been constitutionally applied? The perseverance in error does not legitimate it. On the subject of a chaplain, I have no question that it is contrary to the Constitution of the United States, for Congress either to appoint or pay one; on the subject of the library, I think differently. Whatever is calculated to enable the members to legislate more advisedly, and more to the interest of the nation, falls properly within the definition which I have already endeavored to give of the fair incidents to the express power to legislate. I hope the honorable gentleman will point out the mode of relieving the Constitution from the violation which the appointment of a chaplain inflicts. On the subject of the historical paintings, not a very important one, I suppose the power was probably derived, by those who voted for the resolution and appropriation, from the authority to furnish the hall, to cover the floor with carpets, &c. I voted against the resolution. I have a poor opinion of the influence of pictures over moral sentiment and patriotism. The miserable Italians, cowering before Napoleon Bonaparte, surrendered to him their pictures and their statues; the degraded followers of the same Napoleon, with trembling submission, surrendered their pictures to the allied sovereigns. Your historic paintings may produce one effect; they may serve to humiliate your own citizens. The surviving soldier of the Revolution, refused that support which his poverty forced him to solicit from his Government, may, as he is turned with trembling steps from your door; and, as he catches the last glance of the evidence of his once bold and animated spirit, of the disinterested sacrifice which he had made in the cause of freedom, feel the humiliating tear of regret stain his withered, but manly cheek.

The opinions of Mr. Jefferson, Mr. Madison, and Mr. Monroe, are relied on; opinions communicated in messages to Congress, in which the policy of internal improvements is warmly and eloquently urged. And yet, it will be found that Mr. Jefferson, in his message of the 2d December, 1806, gave it decidedly as his opinion, that it would be necessary to obtain an amendment to the Constitution, to enable Congress to effect such a system of internal improvements as that contemplated by the resolution under consideration. Mr. Madison expressed a similar opinion in his message of March 3d, 1817. Mr. Monroe, in his message at the commencement of the present session, communicates his opinion on this express subject, in these emphatic terms: "the result is a settled conviction, in my mind, that Congress do not possess the right." These gentlemen have recommended to Congress to seek, in the Constitutional mode, amendments to the Constitution. To this course of proceeding, on the part of the several Presidents of the United States, I strongly object. It is to different branches of the Government that the Constitution has confided the privilege of proposing



L. or R.

Internal Improvements.

MARCH, 1818.

amendments. It is made no part of the duty of the President, nor is he given any participation in the act. What can be more dangerous than the practice, which has too long prevailed, for the President at the commencement of every Congress, to recommend to that body, to obtain an enlargement of the sphere of their own Constitutional and political powers; and, consequently, of his powers. My remarks are not intended to apply to the gentleman in office, or those who have preceded him; they are intended to guard the future. The danger will be felt, when perhaps it will be too late to avert it, when the Car of State will be guided and directed by some bold, adventurous, and daring spirit, who will hold the reins with a firm and steady hand, and drive with despatch fur over the rights and liberties of the people of this country.

I will now proceed to notice some of the remarks submitted by the honorable Speaker. He commenced, by declaring that the Constitution was not to be considered as a bill of indictment, in which an ingenious attorney might pick a hole to let a guilty culprit escape. The gentleman will pardon me, but he seems to have taken the character of the prosecuting attorney, who appeared determined to convict all who differed from him, in the construction of this instrument, either of inconsistency, or incapacity. He disclaimed the idea of deriving any power from the general or sweeping clause in the Constitution which gives to Congress the power to provide for the common defence and general welfare of the United States. He laid down the rule, that Congress had no power except those which had been communicated; that all powers not communicated had been retained; that no means were to be resorted to, to carry into effect a communicated power, except, in the words of the Constitution, those which were necessary and proper. If power be not in Congress, the assent of the States cannot confer it, except in the mode of amendment, to the Constitution of the United States.

The honorable gentleman then proceeded to a critical examination of the Constitution. He contended that the express power had been communicated to Congress to construct—to create post roads. He referred us to the clause in the Constitution, which gives to Congress the power "to establish post offices and post roads," and contended, that the term "establish," had been used in different parts of the Constitution, with the intention to convey the power to create, as in the power to establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States. The fifth article of the Constitution of the United States was referred to, to prove the use of the term, in the creative sense: "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish;" and he contended, that the term had been used in every part of the Constitution with the same signification and meaning. Here, sir,

the gentleman is certainly mistaken. The term is used singly and independently, when applied to the post offices and post roads, and can mean nothing more than to designate. In defining the judicial power of the United States, the term establish is used in connexion with the term ordain, and is merely descriptive of a power before vested in Congress. In the eighth section of the first article, which contains an enumeration of the powers vested in Congress, it is expressly provided, that Congress shall have power "to constitute tribunals inferior to the Supreme Court." The Speaker was more unfortunate in his reference to the use of the term in the preamble, "We, the people of the United States, in order to form a more perfect union, establish justice." Can it be possible that any man can seriously believe, that justice was created by the convention that formed the Constitution of the United States? That, in the formation of this instrument, it created, for the first time, this divinity to bless mankind? I had always been led to believe, that justice was created in Heaven, and sent on earth at the creation of the world; that its principles were eternal and immutable, that systems and worlds might perish, but that the principles of justice would survive the wreck, and remain unaltered and unchanged. I entertain a very high opinion of the integrity, the talents, and the virtue, of the distinguished men who composed that convention; but I never believed that they possessed the attributes of the Deity. The term establish has two significations: the one literal, the other figurative. To determine in which sense it is used it must always be referred to the subject-matter, with which it is connected. Much stress is laid by the gentleman on the expressions used in the letter of General Washington to the President of Congress, in which the Constitution was submitted to the United States in Congress assembled; the terms are, "in all our deliberations on the subject, we kept steadily in our view, that which appears to us the greatest interest of every true American—the consolidation of our Union." It was attempted to be shown, how the effect would be produced by a judicious exercise of the power claimed in the resolution before the Committee. It was admitted, that it would not be correct to impose taxes for the purpose of making the contemplated internal improvements; but that as we had, fortunately, by the creation of the Bank of the United States, gotten into our possession a considerable sum of money, it would be right and proper to use this money on objects of such great national importance. What, sir! shall one monster be created in order to generate others? Violate the Constitution, by creating a monopoly, by incorporating a national bank, and, with the premium for the monopoly, inflict a still further violation on the State authorities, by usurping municipal legislation, within their known and acknowledged limits? We are told, that money is power; I know it is. When organized in a body without a soul, it is a most dangerous power. As an appendage and dependent on the Federal Government, it places in its hands a lever, which

MARCH, 1818.

Internal Improvements.

H. or R.

may be felt from Maine to Georgia. Where will gentlemen place its fulcrum or prop—on the bosom of the Constitution of the United States? Every motion will produce consolidation, not in union but in the form of government. Every sweep will strike off some of the few remaining attributes of sovereignty from the States, until they will be reduced to the condition of mere electoral colleges.

We are informed by the honorable Speaker, that every man who would entitle himself to the character of a wise and worthy statesman, must elevate his views beyond such narrow constructions. I have never aspired to attain the sublime height, from which the Speaker looks down upon the present condition, and views in prospect the destinies of this great nation. Permit me to follow, at a humble distance, the honorable gentleman, in an examination of the consequences which he deduces from his liberal constructions. He presents us with a new system of political economy; commerce is to be diverted from its wonted channel; agriculture to assume a new character; human skill and industry to be placed under the tutelage of the Government; the condition of the people, in the different sections of the country, to be rendered precisely equal, by an artificial system of legislation. To enforce his new doctrine, his imagination presented to us commerce and agriculture under two most imposing figures; commerce is represented as the spoiled daughter of this country, in the richest costume, glittering with the most costly diamonds and precious jewels; whilst her handmaid, agriculture, was scarcely allowed a garment of the most indifferent homespun. For one, I desire that Government may not interfere with agriculture; place no fetters on her limbs; permit her to roam at large, in the pursuit of her vocation, free as the winds which fan her into health, and kindle the colors of Aurora upon her cheeks. But, sir, from what source does the gentleman derive his principles of political economy? I presume, from the same elevated fountain from which flow his liberal rules of construction.

Would he incorporate companies to encourage agriculture, domestic manufactures, and commerce? Make them all flourish, with equal vigor, under the fostering care of the Government? I have always believed, that human industry would receive the best direction, and be most beneficially exerted, when left to individual skill and enterprise; that that system was the most perfect, which left the citizen the most freedom, and permitted him, under the influence of interest, to pursue his own fortune and prosperity.

The Speaker considered it an object of great importance, to determine how revenue is to be expended, and where. He informed the Committee of the vast sums which had been expended in the Atlantic States for commerce, in the erection of light-houses, buoys, &c. He contended that it was time for Congress to turn its attention to the Western States, to bestow on them some of its care and its revenue, in furnishing the facility to domestic commerce, or the commerce

between the States. He informed us of the scramble between Boston, Norfolk, and other towns, for a naval depot, and of the vast sums expended in particular sections of the country on these objects; of the partial operation of such a system of legislation. I presume, whenever the naval interest of the country requires the establishment of a depot, the Speaker would ascertain the expenditure, and require an annual amount to be expended in constructing canals in Kentucky. Strange principle of legislation! Does the gentleman really consider that everything which is expended for the promotion of that species of commerce which relates to imports and exports, is exclusively beneficial to those persons immediately engaged in that description of trade, or to those who reside convenient to navigation? Does not commerce at this time support almost the entire expenditure of the Government, and thereby relieve the people of the Western country from the whole system of internal taxes? Surely the gentleman considers the Navy as the property of the nation. Is he willing to renounce the claim of Kentucky to the unfading glory achieved by the heroes of the mountain wave during the late war? I believe he will claim for Kentucky a full share of the honor acquired in the late contest by Lawrence, Jones, Hull, Perry, Macdonough, and the other illustrious heroes of the ocean. But, sir, apply the Speaker's doctrine of equal legislation to the subject under consideration, or to that branch of it which he thought proper to discuss. What would be the result? You could do nothing. In the United States there are between three and four thousand post offices; I presume about a thousand post roads; some of them fifteen hundred miles in length from the Seat of Government. Without opening any new roads on the gentleman's plan of equal legislation, what sum would be required to pave or turnpike the existing post roads? Take the average estimate of the Cumberland road, which is from ten thousand to sixteen thousand dollars per mile; how far would your dividends on the stock held in the Bank of the United States, and your bonus, when divided among these roads, effect the gentleman's object? The sum would not be dust in the balance. I will not attempt to prove to the Committee that, if the power be not conferred by the Constitution the assent of the States (except by way of amendment to the Constitution) cannot confer it; because my honorable colleague (Mr. BARBOUR) has furnished an answer to this branch of the inquiry, which has not been answered, and I will venture to predict will not be answered.

I think the honorable Speaker had better at once have taken the bold ground assumed by the gentleman from South Carolina, (Mr. SIMKINS,) and have derived the power from the sweeping clause of the Constitution, which gives Congress the power to provide for the common defence and general welfare, or considered it as an attribute to the sovereign authority of the United States.

The doctrine of precedent and contemporaneous exposition is again urged upon us—the inconsis-



H. or R.

Internal Improvements.

MARCH, 1818.

views of our Chief Magistrate and some of his predecessors forcibly pointed out. How many men, who have been ten or twelve years in public life, can point to the page of history, which contains a faithful record of their public acts, without finding inconsistency somewhere marked on the page? Do gentlemen recollect no cases of at least equal inconsistency; of opinions against the Constitutional power of Congress to create corporations, to charter National Banks?—These opinions asserted with great zeal, and supported with great ability and eloquence; subsequently, these opinions abandoned or changed, and the opposite doctrine supported with equal ability and ability?

Mr. Chairman, I have endeavored to show the danger of relying on precedent, as furnishing the true sense and meaning of the Constitution; I have endeavored to fix a limit against the abuse of implied powers; I have endeavored, even at a fearful hazard of being classed among the quibbling lawyer politicians, to guard the Constitution from violation. But, sir, if it must be taken from its firm basis, I will cling to its pillars if I am buried in its ruins.

Mr. LYNDES, of South Carolina, said, that there were several questions involved in the resolution upon the table, which he should wish to discuss, but it might be inconsistent with the fair division of debate, and he should probably have rather time nor voice fully to examine them all. He had some days since proposed, that resolutions, which should afford to the Committee an opportunity of distinctly expressing their opinion on the right of Congress to construct roads, and the expediency of exercising that right, should be substituted for the resolution reported by the Committee on Roads and Canals, in which these two subjects were combined. His propositions had been withdrawn, that the opponents of the resolution might not be embarrassed in their arguments by the division of the subject; but he should renew them before the Committee were called upon for their vote. He should endeavor, however, to give them a shape which should not only separate the questions of expediency and Constitutional power, but should distinguish between the right of appropriating money to the construction of canals and roads, where the necessary rights of soil were obtained by contract with its owners, and the high power which a Government only could exert, of taking private property for public use, and making the canals or roads, which the public necessities might require, without the consent of the owners of the soil, upon paying to them a just indemnity. Both of these questions would be admitted to be involved in the resolution reported by the Committee on Roads and Canals.

To understand these two questions of Constitutional power, to which, Mr. L. said, he intended to direct his first attention, and which had, indeed, almost engrossed the debate, it appeared to him necessary to discriminate, with accuracy, between the two rights. He believed the United States to possess both; but they were supported by very

different views, and differed essentially in their character. The right of contract, of purchase, and of sale; of holding land, and of employing it for buildings, roads, canals, or any object to which the public interest might invite it, he should call a civil right. The power of taking private property, for public service, of making a road or a canal, without purchasing the land from its owner, was one of the highest attributes of Government. He should call it a political right. The two powers were different, and it might be convenient to designate them by different terms. He did not pretend to say, that he had used these words in their established sense; he should not be unwilling to adopt any better terms which might be suggested, but there could be no objection, and certainly no unfairness, if, in the meantime, he used the words in the sense which he had explained.

It was indeed most strange, that this civil right of contracting, or purchasing, or holding land, should be not only vehemently contested, but viewed as a subject of suspicion and alarm. The Constitution is the charter of our powers, and if we have it not from that authority, we must suffer from the defect. But it should seem to be a subject which we may approach without extraordinary agitation. In the character of the power, there is nothing so alarming as to prevent our deliberating with tranquillity and composure; and even if we have a right to subscribe to stock in a canal company, or to purchase from an individual the land which he may choose to sell, it will not be perfectly clear (although it seems so to at least one gentleman from Virginia) that we are on the verge of consolidation and despotism. Has the General Government, then, under the Constitution, those rights of acquiring property, and using it, which are enjoyed by every legislative body in the Union; by every municipality; by every individual citizen in the United States?

The Government of the United States possesses none but delegated powers; and will it be whispered, that there are in this country any governments which draw their powers from a different source? The General, like the State governments, has been created by the people, and for the people. By the people both are animated, checked, controlled. These civil rights of acquiring and disposing of property are possessed, as I suppose, equally by both. They are even possessed by the Governments, whose powers are fewest, and whose sphere of legislation is most contracted. When your towns and villages are incorporated, the very act of incorporation gives them those rights. The gentleman from Virginia, (Mr. BARBOUR,) denies to the General Government the right of appropriating money, except in execution of the power specifically enumerated. Yet, in his own State, I doubt not, that the cities of Richmond and Norfolk exercise these very powers of appropriation on objects neither specified by their charters, nor anticipated by their framers. I know, that, in Philadelphia and Charleston, the governments of those towns have frequently employed their funds on works of public utility, not noticed in their charters, and on

MARCH, 1818.

Internal Improvements.

H. or R.

distressed and destitute emigrants not submitted to their government. In these instances, and instances like these, has it ever been objected, that these municipalities had no right to employ the property intrusted to their disposition, except on the object designated by their charter? Governments, whatever may be their extent, ordinarily acquire property by exacting from the individuals of their community a portion of their's. For the exercise of this high political right, they must show their Constitutional authority. But when the property is acquired, the right to employ it, to sell, or rent it, if it be land, or if it be an article, like money, valuable only in exchange, to exchange it, is involved in the elementary notion of property.

The power which the Constitution designed that Congress should have, in the disposition of the money raised by its authority, might be illustrated by a comparison with some analogous powers. In the article of the Constitution which enumerates the power of Congress, among others, are assigned to them the three primary political powers of raising armies, navies, and money. The General Government was intrusted with these three great instruments of control. It was to raise them, and, he presumed, to employ them. How should they be employed? To what services must the Army be limited? To the execution of the enumerated powers of the Constitution? Assuredly the authority to provide, was an authority to employ, the instrument, and the Army might be engaged in throwing up fortifications, or making roads; the Navy in conveying stores, or making surveys, or prosecuting maritime discovery; and army, and navy, and money, in any object, which, conflicting with no rights of States, or individuals, should be applied by the direction, and under the responsibility of the Government, to promote the welfare or honor of the country.

It happened, soon after the establishment of the present Government, that the Constitutional question, which absorbed the attention of political inquirers through the country, was supposed to turn principally upon the consideration, how far the right to effect an object must be presumed to convey that of employing means which were appropriated or indispensable, and the subtlety of both of our great parties was employed to ascertain in what degree, if in any, a bank was necessary to enable the Government to lay and collect taxes. But, if, from the designation of an object in the Constitution, may be inferred the right to employ appropriate means, from the grant of an instrument must be implied the right of applying it to its appropriate objects, and hence, the right of employing army, navy, and money, if it were not more correct to consider it as expressly given, was involved, not in reasonable, but necessary implication.

He had not forgotten, Mr. L. said, the arguments by which his friend from Virginia (Mr. BARBOUR) had opposed conclusions like these, and he certainly should not evade them. Although, in the common affairs of life, and the

constant experience of the most limited governments, the right of raising money implies that of expending it, his friend had discovered two objections to the right of the Government of the United States to apply its funds to objects of internal improvement. Of these objections, the first was, that the power to apply money must be supposed to be limited by the enumeration of powers which succeeds the grant of the power to raise it. Now, in the first place, this rule of construction was quite a new one, and his friend, instead of a system of rigid interpretation, interpolated a principle neither found in the Constitution, nor in any political instrument ever hitherto composed. It must be remarked, in this view of the subject, that the question was not whether a power of expending money had been granted, but how far we should infer a limitation of the grant. He begged the attention of the Committee to this state of the controversy. The right of expending money was admitted on both sides. The express limitations (for there were some) upon this power, must be admitted by both. But, besides these, there was, in the opinion of his friend from Virginia, an implied limitation, which restricted Congress to such expenditures as might be applied to the objects of other enumerated powers. It was a question, then, not of constructive power, but of constructive limitation. And here he had perhaps some right to claim, in his turn, the advantages of strict and nice rules of interpretation: but he renounced them. If, from the most liberal examination, from the boldest analogy, any rational limitation could be applied to the power of the Government over its expenditures, which would affect the resolution he was discussing, let it be applied.

He had already referred to two other instruments which are given to Congress in the same article of the Constitution which contains a grant of the money-power. Would his friend from Virginia limit the employment of army and navy to the objects of the other enumerated powers—to raising taxes, and passing naturalization and bankrupt laws? And even in regard to the money-power, by far the greater part of the objects of the other enumerated powers, were of a character to which money could not be applied; while there were many objects not connected with the powers enumerated in this section, to which, by the habitual practice of the Government, its money was applied, and some objects, to which, without the dissolution of the Government, it must be applied.

Mr. L. expressed his belief that no man would maintain the fanciful rule, that each power was to be limited to the objects of other enumerated powers, who should, with any patience, examine the result of this reciprocal application. And if each power was not to be so limited, why any? He thought himself justified in concluding that, where there was no express limitation in the Constitution, the Federal Government might employ army, navy, or money, for any purpose which might promote the public welfare without impairing the rights of States or individuals.



H. or R.

Internal Improvements.

MARCH, 1818.

Another objection to the doctrine which supposes that the General Government may appropriate money to objects of internal improvement, has been deduced by his friend from Virginia, from what he considered as the Constitutional restriction that the Government can purchase land only under that provision which authorizes it, in certain cases, to exercise exclusive legislation. Justifying as was the inquiry, whether the General Government had, in general, no right to purchase land, whether it was an alien in the United States, he would repress this feeling, and follow the gentleman from Virginia in his examination of the clause in question—[Mr. L. read the 16th clause of the 8th section of the 1st article of the Constitution.] What denial of power could be extorted from this clause? that the Government should not have exclusive legislation where land has been purchased, without the consent of the legislature of the State, or purchased for objects different from those which are enumerated. The severest application of the "question" can extort from this clause no other evidence. The verbal and rational construction is clearly this: exclusive legislation or jurisdiction, as well as property, might be held by the United States over any land purchased in the manner prescribed. Exclusive jurisdiction could be obtained in no other way. But were jurisdiction and property inseparable? For the seat of the General Government, for forts and dock yards, where persons in its service might be permanently stationed, it might be well that the laws of the United States should exclusively apply. Jurisdiction and property might be here combined, but, although a road to the fort or dock yard might be necessary, there was obviously no reason why the United States should have exclusive jurisdiction over such a road. Their occupation of it would be transient and occasional, and if theft or murder were committed upon it, why might not their punishment be committed to the courts of the State? Under his construction, which conformed strictly to the words of the instrument, where exclusive jurisdiction was convenient, the mode was prescribed by which it might be obtained. Where jurisdiction was unnecessary, the Government, to which the property of the soil was sufficient, might obtain it by ordinary purchase. Now examine the effect of the other construction. A road to a fort is as necessary as the cannon upon its bastions. How must that road be made? He would try, Mr. L. said, though with an unpractised hand, one of the favorite weapons of his friend from Virginia; he would borrow his dilemma. A road which is necessary or convenient to a fort, must either be considered (within the meaning of the Constitution) as the fort itself, or it must not be so considered. To consider as part of a fort a road, however necessary, which extends a dozen miles from it, would be to offer, to the part of the literal interpreters of the Constitution, no small violence to its language. With such interpretation, military roads might be built, with this inconvenient obligation on the

General Government, that it should exercise exclusive legislation over them. It wishes the road, and not the jurisdiction, but it is obliged, according to the gentleman from Virginia, either to refuse the property, which it is its interest to acquire, or to acquire the jurisdiction which it has no interest in obtaining. The State must either renounce the jurisdiction which its convenience and public order require it to retain, or retain the property which the General Government required to be vested in the United States. But his friend from Virginia would probably say, that the road to a fort, however necessary, was not the fort itself, and really he thought him right. But as we can acquire, according to his construction, no land except for forts and dock yards, and other specified objects, it follows that the General Government has a right to make the ditch, and rampart, and platform of a fortification, but that the road which is necessary to supply it with reinforcements, or provisions, or munitions of war, cannot be constitutionally made by it, even with the consent of the owners of the soil. The State, indeed, or the people of the neighborhood, may do the work and keep it in repair; and upon this contingency must depend the power of the United States to maintain a garrison for the protection of the country which it was established to defend.

The opinion of the gentleman from Virginia, that the General Government had no right to acquire land, except in the cases specified in the Constitution, was indeed alarming, if it were not palpably erroneous. The Government has bought lands to an immense amount, and if the title is in all these cases bad, the result will be something worse than a pecuniary loss. He would not speak of custom-houses, which had been purchased, or lands which had been received in payment from public debtors. The loss arising from the discovery, that we had no title in these, would not, probably, exceed a few millions. But what becomes of the territory which we have purchased? Of other Western territory he would not speak—but what becomes of the Mississippi State, of the Alabama Territory? The State of Georgia owned this territory—so have said your Legislature, your Executive, your courts. We did not want it for a fort, or a dock yard, or a seat of Government, and yet we bought it. If the general Government have not a right to buy land, except for certain enumerated objects, the State of Mississippi has not been constitutionally established—the land of Mississippi not legally sold!

The gentleman from Virginia had not disdained the aid of authority. He had quoted some sentences from the "Federalist," which confirmed, as he supposed, his Constitutional doctrines. The Federalist was the composition of three very able men, who had great agency in framing the Constitution, in procuring its adoption, and afterwards in administering it. It was, too, a contemporary exposition; but, the exposition of jealous advocates, anxious to procure the establishment of a Government on which depended the happi-

MARCH, 1818.

Internal Improvements.

H. or R.

ness and liberty of the country; is it to be believed, that they never represented a power as less extensive, a limitation as somewhat more strict, than an impartial judge would have pronounced it? If the opinions of Patrick Henry and Mr. Monroe should be read to the Committee, as evidence of the just construction of any article of the Constitution, this contemporaneous exposition would weigh but little; nor ought it to weigh. By the apprehensions of the one party, a necessary and well guarded power was almost magnified into uncontrolled despotism; while the complacency with which the other party were disposed to view their own work, led them to believe its provisions less obnoxious to abuse than they really were. The Federalist was written by men yet warm from debates, in which all their ingenuity and talent for refinement had been employed to prove, that the powers which the Constitution gave were not great enough to be dangerous. That, with such powerful disturbing causes, the judgment of these distinguished men should so often have led to the same construction of the Constitution, which cooler examination has since confirmed, is a rare testimony of their merit. They were indeed able advocates, whose speculations may be admitted to illustrate any question of Constitutional laws; they were zealous advocates, whose opinions should never be permitted to decide it.

Mr. L. said, that, with his view of the work, he should not attempt to draw any favorable inference from the quotation which had been read; nor would he search its pages for others which might be less obscure. It had been urged as an objection to the Constitution, that the vague words "to provide for the general welfare," would be considered as a grant of all legislative power. This objection was triumphantly refuted by the enlightened author of the number which had been quoted. He did not attempt to defend the clause by showing, that it contained a restriction upon the expenditure of money by the Government, or upon its rights of contract or of purchase; but he met the only objection, which the ingenuity of that day could suggest, that it contained a grant of political power, by the position, that it gave to the Government no authority to control individual action or right, which was illustrated by observing, that a power to raise money could not certainly convey that of changing the course of descents, &c.

Mr. L. said, that he had nearly forgotten to notice an objection, which indeed he was not anxious to refute, but which occupied a very conspicuous place in every argument against the resolution. He referred to the proposition, that the consent of a State could not give Constitutional power to Congress. He did not consider it essential, that this argument should be answered, and it was still less incumbent upon the supporters of the resolution to defend all the details of a bill, which had been vigorously attacked by a gentleman from Virginia, (Mr. SMYTH) but which nobody had defended, because it was not now before the House, though indeed a year ago

it had been. He would, however, state the views in which, it appeared to him, that the assent of a State to the construction of a road might be convenient, leaving it to other gentlemen to exhibit those which they might consider as rendering it necessary. A State might own the land over which the road might be required to pass. It might be disposed to obtain the necessary rights of soil in a road in which it was interested. It might conveniently apply its familiar practice of appraisement so to obtain them, and might combine its resources with those of the United States; and the assent of the State would here be most material.

He was not disposed to ask from any State the grant of a power to protect and repair the roads which the General Government might construct. But there was a consideration, which to many gentlemen appeared very strong, to induce the General Government to obtain the assent of the States to all acquisitions of property within its limits. Was it not necessary to secure exemption from taxation? He confessed that to him it appeared preposterous to suppose that the States should tax the General Government, or the General Government the States. If a foreign Ambassador shall not be taxed by the Government to which he is deputed, because he represents an independent Power, he supposed it much clearer that this Government, to which the protection of the States was intrusted, whose resources of revenue were the contributions of the States or of their citizens, could not be required to raise taxes from the States, in order to pay taxes to the States. This was, indeed, one of many cases, in which the Constitution, instead of attempting to define or limit the relative powers of the General and the State Governments, where collision might easily have been anticipated, seems to have trusted to the discretion of both. In practice, each Government has thought itself entitled to tax the other, as is proved by the acts for raising direct taxes, and for admitting new States into the Union. And in some few instances these taxes have been paid. The General Government has made it a part of its compact with the new States, that they should not tax its lands. When about to obtain property in a road, why not make (it may be said) a similar compact? Perhaps in both cases the compact may be unnecessary; perhaps it may be considered harmless, and even prudent, in both.

It would, he believed, be prudent for him here to rest the case. To deny to the General Government the common rights of purchase and of contract, was to impute to the Constitution itself so gross a defect, and to those who have administered it such habitual neglect of its provisions, that he could not apprehend that such denial would be supported by a vote of the Committee. But he held no opinion which he was not willing to avow. In support of the resolution, he had thought it enough to show that the General Government might employ its money or its land, as any citizen might, and that, of consequence, it might make a road which should affect the



H. OF R.

Internal Improvements.

MARCH, 1818.

rights of no other party. But he was far from thinking that it was in execution of this civil right only that the Government of the United States had power to construct a road—the Constitution had not been so improvident.

He believed that the Federal Constitution had vested in the Government of the United States a high power of taking private property for public use, and of making, in certain cases, the roads and roads which the public necessities might require, even without the consent of the owners of the soil, upon paying to them a just indemnity. Such a power must not be loosely inferred. It could not be represented, as might be, as a right of contract and expenditure, of which he had hitherto treated, as conflicting with no other rights. It was a high political power, to which the rules of construction of the gentleman from Virginia properly applied. It must be shown that the Constitution expressly gave it, or that it was necessary to the execution of the powers which it had given.

Gentlemen must admit, however reluctantly, that the General Government has some power to take private property for public use, besides that which consists in raising taxes. The fifth amendment requires that where this is done the owner shall receive a just indemnity. This amendment guards the property of the citizen, not by withdrawing from the Government a necessary power, but by connecting with it a just obligation. Property, then, may be taken for public use. Shall we be told that this means only personal property? Why this technical distinction? The words do not require it, and it may be as necessary to take ground for the site of a military post, as timber for its palisades. But gentlemen say that you can only take this property when necessity requires it, and that when the necessity ceases the property must be restored. This doctrine might be inconvenient to all parties, and it cannot be supposed that, where the Constitution imposes the obligation of paying the full value of the property, the former owner still retains a reversionary interest in it. He had said that neither the General Government nor those of the States, possessed any but delegated powers. He had no doubt that the State governments had the right to make roads and canals; and it would be to create an inscrutable mystery that a people should, by their State constitutions, give to their Representatives the power of levelling houses and taking private property, that the street of a town might be widened, and its convenience and beauty promoted, and that the same people should refuse to their Representatives, in the National Government, the same power; not to promote the symmetry, but to secure the defence of their towns. If a gentleman's private house occupy a situation over which it is inconvenient that a new street should pass, the State government divests the owner of his property rightfully. But, if the same house occupy a situation which is necessary for the safety of the town, the government which is charged with its defence, if it cannot buy the lot from the proprietor, must relinquish it for the enemy. And the

mystery thickens, when we observe, upon examination of the State constitutions, quite as little appearance of a special grant of this power to take private property as in the Federal Constitution. But, perhaps, there were technical rules of construction which ought to be applied to the one constitution, and not to the others. He did not know them, but he should draw no argument from this analogy, but refer to the articles of the Federal Constitution, which, as he thought, gave to the General Government the right of making roads and canals, and of taking private property for this purpose, upon paying to its owners a just indemnity.

In this inquiry the attention is naturally drawn, first to that article of the Constitution which gives to Congress the power to establish post offices and post roads. Upon this field the positions taken by the Speaker were impregnable, and he was not disposed to waste much time in superfluous efforts in their defence.

There were, however, two circumstances to which the Committee would allow him to refer, without detaining them by a long commentary. Gentlemen had insisted that the Constitution designed to give to Congress the power of designating post roads. Now, it happened that, at the adoption of the Constitution, the subsisting Government had exactly this power of designating post roads. They were in its constant exercise. The act of Confederation authorized Congress "to establish post offices," and post roads were designated in the easiest and most natural method, by establishing in the several post offices the points through which they were to run. If the words of the Confederation had been adopted without addition, he should have thought that the powers of the Confederation only would have been enjoyed by the present Government; but, as the Convention were dissatisfied with these, and added a power to establish "post roads," he must think, with the Speaker, that they intended to convey the power which the words naturally imply of making post roads. There was no novelty, Mr. L. said, in this construction. In one of the first reports made by the Postmaster General, under the present Government, he asked an appropriation for a post road. Whether the state of our finances forbade this expenditure, or the appropriation was included under some general head, he had not been able to learn. But there was no trace of any Constitutional objection having been then made, and he believed those objections to have been the discoveries of a later age.

But, if he were obliged to select some one specified power to which he must consider the power of making canals and roads as incidental, he should certainly select that of employing the military force of the country, as requiring this supplement. "Congress shall have power to raise armies." We all agree that the power may be exercised in war or peace. It is both the right and duty of the United States to maintain garrisons in some exposed points. These will not be in the centre of the country, but on its frontier. Wherever there were troops it should seem that

MARCH, 1818.

Internal Improvements.

H. OF R.

there should be roads, over which provisions and munitions of war might be transported; which might serve sometimes for reinforcement, sometimes for retreat. These exposed points might well be supposed to be distant from the settled country, and to the military occupation of such points, roads were indispensably necessary. But, illustrations of the military importance of roads were furnished, even by our Atlantic frontier. For many of our forts were placed on two points of land, projecting in rivers or bays, whence a communication with the high ground could only be obtained by long and expensive causeways. Had the Government no right to make these, and must it relinquish the most favorable positions for defence, and at a greater expense obtain less security, because the appropriate position was a point of marsh land, and the Constitution had not said that it might make a road to it?

But he was talking of old systems of defence. To place your garrisons where you could supply and sustain them; to station armies where, by facilities of communication, they might rapidly support each other, were once considered prudent and necessary arrangements. But the gentleman from Virginia had proposed a new scheme of military preparation. Instead of providing roads which should enable you to transport munitions of war to any point which might be threatened; he told you that you might build arsenals upon the frontier. Yes, you might build them for the enemy. With a frontier clothed with arsenals, (he should say nothing of the economy of such a scheme,) without facilities of communication which should allow a considerable force to be quickly collected for their defence, your arsenals would supply the wants of your enemy, not yours; and the same scheme would even make your forts untenable. It was obvious that, on the frontier, arsenals could not be maintained without an army, nor an army without provisions, nor either without roads; and the certain result of this new system must be, that fortifications would be lost without a siege, and armies capitulate without a battle. But even the system of the gentleman from Virginia admits of some relaxation. There are laws of war whose authority he does not dispute. The Constitution gives us, in peace, no right to make a road however necessary; but, during war, we may make roads to attack the enemy, or to escape from him. But this, they say, is a right which we have in common with the enemy himself, not given by the Constitution, but derived from the law of war or the law of nations. And what is the law of war? The law of force; a law which subverts all law; which suspends liberty, where it does not destroy it. And was it in this indefinite and military power that the prudence of his friend from Virginia would take refuge, rather than admit, on the part of Congress, a power to provide for the same objects, with that regard for private right which belongs to the civil character and with the economy which the order and regularity of peace permit? As a Constitutional power of Congress, it has guards which make it safe, and may

be exercised with a foresight which will render it effectual. Adopt the view of the gentleman from Virginia, and the power, while it lasts, is unrestrained and indefinite, and the right to exercise it commences only when its employment becomes expensive, precarious, or impracticable. How completely does this system of interpretation defeat its own object! How dangerous to liberty is that zeal in its cause which represents the defence of the Constitution as incompatible with the defence of the country! Was it not evident that this right to make a road, which was deduced from the laws of nations and of war, would be too often unavailing? When forced to retreat, we may begin to make a road, under the cannon of the enemy; we may constitutionally use the pickaxe and the spade, when every hand is required for the bayonet. And here we have no bad illustration of the character of these Constitutional doctrines. Roads and canals are always useful, sometimes necessary; there are cases where the General Government may construct them; but when? They are practicable in peace, but then they are unconstitutional; they are Constitutional only where they are absolutely impracticable.

There is indeed no reason to think (if the Constitution gives to the Government the power of constructing military roads) that the exercise of this power must be confined to war. Garrisons must be maintained in peace or war, and roads are necessary for them in either state. In war the march of troops is more frequent and rapid; but in peace, too, their movements are often necessary. Nor can the question of Constitutional power depend upon the urgency of the necessity, or upon the remoteness of the evil, which that power is employed to avert. You may make a road if it be necessary to advance upon the enemy the next week; but suppose it will be necessary the next year, or, as oftentimes it happens in military transactions, suppose the time when it will be necessary to depend upon movements of the enemy, upon which you cannot calculate, surely these considerations affect only the expediency of making the road, and not the right. If it be necessary that military roads should be made, when they should be made must be intrusted to the discretion of the Government, and they would do the Constitution little service who should place it in constant opposition to prudence and reason, and, while they recommend in peace a provision for the exigencies of war, should denounce this provision as unconstitutional, because it was provident and wise.

He would detain the Committee no longer on this subject. If the Government, which has the power to raise armies, has not that of making military roads, the instrument is given and not the power to employ it.

Mr. L. said, that he should have made no observation on the right of the Government to construct canals, if an amendment had not been proposed which seemed to indicate an opinion that this right was less clear than that of making roads. But if a road may be made for the trans-



H. or R.

Internal Improvements.

MARCH, 1818.

of military stores, why not a canal? Your right to make either is derived from its subserving the great purpose of military supply. The only canal which had been made or improved under a law of Congress, was that of Carondelet, and the reason assigned (he believed in the fact itself) for extending public assistance to the work, was the communication which it would open for gunboats between the lakes of New Orleans and the river.

He should not detain the Committee by any verbal remarks on that clause of the Constitution which gives to Congress the power "to regulate Commerce." But there was a view which might be taken of the right to make commercial roads, rather calculated perhaps to excite suspicion and jealousy than to conciliate support. He would state it, however, because he wished to conceal no part of his opinion. His friend from Virginia had said that the Constitution contained a distribution of political powers; that powers which were useful, but of a character which the separate Legislatures could not exercise; in other words, that national powers were given to the General Government. He concurred in this opinion. This distribution of powers was not so easily effected as that any useful power should be lost in the process. The rights and interests of the country were secured by the Constitution, or impaired by it. The rights of the States were secured in terms. Independently of the Constitution, the States had some mutual rights. The central States had unquestionably that of navigating the streams which flow from their limits to the common property of nations, the Dan. Their claim to a road to the same goal was not very different in principle. These rights, independently of the Constitution, they could secure by negotiation or war. The Constitution precludes these; but it does so by substituting, for a violent and precarious, an orderly and effectual remedy. Rights to specific property, if they are the subjects of controversy between States, are decided by the Federal Judiciary: rights equally secured by the Constitution, but which cannot be enforced without legislation, must look for their support to the Federal Legislature. In this view, it is rather a question between the different departments of the General Government, in which shall be vested the power of securing the rights of navigation and way, which the central States may claim. And the character of these rights sufficiently shows that they must be secured (in the unexpected event of their requiring any other security than the mutual interest and amity of the States) by the legislative protection as well as judicial authority.

To prove the right which the central States had by the laws of nature and of nations to the navigation of the rivers which flow from their limits, Mr. Lowndes read several extracts from a report of Mr. Jefferson, when Secretary of State, to the President, (10 vol. public documents, p. 137,) and he said he read these not merely to show that these were rights which the inhabitants of the higher country, and those States to

which they belong, have in the rivers and shores of the lower country, but that those rights were of a character which might require legislative provision. He contrasted the principle that the United States had a right to establish, at their expense, light-houses, buoys, or beacons for the improvement of the navigation of the Mississippi while it was Spanish, with the doctrine which denies them the power of appropriating money to the same object now, because it is American.

Mr. L. said that, although there were a few other views of the Constitutional powers of Congress, in making roads, which he had intended to take, he would not abuse the attention with which he was favored, by further remarks upon this topic of inquiry. But he had already dwelt upon it so long, that on the remaining question which he had intended to discuss, the expediency of applying a part of the national revenue to purposes of internal improvement, he could scarcely do more than express his opinion, without defending it. He would willingly indeed have made this the principal object of his attention, but the undivided force of those who oppose the resolution had been directed against the Constitutional power, and its friends had naturally applied their principal efforts to the same point.

He did not feel upon this subject an enthusiasm which would blind him to the probabilities of abuse. Whatever road or canal the interest and enterprise of individuals would prompt them to complete, he doubted not would be accomplished by them more economically than by the Government. Nay, he was willing to admit, that whatever in this way the State governments should attempt, would in general be better done by them than by the Government of the United States. But there were military and national roads which must be made by the Government of the United States, or not at all. To these he would be willing to apply a part of the public income. It had been remarked in the course of the discussion that it must be the interest of individuals to make an improvement whenever it was the interest of the country that it should be made; but that, where a canal or road would not give to the stockholders the ordinary profits of money, a different employment of capital would be better for them and the country. He admitted the general principle, that industry and capital would generally receive from private interest the direction which would be most conformable to the public good. But he did not admit that all public improvements must be supported by private speculation. He would not attempt to detail the reasons which made the canals and roads of every civilized country the objects of attention to its Government. He believed that roads were nowhere left entirely to voluntary undertakings and individual interest. They were usually supported by taxes, though these were neither general nor equal ones. The profits of a turnpike road divide themselves between the stockholder, the landholder, and the traveller, and an expenditure which brought to the company who made it a profit of five per cent.

MARCH, 1818.

Claims for Destroyed Property.

H. or R.

might often give to the country a large one of ten or fifteen. But he would not engage further in an argument which he was too much fatigued to complete.

After Mr. LOWNDES had concluded his remarks, he rose again to revive the amendment which he had proposed to the resolution on Friday, but which he had afterwards withdrawn, that gentlemen might be left free to debate the whole subject, untrammelled by the question being presented separately in its different branches. That the members of the Committee might now have an opportunity of voting for any one branch which might be acceptable, and against any which might be objectionable, he renewed his motion, with some variation, to divide the proposition into three distinct resolutions.

The question was then taken on striking out all the original resolution after the word "Resolved," and inserting the following; and decided in the affirmative—ayes 78, noes 58.

"That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and of canals, and for the improvement of water courses."

The question was then taken on the second resolution, offered as part of the substitute, by Mr. LOWNDES, and agreed to—ayes 76, noes 70, as follows:

"Resolved, That Congress has power, under the Constitution, to construct post roads and military roads; provided, that private property be not taken for public use without just compensation."

The third branch of the substitute was also agreed to—ayes 70, noes 69, as follows:

"Resolved, That Congress has power, under the Constitution, to construct roads and canals necessary for commerce between the States; provided, that private property be not taken for public purposes without just compensation."

Mr. MERCER proposed to add another resolution to those agreed to, which, after some discussion, was adopted—ayes 75, noes 63, as follows:

"Resolved, That Congress has power, under the Constitution, to construct canals for military purposes; provided that no private property be taken for any such purpose without just compensation being made therefor."

Mr. LOWNDES then moved the adoption of an additional resolution, as follows:

"Resolved, That it is expedient that the sum to be paid to the United States under the 20th section of the act to incorporate the subscribers to the Bank of the United States, and the dividends which shall arise from their shares in its capital stock, be constituted as a fund for the construction of roads and canals."

The question on this resolution was decided in the negative—ayes 72, noes 73.

Mr. FORSYTH then moved that the Committee rise, and report the resolutions to the House. This motion brought on a desultory debate of an hour's continuance, in which Mr. HUGH NELSON, in opposing the motion, and asking that the opponents of the resolutions be allowed at least one day more to urge their objections to them, inci-

15th CON. 1st SESS.—40

dentally avowed his hostility to the resolutions as a dangerous and alarming assumption of power, and a direct infringement of the Constitution and of State rights, &c.

Mr. JOHNSON, of Kentucky, in reply, also incidentally offered a few remarks in favor of the resolutions.

Finally, Mr. FORSYTH's motion was withdrawn, when the Committee rose, reported progress, obtained leave to sit again, and, about five o'clock, the House adjourned.

WEDNESDAY, March 11.

Mr. TUCKER, of Virginia, from the Committee on that part of the President's Message which relates to Roads, Canals, and Seminaries of Learning, made a report upon the subject of the Cumberland road; which was read, and ordered to lie on the table.

Mr. RHEA, from the Committee of Pensions, reported a bill for the relief of Henry King, which was twice read, and committed.

## CLAIMS FOR DESTROYED PROPERTY.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, who were instructed to inquire into the expediency of continuing in force the act of April 9, 1816, and the supplementary act passed in 1817, for indemnifying those who have sustained losses of property while in the military service of the United States, made a report, concluding with the following resolutions, the latter of which, it will be perceived, have reference to certain combinations to commit frauds on the Office of Claims, which have been detected:

1. *Resolved*, That it is inexpedient to continue longer than the 9th of April, 1818, the act entitled "An act to authorize the payment for property lost, captured, or destroyed while in military service of the United States, and for other purposes," passed the 9th of April, 1816, and the act in amendment thereof, passed third of March, 1817.

2. *Resolved*, That all claims which shall not have been acted on in the office of the Commissioner on the 9th of April next, be transferred for adjudication to the office of the Third Auditor of the Treasury Department, and the said Auditor, in making up his decisions, shall be governed in all respects by the same rules, regulations, and restrictions, as have been prescribed to the Commissioner of Claims.

3. *Resolved*, That the Committee of Claims be directed to report a bill pursuant to the foregoing resolution.

4. *Resolved*, That the Attorney General be directed to cause to be instituted in the courts of the United States, for the State of New York, any suit or suits which may be necessary to recover from individuals the money they have fraudulently obtained from the Government of the United States, under the act of the 9th of April, 1816, and the act amendatory thereto, passed the 3d of March, 1817.

5. *Resolved*, That the Attorney General be directed to cause to be instituted in the courts of the United States, for the State of New York, such prosecutions as may lead to the conviction and punishment of those persons who may have been guilty of the crimes



H. or R.

Memorial of Vincente Pazos, &amp;c.

MARCH, 1818.

perjury and subornation of perjury, in support of fraudulent claims against the Government of the United States, under the aforesaid acts of the 9th of April, 1814, and 3d March, 1817.

The report was read, and ordered to lie on the table.

## MEMORIAL OF VINCENTE PAZOS, &amp;c.

The SPEAKER laid before the House the memorial of Vincente Pazos, representing himself as a deputed agent of the authorities acting in the name of the Republics of Venezuela, New Grenada, and Mexico, representing the views with which the said authorities took possession of and occupied Amelia Island, in East Florida, complaining of the investment and capture thereof by the arms of the United States, the loss of property and other injuries sustained, in consequence of the occupation of the island by the United States, and his application to the President of the United States for redress in the premises, and his failure to obtain it; and praying relief from Congress: Which being read:

Mr. FORSYTH moved that the petition be not received. He stated that as the petitioner was an agent of a foreign Power, and applied to Congress as an appellate power over the Executive, he thought it improper that he should be heard.

Mr. COLSTON remarked that in his estimation the petition ought to be laid on the table and printed, that the members might know its contents before any disposition was made of it. At all events, Mr. C. said, he should insist on the reading the petition before he voted upon any question respecting it.

Mr. JOHNSON, of Kentucky, was surprised at the motion of Mr. FORSYTH, and contended that this House was bound to receive any petition couched in respectful language, whether it implicated the Executive or any other officer of this Government.

Mr. HARRISON hoped the petition would be received, and mentioned several instances of petitions having been presented to Congress and to the British House of Commons from foreign agents and Powers.

Mr. FORSYTH replied that he did not make the motion in order to screen the Executive, but his objections were upon principle; he thought it improper for Congress to interfere with the Executive department in its appropriate intercourse with foreign Powers.

Mr. ROBERTSON, of Louisiana, contended that the House were bound to receive and read the petition, at least, in order to know whether its subject did or did not come properly within the cognizance of Congress. He supposed that it complained of losses and the destruction of property, to compensate which the intervention of Congress was essential.

Mr. COLSTON called for the reading of the petition.

[The memorial was read as required. It purports to be "the memorial of Vincente Pazos, of Peru, deputed agent of the authorities acting in

the name of the representatives of Venezuela, New Grenada, and Mexico," and states the motives of these representatives in giving authority to occupy Amelia, &c., and the manifold grievances of loss of military stores, &c., as well as of the military position; complaining also of a recent decision of the admiralty court for the district of Georgia, in the case of a prize vessel, and denying the crimes of smuggling and slave dealing imputed to the occupants of that island. The memorial, after stating that the memorialist has addressed the President of the United States on this subject, and has received an answer not satisfactory thereto, concludes as follows:

"In repeating these manifold grievances to your honorable House, your memorialist looks with confidence for that dignified and sincere support of the great republican cause in which those whom he represents are so deeply engaged, and he reposes in the bosom of your august assemblies those representations depending on such a redress of grievances as shall comport with the honor, dignity, and justice of the Government of the United States."

Mr. LOWNDES stated his readiness to inquire into the conduct of the Executive, but denied that the right of petition belonged to any but citizens, and that if we received the petitions of foreign nations, it would transfer the diplomatic functions from the Executive to the Legislature. The petition referred to correspondence between the agent and our Executive, and Mr. L. objected to such a mode of bringing diplomatic correspondence before this House. Mr. L. was willing to inquire into this or any other subject of complaint; but he objected to such a course as the present, which every member had the means of bringing fairly before the House in a proper shape.

Mr. TUCKER, of Virginia, said, that while he coincided in the great principle on which Mr. LOWNDES had based his remarks, he was desirous of stating why he was disposed to vote for receiving the memorial, until he should receive some further information on the subject. He had inquired and found that a motion to permit the memorialist to withdraw his memorial, in order to give it another shape, would not be in order until it had been first received by the House. He agreed thoroughly with Mr. LOWNDES, that this House never should entertain any appeal on the part of the representative of any foreign Government; he never would entertain such an appeal; yet, as he conceived from the reading of the paper, that it contained an application to this House in relation to a claim of property on the part of individuals, he preferred receiving the paper, and then moving to permit the petitioner to withdraw it, in order to give it a shape that should not be objectionable. It appeared to him that the persons who were found in Amelia Island, were at this time under the sovereignty of the United States, and entitled to prefer their petition here. The case differed from that put by Mr. LOWNDES, of an appeal by the Spanish Minister in relation to an existing negotiation.

MARCH, 1818.

Memorial of Vincente Pazos, &amp;c.

H. or R.

He was a known and acknowledged Minister; his application would be on a public concern alone. The present application had a double aspect; something of a public character, which he would reject—something of a private right and complaint, to which, if separated from the other, he would attend. Mr. T. also suggested, as a difficulty, whether the rejection would not be attended with embarrassment, as it would involve a decision on the question of the independence of the South American provinces.

Mr. BASSETT asked whether the motion of Mr. FORSYTH was in order, believing that, so long as he had been a member, he had never heard of such a motion.

The SPEAKER believed the motion might be entertained, though he did not think there was any precedent for it.

Mr. PITKIN, in reference to the petition, said he had never known any petitioner to come before this House in the capacity of a foreign Minister or agent. We have had, said he, during the present session, Messages from the President, transmitting the communications of foreign accredited agents, on different subjects, and, if he had thought it proper that the subject of this petition should have come before the House, he would have sent it to us; and shall we receive from another hand that which the President has not thought proper to communicate? He had officially informed the House of the suppression of the Amelia Island establishment, but no one had thought of instituting an inquiry into the Executive conduct in that business, and shall we now, said he, suffer a foreign individual to come forward and arraign before the House the conduct of the President? Such a course would be unprecedented and highly improper. Had Don Onís ever adopted the course which this agent has taken? Never. If, said Mr. P., it be proper to impeach the President for malconduct, let us do it ourselves, but not at the instance of this foreigner. This, he said, was reversing the order of things; instead of receiving complaints from the Executive of the conduct of foreign agents, we are receiving from foreign agents complaints, addressed to this House, against our own Executive. If gentlemen were dissatisfied with the Executive conduct in this matter, let them call for information, and act accordingly, but not proceed in this way, at the instance of an unknown foreigner.

Mr. TRIMBLE, of Kentucky, regretted the objections to this petition. He had heard that justice was blind, but had never seen her represented without ears; and, for this reason, that she may hear the complaints of all, but decide without seeing them. Mr. T. said he did not understand that, by hearing this petition, the House was about to receive an appeal against the President, or to imply any censure on him by so doing; on the contrary, he thought it due to the President to vindicate his conduct, if the patriots of South America charge him unjustly. It was objected that this agent could not be received on an equal footing, because he was not accredited by our

Government. This inequality of his standing with the Executive branch, was a good reason, Mr. T. thought, why he should be heard in this House. Mr. T. had not the remotest intention of censuring the Executive in this business; and he wished it to be distinctly understood that, in relation to its intercourse with foreign Governments, he would never put our Government in the wrong, as long as he could honorably avoid it; but that principle should not restrain him, in any case, from scrutinizing the Executive conduct, and seeing if it be right or wrong. He thought this course was due to our neutral obligations to Spain, on one side, and to the South American patriots on the other; and it was proper to inquire into the fact, whether the seizure of Amelia Island was compatible with this neutrality. To reject this petition, Mr. T. contended, would hold out to the South American Governments an improper rule of action; the reasons would not be known to them, and it would give them erroneous ideas of our motives of proceeding in this matter. As to the character of the agent, Mr. T. would not inquire into it—it was sufficient that he presented himself here in the capacity that he did; and his not being accredited, Mr. T. repeated, was a reason for hearing him in this House.

Mr. POINDEXTER, of Mississippi, declared himself as friendly to the cause of the patriots as any man in the House; but, notwithstanding this feeling, he justified the Executive in suppressing the establishments of Amelia Island and Galveston. Not a vessel had arrived from New Orleans, Mr. P. said, whether American or Spanish, which did not dread those pirates. [The SPEAKER reminded Mr. P. that his remarks were taking too wide a scope to be in order.] Mr. P. said he considered the conduct of the President to be aspersed by the paper on the table, and, whenever the subject should be called up, he would vindicate that conduct, and show that the establishments put down by the Executive, instead of being connected with the patriots, and the real patriot cause, were establishments of pirates and robbers. As to the petition, Mr. P. said it was enough for us to manage our own affairs without meddling in foreign matters, nor ought we to allow foreigners to interfere in our affairs. He cared not whether this self-styled agent was really so or not; had such a petition been presented by an American citizen he would not receive it, unless accompanied by a motion to impeach the President. If gentlemen wish that, let them, said Mr. P., come forward openly, and not cloak the design under a memorial from a Venezuela agent; nor receive from that agent a philippic, whose only object could be to inculcate the conduct of the President. Mr. P. asked if the House could take on itself judicial powers, and go into an investigation of the rights of property in Amelia Island? This inquiry, he said, belonged to the Judicial department, and the House could not take it up, unless as the ground of a motion to impeach the President. This was one of the most impudent applications, Mr. P. said, that was ever made to



H. or R.

Memorial of Vincente Pazos, &amp;c.

MARCH, 1818.

branch of this Government; and, had it been made by a regular accredited Minister, Mr. P. declared he would have voted to send him out of country. What, he asked, had been the conduct of Don Onis? He had presented himself to the nation under an anonymous signature, on the conduct of the Executive in taking possession of Florida, as far as the Perdido, but he had never thought of presenting himself before this House in an investigation into that measure; he had appealed to the nation in a pamphlet, but his pamphlet had been totally disregarded. Mr. P. referred to the case of Mr. Jackson, the English Minister, who had been dismissed by the Executive for disrespectful language, which step had been approved by the nation; and asked if, after that, this House would receive respectfully an independent philippic against the President from an accredited foreign agent? Such a course would be degrading to the House, as well as to the Executive. In reply to Mr. TUCKER, Mr. P. said, his petition might be rejected on the showing of the petitioner himself, because he came forward as a foreign agent; and from such a source a petition could not be received. The House could not as well, Mr. P. said, take an essay from a partisan newspaper, and refer it to the Committee of Foreign Relations, as to refer the paper now presented, and one, too, so abhorrent to the feelings and dignity of the House.

Mr. PINDALL made a few remarks in reply to Mr. TUCKER. If the petition was received, Mr. P. said, it necessarily admitted that the southern republics were not sovereign; if this was admitted, then these people were pirates, and the House might next receive an application from them to change the laws against piracy. As to the pamphlet of Don Onis, which had been referred to, he had read it, and was willing to treat this petition as he had treated that—to take no further notice of it.

Mr. MILLS, of Massachusetts, said, the right of petition was a sacred one, and belonged equally to the meanest and the greatest citizen in the nation; and if such a petition as this, implicating the conduct of the Executive, had been presented from the meanest citizen, he would receive it, and if it complained of grievances, without pointing out the redress, it would be the duty of the House to give the proper redress; but it was to our own citizens only, Mr. M. said, he would turn his listening ear. What right had a foreign subject to petition this House? No matter whether a private man, or the agent of a foreign government, recognised or not recognised, he had no right to lay his grievances before this House. If this be permitted, then, said Mr. M., we may receive petitions from the suffering people of Ireland, or the people of any other country, to exercise our power for their relief. In this Government, Mr. M. said, the powers had been distinctly distributed, and there was a proper channel designated, through which foreign agents were required to make their communications; that channel was the Executive, and the Executive could as well interfere in the Legislative de-

partment as this House could interpose in the Executive duties. This agent said he had applied to the Executive without receiving satisfaction; suppose he had, and suppose, said Mr. M., the President had treated him improperly; admit all this to be true, shall we be told of it by this foreign agent? Shall we listen to his complaints, and permit him to call on us to punish the President? No, sir, said Mr. M., that is the business of the members of this House. As to the authority of this agent to ask an investigation into the rights of property at Amelia Island, he did not appear, Mr. M. said, to be an agent on the part of the persons lately holding possession of that island, nor had he offered any evidence that he was their agent.

Mr. BALL, of Virginia, said, the President might have acted correctly in this affair, or he might not. This was not the question. The question was, whether the House would receive this petition, and thus cast an indirect censure on him for his conduct. If the Executive had acted wrong, no one, Mr. B. said, would sooner call for an inquiry than himself; but shall we, said he, be instigated by this foreigner to go into an investigation of the Executive conduct? The petitioner styled himself a foreign agent, and that was a sufficient reason for not receiving it. The agent did not appear to be acting on the part of individuals, as there were no names signed to the memorial. He claimed to be the agent of a foreign Government; he had applied to the Executive, now to this House, and he might perhaps next appeal to the people. This, Mr. B. said, had once been done, but he hoped it would not be now tolerated.

Mr. JOHNSON, of Kentucky, observed, that it was not his purpose either to vindicate or abuse the people who had been mentioned; nor should he reject the petition because it was likened to a partisan newspaper publication. Neither would he oppose it from a fear that it might be considered as an act of opposition to the President; the character of that venerable and respected citizen was not implicated in this matter, and the feelings entertained towards the President were not, therefore, involved in this question, though he was glad to find that it had brought forward a vindication of the Executive conduct in the case alluded to. Whenever that conduct should be brought before the House in a proper manner, Mr. J. said, he should enter into the inquiry without regard to any considerations but those of truth and justice. The present petition, Mr. J. said, was a claim for property alleged to be unjustly seized by the troops of the United States. How was this a philippic against the President? He cared not whether such an application came from Old Spain or New Spain, from patriots or others; such a petition was entitled to attention. If this application had been made to the House before it had gone to the President, Mr. J. said he should have voted against it, as it might then have appeared disrespectful to the Executive. In this case he took the broad ground that, if the property was not given up, we ought to pay for

MARCH, 1818.

Memorial of Vincente Pazos, &amp;c.

H. or R.

it, whether the people from whom it is taken be patriots or not. He did not contest the right of the Executive to suppress those establishments; the present was a contest about property, and how could the President pay for it without the interference of Congress? In the case of Beaumarchais it was thought proper to send a message, recommending it to the consideration of Congress, and this after several of the Secretaries and other officers of the Government had declared that the claim was unfounded; but in this case, where property is held by the troops of the United States, and a person comes forward for redress, it is called a philippic against the President! Instead of viewing it in this light, Mr. J. said, he acted in this matter on the principle of friendship to the President. He denied that there was any ground to say that this petition was a tissue of falsehoods; all petitions bore prima facie evidence of being true until inquiry should prove them to be otherwise. This had not yet been investigated, and ought to be considered as true until it was. Mr. J. said he should be glad to see any difference pointed out between this petition and the claim of Beaumarchais, the petition of the Irish emigrants, or that of the Swiss emigrants, none of whom had even pretended that we had injured them, or had their property in our possession. Why this feverish feeling in the present case, Mr. J. asked. For his part, he wished the President had gone on, and from Amelia had passed on to all Florida. The receiving this petition involved no hostility to the conduct of the Executive in that measure.

Mr. RHEA deprecated the latitude by which the discussion had been marked, and called the attention of the House to the true question; which was, simply, whether this remonstrance from the agent of certain foreign authorities should or should not be received. This, he said, was a question which had nothing to do with impeaching the President, or with piracy on the high seas. He knew nothing of the persons whose agent the petitioner was; as far as he had heard anything of them he respected their characters. But they were stated to be agents of a government yet unacknowledged by the United States; and, under such circumstances, he did not think this House ought to recognise them. As to this being a question of property, he said he did not view it in that light; but conceived that property had been introduced into the memorial only to give a color to the other objects it had in view. This whole business was one, he thought, which it was for the executive part of the Government alone to act on. The House of Representatives have not been in the habit of receiving foreign ministers or ambassadors, said Mr. R. If we are to undertake this business, let us see the commission of the agent, and ascertain whether he be duly authorized or not; whether he be what he states himself to be. Without such a preliminary, any proceeding of the House would be illusory. The previous question must be, the recognition of the independence of the governments whom he represents; until that was decided all other proposi-

tions must be foreign to the subject. As to this question of property, which was said to be embraced in the memorial, how long, Mr. R. asked, had the Government of the United States been endeavoring, by reclamation, to get from the Governments of France and Spain property captured by their national vessels from our citizens? But had our applications not always been addressed to the executive authorities of those nations? Had this House a right, he asked, to receive an agent from these new governments, or from any government? The Constitution had given this business to the Executive—this House had nothing to do with it; and he did not wish to encourage appeals, either to the people or to this House, from the Executive by any foreign agent. The Constitution has assigned to each department of the Government its particular duties; and, for his part, he would not for a moment listen to a memorial which was in the nature of an appeal from one branch of the Government to the other. In the mean time, however, he would treat this memorial with all due respect, and would not certainly bestow on it harsh names. The best way would be to suffer it to be withdrawn. But to this course it had been objected, that this foreign Government would not know why the memorial was not received. The very face of it, he said, would sufficiently show why it was not received, nor even suffered to lie on the table, because to lay it on the table would imply that the subject was one which might be acted on at a future time. Every government must know that it is the President who is to receive all communications from foreign governments, and that the Legislature has no concern with them. This, Mr. R. repeated, was not to be regarded as a memorial respecting property; the truth was, and it was no use to conceal it, that this agent wished to have the authorities whom he represented recognised as a sovereign State. This was the main object of the application, and it was proper it should be understood. When that question was properly presented, Mr. R. said he had no objection to act on it—but not in this way. He concluded by saying he hoped the memorial would not be received.

Mr. STROTHER rose to inquire whether a motion to lay the memorial on the table would be in order. He considered this an important question, involving great difficulty; and, not being much of a politician, he was averse to acting hastily on it. If this was to be regarded as a petition of an individual for property, it ought to be received; but how far this House had a right to listen to an appeal from a foreign agent, he was not prepared to say. If the question turned on this point, it was one of the first magnitude, and required the most mature reflection and the most severe investigation. After intimating that he had not been in the House when the petition was read, Mr. S. said, if it was from individuals whose property had been seized by the forces of the United States, at Amelia Island, they were, having been deprived of the protection of their own Government, emphatically entitled to the



H. or R.

Memorial of Vincente Pazos, &amp;c.

MARCH, 1818.

protection of that Government which had obtained possession of their property. If this petition were considered as that of an individual, charging our Government with oppression, he was disposed to give it countenance; for there was no other Government to whom application could be made for a redress of such a grievance. If such a memorial were not accepted here, there was no tribunal on this side the grave to which an appeal could be made. This was a strong reason, Mr. S. said, to induce him to vote to lay the memorial on the table. If, however, the memorial was considered as emanating from a person assuming the character of an agent from a foreign Government, he was decidedly opposed to receiving or considering it; because the Constitution had provided a department authorized to accept or reject all applications of that description, and it did not become the House, by transgressing the bounds of its Constitutional authority, to interfere with the rights of those inhabitants of North America more dear to us than the mixed population of South America. If it were proper for this House to interfere at all, either in recognizing the independence of the South American Provinces, or in protecting them from the acts of the Executive, Mr. S. said he should not hesitate to do so from deference to any other authority; no influence which could be employed, should turn him aside from the path of duty prescribed by the Constitution of the land, and by his own conscience—at the same time he was inclined to treat with respect every department of the Government. On this matter, said he, let us act dispassionately. In this country, where liberty is so dearly cherished, that the very sound of the word comes home to every bosom, we are bound to presume that the Executive organ leans with a natural partiality to a cause to which is attached the idea of liberty, of a struggle for the right of self-government. But, Mr. S. said, he should not at this time commit himself, in relation to the petitions, to Old Spain, or to the Executive of his own Government—it was time enough when the question presented itself. But, he said, his friend from Kentucky (Mr. JOHNSON,) whose sentiments he always respected, whose noble animation in the cause of liberty and humanity struck him with admiration, had, he thought, improperly referred to the conduct of the Executive of the United States, as said to be involved in this inquiry. Mr. S. denied the application of this suggestion. If such were the fact, and whenever such a question was presented to him, he would not, by the rejection of the memorial, screen any functionary from censure; no respect for individual character should stand in the way of his pursuit of correct principles. Mr. S. wished for time to examine the subject, and the powers of this House. He wished to examine whether the House were departing madly from its sphere on this occasion, under the influence of feelings excited by a cause which was he acknowledged, entitled to attention. If the petition were from an individual for relief from injustice suffered under an act of our

Government, which some had so much reprobated, (justly or not he would not now say,) he would administer relief, because this was the only body to whom application could be made for it. But if it were a memorial from a professed agent of a foreign Government, it was a delicate inquiry how far, by receiving it, the House would overstep its duty, violate treaties existing with other Governments, or commit the peace of our own; it was an inquiry to be proceeded in with deliberation, with a slow but certain step. He had heard something insinuated about some influence bearing on this question—it was the idle wind which passed him by, and he heeded it not; it was a thing much talked of, but not felt—a spectre exhibited to alarm the House, but existing only in the imagination of those who called it forth. We may declaim on other topics, said he; but, rest assured, the step you are asked now to take may hazard the peace and prosperity of our country, so much loved. Rely on it, said he, there is a germ in this proceeding which, if fostered, will spring up like the upas tree, and poison all around it. As an inhabitant of Amelia Island, if the petitioner asked indemnification for loss sustained by our act, Mr. S. said he felt towards him a paternal solicitude, and desired to see justice done him. On the other hand, as a remonstrance from a foreign Government to this House, against the conduct of the Executive, he regarded the question of receiving the petition with an awful interest, and desired time to consider it. He therefore moved that the memorial be laid on the table.

The SPEAKER having decided this motion not to be in order, pending the preliminary question on the motion for refusing the reception of the memorial;

Mr. BASSETT moved to lay that preliminary question on the table; which motion having been received by the Chair—

Mr. ROBERTSON, of Louisiana, said, that he was prepared to act on the memorial at once. He thought that it ought to be received, and to pursue the course of other memorials. Many topics had been introduced on this occasion, he said, that had no relation to this question, which involved no implication of the Executive. The true question he took to be, whether there was matter contained in the memorial, on which the House could act in its Constitutional sphere—whether it presented an application respecting property, which, after the usual investigation, this House might countenance or reject. What are the facts? The United States had taken possession of Amelia Island. In respect to Galveston, in regard to which something had been said, he took occasion to state, that nothing had been done by the Government in regard to that position. Suppose the Government to have been right in occupying Amelia Island, they had not gone so far as to denounce as pirates those whom they dispossessed, but had considered them as unauthorized individuals; for, if they had been regarded as pirates, the Government would not have given up to them their vessels to pursue their

MARCH, 1818.

Memorial of Vincente Pazos, &amp;c.

H. or R.

piratical course on the ocean, but would have treated them as such. But, Mr. R. said, the Government had not considered them as pirates. When the Government of the United States took possession of Amelia Island, it was in possession of Aury, Gual, Pazos, and others. The occupants had formed a government, and elected a legislature and other officers, of whom the individual presenting this petition was one. With another of them, (M. Gual,) Mr. R. said that he was acquainted; and a more honorable man he never had known, from what he saw of him during his residence some time ago in this city. The decorum of his conduct in the best societies had procured him universal respect. That gentleman, he believed, did not merit the appellation of pirate. He was a gentleman of education, of good family, whose respectable father died in the service of his country, and his son came to this country to endeavor to obtain aid in the same great cause of liberty. Finding that he was not acknowledged as an agent, he had joined with others in the taking possession of Amelia Island, with a better view than that of pirating on the commerce of the United States, or of smuggling. A very little attention, Mr. R. thought, would show that that position promised benefits to the patriot cause of the South, by affording a naval depot, &c., which no other could have afforded, and that it was not proper to apply the term pirates to those who captured it. But the Executive of the United States had conceived that possession of that island by these authorities was incompatible with our rights, and led to a violation of our laws with respect to the introduction of slaves; though it ought to be recollected that they never had been engaged in the slave trade—the Spaniards and Portuguese alone having been engaged in that nefarious traffic. But, the Government having taken possession of that island, and of the property of these individuals, what means of redress was left for them? Could they go into a court of justice? Had the Government of the United States established a government in Amelia? In what situation were the people of that country? Were they in possession of the rights of American citizens, or were they subject to military government? If so, in what way were questions of property to be tried there; or how otherwise adjudicated than by authority of an act of Congress? The individuals who formed the enterprise against Amelia Island, Mr. R. added, were not pirates: they were authorized, as during our Revolution our agents in France and elsewhere were authorized, to grant commissions to privateers—the Governments they represented having, like ours at that time, declared independence. Owing debts in this country, and deprived by the act of our Government of the means of paying them, they had submitted this point to Congress. Could not Congress take into consideration the propriety of appropriating to their use that property which our Government had wrested from them? This, Mr. R. said, was the question. Whether the individual petitioning should or should not be recognised as an agent of these

authorities, was a question not now to be decided, but after the petition should be received and considered.

Mr. COLSTON rose merely to obviate an impression which might have been made by the course he had already taken in this discussion. He had asked for the reading of this memorial, only for the purpose of obtaining information, and in order to be able to vote with a full understanding of the question; because the petition might have been from an individual for the restoration of private property taken at Amelia Island. In the course he should now take, he said, he was not prompted by any particular respect for the gentleman who fills the Executive office—for he really did not feel it—but he had a respect for the office. The memorial was either from an individual claiming relief, or from the agent of a foreign Government. If considered as from a private individual, the memorialist acted in a character he had no right to assume; if considered as an agent of a foreign Government, it ought not to be received. He would not say that there may not be cases in which a memorial from a foreign agent might with propriety be received here; for he would receive one from the Prince Regent of Great Britain, or any other foreign authority, on a proper occasion; but he would not entertain a petition from a foreign agent calculated to sow dissensions among this people, and in the nature of an appeal from the Executive to the people. He therefore felt himself bound to vote against receiving the memorial; but, if a petition were presented for relief in this case, free from improper imputations on the Executive authority, &c., he had no hesitation to say he would receive it with pleasure.

Mr. FORSYTH said he hoped the House would not agree to permit this memorial to lie on the table. The gentleman from Virginia, who had not heard the memorial read, would find, on referring to it, that this person presented himself to the attention of the House in a public capacity, as a Representative of a political body, claiming indemnification for injury sustained by acts of our Government, after complaining of its conduct. The question, then, for the House to consider was, whether, when the Constitution has placed the conduct of our foreign relations with the Executive, a foreign agent shall be permitted to appeal from the Executive to this House? Will you, said Mr. F., permit him to suppose that the Executive of the United States, the agent of the people of the United States in this respect, has acted in a manner contrary to the wishes of the people or of their Representatives? What were the questions, he asked, which a consideration of this petition would present? Why, these: Has the conduct of the Government been correct? Has it been such as to demand the restoration of the property taken at Amelia Island? These, he said, were questions, to discuss which would be to enter into the whole scope of our policy in respect to our foreign relations. What could the House do? Could they reverse the proceeding complained of? If



H. or R.

Memorial of Vincente Pazos, &amp;c.

MARCH, 1818.

ly differ from the Executive in regard to the policy which had been pursued, said he, you can express your opinion to that effect by resolution; and I ask if this House will permit itself to be required to do this by the agent or representative of any foreign nation, independent, or claiming to be so? Though not then arrived at maturity, Mr. F. said he well recollected the sensation once excited throughout the country by the menace of an appeal by a foreign agent from the Executive to the people of the United States. The neutral policy of the United States at that time, in regard to the French Government, was odious to the Directory; and their agent here threatened to appeal to the people from the Government. What was the consequence? That one, who was previously very popular in the United States, became an object not only of suspicion but of contempt. His popularity, great as it was, had not been able to withstand the shock produced by the mere threat. Here, said Mr. F., we have in this memorial not a threat merely, but a threat carried into execution; and we are called upon to be the instruments of this agent of a foreign Power, to carry his appeal from the constituted authority to the people of the United States. Mr. F. said he was not the apologist of the President of the United States, or of the administrators of the Government; he cared not, in his conduct as a member of this House, either for their feelings as individuals, or for their characters as public officers. In the decisions of this House, the members would regard no such considerations. But it was due to themselves and to the Government which the people have framed for them, to suffer questions to be raised in this House by a foreign agent touching the conduct of the Government of the United States in any of its relations. The case of Beaumarchais, which had been referred to, had no analogy to this. He having petitioned Congress for payment of a private claim, and having been refused, had asked the aid of his own Government. How had that Government afforded it? Had the French Minister dared to insult this Government or people by applying immediately to this House in the name of his sovereign? No; that Government knew the proper mode of proceeding, and applied to the Constitutional organ, the Executive. In the present case, it ought to be noted, the memorialist did know the proper course, and had applied to the Constitutional organ of intercourse with foreign Powers; he had not been satisfied, however, with the answer—the policy of the United States had not been agreeable to him—the Executive had refused to do him justice, he thought, and therefore presented himself to this House. If the President have done wrong, said Mr. F., it is a question for our consideration and on which we ought to express our opinion, but in a proper manner, and not at the instance of the agent of a foreign Power. From a respect to ourselves, and to the Government of our choice, Mr. F. said he would neither consent to lay this memorial on the table nor to receive it.

MR. SERJEANT said it was due to the Govern-

ment and to the nation not to receive the memorial. It would be seen, on reference to the memorial, that M. Pazos had come to Congress because, as he said, the Executive had not done him justice. It was therefore a direct appeal from the Executive to Congress, and an appeal grounded, not on the defect of authority in the Executive, but one which, admitting the authority of the Executive for what had been done to be full—and nobody had questioned it—called upon Congress to reverse the proceedings and undo what the Executive had done. Whoever would look at the memorial, would find that the property seized was in itself nothing in the view of the memorialist, and scarcely entered into the scope of his appeal. Mr. S. referred to the concluding clause of the memorial, in which reliance is expressed that this House will give a dignified support to the Republican cause, &c. All this was preceded by a statement, such as this individual had thought proper to make of the course which had been taken in regard to Amelia Island, and by complaints not of the conduct of the Executive only, but of the admiralty court; so that the House, to comply with the prayer of this petition, must revise not only the conduct of the Executive, but that of the judiciary also. It was, therefore, a direct appeal from the Executive to the House. Now, Mr. S. laid it down as a principle, that, in respect to foreign Powers, and the agents of foreign Powers, it was the duty and the interest of this Government to present itself as an entire Power; that foreign nations should never be permitted to know this Government but in its integral character. The consequence of a different course would be, that, whilst the Constitution of the United States intrusts to the Executive the conduct of our relations with foreign Powers, we should, if the precedent now sought were established, have every foreign minister thus going the round, and exciting the one branch of the Government against the other. Every one must see that the effect would be to destroy the harmony of our Constitution, and eventually the body politic. And, if failing of success with the departments of the General Government, why not, on the same principle, apply to the Legislatures of the States, and by that means attempt to overrule the decisions of the proper departments of this Government? Mr. S. hoped, he said, it would be understood that he did not mean to touch on the topics introduced into this discussion, for or against the persons whose agent the petitioner professed to be; that was a matter which might in various ways be brought forward, and indeed notice had been given that in a proper manner it should be brought to the view of the House. But, said Mr. S., shall the agent of a foreign Government come into this House, and ask us to give a sincere support to the cause he is engaged in, by overthrowing everything that has been done by the Executive? We are not competent to this course; for, if we are to hear representatives of foreign Governments on one side, we must hear representations also on the other; and, instead of performing its legisla-

MARCH, 1818.

Memorial of Vincente Pazos, &amp;c.

H. or R.

tive functions, Congress must erect itself into a tribunal for deciding controversies between nations. If any individual within the territory occupied by the forces of the United States, has thereby sustained injury, let him come forward. Such, however, Mr. S. said, was not the present case, the memorial not asking for a single farthing of indemnification for any individual whatever; but the House was asked to restore the military stores, means, &c., which had been found at Amelia, so that these authorities may carry on the war as effectually as they say they could have done, but for the taking possession of their position by the United States. In other words, said Mr. S., we are called upon to review the whole question, avowedly for the purpose of giving these authorities support, and of putting them again in possession of their entire military force, &c. This, said he, is a course totally inconsistent with the spirit of our Government. However we may differ among ourselves; however we may distribute power among the different branches of the Government; however we may think of the individuals who administer those various departments; yet, when we come to establish rules of conduct, by the observance of which this Government may be hoped to be transmitted unimpaired through a long succession of ages, it will be found that we must, on all occasions, present ourselves to foreigners as an entire body, reciprocally supporting each other—a body, which, when it undertakes to reprimand or chastise its officers, or reverse their proceedings, does it for its own sake only; a body, the component parts of which do not fly from their sphere for the purpose of jostling each other, to give effect to any feeling.

It was obvious that there was on this subject a great deal of feeling; but that did not justify the reception of this memorial. It could not be received for another reason; for the very first step must be to examine the credentials of this petitioner, and of those under whom he acts; whether M. Pazos is deputed by those authorities he claims to represent, and whether they act by proper appointments of their respective Governments. This was an insuperable difficulty. If the petitioner had presented himself as an individual, the case would have been different; but it would be extremely difficult to reduce the pretensions of this memorial to such a size that it could be sent to any committee. For this reason, Mr. S. said, he would not receive this petition, though he would not show it further disrespect. He was willing to say that a mistake had been committed in offering it; but he could not well see how that plea could be made out, for the House ought not to lose sight of the fact, that this agent knew where he ought to apply, and, with that knowledge, after being refused, had come into this House for redress. To show this case in a stronger light, Mr. S. referred to the case of a suggestion to Congress by the President, during the present session, of the expediency of a remission of certain duties improperly levied on British vessels under the commercial convention.

Suppose, said Mr. S., the Minister of Great Britain, styling himself as such, had come to this House with an application to this effect; should we have entertained it? Certainly not. Some allusion had been made to what had been called the Irish and Swiss petitions, presented and disposed of at the present session. Undoubtedly the gentleman who had made the allusion had been misled by names. Those petitions were from citizens and from individual foreigners residing within the United States, praying permission to purchase public land on certain terms. If they had formed themselves into a community, and, assuming a national character, had applied to Congress for a redress of grievances, their petition would not have been received. Those petitions presented questions of internal policy merely; and Mr. S. said he was sorry that they had been placed in a light which might be prejudicial to them, by confounding them with a case so totally dissimilar.

Mr. BASSETT said he had made the motion to lay the subject on the table, under the impression that the questions embraced in it were of too much importance to be acted on lightly, or to be evaded by a hasty refusal to receive the petition. As, however, gentlemen professed themselves prepared to act on the question, and had gone on to discuss it at large, he should not further oppose a present decision. He was not himself prepared to act on the subject. He could not help feeling surprised, he said, that gentlemen should attempt to assimilate this case with that of a foreign Minister, whose province was entirely different, whom it was the interest and duty of the Government to keep within the pale of his functions; and against whose aberrations the Government ought to present one front, because the Minister stands in the place of his Government. Was that the case with the present petitioners? No, said Mr. B., we reject them as Ministers, and they come before us as individuals. The right of individuals within the United States to petition for a redress of grievances could not be restrained by any power. What was the established practice of the House? That petitions, when received, are received without any other question than whether they be decorous or not. Whether they are reasonable or unreasonable, was not decided until the House had investigated the subject. This was the regular course; but, if gentlemen were prepared to act on the subject, Mr. B. said he would not stand in the way, and therefore withdrew his motion for laying the question on the table.

Mr. LIVERMORE said this was a question on which he had much doubt, and, although he had attended carefully to the debate, that doubt was not yet removed. It seemed to him, he said, that when a memorial was presented to the House, it was too late to take a question whether it should be received, it being in possession of the House. If so, the time of the House had been unnecessarily consumed. As regarded this memorial, Mr. L. said he was inclined to think it was for the interest of the United States to receive informa-



H. or R.

Internal Improvements.

MARCH, 1818.

from all sources, and not to make distinctions whether it came from a proper or improper person. Might it not give information which it was proper for this House to possess? If it might, as the slight reading which it had received sufficient attention to be given to it? I have heard read, said Mr. L., and am not alarmed at its contents; nor do I see why any gentleman should be alarmed at receiving a communication, because it is from a person who happens not to be very popular with us. Mr. L. was in favor of giving the usual course to the memorial; and could not see how the motion not to receive the memorial could apply, after the memorial was in possession of the House.

Mr. TUCKER rose, he said, to renew the motion of his colleague to lay on the table the proposition of the gentleman from Georgia. He had declared, when he was up before, that if this paper contained no application on the subject of a private claim, he should not hesitate to reject it as the appeal of a foreign agent to this body from the Executive. But, as well as he could understand the paper, as read by the Clerk, under the usual disadvantages experienced here, he had supposed it contained private matter. While attending to gentlemen, he had no opportunity of examination. Should he be satisfied, on examining the paper, that the claim in relation to the property taken at Amelia was not on the part of individuals, he should unhesitatingly vote against its reception. Should the motion not be laid on the table, he should be compelled to vote against a proposition to reject, to enable him to obtain further information.

Mr. CASS expressed his hope that this motion would not prevail. He was obliged on this occasion, as on a former, to differ from the gentleman from New Hampshire, and express his hope that this and all such petitions would be rejected. What sort of an example, said he, are you about to set? His colleague had correctly stated the excitement which had been heretofore produced by a threat of an appeal by a French Minister; this was a parallel case, except that this Minister was not accredited—a petition from a foreign agent, having no other object, that could be discovered, than to complain to Congress that the President had not done him justice. If this appeal were permitted, he should expect it soon to be followed by another, for it was rumored that a very brisk intercourse had recently taken place between the Executive and the agent of another foreign Power; and, receive this memorial, said Mr. C., and you may expect to receive the pamphlet of *Verus* vamped up into a petition, unless the correspondence which has taken place shall have been entirely satisfactory to the Spanish Minister. Permit me to say, that I consider not only the conduct of Genet, and the publication of the pamphlet of *Verus*, but this petition also as pieces of impudence. As to this memorial, laying aside other considerations, and not noticing its contents, he wished it to be rejected on the simple ground of its being an attempt to appeal from the decision of the Executive to this House on a

matter between the United States and a foreign Power.

Mr. FORSYTH added a single remark, that if, as the gentleman from Virginia suggested, this memorial might contain private matter which ought to be received, it could not be separated from what was objectionable. The refusal to receive it could produce no injury to the individual, because if he was employed as an agent to apply for the restoration of private property, if any, taken by authority of the United States, it was easy to present that object in a proper shape, and no doubt the House would pay due attention to it.

The question was then taken to lay Mr. FORSYTH's motion on the table, and negatived by a considerable majority.

The question recurred on the motion that the memorial be not received, and was decided in the affirmative—yeas 127, nays 28, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Vermont, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bateman, Bayley, Beecher, Bennett, Boss, Bryan, Burwell, Campbell, Clagett, Claiborne, Cobb, Colston, Comstock, Cook, Crafts, Cruger, Culbreth, Cushman, Darlington, Drake, Earle, Edwards, Elliott, Ervin of South Carolina, Folger, Forsyth, Gage, Garnett, Hall of North Carolina, Hasbrouck, Herbert, Herkimer, Hitchcock, Hogg, Holmes of Connecticut, Hubbard, Hunter, Huntington, Irving of New York, Johnson of Virginia, Kirtland, Lawyer, Linn, Little, Lowndes, McLane, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mercer, Merrill, Middleton, Mills, Moore, Morton, Moseley, Murray, Jeremiah Nelson, H. Nelson, New, Ogden, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Rich, Richards, Ringgold, Robertson of Kentucky, Ruggles, Sampson, Savage, Sawyer, Schuyler, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Silsbee, Sinkins, Slocumb, S. Smith, B. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Terry, Tompkins, Townsend, Tyler, Wallace, Wendover, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Bassett, Bellinger, Bloomfield, Blount, Boden, Desha, Forney, Harrison, Hendricks, Johnson of Kentucky, Jones, Kinsey, Livermore, Mumford, T. M. Nelson, Porter, Quarles, Robertson of Louisiana, Southard, Spencer, Strother, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, and Whiteside.

So the House determined that the petition be not received.

#### INTERNAL IMPROVEMENT.

The House again having resolved itself into a Committee of the Whole, on the subject of the report of the committee respecting internal improvement—the question being that the Committee rise and report to the House the resolutions which have been agreed to—the debate was resumed on the main question.

Mr. SAWYER, of North Carolina.—If my opinion should correspond with the President's, I shall

MARCH, 1818.

Internal Improvements.

H. or R.

not think the worse of it on that account. I do not intrench myself behind the President's veto, but as the gentleman from Kentucky (Mr. CLAY) has placed me there, I am perfectly satisfied with my station. While I am defended by his shield, I shall feel safe from that gentleman's attacks. If it were any gratification to the gentleman to notice the applause with which the President was received in his Northern tour, I hope another opportunity may shortly be afforded him for a similar gratification in his Southern tour. Like the sun, I hope he will soon visit us, and cheer and enliven us in his annual course. I, for one, will be ready to hail his approach, and to give him a warm and hearty welcome, if for nothing else but the very course he has observed in regard to the subject now before us, and which other gentlemen have thought proper to condemn. I stated, on a former occasion, that, so far from feeling any repugnance at his interposition in the first instance, I was glad of it, as it was intended to save us all the useless waste of time and treasure, which this discussion would necessarily give rise to; and I am only sorry we did not improve the hint. It was for that reason I moved to postpone the subject indefinitely; for, as I anticipated the result, that there would not be a Constitutional majority in favor of it, I was unwilling to see the commencement of this wordy war, which has been waged for several days with unabated warmth, to the no small entertainment of the spectators, but very little, in my apprehension, to the settlement of this question, or the furtherance of the important business of the nation. And, although I may not be able to satisfy the gentleman's (Mr. CLAY) call on me for a Constitutional speech, yet I will promise him it shall not be an unconstitutional one, which is more than I can say of some speeches I have heard. On the constitutionality of this question, I stated that I did not think it worth while to enter into a discussion of that point, for I have too humble an opinion of my own powers, to expect to convince others; and if I can advance enough on that head to satisfy my own friends, as I can my own mind, of the propriety of the vote which I shall give, I throw my javelin of hope no farther. I have a sufficient reason to satisfy my own mind, on the ground that there is no Constitutional provision delegating this power to Congress; if there be, let those who assert it point it out. Do they expect to show it by a long course of argument? I, who have sworn to support the Constitution, must have something to satisfy my conscience more positive and express than any labored attempt at a constructive power, by so fallacious a method as argumentation. Nor shall I feel satisfied with the production of precedent. Precedent, without law, has no weight with me. If other gentlemen have thought the right Constitutional, that is no reason I should; for that would be to make others' consciences the standard of mine, which I will never do in politics nor religion. I must have a proof so clear, that there can be no hook or loop to hang a doubt upon. Did I understand some gentlemen to say, that the General Government

could and ought to exercise this power without the consent of the States? Such language would be more suitable to that of Nero to a Roman Senate, than the occasion to which it was applied the other day by the gentleman from Virginia, (Mr. MERCER.) Strike out the words in the resolution, "with the consent of the States," and undertake to enforce this high-handed doctrine, and the Constitution will be in a fair way to be cured of that plethora, the gentleman from Kentucky (Mr. CLAY) spoke of; for, if it requires depletion, it will, most assuredly, be let blood. If such a violent course as that be attempted, I apprehend it will be met with more substantial arguments than any used here; and those who may come with their axes, spades, and shovels, to tear the virgin bosom of our country, in defiance of us, may find themselves forced to intrench themselves behind the first bank they throw up—for the very first hole they dig may prove the grave of some or others of us. Should my State unfurl her banners, I, for one, would plant myself under them, and resist, till the flesh were hacked from my bones, before I would submit to such despotism. If the States have a mind to cross their arms, and suffer themselves to be tied and bound together in this cord, like a knot of slaves, let them; but while our hands are free, I trust we shall use them in defence of our rights, from whatever quarter they may be invaded. I was born free; so have I lived; so will I die. It is true the gentleman from Kentucky stated, it might be prudent to obtain the consent of the States; indeed I think it would.

Under what clause of the Constitution is this right conveyed? The tenth article of the amendments declares, that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States themselves, or to the people. This question resolves itself into a syllogism, and they must first prove the major and minor, before they draw the conclusion; they must show, that the power is delegated to the United States, or it is prohibited by the Constitution to the States, or the catastrophe must follow that it is reserved. Perhaps it may be looked for in the first clause of the eighth article, under the terms "general welfare." Now, what would a plain, unsophisticated man say was the meaning of the terms "general welfare?" Political health, the full enjoyment of the Constitutional faculties of all the States; for it is a relative term, and means no more than that the General Government should have a watchful eye over the common weal, and see that each member of it enjoyed that portion of political sanity, and maintained that true course in its revolution around its own axis, imparted to it at its creation. They have all hitherto existed and flourished under this wholesome and Constitutional protection of the General Government; nor do they now see any occasion for the display of this extraordinary and officious care, proffered to them by the resolutions on the table. They have gone on very well in their old course—and, I think, they would



H. OF R.

Internal Improvements.

MARCH, 1818.

rather dispense with this uncommon solicitude of the part of the General Government for their general welfare. Enjoying a good share of health, they see no necessity of being obliged to swallow poison to keep them in good plight, because the master or family physician may prescribe it. I have heard of persons being killed with too much care; and, I believe, it has fared with States as with individuals. Augustus Cæsar, out of a kind concern for the welfare of his country, generously took the management of it into his own hands. Oliver Cromwell promoted the general welfare of England by a similar operation; and, in modern days, Bonaparte manifested the same feeling, and extended the same fostering hand over his countrymen. I only hope this is the last practical commentary I shall ever witness upon the text of general welfare.

Let us examine the 8th section of the 1st article: to establish post offices and post roads. On this head, the gentleman from Kentucky (Mr. CLAY) admitted there might be a concurrent jurisdiction, and that the principle might be pushed so far as to produce collisions between the States and the General Government. Does not this prove that the right is not clearly delegated to the United States? For, if it was, this collision could not take place. There is no collision between the parties in the exercise of other delegated powers. The instance the gentleman puts, of an excise, on the same article, by the States and General Government, is not applicable to the case, because the jurisdiction of each might be complete and independent over the subject, and that of the General Government is expressly given. The Constitution does not grant power by halves; when it professes to make a transfer of power, it gives it completely and absolutely. The idea of the United States keeping the roads in repair, and, at the same time, leaving murders and other offences committed to them to the punishment of State courts, is entirely irreconcilable with the power and jurisdiction of the United States in analogous cases. Murders committed in forts and arsenals are exclusively under the cognizance of Federal courts; and if the United States had jurisdiction over post roads, their tribunals would be equally and exclusively paramount.

A great display of etymological learning has been afforded on the word "establish." The gentleman from Kentucky has contended for its meaning to be, to make and construct. I cannot think it can be tortured into such a meaning in relation to roads. Its true meaning will be found in application to the nature of the object expressed. Thus to establish post roads, is merely designating the transportation of the mail by a certain route. If the framers of the Constitution meant, that Congress should make and construct roads, they must have said so in as many words; because, they could not have found any other words expressive of that intention. When a new road about being made, the common definition of the operation is to run or to cut, but never to establish. How could they mean, to make and construct roads, when they were already made

and constructed under the authority of the several States?

This question has been already so much debated, that I shall not detain the Committee with such other reasons as occur to me on the Constitutional points, as I merely meant to show, that I, at least, entertained doubts on the subject. When I once doubt upon a Constitutional question, I cannot give it my support, particularly when it is for the assumption of power into my own hands. Nor are these doubts to be removed by the uncertain deductions of argument. When I hear a speech of an hour, attempting to prove a Constitutional point, I naturally begin to have my doubt about it; and several speeches, of two or three hours each, with the same view, may remove them, but in a very different manner from that which the Speaker intends; for, if the power be granted, why all the pains to show it? It is only necessary to turn to the clause, and, if it be there, we have ocular demonstration, and the question is decided. But I have seen so much of the fallibility of human judgment, and of the erroneousness of argument, that I begin to admire the policy of some of the kingdoms that Gulliver visited, where, after a politician had made a long speech in favor of a certain proposition, he is forced to turn about and vote directly contrary.

A few words on the expediency of the resolutions. As to the detention of the Western mail for several days, which the gentleman so feelingly describes, whose fault is that? If the ways of the Western people are so bad, it is high time for them to mend them. Do the people of Kentucky mean to look on and see the other States making turnpike roads, and expending their wealth and industry in improving the face of the country, and then call upon the General Government to furnish them with means to make similar improvements? Do they wish to tax other States to make their turnpike roads and canals? If the gentleman's wagon stick in the mud let him apply his own shoulders to the wheel before he calls on Hercules. Look at New York, and behold the noble work she is engaged in. See Jersey, Pennsylvania, Maryland, and other States, intersected with turnpike roads and canals in every direction. Would it be fair, now that they have made such progress in these works, by their own means, that their money should be taken out of the common stock, and given to other States, who have supinely looked on and made no exertions?

The gentleman from Kentucky (Mr. CLAY) has told us of the constant stream of wealth which has flowed from his State into the Treasury, without one drop stopping by the way to enrich the soil. I can say the same of my State, with the addition that it flows through channels dug by her own hand. Suppose the gentleman was to obtain a repeal of the list of acts which he enumerated, concerning the facilitating our commerce of the ocean by the erection of light-houses, buoys, &c., who would he injure most by it? Is not the trade of Kentucky as much ben-

MARCH, 1818.

Internal Improvements.

H. OF R.

efited by the patent reflecting lamps of Lewis as any Eastern State? How are the productions of the West to obtain a market, unless through the usual channels? These are the necessary means and instruments for regulating our trade, indisputably vested in Congress by the 3d article of the 8th section of the Constitution, and which Kentucky is as much interested in as North Carolina, or any other State in the Union, of equal population. But, the gentleman, arguing in favor of the expediency of the measure, confessed, that however expedient, unless Constitutional, it would not be proper to grant the power; and I am so convinced of the inexpediency of it, that I could not vote for it, if I had no doubts about the constitutionality of it, and if I should hereafter be in favor of the only proper way to effect this object, a Constitutional amendment, it will be upon the contingency of a conviction of its expediency. We cannot now afford to make these advances, to spare the money required by this measure. I am not for giving away our money until we have paid off our national debt. We owe one hundred millions of dollars, together with a large amount of private claims, and when they are paid, and we have more money in the Treasury, than we know what to do with, I shall have no objection to let it be expended in the manner proposed, under a Constitutional amendment; but, at present, I think the nation would be more benefited by this money remaining in the Treasury, than any use it could be put to for internal improvement. The greatest improvement of the nation would be to fill its coffers. Let our improvement, like charity, begin at home. Never let us forget the straits we were put to last war for want of money, and which drove this nation to the very brink of ruin. We don't know how soon we may be involved in another. I think it behooves us to improve and to take care of our resources, and be always ready for the worst. At any rate, we should be just, before we are generous, for, besides the national debt, there are private claims on your table to an incalculable amount, and if only a comparatively small portion of them are allowed, it will make a sensible diminution of the balance in the Treasury. The gentleman from Virginia (Mr. TUCKER) seems to apprehend a great deal of difficulty about the disposal of our surplus money. If he will only wait until the end of the session, I promise him an end of his difficulties on that head. Our conduct puts me in mind of the Kings of Sweden and Denmark, when, an island rising up between them, each claimed it, and after notes of dreadful preparation between them to decide the title by arms, the island sunk into the sea again. Although this treasure is now floating above the surface of the Treasury, yet will it before long be swallowed up in the unfathomable gulf of private claims. Three Presidents have labored under the same difficulty with the gentleman from Virginia, and have recommended a similar disposition of our money, but the House soon found there was no necessity for torturing their ingenuity on that head. We have made

some heavy appropriations already, besides several dreadful blows aimed at the Treasury, which missed it by a hair's breadth. And there are now before us two claims alone, which, if allowed, will make a huge void space in its vaults of at least one-fourth of their capacity. I think it the best policy to wait and see if we have any money to dispose of, before we fall out about the method of disposing of it. For if, after several days' contention, it should be decided in favor of the gentleman's proposition, the unwelcome intelligence should arrive, that the cause of our disputes had disappeared, it would be placing us in rather a ludicrous situation. Therefore, having doubts as to the constitutionality of the resolutions, and being certain of their inexpediency, I am constrained to vote against them.

Mr. JONES, of Tennessee, said he confessed that it was with the highest degree of diffidence that he ventured to express an opinion upon a subject of so much importance as that now under consideration, and more particularly when that opinion was at variance with the opinion of men of age and experience, and who, he had no doubt, were deeply skilled in the science of politics. But, said he, if, by the adoption of this resolution, the citizens of this Government are to be clad in sackcloth and ashes, as has been stated by the honorable gentleman from Virginia, if naught but sighs and groans are to be heard in the land, I think it but mere justice that I should state to the world the reasons which have induced me to give a vote fraught with such direful consequences.

I feel convinced, sir, that if, in examining this question, we shall closely adhere to the declared object of the Constitution, and to the articles thereof, delegating the power whereby that object is to be effected, we shall have but little difficulty in coming to the conclusion that Congress has the power which we contend for. What, then, sir, is the declared object of the formation of this Constitution? We have it in the words of the framers thereof themselves: "to form a more perfect union, to establish justice, to insure domestic tranquillity, to provide for the common defence and general welfare, and to secure the blessings of liberty to ourselves and to our posterity." Having thus declared to us what their object was in framing the Constitution, and keeping steadily before their eyes the object of this intended compact in the 8th section of the first article thereof, they declare that Congress shall have power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence, and general welfare of the United States.

What, sir, is intended to be meant by these general expressions "to provide for the common defence and general welfare?" It is contended (and I think correctly too) that no separate and distinct grant of power was thereby intended, but, that the manner in which the money to be raised by the taxation, immediately previously spoken of, should be expended, was thereby pointed out. Then, sir, this part of the Constitution would



ask this language: Congress shall have power to lay and collect taxes, &c., for the purpose of providing for the common defence and general welfare of the nation. And it is further construed (and which I also admit to be correct) that the manner in which Congress is to provide for the common defence and general welfare is specifically pointed out, in the subsequent part of the same section of the Constitution, by raising and supporting armies, declaring and prosecuting war, &c. Thus far, sir, we seem well to agree; but when we come to inquire as to the incidental powers necessary to be exercised—exercising these specified powers—we differ widely. Those who deny to Congress the power to open roads and canals; to clear the channels of rivers, &c., say it, because, they say, it is not absolutely necessary in the exercise of any specified power, that, when that absolute necessity does exist, when war actually exists, and a superior force at your heels, you may make a road whereby you may effect your escape, (and, I suppose, they would add,) if you have time to do so. This is the strict method of construing the Constitution, sir, would, it seems to me, render it entirely ineffectual. Let us test this mode of construction upon the section before alluded to. We all agree that the different parts of the eighth section, taken in connexion, may be correctly construed to mean that Congress shall have power to lay and collect taxes, duties, imposts, and excises, for the purpose of providing for the common defence and general welfare, which shall be done in the manner hereafter specified, to wit: raising and supporting armies, &c. Now, sir, let me hold those gentlemen to this method of construing the Constitution: Those gentlemen, I have no doubt, will admit, if, by the Constitution, we are required to raise and support armies; and the means by which Congress is to procure the money to raise and support these armies, are specifically pointed out, that no other means can be resorted to. If the Constitution has declared, we all admit it has, that Congress shall have power to lay and collect taxes, duties, imposts, and excises; and that this money is to be expended in providing for the common defence and general welfare, by raising and supporting armies, for the thing, I ask whether, according to this method of construction, Congress can appropriate money procured in any other manner to the raising and supporting of armies? What, then, is she to do with the money which she is authorized to borrow on the credit of the United States? She cannot, according to this mode of construction, apply one dollar of it to the support of her armies, because this money is neither procured by laying and collecting taxes, duties, imposts, nor excise. Sir, this method of construction would make of the Constitution a perfect skeleton. When we are thus construing the Constitution, sir, we lose sight of the polar star by which we should be directed; we lose sight of the great objects of the formation of this Constitution. The wise framers of this instrument were aware that there were certain general pow-

ers necessary to the existence of any political body. These powers (or such of them as they thought necessary to the existence of this political body) they granted; but, sir, it was impossible for the framers of the Constitution then to see, or to point out, all the incidental powers which might be necessary to be exercised in exercising those general powers. A power was granted to the Congress of the United States to declare war, but has the Constitution pointed out the manner in which this war shall be prosecuted? Has it declared whether, in prosecuting this war, Congress shall be authorized to order the cutting of roads, making canals, digging wells, or levelling mountains, either of which may become absolutely necessary in preparing for, or prosecuting a war. From whence, I would ask, do we derive the power to make roads in time of war? We derive it from the Constitution. How is it granted? Simply by authorizing us to declare war; for, I suppose, it will be granted that, when war actually exists, Congress has the power to make roads through any State in the Union, for the purpose of marching our armies to any point where their services may be necessary. Well, sir, if Congress be authorized to raise and support armies for the purpose of providing for the common defence, and that, for the purpose of making those armies efficient, she may do this in time of war, I would ask why, in times of peace, we should not do what, in times of war, we are compelled to do? Sir, have we not all, nay, has not all the world, asserted this axiom, that, in times of peace, we should prepare for war? And what, I would ask, do gentlemen intend to mean by these expressions, or this axiom? Do they mean thereby that, in times of peace, we should lay and collect taxes? Do they mean, thereby, that we should fill the Treasury? I suppose not. Do they mean, thereby, that, in the words of the Constitution, we should have a well-organized militia? This, I suppose, for one thing, they do mean; but, sir, shall we be told, although we may have armies of militia, at all times able and willing to protect our liberties, that we have not the power to provide the means whereby those armies may act efficiently, by opening roads and canals, and by clearing the channels of rivers, whereby they may be marched or transported from one point of the Union to another, and whereby the means of subsistence may be afforded them, whenever their services may be necessary? Is it, I would ask, sir, thus necessary, in times of peace, to prepare for war? Upon this subject, let me refer gentlemen to the experience which the last war has afforded us; let me invite their attention to the North; see there our armies naked and starving, without a shoe to separate their feet from the frozen earth or snows; without a tent to shield them from the storm; and add to this the want frequently of a morsel of bread to satisfy a craving appetite; and, sir, when our armies were frequently snatched almost from the jaws of destruction by a partial supply, what did it cost us? or rather, sir, what would it have cost us, if the facilities of transportation and convey-

ance had been previously attended to? Sir, I will venture to say, that, for want of these facilities during the last war, we have lost many of the lives of our citizens, and millions of our money. But, sir, if this will not suffice to show that it is thus necessary to prepare for a state of war, let me turn your attention to the West; look, sir, at the map of the United States; see what incalculable advantages we should derive, viewed in a martial or commercial aspect, from the clearing of the channel of the single river Tennessee, and cutting a canal between the waters thereof and the waters of the Tombigbee river. Sir, in times of war, although your whole southern coast should be in a state of rigorous blockade, you could, on your southern borders, be enabled to support your armies by commanding the resources of North Carolina, Virginia, Pennsylvania, New York, Ohio, Kentucky, and Tennessee. What would be our situation in the present state of things? Sir, if that country were now the seat of war, and our posts there were blockaded, our armies would soon conquer themselves; they would be driven back for the want of supplies.

But, sir, there is another important effect to be produced by this system of internal improvement, whereby will be afforded to the citizens of the United States the means of transporting to market the productions of the soil; open roads, cut canals, clear the channels of rivers, and you afford facilities to commerce, give stimulus to industry, the effect of which will be individual and national wealth. But we are told that this would be infringing on State rights. With due deference to the opinion of those who think in this way, I beg leave to state, that they seem to me to confound the thing to be done, with the means of doing it, or the manner in which it shall be done. Let me illustrate this idea. Sir, admit that, in times of peace, we should prepare for war, and to do this we find it necessary to open roads and cut canals; but, on examination of the Constitution, we find that we cannot proceed in this manner, because the States have absolute dominion of the soil; shall we stop here; shall we stop short, with a spade in one hand, and the Constitution in the other, and exclaim, my country, I would provide for thy defence, but I am fettered, I am manacled by this Constitution? Is there no other method by which it may be done, than by taking forcible possession of the soil of the States? Suppose Congress should ask the leave of the States to do so, and suppose that liberty be granted; I should then like to know what article in the Constitution it is, that would prevent the General Government from proceeding. Sir, let the vote of this House be what it may on the present occasion, I anticipate with pleasure the arrival of that happy period, when the effects of such internal improvements as we desire shall be realized by the citizens of this Government, not only in the facilities which shall be offered to commerce and mutual intercourse, but when, as a necessary consequence therewith, we shall behold the growth and pros-

perity of our now infant and struggling manufactures; when, in times of war, the farmer shall not be compelled to depend on foreign markets for the sale of those articles, by which alone he can raise the money to pay the taxes, which must then necessarily be demanded of him, but when, from his own door almost, he shall be enabled to waft to the market, which his own country shall afford him, whatever is his. Sir, I would hail this illustrious period as the harbinger to our still greater naval grandeur and naval glory. Sir, we have enough of the world of our own, why should we be dependent on foreign States or foreign Powers, even for the necessities of life? Why is it, sir, that the Atlantic margin alone of this vast continent is fringed with commercial cities looking as it were to the States of Europe for their daily bread; leaving behind them a continent vast in extent, fertile as man could wish, inhabited by an ingenious, intelligent, and vigorous race of men, producing from their farms the very materials of which the articles are composed, which are repurchased by those cities from the hands of the European manufacturer? It is for want of this internal improvement—it is for want of the fostering hand of the General Government. Why, sir, in a country of so vast extent, watered with streams almost in every vale, upon the margin of each of which nature has formed her richest soil; why, sir, does naught from these streams assail the ear, but the hollow sounding of the cascade, or the cry of the winged family that feed upon the inhabitants of the stream? It is for the want of this improvement—it is for the want of the fostering hand of the General Government. What shall reverse this gloomy prospect? The hand of the General Government; she alone can bid the sounds of streams be drowned by the cheering notes of the sportive rowers; she alone can bid villages and cities rise on the margin of those streams, where the rich productions of the soil shall be manufactured for the use and comfort of those who supply the manufacturers with bread and all their raw materials. Then, sir, with delight should we behold the streams which now idly glide from their sources to the ocean, sporting alone with the wreck of age or time upon their surface, groan beneath the weight of the productions of their sister element. Then, sir, every sail which should be descried in our horizon, should not bespeak an arrival from some distant port; but sails should be descried before the streams that bear them. Sir, we do not expect that in a day or year, or in many years, we shall be enabled to perfect this happy state of things; but let us now begin it, and leave it to be finished by posterity.

Mr. COLSTON, of Virginia, said, had he been so fortunate as to gain the attention of the Chair, he had wished to express his opinion on this important subject, at an earlier period of the debate; but, having failed in his wishes, he should not now rise but for the purpose of strengthening, by some further suggestions, the view of the Constitution just taken by the gentleman from



H. or R.

Internal Improvements.

MARCH, 1818.

Tennessee. He would confine his observations to that point alone, and would be as concise as possible. The President, in recommending that the power to make roads and canals should be given to the General Government, by an amendment to the Constitution, admits that this is properly a federal power, and that its exercise, far from being dangerous, (as urged by some gentlemen with so much zeal,) would greatly conduce to the general welfare. This being admitted, let us examine the Constitution by the rules of construction usually applied to such instruments, to see whether this power, so proper to the General Government, so important to the interests of the nation, is to require, in the opinion of the President, an alteration in the Constitution itself, has really been withheld from us.

Our Government, at least, (and perhaps all others,) rests upon this great principle—the common interest and general welfare of the governed. It is a rule of construction, that all grants made for the benefit of a particular party should be construed liberally, so as to effectuate that benefit. Now the grants of power in our Constitution purporting to be made for the common defence and general welfare of this people, those which relate to the encouragement of commerce, or the defence of the community, are entitled to this liberality of construction. As it is admitted, then, by the President, that this power would very properly attach to the General Government, and if possessed by them would greatly conduce to the best interests of the nation, it results, that, in examining the Constitution for this power, a presumption should arise, favorable, rather than inimical, to its existence. Let us then proceed to examine the powers granted by the Constitution, to see whether this power of making roads and canals be fairly deducible from any of the specified powers, remembering only, that, as the Message admits its beneficial operation on the interests of the Union, according to the rule of construction just stated, at least, no presumption should be admitted against it.

The preamble to the Constitution is important, as showing the ends for which the people granted to the General Government the powers therein contained.

The first of these is, to "form a more perfect Union." The tendency of the power to construct roads and canals to promote this object, has been to ably developed by other gentlemen, that it will be only necessary to allude to another rule of construction, viz., that where the intent of the parties, in making a grant, or entering into an agreement, is clearly ascertained, that intent should be effectuated if possible, by any fair construction of the instrument.

In the eighth section of the first article we find, that "Congress shall have power, first, to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States." Mr. C. said that many different constructions of this article prevailed, which he would proceed to examine; but to him it was

clear, that the construction just put upon it by the gentleman from Tennessee, viz.: that it was a substantive grant of power to Congress, upon several subjects, and, among others, to provide for the general defence, was correct. But, say gentlemen, "No. For then the subsequent enumeration of such specific powers as those to raise and support armies, provide a navy, &c., would have been unnecessary, as clearly appertaining to the power of providing for the common defence." The friends and enemies of the resolution before you agree, at least in one thing, viz.: that such a construction shall be given the Constitution as will render each part effectual and consistent with the whole. And do they not perceive, that by their construction, they destroy the whole operation of this first clause, jostle it out of place, and neutralize its effects? Surely, then, if any other fair construction will reconcile this difficulty, and make each part operative, and consistent with the whole, it should be preferred by this committee.

To do this, he would inquire if there were no other powers necessary for the defence of a nation than those included in the powers of granting letters of marque and reprisal, raising and supporting armies, providing a navy, organizing, arming, and disciplining the militia, calling them into service, and providing arsenals? Surely there are. For instance; it is an usual mean of defence to provide proper military instruction for those who are to hold commissions in your armies; a mean not specified in any of the enumerated powers, but which we have wisely attempted to provide by our Academy at West Point. Again, where is the power of using, in war, the assistance of persons other than our own subjects, and not constituting a part of our regular Army? Yet this power has always been exercised as necessary to the common defence, in employing numerous parties of Indians with our armies. Other instances might be adduced were the Committee not already exhausted by the length of this debate. But let us apply these observations to this section. The general power of providing for the common defence is granted, then, in this as in several other parts of the Constitution; for greater security, specified powers, contained in the general, are enumerated; the effect of the whole is, that the specification certainly conveys the particular power, while the general grant conveys all other powers necessary to the common defence, not contained in those particulars, or not forbidden to be exercised. Thus, by this construction of the Constitution every part is made to stand consistently with the whole; each part becomes operative; no part is degraded into a nullity; and, without it, all the operations of Government, in time of war, would be clogged with innumerable difficulties. Again: in what other part of the Constitution is the power to lay and collect taxes, &c.? It is not denied that this section conveys this power; and by what fair rule of construction do gentlemen undertake to garble this clause, to make one part of it operative, and to deny all effect to another,

MARCH, 1818.

Internal Improvements.

H. or R.

contained in precisely the same words? Other gentlemen construe this section as if it were written: "Congress shall have the power to provide for the common defence, &c., by laying and collecting taxes," &c. But, not to mention that this would require a different arrangement of the whole sentence, it would be liable to the objection before urged, viz.: that, in a point of such infinite importance as the common defence, you would debar the Government from some of the most ordinary and proper means of securing it.

Mr. C. said he had endeavored to show, that the first clause of the eighth section of the first article contains a substantive grant of power to Congress to provide for the common defence; and, by the seventh clause, all powers necessary and proper for carrying into effect any of the specified powers, are also granted; that is, all powers necessary and proper, providing for common defence, are granted to Congress. It now becomes proper to ascertain the precise meaning of these words, "necessary and proper." And surely no gentleman will contend that they should be so construed, as that the grant of some specific power would become nugatory, before any power resulting from this seventeenth clause could be constitutionally used; or, as if the word *absolutely* had been prefixed to the word *necessary*? But I beg leave to refer the Committee to the reasoning of General Hamilton on this subject, as placing it in too strong a view to be resisted. [Mr. C. here read an extract from General Hamilton's report on the constitutionality of a National Bank.] This reasoning, sir, is to my mind conclusive, and fully establishes that the word *necessary* is here to be taken, not as if "*absolutely*" were prefixed, but in its common, popular acceptance, of highly important. All powers, then, highly important and proper to the common defence, are hereby granted. The question, then, is brought to this point: is it highly important to the defence of the nation that the nation itself should have the power to erect military roads?

But, said Mr. C., as every relation which the exercise of this most important power could have upon the interests or security of the community has already been most ably presented to the view of the Committee by gentlemen who preceded me, and as I only rose to support a particular construction of the Constitution, I will not intrude upon their patience, fatigued, as they must be, with the unusual length of this discussion, by a repetition of views already before them. I would briefly observe, however, that the importance of this power, as a military measure, has been manifested by the example of those nations most eminent in peace and in war, from the days of the Roman Republic to those of Napoleon and Alexander of Russia, and might be demonstrated by the history of our own country during the late war, did not the conduct of the President, in directing the making of the road from Plattsburg to Sackett's Harbor, obviate the necessity of such further proof.

Mr. C. said, he had now attempted to show,  
15th CON. 1st SESS.—41

that the objects declared by the people, in the preamble to the Constitution, to have been the inducements to its adoption, would be most effectually answered by the exercise of this power by Congress; that the Constitution had granted them a distinct substantive power to provide for the common defence; that all powers highly important to the exercise of this substantive power, were also granted; that the power to erect military roads was highly important to the defence of the country, and that, consequently, it could not, by a fair construction of the Constitution, be withheld from Congress.

Mr. H. NELSON, of Virginia, then took the floor against the report and resolutions, and occupied it till nearly sundown.

When, before he had concluded his remarks, the Committee rose, and obtained leave to sit again.

THURSDAY, March 12.

On reading the Journal this morning, in the accustomed manner, a discussion arose as to the mode in which the entry had been made respecting the petition of Vincente Pazos, presented on yesterday. After stating the official character of the petitioner, the entry proceeded to describe, briefly, the contents of the petition, and particularly to state that the petitioner, having failed in his application to the President for redress, applied to Congress for relief.

A motion was made by Mr. POINDEXTER, to amend the Journal, by striking out that part which described the contents of the petition. In support of this motion it was urged, by him and others, that the petition, not having been received by the House, the contents ought not to be spread upon the Journal, as was usual; that, by so doing, publicity was given through the Journals of the House, to a petition of exceptionable character; and that it was sufficient to state only the official denomination of the petitioner.

On the other hand, it was contended that the ayes and noes being recorded, it was necessary to state so much of the petition as had been inserted, in order to show the grounds on which the House acted; that the Constitution requiring the ayes and noes to be recorded, the nature of the question on which they voted should be clearly stated; that to state the official character of the petitioner was not sufficient, because the appeal from the Executive was a ground on which probably many of the majority had voted; while, on the other hand, the claims of the petitioner, which Congress alone could redress, being the ground on which some of the minority might have voted, ought equally to be stated.

The House, by a large majority, overruled the motion, and thus sanctioned the entry as made on the Journal.

Ordered, That the report made yesterday by the committee on that part of the President's Message which relates to roads, canals, and seminaries of learning, upon the subject of the Cumberland road, be recommitted to the said committee;



H. or R.

Internal Improvements.

MARCH, 1818.

and that Mr. WESTERLO and Mr. TARR be added thereto, in the places of Mr. INGHAM and Mr. STARRS, who are absent on leave.

The SPEAKER laid before the House, a letter from the Secretary of War, transmitting, in obedience to a resolution of the 6th ultimo, a statement of balances now due, respectively, from such persons, now or heretofore acting in the quartermaster's and paymaster's departments, whose accounts have not been settled for the period of more than one year previous to the 27th December last; which was read and ordered to lie on the table.

The SPEAKER also laid before the House, a report of the Secretary of War, on the petition of Thomas Williams, of the Iroquois tribe of Indians, referred to him on the 13th of January, 1816; which was read and ordered to lie on the table.

The SPEAKER also laid before the House another report of the Secretary of War, made in conformity to the act of 10th April, 1816, "to provide for persons disabled by known wounds received in the Revolutionary war;" which was referred to the Committee on Pensions and Revolutionary Claims.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill relating to duties on foreign merchandise; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. LOWNDES also reported a bill providing for the deposit of wines and distilled spirits in public warehouses, which was read the first and second time, and committed to the Committee of the Whole on the bill supplementary to an act, entitled an act regulating the collection of duties on imports and tonnage, passed the 2d of March, 1799.

#### TRANSFERS OF PUBLIC DEBT.

Mr. LOWNDES, from the Committee of Ways and Means, who were instructed by a resolution of the 4th ultimo, directing an inquiry into the legality of transfers of public debt, made to the Bank of the United States, to secure the payment of loans made to them, made a report, which was read and ordered to lie on the table. The report is as follows:

"That they do not perceive in the words or principles of the law incorporating the bank any reason to object to the practice, which they understand to prevent, of admitting as a substitute for personal security that which results from a deposit of stock, with a power to sell it when it may be necessary to enforce payment of the debt. If the object of the law in limiting the articles in which the bank may trade be to secure to the mercantile community the facilities which a large banking capital, should offer, this practice well conforms to such a design. If the object be (although this is not probable) to prevent the competition of the bank in the purchase of stock, and its consequent enhancement in price, although the practice may prevent the necessity of some sales, this beneficial effect, which may sometimes mitigate commercial distress, cannot be objected to by a just and humane Government. Nor can it be objected to the practice in question that it may enable the bank to throw into the market a quantity of stock which would depress its value, since

this would be to injure the bank as well as the Government, and since it implies an absolute power to dispose of the property, while the power of the bank is considered as contingent and temporary.

"On the whole, the committee do not understand the practice to be one which gives to the bank an interest in the price of stock, or an opportunity of speculating in its rise or fall. It is substantially a security which may be promptly enforced—useful to the merchant, whose loans it facilitates, and to the bank, whose debts it secures."

#### INTERNAL IMPROVEMENT.

The House then proceeded to the unfinished business of yesterday, and again resolved itself into a Committee of the Whole, on the resolutions on the subject of internal improvement.

Mr. HUGH NELSON resumed the remarks which he commenced yesterday against the resolutions, and spoke about an hour and a half.

Mr. MERCER, of Virginia, rose and addressed the Committee as follows:

It is not, Mr. Chairman, without extreme reluctance, said Mr. M., that I rise at this period of the day, exhausted as must be the attention of the Committee, to mingle in a much protracted debate the feeble accents of an humble voice. I was willing to submit the fate of the resolutions under discussion to the decision of the Committee, after the able argument of the honorable member from South Carolina, (Mr. LOWNDES,) who had a prior title to the floor, as well as to the attention of the Committee. The field of debate has, however, been subsequently extended, and such obstructions have been thrown in our way by our opponents, and especially by the ardent zeal of our last antagonist, (Mr. H. NELSON,) that I can no longer reconcile it to my feelings to pass a silent vote upon a question so important to the prosperity of my country.

The resolutions, taken together, present to our decision this interesting question: Shall the surplus revenue of the United States be applied, through a well-digested system of internal improvement, to perpetuate the duration and to promote the prosperity of their Union?

Sir, said Mr. M., should these resolutions be rejected, the chief interest which I feel, in my station upon this floor, will have expired, and I shall be ready to surrender to my constituents an honor, barren of enjoyment to me because unprofitable to them. If I cannot be allowed to unite my zeal to that of my associates in this hall, for the advancement of the public welfare, in the only practical mode which a state of profound peace leaves open to our industry, I had rather seek more useful occupation, or an humbler field of legislation. I came here prepared to sacrifice, upon the altar of my country, all my local attachments, and whatever party feelings, if any, yet remained in my breast. I hailed with delight the arrival of a period, when the patriotism might be combined with the wealth of the nation to exalt its prosperity and glory. Formidable obstacles have arisen in the way of this anticipation; but I will not yet despair of seeing it realized.

MARCH, 1818.

Internal Improvements.

H. or R.

Among these obstacles, Mr. Chairman, it is with peculiar regret that I find myself compelled to notice the premature decision of the President upon the Constitutional power of Congress to pass the resolutions on your table. Such an anticipation of the acts of this House is calculated to perplex and embarrass its proceedings, if not to bias and warp its judgment; to lay the foundation of improper insinuations against any course which this House may take in the exercise of its Constitutional discretion. The expression of this regret is reluctantly drawn from me by a sense of duty. Candor, indeed, requires me to acknowledge, that I was not a friend to the election of the present Chief Magistrate. I believed that the future prosperity of this Union, as well as the best interests of the State which I have in part the honor to represent, required that the Executive chair should not be a fourth time filled by a citizen of Virginia. But I never, at any period of my life, entertained a sentiment of personal hostility towards the gentleman who now occupies it, nor have I, at present, any feeling at war with his popularity or influence. After this protestation for myself, allow me to add, that I do not the less regret this premature disclosure of the judgment of the President, from my respect for the feelings of the gentlemen from whom it is my misfortune to differ in opinion on the present occasion. I would not have their motives subjected to imputations of an opposite character to those by which mine may be assailed; alike unfounded, I am persuaded, and, if possible, more unworthy the dignity and independence of their public station.

While I deplore the existence of any such embarrassment, I cannot, however, yield my assent to an effort to remove it in the mode suggested by the message of the President which produced it—by an attempt to amend the Constitution of the United States. In my judgment, Mr. Chairman, it requires no such amendment. And to those who concur in such an opinion such an expedient must appear not merely unnecessary, but highly dangerous. For if, in relation to every Constitutional scruple of the Executive, resort is had to the power of amendment for an exposition of the meaning of that instrument, there is obviously an end of all stability in the Government. Its very foundation will vary with the conscience of every successive President of the United States. Congress cannot, hereafter, should the proposed amendment fail, exercise a power, the existence of which they have themselves admitted to be doubtful. Every submission to the States of a Constitutional question, on which an Executive scruple had arisen, might, therefore, involve in its consequences a surrender of Federal authority, until the powers of the Government became incompetent to its preservation. It has been asked, indeed, if we are afraid to submit this question to the people. And, from our unwillingness to do so, one of my colleagues (Mr. H. NELSON) has inferred an admission on our part that they would not grant it. Were the question submitted to the States, how, let me ask,

would it be decided? Congress cannot, indeed, legislate against the will of the President, without a concurrence of two-thirds of this House; and, consequently, a legislative cannot prevail against an executive construction of the Constitution, unless sustained by the representatives of two-thirds of the people of the United States. Such will be the sanction of these resolutions, should they acquire, as I earnestly hope, the authority of law. But an attempt to amend the Constitution would require, for its success, not only the assent of two thirds of this House, but the concurrence of four-fifths of the States. It might be defeated by the opposition of six only of the twenty States who now compose this Union; by a number, whose representation upon this floor does not exceed thirteen members out of one hundred and eighty-five, or a fourteenth part of this body. Lest it should be objected to this calculation, that it is founded on an improbable combination in the minority of the least population of the new States with the smallest of the old, let the same number be selected exclusively from the latter, and the proposed amendment may then be defeated by a portion of the people represented by but twenty-nine members of this House, or less than one-sixth of its entire numbers, and less, therefore, than one moiety of that proportion of this body, which will be required to prevent the adoption of the resolutions under consideration.

Should a mode of expounding the Constitution, so dangerous to its authority, acquire the force of precedent, it will be the more to be deplored, as the inequality of population among the several States must, hereafter, inevitably increase with the improvement of our southern and western territory.

In resisting this plausible appeal to popular influence, we, therefore, who consider the Government as already invested with the Constitutional power, which we wish to exercise, cannot be justly charged with an attempt to enlarge our authority by mere legislative construction. We are only unwilling to remove the doubts of our opponents, at the possible expense of the legitimate powers of Congress, which, by our oaths of office, we are, like themselves, bound to sustain.

But, my honorable colleague, who has just addressed you, has ardently endeavored to interpose a yet more formidable obstacle to the adoption of these resolutions. He has gallantly unfurled the ancient banner of his party, and sought to rally his Republican forces on the side of the Executive. He has reminded them of their ancient victories, and summoned them to the same field of triumph—a triumph of the States over the Federal Constitution. He derives his principles, he tells us, from the resolutions of the Virginia Legislature, and the argument of Mr. Madison, to which he ascribes what he is pleased to call, the glorious Revolution of 1798. It is, perhaps, common to the inhabitants of every State in this wide spread Union, nay, to every people on the habitable globe, it is certainly imputed to us, that we pride ourselves on the land which gave us



birth; and I cannot refuse to acknowledge the force of feeling which mounted to my cheek, when my colleague thus swelled the political consequence of Virginia in the councils of the nation. But I, too, Mr. Chairman, have some recollection of the times of which we have been reminded; and, in spite of all my native sensibility, I am driven to other causes than those named by my honorable colleague, to account for the political revolution of that day. I no more ascribe it to the argument of Mr. Madison, than could the origin of the wind to the weather-vane which indicates its present course; or the impulse and direction of the passing current to the feather which floats upon its surface.

The basis of that argument, that the States are parties to the Federal Constitution, is not only unsound in fact, but inconsistent alike with the preamble of the Constitution, and with the doctrines of the Federalist; that able defence of which the author of this celebrated argument so largely contributed, and of which he now wears the glory with his illustrious associates. The very resolutions, which this argument was designed to sustain, held out to the nation, as objects of wasteful extravagance, in themselves, and of alarm in their consequences, a navy consisting of a few frigates, an army of half the extent of that which now mans the military posts to encircle and guard our territory. The political revolution, of which the honorable member so triumphantly boasted, began in opposition to the Federal Constitution, was accelerated by the French Revolution; was staid for a while, indeed, by the great but declining influence of General Washington, whose Administration it shook to its base; and finally vanquished a dissipated party, guided by discordant, rash, and improvident counsels.

Since the period of this revolution, we have traversed a wide field of experiments—experiments not always successfully terminated—and have, at length, been reconducted by the good sense of the people to the ground from which we had departed. The theory of the Constitution has been settled by practice; the policy of the Government, by experience, that unerring test of truth; and, with the wars of Europe, our own political agitations have subsided into a tranquillity, which, I most earnestly trust, no tocsin, however loudly and passionately sounded, will be able to disturb. America no longer looks with dependence abroad, but exults in the excellence of her institutions, and “burns in a light of her own.”

If the Constitution can ever be correctly expounded, it is surely at such a period as the present. Let us, then, Mr. Chairman, deliberately open it, and inquire if it confers on us the power which we have proposed to exert—the power of constructing roads and canals for certain specified purposes, or, if that be denied us, the power of appropriating the public money to similar objects, previously authorized by the States, for they are not different, though very unequal means, I admit, of attaining the same end.

In prosecuting this inquiry, I regret the danger, to which I am exposed, of repeating the arguments that have been already employed, with so much ability, by the gentlemen who have preceded me in this debate. I shall endeavor, however, to avoid the ground over which they have travelled; and, when insensibly drawn on it by the reasoning I have to oppose, I shall labor to maintain, by additional facts and arguments, the positions which they have assumed.

Allow me, then, in the outset, Mr. Chairman, to assure my colleagues who have opposed the resolutions on your table, that I mean, in expounding the Constitution, to sustain the same doctrines of construction for which they have contended. I deny, indeed, that those doctrines have arrested the career of any Administration; for, without their aid, no Administration whatever could subsist; and I beg leave to assure the honorable Speaker, who has espoused the same side of this question with myself, that they are not more Republican than they are Federal. I mean to apply to the Constitution the plainest dictates of common sense and common experience; to infer its powers from its language, where that is at all doubtful, from the intention, and, as the best evidence of this, the acts of its authors.

In performing this duty, I cannot concur in opinion with my two colleagues, who spoke in an early stage of this debate, (Messrs. SMYTH and BARBOUR,) that the sole or chief object of the Constitution was to confer on Congress the three powers to declare war, to negotiate treaties, and to regulate trade; and that all other powers of the Government are to be construed as auxiliary to these. The end of the Constitution is proclaimed by itself, or by the people whose act it was, “to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and to their posterity.” The powers referred to by my colleagues are but a part of the means provided by the people, for the attainment of these important ends. All other legislative powers, and the co-ordinate branches of the Government, the Executive, and the Judiciary, were alike ordained by the Constitution to secure its most noble purposes. In determining the true extent and application of all these powers, the most obvious principle of construction, is to regard the end for which they were respectively devised.

The power of declaring war, of raising and maintaining fleets and armies, is to be construed, so as to provide for the common defence. The power to create courts, so as to secure the administration of justice. The power to establish post offices and post roads, so as to insure, in the language of the ordinance of the Confederation in 1782, “the communication of intelligence, with regularity and despatch, throughout the United States, a measure essential to their safety, to their commercial prosperity,” and to their general welfare.

Still less, Mr. Chairman, can I concur with my

colleague who last addressed you, and who would construe the powers of the General Government, by reference to the limited authority which he supposes to have been given to the deputies of the Convention which framed the Constitution. They were authorized, he told us, to do no more than supply the Confederation with the power of regulating, and that for the sole purpose of raising a revenue from commerce.

If, indeed, the Convention overstepped the limits of their authority, their usurpation furnished an argument against the confirmation of their act by the people, to whose ratification it was submitted. But, when once ratified, the Constitution ceased to be the act of the Convention, and, becoming the solemn act of the people of the United States, derived from them all its authority. In truth, sir, this anti-federal charge, wielded with so much force by Henry, and now revived, after the lapse of near thirty years, never had a competent foundation to sustain it. My colleague has confounded the small assemblage of deputies at Annapolis, who dispersed, without any acting at all, with the subsequent Convention at Philadelphia, which framed our present political system, under the broad authority, expressly recommended by the Old Congress, and delegated to them by the States, “to render the Federal Constitution adequate to the exigencies of Government, and the preservation of the Union.”

My honorable colleague has conducted us, though in darkness indeed, along a path, which, if properly explored, will lead to no unimportant conclusion, in relation to the end of our present inquiry.

The principal defect of the Confederation arose from the absence of an adequate sanction to enforce its legitimate authority. Congress were invested with powers to call upon the States for their respective quotas of men and of money, whenever required by the exigencies of the Union, and the States were politically and morally bound to furnish them whenever so required. This authority was designed to be commensurate with the public necessities, to provide for the common defence and general welfare of the States; and as the latter were incapable of limitation, so the authority to provide for them was as unlimited by the Articles of Confederation. But this authority rested for support on the voluntary obedience of the States, who often disregarded or failed to comply with its demands. To enforce them, would have involved the coercion of a State, and to provide for the emergencies of a foreign, the Federal Government must have encountered all the horrors of a civil war. The debility of the Confederation, as well as the existence of our present Constitution, may be traced to this source. The powers of the former Government operated on the States, and not upon the people; the remedy was obviously to be found in a government which should operate directly on the people, and not upon the States. Such is the remedy which our present Constitution sought to provide. That I have not mistaken the true character of this important revolution in our Government, allow me to call the attention of the Committee to the 20th

number of the Federalist, which derives a higher authority from having been the joint production of two of its authors, Mr. Madison and Mr. Hamilton. “The important truth,” say these able commentators upon the Articles of Confederation, “which experience unequivocally pronounces, is, that a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradistinguished from individuals; as it is a solecism in theory, so, in practice, it is subversive of the order and ends of civil polity, by substituting violence, in the place of law; or the destructive coercion of the sword, in the place of the mild and salutary coercion of the magistracy.” In a prior number of this able work, the last of these authors more amply illustrates the same doctrine, and demonstrates its important influence in determining the character of our present Constitution. “If it be possible,” he writes, to construct a Federal Government capable of regulating the common concerns and preserving the general tranquillity, it must be founded, as to the objects committed to its care, upon the reverse of the principle contended for by the opponents of the proposed constitution;” the very principle, Mr. Chairman, we shall presently discover, which my honorable colleague, (Mr. H. NELSON) and all who have preceded him, on the same side of the question, have sustained on this floor. “It must,” he proceeds, “carry its agency to the persons of the citizens. It must stand in need of no intermediate legislation; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The Government of the Union must possess all the means, and have a right to resort to all the methods of executing the powers with which it is intrusted, that are possessed and exercised by the governments of the particular States. If the interposition of the State Legislatures be necessary to give effect to a measure of the Union, they have only not to act, or to act evasively, and the measure is defeated. The State leaders” mark the expression, “may even make a merit of their surreptitious invasions of the Constitution, on the ground of some temporary convenience, exemption, or advantage.”

Hence we perceive, that the framers of the Constitution not only enlarged the powers, as is admitted, but changed the subjects of the Federal Government. The former amendment was necessary to impart sufficient strength to the political body; the latter, to subject its members to the authority of its head, without which, that strength would have been useless.

From this history of the Constitution, it results, that the General Government, to the full extent of its delegated power, is national; that its authority was designed to operate, not upon the States, but on the citizens of the United States; that its legitimate powers can in no case be enlarged or reduced by the consent of the States, otherwise expressed than by an amendment to the Constitution, in the mode prescribed by the Constitution itself; and that its authority may, should, and often will be exercised against the



H. of R.

Internal Improvements.

MARCH, 1818.

States, or without the approbation of the States, and can in no case whatever be dependent on their pleasure. If, to these doctrines, there be added one, which the Constitution expressly recognises, and which no gentleman has questioned in the course of this debate, "that with every power expressly conferred on the Federal Government, all necessary and proper means of giving effect to it are also imparted by the Constitution," a doctrine, indeed of common sense, without the aid of which no Government could subsist, and which, had the Constitution been silent, must have been inferred; the inquiry, Mr. Chairman, into the authority of Congress to pass the resolution on your table, is at an end.

If indeed, as the honorable Speaker has contended, the power to establish is the power to construct, and the word establish, as he has ingeniously shown, to create, as well as to fix, a construction, which a recurrence to the same term in the Articles of Confederation would yet farther sustain, no implication whatever is necessary to arrive at the authority for which we contend. It is true, this term is often figuratively used, as remarked by one of my colleagues (Mr. JOHNSON) and impressively illustrated, in the debate of yesterday, by a recurrence to the preamble of the Constitution, where to establish, cannot literally mean to create justice, which, as he asserted, is above all human or divine control. Yet, in the several clauses of the Articles of Confederation, in which this term occurs, as in that particular clause of the Federal Constitution which furnishes a part of the topic of our present discussion, our construction of the import of the word *establish*, is liable to such exception. To offer from the former a single evidence of this—"Congress shall have the sole and exclusive power of establishing courts, for receiving and determining, finally, appeals in all cases of capture." That no pre-existing courts were contemplated, in the use of this term, is evinced by the accompanying proviso, that no member of Congress shall be appointed a judge of any of those courts."

But, if driven to implication for our foundation of the power to construct post roads, it must be conceded that the power exists somewhere, or that, to establish them, would be nugatory. The question then arises, does the former power reside in the States, while the latter is expressly delegated to the General Government? If so, the evil against which the Constitution sought to guard the necessary authority of the Union, remains in full force. The Federal Government is left upon the mere pleasure of the States, for the exercise of a power essential to its existence.

It would, however, be doing injustice to the patriotism of our opponents, if, while they deny to us the full and secure enjoyment of this power, we did not, Mr. Chairman, acknowledge that they underrate its importance. One of my colleagues (Mr. BARBOUR) regards the provision of the Constitution for establishing post offices and post roads, as analogous to the agreement, sometimes with, and sometimes without the formality of a treaty between some of the adjacent States of

Europe, for the interchange of mails. He supposes that the Convention designed to confer on Congress an authority to establish a similar intercourse between the United States. To sustain this analogy, he has not only to regard the several States as independent of each other, but the Federal, as a foreign Government, in relation to them all. The Constitution, Mr. Chairman, is not a treaty. It does not prescribe the relative duties of States to each other, but of the citizens of the United States as a common Government, charged with the most important interests. It was the act, and it established the Government of one people, not of thirteen or twenty distinct nations. In this respect, we had already seen that the Constitution of the United States resembles no league that ever existed; neither the Articles of Confederation, which it was expressly designed to supersede, nor any of the confederacies of ancient or modern Europe, against the defects and dangers of which it was intended to guard. The Articles of Confederation did, in fact, establish and regulate post offices between the States—the Constitution among the citizens of the United States.

Had my colleague sought for his analogy among the political constitutions, rather than the treaties of Europe, he would have ended his researches in the establishment of the very authority for which we contend. And that he should have done so is the more obvious, since the transmission and diffusion of commercial and political intelligence throughout each particular State, as well as between the United States, is the end of that power of Congress of which he has misconceived the origin, and, therefore, undervalued the importance.

It is due to him to admit, that he has not only degraded the power which he ascribes to the United States, but denied, at the same moment, the necessity of enforcing and protecting its exercise by the authority which we claim; and, that the Convention meant not to impart this authority, he inferred, from the circumstances of the country at the period when the Constitution was framed. The new States, he informed us, were not then in being; the population of the old was dense; and all necessary or useful roads had been already constructed.

If the existence of any power in the Government could be legitimately inferred from the defects of the argument by which it is questioned, we might confidently found the authority which we assert on the fallacy of this reasoning. I will not carry my colleague as far back as he proposed to carry us, but allow him the entire benefit of that addition which thirty years have made in our population, in order to enable him to prove the density of our present numbers; and, when he shall have done this in relation to the old States, I shall have simply to remind him that all the new States, except Louisiana, have sprung up on the territory of the old, under an express provision of the Articles of the Confederation, and of the present Constitution; the effect of which their authors cannot but have foreseen, and for which they must have intended to provide.

MARCH, 1818.

Internal Improvements.

H. of R.

The spirit of internal improvement, now seeking to find its way into the councils of the Union, has, it is true, recently begun to animate the Legislatures of the South, but it must successfully operate for more than twice the period which has elapsed since the adoption of the Constitution, before we shall be able to congratulate ourselves on the number and excellence of our public highways. As regards such as should minister to the necessities of the Federal Government, its creation, it should be remembered, produced a new and more important centre of intelligence, as well as action, in our political systems. The several States might have rendered the channels of their internal intercourse subservient to their respective local interests; but they could not have been expected to adopt them, and unquestionably did not, to the purposes of a Government which did not exist, and the seat of whose deliberations was not established.

My honorable colleague was not insensible of the danger of subjecting the Federal Government to a reliance upon the individual States for the means of exercising its necessary authority. He admitted the right of Congress to pass all laws necessary and proper to carry into effect the powers expressly delegated to any department or officer of the Government of the United States.

But while he conceded an authority expressly granted by the Constitution, and which, if not so granted, the plainest suggestions of common sense must have inferred, he involved his concession in certain metaphysical, I will not call them legal refinements, which are calculated greatly to impair, if not entirely to destroy its useful application. He requires that every implied power, claimed under this grant, shall have a direct, obvious, and natural tendency to execute some authority expressly delegated.

I would ask, Mr. Chairman, whether distinct ideas are to be annexed to these terms; if such tendency be direct, it may not be assumed to be obvious; if both direct and obvious, it may not be regarded as natural? If a power may not be fairly implied, although, when compared singly, or apart from many others which conspire with it, to the execution of one expressly granted, its tendency be indirect? If the legitimacy of every implied power depends on its direct tendency to attain some Constitutional end being made obvious to every understanding?

Of these three qualities required by my colleague, the least, or that which is figuratively denoted by the term *natural*, affords, perhaps, the best characteristic of that tendency of an implied power, which renders it Constitutional; and if employed in contradistinction of such tendency, from one which is overstrained or forced, for the purposes of usurpation, I cheerfully acquiesce in this limitation of the powers of Congress. I have then to ask my colleague, if the power to construct has not a natural tendency to execute the power to establish a post road? May we not go farther, and aver that such tendency is alike direct and obvious; that a road must exist, before a mail can be transported on its surface; and that

the power to establish post roads may be obstructed or defeated, unless the power to make them accompany it? The ingenuity of my colleague has betrayed him into a more extraordinary error of the same description. Having denied that the power to establish necessarily comprehends the power to construct post roads, he assumed the last to be the greater power of the two; and hence inferred, that the latter could not be implied from the express grant of the former. Permit me briefly to examine, first, the fact, and next the political doctrine on which this conclusion is founded. Even in physical science, such is the necessary and intimate dependence of one agent on another—so many effects, more or less striking to the external senses, flow apparently from the same cause, that it is not easy to define the relative magnitude of any two natural powers, unless, indeed, both their nature, and the circumstances under which they operate, are the same. The power of attraction or gravitation restricts the planets to their orbits, and holds together the elements of the earth which we inhabit. But it has been asserted that such is the expansive force of the air, that if a single grain of gunpowder could be completely confined in the centre of our earth, and there suddenly exploded, it would burst this globe asunder. I will not stop to inquire which is the greater of these powers, but merely remark, that when we enter upon the field of political science, if, indeed, it deserves that appellation, the expressions *greater* and *less* become often incapable of any definite application. If the magnitude of a political power be derived from its apparent effects, we shall find it impossible to reconcile some of the greatest revolutions in the world to causes seemingly trivial.

But the Constitutional doctrine of my colleague is yet more fallacious. The foundation of all implied powers in physical, as well as political science, is to be sought, not in their relative magnitude, but in their relative dependence on the powers from which they are deduced. And since it is most obvious that the greater of two powers may have a direct and natural tendency to execute the less, the constitutionality of the former may be inferred, according to my colleague's own admission, from the express grant of the latter. In the connexion of causes and effects, the smallest link is an essential part of the whole chain. The construction and establishment of a post road, if regarded as distinct acts, are alike necessary, though, indeed, humble means of accomplishing one common end, necessary alike to the safety of the Government and to the convenience and comfort of the people. Which of them is the greater power, or contributes more largely to their joint result, I acknowledge my utter incompetency to decide—whether in the transmission of social, literary, commercial, and political information, the Government, or the people, can better dispense with the road or the mail.

Having, I trust, said Mr. M., removed some of the obstructions which remained in my path, I come now to the main ground, on which our op-



H. or R.

Internal Improvements.

MARCH, 1818.

ponents rest their opposition to the authority of Congress, for which we contend. My colleague, who has just addressed you, considers himself engaged in "the last battle which will ever be fought upon this floor for the preservation of State rights." In the excess of his zeal, he has charged the friends of the resolutions with usurpation and tyranny. And on what does he found this heavy accusation? On the suggestion that no road can be constructed under the authority of Congress without a title to the soil over which it passes; from whence he infers, that the power which we claim for the Federal Government may involve an application to the public use of some part of the land of a private citizen, lying within the territorial limits of a State, without the consent of either.

For myself, Mr. Chairman, I utterly deny this charge, but I most readily admit the specification in which it is grounded.

If the Government of the United States derive from the Constitution an authority, either expressed or implied, to construct a post road, that authority is incomplete—is as independent, in the latter case, of all other human control, as the expressly delegated power from which it is inferred. The Government therefore may lawfully appropriate the soil or any other property of its citizens to such public or national use, after making to them, in the language of the Constitution, just compensation. If this, sir, be tyranny, it is tyranny practised by every State in this Union, and by every Government that ever existed; since no Government could long subsist without the exercise of such an authority.

Perceiving (as was admitted early in this debate by one of my colleagues) that the power to construct a road carries along with it every necessary adjunct, and consequently that of acquiring a qualified right to the soil on which the road is made, our opponents have united to undermine this last authority, by denying to the General Government the legal capacity to acquire lands within the limits of a State, even by ordinary purchase, unless indeed for certain purposes specified in the Constitution; and for these, not without the consent of the State, nor (as has been just contended by another of my colleagues) without exclusive jurisdiction. The last of our opponents has augmented the authority in question beyond the extent which we claim, in order, I presume, to render that claim more difficult to sustain; while all of them have construed the sixteenth clause of the section of the Constitution which confers, while it enumerates, a part of the general powers of Congress, so as to restrain, rather than enlarge, the other legislative authority of the Government. This is however not a restraining, but an enabling clause. The place which it occupies in the Constitution, and its fair construction, concur in giving to it that character.

The authority to exercise exclusive legislation, in all cases whatever, over any place within the territorial limits of a State, is one which Congress could seldom need, and which the natural pride and jealousy of a State would reluctantly

cede. The Articles of Confederation expressly provided, "that no State should be deprived of territory for the benefit of the United States." This proviso, coupled with the paragraph of the eighth article, to which it belongs, and with that which immediately succeeds it, proves, that by territory was here meant both soil and jurisdiction. So it was ever construed; and, being so construed, Maryland long refused to ratify those articles, because they contained it; while Rhode Island and New Jersey successively, though ineffectually, sought to amend them by striking it out. They contended, with some plausibility, that the ungranted lands within the States were the property of the British Crown, and, if wrested from its possession at the expense of the common blood and treasure of the Union, ought to be regarded as common property. Without attempting to settle the merits of this argument, which doubtless possesses most force in the estimation of those States who possessed least property of a description to be affected by it, I will now return to the particular clause of the Federal Constitution which seems, if not to have been borrowed from, to bear some analogy at least to, the proviso which I have endeavored to expound.

This clause authorizes Congress to acquire exclusive legislation over the soil of a State for two purposes only—for the security of the immediate Seat of the Federal Government from the undue control of any particular State, and for the military defence of the United States. It restricts the former to a district, not exceeding ten miles square; and the latter, to such places as may be "purchased, by the consent of the Legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." With exclusive legislation, or jurisdiction, (if my colleagues prefer the term, and the former power would result in the latter,) the right of soil in the contemplated district is not required to pass to the Government, and in fact has not so passed, but remains with the private owners, except where purchased with their voluntary consent.

In the other acquisitions of land, exclusive jurisdiction is allowed to accompany the right of soil; and, where the Government desires this union of authority, as it can be obtained only by the consent of the State, such consent becomes necessary, and is expressed or given, by permitting the purchase to be made. But, as the whole of any power comprehends all its parts, so that of a State to divest itself of all jurisdiction, or to enlarge the powers of Congress over such places within its territory as have been described, may be exerted to a greater or less extent; and has, accordingly, been exercised, in some cases, in such a manner as to confer on the Federal Government exclusive jurisdiction; and, in others, so as yet to reserve a limited jurisdiction to the State. Where no enlargement of its jurisdiction has been sought by the Government, numerous purchases of the right of soil within a State have been made, always without its consent; and not only for some or all the purposes enumerated in

MARCH, 1818.

Internal Improvements.

H. or R.

this clause of the Constitution, but for uses almost as various as their number has been great. Their extent, reaching from less than one acre, to much more than one thousand; their uses, embracing ore and wood, and sites for furnaces and the manufacture of arms; ground for the cantonment, field exercise, and even for the subsistence of the regular army; lots for navy yards, and whole islands, containing from three to sixteen hundred acres, for objects connected with this important branch of the national force; situations for light-houses, beacons, buoys, and public piers; and lots in this city, not only exceeding in extent what necessity required for the accommodation of the departments and officers of Government, but purchased, held, and disposed of, for mere speculation. Where the right of soil, in any of this property, was in the State, it has ceded that, with the jurisdiction, in whole, or in part, and sometimes that alone.

This clause of the Constitution has not, heretofore at least, been construed by the Legislature, or by the Judiciary of the Union, or of the States; it was not designed, it is not calculated, to enlarge or restrain the right of the Federal Government to become the mere *terra tenant*—to purchase, hold, or sell, as any petty corporation, or any one of its own private citizens may, the mere soil of any State, whenever it becomes expedient to do so, in the execution of any of its delegated powers.

But, if a doubt yet remain upon a subject, which reason and authority, under the Constitution, seem so completely to settle, allow me to recur to the similar practice of the Federal Government, both before and after the adoption of the Articles of Confederation. They did not contain a clause, expressly authorizing the exercise of implied authority; they left this to be supplied by common sense and common reason. They did contain, like the amendments of the Federal Constitution, an express reservation to each State, of its "sovereignty, freedom, and independence, and of every power, jurisdiction, and right, not expressly delegated to the United States;" and they farther contained, as we have seen, a provision, "that no State should be deprived of territory" for their benefit.

The Articles of Confederation were not definitively ratified, until the first day of March, 1781; and Congress, therefore, derived no authority from them, until that period. They could not be amended, but by the consent of a majority of that body, which voted by States; nor without the concurrence also of the legislature of every State in the Union.

If, however, before, as well as after the ratification of these articles, and without any amendment of them, the power of acquiring and holding lands was deemed essential to any Federal Government whatever; if the Confederation continued to possess lands until the new Constitution superseded it, without an express dereliction or surrender of this power, and without any attempt on the part of those who conferred it, to do more by amendment, than enlarge it, this formidable

obstacle must cease, even in the opinion of our adversaries, to arrest our progress.

The first acquisition of any part of the soil of a State, by the Federal Government, was made the day after the declaration of American independence, and embraced one hundred and sixty acres of land in New Jersey. The largest which was ever made, was sought to be obtained before the ratification of the Confederation. I mean the whole Western territory of the Atlantic States. This effort was begun in the form of an amendment of those articles, but failing, as I have already stated, afterwards assumed the more humble shape of a recommendation to the several States, holding any part of that territory, to cede it to the United States for the common benefit. Virginia, the first to accede to the recommendation, had not only conquered by her own army, but possessed and governed, her territory, west of the Ohio, under the denomination of the county of Illinois. The inhabitants professed themselves to be citizens of Virginia, and an act of Congress of 1784, accepting the cession of the territory on which they lived, so recognised them, as did the subsequent ordinance of 1787, passed by the same body, for the government of a part of the ceded territory. By a compact or purchase, which was instituted before, and completed after the ratification of the Articles of Confederation, the Federal Government, thus acquired, it must be perceived, not merely the soil, but the exclusive jurisdiction also, over an immense empire, from the bosom of which have subsequently sprung, and are daily springing, some of the most flourishing States of this Union. In all of them, let it be remarked, the jurisdiction has been in part receded to their respective local governments, while the right of the soil in the unlocated lands is retained, and daily offered for sale by the Federal Government.

Lest the extent and grandeur of this acquisition should be deemed to impair the force of the authority which I proposed to draw from it, let me call the attention of the Committee to two other acts of the Confederation. As far back as 1783, Congress began those efforts, which they prosecuted in the succeeding year, to obtain two seats for the Federal Government—as one of them, the very soil on which we are now deliberating, about their right to make any such acquisition.

The commissioners appointed to execute their last resolution were empowered to procure a tract of country on the banks of the Delaware, not less than two, nor exceeding three miles square, and to purchase all, or such part of the soil, as they might deem necessary. By the resolutions of the preceding year, it was provided that "the right of soil" in the proposed district, "and an exclusive, or such other jurisdiction as Congress might direct, should be vested in the United States." To this I will add but one other authority.

In December, 1791, Congress unanimously passed an ordinance to incorporate the subscribers to the Bank of North America, conferring on them the power to purchase and hold lands, not exceeding in value ten millions of dollars. They



H. or R.

Internal Improvements.

MARCH, 1818.

assigned in the preamble of the act, as the reason for its adoption, its tendency to uphold the finances of the United States, and referred, for its origin, by name, to the report of Robert Morris, a patriot of the Revolution, one of those illustrious men, who, with so many more of his associates, while they made us rich, have, themselves, long since descended to the grave, in poverty and affliction.

At the name of a man, Mr. Chairman, to whom, next to our beloved WASHINGTON, America is indebted for the establishment of her independence, may I be allowed to pause one moment, in order to remind my honorable friend from Ohio (General HARRISON) of an intention which he early announced after our arrival here, to prevail on this House, to recognise, in the person of his surviving widow, who lives in poverty, I have heard, the debt of gratitude which this nation owes to her deceased husband?

If the Confederation could confer on a money corporation the power to hold lands, it must be regarded as having possessed that power in its own right. And if, Mr. Chairman, the feeble Confederation possessed lands at the adoption of the present Constitution, without acquiring a right to do so from any express authority, whence is this modern, this new discovery, which denies to the Government which superseded it, this humble but necessary auxiliary to the execution of so many of its most important functions. What, then, becomes of that boastful charge of usurpation, which reflects not upon us, alone, but upon the sages and heroes of the Revolution, and, among them, on the patriotic ancestor of the honorable member from whom it proceeded?

I shall, I trust, be pardoned for saying that our adversaries seem to have totally mistaken the relations, the duties, and the character of the Federal Government.

Although Congress could not, without the clause of the Constitution on which I have just commented, have acquired exclusive legislation over any territory, however inconsiderable, within the limit of a State, and cannot, with it, even by the consent of any one or more States, or in virtue of any other title, short of an amendment to the Constitution, acquire authority to exercise such legislation over any of the portions of territory within their jurisdiction, nor for any other purposes than those specified in the Constitution; yet the federal is not, therefore, as has been intimated by one of my colleagues, and seems to have been inferred by all, a foreign Government. It possesses over many subjects a paramount power of legislation, to that of the several States, a co-ordinate power with them over others, and a concurrent jurisdiction over all the territory of every State to the full extent required for the exercise of its whole legislative, judicial, and executive power.

It provides for the administration of justice, by the establishment of courts, the regulation of their proceedings, and the execution of their judgments and decrees; for the regulation of commerce, by the erection of custom-houses, light-

houses, beacons, and buoys, and ordaining rules for the entry and clearance of vessels; for the preservation of tranquillity and order, by punishing the violators of its laws, by suppressing insurrections and repelling invasions; for the successful conduct of a war which it has declared, by its militia, its army, and its navy, and by all the laws which their government and use require; for the creation of revenue, by subjecting the person and property of every citizen of the United States to taxation; by imprisoning the one and selling or forfeiting the other; and for the power of collecting for its own use, and distributing and diffusing for the convenience and comfort of the same citizen, political, commercial, literary, scientific, and social intelligence; for the power in debate, it may provide not only by designating existing roads, for the transportation of the mail, but where there are none, or their direction or condition unfits them for the use of the Government or the people, but, as we contend, by constructing new, or repairing the existing highways. In fine, it is invested with every right of jurisdiction, and of acquiring and using property of every description, which is necessary or expedient; proper or fit to carry into effect its delegated and sovereign authority.

It is in virtue of this concurrent jurisdiction that the United States may exercise the power, so often employed by the Commonwealth of Virginia, of impressing, where necessary, the personal property of a citizen, to facilitate the march of its armies, or of occupying or condemning his land for a military position, a camp, or fort; and holding it so long as that necessity lasts, and with such jurisdiction over it as that necessity requires, for the limitation of which we must look to the rules and usages of war.

It is in virtue of this authority that Congress may provide for condemning the soil of one or more of its citizens, where alike required, for the construction of a post road, making to them always just compensation.

The exercise of such a power becomes tyrannical only as every other power does when abused. It presupposes an abortive effort to have been made, to obtain the property required, with the consent of the owner, for a fair consideration. In no event, however, should the public welfare or safety fall a sacrifice to the obstinacy of a single individual, blind to his own interests, or, possibly, in secret league with the enemies of his country.

This alarming authority, portending, as my colleague has told us, such fatal consequences. What is it?

The power annually, almost daily, exercised by every State Legislature in the Union, delegated to its inferior courts and officers, transferred to every canal or turnpike company.

A power so alarming, that whenever such a road or canal is to be constructed, every owner of the soil strives to bring his estate within the reach of its influence. A tyranny of which its subjects complain, only when it is unfelt.

One of my colleagues (Mr. BARBOUR) has quoted to the Committee the titles of all the acts

MARCH, 1818.

Internal Improvements.

H. or R.

of Congress from 1792, establishing post roads within the United States. If he has, as I have no doubt, examined the laws themselves, he must have found, in the first, thirteen classes of offences enumerated; to no less than three of which the awful punishment of death is annexed. Succeeding acts have mitigated the severity of this, but without excluding the capital punishment. We have heard no complaint from him or from the honorable member who last addressed the Committee, of those penalties. The former impressively told us, I use his words, "that the Legislature of Virginia is not assembled with power to barter away the soil of the people to a foreign Government." No, my colleagues will not yield to the Federal Government, for national use, one foot of the soil of their constituents, although just compensation be made for it; but they yield their persons, without murmur, to the justice and mercy of the same Government, in satisfaction of its authority to establish post offices and post roads.

Which, allow me to ask, is the greater power? That qualified authority which we claim over the real estate of the citizen, in order to provide for the exigencies of the Union, and which we infer from the power of establishing post roads, or that which, in order to protect the same power from violation, my colleague (Mr. BARBOUR) himself exercises as a member of this body over his property, his liberty, and his life; to subject the first to forfeiture, the second to imprisonment, and the third to an ignominious death?

Do the doctrines of our opponents shed a ray of light upon our path? Have they illustrated the authority of the Government, or the duties of the citizen? Do they impart stability and vigor to the one, or yield security and comfort to the other?

In one opinion we appear nearly all to agree. All the Presidents of the United States, who have denied to us this authority, and nearly all the gentlemen who have taken part against us in this debate, have thought, that if the power to construct post roads did not already belong to Congress, it ought to be acquired by an amendment to the Constitution. The member from Massachusetts, (Mr. ADAMS,) who first addressed the Committee, acknowledged the appropriation for the Cumberland road to have been sanctioned by the Constitution, because it facilitated the sale of the Western lands; as he did the establishment of the Bank of the United States, because it injured no one, and advanced the public welfare. He surely ought not to have questioned the legitimacy of the power which we now invite him to exercise.

The member from New Hampshire, who immediately succeeded him, distinctly admitted, in the first part of his argument, the expediency of obtaining this power, and before he sat down expressed a doubt, whether Congress did not already possess it.

The member who closed the second day's debate, (Mr. BARBOUR,) remarked, it is true, "that he was not clear that he would give the power

contended for, were he in a convention authorized to confer it." But if the candor of my colleague conceded so much, amid the ardor of a debate, in which he bore so distinguished a part, what might not be expected from his patriotism, were his Constitutional objections removed, and his conscience no longer an impediment to the prosperity of his country?

My colleague, who preceded him, has, perhaps, stood alone, for accident deprived me, much to my regret, of a part, or the whole of the arguments of other honorable gentlemen, who have risen on the same side of this question. If I mistake not, he stands alone, in maintaining the extraordinary position, that roads, and even canals, are of local concern. I regretted to hear him say, that a good road from Washington to Richmond would not be one of general interest. But I do not understand that he questions the power of the Federal Government to acquire the mere soil of a State by fair purchase; nor that of Congress, to exercise the power, which I shall presently examine, of appropriating part of the public revenue to the purchase of the stock of a canal, or turnpike company. From him, therefore, we differ only as to the mode of attaining our end.

But both the gentlemen to whom I have last referred, have, by clear implication, furnished to the friends of the resolutions a doctrine, and a very sound one, too, sufficiently broad to protect our whole ground.

The one advanced the position, in which I heartily concur with him, "that the several States ought to retain every power which they exercise as effectually, by themselves, as by the Federal Government;" and the other furnished an equally just and clear limitation of the proper objects of federal authority, when he told us, "that in regard to all those things, which require the combined strength of the Union, the framers of the Constitution sought to provide by a Federal Government."

Taken either separately or together, their doctrines amount to this, that all those powers which can be most efficaciously and beneficially exercised by one common authority pervading all the United States, do, or should, belong to the Federal Government. And if this doctrine be applied to the character of the power in debate, can any mind, so intelligent as that of either of my colleagues, hesitate long in determining to what Government it should belong?

I have forbore to trace the importance of this power to the successful employment of the public force during periods of foreign war, and of domestic disturbance or insurrection. I could add nothing to the force of the able argument of the member from South Carolina, (Mr. LOWMEYER,) on that branch of our inquiry, and indeed much, if not all, of what I have said, on the other, the Committee may think, with great reason, that he superseded the necessity of my adding to the comprehensive and clear view which he presented of the whole topic of debate.

I do not, however, claim for the General Gov-



H. OF R.

Internal Improvements.

MARCH, 1818.

ment the power of constructing roads for commercial purposes, although I readily acknowledge the ingenuity and force of the argument of the gentleman from South Carolina, in support of that authority. And it must be apparent to the Committee, that we differ about the weight of an argument rather than the existence of a constitutional power; when, having established the authority to construct roads for the transmission of intelligence, we question if the same power may be exercised for a less general purpose.

It is to bring the authority to construct canals within the pale of the Constitution, that it seems to me at all important to contend for any other power than that of constructing post roads. If we add to these military canals, every beneficial effect will be attained, which the friends of the resolution desire to accomplish. The power to construct military roads must be admitted to rest on stronger reasons than those which apply to the establishment of a similar power for any other purpose; nor can it be questioned, but that all the arguments which sustain the former authority, support, with augmented force, the Constitutional right to make the other species of highway, the military canal.

But when we consider that all those important ends are involved in the exercise of one federal power, the expediency, if not the necessity, of vesting the power in a Government, whose jurisdiction pervades the whole territory of the United States, must be yet more apparent.

Whatever tends greatly to facilitate the speedy collection of the resources of the Union, and their efficient application to the defence of its individual members, must be comprehended, not only among the general means of providing for the common defence, but within each of the specially enumerated powers of Congress—"to declare war;" "to raise and support armies;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

The several States may be expected to make such roads and canals as tend to promote their individual security and welfare; but it is not their duty, nor have they the resources necessary to provide all that the safety and prosperity of the Union may require. If they apply their own revenue to these objects, it must be drawn from the most oppressive and odious species of taxation. They will tax themselves for their own benefit alone, and leave the United States to employ a surplus treasure arising from a fruitful source of revenue, to which the Constitution forbids them to resort, to provide for the common defence and general welfare. It is neither just nor reasonable, after transferring to the General Government the purse as well as the sword of the nation, to charge the respective States with the most expensive part of the common obligations which they impose.

But the want of adequate funds is not the sole, nor the chief impediment to the exercise of this power by the separate States. The concurrent

assent of their respective Legislatures with that of Congress to every work requiring the co-operation of two or more States would also be required.

It would not be difficult to trace, on the general map of the United States, many roads and canals, to provide for the cost of which, a prospect of some remuneration in their tolls would be necessary, while the use, and consequently, the profit of them, would depend on the contemporaneous execution of a similar work through the territory of one or more States, having scarcely any interest in the common enterprise; to say nothing of those commercial jealousies, those local or political prejudices, which often obscure and mislead the judgment of nations, as well as individuals, in relation to the objects of their real interest.

What peculiar advantage, let me ask, without questioning the wisdom or public spirit of New Jersey, could she propose to herself from that contemplated canal between the Raritan and the Delaware, which constitutes an essential link in the connexion of our inland navigation? For commercial purposes she could have none, which would be sensibly felt beyond the country along the margin of the canal, since each of those rivers has already an extensive market open to its exports. How far the competition of those two great commercial rivals, New York and Philadelphia, would impede a connexion of those rivers, cannot be predicted; for who can prescribe bounds to mercantile jealousy, the fruitful source of national animosities? Experience has ascertained the difficulty of combining the wealth of the principal markets of the Chesapeake in a similar enterprise of equal consequence to the Union and to the particular State which was to be the theatre of its operations of as trivial importance—the smallest State of the Union, with resources wholly incommensurate to such an undertaking.

The Delaware canal was begun many years ago; and its completion has been so long retarded for want of funds, that the interest lost upon it exceeds the capital expended.

The commencement of the only public work of considerable magnitude which owes its existence to the resources of the Union, was long delayed for the assent of one of the States, through which it passes. Local jealousies have opposed other obstacles to its final success, which have permanently impaired its utility, and are likely to endanger its preservation. Maryland has refused to authorize a toll for the repairs of the Cumberland road, (which Pennsylvania would have cheerfully conceded,) in order that Baltimore may more advantageously contend with Philadelphia for the Western trade across the Alleghany; and two little towns in Pennsylvania have had the pernicious influence to bend from its direct course, so as to suit their own narrow interests, this important channel of intercourse between the Eastern and Western States. How many interests must be united before a direct, secure, and speedy transportation of the

MARCH, 1818.

Internal Improvements.

H. OF R.

mail can be provided between Washington and New Orleans? And when we separately regard the inconsiderable benefit which the States, whose territories lie between those cities, would expect to derive from a road connecting them, the magnitude of the sum that it would cost; and the rival objects which would contend for its application, is it not evident that this, or any similar enterprise, is unattainable, but by the resources of the Union and the will of Congress? Yet, had the ever-memorable eighth of January proved a day of mourning instead of victory, how important should we all have deemed any measure which could bring this remote but interesting point of defence nearer to the seat of our Government, the presumed centre of its operations!

If there be a power peculiarly federal in the end which it proposes and the means required for its attainment, I repeat that it is the very power for which we are contending. With what propriety, therefore, do our adversaries charge us with attempting to subvert the balance of the Constitution, the established boundary of State and Federal authority?

The honorable member in my eye, (Mr. H. NELSON,) sounds the alarm, and invites his friends to the last battle for State rights. He proclaims the sovereignty of the States to be in danger of invasion; nay, more, of actual subversion.

Mr. Chairman, we have approached, in the course of this debate, an interesting question; which, if ever involved in the ordinary struggles of party, is degraded from its proper station in the science of American politics: the question, whether, in the future progress or declension of our political institutions, the liberty which they were designed to perpetuate has more to dread from a dissolution of the Union than a consolidation of the States. An inquiry, suggested indeed by every construction of the Federal Constitution, which requires the limits to be defined of Federal and State authority. And it may be fairly presumed that the decision of all doubtful cases will more or less depend upon the peculiar bias that every mind, which has passed through this inquiry, may have unconsciously taken.

For myself, I candidly acknowledge, because I sensibly feel, the influence of the opinions, as well as the arguments of those venerable sages and patriots of the Revolution, whose names I was early taught to revere—who made the Constitution which we are about to expound, and had learnt from experience the evils, against the recurrence of which it was intended to guard. I beg leave to present the Committee some of those opinions; and, in doing so, to employ the language of Publius, than which no man has anything better, and I nothing comparable to offer.

"We have seen," says Mr. Madison, "in all the examples of ancient and modern confederacies, the strongest tendency continually displaying itself, in the members, to despoil the General Government of its authorities; with a very ineffectual capacity in the latter to defend itself against their encroachments." (Mr. MASON then read several passages from the 45th and 46th

numbers of Publius, and proceeded:) Transporting ourselves back over the last thirty years, to the period when Publius wrote, we may well inquire whether these remarks were designed to characterize the times which had passed, or those which were to come? Whether they are to be regarded as history, or as prophecy? Nor ought we to wonder that, in both respects, their truth is indisputable; since no author could better write the history than one who was a spectator of the events which he describes; and the nearest approximation to prophecy which uninspired reason can make will be found in a deduction of the future from the past.

We realized in the war which has recently terminated, and which while it lasted scarcely penetrated our frontier, a great part of the debility of the Confederation; and, what is remarkable, from the same source, the power of the individual States, and the defective sanction of the laws of the Union. An act of Congress authorized the President to call out a detachment of militia, previously organized, in certain events foreseen by the Constitution; and, for that purpose, to issue his orders to any officer or officers of the militia that he might think proper. I quote, I believe, the very terms of the act. He does issue his orders; but to the Governors of the respective States. And what was the result? That the Executives of those States, who had been the zealous friends of the war, obeyed the call of the President very promptly, and those who had been decidedly hostile yielded no obedience whatever.

It is not necessary, but yet not altogether impertinent to remark, that those who disobeyed remained quiet spectators of the common war; while (I speak for one State, at least,) the claims for the extra expense of marching the detachments of militia to the place of rendezvous made by the executive magistrate who had executed the order of the President, were rejected by the latter, on the ground that the States were bound, at their own expense, to render their detachments at the place of general rendezvous.

Although the defect may have been in the administration, rather than in the powers of the General Government, as it evidently sprung from extending its authority to the States, rather than the citizen, to the chief of a department of a State government rather than to an officer of the militia, who could have been subjected to trial and punished for disobedience, yet it effectually tests the genius of our political institutions, and illustrates the danger of resting the successful exertion of a Federal power on the co-operation of the State authorities. It forewarns us, as did the history of the Confederation, of the debility which threatens a government over distinct and powerful sovereignties. It furnishes an instructive caution against the submission of the important power which we are about to exercise to any other control than the will of Congress, or to regard it in any other light than its true Constitutional character—as a complete and sovereign authority. The spirit of disobedience broke out



H. OF R.

Internal Improvements.

MARCH, 1818.

in the late war, in a frontier State, on the outskirts of the Union.

Let us imagine that in some future national calamity, some foreign or civil war, the States nearest to the centre of our system, New York or Virginia, for example—it is obvious that I mean reproach to any particular section of our country—I am looking at human nature, liable, everywhere, to delusion and error; I say, suppose a passion to a war, declared by ourselves on our enemy, should leave either of those central States, or Pennsylvania, as powerful, and as likely either of them to imitate the recent example of Massachusetts, to throw every possible, and exceeding all that our opponents ask, every Constitutional obstruction in the path of the National Government—to put down the ferries and tear down the bridges across the Hudson, the Delaware, and the Potomac—to break up the roads which led over them, for they are all State property, inalienable by State, and uncontrollable by Federal authority—you could not punish, in your courts, a citizen of New York, Pennsylvania, or Virginia, who was engaged in a lawful act of obedience to the orders of his local government. What then becomes of your mail, of your army, of your Union? The champions for State rights, who consider every authority wrested from the General Government as a new barrier to its encroachments, would find necessity, that ancient mother of bad, as well as good inventions, set to work, with less tranquil and patient regard for Constitutional scruples than we are now at liberty to indulge, to discover some sovereign remedy for such intolerable evils.

Little, sir, as this Government is to be dreaded, while restrained within its Constitutional limits, it is too strong to be provoked, or required to transcend them, without danger to the liberty which it was intended to preserve. No track of tyranny is more beaten than that of power over the boundaries of a Constitution which it dare not respect.

Let the States allow to the Federal Government every necessary authority. In the language of the author I have last quoted, "the Federal and State governments are in fact but different agents, and trustees of the people, or situated with different powers, and designed for different purposes. The adversaries of the Constitution," and we may apply the following language to ours, especially in answer to the celebrated argument of the same author, "have lost sight of the people in their reasonings on this subject; and have viewed these different establishments, not only as mutual rivals and enemies, but as uncontrollable by any common superior in their efforts to usurp the authority of each other." "These gentlemen," says Mr. Madison, "must be reminded of their error; they must be told that the ultimate authority, wherever the derivative may be found, resides in the people alone; and that it will not depend, merely on the comparative ambition or address of the different Governments; whether either, or which of them, will be able to enlarge its sphere of jurisdiction at

the expense of the other. Truth, no less than decency, requires that the event, in every case, should be supposed to depend on the sentiments and sanction of their common constituents."

It is the right, and moreover the duty of the people, by the exercise of their elective franchise, to restrict each government to its proper sphere of operation; it will never be their duty, however, to paralyze the energy of the Federal Government, by rendering it absolutely dependent for the exercise of a necessary power on the wisdom, moderation, or fidelity, of a single State, whose duty will prompt it to look to its own interest, and whose interest will sometimes lead it to disregard the general welfare. The people of America, contrary to the predictions of my colleague, (Mr. H. NELSON,) will have the prudence to guard a power delegated by them, for their common safety and happiness, from being defeated of its objects by an inconsiderable part of their own number. Sir, in the recent history of our Union, one prominent feature cannot have escaped observation, that the extraordinary support which the States sometimes afford to the Federal Government is not so beneficial as the opposition which they sometimes wage is pernicious. Were there room to doubt this fact, its reason would be found to establish its truth. The General Government was made to subsist by means of its Constitutional authority; it was designed to operate not upon the States, but on the people—the zeal of the State governments may inspire its councils with temerity, and precipitate them into indiscreet action. Their separate advice is that of a monitor, who sees but a small part of the ground over which you are to travel, and who is not immediately answerable for the success of your journey; his zeal is unrestrained by the wisdom which knowledge imparts, or the prudence which responsibility creates. Virginia announced, some time before the last war was declared, that it was dishonorable for the United States to remain any longer at peace; she, in fact, declared the war before the General Government deemed it expedient to do so. It was moved, I recollect, to amend the declaration by providing that the war should not be begun until adequate "preparation had been made for its active, vigorous, and efficient prosecution." The amendment was scouted out of the House of Delegates by an overwhelming majority, the mover of it voting with that majority a few minutes afterwards for the naked and unqualified declaration. This was in the depth of Winter. War was not proclaimed at Washington until the following Summer. Whether sufficient preparation had been then made for its active, vigorous, and successful prosecution, those who had to conduct its operation will best remember.

We have seen the character and consequences of the support yielded by a State to the General Government. My colleague has already gloried in the success of her opposition in the revolution which she effected in 1798, by which he and his friends were brought into power. The honorable Speaker gave to us the same historical fact,

MARCH, 1818.

Internal Improvements.

H. OF R.

except that he admitted the State which he represents to a part of the glory of producing it. Let it be conceded, if other gentlemen are willing, to have been the act of one or of both those States. It was effected by resolutions and arguments. What dissolved the embargo? Neither resolutions nor arguments. State rights; State laws; resistance. What paralyzed the efforts of the National Government during the late war? The refusal of obedience; resistance; State rights again. To coerce a refractory State is an unlawful experiment. It is untried, and full of danger. It is horrible! the great barons of the old feudal monarchies, while backed by their retainers, they bearded majesty in despite of the crown and sceptre, furnished no scene like a war of this Union against its members. Rebellion, where but one Government exists, is without a system. It begins its march in darkness, with uncertain and hesitating footsteps. But, when a State resists the Constitutional authority of the Union, treason assumes at once the port of majesty; a day, an hour, a minute matures its plans, and it is prepared for action. All at home remains as quiet as before. "The people scarcely know that it exists. It wears the imposing garb of State rights; and who has the strength to unmask its deformity?"

I have not uttered these remarks, Mr. Chairman, in imitation of the avowed purpose of my colleague, (Mr. H. NELSON.) I have no motive to arouse the dormant feeling of party. My doctrine had once a party to sustain it, but that day has passed away.

The example of Virginia has, indeed, effected a great revolution. I do not know but that I stand alone in this House, when I deny the right of any State government whatever to accelerate or direct by its eulogies or its instructions, to retard or defeat by its denunciations or its resistance, the regular operations of the National Government. There remains not now, however, a solitary State which has not, in some form or other, exercised this power, nor one, I might add, which has not had cause to repent it. The practice may be traced to that celebrated argument to which we have been so often referred for authority in this debate; which, in its outset, rests the sanction of the Constitution on the assent of the States, rather than that of the people, and, in narrowing the foundation of the National Government, has endangered its stability. To the same spirit which expounded the Constitution, as a compact among the States, and asserted, for their ordinary Legislatures, the right to settle its true import, may be distinctly traced the present opposition to the exercise of that Federal power which constitutes the subject of our present deliberation.

But my colleague, who has so ardently appealed to this ancient feeling as a test of political truth, has overrated the magnitude of the question to which he invites its application.

We mean not to prostrate the jurisdiction of the States over their own soil. We only deny that it is exclusive. Each State government

will retain a concurrent jurisdiction with the United States, over the surface of every national road or canal within its territory; and will exercise sovereignty to the same extent as the latter, or to the full extent of its Constitutional authority. Even soil may not be permanently alienated from its former proprietor by its condemnation or purchase for public use. I need not inform my colleague, (Mr. H. NELSON,) who once adorned the bench of justice over which he presided, that the right of soil as well as jurisdiction, the title of the citizen as well as the sovereignty of the State, may be divided; the former between an incorporated company, for example, who acquire the conditional possession, for a special purpose, and the prior occupant who retains the reversion, and whenever that purpose fails, or the corporation is dissolved, may re-enter upon his soil; the jurisdiction between the General Government, who has constructed the road or canal for certain uses, and the States who, for every other political purpose, retain their jurisdiction unimpaired.

Nor let it be supposed, as another of my colleagues (Mr. SMYTH) has intimated, that any collision can hence arise, which might not result in a much more alarming degree, from the concurrent exercise, by the Federal and State governments, of many other Constitutional powers, universally admitted to belong to both, and extending over the same property and persons.

I have sought, Mr. Chairman, to sustain the authority of the General Government to construct roads and canals, for such purposes as seem to me to be expressly sanctioned by the Constitution. Should a majority of the Committee, however, deny this power, a part of the public benefit which would accrue from its exercise may yet be attained by the exertion of another authority, concerning the legitimacy of which less doubt may possibly exist; the authority of appropriating the public revenue, so as to provide for the common defence and general welfare of the United States. For every road or canal, which the public interest would prompt the National Legislature to provide for, may be comprehended within the general description furnished by the Constitution of the objects to which the revenue of the United States may be applied.

This authority would not embrace the power of condemning the soil of a citizen for public use, nor confer any jurisdiction over it when purchased, with his voluntary consent, which the Federal Government did not before possess. It must be exercised for the purpose which is now proposed, either in dependence upon the will of the proprietor of the soil or of the State in which it lies.

Yet, as some objects of great national importance have been, and many more might be accomplished, even by this subordinate power, allow me to endeavor to corroborate the arguments by which it has been sustained, and to notice some of the objections which have been urged to disprove its existence.



The 8th of the Articles of Confederation provided "all charges of war, and all other expenses incurred for common defence and general welfare, and allowed by Congress, should be defrayed out of a common treasury." The residue of the article describes how that treasury should be filled.

An enumeration of the powers of Congress next succeeds, in which they are authorized to ascertain the sums of money necessary to be raised, for the service of the United States, and to appropriate and supply them for defraying the public expenses. The last clause is immediately followed by one which grants the "authority to borrow money."

Here is no limitation whatever of the objects of general expenditure, and, accordingly, under the Confederation none was ever imagined to exist. In a report of the committee of Congress in 1782, consisting of Mr. Hamilton, Mr. Madison, and Mr. Fitzsimmons, all of whom were members of the convention which subsequently framed the Federal Constitution, and the first two authors of the best exposition of that Constitution now extant, it is declared that, "this provision of the Confederation comprehends an indefinite power of prescribing the quantity of money to be raised, and of appropriating it when raised."

The first clause of the section of the Constitution which enumerates the general powers of Congress, and confers, as I contend, that which I am about to maintain, is as closely copied from the Articles of Confederation as the different revenue systems of the governments would admit. It provides that Congress shall have power "to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States." To this, also, directly succeeds the authority to borrow money.

The sole purpose of this clause, like that of the 8th article of the Confederation, and of the part of the 9th, which I have quoted, is to provide for the creation and disbursement of revenue. The power to appropriate the public money is nowhere else given; and is here as indefinite as it was under the Articles of Confederation, from which this clause was obviously derived. For what object was the language of the Articles of Confederation borrowed by the authors of the Federal Constitution, if not to confer an equal authority over the public purse? It was surely not designed to restrain the new Government, in relation to a power, which, however indefinite in theory, under the old, had been found very limited and defective in practice.

If this clause has ever been so construed, as to extend the powers of the General Government to other objects than the collection and appropriation of the public revenue, those who have resisted that construction have as obviously run into the opposite extreme, and narrowed its just import.

It has been asserted by one of my colleagues, (Mr. SMITH,) "that this clause confers no additional powers to those contained in the subsequent clauses of the same section." Another, (Mr. BARBOUR,) has inferred "that the Committee of Roads and Internal Navigation have yielded the point, that this clause does not enlarge the objects to which the public money may be appropriated."

The Constitution, Mr. Chairman, cannot be shorn of its rightful authority, by the concessions of our friends, any more than by the assertions of our opponents; and, in sustaining the practical construction of this power of the Federal Government from the dawn of American Independence to the present day, I shall fearlessly encounter every authority.

Were the construction, however, which our opponents have put on this clause, correct, it would leave yet unimpaired the power of appropriating the dividends of the stock held by the Government in the Bank of the United States, and the proceeds of the sales of the public lands, neither of which fall within the description of those sources of revenue which are embraced by this section; and both of which would consequently remain subject to the provision of another clause of the Constitution which I shall presently have occasion to notice.

But whence, let me ask, do our opponents derive their limitation of the power of Congress to appropriate the public revenue? Congress have power, we have seen, "to lay and collect taxes; to pay the debts, and provide for the common defence and general welfare;" under no other restrictions except "that all duties, excises, and customs shall be uniform;" "that no duty shall be laid on articles exported from any State," nor any "direct tax imposed, but according to a prescribed ratio among the several States."

Why does this language extend beyond the authority of laying and collecting taxes? Not to provide for the payment of the debts of the nation. For that obligation of good faith, so far as respected existing debts, the Constitution, elsewhere, expressly provided; and from the subsequent power to borrow money, that of returning it, when due, would have been necessarily inferred.

Why describe the objects to which the revenue may be applied, and impose an obligation to provide for them, unless the power of appropriating the public money to those objects was also designed to be granted? Shall we render nugatory a clause of the Constitution, from a fair construction of which it is conceded, by almost all our adversaries, that much public benefit may be derived?

They are prepared, however, to meet this interrogatory with another. It is confidently asked, "why should a specific enumeration of any other powers of Congress immediately follow this clause, when every power would be embraced by an authority to provide for the common defence and general welfare?" My construction of the clause affords an easy solution of this in-

## INDEX

## TO THE PROCEEDINGS AND DEBATES OF THE FIRST SESSION OF THE FIFTEENTH CONGRESS.

## SENATE.

A.	Page.	Alabama Territory—continued.	Page.
Aborn, Joseph, Mr. Burrill presented the petition of, referred	32	a memorial presented from the Legislature of, remonstrating against the extension of the limits of the State of Mississippi, read	242
that committee discharged, and the petition referred to another	35	another memorial from the same, praying to be invested with power to incorporate certain companies, referred to a select committee	228
Adlum, John, Mr. Goldsborough presented the petition of, referred	215	said committee discharged	388
an adverse report thereon	260	a bill from the House of Representatives concerning, read	301
read, and concurred in	263	read a second time	307
African Slave Trade, Mr. Burrill submitted a resolution on the subject of	71	ordered to a third reading	312
agreed to, and resolution referred	108	read a third time, and passed	340
Agents to Indian Tribes, &c., Mr. Campbell submitted a resolution respecting the expediency of nominating, to the Senate, &c.	84	Alien Duties, a bill to authorize the Secretary of the Treasury to repay or remit certain, read	260
amended, agreed to, and referred	92	read a second time	263
a bill directing the manner of appointing, read	116	ordered to a third reading	268
read a second time	120	read a third time, and passed	270
ordered to a third reading	132	Allen, Andrew, a letter from, presenting a copy of the first Message of President Monroe, printed on gilt leather, read	67
read a third time, and passed	137	Allison, Rev. Burgess, notice of the election of, as Chaplain by the House of Representatives	24
returned from the House of Representatives with amendments	343	Amelia Island, a Message from the President on the subject of	111
Senate disagreed, and asked a conference to which the House of Representatives assented, and managers were appointed	349	American Bible Society, Mr. Sanford presented the petition of the, referred	65
report of the managers	363	the committee discharged	341
the Senate disagreed to a part of the recommendation of the managers, and agreed to another part thereof	364	American Manufactures, Mr. Lacock presented the memorial of the Philadelphia Society for the promotion of, referred	175
the House of Representatives receded from the amendment disagreed to	366	Ames, David, and others, Mr. Ashmun presented the petition of, referred	109
Mr. Campbell submitted a resolution relative to the salaries of	164	Amory, Jonathan, and others, a bill from the House of Representatives for relief of, read twice, and referred	358
agreed to, and referred	167	reported without amendment	360
Mr. Williams submitted a resolution asking for the names of	167	ordered to a third reading	377
agreed to, and committee accordingly appointed	168	read a third time, and passed	379
a Message from the President transmitting a list of	357	Anderson, John, a bill from the House of Representatives for relief of, read a first and second time, and referred	78
Aikman, Samuel, a bill from the House of Representatives for relief of, read	69	reported without amendment	109
read a second time, and referred	72	referred to the Committee of Claims	302
reported with an amendment	79	another bill from the House of Representatives of the same title read twice, and referred to the same committee	345
ordered to a third reading as amended	81	reported without amendment	357
read a third time, and passed as amended	84	a third reading negatived	366
Alabama Territory, a bill respecting the surveying and sale of public lands in, read	226		
read a second time	228		
ordered to a third reading	269		
read a third time, and passed	270		



	Page.		Page.
Annapolis, Mr. Goldsborough submitted a resolution requesting the President to add, to the harbors named in the resolution concerning arsenal ports - - - - -	300	Bankruptcies, Mr. Daggett submitted a resolution on the subject of - - - - -	27
the resolution was agreed to - - - - -	307	amended, agreed to, and referred - - - - -	33
appropriations, a bill from the House of Representatives supplementary to the several acts making, for service of 1818, read twice - - - - -	384	Mr. D. also presented the memorial of the Philadelphia Chamber of Commerce, concerning - - - - -	64
read a third time, and passed - - - - -	389	a bill from the House of Representatives making provision for supplying vacancies in the commissions of, read - - - - -	133
armories, Mr. Wilson submitted a resolution of inquiry as to the number of arms and accoutrements manufactured at the several agreed to, and a committee appointed - - - - -	160	read a second time, and referred - - - - -	134
a Message from the President, with the report of the Secretary of War in reply - - - - -	217	the committee discharged - - - - -	231
may, a bill from the House of Representatives respecting the organization of the, read twice, and referred - - - - -	345	Barbour, Mr., speech of, on his resolution touching internal improvement - - - - -	22
reported with amendments - - - - -	364	on his resolution to present a sword to Colonel R. M. Johnson - - - - -	302
ordered to a third reading, as amended - - - - -	380	on the Navigation bill - - - - -	313
read a third time, and passed - - - - -	587	Bate, John, a bill from the House of Representatives for relief of, read - - - - -	286
Army Register, the Secretary of War sent copies of the, for the Senate - - - - -	78	read a second time, and referred - - - - -	291
carriages, a bill from the House of Representatives making appropriation for the payment of, read - - - - -	120	reported without amendment - - - - -	294
read a second time, and referred - - - - -	129	read a third time, and passed - - - - -	298
reported with amendments, and ordered to a third reading - - - - -	137	Bath, a bill from the House of Representatives establishing a port of entry at, read twice, and referred - - - - -	370
read a third time, and passed as amended - - - - -	160	reported without amendment - - - - -	376
arrival of mails, Mr. Storer submitted a resolution of inquiry as to the causes that prevent the due - - - - -	256	ordered to a third reading - - - - -	382
agreed to, and referred accordingly - - - - -	258	read a third time, by consent, and passed - - - - -	382
arsenal ports, Mr. King submitted a resolution requesting the President to cause to be made surveys of certain harbors, for the purpose of fixing on two or more suitable stations for - - - - -	268	Bayly, Mountjoy, on motion of Mr. Tichenor, authorized to employ an assistant, &c. - - - - -	11
amended, and agreed to - - - - -	270	Beaumarchais, a Message from the President, with sundry papers, calling the attention of the Senate, &c., to the claims of the heirs of - - - - -	118
ashmun, Eli, of Massachusetts, took his seat - - - - -	24	referred to the Committee on Finance - - - - -	139
Justin, Major Loring, and George R. Wells, a bill from the House of Representatives for relief of, read a first and second time, and referred - - - - -	343	said committee discharged - - - - -	161
reported without amendment - - - - -	360	papers referred to a select committee - - - - -	162
ordered to a third reading - - - - -	377	the same discharged - - - - -	389
read a third time, and passed - - - - -	379	Beck, Paul, and Thomas Sparks, Mr. Roberts presented the memorial of, referred - - - - -	111
authentication of acts, records, &c., of the respective States, Mr. Campbell submitted a resolution respecting the - - - - -	228	the committee discharged - - - - -	161
agreed to, and referred to the Judiciary Committee - - - - -	231	Belding, Godfrey H., Mr. Taylor presented the petition of, referred - - - - -	164
a report of inexpediency - - - - -	277	adverse report thereon - - - - -	263
considered and concurred in - - - - -	286	considered, and concurred in - - - - -	266
<b>B.</b>			
Bailey, David, Mr. Smith presented the memorial of, referred - - - - -	212	Belfast. (See <i>Bath</i> , in the bill for which it is included.)	
adverse report thereon - - - - -	224	Bell, George, on motion of Mr. Sanford, the Committee on Pensions were instructed to inquire into the expediency of placing, on the list of pensions - - - - -	363
considered and concurred in - - - - -	226	the committee discharged - - - - -	387
Baker, Stephen.—(See <i>Miller, Thomas</i> .)		Bennett, Weaver, Mr. Burrill presented the petition of, referred - - - - -	32
bank of the United States, a memorial of the President, &c., of the, read, and referred report thereon read, and recommitted - - - - -	147	adverse report thereon - - - - -	73
a bill supplemental to the act to incorporate the twice read - - - - -	352	considered, and concurred in - - - - -	243
ordered to a third reading - - - - -	362	Berry, Benjamin, a bill from the House of Representatives for the relief of, read twice, and referred - - - - -	358
read a third time, and passed - - - - -	365	reported without amendment - - - - -	360
		ordered to a third reading - - - - -	377
		read a third time, and passed - - - - -	379
		Bevan, Joseph, Mr. Troup presented the petition of, referred - - - - -	109
		adverse report thereon - - - - -	135
		considered, and concurred in - - - - -	137
		Biddle, Charles, Mr. Lacock presented the petition of, referred - - - - -	220
		committee discharged, and petition referred to the Committee of Claims - - - - -	230

	Page.		Page.
Birdsall, Benjamin, and William S. Foster, a bill from the House of Representatives for the relief of, read - - - - -	349	Brown, John, Sr., Mr. Ruggles presented petition of, referred - - - - -	67
read a second time, and referred - - - - -	350	adverse report thereon - - - - -	83
reported without amendment - - - - -	382	considered and concurred in - - - - -	90
read a third time, and passed - - - - -	391	Brown, Major General Jacob, a bill from the House of Representatives for relief of, read twice, and referred - - - - -	343
Bogert, John G., Mr. King presented the petition of, referred - - - - -	229	reported with amendments - - - - -	349
a bill for the relief of, read - - - - -	272	read a third time, and passed as amended - - - - -	360
read a second time - - - - -	278	Brown, Frederick, a bill from the House of Representatives for the relief of, read - - - - -	349
ordered to a third reading - - - - -	293	read a second time - - - - -	350
read a third time, and passed - - - - -	295	amended, and ordered to a third reading - - - - -	365
Boundary Line, a bill to establish the, between the State of Mississippi and Territory of Alabama, read - - - - -	306	indefinitely postponed - - - - -	391
read a second time - - - - -	309	Brunswick, Georgia, a bill concerning the district of, read - - - - -	116
Bounty to Fishing Vessels, a bill concerning the, read - - - - -	257	read a second time - - - - -	120
read a second time - - - - -	260	ordered to a third reading - - - - -	132
ordered to a third reading - - - - -	279	read a third time, and passed - - - - -	137
read a third time, and passed - - - - -	287	Bullen, Joseph, Mr. Williams, of Mississippi, presented the petition of, referred - - - - -	66
Bowie, Belinda, Mr. Sanford presented the petition of, referred - - - - -	260	the committee discharged - - - - -	386
adverse report thereon - - - - -	264	Bunnell, Cata, Mr. Roberts presented the petition of, referred - - - - -	231
considered, and concurred in - - - - -	266	a bill for relief of, read - - - - -	240
Brady, James, Mr. Lacock presented the petition of, referred - - - - -	278	read a second time - - - - -	256
committee discharged - - - - -	386	ordered to a third reading - - - - -	278
Brent, Daniel, and others, (clerks,) Mr. Eppes presented the petition of, read - - - - -	364	read a third time, and passed - - - - -	287
(See <i>Clerks</i> .)		Burnett, Daniel, Gibson Clark, and the legal representatives of Hubert Rowell—a bill from the House of Representatives for the relief of, read - - - - -	286
Brevet Officers, a bill to regulate the pay and emoluments of, read - - - - -	212	read a second time, and referred - - - - -	292
read a second time - - - - -	214	reported with an amendment - - - - -	294
ordered to a third reading - - - - -	227	ordered to a third reading - - - - -	299
reported without amendment - - - - -	239	read a third time, and passed as amended - - - - -	301
ordered to a third reading - - - - -	274	Burrill, Mr., remarks of, on his resolution concerning the African slave trade - - - - -	74, 76
read a third time, and passed - - - - -	279	speech of, in support of the same - - - - -	95
Brevet Rank, Mr. Daggett submitted a resolution to abolish - - - - -	164	Business, committees appointed under the 22d and 42d rules for conducting - - - - -	11
amended, and referred to the Military Committee to inquire into the expediency of abolishing - - - - -	165	a resolution from the House of Representatives for a joint committee to consider and report what, ought to be attended to before adjournment, agreed to - - - - -	308
Briggs, Isaac, Mr. Dickerson presented the memorial of, referred - - - - -	115	report of said committee - - - - -	340
a bill for the relief of, read - - - - -	130	Byington, Abraham, a bill from the House of Representatives for relief of, read - - - - -	271
read a second time - - - - -	132	read a second time, and referred - - - - -	272
ordered to a third reading - - - - -	134	reported without amendment - - - - -	286
read a third time, and passed - - - - -	137	ordered to a third reading - - - - -	295
returned from the House of Representatives with an amendment, non-concurred in - - - - -	367	read a third time, and passed - - - - -	298
Brobson, James, Mr. Van Dyke, presented the memorial of, referred - - - - -	93	<b>C.</b>	
adverse report thereon - - - - -	174	Campbell, George W., of Tennessee, took his seat - - - - -	20
considered, and concurred in - - - - -	213	remarks of, on the resolution respecting the African slave trade - - - - -	76
Brooks, John, Mr. Ruggles presented the petition of, referred - - - - -	343	a letter from, stating that he had resigned his seat in the Senate - - - - -	395
adverse report thereon concurred in - - - - -	362	Campbell, Samuel, and others, Mr. Sanford presented the petition of, referred - - - - -	92
Broutin, Narcissus, and others, a bill from the House of Representatives for relief of, read - - - - -	286	the committee discharged - - - - -	161
read a second time, and referred - - - - -	292	Canans, Shubal, Mr. Ruggles presented the memorial of, referred - - - - -	269
reported with amendments - - - - -	307	(See <i>Dequindue, Louis and Antoine</i> .)	
ordered to a third reading - - - - -	312	Cape Vincent, a bill from the House of Representatives to establish a port of entry at, read twice and referred - - - - -	343
read a third time, and passed as amended - - - - -	340		
Brown, Samuel, Mr. Ruggles presented the petition of, referred - - - - -	62		
an adverse report thereon - - - - -	376		
considered and concurred in - - - - -	379		



Senate Proceedings and Debates.

	Page.		Page.
Cape Vincent—continued.		Clifford, Thomas and John, and others, a bill	
reported without amendment	356	from the House of Representatives for	
ordered to a third reading	366	relief of, read	311
read a third time, and passed	369	read a second time, and referred	341
Carter, London, Mr. Williams, of Tennessee,		reported without amendment	352
presented the petition of the heirs of, re-		ordered to a third reading	368
ferred	32	read a third time, and passed	377
a bill for the relief of the heirs of, read	60	Coasts of the United States, Mr. Storer submit-	
read a second time, and ordered to a third		ted a resolution of inquiry concerning the	
reading	61	progress made in the survey of the	162
read a third time, and passed	63	amended, and agreed to	165
leave granted to withdraw the papers in the		a message containing reports in reply	175
case	386	another message on the same subject	265
Cavellier, Anthony, and Peter Petit, the petition		a bill to repeal part of the act for surveying	
of, presented at the last session, was refer-		the, read	311
red to the Committee on Public Lands	256	read a second time	341
a bill confirming the claims of, to a tract of		ordered to a third reading	348
land, read	311	read a third time, and passed	349
read a second time, and ordered to a third		Collection of Customs, a letter from the Secre-	
reading	346	tary of the Treasury, with a statement	
read a third time, and passed	347	of the pay and emoluments of persons	
Certain crimes against the United States, a bill		employed in the	231
from the House of Representatives in ad-		Columbian Institute, a bill from the House of	
dition to the act to punish, read	291	Representatives to incorporate the, read	
read a second time, and referred	294	twice, and referred	358
reported with amendments	307	reported without amendment	379
ordered to a third reading	360	amended, and read a third time	383
read a third time, and passed as amended	361	Columbian Insurance Company, a bill from the	
the House of Representatives disagreed to		House of Representatives to incorporate	
one amendment	384	the, read	89
the Senate receded from the same	385	read a second time, and referred	93
Certain Laws, a resolution for the procurement		reported with amendments	162
of, read twice	90	ordered to a third reading	166
Certificates, a bill from the House of Represent-		read a third time, and passed as amended	167
atives to authorize the payment of cer-		Colvin, John B., Mr. Morrow presented the pe-	
tain, read	271	tition of, referred	174
read a second time, and referred	272	committee discharged	340
reported without amendment	311	Commerce and Manufactures, appointment of	
ordered to a third reading	347	the standing committee on	26
read a third time, and passed	349	Compensation, a bill from the House of Repre-	
Chaplains, on motion of Mr. Tichenor a resolu-		sentatives concerning, to members, read	89
tion for the appointment of two, of differ-		read a second time	93
ent denominations, was agreed to	11	amended, and ordered to a third reading	94
a message from the House of Representa-		read a third time, and passed as amended	109
tives that they concur in the same	21	Mr. Campbell presented the instructions of	
Chardon, Anthony, Mr. Roberts presented the		the Legislature of Tennessee, concerning	162
petition of, referred	220	Congress, a resolution from the House of Repre-	
Chesapeake Bay, a resolution from the House		sentatives for the temporary adjourn-	
of Representatives for completing the		ment of, read three times, by consent,	
survey of the, twice read, and referred	351	and passed	66
reported without amendment	357	another resolution from the House of Repre-	
ordered to a third reading	377	sentatives for adjournment of the 1st	
read a third time, and passed	380	session of the 15th Congress, (appoint-	
Claims, appointment of the standing commit-		ing a joint committee)	228
tee of	26	read three times, concurred in, and a joint	
Clark, Asael, the petition of, referred	240	committee appointed	229
a bill for the relief of, read	260	the committee report a resolution fixing a	
read a second time	263	day for adjournment of, read	240
ordered to a third reading	268	read a second time	258
Clark, Gibson. (See Burnett, Daniel, &c.)		indefinitely postponed	301
Cly, Henry, a message from the House of		a resolution from the House of Representa-	
Representatives that they have elected,		tives of the same tenor, read	256
Speaker	11	read a second time	258
Clerks, report from the Secretary of War, of		amended, read a third time, and passed	298
the, employed in his Department	139	a bill from the House of Representatives fix-	
report from the Secretary of the Treasury,		ing the time for the next meeting of, read	308
of the, employed in his Department	161	read a second time	309
a bill from the House of Representatives to		ordered to a third reading	364
regulate and fix compensation of, read	384	amended, read a third time, and passed	369
read a third time, and passed	390		

Senate Proceedings and Debates.

	Page.		Page.
Constitution, Mr. Dickerson presented a resolu-		Daniel, William—continued.	
tion and instructions from the Legislature		read a first time	291
of New Jersey relative to an amendment		read a second time, and referred	291
of the, read	65	reported without amendment	294
read a second time, and referred	67	indefinitely postponed	309
ordered to a third reading	229	Davis, John, Mr. Morrill presented the petition	
negative	242	of, referred	67
Mr. Macon presented a similar resolution,		adverse report thereon	230
&c., from North Carolina, referred	114	read and concurred in	241
reported with amendments	136	Deposites of provisions in advance, &c., Mr. Tich-	
resolutions and instructions from the Legis-		enor submitted a resolution of inquiry	
lature of Tennessee, received and entered	170	concerning certain	212
Contracts, report of, made by the Navy Depart-		Mr. Williams, of Tennessee, offered a sub-	
ment	82	stitute for the above	213
ditto from the War Department	131	the substitute withdrawn and the original	
ditto from the Postmaster General	167	amended and agreed to	216
Controversies, between two or more States, a bill		a Message from the President with a report	
concerning, read	252	from the War Department in reply	258
read a second time	278	Deposit of Wines, &c., in public warehouses,	
indefinitely postponed	307	a bill from the House of Representatives	
Courthouse, jail, &c., in Alexandria, a bill from		providing for the, read twice, and referred	370
the House of Representatives to provide		reported without amendment	379
for the erection of a, read	271	read a third time, and passed	383
read a second time, and referred	272	Deputy Postmasters, a bill to increase the com-	
reported without amendments	296	pensation of, twice read, and referred	370
ordered to a third reading	299	reported with an amendment	382
Creek Indians, a bill from the House of Repre-		ordered to a third reading	389
sentatives for the relief of certain friendly,		Dequindue, Louis and Antoine, a bill for relief	
read	311	of, read	292
read a second time, and referred	342	read a second time, and ordered to a third	
reported with amendments	368	reading	294
ordered to a third reading	381	read a third time, and passed	299
read a third time, and passed	387	Dewees, Sarah, a bill from the House of Repre-	
Creen, Adam, the Committee of Pensions were		sentatives for relief of, read	311
instructed to inquire into the expediency		read a second time, and referred	341
of placing, on the list of pensioners	296	reported without amendment	342
Crittenden, John J., appointed a Senator by the		ordered to a third reading	348
Legislature of Kentucky, was qualified,		read a third time, and passed	349
and took his seat	9	D'Wolfe, Charles, and others, Mr. Burrill pre-	
Cumberland Road, a bill from the House of Repre-		sented the petition of, referred	27
sentatives making further appropria-		Dickerson, Mr., speech of, on the proposition to	
tions for the construction of the, read	308	amend the Constitution	178
read a second time, and referred	309	on the resolution to present medals, and the	
reported without amendment	340	thanks of Congress to General Harrison	
ordered to a third reading	348	and Governor Shelby	283
read a third time, and passed	349	Dillon, John, a bill from the House of Repre-	
Cumming, Joseph, administrator, Mr. Troup pre-		sentatives for relief of, read twice, and	
sented the petition of, referred	70	referred	361
adverse report thereon	131	reported without amendment	366
considered and concurred in	133	ordered to a third reading	380
Cutting, Nathaniel, Mr. Eppes presented the		read a third time, and passed	387
petition of, referred	80	Direct Taxes and Internal Duties, a bill from the	
adverse report thereon	93	House of Representatives supplemental to	
considered and concurred in	111	the several acts relating to, read twice,	
		and referred	584
D.		read a third time, and passed	385
Dabney, John B., a bill from the House of Repre-		District of Columbia, appointment of the stand-	
sentatives for relief of, read twice, and		ing committee on the	26
referred	367	report of the Secretary of the Treasury on	
reported without amendment	377	the subject of the banks in the	241
read a third time, and passed	382	District Courts of the United States within the	
Dana, Edward, Mr. Sanford presented the peti-		State of New York, a bill from the House	
tion of, referred	63	of Representatives respecting the, read	257
adverse report thereon	80	read a second time, and referred	258
considered and concurred in	83	reported with an amendment	261
Dana, Samuel W., took his seat	351	ordered to a third reading	280
Daniel, William, a bill from the House of Repre-		read a third time, and passed as amended	282
sentatives concerning the legal repre-			
sentatives of	281		



	Page.	Emigrants—continued.	Page.
District of Maine, a bill from the House of Representatives altering the time for holding the district court in the, read	242	Mr. Goldsborough presented the memorial of those of Baltimore, referred to same committee	206
read a second time, and referred	258	Mr. Lacock, the same, of those of Philadelphia, referred to same	212
reported without amendment	261	the committee discharged	386
ordered to a third reading	279	Eppes, John W., appointed a Senator by the Legislature of Virginia, produced his credentials, was qualified, and took his seat	10
read a third time, and passed	287	Erie, a bill from the House of Representatives to change the name of the district of, read a first and second time, and referred	310
On motion of Mr. Eppes, the President was requested to cause an estimate to be laid before the Senate of the sum necessary to establish two	271	reported without amendment	342
a Message with the estimate of the Navy Department	279	ordered to a third reading	348
Amendments, a bill from the House of Representatives for the transportation of certain, free of postage, read three times by consent, and passed	277	read a third time, and passed	349
Mr. Rachel, had leave to withdraw her papers filed at last session	229	Esenbeck, William, a messenger in the Treasury Department, the President of the Senate communicated the petition of, referred	63
Murphy, Thomas, notice from the House of Representatives that they have elected, clerk	11	an adverse report thereon	82
Mr. John. (See Iron.)		read and concurred in	90
Drawback on merchandise transported by land, a bill to allow the benefit of, in a certain case, read	80	Essary, Jonathan D., and John Seybold, a bill from the House of Representatives for relief of, read twice, and referred	367
read a second time	81	reported with amendments	385
ordered to a third reading	84	read a third time, and passed	391
read a third time, and passed	90	Executive Departments, a bill from the House of Representatives providing for the erection of additional buildings for the accommodation of the, read	349
Hobbs, Martin, Mr. Lacock presented the petition of, referred	199	read a second time, and referred	350
adverse report thereon	224	reported with an amendment	357
read, and concurred in	227	read a third time, and passed as amended	377
Hobbs, Toussaint, Mr. Taylor presented the petition of, referred	134	Expenditure and application of money, a report of the, from the Secretary of War	78
committee discharged	386	the same from the Secretary of the Navy	82
On merchandise imported, Mr. Sanford submitted a resolution to inquire concerning	21	Expenses of Militia, when marching to rendezvous, a bill to defray the, read	229
considered, and agreed to	60	read a second time	231
On manufactured articles imported, a bill from the House of Representatives to increase the, read twice, and referred	370	ordered to a third reading	269
reported without amendment	379	read a third time, and passed	270
read a third time, and passed	383	Extinguishment of Indian titles, Mr. Talbot presented a resolution of the Legislature of Kentucky, and one of his own, in relation to the, referred	226
E.		Mr. Williams presented a similar resolution from the Legislature of Mississippi, referred to the same committee	227
Farwood, Joel, a bill from the House of Representatives for relief of, read	70	committee discharged	274
read a second time, and referred	72	Extra Duties, a Message from the President with sundry papers relating to	206
reported with amendments	79	referred to the Finance Committee	209
ordered to a third reading as amended	81	F.	
read a third time, and passed with amendments	84	Farquhar, A., Mr. Ruggles presented the petition of, referred	109
the House of Representatives concurred, with an amendment, which was agreed to	94	adverse report thereon	114
Ston, Rufus, Mr. Morrow presented the petition of, referred	388	read and concurred in	118
Edwards, William, Mr. Morrow presented the petition of, referred	62	Farrand, Wm. P., and others, Mr. Robertson presented the petition of, referred	128
a bill for relief of, read	70	adverse report thereon	301
read a second time	72	indefinitely postponed	311
amended, and ordered to a third reading	73	Farris, William, Mr. Ruggles presented the petition of, referred	62
read a third time, and passed	79	adverse report thereon	99
Elliot, Jonathan, Mr. Morrow presented the petition of, referred	213	read and concurred in	111
committee discharged	340	Finance, appointment of the standing committee of	26
Emigrants, Mr. Sanford presented the memorial of the Irish, of New York, referred	202		

	Page.		Page.
Fire Insurance Company in Washington, a bill to incorporate a, read	260	Georgetown, Delaware, Mr. Horsey submitted a resolution, respecting an increase of allowance to the postmaster at	296
read a second time	266	agreed to, and referred to the Post Office Committee	297
ordered to a third reading	287	Giles, Aquilla, Mr. King presented the petition of, referred	162
read a third time, and passed	293	a bill for relief of, read twice	310
Fisk, James, appointed by the Legislature of Vermont a Senator in place of Dudley Chace, resigned, produced his credentials, &c.	9	ordered to a third reading	346
a letter from, stating that he had resigned his seat	119	read a time, and passed	348
Flag of the United States, a bill from the House of Representatives to establish the, read	291	Gist, Captain Henry, and Captain H. Johnson, a bill from the House of Representatives for relief of, read twice, and referred	361
read a second time, and referred	294	reported without amendment	367
reported without amendment	296	ordered to a third reading	381
read a third time, and passed	302	read a third time, and passed	387
Fletcher, Thomas, and others, Mr. Van Dyke presented the petition of, read	379	Goldsborough, Robert H., of Maryland, took his seat	20
Foreign Relations, appointment of the standing committee on	25	resumed his seat after an absence	82
Forfeiture of Lands, a bill to suspend for a limited time the sale of, read	344	speech of, on the bill to provide for surviving officers of the Revolution	191
read a second time	346	Golden, Thomas, Mr. Taylor presented the petition of, referred	132
ordered to a third reading	358	the committee discharged	386
read a third time, and passed	360	Goodwyn, Peterson, of Virginia, a message from the House of Representatives, that they have passed a resolution to wear crape, in memory of the late honorable	215
Forrest, Joseph, Mr. Roberts presented the petition of, referred	91	Government, a bill from the House of Representatives making appropriations for the support of, for the year 1818, read twice, and referred	301
adverse report thereon	130	reported with amendments, and ordered to a third reading	311
read and concurred in	163	read a third time, and passed as amended	340
Fort Charlotte, on motion of Mr. Williams, the Committee on Public Lands were instructed to inquire into the expediency of authorizing the sale of the land attached to	338	Government Dividends on the Bank of the United States stock, Mr. Troup submitted a resolution to set apart the, for the purchase of arms, &c., for the militia	287
Fort St. Charles, Mr. Fromentin presented the representation of the Legislature of Louisiana, praying the demolition of, &c., referred	297	agreed to, and referred to the Committee on the Militia	291
Foster, William T. (See Birdsall, Benjamin.)		said committee reported that it was inexpedient	339
French Spoliations prior to 1800, Mr. Storer called up the memorial presented at the last session, on the subject of, and it was referred	79	the report indefinitely postponed	346
Frisby, Richard, Mr. Goldsborough presented the petition of, referred	172	Graeff, Jacob, a bill from the House of Representatives for relief of the widow and children of, read first and second time, and referred	358
adverse report thereon agreed to	272	reported without amendment	360
Fromentin, Eligius, of Louisiana, took his seat	91	ordered to a third reading	381
Funded Debt, Mr. King submitted a resolution directing the Secretary of the Treasury to report the sum of the, &c.	312	read a third time, and passed	387
resolution agreed to	340	Grant, Moses, and others, Mr. Otis presented the memorial of, referred	168
report from the Secretary of the Treasury in reply	370	Gregory, Jeremiah, and others, Mr. Taylor presented the petition of, referred	134
Gaillard, John, election of, as President pro tem.	300	the committee discharged	386
Gale, Anthony, Mr. Johnson presented the petition of, referred	225	H.	
adverse report thereon	292	Half pay for life, Mr. Roberts presented a petition in behalf of the Pennsylvania line of Revolutionary soldiers, praying an equitable settlement of their, referred	63
read, and concurred in	294	the committee discharged	230
Gales & Seaton, Mr. Eppes presented the petition of, referred	267	Hall, John T., and others, Mr. Morrow presented the petitions of, referred	65
Gamble, William, Mr. Wilson presented the petition of, referred	210	committee discharged	386
adverse report thereon	240	Hall, John, Paymaster of Marines, Mr. Smith presented the petition of, referred	139
read, and concurred in	256	adverse report thereon	241
Gardiner, John, chief clerk of Land Office, a letter from, presenting a map to the Senate, read	20	report reversed, and bill ordered	343



## Senate Proceedings and Debates.

	Page.		Page.
Hall, John—continued.		Hooker, Samuel F., Mr. Sanford presented the	
a bill for relief of, read	345	petition of, referred	273
read a second time	346	a bill for the relief of, read	308
ordered to a third reading	352	read a second time	309
read a third time, and passed	388	ordered to a third reading	350
Hall, Joseph, Mr. Daggett presented the petition		read a third time, and passed	351
of, referred	200	Horsey, Outerbridge, of Delaware, took his seat	20
the committee discharged	309	Howell, Hubert, the legal representatives of.	
Harrison, Jonas, a bill from the House of Repre-		(See <i>Burnett, Daniel, &amp;c.</i> )	
sentatives for the relief of, read twice, and		Hunter, William, of Rhode Island, took his seat	78
referred	361	Illinois Territory, a map of the bounty lands in,	
reported without amendment	366	presented to the Senate	20
ordered to a third reading	380	a bill from the House of Representatives to	
read a third time, and passed	387	enable the people of, to form a constitu-	
Hart, Eli, Mr. Sanford presented the petition of,		tion, &c., read twice, and referred	345
referred	229	reported with amendments	351
a bill for the relief of, read	286	ordered to a third reading	363
read a second time	292	read a third time, and passed as amended	365
a third reading negatived	296		
Halet, John, leave to withdraw the petition of,		I.	
refused	62	Imported Salt, Mr. Smith submitted a resolution	
Mr. Smith presented a petition of, referred	280	respecting the duties on	65
the committee discharged	352	agreed to, and referred to the Secretary of	
Hawley, Rev. William, election of, as Chaplain	24	the Treasury	66
heads of Departments, the bill to increase the		report of that officer in reply	69
salaries of, read twice, and ordered to a		Mr. S. then submitted a resolution to refer the	
third reading	293	report to the Finance Committee, with	
read a third time, and passed	295	instructions to inquire into the propriety	
returned from the House of Representatives		of repealing the laws laying duties on	69
with amendments, to some of which the		agreed to, and said committee instructed	
Senate agreed, and to others disagreed	386	accordingly	71
receded from disagreement to one amend-		report of that committee that it is inexpe-	
ment, and insisted upon disagreeing to		dient	135
others	392	considered, and concurred in	210
Heirs of Soldiers, Mr. Wilson submitted a reso-		Imports and Tonnage, a bill supplementary to	
lution relative to securing bounty lands		the act to regulate the collection of duties	
to the	110	on, read twice, and referred	370
agreed to, and referred to a committee	111	reported with amendments, and ordered to	
the committee discharged	164	a third reading	387
Henderson, Francis, and family, heirs of John		read a third time and passed	388
Laurens, Mr. Hunter presented the peti-		a bill from the House of Representatives to	
tion of, referred	261	continue in force a certain part of the act	
a bill for the relief of, read	310	to regulate duties on, twice read, and re-	
read a second time	340	ferred	379
indefinitely postponed	347	reported amended, read a third time, and	
Hubert, John, and others, Mr. Stokes presented		passed	383
the petition of, referred	61	Index to Acts and Resolutions, a resolution from	
adverse report thereon	33	the House of Representatives directing	
read, and concurred in	91	the Secretary of State to prepare an, at	
Hill, Rees, Mr. Lacock presented the memorial		the end of every session of Congress	281
of, referred	82	read, and passed to a second reading	286
adverse report thereon	113	read a second time, and ordered to a third	
read, and concurred in	115	reading	292
Hill, William, and others, Mr. Sanford presented		read a third time, and passed	295
the petition of, referred	187	Indian Agents and Factors, a bill fixing the	
adverse report thereon	221	compensation of, twice read	362
read, and concurred in	226	ordered to a third reading	365
Hill, William, and others, Mr. Noble presented		read a third time, and passed	369
the petition of, referred	220	Inskeep, John, and others, Mr. Lacock presented	
Hogan, Michael, Mr. Sanford presented the peti-		the memorial of, referred	89
tion of, referred	113	Internal Duties, a report from the Secretary of	
a bill for the relief of, read	262	the Treasury in relation to	21
read a second time	263	a bill from the House of Representatives	
ordered to a third reading	292	to abolish, read and referred	26
read a third time, and passed	295	reported with amendments, and read a sec-	
Holland, a message from the President respect-		ond time	34
ing negotiations with	274	Mr. Wilson presented memorials praying	
referred to the Committee of Foreign Rela-		the abolition of	34
tions	278	the bill read a third time, and passed	36

## Senate Proceedings and Debates.

	Page.		Page.
Internal Improvement, Mr. Barbour proposed an		Jourdan, B. and P., brothers, a bill from the	
amendment of the Constitution so as to		House of Representatives for relief of	386
grant the power of, read	21	read twice, and referred	387
read a second time, and referred	24	ordered to a third reading	393
reported without amendment	211	a motion to suspend the rule so as to read it	
indefinitely postponed	292	a third time, negatived	393
Introduction of Slaves, a bill in addition to the		Journal and proceedings of the Convention	
act to prohibit the, read	307	which formed the Constitution, Mr. San-	
read a second time	312	ford submitted a resolution to direct the	
ordered to a third reading	351	publication of the, read twice, and re-	
read a third time, and passed	358	ferred	73
returned from the House of Representatives		reported with amendments	114
with amendments	378	ordered to a third reading	116
read, and concurred in	379	read a third time, and passed	117
Invalid Pensions, a bill from the House of Rep-		returned from the House of Representatives	
resentatives concerning, read	384	with an amendment, agreed to	271
read a second time, and indefinitely post-		Judges of the United States Courts, the bill to	
poned	385	increase the compensation of certain,	
Iron, Mr. Dickerson presented a memorial of the		read twice, blanks filled, and ordered to	
manufacturers of, praying an additional		a third reading	344
duty on, referred	27	read a third time, and passed	346
a bill from the House of Representatives to		Judges of the Circuit Court for the District of	
increase the duties on, in bars, &c., read		Columbia, Mr. Campbell presented the	
twice, and referred	370	memorial of the, praying increase of sal-	
amended, and ordered to a third reading	381	ary of, referred	128
read a third time, and passed as amended	387	a bill to increase the salaries of, read	136
Island of New Orleans, a bill for adjusting claims		read a second time	139
to land in districts east of the, &c., read	201	recommitted to the Judiciary Committee	165
read a second time	211	reported without amendment	187
ordered to a third reading	279	ordered to a third reading	220
indefinitely postponed	385	read a third time, and passed	222
Issue and location of Certificates of Lands, on		Judicial System, Mr. Talbot submitted a resolu-	
motion of Mr. Morrow, the Committee on		tion respecting a change of the	135
Public Lands were instructed to inquire		amended and agreed to, and referred to the	
into the expediency of making provision		Judiciary Committee	138
for limiting and controlling the	120	Judiciary, appointment of the standing commit-	
		tee on the	26
J.		Justices of the Peace, in Washington, a bill to	
Jarret, John, Mr. Morrow presented the petition		make valid certain acts of the, read	267
of, referred	388	read a second time	269
Jelley, Samuel, Mr. Noble presented the petition		ordered to a third reading	288
of, referred	67	read a third time, and passed	293
Jervey, Thomas Hall, Mr. Smith presented the		returned from the House of Representatives	
petition of, referred	128	with an amendment	351
the committee discharged	388	read, and disagreed to	357
Johnson, Richard M., a bill for relief of, twice		the House of Representatives insist and ask	
read, and referred	169	a conference, which is agreed to	362
reported without amendment	175	K.	
ordered to a third reading	188	Keemle, John, Mr. Roberts presented the me-	
read a third time, and passed	200	memorial of, referred	116
Mr. Barbour submitted a resolution to pre-		adverse report thereon	130
sent a sword to, read twice	302	read and concurred in	132
read a third time, and passed unanimously	307	Kendall, Jeduthan, Mr. Morrow presented the	
Johnson, Henry, appointed a Senator by the Le-		petition of, referred	388
gislature of Louisiana, in place of W. C.		Kennedy, L. P., Mr. Williams, of Mississippi,	
C. Claiborne, produced his credentials,		presented the memorial of, referred	65
was qualified, and took his seat	221	Kennedy, Joseph P., and others, the same mem-	
Jones, Henry, Mr. Wilson presented the petition		ber presented the petition of, referred	66
of, referred	68	Kentucky, Mr. Talbot presented a memorial of	
adverse report thereon	214	the Legislature of, respecting boundaries	224
read, and concurred in	215	Kentucky Ohio Canal Company, on motion of	
Jones, William, and others, Mr. Roberts pre-		Mr. Talbot, the Committee on Roads and	
sented the petition of, referred	224	Inland Navigation were instructed to in-	
Jones, Michael, Mr. Morrow presented the peti-		quire into the expediency of authorizing	
tion of, referred	266	a subscription to the stock of the	273
a bill for relief of, read	300	Kidnapping, Mr. Roberts presented petitions	
read a second time	307	from Friends, in several States, on the	
ordered to a third reading	309	subject of, &c., referred	20
read a third time, and passed	311		



## Senate Proceedings and Debates.

	Page.	Laws of the United States—continued.	Page.
Kidnapping—continued.		read a third time, and passed - - -	60
Mr. Goddard presented a similar petition from the Philanthropic Society of Easton, Maryland - - -	92	Mr. Morrill submitted a resolution providing for the distribution of the sixth volume of the, read - - -	115
Willigene, John, Mr. Horsey presented the petition of, referred - - -	216	read a second time - - -	117
King, Mr., speech of, on the resolution respecting the African slave trade - - -	75, 87	referred to the Judiciary Committee - - -	120
on the motion to strike out the latter clause of the same - - -	105	reported without amendment - - -	175
on the Navigation Bill - - -	324	consideration resumed and postponed - - -	177, 218
King, Henry, a bill from the House of Representatives for relief of, read twice, and referred - - -	361	read a third time, and passed - - -	262
reported without amendment - - -	367	returned from the House of Representatives with amendments, agreed to - - -	271
indefinitely postponed - - -	384	a bill for the purchase and distribution of the, read - - -	202
Arkendall, Samuel, Mr. Dickerson presented the petition of, referred - - -	286	read a second time - - -	209
the committee discharged - - -	386	referred to a select committee - - -	218
Smox County, Indiana, an adverse report on the petition of sundry inhabitants of - - -	293	ordered to a third reading - - -	262
read and concurred in - - -	302	read a third time, and passed - - -	253
John, Samuel, Mr. Johnson presented the petition of, referred - - -	230	a bill from the House of Representatives, to provide for the publication of, read twice and referred - - -	310
committee discharged - - -	386	reported with amendments - - -	340
L.		ordered to a third reading - - -	351
Belotte, H. Acinth, Mr. Fromentin presented the petition of, referred - - -	342	read a third time, and passed - - -	358
committee discharged - - -	352	returned from the House of Representatives with concurrence, except as to the seventh and eighth amendments, and the Senate receded from the seventh but insisted on the eighth - - -	367
Lacock, Mr., speech of, on the resolution respecting the African slave trade - - -	107	Leake, Walter, appointed a Senator by the Legislature of Mississippi, produced his credentials, was qualified, &c. - - -	25
Land Claims of Florida, a memorial of the Legislature of Louisiana respecting the, was referred - - -	62	drew the lot for the term of four years - - -	28
Mr. Williams presented a memorial and protest of certain members of the same Legislature on the subject of, referred - - -	64	Lee, Richard Bland, Mr. Barbour presented the petition of, referred - - -	357
and Laws, a resolution relative to the distribution of the late edition of the collection of, read - - -	164	Levie, Alexander, Mr. Smith presented the petition of, referred - - -	201
read a second time - - -	167	adverse report thereon - - -	281
ordered to a third reading - - -	171	report recommitted - - -	287
read a third time, and passed - - -	173	reported with an amendment, and leave given to withdraw the petition - - -	290
and Marks, a resolution respecting the perpetuation of, agreed to - - -	34	the committee discharged - - -	386
and Office, Mr. Noble submitted a resolution relating to, in the eastern part of Indiana a bill from the House of Representatives, to establish additional, in Missouri Territory, read - - -	70	Lewis, Winslow and Henry, a bill from the House of Representatives, for the relief of, twice read and referred - - -	71
read a second time, and referred - - -	72	reported with amendments - - -	62
reported with amendments - - -	128	recommitted with instructions - - -	91
ordered to a third reading - - -	131	reported with amendment, and ordered to a third reading - - -	92
read a third time, and passed - - -	134	read a third time, and passed as amended - - -	94
the House of Representatives concurred, with an amendment - - -	168	Library, on motion of Mr. Tichenor, a committee on the, was appointed - - -	11
read and agreed to - - -	169	a message from the House of Representatives announcing the appointment of a joint committee on the - - -	20
and Patents, on motion of Mr. Roberts, the Committee on Public Lands were instructed to inquire into the expediency of providing for the authentication of, without the signature of the President - - -	240	Location and Survey, under military land warrants, &c., Mr. Morrow submitted a resolution concerning the - - -	34
Laurens, John, (See Henderson, Francis.)		agreed to, and referred to the proper committee - - -	60
Laws of the United States, a resolution from the House of Representatives directing the distribution of certain, read - - -	24	Loomis, Jairus, and James Bassett, Mr. Fromentin presented the petition of, referred - - -	130
read a second time, and referred - - -	25	committee discharged - - -	361
reported without amendment - - -	32	Lorman, William, and others, Mr. Goddard presented the petition of, referred - - -	82
ordered to a third reading - - -	35	committee discharged - - -	166
		Lyman, D., Mr. Burrill presented the petition of, referred - - -	27

## Senate Proceedings and Debates.

	Page.	M.	Page.
Mackay, James, a bill from the House of Representatives, for relief of, read twice and referred - - -	367	Merchants, Insurance Companies, &c., of sundry cities and ports, an adverse report on the memorial of sundry - - -	227
reported with an amendment - - -	385	Message, the President's first, read - - -	12
read a third time, and passed as amended - - -	390	two thousand copies thereof ordered to be printed - - -	19
Macomb, Alexander, Mr. Ruggles presented the petition of, referred - - -	69	Messengers and servants of the Senate, a resolution to compensate the, read - - -	379
committee discharged - - -	386	read a second time, and passed - - -	382
Macon, Mr., speech of, on the bill for relief of revolutionary survivors - - -	152	on motion of Mr. Lacock, an extra allowance was ordered to the - - -	383
Manufactures, Mr. Sanford presented a petition from inhabitants of Oneida county, praying encouragement of, ordered to be printed - - -	84	Michigan Territory, a bill from the House of Representatives to authorize the election of a delegate in, read - - -	271
Marietta and Vincennes, a bill providing for the sale of certain lands in the districts of, read - - -	162	read a second time, and referred - - -	272
read a second time - - -	165	reported without amendment - - -	290
ordered to a third reading - - -	168	indefinitely postponed - - -	298
read a third time, and passed - - -	169	the memorial of the Governor and Judges of, concerning the boundary line between said Territory and Ohio, was referred - - -	213
Marine Corps, a memorial of the, relating to the rights of subalterns, referred - - -	26	Milford Marble Company, Mr. Daggett presented the petition of, referred - - -	175
report of the committee - - -	121	Military Affairs, appointment of the standing committee of - - -	26
Marshall, William, Mr. Smith presented the petition of, referred - - -	240	Military Bounty Lands, Mr. Morrill submitted a resolution relating to the survey of - - -	25
Mason, Cornelia, a bill from the House of Representatives for relief of, read - - -	384	amended, and agreed to, requesting information from the President - - -	25
read a second time, and referred - - -	385	a Message, with a report from the Secretary of the Treasury, in reply - - -	61
read a third time, and passed - - -	389	Mr. Morrill submitted a joint resolution to furnish each soldier, who receives a patent, a description of the quality of the lot, read - - -	66
Massachusetts, Mr. Otis submitted a resolution respecting the militia claims of - - -	135	read a second time, and referred - - -	67
agreed to, and referred to the Committee of Claims - - -	177	reported without amendment - - -	135
committee discharged - - -	388	third reading negatived - - -	139
May, Hugh, Mr. Noble presented the petition of, referred - - -	134	Mr. Wilson submitted a resolution relative to the designating, surveying, and granting - - -	187
report of the Secretary of the Treasury on the petition of - - -	161	agreed to - - -	202
referred to the Committee of Claims - - -	167	Military Establishment, a Message from the President, with a report from the Secretary of War of the contingent expenses of the - - -	210
committee discharged, and petition referred to the Secretary of War - - -	175	Military Land Warrants, Mr. Burrill submitted a resolution respecting the extension of time for the exhibition of claims for - - -	162
Meade, Richard W., report of the Committee of Foreign Relations in the case of - - -	282	agreed to, and the committee instructed to report a bill - - -	165
Mechanic Relief Society, of Alexandria, Mr. Epes presented the petition of the, referred - - -	71	a bill further extending the time for locating, &c., read - - -	174
a bill to incorporate the, read - - -	120	read a second time - - -	176
read a second time, and referred - - -	129	ordered to a third reading - - -	188
reported without amendment, and recommitted with instructions - - -	131	read a third time, and passed - - -	200
again reported without amendment, and ordered to a third reading - - -	133	a bill extending the time for obtaining, in certain cases, read - - -	216
read a third time, and passed - - -	137	read a second time - - -	219
Medals to Harrison and Shelby, Mr. Dickerson submitted a joint resolution to present the thanks of Congress, and directing, read - - -	285	ordered to a third reading - - -	257
read a second time - - -	286	read a third time, and passed - - -	260
amended, and ordered to a third reading - - -	295	Military Service, a bill from the House of Representatives making appropriations for the, read - - -	120
read a third time, and passed - - -	298	read a second time, and referred - - -	129
Meigs, Phineas, Mr. Daggett presented the petition of, referred - - -	206	reported with amendments - - -	161
adverse report thereon - - -	272	read a third time, and passed as amended - - -	167
read and concurred in - - -	287	the House of Representatives agreed to some and disagreed to others of the amendments - - -	168
Merchants' Bank, of Newport, Mr. Hunter presented the petition of the, referred - - -	209		
a bill for relief of the, read - - -	277		
read a second time - - -	286		
ordered to a third reading - - -	295		
read a third time, and passed - - -	298		



## Senate Proceedings and Debates.

	Page.	Mississippi—continued.	Page.
Military Service—continued.		Mr. Williams offered the instructions of the	
the Senate resolved to insist	169	Legislature of, concerning the eastern	
House of Representatives also insist, and		limits thereof	187
ask a conference, which is agreed to	171	a bill from the House of Representatives to	
detailed report of the Managers	188	provide for the due execution of the laws	
House of Representatives adhered, and the		of the United States therein, read	271
Senate receded	201	read a second time, and referred	273
Military Staff, Mr. Tichenor submitted a resolu-		reported without amendment	286
tion concerning the	129	ordered to a third reading	296
agreed to, and referred to the Military		read a third time, and passed	298
Committee	131	Mode of supplying the Troops, Mr. Barbour	
Militia, appointment of the standing committee		submitted a resolution to inquire into the	
on the	26	expediency of changing the	211
Mr. Tait submitted a resolution instructing		agreed to, and referred to the Military	
the said committee to inquire into the		Committee	213
expediency of augmenting the pay of,		Moneys transferred, report of the Secretary of	
which called into service	68	War, on the subject of	78
resolution agreed to	69	Moore, James, Mr. Lacock presented the peti-	
the committee discharged from further con-		tion of, referred	216
sideration of the subject	340	adverse report thereon	257
Mr. Sprer submitted a resolution requiring		read, and concurred in	260
the Secretary of War to procure copies		Morril, Mr., speech of, on the resolution concern-	
of the laws of the several States relating		ing the African slave trade	102
to—	264	on the bill to provide for Revolutionary ser-	
agreed to	269	vices	150
a bill from the House of Representatives to		on the fugitive slave bill	242
increase the pay of, while in actual ser-		Morrow, Jeremiah, of Ohio, took his seat	25
vice) read twice, and referred	358	Myers, John, Mr. Morrow presented the petition	
reported without amendment	366	of, referred	388
ordered to a third reading	381	McArthur, Duncan, Mr. Morrow presented the	
read a third time, and passed	387	petition of, referred	199
Miller, Thomas, and Stephen Baker, a bill from		committee discharged	386
the House of Representatives for relief			
of, read twice, and referred	349	N.	
reported with amendments	356	Naval Affairs, appointment of the standing com-	
ordered to a third reading	366	mittee on	26
read a third time, and passed as amended	369	Naval Depots, Mr. Barbour submitted a resolu-	
Miller, Noah, a bill from the House of Repre-		tion concerning the establishment of	114
sentatives for relief of, read	64	agreed to, and referred	117
read a second time, and referred	66	a bill to establish, read	201
reported without amendment	69	read a second time	206
Miller, Major Samuel, Mr. Barbour presented		referred to the Naval Committee	287
the petition of, referred	206	committee discharged	361
the committee discharged	388	Naval Discipline, report on the subject of	120
Mint, a bill from the House of Representatives		committee discharged	345
respecting the, read	28	Naval Register, a letter from the Secretary of	
read a second time, and referred	33	the Navy, with copies of the, for the use	
reported with amendments	66	of members	118
read a third time, and passed as amended	69	Navigation, a bill concerning, read twice	307
a letter from the Secretary of the Treasury		ordered to a third reading	339
on the subject of the	187	read a third time, and passed	341
Mississippi, on motion of Mr. Barbour a com-		Navy, Mr. Tait submitted a resolution of inquiry	
mittee was appointed to inquire whether		as to what had been done under the act	
any legislative provision is necessary for		for the gradual increase of the	83
the admission of, into the Union	10	agreed to, and referred to Secretary of the	91
a resolution to admit, reported, read, and		report from that officer in reply	163
passed	20	a bill from the House of Representatives	
a letter from David Holmes, Governor of,		making appropriations for the support of	
with a copy of the constitution of said		the, read	219
State as ratified by convention	20	read a second time, and referred	222
Mr. Williams submitted a resolution in-		reported without amendment	226
structing the Judiciary Committee to in-		read a third time, and passed	240
quire what provisions are necessary to		Navy Pension Fund, report of the Commission-	
give effect to the laws of the United		ers of the	116
States within the State of	32	Mr. Tait submitted a resolution requesting	
resolution agreed to	35	the President to cause to be laid before	
Mr. Leake presented a memorial of the		the Senate at their next session a full	
Legislature of, praying an extension of		statement of the	376
the limits of said State, referred	34	resolution agreed to	379

## Senate Proceedings and Debates.

	Page.		Page.
New Madrid, a bill limiting the time for claims		Orr, Benjamin Grayson, Mr. Roberts presented	
for lands authorized to be granted to the		the petition of, referred	256
inhabitants of, read	299	a memorial of, requesting investigation of	
read a second time, and ordered to a third		his conduct as contractor, read	281
reading	301	Osgood, Lemuel H., Mr. Wilson presented the	
read a third time, and passed	307	petition of, referred	295
New Orleans, Mr. Johnson presented the peti-		a bill for the relief of, read	296
tion of the Mayor, &c. of, referred	224	read a second time	301
committee discharged	386	ordered to a third reading	307
a bill authorizing the disposal of certain lots		read a third time, and passed	309
in, read	311	Otis, Harrison Gray, of Massachusetts, took his	
read a second time	343	seat	12
ordered to a third reading	348		
read a third time, and passed	349	P.	
Newspapers, on motion of Mr. Lacock, an order		Page, Joseph W., Mr. Smith presented the pe-	
was passed for the usual supply of	10	tion of, referred	80
New York, a bill from the House of Represent-		committee discharged	257
atives for altering the time for holding the		Parker, Samuel, executor, Mr. Troup presented	
circuit court in the southern district of	242	the petition of, referred	70
read a first time	256	an adverse report thereon	131
read a second time, and referred	258	read and concurred in	133
reported without amendment	261	Passengers in mail coaches, Mr. Ashmun sub-	
ordered to a third reading with amendments	280	mitted a resolution touching the security	
read a third time, and passed as amended	281	of	136
North Carolina, Mr. Campbell, of Tennessee,		agreed to, and referred to a committee	139
submitted a resolution respecting lands		report thereon	294
granted by, to which the Indian claim has		the committee discharged	297
not been extinguished	28	Patten, Thomas, Mr. Wilson presented the peti-	
Mr. Williams, of Tennessee, also presented		tion of, referred	69
a representation of the Legislature of his		adverse report thereon	286
State, respecting grants of land by, re-		read and concurred in	291
ferred	35	Patterson, William, and others, Mr. Goldsborough	
Mr. Stokes presented the representation and		presented the petition of, referred	92
remonstrance of the Legislature of, re-		Paymasters and Quartermasters of the late Army,	
ferred to the same committee	168	Mr. Ruggles submitted a resolution to	
on motion of Mr. Macon, the proper com-		compel a more prompt settlement of the	
mittee was instructed to inquire into the		accounts of	174
expediency of granting the assent of Con-		agreed to, and referred to the Military Com-	
gress to an act of the Legislature of	267	mittee	176
the bill declaring the assent, &c., as in-		Pearson, George, a bill from the House of Rep-	
structed, read	281	resentatives for relief of the representa-	
read a second time	286	tives of, read	309
ordered to a third reading	295	read a second time, and referred	310
read a third time, and passed	298	reported without amendment	346
Notaries Public, a bill to regulate the fees of, in		ordered to a third reading	360
Washington, read	261	read a third time, and passed	362
read a second time	263	Pennsylvania, Mr. Lacock submitted a resolution	
ordered to a third reading	287	to inquire into the expediency of dividing	
		the State of, into two judicial districts	27
O.		agreed to, and referred to the Judiciary Com-	
Ohio, Mr. Morrow submitted a resolution con-		mittee	33
cerning the northern boundary of	35	a bill to divide the State of, &c., read	111
agreed to, and referred to a select com-		read a second time	115
mittee	60	ordered to a third reading	138
Ohio Company's Purchase, Mr. Ruggles sub-		read a third time, and passed	162
mitted a resolution authorizing the sale		Pennsylvania Hospital, a bill from the House of	
of so much of the, as has not been con-		Representatives to remit the duties on a	
veyed to settlers	115	painting for the, read	69
agreed to, and referred to the Committee on		read a second time, and referred	72
Public Lands	118	reported without amendment	80
Orphans and Widows of persons slain in public		ordered to a third reading	82
or private armed vessels of the United		read a third time, and passed	84
States, a bill in addition to the act giving		Pensioners of the United States, Mr. Wilson	
pensions to, read	134	submitted a resolution asking for a list of	214
read a second time	138	agreed to, and referred to the President, &c.	215
ordered to a third reading	167	a Message, with report, in reply	297
read a third time, and passed	169	Pensions, appointment of the standing commit-	
Orr, John, and others, Mr. Morrill presented the		tee on	26
petition of, referred	93		



## Senate Proceedings and Debates.

	Page.		Page.
Persons held to labor, &c., a bill from the House of Representatives to provide for the delivery of, &c., read - - -	161	President, committee appointed to inform the, of a quorum for business, &c. - - -	10
read a second time, and referred - - -	165	the first Message of the - - -	12
reported with amendments - - -	211	reference of the same to appropriate committees - - -	28
ordered to a third reading - - -	259	Prisoners of War, a report from the Secretary of the Treasury, relative to the fund appropriated for the safe-keeping, &c., of - - -	25
read a third time, and passed as amended - - -	262	Promulgation of the Acts of Congress, Mr. Wilson submitted a resolution in relation to considered, and agreed to - - -	171 223
Peters, John, and Sabin Pond, Mr. Otis presented the petition of, referred - - -	63	Public Accounts, Mr. Sanford submitted a resolution of inquiry into the progress made under the act for the prompt settlement of, agreed to, and referred - - -	25
report of the Secretary of Treasury thereon - - -	72	report of the Secretary of Treasury in reply referred to the Finance Committee - - -	128 160
report and petition referred to the Committee of Claims - - -	73	the committee discharged - - -	362
an adverse report thereon - - -	116	Public Buildings, on motion of Mr. Lacock, so much of the President's Message as relates to, was referred to the Committee on the District of Columbia - - -	32
read and concurred in - - -	133	a bill from the House of Representatives, making further provision for repairing the, read - - -	92
Petit, Peter. (See Cavalier, Anthony.)		read a second time, and referred - - -	94
Pettibone, Daniel, Mr. Tichenor presented the memorial of, referred - - -	224	reported without amendment - - -	114
committee discharged - - -	388	ordered to a third reading - - -	117
Philadelphia Bible Society, Mr. Roberts presented the petition of, referred - - -	65	read a third time, and passed - - -	120
committee discharged - - -	341	Mr. Goldsborough submitted a resolution calling for an annual report of the progress made in the, &c. - - -	132
Philanthropic Society of Easton, Mr. Goldsborough presented the petition of, - - -	92	agreed to, and a committee appointed to present it to the President - - -	138
Phillips, John, the memorial of was referred - - -	223	a Message, transmitting a report in reply - - -	201
adverse report thereon - - -	227	a bill from the House of Representatives making appropriations for the, read - - -	349
read and concurred in - - -	230	read a second time, and referred - - -	350
Piano-Forte and organ makers, Mr. Goldsborough presented the petition of, referred - - -	230	reported with amendments - - -	357
Piqua, Ohio, Mr. Morrow presented a petition praying that a land office may be established at - - -	388	ordered to a third reading - - -	378
Plantou, Julia, a letter from, proposing to sell to Congress her painting of the Treaty of Ghent, referred - - -	114	read a third time, and passed as amended - - -	380
report that it is inexpedient to purchase - - -	118	the House of Representatives concurred in some and disagreed to other amendments - - -	384
read, and agreed to - - -	119	the Senate receded from the amendments disagreed to - - -	385
Poidevin, Madame, a bill from the House of Representatives for relief of, read twice - - -	384	Public Deposits, report of the Secretary of the Treasury on the subject of the - - -	29
read a third time, and passed - - -	390	Public Documents, Mr. Daggett offered a resolution authorizing the distribution of certain, read - - -	20
Porter, General Moses, a bill from the House of Representatives for relief of, read - - -	271	read a second time, and referred - - -	21
read a second time, and referred - - -	272	reported with amendments - - -	34
reported with amendments - - -	342	ordered to a third reading - - -	35
ordered to a third reading - - -	348	read a third time, and passed - - -	61
read a third time, and passed as amended - - -	349	Mr. Daggett offered another resolution authorizing a further distribution of certain, read - - -	199
Post Offices and Post Roads, appointment of the standing committee on - - -	26	read a second time - - -	202
Post Roads, a bill from the House of Representatives, to alter and establish certain, read - - -	384	Public Lands, appointment of the standing committee on - - -	26
read a second time, and referred - - -	385	Purcell, Wm., adverse report on the petition of read, and concurred in - - -	83 91
reported without amendment, and ordered to a third reading - - -	390	Purchasers of Public Lands, a bill to authorize certain, to withdraw their entries and transfer the moneys, &c. - - -	174
read a third time, and passed - - -	392	read a second time - - -	176
Post Routes, Mr. Ashmun presented the petition of sundry inhabitants of Massachusetts, praying the establishment of certain, referred - - -	79	ordered to a third reading - - -	188
Mr. Noble presented a resolution on the subject of - - -	114	read a third time, and passed - - -	200
agreed to and referred - - -	117		
Mr. Wilson submitted a similar resolution respecting, in New Jersey - - -	201		
agreed to and referred - - -	206		
Mr. Ruggles presented a petition for - - -	281		
Mr. Troup presented a petition for change of Preemption, Mr. Williams presented a memorial of the Legislature of Mississippi relative to the right of, referred - - -	294 261		

## Senate Proceedings and Debates.

	Page.		Page.
Quorum, interchange of messages, &c., on the subject of a - - -	10	Rivers, Joel, Mr. Macon presented the petition of, referred - - -	26
		adverse report thereon - - -	80
		read, and concurred in - - -	81
		Roads, a bill making appropriations for repairing certain, read - - -	73
		read a second time - - -	79
		referred to a select committee - - -	110
		reported with an amendment - - -	116
		ordered to a third reading - - -	124
		read a third time, and passed - - -	130
		Roads and Inland Navigation, appointment of a select committee on - - -	33
		Mr. Ruggles submitted a resolution to instruct said committee concerning a certain road - - -	61
		which, being amended, was agreed to - - -	63
		Robinson, Thomas, and others. (See Half-pay for life.)	
		Rodgers, Commodore John, a bill from the House of Representatives for the relief of, read - - -	311
		read a second time, and referred - - -	314
		reported without amendment - - -	342
		ordered to a third reading - - -	348
		read a third time, and passed - - -	349
		Rose, Martin, and William Purcell, Mr. Taylor presented the petition of, referred - - -	60
		adverse report thereon - - -	83
		read, and concurred in - - -	91
		Ross, Henrietta, Mr. Johnson presented the petition of, referred - - -	240
		committee discharged - - -	300
		Rossiter, Timothy, and others, Mr. Sanford presented the petition of, referred - - -	133
		Rotch, Thomas, Mr. Ruggles presented the memorial of, referred - - -	164
		Rudolph, John, Mr. Horey presented the petition of, referred - - -	267
		adverse report thereon - - -	290
		read, and concurred in - - -	294
		Russell, Nathaniel, and others, Mr. Smith presented the memorial of, referred - - -	64
		S.	
		Salaries of certain Officers. (See Heads of Departments.)	
		Sale of Public Lands, Mr. Leake submitted a resolution directing inquiry into the expediency of amending the law relating to the agreed to, and referred to the Land Committee - - -	73 79
		a bill from the House of Representatives to suspend the, in Louisiana, &c., read twice, &c. - - -	384
		indefinitely postponed - - -	389
		Sanford, Mr., speech of, on his motion relating to duties on importations - - -	36
		Sargent, John, Mr. Tichenor presented the petition of, referred - - -	212
		committee discharged - - -	386
		Secretary of the Senate and Clerk of the House of Representatives, a bill from the House of Representatives fixing the compensation of the, read - - -	210
		read a second time, and referred - - -	214
		reported with amendments - - -	219
		ordered to a third reading - - -	256
		read a third time, and passed as amended - - -	260
		Q.	
		Quorum, interchange of messages, &c., on the subject of a - - -	10
		R.	
		Rangers, a bill from the House of Representatives for relief of a company of, read - - -	361
		read a second time, and referred - - -	361
		reported without amendment - - -	367
		indefinitely postponed - - -	380
		Ready-made Clothing, Mr. Lacock presented the petition of sundry journeymen tailors, praying an additional duty on the importation of, referred - - -	200
		Receivers and Registers, a bill from the House of Representatives to change the compensation of, read twice, &c. - - -	384
		read a second time, and passed - - -	389
		Rector, William, Mr. Morrow presented the petition of, referred - - -	210
		Regulations for Naval Service, a message, with a copy of the rules and - - -	392
		Reserved sections of land in Ohio, a bill respecting certain, read - - -	216
		read a second time - - -	219
		ordered to a third reading - - -	264
		read a third time, and passed - - -	266
		Revolutionary War, a bill from the House of Representatives to provide for surviving officers of the, read - - -	69
		read a second time, and referred - - -	72
		reported with amendments - - -	116
		ordered to be printed - - -	212
		read a third time, and passed as amended - - -	223
		the House of Representatives agreed, with an amendment - - -	231
		in which the Senate concurred - - -	241
		a resolution from the House of Representatives for printing and distributing the above act, read - - -	301
		read a second time - - -	307
		indefinitely postponed - - -	312
		Rheams, Tobias, a bill from the House of Representatives confirming the claim of, to a certain tract of land - - -	281
		read the first time - - -	286
		read a second time, and referred - - -	291
		reported without amendment - - -	300
		ordered to a third reading - - -	308
		read a third time, and passed as amended - - -	309
		Rhode Island Brigade, Mr. Burrill presented the memorial of the, referred - - -	114
		committee discharged - - -	309
		Rice, John, Mr. Fisk presented the petition of, referred - - -	61
		adverse report thereon - - -	80
		read, and concurred in - - -	83
		Rice, Elijah, Mr. Daggett presented the petition of adverse report thereon - - -	93 169
		read, and concurred in - - -	222
		Ridgely, William G., Mr. Goldsborough presented the petition of, referred - - -	113
		adverse report thereon - - -	161
		read, and concurred in - - -	164
		Rights of Subalterns, a memorial from commissioned officers of the Navy, praying legislative provision for the protection of the referred to the Naval Committee - - -	26 34



## Senate Proceedings and Debates.

	Page.		Page.
Section No. 29, Mr. Ruggles submitted a resolution respecting	80	Smith, Israel—continued.	
agreed to, and referred to the Land Committee	83	read a second time, and referred	166
Seminole Indians, a Message from the President in relation to the	288	reported without amendment	175
the Message ordered to be printed	289	ordered to a third reading	223
Senate, list of members present at the opening of the	9	read a third time, and passed	224
the Vice President of the United States took his seat as President of the	212	Smith, Catharine M., Mr. King presented the petition of, referred	274
Settlers on lands of the United States, a bill from the House of Representatives concerning, read	349	adverse report thereon	286
read a second time	350	report reversed, and a bill ordered	291
reported without amendment	365	a bill for relief of, read	295
ordered to a third reading	380	read a second time	296
read a third time, and passed	387	the third reading negatived	302
Seybert's Statistical Annals, Mr. Barbour submitted a resolution authorizing a subscription to, read	341	Smith, Samuel, Mr. Lacock presented the petition of, referred	345
read a second time, and referred	344	adverse report thereon agreed to	364
a bill to authorize subscription to, read	359	Smoot, Benjamin, Mr. Williams presented the petition of, referred	240
read a second time	360	committee discharged	386
ordered to a third reading	365	Spain, Mr. Barbour submitted a resolution respecting pending negotiations with	33
read a third time, and passed	369	agreed to, and the resolution directed to be laid before the President	35
Shaler, Ephraim, and others, Mr. Tichenor presented the petition of, referred	34	a Message from the President, with the papers asked for	265
adverse report thereon	117	referred to Committee of Foreign Relations	286
read and concurred in	119	Sparks, Thomas. (See Beck, Paul.)	
Shoal Creek, Tennessee, a committee appointed to inquire into the expediency of establishing a military depot, &c., at	173	Specie payments on Lands, Mr. Ruggles presented a petition, representing the hardships of requiring, referred	300
Sinking Fund, report of the Commissioners of the	173	Sprague, Seth, and others, a bill from the House of Representatives for relief of, read	349
Sixth Circuit Court, Mr. Fromentin submitted a resolution relative to compensating the judges of the	110	read a second time, and referred	350
agreed to, and referred to the Judiciary Committee	115	reported without amendment	356
an adverse report from said committee	129	ordered to a third reading	366
read, and concurred in	202	read a third time, and passed	369
Slade's Creek, a bill from the House of Representatives to abolish the port of delivery established at, read	340	Staff of the Army, a bill to reduce the, read	210
read a second time, and referred	344	read a second time	214
reported without amendment	356	referred to the Military Committee	268
ordered to a third reading	366	reported with an amendment	273
read a third time, and passed	369	ordered to a third reading	290
Slaves, Mr. Roberts submitted a resolution respecting the introduction of, into the United States	266	read a third time, and passed	293
agreed to, and referred to a select committee	267	returned from the House of Representatives with an amendment	349
Sloum, Smith P., Mr. Burrill presented the petition of, referred	299	read, and concurred in	350
adverse report thereon	343	Standing Committees, appointment of the	25
indefinitely postponed	349	Stark, Major General John, a bill from the House of Representatives for relief of, read	384
Small, John, Mr. Taylor presented the petition of, referred	216	read a second time, and referred	385
a bill for relief of, read	226	reported without amendment	387
read a second time	228	ordered to a third reading	391
ordered to a third reading	269	a motion that it be then read a third time objected to, as against the rule	391
read a third time, and passed	270	Stiles, George. (See Tenant, Thomas.)	
Smith, Mr., speech of, on the bill to provide for Revolutionary survivors	140	Stockton, John, Mr. Horsey presented the petition of, referred	160
on the Fugitive Slave bill	231	adverse report thereon	206
Smith, Israel, a bill from the House of Representatives for relief of, read	161	read, and concurred in	216

(See Edwards, William.)

## Senate Proceedings and Debates.

	Page.		Page.
Sturgess, Robert, Mr. Taylor presented the petition of, referred	164	Tennessee—continued.	
report of the Secretary of War thereon, referred	200	reported with amendments	274
Subsistence of troops, employed against the Seminole tribes, Mr. Williams, of Tennessee, submitted a resolution of inquiry into the manner of	119	ordered to a third reading	288
agreed to, and the resolution ordered to be presented to the President	129	read a third time, and passed	293
a Message, with report from the Secretary of War in reply	160	Mr. Campbell presented a memorial of the Legislature of, relating to unsatisfied claims derived from North Carolina, ordered to be printed	68
Sullivan, Mary, a bill from the House of Representatives for relief of, read twice, and referred	350	referred to the committee on the above bill	159
reported without amendment	360	Territorial Government, Mr. Tait submitted a resolution to repeal the act to create a separate, in the eastern part of Mississippi	117
ordered to a third reading	377	agreed to, and referred	119
read a third time, and passed	379	a bill to alter and amend the act mentioned, read	135
Surplus Lands, Mr. Taylor submitted a resolution relating to	93	read a second time	138
agreed to, and referred to the Land Committee	109	referred to a committee	169
Surveyor of Public Lands, Mr. Williams submitted a resolution to inquire what had been done under the act authorizing the appointment of a, in the northern part of Mississippi	110	reported with amendments	175
amended, and ordered to be presented to the President	115	ordered to a third reading	217
a Message, containing a reply thereto	217	read a third time, and passed	219
a bill allowing an additional salary to the, in Illinois and Missouri, read	226	Texas, on motion of Mr. Fromentin, the petition of the inhabitants of, presented at the last session of Congress, was referred to the Land Committee	172
read a second time	228	the committee discharged	386
ordered to a third reading	264	Third Auditor, a bill from the House of Representatives, transmitting the claim from the office of Commissioner of Claims to that of the, read three times, and passed	392
read a third time, and passed	266	Thompson, John, a bill from the House of Representatives, in addition to the act for relief of, read twice, and referred	78
Swain, Joshua, and others, Mr. Dickerson presented the petition of, referred	119	reported without amendment	90
an adverse report thereon	170	recommitted to same committee	93
read, and concurred in	172	reported, and a third reading negatived	116
St. Clair, Major General Arthur, a bill from the House of Representatives for relief of, read twice, and referred	173	Mr. Barbour presented the petition of, and gave notice that he meant to ask leave to bring in a bill	119
reported with amendments	176	according to notice, Mr. Barbour introduced a bill, in addition to the act for the relief of, which was read	162
ordered to a third reading	200	read a second time	165
read a third time	212	ordered to a third reading	168
after debate, passed as amended	214	read a third time, and passed	169
T.		Thorn, Joseph, a bill from the House of Representatives for the relief of, read	308
Talbot, Isham, of Kentucky, took his seat	34	read a second time, and referred	309
Tate, David, Mr. Williams presented the petition of, referred	212	reported without amendment	356
committee discharged	221	third reading negatived	368
Taylor, John, a bill from the House of Representatives authorizing, to be placed on the list of pensioners	281	Thorndike, Israel, Mr. Otis presented the petition of, referred	128
read	286	a bill for relief of, read	280
read a second time, and referred	291	read a second time	286
committee discharged, and bill committed to the Committee of the Whole	340	indefinitely postponed	295
reported without amendment	345	Three per cent., Mr. Noble submitted a resolution respecting the, due to Indiana on the sales of lands, &c.	64
indefinitely postponed	359	agreed to, and referred	66
Tenant, Thomas, and George Stiles, Mr. Goldsborough presented the petition of, referred	161	a bill to provide for paying the, read	80
report thereon ordered to be printed	239	read a second time	84
the report adverse	297	read a third time, and passed	90
Tennessee, a bill to authorize the State of, to issue grants, &c., read	66	returned from the House of Representatives with amendments	311
read a second time	67	read, and disagreed to	342
referred to a select committee	68	Tiernan, Luke, and others, Mr. Goldsborough presented the petition of, referred	206
15th CON. 1st SESS.—B		committee discharged	386

Timberlake, John B., Mr. Barbour presented the petition of, referred



## Senate Proceedings and Debates.

	Page.		Page.
Tompkins, Daniel D., Vice President, attended, and took the Chair - - - - -	212	Vaccine Agents—continued.	
notice that he will retire for the session - - - - -	299	read a second time, and referred - - - - -	292
Tonnage and Discriminating Duties, a bill concerning, read twice - - - - -	362	reported with amendments - - - - -	294
ordered to a third reading - - - - -	365	bill rejected - - - - -	299
read a third time, and passed - - - - -	369	Valle, John Baptist, Mr. Morrow presented the petition of, referred - - - - -	64
returned from the House of Representatives with amendments - - - - -	384	committee discharged - - - - -	386
read, and concurred in - - - - -	389	Van Dyke, Nicholas, of Delaware, took his seat - - - - -	62
Traffic in Negroes, Mr. Goldsborough presented a memorial of the Society of Friends on the subject of, referred - - - - -	61	Varick, Richard, and others, Mr. King presented the memorial of, referred - - - - -	70
Transportation of Persons of Color, a bill respecting the, read - - - - -	172	committee discharged - - - - -	255
read a second time - - - - -	174	Vincennes, Mr. Taylor presented the petition of the Trustees of the University, referred - - - - -	62
ordered to a third reading - - - - -	261	adverse report thereon - - - - -	94
read a third time, and passed - - - - -	263	read, and concurred in - - - - -	109
Treasurer of the United States, the general account of the, presented - - - - -	273	Mr. Taylor presented the petition of citizens of, referred - - - - -	201
Treasury Notes, a bill from the House of Representatives to authorize payment on lost, &c., read twice, and referred - - - - -	358	a bill to adjust the claims to lots in the town of, read - - - - -	219
indefinitely postponed - - - - -	390	read a second time - - - - -	222
Treaty of Ghent, Mr. Troup submitted a resolution to inquire of the President as to the execution of the first article of the - - - - -	32	ordered to a third reading - - - - -	268
agreed to, and the resolution directed to be presented - - - - -	35	read a third time, and passed - - - - -	270
a Message, with the report of the Secretary of State in reply - - - - -	68	Mr. Taylor presented another petition of citizens of, read, and referred - - - - -	262
another Message, relating to the construction given by the Commissioners to the fourth article - - - - -	225	committee discharged - - - - -	386
Troup, George M., of Georgia, took his seat - - - - -	24	Vine and Olive, Mr. Daggett submitted a resolution asking the President for information as to proceedings under the act to encourage the cultivation of the - - - - -	70
remarks of, on Mr. Burrill's resolution relating to the African slave trade - - - - -	74, 75	amended, and agreed to - - - - -	72
speech of, in reply to Mr. Burrill - - - - -	99	a Message, with the information asked for - - - - -	265
Troup, James, and others, Mr. Troup presented the petition of, referred - - - - -	82	referred to the Land Committee - - - - -	280
Troup, John, Mr. Sanford presented the petition of, referred - - - - -	219	Virginia, a bill from the House of Representatives altering the time for holding the district court of, read - - - - -	219
Tyler, Benjamin O., a letter from, presenting to the Senate the first fac simile copy ever made of the Declaration of Independence - - - - -	381	read a second time, and referred - - - - -	222
U.		reported without amendment - - - - -	226
Useful Arts, a bill to promote the progress of, read - - - - -	174	ordered to a third reading - - - - -	269
read a second time, and referred - - - - -	176	read a third time, and passed - - - - -	270
reported with amendments - - - - -	223	Virginia Military Land Warrants, Mr. Eppes submitted a resolution extending the time for locating &c. - - - - -	62
ordered to a third reading - - - - -	262	agreed to, and referred - - - - -	63
read a third time, and passed - - - - -	263	a bill to extend the time, &c., read - - - - -	64
a bill in addition to the act to promote the progress of, read twice, and referred - - - - -	219	read a second time - - - - -	66
reported with amendments - - - - -	223	ordered to a third reading - - - - -	68
ordered to a third reading - - - - -	262	read a third time, and passed - - - - -	69
indefinitely postponed - - - - -	362	returned from the House of Representatives with amendments - - - - -	310
Useless Officers of the Customs, Mr. Goldsborough presented a resolution requesting the President to cause to be laid before the Senate at the next session a list of - - - - -	368	read and concurred in - - - - -	346
modified and agreed to - - - - -	376	Volunteer Mounted Cavalry, a bill from the House of Representatives for relief of, read - - - - -	361
V.		read a second time, and referred - - - - -	361
Vaccine Agents, a bill from the House of Representatives to extend the privilege of franking - - - - -	281	reported without amendment - - - - -	367
read - - - - -	286	ordered to a third reading - - - - -	383
		read a third time, and passed - - - - -	387
		W.	
		Wait, Thomas B. & Sons, Mr. Otis presented the memorial of, referred - - - - -	171
		a bill authorizing a subscription for the eleventh volume of the State Papers of, read - - - - -	219
		read a second time - - - - -	222
		ordered to a third reading - - - - -	274
		read a third time, and passed - - - - -	279
		Wait's State Papers, a resolution from the House of Representatives directing the Judges of the Supreme Court to be furnished with - - - - -	206

## Senate Proceedings and Debates.

	Page.		Page.
Wait's State Papers—continued.		Williams, Benoni, Mr. Lacock presented the petition of, referred - - - - -	266
resolution read - - - - -	210	adverse report thereon - - - - -	272
read a second time, and referred - - - - -	214	read, and concurred in - - - - -	278
reported without amendment - - - - -	215	Wilson, William, and others, Mr. Goldsborough presented the petition of, referred - - - - -	70
read a third time, and passed - - - - -	227	Wilson, Richard K., Mr. Roberts presented the petition of, referred - - - - -	218
Walder, Loring A., Mr. Noble presented the petition of, referred - - - - -	118	adverse report thereon - - - - -	286
committee discharged, and papers referred to the Postmaster General - - - - -	388	read, and concurred in - - - - -	291
Ward, Samuel, Mr. King presented the petition of, referred - - - - -	216	Wirgman, Charles. (See Clifford, Thomas, and others.)	
a bill for relief of, read - - - - -	258	Wiseman, Abraham, Mr. Taylor presented the petition of, referred - - - - -	136
read a second time - - - - -	260	Witnesses before Courts Martial, Mr. Ashmun submitted a resolution relating to provision for the attendance of - - - - -	94
ordered to a third reading - - - - -	279	agreed to, and referred - - - - -	110
read a third time, and passed - - - - -	287	report thereon - - - - -	128
Warnack, Frederick C., Mr. Williams of Tennessee presented the memorial of - - - - -	171	referred to the Naval Committee - - - - -	174
Warner, Martin, Mr. Daggett presented the petition of, referred - - - - -	132	said committee discharged therefrom - - - - -	361
a bill for the relief of, read - - - - -	172	Work, John, a bill from the House of Representatives for relief of, read twice, and referred - - - - -	345
read a second time - - - - -	174	reported without amendment - - - - -	361
ordered to a third reading - - - - -	177	ordered to a third reading - - - - -	380
read a third time, and passed - - - - -	187	read a third time, and passed - - - - -	389
Washington, Mr. Goldsborough presented the petition of the Mayor, &c. of the city of, referred - - - - -	256	Worthington, Gad, a bill from the House of Representatives for relief of, read - - - - -	311
a bill supplemental to the act to amend the charter of, read - - - - -	266	read a second time, and referred - - - - -	341
read a second time - - - - -	267	reported without amendment - - - - -	362
ordered to a third reading - - - - -	288	third reading negative - - - - -	368
read a third time, and passed - - - - -	301	Wright, Thomas, Mr. Morrill presented the petition of, referred - - - - -	115
Wells, George R. (See Austin, Major Loring.)		adverse report thereon - - - - -	230
Wells, Benjamin, Mr. Lacock presented the petition of, referred - - - - -	210	read, and concurred in - - - - -	241
adverse report thereon - - - - -	257	Y.	
read, and concurred in - - - - -	260	Yeas and Nays, on striking out part of the resolution on the African slave trade - - - - -	108
Welsh, Ann, Mr. Daggett presented the petition of - - - - -	110	on concurring in the adverse report in the case of Peter & Pond - - - - -	133
adverse report thereon - - - - -	306	on entering on the Journal the resolution and instructions of Tennessee - - - - -	170
read, and concurred in - - - - -	309	on indefinite postponement of the bill for relief of survivors, &c. - - - - -	200
Wendell, Jacob, and others, Mr. Storer presented the petition of, referred - - - - -	214	on amending the same - - - - -	211, 220, 221, 222
Wetmore, Alphonso. (See Shaler, Ephraim.)		on referring the bill for relief of General St. Clair - - - - -	212
White, Hatfield, Mr. Ruggles presented the petition of, referred - - - - -	27	on the final passage of the same - - - - -	214
a favorable report made - - - - -	73	on the third reading of the bill providing for survivors, &c. - - - - -	222
read, and negative - - - - -	79	on amending the Fugitive Slave bill - - - - -	225, 259
White, Margaret, Mr. Wilson presented the petition of, referred - - - - -	161	on the third reading of the resolution to amend the Constitution - - - - -	229
adverse report thereon - - - - -	257	on discharging the Military Committee from certain petitions - - - - -	230
read, and concurred in - - - - -	260	on concurring in certain amendments of the House of Representatives to the bill for survivors, &c. - - - - -	241
White, Vassel, Mr. Ashmun presented the petition of, referred - - - - -	167	on the third reading of a resolution to amend the Constitution - - - - -	242
adverse report thereon - - - - -	294	on indefinite postponement of the Fugitive Slave bill - - - - -	258
read, and concurred in - - - - -	297	on the final passage of the same - - - - -	262
Wilcox, De Lafayette. (See Shaler, Ephraim.)		on concurring in adverse report on a petition in behalf of Revolutionary officers - - - - -	263
Willard, Silas, Mr. Fisk presented the petition of, referred - - - - -	32	on fixing a day for the adjournment of Congress - - - - -	267
a bill for the relief of, read - - - - -	66		
read a second time - - - - -	68		
ordered to a third reading - - - - -	73		
negative - - - - -	81		
Williams, John, appointed a Senator by the Legislature of Tennessee, produced his credentials, &c. - - - - -	9		
Williams, Thomas H., appointed a Senator by the Legislature of Mississippi, produced his credentials, &c. - - - - -	25		
drew the lot for longest term - - - - -	28		



## House Proceedings and Debates.

Yeas and Nays—continued.	Page.	Yeas and Nays—continued.	Page.
on amending the bill for adjusting claims to land in Indiana and Missouri -	272, 279	on the final passage of the bill for compensation to certain judges -	346
on the question of passage of the same -	281	on the third reading of the bill for relief of John Hall -	352
on the third reading of the bill authorizing Tennessee to issue grants, &c. -	288	on the third reading of the bill supplemental to the act to incorporate the United States Bank -	365
on the third reading of the bill to reduce the staff of the Army -	290	on amending the bill concerning Executive Departments -	369
on indefinite postponement of Mr. Barbour's resolution to amend the Constitution -	292	on the third reading of the same -	369
on postponement of the bill concerning controversies -	308	on amending the bill making appropriations for repairing, &c., the public buildings -	378
on postponement of the bill to increase the compensation of certain judges -	310	on amending the bill laying additional duties on iron -	381
on the third reading of the Navigation bill -	339	on amending the resolution giving extra pay to servants, &c., of the Senate -	383
on the final passage of the same -	341		
on filling the blanks in the compensation to certain judges -	344		

## HOUSE OF REPRESENTATIVES AND APPENDIX.

A.	Page.	Alphabetical Index—continued.	Page.
Abbott, Mr., of Georgia, speech of, on the right of expatriation -	1086	read a third time, and passed -	1457
Abolition Society of Kentucky, Mr. Trimble presented the petition of the, referred -	517	Amelia Island, appointment of a select committee on the subject of -	405
Mr. Sergeant presented a similar petition from Pennsylvania, also referred -	829	Mr. Rhea submitted a resolution concerning amended, agreed to, and a committee appointed to wait on the President -	416
Accounts, appointment of the standing committee of -	400	a Message, with the information asked for report of select committee on the state of -	448
on motion of Mr. Bassett, the said committee were instructed to inquire into the manner in which the contractor for printing and stationery had performed that duty -	431	a Message from the President, stating that the United States forces had taken possession of -	711
a report exculpatory of the contractor, read -	486	on motion of Mr. Sergeant, a committee was appointed to request of the President any further information he may possess relating to -	1447
ams, Mr., of Massachusetts, remarks of, on the Fugitive Slave bill -	837	a Message from the President, transmitting sundry papers in relation to -	1523
African Colonization, Mr. Mercer's report on the subject of -	1771	the papers and documents then transmitted, (Appendix) -	1785
Aguirre, Don Manuel, &c., correspondence of, with the Secretary of State -	1889	documents from the Secretary of State relating to the occupation of -	1897
Aikman, Samuel, a bill for relief of, read twice -	475	American Bible Society, Mr. Sergeant presented the petition of the, referred -	499
ordered to a third reading -	508	a bill for remission of certain duties on importations by the, read twice -	818
read a third time, and passed -	515	read a third time, and ordered to lie on the table -	823
returned from the Senate with an amendment -	579	recommitted to a Committee of the Whole -	879
read, and concurred in -	609	American and British Tonnage, Mr. Pitkin submitted several resolutions concerning -	516
Alabama Territory, the Speaker presented the petition of the Legislature of, praying to be invested with the power to incorporate turnpike companies, &c., referred -	1451	American Colonization Society, on motion of Mr. Mercer, the committee on the memorial of the, were instructed to inquire into the expediency of more effectual provision for prohibiting the African slave trade -	528
a bill concerning, read twice, &c. -	1456	American Manufactures, Mr. Johnson submitted a resolution to clothe the Army in -	495
read a third time, and passed -	1605	Amory, Jonathan, a bill for relief of, read twice -	846
Alien Duties, a bill from the Senate to remit certain, read twice, &c. -	1431	ordered to a third reading -	1698
reported without amendment -	1450	read a third time, and passed -	1714
read a third time, and passed -	1778		
Allison, Rev. Mr., election of, as Chaplain -	406		
Alphabetical Index to acts and resolutions, Mr. Taylor submitted a resolution respecting an, read twice, and ordered to a third reading -	1452		

## House Proceedings and Debates.

Page.	Page.	Page.	Page.
Amount of sums awarded under the Property Act, a report stating the, from the Secretary of War -	982	Army of the United States—continued.	
referred to the Committee of Claims -	1007	returned from the Senate with amendments, and concurred in -	1777
Anderson, Mr., of Kentucky, remarks of, on the Commutation bill -	480	a bill from the Senate regulating the staff of the, read twice, &c. -	1568
speech of, in the case of Colonel John Anderson -	618	reported without amendment, and ordered to lie on the table -	1656
on the bill concerning the right of expatriation -	1035	amended, and returned to the Senate for concurrence -	1692
on the Ohio contested election -	1435	Arrearages, a bill making appropriation for the payment of, read twice -	737
Anderson, Colonel John, a bill to indemnify, twice read -	517	read a third time, and passed -	799
ordered to a third reading -	531	returned from the Senate with an amendment -	832
read a third time, and passed -	534	read and referred -	842
Mr. Williams, of North Carolina, submitted to the House a letter he had received from, offering a bribe, which was read -	580	agreement recommended and concurred in -	846
Mr. Forsyth submitted a resolution requiring the Sergeant-at-Arms to take, into custody -	582	Arundel, Mrs., committee discharged from considering the petition of -	1721
passed unanimously -	583	Assessors of the United States, on motion of Mr. Barbour, of Virginia, the Committee of Ways and Means were instructed to inquire into the expediency of authorizing the President to distribute an annual sum amongst the, for extra services -	854
is brought to the Bar of the House -	608	report adverse to the expediency of the measure, read -	1681
letters from the Speaker, read -	650	Aury, Commander-in-Chief at Amelia Island, letters from, to the United States officers who summoned him to surrender said island -	1804
interrogatories propounded to, at the Bar of the House -	777	Austin, Archibald, of Virginia, appeared, and was qualified -	468
address of, to the House -	789	remarks of, on the motion to inquire into the conduct of clerks -	786
address of the Speaker to -	789	speech of, on the resolution concerning internal improvement -	1201
discharge of, from custody -	790	Austin, Major Loring, a bill for relief of, read twice, &c. -	814
Anderson, John, a bill for relief of, twice read the Speaker presented a petition of, praying that the bills reported for his relief may be taken up and disposed of, laid on the table -	1455	reported, and ordered to a third reading -	1672
ordered to a third reading -	1677	read the third time, and passed -	1676
read a third time, and passed -	1681	Authentication of Public Acts, &c., on motion of Mr. Spencer, the Judiciary Committee were instructed to inquire concerning the -	431
Andrew, James, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing, on the pension list -	431	a bill concerning the, read twice -	500
Appropriations, a letter from the Secretary of the Treasury with estimates of -	476	indefinitely postponed -	799
a bill supplementary to the act making, for the current year, read twice -	1717	Auxiliary Colonization Society, of Richmond, Mr. Tucker presented the memorial of the, referred -	529
Ariadne, ship, a bill for relief of the owners of the, ordered to a third reading -	1715	Awards under the Property Act, on motion of Mr. Forsyth, the Secretary of War was directed to report an account of the -	431
the third reading negatived -	1719	report of the Secretary of War in reply -	982
Armories, report of the Secretary of War of expenditures, &c., at each of the -	879		
Arms and Military Stores, on motion of Mr. Huntington, the Secretary of War was directed to make a report of -	530	B.	
report of that officer in obedience thereof -	981	Baker, John, a bill for relief of the legal representatives of the late, and of the late Peter Trouillet, read twice, and committed -	1223
Armstrong, General, a bill authorizing payment of certain bills drawn by, in favor of Thomas Morgan, read twice, &c. -	1222	Baldwin, Henry, of Pennsylvania, appeared and was qualified -	405
Army of the United States, on motion of Mr. Mercer, a committee was appointed to request the President to cause to be laid before the House a return of the present strength of the, &c. -	432	remarks of, on the bill to abolish internal duties -	428
a Message, with a report of the Secretary of War in reply -	496	speech of, on the question of its passage -	434
a bill respecting the organization of the, &c., read twice, and committed -	818	on the Commutation bill -	481
reported with amendments, and ordered to a third reading -	1680	remarks of, on the bill concerning records &c. -	564
read the third time, and passed -	1681	on the Fugitive Slave bill -	828
		on the resolution for adjournment -	1181
		Ball, Mr., of Virginia, remarks of, on the Commutation bill -	479



House Proceedings and Debates.

	Page.		Page.
Mr.—continued.		Beaumarchais—continued.	
speech of, on the motion to appoint a committee of privileges	603	papers communicated to the House, relating to the claim of	2389
remarks of, on the motion not to receive the Pazos memorial	1256	correspondence of the Secretary of State with Ministers of France on the claim of	2393
Mr. Mottram, a bill for the relief of, read twice	1223	the correspondence of Caron de, with Messrs. Lee and Deane	2409
of the United States, the Speaker presented the petition of the, referred	710	Beavertown, Pennsylvania, on motion of Mr. Moore, the Committee on Post Offices, &c., were instructed to inquire into the expediency of allowing extra compensation to the postmaster at	445
a bill to amend the act to incorporate the, read twice	792	Beecher, Mr., of Ohio, remarks of, on the bill to abolish internal duties	430
a bill from the Senate in addition to an act to incorporate the	1724	on the Commutation bill	484
read a first time, and a motion to read a second time negatived	1725	on the motion for a committee of privileges	592
the bill indefinitely postponed	1762	speech of, on the adoption of said motion	605
Mr. Forsyth submitted a motion concerning the, read	846	remarks of, on the report of that committee on Mr. Spencer's resolutions in the case of Anderson	650
bankruptcy, a bill to establish a uniform system of, read twice	444	speech of, on Mr. Rhea's proposed amendment to the same	748
read a third time, in <i>extenso</i>	896	Belfast, made a port of entry for a new collection district. (See <i>Bath</i> .)	
indefinitely postponed	1027	Berry, Benjamin, a bill for relief of, read twice	890
Bour, Mr. of Virginia, speech of, on the repeal of internal duties	438	ordered to a third reading	1697
in the case of Colonel John Anderson	624	read the third time, and passed	1714
in reply to objections made against his arguments	705	Bienvenue, Antoine, report of the Secretary of State on the petition of, referred	445
on the Bankrupt bill	1020	adverse report thereon	501
on the resolution concerning internal improvement	1151	Birdsall, Benjamin, and William S. Foster, a bill for relief of, read twice, &c.	819
in reply to a remark of Mr. Clay	1179	ordered to a third reading	1682
Bibau, Pierre, on motion of Mr. Scott, the petition of, presented a year ago, was referred to the Committee on Public Lands	823	read the third time, and passed	1687
Iron, &c., on motion of Mr. J. S. Smith, the Secretary of the Treasury was directed to report to the House a statement of the number of tons of, annually imported	893	Blagrove, William, the Speaker presented a letter from, complaining of the Chief Clerk of the Navy Department, read, and ordered to lie on the table	1691
Barker, Stephen. (See <i>Miller, Thomas</i> .)		Bland, Theodorick, report of, on the condition of South America	2104
Burney, John, adverse report on the petition of, concurred in	818	Bloomfield, Mr., remarks of, on the bill for surviving officers, &c.	491, 498
Barton, William, a bill for relief of, read twice	1013	on proposed inquiry into conduct of clerks	786
Bassett, James. (See <i>Gunboats</i> .)		Bogert, John G., a bill from the Senate for relief of, read twice and referred	1604
Bassett, Mr., remarks of, on his motion to lay on the table the motion of Mr. Forsyth, not to receive the memorial of Vincente Pazos	1266	the committee recommend the rejection of, and bill and report committed	1660
Bate, John, Mr. Johnson reported a bill for relief of, twice read	409	Boundary Lines, on motion of Mr. Burwell, the Secretary of the Treasury was directed to report a statement of the expenses of the Commissioners for settling the, under the Treaty of Ghent	883
referred to the Secretary of the Treasury	447	a letter from the Secretary of the Treasury, with a statement	953
his report thereon referred to the Committee of Claims	508	report of the committee on the subject of disputed, with Great Britain	2375
bill reported, with amendment	566	between Kentucky and Tennessee, memorial of the Kentucky Legislature on the subject of	2363
ordered to a third reading, with the amendment	1451	Bounties to Manufacturers, on motion of Mr. Drake, of Massachusetts, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of offering, in certain cases	509
read a third time, and passed	1452	Brevet Officers, a bill from the Senate regulating the pay and emoluments of, read	1456
Bateman, Ephraim, of New Jersey, appeared, and was qualified	399	read a second time, and referred	1469
Bath, Massachusetts, a bill making, a port of entry, &c., read twice	1723	ordered to a third reading	1721
read the third time, and passed	1738	read the third time, and passed	1723
Bayley, Thomas, of Maryland, appeared, and was qualified	405		
Beaumarchais, the heirs of, a Message from the President relating to the claim of, referred	782		
the committee discharged, and papers referred to Committee of Claims	790		
the latter discharged, and referred to a select committee	792		
a bill relative to the claim of, read twice	1006		

House Proceedings and Debates.

	Page.		Page.
Brevet Rank, on motion of Mr. Mercer, the Secretary of War was directed to report a list of all officers who held, at the close of the war	487	Bursiel, James—continued.	
a letter from the Secretary of War, with a statement in reply	514	the vote of concurrence reconsidered, and the report laid on the table	518
a bill respecting the allowance of extra pay, &c., to officers holding, read twice, &c.	893	taken up, and again concurred in	1393
indefinitely postponed	1721	Burwell, Mr., of Virginia, remarks of, on the bill concerning the public buildings	590
Briggs, Isaac, a bill from the Senate for relief of, read twice, and referred	825	on his resolution calling for a statement of the expenses of the Commissioners under the Treaty of Ghent, &c.	882
reported, with an amendment	878	Business, Mr. Bassett submitted an amendment to the standing rules, &c., relative to the order of, read	792
ordered to a third reading	1721	question of agreement negatived	798
read the third time, and passed as amended	1724	on motion of Mr. Pitkin, a joint committee was appointed to report on the, before the two Houses	1656
the Senate disagreed to the amendment	1737	report of said committee ordered to lie on the table	1674
the House receded	1739	Byington, Abraham, an adverse report on the petition of, recommitted, with instructions to report a bill	513
Brook, Edmund, an adverse report on the petition of, referred to a Committee of the Whole	580	a bill for the relief of, twice read, &c.	533
report agreed to, and the prayer of the petition rejected	1452	ordered to a third reading	1401
Brown, Major General Jacob, a bill for relief of, read twice, and committed	866	read a third time, and passed	1405
ordered to a third reading	1672		
read the third time, and passed	1676	C.	
returned from the Senate, with amendments concurred in	1738	Cadets, a bill for the admission of, into the Military Academy	1007
Brown, Frederick, a bill for relief of, read twice	1429	Cape Vincent, a bill to establish a port of entry at, read twice, &c.	1671
ordered to a third reading	1682	read the third time, and passed	1676
read the third time, and passed	1687	Capture and imprisonment of certain persons, a Message from the President relative to the	1739
Brouin, Narcissus, and others, a bill for relief of, twice read, &c.	935	Carr, Thomas, and others, a bill for the benefit of, twice read, &c.	868
reported with amendments, and ordered to lie on the table	1451	laid on the table	1721
ordered to a third reading	1452	Carroll, Daniel, a letter from, on the subject of a site for the Executive offices, read	1450
read a third time, and passed	1457	Carroll, Major General William, and Brigadier General John Coffee, Mr. Claiborne submitted a resolution, requesting the President to present gold medals to each	1667
returned from the Senate with an amendment, which was concurred in	1677	resolution laid on the table	1671
Buell, Samuel, on motion of Mr. Palmer, the report of the Secretary of the Treasury on the petition of, was referred to the Committee of Ways and Means	831	Carter, Landon, a bill from the Senate for relief of the heirs of	489
Bullock, Josiah, a bill for the relief of, read twice	824	read twice, and referred	490
reported with an amendment, and ordered to a third reading	1697	reported without amendment, and referred to the Committee of Pensions and Revolutionary Claims	508
read the third time, and rejected	1715	reported with an amendment, and committed	1673
Bunnell, Cata, a bill from the Senate for relief of, read twice, and referred	1523	indefinitely postponed	1769
reported without amendment, and ordered to a third reading	1656	Carvers and Gilders of wood, adverse report on the petition of, concurred in	1655
Burch, Benjamin, appointment of, as assistant doorkeeper	399	Cavalier, Anthony, and Peter Petit, a bill from the Senate to confirm a certain claim of	1691
Burghart, Adolphus, a bill for relief of the heirs of, read twice, &c.	1380	read twice, and referred	1698
Burnet, Daniel, Gibson Clark, and the representatives of Hubert Rowell, a bill for the relief of, twice read, &c.	935	reported, without amendment	1718
ordered to a third reading	1451	Caze and Richaud, the petition of, read	871
read a third time, and passed	1452	Certain crimes against the United States, a bill in addition to the act to punish, read twice, &c.	542
returned from the Senate with an amendment, and referred	1656	indefinitely postponed	1406
agreement reported with an amendment, and ordered to lie on the table	1674	vote reconsidered, on motion of Mr. Clay, and the bill amended and ordered to be printed	1435
amendment withdrawn, and the Senate's amendment concurred in	1681	ordered to a third reading	1455
Burr, Samuel, a bill for relief of, read twice, &c.	1447	read a third time, and passed	1469
Bursiel, James, adverse report on the petition of, concurred in	515	returned from the Senate, with amendments	1721



## House Proceedings and Debates.

	Page.		Page.
Certain crimes, &c.—continued,		Clagett, Mr.—continued.	
report of the Committee of Foreign Relations on those amendments -	1737	remarks of, on the report of the Committee on Internal Improvement -	1115
amendments of the Senate agreed to in part, and disagreed to in part -	1765	speech of, on the resolution relative to the same -	1132
a bill more effectually to provide for the punishment of, read twice, &c. -	1012	Claiborne, Thomas, of Tennessee, appeared, and was qualified, &c. -	399
Certain Judges of the United States, a bill from the Senate to increase the compensation of, twice read -	1687	remarks of, on his resolution concerning the Judiciary -	419
indefinitely postponed -	1692	on his proposition to add the names of Generals Carroll and Coffee to that of Colonel R. M. Johnson, in the Senate's resolution to present a sword to the latter -	1665
Certificates and Indents, Mr. Rhea submitted a resolution concerning -	463	on his resolution for medals to the officers named above -	1667, 1669
agreed to, and referred to the Committee on Pensions, &c. -	464	speech of, on the supplementary Bank bill -	1749, 1761
a bill to authorize the payment of certain, read twice, &c. -	533	Claims, appointment of the standing committee of -	400
ordered to a third reading -	1401	report of the Secretary of War, of sums awarded by the Commissioner of, under the act authorizing payment for property lost, &c. -	982
read a third time, and passed -	1405	Claims to land in Illinois, a bill confirming certain, read twice, &c. -	1006
returned from the Senate, with amendments -	1691	Clammorgan, Jacque. (See <i>Winter, Elisha, and others.</i> )	
read, and concurred in -	1697	Clapp, Stephen, adverse report on the petition of Clark, Gibson. (See <i>Burnet, Daniel.</i> )	1072
Cavallos, Don Pedro, correspondence of, with Mr. Erving, on the subject of Mr. Meade's imprisonment -	1818	Clark, Ashael, a bill from the Senate for relief of, read twice, &c. -	1431
Chalmers, John, report of facts relative to the claim of, referred -	866	read the third time, and passed -	1687
Champe, Nathaniel, and others, Mr. Harrison presented the petition of, referred -	1405	Claxton, Thomas, appointment of, as Doorkeeper -	399
Chaplains, a resolution from the Senate for the appointment of two, concurred in -	405	Clay, Henry, election and address of, as Speaker -	398
Cheney, Samuel, and Robert Ramsay, a report from the Secretary of the Navy on the petition of -	1451	speech of, on his motion to amend a reference to the Committee of Foreign Relations -	401
Cheney, Henry. (See <i>Johnson, John.</i> )		remarks of, on the bill to abolish internal duties -	427
Chesapeake Bay, a joint resolution directing the completion of the survey of, read twice -	1692	on the Commutation bill -	461
read a third time, and passed -	1697	on presenting a new bill on the same subject -	469
returned from the Senate, with amendments -	1766	speech of, in reply to several speakers -	473, 485
read, and concurred in -	1767	remarks of, on the Compensation bill -	573
Chesapeake and Delaware Canal Company, on motion of Mr. McLane, the Committee on Roads and Canals were instructed to inquire into the expediency of authorizing a subscription to the stock of the -	445	on the power of the House to issue a warrant of arrest -	583
Chew, Beverly, Collector of New Orleans, a letter from, to the Secretary of the Treasury, on the subject of piratical establishments -	1789	address of, to Colonel John Anderson, at the bar of the House -	608
Chili, Mr. Bland's report on the condition of -	2163	remarks of, on the Fugitive Slave bill -	828
manifesto of the Government to the people of -	2222	on the bill for uniform system of bankruptcy -	1010
statistics of -	2230	on the report of the Committee on Internal Improvement -	1115, 1117
Christmas Holiday, Mr. Spencer offered a resolution for temporary adjournment for the, read three times, and passed -	508	speech of, in reply to Messrs. Barbour and A. Smyth -	1164
Circuit Court of the United States, a bill from the Senate to extend the jurisdiction of, to cases under the Patent law, read twice -	1381	in reply to a remark of Mr. Barbour -	1179
reported, without amendment -	1382	on the Constitutional power of Congress over internal improvement -	1359
Circuit and District Courts of the United States, on motion of Mr. Parris, the Judiciary Committee were instructed to inquire into the expediency of requiring further security from the clerks, &c., of the -	737	remarks of, on the bill in addition to the act to punish certain crimes, &c. -	1403
Circular, from the Secretary of the Treasury -	2338	speech of, on offering an amendment to the same -	1406
Clagett, Mr., of New Hampshire, speech of, on the case of Anderson -	738	in reply to Messrs. Forsyth and Lowndes -	1414, 1432
on the Fugitive Slave bill -	825	in reply to Messrs. Smith and Tucker, of Maryland -	1424
		on the sending Commissioners to South America -	1465
		in reply to Mr. Forsyth, on the same subject -	1467

## House Proceedings and Debates.

	Page.		Page.
Clay, Henry—continued.		Commerce and Manufactures, appointment of the standing committee of -	400
speech of, on his proposition to send a Minister to Buenos Ayres -	1474	Committee of Privileges, Mr. Forsyth submitted a resolution to appoint a, to consist of seven members, to sit immediately, and report a mode of proceeding in the case of John Anderson -	592
in reply to objections to his proposition -	1605	agreed to, and appointment made -	606
in reply to Messrs. Forsyth and Smith, of Maryland -	1643	report of the -	607
Clerks, on motion of Mr. Ingham, a committee was appointed to inquire what alterations are necessary in the act to fix the compensation of -	815	Commutation of Military Bounty Lands, on motion of Mr. Comstock, the Military Committee were instructed to inquire into the expediency of making provision for a -	406
a bill to regulate and fix the compensation of, read twice, and committed -	1223	a bill authorizing the, read twice -	409
reported, and ordered to a third reading -	1765	a third reading negatived -	816
read the third time, and passed -	1769	Compensation, a bill allowing, to members of Congress, twice read -	642
report of the committee appointed to inquire into the official conduct of the -	1649	ordered to a third reading -	579
Mr. H. Nelson presented the petition of the, in the Executive Departments, referred -	1722	read a third time, and passed -	589
Clifford, Thomas, and John, a bill for relief of, twice read -	772	returned from the Senate, with an amendment -	710
ordered to a third reading -	1667	read, and concurred in -	791
read the third time, and passed -	1672	Comstock, Mr., of New York, remarks of, on the Commutation bill -	472
returned from the Senate, with amendments -	1744	speech of, on his resolution to pension the wounded officers of the late army -	537
read, and concurred in -	1766	remarks of, on the Compensation bill -	578
Coasts of the United States, a bill from the Senate to repeal a part of the act for surveying the -	1691	on the resolution for a Committee of Privileges -	606
read twice, and ordered to a third reading -	1696	on the motion to inquire into the official conduct of clerks -	784
read the third time, and passed -	1714	Congress, Mr. Sergeant submitted a resolution for the adjournment of, on the — day of March, which was laid on the table -	1054
Cobb, Mr., of Georgia, speech of, on the bill relative to the militia claims of said State -	522	on motion of Mr. Taylor, a joint committee was appointed to fix the day of adjournment of, and notice thereof sent to the Senate -	1097
remarks of, on the bill concerning the authentication of records, &c. -	536	report of said joint committee, with a resolution fixing the 13th of April, twice read -	1138
speech of, on the Compensation bill -	585	read a third time -	1181
remarks of, on the examination of Colonel Watson -	780	and, after further discussion, passed -	1182
on the Commutation bill -	808	on motion of Mr. Taylor, a committee was appointed to inquire into the expediency of appointing an earlier commencement of the next session of, than the stated time -	1450
on the Fugitive Slave bill -	828	a bill fixing the time for the next meeting of, read twice -	1456
speech of, on the bill concerning expatriation -	1066	ordered to a third reading -	1656
on the memorial of Vincente Pazos -	1267	read a third time, and passed -	1664
on his resolution to increase the pay of militia engaged in the Seminole war -	1673	returned, with amendment -	1738
Cole, Mehitable, a bill granting the land therein mentioned to, read twice, &c. -	1007	concurrent in -	1739
Colonial Trade, report in relation to the -	866	the resolution fixing the 13th April for adjournment of, was returned from the Senate with an amendment, substituting the 20th of April, and agreed to -	1649, 1770
Colston, Mr., of Virginia, remarks of, on the Commutation bill -	480	adjournment of, to the third Monday in November -	1782
on the bill concerning Revolutionary survivors -	492	Constitution, Mr. Harrison submitted a resolution to amend the -	611
on the inquiry into the official conduct of clerks -	783	a Message from the President, with a report from the Secretary of State, of the several States that have ratified the 13th article of amendment to the -	865
on the memorial of Vincente Pazos -	1262	Mr. Lewis submitted a proposition to amend the -	1744
on the resolution respecting internal improvement -	1278	Consuls on the Barbary Coast, a bill to increase the allowance to, read twice, &c. -	1662
on a resolution granting medals to certain officers -	1669		
Columbian Institute, Mr. Herbert presented a petition to incorporate the, referred -	565		
a bill to incorporate the, read twice, &c. -	846		
ordered to a third reading -	1697		
read the third time, and passed -	1714		
returned from the Senate with amendments, and concurred in -	1777		
Columbian Insurance Company, a bill to incorporate the, read twice -	463		
ordered to a third reading -	518		
read a third time, and passed -	543		
returned from the Senate, with amendments -	850		
read, and concurred in -	854		



## House Proceedings and Debates.

	Page.		Page.
Contempt of the House, Mr. Williams, of North Carolina, submitted a letter he had received from Colonel John Anderson, offering him a bribe -	580	Cumberland Road—continued.	
(See <i>Anderson, Colonel John</i> .)		letter from the Secretary of the Treasury in reply -	1781
Contracts for Rations, in Georgia, on motion of Mr. Huntington, the Secretary of War was directed to lay before the House a copy of all, &c. -	1007	Currituck Sound, on motion of Mr. Sawyer, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of staking the channel of -	906
Copper Mines, on motion of Mr. Smith, of Maryland, the Committee on Public Lands were instructed to inquire into the expediency of making reservations of all -	815	Cushman, Mr., of New York, remarks of, on the Commutation bill -	472
Cork Cutters, adverse report on petition of the, of New York and Philadelphia, agreed -	1687	speech of, on the Internal Improvement resolution -	1185
Cotton and Woollen Fabrics, Mr. Ross presented the petition of sundry manufacturers of, in Rhode Island, praying encouragement &c., referred -	446	Custom-Houses, on motion of Mr. Silsbee, the Committee of Commerce and Manufactures were instructed to inquire concerning the -	490
Mr. Shaw presented a similar petition from Massachusetts -	486		
Mr. Mason presented a similar petition from the same State -	494	D.	
Mr. Steers presented a similar petition from New York -	494	Dabney, John B., a bill for relief of, twice read -	893
Courthouse Jail, &c., in Alexandria, a bill to provide for the erection of, twice read -	533	ordered to a third reading -	1721
amended, and ordered to a third reading -	1402	read the third time, and passed -	1724
read a third time, and passed -	1405	Daily, John, and Samuel Thompson, a bill for relief of, twice read -	1681
Cranch, Dallas, and Wheaton, on motion of Mr. Sergeant the Clerk was directed to procure, for the use of the House, three copies each of the respective reports of -	462	the third reading negatived -	1697
Cravat, Richard. (See <i>Johnson, John</i> .)		Dana, Edmund, an adverse report on the petition of, concurred in -	542
Creek Indians, a bill for the relief of certain friendly, read twice -	792	Daniel, William, a bill confirming the claim of, read twice -	566
read the third time, and passed -	1672	read a third time, and passed -	1452
returned from the Senate with amendments, and concurred in -	1777	Darien, Georgia, on motion of Mr. Forsyth, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry at -	409
Creighton, Captain John Orde, on motion of Mr. Johnson, of Virginia, the Secretary of the Navy was directed to furnish a copy of the proceedings of the court martial ordered at the instance of Midshipman Marston on a letter from the Secretary of the Navy in obedience -	1104	Darnall, John, a bill for relief of, read twice -	1567
copy of proceedings on the trial of -	2491	Davis, Hannah, a report of facts in the case of, referred to the Committee of Claims -	1181
Crowell, John, a delegate from Alabama, appeared, was qualified, &c. -	1180	Davis, Henry, a bill for relief of, read twice -	1339
Crowninshield, B. W., Secretary of the Navy, correspondence of, with Captain Elton and Commodore Henley, on the subject of the piratical establishments -	1809	Deane, Franklin, and Arthur Lee, on motion of Mr. McLane, a committee was appointed to request of the President copies of the several letters of, addressed, in 1777, to the Committee of Foreign Relations -	882
Cumberland Road, on motion of Mr. Tait, the Committee on Roads and Canals were instructed to inquire into the state of the report of said committee on the subject of the, read -	1250	a Message from the President, with the letters asked for -	906
recommended to the same, with two new members -	1282	the Message and correspondence referred to the committee on the claim of Beaumarchais's heirs -	1006
a bill making further appropriations for the, read twice, &c. -	1389	copies of the said correspondence -	2409
reported without amendment, and ordered to a third reading -	1660	Deceased Pensioners, on motion of Mr. Whitman, the Committee on Pensions, &c., were instructed to inquire into the expediency of continuing to the widows and children the pensions of -	462
read a third time, and passed -	1664	Deed of Conveyance to the United States, on motion of Mr. Ingham, the Commissioner of Public Buildings was directed to report to the House a copy of the original, of lots in Washington -	841
on motion of Mr. Mercer, the Secretary of the Treasury was requested to report certain statements in relation to the -	1724	a letter from the Commissioner, with a copy of the -	871
		Defence of New York, Mr. Irving presented the petition of the Mayor, &c., of the city of New York, praying that provision may be made for the adjustment of their claims in relation to the, referred -	737
		Delafield, John, a bill for relief of, read twice -	1447
		Delaware and Chesapeake Canal Company, a bill authorizing subscription to the stock of the, read twice, &c. -	1393

## House Proceedings and Debates.

	Page.		Page.
Deputy Postmasters, a bill to increase the compensation of, in certain cases, read twice -	1723	Dougherty, Thomas, election of, as Clerk of the House -	399
read the third time, and passed -	1738	Douthet, Samuel, Mr. Blount presented the petition of, referred -	849
Dequindue, Louis and Antoine, a bill from the Senate for relief of, twice read, &c. -	1648	Drawback on Merchandise transported by land, a bill from the Senate to allow the benefit of, from Bristol to Boston, &c., read twice, and referred -	592
reported without amendment, and committed -	1720	reported without amendment, and ordered to a third reading -	799
Desertion of Foreign Seamen, on motion of Mr. Whitman, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of making some provision on the subject of -	418	read a third time, and passed -	816
Desha, Mr., remarks of, on the Commutation bill -	469	Dunn, Thomas, appointment of, as Sergeant-at-Arms -	399
speech of, on the Compensation bill -	568, 588		
on the case of Colonel Anderson -	652	E.	
on the bill to reduce the staff of the army -	1688	Earle, Elias, of South Carolina, appeared, was qualified, &c. -	416
Desha, Major General Joseph, a resolution submitted to present a medal to -	1667	special report of the Committee of Elections, in the case of -	562
resolution laid on the table -	1671	report of the Committee on Expenditures in the War Department, on contract with -	609
Deweese, Sarah, a bill for relief of, read twice -	70	is confirmed in his right to a seat -	1450
ordered to a third reading -	1667	Earnest, Charles, on motion of Mr. Clay, the name of, was added to the list of invalid pensioners -	1763
read the third time, and passed -	1672	Earwood, Joel, on motion of Mr. Hendricks, the Committee on Public Lands were instructed to inquire into the claim of -	409
Dillon, John, a bill for relief of, read twice -	870	a bill for relief of, read twice -	475
ordered to a third reading -	1715	ordered to a third reading -	508
read the third time, and passed -	1718	read a third time, and passed -	515
Direct Taxes and Internal Duties, a bill supplemental to the several acts relative to, read twice -	1108	returned from the Senate, with amendments concurred in, with an amendment -	579
ordered to a third reading -	1765	Eastern Branch Bridge Company, a bill to incorporate the, read twice, &c. -	1094
read the third time, and passed -	1769	Mr. Herbert presented a petition of said company, praying that permission may not be granted to build another bridge over the Eastern Branch, referred -	1380
Discriminating Duties, a Message from the President on the subject of -	906	Eaton, Elizabeth, Mr. Williams of Connecticut presented the petition of, referred -	819
Discipline of the Navy, report of the Naval Committee on the subject of the -	1682	Edwards, Mr., of North Carolina, remarks of, on a motion respecting the Neutrality act -	521
the report agreed to, and the committee discharged therefrom -	1684	on his motion to ask certain information of the President -	530
District of Columbia, appointment of the standing committee on the -	400	on the motion to inquire into the official conduct of clerks -	786
a bill from the Senate to increase the salaries of the judges of the circuit court for the, read twice, and referred -	1053	on the Internal Improvement resolution -	1136
reported, without amendment -	1108	on the resolution for adjournment -	1181
read the third time, and passed -	1778	on the bill from the Senate, supplemental to the act authorizing the State of Tennessee to issue grants, &c. -	1568
report of the Secretary of the Treasury on the condition of the banks of the -	1181	Edwards, William, and John G. Stubbs, a bill from the Senate for relief of -	542
District Courts of the United States, on motion of Mr. Tyler, the Judiciary Committee were instructed to inquire into the expediency of causing offices to be erected for the safekeeping of records, &c., of the -	476	read twice, &c. -	566
report of said committee thereon -	533	ordered to a third reading -	1450
a bill concerning the, within the State of New York, read twice -	1108	Elections, appointment of the standing committee of -	400
ordered to a third reading -	1185	Elliot, Jonathan, report of the Secretary of State on the petition of, laid on the table -	1676
read a third time, and passed -	1224	referred to a select committee -	1718
returned from the Senate with amendments, read, and referred -	1469	Emigrants, Mr. Johnson, of Kentucky, presented the petition of certain, from Switzerland, referred -	566
agreement reported, and concurred in -	1567	an adverse report thereon concurred in -	711
Docket of Bills, Resolutions, &c., Mr. Pindall offered a resolution for printing a, for each week, for the use of members -	818	Mr. Taylor, of New York, Mr. Baldwin, of Pennsylvania, and Mr. Smith, of Maryland, each presented a petition in behalf of, referred -	893
considered, and disagreed to -	850		
Documents, a joint resolution authorizing the transportation of certain, free of postage, read three times, and passed -	1429		
Domestic State Papers, a bill authorizing subscription to Jonathan Elliot's edition of, read twice -	1764		



# INDEX.

lvi

## House Proceedings and Debates.

	Page.		Page.
Emigrants—continued.		Extra Services, on motion of Mr. H. Nelson, the	
an unfavorable report on the whole	1013	Committee of Accounts were authorized	
discussed, and concurred in	1053	to make the same allowance for, to the	
Emoluments of Collectors, a report of the Sec-		persons serving in the House as at last	
retary of the Treasury relative to the	1074	session	1743
Erie, a bill to change the name of the district of,		F.	
read twice	792	Fairbanks, Jason. (See <i>Keys, Purley.</i> )	
read a third time, and passed	1666	Farish, Thomas B., a bill for relief of, read	
Ernest, Frederick, and Frederick Williamson,		twice, &c.	1180
report of the Secretary of the Navy on		Fees, Mr. Hopkinson submitted a resolution	
the petition of	1381	concerning a bill of	711
Ervin, James, of South Carolina, appeared, was		agreed to, and referred to the Judiciary	
qualified, &c.	529	Committee	712
speech of, on case of contempt of the House	642	on motion of Mr. H., the said committee	
on the bill for relief of Gen. Arthur St. Clair	842	were instructed concerning certain	791
Erving, G. W., correspondence of, with Don Pe-		report thereon read, &c.	1723
dro Cevallos, on the subject of Mr. Meade's		Fields, John, an adverse report on the petition	
imprisonment	1814	of, concurred in	818
Essary, Jonathan D., and John Seybold, read twice	1713	Finances, annual report of the state of the, laid	
ordered to a third reading	1722	on the table	409
read the third time, and passed	1724	detailed report of the	2317
Estimates of Revenue and Expenditures	2321	Firearms, a report of the Secretary of War con-	
Evans, Daniel, an adverse report on the petition		cerning contracts for the supply of	870
of, concurred in	447	Fire Insurance Company of Washington, a bill	
Exchange of Lands with the Choctaw and		from the Senate to incorporate the, read	
Chickasaw Tribes, Mr. Poindexter offered		twice	1568
a resolution on the subject of an	514	reported without amendment, and ordered	
being amended, to include the Creeks and		to a third reading	1656
Cheokees, it was agreed to, and referred		Fisher, Elisha & Co. (See <i>Clifford, Thomas</i>	
to the Committee on Public Lands	514	<i>and John, and others.</i> )	
Executive Departments, a bill to provide for		Fishing Vessels, a bill from the Senate concern-	
erecting additional buildings for the ac-		ing the bounty to, read twice, and referred	1523
commodation of the, read twice	818	read a third time, and passed	1568
ordered to a third reading	1691	Flag, on motion of Mr. Wendover, a committee	
read the third time, and passed	1692	was appointed to inquire into the expedi-	
Expatriation, Mr. Robertson, of Louisiana, sub-		ency of altering the, of the United	
mitted a resolution for a committee to		States	464
inquire into the expediency of providing		a bill to alter the, read twice, &c.	566
by law for the exercise of the right of	448	ordered to a third reading	1463
agreed to, and a committee appointed	450	read a third time, and passed	1469
a bill providing the manner, &c.	495	Floyd, John, of Virginia, appeared, was quali-	
a motion to strike out the first section of the		fied, &c.	408
bill debated	1054	speech of, on the proposition relating to the	
after considerable debate the motion prevailed	1070	Spanish American provinces	1546
Mr. Johnson, of Virginia, introduced a sub-		Ford, Nathan, a report of facts in the case of,	
stitute for the remaining sections of the		referred	1380
bill, which was read and negated	1076	Foreign Affairs, appointment of a select com-	
Mr. Robertson offered a substitute	1093	mittee on	404
the substitute was discussed	1104	Foreign Coins, on motion of Mr. Huntington,	
and finally adopted	1106	the Committee of Ways and Means were	
after twice reading, the third reading nega-		instructed to examine the act regulating	
tived	1107	the currency of	954
Expenditures in the several Departments, ap-		Foreign Merchandise, Mr. Wendover presented	
pointment of the standing committees on	400	the petition of merchants of New York	
Extension of Credit, on certain duties, on mo-		praying a duty on sales of, at auction,	
tion of Mr. Pitkin the Committee of		referred	446
Ways and Means were instructed to in-		a bill relating to duties on, read twice, &c.	1283
quire into the expediency of an	870	Foreign Seamen, deserting, &c., a bill to autho-	
on public lands, Mr. Baldwin submitted a		rize the apprehension of, read twice, &c.	1108
resolution on the subject of	1113	Foreign Wines and Liquors, on motion of Mr.	
which was agreed to, and referred to the		Lowndes, the Committee of Ways and	
Committee on Public Lands	1113	Means were instructed to inquire into	
Extension of Pensions, a committee was ap-		the expediency of making provision for	
pointed to bring in a bill concerning the,		allowing, to be deposited in the public	
to Widows, &c.	894	stores, &c.	847
(See <i>Widows and Orphans.</i> )		a bill to provide for the deposit of, in the	
Extinguishment of Indian titles, on motion of		public warehouses, read twice, and	
Mr. T. M. Nelson, a committee was ap-		referred	1283
pointed to inquire concerning the,	487		

lvii

# INDEX.

lviii

## House Proceedings and Debates.

	Page.		Page.
Foreign Wines—continued.		Fourteenth Congress—continued.	
ordered to a third reading	1725	reported with an amendment, and ordered	
read a third time, and passed	1738	to a third reading	1405
returned from the Senate with amend-		read a third time, and passed	1431
ments, and concurred in	1777	Franking Privilege, on motion of Mr. Barbour,	
Forfeited Lands, a bill from the Senate to sus-		the Committee on Post Offices and Post	
pend the sale of, read twice, and referred	1720	Roads were instructed to inquire into the	
ordered to a third reading	1723	expediency of extending the, to the Ad-	
Forrest, Joseph, a report from the Secretary of		jutant General of the respective States, &c.	772
State on the petition of, referred	422	on motion of Mr. Little, the same were in-	
the Committee of Claims made an adverse		structed in relation to the Secretary of the	
report thereon, agreed to	464	Senate and Clerk of the House of Repre-	
Forsyth, Mr., remarks of, on the motion respect-		sentatives	1452
ing the Spanish American provinces	408	a bill to that effect read twice, &c.	1714
on the resolution concerning Amelia Island	410	Frauds by Purchasers of Public Lands, on mo-	
on his motion relative to representative		tion of Mr. Edwards, of North Carolina,	
qualifications	423	the Committee on Public Lands were in-	
speech of, on the Commutation bill	504	structed to inquire into the expediency of	
remarks of, on the motion respecting neu-		making provision to prevent	445
tral relations	520, 521	report that no further provision is necessary	530
on the warrant of arrest in the case of An-		French, Thomas. (See <i>Kinsey, Adam.</i> )	
derson	583	Fugitive Slaves, on motion of Mr. Pindall, a com-	
on his motion to appoint a committee of		mittee was appointed to inquire into the	
privileges	593	expediency of making further provision	
speech of, in reply to Mr. Livermore	597	on the subject of	446
on the resolutions of Mr. Spencer	621	a bill to amend the act for the recovery of,	
on the letters from Anderson to the Speaker	650	read twice, and referred	513
remarks of, on Mr. Rhea's amendments to		reported, with amendments	829
Mr. Spencer's resolutions	742	ordered to a third reading	831
on the resolution respecting naval discipline	806	read a third time, and passed	840
on resolution touching the office of claims	896	returned from the Senate, with amendments	1339
on submitting a second call for information		read, and ordered to lie on the table	1393
on the state of negotiations with Spain	1007	Fuller, Timothy, of Massachusetts, appeared, and	
on the militia claim of Georgia	1103	was qualified	532
on the resolution for adjournment	1182	Funds in the District Court of New York, report	
on the bill concerning the district courts of		of the Judiciary Committee on the	1108
New York	1183	(See <i>District Courts in New York.</i> )	
a motion by, not to receive the Pazos memo-		G.	
rial	1251	Galloo Island, a bill for erecting a light-house	
speech of, on the motion to lay his motion		upon, read twice	1696
on the table	1262, 1268	Gardiner, John, a letter from, with a map of the	
remarks of, on the bill to subscribe for the		bounty lands in Illinois	400
Delaware and Chesapeake Canal	1397	General Armstrong, private armed Brig, a bill	
on the bill in addition to the act to punish		authorizing a sum of money to be distrib-	
certain crimes, &c.	1403, 1404	uted among the officers and crew of the,	
speech of, in reply to Mr. Clay, on his mo-		twice read, &c.	1104
tion to amend the said bill	1408	General Courts Martial, a report from the Secre-	
in reply to Mr. Clay again	1418	tary of War, of the expenses of	1523
on the appropriation for Commissioners to		General Post Office, on motion of Mr. Harrison,	
South America	1466	the Committee on Post Offices, &c., were	
on Mr. Clay's amendment to the same	1500	instructed to inquire into the expediency	
in reply to Mr. Tucker, and others	1634	of establishing a branch of the, in one of	
on Mr. Trimble's substitute, for the resolu-		the Western States	1113
tion reported in the case of Mr. Meade	1712	unfavorable report thereon	1717
on the Senate bill concerning navigation	1717	Gelston, David, Mr. Lowndes presented the pe-	
on the supplemental Bank bill	1747, 1762	tition of, for himself and Peter A. Schenck,	
on the bill to divide Pennsylvania	1778	referred	1380
Poster, William S. (See <i>Birdsall, Benjamin.</i> )		report thereon, read, and ordered to lie on	
Fourteenth Congress, Mr. Whitman submitted a		the table	1451
joint resolution that the thirty copies of		Georgia, on motion of Mr. Cobb, a committee	
the acts passed at the first and second ses-		was appointed to inquire into the claims	
sions of the, now in the office of the Sec-		of, for militia services, &c.	432
retary of State, be deposited in the Clerk's		a bill for the payment of certain militia claims	
office of the House for the use of mem-		of, read twice, &c.	494
bers, read twice, and ordered to a third		third reading rejected	1112
reading	534	on motion of Mr. Terrill, the Committee of	
a resolution from the Senate, directing the		Commerce and Manufactures were in-	
distribution of the laws of the, among the		structed to inquire into the expediency of	
members of the fifteenth Congress, read		assenting to an act of the State of	1523
twice, and referred	1381		



## House Proceedings and Debates.

	Page.		Page.
Georgia—continued.		Greer, Jacob, an adverse report on the petition of	513
a bill to that effect read twice, and ordered to lie on the table	1671	Griffin, Thomas. (See <i>Armstrong, General.</i> )	
a bill authorizing the appointment of an additional judge for the district of, read twice	1714	Griffith, Camillus, the Military Committee were discharged from considering the petition of	1764
the third reading negatived	1714	Grounds in the City of Washington, a bill explanatory of the act authorizing the sale of certain, read twice, &c.	905
Ghent, a message, with a decision of the question submitted to the Commissioners under the Treaty of	1073	Gunboats Nos. 149 and 154, a bill authorizing payment of a sum of money to the officers and crews of, read twice, &c.	1456
Mr. Claiborne submitted a resolution of inquiry concerning the expenses under a certain article of the Treaty of	1113		
amended, and agreed to	1138	H.	
a message, with a report of the Secretary of State in reply	1470	Half-pay Pensions, a bill concerning, read twice, and referred	872
referred to a select committee	1567	and referred without amendment	878
a report thereon referred to a Committee of the Whole	1718	Hall, Major John, a bill from the Senate for relief of	1715
who adopt a resolution, requesting the President to arrange with the British Government the mode of designating the boundary line	1781	read twice, and referred	1718
estimate of expenditures under the fifth article of the Treaty of	2388	reported without amendment	1737
Giles, Aquilla, a bill from the Senate for the relief of	1691	read a third time, and passed	1777
read twice, and referred	1696	Hall, Willard, of Delaware, appeared, and was qualified	488
Gist, Captain Henry. (See <i>Johnson, Captain Benjamin.</i> )		Hammond, C., a petition of, contesting the election of Samuel Herrick, referred	417
Goddard, Samuel, and others, a bill for relief of, read twice, &c.	871	report of the Committee of Elections	543
Gold and Silver Mines, on motion of Mr. Storrs, the Committee on Public Lands were instructed concerning the reservation of, in sales	530	the memorial of, presented before the committee	550
Goodwyn, Peterson, of Virginia, appeared, and was qualified	399	Hanseatic Cities, the President's proclamation announcing the repeal of duties with respect to the	1966
Mr. Newton announced the death of	1005	Harper, Samuel G., a bill for relief of, read twice	1723
the usual resolution on the subject	1006	Harrison, Mr., speech of, on the resolution concerning Amelia Island	415
Government, a bill making appropriations for support of, read twice, &c.	905	speech of, on his resolution to provide for sufferers in the late war	450
debate on the item concerning Commissioners to South America	1464	remarks of, on the Commutation bill	470
ordered to a third reading	1655	on the bill concerning Revolutionary survivors	492
read a third time, and passed	1656	on the Compensation bill	575, 578, 583
returned from the Senate with amendments, and agreed to	1677	on Colonel Anderson's letter to Mr. Williams	582
a bill supplementary to the several acts making appropriation for the support of, for the year 1818, read twice, and ordered to a third reading	1765	on his proposition to amend the Constitution	611
read the third time, and passed	1769	on the case of Colonel Anderson	651
Governors of States and Territories, on motion of Mr. Huntington, the Committee on Post Offices, &c., were instructed to inquire into the expediency of authorizing, to receive and transmit official communications free of postage	530	on the motion to inquire into the official conduct of clerks	784
adverse report concurred in	1714	speech of, on his motion respecting Kosciuszko	795
Graeff, Mary, on motion of Mr. Sergeant, the report of the committee on the memorial of, was reconsidered, and referred to a Committee of the Whole	772	remarks of, on the resolution relative to naval discipline	806
report reversed, and bill ordered	1681	on the resolution for adjournment	1181
a bill for relief of, read twice	1687	on a resolution to grant medals to certain officers	1668
ordered to a third reading	1697	on Mr. Trimble's resolution in the case of R. W. Meade	1709
read the third time, and passed	1714	on the supplementary Bank bill	1749
Graham, John, report of, to the Secretary of State, on the condition of South America	2987	on the bill for relief of General Stark	1770
		Harrison, Jonas, and others, a bill for relief of, read twice &c.	866
		ordered to a third reading	1715
		read the third time, and passed	1719
		Harrison, General, and Governor Shelby, a resolution from the Senate granting medals, &c., to, read three times, and passed	1648
		Hassler, F. R., first report of, to the Treasury Department, on the survey of the coast	2449

## House Proceedings and Debates.

	Page.		Page.
Heath, John, Captain of Marines, on motion of Mr. Johnson, of Virginia, the Secretary of the Navy was directed to report a copy of the proceedings of the court martial ordered on	808	Hopkinson, Mr.—continued.	
a letter from the Secretary, with the copies called for	832	speech of, on the motion for a Committee of Privileges	595
referred to the Naval Committee	1028	remarks of, on the case of Anderson	651
report of said committee	1661	on his resolution concerning judicial fees	711
Heath, Nathaniel P. (See <i>Renner, Daniel.</i> )		speech of, on Mr. Spencer's resolutions	722
Hendricks, Mr., remarks of, on submitting a resolution concerning the Jefferson Ohio Canal Company	1113	remarks of, on the report in the case of the Richmond Church	834
Herrick, Samuel, a letter of, to the chairman of the Committee of Elections	550	speech of, on the Bankrupt bill	898
the report of the Committee of Elections that he is entitled to his seat, agreed to	1449	in reply to objections	988
Herring, Elbert, a bill for relief of, read twice, &c.	854	remarks of, on the resolution concerning internal improvement	1136
Hicks, Oliver H., and Lockwood de Forest, an adverse report on the petition of, for remission of duties, concurred in	1457	on the appropriation for Commissioners to South America	1468
History of Congress, Mr. Robertson, of Louisiana, presented a petition of Gales and Senton, praying aid and patronage in their proposed publication of the, referred to a select committee	1391	on a resolution to grant medals to certain officers	1670
report of said committee, with a bill authorizing subscription to, read twice, &c.	1650	speech of, on Mr. Trimble's substitute for the resolution reported in the case of R. W. Meade	1708
report thereon ordered to lie on the table	1663	remarks of, on a motion to rescind the resolutions fixing the day of adjournment	1770
bill amended, and ordered to lie on the table	1681	on the bill to divide Pennsylvania	1778
Hitchcock, Peter, of Ohio, appeared, and was qualified	408	Hosteller, Jacob, of Pennsylvania, a certificate of the election of, as a member of the House	1666
Hogan, Michael, a bill from the Senate for relief of, read twice, and referred	1604	Hour of Meeting, Mr. Rich, of Vermont, moved that the, be 11 o'clock, laid on the table	580
reported with an amendment, and committed	1671	House of Representatives, list of members present at the opening of the	397
Holmes, Mr., remarks of, on the resolution concerning Amelia Island	413	Howell, Hubert. (See <i>Burnet, Daniel.</i> )	
speech of, on the repeal of internal duties on the Commutation bill	461, 471, 482	Hughes, Samuel, on motion of Mr. Smith, of Maryland, the petition of, was referred to the Secretary of the Navy	881
memorial of, on behalf of Mr. Herrick	558	Hutchison, Thomas, and partners, an adverse report on the petition of, read, and concurred in	1569
remarks of, on the Compensation bill	574	Hyden, Daniel, on motion of Mr. A. Smyth, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing, on the list of pensioners	871
speech of, on the case of Colonel Anderson	664		
remarks of, on the examination of Colonel Watson	780	I.	
on his resolution to inquire into the official conduct of clerks	784	Illinois Territory, Mr. Pope presented the petition of the Legislature of, praying that the said Territory may be formed into a State government	782
on the Fugitive Slave bill	828, 838	a bill to enable the people of, to form a constitution, &c., read twice	814
on the remission of duties to the Monument Church at Richmond	835	amended, read a third time, and passed	1678
speech of, on the Bankrupt bill	913	returned from the Senate with amendments	1724
on the Spanish American Provinces	1579	concurred in	1738
on his resolution further to provide for survivors of the Revolution	1698	Imports of Merchandise, &c., annual statements of, from the Treasury Department	1739
on the bill from Senate concerning navigation	1717	Imported Goods, Wares, &c., a letter from the Secretary of the Treasury concerning the collection of duties on	792
Hooker, Samuel F., a bill for relief of, read twice a bill from the Senate of the same tenor, read twice, &c.	1403	Imported Salt, on motion of Mr. McCoy, the Committee of Ways and Means were instructed to inquire into the expediency of repealing the duty on	418
reported without amendment	1764	Mr. Silsbee presented a petition for the repeal of the duty on, referred	446
read the third time, and passed	1776	report of the Committee of Ways and Means, adverse to repeal	1095
Hopkinson, Mr., remarks of, on the resolution concerning the Judiciary	419	Imports and Tonnage, on motion of Mr. Smith, of Maryland, the Committee of Ways and Means were instructed to inquire what amendments are necessary in the act regulating duties on	432
speech of, on the repeal of internal duties on the claim of John Thompson for interest	531		
remarks of, on the bill concerning public records, &c.	565		



## House Proceedings and Debates.

	Page.		Page.
Imports and Tonnage—continued.		Iron, Mr. Bloomfield presented the petition of	
a bill to continue in force for a limited time		sundry inhabitants of New Jersey, pray-	
the fourth paragraph of the first section		ing that an additional duty may be laid	
of the act to regulate duties on, read		on the importation of, referred -	446
twice, &c. -	865	Mr. Maclay and Mr. Sergeant, of Pennsyl-	
ordered to a third reading -	1743	vania, presented similar petitions, referred	462
read a third time, and passed -	1744	Mr. Southard, Mr. Hall, and Mr. Bassett,	
returned from the Senate with amendments,		severally, did the same -	494
and concurred in -	1777	a bill to increase the duties on, read twice	865
a bill supplemental to the act to regulate the		sundry papers from the Secretary of the	
collection of duties on, read twice, &c. -	866	Treasury on the subject, referred -	1008
a letter from the Secretary of the Treasury		bill ordered to a third reading -	1736
respecting certain -	1448	read the third time, and passed -	1740
ordered to a third reading -	1726	returned from the Senate with amendments,	
read a third time, and passed -	1739	and concurred in -	1777
Imprisonment of citizens of the United States by			
Spain, correspondence on the subject of	1953	J.	
Indian Affairs, appointment of a select commit-		Jackson, Andrew, for himself and wife, Mr.	
tee on -	405	Claiborne presented a remonstrance of,	
report of the same -	451	referred -	819
Indian Agents, a bill from the Senate directing		Jefferson Ohio Canal Company, Mr. Hendricks	
the manner of appointing, &c. -	824	submitted a resolution to subscribe to the	1114
read twice, and referred -	829	Jeffries, Richard, adverse report on the petition of	463
reported without amendment -	854	Jervy, Thomas Hall, a bill for relief of, read	
ordered to a third reading -	1672	twice, &c. -	1054
read a third time, and passed -	1676	Johnson, R. M., remarks of, on the resolution	
Indian Agents and Factors, a bill from the Sen-		concerning Amelia Island -	414
ate fixing the compensation of -	1738	speech of, on his military resolutions -	420
read twice, and referred -	1739	on the repeal of internal duties -	440
reported without amendment, and ordered		remarks of, on the bill for relief of John	
to a third reading -	1764	Bate -	447
read a third time, and passed -	1769	on the Commutation bill -	460, 484
Indian Claims, a bill making appropriation to		on his resolution to clothe the army in Amer-	
extinguish certain, read twice, &c. -	1393	ican manufactures -	495
Ingham, Mr., remarks of, on the bill for remission		speech of, on the bill for Revolutionary sur-	
of certain duties -	822	vivors -	509
on the supplemental Bank bill -	1751	remarks of, on the resolution for engraving	
Interest on Claims, discussion on the subject of		the map of bounty lands -	523
allowing -	531	on Thompson's claim of interest -	531
Internal Duties, &c., the annual statement relat-		on his resolution concerning the militia -	542
ive to -	406	to increase the salary of the Postmaster	
a bill to abolish, twice read, and referred -	417	General -	543
report of the Committee of Ways and		on the Compensation bill -	577
Means -	424	on the case of Colonel Anderson -	582, 603
bill ordered to a third reading -	430	testimony of, on oath, in the same case -	778
read a third time, and passed -	443	speech of, on the half-pay Pension bill -	872
returned from the Senate with amendments		on his nine military resolutions -	888
read, and concurred in -	476	on his resolution touching the office of	
Internal Improvement, appointment of a select		claims -	895
committee on -	405	on the right of expatriation -	1042
report of said committee, with a resolution		remarks of, on the motion not to receive	
debate on the resolution -	1114	the Pazos memorial -	1256
progress reported, with leave to sit again -	1138	speech of, on the internal improvement reso-	
debate thereon resumed 1139, 1185, 1268	1340	lutions -	1381
	1381	on the proposition relating to the Spanish	
resolution that Congress have power over,		American Provinces -	1556
agreed to -	1389	on the supplemental Bank bill -	1761
report of resolutions by the committee on the		a bill from the Senate for the relief of, read	
President's Message relating to -	1649	twice, and referred -	894
resolutions concurred in -	1679	reported without amendment -	897
Invalid Pensioners, a bill regulating payment to,		read the third time, and passed -	1777
read twice, &c. -	866	the resolution from the Senate presenting a	
ordered to a third reading -	1765	sword to, read three times, and passed -	1665
read a third time, and passed -	1769	Johnson, James, of Virginia, appeared, and was	
Invalid Pensions, a bill concerning, read twice	1661	qualified -	415
Invalids, a bill respecting, read twice, &c. -	1007	speech of, on his resolution relating to naval	
Ireland, John, an adverse report on the petition		discipline -	802, 806
of, recommitted -	817	on the Expatriation bill -	1063
supplemental report, ordered to lie on the		in reply to Mr. Williams of North Carolina	1088
table -	896		

## House Proceedings and Debates.

	Page.		Page.
Johnson, James, of Virginia—continued.		Justices of the Peace—continued.	
remarks of, on the internal improvement		amended, read a third time, and passed -	1697
resolution -	1136	the Senate disagreed to the amendment -	1715
speech of, on the Constitutional power of		the House insisted, and appointed managers	
Congress, touching the same -	1224	of a conference -	1718
Johnson William, Judge, on motion of Mr. Mid-		report of the managers, and subject indefi-	
dleton, the Judiciary Committee were		nately postponed -	1737
instructed to inquire into the expediency			
of granting additional compensation to -	543	K.	
(See Sixth Circuit.)		Kalb, Baron de, the Speaker presented a letter	
Johnson, Captain Benjamin, and Captain Henry		from the Governor of Maryland, respect-	
Gist, a bill for relief of, read twice, &c. -	866	ing the monument ordered to be erected	
ordered to a third reading -	1715	at Annapolis in honor of the memory of,	
read the third time, and passed -	1719	referred -	1072
returned from the Senate with amendments		the committee discharged from its consider-	
and concurred in -	1777	ation -	1094
Johnson, Hickman, as guardian of J. E. Sellers,		Mr. Reed submitted a resolution on the same	
report of facts in the case of, referred -	936	subject, which the House refused to con-	
Johnson, John, Henry Perry, Richard Cravat,		sider -	1095
and Beley Cheny, a bill for relief of, read		a motion by Mr. R., to take up his resolu-	
twice, &c. -	1523	tion, negatived -	1113
Jones, John, a bill for the relief of, read twice -	782	Kennedy, John, and Henry Nail, a bill for relief	
Jones, Michael, a bill from the Senate for relief of,		of, read twice, &c. -	854
read twice, and referred -	1675	Kentucky, the Speaker presented a memorial of	
reported without amendment -	1714	the Legislature of, respecting the bound-	
ordered to a third reading -	1722	ary line between said State and Tennes-	
read the third time, and passed -	1724	see, referred -	1071
Jones, Mr., of Tennessee, speech of, on internal		Kentucky Ohio Canal Company, on motion of	
improvement resolution -	1274	Mr. Anderson, the Committee on Roads	
Jourdan, B. and P., brothers, a bill for relief of,		and Canals were instructed to inquire in-	
read twice, &c. -	897	to the expediency of subscribing for shares	
reported with an amendment, read the third		in the -	1448
time, and passed -	1776	Kenzie and Forsyth, a bill for relief of, read	
Journals of the Old Convention, &c., a bill from		twice, &c. -	1567
the Senate for the publication and distri-		Keys, Purley, and Jason Fairbanks, a bill for re-	
bution of the -	799	lief of, twice read -	583
read twice, and referred -	800	ordered to a third reading -	1401
reported with an amendment -	1393	read a third time, and rejected -	1405
read a third time, and passed as amended -	1401	King of Naples, on motion of Mr. Smith, of Ma-	
Journal of the House, a motion of Mr. Poindex-		ryland, a committee was appointed to re-	
ter to amend the record of proceedings on		quest of the President information rela-	
the memorial of Vincente Pazos negatived	1282	tive to the seizure and confiscation of	
Judge Advocates of the Army, on motion of Mr.		American vessels, &c., under the author-	
Storrs, the Secretary of War was directed		ity of the -	832
to report the cases in which counsel has		King, Henry, an adverse report on the petition	
been employed to assist the -	824	of -	1028
report of the Secretary of War in obedience	1523	report reversed, and a bill ordered -	1180
Judges of the Supreme Court, on motion of Mr.		a bill for the relief of, read twice -	1250
Hopkinson, the Judiciary Committee were		ordered to lie on the table -	1697
instructed to inquire into the expediency		ordered to a third reading -	1715
of increasing the salary of the -	870	read the third time, and passed -	1719
Judiciary, appointment of the standing commit-		King, William, a bill for relief of, read twice, &c. -	1223
tee on the -	400	King, Samson R., a bill for the relief of, read	
on motion of Mr. Claiborne, the said com-		twice, &c. -	1446
mittee were instructed to inquire what		Kinsey, Adam, and Thomas French, a bill for	
alterations are necessary in the system -	419	relief of, twice read, &c. -	1450
Jurors and Witnesses, on motion of Mr. Herrick,		Knaggs, Whitmore, a report of facts in the case	
the Judiciary Committee were instructed		of, referred -	936
to inquire into the expediency of increas-		Kosciusko, Mr. Harrison submitted a joint reso-	
ing the compensation of -	500	lution for a committee to inquire and re-	
Justices of the Peace, on motion of Mr. Holmes,		port proper measures to manifest respect	
the same committee were instructed to in-		to the memory of General, read -	794
quire into the expediency of providing by		after debate the resolution was withdrawn	800
law for the appointment of -	500		
a bill from the Senate to make valid certain		L.	
acts of the, in the District of Columbia,		La Coste, Peter, a letter from the Secretary of	
read twice -	1568	State on the petition of, referred -	445
reported without amendment, and ordered		an adverse report thereon -	501
to lie on the table -	1656		
15th CON. 1st SESS.—C			



## House Proceedings and Debates.

	Page.		Page.
Lake Michigan, on motion of Mr. Holmes, of Massachusetts, the Committee on Roads and Canals were instructed to inquire into the expediency of constructing a navigable canal, to unite the waters of, with the Mississippi	430	Lands in Alabama—continued.	
Land Claims, on motion of Mr. Scott, the Committee of Public Lands were instructed to inquire into the expediency of providing for a final adjustment of, in the Territory of Missouri	445	read twice, &c.	1431
on motion of Mr. Robertson, the Secretary of the Treasury was directed to lay before the House the reports of the commissioners for Louisiana, &c.	841	reported without amendment, and committed	1661
letter from the Secretary of the Treasury in obedience	851	read a third time, and passed	1779
a bill supplemental to the several acts for the adjustment of, in Louisiana and Missouri, read twice, &c.	866	La Plata, declaration of independence of the provinces of	1877
Land District, on motion of Mr. Cobb, the Committee of Public Lands were instructed to inquire into the expediency of establishing a separate, in a part of the Territory of Alabama	815	Law, Andrew, a bill authorizing the renewal of a patent to, read twice, &c.	1007
Land Laws, a resolution from the Senate relative to the distribution of the late edition of the, read twice	871	Lawrence, widow of Captain James, on motion of Mr. Tallmadge, the Naval Committee were instructed to inquire into the expediency of continuing the pension of half-pay to	530
read a third time, and passed	935	committee discharged	1721
Land Office, on motion of Mr. Scott the Committee of Public Lands were instructed to inquire into the expediency of establishing various additional	430	Laws of the United States, a joint resolution authorizing the distribution of a new edition of the, twice read	409
a bill providing for additional, in Missouri Territory, read twice	486	read a third time, and passed	417
ordered to a third reading	508	returned from the Senate with an amendment, and concurred in	677
read a third time, and passed	515	Mr. Johnson submitted a resolution for the publication of the, referred	531
returned from the Senate with amendments	824	a bill to provide for the publication of the, read twice, &c.	782
read and referred	825	ordered to a third reading	1663
reported with an amendment, and agreed to	829	read a third time, and passed	1666
on motion of Mr. Simkins the Committee on Public Lands were instructed to inquire into the expediency of establishing other, in the Territory of Alabama	1450	returned from the Senate with amendments	1715
a bill to establish certain, with districts east of Island of N. Orleans, read twice	1661	all concurred, in except two, to which the House disagreed	1720
laid on the table	1722	the Senate receded from one and insisted on the other	1737
Land Patents, for soldiers' bounties, instructions to the Land Committee to provide for some other person than the President, to sign	1523	this House receded from the amendment insisted on	1739
Land Titles, on motion of Mr. Pope, sundry petitions from inhabitants of Illinois Territory, relating to, were referred to the Committee on Public Lands	422	Lazaretto Channel, on motion of Mr. Hopkinson, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing for expenses of laying down and taking up buoys in the, &c.	854
Land Warrants, a report from the Secretary of the number of, issued for military bounties	443	Lead Mines, on motion of Mr. Scott, the Committee on Public Lands were instructed to inquire into the expediency of leasing and working the public	463
on motion of Mr. Merrill, the Secretary of War was directed to report names, &c., of recipients of	489	Mr. S. submitted another motion concerning the disposal of certain	677
letter from the Secretary of War in reply	841	Lee, Richard Bland, the Speaker presented a letter from, with report of facts in the cases of certain claimants under the Property Act	417, 422, 831
Land to Revolutionary Survivors, on motion of Mr. Tarr, the Military Committee were instructed to inquire into the expediency of granting one hundred and sixty acres of, to each	897	Leonard, Henry, on motion of Mr. A. Smyth, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the pension list	462
Lands in Alabama, a bill from the Senate relating to the survey and sale of the public,		Lewis, Mr. J., of Virginia, appeared and was qualified	399
		Lewis, Winslow and Henry, a report of the Secretary of State on the petition of, referred	422
		a bill for relief of, read twice	448
		ordered to a third reading	515
		read a third time, and passed	518
		returned from the Senate with an amendment	677
		read and concurred in	790
		Lewis, William B., a bill for relief of, read twice, &c.	1007
		Lewis, Edwin, a letter from, respecting Judge Toulmin, referred to the Judiciary Committee	1722

## House Proceedings and Debates.

	Page.		Page.
Library, a resolution from the Senate for the appointment of a joint committee on the, was concurred in, and a committee appointed	405	Manufactured Articles—continued.	
Linn, Mr., speech of, on the Commutation bill	808	committed to the Committee of the Whole	1718
Little, Peter, remarks of, on the bill to abolish internal duties	428	ordered to a third reading	1736
on the Compensation bill	578	read a third time, and passed	1739
Livermore, Mr., remarks of, on the Commutation bill	473	returned from the Senate with amendments, and concurred in	1777
on the warrant for arrest of Anderson	583	Manufacturers of looking-glasses in frames, &c., adverse report on the petition of, agreed to	1655
speech of, on the motion to appoint a Committee of Privileges	594	Manumission and Colonization Society of North Carolina, Mr. Settle presented the petition of the, referred	533
in reply to other speakers	599	Mr. Blount presented the petition of a similar society of Tennessee, referred	799
on the Fugitive Slave bill	830, 837	Marietta and Vincennes, a bill from the Senate providing for the sale and location of certain lands, in the districts of	851
on the bill concerning the district courts of New York	1184	read twice, and committed	855
on the Pazos memorial	1266	reported without amendment, and ordered to a third reading	1013
remarks of, on the bill for relief of Major General Stark	1770	read a third time, and passed	1053
Loan Office Certificates, on motion of Mr. Allen, the Committee on Pensions, &c., were instructed to inquire into the expediency of authorizing payment of	447	Maritime frontier of Maryland, Mr. Little presented sundry resolutions concerning the defence of the	1012
Loomis, Jarius, and James Bassett. (See Gunboats.)		Maritime frontier of the United States, report of the operations under the act of February, 7, 1817	2463
Low, Catharine, on motion of Mr. Comstock, the Military Committee were instructed to inquire into the expediency of making provision for	905	Marshal of the Northern District of New York, on motion of Mr. Porter the Judiciary Committee were instructed to inquire into the expediency of increasing the compensation of the	495
Lowndes, Mr., remarks of, on the bill to abolish internal duties	425, 426, 428, 429	a report that it is not expedient concurred in	533
on the motion to inquire into the official conduct of clerks	785	Maryland, the Speaker presented a resolution of the Legislature of, relative to the establishment of a naval depot within said State, referred	1447
on the Commutation bill	810	Mason, Armistead T., Mr. Strother presented the petition of, contesting the election of Charles F. Mercer, &c., referred to the Committee of Elections	565
on remission of duties to Richmond church	836	said committee discharged from consideration of the same	790
on the case of Richard W. Meade	848	Mason, James B., of Rhode Island, appeared, and was qualified	609
speech of, on the Expatriation bill	1050	Mason, Mr., of Massachusetts, remarks of, on the Fugitive Slave bill	838
remarks of, on his proposition to divide the resolution on internal improvement	1135	speech of, on the Bankrupt bill	982
speech of, on the resolution as reported	1235	Mason, Cornelius, a bill for relief of, read twice	1567
remarks of, on the Pazos memorial	1252	read the third time, and passed	1769
on the Delaware and Chesapeake canal	1399	Massachusetts, on motion of Mr. Mason, the militia claims of the State of, were referred to a select committee	820
speech of, on Mr. Clay's motion to amend the Neutrality bill	1412	a letter from the Secretary of War on the claims of, referred to same	854
in reply to Mr. Clay	1418, 1432	a bill to authorize the settlement and payment of certain claims of the State of, read twice, &c.	1223
in answer to a question concerning the Commissioners to South America	1464	Matchin, Capt. Thomas, on motion of Mr. Sawyer, the Committee of Pensions were instructed to inquire into the expediency of correcting a mistake in the amount of pension paid to	1339
		Matters ordered to be printed, Mr. Spencer submitted a motion respecting the number of copies, and distribution of all	1430
		amended, and agreed to	1470
		Mayhew, Thaddeus, a bill for the relief of, read twice, &c.	1339



## House Proceedings and Debates.

	Page.		Page.
Meade, Richard W., Mr. Trimble, of Kentucky, submitted a resolution requesting of the President information as to the imprisonment of in Spain -	502	Midshipmen, memorial of the, of the United States Navy to the President of the United States -	2502
agreed to, and a committee appointed to present it -	504	Military Academy, on motion of Mr. Robertson the Military Committee were instructed to inquire into the expediency of preparing a bill concerning the, embracing certain principles, &c. -	895
a message, with a report from the Secretary of State, in reply -	832	Military Affairs, appointment of a select committee on -	404
Mr. Trimble presented another resolution concerning -	847	Military Bounty Lands, on motion of Mr. T. M. Nelson, a committee was appointed to make certain inquiries concerning -	487
referred to a select committee -	883	Mr. Taylor submitted a joint resolution directing the Commissioner of the General Land Office to cause to be engraved the map of -	514
report of the same, read and ordered to be printed -	1674	twice read, and ordered to a third reading -	515
Mr. Trimble submitted a substitute for the resolution reported -	1700	read the third time -	518
which was negatived, and the report of the committee agreed to -	1713	Military Establishment, Mr. Johnson, of Kentucky, submitted sundry resolutions relating to various matters connected with the -	419
diplomatic correspondence relating to the imprisonment of -	1814	a bill making appropriations for the, read twice -	737
letter of Mrs. Meade, enclosing sundry papers, to the President -	1828	ordered to a third reading -	792
Mechanics' Relief Society, of Alexandria, a bill from the Senate to incorporate the -	824	amended, and ordered to be engrossed as amended -	794
read twice and referred -	829	read the third time, and passed -	799
reported without amendment -	846	returned from the Senate with amendments, and referred -	847
ordered to a third reading -	1697	one amendment disagreed to, the rest concurred in -	850
read a third time, and passed -	1714	the Senate insist on the amendment disagreed to -	851
Medical Society of Washington, a bill to incorporate the, read twice, &c. -	1431	the House insist, and ask a conference -	855
Mechanists, Mr. Beecher presented the petition of, referred -	408	detailed report of the Managers -	883
Meeker, Chas. F., of Virginia, remarks of, on his resolution respecting African slave trade -	518	the House resolved to adhere -	894
the Speaker presented sundry documents contesting the election of, which were referred to the Committee of Elections -	566	Military Land Warrants, resolution of Mr. Walker, of North Carolina, on the subject of -	591
speech of, on the case of John Anderson -	636	a bill from the Senate further extending the time for issuing, &c., read twice -	894
remarks of, on the remission of duties to the Church at Richmond -	836	ordered to a third reading -	935
on the Bankrupt bill -	1011	read a third time, and passed -	954
on the report concerning internal improvement -	1115, 1137	a bill from the Senate extending the time for obtaining, read twice -	1139
speech of, on the resolution submitted by the committee -	1284	read the third time, and passed -	1429
remarks of, on the Delaware and Chesapeake Canal -	1398	Military Pensions, a bill providing for, &c., read twice -	711
speech of, on the supplemental Bank bill -	1752	Military Peace Establishment, Mr. Trimble submitted resolutions directing the Secretary of War to report at next session what reductions may be made in the, &c. -	1766
Merchants' Bank of Newport, a bill from the Senate for relief of the, read twice, &c. -	1648	amended and adopted -	1767
reported without amendment, and committed -	1720	Militia, appointment of a select committee on the -	404
Merchants, Traders, and Tailors, adverse report on the petition of, concurred in -	1655	on motion of Mr. Marr, the committee was directed to inquire into the expediency of making provision for the disabled officers, &c., of the -	431
Messino Wool, a motion to exempt, from duty -	878	Mr. Johnson submitted a resolution concerning the general staff of the -	542
Message, the President's annual, five thousand copies of the, ordered to be printed -	399	agreed to, and referred to the committee on the -	543
reference of the, to appropriate committees -	401	report of an organization of the -	609
Michigan, on motion of Mr. Johnson, a committee was appointed to prepare a bill authorizing the people of the Territory of, to send a delegate to Congress -	1180	a bill for organizing, classing, and arming the, laid on the table -	841
a bill to that effect read twice -	1393		
ordered to a third reading -	1401		
Michigan Claims, report of the Secretary of State on certain -	477		
Missas, private armed schooner, Mr. S. Smith presented the petition of the owners of the, in behalf of the officers and crew -	1763		

## House Proceedings and Debates.

	Page.		Page.
Militia—continued.		Missouri Territory—continued.	
a bill from the Senate to defray the expenses of, while marching to rendezvous, read twice, and referred -	143	Mr. Scott also presented a petition, praying for a division of -	1392
reported without amendment, read a third time, and passed -	1779	a bill to authorize the people of, to form a constitution, &c., twice read, &c. -	1672
a bill to increase the pay of, while in actual service, read twice -	1672	Mitchell, Richard, report of the Secretary of the Treasury on the petition of -	534
ordered to a third reading -	1697	Mogadore, on motion of Mr. Bloomfield, the Committee of Foreign Affairs were instructed to inquire into the expediency of establishing a Consul at -	897
read the third time, and passed -	1715	a report thereon read -	1451
Militia Courts Martial, the Speaker presented the petition of sundry inhabitants of Pennsylvania respecting the conduct of certain officers engaged on, referred -	1392	Mohr, Carl Theodore, of Germany, a letter from, respecting the manufacture of porcelain -	646
Miller, Mr., of South Carolina, remarks of, on the resolution concerning Amelia Island -	414	Moneys transferred, report of the Secretary of War on the subject of -	541
on his motion respecting neutral relations -	519	Monumental Church, at Richmond, an adverse report on the petition for remission of duties to the -	833
on a resolution respecting the Military Peace Establishment -	1767	considered, and concurred in -	837
Miller, Noah, a bill for relief of, read twice -	444	Moore, Mr., of Pennsylvania, speech of, on the bill supplementary to the Bank act -	1746
ordered to a third reading -	490	moved to rescind the resolution fixing the day of adjournment -	1770
read the third time, and passed -	495	Morgan, Thomas. (See <i>Armstrong, General</i> .)	
Miller, Thomas, and Stephen Baker, a bill for relief of, read twice -	841	Morris, Richard, adverse report on the petition of Morton and Sneed. (See <i>Treasury Notes lost</i> .)	467
ordered to a third reading -	1687	Moseley, Mr., of Connecticut, speech of, on the Compensation bill -	587
read the third time, and passed -	1692	Mumford, George, report of the Committee of Elections in the case of -	855
returned from the Senate with amendments concurred in -	1739	a letter from, to the said committee -	857
Miller, John, on motion of Mr. Williams, of New York, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing, on the pension list -	897	is confirmed in his right to a seat -	1450
Mills, Elijah H., of Massachusetts, appeared, and was qualified -	845	McConnell, John, and Luke Hoff, adverse report on the petition of, agreed to -	447
speech of, on the Bankrupt bill -	954	McGirt, Zachariah, on motion of Mr. McCoy, the adverse report on the, was recommended, with instructions -	829
remarks of, on the motion not to receive the Pazos memorial -	1255	McGrew, John, a bill for relief of the legal representatives of, read twice, &c. -	1523
Minors in the late Army, Mr. Walker, of North Carolina, submitted a resolution concerning -	417	McHenry, James, late Secretary of War, on motion of Mr. Livermore the Clerk was ordered to procure to be printed 600 copies of a report made by, on the militia claims of the State of Georgia -	534
considered and rejected -	882	McIntosh, Mr., extract of a letter from, to the Secretary of the Treasury -	1800
Mint, on motion of Mr. Seybert, a committee was appointed on the subject of the -	406	McLane, Mr., of Delaware, speech of, in the case of John Anderson -	684
a bill supplemental to the act to establish the, read twice -	417	on the bill relating to expatriation -	1054
ordered to a third reading -	432	in reply to Mr. Johnson, of Virginia -	1065
read the third time, and passed -	445	on the Delaware and Chesapeake Canal -	1399
returned from the Senate with amendments, and agreed to -	515		
Mississippi, a resolution from the Senate to admit, into the Union, read twice -	405	N.	
read the third time, and passed -	409	Nail, Henry. (See <i>Kennedy, John</i> .)	
on motion of Mr. Poindexter, the Judiciary Committee were instructed to inquire into the expediency of making provision for the due execution of the laws of the United States within the State of -	475	Names of Delinquent Paymasters, on motion of Mr. Slocumb, the Secretary of War was directed to report to the House the -	936
a bill providing for the same, read twice -	517	a letter from the Secretary in reply -	1072
recommended to the Judiciary Committee -	531	Naples, a Message from the President, in relation to the claims of merchants against the Government of -	1074
reported, without amendment -	533	Naval Affairs, appointment of a select committee on -	404
ordered to a third reading -	1403	Naval Armament on the Lakes, correspondence relating to the, between the Secretary of State and the British Minister -	1943
read a third time, and passed -	1405	Naval Discipline, Mr. Johnson, of Virginia, submitted a resolution relating to -	805
Missouri Territory, the Speaker presented the petition of sundry inhabitants of, praying that said Territory may be erected into a State, &c., referred to a select committee -	591		
Mr. Scott presented a similar petition, referred to same -	840, 1391		



## House Proceedings and Debates.

	Page.		Page.
Naval Discipline—continued.		New York, a bill to alter the time for holding the circuit court in the southern district of, read twice	1112
amended, and referred to the Naval Committee	807	read a third time, and passed	1138
report of said committee thereon, that it is inexpedient to make any change in the	1682	returned from the Senate with amendments, and referred	1469
agreed to, and the committee discharged from its further consideration	1684	agreement reported	1567
igation, a bill from the Senate concerning, read twice	1717	(See <i>District Courts of</i> .)	
read a third time, and passed	1720	New York State Company, adverse report on the petition of, concurred in	1661
y, a bill making appropriations for the support of the, twice read	893	Niagara Frontier, a bill for relief of sufferers on the, read twice, and referred	1567
ordered to a third reading	982	reported with amendments	1696
read a third time, and passed	1007	the third reading negative	1699
y Hospitals, on motion of Mr. Bassett, the Secretary of the Navy was directed to report what had been done on the subject of	495	Noah, M. M., on motion of Mr. Tallmadge, the Secretary of State was directed to communicate a copy of the accounts of, as Consul at Tunis	462
a report in obedience thereto	793	letter from the Secretary of State in reply	495
y Pension Fund, annual report of the Commissioners of the	793	Notaries Public, in Washington, a bill from the Senate to regulate the fees of, read twice	1568
Mr. Tallmadge submitted a resolution concerning the	1692	ordered to a third reading	1656
agreed to and referred to the Secretary of the Navy	1694		
y Surgeon, the Naval Committee discharged from considering the petition of the	1764	O.	
son, Hugh, of Virginia, speech of, on the Amelia Island affair	410	Office of Claims, Mr. Johnson submitted a resolution of inquiry concerning the	895
remarks of, on the Internal Improvement resolution	1137	amended and referred to Secretary of War	896
on the bill concerning the district courts of New York	1183	Officers wounded in the late war, Mr. Comstock submitted a resolution to provide for placing, on the pension list	537
speech of, on the Spanish American provinces	1596	considered and rejected	888
in reply to Mr. Clay	1645	Official conduct of Clerks, Mr. Holmes submitted a resolution for a committee to inquire into the	783
remarks of, on a motion to rescind the resolution fixing the day of adjournment	1770	agreed to, and a committee appointed	786
son, Thomas M., of Virginia, appeared and was qualified	399	Colonel Watson's letter referred to said committee	791
remarks of, on the examination of Colonel Watson	780	report of said committee	1649
on Mr. Clay's amendment to the Neutrality bill	1432	Ogden, David A., of New York, appeared and was qualified	591
son, Wilson, of South Carolina, appeared and was qualified	399	Ogle, Alexander, of Pennsylvania, appeared and was qualified	494
son, Mr. Miller submitted a resolution of inquiry into the laws concerning our	519	remarks of, on the Compensation bill	574, 575, 589
laid on the table	522	on a resolution to grant medals, &c.	1669
(See <i>Certain crimes against the United States</i> , in which bill the subject is embraced.)		O'Higgins, Bernardo, letters from, to the President of the United States	1880
Madrid, a bill from the Senate limiting the time for claims to land granted to the inhabitants of, read twice	1662	Ohio, report of the committee on the contested election of members from	543
read the third time, and passed	1667	the Speaker presented a petition of the Legislature of, for a certain road, referred	1112
Orleans, Mr. Robertson presented a memorial of the citizens of, &c., referred	541	a bill from the Senate to vest in trust in the Legislature of, certain sections of land, read twice, and referred	1400
a bill from the Senate respecting certain lots in the city of	1691	reported without amendment	1447
read twice, and referred	1696	ordered to lie on the table	1769
reported without amendment	1714	Onis, Chevalier Don Luis de, correspondence of, with the Secretary of State on the case of Mr. Meade	1834
read a third time, and passed	1778	on the blockades declared by Spain	1841
son, Mr., of Virginia, remarks of, on the bill to remit certain duties to the Pennsylvania hospital	512	on the occupation of Amelia Island	1903
announcing the death of Mr. Goodwyn	1005	on the imprisonment of American citizens	1953
		Organization of the Courts of the United States, a bill for the more convenient, read twice, and committed	936
		Orphans and Widows of persons slain in the public and private armed vessels of the United States, a bill from the Senate in addition to the act giving pensions to	851

## House Proceedings and Debates.

	Page.		Page.
Orphans and Widows—continued.		Pennsylvania Hospital—continued.	
read twice, and referred	855	a bill to remit the duties on a painting presented to the, read twice	423
reported without amendment	878	read a third time, and passed	513
ordered to a third reading	1721	Pennsylvania Line of the Revolution, Mr. Hopkinson presented the petition of the	494
read a third time, and passed	1724	Pension Agent, on motion of Mr. Claiborne, the Committee of Pensions and Revolutionary Claims were instructed to inquire into the expediency of establishing a, within the district of West Tennessee	418
Orr, Mr., remarks of, on the bill concerning Revolutionary survivors	492	Pensions and Revolutionary Claims, appointment of the standing committee of	490
Orr, James, a bill for the relief of, read twice, and committed	1660	Pensions to Invalids, on motion of Mr. T. M. Nelson, the two Committees on Military and Naval Affairs were instructed to inquire into the expediency of amending the laws relating to	1072
Osgood, Lemuel H., a bill from the Senate for the relief of	1667	Pensioners, Mr. Taylor submitted a resolution calling on the Secretary of War for a list of, &c.	486
read twice, and referred	1672	report of the Secretary in reply	541
reported without amendment, and ordered to a third reading	1681	Perry, Martha, Mr. Harrison presented the petition of, referred	565
read a third time, and passed	1687	Perry, Oliver H., on motion of Mr. Johnson, of Virginia, the Secretary of the Navy was directed to report to the House the proceedings of the court martial on	808
		letter from the Secretary complying with the order	832
P.		referred to the Naval Committee	1028
Page, Joseph W., report of the Secretary of War on the petition of	894	report of said committee	1661
Paper, Mr. Mason, of Massachusetts, presented a petition of the manufacturers of, referred	565	Perry, Henry. (See <i>Johnson, John</i> .)	
Mr. Gage also presented a similar petition from the same State	737	Persons of Color, Mr. Mercer presented the petition of a Society of Friends, concerning	498
Paper Hangings, an adverse report on the petition of the manufacturers of	1687	Persons who have received Public Moneys, and failed to account for the same, report of the Secretary of War, with the names of, in obedience to a resolution	1072
Parker, Daniel, Mr. T. M. Nelson presented the memorial of, laid on the table	1674	Persons disabled by known Wounds, &c., report of the Secretary of War, of	1283
Parliament of Great Britain, Mr. Smith, of Maryland, laid on the Clerk's table two acts of the, in relation to colonial trade	1676, 1723	Petit, Peter. (See <i>Cavalier, Anthony</i> .)	
Parris, Mr., of Massachusetts, remarks of, on the bill for repairing the public buildings	590	Philadelphia Bible Society, Mr. Sergeant presented the petition of the, referred	499
remarks of, on the resolution respecting the official conduct of clerks	984	Piano Forte Makers, adverse report on the petition of the, concurred in	1661
a letter from, giving notice of his resignation	850	Piatt, John H., Mr. Johnson, of Kentucky, presented the petition of, referred	1052
Passenger Ships and Vessels, a bill regulating, read twice, and committed	1222	committee discharged	1764
Patterson, J., an adverse report on the petition of, concurred in	817	Pilsipher, Oliver, on motion of Mr. Hubbard, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the pension list	1013
Paulding John, on motion of Mr. Tallmadge, the Committee on Pensions, &c., were instructed to inquire into the expediency of continuing for five years the pension to the widow and children of	1138	Pindall, Mr. speech of, on the case of John Anderson	671
Mr. Wilkin laid on the table a resolution on the subject of	1780	remarks of, on the resolution to inquire into the official conduct of clerks	785
Pay of Members, on motion of Mr. Holmes, a committee was appointed to inquire into the expediency of providing for the	475	speech of, on the Fugitive Slave bill	827, 834
Pazos, Vincente, the Speaker presented the memorial of, read	1251	on the Bankrupt bill	918
Mr. Forsyth's motion not to receive said memorial prevailed	1268	on the bill relating to expatriation	1045
the Speaker presented a petition of, for compensation, &c., referred	1666	remarks of, on the motion not to receive the Pazos memorial	1255
Pearl River, on motion of Mr. Poindexter, the Committee on Roads and Canals were instructed to inquire into the expediency of appropriating a sum of money to improve the navigation of	1381	speech of, on internal improvement	1340
Pearson, George, a bill for relief of, read twice	782	Pinkney, William, correspondence of, with the Secretary of State	1848
ordered to a third reading	1662	with the Marquis di Circello	1863
read a third time, and passed	1667	with the Duke of Serra Capriola	1866
Pennsylvania, a bill from the Senate to divide the State of, into two judicial districts, read twice, and referred	847	Piratical Establishments, report of the Committee of Foreign Relations on the subject of, accompanied with sundry documents	1785
reported without amendment	981		
read a third time, and passed	1778		
Pennsylvania Hospital, Mr. Sergeant presented the petition of the, referred	405		



## House Proceedings and Debates.

	Page.		Page.
Political Establishments—continued.		Post Offices, &c.—continued.	
a Message from the President announcing the suppression of	1801	on motion of Mr. Allen, similar instructions were given respecting a road from Burlington	418
letters from Army and Navy officers, detailing their operations against	1803	on motion of Mr. Simpson, similar instructions were given respecting a road from Bridgewater to Plymouth	431
Atkin, Mr., remarks of, on the bill to abolish internal duties	429, 442	on motion of Mr. Barber, of Ohio, similar instructions were given respecting a road from Marietta to Lancaster	439
on the Compensation bill	579	on motion of Mr. Williams, of North Carolina, similar instructions were given respecting a road from Norfolk to Tennessee	462
on the case of John Anderson	651, 673		
on the imprisonment of R. W. Meade	848	Post Roads, a bill to alter and establish certain	
on the motion not to receive the Pazos memorial	1253	read twice	1674
on the Delaware and Chesapeake Canal bill	1394, 1397	ordered to a third reading	1767
Atkin's Commercial Statistics, a bill from the Senate for the purchase of	1738	read the third time, and passed	1769
read twice, and referred	1739	returned from the Senate with amendments, and concurred in	1782
reported without amendment	1743	Prairie du Chien, a bill for relief of the inhabitants of, read twice, &c.	1013
ordered to a third reading	1764	Preble, Commodore Edward, and officers and crew of the brig Syren, a bill authorizing the distribution of a sum of money among the representatives of, read twice, and referred	1072
read the third time, and passed	1776	Preemption, Mr. Poindexter presented the petition of the Legislature of Mississippi respecting the right of, referred	1647
Barro, Don Jose, correspondence of, with Mr. Erving, on the Meade case	1822	Price of Public Lands, on motion of Mr. McCoy, the Committee on Public Lands were instructed to inquire into the expediency of increasing the	494
Beasants, Mr., remarks of, on the resolution relating to naval discipline	807	report of said committee that it is inexpedient	542
Belvin, Madame, a bill for relief of, twice read ordered to a third reading	1766	Prince, James, adverse report on the petition of, concurred in	513
read the third time, and passed	1769	Prisoners of War, letter from the Secretary of the Treasury with a statement respecting the fund appropriated for	422
Pendexter, George, of Mississippi, appeared and was qualified	446	Prisons of Santa Fe, on motion of Mr. Floyd, a committee was appointed to request of the President any information in his possession relative to the confinement of certain persons in the	1223
remarks of, on the Compensation bill	577	Private Land Claims, appointment of the standing committee on	400
speech of, in the case of John Anderson	653	Privateer General Armstrong, report on the petition of the officers and crew of the	2480
remarks of, on the report on the Richmond church petition	834	Property Act, the Committee of Claims reported the inexpediency of continuing the office created under the	1250
on the office of claims	895	Public Accounts, letter from the Secretary of the Treasury on the subject of the settlement of	2347
on the resolution for adjournment	987	Public Buildings, appointment of a select committee on the	405
speech of, on the motion not to receive the Pazos memorial	1254	a bill making further provision for repairing, &c., read twice	566
on the Spanish American Provinces	1620	ordered to a third reading	591
remarks of, on the resolution to present a sword to Colonel R. M. Johnson	1665	read the third time, and passed	592
on the resolution to present medals to certain officers	1670	returned from the Senate with amendments, the first of which was disagreed to, and the rest concurred in	1767
Binnett, Joel R., report of, to the Secretary of State, on South America	2250	a bill making appropriations for, read twice	1180
Boirey, M., Ad-de-Camp to Lafayette, a bill making provision for the claims of, read twice, &c.	1604	Public Debt, a bill making appropriations for redemption of the, read twice	1222
Boyl, Benjamin, a bill for relief of, read twice, &c.	1013	analysis of the	2319
Boye, Nathaniel, delegate from Illinois, was qualified	408		
remarks of, on the bill to admit Illinois into the Union	1678		
Boyer, Brigadier General Moses, report of the Secretary of War on the petition of	894		
a bill for relief of, read twice	1401		
read the third time, and passed	1405		
returned from the Senate with an amendment	1691		
read, and concurred in	1696		
Brumister General, Mr. Johnson, of Kentucky, moved a resolution to increase the salary of the, referred	543		
a bill to increase the salary of the, read twice, &c.	1392		
Offices and Post Roads, appointment of the standing committee on	400		
on motion of Mr. Ingham, the said committee were instructed concerning a road from Fort Montgomery, &c.	418		

## House Proceedings and Debates.

	Page.		Page.
Public Documents, a resolution from the Senate authorizing the distribution of certain, read three times, and passed	476	Registers and Receivers—continued.	
Public Expenditures, appointment of the standing committee on	400	report of the Secretary in reply	841
Public Lands, appointment of the standing committee on	400	on motion of the same gentleman, the Committee of Ways and Means were instructed to inquire into the expediency of amending the laws in relation to the salaries and emoluments of	894
Public Money, a bill to authorize the recovery of, read twice	1745	a bill for changing the compensation of, read twice	1180
ordered to a third reading	1746	ordered to a third reading	1265
read the third time, and ordered to lie on the table	1766	read the third time, and passed	1769
Pueyeredon, J. M. de, letters from, to the President of the United States	1878	Regulating the number of Passengers, on motion of Mr. Forsyth, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of, to be brought into the United States according to tonnage	815
Purchasers of Public Lands, letter from the Secretary of the Treasury on the subject of indulgence to	2345	Renner, Daniel, and Nathaniel H. Heath, a bill for relief of, read twice	1392
Q.		Repairing certain roads, a bill from the Senate in addition to the act making appropriations for, read twice, and referred	799
Quarles, Mr., speech of, on the case of John Anderson	678	reported without amendment	816
Quartermasters and Paymasters' Accounts, on motion of Mr. Storrs, the Secretary of War was directed to report a statement of balances due on	855	ordered to a third reading	1400
a letter from the Secretary with the statement called for	1283	Reports of the Committee on Commerce and Manufactures, on motion of Mr. Drake, the Clerk was directed to furnish each of the members with a printed copy of certain	936
Quorum, interchange of messages respecting a	399		
R.		Representative Qualifications, Mr. Forsyth submitted a resolution instructing the Committee of Elections to inquire concerning	422
Raisin, on motion of Mr. Harrison, the petition of sundry inhabitants on the river, was referred to a select committee	422	considered, and agreed to	423
report of the Secretary of State on the subject of	477	a resolution reported by said committee was adopted, requesting the President to cause to be furnished a list of the members of Congress who have held office under the United States since the 4th of March last	444
Ramsay, Robert. (See Cheney, Samuel.)		a Message from the President, with the information asked for	515
Rangers, a bill for the relief of a company of, read twice, and referred	866	Revenue, statement of the, from all sources	2317
reported without amendment	878	Revisal and Unfinished Business, appointment of the standing committee on	400
ordered to a third reading	1715	Revision of the Revenue Laws, Mr. Crawford's report on the	2323
read the third time, and passed	1719	Revolutionary Army, a bill concerning certain officers and soldiers of the, read twice	445
Receipts into the Treasury, on motion of Mr. Herbert, the Secretary of the Treasury was directed to report the amount of, annually	490	ordered to a third reading	508
letter from the Secretary in reply	518	read the third time, and passed	512
Redemption of Lands sold for direct Taxes, Mr. Livermore submitted a resolution of inquiry concerning the	591	returned from the Senate with amendments, and referred	1053
amended, and referred to the Committee on Public Lands	592	agreement reported, with an amendment	1108
Reed, Mr., remarks of, on a resolution respecting the Peace Establishment	1767	report of the committee further amended, and bill sent back for concurrence	1110
Reed, Captain Samuel C. (See General Armstrong, Brig.)		Mr. Smith, of North Carolina, submitted a resolution to print and distribute the said act, read twice	1568
Refined Sugar exported, on motion of Mr. Sergeant, the Committee of Ways and Means were instructed to inquire into the expediency of allowing drawback on	646	read the third time, and passed	1605
a favorable report thereon, ordered to be printed	1446	Mr. Holmes, of Massachusetts, submitted a resolution instructing the Military Committee to inquire into the expediency of providing for such officers and soldiers, as well militia as regulars, of the, as may not be embraced in the act just passed, which, being considered, was not agreed to	1698
Registers and Receivers, on motion of Mr. Barber, of Ohio, the Committee on Public Lands were instructed to inquire into the expediency of increasing the salaries of the, at Marietta	799	Rhea, Mr., remarks of, on his resolution concerning Amelia Island	410, 415
on motion of Mr. Robertson, of Louisiana, the Secretary of the Treasury was directed to report a statement of the salaries of the respective	815		



## House Proceedings and Debates.

	Page.		Page.
Rhea, Mr., remarks of—continued.		Ross, John, of Pennsylvania, appeared, and was	
on his resolution concerning certificates	463	qualified	446
and incidents	704	remarks of, on the bill concerning the effect	
speech of, in the case of John Anderson	735	of certain records, &c.	564
on Mr. Spencer's resolutions in that case	834, 838	on the resolution concerning clerks	785
remarks of, on the Fugitive Slave bill	1091	notice of the resignation of	1451
speech of, on the right of expatriation		Rules, Regulations, &c., for the Naval Service,	
on the motion not to receive the Pazos me-	1217	a Message from the President of the Uni-	
morials		ted States, transmitting the report of the	
remarks of, on the resolution to present cer-	1671	Navy Commissioners on the	1780
tain medals			
Rheams, Tobias, a bill confirming the claim of,		S.	
to certain land, read twice	566	Salaries, a bill from the Senate to increase the,	
ordered to a third reading	1451	of certain officers of the Government, read	
read the third time, and passed	1452	twice, and referred	1604
returned from the Senate with amendments	1667	reported, with amendments	1647
read, and concurred in	1672	read the third time, and passed as amended	1775
Rice, Thomas, of Massachusetts, appeared, and		the Senate disagreed to the amendment, and	
was qualified	798	the House insisted	1777
Rich, Mr., remarks of, on the case of Anderson	653	the Senate receded from disagreement to	
speech of, on Mr. Rhea's amendment to Mr.		one, and insisted on the other amendment,	
Spencer's resolutions	773	and the House also insisted	1779
remarks of, on the resolution concerning the		a message from the Senate, that they have	
clerks	786	postponed the subject indefinitely	1780
Road, on motion of Mr. Herrick, the Committee		Sales of certain Lands, a bill to suspend the, read	
on Roads and Canals were instructed to		twice	1764
inquire into the expediency of authorizing		read the third time, and passed	1769
a certain	815	Salines, on motion of Mr. Scott, the Committee	
Roads, on motion of Mr. Tucker, of Virginia, a		on Public Lands were instructed to in-	
committee was appointed to request of		quire into the expediency of leasing the	463
the President of the United States infor-		Samuel, William, on motion of Mr. Hendricks,	
mation as to what, have been made	417	the Committee on Pensions, &c., were	
a message, with the report of the Secretary		instructed to inquire into the expediency	
of War in reply	814	of placing the name of, on the list of pen-	
Robbins, Brintnell, report of the Secretary of		sioners	431
War on the petition of	1381	Sanderson, Moses, Mr. Strong presented the pe-	
Robertson, Mr., of Louisiana, speech of, on sub-		tion of, referred	849
mitting a resolution respecting the South		Sands, Lucretia. (See Stephens, Ebenezer, and	
American provinces	406, 1525	others.)	
remarks of, on the resolution respecting		Sawyer, Mr., of North Carolina, remarks of, on	
Amelia Island	413	the Commutation bill	468
speech of, on his motion concerning expatri-		on the report on Internal Improvement 1114, 1116	
ation	448	speech of, on the resolution on same subject	1268
remarks of, on offering an amendment to		Schenck, Peter A. (See Gelston, David.)	
the Commutation bill	522, 810	Scioto Salt Works, on motion of Mr. Harrison,	
speech of, in the case of Anderson	629	the Committee on Public Lands were in-	
on his bill concerning expatriation	1029	structed to inquire into the expediency of	
on the memorial of Vincente Pazos	1260	selling certain lands heretofore granted,	
remarks of, on bill to punish certain crimes	1403	but no longer useful to the	791
speech of, on Mr. Clay's motion to amend		Scott, John, delegate from Missouri, was quali-	
the same	1410	fied, and took his seat	408
Robinson, Paul, an adverse report on the peti-		Seamen, on motion of Mr. Pleasants, the Secre-	
tion of, concurred in	853	tary of the Treasury was directed to re-	
Rock Creek Church, a bill to authorize the sale		port at next session the places at which	
of a part of the glebe of, read twice	1691	provision has been deposited for the ac-	
Rodgers, Commodore John, a bill for relief of,		commodation of, &c.	1764
twice read	792	Secret Journals of the Old Congress, on motion	
ordered to a third reading	1667	of Mr. Mercer, a committee was appointed	
read the third time, and passed	1672	to inquire into the expediency of printing	579
Rodney, Cassin A., report of, to the Secretary of		Secretary of the Senate and Clerk of the House	
State, on South America	1967	of Representatives, a bill fixing the com-	
appendix to the report of	1995	penetration of the, read	897
Rogers, Thomas J., the Speaker presented a let-		read a second time, and ordered to a third	
ter from the Governor of Pennsylvania,		reading	905
enclosing the return of the election of, as		read the third time, and passed	936
a Representative from that State, vice		returned from the Senate with amendments,	
John Ross, resigned, referred to the Com-		and referred	1139
mitted of Elections	1451	agreement reported	1392
appeared, and was qualified	1455	read, and concurred in	1765

## House Proceedings and Debates.

	Page.		Page.
Secretary of War, letters from the acting, to Ma-		Slade's Creek, a bill to abolish the port of entry	
ajor Bankhead, on the subject of Amelia		at, read twice	1671
Island	1806	read the third time, and passed	1676
Sellers, Juliet, Eliza, &c. (See Johnson, Hick-		Slate Company, of New York, adverse report on	
man.)		the memorial of the	1661
Seminole War, Mr. Cobb presented a resolution		Slavery, Mr. Livermore submitted an amend-	
to increase the pay of the militia engaged		ment to the Constitution on the subject	
in the	1672	of	1675
agreed to, and referred to the Military Com-		read, and the question of consideration nega-	
mittee	1673	tived	1676
(See Militia.)		Slaves, a bill from the Senate to prohibit the im-	
Sergeant, John, of Pennsylvania, appeared, and		portation of	1715
was qualified	399	read twice	1718
speech of, on the repeal of internal duties	435	ordered to a third reading	1749
on the Commutation bill	475	amended, read the third time, and passed	1744
on the motion to appoint a Committee of		a bill prohibiting the introduction of, into	
Privileges	601	the United States, twice read	650
remarks of, on the bill for the remission of		Mr. Middleton offered a substitute, which	
certain duties	821	was agreed to, and ordered to be printed,	
on the Fugitive Slave bill	830	and referred	1662
on the case of Richard W. Meade	887	reported with amendments	1720
speech of, on the Bankrupt bill	936	Small, John, a bill from the Senate for relief of,	
on the Pazos memorial	1263	read twice	1031
on the Delaware and Chesapeake canal	1398	read the third time, and passed	1523
on Mr. Trimble's resolution in the case of		Smith, Ballard, of Virginia, appeared, and was	
R. W. Meade	1716	qualified	406
Settle, Mr. of North Carolina, speech of, in the		speech of, on the internal improvement res-	
case of Anderson	700	olution	1128
Settlers on Public Lands, on motion of Mr. Scott,		on the subscription to the Delaware and	
the Committee of Public Lands were in-		Chesapeake Canal stock	1395
structed to inquire into the expediency of		Smith, Samuel, of Maryland, remarks of, on the	
amending the act relating to	677	bill to abolish internal duties	427
a bill to continue in force the act relating to,		on the bill concerning Revolutionary sur-	
read twice	818	vivors	493
ordered to a third reading	1682	on the resolution relating to naval disci-	
read the third time, and passed	1687	pline	806
Sevier, George W., Mr. Claiborne presented the		on the Fugitive Slave bill	830
petition of, referred	819	on the remission of duties to the Church	
Seybert's Statistical Annals, a bill from the Sen-		in Richmond	834
ate authorizing subscription to	1738	speech of, on the Bankrupt bill	946
read twice, and referred	1739	on Mr. Clay's amendment to the Neutrality	
reported without amendment	1743	bill	1421
ordered to a third reading	1764	in reply to Mr. Clay	1427
read the third time, and passed	1776	on the condition of the South American	
Seybold John. (See Essary, Jonathan D.)		provinces	1538
Shaw, Basil, adverse report on the petition of,		in reply to Mr. Clay on the same subject	1637
concurred in	846	remarks of, on the resolution to grant med-	
Shields, Thomas, Mr. Robertson of Louisiana pre-		als	1669
sented the petition of, referred	823	speech of, on the supplemental Bank bill	1756
Shieldsborough, on motion of Mr. Poindexter,		remarks of, on a resolution relating to the	
the Committee of Commerce, &c., were		Peace Establishment	1767
instructed to inquire into the expediency		Smith, Mr., of North Carolina, remarks of, on the	
of making, a port of entry	824	repeal of internal duties	442
Shover, George. (See Soldiers who left the service.)		speech of, on the bill to increase the duties	
Sicilian Sumac, a motion to exempt, from duty	818	on iron	1726
Sicily, papers relative to the claims of our mer-		Smith, Dr. James, vaccine agent, Mr. Comstock	
chants against the Government of	1844	presented the petition of, referred	710
Simkins, Eldred, of South Carolina, appeared		an adverse report thereon concurred in	846
and was qualified	865	Smith, Israel, a bill for relief of, read twice	823
speech of, on the internal improvement res-		read the third time, and passed	829
olution	1217	Smith, Charles, a complimentary but adverse re-	
on the Cumberland Road bill	1657	port on the petition of, agreed to	1094
on the bill to increase the duty on iron	1751	Smyth, Alexander, of Virginia, speech of, in the	
Simonton, John W. and others, Mr. Jones pre-		case of Anderson	695
sented the petition of, referred	823	on the Commutation bill	812
Sinking Fund, annual report of the	866	on the internal improvement resolution	1139
detailed report of the Commissioners of the	2339	on the South American provinces	1569
Sixth Circuit, a bill providing additional compen-			
sation to circuit judge of the, read twice	824		



## House Proceedings and Debates.

	Page.		Page.
Forsyth, Harold, on motion of Mr. Tucker, the Military Committee were instructed to inquire into the expediency of authorizing the proper accounting officers to credit and settle the accounts of -	1112	Stafford, Lieutenant Aaron, on motion of Mr. Hubbard, the Committee on Pensions, &c., were instructed to inquire into the expediency of increasing the pension of	936
a bill for the relief of, read twice, and committed -	1392	Standing Committees, appointment of the several	400
Soldiers who left the service, without leave, &c., a bill allowing bounty lands to certain, read twice, and ordered to lie on the table	1655	Standing Rules, Mr. Bassett submitted a motion to amend the -	431
South American Provinces, reports and documents exhibiting the condition of the -	1967	the amendment agreed to -	445
South Carolina, a Message from the President transmitting a letter from the Governor of, to the Secretary of State, relative to a proposed amendment of the Constitution, ordered to lie on the table -	1074	Mr. Poindexter submitted another amendment to the -	486
Southard, Mr., of New Jersey, remarks of, on the Commutation bill -	475	also agreed to -	489
on bill concerning Revolutionary survivors	493	on motion of Mr. Harrison, another rule was added to the -	489
on the resolution respecting clerks -	786	Mr. Wendover offered another amendment which was also agreed to -	490
speech of, on the half-pay Pension bill -	875	Mr. Taylor submitted a motion to amend the, read -	514
Spain, on motion of Mr. Forsyth, a committee was appointed to request of the President information touching our relations with -	854,	the motion agreed to -	1223
	1008		1402
a Message, with a report from the Secretary of State, in reply -	1390	Stansbury, Tobias E. and William, a report of facts in the case of, referred -	936
one thousand four hundred copies of the Message and documents ordered to be printed -	1393	Stark, Major General John, Mr. Butler presented the petition of, referred -	1112
documents accompanying the Secretary's report -	1814	a bill for the relief of, read twice -	1186
Spanish American provinces, Mr. Robertson, of Louisiana, submitted a resolution relating to the -	406	read the third time, and passed -	1770
modified and agreed to, and a committee appointed -	408	Statutes of the several States, on motion of Mr. Taylor, of New York, the Clerk was directed to procure a copy of the last edition of the, to be kept in his office for the use of members -	1013
Mr. Clay proposes to send a Minister to the the proposition negatived -	1406	Stephens, Ebenezer and others, a bill for relief of, read twice, &c. -	1392
Mr. Anderson renewed Mr. Clay's proposition -	1652	Sterner, Barnhard, Mr. Hendricks presented the petition of, referred -	824
again negatived, the yeas and nays being taken -	1655	Stewart, James, of North Carolina, appeared and was qualified -	817
Spanish Blockades, correspondence in relation to the -	1840	Stiles, George. (See <i>Tennant, Thomas</i> .)	
Spanish Grants, Mr. Poindexter presented the petition of sundry inhabitants of Mississippi against the confirmation of -	1016	Stone, Peter and Mary, Mr. McCoy presented the petition of, referred -	416
Spanish Records, &c., on motion of Mr. Robertson, a committee was appointed to request the President to obtain all, relating to Louisiana -	1743	Storrs, Mr., of New York, remarks of, on the bill to abolish internal duties -	427
Stencer, Mr., of New York, remarks of, on the bill respecting the authentication of records -	535, 564	on the Commutation bill -	470, 482
speech of, on his resolutions in the case of Anderson -	612, 651	on the Compensation bill -	574
on withdrawing the preamble from his resolutions -	912	speech of, in the case of Anderson -	668
remarks of, on the Georgia claims -	1113	remarks of, on the resolution concerning clerks -	784
on the bill concerning the district courts of New York -	1184	on the Fugitive Slave bill -	828, 839
on Mr. Clay's proposition to send a Minister to South America -	1055	speech of, on the Bankrupt bill -	972
on the case of R. W. Meade -	1711	Strong, Mr., remarks of, on the bill relating to authentication of records -	564
on his motion concerning Judge Van Ness -	1715	on the Compensation bill -	588
Prague, Setz, a bill for relief of, read twice -	1681	Strother, Mr., speech of, on the bill concerning Revolutionary survivors -	497
read the third time, and passed -	1687	remarks of, on the Compensation bill -	578
		on the examination of Colonel Watson -	780
		on the bill for remission of certain duties -	820
		speech of, on the motion not to receive the Pazos memorial -	1258
		Stubbs, John G. (See <i>Edwards, William</i> .)	
		Subsisting the Army, on motion of Mr. Forsyth, a committee was appointed to inquire into the expediency of changing the mode of -	981
		Sullivan, Mary, an adverse report on the petition of, reversed, and the Committee of Claims ordered to prepare a bill -	1691
		a bill for relief of, read twice -	1696
		ordered to a third reading -	1697
		read a third time, and passed -	1714

## House Proceedings and Debates.

	Page.		Page.
Surgeons of the Navy, on motion of Mr. Parris, the Naval Committee were instructed to inquire into the expediency of altering the rank of -	430	Taylor, John, (a Revolutionary soldier,) on motion of Mr. Butler, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the pension list -	866
Survey of the Coast, documents showing the progress made in the -	2447	Tennant, Thomas, and George Stiles, adverse report on the petition of, agreed to -	1661
Surveyor of Missouri and Mississippi, a bill from the Senate allowing additional salary to the, read twice, and referred -	1401	Tennessee, on motion of Mr. Holmes, of Massachusetts, the Committee on Roads and Canals were instructed to inquire into the expediency of uniting the Tombigbee and, rivers -	430
reported without amendment -	1446	Mr. Rhea presented the petition of the Legislature of, concerning titles to lands accruing under grants from N. Carolina, &c. -	489
ordered to a third reading -	1450	Mr. Marr presented the petition of the same, respecting the Chickasaw lands -	1391
Surviving Revolutionary Patriots. (See <i>Revolutionary Army</i> .)		Mr. Blount presented a petition concerning an exchange of certain lands -	1400
St. Clair, General Arthur, a bill for relief of, read twice -	831	Mr. Marr, the same, on subject of land titles a bill from the Senate, supplemental to the act authorizing the State of, to issue grants of, read twice -	1568
on motion of Mr. Cobb, the Secretaries of the Treasury and of War were directed to report statements of all the accounts of on motion of Mr. Forsyth, the accounting officers were directed to settle the accounts and pay with interest whatever might be found due -	849	read the third time, and passed -	1568
the bill was ordered to a third reading -	853	Terrill, Mr., speech of, on the Georgia claims -	1098
read the third time, and passed -	853	Territorial Government, a bill from the Senate to alter and amend the act to erect a separate, for the eastern part of Mississippi, read twice, and referred -	1013
a letter from the Secretary of War, with a statement of the accounts of -	866	reported, without amendment -	1052
St. Stephens, on motion of Mr. Edwards, the Committee on Public Lands were instructed to inquire into the expediency of adding to the land district of, certain lands acquired from the Chickasaw and Choctaw Indians -	930	read the third time, and passed -	1778
		on motion of Mr. Forsyth, the Judiciary Committee were instructed to inquire into the expediency of altering the laws relating to -	1401
T.		Terry, Mr., remarks of, on the proposed arrest of John Anderson -	583
Tallmadge, Mr., remarks of, on the bill to abolish internal duties -	426, 428	on the motion for a Committee of Privileges -	605
speech of, on the case of Anderson -	712	Thomas, Colonel James, on motion of Mr. DeSha, the accounts and papers in the case of, were referred to the Attorney General	1714
remarks of, on the examination of Colonel Watson -	780	Thompson, John, a bill from the Senate, in addition to the act for the relief of, read twice -	855
on the resolution concerning clerks -	783	ordered to a third reading -	1697
on the Georgia claims -	1103	read the third time, and passed -	1714
speech of, on the bill to subscribe for stock in the Delaware and Chesapeake Canal	1395	a bill in addition to the act for relief of, read twice -	489
on his resolution respecting the navy pension fund -	1692	ordered to a third reading -	532
Tariff, on motion of Mr. Ingham, the Secretary of the Treasury was directed to report, at the next session of Congress, what further improvements might be made in the	1777	read the third time, and passed -	534
Taxation, on motion of Mr. Taylor, the Committee on Public Lands were instructed to inquire into the expediency of exempting bounty lands from -	418	Thompson, Samuel. (See <i>Daily, John</i> .)	
Taylor, William, and Ezekiel Walker, report of the Secretary of the Treasury on the petition of, referred -	444	Thorn, Joseph, a bill for relief of, read twice -	737
Taylor, Mr., of New York, remarks of, on his resolution calling for a list of pensioners on the resolution to engrave the surveyor's map of bounty lands -	519	ordered to a third reading -	1656
on continuing the office of Commissioner of Claims -	896	read the third time, and passed -	1662
on the resolution fixing the day of adjournment -	1281	Three per cent., a bill from the Senate for paying to Indiana, on the proceeds of the sales of lands in that State, read twice, and referred -	592
on the supplemental Bank bill -	1762	reported, without amendment -	782
Taylor, John, a bill authorizing, to be placed on the navy pension list, read twice -	591	amended, and ordered to a third reading -	1667
ordered to a third reading -	1450	read the third time, and passed as amended	1672
read the third time, and passed -	1452	the Senate disagreed to the amendment	1676
		Titles to Lands, Mr. Robertson presented the petition of the Legislature of Louisiana concerning, referred -	1072
		Titles of Nobility, &c., Mr. Edwards submitted a resolution, requesting information of the President as to the number of States that had ratified the amendment of the Constitution in relation to -	530



## House Proceedings and Debates.

	Page.		Page.
Toll Bridge over the Eastern Branch, Mr. Peter presented the petition of the inhabitants of Washington, praying an act for a	878	Tucker, Mr.—continued.	
Tonnage, the annual statement of the, from the Treasury Department	782	remarks of, on the Pazos memorial	1252, 1267
on motion of Mr. Silsbee, the Committee of Commerce and Manufactures were instructed concerning the duty, &c.	841	speech of, on the constitutionality of internal improvement	1318
a letter from the Secretary of the Treasury respecting	1448	remarks of, on the Delaware and Chesapeake Canal	1497
Tonnage and discriminating duties, a bill from the Senate concerning	1738	on Mr. Clay's motion to amend the Neutrality bill	1499
read twice, and referred	1739	speech of, on the South American provinces	1585
reported without amendment	1764	Turnbull, John, a bill for relief of the legal representatives of, read twice	1456
amended, and passed as amended	1769	Turner, Thomas, a bill concerning the heirs and legatees of, read twice	1456
Torres, Manuel, the Speaker presented a paper from, which was referred to the Committee of Ways and Means	1660	Turner, Charles, jr., a confidential letter from, to the honorable John Holmes	2385
postponed to the next session	1737	Tyler, Mr., remarks of, on the report of the committee on remission of duties to the Richmond church	833
Toulmin, Judge Harry, the Speaker presented a paper from Edwin Lewis requesting that his charges against, may be taken up, and it was referred to the Judiciary Committee	1722	speech of, on the Bankrupt bill	907
the committee discharged from its further consideration	1769	in reply to Mr. Smith of Maryland	953
Townsend, Sylvanus, on motion of Mr. Comstock, the claim of, was referred	448	Tyler, Benjamin O., the Speaker presented a letter from, accompanied with a fac simile copy of the Declaration of Independence	1768
Trading-houses with the Indian tribes, a bill for establishing, read twice	800		
Transfer of Claims, a bill for the, from the Commissioner under the property act, to the third Auditor, read twice	1737	U.	
read the third time, and passed	1778	Unexpended Appropriations, on motion of Mr. Taylor, the Secretary of the Navy was directed to report, at the next session of Congress, the sums expended under the several acts rewarding the officers, &c., of certain vessels, for purchase of vessels captured on Lake Erie, &c., and the balances of	1675
Transfer of Deposits, a letter from the Secretary of the Treasury on the subject of the	444	V.	
Transfer of Public Debt, report on the legality of a, by the Bank of the United States	1283	Vaccine Agents, on motion of Mr. Floyd, a committee was appointed to inquire into the expediency of granting the franking privilege to	500
Transportation of persons of color, for sale, &c., a bill from the Senate, respecting the, read twice, and referred	1381	a bill to extend the privilege of franking to, read twice	542
Treasury Notes lost or destroyed, a bill to authorize the payment of, in certain cases, read twice	846	ordered to a third reading	1450
ordered to a third reading	1697	read the third time, and passed	1452
read a third time, and passed	1715	Van Dyke, Charles, report of the Secretary of the Navy on the petition of	1071
Treaty of Ghent. (See <i>Ghent</i> .)		Van Ness, Judge, on motion of Mr. Spencer, a committee was appointed to inquire into the official conduct of	1715
Trumble, Mr., speech of, on his motion concerning R. W. Meade	502	Villere, Jacques, report of the Secretary of State on the petition of, referred	445
on his resolution authorizing the President to make reprisals	847	adverse report thereon	501
remarks of, on the motion not to receive the Pazos memorial	1253	Vincennes, a bill from the Senate to adjust claims to land in the town of, read twice	1431
speech of, on offering a substitute for the resolution reported by the Meade committee	1700	committed to the Committee of the Whole	1666
in reply to Mr. Hopkinson	1700	reported without amendment, read the third time, and passed	1779
remarks of, in answer to Mr. Forsyth	1713	Virginia, on motion of Mr. Pindall, the Judiciary Committee were instructed to inquire into the expediency of establishing a district court for, west of the Alleghany mountains	534
on submitting a resolution relating to the Peace Establishment	1766	a bill to that effect read twice, &c.	981
Trouillet, Peter. (See <i>Baker, John</i> .)		on motion of Mr. Tyler, the same committee were instructed to inquire into the expediency of altering the time for holding the United States courts in	897
Tucker, Mr., of Virginia, speech of, on the motion for a Committee of Privileges	595	a bill for that purpose read twice	981
on the resolutions of Mr. Spencer	631	read the third time, and passed	1007
on the Bankrupt bill	982		
remarks of, on the report on internal improvements	1114		
speech of, on the resolution submitted by that committee	1116		

## House Proceedings and Debates.

	Page.		Page.
Virginia Military Land Warrants, a bill from the Senate to extend the time for locating, &c., read twice, and referred	517	Whitman, Mr., remarks of—continued.	
reported with amendments	737	on the Fugitive Slave bill	839
amendments adopted, and ordered to a third reading	1662	speech of, on the Bankrupt bill	1614
read the third time, and passed as amended	1667	remarks of, on the supplemental Bank bill	1755
Volunteer Cavalry, a bill for the relief of certain, read twice	1223	Widows and Orphans of the Officers and Soldiers of the late War, Mr. Harrison submitted a resolution on the subject of the	450
ordered to a third reading	1715	agreed to, and referred	451
read the third time, and passed	1719	on motion of the same, the Secretary of War was directed to report the amount of pensions granted to the	476
W.		a bill to extend for a further term of five years the pensions to, read twice	872
Wait, Thomas B., and Sons, Mr. Mason, of Massachusetts, presented the petition of, referred	893	Widows of Militia Soldiers, Mr. Edwards, of North Carolina offered a resolution to inquire into the expediency of making provision for the	881
Wait's State Papers, Mr. Sergeant submitted resolutions directing that a copy of, be furnished to each of the judges of the Supreme Court, read twice	881	agreed to, and referred to the Military Committee	881
read the third time, and passed	897	a bill concerning, read twice, &c.	1007
a bill from the Senate authorizing subscription for the 11th volume of, read	1456	Williams, Lewis, remarks of, on the bill to abolish internal duties	425
read a second time, and committed	1469	remarks and statement of, on Anderson's letter to him	580
Walker, Ezekiel. (See <i>Taylor, William</i> .)		speech of, on the Compensation bill	584
Ward, Samuel, a bill from the Senate for relief of, read twice, and referred	1523	Mr. Anderson's examination of	786
Warner, Martin, a bill from the Senate for relief of, read twice	881	remarks of, on the resolution concerning the office of claims	895
read the third time, and passed	1648	speech of, on the bill concerning expatriation	1076
Washington, a bill from the Senate supplemental to the act further to amend the charter of the City of	1656	remarks of, on the case of R. W. Meade	1711
read twice, and referred	1662	on a resolution concerning the Peace Establishment	1767
reported with an amendment, and committed	1674	Williams, Mr. of Connecticut, remarks of, on the bill relating to records, &c.	536
Watson, Colonel Joseph, examination of, at the bar of the House	779	remarks of, on the Fugitive Slave bill	839
a letter from, to the Speaker, read	783	speech of, on the Bankrupt bill	977
Ways and Means, appointment of the standing committee of	400	Williams, Henry, on motion of Mr. Blount, the House reconsidered their vote of concurrence in the adverse report of the Committee of Claims, and the petition of, was referred to the Committee of the Whole	818
Webster, John, committee discharged from the petition of	1768	Williams, Thomas, of the Iroquois tribe, report of the Secretary of War on the petition of, laid on the table	1283
Weights and Measures, on motion of Mr. Linn, a committee was appointed to inquire into the expediency of establishing a standard of	591	Williams, Frederick. (See <i>Ernest, Frederick</i> .)	
Wells, George R., a bill for relief of, read twice	1672	Wilmot, John, a bill for relief of, read twice, &c.	878
read the third time, and passed	1676	Wilson, John, of Massachusetts, appeared, and was qualified	817
Wells, Benjamin and John, the committee discharged from the petition of	1768	Windmill Point, on motion of Mr. Newton, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of erecting a light-house on	791
Wendover, Mr., remarks of, on his resolution respecting the flag of the United States	464	Wines and Distilled Spirits, a bill to provide for the deposit of, in the public warehouses, read twice, and referred	1283
speech of, on the bill to alter the same	1458	reported without amendment, and ordered to a third reading	1725
Wharton, Lieutenant Colonel Franklin, on motion of Mr. Floyd, the Secretary of the Navy was directed to lay before the House the proceedings of the court martial on	1523	read the third time, and passed	1738
letter from the Secretary, transmitting the same	1682	returned from the Senate with amendments, and concurred in	1777
Wheeler and Cook, an adverse report concurred in, on the petition of	1655	Winter, Gabriel, Mr. Johnson presented sundry documents in support of the petition of, which were referred	422
Whistler, Major John, adverse report on the petition of	854	Winter, Elisha and William, a bill for the relief of, read twice, &c.	517
Whitman, Mr., remarks of, on the bill to abolish internal duties	426	a bill for the final adjustment of the land claims of, read twice, &c.	878
speech of, in the case of Anderson	740		
remarks of, on the resolution concerning clerks	786		



## House Proceedings and Debates.

	Page.	Yeas and Nays—continued.	Page.
Wagman, Charles. (See Clifford, Thomas and John, &c.)		on indefinite postponement of the Georgia claims -	1107
Withdrawal of Entries, &c., bill from the Senate concerning the, read twice, and referred -	894	on the Senate's amendments to the bill concerning Revolutionary survivors -	1109
reported without amendment, and ordered to a third reading -	935	on the third reading of the Georgia Claims' bill -	1111
read the third time, and passed -	954	on the final passage of the resolution to adjourn 13th April -	1182
Woodworth, Rowell, an adverse report on the petition of, agreed to -	514	on receiving the memorial of Vicente Pazos -	1268
Wright, John, a bill for the relief of, read twice -	818	on indefinite postponement of the first resolution for internal improvement -	1384
ordered to a third reading -	1680	on concurring with the committee on said resolution -	1385
read the third time, and passed -	1684	on agreeing to the second resolution -	1386
Wynter, Alexander, an adverse report on the petition of -	444	on amending the third resolution -	1387
read, and reversed by the Committee of the Whole -	516	on agreeing to the same -	1388
Yorkington, Gid., a bill for the relief of, read twice -	790	on agreeing to the fourth resolution -	1388
ordered to a third reading -	1667	on the third reading of the Senate bill concerning certain roads -	1400
read the third time, and passed -	1672	on reversing the report on the Ohio contested election -	1448
		on agreeing with the Committee of Elections -	1449
		on indefinite postponement of the Neutrality bill -	1453
Yeas and Nays, on the final passage of the bill to abolish internal duties -	443	on amending the said bill -	1454
on amending the Compensation bill 575, 576, 577 -	589	on the third reading of the same -	1455
on the final passage of the same -	589	on Mr. Clay's proposition for a Minister to South America -	1655
on indefinitely postponing Mr. Spencer's resolution in the case of Anderson -	775	on indefinite postponement of the Cumberland road -	1657
on Mr. Cuthbert's amendment to Mr. Tallmadge's resolution -	776	on the final passage of the said bill -	1664
on the question calling Anderson forthwith to the bar of the House -	777	on the final passage of the bill fixing the time for next meeting of Congress -	1664
on striking out the appropriation for brevet rank -	794	on the resolutions relating to internal improvement -	1679
on indefinite postponement of the Commutation bill -	811	on the appropriation for furnishing the Representatives' Chamber -	1685
on the third reading of the same -	816	on the appropriation for the centre building of the Capitol -	1690
on the third reading of the Fugitive Slave bill -	831	on the third reading of the bill for relief of sufferers on the Niagara frontier -	1699
on the final passage of the same -	840	on considering the Senate's amendments to the Fugitive Slave bill -	1716
on the Senate's amendments to the Military Appropriation bill -	850	on the third reading of the bill for relief of the owners of the Ariadne -	1719
on concurrence with the committee in the pension to General St. Clair -	853	on the third reading of the Navigation bill -	1719
on amending the bill concerning half-pay pensions -	879	on amending the bill to increase the duty on iron -	1736
on the third reading of the same -	880	on the final passage of the same -	1740
on indefinite postponement of the Bankrupt bill -	1027	on amending the bill concerning duties on imports and tonnage -	1741, 1742
on the question of reversing the report on the Irish emigrants -	1053	on the third reading of the same -	1743
on striking out the first section of the Expiration bill -	1071	on indefinite postponement of the supplemental Bank bill -	1762
on indefinite postponement of the same -	1093	on indefinite postponement of the bill to increase certain salaries -	1774
on Mr. Robertson's substitute -	1106	on amending the same -	1775

## Public Acts and Resolutions.

## PUBLIC ACTS AND RESOLUTIONS.

	Page.
A.	
Additional Land Offices, an act making provision for the establishment of, in the Territory of Missouri -	2513
Alabama, an act concerning the Territory of -	2527
an act respecting the survey and sale of lands in -	2589
Alien Duties, an act to authorize the Secretary of the Treasury to remit or pay certain -	2587
Army, an act to regulate the staff of the -	2541
an act respecting the organization of the -	2581
Arreages in the Military Establishment, an act making appropriations for the payment of -	2510
B.	
Bath, in Massachusetts, an act making a port of entry, &c. -	2587
Brevet Officers, an act to regulate the pay and emoluments of -	2542
Brunswick, in Georgia, an act concerning the district of -	2516
C.	
Cape Vincent, an act to establish a port of entry at -	2549
Certain Certificates, an act for payment of, &c. -	2538
Certain Crimes against the United States, an act in addition to the act to punish -	2567
Chesapeake Bay, resolution directing the completion of the survey of the waters of the -	2602
Claims in the Office of the Commissioner, an act for transferring to the Third Auditor the -	2589
Coasts of the United States, an act to repeal the act to provide for surveying the -	2540
Columbian Institute, an act to incorporate the, &c. -	2594
Columbian Insurance Company, in Alexandria, an act to incorporate the -	2511
Compensation, an act allowing, to members of Congress, &c. -	2508
Congress, an act fixing the time for the next meeting of -	2549
Courthouse, Jail, &c., in Alexandria, an act to provide for the erection of a -	2523
Cumberland Road, an act making further appropriations for the continuance of the -	2540
D.	
Direct Taxes and Internal Duties, an act supplemental to the act relative to -	2559
District of Columbia, an act to increase the salaries of the Judges of the Circuit Court for the -	2579
Documents, resolution authorizing the distribution of certain public -	2597
resolution directing the transportation of certain, free of postage -	2599
Drawback, an act allowing the benefit of, in a certain case -	2510
E.	
Eastern part of Mississippi, an act to alter and amend the act to establish a separate Territorial government for the -	2591
Erie, an act to change the name of the district of -	2538
F.	
Fire Insurance Company of Washington, an act to incorporate a -	2527
15th CON. 1st SESS.—D	
Fishing Vessels, an act concerning the bounty or allowance to -	2526
Flag of the United States, an act to establish the -	2524
Florida, resolution relative to the occupation of, by the United States -	2601
an act to enable the President to take possession of -	2602
an act concerning the said act -	2603
Forfeiture of Lands, an act to suspend for a time the sale or, &c. -	2549
Fourteenth Congress, resolution directing the laws of the, to be distributed among the members of the fifteenth Congress -	2600
G.	
Government, an act making appropriation for the support of -	2530
an act supplemental to the act making appropriations, &c. -	2582
I.	
Imports and Tonnage, an act to continue in force a certain part of the act to regulate the duties on -	2584
Index to the Acts and Resolutions of Congress, a resolution directing the Secretary of State to prepare an -	2600
J.	
Journals and Proceedings of the Convention which formed the present Constitution, resolution directing the publication and distribution of the -	2600
L.	
Land Laws, resolution relative to the distribution of the late edition of the -	2598
Land and Naval Service, an act to provide for certain persons engaged in the -	2518
Laws of the United States, an act to provide for the publication of the -	2556
resolution directing the distribution of certain, among the members and delegates of Territories of the Fifteenth Congress -	2598
resolution directing the procurement of certain -	2598
M.	
Maine, an act altering the time for holding a session of the district court in the district of -	2522
Manufactured Articles imported, an act to increase the duties on certain -	2580
Marietta, an act providing for the sale of certain lands in the district of -	2510
Mechanics' Relief Society of Alexandria, an act to incorporate the -	2539
Medals to Major General Harrison and Governor Shelby, a resolution directing to be struck and presented, together with the thanks of Congress -	2601
Military Land Warrants, an act supplemental to the act further extending the time for issuing and locating, &c. -	2516
Military Service for 1818, an act making appropriations for the -	2515



Public Acts and Resolutions.

	Page.		Page.
Military, an act to defray the expenses of, while marching to their places of rendezvous -	2563	Repairing certain Roads, an act in addition to the act making appropriations for -	2520
an act to increase the pay of, while in actual service -	2581	Rodgers, John, an act for the relief of -	2538
Mississippi, an act further to prolong the continuance of the, at Philadelphia -	2308	S.	
Mississippi, an act to provide for the due execution of the laws of the United States within the State of -	2521	Settlers on lands of the United States, an act to continue in force an act in relation to -	2570
resolution for the admission of the State of, into the Union -	2597	Seybert's Statistical Annals, an act authorizing subscription for -	2587
an act authorizing the President of the United States to take possession of the country lying south of, and west of the river Perdido -	2604	Slade's Creek, an act to abolish the port of entry and delivery at -	2547
N.		Slaves, an act in addition to the act to prohibit the importation of -	2571
Negotiation, an act concerning -	2548	Surveyor of Illinois and Missouri Territory, an act allowing additional salary and clerk-hire to the -	2520
of the United States, an act making appropriations for support of the -	2519	Sword to Colonel Richard M. Johnson, a resolution requesting the President of the United States to present a -	2601
New Madrid, an act limiting the time for claims to land granted to the inhabitants of -	2526	T.	
New Orleans and Mobile, an act authorizing the disposal of certain lots in the town of -	2588	Tennessee, an act supplementary to the act to authorize the State of, to issue grants, &c. -	2524
New York, an act respecting the courts of the United States, within the State of -	2522	Thompson, John, an act in addition to the act for the relief of -	2540
North Carolina, an act declaring the consent of Congress to an act of the State of -	2526	Three per Cent., an act to provide for paying, to the State of Indiana, on the sales of lands within said State -	2537
O.		Tonnage and Discriminating Duties, an act concerning -	2586
Orphans and Widows of persons slain in the public and private armed ships of the United States, an act giving pensions to -	2543	V.	
P.		Vincennes, an act providing for the location of claims and sale of certain lands in the district of -	2516
Pennsylvania, an act to divide the State of, into two judicial districts -	2584	an act to adjust the claims to lots in -	2592
Pekin's Commercial Statistics, an act authorizing the purchase of -	2587	Virginia, an act for altering the time for holding the district court of -	2519
Post Roads, an act to establish and alter certain -	2574	Virginia Military Land Warrants, an act to extend the time for locating, &c. -	2536
Public Buildings, an act making further provision for repairing the -	2510	Volunteer Cavalry, an act for the relief of -	2563
an act making further appropriation for the, and for furnishing the Capitol and President's house -	2579	W.	
Public Notaries in Washington, an act to regulate the fees of -	2524	Wait's State Papers, a resolution directing, to be furnished the judges of the Supreme Court -	2599
R.		Wines and Distilled Spirits, an act providing for the deposit of, in the public warehouses -	2592
Receivers and Registers, an act changing the compensation of -	2588		



THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

---

FIFTEENTH CONGRESS—FIRST SESSION:  
COMPRISING THE PERIOD FROM DECEMBER 1, 1817, TO APRIL 20, 1818,  
INCLUSIVE.

---

COMPILED FROM AUTHENTIC MATERIALS.

---

WASHINGTON:  
PRINTED AND PUBLISHED BY GALES AND SEATON.  
.....  
1854.



MARCH, 1818.

Internal Improvements.

H. OF R.

quiry. The powers delegated by it are restricted to the collection and application of the public revenue. Many, indeed the far greater part of the powers subsequently enumerated, require for their exercise no appropriation of money whatever. The very few which do require such auxiliary aid, are the most important of them all, as "to raise and support armies," "to provide and maintain a navy;" and they involve the necessary exercise of many powers, which the mere authority to appropriate the public money does not comprehend. The latter furnishes but one means of attaining the common end of all the powers of Congress, the general welfare. It may be employed for this purpose either singly, or in conjunction with other powers, alike necessary to this primary and ultimate end of all Government.

The defect of the argument which I have sought to answer arises from a supposition that any construction of the clause in question, which extends its import beyond the power of levying taxes, asserts a title to every power whatever, tending in any degree to provide for the common defence and general welfare of the United States.

For myself, sir, I totally disavow any such construction. I ask for Congress but the authority, expressly delegated by this clause, to lay and collect taxes, and, when thus collected, so to apply them as to provide for the safety and welfare of the Union.

Far from being the unbounded authority at which so much alarm has been expressed, it carries along with it several obvious limitations. The end to be obtained by it must be one of common defence, or of general welfare; it must also be one which requires the appropriation of money; and Congress can then no further participate in its attainment, in virtue of this power, than by contributing towards it the public money.

It cannot be contended that this power is rendered unnecessary by that contained in the last clause of this section—"to make all laws which are necessary and proper for carrying into" effect the powers expressly delegated to Congress. The former is a primary and independent power; the latter but secondary, or auxiliary. Had the latter not been expressed, there can be no doubt (to use the language of *Publius*) "that it would have resulted to the Government by an unavoidable implication," as it did under the Articles of Confederation. It was inserted in the Federal Constitution to obviate, not to create, doubts. But, if deemed essential, this authority extends beyond that in question, and comprehends the power to pass other laws, as well as acts of appropriation. It suffices for my present purpose, while it also obviates an objection of one of my colleagues, (Mr. SMYTH,) that among those acts it expressly authorizes all such as are required for the exercise of the power contained in the clause which I have endeavored to expound. Both clauses resemble each other in one quality, which our adversaries seem to disregard: they were designed to enlarge, rather than to abridge (as is contended) the Constitutional powers of Congress.

15th CON. 1st SESS.—42

A constitution of government—the offspring of mutual concession among a people jealous of their freedom, and divided into many distinct sovereignties, alike jealous of their authority—ought not to be construed as a treatise of political philosophy—the production of one scientific mind. We cannot be surprised at finding its language redundant in the delegation as well as the limitation of power. Of this, the particular section on which I have just commented affords several examples. The powers to provide and maintain fleets and armies are embraced in the more comprehensive authority to declare war, the power to borrow money, and in that of paying the debts of the nation. Yet, all these powers are separately and expressly delegated.

I claim no more, Mr. Chairman, in support of that for which I now contend, than that a power as expressly delegated as any of those which I have enumerated, shall not be subverted by any rule of construction whatever.

This power has been exercised from the very foundation of the Federal Government, not merely in the purchase of lands for a variety of purposes, more or less intimately connected with the convenience of the Government, or with the military defence and commercial prosperity of the United States. It has been substantially applied (as has been already remarked) to the encouragement of domestic manufactures, and (in a form less disguised) to the promotion of foreign emigration; the advancement of agriculture; the cultivation of science, literature, and taste; the diffusion of sentiments of patriotism, benevolence, and piety.

The ingenuity of our opponents has not condescended—and surely will not—to distinguish between the release of a debt due to the Treasury, and the appropriation of a sum already collected, in favor of an object of general welfare.

One of my colleagues (Mr. SMYTH) has consistently pushed his doctrine of construction to its proper extent. He has denied the constitutionality of the appropriations hitherto made to the Cumberland road, as well as that to the relief of the unfortunate sufferers of Venezuela. The same candor will extend this sentence of condemnation to all the pensions which have been granted, and to all the rewards of valor which have been bestowed by the Federal Government; not only to the whole tariff, but to the institutions in general, to the genius and character of the nation.

There remains, Mr. Chairman, one other clause of the Constitution, hitherto unnoticed in this debate, to which I beg leave to call the attention of the Committee, in support of the Constitutional authority for which I have last contended. The second clause of the third section of the sixth article confers on Congress a power not enumerated in the section over which we have just passed. It is, "to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." The first branch of this authority was designed, as will appear from the context of the whole section, to enable the Federal Government



H. or R.

Internal Improvements.

MARCH, 1818.

to regulate and dispose of its own territory, according to the suggestions of the wisdom of Congress; the second embraces a similar power over all other national property, and consequently over the surplus revenue to be found at any time within the public Treasury.

The obligation, as well as the power, of rendering productive such portion of the revenue as the public exigencies do not require, and as cannot without considerable loss be applied to the redemption of the public debts before they are due, is clearly deducible from this clause of the Constitution.

This surplus must otherwise lie idle in the public Treasury; a Treasury which, in fact, exists in contemplation of law. It must remain in the hands of collectors and the public officers, or be deposited to the vaults of some bank, and, in both cases, be exposed to all the hazard, without retaining the profit, of a loan.

Can it be questioned that such portion of the public money may be constitutionally applied to the purchase of the stock of a canal or turnpike company, as it had already been to the stock of a bank, under such rules and regulations as Congress may prescribe?

I do not contend, in virtue of this clause, for the power to establish a banking or any other chartered company; but for the simple authority to invest, by exchange, or sale, one species of property into another, for the public benefit.

If the imposition or continuance of public taxes, with a view to such an object, be deemed a measure of doubtful right or expediency, no such doubt can arise, as to such an application of the sum now proposed to be appropriated, or of the proceeds of the sales of public land, to which this section of the Constitution directly applies.

Although, under no Constitutional obligation to look beyond the profit which might attend any such application of the public money, Congress might, and undoubtedly would, blend with that consideration other objects of general advantage. As individual subscribers to the stock of all canal and turnpike companies usually extend their views, even in pursuit of profit, beyond the expected dividends upon their stock, to the beneficial end of its application; so the Government may often confidently anticipate a benefit, far surpassing in value any pecuniary profit on its stocks, from the success of a public work of general utility. In all such acquisitions of stock, it will regard the convenience and safety of the nation, and if the former has a price, the latter unquestionably has none.

This mode of applying the public money, to the structure of roads and canals, is liable to none of the objections urged by one of my colleagues (Mr. SMYTH) to the expediency of passing the resolutions before the Committee.

Indeed, when the general purport of the resolutions is considered, these objections must appear to himself premature, since they apply rather to the details of a system anticipated by him, than to the resolutions themselves, which merely pro-

pose to constitute a fund for internal improvement.

My colleague cannot deny the possibility of forming a system which shall combine individual sagacity, enterprise, and skill, with the national wealth, for the attainment of the far greater part, if not all the objects, upon which this power of appropriation would be exerted. He has not only beheld, but recently co-operated in the execution of such a system, in the State which we both represent. The characteristic feature of that system is, that to every public work, deemed by the legislature worthy of their patronage, and to which three-fifths of the stock necessary to complete it shall have been previously subscribed by private individuals, the State subscribes the remaining two-fifths, with a proviso that the total profit of the stock shall exclusively belong to the individual subscribers, until they shall have received legal interest upon all the sums which they may have advanced; after which the State participates with them in the dividends of the common stock. The subscription of the State operates as a moderate insurance against loss to private adventurers, who are expected to be attracted to all such enterprises, principally by the hope of gain; and is thus calculated to elicit the subscription of individual wealth to public use. While the State regards herself as amply remunerated for a temporary suspension of the interest on her share of the common stock, by the accomplishment of a public work, calculated to replace this interest at some future period, and to augment, in the interim, her wealth and population.

This system is not more susceptible of application to the circumstances of a single State, than of the United States. It would only be necessary, in order to extend the scale, to extend also the means of its application.

I would reluctantly appropriate any part of the public revenue to roads or canals, without that security for their judicious, faithful, and economical completion, which would be afforded by associating, in their original structure and subsequent preservation and repair, the cautious sagacity, persevering industry, and unceasing vigilance, of private interest; although I am not prepared to say that there are no works of this description to which I would not subscribe, from the public Treasury, a larger proportion than two-fifths of the stock necessary for their completion; or that there may not be some connected with the common defence, which would be cheaply provided for, at the sole cost of the Union. Two of my honorable colleagues, (Messrs. SMYTH and BARBOUR,) to whose arguments I have so often referred, sought to discourage the smaller States from yielding their support to the resolutions before us, by suggesting that, under any equitable distribution of the fund, which it is proposed to set apart for internal improvement, but a very inconsiderable allotment would fall to their share; while the other significantly asked, "if Massachusetts would give five millions of dollars to New York or Virginia?"

MARCH, 1818.

Internal Improvements.

H. or R.

Sir, the question whether Congress have the Constitutional power so to apply the public money, ought not to be decided by such considerations. Its decision may, indeed, but its truth cannot be affected, in the remotest degree, by the manner in which the power that we seek to sustain, may be hereafter exercised. If the smaller States will receive but little, they require less than those of larger dimensions; and it should satisfy their justice, that what they receive will be in the exact proportion of what they contribute to the common fund. The first suggestion of my colleague reduces the fund to the least sum proposed; the last swells it to millions.

I acknowledge that I most earnestly wish to see it augmented to an extent, much beyond the appropriation contemplated by the resolutions on our table. And when a proper occasion shall offer, I will submit a resolution which I hold in my hand, to enlarge it by adding the proceeds of sale of all the lands ceded to the Government of the United States by the Commonwealth of Virginia. The propriety of thus enlarging the proposed fund has been suggested to me, as well by the general policy of such an augmentation, as by the express terms of the Virginia act of cession, to which the United States were a party. There is, in this compact, a reservation of "all the ceded territory, as a common fund for the use and benefit of the several States, including Virginia, according to their respective proportions in the general charge and expenditures set forth in the Articles of Confederation," which would be found, on comparison, to correspond very nearly with that ratio of distribution, provided by the act of the last Congress creating a fund for internal improvement, to which the late President refused his assent.

The compact solemnly subjoins to this reservation, that "this fund shall be faithfully and bona fide disposed of for the purpose set forth, and for no other purpose whatever." The maxims of good faith, and a positive provision of the Federal Constitution, enjoin upon Congress the fulfilment of this stipulation; and no mode of giving effect to it would better accord with its letter and spirit, than a distribution of the fund among the several States, for the purposes proposed by the resolutions.

The sentiment, I know, Mr. Chairman, exists, and I regret that it does, that, if a fund be provided for internal improvement, it will be misapplied, to gratify local and sectional interests. An effectual security against such an abuse of power, would be created by a distribution of its annual revenue, in conformity with the proviso of the Virginia compact; and if the fund should be augmented to the extent which I have just proposed, such a division of it would not destroy its efficacy. It cannot be believed that there exists a single State in this Union, in which such a fund would not be required, or could not be judiciously applied. No part of America has yet reached a degree of improvement, which leaves its internal intercourse without a demand for an additional road or canal.

Although all the States, or even a majority of them, might not combine in devoting their respective shares of such a fund to one common object, yet some of them occasionally would, so as to obviate, in part, the chief inconvenience resulting from distribution.

Is it too much to suppose, that there exists throughout the United States a patriotism which would exult at the accomplishment of a connexion of the Lakes with the Hudson, by the means of the useful and noble work which New York has just commenced, or of that scarcely less important, though much less expensive connexion between the waters of the Ohio and the Chesapeake, which Virginia has so long contemplated?

To the smaller States, who are said to have least concern in the decision of this question, every new cement of an Union, essential, indeed, to the future prosperity and happiness of all its members, must be peculiarly interesting, since in any calamity, which might destroy this great bulwark of our common safety, they would be the greatest sufferers.

With regard to the general character of that power which we are now, I trust, about to exert, it must be universally acknowledged, that whatever tends to facilitate the necessary intercourse between the remote extremities and the common centre of so vast an empire, has the same propitious effect, as would result, were it otherwise practicable, from contracting the extent of its territory, without reducing its population, impairing its wealth, or narrowing its resources.

To the friends of American liberty, who justly regard the State governments as essential parts of a Republican system erected on a scale so extended as to constitute a cause of alarm, or who, with equal truth, consider our union as the bond alike of our independence and freedom, every measure which has the effect of diminishing the extent of the one, or of multiplying and strengthening the ties of the other, must be viewed with anxious solicitude.

For Virginia, so unhappily divided on this question, it should be enough to silence her objections, that, situated midway between the colonies of England and Spain, she constitutes the key of that expanded arch, which, stretching from North to South, binds the whole East in union, and sustains, upon its broad and lofty summit, our Western Empire.

Representing a district adjacent to the seat of the Government, I have personally, or in behalf of my immediate constituents, less interest in the decision of this question, than those gentlemen who come from the remote sections of the Union; but who can be insensible to the great purpose which should constantly animate all our labors; the preservation and improvement of that noble fabric of Government, under which it is alike our happiness and our glory to live?

Mr. BALDWIN followed on the same side, and spoke about three quarters of an hour in support of the resolutions.

Mr. TUCKER, of Virginia, said, that he felt himself imperiously called upon to submit to the



H. or R.

Internal Improvements.

MARCH, 1818.

Committee his views on the Constitutional question involved in the resolutions under consideration. In opening this subject to the Committee, he had purposely avoided the discussion of the Constitutional point, as the report had submitted the views of the select committee, and a farther requisition from him would have only led to uninteresting recapitulations of what had already been advanced. He had, therefore, determined patiently to wait till the opponents of the resolutions had developed their arguments, and then to ask the indulgence of the Committee. He did not wish to shrink from the duty which had fallen on his lot. He did not wish to be chargeable with (what could not fail to grate upon the feelings of any honorable man) quietly standing by, and permitting others to fight his battles. Yet, so powerful and overwhelming had been the remarks of the honorable gentleman from South Carolina, (Mr. Lowndes,) that he had been disposed to leave the question to the decision of the Committee, upon the unanswerable argument of that gentleman. His friend from Virginia, (Mr. H. Nelson,) had, however, by the character of his observations, compelled him to relinquish this desirable retirement from the contest. In the conclusion of his remarks, he had said, that he felt himself called on to pay some attention "to this report from the pen of his colleague." Whilst I tender to the gentleman my thanks for his attentions, I cannot but regret the unfortunate pre-eminence which has, on this occasion, entitled me to receive them. I have before said, and still feel, that the duty imposed upon me is too weighty for my feeble strength, but, however nerveless my arm, I shall not hesitate to defend myself from the attack which has been made upon me.

Sir, the gentleman from Virginia has done me too much honor in associating me with those two noble men; (the gentleman from South Carolina and the honorable Speaker,) in the modern triumvirate of which he has spoken. He has called us the trimmers of the times, and thus seems to compare us with the detested triumvirate of the Roman people. We are, doubtless, under great obligation to the gentleman for those high honors, which he so liberally bestows. It remains for us only to divide among ourselves this glorious spoil—to appropriate to each the character which belongs to him. In this partition, the great and commanding talents of my friends leaves to me the best title to the least obnoxious character. The fool Lepidus is not as detestable as the knavish Anthony, or the ambitious Cæsar.

But, sir, while the gentleman is so profuse in his compliments to us, he tells us of himself, that he is battling for the rights of the States, in this last struggle with the Federal Government. It is in this last of their fields that the liberties of the States are to be cloven down, and the Federal Government is to triumph over them. It is in this last field, that the gentleman represents himself as fighting their battles, with an almost desperate resolution. He is to be entitled, doubtless, to the distinguished appellation of the last of the Greeks, whilst he yields to us the bad eminence

of a triumvirate. If impassioned zeal and great ability, in this great cause, can give to him so enviable a title, it must be awarded to the gentleman. He never "bore himself better" in his days. I always hear him with pleasure—I always confess his powers—but, on this occasion he has surpassed any former exertion. How unfortunate that this zeal was not as uniform as it was warm; and that, on former occasions, the same heroic prowess had not been manifested in defence of the rights of the States!

The gentleman told us the other day, that the nation would be in sackcloth and ashes, if this proposition should be successful. To-day he tells us, that he retracts the remark. He now hopes that the nation will arise in its strength, and put down those who advocate these resolutions. He no longer wishes the groans of the nation to be heard; he hopes for their reprobation. For these groans I presume he would substitute their hisses. Sir, there is no man who can feel more sensibly than myself the disapprobation of those who have favored me with their confidence. The distinguished honor I have twice received from them, without solicitation, cannot fail to render me peculiarly solicitous to merit a continuance of their good opinion. But as, on this occasion, I am not only left (from the absence of all instructions) to follow the dictates of my conscience, but am bound by my oath to construe this Constitution according to my judgment, I cannot apprehend their censure in following my convictions. They know well, that the first and most important requisite in a Representative is independence of mind; and I trust I shall never cease to evince to them that I am not destitute of this qualification.

But, sir, whilst I cannot be insensible to the disapprobation of the wise and good, I beg leave to assure that gentleman, that retirement has no terrors for me. A seat in this House is not so highly prized, as to induce me to surrender the honest convictions of my judgment to preserve it. Nor am I more alarmed at the intimation of the gentleman, that the report of the committee conveys a censure of the Executive. I appeal to the candor of any man, who will peruse that paper, whether any of its pages contain an expression that can be tortured into such a construction. None such was intended. But why, he asks, this discrimination? Why has no similar objection been made to former messages? I am not responsible as to them—but the reason for a discrimination seems manifest. A former Congress has actually passed a bill embodying the principles of these resolutions. A former Executive rejected this bill. When, therefore, there existed a fair presumption, that the popular branch might again act upon the subject, when the Executive intimates the futility of such an attempt—and when the committee were desirous of pressing upon the consideration of the House the importance and propriety of renewing the effort, it became unavoidable to meet and remove the objection then intimated by the President. In doing this, the course which has been pursued

MARCH, 1818.

Internal Improvements.

H. or R.

is believed to have been respectful and decorous—whilst it did not compromise the dignity of this House.

The gentleman, sir, has accused his adversaries of inconsistency. He complains, that we are deserting the great principles of the Republicans in 1798, and subverting the acknowledged rights of the States, by a construction too latitudinous. Not content with a single intimation of this charge, he has made it the commencement and the conclusion of his address. He speaks of the "great battle fought" in the early times of the Constitution, when the champions of the States were Mr. Madison, the late President of the United States, and Mr. Gallatin—"not the Lord Chatham of the ministry, but the Mr. Pitt of the Commons House." And on what great occasion did this celebrated conflict take place? It was on the bank bill! On the question of the establishment of the first bank of the United States, which was vehemently opposed by those two great men, arose, as he tells us, the great division of parties in relation to the rights of the States and the Federal Government. It was then that the strict construction of the Constitution was contended for, and those principles established, in relation to its interpretation, the correctness of which is not now contested, though their application is the subject of litigation. Bearing, then, in our minds this fact, that the bank question was that to which the gentleman refers, as having tried the rights of the States, let us see how far the gentleman himself is entitled to the applause of consistency, in the uniform defence of his beloved State rights. Sir, I shall press this matter upon the gentleman with no unfriendly feeling. I shall put it to him in the same good-humored spirit which animated him in his attempt to furnish evidence of inconsistency against my friend from South Carolina. I know the gentleman's constitutional good humor too well, and have too long experienced his friendly dispositions towards myself, to suppose, that his remarks, in relation to me, were intended, even in the warmth of his zeal, to injure my feelings. I shall, therefore, maintain the same dispositions towards himself. But, before I come down to the period in which the gentleman was a conspicuous actor, I beg leave to advert to a few facts in relation to the bank.

A few years before the expiration of its charter, its renewal was proposed; and Mr. Gallatin, then at the head of the Treasury, who had opposed its passage, recommended its continuance. But the gentleman tells us he was no more Mr. Gallatin of 1791, than "the Lord Chatham of the ministry was the Mr. Pitt of the Parliament House." But he was not destined long to remain alone in this change of his opinions. In a few years, the old bank charter having expired, the subject was again revived. The hostile cloud that had lowered in the horizon so long, broke upon us at length, and during the war a new bank bill was proposed and passed both Houses of Congress. When submitted to Mr. Madison, who has been justly styled the Champion of State Rights, he rejected it, not because it was unconstitutional, but because he

did not regard its provisions as expedient and salutary. The Constitutional question he declared to be settled, by the acquiescence and approbation of the nation, and with a magnanimity and modesty peculiar to great minds, he yielded to the precedent which had been so decisively sanctioned.

And where was the gentleman then? In this second assault upon State rights, where was the great defender of the States? He was then in Congress. Where then was his zeal which has, on this occasion, blazed forth with such conspicuous brightness? Unfortunately for the States, it was in dim eclipse. He, too, voted for this bank bill—for the very principle on which "the first great battle, in relation to State rights, had been fought."

I know that the gentleman considers that vote as justified by the situation of the country. We were at war—in danger of subjugation—it was better to break this "sacred Constitution" than to be reduced again to colonial servitude. But will not the same principle justify the appointment of a dictator? And does the gentleman seriously believe, that it is better to construe this Constitution with so much rigor as to compel us to tear it in pieces during war, than to give it that fair and practical construction which will fit the necessities and wants of the nation at all times? Is it better to compel the Government, in time of war, to resort to the necessity which is above all right, or, by rational interpretation, to acknowledge a Constitutional necessity which can give right?

But this bank bill was rejected. The cloud of war was dispersed; the halcyon days of peace returned, and the tyrannous necessity of war was at an end. Another bank bill, in a time of profound peace, was proposed and passed by Congress, and received the signature of Mr. Madison. Where was the gentleman then? He was in Congress! Where then was his zeal? On the passage of the bill to a third reading he was unfortunately absent. He had no opportunity of distinguishing himself by his chivalry on that occasion. But, his good stars prevailed, and, on a motion to postpone the bill indefinitely, he was fortunately in the House. Here was a fair opportunity, in time of profound peace, and on the great question which had agitated parties in 1791, to recur to his principles, and put an end to the bill—and how then did he vote? He was not content even to be silent. He voted against the postponement, which was a vote decisively in favor of the bill. The gentleman now admits he was in favor of it.

Sir, I have heard an old statesman laughingly observe, that no man, who had been in public life five years, ought to be held to show, that he had been entirely consistent in his opinions. Five years, it seems, is a good bar to a charge of inconsistency. Perhaps it is under this novel statute of limitations, that the gentleman, who has long been in public life, may be considered as protected, while I, unfortunately, cannot repel his charge by



a similar plea, as this is only the third year of my service.

Sir, I do not mean, by these remarks, to intimate anything improper in the course pursued by the gentleman, on the question of the Bank of the United States. On the contrary, I am persuaded of the purity of his motives, as well as of the then Chief Magistrate's, and, having voted for the bank bill myself, cannot materially dissent from them in my views of that important measure. But, when a gentleman, so able and so zealous in the maintenance of his opinion, pursues a course so utterly inconsistent with them, some indulgence may reasonably be expected from him for the supposed errors and inconsistencies of others. It is not for men whose path has not been direct and uniform, to charge upon others, so fiercely, their alleged deviations. It is not for them to call down upon their adversaries the censures of the nation, for fancied desertion of the principles of the Constitution.

In the construction of this Constitution, there is not, there cannot be, a system of orthodoxy. Agreeing, as we do, in principle, there must always be a variety in the application. The instrument conferring upon us incidental, as well as express powers, there must always be great differences of opinion, as to the "direct relationship," and "real necessity" of the necessary powers. Nothing can better illustrate it than the various shades of opinion on the question before us. Now are the opponents of the resolution more consistent with each other than we are. Three gentlemen from Virginia, who have particularly distinguished themselves in opposition, all differ in essentials. The first gentleman who spoke (Mr. SMYTH) admits, I conceive, all that I ask, in saying, that the revenues of the United States may be subscribed in stock to road and canal companies, "as a fiscal operation." But, neither of the other gentlemen will yield their assent to this position. The same gentleman contends that, as necessary of military operations, the executive and military authority may make military roads in time of war, but the legislative body cannot authorize them. His colleagues disagree with him. On the other hand, another of these gentlemen (Mr. BARBOUR) admits "the right of way," as necessary to the power to establish post roads; but his colleague (Mr. NELSON) denies it. This last, in his turn, justifies the construction of the Cumberland road, which his friend (Mr. BANNOUR) utterly disclaims. Sir, with these things before your eyes, who shall pretend to say what is orthodoxy—what is heterodoxy? It is impossible. It remains for us to act according to our consciences, without attempting a conformity to any particular sect or persuasion.

I should not have troubled the Committee with these remarks, but for the course of my colleague's observations. He has endeavored to excite alarm and apprehension. At what? What is this dangerous measure that has so much excited him? The improvement of the country! In what manner? Is it contemplated by any gentleman to enter the States by force—to make

roads without their assent—to destroy the property of individuals, and to prostrate private and State rights? By no means. It is contemplated to do that which has already been done, without injury to any one, and to the universal satisfaction of the nation. It is contemplated, either to subscribe for stock, in companies incorporated by the States; or, as has already been done in relation to the Cumberland road, to procure the assent of the States to the construction of public roads of great national advantage, and to acquire from individuals the right of using their property for the purpose. This is the utmost that the friends of this proposition contemplate or intimate. Let it not, then, be said that the rights of the States are to be infringed, since their assent is to be obtained; let it not be said that private property is to be sacrificed, since it is only to be affected by their own consent, or under such State regulations as are common in relation to turnpike roads. No proposition can be more harmless—none can be more beneficial.

With this view of the plan in contemplation, let us proceed to consider upon what principles this Constitution should be construed. Shall we give it, what is called by a gentleman, a liberal construction, extending infinitely the powers of the Federal Government? Or shall we construe it with a strictness and rigor that will disrobe us of all the means necessary for carrying on the Government? Neither! In construing this instrument, I will not, on the one hand, extend its provisions too far; nor will I, like the gentleman from Virginia, (Mr. H. NELSON,) who has denied the right of way, which even his rigorous colleague had admitted, act the part of a miser, who, in paying away a farthing, examines it with scrutinizing care lest it should turn out to be a penny. The inevitable effect of such a construction of the instrument will be, that the Government must either fail of its great objects, or that it will be habitually broken whenever the pressure of events shall seem to require. It is better to give to it a plain, practical construction, that shall suit the necessities of the nation, in peace or in war, than to attempt a rigorous adherence to the letter, which will compel innumerable infractions. Thus, to the nation, it would be less oppressive to admit, at all times, the right to make necessary military roads, with the assent of all parties concerned, than to resort, in time of war, to a necessity above right, and subversive of the Constitution, to make roads, *ad libitum*, without the consent of anybody.

Sir, the construers of this Constitution may not inaptly be compared to the *dramatis personae* of the Tale of a Tub. Peter, John, and Martin, represent the three sects of political interpreters. I have been solicitous to preserve the golden mean which is always so desirable. I profess to be of the good old Protestant persuasion of brother Martin. There are some gentlemen who, like Peter, are for adding shoulder-knots and lace to the coat, until you will scarcely know it again. There are others who, in the eagerness to remove what is obnoxious, in tearing off the lace, pull off

—here a sleeve, and there a skirt, and strut about in all the rueful oddity of puritanical plainness. I will follow neither of these. I see nothing so technical in the language of this Constitution, as to induce me to give it a very technical construction. It is an instrument formed under circumstances of great and insuperable difficulties. It is a division of one sovereignty into two sovereignties—a division of the attributes of sovereignty between the States and the Union—each to be sovereign and superior to the other in its appropriate sphere. In short, it is, in some sort, an attempt to reconcile contradictions, and to effect impossibilities—to create two powers, each greater than the other—to define the boundaries of the two powers, when, in truth, they run into each other like the colors of the rainbow. Already have we had repeated and decisive evidence that, in spite of the great ability and wisdom which distinguishes this instrument, it is not free from that imperfection which characterizes all human institutions. Already, in the military and judicial departments of the Government, have there existed the most serious collisions. They must continue to exist until the construction is settled by practice and universal acquiescence. Will gentlemen attempt to bring into the discussion of a question like this, the principles of mathematical science, or the attenuated logic of metaphysics? The subject does not admit of it. You cannot lay down the powers of the Government with mathematical exactness. Plat down the boundaries of the two sovereignties, according to the principles of gentlemen, and a Kentucky land claim would not exhibit more embarrassing interferences. No, sir, it is not a mathematical, it is a moral certainty, that we are to expect on these great questions of political right. And how is this moral certainty to be better attained than by a practical construction, supported and fortified by the practice of the Government, and the uniform acquiescence of the nation, in analogous cases? This practice—this uniform acquiescence—these decisions of the nation, on Constitutional powers, which admit not of precise definition, but are rather to be referred to practical good sense and sound discretion—these, I say, serve as landmarks for subsequent legislatures. They are the buoys which the wisdom of the nation has fixed, to mark out the channel that divides the rival jurisdictions.

I do not contend, but have explicitly disavowed the idea, that we are bound by legislative precedents against the clear meaning of the Constitution. But I do contend, that when a principle has been long avowed and admitted, and acted upon, we ought not entirely to disregard it in deciding on a doubtful point. Do gentlemen suppose that if, which Heaven permit! this confederation of States shall last for a century, we shall, throughout that period, be continually moot-ing Constitutional points; holding nothing as decided; admitting no construction to have been agreed upon; and, instead of going on with the business of the nation, continually occupied with fighting, over and over again, battles a thousand

times won? Sir, I have before cited the strong expressions, of the late able President of the United States and of the present Chief Magistrate, when Secretary of War, on the influence of former acts of Government, which have been quietly acquiesced in by the people and the States. There is, as might be expected, great good sense in their opinion. It is an opinion peculiarly correct, when applied to a Government, which, like ours, provides the means for its own alteration. If a power is asserted by the National Government which is conceived not to have been granted, or to have been improperly bestowed, the States have the power of amending the Constitution and prohibiting its exercise. Hence, when this power is not exercised though the question has been agitated among the States, it furnishes a fair presumption that the power has not been improperly asserted; it affords the best evidence, in all cases not admitting of clear and unequivocal exposition, of what is the true practical construction of the act of union. Nor is it at all a novelty that practice and acquiescence should receive so much consideration. They often form the Constitution itself. What is the constitution of Great Britain but a constitution founded on usage and long acquiescence? But, my friend (Mr. BARBOUR) says, that it may be altered by Parliament. True—let us come nearer home. Who made our State constitution? The ordinary Legislature. There was no convention. The gentleman on my left (Mr. H. NELSON) whispers that they called themselves a convention. If then, we call ourselves a convention, will it give us the power of altering the Constitution? By no means. What then gives validity to the Virginia constitution? What then makes her citizens look up to it with veneration, as the unalterable charter of the Government? The consent, universal understanding, and acquiescence of the people! It was formed in a moment of difficulty and danger, by the ordinary Legislature; it was promulgated as the frame of government; it has been acquiesced in as such, and is now as much the constitution of the State as the instrument we have sworn to support is the Constitution of this Confederacy.

It is true, that all sorts of precedents are not to be regarded. It would be absurd to speak of the alien and sedition laws as precedents. It would be absurd to attribute the sanctity of national acquiescence, to measures which were received with the deep-toned murmurs of national disapprobation.

It may not be improper, after these general remarks in relation to the spirit with which the Constitution should be construed, to say something on the subject of the terms "necessary and proper" in that Constitution. The gentleman from Virginia (Mr. BARBOUR) seems to think "necessary" means, absolutely necessary. [Mr. BARBOUR denied that he had said so.] Sir, I do not mean to mistake the remarks of my friend from Virginia; and, I hope he does not take amiss my mistake. We have known each other from our boyish days, and I have never felt for



H. or R.

Internal Improvements.

MARCH, 1818.

him any other sentiments than those of esteem and regard.

The present debate cannot lessen or affect these sentiments. It can only produce one effect—to increase my high estimate of his abilities by the wonderful display of his powers, which we have witnessed on this present occasion. Another gentleman from Virginia, however, has certainly adopted the idea that “necessary” must mean “absolutely necessary” by declaring that we can exercise no incidental power, unless, without it the grant of the express power would be nugatory. But, sir, if “absolutely necessary” means more than “necessary,” I ask, by what right gentlemen interpolate into the Constitution, which they construe so strictly, so important a word? Or how can it be said of any one man that it is absolutely necessary to effect the end; since, in almost every imaginable case, more than one man may be conceived of effecting any given object.

The gentleman (Mr. BARBOUR) certainly has contended that our right to make military roads is the result only of extremity—of an extreme necessity, which, by the laws of nations, would give a right to march through neutral territory. And can he really believe that, in relation to the power of carrying on war, we were intended to enjoy only the powers given by the laws of nations? He tells us we cannot cut a military road, unless our army should be placed in a situation from which we could not retreat without cutting one—and how shall it be cut when we are pressed by an enemy? It would be impossible—and thus it seems, to use the clear language of the gentleman from South Carolina, (Mr. LOWMEYER,) when it is practicable it is unconstitutional, and when it is constitutional, it is impracticable. In reply to the difficulties suggested in the report of the select committee, in relation to the transport of military stores and munitions of war, the same gentleman has said, that we might establish arsenals along the frontier where arms, &c., would be wanting; and that thus it was manifest military roads were not indispensable. My worthy friend from South Carolina, who has too much delicacy to speak disrespectfully of any argument, has yet so forcibly illustrated the impolicy of placing our arsenals and magazines within the jaws of the enemy, that I am satisfied the gentleman will perceive his system of construction to be impracticable and inconsistent with the wisdom and views of the framers of the Constitution. Sir, the gentleman has told us that, on our principles of construction, the instrument is nothing but paper and packthread. I will tell him that on his principles it is not even that. He shaved it away by his acute and ingenious mode of reasoning, until you may see through it. It is so attenuated as to be impalpable. It is of no practical use. The Government could never have been set in motion upon his principles. In short—this Constitution, which will not permit us to prepare for our defence against a foreign foe—this wonderful instrument, so much the subject of our admiration and so zealously defended by gentlemen—

is, upon their principles, a miserable fortress, not one gun of which can be brought to bear upon an enemy, while its whole artillery is most admirably pointed against the garrison!

Sir, this doctrine of extremity may be, and has been, carried too far. It is not conceivable that the Constitutional necessity, which the framers of this instrument intended should confer right, must be that extreme necessity which is above right. It never could have been intended that we should be driven to extremity before we could act; that the public enemy must be upon us before we can construct a military road. Constitutional difficulties of this description, it would seem, are not confined to this body. In a certain great city, not a thousand miles off, and at a period not a hundred years remote, a great question arose on the corporation's constitutional powers to build a bridge. A bridge was erecting, and the abutments constructed for throwing a noble arch of stone over the stream which ran through the city, when, all at once, a scruple arose as to the power of making a stone arch. The bridge makers very fairly contend that as they had power to build the bridge, they possessed the necessary power of constructing the arch. But the constitutionalists very ingeniously and subtly replied, that as a bridge might be made of sills and sleepers of wood, a stone arch could not be absolutely necessary; and the power was therefore not given, unless indeed a case of extremity should exist which might justify it. Their counsels prevailed. A wooden bridge was erected, and the floods came, and the torrents roared, and the constitutional bridge was in imminent danger of being swept away. Then the constitutionalists were heard to cry out “the extremity has arrived, you may now construct the stone arch;” but, alas! it was too late! The workmen pronounced it impossible; and the members of the corporation, in looking on while the bridge was mingling with the flood, could but sigh at the reflection, that, by their singular charter, what was practicable was unconstitutional, and what was constitutional was impracticable!

I shall not pretend, Mr. Chairman, to pass over the whole ground which other gentlemen have so ably occupied in support of these resolutions. For this reason I shall not find it necessary to comment at large upon the meaning of the word “establish” in the post office clause. Whether “establish” means “construct,” may well be left to stand upon their arguments. I will however add these suggestions on this point: If the power “to establish seminaries of learning” had been given, would not that term have justified “the construction” of colleges, and the acquirement of collegiate property? If the power to “establish” post offices gives the power to rent or purchase post offices, which has always been exercised without dispute, is it not equally fair to understand the power “to establish” post roads, as giving at least the power to make them with the States' assent? I will also add, the Articles of Confederation did not authorize the establishment of post roads: it applied only to post offices. Why

MARCH, 1818.

Internal Improvements.

H. or R.

then were the other words inserted, if establish only meant to designate? The designation of the office was always a sufficient designation of the road. The argument derives, too, additional force from the consideration, that the words “and post roads” were not in the first draught of the Constitution, but were interlined.

For my own part, however, I am disposed to consider the power of improving the post roads rather as an accessory to the power of establishing post offices and post roads. I am inclined to this construction, because I am not disposed to strain the meaning of any term in this Constitution. I would assume indisputable ground. I do not find myself called upon at this time to say how far we can go, but I am satisfied with saying, confidently, that we can safely go as far as is contemplated. It is sufficient for me that we can constitutionally do what the public good requires, and I do not find it necessary to decide whether we can do more. Hence, I have already voted in the Committee, and shall continue to vote in the House, against those resolutions, which assert the power of Congress to construct roads and canals without the consent of the States. I confess myself, indeed, strongly inclined to the opinion that, in the exercise of these incidental powers, the assent of the States must be obtained. I stated to the Committee, the other day, some reasons for this opinion, and shall, before I conclude, touch upon the subject once more.

The gentleman from Virginia (Mr. BARBOUR) seems to me to have conceded here the whole ground. He admits the right of way to be given by the post office clause; and he further admits, that a post road once established by Congress cannot be shut up by the State; though it may discontinue the road for all other purposes except the transportation of the mail. What, then, is the inference? Either that the State is bound to keep the road in repair for the use of the United States, out of the State funds; or, that the United States may, with their own funds, and with the State assent, put the post road in repair, (which is the position I contend for;) or, that the post roads of the United States may be permitted to go entirely out of repair, grow up into a wilderness, and become impassable, by which means the Federal Government can neither exercise the power nor perform the duty arising out of the post office clause.

This latter supposition cannot be contended for; and the gentleman may have his option as to the two former. For my own part, as a lover of State rights, I should much rather see the United States repairing the roads out of their own funds, than compelling us to repair them out of ours. It is not difficult to decide which would be the most dangerous invasion of State sovereignty.

The same gentleman has laid it down as a rule, that there must be a “direct relation” between the express power and the incident; and it is also contended, (though the position is entirely unsupported,) that the incidental power must not be greater than the principal. It is surely not diffi-

cult to show a “direct relation” between the duty of carrying the mail and the power to render the roads passable. How much less direct in its relation is the power of hanging a robber of the mail under the power of establishing the road! And, unless the life of a citizen is considered unimportant, it may also fairly be alleged that there is a greater disproportion between this power of hanging and the establishment of a road, than between the power of declaring and carrying on war, and that of making a military road with a view to its successful prosecution.

The two gentlemen from Virginia, however, (Messrs. BARBOUR and NELSON,) and particularly the last, have contended, that the following clause in the 8th section of the first article of the Constitution, proves that it never was intended that the Federal Government should acquire any right in the soil, in any of the States, except in the few instances there specified.

That clause is in these words: “Congress shall have power to exercise exclusive legislation, &c., &c., and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.” And gentlemen say, that had the Convention contemplated the right of this Government to acquire property, *ad libitum*, from the States, they would not have conferred expressly these trivial powers to acquire small pieces of property for certain specified purposes. The argument is incorrect. It is founded on a false conception of the passage. It is based on the supposition, that this clause gives the power to purchase forts, &c., when a slight inspection will prove that this is not true. The clause gives jurisdiction only; it does not give the right to purchase. On the contrary, it furnishes to us an irresistible argument, that the power of purchase was taken for granted; for the power is not given expressly anywhere, but the mention of it here, incidentally, only shows that its existence was, nevertheless, clearly contemplated.

Sir, this is not only the fair construction of this clause of the Constitution, but, I will proceed to show, that, from the commencement of the Government to this day, the Federal Government has proceeded upon the presumption, that it had a right to acquire property by purchase and by cession from the States.

I will first mention custom-houses, some of which have cost large sums of money; whether purchased under the power to regulate commerce, or the general power here asserted of acquiring property, the construction which justifies them is at least as latitudinous as that we contend for.

The Harper's Ferry purchase. We had the power to purchase the site for an arsenal, but we had not only purchased this, but two considerable tracts of land, one of which does not lie contiguous to the arsenal, but at some distance from it.

The property owned by the United States in this District. But as these, together with a va-



H. OF R.

Internal Improvements.

MARCH, 1818.

riety of others, may be supposed referrible to some other power in the Constitution, we shall pass on to what is more important.

The purchase of Louisiana. Where will gentlemen, upon their principles of construction, find the justification of this measure? [Mr. NELSON rose, and referred it to the power of admitting new States into the Union. Mr. BARBOUR said, it had been referred to the treaty-making power, but whether right or wrong, it would not operate as a precedent for him.]

As to the clause admitting new States into the Union, it clearly refers to States to be composed out of parts of the United States. If not, yet there are two sufficient replies to the argument. First, that Louisiana was not admitted as a State, but as a Territory, the property of the United States. Secondly, that unless it be admitted, as we contend, that we have a right to spend the revenues of the Union for the national advantage, we had no right to lay out our money in the purchase of the State, even if we had a right to admit it into the Union. And, moreover, the right to admit the State could not, of itself, justify the United States in acquiring for the General Government the immense quantity of public lands which it holds in that Territory.

As to the treaty-making power. This is a still more unsubstantial ground to rest upon. For there is one principle which, in this House, we hold sacred; that whatever may be the treaties made by the Executive, we are not obliged to make the appropriation; still less can the treaty compel us to make an appropriation, which gentlemen tell us the Constitution does not authorize. But, it is further to be remarked, that the appropriation of two millions for that purchase, was actually made a considerable time before the treaty; so that, unless the effect can produce the cause, the treaty cannot be resorted to to defend the act.

The Committee will understand me as by no means arraigning these measures, which I deem not only Constitutional, but highly expedient and beneficial, but as contending that they cannot be justified, except upon the principle I advocate, "that the Federal Government has a right to purchase property for national benefit, with the national funds."

The next purchase I shall mention is the Mississippi, purchased from Georgia. To get rid of this difficulty, the gentleman from Virginia (Mr. NELSON) contended, that it had been conquered from Great Britain by the Union; that Georgia had no title to it; that it never was within the settled limits and jurisdiction of that State. The fact is mistaken, and the argument more so. The fact is mistaken. To a great part of the ceded territory the United States never asserted any claim; and I understand from a gentleman from Georgia before me, (Mr. COBB,) that a county on the Mississippi, called Bourbon, within the ceded territory, was laid off by that State before the cession. The argument is as incorrect as the fact is mistaken. If Georgia had a title, then we have purchased a title to land with our resources,

which was the exercise of that very power in controversy; if not, then we gave to Georgia \$1,200,000 for nothing. Now, if the Constitution does not permit us to lay out our money in acquiring property, or in giving aid to public improvement, I should be happy if the honorable gentleman will point out the clause which authorizes us to give away the public money, without any consideration at all.

The next case I shall mention is the Virginia cession, made under the circumscribed powers of the old Confederation. If a power to receive a cession of territory existed under that instrument, it cannot be denied under this. Under that instrument, the immense western territory of Virginia, conquered by her arms under the gallant General Clarke, was ceded to the Confederacy. Will the gentleman deny the title of Virginia? Will he, the champion of her rights, assert that she had no claim to this property? He will not, he cannot. Whilst, therefore, according to his argument, the Mississippi cession furnishes an instance of our giving away our money, without consideration, the Virginia cession affords an example of our receiving a valuable consideration, without giving away our money.

A strong inference in relation to this power of acquisition, from one of the Confederacy, is afforded by this cession of Virginia, made to the Union not more than a year before the adoption of this Constitution. If the convention had not intended this power to be exercised, which, under the still more narrow provisions of the Confederation, had been deemed legitimate, why does the Constitution contain no provisions inhibiting it to the Federal Government?

Sir, I do not call in question the validity of these cessions. I believe them Constitutional; but as they cannot be supported on the grounds assumed by gentlemen, and, as they disclaim the only principles on which they can be justified, it is to be hoped that, in fulfilling the important duty of supporting this Constitution, they will make amends for the errors committed, by receding to the States their respective territories. It is not enough for gentlemen to say "these precedents do not bind us. We do not justify these acts." It becomes their duty to repair the breach in the Constitution, by a prompt repeal of the unauthorized acts. If they will effect this, they shall, indeed, be called the defenders of the States. Georgia stands here ready to receive back her lands and give you your money again; and my parent State!—If you will only recede what she has lavished upon you, she will no longer be found begging at your doors for a little bit of land to discharge the just claims of her soldiers, of which they have been deprived by fraud or by mistake, in this very contract, whose validity is now called in question.

I will only add one other instance in relation to the United States acquisition of property. By the direct tax laws it has been provided that wherever there was default in the payment of the land tax, and upon the sale of the lands no person would bid the amount due, the land should

MARCH, 1818.

Internal Improvements.

H. OF R.

be purchased for the use of the United States. The gentleman whispers me that they were directed to be sold again. But until the sale it was the United States property; and the resale may be made or not, according to the pleasure of the Government. Here, then, is a mode by which the Union may be gradually, yet constantly, acquiring property in the States. If, then, the gentleman's argument that Congress has exclusive jurisdiction over all the property it possesses, under the power to make "needful rules and regulations" be correct, here is a mode in which the most extensive exclusive jurisdiction is to be acquired within the States. But the deduction of the gentleman is incorrect. The fair construction of the clause he refers to, when connected with the clause in the 8th section on the subject of exclusive jurisdiction, does not give jurisdiction over property thus acquired. It only gives the right to make rules with respect to its disposition and management.

I shall not detain the Committee with the numerous instances in which the United States have acquired property within the States—sometimes with, sometimes without, their assent.\* But, before I quit this part of the subject, I will beg leave to reply to the remarks of the gentleman (Mr. NELSON) on the Cumberland and Plattsburg roads. These works he has attempted (as I understand him) to justify. The Committee referred to the former, as an instance of the appropriation of the public moneys of the United States, to the construction of roads through the several States, with their respective assent. The gentleman justifies this work, while he opposes the doctrine that the Federal Government can appropriate money for the improvement of roads. How does he justify it? Does he contend that we can appropriate to those purposes the proceeds of the sales of public lands, but no other funds? If so, and if an appropriation of this character will solve his difficulties, let us appropriate these funds for internal improvement instead of bank fund. I shall be happy to receive his support to the proposition. But what difference, in principle, is there between spending on roads a dollar that came in through the customs, or a dollar produced by the sale of public lands? Or how does our greater command over the fund give us a right to acquire property in one way and not in the other? The gentleman tells us we bound ourselves, by a compact with the State of Ohio, to make this road. Can this compact justify the act, if it would have been unconstitutional without it? If such compacts untie the Gordian knot, then let us make compacts with the respective States to effect this desirable purpose of internal improvement. It is all that we require.

Sir, the Cumberland road cannot be supported

\* See the first volume of the Laws of the United States, (Bioren & Duane's edition,) pages 664, 665, 666, 667, 668, 679, 680, 681, 682, 683, 684, 685, 686; the whole of which are occupied by a list of the property of the United States in different States of the Union.

under the act of cession; it can only be supported on our principles. The act of cession provided "that the ceded territory should be considered as a common fund for the benefit of the members of the Confederation." The fund is thus placed upon the same footing with the other funds of the United States. There is not a syllable providing for or directing its application. The act which erected Ohio into a State, in directing the application of a part of these funds to the construction of roads, is not, therefore, justified by the act of cession, but by the general principle that we may expend our funds for the benefit of the Confederacy; and the acts authorizing the construction of the Cumberland road, (which have received the sanction of several Congresses and two Presidents, as also of the States of Pennsylvania, Maryland, and Virginia,) having originated in the act last mentioned, can rest for their justification only upon general principles, and not upon anything peculiar in their character; or in the character of the fund which has been employed.

The road from Plattsburg to Sackett's Harbor has been spoken of in justificatory language. It is said the soldiers have been employed on fatigue duty in making this road. If we have the power to make roads, it is all I ask. I care not whether they are made by soldiers or citizens. Let us—if the calling our laborers soldiers will justify the act—increase the number and appropriate our funds for doing the work effectually. It is said three cents per day additional allowance is all that it costs the United States. Fifteen cents additional is the real sum. But is there any difference, in principle, between three cents and three hundred? It is said the road was there before. But is there any difference, in principle, between the right to repair the road, and to make it anew? If there be, and the former be Constitutional, let us all unite in appropriating funds to repair the existing roads. We shall have enough upon our hands in this view of the subject. It is said that this was directed by the military authority. And can the military authority, in time of peace, make a road without the consent of a State; when the legislative body cannot authorize it with their assent? Sir, I, too, approve the making of this road, but not upon these principles. I approve it, because we have a right to appropriate our funds to such purposes; because the legislative body did, by their appropriation of fifteen cents additional to the soldier's pay for this purpose, authorize the act; and because, although the State assent was not formally procured, there is every reason to believe it met with universal approbation.

I will not detain the Committee by enlarging on topics peculiar to military roads. There is no power in this Constitution more extensive than the war power. It never could have been intended by its framers, who had felt, through a long and often disastrous war, the evils of too limited powers, that this nation should, in such trying scenes, be handcuffed and manacled. It never could have entered into their views, that



H. OF R.

Internal Improvements.

MARCH, 1818.

the Constitution only gave such rights, in relation to the marching of armies, as the laws of nations confer. They never could have intended that our armies should be placed in extremity before they could begin to cut a road for their retreat or accommodation. They were men of the world and statesmen. They knew that, as far back as recorded history extends, roads and bridges were essentials in military operations. They must, therefore, have intended that the power to make them should be vested in the General Government, as accessory to the power of raising and supporting armies and making war. And this, of itself, furnishes a sufficient answer to the argument of gentlemen "that if these important powers were intended to be given, they would not have been left to be inferred." If considered as fairly accessory to the war power, it was unnecessary, and would have been improper to specify them. The principle of exposition contended for, sufficiently evinces the prudence and propriety of avoiding an expression of what was considered as implied.

Sir, the events of the late war furnish us a lesson on the subject never to be forgotten. The transportation of our cannon to Sackett's Harbor cost us, it has been said, one thousand dollars a gun, and flour, in the Northwest, cost, at one period of the war, ninety dollars a barrel, on account of the difficulties of transportation. I have before me a history of the Western war, where I find it stated, that the extra expenses of transportation, proceeding from bad roads, would have built a fleet upon the Lakes, and that each wagon loaded with flour (never more than eight barrels to a load) was obliged to be attended by two others loaded with forage. I find, also, that to the dreadful state of the roads, which prevented the arrival of artillery at the river Raisin in time for that disastrous conflict, is attributed that dire event, at the recollection of which the blood in the veins of every American must run back to its citadel—the heart. [Here Mr. T. read, from the History of the Western War, passages on these subjects.]

But, an honorable gentleman from Virginia (Mr. SMYTH) tells us, that the power of constructing military roads, at least in time of war, does belong to the Executive department of Government, but that the Legislative body has nothing to do with it. This is dangerous doctrine, sir, and not more dangerous than incorrect. How do they get the power? Is it expressly given? By no means. It is an accessory, it is said, and justly too, to the power of making war, and raising and supporting armies. But the accessory follows its principal. To whom, then, is the principal power given? To Congress; and if the accessory follows the principal, the accessory power of making roads belongs to Congress also. It is true, that if Congress makes war and puts an army into the hands of the President, necessity may sometimes compel him to exercise this power; but it is a necessity that only excuses an act which is irregular and at variance with the principles of the Constitution.

Having occupied already so much of the time of the Committee, I shall not take a view of the question as it relates to canals, except so far as it is connected with the extensive power over our revenues which this Constitution has given us.

This power "to raise money to pay the debts of the Union, and provide for the common defence and general welfare," is one of the most comprehensive in the Constitution. By the express terms of the instrument, there is no other limitation, except that the object of expenditure must either be for the common defence or general welfare. Indeed, in the nature of things, it could not have been intended by the convention to specify, in the Constitution, all the purposes to which revenue might be applied. There is nothing more entirely indefinite and general than the uses of revenue. Money, of no value in itself, except as it will command what we want, is capable of such an infinite diversity of uses, that to attempt to define its application, is to descend into the minutiae of human transactions. I cannot, therefore, conceive that it was the spirit and intention of the clause, to confine the expenditure of money to the objects specified in the succeeding enumeration of powers. The gentleman from Tennessee (Mr. JONES) has saved me the trouble, by his clear and logical argument, of showing, that, according to no fair principles of construction, can the powers "to borrow money," and those which follow in the same clause, be considered as dependent upon this general clause. They are all as independent of this as they are of each other. Each depends alone upon the commencing words of the section—"Congress shall have power."

But some gentlemen, fearful of this sweeping clause, as it is called, contend that there is a fair implication that the expenditure is to be applied to the specified objects; that upon any other construction the powers of the Federal Government would be as extensive as the wants of the nation, and swallow up all the powers of the States. I see no foundation for the implication, nor do I apprehend any danger of such an extension of power. While in relation to the "common defence," there can be no pretext for alarm, there seems to me not more reason for apprehension in giving to the phrase "the general welfare," in this clause of the Constitution, its plain and appropriate signification. We cannot exclude them from an instrument which we are told must be construed with so much precision. How then is this term "general" used? To indicate nationality; to point out that the object of the public expenditure must be the *national welfare*—the welfare of the Union as a nation—contradistinguished from the welfare of the States as members of that Union. Pursuing this plain and obvious meaning of the terms, there is no danger of the National Government insinuating itself, as has been suggested, into all those concerns which were unquestionably intended to be reserved to the States. It is only by attributing to the term "general" the idea of "universality," of which it is not here susceptible, that any foundation can

MARCH, 1818.

Internal Improvements.

H. OF R.

be afforded for the alarm which has been expressed.

But those who apprehended so much from a construction of this clause, which would leave to Congress the unlimited disposal of the revenues of the Government, would cease to be alarmed if they would but reflect, that the unlimited power over our funds, does not imply, of necessity, a power to do everything to which these funds may be applied. My right to use my own funds at pleasure is always controlled by this obvious restriction, that I shall not acquire with them what belongs to another, without his consent. I have a right to lay out my money in the purchase of your property, if you will sell it to me; but my right to use my money does not take away your right to keep your property. The United States have a right to appropriate money to make canals, it is true, but this does not give them a right to seize the property of the States, and make canals without their assent. The power over our funds (unlimited except by the nationality of the object to which they must be applied) does not, therefore, enlarge our powers or diminish the powers of the States.

It is in this, I conceive, the error lies. Our adversaries now press upon us, what I presume to have been the Federal doctrines of 1798—that the power to raise money to provide for the "general welfare," enlarges the powers of the General Government, instead of merely leaving it a discretion in the application of its funds to objects that are national in their character. Such a doctrine would be dangerous indeed, and has therefore always been very properly repelled. But the right of applying the public money to national objects, limited and controlled, as of necessity it must be, by the rights of the States, is a salutary and Constitutional right. The first would give to the Federal Government the power of making roads and canals in spite of the States; the last only asserts the right to spend our money in improving the State property, provided the owners (that is the States) give their assent to the improvement. The first is subversive of State rights, the last admits them and respects them.

It is this view of the subject which is to my mind most satisfactory. If it be not founded in error, we have a right to subscribe to the stock of any road or canal companies, (whichever is the most desirable mode of effecting our object,) or we may, with the assent, and under the laws of the States, proceed to the construction of roads and canals; the rights of individuals being protected by their State Legislatures, and by the provisions of the 5th article of the amendments to the Constitution.

To illustrate this view of the subject, let me ask, if the United States had a deep national interest in the improvement of the navigation of the Appalachicola, from the Florida line to the Gulf, through the Spanish dominions, would they not have a right to expend the funds of the Union in that national object, with the assent of Spain? It must be admitted. Suppose they

purchase Florida, and it becomes a State, and the national interest requires the same improvement in the navigation; can it be contended that, though we had a right to use our funds in improving a Spanish river, with Spain's assent, we cannot improve it when it shall become one of our own rivers, even with the assent of the State through which it passes? Again: It is said we have now an absolute right to apply the funds of the Union in making a road through Alabama Territory; can it then be contended that, when it becomes a State, this right to apply our funds will cease, even though the State should assent to the application?

It will be perceived that, in every view of this subject, I consider the assent of the States as a term in the proposition. I do not feel myself called upon to decide whether we may not even go further, particularly in relation to military roads. It is enough for me, that we can appropriate our funds to this object, which always implies the necessity of State assent to the execution of the work. I confess myself, however, inclined to the opinion, that, according to a fair construction of this instrument, State assent is a prerequisite to the execution of any permanent national improvement. The occasional construction in time of war of a road for military purposes, must always be justified, independent of assent. But it is justified by a necessity which sets right at naught, and does not therefore fairly enter into this discussion. I will, however, succinctly state, why I consider the Constitution as requiring the assent of the States wherever an incidental power affecting territorial rights is to be exerted.

In the 8th section of the 1st article of the Constitution before cited, where the power of purchasing property for forts, magazines, and dock yards, is incidentally mentioned, that power seems to have been contemplated as qualified with the necessity of obtaining the consent of the States. Then, I argue thus: If, in the casual mention of certain incidental powers affecting territory, (such as purchasing land for forts, &c.,) the framers of the Constitution manifest their understanding that they are to be considered as qualified by the necessity of procuring the assent of the States, it is fair to conclude that wherever incidental powers, which interfere with territorial rights are to be exerted, they must be subject to the same qualification. Now the right to make roads as necessary to the post office clause, or the war-making power, is an incidental right, and interferes with the territorial rights of the States. I conclude, therefore, that it can only be exercised with the assent of the States.

Nor let me be understood to contend that the assent of a State makes that Constitutional, which was not so before. I conceive the power to be given by the Constitution, but that, according to a fair construction, it is given with a qualification that the State assent shall be obtained before it can be exercised.

Such, sir, are my ideas of this Constitution,



H. or R.

Internal Improvements.

MARCH, 1818.

and of the question before us. I am satisfied that the construction which I have given to it, is not calculated to prostrate the rights of the States, or to consolidate this confederacy. No man can be more alive to the just rights of the States than myself. None can be more sensitive than I am as to the interests of my native State. But I am satisfied that the principles of construction contended for by gentlemen would render this Constitution worthless. So construed, it is an useless hulk upon the waters; worm-eaten, not seaworthy; and you could no more calculate on its bearing you safely over the tempestuous ocean of political affairs, than you could expect your gallant Constitution—the old Ironsides of your navy—rigged with a single mast, and her seamen armed alone with bludgeons, to return to your shores from the conquest of the Javas and the Guerrieres of the ocean, bearing aloft your flag amidst the acclamations of your people, and rendering your exploits the envy and the admiration of the world!

The Committee rose, obtained leave to sit again, and the House adjourned about five o'clock.

FRIDAY, March 13.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of Henry Davis, which was read; when Mr. W. reported a bill for the relief of the said Henry Davis, which was read twice and committed to a Committee of the Whole.

Mr. WILLIAMS also made a report on the case of Thaddeus Mayhew, transmitted to this House by the Commissioner of Claims, which was read; when Mr. W. reported a bill for the relief of the said Thaddeus Mayhew, which was read twice, and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act extending the time for obtaining military land warrants, in certain cases;" also, the bill, entitled "An act fixing the compensations of the Secretary of the Senate, and Clerk of the House of Representatives, and of the clerks employed in their offices; and the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory," with amendments to each; in which bill and amendments, they ask the concurrence of this House.

The bill from the Senate was read twice and referred to the Committee on Military Affairs.

The amendments to the first mentioned bill of this House were read, and referred to the Committee of Ways and Means.

The amendments to the last mentioned bill were read, and ordered to lie on the table.

On motion of Mr. LAWYER, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of correcting a mistake that occurred in the year 1808, in placing Captain Thomas Matchin, an officer in the Revolutionary army, upon the pension list, at ten

dollars per month, when he ought to have been placed on the pension list at twenty dollars per month, according to the report of the then Secretary of War, and providing by law for the correction of such mistake.

## INTERNAL IMPROVEMENT.

The House again resolved itself into a Committee of the Whole, on the resolutions in favor of the power and duty of Congress to authorize the making of roads and canals within the several States.

Mr. PINDALL, of Virginia.—I had intended to address the Committee in an earlier stage of the debate, but, the silence which the deference due to more experienced members imposed on me, has been amply rewarded, for the chief grounds of argument on which I had intended to dwell have been preoccupied by gentlemen who have handled them with an ability to which I could not have aspired. I have risen, however, to notice some of the positions of those who question the power of this Government to apply its resources to the internal improvement of the country, by the construction of roads and canals—positions which have, probably, escaped the views of gentlemen with whom I shall vote, or, indeed, may have been noticed by them, but in a light somewhat different from the views I shall take leave to submit. Gentlemen on opposite sides, in this controversy, espy the Constitution of the United States in different and very dissimilar aspects. Whilst those who affirm our power to construct roads consider the Constitution as a modification of social compact, defining and conferring legislative powers; gentlemen on the other side, who deny the power in question, seem to be out of humor whenever the instrument is viewed in any other than its federative character, or, as an international convention, to be construed as a treaty between independent Powers. I will not undertake to deny the theorem on which several honorable members seem to build their arguments, to wit: that rules of interpretation, as applied to a fundamental social institution, or, to a mere treaty between sovereigns, are different as to their latitude of operation; and gentlemen (with my leave) may assume, that a treaty shall receive a more restrained construction, with regard to granted powers, than a social compact. But, on the other hand, all should admit that the Constitution of the United States is a compact both social and federal in its character. Hence, it might be supposed that we ought to interpret some of its provisions as clauses of a social compact, and others of its provisions as clauses of a federative alliance. And this, again, might introduce the inquiry, whether those texts of the Constitution, from whence we seek to derive the power in question, be social or federal in their character. I will, however, beg leave, for a moment, to consider our Constitution as a mere federative instrument, or treaty, between the twenty States of the continent; this being the view of that instrument which seems so congenial to the wish of those who oppose the resolutions.

MARCH, 1818.

Internal Improvements.

H. or R.

The Constitution, then, as a treaty between the several States, is the object or subject of some common-place rules of construction, which, if not altogether self-evident, are so usual and universally acknowledged, that I should think it a mere waste of time to mention them were it not from a persuasion that indubitable results will be seen to flow from their recollection. It may be assumed as a primary rule, that terms or words found in treaties are to be interpreted in their received signification in the sense which custom has given them. Again, the custom which presides the interpretation is the custom of the time in which the treaty was concluded or drawn up; and, as language and the customary signification of words vary with time, it behooves us, in seeking the sense of treaties of past times, to know the common sense of the terms used at the time when the treaty was written; and this can only be known (according to national law writers) by the works of contemporaneous writers, by the contemporaneous acts of those concerned, and by early acts and interpretations by those who lived and acted in times less remote than ourselves from the origin of the treaty.

Here, then, we find a cure for what I consider as the error of my honorable colleague, (Mr. BARBOUR,) when he asserts that precedents are to have no weight in construing the Constitution. That gentleman insists that precedents are only to prevail in the technical proceedings of municipal courts, and are to lose all their virtue when applied to national compacts or treaties. In truth, the authority of precedents operates in an inverse ratio, when compared with the idea of my colleague, for the technical rule of the municipal court discards the force of precedent, unless the point quoted shall have been directly and expressly affirmed, denied, and solemnly adjudicated, otherwise the opinion of the most learned judge would be repudiated as an *obiter dictum*: whereas the deliberate, but theoretical disquisitions of those who had an opportunity of knowing the motives and objects of the parties are adverted to in expounding national pacts. The statesman or politician works with the same tools that employ the lawyer, and the difference is in his occasionally seizing other tools to which the lawyer is not entitled. The statesman may call his sources of information contemporaneous practice, or early practice, or more recent acts of construction acquiesced in by the parties, &c., yet, after all, (as I have remarked,) he only differs with the provincial lawyer in resorting to a more liberal and extensive use of what may be called precedents.

My colleague also supposes that legislative precedents prevail in the British Parliament, but ought to have no weight in this country. I agree that no act or decision of the British Parliament can furnish a precedent for us, and that, in questions of mere expediency, precedents can have but little, if any, weight in the legislative assembly. But, with regard to disputes of the boundaries of legislative power, I insist that a deference to precedents is the property of the Legisla-

ture of the United States, and not of the British Government. The British Parliament has no limitation to its legislative powers, consequently precedents can never be resorted to for the purpose of showing the precise extent or limits of powers which are confessedly unlimited. But, although the power of British legislation knows no limitation, the separate powers of the respective branches of that Government, in their relations to each other, are so limited as to prevent collision; and in adjusting questions of that limitation, precedents are quoted and are allowed their proper weight. Hence, it is seen, that, with the British Government, whenever boundaries of power are acknowledged, or certain limits prescribed, the doctrine of precedents, furnishing the beacons or line trees in the road of certainty, is necessarily attended to.

My colleague, in drawing lines of distinction between the Parliament and Congress, quotes it as a maxim of the British Parliament, that, whatever has at any time been done, may be done again. If the proposition, of which this maxim consists, had been affirmed by me, as a postulate in experimental philosophy, I think my colleague would have yielded to its truth. I presume, however, he quotes the proposition in a moral sense, and if he thereby meant, that whatever had been morally and properly done at any time, might be morally and properly done again, I would claim that maxim as the property of our Government. But there is no sense in which the maxim can apply to the powers of the British Parliament, for those powers being destitute of limitation, the Parliament may not only do again whatever has at any time been done, but may do what never has been done at any time. The structure of this Government has furnished a mean whereby the constitutionality of legislative acts may be tested. This mean administers itself through the instrumentality of the judiciary department. As laws are administered by the judiciary tribunal, it, in judging of the validity of those laws, and in deciding on their conformity to the Constitution, interposes as an umpire between Congress and the people. Now, all will admit, that the Supreme Court of the United States, in deciding the question whether a law be Constitutional, will give ear to the authority of precedents.

An appropriation of money to particular objects may be effected by a bill, which may happen to be carried into execution without passing the ordeal of an examination by the judiciary. But, after gentlemen admit that the judiciary may decide on our Constitutional powers, that the judiciary, in making that decision, will adhere to precedents, and, consequently, that precedents have authority whenever an impartial and learned umpire can intervene with its authority; will they contend that, in every case where peculiar circumstances enable us to carry a measure into execution without the aid of the judiciary, and where, of course, we must determine the validity of the power ourselves, precedents are to be rejected? How happens it that precedent shall have force in settling the validity of one Consti-



H. or R.

Internal Improvements.

MARCH, 1818.

tutional power, and be rejected when the question arises on another? Is it because in the latter case our ingenuity enables us to shun those scientific tribunals which the Constitution has created for its own preservation? My colleague (Mr. BARBOUR) warns us of the importance of the question now under discussion, and informs us that unborn millions will be affected by the consequences of the decision now to be had. But how are unborn millions to feel the effects of this decision, unless being had upon full and mature consideration, it be hereafter regarded as a precedent? Thus, the Committee may have observed my colleague rendering (as it might be called) his involuntary consent to the doctrine of precedent, at the moment when declaring his hostility to its authority. I have dwelt thus much on the topic of precedent, because I am convinced that the previous acts of this Government go to strengthen those who advocate the power of Congress; and because, not only my colleague, but other members with whom I shall have the honor to vote on this occasion, have assailed the legitimate authority of precedents.

The very able detail and commentary of legislative precedents and official executive opinions, which have been so eloquently dwelt on by my honorable colleague, (Mr. TUCKER,) exempts me from the necessity, even if I had the ability, of discussing them. Indeed the Committee must be convinced that the authority of Congress to construct roads, as far as the construction contended for can be supported by precedents, is fully proved. I will almost venture to assert, that gentlemen who oppose the power of Congress are ready to admit that the power is established, as far at least as it can be established by precedent; else, why has my colleague (Mr. BARBOUR) resorted to the unusual course of denying all authority of precedents—a position involving the endless absurdity of forcing us to ten thousand decisions of a Constitutional question, which, after all, according to his theory, would leave the same question undecided through all futurity? Else, why has another honorable colleague, (Mr. A. SMITH,) when speaking of the previous acts and executive reports of the Government, been driven to something like harshness of accusation against Albert Gallatin and others, in whom we have been accustomed to confide? a resort which, I know, was painful to my colleague, and could only have been justified in his own mind by the extreme pleasure which he felt from the authority of precedents.

The Committee will remember that the advocates of the power of Congress to construct roads, insisted that the authority to do so was comprehended in the express power to *establish post roads*. To this my colleague, (Mr. BARBOUR,) in further prosecution of the idea of the Constitution being a treaty, replies, that the right of this Government, with regard to post routes, is only a *right of passage* through the country, granted by the sovereign power of one country to the sovereign of another. But the chairman of the

select committee has shown that a grant of the right of passage must comprehend the right of repairing or constructing roads through which it is necessary to pass. Vattel, in book 3, chapter 7, sections 130 and 134, in treating of the right of passage, as granted by one sovereign to another, informs us that it includes every thing, without which it would not be practicable; that the sovereign thus passing may, towards rendering the right effectual, even exercise some of the attributes of sovereignty whilst on the territory of his neighbor; for he may exercise military discipline on his officers and soldiers, and he is only bound to make a just reparation or compensation for damages occasioned by the operations of encamping, entrenching, &c. If this Government has only the right of passage, it must, by the principles of national law, have the right of repairing or constructing roads, without which that right cannot be exercised with convenience, and sometimes could not be exercised at all; and must also be entitled to exercise the attributes of sovereignty, which protects the exercise of the right. This would justify legislative regulations for the preservation of the roads she repairs, during the time of the continuance of this right of passage, which is coextensive with the duration of our Constitution. Every sovereign that enters another territory in his sovereign character, does so as an enemy or as an ally: if as an enemy, the rights of conquest entitle him to make and demolish roads at his own pleasure; if he passes as an ally, and by consent, we have seen that he may make or repair the roads of passage during the continuance of his right of passage, only repairing the damage occasioned thereby to others. And the fifth article of the amendments to the Constitution of the United States provides, that private property shall not be taken for public use without just compensation. But these views involve us in refinements that are scarcely tangible, and my only apology for indulging in them is a desire to examine the ingenious arguments of my colleagues. In truth, the powers of the United States in relation to post roads have no resemblance to the mere right of passage; the latter is a transient advantage, ceasing the moment the party has glided through the country, whilst the former is an existing perpetual right. The one is the mere boon of hospitality, extended to a guest, whilst the other is the property of sovereignty, and is contained among the legislative powers granted to Congress.

But it has been said, that the United States have nothing but a right of way, on which the mail may be carried. I had not expected the advancement of this idea from my colleague, after the exceptions so ingeniously and eloquently urged against the admission of precedents, as too technical to have any place in the interpretation of the Constitution; for, no term can be more peculiarly technical, than the right of way—which is one of the ten incorporeal hereditaments, of which the common lawyers treat. This Government, then, is reduced to the consideration of a humble patentee, to whom Virginia has granted the right

MARCH, 1818.

Internal Improvements.

H. or R.

of carrying a mail on her roads. Carry this refinement out one step further, and it would follow, that, for any abuse of this right on our part, Virginia might repeal the grant by a *scire facias*, to be prosecuted on the chancery side of some of her county courts. Matthew De Quester, in the reign of James I. and afterwards Manley, about the middle of the 17th century, were English subjects, who held the post office as patentees. Matthew De Quester, to facilitate the passage of the mail, might have bargained and advanced his money to the turnpike companies, to induce them to improve the roads, or he might have agreed to work his own laborers on the roads. It is true, he could make no laws to govern such objects, because the power of legislation, in relation to the post roads, had not been granted to him as it has been to Congress—a body that claims not as a private grantee, but as a supreme power of legislation.

Some of my colleagues would require this Government, on approaching the southern shore of the Potomac, to disrobe itself of the sovereignty with which it has been clothed by the people, and pass with the mail through Virginia, as any private citizen, yeoman, or beggar, may travel to mill or market. But a foreign sovereign cannot be subjected to the municipal laws of a country in which he sojourns. Nay; the laws of nations impose a duty on despotic Powers, as well as free Governments, to issue orders, or enact laws, which shall give security to the foreign sovereign, and exempt him from subjection to the civil laws. My colleagues then, who are so zealous of State rights, must see the necessity of having State laws to regulate and protect the rights of this Government, in relation to post offices and post roads; which State laws could not be enacted, unless by a resumption of legislative powers, which have been expressly granted to the Government of the United States.

My colleague, (Mr. BARBOUR) adopts an unwarrantable course of argument. If, said he, you have the right to construct roads you must have a right to take earth, stone, and gravel, with which to make them; but the Constitution gives you no authority to take these materials, and therefore you cannot construct roads. It is true, that the Constitution does not, by expressed words, grant the power to take these materials, but if it comprehends the power to construct roads (as I think has been proved by other gentlemen) then the proposition of my colleague admits, that the authority to take these materials is a necessary incident to the execution of that power. My colleague also says, that we have the power to build a navy, but that we have no authority to impress the mountain oak wherewith to build it. I will not stop here to examine the correctness of this assertion; nor will I consume your time by the inquiry, whether timber is not as essential to the building of a navy, as stone and gravel are to the construction of a road. But I must take leave to submit to my colleague this inquiry—whether, if this Government has power to build a navy, without the power to impress timber, it may not also have the power to construct roads, without the authority to impress stone and gravel?

15th CON. 1st SESS.—43

If the power of Congress to establish post roads comprehends neither the authority to construct or repair roads, nor any jurisdiction over such roads, the United States' Government will be obliged to carry the public mails on the roads provided by the respective States. Being thus obliged to perform this duty, upon the State roads, I pray you to solve this inquiry: Is this Government, in transporting the mail, to be confined to the public roads of the State, or may it use the private ways and roads also? If this Government be confined to the public roads, it follows, that, inasmuch as the construction, continuation, and alteration, of public roads, are under the entire control of the State Legislatures, the direction and facilities of the mail, and whole post office police, must be subject to their control. But, if this Government has the right to carry its mails on private roads also, then every private man, who has the control and direction of these private ways, will, as well as the State Legislatures, have the consequent direction of the public mail.

The public roads of the States are subject to the jurisdiction of the State Legislatures, by whom the superintendence and police of the roads are usually confided to county tribunals of police. If one or more individuals desire the construction of a new road, the opposite parties, whose interests are affected, are summoned to show cause against the establishment of the proposed road, and if no sufficient objection can be shown, the road may be established. But the respective parties often compromise their differences, before any decision is made by the road tribunals, whereby it is contracted, that a certain person, or all the persons in a certain neighborhood, or vicinity, may have a road through the lands of others, on condition that the parties to be benefited shall refrain from insisting on the establishment of a public road. These amicable arrangements have been so usually resorted to in some sections of the country, as to supersede, in a measure, the establishment of public roads; yet, the proprietor of land, who becomes bound by such local contracts, is under no obligation to open his grounds for the passage of any, except the person, or vicinity, with which he has contracted. I have travelled three-fourths of a day in Maryland, on a direct course, in which my whole route passed through fields and gates, which the proprietors made no objection to passing, although they might have objected to the passage of every one who were not within the purview of the contract in pursuance of which the gates had been erected.

I now beg leave to propound a simple question: Can the United States force the passage of its mails through the private ways and gates that I have mentioned? If you answer in the negative, it hence follows, that the most eligible, and, indeed, necessary mail routes may be defeated, or impeded, not only by each State, but by combinations of neighbors, and sometimes by a single individual, in any State. But if you answer in the affirmative, by declaring that the



H. or R.

Internal Improvements.

MARCH, 1818.

United States may force a passage for her mail through these gates, then the whole question of the power of Congress is yielded to us; for the Government may force or break the locked gates, to effect the passage; and seeing that such force is the same sort of power which is declaimed against, with regard to the improvement or construction of roads, it must follow that this Government must stop and surrender its authority on the encounter of every such gate, or exert the same powers which are sufficient for the construction or repair of post roads. I know that my colleagues will not yield to this Government a mere provisional jurisdiction to open roads, when the States shall have omitted or refused to do so; for they declare that no act, consent, or conduct, of the State Government, can confer any power on the General Government, of which it is destitute. But, should they yield this point to the General Government, upon it would devolve the power of deciding whether the roads of the States were ample and convenient for the mails, and the power to determine and control this question would comprehend every umpirage over public roads that the friends of these resolutions contended for.

Several of my honorable colleagues, addressing you in the name of Virginia, have strongly protested against infringement on State sovereignties. In this, my colleagues pursue the bent and spirit of our native State, which has always occupied the front, in guarding against the encroachments of the Federal Government. But, if my colleagues, in continually assuming Virginia as the heroine or prepositus, in every instance of illustration, have only indulged in an excusable resort to homestead pride, knowing their liberality, I can readily foresee their readiness to yield, that I may consider myself, for a while, the advocate of our State. They have exhibited our State in every attitude of hostility to, or at least defence against, the force of the General Government; and I now ask, that I may be considered as Virginia for the moment in which I shall continue to occupy the floor. I would then remind you, in behalf of my native State, that she has surrendered to you the great and efficient sources of revenue, with powers that impose on the General Government correlative duties, or obligations of equal extent. Among other important delegations of power, is included the legislative authority on the subjects of the post offices and post roads. On this delegation of authority, you have (without any question of jurisdiction) built a department and superstructure that yields a revenue of considerable amount. This revenue is your property, and cannot be encroached on by the States; but the States, in surrendering to you the Post Office Department, although conferring with it all its incidental powers, did not mean, in regard to your relations with them, to create a mere source of revenue in your favor. The Post Office Establishment has become a considerable source of revenue to you; you extend its ramifications to a great area. I therefore require you to support it

with your own revenue, and apprise you, that it is unreasonable and unjust, that you should, while deriving so great a revenue from that establishment in Virginia, require that State, without any participation of profit, to incur the labor and expense of working roads, on which you are to derive and collect this great revenue. In behalf of the citizens and landholders, I appeal to the fifth article of the amendments of the Constitution of the United States, which provides, "that private property shall not be taken for public use without just compensation."

I confide, that gentlemen who have preceded me in this debate, have proved, to the satisfaction of a majority of the House, that this Government has the power to construct military roads. This power, however, is denied by our opponents; and an honorable colleague (Mr. A. SMYTH) insists that the power to make military roads arises out of the emergencies of war, and ceases with the necessity, which justifies its exercise in a state of warfare. But in war, military roads are useful and necessary only for the passage of troops, provisions and military munitions; and, as the United States employ an army in times of peace, it is necessary to have military roads to effect the same objects at all times. My colleague (Mr. A. SMYTH) has been candid enough to admit that the United States may subscribe its money in the stock of companies incorporated for purposes of internal improvement, and the consequence which will necessarily follow from another principle he has recognised, will, I think, compel him to join our side of the question. He admits that the power to establish military roads exists in this Government; but insists that it is a military power, which belongs to the President of the United States as commander-in-chief of our army, (that is, to the Executive department,) and not to Congress. Permit me now to call his attention to the last clause of the eighth section of the Constitution of the United States, by which Congress not only has the power to make all laws which shall be necessary and proper to carry into execution its ordinary powers, but all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof. If the Congress has authority to make laws to carry into execution the powers vested in any department or officer of this Government, it must follow that, if the Executive department has the right to construct military roads, Congress may make laws to carry its power into execution; and this is all that the resolutions before us contend for. I cannot omit a review of one ground assumed by my honorable colleague, (Mr. BARBOUR,) which, according to method, ought to have been sooner noticed. He states that the Legislature of Virginia, in conferring jurisdiction on the county courts to open and alter public roads, has always paid a proper respect to the obligations imposed by the Constitution of the United States, by provisions that the courts should not have the power of discontinuing post roads. The State authorities then possessing the power to open a new road from one place to another,

MARCH, 1818.

Internal Improvements.

H. or R.

but no power to discontinue the old road, which is a post road, the old road which must be kept in repair by expenditures, must be worked by the State or by the United States; if, by the United States, the question is yielded to us, that this Government may employ labor on roads. But, if it be said that the State is bound to work and repair the old road, of no use but as a mail route, it would not only follow that the State subjects itself to an expense and labor to support the revenues of the United States, but, that the right to have these repairs made by the State, existing in this Government, it must, of consequence, possess the correspondent remedy to compel the States to furnish these repairs; and I may safely submit to my colleague, whether he would prefer to suffer, nay, require the United States to work her own post roads, or consent that Virginia should become the humble subaltern of the orders of this Government, and receive its mandates to work the post roads.

Although I cannot agree with my honorable colleague (Mr. TUCKER) that the assent of the States is essential to the exercise of our power to construct roads, I deem such assent as material whenever the expediency of exercising the power shall come in question; and I shall indeed vote for the proposition of my colleague, that we have the power with the assent of the States; for, if we have the power without the assent of the States, we surely have it when they assent.

On first reading the able and ingenious report of the select committee, I withheld my assent to the distinction it advances as to the different rules of interpretation which ought to pervade dissimilar provisions of the Constitution; as, that onerous powers of the Government ought to be strictly construed, whilst beneficial powers should admit of a more liberal interpretation. But, by more mature reflection, I am convinced, that whatever, in a compact, is for the equal and common advantage of all the parties, may justly be interpreted more liberally than more odious clauses, which impose burdens and hardships on one of the parties. And conceiving that national improvements tend to the benefit of all, I yield my assent to those who liberally expound our great charter; and instead of detaining the Committee with self-made arguments on this topic, I must beg leave to refer them to the second book of Vattel, chapter seventeenth, the authority of which will surely be admitted by gentlemen who are determined to view our Constitution as an international treaty.

I will no longer detain the Committee, but by way of conclusion must enter my protest against the scheme of interpreting the Constitution by what gentlemen are pleased to call an invocation of the principles of the revolution of 1798. This invocation is adverse to the just and liberal views which have hitherto characterized this Congress, and, without adverting to the merits or demerits of either of the old parties, it may be said that the annals of contending factions cannot be relied on as furnishing correct illustrations of political truths; and for myself at least, I must say,

that in this, as in every other question, I choose to rely on my own judgment.

Mr. ORR, of Massachusetts, said, that, in rising on the present occasion, he was well aware of the danger of having imputed to him a great degree of insensibility, or a still greater degree of assurance—for, he had long since observed, that the patience of the Committee was exhausted. And he could assure the Committee, that he should not have entered into the debate at this late stage of it, had he felt convinced that no further argument, in opposition to the resolutions on the table, could be urged; but, the subject was, in its nature, complex, and admitted of great diversity of illustration; and, notwithstanding it had been ably argued by the honorable gentlemen who had preceded him on the same side, he could not feel reconciled to giving a silent vote.

In all that has been urged in argument, in support of the power contended for, no gentleman, said Mr. O., has condescended to inform us, what are the nature and character of that power. It has been generally said to be a resulting power, an incidental power. But this is no definition that conveys any distinct idea of its nature, its political bearing on society, its rank in the register of State authorities. Then, sir, as this has not been done, I will venture to assign it a name and a rank; and I do, without hesitancy, pronounce it to be nothing short of a substantive attribute of supremacy, of high State prerogative—a power to turn rivers from the channels which nature has assigned to them, and to subvert the soil of the citizen, and convert it to public use, without his consent, express or implied. It is the same degree of power as that, which can take the life of an offender against public justice, confiscate his estate, subject him to attainder and corruption of blood. This being the nature of the power contended for by the advocates of the resolutions, by whatever mode of reasoning they may have arrived at the consciousness that Congress possess it, I will proceed, said Mr. O., to examine whether it is, in reality, to be found in the Constitution. But, before I examine that, I will avail myself of the sentiments expressed by the honorable gentleman from Virginia, (Mr. PINDALL,) who has just sat down, that the best mode of understanding the force of terms, the weight of precepts and precedents, is to have recourse to contemporaneous expositions of the things to which they are applied; to this I fully assent—for terms may change with time, while particular subjects, to which they apply, admit of no change. And I go still farther, sir; we may go even behind contemporaneous exposition of precepts and precedents, as applicable to maxims of State government; and, on the present occasion, I feel it to be necessary, not only to refer to the character of our statesmen at the time of the formation of the Constitution—but the origin and progress of that political science which brought it into existence. I proceed, then, to the foundation of our political institutions: these were the ancient charters of our ancestors, first of Virginia, then of Plymouth, and others in succession; and it is



well worthy of remark, that almost all the defined powers of Parliament were conveyed in these charters to the colonies, by the Crown, in right of prerogative. Parliament had no power, either over the emigrants or the soil, and the Crown exercised a power towards both, that could not be exercised towards soil or subject, within the Kingdom; but in addition to Parliamentary powers, even Crown prerogatives were conferred on the colonists; and, with these chartered privileges, they commenced in the New World the operations of Government, each within prescribed limits of jurisdiction. From these grants, there was originally scarce anything left for the Crown, and, I should say, nothing at all for Parliament. Allegiance was due and acknowledged, but all powers essential to the internal government of the people, were, by them, exercised by their respective grants of territory and jurisdiction; their power to make laws were ample; and they extended as well to all jurisdictions, liberties, privileges, immunities and franchises, as to soil and person. Here, then, sir, is the origin, of the power to make roads and canals; the power to create corporations; the power to govern within the colonial limits, and even to carry on war. It is not to conquest, to the revolution, these powers are assignable—they originated in grant, and were imbedded into system—they were in full operation, till usurpation embarrassed them, and then came the Revolution, and snatched from the Crown the brightest ornament in the colonial wreath. Allegiance and fidelity were no longer due. It matters not, that the charters were occasionally infringed, altered, and even cancelled. The maxims of government were the same—once adopted, they were always retained through every scene of adversity. In the Plymouth colony, which led the way in the North, and was similar in its government to all in its vicinity, their ordinances respecting the laying out of roads, and their proceedings under them, were among their early acts of power; and the principle then adopted, as a rule between the public and the individual whose lands might be taken, has never been essentially changed. It is unnecessary to proceed further to show the origin and exercise of the power. The other colonies, under various modifications, enjoyed the same essential rights by charter, and exercised the same powers in virtue of it. Well, sir, the declaration of our independence acknowledged all these organized bodies to be free, sovereign, and independent States. All the attributes of government were theirs, and they were sustained by a people accustomed to exercise them with all the ability incident to political experience, and continued so to be exercised till the adoption of the Constitution, under which you are now legislating. Well, sir, let me ask, if any of the framers of the Constitution could ever have imagined, educated, as they were, in the school of politics, that the power to divert rivers to artificial courses, to lay open the enclosures of individuals for roads, from one end of the State to the other, without their consent, express or implied, passed into the hands

of Congress by implication? Is the power contended for inferior in degree to any that is expressly granted in the Constitution? And can one power of equal degree result from another? It has not been contended by the advocates of the resolutions, that any but the supreme arm of State can effect the purposes contemplated—indeed, it cannot be contended.

In looking into the specified powers granted to Congress, there appears to be great precision used, and even minuteness, that nothing substantive might be left to incident. It was not sufficient to give the power to declare war and leave the raising of armies to be inferred, but both powers are expressly given, and, yet how very intimate is the connexion! The great objects of the powers granted, were but few. The derangement of the internal police of the States was as much as possible guarded against, consistently with the attainment of revenue, the control of our relations abroad, and of physical force at home.

But, if it could be for a moment doubtful, whether the power contended for be incidentally given in the specified powers, it seems to me, that the ninth and tenth articles of the amendments of the Constitution might put the question at rest. And, I will take the liberty, Mr. Chairman, to read them, for, there is not a word of them but what is weighty. "The enumeration, in the Constitution, of certain rights, shall not be construed to deny, or disparage others retained by the people." "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Now, sir, permit me to inquire if these amendments were not well understood, in their import, by those who use them. "The enumeration of certain rights shall not impair others retained by the people." What are rights retained by the people? Their soil and their rivers, or they have no rights. The gifts of nature are theirs. The soil, secured to them by their charters, by the common law, by the constitutions and laws of the States, is theirs; and, Congress has no legitimate power to lay a hand upon it; it would be an act of usurpation. I take the liberty to use the word usurpation, for the honorable gentleman from Virginia, on my right, (Mr. NELSON,) of far greater experience than myself, has set me the example, and, indeed, in my opinion, it is the most apt word that can be selected. Again, sir, the powers not delegated are reserved to the States, or the people. What powers are here meant? State powers, certainly—powers perfectly familiar to those who adopted the language, but, more especially, to those who proposed this amendment; both these amendments were recommended in substance, as well as many others which were not adopted, by the State conventions. The meaning, therefore, cannot be doubtful. Thus, then, the rights and powers relating to the subjects, embraced in the resolutions on your table, belong, expressly and exclusively, to the States and the people.

If, yet, however, there remains a doubt, I will

proceed still further, in my endeavors to remove it. I trust it will not be contended, by any of the honorable gentlemen opposed to me, that, if the framers of the Constitution, upon a proposition to insert any specific additional power, rejected that proposition, still, that power might be inferred. I speak, now, of sovereign power, as great as that which is contemplated by the resolutions under discussion. If I am right, in this supposition, I persuade myself, that the Committee may be brought to pause, before they adopt the resolutions. For, at the time of the making of the Constitution, a distinct proposition was made, to give Congress the power to make canals, and the proposition was rejected. In the written arguments, between Mr. Jefferson and Mr. Hamilton, on the bank question, in 1791, it was contended, by the former, then Secretary of State, that the power to incorporate the bank was unconstitutional, and stated the rejected proposition to be broader than was admitted by his opponent, but the Secretary of the Treasury, Mr. Hamilton, admitted, that a proposition to give Congress power to make canals had been rejected. And, yet, by construction, we are to derive a power, not only not granted, but expressly withheld, in the amendments of the Constitution, which I have before spoken of, and which, from extraneous evidence of facts which transpired in the body that framed our Constitution, it is most apparent, was never intended to be given. Sir, it is singular, that a lapse of thirty years should have made it to appear, that the men, in whose wisdom the nation put great confidence, were really ignorant of what they had done, and that powers then clearly and expressly withheld are not as clearly conferred by the Constitution, by implication. "Words are things," said the famous Mirabeau, and, whenever that is the case, I shall conclude that words have ceased to be the true signs of things.

But, in order to obviate all difficulties, you propose to exercise the power with the consent of the respective States, and that they shall have jurisdiction over the property taken for public use. By the word "State" in the resolutions, is meant the State Legislatures. Now, it seems never to have entered into the inquiry of any of the honorable gentlemen opposed to me, whether or not the State Legislatures have the power ascribed to them. This is taken for granted, and it is certainly the easiest way of proceeding with the argument. But, I am induced to call on the honorable gentleman from Virginia (Mr. PINDALL) to show me the constitution of any one of the States in the Union, which, upon any fair construction, enables its legislature to transfer any of the appropriate functions of the State authorities to Congress. And, if any one such constitution could be produced, I should call for one after another, till the whole twenty were found to contain the requisite provisions, for, if one should be deficient, your whole plan is partial and impracticable. If, however, the gentlemen still prefer to assume for the State Legislatures, this power, as being contained in their constitutions, I will venture upon the task of controverting the facts

thus assumed. The constitution of a single State is sufficient. I will select that of Connecticut. And what is that constitution? The charter of Charles the Second. Now, sir, this charter contains no provision whatever that would authorize the Legislature of that State to negotiate the functions of the constituted authorities of that State to the Congress of the United States. And, it is equally vain to look into any other State constitution that has come within my notice for any such power, express or implied. But, it has been contended, by the honorable Speaker, that the consent of the State is not necessary to the exercise of the power, and other gentlemen have advanced the same doctrine, while, yet, other honorable gentlemen, on the same side, insist on the necessity of State consent. If, indeed, the consent contemplated is not essential to the power, it would seem hardly necessary to be passing legislative compliments with the States, on the subject; and, I apprehend, such a course is not merely harmless. For, as was observed on a former day, by the honorable gentleman from Virginia, on my left (Mr. SMYTH) with great truth, you hold up your purse to the State Legislatures, as a temptation. And, what is the Legislature to do, in such a case? They must either violate the trust reposed in them by their constituents, or take your assumed construction of their constitution, and accept your *bonus*.

Sir, before engaging in this kind of legislation, they should tear up their constitutions, and give them to the winds, and your decrees should be their rule of action. But suppose, Mr. Chairman, that some of the Legislatures, by the high authority of a decision of Congress to guide them—the *bonus* being also set before them—should determine that by their constitutions they really have the legislative and conventional powers ascribed to them, and should actually pass such a law as is contemplated; the members of such a Legislature, it is to be recollected, are not the beings of a day; and the people, dissatisfied with their past conduct, might return others in their place, and these repeal the law of the former—what would then be your answer to the second, the repealing law? It would be this: that the first law was a contract, and that the second, repealing it, would impair the obligation of that contract, and would be void by the Constitution. Thus, by the act of a single Legislature, elected for a year, you determine the destinies of the citizens and State governments on this subject forever. It has been strongly contended by the honorable gentleman from Virginia, before me, that legislative precedents ought to have weight; and, in the sense in which he has explained the subject, I do not dissent from the doctrine. Precedents that infringe no right may well be a rule of legislative economy; but precedents against the exercise of power are very insignificant; precedents against power are vanity—a mere gossamer. No regard is generally had to such precedents. But, what are precedents in favor of power—assumed power? These are the bolts—the rivets of chains—and are difficult to be broken by the



H. of R.

Internal Improvements.

MARCH, 1818.

arm of legitimate authority. When they yield, it is commonly to the strong power of insurrection.

But, with regard to precedents applicable to the present subject, none have been adduced which seem to me to be appropriate. The laws establishing the banks have been referred to, but they have no analogy to the present case; and if they had, there has been no consistency of decisions on the subject. The decisions are both ways, and therefore go for nothing, even if legislative precedent could be for a moment admitted to determine the construction of the Constitution. With regard to the bank, it is unnecessary to admit or deny its constitutionality, in discussing the present subject. I observe that some of the State Legislatures propose taxing the stock. In the practical operation of the bank, there is no doubt it is injurious to State institutions of the same kind, as its branches are extended through the States of the Union. Similar State institutions in Massachusetts have yielded a revenue of fifteen thousand dollars, from a tax laid on their capital stock, which has been applied to the support of her literary institutions, while the Branch Bank of the United States is free from such a tax. I will not digress further from the subject, but return for a moment to the subject of precedents; not because I consider it intrinsically important, but because it has been urged upon the consideration of the Committee with great zeal and ardor. The Cumberland road has been adduced, and for aught appears, the law respecting it passed without a moment's consideration upon the constitutionality of the measure; and if so, it is entitled to no weight whatever. The purchase of Louisiana is in no point analogous. The express powers of making war and peace render the acquisition of lands, without the limits of the States, subject to the rules of war and of the treaty-making power. The design of war is conquest, and an enemy is to be followed into his own dominions, if practicable and necessary, and his territory is acquired by force, by the laws of war, which Congress have an express power to declare. The war ceases in virtue of the treaty-making power, and it is in virtue of this also that the conquered or other lands may be ceded for the benefit of the people. There is another kind of precedent alluded to, as well in the report as by gentlemen in argument, the expenditure of money for charities, public buildings, books, ornaments. It is not certain that the trustees of the public money have always applied it to the best possible purposes. But there is a sensible difference between applying it to improvident or useless purposes, and employing it to assume power and subvert right. The difference is easy of illustration. If I employ a factor to dispose of my chattels, and vest the proceeds in stocks, it is merely a breach of trust, if he apply the money in schemes of his own devising; but, if he employ the money to subvert my soil, and divert my water-courses, this is a violation of my rights. Yet, both of us might agree to this intermeddling with the soil and the streams, when there was an outstanding title in the estate, a mortgage, or

other beneficial interest; and if the proprietor of that interest should neither be consulted nor regarded, his rights would be violated. And this, sir, is precisely the case before the Committee. The people would have no rights, but in Congress and the State Legislatures, according to the doctrine contended for, and still the Constitution determines it to be otherwise.

Sir, there is no agreement among the advocates of the resolutions on your table. Some find the power contended for in almost all parts of the Constitution; some find it absolute, others incidental; to provide for the common defence and general welfare, gives it; to make and carry on war, gives it; to regulate commerce, and to establish post offices and post roads, give it. The honorable Speaker has contended, that the power to establish post offices and post roads, is the power to make them. But I cannot accede to this doctrine. I cannot, consistently with the dignity of this body, condescend, Mr. Chairman, to quibble about the word establish. I will attempt a fair explanation of it: The subjects to which it may, with propriety, be applied, must determine its import. Its most common and appropriate application is, to particular modes, accidents, or qualities, of things existing. But it can seldom, if ever, with propriety, be applied to the formation of things, by mechanical or other manual labor. You would not ask an artificer to establish you a ship, a coach, a suit of clothes. Neither, when a law is passed or made by Congress, can it be said, with any propriety of language, that the law is established. But, if a point in dispute, arising out of that law, should be decided in a court of justice, the law upon that point would be established. There have also been adduced, from the Constitution itself, instances of the use of this word, to show it to be synonymous with make or construct. The first instance that occurs, is in the preamble, where it is declared, that the Constitution is formed, among other things, to "establish justice." It must be obvious, at first thought, that justice is of higher origin and greater antiquity, than the Constitution; and, when courts of justice are said to be established, the meaning is, that a quality is conferred on men, to try causes, and establish points of law. The plain meaning of this clause of the Constitution, according to my understanding of it, is, that certain towns and villages shall be designated in parts of the country where civilized society resides, and such society shall be accommodated with a conveyance by the public agents for their letters and newspapers. They are entitled to this beneficence no longer than their roads will admit of it.

As to the power to regulate commerce, I cannot perceive how the power contended for results from that, especially as there would be no limit to your results; for public markets, corporations with particular privileges, and commercial wants, with an infinity of other resulting powers, would necessarily follow in succession. The first would be usurpation, and then another, and another. At the first, therefore, I should say, stand off. I will

MARCH, 1818.

Internal Improvements.

H. of R.

suppose, however, that your road was actually made and furnished with all its agents, superintendents, surveyors. The State is to have jurisdiction over it; they shall punish felonies and misdemeanors committed upon it. But what is to be done if the State suffers obstructions to be erected upon your road, and neglect to interpose their authority? You will then send a platoon, I suppose, to supply the place of authority. Again, what character is your road to have? Is it not to be the highway of the United States, and a proper subject of negotiation as to its use, in exchange for an equivalent? To facilitate commerce in peace, and approaches in war, your road is made from Maine to Canada, it may be supposed, altogether commodious for passing between New Brunswick and Canada. Will you grant the use of it, by treaty, for British troops, passing between the two colonies, in exchange for some advantage of commerce to the West Indies? Then, should the standard of revolt be raised in the Canadas, your road, and its borders, would be turned into a theatre of warfare, and that in direct violation of Constitutional rights. In time of war, let the laws of war govern; in peace, prepare for it by Constitutional means only. It is sufficient to resort to the law of necessity when all others are insufficient. The close of the long series of calamities which have passed in succession before us, seems not to require any unusual, any untried schemes of aggrandizement of power. In pursuit of these objects, we have seen the Old World in constant convulsions for more than twenty years. The passions of men were there moulded to a ferocity exceeding the fiercest tenant of the forest. Human sacrifice, by human hands, was the ordinary work of the day—it was brought into system. Justice and humanity ceased to be the signs of merit. Ambition swallowed up all subordinate sensations of the heart, and the air was constantly rent with shouts and acclamations of victorious war, while the earth groaned with the miseries of the fallen. In fine, sir, the genius of destruction, the destroying angel, was commissioned and let loose upon the world; and, from the burning deserts of the South, to the frozen regions of Siberia; from the Indies to the western limit of the Old World, all felt the vengeance of his arm, the blast of his wings. But the Old World was too narrow for the fulfillment of his commission. We have seen him on the ocean, a witness to scenes of conflict, when our own approached an enemy's ship, close and terrible, but in no measure doubtful. We have seen him on our Atlantic shores; in the North; in the West. And here, sir, in our own dominions, his dread commission was closed—and it may be said, without imputation of ostentation, that he imprinted the word "victory" on our national banner, and retired from the world. All was instantly a calm. We look back on the mighty spectacle without the power to grasp it, even by the efforts of imagination. We are confounded by the awful grandeur of realities in history, which have been witnessed in our own days. No period since the existence of the world

is to be named with it, and none can be imagined as probable in future ages. In the calm of the present moment, we are called upon to legislate, as if another similar period were at hand. Sir, I repeat, I would always be prepared for war, but prepared according to the dictates of sound discretion, in apportioning the means to the occasion. But especially would I avoid even the appearance of encroachment on vested rights, when the imperious law of necessity makes no demand of it.

I do not consider, Mr. Chairman, that the stipulation in your resolutions to give an equivalent for the property you may take, in the exercise of the power contemplated, is of the smallest importance. There can be no equivalent for rights seized upon. The laws of the respective States have established the mode, the process by which the individual may be divested of the use of his property for the public benefit, and, by the constitutions and laws of some of the States, there are some kinds of privileged property which cannot be taken in the ordinary administration of such constitutions and laws. The right, to be heard in the courts established to adjudicate on this subject, is a vested right in every individual.

I have hardly thought it necessary to advert to arguments founded on a supposed analogy, between expending money for building light-houses, purchasing a library, paintings, and making charitable or honorary gifts to the proposed objects of expenditure in the resolutions. Sir, there is no exercise of power in all this, that may not be exercised by an individual. He may build a house and ornament it, or he may place it on a promontory and light it up in the night for the benefit of the merchant and mariner; but there is really nothing of analogy, that I can perceive, in the nature of the case.

Mr. Chairman, I will touch but one subject more, and that briefly. The measure in contemplation, if carried into effect, must pervade the whole system of State and municipal authorities, and impair the vested rights of innumerable corporations, who have virtually the faith of their States pledged not to admit so powerful a competition as the Congress of the United States to the exercise of the functions of those institutions. The honorable Speaker has seen fit to introduce the letter of the "Father of his Country" to the President of Congress, stating, among other things, that the Convention had kept in view "the consolidation of our Union." Sir, the consolidation of our Union is essentially different from a consolidation of the States and their definite powers—the one is the cement of your marble, the other the chemical process that dissolves it to a rude unformed mass. I agree with the honorable Speaker, that we are one family, and that the good of all is to be consulted. But, sir, it is never to be forgotten, that we are a family by affinity, and inhabit distinct apartments of the political edifice. You hold the upper loft of the same edifice. I would be cautious of enlarging the avenues to these different apartments now harmoniously governed by their occupants; but, espe-



H. OF R.

Internal Improvements.

MARCH, 1818.

cially, I would not remove the partitions, for in this operation even the pillars must be swept away, and your superstructure fall into ruins. From these ruins would be moulded, by the hand of faction, a stupendous despotism, splendid in armor, but terrific in aspect, gigantic in power, relentless in the exercise of it; every voice that should be heard in support of our expiring liberties would be silenced; every arm that should be raised in their defence would be paralyzed—smitten off.

I would, therefore, not venture hastily on experiments which tend to blend or confuse the power of our political institutions; but, with a scrupulous care, would leave no means untried to protect all, and hand down to posterity that great body of National and State rights and privileges, which we have derived from the wisdom, the valor, and the blood of our fathers.

Mr. CLAY said, that he had been anxious to catch the eye of the Chairman for a few moments, to reply to some of the observations which had fallen from various gentlemen. He was aware that, in doing this, he risked the loss of what was of the utmost value—the kind favor of the House, wearied as its patience was by this prolonged debate. But, when he felt what a deep interest the Union at large, and particularly that quarter of it whence he came, had in the decision of the present question, he could not omit an opportunity of earnestly urging upon the House the propriety of retaining the important power which that question involved. It will be recollected, said Mr. C., that, if unfortunately there should be a majority both against the abstract proposition asserting that power, and against its practical execution, the power is gone forever—the question is put to rest so long as the Constitution remains as it is, and with respect to any amendment, in this particular, he confessed he utterly despaired. It would be borne in mind, that the bill which passed Congress on this subject at the last session, had been rejected by the late President of the United States; that, at the commencement of the present session, the President had communicated his clear opinion, after every effort to come to a different conclusion, that Congress did not possess the power contended for, and had called upon us to take up the subject in the shape of an amendment to the Constitution; and, moreover, that the predecessor of the present and late President had also intimated his opinion that Congress did not possess the power. With the great weight and authority of the opinions of these distinguished men against the power, and with the fact, solemnly entered upon the record, that this House, after a deliberate review of the ground taken by it at the last session, had decided against the existence of it, (if such fatally should be the decision,) the power, he repeated, was gone, gone forever, unless restored by an amendment to the Constitution. With regard to the practicability of obtaining such an amendment, he thought it altogether out of the question. Two different descriptions of persons, entertaining sentiments directly opposed, would unite and defeat such an

amendment; one embracing those who believed that the Constitution, fairly interpreted, already conveys the power, and the other, those who think that Congress have not, and ought not to have it. As a large portion of Congress, and probably a majority, believed the power already to exist, it must be evident, if he were right in supposing that any considerable number of that majority would vote against an amendment which they did not believe necessary, that any attempt to amend would fail. Considering, as he did, the existence of the power as of the first importance, not merely to the preservation of the Union of the States, paramount as that consideration ever should be over all others, but to the prosperity of every great interest of the country, agriculture, manufactures, commerce, in peace and in war, it becomes us, said Mr. C., solemnly, and deliberately, and anxiously, to examine the Constitution, and not to surrender it, if fairly to be collected from a just interpretation of that instrument.

With regard to the alarm sought to be created, as to the nature of the power, by bringing up the old theme of "State rights," he would observe, that if the illustrious persons just referred to were against us in the construction of the Constitution, they were on our side, as to the harmless and beneficial character of the power. For it was not to be conceived that each of them would have recommended an amendment to the Constitution, if they believed that the possession of such a power by the General Government would be detrimental, much less dangerous to the independence and liberties of the States. What real ground was there for this alarm? Gentlemen had not condescended to show how the subversion of the rights of the States was to follow from the exercise of the power of internal improvements by the General Government. We contend for the power to make roads and canals to distribute the intelligence, force, and productions of the country through all its parts; and for such jurisdiction only over them as is necessary to their preservation from wanton injury, and from gradual decay. Suppose such a power is maintained, and in full operation; imagine it to extend to every canal made or proposed to be made, and to every post road, how inconsiderable and insignificant is the power, in a political point of view, limited as it is with regard to place and to purpose, when contrasted with the great mass of powers retained by the State sovereignties! What a small subtraction from that mass! Even upon those roads and canals the State governments, according to our principles, would still exercise jurisdiction over every possible case arising upon them, whether of crime or of contract, or any other human transaction, except only what immediately affected their existence and preservation. Thus defined, thus limited, and stripped of all factitious causes of alarm, Mr. C. would appeal to the dispassionate candor of gentlemen to say, if the power really presented anything frightful in it? With respect to post roads, our adversaries admit the right of way in the General Government.

MARCH, 1818.

Internal Improvements.

H. OF R.

There had been, however, on this question some instances of conflict, which had passed away without any serious difficulty. Connecticut, if he had been rightly informed, had disputed, at one period, the right of passage of the mail on the Sabbath. The General Government persisted in the exercise of the right, and Connecticut herself, and everybody else, acquiesced in it.

The gentleman from Virginia (Mr. H. NELSON) has contended, Mr. C. continued, that I do not adhere, in the principles of construction which I apply to the Constitution, to the republican doctrines of 1798, of which that gentleman would have us believe he is the constant disciple. Let me call the attention of the Committee to the celebrated State paper to which we both refer for our principles in this respect—a paper which, although I had not seen it for sixteen years until the gentleman had the politeness to furnish me with it during this debate, made such an impression upon my mind, that I shall never forget the satisfaction with which I first perused it. I find that I had used, without having been aware of it, when I formerly addressed the Committee, almost the identical language employed by Mr. Madison in that paper. It will be recollected that I claimed no right to exercise any power under the Constitution, unless such power was expressly granted, or necessary and proper to carry into effect some granted power. I have not sought to derive the power from the clause which authorizes Congress to appropriate money. I have been contented with endeavoring to show, that according to the doctrines of 1798, that according to the most rigid interpretation which any one will put upon the instrument, it is expressly given in one case, and fairly deducible in others. [Here Mr. C. read sundry passages from Mr. Madison's report to the Virginia Legislature of an answer to the resolutions of several States, concerning the alien and sedition laws, showing that there were no powers in the General Government but what were granted, and that, whenever a power was claimed to be exercised by it, such power must be shown to be granted, or to be necessary and proper to carry into effect one of the specified powers.] It would be remarked, Mr. C. said, that Mr. Madison, in his reasoning on the Constitution, had not employed the language fashionable during this debate; he had not said that an implied power must be absolutely necessary to carry into effect the specified power, to which it is appurtenant, to enable the General Government to exercise it. No! Mr. C. said, this was a modern interpretation of the Constitution. Mr. Madison had employed the language of the instrument itself, and had only contended that the implied power must be necessary and proper to carry into effect the specified power. He had only contended that when Congress applied its sound judgment to the Constitution, in relation to implied powers, it should be clearly seen that they were necessary and proper to effectuate the specified powers. These, said Mr. C., are my principles; but they are not those of the gentleman from Virginia and his friends on this occasion.

They contend for a degree of necessity absolute and indispensable, that by no possibility could the power be otherwise executed.

That there are two classes of powers in the Constitution, Mr. C. believed never to have been controverted by any American politician. We cannot foresee and provide specifically for all contingencies. Man and his language are both imperfect. Hence, the existence of construction, and of constructive powers. Hence, also, the rule that a grant of the end is a grant of the means. If you amend the Constitution a thousand times, the same imperfection of our nature and our language will attend your new works. There are two dangers to which we are exposed. The one is, that the General Government may relapse into the debility which existed in the old Confederation, and finally dissolve from the want of cohesion. The denial to it of powers plainly conferred, or clearly necessary and proper to execute the conferred powers, may produce this effect. And, I think, with great deference to the gentlemen on the other side, this is the danger to which their principles directly tend. The other danger is, that of consolidation by the assumption of powers not granted nor incident to granted powers—the assumption of powers which have been withheld or expressly prohibited. This was the danger of the period of 1798–9. For instance, in that direct contradiction to a prohibitory clause of the Constitution, a sedition act was passed; and an alien law was also passed, in equal violation of the spirit, if not of the express provisions of the Constitution. It was by such measures that the Federal party, (if parties might be named,) throwing off the veil, furnished to their adversaries the most effectual ground of opposition. If they had not passed those acts, he thought it highly probable that the current of power would have continued to flow in the same channel; and the change of parties in 1801, so auspicious to the best interests of this country, as he believed, would never have occurred.

Mr. C. begged the Committee—he entreated the true friends of the confederated Union of these States—to examine this doctrine of State rights, and see to what abusive, if not dangerous, consequences it may lead, to what extent it had been carried, and how it had varied by the same State at different times. In alluding to the State of Massachusetts, he assured the gentlemen from that State, and particularly the honorable chairman of the committee to whom the claim of Massachusetts had been referred, that he had no intention to create any prejudice against that claim. He hoped that, when the subject was taken up, it would be candidly and dispassionately considered, and that a decision would be made on it consistent with the rights of the Union and of the State of Massachusetts. The high character, amiable disposition, and urbanity of the gentleman (Mr. MASON, of Massachusetts) to whom he had alluded, would, if he had been otherwise inclined, prevent him from endeavoring to make impressions unfavorable to the claim whose justice that gentleman stands pledged to



H. or R.

Internal Improvements.

MARCH, 1818.

manifest. But, in the period of 1798-9, what was the doctrine promulgated by Massachusetts? It was, that the States, in their sovereign capacities, had no right to examine into the Constitutionality or expediency of the measures of the General Government. [Mr. C. here quoted several passages from the answer of the State of Massachusetts to the Virginia and Kentucky resolutions concerning the alien and sedition laws, to prove his position.] We see here an express disclaimer, on the part of Massachusetts, of any right to decide on the Constitutionality or expediency of the acts of the General Government. But what was the doctrine which the same State, in 1813, thought proper to proclaim to the world, and that too when the Union was menaced on all sides? She not only claimed, but exercised, the right which, in 1799, she had so solemnly disavowed. She claimed the right to judge of the propriety of the call made, by the General Government, for her militia, and she refused the militia called for. There was so much plausibility in the reasoning employed by that State in support of her modern doctrine of "State rights," that, were it not for the unpopularity of the stand she took in the late war, or had it been in other times and under other circumstances, she would very probably have escaped a great portion of that odium which has most justly fallen on her lot. The Constitution gives to Congress power to provide for calling out the militia to execute the laws of the Union, to suppress insurrections and to repel invasions, and in no other cases. The militia is called out by the General Government, during the late war, to repel invasion. Massachusetts said, as you have no right to the militia but in certain contingencies, she was competent to decide whether those contingencies had or had not occurred. And, having examined the fact, what then? She said all was peace and quietness in Massachusetts, no non-execution of the laws, no insurrection at home, no invasion from abroad, nor any immediate danger of invasion. And, in truth, Mr. C. said, he believed there was no actual invasion for nearly two years after the requisition. Under these circumstances, had it not been for the supposed motive of her conduct, he asked if the case which Massachusetts made out would not be extremely plausible?

Mr. C. said he hoped it was not necessary for him to say that it was very far from his intention to convey anything like approbation of the conduct of Massachusetts. No! his doctrine was, that the States, as States, have no right to oppose the execution of the powers which the General Government asserts. Any State has undoubtedly the right to express its opinion, in the form of resolution or otherwise, and to proceed, by Constitutional means, to redress any real or even imaginary grievance; but it has no right to withhold its military aid, when called upon by the high authorities of the General Government, much less to obstruct the execution of a law regularly passed. To suppose the existence of such an alarming right, is to suppose, if not dis-

union itself, such a state of disorder and confusion as must inevitably lead to it.

Mr. C. said, that, greatly as he venerated the State which gave him birth, and much as he respected the judges of its supreme court, several of whom were his personal friends, he was obliged to think that some of the doctrines which that State had recently held concerning State rights, were fraught with much danger. Had those doctrines been asserted during the late war, and related to the means of carrying on that war, a large share of the public disapprobation which has been given to Massachusetts, might have fallen on Virginia. What were these doctrines? The courts of Virginia have asserted that they have a right to determine on the Constitutionality of any law or treaty of the United States, and to expound them according to their own views, even if they should vary from the decision of the Supreme Court of the United States. They have asserted more—that from their decision there could be no appeal to the Supreme Court of the United States, and that there exists in Congress no power to frame a law, obliging the court of the State, in the last resort, to submit its decision to the supervision of the Supreme Court of the United States; or, if he did not misunderstand the doctrine, to withdraw from the State tribunals controversies involving the laws of the United States, and to place them before the Federal Judiciary. I am a friend, said Mr. C., a true friend to State rights; but not in all cases as they are asserted. The States have their appointed orbit; so has the Union; and each should be confined within its fair, legitimate, and Constitutional sphere. We should equally avoid that subtle process of argument which dissipates into air the powers of this Government, and that spirit of encroachment which would snatch from the States powers not delegated to the General Government. We shall thus escape both the dangers I have noticed—that of relapsing into the alarming weakness of the Confederation, which was described as a mere rope of sand, and also that other, perhaps not the greatest danger, consolidation. No man deprecates more than I do, the idea of consolidation; yet, between separation and consolidation, painful as would be the alternative, he should greatly prefer the latter.

Mr. C. would now proceed to endeavor to discover the real difference, in the interpretation of the Constitution, between the gentlemen on the other side and himself. It was agreed that there was no power in the General Government but that which is expressly granted, or which is impleable from an express grant. The difference, then, must be in the application of this rule. The gentleman from Virginia, who has favored the House with so able an argument on the subject, had conceded, though somewhat reluctantly, the existence of incidental powers; but he contended that they must have a direct and necessary relation to some specified power. Granted. But who is to judge of this relation? And what rule can you prescribe different from that which the Constitution has required, that it should be ne-

MARCH, 1818.

Internal Improvements.

H. or R.

cessary and proper? Whatever may be the rule, in whatever language you may choose to express it, there must be a certain degree of discretion left to the agent who is to apply it. But gentlemen are alarmed at this discretion, that law of tyrants, on which they contend there is no limitation. It should be observed, in the first place, that the gentlemen are necessarily brought, by the very course of reasoning which they themselves employ, by all the rules which they would lay down for the Constitution; to cases where discretion must exist. But is there no limitation, no security against the abuse of it? Yes, there is such security in the fact of our being members of the same society, equally affected ourselves by the laws we promulgate. There is the further security in the oath which is taken to support the Constitution, and which will tend to restrain Congress from deriving powers which are not proper and necessary. There is the yet further security, that at the end of every two years the members must be amenable to the people for the manner in which their trust has been performed. And there remains also that further though awful security, the last resort of society, which he contended belonged alike to the people and the States in their sovereign capacity, to be exercised in extreme cases, and when oppression becomes intolerable, the right of resistance. Take the gentleman's own doctrine, (Mr. BARBOUR,) the most restricted which had been asserted, and what other securities have we against the abuse of power than those which I have enumerated? Say that there must be an absolute necessity to justify the exercise of an implied power, who is to define that absolute necessity, and then to apply it? Who is to be the judge? Where is the security against transcending that limit? The rule the gentleman contends for has no greater security than that insisted upon by us. It equally leads to the same discretion—a sound discretion, exercised under all the responsibility of a solemn oath; of a regard to our fair fame; of a knowledge that we are ourselves the subjects of those laws which we pass; and, lastly, of the right of resisting insupportable tyranny. And by way of illustration, Mr. C. said, that if the sedition act had not been condemned by the indignant voice of the community, the right of resistance would have accrued. If Congress assumed the power to control the right of speech, and to assail by penal statutes that greatest of all the bulwarks of liberty, the freedom of the press, and there were no other means to arrest their progress, but that to which he had referred, lamentable as would be the appeal, such a monstrous abuse of power, he contended, would authorize a recurrence to that right.

If, then, the gentlemen on the other side and himself differed so little in their general principles, as he thought he had shown, he would proceed for a few moments to look at the Constitution a little more in detail. I have contended, said Mr. C., that the power to construct post roads is expressly granted in the power to establish post roads. If it be, there is an end to the

controversy; but if not, the next inquiry is, whether that power may be fairly deduced by implication from any of the specified grants of power. To show that the power is expressly granted, I might safely appeal to the arguments already used to prove that the word *establish*, in this case, can mean only one thing—the right of making. Several gentlemen had contended that the word had a different sense; and one had resorted to the preamble of the Constitution to show that the phrase "to establish justice," there used, did not convey the power of creation. If the word "establish" was there to be taken in the sense which gentlemen claimed for it, that of adoption or designation, Congress could have had a choice only of systems of justice pre-existing. Would any gentleman contend that they were obliged to take the Justinian code, the Napoleon code, the code of civil, or the code of common or canon law? Establishment means in the preamble, as in other cases, construction, formation, creation.

Let me ask, in all cases of crime, which are merely *malum prohibitum*, if you do not resort to construction, to creating, when you make the offence? By your laws denouncing certain acts as criminal offences, laws which the good of society require you to pass, and to adapt to our peculiar condition, you do construct and create a system of rules, to be administered by the judiciary. But gentlemen say that the word cannot mean *make*; that you would not say, for example, to establish a ship, to establish a chair. In the application of this, as of all other terms, you must be guided by the nature of the subject; and if it cannot properly be used in all cases, it does not follow that it cannot be in any. And when we take into consideration, that, under the old Articles of Confederation, Congress had over the subject of post roads just as much power as gentlemen allow to the existing Government, that it was the general scope and spirit of the new Constitution to enlarge the powers of the General Government, and that, in fact, in this very clause, the power to establish post roads is superadded to the power to establish post offices, which was alone possessed by the former Government, he thought that he might safely consider the argument on this part of the subject as successfully maintained. With respect to military roads, the concession that they may be made when called for by the emergency, is admitting that the Constitution conveys the power. And we may safely appeal to the judgment of the candid and enlightened, to decide between the wisdom of those two constructions, of which one requires you to wait, for the exercise of your power, until the arrival of an emergency, which may not allow you to exert it; and the other, without denying you the power, if you can exercise it during the emergency, claims the right of providing beforehand against the emergency.

One member had stated what appeared to him a conclusive argument against the power to cut canals, that he had understood that a proposition made in the Convention, to insert such a power, was rejected. To this argument more than one



sufficient answer could be made. In the first place, the fact itself had been denied, and he had never yet seen any evidence of it. But, suppose that the proposition had been made and overruled, unless the motives of the refusal to insert it were known, gentlemen were not authorized to draw the inference, that it was from hostility to the power, or from a desire to withhold it from Congress. Might not one of the objections be, that the power was fairly to be inferred from some of the specific grants of power, and that it was therefore not necessary to insert the proposition; that to adopt it, indeed, might lead to weaken or bring into doubt other incidental powers not enumerated? A member from New York, (Mr. STORRS,) whose absence Mr. C. regretted on this occasion, not only on account of the great aid which might have been expected from him, but, from the cause of that absence, had informed him that, in the convention of that State, one of the objections to the Constitution by the anti-Federalists was, that it was understood to convey to the General Government, the power to cut canals. How often, in the course of the proceedings of this House, do we reject amendments, upon the sole ground that they are not necessary, the principle of the amendment being already contained in the proposition?

Mr. C. referred to the *Federalist*, for one moment, to show that the only notice taken of that clause of the Constitution which relates to post roads, was favorable to his construction. The power, that book said, must always be a harmless one. He had endeavored to show not only that it was perfectly harmless, but that every exercise of it must be necessarily beneficial. Nothing which tends to facilitate intercourse among the States, says the *Federalist*, can be unworthy of the public care. What intercourse? Even if restricted on the narrowest theory of gentlemen, on the other side, to the intercourse of intelligence, they deny that to us, since they will not admit that we have the power to repair or improve the way, the right of which they yield us. In a more liberal and enlarged sense of the word, it will comprehend all those various means of accomplishing the object, which are calculated to render us a homogeneous people—one in feeling, in interest, and affection, as we are one in our political relation.

Was there not a direct and intimate relation between the power to make war and military roads and canals? It was in vain that the Convention should have confided to the General Government the tremendous power of declaring war; should have imposed upon it the duty to employ the whole physical means of the nation, to render the war, whatever may be its character, successful and glorious, if the power is withheld of transporting and distributing those means. Let us appeal to facts which are sometimes worth volumes of theory. We have recently had a war raging on all the four quarters of the Union. The only circumstance which gave me pain at the close of that war, the detention of Moose Island, would not have occurred,

if we had possessed military roads. Why did not the Union—why did not Massachusetts make a struggle to reconquer the island? Not for the want of men; not for the want of patriotism, he hoped, but from the want of the physical ability to march a force sufficient to dislodge the enemy. On the Northwestern frontier, millions of money, and some of the most precious blood of the State from which I have the honor to come, were wastefully expended for the want of such roads. My honorable friend from Ohio, (Mr. HARRISON,) who commanded the army in that quarter, could furnish a volume of evidence on this subject. What now paralyzes our armies on the Southern frontier, and occasioned the recent massacre of fifty of our brave soldiers? What but the want of proper means for the communication of intelligence, and for the transportation of our resources from point to point?

Whether we refer to our own experience, or to that of other countries, we cannot fail to perceive the great value of military roads. Those great masters of the world, the Romans, how did they sustain their power so many centuries, diffusing law and liberty, and intelligence all around them? They made permanent military roads; and among the objects of interest which Europe now presents, are the remains of those Roman roads, which are shown to the curious inquirer. If there were no other monument remaining of the sagacity, and of the illustrious deeds of the unfortunate captive of St. Helena, the internal improvements which he made, the road from Hamburg to Basle, would perpetuate his memory to future ages. In making these allusions, let me not be misunderstood. I do not desire to see military roads established for the purpose of conquest, but of defence; and as a part of that preparation which should be made in a season of peace for a season of war. I do not wish to see this country ever in that complete state of preparation for war for which some contend, that is, that we should constantly have a large standing army, well disciplined, and always ready to act. I want to see the bill reported by my friend from Ohio, or some other embracing an effective militia system, passed into a law; and a chain of roads and canals, by the aid of which our physical means can be promptly transported to any required point. These, connected with a small military establishment to keep up our forts and garrisons, constitute the kind of preparation for war, which, it appeared to him, this country ought to make. No man, who has paid the least attention to the operations of modern war, can have failed to remark how essential good roads and canals are to the success of those operations. How often have battles been won by celerity and rapidity of movement? It was one of the most essential circumstances in war. But, without good roads it was impossible! He recalled to the recollection of some of the members the fact that, in the Senate, several years ago, an honorable friend of his, (Mr. BAYARD,) whose premature death he ever deplored—who was an ornament to the

councils of his country, and whom, when abroad, he found the able and fearless advocate of her rights, had, in supporting a subscription which he proposed the United States should make to the stock of the Delaware and Chesapeake Canal Company, earnestly recommended the measure as connected with our operations in war. I listened to my friend with some incredulity, and thought he pushed his argument too far. I had, soon after, a practical evidence of its justness. For, in travelling from Philadelphia, in the Fall of 1813, I saw transporting by Government, from Elk river to the Delaware, large quantities of massy timbers for the construction of the *Guerriere* or the *Franklin*, or both; and judging from the number of wagons and horses, and the number of days employed, I believe the additional expense of that single operation, would have gone very far to complete that canal, whose cause was espoused with so much eloquence in the Senate, and with so much effect, too, bills having passed that body more than once to give aid, in some shape or other, to that canal. With notorious facts like this, was it not obvious that a line of military canals was not only necessary and proper, but almost indispensable to the war-making power?

One of the rules of construction, Mr. C. continued, which had been laid down, he acknowledged his incapacity to comprehend. Gentlemen say that the power in question is a substantive power; and that no substantive power could be derived by implication. What is their definition of a substantive power? Will they favor us with the principle of discrimination between powers which being substantive are not grantable but by express grant, and those which, not being substantive, may be conveyed by implication? Although he did not perceive why this power was more entitled than many implied powers to the denomination of substantive, suppose that he yielded, how did gentlemen prove that it may not be conveyed by implication? If the positions were maintained, which have not yet been proven, that the power is substantive, and that no substantive power can be implied, yet he trusted it had been satisfactorily shown that there was an express grant.

His honorable friend from Virginia (Mr. NELSON) had denied the operation of Executive influence on his mind; and had informed the Committee that from that quarter he had nothing to expect, to hope, or to fear. I did not impute to my honorable friend any such motive. I know his independence of character and of mind too well to do so. But, I entreat him to reflect, if he does not expose himself to such an imputation by those less friendly disposed towards him than myself. Let us look a little at facts. The President recommended the establishment of a bank. If ever there were a stretch of the implied powers conveyed by the Constitution, it has been thought the grant of the charter of the National Bank was one. But the President recommends it. Where was then my honorable friend, the friend of State rights, who

so pathetically calls upon us to repent, in sack-cloth and ashes, our meditated violation of the Constitution; and who kindly expresses his hope that we shall be made to feel the public indignation? Where was he at this awful epoch? Where was that eloquent tongue which we have now heard with so much pleasure? Silent! Silent as the grave!

[Mr. NELSON said, across the House, that he had voted against the bank bill when first recommended.]

Alas! said Mr. C., my honorable friend had not the heart to withstand a second recommendation from the President; but, when it came, yielded, no doubt, most reluctantly to the Executive wishes, and voted for the bank! At the last session of Congress, Mr. Madison recommends (and I will presently make some remarks on that subject) an exercise of all the existing powers of the General Government to establish a comprehensive system of internal improvements. Where was my honorable friend on that occasion? Not silent as the grave, but he gave a negative vote almost as silent. No effort was made on his part, great as he is when he exerts the powers of his well stored mind to save the Commonwealth from that greatest of all calamities, a system of internal improvement. No, although a war with all the allies, he now thinks, would be less terrible than the adoption of this report, not one word then dropped from his lips against the measure. [Mr. NELSON said he voted against the bill.] That he whispered out an unwilling negative, Mr. C. did not deny, but it was unsustained by that torrent of eloquence which was poured out on the present occasion. But, said Mr. C., we have an Executive Message now, not quite as ambiguous in its terms, nor as oracular in its meaning, as that of Mr. Madison appears to have been. No; the President now says, that he has made great efforts to vanquish his objections to the power, and that he cannot but believe that it does not exist. Then my honorable friend rouses, thunders forth the danger in which the Constitution is, and sounds the tocsin of alarm. Far from insinuating that he is at all biased by the Executive wishes, I appeal to his candor to say, if there is not a remarkable coincidence between his zeal and exertions, and the opinions of the Chief Magistrate?

Now let us review these opinions as communicated at different points. It was the opinion of Mr. Jefferson, that, although there was no general power vested by the Constitution in Congress to construct roads and canals, without the consent of the States, yet such a power might be exercised with their assent. Mr. Jefferson not only held this opinion in the abstract, but he practically executed it in the instance of the Cumberland road, and how? First, by a compact made with the State of Ohio, for the application of a specified fund, and then by compacts with Virginia, Pennsylvania, and Maryland, to apply the fund so set apart within their respective limits. If, however, I rightly understood my honorable friend the other day, he expressly denied (and in



that, concur with him) that the power could be acquired by the mere consent of the State. Yet he defended the act of Mr. Jefferson in the case referred to. [Mr. NELSON expressed his dissent to this statement of his argument.] Mr. C. said it was far from his intention to misstate the gentleman. He certainly had understood him to say, that, as the road was first stipulated for in the compact with Ohio, it was competent afterwards to carry it through the States mentioned, with their assent. Now, if we have not the right to make a road in virtue of one compact made with a single State, can we obtain it by two contracts made with several States? The character of the fund could not affect the question. It was totally immaterial whether it arose from the sales of the public lands or from the general revenue. Suppose a contract made with Massachusetts, that a certain portion of the revenue collected at the port of Boston, from foreign trade, should be expended in making roads and canals leading to that State, and that a subsequent compact should be made with Connecticut or New Hampshire, for the expenditure of the fund on these objects, within their limits; can we acquire the power, in this manner, over internal improvements, if we do not possess it independently of such compacts? He conceived clearly not. And he was entirely at a loss to comprehend how gentlemen, consistently with their own principles, could justify the erection of the Cumberland road. No man, he said, was prouder than he was of that noble monument of the provident care of the nation, and of the public spirit of its projectors; and he trusted, that, in spite of all Constitutional and other scruples here or elsewhere, an appropriation would be made to complete that road. He confessed, however, freely, that he was entirely unable to conceive of any principle on which that road could be supported that would not uphold the general power contended for.

He would now examine the opinion of Mr. Madison. Of all the acts of that pure, virtuous, and illustrious statesman, whose Administration has so powerfully tended to advance the glory, honor, and prosperity of this country, he most regretted, for his sake and for the sake of the country, the rejection of the bill of the last session. He thought it irreconcilable with Mr. Madison's own principles—those great broad and liberal principles on which he so ably administered the Government. And, sir, said Mr. C., when I appeal to the members of the last Congress, who are now in my hearing, I am authorized to say, with regard to the majority of them, that no circumstance, not even an earthquake that should have swallowed up one half of this city, could have excited more surprise than when it was first communicated to this House, that Mr. Madison had rejected his own bill—I say his own bill—for his Message at the opening of the session meant nothing, if it did not recommend such an exercise of power as was contained in that bill. My friend who is near me, (Mr. JOHNSON, of Virginia) the operations of whose vigorous and independent mind depend upon his own internal

perceptions, has expressed himself with a becoming manliness, and thrown aside the authority of names as having no bearing with him on the question. But their authority has been referred to, and will have influence with others. It was impossible, moreover, to disguise the fact, that the question is now a question between the Executive on the one side and the Representatives of the people on the other. So it is understood in the country, and such is the fact. Mr. Madison enjoys, in his retreat at Montpelier, the repose and the honors due to his eminent and laborious public services; and I would be among the last to disturb it. However painful it is to me to animadvert upon any of his opinions, I feel perfectly sure that the circumstance can only be viewed by him with an enlightened liberality. What are the opinions which have been expressed by Mr. Madison on this subject? I will not refer to all the Messages wherein he has recommended internal improvements, but to that alone which he addressed to Congress at the commencement of the last session, which contains this passage: "I particularly invite again the attention of Congress to the expediency of exercising their existing powers, and, where necessary, of resorting to the prescribed mode of enlarging them, in order to effectuate a comprehensive system of roads and canals, such as will have the effect of drawing more closely together every part of our country, by promoting intercourse and improvements, and by increasing the share of every part in the common stock of national prosperity." In the examination of this passage, two positions forced themselves upon our attention. The first was the assertion, that there are existing powers in Congress to effectuate a comprehensive system of roads and canals, the effect of which would be to draw the different parts of the country more closely together. And I would candidly admit, in the second place, that it was intimated, that, in the exercise of those existing powers, some defect might be discovered which would render an amendment of the Constitution necessary. Nothing could be more clearly affirmed than the first position; but in the Message of Mr. Madison returning the bill, passed in consequence of his recommendation, he has not specified a solitary case to which those existing powers are applicable; he has not told us what he meant by those existing powers; and the general scope of his reasoning in that Message, if well founded, proved that there were no existing powers whatever. It was apparent that Mr. Madison himself had not examined some of those principal sources of the Constitution, from which, during this debate, the power had been derived. I deeply regret, and I know that Mr. Madison regretted, that the circumstances under which the bill was presented to him (the last day but one of a most busy session) deprived him of an opportunity of that thorough investigation of which no man is more capable. It is certain that, taking his two Messages at the same session together, they are perfectly irreconcilable. What, moreover, was the nature of that bill? It did not apply the

money to any specific object of internal improvement, nor designate any particular mode in which it should be applied, but merely set apart and pledged the fund to the general purpose, subject to the future disposition of Congress. If, then, there were any supposable case whatever to which Congress might apply money in the erection of a road, or cutting a canal, the bill did not violate the Constitution. And it ought not to have been anticipated that money constitutionally appropriated by one Congress would afterwards be unconstitutionally expended by another.

I come now, said Mr. C., to the Message of Mr. Monroe; and if, by the communication of his opinion to Congress, he intended to prevent discussion, he has most woefully failed. I know that, according to a most venerable and excellent usage, the opinion neither of the President nor of the Senate, upon any proposition depending in this House, ought to be adverted to. Even in the Parliament of Great Britain, a member who would refer to the opinion of the Sovereign, in such a case, would be instantly called to order; but, under the extraordinary circumstances of the President having, with I have no doubt the best motives, volunteered his opinion on this head, and inverted the order of legislation, by beginning where it should end, I am compelled, most reluctantly, to refer to that opinion. I cannot but deprecate the practice of which the President has, in this instance, set the example to his successors. The Constitutional order of legislation supposes that every bill originating in one House shall be there deliberately investigated, without influence from any other branch of the Legislature, and then remitted to the other House for a like free and unbiassed consideration. Having passed both Houses, it is to be laid before the President—signed if approved, and if disapproved to be returned, with his objections, to the originating House. In this manner, entire freedom of thought and of action is secured, and the President finally sees the proposition in the most matured form which Congress can give to it. The practical effect, to say no more, of forestalling the legislative opinion, and telling us what we may or may not do, will be to deprive the President himself of the opportunity of considering a proposition so matured, and us of the benefit of his reasoning, applied specifically to such proposition; for the Constitution further enjoins it upon him to state his objections upon returning the bill. The originating House is then to reconsider it, and deliberately to weigh those objections; and it is further required, when the question is again taken, Shall the bill pass, those objections notwithstanding? that the votes shall be solemnly spread by yeas and nays upon the record. Of this opportunity of recording our opinions on matters of great public concern we are deprived, if we submit to the innovation of the President. I will not press this part of the subject further. I repeat, again and again, that I have no doubt but that the President was actuated by the purest motives. I am compelled, however, in the exercise of that freedom of opinion which so long as I

exist I will maintain, to say that the proceeding is irregular and unconstitutional. Let us, however, examine the reasoning and opinion of the President. [Mr. C. here quoted the passage of the Message at the opening of the session, which follows:]

"A difference of opinion has existed, from the first formation of our Constitution to the present time, among our most enlightened and virtuous citizens, respecting the right of Congress to establish such a system of improvement. Taking into view the trust with which I am now honored, it would be improper, after what has passed, that this discussion should be revived, with an uncertainty of my opinion respecting the right. Disregarding early impressions, I have bestowed on the subject all the deliberation which its great importance and a just sense of my duty required; and the result is, a settled conviction on my mind that Congress do not possess the right. It is not contained in any of the specified powers granted to Congress; nor can I consider it incidental to, or a necessary mean, viewed on the most liberal scale, for carrying into effect any of the powers which are specifically granted. In communicating this result, I cannot resist the obligation which I feel to suggest to Congress the propriety of recommending to the States the adoption of an amendment to the Constitution, which shall give to Congress the right in question. In cases of doubtful construction, especially of such vital interest, it comports with the nature and origin of our institutions, and will contribute much to preserve them, to apply to our constituents for an explicit grant of the power. We may confidently rely, that, if it appears to their satisfaction that the power is necessary, it will always be granted."

In this passage the President has furnished us with no reasoning, no argument in support of his opinion—nothing addressed to the understanding. He gives, indeed, an historical account of the operations of his own mind, and he asserts that he has made a laborious effort to conquer his early impressions, but that the result is a settled conviction against the power, without a single reason. In his position, that the power must be specifically granted or incident to a power so granted, it has been seen that I have the honor to entirely concur with him; but, he says the power is not among the specified powers. Has he taken into consideration the clause respecting post roads, and told us how and why that does not convey the power? If he had acted within what I conceive to be his Constitutional sphere of rejecting the bill, after it had passed both Houses, he must have learned that great stress was placed on that clause, and we should have been enlightened by his comments upon it. As to his denial of the power, as an incident to any of the express grants, Mr. C. said, he would have thought that we might have safely appealed to the experience of the President, during the late war, when the country derived so much benefit from his judicious administration of the duties of the War Department, whether roads and canals for military purposes were not essential to celerity and successful result in the operations of armies. This part of the Message was all assertion, and contained no argument which he could comprehend,



H. or R.

Internal Improvements.

MARCH, 1818.

or which met the points contended for during this debate. Allow me here, said Mr. C. to say, and do it without the least disrespect to that branch of the Government, on whose opinions and acts it has been rendered my painful duty to comment—let me say, in reference to any man, however elevated his station, even if he be endowed with the power and prerogatives of a sovereign, that his acts are worth infinitely more, and are more intelligible than mere paper sentiments or declarations. And what have been the acts of the President? During his tour of last Summer, did he not order a road to be cut or repaired from near Plattsburg to the St. Lawrence? And my honorable friend will excuse me if my comprehension is too dull to perceive the force of that argument which seeks to draw a distinction between repairing an old and making a new road. [Mr. NELSON said he had not drawn that distinction, having only stated the fact.] Certainly no such distinction was to be found in the Constitution or existed in reason. Grant, however, the power of reparation and we will make it do. We will take the post roads, sinuous as they are, and put them in a condition to enable the mails to pass, without those mortifying and painful delays and disappointments to which we, at least in the West, are so often liable. The President, then, ordered a road of considerable extent to be constructed or repaired, on his sole authority, in a time of profound peace, when no enemy threatened the country, and when, in relation to the power as to which alone that road could be useful in time of war, there existed the best understanding, and a prospect of lasting friendship greater than at any former period. On his sole authority the President acted, and we are already called upon by the Chairman of the Committee of Ways and Means to sanction the act by an appropriation. This measure has been taken, too, without the consent of the State of New York; and what is wonderful, when we consider the magnitude of the State rights which are said to be violated, without even a protest on the part of that State against it. On the contrary, I understand, from some of the military officers who are charged with the execution of the work, what is very extraordinary, that the people, through whose quarter of the country the road passes, do not view it as a national calamity; that they would be very glad that the President would visit them often, and that he would order a road to be cut and improved, at the national expense, every time he should visit them. Other roads, in other parts of the Union, have, it seems, been likewise ordered, or their execution, at the public expense, sanctioned, by the Executive, without the concurrence of Congress. If the President has the power to cause these public improvements to be executed, at his pleasure, whence is it derived? If any member will stand up in his place and say the President is clothed with this authority, and that it is denied to Congress, let us hear from him; and let him point to the clause of the Constitution which vests it in the Executive and withhold it from the Legislative branch.

There is no such clause; there is no such exclusive Executive power. The power is derivable by the Executive only from those provisions of the Constitution which charge him with the duties of commanding the physical force of the country, and the employment of that force in war and in the preservation of the public tranquillity, and in the execution of the laws. But Congress has paramount power to the President. It alone can declare war, can raise armies, can provide for calling out the militia in the specified instances, and can raise and appropriate the ways and means necessary to these objects. Or is it come to this, that there are to be two rules of construction for the Constitution—one, and an enlarged rule, for the Executive—and another, and a restricted rule, for the Legislature? Is it already to be held, that, according to the genius and nature of our institutions, powers of this kind may be safely intrusted to the Executive, but, when attempted to be exercised by the Legislature, are so alarming and dangerous that a war with all the allied Powers would be less terrible, and that the nation should clothe itself straightway in sackcloth and ashes? No, sir, if the power belongs only by implication to the Chief Magistrate, it is placed both by implication and express grant in the hands of Congress. I am so far from condemning the act of the President, to which I have referred, that I think it deserving of high approbation; that it was within the scope of his Constitutional authority I have no doubt; and I sincerely trust that the Secretary of War will, in time of peace, constantly employ in that way the military force. It will, at the same time, guard that force against the vices incident to indolence and inaction, and correct the evil of subtracting from the mass of the labor of society, where labor is more valuable than in any other country, that portion of it which enters into the composition of the Army. But I most solemnly protest against any exercise of powers of this kind, by the President, which are denied to Congress. And, if the opinions expressed by him, in his Message, were communicated or are to be used here to influence the judgment of the House, their authority is more than counterbalanced by the authority of his deliberate acts.

Some principles drawn from political economists have been alluded to, and we are advised to leave things to themselves, upon the ground, that, when the condition of society is ripe for internal improvements, that is, when capital can be so invested with a fair prospect of adequate remuneration, they will be executed by associations of individuals, unaided by Government. With my friend from South Carolina (Mr. LOWMEYER) I concur in this as a general maxim; and I also concur with him that there are exceptions to it. The foreign policy which I think this country ought to adopt, presents one of those exceptions. It would perhaps be better for mankind, if, in the intercourse between nations, all would leave skill and industry to their unstimulated exertions. But this is not done; and if other Powers will incite the industry of their subjects and depress that of

MARCH, 1818.

Internal Improvements.

H. or R.

our citizens, in instances where they may come into competition, we must imitate their selfish example. Hence the necessity to protect our manufactures. In regard to internal improvements, it did not always follow that they would be constructed whenever they would afford a competent dividend upon the capital invested. It may be true generally that, in old countries, where there is a great accumulation of surplus capital, and a consequent low rate of interest, that they would be made. But in a new country the condition of society may be ripe for public works long before there is, in the hands of individuals, the necessary accumulation of capital to effect them; and, besides, there is generally, in such a country, not only a scarcity of capital, but such a multiplicity of profitable objects presenting themselves as to distract the judgment. Further; the aggregate benefit resulting to the whole society, from a public improvement may be such as to amply justify the investment of capital in its execution, and yet that benefit may be so distributed among different and distant persons as that they can never be got to act in concert. The turnpike roads wanted to pass the Alleghany mountains, and the Delaware and Chesapeake Canal, are objects of this description. Those who would be most benefited by these improvements reside at a considerable distance from the sites of them; many of those persons never have seen and never will see them. How is it possible to regulate the contributions, or to present to individuals so situated a sufficiently lively picture of their real interests to get them to make exertions, in effectuating the object, commensurate with their respective abilities? I think it very possible that the capitalist, who should invest his money, in one of those objects, might not be reimbursed three per cent. annually upon it. And yet society, in various forms, might actually reap fifteen or twenty per cent. The benefit resulting from a turnpike road, made by private associations, is divided between the capitalist who receives his tolls, the lands through which it passes, and which are augmented in their value, and the commodities whose value is enhanced by the diminished expense of transportation. A combination upon any terms, much less a just combination, of all these interests to effect the improvement is impracticable. And if you await the arrival of the period when the tolls alone can produce a competent dividend, it is evident that you will have to suspend its execution until long after the general interests of society would have authorized it.

Again, improvements made by private associations are generally made by the local capital. But ages must elapse before there will be concentrated in certain places, where the interests of the whole community may call for improvements, sufficient capital to make them. The place of the improvement too is not always the most interested in its accomplishment. Other parts of the Union—the whole line of the seaboard—are quite as much if not more interested in the Delaware and Chesapeake Canal, as the small tract of

country through which it is proposed to pass. The same observation will apply to turnpike roads passing the Alleghany mountains. Sometimes the interest of the place of the improvement is adverse to the improvement and to the general interest. He would cite Louisville, at the rapids of the Ohio, as an example, whose interest will probably be more promoted by the continuance, than the removal of the obstruction. Of all the modes in which a Government can employ its surplus revenue, none is more permanently beneficial than that of internal improvement. Fixed to the soil, it becomes a durable part of the land itself, diffusing comfort and activity, and animation on all sides. The first direct effect was on the agricultural community, into whose pockets came the difference in the expense of transportation between good and bad ways. Thus, if the price of transporting a barrel of flour by the erection of the Cumberland turnpike should be lessened two dollars, the producer of the article would receive that two dollars more now than formerly.

But, putting aside all pecuniary considerations, there may be political motives sufficiently powerful alone to justify certain internal improvements. Does not our country present such? How are they to be effected if things are left to themselves? I will not press the subject further. I am but too sensible how much I have abused the patience of the Committee by trespassing so long upon its attention. The magnitude of the question, and the deep interest I feel in its rightful decision, must be my apology. We are now making the last effort to establish our power; and I call on the friends of Congress, of this House, or the true friends of State rights (not charging others with intending to oppose them) to rally around the Constitution, and to support, by their votes, on this occasion, the legitimate powers of the Legislature. If we do nothing this session but pass an abstract resolution on the subject, I shall, under all circumstances, consider it a triumph for the best interests of the country, of which posterity will, if we do not, reap the benefit. I trust that, by the decision which shall be given, we shall assert, uphold, and maintain, the authority of Congress, notwithstanding all that has been, or may be, said against it.

Mr. NELSON spoke a short time in reply to Mr. CLAY.

Mr. CLAY again rose. It was certainly very far from his intention, he said, to prefer any charge against the gentleman of undue submission to Executive influence; though the gentleman certainly had, with great zeal, if not ability, defended the conduct of the Executive in the cases of the employment of the military force in the construction of roads, and of that part of the message respecting the power of Congress to make roads and canals. But the honorable gentleman, said Mr. C., has made some personal allusions to myself. I have been on a foreign embassy, he says. If I have, sir, that office was unsolicited, and was accepted under an imperious sense of public duty. [Mr. NELSON said he did



H. or R.

Internal Improvements.

MARCH, 1818.

not mean to insinuate that that, or any other office, had been solicited by the Speaker, or was not due to his merit and public services.] Mr. C. resumed. The honorable gentleman has also thought proper to intimate that departments have been offered. It was not necessary for him to say whether there was any and what ground for this intimation; but he would say, that on this subject, not in this House, but elsewhere, motives had been ascribed to him, in relation to a particular office, as false as the imputation of them was malignant. I have desired no office from the Executive; I have preferred the honors conferred on me by my constituents, and by the kindness of this House, to any in the gift of any other branch of Government. With regard to the gentleman who fills the office of President, I have already said that I consider the office as an honorable reward due to him for his long and faithful services; for the simplicity, sincerity, and purity of his character, as displayed in the distinguished offices which he had previously filled. But, whatever may be my opinion of him or of others, I shall sacrifice no part of my public duty to a servile compliance with his views. I come here to serve my constituents and my country according to the Constitution, my conscience and my best comprehension of the public welfare. I am no grovelling sycophant, no mean parasite, no base suppliant at the foot of authority. I respect the co-ordinate branches of Government, but will exercise my own rights with the freedom which belongs to an American citizen, without fear of the consequences. The gentleman speaks of impeachment of the President, if he has exceeded his authority. Does the gentleman expect, by this sort of defiance, to influence this House or the people against the exertion of their Constitutional rights? The power of impeachment is one which, if ever exercised—and it may be doubted whether it ever will be in regard to the Chief Magistrate—can only be employed in cases of palpable breaches of the Constitution, with bad motive. But it does not follow, because the President is not, and will not be impeached for his conduct, that he may not have performed acts without the pale of his Constitutional authority. I admit, certainly, the power of recommendation to Congress of measures called for by the public good, which the Executive possesses; but I contend that it is a power of a very questionable nature, when attempted to be exercised in regard to constructions of the Constitution, and amendments to the instrument, in making which amendments the Constitution has given him no participation. The power of the President is not to recommend to Congress abstinence from action, but measures of a positive character. I do say, and I do think, and I care not who thinks otherwise, that in this particular instance it would have been better had the President refrained from expressing his opinion against a measure which had the approbation of Congress at the last session, which he must have supposed would be again renewed, whatever might be his opinion, and which, the gentleman's opinion not-

withstanding, I believe nine-tenths of the people are in favor of. I repeat my thanks, said Mr. C. in conclusion, to the gentleman from Virginia, for the repetition of his wish that the people will put down us who support this measure. I will, for evil return to him good; and hope that the people will duly appreciate him and his exertions against the measure, and will permit him still to remain in this House, an ornament to the Legislature, and to the district he represents.

After Mr. CLAY's brief rejoinder, the Committee rose and reported their agreement to the resolution, with an amendment to strike out all of the said resolution after the word *Resolved*, and to insert, in lieu thereof, the following, to wit:

1. That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military, and other roads, and of canals, and for the improvement of water-courses.

2. *Resolved*, That Congress has power, under the Constitution, to construct post roads, and military roads: *Provided*, That private property be not taken for the public use, without just compensation.

3. *Resolved*, That Congress has power, under the Constitution, to construct roads and canals, necessary for commerce between the States: *Provided*, That private property be not taken for public purposes, without just compensation.

4. *Resolved*, That Congress has power, under the Constitution, to construct canals for military purposes: *Provided*, That no private property be taken for any such purpose, without just compensation being made therefor.

Leave was given for the Committee of the Whole to sit again, on the residue of the order committed to them. And then the House adjourned.

SATURDAY, March 14.

Mr. HERBERT presented a petition of the Directors of the Eastern Branch Bridge Company, praying that permission may not be granted to build another bridge over the Eastern Branch, within the limits of the City of Washington.—*Referred*.

Mr. LOWNDES presented a petition of David Gelston, on behalf of himself and Peter A. Schenck, praying to be indemnified against a judgment recovered against them for the seizure of the ship American Eagle, for an alleged breach of the laws of the United States, under direction from the Secretary of the Treasury.—*Referred* to the Committee of Ways and Means.

Mr. FORNEY, from the Committee on Military Affairs, reported a bill for the relief of the heirs of Adolphus Burghart, deceased; which was read twice, and committed to a Committee of the Whole, on the bill for the relief of William Barton.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting a report of the facts in the case of Nathan Ford, with the evidence accompanying it; which was referred to the Committee of Claims.

The SPEAKER also laid before the House a re-

MARCH, 1818.

Internal Improvements.

H. or R.

port of the Secretary of War, on the petition of Brintnel Robbins; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a report of the Secretary of the Navy, on the petition of Frederick Ernest and Frederick Williamson; which report was read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: "An act respecting the transportation of persons of color, for sale, or to be held to labor;" and, "An act to extend the jurisdiction of the circuit court of the United States, to cases arising under the law relating to patents;" and a resolution "directing the distribution of the laws of the fourteenth Congress, among the members of the fifteenth Congress;" in which bills and resolutions they ask the concurrence of this House.

The first mentioned bill was read twice, and committed to a Committee of the Whole.

The last mentioned bill was read twice, and referred to the Committee on the Judiciary.

The resolution aforesaid was read twice, and referred to the Committee on the Judiciary.

On motion of Mr. POINDEXTER, the Committee on Roads, Canals, and Seminaries of Learning, were instructed to inquire into the expediency of appropriating a reasonable sum, out of the proceeds of the public lands in the State of Mississippi, to the opening and improving the navigation of Pearl river, in said State, to be expended under the direction of the Secretary of the Treasury.

## INTERNAL IMPROVEMENT.

The House having resumed the consideration of the report of the Committee of the Whole, on the report of a Committee on the subject of Roads and Canals; and the question being on agreeing to the first resolution reported by said committee, in the following words:

1. *Resolved*, That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military, and other roads, and of canals, and for the improvement of water-courses.

Mr. JOHNSON, of Kentucky, said he had never voted for any proposition since he had enjoyed the honor of a seat in this House, which he did not believe to be sanctioned by the express letter of the Constitution; nor should he on the present occasion. After expressing the satisfaction which he had received from this debate, than which he had never listened to any with greater pleasure, Mr. J. proceeded to say, that, as he bottomed his opinion on this question on the express letter of the Constitution, he should derive no aid in support of his vote by implication. He claimed for Congress no grant of power under that clause of the Constitution which speaks of the common defence and general welfare; nor did he stand here in any other character than as an advocate for State rights; for he was thoroughly convinced that there never was a more vital attack on the

integrity of the States, and on State rights, than would be the rejection of the present proposition, unless it were immediately followed by an amendment to the Constitution in this respect.

Mr. J. called the attention of the House to that part of the Constitution which gives to Congress the power to regulate commerce among the several States. On what principle, if this proposition were to be rejected, had Congress appropriated, for the purposes of trade with the Indian tribes three hundred thousand dollars of the public money? Under what part of the Constitution did Congress exercise the power of appropriating money for the purpose of erecting and maintaining light-houses, if not under that of regulating trade with foreign nations? For neither of these objects was there a grant of power in stronger terms, or more certainly imparted to Congress, than was the power to give security and facility to the trade between the several States; for which purpose the General Government had the same power over the soil of the several States, as it undeniably had over the water-courses. If to the States alone belonged the power of making roads and canals, he could not, he said, conceive of anything more calculated to weaken the power of the States, than to subject those roads and canals, when made by the States, to the control of the General Government, for the purpose of exercising its Constitutional power of regulating the intercourse between the States. Suppose, said he, that the State of Kentucky should make a canal round the falls of the Ohio, will Congress regulate the trade through this channel, or will it surrender to the State of Kentucky the power expressly granted to Congress? If Congress do not give up the power, we shall be tributary to the United States; we shall have opened a canal with our own resources, and Congress will have the power to regulate trade through it. As strange, therefore, as it might appear to some gentlemen who had argued in a very different manner, Mr. J. said, he contended that the rejection of this proposition had a tendency to weaken the authority of the States, and to make State rights subservient to the Congress of the United States. Again, said he, I ask any gentleman to point out in what possible way roads and canals can be used, but for the purposes pointed out in the Constitution. The object of opening a road or a canal is to facilitate intercourse among the States and among the people. But, it was said, that the exercise of such a power was not necessary in the sense of the term used in the Constitution. Is it necessary, he asked, to have national armories? Cannot we purchase arms by private contract? Is it necessary to have magazines? Can we not hire buildings for the purpose? But we build, and wisely build, magazines and armories, and appoint persons to labor in and superintend them. And was it more necessary and proper, he demanded, to have magazines, and national armories, than to have roads and canals to give facility to the transportation of the munitions of war? He should be glad to know, he said, on what



H. or R.

Internal Improvements.

MARCH, 1818.

principle of construction of the Constitution gentlemen would deny to Congress the power of opening roads and canals for the purpose of internal trade and commerce, and for the purpose of transporting munitions of war, unless, in the instance he had mentioned, there had been frequent and flagrant violations of the Constitution.

In regard to the power in question, if to exercise it would be a violation of the Constitution, it has been violated in many cases already—in making a road from Georgia to New Orleans, from Nashville to Natchez, &c.—in making the great road from Cumberland to Ohio, and from Ohio to the line—in opening a road from Detroit to Fort Meigs, and from Fort Meigs to Lower Sandusky, with several others, which he mentioned. If these were violations of the Constitution, thus repeated, it depended upon gentlemen, if the Constitution was worth preservation, to show how this evil was to be corrected.

As to the arguments which had gone to the policy of this measure, he had never before heard the utility of internal improvements a subject of controversy. Had the policy of the different States, in opening roads and canals, been objected to? Had the policy of foreign nations in this respect been deemed unwise? Had the policy of Holland been questioned, where there was a continued chain of internal navigation? On the continent of Europe, had there ever been a difference of sentiment as to the value of the canals which intersect it; of the canal of Languedoc, or of that of the Seine and Loire, or of hundreds of others, which it were unnecessary to occupy the time of the House by enumerating? Had the policy of China ever been objected to, which had a canal navigation of eight hundred miles in extent, and which employed two thousand individuals for forty years in its construction from Peking to Canton; and canals even to water the farms, besides roads innumerable, which it would take him till doomsday to enumerate? Or that of England, who had opened an internal communication by means of canals, uniting the Irish Channel with the German Ocean, and pervading the country, which were to the people of England the source of much wealth, and of much convenience? We have seen nations and people differ as to the rights of conscience, as to the tenets of religion, and as to modes of government, from democracy to despotism, on almost every question arising out of the multiplicity and variety of human concerns; yet, go to England, Holland, France, China, Russia, you find canals and roads distributing around fertility and accommodation. Yet it would appear, from the discussion which had taken place, there was, in the Congress of the United States, a difference of opinion as to the policy of internal improvement! At this Mr. J. expressed great surprise. Bring your imagination, said he, to contemplate a union of the waters of the Illinois with the waters of Michigan; of the Miami with the Ohio; of the Alleghany with the waters of Lake Erie. Bring your mind to reflect on the immense advantages to be derived from a con-

nexion between the waters of the Atlantic with the upper Lakes, by means of the Susquehanna, the Hudson, and the Delaware; between James river and Catawba; between the waters of Alabama and Tennessee; between those of the Chesapeake and Delaware. What is there alarming in the General Government having it in its power to accomplish these and similar objects? If I could see any evils possibly resulting from the exercise of such a power, far would it be from me to advocate it.

Mr. J. said he had not risen to make a speech on this subject; but, as it might not fall to his lot hereafter to have an opportunity of expressing his opinion on the subject of internal improvement, by means of roads and canals, he could not forbear to state to the House, as he had done, that, resting on the letter of the Constitution, not on its spirit; on the words of it, not on derivative construction; not in opposition to State rights, but in support of them, he was decidedly in favor of the report of the committee favorable to internal improvement, under the authority of the United States.

Mr. DESHA moved to amend the said resolution, by striking out the words "and other," the effect of which would have been to confine the declaration to post roads and military roads.

After some remarks from Mr. LOWNDES, who desired that the amendment might not prevail, that the House might be allowed to vote on the broad proposition, the motion of Mr. DESHA was negatived.

Mr. MILLS moved to postpone indefinitely the further consideration of the subject, and supported this motion in a speech of half an hour.

Mr. TUCKER spoke against the motion, and called upon gentlemen to unite against it, that the opportunity might not be lost of expressing the opinion of this House.

Mr. RHEA then delivered his sentiments on the general question.

Mr. SMITH, of Maryland, supported the motion for postponement by a number of remarks, the object of which was to show that a further prosecution of the discussion would be a consumption of valuable time, without any probability of arriving at a practical result.

Mr. LOWNDES replied to Mr. SMITH, by observations calculated to show that it was highly important to obtain a decision of this House at the present session; a different course, after the many days consumed in debate, he thought would be unjust to the committee who had made report on the subject, and dissatisfactory in its result.

Messrs. BALDWIN and LIVERMORE also opposed the indefinite postponement.

The motion for indefinite postponement was decided in the negative, by yeas and nays—for the postponement 77, against it 87, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Ball, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler, Claggett, Claiborne, Cook, Crafts, Culbreth, Desha, Drake, Earle, Edwards, Folger, Forney, Garnett, Hale,

MARCH, 1818.

Internal Improvements.

H. or R.

Hall of North Carolina, Hogg, Holmes of Connecticut, Hunter, Huntington, Johnson of Virginia, Kirtland, McCoy, Marr, Mason of Massachusetts, Merrill, Middleton, Mills, Moseley, H. Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Scudder, Settle, Shaw, Sherwood, Silabee, S. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Strong, Tompkins, Townsend, Tucker of South Carolina, Tyler, Walker of North Carolina, Whitman, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

NAYS—Messrs. Abbott, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Campbell, Cobb, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Forsyth, Gage, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Hopkinson, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Livermore, Lowndes, McLane, W. P. Maclay, Marchand, Mercer, Moore, Morton, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Poindexter, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Savage, Sawyer, Schuyler, Sergeant, Seybert, Simkins, Slocumb, Bal. Smith, Southard, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Trimble, Tucker of Virginia, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

The question was then taken on concurring in the first resolution adopted by the Committee of the Whole, as above stated, and decided as follows—yeas 90, nays 75:

YEAS—Messrs. Abbott, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Campbell, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Ellicott, Ervin of S. Carolina, Forsyth, Gage, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Hopkinson, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Livermore, Lowndes, McLane, W. P. Maclay, Marchand, Marr, Mercer, Middleton, Moore, Morton, Mumford, Murray, Jeremiah Nelson, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Poindexter, Porter, Quarles, Robertson of Kentucky, Robertson of Louisiana, Savage, Schuyler, Sergeant, Seybert, Simkins, Slocumb, S. Smith, Bal. Smith, Southard, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Trimble, Tucker of Virginia, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Penn.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Ball, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Bryan, Burwell, Butler, Claggett, Cobb, Cook, Crafts, Culbreth, Desha, Drake, Earle, Edwards, Folger, Forney, Garnett, Hale, Hall of N. Carolina, Hogg, Holmes of Connecticut, Hunter, Huntington, Johnson of Virginia, Kirtland, McCoy, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Moseley, Jeremiah Nelson, H. Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Sawyer, Scudder, Settle, Sherwood, Shaw, Silabee, Alexander Smyth,

J. S. Smith, Speed, Stewart of North Carolina, Strong, Terry, Tompkins, Townsend, Tucker of South Carolina, Taylor, Walker of North Carolina, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

So the first resolution was adopted.

The second resolution having been read in the following words:

2. *Resolved*, That Congress has power, under the Constitution, to construct post roads and military roads; provided that private property be not taken for public use, without just compensation.

Mr. HOLMES, of Massachusetts, moved to amend the resolution by inserting, after the words "private property," the words "or the property of any State;" and adding to the end of the resolve a clause, that neither the property of the one nor the other be taken, without just compensation therefor.

This motion was grounded by Mr. HOLMES, and supported by Mr. RHEA, as presenting the question more broadly to the House, and was opposed by Mr. LOWNDES, as embracing a wider scope than he was willing to give to the resolution, and, in fact, introducing a new principle.

The motion was negatived.

Mr. DESHA moved to amend the resolution by inserting, after the words "military roads," the words "with the consent of the States."—Negatived.

The question was then taken on agreeing to the second resolution as above stated, and decided as follows—yeas 82, nays 84:

YEAS—Messrs. Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Campbell, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Forsyth, Gage, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Livermore, Lowndes, McLane, Marchand, Marr, Mercer, Moore, Morton, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Savage, Schuyler, Sergeant, Seybert, Simkins, Slocumb, Ballard Smith, Southard, Speed, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Trimble, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Ball, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler, Claggett, Claiborne, Cobb, Cook, Crafts, Culbreth, Desha, Drake, Earle, Edwards, Folger, Forney, Garnett, Hale, Hall of North Carolina, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hunter, Huntington, Johnson of Virginia, W. P. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Moseley, Jeremiah Nelson, H. Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Sawyer, Scudder, Settle, Shaw, Sherwood, Silabee, S. Smith, Alexander Smyth, J. S. Smith, Stewart of North Carolina, Strong, Ter-



H. OF R.

Internal Improvements.

MARCH, 1818.

ry, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Whitman, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

So the resolution was not agreed to.

Mr. STROTHER desired to record his vote in the negative on this question, having been accidentally out of the House when the question was put; but the standing rule forbade the leave.

The third resolution was then read, as follows:

"Resolved, That Congress has power, under the Constitution, to construct roads and canals necessary for commerce between the States; provided, that private property be not taken for public purposes, without just compensation."

Mr. HOLMES moved to amend the resolution, by adding thereto a clause, that no property shall be taken of any State, without making compensation therefor.—Negatived.

Mr. TUCKER, of Virginia, then moved to amend the resolution, by inserting, after the word "States," the words, "with the consent of the States through which the same may pass."

This motion was negatived by yeas and nays—120 to 46, as follows:

YEAS—Messrs. Abbott, Adams, Ball, Barber of Ohio, Bateman, Cobb, Crawford, Culbreth, Desha, Harrison, Hasbrouck, Hendricks, Herrick, Hitchcock, Holmes of Massachusetts, Hubbard, Johnson of Kentucky, Jones, Linn, Livermore, Marchand, Marr, Moore, Murray, Jeremiah Nelson, T. M. Nelson, Palmer, Patterson, Peter, Pindall, Porter, Robertson of Louisiana, Sawyer, Seybert, Slocumb, S. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Tallmadge, Tarr, Trimble, Tucker of Virginia, Upham, and Wilson of Pennsylvania.

NAYS—Messrs. Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Bassett, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Blount, Boden, Boss, Bryan, Burwell, Butler, Campbell, Claggett, Claiborne, Colston, Comstock, Cook, Crafts, Cruger, Cushman, Darlington, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Folger, Forney, Forsyth, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Herbert, Herkimer, Heister, Hogg, Holmes of Connecticut, Hopkinson, Hunter, Huntington, Irving of New York, Johnson of Virginia, Kinsey, Lawyer, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Mills, Moseley, Murray, Jer. Nelson, H. Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Poindexter, Quarles, Reed, Rhea, Rice, Richards, Ringgold, Robertson of Kentucky, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Shaw, Silsbee, Simkins, Ballard Smith, Alexander Smyth, J. S. Smith, Strong, Stuart of Maryland, Taylor, Terrill, Terry, Tompkins, Townsend, Tucker of South Carolina, Tyler, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Massachusetts.

The question then recurred on agreeing to the

third resolution, and, being taken, was determined in the negative—yeas 71, nays 95, as follows:

YEAS—Messrs. Anderson of Kentucky, Baldwin, Bateman, Bayley, Beecher, Bloomfield, Campbell, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Forsyth, Gage, Hall of Delaware, Harrison, Hasbrouck, Herbert, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lawyer, Livermore, Lowndes, McLane, Marchand, Moore, Morton, Mumford, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Rich, Robertson of Ky., Robertson of Louisiana, Savage, Schuyler, Sergeant, Simkins, Bal. Smith, Spencer, Stuart of Maryland, Tallmadge, Tarr, Terrill, Trimble, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler, Claggett, Claiborne, Cobb, Cook, Crafts, Culbreth, Desha, Drake, Earle, Edwards, Folger, Forney, Garnett, Hale, Hall of North Carolina, Hendricks, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hunter, Huntington, Johnson of Virginia, W. Maclay, W. P. Maclay, McCoy, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Mills, Moseley, Murray, Jer. Nelson, H. Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Sawyer, Scudder, Settle, Seybert, Shaw, Sherwood, Silsbee, Slocumb, S. Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of North Carolina, Strong, Strother, Taylor, Terry, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, Williams of Connecticut, and Williams of North Carolina.

The question was then stated upon concurring with the Committee of the Whole, in that part of their amendment embraced by the fourth resolution, in the following words, viz:

4. Resolved, That Congress has power, under the Constitution, to construct canals for military purposes: Provided, That no private property be taken for any such purpose, without just compensation being made therefor.

Mr. DESHA moved to amend the same, by inserting, after the word "purposes," the words "with the consent of the States through which they may pass."

And the question being taken thereon, it was determined in the negative.

The question then recurred on agreeing to the said fourth resolution, and, being taken, it was determined in the negative—yeas 81, nays 83, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Baldwin, Bateman, Bayley, Beecher, Bloomfield, Campbell, Colston, Comstock, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Forsyth, Gage, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Livermore,

MARCH, 1818.

Relations with Spain.

H. OF R.

Lowndes, McLane, Marchand, Marr, Mercer, Moore, Morton, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Savage, Schuyler, Sergeant, Seybert, Simkins, Slocumb, Ballard Smith, Southard, Speed, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Trimble, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler, Claggett, Claiborne, Cobb, Cook, Crafts, Culbreth, Desha, Drake, Earle, Edwards, Folger, Forney, Garnett, Hale, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Huntington, Johnson of Virginia, W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Moseley, Jeremiah Nelson, Hugh Nelson, T. M. Nelson, New, Orr, Owen, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Sawyer, Scudder, Settle, Shaw, Silsbee, S. Smith, Alexander Smyth, J. S. Smith, Stewart of North Carolina, Strong, Strother, Terry, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

So the resolution was not agreed to.

The result of the whole proceeding is, that the House have come to the following resolution:

"That Congress have power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and of canals, and for the improvement of water-courses."

Mr. POINDEXTER then submitted for consideration the following resolution:

"Resolved, That Congress have power, under the Constitution, to appropriate money in aid of the construction of roads and canals, which shall be laid out, and constructed, under the authority of the Legislature of the States through which they pass."

After some conversation—

The question being taken thereon, was decided in the negative.

Mr. LOWNDES then remarked, that, after the decision of this House to-day, there could be no doubt that a large majority of the House entertained the conviction of the power of Congress to appropriate money for the purpose of constructing roads and canals. The sense of the House being thus ascertained, and the obstruction removed to any proposition embracing that object; he moved that the further consideration of the report lie on the table.

The motion having been agreed to—

Mr. TUCKER, of Virginia, from the Committee on Roads and Canals, reported a bill making further appropriations for the Cumberland road; which was twice read and committed.

#### OUR RELATIONS WITH SPAIN.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Speaker of the House of Representatives:

In compliance with a resolution of the Senate, of the 16th December, and of the House of Representatives, I lay before Congress, a report of the Secretary of State, and the papers referred to in it, respecting the negotiation with Spain. To explain fully the nature of the differences between the United States and Spain, and the conduct of the parties, it has been found necessary to go back to an early epoch. The recent correspondence, with the documents accompanying it, will give a full view of the whole subject, and place the conduct of the United States, in every stage, and under every circumstance, for justice, moderation, and a firm adherence to their rights, on that high and honorable ground, which it has invariably sustained.

JAMES MONROE.

WASHINGTON, March 14, 1818.

DEPARTMENT OF STATE, March 14, 1818.

The Secretary of State, to whom have been referred the resolution of the Senate, of 16th December, and of the House of Representatives of the 24th February last, has the honor of submitting to the President the correspondence between this Department and the Spanish Minister's residence here, since he received the last instructions of his Government to renew the negotiations which, at the time of the last communication to Congress, was suspended by the insufficiency of his powers. These documents will show the present state of the relations between the two Governments.

As in the remonstrance by Mr. de Onis, of the 6th of December against the occupation by the United States of Amelia Island, he refers to a previous communication from him, denouncing the expedition of Sir Gregor McGregor against that place, his note of 9th July, being the paper thus referred to, is added to the papers now transmitted. Its date, when compared with that of the occupation of Amelia by McGregor, will show that it was written ten days after that event; and the contents of his note of 6th December, will show that measures had been taken by the competent authorities of the United States to arrest McGregor as soon as the unlawfulness of his proceedings within our jurisdiction had been made known to them by legal evidence, although he was beyond the reach of the process before it could be served upon his person. The tardiness of Mr. Onis's remonstrance is of itself a decisive vindication of the magistrates of the United States against any imputation of neglect to enforce the laws; for, if the Spanish Minister himself had no evidence of the project of McGregor, sufficient to warrant him in addressing a note upon the subject to this Department, until ten days after it had been accomplished, it cannot be supposed that officers, whose authority to act commenced only at the moment of the actual violation of the laws, and who could be justified only by clear and explicit evidence of the facts in proof of such violation, should have been apprized of the necessity of their interposition in time to make it effectual before the person accused had departed from this country.

As, in the recent discussions between Mr. Onis and this Department, there is frequent reference to those of the negotiation at Aranjuez in 1805, the correspondence between the Extraordinary Minister of the United States at that period, and Don Pedro Cevallos, then the Minister of Foreign Affairs in Spain, will be also submitted as soon as may be, to be laid before Congress, together with the correspondence between



Don Francisco Pizarro and Mr. Erving, immediately preceding the transmission of new instructions to Mr. Onis and other correspondence of Mr. Onis with this Department, tending to complete the view of the relations between the two countries.

JOHN QUINCY ADAMS.

[Accompanying this report were the documents, of which the following is a list:]

No. 1. Don Luis de Onis to the Secretary of State, 9th July, 1817.

No. 2. The same to the same, 6th December, 1817.

No. 3. The same to the same, 10th December, 1817.

No. 4. The Secretary of State to Don Luis de Onis, 16th December, 1817.

No. 5. Don Luis de Onis to the Secretary of State, 29th December, 1817.

No. 6. The same to the same, 5th January, 1818.

No. 7. The same to the same, 8th January, 1818.

No. 8. The same to the same, 8th January, 1818.

No. 9. The Secretary of State to Don Luis de Onis, 16th January, 1818.

No. 10. Don Luis de Onis to the Secretary of State, 24th January, 1818.

No. 11. The same to the same, 10th February, 1818.

No. 12. The Secretary of State to Don Luis de Onis, 12th March, 1818, (with enclosures, A. 1, B. 2, C. 3, D. 4, E. 5.)

The Message and accompanying documents was referred to the committee on so much of the President's Message "as relates to the subject of Foreign Affairs."

MONDAY, March 16.

Mr. NARR presented a petition of the General Assembly of the State of Tennessee, praying that such measures may be adopted, as will enable of citizens of that State to take possession of lands purchased by them from the State of North Carolina, and which are now held by the Chickasaw Indians, under a treaty concluded with the United States.—Referred to the committee appointed on the 17th December last, respecting the Indian title to lands within the State of Kentucky.

Mr. ROBERTSON, of Louisiana, presented a petition of Gales & Seaton, stating, that they propose to publish a *History of Congress*, from the commencement of the Government to the present day, and praying the aid and patronage of Congress in their said publication; which was read, and referred to a select committee; and Mr. ROBERTSON, Mr. TYLER, Mr. HOPKINSON, Mr. HOLMES, of Massachusetts, and Mr. SIMKINS, were appointed the committee.

Mr. SCOTT presented petitions of sundry inhabitants of the Territory of Missouri, praying that the said Territory may be admitted into the Union, as a State, on an equal footing with the original States; which were, together with the petitions of a similar nature, heretofore presented at the present session, referred to a select committee; and Mr. SCOTT, Mr. ROBERTSON of Kentucky, Mr. POINDEXTER, Mr. HENDRICKS, Mr. LIVERMORE, Mr. MILLS, and Mr. BALDWIN, were appointed the committee.

Mr. SCOTT also presented a petition of sundry inhabitants of the southern part of the Territory of Missouri, praying for a division of the said Territory; which was referred to the committee last appointed.

The SPEAKER presented a petition of sundry inhabitants of the counties of Lehigh and Northampton, in the State of Pennsylvania, stating the misconduct of certain officers of the militia of the said counties, whilst sitting on courts martial for the trial of persons who failed to perform their tour of duty under the requisitions of the President, during the late war; that they have improperly applied the public moneys coming into their possession, and that they have contracted unnecessary and improper expenses whilst acting on said courts martial, which are charged to the United States; and praying that the subject may be investigated, and the abuses of which they complain corrected.—Referred to the Committee of Ways and Means.

Mr. BLOUNT, from the Committee on the Post Office and Post Roads, reported a bill to augment the salary of the Postmaster General; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS made a report on the petition of Renner and Heath, which was read; when, Mr. W. reported a bill for the relief of Daniel Renner, and Nathaniel H. Heath, which was read twice, and committed to a Committee of the Whole.

Mr. LOWNDES, from the Committee of Ways and Means, to which was referred the amendments proposed by the Senate to the bill, entitled "An act fixing the compensations of the Secretary of the Senate, and Clerk of the House of Representatives, and of the clerks employed in their offices," reported the agreement of the committee to the said amendments, and they were committed to a Committee of the Whole.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, made a report on the petition of Ebenezer Stevens and others, which was read; when, Mr. R. reported a bill for the relief of Ebenezer Stevens and Lucretia Stevens, late Lucretia Sands, and others, which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, to whom was referred the bill from the Senate, entitled "An act to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents," reported the same without amendment, and the bill was committed to Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Harold Smyth; which was read twice, and committed to a Committee of the Whole.

Mr. THOMAS M. NELSON, from the committee appointed on the 18th of December last, to inquire into the expediency of extinguishing the Indian title to certain lands within the State of Kentucky, granted by the State of Virginia, to her officers and soldiers in the Revolutionary army, made a

report, in part, which was read; when, Mr. N. reported a bill making appropriations for the purpose of extinguishing Indian claims, which was read twice, and committed to the Committee of the Whole, to which is committed the bill from the Senate, entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract."

Mr. POINDEXTER, from the committee appointed for the purpose, reported a bill authorizing the election of a delegate from the Michigan Territory, to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory, which was read the first time.

Mr. TALLMADGE, from the committee on that part of the President's Message which relates to roads, canals, and seminaries of learning, reported a bill authorizing the subscription of stock in the Delaware and Chesapeake Canal Company; which was read twice, and committed to the Committee of the Whole, on the bill from the Senate, "in addition to an act making appropriations for repairing certain roads therein described."

Mr. MERCER, from the committee to whom it had been referred, reported the resolution from the Senate directing the publication of the journal of the convention, with an amendment, proposing the publication of the Secret Journals of Congress, and its correspondence with foreign Powers, prior to the Treaty of Peace with Great Britain in 1783.

Mr. BASSETT moved further to amend the said resolution by striking out these words: "of which one copy shall be furnished to each member of the present Congress."

The motion to amend was rejected by the House, and the resolution was ordered to be engrossed, and read a third time to-morrow.

The House took up the amendments proposed by the Senate to the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories who shall escape into any other State or Territory," and being read, were again ordered to lie on the table.

The House then, in Committee of the Whole, considered the report unfavorable to the petition of James Buftiel, which, notwithstanding the earnest opposition of Mr. CLAGETT, was concurred in.

Ordered, That one thousand four hundred copies of the Message from the President of the United States, of the 14th instant, upon the subject of our relations with Spain, together with the documents accompanying the same, be printed for the use of the members of this House, in addition to the usual number heretofore ordered.

#### INTERNAL IMPROVEMENT.

The House then went into a Committee of the Whole, on the bill from the Senate making appropriations for repairing and keeping in repair certain roads, from Fort Hawkins to Fort St.

Stephens, and from Columbia in Tennessee, by the Choctaw Agency, to Madisonville in Louisiana. To the same Committee had been referred a bill, reported to-day, respecting the Chesapeake Canal.

Mr. H. NELSON spoke a short time in opposition to the bill, viewing it as a part of a system of encroachment on State rights, which ought to be resisted in every stage and under every form.

Mr. ROBERTSON, of Louisiana, supported the bill against Mr. NELSON's objections, and on its own merits. He supported it also on the ground that, in this instance, no authority but the United States could make the road, since it passed over a tract of country to which the Indian title is not yet extinguished, and over which the jurisdiction of the United States is not disputed.

Mr. FORSYTH and Mr. POINDEXTER also supported the bill on the same ground, and Mr. NELSON replied.

No amendment having been proposed to this bill, the Committee proceeded to the consideration of another bill, reported this morning, and which had been referred to the same Committee, authorizing the subscription to the stock of the Chesapeake and Delaware Canal Company.

The consideration of this bill gave rise to debate, in which the gentlemen named below took part—

Mr. McLANE explained, at some length, the advantages of the contemplated canal, as connecting the waters of Delaware with those of the Chesapeake Bay, and stated the views of the Company in desiring to interest Congress in the work.

[From the elucidation of this business by Mr. McLANE, it appears that the original stock of the Company was \$400,000, of which about \$150,000 have been paid up and expended. The State of Pennsylvania has agreed to take an additional stock to the amount of \$75,000; Maryland to the amount of \$50,000, and Delaware to the amount of \$20,000, provided the United States agreed to take shares to the amount of \$150,000. The estimated expense of the work is \$800,000; the balance is expected to be made up by individual subscription.]

Mr. BASSETT, under the belief that Congress had not the power to appropriate the public money for the purpose designated in the bill, moved to strike out the whole of the bill, after the enacting clause.

Mr. PITKIN wished for something more definite, respecting this proposition, than was to be found in the bill. He wished to know what control the United States were to have over the location or expenditure on the canal; whether they were to have the appointment of any portion of the directors, &c. It appeared that Pennsylvania and Maryland had agreed to take a certain number of shares, provided the United States did the same; but, even after these joint subscriptions were added to the funds of the company, there would yet be a deficiency of three or four hundred thousand dollars, as only a part of the subscribed capital was forthcoming. Respecting canals generally, Mr. P. did not consider them as objects of profit-



able investment of money; yet, he acknowledged, there might be canals of such great national importance, that the Legislature would be justly induced to subscribe to them. But, before he enlisted in any project of the kind, he wished to know the extent to which he was going. To afford some time to understand this subject, he moved that the Committee rise and ask leave to sit again.

Mr. BALLARD SMITH inquired whether the Committee on Internal Improvement intended to report any general bill for internal improvement. Whether they did or not, it appeared to him that the House should have before it at one view the several propositions for great national improvements, that the merits of each might be examined and compared, collectively and separately.

Mr. TALLMADGE, of New York, said he believed he was authorized to state that the select committee did contemplate to submit a system of internal improvements for the consideration of the House. He regretted the state of his health had prevented him from taking part in the late debate on the subject, as it was his intention to have pointed out a summary of the plan in his opinion the most proper to be adopted. At this time it was only proper for him to state, that the committee had reported the present bill making provision for repairing the roads therein mentioned, because they deemed it of essential importance to that district of country. The intercourse with Louisiana was greatly dependent upon it, and it was essential to the convenient supplies for the Southern army, now under General Jackson, that the roads mentioned in the bill should be repaired. The situation of those roads, and the necessities of that part of the country, would not admit of delay; and, therefore, the committee had yielded to the pressure, and had reported the present bill in anticipation of the system contemplated by them.

Mr. T. said, he had no doubt that it had now become an imperative duty for the committee to recommend, and the country to adopt, a system of internal improvement, calculated to provide for the national defence, and which would, at the same time, promote commerce between the States, and facilitate the progress of the mail. That, in deliberating upon this subject, the committee had viewed with anxious solicitude the recent situation of the country during the late war; that, with an extensive territory, and possessing within ourselves the products and the abundance of almost every climate, our coasts had been under a blockade, and for the want of the means of internal intercourse our country had suffered many privations. We had seen the Southern planter overloaded with the superabundance of his products, and yet, unable from the state of the country to carry them to market, he was suffering under poverty and want; we had seen the manufactories of the Eastern States shut up and discontinued, and that portion of the people reduced to distress, and almost to ruin, for the want of the raw materials from the South, with which to proceed in their beneficial labors; and while

the South and the East have thus severely suffered from the inability to interchange and relieve each other's wants, we have witnessed a people and an army on the Northern and Western frontier, suffering every privation, and almost naked from the want of those fabrics which the manufactories of the East would gladly have wrought from the products of the South. Thus, in the possession of every means, and with abundance to answer every demand, but without the facilities of interchange and of internal intercourse, our country has experienced the privations of every want and the expenses of every disadvantage. To remedy some of these defects, and to guard against like calamities in future, the committee contemplate to recommend internal improvements on the Atlantic coasts, tending to provide for the common defence, and, by uniting Georgia to Maine, more effectually to consolidate the Union. As a part of this system, they have this day reported a bill to aid in uniting, by a canal, the Chesapeake and the Delaware.

Mr. T. said, the select committee had also viewed the Columbia road as a work of great national importance, and which required provision for its completion, and strongly exemplified the inefficiency of State authority to consummate such objects, and the duty of the Union to secure its completion. He said that road ran through three States, Virginia, Maryland, and Pennsylvania, all of which were less interested in the road than the District of Columbia, or the Western States, towards which the road pointed; and that its completion was therefore justly considered a subject of great national importance, and upon which the safety and welfare of the Western States, in a military and commercial point of view, materially depended. It also strongly exemplified that class of improvements which were intimately connected with the prosperity of the Union, and justly became objects of national legislation, and as distinguished from transverse roads through towns and counties for local accommodation, and which properly formed a subject of local legislation and State jurisdiction. Sir, said Mr. T., it is a fact worthy the observation of the House, that, while the unanimous opinion of the nation requires the Government to establish forts and defend the Western frontier—that while the subject of internal improvement has been before us—that while we have been debating upon the power of our Constitution, which commands us to provide for the common defence and general welfare, the War Office is actually settling accounts, and paying at the rate of one hundred and twenty-seven dollars per barrel for pork consumed in our Western garrisons. I mention not this fact, said Mr. T., as finding fault with the Administration, or with any department. They have no alternative but to surmount by expenditures the difficulties of transportation. But shall we require the Government to defend the country, and sit here debating and doubting our power to provide adequate means? Shall we witness the necessity of such wasteful extravagance, and yet refuse the remedy by a rational

system of internal improvements? It is but to exhaust the treasures of our country and participate in a political suicide. Sir, said Mr. T., the exigencies of the Western frontier, and the unanimous expression of the nation, have called aloud for the late naval armament on Lake Erie—an armament which produced such important benefits to the country, and reaped for our nation such an abundant harvest of glory. The munitions of war for that armament were sent from the Seat of Government. The distance is less than four hundred miles, and yet, from the inability to pass from this place direct to Erie, I am informed at the Navy Department, that all the articles were transported by the way of Albany, a distance of nearly nine hundred miles transportation. The cost of a cannon at this place is nearly four hundred dollars, while the expenses of transportation on this circuitous and protracted route was from one thousand five hundred to two thousand dollars for each gun. Mr. T. said from information that he had derived from the War and Navy Departments, he was authorized to say, that the expenses of transportation on the Western frontier, during the late war, would have opened turnpike roads through the Western States.

To remedy these and like inconveniences, of which Mr. T. said, he had suggested only a small portion, and with a view to relieve the country from such exorbitant expenses, incident to the present rate of transportation, he was happy to answer to the inquiries that had been made, that the select committee did contemplate to submit for the consideration of this House objects of internal improvement worthy the national attention, and that the committee would proceed as fast as this House should evince a willingness to cherish the subject, and lay aside those Constitutional scruples which had presented such serious obstacles to legislation on this subject.

Mr. FORSYTH made some remarks to show the impracticability of devising any general system of improvement. To attempt to embrace in one bill all necessary improvements, would be to defeat every proposition of that sort, since it was impossible to reconcile all the jarring interests of the various sections of the Union. The House must, therefore, to act with effect, decide on the various propositions as presented to them, on their own merits.

Mr. TALLMADGE again spoke, and added some illustrations of his former observations.

Mr. TUCKER spoke in favor of the bill before the Committee. There was no subject of internal improvement, about which there was a more general assent in favor of it than there was in regard to the Chesapeake and Delaware Canal.

Mr. PITKIN again rose, to protest against legislating on this subject, without any precise information of the extent of the system into which it was proposed to enter. When the bill for appropriating the bonus of the Bank of the United States, for the purpose of internal improvement, passed at the last session, a specific sum was proposed as the limit, and Congress knew the extent to which they were to go. Were the United

States, he again asked, to become stockholders, and to have no share in the management of the affairs of the canal? Having an interest in the improvement, it ought also to have some share in the management of it. He did not object to the power of Congress to appropriate money for these purposes, but he desired to see a limit to the expenditure, &c.

Mr. MERCER opposed the motion in a speech of some length. As to the management of the affairs of this company, he had no apprehension of its not being in safe hands, since the charter had been granted by the enlightened Legislature of one State, and approved by two others, who had determined to invest a part of their funds in it. Although he agreed that a general principle should be established for the regulation of future improvements, yet, as a company already exists for opening this canal, and the work is already commenced, he thought it might well, considering the great importance of the object, be made an exception to the general provision. Although, he further remarked, he should be well disposed to vote for a general system of improvement very analogous to the system embraced by the bill of the last session, which had been referred to, he should be sorry to see the improvement of the country restricted to the narrow limits of that bill; he should be very sorry that the national system of internal improvement should move with no greater celerity than would be produced by the appropriation to that object of the stock of the Government in the Bank of the United States. The objects to be effected were of primary importance; and, if restricted to the tardy pace at which the limited amount of three or four hundred thousand dollars annually would impel them forward, centuries must elapse before even a foundation could be laid of a system of internal improvement commensurate with the extent and resources of the country.

Mr. SERGEANT, of Pa., opposed the motion by arguments favorable as well to the particular object before the House, as to canals generally. The canal, from the Delaware to the Chesapeake, being one of unquestionable utility, of great national importance, one to which the nation would apply its resources, if at all, if this bill did not pass, there was no hope of any practical result from the late decision of the House, &c. In regard to a general system of appropriating money, to be expended in the States according to their representation in Congress, Mr. S. showed that that system would not answer; since the proportion of Delaware, for instance, would be wholly inadequate to the completion of this canal, which is to run within the State of Delaware, and yet is more important to Pennsylvania and Maryland than to her, and is of very general importance to the United States, &c.

Mr. PITKIN again spoke of the necessity of a clear view of the magnitude and expense of the undertaking. Our redundant Treasury, on which gentlemen appeared to calculate, would not last a great while, he believed. What was to be the future situation of the country, who would un-



H. of R.

Internal Improvements.

MARCH, 1818.

dertake to say? The Spanish negotiation, it appeared, was broken off; the result of that business no one could foretell any more than they could what other uses we may have for money hereafter, &c.

Mr. LOWNDES said, that, before acting on a proposition of this kind, the House ought to have before it ample information, not oral merely, but official, relative to the present pecuniary situation of the company, the value of its property, the amount of debts it owes, &c. While he was disposed to favor internal improvement, he thought that, in relation to any particular project, the House should inquire fully and accurately, and have the facts laid on their table, &c. He did not suppose that any member was so much attached to the cause of internal improvement that he would rush into it blindfold, without being prepared by proper information.

Mr. McLANE said, in reply to the suggestion of Mr. LOWNDES, that the subject had already been before Congress, at different times, and in a variety of forms, and ample reports of all the facts had been made, which were to be found among the records of the House. There would be found all the facts relative to the original amount of stock, the amount subscribed, the amount paid, &c. And, on examining the statutes of Pennsylvania and Maryland, it would be found that such acts had been passed by them respectively, as he had described. In regard to a system, which some gentlemen desire to see, he said that it was not possible to say how far Congress might choose to go, but each gentleman had it in his power to say how far he would go. It was no objection to this proposition, that gentlemen did not know how far Congress might think proper to go hereafter. Mr. McL. showed the great importance of this canal in a national point of view, as connecting military posts, and affording the means of effectual defence. Keeping up but a small military force, it was the duty of Congress to provide the means by which that force and the munitions of war could, when necessary, be transported wherever wanted. The canal could be of little advantage to Delaware in any view, but was of great importance as a measure of national defence. To obviate the objection which some gentlemen had expressed to this appropriation, Mr. McL. read a proviso, leaving the subscription at the discretion of the President, after he shall have satisfied himself, by inquiring into the charter, &c., that the money may be safely invested.

Mr. LOWNDES did not consider it a sufficient answer to his suggestion, that information might be obtained by searching the statutes of the States. The very circumstance that the bill was only this morning reported, was a sufficient reason for deferring a decision on it. He knew of no object of internal improvement more worthy of attention than that in question; but he wished to see further information on the subject. He should, therefore, vote for the Committee's rising, with the hope that, in some shape, there would be spread on the table of the House, that infor-

mation without which they could not prudently act.

The Committee then rose, reported their assent to the bill respecting the Alabama and Tennessee roads bill, and reported progress on the canal bill.

The bill first mentioned was then ordered to be engrossed for a third reading, by yeas and nays—83 to 55, as follows:

YEAS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Campbell, Cook, Crafts, Crawford, Cushman, Darlington, Elliott, Ervin of South Carolina, Forsyth, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Heister, Hitchcock, Holmes of Massachusetts, Hopkinson, Hubbard, Jones, Kinsey, Lawyer, Linn, Little, Lowndes, McLane, W. P. Maclay, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Moore, Morton, Mumford, Murray, J. Nelson, Ogden, Ogle, Owen, Palmer, Patterson, Pawling, Peter, Pindall, Pitkin, Poindexter, Rich, Richards, Robertson of Louisiana, Ruggles, Schuyler, Sergeant, Seybert, Slocumb, Southard, Speed, Spencer, Stewart of North Carolina, Tallmadge, Tarr, Taylor, Terrill, Trimble, Tucker of Virginia, Wallace, Westerlo, Whiteside, Whitman, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Allen of Massachusetts, Allen of Vermont, Ball, Barbours of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Bryan, Burwell, Butler, Clagett, Culbreth, Earle, Edwards, Floyd, Gage, Garnett, Hale, Hogg, Holmes of Connecticut, Hunter, Huntington, Johnson of Va., Kirtland, McCoy, Merrill, H. Nelson, T. M. Nelson, New, Porter, Reed, Rhea, Rice, Sampson, Sawyer, Scudder, Settle, Shaw, Sherwood, Silabee, Alexander Smyth, J. S. Smith, Strong, Strother, Tompkins, Townsend, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

TUESDAY, March 17.

Mr. BLOUNT presented a petition of the General Assembly of the State of Tennessee, praying permission to withdraw the locations of certain lands in that State, heretofore appropriated by the General Government, for the use of colleges and academies, and to be permitted to cause other lands to be located and laid off in the same tract of country for the use of the said colleges and academies, with power to sell the same. As also that they may be authorized to grant or sell any vacant land which may be left within the limits of the country described in the first section of the act of April, 1806, "authorizing the said State to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same," at such price, and upon such terms, as the General Assembly of the said State may deem proper.

Mr. MARR presented another petition of the General Assembly of the State of Tennessee, relating to the subject of land titles in that State, derived from the State of North Carolina, and praying that they may be authorized to proceed

MARCH, 1818.

Rules of the House—Laws in Mississippi.

H. of R.

to perfect titles west of the Elk river line, upon all unsatisfied claims which exist against North Carolina, and which are good and valid.

Mr. POINDEXTER, from the Committee on Private Land Claims, reported a bill for the relief of General Moses Porter, which was read twice and ordered to be engrossed and read a third time to-morrow.

Mr. TALLMADGE and Mr. MILLS were appointed of the Committee on Foreign Relations in the places of Mr. GOODWYN, deceased, and Mr. ORR, who is absent on leave.

The resolution from the Senate "directing the publication and distribution of the journal and proceedings of the Convention which formed the present Constitution of the United States," was read the third time and passed, as amended.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to vest, in trust, certain sections of land in the Legislature of the State of Ohio;" and "An act allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes;" in which they ask the concurrence of this House.

The said bills were respectively read twice and referred to the Committee on the Public Lands.

The bill authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory, was read twice, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. FORSYTH, the Committee on the Judiciary was instructed to inquire into the expediency of altering so much of the laws now in force for regulating the Territorial governments of the United States, as requires a freehold property in the Territories respectively as a qualification for office.

The bill for the relief of Abraham Byington, and the bill for the relief of Purley Keyes and Jason Fairbanks, severally passed through Committees of the Whole, and were ordered to be engrossed for a third reading.

The House then went into Committee on the bill to suspend the act of limitations, so far as regards certain loan office and final settlement certificates; which, having received sundry amendments, was reported to the House, the amendments concurred in, and the bill ordered to be engrossed for a third reading.

The SPEAKER laid before the House, a letter from the Secretary of the Navy, transmitting his report on the petition of John Killgore, which was read and ordered to lie on the table.

## RULES OF THE HOUSE.

The House then, on motion of Mr. TAYLOR, proceeded to consider the amendment to the rules and orders of the House, submitted by him on the 10th instant.

Mr. TAYLOR explained the advantages which he conceived would result to the business of legislation by the adoption of this rule; the parti-

culars in which it differed from a similar proposition offered at a former session by Mr. HOPKINSON, its exemption from the objectionable features of the former proposition, &c.

Mr. HOPKINSON supported the proposition, and briefly recapitulated the unnecessary repetition of labor of committees, &c. which it would prevent, the expedition which it would produce in acting on the public business, &c.

The proposition was then agreed to, without a division, as follows:

"After six days from the commencement of a second or a subsequent session of any Congress, all bills, resolutions, and reports, which originated in the House, and at the close of the next preceding session remained undetermined, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

## JAIL IN ALEXANDRIA.

The bill making an appropriation for the erection of a jail, and authorizing the Levy Court to erect, at their own expense, a court-house, &c. in the county of Alexandria, passed through a Committee of the Whole, and was reported without amendment.

On the question of ordering the said bill to be engrossed, some debate arose, in which Messrs. HERBERT, FORSYTH, CORB, and PINDALL, advocated the appropriation, and Messrs. BEECHER, SOUTHARD, and LIVERMORE, opposed it, on different grounds.

Mr. LINN moved to strike out the first section, (making the appropriation for the jail,) which was agreed to; and the remaining sections, after some discussion, were, with the addition of an enacting clause, ordered to be engrossed for a third reading.

## THE LAWS IN MISSISSIPPI.

The House went next into Committee on the bill providing for the due execution of the laws of the United States in the State of Mississippi.

Some conversation took place on the amount of compensation proper to be allowed to the district judge to be created in the State.

Mr. POINDEXTER moved and advocated the sum of two thousand dollars, in which he was supported by Mr. CLAY, a liberal allowance being contended for on the ground of the peculiar and burdensome duties to be performed, and the sacrifices to be made by the district judge, there acting also as circuit judge.

The motion to fill the blank with two thousand dollars was carried—57 to 55.

Mr. POINDEXTER then moved a salary of five hundred dollars to the United States attorney, in the new State, instead of two hundred dollars, which had been reported by the Judiciary Committee, which motion was disagreed to; also, successive motions to insert four hundred and three hundred dollars.

The Committee then rose, and the House taking up the amendments, the sum of two thousand dollars, inserted as the salary of the judge, was, after some discussion, concurred in, 64 to 48.



H. of R.

Neutral Relations.

MARCH, 1818.

and the bill ordered to be engrossed for a third reading.

## NEUTRAL RELATIONS.

The House went into Committee of the Whole on the bill in addition to "An act for the punishment of certain crimes against the United States," and to repeal the acts therein mentioned, (to enact into one, with amendments, the several acts heretofore passed to enforce the neutral obligations of the United States.)

Mr. FORSYTH rose in explanation of the views of the Committee of Foreign Relations in proposing this bill, which was the result of the general inquiry into the various existing acts on this subject which had been referred to them, and which it was presumed answered the intentions of the House in directing the inquiry. Mr. F. briefly recapitulated the history of the several laws passed on this subject, from the act of 1794, rendered necessary by the French revolution, and the want of sufficient power in the Executive to enforce on our own citizens the observance of neutrality, down to the act of the last session; and concluded by explaining the amendments which the committee had deemed necessary to the strict impartiality of the provisions of the general bill they had reported.

Mr. ROBERTSON, of Louisiana, after submitting his reasons for disputing the propriety of some of the former acts; for believing that the provisions of the present bill exceeded the obligations imposed on us by a just regard to neutral duties, and went further than the neutral acts of any other nation—moved, first, to strike out the following proviso:

"That if any person so enlisted, shall, within thirty days after such enlistment, voluntarily discover upon oath to some justice of the peace, or other civil magistrate, the person or persons by whom he was so enlisted, so as that he or they may be apprehended or convicted of the said offence, such person so discovering the offender or offenders, shall be indemnified from the penalty prescribed by this act."

This motion was agreed to without a division.

Mr. CLAY offered some general remarks on the offensive nature of the bill, which, he said, instead of an act to enforce neutrality, ought to be entitled, an act for the benefit of His Majesty the King of Spain. He also expressed his unwillingness thus to be called on to re-enact laws already in force, of which he did not wish to have now the labor of investigating their principles, or the responsibility, if wrong, of renovating and participating in them. Sufficient, he thought, for the day, was the evil thereof; and he was sorry the committee had not contented itself with bringing forward some original proposition, without hunting out and bringing up for re-enactment all the old laws heretofore passed on the subject. There was a great difference between suffering acts to remain unrepealed, and bringing them up for re-enactment, and he gave notice that, after this bill should be made as perfect as its friends could make it, he should submit a single proposition to leave the act of 1794

in force, and to repeal the acts of 1797 and of 1817. Mr. C. concluded by moving to strike out of the second section the words which make it penal for a person to "go beyond the limits or jurisdiction of the United States, with intent to be enlisted or entered," in the service of any foreign Prince or State.

Mr. FORSYTH opposed the motion, and observed, that after the great labor which the committee had undertaken on this subject, at the instance of the Speaker, (Mr. CLAY,) they had some reason to complain of his remarks on the course they had taken. A general inquiry into the subject and revision of the acts had been referred to them, and the committee had found it easier and better to amend and bring into one general bill all the acts, than to adopt any other course. Mr. F. said that, so far from operating unfairly against the cause of the patriots, this bill removed certain provisions of the act of 1797, which bore exclusively on that cause, denouncing the severest penalties against those of our citizens who aid them, which this bill would render equal and impartial. Mr. F. adduced some arguments to show the propriety of retaining the provision moved to be stricken out; but, after some conversation between Mr. CLAY and Mr. FORSYTH, the question was taken, and Mr. CLAY's motion agreed to without a count.

Mr. ROBERTSON, of Louisiana, objected to the penalties proposed by the bill, as unreasonably severe, and, instead of a fine of \$10,000, and ten years imprisonment which the judge might, at his discretion, impose on the offender—moved to substitute \$2,000 and three years.

This motion was opposed by Messrs. FORSYTH, SMITH of Maryland, LIVERMORE, and RHEA, and supported by Messrs. ROBERTSON of Louisiana, CLAIBORNE, and BALL.

The question being divided, the motion to reduce the fine was negatived—ayes 40; and the motion to reduce the limit of imprisonment was carried—62 to 60.

Mr. HOLMES, of Massachusetts, moved to amend the section so as to leave it to the discretion of the judge to inflict both fine and imprisonment, or one only, instead of being obliged, as the bill stood, to impose both, if either.—Negatived—ayes 55.

Mr. HERRICK moved to reduce the fine to \$5,000; which was also negatived.

After some other unsuccessful motions of minor importance—

Mr. FORSYTH moved to strike from the third section the provision which makes it penal for any citizen to fit out or arm, without the jurisdiction of the United States, any ship or vessel with intent to commit hostilities upon the citizens or subjects of a friendly State—leaving in this section only the provision against such citizens of the United States as shall, beyond our jurisdiction, fit out vessels to commit hostilities against the citizens of the United States.

This motion produced a good deal of debate, principally on the expediency of striking out the whole section, and on the impropriety of still

MARCH, 1818.

Neutral Relations.

H. of R.

retaining a feature in the bill which would admit the possibility of a crime so monstrous and improbable as that of citizens going abroad to commence war upon the citizens and commerce of their own country, and which, even if committed, would be punishable either as treason or piracy.

MESSRS. CLAY, ROBERTSON, FORSYTH, SMITH of Maryland, and PITKIN, joined in the discussion; but, before any question was taken, the Committee rose, and the House adjourned.

## WEDNESDAY, MARCH 18.

Mr. HARRISON presented a petition of Nathaniel Champe, on behalf of himself, and the widow and other children of John Champe, deceased, sergeant major of Lieutenant Colonel Henry Lee's squadron of dragoons, in the Revolutionary army, praying that some provision may be made for the support of his mother, and that a grant of land may be made to himself and her other children, in consideration of the secret, but eminent and highly important services, rendered by their father, under the orders and directions of the late General Washington.—Referred to the Committee on Pensions and Revolutionary Claims.

Mr. H. NELSON, from the Committee on the Judiciary, to which was referred the resolution from the Senate "directing the distribution of the laws of the fourteenth Congress among the members of the fifteenth Congress," reported the same with an amendment, which was read and concurred in, and the amendment ordered to be engrossed, and the resolution read a third time to-morrow.

Mr. WILLIAMS, of North Carolina, reported a bill for the relief of Samuel F. Hooker; which was read twice, and committed.

Mr. HERBERT, from the District Committee, reported a bill to incorporate the Medical Society of the District of Columbia; which was read twice, and committed.

The engrossed bills for the relief of General Moses Porter; authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage therein; for the relief of Abraham Byington; for providing for the erection of a jail and court-house in the county of Alexandria, in the District of Columbia; for providing for the execution of the laws of the United States within the State of Mississippi; and for authorizing the payment of certain certificates—were severally read a third time, and passed.

The bill for the relief of Purley Keyes and Jason Fairbanks was read a third time; but, being opposed by Mr. OGDEN and by Mr. SPENCER, was rejected.

Mr. PINDALL moved that the Committee of the Whole be discharged from the further consideration of the bill "in addition to the 'act for the punishment of certain crimes against the United States,' and to repeal the acts therein mentioned," and that the same be indefinitely postponed.

On this motion some debate took place—Mr. P.

grounding it on the idea that it was certain nothing practical could result from the further discussion of the subject, &c., and that there was much business of practical importance before the House.

The motion was opposed, but succeeded, by a vote of 72 to 62.

## CASE OF MR. HERRICK, AND OTHERS.

The House then resolved itself into a Committee of the Whole on the report of the Committee of Elections on the cases of Mr. Herrick, Mr. Earle, and Mr. Mumford, members of this House.

Mr. ADAMS opposed this report, in a speech of moderate length; when

Mr. CLAY, without entering into the subject before the House, moved that the Committee rise, with a view to give an opportunity for some gentleman to move a reconsideration of the vote for indefinite postponement of the bill last mentioned, that he might have an opportunity to move a specific proposition for amending that bill, which he had yesterday pledged himself to move, &c.

After debate, this motion succeeded; and the House having agreed to reconsider the vote of postponement, again resolved itself into a Committee, on the bill above mentioned.

## THE NEUTRALITY BILL.

A motion (made yesterday) to amend the fourth section of the bill, was now agreed to—the effect of which was to confine the provisions of that section to the punishment of any citizens of the United States who should fit out vessels to cruise against the commerce of the United States, leaving out what related to the commerce of foreign nations.

Mr. CLAY rose to propose an amendment he had before indicated. Amended as it had been, Mr. C. said he had no objection to retaining the fourth section; but moved to strike out all the remainder of the bill, except so much as retains the provisions of the act of 1794, and repeals the acts of 1797 and 1817—the simple effect of which amendment would be to repeal the act of 1797 and that of 1817. In the propriety of repealing the act of 1797 he understood the chairman of the Committee of Foreign Relations to concur. Of course, then, it would only be necessary to show that the act of the last session ought to be repealed; and that it goes beyond any neutral duty we can owe. In the threshold of this discussion, Mr. C. said, he confessed he did not like much the origin of that act. There had been some disclosures, not in an official form, but in such a shape as to entitle them to credence, that showed that act to have been the result of a *teasing* on the part of foreign agents in this country, which he regretted to have seen. But, from whatever source it sprung, if it was an act necessary to preserve the neutral relations of the country, Mr. C. said it ought to be retained. But this he denied. The act was predicated on the ground that the existing provisions did not reach the case of the war now raging between Spain and the South American provinces. In its pro-



H. OF R.

Neutral Relations.

MARCH, 1818.

vision, it went beyond the obligations of the United States to other Powers, and that part of it was unprecedented in any nation, which compelled citizens of the United States to give bonds not to commit acts without the jurisdiction of the United States, which it is the business of foreign nations, and not of this Government, to guard against. Does the act of 1794, said Mr. C., embrace the case of the Spanish patriots? That was the question, and it was not worth while to disguise it. If St. Domingo was not included, as had been said, in the act of 1794, it would not follow that that act did not embrace the case of the Spanish patriots. What was the condition of St. Domingo? Had the Executive of the United States ever acknowledged, in regard to that war, that it was a civil war, respecting which the United States stood in a neutral relation? No such acknowledgment, he said, had ever been made, in respect to the war in that island, as had been expressly made by the Executive in regard to the war in South America, that it was a civil war. And, when the courts came to apply the law to cases before them, having the decision of the Executive to guide them, they must decide that the law of 1794 is applicable to both parties. The act of 1817, consequently, was wholly unnecessary to the object for which it was avowedly enacted, and was one of superfluous legislation. Mr. C. said he recollected with pleasure that he gave his negative to it; that every member from the State of which he was a Representative did the same. He recollected that sixty-three members of that part of this House, with whom it had been, and would always be, his pride and pleasure to act, had recorded their votes against it. The voice of the country had since pronounced its doom, and left for Congress nothing to do but to repeal the act. Disguise it as you will, said he, the world has seen the act in its true character; has regarded it as a measure calculated to affect the struggle going on in the South, and discovered that, however neutral in its language, its bearing was altogether against the cause of the patriots. How, asked he, is that war now carried on? But for the supplies drawn from this country through Havana for sustaining the army of Morillo, this modern Alva, whose career is characterized by all the enormities which have consigned to perpetual infamy the name of his great prototype; but for the supplies drawn through Havana, whose port is open to us only for the sake of those supplies, General Morillo could not have supported his army. This fact he had from the highest authority, from the commander of one of our national vessels who had been on a cruise in that quarter and had received it from the lips of Morillo himself. It becomes us, Mr. C. said, really and bona fide to perform our neutral obligations. He had seen and heard of circumstances respecting this subject, humiliating in the extreme. He had been told, for instance, that in the case lately argued in the Supreme Court of the United States, of some of those individuals tried in the court of the United States at Boston, not only

was the Attorney General ready at his post, as he should be, to attend to it, but the attorney for the Massachusetts district was there to argue it also; and, not satisfied with this, a foreign agent was seen attending the court, to see probably that nothing was omitted, and not even a poor Amicus Curiae was there to speak for the accused. Such was the state of the case that the humanity of the Attorney General had interposed, and induced that highly meritorious officer to make some suggestions favorable to those individuals. Was there a man in this country, Mr. C. asked, who did not feel his conscience reproach him for that transaction?

The act of 1797 being given up on all hands, and the act of 1817 being, as he thought he had shown, unnecessary, he hoped his motion would prevail. If, however, contrary to his belief, the House should decide that the act of 1794 did not cover the case of the existing civil war, and the act of 1817 should be thought necessary to bring it within the provisions of the act of 1794, Mr. C. said he should, in that event, submit another proposition to amend the bill, predicated on the idea that some provision was necessary in addition to the act of 1794.

The motion of Mr. CLAY to amend the bill having been stated from the Chair—

Mr. FORSYTH said he was opposed to the motion, and could not but suppose the honorable Speaker himself was doubtful of its success, as he had drawn before the House a variety of considerations which had no bearing on the question. Mr. F. denied, in the first place, that public sentiment had condemned the act of 1817. It was true, indeed, that certain exclusive friends of liberty, at the head of presses in the United States, had condemned this act; but, so far as we have any expression of opinion from the great body of the people of the United States, from the thinking part of the community, the act had been approved. But the Speaker had informed the Committee that sixty-three members of the House had opposed that act, and that all the members from a certain section of the country were in favor of it. This was another point, Mr. F. said, on which he differed from the honorable Speaker. The act of 1817, as it stands, came into this House on the 3d of March, 1817, and was passed by a large majority, the yeas and nays not having been required on it. How the Speaker then had ascertained the political complexion of those who voted for the bill, Mr. F. knew not; as far as he recollected, a very small minority had voted against it. That part of the bill which had been objected to in this House, had been stricken out in the Senate, and the bill, so amended, and as it now stands, was scarcely opposed on its final passage. There was, therefore, no decided political sentiment expressed on the passage of the bill. But, to excite prejudice against the act of 1817, another ground had been taken, and a suggestion made, which, if true, was a reflection, not on the House, but on the gentleman whose eulogy the Speaker some days ago pronounced. The origin of this act had been

MARCH, 1818.

Neutral Relations.

H. OF R.

imputed to the *teasing* of certain foreign agents near the United States. That the Message of President Madison, recommending that act, was in consequence of the representations of foreign Ministers, Mr. F. said he was ready to admit—not of reiterated importunities, but of a performance of their duty to their Governments by remonstrating against violations, by citizens of the United States, of obligations which we owe not to any one nation, but equally to all. A remonstrance had been made by the Portuguese Minister, a garbled representation of which had been published; a similar statement of facts had been made by the Minister of Great Britain, another by the Minister of France. All the foreign Ministers here had, in short, represented that citizens of the United States, engaged in cruises in patriot vessels, as they were called, fitted from our ports, committed depredations on the commerce of England, France, and Spain. What, Mr. F. asked, had been the duty of the President of the United States if these facts were true? Were not the United States bound to make reparation, if, without an effort to prevent it, we suffered depredations to be made, by our citizens and from our ports, on the commerce of nations in amity with us? The Government, he said, had heretofore recognised this principle, and had remunerated foreign citizens for property taken from them by citizens of the United States. The President, then, had barely performed an imperative duty in representing to Congress the insufficiency of the laws, &c.

But, Mr. F. said, he would never do the late President the injustice to state his views, when he had it in his power to quote his own language conveying them. [Mr. F. then referred to the President's Message, of last session, on which the neutrality act of March 3d, 1817, was founded.] He appealed to every other member of the House whether, in this recommendation, there was anything censurable; anything that the most fastidious could mark for reprobation. The act of 1817 was precisely correspondent with the Message, and, almost in so many words, an answer to it. It corrected the defects of the existing laws, and enabled the President of the United States, where there was strong ground to presume that a cruiser was about to violate the neutral relations of the United States, to arrest his departure until he should give bond not to violate the laws of his country. But this, the House had been told, was a most extraordinary provision, and unprecedented in the annals of civilized legislation. It was not necessary, Mr. F. said, for him to tell the House that, whenever a citizen of the United States or of any State is accused, on public ground, of intending to commit an offence against the authority of the laws, it is the duty of a magistrate to require him not only to give security not to commit a particular act, but to bind him over, in ample security, that he will not violate any of the laws. But it was objected, particularly, that it was required of a citizen to give bond to refrain, when beyond the jurisdiction of the United States, from certain acts. And was

15th CON. 1st SESS.—45

it not right to do so, when the United States were responsible for his conduct when beyond their jurisdiction? That was a question which had long been settled. And was there any hardship, Mr. F. asked, in requiring bond from a citizen that he will refrain on the high seas from acts affecting the character of the country, and involving it in disputes with foreign Powers? And yet there was nothing else in that act which even in the eyes of the honorable Speaker was reprehensible. But this provision had been said to be unprecedented. Why, Mr. F. said, our statute book is full of similar provisions. Every restrictive law of the United States; every law forbidding commercial intercourse, or regulating it with foreign nations, contains similar provisions. The laws prohibiting the slave trade contain similar provisions. If a person swear that he suspects another of intention to violate the laws against the slave trade, the person so suspected is required by the collector to give bond and security that he will not violate the law in this respect. And where, Mr. F. asked, was the impropriety of this provision? But there was a still stronger case: That of the act prohibiting intercourse with St. Domingo was perfectly parallel to the present; for, although the color of those who were there fighting for their liberty might make a difference in the policy of the Government, it could make none in the principles on which that policy was founded. It was well known, that, at the date of that act, a contest existed between the European colonists and the colored population of St. Domingo; the latter claiming a recognition of their liberty, the former claiming to reduce them to obedience. Did the United States permit the vessels of that Government, or pretended Government, to come here for military supplies? Did it permit the agent from St. Domingo to reside here, to grant commissions to privateers, to make representations to the Government, officially or unofficially, and to make appeals from the acts of the Executive to the Congress or the people? No, Mr. F. said, the Government of France asked from the justice of this country, to pass laws prohibiting any commercial intercourse with the citizens of St. Domingo, and an act was passed, for two years, and afterwards continued in force for two years longer, one of the provisions of which was similar to that one of the act of '17, which was so much reprobated by the Speaker.

Mr. F. concluded by remarking, that he thought he had said enough to satisfy the Committee that there was nothing in the origin of the act of 1817, or in any of its provisions, which required its repeal; but that it ought to remain on the statute book, amended as now proposed in the bill before the House.

Mr. ROBERTSON, of Louisiana, said he had voted against the act of 1817, and was now in favor of its repeal. Before coming to that question, however, he would remark that, when our situation was more critical, and when, in point of resources, we were infinitely weaker; when, in 1794, our citizens were engaged in behalf of the republicans of France, with a zeal infinitely more dan-



H. OF R.

Neutral Relations.

MARCH, 1818.

gerous to the peace of the country than anything that has been exhibited in regard to the patriots of South America, the act of 1794 had been deemed sufficient to secure the observance of our neutral relations. Was our situation, he asked, more critical in 1817 than in 1794? If not, ought we to have been induced to take stronger measures by far than had been applied to the emergency of 1794? The administration of WASHINGTON not only deemed the act of that day sufficient, but cautiously limited its duration to two years. It had been subsequently renewed two or three times, and Congress had always been satisfied with its provisions. In 1817, however, a state of things somewhat similar occurs, but infinitely less critical, in consequence of another effort, by another people, to throw off the yoke of a despotic government. As the struggle of the people of France for liberty gave rise to the act of 1794, so that of the people of South America gave rise to the act of 1817, which was passed by Congress without the knowledge of any exterior pressure on the Government, or of the letter which had been mentioned, and other representations. It now appeared, that the act of 1817 was passed in consequence of representations of foreign nations, growing out of hostile feelings to the cause in which the people of South America were engaged. This, said Mr. R. might be a sufficient ground for the Ministers of Portugal, of England, and of France, to proceed upon—but shall we sympathize in their feelings on the subject, and be induced by them to pass acts to shackle our citizens, when it is so easy to trace their remonstrances to a general hostility to the cause of any people who are engaged in a struggle to ameliorate their condition by changing their form of government? It did not appear now he said, that that act had been passed so much with a view to do what was just to ourselves, as to accommodate the views of foreign nations. That, Mr. R. said, had been his objection to the act when it passed; and the more its causes and effects were developed, the more anxious he was to get rid of it, and to return to the statutory provisions of 1794, which, for a number of years, had been found sufficient.

The cases stated by the Chairman of the Committee of Foreign Relations, (Mr. FORTYTH) as having induced the passage of the act of last session were already provided for by the act of 1794; he referred to cases of fitting out vessels in our harbors, and with them cruising against the commerce of foreign nations, prohibited in that act, under very heavy penalties. But the act of 1817 went a step further, and authorized the collector to stop any vessel manifestly built for warlike purposes, if it has a cargo on board which shows it to have been intended for such purposes, or having a crew, or for any other cause, justifying that suspicion. Mr. R. wished to know by what authority the Government undertook to say, that a vessel built for warlike purposes should not leave the ports and harbors of the United States. What breach of neutrality is it to suffer such vessels to depart our ports; and why are we required, in this

manner, to cripple the operations of the shipholders and shipbuilders? Mr. R. strongly objected to the latitude of discretion given to collectors by the term "or for any other cause," which subjected the vessels of our citizens to vexatious detentions. This, he said, was one difference between the act of 1794 and that of 1817; but there was yet another. By the act of 1817, not only armed vessels, but vessels manifestly built for war, though built for sale only, were forbidden to go from our ports without giving bond that they were not to be employed in aiding or assisting any military expedition, &c., and so obviously unjust was this provision, that the gentleman himself had found it necessary to propose an amendment to narrow its scope. Mr. R. concluded by repeating, that he could see nothing in our situation which required a stronger act than was deemed sufficient in 1794, and he, therefore, hoped the acts of 1797 and 1817 would be repealed.

Mr. LOWDES commenced his remarks by redeeming the act of 1817 from the charge which had been alleged against it, as far as his opinion went, by declaring that act not to have been adopted in consequence of any foreign remonstrance, but to have been the deliberate expression of the judgment of this and of the other House; and, though he had listened with the greatest attention to the arguments of the gentlemen from Kentucky and Louisiana, they had failed to convince him that that deliberate expression of the opinion of Congress at the last session ought now to be reversed. But, he said, there was less difference on principle than he had expected to have found between those gentlemen and those who approved the act of the last session. The Speaker particularly had conceded that the acts were unlawful which that law was designed to prevent; and the only difference between us, said Mr. L., is that for the prevention of these unlawful acts we propose a remedy, which they will not accept. On the question of the criminality of enlistment in a war between two Powers with whom we are in amity, we perfectly agree. The opinion of the House and of the country, Mr. L. said, must be that, so long as we profess neutrality, we ought to observe it; that our neutral obligations should be fairly and honestly fulfilled. And it was because he thought it the duty of Congress to prevent our citizens, by requiring bond and security to that effect, from engaging in the existing war, that he was willing to continue the act which the Speaker proposed to repeal. He could not think, he said, that there was anything new in the act of 1817; not merely because similar provisions might be found in our own municipal regulations, but because analogous provisions existed in the laws of other nations. Mr. L. asked of the honorable Speaker, seeing that in time of war we require bond from privateers, before commissioned, that they will not violate the laws of nations, why in time of peace he would not require bonds from those suspected of the intention to violate them. Mr. L. considered

MARCH, 1818.

Neutral Relations.

H. OF R.

it an imperfect view of the subject to suppose that the bond thus required was only to prevent injury being done to any one Power. Those who leave our shores to assail the property of one Power, may, when they get to sea, employ their arms against any and every nation. It was perfectly fair, certainly, that those who left our shores, with the means of mischief on board, should give that security against their involving the interests, and perhaps the peace of their country, which bonds, such as are required by the law of 1817, are calculated to afford. The gentleman from Louisiana appeared to think that there could scarcely be anything in the cargo of the vessel which ought to be taken as an indication of a warlike purpose. Now, Mr. L. said, though he did not think this clause material—not, however, that he would repeal a law because every syllable it contained was absolutely necessary—yet he thought that from the cargo the object of an expedition fitted from our ports might be readily inferred. Might there not, he said, be that preparation of fixed ammunition, &c., which would afford a strong presumption that the vessel was not intended for traffic, but prepared for war? He thought this might occur, where other proof would fail. Mr. L. took other views of this question. He said he could not regard this question as one of a mere fulfilment of our duties to the countries at war, as the vessels equipped in our ports might be employed against other countries with whom we are at peace, as well as against those belligerents. One consideration for such an act he would suggest, which it was too late for us to deny, that we are responsible for injuries done by vessels of the United States, after they leave our ports, before they arrive at a foreign port. For such depredations we are responsible, and have recognised the principle by paying claims founded on it. We have bound ourselves to respect the principle in a manner equally obligatory, by preferring claims founded on it against other nations. Having done so, every consideration of prudence, of respect for the character of our country, requires that we should exact the security which is demanded by the act of 1817. As regards those who desire to trade in vessels of war, it is necessary to provide, as has been provided, that it shall be carried on in a way beneficial to them, but compatible with the higher interests of the country. No duty, said Mr. L., is by the act of 1817 exacted from any individual which the Speaker does not think, as well as myself, ought to be performed; a bond only is exacted, in certain suspicious cases, that that duty shall be performed. Where the hardship, then; where the commercial inconvenience of being required to give bond that, while on the high seas, the suspected vessel shall not violate the laws of the country? The act of 1817 created no new duty, established no new prohibition; it only secured the execution of existing duties in a particular, for the failure to observe which the Treasury of the United States, and not the offending individuals, would ultimately be responsible. Mr. L.

would not say that the act merited none of the reprobation bestowed on it; but he would say that it had not been proved to contain any injurious or oppressive provisions.

Mr. CLAY said it was always with very painful regret that he found himself differing from the gentleman who had just taken his seat, and with the Chairman of the Committee of Foreign Relations; and, when differing from them, he almost distrusted his own perceptions. But this was not the first time he had that misfortune; for his honorable friend (Mr. LOWDES) had been at the last session a powerful auxiliary in carrying through the bill which then passed, and was now proposed to be repealed. Notwithstanding his great regret at the circumstance, however, he must obey the dictates of his own judgment. Mr. C. said, he never had intimated that the act of 1817 did not originate in the judgment of this House, or that it was passed at the instance of any foreign Ministers; and yet, if he understood the gentleman from Georgia, he had admitted that the committee had had the benefit of the suggestions of several foreign Ministers. It was immaterial to him, Mr. C. said, whether the act sprang from any suggestion of foreign agents, or whether, after it was recommended, the letters of the Ministers were sent to the Committee of Foreign Relations. As to the foreign Ministers, Mr. C. said, in referring to them, he meant nothing disrespectful towards them—he would not treat with disrespect even the Minister of Ferdinand, whose cause this bill was intended to benefit; he, said Mr. C., is a faithful Minister; if, not satisfied with making representations to the foreign department, he also attends the proceedings of the Supreme Court, to watch its decisions, he affords but so many proofs of the fidelity for which the representatives of Spain have always been distinguished. And how mortifying is it, sir, to hear of the honorary rewards and titles, and so forth, granted for these services; for, if I am not mistaken, our act of 1817 produced the bestowal of some honor on this faithful representative of His Majesty—and, if this bill passes which is now before us, I have no doubt he will receive some new honor for his further success. No, Mr. C. said, he would never treat foreign Ministers to our Government with disrespect. But yet he was not entirely satisfied with the suggestions respecting the representations, garbled and ungarbled, of the foreign Ministers. In regard to the letter of the Minister of Portugal—a man whom Mr. C. said he highly venerated; whom he regarded as an honor to his country and an ornament to science—a man whose country could not have shown a greater respect for the United States than by deputing him as its representative to this Government—with regard to that letter, as the gentleman had charged the publication which had been made of it to be a garbled one, and it seemed by his confession (his precious confession, he would call it, but not in the obnoxious sense of the term) that he either had the document in his possession or had seen it, he hoped that he would lay it before the House



in expenso, that they might see it in its ungarbled state, &c. But, having been contradicted in the statement he had made when up before, respecting the passage of the act of 1817, Mr. C. begged of the honorable gentleman, before he disputed any statement of his (Mr. C.'s) to take the trouble to examine whether he was himself correct. If the gentleman would turn to the Journal, he would find that, on the question to engross the bill, there were sixty-three in the negative. [Mr. FORSYTH explained; the bill thus ordered to be engrossed was not that which finally passed, which came from the Senate.] If, Mr. CLAY continued, the gentleman would look over the list of names recorded in the negative, he would find the name of one of the present Cabinet, the Secretary of War. The yeas and nays had also been taken on the proposition to postpone the bill indefinitely when it came back from the Senate; and, although owing to the period of the session, a smaller number voted on the bill, there were yet thirty-seven votes for postponement, to some sixty odd against it.

But, said Mr. C. it seems, that in the remarks which I have submitted, I have made some reflections on the late President of the United States. No such thing. But was there not, he asked, a considerable alteration, since the act of 1817, in our posture in respect to the war between Spain and the Provinces. The Executive had since declared to the whole world that the condition of the United States is one of neutrality in regard to the contest. Not that only, but that the war carrying on is a civil war, and that we owe to both parties all the obligations of neutrality—the obligations due to a party in a civil war being very different from those due to a people in rebellion, and demanding therefore a different state of our laws. But, returning to the late President of the United States—no man, Mr. C. said, had a more high sense of the exalted character and distinguished services of the gentleman to whom he thus alluded; but, whilst, said he, I am a Representative of the nation, I shall speak freely my sentiments, let them be in opposition to whom they may, whether the existing or any former Chief Magistrate of the United States. Mr. C. then called upon gentlemen to show that the act of 1794 was inapplicable to the existing conflict under the circumstances of the change of attitude, to which he had referred. The gentleman had contended it was not, because of a decision in the case of St. Domingo. That, Mr. C. said, was a case standing on insular ground, and totally different from the present. We admit the flag of the patriots: that President Madison did—we declare the contest to be a civil war: that President Monroe did—and commissioners have been sent there, if not with credentials, to hear and make representations. The Judiciary then would say, that the act of 1794 does include the case, and the act of 1817 would be superfluous and unnecessary, but for the further provisions contained in that act. Gentlemen had contended, that these further provisions were necessary, because it was proper to require bond and security from vessels

departing from our ports, that they will not violate our neutral obligations without the territory of the United States. This proposition, Mr. C. could not reconcile with the admission he understood gentlemen to make, that acts committed out of our jurisdiction are acts of which foreign Powers must take care for themselves.

The bonds required by the restrictive systems, which had been referred to, were not analogous to the present case; they stood on peculiar ground, the measures they were necessary to enforce having been required by our own policy, in defence of our own rights and interests, and were not an act of legislation for the benefit of a foreign Power, for whom we are under no obligation to legislate. The difference in the two cases was precisely the difference between legislating for ourselves and legislating for others. But it had been said that bonds are required even from privateers in war. That is because they have commissions, said Mr. C., and, acting under our authority, constitute a particular part of the force of the community, and the bond is required for our own sakes. Whilst on this subject, he said, he could not see the cause for all this anxiety on the part of gentlemen, lest the patriots should get hold of a vessel prepared for war. Were they not aware that the whole marine of the island of Cuba consists of vessels purchased from this country? Ships are an object of commerce, condemned by no authority. It was particularly fitting, under present circumstances, that we should give every facility to the sale of our ships. Do we not know, said he, that owing to the condition of the world, our merchant vessels are cut out of employment, and that, unless we can sell them, they will rot at our wharves? Mr. C. laid it down as a principle, incontrovertible, that a ship, armed or not armed, was an object of commerce. Gentlemen would not deny, that the materials of armament might be separately sold, and afterwards combined. But the honorable gentleman from South Carolina had made one admission, which gives up the question, when he conceded that an armed ship might be fitted out—completely equipped—go to a foreign port, and afterwards go to war with any belligerent whatever, without a violation of our neutrality. And yet such a course, admitted by the gentleman to be lawful, was expressly forbidden by the act of 1817.

[Mr. LOWNDES briefly explained, not admitting the principle Mr. C. considered him as ceding, in the latitude given to it by the Speaker.]

Mr. C. said, he had conceived the principle to be fairly inferred from the course of the gentleman's argument; and he did not yet understand him as denying, that, after a vessel gets into a foreign port, and departs thence, our responsibility for its conduct ceases. And the gentleman had the other day admitted, in debate on another subject, the right of expatriation. Suppose, then, that any number of citizens of the United States should fit out an armed vessel to go to any port in Spanish America, and there expatriate themselves by becoming citizens of another country,

might they not then engage in war under the flag of that country? Gentlemen would not deny it, and yet they would be forbidden to do so by the act of 1817.

Mr. C. stated further objections to this act. For example, the collector of a port might detain any vessel, when the number of men, the nature of the cargo, or any other circumstance, induce him to suppose the vessel is intended for cruising, with a belligerent purpose. Mr. C. said he was opposed to vesting such discretionary power in any collector. The voyage may be intended to Lima, to China, or any distant port, and the voyage may be totally defeated, and heavy loss incurred, by a mere caprice of the collector. Mr. C. wished his honorable friend (Mr. JOHNSON) to read a letter he had received from St. Bartholomews, stating that three vessels had arrived there from British ports, not only with skeletons of regiments, but with nearly all the men, on their way to join the patriots. Had these men, Mr. C. asked, been subjected to any bond and security—to any such onerous provisions as are contained in this bill? No, said he; we alone, it seems, are to stretch our power to its limit to prevent our citizens from aiding in any manner the efforts of those who are struggling for liberty in the South; whilst Great Britain, in this respect, pursues a policy which we might worthily imitate. While at peace, he admitted, we ought to perform our obligations of neutrality; but they did not require the passage of bills with neutral titles, but with provisions favorable to one only of the belligerents. What, on the other hand, had Great Britain done? She had issued a proclamation which almost recognises the independence of the provinces, calling the contest a war between America and Spain, and forbidding her citizens to engage in it, but requiring no bond and security from them. No, said Mr. C., she has gone a step further than she has ever before gone: her citizens, who constitute a part of the armies of Spain, she has forbidden from fighting against the patriots. I wish we might imitate her example, and observe a real neutrality, instead of that which exists in name only, to the prejudice of one party and not of the other.

In reference to the suggestions made by Mr. LOWNDES respecting spoiliations, Mr. C. asked, what success have we had in our applications for indemnity for spoiliations? We are told, very good-naturedly, indeed, by the Secretary of State, in a late communication—I am sorry we have not the benefit of that letter—though, when we get it, I presume we shall find it a compilation of other works on the same subject—the Secretary of State tells us, very good-naturedly, that we have patiently waited for the settlement of our differences with Spain, and it will require no very great effort to wait a little longer. Very good-natured, indeed! No change, say gentlemen, in the aspect of our relations with Spain? Yes, a most humiliating one, within the last three or four years. We were told by the President, in his message at the commencement of the session; and, ambiguous as the intimation was, hope clung

to it as promising a change; that a disposition had been shown on the part of Spain, to move in the negotiation. And what sort of a motion was it? A motion which has terminated in something like a perpetual repose, waiting till the passions and prejudices of His Majesty of Spain may have time to subside. Admirable, Job-like patience, said Mr. CLAY. I thank my God, that I do not possess it.

Let us, said Mr. C., in conclusion, put all these statutes out of our way, except that of 1794. When was that passed? At a moment when the enthusiasm of liberty ran through the country with electric rapidity; when the whole country, *en masse*, was ready to lend a hand and aid the French nation in their struggle, General WASHINGTON, revered name! the Father of his Country, could hardly arrest this inclination. Yet, under such circumstances, the act of 1794 was found abundantly sufficient. There was, then, no gratuitous assumption of neutral debts. For twenty years that act has been found sufficient. But some keen-sighted, sagacious foreign Minister finds out that it is not sufficient, and the act of 1817 is passed. That act, said Mr. C., we find condemned by the universal sentiment of the country; and I hope it will receive further condemnation by the vote of the House this day.

Mr. LOWNDES rose to vindicate himself from the charge of inconsistency alleged against him by the Speaker; but which, he said, could not be properly established by taking a sentence or half a sentence from a speech, and founding an argument on it. The Speaker infers, said he, because I will not take measures to punish him who, without the jurisdiction of the United States, enters into a vessel armed by a foreign authority, and cruises on the property of foreign nations, that I must therefore be willing that a citizen of the United States, within the limits of the United States, in a vessel belonging to the United States, shall involve the Government in a responsibility for her acts, with equal impunity. Mr. L. submitted to the Committee, whether there was any resemblance between the two propositions.

Mr. FORSYTH explained the difference as to facts between him and the Speaker. If what the Speaker had advanced, respecting the vote on the act of 1817, had been intended as argument, Mr. F. said, he had endeavored to show that there was no weight in it, by showing that the vote to which the Speaker had referred was not on the bill which actually passed, but on a bill reported by the Committee on Foreign Relations which did not pass. The member of the Cabinet, who had been referred to, voted against the last-mentioned bill, but in favor of that which passed into a law, and there was a very small minority against it. With respect to the influence which produced the passage of the act of 1817, if there was any felt, it was by the President, and to him must be imputed the blame; for to him the remonstrances of the foreign Ministers had been addressed, and he had brought the subject before Congress. With respect to the correspondence



with the Ministers, on the call of the committee for facts of depredations by our cruisers, these papers had been shown to them. I have no recollection, said Mr. F., of every word in one of the official notes, but I am sure that the version which has been given of it is not correct. I very well recollect, although not particularly remembering the particular words or arguments, that the tone of the letter and its manner were perfectly respectful to the Government, and such as might have been expected from the character of the Minister. It was neither indecent nor disrespectful; in the letter which is published as a copy of that, there are passages both indecent and disrespectful.

In reply to the suggestion, that even if the act of 1817 was required at the time it passed, it was no longer necessary, because of a change in our posture, Mr. F. said, he knew of no such change. As far as the independence of the provinces, or of any of them, was recognised at this moment, it had been at that day. If his memory was not, in this respect, treacherous, the President of the United States announced to the Spanish Minister, through the Secretary of State, in the correspondence between them laid before this House at the middle of the last session, that such was the relation in which we regarded them. This answer had been given to an application to exclude their flags from our ports.

To show that his construction of the decision of the Supreme Court on the act of 1794, as applied to the case of *St. Domingo*, was correct, Mr. F. quoted the words of the decision from Cranch's Reports. In Massachusetts, the case referred to by the Speaker, was that of an indictment for piracy, from which the accused sought to shield himself by a commission from one of the Governments asserting their independence. The judges composing the court differed on points of law. One of the questions was, whether a commission emanating from any revolted colony, district, or people, whose independence was not recognised by the Executive authority of the United States, was valid. Here was a question, very different from the present one raised by the courts of the United States, and brought up for decision; it was not decided, because the counsel for the party was not present, or for some cause of that description. This point being doubtful, it was highly proper that the act of 1817 should have removed all doubt on the subject. Under the act of 1794, it was doubtful whether the commission of certain acts was an offence under our laws or not; and a long course of litigation before the courts would have been necessary before the question would have been settled. It was better to settle the question, and clear the law of all doubt. In this view, the act of 1817 was necessary, independently of all other considerations, and ought not to be repealed.

Mr. TUCKER, of Virginia, said, he would not have troubled the Committee, but that his views varied somewhat both from those of the Speaker and the Chairman of the Committee of Foreign Relations. He was averse to the repeal of the

entire act of 1817, but was in favor of the repeal of the two last sections of it; they were called the bond section and the collector's section. He stated why he was in favor of retaining the provisions of the act, except these two sections. That act had been framed with the view of extending the provisions of the act of 1794, prohibiting our citizens from taking part in a war between two independent nations, with whom we were at peace, to the case of the Spanish colonies and the mother country. The act spoke of "a foreign prince or state," and there had been in our courts a decision which seemed to indicate the necessity of using some farther designation in order to take in the case of the Spanish colonies. The first section of the act of 1817 differs from that of 1794, in little else than the addition of the words "colony, district, or people," after the words "prince or state." This amendment had been thought necessary last year. He had not been present when the bill was passed, and should perhaps have hesitated about passing any bill with views particularly to this contest. But there was a difference between passing the bill and repealing it. Spain could not complain of our leaving it undone. Her conduct had given her no peculiar claims upon us. He should, therefore, perhaps have voted against the law. But it is now a law; and to repeal at this time a provision which extends to her the provisions of the act of 1794, might perhaps justly be considered as unfriendly and hostile. And while he, therefore, viewed with as much interest as any gentleman the cause of the Spanish patriots, and viewed with as little approbation the course of the Spanish Government, he would avoid whatever might endanger the peace of the nation. He considered it our true policy to maintain peace if we can, without compromising the dignity of the nation. It is not less our interest now to avoid being entangled in South American affairs, than it was to avoid, in 1794, being implicated in European quarrels. He was, therefore, disposed to maintain, by all proper means, the neutrality of the United States; but it should be a dignified neutrality, not involving ourselves in difficulties, nor shrinking from what was due to our own character and standing among the nations of the earth. It was partly with this view that he was opposed to the last sections of the act of 1817. Spain has not entitled herself to expect this Government to go farther than they did in 1794, for the preservation of its neutrality. These sections do go farther. A gentleman now within the walls of the House, (Mr. PRESTON,) who was in Congress in 1794, tells me the attempt was made to introduce similar provisions into the act of that year. It was opposed by the most intelligent merchants, as embarrassing and oppressive, since it rendered it necessary that every East Indiaman, going armed, should be compelled to give bond before she could sail. Mr. Fitzsimmons, a distinguished merchant, was mentioned as opposing it. The proposal failed in 1794. Can Spain expect us, in her favor, to go farther than we would go then? By no means. Let

us then leave the first section of the act of 1817 in force, and repeal the two last sections. This places Spain and the colonies on the same footing, as other nations are by the act of 1794. Mr. T. had specific objections to these clauses. The bond clause must be inconvenient to East India merchants. An intelligent East India merchant tells me that it is considered as an inconvenient provision at this day. It must be inconvenient; it holds every merchant to security, (who, from the nature of his trade, is obliged to go armed,) merely because some vessels have been illegally fitted out. It runs counter to the principles of our laws, to hold all to security lest some should break the law. The other section, he said, was more objectionable. It authorizes a seizure by the collector, upon suspicion; it puts into his hands powers that belong to the Judiciary; they are ample powers. If there be just ground of suspicion, on affidavit, a judge may issue his warrant against the offender; for, if his vessel has been fitted out, and the intent is illegal, the offence is completed before she sails. If there be not just ground of suspicion, the collector should not be permitted to seize; nor would I take the power of judging out of judicial hands, to place in the hands of the collector. Who is he? A person entitled to large emoluments in the case of condemnation of the vessel; an interested man, who, if he succeeds, requires a handsome sum, and, if he fails, applies to Congress to indemnify him, as he was acting in the line of his duty. He would repeat, that Spain had no right to expect us to introduce or to retain provisions so much at variance with correct principles, and which we did not think proper to introduce into the former laws for preserving our neutrality.

Mr. SMITH, of Maryland, was opposed to this motion, though he had made up his mind to give a silent vote on it, but for the remarks of the gentleman who had just spoken, (Mr. TUCKER.) He had the honor, he said, to be a member of the Committee of Foreign Relations at the last session, by whom the bill now called the act of 1817 was reported; and, as far as his recollection served him, if the Message of the President (which had been referred to) had not been submitted to that committee, they would have reported a bill nearly similar in its provisions to that which had passed. That letter, Mr. S. said, ought to be better understood. The Minister of the King of Portugal had received information, which afterwards proved to be correct, that Commodore Taylor had issued orders to privateers from the ports of the United States to capture the vessels of Portugal; and he apprized the Department of State that such expeditions were fitting out. The fact was, Mr. S. said, that those vessels, going from ports of the United States, did actually take such vessels, carry them into Buenos Ayres, where the Government decided that there was no authority on the part of Commodore Taylor to issue any such orders. The letter from the Portuguese Minister, Mr. S. said further, was couched in respectful terms, such as appeared proper and consistent with a correct

view of his duties as a foreign Minister. It had been intimated that the President had been induced to address a Message on this subject to Congress, by the teasing of a foreign Minister. Did gentlemen suppose the President a man of that character to yield to such importunities? No; he was, in applying to Congress for more rigid provisions, mindful of his own country alone; and no reflection could justly apply to the President for his conduct on that occasion.

His friend from Virginia, Mr. S., said, had an objection to the act of 1817, bottomed on the bonds required by that act to be given in certain cases. What were those bonds? That an armed vessel, going from the ports of the United States, should not jeopardize the peace of the country. This it appeared had been represented to the gentleman from Virginia as a great inconvenience to persons engaged in the East India trade. I am myself, said Mr. S., engaged in that trade and a number of my constituents, and the constituents of various gentlemen here; and, if there be any inconvenience to them, why have they not remonstrated to this House against it? No such remonstrance has been forwarded; and yet, sir, the merchants are very mindful of their own convenience. One remonstrance had been presented from that class at the present session, representing that the fifteen days allowed by law was too short a time for discharging the cargo of a ship, and that the per diem allowance for all beyond that time ought to be modified or discontinued. This, Mr. S. said, was a trifling inconvenience, and yet the merchants remonstrated against it. As to the inconvenience of giving bonds, Mr. S. said, he who has no wish to do an unlawful act will have no objection to give bonds, which give no other trouble than the signature of his own name and that of two sureties. In civil society, for the benefit of the whole, individuals must submit to such inconveniences, and the merchants had always cheerfully done it. Why did we so? asked Mr. S. Because it was our interest that those who are disposed to do illegal acts may be detected and arrested in their designs. We give bond, said he, for the register of our ship, and, if we sell the vessel abroad, are bound to return the register. We could sell our vessels to great advantage abroad, if we could sell the registers also; but the security of the Government requires us to give bond to return them. To such inconveniences, like those of the act of 1817, required by the general good, I have never known merchants to refuse to submit—it is not their character. With regard to the other section, which the gentleman had objected to, Mr. S. did not conceive it very important; but it was intended to prevent vessels from being prepared in our ports for a cruise in every respect, except that their armament was not on deck, but ready to be put in a situation to make war immediately on leaving our ports. Such a vessel the collectors are authorized to detain; but from so doing gained no advantage, there being no forfeiture, &c.—so that they had no motive for pressing the execution of the strict letter of the law, and the



power was not therefore subject to abuse, as had been supposed. The section, he said, had perhaps arisen from a circumstance which has cost the United States nearly two hundred thousand dollars—he referred to the case of the American Eagle, of New York, which vessel was supposed to be sold to one of the black Emperors, and had about her all the marks of such a destination; but, under the laws of the United States, was not condemned. That vessel was seized under a direct order of the Executive; but the collector had been adjudged to pay to the owner, for the seizure, \$109,000 and interest, and Congress were bound to make good the money. If the section now objected to had then existed, this would not have happened. If a man means fairly, his enterprise will be above board, and there is no fear of his being subjected to a suspicion of an intention to do an unlawful act; if he acts otherwise, he ought to be restrained by bonds from carrying his intention into effect. I am of opinion, said Mr. S., we have an undoubted right to build vessels fit for war, and send them abroad and sell them to whoever will buy them; but, when we do so, we ought to have cargoes not contraband of war on board of them. If they have an innocent cargo, they have no occasion for arms, and may go unmolested where they please. And was there anything in the act of 1817 to prohibit such a trade? No; it prohibited only the fitting out of vessels from our ports for the purpose of depredating on the commerce of nations with whom we are at peace.

What, Mr. S. asked, was the nature of our difference with Spain? Was our claim on her for territorial possessions? No, he said, we possess the territory we claim, and it is for Spain to negotiate to dispossess us. Our claim against her is for spoliation committed on our commerce by French privateers whom she permitted to fit out from her ports, and bring in our vessels for sale. For this we justly demand indemnity. And what, he asked, had Spain replied? That we have a right to this indemnity, and she will pay it when she shall be able. Now, if a vessel, sailing out of our ports as a cruiser, obtains a commission we know not how, gives no bonds whatever, goes to sea and commences the capture of Spanish property, are we not responsible? In one case a vessel of that description sailed from our ports, and, without having visited any patriotic port, had captured an Indiaman and sent her into Buenos Ayres, where she sold for a million of dollars. That amount, Mr. S. said, he had been informed was already reclaimed from us. And, should we ask them to pay us for depredations on the property of our merchants, and refuse the same measure to them? Now, suppose that at that time bonds had been exacted, as by the provision of the act of 1817 so strongly objected to, with good and sufficient security, that vessel would not have gone out and involved the United States in heavy responsibilities by her unlawful acts.

If, as had been said, up to the last year, the act of 1794 had been deemed sufficient by successive Congresses, why had that of 1797 been

passed subsequently? And, after all the acts that could be passed, it would be found, Mr. S. said, that some loop-hole would still be left through which a man may creep. In reply to the Speaker's demand, why such sympathy with the Spanish Government, Mr. S. said, that our sympathies were for ourselves, our acts were intended to keep ourselves within the rules of conduct prescribed by national law for neutral Powers; to maintain our own dignity, and prevent our citizens from involving us in war. Of a war with the present power of Spain, he said, nobody would think much; but a rule applied to Spain might be applied, by illegal cruisers from our ports, to other Powers, with whom a conflict would not be so very convenient. The House had been told that such conduct was not cause of war: it might not perhaps create a war at this moment—but, said he, whenever the Power thus injured feels itself strong enough to make a war, you will find that it will be always found a sufficient cause. If, Mr. S. said, the United States do permit vessels to be owned and fitted out in our ports and harbors, commanded and manned by American citizens, and to sail out and depredate on the commerce of a nation at peace with us, without our taking due means to prevent it, if that nation be able, she will consider it cause of war. Suppose we should thus be brought into a war, which is not impossible, and that Spain should fit out, in the ports of England and of France, privateers which never have gone and never intend to go into Spanish ports for commissions, but should commence their depredations on our commerce the moment they leave the ports where they were fitted out; suppose that we remonstrate with these Powers, and tell them that the practice is inconvenient and injurious to us, and they give to us the answer which has been given on this floor—I want to know, if, with the powers the Speaker can bring into action on such subjects, he would not rouse the feelings of every man in this House to resent the injury, considering it as cause of war. What! he would say, shall we stand by and see our commerce plundered, and our merchants robbed at our very doors by people not at war with us? We ought, therefore, Mr. S. said, by every provision that was necessary, to prevent our citizens from embarking in these expeditions. If the patriots ever have a commerce on the high seas, said he, on which depredation can be committed, we shall find our citizens fighting against one another; commissions will be taken from the Spanish monarch in the same manner as they now are from the patriots; and, money being the only object of those who engage in these expeditions, our citizens will be found in arms against each other, as either service may afford them the prospect of gain, &c.

Mr. CLAY again rose. He directed his first observations to what had fallen from Mr. TUCKER. If the decision of the judicial authorities had been, that the case of the patriots did not come within the act of 1794, there would be much force in his argument for retaining the least

objectionable part of the act of 1817. If such a decision had been made by the Supreme Court, Mr. C. said, he did not know but he would go along with the gentleman; but such a decision had not been made, and, he thought he had shown, could not be expected.

The gentleman from Maryland, Mr. C. said, or himself, was totally mistaken as to the case of the Eagle. The Power of St. Domingo was not then considered as a State—[Mr. SMITH explained that he had not referred to that case with any view to that point.] Mr. C. said he had it from unquestionable authority, that in the case of Mr. Collector Gelston and the Eagle, the court had refused to grant the necessary evidence of the fact, "that there was probable cause" for the detention of the vessel; and that officer was consequently left to the operation of the law on a naked trespass. But, Mr. C. repeated, again and again, that the gentleman from Georgia would fail in the attempt to confound the virtuous struggle of the Patriots of South America with that of the contest of St. Domingo. There was a difference in the facts, as there was in our laws and policy respecting them. There was, in the case of St. Domingo, an absolute prohibition of intercourse, which took place, he admitted, at the instance of the French Minister; and we had not recognised the war as a civil war, &c., or in any manner so regarded it, as that a case arising under it in our courts could be viewed in the same light as a case occurring in the existing conflict in South America. In reply to the gentleman from Virginia, who seemed to think that that Power could not be considered as independent, whose independence had not been recognised by the United States, Mr. C. said that was not a clear case; because there were many Powers in the world, with regard to which we have no diplomatic relations whatever. Mr. C. anticipated the suggestion he perceived his friend was about to make, that, the South American provinces having been once a part of Spain, there was in that circumstance an exception to the general rule. In reply to that argument, Mr. C. said, that whilst the power of Napoleon was at its extent, it had stretched over and absorbed in his empire many Powers to which the act of 1794 would have previously applied—Powers in the heart of Germany; several Powers there were from whom we had never received a Minister—among others, that of Murat, to whose late Government we have recently sent a Minister on one of those fruitless errands on which we too often send Ministers, &c.—[Mr. C. here gave way for an explanation by Mr. TUCKER, and then proceeded.] With regard to the case which had lately arisen in the Circuit Court of the United States at Boston, Mr. C. remarked, that he had heard from Judge Story himself, that he had entertained no doubt of the legality of the commission; but, as other questions had arisen in regard to which there was a difference of opinion between the judges, they had chosen to introduce that question into the case, to bring it before the Supreme Court. After some further remarks,

Mr. C. said it would be time enough to amend the act of 1794 after a decision against its competency to the present state of things by the Supreme Court of the country, to whom the Agent of His Majesty Ferdinand VII. knows very well how to go. The President had placed the parties to the war on an equal footing: if they were equal for one object, they were for another—and, being equal in our ports, and equally entitled to the rights of belligerents, they must be placed on an equal footing in our courts.

The honorable gentleman from Maryland had discovered, however, that we have no claim for territory against Spain. [Mr. SMITH explained, that he had said we have possession of all we claim, and it is Spain who disputes that point with us.] When, Mr. C. asked, did we take possession to the Rio del Norte? he believed there was an immense tract of country extending westwardly to that river which we were not in possession of. Although Congress had been told of an order given to suppress the establishment at Galveston, to this day not even a movement had been made by the United States to that quarter of the country. But, it seems, said Mr. C., that we have nothing but spoliation to complain of on the part of Spain. When did the honorable gentleman discover this? When was that gross insult on the American flag, committed in the case of the Firebrand, on the Gulf of Mexico, repaired? When was the insult on the flag of the United States in the case of the frigate Essex in the Gulf of Valparaiso atoned for? Let not the gentleman escape from that by saying that the patriot flag was flying there; for Spain is responsible for all acts committed on territory she claims—for, Mr. C. said, he had no idea of this modern doctrine of inability on the part of Spain to prevent the wrongs which we are therefore to submit to from her territory. We have suffered enough, God knows, Mr. C. said, from all the Powers of Europe; but on the subject of this contest with Spain, he thought there was a sensitive delicacy displayed not often felt. He would, he said, prevent our citizens from committing depredations on her commerce; but he had no idea of succumbing to every little potentate in Europe, the King of Naples, for instance, because in the course of the existing war some little injury might be done to our commerce. Recognise the independence of the patriots, said Mr. C., and they will do you justice in this respect. In regard to the independence of the Southern Republics, Mr. C. said, that Buenos Ayres had not only declared but had maintained her independence; and, acknowledged or not, was as independent as any Power in America. Venezuela and Chili had also declared their independence. Although in the war now raging, some little injury might have been sustained by our commerce, yet, as far as his information extended, less injury had been done to it in the present war than in almost any other which as neutrals we have witnessed. He appealed to his honorable friend from Louisiana—and it would be recollected that New Orleans was one of the most suspected



H. OF R.

Neutral Relations.

MARCH, 1818.

cities—what had been the official report of the attorney for that district? Why, that, after the most careful inquiry, he could find no instance of such offences as were charged. The fact was, Mr. C. said, he believed, with regard to these depredations, that some of the merchants engaged in the Lima trade, under the favor of the Spanish Government, disliked the interference of the patriots; and that the act of 1817 was not so much necessary to protect our commerce as the enterprises of those who enjoyed a valuable trade with the Royal authorities, and were afraid lest the patriot flag might capture and condemn their vessels.

Mr. C. concluded his remarks by saying that the act of 1794 was all sufficient for every necessary purpose, connected with our neutral attitude; but, after any decision to the contrary by the highest tribunal of the country, he would go along with gentlemen and make it applicable. But with regard to the bond and security required by the law of 1817, at the discretion of every petty collector, urged on by the Spanish agents throughout the country, he hoped to see the law containing that provision expunged from the statute book.

Mr. SMITH, of Maryland, replied to Mr. CLAY. There was no nation on earth, he said, whose interests required from it a fair and honorable conduct as a neutral, so much as this. Britain alone had a more extensive commerce than us; but with it had a larger marine, and was not so much bound to delicacy in its neutral deportment. We should from this consideration be careful how we relax our measures calculated to enforce it. As to the case of the Eagle, Mr. S. said the Speaker was right as to facts. But, if the law of 1817 had existed, the collector would have kept clear of that difficulty. As to the distinction taken between St. Domingo and the Spanish provinces, Mr. S. said that the flag of the former is admitted onto our ports, in the same manner as the flag of any other country. With respect to our controversy with Spain, Mr. S. went on to say, he had not expected from the Speaker the remarks he had made. I know very well, said he, that we claim to the Rio del Norte. We have always avowed and held that claim; and, if we have not actual possession farther than the Sabine, it is because we are not ready to go beyond it. We hold the right, and occupy the soil as far as we find it agreeable to do so. Consequently our claims on Spain are for spoiliations only. As to the case of the Firebrand, if proper explanations had not been made on that transaction, there was no doubt the President would have resented it as he ought, and that the nation would have known of it. As to the scene which occurred at Valparaiso, though the patriot flag was flying there, it appeared that Spain must be considered responsible for that. Had the Executive ever complained to Spain of that act? If it had, he had never heard of it—and he presumed it would not have been overlooked if it could be properly charged to her account. With regard to the plea of inability, to prevent violations of our rights from

her territory, the Executive had acted on the ground taken by the Speaker, in taking possession of Amelia Island. That position having become a resort for smugglers and buccaneers, it was incumbent on the Executive to put them aside, and he had done it. He was glad that, on this point at least, the honorable Speaker agreed with him. [Not at all, not at all, said Mr. CLAY.]

As to the occurrences of the war, Mr. S. said we had some reasons to complain of the manner in which it had been carried on, on the part of the patriots. One of the causes of the war we lately waged with Great Britain, was the system of paper blockades. By the laws of the United States, and the proclamation of Spain, permitting the trade to all neutrals, a trade was open to us from the Rio del Norte to Mexico—and had been very beneficially carried on for a number of years. But Admiral Brion, a patriot commander, had undertaken, by a paper blockade, to forbid trade to a coast two thousand miles in extent, and our vessels daring to trade there were thus subjected to capture—the consequence of which was, that nobody attempted it; the trade is given up.

Something had fallen from the Speaker, in the course of his remarks, which might produce an impression, doubtless not intended by him, that there was something in the act of 1817 which forbade the exportation of munitions of war. Nothing of the kind, said Mr. S.: on the contrary, our vessels constantly load and go to Buenos Ayres, to Chili, to Oronoke, &c., and there is no obstruction whatever in their way on our statute book. We know that contraband of war, bound to one belligerent, is liable to capture by another, and we run the risk; but our laws never have forbidden that trade. While ever a trade is open, the merchants of the United States will pursue it, whether it be to ports of Spain or of the patriots; if the merchants think it a fair trade, they will pursue it. And yet the Speaker is offended because we pursue a little trade to the Spanish colonies. If the ideas of the Speaker are to prevail, said Mr. S., that, because our affections are with the opposite party, we shall not trade with Spain, what would now be the price of flour? Instead of ten dollars per barrel, it would be some five or six. The port of Havana alone, Mr. S. said, took one-sixth of the whole of the flour shipped from the United States for foreign consumption. Previous to the French Revolution, it had been circuitously supplied by the produce of this country; but from fifteen to twenty years that port, one of the most important in the world, had been open to us. And, Mr. S. asked, was it a crime to trade there? It is no crime to trade wherever the laws of the country permit; it is not only no crime, but it is honorable and useful to the country to open a new trade to any quarter; and he trusted it would not be long before we should have another trade open equally beneficial as any we have heretofore possessed, &c. Mr. S. concluded by some general remarks on the state of trade, which he thought as good as we had any reason to expect after the general peace in Europe.

MARCH, 1818.

Proceedings.

H. OF R.

A division of the question having been called on Mr. CLAY's motion, the question was taken on so much of it as proposes, in effect, to repeal the act of 1797, and decided in the negative. For the amendment 67, against it 79.

Mr. CLAY then withdrew the remainder of his proposed amendment, under the impression that this vote indicated the opinion that the act of 1794 did not apply to the existing war; and moved an amendment, the effect of which was to repeal the act of 1797, and the second and third sections of the act of 1817.

After some remarks between Mr. FORSYTH and Mr. CLAY, against and for the motion—

The question was taken thereon, and decided in the negative. For the amendment 63, against it 65.

Mr. CLAY, then, understanding these votes as evidence of the sense of the House that, until the Southern independent governments were recognised by the United States, they could not be by our courts, and therefore that commissions issued by those governments would be deemed unlawful, rose to move an amendment, going to place the Patriot governments, in fact, on the footing of equality, on which it was the declared wish of the Executive to place them. At present the Executive receives their flags; but if, when they come into the United States, those sailing under them were liable to be prosecuted as pirates, this injustice should be obviated. Such was the object, he said, of the amendment which he moved to add to the bill as a new section, to this effect:

"That neither the persons nor the property of persons sailing under the flag of any colony, district, or people, in amity with the United States, should be subject to the penalties attached to piracy in the courts of the United States, for or on account of the Government of the United States having omitted to acknowledge the sovereignty and independence of such colony, district, or people."

It being late in the day, the Committee then rose and the House adjourned.

## THURSDAY, March 19.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Frederick Brown; which was read twice, and committed.

Mr. JOHNSON, from the same committee, reported, without amendment, the bill from the Senate, extending the time for obtaining military land warrants, and for other purposes; which bill was ordered to a third reading to-day, and read a third time accordingly, and passed.

Mr. TAYLOR submitted a joint resolution, authorizing the transportation by mail, free of postage, by the members of Congress, of the documents lately communicated by the President, respecting our relations with Spain.

The resolution was twice read, ordered to be engrossed for a third reading to-day, and subsequently read a third time, and passed.

On motion of Mr. SPENCER, the Secretary of State was directed to inform this House, whether

a distribution has been made of the journals and documents published under the order of the Senate and House of Representatives, respectively, pursuant to the joint resolution of the 27th of December, 1813, and what further provision is necessary to insure the transmission of the said journals and documents, according to the said resolution.

Mr. SPENCER submitted the following resolution, which was read, and ordered to lie on the table:

*Resolved*, That, unless otherwise specially directed by the House, six hundred copies shall be struck off all such matters as may be directed to be printed, except bills and amendments.

That the said six hundred copies shall be disposed of, and distributed in the following manner, to wit:

Two hundred copies shall be retained in the printing office, and at the close of each session be disposed of and distributed, conformably with the provisions of the resolution of the 27th of Dec., 1813. 200

The remaining four hundred copies shall be deposited by the printer in the post-office of the House, from time to time, as the work may be executed, pursuant to his contract, and shall be promptly distributed by the Doorkeeper of the House, as follows, to wit:

On the desk of each member and delegate, one copy	187
On the Speaker's table	2
On the Clerk's table	2
In the Clerk's office	4
To the President of the Senate, for the use of the Senate	50
To the President of the United States	5
To the Secretary of State	25
To the Secretary of the Treasury	6
To the Secretary of War	5
To the Secretary of the Navy	5
To the Attorney General	5
To the Commissioners of the Navy Board	5
To the Auditors of the Treasury, five copies each	25
To the Comptroller of the Treasury	5
To the Register of the Treasury	5
To the Postmaster General	5
To the Commissioner of the General Land Office	5
To the Commissioner of the Revenue	5
To the Commissioner of Claims for property lost, &c.	2
To the Commissioner of the Public Buildings	1
To such foreign Ministers as reside at the Seat of Government, or Consuls, in case of no resident Ministers, two each, supposed to amount to nine	18
To the public printer	1
To the Librarian	2
The residue to be bound up, at the end of the session, to be deposited in the Clerk's office, as heretofore	25
	600

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit:

1. An act to adjust the claims to lots in the town of Vincennes, and for the sale of the land



H. or R.

Neutral Relations.

MARCH, 1818.

appropriated as a common for the use of the inhabitants of the said town.

2. An act for the relief of John Small.

3. An act respecting the surveying and sale of the public lands in the Alabama Territory.

4. An act to defray the expenses of the militia, when marching to places of rendezvous.

5. An act for the relief of Ashael Clark.

6. An act to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described; in which bills they ask the concurrence of this House.

The first and third mentioned of the said bills were, respectively, read twice, and referred to the Committee on the Public Lands.

The second mentioned of the said bills was read twice, and referred to the Committee on Private Land Claims.

The fourth mentioned of the said bills was read twice, and committed to a Committee of the Whole.

The fifth mentioned of the said bills was read twice, and referred to the Committee on Military Affairs.

The last mentioned of the said bills was read twice, and referred to the Committee of Ways and Means.

The resolution from the Senate, "directing the distribution of the laws of the fourteenth Congress among the members of the fifteenth Congress" was read the third time, and passed as amended.

#### THE NEUTRALITY BILL.

The House then again resolved itself into a Committee of the Whole, on the bill in addition to the "Act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned." Mr. CLAY's motion to add a section exempting vessels sailing under the flags of unrecognized governments entering our ports, from the penalties of piracy, being still under consideration.

Mr. CLAY declined taking up the time of the Committee any further on this motion. He would only say, that his object was to place the Patriot flag on precisely the same footing in our ports, as that of the opposite party. He disclaimed any intention, as he learned was presumed by some, of producing by this motion an indirect recognition of South American independence. Whenever he should bring that question before the House, as he assuredly meant to do, it would be in a way open, direct, and unambiguous.

Mr. FORSYTH opposed the motion, and entered into various arguments to show the impropriety of placing upon this footing the flags of governments purporting to be organized and independent, which might have no existence, and to whom there could be no appeal for the misconduct of those acting under commissions from their pretended authority. As an example, he mentioned the Mexican Patriot Government, of whose Congress we had some time ago heard, and which, it had been reported last year, had passed a vote of thanks to the honorable Speaker for his magnanimous exertions in favor of their cause; but this Congress had sunk into oblivion, and all semblance of an independent government become extinct, since the fall of the unfortunate Mina; also that of Venezuela, whose government existed only in the camp of Bolivar. To these governments there could be no resort, as they could not be found, and therefore could not be considered responsible, though there were numerous cruisers sailing under commissions issued by them, which might commit any irregularity, and even depredate upon American property, without our being able to appeal to those granting the commissions for redress.

Mr. CLAY offered a few more remarks in favor of an amendment, whose objects he thought so clear and proper. As to the vote of thanks which it was said he had received from the Mexican Congress, he had no knowledge of it; but of such a distinction, if it were so, he should feel proud. If, however, said Mr. C., I have deserved such an honor from the patriots for my exertions, I submit it to my friend from Georgia, whether he does not deserve a vote of thanks from the opposite party, for his exertions on that side?

Mr. T. M. NELSON replied to Mr. FORSYTH, and disclaimed any views in the votes which he gave here, other than the good of his country and mankind. He was unwilling to involve his country in war to benefit any people or Government, but he would not, from any apprehension of war, be deterred from doing equal justice, and particularly when his feelings as a republican, a philanthropist, and a christian, impelled him to wish success to every struggle for liberty, such a struggle, as he believed, was now going on in South America. Mr. N. said, the amendment proposed would involve the United States in no quarrel; it simply called for the practice of the impartial neutrality which was professed. It would not have the effect of screening from punishment depredations on American property, as Mr. FORSYTH had apprehended; it would merely not make the punishment depend on the acknowledgment of sovereignty. The persons and property coming into our ports under the Spanish flag, were not liable to punishment in our courts, and it was not impartial that those sailing under the flag of the South American patriots should be, only because their independence remained unacknowledged by our Government. The people of this country, Mr. N. believed, were not willing to make so flagrant a difference in favor of a Government alike intolerant to the claims of humanity towards its colonies, and regardless of the claims of justice made on it by the United States. He hoped the amendment would be agreed to.

Mr. MIDDLETON spoke as to the reputed fact in the trial of a case of capture adjudicated in the district court of South Carolina, referred to in the debate.

Mr. SMITH, of Maryland, spoke, to show that the amendment was not necessary to the correct adjudication of cases coming before the courts under the law.

Mr. LOWNDES had no objection to the object

MARCH, 1818.

Neutral Relations.

H. or R.

of the amendment, but spoke some time to show that it was not sufficiently definite. It would be a monstrous injustice to subject to punishment individuals making captures and bringing them into our ports, under the flags of Governments so well established as some of the South American States—that of Buenos Ayres, for instance; but the words of the amendment would admit vessels under any flag, even such as that of a few individuals who should assemble on the obscure island of Juan Fernandez, and fit out their cruisers. It could not be the intention of the House to permit captured property to be brought into our ports, and their legality sanctioned under such authority. In these cases there ought to be either an individual or a national responsibility; in the obscure and unknown establishments to which he had alluded, this responsibility could not be national; then the responsibility ought to apply to the individual. It was said, the amendment was to apply to such flags as were admitted by the Executive, and not to such as were excluded by the Executive; Mr. L. denied that the Executive had the power, either by the Constitution or by law, to exclude any flag from our ports—that power was vested in Congress alone. The amendment would, therefore, recognise the flag of any country, however ephemeral, and thus go to destroy that individual responsibility for crimes, in our courts, which ought not to be relinquished.

Mr. CLAY had no objection to any modification of his motion, which should limit its application to the independent States of South America, and he should have inserted such words himself, had he not deemed it expedient to adopt the precise language of the law of last session, in which there was no designation of any particular States. He differed, however, from Mr. LOWNDES, as to the power of the Executive to exclude any flag—he believed the President had that power; but, to settle that question, he had no objection to confer that power by the law, and let him decide what flags should be admitted, and thus come under the amendment.

Mr. TUCKER, of Virginia, moved to modify the amendment to read as follows. It would not change the effect at all, but only the language; and, if adopted, it would be competent for the courts to say whether any flag in question was that of a colony, district, or people, within the meaning of the section:

"And be it further enacted, That in prosecutions either against persons or property, sailing under the flag of any colony, district, or people, which shall be admitted into the ports of the United States, it shall not be deemed ground for the punishment or condemnation of such person or property, that the sovereignty of such colony, district, or people, has not been acknowledged by the Government of the United States."

This modification was accepted by Mr. CLAY, (and assented to by Mr. LOWNDES,) as a substitute for his motion.

It was opposed, in this shape, by Messrs. FORSYTH and SMITH, of Maryland, and supported by Mr. TUCKER. Mr. SPENCER submitted some remarks in reply to Mr. SMITH, on the nature of

piracy, which could be committed with as well as without a commission, &c.

The question was then taken on Mr. CLAY's amendment, as modified, and carried—ayes 87.

Mr. FORSYTH then said, the adoption of this section went to authorize every colony, district, or people whatsoever, to issue commissions, and to recognise such commissions in our ports. He wished that the section might be confined to responsible Governments, and not recognise any handful of men who might embody and issue commissions to capture property on the high seas. He, therefore, moved to add to the section the following proviso:

"Provided, That the colony, district, or people aforesaid, have organized an existing independent Government at the time of the commission of the fact of which the persons are charged."

Mr. CLAY, after waiving the objection of order which might be made to this motion, said it was improper, because it would require too much. Venezuela, for example, which had achieved an imperishable fame by its noble and unparalleled exertions in the cause of liberty—he did not know that this State was actually independent, though it so well deserved to be, and had no doubt it would soon be—yet the flag of this Government, so much entitled to our respect and admiration, would be excluded from our ports by the proviso.

On motion of Mr. TUCKER, of Virginia, the proviso was amended, to read as follows—ayes 85:

"Provided, That the colony, district, or people aforesaid, have organized an existing Government, claiming to be independent at the time of the commission of the fact, of which the persons are charged."

Mr. FORSYTH moved to insert the word "responsible," after the word "existing."

Mr. CLAY objected to this, as a phrase vague and unusual, applied to a nation, however definite and intelligible applied to an individual. What was a responsible Government? Some might think the Government of Spain itself, of the adored Ferdinand, not responsible. It was a term of too doubtful construction to be proper here.

Mr. FORSYTH said, the word responsible was of definite and precise meaning, as applied to nations or individuals. There was a pecuniary responsibility certainly, but the Speaker understood perfectly well there were other responsibilities, too, with respect to nations. His wish was to permit the courts to judge whether the Government, claiming to be independent, was so constituted as to enable the United States to make it answerable for the conduct of those sailing under its commission. Before the end of the present session of Congress, he hoped to be permitted to show to the Speaker how the adored Ferdinand might be made responsible for the conduct of Spain to the United States.

Mr. CLAY expressed his thanks for this information, and the pleasure it gave him.

Mr. FORSYTH's motion was lost, and the proviso was then agreed to, as modified by Mr. TUCKER.

The Committee then rose, and reported the bill



H. or R.

Ohio Contested Election.

MARCH, 1818.

and amendments to the House; which were laid on the table, to be printed.

## OHIO CONTESTED ELECTION.

The House then went into a Committee of the Whole on the report of the Committee of Elections, in the case of the disputed right of Mr. HERRICK to his seat, in consequence of having for some time after his election held the office of United States Attorney for the district of Ohio. The report concludes with a resolution that Mr. H. is entitled to a seat; which resolution Mr. Adams yesterday moved to reverse.

Mr. ANDERSON, of Kentucky, said that his reflections on this subject had produced a result, very different from the resolution recommended by the Committee of Elections. The question presented by the report is a very important one; and the delicacy, if not the difficulty, of the subject is very much increased by the consideration, that, not only the seats of several gentlemen here, but the rights of their constituents are involved. If we shall, by any incorrect decision, declare that these seats are vacant, we shall, indeed, deeply injure that portion of our fellow-citizens whose power we destroy, and whose voice we silence in this House; but this consideration can only prompt us to a more attentive examination of the subject, when it is remembered that, if we admit to the councils of the country persons who have not the required qualifications, we inflict a much greater injury on the whole body of the American people. There is nothing more highly calculated to excite the jealousy of freemen, than an extension of the power of legislating over them, to those to whom they have not imparted it.

The duty which we are now performing is important, but fortunately of rare occurrence. This House has now laid aside its ordinary legislative character, and has assumed, under the direction of the Constitution, the functions and powers of a court. The solitary case in which the House of Representatives assumes the judicial character is, in determining "the election returns and qualifications of its own members." The ultimate consistency of all its other acts with the Constitution is to be tested by another department. In this case it is the sole judge of the facts and the Constitution. Its exposition is final and uncontrollable. This consideration impresses on us the importance of the question, and shows the necessity of giving to it the clearest examination. And, however strong our personal feeling might be to wish the most intimate association with these gentlemen in the discharge of our duties, however much we might rejoice that the nation should receive the benefit of their experience and talents, it must be remembered that we can neither extend nor curtail the demanded qualification. It is known that he must rely on the last member of the sixth section of the Constitution for the exclusion, which he expected to establish, which declares that "no person holding any office under the United States shall be a member of either House during his continuance

in office." The question seems to depend, by unanimous concession, on the time at which the representative character was assumed. Was it on the 4th of March; or at the time of taking the seat, or oath; or at what time was it? To maintain the position for which he contended, it must be established that the individual became a representative on the 4th day of March, the commencement of the Congressional term. But it has been contended in the answer of the gentleman from Massachusetts, that this period has no other claim to dignity than that which an ordinary act of the legislature could give it, and that, consequently, in giving construction to the Constitution, we could not assume that time, in preference to any other, as the beginning of the term. If the fact corresponded with this statement, the consequence contended for could not follow, as the statute would have been in necessary execution of the Constitution, and as indispensable for putting the Government into operation as any clause in the original instrument. But, by attending to the facts as they occurred, it will be manifest that the period here assumed, is the commencement of the federal year, and that nothing has been fixed with more solemnity. The body of the Constitution does not, and indeed could not, from the uncertainty of its ever being ratified, declare the day on which the Government should take effect. But, on the same day on which the Constitution was completed, the Convention still sitting in its public character, with all the powers with which they ever had been invested, passed a resolution, in which the mode of procuring the assent and ratification of the States was prescribed, and authority was given to the Old Congress, "as soon as the Conventions of nine States had ratified this Constitution, to fix a time and place for commencing 'proceedings under this Constitution.'" It was further resolved that, after the requisite elections had taken place, all of which were therein provided for, that "the Senators and Representatives should convene at the time and place assigned," and that "the Congress, together with the President, should, without delay, proceed to execute this Constitution." This resolution was declared to have been passed "by the unanimous order of the Convention;" and was attested by the President and Secretary. It will readily be conceded that, if the members of the Convention possessed the power of framing a Constitution, they as certainly possessed the means of providing for its execution. The time for beginning the new order was of necessity submitted to some body, which should have existence when the ratifications of the several States should be received. And these resolutions had in truth, and in public estimation too, as much dignity as any part of the body of the instrument, for all the States in the Union recognised them by appointing Conventions, and Congress did discharge the duty vested in them. On the 13th September, 1788, information having been received of the ratification according to the required manner, Congress executed the power, by resolving that "the first Wednesday in March

MARCH, 1818.

Ohio Contested Election.

H. or R.

next be the time, and the present Seat of Congress the place,\* for commencing proceedings under the Constitution." And the Senators and Representatives did give final execution to the original resolution by meeting on that day. The journal is entered in the first volume of the late edition of the laws of the United States, and contains the narrative of these proceedings. The first act of the Senate has precluded all question as it regards that body, as, in obedience to the third section, the Senators were at their first meeting divided into three classes, and the seats of each declared vacant at the expiration of two, four, and six years respectively, all in reference to that day.

Mr. A. said he should not have devoted one moment to prove what he never knew before to be denied, if it had not been seriously urged in the answer, that this day had been assumed as the commencement of the Congressional year, only by an act of ordinary legislation, and that, in any debate on the construction of the Constitution, it had no more claim to attention than any other period of time. But it now must be manifest that this day has been fixed with a certainty and solemnity which would forbid the Legislature from declaring that Congress should in future take its date from any other period; and, indeed, forbid it from all interference on the subject.

In examining this subject, Mr. A. said, he should not pursue the course of the report, but should take the Constitution solely as his guide, and expected to prove, from its various provisions, that the individual elected assumes the character, privileges, and responsibilities of a member before the session of Congress; or, in other words, that they are not dependent on his taking the oath, and the actual occupation of his seat. The first part to which he called the attention of the Committee was the first member of the fifth section, which declares that "a majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members." There is no pretence for saying that this has not reference to the first as well as to any subsequent session of Congress. Here, then, is the plainest evidence that a person elected may be a member of the House before he has appeared and taken his seat; before he has presented himself to the House; before he has given any formal acknowledgment of its authority; even before he has given the least signification of his acceptance, there is imposed on him the responsibility of a member. He is bound to attend; and his disobedience would be punished by adequate penalties. The operation of this clause may seem highly penal; it may seem harsh to impose such obligations on a citizen who has manifested no unwillingness to incur them. That the language of the section is plain, would be an ample answer to any complaint of supposed hardships; but it is evident

\* New York.

that the grant of such a power was essential to keep alive the two Houses of Congress. It would have been idle to have created a legislative body, without giving to the attending members the power of coercing the attention of absentees, and thereby of preserving its own existence. But this could be done in no way but by imposing on the persons elected the character and obligations of members.

This section, then, completely establishes the position, that persons elected may be Senators or Representatives before their appearance. To what period of time, then, can the beginning of their public character be referred? To none but the commencement of the term. If Congress had been convened on the 1st of June, the same power would have been possessed to compel the attendance of those who were absent; and such would have been the case at any meeting after the 3d of March. Hence, to his mind the consequence was resistless, that if the individual has been chosen by the people, and the time has commenced, he is a member, and is subject to all the penalties and disabilities of one. It has been thought by some, that the person elected could not be a Representative unless he had given some formal evidence of his acceptance; but this section entirely destroys that idea. So far from requiring any formal acceptance of the votes of the people, to subject him to the call of the House, we see that even a failure to attend is not considered sufficient evidence of non-acceptance as to rescue him from its power. The clear inference, then, is, that when an individual of the requisite age and citizenship has been elected, he is a member, unless he gives positive evidence that he refuses to accept. And it is not believed that any inconvenience can result from this section, so necessary to the existence of Congress, as the cases have never yet been disclosed in which the votes of the people were thrown upon a gentleman, unless it was with his acquiescence, and, generally, at his most earnest entreaty; and no mischief can in any way arise, as the person may easily release himself from the pains by renouncing the honors of a Representative.

Before he proceeded to test the construction contended for by his adversaries, by the other provisions of the Constitution, it was necessary that he should examine a position assumed by them, and urged with great confidence, one which was rejected by the Committee of Elections, but seemed to be relied upon as the main ground of defence in the printed answers of the gentlemen from Massachusetts and Ohio, (Messrs. HOLMES and HERRICK.) They rested their defence to a seat in this House on the distinction between the words "representatives and members." The clause which produces the exclusion in this case says, that "no person holding an office under the United States shall be a member of either House during his continuance in office." And the whole course of the argument of these gentlemen is founded on the admission that they were representatives from the commencement of the term; but they contend that they were not members



H. R.

Ohio Contested Election.

MARCH, 1818.

until the oath was administered, and the House was organized, and, of course, were not embraced within the exclusion. For this construction they have contended with such zeal, as to demonstrate that in their opinion the whole question turns on this point. To ascertain the correctness of this bold and novel idea, he had imposed on himself the trouble of a verbal and critical examination of the whole Constitution; and he now felt the confident conviction that it was not correct. The word "members" is used in various places to convey the same meaning which is expressed by the words "senators and representatives;" they are used indiscriminately throughout the Constitution. The clause on which he had commented spoke particularly of members in reference to a time before they had appeared, and before the House was convened; it gave the power of calling the "absent members" to produce an organization of the House, the very fact which these gentlemen contend is necessary to constitute a member. But it is used, generally, to prevent circumlocution, as a collective word, embracing the constituent individuals of both Houses. Wherever a section is introduced in the Constitution, giving powers, or imposing duties on the members of both Houses, that word is used to supersede the necessity of two sections, which would have been otherwise necessary. It would not only have been prolix, but very inelegant to have prescribed the powers and duties of the Senators, and, immediately afterwards, to have introduced a section, similar in all respects, declaring the powers and duties of Representatives. This prolixity and inelegance has been avoided by the use of a word equally applicable to both. But so strong was the reliance which had been placed in this construction, that he had been induced to examine the letters of the Federalist, to ascertain whether it was rendered plausible by any notice or commentary there; but he found that in the work the word "members" had been employed in more than twenty cases, in reference to the persons elected, before the meeting of the Congress for which they had been elected. In one remarkable instance, in the case of the clause now under consideration, the authors, in stating the operation of it for another purpose, say that the "Senators and Representatives" are excluded from office, thereby substituting those words for the one which is really used, showing most clearly that they considered them as synonymous, and that the distinction now urged was not suggested to them. It may be said, as this question did not form the particular subject of consideration in any of these celebrated tracts, that no definition there imposed should have the weight of an authority. He said he did not use it for the authority of their opinion, but he used it for the authority of the fact, that it was impossible, if the distinction between these words, as now contended for, had been taken in the Convention, that Mr. Madison and Mr. Hamilton, who took an active part in all its proceedings, should so soon have forgotten it; should so soon afterwards have used, as synonymous, words between which they had,

a few months before, created such an important difference. He said he could not have much confidence in a construction which had not occurred to any one for nearly thirty years. He asked the whole Committee, he asked each member individually, if the thought had ever occurred to him that he was a Representative from the commencement of the term, but not a member of Congress until the House was organized? The idea was, then, surely fallacious, and the authors of it entitled to nothing but the high merit of ingenuity and novelty.

The sixth section, which declares that "Senators and Representatives shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same," furnishes a case, in which the privileges of a Representative are thrown over the individual before he takes the oath of office. This exemption precedes the very facts which, the report contends, are necessary to constitute the Representative.

In perfect coincidence with these two clauses is the first section, article second, which, prescribing the manner of appointing a President, says that "no Senator or Representative, or person holding any office under the United States, shall be appointed an elector." This sentence surely embraces the case of a Representative, as well before as after he has taken his seat. The reason of the exclusion is plain, and we should deprive the clause of half its operation, if it was restricted to the period which occurs after the member has taken his seat. But notwithstanding this interdiction, if the construction of the report be correct, a member of Congress may, before the session commences, act as an elector. Surely we should not rashly admit a construction which would enable all who have been elected to Congress to serve as electors during that whole period of time between March and December; but this result must follow, if the person elected is not a Representative until he appears and takes his seat, for it is the Representative only who is the disqualified person; and if that character has not attached itself to him he is under no disqualification, and can be an elector. One reason which caused the Convention to disqualify members of Congress from serving as electors was, that, in the event of an equal number of votes between any two candidates for the Presidency, the President is to be chosen by the House of Representatives. That the same individual, then, may act and vote as an elector, and in a few weeks afterwards, in the event of a tie, may, on this floor, again vote for the President, is the preposterous and frightful, but certain consequence of the gentlemen's doctrine. If we assent to the position assumed, there is no mode of extricating ourselves from the difficulty; but if we were only reduced to the alternative of ascribing these consequences to the Constitution, or to the report, the gentlemen must pardon him if he thought they were entitled to the preference.

The second section of Art. 1 says that no per-

MARCH, 1818.

Ohio Contested Election.

H. or R.

son shall be "a Representative who shall not have attained the age of twenty-five years, and have been seven years a citizen of the United States." If the idea is correct that no one can be a Representative before the oath is taken, then this requisition is complied with, if the age and citizenship be attained at any time before the meeting of Congress. This may seem at first reasonable enough, as there is no official duty to be performed in which wisdom or experience is required before that time; but the consequence would be ludicrous, as it makes the eligibility of the person chosen depend on the time of year at which Congress meets. If Congress is convened in the Spring, he is not eligible; if it is postponed until December, the age is obtained and he takes his seat.

The farther result follows, that in this way you give to the President the power of conferring or withholding the eligibility of the individual, as he can, by convening Congress at an earlier day than the usual one, deprive him of the qualification which he would have attained in a few months. Unless, indeed, you push the consequence still farther, and contend that, as he is not a Representative until he is sworn, he may postpone that period, and be still eligible and take his seat, if he attains the required age at any time before the expiration of the term. But certainly the qualifications of a member cannot depend on these various contingencies. The requisition must not rest on anything so uncertain as the meeting of Congress or the will of the President. His opinion was, that the person elected must be qualified to serve on the 4th day of March—the day on which he is liable to be called.

It must now be obvious that this case comes within the letter of the Constitution; and he would not very readily assent to a doctrine which would support the idea that we should disregard a case which was plainly within the language of the rule, merely because we did not see the reasons of its introduction. We expound the rule, but cannot extend or restrict it. We bear the same relation to the Constitution which the Judiciary does to the statute. A judge cannot refuse to give effect to a law because he cannot discover, or, if he discovers, does not approve the reasons of its enactment. But here the letter so strictly corresponded with the intention of the Convention, that he readily submitted his construction to this favorite test.

It has been said in the report, without any qualification, that there was no reason for his exposition; that, as the office must be resigned before the seat was taken, no mischief could arise from permitting the individual to hold the office after his election, until the meeting of Congress. So strong was his conviction of its fallacy, that on it he would rest the question.

From the language of the Constitution and the order of its arrangement, it is manifest that the framers had a general design of separating the powers of government. This general design was, however, violated in several excepted cases,

15th CON. 1st SESS.—46

in some of which the powers of two departments were vested in the same person, and in others, those of one divided between two. Every rule, however, on this subject, directs us to give a construction which would promote the general rule in preference to one which would extend the exception. It is probable that the idea held out in the report, that no mischief could flow from its construction, arises from the fact, that those who have examined the subject have attended exclusively to the Representative; and when they have failed in discovering any bias which could influence his legislative acts after his office was laid aside, saw no reason for a different opinion. But if they will for a moment cast their thoughts towards the President, at whose will this office has been held since March, reflect on the inducement which might influence him to retain the favor of this officer, who is a member of Congress; recollect, farther, that this officer is a member of the only tribunal which can bring the President to punishment, and you would see ample reason for his construction. Is there not a most powerful motive on the President to refrain from dismissing that man from office who he knows will be an influential member of the House of Representatives, the only body which can ever bring him to a trial? Will a President dare to displace that officer, whatever be his negligence or infamy, who in a few months will be in a seat, in which he can expose his misdeeds or move his impeachment? It was intended that the Chief Magistrate should have the most perfect independence, not only in appointing, but in retaining officers in the public service; but here we defeat the object, by exposing him to the strongest temptation to retain an incompetent officer. The Constitutional independence of the President is commuted for a corrupt and illegal dependence on the creature of his own will. Reflect on the incongruous state of things which you produce, when an individual is, in one character, the tenant of an office at the will of the President, and in his other, his prosecutor, if in this House, or his judge if in the Senate. I will propound to you, Mr. Chairman, said Mr. A., the simplest question, which will show the feelings and the conduct of any man: If you had an important suit now depending in the Supreme Court, and one of the Judges held a profitable private agency at your disposal, dare you to displace him before that suit was tried? And if you had firmness to dare, would he have virtue enough not to remember it? If you adopt my construction, we shall neither expose you or the judge to such temptation.

But the strongest view of this mischievous construction arises from the fact, that if a person can, after the 4th of March, hold his office and discharge new duties every day, he may be appointed to any new office, and still be eligible, if he resigns before the meeting of Congress. This consequence has not been and cannot be denied. In principle there is no difference between holding and discharging the duties of an officer after the election to which the individual has been pre-



H. OF R.

Ohio Contested Election.

MARCH, 1818.

visibly appointed, and receiving a commission for any other, and performing its duties. No one has been so disingenuous as to attempt to show any distinction. By appointing an applicant for office who is in the next Congress, the President gains a friend and an advocate; by refusing, he makes an enemy; and do you not believe that he will always be preferred, who, in his application, can make the offer of his favor, or menace the Executive with his enmity, before one whose favor and enmity would be alike disregarded? With the multitude of offices in the Executive hands, it may safely be asserted that a corrupt President could never be brought to punishment. It is idle to expect that his patronage can ever be lessened in this country. His powers are at this moment in a most rapid state of accumulation, the inevitable consequence of our increasing wealth, population, and prosperity. And if ever you expect to decrease these powers, you must destroy the commerce of the ocean, you must lay waste the lands of the West, you must collect your revenue without officers, and create offices without salaries.

It may be said that the rewards which could be offered would be too small to operate as a bias, inasmuch as the utmost would be the possession of an office for a few months. But this cannot be urged with effect, as it would only show that the influence was not as great as might be in other cases; it is the existence, and not the degree of the influence which is regarded. An office of the emoluments of one hundred dollars, and of the duration of nine months, fills the language and the intention of the Constitution as completely as one of the emoluments of a million, or the duration of a life. In many cases, however, the profits of offices in the Executive gift, even for that period, were, as he believed gentlemen would be willing to admit, of some consideration. The salary of a foreign minister for nine months is nearly \$7,000; of the Secretaries of the Departments, of some of the collectors of the ports, and many other officers, nearly \$4,000; and of several hundred offices in the United States from one to three thousand dollars. All this is shown in the Red Book now on your table. These are sums which gentlemen, unless they valued money much less than he did, would be unwilling to surrender. No man who has been recently dismissed from office can come into this House without angry feelings towards that officer who dismissed him, and the President will always know this too well ever to produce them.

The report now before us shows that a state of things may easily occur, in which a timid President would fear to exercise his power of dismissal. In these tranquil times, when the Chief Magistrate of the nation receives the almost unanimous approbation of his countrymen, my apprehensions may not be realized; but if ever political conflict should come again, and parties be nearly equal in this House, would any President, but the one most strong in virtue, dare to dismiss from lucrative appointments as many as ten officers, who were soon to take

their seats as members of Congress, and whom he thereby drew from the list of his adherents, and added to his enemies? He would not, however negligent or flagitious they might be. The observations which he had made applied with equal force to the Senate, as the seat of a Senator similarly situated depends on the same section. But when it is remembered that in all cases of the impeachment of a civil officer one-third of that body can produce an acquittal, we can readily see a strong inducement in the President to refrain from any injurious treatment towards a member of the Senate. So long as he can by his virtues or his vices secure fourteen Senators, he is beyond the control of the people or the power of punishment. May not, then, cases occur, in which the votes of one, two, or three men would be so important, as that they would be permitted to retain their offices, or new ones be given them after their election, with the sole view of securing their votes? It cannot be objected that it is unfair or unwise to argue from the supposition that a President is capable of corruption; the Constitution itself, which gives the power of impeachments, and contains various guards against the corrupt passions of man, warrants the idea. It would, indeed, be unpardonably puerile to act on the supposition, that the future officers of this Government would not have the same propensities and feelings which God had given to man since the creation of the world. If this argument only suited extreme cases he would at once surrender it; we must act for man as he is formed; we cannot fashion him by the standard of an angel.

In this way, too, the Constitutional sanction of the Senate would be evaded, as the President, by appointing an individual to office, who he knows will resign at the meeting of Congress, thereby increases his patronage by the necessity of another appointment, and multiplies the cases in which offices are held by individuals whose qualifications have not been tested by the Senate.

Other suggestions might be made on this subject which would tend to warrant my view; but, although considered singly, they would not, and probably ought not, to form the basis of an opinion, all conduce to the same end. In all cases of doubtful import, public sentiment and general practice cannot be wholly disregarded; he now referred to the laws of Congress, giving the privilege of franking letters, and an exemption from militia duty, and the practice under them. It is believed that a universal sentiment has prevailed that they attached to the member before he took his seat; and it would not be hazardous to venture a conjecture, that the enjoyment of them, in all the present cases, had not been postponed until the oath was administered. If it should be urged that this practice had been tolerated in silence, without objection or discussion, and of course was not entitled to the weight of an authority; he replied, that this circumstance gave the highest evidence of the universal opinion that it was right. There is no subject on which the people are so sensitive, none on

MARCH, 1818.

Ohio Contested Election.

H. OF R.

which popular jealousy is so quick and lively, as in relation to exclusive privileges; and the least attempt on the part of a person elected to enjoy an exemption, before the laws gave it to him, would have excited immediate commotion and objection.

The President executes his authority very frequently of convening Congress before the ordinary time, and it is not believed that any difficulty has ever occurred about the address of his proclamation to the "Senators and Representatives," although they have never yet taken the oath, or given any formal evidence of acceptance. They have invariably obeyed the summons as they were bound to do, *unless they resigned*; under no other construction could the proclamation have any effect. If the Representative would not resign, and the obligations of a member were not imposed upon him so far as to make it his duty to obey the mandate, Congress could not be convened.

An opinion has been held by some, that the situation of these gentlemen, and that of a judge who had received the appointment of the President and Senate, but who had not yet taken the oath *officio*, were similar; and they contend that in neither was the appointment complete, nor could the official name and character attach themselves to the individual, until he had given this final evidence of acceptance and qualification. But, said Mr. A., this proposition is susceptible of answer, which he thought unanswerable. The present question depends solely on the verbal construction of the several parts of the Constitution which relate to it; and no argument can be drawn from any cases of supposed analogy, unless the language relating to the appointment be precisely similar. Whenever it was said that the person appointed did not become a judge until the oath of office was administered to him, with the view of drawing the same inference in relation to a Representative, he immediately demanded whether the language governing the cases were alike? But the language is essentially different, and all argument drawn from that source fails. The case of a Representative depended on different principles. The Constitution had, he thought, sufficiently declared that the election of the people did constitute the individual a member of Congress. And it would be observed that in all parts of the Constitution the analogy between Representatives and other officers was broken. The President, "before he enters on the execution of his office," must take the oath; but "Senators and Representatives shall be bound by oath or affirmation to support this Constitution." Here the difference of phraseology shows to us that the oath required of the Representative was only one security provided against corruption, but was not considered as an act necessary to constitute the officer, or in any way necessary to give validity to his votes or acts. This construction commenced with the Government. It appears from the journals of the first Congress under the present Government, that the members did not take

the oath until several weeks had elapsed after the beginning of the session, and not until they themselves had passed a law prescribing the manner in which it should be administered.

Mr. A. said that he believed that Congress was a continuing existing body. It is declared in the first line of the first section that "all legislative powers herein granted shall be vested in a Congress of the United States;" and he thought that lodgment never had been, nor ever would be, divested or suspended, until there was an entire violation of the Constitution, and consequent dissolution of the Government; that there has been a valid grant and divestiture of power from the people, and that there must be an existing and permanent deposit to receive them. The fourth section maintains this idea, and insures the continued existence of Congress; as, although the regulation of elections is in the first case submitted to the States, the power is reserved of altering them at any time, whereby it is impossible that there can be any chasm in the Legislature. If the States should ever show a disinclination to pass the necessary laws for holding elections, Congress would immediately exercise its power. But even if he were incorrect in this last opinion, it would not at all injure the main point, as he might be wholly wrong in this, and still, for the other reasons given, the report must be reversed.

When Mr. ANDERSON had concluded, Mr. JOHNSON, of Kentucky, in a short speech, supported the right of the member to a seat.

Mr. FORSYTH spoke at some length in opposition to the report, and to the right of the member retaining his seat.

Mr. SPENCER replied, and spoke also at considerable length in support of the report, and the right of Mr. HERRICK to a seat.

Mr. FORSYTH rejoined, and further supported his opinion.

Mr. TAYLOR, Chairman of the Committee of Elections, entered at large into the defence of the report, and of the right of the member to a seat.

The Committee then rose, and obtained leave to sit again.

FRIDAY, March 20.

Mr. SERGEANT, from the Committee of Ways and Means, to whom was referred an inquiry into the expediency of allowing a drawback on refined sugar exported, and a memorial of the distillers and merchants of Boston, praying that drawbacks may be allowed upon the exportation of spirits distilled from foreign materials, made a report thereon, in favor of the expediency of allowing drawback on the articles mentioned. The report was ordered to lie on the table, and be printed.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Samson R. King, accompanied by a bill for his relief; which read twice, and committed.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, to which was refer-



H. OF R.

Ohio Contested Election.

MARCH, 1818.

re. the bill from the Senate, entitled "An act allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. ROBERTSON also reported a bill from the Senate, entitled "An act to vest, in trust, certain sections of land in the Legislature of the State of Ohio," without amendment, and the bill was committed to a Committee of the Whole.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, made a report on the petition of John Delafield, which was read; when Mr. R. reported a bill for the relief of the said John Delafield, which was read twice, and committed to a Committee of the Whole.

Mr. RHEA also made a report on the petition of Samuel Burr, which was read twice; when Mr. R. reported a bill for the relief of the said Samuel Burr; which was read twice, and committed to a Committee of the Whole.

The resolution of the General Assembly of Maryland, respecting the establishment of a naval depot within the said State, laid before this House, on the 25th ultimo, was referred to a select committee; and Messrs. SMITH, of Maryland, IRVING, of New York, MASON, of Rhode Island, BASSETT, MASON, of Massachusetts, ANDERSON, of Pennsylvania, and SIMKINS, were appointed the committee.

On motion of Mr. SPEED, the Committee on the Public Lands were directed to inquire into the expediency of providing by law for the endorsement on each patent for military bounty land, the surveyor's description of the soil, timber, &c., of the lot conveyed by such patent.

On motion of Mr. SPENCER,  
*Resolved*, That the Committee of Accounts be instructed to inquire into, and report to this House, the reason of the delay in laying on the tables of the members the President's Message of the 14th of March, 1818, with the accompanying documents.

*Resolved*, That the same committee be directed to inquire into, and report to this House, the reason why the Register of the officers of the United States, has not been delivered to the members of this House.

Mr. SERGEANT submitted the following motion:

*Resolved*, That the President of the United States be and he is hereby requested to lay before this House, if not inconsistent with the public interest, any communications made to the Department of State, relating to the occupation of Amelia Island, not heretofore communicated.

After an unsuccessful motion to lay the resolution on the table, and a good deal of discussion on the propriety of making this additional call on the Executive, the resolution was agreed to.

On motion of Mr. ANDERSON, of Kentucky, the Committee on Roads, Canals, and Seminaries of Learning, were instructed to inquire into the propriety of authorizing the Secretary of the Treasury to subscribe, on behalf of the United

States, for five thousand shares in the capital stock of the Kentucky Ohio Canal Company.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting reports respecting tonnage and certain imports and exports, made in obedience to the resolutions moved by Mr. PITKIN, on the 29th of December last.

A Message was received from the President of the United States, relative to our relations with the Government of the Netherlands, with a view to the revision and modification of the commercial treaty existing between the two countries adapted to their present circumstances.—Referred to the Committee of Ways and Means.

## OHIO CONTESTED ELECTION.

The House (having refused to take up the neutrality bill) again went into Committee of the Whole, on the report of the Committee of Elections respecting the right of Mr. HERRICK, a member from Ohio, to a seat in this House—Mr. ADAMS's motion to reverse the report, and thus vacate the seat, being under consideration.

Mr. TAYLOR concluded his remarks (which were interrupted by the adjournment yesterday) in favor of the report.

Mr. HOPKINSON took the opposite side, and spoke near an hour against the report of the Committee of Elections, and the right of the member to a seat.

Mr. BALDWIN spoke at considerable length in confirmation of the right of Mr. HERRICK to his seat.

Mr. ADAMS briefly replied; when the question was taken on reversing the report of the Committee of Elections, and carried—ayes 67, noes 66.

The Committee then rose, and reported their decision to the House.

After a good deal of desultory conversation on various motions, touching the right of certain members to vote on the question, whose seats were supposed to be held under circumstances similar to that of Mr. HERRICK, and therefore personally interested in the decision; and after refusing to excuse Messrs. BARBER, of Ohio, and HUBBARD, of New York, from voting, the question on concurring with the Committee of the Whole in reversing the report of the Committee of Elections, was decided in the negative, by yeas and nays. Those who voted for concurring with the Committee of the Whole, and, of course, against the right of the member to a seat, were:

Messrs. Abbott, Adams, Allen of Massachusetts, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bennett, Burwell, Claiborne, Cook, Crawford, Cushman, Darlington, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hogg, Holmes of Connecticut, Hopkinson, Huntington, Irving of New York, Johnson of Virginia, Little, Lowndes, McLane, Marr, Mason of Rhode Island, Middleton, Jeremiah Nelson, H. Nelson, Owen, Pawling, Peter, Pindall, Pleasants, Reed, Rhea, Rice, Richards, Robertson of Louisiana, Ruggles, Sawyer, Schuyler, Sergeant, Seybert, Sherwood, Simkins, Slocumb, S.

MARCH, 1818.

Proceedings.

H. OF R.

Smith, Bal. Smith, J. S. Smith, Speed, Stewart of North Carolina, Terrill, Terry, Tompkins, Tucker of Virginia, Tucker of South Carolina, Walker of Kentucky, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts—74.

Those who voted against concurring, and in favor of the member's keeping his seat, were:

Messrs. Allen of Vermont, Anderson of Pennsylvania, Barber of Ohio, Bassett, Bloomfield, Blount, Boden, Boss, Butler, Campbell, Clagett, Cobb, Comstock, Cruger, Culbreth, Desha, Earle, Ellicott, Folger, Gage, Hale, Hall of Delaware, Harrison, Hasbrouck, Herkimer, Hitchcock, Holmes of Massachusetts, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Moore, Morton, Moseley, Mumford, Murray, New, Ogle, Palmer, Patterson, Poindexter, Porter, Rich, Ringgold, Robertson of Kentucky, Sampson, Savage, Scudder, Settle, Shaw, Silsbee, Southard, Spencer, Strong, Tallmadge, Tarr, Taylor, Townsend, Tyler, Upham, Walker of North Carolina, Wallace, Whitman, Wilkin, and Wilson of Pennsylvania—77.

So the House refused to concur in the report of the Committee of the Whole; and then, after an unsuccessful motion by Mr. FORSYTH, to recommit the subject to the Committee of Elections, with instructions to report the case of Mr. HERRICK distinct from other cases now embraced in the report; and a motion, also unsuccessful, by Mr. ALLEN, of Massachusetts, to postpone the report indefinitely—

The question was taken, by yeas and nays, on agreeing with the Committee of Elections, that Mr. HERRICK is entitled to a seat, and decided in the affirmative—yeas 77, nays 70, as follows:

YEAS—Messrs. Allen of Vermont, Anderson of Pennsylvania, Baldwin, Barber of Ohio, Bassett, Bloomfield, Blount, Boden, Boss, Butler, Campbell, Clagett, Cobb, Comstock, Crafts, Cruger, Culbreth, Desha, Earle, Ellicott, Folger, Gage, Hale, Hall of Delaware, Harrison, Hasbrouck, Herkimer, Hitchcock, Holmes of Massachusetts, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Moore, Morton, Moseley, Mumford, Murray, Ogle, Palmer, Parrott, Patterson, Poindexter, Porter, Rich, Ringgold, Robertson of Kentucky, Sampson, Savage, Scudder, Settle, Shaw, Silsbee, Southard, Spencer, Strong, Strother, Tallmadge, Tarr, Taylor, Townsend, Tyler, Upham, Walker of North Carolina, Wallace, Whitman, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bennett, Claiborne, Cook, Crawford, Cushman, Darlington, Edwards, Floyd, Forney, Forsyth, Garnett, Hogg, Holmes of Connecticut, Hopkinson, Huntington, Irving of New York, Johnson of Virginia, Little, Lowndes, McLane, Marr, Mason of Rhode Island, J. Nelson, H. Nelson, Owen, Pawling, Peter, Pindall, Pleasants, Reed, Rhea, Rice, Richards, Robertson of Louisiana, Ruggles, Sawyer, Sergeant, Seybert, Sherwood, Simkins, Slocumb, S. Smith, B. Smith, J. S. Smith, Speed, Stewart of North Carolina, Terrill, Terry, Tompkins, Tucker of Virginia, Tucker of S.

Carolina, Walker of Kentucky, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of N. York, Williams of North Carolina, and Wilson of Massachusetts.

SATURDAY, March 21.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred the bill from the Senate, entitled "An act to authorize the Secretary of the Treasury to repay, or remit, certain alien duties therein described," reported the same without amendment, and the bill was committed to a Committee of the Whole.

On motion of Mr. SIMKINS, the Committee on the Public Lands were instructed to inquire into the expediency of establishing other land offices in the Territory of Alabama, than those already established, and of appointing other registers and receivers of public moneys, in addition to those already appointed.

On motion of Mr. TAYLOR, a committee was appointed to inquire into the expediency of providing by law for an earlier commencement of the next session of Congress than the stated period, with leave to report by bill or otherwise; and Messrs. TAYLOR, POINDEXTER, PITKIN, ROBERTSON of Kentucky, TUCKER of Virginia, RHEA, and WHITMAN, were appointed the committee.

Mr. BASSETT laid before the House a letter from Daniel Carroll, of Duddington, addressed to him as Chairman of the Committee on that part of the President's Message, in relation to the selection of the site for the Executive offices; which was read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole, on the report of the Committee of Elections, respecting the right of Elias Earle, a Representative from South Carolina, and George Mumford, a Representative from North Carolina, to seats in this House.

The Committee of the Whole, without debate, agreed to the report, and rose and reported their agreement to the House, and the House concurred with the Committee of the Whole in their agreement to the resolutions, that Mr. EARLE and Mr. MUMFORD are entitled to their seats, in which they are of course confirmed.

The following bills successively passed through Committees of the whole House, and were severally ordered to be engrossed for a third reading, to wit: A bill from the Senate for the relief of William Edwards and John G. Stubbs; a bill allowing additional salary and clerk hire to the surveyor of the Illinois and Missouri Territories, and for other purposes; a bill to extend the privilege of franking to the vaccine agents of States and Territories; a bill authorizing John Taylor to be placed on the navy pension fund.

The House went into Committee of the Whole on the amendment reported by the Committee of Claims to the bill for the relief of John Bate. The Committee of the Whole concurred in the amendment.

A motion was then made by Mr. CLAIBORNE



H. OF R.

Neutral Relations.

MARCH, 1818.

to amend the bill as amended, by striking out these words, to wit: "Also, to make such reduction in the rent, stipulated to be paid by the said John Bate, as shall appear just and equitable, in consequence of any deterioration in the quality, or diminution in the quantity of water in said saline, as may be proven to his satisfaction; as also."

Mr. MARR moved that the bill lie on the table. *Negative*.

The question was then taken on the amendment proposed by Mr. CLAIBORNE, and also *negative*. The bill, as amended, was then ordered to be engrossed and read a third time.

The amendments to the bill for the relief of Narcissus Broutin, were read, and concurred in by the House, and the bill was ordered to lie on the table.

The bill confirming the claim of Tobias Rheams to a tract of land, granted to him by the Spanish Government; and the bill for the relief of Daniel Burnett, Gibson Clark, and the legal representatives of Hubert Rowel, were ordered to be engrossed, and severally read a third time, on Monday next.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report on the petition of David Gelston, on behalf of himself and Peter A. Schenck; which was read and ordered to lie on the table.

MONDAY, March 23.

The SPEAKER presented a petition of the Legislative Council, and House of Representatives, of the Territory of Alabama, praying to be invested with power to incorporate companies in said Territory, for the purpose of constructing turnpike roads, with exclusive privileges and right of toll.—Referred to the Committee appointed on Roads, Canals, and Seminaries of Learning.

The SPEAKER laid before the House a letter from the Governor of the State of Pennsylvania, enclosing a return of the election of THOMAS J. ROGERS, a Representative from that State, in the place of John Ross, resigned; which was referred to the Committee of Elections.

Mr. FORSYTH, from the Committee on Foreign Relations, who was instructed to inquire into the expediency of establishing a Consulate at Mogadore, in the Empire of Morocco, made a report thereon; which was read, and ordered to lie on the table.

Mr. LOWNDES, from the Committee of Ways and Means, to which were referred sundry petitions regarding duties paid to the United States, or claimed by them, on account of goods landed in the District of Castine, while it was in the possession of the British forces, and remaining there when its possession was restored to the Government of the United States; made a report thereon, which was read and ordered to lie on the table.

On motion of Mr. LITTLE, the Secretary of State was requested to lay before this House the

cause of delay in printing the register of all officers and agents, civil, military, and naval, in the service of the United States, in conformity with the several resolutions of Congress, approved April 29, 1816.

On motion of Mr. LITTLE, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of extending the privilege of franking to the Secretary of the Senate, and Clerk of the House of Representatives.

Mr. TAYLOR submitted the following resolution:

*Resolved, &c.*, That after the close of each session of Congress, an alphabetical index of the acts and joint resolutions, passed at the preceding session, shall be prepared, printed, and distributed therewith, under the direction of the Secretary for the Department of State.

The resolution was read twice, and ordered to be engrossed, and read a third time to-morrow.

Engrossed bills of the following titles to wit: An act authorizing John Taylor to be placed on the list of navy pensioners; an act for the relief of John Bate; an act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government; an act for the relief of Daniel Burnett, Gibson Clarke, and the legal representatives of Hubert Rowel; and an act to extend the privilege of franking, to vaccine agents of States and Territories; were severally read the third time, and passed.

An engrossed bill, entitled "An act confirming the claim of William Daniel, or his legal representatives, to a tract of land in the Mississippi Territory," was read the third time, and passed.

The House took up the bill for the relief of Narcissus Broutin, and others, and the same being further amended was ordered to be engrossed, and read a third time, to-morrow.

The House then went into a Committee of the Whole on the report of the Committee on Pensions and Revolutionary Claims unfavorable to the petition of Edmund Brooke; and after a good deal of discussion, in which Mr. BARBOUR of Virginia earnestly opposed the report, it was agreed to by the Committee of the Whole, which then rose and reported their agreement to the House, which report was concurred in, and the prayer of the petitioner rejected.

#### NEUTRAL RELATIONS.

The House then proceeded to the consideration of the amendments reported by the Committee of the Whole, to the bill in addition to the act "to punish certain crimes against the United States," and to repeal the acts therein mentioned.

The amendments were successively agreed to, with the exception of the following, which was reported by the Committee as a 14th section to the bill, to wit:

"SEC. 14. *And be it further enacted*, That in prosecutions either against persons or property, sailing under the flag of any colony, district, or people, which shall be admitted into the ports of the United States,

MARCH, 1818.

Neutral Relations.

H. OF R.

it shall not be deemed a ground for the punishment or condemnation of such person or property, that the sovereignty of such colony, district, or people, has not been acknowledged by the United States: *Provided*, That the colony, district, or people, aforesaid, have an organized existing Government, claiming to be independent, at the time of the commission of the fact of which the persons are charged."

This amendment Mr. LOWNDES moved to amend by striking out the words "which shall be admitted into the ports of the United States," and to insert, in lieu thereof, "if such flag shall be directed to be admitted into the ports of the United States by instructions from the President of the United States to the several collectors of the customs, which instructions he is hereby authorized to issue."

This motion was *negative*, after considerable discussion; when

Mr. TUCKER moved to amend the section by striking out the words "which shall be admitted," and to insert, after "United States," the words "under the instructions of the President of the United States, to the several collectors of the customs."

Mr. LOWNDES then rose and moved that the bill and amendments be indefinitely postponed; which motion was decided in the *negative*—yeas 72, nays 79, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Baldwin, Barbour of Virginia, Bayley, Beecher, Bennett, Boss, Clagett, Cobb, Crafts, Cushman, Darlington, Earle, Edwards, Ervin of South Carolina, Folger, Forsyth, Hall of Delaware, Hall of North Carolina, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Lowndes, McLane, W. P. Maclay, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Morton, Moseley, Jeremiah Nelson, H. Nelson, Ogden, Parrott, Pawling, Pindall, Pitkin, Poindexter, Reed, Rhea, Rice, Richards, Ruggles, Schuyler, Sergeant, Sherwood, Silsbee, Simkins, Slocumb, Samuel Smith, Alexander Smyth, J. S. Smith, Stewart of North Carolina, Strong, Strother, Stuart of Maryland, Taylor, Terry, Townsend, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts.

NAYS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Ball, Barber of Ohio, Bassett, Bellinger, Bloomfield, Blount, Boden, Burwell, Campbell, Claiborne, Comstock, Cook, Cruger, Culbreth, Desha, Ellicott, Floyd, Forney, Gage, Harrison, Hasbrouck, Hogg, Holmes of Massachusetts, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lawyer, Linn, Little, McCoy, Marchand, Marr, Merrill, Moore, Mumford, Murray, T. M. Nelson, New, Ogle, Owen, Palmer, Patterson, Peter, Pleasants, Porter, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Sampson, Savage, Sawyer, Scudder, Settle, Seybert, Shaw, Bal. Smith, Southard, Speed, Spencer, Tallmadge, Tarr, Terrill, Tompkins, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Wilson of Pennsylvania.

Mr. TUCKER's motion to amend the section was then agreed to; and

On motion of Mr. SMITH, of Maryland, the following proviso was added to the section: "*Provided*, That nothing herein contained shall be construed to affect the rights of citizens of the United States, who may prosecute in the courts of the United States for property taken from them on the high seas;" after which, the section, as amended, was agreed to.

Mr. TUCKER, of Virginia, moved to strike out the 10th and 11th sections of the bill, in the following words:

SEC. 10. *And be it further enacted*, That the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to the citizens thereof, shall enter into bond to the United States with sufficient sureties, prior to clearing out the same, in double the amount of the value of the vessel and cargo on board, including her armament, that the said ship or vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property, of any foreign Prince or State, or of any colony, district, or people, with whom the United States are at peace.

SEC. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby, respectively authorized and required, to detain any vessel manifestly built for warlike purposes, and about to depart the United States, of which the cargo shall principally consist of arms and munitions of war; when the number of men shipped on board or other circumstances shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or to commit hostilities upon the subjects, citizens, or property, of any foreign Prince or State, or of any colony, district, or people, with whom the United States are at peace, until the decision of the President be had thereon, or until the owner or owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this act.

The question being divided, was first taken on striking out the tenth section, and decided in the *negative*—yeas 44, nays 95, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Bellinger, Campbell, Claiborne, Comstock, Cruger, Culbreth, Desha, Earle, Floyd, Folger, Forney, Gage, Harrison, Herkimer, Johnson of Virginia, Johnson of Kentucky, Kinsey, Little, Marchand, Marr, Mumford, H. Nelson, T. M. Nelson, New, Ogle, Owen, Patterson, Poindexter, Porter, Quarles, Robertson of Louisiana, Sawyer, Settle, Shaw, Spencer, Tarr, Trimble, Tucker of Virginia, Tyler, Walker of Kentucky, Wallace, and Whiteside.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bennett, Bloomfield, Boden, Boss, Burwell, Butler, Clagett, Cobb, Crafts, Cushman, Darlington, Edwards, Ellicott, Forsyth, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Linn, Livermore, Lowndes, McLane, W. P. Maclay, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Moore, Moseley, Murray, Jeremiah Nelson, Ogden, Palmer, Parrott, Pawling, Peter, Pindall, Pitkin, Pleasants, Reed, Rhea, Rice, Rich, Richards, Ringgold, Robertson of Kentucky, Ruggles, Sampson, Schuyler, Scudder, Sergeant, Sey-



bert, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, Speed, Stewart of North Carolina, Strong, Strother, Stuart of Maryland, Taylor, Terrill, Terry, Tompkins, Townsend, Upham, Walker of North Carolina, Wendover, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

The question was then taken on striking out the 11th section; and also determined in the negative.

The question was then taken, Shall the said bill be engrossed and read a third time? and passed in the affirmative—yeas 95, nays 51, as follows:

**YEAS.**—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Beecher, Bellinger, Bloomfield, Boden, Burwell, Campbell, Claiborne, Cook, Crafts, Cruger, Culbreth, Desha, Edwards, Ellicott, Floyd, Forney, Forsyth, Hale, Hall of North Carolina, Harrison, Hasbrouck, Herkimer, Hitchcock, Hogg, Holmes of Massachusetts, Hubbard, Irving of New York, Johnson of Virginia, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McCoy, Marchand, Marr, Merrill, Moore, Mumford, Murray, H. Nelson, T. M. Nelson, New, Ogle, Owen, Palmer, Parrott, Patterson, Peter, Pleasants, Poindexter, Porter, Quarles, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Sampson, Sawyer, Scudder, Settle, Seybert, Shaw, Slocumb, S. Smith, Ballard Smith, Speed, Spencer, Strother, Tallmadge, Tarr, Taylor, Terrill, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Wilson of Pennsylvania.

**NAYS.**—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Baldwin, Bayley, Bennett, Boss, Chagett, Cobb, Cushman, Darlington, Earle, Folger, Gage, Hall of Delaware, Holmes of Connecticut, Hopkinson, Hunter, Huntington, Lowndes, McLane, W. P. Macley, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Moseley, Jeremiah Nelson, Ogden, Rawling, Pindall, Pitkin, Reed, Rhea, Rice, Richards, Ruggles, Schuyler, Sergeant, Slocumb, Alexander Smyth, Stewart of North Carolina, Strong, Stuart of Maryland, Terry, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts.

The bill was then ordered to be read a third time, on Wednesday next.

#### TUESDAY, March 24.

Another member, to wit: from Pennsylvania, THOMAS J. ROGERS, elected to supply the vacancy occasioned by the resignation of John Ross, appeared, produced his credentials, was qualified, and took his seat.

The SPEAKER presented a petition of John Anderson, praying that the bills which have been reported at this session for his relief, may be taken up and finally disposed of, with as little delay as possible.—Laid on the table.

Mr. LITTLE, from the Committee of Accounts, who were instructed by resolution to inquire into the causes of delay, in laying on the tables of the

members of this House, the Message of the President of the United States, of the 14th instant, with its accompanying documents, made a report thereon, which was read and ordered to lie on the table.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of Adam Kinsey and Thomas French, which was read; when, Mr. W. reported a bill for the relief of the said Adam Kinsey and Thomas French, which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill concerning the Territory of Alabama, which was read twice, and ordered to be engrossed and read a third time, on Saturday next.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the petition of Jarius Loomis, and James Bassett, sailing-masters in the Navy of the United States, and commanding gun vessels, Nos. 149 and 154, which was read; when, Mr. P. reported a bill authorizing the payment of a sum of money to the officers and crews of gunboats Nos. 149 and 154, which was read twice, and committed to a Committee of the Whole.

Mr. PLEASANTS also reported a bill concerning the heirs and legatees of Thomas Turner, deceased, which was read twice, and committed to a Committee of the Whole.

Mr. TAYLOR, from the select committee appointed on the subject, reported a bill fixing the time for the next meeting of Congress, which was read twice, and the further consideration thereof postponed until Tuesday, the 31st instant.

The SPEAKER laid before the House, a report of the Secretary of the Navy, on the petitions of Samuel Cheney and Robert Ramsey, which was read and ordered to lie on the table.

The SPEAKER also laid before the House, a letter from Richard Bland Lee, Commissioner of Claims, transmitting reports of the facts in fifty-six cases, all from the State of New York, with the evidence accompanying each, taken under a second commission, attended by a special agent on the part of the United States.—Referred to the Committee of Claims.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act authorizing a subscription for the eleventh volume of State Papers; and an act regulating the pay and emoluments of brevet officers; in which bills they ask the concurrence of this House.

The said bills were respectively, read the first time.

On motion of Mr. SCOTT,

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of granting or securing to the town of St. Louis, in the Missouri Territory, as a common, all the sand bar or batture, formed by the recession of the Mississippi river, between the said town and low water mark; and to prohibit the location of any floating claim in the said Territory,

thereon, or if any location should have been made, to prohibit by law the issuing of a patent therefor.

*Resolved, also*, That the Committee on the Public Lands be instructed to inquire into the expediency of prohibiting by law the location of any floating claim, on any lands in the Territory of Missouri, the right of pre-emption to which land has been secured to any settler, by the act of the 12th of April, 1814, or if any such location should have been made, to prohibit by law, the issuing a patent therefor.

*Resolved, also*, That the Committee on the Public Lands be instructed to inquire into the expediency of prohibiting by law the location of any floating claim, in the Territory of Missouri, on any lands, the right, title, or claim to which, has been at any time heretofore given notice of, or filed with either of the Boards of Commissioners in said Territory, or with the recorder of land titles, acting as such under any law of Congress, for the adjustment of land titles in said Territory, or, if any such location should have been made, to prohibit by law the issuing of patents therefor.

*Resolved, also*, That the Committee on the Public Lands be instructed to inquire into the expediency of prohibiting by law the location of any floating claim in the Territory of Missouri, on any town lot, village lot, out lot, common field lot, or common, in, adjoining, or appertaining to any of the towns or villages in the Territory of Missouri, or if any such location shall have been made to prohibit by law the issuing of patents therefor.

An engrossed bill, entitled "An act for the relief of Narcissus Broufin, and others," was read the third time, and passed.

An engrossed resolution "directing the Secretary for the Department of State to prepare an index to the acts and resolutions of Congress, after the close of every session," was read the third time, and passed.

#### REMISSION OF DUTIES.

Mr. McLANE, from the Committee of Commerce and Manufactures, made a report on the petition of Oliver H. Hicks, and Lockwood de Forest, which was read, and the resolution therein contained was concurred in by the House. The report is as follows:

The petitioners state, that on the 8th of June, 1816, they imported into the district of New York, in the schooner *Eliza*, from Berbice, thirty-nine tierces and one barrel of coffee; that, immediately upon landing it, the wharf being crowded, it was removed into the store of the petitioners; that, some time afterwards, they sold it by samples taken from a number of the casks, and on the 8th August following commenced delivering it to the purchaser. It was then discovered that eighteen of the casks were damaged, and, upon an application to the collector for an appraisement, and deduction of the duties, he had no power to act, the time allowed by law having expired. The petitioners then had it examined by the wardens of the port, and appraised by four merchants, and they pray Congress to pass an act authorizing a deduction of the duties in proportion to the damage.

The act of Congress authorizing a deduction of duties on damaged goods provides that no such allowance for the damage on goods that have been entered, and on which the duties have been paid or secured, and for which permit has been granted, and which on an examination prove to be damaged, shall be made, unless proof to ascertain such damage shall be lodged in the custom-house within ten days after landing such merchandise.

In this case the coffee had been entered, the duties secured, permit granted, and the merchandise actually in the possession of the owners, and under their observation, two months before any damage was alleged; and the case is therefore, within both the letter and spirit of the law.

Although it may be proper for Congress to grant relief in cases coming within the letter of the law, though not within its spirit, it would be a dangerous precedent to relieve in a case coming clearly within the mischief designed to be guarded against, and that too by the act of the owner.

The act of Congress is intended to guard against all the means of fraud, and has allowed the owner ten days for the discovery of the damage, presuming it necessary for the safety of the revenue that a longer time should not be afforded.

In this case, the owners took the merchandise from the wharf at their own risk; if they neglected to examine it sooner, it is their own fault, and there is no reason shown to the committee why a greater indulgence should be given than is allowed in ordinary cases.

It does, however, appear that this coffee did not altogether escape the observation of the petitioners; they actually sold it by samples; and though it so happened that the samples were all taken from the sound casks, it is not an accident for which the Government should be liable. The committee, therefore, recommend the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.

#### NATIONAL FLAG.

The House then resolved itself into a Committee of the Whole on the bill to alter the flag of the United States [providing that from and after the fourth day of July next, the flag of the United States be thirteen horizontal stripes, alternate red and white; that the Union be twenty stars, white in a blue field; and that, on the admission of every new State into the Union, one star be added to the Union of the flag, and that such addition shall take effect on the fourth day of July then next succeeding such admission.]

Mr. WENDOVER rose. In complying with a duty incumbent on me, said Mr. W., as resulting from a proposition I had the honor to submit to the House, for altering in part the flag of the United States, I feel no disposition to consume much of the time of the Committee, or to indulge in the many observations which the nature of the subject might appear to justify. But I ask the patience of the Committee while I state a few of the considerations which present themselves in favor of the bill now on your table.

Sir, the importance attached to a national flag, both in its literal and figurative use, is so universal, and of such ancient origin, that we seldom



inquire into the meaning of their various figures, as adopted by other nations, and are in some danger of forgetting the symbolical application of those composing that of our own.

Were we now about to devise suitable emblems for a national flag, I doubt not we should see much diversity of sentiment, and perhaps some efforts for local gratification; but I presume we should unite in some general and appropriate figures referring not to sectional but national objects. But on this subject we need not differ. Suitable symbols were devised by those who laid the foundation of the Republic; and I hope their children will ever feel themselves in honor precluded from changing these, except so far as necessity may dictate, and with a direct view of expressing by them their original design.

Mr. Chairman, I am not particularly informed as to the origin of our flag; but have repeatedly heard it was first used by a citizen of Philadelphia, on his own vessel, and afterwards adopted by the Congress of the Revolution, as appropriate to and emblematical of these confederated States, contending for the rights of man, and the rich boon of an independent Government. At its adoption our flag was founded on a representative principle, and in the arrangement of its parts made applicable to the number of the States then united against the common foe.

The same representative principle was retained and applied when the flag was altered; but experience having shown that a similar extension of numbers throughout, the flag would now be improper and inconvenient. It is worthy the attention of the National Legislature again to consider the subject, and see if it be practicable to retain in it the object contemplated by its founders, as pointing to the component parts of the nation, without losing sight of the original formation of this Government as a free republic.

Sir, the flag of the United States having undergone some change, and in its present state being altogether inappropriate, we are called upon to determine whether a further change be not advisable; and, if it be, what alteration will be most proper, and best to apply to the present and relative state of the nation, consistent with the representative character of the flag. If you do not alter it, you do injustice to the States admitted into the Union since the former alteration; and if you alter in the way as before, you will destroy the conspicuity of your flag, and render it too indistinct to be known at a distance, and increase the inconvenience already experienced.

At the present day, and particularly since the commencement of the late war, there are few vessels, however small, if they carry a mast, but are furnished with a flag of some description; and it is well known to gentlemen living on the seaboard, and others, that it is impracticable for small vessels to conform even to the present law; and the law itself does not correspond with the existing or original facts.

The flag of the United States was altered by law, from thirteen to fifteen stripes and stars, on the first of May, 1795, to apply to the admission

of Vermont and Kentucky into the Union. On the first of June, 1796, Tennessee was admitted. Thus the alteration was applicable to the fact on which it was predicated, for the short space of one year and one month. On the 19th of February, 1803, Ohio was admitted, Louisiana on the 30th of April, 1812. Indiana was admitted at the last session of Congress, and Mississippi at the present session, and you now have on your table a bill for the admission of another State. Calculating on such a result caused many to regret the former alteration; and no doubt the same reason operated in the House of Representatives when the bill passed, and will account for the small majority of eight by which it succeeded.

I presume none will now advocate the propriety of continuing the fifteen stripes as at present; that number was founded on a mere contingency, which has since repeatedly happened, and will frequently occur; whereas the number proposed by the bill refers to our national origin, and is equally interesting to all.

Sir, it cannot be deemed proper to go on and increase the stripes in your flag. There are now twenty States; what number they will ultimately extend to none can conjecture. For my own part, I doubt not there will in time be accessions from the East, from the North, from the West, and from the South. Sir, I am not now speaking of conquest. I am willing every people should "manage their own affairs in their own way." But I can no more believe that any portion of the earth will remain in perpetual thralldom, and be forever tributary to a foreign Power, than I can subscribe to the doctrine of a ceaseless succession of legitimate kings.

Sir, it cannot be deemed desirable, under the existing state of things, in relation to the stripes and stars in the flag, to retain it in its present situation; it is not only inapplicable, but both parts refer to the same thing, and the one is a duplicate of the other; but the alteration proposed will direct the view to two striking facts in our national history, and teach the world an important reality, that republican government is not only practicable, but that it is also progressive.

Is it desirable to produce greater uniformity? Most undoubtedly it is. In the navy the law is generally conformed to, but it is well known that uniformity does not elsewhere exist. If evidence were wanting, among other and numerous instances, I would refer you to the flag at this moment waving over the heads of the Representatives of the nation, and two others in sight, equally the flags of the Government: while the law directs that the flag shall contain fifteen, that on the Hall of Congress, whence laws emanate, has but thirteen, and those at the Navy Yard and Marine Barracks have each at least eighteen stripes. Nor can I omit to mention the flag under which the last Congress sat during its first session, which, from some cause or other unknown to me, had but nine stripes. But even that flag, with all its defects, was entitled to much honor, for it was not only striped, but, to use another British cant, it was "Ragged Bunting," and was the first flag hoisted on the Hall of Congress, after the proverbial "*Bulwark of Religion*" had here, in this city, shown its anxious solicitude to promote the useful arts.

ing," and was the first flag hoisted on the Hall of Congress, after the proverbial "*Bulwark of Religion*" had here, in this city, shown its anxious solicitude to promote the useful arts.

Sir, I consider the plan proposed as in unison with the original design; it points to the States as they commenced and as they now are, and will, with an inconsiderable addition, direct the mind to a future state of things. The necessary alteration, either now or hereafter, can be made by almost any person, at any place and at any time; and the proposition, if adopted, will in future save the expense of legislating on the subject.

The committee who reported this bill deemed it advisable to direct that the stripes be horizontal; this is now the form in use; but it results from example, and not from the act, and would be equally conformable to law, if the stripes were arranged in a perpendicular direction. There is, indeed, one exception in practice. Under the laws for the collection of impost and tonnage, the Executive has directed that the cutters and boats employed in this service shall carry ensigns and pennants, with perpendicular stripes, and other marks of distinction; but this being alterable at the pleasure of the President, forms no objection to the proposition in the bill; and it is obviously proper to define the form in this particular, when it is considered that in this only has been the distinction between the flags of two different nations, and was recently the case as regarded those of France and Holland.

As to the particular disposition of the stars in the union of the flag, the committee were of opinion that might be left at the discretion of persons more immediately concerned; either to arrange them in the form of one great luminary, or in the words of the original resolution of 1777, "representing a new constellation."

Mr. Chairman, in viewing this subject, there appears to be a happy coincidence of circumstances, in having adopted the symbols in your flag, and a peculiar fitness of things, in making the proposed alteration. In that part designed at a distance to characterize your country, and which ought, for the information of other nations, to appear conspicuous and remain permanent, you present the number of the stars that burst the bands of oppression, and achieved your independence; while in the part intended for a nearer, or home view, you see a representation of your happy Union as it now exists, and space sufficient to embrace the symbols of those who may hereafter join under your banners.

Sir, could I be so fortunate as to escape the charge of mistaking fancy for fact, and be permitted, on this figurative subject, to draw a parallel, I should attempt to show that, in another point of view there is a propriety and an aptness in having adopted and in now restoring the thirteen stripes. Sir, you have recently been at war with a powerful nation; that war, from its declaration to its final termination, continued precisely three years. In that war, though your arms were generally victorious, yet in a more

signal manner, in the first year, you beat the enemy on the ocean; in the second year, on the lakes; and in the third year, on the land. Thus, then, by triplication, indicated by the time *three years*, or by the fact of conquest over the *three* descriptions of force arrayed against you, and viewing your flag as of right composed of thirteen stripes, you have but executed the authority vested in the Israelites of old in cases of controversy, and beaten the enemy with *forty stripes, save one*.

Sir, the proposition before you is predicated on the fact already stated, that your flag has been altered. Were it not so, I presume it would not now be changed; it is at present inapplicable to original or existing facts; let it now be made to refer to both. Where is the American who feels not a becoming pride and gratitude in retrospect to the days of the Revolution; when the blood of our fathers profusely flowed, to procure for us a rich inheritance? In their memory, and to their honor, let us restore substantially the flag under which they conquered, and at the same time engraft into its figure the after-fruits of their toil.

Mr. Chairman, I hope this bill will pass, and wish it to pass with much unanimity; not only because I believe it will meet the public approbation, and be best calculated to give sufficient permanency to the form of your flag, but because there yet remains a few, and, indeed, but few, who first nerved their arm to raise this banner of freedom, and nobly defended it, through carnage and blood, to victory and to peace. With hoary locks and tottering frame they have been preserved to see it acquire a renown which I trust will never fade; and have lived to witness in their sons that heroic spirit, which assures them that their privations and their arduous struggle in defence of liberty have not been in vain.

Sir, I believe it is now the time to legislate on this subject; your flag now stands pre-eminently high in the estimation of other nations, and it is justly the pride of your own. And although, for a moment, your flag was veiled at Detroit, and left to droop at Castine; and although (if I may so express it) it was made to weep at Washington, it has not lost its lustre—it remains unsullied. No disgrace has attached to your "star-spangled banner." It has been the signal of victory on the land, of successful valor on the lakes, and waved triumphantly on the ocean. And even on those who predicted that in "nine months the striped bunting would be swept from the ocean," it possessed the wonderful charm, that before the nine months had elapsed, "fir-built frigates" and "Yankee cock-boats" were magnified into "ships-of-the-line;" and His Majesty's faithful officers, careful for the preservation of *British Oak*, sought protection for their frigates under the convoy of seventy-four-gun ships.

Sir, this subject has for some time been before the public; it has been examined and approved by many gentlemen of rank and experience in the Navy and Army of the United States; it meets the approbation of the gentlemen at the



H. of R.

Spanish American Provinces.

MARCH, 1818.

head of these departments; and, as far as I am informed, that of the public generally; and I presume none will doubt the propriety of endeavoring to produce greater uniformity in the use of the flag, as well as to give it a more significant application than it now has.

But, sir, whatever be the fate of this bill, I hope the time is not distant when you will give to your flag its deserved honor, as the guardian of your citizens; when your hardy seamen shall no longer be doomed to the degradation to ask for, nor you to give them, *paper protections*; but, when they shall point aloft to the flag of their country, and say, "This is the protection of freemen; under this we desire peacefully to traverse the ocean and sail to every clime. But perish the arm that shall attempt to seize upon our persons; and we, to the nation that shall dare to infringe our country's rights!" And whenever called to the contest by the voice of their country, may they rally round the "star-spangled banner," and emphatically exclaim—

"High-waving, unsullied, unstruck, proudly showeth,  
What each friend, and each foe, and each neutral  
well knoweth;

That her path is ethereal, high she aspires,  
Her stripes aloft streaming, like boreal fires."  
Joined with Stars, "They astonish, dismay, or delight.

As the foe, or the friend, may encounter the sight."

Mr. Chairman, I shall add no more. The subject is plain and well understood; and though not of a character to be classed with those of the highest national importance, is still proper to be acted on, and worthy the attention of the Representatives of a people whose flag will never be insulted for want of protectors, and which, I hope and believe, will never be struck to an inferior or equal force.

Mr. POINDEXTER moved to amend the bill by reducing the number of stars to seven, the number of States added to the Union since the declaration of Independence, leaving the number of stripes as the bill proposed; so that the stars might represent the number of new States, and the stripes answer to the number of the original thirteen States; which motion Mr. P. advocated by several arguments.

Mr. SMITH, of Maryland, made a few remarks in opposition to this motion; to whom

Mr. ROBERTSON, of Louisiana, replied, and supported the motion of Mr. POINDEXTER against the proposition contained in the bill.

Mr. POINDEXTER's motion was lost without a division, and the Committee rose and reported the bill to the House without amendment.

Mr. B. then renewed his motion without success; when

Mr. FOLGER moved to strike out the second section of the bill, providing for the additional star for every new State, and to amend the first section by fixing the number of stars at thirteen instead of twenty.

This motion was negatived, and the bill was ordered to be engrossed for a third reading.

## SPANISH AMERICAN PROVINCES.

The House went into Committee of the Whole on the appropriation bill; the clause appropriating thirty thousand dollars for compensation to the Commissioners, sent to South America by the Executive in December last, under consideration.

Mr. CLAY wished to know if this appropriation was to defray the expenses of the commission lately sent to South America; if so, he would ask of the chairmen of the Committee of Ways and Means and the Committee of Foreign Relations, whether those Commissioners were furnished with credentials, and if their appointment had been confirmed by the Senate; also, to what ports of South America they were sent, and the probable duration of the commission; and, also, if it would not be looking too much into its objects, he would be glad to know what those objects were.

Mr. LOWNDES said, that although he had not all the information required by the Speaker, yet, he was possessed of something on the subject more than newspaper intelligence. It must be recollected that the objects of the Committee of Ways and Means were confined merely to the financial department; they had, however, some information on this subject, received in reply to some inquiries that the committee had, in the performance of their duties, addressed to the Department of State, which would answer the Speaker's inquiry as to the credentials and the probable duration of the commission. The other points did not come within the objects belonging to the Committee of Ways and Means.

The papers referred to by Mr. L. were handed up by him, and read as follows:

DEPARTMENT OF STATE, March 2, 1818.

SIR: I have the honor to enclose a copy of the commission from this Department with which Messrs. Rodney, Graham, and Bland, were furnished by direction of the President. They have, as you will perceive, no distinct diplomatic rank. They are expected to be absent seven or eight months; and the compensation allowed them by the President is \$6,000 each, and \$2,000 to their Secretary. Their expenses on the voyage, until their return, except while on shore in South America, are likewise allowed; and Messrs. Rodney and Graham having been appointed in June last, and prepared to go, but by various accidents detained until the beginning of December, when they sailed, claim on that account a further allowance. If, after their arrival at Buenos Ayres, they find it advisable that one or more of them should remain on that continent, and go to Chili, that measure is within their discretionary powers. As this contingency was, however, not expected as probable; and, if it should occur, it was not foreseen to what extent of time it might go, no specific allowance was fixed upon for it. Under these circumstances, it was anticipated that the sum of thirty thousand dollars would not more than suffice to cover the expenses of the mission.

I am, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

W. LOWNDES, Esq., Chairman, &c.

MARCH, 1818.

Spanish American Provinces.

H. of R.

To all who shall see these presents:

Be it Known, Cesar Augustus Rodney, John Graham, and Theodorick Bland, three distinguished citizens of the United States, and enjoying, in a high degree, the confidence and esteem of the President, are about to visit, in a national ship, on just and friendly objects, and at the special desire of the President, diverse places and countries in South America.

These are therefore to request that, whithersoever they may go, they, with their suite, may be received and treated in a manner due to the confidence reposed in them, and each of them, as aforesaid, by the President of the United States, and to their own merit.

Given under my hand, and the seal of the Department of State, this twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventeen.

JOHN Q. ADAMS,  
Secretary of State.

Mr. CLAY rose, not, he said, to make any objection to the three respectable citizens for whom this appropriation was intended—that was not his object; but to enter his protest to this kind of appropriation by Congress. As to the object of the commission, he thought it of very little use for the expenditure of public money; he referred to the views avowed, and the directions to touch at Buenos Ayres, &c., and said, if the object of the commission was to acquire information of the actual state of affairs in the Southern provinces, it was the most unfortunate mode that could have been adopted for that purpose. What, asked Mr. C., was this mode? Three distinguished citizens are selected, their appointment and intentions are announced by the newspapers, months before their departure, then declared by the President himself, and made known to the whole world, and they depart with all the paraphernalia of public Ministers; information of their object precedes them wherever they go. As soon as they arrive at a South American port they are surrounded by all the factions in the country; royalists, if there were any, as well as republicans; who strive to prejudice them in favor of their respective interests, to mislead their judgments and prevent the getting correct information of the real condition of things. Mr. C. described the extent of the interior provinces of Buenos Ayres, to show that the time allowed to the Commissioners (if they were acquainted with the language, manners, and habits, of the country) was inadequate to enable them to make any material addition to our stock of information; but, even if they could, were they to range the whole continent, and visit even the armies, whether successful or not, of the different parties, still, their object being known, they would everywhere be liable to the same deception and imposition. Correct information they would not obtain. The proper course to have adopted, Mr. C. said, was to despatch an individual unknown to all parties; some intelligent, keen, silent, and observing man, of pleasing address and insinuating manners, who, concealing the object of his visit, would see and hear everything, and report it faithfully.

But it was not to the object of the appropriation,

boldly as the mission had been devised, that Mr. C. rose to object; it was the Constitutional point it involved that made it obnoxious; and he read the clause of the Constitution which requires the consent and concurrence of the Senate to all appointments not specifically provided for by law, to show that these Commissioners should have been nominated to that body—taking it for granted, that they had not been submitted to the Senate. The President had not only made these appointments without the authority of the Constitution, or of any law recognising them, but in derogation from a positive act of Congress. There was an act of Congress fixing the grade of the only Ministers we sent abroad, and it provided for two cases only, that of Minister Plenipotentiary and that of Chargé des Affaires. To the first it assigned a salary of \$9,000, to the last a salary of \$4,500. Here were Commissioners, then, sent with a salary fixed by the sole authority of the President, and not conformable to that prescribed by the law in either of the two grades. If he might assign \$6,000, what was there to prevent his allowance of 50,000? It might be said in that case this House would afford a remedy; but gentlemen would perceive how difficult it would be, to withhold from an agent an appropriation, which had been promised and pledged by the Executive. There was a contingent fund of \$50,000 allowed to the President by law, which he was authorized to expend without rendering to Congress any account of it—it was confided to his discretion, and, if the compensation of the Commissioners had been made from that fund, Mr. C. said, it would not have been a proper subject for inquiry; but, under present circumstances, in opposition to the Constitution, he could not be going too far, in giving at least his protest to this appropriation. It was not his intention to make any motion on the subject, and he made none.

Mr. FORSYTH said, the Constitution vests the Executive with the powers to make appointments in the recess of the Senate. Whether these were such as required the confirmation of the Senate, had been or would be submitted for that purpose, to that body, he did not know, nor was it necessary to inquire. He presumed what ought to be done would be done, and he was disposed to leave the subject to the Executive and to the Senate, to whom it more properly belonged. If the idea of the Speaker was correct, and these were officers requiring a nomination to, and the appropriation of the Senate, yet, as they were appointed in the recess, no Constitutional wrong had been done in their appointment. But the Speaker had objected to this commission because it was useless, if it was information they went for. Was it not proper and necessary, Mr. F. asked, for the Government to have information of the state of the South American provinces—of their actual political condition, their prospects of success, &c.? If so, this information could be obtained only in two ways—by the newspapers, or by agents sent out for the purpose. The vague and uncertain reports given in the newspapers could not be relied



H. OF R.

Spanish American Provinces.

MARCH, 1818.

on, and the President had thought proper to send intelligent agents to obtain the knowledge desired. It was probable that a private man might have obtained this information better; but there was another point to be considered—the importance of this information to the Government was such, that it would be necessary that this individual should be an American, and the kind of information to be acquired might have subjected him to the fate of other Americans in the Spanish provinces; he might have been thrown into a dungeon. The opposite party might adopt this course to prevent his communicating the information he should have acquired. This had been done; American citizens had been thrown into dungeons. In whatever aspect this subject was viewed, Mr. F. could see no impropriety in voting this appropriation. It was true the President might have taken it out of the secret service fund, and no inquiry would have been made about it; but, in order to meet all the expenses of the mission, it might have been necessary to ask a further appropriation for this fund, and then the inquiry would have been made, for what it was wanted. The present course, he thought, was more honorable and fair. It would have been necessary nearly to double the ordinary contingent fund, and it would have been a conclusive objection to the appropriation, that Congress was ignorant of the object to which it was to be applied. Would the House have been willing to vote an addition to the secret service fund, for what might have been considered the employment of spies throughout the world? This objection to such an appropriation, he believed, would have been made with effect; and it was much better for the Executive to proceed in the present open and frank manner. Mr. F. took occasion, in reply to an allusion of Mr. CLAY, to say, that it was true he did not find fault with the Executive quite as often as the honorable Speaker had latterly done, but still he was not the defender of all Executive measures. The Committee would do him the justice to recollect that he sometimes differed from the Executive, and never failed to censure what he believed censurable.

Mr. CLAY said, in reply, that Mr. FORSYTH had not controverted the objection that these appointments had not been submitted to the Senate. But these agents were to be provided for, either in the quality of Ministers or *Chargés des Affaires*; and, considered in either capacity, the House was called on to make a larger appropriation than was authorized by law for officers of that character. As to a private agent being liable to the fate mentioned by Mr. FORSYTH, what, he asked, were the immunities of the present Commissioners? Nothing more, he said, than those of a private man. It had even been decided, in the affair of the Russian Consul at Philadelphia, that Consuls Generals were not entitled to the immunities of Ministers. But, could not the President have given the same commission to one man, sent privately to obtain information, as to those three Commissioners, and with the same effect and

validity? As to the object of the commission, Mr. C. again asked, how these gentlemen were to acquire this information respecting the independence of the South American provinces? The fact of their independence was not to be established by a *dedimus potestatum* sent out to take depositions. The independence of some of these States was matter of history—was too notorious to require the evidence of those Commissioners. And Mr. C. referred to the condition of some of the South American States, on which the knowledge was complete, and contended that they had been sent to parts, with regard to which (Venezuela and Buenos Ayres, for example) our information was most perfect, and were not to visit all those parts (Mexico and New Grenada) from which we most wanted it. Mr. C. again adverted to the manner in which the Commissioners had been appointed, which being done not according to law, was the more improper, as they had not sailed till after the meeting of Congress, when it would have been scarcely any detention to have waited the concurrence of the Senate, which was in session when they departed.

Mr. HOPKINSON observed, that he did not rise to express any opinion upon the object or utility of the mission in question—he was willing to agree in both; but he desired to express distinctly his dissent to the appropriation, because he believed the appointment of these Commissioners was of a kind, under the provision and spirit of our Constitution, to require the approbation and assent of the Senate, and because he had no reason to believe such assent had ever been given by the Senate, or asked by the Executive. He thought it more important for us, as the Representatives of the American people, to attend to and guard our own Constitution, than to send abroad to inquire into the form of government of other people. Mr. H. said, that being up, he would take occasion to say that he saw little or no difference between sending a Minister without consulting the Senate, in a case when their assent is admitted to be necessary, and sending him just on the eve of the meeting of that body, without any known urgency, and afterwards submitting the appointment to the Senate. Nobody can believe the Senate can exercise that free and unembarrassed judgment upon the nomination which the Constitution intended they should have, after the Minister had actually embarked and sailed for his destination, with his outfit and other expenses of the mission.

On the suggestion of Mr. LOWMEYER this appropriation was passed by for the present, that in the meantime the additional information which had been asked for by the Speaker might be obtained from the Department of State.

Mr. CLAY rose, and moved to insert in the bill a provision to appropriate the sum of eighteen thousand dollars as the outfit and one year's salary of a Minister to be deputed from the United States to the independent provinces of the River Plata, in South America.

This proposition Mr. C. followed up by entering into a discussion of the question, involved in

MARCH, 1818.

Distribution of Documents—Executive Papers.

H. OF R.

his motion, of a formal recognition of the independence of the South American States mentioned. He had spoken something more than an hour, when (having given way for a motion to that effect) the Committee rose, about half-past four o'clock, and the House adjourned.

WEDNESDAY, March 25.

On motion of Mr. MARR, the Committee on the Public Lands were instructed to inquire whether any, and, if any, what further provisions of law are necessary for preventing waste and trespass on that portion of the public lands which have been, or may hereafter be, reserved for the use of schools.

The bill from the Senate, entitled "An act regulating the pay and emoluments of brevet rank," was read the second time and referred to the Committee on Military Affairs.

The bill from the Senate, entitled "An act authorizing a subscription for the 11th volume of State Papers," was read the second time and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed bills of this House of the following titles, to wit: "An act respecting the district courts of the United States within the State of New York," and "An act to alter the time of holding the circuit court in the southern district of New York, and for other purposes," with amendments to each; in which they ask the concurrence of this House.

The amendments to each of the said bills were read, and severally referred to the Committee on the Judiciary.

An engrossed bill, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," was read the third time, and passed.

An engrossed bill to alter the flag of the United States was read the third time, and passed.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, to which was referred the bill from the Senate, entitled "An act regulating the pay and emoluments of brevet rank," reported the same without amendment, and the bill was committed to the Committee of the Whole, to which is committed the bill of this House to repeal so much of an act as allows pay and emoluments to brevet rank.

Mr. JOHNSON, from the same committee, also reported the bill from the Senate, entitled "An act for the relief of Ashael Clark," without amendment, and the bill was committed to the Committee of the Whole, to which is committed the bill for the relief of Birdsall & Foster.

## DISTRIBUTION OF PUBLIC DOCUMENTS.

On motion of Mr. SPENCER, the House took up and proceeded to consider the resolution submitted by him on the 19th instant, providing for the distribution of the documents printed by order of the House, and agreed thereto, amended to read as follows:

*Resolved*, That unless otherwise specially directed by the House, 600 copies shall be struck, of all such matter as may be directed to be printed, except bills and amendments.

That the said 600 copies shall be disposed of, and distributed in the following manner, to wit:

Two hundred copies shall be retained in the printing office, and, at the close of each session, be disposed of and distributed, conformably with the provisions of the resolution of the 27th December, 1813.

The remaining four hundred copies shall be deposited by the printer, in the post office of the House, from time to time as the work may be executed, pursuant to his contract, and shall be promptly distributed by the Doorkeeper of the House, as follows, to wit:

On the desk of each member and delegate, one copy	187
On the Speaker's table	2
On the Clerk's table	2
In the Clerk's office	4
To the President of the Senate, for the use of the Senate	50
To the President of the United States	5
To the Secretary of State	25
To the Secretary of the Treasury	6
To the Secretary of War	5
To the Secretary of the Navy	5
To the Attorney General	5
To the Commissioners of the Navy Board	5
To the Auditors of the Treasury, 5 copies each	25
To the Comptroller of the Treasury	5
To the Register of the Treasury	5
To the Postmaster General	5
To the Commissioner of the General Land Office	5
To the Commissioner of the Revenue	5
To the Commissioner of Public Buildings	1
To such foreign Ministers as reside at the Seat of Government, or Consuls, in case of no resident Minister, 2 each, supposed to amount to nine	18
To the Public Printer	1
To the Librarian	2
The residue to be bound up, at the end of the session to be deposited in the Clerk's office as heretofore	27
	600

## EXECUTIVE PAPERS.

Several Messages were received from the President of the United States. The first of the said Messages was read, and is as follows:

WASHINGTON, March 24, 1818.

In pursuance of a resolution of the House of Representatives of the 7th instant, I now transmit the report of the Secretary of State, with a statement of the expenses incurred under the 4th, 5th, 6th, and 7th articles of the Treaty of Ghent, specifying the items of expenditure in relation to each.

JAMES MONROE.

The second of the said Messages was read, and is as follows:

To the House of Representatives of the United States:

In conformity with the resolution of the House of Representatives of the 5th of December last, I now transmit a report of the Secretary of State, with a copy of the documents which it is thought proper to



communicate, relating to the independence and political condition of the provinces of Spanish America.

JAMES MONROE.

WASHINGTON, March 25, 1818.

The report of the Secretary of State is as follows:

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 15th of December, has the honor of submitting the documents herewith transmitted, as containing the information possessed at his department, requested by that resolution.

In the communications received from Don Manuel H. de Aguirre, there are references to certain conferences between him and the Secretary of State, which appear to require some explanation.

The character in which Mr. Aguirre presented himself was that of a public agent from the Government of La Plata, and of private agent of that of Chili—his commissions from both simply qualified him as agent; but his letter from the Supreme Director Pueyrredon, to the President of the United States, requested that he might be received with the consideration due to his diplomatic character. He had no commission as a public Minister of any rank, nor any full power to negotiate as such. Neither the letter, of which he was the bearer, nor he himself, at his first interviews with the Secretary of State, suggested that he was authorized to ask the acknowledgment of his Government as independent—a circumstance which derived additional weight from the fact, that his predecessor, Don Martin Thompson, had been dismissed by the Director Pueyrredon for having transcended his powers, of which the letter brought by Mr. Aguirre gave notice to the President.

It was some time after the commencement of the session of Congress that he made this demand, as will be seen by the dates of his written communications to the Department. In the conferences held with him on that subject, among other questions which it naturally suggested, were those of the manner in which the acknowledgment of his Government, should be deemed advisable, might be made? and what were the territories which he considered as forming the State or nation to be recognised? It was observed, that the manner in which the United States had been acknowledged as an independent Power by France, was, by a treaty concluded with them, as an existing independent Power, and in which each one of the States, then composing the Union, was distinctly named; that something of the same kind seemed to be necessary in the first acknowledgment of a new Government, that some definite idea might be formed, not of the precise boundaries, but of the general extent of the country thus recognised. He said the Government of which he desired the acknowledgment was of the country which had, before the revolution, been the Vice Royalty of La Plata. It was then asked, whether that did not include Montevideo and the territory occupied by the Portuguese—the Banda Oriental, understood to be under the government of General Artigas, and several provinces, still in the undisputed possession of the Spanish Government. He said it did; but observed, that Artigas, though in hostility with the Government of Buenos Ayres, supported, however, the cause of independence of Spain—and that the Portuguese could not ultimately maintain their possession of Montevideo. It was after this that Mr. Aguirre wrote the letter, offering to enter

into a negotiation for conducting a treaty; though admitting that he had no authority to that effect from his Government. It may be proper to observe, that the mode of recognition by concluding a treaty had not been suggested as the only one practicable or usual, but merely as that which had been adopted by France with the United States, and as offering the most convenient means of designating the extent of the territory acknowledged as a new dominion.

The remark to Mr. Aguirre, that if Buenos Ayres should be acknowledged as independent, others of the contending Provinces would, perhaps, demand the same, had particular reference to the Banda Oriental. The inquiry was, whether General Artigas might not advance a claim of independence for those Provinces, conflicting with that of Buenos Ayres for the whole Vice Royalty of La Plata? The Portuguese possession of Montevideo was noticed in reference to a similar question.

It should be added, that these observations were connected with others, stating the reasons upon which the present acknowledgment of the Government of La Plata, in any mode, was deemed by the President inexpedient, in regard as well to their interests as to those of the United States.

JOHN QUINCY ADAMS.

The following are the list of papers transmitted to the President:

1. Don Yono Alvarez, to the President of the United States, dated Buenos Ayres, January 16, 1816.
2. Declaration of Independence of the United Provinces of La Plata, dated at Tucuman, July 9, 1816, communicated by Don Manuel H. de Aguirre, to the Department of State, December 24, 1817.
3. Don J. Martin de Pueyrredon, Supreme Director of the United Provinces of the Rio de la Plata, to the President of the United States, dated January 1, 1817.
4. The same to the same, dated March 5, 1817.
5. Commission granted by the Supreme Director of the State of Chili, to Don Manuel H. de Aguirre, dated March 8, 1817.
6. Commission granted to the same by the Supreme Director of the United Provinces of South America, dated at Buenos Ayres, March 28, 1817.
7. Don Bernardo O'Higgins, Supreme Director of the State of Chili, to the President of the United States, dated April 1, 1817.
8. Commission granted by the Supreme Director of the United Provinces of Rio de la Plata, to Don Manuel H. de Aguirre, as agent of that Government, dated April 28, 1817.
9. General Don Jose de San Martin, Commander-in-chief of the army of the Andes, to the President of the United States, without date.
10. Don Cactano Bezares, Secretary of State *ad interim* of the Executive Department of the confederated States of Venezuela, to the Secretary of State of the United States, dated Pampatar, May 22, 1817—7th—transmitting
11. The act of the re-establishment of the Congress of Venezuela, at the city of San Felipe de Cariao, on the 8th of May, 1817.
12. General Don Jose Artigas to the President of the United States, dated Headquarters at Purificacion, September 1, 1817.
13. Don Manuel H. de Aguirre to the President of the United States, dated Washington, October 29, 1817.

# SPANISH AMERICAN PROVINCES.

The House having again resolved itself into a Committee of the Whole on the annual general appropriation bill; and Mr. CLAY's proposition to amend the bill by inserting a clause for appropriating \$18,000 for the outfit and year's salary of a Minister to Buenos Ayres, yet pending, Mr. CLAY concluded, in a speech of three hours in length, the observations he yesterday commenced in support of his proposition; the whole of which is given entire, as follows:

Mr. CLAY said he rose, under feelings of deep regret than he had ever experienced on any former occasion, inspired, principally, by the painful consideration that he found himself, on the proposition which he meant to submit, differing from many highly esteemed friends, in and out of this House, for whose judgment he entertained the greatest respect. A knowledge of this circumstance had induced him to pause; to subject his own convictions to the severest scrutiny; and to revolve the question over and over again. But all his reflections had conducted him to the same clear result; and much as he valued those friends, great as his deference was for their opinions, he could not hesitate, when reduced to the distressing alternative of conforming his judgment to theirs, or pursuing the deliberate and matured dictates of his own mind. He enjoyed some consolation, for the want of their co-operation, from the persuasion that, if he erred on this occasion, he erred on the side of the liberty and the happiness of a large portion of the human family. Another, and, if possible, indeed a greater source of the regret to which he referred, was the utter incompetency which he unfeignedly felt to do anything like adequate justice to the great cause of American independence and freedom, whose interests he wished to promote by his humble exertions, in this instance. Exhausted and worn down as he was, by the fatigue, confinement, and incessant application incident to the arduous duties of the honorable station he held, during a four month's session, he should need all that kind indulgence which had been so often extended to him by the House.

He begged, in the first place, to correct misconceptions, if any existed, in regard to his opinions. He was averse from war with Spain, or with any Power. He would give no just cause of war to any Power—not to Spain herself. He had seen enough of war, and of its calamities, when even successful. No country upon earth had more interest than this in cultivating peace, and avoiding war, as long as it was possible honorably to avoid it. Gaining additional strength every day; our numbers doubling in periods of twenty-five years; with an income outstripping all our estimates, and so great as, after a war in some respects disastrous, to furnish results which carry astonishment, if not dismay, into the bosom of the States jealous of our rising importance, we had every motive for the love of peace. He could not, however, approve, in all respects, of the manner in which our negotiation with Spain had been con-

14. The same to the Secretary of State, dated December 16, 1817.

15. The same to the same, December 26, 1817.

16. The same to the same, December 29, 1817.

17. The same to the same, January 6, 1818.

18. The same to the same, January 16, 1818.

The last of the said Messages was read, and is as follows:

To the House of Representatives of the United States:

I now lay before Congress all the information in the possession of the Executive respecting the war with the Seminoles, and the measures which it has been thought proper to adopt for the safety of our fellow-citizens on the frontier exposed to their ravages. The enclosed documents show that the hostilities of this tribe were unprovoked, the offspring of a spirit long cherished, and often manifested towards the United States, and that, in the present instance, it was extending itself to other tribes, and daily assuming a more serious aspect. As soon as the nature and object of this combination were perceived, the Major General commanding the southern division of the troops of the United States, was ordered to the theatre of action, charged with the management of the war, and vested with the powers necessary to give it effect. The season of the year being unfavorable to active operations, and the recesses of the country affording shelter to these savages, in case of retreat, may prevent a prompt termination of the war, but it may be fairly presumed that it will not be long before this tribe, and its associates, receive the punishment which they have provoked and justly merited.

As almost the whole of this tribe inhabits the country within the limits of Florida, Spain was bound, by the Treaty of 1795, to restrain them from committing hostilities against the United States. We have seen with regret that her Government has altogether failed to fulfil this obligation, nor are we aware that it made any effort to that effect. When we consider her utter inability to check, even in the slightest degree, the movements of this tribe, by her very small and incompetent force in Florida, we are not disposed to ascribe the failure to any other cause. The inability, however, of Spain to maintain her authority over the territory and Indians within her limits, and in consequence to fulfil the treaty, ought not to expose the United States to other and greater injuries. When the authority of Spain ceases to exist there, the United States have a right to pursue their enemy, on a principle of self-defence. In this instance the right is more complete and obvious, because we shall perform only what Spain was bound to have performed herself. To the high obligations and privileges of this great and sacred right of self-defence, will the movement of our troops be strictly confined. Orders have been given to the General in command not to enter Florida, unless it be in pursuit of the enemy, and in that case to respect the Spanish authority wherever it is maintained, and he will be instructed to withdraw his forces from the province as soon as he shall have reduced that tribe to order, and secure our fellow-citizens, in that quarter, by satisfactory arrangements, against its unprovoked and savage hostilities in future.

JAMES MONROE.

WASHINGTON, March 25, 1818.

The said Messages and their accompanying documents were ordered to lie on the table.

15th Con. 1st Sess.—47



H. OF R.

Spanish American Provinces.

MARCH, 1818.

ducted. If ever a favorable time existed for the demand, on the part of an injured nation, of indemnity for past wrongs, from the aggressor, such was the present time. Impoverished and exhausted at home, by the wars which have desolated the Peninsula, with a foreign war, calling for infinite more resources in men and money, than she can possibly command, this is the auspicious period for insisting upon justice at her hands, in a firm and decided tone. Time is precisely what Spain now most wants. Yet what were we told by the President, in his Message, at the commencement of Congress? That Spain had procrastinated, and we acquiesced in her procrastination. And the Secretary of State, in the late communication with Mr. Onís, after ably vindicating all our rights, tells the Spanish Minister, with a good deal of *sang froid*, that we had patiently waited thirteen years for a redress of our injuries, and that it required no great effort to wait longer! He would have abstained from thus exposing our intentions. Avoiding the use of the language of menace, he would have required, in temperate and decided terms, indemnity for all our wrongs; for the spoliation upon our commerce; for the interruption of the right of depot at New Orleans, guaranteed by treaty; for the insults repeatedly offered to our flag; for the Indian hostilities which she was bound to prevent; for the belligerent use made of her ports and territories by our enemy, during the late war—and the instantaneous liberation of the free citizens of the United States, now imprisoned in her jails. Contemporaneous with that demand, without waiting for her final answer, and with a view to the favorable operation on her councils, in regard to our own peculiar interests, as well as in justice to the cause itself, he would recognize any established government in Spanish America. He would have left Spain to draw her own inferences from these proceedings, as to the ultimate step which this country might adopt, if she longer withheld justice from us. And if she persevered in her iniquity, after we had conducted the negotiation in the manner he had endeavored to describe, he would then take up and decide the solemn question of peace or war, with the advantage of all the light shed upon it by subsequent events and the probable conduct of Europe.

Spain had undoubtedly given us abundant and just cause of war. But, it was not every cause of war that should lead to war. War was one of those dreadful scourges that so shakes the foundation of society; overturns or changes the character of governments; interrupts or destroys the pursuits of private happiness; brings, in short, misery and wretchedness in so many forms; and at last is, in its issue, so doubtful and hazardous; that nothing but dire necessity can justify an appeal to arms. If we were to have war with Spain, he had however no hesitation in saying that no mode of bringing it about could be less fortunate than that of seizing, at this time, upon her adjoining province. There was a time, under other circumstances, when we might have occupied East Florida, with safety: had we then taken it,

our posture in the negotiation with Spain would have been totally different from what it is. But, we had permitted that time, not with his consent, to pass by unimproved. If we were to seize upon Florida, after a great change in those circumstances and after declaring our intention to acquiesce in the procrastination desired by Spain, in what light should we be viewed by foreign Powers, particularly Great Britain? We have already been accused of inordinate ambition, and of seeking to aggrandize ourselves by an extension, on all sides, of our limits. Should we not, by such an act of violence, give color to the accusation? No, Mr. Chairman, if we are to be involved in war with Spain, let us have the credit of disinterestedness; let us put her yet more in the wrong. Let us command the respect which is never withheld from those who act a noble and generous part. He hoped to communicate to the Committee the conviction which he so strongly felt, that, adopting the amendment which he intended to propose, would not hazard, in the slightest degree, the peace of the country. But if that peace were to be endangered, he would infinitely rather it should be for our exerting the right, appertaining to every State, of acknowledging the independence of another State, than for the seizure of a province which sooner or later we must certainly acquire.

Mr. CLAY proceeded. In contemplating the great struggle in which Spanish America is now engaged, our attention is first fixed by the immensity and character of the country which Spain seeks again to subjugate. Stretching on the Pacific Ocean from about the 40th degree of north latitude, to about the 55th degree of south latitude, and extending from the mouth of the Rio del Norte (exclusive of East Florida) around the Gulf of Mexico, and along the South Atlantic to near Cape Horn, it is about 5,000 miles in length, and in some places near three thousand in breadth. Within this vast region, we behold the most sublime and interesting objects of creation; the loftiest mountains, the most majestic rivers in the world; the richest mines of the precious metals; and the choicest productions of the earth. We behold there a spectacle still more interesting and sublime—the glorious spectacle of eighteen millions of people, struggling to burst their chains and to be free. When we take a little nearer and more detailed view, we perceive that nature has, as it were, ordained that this people and this country shall ultimately constitute several different nations. Leaving the United States on the north, we come to New Spain, or the Vice Royalty of Mexico on the south; passing by Guatemala, we reach the Vice Royalty of New Grenada, the late Captain Generalship of Venezuela, and Guyana, lying on the east side of the Andes. Stepping over the Brazils, we arrive at the United Provinces of La Plata, and, crossing the Andes, we find Chili on their west side, and further north, the Vice Royalty of Lima or Peru. Each of these several parts is sufficient in itself, in point of limits, to constitute a powerful State, and, in point of population, that which has the smallest

MARCH, 1818.

Spanish American Provinces.

H. OF R.

contains enough to make it respectable. Throughout all the extent of that great portion of the world, which he had attempted thus hastily to describe, the spirit of revolt against the dominion of Spain had manifested itself. The revolution had been attended with various degrees of success in the several parts of Spanish America. In some it had been already crowned, as he would endeavor to show, with complete success, and in all he was persuaded that independence had struck such deep root as that the power of Spain could never eradicate it. What were the causes of this great movement?

Three hundred years ago, upon the ruins of the thrones of Montezuma and the Incas of Peru, Spain erected the most stupendous system of colonial despotism that the world has ever seen—the most rigorous, the most exclusive. The great principle and object of this system has been to render one of the largest portions of the world exclusively subservient, in all its faculties, to the interests of an inconsiderable spot in Europe. To effectuate this aim of her policy, she locked Spanish America up from the rest of the world, and prohibited, under the severest penalties, any foreigner from entering any part of it. To keep the natives themselves ignorant of each other, and of the strength and resources of the several parts of her American possessions, she next prohibited the inhabitants of one Vice Royalty or Government from visiting those of another; so, that the inhabitants of Mexico, for example, were not allowed to enter the Vice Royalty of New Grenada. The agriculture of those vast regions was so regulated and restrained as to prevent all collision with the interests of the agriculture of the Peninsula. Where, nature, by the character and composition of the soil, had commanded, the abominable system of Spain has forbidden the growth of certain articles. Thus, the olive and the vine, to which Spanish America is so well adapted, are prohibited wherever their culture could interfere with the olive and the vine of the Peninsula. The commerce of the country, in the direction and objects of the exports and imports, is also subjected to the narrow and selfish views of Spain, and fettered by the odious spirit of monopoly existing in Cadiz. She has sought, by scattering discord among the several castes of her American population, and by a debasing course of education, to perpetuate her oppression. Whatever concerns public law, or the science of government, all writers upon political economy, or that tend to give vigor, and freedom, and expansion to the intellect, are prohibited. Gentlemen would be astonished by the long list of distinguished authors, whom she proscribes, to be found in Depon's and other works. A main feature in her policy is that which constantly elevates the European and depresses the American character. Out of upwards of 750 Viceroyalties and Captains General, whom she has appointed since the conquest of America, about eighteen only have been from the body of the American population. On all occasions she seeks to raise and promote her European subjects, and to degrade and humiliate the Creoles. Where-

ever in America her sway extends, everything seems to pine and wither beneath its baneful influence. The richest regions of the earth; man, his happiness and his education; all the fine faculties of his soul, are regulated, and modified, and moulded, to suit the execrable purposes of an inexorable despotism.

Such is a brief and imperfect picture of the state of things in Spanish America in 1808, when the famous transactions of Bayonne occurred. The King of Spain and the Indies (for Spanish America had always constituted an integral part of the Spanish empire) abdicated his throne and became a voluntary captive. Even at this day, one does not know whether he should most condemn the baseness and perfidy of the one party, or despise the meanness and imbecility of the other. If the obligation of obedience and allegiance existed on the part of the colonies to the King of Spain, it was founded on the duty of protection which he owed them. By disqualifying himself from the performance of this duty, they became released from that obligation. The monarchy was dissolved, and each integral part had a right to seek its own happiness by the institution of any new government adapted to its wants. Joseph Bonaparte, the successor *de facto* of Ferdinand, recognised this right on the part of the colonies, and recommended them to establish their independence. Thus, upon the ground of strict right; upon the footing of a mere legal question, governed by forensic rules, the colonies, being absolved by the acts of the parent country from the duty of subjection to it, had an indisputable right to set up for themselves. But Mr. C. took a broader and bolder position. He maintained that an oppressed people were authorized, whenever they could, to rise and break their fetters. This was the great principle of the English Revolution. It was the great principle of our own. *Vattel*, if authority were wanting, expressly supports this right. We must pass sentence of condemnation upon the founders of our liberty—say that they were rebels, traitors, and that we are at this moment legislating without competent powers, before we could condemn the cause of Spanish America. Our Revolution was mainly directed against the mere theory of tyranny. We had suffered comparatively but little; we had, in some respects, been kindly treated; but our intrepid and intelligent fathers saw, in the usurpation of the power to levy an inconsiderable tax, the long train of oppressive acts that was to follow. They rose; they breasted the storm; they conquered our freedom. Spanish America, for centuries, has been doomed to the practical effects of an odious tyranny. If we were justified, she is more than justified.

Mr. C. said he was no propagandist. He would not seek to force upon other nations our principles and our liberty, if they did not want them. He would not disturb the repose even of a detestable despotism. But if an abused and oppressed people willed their freedom; if they sought to establish it; if, in truth, they had established it, we had a right, as a sovereign Power, to



notice the fact, and to act as circumstances and our interest required. He would say, in the language of the venerated Father of His Country: "Born in a land of liberty, my anxious recollections, my sympathetic feelings, and my best wishes, are irresistibly excited, whensoever, in any country, I see an oppressed nation unfurl the banners of freedom." For his own part, Mr. C. said, that whenever he thought of Spanish America, the image irresistibly forced itself upon his mind of an elder brother, whose education had been neglected, whose person had been abused and maltreated, and who had been disinherited by the unkindness of an unnatural parent. And when he contemplated the glorious struggle which that country was now making, he thought he beheld that brother rising, by the power and energy of his fine native genius, to the manly rank which nature and nature's God intended for him.

If Spanish America were entitled to success from the justness of her cause, we had no less reason to wish that success from the horrible character which the royal arms have given to the war. More atrocities than those which had been perpetrated during its existence were not to be found even in the annals of Spain herself. And history, reserving some of her blackest pages for the name of Morillo, is prepared to place him along side of his great prototype, the infamous desolator of the Netherlands. He who has looted into the history of the conduct of this war, is constantly shocked at the revolting scenes which it portrays; at the refusal, on the part of the commanders of the royal forces, to treat, on any terms, with the other side; at the denial of quarters; at the butchery, in cold blood, of prisoners; at the violation of flags, in some cases, after being received with religious ceremonies; at the instigation of slaves to rise against their owners; and at acts of wanton and useless barbarity. Neither the weakness of the other sex, nor the imbecility of old age, nor the innocence of infants, nor the reverence due to the sacerdotal character, can stay the arm of royal vengeance. On this subject he begged leave to trouble the Committee with reading a few passages from a most authentic document, the manifesto of the Congress of the United Provinces of Rio de la Plata, published in October last. This was a paper of the highest authority; it was an appeal to the whole world; it asserted facts of notoriety in the face of the whole world. It was not to be credited, that the Congress would come forward with a statement which was not true, when the means, if it were false, of exposing their fabrications, must be so abundant, and so easy to command. It was a document, in short, that stood upon the same footing of authority with our own papers, promulgated during the Revolution by our Congress. He would add, that many of the facts which it affirmed, were corroborated by most re-

\* Washington's answer to the French Minister's address, on his presenting the colors of France, in 1796.

spectable historical testimony, which was in his own possession.

[Mr. C. here read the following passages from the manifesto:]

"Memory shudders at the recital of the horrors that were then committed by Goyeneche, in Cochabamba. Would to heaven it were possible to blot from remembrance the name of that ungrateful and blood-thirsty American; who, on the day of his entry, ordered the virtuous Governor and Intendant, Antezana, to be shot; who, beholding from the balcony of his house that infamous murder, cried out with a ferocious voice to the soldiers, that they must not fire at the head, because he wanted it to be affixed to a pole; and who, after the head was taken off, ordered the cold corpse to be dragged through the streets; and, by a barbarous decree, placed the lives and fortunes of the citizens at the mercy of his unbridled soldiery, leaving them to exercise their licentious and brutal sway during several days! But those blind and cruelly capricious men (the Spaniards) rejected the mediation of England, and despatched rigorous orders to all the Generals to aggravate the war, and to punish us with more severity. The scaffolds were everywhere multiplied, and invention was racked to devise means for spreading murder, distress, and consternation.

"Thenceforth they made all possible efforts to spread division among us, to incite us to mutual extermination; they have slandered us with the most atrocious calumnies, accusing us of plotting the destruction of our holy religion, the abolition of all morality, and of introducing licentiousness of manners. They wage a religious war against us, contriving a thousand artifices to disturb and alarm the consciences of the people, making the Spanish bishops issue decrees of ecclesiastical condemnation, public excommunications, and disseminating, through the medium of some ignorant confessor, fanatical doctrines in the tribunal of penitence. By means of these religious discords they have divided families against themselves; they have caused disaffection between parents and children; they have dissolved the tender ties which unite husband and wife; they have spread rancor and implacable hatred between brothers, most endeared, and they have presumed to throw all nature into discord. They have adopted the system of murdering men indiscriminately to diminish our numbers; and, on their entry into towns, they have swept off all, even the market people, leading them to the open squares, and there shooting them one by one. The cities of Chuquisaca and Cochabamba have more than once been the theatres of these horrid slaughters.

"They have intermixed with their troops soldiers of ours whom they had taken prisoners, carrying away the officers in chains to garrisons where it is impossible to preserve health for a year; they have left others to die in their prisons of hunger and misery, and others they have forced to hard labor on the public works. They have exultingly put to death our bearers of flags of truce, and have been guilty of the blackest atrocities to our chiefs, after they had surrendered, as well as to other principal characters, in disregard of the humanity with which we treated prisoners; as a proof of it, witness the deputy Mutes of Potosi, the Captain General Pumacagua, General Augulo, and his brother Commandant Munecas, and other partisan chiefs, who were shot in cold blood, after having been prisoners for several days.

"They took a brutal pleasure in cropping the ears of the natives of the town of Villegande, and sending a basket full of them as presents to the headquarters. They afterwards burnt that town, and set fire to thirty other populous towns of Peru, and worse than the worst of savages, shutting the inhabitants up in the houses, before setting them on fire, that they might be burnt alive.

"They have not only been cruel and unsparing in their mode of murder, but they have been void of all morality and public decency, causing aged ecclesiastics and women to be lashed to a gun and publicly flogged, with the abomination of first having them stripped, and their nakedness exposed to shame, in the presence of their troops.

"They established an inquisitorial system in all these punishments; they have seized on peaceable inhabitants, and transported them across the sea to be adjudged for suspected crimes, and they have put a great number of citizens to death everywhere without accusation or the form of a trial.

"They have invented a crime of unexampled horror, in poisoning our water and provisions, when they were conquered by General Pineto at La Paz, and in return for the kindness with which he treated them, after they had surrendered at discretion, they had the barbarity to blow up the headquarters, under which they had constructed a mine, and prepared a train beforehand.

"He has branded us with the stigma of rebels the moment he returned to Madrid; he refused to listen to our complaints, or to receive our supplications; and as an act of extreme favor, he offered us a pardon. He confirmed the Viceroys, Governors, and Generals, whom he found actually glutted with carnage; he declared us guilty of a high misdemeanor, for having dared to frame a constitution for our own government, free from the control of a deified, absolute, and tyrannical Power, under which we had groaned three centuries—a measure that could be offensive only to a Prince, an enemy to justice and beneficence, and consequently unworthy to rule over us.

"He then undertook, with the aid of his Ministers, to equip large military armaments to be directed against us. He has caused numerous armies to be sent out to consummate the work of devastation, fire, and plunder.

"He has sent his Generals, with certain decrees of pardon, which they publish to deceive the ignorant, and induce them to facilitate their entrance into towns; whilst, at the same time, he has given them other secret instructions, authorizing them, as soon as they should get possession of a place, to hang, burn, confiscate, and sack; to encourage private assassinations, and to commit every species of injury in their power against the deluded beings who had confided in his pretended pardon. It is in the name of Ferdinand of Bourbon, that the heads of patriot officers, prisoners, are fixed up in the highways, that they beat and stoned to death a commandant of light troops, and that, after having killed Colonel Camugo, in the same manner, by the hands of the indecent Centeno, they cut off his head, and sent it as a present to General Pezuela, telling him it was a miracle of the Virgin of the Carmelites."

In the establishment of the independence of Spanish America, the United States have the deepest interest. He had no hesitation in asserting his firm belief, that there was no question, in

the foreign policy of this country, which had ever arisen, or which he could conceive as ever occurring, in the decision of which we had so much at stake. This interest concerned our politics, our commerce, our navigation. There could not be a doubt that Spanish America, once independent, whatever might be the form of the governments established in its several parts, those governments would be animated by an American feeling, and guided by an American policy. They would obey the laws of the system of the New World, of which they would compose a part, in contradistinction to that of Europe. Without the influence of that vortex in Europe, the balance of power between its several parts, the preservation of which had so often drenched Europe in blood, America is sufficiently remote to contemplate the new wars which are to afflict that quarter of the globe, as a calm, if not a cold and indifferent spectator. In relation to those wars, the several parts of America will generally stand neutral. And as, during the period when they rage, it would be important that a liberal system of neutrality should be adopted and observed, all America will be interested in maintaining and enforcing such a system. The independence, then, of Spanish America is an interest of primary consideration. Next to that, and highly important in itself, was the consideration of the nature of their governments. That was a question, however, for themselves. They would, no doubt, adopt those kinds of governments which were best suited to their condition, best calculated for their happiness. Anxious as he was that they should be free governments, we had no right to prescribe for them. They were, and ought to be, the sole judges for themselves. He was strongly inclined to believe that they would in most, if not all, parts of their country, establish free governments. We were their great example. Of us they constantly spoke as of brothers, having a similar origin. They adopted our principles, copied our institutions, and, in some instances, employed the very language and sentiments of our revolutionary papers. [Here, Mr. C. read the following passage from the same manifesto before cited:]

"Having, then, been thus impelled by the Spaniards and their King, we have calculated all the consequences, and have constituted ourselves independent, prepared to exercise the right of nature to defend ourselves against the ravages of tyranny, at the risk of our honor, our lives, and fortune. We have sworn to the only King we acknowledge, the Supreme Judge of the World, that we will not abandon the cause of justice; that we will not suffer the country which he has given us to be buried in ruins, and inundated with blood, by the hands of the executioner," &c.

But it is sometimes said that they are too ignorant and too superstitious to admit of the existence of free government. This charge of ignorance is often urged by persons themselves actually ignorant of the real condition of that people. He denied the alleged fact of ignorance; he denied the inference from that fact, if it were true, that they wanted capacity for free govern-



ment, and he refused his assent to the further conclusion, if the fact were true and the inference just, that we were to be indifferent to their fate. All the writers of the most established authority, Depons, Humboldt, and others, concur in assigning to the people of Spanish America, great quickness, genius, and particular aptitude for the acquisition of the exact sciences, and others which they have been allowed to cultivate. In astronomy, geology, mineralogy, chemistry, botany, &c., they are allowed to make distinguished proficiency. They justly boast of their Abzate, Velasquez, and Gama, and other illustrious contributors to science. They have nine Universities, and in the city of Mexico it is affirmed, by Humboldt, that there are more solid scientific establishments than in any city even of North America. He would refer to the message of the Supreme Director of La Plata, which he would hereafter have occasion to use for another purpose, as a model of fine composition of a State paper, challenging a comparison with any, the most celebrated that ever issued from the pens of Jefferson or Madison. Gentlemen would egregiously err if they formed their opinions of the present moral condition of Spanish America, from what it was under the debasing system of Spain. The eight years' revolution in which it has been engaged, has already produced a powerful effect.

Education had been attended to, and genius developed. [Here Mr. C. read a passage from the *Cotential Journal*, published last Summer in Great Britain, where a disposition to exaggerate on that side of the question could hardly be supposed to exist.\*] The fact was not, therefore, true, that the imputed ignorance existed; but, if it did, it repeated that he disputed the inference. It was the doctrine of thrones, that man was too ignorant to govern himself. Their partisans assert this incapacity in reference to all nations; if they cannot command universal assent to the proposition, it is then demanded as to particular nations, and our pride and our presumption too often make converts of us. Mr. C. contended that it was to arraign the dispositions of Providence himself, to suppose that he had created beings incapable of governing themselves, and to be trampled on by kings. He contended that self-government was the natural government of man, and he referred to the aborigines of our own land. If he were to speculate in hypotheses unfavorable to human liberty, his should be founded rather upon the vices, refinements, or density of

\*"As soon as the project of revolution arose on the shores of La Plata, genius and talent exhibited their influence; the capacity of the people became manifest, and the means of acquiring knowledge was soon made the favorite pursuit of the youth. As far as the wants, &c. the inevitable interruption of affairs have allowed, everything has been done to disseminate useful information. The liberty of the press has indeed met with some occasional checks; but in Buenos Ayres alone as many periodical works weekly issue from the press as in Spain and Portugal put together."

population. Crowded together in compact masses, even if they were philosophers, the contagion of the passions is communicated and caught, and the effect too often, he admitted, was the overthrow of liberty. Dispersed over such an immense space as that on which the people of Spanish America were spread, their physical, and he believed, also, their moral condition, both favored liberty.

With regard to their superstition, he said, they worshipped the same God with us. Their prayers were offered up in their temples to the same Redeemer, whose intercession we expected to save us. All religions, united with Government, were more or less inimical to liberty. All, separated from Government, were compatible with liberty. If the people of Spanish America had not already gone as far, in religious toleration, as we had, the difference in their condition from ours should not be forgotten. Everything was progressive. And in time he hoped to see them imitating, in this respect, our example. But grant that the people of Spanish America are ignorant and incompetent for free government, to whom is that ignorance to be ascribed? Is it not to the execrable system of Spain, which she seeks again to establish and to perpetuate? So far from chilling our hearts, it ought to increase our solicitude for our unfortunate brethren. It ought to animate us to desire the redemption of the minds and the bodies of unborn millions from the brutifying effects of a system, whose tendency is to stifle the faculties of the soul, and to degrade man to the level of beasts. He would invoke the spirits of our departed fathers. Was it for yourselves only that you nobly fought? No, no. It was the chains that were forging for your posterity that made you fly to arms, and, scattering the elements of those chains to the winds, you transmitted to us the rich inheritance of liberty.

The exports of Spanish America (exclusive of the islands) are estimated, in the valuable little work of M. Torres, deserving to be better known, at about eighty-one millions of dollars. Of these more than three-fourths consist of the precious metals; the residue are cocoa, coffee, cochineal, sugar, and some other articles. No nation ever offered richer commodities in exchange. It was of no material consequence that we produced but little that Spanish America wanted. Commerce, as it actually exists, in the hands of maritime States, was no longer confined to a mere barter, between any two States, of their respective productions. It rendered tributary to its interests the commodities of all quarters of the world. So that a rich American cargo, or the contents of an American commercial warehouse, presented you with whatever was rare or valuable in every part of the globe. Commerce was not to be judged by its results in transactions with one nation only. Unfavorable balances existing with one State are made up by contrary balances with other States. And its true value should be tested by the totality of its operations. Our greatest trade—that with Great Britain—judged by the amount of what we sold for her consumption,

and what we bought of her for ours, would be pronounced ruinous. But the unfavorable balance was covered by the profits of trade with other nations. We may safely trust to the daring enterprise of our merchants. The precious metals are in South America, and they will command the articles wanted in South America which will purchase them. Our navigation will be benefited by the transportation, and our country will realize the mercantile profits. Already the item in our exports of American manufactures is respectable. They go chiefly to the West Indies and to Spanish America. This item is constantly augmenting. And he would again, as he had on another occasion, ask gentlemen to elevate themselves to the actual importance and greatness of our Republic; to reflect, like true American statesmen, that we were not legislating for the present day only; and to contemplate this country in its march to true greatness, when millions on millions will be added to our population, and when the increased productive industry will furnish an infinite variety of fabrics for foreign consumption, in order to supply our own wants. The distribution of the precious metals has hitherto been principally made through the circuitous channel of Cadiz. No one can foresee all the effects which will result from a direct distribution of them from the mines which produce them. One of these effects will probably be to give us the entire command of the India trade. The advantage we have on the map of the world over Europe, in that respect, is prodigious. Again, if England, persisting in her colonial monopoly, continued to occlude her ports in the West Indies to us, and we should, as he contended we ought, meet her system by a countervailing measure, Venezuela, New Grenada, and other parts of Spanish America, would afford us all that we get from the British West Indies. He confessed that he despaired, for the present, of our adopting that salutary measure. It was proposed at the last session, and postponed. He saw, and he owned it with infinite regret, a tone and a feeling in the councils of the country infinitely below that which belonged to the country. It was, perhaps, the moral consequence of the exertions of the late war. We are alarmed at dangers, we know not what, by spectres conjured up by our own vivid imaginations.

The West India bill is brought up. We shrug our shoulders, talk of restrictions, non-intercourse, embargo, commercial warfare, make long faces, and—postpone the bill. The time will, however, come—must come—when this country will not submit to a commerce with the British colonies upon the terms which England alone prescribes. And he repeated that, when it arrived, Spanish America would afford us an ample substitute. Then, as to our navigation, gentlemen should recollect that, if reasoning from past experience were safe, for the future our great commercial rival will be in war a greater number of years than she will be in peace. Whenever she shall be at war, and we are in peace, our navigation, being free from the risks and insurance incident

to war, we shall engross almost the whole transportation of the Spanish American commerce. For he did not believe that that country would ever have a considerable marine. Mexico, the most populous part of it, had but two ports, La Vera Cruz and Acapulco, and neither of them very good. Spanish America had not the elements to construct a marine. It wanted, and must always want, hardy seamen. He did not believe that, in the present improved state of navigation, any nations so far South would ever make a figure as maritime Powers. If Carthage and Rome, in ancient times, and some other States of a later period, occasionally made great exertions on the water, it must be recollected that they were principally on a small theatre, and in a totally different state of the art of navigation, or when there was no competition from northern States.

He was aware that, in opposition to the interest which he had been endeavoring to manifest that this country had in the independence of Spanish America, it was contended that we should find that country a great rival in agricultural productions. There was something so narrow and selfish, and grovelling in this argument, if founded in fact, something so unworthy the magnanimity of a great and a generous people, that he confessed he had scarcely patience to notice it. But it was not true to any extent. Of the eighty odd millions of exports, only about one million and a half consisted of an article which might come into competition with us, and that was cotton. The tobacco which Spain received from her colonies was chiefly produced in her islands. Breadstuffs could nowhere be raised and brought to market in any amount materially affecting us. The table lands of Mexico, owing to their elevation, were, it is true, well adapted to the culture of grain; but the expense and difficulty of getting it to the Gulf of Mexico, and the action of the intense heat at La Vera Cruz, the only port of exportation, must always prevent Mexico from being an alarming competitor. Spanish America was capable of producing articles so much more valuable than those which we raised, that it was not probable they would abandon a more profitable for a less advantageous culture, to come into competition with us. The West India islands were well adapted to the raising cotton; and yet the more valuable culture of coffee and sugar was constantly preferred. Again: Providence had so ordered it, that with regard to countries producing articles apparently similar, there was some peculiarity, resulting from climate, from soil, or from some other cause, that gave to each an appropriate place in the general wants and consumption of mankind. The southern part of the continent, La Plata and Chili, was too remote to rival us.

The immense country, watered by the Mississippi and its branches, had a peculiar interest, which he trusted he should be excused for noticing. Having but the single vent of New Orleans, for all the surplus produce of their industry, it was quite evident that they would have a greater



security for enjoying the advantages of that outlet, if the independence of Mexico upon any European Power were effected. Such a Power, owning at the same time Cuba, the great key of the Gulf of Mexico, and all the shores of that Gulf, with the exception of the portion between the Perido and the Rio del Norte, must have a powerful command over our interests. Spain, it was true, was not a dangerous neighbor at present, but, in the vicissitudes of States, her power might be again resuscitated.

Mr. C. continued—having shown that the cause of the patriots was just, and that we had a great interest in its successful issue, he would next inquire what course of policy it became us to adopt. He had already declared that to be one of strict and impartial neutrality. It was not necessary for their interest, it was not expedient for our own, that we should take part in the war. All they demanded of us was a just neutrality. It was compatible with this pacific policy—it was required by it, that we should recognize any established Government, if there were, any established Government in Spanish America. Recognition alone, without aid, was no just cause of war. With aid it was, not because of the recognition, but because of the aid, as aid without recognition was cause of war. The truth of these propositions he would maintain upon principle, by the practice of other States, and by the usage of our own. There was no common tribunal among the nations, to pronounce upon the fact of the sovereignty of a new State. Each Power must and does judge for itself. It was an attribute of sovereignty so to judge. A nation, in exerting this incontestable right—in pronouncing upon the independence in fact of a new State, takes no part in the war. It gives neither men, nor ships, nor money. It merely pronounces that in so far as it may be necessary to institute any relations or to support any intercourse, with the new Power, that Power is capable of maintaining those relations and authorizing that intercourse.—Martens and other publicists lay down these principles.

When the United Provinces formerly severed themselves from Spain, it was about eighty years before their independence was finally recognised by Spain. Before that recognition, the United Provinces had been received by all the rest of Europe into the family of nations. It is true that a war broke out between Philip and Elizabeth, but it proceeded from the aid which she determined to give and did give to Holland. In no instance he believed could it be shown, from authentic history, that Spain made war upon any Power, on the sole ground that such Power had acknowledged the independence of the United Provinces.

In the case of our own Revolution, it was not until after France had given us aid, and had determined to enter into a treaty of alliance with us—a treaty by which she guaranteed our independence, that England declared war. Holland also was charged by England with favoring our cause, and deviating from the line of strict neu-

trality. And, when it was perceived that she was, moreover, about to enter into a treaty with us, England declared war. Even if it were shown that a proud, haughty, and powerful nation, like England, had made war, upon other provinces, on the ground of a mere recognition, the single example could not alter the public law, or shake the strength of a clear principle.

But what had been our own uniform practice? We had constantly proceeded on the principle, that the government *de facto* was that which we could alone notice. Whatever form of government any society of people adopt; whoever they acknowledge as their sovereign, we consider that government or that sovereign as the one to be acknowledged by us. We have invariably abstained from assuming a right to decide in favor of the sovereign *de jure*, and against the sovereign *de facto*. That is a question for the nation in which it arises to determine. And, so far as we are concerned, the sovereign *de facto* the sovereign *de jure*. Our own revolution stands on the basis of the right of a people to change their rulers. He did not maintain that every immature revolution—every usurper, before his power was consolidated, was to be acknowledged by us; but that as soon as stability and order were maintained, no matter by whom, we always had considered and ought to consider the actual as the true Government. General Washington, Mr. Jefferson, Mr. Madison, had all, whilst they were respectively Presidents, acted on these principles.

In the case of the French Republic, General Washington did not wait until some of the crowned heads of Europe should set him the example of acknowledging it, but accredited a Minister at once. And it is remarkable that he was received before the Government of the Republic was considered as established. It will be found, in Marshall's Life of Washington, that, when it was understood that a Minister from the French Republic was about to present himself, President Washington submitted a number of questions to his Cabinet for their consideration and advice, one of which was, whether, upon the reception of the Minister, he should be notified that America would suspend the execution of the treaties between the two countries until France had an established Government. General Washington did not stop to inquire whether the descendants of St. Louis were to be considered as the legitimate sovereigns of France, and if the revolution was to be regarded as unauthorized resistance to their sway. He saw France, in fact, under the government of those who had subverted the Throne of the Bourbons, and he acknowledged the actual Government. During Mr. Jefferson's and Mr. Madison's Administrations, when the Cortes of Spain and Joseph Bonaparte respectively contended for the Crown, those enlightened statesmen said, we will receive a Minister from neither party; settle the question between yourselves, and we will acknowledge the party that prevails. We have nothing to do with your feuds; whoever all Spain acknowl-

edges as her sovereign, is the only sovereign with whom we can maintain any relations. Mr. Jefferson, it is understood, considered whether he should not receive a Minister from both parties, and finally decided against it because of the inconveniences, to this country, which might result from the double representation of another Power. As soon as the French armies were expelled from the Peninsula, Mr. Madison, still acting on the principle of the government *de facto*, received the present Minister from Spain. During all the phases of the French Government—Republic, Directory, Consuls, Consul for life, Emperor, King, Emperor again, King—our Government has uniformly received the Minister.

If, then, there be an established Government in Spanish America, deserving to rank among the nations, we were morally and politically bound to acknowledge it, unless we renounced all the principles which ought to guide, and which hitherto had guided, our councils. Mr. C. then undertook to show, that the united provinces of the Rio de la Plata was such a Government. Its limits, he said, extending from the South Atlantic ocean to the Pacific, embraced a territory equal to that of the United States, certainly equal to it, exclusive of Louisiana. Its population was about three millions, more than equal to ours at the commencement of our Revolution. That population was a hardy, enterprising, and gallant population. The establishments of Montevideo and Buenos Ayres had, during different periods of their history, been attacked by the French, Dutch, Danes, Portuguese, English, and Spanish; and such was the martial character of the people, that, in every instance, the attack had been repulsed. In 1807, General Whitlocke, commanding a powerful English army, was admitted, under the guise of a friend, into Buenos Ayres, and, as soon as he was supposed to have demonstrated inimical designs, he was driven by the native and unaided force of Buenos Ayres from the country. Buenos Ayres had, during now nearly eight years, been, in point of fact, in the enjoyment of self-government. The capital, containing more than sixty thousand inhabitants, has never been once lost. As early as 1811, the Regency of Old Spain made war upon Buenos Ayres, and the consequence subsequently was, the capture of a Spanish army in Montevideo, equal to that of Burgoyne. This Government has now in excellent discipline, three well appointed armies, with the most abundant material of war; the army of Chili, the army of Peru, and the army of Buenos Ayres. The first, under San Martin, has conquered Chili; the second is penetrating in a Northwestern direction from Buenos Ayres, into the vice-royalty of Peru; and, according to the last accounts, had reduced the ancient seat of empire of the Incas. The third remains at Buenos Ayres to oppose any force which Spain may send against it. To show the condition of the country in July last, Mr. C. again called the attention of the Committee to the message of the Supreme Director, delivered to the Congress of the United Provinces.

It was a paper of the same authentic character with the speech of the King of England on opening his Parliament, or the Message of the President of the United States, at the commencement of Congress. [Mr. C. here read the following passages:]

"The army of this capital was organized at the same time with those of the Andes and of the interior; the regular force has been nearly doubled; the militia has made great progress in military discipline; our slave population has been formed into battalions, and taught the military art as far as is consistent with their condition. The capital is under no apprehension that an army of ten thousand men can shake its liberties, and, should the Peninsularians send against us thrice that number, ample provision has been made to receive them.

"Our navy has been fostered in all its branches. The scarcity of means, under which we labored until now, has not prevented us from undertaking very considerable operations, with respect to the national vessels; all of them have been repaired, and others have been purchased and armed for the defence of our coasts and rivers; provisions have been made, should necessity require it, for arming many more, so that the enemy will not find himself secure from our reprisals even upon the ocean.

"Our military force, at every point which it occupies, seems to be animated by the same spirit; its tactics are uniform, and have undergone a rapid improvement from the science of experience, which it has borrowed from warlike nations.

"Our arsenals have been replenished with arms, and a sufficient store of cannon and munitions of war has been provided to maintain the contest for many years; and this, after having supplied articles of every description to those districts, which have not, as yet, come into the Union, but whose connexion with us has been only intercepted by reason of our past misfortunes.

"Our legions daily receive considerable augmentations from new levies; all our preparations have been made, as though we were about to enter upon the contest anew. Until now, the vastness of our resources were unknown to us, and our enemies may contemplate, with deep mortification and despair, the present flourishing state of these provinces after so many devastations.

"Whilst thus occupied in providing for our safety within, and preparing for assaults from without, other objects of solid interest have not been neglected, and which hitherto were thought to oppose insurmountable obstacles.

"Our system of finance had hitherto been on a footing entirely inadequate to the unfailing supply of our wants, and still more to the liquidation of the immense debt which had been contracted in former years. An unremitted application to this subject has enabled me to create the means of satisfying the creditors of the State, who had already abandoned their debts as lost, as well as to devise a fixed mode, by which the taxes may be made to fall equally and indirectly on the whole mass of our population; it is not the least merit of this operation, that it has been effected in despite of the writings by which it was attacked, and which are but little creditable to the intelligence and good intentions of their authors. At no other period have the public exigencies been so punctually sup-



pled, nor have more important works been undertaken.

The people, moreover, have been relieved from many burdens, which being partial, or confined to particular classes, had occasioned vexation and disgust. Other vexations, scarcely less grievous, will, by degrees, be also suppressed, avoiding, as far as possible, a recurrence to loans, which have drawn after them the most fatal consequences to States. Should we, however, be compelled to resort to such expedients the lenders will not see themselves in danger of losing their advances.

Many undertakings have been set on foot for the advancement of the general prosperity. Such has been the re-establishing of the college, heretofore named San Carlos, but hereafter to be called the Union of the South, as a point designated for the dissemination of learning to the youth of every part of the State, on the most extensive scale, for the attainment of which object the Government is at the present moment engaged in putting in practice every possible diligence. It will not be long before these nurseries will flourish, in which the liberal and exact sciences will be cultivated, in which the hearts of those young men will be formed, who are destined, at some future day, to add new splendor to our country.

Such has been the establishment of a military depot on our frontier, with its spacious magazine, a necessary measure to guard us from future dangers, a work which does more honor to the prudent foresight of our country, as it was undertaken in the moment of its prosperous fortunes; a measure which must give more occasion for reflection to our enemies, than they can impose upon us by their boasting.

Fellow-citizens, we owe our unhappy reverses and calamities to the depraving system of our ancient metropolis, which, in condemning us to the obscurity and opprobrium of the most degraded destiny, has sown with thorns the path that conducts us to liberty. Tell that metropolis that even she may glory in your work! Already have you cleared all the rocks, escaped every danger, and conducted these provinces to the flourishing condition in which we now behold them. Let the enemies of your name contemplate with despair the energies of your virtues, and let the nations acknowledge that you already appertain to their illustrious rank. Let us felicitate ourselves on the blessings we have already obtained, and let us show to the world that we have learned to profit by the experience of our past misfortunes."

Mr. CLAY continued—there was a spirit of bold confidence running through this fine State paper which nothing but conscious strength could communicate. Their armies, their magazines, their finances, were on the most solid and respectable footing. And, amidst all the cares of war, and those incident to the consolidation of their new institutions, leisure was found to promote the interests of science, and the education of the rising generation. It was true, that the first part of the message portrayed scenes of difficulty and commotion, the usual attendants upon revolution. The very avowal of their troubles manifested, however, that they were subdued. And what State, passing through the agitations of a great revolution, was free from them? We had our intrigues, our factions. More than once were the affections of the country, and the con-

fidence of our councils, attempted to be shaken in the great Father of our liberties. Not a Spanish bayonet remains within the immense extent of the territories of La Plata to contest the authority of the actual Government. It is free—it is independent—it is sovereign. It manages the interests of the society that submits to its sway. It is capable of maintaining the relations between that society and other nations.

Are we not bound, then, upon our own principles, to acknowledge this new Republic? If we do not, who will? Are we to expect, that Kings will set us the example of acknowledging the only Republic on earth, except our own? We receive, promptly receive, a Minister from whatever King sends us one. From the great Powers and the little Powers, we accredit Ministers. We do more: we hasten to reciprocate the compliment; and anxious to manifest our gratitude for royal civility, we send for a Minister (as in the instance of Sweden and the Netherlands) of the lowest grade, one of the highest rank recognised by our laws. We were the natural head of the American family. He would not intermeddle in the affairs of Europe. We wisely kept aloof from their broils. He would not even intermeddle in those of other parts of America, farther than to exert the incontestable rights appertaining to us as a free, sovereign, and independent Power; and, he contended, that the accrediting of a Minister from the new Republic was such a right. We were bound to receive their Minister, if we meant to be really neutral. If the Royal belligerent were represented and heard at our Government, the Republican belligerent ought also to be heard. Otherwise, one party would be in the condition of the poor patriots who were tried *ex parte* the other day in the Supreme Court, without counsel, without friends. Give M. Onís his *congé*, or receive the Republican Minister. Unless you do so, your neutrality is nominal.

Mr. C. next proceeded to inquire into the consequences of a recognition of the new Republic. Will it involve us in war with Spain? He had shown, he trusted, successfully shown, that it was no just cause of war to Spain. Being no cause of war, we had no right to expect that war would ensue. If Spain, without cause, would make war, she may make it whether we do or do not acknowledge the Republic. But she would not, because she could not make war against us. He called the attention of the committee to a report of the Minister of the Hacienda to the King of Spain, presented about eight months ago. A more beggarly account of empty boxes, Mr. C. said, was never rendered. The picture of Mr. Dallas, sketched in his celebrated report during the late war, may be contemplated without emotion, after surveying that of Mr. Gary. The expenses of the current year required 830,267,829 of reals, and the deficit of the income is represented as 233,140,932 of reals. This, besides an immense mass of unliquidated debt, which the Minister acknowledges the utter inability of the country to pay, although bound in honor to redeem it. He states, that the vassals of the King are totally un-

able to submit to any new taxes, and the country is without credit, so as to render anticipation by loans wholly impracticable. Mr. Gary appears to be a virtuous man, who exhibits frankly the naked truth; and yet such a Minister acknowledges, that the decorum due to one single family, that of the Monarch, does not admit, in this critical condition of his country, any reduction of the enormous sum of upwards of 56,000,000 of reals, set apart to defray the expenses of that family! He states, that a foreign war would be the greatest of all calamities, and one which, being unable to provide for it, they ought to employ every possible means to avert. He proposed some considerable contribution from the clergy, and the whole body was instantly in an uproar. Indeed, Mr. C. had no doubt, that, surrounded as Mr. Gary was, by corruption, by intrigue, and folly, and imbecility, he would be compelled to retire, if he had not already been dismissed, from a post for which he had too much integrity. It had been now about four years since the restoration of Ferdinand; and if, during that period, the whole energies of the monarchy had been directed unsuccessfully against the weakest and most vulnerable of all the American possessions, Venezuela, how was it possible for Spain to encounter the difficulties of a new war with this country? Morillo had been sent out with one of the finest armies that had ever left the shores of Europe—consisting of ten thousand men, chosen from all the veterans who had fought in the Peninsula. It had subsequently been reinforced with about three thousand more. And yet, during the last Summer, it was reduced, by the sword and the climate, to about four thousand effective men. And Venezuela, containing a population of only about one million, of which near two-thirds were persons of color, remained unsubdued. The little island of Margaritta, whose population was less than twenty thousand inhabitants—a population fighting for liberty with more than Roman valor—had compelled that army to retire upon the main. Spain, by the late accounts, appeared to be deliberating upon the necessity of resorting to that measure of conscription, for which Bonaparte had been so much abused. The effect of a war with this country would be to insure success, beyond all doubt, to the cause of American independence. Those parts even, over which Spain has some prospect of maintaining her dominion, would probably be put in jeopardy. Such a war would be attended with the immediate and certain loss of Florida. Commanding the Gulf of Mexico, as we should be enabled to do by our navy, blockading the port of Havana, the port of La Vera Cruz, and the coast of Terra Firma, and throwing munitions of war into Mexico, Cuba would be menaced—Mexico emancipated—and Morillo's army deprived of supplies, now drawn principally from this country through the Havana, compelled to surrender. The war, he verily believed, would be terminated in less than two years, supposing no other Power to interpose.

Will the allies interfere? If, by the exertion of an unquestionable attribute of a sovereign

Power, we should give no just cause of war to Spain herself, how could it be pretended that we should furnish even a specious pretext to the allies for making war upon us? On what ground could they attempt to justify a rupture with us, for the exercise of a right which we hold in common with them, and with every other independent State? But, we have a surer guarantee against their hostility, in their interests. That all the allies, who have any foreign commerce, have an interest in the independence of Spanish America, was perfectly evident.

On what ground, Mr. C. again asked, was it likely, then, that they would support Spain, in opposition to their own decided interest? To crush the spirit of revolt, and prevent the progress of free principles? Nations, like individuals, do not sensibly feel and seldom act upon dangers which are remote, either in time or place. Of Spanish America, but little is known by the great body of the population of Europe. Even of this country, the most astonishing ignorance prevails there. Those European statesmen who were acquainted with the country would reflect, that, tossed by a great revolution, it would most probably constitute four or five several nations, and that the ultimate modification of all their various Governments was by no means absolutely certain. But, Mr. C. said, he entertained no doubt that the principle of cohesion among the allies was gone; it was annihilated in the memorable battle of Waterloo. When the question was, whether one should engross all, a common danger united all. How long was it, even with a clear perception of that danger, before an effective coalition could be formed! How often did one Power stand by unmoved and indifferent to the fate of its neighbor, although the destruction of that neighbor removed the only barrier to an attack upon itself! No; the consummation of the cause of the allies was—and all history and all experience would prove it—the destruction of the alliance. The principle was totally changed. It was no longer a common struggle against the colossal power of Bonaparte, but it became a common scramble for the spoils of his Empire. There may indeed be one or two points on which a common interest still exists—such as the convenience of subsisting their armies on the vitals of poor, suffering France—but, as for action—for new enterprises—there was no principle of unity; there could be no accordance of interests or of views among them.

What was the condition in which Europe was left, after all its efforts? It was divided into two great Powers—one having the undisputed command of the land, the other of the water. Paris was transferred to St. Petersburg, and the navies of Europe were at the bottom of the sea, or concentrated in the ports of England. Russia—that huge land animal, awing by the dread of her vast power all continental Europe—was seeking to encompass the Porte, and constituting herself the *kraken* of the ocean, was anxious to lave her enormous sides in the more genial waters of the Mediterranean. It was said, he knew, that she



had indicated a disposition to take part with Spain. No such thing. She had sold some worm-eaten, decayed, fir-built ships, to Spain, but the crews which navigated them were to return from the port of delivery, and the *quid* she was to get, he believed, to be the Island of Minorca, in conformity with the cardinal point of her policy. France was greatly interested in whatever would extend her commerce and regenerate her marine, and consequently, more than any other Power of Europe, England alone excepted, was concerned in the independence of Spanish America. He did not despair of France, so long as France had a legislative body, collected from all its parts—the great repository of its wishes and its will. Already had that body manifested a spirit of considerable independence; and those who were conversant with French history, knew what magnanimous stands had been made by the Parliaments—bodies of limited extent—against the Royal prerogative, would be able to appreciate justly the moral force of such a legislative body. While it exists, the true interests of France will be cherished and pursued, on points of foreign policy, in opposition to the pride and interests of the Bourbon family; if the actual dynasty, impelled by this pride, should seek to subserve these interests.

England finds that, after all her exertions, she is everywhere despised on the Continent; her maritime power viewed with jealousy; her commerce subjected to the most onerous restrictions; selfishness imputed to all her policy. All the accounts from France represent that every party, Bonapartists, Jacobins, Royalists, Modérés, Ultras, all burn with indignation towards England, and pant for an opportunity to avenge themselves on the Power to whom they ascribe all their disasters. [Here Mr. C. read a part of a letter which he had just received from an intelligent friend at Paris, and which composed only a small portion of a mass of evidence to the same effect, which had come under his notice.] It was impossible, he said, that with Powers, between whom so much cordial dislike, so much incongruity existed, there could be any union or concert. Whilst the free principles of the French Revolution remained; those principles which were so alarming to the stability of thrones, there never had been any successful or cordial union; coalition after coalition, wanting this spirit of union, was swept away by the overwhelming power of France. It was not until after those principles were abandoned and Bonaparte had erected on their ruins his stupendous fabric of universal empire—not, indeed, until after the frowns of Heaven favored the cause of Europe, that an effective coalition was formed. No, said Mr. C., the complaisance inspired in the allies, from unexpected if not undeserved success, might keep them nominally together; but, for all purposes of united and combined action, the alliance was gone; and he did not believe in the chimera of their crusading against the independence of a country whose liberation would essentially promote all their respective interests.

But the question of the interposition of the allies, in the event of our recognising the new Republic, resolved itself into a question whether England, in such event, would make war upon us? If it could be shown that England would not, or that, if they should, in which case England would most probably support the cause of America, it would be a war without the maritime ability to maintain it. He contended that England was alike restrained by her honor and by her interest from waging war against us, and consequently against Spanish America also, for an acknowledgment of the independence of the new State. England has encouraged and fomented the revolt of the colonies as early as June, 1797. Sir Thomas Picton, Governor of Trinidad, in virtue of orders from the British Minister of Foreign Affairs, issued a proclamation, in which he expressly assures the inhabitants of Terra Firma, that the British Government will aid in establishing their independence.\* In prosecution of the same object Great Britain defrayed the expenses of the famous expedition of Miranda.

England, in 1811, when she was in the most intimate relations with Spain, then struggling against the French power, assumed the attitude of a mediator between the colonies and the Peninsula. The terms on which she conceived her mediation could alone be effectual were rejected by the Cortes at the lowest state of the Spanish power. Among these terms England required for the colonies a perfect freedom of commerce, allowing only some degree of preference to Spain; that the appointment of Viceroy and Governors should be made indiscriminately from Spanish Americans and Spaniards; and that the interior government, and every branch of public administration should be intrusted to the Cabildo or Municipalities, &c. If Spain, when Spain was almost reduced to the island of St. Leon, then rejected those conditions, would she now consent to them, amounting, as they do, substantially to the independence of Spanish America? If England, devoted as she was at that time to the cause of the Peninsula, even then thought those terms due to the colonies, would she now, when no particular motive exists for cherishing the Spanish power, and after the ingratitude with which Spain has treated her, think that the colonies ought to submit to less favorable conditions? And would not England stand disgraced in the eyes of the whole world, if, after having

\* The following is the passage read: "With regard to the hope you entertain of raising the spirits of those persons with whom you are in correspondence, towards encouraging the inhabitants to resist the oppressive authority of their Government, I have little more to say than that they may be certain that whenever they are in that disposition, they may receive at your hands all the succors to be expected from His Britannic Majesty, be it with forces or with arms and ammunition to any extent; with the assurance that the views of His Britannic Majesty go no further than to secure to them their independence."

abetted and excited a revolution, she should now attempt to reduce the colonies to unconditional submission, or should make war upon us for acknowledging that independence which she has herself sought to establish?

No guarantee for the conduct of nations or individuals ought to be stronger than that which honor imposes; but for those who would put no confidence in its obligations, he had an argument to urge of more conclusive force. It was founded upon the interest of England. Excluded almost as she is from the Continent, the commerce of America, South and North, is worth to her more than the commerce of the residue of the world. That, to all Spanish America, had been alone estimated at fifteen millions sterling. Its aggregate value to Spanish America and the United States might be fairly stated at upwards of one hundred millions of dollars. The effect of a war with the two countries would be to divest England of this great interest, at a moment when she is anxiously engaged in repairing the ravages of the European war. Looking to the present moment only, and merely to the interests of commerce, England is concerned more than even this country in the success of the cause of independence in Spanish America. The reduction of the Spanish power in America has been the constant and favorite aim of her policy for two centuries; she must blot out her whole history; reverse the maxims of all her illustrious statesmen; extinguish the spirit of commerce which animates, directs, and controls all her movements, before she can render herself accessory to the subjugation of Spanish America. No commercial advantages which Spain might offer her by treaty could possess the security for her trade which independence would communicate. The one would be most probably of limited duration, and liable to violation from policy, from interest, or from caprice. The other would be as permanent as that independence. That he did not mistake the views of the British cabinet, the recent proclamation of the Prince Regent, he thought, proved. The Committee would remark that that document did not describe the patriots as rebels or insurgents, but, using a term which he had no doubt had been well weighed, it declared the existence of a "state of warfare." And with regard to English subjects, who were in the armies of Spain, although they had entered the service without restriction as to their military duties, it required that they should not take part against the colonies. The subjects of England freely supplied the patriots with arms and ammunition, and an honorable friend of his (Mr. JOHNSON) had just received a letter from one of the West India islands, stating the arrival there from England of the skeletons of three regiments, with many of the men to fill them, destined to aid the patriots. In the *Quarterly Review*, of November last, a journal devoted to the Ministry, and a work of the highest authority, as it respects their views, the policy of neutrality is declared and supported as the true policy of England; and that, even if the United States were to take part

in the war; and Spain is expressly notified that she cannot and must not expect aid from England.\* In the case of the struggle between Spain and her colonies, England, for once at least, had manifested a degree of wisdom highly deserving our imitation, but unfortunately the very reverse of her course had been pursued by us. She had so conducted, by operating upon the hopes of the two parties, as to keep on the best terms with both; to enjoy all the advantages of the rich commerce of both. We had, by a neutrality bill containing unprecedented features; and still more by a late Executive measure, to say the least of it, of doubtful Constitutional character, contrived to dissatisfy both parties. We had the confidence of neither Spain nor the colonies.

Mr. C. said, it remained for him to defend the proposition which he meant to submit, from an objection which he had heard intimated, that it interfered with the duties assigned to the Executive branch. On this subject he felt the greatest solicitation; for no man more than himself respected the preservation of the independence of the several departments of Government, in the Constitutional orbits which were prescribed to them. It was his favorite maxim that each, acting within its proper sphere, should move with its Constitutional independence, and under its Constitutional responsibility, without influence from any other. He was perfectly aware, that the Constitution of the United States, and he admitted the proposition, in its broadest sense, confided to the Executive the reception, and the

\* "In arguing, therefore, for the advantages of a strict neutrality, we must enter an early protest against any imputations of hostility to the cause of genuine freedom, or of any passion for despotism and the inquisition. We are no more the panegyrists of legitimate authority in all times, circumstances, and situations, than we are advocates for revolution in the abstract," &c. "But it has been plausibly asserted, that by abstaining from interference in the affairs of South America we are surrendering to the United States all the advantages which might be secured to ourselves from this revolution; that we are assisting to increase the trade and power of a nation which alone can ever be the maritime rival of England. It appears to us extremely doubtful whether any advantage, commercial or political, can be lost to England by a neutral conduct; and it must be observed that the United States themselves have given every public proof of their intention to pursue the same line of policy. But, admitting that this conduct is nothing more than a decent pretext; or admitting, still further, that they will afford to the independents direct and open assistance, our view of the case would remain precisely the same," &c. "To persevere in force unaided, is to miscalculate her (Spain's) own resources, even to infatuation. To expect the aid of an ally in such a cause would, if that ally were England, be to suppose this country as forgetful of its own past history as of its immediate interests and duties. Far better would it be for Spain, instead of calling for our aid, to profit by our experience; and to substitute, ere it be too late, for efforts like those by which the North American colonies were lost to this country, the conciliatory measures by which they might have been retained."



H. of R.

Spanish American Provinces.

MARCH, 1818.

deputation of Ministers. But, in relation to the latter operation, Congress had a concurrent will in the power of providing for the payment of their salaries. The instrument nowhere said, or implied, that the Executive act of sending a Minister to a foreign country should precede the legislative act which shall provide for the payment of his salary. And, in point of fact, our statutory code was full of examples of legislative action prior to Executive action, both in relation to the deputation of agents abroad, and to the subject-matter of treaties. Perhaps the act of sending a Minister abroad, and the act providing for the allowance of his salary ought to be simultaneous; but if, in the order of precedence, there were more reason on the one side than on the other, he thought it was in favor of the priority of the legislative act, as the safer depositary of power. When a Minister is sent abroad, although the Legislature may be disposed to think his mission useless, although, if previously consulted, they would have said they would not consent to pay such a Minister, the duty is delicate and painful to refuse to pay the salary promised to him whom the Executive has even unnecessarily sent abroad. Mr. C. illustrated his ideas by the existing missions to Sweden and to the Netherlands. He had no hesitation in saying, that if we had not Ministers of the first grade there, and if the Legislature were asked, prior to sending them, whether it would consent to pay Ministers of that grade, that he would not, and he believed Congress would not, consent to pay them.

If it be urged that, by avowing our willingness, in a legislative act, to pay a Minister not yet sent, and whom the President may think it improper to send abroad, we operate upon the President by all the force of our opinion; it may be retorted, that when we are called upon to pay any Minister, sent under similar circumstances, we are operated upon by all the force of the President's opinion. The true theory of our Government at least supposes that each of the two departments, acting on its proper Constitutional responsibility, will decide according to its best judgment, under all the circumstances of the case. If we make the previous appropriation, we act upon our Constitutional responsibility, and the President afterwards will proceed upon his. And so if he make the previous appointment. We have a right, after a Minister is sent abroad, and we are called upon to pay him, and we ought to deliberate upon the propriety of his mission—we may and ought to grant or withhold his salary. If this power of deliberation is conceded subsequent to the deputation of the Minister, it must exist prior to that deputation. Whenever we so deliberate, we deliberate under our Constitutional responsibility. Pass the amendment he proposed, and it would be passed under that responsibility. Then the President, when he deliberated on the propriety of the mission, would act under his Constitutional responsibility. Each branch of Government, moving in its proper sphere, would act with as much freedom for the influence of the other as was practically attainable.

There was great reason, Mr. C. contended, from the peculiar character of the American Government, in there being a perfect understanding between the legislative and Executive branches, in relation to the acknowledgment of a new Power. Everywhere else the power of declaring war resided with the Executive. Here it was deposited with the Legislature. If, contrary to his opinion, there were even a risk that the acknowledgment of a new State might lead to war, it was advisable that the step should not be taken, without a previous knowledge of the will of the war-making branch. He was disposed to give to the President all the confidence which he must derive from the unequivocal expression of our will. This expression he knew might be given in the form of an abstract resolution, declaratory of that will; but he preferred, at this time, proposing an act of practical legislation. And if he had been so fortunate as to communicate to the Committee, in anything like that degree of strength in which he entertained them, the convictions that the cause of the patriots was just; that the character of the war, as waged by Spain, should induce us to wish them success; that we had a great interest in that success; that this interest, as well as our neutral attitude, required us to acknowledge any established Government in Spanish America; that the united provinces of the river Plata was such a Government; that we might safely acknowledge its independence, without danger of war from Spain, from the allies, or from England; and that, without unconstitutional interference with the Executive power, with peculiar fitness, we might express, in an act of appropriation, our sentiments, leaving him to the exercise of a just and responsible discretion, he hoped the Committee would adopt the proposition which he now had the honor of presenting to them, after a respectful tender of his acknowledgments for their attention and kindness, during, he feared, the tedious period he had been so unprofitably trespassing upon their patience. He offered the following amendment to the bill:

"For one year's salary, and an outfit to a Minister to the United Provinces of the Rio de la Plata, the salary to commence, and the outfit to be paid whenever the President shall deem it expedient to send a Minister to the said United Provinces, a sum not exceeding eighteen thousand dollars."

When Mr. CLAY had concluded, Mr. FORSYTH said, that before entering into the examination of the subject before the Committee, he would detain them for a moment by a remark or two on a suggestion that had fallen from the Speaker, so remotely connected with the question, that he should probably forget it if he omitted to notice it then. It had been said that Ministers were sent from the United States to all the crowned heads in Europe who had Ministers here. A Chargé d'Affaires to the United States was reciprocated by a Minister Plenipotentiary to the Court from whence he came, and the Courts of Sweden, Holland, and Prussia, had been particularly named. The last is one

MARCH, 1818.

Spanish American Provinces.

H. of R.

to which a Minister was expected to be sent, particular information of which fact Mr. F. was supposed to possess. But for this personal allusion he should not have felt himself compelled to refer to this subject. [Mr. CLAY explained.] Mr. F. understood perfectly well that there was no unfriendly spirit in the remark, it was an allusion to an event which was expected to occur, but upon what foundation he had been at a loss to conjecture. Certain it was, he had no intimation that this or any other diplomatic appointment would be offered to him, and it was equally certain that he had not solicited any. An idle rumor was in circulation that he was to be sent abroad, where, the persons circulating it, had not determined. He hoped to be consulted as to the place of exile, when he was to be sent into honorable banishment. The Administration had not, he believed, determined to send a Minister to Prussia, of any grade. There was a mistake as to the fact, in the case of Holland. The Government of the Netherlands had sent a Minister of the first grade to the United States, before Mr. Eustis went to the Hague. At present there was only a Chargé here, and it was altogether probable that the interest of the United States would not require a representative of a different character in the Netherlands. The appointments to the Hague and to Sweden, had been made by Mr. Madison, under circumstances requiring them. With regard to Sweden, the motive for the original appointment was well known. It was made at a period when, from the peculiar situation of Europe, Sweden was an important Power. She was the key-stone of the arch of the great confederation against France, and it was part of our policy at that period to stand well with all the Powers in the north of Europe. The restoration of peace certainly rendered this mission of minor importance; and when the Minister of the United States came home, it was not expected that he would again return to fix his official residence at Stockholm. Why he returned to Sweden was as well known to the honorable Speaker as to any member of the House. Mr. F. was confident that he would not remain there.

Was the importance of the amendment proposed to be estimated by the interest it excited, and the extraordinary manner in which it had been presented, few subjects of equal magnitude had ever been submitted to the decision of the National Legislature. That the deep interest felt in the fate of the measure, was not confined to those who were to decide upon it, was apparent from the crowded benches of the Hall and the overflowing gallery. For ourselves, the Throne of Grace had been that morning addressed to purify our hearts and enlighten our understandings for its correct decision. Every one must be struck by the whimsical contrast between the real and factitious importance of the proposition. To judge from the extraordinary exertions of the Speaker, from the ground over which he travelled and the variety of objects noticed by him, it would seem he believed it

worthy of the exertions of all his industry, ability, and enthusiasm—that the freedom and happiness of eighteen millions of people were, in truth, involved in its decision. Mr. F. had in vain tasked his imagination to discover that such consequences could follow from it. He could not perceive the miraculous influence of appropriating eighteen thousand dollars for an outfit and salary for a Minister to La Plata, to commence when, in the discretion of the President, a Minister should be sent to that Government. All the facts stated by the Speaker might be admitted, the arguments founded upon them might be considered as conclusive, still the amendment proposed ought not to be adopted. How obvious, then, must be the propriety of rejecting it, when the facts were disputable and the reasoning inconclusive. Admitting the independence of La Plata to be established; that it was the right and the duty of the United States to recognise that independence; that war with Spain or any other Power would not follow; that our interest and our honor required this step to be taken—still the amendment ought to be rejected. If recognition is made, it is to be done in the United States. We are to acknowledge their independence; to send a Minister to La Plata is to ask them to acknowledge ours. A Minister must be sent to, and accredited by this Government. It had not as yet appeared that the Government of La Plata desired or expected us to make such an acknowledgment; at least no one with requisite authority was known to have been sent to this country for the purpose of asking such a favor. Another objection, not less obvious, was presented by the Constitutional division of the powers of the Government. Heretofore the President and Senate were left to the exclusive management of the foreign intercourse of the United States. Ministers were received from other Powers, and sent from this country to other Governments, with whom political or commercial interest required us to negotiate, and the House of Representatives contented itself with its Constitutional check upon the exercise of this authority; satisfied that they could at all times prevent its improvident exertion by withholding appropriations from those missions, the public interest did not require. This, however, proposes a new system; this House, instead of checking, is made to stimulate the Executive to a further extension of its patronage. This new system might have its convenience, but these would be found on examination to be personal conveniences to aspiring and designing members of the Legislative body, at the expense of the general welfare. The suggestion that, under the present extraordinary circumstances of the world, the expression of the public opinion by the Representatives of the people ought to precede the movements of the Executive, was not entitled to the weight which was given to it. The President does not require to be told that the Representatives of the people who selected him to preside over their Government, are prepared at all times, and at every hazard, to do their duty. He dare not doubt that he



will be supported in every measure the interest and honor of the nation require him to adopt. Were it really true that the Executive Magistrate had discovered a criminal indifference on this subject, Mr. F. said he would be among the most eager to express such an opinion in the only form in which an opinion could be expressed, by a resolution of the House—boldly and openly declaring its dislike of the course which had been pursued, and recommending the necessary change. The amendment to an appropriation bill in the form proposed did not convey such an opinion. The President might conjecture that such was the intention of the Legislature; yet, even while forming this conjecture, it would be necessary for him to look beyond the act to the motives assigned to those who advocated it. As a measure of ordinary policy the proposition was inadmissible; as an extraordinary measure it was indefensible. It was recommended as a bold, independent, manly expression of the public sentiment, placing the House of Representatives in the front rank in the march of the Government on a dangerous and untried field; it was, in reality, unmeaning and insignificant in its character; and while it proceeds by hinting to the President the course he should pursue, it warily shelters the House from all responsibility for the consequences behind the Executive discretion. If our interference is necessary, let us act effectually; marking the steps necessary to be taken, and taking the responsibility for the result—claiming all the honor, and bearing all the disaster. Let us not at least pretend to give the Executive a discretion already possessed, thus diminishing his responsibility without adding to our own.

Mr. F. could not but remark an apparent contradiction in the address of the Speaker on this subject of the declaration, made a few days since in a discussion of the bill reported by the Committee on Foreign Relations. He had censured with much asperity the patience discovered by the Government in its correspondence with the Spanish Minister, and thanked his God that he did not possess that Job-like attribute. In the address of yesterday we were told that he was opposed to war with Spain—would do no act which would give her just cause of war—would not violently seize any of her possessions. It would seem that, impatient as the honorable Speaker may be at the situation of the dispute with Spain, he is not disposed to do any act calculated to bring it to an immediate determination. The difference between the Administration and himself, is, that they would wait with patience, and he impatiently, the change in the Spanish councils. The honorable gentleman would pardon the notice of a species of inconsistency in the course he wished to pursue. He believed that Spain ought to be pressed; that the moment was peculiarly fortunate, and ought not to be lost. How was this pressing to be made? By argument? That had been tried in vain. Certainly not. By threats never intended to be executed? The character of the Speaker forbids such a supposition. Not by war; that had been disclaimed.

Not by any means that would give Spain justifiable cause of war. These also had been rejected. It was difficult to imagine how the object was to be accomplished, unless a subsequent suggestion furnished a key to the mystery. He would take the step in relation to the Spanish colonies, we might rightfully take, and leave Spain to do as she thought proper. If she continued to refuse to do us justice, the important question of peace or war was then to be decided. If Mr. F. understood the policy recommended, it was to do rightfully all we could to tempt Spain to declare war against us; and if we failed in all these, then we would declare war against Spain. Thus, while disclaiming all idea of war, the Speaker looked constantly to that issue. The sources of temptation were in the dispute with her colonies; we were first to recognise them, what follows is easily foreseen. The motive for this abandonment of our own quarrel, to engage in war on account of the Spanish American governments, was the apprehension; if we moved in our own case, we should be justly charged with a thirst of aggrandizement—excite the jealousy, perhaps the hostility, of some other Power, and enjoy the sympathy of none. If an interference with Spanish affairs is the ground of dispute, we shall have the sympathies of the world on our side, and excite neither jealousy nor hostility in any of the nations of Europe. Mr. F. believed, with the Speaker, that the present was an auspicious moment for a settlement of the Spanish controversy; that it ought not to be suffered to escape. He was not for war, but for such a movement, in our own dispute, as would place the means of indemnity in our possession, as should enable the Government to do justice to its injured citizens, whatever might be the future condition of the Spanish monarchy. It was war if Spain choose to consider it so; it was short of war if she desired to remain at peace. The jealousy or hostility of foreign Powers could not be reasonably excited by such a course. Sympathy was out of the question. No European Government felt it for the United States: they do not fear our power, but they dread our example; they do not apprehend danger from our physical strength, but tremble at the moral influence of our institutions. The course of the Speaker was the one best calculated to excite all their jealousies and hostilities; to confirm an idea, Spain had been at all times exerting herself to enforce, that we were the cause of the disturbances in her possessions, the aiders and abettors of her revolting subjects, and on all occasions ready to sow discord among the subjects of Princes, and to jeopardize the safety of the colonial dependencies of European Powers. War with Spain was no bugbear to him; but, if it was commenced, it should be in our own quarrel, and should not be mixed with baser matter. The Administration occupied the middle ground between the Speaker and himself, probably the safest and most congenial to the wishes and the interests of the people. There was one point on which there would be no dispute between them; the policy of the Govern-

ment was by each of them preferred to the policy recommended by the other. Mr. F. was, however, justified, by the opinion of the Speaker, in believing that a war would not be the consequence of either project. "Spain would not, and could not, declare war against us, from the state of her finances, and the ruin of her resources." The wisdom of the two plans was, therefore, to be tested by the benefits which we would or should derive from complete success, without the hazard of a contest for either.

The amendment was advocated as a recognition of the independence of La Plata. The argument of the honorable mover was directed to this point; and Mr. F. was well aware that one question was frequently argued, and another decided, and that the vote on the decision was sometimes determined on the merits of the question discussed. Considering it as an open proposition to recognise, he was content to meet it, and that it should succeed or fail on the propriety of refusing or making an immediate recognition. Where was the motive for this step? What beneficial consequences will flow from it to La Plata or the United States? What benefits, commercial or political, will accrue? The commerce between the people of this Government and that of the revolutionary La Plata, was free and unrestrained. Our citizens enjoyed all that they asked in the ports of Buenos Ayres, and the people of La Plata were admitted to all the rights and hospitalities that are shown to any foreigners in the waters of the United States. Arms, ammunition, all the product of our agriculture and industry, that their wants may require, are freely purchased and transported in their own or American vessels, without delay or molestation. Their vessels, armed and equipped for war, are admitted without scruple into our ports and treated with a kindness they have but too frequently abused. Are there any important political results to proceed from this step to either party? To us there certainly are none; to them the only possible advantage would be the probability that our example would be followed by the rest of the world. Mr. F. spoke on the supposition that no war with Spain was produced by this act. Our recognition was better calculated to excite the jealousy and prejudice of despotic Governments against this new Power, than to produce a similar recognition of their claims to a place in the family of nations; better calculated to produce a combination of despotic power, to their ruin, than a friendly aid in the accomplishment of their independence. This acknowledgment was useless to them politically and commercially. All the practical benefits arising from it, were enjoyed so long as we considered their independence as existing without pronouncing a decision upon that point disputed by them with Spain. Where was the motive to be found to justify this improvident hurry to the useless acknowledgment of a Government whose independence depended wholly upon its own exertions? That could not be aided in its progress by such a declaration, unless accompanied by substantial aid; an aid even the sanguine

gentleman from Kentucky did not propose to give. It was said, however, that we ought to be the first to acknowledge a sister Republic. If we did not who would? With more than ordinary diligence, Mr. F. had endeavored to find the freedom and liberality in the frame and institutions of this new Government, which would entitle it to this name. He had sought for them in vain. There was a Congress and a Supreme Director; a Congress, the Speaker has said, chosen somewhat like our own. Mr. F. would have rejoiced to learn in what this resemblance consisted. If the Congress were chosen by the people, he had been deceived by the Outline of the Revolution in Spanish America; a work to which he referred on the recommendation of the Speaker. The sole resemblance was in name. The Government of La Plata was a military despotism, like the Republic of France in the days of the Consulate, but destitute of its order, strength, and stability. If the resemblance was perfect, and the Government and people of La Plata worthy to be ranked by our side in the community of nations, still the inutility of such an acknowledgment is a satisfactory reason for refraining from it.

Mr. FORSYTH thought he might safely leave the question to the judgment of the Committee, after showing that the most powerful recommendations of the amendment were, that it was unmeaning and harmless. But he considered it a duty to examine more at large the various inducements offered by the Speaker to insure its success. Mr. F. knew and felt the danger to which he exposed himself by this course—that he would be assailed as an enemy to liberty, &c. Exertions had been made to prepare the public mind for such impressions against all those who thought with him on this subject. Notice had been given from this city, and was now ringing through the Western country, that questions were to be brought into view, by whose decision the people would be able to discriminate between those who were just and unjust to the patriot cause—between the friends and the enemies of freedom. Such considerations had no influence upon his conduct. He who was deterred by anticipated censure, or threatened calumny, from the performance of any duty, was not worthy to represent a free people—to preside even in the most subordinate sphere over the movements of a mighty empire. Careless of the motives which might be imputed to him, he should proceed to show that the Speaker had offered no sufficient inducement to justify his proposal in the origin, progress, or character, of the revolution in Spanish America; that it is not demanded by our commercial or political interest in the great struggle between Spain and her former dependencies; that while he admitted it was the right of the United States, it was not a duty to recognise the new Government; that it could not be done without the danger of war with Spain; and that it was not sufficiently demonstrated that Buenos Ayres had established, and would maintain, a free and independent Government. In tracing the origin of the revolution, the Speaker had carried us



back to the first invasion of Mexico and Peru, to the days of Cortez and Pizarro, of Montezuma and Atahualpa. From that period he had given a faint outline of the cruel, selfish, monopolizing, and debasing policy of Spain to her American dependencies—foreign and inter-colonial intercourse forbidden to her subjects in those magnificent and fertile regions of the earth; the pursuits of agriculture directed by the narrow policy of an unjust Government; the soul itself debased to the purposes of oppression by municipal regulation. It was a gloomy picture of a sad reality; a faithful representation of nature, drawn by a master's hand. The policy was but too truly characterized, and its success was as complete as its character was atrocious. It had been pursued with undeviating steadiness, until the horrible contrast was exhibited of a people the most debased, in the midst of the fairest regions of the globe; man, the master-work of creation, with intellect enervated by despotism, and soul withered by superstition, surrounded by the most sublime and stupendous monuments of inanimated nature. Was the origin of the revolution to be found in this systematic oppression? It would be looked for here in vain. To use the language of the Speaker, Spain would have succeeded in continuing this system but for the transactions of Bayonne. The puerile ambition of Napoleon was the foundation of the South American struggle. The Old World was convulsed; eighteen millions of people were agitated in the new, by his childish desire to have a King of the new dynasty on the throne of Spain; by his silly anxiety to substitute the Bonapartes for the Bourbons, over all nations dependent upon his colossal power. Was this great event hailed with joy by the Spanish Americans? Was the glorious opportunity of breaking their chains seized with avidity? Far, very far, from it. They were stunned by this unexpected occurrence; stupified by the dreadful alternative of self-government, or submission to French rule. Like the unhappy man long immured in the gloom of a prison, they had been so long deprived of his glorious light, that the beams of the blessed sun were hateful to their eyes. This fortunate event was considered a national calamity, to which there was no alleviation but the opportunity it afforded to discover their unshaken loyalty and blind devotion to the cause of their adored King. Their resources were devoted to his service. The sole difficulty was to find, during his imprisonment, a substitute for the royal authority. The laws, and customs, and frame of Government, in other respects, remained without change; the municipalities, haciendas, audiencias, &c., all the subordinate machinery, continued in its accustomed place, and performed its accustomed operations; and, although the necessity of additional exertion produced a greater vigor of character and boldness of thought in the heads of the Government, the great mass remained unaltered in habits, opinions, and desires. England, covering the peninsula of Spain and Portugal with her armies, and, the enemy of France, procuring,

without difficulty, the great object of her long continued solicitude—a free commerce with Spanish America. Juntas were established upon the same principles as the Juntas of Spain, and war with the Junta of Spain was occasioned by the refusal of Spanish America to acknowledge that they were the legitimate repository of the royal power in both hemispheres. The unhappy land was rent by internal factions, in which the people were the instruments of designing ambition. The leading men disputed for the honor of being the royal substitute, none for the glory of establishing a free Government, founded upon the principles of justice and equality, whose basis was the power, whose object was the happiness of the people. The most bold, and successful, and honorable exertion, for the formation of a liberal Government, was made in Venezuela. But this new Government was overturned by an earthquake in 1812. The misguided people were induced to believe that this awful visitation was the immediate consequence of their conduct, the just judgment of an angry God upon the revolution, and those who promoted or favored its success.\*

\* "After many months of continued debates, the Representatives of Venezuela offered, for the approbation of the people, on the 23d of December, 1811, the promised constitution. It formed a volume, divided into nine chapters. In the first, the Roman Catholic religion is proposed as that of the State. In the second, it is proposed that the General Congress should be divided into two Houses—that of the Representatives and the Senate; to be jointly invested with the power of declaring war, making peace, raising armies, &c.; the election of the Representatives to be made by electoral colleges, and that of the Senate by the provincial legislatures. The third chapter treats of the Executive power, which was to be confided to three persons, to be chosen by the electoral colleges; and these persons were to be invested with power to nominate generals for the army, and to appoint officers to whom the administration and collection of the public revenue were to be intrusted, &c. The fourth chapter describes a supreme court of justice, which was to decide on civil and criminal questions in matters concerning the Federal compact; likewise the trial by jury, &c. The fifth determines the limits of the provincial authorities, the mutual guarantee of the provinces to each other, and that Guayana and Maracaibo should be admitted into the Federation as soon as they were free from Spain. The sixth and seventh propose that the constitution should be revised, and receive the sanction of the people. The eighth declares the sovereignty of the people—the rights of man in society—that foreigners of any nation whatever should be admitted into Venezuela, provided they would respect the national religion; that the use of torture should be abolished, &c. The ninth and last is devoted to general subjects; treats of promoting the civilization of the Indians, and declaring the mulattoes and pardos eligible to any employment whatever in the State; likewise of confirming the abolition of the slave trade, as decreed by the supreme junta of Caracas on the 14th July, 1810.

"In imitation of the United States of America, the Congress set apart a territory, in which the authorities of the confederation were to reside; the town of Va-

It might be imagined that the principles of political, civil, and religious freedom had been developed in the progress of the revolution; the present state of it would discover how far the people of Spanish America had improved in the knowledge of their personal rights, and their determination to maintain them. In Mexico the contest was at an end; at all times of a doubtful issue, the last ray of hope was extinguished by the death of the gallant and unfortunate Mina. This disastrous termination of the struggle was not produced by the successful exertion of the power of Old Spain; it was effected by the efforts of a people who formed a large portion of the eighteen millions of men who were represented as contending in the glorious cause of freedom. In Caracas, a sanguinary, and dreadful, and, at best, a doubtful contest was maintained with the modern Alva, by the imitator of his cruelty, Bolivar. La Plata and Chili had better prospects of success; and all our sanguine hopes are fixed upon them. Thus, of the eighteen millions of people, for whom our sympathy is demanded, more than thirteen millions are the contented slaves of the Spanish authority; and it was the madness or stupidity of Ferdinand, that prevented the voluntary return of all to their ancient thralldom. A decree of oblivion for the past would have reinstated the Spanish power, if it had been promulgated by Ferdinand on his restoration to the throne. Mr. F. rested this opinion

lencia was fixed upon, and the Congress there held its session in the beginning of March, 1812.

"All prospered in Venezuela at that time; the Government was respected; the military force sufficient to support it, and the public mind was unanimous. Commerce was in some degree flourishing, and Venezuela, wishing to promote that with England, a reduction of four per cent. was made in the custom-house duties in favor of English manufactures. Three thousand men, under the command of General Moreno, were on the banks of the Orinoco, ready to cross that river, and attack the royalists in the city of Guayana or Angostura, whose inhabitants had, on many occasions, evinced their inclination in favor of the new Government, but were checked by the Spaniards from publicly declaring this inclination. Colonel Xalon, with one battalion of good troops, was stationed at Barquisimeto, supposing the royalists of Coro might attempt an attack on that side. But, alas! short in Venezuela was the possession of this prosperity!

"On the 26th of March, 1812, between four and five P. M., Venezuela was visited by one of those tremendous earthquakes which from time to time ruin whole provinces. During a minute and fifteen seconds the earth was convulsed in every direction, and nearly twenty thousand persons fell victims. The towns of Caracas, Lagunayra, Mayquetia, Merida, and San Felipe, were totally destroyed. Barquisimeto, Valencia, La Vittoria, and others, suffered considerably. This catastrophe happened on Holy Thursday, a day when every Christian church peculiarly commemorates the sufferings of our blessed Redeemer, and at the very hour when the people were crowding into the churches to attend the processions which are usual in Roman Catholic countries, and to see the representation of our Saviour led to the cross. Troops are placed on such

upon the authority of a work to which he had before referred, the Outline of the Revolution in South America. In the conclusion of that work it is said "the return of Ferdinand might have brought with it the return of peace. The people were tired of war; the leaders of the revolution disappointed in their views; a large body of the people in a state of apathy or indifference; and, what was still more important, the veneration attached to the name of Ferdinand still existed, though, in some degree, diminished." This veneration was converted into a dread of his resentment, by the mission of Morillo and his sanguinary suite. Mr. F. trusted in Heaven that this act of royal madness would meet with its appropriate punishment, in the total subversion of his western empire; that thus compelled to continue a resistance to the Spanish yoke, that the people would acquire what experience and suffering had not yet taught them, the knowledge of their strength, and the means of using it to the establishment of a Government similar to ours. Such were his ardent wishes, not his confident expectations. That the independence of all, or portions of the southern continent would, at no distant day, be achieved, could not be doubted; to what extent civil liberty would be established, was matter of speculation. Opinions, more or less favorable, would be formed, according to the sanguine or cautious temper of the judge. In the origin and progress of the revolution, there

occasions at the entrance of the churches, to follow the procession; and many churches, and the principal barracks at Caracas, being thrown down, there was a considerable number of soldiers killed, and many thousand persons crushed under their ruins. The arms and ammunition destined for the defence of the country were buried in a similar manner; and what was worse, an unconquerable enemy to the independence of Venezuela seemed to raise its head from among the ruins—that religious prejudice which the earthquake inspired.

"In an era less remarkable, a mere convulsion of nature would have had no influence on a new Government; but, notwithstanding the prosperity Venezuela then enjoyed, the seeds of discontent had fallen on one class of the community. The principles which formed the basis of the new constitution were democratical, and it had been necessary to deprive the clergy of some of their privileges, which of course created enmity in their minds to the present Government. Immediately after the earthquake the priests proclaimed that the Almighty condemned the revolution, and they denounced his wrath on all who favored it. They construed into a manifestation of the Divine displeasure the occurrence of the earthquake on Holy Thursday, because the revolution had commenced on that festival; although it was not the anniversary, for this feast is moveable, and is celebrated on a different day every year. They made the people fancy that hell was opening to swallow them.

"Such was the effect at this time of religious enthusiasm! Unprejudiced persons were undoubtedly not of the number; but these were few, compared with the host they had to resist; which, availing itself of the general consternation, biassed the public opinion in favor of the Spanish Government."



was no inducement to an act of doubtful policy. But our sympathy was demanded for this great cause, in character so like that of our Revolution. Sympathy for the people of the South was universally felt, and might be indulged, without scruple, in wishes and in hopes; but, when it was made the foundation of an attempt to precipitate the adoption of a favorite measure, it was necessary to examine how far it was justly inspired. That the cause of the colonies was just, and that they were entitled to the good wishes of all mankind in their contest with Spain, was unquestionable; but we are expected to feel and indulge a deeper sympathy, arising from the alleged similarity of their situation and that of the United States in 1776, from a congeniality of feeling, opinions, and pursuits, between the Spanish Americans and our predecessors. The honorable member from Kentucky had solemnly invoked the departed spirits of our ancestors to give him strength and ability to vindicate a people contending in a cause as glorious as that in which they had been engaged. An invocation to those illustrious shades to pardon a profanation of their ashes, by this odious comparison, would have better become him; and if the inhabitants of the other world are permitted to interest themselves in the transactions of this life, they would, no doubt, find, in the purity of his intentions, the motive for this forgiveness. Was not the comparison odious? In what consisted this boasted resemblance? They are colonies, contending to be independent of the parent country—so were we; here the resemblance ceases. In the motives of the contests, in the causes which produced them, in their means, and in their ends, there is contrast, not resemblance. We asserted, vindicated, maintained, and improved our rights, political, civil, and religious. We saw oppression as it approached us; remonstrated with firmness against injustice; discussed with calmness the extent of our obligations and the nature of our rights. With a perfect knowledge of the doubtful issue of a contest with our powerful, proud, and ambitious stepmother, we encountered its perils and pursued it with virtuous steadiness, until our triumph was as signal as our moderation had been conspicuous. They were oppressed and contented, manacled and reconciled to their chains, until accident compelled them to involuntary exertions. Political independence was cast upon them, and is now the sole object of continued resistance. If human rights are secured by success, it is an unlooked for, unexpected consequence; an unknown good, a result not desired by those who were to derive its benefits. Political independence was, with us, the means for the accomplishment of our object. With us it was emphatically a war of the people. The Government organized to conduct it was established by them. In the numerous changes of the persons in power, it was the immediate and regular expression of their will, that elevated or depressed the candidates for their confidence. The Confederation, a rope of sand, had tenacity and strength enough to bind them together, while

union was necessary to success. During the contest, the military was completely subordinate to the civil power. With them, the first and the last movements in the contest were made without consulting the will of the people, and no means have yet been afforded by which it can be effectually expressed. They have neither agency in the management of, nor control over, the acts of the Government, created for them. Revolution has succeeded revolution. Every change of rulers has been produced by a change in the form of substitution for the royal authority. The civil has been at all times subordinate to the military power. There was an equally striking dissimilarity in the manner in which the wars were conducted. With us, with the exception of some personal, intestine, and bloody feuds between Whig and Tory, it was carried on with the strictest regard to the laws of honorable and civilized warfare; no instance occurred of the death of the unresisting by the command of any officer in the public service. It must not be forgotten that ample justification was given by the British armies for a contrary system. The massacre of Paoli and the murder of Hayne were still fresh in the recollection of all. But, while burning with resentment for these atrocious deeds, we did not forget what was due to our character, and dishonor our reputation by following a horrible example. The cold-blooded massacre nerved the arms and steeled the hearts of our soldiers in the hour of conflict, but the cry of mercy never was raised in vain by a vanquished foe. When the gallant Hayne was barbarously executed by a British officer, whose present rank and subsequent achievements could not remove the stain of this sanguinary act from his character, the deep indignation of the nation was excited. A gallant officer was selected to pay with his life for the cruelty of his country. But the sacrifice was never made, and the gallant and generous officer was reserved to perish in defending the reputation of that people, by whose forbearance his life, forfeited by the injustice of his country, was spared. Mr. F. would not be understood to call in question the justice of the retaliatory system of extermination adopted by the Spanish Americans. He believed that the dreadful example was set by the Royalists, and the resort to it was justifiable, and perhaps essential to security and success. All he proposed by this examination was to show, what was highly honorable to his own countrymen, that a resort to such a system was not made by them under the strongest temptations, and under circumstances which would have fully justified it. The comparison was made to show the exalted character of our own contest, not excite prejudice against that of neighboring nations.

If the sanguine temper of the Speaker had deluded him into a belief so derogatory to the character of his own country, it was not surprising that he should have erred in estimating the commercial and political interest of the United States in the South American struggle. That we have a deep interest in the fate of Spanish America

could not be denied; but it was a moral interest—the interest which man felt for the condition of man in all quarters of the world. Whatever may be the changes that may take place from the Rio Bravo to Cape Horn, no essentially favorable alteration can be produced in the extent of our commerce, in the purity or stability of our political institutions. Spanish America would afford to us but a trifling portion of her eighty-one millions of exports. With the exception of her mineral productions, her exports were of the same kind with the exports of this country: the great staples were cotton, tobacco, rice, breadstuffs, hemp, &c.; her imports, European manufactures. Mr. F. would not use as an argument the agricultural rivalry that might ensue, under a different state of things, to induce a wish that the present condition of Spanish America might continue; but he would use it to demonstrate the fallacy of the opinion that our commercial prosperity would be greatly increased by the expected change in her political condition. On this point he would ask the attention of the Committee to a few sentences from a work just published, whose author relied upon the statements of Humboldt, a man whose opportunities to procure, and ability to select, the most valuable and accurate information, was universally known. After giving a most appalling account of the present state of the imports to Mexico from the United States, as compared with those of Great Britain, he says:

"But if the imports, according to the report, are by no means promising, as it respects the demand for our productions, some items of the exports are also of a nature to excite serious reflections in the minds of those who are concerned in agricultural pursuits. Among the exports to the other colonies, we find the article of 26,371 bales or sacks of flour, and 3,207 arrobas, of 25 lbs. each, of cotton. Speaking of the Mexican flour, Humboldt says, 'it enters into competition at the Havana market with that of the United States. When the road which is constructing from the table land of Perote to Vera Cruz shall be completely finished, the grain of New Spain will be exported for Bordeaux, Hamburg, and Bremen. The Mexicans will then possess a double advantage over the inhabitants of the United States, that of a greater fertility of the territory, and that of a lower price of labor.' And on the article of tobacco he observes, that 'the cultivation of Mexican tobacco might become a branch of agriculture of the very highest importance, if the trade in it were free. At Vera Cruz the quantity of tobacco produced in the district of Dixaba and Cordova, is computed at 1,600,000 pounds to 2,000,000 pounds.' The indefinite increase of the growth of tobacco is prevented by the royal monopoly, which not only prescribes the quantity, but the very districts in which only it can be cultivated. He also observes, on the subject of the cotton of Mexico, that 'New Spain supplies Europe annually with 625,000 pounds of cotton.' This quantity, though in itself very inconsiderable, is, however, six times greater than that exported by the United States, of their own growth, in 1791: and in twelve years the produce of cotton has become in the United States three hundred and seventy-seven times greater. When we consider the physical positions of the United States and Mexico, we can hardly

entertain a doubt that these two countries will one day be enabled to produce all the cotton employed in the manufactures of Europe. The great staples of the United States are grain, flour, tobacco, rice, cotton, and the products of the fisheries, and lumber. The bulky character of these articles requires, and actually employs, so much shipping for this transportation, that in point of mercantile tonnage, we are already superior to any nation in Europe, Great Britain excepted. Considering, therefore, the importance of these staples in their tendency to our internal welfare, and their influence on our maritime strength, we cannot contemplate, without feelings of great concern, any contingency, however remote, which may operate unfavorably to either."

Mr. F. would not fatigue the Committee by following the author in his investigation of this subject, through the whole extent of Spanish America, but would content himself with quoting that portion of the work which related to the provinces of La Plata, the immediate object of their present inquiry:

"The climate and soil of Buenos Ayres are singularly favorable to the growth of wheat and barley; and whenever this country shall have acquired a competent population, the extent of its produce in both will be equal to any demand, however great. During the late war in Spain, considerable quantities were shipped, under contract with the British Government, to the ports of Spain and Portugal. Under these circumstances it is to be expected that, in any event, our commercial intercourse with this country will not be a subject of national importance."

"Our observations respecting Buenos Ayres apply with still more force to Chili; because the latter is still more remote, being situated on the Pacific Ocean, in nearly the same latitude with Buenos Ayres, and corresponding with it in productions."

It must be sufficiently obvious from these extracts, that the hope of commercial gain must be founded upon our ability to be the carriers of Spanish America, in her commerce with the world; or in our ability to compete with other nations in the supply of such manufactured articles as are consumed by her inhabitants. In the direct commerce from Europe to South America, we cannot hope to participate. Every nation wisely regulates this subject, like ourselves. Competition is confined to their own vessels, and those of the nation with whom it has direct intercourse. We must be able to perform circuitous voyages with greater facility and at a smaller expense than direct voyages are performed by other nations. A contest hopeless, unless war rages among all the other maritime Powers of the earth. Even in this extraordinary state of the world, we should have to contend with the naval enterprise of the newly-created empires. This is considered as of but little consequence by the Speaker. He supposes that Spanish America can never become a great maritime Power. And for what reason? A strange one, indeed. They are too near the sun! The climate is too warm and relaxing; the inhabitants cannot contend on the ocean with the hardy and enterprising children of the bleak and bracing regions of a northern sky. All history condemns this strange theory.



Ask your naval heroes if they have not found that the sailors of the Southern are equal in strength, activity, courage, and hardihood to their Northern brethren? If they would not prefer the sailors of Louisiana to the natives of the frozen and barren regions of Labrador? If the improvement of our South American brethren keeps pace with the anticipation of the gentleman from Kentucky, their emancipation will create for us formidable rivals in agriculture, and powerful competitors for maritime superiority; a rivalry and competition Mr. F. would most cheerfully contribute to produce, if it was to be succeeded by the establishment of civil, political, and religious freedom in that unhappy land. We were, however, required to elevate our views to futurity; to consider that we were legislating for posterity; while it was admitted that at present we could not successfully vie in the markets of this new world with the manufacturers of Europe, the time was approaching when we should undersell the European manufacturers. Mr. F. did not believe this time would arrive during the present century; he hoped it never would arrive. He should deeply deplore the arrival of that period at which manufacturing establishments would be more profitable than the pursuits of agriculture. He wished the articles of first necessity to be fabricated here; beyond this his wishes did not extend. As to the present question, it was sufficient for the purposes of his argument to show, that we could not hope to partake largely of the golden profits of Spanish American commerce, without a thorough change in the present pursuits of the inhabitants of the United States. A change neither desirable nor probable.

Splendid political consequences were anticipated from the expected change. The freedom of the commerce of the Mississippi—the safe navigation of the Gulf of Mexico—the power and effect we should derive, from being the head of a confederation of republics. In case of necessity, the new world of republics was to be arrayed against the old world of despotisms. In the event of European wars, we shall have powerful auxiliaries in the assertion of neutral rights. And was it really apprehended we should ever want aid to maintain the free commerce of the Mississippi or the Gulf of Mexico? these might be safely trusted to our gallant tars and the people of the West. Suppose this great change to have taken place. Overleap in imagination the progress of centuries, and see the United States connected with Republican Governments to the Southern extremity of the New World; the first, if you please, in wealth and power; overcoming the disadvantages of situation and climate, by her superior skill and superior industry. What superior advantages will the people enjoy that are not possessed by ourselves? Will they be more free, more happy, more virtuous, and less exposed to the danger of internal commotion and external violence? The power of the Government to destroy other nations would be increased; the power of the Government to promote the welfare of the people, the object for

which it exists, would remain the same. Connected with people, active, intelligent, and jealous as ourselves, our rivals in commerce, in agriculture, in science, and in the freedom of their institutions; will these elements of strife be composed to harmony by the tender names of sister Republics? Men do not change their nature with their Governments? Brooding avarice, malignant revenge, daring ambition—will find their place under all forms of government, in all ages and in every clime. Mr. F. would not look further into the consequences which might be anticipated from the working of these passions among the affiliated nations. As in the days of ancient Greece, the ground of quarrel would be, who should be the first; and some Eastern Satrap might again be found, to foment the quarrels and distract the councils of the Western World. There was one remedy for these dangers; instead of many, but two Republics should be created of the North and South Americas. Mr. F. was not yet prepared to risk the happiness and the security of the people of the United States, by such a sublime but hazardous extension of their political system. Nations, like individuals, were, under God, the fabricators of their own fortunes. Of this nation this was undeniably true. We want no power which we cannot acquire, since we desire none but for our own protection. We ask no aid, since we will not invade the rights of others; to defend ours, our own strength is amply sufficient. We are free, independent, and happy, so long as the people are true to themselves. United, combined Europe would be arrayed against them in vain. No man need look beyond our own borders for the means of securing and perpetuating all that is valuable in life and liberty. In the assertion of neutral rights it was but too fashionable to look beyond our own resources; the experience of the late war satisfactorily demonstrated that it was unnecessary. It discovered to us, that aid was not to be found where it was expected; it demonstrated that it was not required. He rejoiced that that contest was commenced and terminated without an ally, and he most heartily thanked the English Government for refusing the proffered mediation of the Emperor of all the Russias. The obligation of that offer would weigh upon his spirit, had not the load been removed by the nonchalance with which the refusal of the other Power had been received, and the equivocal treatment experienced by our Ministers from the Court of St. Petersburg. We want no aid and no ally for asserting any of our rights. The experience of the late contest was not less useful to ourselves than to others; it taught them, too, the secret of our power;—trust to its effect; the impression was deep, and the remembrance will be lasting. Mr. F. would not press this inquiry, lest he should be suspected of desiring to produce a wish that Spanish America should remain dependent. All he desired was, by bringing other objects into view, to save the Committee from the seducing enthusiasm of the Speaker. If the question of Spanish American independence depended upon our selfish con-

siderations of interest, it never would be achieved. If we were governed by the ordinary policy of nations, we should desire the re-establishment of the Spanish power, since it impeded the progress of our neighbors, and left us undisputed masters of the world of western enterprise. But our policy was as liberal as our institutions. We looked anxiously for the emancipation and improvement of the Spanish Americans, however formidable their competition and dangerous their rivalry. We desired it for their good, and not for our advantage. That the United States had a right to acknowledge any Government, was a political axiom. That it was our duty to recognise the Government of La Plata, remains to be proved. If our interest and our honor require it; if it is demanded by our obligations to that Government, it was a duty. What interest have we in this independence, which should induce us, first among the nations of the earth, to welcome this stranger? Was it commercial? The fact that we had not more than twenty vessels in the commerce of La Plata, and that number diminishing, while the English had more than two hundred, was a proof of the extent of our commercial interest in this region of the world. Separated at a distance so remote, where was the political consideration to demand it from us? There was none. We are asked to do what France did for us. Mr. P. said, the United States had already done more, openly, for La Plata than France ever did for the United States, prior to her determination to go to war with England. The United States were now in advance of all the nations of the earth, except the Government of Brazil, in kindness to Buenos Ayres. France, prior to the capture of Burgoyne, forbade her subjects to supply us with arms and munitions of war; would not suffer our vessels of war to enter her ports, but, according to the provisions of the Treaty of Utrecht, when driven in by stress of weather, and their stay was limited to the duration of the danger. We openly permit the exportation of every necessary for the use of the people of La Plata. Their vessels enjoy every privilege enjoyed by Spanish vessels, or the armed vessels of any other nation, in our harbors. We wish them success: they know it well; we do not conceal, or affect to conceal, it from Spain. These privileges are denied them by all the Powers of Europe, or if granted, are yielded to them in secret by England.

We have proclaimed a strict neutrality; regulated our conduct by the rule of the national law. "In civil wars foreigners are not to interfere in the internal government of an independent State. It belongs not to them to judge between the citizens whom discord has roused to arms, nor between a Prince and his subjects. Both parties are equally foreigners to them, and equally independent of their authority." The circumstance to which the Speaker referred, if correctly stated, is the most certain evidence that our conduct has been consistent with our professions. We have pleased neither party, while more fortunate England has succeeded in pleasing both parties. Honorable neutrality is never

grateful or pleasing to either of the belligerents: pretended neutrality and secret assistance is grateful to that Power to whom aid is given. England may have been artful enough to persuade Spain that her four hundred thousand pounds was intended for this purpose, while her secret supplies of arms have satisfied the United Provinces that England desired only to promote their success. Our duty cannot require us to do what is useless—what is calculated to confirm a charge made against us, of fomenting the disturbances in Spanish America; a charge to which probable evidence is already afforded by the expeditions of Miranda, of Carrera, of Mina; all of whom sailed from these States to their places of respective destination. It is the duty and the interest of England to stand forth as the protector or first friend of the new Government. She enjoys the fruits of their separation from the parent country; she fomented the quarrel. Then let her take the risk, as she will take the honor and the profits of the recognition of the new Power. Mr. F. was at a loss to conjecture why it had not already been done by England, unless she feared the undefined and undefinable obligations of the Holy League, or was content to reap the present profits, reserving to herself the power to secure the future, either by recognising the new people on favorable conditions, or by restoring them by her mediation to their former master, on conditions equally favorable to her commercial interest.

At what risk, it may be asked, will this recognition be made? At the hazard of a war with Spain. The gentleman from Kentucky says it is not justifiable cause of war. Does he mean in the eye of reason, or in the opinion of nations? In the opinion of nations it certainly is justifiable cause of war; and it is not to be doubted, that, were situations reversed, such a recognition of the independence of one of these States of the Union—Louisiana, for example—by Spain, would be instantly followed by war. The Speaker seemed, indeed, to doubt the soundness of this position, as he pressed principally the want of ability in Spain to make war, not the deficiency of just motive for declaring it. That war would follow with England, should Spain venture upon a contest with us, Mr. F. did not believe. She would have the most powerful motives for neutrality. The glorious opportunity of ruining our commerce would be afforded, and would be seized with avidity. The increased expense of shipments in American vessels would throw the whole of our trade into British bottoms, and our flag would be driven from the ocean, except where it floated over our public or private armed ships. Mr. F. would encounter this danger of a war with Spain, with all its consequences, for an adequate motive; but he would not, by hurrying to do an act useless at best, and which might hereafter be performed without hazarding anything. At all events, he was unwilling to encounter it, until La Plata had shown, by indisputable testimony, that she was independent, and had the power and the will to maintain it.

Was there a free Government in La Plata, for



H. OF R.

Spanish American Provinces.

MARCH, 1818.

whose existence we ought to encounter any hazard? Was there a Government independent of Spain, and which could not be compelled by the power, or seduced by the cajolements of Spain, to its former vassalage? The character of the Government might be read in the history of its formation; in the changes which preceded it; and in acts since it was established. The disturbances in the Peninsula induced the Viceroy of Buenos Ayres (Cissneros) to call a Junta in May, 1810, composed of the officers of the Royal Government. In April, 1811, a new Government was formed, by the inhabitants of the city of Buenos Ayres, having been called together for that purpose by the municipality of the city. This Government—which, like the other, was but a name for a new organization of the Regal power—was composed of three members and two secretaries. According to the *El Estatuto*, one member, exercising the Executive power, was to vacate his seat at the expiration of six months, and his place was to be supplied by election. The deputies of the municipalities of the provinces were to form the electoral college. The first assembly for the election of one of the members of the Executive authority met on the 5th day of April, 1812, and nominated Puerrydon for one member of the Government. They proposed to form a constitution, but were dissolved by the existing authority—Puerrydon deriving no power from this nomination. The second assembly met on the 6th of October, 1813, and elected Medrano; but, pursuing the track of their predecessors, they met a similar fate. The municipality, people of the city, and troops, opposed their measures, and the assembly was dissolved by military force.

A meeting of the inhabitants of Buenos Ayres, Cabildo Abierto, was convened on the 8th day of October, 1812, and the administration was vested in Pena, Passo, and Johnste. Thus perished the first constitution, after existing twelve months, and being violated in all its provisions. In January, 1813, a new assembly met; the Constituyente, composed of deputies, nominated by the electoral colleges of the towns and cities of Rio de La Plata; the chief acts of the new assembly was the change of the title of the Government from *Gobierno Superior*, to *Supremo Poder Ejecutivo*, and the decree of Freedom to the Children of Slaves. The same decree compelled a sale of every third male slave to be enrolled in the army, the price being a debt due to the owners by the State. In December, 1813, the government of those persons was annulled by the assembly, and Pozados was chosen Supreme Director, to give strength by concentrating the Executive powers. In January, 1815, Pozados having resigned, Alviar was appointed Supreme Director. In April, 1815, there was a new revolution. A meeting of the inhabitants of Buenos Ayres was convened, and the authority of Alviar and the Assembly disowned. The municipality was vested with the supreme command. The municipality formed a junta called *De Observacion*, by whom a new constitution was published. Rondeau was named Director, but, being in mil-

itary command with the army, Colonel Alvarez, a ringleader in the revolt, was made his substitute. Alvarez convoked a Congress, but before it assembled he was dispossessed by another commotion of the power he held in the absence of Rondeau. Belcora was then appointed Supreme Director, but was soon after removed, and the administration placed in the hands of a committee. The Congress of Tucuman met in 1816, chose Puerrydon Supreme Director, and declared the independence of the Provinces of La Plata on the 3d of July; proposed to publish a manifesto, which was published in 1817, and to form a constitution that has not yet been matured. In this hasty sketch of the events which led to the establishment of the Government as it now existed, it must have occurred to the members of the Committee that there was no agency of the people in its organization, except the commotions in the city of Buenos Ayres; they seem to have been the idle spectators of the movements of the constituted authorities and the military. For aught that appeared, the ancient institutions below the head of the Government, remained as formerly. Mr. F. would not detail the accusations, trials, executions, and banishments, which were the consequences of these changes. That the people were not deeply interested in the successive changes, and did not appear to have derived essential benefits from them, was sufficiently obvious, and all he desired to establish. The conduct of Puerrydon to Carrera, since this declaration of independence, may serve further to illustrate the character of this new power. Carrera was a Chilean, the author of the revolution there; in the decline of his fortune, he came to the United States, and after procuring resources for renewed efforts, returned to La Plata to execute his designs; he carried with him the hopes and good wishes of all the friends of freedom in the United States. Unfortunately, he expected assistance from La Plata, and sailed with confidence into her ports. An expedition having been prepared in La Plata, against Chili, instead of receiving aid from Carrera, in the deliverance of his country from slavery and oppression, the ostensible motive for this expedition, he was seized, imprisoned, and finally banished; the only satisfaction he received is to be found in that part of Puerrydon's exposé that has been read by the Speaker, in which he deprecates the rudeness which he has been compelled to show, so contrary to the politeness and urbanity of his own nature, and that of his Government. The motives for this course may be collected from the recent accounts from Chili. A letter of the 7th of October says, "More than eighty persons of the first distinction have been seized and thrown into dungeons by the military, on the ground of attachment to General Carrera, and the treasures of Chili were exhausted by contributions to Buenos Ayres, and the people of Chili are experiencing the benefits of that kind of deliverance from the Royal Spaniards, by O'Higgins and the army of Buenos Ayres, that France has experienced under the Bourbons, supported

MARCH, 1818.

Spanish American Provinces.

H. OF R.

by the armies of Wellington and Alexander." The power of Spain had not been exerted against this new Government—not a Spanish soldier or bayonet had been sent from Old Spain since the restoration of Ferdinand. Was the new Government possessed of the physical and moral strength to resist her efforts when they should be made? Gentlemen should not deceive themselves. Spain, inert and powerless as she was, was a formidable power to Spanish America, by the nature of the Government, and the superstition of its inhabitants. She had ample resources for the purchase of assistance, should she be driven to this resort. The time had not arrived when the Spanish Monarch asked himself the important question—What part of my dominions will I surrender for the preservation of the rest? When he is willing to make great sacrifices he can procure ample assistance. Those who sold him ships for money will sell him men for territory. His European territories may tempt Russia—his possessions in the West Indies, England—to assist him in the subjugation of his rebellious subjects. He may sell La Plata for Portugal, and the parties to the holy league may guaranty their respective cessions to each other. Shall we find in La Plata the unanimity, energy, and virtue, to resist such arrangements, where Province is arrayed against Province, under Puerrydon and Artega, viewing each other with a hostility more deadly than the proverbially mutual hatred of Spaniard and Portuguese? A still more fatal course may be pursued. The King of Spain may choose to try persuasion, giving to England the promise of free commerce with the Spanish Main; may he not easily procure another mediation, the condition of which shall be the conditional return of La Plata to her dependent state? England knew well how to make such a mediation effectual. Let it not be said her honor forbids it, or her interest. Her interest is promoted by the commercial monopoly such an arrangement will give. Her honor always bows obedient to the dictates of her commercial interest; if she should feel some qualms of conscience, the island of Cuba will calm her scruples. But has she ever promised more than to secure the commercial independence of Spanish America? What a contemptible figure should we make in the eyes of all mankind—how degraded in our opinions—if we should recognise La Plata, and the Government should shortly after voluntarily return to the Spanish yoke! That the Committee might not be deceived by the supposed attachment felt by the new Government for the United States—by the profession of an anxious desire to follow our example, and imitate our virtue, Mr. F. would mention a few facts, at once illustrating the ardor of their attachment to the United States, and the justice and honor of the Government in its dealings with individuals. The American brig *Savage*, of Baltimore, sailed to Buenos Ayres with a cargo of military stores; they there sold them to Government, to be delivered in Chili. The voyage was performed; four months elapsed,

under various pretences, before the cargo was received, and after this delay the payment was made, not according to contract, but at the discretion of the Government. The owner was thus plundered of his property, and injured by this delay of his plunderers. The ship *Enterprise*, of Philadelphia, Captain Coffin, was employed, by contract, to carry three hundred exiles from Juan Fernandez to Valparaiso, from whence they had been formerly banished by the royal party. He was to have received \$7,200. He performed his contract—restored the exiles to their country and their homes. After a detention of two months, he was paid \$2,500—St. Martin, the Washington of America, as he is called, alleging that this was enough.

In the armies of La Plata, English and French officers are employed without scruple; Americans seldom, if ever. Our countrymen do not suit their manners, opinions, or Government. Juett, formerly of the Army of the United States, and Kennedy, formerly of the marine corps, sought in Valparaiso, in 1817, commissions in the army of St. Martin. He suspected them of attachment to the Carreras, and threw them into a dungeon, and whence they were not released until the captain of a vessel, who procured their liberation, entered into an engagement to take them immediately from a soil they were deemed unworthy to tread. To judge of the character of the nation, from the cruelty and harshness, or injustice, of an individual, was not reasonable; but when that individual was the theme of universal admiration in his own country, it could not be considered as improper to make him the standard by which to estimate the opinions and character of his countrymen.

Every arrival from this land of promise brings us the history of the oppressions of the existing Government, and the fearful forebodings of our countrymen, that the people, for whom our anxious wishes are hourly expressed, will derive no benefits from the change of their governors; that the Spanish power will be restored in all its rigor; or that the new authorities will ever be exercised with the same contempt of the principles of justice and of freedom, that distinguished the ancient tyranny. It might be urged, that this was newspaper information, derived from persons of doubtful authority. This objection was of the same force, in its application, to all the information possessed of that country. It was of such materials its history was composed. A powerful, an irresistible argument, to induce the Committee to refrain from the commission of an act of doubtful propriety, might be drawn from this source; but Mr. F. would not trespass longer upon their patience, exhausted as it must be, by attending to the long and animated address of the Speaker, and his own desultory reply.

When Mr. F. concluded his speech, the Committee rose, reported progress, and obtained leave to sit again, on the intimation of Mr. Lowndes, that he proposed to deliver his views of the subject.

And the House adjourned.



THURSDAY, March 26.

Mr. POINDEXTER, from the Committee on Private Land Claims, reported a bill for the relief of John Johnson, Henry Perry, Richard Cravat, and Beley Cheney, the legal representatives of John McGrew, and the legal representatives of John Turnbull; which were twice read, and committed.

Mr. P., from the same committee, also reported a bill for the relief of James Mackay, of Missouri; which was twice read, and committed.

The bill from the Senate for the relief of John Small, was ordered to be read a third time, and was accordingly read a third time, and passed.

On motion of Mr. TERRILL, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of granting the consent of Congress to an act passed by the Legislature of the State of Georgia, allowing fees to the health officer and harbor-master for the port of Darien.

On motion of Mr. J. S. SMITH, the Committee on the Public Lands were instructed to inquire into the expediency of authorizing some other person than the President of the United States, to sign patents for soldiers' bounty lands.

On motion of Mr. FLOYD, the Secretary of the Navy was instructed to lay before this House the proceedings of the court martial held for the trial of Franklin Wharton, lieutenant colonel of marines.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting, according to the direction of the House, certain statements in relation to the expenses of general courts martial since the first of August, 1812; which was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act for the relief of Cata Bunnell; an act concerning the bounty, or allowance, to fishing vessels, in certain cases; and, An act for the relief of Samuel Ward; in which bills they ask the concurrence of this House.

The first of the said bills from the Senate was read twice, and referred to the Committee on Military Affairs.

The second of the said bills was read twice, and referred to the Committee on Commerce and Manufactures.

The last of the said bills was read twice, and referred to the Committee on Pensions and Revolutionary Claims.

## AMELIA ISLAND.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

I transmit to the House of Representatives, in compliance with their resolution, of March the 20th, such information not heretofore communicated, as is in the possession of the Executive, relating to the occupation of Amelia Island. If any doubt had before existed of the improper conduct of the persons who authorized, and of those who were engaged in the invasion, and previous occupancy of that island; of the unfriendly

spirit towards the United States, with which it was commenced and prosecuted, and of its injurious effect on their highest interests, particularly by its tendency to compromise them with foreign Powers in all the unwarrantable acts of the adventurers, it is presumed that these documents would remove it. It appears, by the letter of M. Pazos, agent of Commodore Aury, that the project of seizing the Floridas was formed and executed at a time when it was understood that Spain had resolved to cede them to the United States, and to prevent such cession from taking effect. The whole proceeding, in every stage and in all its circumstances, was unlawful. The commission to General McGregor was granted, at Philadelphia, in direct violation of a positive law, and all the measures pursued under it, by him, in collecting his force, and directing its movements, were equally unlawful. With the conduct of these persons, I have always been unwilling to connect any of the Colonial Governments; because I never could believe that they had given their sanction either to the project in its origin, or to the measures which were pursued in the execution of it. These documents confirm the opinion which I have invariably entertained and expressed in their favor.

JAMES MONROE.

WASHINGTON, March 26, 1818.

## A list of papers transmitted with the President's Message.

Extract of a letter to a gentleman in the District of Columbia, dated Baltimore, 30th July, 1817, with an enclosure, being—

Copy of a letter from Sir Gregor McGregor, to a gentleman in Baltimore, dated Fernandina, 17th of July, 1817.

The same to the same, dated at Nassau, New Providence, 25th of December, 1817, with an enclosure, being

Extract of a Proclamation.

Extract of a letter to the Secretary of State, dated 24th December, 1817, with an enclosure, being directions for sailing into Tampa Bay.

Extract of a letter from the same to the same, dated 13th January, 1818, with enclosures, being directions for sailing into Tortola: Translation of a letter of Marque, and of Naturalization, granted by Sir Gregor McGregor.

Extract of a letter to the same, dated 19th of January, 1818.

Major J. Bankhead and Commodore J. D. Henley, to the President, dated Fernandina, 20th of January, 1818.

Don Vincente Pazos to the Secretary of State, dated 8th February, 1818.

Don Luis de Aury to the President of the United States, dated Fernandina, 23d of December, 1817.

Memorial of Don Vincente Pazos to the President of the United States, dated Washington, 7th February, 1818; accompanied with several documents.

The Secretary of State to Don Vincente Pazos, dated 5th March, 1818.

The Message was read, and ordered to lie on the table.

## SPANISH AMERICAN PROVINCES.

The order of the day on the unfinished business having been announced—

Mr. POINDEXTER moved to postpone the further consideration of the bill, in order to afford time

for the documents expressly bearing on the question, yesterday communicated, to be printed and laid before the House.

After conversation respecting it, this motion was negatived.

The House then having again resolved itself into a Committee of the Whole, on the general appropriation bill; and Mr. CLAY's motion to insert an appropriation for a Minister to Buenos Ayres being yet under consideration—

Mr. LOWMYER addressed the House in a speech of about an hour and a half, in opposition to the motion.

Mr. ROBERTSON, of Louisiana.—I should not have risen to express my opinion on the present occasion, if I had not, at an early period of the session, indicated my intention to do so, whenever a proper opportunity should occur; but for this circumstance, I should have been contented to give a silent vote, for I am well aware, from my more than usual ill health, that there will be nothing in either the manner or the matter of my address to compensate the Committee for that attention which their indulgence may induce them to bestow.

I unite with the gentleman from South Carolina in considering the proposition of the Speaker as involving in its decision the views of this House, in respect to the independence of the Government of Rio de la Plata, and as to the expediency of acknowledging it. On both these points, my opinions are formed, and I shall give them utterance, without equivocation or hesitation, notwithstanding certain cabalistic words, of great efficacy with old women, and men of weak minds, of the use of which the gentleman from South Carolina (Mr. LOWMYER) has availed himself. I allude, sir, to his remarks on the danger of war, and the impropriety of casting censure on the conduct of the Executive.

I beg leave to assure the Committee, that I have no wish to involve the country in war; that I agree in everything my friend from South Carolina has said as to the inappreciable advantages of peace. I would even go further; I almost think that peace is necessary to the existence of liberty. Rarely indeed does the freedom of nations survive the expensive and bloody contests in which they are too prone to indulge; liberty, morals, prosperity, all depend upon peace; they are too precious to be wantonly hazarded; I would sanction no measure that would endanger them but under the most imperious circumstances. Nothing, too, is further from my intention than to censure the conduct of the Executive; so far from it, I wish to give to the President the strongest proof of my agreeing with him in opinion, by furnishing him with the means of executing his wishes in regard to the people of South America. Has he not told us, sir, that he feels the sincerest sympathy in their behalf, and has he not told us further that they were a people engaged in civil war, and entitled to equal rights with their enemies; and can it be otherwise than gratifying to him, that this House should concur in his views, and enable, nay, more, encourage

him with the cheering influence of its approbation, to give effect to his benevolent and kind feelings, and to do justice to the revolutionists, by acknowledging their independence, sending them an Ambassador, and placing them in that situation of equality which, he says, they are entitled to enjoy? Sir, it cannot be otherwise than agreeable to the President to know the opinion of Congress on so momentous a subject; if that opinion, independently expressed, shall concur with his own, he will act conformably to it; on the other hand, if, from the position he occupies in the Government, from his better information, or from any other circumstances, unknown to the public, he shall think it best to continue, unchanged, the state of our relations with South America, he will do so. For one I shall not object, if he does but exercise his right to judge and decide for himself; and I am too much in the habit of pursuing my own opinion, to blame others, whether in public or private stations, for exhibiting a like independence.

But, the gentleman from South Carolina seems to contend, that it is the exclusive right of the Executive to manage our foreign relations; that he is better informed on these subjects, and that this House ought not to interfere so far as to suggest an opinion or a wish, unless it is meant to be understood, that strong disapprobation is felt towards the course which has been pursued. I think, too, it may be inferred from the remarks of the gentleman, that the President is not only better informed on all questions of this kind than Congress or the nation, but that it is right and proper that he should keep his information to himself, and not part with it too freely or too frequently. Now, I dissent from all such doctrine; I look upon it to be the duty of Congress to express its opinion freely upon all questions which concern our domestic or foreign affairs, and I consider it as the solemn duty of the Chief Magistrate of a popular Government to disseminate to the people all information that can instruct them on points so important as their situation in regard to other Governments.

I would ask, sir, how else can the wise measures of a virtuous administration receive rational approbation, or how a vicious Government be arrested in its mad career? Shall it be justified in managing in secret the whole interests of the public, in plunging into war after a long concatenation of events, which, if known, might have been prevented, or in allowing the nation to repose in security, when, from its own acts, or those of other Governments, it stands on the brink of a precipice? Ought there not rather, in such a Government as ours, to be the most unreserved and frank communication of facts, of whatever kind they may be? Ought there not to be felt and evidenced, towards the people, the most entire and unaffected confidence? Will the people long continue to confide in those who manifest distrust, by covering their proceedings, whether of an external or internal nature, with a veil of mystery and secrecy?

I cannot approve of the observations of the



gentleman from South Carolina, and I do hope that the present Administration will act on no such principles. In the examination of the present subject, I shall not indulge myself in so wide a range as some of the gentlemen who have preceded me. I will endeavor to show that the Government of Rio de la Plata is independent, and that it is expedient to acknowledge that independence. To establish the fact of its independence, let us inquire whether it has declared itself independent? Of this there is no doubt; this fact is not disputed by any one. I state it thus, specifically, because it is far from being itself an unimportant circumstance. In our own case, it was not so considered. In the language of one historian, Ramsey, after that event "we no longer appeared in the character of subjects in arms against their sovereign, but as an independent people, repelling the attacks of an invading foe." And Marshall says, "we changed our situation by the Declaration of Independence, and were no longer considered as subjects in rebellion." From that time, too, we date our actual independence. It has not been permitted to be deferred till its acknowledgment by other nations, nor until the peace; and so has the fact been established, as well by political as judicial decisions, both in England and in the United States. Buenos Ayres remained faithful to Spain under circumstances extremely favorable to her throwing off the yoke. When the Peninsula was overrun by a foreign army and torn by domestic faction, the people of Buenos Ayres submitted to be governed as a colony; they were willing to continue their former connexion, while the Government was in the hands of Charles, or Ferdinand, or Juntas, having the semblance of power; but, when the whole of the Peninsula, except Cadiz, fell into the possession of France, they declared themselves independent; this was done by the Viceroy Cisneros. But the final and great act of 1816 flowed from the people; they then declared themselves independent of Spain and the Bourbons; established a Government for themselves, and have ever since enjoyed the most perfect exemption from everything like foreign control. They now appoint their own Executive Magistrate, their legislators, their judges, lay taxes, raise armies, and build navies, with which they not only secure their own independence, but diffuse that blessing over the neighboring Governments of Chili and Peru. They are more independent than we were at any one moment previously to the peace of 1783. Their soil is free from the pollution of a foreign hostile foot; and, if it be said that they have their factions, so had we ours. We had, in addition to our foreign foes, our Tories and domestic traitors. But it is objected that the provinces are not all united under one Government, and that Artigas is in possession of the province of Montevideo. But the possession of Artigas is not the possession of Ferdinand; the whole of the Banda Oriental is as free from his authority as Buenos Ayres itself; and the sole question at present is as to the independence of Rio de la Plata of its

former European master. The freedom of Venezuela, New Grenada, and Mexico, is, unhappily, less assured; but they, too, have declared themselves absolved from the tyrant's yoke. Many years ago the Executive of the United States laid before this House the Constitution of Venezuela, and a resolution was adopted by the committee to whom it was referred, declaratory of the interest this House felt in their success, and promising to recognise them as independent when they should take a stand among the nations of the world. In regard to Buenos Ayres, that happy period has arrived; and it becomes us to realize the hopes to which our promises have given rise. The fate of New Grenada has been various; it has sometimes enjoyed self-government, and has been again subject to the temporary control of the usurpers of its rights. The gentleman from Georgia tells us, that Mexico has been preserved to the royal cause by its own native population; that it has not been found necessary to send over foreign troops to secure its allegiance to its sovereign. But the gentleman forgot to inform us that Mexico has been always filled with European troops, and that the number already there rendered any augmentation unnecessary. But for the Europeans in Mexico, a dissolution of its connexion with Spain would long ago have taken place.

But, sir, for what purpose has the gentleman from Georgia dwelt so long and so earnestly on the motives of the people of South America for declaring themselves independent, and on the manner in which the struggle has been conducted? The only question is, whether they are or are not independent. But the gentleman is as mistaken in his views on these subjects, as it is unkind in him, professing, as he does, to wish success to their cause, to pass their conduct, distorted as it is, in review before us, when nothing renders such investigation necessary. The gentleman says, that their revolution did not begin on principles favorable to individual liberty; but I would ask, sir, what revolution ever did? What revolution ever stopped at the point to reach which it commenced? What revolution, at its origin, ever advanced the principles on which, in its progress, it was conducted? What revolution ever terminated where the particular grievances were removed which gave it birth? A candid examination of our own history will sufficiently elucidate these views. We did not commence our contest with the mother country with any avowal, whatever might have been the intention of the intelligent and virtuous, of a wish to throw off colonial subjection; far from it; our professions of attachment and fidelity to the monarch were never before so frequent nor so strong. We complained of trifling grievances; proceeded cautiously to remonstrances, then to resistance; declared ourselves, after a lapse of some years, independent, and ultimately overturned the entire fabric of that Government, which, in the beginning, we so often praised, and merely affected to disapprove in some comparatively immaterial points. So the South Ameri-

can patriots act cautiously in regard to their former masters; profess, for a convenient time, entire devotion to their will, and take advantage of circumstances to effect the liberation of their country. But I acknowledge that individual freedom does not seem to be with their leaders a subject of sufficient concern, and perhaps on this point it is no more difficult to excuse them, than on that connected with their national independence. Let it be kept in view that they have two great objects to attain—the one, obnoxious to Spain, their national independence—the other, hateful to all Governments, except our own, individual liberty. As they, in common with all revolutionists, have found it necessary to mask their designs on the first point, so may it be politic in them to be as silent as possible in regard to the other. Where, throughout this enslaved world, are they to look for countenance or support, if they should dare to announce too openly their attachment to democratic forms of government? Will the combined despots of Europe smile upon their efforts? Can they look across the Atlantic for the cheering influence of approbation, when even here, in this Republic, they meet with cold indifference? Do they not perceive that the nations of Europe, although friendly to their independence, are hostile to their freedom? And may not this account, if it be true indeed, for the carelessness exhibited by them, according to the gentleman from Georgia, on the subject of individual rights?

But it is objected that the Provinces of La Plata are not united under one Government; and the gentleman from South Carolina suggests that whole districts of country are probably still subject to royal authority, or governing themselves independently of Buenos Ayres; this may or may not be the fact; but this is certain, that their distance, their want of population, their obscurity, are too apparent to have any effect on the present question. The gentleman from South Carolina adverts to a mistake of the Speaker, as to the number of the provinces of La Plata, and tells us that there are no more than thirteen, instead of twenty. Exclusive of the inconsequence of this difference, I would observe, that it is far from being certain that both the gentlemen are not in error. Like them, I have paid some attention to the geographical history of that country. My researches have led me to suppose that the Audiencia of Charcas, which includes the whole of the country sometimes called the Government of Buenos Ayres, and now the Government of Rio de la Plata, is divided into provinces, districts, and jurisdictions; that there are nine provinces, seven districts, and four jurisdictions—making twenty grand divisions, and some of these again are subdivided into smaller provinces. But it is not wonderful that these differences should exist on this and many other questions respecting Spanish America. It was the policy of the Royal Government to keep the world ignorant of that country, and to keep the inhabitants ignorant of each other. But, however all this may be, the inquiry as to the geographical divi-

ion of Buenos Ayres, is of no importance in settling the question of its independence; this rests on broad facts, some of which I have mentioned, and which are known to the whole world; they establish the independence of the Government of Rio de la Plata beyond all dispute, and it remains now to be asked, whether we ought or ought not to acknowledge that independence? The first question that naturally presents itself, is, whether it is the custom of our Government to acknowledge the independence of independent nations? There is no doubt of this fact. Is there a monarchy in the world, whose independence we have not recognised, or are not prepared to recognise? However little they may merit respect; however insignificant they may be in the scale of nations; however odious the principles and practices of their Government, their Representatives are greeted here at Washington with an attention the most flattering. Have we not an Ambassador from Ferdinand? I mention him as an odious monarch; and have we not one also from Louis XVIII? And will it be for a moment contended, that Rio de la Plata is not more independent than France? Is Rio de la Plata in the possession of a foreign Power, and kept down by foreign bayonets, or is it self-governed? Yet France has her Representative here, while a more independent people are excluded from that attention and respect. Sir, if the Government of Rio de la Plata was monarchical, three months would not elapse before its independence would be recognised by the United States. I do not mean to say on account of its being monarchical; but in that case it would not be an object of hate and jealousy to the despots of Europe. They would acknowledge its independence, and we would then come in lagging on behind: we would follow their example. But the political institutions of that State are not legitimate; and, although the legitimates of Europe have no objection to their independence of Spain, they do object to their undertaking to govern themselves, without the paternal assistance of Kings. For my part, I should wish, on such an occasion, to take the lead; I would exult, as a Republican, in viewing my own Government proudly taking ground for itself, and disdaining the most indirect dictation, or even imitation, of their sacred Majesties of Europe. I should like to perceive among us a little more of that sympathy for Republics, which they so strongly feel for each other; and as I think their policy wise in surrounding themselves with Governments like their own, I cannot help being of opinion, that we should be strengthened by the establishment of free governments in this Western hemisphere. Justice to ourselves requires this course. We ought not to hazard the loss of the affections of a nation struggling to be free. If we are cold and indifferent towards them, finding themselves utterly abandoned, when they had a right at least to respect and countenance, they will adopt the principles which, however injurious to their civil rights, secure them the smiles of monarchs, and separate them from the



internal despotism of Ferdinand. Sir, under circumstances much more perilous, we have acted with more manliness; we have disdained to be drawn from that course which a due regard to ourselves, as well as to others, required. When France rose in the majesty of her strength, and broke the chains of a monarch's sway; when the Kings of Europe, terrified and enraged, combined to strangle in its birth the infant freedom of the world; when, so far from recognising, they clad themselves in armor to annihilate the Republic; when our aristocratic Minister at Paris gave us to understand that an acknowledgment of the Republic would prove fatal to our own; then, even then, comparatively feeble as we were, destitute of the population and resources which we now possess, the Executive formed the magnanimous resolution to receive the French Minister.

I beg leave to call the attention of the Committee to the very words of the immortal man who then presided over the Executive department; they deserve to be deeply engraved on the memory of every American statesman. In a letter at that time written to Mr. Morris, our Ambassador at Paris, General Washington observes: "That the right of every nation to govern itself according to its own will; to change its Constitution at discretion, and to transact its business through whatever agents it might think proper, were principles on which the American Government itself was founded, and the application of which could be denied to no other people." Do we not deny the application of this principle to the people of Buenos Ayres? And if it be the principle on which our Government was founded, do we not abandon it? Were they not provinces like ourselves? Have they not changed their institutions and their agents? If the principle be true in respect to ourselves, is it not equally so in regard to others? And do they not present precisely the case, on the happening of which General Washington considers the recognition of them as necessarily growing out of the elementary principles on which our own Government stands?

Still, there was a party at that time opposed to the acknowledgment of the French Republic; the question whether a Minister should or should not be received, was submitted by the President to his Cabinet, as it is called. Mr. Hamilton and General Knox were opposed to receiving a Minister; Mr. Jefferson and Mr. Randolph in favor of doing so. General Washington, who had previously made up his own opinion, pursued the course recommended and sustained by the latter gentlemen. Mr. Genet was received. We did not wait for other nations to set us the example; we were not afraid of their displeasure, although they were all combined in arms to put down that Government; we acted as we chose, we acted as became the dignity of a free people; then the cry of danger, the alarm of war, which were incessantly rung in the ears of the public, were disregarded; we scorned the fear of punishment for exercising a right, for performing a duty. But it is a curious fact, and one that places our

present course of procedure in a most singular and unfavorable aspect, that the policy of Washington was denounced as timid and unfriendly to France. The Republicans of that day, at the head of whom stood our two last, and our present Chief Magistrates, were dissatisfied with the coldness and indifference of the then President towards a people struggling to establish the great principles for which we had so nobly contended. Who were right and who were wrong, it is not for me to decide, but General Washington received a Minister from France, when a political war was waged against her by all Europe combined. He recognised that Republic when it was outlawed throughout all the world, when our population was comparatively small, when our resources were insignificant; while we, at the present day, when there is no war against the independence of the people of Buenos Ayres, while they are not denounced or outlawed, when indeed their independence would be to the interest of all other nations; when our strength, physical, and moral, is augmented to boundless resources; and above all, when there is no danger, we, I say, do not by any means go as far as that Administration, whose caution, as it was then called, was so offensive to the Republicans of that day; for what reasons and from what motives, I can neither comprehend nor conjecture.

But, although I have succeeded in proving the independence of Buenos Ayres, and in showing that it is agreeable to the usages of the United States to recognise the independence of independent Governments, yet it will be said that, in this case, we should deviate from our accustomed course, for fear of involving our country in war. If this were a sufficient reason, if it were very honorable to acknowledge ourselves deterred from doing what we have a right to do, from what we are accustomed to do, yet the reason is utterly unfounded in truth; for why are we to be involved in war, and with whom, no one can tell; there will be no war, there is no danger of war; in truth, war rages nowhere but in distempered imaginations.

Is it a cause of war that we acknowledge the independence of any Government whatever? It never was so considered. Consult jurists and historians—examine facts and theory—I venture to assert, that the simple recognition of independence, without aid or compact, was never deemed a cause of war, and never did produce it; the declaration of war by England against France, during our Revolution, has been frequently mentioned as proving the position for which our adversaries contend. A brief statement of facts will show how fallacious is such a conclusion. That France did not content herself with simply acknowledging our independence, but at the same time that she guaranteed that independence, and entered into treaties with us, that it was for her effrontery in making treaties with her revolted colonies that England resolved on vengeance, are facts as notorious as any in the history of that interesting era.

Ramsey tells us that, after the capture of Bur-

goyne's army, the King of France determined to take us by the hand and publicly to espouse our cause, and that our Commissioners at Paris, Franklin, Dean, and Lee, were informed by Mr. Garrard, one of the Secretaries of the Council of State, "that it was decided to acknowledge the independence of the United States, and to make a treaty with them; that his most Christian Majesty desired the treaty once made should be durable; that he was fixed in his determination not only to acknowledge, but to support their independence, and that the only condition he should require and rely on, would be, that the United States, in no peace to be made, should give up their independence, and return to their obedience to the British Government." Conformably with these preliminaries, Louis XVI., on the 6th of February, 1778, entered into treaties of amity, commerce, and alliance, with the United States, and became the guarantee of their sovereignty, independence, and commerce. The alliance between France and America was soon known to the British Ministry, and the King and Parliament resolved to punish France for treating with their subjects. It will not be denied that here there was cause enough for war; but how different from all this is the proposition for the simple recognition of the independence of La Plata! But from whom are we to apprehend war—from the Spaniards? The idea is too ridiculous to be for a moment entertained. The Administration has given them quite cause enough for war already, by taking possession of, and holding a part of their territory, and that, too, in spite of the protest of their Minister. We are at this moment, too, invading their country in pursuit of Indians; the truth is, they cannot make war against us, and our Government know it. How can they do so—have they troops to spare? Why, they are unable to send a single regiment against some of their provinces; and their troops in those where they have any are diminishing daily. I do think we are in no imminent danger from Spain; but perhaps France may resent our sending a Minister to La Plata. Poor France, trampled, humbled, and subdued—I will pass by her—but England may be disposed to chastise us, if we countenance the rebel Americans. Now, I will venture to assert that there is not an intelligent man in the United States, that does not know that England is as much interested in the independence of South America as we are, that she has done more to promote it, and that, from everything that we can observe, she is as liberal, in all respects, to the great cause in which they are engaged as we can pretend to be. We may hush our alarms on that score—England will not make war upon us; from the present state of Europe, I believe we shall not have another war with that nation; I am sure we shall not, unless for a better cause than our recognition of the independence of La Plata.

Mr. Chairman, the combined despots of Europe cannot, as formerly, indulge themselves in the royal sport of arms; they cannot wage wars of amusement or ambition; they are sufficiently em-

ployed in keeping their own subjects in subordination. Admirable as their Governments may be, something like coercion seems necessary to impress that opinion on the minds of their people. The armies of Europe are not now intended to guard against, or to make foreign conquests; they are to keep their inhabitants in slavery, and the kings on their thrones; three millions of soldiers in arms are all necessary for that purpose; they have no occasion to look abroad for employment; they need not come across the Atlantic. Sir, the impulse given to the human character by the American and French Revolutions still survives; the principles of despotism and superstition are dead—they do not suit the age; they may be sustained a little longer by the force of bayonets, but the love of liberty lives in the heart, will again before long have utterance, and ultimately succeed and triumph. Blind, indeed, must that man be, who does not see in the large standing armies of the Governments of Europe, the fear—the just fear—in which they stand of those whom they rule and oppress. Sir, we may manage our own affairs in our own way, without the fear of kings before our eyes. They have enough to do to keep things in order at home; their vigilance is more and more necessary every day; if they relax, they are hurled from their usurped dominion. I rejoice in this state of terror and alarm, and I most seriously wish that many years may not pass away before sufficient proof may be given that their fears are not unfounded and visionary.

But, sir, admitting, as is, on the main, generally admitted, that war would not be the consequence of sending a Minister to Buenos Ayres, yet it is contended that we have no interest, commercial or political, in their independence—indeed, it is pretended that it would be better for us, that they should continue in a state of colonial subjection. Sir, I feel an aversion seriously to combat so vile a proposition. I cannot believe that the happiness of others is incompatible with our own—such a principle does not enter into the great scheme of nature—it is the pitiful emanation of counting-house calculation, and is as untrue, as it is unworthy of anything but contempt. Sir, the independence of South America is the common cause of all commercial Powers—for the question is, whether its trade, by the subversion of its independence, will be again monopolized by Spain; or, by the establishment of it, laid open on equal terms to all the world; whether it is our interest to participate in the commerce of the colonial possessions of Spain, amounting in exports and imports to two hundred millions of dollars, or to be excluded from it entirely. This is the view of the subject; for it must not be forgotten that a return of these countries to the state of colonies, brings along with it the concomitant effects of the monopoly enjoyed by the Metropolitan government. The commerce which we now enjoy would be lost to us; and when we take into consideration the number of our vessels already engaged in trade with the Atlantic ports, as well as those with, and without licenses, interchanging their cargoes with those on the



Pacific, we cannot even now doubt of its importance. Our navigation would be benefited by carrying for them a portion of their valuable productions to Europe, and returning to them the manufactures of that quarter of the world in exchange. In carrying our productions too, wherever we might obtain the means of purchasing commodities suited to their markets, our manufactures, too, if we become a manufacturing people, will then find additional demand; and I believe it may be also established, that our agriculture would receive essential benefit. It may be fairly assumed, that the price of the raw material will be enhanced in the proportion of the demand for the manufactured article; and the demand for the manufactured article depends upon the number, the wants, and the wealth of the consumers. Who can, then, deny that these facts depend materially upon the independence of South America? Independence will bestow upon the people every blessing—it will add to their numbers, to their industry, to their wealth, to their disposition and their ability to consume commodities, many of which will be manufactured from our raw materials—thus giving encouragement to agriculture; and, being conveyed to them by our vessels, adding to the prospects of commerce, and the prosperity of navigation. An estimate of the value of a free commerce ought not to be made from the present situation of this interesting and unfortunate people, depressed and poor, from the combined effects of superstition and despotism, habituated to privations, and ignorant of the importance of the world to them, or of themselves to the world. Their present value in the scale of nations is comparatively inconsiderable, yet their imports and exports exceed our own, and, when we reflect, under the colonial system, on the necessarily enormous price of imports purchased exclusively from Spain; or, if obtained in any other country, burdened and clogged with heavy duties, payable into the King's treasury, we may arrive at something like just conclusions. When looking into futurity, we find millions of slaves converted into freemen—their industry, their wealth, and their wants increased, the products of their labor augmenting in value, and the articles of their consumption diminishing in price. But I do not consider the direct pecuniary advantages to our country, however great and certain they may be, as of so much importance as the political and moral effects growing out of a liberal and manly policy towards that people. It will have a tendency to give us confidence in the firmness and virtue of Government—it will prove that it is not forgetful of the high character which belongs to us as a powerful and free people—that the reputation we have acquired, at the expense of so much blood and treasure, is not to be sacrificed by timidity or an undue spirit of accommodation towards the monarchs of Europe—that we will do what our principles require, in spite of imaginary terrors, artfully excited by the enemies of freedom—in fine, that, cautious of giving just cause of offence, we will pursue the path of fidel-

ity and honor, in defiance of the views and wishes of those whose political institutions make them necessarily hostile to human happiness and human rights—that we dare at least do, what we are sustained in by right and truth, in favor of the liberties of mankind, without being deterred by those who promote, with unhallowed violence, at the expense of every sacred obligation, the dogmas of priestcraft, and the doctrines of despotism. And if we are asked by the officious and intermeddling representatives of kings, why it is, that we not only feel, but manifest sympathy for a people struggling to be free, let us refer them to their own unholy combinations, in support of the execrable principles of their government—let us tell them of their wars for thirty years past against liberty—that if the safety of monarchies in Europe depends on the annihilation of republics, the security of a republic in America will not be injured by other republics growing up by its side; and that, if they have presumptuously broken down, by force, whatever stood in the way of the establishment of tyranny, we may at least hope to be forgiven for going so far as to assert an abstract proposition in favor of freedom; for, sending or receiving a Minister from La Plata is no more.

Mr. Chairman, this firm and open course of conduct would be worthy of the excellence of the Government, which it is our pride and our boast to enjoy—it is due to ourselves. Gentlemen say, that the people of South America have no claims upon us. I do not advocate the measure under consideration, on any such ground. I do not believe, that the Government of La Plata has not only no claim upon us, but that they wish from us nothing but an acknowledgment of their independence—a measure, in justice, due as much to ourselves as to them. It gives me much pleasure to believe, that they neither wish nor require our aid. We have nothing that they want—they have money and arms, and a brave population, resolved to be free. They only wish to be placed, by a Republic, on a level with other established Governments. This we do not refuse to monarchies, and we ought to exult in an opportunity of being the first to do so in regard to a people, like ourselves, freed from the yoke of colonial vassalage. In the event of future wars, the political character of South America will be of much importance. If they are reduced to colonies, or seduced by the flattering attention of Kings, and driven by the cold neglect of the United States to adopt monarchical institutions, their weight, their wealth, their boundless resources, may all add to the torrent which may threaten to overwhelm us—but should they all ultimately prevail not only in establishing independence, but free Government, we, instead of Europe, would enjoy these advantages, or at least the negative benefit of their neutrality. That the commerce and independence of millions of individuals, occupying a country abounding in the richest productions of the world, should be unimportant and uninteresting to us, is an idea far beyond the reach of my comprehension. Such an opinion must grow out of an

obliquity of views and perversity of intellect, peculiar to the few by whom it is entertained.

In the progress of this debate, sir, I have been very forcibly struck with a circumstance which I proceed to mention: The gentleman from Georgia is much alarmed at the strong and fearful proposition of the Speaker. And the gentleman from Georgia tells us, that he is decidedly in favor of taking possession of Florida, whilst the gentleman from Kentucky, on the other hand, objects to the proposition of the gentleman from Georgia, as being infinitely too hostile, and fraught with the very dangers improperly attributed to his own; whilst a large majority of the Committee seem to object to the propositions of both the gentlemen on the score of their belligerent character. Now, for myself, I think my course is clear. I agree with both the gentlemen—I would send a Minister to Buenos Ayres, because we have a right, and it is our duty to do so, and I think it also a harmless and inoffensive measure. And I would take possession of Florida—I would give the Executive efficient support—I would enable them, after having so clearly and so fruitlessly established our claims against Spain, to do the nation justice. I would prove to the world, that the many grievances of which we have for so many years so bitterly complained, were really felt; that the debt which was demanded, was really due, and that it should be paid. I would not suffer these things, so important to the rights and the character of the United States, to exist any longer as mere themes for diplomatic dexterity and discussion—I would after 15 or 18 years cease to write or talk about them—I would sequester the adjoining territory of Spain, till she agreed to do us justice—I would take Florida from Ferdinand, and give the same reasons for doing so as those which had induced us to take Amelia Island from the patriots. I would say it is an asylum for runaway negroes; that it is a means by which Africans are smuggled into the Southern States; that it furnished facilities for the violation of our laws, to the serious injury of our revenue; all these facts are as true in relation to the other parts of Florida as to Amelia Island, and true to a much more mischievous extent. But in addition to these reasons, I would state others exclusively applicable to Florida. Is not Florida filled with a population the most horrible to encounter, composed of negroes and Indians, who carry desolation and death among our frontier inhabitants? And is not Spain bound, by the solemn stipulation of treaty, to preserve us from the destruction which she now so calmly witnesses? Are the wrongs of our citizens, and the enormous expense to which we are driven to protect them from further injury, unworthy of consideration?

I would then take possession of Florida; and I would take possession of it openly, and above board: I would approach the subject by no indirect course; I would act in the face of the world; supported by conscious rectitude, I would be prepared to meet whatever consequences might ensue. And it is not the great and unholy destroy-

15th Cox. 1st Sess.—49

ers of the independence of nations in Europe, those who have reduced to their dominion whomsoever they pleased, wherever situated, whether in America, Europe, Asia, or Africa, from whom I should apprehend reproof. Their conduct in regard to others, has indeed been black; ours would stand the test of the most scrutinizing examination. I think their objections might be successfully met by a short catalogue of their own acts; a concise recapitulation of their own ambitious and iniquitous practices.

Having now, Mr. Chairman, however unsuccessfully, attempted to show that the Government of La Plata is independent; that it is agreeable to common usage to acknowledge the independence of independent Governments, that such acknowledgment is not a just cause of war, and in this case could not produce it, I cannot but hope that the proposed appropriation will be agreed to. It will be considered by the world as an expression of the opinion of the Representatives of the people of the United States, on a subject of great importance; it will be considered in no other light. It is ridiculous to connect it with what the President has done or said; it will be viewed under a more important aspect—it will evidence the deep interest which is felt by the people of North America in the situation of their brethren of the South; it will add in after ages to our fame and honor; it will show that we at least are not indifferent to the political fate of man. Sir, I feel a warm interest in the future prosperity of South America; it ought not to remain in its present debased and humbled state. Nature has done too much for it to intend that all the blessings it has bestowed should be bestowed in vain; that its beneficent plan should be marred by a capricious tyrant. The diversity of its climates, its various productions, its peculiarly happy situation, lying between the other quarters of the world, with ports on the Atlantic and Pacific oceans; its large rivers and fertile soil, all give it a distinguished station in the universe. But, sir, it is said by the gentleman from Georgia, (Mr. FORSYTH,) that its inhabitants are at present neither free nor fit for the enjoyment of freedom. I do admit, sir, that despotism has done much to disqualify them for the enjoyment of their rights, but I will not believe that they are intended, by an all-wise Providence, to remain the slaves of kings and priests. I believe, I hope the gentleman is mistaken; I do hope that we are not the sole depository of all the freedom that survives—the ark that floats alone on the universal deluge.

Mr. SMITH, of Maryland.—The motion now under consideration, is to appropriate a salary and outfit for a Minister to La Plata. This course of conduct on the part of Congress would be novel and wholly unprecedented. The Constitution has given to Congress legislative powers—to the President the direction of our intercourse with foreign nations. It is not wise for us to interfere with his powers; his plans may be digested with wisdom; our interference might destroy them, and, perhaps, at the moment when they would otherwise have succeeded. Each branch had bet-



ter confine itself to the duties assigned it by the Constitution. Much offence was given by the President, by an opinion expressed, with the best motives, in his Message, as to the powers of Congress to construct roads and canals. The Speaker expressed his sentiments on the subject, conceiving it to be an improper interference of our legislative rights—as giving weight to the arguments of those who concurred with the President on the Constitutional question. Is the motion now before you intended as a retaliation? Are we about to direct him in his duty, and to tell him what he ought to do? No, said the gentleman last up, (Mr. ROBERTSON,) we mean only to sustain him. I do not find that he requires us to sustain him; he appears to have taken his course, as it respects the colonies of Spain, with judgment and caution. He appears to have a sincere desire that those colonies should become independent, but he wishes first to know their true position. He does not think the information he possesses is sufficient. We are called upon to recognise the independence of La Plata, and upon what information? Certainly none sufficient to enable us to make up a wise decision on a subject so very important. No two gentlemen agree upon the state of the country, or the form of Government. We know not whether it is a Republic, such as ours, of the people; whether it is a military Government, or one by Dictator. But we are told by my friend, (Mr. ROBERTSON,) that we should pursue the course of conduct adopted by General WASHINGTON with the French Republic. Well, Mr. Chairman, we consent. Did Congress, on that occasion, direct the conduct of General WASHINGTON? Did that Congress tell him, that he did not understand what he ought to do, and that they would instruct him? No, sir, they left him to exercise the powers vested in him by the Constitution—to the exercise of his own judgment; they sustained him by no act. Let us act in like manner by the present Chief Magistrate; he has not asked for our assistance—he has asked no outfit for a Minister to La Plata; when he does, it will be time to consider the subject.

The Executive is charged with an indifference—a negligence—towards the cause of the patriots. I cannot discover any; on the contrary, it is well known that, about six or seven years past, an agent, of intelligence, was sent to La Plata; that he travelled through all that country and Chili, and remained some years in those colonies; another agent is now there; and lately three commissioners have been sent by the present Executive; their object, to judge of the state of the new Power, of its capacity to maintain its independence, and to procure such other information as may enable our Government to form a correct opinion before we act. Why, then, not wait their return? Why precipitate a decision, before we are possessed of such authentic information as will justify a step that may involve the nation in war? The Speaker has told us that recognition is not cause of war, but that aid is cause of war; and he has referred us to the revolt from Spain of the United Provinces of Holland, and to our

own glorious Revolution. Let us examine the facts. When Queen Elizabeth recognised Holland she granted aid, at the same time she pursued no half-way measures—she generally acted with decision. How did France act towards us? In May, 1776, she sent an agent to London to confer with Arthur Lee; he informed Mr. Lee that the Court of France wished to send us an aid of 200,000 louis-d'ors in specie, arms, and ammunition, and what he wanted to know was, to what island it was best to make the remittance; that, to give it the appearance of a mercantile transaction, a small quantity of tobacco should be sent in return, as a cover, but that the remittance was gratuitous. It is well known that Beaumarchais (the French agent) drew from the public arsenals of the King, cannon, arms, and clothing, for twenty or thirty thousand men, and that they were actually shipped in September, October, and November, 1776; they were delivered to Beaumarchais, as if he had been a merchant, and he gave his assurance that they should be replaced; and he actually received from the King one million of livres in June following, which has been thought by many was to enable him to purchase and replace the military stores drawn by him from the public arsenals. The great aid of military stores and money, say three millions of livres, afforded by France to the United States, we know was known to England. The King of France, in his letter to the King of Spain, dated 8th January, 1778, says distinctly, "England has taken umbrage at those succors, and has not concealed from us that she would be revenged on us sooner or later." Those succors were given in 1777, were known to England, yet she did not go to war on that account; but soon after De Vergennes had declared to Lord Stormont, that France had recognised the independence of the United States, had authorized a commerce with those States, and were determined to protect it, war was declared. Here, then, it appears that the recognition was the cause that England did actually go to war. Holland gave us no public aid whatever; she even forbade us to ship munitions of war from her European ports; but she permitted our merchants to obtain supplies, and to trade openly with her colonies of St. Eustatia and Curacao. When Mr. Laurens was taken, his papers were saved before they sunk, and a recognition of our independence (perhaps a treaty) by Holland being found among them, war was immediately declared against her by England. From these facts I am induced to form an opinion, that recognition is a cause of war.

A comparison has been drawn to our disadvantage between the conduct of France towards us, when we were struggling for our independence, and our conduct towards the patriots of South America. Let us examine the subject with candor. France covertly permitted arms, &c., to be taken out of her arsenals for our use; she openly forbade her ports to our trade; would not admit our flag to fly in her European ports; but the secret agent (Beaumarchais) procured a private permission from the Farmer General to

permit them entry. How differently have we acted towards the patriots? Our Government, for causes into which I will not inquire, made sale of a large quantity of arms to the merchants, who publicly shipped them, and arms bought from individuals, together with powder and other munitions of war, to South America, and thus took the lead of all other nations, in substantially aiding the patriots in their struggle for independence. The laws admitted all people freely to enter our ports and trade; the President might have permitted the laws silently to operate; he did more; he issued orders, lest any difficulty should arise, to the collectors to admit the vessels and flag of the patriots to entry; and I think the Spanish Minister protested without effect against that conduct. From this view of our conduct, I do not think we can justly be charged with doing less for the patriots than we ought to have done, or than France did for us.

The Speaker has given us a correct geographical view of the Spanish colonies, commencing with Mexico. He describes that colony as capable of producing some articles similar to the produce of the United States, particularly tobacco; but comforts us with his belief, that the people, not having heretofore produced it in such quantities as to interfere with us in foreign markets, they will not when they become independent. The Speaker knows that the article of tobacco was a monopoly in the Crown, and that its culture was confined to particular districts of country by the laws, and that little more than necessary for the mother country and colonial consumption was allowed to be raised; that a free export was not permitted. But when an independent Government shall be established, which I sincerely wish, new excitement will take place; agriculture will be free from all shackles; commerce will be open to all nations, and those oppressed people will make use of all the means that their fertile land will afford; and why should they not? Why wish them free and independent, and indulge a wish that their industry should be paralyzed, lest it should interfere with our interests? The Speaker has forgotten that the table lands of Mexico produce, in great abundance, the finest wheat; that flour is exported from La Vera Cruz; and that, if the people were encouraged, they could spare large quantities.

Mr. Chairman, I see, sir, that the Committee is impatient. I shall pass over New Grenada and Venezuela, and apply my observations to the object of the mission under consideration, to wit, La Plata. In a commercial point of view, of what service is La Plata to us? Of very little in time of peace; the produce of that country is the same as our own, to wit: breadstuffs, cotton, tobacco, &c. I know no article we can export to La Plata, except munitions of war; of them they have now a superabundance. In time of peace and tranquillity, they will not want even those articles. From La Plata we can import hides and tallow, the Speaker says, and specie. I believe they have no mines, and the specie

procured by them is from Peru; they generally, however, have had a large amount of specie in circulation, and, of course, it may be procured—but how? We cannot get their specie, hides, and tallow, without having something with which to pay for them; we can send nothing from our own country to buy specie, and the nations whose manufactures suit the people supply them direct, on better terms than we could do indirectly. The Speaker very justly observes, "that the ingenuity and enterprise of the merchants is very great; and he trusts that they will find some circuitous mode of arriving at the means by which the specie may be procured at La Plata; that the merchants have been under the necessity of calling at some European port for specie for the India and China trade;" and this is true, but then the ships always carried cargoes, on which the owners expected to make a freight to pay the expenses of the intermediate voyage. The difference in the price of specie between the market of Europe, and that of Buenos Ayres, would not pay the expense and loss of time that would happen to a vessel bound to India, for stopping at that port, and it would scarcely be an object for a vessel to go in ballast from the United States with bills of exchange to purchase hides and tallow; the distance is too great. Few of our merchant vessels frequent Buenos Ayres; and the merchants who have had funds there lately, have been under the necessity of employing English vessels, in many instances, to bring the hides and tallow of that country to this.

The Speaker has informed us that the people of La Plata cannot become a navigating people; and, of course, they can never interfere with our carrying trade. He says, they are too near the sun to become seamen. I have always understood that navigation had its origin among the people who lived in warm climates. The Malays live directly under the sun, and are believed to have carried on navigation in former times, throughout the whole of the Indian seas; their language was a kind of Lingua Franca, when the Portuguese first discovered the way to India. The Arabs filled at that time, although near the sun, all the ports of India. Tyre and Carthage are both nearer the sun than Buenos Ayres; and their people were the greatest navigators of the then known world; but Buenos Ayres is, I believe, no nearer the sun than we are at this moment. It is in about the same latitude south that the Chesapeake is north. La Plata will support her independence; and, I hope, will (when at quiet) establish a good form of Government. If it be a Government of the people, the mind will be free to act, and the consequence must be, that they will, in a few years, have ships of their own. Yes, sir, they will build ships; will extend their commerce, and will become their own carriers. Why should we doubt it? Who would have supposed, in 1790, that the United States would in 1806 have been the second navigating people in the world; that we should at this time have nearly one million and a half of tons of merchant vessels, including the



H. or R.

Spanish American Provinces.

MARCH, 1818.

coasting vessels. This great increase is owing to our free Government and wholesome laws. With such a Government, the people of La Plata will soon be a navigating people, and in twenty or thirty years, may have a fleet equal to that we now have; and, if they should, we may at some future day defend the liberty of the seas, acting in concert.

The Speaker has said that Spain cannot go to war—that her finances are in too ruinous a state. He tells us that he derives this information from Mr. Garey, the Minister of Finance, who has drawn a picture of their finances, not unlike that of Mr. Dallas's report of the finances of the United States. Yes, sir, Mr. Dallas boldly told us our situation, and we profited by knowing the truth. Mr. Garey has as boldly told the truth to the King of Spain, and what has been the consequence? Why, the King has lessened the public expenses, by discharging a host of custom-house officers; for every town in the interior of Spain had its custom-house; now they are only to be seen on the exterior of the Kingdom. But the great object of Mr. Garey was to show the King the indispensable necessity of compelling the nobility and clergy to pay their fair proportion of the public burdens. The King has done so. This has brought in a large addition to the treasury. The clergy had remonstrated, but without effect. I state these facts to affirm the observation of the gentleman from South Carolina, to wit: that we ought not to place too great a reliance on the defect of the finances of a nation of whose resources we know so little. They must be low indeed, if in our recognition of one of her colonies, Spain does not declare war. The Speaker tells us, truly, that if Spain should declare war, her possessions—to wit: Cuba, Florida, and Mexico—will be endangered. I have no doubt they would, for I presume we should not carry on a *quasi* war. We could do Spain little injury at sea, for she has very few vessels afloat. Our commerce, however, would be greatly exposed on the ocean. Our flag floats on every sea, and unprotected (as it would be,) would afford an abundant harvest for the privateers that would be put to sea from Spain, manned by the seamen of all nations, and owned by the merchants of many of the European Powers. And in return for the sacrifice of our commerce we would take Florida, might attack Cuba, and carry our arms into Mexico, through I know not how many hundred miles of wilderness. These would be extensive enterprises, and not a little expensive. The success would be doubtful. At least, you could not attempt such a conquest with less than twenty or thirty thousand men. If the Mexicans joined your army, there might be a chance for success; if not, fear of your army would ever return. I do not find that any gentleman has thought of providing the means for war. In case the motion should obtain, no one has an idea of renewing the taxes that we have lately repealed. No, sir; we take a step that would compel any nation to declare war that had the means. We comfort ourselves by saying that Spain cannot go to war,

and therefore all preparations on our part are unnecessary.

The Speaker has given himself much trouble to convince the Committee that England will not take part in a war, on the side of Spain, against the United States. Why, sir, England has commenced many foolish wars; but I cannot believe she would commit so great a folly. Spain and the United States at war—Great Britain neutral! What would be the consequence? Insurances in American ships and seamen's wages would rise.—Freights could not be carried on equal terms; and English ships of course would become the carriers of all the produce of the United States, while our vessels would be laid up to rot at our wharves; your sailors would be compelled to go into foreign service—they would be lost to their country and to our Navy; no youths would be trained to the sea. A war with England would be preferable to a war with Spain, and England neutral. England would be precisely in the situation that we were for many years of the late wars—to wit: carriers for all Europe.

Mr. Chairman, I recollect to have seen, many years ago, a print. The principal object was a beautiful cow. In her front were two men—one in white, the other in scarlet; swords drawn, and fighting most furiously, while a fat Hollander sat with a milk-pail under the cow, milking quietly, and looking up at the combatants with a smile, mixed with pleasure and contempt, at their folly. In case we get to war with Spain, the Englishman will milk the cow, and with justice laugh at our folly.

It may not be improper, Mr. Chairman, to look at our trade with Spain. We annually export to the dominions of Spain eight millions five hundred thousand dollars value of property—to wit: four millions five hundred thousand domestic produce, and four millions foreign—nearly the whole of which is carried in our own vessels. The domestic consist of bulky articles, and require a large quantity of tonnage, in proportion to their value; they consist of tobacco—principally from Kentucky; that kind is preferred in Spain to any other, except their own colonies—flour, rice, Indian corn, fish, naval stores, lumber, peas, beans, furniture, carriages, boots, shoes, hats. And, in addition to the above value, a number of vessels are annually sold to the Spaniards. We risk all this valuable commerce by the motion. And what article can we supply La Plata with, in case she becomes free? I have already stated, that I do not know one solitary article of our produce that could be sold for first cost in La Plata. We have just been relieved from an expensive war, and have a large debt to discharge. The people are happy and content—they have been relieved from the direct and internal taxes—and I am not willing to do any act that may lead us into a war, and make it necessary again to impose similar or perhaps higher taxes on my constituents.

We are gravely told by the Speaker, that there is no difficulty in appropriating for a foreign mission to a Monarch, but one to a Republic is not so easy to obtain; that our Government cringes

MARCH, 1818.

Spanish American Provinces.

H. or R.

to crowned heads, and had sent to Sweden and Holland Ministers Plenipotentiary, when those Governments had only sent *Chargés d'Affaires* to the United States; and that our Government had acted in like manner towards all the Monarchs of Europe. Mr. Chairman, if I recollect correctly, those acts were done during the time of Mr. Madison, nor did I know that they had ever before met the Speaker's disapprobation; on the contrary, I should have believed they had been approved by him. However, the Speaker will be pleased to know that both will soon return. No Minister has yet gone to Austria, although, it is well known that the Emperor is anxious to encourage our commerce to his dominions. Denmark has had a Minister in the United States for many years; our Government has not returned the compliment. Holland sent a Minister Plenipotentiary to the United States (Mr. Chauguion) and in return the late President sent a Minister of equal grade. Holland withdrew her Minister, and sent a *Chargé*, and I understand the present President means to act in like manner. It appears thus that no censure attaches to the President now in office, on that subject. The Speaker tells us that Prussia has sent a Minister to the United States, and that our Government will return the compliment; and for what? he asks. Prussia, he says, has only two miserable ports on the Baltic. The Speaker forgets that Prussia has lately obtained Swedish Pomerania, and enjoys a seacoast of more than sixty miles, from Mecklenburg to the confines of Russia, including many noble ports; among the number, the great city of Dantzic, the Stralsund, Königsberg, Stettin, and Memel; that we draw from Prussia linens of all kinds, to a large amount, and pay her in tobacco, cotton, sugar, coffee, and tea, and other articles of our surplus importations; and yet I have not understood that our Government intends to send a diplomatic agent there immediately.

Mr. Chairman, it is the duty of the President to endeavor to extend the commerce of our country; and whenever he can do so by the sending of a Minister, I believe he will. It might be important to send a mission to Constantinople, and by treaty cause our vessels to be admitted on equal terms with other nations; at present they are not.

Mr. Chairman, I think I have shown that the conduct of our Government towards the patriots of South America, has been liberal and proper; that recognition by France and Holland of the independence of the United States, was the cause of England declaring war, and of course that recognition is considered as cause of war. I have endeavored to show that we have not yet such information as to the situation of La Plata, as would justify us in taking a step that would probably lead to war; that the President has pursued the proper course to obtain correct information, and that it is prudence to wait the return of the Commissioners before we act.

Mr. FLOYD, of Virginia, rose, for the purpose of offering his view of this interesting subject, to the consideration of the Committee, in support

of the amendment proposed by the honorable Speaker; and said, as he knew the House must be weary at this late hour of the day, the only apology he could make, was, that he would not detain them long. I am, said he, strongly impressed with a belief that an appropriation of this kind would well comport with the disinterested views of this Government, and would enable the President at any time to do justice to this Republic, which has achieved an object so glorious to itself, and of such signal benefit to mankind. The present is a favorable moment, when our affairs are prosperous and quiet—the world calm, and no political ebullitions to distract us. This would be the safe course—the dignified course—dictated by the true policy of the United States, and one calculated to free them from the odious doubts and suspicions of partiality, which have been cast upon them, and would place their conduct in a high point of view, both for magnanimity and justice.

The spectacle presented to our view is sublime and wonderful; a brave people, disdaining the shackles of a foreign despot, wading through rivers of blood to erect their constitution upon a firm basis, which will secure to them the enjoyment of personal liberty, and give them a stand among the nations of the earth, as free and independent. Through the storms of revolution, their institutions have been purified. Warring now to maintain their freedom, they appealed to this nation for justice, and ought to have demanded our attention. This nation, free as air, cannot envy the enjoyment of the world besides, will bestow a part of its deliberations upon that appeal; nor now refuse to listen to the dictates of justice, of policy, or to the cries of suffering humanity, in adopting this amendment; that the appropriation may be made; that justice be dealt out with an even hand—as I should be sorry to believe the United States could at any time so far forget the great principles of equal rights, equal liberty, and equal law, as to give the smallest grounds for complaint to any nation, and surely the situation of these people entitles them to this appellation.

The civil dissensions which for some time so convulsed the Spanish monarchy, have at length assumed a determinate shape, and war is now no longer the war of revolution, or a civil war, but the efforts of contending Governments. This young Republic, powerful in its resources, recovering with renewed vigor from every disaster, believes herself justified by the law of nations, in demanding a recognition of her rights as a free and independent nation.

Spain, bloated with pride, inherited through a long line of ancestors, is incapable of imitating the noble and magnanimous conduct of Great Britain, who, after seven years of war with us, came forward as Great Britain ought to have done, and acknowledged our independence. Yet that Monarch, who boasts the sun never sets upon his dominion, parts with reluctance from the smallest piece of soil, and wars by withholding his assent to independence, when hostilities have ceased, through inability to prosecute them. Mis-



H. OF R.

Spanish American Provinces.

MARCH, 1818.

table: she is, without resources, without finances, bankrupt at home, that monarchy still lingers, like the gaulester, upon the delusive hope that a fortuitous concurrence of circumstances may again bring under her dominion half a revolted world.

And now we are told by the honorable chairman of the Committee of Foreign Affairs (Mr. FORSYTH) that he is unwilling to make the recognition, because it will interfere with our dispute with Spain. Surely that ought not to weigh with him from whom, recollecting his declaration a few days ago on this floor, it is expected some strong measure will be proposed with regard to Spain. Is it a declaration of war? then why should he oppose this recognition? Is it a proposition to take possession of Florida? Why in that case should he oppose it? rather ought it to be a cogent reason for adopting this measure. Yet, inadequate as Spain is, to a task so unequal as that of reducing a Government fully organized since their revolution, and exercising the rights of sovereignty for years, building fleets, raising and equipping armies, and marching them to distant provinces to finish there a work which themselves had consummated—notwithstanding these strong and decided proofs of independence, exhibited in the fullest powers of government, unmolested by hostile troops within their territory, still we hear of Europe; as if, to measure justice, we should consult the frowns or smiles of another continent!

From some cause or other, lively apprehensions have arisen in the mind of the honorable chairman of the Committee of Ways and Means (Mr. LOWMEYER) that an acknowledgment of this kind might involve us in national difficulties. Can he, of all others, who is so well acquainted with laws of nations, hint this result of an acknowledgment, admitted by all the writers on that law, to be no cause of war? Whilst I would, with the most scrupulous care and exactness, avoid what might endanger the tranquillity of my country, I would likewise avoid whatever might give a pang to this budding Republic; and if to pursue the right, and administer strict impartiality and justice, cannot secure to this nation her amicable relations undisturbed, it would be madness or folly in the extreme, to believe any course free from the dangerous tempests which so often arise from mistaken policy as conflicting interests. I am sorry that gentleman (Mr. LOWMEYER) has insinuated that the proposed measures was in hostility to the Executive; it is to be lamented that any such opinion should have escaped him; from his usual benevolence it was not expected, and if anything has been contemplated of that kind, he might have spared those who advocate the measure from honest convictions. But against any such motive for myself I utterly protest, nor do I believe any such motive to have actuated the honorable member of the proposition. I have been impelled by the convictions of my own mind, and, whilst ever I have the honor of a seat in this House, such only will govern me.

In this fear of giving offence, and this zeal to

convince the nations of Europe of the rectitude of our intentions, are we not bound to take care of the interests of America, that she should not complain? As she has already been considered, and that too by high authority, as engaged in civil war, a situation in which all know, that in justice each party is entitled to equal rights and respect; and, as seems manifest, warring to maintain an independence which she has already wrested from the iron grasp of oppression, and ought to be regarded by the world as the germ of general emancipation. Clear as these facts seem to be, we are told, with a doubtful inquiring look, as if listening for danger, that we are observed by Europe, and that we should not excite their jealousy or distrust, as if the justice of nations was the result of fear; I know, too, there are many excellent men whose feelings are enlisted for these brave patriots, struggling against a Power which still annoys them, who pause in their decision because this Hydra Europe is constantly presented to their view. Sir, it will be a black and sorrowful day to this Republic, when this imaginary course of Europe is to be held over its deliberation like a lash of scorpions to goad it on to anything or stop it in its course. Can that alarm the nations of Europe which is bottomed upon the law of nations, since they have been so lately engaged in apportioning that plundered continent, without consulting our jealousies or our fears? For my own part I cannot imagine such fears—radically inimical as I am to an interest which of late had nearly involved us in ruinous difficulties; I have too high an opinion of the quick sagacity of the British cabinet, not to believe they would discern their own unequivocal interest in doing this act of justice. The fears of Europe! What can the petty States of Italy fear from our acknowledging the independence of the Republic of La Plata? These wretched Governments, enveloped in the legitimate fogs of Europe, are unseen in the scale of nations. What can Russia fear? Surely none can be so politically bewildered, as to believe she can fear anything; she has her views nearer home; with a boundless extent of territory, comprising one-twenty-eighth part of the whole surface of this huge globe—a population so vast as to overturn, like a resistless torrent, everything which opposes it; still anxious to extend her dominions to the South, and acquire territory on the Mediterranean; she will before long give employment to her neighbor there, and it were well for the Powers of Europe to look to their own safety in time. Could England view a measure of this kind with jealousy or suspicion, when at this very instant efforts are making throughout Europe, not loud, but deep and dangerous, to exclude from their markets every species of her manufactures? Witness the conduct of France, Holland, Sweden, Russia, and other Powers, as it regards the cotton manufactures. Witness the large private associations in these countries, binding themselves by the solemn obligation of an oath, to use their every effort to exclude from their country the use of British fabrics of every

MARCH, 1818.

Spanish American Provinces.

H. OF R.

description. This, sir, is a continental system more terrible to England, or soon will be, than all the colossal power of the Great Napoleon, enforcing the same object. Is it not rather her true interest to support this infant Power, even with arms, where she will find a tenfold market for her merchandise, unrivalled, and increasing perhaps for one hundred years? These then are the only Powers which have any concern in these events. The rest of Europe is a mere mockery upon the independence of nations. Germany and Sweden, with her Bernadotte, anything Russia pleases, and Prussia almost an appendage—Holland and Portugal at the disposal of England; and Spain, reposing in the embroidered arms of the adored Ferdinand, dissolving by a political hectic, unpitied by the world; and France, lately the gaze of admiring millions, guided by the overwhelming genius of her Emperor, is now little else than the great garrison of Europe, with a pageant King in splendid misery in the midst of it.

But Russia, true to her own interest, has not been inattentive to the great events which have been evolving themselves in South America; her attempt to acquire territory on the Gulf of California, and even, if the news be true, upon our very borders, is a proof of this; she is willing to acquire territory by every change, and every event, for territory has been the hereditary mania of her monarchs. Unwilling to commence hostilities at all times, disappointment only results in new efforts on new objects, at distant and different points, which must eventuate, if permitted by the Powers of Europe silently to progress, in her controlling the commerce of the world. England, actuated by different motives, has approved, by her conduct, and fostered those brilliant successes, by which the patriots of South America have raised to fame a column of glory so bright, as to shed a blaze of renown over half the world, and has embalmed forever the name of her heroes.

What have we done? The honorable chairman of the Committee of Foreign Affairs (Mr. FORSYTH) tells us that the patriots captured a vessel belonging to a citizen of the United States, and refused others employment in their service; that the only sympathy felt is felt by us; that the sympathy is all on our side. Then, sir, I must say they are languid indeed! for instead of those vivid sympathies which should have watered with our tears the rosy bed of immortality, on which sleep many of the heroic defenders of that Republic, we passed an act, like an one-eyed warder upon the watchtower, who sees only on one side, and calls out "all is well," whilst danger and ruin nearly approaches on the other. Sir, if our apprehensions prevent us from doing them justice, let them not induce us to do injustice; let us not impede their high destinies by a law which operates unequally, since that wonderful wisdom which willed the destiny of empires hath willed it so, for the happiness of America and the safety of Europe; else if Spain, a few little years ago, had seen on her throne a monarch such as

he who now sways the ponderous sceptre of Russia—a man whose talents and sagacity were equal to the population, the wealth, and the extent of her dominions—the crash of falling thrones would have resounded throughout Europe, and their legitimacy, instead of a protocol, would have been thundered from her cannon's mouth. If, Mr. Chairman, the United States shall turn from this question, other nations will not; England, more generous than we, will do them justice, and reap the fruits of their grateful benedictions. These colonies, for a long time settled for the purposes of commerce, had no political existence, or any part in the great agitations of the world—too distant from the mother country to feel anything of national prejudices or predilections, they have become a new people, under the influence of a different climate, where the productions, the scenery, the physical conformation of the country, and even the very sky and the stars of heaven are so different, that nothing of the Spaniard is left but the name, and that now no more.

In vain has the fond remembrance of their forefathers endeavored to cherish the recollections of their youth, by giving to the hills, the valleys, the rivers, and mountains, of their adopted country, the names of the places of their childhood. These names no longer produce a forceful feeling; the heart has ceased to vibrate at the sound; the meaning unknown to the present generation. Under this different climate, new habits, new wants have been generated, national remembrances have been obliterated; all is new, all is changed.

Heretofore the young American, accustomed to hear his country contemned and despised, had no incentive to action. He had been told that in America all was degeneracy, all was savage, barbarous ignorance; and grave philosophers and naturalists have written books to prove the fact. Notwithstanding, he was prohibited from going to the mother country to enlighten his mind by an education, and by their inexorable laws forbidden to go even from one province to another. Thus, like a vegetable fastened to the soil, was he doomed to live, to die, and disappear forever, not even leaving a trace of his ever having existed.

Unable to govern himself, all officers of Government, of every rank and condition, have been sent him from Europe, to administer justice to him in his peaceable repose; but, sir, at the very sight of those officers they turned pale, and trembled at the sound of Spanish justice.

Thus have they lingered on, a listless life of acquiescence and patient resignation, for three hundred years, until this bright beam of liberty broke through the dark cloud of royalty which had nearly overshadowed them forever; but which, I trust, will light them to peace and to happiness as it has to independence.

If there are any doubts about their independence, from the circumstance of a part of Chili being still occupied by the royal forces, and a force of native Americans under Artigas opposed to the Republic, as stated by the gentleman from Georgia, let those doubts be dissipated when it is



H. OF R.

Spanish American Provinces.

MARCH, 1818.

remembered, that, late in our own Revolutionary war, when the chances in the minds of many good men nearly poised between independence and subjugation, the celebrated battle of King's Mountain was fought between Whigs and Tories—a battle which has crowned the names of Campbell and of Shelby with immortal glory—a battle which measurably decided the fate of this Republic—nor let us longer doubt, when we reflect, that, by nature, every man in America is a General for enterprises like these. American wiles and stratagems, quick advance, attack, and fight, assure success; the slow and expensive formalities of European warfare, defeat.

These unfortunate people, sunk in despotism, have borne the contumely of all nations for their Spanish gravity, jealousy, and suspicion; but had even this been examined with indulgent kindness, it would have been found to be the mark which distinguished the slave of every country. This national gloom stamps itself upon the face of every Spaniard as soon as he is capable, from his own reflections, to distinguish that the tyranny of his Government, haunted continually by the phantoms of the imagination, has environed him with racks, and tortures, and the inquisition, where a living death of suffering awaits more terrible than all. He dare not speak—he knows not but that every one who hears him is a spy upon his conduct—silence is his only retreat—his liberty, his property, at the disposal of any clandestine informer—his life, his reputation, his honor, at the disposal of an implacable priest, who knows no mercy or forgiveness. Well might they exclaim, with a rapturous fervor, Oh! for a revolution—were celestial happiness compared with this!

If, in the commencement of this conflict, many bloody and revengeful acts have been committed, the noble spirits who direct the revolution cannot be implicated, or their cause condemned, nor ought it in justice to be used as an argument against them. The horrors of our own Revolution afford us proof of this, where the father and the son have been armed against each other—where cold-blooded murders have been perpetrated, butcheries and indiscriminate massacres of men, women, and children, because they were Whigs, or because they were Tories. These things, it is true, happened only in certain sections of the country, but they did take place; we have heard but little of them; the English historians seem disposed to cast a veil over them, and the American at this time is not disposed to tear it aside; then, in such a state of things, can we wonder if, in the fury of contending armies, these generous patriots should have left unpunished crimes which, in other times, their gentler natures would have wept at with tears of the bitterest sorrow? These things should not be attributed to them, but to their true source. Attribute them to that frenzied Power which sees nothing but the bloody dagger before it, and drives the most unresisting temper to madness and despair. The South Americans are now free, and long may the blessings of a republic attend them; for I am

happy in being one of those who believe the liberties of a republic can be enjoyed by a Spaniard, or by anybody; the enjoyment of freedom is not peculiar to any nation; all will admit that the Greeks once had it; the Romans, the Dutch, and many others, as dissimilar in their national characters as the English and the French. Consult the annals of the world, and I believe it will be found, that, wherever men are capable of making an effort to obtain their freedom, they are capable of enjoying it. Then why not have the benevolence to allow these brave patriots at least a capacity for freedom, since they have given so strong a proof of it as to establish their Government through revolution, and maintain it in war?

If, Mr. Chairman, the law of nations is to be regarded by a just people; if the political whirlwinds which, for some time back, so desolated the civilized world, has left them anything but a wreck, or the hopeless resort of the weak and the impotent, I would say, that, whenever a contest became doubtful between contending Powers, without any regard whatever to the manner, cause, or origin of that contest, the world at large has a right to consider them equal, and even decide between them, if necessary, and is bound to extend to the one all the other had a right to expect. The case of James II, King of England, is a clear illustration of this position, and is acknowledged by all the writers on the law of nations as correct; and if a case more strong were necessary, as being a parallel in all respects to the present, I would cite that of the revolt of the Low Countries against Philip II, King of Spain, of "exterminating" memory, already spoken of by others, but with different impressions. Their independence, they declared, was acknowledged by Elizabeth, Queen of England, the wisdom, moderation, and justice, of whose government, is celebrated and acknowledged by all, even at this distant day, and places her among the most illustrious monarchs of the world. Philip remonstrated; her answer was—the law of nations gave her the right, and her interest prompted her to acknowledge their independence. Philip was content; nor did he even require his Ambassador to leave London. And is not England now precisely situated as she was then—the same necessity, nay, stronger inducements of interest? And will the present monarch, instructed by history, be less wise?

An honorable gentleman from Maryland (Mr. SMITH) has told us that the trade of the United States would receive no benefit from that country. He has told us that the article of wheat has been brought from Chili round to Brazil, or the West Indies, and sold at a lower rate than it could be taken from the United States. I would ask what the price of wheat has to do with the acknowledgment of the independence of those Republics? The inquiry has, too, been made with an air of triumph, what the United States would gain by an acknowledgment of this kind? I will not retort the question by asking what we could possibly lose by the acknowledgment; but I would ask, if it is a thing they, by the law of

MARCH, 1818.

Spanish American Provinces.

H. OF R.

nations, have a right to give, without doing injustice to Spain, or any Power whatever, why not grant the request?

But, sir, I contend that the United States would gain, and gain essentially, too. Certainly nothing could be more desirable to this nation, so full of enterprise, than a free and direct trade to these countries, the most luxuriant and extensive in the world; so rich in everything we want, and containing such inexhaustible abundance of the precious metals, and needing many things we have to spare. There is the strongest probability that our exports, instead of sixty or seventy millions, would be increased very many millions, and would be much benefited, were it only from the advantages of our contiguous situation. Nor can I perceive the force of the remarks of the honorable member from South Carolina, (Mr. LOWMEYER,) luminous as he is on all subjects, when he tells us that injury will result to us, as our trade to that country, when compared with the trade of Great Britain to the same place, is, according to the little book from Philadelphia, in the ratio of one hundred thousand to seven millions. Surely, if we cannot receive all or most of the benefit, it cannot be a reason why we should not receive some benefit.

But the grand object and advantage would be in systematizing a policy for America; that we might be disenthralled—that we might not feel the effects of that political plexus which has so entangled the nations of Europe, by producing those intimate connexions and combinations by which the movements and operations of one Power are so felt by all, as to influence their councils, and produce corresponding motions. When now we negotiate, it is in Europe; when we are inconvenienced here, we send off an Ambassador there; they are governed by the principles and policy of continental Europe, and not by anything here. Do difficulties arise in Canada, they are adjusted in London. Do the same difficulties arise in Mexico, the province of Texas, or in Florida, it is settled in Madrid. Thus are we compelled to negotiate all our affairs upon the basis of European policy, because even the best interests of the colonists must give way to the policy of the mother country.

But when the independence of the South Americans shall be acknowledged, and they take their stand among the great nations of the earth, there will then be an American policy, and an European policy, which may, in negotiation upon just and honorable principles, be fairly opposed to each other. Nor does it militate against this position, whether, in the end, these governments shall be imperial or royal, instead of republican, which they now are. The great interests of America will be the same; and if, unhappily, difficulties should arise exclusively on this side the ocean, there will be no European convenience to consult, delay, or obstruct their adjustment in terms of complete reciprocity.

To acknowledge now the independence of South America, while the United States is writhing under a thousand wounds, each a sufficient

cause of war, is the strongest proof of this nation's aversion to that state of things; and Spain cannot otherwise than receive it as a new proof, on the part of the United States, of their love of peace, and friendly dispositions towards His Catholic Majesty, when they will do justice to others promptly, and seek it for themselves, through years of patient negotiation.

I will not now revive the long train of injuries and injustice of Spain, inflicted upon us even from the Treaty of November, 1782, with Great Britain. I will not recall to the recollection of this House, that, a very few days ago, we were debating on this floor, with much earnest solicitude, the Georgia claims; I will not remind them that it was expenditures Georgia was compelled to make to secure her inhabitants from the tomahawk of the ruthless savages, invading her territory, and delighting in blood; I will not remind them that they were instigated to this by the infamous conduct of the still more infamous Baron de Carondelet, the then Spanish Governor at New Orleans; I will not inform them that she seized upon the territory of Georgia as high up as the thirty-second degree of latitude, and built forts on the Mississippi above that latitude, at the Walnut Hills. I will not remind the House that Georgia was a part of the United States, as acknowledged by Great Britain and Spain, an ally, or, at all events, as it regarded Spain, we stood, *quo ad hoc*, as Great Britain had done, and the Treaty of Peace compelled each of these Powers to surrender to each other all the territory taken during the war, except such as was specifically named in their treaty. I will not revive the remembrance of the many imperious, haughty, and insolent communications made to our Government previous to the Treaty of 1795. No, I will not mention these things; let them pass in silence, or as "a tale of the times of old;" but this I will say, and had I the power, the undulation should reach the shores of Spain, and echo on the Throne; that the deposite at New Orleans was taken from us without assigning us another place as such, in violation of the existing treaty. That the firing into the Firebrand, a national ship, was a violation of existing treaties. That the incarceration of Richard W. Meade, contrary to the laws of Spain, was a violation of existing treaties. That the confinement of Farro in the mines of Mexico for near nineteen years, was a violation of the existing treaty. That the confinement of Baird and McKnight, since the year 1811 or 1812, contrary to the laws of Spain, was a violation of existing treaties. That the capture of Choteau and Demun, far within the limits of the United States, and their subsequent confinement in the prisons of Santa Fe, was a violation of the existing treaty. That her permitting the British to land in her territory in Florida, during the late war, to arrange and plan invasions of the United States, was a violation of the existing treaty. That her permitting, at this very instant, the Indians, within her territory, to make war upon us, is a violation of existing treaties. That the letters of the Spanish



H. of R.

Spanish American Provinces.

MARCH, 1818.

Minister, written from this city, during the late war; so Spanish officers in South America, by which information was given to the enemy in the West Indies, was a violation of all law, treaties, and the usages of civilized nations, and would have hanged the most distinguished citizen of this Republic for a traitor. And I sternly demand, if the President of the United States has not been insulted by every Minister of Spain who has ever been near this Government? Has not Yrujo and De Onis insulted him, even while Congress was ready to hurl the bolt of war? These are the acts of Spain, accumulating with the returning year, and keenly felt by us, but only uttered in stifled groans of sorrow—some of them for twenty-six years. Sir, if the world wants a model of moderation and forbearance, the diplomatic history of the United States affords them ample and instructive lessons.

Mr. Chairman, I will not consume any more of the time of the House, and will conclude with this single remark, that, if Spain has been mistaken in her policy towards her colonies; if her system of tyranny and oppression, practised for so many ages, has at length driven them to acts of violence and of blood, she has but done that moral justice to herself which the world, in general, has long thought to be her due; for, surely, it is the vengeance of offended Heaven which has been awakened to punish this guilty empire; and, by this revolution, she must be torn from her foundation to expiate the horrible sacrilege she has committed, in defiling the temples of that God whom they pretend to adore, in calling upon his name, at the holy altars, with perjured oaths, to witness their treachery and deceit, when they were about to shed such oceans of innocent human blood, and with mockery, to sanctify the deed.

The millions, millions of innocent, unoffending, unresisting, victims, butchered by order of that Court, to satiate their cursed thirst for gold, now cry to Heaven for vengeance, with the tongues of accusing angels.

But, sir, I am sick; my heart bleeds at the remembrance of that bloody page of Spanish history. Nor is there a man, whose bosom has ever felt one generous emotion, that does not feel his blood run back with icy horror to the heart, when he recollects the poor Indian, whose whole soul was a day of sunshine—ingenuous, noble, brave, disinterested—free as the winds which extend from earth to heaven, he slept upon the moss of the mountain, and leaned his head against a tree, and said: "This is my house—there is none to take it from me"—content to kill the wild animals for food, and pluck the simple fruit with which great nature in her sportive fancy had blessed this country; nor knew he of misery or distress, until the Spaniard came. Then, oh! bitter, sad reverse! Butchered in cold blood; roasted and burnt for crimes he never heard of, or could not understand; hunted down like the wild deer of the forest; pursued by that foul, phrensed, noisome thirst for dominion, into the swamps of the Orinoco, or tracked and torn by

dogs and blood-hounds from his mournful hiding places, in the almost inaccessible fastnesses of the mountains, whilst his bed, a rock in the cavern, streamed with tears of anguish and despair.

But the day of retributive revenge has come; cursed by those airy phantoms which flit before their guilty apprehensions, they have awakened their slumbering vengeance to wreak it upon the heads of their own descendants, because they have multiplied in the land of their original desolation; pursued and chafed by the heavy hand of a despot, spurned as degenerate men, despised as inferiors, their petitions scorned and chastised as the offspring of folly and discontent, their remonstrances treated as presumptuous insolence, almost crushed beneath a load of accumulating wrongs, they nobly resolved to be free, and are free, because they willed it.

Mr. JOHNSON, of Kentucky, observed, that the subject was intimately connected with the cause of civil and religious liberty. The cause in which the Spanish patriots were engaged, was identified with the freedom and happiness of twenty millions of people, and their posterity to the latest ages. The proposition is confined to a legislative acknowledgment of the independence of the Buenos Ayrean Republic, embracing the twenty provinces of Rio de la Plata, and tends to show, that a recognition of that independence, by the President of the United States, would meet the wishes and support of the nation. Such a legislative confession of the public sentiment, on a subject so important and momentous, in the estimation of many, he conceived was due to the Executive authority. It would be taking to ourselves a just portion of the responsibility of such a measure, and tend to strengthen the arm of Administration. It is not a little remarkable, that the opposers of this measure should be driven to the necessity of ascribing to its advocates a hostility to the Administration. But this objection has no greater weight than the others which have been urged against it, and which are made to this kind of legislative expression in any abstract form, and because it has assumed a form from which there may be some practical result. The main question, in debate, seems to be the expediency of recognising the independence of the Provinces of La Plata; this is the essence of the proposition submitted. The fact of independence has been doubted by some, and positively denied by others; but this fact is well established, and is as certain as any common event recorded in history; and we have sufficient proof that this independence has been maintained with a firmness and gallantry worthy of the cause. But an objection has been urged, that we have not been furnished with the precise territorial limits claiming to be independent. In such a struggle, and in such a vast extent of country, it would be surprising indeed if the precise boundary of the provinces had been furnished, and their limits accurately defined. But it is a matter of no consequence, and has no important or essential bearing upon the subject, because it does not, in the most remote degree,

MARCH, 1818.

Spanish American Provinces.

H. of R.

lessen the high claims of this suffering and meritorious people upon us, to recognise their independence. It must be known to these gentlemen, that our limits were as unsettled and undefined during the American Revolution; and, in fact, to this very hour, a controversy exists with both England and Spain, as to our true boundary line. But did this lessen our claim to independence during the Revolution? It was well known to all the world, that the Thirteen Colonies had declared themselves independent, claimed to be independent, and had maintained their independence as a sovereign State, in opposition to the power of England. It is equally well known, that the provinces of the River la Plata have declared themselves independent, solemnly proclaimed the fact to the world, and have maintained this independence in a manner which must claim the respect and admiration of nations. A distinct and separate government has been instituted; a legislative, an executive, and a judicial department has been organized, with the power to raise armies, build navies, impose taxes to defray the expenses of the government, without aid from Spain, whose authority has been destroyed. But it has been urged, from the last and most authentic intelligence, that a part of these independent provinces was occupied by the troops of the enemy; but this can have no weight. It will be recollected, that, after the severe and bloody battle of Brandywine, the British troops marched and took possession of Philadelphia, and held it; was it ever contended that this lessened our claims to independence? When we suffered a most disastrous defeat upon Long Island, the British forces took possession of New York and held it; but did this lessen our claims to independence? Previous to the capture of Cornwallis, Georgia, South Carolina, North Carolina, and Virginia, were in the military occupation of the British; did this lessen our claims to independence, or lessen the obligations of other persons to acknowledge it? No gentleman will surely answer in the affirmative. But, waiving these objections, the recognition of the independence of the Republic of La Plata has been pronounced a doubtful policy. Does recognition alone, without taking part in the war, violate the obligations of neutrality? Is it repugnant to the usages or the law of nations? Is it in opposition to the laws of nature, of reason, or of God? In short, is it inconsistent with the most friendly relations? The right of recognition has been admitted by all, not a doubtful right, but positive and undeniable; and the exercise of this right can be no just cause of complaint against us by Spain, or by any other nation, unless our independence is also denied. But the possibility of war with Spain, and, consequently, with some other European Power, seems to constitute the principal objection, with some, to this proposition. I say, the possibility of war, for no one has seriously contended that a simple recognition is either a just cause of war, or that it will produce a war; history does not furnish an instance, and bare assertion must not be received; but if it should be made a pretext of complaint against us, it is urged, that it is possi-

ble it may produce war, but it is certainly not very probable. The recognition of the independence of those provinces, sir, is not only a right, but, in my opinion, it is, on this occasion, a sacred and solemn duty we owe to ourselves and to the great and interesting cause of freedom. What will be the effect of this recognition? Does it give the patriots any advantage over Old Spain, or any other sovereign State? No, sir, it only places them on an equality, by giving them rank among the independent nations of the earth; it only consummates that course of neutrality, and that system of equal justice, which we have so solemnly declared to the world to be our great object. The flag of the patriots is admitted into our ports and harbors; we have opened a trade with them; we have extended to them, by law, certain rights and immunities; and have endeavored to place them upon an equality with Old Spain, by our commercial regulations; and if any benefit can result to the Buenos Ayrean Republic, by receiving a minister or commercial agent, I cannot see the force of the objection to this measure. The conduct of Spain has not been such as to give any great force to a weak objection; she cannot expect from us acts of kindness, nor forbearance in the exercise of a right, or, rather, in the discharge of an obligation. Peace, it is conceded, is the policy of the United States, if consistent with the enjoyment of liberty. We cannot, I admit, without great indiscretion, interfere in the quarrels of other nations, or depart from a system of neutrality, even in the great cause of South American liberty. But the friends of liberty and of man cannot divest themselves of feeling, or look with indifference and apathy upon a contest, in which they behold a country, rivalling in beauty and fertility the rich and romantic vale of Cashmere, laid waste by the ravages of war, and the defenders of freedom treated as rebels and traitors. There is nothing, most certainly, in this great struggle that should prevent us from completing our system of equal justice to both parties, since we have endeavored to effect that object by the commercial regulations of the country. And why do we hesitate; why quake and tremble at the idea of a recognition so important? Why so many imaginary dangers at the exercise of an undoubted right? The crowned heads of Europe may take offence at it, but what would be the basis of this dislike? Mere opposition to the triumph of republican principles. It was this triumph of liberty and self-government that brought upon republican France the coalition of monarchical Europe. But the nature of this opposition is the very strongest reason why the United States should recognise the independence of the Republic of La Plata. It is called a republic, and if I did not believe that the principles of liberty would be cherished, and a free and independent government established, the proposition would not meet my sanction. Exercising a discretion, I would not choose to recognise kingly power as long as war was continued by the parties. The great cause of political emancipation is the stimulating principle with me, for the exercise of this right of re-



cognition. The labors of the illustrious navigator who discovered the Western World, shall not be in vain. North America has become an asylum—a place of refuge—from the tyranny and usurpation of Kings. A ray of liberty has penetrated the gloom which enveloped the South; and, although the timid may abandon the cause of freedom, and the bold and daring may fall an early sacrifice upon her altar, the principles of religious toleration and political emancipation must march on steadily (though slow) till the will of Him who controls the destinies of the world shall have been executed. If crowned heads refuse to recognise the independence of Spanish America, it is surely no reason why the United States should do so. To what quarter of the earth shall they send a Minister for this purpose. If they meet with no kindness here, when will they receive the cheering light from the countenance of a kindred Government? If we dare not go as far as the laws of nations will warrant, who shall give them the plaudit of Well done? History teems with the events of Republics, splendid, powerful, and happy. They exist no more. Despotism has swept them from the earth, and has only left their names on the records of nations; and we (the people of the United States) stand alone in this vast world of tyranny and oppression—no kindred Republic to sympathize with or to depend on in the hour of danger and dismay—and alone defying the principles and power of legitimacy. No Grecian Republic; no Roman Commonwealth; no States General of Holland; no National Assembly of France—no, not even the little Republic of San Marino—now exists, to acknowledge the independence of the La Plata Republic.

If I could believe it was the will of Heaven that I should vote against the proposition, I would bow with reverence to that will; if I believed that duty to my country opposed my course, I would cheerfully obey the impulse of that duty; if I believed that I was about to trample upon the laws and rights of nations, I would also pause; but the opposition of European monarchs will have no influence upon my mind, except to produce a more positive resolution to discharge what I conceive to be a most sacred obligation. Those monarchs may look with anxiety upon the part we may take—they may look at it, if they will, with an awful squinting—but no alarms are conveyed to my bosom. Resistance to oppression constitutes no crime, in my mind; nor shall I be ashamed to rejoice in the triumph of liberty, and the principles of self-government, until I am led to believe that the monarchs of the earth are superior to the Monarch of Heaven. May the God of the Universe, in his mercy, sustain this struggling and suffering people, in the cause of political and religious liberty! I will not fear the result; the spirit of liberty has diffused itself too widely, and its enthusiasm too deeply, to be controlled by the efforts of despotism, or the apathy of kindred Republics. Freedom has cast her rays upon the darkness of human error, and irradiated the gloom which has enshrouded the human

mind. Truth has, indeed, restored the light of nature. The conduct of Spain has been made a part of this discussion. The time is fast approaching when we shall be called upon to examine this conduct more minutely, and to judge of the measures that may grow out of it. If Spain does not relax in her pretensions, and manifest a disposition to act with more justice and liberality, there can be but one opinion as to the prospect of an amicable adjustment—a fact of which we must be convinced, from the information communicated to us by the Executive that the negotiation is at an end, and that the President has determined to occupy the Floridas, in order to guaranty the peace and safety of our citizens from the wild incursions and brutal murders of the savages. This is policy—this is wisdom—and the nation will support the measure. But the conduct of Spain is not necessarily involved in this question of recognition; nor the occupation of the Floridas for indemnity—a measure suggested by the chairman of the Committee of Foreign Relations. Whenever that measure shall be presented for consideration, then, and not till then, shall I conceive it my duty to enter into a detail of Spanish injuries and aggressions: the closing, upon the commerce of the Western country, the port of New Orleans, in violation of treaty, without assigning any other place of deposit; not till then, need we estimate the spoiliations upon our commerce; the violation of the treaty of 1795, in not keeping in order and subjection, within her territories, the Seminole savages; her conduct in the late war, in permitting the British and the Indians to use the Floridas as a place of refuge—a rallying point for our enemies. Nor will it be a matter of any consequence whether this state of things did arise from co-operation on the part of Spain, or an inability to maintain her local authorities and her treaty, as well as neutral obligations, to the United States. Whenever it shall be brought to this point—that we must submit to what is past, and a prospect of what is to come, or occupy the Floridas—my mind has never hesitated a moment upon the course my duty to my country would lead me to pursue, if negotiation fails. I would not submit to such conduct from any nation on earth.

But this has no influence on my mind. If the conduct of Spain had been towards us the most amicable and friendly; if she had acted not only with the strictest justice, but, like Cæsar's wife, even without suspicion, and if her purity had been as spotless as the snow which falls from heaven, it is still the duty of this Government to recognise the independence of the Republics of La Plata, Venezuela, New Grenada, Chili, Mexico, and the rest, as soon as they shall declare themselves free and independent, and manifest a capacity and a determination to maintain the rank and relations of a foreign and independent State. But I cannot for a moment hesitate to believe that the Administration feels this disposition as strongly, as cogently, as those who support it. The proper point of time can be with them the only cause of hesitation; the desire must be the

same with every branch of the Government as with the people. Everything, sir, evinces the claim of South America to independence; its distance from Europe—the nature and interest of its soil and limits—the character of its people—all conspire to show that it never was designed by Heaven, that it should be subject to the domination of European rulers; but, like our beloved country, it should one day become the great sanctuary of liberty, and the asylum of persecution. To oppose this destiny, would not only be useless, but impious and impolitic. The Government of the United States has been distinguished for its justice, moderation, and pacific policy. We should maintain that character; we should not depart from that course of conduct; let us be cautious, but decisive; not rash or timid, but bold and prudent; let us do nothing that would infringe the rights of others, but feel no alarm at the consequences of doing what it is our duty to perform. We can read the condition of this people by turning the mind back to the scenes of the American Revolution.

But it has been asserted that the South Americans have not been fighting for liberty and self-government. It has been asserted that they were not entitled to our sympathy; that the independence of the Spanish provinces was a matter of no consequence to the United States, politically or commercially; and that self-government, and the establishment of liberty, might, to be sure, be of some consequence morally, but could not be so, politically or commercially. How surprising! How wonderful! Let us for a moment consider this point. A connexion with South America is, in an eminent degree, important, commercially, politically, and morally. From the nature of our Government and institutions, we are considered by the people of South America their natural friends and allies, and from this necessarily expect from us that aid and assistance which a nation, contending for the same political principles, and having an intimate geographical connexion, has a right to expect. Should we coldly refuse the favor they solicit, the result will be, that they will lose that sympathy they now feel, and transfer their present attachment and respect to some other Power, less phlegmatic and indifferent to their own interest. And what would be the loss, in a pecuniary point of view? A market calculated to consume the surplus of our agricultural products and manufactures, and the signal advantages that would result in the exchange of our commodities for the precious metals alone. We should indeed have, as we now have, the uncertain and limited markets which the Canadas and the West Indies afford, under the illiberal systems of colonial regulations. The surplus produce of two States alone would supply them, while the whole of that rich and beautiful country, whose independence its citizens wish us to recognise, would be lost to us perhaps forever. But this is not all. From the very nature of things, we should become her carriers as long as the two nations exist. Mexico, for instance, is situated like China, and not likely to become a

nation of mariners, but must receive the nations of the earth into her ports, and give her bullion in exchange for the productions of other countries. Our vessels would fill every port, and from our vicinity enable us to carry off nine-tenths of her commerce. And yet this is to us of no kind of importance, but a real evil! Have those who advocate this doctrine paid proper attention to the geography of these countries they so vehemently depreciate? Where shall we find a more lovely, a more abundant region? Where shall we look for a spot on earth where nature has lavished more wealth, and greater beauties? Where shall we find so happily realized the visions of poetry, and the descriptive painting of imagination? A country of immense extent, and a soil of endless variety and fertility, teeming with the most precious metals, and beautified with the most splendid, elegant, and useful botanical productions. A country, in the emphatic language of scripture, flowing with milk and honey, and where nature seems to repose from her toil, and stamp on her productions the perfection of beauty. The vast waters of La Plata, the variety of its soil, the diversity of its climate, the productions of the temperate and the torrid zones—the mines of Potosi, unrivalled in ancient or modern times—the lofty summits of the Andes, covered with never-melting snows—nor the delightful vales of the Parana and the Uruguay—nor the prospect of freedom to millions of human beings, can swell with delight the bosoms of some men. And a connexion with this highly gifted land, in the opinion of some, is a real disadvantage, in a commercial and political point of view. But the patriots of South America have been denied the merit of fighting for liberty; this charge is neither novel nor well founded. I need only refer to the history of our own country; the same charge was made against our fathers, who were engaged in the glorious struggle which has eventuated in the blessings we enjoy. What stronger proof do we require of the purity of the motives by which the South Americans are influenced in their present struggle, than that they have submitted for so many years to the privations and dangers, and miseries of war? What but a deep-rooted love of liberty, could produce this fortitude, or beget this perseverance? And are we to be told that they do not merit our sympathy, while contending and struggling through miseries, and want, and dangers, for the possession of those rights which we have obtained, and to which the human family are entitled by nature? Merciful Heaven! have we indeed come to this? Are we reduced so low in the scale of humanity? I shudder to think of the consequences of such doctrines. A vista, dark and dreary, and dismal, opens before me. I see apathy shedding her alarming influence over the hearts of my countrymen, and the genius of despotism winding her mazy folds around the offspring of freedom. Such indifference does not become the American people in a cause like this. In their zeal to oppose this measure, gentlemen have indeed gone so far as to endeavor to prove that the freedom and independence of the Spanish provinces would not



only be of no political and commercial consequence, but singularly unfortunate to the United States—that our happiness, freedom, and prosperity, would decline in consequence of such an event; and yet, at the commencement of this discussion, every one expressed the most ardent desire for the patriot cause.

It is possible that necessity has driven members of this House to such a course of reasoning to oppose the proposition before us, but it shows the feebleness of error. Sir, to deny that the struggle in South America has been a struggle for liberty and independence, is to close our eyes against the facts, and the history of that struggle; and to deny that any commercial political advantage would flow from the establishment of independence in South America, is to deny self-evident propositions; we may as well deny the existence of matter, or any other physical agent. It has been boldly asserted, that there is no parallel between the American Revolution and the struggle in Spanish America. I know not through what medium gentlemen may view things; but I can see a most striking analogy in the two cases. We had a heavy burden of grievous impositions to bear—so had they, perhaps tenfold greater; we had our day of loyal attachments, humble petitions, and mild remonstrance—so had they; we were spurned and driven from the royal favor—so were they; in the progress of the Revolution we had had our day of resistance, and appealed to arms—so had they; we had our day of proscription, when the penalties of rebellion and treason were fulminated against our fathers—so had they; rising with the crisis, we had our day of independence, and proclaimed it to the world—so had they; we had our committees, our conventions, and our Congress—so had they their junta municipalities, and Congress; we had our Warrens and our Montgomeries—so have they; we had, too, our Arnolds—and so have they; and as we were triumphant, if the patriots of South America shall be worthy of the cause, and true to themselves, the same kind Providence will uphold them, and make them triumphant also. When we compare the extent and resources of the Peninsula, or Old Spain, with the extent and resources of South America and New Mexico, this opinion will acquire additional strength and confirmation. But, although history furnishes many examples of successful revolutions against the heavy hand of despotism, yet we are called back to the frequent success of power, and reminded that the difficulties which arise from revolutions are of no ordinary character, and that to meet them requires the most heroic fortitude, and the most gallant conduct. I am aware, sir, that the system of oppression cannot easily be overthrown, and that the power of crowned heads will not be surrendered willingly; they will not surrender inexhaustible mines of wealth, the treasures arising from the toil and sweat of the laboring poor, without compulsion; the fairest portion of the globe, and twenty millions of subjects, the victims of their unhallowed pleasure and ambition; and the world must remain in the

most anxious and awful suspense about the event of this struggle, and wait with eagerness to know how the revolution, in many of the Spanish provinces, may terminate. The price of liberty is blood. The mind rejoices in hope, when it is recollected how long these patriots have sustained the glorious contest, and defied the bloody conflict. This gives the strongest evidence of the merit of the persecuted combatants, and the justice of their cause. The Israelites were doomed to forty years sojournment in the wilderness, and were in sight of the land of promise, because they proved unworthy of the blessings of Heaven; they were alarmed at the information of the spies of the army, who gave them a description of the giants who inhabited the land of Canaan; and notwithstanding the cause—the banners under which they fought—they were alarmed at the sons of Anak. For this they were doomed to spend the remainder of their days in the wilderness, until a new race of warriors should be raised up worthy of the holy cause in which they were engaged. The same may be the design of Heaven in relation to the South Americans, in permitting this sore trial of cruelty, and suffering, and murder. This severe probation may produce a race of heroes worthy of the cause of independence. The rising youth may catch and diffuse the holy fire of liberty, and rush on to battle and to certain victory.

Something has been said of the character of the war which has been waged in South America. And as the patriots have been compelled to retaliate, upon some occasions, the murders and cruelties of the mother country, they have been considered unlike the patriots of our Revolution, who abstained from the system of retaliation. It is not the fact that we gave up this right, or that we omitted to exercise it whenever it was necessary and proper. When it could be omitted it was omitted, and not otherwise. When policy could, with safety, yield to mercy, our fathers were governed by the principles of humanity. At a time when the patriots of our Revolution were considered and denounced as traitors and rebels, by royal proclamation, nothing but the most solemn declaration on the part of Congress and General WASHINGTON, at the head of our armies, that retaliation should be most rigidly pursued, prevented the assassination of our officers and soldiers when prisoners of war. This alone saved many of them; this system of retaliation, or the fear of it, induced Great Britain to give up the idea of rebellion and treason, and stayed the hand of the executioner. And if the fathers of our country had permitted our gallant officers and soldiers to have been hung, shot, and murdered, without retaliation, they never could have succeeded in the cause in which they were engaged, nor have secured the confidence of the people. Indeed the people would have had ample cause to have abandoned a Government feeble, inefficient, and withholding protection where it was due. No such foul charge can be made against those who conducted our Revolution. In the late war with Great Britain, when this same

system of cruelty was commenced, did our Chief Magistrate silently and tamely look on? When the gallant Irishman was taken in arms fighting for his adopted country, and thrown into prison as a traitor to his sovereign, what stayed the sentence of condemnation, or the hand of the executioner, but the firmness and decision of Mr. Madison—a name I can never utter without respect, veneration, and affection. He took hold on the British soldier and put him in prison; and England had, to her shame, to retrace her steps, and to acknowledge the harshness and infamy of her course. The *lex talionis* should be preserved—blood should pay the price of blood. And, in this case, British officers and soldiers would have been the victims of British policy. There is nothing to condemn in the system of retaliation. If pursued by the patriots, it was a solemn discharge of a most solemn duty. The system of murder did not begin with them. To this day the armies of Old Spain consider and treat them as traitors; and if the patriots do not retaliate, whenever it may be necessary, they deserve to fall the victims of such folly and imbecility. In one point it is hoped, and it is known, that they have not imitated the enemy. The fact has been mentioned, and it is not denied, that the troops of Old Spain had been employed in poisoning the water, and the food of the patriots, to destroy them. In this system of destruction they have not been imitated. No, sir, Satan himself would be ashamed to claim kindred with a foe so infamous. When he rebelled, and was without hope, he exclaimed, farewell hope, and, with hope, farewell fear. Though fallen from his high estate, and in despair, he was content with a declaration of open war, and open acts of hostility. The arbitrary power of provincial officers; the cruelty of the Captain General of Old Spain; the vigilance of the spies of the inquisition; the unhappy condition of the natives, have not been, when combined, sufficiently powerful to stop the march, and arrest the progress of correct revolutionary principles.

The patriots have acted in a manner worthy of themselves, in taking advantage of the first favorable opportunity, the invasion of Spain by Napoleon Bonaparte, and the subversion of the Spanish and kingly authority in that country, to declare themselves independent, and throw off the yoke of bondage which bowed them to the earth. The most unlimited and arbitrary exercise of power has been practised by the Spanish Viceroy; nocturnal arrests have been made by corrupt judges, the willing instruments of corrupt power; banishment without trial; transportation to Old Spain, without assigning the causes; offices confined to European Spaniards; manufactures prohibited; the culture of other commodities limited; the establishment of the inquisition, and a perfect system of religious intolerance; liberty of speech and the press unknown; no trial by jury; property insecure, and at the will of judges; the study of political economy prohibited; and other acts of oppression, which would fill a volume, have been the acts which they have groaned under. I cannot feel

indifferent in such a cause; and while I am willing to vote in favor of recognition, as proposed, I am unwilling to step beyond the bounds of discretion, or depart from our neutral obligations.

In the day of our adversity, how anxious were we to be recognised by foreign Powers, and to claim their assistance? But here we are asked only to recognise the independence of the South American provinces, already free and sovereign, without requiring our aid, which cannot, consistently with the law of nations, give cause of complaint to any Power on earth. When clouds and darkness hung upon our political horizon, how did the bosom of the patriot swell with rapture and consolation when European nations began to acknowledge our independence! We have succeeded; we arose from the thralldom which benumbed our faculties with renovated vigor and redoubled energy; nations gazed with astonishment at the novelty of the spectacle and the magnitude of the enterprise. Despotism shrunk from our hemisphere as from contagion and death, and the world regarded us as a prodigy. South America has pursued our track and imitated our glorious example. The gloom of superstition and oppression has vanished, and their path has been irradiated by the beams of liberty. They have waded through blood and submitted to misery to obtain a participation in the blessings we enjoy. They say to us, We are your brethren; you are the only Government on earth that ought to feel an interest in our destiny; the monarchs of Europe have set their faces against us; their policy, their interest, will not suffer them to give us countenance; we are fighting the battles of freedom; the cause is one which must, which ought to be dear to you; we stand alone, unaided and friendless; we wish you to recognise that independence which we have achieved. If you will not extend the hand of fraternal love, to whom can we look, to whom dare we apply? Should we be crushed by the hand of power, you stand alone against the despotism of Europe and the world. Could you hope to resist such a combination? And if you fall, where is freedom to find a shelter, and man an asylum?

It is the will of Heaven that South America should be free; let all opposition cease; let the nations of the earth search after His will and obey His commands; His power cannot be controlled; His providence cannot be resisted; He governs the universe; then let us do these people, let us do ourselves, justice. This is not a moment for hesitation. To pause will perhaps be serious. The acknowledgment of their independence cannot injure the cause of freedom, or give just grounds of offence to nations; but it will inspire confidence—give them a stand and an attitude that Europe will respect, and reanimate the drooping spirits of the Patriots. We shall preserve the character we have acquired; our actions will correspond with our professions; and the world and posterity will acknowledge that our career has been that of generosity and of greatness, and our conduct just and magnanimous.

Why should we hesitate? Can we fear the



result, when we witness so universal a spirit of patriotism pervading all ranks and classes of society, and setting at defiance want, and wretchedness, and torture? Can we fear the result, when we remember that every event is under the direction of God's providence? His infinite wisdom, and His tender mercy will be manifested in the result. Then let us not hesitate; let us act worthy of ourselves, and evince to the world that we are not only free, but worthy of that freedom.

Mr. FORSYTH spoke briefly in explanation; when, on motion of Mr. SMYTH, of Virginia, the Committee rose, and obtained leave to sit again.

FRIDAY, March 27.

Mr. RICH, from the Committee of Claims, to which was referred two reports of the Commissioners of Claims, containing the reports of the facts in one hundred and fifty-eight cases of applications for payment for property destroyed by the enemy in Buffalo, and its vicinity, on the Niagara frontier, from the 19th December, 1813, and the 1st of January, 1814, both inclusive, made a report thereon, which was read; when, Mr. R. reported a bill for the relief of the sufferers on the Niagara frontier, which was read twice and committed to a Committee of the Whole.

Mr. WILLIAMS, of North Carolina, made a report of the petition of Kenzie and Forsyth, which was read; when, Mr. W. reported a bill for the relief of Kenzie and Forsyth, which was read twice and committed to a Committee of the Whole.

Mr. RHEA reported a bill for the relief of Cornelia Mason, which was read twice and committed to a Committee of the Whole.

Mr. BRECHER, from the Committee on the Judiciary, reported their agreement to the amendments proposed by the Senate to the bill, entitled "An act respecting the district courts of the United States, within the State of New York;" which were concurred in by the House.

Mr. BRECHER also reported the agreement of the said committee to the amendments proposed by the Senate, to the bill, entitled "An act to alter the time of holding the circuit court in the southern district of New York, and for other purposes." The amendment was committed to a Committee of the Whole.

Mr. HERBERT from the committee appointed on the petition of John Darnall, by leave of the House, reported a bill for the relief of the said John Darnall, which was read twice, and committed to a Committee of the Whole.

On motion of Mr. PINDALL, a committee was appointed to inquire into the expediency of making provision, by law, touching the prosecution of petitions of right, and informations of intrusion, in the federal courts, in cases wherein the United States are concerned; and Messrs. PINDALL, SERGEANT, COBB, ADAMS, and TALLMADGE, were appointed the committee.

On motion of Mr. CLAIBORNE, Resolved, That the President's Message, and accompanying documents, upon the subject of the

expenses incurred under the 4th, 5th, 6th, and 7th articles of the Treaty of Ghent, be referred to a committee; and that they be instructed to inquire into the nature and causes of said expenses; also, into the principles upon which the Commissioners, under the 6th, and 7th articles of said treaty have heretofore proceeded in the execution thereof, and that said committee make a detailed report thereon, for which purpose they shall have power to send for such persons and papers as they may deem necessary.

Messrs. CLAIBORNE, BARBOUR, of Virginia, ROBERTSON, of Kentucky, MORTON, and WILLIAMS, of Connecticut, were appointed said committee.

Mr. McLANE, from the Committee on Commerce and Manufactures, to whom was referred the bill from the Senate, entitled "An act concerning the bounty or allowance to fishing vessels, in certain cases," reported the same without amendment, and the bill was read a third time, and passed.

Mr. SMITH, of North Carolina, submitted a joint resolution, directing the printing and distribution of the act for the relief of certain surviving officers of the Revolution, and the instructions issued relative thereto, from the Department of War, among the clerks of the several courts of record within the United States; which was twice read and ordered to be engrossed for a third reading.

The bill supplementary to the act "to authorize the State of Tennessee, to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same," passed the 18th day of April, 1816, was received from the Senate, and, having been twice read, the question was stated on its being ordered to a second reading—

Mr. EDWARDS rose, not, he said, for the purpose of opposing the bill, for that would be unavailing; nor had he any wish to commit it. It was well known that an unpleasant difference had long existed between the States of North Carolina and Tennessee in relation to the object of the bill, upon which both States had memorialized Congress. The Supreme Court of the United States had however lately pronounced an opinion in the case before it, by which the question in controversy was settled against the pretensions of North Carolina. As there is no other alternative, said he, since we ought to submit to the powers that be, he would content himself simply by saying that he did not concur in the opinion of the court, and by signifying his dissent to the bill, without troubling the House with his reasons for either.

The bill was ordered to a third reading, and passed.

The bill from the Senate "regulating the staff of the Army;" the bill "regulating the fees of notaries in the county of Washington, in the District of Columbia;" the bill "to incorporate a Fire Insurance Company in the City of Washington;" and "the bill to make valid certain acts of the Justices of Peace in the District of Columbia,"

were severally twice read and referred to select committees.

#### BENEFIT OF DRAWBACK.

Mr. McLANE, from the Committee of Commerce and Manufactures, made a report on the petition of Thomas Hutchinson, and partners; which was read, as follows:

The petitioners state that in the year 1815 they imported into New York a quantity of merchandise, which they were desirous of reshipping from the United States, and to obtain a drawback. Being ignorant themselves of the requisites necessary to obtain the benefit of drawback, they applied to the deputy naval officer, who undertook to have the proper entries made, and to superintend the whole business; that the deputy naval officer, however, failed to apprise them of the necessity of giving the bonds required by the act of Congress, and, being themselves ignorant of the law, they neglected to enter into any such bonds; that the goods were re-exported, and regularly landed at the foreign port to which the vessel cleared out. The bonds having never been given, however, the petitioners have been denied the benefit of drawback, and they pray Congress to allow it, as though the bonds had been regularly given.

The committee consider that it would be establishing a dangerous precedent to allow the plea of ignorance of the requisites of the law to dispense with their provisions. In this instance the bonds were the most essential part of the whole business, and indispensable to the safety of the revenue. If the petitioners applied to the deputy naval officer for advice, rather than to the regular officer of the district, the United States should not be liable for his omission or want of information. The committee, therefore, recommend the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

The report was concurred in.

#### SPANISH AMERICAN PROVINCES.

The House having resolved itself into a Committee of the Whole on the general appropriation bill—to which an amendment had been moved by Mr. CLAY to introduce an appropriation for the outfit of a Minister to Buenos Ayres—

Mr. A. SMYTH, of Virginia, said, that he was opposed to the proposition under consideration, and should contend, in the first place, that the measure proposed is an act of usurpation, an invasion of the Executive authority. Secondly, he would contend, that the conduct of the Executive branch of the Government, as respected Spain and her American provinces, has been perfectly impartial and honorable, and such as was required by the interest and honor of the United States; that, therefore, no interference on our part was necessary. And, thirdly, he would contend that the measure proposed was pregnant with evil, and may jeopardize the safety of the United States.

The Constitution, said Mr. S., grants to the President, by and with the consent of the Senate, power to appoint Ambassadors and public Ministers, and to make treaties. According to the usage of the Government, it is the President who receives all foreign Ministers, and deter-

15th CON. 1st SESS.—50

mines what foreign Ministers shall or shall not be received. It is by the exercise of some one of these powers, in neither of which has this House any participation, that a foreign Power must be acknowledged. Then the acknowledgment of the independence of a new Power is an exercise of Executive authority; consequently, for Congress to direct the Executive how he shall exercise this power, is an act of usurpation.

To give such direction must be an act of usurpation, if it shall have any effect. Should the direction be given, by adopting the proposition under consideration, and have effect, then the President will send a Minister to Buenos Ayres, not according to his own opinion, but according to the opinion of Congress. Then the President will perform his proper Constitutional duties as Congress shall be pleased to direct. Will not this be changing the Constitution, by usurpation? It is for the Executive branch of the Government to decide to whom, and when, a public Minister shall be sent. Congress undertake to decide when and to whom a public Minister shall be sent; is not this usurpation?

You possess the power of impeachment, and, consequently, may discuss, and, by resolution, express, an opinion on any past act, either of the Executive or of the Judiciary; but you have no right to give a direction to either.

The President is responsible for the proper execution of his Constitutional powers; he may be punished for abusing them, or for neglect of his duty. This House is the proper body to prosecute him, if he shall fail to do his duty. We are not, in like manner, responsible and punishable. If we direct the President to do an act, however injurious to the nation it may prove, we cannot make him responsible. Is it proper thus to deprive the people of the security which they have reserved to themselves, in the President's Constitutional responsibility?

The President is re-eligible at the end of four years; it is, therefore, fair that he should be left free to execute his Constitutional powers; that the people may be enabled to judge the manner in which he has executed them. If you undertake to direct the President in the performance of his duties, you deprive him of the merit of those acts which the people might approve. Let it be supposed that the President intends to do the act which it is proposed that we shall direct him to do, and that the act is one which deserves, and will receive, the approbation of the people. If you shall direct him to do the act, his performance of it will be ascribed to your direction, and all the credit due to the act will be given to you, and withheld from the President. On the contrary, should the President disapprove of the proposed measure, resist the usurpation, and maintain his Constitutional rights, the consequence must be, that either the President or Congress must sink in the estimation of the people.

By adopting the proposition under consideration, you will pronounce to the world, that the President will not voluntarily do his duty; and that it has become necessary that you, by direct-



ing, should compel him. You certainly intend that your direction shall have effect, and it can have no effect, unless it compels the President to do an act which otherwise he would not have done. You do not intend merely to place Congress in collision with the President; to raise an opposition to him, in case he shall have firmness enough to maintain his Constitutional rights, and to act according to his own views of the interests of the United States.

The people have, by the Constitution, distributed distinct powers to the several departments of the Government: the Executive power they have confided to the President, either alone, or by and with the advice and consent of the Senate; they have adopted a particular mode of electing the President, intended to secure to the office of Chief Magistrate the greatest wisdom, knowledge, patriotism, and integrity. They have a right to the free and voluntary services of the citizen whom they have selected, as possessing those qualities, to fill the Presidential Chair; a right to all the advantages to be derived from his talents and his information. And at no time has the Executive department of this Government more deserved the public confidence than at present. At no moment since the formation of the Constitution, did the Cabinet possess, in so great a degree, the qualities which a Cabinet ought to possess, viz: talents, knowledge, political information, and harmony.

Yet at the very moment when the President has his agents in those countries, which claim to be admitted to the rank of nations, for the purpose of ascertaining their true situation, and to discover what order of things will probably be ultimately established, it is proposed that you shall prematurely interfere, and that, before the desirable information has been obtained in such a mode as may be relied on, you shall, on such information as the Speaker (Mr. CLAY) has gleaned from newspapers and pamphlets, direct the President to send a Minister to Buenos Ayres. Should your interference be at any time expedient, certainly this is the most improper time to interfere. The want of information on this subject has been fully shown by this discussion. No one will pretend that the members of this House generally are well informed concerning the actual and political state of the Spanish provinces, and the contradictory nature of the information given to the Committee, by those members who have taken pains to procure information, proves that we have none that is worthy of being relied on.

It is by the President only that the United States communicate, negotiate, and treat, with foreign nations. To them, as has been properly observed by the gentleman from South Carolina, (Mr. LOWMEYER,) we should present a single front. The measure proposed seems, in itself, of little importance; but it will be understood by the speeches of the honorable mover, and others, by whom it is supported. Thus understood, the proposition goes to degrade your President in the eyes of foreign nations. If Congress shall assume

power to direct the President, this House becomes the efficient Executive. Who would be President on such conditions?

I proceed to show that the conduct of the Executive, as relates to Spain and the provinces, has been impartial, honorable, and such as comported with the true interest of the United States.

The honorable Speaker has been pleased to say, that the conduct of the Executive towards Spain and the provinces was calculated to irritate both parties, and conciliate neither. This brings to our recollection what he said on a former occasion—that the acts of the Executive had been all on one side, and bearing entirely against the colonists. This charge, which has never been answered, was made by a gentleman whose assertion will be respected as authority throughout Europe, as well as throughout this country, by those who do not examine for themselves.

If we examine those acts of the Executive which have any bearing on the contest between Spain and the colonies, it will be found, that the greater number was favorable to the patriots; and those were the result of the free will and discretion of the Executive, while the acts complained of, which have had a bearing against the patriots, were performed by the Executive in obedience to the laws, and were not the result of the exercise of discretion.

The acts of the Executive of the United States favorable to the Spanish provinces, I will notice in the order of time.

In Mr. Madison's Message of November, 1811, we find this passage: "An enlarged philanthropy, and an enlightened forecast, concur in imposing on the National Councils an obligation to take a deep interest in their destinies; to cherish reciprocal sentiments of good will; to regard the progress of events; and not to be unprepared for whatever order of things may be ultimately established." Here is a voluntary act, favorable to the cause of the provinces; and this recommendation was followed by an act of Congress giving a considerable sum to the people of Venezuela.

The next act favorable to the provinces, was the issuing by Mr. Madison to the collector of the customs instructions to admit the flag of the provinces; by which their ships became entitled, in the ports of the United States, to every privilege granted to the ships of other foreign Powers. The President was at liberty to have considered the patriots as rebels against their Sovereign, and to exclude their flag from our ports; or to consider them as a party in a civil war, and as such to admit their flag into our ports; he decided favorably to the patriots, and admitted their flag.

The next act of the Executive, favorable to the Spanish provinces, was the declaration by the present Chief Magistrate, that those provinces are partial to a civil war, in which their rights, as relates to neutrals, are equal to the rights of Spain; the President thus looking on

the independence of the provinces as actually existing.

The next Executive act which has a bearing favorable to the Provinces, was the construction given by the President to the law of March, 1817, respecting the neutral duties of the United States. That act, in consequence of the omission of the words "district, colony, or people," in one of its sections, perhaps admitted of a construction that would have denied to the patriots equal rights with the subjects of Spain in the ports of the United States. We have employed some time on a bill intended to remedy the defect; but the construction given by the President to the act of March, 1817, had rendered its operation perfectly equal as related to Spain and the provinces, so far as the Executive authority is concerned. In a letter written by the Secretary of the Treasury, which may be considered as official, is this paragraph: "Having declared that the flags of Spain and of independent Governments established in Spanish America should be treated in the same manner in the ports of the United States; the Executive authority would not hesitate to consider the flag of Venezuela that of a foreign State, within the meaning of the fourth section of the act."

The last act that I shall mention, manifestly favorable to the provinces, is the act of sending commissioners to ascertain what is their situation; to prevent misunderstandings; to correct errors; perhaps to redress past grievances, and prevent their recurrence in future.

These various acts of the Executive, having a bearing favorable to the patriots, and all of them resulting from the discretion of the Executive, were overlooked by the Speaker, when he said that the acts of the Executive were all on one side, and bearing entirely against the colonists.

Let us now examine those acts of the Executive of which the Speaker complains as having so unfavorable a bearing against the patriots. These are, the proclamation of Mr. Madison, issued for the purpose of dispersing the armed force collected under Toledo, in violation of the law of the United States; and the suppression by the President of the establishment at Amelia Island, made by McGregor, with a force unlawfully prepared within the United States, and maintained by Aury, who pretended to act under the authority of Mexico, New Grenada, and Venezuela.

As to the proclamation which was issued for dispersing the armed force collected under Toledo, it will be remembered that President Madison was sworn faithfully to execute his office, the chief duty of which is to take care that the laws be faithfully executed. An act provides that when the execution of the laws of the United States is opposed or obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, the President may call forth the militia; but he shall by proclamation command those who thus oppose or obstruct the laws, to retire peaceably to their respective abodes, within a limited time. The

force collected by Toledo came within the meaning of the law; and Mr. Madison had no discretion to exercise. The law pointed out his duty, and he performed it.

The suppression of the establishment made by McGregor, and continued by Aury at Amelia Island, was required by the interests and the honor of the United States. The world knew that the Executive was authorized to take East Florida against any foreign Power. Those who follow the profession of arms, must either be robbers or pirates, or they must have some power. The friends of Aury will not admit that he was a pirate; then they must contend that he served a foreign Power. Let us admit that Aury served the Republic of Venezuela, a Power whose flag is admitted into the ports of the United States, under the laws respecting the vessels of foreign Powers. If Venezuela had been formally acknowledged as an independent State, the act of 1811 authorizes the President to take Florida against the attempt of Venezuela to take possession of it; and the want of such formal acknowledgment cannot diminish the rights of the United States. It being the duty of the President to execute the laws, and the case contemplated by the act of 1811 having happened, a foreign Power having attempted to take possession of Florida, and having in execution of that attempt made an establishment at Amelia Island, the President was bound to suppress the establishment maintained there by Aury.

Had no such law existed, the conduct of the President would have been worthy of approbation. A nation has a right to protect itself from the evils of bad neighborhoods. Upon this principle it was that the act for taking possession of East Florida was passed. So when Louisiana was transferred from Spain to France, our Minister at Paris most seriously remonstrated against the occupation of that country by the forces of Napoleon; and many of our distinguished politicians urged the expediency of taking Louisiana by war, rather than admit a dangerous neighbor to come there. Perhaps Louisiana might have been obtained by war, at an expense of one hundred and fifty millions; but the wisdom and moderation of Mr. Jefferson obtained it by purchase for the tenth part of the sum. It was to preserve herself from the evils of bad neighborhood that Prussia involved herself in war, first with Great Britain and afterwards with France, rather than have French troops in possession of Hanover. Is there any nation more interested in avoiding neighbors of a certain description than the United States? Would it be safe to allow Florida to be revolutionized by black troops? We have said, and I presume will continue to say, that no Power except Spain shall come there.

I have shown that the conduct of the Executive, as respects Spain and her American possessions, has been impartial. The honorable member did not indeed say that it was partial; but he could not be understood as meaning any; thing else, when the acts of the Executive were



H. OF R.

Spanish American Provinces.

MARCH, 1818.

all on one side, bearing entirely against the colonists. I will now proceed to show that the conduct of the Executive, as respects those parties, has been most honorable.

The conduct of the Executive has been contrasted with that of the French Government in the war of our revolution; and the conduct of the Government of France has been denominated magnanimous. A comparison more favorable to the Executive of the United States could not have been made. Let us see what was the conduct of the Government of France during our revolution, previous to the treaty of 1778, by which France and the United States became allies. Secretly the Government of France was granting us aid in money, arms, and warlike stores, while publicly she affected to observe a strict neutrality. A State paper, published by that Government about the year 1780, says, "His Majesty prohibited, very severely, the exportation of arms and warlike stores, provided they were intended for North America." He prohibited the privateers to sell their prizes in France, and his subjects to purchase them." The same State paper reveals the motive by which the French Government was actuated in becoming the ally of the United States, which certainly was not a desire for the liberty and happiness of the United States: it says, "in treating with the Americans after they became independent, the King exercised the right inherent in his sovereignty, with no other view than to put an end to the predominant power which England abused in every quarter of the globe." Such was the motive and such the conduct of the Government of France, now denominated magnanimous, and preferred to the conduct of the Executive of the United States. And what has been the conduct of the Executive towards Spain and the provinces? That conduct has been open and impartial; the ships of both are admitted in our waters; they equally enjoy the right of hospitality; either party may purchase ships, arms, and warlike stores. Conduct so impartial and just is truly neutral and honorable.

Sir, I am deeply impressed with a sense of the obligations which we are under to France for the aid granted to us during the war of our Revolution; but I cannot admit that the conduct of the French Government is compatible, either for honor or magnanimity, with that of the Government of the United States. The declaration made by the President that no privilege in commerce would be accepted from the Spanish provinces that shall not become common to other nations, is one of the most disinterested and magnanimous that ever was made by a Government. It is an example of liberality worthy to be admired and imitated by other Governments. It is worthy of the Government of the most just of all people.

The Speaker disapproves of the moderation which the Executive has manifested towards Spain. He would press upon Spain in her state of embarrassment; and he endeavors to prove that Spain cannot and will not make war. If such be truly the situation of Spain, how ungen-

erous is it to seize the present time to press upon her! How very different are the sentiments which have heretofore been expressed by the Executive. In a letter written by the present Chief Magistrate, then Secretary of State, in 1812, to General Matthews, will be found these passages: "In neither of these contingencies was it the policy of the Executive to wrest the province forcibly from Spain; but only to occupy it with a view to prevent its falling into the hands of any foreign Power, and to hold that pledge, under the existing peculiarity of the circumstances of the Spanish Monarchy, for a just result in an amicable negotiation with Spain." "I may add, that, although due sensibility has been always felt for the injuries which were received from the Spanish Government in the last war, the present situation of Spain has been a motive for a moderate and pacific policy towards her." I ask, if these sentiments are not magnanimous and honorable, and worthy of the United States?

When France wronged the United States, they made war upon her; when England wronged the United States, they made war upon her. Having attacked the greatest and most warlike nations, the forbearance of the United States to make war against Spain, during a period of long continued, and still continuing distress, will not be attributed to any unworthy motives; for Spain, we are told by the Speaker, cannot and will not make war. How ungenerous then would it be to take a step against Spain which would undoubtedly produce war, if England was the offended Power!

I have said, sir, that the measure proposed is pregnant with evil, and may jeopardize the safety of the United States. I hope and trust that we are able to resist any combination that may be formed against us, even at this time. I am confidently certain, that in twenty years we shall be able to set at defiance the power of the world: and in a century we shall be able to give it laws. I therefore, deem it most important, that we should let the present moment of peril pass away; that we should gain time, and go on to improve our resources by the arts of peace.

If any event can jeopardize our safety, it is a war with the combined Powers of Europe at this time. Sir, if a hundred measures were devised for the purpose of destroying our national existence, and this was among them, it would be the very measure that I should deem most likely to succeed. If there is a measure, the adoption of which can produce such an event, it is one which shall amount to a declaration that we are the patrons of revolutions; one, by which we shall proclaim, that, wherever a province shall make insurrection against the authority of the parent country, we will consider it our business and duty to take the new people by the hand and introduce them into the family of nations.

Sir, the coalition still hangs together. And what is their common bond of union? It is the cause of legitimacy—the cause of hereditary thrones. The combined Powers have proven, that they do not mean to confine their views to Europe, by interfering in the controversy between

MARCH, 1818.

Spanish American Provinces.

H. OF R.

the Courts of Spain and Brazil. Is it not the object of their holy leagues to bring back mankind to the state of mental darkness in which they were for ages subsequent to the reign of Constantine? Has not Great Britain signified to you, that the Mississippi ought to be your boundary? Has not France done the same? Has not Spain claimed that boundary? Do not these circumstances indicate concert between those Powers? Shall we then, at such a time, do an act utterly useless to us, equally useless to Buenos Ayres, (for the Speaker admits, that there can be no concert between us, and that we have not the means to aid her;) an act, the effect of which will be to bring Congress and the President into collision; which act may by any possibility, however remote, involve us in a contest with the combined European Powers?

Sir, let us hold this language to the people of the provinces: "Ask us not to engage in war in your cause—you have men and money; arms and ships you can purchase. The cause you are engaged in is one to be decided by yourselves. We grant you every privilege of a Power. We will not quarrel with your former master. We will not quarrel with the combined Powers of Europe. Achieve your independence, and force Spain to acknowledge it. We have no authority to judge of the contest and award the prize." Sir, when Doctor Franklin, in 1777, requested the King of France to acknowledge the independence of the United States, the King answered, that he could look upon the independence of the United States as actually existing; but, that it did not belong to him to acknowledge it, for he had no right to judge of it. Neither does it belong to the United States to judge of and acknowledge the independence of Buenos Ayres.

But, it is said, that the acknowledgment of the independence of the Republic of La Plata will give Spain no just cause of war. Sir, justice is not always the law of nations. The law of nations is the usage of nations. Let us see what is the usage of nations, when one Power acknowledges the independence of provinces which have shaken off their allegiance to another. It will not be necessary to go further back than the war of our Revolution. From the eventual treaty of alliance entered into between the United States and France, it appears, that the latter Power expected a declaration of war on the part of Great Britain to be a probable consequence of the acknowledgment of the independence of the United States. The Treaty of Alliance recites, that the parties "have thought it necessary to take into consideration the means of strengthening those engagements, and of rendering them useful to the safety and tranquillity of the parties; particularly in case Great Britain, in resentment of that connexion, and of the good correspondence, which is the object of the said treaty, (meaning the treaty of commerce,) should break the peace with France." Accordingly, no sooner was the fact that a treaty of commerce existed between France and the United States communicated to the Court of London, than war was declared.

It may be said, that, with France, we had a treaty of commerce, and also an eventual treaty of alliance. But, with Holland we entered into a treaty of commerce only; yet no sooner was that fact disclosed to the British Court, by the capture of Mr. Laurens, than war was declared against Holland.

Thus, it appears that a treaty of commerce entered into with provinces who have thrown off their allegiance to the parent country, gives to that country cause of war, according to the usage of nations. Then acknowledgment must be equally a cause of war; and, indeed, a treaty of commerce must be expected to be the necessary and immediate consequence of the acknowledgment of a new Power, and the interchange of public Ministers. And it is not without reason, that acknowledgment of the independence of a new Power is deemed cause of war by the parent Power. If you acknowledge the independence of Buenos Ayres, you undertake to judge of the controversy between that Republic and Spain. You deny the dependence of Buenos Ayres upon Spain. You will thus undertake to deny what Spain claims as a right.

It is not sufficient to satisfy the Committee that the measure proposed will not produce war, to show that Spain has not resources for a vigorous prosecution of war. It must be shown that the Government of Spain has not pride and a sense of honor. If you offend Spanish pride by an insult that would not be borne by England or France, war will follow; we shall make conquests; and then the Powers of Europe will interfere. Sir, I am not disposed to go to war with Spain on account of our old claim for spoiliations on commerce. Spain has also a claim against you for spoiliations committed by vessels equipped in your waters. Pay your merchants their claims; charge the sum to Spain; credit her for the spoiliations for which you are responsible; the day of account will arrive hereafter.

We have been told of the additional security which the independence of Buenos Ayres will give to liberty against the combinations of crowned heads; and that gratitude will attach the new Republics to the United States. Sir, it is by preserving the United States that liberty is to be secured against the combinations of crowned heads. And experience proves the brief duration of the gratitude of nations. England aided the Dutch to throw off the yoke of Spain; yet, no long time elapsed before the ocean was dyed with English and Dutch blood, shed in adverse conflicts between the two nations. France aided the United States to shake off the yoke of England; and our first war with a civilized nation was against France. Nations are not governed by gratitude. They are governed by interest and policy.

Let us leave the severance of the empires of the world to the people concerned. Let us not interfere in the war between Spain and her colonies. Let us not jeopardize the happiness of this happy people. Let us support the Executive in giving to the nations of the earth an example



of justice and moderation. So shall we preserve the peace of our country, and the prosperity of the our people. For, however unjust may be designs of those who govern the nations of Europe, they have too much respect for the opinions of their own subjects, and of posterity, to make an unprovoked attack upon a nation whose distinguished characteristic is moderation and justice.

Mr. HOLMES, of Massachusetts.—Afflicted, as I have several days been, with bad health, nothing but an imperious duty to explain and defend my motives could have induced me to rise on this occasion. The friends of this proposition are charged with intentions hostile to Spain, and unfriendly to the Administration. War, with all its calamities, is brought into view, and deemed to be inseparably connected with this amendment. Its horrors are eloquently and pathetically described. We almost hear the trumpets sound, the cannons roar, the shrieks of the dying, and the shouts of victory. We recover from this delirium, and inquire, What is the subject of debate? And we find, to our astonishment, that it is a simple proposition to appropriate a sum of money to be intrusted with the Executive and to be applied to defray the expenses of a Minister to Buenos Ayres, provided the President, in his discretion, should deem it prudent and proper to send one. This, then, is the subject and ground of alarm.

Sir, if this were to endanger the peace of the country, I would alter my determination, and give my vote against the amendment. I have too lately witnessed the dangers and distresses of war, to rashly expose my constituents to a renewal of its calamities. I have seen too much of violence and faction to induce me lightly to assume a hostile attitude. I have felt, too seriously, what madness and treason can do in times of public calamity, to hazard my country's peace, without great necessity and great reflection. No, sir, much as Spain has injured and insulted us, I should, in the present condition of the world, pause and deliberate before I would make the final appeal.

I am aware that remarks have been made and motives avowed in this debate, which might induce an indifferent auditor to suspect that something was intended which was not contained in the measure itself. Hence I have found it necessary to enter into the debate, that my reasons for my vote may be distinctly understood, and that my motives may appear entirely different from those which have been ascribed to the advocates of this measure.

The act, in itself, is not hostile. It is unnecessary to refer gentlemen to authorities to prove this; every one knows, and the opponents of the amendment admit, that to do the act is not cause of war. Spain would not resent it if she could. Gentlemen pretend that it is dishonorable to calculate on Spain's disability. I think not. If we were to do an unlawful act against Spain, it would be neither correct nor honorable to rest our impunity upon her weakness. But, when the act is lawful and right, and that which we might, at discretion, do or omit, it is then proper to in-

quire whether she has the power to resist it, and to calculate on her weakness.

And what reason have you to expect that Spain would take umbrage at this? Will she engage in a contest with the United States, which would prove fatal to her power in South America? Sir, she has been struggling for years to keep up the appearance of power in her provinces. Her means are exhausted, and her armies are wasted, and her power is nearly annihilated. At home, ignorance, bigotry, despotism, and beggary, abound. Her miserable stolen monarch, the usurper of his father's throne, has rewarded the defenders of their country with banishment, imprisonment, and death. The Government is bankrupt, the people are starved, and distrust and treachery everywhere prevail. Would Spain, poor, emaciated, decrepit Spain, enter the lists with young, vigorous, athletic America? Such an act would consummate her folly and madness, finish her calamities, and seal her destruction.

Sir, I regret that her condition has been compared to ours during the late war, and that the exposure of the emptiness of her treasury, by her Minister, is resembled to the report of Mr. Dallas. Is it thus that gentlemen will magnify their own weakness and debasement? Were we as poor and beggarly then as Spain is now? She has been, for years, the scene of a desolating and vindictive war; alternately exhausted, pillaged, and robbed by her foes, the French, and her friends, the British; nothing moveable remained, which was capable of exciting their cupidity. Armies fighting, advancing, and retreating, until every vestige of property was swept from the face of the earth. Not only the revenues of the Government, but the resources of the people, were cut off and consumed; and this cruel, vindictive, and exterminating war was a struggle between the vassals of the usurper of his father's throne and the usurper of that usurpation. Was your country, in the late war, like this? Sir, the resources of the nation had not been touched. Your Secretary, it is true, gave you a dismal account of the wants of your Treasury; but the money was in the pockets of the people, and when you asked for it you had it. The spirit of the Congress did not keep pace with the patriotism of the people; there was an unaccountable timidity to exact the means to prosecute the war. Some spectre of faction, some ghost of the Hartford Convention, with a dagger in his hand, or something else, I know not what, checked and deterred the Representatives of the day from calling so fast as the people were willing to pay. Sir, I repeat it, our resources had scarcely been touched at the peace. Had your country been made the theatre of the war, like Spain? Your enemy had scarcely ventured to pollute your soil with his foot. He had, in a few instances, made sudden inroads, committed depredations, and fled. He ran to this city, and with vandal barbarity demolished your public buildings, the monuments of elegance and art, and ran back again. It is true, he stopped at Alexandria, and took a little bread, which he wanted; but this was in

token of friendship and love. With the same friendly motive, he occupied Castine, that the people of New England might, with greater facility, obtain a few English goods, which they needed. There were a few other instances where private houses were pillaged of caps, and linen, and other little matters; but, in the main, the individual resources of the people had not been impaired by the enemy or the Government. Is it right, then, does it comport with American feelings, to rank your country with this miserable Spain?

But, I confess, I do not well perceive the consistency of the honorable gentleman from Georgia, (Mr. FORSYTH,) who opposes this amendment, and yet would not hesitate to occupy the Floridas. The amendment under consideration is inoffensive, and to occupy Florida is an act of war. The gentleman deprecates war; he would not even place money in the hands of the President to send, at his discretion, a Minister to the provinces of La Plata, for fear of a rupture, and still he would take the Floridas, which is war of itself. But it has been contended, that the combined Powers of Europe would take part with Spain against us, for an act entirely innocent, and perfectly consistent with the laws of nations. Sir, I apprehend that Europe has enough to do at home. It is indispensable that France should still be occupied. That ill-fated nation cannot yet be trusted to govern herself, nor is Europe safe if France be free. They who are afraid to withdraw their armies from France, would scarcely venture to engage in a remote and hazardous enterprise to subvert the liberties of the Western world. Monarchs are not over-fond of opposing their mercenaries to the soldiers of liberty. There is an enthusiasm in liberty which is extremely contagious, which may communicate itself to the ranks of the enemy, and produce disaffection, desertion, and defeat. It was the aid afforded to the sons of freemen which cost the amiable and unfortunate Louis his crown and his head.

And what is the imposing spectacle which Europe this moment exhibits? Is her coalition indissoluble? A single, solitary individual, without power or friends, is placed upon a rock in the midst of an ocean, guarded by a delegation from every Power in Europe, lest he should escape, prostrate their powers, and subvert the Governments of the earth. This is not all. The gigantic power of Russia is destined to make the rest of Europe tremble. Alexander has, with his myrmidons, rushed from the frozen regions of the North to taste the luxuries of France. He has already kindly relieved the brave Poles from the trouble of self-government, and settled their feuds by governing them himself. Like the Goths, and Vandals, and Huns, of former times, we shall shortly see him quitting his inhospitable rocks, and mountains, and frosts, and snows, to seek and enjoy the genial skies and luxuriant soils of France and Italy. All Europe views him with jealous eyes, and are on the alert at his every movement. He casts a longing look at the Bosphorus and Dardanelles, and contemplates, with

solicitude, the time when his fleets shall pass from the Black Sea to the Mediterranean, to dispute with England the empire of the ocean. Will Russia and the other Powers, thus watching and jealous of each other, engage in a contest of doubtful success, of certain danger, and inevitable loss? Let any or all the Powers of Europe engage in an American war, and you will witness scenes in France which surpass description. France is waiting only until the attention of the allies shall be drawn to some other object, to rise in her strength, burst her fetters, and annihilate her weak and tottering Government. And if no other reason prevented the coalition from joining to subjugate America, the difficulty of dividing the plunder would be alone sufficient. Were the South American provinces to be partitioned among the Powers of Europe, England would insist on a part, and give her a part, and she inevitably secures the commerce of the whole.

But, it has been intimated, that England would fight us if we adopt this amendment. Sir, I think I have shown that Spain cannot fight us alone, and the honorable gentleman from Maryland (Mr. SMITH) admits that England would not join her. He even regrets that she would not, and wishes that she might. If Spain cannot enter the contest without England, and it is admitted that England will not, it would seem that the danger is at an end. But there are better reasons than the gentleman's admission that England would not fight the United States, she would be certain of hard fighting, and doubtful of success or glory. She is still smarting with the wounds which we have inflicted on her. She secretly wishes the independence of the provinces, and would, indirectly, aid in their cause. A market for the annual sale of £50,000,000 sterling of our manufactures, which she would acquire by the independence of the provinces, would not be lost sight of by her statesmen. This alarm of war, sir, is fanciful and visionary.

But an alarm has been sounded that the advocates of the amendment are opposing the Executive; and is this true? Am I, who very lately well nigh lost my right to a seat in this House for having been in a condition which exposed me to Executive influence, so soon to rebel against the President? Shall I, who have experienced the droppings of the Executive sanctuary, turn my heel against my benefactor? Should this be the case, it would only prove what experience has always proved, that gratitude for past, influences less than the prospect of future favors. That it is not the man who has had an office, but he who is seeking one, who is the humble tool of the Executive.

But, sir, although neither past favors nor future prospects will ever induce me to follow in the wake of any man, still I insist, and will prove, that the proposed amendment is in perfect accordance with the views and feelings of the President, as discovered in all his official communications to this House. While I prove that the act itself is proper, I will show that, as an individual, I am not ungrateful. Ingratitude is a charge which would set heavy; it is a crime of which



no one has yet been found who would acknowledge himself guilty. I have the utmost confidence in the correctness of the course which has been, and will be, pursued by the President in regard to these provinces. To send the Commissioners to inquire into their condition, was prudent and proper, and consistent with his regard for their liberties and our safety. That the President ardently wished for their emancipation, and that his course of policy was conformable to that wish, I have never doubted. He has admitted their flag on the same terms as that of Spain; he has sent three gentlemen to inquire into their condition. By this measure we say to the President, "Sir, with that solicitude which characterizes a love of country and regard for the rights of man, you have sent Commissioners to South America. They are to ascertain the strength and stability of their Governments. On their return you will be able to judge what ulterior steps are to be taken. Should their report be unfavorable, nothing further will be done; but should it appear to you that a nation has been established on the southern division of the American continent, you have the means to recognise them, provided you should deem it consistent with the honor and interest of this nation." These are my reasons for giving this power. Sir, is this hostility to the President? Those gentlemen who are disposed to take the reputation of the President into their exclusive custody, are unwilling to intrust him with \$18,000, lest he should abuse the trust.

This grant is authoritative, but not directory. Why, it is asked, not leave it upon the same footing as other diplomatic appointments? I answer that the President would no doubt venture, upon his own responsibility, to send a Minister to any Government already established and recognised, provided the public good required it. But, here, is a subject of some delicacy, and the advice of opinion, at least, of the people's Representatives would, no doubt, be agreeable to him. Here is a new nation sprung into existence by bursting the bonds of oppression, as we did. Whether we should be the first to recognise them, or wait until the monarchies of Europe should have done it, are questions of policy as well as principle. Should the amendment prevail, and should he determine, on the return of the Commissioners, to send a Minister, he would feel a confidence that the people would not complain, nor would he be exposed to have the correctness of his course questioned or criticised in discussing the next appropriation bill.

Sir, there is a character of hostility given to this measure which it does not deserve. This very session we have passed an act, far more hostile to Spain, and favorable to the provinces, than the amendment under consideration. An act expressly offering the flag of the provinces protection in all our ports. Yet, when an innocent proposition is submitted to vest a discretion in the President to do a harmless act, you take the alarm, and denounce its advocates as hostile to Spain and unfriendly to the President. Sir,

this is, indeed, "straining at a gnat, and swallowing a camel."

But there is no proof that Buenos Ayres has an independent government, or that the people are sufficiently populous or powerful and intelligent to maintain their independence. I am aware that our knowledge of their political condition is still imperfect. For that reason I would do nothing in haste. I would wait the return of the Commissioners; and this is what this amendment contemplates. We, however, do know that the province of Buenos Ayres is extensive and populous; that it extends sixteen hundred miles by one thousand, and that it has cities containing from 70,000 to 100,000 inhabitants. We know, also, that the principal cities, Buenos Ayres and Potosi, and, indeed, all the others, are in possession of the patriots. Now where are the royal forces? The population of this province is almost exclusively in the cities. The settlements commenced in this way at first, as a protection against the savages. If these cities are under the government of the patriots, what does Ferdinand govern? The gentleman from South Carolina (Mr. LOWMEDE) intimates that Potosi has lately been in possession of the royal forces, and that it is not certain but that they may occupy it now. Sir, how could St. Martin cross the Andes with Potosi in possession of his enemy? Yet, he has done this, expelled the royalists from Chili, and has, probably ere this, liberated Peru. I think I may, with safety, affirm that no royalist has ventured, during these last five years, to enter this province.

But the last, and, as I believe, the most illiberal objection, is yet to be noticed:—The independence of South America would not profit us! Sir, I regret that such an objection should come from such a source. The honorable gentleman from Maryland, (Mr. SMITH,) in the true spirit of calculation, apprehends that the exports of these provinces would rival ours. Nay, more, this degraded country is to become our rival in power, and to threaten the existence of our navy. In one breath we are told, these people are too ignorant and imbecile for self-government; in the next, let them be free, and they will become mighty rivals, and engross our commerce and vanquish our navy. They are to build ships without timber, (for they bring it now from Paraguay,) and they are to navigate them without seamen.

Sir, when the Portuguese monarchy was transferred to the Brazils, we were not then alarmed at the danger of rivalry. We sent them a Minister at the rate of nine thousand dollars a year, and nine thousand dollars outfit. These South Americans are not destined to become commercial rivals to any nation. Many of them lie within the torrid zone—a country favorable to production, but not to enterprise. Your ships, your manufactures, your carrying trade, will find a brisk and constant demand, from a people with whom labor and enterprise are not familiar.

Sir, let us not indulge an unreasonable jealousy where the cause of liberty and humanity are con-

cerned. I hope and trust that men whose fathers fought and bled in such a cause, will never be deterred by considerations selfish as these.

The hardy sons of the North will never be in danger from the freedom of the South; our sailors are inured to storms and tempests, and experienced in hardships and peril. Their enterprise will not yield to that of any people on earth. It is even childish to apprehend danger from the independence of South America; but there are strong and powerful reasons why we should rejoice at and encourage such an event. And we do rejoice at and encourage it. The President of the United States wishes, as ardently as any one, for their emancipation. He whose whole life has been devoted to freedom, cannot, does not, will not, look with indifference on events of such interest.

Sir, the people of the United States do, and ever will, take a most lively interest in the freedom of their brethren of the South. It is the cause in which we fought, and bled, and conquered. This nation now stands alone, the only established Republic on earth, like a solitary rock in the ocean, where the storms of tyranny have burst upon its brow, and the billows of faction broke harmless at its base. Will it not then be a source of consolation, that we can hail one Republic as a sister, take her by the hand, and encourage her in her advance to freedom?

Sir, I have thus far tired the patience of the Committee, in showing, that this measure is innocent in itself, and is neither hostile to Spain, nor unfriendly to the Administration. I trust I have succeeded in proving that the course of the Executive is coincident with this measure, and that whatever other gentlemen may feel, my views are to accord with, and support the Executive on this subject; and that the whole amount of the proposition is, to give the President the means, and to leave it to his entire discretion whether he shall use them or not.

Mr. TUCKER, of Virginia, said, that at this late period of the discussion, he could only claim the indulgence of the Committee upon a principle, which never failed to secure to those who asked it their patient attention. He found that, upon this occasion, he should be in a small minority of the delegation from his own State, and was, therefore, peculiarly solicitous of explaining the reasons of his differing from his honorable colleagues, for whose opinions he felt the greatest respect and deference. There was, indeed, another reason of not less importance. This proposition had been supported upon a variety of principles, and by very various arguments; nor would gentlemen be surprised to learn that his own views of a subject, which had so many aspects, had not been exactly presented, when they recur to the fact, that scarcely any two persons, who had spoken on this occasion, had entirely coincided. The honorable Speaker had declared himself for this proposition, but was opposed to war or the occupation of Florida. The gentleman from Georgia is against this proposition, but is in favor of the occupation of Florida. My

friend from Louisiana is in favor of both; and my friend from South Carolina (Mr. LOWMEDE) is in favor of neither. Among these various opinions, I am inclined to the adoption of this proposition, though I coincide otherwise entirely in the pacific policy of the chairman of the Committee of Ways and Means; an opinion which I shall probably endeavor to support upon grounds considerably different from those which have been advanced by the Speaker.

Sir, I have said, on a former occasion, that I am opposed to involving the nation in war, unless a great and important occasion shall require it. I have said, that I am unwilling to entangle ourselves in the contest now raging between Spain and the provinces of South America, but, that I would maintain an honorable, impartial, and dignified neutrality. I am opposed to war, because I see no adequate advantages to be derived from it; because the occasion does not seem to justify so important and momentous a measure; because the amount of the losses for which we seek indemnity, and of the property we wish to get possession of, bears no comparison with the hazards which we must encounter, whenever we engage in war; and, because I conceive a state of war always replete with danger to the principles of our Constitution. It has long been my settled and deliberate opinion, that nothing is so apt to sap the foundation of our liberties as frequent wars. Every laurel that we gain is at the hazard of some principle of free government; every field that we win endangers some part of our Constitution. The urgency must, therefore, be pressing, the necessity imperious, which drives us to war; and, were I less convinced than the gentleman from South Carolina, of the unprofitable results of a Spanish war in other respects, the consideration I have mentioned would suffice to dissuade me from giving my voice for waging it in the present state of things.

But, sir, while opposed to war; while averse to every measure which will probably lead to it, and which the honor and interest of the nation does not require, I have said that I would preserve a strict, impartial, and dignified neutrality; and I do most sincerely believe, that, in the pursuit of this end, the measure under consideration ought to be adopted.

I cannot but regret, Mr. Chairman, the manner in which this proposition has been discussed, and the remarks that have been introduced by its opposers. I allude to the harsh expressions that have been used in speaking of these unhappy people, who have long been struggling to throw off the most galling yoke, the most hateful slavery that has ever yet tortured and degraded man. The honorable gentleman from Georgia tells us, that he sympathises in their cause, and earnestly wishes for their success. I doubt not his sincerity. Yet I would appeal to every member of the Committee, whether the harsh colors in which he has represented them, and the dark picture he has drawn of their ignorance and depravity, is calculated to transfuse into other bosoms the sympathy of his own. I will appeal



to himself whether his glowing language is likely to win us to their cause, and to disseminate, through the nation, an interest in their prosperity, when he represented them as having lit the torch of revolution, without possessing a sentiment of liberty; with conducting it by massacres and enormities, which render them unworthy of freedom; and with terminating it in a tyranny, not inferior to that which they have overthrown. According to this view of the subject, their Revolution has commenced in ignorance; its course has been stained by murder; its end has been the subjugation of the people; and we should feel not one emotion of pity for their sufferings, or of solicitude for their welfare. Sir, I am aware that this course of remark was, in some measure, drawn from the gentleman by the observations of the Speaker. But, while he protests against the comparison of the patriots with the heroes of our Revolution, he might have spared them, at least, the contrast which he has so vividly drawn. He tells us that they hugged their chains, and loved the tyranny; and that the origin of their Revolution had no foundation in the principles of freedom. He does not attend sufficiently, I think, to the nature of revolution, or sufficiently consider the situation of this people. What would be said of that man, who, turning over the pages of our history, should charge the sages and patriots of our Revolution with hugging their chains and loving their tyrant, because of the repeated and loyal remonstrances and memorials presented to the Crown? What should we think of the statesman, who, looking only to the surface of things, should attribute our glorious struggle to a mean and mercenary spirit, which revolted only at a twelve-penny stamp, or a trivial duty on a pound of tea? Sir, these who sat at the helm were men of profound wisdom and political sagacity: deeply versed in the knowledge of their rights as freemen, and intimately acquainted with the principles of human action; and, in conducting us over the tempestuous ocean of revolution, they looked with a steady eye to the liberties of their country, while they availed themselves of all these popular breezes, to waft the vessel of state into the haven of freedom and independence. Such may be the case with the Revolution of the Spanish provinces. We are too imperfectly acquainted with the facts which led to their convulsion to pronounce them destitute of the noble principles of liberty.

Nor are sufficient allowances made for the situation of these unhappy people for many centuries. Two or three hundred years have they been groaning under a tyranny the most oppressive that has ever overwhelmed a wretched people. Nothing parallel to the misery and slavery of Spanish America can be found in the annals of the inhabitable globe. It has been governed with an iron rod, by monarchs who have been most distinguished always by whatever is most horrible in tyranny, most detestable in bigotry, and most contemptible in imbecility. They have been involved, for centuries, in the deepest gloom of ig-

norance and superstition, into which it is the interest of tyrants forever to plunge the victims of their power. And when, at length, a beam of liberty has pierced the cloud which has so long benighted them, shall we be surprised that it has not, in a moment, dispelled the darkness, and spread abroad, throughout their land, the splendor of the meridian sun? Let us rather rejoice that light hath broken in upon them, and look with confidence to yet brighter moments. Let us remember that the throes of revolution are most violent, where the mind has been least enlightened; nor wonder that, in the struggle to throw off the Spanish yoke, greater outrages should be committed than in our own Revolution. We are told of the massacres of their enemies, and the enormities of their Revolution. Unfortunately these are evils, too, necessarily connected with civil war. Even we were not without them. The Carolinas were the scene, during our Revolution, of events that we shudder to recollect. Brother was armed against brother—neighbor against neighbor. Our foe, too, was generous and merciful, compared with the cruel and unrelenting tyrants of those wretched and struggling people. Yes, sir, the cruelties perpetrated on the Spanish patriots, by the inhuman monsters who seek their subjugation, cannot find a parallel in the annals of nations, if you except the history of Spain herself. Tear but away the page in which her bloody deeds are recorded, and you will find no parallel to her late enormities. She is, indeed, "her only parallel." And is it to be expected that, in a war like this, forbearance can be found among those who are goaded into madness by treachery and cold-blooded massacre? It is impossible!

Sir, it is for these struggling people that I own my sympathies are excited. I am not ashamed to avow them. I know it is not very fashionable to declaim in favor of liberty, and had I the disposition and the talent I should be saved the effort by the nervous eloquence of the gentleman who spoke on yesterday, (Mr. ROBERTSON.) I always listen to him with pleasure, but on yesterday with delight. His speech was dictated by a Roman spirit, and a genuine republicanism;—a republicanism that knows no change; which, during the lapse of nearly thirty years that I have known him, has remained unaltered, and unimpaired.

There is, Mr. Chairman, another course of remark that I cannot but regret on this occasion. It has been said that this proposition implies a censure on the Executive. I am well aware that the gentleman from South Carolina did not mean to intimate anything personal by the remark. Yet it cannot but have its effect.

[Mr. LOWMESE rose and explained, saying that, as he frequently differed from the Executive himself, he could not disapprove a similar freedom of opinion in others.] Mr. TUCKER continued—

The explanation of the gentleman was unnecessary. His uniform urbanity furnished a sufficient assurance that the remark was not intended with any personal view. But, though this is the

case, yet the intimation that the proposition is not in consonance with Executive opinion, is not without effect. The high standing and commanding talents of the gentleman may render it personally unimportant to him, whether his course conflicts with Executive opinion or not. It is not always so with others. The Executive branch of the Government, though it possesses not a very extensive direct influence, is vastly powerful in its indirect and reflected influence over this body. Elected by the suffrages of the whole nation, there are many who look upon him as the Northern Star of the political firmament, which alone preserves its place in the heavens, "fixed and unshaken of motion;" and by him they discern the aberrations of the lesser constellations of the system. I will not pretend to say that to a certain extent this may not have its advantages; but this I can venture to advance, that he who acts with candor and frankness, and with a sole view to the honor and interest of the nation, will not fail to receive approbation rather than censure for his frankness and independence. Our constituents will deal liberally by us so long as our motives are pure; and by this standard I am willing to be tried whenever I am found in collision with the Executive. But to whom are we to look on the present occasion in order to discern its opinions? To either of the two honorable chairmen, from whom we might most reasonably expect such information? No; they differ with each other. And the occupation of Florida, which one of them proposes, seems generally to be supposed at variance with the Cabinet opinion. Thus situated, I beg leave not only to disregard the intimation that this measure implies censure, but I utterly disavow and disclaim, on my part, any such idea. So far from it, that, according to my notion of things, the vote which I shall give will be founded on principles that confirm the propriety of the course pursued by the Government. What is the character of the proposition? It appropriates the usual sum for the outfit and salary of a Minister, for the purpose of sending a representative of this Government to Buenos Ayres, whenever the Executive, in the exercise of its Constitutional discretion, shall think it advisable. It commands nothing; but it intimates, in a proper and Constitutional manner, the readiness of this House to go hand in hand with the Executive, in the interesting measure of opening an intercourse with the Government of La Plata, by sending and receiving Ministers. It is in this way, and in this way only, that I understand the proposition. Is there any direct censure of the Executive here? Not at all. Is there any implied? A construction which would give to it this character, must be forced and unnatural. It is only upon the hypothesis of the gentleman from South Carolina, that such a construction has the air of plausibility. He tells us that, as the Executive have the power, this House ought not to interfere, unless there has been culpable negligence in its exercise; unless there has been unreasonable delay in sending a Minister to a foreign Power. If his doctrine be admitted as a

general rule, yet, cases like the present, must form an exception to it. There is an evident distinction between sending Ministers to old established Governments, and sending a Minister for the first time to a new Government, separating itself from one to which it had formerly been attached. The one leads to no dangerous results; the other, we are told by gentlemen, will put to hazard the peace of the country. You may send a Minister to Turkey, or to Italy, to Denmark, or to Austria, without offending any one. But we are told that, if we send a Minister to La Plata, we shall involve ourselves in a quarrel with Spain. Be it so. Is it not, then, a sufficient reason for the expression of the opinion of this House, the immediate representative of the people—the Constitutional organ for declaring war—that a contemplated measure may lead to a state of war? Is it fair to expect the Executive branch of the Government to assume, alone, the responsibility of a measure involving such momentous consequences, while we stand silently by, unwilling to share the hazard of expressing an opinion? Or, is it consistent with the spirit of our Constitution, that the Executive should pursue a course which leads to hostilities, without an intimation of the opinion and wishes of the nation, expressed through the legislative body, on so important a concern? I think not, sir; and so far from censuring the forbearance of the Executive, hitherto to send a Minister to La Plata, I applaud it; because, although I do not think it would give just cause of war, yet, as it might lead to a rupture with Spain, a proper respect for the rights of this body required that they should await its opinion on the subject. Nor ought they to send a Minister, or to receive one, without the sanction of the legislative body, until the lapse of time, or the acquiescence of Spain shall have removed every hazard of hostility. It is, then, with a view of expressing, at this time, our willingness to go hand in hand with the Executive in this affair, whenever it shall think it advisable to act, that I shall give my support to this proposition.

But, gentlemen seem to consider this an interference with the Constitutional powers of the Executive. I do not think so. This House has at all times, and on all subjects, a right to declare its opinions, leaving to the Executive to act upon them or not, according to its pleasure. Nay, it has often done more. Wherever the act to be done by the Executive has been intimately connected with the Constitutional powers of this body, it has always deemed itself competent to act. Thus, before the treaty for the purchase of Louisiana was made, \$2,000,000 were put at the disposal of the Government for a purchase of Southern territory. Here there was an act perfectly analogous. This body had no right to make a purchase, or to command the President to do so: but, as the purchase, if made, would have called upon the Legislative body for an appropriation, it was thought advisable to make it before hand, and thus indicate a correspondence of views on a subject, where correspondence was necessary. Could it have been said at this time, that



the Executive were censured by Congress for saying to make a purchase the interest of the nation called for? Could it then have been objected that we were trenching upon the Constitutional powers of the Executive? Could it have been alleged to be useless and frivolous, because the Executive could make the purchase without a law? If not, neither can it be said now. The act of the Executive *there* would only have called for a small appropriation. The act of the Executive *here* might have the effect of a declaration of war, which it is within the Constitutional powers of the Legislative body alone to make. It would appear to me indeed of the utmost importance, that this correspondence of views should be preserved between these two branches of the Government. How embarrassing to the Executive must it be, if, after a treaty has been made calling for a large appropriation, this body should refuse to make it, and to sanction a contract entered into with a foreign State. How much more embarrassing, if, in the exercise of its Constitutional powers, the Executive should involve the nation in a war against the wishes of its Representatives. The jarring and confusion, and inefficiency that would result, might have the most fatal influence on the national success. No, sir, frankness and candor, and a free and unreserved communication of the feelings and opinions of each by the other, can never have any other than the happiest influence upon the National Councils.

The propriety of an expression of an opinion by this House on important occasions being established, it behooves us to consider the necessity of an interference at this time. Although we cannot perhaps speak very certainly of the situation of the Spanish provinces, yet, no doubt can exist that a civil war is at this time raging between the colonies and the mother country. Nor can there be more reason to doubt, that the power *de facto* in the Spanish province of Buenos Ayres is in the hands of the revolutionary patriots. And what is the principle of the law of nations applicable to this state of things? It is, that all foreign nations have a right to consider the two contending parties as two independent nations in all respects; that foreign nations have no right to judge which party is in the right, are justified in looking no farther than to the possession of the power, and in considering those who are possessed of the power, *de facto*, as the Government of the country. It is a wise and natural principle of the law of nations. It flows from the source of all national law: the rights of nations to protect themselves and to seek their own advantage without injury to others. Nations, it is said, treat and communicate with each other to procure commercial and other benefits; to obtain redress for injuries sustained, or to provide against their occurrence. It matters not to the neutral nation whether the parties in war are right or wrong; it may be its interest to make arrangements with both; it may be necessary to treat and communicate with each, to obtain satisfaction for wrongs, or to regulate their intercourse so as to prevent those infractions of neutral right, so common in a state of war.

In this view, it is only important to the neutral, that the parties are possessed of the physical power of doing injuries or conferring benefits. With a people possessed of the physical power, or power *de facto*, though in a state of civil war, the laws of nations admit the neutral to communicate as with an independent Power. They consider them in all respects as sovereign for the time being, and of course they justify communications with them by Ministers. If it were otherwise, nations at peace might suffer the direst wrongs from the parties in a civil war, without the possibility of redress, since the only way of demanding it is, by Ministers.

An application of these principles to our own case, will show the reasonableness of the rule. Spain and her colonies are at war; should they continue hostile (as Spain did with the Netherlands for half a century, without acknowledging their independence, though they were completely sovereign) can it be believed that, according to the laws of nations, all other Powers are to be debarred of the advantages of trade and commerce which they hold out? And how shall treaties of commerce be made without Ministers? Or, suppose the Republic of La Plata cruises on our commerce, or takes our shipping under illegal blockades, or attempts to enforce improper laws of contraband, or throws our citizens into dungeons, (as Spain has done with Mr. Meade,) shall we have no redress? Can we not demand satisfaction; the release of our property; the discharge of our citizens; and compensation for the injury? And how is this to be done without a Minister? And if through a Minister you make this demand, is it not a demand upon them as sovereigns for the time being? You have sent agents, or whatever they are called—(for gentlemen do not seem to agree by what name they are to be styled; they seem to be considered at present a sort of non-descripts)—and it is contended that they are not Ministers, nor invested with the mantle of ministerial inviolability—suppose they are seized and confined as spies? Will you have no right to send and demand their release? And if you send another representative shall he too be unprotected by the laws of nations? or will you send a Minister, whom, on the principles of all civilized people, they will be bound to respect? The latter assuredly—the laws of nations would justify you, and Spain would have no right to complain; because, although the mission would acknowledge the existence of civil war, and that the Power to whom you sent, held for the time being the power *de facto*, it would decide nothing as to the rights of the parties or the justice of their cause; and so long as the neutral avoids this, so long is the belligerent without just cause of complaint.

The principle contended for is rendered the more apparent by the reflection, that, according to the course of reflections I have pursued, it is in the power of either of the contending parties to compel the neutral to go to war or send a Minister. Thus, by capturing our vessels, or plundering our trade, the provinces of La Plata may compel us to send a Minister to demand redress,

or drive us into a war, which, when terminated, must terminate through Ministers. Now, it is absurd to contend, that Spain would have a right to complain at the performance of an act which the laws of nations thus manifestly permits, from the principle of self-protection and national advancement; and it would be equally absurd to deny the right to send a Minister for the prevention of injury, when the right is admitted to send one for the redress of a wrong.

If, indeed, Mr. Chairman, I am not very much deceived, the error on both sides, in this debate, has been in considering the mere act of sending or receiving a Minister from these colonies, as a recognition of their entire and permanent independence of the Kingdom of Spain. We are groping in the dark, it is true, for want of works on national law; but, as far as I have been able to discover from those I have met with, the sending a Minister to one of two parties, in a civil war, is not of itself any recognition of the rightful independence of such party. It recognises the fact of civil war, which nobody can affect to deny. It acknowledges the sovereignty, for the time being, to reside in the possessor of the power, without pretending to decide to whom the right of sovereignty belongs. These principles are believed to be clearly supported by the authority of Vattel and Martens—both approved writers on the laws of nations. [Here Mr. T. read passages from these works.]

It is upon these principles that France received Ministers of Cromwell, and it is agreed, on all hands, that Charles, when restored, had no reason to complain. On these principles have the Ministers of Napoleon been received by every potentate of Europe. On these principles, even the mother country may send Ministers to her revolting colonies, without acknowledging their independence. They are sent from the necessities arising out of a state of war. By such necessity, they are justified in neutrals, and the mission or reception of a Minister, without an express recognition, cannot receive a construction that would imply a determination to side with either party. These ideas seem to receive countenance from the intimations of the Secretary of State, in his communications with Mr. Aguirre, which appear in this morning's paper. It is not very explicit, it is true, but it intimates sufficiently clear, that recognition must be by treaty, or by some act other than the mere entertaining a Minister.

From these considerations, it would seem that we have a right to send or receive a Minister from La Plata, that Republic being in possession of the power *de facto*, and that Spain would have no right to complain of the act.

But it is admitted that the writers on national law state, that the nation generally does complain. [See Martens.] Let us, then, cursorily examine whether it is probable that Spain will complain when no just ground of complaint is afforded. I contend she will not—

Because we have already encountered all the hazard and difficulty flowing from sending or

receiving a mission, without its producing war; and because her patient endurance of what she avows to consider as a flagrant injury, contradicts the idea of her being disposed to go to war.

I have said we have encountered already all the difficulties of receiving or sending a Minister. We have sent to the South three agents, and we have received in this country (though informally) an agent from La Plata; an agent with whom, from the Secretary's letter, I think it appears he would have treated, if that agent's powers had been more full. Is it, therefore, probable Spain would take umbrage at our receiving or sending a public Minister, when she sees, at our Government seat, an agent, with whom we communicate, and who, after all, is but a Minister, though not treated with the ceremonies usual in intercourse with them? For, what is a Minister? An agent from one Power to another, invested with authority to communicate on public affairs. And I should be happy, if gentlemen can point out that passage in the law of nations which declares an individual sent on public affairs to be no Minister, or draws a distinction between an agent sent to a Court and a Minister. If there be a distinction, in the present instance, it must be on the supposition, (which is not true,) that La Plata, not being possessed of the power *de facto*, Aguirre is the private agent of Spain's rebellious subjects; and surely it cannot be less offensive to her, or less inconsistent with our duties as a nation, to receive a private agent from rebel subjects, than openly to receive a Minister, upon the true and manly and justifiable principle, that, whatever may be the rights of the parties, La Plata is, *for the time being*, possessed of the power *de facto*. Such a course appears to me both honorable and direct, and less dangerous to our peace.

Gentlemen have contended that the United States have manifested their impartiality by permitting a trade to South America in arms, and by admitting the Patriot flag into our ports. The first, it is true, is nothing extraordinary—the laws of nations permitting the trade in arms with nations at war, subject to the right of seizure for contraband. The latter—the admission of the flag—was an important manifestation of friendly dispositions, given two years ago by this Government. Don Onís complained of it. What was the reply of the Government? That a civil war was raging; that the United States could not decide the right, and was bound, by strict neutrality, to admit the flags of both. Was not this admission, and the avowal of it by the Government, a recognition of the fact, that, for the time being, during the continuance of the war, and the possession of the power *de facto* by the patriots, the patriot flag was to be considered as the flag of a sovereign Power? Was it not as complete a recognition as the receiving of a Minister to regulate that trade, which was in fact permitted? If so, (and the Spanish Minister seems, by his complaints, to have considered it a wrong to his nation,) then the great hazard which gentlemen apprehend from sending or receiving a Minister



has already been incurred; and yet, after the lapse of two years, it has produced no hostility.

Again: The remonstrance of our Government against the blockade of Morillo, was founded on the principle, that as Spain was in a state of civil war with her colonies, and as Spanish America was really in the hands of the patriots, it was to be considered, during the existence of the war, as a sovereign Power. For, if not to be considered as sovereign, then they were to be regarded as *dependents* of Spain; and if dependents, then we have no right to trade with them without her permission, whether there be a blockade or not. The Spanish King was not, on the supposition of their being his dependents, bound to send a sufficient force to blockade. If they are to be considered in no other light than his property, he may issue a paper order from his bureau, forbidding the trade, and if our vessels attempt it, they are liable to seizure and condemnation. But our Government have very properly acted upon the principle which I am now contending for. They consider our merchants as having a right to trade with those provinces of Spain which have the power *de facto*. They consider Spain as much bound to establish an efficient blockade, as she would be if engaged in war with any other independent sovereign Power. They have protested against Morillo's blockades as inefficient, and contrary to national law; and they have demanded compensation for six of our merchant ships which have been taken under it. They have thus encountered already the greatest difficulty of recognition. That greatest difficulty arises out of the question of trade. If we recognise, our merchants will trade. If they trade, we must protect them against Spain. But this difficulty has been already encountered in the remonstrance against the blockade, and can no longer be estimated in considering the question before us.

Sir, when I reflect upon these things—that this Government has already, in so many ways, avowed and acted upon its right to consider the Spanish provinces, during the civil war, as sovereign States, and that those avowals and these acts have produced no war—that the Spanish Minister has affected to consider the taking possession of Amelia, as a direct and flagrant violation of his master's territory, but, instead of making his *congé*, remains here in his diplomatic character with the most pacific resignation—I cannot persuade myself that his King will go to war for an act, which, I think I have shown, is fully justified by the laws and practice of nations.

On the other hand, the receiving a Minister from the provinces of La Plata seems to me to be required by a just sense of our dignity and station among the nations of the earth, so soon as the Executive shall receive, through their commissioners, unquestionable evidence of their independent situation. It will be required by an impartial and dignified neutrality. A neutrality of that description cannot be said to be maintained while we have at our Government a Spanish Minister, possessed of all the honors, and dig-

nities, and respect, and immunities of the Ministerial character; and while the agent of the republican provinces of South America is not recognised as the representative of a sovereign Power, but resides here unnoticed, in the humble obscurity of a private individual. Sir, I have before said, that I approved the omission to acknowledge him heretofore, because it was in its nature, an act of some moment, and in which there should be something of correspondence in the views of the different departments of the Government. But I would pass this resolution, that a state of things might no longer exist, which cannot but grate upon all our feelings.

Mr. Chairman, I conceive the present question to be of infinite importance. Whether it was desirable that this amendment should have been proposed or not, the rejection of it now will be attended with the most important and unfortunate results. It will give to the public mind an impression most unfavorable to the patriot cause, which gentleman may, at a future period, in vain attempt to eradicate. It will convey to the Executive an opinion that this House is averse to the establishment of a regular intercourse, by Ministers, with these struggling nations. But, above all, it will convey to them an impression, that we are hostile to their cause. It may lead to acts of unfriendliness and hostility, and we shall probably find ourselves, in a few years, open enemies with those to whom we ought to be as friends.

If, on the contrary, we adopt the proposition, we command nothing—we leave everything to the control of Executive discretion; but we intimate in a Constitutional way, to the Executive branch of the Government, the willingness of the Representative body that a friendly intercourse should be established with the nations who are struggling for their independence against the most hateful tyranny of the world. We give an assurance to the unhappy patriots of the sympathies of our nation, and we cultivate in our States that generous interest in the cause of the oppressed which it is not less to the interest than it is to the honor of a Republic to cherish with the most fostering care.

Mr. H. NELSON, of Virginia, said he should not have addressed the Committee on this occasion, if the arguments by which the proposition before the House were supported had been of that harmless nature which the gentleman from Kentucky had claimed for the motion itself. But, said Mr. N., when it is supported with an earnestness and perseverance its avowed object does not warrant; when the Committee and the nation are told that they who advocate the proposition are the friends of freedom, and they who oppose it are its enemies, it is time for us, every fibre in whose hearts beats in unison with the cause of liberty, to enter into the discussion. But, sir, when I see more, that out of this proposition is to grow a division of the Republican party; that on the one side are to be rallied the exclusive friends of liberty, and those on the other side are to be denounced as inimical to it, I confess I

am not willing that my political course, or that of the friends with whom I act, should be subjected to such misrepresentation.

The proposition is to make an appropriation to defray the expense of the outfit and a year's salary of a Minister to Buenos Ayres. It is in phraseology a simple proposition, which, on its mere recital, would seem to involve no great principle, to draw after it no important consequence. Yet, how, Mr. N. asked, was that proposition supported? Some gentlemen say this measure is in conformity with the views of the Executive, and they will vote for it because it is so. Other gentlemen advocate it, not because it is in conformity with the views of the Executive, but because the conduct of the Executive, in other cases, as well as this, has not been conformable with their views. It was thus seen that the proposition was supported on different and directly opposite grounds. My honorable colleague, said he, tells us of Executive influence; that, though no one can describe it, it is felt by all. Why these reflections on Executive influence? Has the topic been introduced by those who are opposed to this measure? No; they have contended that it is not the province of this House, unless in extreme cases, to interfere with a diplomatic question; to which it is replied that it is not an interference, but, if it be so, it is in conformity with the views of the Executive. From the report of the Secretary of State, recently laid before the House, it was obviously to be inferred that the Executive would have treated with the Minister who had presented himself from that country, if he had deemed it expedient, and that Minister had the necessary powers. Would the views of the Executive be changed by the adoption of a proposition of this sort? No, Mr. N. said; but the whole course of the Executive may be scrutinized in the discussion of it; and the gentlemen who proposed and supported it, demonstrated, by their arguments, their belief that the Executive wanted goading on the subject, because he had not received a Minister from La Plata. From what source, Mr. N. asked, have we the information that the Government of La Plata desires us to recognise her? Monsieur Aguirre could produce no powers authorizing him to treat; nay, more, it was known that Thompson, the former agent, had been recalled because he had impudently, and without authority, demanded to be recognised as a Minister. Where, then, was the necessity or even propriety, on our part, of thus gratuitously stepping forth and forcing on these Governments our recognition of their independence? Would it not be time enough to do so, when they had shown a disposition to accept our aid? Why should this House step forward, as proposed, merely to apprise the Executive that it does possess a power to send a Minister to Buenos Ayres? The President and Senate had not deemed it expedient to send a Minister, and this House was therefore asked to take upon it the administration of the Executive powers. The object of the proposition could not be veiled; it was plain,

obvious, palpable; when this House tells the Executive it appropriates money for the purpose of sending a Minister, it is saying to the Executive we think it your duty to send that Minister. The idea, then, could not be sustained, that this was merely an intimation that, if such a step was taken, the Legislature would sanction it. Could it be fairly presumed that this House would not have appropriated money for the support of such an embassy? If the nation be so solicitous, as gentlemen contend, for the recognition of the independence of the South, and the President similarly disposed; if there be but one sentiment throughout the country respecting the subject, where was the necessity of saying in advance to the President, we will support you in the exercise of your Constitutional powers? There being no such occasion, it was an interference with the Executive authority; it was doing that which is not usual, and which is not consistent with the spirit of the Constitution, notwithstanding the cases of petty Indian treaties, &c., which gentlemen affected to consider as precedent in point. In regard to this great question of the recognition of the independence of a nation, how stood precedent? When WASHINGTON saw cause to recognise the independence of France, did he wait for the sanction of Congress to judge whether or not he ought to receive a Minister from that Government? He did not. In every view the course proposed was not reconcilable with the usages of the country; and because it was not, and in his opinion transcended the Constitutional powers of Congress, he was unwilling, on great principles, to adopt this measure.

Mr. N. said he had remarked, in the opening of his speech, that he would not have troubled the House on this occasion, but for the suggestion that the opponents of this motion were not the friends of freedom. I boast, myself, said he, as much the friend of freedom as any man created. When that cause is on the tapis, I am not lukewarm. If by my fiat liberty could be granted to all the people on the globe, it should be done, and the welkin should resound with their cries of joy. I am not, therefore, averse to the success of the advocates of freedom in South America; so far from feeling apathy in respect to it, I trust in Heaven their arms will be successful; that they will achieve and maintain their independence.

Mr. N. said he had expected, when the Speaker introduced this great and important proposition—for such the gentlemen had made it, by showing it to be such in his estimation, and its importance was not to be frittered away by arguments going to show that it meant nothing more than a mere declaration of assent to the execution of a Constitutional power by the President of the United States—he had expected, he said, to have heard the Speaker examine one question, on which the expediency of adopting his proposition wholly depended, but which he had entirely overlooked: what good would result to the people of South America from this act? Were the people of South America competent to maintain their independence? I trust in God, said Mr. N., they



H. or R.

Spanish American Provinces.

MARCH, 1818.

are. If they are, your recognition of their independence affords them no benefit. If they are not competent to maintain it, of what avail will be your recognition? Will it give strength to the arm of the nerveless, or animate the sluggish? It can work no such salutary effect. If the people of South America are incompetent to maintain their independence, their recognition by the United States will not confer the ability. But, said Mr. N., will you, if you recognise this nation, refuse to go to war, if necessary, to support that recognition? The American nation will never be guilty of such perfidy. The Speaker says he is not now the advocate of a war with Spain; but, I cannot believe, sir, that when we have embarked in the cause of the patriots, by sending them a Minister, if we find them sinking beneath the weight of the chains of oppression, that the Speaker would sit quietly in his place, and see that liberty which he says they have for ten years enjoyed, wrested from them. No, sir; if we take one step which has the effect to render us an ally of the Southern countries at war with Spain, we cannot stop short of a war in their behalf. For, though I love peace, and believe that we can never go to war without jeopardizing some important principle, I would yet hazard that, having advanced so far as is now proposed, rather than see the liberty of eighteen millions of people once recognised, destroyed without an effort to preserve it. The affording them aid by arms, if necessary, will be the unavoidable consequence of taking this step.

If we give no strength to the cause of the patriots by the proposed recognition; if a war with Spain is not to follow in its train, where is the necessity of the step? Admit that it be not pregnant with the evil consequences to our own country, contended for by some, and admitted by others to be possible at least, where is the advantage or propriety of legislating without any possible prospect of doing good to ourselves or others?

But one gentleman has said, we have already recognised the independence of the provinces of La Plata, because we have admitted their flag into our ports, and because we have reclaimed property seized under the blockade of their ports by Old Spain. If this argument prove anything as to us, what does it prove as to Spain herself? If we have recognised the independence of the provinces by reclaiming property captured under the illegal blockade of them by Spain, what has Spain done by instituting that blockade? As long as the provinces belonged to Spain, she had a right to restrain their commerce by law; but, instead of so doing, she has declared a blockade of their ports, and it was not usual, certainly, for a nation to declare a blockade of its own ports. If, therefore, the gentleman had succeeded in proving by his argument, that we have already recognised the independence of La Plata, he has by the same argument, established, what is much more important, that Spain herself has recognised their independence, and of course absolved them from

their allegiance. I think, however, my colleague failed in his argument. He has not proved that the act to which he refers is a recognition of independence, any more than he has proved that treating with a private agent of a Government, is equivalent to receiving a public Minister. How has Mr. Aguirre been received? He has sent a communication, and has received an answer. And Don Pazos too—he, finding that the Executive would not treat with him, comes to Congress and some gentleman advocated his having an audience here. At one moment the President is charged with hostility to the patriots for rejecting Don Pazos, and at another it is contended that the merely receiving a letter from a man announcing himself as a foreign agent is a recognition of the independence of the country which he professes to represent. How are we to decide amidst such a discord of arguments, the one of which conflicts the other? The truth is, that neither of the persons referred to has been recognised in any other than his individual capacity.

But what is more afflicting, said Mr. N., to my feelings, is the charge of hostility to liberty. It is said, that we are afraid of Spain!—What means this? Are the scenes through which we have recently passed already to be set down as a tale of the times of old? Is the stale charge of foreign influence so soon to be disinterred? A few short years ago, one party in our country could not take a step but the Emperor of France had dictated it, whilst for all its acts the motives of the opposite party were referred to attachment to the King of Great Britain. Shall this species of conflict be now revived? Shall we never be allowed in our deliberations to consult American interests only? Is our country to be forever torn into parties by imputations of foreign feelings? I have no objection, sir, to a division of parties, if gentlemen see proper—but let us hear no more of foreign partialities, or of subservience to foreign power. The gentleman from Louisiana conjures us up another spectre, the fear of Great Britain—advances to the field with gallant helm and hauberk, and fights until he beats it down. The gentleman from Massachusetts, in a different way, brings forward and defeats another spectre, its twin brother, if not the same. Both the gentlemen, the one in armor dight, the other in the buskin clad, encounter the same goblin with equal reason and with like success. Sir, I would not rush madly into war; but I would not have fear pervade the public councils, where, it is said, and truly said, that fear betrays like treason. We, however, are afraid of Great Britain! and we are afraid of Spain—and we are the foes of liberty! In this light do gentlemen exhibit us to the world, whilst they are the exclusive friends to liberty. It is not on the side of France and England, then, it seems, as in old times, that parties are now to be arrayed; but one on the side of Old Spain, and the other on the side of the patriots. Sir, we are either afraid of, or devoted to Spain. Poor enfeebled monarchy! If, as gentlemen contend, its

MARCH, 1818.

Spanish American Provinces.

H. or R.

treasury is empty, and its power diminishing, the influence which they affect to deprecate will not last long. But it will last long enough to do this—to divide the country into factions; and we who, side by side with the advocates of this motion, have been contending against domestic factions and foreign enemies, are to be denounced as the enemies of liberty, and they to be held up as its exclusive advocates, though I deny them their title, and will contest with them the right to it. The President, too, is to be on our side. Very good company, said Mr. N., and I have no objection to it; he has, no doubt, equally with us deserved to be denounced as the foe of liberty. Did he not toil with us in the late contest? Did he not, at the age of eighteen, long before many of us saw the light, wield the sword in his country's service? And has not every act of his life, at home and abroad, proved him the friend of liberty and free government? Why, then, said Mr. N., are he and we to be denounced as the enemies of liberty? I do regret this debate, because I view it as the epoch of a division of the old Republican party. We are to be rent in twain, and one moiety of it is to be arrayed against the other. Those with whom I act are, it appears, to contend against the old disgusting tale of foreign influence. Such a division, as he anticipated, Mr. N. said, was an evil not to be condemned, but which every one belonging to the party must feel and deprecate. It would be to each one arrayed in the opposing ranks, a conflict against a brother, against an approved and tried friend. In a cause where the best interests of the country were in jeopardy, said Mr. N., we have been tried together against the strongest foe. Yes; the brothers and friends, who have thus fought side by side, are to be now divided; for what? Do we essentially differ in our avowed objects? Not at all. Are we, who cannot assent to this motion, opposed to the independence of La Plata? Are we unwilling that the people of South America should shake off the yoke of Spain? No, we are not. But this feeling which comes from abroad to divide us, is, for reasons not to be penetrated, to destroy that harmony of which we had so fair a prospect.

Mr. N. said that he had already stated that, if the provinces of La Plata were competent to maintain their independence, this Government could give them no aid of any importance to them; which aid, therefore, those provinces did not want. Could not those provinces, he asked, effect their independence without the interference of the United States? Gentlemen had informed the House that the population of the provinces was larger than our own at the present day. The population of those provinces, too, gentlemen had told the House, was greater than that of the mother country. And if Spain is not competent to protect the skirt of territory she holds adjoining our southern boundary, nor to suppress the opposition to her authority which has for seven years existed in the South; if she be thus crippled, what difficulty can there be in maintaining the independence of the provinces, those of La

15th Con. 1st Sess.—51

Plata for instance, which have not a single European soldier to contend with. Where is the necessity of our volunteering, without reason and without motive, to perform an act which may, by possibility, terminate in war with some foreign Power? Certainly it cannot be shown. And what is the particular act it is proposed that we should do? Send a Minister to the Provinces of La Plata, it is said. Have they, asked Mr. N., invited you to send a Minister to them? Have they sent one of their own? So far from it, have they not punished one of their agents who asked to be received as a Minister? Why, then, this precipitancy?

But, it had been said, that the President, though not at this moment disposed formally to recognise the independence of these provinces, might change that disposition, and be willing, during the recess, to send a Minister to Buenos Ayres. Suppose that the fact should occur; that the President, by the advice of his Cabinet, should change his disposition, on receiving information, from our Commissioners, such as would justify it. The disposition to receive their Minister and return the compliment, may be made known to the agent here, and even the Minister might be appointed and sent without the intervention of Congress.

Suppose we adopt this proposition, send a Minister to the provinces of La Plata, and make a treaty of commerce with them. Spain, whose right of blockade, with an efficient force, has not been denied, blockades the ports of the provinces, over which she still claims sovereignty, and captures our vessels. Will the Speaker, then, consent to wait a little longer for the settlement of our differences with Spain? No: he would feel more indignation than he manifested on the occasion of the reply of the late Secretary of State to the Minister of Spain. If you attempt to enter those ports by a resistance of the blockade, to war you must go: you can no longer negotiate, but must sustain your rights by force of arms. If you negotiate a treaty of commerce with those Powers, and Spain dares to interrupt your exercise of the rights established by that treaty, you must support, by war, the position you have taken.

However humble may be the importance of this proposition in an abstract view, the adoption of it must necessarily terminate in a war with Spain. Like the honorable gentleman from South Carolina, I too, said Mr. N., am indisposed to calculate on the imbecility of a nation, as inferred from the mismanagement of its resources. Besides, sir, how does it comport with the magnanimity which becomes the advocates of liberty, to do an act, which they would not otherwise do, because Spain is not in a condition to resent it? Will we trample, still lower in the dust, the Power which, by accident, is reduced so low? Such a policy does not comport with that magnanimity which has distinguished the councils of this nation, from the commencement of this Government to the present day. What, sir, was the charge advanced against us when we made war



H. or R.

Spanish American Provinces.

MARCH, 1818.

with England? That we took advantage of her situation, pressed by France and surrounded by enemies. And how indignantly did we rebut the charge! The Speaker, among others, repelled and spurned the charge thus made by the foes of the Government. Abstracted from the consideration that we may be mistaken in our calculation on the poverty of the resources of Spain, and that she may rise to an eminence which we do not foresee, I will not, because the Spanish Government is depressed, because her treasury is exhausted, do an act which I would not do to her in a different situation, or to any Power on earth. Spain has given us just cause for war; but, if that is to be our policy, let us go directly to our object, and take Florida and Cuba.

Although, said Mr. N., as I have suggested, the most injurious consequences might flow from the adoption of the proposition before the House, under the views which I have taken of it, I would yet hesitate in the rejection of it, if there was even a remote probability of its producing good consequences. But I believe it will have no such effect; that it will not strengthen the hands of the colonies to do any act which they are not already capable of performing. Nor can it produce any beneficial change in the commercial relations between us and them. Have we not already a free commerce with them? They want not men; for they have even more than we. They want munitions and implements of war. Have they not, for this purpose, ample access to our markets; and is not their flag protected within our ports? They already enjoy a free commerce with us in all the articles important to them; and they would not have any more if they had a Minister resident here. Will gentlemen condescend to substitute plain fact for lofty declamation, and show me what practical advantages are to accrue to either party, from the interchange of Ministers? This is the true question at issue: and, although we have been delighted, amused, and instructed, by the eloquence, the enthusiasm, and the historical and commercial facts of the mover of the proposition before us; yet, after all, the honorable Speaker did not, in his whole argument, touch the point on which this question turns. If any great advantage were to result to the independents from the adoption of the motion, I should be brought to pause in my determination. I put self out of the question; I will not examine the advantages which would result to this country from an intercourse with the provinces—neither, if we enjoy more advantages from that commerce now than if they were recognised, that argument would not affect my vote—I will not examine the question as connected with our commercial interests; but I wish gentlemen who advocate this proposition to show us what advantages are to result to the provinces from a similar recognition, in form, of their independence. This very day has information been received, which will destroy much of our hopes, and many of the arguments in favor of this proposition. It was but the other day Pueyrredon was put down, and some other one put up in his place; and not a

gentleman here can tell us what is the actual condition of these provinces. Those who were free yesterday may be subjugated to-day, and freed again to-morrow. The Government has sent our Commissioners expressly charged to ascertain the state of the country. Why, then, this haste to anticipate a deliberate decision by the Constitutional organ of intercourse with foreign Powers? Before the next meeting of Congress, the actual state of things will be satisfactorily ascertained, and the President will be enabled, without our meddling or interference, to send a Minister or receive one, if he shall find it expedient. But perhaps the Speaker will equally object to that delay, as he has done to waiting a little longer for a settlement with Spain. I am for refraining, in both cases until we can act in a manner consistent with the public interest, and with our political duties and obligations.

In fine, Mr. N. said, although he was disposed to do everything which would promote the cause of liberty, whether in the frozen regions of the North, or under the scorching influence of a tropical sun, he was at present in favor of standing still, in the position we now occupy, and patiently waiting until we know the actual situation of the country proposed to be visited by a Minister from us; he was in favor of waiting, until the President acts in such a manner as to make it necessary for this House to goad him on in the performance of his duty.

When Mr. N. had concluded, the Committee rose, and had leave to sit again.

SATURDAY, March 28.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting reports of the facts in the cases of Jacob B. Gilbert, and Asa Fuller, of the State of New York, with the evidence accompanying each; which was referred to the Committee of Claims.

On motion of Mr. RHEA, the Message of the President of the United States, of the 18th of January, 1816, recommending the confirmation of certain grants or reservations of land, made by the friendly Creek Indians, to Major General Jackson, Benjamin Hawkins, and others, were referred to the Committee on Private Land Claims.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill making provision for the claim of M. Poirey, as Secretary and Aid-de-Camp to Major General La Fayette; which was read twice, and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act for the relief of Michael Hogan; An act for the relief of John G. Bogert; and, An act to increase the salaries of certain officers of Government; in which they ask the concurrence of this House.

The said bills were, severally, read twice, and the two former referred to the Committee of

MARCH, 1818.

Spanish American Provinces.

H. or R.

Claims, and the latter to the Committee of Ways and Means.

An engrossed "Resolution directing the printing and distribution of the act to provide for the surviving officers and soldiers of the Revolutionary army," was read the third time, and passed.

An engrossed bill, entitled "An act concerning the Territory of Alabama," was read the third time, and passed.

## SPANISH AMERICAN PROVINCES.

The House again resolved itself into a Committee of the Whole on the general appropriation bill, Mr. CLAY's amendment, going to make an appropriation for the outfit and year's salary of a Minister to Buenos Ayres, still pending.

Mr. CLAY said that, as no other gentleman appeared disposed to address the Chair, he would avail himself of this opportunity of making some remarks in reply to the opponents of his motion.

The first objection which he thought it incumbent on him to notice was that of his friend from South Carolina, (Mr. LOWMEYER,) who opposed the form of the proposition, as being made on a general appropriation bill, on which he appeared to think nothing ought to be ingrafted which was likely to give rise to a difference between the two branches of the Legislature. If the gentleman himself had always acted on this principle, his objection would be entitled to more weight; but, Mr. C. said, the item in the appropriation bill next following this, and reported by the gentleman himself, was infinitely more objectionable—which was an appropriation of thirty thousand dollars for defraying the expenses of three Commissioners, appointed, or proposed to be paid, in an unconstitutional form. It could not be expected that a general appropriation bill would ever pass without some disputable clauses; and in case of a difference between the two Houses, (a difference which we had no right to anticipate in this instance,) which could not be compromised as to any article, the obvious course was to omit such article altogether, retaining all the others; and, in a case of that character, relative to the brevet pay, which had occurred during the present session, such had been the ground the gentleman himself had taken in a conference with the Senate, of which he was a manager.

The gentleman from South Carolina, Mr. C. said, had professed to concur with him in a great many of his general propositions; and neither he nor any other gentleman had disagreed with him, that the mere recognition of the independence of the provinces was no cause of war with Spain; except the gentleman from Maryland, (Mr. SMITH,) to whom he recommended, without intending disrespect to him, to confine himself to the operations of commerce, rather than undertake to expound questions of public law; for he could assure the gentleman that, although he might make some figure with his practical knowledge, in the one case, he would not, in the other. No man, Mr. C. said, except the gentleman from Maryland, had come out with what he would call the hardihood to contend that, on the

ground of principle and mere public law, the exertion of the right of recognising another Power is cause of war. But, said Mr. C., though the gentleman from South Carolina admitted that the recognition would be no cause of war, and that it was not likely to lead to a war with Spain, we found him shortly after, getting into a war with Spain, how, I did not see, and by some means, which he did not deign to discover to us, getting us into a war with England also. Having satisfied himself, by this course of reasoning, the gentleman had discovered that the finances of Spain were in a most favorable condition! On this part of the subject, Mr. C. said, it was not necessary for him to say anything after what the Committee had heard from the eloquent gentleman from Massachusetts, (Mr. HOLMES,) whose voice, in a period infinitely more critical in our affairs than the present, had been heard with so much delight from the East, in support of the rights and honor of the country. He had clearly shown that there was no parallel between the state of Spain and of this country; the one, of a country whose resources were completely impoverished and exhausted; the other, of a country whose resources were almost untouched. But, Mr. C. said, he would ask of the gentleman from South Carolina, if he could conceive that a State, in the condition of Spain, whose Minister of the Treasury admits that the people have no longer the means of paying new taxes; a nation with an immense mass of floating debt, and totally without credit, could feel any anxiety to engage in war with a nation like this, whose situation was, in every possible view, directly the reverse? He asked, if an annual revenue, equal only to five-eighths of the annual expenditure, exhibited a financial ability to enter upon a new war, when, too, the situation of Spain was altogether unlike that of the United States and England, whose credit, resting upon a solid basis, enabled them to supply, by loans, any deficit in the income?

Notwithstanding the diversity of sentiment which had been displayed during the debate, Mr. C. was happy to find that, with one exception, every member had done justice to the struggle in the South, and admitted it to be entitled to the favor of the best feelings of the human heart. Even my honorable friend near me, (Mr. NELSON,) has made a speech on our side, and we should not have found out, if he had not told us, that he would vote against us. Although his speech has been distinguished by his accustomed eloquence, I should be glad, Mr. C. said, to agree on a cartel with the gentlemen on the other side of the House, to give them his speech for his vote. The gentleman says his heart is with us, that he ardently desires the independence of the South. Will he excuse me for telling him that, if he will give himself up to the honest feelings of his heart, he will have a much surer guide than by trusting to his head, to which, however, I am far from offering any disparagement?

But, sir, it seems that a division of the Republican party is about to be made by the proposition under consideration. Who is to furnish, in



this respect, the correct criterion—whose conduct is to be the standard of orthodoxy? What has been the great principle of the party to which the gentleman from Virginia refers, from the first existence of the Government to the present day? An attachment to liberty; a devotion to the great cause of humanity—of freedom—of self-government—and of equal rights. If there is to be a division, (as the gentleman says)—if he is going to leave us, who are following the old track—he may in his new connexions find a greater variety of company, which perhaps may indemnify him for the loss of his old friends. What is the great principle that has distinguished parties in all ages and under all Governments—Democrats and Federalists, Whigs and Tories, Plebeians and Patricians? The one, distrustful of human nature, appreciates less the influence of reason and of good dispositions, and appeals more to physical force; the other party, confiding in human nature, relies much upon moral power, and applies to force as an auxiliary only to the operations of reason. All the modifications and denominations of political parties and sects may be traced to this fundamental distinction. It is that which separated the two great parties in this country. If there is to be a division in the Republican party, I glory that I, at least, am found among those who are anxious for the advancement of human rights and of human liberty. And the honorable gentleman who spoke of appealing to the public sentiment, will find when he does so, (or I am much mistaken,) that public sentiment is also on the side of public liberty and of human happiness.

But, the gentleman from South Carolina has told us, continued Mr. C., that the Constitution has wisely confided to the Executive branch of the Government the administration of the foreign concerns of the country. Has the honorable gentleman attempted to show, (though his proposition be generally true, and will never be controverted by me,) that we also have not our participation in the administration of the foreign interests of the country, when we are called upon, in our legislative capacity, to defray the expenses of foreign missions, or to regulate commerce? Mr. C. said he had stated, when up before, (and he had listened in vain for an answer to the argument,) that no part of the Constitution had said which should have precedence—the act making an appropriation for paying a Minister, or the act of sending one. He had then contended, and now repeated, that either the acts of deputation and of paying a Minister should be simultaneous, or (if either had preference) the act of appropriating for his pay should precede the sending of a Minister. He challenged gentlemen to show him anything in the Constitution which directed that a Minister should be sent before his payment was provided for. He repeated what he had said the other day, that by sending a Minister abroad during the recess, to nations between whom and us no such relations existed as to justify incurring the expense, the legislative opinion was forestalled or unduly biased. He appealed

to the practice of the Government, and referred to various acts of Congress, for cases of appropriations without the previous deputation of the agent abroad, and without the preliminary of a Message from the President asking for them. Mr. C. here quoted the act authorizing the establishment of certain consulates in the Mediterranean, and affixing salaries thereto, in consequence of which the President had subsequently appointed Consuls, who had been receiving their salaries to this day. Other acts he quoted, of a similar character, from which it appeared, he said, that Congress had constantly pursued the great principle of the theory of the Constitution, for which he now contended; that each department of the Government must act within its own sphere, independently, and on its own responsibility. It was a little extraordinary, indeed, after the doctrine which had been maintained the other day, of a sweeping right in Congress to appropriate money to any object, that it should now be contended that Congress had no right to appropriate money to a particular object. The gentleman's (Mr. Lowndes) doctrine was broad—comprehending every case—but, when proposed to be exemplified in any specific case, it did not apply. Mr. C. said, his theory of the Constitution on this particular subject, was, that Congress had the right of appropriating money for foreign missions—the President the power to use it. The President having the power, he was willing to say to him, Here is the money (which we alone have a right to appropriate) which will enable you to carry your power into effect, if it seems expedient to you. Both being before him—the power and the means of executing it, the President would judge, on his own responsibility, whether or not it was expedient to exercise it. In this course, Mr. C. said, each department of the Government would act independently, without influence from, and without interference with, each other. He had quoted cases from the statute book to show, that in instances where no foreign agent had been appointed, but only a possibility of their being appointed, appropriations had been made for paying them. He proceeded to show, that, even in case of the subject-matter of a negotiation—a right much more important than that of sending an agent—an appropriation of money had preceded the negotiation of a treaty. Thus, in the third volume of the new edition of the laws, page 27, he quoted a case of an appropriation of twenty-five thousand eight hundred and eighty dollars to defray the expense of such treaties as the President of the United States might deem proper to make with certain Indian tribes. An act, which had been lately referred to, appropriating two millions for the purchase of the Floridas, was a case still more strongly in point, as contemplating a treaty, not with a savage, but a civilized Power. In this case there might have been (though he believed there was not) an Executive Message, recommending the appropriation; but he took upon himself to assert, that in almost all the cases he had quoted, there was no previous Executive intimation that

the appropriation of the money was necessary to the object. But Congress had taken up the subjects, and authorized these appropriations, without any official call from the Executive to do so.

With regard to the general condition of the provinces now in revolt against the parent country, Mr. C. proceeded to say, he would not take up much of the time of the House. Gentlemen were, however, much mistaken as to many of the points of their history, geography, commerce, and produce, which had been touched upon. Gentlemen had supposed there would be from those countries a considerable competition of the same products which we export. Mr. C. ventured to say, that, in regard to Mexico, there could be no such competition; that the table lands were at such a distance from the seashore, and the difficulty of reaching it was so great as to make the transportation to La Vera Cruz too expensive to be borne, and the heat so intense as to destroy the breadstuffs as soon as they arrive. With respect to New Grenada, the gentleman from Maryland was entirely mistaken. It was the elevation of Mexico, principally, which enabled it to produce breadstuffs; but New Grenada, lying nearly under the line, could not produce them. The productions of New Grenada for exportation were the precious metals, (of which, of gold particularly, a greater portion was to be found than in any of the provinces except Mexico,) sugar, coffee, cocoa, and some other articles of a similar character. Of Venezuela the principal productions were coffee, cocoa, indigo, and some sugar. Sugar was also produced in all the Guianas, French, Spanish, and Dutch. The interior of the provinces of La Plata might be productive of breadstuffs, but they were too remote to come into competition with us in the West India market, the voyages to the United States generally occupying from fifty to sixty days, and sometimes as long as ninety days. By deducting from that number the average passage from the United States to the West Indies, the length of the usual passage between Buenos Ayres and the West Indies would be found, and would show that, in the supply of the West India market with breadstuffs, the provinces could never come seriously into competition with us. And, with regard to Chili, productive as it might be, did the gentleman from Maryland suppose that vessels were going to double Cape Horn, and come into competition with us in the West Indies? It was impossible. But, Mr. C. said, he felt a reluctance at pursuing the discussion of this part of the question; because he was sure these were considerations on which the House could not act, being entirely unworthy of the subject. We might as well stop all our intercourse with England, with France, or with the Baltic, whose products are in many respects the same as ours, as to act on the present occasion under the influence of any such considerations. It was too selfish, too mean a principle, for this body to act on, to refuse its sympathy for the patriots of the South, because some little advantage of a commercial nature might be retained to us from their remaining in the present

condition—which, however, he totally denied. Three-fourths of the productions of the Spanish provinces were the precious metals, and the greater part of the residue not of the same character as the staple productions of our soil. But, it seemed, that a pamphlet had recently been published on this subject, to which gentlemen had referred. Now, said Mr. C., permit me to express a distrust of all pamphlets of this kind, unless we know their source. It may, for aught I know, if not composed at the instance of the Spanish Minister, have been written by some merchant who has a privilege of trading to Lima under royal license; for such do exist, as I am informed, and some of them procured under the agency of a celebrated person by the name of Samiento, of whom, perhaps, the gentleman from Maryland (Mr. Smith) could give the House some information. To gentlemen thus privileged to trade with the Spanish provinces under royal authority, the effect of a recognition of the independence of the provinces would be to deprive them of that monopoly. The reputed author of the pamphlet in question, Mr. C. said, if he understood correctly, was one who had been, if he were not now, deeply engaged in the trade, and he would venture to say that many of his statements were incorrect. In relation to the trade of Mexico, Mr. C. said he happened to possess the Royal Gazette of Mexico of 1804, showing what was the trade of that province in 1803; from which it appeared that, without making allowance for the trade from the Philippine Islands to Acapulco, the imports into the port of Vera Cruz were in that year twenty-two millions in value, exclusive of contraband, the amount of which was very considerable. Among these articles were many which the United States could supply as well, if not on better terms, than they could be supplied from any other quarter; for example, brandy and spirits; paper, iron, implements for agriculture, and the mines; wax, spices, naval stores, salt fish, butter, provisions; these articles amounting in the whole to one-seventh part of the whole import trade to Mexico. With regard to the independence of that country, which gentlemen seemed to think improbable, Mr. C. rejoiced that he was able to congratulate the House that we have, this morning, intelligence that Mina yet lives, and the patriot flag is still unfurled, and the cause infinitely more prosperous than ever. This intelligence he was much in hopes would prove true, notwithstanding the particular accounts of his death; which, there was so much fabrication and falsehood in the Spanish practice, were not entitled to credit unless corroborated by other information. Articles were manufactured in one province to produce effect on the other provinces and in this country; and he had therefore always been disposed to think that the details respecting the capture and execution of Mina were too minute to be true, and were made up to produce an effect here.

With regard to the general value of the trade of a country, Mr. C. said, it is to be determined by the quantum of its population, and its charac-



H. or R.

Spanish American Provinces.

MARCH, 1818.

ter, its productions, and the extent and character of the territory; and, applying these criteria to Spanish America, no nation offered higher inducements to commercial enterprise. Washed on the one side by the Pacific, on the other by the South Atlantic; standing between Africa and Europe on the one hand, and Asia on the other, lying along side of the United States, her commerce must, when free from the restraints of despotism, be immensely important, particularly when it is recollected how great a proportion of the precious metals it produced, for that nation which can command the precious metals, may be said to command almost the resources of the world. One moment, said Mr. C., imagine the mines of the South locked up from Great Britain for two years, what would be the effect on her paper system? Bankruptcy, explosion, revolution. Even if the supply which we get abroad of the precious metals was cut off for any length of time, I ask if the effect on our paper system would not be, not perhaps equally as fatal as to England, yet one of the greatest calamities which could befall this country. The revenue of Spain in Mexico alone, was, in 1809, twenty millions of dollars, and in the other provinces in about the same proportion, taking into view their population, independent of the immense contributions annually paid to the clergy. When you look at the resources of the country, and the extent of its population, recollecting that it is double our own; that its consumption of foreign articles, under a free commerce, would be proportionally great; that it yields a large revenue under the most abominable system, under which nearly three-fourths of the population are unclad, and almost as naked as from the hands of nature, because absolutely deprived of the means of clothing themselves; what may not be the effect on this country, under the operation of a different system which would let industry develop its resources in all possible forms? Such a neighbor could not but be a valuable acquisition in a commercial point of view.

Gentlemen had denied the fact of the existence of the independence of Buenos Ayres at as early a date as he had assigned to it. The gentleman from South Carolina, who was well informed on the subject, did not, Mr. C. thought, exhibit his usual candor on this part of it. When the gentleman talked of the upper provinces being out of the possession of the patriots as late as 1815, he ought to have gone back and told the House what was the actual state of the fact, with which he was sure the gentleman was very well acquainted. In 1811 the Government of Buenos Ayres had been in possession of every spot of the territory of the Viceroyalty. The war had been raging from 1811 to 1815 in those interior provinces, bordering on Lima, which had been as often as three times conquered by the enemy, and as often recovered, and from which the enemy was now finally expelled. Was this at all remarkable during the progress of such a revolution? During the different periods of our war of independence, the British had possession of different parts of our country; as late as 1780,

the whole of the Southern States had been in their possession; and at an earlier date they had possession of the great Northern capitals. There was, in regard to Buenos Ayres, a distinguishing trait, which did not exist in the history of our Revolution. That was, that from 1810 to the present day the capital of the Republic of La Plata had been invariably in the possession of the patriot Government. Gentlemen must admit that when, in 1814, she captured at Montevideo an army as large as Burgoyne's, captured at Saratoga, they were then in possession of independence. If they have been since 1810 in the enjoyment of self-government, it was, indeed, not very material under what name or under what form. The fact of their independence is all that is necessary to be established. In reply to the argument of the gentleman from South Carolina, derived from his having been unable to find out the number of the provinces, this arose from the circumstance that, thirty-six years ago, the Viceroyalty had been a Captain-Generalship; that it extended then only to Tucuman, while of late and at present the Government extended to the Desaguadara, in about the sixteenth degree of south latitude. There were other reasons why there was some confusion in the number of the provinces, as stated by different writers; there was, in the first place, a territorial division of the country—then a judicial, and next a military division, and the provinces have been stated at ten, thirteen, or twenty, according to the denominations used. This, however, he, with the gentleman from South Carolina, regarded as a fact of no sort of consequence.

Mr. C. said he would pass over the report lately made to the House by the Department of State, respecting the state of South America, with only one remark: that it appeared to him to exhibit evidence of an adroit and experienced diplomatist negotiating, or rather conferring on a subject, with a young and inexperienced Minister, from a young and inexperienced Republic. From the manner in which this report was communicated, after a call for information so long made, and after the lapse of two months from the last date in the correspondence on the subject, Mr. C. declared he was mortified at hearing the report read. Why talk of the mode of recognition? Why make objections to the form of the commission? If the Minister had not a formal power, why not tell him to send back for one? Why ask of him to enumerate the particular States whose independence he wished acknowledged? Suppose the French Minister had asked of Franklin what number of States he represented? Thirteen, if you please, Franklin would have replied. But, M. Franklin, will you tell me if Pennsylvania, whose capital is in possession of the British, be one of them? What would Dr. Franklin have said? Mr. C. said it would have comported better with the frankness of the American character, and of American diplomacy, if the Secretary, avoiding cavils about the form of the commission, had said to the Minister of Buenos Ayres, "at the present

MARCH, 1818.

Spanish American Provinces.

H. or R.

moment we do not intend to recognise you, or to receive or send a Minister to you."

But among the charges which gentlemen had industriously brought together, the House had been told of factions prevailing in Buenos Ayres. Do not factions, Mr. C. asked, exist everywhere? Are they not to be found in the best regulated and most firmly established Governments? Respecting the Carreras, public information was abused, Mr. C. said; they were supposed to have had improper views, designs hostile to the existing Government, and it became necessary to deprive them of the power of doing mischief. And what was the fact respecting the alleged arrest of American citizens?—Buenos Ayres had been organizing an army to attack Chili. Carrera arrives at the river La Plata with some North Americans; he had before defeated the revolution in Chili by withholding his co-operation; the Government of Buenos Ayres, therefore, said to him, we do not want your resources; our own army is operating; if you carry yours there it may produce dissension, and cause the loss of liberty—you shall not go. On his opposing this course, what was done which has called forth the sympathy of gentlemen? He and those who attended him from this country were put in confinement, but only long enough to permit the operations of the Buenos Ayrean army to go on; they were then permitted to go, or made their escape, to Montevideo, and afterwards, where they pleased. With respect to the conduct of that Government, he would only recall the attention of gentlemen to the orders which had lately emanated from it for the regulation of privateers, which had displayed a solicitude to guard against irregularity, and to respect the rights of neutrals, not inferior to that ever shown by any Government which had ever attempted to regulate this licentious mode of warfare.

The honorable gentleman from Georgia had commenced his remarks the other day by an animadversion which, Mr. C. said, he might well have spared, when he told us that even the prayers of the Chaplain of this House had been offered up in behalf of the patriots. And was it reprehensible, Mr. C. asked, that an American chaplain, whose cheeks were furrowed by age, and his head as white as snow, who had a thousand times, during our own Revolution, implored the smiles of Heaven on our exertions, should indulge in the pious and patriotic feelings flowing from his recollections of our own Revolution? Ought he to be subject to animadversion for so doing, in a place where he could not be heard in reply? Ought he to be subject to animadversion for soliciting the favor of Heaven on the same cause as that in which we fought the good fight, and conquered our independence? He trusted not.

But the gentleman from Georgia, it appeared, could see no parallel between our Revolution and that of the Spanish provinces. Their revolution, in its commencement, did not aim at complete independence; neither, Mr. C. said, did ours. Such was the loyalty of the Creole

character, that, although groaning under three hundred years of tyranny and oppression, they had been unwilling to cast off their allegiance to that Throne, which had been the Throne of their ancestors. But, looking forward to a redress of wrongs, rather than a change of Government, they gradually, and perhaps at first unintentionally, entered into revolution. Mr. C. said he had it from those who had been actively engaged in our Revolution; from that venerable man, (Chancellor Wythe,) whose memory he should ever cherish with filial regard, that a very short time before our Declaration of Independence, it would have been impossible to have got a majority of Congress to declare it. Look at the language of our petitions of that day, carrying our loyalty to the foot of the Throne, and avowing our anxiety to remain under the Crown of our ancestors; independence was then not even remotely suggested as our object. The present state of facts, and not what has passed and gone in South America, must be consulted. At the present moment, the patriots of the South are fighting for liberty and independence—for precisely what we fought for. But their revolution, the gentleman told the House, was stained by scenes which had not occurred in ours. If so, Mr. C. said, it was because execrable outrages had been committed upon them by the troops of the mother country, which were not upon us. Could it be believed, if the slaves had been let loose upon us in the South, as they had been let loose in Venezuela; if quarters had been refused; capitulations violated; that General WASHINGTON, at the head of the armies of the United States, would not have resorted to retribution? Retaliation is sometimes mercy; mercy to both parties. The only means by which the coward soul that indulges in such enormities can be reached, is to show to him that they will be visited by severe but just retribution. There were traits in the history of this revolution, Mr. C. said, which showed what deep root liberty had taken in South America. He stated an instance. The only hope of a wealthy and reputable family, said he, was charged, at the head of a small force, with the care of the magazine of the army. He saw that it was impossible to defend it. "Go," said he to his companions in arms, "I alone am sufficient for its defence." The assailants approached; he applied a match and blew up the magazine, with himself, scattering death and destruction on his enemy. Mr. C. narrated another instance of the intrepidity of a female of the patriot party. A lady in New Grenada had given information to the patriot forces of plans and instructions by which the capital might be invaded. She was put upon the rack to divulge her accomplices. She bore the torture with the greatest fortitude, and died exclaiming—"You shall not hear it from my mouth; I will die, and may those live who can free my country."

But the House had been told, and told with a triumph worthy of a better cause—why recognise this Republic? Where is the use of it? And was it possible, Mr. C. asked, that gentlemen could



see no use in recognising this Republic? For what did the Republic fight? To be admitted into the family of nations. Tell the nations of the world, says Pueyrredon in his speech, that we already belong to their illustrious rank. What would be the powerful consequences of a recognition of their claim? I ask my honorable friend before me (Mr. BLOOMFIELD,) the high sanction of whose judgment in favor of my proposition I fondly anticipate, with what anxious solicitude, during our Revolution, he and his glorious compatriots turned their eyes to Europe, and asked to be recognised. I ask him, the patriot of '76, how the heart rebounded with joy, on the information that France had recognised us! The moral influence of such a recognition on the patriot of the South will be irresistible. He will derive assurance from it of his not having fought in vain. In the constitution of our natures, there is a point to which adversity may pursue us, without perhaps any worse effect than that of exciting new energy to meet it. Having reached that point, if no gleam of comfort breaks through the gloom, we sink beneath the pressure, yielding reluctantly to our fate, and in hopeless despair losing all stimulus to exertion. And, Mr. C. asked, was there not reason to fear such a fate to the patriots of La Plata? Already enjoying independence for eight years, their Ministers were yet spurned from the Courts of Europe, and rejected by the Government of a sister Republic. Contrast this conduct of ours, said Mr. C. with our conduct in other respects. No matter whence the Minister comes, be it from a despotic Power, we receive him; and even now, the gentleman from Maryland (Mr. SMITH) would have us send a Minister to Constantinople, to beg passage through the Dardanelles to the Black Sea, that, I suppose, we might get some hemp and breadstuffs there, of which we ourselves produce none—he who can see no advantage to the country from opening to its commerce the nameless resources of South America, would send a Minister begging to Constantinople for a little trade! Nay, I have seen a project in the newspapers, and I should not be surprised, after what we have already seen, at its being carried into effect, for sending a Minister to the Porte. Yes, sir, from Constantinople or from the Brazils; from Turk or Christian; from black or white; from the Bey of Algiers or the Bey of Tunis—from the Devil himself, if he wore a crown, we should receive a Minister. We even paid the expenses of the Minister of his Sublime Highness the Bey of Tunis, and thought ourselves highly honored by his visit. But, let the Minister come from a poor Republic, like that of La Plata, and we turn our back on him. No, sir, we will not receive him. The brilliant costumes of the Ministers of the Royal Governments are seen glistening in the circles of our drawing rooms, and their splendid equipages rolling through the avenues of the Metropolis; but the unaccredited Minister of the Republic, if he visit our President or Secretary of State at all, must do it incog., lest the eye of Don Onís should be offended by so unseemly a

sight! Mr. C. said, he hoped the gentleman from South Carolina, who was so capable of estimating the effect of moral causes, would see some use in recognising the independence of La Plata. He appealed to the powerful effect of moral causes, manifested in the case of the French Revolution, when, by their influence, that nation swept from about her the armies of the combined Powers by which she was environed, and rose up the colossal Power of Europe. There was an example of the effect of moral power. All the patriots asked, all they wanted at our hands, was to be recognised as, what they had been for the last eight years, an independent Power.

But, it seems, said Mr. C., we dare not do this, lest we tread on sacred ground; and an honorable gentleman from Virginia (Mr. SMYTH) who, when he has been a little longer in this House, will learn to respect its powers, calls it an usurpation on the part of this House. Has the gentleman weighed the terms which he employed? If I mistake not, the gentleman, in the debate respecting the power to make internal improvements, called that too an usurpation on the part of this House. That power, too, however, he admitted to belong to the Executive, and traced it to an imperial source, informing us that Cæsar, or somebody else, had exercised it. Sir, the gentleman has mistaken his position here; he is a military chieftain and an admirable defender of Executive authority, but he has yet to learn his horn-book as to the powers of this branch of the Legislature. Usurpation, Mr. C. said, is arrogating to yourself authority which is vested elsewhere. But what was it that he proposed, to which this term had been applied? To appropriate money to pay a foreign Minister his outfit and a year's salary. If that be an usurpation, said he, we have been usurping power from the commencement of the Government to the present time. The chairman of the Committee of Ways and Means has never reported an appropriation bill without some instance of this usurpation.

There are three modes under our Constitution, in which a nation may be recognised: by the Executive receiving a Minister; secondly, by its sending one thither; and, thirdly, this House unquestionably has the right to recognise, in the exercise of the Constitutional power of Congress to regulate foreign commerce. To receive a Minister from a foreign Power is an admission that the party sending him is sovereign and independent. So the sending a Minister, as Ministers are never sent but to sovereign Powers, is a recognition of the independence of the Power to whom the Minister is sent. Now, the honorable gentleman from South Carolina would have preferred the expression of our opinion by a resolution, independent of the appropriation bill. If the gentleman would vote for it in that shape, I would really gratify him; all that I want to do is to convey to the President an expression of our willingness, that the Government of Buenos Ayres should be recognised. Whether it shall be done by receiving a Minister or sending one, is quite immaterial. It is urged that there might

be an impropriety in sending a Minister, not being certain, after what has passed, that he would be received; but, Mr. C., said, that was one of the questions submitted to the discretion of the Executive, which he would determine, upon a view of all the circumstances, and who of course would previously have an understanding that our Minister would be duly respected. If gentlemen desired to know what a Minister from us was to do, Mr. C. said he would have him congratulate the Republic on the establishment of free government and on their liberation from the ancient dynasty of Spain; assure it of the interest we feel in its welfare, and of our readiness to concur in any arrangements which might be advantageous to our mutual interest. Have we not, asked Mr. C., a Minister at the Brazils, a nation lying alongside of the provinces of La Plata, and considering the number of slaves in it, by no means so formidable as the latter, and about equidistant from us. In reference to the strength of the two Powers, that of La Plata is much the strongest, and the Government of Brazil, trembling under the apprehension of the effect of the arms of La Plata, has gone farther than any other Power to recognise its independence, having entered into a military convention with the Republic, by which each power guarantees the possession of the other. And we have exchanged Ministers with the Brazils. The one, however, is a Kingdom; the other a Republic; and if any gentleman could assign any better reason why a Minister should be sent to one and not to the other of these Powers, he should be glad to hear it disclosed, for he had not been able himself to discover it.

A gentleman had yesterday told the House that the news from Buenos Ayres was unfavorable. Take it all together, Mr. C. said, he believed it was not. But, he said, he put but little trust in such accounts. In our Revolution, incredulity of reports and newspaper stories, propagated by the enemy, had been so strengthened by experience, that at last nothing was believed which was not attested by the signature of "Charles Thompson." Mr. C. said he was somewhat similarly situated; he could not believe these reports—he wished to see "Charles Thompson" before he gave full credit to them. The vessel which had arrived at Baltimore, and which, by the way, by its valuable cargo of specie, hides, and tallow, gave evidence of a commerce worth pursuing—brought some rumor of a difference between Artigas and the authorities of Buenos Ayres. With respect to the Banda Oriental, which was said to be occupied by Artigas, Mr. C. said it constituted but a very subordinate part of the territory of the United Provinces of La Plata; and it could be no more objection to recognising the nation because that province was not included within its power, than it could have been to our recognition, because several States held out against the adoption of the Constitution. Mr. C. repeated that before he attached any confidence to a letter not signed "Charles Thompson," he must know who the man is who writes it; what are his sources of information, his character for veracity, &c., and of

all those particulars we were deprived of information in the case of the recent intelligence in the Baltimore papers, as extracted from private letters.

But, said Mr. C. we are charged, on the present occasion, with treading on sacred ground. Let me suppose, what I do not believe would be the case, that the President had expressed an opinion one way, and we another. At so early a period of our Government, because a particular individual fills the Presidential Chair—an individual whom I highly respect; more perhaps than some of those who would be considered his exclusive friends—is the odious doctrine to be preached here, that the Chief Magistrate can do no wrong? Is the doctrine of passive obedience and non-resistance—are the principles of the Stuarts, to be revived in this free Government? Is an opinion to be suppressed and scouted, because it is in opposition to the opinion of the President? Sir, as long as I have a seat on this floor, I shall not hesitate to exert the independence which belongs to the Representative character—I shall not hesitate to express my opinions, coincident or not with those of the Executive. But, Mr. C. said that he could show that this cry had been raised on the present occasion without reason. He supposed a case: that the President had sent a Minister to Buenos Ayres, and this House had been called on to make an appropriation for his payment. He asked of gentlemen whether in that case they would not have voted an appropriation? And had not the House a right to deliberate on the propriety of the doing so, as well before as after a Minister was sent? Would gentlemen please to point out the difference? I contend, said Mr. C., that we are the true friends of the Executive; and that the title does not belong to those who have taken it. We wish to extend his influence and give him patronage; to give him means, as he has now the power, to send another Minister abroad. But, apart from this view of the question, as regarded the Executive power, this House, Mr. C. said, had the incontestable right to recognise a foreign nation, in the exercise of its power to regulate commerce with foreign nations. Suppose, for example, we passed an act to regulate trade between the United States and Buenos Ayres; the existence of the nation would be thereby recognised—as we could not regulate trade with a nation which does not exist.

The gentleman from Maryland (Mr. SMITH) and the gentleman from Virginia, (Mr. SMYTH,) the great champion of Executive power, and the opponent of legislative authority, had contended that recognition would be cause of war. Mr. C. said these gentlemen were reduced to this dilemma: If it was cause of war, the Executive ought not to have the right to produce a war upon the country without consulting Congress. If it was no cause of war, it is an act which there was no danger in performing. There would be very little difference in principle between vesting the Executive with the power of declaring war, or with the power of necessarily leading the coun-



H. OF R.

Spanish American Provinces.

MARCH, 1818.

try into war, without consulting the authority to whom the power of making war is confided. But Mr. C. denied that it was cause of war; but, if it were, the sense of Congress ought certainly in some way or other to be taken on it, before that step was taken. He knew, he said, that some of the most distinguished statesmen in the country had taken the view of this subject, that the power to recognise the independence of any nation did not belong to the President; that it was a power too momentous and consequential in its character to belong to the Executive. His own opinion, Mr. C. confessed, was different, believing the power to belong to either the President or Congress, and that it might, as most convenient, be exercised by either. If aid was to be given, to afford which would be cause of war, however, Congress alone could give it.

This House, then, Mr. C. said, had the power to act on this subject, even though the President had expressed his opinion; which he had not further than, as appeared by the report of the Secretary of State, to decide that, in January last, it would not be proper to recognise them. But, Mr. C. said, the President stood pledged to recognise the Republic, if, on the return of the Commissioners, whom he has deputed, they should make report favorable to the stability of the Government. Those Commissioners sailed in December last, and might be expected to return in three or four months from this time. When they returned, then, Congress would not be in session. The President thus standing pledged, said Mr. C., I ask if we, who are disposed to invest him with the means of recognising that independence—of redeeming his pledge—are not the true friends of the Executive, and whether the opponents of this motion do not act as though they were not his friends? Suppose the chairman of the Committee of Foreign Relations had reported a provision for an appropriation of the description which I propose, said Mr. C., should we not all have voted for it? And could any gentleman be so pliant, as, on the mere ground of an Executive recommendation, to vote an appropriation without exercising his own faculties on the question; and yet, when there is no such suggestion, will not even so far act for himself as to determine whether a Republic is so independent that we may fairly take the step of recognition of it? He hoped that no such submission to the Executive pleasure would characterize this House.

One more remark, and Mr. C. said he had done. One gentleman had told the House that the population of the Spanish provinces was eighteen millions; that we, with a population of two millions only, had conquered our independence; and that, if the southern provinces willed it, they must be free. This population, Mr. C. said, he had already stated, consisted of distinct nations, having but little, if any intercourse, the largest of which was Mexico; and they were so separated by immense distances that it was impossible there should be any co-operation between them. Besides, they have difficulties to encounter which we had not. They have a noblesse; they are

divided into jealous castes, and a vast proportion of Indians; to which adding the great influence of the clergy, and it would be seen how widely different the circumstances of Spanish America were from those under which the Revolution in this country was brought to a successful termination. He had already shown how deep-rooted was the spirit of liberty in that country. He instanced the little island of Margarita, against which the whole force of Spain had been in vain directed, containing a population of only 16,000 souls; but where every man, woman, and child, was a Grecian soldier in defence of freedom. For many years the spirit of freedom had been struggling in Venezuela, and Spain had been unable to conquer it. Morillo, in an official despatch transmitted to the Minister of Marine of his own country, avows that Angosturo and all Guiana are in possession of the patriots, as well as all the country from which supplies could be drawn. According to the latest accounts, Bolivar and other patriot commanders were concentrating their forces, and were within one day's march of Morillo; and if they did not forsake the Fabian policy, which was the true course for them, the result would be, that even the weakness of the whole of the provinces of Spanish America would establish its independence, and secure the enjoyment of those rights and blessings which rightfully belong to it.

Mr. POINDEXTER, of Mississippi, claimed the indulgence of the Committee for that portion of their time which he felt it incumbent on him to occupy, in presenting to their consideration the views which he had taken of the motion submitted by the honorable member from Kentucky, (Mr. CLAY.) Sir, said he, the liberty of the human species, in every quarter of the globe, is a theme, than which none can be more dear to the heart of the patriot and philanthropist; it was one on which he delighted to dwell, either in the tumultuous agitation of the legislative hall, or in the silent shades of retirement, where the mind envelopes the vast scope of the universe, and contemplates man in the various and diversified situations and circumstances in which he has been placed by his Creator, for the fulfilment of the wise and inscrutable purposes of an overruling Providence. In casting his eye over the great events of the present day, Mr. P. said, the struggle which exists in Spanish America to break the fetters which have so long chained them to the car of an European despot, arrested his attention with irresistible attractions, and exhibited a grand and interesting scene on which he could not look without the strongest solicitude for their ultimate success—a solicitude which might sometimes carry him even beyond the bounds which prudence would prescribe, to accelerate an epoch so auspicious in the history of the New World, and so honorable to the establishment of human rights on a secure and solid foundation. He yielded to none in his attachment to the cause of freedom; and the honorable Speaker, who had with so much eloquence and force portrayed the condition of the Spanish colonies, and the sufferings of

MARCH, 1818.

Spanish American Provinces.

H. OF R.

their oppressed inhabitants, "seeking through blood and slaughter their long lost liberty," could not carry his sympathies in their behalf further than he did. He had listened to that honorable gentleman with unfeigned pleasure, and appreciated the lofty and magnanimous motives by which he was actuated; and it was to him a source of regret, that a sense of the duty which he owed to his constituents, to himself, and to his country, impelled him to give a vote in opposition to the motion on the table. He entreated gentlemen to return from the wanderings into which they had been led by the wide and diffuse debate to which this subject had given rise, and locate themselves on the isolated proposition on which we are required to deliberate and decide. The question is not whether the people, contending against the power of the Spanish monarch for their emancipation from the unnatural and cruel bondage to which they have been subjected for centuries past, are entitled to the independence to which they aspire; nor whether it is our policy, at this time, to render them assistance, by a participation in the conflict; but we are asked simply to make an appropriation of \$18,000, "for one year's salary and an outfit to a Minister to the United Provinces of the Rio de la Plata—the salary to commence, and the outfit to be paid, whenever the President shall deem it expedient to send a Minister to said United Provinces." Is it expedient, under existing circumstances, to adopt a measure of this character, with a view to the recognition of the independence of these provinces? And if so, does it fall within the range of the Constitutional powers of the House of Representatives? He proposed to examine these points distinct from the multiplied topics which had been, in his opinion, improperly introduced into the discussion, and which shed no light on the question before the Committee.

He would not stop to investigate the commercial advantages which might result to this country from the establishment of independent governments in the Spanish South American colonies; because the right of a new Power to be received into the great family of nations is not dependent on calculations of dollars and cents, nor on its relative intercourse with the rest of the world; but it rests on the basis of historical facts, and the known ability of the people to govern themselves in their own way, uncontrolled by the Sovereign, from whose authority they have been rescued by their valor and patriotism. The existence of such a renovation in the political condition of a community, once satisfactorily manifested, and without further inquiry, he was prepared to accord to them the immunities incident to sovereignty, leaving commerce to seek its level in the regular and natural progress of events; but if temptations of gain, by an interchange of commodities, are considerations which ought, in any manner, to guide us on an occasion like the present, it had been sufficiently shown, in the course of the debate, by an honorable gentleman from Maryland, (Mr. SMITH,) that we had but little to hope from that source, in relation to the

provinces of the Rio de la Plata. Of all the possessions of Spain on the continent of South America, engaged in hostilities with the parent country, we are least interested in forming a connexion with the district to which we are invited, by the proposed amendment, to send an accredited Minister. The distance by which we are separated from that country, and the wide extent of ocean which divides us, of difficult and perilous navigation, constitute insuperable barriers to a speedy and profitable intercourse, founded on the wants of the respective countries. Their pursuits are agricultural, so are ours; many of the articles which we export to foreign markets, they will, in a very short time, likewise export, and become rivals instead of customers in the great staple commodities of the United States. It is true that they remit annually a large amount of the precious metals; these we want, and to obtain them every facility ought to be afforded; but to obtain them something must be given in exchange. What shall we offer them in return for their gold and silver? Not breadstuffs—for they are supplied at home. Shall we send them our cotton, tobacco, sugars? No, sir; their climate and soil are admirably adapted to the cultivation of all these articles. Shall we find a market in that distant region, for our manufactures, which seem to be the sheet-anchor of our safety, if we are to judge from the solicitude manifested to extend to them the national patronage? Alas! they are drooping on our own soil. Protecting duties, amounting, in some instances, to the exclusion of foreign fabrics from our market, are found to be essentially necessary to force the sale of these manufactures on our own people. Can we, then, entertain the most distant hope that they will venture to seek that competition abroad, which they so carefully and sedulously avoid at home? Such a hope cannot for a moment be tolerated. Sir, we have nothing in which a direct trade to South America can be prosecuted with a reasonable prospect of profit. England alone will reap the rich harvest of those valuable markets, by means of her manufactures, which she can furnish of a superior quality and at more reduced prices than any other country. We may, perhaps, become the humble carriers, and in that way find employment for our shipping; but the delusive schemes of commercial monopoly, with which we have been so eloquently amused, will very soon vanish, "like the baseless fabric of a vision;" and with them, all the beneficial consequences which we had so fondly anticipated.

In reference to the great agricultural interest of the country, Mr. P. saw no inducement which ought to precipitate us into a measure of doubtful policy, in aid of the revolutionary colonies. We have extensive and fertile territories, yet to populate, capable of yielding the richest productions of the earth. Let us dispose of these, and, as far as practicable, condense the physical strength of the Republic. The hand of industry is nerved by the ravenous demand, which exists in every part of Europe, for the raw materials



H. OF R.

Spanish American Provinces.

MARCH, 1818.

with which we annually supply them. The laborer is rewarded beyond the example of any former period. Mr. P. asked, if a state of prosperity and tranquillity, like that we now enjoy, ought to be jeopardized in the pursuit of objects, which so far as they favored the cause of personal liberty, came in collision with the best interests of the United States. Suppose, sir, the fine provinces of Mexico in our immediate neighborhood are opened to the plough, and the inhabitants engage in the active pursuits of agriculture, unrestrained by the arbitrary hand of power, by which their energies have been so long paralyzed, what would the effect of that happy change in their condition be on the productions of our own country? A competition in the important staples of cotton, sugar, tobacco, and flour, which, by increasing the quantity for exportation to European markets, would necessarily diminish their value, and, in the same proportion, depress that branch of labor which is the only solid basis of national and individual wealth. These results will unavoidably flow from the success of the revolutionary struggle in Spanish America. Mr. P. wished not to be understood as urging these considerations in opposition to the just claim which the oppressed, in all countries, have to dissolve the political bands which bind them to their oppressors. He meant merely to remove the impression which had been attempted to be made, that the people of this country were deeply interested in the issue of the conflict between Spain and her revolting colonies. He could perceive no pecuniary advantages, either commercial or agricultural, which we should derive from the overthrow of the Spanish authorities in Mexico, New Grenada, Chili, or the United Provinces of the Rio de la Plata, or in any other part of her South American possessions. But he did not rest his argument on calculations of profit and loss; he wished the patriots every success in their noble effort to erect for themselves independent governments; he believed they must ultimately triumph over the imbecile monarch who now so ingloriously, and so infamously wields the destinies of Spain. The question then recurs, will the amendment offered by the honorable Speaker, if adopted, give strength to the patriot cause? He humbly conceived not, and expressed his decided opinion, that it would be productive of consequences injurious to those for whose benefit it was introduced. He conceded the doctrine maintained by the honorable mover, that we have an undeniable right, if these districts, or colonies, have actually succeeded in establishing their independence, to acknowledge the fact, and to treat them with that respect due to the rank which they may have acquired. Such an act would not, in itself, be just cause of war to Spain, or any other Power; because, if we, in other respects, maintain a strict neutrality, the mere recognition of an existing fact in relation to the belligerent parties, would neither weaken or invigorate either of them; it would be entirely harmless and innocent. But it is not enough to show, that we possess the abstract

right to take this step, it ought likewise to appear from unequivocal official testimony, that these provinces are *ipso facto* independent, and in the face of the world stand absolved from their allegiance to the Spanish monarch. Is this the condition of the people of the United Provinces of the Rio de la Plata?

What, Mr. Chairman, is the nature and extent of the evidence on which we are to pronounce this fact, and pledge the national responsibility for its existence? Newspaper publications, extracts of letters, bulletins of the Commander-in-Chief of the Revolutionary forces, and the message of Pueyrredon, who styles himself the supreme director of the Republic of La Plata! And, sir, those scraps are ingeniously arranged, and gravely offered, as the foundation of a measure involving the consistency, the honor, and perhaps the peace of the nation. Mr. P. protested against this premature and unauthorized proceeding. The introduction of a new sovereign among the nations of the earth is a measure of no ordinary character; it has ever been adopted with great caution and circumspection; and it would be folly and madness in this Government to volunteer in so hazardous an enterprise, without a full knowledge of every circumstance essential to its vindication, founded on incontestable documents, about which no subsequent controversy can arise. Let us hesitate in a case of so much delicacy, and maturely calculate the consequences before we involve the people of this country in a dilemma from which there is no retreat. Past experience will justify the declaration, that although the mere recognition of a new Power is not, according to the principles of public law, justifiable cause of war, nine times out of ten it leads to war. Sir, if you introduce a stranger into a drawing-room, or other genteel society, you identify him with yourself; you are security for his good behaviour; and if he prove a vagabond, or swindler, your own dignity and reputation sustain no inconsiderable reproach. Shall we enter into recognizance for the supreme director of La Plata, give him the right hand of fellowship, raise him into factitious consequence, and then embark in his quarrels to save ourselves from disgrace? Remember, sir, that France, during the Revolution, after much deliberation, acknowledged our independence, and concluded with us a commercial treaty. England did not wait to inquire into the motives of the French Government, nor to discuss the belligerent character of these transactions; but the signal for war was immediately hoisted, and hostilities commenced between the two nations. Are we prepared for similar results, and, if we are, what adequate inducements have we for the sacrifice, either in our own country, or the people whom we profess to serve? Our feelings are approached, and our sympathies excited, by the high sounding terms, liberty and republicanism. Our free institutions are said to be imitated, and our countrymen revered, in our sister Republic of La Plata. Would to God, Mr. Chairman, that such, in reality, were the principles and habits of these

MARCH, 1818.

Spanish American Provinces.

H. OF R.

unfortunate people! The statesman, devoted to the amelioration of the condition of mankind, and the downfall of tyranny throughout the civilized world, might look with pride and pleasure on their exertions, if a reasonable and well-founded expectation could be indulged, that they would eventuate in the establishment of a Constitution like that which secures to us the free enjoyment of all that is dear to man—his life, liberty, property, and the religion of his choice. What indications have they given of attachment to the fundamental principles of free Government? Are the people represented, or their rights defined, or tribunals established, responsible for an upright and impartial administration of the laws? No, sir! Pueyrredon, the supreme director, is a military chief, who rules his miserable subjects with a rod of iron. He makes the law, defines it, and enforces the execution of his decrees at the point of the bayonet. Property is held by the insecure tenure of his will, and even the sanctity of private correspondence is violated under the severe regulations of this jealous and arbitrary ruler.

In the various transmutations of power which have marked the progress of this revolution, personal ambition, and not the good of the people, seems to have been the great desideratum. At this moment, no one can say, with certainty, who is in possession of the sceptre, nor whether a Minister from this country would be received and respected; for, notwithstanding all that has been said, as to the veneration felt in this sister Republic for citizens of the United States, those who had ventured to hazard the experiment either returned to their own shores with broken fortunes and melancholy disappointment, or remained degraded, neglected, and suspected, and, in some instances, have found an asylum in the confines of a loathsome dungeon. Mr. P. could perceive nothing which ought to induce the Committee to plunge this country into an alliance with a Government so doubtful in its stability, and so little resembling the vivid description which had been, as he conceived, incorrectly given of it by the honorable Speaker; and he contended further, that, if all which had been advanced, to show the commercial and political interest which we have in the independence of Spanish America should be admitted, yet it would be worse than useless, at this time, to send a Minister to the Rio de la Plata. The effects of the measure might be productive of serious embarrassment to those provinces. We do not intend to offer them assistance in men, money, or ships of war. We cannot add to their strength or afford them greater facilities in procuring arms and munitions of war, than they at present possess; they have already free access to our ports, and while here, they receive the protection which is extended to the flag of every other friendly Power. We maintain towards them the relations of impartial neutrality, and place them, in all respects, on an equal footing with the monarch against whom they are contending. The formal exchange of diplomatic agents could not produce

one solitary benefit, or enlarge, in the smallest degree, the privileges enjoyed under the existing laws and regulations respecting all the colonies or districts of people in South America. But, said Mr. P., the most deleterious consequences may flow from an attempt to incorporate this new partner into the Confederacy of nations. Hitherto the combined Powers of Europe have looked, with folded arms, on the war raging between Spain and her colonies; they have, with the single exception of England, very little interest in the event of the contest; and England is prepared to take either side which shall open to her the best prospect of commercial emolument. Will the same indifference be felt when the united provinces of the Rio de la Plata claim the rank of a free, sovereign, and independent State, and exhibit the parchment of the United States in support of their pretensions? He thought it, at least, extremely probable that a stride so sudden and unexpected might excite the jealous apprehensions and arouse the sleeping energies of that band of legitimates, who, having subjugated the Old World, have time and leisure to regulate the affairs of the other hemisphere. Is it compatible with sound and prudent policy to agitate a question which may bring on our own country the calamities of another war, and unite the crowned heads of Europe, now tranquil and passive, in crushing the revolutions which otherwise might terminate in the emancipation of Spanish America? Sir, the measure is fraught with incalculable mischief, and cannot be justified either on the ground of principle or facts, so far as they have come to our knowledge through any regular official channel.

The form of Government, Mr. P. said, in this new-fangled Republic, is not such as to raise a single emotion of sympathy; its durability is altogether a matter of conjecture, and no valuable object can be attained by its recognition. Why, then, Mr. P. asked, should we precipitately take an attitude which subsequent information might oblige us to relinquish, and thereby subject this Government to reproachful imputations, derogatory to the high character which it has ever maintained for justice, magnanimity, and unshaken firmness? Mr. P. proceeded. He felt the greatest anxiety for the independence of every portion of the continent of North America, without regard to the particular institutions which they might adopt for their own government. He wished to confine the Powers of Europe to the boundaries which nature had prescribed, and to establish an American confederacy of sovereignties, uncontrolled by the doctrines of European policy. Such a change in the state of the world would be highly favorable to human happiness; it would promote the progress of science and the diffusion of liberal principles over countries enveloped in ignorance, bigotry, and superstition. But, Mr. P. differed in opinion with those honorable gentlemen who seemed to imagine that the provinces of Spanish America would follow our example in the freedom of their institutions, should they succeed in the establishment of their



H. OF R.

Spanish American Provinces.

MARCH, 1818.

independence. Such a reformation can only be effected by gradual encroachments on their ancient customs and usages, with which they have become familiar, and from which they will not suddenly depart. Mr P. called the attention of gentlemen to the experiments already made, and especially that in Mexico, whose proximity to the United States rendered it more probable that our form of government would be understood and appreciated. They had a constitution, matured under the auspices of several enlightened citizens of the United States; but it was found to be impracticable to put any system in operation, without a departure from the fundamental principles of a free constitution. Religious toleration was scouted, as altogether inadmissible, and irreconcilable with the habits of the people. The Catholic religion was established; the trial by jury was provided for, and the written instrument which they had promulgated to the world contained scarcely a single republican feature. They, too, had their Congress, published their manifesto, and invited all the nations of the world to embrace their cause and assist in expelling the royal forces. Where then was the redeeming spirit of the West, that it did not invoke the National Councils to acknowledge the Mexican Republic, and send a Minister with a suitable outfit and salary to represent us at that Court? They had stronger claims on us, and were better entitled to our co-operation than are the United Provinces of the Rio de la Plata. And, sir, we have seen the fatal error into which we should have fallen had the course now recommended by the honorable Speaker been adopted in relation to Mexico. Internal feuds arose; the Congress was dissolved; everything like order was prostrated; the patriot forces dispersed, and our Minister, on his arrival, would have been puzzled to find a *Supreme Director* to whom he might deliver his credentials, make his debut, and claim an audience of leave. Since that period the command of the revolutionary army has been transferred from one General to another; some have become traitors, and others have fallen in battle, or been massacred by the inexorable Spaniard; and, if our information be correct, the spirit of resistance to the authority of Spain in that quarter is almost entirely extinct. We are, however, told to-day, that Mina still lives, and continues to prosecute the war with increased vigor. Sir, there is too much reason to doubt the correctness of this intelligence; but, if it be true, every heart must beat with anxious wishes for his success in a cause so just as that in which he is engaged. The people of Mexico want no foreign aid, if they are united in their opposition to the feeble monarch by whose minions they are oppressed. Six millions of inhabitants need only will it, and they must be free; but, divided in sentiment as they are, without a union of action and of object, should we send an army into their country, in aid of the patriots, it would be necessary first to conquer the natives into a knowledge and love of freedom, and then the royal mercenaries would fall an easy sacrifice. Much as he desired

to hasten the period of their emancipation, Mr. P. said he was not disposed to disturb the enviable and prosperous condition of his own country by engaging in these quixotic expeditions; his primary duty on this floor was to guard with vigilance the rights and interests of his constituents and the nation at large, avoiding all unnecessary collisions with foreign Powers. He was willing to treat the revolting colonies of Spain in precisely the same manner that France treated us in the war of the Revolution, and as we treated France in the commencement of her Revolution.

Mr. P. took a rapid view of the events of the war which terminated in our separation from Great Britain, and undertook to show, from the history of that interesting epoch, that our conduct in relation to the united provinces of the Rio de la Plata, had surpassed in liberality the example of the French Government towards us, under similar circumstances. "Very early in the contest, the attention of America had been directed to foreign Powers, and particularly to France. The absolute want of arms and ammunition, and the impossibility of obtaining an adequate supply of those articles by ordinary means, had induced the appointment, in 1775, of agents to procure military stores abroad, whose communications were with a secret committee, empowered to correspond with their friends in Great Britain, Ireland, and other parts of the world. Soon afterwards, Mr. Silas Deane was deputed to France, as a political and commercial agent. He arrived in Paris in the Spring of 1776, with instructions to sound the dispositions of the Cabinet, on the existing controversy between Great Britain and her colonies, and to endeavor to obtain supplies of military stores." Our agent was, it is true, received, and permitted to load three vessels with military stores, but, before they sailed, the order for this accommodation was suspended, and the supplies were obtained by secret means, without the open sanction of that Government. The French Cabinet proceeded with great caution in every step which they took to favor the cause of America; always keeping in view their own interest, and making that alone the standard of their policy. The idea of sending a Minister to this country, never entered into the imagination of any one, either in France or America. The Revolutionary Congress took the lead in every measure, calculated to conciliate the support of foreign Powers. They demanded nothing, nor did they expect anything, on the score of etiquette. Acting on these principles, as soon as they had come to a resolution in favor of the declaration of independence, a committee was appointed to prepare the plan of a treaty to be proposed to foreign Powers, which after mature deliberation, was agreed to, and Ministers were appointed to negotiate the treaties proposed. Doctor Franklin, Mr. Deane, and Mr. Jefferson, were chosen to accomplish this important object. The result is known to all. The Commercial Treaty with France was followed up by one of alliance, offensive and defensive, and she from that moment became identified with us, in the great struggle

MARCH, 1818.

Spanish American Provinces.

H. OF R.

which secured the liberties of our country. Have we not manifested corresponding dispositions towards the colonies of Spain, with a frankness and candor which seeks no concealment behind the curtain of diplomatic intrigue? We openly avow our partiality for their cause, and offer up our prayers for their success. They have sent us commercial and political agents, who have been received and treated with every mark of respect; their communications are considered with attention, and everything which they ask, not inconsistent with the national interest and honor, is accorded to them. If they want arms and ammunition, or military stores, of whatsoever description, our ports are thrown open for them, and our citizens are ready and anxious to supply them with all that the country affords; their flag is respected, their property and their people protected, while within the jurisdictional limits of the United States. The *Supreme Director* of La Plata has, at this time, here, a commercial and political agent, whose correspondence with Mr. Adams, the Secretary of State, has been submitted to Congress by the President. He does not claim to be recognised as the Minister of his Government, authorized to enter into any treaty of compact whatever. And shall we compromise the dignity of this nation, by sending an accredited Minister with full powers, to a country not yet known on the map of nations, even before we are called on to receive one of a similar character, from the new Government, said to be erected in that country, under the control of a military chief, whose power may be swept away by the issue of a single battle? Sir, said Mr. P., such a precedent is not on record; it is in defiance of all experience, in the changes to which political societies are liable, and their transitions from one form of government to another. The proud Republic of France, with her conquering armies, sweeping everything before them with the besom of destruction, despatched a Minister to the United States, before she expected an acknowledgment from us of her independence. Mr. Genet, in addition to his other diplomatic functions, was charged with a stand of colors, to be presented to President WASHINGTON, as a testimonial of the high estimation in which both himself and his country were held by Republican France. These flattering overtures were met in a manner, and with a promptitude, called for by an occasion so grateful to the noble feelings of the Father of his Country. A Cabinet Council was convened, and, after solemn deliberation, the French Republic was recognised, and the distinguished citizen who now enjoys the first honors of the nation was designated to represent our interest at that Court. But what, at that interesting crisis, would have been thought of a proposition in the House of Representatives appropriating a salary and outfit for a Minister to France, anterior to an intimation of a wish, on her part, to reciprocate with us the relations of amity? He could not believe, that it would have found an advocate in the most enthusiastic admirer of the French Revolution. The subject was then left, where it properly belonged, to the sound

discretion of the Executive department, charged by the Constitution with the discharge of those particular duties. And yet, sir, we are referred to the examples of these revolutions to justify a direct violation of every precedent which they furnish, by resolving to send a Minister to the united provinces of Rio de la Plata, in return for her commercial and political agent, at a time when all the horrors of a bloody civil war still rage, even among these very provinces; where force and fear are the only guarantees of power, and the events of a single day may unhinge all that has been gained by a ten years' war. And we have yet to learn the practical good which is expected to flow from this innovation on the established usages of nations. The friends of the proposed amendment claim for it the amiable attributes of innocence and charity; and, thus decorated, they offer it as a sacrifice, on the altar of feeling, to the sacred cause of liberty. The honorable Speaker seems to imagine, that it will produce a powerful moral effect, and nerve the arm of the patriotic soldier with fresh vigor and energy. Sir, it is a melancholy fact, that the people of these provinces are, in general, ignorant of all the transactions of the civilized world; they are incapable of estimating the value of anything which does not afford them immediate relief; and it is extremely probable, that not one-tenth of them will either know that we have a Minister in their country, or feel the smallest interest whether we have or not. The moral influence of the measure will be lost on them. Pueyrredon, the *Supreme Director*, if he be a man of talents, and we have reason to think him so, will derive but little consolation from the parchment, on which will be written the credentials of our Minister, or the empty resolutions of Congress, assigning to him rank and consequence, without the means of maintaining it. He is well aware, that we add not a man to his armies; not a ship to his navy; nor put a cent into the vaults of his treasury. He is not ignorant of the solicitude which is felt by every class of citizens in this country for the triumph of Republican principles throughout the world, and we can impart to him no other moral motive which would be worthy of his acceptance.

Mr. P. next proceeded to consider this question in reference to the distribution of powers confided by the Constitution to the several Departments of the Government. By the 2d section of the 2d article of the Constitution, the President is vested with power to "nominate, and, by and with the advice and consent of the Senate, to appoint Ambassadors, other public Ministers, and Consuls, Judges of the Supreme Court, and all other officers not herein provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of departments." The amendment consists of two parts: First, an appropriation of eleven thousand dollars; and second, it proposes to vest the President alone with authority to send a Minister to the Rio de La Plata,



wherever he shall deem it expedient to do so. If the object be to place the amount of money proposed to be appropriated at the disposal of the Executive, it could be attained by simply making that addition to the contingent fund; it would, in that case, be expended or not, according to the exigencies which might arise in the recess of Congress. But if, taken in connexion with the subsequent part of the amendment, it is intended to clothe the President alone with power to appoint a foreign Minister, then it is manifestly unconstitutional, and ought not to be adopted. The power to appoint Ambassadors and other public Ministers, can be exercised only "by and with the advice and consent of the Senate," and it would conflict with the express letter of the Constitution to vest it, by law, in the President alone. These high and responsible public functionaries cannot be classed among the grade of inferior officers, whose appointment may be given to the "President alone, or to the Heads of Departments." Such an exposition of the Constitution is inadmissible, if we regard either the letter or spirit of that instrument; and if we sanction the principle of the amendment, the power to appoint this new Minister might, with equal propriety, be vested in the Secretary of State, or any other Head of Department. He contended, that the President wanted no act of legislation to enlarge his powers, whenever he deemed it expedient to send Ambassadors to foreign countries. No such appointment can be made without the concurrence of the Senate, and if they approve it, the salary and outfit are already provided for, by a general law, and need not the aid of a special appropriation. Sir, the proposition is, in itself, nugatory, unless we consider it directory to the President, on a point of duty devolved on him by the Constitution; it casts an indirect censure on the Executive for neglecting to fulfil the obligations which we feel to acknowledge the independence of this new Power in South America. Foreign nations, and, perhaps, our own citizens, will imbibe that impression, and the Chief Magistrate will be considered as having incurred the frowns of the Representatives of the people, whose interposition has become necessary to urge that high officer to a faithful discharge of the trust proposed in him by his countrymen. Mr. P. was far from attributing such sentiments to the advocates of this amendment, but the inference was, to his mind, irresistible. He saw no foundation on which to rest the slightest imputation on the President, whose cautious and prudent policy merited the approbation of an enlightened people. Our neutral relations between the belligerent parties had been maintained with impartiality. No privilege, enjoyed by Spain was withheld from her colonies, which could, in any manner, favor the hostile operations of either. A special mission has been instituted, composed of three distinguished citizens, to visit these colonies, ascertain their political condition, the nature and probable stability of their Governments, and their report will form the basis of our subsequent measures

respecting them. The wisdom of these precautionary steps will be tested by time and experience; and, without the spirit of prophecy, he ventured to predict, that they would contribute, in a high degree, to enlighten our future deliberations, and relieve us from the embarrassments into which we may be thrown by the premature attempt which is now made, to dictate a course to the Executive, in the absence of authentic information on the subject to which it relates. On questions touching our intercourse with foreign nations, it is of the utmost importance, that all branches of the Government should move in concert, each within the limits prescribed to it by the Constitution. But, the honorable Speaker has contended, that, in deputing Ministers to foreign countries, we possess a co-ordinate will and power with the Executive, in providing for the payment of their salaries, and he has referred, in support of his argument, to laws fixing the salaries of Consuls, and other public agents. That the Legislature alone possesses the right to apportion the salaries of all officers acting under the authority of the United States, will not be contested; but, the appointment of these officers, with a few exceptions, is confided to the President and Senate. Our portion of the duty has been long since performed; we have regulated the salaries and outfits of foreign Ministers, and the Executive is to decide, when and where it may be necessary to send them. Mr. Chairman, it will be recollected, that, at the opening of the present session of Congress, the President, in order to prevent all misapprehension, as to his opinions on the subject of internal improvements, communicated them freely in his Message. He believed, that the power to construct roads and canals, within the respective States, was not possessed by Congress, and, therefore, felt bound to withhold his signature from any bill which might be passed, establishing a general system of internal improvement. The honorable Speaker condemned this premature expression of the Executive opinion, as an unwarrantable encroachment on the freedom of legislation, and the privileges of the House of Representatives, to whom the right of originating all laws was given by the Constitution. The President, although an integral branch of the Legislature, it was urged, ought to have reserved his objections until he was called on to act in the regular Constitutional order of proceeding. Yes, sir, said Mr. P., we originate laws, and the President may reject them, or not, at pleasure. And does it not equally belong to the President to originate foreign missions, and, "by and with the advice and consent of the Senate, to appoint Ambassadors, and other public Ministers?" The power is granted in express terms, and we have no other check on its exercise, but by refusing to make the necessary appropriations. And yet the honorable Speaker claims for the House of Representatives the co-ordinate right to institute a mission to the Rio de La Plata, and considers it no encroachment on the powers delegated by the Constitution to the President and Senate! It remains for that hon-

orable gentleman to distinguish the two cases, and to reconcile the seeming inconsistency into which he has fallen.

Mr. P. would detain the Committee but a few moments longer. We are told of the wrongs which Spain has committed on our national flag; of her spoliation on our commerce; of her violations of the personal liberty of our citizens; her protracted negotiations, and ultimate refusal to do us justice for any of the long catalogue of injuries of which we complain. He most heartily concurred in the sentiment, that we ought to seek redress for these wrongs and injuries. He would instantly demand of the faithless and treacherous Ferdinand "indemnity for the past, and security for the future;" and if these just demands were refused, he would proceed to make reprisals on her territories within our reach, as an indemnification for her spoliation on the high seas, and her violations of treaty. And, sir, if war should be the consequence, her colonies are open to us, and, in that event, they will become legitimate objects of conquest. Let war be proclaimed, and, he doubted not, that, in six weeks, without the aid of bounties in land, or money, an army of thirty thousand hardy sons of the West would be ready to march into Mexico, and drive into the ocean every royal minion who now revels on the spoils of an oppressed and degraded people. But if we are to have war, said he, it should be made on the basis of our own wrongs. Our territorial dispute, and other points of difference with Spain, ought not to be translated to the Rio de La Plata, New Grenada, Chili, or elsewhere, on the continent of South America; but let us vindicate, with manly firmness, our own rights, regardless of the consequences. He was not alarmed with the apprehension that, in such a war, the combined sovereigns of Europe would engage on the side of Spain. England will make no war in which her own immediate interest is not materially concerned; and Spain can offer her no equivalent for the loss of her lucrative commerce with this country. Nor is it at all probable that the Emperor of Russia would abandon his great scheme in Europe, and send his Cossacks to the southern coast of America, where the climate itself would be more fatal than the swords of the most furious enemy. And, as to the other petty Powers, who follow in the train of the legitimates, they find sufficient employment in preserving their authority at home. Their protests and menaces will vanish into smoke whenever the period of action arrives. Sir, at the time we took possession of that part of Louisiana which lies above the island of New Orleans, and west of the Perdido, the Minister of Great Britain entered his formal and solemn protest against the procedure. We were then threatened with British interposition in behalf of His Majesty's ally, the adored and immaculate Ferdinand. But the matter ended precisely where it began. We have remained in the occupation of the country which, of right, belongs to us, and it was neither made cause of war, nor insisted on at the Treaty of Ghent. His Majesty's other

allies, the savages of the Northwest, were remembered, but the affair of Florida was forgotten—was consigned to oblivion, and wholly abandoned in the negotiations. And such will always be the end of empty protests, in which the party making them has no direct interest. Let us, then, march forward, with a firm step, and plant the American standard on the Perdido and the Rio del Norte, the ancient limits of Louisiana; and there will be found in this nation both the will and the ability to sustain our indisputable right to these boundaries, against every combination which may be formed to curtail them. But he would not withdraw the attention of the world from the substantial grounds of controversy between this country and Spain, by an ill-timed and useless interference in the affairs of her South American colonies.

He felt it a painful duty, before he sat down, to notice a remark which fell from the honorable Speaker, when he last addressed the Chair. The honorable gentleman, if he correctly understood him, had said, that Mr. Aguirre, the commercial and political agent from the Government of La Plata, was obliged to sneak into the office of the Secretary of State, or obtain secret interviews with the President, to avoid the eye of Don Onis! Mr. P. had heard the observation with regret. He was not the eulogist of any man, whatever might be the official rank which he occupied; but it was due to justice to say that the present Chief Magistrate of the nation had ever been distinguished for frankness, integrity, and unbending firmness. At the dawn of manhood he had entered the tented field, and fought the battles of his country, with the heroes and patriots who achieved the independence which we now enjoy. View him at subsequent periods in the legislative councils of his native State and of the Union—follow him into foreign countries, as the representative of his Government, at the most enlightened Courts of Europe, and we find him, on all occasions, the faithful public servant, and the inflexible patriot and republican. Return with him again to his own country, placed in a high and responsible station in the administration of its affairs, at a crisis which called forth all our energies, we find him relinquishing the first office in the Cabinet, at a time when gloomy despair covered the inhabitants of this desolated city, and, by assuming the arduous and perilous duties of the Department of War, he contributed in no small degree to the glorious issue of our recent conflict with Great Britain. And, Mr. Chairman, the future historian, who records the events of his life, and who shall "nothing extenuate nor set down aught in malice," will pronounce him to be an able, upright, and intelligent statesman, whose sole object in every situation has been the good of his country.

Mr. FORSYTH, of Georgia, said he should be unworthy of the confidence now reposed in him, and of that he desired to obtain, if he permitted some remarks which had been made to pass without reply. The gentleman from Virginia (Mr. TUCKER) said, that my strictures on the



character of the Spanish American contest, might have been spared; while the Speaker alleges that I am the only person who has been unjust to the patriot cause. Is it come to this, that, on the discussion of measures in this Hall, the truth is to be spared? That our sentiments are to be weighed, and phrases to be minced, lest they should fall too harshly on the ear of morbid delicacy? Injustice! Is it unjust to vindicate the character of my own countrymen, degraded by a comparison with persons unworthy of a place by their sides? It is the Speaker who has been unjust—not, indeed, to the aliens of our blood, but to our fathers. He courted the investigation which has been made; and how has it been conducted? In examining the origin and nature of the contest, I have drawn my information from the sources to which he directed our attention. Have I erred in the statement of any fact, or even colored, beyond its natural hue, any event which has been related? Had an instance of either kind been pointed out, the proper atonement should be made by a frank and prompt acknowledgment of the error. Is it injustice to say, that individual liberty is not the object of the Spanish American contest? What are the blessings secured to the people by the struggle? How have the ancient laws been changed to better the condition of the people? On these important points we have not been instructed. We have heard of the fertile regions, and formidable armies, and rich commerce, of Spanish America; but what is the condition of the people? Are they the masters or the slaves of the Revolution? They are contending for political independence, and have my most ardent wishes for their success. The consequence of complete success may be the enjoyment of civil liberty—may be—I am not certain, that it will. The condition of the people cannot, indeed, be altered for the worse. Under any form of government that may be established, they cannot be more oppressed than under the dominion of Spain. If to doubt the most favorable issue of this struggle be a crime, I am, indeed, criminal. If, to fear that freedom, civil and religious, will not follow, be censurable, I deserve reproach. More than once, in the last twenty years, our sympathy has been demanded by the people of different nations of the South, embarked in the tempestuous sea of liberty. What nation has reached the place to which its course was directed; the desired haven of repose, security, and enjoyment? While the hearts of the timid were palsied by fear, and even the brave shuddered by the terrors around them, some armed chieftain, or bigoted priest, has poured out the oily oil of despotism, and bid the agitated waves be still. Who, sir, will venture boldly to predict, that the same scene is not to be acted on the Southern continent?

The time has been, when my young heart swelled with emotion at the sound of liberty. But these days of youthful delusion have passed, hope, forever. I trust that I have now learned to distinguish between things and names. With enthusiasm undiminished, and a desire the most

ardent for the freedom of all mankind, I am no longer to be duped by glorious titles and endearing sounds. In the course of a life, not yet extended to forty years, I have had much experience on this subject. The generous sympathies of the people of the United States have been often demanded, and sometimes felt, for those who were unworthy of it. In the days of Revolutionary France, age, innocence, genius, and virtue, were indiscriminately proscribed; heads fell by thousands, as sacrifices at the shrine of liberty. Consuls were chosen to rule in the name of liberty. The First Consul was converted into an Emperor; he exercised imperial powers in the name of liberty. The King of Spain was deposed by France, and reinstated by allied Europe, in the name of liberty. Napoleon swept, with his formidable legions, half the continent of Europe, marking his course with fire and blood; this, too, was in the name of liberty. Combined Europe precipitated itself, like a terrible avalanche, on the plains of France, burying, under its weight, the power and the glory of France; the power, not the glory, of France—that is imperishable—in the name of liberty. This experience has not been without its effect. I do not permit my feelings to be excited, much less my conduct to be influenced by the sound, without satisfying myself that liberty is something more than a name among those for whom I am called upon to feel or to act.

The facts, illustrating the character of the Government of La Plata, and the love of its rulers for our fellow-citizens and our institutions, are called tales; and the gentleman from Kentucky wishes to hear both sides before he forms a definite opinion; he asks for official information from La Plata! What infatuation! Sir, these tales are the statements of American citizens—of our brethren. Does he ask for confirmation or contradiction from American Spaniards? Will he venture to doubt their accuracy on the faith of any interested foreigner, or foreign Government?

But the Speaker has said that even a gray-headed Revolutionary patriot, whose cheeks were furrowed by age, could not address a prayer to the throne of God, in behalf of the patriot cause, without my animadversion. Have I forgot the respect due to venerable age, disregarded the gratitude earned by Revolutionary service, and violated the reverence due to the minister of the Religion of Peace? I should abhor myself were I capable of such an offence. The prayers of all good men rise to Heaven for the success of the Spanish Americans, because, in that success, the only chance is afforded of securing to the individuals concerned the dearest rights of human nature. The circumstance referred to was mentioned without praise or censure—a fact witnessed by all, and strongly illustrating the truth of a position I was endeavoring to enforce, that there was a striking and peculiar contrast between the interest excited by this proposition and the proposition itself.

But, sir, I was mistaken in supposing this question unimportant, insignificant, and unmeaning.

It has now become a question to which important consequences are attached. The honorable Speaker has told us what these consequences will be; this little proposition is to be the new dividing line of parties in the United States. Those who vote for it are to be the self-styled, and, I suppose, exclusive friends of liberty. If I may follow the example of the gentleman from Kentucky, (Mr. JOHNSON,) and borrow a metaphor from Holy Writ, this is to be the Red Sea to divide the people of Israel from the Egyptian host, through which, the one, under their inspired leader, are to march in safety and triumph to the promised land of popularity and power; while the other, with their present enjoyments and future hopes, are to be buried deep beneath its wave.

But, said Mr. F., in conclusion, let gentlemen who have been warmly excited on this question recollect that, though so much consequence has been attached to it, the difference between those contending so earnestly on this floor is a difference as to time and manner. The only difference is as to the prudence and expediency of acting on the subject at the present time and in this way. There is not a gentleman who has addressed the Committee on the subject, who does not desire to recognise the independence of the Southern countries whenever it can be done consistently with a just regard to our own interests—to our own safety, which is our first duty. The only difference between us is that we do not wish to precede the proper official organ of the nation in order to recognise the independence of these countries, and those in favor of the motion wish to do so. There is no member of the Committee who does not know and feel that the wishes and feelings of the Executive Magistrate point in the same direction with that of the Representatives of the people. Sir, where the difference between us is so small, however anxious we may feel for the success of our particular views, I hope that anxiety will cease when the question is decided. Whether the motion be adopted or rejected, let us recollect nothing but the ability and the eagerness which has been displayed in the contest, and feel nothing either of the bitterness of defeat or the joy of triumph.

Mr. SMITH, of Maryland.—I feel myself compelled again to trouble the Committee by the Speaker's more than common attention to the observations I had the honor to submit to the consideration of the members. The Speaker has acted the part of an able swordsman; he has declined to meet the profound and able arguments of my friend from South Carolina, and has directed them against my feeble efforts made on the same side of the question. The one he found unanswerable, the other he has endeavored to defeat. The Committee will judge how far he has been successful.

The Speaker has done me the honor to admit that on commercial subjects I have some claim to the attention of the House, but has with a politeness peculiar to himself advised—nay, sir, almost forbid—me to speak on his particular province, to wit: the laws of nations. Why, sir, the

Speaker forgets that I have been twenty-five years in Congress, in which time the law of nations has been frequently introduced and discussed; from which discussions, if I had never read *Vattel*, *Martens*, and *Azuni*, I might have obtained some knowledge. Nay, sir, the Speaker does not do himself justice, when he supposes that his instruction to Congress on the laws of nature and of nations has been totally lost on one of his hearers. Sir, I have read enough of those authors to know that an ingenious advocate, such as the Speaker, can easily find a sentence, selected from a whole, that may be converted to prove either his position or mine. But, Mr. Chairman, I quoted not the laws of nations; I confined myself to the laws of common sense, (which I recommend to the Speaker for perusal;) I quoted experience in our own glorious Revolution, to show that a recognition of the independence of revolted colonies was considered as a just cause of war. I gave stubborn facts in support of my argument; and how has the Speaker answered me? That it was not the recognition by France that induced Great Britain to declare war, but that France had entered into a Treaty of Alliance, offensive and defensive, with her revolted colonies. Here, then, the Speaker completely gives up the main point of his argument, to wit: that aid is just cause of war, but that recognition is not. Aid had been given by France for two years—yes, sir, great and important aid—and Great Britain did not declare war on that account; but the moment France treated with us as an independent people, the Speaker says, Great Britain declared war against her. But, I deny that Great Britain then knew that the treaty was offensive and defensive. What was the language in Parliament at that time? It was not that France had afforded aid, but that France "having treated with the revolted colonies as an independent people," the national honor imperiously compelled the nation to go to war, and punish the insult. But, what does the Speaker mean, by advising the President to send a Minister to La Plata? Is it simply to compliment the Supreme Director on his appointment; or would he not expect, as a thing of course, that he would go clothed with Plenipotentiary powers, and that he would be expected to make a treaty? According to the Speaker's notion, the sending a Minister to La Plata, and then recognising its independence, would not be just cause of war; but the moment we entered on a treaty, then we should have crossed the Rubicon, and Spain might show us her *law book*, and prove to us that she had just cause of war. I am of opinion, Mr. Chairman, that nations are governed very much by expediency as to what is just cause of war. If it had been expedient for Spain to declare war against the United States, she would long since have been able to have found in *Vattel* and *Grotius* something to substantiate that she had just cause of war. But, it was not expedient to Spain, and we are at peace, and I do wish we may continue so.

The Speaker has quoted, as a precedent for his unprecedented motion, that we fixed the salary



H. or R.

Spanish American Provinces.

MARCH, 1818.

and appropriated money to pay Consuls to the Barbary Powers. Consuls to the Powers of Europe, sir, are not allowed salaries; they are allowed fees, which, with the advantage to them as merchants, have been considered adequate compensation. Not so to Consuls in Barbary. We have no commerce with Algiers, Tunis, or Tripoli; and salaries fixed by law were necessary to enable the President to procure proper persons to go there and maintain the peace we had made with these Powers. The Speaker has also quoted the appropriation for Indian treaties, as a justification for his introducing his extraordinary motion. The Indians, sir, are within our own territory, and treaties with them are generally held for the purchase of their land. Such precedents will certainly have little weight: they are sometimes used for want of argument.

The Speaker has at last admitted that the table land of Mexico produces the best of wheat; but assures us, for our comfort, that the roads are so bad and the distance so great that flour cannot be brought to La Vera Cruz, without such an expense as will prevent the Mexicans from ever being able to enter into competition with us. And these, sir, are to be our protection—distance and bad roads! And yet the Speaker knows that a noble road has been commenced, and no doubt will be completed, if Mexico shall ever become independent, to La Vera Cruz; and that the distance is not greater than that of many Pennsylvania farmers, who have brought their flour to Baltimore; nor are their roads, as they now are, worse than the road has been from Bedford to Baltimore or Philadelphia. Flour for the supply of Havana has, within my recollection, been brought in sacks from Mexico to La Vera Cruz, and there shipped. In 1804, flour, valued at four hundred and seventeen thousand seven hundred and nine dollars, was shipped from La Vera Cruz to the Spanish colonies. If the Mexicans were under a good Government, their export of flour would, in all probability, soon equal ours. But, sir, what is the reason that the Speaker takes so much pains to show us that the Spanish colonies, if independent, cannot supply the world with articles similar to those produced in the United States, on equal terms? Why attempt to prove that the people of La Plata cannot become a navigating or commercial people? Is it not fair to believe, from his reasoning, that if the colonies enter into a competition, and injure us in foreign markets, by selling cotton, flour, tobacco, &c., at a lower price than our farmers can, that the Speaker himself would be of opinion that we ought not to be very earnest in promoting their independence, as I do, on the great principle of the freedom of mankind? Why attempt to show, that we have no cause to apprehend their competition with us in the articles our country produces?

I think, the Speaker has given me cause to complain. He has said, that I had attempted to show that New Grenada and Venezuela could enter into competition with us in the article of breadstuffs. The Committee will remember, that

I had passed over those colonies, giving as a reason, that I saw the Committee were impatient. I had another reason, to wit: I had touched on the trade of those colonies on the neutrality bill, and I have an aversion to tell the same story twice. However, I will help the Speaker out. Those two provinces would be important to the United States if independent; they would take our breadstuffs, to a certain extent, and would supply us with indigo, cocoa, and coffee; and, being near us, we might, and probably would participate in carrying for them; and, as Mexico has no good port on the Atlantic, and produces much sugar, we should send our vessels there in ballast, purchase with bills of exchange, or carry, on freight, for the native merchants. England and France would, however, enjoy all the great advantages of their independence; for those two nations manufacture or produce all the articles necessary for their consumption. Our merchants might supply them with nankeens, and, in part, with India cottons. On the whole, I should consider the independence of the Spanish Main of considerable importance, particularly to our navigation. Mexico must depend on others for ships; she has no good port near us, and, therefore, cannot well become a navigating people.

La Plata, the Speaker says is quite too remote to supply the West Indies, for that it required sixty-four days for a vessel, just arrived at Baltimore, to make her passage. The Speaker is certainly out of his reckoning; vessels actually pass by the West Indies. And he has forgot, that vessels from La Plata will have the trade winds a great part of their passage to the West Indies, and may fairly calculate on making the islands in thirty-six days, or forty days at the most. They may supply Brazil, Cayenne, and Surinam, in a shorter time than we can, and certainly can supply Spain, Portugal, and the Mediterranean, as easy and on as low a freight as we can from the United States; their voyages to the East Indies will be much shorter—they will be performed in sixty or seventy days; and, being near the precious metals, they will be able to carry on the trade beyond the Cape of Good Hope on better terms than we can. But, Chili, he says, is wholly too remote to interfere with us. The Speaker sneers at the idea of Chili supplying breadstuffs; yet, it is well known, that, during the last year, some American vessels actually brought cargoes of wheat from Chili, around Cape Horn, to Brazils, and tended thereby to reduce the price of American flour in those markets. But, Mr. Chairman, I am as desirous as the Speaker is to see those provinces free and independent. The great and immediate advantages will, it is certain, be to England, France, and the Hanse Towns; yet we shall derive some advantage from the general benefit resulting to the trade of the world by their freedom and independence.

The Speaker thinks there is no great use for a Minister at the Court of Brazil, for that the trade of that kingdom is of little consequence to the United States, not so much, he thinks, as La Plata. I differ entirely with the Speaker on that

MARCH, 1818.

Spanish American Provinces.

H. or R.

point. The Brazils supply us with sugar and other articles, and we pay in flour and other commodities; but the King of Brazil is also King of Portugal, which nation has always been one of our very best customers, for wheat, flour, rice, and particularly for Indian corn; we also supply Portugal with fish, rice, staves, and naval stores, and get in return specie, salt, wine, lemons, &c. The principal part of the salt used by the people of the United States for our fish, beef, and pork, is drawn from Portugal.

The Speaker has told us, that the importance of the commerce of a nation depends on its extent of population and territory. This, sir, is novel to me; all history differs from the Speaker. Tyre is a small island, and had some little territory, yet her people, owing to its government, were, in their time, the great, the most celebrated traders of the world. Carthage possessed little territory, or population, yet she carried on an immense traffic. Venice, Genoa, and Pisa, were all very small States, with no great population, yet were they all greatly commercial. Portugal, a small kingdom, with perhaps two millions of people, discovered the Indus and China, and surprised the world by her immense commerce. Portugal fell into the power of Spain, and the commerce of India was, in consequence, wrested from her by Holland, who had little of territory, and an inconsiderable population. China and Russia are the greatest Powers on earth as to population and extent of territory, yet neither has ever been considered great in commerce.

The Speaker has adverted to a letter from Buenos Ayres, which appeared in a Baltimore paper, received yesterday, and has asked, who is the writer? What his character? And what his politics? And has answered, that it is probably some Spaniard, hostile to the patriots. I am informed, that he is an American of fair character, and very friendly to the patriotic cause, and that his information may be relied upon.

The Speaker has alluded to a pamphlet lately published by a merchant in Philadelphia. I have only seen the outside of the pamphlet; it is said to be written by a gentleman who is not at present engaged in active business as a merchant, and, as far as I am informed, free from improper motives. I am told that it is worth the reading; but that gentleman, (the Speaker insinuates,) and other merchants, are governed in their opinions by the trade they carry on with Spain and her colonies; and this may be true, to a certain extent; they may honestly believe that it is bad policy to give up a trade substantially good, useful to themselves, and more so to the farmers of the country; they know that, at present, they export to Spain and her colonies about two hundred thousand barrels of flour, (being one-seventh of all we do export,) rice, cotton, fish, naval stores, Indian corn, lumber, furniture, nails, boots, shoes, hats, tobacco, East India goods, nankeens, &c., to the amount of nearly eight and a half millions; that, of that sum, four and a half millions is the produce and manufacture of the United States, being a greater amount than is ex-

ported to any other nation, except Great Britain and France, all of which (or nearly all) is carried in our own vessels, thus employing as many tons of our own ships as are employed even in our trade with Great Britain, and infinitely more than with any other nation. It may be proper again to state the fact, that Spain, being cut off from her usual supply of tobacco from the colonies, has been under the necessity of opening her ports to our tobacco; that her people give a decided preference to the tobacco of Kentucky, for which they give two dollars per 100 wt. more than any other; they consume no Maryland tobacco; next to Kentucky, they prefer Virginia. In return for this large trade in exports, we import from Spain and her colonies the articles we most require for the consumption of our own country, to wit, specie, salt, wine, fruits, sugar, coffee, cocoa, molasses, mahogany, dye woods, cochineal, and a variety of other articles, to an amount of eight or ten millions of dollars annually; all of which is carried in our own vessels. We import from Cuba alone, annually, forty-five thousand hogsheads of molasses, requiring, perhaps, twenty thousand tons of shipping for its transport, all carried in vessels of the United States. Sir, the trade we have to Spain and her colonies is more advantageous than that with any other nation, England and France excepted. It enables the merchants to pay off, in part, the immense balance of trade in favor of Great Britain. Besides the trade to and from Spain and her colonies, a very considerable number of vessels of the United States are employed in carrying from Cuba sugar and coffee to the ports of Europe, and, in return, cargoes from Europe to Cuba. Is it, then, surprising, that the merchants of the United States should be willing to risk the loss of a trade so highly important to themselves, and so eminently useful to the agricultural interest of the United States, for a project which, no doubt, will appear to them a little visionary, and which would render little service to the patriots whom the motion professes to serve? What great use will our acknowledging the independence of La Plata be to the patriots? It will have a moral effect, we are told. Sir, I have not much confidence in that which is called moral effect; it is more of sound than substance. If we add physical force to a recognition, then I can comprehend its utility; if we send a fleet and army to their aid, as France did when she declared us to be an independent people, we might render them real and essential service; and if we did, what would our officers see? Why, sir, according to a paper just received, they would find the Executive Directory of La Plata making war, as the ally of the King of Portugal, against Artigas, who is chief of Oriental Banda, and who appears to be, in truth, "a republican;" a man with little education, but of strong mind and strong understanding; brave, active, intelligent; devoted to his country—possessing the entire confidence of the people of whom he is chief. That General has constantly kept the Portuguese confined in Montevideo; nor have they been able to remove him. He defeats them when-



ever they attempt to remove out of their fortress. We find that the officers of the royal Government of Portugal have obtained the aid of the Directory of La Plata—what for? To put down and destroy the Republican General Artigas. Permit me to read an article from a paper just received. Speaking of Buenos Ayres, the account states: "The present Government reigns with an iron rod—barbarism is the order of the day. But it will require all the vigilance they possess to stop the flame which is now arising, and which must burst forth with a rage unprecedented in this country." Again: "The attack made by these people (of La Plata) against General Artigas, has met the reward it merited; in the first attack they met with a loss of three hundred killed, and forty-seven prisoners, and one piece of artillery. Artigas is a brave, intelligent man, of little education, but of sound, solid judgment, adored by his army, and the people of his province, and I believe, is the only true republican in the country. He is now struggling against the combined efforts of the King of Portugal and his Government, (La Plata.) How must a republican feel when he hears people crying out down with all royalty, and at the same time assisting a drowned head in establishing its tyrannic domination over a free people?" Mr. Chairman, I vouch not for the truth of this information; but it bears such strong marks of authenticity, that I place confidence in it; and, I think, it ought to induce us to hesitate, and to decline any act that may implicate us in war, until we can be more correctly informed. We may obtain the necessary information on the return of our Commissioners; they are all favorable to the patriotic cause, and we ought to wait their report.

The Speaker ought to know that Portugal, when she first discovered the Brazils, claimed to the river of La Plata; that when she fell under the dominion of Philip, King of Spain, he established Montevideo; and, although the crown of Portugal was wrested from Spain by the Duke of Braganza, yet the Banda Oriental has ever since been held by Spain. The King of Portugal has taken advantage of the present situation of Spain; he has taken possession of Montevideo on his right; and is desirous of conquering the whole of the Oriental Banda. Artigas has, as yet, successfully prevented the conquest; the King of Portugal, it would appear, is unequal to the object, and has prevailed on the Supreme Directory of La Plata to assist him, and we find the troops of republican La Plata making war, as an ally of the King of Portugal and Brazils, to conquer the brave and valiant Republican General Artigas. Sir, I conclude with the expression of an opinion, that it is prudent for our Government to wait until we have information, such as we can safely rely upon.

Mr. CLAY (Speaker) again spoke in rejoinder to the gentlemen who had replied to his last speech. After a few prefatory remarks—the gentleman from Georgia, said Mr. C., tells us, and I am now rejoiced to hear it, that his heart is with us; that his feelings are all on the patriotic side.

Our condition is peculiar; the hearts of gentlemen, in opposition to this motion, are with us—but I am afraid we shall find a great number of their votes against us. Yes, sir, State rights—take care of them! Personal liberty—let that take care of itself!

The honorable gentleman has been pleased to refer to an observation of mine respecting the division of parties, on which I would observe, that he has not done me justice. A gentleman from Virginia was the first to introduce that topic, and my remarks were in reply to him only. The gentleman from Georgia, the other day, was pleased to take notice of remarks which had appeared in certain newspapers, in which I did not follow his example. If I had chosen to have done so, I could have taken notice of some denunciations which had been thrown out against myself. But, sir, those scribblers know little of the firm purpose of my soul, if they suppose it is to be shaken by such assaults. No, sir, it was not myself, but the gentleman from Virginia, who presented himself as the champion of the Executive, who took a view of the present question, connected with the divisions of parties. I see nothing in it but a difference of opinion on a particular question, among those who generally act together. It is for those who oppose us to take their course; what that course may be, is to me utterly immaterial.

The gentleman from Maryland, Mr. C. went on to say, was as unfortunate in his practical information, as he was in regard to public law; having mistaken the cause of war by Great Britain against France, during our Revolution, which was not for having recognised us, but for having given us aid. The gentleman was equally unfortunate, Mr. C. said, in replying to his position in regard to foreign commerce, which was not that a small State might not carry on an extensive commerce; for, against that position, Great Britain, whose European possessions were of no great extent, would have been a striking example. What I did observe, said Mr. C., was, that, as to such Powers as South America, the value of their commerce was to be inferred from the extent of the territory or population. The gentleman says, that he is incapable of appreciating the effect of moral causes. Sir, I did not ascribe to him that faculty; but I should have supposed that the gentleman's recollection should have taught him how the heart beat when our independence was acknowledged by foreign Powers, and how like causes would produce like effects. The gentleman had told the Committee of information from Buenos Ayres, that Pueyrredon is carrying on affairs with a high hand. The correctness of this information, Mr. C. said, he doubted very much. The authority of Pueyrredon, he said, was very much like that of the President of the United States; he was a responsible officer, and, instead of putting down the liberty of the press, he answered the calumniators who attacked him, by the wisdom and vigor of his administration, &c. In respect to the letter from Buenos Ayres, which had been spoken of, Mr. C.

said, he had heard, that the author of that letter, or a similar one, was a nephew of Carrera, the nature of whose views Mr. C. said, he had shown; that Carrera, who sought, on the ruins of Chilian liberty, to erect the fabric of his own ambition, &c. Mr. C. said, he knew nothing of the authority of the gentleman who had been referred to in the debate, as the author of some information from that quarter. Be he who he may, said he, I say again, I wish to see it authenticated by the signature of "Charles Thompson."

Mr. C. remarked, in conclusion, as to the object of his motion, that if the clause were inserted in the bill which he proposed, it would impose on the Executive no obligation, but put it in the power of the President to apply the sum to the purpose specified, whenever he chose to do so, if the Senate thought proper to consent to it.

Mr. SMITH, of Maryland, again rose.—The Speaker, said he, has said, that the moral effect produced on the United States by France, when she recognised our independence, filled all hearts with exultation and joy. Mr. Chairman, I well remember the time, and will tell the Speaker what caused our joy. It was, that the capture of Burgoyne's army had been the cause that induced France to acknowledge our independence. (See King Louis's letter to the King of Spain) and that at the same time that he informed our Government of his recognition, he assured them, that he would send a fleet and army to our assistance. He did so; and, by their noble aid, we secured our independence sooner than we otherwise should have done. If he had not sent physical aid, the moral effect would have done us little good, and we should have laughed at it.

Mr. H. NELSON said it was with great reluctance he rose to address the House again, because he was scarcely competent to make himself heard; but the honorable Speaker had dealt his blows so liberally around, that it was impossible to sit still and tamely bear them. The gentleman introduces me, said Mr. N., as the champion of the Executive. Did I ever so announce myself in this House? so far from it I have explicitly disclaimed it. But, in the same breath in which this charge is made on me, the Speaker informs the House, that he is the advocate for enlarging the Executive patronage, and that we are desirous to control and limit the power of the Executive. I rise now, sir, to claim for myself the character of the champion of liberty, and to protest against the assumption of exclusive right to that character by the Speaker. Having no disposition to trespass on the patience of the House, Mr. N. said he would pass over much he had to say, and come to a particular point. Why, he asked, had the honorable Speaker presented Carrera in an odious light to the Committee and to the nation, as an ambitious, intriguing man? Has the Speaker, said he, any information of an authentic character which we do not possess? He denies credit to information received from respectable Americans at Buenos Ayres, and wants to see "Charles Thompson" to it. And who, sir, is his Charles Thomp-

son? Billy Duane; from whose paper he read the matter he quoted to the House as authority. I hold in my hand a document equally entitled to respect with any which the gentleman read to the House—a letter from a friend of Carrera to a gentleman in this country, dated in September last. This man came here to obtain supplies for his country, and did everything he could to serve it. He was arrested at Buenos Ayres, thrown into a dungeon, his property taken from him and disposed of by this immaculate Pueyrredon. This letter was from an eyewitness, who had seen and felt the tyranny of the Supreme Director. And by whom had the virtuous Carrera been arrested? By a scoundrel who, it now plainly appeared, was destroying the rights of his own country by his tyranny and filling his coffers with the spoils of any of his own people, who dared to raise their voice against his tyranny and oppression. Mr. N. also quoted a letter from Chili, dated in July, 1817, speaking of the distracted and unsettled state of that country. [Mr. N. was here obliged to suspend his remarks, his broken voice rendering him unable to proceed.]

Mr. CLAY rejoined. I am charged, said he, with saying that those who are the friends of this proposition are the exclusive friends of liberty. I made no such unjust remark. I said, if the gentleman went away from us, he might, perhaps, in his new political connexion find consolation for the separation from his old friends, who march on in the path of liberty. Sir, the galled jade winces. My quotations, the gentleman says, were from Billy Duane. How does the gentleman know that? [Mr. NELSON said, across the House, that he saw the paper in the gentleman's hands.] I quoted principally from the National Intelligencer, said Mr. C.—others of my quotations were from historical works. The manifesto of July last, I quoted from the Aurora; I am sorry it was not in the Intelligencer; it was as worthy of publication as the speech of the Prince Regent or the King of France. I should like to know whence the gentleman who questions the sources of my information got the letters he has just produced to the House—from what bureau? But, sir, I will not recriminate.

Mr. H. NELSON said, he should like to know what the honorable Speaker meant, when he spoke of the galled jade wincing. When I spoke of the paper which the gentleman quoted as authority, it was because I saw it in his hands. Those letters which I have quoted were addressed to a private gentleman in Georgetown, and by him to me; and as much entitled to credit as any authority the Speaker has produced.

The debate here terminated; and, the question being taken, by yeas and nays, on agreeing to the proposition of Mr. CLAY to insert in the general appropriation bill a provision for an outfit and one year's salary for a Minister to the United Provinces of La Plata, it was decided in the negative.—For the motion 45, against it 115.

The House then proceeded to the other clauses of the appropriation bill.



The first clause which came under consideration was that of — dollars for the salaries, expenses, &c., of the commissions under the 5th, 6th, and 7th articles of the Treaty of Ghent.

This clause gave rise to some debate.

Mr. CLARK first took exception to the appropriation, on the ground of the unexpected amount of the expenses of these commissions. In this view of the subject, he was supported by Messrs. HOLMES of Massachusetts, and PITKIN. Mr. LOWDES, as Chairman of the Committee of Ways and Means, did not justify all the expenditure, but showed that a considerable part of it was unavoidable.

The principal item of expense objected to, was the charge for expenses of the commission, in addition to the salaries which gentlemen supposed were to have covered also the expenses of living of the commissioners, agent, &c. It was further objected that the number of officers employed by the commissioners was too large, and their compensation too great, there being two secretaries instead of one, and private secretaries, besides several surveyors, and the salary of the agents, being \$4,444. It was also objected that the course of proceeding of the Northern commission (the expenses of which were principally objected to) had been more minutely particular than a due execution of the object of the commission required, and that it ought to be expedited. These objections were stated as the ground for a delay of the appropriation for this head of expenditure, until a minute investigation could be made, by the committee who have the subject specially confided to their investigation.

The discussion resulted in a partial appropriation for the expenses under these articles of the British treaty; and in restricting the salary of the agents to \$3,000, notwithstanding the objection of Mr. BALDWIN and others, that, as one-half of the expenses were to be paid by each Government, the salaries of our officers ought certainly to be as large as those of the British officers of the same description.

The Committee then rose, and reported the appropriation bill, with the amendments which had been made; and the House adjourned.

MONDAY, March 30.

Mr. POINTEUX presented a petition of the General Assembly of the State of Mississippi, praying that an act may be passed granting to all persons in said territory, who have, or may forfeit, their lands, for nonpayment of the purchase money, on or before the 1st day of May, 1819, the right of pre-emption in the purchase of the lands by them forfeited, respectively.—Referred to the Committee on the Public Lands.

Mr. LOWDES, from the Committee of Ways and Means, reported the bill from the Senate to increase the salaries of certain officers of the Government, with some amendments, [making the bill take effect from the first of April next, instead of January last, and striking out the ap-

propriation contained in the bill, leaving it to be provided for in the general annual appropriation bill.] which, together with the bill, were committed to a Committee of the whole House.

Mr. SEYBERT, from the Committee of Commerce and Manufactures, to which was referred the bill from the Senate, entitled "An act for the relief of Martin Warner," reported the same without amendment, and the bill was ordered to be read a third time to-day; which was consequently done, and the bill passed.

The SPEAKER laid before the House papers referred to in the report of the Secretary of State of the 14th instant, accompanying the Message of the President of that date, on the subject of our affairs with Spain, embracing an immense volume of correspondence between our Government and the Minister of Spain antecedent to that communicated on the 14th, and sundry other papers, transmitted to the House by the Secretary of State in obedience to instruction from the President of the United States. The papers were referred to the Committee on Foreign Relations.

A message from the Senate informed the House that the Senate have passed the resolution "respecting an adjournment of the first session of the Fifteenth Congress," with an amendment, in which they ask the concurrence of this House. The Senate have also passed bills of the following titles, to wit:

An act declaring the consent of Congress to an act of the State of North Carolina, for the relief of sick and disabled American seamen;

An act for the relief of Louis and Antoine Dequindue;

An act for the relief of the president, directors, and company of the Merchants' bank of Newport, in Rhode Island; and

Resolution directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison and Governor Shelby, and for other purposes; in which last mentioned bills and resolution, they ask the concurrence of this House.

The bills from the Senate, entitled "An act for the relief of the president, directors, and company of the Merchants' Bank of Newport, in Rhode Island;" and "An act for the relief of Louis and Antoine Dequindue," were severally read twice, and referred to the Committee of Ways and Means.

The bill from the Senate, entitled "An act declaring the consent of Congress to an act of the State of North Carolina, for the relief of sick and disabled seamen," was read twice, and ordered to be read a third time to-morrow.

The resolution from the Senate, "directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison and Governor Shelby, and for other purposes," was read twice, and ordered to be read a third time to-day. The resolution was, accordingly, read a third time, and passed.

The joint resolution sent to the Senate from this House, fixing on the 13th proximo for the adjournment of the session, having been returned

from the Senate with an amendment, substituting the 20th of April for the 13th—

Mr. SMITH, of Maryland, moved the indefinite postponement of the resolution, but subsequently withdrew his motion; when

Mr. BEECHER moved that the resolution lie on the table, which motion was decided in the negative, by yeas and nays—yeas 41, nays 111; and the amendment of the Senate was then agreed to without a division.

#### GOVERNMENT CLERKS.

Mr. HOLMES, of Massachusetts, from the committee appointed to inquire whether any, and what, clerks or other officers in either of the departments, or in any office at the Seat of Government, have conducted themselves improperly in their official duties, made a long report embracing a particular detail of facts touching the conduct of several clerks, accompanied by a voluminous mass of papers, containing evidence, &c., and concluding with the following resolutions:

1. *Resolved*, That it is expedient to prohibit the clerks in the several departments from acting as agents for claimants against the United States.

2. *Resolved*, That it is expedient to prohibit the clerks in the several departments from engaging in the business of trade.

3. *Resolved*, That the several acts relating to the Treasury Department should be amended and certain penalties increased.

4. *Resolved*, That a committee be appointed to report a bill or bills to carry into effect the above resolutions.

The report was ordered to be printed, and—after a few remarks from Mr. LOWDES, who, without in the least questioning the correctness of the object of the committee, suggested whether the present course was proper, which would in effect, cast censure on the heads of the departments for permitting these irregularities, when it was known, and he presumed to the committee also, that the Executive departments had for some time had this subject under consideration, and were engaged in applying remedies to the irregularities referred to by the committee—the resolutions were severally agreed to, and a committee was appointed accordingly; and Mr. HOLMES, of Massachusetts, Mr. BALDWIN, Mr. T. M. NELSON, Mr. REED, Mr. SOUTHWARD, Mr. TALLMADGE, and Mr. CAMPBELL, were appointed the committee.

#### INTERNAL IMPROVEMENTS.

Mr. TUCKER, of Virginia, from the committee to whom was referred that part of the President's Message relating to roads, and canals, and seminaries of learning, reported the following resolutions, which were, on motion of Mr. BASSETT, ordered to lie on the table and be printed:

*Resolved*, That the Secretary of War be requested to lay before this House at the ensuing session of Congress, and report a plan for the application of such means as are within the power of Congress, to the purpose of opening and constructing such roads and canals as may deserve and require the aid of the Gov-

ernment, with a view to military operations in time of war, the transportation of munitions of war, and to the more complete defence of the United States. And also a statement of the works of the nature above mentioned, which have been commenced, the progress which has been made, and the means and prospect of their completion, together with such information as in the opinion of the Secretary shall be material in relation to the objects of this resolution.

*Resolved*, That the Secretary of the Treasury be requested to prepare and report to this House at their next session a plan for the application of such means as are within the power of Congress to the purpose of opening and improving roads and making canals, together with a statement of the undertakings of that nature, which, as objects of public improvement, may require and deserve the aid of the Government; and also a statement of works of the nature above mentioned, which have been commenced, the progress which has been made in them, the means and prospect of their being completed, the public improvements carried on by States, or by companies, or incorporations, which have been associated for such purposes, to which it may be deemed expedient to subscribe or afford assistance, the terms and conditions of such associations, and the state of their funds, and such information as, in the opinion of the Secretary, shall be material in relation to the objects of this resolution.

#### HISTORY OF CONGRESS.

Mr. ROBERTSON, of Louisiana, from the committee appointed on the petition of Gales & Seaton, made a report thereon, which was read; when Mr. R. reported a bill authorizing a subscription to the History of Congress, which was read twice, and committed to the Committee of the Whole, to which is committed the bill to provide for the publication of the laws of the United States, and for other purposes. The report is as follows:

The committee to whom was referred the memorial of Gales & Seaton, report: That the memorialists are engaged in publishing a history of the Congress of the United States, from the commencement of the Government to the present day, and a continuation of the same history, to keep pace with the present and future transactions of that body. The memorialists solicit the aid of the Government in this their laborious and expensive undertaking. The committee are fully impressed with the importance of this work. Nothing can be more useful than a correct legislative history of the United States. It is a source of much regret that one has not heretofore existed; and now, that it is proposed to be published, there can be no hesitation in giving it encouragement. The views and opinions of the great actors on the theatre of government, are not less necessary to be known than their acts themselves. The utility of judicial reports is very generally admitted; and if the reasons of the judge ought to accompany his exposition of the law, how much more proper is it that this should be the case in respect to the views of the legislator, the author of the law itself. To a right understanding of statutes, nothing is more essential than a knowledge of the causes and motives which produced their enactment; and this can in no way be so satisfactorily obtained as by a resort to contemporaneous debate.

That the aid of Congress is necessary to this work, arises out of the great labor and expense attending it,



whilst, at the same time, no adequate remuneration can be expected from its sale. The agriculturist, the merchant, the mechanic, and the physician, who purchase other books, will feel comparatively but little interest in this, however useful it may be to the politician, the historian, and the law-giver. The work will not afford amusement to the general reader; but without it the archives of the nation are defective.

Congress has not been backward in giving aid to publications of a similar character. Of the new edition of the laws of the United States, a subscription was directed of one thousand copies, before the work was commenced. Three or four hundred have been since purchased of that work, and it is now proposed to purchase eight hundred copies more. A subscription was, in like manner, authorized to Wait's edition of the public documents, and it is further proposed to purchase an equal number of copies of an additional volume of that work, about to be published. The policy is not less just than liberal, which provides for the widest attainable diffusion of whatever concerns the development of the springs and principles of our Government.

With such views it is, that at the present session, the publication of the journals of the Convention, and of the secret journal of the old Congress, has been authorized; and, with such views, the committee ask leave to report a bill "authorizing a subscription to the History of Congress."

#### GENERAL APPROPRIATION BILL.

The House then took up and proceeded to consider the amendments reported by the Committee of the Whole to the bill making appropriations for the support of Government for the year 1818; which amendments were severally concurred in without debate, with the exception of that making an appropriation of \$130,000 to pay the judgment of damages recovered against David Gelston and Peter A. Schenck, in the supreme court of New York, by Gould Hoyt, for the seizure of the vessel the American Eagle.

Messrs. HOPKINSON, BALDWIN, LIVERMORE, and MERCER opposed, and Messrs. LOWNDES, SMITH of Maryland, and SPENCER, supported the appropriation. The opponents contended that the claimants were not entitled to relief, because they seized the vessel on their own responsibility; because they did not take the proper steps to appeal from the decision of the district court refusing a certificate that the seizure was made on probable cause; and because, as they would derive a benefit from the forfeiture, if one had been decreed, they ought to submit to the consequence of an improper seizure. It was answered, that the claimants had refused to seize until peremptorily directed by the Executive; that the proceedings were then in the hands of the law officers of the Government, over whom the claimants had no control, and they could not direct an appeal to the superior courts; that such appeal would have been useless, as there was a decision of the Supreme Court of the United States in another case, confirming the decision of the district court, that St. Domingo was not a prince or state, within the meaning of the act of 1794; that an appeal would have involved greater expense unnecessarily; that the claimants, not being the in-

formers, it was doubtful whether they would have derived any advantage from a condemnation; and that at all events it was shown from the documents, that such an expectation did not influence them. Mr. HOPKINSON mentioned that money had been drawn from the Treasury and paid to the sureties of the claimants, and he would not sanction such an act by passing the present law. To this Mr. LOWNDES answered, by producing a letter from the Secretary of the Treasury, from which it appeared that the rules of the court of errors in New York required security to be given before a writ of error could be brought upon the judgment rendered against the claimants; and that Mr. Gelston had deposited \$125,000 in a bank, to the credit of his sureties, out of moneys collected by him; and that it had been stated in his quarterly accounts regularly ever since. Many other incidental points arose. The clause finally passed by a vote of 60 to 59.

The amendments having been gone through—

Mr. FORSYTH moved to strike out the specific appropriation of \$30,000 to pay the mission to South America, and to add the \$30,000 to the contingent fund.

Mr. F. remarked, in explanation of his motion, that the specific appropriation supposed that the persons sent by the President were official characters; as such, it was necessary that their appointments should be submitted to the Senate. They would be considered in the light of Ministers of some grade, sent to a foreign Government, and not agents appointed under the discretion of the Executive to acquire information. The practice of all former times required the payment to be made out of the contingent fund, whose expenditure was trusted wholly to Executive discretion. The recognition of such unofficial agents, and a specific appropriation to pay them, would be to establish a precedent for the most extensive abuses—abuses which could not well be committed by expenditures out of the contingent fund. He believed there was little difference of opinion as to the propriety of the course adopted by the Government, and none to the appropriation of the necessary funds to meet its views. He supposed that his motion would prevail without difficulty, and reconcile every possible objection to that part of the appropriation bill.

Mr. LOWNDES signified his approbation of Mr. FORSYTH's proposition; and

The motion was agreed to without opposition.

#### SPANISH AMERICAN PROVINCES.

Mr. ANDERSON, of Kentucky, then rose and renewed the proposition unsuccessfully made in Committee of the Whole by Mr. CLAY, to appropriate a sum not exceeding \$18,000 "for an outfit and one year's salary of a Minister to the United Provinces of the River Plata, the outfit to be paid and the salary to commence whenever the President shall deem it expedient to send a Minister to the Government of the said provinces."

Mr. ANDERSON made this motion not with an idea of a different result, but in consideration of the great importance of the question, on which it

was desirable to have the vote recorded, with which view he asked for the yeas and nays.

Mr. SPENCER observed that he would trespass on the indulgence of the House but a few moments. It is not my intention, said Mr. S., to discuss the merits of this proposition. After the wonderful ability which it has already called forth; after the splendid blaze of eloquence which has been poured upon the subject, I have not the vanity to suppose that I can throw any new light upon it. But some ideas have been avowed in the debate, and some insinuations have been made which render it proper and necessary for me to state the reasons which induce the vote I shall give in favor of the amendment. It has been said by one gentleman that the passage of this amendment would be a censure upon the Executive. And, pray sir, if it were, does that alter the case? Are we assembled here to vote according to the wishes of the President? or, have we a duty of our own to perform? As one, sir, so long as I hold a seat on this floor, it shall be my peculiar object to watch the Executive branch of the Government—not the individual, but the acts of that branch. To us, and to us only, is he responsible, according to the provisions of the Constitution.

Another gentleman has, however, carried this idea much further. He (Mr. H. NELSON, of Virginia,) tells us that this proposition is the signal for a new formation of parties, and is intended to denounce the President. Sorry I am, sir, to hear such groundless alarms rung to prevent the adoption of this measure. Denounce the President! Why, sir, you may as well expect the pigmy to denounce the giant. Look at the present incumbent of the Executive Chair; besides the usual influence of his office; besides his almost unbounded patronage, his power of bestowing an office here and a contract there; he possesses a popularity and an influence at this moment, which was never equalled by any other man, excepting the Father of his Country, in the first years of his Administration. And who is to denounce him? The House of Representatives: a body without power, without influence, and so far from being popular, that it is notoriously the branch of the Government most frequently calumniated. When these are put in opposition, and it is said that the weak, the imbecile, is denouncing the man mighty in strength; the malevolent might infer that the remark was intended as a caution to the pigmy, how he exposed himself to the wrath of the giant. But, sir, let me inform you and the gentleman who made the remark, that such menaces have no terrors for me. The path of duty lies plainly before me, and I shall not be deterred from pursuing it by any apprehensions of danger from any source.

But the imagination of the gentleman is affected with the dread of the formation of a new party. Let him dismiss his fears, sir, at least until he finds us coalescing with our old opponents; as one, sir, I disavow any such feeling, any such motive. I claim to belong to the old Republican party of this country; I was nurtured

in its bosom, I have grown with its growth, and strengthened with its strength, and I shall be the last man to attempt its division. I will enlist under the banners of no man; I adopt as my maxim, in the fullest extent, the motto of the present President, "*principia non homines*," principles, not men. I shall adhere to the Republican majority, so long as it adheres to the principles on which it was formed, and upon which it triumphed, but not one step further will I go, with any man or with any party.

But so far from the present proposition being a censure on the Executive, my belief is, that from every public act or declaration of his, with which we are acquainted, we are justified in inferring that it will be consonant to his views. It cannot be necessary to travel over this ground again, after it has been so well explored by my friend from Massachusetts (Mr. HOLMES.) The proposition is simply to give the President the means of sending a Minister to the Government of Buenos Ayres, whenever it shall, in his opinion, be expedient to do so. I would not now send a Minister there; I would certainly wait for one to be first sent to us from that Government, and prudence also would dictate some delay until more certain intelligence was received from there. But I am anxious to evince to the world, and to the suffering patriots who are struggling in the noble cause of liberty, our desire to seize the very first opportunity to hail them as brethren. That the President possesses the same feeling, the same anxiety, is, I think, evident from every page of his message, and of the correspondence. Let us then, by our acts, exhibit the same ardor, and, as far as we are able, animate our suffering brethren in their glorious struggle for independence.

The proposition before us, is now made; it will be known to the world, to Spain, and to Spanish America. It must be adopted or rejected. If successful, I need not repeat the beneficial consequences, which have already been so eloquently described. If it be rejected, ask gentlemen to reflect whether that event will not wear an aspect of unkindness; I will not say of hostility to the cause, because every gentleman who has yet expressed his sentiments, has declared them to be warmly and strongly in favor of that cause; but, I repeat the question, whether it will not have the appearance of indifference?

But, sir, I vote for this proposition on another ground. I believe most firmly that we have the Constitutional power to legislate on this and every other subject connected with our foreign relations, or with the regulation of commerce. I hold it to be a power concurrent with that of the Executive branch, and believing it to be one of the most important which this House possesses, I would make a perpetual claim to the right on every proper occasion, and I would place it on the records of the nation as an eternal evidence of that claim.

Since then, no injury can flow from its adoption, because it will still be left to the Executive discretion; but on the contrary, much good is confidently anticipated; and, since its rejection may depress that cause for which we all profess so



much attachment, let us advance and share with the Executive that responsibility which now rests with him, and which must, in any event chiefly continue with him.

When Mr. SPENCER concluded—

The question was taken on the motion, and decided, in the negative, by yeas and nays, by exactly the same vote as decided the question in Committee of the Whole, viz: yeas 45, nays 115, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Barber of Ohio, Bellinger, Bloomfield, Bodin, Claiborne, Comstock, Cook, Crawford, Desha, Drake, Earle, Floyd, Gage, Harrison, Herkimer, Herrick, Holmes of Massachusetts, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Merrill, Murray, New, Ogle, Owen, Patterson, Porter, Quarles, Robertson of Kentucky, Robertson of Louisiana, Rogers, Shaw, Spencer, Tarr, Townsend, Trimble, Tucker of Virginia, Upham, Walker of North Carolina, Walker of Kentucky, and Whiteside.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Beecher, Bennett, Boss, Burwell, Butler, Campbell, Clagett, Cobb, Colston, Crafts, Cruger, Culbreth, Cushman, Darlington, Edwards, Ellicott, Ervin of South Carolina, Fager, Forney, Forsyth, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herbert, Hitchcock, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Linn, Little, Livermore, Lowndes, W. P. Macclay, McCoy, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Moore, Morton, Moseley, Mumford, Jeremiah Nelson, H. Nelson, Ogden, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Rich, Richards, Ringgold, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, Silbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Strong, Stuart of Maryland, Tallmadge, Taylor, Terrill, Terry, Tompkins, Tucker of South Carolina, Tyler, Wallace, Wendover, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

The bill was then ordered to be engrossed for a third reading.

TUESDAY, March 31.

Mr. SEBERT, from the Committee on Commerce and Manufactures, made unfavorable reports on the several petitions of the manufacturers of looking-glasses in frames, and carvers and gilders of wood; on the petitions of the merchants, traders, and tailors, of Boston and Philadelphia, and on the petition of Wheeler and Cook; which reports were read, and severally concurred in.

Mr. FORNEY, from the Committee on Military Affairs, made a report on the petition of George Shover, which was read; when Mr. F. reported a bill, allowing bounty in land and pay to certain soldiers who left the service without leave, after the close of the late war with Great Britain;

which was read the first and second time, and ordered to lie on the table.

Mr. JOHNSON, of Kentucky, from the same committee, to which was referred the bills from the Senate, entitled "An act for the relief of Cata Bunnell;" and "An act regulating the staff of the army;" reported the said bills without amendment.

The bill, "for the relief of Cata Bunnell," was ordered to be read a third time to-morrow.

The bill, "regulating the staff of the army," was ordered to lie on the table.

Mr. HERBERT, from the Committee for the District of Columbia, to which were committed the bills from the Senate of the following titles, to wit: "An act to make valid certain acts of the justices of the peace in the District of Columbia;" "An act to regulate the fees of public notaries in the county of Washington, in the District of Columbia;" and "An act to incorporate a Fire Insurance Company in the City of Washington;" reported the said bills without amendment.

Ordered, That the former of the said bills lie on the table, and that the two latter be read a third time to-morrow.

On motion of Mr. BEECHER, the Committee on the Public Lands were instructed to inquire into the expediency of suspending, for one year, the law authorizing the sale of lands that have been entered, and have not been paid for within one year after the last payment shall have become due.

On motion of Mr. PITKIN, a committee was appointed to join such gentlemen as may be appointed by the Senate, to take into consideration, and report what business is necessary to be acted upon before the close of the present session; and Messrs. PITKIN, LOWNDES, and WILLIAMS of North Carolina, were appointed of the committee on the part of the House.

The bill fixing the time (2d of November) for the next meeting of Congress, was ordered to be engrossed, and read a third time to-morrow.

The bill from the Senate, entitled "An act declaring the consent of Congress, to an act of the State of North Carolina, for the relief of sick and disabled American seamen;" was read the third time, and passed.

An engrossed bill, entitled "An act making appropriations for the support of Government for the year 1818;" was read the third time, and passed.

The bill for the relief of Joseph Thorn, passed through a Committee of the whole House, and was ordered to be engrossed, and read a third time.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled an "Act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowel," with an amendment; and they have also passed a bill, entitled "An act supplemental to the act, entitled 'An act further to amend the charter of the City of Washington,'" in which amendment and bill they ask the concurrence of this House.

#### THE CUMBERLAND ROAD.

The orders of the day being announced, on the bill making appropriations; the first, of \$52,984, to pay the claims now due at the Treasury; and the second, of \$260,000, to meet the demands that will be made under existing contracts, towards completing the Cumberland road—

Mr. SPENCER, of New York, rose, and moved that the Committee of the whole House be discharged from the consideration of the bill, and that it be postponed indefinitely.

This motion brought on a short debate on the merits of the bill; in which the postponement was advocated by the mover, by Mr. BASSETT, and Mr. LIVERMORE; and opposed by Messrs. TUCKER of Virginia, HARRISON, TARR, PINDALL, BEECHER, TRIMBLE, MERCER, and SMITH, of Maryland.

The question on postponing the bill was finally negatived—yeas 56, nays 82, as follows:

YEAS—Messrs. Austin, Barbour of Virginia, Bassett, Bellinger, Bennett, Boden, Burwell, Butler, Clagett, Claiborne, Cook, Crafts, Cruger, Drake, Earle, Edwards, Ellicott, Gage, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Hogg, Hunter, Huntington, Johnson of Virginia, Lawyer, Livermore, McCoy, Mason of Rhode Island, Merrill, Hugh Nelson, Palmer, Rhea, Richards, Sampson, Savage, Scudder, Settle, Shaw, Silsbee, J. S. Smith, Spencer, Strong, Strother, Tallmadge, Tompkins, Townsend, Tucker of South Carolina, Tyler, Wendover, Williams of New York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Anderson of Pa., Anderson of Kentucky, Baldwin, Bateman, Bayley, Beecher, Bloomfield, Campbell, Cobb, Colston, Comstock, Crawford, Culbreth, Cushman, Darlington, Desha, Ervin of South Carolina, Forsyth, Hale, Harrison, Herbert, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Linn, Little, Lowndes, Marchand, Mason of Massachusetts, Mercer, Middleton, Moore, Moseley, Murray, Jeremiah Nelson, Ogden, Ogle, Parrott, Patterson, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Reed, Rich, Ringgold, Robertson of Louisiana, Rogers, Ruggles, Sawyer, Schuyler, Sergeant, Seybert, Sherwood, Simkins, Slocumb, S. Smith, Ballard Smith, Speed, Stewart of North Carolina, Stuart of Maryland, Tarr, Taylor, Terrill, Terry, Trimble, Tucker of Virginia, Upham, Wallace, Westerlo, Whiteside, Whitman, and Williams of Connecticut.

The House then resolved itself into a Committee of the Whole, on the above bill.

Mr. BASSETT moved to strike out the second section of the bill, appropriating \$260,000 to meet the demands that will be made under existing contracts for carrying on the work, and spoke in support of his motion.

The motion was advocated, and the bill opposed, also, by Mr. CLAIBORNE; and the bill supported, and the motion opposed, by Messrs. TUCKER, of Virginia, HARRISON, BEECHER, SIMKINS, and CLAY; and with particular zeal and earnestness by the last-named gentleman.

Mr. SIMKINS, of South Carolina, said: I rise,

Mr. Chairman, with no view to enter into an elaborate or minute discussion of the question before the Committee; for to re-discuss the constitutionality of a subject so intimately connected with the one so lately and ably examined in this House, would be a waste of time, and a trespass upon the indulgence of the members. I rise principally to say that I shall vote for the great work contemplated by the bill, not merely because it is begun, and the faith of the Government pledged by contracts with individuals actually made by the President, but because it is a national work, and one of great utility to the Western country generally, and to several of the Atlantic States; and here, Mr. Chairman, permit me to enter my solemn protest against a spirit of partial sectional legislation in this House. If this is not the case, why do we hear the honorable gentleman from Virginia (Mr. BASSETT) asking if this House intends to tax his constituents and the whole continent, for a road constructed for the State of Ohio? Does the gentleman come here to legislate for his particular district (except in mere local matters, in which I admit we ought especially to represent our constituents,) and will he not extend his views beyond it, or the State from which he comes? Yes, Mr. Chairman, when we come here, we ought to bring along with us general and extended views: and I should deem myself unworthy to fill the station assigned me by a very respectable portion of Americans (my constituents) if, when I entered this Hall, I did not elevate my mind and extend my exertions to national purposes, and national objects. In voting, therefore, I will not always ask the question, is South Carolina to be exclusively, or more signally benefited by the measure proposed, than any other State? Such a contracted view would lead to little sectional jealousies and to legislate for holes and corners, instead of for a great and rising Federal Union. This road, cut through the Alleghany Mountains, runs from the heart of Maryland (the city of Baltimore) through that State, Pennsylvania, and to Wheeling, in the State of Ohio, forming a grand, useful and easy pass from the centre of the Union to the fertile and now populous regions of the Western country. It is a part of that grand scheme of internal improvements, which will adorn and enrich our nation, and cement, fraternize, and consolidate the various parts of our varied and increasing continent.

But the gentleman from New York (Mr. SPENCER) who moved indefinitely to postpone this bill, as well as the gentleman from New Hampshire (Mr. LIVERMORE) are averse from doing anything, unless a great system of internal improvement is undertaken at once. This is not my mode of thinking; for if it is inexpedient, for want of money, or other causes, to do all, I am not for neglecting that which is most important, and can be accomplished. I would therefore appropriate to that object, most imperiously demanded by the general interest, in the first place, and proceed to others next in rank, as funds, and other concurring circumstances should warrant. As a South Carolinian, I would lend my aid to further the



H. or R.

The Cumberland Road.

APRIL, 1818.

work in question, under the firm assurance that a correspondent liberality of spirit would induce honorable members to give us also a great pass-way from the South, immediately into the Western country, or a canal projected and thought entirely practicable by the ablest men amongst us, leading along the Atlantic coast, and forming a grand communication from North to South, for internal commerce and transportation, when we may be cut off from all foreign supplies.

Let the gentleman from New York then, not be discouraged, as he may expect, at a convenient period, to receive these same testimonies of national munificence towards the great and laudable plan of that State, to connect the Lakes with her great expository of commerce. In short, every part of the Union may and will eventually feel the signal advantages of this system, without any additional burdens upon the people, (for our wealth in land, some of which are set apart for these purposes, is inexhaustible;) a system too extensive to be accomplished by any single State, and which is therefore necessarily devolved on the whole Union.

I am therefore, said Mr. S., in favor of the bill, not only because the work is actually undertaken, in considerable forwardness, and the faith of the Government pledged by contracts already made towards it, but upon the general principles which I have endeavored to explain.

Mr. BASSETT's motion was lost—yeas 48, nays 61.

Mr. TUCKER, of Virginia, moved to add the following as a new section to the bill:

*"And be it further enacted,* That, in the event of the incorporation of a company or companies by the Legislature of the State of Virginia, for the construction of a turnpike road from the said United States' road to Winchester in Virginia, the Secretary of the Treasury of the United States is hereby authorized to subscribe, in the name and on behalf of the United States, for two-fifths of the capital stock in such company or companies: *Provided,* the residue of the stock be otherwise subscribed or taken, and the terms of incorporation in the opinion of the President of the United States are judicious and calculated to effect the object of such incorporation: *And provided also,* That a provision be made in such act of incorporation authorizing such subscription on the part of the United States."

This proposition was lost by a large majority; and then—

Mr. TARR moved an additional section, modified, with his consent, by Mr. BEECHER, to read as follows:

*"Sec. 3. Be it further enacted,* That to enable the President of the United States further to construct and complete the national road from Cumberland to the Ohio river, two hundred thousand dollars be and the same hereby is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be repaid out of the fund reserved for laying out and making roads to the State of Ohio."

This amendment was strenuously advocated by Messrs. CLAY and PINDALL, and opposed briefly by Messrs. HOPKINSON and PITKIN, and earnestly by Mr. BALDWIN.

A motion to expunge from the amendment the word "national," was lost without a division; and the amendment itself then negatived—yeas forty-two.

Mr. BASSETT next moved to add to the second section the following proviso: "Provided, that nothing in this or any former law shall pledge the Government to any further appropriation;" which motion was negatived—only about twenty rising in its favor.

Mr. BALLARD SMITH, then, after some introductory and explanatory remarks moved the adoption of the following, as an additional section to the bill:

*"And be it further enacted,* That, in the event of the incorporation of a company or companies by the Legislature of the State of Virginia, for rendering navigable the James River, from the mouth of Sooney's Creek to the mouth of Dunlap's Creek, and for rendering navigable the Great Kenawha from its falls to its mouth, and for constructing a turnpike road from the mouth of Dunlap's Creek to the falls of the Great Kenawha, the Secretary of the Treasury of the United States is hereby authorized to subscribe, in the name and on behalf of the United States, for two-fifths of the capital stock in such company or companies: *Provided,* the residue of the stock be otherwise subscribed or taken, and the terms of incorporation in the opinion of the President of the United States are judicious and calculated to effect the object of such incorporations: *And provided also,* That a provision be made in such act of incorporation authorizing such subscription on the part of the United States."

Mr. SMITH's proposition was negatived without a division; and the Committee then rose and reported the bill without amendment; and the bill was ordered to be engrossed for a third reading—yeas 67, nays 62.

WEDNESDAY, April 1.

The SPEAKER presented a representation of Manuel Torres, stating that he has discovered that the United States sustains great loss in the receipt and expenditure of the public revenue; and that he has also discovered the means by which this loss may be avoided, and offering to communicate his discovery upon the assurance of receiving a portion of the moneys which may be saved to the public by means of his said discovery.—Referred to the Committee of Ways and Means.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of James Orr, which was read; when Mr. W. reported a bill for the relief of James Orr, which was read, and committed to a Committee of the Whole.

Mr. WILLIAMS, from the same committee, to which was referred the bill from the Senate, entitled "An act for the relief of John G. Bogert," made a report recommending the rejection thereof. The bill and report were committed to a Committee of the Whole.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, reported a bill for adjusting the claims to land, and establishing

APRIL, 1818.

History of Congress.

H. or R.

land offices in the districts east of the island of New Orleans; which was read twice, and committed to the Committee of the Whole, to which is committed the bill supplemental to the several acts for the adjustment of land claims in the State of Louisiana and Territory of Missouri.

Mr. ROBERTSON, from the same committee, to which was referred the bill from the Senate, entitled "An act respecting the surveying and sale of the public lands in the Alabama Territory," reported the same without amendment, and the bill was committed.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill concerning invalid pensions; which was read twice.

Mr. SEYBERT, from the Committee of Commerce and Manufactures, reported a bill to increase the duties on certain manufactured articles imported into the United States; which was read twice, and committed to a Committee of the Whole.

Mr. SEYBERT, from the Committee of Commerce and Manufactures, made unfavorable reports on the petitions of the piano-forte and organ builders of Philadelphia, New York, Boston, and Baltimore, of the New York State Company, of Thomas Tennant and George Stiles; which reports were severally concurred in by the House.

On motion, the Committee of Commerce and Manufactures were discharged from the further consideration of the resolution offered by Mr. SILSBEE on the 19th of December last, respecting the appropriations for building custom-houses.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the resolutions some time since submitted by Mr. JOHNSON, of Virginia, on the subject of the court martial upon Captain Perry and Captain Heath of the Marines. The report was long, with the statement of the opinion of the committee, that the defect was not in the law, but in the administration of it.

Mr. JOHNSON, of Virginia, made several observations on the report; contending that if there had been any omission of duty on the part of any officers intrusted with the administration of the law, they ought to be brought to the notice of the House, and maintaining his original idea that the law was unequal and defective; and he submitted a resolution instructing the same committee to report a bill to deprive any officer who should strike his inferior officer, or draw or raise a weapon upon him, of his commission.

Mr. PLEASANTS made some remarks in explanation, and moved that the report and resolution be laid on the table and printed; which was carried without a division.

Bills of the Senate of the following titles, to wit: An act for the relief of Cata Bunnell; An act to regulate the fees of the public notaries in the county of Washington, in the District of Columbia; and An act to incorporate a Fire Insurance Company in the City of Washington, were severally read the third time, and passed.

Mr. FORSYTH, from the Committee on Foreign Relations, reported a bill to increase the allow-

ance to Consuls on the Barbary coast, which was read twice, and committed to a Committee of the Whole.

The amendment proposed by the Senate to the bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowel;" was read and referred to the Committee on Private Land Claims.

The bill from the Senate, entitled "An act supplemental to the act, entitled 'An act further to amend the charter of the City of Washington,'" was read and referred to the Committee for the District of Columbia.

An engrossed bill, entitled "An act for the relief of Joseph Thorn," was read the third time and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid," and a resolution "requesting the President of the United States to present a sword to Colonel Richard M. Johnson;" in which bill and resolution they ask the concurrence of this House.

The said bill was read twice, and ordered to be read a third time to-morrow.

The House went into Committee of the Whole on the bill from the Senate "to extend the time for locating Virginia military land warrants and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract."

Considerable discussion took place on the details of this bill, in which Messrs. H. NELSON, ANDERSON of Ky., HARRISON, CAMPBELL, MERCER, and BEECHER took part. Several amendments were adopted, the most important of which was one to prohibit the issuing of patents on locations made on lands to which the Indian title is not extinguished.

The amendments were reported to the House, ordered to be engrossed, and, with the bill, to be read a third time.

The House next resolved itself into a Committee of the Whole on the bill supplementary to the act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States.

Mr. MIDDLETON offered, by way of amendment, a substitute for the whole bill, which was agreed to, and, being reported to the House, was ordered to lie on the table and be printed.

The bill for the relief of George Pearson passed through a Committee of the Whole, and was ordered to be engrossed.

#### HISTORY OF CONGRESS.

The House then went into Committee of the Whole on the bill providing for the publication of the laws of the United States; and on the bill authorizing a subscription to the History of Congress.

The details of the bill first named occupied some time, and gave rise to considerable discus-



H. or R.

Cumberland Road—Next Meeting of Congress.

APRIL, 1818.

sion; and being gone through, the Committee took up the second bill.

Mr. BUTLER moved to strike out the first section of the bill, in support of which motion—

Mr. B. said he was unable to perceive that any great public advantage could result from having a History of Congress, and considered himself bound to oppose the passage of the bill. Judging from the specimen exhibited, he said, the history would embrace a considerable part of the Journals of Congress, which were already published, together with the numerous speeches, many of which had long since passed into oblivion—that a History of Congress from the commencement, including the present Congress, would make sixty volumes, calculating four volumes for each Congress, a thousand copies of which, at five dollars for each volume, would amount to three hundred thousand dollars to be paid by the Government. He said this might be supposed an extravagant calculation, but he believed no gentleman would say that the portion of the Journals to be selected, together with the speeches of each Congress, would comprise less than two volumes, and at that rate the expense which would accrue to the Government in publishing the History, would be one hundred and fifty thousand dollars. In opposing the passage of the bill, he said, he expected to encounter the eloquence of all the orators of the House, among whom he had not the vanity to expect to be classed. To such gentlemen it might be pleasing to read their own speeches, and see their names floating down the current of time in this great political ark, the History of Congress. If gentlemen were disposed to preserve some of the speeches in Congress, as specimens of pure eloquence, they might be published by subscription. And, in answer to the gentleman from Louisiana, (who said that Mr. B., from the specimen he had given, would figure in the History if he continued in Congress,) Mr. B. said, he had not the ability and much less an inclination, to figure in public debate; nor did he wish to excite in others that insatiable thirst for speaking, which had protracted the session to a great length. He said, he had a high respect for the talents and faithful services of the gentlemen who proposed publishing the History, and would most cheerfully aid them in the undertaking, by voting for a subscription on the part of the Government, if he could be satisfied that the utility of such a publication would justify so great an expenditure of public money.

Mr. BUTLER's motion, after some opposition from Mr. ROBERTSON, of Louisiana, was agreed to without a division, and the Committee rose, and reported their proceedings to the House.

The first bill was further amended, and ordered to be engrossed for a third reading; and the report on the second was ordered to lie on the table.

## CUMBERLAND ROAD.

An engrossed bill, entitled "An act making further appropriations for the construction of the Cumberland road," was read the third time.

And on the question, Shall it pass? it was determined in the affirmative—yeas 74, nays 56, as follows:

YEAS—Messrs. Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Boss, Campbell, Cobb, Colston, Comstock, Crawford, Darlington, Desha, Forsyth, Harrison, Hendricks, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lewis, Linn, Little, Livermore, Lowndes, W. P. Maclay, Marchand, Mason of Massachusetts, Mercer, Middleton, Moore, Moseley, Murray, Ogle, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Poindexter, Reed, Rice, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Rogers, Ruggles, Seybert, Sherwood, Simkins, Slocumb, S. Smith, Bal. Smith, Speed, Stewart of North Carolina, Strong, Tarr, Taylor, Trimble, Tucker of Virginia, Wallace, and Whiteside.

NAYS—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Barbour of Virginia, Bassett, Bennett, Blount, Boden, Burwell, Clagett, Claiborne, Cook, Crafts, Culbreth, Drake, Edwards, Ellicott, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Hogg, Hopkinson, Hunter, Huntington, Johnson of Virginia, Kirtland, Lawyer, Mason of Rhode Island, Merrill, H. Nelson, New, Palmer, Pleasants, Rhea, Richards, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, J. S. Smith, Spencer, Tallmadge, Tompkins, Townsend, Tucker of South Carolina, Upham Walker of Kentucky, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts.

## NEXT MEETING OF CONGRESS.

An engrossed bill, entitled "An act fixing the time for the next meeting of Congress," was read the third time; and the question was stated, Shall it pass? when

Mr. SIMKINS moved that the bill be postponed indefinitely; which was rejected by the House.

Mr. EDWARDS moved that the bill be laid on the table; which motion was also rejected by the House.

Mr. WILLIAMS, of Connecticut, then moved that it be postponed for two weeks. This motion was also rejected.

The question was then taken, Shall the bill pass? and was decided in the affirmative—yeas 87, nays 44, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Barber of Ohio, Bayley, Bennett, Bloomfield, Boden, Boss, Clagett, Claiborne, Colston, Comstock, Crawford, Culbreth, Darlington, Drake, Earle, Ellicott, Folger, Forsyth, Harrison, Herkimer, Heister, Holmes of Connecticut, Hopkinson, Hunter, Huntington, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, W. P. Maclay, Marchand, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Morton, Moseley, Jeremiah Nelson, New, Ogle, Palmer, Parrott, Pawling, Peter, Pitkin, Poindexter, Reed, Rhea, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Rogers, Ruggles, Sampson, Sawyer, Seybert, Shaw, Sherwood, Slocumb, S. Smith, Speed, Spencer, Stewart of North Carolina, Strong, Strother, Stuart of Maryland, Tall-

APRIL, 1818.

Sword to Colonel Johnson.

H. or R.

madge, Taylor, Tompkins, Trimble, Tucker of Virginia, Walker of Kentucky, Wallace, Whiteside, Whitman, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bateman, Beecher, Blount, Burwell, Campbell, Cobb, Cook, Crafts, Desha, Edwards, Garnett, Hall of Delaware, Hall of North Carolina, Hendricks, Herrick, Hitchcock, Hogg, Johnson of Virginia, Lowndes, Middleton, Murray, H. Nelson, Patterson, Pindall, Pleasants, Rice, Richards, Savage, Scudder, Sergeant, Settle, Simkins, Tarr, Townsend, Tucker of South Carolina, Williams of Connecticut, and Williams of North Carolina.

## SWORD TO COL. JOHNSON.

A resolution awarding a sword to Col. Richard M. Johnson, in consideration of his valor and good conduct at the battle with the combined English and Indian forces on the river Thames, in Upper Canada, on the 5th of October, 1818, was read twice and put on its passage.

Mr. CLAIBORNE rose to offer an amendment to the resolution. While the House was dispensing rewards, he said, for meritorious services, he wished to introduce to attention the names of two other characters. One was Major General Carroll, of Tennessee. That officer was engaged in the public service from the commencement of the late war to its glorious termination at New Orleans. Mr. C. briefly recapitulated some of the distinguished services which this officer had rendered. He had organized the force which repaired from Tennessee to the defence of New Orleans, and which by its rapid march under the direction and exertion of Gen. C. had reached that place in time to save the city from the enemy; and he had rendered other services too prominent to need being mentioned, and which would not permit him to be overlooked on this occasion. Mr. C. next mentioned Brigadier General Coffee, whose name was familiar to every one. At the commencement of the war that officer volunteered his services, and by his zeal and influence induced a great many others to enter the service. For his merit he was promoted from captain of a mounted company to the command of a brigade; and his gallant conduct in the Creek war, at Talledega, at New Orleans, &c. had proved him worthy of the distinction. Mr. C. concluded by moving to insert the names of these officers in the resolution.

Mr. POINDEXTER rose to second the motion of the honorable member from Tennessee. The distinguished services of General Carroll, from the commencement of the Creek war to the close of the late contest with Great Britain, Mr. C. said, were known to the nation, and appreciated by all who witnessed his meritorious conduct. At the critical and interesting period, when a powerful and well-disciplined army of the enemy invaded the State of Louisiana, and menaced the city of New Orleans, the exertions of General Carroll were particularly conspicuous, and eminently contributed to the glorious result which gave security to that city and renown to the arms

15th CON. 1st SESS.—53

of our country. The division of militia from the State of Tennessee, under his command, destined to participate in the defence of the Southern frontier, descended from Nashville to New Orleans with unexampled rapidity, and arrived at a moment the most auspicious to the safety of that important point. Without this reinforcement General Jackson would have been destitute of the force called for by that great emergency. The consequences of such deficiency might be imagined. During that memorable campaign the gallantry of this corps and of its intrepid commander elicited the thanks of a grateful people, and of the illustrious General under whom they fought and conquered. I accord my hearty assent, said Mr. P., to the proposition made by the gentleman from Tennessee to reward these services by a suitable manifestation of the national gratitude. But Mr. P. suggested to him the propriety of presenting it in a distinct resolution, properly digested and matured.

Mr. DESHA made a few remarks in support of the expressions of the resolution, as to the gallant conduct of Col. Johnson, on the occasion referred to. He was present when those services were performed, and could bear testimony to the intrepidity displayed by Col. J.

Mr. CLAIBORNE, according to the suggestion of Mr. POINDEXTER, withdrew his proposition for the present; and the resolution then passed *nem. con.*

## THURSDAY, April 2.

The SPEAKER presented a petition of Vicente Pazos, of Peru, in South America, on behalf of himself and others, praying compensation for their private property which was taken possession of upon the occupation of Amelia Island by the troops of the United States.—Referred to the Committee of Claims.

Mr. SEYBERT reported a bill to change the name of the district of Erie in the State of Ohio; which was read twice and ordered to be engrossed and read a third time to-day.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common for the use of the inhabitants of the said town," reported the same without amendment, and the bill was committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the State of Pennsylvania, transmitting a certificate of the election of Jacob Hostetter, as a member of this House, in the place of Jacob Spangler, resigned; which was referred to the Committee of Elections.

Engrossed bills of the following titles, to wit: An act to change the name of the district of Erie, in the State of Ohio; and An act to provide for the publication of the laws of the United States, and for other purposes, were severally read a third time and passed.



H. or R.

Honors to the Brave.

APRIL, 1818.

An engrossed bill for the relief of George Pearson was read the third time and passed.

The bill from the Senate, entitled "An act limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid," was read a third time and passed.

The bill from the Senate, entitled "An act to extend the time for locating Virginia military land warrants and returning surveys thereon to the General Land Office; and for designating the western boundary line of the Virginia military tract," was read the third time, and passed as amended.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government," with amendments. They have also passed a bill, entitled "An act for the relief of Lemuel H. Osgood;" in which amendments and bill they ask the concurrence of the House.

The House then resolved itself into a Committee of the Whole on the bill to provide for paying to the State of Indiana three per cent. out of the net proceeds of the sales of the public lands in said State, to be expended in the construction of roads and canals within the same.

Mr. HENDRICKS made an unsuccessful motion to strike out a clause which imposed on the State of Indiana annual reports of the proceedings under the bill; but the Committee having risen and reported the bill, Mr. H. renewed his motion, which was then agreed to, and the bill ordered to be engrossed, as amended, and read a third time.

The following bills successively passed through Committees of the Whole House, and were severally ordered to be engrossed and read a third time, viz:

The bill for the relief of Sarah Dewees; the bill for the relief of Gad Worthington; the bill for the relief of Thomas and John Clifford, and others; the bill for the relief of Commodore John Rodgers; and the bill for the relief of certain friendly Creek Indians.

#### HONORS TO THE BRAVE.

Mr. CLAIBORNE, agreeably to the intimation which he had yesterday given, to submit a resolution for awarding to certain officers testimonials of the respect of Congress for their distinguished service, offered the following joint resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be requested to cause gold medals to be struck, with suitable emblems and devices, and presented to Major General William Carroll and Brigadier General John Coffee, in testimony of the high sense entertained by Congress of their gallantry and good conduct in the several conflicts during the late war, at Talashatchie, Taladea, Enotochopko, Emucklaw, Tehopeka, and New Orleans.

*Resolved,* That the President be requested to cause a gold medal to be struck, with suitable emblems and devices, and presented to Major General Joseph Desha, in testimony of the high sense entertained by Con-

gress of his gallantry and good conduct in the conflict of the river Thames, in Upper Canada.

Mr. CLAIBORNE said he had not yesterday named General Desha, in the remarks he then made; it escaped his recollection at the moment; but that officer was well entitled to the notice of the House. General Desha, it would be recollected, had left his seat in Congress, in the Summer of 1813, when the Northwestern campaign was a subject of great anxiety, and joined the Northwestern army, as commander of a division of Kentucky troops, and to his intrepidity and good conduct was in a great degree owing the result of the battle on the Thames. On that occasion he occupied, with his division, a situation of imminent danger; and at a moment when the enemy pressed with great force on that part of the line, it was by General Desha's courage and example, and denouncing death to the first man that broke, that the ground was maintained, the tide of victory turned, and the day crowned with success. Mr. C. next turned to the services of Generals Carroll and Coffee, and enforced what he had yesterday said of them, by referring again to the various instances of the zeal, activity and bravery which had characterized their conduct, and which, under the Almighty, had saved the city of New Orleans from a ferocious enemy.

Mr. HARRISON said, that with regard to the conduct of General Desha, in the action on the Thames, he had mentioned it with approbation in his official report of the action, and he now repeated that he there performed his duty, and did everything that he could do. But, so did General Henry, who was third in command, whilst General Desha was fourth; they stand in that respect, perfectly on an equality.

Mr. H. moved, therefore, that the name of General William Henry be inserted in the second resolution. Mr. H. gave some explanations of the positions occupied by the two divisions in the action, and stated that it was the division of General Henry which occupied the front line, and was most pressed by the enemy; that of General Desha formed with it a right angle, and though less exposed, yet General Desha himself, he believed was at the point of junction where the fire was most heavy.

Mr. CLAIBORNE had not called to mind the particular circumstances of the affair, or doubtless he should have recollected the name of General Henry, and would have included him in the resolutions which he had offered. These were honorary rewards that cost the nation little, and he was always willing to bestow them upon gallant services. He had intended to propose swords on this occasion, but he found, by the precedents, that medals were more customary, though the cost of the latter was perhaps not less.

Mr. OGLE suggested a doubt whether, if these resolutions passed, it would not be proper also to seek out the meritorious officers of the Revolution. He had no objection to voting a medal to each of the gallant officers named, but protested against selecting the officers of the late army and passing by those of the Revolution, for, if the

APRIL, 1818.

Honors to the Brave.

H. or R.

former merited one medal, those of the latter deserved two, and he moved that the subject be referred to the Military Committee, that resolutions might be reported conformably to his ideas; or at least that the distinguished officers of the Revolutionary Army might be included in these honorary rewards.

Mr. COLSTON, though feeling the highest respect for the officers mentioned, and for their eminent services, yet objected to these resolutions on the ground that it was neither customary nor proper, in voting these rewards, to go below the commander of an army who had to bear the disgrace of defeat, and who it was right should reap the rewards of success; that to pursue a different course would involve the necessity of awarding the same to numerous other cases, as there were at least fifty others who had rendered important services and were entitled to notice; and it was better to stop, or Congress would be overwhelmed with cases of this kind, &c. Mr. C. referred to the evils which he had witnessed in Virginia, of making these rewards too common; and referred to the circumstance of the Legislature of that State being called on to appropriate fifteen thousand dollars, at one time, for the purchase of medals, &c. which had been voted to gallant officers from that State. He had opposed the practice then, and felt himself bound, however high his sense of the merits of the distinguished officers in question, to do it here.

Mr. SMITH, of Maryland, said a few words to Mr. CLAIBORNE, to show that the vote of a gold medal had always been considered a higher honor than to bestow a sword, and that medals had, therefore, been generally given to the Commander-in-chief of an army, and swords to the inferior officers.

Mr. CLAIBORNE observed, in reply to Mr. COLSTON, that the services of the officer named in the first resolution were as important and valuable as those of any Commander-in-chief in the nation; and if these distinctions had been granted in numerous other instances, as he could show they had been, it was highly proper they should be in this case, particularly when some who had received the honor had not served so long, nor rendered services half so important as the officers he now brought forward in the first resolution. Mr. C. then referred, severally, to the resolutions voting thanks and medals to General Brown, to General Scott, to Generals Ripley, Miller, and Porter, to General Gaines, and to General McComb, accompanied by thanks to their officers and men, and relied on these resolutions to show that the honors of Congress had not been confined to the Commanders-in-chief, but, on the contrary, they were nearly all subordinate officers, and some not higher than the rank of Colonel. Generals Carroll and Coffee, if they had not the reputation of Commanders-in-chief, deserved the applause of saving a city from a merciless enemy, whose rallying words were "Beauty and Booty." Mr. C. adverted to the circumstances under which these officers received the news of the danger of New Orleans, and the great exertions which enabled

them to reach it in time. Coffee was returning home from the Creek war, with an exhausted army, when information of the danger of New Orleans reached him at Baton Rouge. With his exhausted men and worn down horses he instantly started for the scene of action. No rest did he permit himself, day or night, but hastened with a celerity unexampled and astonishing, and arrived just in time to save the city and win a conquest which will ever be regarded as a most important and most glorious one. Would the House deny to such men as these the poor and pitiful reward now proposed? Carroll had been twice wounded in the Creek war, and was called on, at a moment's warning, to repair to New Orleans. He hastily collected his troops, organized them for the field in less time than was ever known, and with a rapidity never witnessed before, by his unwearied exertions reached the city just in time to insure the victory and share in its glory. Mr. C. agreed to what had been said about the Revolutionary veterans, but hoped, if it was thought proper to reward them in this way, that gentlemen would bring them forward in a separate proposition, and he would cheerfully support it. If he asked for what was not given to others, turn them away. If he asked for what they did not deserve, turn them away. But if he asked for them what others had received, and which they deserved much more than some who had received this distinction, he hoped it would not be denied to them.

Mr. HOPKINSON made a few remarks to dissuade the House from adopting these resolutions. It was a painful task to urge this course; but, he said this House had no wealth to bestow; these honors were all it had to give; they ought, therefore, to be given sparingly, and not wasted. The honors of Congress ought not to be given, he said, for fidelity, for diligence, and bravery, because these were to be expected, and belonged to every American officer; but were intended for some signal action above all, to be rewarded above all. Instead of confining these marks of distinction to proper occasions, all history did not furnish as many of them as the history of this country for the last two or three years, and the practice was so common that it would cease to be any distinction at all. Mr. H. did not make these objections from any insensibility to the gallant services of the officers referred to by Mr. CLAIBORNE; but, besides his opposition on national grounds, he thought that delicacy towards these officers themselves ought to forbid the passage of the resolutions. It was now three years since the close of the war, and the public would ask why these officers had not received this reward before; why, for the first time, they were brought forward at this late day? And, after being so long neglected, might not the proceeding now be imputed to personal favor? Mr. H. concluded by moving that the resolutions lie on the table.

Mr. POINDEXTER hoped that the motion to lay the resolutions on the table would be withdrawn, that the two resolutions might be separated and the sense of the House taken on each by itself.



H. OF R.

Militia Pay—Seminole War.

APRIL, 1818.

The subjects of the Northwestern and of the Southern officers ought, he thought, to be introduced separately, and then gentlemen in the House, acquainted personally with the officers in the two armies, could speak of them, respectively, from their own knowledge. He supported the propriety of adopting these resolutions by referring to the votes of thanks, &c., which had been passed at this very session, and the sword which only yesterday was awarded to a gallant officer. To reject the cases now before the House, under those circumstances, would be invidious as well as unjust.

Mr. RHEA hoped the resolutions would not be laid on the table. Had they not been brought forward at all this session he should have been satisfied, because the reputation of these gallant men was too well secured to make this distinction necessary; but as the resolutions had been offered he was anxious they should not be rejected. These brave men did not rest when they were going on the floods to meet the enemies of their country, and he hoped the resolutions for rewarding them would not be allowed to rest on the table, but would be adopted.

Mr. HARRISON again rose to bear testimony to the gallant services of the gentlemen of the Northwestern army, and took the opportunity of expressing briefly his sense of the distinguished honor which he had recently himself received at the hands of Congress—a reward more dear to him than any other that could be conferred on him, but which he must look on as due to the gallant army which he had the honor to command rather than to his merits, &c.

After some further opposition by Mr. CLAIRBORNE to laying the resolution on the table, the question was taken on that motion and carried—ayes 58, noes 54.

FRIDAY, April 3.

Mr. SEYBERT reported a bill to establish a port of entry and delivery, at Cape Vincent, at the fork of Lake Ontario and the head of the river St. Lawrence; which was read twice and ordered to be engrossed and read a third time to-morrow.

Mr. SEYBERT also reported a bill, declaring the consent of Congress to an act of the State of Georgia, passed the 10th of December, 1817, "to establish the fees of the harbor-master and health officer of the port of Darien;" which was read twice and ordered to lie on the table.

Mr. SEYBERT also reported a bill to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina; which was read twice and ordered to be engrossed and read a third time to-morrow.

Mr. TYCKER, of Virginia, from the committee on so much of the public accounts and expenditures as relates to the public buildings, made a report; which was read and ordered to lie upon the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the

bill from the Senate, entitled "An act for the relief of Michael Hogan," reported the same with an amendment; which was read, and, together with the bill, committed to a Committee of the Whole to-morrow.

Mr. SCOTT, from the Committee appointed on the 16th ultimo, by leave of the House, reported a bill to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; which was read twice and committed to a Committee of the Whole.

The amendment proposed by the Senate to the bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted him by the Spanish Government," was read, and concurred in by the House.

Engrossed bills of the following titles, to wit: An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees; An act for the relief of Gad Worthington; An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford, of Philadelphia, and Charles Wirgman, of Baltimore; An act for the relief of John Rodgers; and An act for the relief of certain friendly Creek Indians; were severally read the third time, and passed.

The bill from the Senate for the relief of Lemuel H. Osgood, was read twice, and referred to the Committee of Claims.

The bill from the Senate, to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States lands within the same, was read a third time, as amended, and passed.

The House resolved itself into a Committee of the Whole, on the bill from the Senate "directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes;" and, after some debate, the bill was ordered to be read a third time to-morrow.

The House then resolved itself into a Committee of the Whole, on the bill for the relief of Loring Austin; which gave rise to much debate.

The bill proposes to relieve Major Austin from the effects of a prosecution against him for false imprisonment, in a case in which, by orders from General Pike that he was bound to obey, he seized certain persons at Ogdensburg, suspected of treasonable practices with the enemy. After the debate the bill was reported to the House, and ordered to be engrossed.

The bill for the relief of Major General Jacob Brown, and the bill for the relief of George R. Wells, passed through the same committee, and were ordered to be engrossed for a third reading.

## MILITIA PAY—SEMINOLE WAR.

Mr. COBB submitted for consideration the following resolution:

"Resolved, That the Committee on Military Affairs

APRIL, 1818.

Proceedings.

H. OF R.

be instructed to inquire into the expediency of increasing the pay of the militia now in the service, or which may hereafter be called into the service of the United States, in the war now prosecuting against the Seminole tribe of Indians, and of affording additional pay to those who have been in service in said war, and have been discharged."

Mr. C. observed, that an apology was due to the House for offering this resolution at such a late day in the session; the apology he should make was, that he had understood this measure had been introduced early in the session in the Senate; from causes unknown to him, that body had not yet acted upon it.

Mr. C. further observed, that if he recollected correctly the published arguments which were urged for retaining the number of ten thousand men upon the Peace Establishment of the Army, one was that, out of that number, a sufficient force could at all times be commanded to put an end to any Indian war which might happen, without calling upon the militia; yet an Indian war had happened, which one of the General officers of the United States had chosen emphatically to call a little war; to terminate which, a militia force of at least four thousand men had been called into service. It was not for him to give reasons for this procedure. There were at this time in service at least three thousand men of the Georgia and Tennessee militia. They had been called out at a season of the year, above all others, of the most consequence to them; for that they would be in service just long enough to deprive them of the opportunity of making a crop upon their farms. In addition to this he would observe, that a more inclement season had hardly ever been witnessed in that part of the country where the militia were. If his information was correct, they had been exposed to incessant rains, from the time they were embodied until he last heard from them. But this was not all—they had been starved. He had understood and believed that the Tennessee militia, after having entered the nation, were compelled to return to their settlements in Georgia in order to be subsisted; and that the Georgia militia had been reduced to an allowance of a half a pint of corn a day. To whom the blame of this state of things was to be attached he would not say; but he thought that persons suffering such hardships and privations were entitled to a greater compensation than the pitiful sum of five dollars per month. He thought that the House would agree with him, that not less than double that sum would be but a poor reward to men thus situated. He was of opinion that, had the militia been properly fed and attended to, they would not have complained, or cared for the trifling pay now allowed them by law. But he thought the Government ought at least to increase the weight of their pockets, after failing to afford them food. He concluded by saying, he had offered these observations with the motive of inducing the House, not only to adopt the resolution he had offered, but speedily to adopt any measure founded on it. The motion was agreed to.

SATURDAY, April 4.

Mr. THOMAS M. NELSON presented a memorial of Brigadier General Daniel Parker, Adjutant and Inspector General of the Army of the United States, containing an explanation of the circumstances attending his certificate of the authenticity of the signature of Colonel Isaac Clark, late of the Army, which, subsequently proved to be a forgery; which certificate has been made the subject of animadversion in the report of the committee appointed to inquire into the conduct of clerks and other officers of Government.—Laid on the table.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to which was committed the bill from the Senate, entitled "An act for the relief of the heirs of Landon Carter," reported the same with an amendment; which was read, and, together with the bill, committed to the Committee of the Whole, to which is committed the bill for the relief of Cornelia Mason.

Mr. RHEA also reported the bill from the Senate, entitled "An act for the relief of Samuel Ward," without amendment, and the bill was committed to a Committee of the Whole.

Mr. POINDEXTER, from the Committee on Private Land Claims, to which was committed the amendment proposed by the Senate to the bill, entitled "An act for the relief of Daniel Burnett, Gibson Clark, and the legal representatives of Hubert Rowell," reported their agreement to the said amendment with an amendment; which was read, and, together with the bill, ordered to lie on the table.

Mr. STROTHER, from the Committee for the District of Columbia, to which was referred the bill from the Senate, entitled "An act supplemental to the act, entitled 'An act further to amend the charter of the City of Washington,'" reported the same with an amendment; which was read, and, together with the bill, committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill to increase the pay of the militia while in actual service, and for other purposes; which was read twice, and ordered to lie on the table.

Mr. BLOUNT, from the Committee on the Post Office and Post Roads, reported a bill to establish and alter post roads; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT, from the select committee, to whom was referred a resolution of the 13th February, and a memorial from a number of the citizens of Philadelphia, respecting the imprisonment of Richard W. Meade, made a report, comprising a general view of the case; and concluding with the recommendation of a resolution, that this House will support the Executive in all proper measures which he may take to procure the release of Mr. Meade from confinement.

The report was read, and ordered to lie on the table, and be printed.

Mr. PIRKIN, from the joint committee appointed to examine and report what business is neces-



sary to be done by Congress previous to the adjournment of the present session, made a report; which was read, and ordered to lie on the table.

On motion of Mr. TAYLOR, the Secretary for the Department of the Navy was instructed to report to this House, during the first week of the next session of Congress, a particular statement of the expenditure of the appropriations made by an act rewarding the officers and crew of the frigate Constitution; and the officers and crew of the Wasp, passed March 3d, 1813; also, by an act to reward the officers and crew of the sloop of war Hornet, and Lieutenant Elliot, and his officers and companions, passed July 13th, 1813; also, by an act authorizing the purchase of the vessels captured on Lake Erie, passed 18th April, 1814; also, by an act authorizing the purchase of vessels captured on Lake Champlain, passed March 3d, 1815; also, by an act rewarding the officers and crew of the sloop of war Hornet, for the capture and destruction of the British sloop of war Penguin, passed February 28th, 1816; and also by an act providing for the distribution of \$100,000, among the captors of the Algerine vessels captured and restored to the Dey of Algiers, passed April 27th, 1816; designating the names of the prize agents appointed under the several acts, and the payments by them respectively made, specifying the time when, and persons to whom the same may have been made, and the balance, if any, remaining in their hands unexpended.

On motion of Mr. SLOCUMB, the Secretary for the Department of War was directed to prepare and report to this House, at the next session, a system providing for the abolition of the existing Indian trading establishments of the United States, and providing for the opening of the trade with the Indians to individuals, under suitable regulations.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Michael Jones;" in which they ask the concurrence of this House.

The said bill was read twice, and referred to the Committee on the Public Lands.

Mr. BASSSETT, from the Committee on the Public Buildings, made a report, stating the probability of the wings of the Capitol being completed for the use of Congress before the next session, but the deficiency of the wings in committee rooms, and recommending the erection of a temporary building for that purpose, until the centre building of the Capitol shall be erected.

Mr. LVERMORE submitted the following resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring therein, That the following amendment to the Constitution of the United States, be proposed to the Legislatures of the several States, which, when ratified by three-fourths of the said States, shall be valid to all intents and purposes, as a part of the said Constitution:*

*"No person shall be held to service or labor as a slave, nor shall slavery be tolerated in any State hereafter*

*admitted into the Union, or made one of the United States of America."*

The resolution was read, and, on the question of proceeding to its consideration, it was decided in the negative.

Mr. SMITH, of Maryland, laid on the Clerk's table two acts of the Parliament of Great Britain, one, entitled "An act to consolidate and extend the several laws now in force, for allowing the importation and exportation of certain goods and merchandise into, and from, certain ports in the West Indies," passed the 27th June, 1805; the other, entitled "An act to permit the importation of rice, grain, and flour, from any foreign colonies on the continent of America, into certain ports in the West Indies, and to allow certain articles to be imported from the United States of America into the British provinces of North America, for the purpose of exportation to the British islands in the West Indies," passed on the 30th of June, 1805; which were ordered to be printed for the use of the members of Congress.

The SPEAKER laid before the House a report of the Secretary of State on the petition of Jonathan Elliot; which was read, and ordered to lie on the table.

The bill from the Senate, directing the appointing Indian agents, &c., was read the third time, and passed.

The engrossed bills for the relief of Major General Jacob Brown; to establish a port of entry at Cape Vincent, at the fork of Lake Ontario and the River St. Lawrence; to abolish the port of delivery established at the mouth of Slade's creek, in North Carolina; for the relief of Loring Austin; and for the relief of George R. Wells;—were severally read the third time and passed.

A message from the Senate informed the House that the Senate disagree to the amendment proposed by this House to the bill, entitled "An act to provide for paying the State of Indiana three per cent. of the net proceeds arising from the sales of the United States' lands within the same." They have passed bills of this House, entitled "An act making appropriations for the support of Government for the year 1818;" and "An act for the relief of Narcissus Broutin and others;" with amendments. They have also passed a bill, entitled "An act concerning navigation;"—in which amendments and bill they ask the concurrence of this House.

The bill from the Senate, entitled "An act concerning navigation," was read twice, and referred to the Committee of the Whole, to which is committed the bill supplementary to the act regulating the duties on imports and tonnage, passed the 27th April, 1816.

The amendment proposed by this House, to the bill from the Senate, entitled "An act to provide for paying to the State of Indiana three per cent. of the net proceeds, arising from the sales of the United States lands within the same," and to which the Senate have disagreed, was read; when, Mr. HENDRICKS moved that this House insist on the said amendment. This motion was rejected; and the question was taken, Will the

House recede from their said amendment? and passed in the affirmative.

The amendments proposed by the Senate to the bill, entitled "An act for the relief of Narcissus Broutin and others," were read and concurred in by the House.

The amendments of the Senate to the general appropriation bill were considered in a Committee of the Whole, agreed to by the committee, and concurred in by the House.

The bill for the relief of John Anderson passed through a Committee of the Whole, and was ordered to a third reading.

#### STATE OF ILLINOIS.

The House resolved itself into a Committee of the Whole on the bill to enable the people of Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on a footing with the original States.

Mr. POPE moved to amend the bill by striking out the lines defining the boundaries of the new States, and to insert the following:

"Beginning at the mouth of the Wabash river; thence up the same, and with the line of Indiana to the northwest corner of said State; thence east with the line of the same State to the middle of Lake Michigan; thence north along the middle of said lake to north latitude 42 deg. 30 minutes; thence west to the middle of the Mississippi river; and thence down along the middle of that river to its confluence with the Ohio river; and thence up the latter river along its northwestern shore to the beginning."

The object of this amendment, Mr. P. said, was to gain, for the proposed State, a coast on Lake Michigan. This would afford additional security to the perpetuity of the Union, inasmuch as the State would thereby be connected with the States of Indiana, Ohio, Pennsylvania, and New York, through the Lakes. The facility of opening a canal between Lake Michigan and the Illinois river, said Mr. P., is acknowledged by every one who has visited the place. Giving to the proposed State the port of Chicago, (embraced in the proposed limits,) will draw its attention to the opening of the communication between the Illinois river and that place, and the improvement of that harbor. It was believed, he said, upon good authority, that the line of separation between Indiana and Illinois would strike Lake Michigan south of Chicago, and not pass west of it, as had been supposed by some geographers who had favored us with maps of that country; and, Mr. P. added, that all the country north of the proposed State, and bounded by Lakes Michigan, Huron, Superior, and of the Woods, and the Mississippi river, must form but one State, Congress being restricted, by the ordinance of 1787, from erecting more than five States in the Northwestern Territory.

This motion was agreed to without a division. Mr. POPE then moved further to amend the bill, by striking out that part which appropriated the State's proportion of the proceeds of the sales of the public lands to the construction of roads

and canals in said State, and to insert the following:

"For the purposes following, viz: two-fifths to be disbursed, under the direction of Congress, in making roads leading to the State; the residue to be appropriated by the Legislature of the State for the encouragement of learning, of which one — part shall be exclusively bestowed on a college or university."

Mr. P. said, that the fund proposed to be applied for the encouragement of learning had, in the other new States, been devoted to roads; but its application had, it was believed, not been productive of the good anticipated; on the contrary, it had been exhausted on local and neighborhood objects, by its distribution among the counties, according to their respective representation in the Legislature. The importance of education in a Republic, he said, was universally acknowledged; and that no immediate aid could be derived in new counties from waste lands was not less obvious; and that no active fund would be provided in a new State, the history of the Western States too clearly proved. In addition to this, Mr. P. said, nature had left little to be done in the proposed State of Illinois, in order to have the finest roads in the world. Besides, roads would be made by the inhabitants as they became useful, because the benefits are immediate; but not so with endowments to schools. The effects of these institutions were too remote. Nor would the interest of the United States be impaired by this plan. The land on the roads was generally private property before the opening of the road; and the benefit resulting to the United States from the stipulation would be found alone in the exemption from taxation, for five years, of lands sold in the State.

This motion was also agreed to without a division; and after receiving some further amendments, the most important of which was one moved by Mr. TAYLOR, to exempt the soldiers' bounty lands in the State from taxation for three years—

The Committee rose and reported the bill to the House, and it was ordered to be engrossed, as amended, and read a third time, *nemine contradicente*.

#### INTERNAL IMPROVEMENT.

The House took up and proceeded to consider the resolutions reported by the Committee on Roads, Canals, and Seminaries of Learning; and the said resolutions being amended to read as follows, to wit:

*Resolved, That the Secretary of War be instructed to report to this House, at the ensuing session of Congress, a plan for the application of such means as are within the power of Congress, to the purpose of opening and constructing such roads and canals, as may deserve and require the aid of Government, with a view to military operations in time of war; the transportation of munitions of war; and the more complete defence of the United States; and also, a statement of the works of the nature abovementioned, which have been commenced; the progress which has been made; and the means and prospect of their completion; and, together with such information, as in the*



H. or R.

Organization of the Army—History of Congress.

APRIL, 1818.

opinion of the Secretary, shall be material in relation to the objects of this resolution.

*Resolved*, That the Secretary of the Treasury be instructed to prepare and report to this House, at their next session, a plan for the application of such means as are within the power of Congress, to the purpose of opening and improving roads, and making canals; together with a statement of the undertakings of that nature, which, as objects of public improvement, may require and deserve the aid of the Government; and, also, a statement of works of the nature above-mentioned which have been commenced; the progress which has been made in them; the means and prospect of their being completed; the public improvements carried on by States or by companies, or incorporations which have been associated for such purposes, to which it may be deemed expedient to subscribe or afford assistance; the terms and conditions of such associations and the state of their funds, and such information, as, in the opinion of the Secretary shall be material in relation to the objects of this resolution.

The question was taken to agree to the said resolution, and passed in the affirmative—yeas 76, nays 57, as follows:

**YEAS**—Messrs. Abbott, Anderson of Kentucky, Bateman, Bayley, Campbell, Cobb, Comstock, Crawford, Cruger, Cushman, Darlington, Ellicott, Floyd, Forsyth, Gage, Haabrouck, Hendricks, Herkimer, Herrick, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Irving of New York, Johnson of Kentucky, Kinsey, Linn, Little, Livermore, Lowndes, W. P. Maclay, Marchand, Mason of Massachusetts, Miller, Mumford, Murray, J. Nelson, Ogden, Ogile, Owen, Palmer, Parrott, Patterson, Pawling, Peter, Pinckall, Rich, Robertson of Louisiana, Rogers, Savage, Schuyler, Sergeant, Seybert, Shaw, Sherwood, Simkins, Socumb, B. Smith, Speed, Spencer, Stewart of North Carolina, Stuart of Maryland, Tallmadge, Farr, Taylor, Terrill, Trimble, Tucker of Virginia, Upham, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Pennsylvania.

**NAYS**—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Austin, Ball, Barber of Ohio, Bassett, Bennett, Blount, Boden, Boss, Burwell, Butler, Claggett, Cook, Crafts, Culbreth, Desha, Drake, Earle, Edwards, Folger, Garnett, Hale, Hall of North Carolina, Hogg, Hunter, Huntington, Johnson of Virginia, Kirtland, McCoy, Mason of Rhode Island, Merrill, H. Nelson, T. M. Nelson, Pitkin, Pleasants, Poindexter, Rhea, Rice, Richards, Ruggles, Sampson, Sawyer, Scudder, Seale, Silsbee, J. S. Smith, Strother, Tompkins, Townsend, Tucker of South Carolina, Tyler, Whitman, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts.

#### ORGANIZATION OF THE ARMY.

The House resolved itself into a Committee of the Whole, on the bill respecting the organization of the Army, and for other purposes; and on the bill for the relief of John Work; and, after some time spent therein, the Committee reported the first-mentioned bill with amendments, and the last-mentioned bill without amendment.

The said amendments were read, and the first thereof concurred in, and the last rejected by the House.

Mr. T. M. NELSON then moved further to amend the said bill by inserting therein the following, as the fifth section thereof, viz:

**SEC. 5.** *And be it further enacted*, That those soldiers who enlisted for and during the late war with Great Britain, and who served faithfully until the termination thereof was announced by the Proclamation of the President of the United States, shall be entitled to the bounty land which they would have been entitled to, had they obtained an honorable discharge.

And, on the question to agree to this section, it was determined in the negative.

The said bill was then further amended, and ordered to be engrossed and read a third time on Monday next.

The bill for the relief of John Work was ordered to be engrossed and read a third time on Monday next.

#### HISTORY OF CONGRESS.

On motion of Mr. SERGEANT, the House proceeded, by a vote of 60 to 58, to consider the report of the Committee of the Whole on the bill authorizing a subscription (of one thousand copies) to the History of Congress, proposed to be undertaken by Gales & Seaton.

The House having refused to concur with the Committee of the Whole, in striking out the first section of the bill, Mr. S., with a view of removing the objections made by some gentlemen to the bill in its present shape, moved to add to the first section the following proviso:

*Provided, further*, That, before receiving any payment on account of said work, the publishers shall enter into bond in a penalty of twenty thousand dollars, with security to be approved by the First Comptroller, that the said work shall not exceed ten volumes in extent, to be brought up to the end of the second session of the fourteenth Congress, and shall be completed within ten years from the day on which the first payment on account thereof is demanded: *And provided, also*, That nothing in this act contained shall be construed to preclude Congress from rescinding their subscription to the said work, whenever it shall to them seem expedient.

This amendment was agreed to without a division; when Mr. HITCHCOCK moved to reduce the subscription from one thousand to one hundred copies; which motion he afterwards modified, by moving two hundred and fifty.

This motion was opposed by Mr. SERGEANT, because, he argued, it would be equivalent to a rejection of the bill; as the great labor of the compilation, the expense of preparing the work for the press, the expense of printing volumes of the magnitude proposed, &c., could not be undertaken without aid from Congress, to the extent proposed by the select committee; and because a work of this nature could not depend on private subscription, &c. Mr. S. also enforced and enlarged on the national importance of the work proposed, as well as its importance to Congress in its legislative business, &c.; in which he was supported by Mr. SIMKINS, Mr. JOHNSON of Kentucky, and Mr. LIVERMORE.

The bill was opposed earnestly by Mr. PITKIN, Mr. HITCHCOCK, and Mr. BUTLER, principally on the ground of the expense, and the unimportance of the work compared with that expense.

Mr. HITCHCOCK's motion to reduce the num-

APRIL, 1818.

Naval Affairs—Courts Martial.

H. or R.

ber of copies to be subscribed for was agreed to—ayes 74, noes 56—when, on motion by Mr. BASSETT, the bill was ordered to lie on the table.

MONDAY, April 6.

Mr. SEYBERT, from the Committee of Commerce and Manufactures, made a report on the petition of Seth Sprague, accompanied by a bill for his relief; which was twice read, and committed.

Mr. WILLIAMS, from the Committee of Claims, reported the bill from the Senate, for the relief of Lemuel H. Osgood, without amendment, and the bill was ordered to a third reading.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred an inquiry into the expediency of authorizing the President of the United States to distribute an additional sum among the assessors of the United States, made a report adverse to such a measure; which was read, and ordered to lie on the table.

Mr. SPENCER, from a select committee, made a report on the petition of John Daily and Samuel Thompson, accompanied by a bill for their relief; which was twice read, and committed.

The House took up and proceeded to consider the report of the Committee of Ways and Means, of the 19th of February last, on the petition of Mary Graeff; and the resolution therein contained was read, and is as follows:

*Resolved*, That the prayer of the petitioner ought not to be granted.

Mr. SERGEANT moved to amend the resolution, so as to make it read—

*Resolved*, That the prayer of the petitioner is reasonable and ought to be granted, and that the Committee of Ways and Means be instructed to report a bill to that effect.

The question being taken so to amend the resolution, it passed in the affirmative.

The House took up and proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for the relief of Daniel Burnett, Gibson Clark, and the legal representatives of Hubert Rowell;" and the amendment proposed by the Committee on Private Land Claims to the said amendment being read, Mr. POINDEXTER, the acting chairman of the said committee withdrew the said amendment; and the amendment proposed by the Senate to the said bill was then concurred in by the House.

Engrossed bills of the following titles, to wit: An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; An act for the relief of John Anderson; An act for the relief of John Work; and, An act respecting the organization of the Army and for other purposes, were severally read the third time, and passed.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting the proceedings of the court martial held for the trial

of Franklin Wharton, Lieutenant Colonel of Marines; which was read, and ordered to lie on the table.

On motion of Mr. FORSYTH, the Committee of Ways and Means were instructed to inquire into the expediency of limiting the allowance of drawback of duties upon merchandise, to merchandise imported into the United States, and exported therefrom in American vessels.

The bill to continue in force the act relating to settlers on the public lands; the bill for the relief of Benjamin Birdsall and Wm. S. Foster; and the bill for the relief of Frederick Brown, severally passed through a Committee of the whole House, and were ordered to be engrossed for a third reading.

#### NAVAL AFFAIRS—COURTS MARTIAL.

The House proceeded to the consideration of the following report made by the naval committee on the first instant.

The Committee on Naval Affairs, to whom were referred a resolution, instructing them to inquire whether any, and, if any, what alterations are necessary and proper to be made in the several laws relating to the government of the Navy; also, the proceedings of certain courts martial lately held in the Mediterranean, for the trials of Captain Oliver H. Perry, Captain John Heath, and Captain John O. Creighton; also the memorial of certain midshipmen belonging to the Mediterranean squadron, addressed to the President of the United States, report:

The committee have examined the several subjects referred to them, and are of opinion, that the general regulations for the government of the Navy do not require to be changed. With a view of ascertaining whether the circumstances which lately transpired in the Mediterranean, have grown out of a defect in the law, or the administration of the law, the committee, after an attentive consideration of the law, and of the several cases determined under it, think the defect is not in the law. Their attention has been particularly drawn to the 3d, 14th and 30th sections of the act "for the better government of the Navy of the United States." The 3d section of the said act is in the following words: "Any officer, or other person in the Navy, who shall be guilty of oppression, cruelty, &c., shall, if an officer, be cashiered, or suffer such other punishment as a court martial shall adjudge," &c. The 14th section of the said act, is in the following words: "No officer or private in the Navy shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, on pain of death, or such other punishment as a court martial shall inflict." The 30th section of said act is in the following words: "No commanding officer shall, of his own authority, discharge a commissioned or warrant officer, nor strike, nor punish him otherwise than by a suspension or confinement, &c., any commanding officer offending therein, shall be punished at the discretion of a court martial." It will be observed, that the punishment denounced against an inferior officer for striking, &c., his superior, may be death or such other punishment as a court martial may adjudge; whilst for a similar offence committed by a superior officer against an inferior, the punishment is such as the discretion of a court martial may award. In these two articles, such an inequality of



H. or R.

Public Buildings.

APRIL, 1818.

punishment, is supposed by many to exist, as to call for a change of the law. This impression did not escape the attention of the committee; but, on mature reflection, they were led to doubt the propriety of the opinion—striking, drawing weapons, &c., on the part of inferior against superiors, in military bodies, carries along with it the idea of insubordination and mutiny; under such circumstances no military body can exist, or if it exist at all, it must be to purposes worse than useless. It is believed, that at all times, and in all nations, who had correct ideas of military discipline, the power to punish mutiny with death, has been vested in their military tribunals; nor do they think it could be dispensed with in this Government; for they believe the principle to be correct, that in free governments, the rigor of military discipline is as necessary, perhaps more so, as under governments of a different character; and it is a circumstance well understood, that persons going into military service, part for the time with a portion of their civil rights. The committee are of opinion, that it would be inexpedient to change this part of the naval regulations.

Their attention was next drawn to the opposite view of the question. Oppression, and striking inferiors by superiors, are punishable; the first, by cashiering, or such other punishment as a court martial shall adjudge; the second, at the discretion of a court martial. This part of the subject having given rise to the late occurrences among the officers in the Mediterranean, claimed and received the undivided attention of the committee. They examined the propriety of fixing some definite punishment in these cases; such as a suspension for a certain length of time, below which no court martial should be at liberty to go, in adjudging the penalty to be awarded for a commission of the offence. But, on mature consideration, difficulties, which the committee considered as great, if not insuperable, were believed to attend such a provision. Let us suppose that such is the law; when the case comes to be examined, it is found that a number of circumstances exist, which reduce the offence to almost nothing; or on the other hand, circumstances are discovered of a character so aggravated, as to give it a very different complexion. Let us take, by way of illustration, the two cases of Captain Perry and Captain Creighton, both now under the consideration of the committee; in the former, the committee see circumstances of a character which, in their opinion, would have justified a much more rigorous sentence of the court martial towards that officer, as high and deserved a favorite of his country as he was, and it is with no small regret, that the committee feel it their duty to express the opinion. On the other hand, for a charge in part of a similar character, the charge of striking Midshipman Marston by Captain Creighton, they see nothing of sufficient importance to have attracted attention. Thus situated, numberless shades of difference attending almost every case which can be supposed to occur, the committee believe that fixing by law a minimum punishment, if it were of sufficient magnitude to have any effect, would be improper. The committee think a reference to our civil trials will illustrate this part of the subject. Thus in the trial by jury, that body exercise an entire discretion, in all actions of assault and battery, &c., and graduate the penalty to the offence, according to the circumstances of each case. It is also in accordance with the mild character of the criminal codes of most of the States composing this Union, in which a scale of punishment is graduated

according to the degree of offence. The committee know, that where the law can be defined with propriety, the discretion of no tribunal whatever ought to be as much relied on, as proper legal definitions. They have stated the difficulties which presented themselves, and which they find of such a character as to induce them to consider a change inadvisable. The committee also state, that it would be with much reluctance they would relinquish their confidence in courts martial, composed of officers whose conduct had so justly merited the confidence of their country.

The committee are aware, that in examining the conduct of the courts martial referred to them, the path of their duty led over very delicate ground. They know, that no law which they could recommend would operate otherwise than prospectively; and also, that they have no power to reverse or unsettle the decisions; but these proceedings having been referred to them, as connected with the subject of the inquiry, that inquiry having, in fact, grown out of them, they have thought it right to express the opinion they have done. Indeed, the body to which the committee belong, and who have charged them with the inquiry, constitute the grand inquest of the nation, whose duty it is, on proper occasions, to inquire into the conduct of the highest officers of the Government.

The committee then, taking into consideration all the circumstances of the cases referred to them, trusting that the officers of the Navy, to whom are confided the important duties intrusted to courts martial, with a due regard to the laws of their country, ever to be held sacred by those intrusted with their execution, and constituting the only criterion between free and despotic Governments, will exert themselves to heal the wounds, with which the discipline of the Navy has been at least threatened; a discipline, so admirable in itself, and which was not known to exist till its effects were witnessed by the world, and which, once lost, the Navy itself would be a useless burden on the community. The committee, trusting these highly important considerations will have their due and proper weight, conclude, by recommending to the House the adoption of the following resolution:

*Resolved*, That the committee be discharged from the further consideration of the several subjects referred to them.

After the foregoing report was read, on Wednesday last, Mr. JOHNSON of Virginia, moved to recommit it to the Committee on Naval Affairs, with instructions "so to amend the act, entitled 'An act for the better government of the Navy of the United States,' (approved April, 1800,) as to subject the superior officer, who shall strike or draw, or offer to draw, or raise any weapon against his inferior officer, to a forfeiture of his commission, and dismissal from the service."

This motion coming up now for decision, Mr. JOHNSON spoke with much earnestness, and at some length in support of it; when, the question being taken thereon, it was decided in the negative; and the resolution recommended by the Committee was then agreed to, and the Committee discharged from the further consideration of the subject accordingly.

## PUBLIC BUILDINGS.

The House then went into Committee on the bill to provide for erecting additional buildings for the accommodation of the Executive De-

APRIL, 1818.

Public Buildings.

H. or R.

partments, and the bill making appropriations for the public buildings, and for furnishing the Capitol and President's House.

Much time was occupied in maturing the details of these bills, and in discussing the various sums with which it was proposed to fill the blanks. Among the motions to amend the bill, was one to have the additional public offices erected near the Capitol, which was negatived without a division.

After having gone through these bills, they were reported to the House, and various other amendments were proposed, and variously decided, after a good deal of debate; on some of which the yeas and nays were called for, and were twice taken, and once or twice refused.

On the question to concur with the Committee of the Whole in their amendment to fill the blank in the bill attached to the following item: "For furnishing the Representative Chamber and Committee Rooms," with the sum of thirty thousand dollars, the vote stood thus—yeas 74, nays 68, as follows:

YEAS—Messrs. Allen of Massachusetts, Allen of Vermont, Baldwin, Barber of Ohio, Bassett, Bayley, Bloomfield, Clagett, Cobb, Colston, Comstock, Crafts, Crawford, Cruger, Darlington, Edwards, Ervin of South Carolina, Folger, Forney, Forsyth, Herbert, Herkimer, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Irving of New York, Johnson of Virginia, Kinsey, Kirtland, Little, Lowndes, W. P. Maclay, Middleton, Miller, Moseley, Mumford, Jeremiah Nelson, Ogden, Owen, Parrott, Pawling, Peter, Pindall, Pitkin, Pleasants, Poindexter, Rhea, Rice, Rich, Richards, Ringgold, Robertson of Louisiana, Ruggles, Sawyer, Schuyler, Sergeant, Settle, Seybert, Silsbee, Simkins, Slacumb, Speed, Stewart of North Carolina, Taylor, Terrill, Terry, Tompkins, Tyler, Wendover, Westerlo, Whitman, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Austin, Ball, Barbour of Virginia, Bennett, Blount, Boden, Boss, Butler, Campbell, Clagett, Cobb, Culbreth, Desha, Drake, Earle, Ellicott, Floyd, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hogg, Hunter, Johnson of Kentucky, Lawyer, Linn, Livermore, W. Maclay, McCoy, Marchand, Merrill, Moore, Morton, Murray, H. Nelson, T. M. Nelson, Ogle, Palmer, Patterson, Porter, Quarles, Rogers, Sampson, Savage, Scudder, Shaw, Sherwood, S. Smith, Bal. Smith, J. S. Smith, Spencer, Strong, Tallmadge, Tarr, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Massachusetts.

The question was then stated to concur with the Committee of the Whole, in their amendment to fill the blank in the said bill attached to the following item, to wit: "For furnishing the President's House," with the sum of forty thousand eight hundred and seventy-nine dollars. And being taken, it was determined in the negative—yeas 52, nays 90, as follows:

YEAS—Messrs. Allen of Vermont, Baldwin, Barber of Ohio, Bassett, Bayley, Bloomfield, Colston, Cruger, Drake, Ervin of South Carolina, Folger, Forsyth,

Herbert, Hopkinson, Irving of New York, Kinsey, Kirtland, Little, Livermore, Merrill, Middleton, Miller, Moseley, Mumford, Ogden, Palmer, Parrott, Peter, Pindall, Pleasants, Poindexter, Rhea, Rich, Richards, Ringgold, Ruggles, Sawyer, Schuyler, Sergeant, Settle, Seybert, Simkins, S. Smith, Tallmadge, Taylor, Terrill, Terry, Wendover, Westerlo, Whitman, Wilkin, and Wilson of Massachusetts.

NAYS—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Barbour of Virginia, Bateman, Bennett, Blount, Boden, Boss, Butler, Campbell, Clagett, Cobb, Comstock, Crafts, Crawford, Culbreth, Darlington, Desha, Earle, Edwards, Ellicott, Floyd, Forney, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes of Mass., Holmes of Connecticut, Hubbard, Hunter, Huntington, Johnson of Virginia, Lawyer, Linn, Lowndes, W. Maclay, W. P. Maclay, McCoy, Marchand, Moore, Morton, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, Ogle, Owen, Patterson, Pawling, Pitkin, Porter, Rice, Robertson of Louisiana, Rogers, Sampson, Savage, Scudder, Shaw, Sherwood, Silsbee, Slacumb, Bal. Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Strong, Tarr, Tompkins, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Wallace, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

The said blank was then filled with \$30,000.

The question was then stated to concur with the Committee of the Whole in their amendment to fill the blank in the said bill, attached to the following item, to wit: "For offices to the President's House," with the sum of nine thousand eight hundred and sixty-seven dollars; and decided in the negative.

Mr. TAYLOR then moved to fill the blank with \$9,000; which was rejected.

Mr. BASSETT moved nine thousand four hundred; which was rejected.

Mr. HOLMES of Massachusetts, moved eight thousand.—Rejected.

Mr. BASSETT moved to strike out this item altogether.—Rejected.

On motion of Mr. COLSTON, the blank was then filled with \$7,000.

Mr. HITCHCOCK moved to amend the bill by striking out this item: "For procuring materials, laying the foundation, and other preparations for the centre building of the Capitol, \$100,000." Negatived—yeas 44.

A motion was made by Mr. W. P. MACLAY, to amend the bill by inserting after the appropriation for finishing the Representative Chamber, the words "or so much of the said sum as he (the Speaker) may deem necessary;" which motion was negatived.

And the bill was then ordered to be engrossed for a third reading. As ordered to be engrossed, the bill embraces the following appropriations:

For the completion of the wings of the Capitol, in addition to the sum of \$200,000 already appropriated, the further sum of \$80,000.

For procuring materials, laying the foundation, and other preparations for the centre building of the Capitol, \$100,000.



H. or R.

Staff of the Army.

APRIL, 1818.

For finishing the President's House, \$15,214.  
 For offices to the President's House, \$7,000.  
 For the wall north of the President's House, with gates and railing the width of the house, \$3,513.  
 For contingencies, \$437.  
 For graduating and improving the President's square, \$10,000.  
 For erecting a temporary building for committee room near the Capitol, \$3,634.  
 For furnishing the Representative Chamber and Committee Rooms, \$30,000.  
 For furnishing the Senate Chamber and Committee Rooms, \$20,000.  
 For furnishing the President's House, \$30,000.  
 And, before taking up the other bill, reported from the Committee of the Whole, respecting the building additional public offices, the House adjourned.

TUESDAY, April 7.

Mr. SNEYBERT, from the Committee of Commerce and Manufactures, made reports unfavorable to the petitions of sundry cork cutters of New York and Philadelphia, and manufacturers of paper hangings, which were read and concurred in.

Mr. SEGEANT, from the Committee of Ways and Means, reported a bill for the relief of the widow and children of Jacob Graeff, which was twice read and committed.

The bills from the Senate, for the relief of Asahel Clark, and for the relief of Samuel H. Osgood; and the engrossed bills for the relief of Seth Sprague; to continue in force the act relating to the settlers on lands of the United States; for the relief of Benjamin Birdsall and W. S. Foster; and the bill for the relief of Frederick Brown, were severally read the third time, and passed.

The House then resolved itself into a Committee of the Whole, on the bill for the relief of Miller and Baker, and the bill for the relief of the sufferers on the Niagara frontier during the late war.

The bill first named having been gone through, and the second taken up, a motion was made, by Mr. SLOCUM, to strike out the first section, in effect to destroy the bill.

This motion Mr. SPENCER spoke more than an hour in opposition to, and in support of the claims of the sufferers, in question; when the Committee rose and obtained leave to sit again on this bill that for the relief of Miller and Baker being ordered to a third reading.

The bill to increase the compensation of certain judges of the United States, was received from the Senate, twice read and referred.

## STAFF OF THE ARMY.

The House then proceeded to the consideration of the bill to reduce the staff of the Army, and to substitute a commissariat instead of the present mode of subsisting the Army by contract.

Mr. COLTON moved to strike out the clause authorizing one "principal judge advocate," so

as to authorize one judge advocate only, instead of one principal and one assistant advocate; which motion was agreed to.

Mr. DESHA made an unsuccessful motion to strike out all the sections of the bill which provide for subsisting the Army by a commissariat.

Mr. DESHA said he was in favor of reducing the staff of the Army; for certainly we have the largest and most expensive staff in the world, according to the number of men. The Peace Establishment, when complete, is ten thousand men, and we have a staff sufficient for one hundred thousand. The first sections of the bill do reduce the staff, and will be a saving in point of expense. These I am in favor of; but when the whole bill is taken in connexion, it increases the staff of the Army considerably. Let us examine it. The Army is now supplied with provisions by contractors. The last five sections of the bill contemplate abolishing the contract system, and supplying the Army by a commissariat. This is making a radical change in victualling the Army. Would it not be well to examine whether this change will be an advantageous one as respects supplying the Army, as also the expense? Agreeably to the contemplated system, there is to be a commissary general, with the rank, pay, and emoluments of a colonel of ordnance. The President has the power of appointing as many assistant commissaries as he may think the service will require, who are to be taken from the subalterns of the Army, and are to receive twenty dollars per month, in addition to their pay in the line. How many assistant commissaries will be required? Agreeable to the report of the Secretary of War laid on your table, there are, in the Northern division, forty posts; and in the Southern division thirty-five, making seventy-five posts. At each of the posts, there must be one assistant commissary for issuing, and perhaps at one-half of the posts an assistant commissary for purchasing; one hundred and twelve assistant commissaries. Does this look like reducing the staff of the Army? These assistant commissaries are to be taken from the subalterns of the line, who are, no doubt, honorable young men; but will they lay their hands to, in issuing out the meat, flour, and the other component parts of rations? No; they must have some person to do it for them. Have they any idea of economy? I suspect not. Economy does not belong to young, highminded military men. It is the last thing a military man learns; and do not gentlemen know that there is frequently a material difference between a man doing business for himself, where he is immediately interested, and doing business for the public, as respects care, industry, and economy? When hoops fly off a barrel of flour, or brine becomes bad in barrels of pork, will they use the same exertions to save the property for the public, as if it was their own? I suspect not. And are young officers, who, perhaps, never thought of economy, suitable persons to make purchases of large quantities of provisions? Agreeably to the provisions in the bill, the contemplated measure is only intended as an

APRIL, 1818.

Public Buildings.

H. or R.

experiment, as it is only to continue in operation five years, unless re-enacted; and as it is not to go into operation until next June twelvemonth, previous to which time another session will take place, I move that all the part that relates to a commissariat be struck out of the bill, which is the sixth, seventh, eighth, ninth, and tenth sections. All things considered, I have no hesitation in believing that where, under the contract system, a ration costs the Government twenty cents, under this system, if adopted, it would cost forty cents, thereby doubling the expense of supplying the Army. I know that evils have occurred under the contract system, that of failing to furnish the necessary supplies in some instances, and, in some instances, furnishing bad provisions; but this might be remedied by a small amendment, by giving the contractors rank, and subjecting them to martial law. The gentleman from Ohio (Mr. HARRISON) tells you that all commanders disapprove the contract system, and the gentleman from Virginia, in support of this measure, has slipped out the reason. He tells you they are not subject to martial law. Yes, sir, this is the true reason. Holding a high military command, is calculated to make a man feel despotic. They cannot bear men around them who are not subject, in everything, to their will, and liable to martial law. Then give them rank, and make them liable to martial law. This will satisfy this despotic feeling, and remedy the evils complained of, which would certainly be better than to make a radical change, by adopting a measure that will, in all probability, cost the Government double as much money as the one in operation. The gentleman from Ohio brings in the little Seminole war, to aid in shoving this bill through the House, and predicts evils in that quarter, if the mode of supplying the Army is not changed. Mr. Speaker, if the gentleman had examined the provisions I propose to strike out, he would see that the contemplated system is not to go into operation till June, 1818; and does the gentleman calculate on that little Indian war continuing till that time? I have confidence enough in the General who has charge of that war, to believe that it will be crushed in half the time. But, agreeably to the gentleman's own showing, this bill is unnecessary; he tells you that the Northwestern Army was furnished a great part of the time of the last war by a commissary. Then, sir, a commanding general has the power, in cases of necessity, to appoint a commissary, or any person, to furnish supplies. Much depends on the mind, capacity, and vigilance of the commander; he directs the contractor to furnish a certain number of rations, at a given point, against a particular day; he will inquire into the contractor's means of complying, and if he finds they are not certain, he has the power of directing any other person to do it. If the power is given to the commanding general to do this in time of war, there is certainly no necessity for changing the system; for every man must see that, by changing the system, as contemplated in the sections proposed to be struck

out, you will double the expense in time of peace. I beg gentlemen to pause, and not hastily adopt a measure that must be extremely expensive to the Government, and particularly when there is no necessity for adopting it at this time, as a session of Congress will intervene before the measure, if adopted, is to go into operation. We ought not entirely to lose sight of economy, as it is one of the principal pillars on which this Republican fabric stands.

On motion of Mr. FORSYTH the sixth section of the bill was amended so as to make the change in the mode of subsisting the Army to take place as soon as the state of the existing contracts shall in the opinion of the President permit, instead of the first of June, 1819, as the bill contemplated.

After some attempts further to amend the bill, it was ordered to be read a third time as amended.

## PUBLIC BUILDINGS.

An engrossed bill, entitled "An act making appropriations for the public buildings, and for furnishing the Capitol and President's House," was read the third time; and the question being stated, Shall it pass?

Mr. HERRICK moved, that the said bill be re-committed to the committee who reported it, with instructions to amend the same by striking out this item, to wit:

"For procuring materials, laying the foundation, and other preparations for the centre building of the Capitol, one hundred thousand dollars."

And the question being taken thereon, it was determined in the negative—yeas 53, nays 85, as follows:

YEAS—Messrs. Austin, Barbour of Virginia, Bennett, Boden, Boss, Campbell, Claiborne, Desha, Earle, Edwards, Ellicott, Garnett, Hall of North Carolina, Harrison, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hogg, Holmes of Connecticut, Johnson of Virginia, Johnson of Kentucky, Linn, Livermore, W. Maclay, W. P. Maclay, McCoy, Marchand, Mason of Rhode Island, Moore, Murray, H. Nelson, Ogle, Patterson, Pawling, Porter, Rhea, Savage, Scudder, Bal. Smith, Spencer, Tarr, Townsend, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Whiteside, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Baldwin, Bassett, Bayley, Bloomfield, Butler, Claggett, Cobb, Colston, Crafts, Crawford, Cruger, Culbreth, Darlington, Drake, Ervin of South Carolina, Floyd, Folger, Forney, Forsyth, Gage, Hale, Hall of Delaware, Herbert, Herkimer, Holmes of Massachusetts, Hubbard, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Lowndes, Mason of Massachusetts, Mercer, Merrill, Miller, Morton, Mumford, Jeremiah Nelson, Ogden, Owen, Palmer, Parrott, Peter, Pindall, Pitkin, Pleasants, Poindexter, Reed, Rice, Rich, Ringgold, Robertson of Louisiana, Ruggles, Sampson, Sawyer, Schuyler, Settle, Seybert, Shaw, Sherwood, Silsbee, Simpkins, Slocumb, S. Smith, Alexander Smyth, Speed, Stewart of North Carolina, Strong, Stuart of Maryland, Tallmadge, Taylor, Terrill, Terry, Tompkins, Upham, Wendover, Westerlo, Whitman, Williams of Connecticut, and Wilkin.



H. OF R.

Navy Pension Fund.

APRIL, 1818.

The question was then taken on the passage of the bill, and determined in the affirmative.

The amendment reported yesterday by the Committee of the Whole to the bill to provide for erecting additional buildings for the accommodation of the several Executive Departments, was read and concurred in by the House, and the bill was ordered to be engrossed and read a third time to-morrow.

The Senate having disagreed to the amendments of this House, to the bill directing the manner of appointing Indian agents, &c., a committee was appointed on the part of the House to confer with the committee appointed by the Senate on the disagreeing votes; and the House adjourned.

WEDNESDAY, April 8.

A message from the Senate informed the House that the Senate have passed bills of this House of the following titles, to wit: An act for the relief of General Moses Porter; and An act to authorize the payment of certain certificates, with amendments.

They have also passed bills of the following titles, to wit: An act for the relief of Aquilla Giles; An act authorizing the disposal of certain lots of public ground in the city of New Orleans, and town of Mobile; An act to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States; and An act confirming Anthony Cavalier and Peter Petit in their claim to a tract of land; in which amendments and last mentioned bills they ask the concurrence of this House.

The House, on motion of Mr. BARBOUR, reversed the report of the Committee of Pensions, made on the 9th February, unfavorable to the petition of Mary Sullivan; and the report, as amended, was recommitted to the Committee of Pensions with instructions to bring in a bill in conformity thereto.

The SPEAKER laid before the House a letter addressed to him by William Blagrove, a clerk in the Navy Office, complaining of the suppression of a statement which he had made to the committee of investigation, detailing certain oppressive conduct of Benjamin Homans, chief clerk of the Navy Department, towards some of the clerks of that Department, which statement was reported to the House among the other documents and sent to the printer, among the others, but which does not appear in the printed report; which letter was read, and ordered to lie on the table.

The SPEAKER laid before the House a report of the Secretary of State, made in obedience to a resolution of the 19th ultimo, respecting the distribution of the journals and documents published under a joint resolution of December 27, 1813.

Mr. HERBERT, from the Committee on the District of Columbia, reported a bill to authorize the sale of a part of the Glebe of Rock Creek Church, in the District of Columbia; which was twice read, and committed.

Mr. SMITH, of Maryland, from the committee to whom was referred a resolution of the General Assembly of the State of Maryland, reported a joint resolution directing the completion of the survey of the waters of Chesapeake Bay, and for the establishment of naval arsenals; which was twice read, and ordered for a third reading.

Mr. H. NELSON, from the Judiciary Committee, to whom was referred the bill from the Senate to increase the compensation of certain Judges of the United States, reported the same without amendment; when—

Mr. NELSON moved that the bill be indefinitely postponed.

Mr. TAYLOR moved that the bill be laid on the table; which motion was negatived; and,

The question being taken on Mr. NELSON's motion, it was decided in the affirmative, yeas 68, nays 40, and the bill accordingly postponed indefinitely.

The bill to regulate the staff of the Army, was read a third time, and passed, as amended by the House, and returned to the Senate for concurrence in the amendments.

The engrossed bill to provide for erecting additional buildings for the accommodation of the Executive Departments, and the engrossed bill for the relief of Thomas Miller and Stephen Baker, were severally read a third time, and passed.

The bill from the Senate to make valid certain acts of the Justices of the Peace in the District of Columbia, was taken up, and, being amended, was ordered to be read a third time.

#### NAVY PENSION FUND.

Mr. TALLMADGE submitted the following resolution:

*Resolved*, That the Secretary of the Navy cause to be laid before this House, a report of the state and condition of the Navy Pension Fund—the sources from whence it arises—its amount, and the manner in which it is collected—specifying the sums received yearly from each State, from and after the 20th of June, 1812—and, also, all the information in his possession beneficial to the said fund; and, in particular, that he state the sums received from the district courts of each State, the particular cases from which they arise, and the state of the returns made from each court—the names of the persons, if any, in default in the performance of their duties in regard to the said fund, or in making legal returns thereof; and any proceedings had thereon to enforce performance, and the nature and time of such proceedings.

Mr. TALLMADGE said, in offering this resolution to the consideration of the House, it was a duty for him to state, that the present law required the Secretary of the Navy to report annually to this House the state of the Navy pension fund. This had been done so far as a report stating the amount of the fund, and the manner of its investment in stock, and the names of the pensioners, which was giving little or no information. Mr. T. said he had this session made an ineffectual endeavor to obtain a pension for the widow and infant child of Captain Law-

APRIL, 1818.

Niagara Claims.

H. OF R.

rence. He could not, because of the state of the Navy fund; he had searched into that fund; he was happy to say the clerk (Mr. Homans) had given him every aid. The state of his health had prevented him from completing the search, and communicating to this House the result at an earlier day. He was now compelled to say the fund was in a bad situation, and it appeared to be most shamefully neglected, if not abused. Mr. T. said the fund arose principally from the one half-part of prize causes; that the money from prizes came into the several district courts; that the officers of the courts had kept the captors quiet by paying over to them their one-half; while the charitable fund belonging to the Navy pensioners had, as appeared by the absence of all accounts, been a fund not paid over, if not squandered, and he feared frequent frauds had been practised. He said, he was informed at the office that the clerks of the district courts of the different States had neglected to make the returns, as required by law. They had paid over money in some instances, as if to quiet public inquiry. That, to remedy these defalcations, a law was passed in April, 1816, requiring returns from the clerks, and making it the duty of the Judges to do what they were before bound to do to attend to the conduct of clerks appointed by themselves; and the law also enjoined the district attorneys to prosecute in case of default of the clerks to make returns and payments. Mr. T. said he was informed there had not been a single return in conformity to the law, and but very few of the courts had made any payments. The books of the Navy Department, in this respect, were all in disorder and confusion, and gave me no satisfactory information of the state of the pension fund; and must always be and continue in that situation, until proper returns and accounts were enforced. Mr. T. then went into an examination of several cases where there appeared good reason to believe there had been great defaults, if not great frauds. Among the cases mentioned, the *Susannah* was one; it appeared this vessel was a prize to the Constitution; that the captors had received, in 1815, about thirty thousand dollars for their one-half; that no information was given to the Navy fund of the prize; and, after a long time, the clerk of the Navy fund heard of the prize, and claimed the proceeds, and after various delays he had obtained about twenty-two thousand dollars. The balance was detained under the name of a neutral claim; thus (if a genuine claim) taking it wholly from the pension fund. Mr. T. said it was time this House gave their attention to this subject. If the judges of the courts, who appoint their clerks, had been inattentive to the performance of their duties, they required the attention of this House; if the district attorneys had been inattentive to these defaults, and had not prosecuted as required by law, they required the censure of the Executive; if the Commissioners of the Pension Fund had been inattentive, and had allowed this fund to be the subject of abuse, and the books to stand open and in confusion, from the

want of proper returns, without apprizing the Executive of these abuses, with a view to their correction, then most certainly they were in fault. Mr. T. said that the evils certainly required a remedy; there was wrong somewhere; the records of the Navy fund confirmed the dissatisfaction; and he hoped the House would be willing to attend to the subject, and pass the resolution now submitted.

The resolution was agreed to.

#### NIAGARA CLAIMS.

The House then resolved itself into a Committee of the Whole, on the bill for the relief of the sufferers on the Niagara frontier. Mr. SLOCUM's motion to strike out the first section of the bill being under consideration—

Mr. SPENCER made a motion, which he presumed would supersede the motion to strike out the first section, to wit: to strike out all the bill after the enacting clause, and insert the following:

"That the claims arising under the ninth section of the act, entitled 'An act to authorize the payment for property lost, captured, or destroyed, while in the military service of the United States, and for other purposes,' passed April 9, 1816, shall be adjusted and settled by the Third Auditor, under the directions of the Secretary of War, upon the principles contained in said act, and the amount thereof, when so settled, shall be paid out of any money in the Treasury, not otherwise appropriated; and that all evidence taken under any commissions issued by Richard B. Lee, Esq., in support of such claims, be transmitted to the said Third Auditor, for his information.

"Sec. 2. And be it further enacted, That the said act 'to authorize the payment for property lost, captured, or destroyed, while in the military service of the United States, and for other purposes,' except so much thereof as authorizes the appointment of a Commissioner, be, and the same is hereby continued in force for one year from and after the passing of this act; and that all claims arising under the said act, other than those hereinbefore provided for, whether the same have or have not been reported to Congress, shall be adjusted and settled by the said Third Auditor, under the direction of the Secretary of War; and the amount thereof, when so ascertained, shall be paid out of any money in the Treasury not otherwise appropriated."

The CHAIRMAN decided this motion out of order; and the question recurred on striking out the first section.

Mr. RICH opposed the motion, not that he believed the claims came fairly under the act of April, 1816; but, if they did, he was for indemnifying them.

Mr. WILLIAMS, of North Carolina, spoke at much length in opposition to the bill, and to the propriety of paying the Niagara claims.

Mr. COMSTOCK supported, at some length, the justice of these claims, and the propriety of paying them.

Mr. JOHNSON, of Kentucky, followed very earnestly on the same side.

Mr. CLAY also advocated warmly the justice of these claims, the obligation of the Govern-



ment to indemnify the sufferers, and the policy of so doing.

Mr. HARRISON spoke on some incidental points, and in favor of the claimants.

Mr. ROBERTSON, of Louisiana, replied to some of Mr. WILLIAMS's remarks, and in support of the propriety of indemnifying the sufferings of exposed citizens on the frontiers; and incidentally on the delay which had taken place in deciding on similar claims from Louisiana.

Mr. FORSYTH opposed the bill, and spoke at some length against the expediency of paying the claims when

The question was taken on striking out the first section, and decided in the negative—ayes 57 noes 66.

Mr. GORDEN made an unsuccessful motion to refer the adjudication of all these claims to the Third Auditor of the Treasury.

Mr. REED, of Maryland, moved to add the following as a new section to the bill.

"And be it further enacted, That the Secretary of War, upon application of any person or persons, or the legal representative or representatives of any person or persons, residing or who did reside upon the Chesapeake bay, or the waters emptying therein, having property burned, destroyed, or carried away, by the enemy during the late war, shall appoint two proper and discreet persons, resident of the neighborhood where such property was burned, destroyed, or carried away, who, after having duly sworn before some person having competent authority to administer an oath, shall value and assess the damage sustained by such person or persons, by reason of any burning, destroying, or carrying away, of any property, as aforesaid, which valuation and assessment, made as aforesaid, shall be certified and returned, under hand and seal, by the persons making the same, with the certificate of the persons before whom the oath was administered thereunto annexed, to the Secretary of the Treasury, who is hereby directed and required to report all and every such case to Congress within ten days after the commencement of the next session, stating distinctly the cases and the amount of each: *Provided*, That any valuation which hath heretofore been made and certified by two or more discreet persons, acting under the obligations of an oath, shall, when returned to the Secretary of War conformably to the provisions of this act, be held as valid as if the same had been made under the provisions herein contained, anything in the law to the contrary notwithstanding."

On motion of Mr. COLSTON, the amendment was modified, with the consent of Mr. REED, by striking out its limitation to the citizens on the waters of the Chesapeake, and to make it applicable to all citizens of the United States, or the Territories thereof, residing therein."

Mr. CLAY, though willing to indemnify the sufferers on the Chesapeake as well as the others, if brought forward separately, opposed this section, inasmuch as it would endanger the claims which have now been investigated, and were ready for decision, and which he was anxious to see allowed, &c.

Mr. FORSYTH moved to strike out that part of the amendment which refers the cases to the Secretary of the Treasury, down to the proviso, and insert the following:

"To the Secretary of War, and the same, if approved, shall be paid for when so returned by the Secretary of War, at the rate fixed by the preceding section of this act, fifty per cent. for houses destroyed, and thirty per cent. for personal property burnt, destroyed, or carried away, out of any money in the Treasury not otherwise appropriated."

This motion was agreed to—ayes 54 noes 53.

Mr. MERCER spoke at some length in favor of relieving and indemnifying all sufferers alike, and against the propriety of extending remuneration to the Niagara sufferers, to the exclusion of those who had, on the waters of Virginia and elsewhere, suffered all the evils and horrors of war in the late contest.

Mr. CLAY replied to some of Mr. MERCER's arguments, and again advocated the indemnification of the Niagara sufferers, whose claims had been audited and investigated by Commissioners appointed for that purpose, and against now attaching any other cases, however just they might hereafter prove to be, and to which he was friendly; as such a course would, instead of relieving others, only defeat the present bill, which course was unfair, &c.

After a great deal of desultory discussion, the question was taken on Mr. REED's amendment, and agreed to—ayes 65, noes 55.

The Committee rose, and reported the bill to the House as amended; and the House adjourned.

#### THURSDAY, April 9.

Mr. SEYBERT, from the Committee of Commerce and Manufactures, reported a bill for erecting a light-house upon Galloo island, near the outlet of Lake Ontario; for placing sundry spin-dles or buoys, and for other purposes; which was read twice, and committed to a Committee of the Whole.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill for the relief of Mary Sullivan; which was read twice, and committed to the Committee of the Whole to which is committed the bill for the relief of Benjamin Berry.

Bills from the Senate of the following titles, to wit: An act to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States;" An act confirming Anthony Cavalier and Peter Petit in their claim to a tract of land; An act for the relief of Aquilla Giles; and An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile, were severally read, and the first thereof ordered to be read a third time to-morrow; the second referred to the Committee on Private Land Claims; the third committed to a Committee of the Whole to-morrow, and the fourth referred to the Committee on the Public Lands.

The amendment proposed by the Senate to the bill, entitled "An act for the relief of General Moses Porter," was read, and concurred in by the House.

The House took up and proceeded to consider the bill to increase the pay of the militia, while in actual service, and for other purposes; and the same being amended, was ordered to be engrossed and read a third time to-morrow.

The amendment proposed by the Senate to the bill, entitled "An act to authorize the payment of certain certificates," was read, and concurred in by the House.

The bill from the Senate, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia," was read the third time, and passed as amended.

An engrossed resolution, directing the completion of the survey of the waters of the Chesapeake Bay; for establishing naval arsenals, and for other purposes; was read the third time, and passed.

The bill for the relief of Samuel Thompson and John Daily, passed through a Committee of the Whole, and, on the question of ordering it to a third reading, it was negatived, and the bill rejected.

The House went into a Committee of the Whole on the bill for the relief of Benjamin Berry; and on the bill for the relief of Mary Sullivan. They were reported to the House, and ordered to be engrossed and read a third time to-morrow.

The House went into a Committee of the Whole, on the bill to authorize payment in certain cases on account of Treasury notes which have been lost or destroyed. The bill was reported without amendment, and ordered to be engrossed and read a third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to incorporate the Columbian Institute. The bill was reported without amendment, and ordered to be engrossed and read a third time to-morrow.

The House went into a Committee of the Whole on the bill from the Senate, entitled "An act to incorporate the Mechanic Relief Society of Alexandria." The bill was reported without amendment, and ordered to be read a third time to-morrow.

The House went into a Committee of the Whole on the bill from the Senate, entitled "An act in addition to the act, entitled 'An act for the relief of John Thompson;'" also, on the bill for the relief of Henry King; and on the bill for the relief of the widow and children of Jacob Graeff, deceased. The bills were reported without amendment.

Ordered, That the bill from the Senate, in addition to the act for the relief of John Thompson, be read a third time to-morrow; that the bill for the relief of Henry King lie on the table; and that the bill for the relief of the widow and children of Jacob Graeff, deceased, be engrossed and read a third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of Josiah Bullock, and on the bill for the relief of James Mackey. The Committee reported the first mentioned bill with an amendment, and asked leave

15th CON. 1st SESS.—54

to sit again on the last mentioned bill, which was refused, and the bill was ordered to lie on the table.

The House went into a Committee of the Whole on the bill for the relief of Jonathan Amory, junior, and the representatives of Thomas C. Amory, deceased. The bill was reported without amendment, and ordered to be engrossed and read a third time to-morrow.

The amendment to the bill for the relief of Josiah Bullock was concurred in, and it was ordered to be engrossed and read a third time to-morrow.

#### SURVIVING OFFICERS, &c., OF THE REVOLUTION.

Mr. HOLMES, of Massachusetts, submitted the following resolution:

*Resolved*, That the committee on so much of the President's Message as relates to military affairs, be instructed to inquire into the expediency of providing by law for rewarding such meritorious officers and soldiers of the Revolution (as well of the militia as the regular army) as may not be embraced within the provisions of the act passed at this session of Congress, to provide for certain surviving officers and soldiers of the Revolutionary Army.

Mr. HOLMES said, when the act for the relief of the unfortunate heroes of the Revolution passed, it was apprehended by its friends that many meritorious men, both of the army and militia, would be excluded from its provisions. The bill went from this House to the Senate in rather a crude state; and it was so severely opposed and criticised there, that, when it returned here with its amendments, its friends feared to propose any alterations, lest, on a disagreement between the two Houses, the bill should be lost. It was however expected, that from applications under the act, cases would be developed which would require a supplementary act. Cases, he was told, had occurred, and others would probably occur, which would prove the necessity of providing for others who have claims on the justice of their country for Revolutionary services. Many he said were illy paid; and many, though not reduced in their circumstances, have strong claims on the justice and gratitude of their country. He had, therefore, prepared the resolution which he had offered, and proposed to have it committed to the Committee on Military Affairs. He was not sanguine that anything could be matured this session, but he wished to call the attention of the Committee to the subject, that some progress might be made in it, and that, at the next session, the provision required by the resolution might be made. At that time he promised to show to the House, that many not included in the late act are entitled to their country's consideration.

The question was then taken on agreeing to the resolution, and decided in the negative.

#### NIAGARA CLAIMS.

The House then took up the report of the Committee of the Whole on the bill to provide for the relief of the sufferers on the Niagara fron-



H. or R.

Case of Richard W. Meade.

APRIL, 1818.

tier, by the ravages of the enemy in the late war, the question being on concurring in the amendment adopted by the Committee on the motion of Mr. REED.

After a good deal of debate, in which Mr. RICH, opposed concurring in the amendment; and Messrs. SMITH, of Maryland, and REED supported it; and after some additional remarks by Mr. SPENCER, in support of the Niagara claims, the amendment was concurred in without a division.

The bill was further amended, on motion of Mr. RICH, by excluding from the provisions thereof all articles of trade or merchandise.

The question was then taken on ordering the bill to be engrossed for a third reading, and decided in the negative—yeas 51, nays 91, as follows:

YEA—Messrs. Baldwin, Ball, Bateman, Bloomfield, Comstock, Cruger, Culbreth, Drake, Ellicott, Garnet, Harrison, Hasbrouck, Herbert, Herkimer, Herrick, Holmes of Massachusetts, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Lawyer, Little, Merrill, H. Nelson, T. M. Nelson, New, Ogden, Palmer, Peter, Pleasants, Porter, Reed, Ringgold, Robertson of Louisiana, Sampson, Savage, Schuyler, Scudder, Shaw, S. Smith, Spencer, Strother, Stuart of Maryland, Tallmadge, Taylor, Tompkins, Townsend, Trimble, Tyler, Westerlo, and Wilkin.

NAY—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Barbour of Virginia, Barber of Ohio, Bassett, Bennett, Boden, Butler, Campbell, Cagett, Cobb, Colston, Cook, Crafts, Crawford, Darlington, Earle, Edwards, Ervin of South Carolina, Folger, Forney, Forsyth, Gage, Hale, Hall of Delaware, Hall of North Carolina, Hendricks, Hogg, Holmes of Connecticut, Hopkinson, Huntington, Johnson of Virginia, Kirtland, Linn, Livermore, Lowndes, W. Maclay, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mason of Rhode Island, Mercer Miller, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, Ogle, Owen, Parrott, Patterson, Pawling, Pindall, Pitkin, Rhea, Rice, Rich, Richards, Rogers, Ruggles, Sawyer, Sergeant, Settle, Seybert, Sherwood, Simkins, Slocumb, Ballard Smith, J. S. Smith, Speed, Stewart of North Carolina, Strong, Tarr, Terrill, Terry, Tucker of South Carolina, Upham, Walker of North Carolina, Wallace, Wendover, White, White, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

So the bill was rejected.

#### CASE OF R. W. MEADE.

The House, on motion of Mr. TRIMBLE, took up the report of the select committee on the resolution of the 12th February, and the memorial of sundry citizens of Philadelphia, respecting the imprisonment of Richard W. Meade, by the Spanish Government. The report concludes with recommending to the House the adoption of the following resolution:

*Resolved*, That the House is satisfied that the imprisonment of Richard W. Meade is an act of cruel and unjustifiable oppression; that it is the right and duty of the Government of the United States to afford to Mr. Meade its aid and protection; and that this

House will support and maintain such measures as the President may hereafter adopt, to obtain the release of the said R. W. Meade from confinement, should such measures be proper and necessary.

The resolution having been read, Mr. TRIMBLE proposed the following substitute therefor, by way of amendment:

*Resolved*, That the demand made by the President of the United States upon the King of Spain for the liberation of Richard W. Meade, a citizen of the United States, detained in confinement at the Castle of Santa Catalina, at Cadiz, ought to be supported and enforced, by vesting in the President an authority to make reprisal upon a Spanish Consul, in the event of a failure on the part of Spain promptly to discharge the said Meade.

Mr. TRIMBLE rose, in support of his motion, and addressed the House as follows:

If I may find favor in the sight of the House, I would ask a short indulgence at their hands. I know how much they are exhausted in the consideration of various complicated questions, touching our internal prosperity and exterior relations; and I am more than sensible of my utter inability to repay their attention with a fair equivalent.

The resolution reported by the committee is, in my opinion, unequal to the emergency of the case—I would prefer a stronger measure. Had the vindication of this amendment fallen to the lot of some members whom I could designate, they would tell us a round, unvarnished tale, that would nail us to our places—a tale that would “rouse the slumbering dead to hear.” They would show you a captive through the gratings of his prison window; that captive a citizen and brother, your agent and vice consul, languishing in a foreign dungeon, unpitied and forgotten; secluded from the cheerful light of day; bereft of all the endearments of social life—the solace of children, wife, and friends, and peaceful home—pining and wasting away in misery and despair, with but one solitary ray of hope, “that gleams from the star-spangled banner which waves over the land of the free and the home of the brave.” But I have no thoughts that scald, or words that burn, or plaintive tones of supplication, that would wring reluctant succor and compassion from Congress and the nation. Mine are humble powers, that have no eloquence of speech, save what the subject lends to grace its memory. Let no man judge me of meaning more than I explain. In the full spirit of candor, I declare, before the highest of all tribunals—the Judge of quick and dead—that, if I know myself, there is no temptation which would induce me to do a deed that would bring dishonor on my country; and I swear by all that is sacred in me, that in my opinion we are bound in duty, in justice, and in honor, to give this citizen immediate succor, even at the hazard of our lives. Suppose a change of cases, and I and you, and all of us would ask it and expect it. Let us remember the golden rule of him who spake as never man spake—let us do to others as we would have them do to us; for on this hangs the duty of the nation. If the measure which I offer and advocate is dangerous or

APRIL, 1818.

Case of Richard W. Meade.

H. or R.

premature, there is a redeeming spirit in the superior wisdom and better judgment of the House, which will shield us from its consequences; and I am sure there is a fund of charity within these walls, that will forgive the well-meant, but mistaken zeal, which may lead me beyond the boundary of cold caution.

Permit me to waste a few moments in glancing over the facts, as reported. I intend to rely entirely on the evidence of the Spanish documents, and for that reason shall omit many considerations which give a favorable color to the case; as, for instance, Mr. Meade's loan of forty thousand dollars in cash to the Regency, to assist them in suppressing a mutiny of the troops at Cadiz; the enormous sum of more than half a million which they owe him for property sold the Government; and the fact of his being put under military guard until his warehouses were pillaged, by order of the Regency, because he refused to sell any more property, flour, tobacco, &c., until he could get pay for what they already owed him. Let these, and many others like them, pass for nothing. The naked case is this: Mr. Meade held in his hands about fifty-two thousand dollars, as trustee under the bankrupt laws of Spain, subject to the direction and control of the Consulado at Cadiz. One Glass claimed this money for himself; and one Hunter, by his agent, (McDermot,) also claimed it. The Consulado ordered the money to be paid to McDermot, on condition that he would give security. This he failed to do, and the Consulado suddenly made an order, directing Mr. Meade to deposit the sum in the King's treasury. He made the deposit, in “effective specie,” which the same treasury owed him, viz: in *libramientos*—that is, treasury notes or cash scrip. These treasury notes may have been at a discount in the market, but that could make no difference; for it would have been more than dishonest in the treasury to refuse its own paper, because it was at a discount. Between Meade and the treasury there was no ground of complaint, and could be none; for, if he had paid the deposit in specie, the treasurer must have instantly repaid it to him, in discharge of the *libramientos*—that is, treasury notes—and the result would be exactly the same. And as Meade was then pressing the treasurer to pay his cash scrip, it is easy to see that the treasurer obtained a respite from further importunity, until Glass or Hunter should call for the money, at the end of their law-suit.

Some time after this, McDermot brought suit against Mr. Meade for the same sum, before the same court. He pleaded their order and the deposit in the King's treasury, and vouched the treasury to respond the money; but the court gave judgment that he should pay again. He appealed at the Alzadas, and the cause was withdrawn from that court by the Council of War, at the instance of McDermot; and it is still pending before the Council of War. Mr. Meade petitioned the King against the oppressive conduct of that court, and the King ordered five new judges to be associated with the old ones, and directed that no

proceedings should be had in the cause, in the absence of the new judges. McDermot suggested to the Council of War, that Meade was about to leave Spain, and the old judges, in the absence of the new ones, and contrary to the King's order, authorized the Consulado at Cadiz to hold Meade to security for the money; and the Consulado resolved, that the only security they would take, should be another deposit of the money in their Treasury. This Meade refused to do, and he was sent to the castle, and put in the felons' prison. Other aggravating facts and circumstances may be found in the documents sent by the President in his Message on this subject.

Our Minister near the Court of Madrid complained of these outrageous proceedings, as a violation of the 7th and 20th articles of the treaty of 1795, and also a violation of the laws and usages of Spain; and the King expressed his entire disapprobation of the conduct of the courts, and ordered that justice should be immediately done in the cause; but at the same time issued an order, directing the proceedings to be suspended as long as possible, suggesting as his reason for this, that in any event, his treasury must refund the deposit so soon as the cause should be decided; and that he had no money in his treasury to refund. This is said at the time when his Minister of Finance states in his exposé to the King, that the annual expense of the King's household amounts to seven millions of dollars. And this is what Don Onís calls “Immaculate Purity,” and I would say that it caps the climax of Spanish villany and treachery. I challenge all history to produce its parallel. Are we not bound to protect this citizen against such a flagrant outrage? I read in the books, that nations are in a state of nature, and have only two modes of compelling each other to do justice; war and reprisal. I say nothing of big words hung up in resolutions. They are the index of imbecility; the mask of cowardice. I abjure all hectoring, and gasconading, and gostering, between nations or individuals. In this case war would only increase the injury, by protracting the confinement. Reprisal is the only efficient remedy. The amendment before you proposes, that a law be passed, authorizing the President (in the event of a failure on the part of Spain, to liberate this citizen) to make reprisal by seizing a Spanish subject, a consul or vice consul, and confine him as a hostage. This will support the President in his late demand, and put a weapon in his hand, to chastise the insolence which Spain may offer to this Government in the reply which she may make. So far as precedent goes, this amendment is supported by the law of 1799, which authorized and required the President, ADAMS, to make reprisals upon French citizens in the cases there mentioned. If examples are called for, they are to be found in the history of every nation. The world would never be at peace, if all causes of complaint were redressed by war. Humanity and sound policy approve the practice of reprisals, and require that it should sometimes be resorted to. Why should a nation change its peaceful habits, and gird on the armor of war, and



H. or R.

Case of Richard W. Meade.

APRIL, 1818.

waste millions to obtain redress for an injury, which can be redressed by the seizure and confinement of a single individual? Would you spill the blood and squander the treasure of your own people, where redress can be obtained by the pressure of coercion on the people of your adversary? Shall this outrage be placed upon the calendar of grievances, to be discussed upon thirteen years' forbearance? Promptitude is justice in a case like this. If it must terminate in a war of words, we have proof positive, that Mr. Adams can drive Don Onis from the field of battle; but, in my opinion, we have retreated far enough from Spain; and unless we make a stand upon reprisal, we shall take shelter behind the ramparts of disgrace.

Perhaps it would be well, he said, to pretermitt the reading of authorities; but here is something so exactly to the purpose, that he would ask the House to hear it: Vattel, page 283, section 341: "Where a sovereign is not satisfied with the manner in which his subjects are treated by the laws and customs of another nation, he is at liberty to declare that he will treat the subjects of that nation in the same manner as his are treated. This is what is called retortion. There is nothing in this but what is conformable to justice and sound policy. No one can complain on receiving the same treatment which he gives to other." Again, same book, page 285, sec. 351: "As we may seize the things which belong to a nation, in order to compel her to do justice, we may equally, for the same reason, arrest some of her citizens, and not release them till we have full satisfaction." And again, same book, p. 262, sec. 71: "Whoever uses a citizen ill, directly offends the State, which is bound to protect this citizen; and the sovereign of the latter should avenge his wrongs, punish the aggressor, and, if possible, oblige him to make full reparation, since otherwise the citizen would not attain the great end of the civil association, which is safety." He would refer gentlemen to page 5, sec. 17, and page 288, sec. 354, same book. These passages, he said, would show that the amendment before the House came clearly within the scope and sanction of the law of nations. But, for his part, although he gave full credence to able writers on such subjects, yet he relied much more on common sense and practical experience. The great volume of nature was the work from which he drew his lessons of instruction; these books he considered as only commentaries on the text. We must look behind the chronicles of nations for the principles which gave birth to their existence, or the necessities which suggested their variety of laws and usages.

Formerly the States could protect their citizens by reprisal. In the formation of the Constitution they surrendered the right to the General Government. Are you not bound in duty to use all the powers thus solemnly granted to you and inhibited to them? Can the duty of this nation to protect its citizens be made a question? Can you alienate a part of your territory? Can you denationalize a citizen? Can the nation

abandon a citizen without his consent? The primary object of the social compact is personal safety and protection. In the formation of that compact, each individual surrenders his natural right of self protection, on condition that he shall be protected by the whole strength of the community. Allegiance and protection are coeval and coextensive. If you claim, or have a right to claim, the one, the citizen has a right to claim the other; they are one and indivisible. What are the obligations of this Government to its citizens? Upon what basis is it founded? Was it erected upon a system of time-serving policy, or did the wise framers of the Constitution dig deep, and lay its foundation sure—upon immutable principles of justice and of rights? Let us analyze the Constitution; let it speak for itself: listen. "We, the people of the United States, surrender to you, the General Government, certain rights, and grant you certain powers. And what do you give us in return for these? A guarantee, a solemn compact on your part that you will insure to us equal rights, equal justice, and equal protection; promote our general welfare, and secure the blessings of liberty to ourselves and our posterity." Yes, sir, equal rights, to be secured by wise and wholesome laws; equal justice, to be administered by honest, upright judges; and equal protection to every citizen throughout the world: not, if you please, on courtesy or favor, but on compulsion, on solemn compact; not when you please, at your convenience, but promptly when demanded, and to be enforced, when necessary, by the whole power of the community. Will any man deny these principles? Who dare deny them? I arraign the counter-pleader at your bar, (the table;) put him upon his oath, and leave him to his country, his conscience, and his God. Such a statesman would be banished from this House by the ostracism of public opinion, and his return perpetually interdicted by the non-intercourse of general detestation.

What is the general welfare of the nation but a sum total of benefits, composed of items, solemnly promised to each citizen to be sacredly performed? What are the blessings of liberty? Are they empty sounds and tinkling cymbals, or are they nouns substantive, that can be felt, and handled, and enjoyed?

There is one blessing of liberty which stands pre-eminent above the rest—it is personal protection! Has this citizen enjoyed that blessing, or has he been visited by the bitterest curses that unrelenting vengeance could inflict upon an offending victim? These venal and corrupt ministers, these panders for royalty, have caused him to be torn, lawlessly, from his family and friends, and thrown into the dungeon assigned for malefactors. Baseness, fraud, and perfidy, formed an unholy league with avarice, ingratitude, and malice, to wring from him his property and smother his complaints; and the laws of Spain, subsisting treaties, and the sacred usages of nations, were but ropes of sand in the hands of these myrmidons of power. They have made him drink of

APRIL, 1818.

Case of Richard W. Meade.

H. or R.

the cup of bitterness even to the dregs; and it is left for you to return the poisoned chalice to the lips of his oppressors. The present generation will not forget this flagrant outrage on our Consul, and history may record the infamy of the Spanish Ministers; and that infamy I would save Pizarro; he alone seems to have urged his master to redress the injury as speedily as possible. I hope I do not mistake his good intentions; but, sir, I could not swear for him; I should be loth to stand compurgator for good faith, honesty, and fair dealing in any Spanish Minister. Who would have expected such injustice and outrage at the hand of Ferdinand VII? In the late struggles and convulsions which agitated the Spanish monarchy, and indeed all Europe, it was not expected that our neutral rights would pass unassailed, and we have not been wanting in patient forbearance, while imperious necessity could be urged as an apology for violations of public faith; but, when the world was permitted to take rest, and repose itself in peace, under the auspices of the high contracting Powers; when the Holy Alliance had guaranteed the rights of nations, all mankind had expected full and ample justice at the hand of the legitimate sovereigns. As Ferdinand of Spain had, in the general conflict, suffered most from the lawless hand of power; as he had been decoyed from his home, treacherously torn from his country by a foreign despot, and made to suffer a long and painful imprisonment, it was expected, on his restoration, that he would hasten to lay open his own dungeons, set free his prisoners, and give examples of justice and good faith to surrounding nations. As he knew, from experience, the value of personal liberty to himself, (and who should know better than he?) the world had done him the honor to hope and believe that he would hold sacred and inviolate the personal liberty of others. How delusive the hope, how vain the expectation! Poverty made him avaricious, oppression taught him cruelty, and experience, that able teacher, that whip of scorpions, learned him no lessons of wisdom, of moderation, or forbearance. His Ministers have brought this case to a crisis. Our national honor is involved; you must demand reparation in firm language, and enforce it with strong measures, or your boasted birth-right will be sold in European markets for a mess of pottage. There is some virtue in retortion and reprisal. What can words avail us? Is it not disgraceful to crave imparlance in a case like this? Will you sacrifice the honor of your country, violate your duty, and abandon this citizen to his fate; or will you stand up, all as one man, to enforce his liberation, and compel justice to be done him? It is in vain to temporize with the treachery of Spain; let us make assurance doubly sure; let us have redress—peaceably if we can, forcibly if we must.

When I had the honor of presenting the resolution for reprisals, some objection arose because it did not define the nature and extent of reprisals meditated. In this amendment I have attempted to obviate the objection. But it is due, in candor to the House and nation, that I should so explain

myself that no one can mistake me. In the event of a failure on the part of Spain to surrender Mr. Meade, upon the late demand, I would seize a Spanish subject and Consul, of equal property and respectability, as a hostage; confine him at Castle William, in the harbor of Boston, and treat him, in all respects, as it shall be made to appear that our citizen is treated at the Castle of Santa Catalina. That would be equal justice subject for citizen, Consul for Consul, castle for castle, and treatment for treatment. No, sir, I humbly crave the pardon of my country—that would not be equal justice—for as "one day, one hour, of virtuous liberty is worth a whole eternity of bondage," so, also, one honest, upright, independent freeman is worth a kingdom, an empire, of servile, crouching, sycophantic Spanish slaves.

I will not say that this amendment has been drawn up with all the skill and scholar-craft which might have been employed in its production; but I will boldly affirm that the redress which it indicates, is more than justified by the case, and fully supported by the laws and usages of nations. I know not what others may think on this subject, but, for myself, I have no hope of redress but from coercion—for that sovereign who forfeits his word of honor, and brings his reputation and his justice into question, will not easily unhand his victim, or forego his vengeance. I am, therefore, bold to say that I will use retortion. The States surrendered to the General Government the right of making reprisals; and, in their name, I ask you to exercise the power—I demand it in the name of the people. Gentlemen may shake their heads, if they mean to say that the demand is too broad—that I have no right to speak for them, and their States. Then, sir, I demand it in the name of the people whom I represent—in the name of the State from whence I come. I know them, and can speak for them—I know their love of liberty and hatred of oppression, and will answer for their readiness to support the honor of the country, and their promptitude in chastising all infractions of personal liberty.

Mr. Speaker: The shocking and cold blooded massacre of your gallant relation, Captain Hart, and others, after the battle of the river Raisin, is too certain to admit of doubt. But, let it be once officially known that they are still living, lingering out a hopeless existence, under savage restraint, and your State would demand reprisal and retaliation of Congress, in a tone respectful, I trust, but not equivocal; and if you should refuse, the people of that State would rise *en masse*, and the whole power of this Government would be utterly unable to suspend the blow of retaliation which would fall on the savage tribes. I should be ashamed—I would feel myself dishonored—were I capable of withholding that succor and protection from the citizens of the seaboard, which I would extend to the inhabitants of the West: and yet, the Indian prison is but a boundless wilderness, and the only fetters which he uses, is the hazard of starvation to the



prisoner who escapes. Hard and hopeless as this condition is, who would exchange it for the gloomy horrors of a Spanish dungeon, where each succeeding day brings an accumulating load of misery and wretchedness, and each long, lingering night is spent in breathless agony, listening to the "stealthy tread" of the hired assassin, coming to earn his bloody wages—a dungeon where unseen poison may lay the prisoner on his bed of straw; or the treacherous stiletto nail him to the midnight floor.

If it shall appear to the House, as it does to me, from the report of the committee, that this citizen has been incarcerated contrary to the laws of Spain, subsisting treaties, and the usages of nations—if he has been lawlessly torn from his wife and family, and thrown into the felons' prison—if that wife, that heart-broken woman, after seeking an asylum for herself and children, in her native land of liberty, has ventured to supplicate your succor and protection for her suffering husband—if the sovereign, who has visited him and his with this cup of bitterness, has acknowledged, under his own hand, by his public order, that there is no cause for the outrage—if, in point of fact, the same sovereign did, by his secret order, direct the proceedings to be delayed as long as possible, because his treasury was not prepared to respond the deposit—if, in fine, this case of unparalleled duplicity, and fraud, and treachery, and unwarranted oppression, is believed, and stands uncontradicted, where is the man of feeling that would hesitate to make reprisal? If there breathes a man so utterly devoid of sympathy, may woman's malediction light upon his head. And where shall the woman of feeling be found, who would sigh on the colorless lips of her husband, while his mouth is polluted with a chilling, cold-hearted No?

Sir, said he, Freedom and Protection are twin brothers, born in one day, and Freedom, the elder, and more terrible to tyrants; so long as he breathes, despots would rather grasp the forked lightning, than lay their unhallowed hands upon his younger brother; so soon as you fail to protect, we cease to be free; all that is left us, is but shadow, the substance lies buried in a Spanish dungeon. Abandon this citizen, and you set a precedent—I dread, a precedent which violates good faith. At first, such precedents may be only vices; but when, by force of custom and repetition, they become fixed habit, the disease is desperate and incurable. For although

"Vice is a monster of such horrid mien,  
As to be hated, needs but to be seen;  
Yet seen too oft, familiar with her face,  
We first endure, then pity, then embrace."

Sir, such foul, unnatural precedents will blast your rising fame, as the Bohun Upas blasts its heath of surrounding desolation. Examples so utterly hostile to the genius of our Government, foretell the decay of public virtue. They proclaim the tree of liberty doated at the heart. The strength of the Government lies in the confidence of the nation; but public opinion will hesitate and falter the moment we betray our

trust, by deserting a citizen in the hour of danger. No man can tell with what particle of air a pestilence begins; and no statesman can foresee what breach of faith will cut the cords of confidence, and palsy the affections of the people. I hope we shall do our duty promptly, as becomes the character of freemen, proud of our country's honor, and our rights; and then, let what may happen, we can sleep with quiet consciences.

Mr. HOPKINSON, of Pennsylvania, expressed his belief, that the report of the committee went as far as the duty of this House required it to go in such a matter. There was a limit beyond which it was improper to go, in an affair intrusted to the Executive; and Mr. H. hoped, that what had been done by the Executive would be found amply sufficient for all the purposes of this case. The first movement in this business had been made by this House; the President had, in consequence thereof, opened a correspondence with the Spanish Minister in a very decided and dignified manner; and the report of the committee is, that this House will support the Executive in any further measures to obtain the release of Mr. Meade, which shall be just and necessary. In doing more than this, at present, Mr. H. asked if the House might not proceed without distinctly seeing the result? But Mr. H. wished to see something of the practical effect of the proposition; with that, the gentleman had not favored the House. The resolution offered by the gentleman from Kentucky authorized the President to make reprisal for the imprisonment of Mr. Meade—to seize a Spanish subject, and confine him in prison until Meade shall be released. Now Mr. H. denied that this Congress could give the President any such despotic power. Every man in this country, whether foreigner or citizen, is under the protection of the laws. Who was the President to select for reprisal? Shall he, as is suggested, by some unknown process, seize a Consul, living under our laws, and lodge him in jail, uncharged with debt, or crime, or any violation whatever of the laws of the land? If despotic Governments do these things, we should avoid, not follow, the example. We, said Mr. H., must follow the course of the laws, and cannot depart from it. There was no process, he said, by which a man could be seized and imprisoned in this country, because a citizen was improperly imprisoned in a foreign country. There was nothing in the laws of nations, or our own laws, to justify it. The case quoted by Mr. TRIMBLE was an authority given to the President to make reprisals when we were actually in a state of war. Such acts might be proper in a time of war, but not in a time of peace like the present. Mr. H. admonished the House not to stretch this thing too far, in their anxiety to obtain justice for the citizen in question. He knew Mr. Meade and his family, and his feelings were as strongly excited to their sufferings as any gentleman's; and he wished to do everything to produce his liberation which was consistent with propriety. Did the gentleman mean to make this a subject for war? Yet there was no act beyond the one pro-

posed by him but war. What precedent, or law, Mr. H. asked, could the gentleman find for the reprisal he recommended, and what would prevent the judges from discharging any man, brought up by habeas corpus, from such an arrest? Mr. H. contended, that the report of the committee was sufficient for the present, and went far enough. Hereafter, after it was seen what effect the President's remonstrance should produce, stronger measures might be taken, if it should be found necessary—even war itself.

Mr. HARRISON, of Ohio, thought the gentleman from Pennsylvania might have found a precedent for the resolution offered by Mr. TRIMBLE. He had never read the law himself, but he had often heard of an act called the alien law, passed in the Administration of Mr. Adams, by which the President was authorized to seize the subject of any foreign Government, and send him out of the country. If the House could give such a power as this to the Executive, it surely could confer the power proposed in the resolution. The Constitution intended to guard the citizen against the encroachment of his own Government, and this House possessed the power to protect our citizens, and, in doing so, even to send the Minister of Spain or any other out of the country. As to the proposition itself, Mr. H. would merely say, that Congress owed it to the nation not to adjourn without doing something effectual to produce the liberation of Mr. Meade from his long and cruel imprisonment. He was not confined for any crime but that of being an American citizen—that, said Mr. H., which was the protection of a Roman citizen, is with an American a cause of injury; and Mr. H. declared he would go to any measure short of war, to release the citizen in question. The proposition of Mr. TRIMBLE he thought the safe and proper way of proceeding, and the only one that could answer the end in view.

Mr. TRIMBLE, in reply to Mr. HOPKINSON, said, he could not doubt the power of the Government to protect a citizen, even by making reprisals on the subjects of the Government holding our citizens in bondage. The representatives of foreign Governments were protected by our laws from violent outrage, but still they were responsible agents, and the law of this country could seize upon a Spanish Consul, or anybody else; the law was sovereign, and could do anything within our own limits but exceed the pale of the Constitution; then make a law for the case, and every foreigner as well as citizen must submit to it. The reverse of this, Mr. T. said, would be a monstrous doctrine—for it was impossible to believe that the Constitution would have left the Government without this power of protecting our citizens from foreign violence: and, though he had more than common confidence in the opinions of the gentleman from Pennsylvania, he must still contend that the proposed measure would be perfectly Constitutional. As to the law which had been referred to, Mr. T. said it was an act to authorize the Executive to make reprisals upon French subjects in a time of peace. The gentle-

man shakes his head, said Mr. T., but were we, he asked, more at war with France then than we are with Spain now? Has not Spain violently seized a national ship, the Firebrand, and committed many acts of hostility more than we received from France in 1799? Yet reprisals were authorized against French subjects, and he read the act to show that it was a measure fully as strong as the one he now proposed. As to the mode of executing the measure, Mr. T. said there would be no difficulty in doing a thing of this kind; it might be done by application to a court of justice, or by directing the Attorney General to proceed against the person selected, &c.

Mr. SERGEANT, of Pennsylvania, observed that, if there was no other objection to this resolution, it was inexpedient because not calculated to produce the effect proposed. As to the act of 1799, authorizing the Executive to retaliate on citizens of the French Republic, that act was preceded by a series of hostile acts which had brought us into a state of war with France, very different from the present state of our affairs with Spain. Our commercial intercourse was suspended with France, letters of marque were issued, and her vessels brought in for condemnation; and it had very lately been judicially decided by the Supreme Court, in a case before that tribunal, that this was an act of war against France. To justify the proposed measure by precedent, it was necessary to bring forward a case of reprisals being authorized in a state of profound peace. But this, Mr. S. said, was not the only objection. It was the worst measure that could be adopted, contemplating, as it must, one of two results. If you seek satisfaction by arresting a Spanish Consul, you must remain satisfied with that act of retaliation. What satisfaction would this be to Mr. Meade, or how would it bring about his liberation? But you have then taken your satisfaction, and if it does not operate in favor of Mr. Meade, does it in favor of your character? Would not that character, on the contrary, suffer injury from such a step? Certainly it would, Mr. S. said, and he protested against this doctrine of taking an equivalent by seizing an innocent man, throwing him in jail, and there keeping him until the Spanish Government should feel sufficient interest in him to liberate Meade. But, take the next view of the case. Suppose you don't mean to be satisfied with this step, if it should not produce the effect of restoring Meade to liberty; are you prepared to follow up the measure with war? Considered in either view, Mr. S. thought the measure injudicious. Besides, he said if we take this step, it puts us on bad ground; because, by taking satisfaction violently before we seek it peaceably, it places the country in an arrogant posture in the view of the world. There should be but one step taken in a course of this kind; do not take this first, and then the ulterior measure of war. No, if war was intended, go to it at once, and not begin by the paltry act of imprisoning a Spanish subject. There was a wide difference between an act of retaliation in time of peace and war. In the latter it was a measure in *terrorem*, to



prevent unjust acts on the part of the enemy. The Executive had demanded the liberation of Meade, and it was proper to wait the answer of Spain. The way for the Legislature to proceed in the mean time, was to announce to Spain, that if justice be not done to our citizen, we will then support the Executive in any proper measures he may take to enforce it; not go forward first and tell the Executive what that course must be. A further objection to this course was, Mr. S. said, that we should enable Spain to keep the \$52,000 in her Treasury which was withheld from Meade, just as long as she should prefer the money to the liberty of the subject whom we should imprison, and that, he believed, would be long enough; besides at the same time prolonging equally the confinement of Meade. Mr. S. concluded by expressing his respect for the honorable feelings which had actuated Mr. TRIMBLE in making this motion; but he was obliged to withhold his approbation from the proposition, as one which his judgment could not sanction.

Mr. SPENCER, of New York, would vote for this resolution, he said, because it does something, and against the other because it does nothing. He read the resolution reported by the committee, which declares that the imprisonment of Meade was an act of cruel and unjustifiable oppression. This, he said, was strong language; and what did the committee recommend to meet a case of this cruel and oppressive character? Why, simply, that they would support the Executive in any measures which he might deem proper to obtain redress. Mr. S. would act differently; he would not leave the affair to a war of words and threats and proclamations. The man had been imprisoned already two years, and was not this, Mr. S. asked, long enough? Is it not time to adopt some mode of enforcing his release? It was true, we had, in some cases, if injury, waited thirteen years, but should we be thus patient in every case, and let the present off with empty threats? He hoped not.

Mr. WILLIAMS, of North Carolina, said, he would vote against the amendment for exactly the same reasons as Mr. SPENCER had given for voting in its favor. The first resolution, Mr. W. thought, would go as far and do as much as was at present proper. It announces the determination of this House to support the President in any measures which he shall adopt to effect the object in view. What more could or ought the House to do? Shall we go to war? If gentlemen intend that, let them come forward, Mr. W. said, distinctly with the proposition. This House, he conceived, could not make a demand of the Spanish Government for the liberation of Meade; it would be going out of the line of their duty. It might simply declare its resolution to support the Executive measures, or it might authorize letters of marque and reprisal against Spanish subjects on the ocean; but it could not properly do the act proposed by the motion of Mr. TRIMBLE. Let us, he said, first see the effect of the Executive measures; if they fail, then it will be time enough to adopt the ulterior step.

Mr. FORSYTH, of Georgia, had no doubt of the power of the House to adopt the resolution proposed by Mr. TRIMBLE, and vest the President with all the authority that the law of nations allowed any nation to assume. But it did not follow, because we had the right that it was proper to exercise it; on the contrary, this would be opposing the injustice of a foreign Government, by committing an act of the same injustice ourselves. Was it right, he asked, to visit the practical sins of Spain upon unoffending persons in our power, or to treat unjustly, cruelly, and inhumanly, an innocent man residing here, because Spain had thus treated one of our citizens? In a state of war, Mr. F. said, retaliation was justifiable, but even then it could be justified by nothing but great necessity; then how much greater the necessity which would authorize it in a state of peace? Admitting that this measure was authorized, as he believed it was, by the law of nations, still we ought to reject it if it be inhuman and dishonorable. He condemned it, because it would imitate the improper conduct of another nation. We have, said Mr. F., the power to punish Spain herself; why not exercise that power, instead of resorting to an act of injustice upon her subjects here? If we are to do anything, let us do that which honor demands, and even break the Spanish monarchy to pieces, if necessary, to wrest justice from her. But there were other considerations to be taken into view. The crime of Meade was not that of being an American, as had been represented; but it appeared that, for some transactions in the course of his business, he had been imprisoned by the judicial tribunals of Spain. We say he is confined unjustly. Be it so. We pronounce the decision of the Spanish courts unjust, and what, said Mr. F., do we propose to do? To lay violent hands on an innocent man, without even consulting the courts of justice. All men residing in this country, Mr. F. said, were answerable to the civil tribunals, and they could be confined, and even put to death if the law demanded it; but would it be an act of justice to seize an innocent man, and punish him for the act of his Government? Put the case to ourselves, Mr. F. said. Suppose a Spanish subject, residing within the jurisdiction of one of the States, is arrested and imprisoned for some transaction by one of our courts, and Spain complains of this as an act of injustice, and demands that he be liberated from prison, or absolved from punishment for a violation of our laws, would this House think it right for Spain to imprison and punish one of our citizens, because it followed a bad example set by another nation? Let us not, said he, act in retaliation; do not seize a consul, or other Spanish subject; but if the House choose to adopt violent measures to effect Mr. Meade's liberation, there were other ample means to do it; lay not your hands on an innocent individual, but rather seize all her property within your reach, and hold it on condition of restoring it when Mr. Meade should be released. But Mr. F. thought the resolution of the select committee

went far enough. This resolution, backed by the feeling produced throughout the country by the agitation of the subject, would, he believed, produce all the effect which would be produced by Mr. TRIMBLE's proposition; but, if we are to go any farther, do not, said Mr. F., copy the cruelty and injustice of the nation which we condemn.

Mr. TRIMBLE, in the course of some remarks in reply to Mr. FORSYTH, said, he hoped the gentleman would turn out to be a true prophet respecting the effect he anticipated from the combined operation of the resolution of the committee, and of the public feeling. But if this prophecy turned out no better than what the gentleman had, on another occasion, predicted, about showing the responsibility of the Spanish Government, he would advise him never to come beyond the Alleghany mountains in the character of a prophet. But, Mr. T. said, the gentleman from Georgia would change the Spanish Consul for Florida, and thus we should, in effect, sell the liberty of a citizen for a little paltry land. When, said Mr. T., I go to war, it shall be for Cuba. Cuba, said he, is the right arm of the United States, cut off, and Halifax or Nova Scotia the left, and they must one day be reunited. This, said he, is the minimum of our dreams of glory, and that American who thinks upon a smaller scale is unworthy of the name of statesman.

Mr. FORSYTH rose in reply, and, amongst other remarks, observed, that he had not played the part of a prophet. It was true, that he had on a former occasion intimated that he should endeavor to show that Spain was responsible. He regretted that he was denied the opportunity of doing so; but there was not a disposition in the House to make her responsible, or support him in the attempt; could he have done it, he would; but he had found the effort would be useless. As to the measure he had suggested, he would not, he said, exchange one free citizen for all the territory Spain possessed; but he had contended, and still thought, that the seizure of Spanish property, and holding it conditionally, would be more humane, and would produce the liberation of our citizen, and exact justice from Spain much sooner than the imprisonment of an innocent individual.

The question was then taken on Mr. TRIMBLE's substitute, and decided in the negative, only about fifteen rising in its favor; and the resolution reported by the select committee was agreed to without a division.

FRIDAY, April 10.

Mr. ROBERTSON of Louisiana, from the Committee on the Public Lands, reported a bill for the relief of Jonathan D. Essary and John Seybold; which was read twice, and committed to the Committee of the Whole, to which is committed the bill supplemental to the several acts for the adjustment of land claims in the State of Louisiana and Territory of Missouri.

Mr. ROBERTSON of Louisiana, from the same committee, to which was referred bills from the

Senate of the following titles, to wit: "An act for the relief of Michael Jones," and "An act authorizing the disposal of certain lots of the public ground in the city of New Orleans and town of Mobile," reported the said bills without amendment.

The first mentioned bill was committed to the Committee of the Whole, to which is committed the bill supplemental to the several acts for the adjustment of land claims in the State of Louisiana and Territory of Missouri; and the last mentioned bill to the Committee of the Whole, to which is committed the bill explanatory of the act authorizing the sale of certain grounds belonging to the United States, in the City of Washington.

Mr. H. NELSON, from the Judiciary Committee, reported a bill to authorize the appointment of an additional judge for the district of Georgia; which was twice read, and, on the question to engross the bill for a third reading, it was decided in the negative; and the bill was rejected.

Mr. INGHAM, from the Committee on the Post Offices and Post Roads, who were instructed to inquire into the expediency of permitting the Governors of States and Territories to receive and transmit through the post office all official communications free of postage, made a report thereon; which was read, and the resolution therein contained was concurred in by the House as follows, to wit:

*Resolved*, That it is inexpedient to extend the privilege of franking to the Chief Magistrates of States and Territories.

Mr. INGHAM, reported a bill to extend the privilege of franking to the Secretary of the Senate and Clerk of the House of Representatives; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. DESHA, all the accounts and papers in the possession of the Clerk of this House, in relation to the accounts of James Thomas, a Quartermaster General in the army during the late war, were referred to the Attorney General of the United States.

A message from the Senate informed the House that the Senate have passed a bill entitled "An act for the relief of Samuel F. Hooker," in which they ask the concurrence of this House.

The bill was read twice and referred to the Committee of Claims.

The bill from the Senate, in addition to an act for the relief of John Thompson; to incorporate the Mechanics' Relief Society of Alexandria; and to repeal part of the act to provide for surveying the coasts, were severally read the third time and passed.

Engrossed bills of the following titles, to wit: An act for the relief of the widow and children of Jacob Graeff deceased; An act for the relief of Benjamin Berry; An act for the relief of Mary Sullivan; An act for the relief of Jonathan Amory, jr., and the representatives of Thomas C. Amory, deceased; An act to incorporate the Columbian Institute for the promotion of arts and sciences; An act to authorize the payment



H. or R.

Case of Judge Van Ness—Fugitives from Justice.

APRIL, 1818.

in certain cases, on account of Treasury notes, which have been lost or destroyed; and, an act to increase the pay of the militia while in actual service, and for other purposes; were severally read a third time and passed.

An engrossed bill for the relief of Josiah Bullock was read the third time, and rejected by the House.

The bill for the relief of Henry King was re-committed to the Committee of the Whole, passed through the Committee, and was ordered to a third reading.

The bill for the relief of the owners of the ship *Ariadne*; the bill for the relief of Jonas Harrison; the bill for the relief of John Dillon; the bill for the relief of a company of rangers; the bill for the relief of Captain Benjamin Johnson and Captain Henry Gist; and the bill for the relief of a company of volunteer cavalry, passed through Committees of the Whole, and were severally ordered to be engrossed for a third reading.

A message from the Senate informed the House that the Senate have disagreed to the amendment proposed by this House to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia." They have passed the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," with amendments. They have also passed bills of the following titles, viz: "An act for the relief of John Hall, late a major of marines;" and "An act in addition to an act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, 1808, and to repeal certain parts of the same;" in which amendments and bills they ask the concurrence of this House.

## CASE OF JUDGE VAN NESS.

Mr. SPENCER, from the Judiciary Committee, rose and stated that he was instructed by that committee to submit the following resolution:

*Resolved*, That a committee be appointed to inquire into the official conduct of William P. Van Ness, as Judge of the southern district of New York, with power to send for persons and papers; that the said committee shall continue during the present Congress, and may report at the present or ensuing session, by resolution or otherwise."

Mr. S. observed, that it would be recollected a resolution had passed the House early in the present session, directing the Judiciary Committee to inquire into the disposition of the funds of the district court of the southern district of New York. The committee had performed that duty, and had reported that the funds "had been nefariously purloined." In the course of the investigation, the conduct of the judge of the district had been somewhat implicated, but the committee considered themselves restricted by the resolution to the conduct of the clerk only. The committee, therefore, deemed it due to the character of the judge, as well as to the dignity of this House, that the inquiry should proceed, and

that an opportunity should be given to the judge to vindicate himself.\*

Mr. H. NELSON, of Virginia, moved to insert the name of William Stevens, judge of the district court of Georgia; which was carried.

Mr. FORSYTH moved to insert the name of Mathias B. Tallmadge, judge of the northern district of New York.

Mr. SPENCER cheerfully assented to the amendment, and stated as a reason for not originally introducing the name of Judge Tallmadge, that the resolution submitted by him seemed to be a necessary consequence of the resolution originally directing the inquiries of the Judiciary Committee; that Judge Tallmadge was anxious an inquiry should be made, and the introduction of his name would be gratifying to him.

A motion was made by Mr. FORSYTH, to give the committee power to sit during the recess; on which a discussion arose in which Mr. FORSYTH, Mr. HOLMES, of Massachusetts, Mr. WILLIAMS, of North Carolina, and Mr. MERCER, supported the motion; and Mr. STROTHER opposed it; and it was finally lost.

The resolution, as amended, was then agreed to, without a division, and a committee of five appointed; and Mr. SPENCER, Mr. HOPKINSON, Mr. LIVERMORE, Mr. WILLIAMS, of Connecticut, and Mr. BLOOMFIELD, were appointed the said committee.

## FUGITIVES FROM JUSTICE.

A motion was made by Mr. PINDALL, that the House do now proceed to consider the amendments proposed by the Senate, to the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory:" And the question being taken thereon, it was determined in the negative—yeas 63, nays 73, as follows:

YEAS—Messrs. Abbott, Austin, Baldwin, Bassett, Bloomfield, Blount, Colston, Cook, Culbreth, Deaha, Earle, Floyd, Forney, Forsyth, Garnett, Hall of North Carolina, Herbert, Hogg, Johnson of Virginia, Johnson of Kentucky, Linn, Little, Lowndes, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Miller, Moore, Mumford, H. Nelson, T. M. Nelson, Ogle, Owen, Parrott, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson of Louisiana, Ruggles, Sampson, Sawyer, Settle, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth. J. S.

\* J. C. SPENCER requests the editors of the *Intelligencer* to state, that the substance of his remarks on submitting the resolution of inquiry into the conduct of the judge of the southern district of New York, as published in that paper, has, as he is informed, been misunderstood. It was not intended by him to communicate the idea, that the Judiciary Committee thought there was evidence of criminality in Judge Van Ness, before the committee; such an idea would have been inconsistent with the sentiments expressed by the committee. He meant to be understood, that there was evidence which justified an inquiry, that was due as well to the judge as to the judicial character of the country.

APRIL, 1818.

Navigation Bill.

H. or R.

Smith, Speed, Spencer, Stewart of North Carolina, Strother, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, and Williams of North Carolina.

NAYS—Messrs. Adams, Allen of Vermont, Ball, Bateman, Bennett, Boden, Boss, Campbell, Clagett, Crafts, Cruger, Darlington, Drake, Ellicott, Gage, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Hiester, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill, Morton, Moseley, Murray, Jeremiah Nelson, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Savage, Scudder, Sergeant, Shaw, Sherwood, Silsbee, Tallmadge, Tarr, Taylor, Tomkins, Townsend, Upham, Wallace, Wendover, Westerlo, White-side, Whitman, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

## NAVIGATION BILL.

The House then resolved itself into a Committee of the Whole on the bill from the Senate concerning navigation.

Mr. FORSYTH rose, and, having declared his preference for this bill over that reported in this House on the same subject, proceeded to support the bill in a speech of considerable length. Mr. F. did so in consideration of that bill having been already acted on in one branch of the Legislature, and of the extraordinary unanimity with which it had passed that branch; not that he thought it preferable to the bill reported by the Committee of Foreign Relations in the House; on the contrary, he believed the details of the latter bill better; but, under the circumstances mentioned above, and having the same object, he thought it advisable to pass the former.

Mr. HOLMES, of Massachusetts, next rose, and intimating an intention to enter into the subject at a length too great to be completed to-day, (it being 4 o'clock,) a motion was made that the Committee rise, that Mr. H. might commence his remarks to-morrow; but the Committee refused, by a majority of 10, to rise. Mr. HOLMES then made his remarks in opposition to the bill, at some length. Mr. H. was followed by Mr. SILS-BEE and by Mr. CLAY, both decidedly in favor of the bill.

SATURDAY, April 11.

Mr. INGHAM, from the Committee on the Post Office and Post Roads, who were instructed to inquire into the expediency of establishing in one of the Western States a branch of the General Post Office, for the purpose of making contracts for the conveyance of the mail, and to correct abuses in that department, made a report unfavorable to such a measure; which was read and ordered to lie on the table.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill supplementary to the several acts making appropriations for the year 1818; which was read twice, and committed to a Committee of the Whole.

Mr. POINDEXTER, from the Committee on Private Land Claims, to which was referred the bill from the Senate, entitled "An act confirming Anthony Cavalier and Peter Petit in their claim to a tract of land," reported the same without amendment, and the bill was ordered to lie on the table.

The Committee of the Whole, to which is committed the bill to increase the duties on certain manufactured articles imported into the United States, were discharged, and the said bill was committed to the Committee of the Whole, to which is committed the bill to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum, and to disallow the drawback of duties on the re-exportation of gunpowder.

Mr. BARBOUR, of Virginia, from the committee to whom was referred the Message of the President of the United States of the 27th of March, 1818, and accompanying documents upon the subject of the expense incurred under the 4th, 5th, 6th, and 7th articles of the Treaty of Ghent, with instructions to inquire into the nature and causes of said expenses, and into the principles upon which the Commissioners under the 6th and 7th articles of said treaty have proceeded in the execution thereof, made a report thereon; which was read and referred to a Committee of the Whole on Tuesday next.

The bill from the Senate, entitled "An act for the relief of John Hall, late a major of marines," was read twice, and referred to the Committee of Claims.

The bill from the Senate, entitled "An act in addition to 'An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the 1st day of January, in the year of our Lord 1808,' and to repeal certain parts of the same," was read twice, and referred to the Committee on the Judiciary.

The amendments proposed by the Senate to the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," were read, and referred to the Committee on the Judiciary.

The House took up and proceeded to consider the message from the Senate, announcing their disagreement to the amendment proposed by this House to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia;" whereupon the House resolved that it insist on their said amendment, and ask a conference with the Senate upon the subject matter thereof, and that managers be appointed to attend the said conference on the part of this House; and Messrs. PINDALL, HERBERT, and TRIMBLE, were appointed the said managers.

The report of the Secretary of State, upon the petition of Jonathan Elliot, together with the said petition, was referred to a select committee, and Messrs. BURWELL, JOHNSON, of Kentucky, and SIMKINS, were appointed the said committee.

Engrossed bills of the following titles, to wit: An act for the relief of John Dillon; An act for



H. or R.

*Ship Ariadne—Navigation Bill.*

APRIL, 1818.

the relief of Jonas Harrison; An act for the relief of a Company of Rangers; An act for the relief of Captain Henry Gist and Captain Benjamin Johnson; An act for the relief of volunteer mounted cavalry; and An act for the relief of Henry King; were severally read the third time, and passed.

## SHIP ARIADNE.

An engrossed bill for the relief of the owners of the ship *Ariadne* and her cargo was read the third time. And on the question, Shall it pass? it was determined in the negative—yeas 52, nays 82, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Austin, Baldwin, Bloomfield, Butler, Campbell, Darlington, Hall of Delaware, Herkimer, Holmes of Connecticut, Hopkinson, Huntington, Irving of New York, Kirtland, Lawyer, Linn, Livermore, Lowndes, Mason of Rhode Island, Mercer, Miller, Moseley, J. Nelson, Ogden, Pawling, Peter, Pindall, Pitkin, Pleasants, Poindexter, Reed, Rice, Richards, Ruggles, Sawyer, Schuyler, Sergeant, Seybert, Sherwood, Slocumb, S. Smith, Alexander Smyth, Stewart of North Carolina, Stuart of Maryland, Terry, Townsend, Upham, Westerlo, Whitman, Williams of Connecticut, and Wilson of Massachusetts.

NAVS—Messrs. Allen of Vermont, Ball, Barbour of Virginia, Bassett, Bennett, Blount, Boden, Clagett, Comstock, Cook, Crafts, Crawford, Cruger, Culbreth, Desha, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Folger, Forney, Forsyth, Gage, Garnett, Hale, Hall of North Carolina, Harrison, Hasbrouck, Hendricks, Herrick, Hiester, Hogg, Hubbard, Hunter, Ingham, Johnson of Virginia, Jones, Kinsey, Little, W. Maclay, W. P. Maclay, McCoy, Marchand, Merrill, Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Ogle, Owen, Patterson, Porter, Quarles, Rhea, Rich, Ringgold, Robertson of Louisiana, Rogers, Sampson, Savage, Scudder, Settle, Shaw, Simkins, B. Smith, Southard, Speed, Strong, Tallmadge, Tarr, Tompkins, Tucker of South Carolina, Tyler, Wallace, Wendover, Whiteside, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

So the bill was rejected.

## NAVIGATION BILL.

The House then went into the consideration of the bill from the Senate, "concerning navigation," which was yesterday reported to the House by the Committee of the Whole, without amendment.

The bill being now put on its passage to a third reading, Mr. PITKIN rose, and spoke more than an hour in its support.

The question on ordering the bill to a third reading was then taken and decided in the affirmative—yeas 123, nays 16, as follows:

YEAS—Messrs. Abbott, Allen of Massachusetts, Allen of Vermont, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Bloomfield, Boden, Butler, Campbell, Clagett, Colston, Comstock, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Desha, Drake, Earle, Edwards, Floyd, Folger, Forney, Forsyth, Gage, Hale, Hall of Delaware, Hasbrouck, Hiester, Hitchcock, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Johnson of Kentucky,

Kinsey, Kirtland, Lawyer, Lewis, Linn, Little, Livermore, Lowndes, W. Maclay, W. P. Maclay, McCoy, Marchand, Mason of Rhode Island, Merrill, Miller, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, New, Ogden, Owen, Palmer, Parrott, Patterson, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Porter, Quarles, Reed, Rhea, Rich, Richards, Ringgold, Robertson of Louisiana, Rogers, Ruggles, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Silsbee, Simkins, Samuel Smith, Bal. Smith, Alexander Smyth, J. S. Smith, Southard, Spencer, Strong, Strother, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Tyler, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, Williams of New York, Williams of North Carolina, and Wilkin.

NAVS—Messrs. Adams, Austin, Ellicott, Ervin of South Carolina, Garnett, Hall of North Carolina, Harrison, Hendricks, Herrick, Holmes of Massachusetts, Johnson of Virginia, Mercer, Peter, Rice, Stewart of North Carolina, and Wilson of Massachusetts.

The bill being thus ordered to a third reading, was forthwith read a third time, and passed.

## MONDAY, April 13.

Mr. LOWNDES, from the Committee of Ways and Means, to which were referred the bills from the Senate, entitled "An act for the relief of the president and directors of the Merchants' Bank of Newport, in Rhode Island," and "An act for the relief of Louis and Antoine Duquindue," reported the same without amendment, and they were committed to a Committee of the Whole tomorrow.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which were referred the amendments proposed by the Senate to the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," made a report; whereupon it was resolved that they concur in all the said amendments, except the two latter, to which they disagree.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon," in which they ask the concurrence of this House.

The said bill was read twice, and referred to the Committee on the Public Lands.

Mr. HUGH NELSON, from the same committee, to which was referred the bill from the Senate, entitled "An act in addition to an act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808, and to repeal certain parts of the same," reported the said bill with two amendments; which were read and concurred in by the House, and the bill was ordered to lie on the table.

Ordered, That the Committee of the Whole, to which are committed the bill supplementary to an act regulating duties on imports and tonnage, passed the 27th of April, 1816; the bill supplementary to an act, entitled "An act to regulate

APRIL, 1818.

*Land Claims, &c.*

H. or R.

the collection of duties on imposts and tonnage, passed the 2d day of March, 1799;" and the bill providing for the deposit of wines and distilled spirits in public warehouses, be discharged, and that the first mentioned bill be postponed indefinitely, and that the two latter lie on the table.

The bill for the relief of James Mackey was taken up and ordered to be engrossed.

Mr. BASSETT made an unsuccessful motion to take up the report of the Committee on Pensions, unfavorable to the petition of Richard G. Morris.

The bill for the relief of Isaac Briggs passed through the Committee of the Whole, and was ordered to a third reading.

A message from the Senate informed the House that the Senate have passed a bill of this House, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the act therein mentioned," with amendments, in which they ask the concurrence of this House. They have agreed to the conference asked by this House, upon the subject-matter of the disagreeing vote of the two Houses, on the amendment depending to the bill, entitled "An act to make valid certain acts of the justices of the peace of the District of Columbia."

The House went into a Committee of the Whole, on the bill for the relief of John B. Dabney. The bill was reported without amendment, and ordered to be engrossed and read a third time.

The bill for the relief of Thomas Carr, was considered in Committee of the Whole, and the House, having refused the Committee leave to sit again on the bill, laid it on the table.

The bill in addition to an act giving pensions to the widows and orphans of persons slain in the public and private armed vessels of the United States, passed through a Committee of the Whole, and was ordered to be engrossed.

This Committee was, on motion, discharged from the consideration of the petitions of Mrs. Lawrence and Mrs. Arundel, and the petitions laid on the table.

The House then went into a Committee of the Whole on the bill repealing so much of an act as allows pay and emoluments to brevet rank, and on the bill from the Senate "regulating the pay and emoluments of brevet rank."

The Committee rose and reported the bills without amendment; when the bill last mentioned, from the Senate, was ordered to a third reading, and the former, the bill of this House, postponed indefinitely.

The House next resolved itself into a Committee of the Whole on the bill to increase the duties on imported iron in bars and bolts, iron in pigs, castings, nails, and alum, and to disallow the drawback of duties on the re-exportation of gunpowder.

The discussion of the object of this bill, and of the details, consumed more than two hours; in which Messrs. CLAY, KINSEY, SMITH of North Carolina, SMITH of Maryland, MORTON, and SERGEANT, were the most active.

The Committee rose without taking any question, and obtained leave to sit again.

Mr. SLOCUM, from the managers on the part of this House, on the disagreeing votes of the two Houses, on the amendments of this House to the bill directing the mode of appointing Indian agents, &c., made a report, which was read, and ordered to lie on the table.

## LAND CLAIMS, &amp;c.

The House then went into a Committee of the Whole on the bill "supplementary to the several acts for the adjustment of land claims in the State of Louisiana and Territory of Missouri." [The general object of the bill is to authorize Boards of Commissioners to adjust all land claims of certain classes, in Louisiana and Missouri, but in fourteen long sections embraces a variety of details, confirming and adjusting certain other land claims under French and Spanish grants.]

Mr. LOWNDES, not from any hostility to the bill, or its objects, which he did not go into the consideration of, but from a belief that it was impossible, at this late period of the session, to bestow the proper attention on the multifarious provisions of the bill, or act on them with a deliberation necessary to act safely, moved that the Committee rise and report the bill, that it might be laid by for the present session.

Mr. ROBERTSON, of Louisiana, and Mr. POINDEXTER, severally opposed the motion, and urged the propriety of acting on the bill during the present session, as the object was one of great interest to many of the inhabitants of Louisiana and Missouri.

Without taking a question on Mr. LOWNDES's motion, which was withdrawn, the Committee passed by this bill; and

The Committee then took up, in succession, the bill for adjusting the claims to land and establishing land offices in the district east of the island of Orleans; the bill for the relief of Jonathan D. Essary and John Seybold; and the bill from the Senate for the relief of Michael Jones. The Committee then rose, and reported these bills to the House.

The two bills first named, were then, after some opposition from Mr. ROBERTSON and Mr. POINDEXTER, laid on the table, and the two bills last named, ordered to be engrossed for a third reading.

And then the House adjourned.

## TUESDAY, April 14.

The SPEAKER laid before the House a letter from Edwin Lewis, soliciting the House to take into consideration the charges preferred by him at the last session, against Harry Toulmin, a Judge in the late Territory of Mississippi, and at present a Judge in the Territory of Alabama, and stating that he is prepared to substantiate the said charges.—Referred to the Committee on the Judiciary.

Mr. H. NELSON, presented a memorial of the clerks employed in the Executive offices of the



Government at Washington, praying for an increase of compensation.—Referred

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, reported a bill for the relief of Samuel H. Harper, which was read twice, and committed to a Committee of the Whole, to which is committed the bill for changing the compensation of the registers and receivers of land offices.

Mr. INGHAM, from the Committee on the Post Office and Post Roads, reported a bill to increase the compensation of deputy postmasters in certain cases; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. SEYBERT, from the Committee of Commerce and Manufactures, reported a bill making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from other places beyond the same; and for establishing a collection district, whereof Belfast shall be the port of entry; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. H. NELSON, from the Committee on the Judiciary, who were instructed to inquire what fees have been charged and received by the district attorney of the southern district of the State of New York, in prosecutions brought by him against retailers of spirits, for vending them without license; and also, what fees have been received, and charged by the other officers of the United States, in the said southern district of the State of New York; and who were further instructed to prepare and report a bill of fees for the officers of the United States, in the courts of the United States, made a report; which was read, and ordered to lie on the table.

Mr. ROBERTSON, of Louisiana, from the Committee on Public Lands, to which was referred the bill from the Senate, entitled "An act to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon," reported the same without amendment, and the bill was ordered to be read a third time to-morrow.

Mr. LOWNDES, from the Committee of Ways and Means, reported amendments to be proposed to the bill supplementary to the several acts relative to direct taxes and internal duties; which were read and ordered to lie on the table.

On motion of Mr. TAYLOR, the Committee of the Whole were discharged from the further consideration of the report of the select committee appointed to inquire into the expenses incurred under the 4th, 5th, 6th, and 7th articles of the Treaty of Ghent, and the same were referred to a select committee; and, Mr. TAYLOR, Mr. WILLIAMS of Connecticut, Mr. CLAIBORNE, Mr. RICH, Mr. MORTON, Mr. SHERWOOD, and Mr. BALLARD SMITH, were appointed the said committee.

Mr. SMITH, of Maryland, laid before the House an act of the Parliament of Great Britain, entitled "An act to allow British plantation sugar and coffee imported into Bermuda in British ships, to be exported to the territories of the United States of America in foreign ships or

vessels, and to permit articles the production of the said United States, to be imported into the said island in foreign ships or vessels," passed on the 1st of July, 1812; which was ordered to lie on the table, and be printed for the use of the members of Congress.

Bills of the Senate, of the following titles, to wit: An act relating to the pay and emoluments of brevet officers; An act, in addition to an act, giving pensions to widows and orphans of persons slain in the public or private armed vessels of the United States; and, An act for the relief of Michael Jones; were severally read the third time, and passed.

The bill from the Senate, entitled "An act for the relief of Isaac Briggs," was read a third time, and passed as amended.

Engrossed bills of the following titles, to wit: An act for the relief of James Mackay, of the Missouri Territory; An act for the relief of John B. Dabney; and, An act for the relief of Jonathan D. Essary and John Seybold, were severally read a third time, and passed.

On motion of Mr. MERCER,

Resolved, That the Secretary of the Treasury be requested to lay before this House, a statement of the number and respective dates of the contracts made for the completion of the Cumberland road, exhibiting therein, the names of, the several contractors, the extent of the road provided for by each contract, and the cost thereof per lineal, and of all the mason work per solid perch; that the said statement furnish, where practicable, the cost of the several bridges erected upon the said road; that it also present the total cost of the said road, the extent thereof already completed or contracted for; and of the part thereof for which no contract has been made, with the probable expense of completing the same; that there be subjoined to the said statement a report of the greatest elevation of any part of the said road, the average breadth thereof, and of the bed of stone or gravel laid thereupon, with the depth of the materials at the sides and in the centre of such bed; also, what provision, if any, has hitherto been made for keeping the whole, or any part, of the said road in repair; and the past expense, if any, attending such repairs.

A message from the Senate informed the House that the Senate have considered the report of the conferees on the disagreeing vote of the two Houses on the amendment of this House to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes; and have disagreed to the first, and agreed to the second recommendation of the conferees. The Senate have passed the bill of this House, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," with amendments; and they have passed a bill, entitled "An act, in addition to an act, to incorporate the subscribers to the Bank

of the United States;" in which amendments and bill they ask the concurrence of this House.

The amendments proposed by the Senate to the bill, entitled "An act, in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," were read, and referred to the Committee on Foreign Relations.

The House took up and proceeded to consider the bill providing for the deposit of wines and distilled spirits in public warehouses; and the same being amended, was ordered to be engrossed, and read a third time to-morrow.

Ordered, That the report of the Committee of Claims, made on the 11th of March last, upon the subject of an extension of the provisions of the act of the 9th of April, 1816, making payment for property lost, captured, or destroyed, in the late war, be recommitted to the Committee of Claims.

The bill from the Senate, entitled "An act, in addition to an act, to incorporate the subscribers to the Bank of the United States," was read the first time; and the question being taken, Shall it now now be read a second time? it was determined in the negative.

The amendments proposed by the Senate to the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," were read, and referred to a select committee; and Messrs. POPE, HENDRICKS, ROBERTSON of Kentucky, JONES, and NESBITT, were appointed the said committee.

The House took up the report of the conferees on the disagreeing votes of the two Houses on the bill directing the mode of appointing Indian agents, &c.; and,

On motion of Mr. SLOCUMB, the House resolved to recede from their amendment to said bill, to which the Senate have disagreed, and agree to the amendment contained in the second recommendation of the conferees.

#### COLLECTION OF THE REVENUE.

The House then, on motion of Mr. LOWNDES, took up for consideration the bill supplementary to the act to regulate the collection of duties on imports and tonnage, passed 2d March, 1799.

The bill contains twenty-seven sections, embracing numerous provisions to insure the more rigid collection of the duties on imports, and to prevent frauds and evasions thereof. In going through and considering the various details of this bill, and discussing motions to amend them, the House employed sometime. Messrs. LOWNDES, SILSBEE of Rhode Island, J. NELSON, WENDOVER, SAMPSON, and PALMER, were the gentlemen who took part in maturing the bill.

The most material amendment proposed, was one offered by Mr. SILSBEE, to add a new section, providing "that masters, or other persons having charge of vessels which may arrive from a foreign port, within any district, on their way to another district of the United States, shall not be

required to make entry of the vessel, or pay hospital money or tonnage duty, in the district where she may first arrive, nor to proceed from the place at which the vessel may first arrive, to any other place within said district, for the purpose of making a report."

This motion was, after some debate, negatived without a division; and the bill was ordered to be engrossed for a third reading.

#### ADDITIONAL DUTIES.

The House then again resolved itself into a Committee of the Whole, on the bill to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum, and to disallow the drawback on gunpowder; the motion to strike out the first section, being under consideration—

Mr. SERGEANT spoke at much length in support of this bill, and of the expediency of extending additional protection to the manufactures interested in the bill.

Mr. SMITH, of North Carolina, rose, he said for the purpose of moving to strike out the first section of this bill; and I hope, said he, the motion will not be thought unfair, when I state, that I am opposed not only to the proposition to increase the duty on iron, but to the bill *in toto*. On the subject of the discriminating duty proposed to be laid on bar iron, made by rolling, I beg leave to differ in opinion with my friend from South Carolina, (Mr. LOWNDES.) He doubts the propriety of imposing such a duty; he supposes that the manufacturer is always the purchaser, and that he should be a competent judge. Experience has taught me, that that is not the fact. The importing merchant brings the article into market for the purpose of profit; he cares nothing about the goodness of the article, if it yield him his usual per centage. The farmers, the great consumers of this article, exchange their produce for it with the merchant; they are not sufficiently skilled in this traffic to detect the imposition themselves. And so cunning are the makers of it, that, since a discriminating duty has been imposed on this rolled iron, they have run it under the hammer, to evade the duty and to cover the deception more completely; it is not until it is carried to the blacksmith, or the manufacturer, that the real quality of this iron is discovered. I concur in the statement made by the gentleman from Pennsylvania (Mr. SEYBERT) that this iron is little more than pot-metal in bars, and that it is, in fact, good for nothing. My own impression is, that if such materials are permitted to come into our market lower than genuine bar iron, that our mechanics will purchase it, and permit it to enter into our domestic manufactories; and, if they do, it will undoubtedly bring our manufactories into disrepute. Again, if it is permitted to enter into our ship building, it will be productive of a great evil. I will not oppose the discriminating duty now in existence; but, to return to the main question, I have said that I am opposed to increasing the duty on bar iron. It is true, that the iron masters in New Jersey and Pennsylvania have made a great noise on



H. OF R.

Additional Duties.

APRIL, 1818.

this subject; but the difficulty under which they labor is altogether temporary. During the late restrictive system and the war, there was a great accumulation of iron in the Russian and Swedish markets; whilst, at the same time, and from the same cause, the article became scarce and dear in the United States. At the termination of the late war, this, as all other articles made its way, in great quantities, into our market. The importation was much greater than the demand; hence, it could only be sold at a sacrifice by the importer. The merchant was obliged to sell.

I have been informed, from a quarter on which I think I can rely, that bar iron, of good quality, during the year 1816, sold, in Philadelphia and New York, at from sixty-four to sixty-eight dollars a ton, which cost the importing merchant from eighty-five to ninety dollars. This state of things cannot last. The merchant will not import, unless he has some prospect of selling at a profit. But, sir, I have authentic evidence before me, that iron has raised, since the peace in Europe, twenty per cent. in Russia and Sweden. Good iron cannot be imported, under the existing duty of nine dollars per ton, for less than one hundred and ten dollars per ton. I have also information before me that, in New Jersey, where the greatest complaint is, that a ton of bar iron can be made from their bloomeries, at eighty-five dollars per ton—a difference of thirty dollars in the ton. If this is true, the case is not as it is represented by the *ex parte* evidence before us. And where do these complaints come from? They come from the vicinity of the cities of Philadelphia and New York, two great commercial towns. Iron made here, comes in direct competition with that imported, and that which has been sacrificed under the hammer, as I have stated. There wood is scarce, and of much value; there labor is very high also; and provisions higher than in any part of this country. These works grew up, many of them during the late war, and during the restrictive system that preceded it. In such situations, it could not be expected that works of that kind could flourish at any other time. They had no pledge from this Legislature, that duties should be laid and continued for their support; nor are we bound to sacrifice the great interests of this country to prop such fungus establishments. They like other speculators, expected to profit by the necessities of their neighbors; let them, then, stand on their own bottom. If this basis is not sufficient, let them go down.

Some of this iron is of superior quality; it sells in the market at from ten to fifteen dollars less per ton, than Russian or Swedish iron; whilst, at the same time, at Baltimore and other places, the iron, made in that quarter, sells at from five to ten dollars preference per ton. Their bloomed iron is too much like the English rolled iron. It is a question whether we should encourage the production of this iron in the United States. It is important that your iron should be of the best quality. Your cannon, and all your implements of war, should be made, of the very best materials. Your ship builders require iron of the best quality

likewise. The truth of this can be evidenced by the statement made by the gentleman from Massachusetts (Mr. SILSBEE,) who stated to you, that vessels had been lately lost from the brittleness of the iron used in their making. But, again sir, this iron enters into your domestic manufactures also; and, in my opinion, it is not the interest of this country to encourage the production of inferior iron; for, if it is brought into your market, the mechanics will purchase it, and it will enter into your domestic manufactures. They will be inferior in quality; which will be calculated to injure their character in your own market; this will encourage the exportation of the articles from England, our great rival in iron manufactures. But, sir, the alarm is sounded—you are told, that, if these works go down, the business of making iron is lost to your country forever; and that, if war should again come, you are ruined. This I deny, and against such doctrine, permit me now to enter my protest. At this time, the works in the interior of your country ask of you no protection; there are only about fifty petitions on your table; they bear but a small proportion to the number that are in the United States. All the works are doing well at this time. Where they are well situated for the business, their owners are making large fortunes. In the part of the country from which I come, the domestic iron has a preference to the best Russian and Swedish iron, for most purposes, and it sells lower by one or two cents in the pound, whilst both pay the same carriage. And, sir, at this time, there are seven new States in this Union, and two great Territories, that have yet to get their iron from the North and interior, or from foreign nations; all these States and Territories have iron ore of the best quality, and in the greatest abundance. So pure is this ore, that, I am informed, it can be wrought into spikes and horse-shoes from the ore bank. Wood is inexhaustible; pit coal abounds in great quantities; provisions are cheaper there than in any part of the world, and the price of labor is lower than in the North. Where slaves can be employed, their labor is always cheaper than that of white men. The seasons in the South differ from the North; in the former you can labor all the season, in the latter you cannot.

Now, I would ask, if these people are going to suffer for iron? No, sir, very soon they will supply themselves. Yes, sir, and the North can be supplied from that quarter, should they need it. And should a market present itself to them, they will be able to supply the whole globe. Those who are not conversant with the history of that country may say, that, it being in the interior, the carriage will prevent its coming into market. Should such an opinion exist, it is a mistaken one. They have the finest rivers in the world, intersecting the country in every direction. And, since the power to propel boats, by steam, has been invented, they have every facility for their commerce. If all this be true, can we not supply ourselves in war, as well as in peace, with this necessary article—nay, I would say, this indispensable article?

APRIL, 1818.

Additional Duties.

H. OF R.

We achieved our independence with less facilities than we have at this time, all will admit; and, in a recent war, we succeeded equally well. Why, then, do they appeal to our fears?

But, sir, I have another objection to this proposed increase of duty on bar iron: it is taxing the raw material of our extensive domestic manufactures. At this time, we make all kinds of tools, for the various mechanics in this country, at home; also, all the implements of our agriculture are made in this country. In fact, there is no species of manufactures in the United States that are so extensive, or so useful, as that just mentioned. The duty proposed to be laid on bar iron, by the bill now before the Committee, is twenty-five per cent. ad valorem; and the duties on foreign articles, imported into the United States, of which iron is the chief article of value, is only charged with a duty of twenty per cent. ad valorem. Is this the way that domestic manufactures are to be encouraged? This is certainly new doctrine. Alexander Hamilton, who was the great advocate for manufactures at home, always enforced the idea, that the raw materials should come into this country clear of duty. In his able report to the House of Representatives, in 1790, on the subject of domestic manufactures, he tells you, in very direct terms, that this very article of bar iron should come into your country free of duties. His opinion was, that, by encouraging the manufacture of the article you would increase the demand, and thereby its production at home; and that the iron works would be benefited. He advanced the same doctrine as respects copper, tin, zinc, old pewter, &c. These are, most of them, free in your present tariff. But, sir, the wiseacres of the day, the new political economists of the North, have found out that Mr. Hamilton was wrong, and that Adam Smith's Wealth of Nations has been a curse to this country. But, sir, do not they advance the same doctrine when they say, encourage and protect our cotton factories to the North; this is the way to encourage the production of the raw material in the South? Why, then, is not Mr. Hamilton's doctrine, as regards iron, true likewise? The highest tax or duty that ever was imposed on bar iron before the war was fifteen per cent. ad valorem, two and a half of this was the Mediterranean fund duty, which was never considered a permanent duty. But, sir, your petitioners must have thirteen and five-sixths per cent. more than was ever laid before. And they appeal to your patriotism—they tell you that you should protect every branch of industry in your country. And, sir, so you should; but you should never sacrifice the interest of the many to the cupidity and mercenary views of the few. But, sir, here—here is the objection: the great agricultural interest must bend before these mercenary few—these fat capitalists. Agriculture must pay the premium; she must be taxed; and the farmer, the most remote from trade, must be taxed most. Yes, sir, the man who has the fewest natural advantages, must be taxed most—he

15th CON. 1st SESS.—55

is the greatest consumer of iron. To get the surplus product of his honest labor to the market, he must have wagons, carts, horses, &c. These require much iron to keep them in repair. But, sir, what has been the course of these iron masters? When they found that war had excluded foreign iron from our market, did they say to the farmer: Come, now that war exists, you cannot get iron from foreign markets—you must have it—but we sympathize with your misfortunes—you are hard pressed—your produce will bring nothing—come, we can make it as cheap as ever—labor is cheaper—provisions are cheaper, and the demand is greater—you shall have it at the old price. Was this their language? No, sir—no. Say they, come now; we have the advantage; the farmer must have it; he is obliged to buy from us; come, let us make our fortunes. Iron rose from 50 to 75 per cent. cash; no credit now; at the same time the farmer's tobacco was rotting in his barn; it would not bring three dollars per hundred; his wheat spoiling in his garners; flour would not bring four dollars a barrel; his land, his house, his everything, taxed to support the cause of his country, at the same time. Did the capitalist sympathize for the farmer? No, sir; the iron master's patriotism, his sympathy, was suspended; nor never would he have thought of it again, but for his own dear self, who thought it a good pretext to get the advantage of the farmer a little once more. Sir, I look upon agriculture as the first, and the greatest interest of this country; and while I am honored with a seat on this floor, I will always raise my voice in its support, and against these monopolizing principles. If this bill is adopted, it will impose a considerable tax on your agriculture. But, poor old Agriculture? She is, I am fearful, doomed soon to be the pack-horse of manufactures and of commerce. They are always seeking to get some advantage by getting monopolies. Honest old Agriculture has no such feeling; she knows no such principles. All that she asks of you is to keep your hands off her; she is strong; she is athletic; let her alone and she can, she will protect herself. When the clarion of war is sounded, who is the most able and the most willing to take the field to defend your nation's rights? It is the farmer. Is his soil invaded? If it is, he will offer his life in the defence of it. He is stout and strong; his whole life, from infancy to manhood, is as a campaign. When he is called to the field, it is nothing new to him to be exposed. Now contrast the case of the manufacturer; any place is his country where his profits are the greatest. Is he to take the field to defend his country, he is weak; he has been raised in a store-room, under a covert; he is unable to stand against the cold, chilling blasts of the north, rain and snow. Nor is he even able to stand the scorching rays of a meridian sun. These facts have been but too fatally demonstrated.

But, sir, it is said your country cannot prosper unless you encourage manufactures. How is this? Has any country ever equalled this in the



H. OF R.

Additional Duties.

APRIL, 1818.

same time? It has been agricultural solely, or nearly so. In less than fifty years this Republic has become a great nation; second in commerce; second in a naval power; most brave in the field; most skilful and most victorious on the water; rich—*independent*.

But, sir, I hope I shall not be viewed as an enemy to domestic manufactures. They are growing up in our country, and, as we progress towards a more perfect state of internal improvement and agriculture, they will increase. When the population becomes dense, when emigration shall cease in a great degree, when the fine lands of the West and South shall be disposed of, then will manufactures begin to raise their heads. I think it not the true policy nor the true economy of this country to force this state of things by bounties and by protecting duties. When you raise your duties beyond the point necessary for raising the revenue necessary for the support of your Government, you encourage smuggling. Your customs are defrauded; your regular merchants are unable to sell their goods; fraud and speculation is the result. The effect that this will have on the morals of your country, is too apparent to require comment. And if you commence this system, all classes will have an equal right to your protection. Yes, sir, the tailors have petitioned you this session for protection; they want you to lay heavy duties on clothes imported ready made. Who is it that will believe that they want protection, after paying them from eight to ten dollars for making a coat?

I have gone through the observations I had intended to submit to the Committee. I hope they will see with me the evil tendency of this bill, and will consent to strike out the first section.

Mr. SIMKINS, of South Carolina, said: Mr. Chairman, at this protracted stage of the debate, when the Committee is so much exhausted in patience, and pressed for time, it is with unfeigned diffidence that I beg its attention for a few moments. Indeed, I should not have risen at all, but that I conceive some points, in this important subject, have been altogether omitted, or but slightly touched, which I deem material to its illustration.

At the commencement of the last war, the manufactures of the most indispensable articles in the United States, were, for the most part, in their infancy, and entirely inadequate to the supply of our wants. These wants became the more pressing, because the importation of them had been previously interdicted by the embargo laws, and could be had but in scanty supplies, and at very high prices during the war. Thus it was, that, when our necessities became greatest, our supplies were most inadequate to our rising wants. The consequence of this state of things was, that manufacturing establishments sprung up to our relief, in various parts of the continent, and we were supplied with cannon, arms, and other munitions of war, and our armies, to a considerable extent, were clothed from our own establishments. I mention these facts, Mr. Chair-

man, to show, which they most unequivocally do, that he who is a friend to his country's true independence must be a friend to manufactures, to a reasonable and practicable extent. When the war ceased, it was the true policy of Great Britain, who had viewed our rising establishments with great pain and jealousy, to throw into our market such a quantity of goods, of every sort, at low prices, as to sink to destruction these establishments, and, with them, the fortunes and hopes of those patriotic and public spirited men who had invested their capital in them. This effect was in such a rapid state of progression that it awakened an enlightened American Congress to the consideration of the subject. To give some protection to those establishments which had greatly helped to save us in time of war, and without which no nation on earth can ever be truly independent or safe, as well as to raise a revenue, the Congress of 1816 passed a law, imposing a tariff, or system of duties, on the most of those foreign articles which could be made among ourselves, and the extravagant importations of which were about to bring ruin on our manufactures! This was wise, it was patriotic, it was in fact the duty of the Representatives of the nation. These protecting duties, light as they were, in most instances, had, in some good degree, the desired effect; but the manufacturer of iron met the hardest fate, because it is a fact, as was stated by the Speaker, in this debate, and controverted by no one, that the duty on foreign iron imported was not in the same proportion with that on other articles. This omission was a strange one, Mr. Chairman, and the more so, because iron must be conceded to be an article of the very first necessity, and, therefore, ought to have been, in the same proportion, encouraged. That this article had less of the fostering care of the Government than almost any other, is demonstrated by the present state and situation of those manufactories throughout the continent—for all accounts agree that those which have not already sunk, are in a progressive state of dilapidation. Indeed, Mr. Chairman, no man could fail to feel an interest, on hearing the eloquent, yet distressing picture, yesterday presented by the gentleman from New Jersey (Mr. KIMSEY.) He tells you that, eighty or one hundred of these establishments are falling to ruin in New Jersey alone. Is not iron, then, (enough of the ore of which lies in our hills to supply the world,) an indispensable article; and will you not encourage its production in our own country? Let us anticipate the march of time, and conceive ourselves on the verge of another war, when the article will be wanting for cannon, for small arms, and for almost every useful agricultural instrument. Will you fold your arms, and suffer your manufactories to sink, until the time of war, which shall cut off your foreign supplies, shall arrive? Will you act the part of wisdom, and prepare for the day of necessity, or will you, like the spendthrift, leave every day to provide for itself? Are we not able to make our own iron in sufficient quantities, and cheap enough to

APRIL, 1818.

Additional Duties.

H. OF R.

be within the reach of every man in the nation who wants to use it, or must we still be dependent on foreign importations? Mr. Chairman, I am sick of these unceasing, unnecessary, foreign predilections; and I wish to make our own country what it might be, and what it must be, before it is really great, independent of Europe. We are not satisfied with importing foreign notions and prejudices, and errors, but we must work foreign iron, almost exclusively, when we can have, cheap enough, abundant supplies at home. Is there nothing due to those who risked their capital to sustain the nation in the day of need?

But, Mr. Chairman, what is to be the consequence of letting our own iron works sink by foreign importations? The obvious consequence is, as was just now demonstrated by the gentleman from Pennsylvania, (Mr. SERGEANT,) that when your own manufacturers are ruined, and their establishments destroyed, foreign iron will immediately take a rise. Yes, foreigners will then get their own prices, for there will be no competition to check them. I beg gentlemen to remember this when about to give their votes.

Do the manufacturers ask any unreasonable or ruinous protection? By no means. If they did, I should not stand here to sanction their pretensions. They scarcely ask an increase of half a cent a pound. So far from wishing you to exclude the importation of iron, they only ask to be put upon grounds of fair competition. Will an American Congress thus refuse to American citizens such a request? I trust not.

If, Mr. Chairman, we are disposed to learn lessons of wisdom upon this subject, let us have recourse to England; a nation of whom, whatever else may be said, this may well be pronounced, that she has arrived, in commerce and manufactures, to unrivalled prosperity and greatness. Let us, then, discard her examples, which are destructive, but embrace her wisdom and experience, which are true and sound.

How, let it be asked, has that nation become unrivalled in manufactories? By a constant, unwearied attention to this subject; by protecting, by laws, and every means in her power, every establishment of importance to the country.—With what alarm would this calculating, experienced, and politic nation, see the approaching ruin of any material manufactory. Her statesmen would startle at such a prospect, and rush forward with avidity and save it.

There is, Mr. Chairman, another view of this subject, not fully presented, which ought to arrest the attention of the American statesman. It is the true policy of every state or country to encourage and buy of its own citizens, every essential article which can be had, without too great a sacrifice, because, thereby you add to its riches by keeping the money among ourselves. This has been England's true and unvarying policy. She well knows that capital laid out abroad for foreign productions, which can be as well produced at home, is forever lost, both principal and interest. This consideration seems

to me to be so obvious that I forbear to dwell upon it.

But the gentleman from North Carolina (Mr. SMITH) has, without any bad motive, I grant, endeavored to array the agriculturist against the manufacturer, and to excite an idea of different feelings and interests in a great community, which ought to harmonize, and which is really identified, both by principle and interest. He asks, will you tax the agriculturist for the manufacturer, without giving him any adequate advantage? Mr. Chairman, this is not the fact—the gentleman would "call by different names brethren of the same family." Is not agriculture "that first and best employment of man," in which I myself am interested, and to which I know I am as great a friend as the gentleman from North Carolina, or any gentleman on this floor; I say, is not agriculture most of all interested in the production of iron? Can the farmer proceed a step without the implements of husbandry? But, says the gentleman, we may get it cheaper from abroad; perhaps it may be a little cheaper at this particular period, and why? Because it is England's interest, and it is the interest of all Europe to glut your markets, and they have glutted them, for the special purpose of destroying your manufactories! This is what they aim at—what they seek above all things. When this is done, take my word for it, iron will rise in price—foreigners, having prostrated your infant manufactories, will ask for their iron just what prices they please, and when we are pressed by another war, or by any other great national emergency, the nations of Europe "will laugh you to scorn, and mock when your fear cometh." Yes, Mr. Chairman, when pressed by war or embargo; when necessity knocks loudly at every man's door, then you see those establishments destroyed which would succor and save you! Then you must wait, in painful suspense, the tedious re-establishment of new manufactories, and the learning new workmen, or behold your country, for the want of them, on the brink of ruin.

Perhaps you may, at this moment, get iron a trifle cheaper from foreign places, but you cannot get it cheaper permanently; you cannot get it cheaper in the end! It is then to protect our own citizens by a small additional duty, to a certain extent, that I contend—a duty that may yield them great assistance, and do us no harm. Do us no harm, did I say? Would advance our true and solid interests.

From the best information which can be procured, it appears that the quantity of iron consumed in the United States is 45,000 tons.

In 1810, the quantity manufactured in the United States was 30,000 tons.

In 1814, 40,000 tons.

Leaving a surplus for common use of only about 5,000 tons.

In 1817, such was the shock received by the peace, and the consequent glut by foreign importations, that only about 15,000 tons were manufactured. By the protecting duties of 1816, which were not equal on iron to other articles



H. OF R.

Additional Duties.

APRIL, 1818.

imported, a few of the manufactories only have been enabled to survive, and whether they can still live will depend on the passage of this bill.

Great Britain, about twenty years back, manufactured only 18,000 tons; but by the uncommon encouragement with which the manufacturers met, and the great improvements by them made, in the year 1816 she manufactured 200,000 tons.

Now the fair inference is, that by seizing those great improvements in our power, by the superiority of our ore, both as to quantity and quality, our unbounded resources in coal as well as wood, in which we have a most unquestionable superiority over Great Britain, we may shortly make not only an abundant supply for ourselves, but draw vast riches into our country by the exportation of the article. It is supposed by good judges that we might make enough to supply the world!

Mr. Chairman, our Federal Constitution, the foundation and ligament of our political existence, is the offspring of compromise and mutual concession and affection. Shall then the planters of the Middle and Southern States, who are amassing fortunes by the production of rice, cotton, tobacco, and flour, refuse to yield some small and fraternizing token of respect and encouragement to the manufacturers of the Eastern and Middle States, in the time of their greatest need? From the discussion of this question, by some gentlemen, it would really seem that one class of the community was seeking something which would ruin some other. Nothing so erroneous; I am the friend of agriculture on this occasion; not only the agriculturist, but the whole civilized world is interested in the production of iron; the manufacturers themselves are agriculturists; their neighbors and friends are agriculturists; the whole country around them, and upon whose supplies they depend, is agricultural; the interests of both classes are united and indissoluble. The agricultural part of the community are already, and must ever be, the most independent; and will those who are most independent refuse encouragement to those establishments which will render them still more so? Away then with the jaundiced view of a difference of interest; it can answer no other purpose than to create sectional injurious jealousies, such as would go to destroy our happy Union!

I would go as far to represent my constituents in any local matter, which required attention, as any other man; I never could and never would desert them. But as, on another occasion, I endeavored so to convince the House, I stop here. After serving our constituents faithfully in those particular interests, where others from different sections could not, in the nature of things, so well do it, we become the representatives of the whole nation, and he who best consults the general interest, and whose measures are best calculated to give plenty, content, and union to all, deserves the most applause from his country.

The motion to strike out the first section, was negatived; and

The Committee having gone through this bill, took up the bill to increase the duties on certain

manufactured articles, (shot, paper, &c.,) imported into the United States, and to change the duty from an ad valorem to a specific one.

A motion, by Mr. COLARON, to strike out the first section, was lost.

Some other amendments were made to both the bills, and some proposed that were rejected, which gave rise to much debate.

Among the motions which prevailed, was one by Mr. PITKIN, to strike out the proposed modification of the duty on paper.

The bills having been reported to the House, the amendments made were generally agreed to without a division.

Mr. LITTLE made an attempt to retain the clause for modifying the duty on paper, which failed, by a considerable majority.

Mr. BUTLER renewed the motion, which had been previously made in Committee of the Whole, by Mr. MORTON, to strike out "one dollar," the duty proposed hereafter to be levied on "iron in bars and bolts manufactured without rolling." This motion was negatived—yeas 50, nays 82, as follows:

YEAS—Messrs. Abbott, Austin, Barbour of Virginia, Blount, Boss, Burwell, Butler, Clagett, Claiborne, Cobb, Edwards, Ervin of South Carolina, Garnett, Herbert, Hogg, Holmes of Connecticut, Huntington, Irving of New York, Johnson of Virginia, Jones, Lowndes, McCoy, Morton, Jeremiah Nelson, T. M. Nelson, Owen, Peter, Pitkin, Pleasants, Poindexter, Reed, Rhea, Robertson of Kentucky, Sampson, Settle, Sherwood, Silsbee, Slocumb, Bal. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Terrill, Tucker of Virginia, Tucker of South Carolina, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts.

NAYS—Messrs. Adams, Allen of Vermont, Anderson of Ky., Baldwin, Barber of Ohio, Bassett, Bateman, Beecher, Bennett, Bloomfield, Boden, Campbell, Colston, Comstock, Crafts, Crawford, Cruger, Culbreth, Darlington, Desha, Drake, Earle, Folger, Gage, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hopkinson, Hubbard, Hunter, Ingham, Kinsey, Lawyer, Lewis, Linn, Little, W. Maclay, W. P. Maclay, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Pindall, Porter, Rich, Richards, Ringgold, Rogers, Ruggles, Sawyer, Scudder, Sergeant, Seybert, Simkins, Southard, Spencer, Strother, Tarr, Taylor, Terry, Tompkins, Trimble, Upham, Wallace, Wendover, Whiteside, Williams of New York, Wilkin, and Wilson of Pennsylvania.

After rejecting several motions to adjourn, the two bills were finally ordered to be engrossed for a third reading.

[As ordered to the third reading, the contents of these bills vary from the statements heretofore given of them, by the omission of the proposed duty on paper, and by the additional duty of the following: On spikes three cents per pound; on anchors two cents per pound; on cut glass thirty per cent. ad valorem; on brown Russia sheeting, not exceeding fifty-two archines in each piece, \$1 60 per piece; on white do. do., \$2 60 per

APRIL, 1818.

Proceedings.

H. OF R.

piece. The two acts to take effect from the 30th June next.]

Mr. T. M. NELSON moved that, for the remainder of the session, the House do meet at ten instead of eleven o'clock.—Negatived.

And the House adjourned at half-past six o'clock.

WEDNESDAY, April 13.

A message from the Senate informed the House that the Senate disagree to the amendment proposed by this House to their bill, entitled "An act for the relief of Isaac Briggs;" and they have receded from their seventh amendment to the bill of this House, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes;" and they insist on their 8th amendment to the said bill.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of John Hall, late a Major of marines;" reported the same without amendment, and the bill was committed to the Committee of the Whole, to which is committed the bill from the Senate, entitled "An act for the relief of Richard M. Johnson."

Mr. WILLIAMS also reported a bill for transferring the claims in the office of the Commissioner of the Third Auditor of the Treasury Department; which was read twice, and also committed to the Committee of the Whole last mentioned.

Mr. PINDALL, from the committee of conference between the two Houses, on the disagreeing votes respecting the amendments of this House to the bill to make valid certain acts of the justices of the peace of the District of Columbia, reported it as the unanimous opinion of the committees of both Houses that the bill was unnecessary, the acts therein referred to being valid without the interposition of the Legislature; and the whole subject was, therefore, on motion of Mr. BASSETT, indefinitely postponed.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred the memorial of Manuel Torres, who offers to the United States a financial discovery which he considers of great value, reported that his suggestions were, from the respectable personal character of the memorialist, entitled to an examination; but that the remainder of this session, if the whole time of the committee were devoted to it, was not sufficient for the due investigation of the subject, and therefore recommending that it be postponed to the next session.—Concurred in.

Mr. FORSYTH, from the Committee of Foreign Relations, to whom was referred the amendments of the Senate to the bill, in addition to the several acts for enforcing the neutral relations of the United States, reported the opinion of the committee, that the said amendments, one excepted, be concurred in. But, after some conversation, the bill was laid on the table, on the suggestion of Mr. TUCKER that the amendments were im-

portant; and desiring himself that the bill should pass in the shape in which it went from this House, he moved that it lie on the table, to give further time for the consideration of the amendments.

Mr. POPE, from the committee to whom was referred, yesterday, the amendments proposed by the Senate to the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," reported the agreement of the committee to the said amendments, and the amendments were then concurred in by the House.

The bill from the Senate to amend the charter of the Bank of the United States, so as to authorize the appointment of a vice president and deputy cashier, &c., was read a second time. On motion of Mr. FORSYTH, the letter of the Secretary of the Treasury in favor of the measure was read; when, on motion of Mr. LITTLE, who desired a more particular consideration of the subject, the bill was referred to the Committee on the Judiciary—61 to 55.

Ordered, That the Committee of the Whole, to which are committed the amendments proposed by the Senate to the bill, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices;" and the bill to regulate and fix the compensation of clerks in the different offices, be discharged, and that they be committed to the Committee of the Whole, to which is committed the bill supplementary to the several acts making appropriations for the year 1818.

Mr. SCOTT gave notice that he would, on tomorrow, move the House for leave to bring in a bill to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri.

A message from the Senate informed the House that the Senate have passed bills of this House of the following titles, to wit: An act for the relief of Major General Jacob Brown; An act fixing the time for the next meeting of Congress; and, An act for the relief of Thomas Miller and Stephen Baker, with amendments. They have passed bills of the following titles, to wit: An act concerning tonnage and discriminating duties in certain cases; An act authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics; and, An act fixing the compensation of Indian agents and factors; in which amendments and bills they ask the concurrence of this House.

Engrossed bills of the following titles, to wit: An act to increase the compensation of deputy postmasters in certain cases; An act making the port of Bath in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district, whereof Belfast shall be the port of entry; An act providing for the deposit of wines and distilled spirits in public warehouses; An act to increase the duties on



certain manufactured articles imported into the United States; and, An act supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the 2d day of March, 1799—were severally read the third time, and passed.

The amendments proposed by the Senate to the bills of this House, entitled, An act for the relief of Major General Jacob Brown; An act fixing the time for the next meeting of Congress; and, An act for the relief of Thomas Miller and Stephen Baker, were read, and severally concurred in by the House.

The House took up, and proceeded to consider, their disagreement to the 8th amendment proposed by the Senate to the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes;" on which amendment the Senate have insisted; and the said amendment being again read, it was resolved that the House recede from their disagreement to the said 8th amendment.

The House proceeded to reconsider their amendment to the bill, entitled "An act for the relief of Isaac Briggs," to which the Senate have disagreed; and the said amendment being again read, it was resolved that this House recede from the said amendment.

The bill from the Senate, entitled "An act fixing the compensation of Indian agents and factors," was read twice, and referred to the committee on that part of the President's Message which relates to Indian affairs.

The bill from the Senate, entitled "An act authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics," was read twice, and referred to the Committee of Ways and Means.

The bill from the Senate, entitled "An act concerning tonnage and discriminating duties, in certain cases," was read twice, and referred to the Committee of Commerce and Manufactures.

A Message was received from the PRESIDENT OF THE UNITED STATES, which was read, as follows:

*To the House of Representatives of the United States:*  
In compliance with a resolution of the House of Representatives, of the 10th instant, relative to the capture and imprisonment of certain persons, citizens of the United States, therein specifically mentioned, I now transmit a report from the Secretary of State, which, with the documents accompanying it, embrace the objects contemplated by the said resolution.

JAMES MONROE.

WASHINGTON, April 15, 1818.

The said Message and documents were laid on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the annual statements of the importations of merchandise in American and foreign vessels for one year, ending on the 30th September, 1816; which was ordered to lie on the table.

The SPEAKER also laid before the House another letter from the Secretary of the Treasury,

transmitting sundry statements presented in obedience to "An act establishing a mint and regulating the coins of the United States;" which was ordered to lie on the table.

The SPEAKER also laid before the House sundry papers, transmitted to him by the Secretary of State, being the remainder of those referred to in his report of the 14th March, accompanying the Message of the President of the United States of that date; which papers were ordered to lie on the table.

#### THE SLAVE TRADE.

On the earnest request of Mr. SIMKINS, who considered the bill as highly important to the Southern States particularly; seconded by Mr. HARRISON, who considered it equally important to the States not holding slaves, bordering on the slaveholding States, the House proceeded to the consideration of the bill from the Senate, supplementary to the act prohibiting the importation of slaves.

Mr. SIMKINS proposed an amendment to the bill, providing for disposing of slaves seized for being illegally imported, by sale, one-half of the proceeds to the benefit of the United States, and the other to the benefit of the officers making the seizures, &c. This motion was advocated by Messrs. SIMKINS and EDWARDS, who seconded the motion, as the only means of executing the laws against the slave trade, as experience had fully demonstrated since the origin of the prohibition. Mr. H. NELSON protested against the introduction of a provision into our laws, which he declared to be inconsistent with the principles of our Government, and calculated to throw as wide open the door to the importation of slaves as it was before the existing prohibition. Further debate took place on the amendment, which was advocated by Mr. PINDALL, on the ground of the absolute necessity of such a provision, to make the laws efficient against the slave trade.

The amendment was finally rejected by a large majority; and the bill was ordered to be engrossed for a third reading.

#### ADDITIONAL DUTIES.

An engrossed bill to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum, and to disallow the drawback of duties on the re-exportation of gunpowder, was also read the third time—And on the question, Shall the bill pass? it was determined in the affirmative—yeas 88, nays 47, as follows:

YEAS—Messrs. Adams, Allen of Vermont, Anderson of Kentucky, Baldwin, Barber of Ohio, Bassett, Bateman, Beecher, Bennett, Bloomfield, Boden, Campbell, Colston, Crafts, Crawford, Cruger, Culbreth, Darlington, Desha, Drake, Earle, Ellicott, Folger, Gage, Hale, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Ingham, Irving of New York, Kinsey, Kirtland, Lawyer, Linn, Little, W. Maclay, W. P. Maclay, Marchand, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Miller, Moore, Moseley, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pindall,

Porter, Rich, Richards, Ringgold, Rogers, Ruggles, Savage, Sawyer, Scudder, Sergeant, Seybert, Southard, Spencer, Tarr, Taylor, Tompkins, Townsend, Trimble, Tucker of Virginia, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Austin, Barbour of Virginia, Blount, Burwell, Butler, Clagett, Claiborne, Edwards, Floyd, Forney, Garnett, Herbert, Hogg, Huntington, Johnson of Virginia, Jones, Livermore, Lowndes, McCoy, Middleton, Morton, Jeremiah Nelson, Hugh Nelson, T. M. Nelson, Peter, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Robertson of Kentucky, Robertson of Louisiana, Sampson, Settle, Sherwood, Silsbee, Slocumb, Ballard Smith, Speed, Strong, Strother, Stuart of Maryland, Terrill, Whitman, Williams of Connecticut, and Williams of North Carolina.

Ordered, That the title be, "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum."

#### DUTIES ON IMPORTS.

The House then resolved itself into a Committee of the Whole, on the bill to continue in force, from and after the 30th June, 1819, until the 30th June, 1826, the fourth paragraph of the first section of the act "to regulate the duties on imports and tonnage." The paragraph referred to is that which establishes the duty on the importation of foreign manufactures, of which the principal material is wool or cotton, &c.

Mr. EDWARDS moved—on the ground that there was no necessity for acting on the subject at the present time, and, being no necessity for it, there remained too little time for a proper investigation of the subject—that the first section of the bill be stricken out.

This motion gave rise to a short, but spirited debate; in the course of which, Mr. TUCKER, Mr. EDWARDS, Mr. MERCER, and Mr. RHEA, supported the motion, as well on the ground of hostility to the excessive taxation of agriculture for the benefit of the manufacturing interest, as of the want of time for a full discussion, &c. And Mr. SEYBERT, Mr. CLAY, Mr. MASON of Massachusetts, Mr. BALDWIN, Mr. KINSEY, Mr. LOWNDES, and Mr. SOUTHARD, opposed it, on both the grounds assumed.

The question having been taken on striking out the first section, it was decided in the negative—ayes 33.

The Committee then proceeded further in amending the bill; in which Mr. SILSSEE, Mr. LOWNDES, and Mr. PITKIN, took part.

Mr. MERCER proposed an amendment, the object of which was, that the duty of 25 per cent. should be imposed, not on a fixed value of 25 cents per yard, but upon an actual valuation, as in the case of other ad valorem duties.—Negatived.

Mr. COLSTON made a motion to amend the bill, the object of which was, to limit the extension of the present duties to two years, instead of seven, as provided by the bill. And this motion was decided in the negative—yeas 31, nays 108, as follows:

YEAS—Messrs. Austin, Barbour of Virginia, Bur-

well, Cobb, Colston, Edwards, Ervin of South Carolina, Forney, Hogg, Johnson of Virginia, Mercer, Miller, H. Nelson, T. M. Nelson, Peter, Pindall, Pleasants, Reed, Rhea, Schuyler, Slocumb, B. Smith, A. Smyth, J. S. Smith, Stewart of North Carolina, Stuart of Maryland, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts—31.

NAYS—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Kentucky, Baldwin, Barber of Ohio, Bassett, Bateman, Beecher, Bennett, Bloomfield, Boden, Boss, Butler, Campbell, Clagett, Cook, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Desha, Drake, Earle, Ellicott, Floyd, Folger, Gage, Hale, Hall of Del., Harrison, Hasbrouck, Herrick, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, Lowndes, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Merrill, Moore, Morton, Moseley, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pitkin, Porter, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Seybert, Sherwood, Simkins, S. Smith, Southard, Speed, Spencer, Strong, Strother, Tarr, Taylor, Terry, Tompkins, Townsend, Trimble, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania—108.

So the motion was rejected.

Mr. SMITH, of N. Carolina, moved an amendment to the bill, to this effect: that, after the 30th June next, the duty of 20 cents per bushel on salt imported should cease, and a duty of 10 cents thereon be substituted in lieu thereof.

On the suggestion of Mr. MERCER, Mr. SMITH consented to modify his motion, so as to propose 12½ cents instead of 10 cents, as the future duty on salt.

Mr. COBB advocated the motion at some length, and Mr. LOWNDES opposed it. After which, the question was taken on the motion, and decided in the negative—yeas 53, nays 92, as follows:

YEAS—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Boden, Burwell, Butler, Clagett, Cobb, Colston, Edwards, Ervin of South Carolina, Hale, Hall of Delaware, Herbert, Herkimer, Hogg, Hopkinson, Johnson of Virginia, Livermore, McCoy, Mercer, Miller, J. Nelson, H. Nelson, T. M. Nelson, Ogle, Peter, Pindall, Reed, Ringgold, Robertson of Louisiana, Rogers, Savage, Schuyler, Settle, Sherwood, Silsbee, Simkins, Slocumb, J. S. Smith, Southard, Speed, Stewart of North Carolina, Strother, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts—53.

NAYS—Messrs. Adams, Allen of Vermont, Barber of Ohio, Bassett, Bateman, Beecher, Bennett, Bloomfield, Blount, Boss, Campbell, Comstock, Cook, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Desha, Drake, Earle, Ellicott, Floyd, Folger, Forney, Gage, Harrison, Hasbrouck, Hendricks, Herrick, Hitchcock, Hubbard, Hunter, Huntington, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, W. Maclay, W. P. Maclay, Marchand, Marr,



Mason of Massachusetts, Mason of Rhode Island, Merrill, Moore, Morton, Moseley, Mumford, Murray, Ogden, Owen, Palmer, Parrott, Patterson, Pitkin, Pleasants, Porter, Rhea, Rich, Richards, Robertson of Kentucky, Ruggles, Sampson, Sawyer, Scudder, Sergeant, Serbert, B. Smith, Spencer, Strong, Tarr, Taylor, Terrill, Terry, Tompkins, Townsend, Trimble, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of New York, Wilkin, and Wilson of Pennsylvania—92.

The question was then taken, Shall the bill be engrossed and read a third time, and passed in the affirmative—yeas 106, nays 34, as follows:

YEAS—Messrs. Abbott, Adams, Anderson of Kentucky, Baldwin, Barber of Ohio, Bassett, Bateman, Beecher, Bennett, Bloomfield, Boden, Boss, Butler, Campbell, Cagett, Comstock, Cook, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Desha, Drake, Earle, Elcott, Floyd, Folger, Gage, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, W. Macleay, Wm. P. Macleay, McCoy, Marchand, Mason of Massachusetts, Mason of Rhode Island, Merrill, Moore, Morton, Moseley, Mumford, Murray, Ogden, Ogle, Palmer, Parrott, Patterson, Pitkin, Porter, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Simkins, Southard, Speed, Spencer, Strong, Tarr, Taylor, Terrill, Terry, Tompkins, Townsend, Trimble, Upham, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania—106.

NAYS—Messrs. Austin, Barbour of Virginia, Blount, Burwell, Cobb, Colston, Edwards, Ervin of South Carolina, Forney, Harrison, Herbert, Hogg, Johnson of Virginia, Jones, Mercer, Miller, T. M. Nelson, Owen, Peter, Pindall, Pleasants, Reed, Rhea, Schuyler, Settle, Slacumb, B. Smith, J. S. Smith, Stewart of North Carolina, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts—34.

The bill was then ordered to be read a third time to-morrow.

THURSDAY, April 16.

Mr. LOWNDES, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics, reported the same without amendment, and it was committed to a Committee of the Whole.

On motion of Mr. HUGH NELSON, the Committee of Accounts were authorized and directed to make the same allowance for extra services to the persons serving this House as were granted at the end of the last session, and to Christopher Dunn, for his services, fifty dollars.

On motion of Mr. ROBERTSON, of Louisiana, the President of the United States was requested to obtain from the Spanish authorities all records and official documents appertaining to the gov-

ernment of Louisiana, particularly such as concern grants and titles to land which may have been taken out of that country at the period of its cession to the United States.—Mr. ROBERTSON and Mr. LIVING were appointed a committee to present the said resolution to the President of the United States.

On motion of Mr. ROBERTSON, the memorial and petitions relative to land claims which have been addressed to this House from the State of Louisiana and the Territory of Missouri, were referred to the Secretary of the Treasury, with a request to report to Congress, at their next session, a plan for their final adjustment and settlement.

In pursuance of the notice given yesterday, Mr. SCOTT asked and obtained leave to bring in a bill to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri; and Mr. SCOTT, Mr. ROBERTSON, of Louisiana, and Mr. POINDEXTER, were appointed a committee to prepare and bring in the same, with leave to sit during the session of the House.

The bill from the Senate, entitled "An act in addition to an act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord, 1808," and to repeal certain parts of the same, was read the third time and passed as amended.

An engrossed bill, entitled "An act to continue in force from and after the 30th of June, 1819, until the 30th of June, 1826, the fourth paragraph of the 1st section of the act, entitled "An act to regulate the duties on imports and tonnage," was read the third time and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford, of Philadelphia, and Charles Wirgman, of Baltimore," with amendments, in which they ask the concurrence of this House.

#### AMENDMENT TO THE CONSTITUTION.

Mr. LEWIS submitted the following proposition of amendment to the Constitution of the United States, which was read and ordered to lie on the table:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of the same concurring, That the following sections be recommended to the several States of the Union, for their adoption, as amendments to the Constitution of the United States:*

I. The President of the United States shall not, in future, have the power of approving or disapproving any bill, or bills, or joint resolutions, passed by the Senate and House of Representatives.

II. The Senate and House of Representatives of the United States shall, by joint ballot, appoint to offices, and fill all vacancies in the judiciary of the United States.

III. The Senate and House of Representatives of the United States shall appoint, by joint ballot, the following heads of departments, whose term of service shall continue — years; but may be removed from

office at any time during the term for which they were elected, for inability to discharge the duties of office, or for high crimes and misdemeanors:

1st. A Secretary of the Treasury, who shall appoint all officers belonging to the Department of the Treasury.

2d. A Secretary of War, who shall have the power of appointing all officers, both civil and military, belonging to the Department of War.

3d. A Secretary of the Navy, who shall have the power to appoint all officers, both civil and military, belonging to the Department of the Navy.

4th. A Postmaster General, who shall have the power to appoint all officers belonging to the Post Office Department.

IV. Vacancies occasioned by death, resignation, or removal from office, in the Judiciary, or of the Heads of Departments shall be amenable to Congress for all appointments made by them; and to prevent improper recommendations to office, whenever any person in office shall be convicted of any crime, misdemeanor, or be dismissed from office, for neglect of duty, the name of the person so convicted, or dismissed, with the name or names of those who recommended him to office, shall be advertised for six months in some newspapers, in every State and Territory of the United States in which there shall be a printing office.

V. No member of Congress shall be appointed to any office, either civil or military, under the Government of the United States, during the term for which he was elected, and for twelve months thereafter.

#### DELINQUENT PAYMASTERS.

Mr. T. M. NELSON reported a bill to authorize the recovery of public money. [Providing that suit may be commenced to coerce a settlement of open accounts of persons who receive and expend the public moneys.]

This bill was twice read.

Mr. T. M. NELSON moved, that it be read a third time. Referring to a statement, yesterday laid on the tables of the House, of the names of those "paymasters of the late army of the United States" who have failed duly to account for the moneys confided to their charge, Mr. N. said, there was, it appeared, an unliquidated debt, apparently due, from persons of that description alone, to the amount of three millions of dollars. Upon conversation with the accounting officers of the Treasury, he found that they did not consider themselves authorized to bring suit against any delinquent until his accounts were liquidated, and the balance ascertained. This settlement, of course, was delayed by the defaulter; and the object of the bill was to enable the accounting officers to coerce the persons so situated to come to a settlement.

After some conversation in which Mr. LOWNDES expressed his surprise at the construction which it appeared had been given to the existing law; Mr. BURWELL congratulated the House on the introduction of this bill, so necessary to the security of public money, to the protection of honest claimants, and the detection of fraudulent transactions; and Mr. T. M. NELSON reaffirmed what he had already said, adding, that, as Government preserved a coercive power over officers while in office, instances have occurred frequently, in

which officers, under the present regulations, were kept in office without performing any duty, merely to secure a settlement of their accounts.

The bill was ordered to be engrossed for a third reading.

#### BANK OF THE UNITED STATES.

The bill from the Senate, supplementary to the act incorporating the Bank of the United States, (authorizing the appointment of a vice president, &c.,) having been read, and the question stated on ordering the same to be read a third time—

Mr. MOORE, of Pennsylvania, rose and said, he hoped the bill would not be ordered to a third reading. He said he was opposed to the passage of this bill for several reasons: because it contained a principle novel and unprecedented in itself, authorizing the president and directors of this stupendous national institution to appoint an assistant president and cashier, for signing the bills of the bank, in order to throw more of their paper into circulation and into the market. This, of itself, was sufficient to induce him to vote against the bill on the table; inasmuch, as he did not believe that such a necessity existed as to warrant or to justify Congress to interfere in this unknown of and unprecedented way. But this, Mr. M. said, was not his strong objection to the passage of the bill—he was opposed to affording any additional facilities to this immense corporation, already too powerful as it respected the moneyed transactions of this country, further to oppress the State and local banks of this country, and, through them, the people—those of the Western country particularly. He was enabled, he said, by his personal observations, to speak with precision as to the prejudicial results and effects this bank had in its operation there, particularly in that portion of the country he had the honor, in part, to represent. Sir, said he, in consequence of the inimical disposition shown by this powerful national corporation, to the State and local banks, the paper of the latter is at a large discount, although they pay specie for their notes, and are obliged to curtail their discounts, and, in many instances, compelled to press their borrowers in order to redeem their paper, held by this bank, its branches, and the Government. This process, Mr. M. said, caused a pressure severe in the extreme, and unprecedented in its extent, in the West, so much so, that he would be unfaithful to his constituents and to himself if he did not raise his voice against the passage of this bill, which, in his opinion, was fraught with evils to the vital interest of the Western country; and he hoped there was virtue and independence enough in this House to prevent its passage, and thereby rescue, temporarily at least, a great portion of the people from sudden and inevitable ruin. Mr. M. said, he would not now examine the policy or impolicy of the establishment of this national bank, it was now too late for that discussion: he would only remark, he never was in favor of the creation of this corporation at the time it was created, with its ample powers and enormous capital.



His observations he now wished to confine to the effects and operations of this bank on the country. What, he asked, were the consequences, in the State of Ohio, of the orders given to the receivers of public moneys there by the Secretary of the Treasury? In the land office at Wooster, he was informed, no money would be taken but the paper of the Bank of the United States, specie, and paper at par in the cities. This it was out of the power of the people to procure, as the paper of all their banks was at a discount; the consequence would be, that many of our most valuable citizens will be ruined, their labor and money be lost, and their land revert to the Government, or fall into the hands of moneyed speculators. All this embarrassment was attributed, he said, by the best informed, to the operations of this stupendous bank. This very morning had this House passed a bill preventing the forfeiture of lands in Ohio, for the non-payment of the moneys due according to the terms of sale, until the 31st of March next. This is but a temporary relief, and is founded on the embarrassment occasioned by this bank on the moneyed transactions of the country. What had been the conduct of one of its branches, established at Pittsburg, so late as February last? They discounted somewhere about three hundred thousand dollars, since which they have required twenty-five per cent, as he was informed, to be paid in on all discounts—and would receive no money in payment of that curtail but specie, their own paper, or the paper of the banks of Pittsburg. Was this not calculated to ruin its borrowers, and those banks, and, through those banks, the surrounding banks and the people? When such was the pressure occasioned by this bank, with its present power and facilities, would this House afford additional powers and facilities to further, and more rapidly increase, the present alarming pressure? I trust and hope not, said Mr. M. Sir, unless this gigantic institution is governed by a more liberal and magnanimous policy than hitherto, it will too soon crush the State and local banks, and oppress the majority of this nation. What is the course now, he asked, in the West, in collecting Eastern debts? Why, sir, nothing but money that can be had but by few will be taken in payment; property will be sacrificed for little or nothing, as, in the nature of things, there can be but few purchasers, and the result will be, that the real property of the West will fall into the hands of the wealthy merchants and bank stockholders. Mr. M. said, in every point of view in which he could look at this bill, it was pregnant with evils. He, therefore, hoped it would not pass to a third reading; and moved, that when the question was taken, it should be taken by yeas and nays.

Mr. POINDEXTER, of Mississippi, said, that this was a late period of the session, affording no time for a discussion of this bill; and, as no absolute necessity could be alleged for its passage, he moved that the same be indefinitely postponed.

Mr. FORSYTH, of Georgia, said he could not see any necessity for the postponement of this bill. If the bill contains incorrect principles,

it ought not to pass at all; but, if otherwise, it might as well be adopted now as at the next session of Congress. For his own part, he said, he could not see the impropriety of giving to this institution the power of effecting the objects for which it was established. It must be obvious, he said, that the president and directors were under a moral obligation to comply with their engagements to the United States. What were those engagements? One of them was, to supply a sufficient quantity of paper for the purposes of the revenue. This obligation, it was clear, could not be performed, unless the officers of the bank have it in their power to prepare the paper. No gentleman would deny, that it was physically impossible for them at present to do it. This institution, he said, had been already two years in operation; and, with the most extraordinary exertions, had not been able to issue paper to an amount of more than twenty millions of dollars, more than twelve millions of which sum were post notes, which were, in the course of business, returned to them, and not reissued; so that, in fact, there were but eight millions of paper of the bank in circulation. The interest of the United States, therefore, and the accomplishment of the object for which the bank was established, demanded the passage of this bill.

But, there was another important reason, Mr. F. said, why he thought this bill ought to pass. According to the charter of the bank, there were two or three modes by which the object now sought could be effected by the bank, but in a manner more dangerous to the interests of the community than that proposed. The bank is authorized to trade in bills of exchange, and trades in bills with each of its branches. The directors then have nothing to do but make an order directing the president and cashier of each branch to draw on them small bills, payable to the bearer, and the object is effected. Gentlemen may shake their heads at this suggestion, Mr. F. said, but if they would look at the charter, they would see it might be done. And, as to the fear of such a measure being visited on their heads by the displeasure of this House, the directors had no reason to fear it; for, he said, the bank had already infringed its charter, in his opinion, in an extraordinary manner, and the attempt at an inquiry, even, into their conduct, was suppressed in this House. For an act such as he had suggested as within the power of the bank, the courts of justice would not set aside their charter; and he was for passing this law to remove all temptation to such a course, particularly as he saw no objection to the bill itself. If the gentleman who had spoken of the pressure upon the State banks would look into the subject, he would find that the cause of it was the deficiency of the paper in circulation; for, if there were abundance of the paper of the Bank of the United States in circulation, the State banks could certainly get it. The very objection which he had made to the passage of this bill was really a strong argument in its favor. It did not appear to Mr. F. that there was any reasonable objection to this bill; and any gentleman

who would read the letter of the Secretary of the Treasury on this subject must, he thought, be satisfied of the necessity of such a provision as that contained in it.

Mr. ROBERTSON, of Louisiana, inquired whether this bill was founded on a petition from the stockholders? If not, he felt no disposition to act at all upon the subject.

The SPEAKER replied, that there was a petition from the stockholders.

Mr. HARRISON, of Ohio, said, that the opposition of the gentleman from Pennsylvania proved, very conclusively, that the people might aim at the same objects, and pursue different courses to attain it. Mr. H. said, he was in favor of the bill for the express reasons assigned by the gentleman from Pennsylvania for voting against it—to remove the pressure on the land offices. This pressure, said Mr. H., had been felt some time, but lately more severely, in consequence of orders from the Secretary of the Treasury prescribing the particular money to be received in payment: From my own knowledge I can say that of that money, the paper of the Bank of the United States, there is scarcely a note to be found in circulation. What was the alternative permitted to those who owed money for public lands? To pay the amount in specie. If the debts due to the United States were to be paid only in a species of paper not to be found, or in specie, was it not evident that the vaults of the State banks must be drained? It had been said, that there was abundance of the paper of the Bank of the United States in the offices of discount and deposit in the Western country. Mr. H. said, if that were the fact, there would have been no necessity for the measure proposed in the bill. But, he believed it was not the fact, and that there was a very small quantity of that paper in the Western country, it being constantly taken up by the merchants, and sent to the great cities of the United States to pay for goods. He was perfectly convinced, he said, that the pressure on the citizens of the West could only be relieved by a measure of the sort now proposed, and was therefore in favor of the bill.

Mr. CLAIBORNE, of Tennessee, hoped the bill would not pass. The Bank of the United States was already a pretty strong bank, and would be stronger some years hence. The State institutions would have to bend before the mammoth bank, as surely as the sun rises in the east and sets in the west; and the more Congress interfered with the charter of that moneyed aristocracy, in the course of its progress, the more they would enable it to operate on the people of the United States. The influences which grow out of moneyed institutions are always felt in every public body and in every state of society; and the older, the more firmly is their power established, the more certain is their influence, not only on this body, but on the people of the United States. Mr. C. said he had always entertained the opinion that the Constitution had never given to this Government the power to establish a National Bank, and he believed the people would feel

the effects of the assumption of that power too severely to refuse their assent to the excellence of the principles enforced by the Convention who framed the Constitution, and with much wisdom refused to grant the power to establish such corporations.

With respect to this particular bill, the ground on which it was supported was, that there not being a sufficient quantity of the paper of the bank in circulation, the public revenue could not be collected with convenience to the people who owe money to the Government. Mr. C. apprehended some error on this head, and that, so far as it operated on the people of the States of Ohio, Kentucky, Indiana, and, he was sorry to say, the State from which he came, the circulation of the paper of the Bank of the United States and its branches was rather calculated to oppress than to benefit the people. He took a view of the operation of the bank in the Western country. Every branch bank established had the authority to make drafts on the different branches in other States, and on the mother bank. These drafts were sold at a premium, and were paid for in the only money in circulation, the paper of the State banks, with which the branch bank either obtained the specie from the State banks or compelled them to pay interest on the amount. Who lose in this case? Not the holders of bank stock only, but the yeomanry of the country, because the effect was to depress the circulating medium and elevate the price of money in society; and by this operation, those best entitled to the favor of the Government were deprived of the opportunity of getting money to meet the demands which the Government has upon them.

Abandoning the argument that to increase the power of this institution would be ruinous to the independence of the country, which, as yet, he hoped, would survive the establishment of the bank, Mr. C. said he should like any gentleman to show to him any substantial advantage to be gained to the United States by imparting to the bank this power, seeing how unreal the benefits had proved which were promised from the first establishment of the bank. One of the main arguments urged in favor of the establishment of the bank was, that it was to regulate and equalize the currency of the country—a wild theory, Mr. C. said, which would never be realized in any country covering such an extent of territory as this. Money, like water, has its gravitating quality, and will settle down where it is most wanted. The bank, it is found, is totally incapable of producing these consequences. Nay, we find, at the doors of the mother bank itself, it cannot maintain the reputation nor credit of its own branches; for he was told that the notes of some branches had already been sold at a discount of three per cent., though, perhaps, no charge of misconduct could, on that account, be sustained against the president and directors of the bank. It was unnecessary to go into a train of reasoning to show that the branches cannot pay specie for the notes of other branches or of the mother bank. The fact, however, was certain, and it



was in vain to expect that an institution of that kind could ever establish an uniform currency, in the sense in which the term had been employed by those who advocated the establishment of the bank.

The second great advantage proposed from the bank was, that, besides putting into circulation a mass of money of equal value to the amount, not only of the whole capital, but of much more, (which it must do, or its dividends can never reach the expectations of the stockholders,) it would prevent the evil and the crime of counterfeiting. Where the notes were all of one form, and signed by one set of officers, counterfeiting would be more difficult than it even yet unfortunately is, from the variety of denominations of notes in circulation, which is enough to confound the most intelligent and discriminating. Change the system by the passage of this bill, multiply and diversify the signatures, and the beneficial effect thus anticipated will at once be lost. For, if there be a necessity to appoint a vice president and vice cashier now, hereafter it will be more necessary, after the extension of the institution, to extend further facilities. It will become necessary that the field of action should be enlarged from time to time, as the influence of the institution extends itself throughout the United States; and, in time, we shall have as various signatures to the notes of the Bank of the United States as we have to those of the old State institutions.

There were not so many inconveniences from the issue of large notes and drafts by the bank as gentlemen imagined. Most of these passed through the State banks and gave them an opportunity of issuing their own notes for them. Nor, Mr. C. said, did he apprehend that the persons who were debtors to the United States could feel the difficulty which had been suggested. Conceiving, in short, that no advantage, but much injury, would result from the measure proposed in this bill, he hoped it would not pass.

Mr. INGHAM, of Pennsylvania, expressed his astonishment at the vehemence of opposition to this bill; for which, he said, it was impossible to account, without supposing some remains of attachment to exist in the breasts of gentlemen, to the rag system, which existed previous to the establishment of the Bank of the United States. It was certainly not necessary now to inquire whether the establishment of that bank was or was not Constitutional, or whether it had in its operation afforded all the advantages anticipated from it. These considerations, Mr. I. said, had nothing to do with the question now before the House, which was in itself so simple that nothing but the prejudice to which he had alluded could have drawn gentlemen into this extraneous discussion. The object was merely to authorize the bank to appoint a vice president and assistant cashier. Now, it was plain, that no one person, suppose he were to sign two thousand notes per day, which Mr. I. understood was the greatest number one person could properly sign, could sign notes to the amount of the capital of the bank, in less than two or three years, and that

some aid was necessary to divide the labor of signing with the present officers, in order to enable them to accommodate the public. Suppose the House to refuse to pass this bill, did gentlemen expect to preserve the character of this miserable trash of paper which covers the whole country, without a dollar to support it, which is lent out to anybody who will take it, without credit or property to justify it? Would gentlemen make the situation of these institutions any better by refusing to pass this bill? The consequence of such a refusal would be, that the president and cashier of the bank must be employed exclusively in signing bills of the bank, and on some other persons must be devolved the other important business which properly belonged to those officers.

Mr. MERCER, of Virginia, then addressed the Chair, in opposition to the bill. Its object, he said, was to extend the operations of the bank and its branches where already established, and to enable the bank to establish branches where they do not now exist; and, could he suppose that it was likely, without the proposed indulgence, the stockholders would be disappointed in their reasonable expectations of profit from the bank, he should suppress all the objections to it which he found in his breast, in order to perform what he should consider an obligation of public faith. But, he said, there was no reason to apprehend such a result. The bank had been in operation about fifteen months, the mother bank having gone into operation in January, 1817. At the first semi-annual dividend, they had declared a dividend of four per cent., being at the rate of eight per cent. per annum. This was at the end of the first six months of actual operation, when all the expenses of the organization of the bank, and putting it into operation, were incurred, and must of course have been charged. Mr. M. said he had heard a gentleman deeply interested in this institution say that the bank would be able to divide at least ten per centum per annum, a profit exceeding that of any bank south of the Potomac and north of South Carolina. Congress were therefore not bound, by any considerations of equity or good faith, to do anything to enlarge the profits of the bank, which would be the effect of the system proposed, and must have been the object of the stockholders in asking for it. Mr. M. said he should not, however, be disposed, were it not, in his opinion, forbidden by principles of expediency, to deny to the bank the opportunity of increasing its gain. Although the stock of the bank was now selling at forty-three per cent. above par, he should not refuse a measure which would raise it to an hundred per cent., if he did not feel that the primary interests of the country would suffer by such a course.

It were a sufficient argument against this bill, were there no other, that it would just double the danger of counterfeiting, and the inducements to the commitment of this crime; and in so far would deprive the institution of one of the leading arguments in its favor.

But, Mr. M. was opposed to the bill on other

grounds. He had no prejudice, he said, against the moneyed interest. He would protect every one concerned in it by any act of sound legislation. He would not embarrass any of the great interests of the country by a system of narrow legislation. He was not personally a stockholder in any moneyed institution; he was glad at present that he was not in this interest, because he was called upon to exercise his judgment impartially respecting it. In the country which he represented, the profits of this system of banking, Mr. M. said, had been applied to the most beneficial purpose—education. He was indisposed to narrow the profits of the State banks, by extending the operation of this enormous institution in such a manner as to fetter their operations within limits too narrow for existence. He was not disposed to lend the aid of this House to carry the rills of influence from this institution through every valley and hamlet in the country. Let us suppose, said he, a branch of the Bank of the United States established along side of every State bank, and having every one of them indebted to it: I ask, under what circumstances, we shall legislate when called upon, on any occasional pressure, real or imaginary, to suspend specie payments? He looked forward, he said, with apprehension to the extension of this institution. He had been told that the bank only waited the passage of this bill to establish branches all through the State which he represented, and across its mountains. Could it be necessary, for the purpose of enabling the Government to collect its revenue, the ostensible object of the establishment of this bank, to establish more than one or two branches in each State of the Union? Certainly not; but, for the purpose of gain to the bank, branches were to be extended everywhere; and he asked if any benefit could result to the Government from facilitating the means of the bank to carry this object into effect?

Mr. M. said he was not here when this bank was incorporated; but he well remembered the arguments by which it was sustained. The House and the nation were told that the bank would establish an uniform currency, and break down the system of brokerage, so justly obnoxious. But, Mr. M. asked, has the predicted effect resulted, even in the very towns wherein branches are established? No; and can it result? Is it possible for the Bank of the United States to equalize exchange between the different sections of the country? Can they equipoise the balance of trade between the Atlantic and the Western country, until the country manufactures everything itself? The hope is illusory. The bank, he said, did not even attempt to equalize the exchange between this city and Philadelphia, although the mail passes from the one to the other at the rate of an hundred miles per day. If the attempt has ever been made, it is not from a consultation of the great interests of the country, but from personal regard to the individuals who were to be accommodated.

It was true, Mr. M. said, that, if the Treasury persisted in the arrangement relative to the paper

receivable at its collectors' and receivers' offices, it becomes important that the paper of the Bank of the United States should have a general circulation. He was willing, for one, however, to give his assent to a bill which should restrain such oppression, and compel the Treasury to receive the paper of all banks which pay specie, instead of giving such a preference to the Bank of the United States, beyond the requirement of the law, as to make necessary the proposed extension of its privileges. We have given, said he, to this moneyed interest, a body to act, a head to meditate, and, moreover, a heart in which, as in every human heart, ambition and avarice have a place. I am unwilling now to give them a power to extend their operations to every valley and to every mountain top, in every State in the Union. Let them stop where, when you gave them their charter, you meant that they should stop—where your revenue is collected. I will resist these encroachments as long as I can, and, if I fail in my object, I shall, at least, have the pleasure of recollecting that I have taken the first opportunity which has offered to raise my voice against them.

It had been said that it was necessary to pass this bill, in order to extend the operations of this bank to the extent of its capital. Already, Mr. M. said, the bank had divided its profits at the rate of eight per cent. per annum; and it would be recollected, that, during the existence of the old Bank of the United States, the circulation of its paper never exceeded seven millions and a few hundred thousand dollars. The banks in the interior must depend for profits on the circulation of their paper; but the Bank of the United States, located in the great cities, was not dependent on any such contingencies for its profits. But, what is the ability of the bank to issue paper with its present officers? It has been in operation fifteen months, and has issued seventeen and a half millions of paper, of which the post notes do not amount to seven millions; leaving eleven millions, in round numbers, in circulation, and these issued within fifteen months. Give to the bank three years' time, and at this rate they will have issued thirty-three millions, and in five or six years sixty or seventy millions! And in time, he had no doubt, they would, without the aid of this bill, supplant all the State institutions. The States, Mr. M. said, had all exacted from the banks which they had chartered heavy premiums; much heavier than that paid by this bank to the United States. The premiums paid by the banks of Virginia had built up a credit for Virginia equal to that of any other State. If this were a new question, for the first time agitated; if Congress were about to create a new system, he would concur with gentlemen; he would in that case have but one bank, and derive all the paper for circulation from one institution, which should be regulated, not by a corporation, because the conduct of moneyed corporations is always ruled by avarice; but by some plan which should insure the conformity of the measures of the bank to a great national policy, &c. But we



H. or R.

Bank of the United States.

APRIL, 1818.

have long ago passed that stage; and numerous banks have been incorporated over the country, under the strongest pledge of the faith of the States to support them, &c., and Mr. M. said, he would not, in his new character of a representative in Congress, do that which he should be ashamed to do in another, by lending his vote to injure the banks which had paid premiums to the States, of an amount which could not be justified by the state of things which must follow the further extension of the Bank of the United States.

As to the suggestion which had been thrown out, that, if the passage of this bill were refused, the bank could accomplish its object by issuing paper in the shape of bills of exchange, Mr. M. asked, if bills of exchange were payable to bearer? He had never seen any such; they are always payable to order. But if the bank did attempt in that manner to supply a circulating medium, would it not be a violation of their charter? Were gentlemen willing to put such a construction on the act of incorporation? Mr. M. knew very well, he said, that such an institution may buy half the legal talents of the country, and obtain authority for very ingenious constructions of a plain provision. But, said he, we have the power to restrain avarice, and defeat ingenuity, and I look to that source for some consolation.

He concluded by saying, he trusted the motion for indefinite postponement would prevail by a large majority; it had his most hearty approbation. He regretted that it was now too late a period of the session to discuss, as it ought to be treated, a subject so interesting, and of which so many views might be taken, that it was impossible, in this brief debate, to do it anything like justice.

Mr. WHITMAN, of Massachusetts, expressed his surprise at the course of this discussion; the question being simply whether Congress would grant relief to the president and cashier of the Bank of the United States, from the oppressive labor of signing bills; for it was those officers who were suffering. The bills of the bank must be signed, and these officers were now compelled to work night and day, and perform labors calculated to destroy their constitutions and shorten their lives. The interest of the institution required these labors, besides the other important duties required of them, and they must be performed. If the constitutions of the present officers fail, they must give way, and others be chosen, not for their abilities, but for their robust constitutions. This must be done, and will be done. The gentleman from Virginia supposed the bank could not accomplish their object by means of bills of exchange. But Mr. W. said, he could tell the gentleman what they could and would do. In any of the branches, when deposits were made, they would authorize receipts to be given by small or large sums, and payable to bearer, signed by the president and cashier, and which would everywhere circulate as money. Would not this be a greater inconvenience than

to have bills signed by two sets of individuals, as proposed by the bill? Certainly the opposition to the bill was very unreasonable. If gentlemen apprehended any danger from the bill, let them limit it to three years, or even a shorter time. But, in some shape, it was evident the bill ought to pass.

Mr. S. SMITH, of Maryland, said, he had made up his mind to take no part in the present discussion, nor should he have risen, but for an observation, to wit: that the reporter of the bank charter (Mr. CALHOUN) had assured the public, that the bank would regulate the exchanges throughout every part of the Union. I was not (said he) in Congress when the charter was reported by that gentleman, as chairman of the committee on national currency, but I took my seat before it was called up for discussion, and, having taken a part in the debate, I gave it my attention, and I think I may say, that the assurances were to this effect, "that the bank would tend greatly to equalize the exchanges between the several States and with foreign nations." Has it had that effect? I think it has, and more rapidly than was expected by its most sanguine friends. What was our situation when the bank charter passed? An almost general depreciation of bank notes. The money of Baltimore, and this District, was 20 per cent. less value than that of Boston, 15 per cent. less than that of New York, and 10 per cent. less than either Philadelphia, or Virginia; yet the fact was well ascertained to Congress, that the banks of Baltimore had more specie in their vaults, in proportion to their capital, and notes in circulation, than either the banks of Philadelphia or New York, and equal to those of Virginia: the difference between the notes of Virginia and Philadelphia, and those of Boston, was ten per cent. The Boston banks paid their notes in specie; no other State banks did. The result was that the merchants and people of the States, whose banks paid in paper, paid less real value to the Treasury, for the duties and taxes, than the Eastern people. Baltimore, for instance, paid only 80 dollars when Boston paid 100 to the Treasury. This was a just subject of complaint. How was this to be obviated? Some gentlemen thought the State banks could be coerced to resume specie payments, but Congress had no power over them. That subject was very fully discussed. The State banks believed they could not, with safety to themselves, undertake to resume specie payments. And, although I differed with them in opinion at the time, yet I am now free to confess, that they could not have resumed without the aid of the Bank of the United States. Baltimore owed, at that time, to New York, one million five hundred thousand dollars, which debt was thrown principally on the United States Branch for payment. Had the banks of Baltimore undertaken to pay their debts in specie, all they had in their vaults would have been drawn out to pay that debt, and the debts due to Virginia, Philadelphia, and Boston. The branch bank discharged those debts in effective money. I have said, "that the bank equalized

APRIL, 1818.

Bank of the United States.

H. or R.

the exchange more rapidly than could have been expected." Yes, sir, in a very few months after its organization, the exchanges from Boston to Richmond were at par, and have so continued. Some difference of exchange exists in Charleston, Savannah, and New Orleans, but not more than the cost of transporting specie from Philadelphia, perhaps two to three per cent. The facilities given to the Eastern merchant, by the bank paper, fully compensates him in his purchases of cotton for that small loss. Bank paper of the United States passes in every part of the United States, in all purchases, equal to gold or silver; and why should it not? All debts due by the bank, either for its notes or accounts, are paid in specie when demanded. I know of no instance where specie has been refused by the bank, or any of its branches, to any person having a right to demand it. I speak with confidence when I say, none such has occurred in Baltimore. The demand for specie, for the trade beyond the Cape of Good Hope, has been immense—much greater, I understand, than formerly. To meet that demand, and to reinstate public confidence in bank notes, the bank has been under the necessity of importing specie to a large amount. To what extent, I know not; but I may venture to say, little short of four millions. And I understand, they have agents, purchasing specie, in Europe and the West Indies, which they pay for by bills of exchange purchased from the merchants. Bills of exchange on London, when the bank began, were about par in Boston, ten per cent. above par in Philadelphia, twenty per cent. in Baltimore and this District. They are at present one to one and a half per cent. above par at all those cities, and will soon be at par. From this view, it is evident, that the bank has effected the object relative to the exchanges which had been contemplated by its friends, and this good has been effected without any material injury to any of the State banks. It is true, the bank operates as a check to those institutions. They are now under the necessity of curtailing their operations, and of doing only as much business as their capital and deposits will justify. Those banks which are sound, and discreetly managed, will probably divide, in future, eight per cent. They can no longer inundate the country with paper. The Bank of the United States, as far as I have been informed, has acted towards them the most friendly part. I may say that they are on friendly terms in Baltimore. Every kind of accommodation that either can, with propriety, give, has been afforded. Harmony, and a good understanding, is mutually useful; and, I have no doubt that the real interest of both will induce a continuance of forbearance and friendship towards each other.

The facility of merchants and others transferring their funds from one part of the Union to the other, without risk, by means of bank drafts, is very great. For instance, does any member want to send money from hence to Boston, New Orleans, Kentucky, or any part of the Union, where there is a branch? He has only to apply to the branch bank in this city, and he will re-

ceive a check, payable to whom he pleases, on the branch nearest to the place of his residence. If a merchant in Baltimore wants to pay his debt in New York, he has only to apply to the branch bank, and he will receive a check, payable to his creditor in New York, on the branch bank here. This, Mr. Speaker, is the common course; but there are times when the balance of trade may be so much against one city, and in favor of another, that drafts of the bank cannot be given, and such cases have happened, and will again happen. Whenever they do, the mother bank uses its best endeavors, by a supply of specie, to correct the inconvenience. The gentleman from Virginia, (Mr. MEXCER,) complains, that he applied at the branch bank for a check on New York, and was refused. But how did he apply? Did he offer the United States bank notes? No, sir—he offered the notes of one of the District banks; and, certainly, ought not to have expected, that the branch bank would have given him a check on New York for paper not its own. Every bank, or branch, is bound to take care of itself. The United States own one-fifth of all the stock of the National Bank, and ought, and will expect care and caution on the part of the bank and its branches. The gentleman might as well have brought district notes to the branch, and demanded specie for them; for, with the check of the branch, his friend at New York could have demanded specie for its amount. The same gentleman believes, that Government did not receive an equivalent for the charter. I differ with him entirely. The United States own one-fifth of the stock, which is paid for, say seven millions in five per cent. stock.

If the bank divides eight per cent. then the Government gain three per cent. on its seven millions, say two hundred and ten thousand dollars per annum; or, for twenty years, the charter term, - - - - - \$4,200,000  
 Bonus \$1,500,000, with interest thereon, in twenty years, above - - - 3,000,000  
 Twenty loan offices saved, the bank being bound to do the duty of loan offices, and to pay all the pensions to its own cost, \$100,000 per annum, or, for twenty years - - - 2,000,000

Gain in twenty years to the U. States \$9,200,000

Thus the actual positive gain to the United States by the bank, during its term of twenty years, will exceed \$9,200,000. The bank is, besides, compelled, at its own cost, to place money wherever the same may be required within the United States, for the wants of the Government; for this and the collection and safe-keeping of the public money, it has an equivalent in the public deposits. There is one good which has resulted to the Treasury from the establishment of the bank, and to which I beg leave to call the attention of the House. It is that, when the bank began to act, the Secretary of the Treasury placed with it bank notes of the interior banks to an amount exceeding \$4,500,000, which had been received for taxes and public land. Those



H. or R.

Bank of the United States.

APRIL, 1818.

notes were of no more use to the Treasury than so much blank paper. They would pay no debt. The bank, by its agents, and its own cost, have realized above \$3,000,000 thereof, without injury to such banks. The balance of perhaps \$1,500,000, cannot be collected. The banks have not the means of payment, and, it is feared, that much of that large sum is in jeopardy. Some have agreed to pay interest, whilst others can do nothing towards payment. The establishment of the bank has effectually cured such evil in future, and will check the interior banks from an intolerable emission of paper, injurious to the credit of bank notes. They are now confined, as they ought to be, to issue notes only in proportion to their capital and deposits. If the United States Bank had not been established, the depreciation of bank notes, which had already commenced to an alarming degree, would have continued until they had become little better than continental money, and been ruinous to the country.

What does the bill propose? Simply to authorize the bank to appoint a vice president and vice cashier, whose sole business shall be to sign bank notes, and why? Because it has been found physically impossible for the president and cashier to sign notes sufficient for the medium required for the use of the country. The gentleman from Pennsylvania, (Mr. Moore,) opposes the bill, and, at the same time, tells you, that a bill has passed giving further time for the payment of land in Ohio, because there is not specie in the country, or United States Bank notes in that State, wherewith to pay—and why, Mr. Speaker? The reason is obvious, to wit: that the president and cashier cannot sign notes sufficient to supply the branches in Ohio, and other States. The bill, if passed, would save that difficulty, and, surely, the gentleman ought, from his own showing, to vote for the bill. But he tells us that the branch at Pittsburg has acted very improperly towards its customers. I am sorry for it; I know not the cause, but suppose that the directors have been checked by the mother bank for having, in the commencement of their operations, discounted too liberally; and I have no doubt that in a few weeks the business will be accommodated satisfactorily.

Mr. Speaker one great object of the bank was to afford an adequate circulating medium, that would be uniform throughout the Union. To effect this it is necessary to have a sufficient number of notes signed, to enable the bank to put twenty millions of dollars in circulation. The president and cashier cannot (having their other business to attend to) sign more than fifteen hundred notes each day. At that rate it would require more than four years for them to sign the number and kind necessary for circulation. And what harm can result from granting this facility? I can conceive of none. It has been alleged that the bank will put too many notes in circulation. This cannot be; the charter confines them; and if it did not, I am certain they could not put out more notes than two thirds the amount of their capital. No bank can, (when

it is compelled to pay specie) unless where there is but one bank in a city, into which all the deposits of the merchants are received. If the deposits are on an average equal to the amount of the capital, then the bank can safely issue more notes. This cannot happen with the Bank of the United States or any of its branches.

The gentleman from Tennessee, (Mr. CLAIBORNE) has said that the notes of the State banks pass equal to gold and silver in their vicinities, and therefore the United States Bank notes are not required in any great number. The gentleman may be, and perhaps is, generally correct; but he knows well that the State bank notes have little or no currency out of their immediate neighborhood. The notes of the interior banks will not pass in the cities of their own State. The gentleman knows that the district notes will not pass in Baltimore, nor Baltimore notes in Philadelphia; which city he has lately visited.

Banks, Mr. Speaker, are frequently complained of, and often without cause. The directors are delicately situated; they are acting for others, and are bound to act with caution. If they, by a desire to oblige, extend their discounts too liberally, if they issue too many notes, if they credit indiscriminately, they endanger the institution to save themselves; they will be compelled to check suddenly their discounts, as has been the case probably at Pittsburg, and thereby cause injury to individuals. If the banks refuse discounts to some, although there may be good cause, those persons are offended; consider themselves aggrieved, and are loud in their complaints. Banks are desirous of making good dividends, and will always discount good paper when their own situation will permit. Banks may be run upon for specie to their great disadvantage, and to that of commerce in general; for in such cases they must lessen their discounts, to save their specie. This of course injures all the merchants not engaged in the export of the precious metals. In case of a great demand for specie, such as has lately been felt, the banks become cautious, and perhaps refuse discounts to persons who they know want to export, or to draw the dollars and sell them to exporters. This causes an outcry against the banks. To such complaints we should pay little attention. The principal demand for specie has been upon the Bank of the United States and its branches, not only for export, but to supply the vaults of State banks lately created. Virginia has established a number, I believe, called the Valley banks, each of which were compelled to have a certain amount of specie in their vaults before they could commence business. Those banks have had recourse to the Bank of the United States for part of their specie, and have been supplied. That specie will probably soon find its way back into the bank or its branches, by the course of trade, (for the notes of those banks will pay no debt in any of the cities) and that circumstance will be a new source of complaint.

Mr. Speaker, the bill, if it should pass, will be of utility to the banks of the interior; the notes

APRIL, 1818.

Bank of the United States.

H. or R.

will be made more numerous; they will supply a medium; will be received by the farmers for their produce, carried into the country, deposited in the banks of their vicinity, and there be kept, until required by the country merchant to pay his debts to the merchants of the city; and thereby save the interior banks from being drawn upon for all their specie. The National Bank notes are to all intents and purposes equal to gold, and silver, for all the uses of the interior banks. And when they come to understand its utility as well as the gentleman from Tennessee (Mr. CLAIBORNE) they will take every fair means to procure those notes. That gentleman has told you that already the interior banks have begun to understand their utility, and secure them whenever they can, considering them as a full security to meet demands upon them, which otherwise would draw away their specie.

In fine, Mr. Speaker, I think I can see that some good will result from the bill now before the House, and no possible evil, and, therefore, it shall have my vote.

Mr. JOHNSON, of Kentucky, considered it entirely improper to go into the merits of the establishment of the Bank of the United States; nor would he say anything of the influence of that bank—he had voted against that influence, and had nothing more to say on that question. He should confine himself to one point; and, in voting in favor of the bill, he should not do it under the influence of the Bank of the United States. He should vote for it, to give to the State banks an equal chance, believing that it will operate in their favor. At present, in Kentucky, for instance, a merchant will accumulate, in his possession, paper of the local banks; will go to Lexington with his five or ten thousand dollars, deposit his notes in the branch bank, and take a check on Philadelphia. The State institutions have no opportunity to get the paper of the Bank of the United States, because there is none in circulation. The consequence is, that the local institutions become tributary to the Bank of the United States. As long as the State banks pay their notes in specie, and the Bank of the United States alone imports specie, it is advantageous, for the purpose of preserving the solvency of the local institutions, that the notes of the Bank of the United States shall have a general circulation. In this view of the subject, alone, Mr. J. said, he should vote for the bill.

Mr. CLAIBORNE again spoke, pretty much in detail, against the bill, as unnecessary on any pretext. He entered into sundry calculations to show, that, by signing bills for five hours a day, of as low denominations as ten dollars, one person might sign, in one year, to the amount of twenty-eight million five hundred thousand dollars, on a moderate computation; but, if part of the bills were of a larger denomination, to a double amount, &c. As to the parental care over the State banks, which the gentleman from Maryland ascribed to the Bank of the United States, it was a care much the same as that of a jealous step-mother, and its

power over them as great as that of a parent over an enfeebled child.

Mr. TAYLOR, of New York, said, he had one or two objections to the bill. In the first place, the bank had not asked for the passage of such a bill. They had asked, that the presidents and cashiers of the branches might be authorized to sign bills; but this, even the gentleman from Maryland was not willing to concede to the bank. The passage of this bill, he also said, would not serve the purpose avowed by its supporters, of relieving the pressure felt from the want of a sufficient quantity of circulating medium. The reason the notes of the Bank of the United States were not in general circulation was, that those who were interested in the State banks laid hands on them for the purpose of depositing them in those banks, and thus put them out of circulation. The president of the bank could very easily sign as many notes as it would be prudent for the bank to issue, and ten other men to sign notes would not remove the difficulty. If the bank had asked the passage of such a law, he would go more seriously into the consideration of the proposition; but their not having done so he regarded as an objection, at the threshold, fatal to the bill.

Mr. FORSYTH replied to Mr. TAYLOR, that the stockholders of the bank had asked relief in one shape; and if Congress, disapproving that, chose substantively to grant relief in another way, it surely could not be improper. With regard to the scarcity of the paper of the Bank of the United States in circulation, it was owing, not so much to the cause suggested by the gentleman from New York, as to the difficulty of preparing paper of a shape fitted for common use, that is, of small denominations. The passage of this bill was essential to the public interest, and to the convenience of the people generally, inasmuch as it was impracticable for the present officers to prepare such paper in proper quantities. Mr. F. then went into a train of reasoning to show the difficulties under which the community labored from the scarcity of this paper.

Mr. T. M. NELSON, of Virginia, spoke briefly against the bill—

When the question was taken on the indefinite postponement of the bill; and decided by yeas and nays; for the postponement, 85 against it 50, as follows:

YEAS—Messrs. Austin, Baldwin, Barbour of Virginia, Barber of Ohio, Bateman, Beecher, Bennett, Blount, Boden, Burwell, Campbell, Claiborne, Cook, Crawford, Cruger, Darlington, Desha, Drake, Edwards, Ellicott, Erving of South Carolina, Floyd, Forney, Gage, Garnett, Hendricks, Herbert, Herkimer, Herrick, Hitchcock, Hogg, Holmes of Connecticut, Hubbard, Hunter, Huntington, Irving of New York, Johnson of Virginia, Jones, Kinsey, Linn, Little, Livermore, Marchand, Mason of Rhode Island, Mercer, Merrill, Miller, Moore, Morton, Murray, T. M. Nelson, Ogle, Owen, Palmer, Patterson, Peter, Pleasants, Poindexter, Porter, Reed, Rhea, Ringgold, Sampson, Savage, Scudder, Settle, Sherwood, Slocumb, Ballard Smith, Speed, Spencer, Stewart of North Carolina, Stuart of



H. or R.

Invalid Pensions.

APRIL, 1818.

Maryland, Tarr, Taylor, Tompkins, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whit, side, Williams of Connecticut, and Wilkin.

NAMES—Messrs. Adams, Allen of Vermont, Bassett, Bloomfield, Boss, Butler, Clagett, Cobb, Colston, Crafts, Forsyth, Hall of Delaware; Harrison, Heister, Hopkinson, Ingham, Johnson of Kentucky, Kirtland, Lowmles, W. P. Macley, McCoy, Mason of Massachusetts, Middleton, Moseley, Mumford, H. Nelson, Pawling, Pindall, Pitkin, Rich, Richards, Robertson of Kentucky, Robertson of Louisiana, Rogers, Ruggles, Sawyer, Sergeant, Silsbee, Simkins, S. Smith, J. S. Smith, Southard, Strong, Strother, Townsend, Trimble, Npham, Whitman, Williams of North Carolina, and Wilson of Pennsylvania.

## INVALID PENSIONS.

The House then resolved itself into a Committee of the Whole, on the general invalid pensioners' bill.

This bill, as usual, occupied the Committee some hours, and produced considerable discussion, arising on motions by different gentlemen, to insert in the bill the names of various invalid soldiers, either not previously sent to the Committee on Pensions, or reported on unfavorably by that committee. These cases rarely involve any new principle, and are too confined in their interest to require particular notice.

The only motion which varied materially from the general character, on this subject, was one made by Mr. CLAY, to insert the name of Charles Earnest, an orphan boy, in the bill, as a pensioner. The facts in this case, as stated by Mr. CLAY, were, that the father of this boy, Charles Earnest, received a wound at Bladensburg which caused his death, leaving his infant son destitute and unprotected, and the more forlorn, as he is both deaf and dumb. To defray the expenses of educating this unfortunate child at the asylum of the deaf and dumb, in Connecticut, Mr. C. moved to authorize the sum of two hundred and fifty dollars a year, to be expended under the direction of the Secretary of War; and followed his motion by a short, but touching appeal to the generous and patriotic feelings of the House.

The motion was carried without opposition, and almost without a dissenting voice.

The Committee then proceeded with the bill, on which it was busily engaged till between six and seven o'clock, when, having gone through with it, the Committee rose and reported it with some amendments to the House.

The House then adjourned.

FRIDAY, April 17.

Mr. S. SMITH presented the petition of the owners of the private armed schooner *Midas*, on behalf of themselves, the officers and crew of said schooner, praying to be allowed the bounty granted by the act of March 19, 1814, on a crew of black prisoners of war, which was brought into port by the said private armed vessel.—Laid on the table.

The Committee on Commerce and Manufactures were discharged from the consideration of

the resolution submitted yesterday, by Mr. POINDEXTER, upon the subject of an act of the General Assembly of the State of Mississippi.

Mr. SEYBERT, from the Committee on Commerce and Manufactures, to which was referred the bill from the Senate, entitled "An act concerning tonnage and discriminating duties in certain cases," reported the same without amendment, and the bill was ordered to lie upon the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Samuel F. Hooker," reported the same without amendment; and the bill was committed to the Committee of the Whole, to which is committed the bill for the relief of B. and P. Jourdan and Brothers.

Mr. SOUTHARD, from the Committee on that part of the President's Message which relates to Indian Affairs, to which was referred the bill from the Senate, entitled "An act fixing the compensation of Indian agents and factors," reported the same without amendment, and the bill was ordered to be read the third time to-morrow.

The Committee on Military Affairs were discharged from the further consideration of the petitions of John H. Piatt and Camillus Griffith, and they were laid on the table.

The Committee on Naval Affairs were discharged from the further consideration of the petition of the surgeons in the Navy of the United States, as also from the resolution adopted on the 11th of December last, respecting the rank and emoluments of navy surgeons, and they were laid on the table.

Mr. BURWELL, from the committee to whom was referred the petition of Jonathan Elliot, and the report of the Secretary of State thereon, reported a bill authorizing a subscription to an edition of Domestic State Papers; which was read twice, and committed to a Committee of the Whole.

Mr. SCOTT, from the committee appointed for the purpose, reported a bill to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

On motion of Mr. PLEASANTS, the Secretary of the Navy was instructed to lay before this House, at an early period of the next session of Congress, a statement of the different places in the United States in which provision is made for the accommodation of seamen under the several laws relating to the navy and marine hospitals, the number of persons, as nearly as it can be ascertained, annually accommodated at each, and the expense attending the same; also, an estimate of the costs which will attend the erection of a naval hospital at this place, sufficiently large for the number of persons annually provided for.

The House then took up the amendments of the Senate to the bill to enforce neutrality.

The House, on motion of Mr. FORSYTH, disa-

APRIL, 1818.

Military Peace Establishment.

H. or R.

greed to that amendment of the Senate, which proposed to continue in force so much of the act of 1797, as makes it punishable by the courts of the United States, for a citizen to take out of the limits of the United States a commission to serve against any foreign Power in amity with the United States.

The remainder of the amendments of the Senate were agreed to by the House, and were little more than verbal, with the exception of two: one of which proposed to punish the delivery of commissions from a foreign Government to vessels, &c., within the United States; the other, was the rejection by the Senate of the section incorporated in the bill in this House, on the motion of Mr. CLAY. This section was stated by Mr. FORSYTH to be wholly unnecessary, since the decision of the Supreme Court in the case of Palmer and others—parts of which Mr. F. read to the House.

The House then took up the report of the Committee of the whole House, on the bill concerning invalid pensioners; and, after receiving and discussing numerous amendments proposed thereto, the bill was finally ordered to be engrossed for a third reading.

The House (having, on motion of Mr. LOWNDES, previously discharged the Committee of the whole House therefrom) took up successively the bills "supplementary to the several acts relative to direct tax and internal duties," and "for changing the compensation of Receivers and Registers of land offices," and spent nearly two hours busily in maturing the details of these bills; after which they were severally ordered to be engrossed for a third reading.

The House resolved itself into a Committee of the Whole, on the bill supplementary to the several acts making appropriations for the year 1818; also, on the bill to regulate and fix the compensation of clerks in the different offices; and on the amendments proposed by the Senate to the bill, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices; and, after some time spent therein, the Committee rose, and reported the said bills with amendments to each, and their agreement to the amendments proposed by the Senate to the last-mentioned bill.

The amendments to the bill supplementary to the several acts making appropriations for the year 1818, were read and concurred in by the House; and the bill was ordered to be engrossed, and read a third time to-morrow.

The amendments to the bill, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices," were read and concurred in by the House.

The amendments to the bill to regulate and fix the compensation of clerks in the different offices, were read and concurred in by the House; and the bill was ordered to be engrossed, and read a third time to-morrow.

The House resolved itself into a Committee of

the Whole, on the bill for the relief of Madam Poidevin; which was reported without amendment, and ordered to be engrossed, and read a third time to-morrow.

A message from the Senate informed the House that the Senate have passed the resolution "directing the completion of the survey of the waters of the Chesapeake bay, and for the establishment of naval arsenals, and for other purposes," with amendments; in which amendments they ask the concurrence of this House.

The Committee on Pensions and Revolutionary Claims were discharged from a further consideration of the several petitions and other matters referred to them, and upon which they have not reported; and they were laid upon the table.

An engrossed bill to authorize the recovery of public moneys, was read the third time, and ordered to lie on the table.

The amendments proposed by the Senate to the bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore," were read, and concurred in by the House.

## MILITARY PEACE ESTABLISHMENT.

Mr. TRIMBLE submitted the following resolutions, viz:

1. *Resolved*, That the Secretary of War be, and he is hereby, instructed to report to this House, at an early period of the next session of Congress, whether any, and, if any, what reduction may be made in the Military Peace Establishment of the United States with safety to the public service.

2. *Resolved*, That the Secretary of War be, and he is hereby, instructed to report to this House at an early period of the next session of Congress, whether any, and, if any, what change ought to be made in the ration established by law; and also report a system for the establishment of a commissariat for the army.

Mr. TRIMBLE said that, intending to bring this subject before the House at this session, he had, with that view, paid some attention to the present Peace Establishment, but the bill from the Senate proposing a reduction in the medical and hospital staff had come up too late to hope for a general reformation. From the discussion which took place on that part of the bill, proposing a change in the law touching the contractors, it was manifest that information was wanted on the subject of a commissariat; and, as that subject must necessarily be acted on at the next session, it would probably be best to have a report from the War Department, made out upon mature reflection, and which would serve as a proposition to act upon. He knew that it would be highly improper to consume time by stating the principles upon which the Military Peace Establishment of the United States ought to be predicated, and still more improper to go into details on the subject. He would only add, that a saving of half a million, he might say seven hundred and fifty thousand dollars could be made, and the



army be left as efficient, he would say more efficient than it was at present. Indeed, it was impossible to say what sums could be saved by the establishment of a commissariat, properly organized, for our service.

Mr. SMITH, of Maryland, opposed the resolution, and briefly referred to the various fortifications and extensive frontiers to show, that a reduction would be incompatible with the public interest; another objection was, that this resolution would leave many officers in doubt as to the length of their continuance in service. He concluded, by moving that the words "of the expenses of," be inserted after the word "reduction."

Mr. WILLIAMS, of North Carolina, opposed this amendment, and advocated the resolution, on the ground, that the present Military Establishment was more expensive than it ought to be, and was larger than necessary; it being his opinion, as declared on a former occasion, that an army of six thousand was amply sufficient for a Peace Establishment.

Mr. REED made some remarks of the same character, in favor of the resolution; and hoped the report would be required at an early period, and suggested the introduction of these words, which were accepted by the mover, and inserted.

Mr. MILLER made a few remarks against the first resolution, and moved that it be stricken out of the proposition.—This motion was lost.

After some further conversation, Mr. SMITH's motion was agreed to; and, as amended, the resolution was adopted.

The House then took a recess until half after seven o'clock P. M.

HALF PAST SEVEN O'CLOCK P. M.

The amendments proposed by the Senate to the bill, entitled "An act making appropriations for the public buildings and for furnishing the Capitol and President's House," were read, and the first thereof disagreed to, and the residue concurred in by the House.

The amendments proposed by the Senate to the resolution "directing the completion of the survey of the waters of the Chesapeake bay, and for the establishment of naval arsenals and other purposes," were read and concurred in by the House.

Ordered, That the Committee of the Whole, to which is committed the bill from the Senate, entitled "An act to increase the salaries of certain officers therein mentioned," be discharged, and that the bill be committed to the Committee of the Whole, to which is committed the bill for the relief of Cornelia Mason.

The House resolved itself into a Committee of the Whole, on the bill to alter and establish certain post roads. The bill was reported with sundry amendments; which were read and concurred in by the House, and the bill was ordered to be engrossed and read a third time to-morrow.

The House resolved itself into a Committee of the Whole, on the bill for the relief of Cornelia

Mason; also, on bills from the Senate, entitled "An act for the relief of the heirs of Landon Carter;" and "An act to increase the salaries of certain officers of Government therein mentioned;" and after some time spent therein, the Committee rose, reported progress, and had leave to sit again.

SATURDAY, April 18.

Ordered, That the several reports of commissioners appointed to settle the claims to land in several of the States and Territories of the United States, which have been transmitted by the Commissioner of the General Land Office to this House, and to the Committees on Public Land and on Private Land Claims, be returned by the Clerk to the said Commissioners of the General Land Office.

Ordered, That the Committee of Commerce and Manufactures be discharged from the consideration of the petitions and other matters to them referred at the present session upon which they have not acted, and that they lie on the table.

Ordered, That the Committee on the Public Lands be discharged from the consideration of the petitions and other matters to them referred at the present session upon which they have not acted, and that they lie on the table.

Ordered, That the select committee, appointed on the 17th of December last, on the subject of extinguishing the Indian title to lands granted by Virginia to her officers and soldiers in the Revolutionary army, be discharged from the consideration of the petitions and other matters referred to them upon which they have not acted, and that they lie on the table.

Ordered, That the Committee on the Judiciary be discharged from the consideration of the charges preferred by Edwin Lewis against Judge Toulmin, and that the papers connected therewith lie on the table.

Ordered, That the committee appointed on the petitions of Benjamin and John Wells, and John Webster, be discharged, and that the petitions lie on the table.

Ordered, That the Committee of Claims be discharged from the consideration of the petitions and other matters and things referred to them at the present session upon which they have not acted.

Mr. TAYLOR, from the committee to whom was referred the report of the select committee upon the expenses incurred under the 4th, 5th, 6th, and 7th articles of the Treaty of Ghent, made a supplemental report; which was read, and ordered to lie on the table and be printed.

Ordered, That the committee appointed on the 27th ultimo, upon the subject of prosecutions of petitions of right and informations of intrusion, in cases wherein the United States are concerned, be continued, with power to report thereon at the next session of Congress.

The SPEAKER laid before the House a letter from Benjamin O. Tyler, accompanied with a copy of the Declaration of American Independ-

ence, which he has lately executed and published; being, as he states, "the first and only *fac simile* copy of the signatures of that document ever copied or published;" which letter was read, and ordered to lie on the table.

The bill from the Senate, entitled "An act fixing the compensation of Indian agents and factors," was read the third time, and passed.

Engrossed bills of the following titles, to wit: An act to establish and alter certain post roads; An act concerning invalid pensioners; An act for the relief of Madame Poidevin; An act to regulate and fix the compensation of clerks in the different offices; An act supplementary to the several acts relative to direct taxes and internal duties; An act supplementary to the several acts making appropriations for the year 1818; An act for changing the compensation of receivers and registers of land offices; and An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri; were severally read a third time, and passed.

The House took up and proceeded to consider the bill from the Senate, entitled "An act concerning tonnage and discriminating duties in certain cases;" and the same being amended, the amendment was ordered to be engrossed, and the bill to be read a third time to-day; which was subsequently done, and the bill passed.

The Committee of the Whole, to which is committed the bill from the Senate, entitled "An act for the relief of the heirs of Landon Carter," was discharged, and the bill postponed indefinitely.

The House resolved itself into a Committee of the Whole, on the bill for the relief of Cornelia Mason; also on the bills of the Senate, entitled "An act to increase the salaries of certain officers of Government;" and "An act authorizing a subscription for the Statistical Annals of Adam Seybert, and the purchase of Pitkin's Commercial Statistics. The first and last mentioned bills were reported without amendment, and the second mentioned bill with amendments.

The bill for the relief of Cornelia Mason was ordered to be engrossed, and read a third time to-day; which was subsequently done, and the bill passed.

The House then took up the bill authorizing a subscription for the Statistical Annals of Adam Seybert, and the purchase of Pitkin's Commercial Statistics; when a motion was made by Mr. Ingham, to amend the said bill by striking out that part thereof which proposes to purchase five hundred copies of Pitkin's Commercial Statistics; which motion was rejected; and the bill was ordered to be read a third time to-day.

#### RELIEF OF GENERAL STARK.

Mr. BUTLER, of Vermont, moved that the Committee of the Whole be discharged from the further consideration of the bill for the relief of Major General John Stark, with the view of getting the bill before the House, and having it acted on; and to induce the House to consent to this course, Mr. B. made a few remarks, stating that

General Stark was now at the great age of ninety years and in indigent circumstances, and trusted the House would not refuse to extend relief to this aged and meritorious veteran.

Mr. HARRISON hoped the House would agree to the motion, for, in addition to the great age of General Stark, he was, Mr. H. understood, in bad health, and consequently his life very precarious. If the late period of the session was objected to taking up the bill, Mr. H. said he should move that the House meet to-morrow, for the Sabbath could not be better spent than in legislating to alleviate the distress of a veteran hero; and he begged that the House would not adjourn without doing something for the relief of this venerable and indigent soldier of the Revolution.

The motion of Mr. BUTLER was agreed to; and the House took up the bill to grant to Major General Stark a pension, during life, of — dollars per month, from the 4th day of last July.

Mr. BUTLER moved to fill the blank with forty dollars; and Mr. LIVERMORE moved to insert sixty, which he said would be the same as the pension granted to General St. Clair.

The last motion being first in order, the question was taken thereon, and the sum of sixty dollars agreed to without a division.

Mr. RUGGLES moved to insert in the bill some provision for the relief of Hannah Leighton, formerly wife of Captain Isaac Davis, who was killed in one of the first battles of the Revolution, that at Concord, in April, 1775.

Mr. LIVERMORE hoped the amendment proposed by the gentleman from Massachusetts would not be made. A pension was to be granted to Major General Stark in consideration of his services in the Revolutionary war. He could see no reason for coupling the old lady with him at so late a stage of his life, unless it should appear that she also had performed military services; suitable provision might be made for her separately.

Mr. RUGGLES's motion was negatived without a division; and the bill was ordered to be engrossed and read a third time to-day, and subsequently read a third time, and passed.

#### DAY OF ADJOURNMENT.

Mr. MOORE offered a resolution to rescind the joint resolution of Congress which fixed the termination of the session at the 20th instant, and to authorize the adjournment on the 22d, but subsequently agreed to leave the day blank, and referred the House to the mass of business before them to show that an adjournment could not take place at the period agreed on without detriment to the public interest.

Mr. H. NELSON also supported the motion, and particularized some bills that were of high and pressing importance to the public interest, which must necessarily be passed over, as time sufficient was not left for their consideration.

Mr. HOPKINSON opposed the motion, because, if the adjournment were postponed a day or two only, as had been suggested, the House would find itself then just where it was now. The sub-



H. of R.

African Colonization.

APRIL, 1818.

ject referred to by Mr. NELSON would alone take ten or twelve days to mature; if the House would agree to fix a day as distant as that, he was willing to go with them; but a shorter time would be useless, and as the two Houses had now determined on a day, he was opposed to rescinding it for the sake of gaining one or two days.

Messrs. TERRY and DESHA also opposed the motion, and Mr. HARRISON advocated it; after which, on motion of Mr. INGHAM, the resolution was laid on the table.

Mr. H. NELSON subsequently called it up, and on the question of proceeding to consider the resolution, it was decided in the negative by yeas and nays—yeas 38, nays 81.

## AFRICAN COLONIZATION.

Mr. MERCER, from the committee to whom was referred the memorial of the annual meeting of the Society of Friends, held in Baltimore, and sundry other memorials and petitions upon the subject of colonizing the free people of color of the United States, made a report thereon; which was read, and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred the memorial of the "President and Board of Managers of the American Society for Colonizing the Free People of Color of the United States," have, according to order, had the same under their attentive consideration.

Referring to the memorial itself, and to the report of the Committee on the Slave Trade, to the fourteenth Congress, your committee beg leave to add, that a new interest has been recently imparted to the benevolent enterprise of the memorialists, by the prospect of a speedy termination of that traffic, which has been so long the crime of Europe, the scourge of Africa, and the affliction and disgrace of America. Spain and Portugal have at length concurred in that just and humane policy of the United States, which Great Britain was the first to imitate, and which, by her liberal and unremitting zeal, she has successfully extended throughout the civilized world.

So far as the civilization of Africa—the victim of this inhuman traffic—is embraced among the views of the memorialists, the removal of this formidable impediment to their success is calculated to elevate the hopes of the philanthropist, and to secure to their enterprise a larger share of public confidence.

America cannot but sympathize in the wish to redeem from ignorance, barbarism and superstition, a continent of vast extent, spread out beneath every climate, embracing every variety of soil, and inhabited by a much-injured and degraded portion of the human race.

But, your committee have no hesitation in acknowledging that they derive a yet stronger incentive to recommend this enterprise to the concurrence and favor of the House, from considerations peculiar to the United States. They were presented to the last Congress by the report to which your committee have referred; and they deem it unnecessary, therefore, to press them upon the attention of the House. They cannot, however, forbear to remark, that time is unceasingly aggravating all those domestic evils, for which the memorialists propose the only competent remedy; and that the most auspicious circumstances conspire, at present, to promote its successful application.

Europe, after passing through a war of unprecedented extent and calamity, enjoys a repose which she has rarely known, and which, for the honor of humanity, it may be hoped she will be disposed to signalize by some act of distinguished generosity. She will not surely be content with a mere forbearance of further injustice, but seek to repair the wrongs which she has inflicted upon an unhappy race of men.

The people of the United States have retired from the same conflict, to enjoy a prosperity which has never been surpassed in the history of the world. Respected abroad, they possess abundance, tranquillity, and happiness, at home.

A survey of such blessings naturally inspires a sentiment, the existence of which is illustrated, not only by the formation of the society from which this memorial proceeds—a society embracing individuals of every religious and political denomination, and inhabitants of every State in this wide-spread Union—but by the almost unanimous proceedings of the Legislatures of Virginia, Maryland, Tennessee, and Georgia, either recommending or countenancing the same benevolent object.

It cannot be supposed that the liberal and enlightened policy which dictated the resolutions and acts of these particular States, is confined to themselves alone. Their neighbors, alike circumstanced, actuated by the same interests and feelings, will be conducted to the same conclusions, in relation to questions not only of vital importance to them, but, in their remote bearing, of scarcely less moment to the stability and prosperity of the Union.

The auxiliary Colonization Societies which are daily springing up in other quarters of the United States, evince, that if the feelings which animate them were local in their origin, they required only to be manifested, in order to awaken the sympathy and to secure the co-operation of the rest of America, in the attainment of their common object.

Your committee would not thus favorably regard the prayer of the memorialists, if it sought to impair in the slightest degree the rights of private property, or the yet more sacred rights of personal liberty, secured to every description of freemen in the United States.

The resolution of the Legislature of Virginia; the subsequent acts and declarations, as well as the high character of the memorialists themselves, added to the most obvious interest of the States who have recently sanctioned the purpose, or recognised the existence of the American Colonization Society; exclude the remotest apprehension of such injustice or inhumanity.

The memorialists propose to attain the noblest end which benevolence can conceive, by temperate and practicable means.

As preliminary to their success, and in anticipation of the acts of the Government, they have, at considerable expense, sent out agents to explore the coast of Africa, and to select a seat for their contemplated colony. These agents were instructed, first, to visit Europe. Their reception in England, and the intelligence which had been received from them, down to the period of their late embarkation for Africa, were as favorable as could have been anticipated to the success of their mission. This success, however, cannot be complete, until the object of the memorialists shall have received the sanction, and their efforts the aid, of the Federal Government.

If their memorial does not furnish sufficient ground for the interposition of the National Legislature in

APRIL, 1818.

Salaries of Officers.

H. of R.

their behalf, it appears to your committee that the resolutions of Virginia (which they beg leave to subjoin to this report) subsequently sustained by a similar resolution of Maryland and Tennessee, unquestionably do so.

Whether a treaty for the territory of the proposed colony is to be opened with the native tribes of Africa, or with the European Governments which claim certain portions of the shores of that continent, it is by the authority of the United States alone that such negotiation can be effected.

The several States, having, by their adoption of the Federal Constitution, surrendered the power of negotiation to the Federal Government, have an undoubted right to claim the exercise of that sovereign authority for their benefit, whenever it can be exerted, consistently with the welfare of the United States.

Your committee cannot forbear to add another, to them a very solemn consideration, as an inducement for the exercise of this authority, in the manner proposed by the General Assembly of Virginia. The act of Congress, which interdicts the African slave trade, and subjects the citizens of the United States, who engage in its prosecution, to merited punishment, has left the unfortunate beings, whom the violators of this law are daily casting upon the American shores, to the separate provisions of the respective States, within whose jurisdiction they may chance to be found.

To say nothing of the abstract propriety of transferring such an authority over the persons and liberty of these foreigners, from the National to the State Legislatures; entertaining no apprehension that Congress will be rendered thereby accessory to any act of cruelty or inhumanity, it must be, yet, apparent, that the individual States have a right to require the aid now sought to be obtained from the General Government, in order to enable themselves to discharge the trust reposed in them, without a violation of their local policy, or injustice to those unfortunate Africans, placed at their disposal by the laws of the United States.

Your committee were instructed by two other resolutions of the House, to inquire into the expediency of making more effectual provision, by law, for preventing the participation of the citizens of the United States in the African slave trade, and of correcting certain abuses which are practised in the internal commerce of the United States. Both these objects have been accomplished by bills which subsequently originated in the other branch of the National Legislature, and which came down to the House of Representatives, under circumstances which insured to them an earlier decision than would have followed a report from your committee. They beg leave, however, to remark, that the beneficial effect to be expected from any improvement of the pre-existing laws, in relation to the former species of traffic, which commences its enterprise against humanity, on a foreign and remote coast, and matures it on that of America, in such a manner as to elude detection by ordinary vigilance, must depend on the efforts of another branch of the Government.

It does not become your committee to do more, in relation to this branch of the inquiry charged upon them, than to intimate their opinion, that no act of legislation whatever would be so likely to put down this iniquitous traffic, as the multiplication of the revenue cutters upon the American shores, most frequented by the vessels engaged in it; and the employment of such part of the Navy, as would be best adapted to such service, in occasional visits to the African

coast, at the season when it is frequented by the same description of vessels.

Your committee ask, therefore, to be discharged from the farther consideration of the second and third resolutions, to which they have referred, and beg leave to recommend to the House, in relation to the first, the adoption of the following resolution:

*Resolved*, That the President of the United States be and he is hereby requested to take such measures as he may deem proper, to ascertain whether a suitable territory can be procured on the coast of Africa, for colonizing such of the free people of the United States as may be willing to avail themselves of such an asylum; and to enter into such negotiation with the native tribes of Africa, or with one or more of the Governments of Europe, as may be necessary to obtain such territory, and to secure to the contemplated colony every advantage which he may deem essential to its future independence and prosperity."

The following are the resolutions of the Legislature of Virginia, in 1816, on the same subject:

"Whereas, the General Assembly of Virginia have repeatedly sought to obtain an asylum, beyond the limits of the United States, for such persons of color as had been, or might be emancipated, under the laws of the Commonwealth, but have hitherto found all their efforts frustrated, either by the disturbed state of the nations, or domestic causes equally unpropitious to their success.

"They now avail themselves of a period when peace has healed the wounds of humanity, and the principal nations of Europe have concurred with the Government of the United States in abolishing the African slave trade, (a traffic which this Commonwealth, both before and since the Revolution, zealously sought to terminate) to renew this effort, and do, therefore.

*Resolve*, That the Executive be requested to correspond with the President of the United States, for the purpose of obtaining a territory upon the coast of Africa, or at some other place, not within any of the States or territorial governments of the United States to serve as an asylum for such persons of color as are now free, and may desire the same, and for those who may be hereafter emancipated within this Commonwealth; and that the Senators and Representatives of this State, in the Congress of the United States, be requested to use their best efforts to aid the President of the United States in the attainment of the above object: *Provided*, That no contract or arrangement, respecting such territory, shall be obligatory on this Commonwealth, until ratified by the Legislature."

[Passed by the House of Delegates, December 15, 1816. By the Senate, with an amendment, December 20, 1816. Concurred in by the House of Delegates, December 21, 1816.]

## SALARIES OF OFFICERS.

The amendments reported to the bill to increase the salaries of certain officers of Government were read; when Mr. MOORE moved that the bill be postponed indefinitely; and the question being taken thereon, it was determined in the negative—yeas 53, nays 69, as follows:

YEAS—Messrs. Adams, Austin, Beecher, Bennett, Boden, Burwell, Butler, Clagett, Colston, Crafts, Culbreth, Desha, Earle, Ellicott, Ervin of South Carolina, Garnett, Hall of Delaware, Hasbrouck, Herkimer-Hitchcock, Hogg, Holmes of Connecticut, Hunting,



ton, Irving of New York, Johnson of Virginia, Linn, Livermore, McCoy, Marchand, Merrill, Moore, Morton, Murray, T. M. Nelson, Ogle, Patterson, Reed, Robertson of Louisiana, Sampson, Savage, Sawyer, Scudder, Sherwood, Simkins, Ballard Smith, Southard, Spencer, Strong, Strother, Tarr, Tompkins, Townsend, Trimble, Tucker of South Carolina, Upham, Walker of Kentucky, Wallace, and Williams of North Carolina.

**NAVS**—Messrs. Abbott, Anderson of Kentucky, Baldwin, Barber of Ohio, Bassett, Bloomfield, Blount, Boss, Claiborne, Cobb, Comstock, Cruger, Culbreth, Darlington, Floyd, Forney, Forsyth, Hale, Harrison, Herbert, Herrick, Hopkinson, Hubbard, Ingham, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lowndes, W. P. Maclay, Mason of Rhode Island, Mercer, Middleton, Miller, Mumford, Jeremiah Nelson, Nesbitt, Ogden, Owen, Palmer, Pawling, Peter, Pindall, Pleasants, Porter, Rhea, Rich, Ringgold, Robertson of Kentucky, Ruggles, Schuyler, Sergeant, Settle, Slocumb, S. Smith, Alexander Smyth, Speed, Stewart of North Carolina, Stuart of Maryland, Taylor, Terrill, Terry, Tucker of Virginia, Westerlo, Whitman, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

The amendments were then concurred in by the House.

A motion was then made by Mr. BEECHER, further to reduce the salary proposed in the said bill to be given to the Secretary of State, from the sum of six thousand dollars to the sum of five thousand five hundred dollars. And the question being taken thereon, it passed in the affirmative—yeas 68, nays 60, as follows:

**YEAS**—Messrs. Adams, Austin, Barber of Ohio, Beecher, Bennet, Boden, Burwell, Butler, Clagett, Comstock, Crafts, Culbreth, Darlington, Desha, Earle, Ellicott, Folger, Gage, Garnett, Hale, Hall of Delaware, Hasbrouck, Hitchcock, Hogg, Holmes of Connecticut, Huntington, Johnson of Virginia, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Rhode Island, Merrill, Moore, Morton, Murray, H. Nelson, T. M. Nelson, Ogle, Patterson, Porter, Reed, Rich, Richards, Robertson of Louisiana, Sampson, Savage, Sawyer, Scudder, Slocumb, Bal. Smith, Southard, Spencer, Stewart of N. Carolina, Strong, Strother, Tarr, Terry, Tompkins, Townsend, Tucker of South Carolina, Upham, Walker of Kentucky, Wallace, Williams of Connecticut, Williams of N. Carolina, and Wilson of Pennsylvania.

**NAYS**—Messrs. Abbott, Anderson of Kentucky, Baldwin, Bassett, Bloomfield, Blount, Boss, Claiborne, Cobb, Crawford, Cruger, Cushman, Ervin of South Carolina, Floyd, Forney, Forsyth, Herrick, Hopkinson, Hubbard, Ingham, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lowndes, Mercer, Middleton, Miller, Mumford, Jeremiah Nelson, Nesbitt, Ogden, Owen, Palmer, Pawling, Peter, Pindall, Pleasants, Rhea, Ringgold, Robertson of Kentucky, Ruggles, Schuyler, Sergeant, Settle, Seybert, Sherwood, Simkins, S. Smith, Alexander Smyth, Speed, Stuart of Maryland, Taylor, Terrill, Tucker of Virginia, Wendover, Westerlo, Wilkin, and Wilson of Massachusetts.

The bill was then further amended, and the amendments ordered to be engrossed, and the bill read a third time to-day.

## SENATE BILLS, &amp;c.

The bill from the Senate, entitled "An act authorizing a subscription for the Statistical Annals of Adam Seybert, and the purchase of Pitkin's Commercial Statistics," was read the third time, and passed.

The House resolved itself into a Committee of the Whole, on the bill for the relief of B. and P. Jourdan, brothers; and on the bill from the Senate, entitled "An act for the relief of Samuel F. Hooker." The first named bill was reported with an amendment; which was read, and concurred in by the House, and the bill ordered to be engrossed, and read a third time to-day; which was accordingly done, and the bill passed.

The bill from the Senate for the relief of Samuel F. Hooker, was read a third time, and passed.

Mr. BLOOMFIELD moved, that when the House adjourn, it adjourn to to-morrow, (Sunday,) ten o'clock; but subsequently, after some opposition, withdrew his motion.

Mr. MERCER, after expressing his disapprobation of a Sabbath meeting of the House, moved that it meet at six o'clock, on Monday morning. This was negatived—ayes 44.

Mr. PINDALL moved, that when the House adjourn, it be to eight o'clock, on Monday morning.—Negatived.

Mr. HARRISON rose to renew the motion to meet to-morrow; but the motion was considered inadmissible by the Chair; as the hour for the orders of the day had arrived; to which the House then proceeded.

The House resolved itself into a Committee of the Whole, on bills from the Senate, entitled "An act for the relief of Richard M. Johnson;" and "An act for the relief of John Hall, late a Major of Marines;" and on the bill of this House for transferring the claims in the office of the Commissioner to the Third Auditor of the Treasury. The bills were reported without amendment.

A motion was made by Mr. CLAIBORNE, to amend the first mentioned bill, when the House adjourned to Monday, at 10 o'clock.

MONDAY, April 20.

A message from the Senate informed the House that the Senate have passed bills of this House of the following titles, to wit: An act respecting the organization of the Army, and for other purposes; An act to incorporate the Columbian Institute; An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum; An act for the relief of certain friendly Creek Indians of the mixed blood; An act for the relief of Captain Benjamin Johnson and Captain Henry Gist; An act to increase the duties on certain manufactured articles imported into the United States; An act to continue in force from and after the 30th of June, 1819, until the 30th of June, 1826, the fourth paragraph of the first section of the act, entitled "An act to regulate the duties on imports and tonnage;" An act providing for the deposit of wines and distilled spirits

in public warehouses; with amendments in which they ask the concurrence of this House. The Senate disagree to that part of the amendments proposed by this House to the bill, entitled "An act to increase the salaries of certain officers of Government," which proposes to increase the salaries of the judges of the Supreme Court of the United States, and they agree to the residue of the amendments of this House to the said bill, with a modification, in which they also ask the concurrence of this House.

The amendments proposed by the Senate to the eight bills aforesaid, were read and severally concurred in by the House.

The amendments of the Senate to the amendments of this House to the bill to increase the salaries of certain officers of the Government having been taken up, a motion was made by Mr. BUTLER to postpone the whole subject indefinitely, and decided in the negative—yeas 39, nays 56.

On the question to concur in the amendment of the Senate, going to substitute 6,000 for 5,500, as the salary of the heads of departments, it was decided in the negative, by a majority of six votes.

The House then determined to insist on its amendment (disagreed to by the Senate) for increasing the salaries of the judges of the Supreme Court of the United States.

On motion of Mr. INGHAM, the Secretary of the Treasury was directed to report to Congress, at their next session, what further improvement it may be practicable to make in the tariff of duties upon imported goods, wares, and merchandise, by charging specific duties upon articles which are now charged with duties ad valorem.

On motion of Mr. WILLIAMS, of Connecticut, the Secretary of War was directed, at an early period of the next session, to report to this House the names and places of residence of the several persons placed upon the pension list, under the act of this session, providing for persons engaged in the land and naval service of the United States in the Revolutionary war, and the sum allowed to each.

On motion of Mr. MOORE, the Secretary of War was directed, at an early period of the next session, to report to this House the number and grades of the officers of the present Army, where stationed, the number on duty, and those on furlough, and the period of their furloughs.

The House took up and proceeded to consider the bill from the Senate, entitled "An act for the relief of Richard M. Johnson," and the amendment depending on Saturday, at the time of adjournment, was read and rejected by the House; and the bill ordered to be read a third time to-day, which was done, and the bill passed.

The bill from the Senate, entitled "An act for the relief of John Hall, late a major of marines," was also ordered to be read a third time to-day; which was done, and the bill passed.

The bill for transferring the claims in the office of the Commissioner to the Third Auditor of the Treasury was ordered to be engrossed and read

a third time to-day. It was subsequently read a third time, and passed.

## JUDICIAL DISTRICTS—PENNSYLVANIA.

The bill from the Senate to divide the State of Pennsylvania into two judicial districts, being called, in the order of the day—

Mr. HOPKINSON moved that the bill be postponed indefinitely, which motion was opposed by Messrs. BALDWIN, INGHAM, and MOORE, and advocated by the mover, and negatived by a large majority.

The House then went into Committee on the bill, when a debate of some length took place on the expediency of the measure, in which it was earnestly opposed by Mr. HOPKINSON, and as earnestly supported by Mr. BALDWIN.

Mr. FORSYTH, referring to the resolutions of the Legislature of Pennsylvania, requesting of Congress the passage of this bill, said he thought they asked nothing more than what was reasonable and proper; but, thinking that the object might be sufficiently attained in a way somewhat different, much less objectionable, and more expedient, moved, by way of amendment, a substitute for the bill, providing, substantially, that the circuit court of Pennsylvania be holden alternately at Philadelphia and Pittsburg.—Negatived.

Mr. HOPKINSON, after some remarks, to show, that there was nothing in the duties of the additional judge, provided by the bill, to entitle him, in justice, to equal salary with the present judge, moved that, instead of \$1,600, as proposed, he be allowed a salary of \$1000. This motion was lost by a large majority; and the bill was then reported, without amendment, and read the third time, and passed.

## CLOSING BUSINESS.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described." The bill was reported without amendment, read a third time, and passed.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile." The bill was reported without amendment, read a third time, and passed.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act to alter and amend an act, approved the 3d day of March, 1817, entitled 'An act to establish a separate territorial government for the eastern part of the Mississippi Territory.'" The bill was reported without amendment, read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act to increase the salaries of the judges of the circuit court of the District of Columbia." The bill was reported without amendment, read a third time, and passed.

The House resolved itself into a Committee of



H. OF R.

Closing Business.

APRIL, 1818.

the Whole on the bill from the Senate, entitled "An act to vest in trust certain sections of land in the Legislature of the State of Ohio;" and after some time spent therein, Mr. SPEAKER resumed the Chair, and Mr. HUGH NELSON reported the same without amendment.

*Ordered*, That the said bill lie on the table.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act respecting the surveying and sale of the public lands in the Alabama Territory." The bill was reported without amendment, read a third time, and passed.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act to defray the expenses of the militia when marching to places of rendezvous." The bill was reported without amendment, read a third time, and passed.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act to adjust the claims to lots in the town of Vincennes and for the sale of the land appropriated as a common for the use of the inhabitants of the said town." The bill was reported without amendment, read a third time, and passed.

A message from the Senate informed the House that the Senate recede from their disagreement to the amendment proposed by this House to the bill, entitled "An act to increase the salaries of certain officers of Government," which increases the salary of the judges of the Supreme Court of the United States, and they insist on their modifications to the residue of the amendments of this House to the said bill, so far as regards the salaries of the Secretaries of State and Treasury. And they have passed bills of the following titles, to wit: An act supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the 2d day of March, 1799; An act for the relief of Jonathan D. Esary and John Seybold; and An act for the relief of James Mackey, of the Territory of Missouri; with amendments, in which they ask the concurrence of this House.

The amendments proposed by the Senate to the three bills aforesaid, were read, and severally concurred in by the House.

The House took up, and proceeded to consider the message from the Senate, notifying, that they insist on their modifications to the amendments of this House, to the bill, entitled "An act to increase the salaries of certain officers of the Government," so far as regards the salaries of the Secretaries of State and Treasury: when—

Mr. LOWNDES, after expressing his objection to sanctioning any longer the discrimination which had heretofore existed in the salaries of the Heads of Departments, now that the House was called upon to legislate on the subject, moved that the House adhere to its disagreement to the Senate's amendment to the clause fixing the salaries of the Heads of Departments.

This motion was supported by Mr. ROBERTSON, of Louisiana, upon similar grounds; and, after an unsuccessful motion, by Mr. STROTHER, to

lay the bill on the table, and one by Mr. RICH, to postpone it indefinitely—

Mr. LOWNDES's motion was agreed to, and the Senate informed thereof.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*

I transmit to the House of Representatives a copy of the rules, regulations, and instructions, for the naval service of the United States, prepared by the Board of Navy Commissioners, in obedience to an act of Congress, passed the 7th of February, 1815, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners."

JAMES MONROE.

WASHINGTON, April 20, 1818.

The Message was read, and ordered to lie on the table.

A motion was made by Mr. PINDALL, that the House do now proceed to consider the amendments proposed by the Senate to the bill entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories of the United States, who shall escape into any other State or Territory."

And the question being taken thereon, it was determined in the negative.

The House adjourned until six o'clock, P. M.

SIX O'CLOCK, P. M.

A message from the Senate informed the House that the Senate have postponed until Monday next, the bill entitled "An act to increase the salaries of certain officers of the Government." They have also postponed, until the same day, the bill, entitled "An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri;" and, "An act for the relief of John Anderson." And they have passed bills of this House of the following titles, to wit: An act for changing the compensation of receivers and registers of the land offices; and, An act to regulate and fix the compensation of clerks in the different offices; with amendments, in which they ask the concurrence of this House.

The said amendments were read and severally concurred in by the House.

The following resolution was submitted by Mr. WILKIN, viz:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of two hundred dollars, directed by a resolution of Congress of the 3d of November, 1780, to be paid to John Paulding, one of the virtuous and patriotic captors of Major Andre, Adjutant General of the British army, on his return from the American lines in the character of a spy, in the Revolutionary war, be continued and paid to the widow and minor children of the said John Paulding, or to the survivor or survivors of them, for five years, from the 19th of February, 1818, to be paid to them half yearly.

The resolution having been read, it was, on motion of Mr. WILKIN, laid on the table, who observed that the members, having their attention brought to the subject, could bring with them at

APRIL, 1818.

Adjournment.

H. OF R.

the next session the public sentiment respecting this appropriation for the children of the patriotic Paulding.

On motion of Mr. WILLIAMS, of Connecticut, the Committee of the Whole was discharged from the further consideration of the report of the select committee respecting the expenses incurred under the 4th, 5th, 6th, and 7th articles of the Treaty of Ghent, and the House then proceeded to consider said report, which concludes with recommending the adoption of the following resolution:

*Resolved*, That the President of the United States be requested to arrange with the British Government some mode of designating the boundary line under the 6th and 7th articles of the Treaty of Ghent, which shall require less time and expense than the one which the Commissioners have heretofore pursued.

After some debate, in which Messrs. WILLIAMS, of Connecticut, and PITKIN advocated the adoption of the resolution, and Mr. OGDEN opposed it, the question was decided in the affirmative, and the resolution agreed to.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting statements in relation to the progress, &c., in the construction of the Cumberland road, in obedi-

ence to a resolution of the House of Representatives, of the 14th instant.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to alter and establish post roads," with amendments, in which they ask the concurrence of this House.

The said amendments were read, and concurred in by the House, except the last, to which they disagreed.

A message from the Senate informed the House that the Senate have passed a resolution for the appointment of a joint committee to wait on the President of the United States, and inform him of the approaching recess of Congress; and have appointed a committee on their part.

The House took up the said resolution, and being read, it was concurred in by the House; and Mr. HARRISON and Mr. PITKIN were appointed a committee, conformably thereto, on the part of this House.

The said committee having reported that the President had no further communication to make to Congress, the SPEAKER adjourned the House until the third Monday in November next, the day fixed by law for the next meeting of the Congress of the United States.



## APPENDIX

### TO THE HISTORY OF THE FIFTEENTH CONGRESS.

[FIRST SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

#### SUPPRESSION OF PIRATICAL ESTABLISHMENTS.

[Reported to the House, January 10, 1818.]

The Committee on Foreign Relations, to whom was referred so much of the President's Message as relates to the illicit introduction of slaves from Amelia Island, having carefully taken the matter committed to them into consideration, respectfully report:

That, having applied to the Department of State for information respecting the illicit introduction of slaves into the United States, they were referred by the Secretary of State to the documents transmitted to this House by the President's Message of the 15th of December last, consisting of various extracts of papers on the files of the Departments of State, of the Treasury, and of the Navy, relative to the proceedings of certain persons who took possession of Amelia Island in the Summer of the past year, and also relative to a similar establishment previously made at Galveston, near the mouth of the river Trinity.

Upon a full investigation of these papers, with a view to the subject committed to them, your committee are of opinion that it is but too notorious that numerous infractions of the law prohibiting the importation of slaves into the United States have been perpetrated with impunity upon our Southern frontier; and they are further of opinion that similar infractions would have been repeated, with increasing activity, without the timely interposition of the naval force, under the direction of the Executive of our Government.

In the course of their investigation, your committee have found it difficult to keep separate the special matter given into their charge from topics of a more general nature, which are necessarily interwoven therewith; they therefore crave the indulgence of the House while they present some general views connected with the subject, which have developed themselves in the prosecution of their inquiry.

It would appear, from what can be collected from these papers, that numerous violations of

our laws have been latterly committed by a combination of freebooters and smugglers of various nations, who located themselves, in the first instance, upon an uninhabited spot, near the mouth of the river Trinity, within the jurisdictional limits of the United States, as claimed in virtue of the treaty of cession of Louisiana by France. This association of persons organized a system of plunder upon the high seas, directed chiefly against Spanish property, which consisted frequently of slaves from the coast of Africa; but their conduct appears not always to have been regulated by a strict regard to the national character of vessels falling into their hands, when specie, or other valuable articles, formed part of the cargo. Their vessels generally sailed under a pretended Mexican flag, although it does not appear that the establishment at Galveston was sanctioned by, or connected with, any other Government. The presumption, too, of any authority ever having been given for such an establishment is strongly repelled, as well by its piratical character, as its itinerant nature; for the first position at Galveston was abandoned on or about the 5th of April last, for one near Matagorda, upon the Spanish territory; and at a later period, this last was abandoned and a transfer made to Amelia Island, in East Florida, a post which had been previously seized by persons who appear to have been equally unauthorized, and who were, at the time of the said transfer, upon the point, it is believed, of abandoning their enterprise, from the failure of resources, which they expected to have drawn from within our limits, in defiance of our laws. There exists on the part of these sea rovers an organized system of daring enterprise, supported by force of arms; and it is only by a correspondent system of coercion that they can be met, and constrained to respect the rights of property and the laws of nations. It is deeply to be regretted that practices of such a character, within our immediate neighborhood, and even within our jurisdictional limits, should have prevailed unchecked for so long a time; the more especially as one of their immediate consequences was to give occasion to the illicit introduction of slaves



*Suppression of Piratical Establishments.*

from the coast of Africa into these United States, and thus to revive a traffic repugnant to humanity, and to all sound principles of policy, as well as severely punishable by the laws of the land.

By the seventh section of the act prohibiting the importation of slaves, passed in 1807, the President is fully authorized to employ the naval force to cruise on any part of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of that act, in order to seize and bring in for condemnation all vessels contravening its provisions, to be proceeded against according to law.

By the joint resolution of the Senate and House of Representatives, of the 15th of January, 1811, and the act of the same date, the President is fully empowered to occupy any part or the whole of the territory lying east of the river Perdido, and south of the State of Georgia, in the event of an attempt to occupy the said territory, or any part thereof, by any foreign Government or Power; and by the same resolution and act he may employ any part of the Army and Navy of the United States which he may deem necessary for the purpose of taking possession of and occupying the territory aforesaid, and in order to maintain therein the authority of the United States.

Among the avowed projects of the persons who have occupied Amelia Island was that of making the conquest of East and West Florida, professedly for the purpose of establishing there an independent Government; and the vacant lands in those provinces have been, from the origin of this undertaking down to the latest period, held out as lures to the cupidity of adventurers, and as resources for defraying the expenses of the expedition. The greater part of West Florida being in actual possession of the United States, this project involved in it designs of direct hostility against them; and, as the express object of the resolution and act of January 15, 1811, was to authorize the President to prevent the province of East Florida from passing into the hands of any foreign Power, it became the obvious duty of the President to exercise the authority vested in him by that law. It does not appear that among these itinerant establishments of republics and distributors of Florida lands there is a single individual inhabitant of the country where the republic was to be constituted, and whose lands were to be thus bestowed. The project was, therefore, an attempt to occupy that territory by a foreign Power. Where the profession is in such direct opposition to the fact; where the venerable forms by which a free people constitute a frame of government for themselves are prostituted by a horde of foreign freebooters for purposes of plunder; if, under color of authority from any of the provinces contending for their independence, the Floridas, or either of them, had been permitted to pass into the hands of such a Power, the committee are persuaded it is quite unnecessary to point out to the discernment of the House the pernicious influence which such a destiny of the territories in ques-

tion must have had upon the security, tranquillity, and commerce of this Union.

It is a matter of public notoriety, that two of the persons who have successively held the command at Amelia Island, whether authorized themselves by any Government or not, have issued commissions for privateers, as in the name of the Venezuelan and Mexican Governments, to vessels fitted out in the ports of the United States, and chiefly manned and officered by our own countrymen, for the purpose of capturing the property of nations with which the United States are at peace. One of the objects of the occupation of Amelia Island, it appears, was to possess a convenient resort for privateers of this description, equally reprobated by the laws of nations, which recognise them only under the denomination of pirates, and by several of the treaties of the United States with different European Powers, which expressly denominate them as such.\* It was against the subjects of Spain, one of the Powers with which the United States have entered into stipulations prohibiting their citizens from taking any commission from any Power with which she may be at war, for arming any ships to act as privateers, that these vessels have been commissioned to cruise; though, as the committee have observed, no flag, not even that of our own country, has proved a protection from them.

The immediate tendency of suffering such armaments, in defiance of our laws, would have been to embroil the United States with all the nations whose commerce with our country was suffering under these depredations, and if not checked by all the means in the power of the Government would have authorized claims from the subjects of foreign Governments for indemnities at the expense of this nation, for captures by our people in vessels fitted out in our ports, and, as could not fail of being alleged, countenanced by the very neglect of the necessary means of suppressing them.

The possession of Amelia Island, as a port of refuge for such privateers, and of illicit traffic in the United States of their prizes, which were frequently, as before stated, slave ships from Africa, was a powerful encouragement and temptation to multiply these violations of our laws, and made it the duty of the Government to use all the means in its power to restore the security of our own commerce, and of that of friendly nations upon our coasts, which could in no other way more effectually be done than by taking from this piratical and smuggling combination their place of refuge.

In order, therefore, to give full effect to the intentions of the Legislature, and in pursuance of

\* See the Treaty of Peace with France, 1778, art. 21, United States Laws, vol. 1, p. 88; with the Netherlands, 1782, art. 19, vol. 1, p. 162; with Sweden, 1783, art. 23, vol. 1, p. 190; with Great Britain, 1794, art. 21, vol. 1, p. 218; with Prussia, 1785, art. 20, vol. 1, p. 238, and 1797, art. 20, p. 256; with Spain, 1795, art. 14, vol. 1, p. 270.

*Suppression of Piratical Establishments.*

the provisions of the above-recited resolution and acts, it became necessary, as it appears to the committee, to suppress all establishments of the hostile nature of those above described, made in our vicinity, the objects of which appear to have been the occupation of the Floridas, the spoliation of peaceful commerce upon and near our coasts by piratical privateers, the clandestine importation of goods, and the illicit introduction of slaves within our limits. Such establishments, if suffered to subsist and strengthen, would probably have rendered nugatory all provisions made by law for the exclusion of prohibited persons. The course pursued on this occasion will strongly mark the feelings and intentions of our Government upon the great question of the slave trade, which is so justly considered by most civilized nations as repugnant to justice and humanity, and which, in our particular case, is not less so to all the dictates of a sound policy.

Your committee anticipate beneficial results from the adoption of these measures by the Executive, in the promotion of the security of our Southern frontier and its neighboring seas, and in the diminution of the evasions, latterly so frequent, of our revenue and prohibitory laws. The experience of ten years has, however, evinced the necessity of some new regulations being adopted, in order effectually to put a stop to the further introduction of slaves into the United States. In the act of Congress prohibiting this importation, the policy of giving the whole forfeiture of vessel and goods to the United States, and no part thereof to the informer, may justly be doubted. This is an oversight which should be remedied. The act does, indeed, give a part of the personal penalties to the informer, but these penalties are generally only nominal, as the persons engaged in such traffic are usually poor. The omission of the States to pass acts to meet the act of Congress, and to establish regulations in aid of the same, can only be remedied by Congress legislating directly upon the subject themselves, as it is clearly within the scope of their constitutional power to do.

[The following documents are extracted from those referred to in the foregoing report.]

*Letter from the Secretary of the Treasury to the Secretary of State, dated*

NOVEMBER 21, 1817.

The Secretary of the Treasury presents his respects to the Secretary of State, and has the honor of transmitting to him copies of the communications which have been received at this Department concerning the occupation of Galveston and Amelia Island by persons sailing under the various flags of the independent Governments of North and South America, late Spanish provinces.

*Extracts of a letter from Beverly Chew, Esq., collector at New Orleans, to Mr. Crawford, dated*

AUGUST 1, 1817.

As it is your wish that every attempt to evade the provisions of the existing laws should be

communicated to the Department, accompanied by suggestions of the measures necessary to repress the evil, I deem it my duty to state that the most shameful violations of the slave act, as well as our revenue laws, continue to be practised, with impunity, by a motley mixture of freebooters and smugglers, at Galveston, under the Mexican flag, and being, in reality, little else than the re-establishment of the Barrataria band, removed somewhat more out of the reach of justice; and, unless the officers of customs are provided with more effectual means for the enforcement of the laws, the Treasury must suffer incalculably. To give you a more correct idea of this establishment, it will be necessary to be a little prolix, which I beg you will excuse. Galveston is a small island or sandbar, situate in the bay of St. Bernard, on the coast of Texas, about ninety miles west of Sabine, within the jurisdictional limits claimed by the United States, in virtue of the cession of Louisiana to them by France. The establishment was recently made there by a Commodore Aury, with a few small schooners from Aux Cayes, manned, in a great measure, with refugees from Barrataria and mulattoes. This establishment was reinforced by a few more men from different points of the coast of Louisiana, the most efficient part of them being principally mariners, (Frenchmen or Italians,) who have been hanging loose upon society in and about New Orleans, in greater or smaller numbers, ever since the breaking up of the establishment at Barrataria. Colonel Perry commanded one party of about eighty or ninety men of this new community, who had been enlisted principally as soldiers within our jurisdiction; and Mr. Herarra, coming with a few followers from New Orleans, brought up the rear; and then announced the establishment to the world by a proclamation, attested by a Frenchman by the name of Morin, very recently a bankrupt auctioneer in New Orleans, as Secretary of State. From this new station, fed and drawing all its resources from New Orleans, and keeping up a regular intelligence, through a variety of channels, with their friends here, an active system of plunder was commenced on the high seas, chiefly of Spanish property, but often without much concern as to the national character, particularly when money was in question. The captures made by their numerous cruisers (many owned by citizens of the United States) were condemned by a pretended court of admiralty there as prizes, and the cargoes introduced into this State, principally in a clandestine manner. The vessels thus condemned have generally come here under new names, and with the Mexican flag. Some of them have been detained by the United States naval force for hovering in our waters, and others have been libelled for restitution by the Spanish Consul, in behalf of the original owners; and though several trials have come on before the honorable the United States district court for the district of Louisiana, and the claimants have never been able to produce proof of the Government of Galveston having ever been authorized



*Suppression of Piratical Establishments.*

by the Mexican Republic, restitution has been decreed in several instances. There is no evidence of the establishment having been made or sanctioned by, or connected with, a Mexican republic, if one be now existing; and the presumption of such an actual establishment under such an authority is strongly repelled by the illegal and practical character of the establishment, and its anulatory nature. It is not only of very recent origin, but is clothed with no character of permanency; for it was abandoned about the 5th of April, and transferred to Matagorda, leaving at Galveston only an advice boat, to advertise such privateers and prizes which might arrive there of the spot on which they had fixed their new residence. Some days after the abandonment of Galveston, several privateers arrived there, and among the rest the General Artigas, commanded by one G. Champlin, of New York, with two schooners, her prizes, the Patronila, with one hundred and seventy-four slaves, and the Ebrequita, with one hundred and thirteen slaves, and also a Spanish and a Portuguese vessel, and the American schooner Evening Post, of New York, Calvin Williams master, prizes to the —, Captain Maurice Nicholas Jolly.

Among the most conspicuous characters who happened to be then at Galveston were many of the notorious offenders against our laws who had so lately been indulged with a remission of the punishment, who, so far from gratefully availing themselves of the lenity of the Government to return to or commence an orderly and honest life, seem to have regarded its indulgence almost as an encouragement to a renewal of their offences. You will readily perceive I allude to the Barraterians, among whom the Lafittes may be classed foremost, and most actively engaged in the Galveston trade, and owners of several cruises under the Mexican flag. Many of our citizens are equally guilty, and are universally known to be owners of the same kind of vessels. A number of these characters being at Galveston after the abandonment, readily saw the advantages that would result in the re-establishment of a Government at that place; its situation, so immediately in the vicinity of our settlements, being much preferable to Matagorda; their views being entirely confined to introducing their captures into this State. Accordingly, a meeting was called on the 15th of April, and it was resolved to re-establish the Government; and a true copy of their deliberations you have enclosed. I can vouch for the correctness of the copy, having received it from a person of undoubted veracity. And thus, without even the semblance of authority from the Mexican Republic, they immediately proceeded to condemn vessels and cargoes as good prizes, and to introduce them into this port, and, among the rest, the cargo of the Evening Post. It was some time before this was known here, great pains having been taken to keep it secret. Since it has been known, I have felt it my duty to report all vessels and cargoes which have arrived here from Galveston to the district attorney, who has had them arrested un-

der the Spanish Treaty; but, owing to the unfortunate absence of the judge, no decision can be had thereon. These steps of the officers of the port have irritated the Barratarian gentlemen and their connexions in a high degree; and representations filled with falsehoods will probably be made against them, particularly on the score of enmity to the patriotic cause. As well might a man be accused of being an enemy to personal liberty who arrests and confines a robber, as that the officers of the port of New Orleans should be accused of being unfriendly to the revolution in the Spanish provinces because they attempted to prevent a lawless establishment at Galveston from violating the laws. The prizes made by the privateers under the Mexican flag are to a very large amount of merchandise, such as jewelry, laces, silks, linens, britannias, muslins, seersuckers, calicoes, &c.; all of which are repacked in small bales, of convenient size for transportation on mules, and the greatest part introduced clandestinely. Other articles, such as iron, nails, tallow, leather, glass ware, crockery, cordage, beef, &c., are brought here in their prizes. It is stated, and universally believed, that Captain Champlin sold the slaves captured in the Patronila and Enrequita to the Lafittes, Sauvinet, and other speculators in this place, who have or will resell to the planters; and the facility offered to smugglers by the innumerable inlets are too obvious, on a view of the map, to doubt; but they either are or will be all introduced into this State, without the possibility of the officers of the revenue being able to prevent or punish them; more especially as a great portion of the population are disposed to countenance them in violating our laws. A few days ago, information having been given that one of our citizens had gone to the W. with a very considerable sum in specie, to purchase slaves for himself and two other planters, I determined to make an effort to arrest him on his return, and immediately purchased a fine boat on account of the Government, (which had been lately captured by a party I had sent on Lake Ponchartrain, and condemned for a violation of the slave act,) which I have sent under the command of an active, enterprising inspector, with a military guard of twelve men, and am in great hopes of his falling in with and capturing the party. I am persuaded you will approve of my not waiting for instructions, at the risk of seeing the laws violated with impunity; and I cannot but hope the Government will see the necessity of giving instructions to the naval force on this station to prevent the re-establishment of Galveston; otherwise the bay will no longer be safe for any flag. Since they have been denied shelter in Port au Prince, they have no other asylum than Galveston. On the part of these pirates we have to contend with, we behold an extended and organized system of enterprise, of ingenuity, of indefatigability, and of audacity, favored by a variety of local advantages, and supported always by force of arms; and, unless they be met by correspondent species of resistance, the results of the contest are of very simple calculation.

*Suppression of Piratical Establishments.*

You will, I trust, see the necessity of either granting a certain number of revenue cutters, of the description I have mentioned, or that the naval force on this station may be enjoined strictly to prevent these privateers from hovering in our waters and violating our laws. It is a fact you may rely on, all the cruises of these privateers commence and end at this port; they enter in distress, comply with the formalities of the law, and if they do not augment their force and renew their crews in port, they do it in our waters, and it is not in my power to prevent it.

Mr. Chew, Collector at New Orleans, to Mr. Crawford.  
August 30, 1817.

SIR: In the communication which I had the honor to make you, under date of the 1st instant, I gave such information respecting the establishment at Galveston as I had collected; since then, the depositions of Mr. J. Ducoing and V. Carros, (ex-judges of admiralty at that place, and now, here,) have been taken; and I herewith transmit you copies, which go to substantiate the material fact stated by me, and I make no doubt but you will be satisfied of the correctness of the assertion, that the establishment of Galveston is nothing more or less than one of privateersmen, without even the shadow of a connexion with a Mexican republic, (if such a republic exists,) and, as such, will not, I presume, be countenanced by the Government of the United States. It has been reported to me, and from a source deserving credit, that the principal part of the force from Matagorda and Soto de la Marina had returned to Galveston, and that two prizes with slaves had recently arrived—one a schooner with a full cargo, said to be three hundred, (probably exaggerated;) that a contagious fever having made its appearance among the slaves, the privateersmen, apprehensive of its communicating to the other prize, cut the cables and sent the schooner adrift with the unfortunate beings on board. The other prize, a ship with four hundred slaves, was lying there; and they have, altogether, about six hundred and fifty slaves on hand, all of whom are intended to be introduced into this State.

The United States brig Boxer has sent in two small schooners, with thirty slaves on board, captured in our waters; and the deputy collector of the district of Teche writes me that he has seized fifteen, and was in pursuit of a larger number. At this moment I have sent two confidential inspectors to examine three plantations on this river, near Baton Rouge, information having been given me that one hundred had been purchased for the three at Galveston. This activity had occasioned some alarm, and I am informed, (and place complete confidence in it,) that the privateersmen, and others interested, have resolved to remove the slaves to the neighborhood of the Sabine, build barracks, and keep them there during the winter, or till the purchasers appear, and leave the risk of introducing the slaves to the planters, whose eagerness to procure them will induce them to run every hazard. They imagine that,

15th CON. 1st SESS.—57

fixing themselves to the west of the Sabine, they will be without the jurisdiction of the United States; but I trust they will find their mistake only when the whole party will be seized.

In addition to the foregoing, I beg leave to refer you to the documents lately forwarded by Commodore Patterson to the honorable Secretary of the Navy, with the memorial of the most respectable merchants of this place, praying him to furnish convoy to protect their vessels trading with the Spanish ports from the piratical cruisers, who respect no flag when specie is in question.

I have lately sent an inspector of confidence to examine La Fouché, from the Mississippi to the sea, and he reports it as thickly settled for eighty miles from the river; has eight to ten feet water, and six feet on the bar at the mouth, or entrance into the sea. There is no obstacle whatever to craft entering it from the sea, and ascending to the Mississippi, and trading freely as high up as they please. I mentioned in my last the necessity of appointing an inspector for that place, if you decide not to have revenue cutters on this station. I cannot but repeat, that I am firmly persuaded the measure is more necessary for this than any other district in the United States. Bartholomew Lafon, of this place, who acted as secretary to the meeting of the 15th April, (copy of deliberation forwarded in my last,) is mentioned as the Governor of the new establishment near the Sabine. Lafite is now purchasing a large quantity of provisions, and the first cargo will soon sail; a copy of the manifest will accompany this, or soon follow. These persons, and a long list of others I could add if necessary, have no other profession, occupation, or mode of livelihood, than privateering and violating our laws, and openly threaten revenge against any officer of the revenue that may molest or impede their pursuits. They are now preparing a memorial to the Department, with the double view to misrepresent the conduct of the officers of the port, and to obtain permission to introduce their illegally-captured property, under the false pretext that they (the memorialists) have made heavy advances; the truth is, the only advances they allude to is the equipment and fitting out privateers, contrary to our laws. The exports from this place to Galveston and Matagorda have consisted principally of provisions; a cargo of arms was sent some time in the fall of last year, which has long since been given up as lost, and no return whatever can ever be expected from the Mexican Government, from all present appearances. The imports (without taking into consideration the large amount of goods introduced clandestinely) have been very large, as you will observe by the enclosed abstract of duties secured at this office on these importations.

I have felt it my duty to give you this information for your correct understanding the nature of the establishment at Galveston, and cannot but hope you will be pleased to instruct me implicitly how to act. My conduct has been governed by a sense of duty, and from a conviction of its propriety; if I have erred, I hope it will be ascribed



*Suppression of Piratical Establishments.*

to an honest zeal. I am, sir, your most obedient servant,

BEVERLY CHEW.

P. S. The brig with provisions and lumber for the Winter quarters of the slaves attempted to clear to-day; but, owing to the informality of her papers, it is postponed till Monday. I enclose a list of private armed Mexican and Venezuelan vessels now in port.

*List of Mexican armed vessels now in the port of New Orleans, commissioned by Aury.*

Belona, Dewatre, 6 guns, 55 men; commissioned March 4, 1817.

Calbra, Deverge, 1 gun, 30 men; commissioned April 4, 1817.

Diana, Requete, 6 guns, 40 men; commissioned May 2, 1817.

Esperanza, Goits, 2 guns, 18 men; commissioned November 24, 1816.

Moquito, Jaret, 7 tons, 17 muskets; commissioned June 23, 1817.

Victory, Dewatre, 5 guns, 60 men; commissioned July 5, 1817.

*The following commissioned by General Bolivar, (Venezuela.)*

General Arismanda, Beleriche, 5 guns, 114 men; commissioned May 8, 1816.

Guerrera, Rustique, 3 guns; commissioned August 20, 1816.

Hidalgo, Sauvenet, 1 gun, 50 men; commissioned January 24, 1817.

José, Quere, 1 gun; commissioned May 19, 1816.

Eugenia, Lemeson, 3 guns, 60 men; just sailed on a cruise.

*Mr. Chew to Mr. Crawford.*

OCTOBER 17, 1817.

Sir: My communications of the 1st and 30th of August last, relative to the establishment at Galveston, and the numerous cruisers under the Mexican flag that infest our waters, will, I trust, have reached your hands. I deem it my duty to trouble you once more upon the same subject, and to enclose copies of additional testimony of Mr. John Ducoing, late Judge of Admiralty, and of Mr. Raymond Espagnol, late Secretary of State, which will, I trust, satisfactorily prove my assurances of the piratical nature of the establishment, and justify, in your opinion, the officers of this port in the steps taken by them to put an end to it; for such, it appears, has been the effect of the measures adopted here. Late advices from that place state that Aury and Champlin, with their privateers, and prizes (said to be thirteen sail) evacuated the place, and, it is believed, they have steered their course for Amelia Island. Before their departure they disposed of about three hundred Africans to the agents of some planters on the river; the remainder they have taken with them. The deputy collector of the district of Teche writes me that a large gang of Africans passed near the church of Attacapas on the night

of the 14th ultimo, bound for the Mississippi. He heard of it too late to seize them. I have sent a confidential agent to watch the plantations of Joseph Erwin, James Still, and Christopher Adams; it being reported that the latter had been to Galveston to purchase slaves for himself and the others. I received, a few days ago, a letter from the person called Commodore Aury, dated at sea, 31st July last, on board the privateer Mexican Congress, (late Calypso, of Baltimore,) enclosing a duplicate of a letter which, it appears, he had thought proper to write me on the 28th of the same month, (the original of which has never come to hand.) In this letter he gives me a kind of official information that it has been determined to abandon Galveston, and that he had taken with him the Judge of the Admiralty, the collector, and all his other constituted authorities; and that whatever may be done at the place, after that date, will be without his approbation or consent, and any clearances, or other official acts, at that place illegal. I have no doubt, however, but that a new establishment will soon be made there. The advantages are too great to be voluntarily abandoned by persons who have so long enjoyed the profits. Early in September, two vessels, the Carmelite, belonging to B. Lafon, and the Franklin, belonging to J. B. Laforte, (both unregistered vessels, formerly prizes,) cleared at this office for Laguna, but really bound to Galveston, with provisions and materials for erecting buildings. On their arrival they found the place deserted, and the Franklin has returned to this port with her outward cargo. By her accounts have been received that the Carmelite was lying there, and that Lafitte (who had been pardoned for the crimes committed at Barrataria) and Lafon had arrived there, with about forty other persons, and, it is believed, intended to form an establishment, and will, no doubt, soon replace the judge and other authorities carried off by Aury. Private armed vessels, under the Mexican flag, and one or two under that of Venezuela, continued to frequent this port, and uniformly report in distress, (one case only excepted,) make protest, and obtain a certificate from the wardens of the port that there is necessity to unlade their armament and heave down. They have been thus admitted to an entry, free of any charge other than fees to the officers of the customs, under the sixtieth section of the collection law. This course seems to have been adopted by my predecessor, and has been followed by me, in compliance with the instructions from the Department of the 3d July, 1815. These armed vessels being admitted, great care has been taken not to permit any violation of the acts of 5th June, 1794, and 3d March last, by augmenting their force or enlisting American citizens; but, in defiance of every vigilance on the part of the officers of the customs, they violate the law, not whilst they remain in port, but before they leave our waters. Nothing is easier, when the privateer is completely repaired and ready for sea, than to send both men and guns, if they need them, to Barrataria, or any other convenient place, which the privateer repairs to, and

*Suppression of Piratical Establishments.*

takes them on board, and sails on a cruise with an augmented force, to commit hostilities against the persons and property of a nation with whom the United States are at peace.

It is universally reported, and believed, that many of these vessels (under the Mexican flag, and commissioned by Aury) are owned by persons resident here, and enjoying the privileges of American citizens. At the end of the cruise the same farce is played over again; and it may with truth be said that each cruise commences and ends at this port. Attempts have been made to convict them, but as yet without success. They easily exculpate themselves. Witnesses, on their part, are never difficult to be procured in a place where there are a vast number of people with whom the solemnity of an oath has little weight. This you will believe when I add that two witnesses were produced in the United States district court, in the month of May last, who swore that Galveston was a considerable and well-built town, with coffee-houses, shops, &c., and that the then constituted authorities (Durier, Ducoing, Espagnol, &c.) had been appointed and commissioned by Aury. The testimony of the two latter, as well as many other persons now here, will fully refute that falsehood.

I hope you will be pleased to give me some instructions relative to the cruisers, that I may act in a way to meet the views of the Executive.

I have the honor to be, &c.

BEVERLY CHEW.

*To the Hon. Dominic A. Hall, judge of the district court of the United States in and for the district of Louisiana:*

The petition of Beverly Chew, collector of the district of Mississippi, and one of the officers of the port of New Orleans, respectfully sheweth the facts set forth in the annexed affidavit, and prays an order pursuant thereto, commissioning some judge or justice of the peace in the city of New Orleans to take the depositions of the said witnesses in the said cause, at such time and place as to your honor shall seem meet.

And, as in duty bound, &c.

BEVERLY CHEW.

Signed and sworn to before me, this 6th day of October, 1817.

JOHN NIXON, J. P.

*The United States District Court, Louisiana district:*

The United States, in behalf, &c., vs. cargoes of Juana, Eliza, Carmelita, and Diana.

The same, vs. brigs Diana and Juana, schooners Eliza and Carmelita.

The same, vs. ninety boxes sugar.

The same, vs. sundry goods, &c., part of schr. Mount Vernon's cargo.

*City of New Orleans, to wit:*

Beverly Chew, collector, one of the officers of the port of New Orleans, being duly sworn, deposes and says: That Raymond Espagnol and

John Ducoing, as this deponent is advised and believes, are material witnesses on the part of the prosecution in the above cases, and without the benefit of whose testimony the trial on the said behalf cannot be safely proceeded in; that the said witnesses are, as this deponent is informed and believes, about permanently to depart the United States, and before, in the common course of proceeding, the said causes can be brought to trial; so that, unless a commission issue for taking the depositions of the said witnesses prior to their intended departure from the United States, as aforesaid, the prosecution, he apprehends and believes, will be deprived of the evidence of the said witnesses.

BEVERLY CHEW.

*Additional testimony taken in sundry cases depending in the United States District Court for the Louisiana district, on behalf of the United States, against sundry vessels and cargoes from Galveston.*

John Ducoing being duly sworn, the deponent further says: That the establishment at Galveston was composed, as before stated, by persons of various nations, and that the sole view and object of the persons comprising the said establishment was to capture Spanish vessels and property, without any idea of aiding the revolution in Mexico, or that of any other of the Spanish revolted colonies, as far as this deponent knows and believes. And the deponent says, that during the time he exercised the functions of judge at Galveston, he had no knowledge of or belief in the existence of a Mexican republic, or other Government, independent of the Spanish Government.

The deponent further says that the Government established on the 15th day of April had no connexion whatever with any other Government, State, or people; that Galveston stands on a small island, or rather a small sandbar, a few miles long and broad, and was a desert when taken possession of by Aury, known by the name of Snake island, without a port or harbor, and no buildings, except a few huts or cabins, probably three or four, made of boards and sails of vessels.

And further this deponent saith not.

JOHN DUCOING.

Sworn and subscribed before me, this 7th day of October, 1817.

R. CLAIBORNE, Clerk.

Mr. Raymond Espagnol, being duly sworn, says: That, on the 16th day of March last, this deponent went from this place to Galveston, in the province of Texas, in the brig Devorador, for the purpose of disposing of merchandise. Aury was acting as Governor. This deponent accepted of no office or employment under Aury, nor had he any acquaintance with him; never took any oath of allegiance to Aury; that, on the 5th of April last, Aury and General Mina abandoned Galveston, burned the huts and cabins there were standing, and left no person, authorized by them or otherwise, to form a Gov-



*Suppression of Piratical Establishments.*

ernment. After their departure, to wit, on the 15th of April, 1817, the persons then at Galveston consisted of about thirty or forty in number, including sailors, &c., six of whom assembled on board of the schooner *Carmelita*, (belonging to Mr. Bartholomew Lafon, late of New Orleans, and engineer in the service of the United States,) to wit, Durier, John Ducoing, Pereneau, said B. Lafon, Rousselin, and this deponent, who formed the new Government. The proceedings were drawn up and signed by those present, by which certain persons aforesaid took upon themselves offices, namely:

Durier, governor; John Ducoing, judge of admiralty; this deponent, notary public and secretary; Pereneau, major du place; Rousselin, collector.

At the meeting on the 15th of April, there was no paper or document produced, authorizing the same, or giving them power to form a Government.

The deponent further says that the sole object and view of the persons comprising the establishment at Galveston was, as far as he knows and believes, to capture Spanish property under what they called the Mexican flag, but without an idea of aiding the revolution in Mexico, or that of any of the Spanish revolted colonies; and further, that during the time that this deponent acted as notary public and secretary to the new Government at Galveston, he had no knowledge or belief in the existence of a Mexican republic, or any Government in Mexico, independent of the Spanish authorities; further, the deponent says, that the new Government established at Galveston on the 15th of April, 1817, had no connexion whatever with any other nation, state, or people.

That Galveston stands on a small sandbar, a few miles long and broad, and was a desert when taken possession of by Aury, known by the name of Snake island; without a port or harbor, and no buildings, except three or four cabins, built of boards and sails of vessels.

Further, this deponent says, that some time in the month of May last, when some of the merchandise and vessels from Galveston were libelled by the Spanish Consul in behalf of the Spanish owners, application was made to this deponent to appear before the Honorable Judge Hall, and to prove that the authorities appointed by the meeting at Galveston, on the 5th of April last, were appointed and commissioned by Aury. This application was explicitly stated to be on behalf of those interested in the Galveston establishment, particularly of Mr. Bartholomew Lafon, and Mr. J. Bte. Laporte, the former of whom was known to be indebted to this deponent in a sum of ten or twelve thousand dollars; this deponent refused informing the person by whom the application had been made; that if the deponent appeared, he would tell the truth, and should prove that the persons forming the Government (after the 15th of April) were not named by Aury. This deponent was not summoned as a witness, though it was known he was

in the city, and has continued since to reside here. The deponent says that this is the true reason why he was not summoned to appear before the judge at the time when Messrs. Rieur and Pereneau appeared.

RICHARD ESPAGNOL.

Sworn and subscribed before me, this 7th day of October, 1817.

R. CLAIBORNE, Clerk.

*Extract—Mr. McIntosh to Mr. Crawford.*

THE REFUGE, NEAR JEFFERSON,  
CAMDEN COUNTY, Oct. 30, 1817.

MY DEAR SIR: The last letter I had the honor to address you was on the 9th of August; shortly after which the public papers announced that you had left Washington on a visit to Georgia. A few weeks after, I thought it not imprudent to venture out to my swamp plantation on the Sotillo, and since have been very little at St. Mary's. Since General McGregor and the greater part of his officers (some of whom were men of respectable standing in the United States) have left Amelia Island, there has not been so much ingenuity made use of in misrepresenting the conduct and intentions of the invaders of East Florida; and the accounts which are published of them are, for the most part, generally correct. The present chief, Commodore Aury, got the command very much against the inclinations of Sheriff Hubbert and Colonel Irwin. When he arrived at Fernandina with his squadron of privateers and prizes, they were entirely without money. He declared "that if he gave them any aid, it must be on the condition of being made commander-in-chief; and that, as General McGregor never had any commission whatever, the flag of the Florida Republic must be struck, and that of the Mexican hoisted; and that Fernandina should be considered as a conquest of the Mexican Republic, (under which he was commissioned,) without its being necessary that any other part of the province of East Florida should be conquered." Hubbert and Irwin reluctantly agreed to the mortifying condition of resigning the command. They were never friendly with the Commodore, and endeavored, but in vain, to gain over by intrigue a part of his men. Their own party considerably increasing shortly after, they were several times on the point of coming to open war with Aury and his followers, and under the pretence that Aury's forces were composed chiefly of brigand negroes. A few days before Mr. Hubbert's death, (who was called Governor, without having any power,) Aury marched to his quarters with a body of armed men, and obliged him to make such concessions as drove him to an act of intemperance, which soon after terminated his existence.

Since the death of this gentleman there has been little or no disturbance among them. But it would appear as if the suspicions of the Frenchman did not die with Hubbert, as none of his privateers have yet left Fernandina.

*Suppression of Piratical Establishments.*

The parties are designated as the American and French; and I have been assured, by individuals belonging to them both, that each is anxiously looking for reinforcements. Aury has a number of Frenchmen, who were, it is said, officers of Bonaparte. They find it their interest, as well as inclination, to support their countrymen. His great dependence, however, is on about one hundred and thirty brigand negroes, a set of desperate bloody dogs.

The American party, which is rather more numerous than the other, consists generally of American, English, and Irish sailors, but now has no declared leader. Irwin wants either spirit or popularity to assume that character. For my own part, I believe that, in point of morals, patriotism, and intentions, they are exactly on a par. Aury's blacks, however, make their neighborhood extremely dangerous to a population like ours; and I fear if they are not expelled from that place, some unhappy consequences may fall on our country. It is said that they have declared, that if they are in danger of being overpowered, they will call to their aid every negro within their reach. Indeed, I am told that the language of the slaves in Florida is already such as is extremely alarming. The patriots at Fernandina had, about ten days ago, an unexpected and strange reinforcement. Twenty half-pay British officers, by the way of Turk's Island, arrived at St. John's river, and, mistaking it for Amelia, a colonel and a couple of others were made prisoners by the Spaniards. The others got safe to Fernandina; but, finding that General Sir Gregor McGregor had abandoned it, they determined immediately on doing so too.

[The following Message and documents relating to this subject were communicated to Congress, January 13, 1818.]

To the Senate and House of  
Representatives of the United States:

I have the satisfaction to inform Congress that the establishment at Amelia Island has been suppressed, and without the effusion of blood. The papers which explain this transaction I now lay before Congress.

By the suppression of this establishment, and of that of Galveston, which will soon follow, if it has not already ceased to exist, there is good cause to believe that the consummation of a project fraught with much injury to the United States has been prevented. When we consider the persons engaged in it, being adventurers from different countries, with very few, if any, of the native inhabitants of the Spanish colonies; the territory on which the establishments were made, one on a portion of that claimed by the United States westward of the Mississippi, the other on a part of East Florida, a province in negotiation between the United States and Spain; the claim of their leader, as announced by his proclamation on taking possession of Amelia Island, comprising the whole of both the Floridas, without excepting that part of West Florida which is incor-

porated with the State of Louisiana; their conduct while in the possession of the island, making it instrumental to every species of contraband, and in regard to slaves of the most odious and dangerous character, it may fairly be concluded that, if the enterprise had succeeded on the scale on which it was formed, much annoyance and injury would have resulted from it to the United States.

Other circumstances were thought to be no less deserving of attention. The institution of a Government by foreign adventurers in the island, distinct from the colonial governments of Buenos Ayres, Venezuela, or Mexico, pretending to sovereignty, and exercising its highest offices, particularly in granting commissions to privateers, were acts which could not fail to draw after them the most serious consequences. It was the duty of the Executive either to extend to this establishment all the advantages of that neutrality which the United States had proclaimed and have observed in favor of the colonies of Spain, who, by the strength of their own population and resources, had declared their independence, and were affording strong proof of their ability to maintain it, or of making the discrimination which circumstances required. Had the first course been pursued, we should not only have sanctioned all the unlawful claims and practices of this pretended Government in regard to the United States, but have countenanced a system of privateering in the Gulf of Mexico and elsewhere, the ill effects of which might, and probably would, have been deeply and very extensively felt. The path of duty was plain from the commencement, but it was painful to enter upon it while the obligation could be resisted. The law of 1811, lately published, and which it is therefore proper now to mention, was considered applicable to the case, from the moment that the proclamation of the chief of the enterprise was seen; and its obligation was daily increased by other considerations of high importance already mentioned, which were deemed sufficiently strong in themselves to dictate the course which has been pursued.

Early intimations having been received of the dangerous purposes of these adventurers, timely precautions were taken, by the establishment of a force near the St. Mary, to prevent their effect, or it is probable that it would have been more sensibly felt.

To such establishments, made so near to our settlements, in the expectation of deriving aid from them, it is particularly gratifying to find that very little encouragement was given.

The example so conspicuously displayed by our fellow-citizens that their sympathies cannot be perverted to improper purposes, but that a love of country, the influence of moral principles, and a respect for the laws, are predominant with them, is a sure pledge that all the very flattering anticipations which have been formed of the success of our institutions will be realized. This example has proved that, if our relations with foreign Powers are to be changed, it must be done by the



*Suppression of Piratical Establishments.*

constituted authorities, who alone, acting on a high responsibility, are competent to the purpose; and, until such change is thus made, that our fellow-citizens will respect the existing relations by a faithful adherence to the laws which secure them.

Believing that this enterprise, though undertaken by persons, some of whom may have held commissions from some of the colonies, was unauthorized by and unknown to the colonial governments, full confidence is entertained that it will be disclaimed by them, and that effectual measures will be taken to prevent the abuse of their authority, in all cases, to the injury of the United States.

For these injuries, especially those proceeding from Amelia Island, Spain would be responsible, if it were not manifest that, although committed in the latter instance through her territory, she was utterly unable to prevent them. Her territory, however, ought not to be made instrumental, through her inability to defend it, to purposes so injurious to the United States. To a country over which she fails to maintain her authority, and which she permits to be converted to the annoyance of her neighbors, her jurisdiction for the time necessarily ceases to exist. The territory of Spain will, nevertheless, be respected, so far as it may be done consistently with the essential interests and safety of the United States. In expelling these adventurers from these posts, it was not intended to make any conquest from Spain, or to injure, in any degree, the cause of the colonies. Care will be taken that no part of the territory contemplated by the law of 1811 shall be occupied by a foreign Government of any kind, or that injuries of the nature of those complained of shall be repeated; but this, it is expected, will be provided for, with every other interest, in a spirit of amity, in the negotiation now depending with the Government of Spain.

JAMES MONROE.

JANUARY 18, 1818.

*From the Secretary of War to the President of the United States.*

JANUARY 12, 1818.

SIR: I have the honor to transmit copies of the orders which have been given by the acting Secretary of War to Major Bankhead, in relation to taking possession of Amelia Island, and copies of the communications which have been made to this department by that officer, which embrace all the information in my possession.

I have the honor to be, &c.

J. C. CALHOUN.

U. S. SHIP JOHN ADAMS, OFF AMELIA.

December 22, 1817.

SIR: We have received orders from our Government to take possession of Amelia Island, and to occupy the port of Fernandina with a part of our force, which will be moved over as soon as

it will be convenient for your troops to evacuate it.

To avoid unnecessary delay, we think proper at this time to inform you, in the event of your acquiescence in this demand, that you will be at liberty to depart with the forces under your command, and such property as belongs unquestionably to them will be held sacred:

You are to leave the public property found by General McGregor at Fernandina in the same condition it was taken, and the property of the inhabitants of Amelia Island must be restored to them, where they have been forcibly dispossessed of it; and no depredations on private property, from this period, will be permitted with impunity.

Should you, contrary to the expectations of the President of the United States, refuse to give us peaceable possession of the island, the consequences of resistance must rest with you.

We have the honor to be, &c.

J. D. HENLEY,  
Commander-in-Chief U. S. naval forces,  
off Amelia.

JAMES BANKHEAD,  
Major 1st Battalion U. S. Army.

General AURY,  
Commander-in-Chief at Fernandina, &c.

HEADQUARTERS, FERNANDINA,  
Amelia Island, Dec. 22, 1817.

GENTLEMEN: I have had the honor to receive your official letter of this day. The nature of its contents requiring mature deliberation, I have submitted the same to the Representatives of the Republic, and, as soon as I shall have obtained their opinion, it shall be immediately sent to you.

I can, however, state to you, gentlemen, that no opposition will be made to surrender the island of Amelia on the part of this Government.

I have the honor to remain, &c.

AURY, Commander-in-Chief.

Com. J. D. HENLEY, Major Bankhead, &c.

HEADQUARTERS, FERNANDINA,  
Amelia Island, Dec. 22, 1817.

GENTLEMEN: I have received your official letter of this day, by which, in the name of the Government of the United States, you summon us to evacuate this place with the troops under my command, as possession thereof is to be taken by the forces under your commands, under certain conditions therein specified.

This Republic, that of Mexico, nor any other of South America, being at war with the United States, obliges me to state to you that the contents of your letter have greatly surprised this Government and the people of the State. You have, nevertheless, intimated that, in case of our acquiescence to your demand, we shall be permitted to evacuate this island, which never was nor ever has been a part of the United States. Allow me, gentlemen, to observe to you, that,

*Suppression of Piratical Establishments.*

from the moment we took Fernandina by the force of our arms, we entered into the full possession of all the rights appertaining to our enemy, and that to this day we have supported these rights at the risk of our lives and fortunes. The boundaries of the Floridas and the United States having been fairly settled by the Treaty of Friendship, Limits, and Navigation, on the 22d of October, 1795, leaves us at a loss to ascertain your authority to interfere in our internal concerns.

Our surprise increases when we reflect that your communication comes as authorized by the Government of a people who glory in their respect for the rights of nations, whether great or small, and who, no doubt, sympathize and wish success to their southern brethren in the struggle for liberty and independence in which they are engaged, as were the United States forty years ago.

On the other side, you promise to hold sacred such of our property as unquestionably belongs to our citizens. Who is to be the judge in this case? The United States, who can by no means claim any kind of jurisdiction from the source of the river St. Mary's down to the ocean, on this side of the centre of the channel. We entertain too much veneration for your Constitution to believe for a moment that you, supposed already in possession of this island, which has never been ceded by the King of Spain, or by its inhabitants, to the United States, can bring with you a competent tribunal to decide upon this question. The only law you can adduce in your favor is that of force, which is always repugnant to republican governments, and to the principles of a just and impartial nation. The same observation may be applied to your interference with the property of the inhabitants, which we have always respected and considered as sacred.

You order us, also, as if we were subjects of your Government, to leave behind, when Fernandina is evacuated, all the public property that was found at its surrender. This demand is directly contrary to the public rights by which all public property captured by the enemy is avowedly that of the captors, when not otherwise stipulated. Are you acting in the name of the King of Spain, or his allies? As we consider the people of the United States as unquestionably the only free people on the surface of the globe, we cannot admit that you have now become the adherents of a tyrant; otherwise, your demand is inadmissible and unjustifiable in the eyes of the world; and if we must yield to it, all the blame rests with you.

Permit me therefore, gentlemen, to request of you to lay before the President of the United States these remarks, in order that a matter of so serious a tendency may be reconsidered. We have read his Excellency's Message at the opening of Congress with the utmost concern, and I have concluded that the political situation of this Republic has been greatly misrepresented in the United States, through the intrigues of our enemies. We have certainly a right to be heard, for which purpose I shall have the honor of forward-

ing to your Government the necessary documents. If you are not disposed to let things remain *in statu quo* until the President's further determination be known, I am authorized to assure you that we respect and esteem too highly the people of the United States to carry matters to extremities. I have the honor to remain, &c.

AURY, Commander-in-Chief.

J. D. HENLEY, Esq., Capt. U. S. Navy.  
JAMES BANKHEAD, Esq., Major Artillery, &c.

U. S. SHIP JOHN ADAMS,  
Off Amelia Island, Dec. 23, 1817.

SIR: We have had the honor to receive your communication of the 22d instant, and will briefly remark, that, as officers in the service of the United States, we are bound to obey the orders emanating from the authorities of our Government, without any discussion or animadversion on our part as to the correctness of them. We have been ordered by the President of the United States to take possession of Amelia Island, and as the President has expressed his solicitude that the effusion of blood may be avoided, if possible, it must be gratifying to us to be informed by you that no resistance will be made to us.

We will again remark, that private property will be sacred, and that our orders extend only to the public property captured by General McGregor at Fernandina.

We propose to land a force to-day, and to hoist the American flag; under that flag, no oppression or unjust measures will ever be witnessed. And we feel assured that there will be no difficulties in the arrangement made by us.

The squadron will immediately sail into the harbor, when the commanding officer of the land forces will wait on the commander-in-chief to make necessary arrangements for the landing of the troops. We have the honor to be, &c.

J. D. HENLEY, Captain, &c.

J. BANKHEAD, Major, &c.

Gen. AURY, Commander-in-chief, &c.

HEADQUARTERS, FERNANDINA,  
Island of Amelia, Dec. 23, 1817.

I have had the honor to receive your letter of this date. I am ready to surrender this place to the forces under your command, whenever you may judge proper to come and take possession thereof. I have the honor to be, &c.

AURY.

J. D. HENLEY, Esq., Captain, &c.

J. BANKHEAD, Esq., Major, &c.

DEPARTMENT OF WAR, July 17, 1817.

SIR: Circumstances having made it necessary to occupy, without delay, Point Petre and the St. Mary's river, by a military and naval force, I have to request that you will instruct the officer whom, in pursuance of the order issued through the Adjutant General, you may detail to command at Point Petre, to co-operate with the officer



*Suppression of Piratical Establishments.*

commanding the naval force on that station, in such measures as may be deemed necessary for the preservation of the peace and tranquillity of that section of the country, which there is reason to apprehend may be disturbed in consequence of the contest between the Spanish royalists and patriots for the occupation of the adjacent territory. The officer will also be instructed to use due vigilance to prevent the violation of the revenue laws of the United States, and in particular to prevent the illicit introduction of slaves into the United States; and, in order to do this the more effectually, he will prohibit all vessels from entering the river St. Mary's.

I have the honor to be, &c.

GEORGE GRAHAM.

The OFFICER com'dg at Charleston, S. C.

*Extract of a letter from George Graham, acting Secretary of War, to Major James Bankhead, Charleston, South Carolina, dated*

NOVEMBER 12, 1817.

I am instructed by the President to direct you to repair immediately to Point Petre, with the effective force under your command, leaving only an officer and a few men as a guard at Forts Moultrie and Johnson. Captain Wilson has been ordered to repair with his company now at Fort Johnson, North Carolina, to Point Petre; and a detachment of new recruits, under the command of Captain Hook, who was on his route to join the fourth infantry, has also been ordered to that place. The troops enumerated above, and those now stationed at Point Petre, will constitute a force of more than two hundred men, of which you will take the command, until the arrival of General Gaines. A remittance of five thousand dollars has been made to your battalion quartermaster, whom you will take with you; and you will make requisitions for the necessary supply of provisions on the contractor's agents. It will be advisable to take from Charleston a supply of salted meat, and a sufficient quantity of flour and hard bread to serve two hundred and fifty men for thirty days at least.

DEPARTMENT OF WAR, Nov. 12, 1817.

SIR: It appearing to the satisfaction of the President that the persons who have lately taken possession of Amelia Island have done it without the sanction of any of the Spanish colonies, or of any organized government whatever, and for purposes unfriendly to and incompatible with the interests of the United States, he has decided to break up that establishment, and take temporary possession of Amelia Island. For this purpose, the troops ordered to assemble at Point Petre will co-operate with the naval force which has been ordered to St. Mary's, under the command of Captain Henley.

It is the anxious wish of the President that this should be accomplished without the effusion of blood; and he confidently hopes that the force destined for the purpose will be of such an im-

posing character as to induce those persons who now have the military occupation of the island to abandon it without the exercise of force; but, if it should be found to be indispensably necessary, force must be used. You will, therefore, immediately on the arrival of Captain Henley at St. Mary's, and in conjunction with him, despatch an officer to demand the abandonment of the island by those who now exercise authority there, and take such other measures as may be deemed proper to obtain the peaceable possession of it; also for the preservation of the property of those persons who were resident in the island when it was first captured by General McGregor. Should your demand for the evacuation of Amelia be complied with, you will then occupy with a part of your force the position of Fernandina, and take care that the cannon and other implements of war which belonged to the port, when captured by General McGregor, are not taken off.

If peaceable possession of the island, however, cannot be obtained, and it should be the opinion of Captain Henley and yourself that your joint forces are not competent to the prompt and certain reduction of the naval and military forces which may then occupy the harbor and post of Fernandina, you will, in that event, make a requisition on General Floyd, or such other officer as may command that division of the militia of Georgia in which Point Petre is situated, for a force not exceeding five hundred men, to be held in readiness to march at a moment's warning, and await the arrival of General Gaines, who has been ordered to Point Petre, for ulterior measures.

You will take with you from Charleston the necessary military stores, and such heavy cannon as may be required for the reduction of the fort on Amelia Island, in the event of resistance.

As no answer has been received to the communication addressed to you from this Department on the 17th July last, it becomes necessary to request that the receipt of this may be acknowledged, and that you also advise this Department regularly of your movements.

I have the honor to be, &c.

GEORGE GRAHAM.

Major JAMES BANKHEAD,  
Commanding at Charleston, S. C.

FERNANDINA, AMELIA ISLAND,  
December 24, 1817.

SIR: I have the honor to lay before you the correspondence held with General Aury, the late commander of this place, and to inform you that the American flag was raised here yesterday afternoon.

Several days will elapse before General Aury can withdraw his followers; but I have taken every measure to insure tranquillity, by ordering all his black soldiers to be embarked on board one of the ships lying in the port, and by not suffering any person to appear in the town with arms, but his officers; and the moment their vessels are prepared to receive the whole of them, they shall depart.

*Suppression of Piratical Establishments.*

Most of the inhabitants of this place, at this time, are followers of Aury, and those persons who have been drawn here from motives of speculation, who are, I suspect, of that profligate character generally engaged in the violation or evasion of our revenue laws. I shall, therefore, consult with Commodore Henley, and will enforce such regulations as may be most likely to preserve order until I receive instructions from the Government.

Until this place is completely evacuated by this band of negroes and privateersmen, I have deemed it prudent to keep the whole of my force here. On their departure I shall move all but one company to Point Petre. I have, &c.

JAS. BANKHEAD, Major, &c.

GEO. GRAHAM, Esq., Acting Sec'y Navy.

FERNANDINA, AMELIA ISLAND,  
December 27, 1817.

SIR: I had the honor to forward to the War Department, on the 24th instant a copy of the correspondence with General Aury, previous to the landing of the troops under my command; and I herewith send a duplicate of the same.

Some difficulty has arisen from a want of competent authority to settle the disputed claims of the residents of this place against the late Government and the followers of Aury, who do not seem disposed to comply with their engagements.

One or two vessels have arrived here with cargoes, which the owners are desirous to land; and it might be improper to permit it, without obtaining security for the duties which the laws of the United States require. And other vessels, loaded in this port, have met with some delay in clearing for their destination. But the counsel of General Gaines, who arrived here last night, will regulate my conduct, and will in a great measure relieve my anxiety.

I have been obliged to exercise my authority, as commanding officer at this place, to preserve order; and I am happy to say that nothing unpleasant has occurred. I cannot say when General Aury and his party will sail. Their vessels are much out of order, and their arrangements to that effect progress but slowly. The morning after I landed, I ordered all the black and French troops to be embarked on board some of their vessels; but the crews of their privateers, and many others of all nations, whom it is difficult to restrain from violence and excess, are still here.

Until I am honored with your instructions, I hope that the course I may pursue may meet the approbation of the President.

General Gaines leaves this for the western frontier of Georgia the day after to-morrow.

I have the honor to be, &c.

JAMES BANKHEAD,  
Major, &c., comm'g this port.

HON. the SECRETARY OF WAR.

NAVY DEPARTMENT, Jan. 13, 1818.

SIR: I have the honor to enclose, herewith, copies of orders to Captain John H. Elton and

Commodore John D. Henley, in relation to Amelia Island; also, a letter from the latter officer, communicating information of the surrender of that place to the military and naval force of the United States, together with the correspondence which took place on that occasion.

I have the honor to be, &c.

B. W. CROWNINSHIELD.

The PRESIDENT OF THE U. S.

NAVY DEPARTMENT, July 16, 1817.

SIR: Proceed immediately with the United States brig Saranac under your command to the river St. Mary's in Georgia, and inform the military commander of your arrival, and of the objects specially designated to you in these orders.

The recent occupation of Amelia Island by an officer in the service of the Spanish revolutionists occasions just apprehensions that, from the vicinity to the coast of Georgia, attempts will be made to introduce slaves into the United States contrary to the existing laws, and further attempts at illicit trade in smuggling goods, in violation of our revenue laws.

You are hereby directed to detain and search every vessel, under whatever flag, which may enter the river St. Mary's, or be found hovering upon the coast under suspicious circumstances, and seize every vessel freighted with slaves, or whose doubtful character and situation shall indicate an intention of smuggling.

In the execution of these orders, you will take special care not to interrupt or detain any vessels sailing with regular papers, and of a national character, upon lawful voyages to or from a port or ports of the United States.

The traffic in slaves is intended to be restrained, and in the performance of this duty you will exercise your sound judgment in regard to all vessels you may visit.

Communicate frequently to this Department every event connected with this service; and if it shall be found necessary, a further naval force will be sent, either to strengthen your command, or to relieve you, so as to pursue your original destination. If you find it necessary, upon your arrival at St. Mary's, to employ a good pilot, well acquainted with the coast, rivers, and inlets, you are authorized to do so.

I am, very respectfully, &c.

B. W. CROWNINSHIELD.

Captain JOHN H. ELTON,  
Com'dg U. S. brig Saranac, N. Y.

NAVY DEPARTMENT, Nov. 14, 1817.

SIR: Having been appointed to the command of the United States ship John Adams, you are hereby ordered, in conformity to the wishes of the President of the United States, to proceed forthwith to the port of St. Mary's, in Georgia, taking with you the United States brigs Enterprise and Prometheus, and the schooner Lynx, if the two latter have arrived in New York, and are in a state of readiness to accompany you; but you



will not procrastinate the departure of the ship John Adams on account of these vessels, as any of them not fully prepared to proceed with you shall be ordered to join you as soon as practicable at St. Mary's, at which place you will find the United States brig Saranac, Captain John H. Elton, and gunboat No. 168, Lieutenant Commandant R. McCall; both of which vessels will act under your orders.

The object of the President of the United States in ordering this naval force to St. Mary's is to remove from Amelia Island the persons who have lately taken possession thereof, and, as it is understood and believed, without authority from the colonies, or any organized Government whatever, and to the great annoyance of the United States. It has therefore been determined that these persons shall be removed from that island, and that possession shall be taken, for the present, by the land and naval forces of the United States.

On your arrival at St. Mary's, you will consult with the officer commanding the military force, who is instructed to co-operate with you in the performance of this service.

It is hoped that these persons will withdraw without bloodshed; and you will, for this purpose, should your relative rank be superior to that of the commanding officer of the land forces, make known to the chief commanding in Amelia the determination of the Government of the United States to take possession of the island; and if the said chief, and the armed forces under his command, will peaceably quit the island, you will permit them so to do, taking special care that no depredations be committed on the inhabitants, whom it will be your duty to protect from violation of injury, either in their persons or property.

Should the force, however, now in command of the island, contrary to all expectations, resist and refuse absolutely to give up and abandon the same, you are, in co-operation with the military force of the United States, to proceed and take possession of the island in the name and by the authority of the United States.

Should you fall in with, on your way to St. Mary's, or find in Amelia, any vessels from the United States, armed and equipped by American citizens, acting as privateers, contrary to the laws of the United States, you will capture such, and send them to Savannah, in Georgia, to be dealt with according to law.

You will detain all prizes, or other vessels having slaves on board, as the presumption is strong that they are intended to be smuggled into the United States. You will report, from time to time, to this Department the operations of the force under your command.

I am, very respectfully, your most obedient servant,

B. W. CROWNINSHEILD.  
Secretary of the Navy.

Commodore J. D. HENLEY.

P. S. These orders are not to be delivered to any person.

U. S. SHIP JOHN ADAMS, OFF AMELIA,  
December 24, 1817.

SIR: I have the honor to transmit a copy of the correspondence with General Aury, late commander of this place, and to inform you that the American flag was yesterday hoisted at Fernandina, and the Island of Amelia taken possession of by the land forces under Major Bankhead, of the United States artillery.

The black troops of General Aury have been embarked on board one of their ships lying in the port, and the remainder of his followers will be sent off the island as soon as the necessary arrangement can be made for the purpose. They are now engaged in watering their ships, and in the course of a week I hope to see all of them over the bar.

Most of the respectable inhabitants of this place retired on its capture by McGregor, and those now here are principally adventurers, who have been attracted by motives of speculation, and, as I suspect, and have every reason to believe, been engaged in the violation of the revenue laws; to prevent which in future, such precautions will be taken as are within my power, and which will, I presume, be adequate to the purpose.

I have not yet been able to examine the ship, and therefore can give you but little further information than was contained in my last communication. The leaks (the principal of which is about two feet under water) still continue, so that we make twenty inches of water per hour—and this lying in port. We are obliged to examine the magazine twice a day, to clear it of the water. I shall land all the powder immediately, to prevent any further damage. The bread, except a very small quantity, is entirely ruined, and unfit for use. I shall order a survey to ascertain the exact quantity of stores damaged, and inform you as early as circumstances will admit.

I shall also inform you by the next mail (which leaves St. Mary's on Saturday next) more particularly of the state of the ship than has heretofore been in my power; the object of the expedition not having been effected, rendering it impracticable to examine her thoroughly. I am, however, entirely convinced, in my own mind, that the battery now on the ship is too heavy for her; so much so, that I should deem her unsafe for a long cruise. I have the honor to be, &c.

J. D. HENLEY.

Hon. B. W. CROWNINSHEILD,  
Secretary of the Navy.

U. S. SHIP JOHN ADAMS, OFF AMELIA,  
December 30, 1817.

SIR: Since my arrival here, I have been so much engaged that I have not had one moment to write to my friends. You, no doubt, however, have some idea of my situation, and from my official reports, know that the American flag is now flying on Amelia Island. As there are many novel cases which must present themselves, I should have been better pleased had my instruc-

tions been full; but we are now left to act as circumstances may require, and I am fearful that Aury and his followers will give us much trouble before they quit the island. I am sorry to add that the Americans appear to be much worse than any others. Should we be able to get through this business, so as to meet the approbation of the Department, I shall feel much gratified; but I trust, should I err in any steps that I may take, that it will be considered by the President as an error of judgment; for I do assure you that nothing would be so pleasing to me as to have my conduct here approved by the Executive. I have endeavored to keep as close to the letter of my instructions as possible, and have avoided every difficulty that I possibly could. I regret very much the difficulty of communicating with the Government. We have only one mail per week, and that does not remain in St. Mary's long enough to enable us to answer letters that we may receive by it.

The situation of my ships you are no doubt acquainted with, as I have written several times to the Secretary on that subject. I, however, do not wish to leave this place until everything is settled, and the Government have established some kind of police for the better government of this place, which, I am in hopes, will take place ere long. I am fearful that Aury expects that the American Government will relinquish Amelia, which impression will retard his departure. I have, &c.

J. D. HENLEY.

Hon. B. W. CROWNINSHEILD,

*Extract from the capitulation of the Island of Amelia, dated at Fernandina, June 29, 1817, and signed by Francisco Morales and Joseph de Yribarren, attested by B. Segin, and approved by Gregor McGregor.*

"Brigadier General McGregor, Commander-in-Chief of all the forces, both naval and military, destined to effect the independence of the Floridas, duly authorized by the constituted authorities of the Republics of Mexico, Buenos Ayres, New Grenada, and Venezuela, offers to Don Francisco Morales, Capitan del regimiento de Cuba, and commandant civil and military of the Island of Amelia, the following terms," &c.

*Extract from a proclamation of Gregor McGregor dated Headquarters, Amelia Island, June 30, 1817, and signed Gregor McGregor, attested by Joseph Yribarren, Secretary.*

#### PROCLAMATION.

"Gregor McGregor, Brigadier General of the armies of the United Provinces of New Grenada and Venezuela, and General-in-chief of the armies of the two Floridas, commissioned by the Supreme Directors of Mexico, South America," &c.

*Extract from an address of Gregor McGregor, dated at Headquarters, San Fernandina, July 1, 1817, and signed Gregor McGregor, and attested by Jos. Yribarren.*

"Gregor McGregor, General of Brigade to the

armies of the United Provinces of New Grenada and Venezuela, and General-in-chief of that destined to both the Floridas, with commission from the Supreme Governments of Mexico and South America," &c.

"In the name of the independent Governments of South America, which I have the honor to represent, I thank you for this first proof of your ardor and devotion to her cause; and I trust that, impelled by the same noble principles, you will soon be able to free the whole of the Floridas from tyranny and oppression."

#### IMPRISONMENT OF R. W. MEADE.

[Communicated to the House, January 29, 1818.]  
To the House of Representatives  
of the United States:

In compliance with a resolution of the House of Representatives of the 23d of December last, requesting information relative to the imprisonment and detention in confinement of Richard W. Meade, a citizen of the United States, I now transmit to the House a report from the Secretary of State containing the information required.

JANUARY 29, 1818.

JAMES MONROE.

DEPARTMENT OF STATE, Jan. 28, 1816.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 23d of December last, requesting the President to cause to be laid before the House any information he may be able to communicate relative to the imprisonment and detention in confinement of Richard W. Meade, a citizen of the United States, has the honor of submitting to the President the accompanying papers received at the department on that subject, with a letter addressed to the Minister of Spain, residing here, since the resolution of the House, and the answer received from him.

JOHN QUINCY ADAMS.

[Correspondence concerning Richard W. Meade, communicated to the Department of State by Mr. Erving.]

No. 1.

Mr. Erving to Mr. Monroe.

MADRID, September 28, 1816.

SIR: Perceiving by the public papers that the case of R. W. Meade, a citizen of the United States, for many years established at Cadiz in commerce, and now suffering in prison by order of this Government, has excited considerable sensation in America, it seems to be proper that I should submit to you my correspondence with Mr. Cevallos on this subject.

I have herewith the honor to enclose my note to that Minister of August 27th, his reply of September 10th, and my further note of September



*Imprisonment of R. W. Meade.*

16th. To this last I have not yet received an answer. I have the honor to be, &c.,

GEORGE W. ERVING.

No. 2.

*Mr. Erving to his Excellency Don Pedro Cevallos, First Minister of State, &c.*

MADRID, August 27, 1816.

SIR: It is my duty to recall the attention of His Majesty's Government to the case of Richard W. Meade, a citizen of the United States, who is imprisoned by the authorities at Cadiz, under semblance of law and of His Majesty's authority, but, as must be presumed, against his will, and, as can be substantiated, against his orders issued on the 10th August, 1815.

A particular statement of circumstances of the case was transmitted to your Excellency by the Secretary of this Legation, in a note of July 8th last; it is, therefore, needless that I should now recite them.

I propose to refer to your documents only, each of them of principal importance, and which, taken in their connexion, point out most distinctly and indisputably the illegality of the proceedings against Mr. Meade, and the course which consistency, as well as justice, requires to be now taken for his relief.

The documents to which I refer, and copies of which are herewith enclosed, are, viz:

No. 1. An order of the Consulado of Cadiz, dated February 18, 1814, directing Meade to deposit in the office of the Treasury General of the province a certain sum of money, respecting which a process was then pending in the said Consulado.

No. 2. The receipt of the Intendant of the Treasury for the deposit made by Meade, pursuant to the order of the Consulado.

No. 3. The reply of the Intendant of the Consulado, when that tribunal inquired as to the nature of the deposit made.

No. 4. A royal decree, of August 10, 1815, suspending the further proceedings of the Consulado, till the Treasury should be able to collect funds for the purpose of restoring the sum deposited by Meade.

It is not my intention, for it would be altogether useless, to enter into a history of the original transactions upon which, finally, a suit was brought before the Consulado of Cadiz against Mr. Meade, and is now continued in the name of Mr. John McDermot.

Meade always held the moneys in question, to be paid over in legal form as the competent authorities should direct.

Your Excellency will, I am persuaded, now examine the affair with impartiality, and free from the impressions unfavorable to this American with which it has been attempted to pre-occupy your judgment. If it were my duty, on the other hand, to state what ought to be his personal merits in the view of this Government, I should dwell upon the very extensive and important services which, as a merchant and a capi-

talist, he rendered to Spain in the crisis of her affairs the most trying and difficult. It ought surely to be known to your Excellency that he contributed most essentially to the cause of this country, by giving large credits to its occasional Governments, and that for these services he is not yet reimbursed. But I have not to ask any favor for him. I desire but strict and impartial justice; and I found my claim to his immediate release from prison on the acts of the Government in whose name, and of the very tribunal by which, he is now imprisoned.

By the first two of the enclosed documents, your Excellency will perceive that Mr. Meade, submitting to the orders of the Consulado, paid the amount of the moneys in suit into the Treasury of the province. The payment is said to have been effected in "libramientos," or receipts for libramientos of the Treasury General, or Intendant; credits of Meade with the Treasury, which were payable in specie, and which were to be paid in specie within a few days. The Intendant, therefore, readily gave to Meade the receipt (No. 2) for a deposit in specie, the libramientos being cancelled, and passed to the several accounts to which they belonged. Thus, therefore, every legal and formal requisite being complied with, Meade was exonerated from all responsibility; and, to make his irresponsibility still more perfect, if that were possible, the Intendant wrote to the Consulado, (No. 3.) stating expressly that the deposit had been made in specie, and that he would respond to the Consulado for specie.

After such conclusive proceedings, it would seem impossible that Mr. Meade could be again questioned by the tribunal in the same matter.

Was the tribunal wrong in ordering him to make the deposit? *Sibi imputent*—let it answer for its own errors. Was the Intendant culpable in receiving the libramientos as specie? He is then to be censured. But he has expressly made himself responsible to the Consulado for specie; let him then be held to that responsibility. These may be questions between the Government and its officers, but it is certainly highly unjust that an individual should be sacrificed to repair their errors. Will it be said that the libramientos delivered to the Treasury, and credited to Meade as cash, and held by the Treasury in deposit, and promised by the Intendant to be paid over as cash, are not, in fact, equivalent to cash? Certainly not. The Government will not pass this condemnation on its own securities. But if the contrary supposition were admissible, even then Mr. Meade remains exempt from all responsibility; for the libramientos in question have been already passed into account, as paid in specie, and have been cancelled by the officer who had the competent authority to do so. Nevertheless, the Consulado, which, by its own act, had precluded itself from all further jurisdiction over Mr. Meade in this matter, still persisted in its process against him, and decreed that he should pay over to that tribunal the sum which he had previously deposited, by its own order, in the Treasury.

*Imprisonment of R. W. Meade.*

Against this injustice, Mr. Meade appealed to the superior tribunal of the province; but its interference was overruled by the tribunal of war at Madrid; and this latter confirmed the sentence of the Consulado of Cadiz.

Mr. Meade was then obliged to resort to the sovereign, who had issued the decree of August 10, 1815. This decree is, in all its parts, perfectly just. It suspends the proceeding of the Consulado against Meade, and acknowledges the validity of the deposit made, by directing as it were funds to be collected for effecting the return of the money by the Intendant, to the end that it might be paid into the Consulado; and that, in the meantime, till funds be collected for the purpose of effecting the return of this deposit, the tribunal of commerce shall suspend all proceedings against Meade, &c.

Of this decree neither party can complain; how, then, has it been reversed? If there has been any delay in the payment to be made by the Treasury, that is not Meade's fault; the decree is illimited; it orders all proceedings against him to be suspended till that object be effected.

It is not my purpose to call into question the justice of Mr. McDermot's demand, or to blame any of his proceedings; but what I state with confidence is, that his claim is now properly on the Treasury or Intendant. If the Consulado or Intendant have, in the course of their proceedings, changed the situation of Mr. McDermot's case for the worse, they have done him wrong, and it is of them that he should complain; but they have acted in virtue of their regular faculties, and have exonerated Mr. Meade; or had their conduct been even illegal, yet Meade cannot be made responsible for it; he had not any control over them, or any means of resisting them.

It was very natural for him to offer the deposit in libramientos, but he did not force the Intendant to receive them; that was his own act. Nor, indeed, does there appear to be anything irregular in that act, since payment was due by the Treasury on the libramientos. The transaction was then the same, in effect, as though the Intendant had paid to Meade the amount of the libramientos in specie, and then received back that specie in deposit; and it was effected in that form also; so that, if there was any fault in the Intendant, it was that of paying Meade what was due to him. But this, I presume, cannot be called a fault, or, if so, the transaction cannot be vitiated by it. The Intendant, then, having informed the Consulado that the deposit had been made in specie, and that he was responsible to the Consulado for specie, Mr. Meade is of course exempt from all further process; and the royal decree above cited considered him so to be.

But now, sir, a second time this Consulado, which, as I have shown, having ordered Mr. Meade to deposit in the Treasury, did thus, by its own act, absolve him from its jurisdiction, renews its demand on him for another deposit to the same amount, and, in defiance of His Majesty's decree, on Meade's non-compliance, has thrown him into a dungeon.

Surely there cannot be any law to authorize the imprisonment, as a condemned felon, of a defendant in an action for debt yet pending; much less can it be permitted that any authority should amend its own faults and errors by sacrificing the liberty, property, and domestic happiness of an individual; and still less is it possible that His Majesty should allow the continuance of such proceedings in a case where his own treasury is the depository of the funds in question, which, by his own decree, have been ordered to be paid over in satisfaction of the judgment. It is with entire confidence, therefore, that I request your Excellency to lay this representation before the King, not doubting but that he will order that Mr. Meade be immediately released from confinement, and that the royal decree of August 10, 1815, be maintained and observed. I have, &c.,

GEORGE W. ERVING.

No. 3.

*Don Pedro Cevallos to Mr. Erving, Minister Plenipotentiary of the United States, Madrid.*

PALACE, September 10, 1816.

SIR: I have given an account to His Majesty of your note of the 27th of last month, relative to Mr. Richard Meade; and it is His Majesty's pleasure that I should inform you, that as his case is pending before the Supreme Council of War, he must have recourse to it.

By His Majesty's orders, the Council of War presented to His Majesty a report on the affair pending in the tribunals of Spain between the creditors of a commercial house in London, in a state of failure, and Mr. Richard Meade.

It states the restitution of a deposit of upwards of \$50,000 in specie, made to Meade by the said house in failure at London, and that he attempted to restore the money demanded of him in credits of the Treasury.

The council reports against Meade, and states that he availed himself of this circumstance with a view to surprise the equity of the sovereign to the very great injury of strict justice, of the interests of the bankrupt house and of its creditors; and afterwards gave it as their opinion (*dictamen*) that His Majesty ought not, in opposition to the laws, to agree to the petition of Meade, who should deliver up the aforesaid deposit, in like manner, and in the same specie as he had received it, or give full, clear, and sufficient security, to the satisfaction of the tribunal of commerce of Cadiz; and, in default thereof, to be removed to a public prison, to prevent all evasion of the sentence against him.

His Majesty thereupon assented to the opinion (*dictamen*) of the council, to which Meade is to conform. I renew, &c.,

No. 4.

*Mr. Erving to Mr. Cevallos.*

MADRID, September 16, 1816.

SIR: On the 13th instant I received your Excellency's note of the 10th instant, in reply to



mice of 27th August, respecting the case of R. W. Meade, a citizen of the United States, now detained in a felons' prison at Cadiz. I had required that Mr. Meade should be released from his confinement, because, on a review of the proceedings against him, and reference to the documents enclosed in my note of August 27, I found that those proceedings were unjust, since the object of them was to compel him to pay a sum of money which he had already paid in virtue of a judicial decree; and illegal, as well for that reason, as because they were in violation of His Majesty's own decree of August 14, 1815.

Your Excellency has not thought proper to revert to these antecedents, but you have been pleased to confine yourself to a simple narrative of what has passed in the council of war subsequent to the date of His Majesty's decree, and upon this ground to refer the party aggrieved to this same council of war. If I understood your Excellency's note aright, it states that a posterior decision of the council of war has declared His Majesty's decree of August 14, 1815, to be unjust and illegal, and has advised His Majesty to reverse it, and to put Mr. Meade in prison, until he shall have paid the sum demanded of him; and further, that His Majesty has complied with this extraordinary dictamen; that thus Meade is actually in prison, with the knowledge and consent of His Majesty, who has thought proper to render his own decree a dead letter. These are facts which I could not suppose to have existed, and to which I should have found it very difficult to have given credit, had I not thus received them from your Excellency. In truth, they may be considered as determining the perpetual imprisonment of Mr. Meade; for it cannot be imagined, even if he be able to pay, that he will ever consent to pay a second time that sum which he has before deposited in His Majesty's treasury, and for which the treasury has formally made itself responsible.

In this last consulta of the council of war, it is stated that Mr. Meade attempted to restore the money demanded of him in credits of the treasury, (*intenta devolver en papeles de credito contra Tesoreria*.) By this phraseology the fact has been concealed from His Majesty of the payment which was actually made by Meade to the Treasurer General, for the amount of which, in specie, the said Treasurer General formally made himself responsible to the Consulado.

This fact, I say, was not stated to His Majesty, as it should have been, by the council of war. If your Excellency will take the trouble of reverting to my note of the 27th ultimo, you will see that it is therein specially set forth, supported by conclusive documentary proof, and that upon it is very principally founded the reclamation which I have made in favor of Mr. Meade.

This remains, then, in all its former force, and altogether unanswered by your Excellency's note. But to simplify the case as much as possible, to disembarass it of all legal questions and discussions arising out of Mr. McDermot's claim, or belonging to the antecedent proceedings; in fine,

that both parties may have justice in a mode comporting with the good faith and consistency of the Government, I now place my demand in another form.

Considering that Mr. Meade, in pursuance of a judicial decision of the Consulado of Cadiz, did, on the 19th of February, 1814, pay into the office of the Treasurer General of the province the sum of 1,050,327v.

Considering that the said Treasurer General did acknowledge the said payment to have been made in specie, and did promise to repay specie whenever called upon;

Finally, considering that the funds in question are actually in the royal treasury;

For these reasons, I require that the Treasurer General be ordered immediately to pay over the same funds, in specie, to whomsoever the Consulado of Cadiz shall appoint to receive them.

I renew, &c.

G. W. ERVING.

No. 5.

Don Pedro Cevallos to Mr. Erving.

OCTOBER 17, 1816.

SIR: Having laid before the King your note of the 16th September last, relative to Mr. Richard Meade, I have received His Majesty's commands to inform you that the affair of this individual being under the especial cognizance of the supreme council of war, it is to this tribunal that his reclamations must be addressed.

I renew to you, &c.

PEDRO CEVALLOS.

No. 6.

Mr. Erving to Mr. Cevallos.

MADRID, October 21, 1816.

SIR: In a note of September 18, upon the case of R. W. Meade, an American citizen in prison at Cadiz, I required that the Treasurer General of that district should be ordered to pay over to such person as the Consulado of Cadiz should appoint to receive the same, the moneys which have been deposited with the said Treasurer General by said Meade, in obedience to a judicial order of the said Consulado.

In your Excellency's reply of the 17th instant, you are pleased to tell me that the affairs of Mr. Meade being rooted (*radicados*) in the supreme council of war, to that tribunal he ought to resort.

In this your Excellency has reference, I presume, to a certain suit brought against Mr. Meade by Mr. John McDermot; you certainly do not mean to be understood that all affairs whatever of Mr. Meade are to be subjected to the decision of the council of war, nor can I conceive that any such connexion between the suit of Mr. McDermot and the demands of Mr. Meade on His Majesty's treasury can be established as can bring these last within the cognizance of that tribunal.

Permit me to ask whether the supreme council of war has the faculty of ordering the Treasurer

General of Andalusia to pay over the funds which Mr. Meade deposited with him to such persons as the Consulado of Cadiz may appoint to receive them?

If so, I will request your Excellency to lay before that tribunal the demand made in my last note, according to the practice in similar cases; but if the tribunal of war has no such faculty, then the order which I have requested can be given only by the Executive Government. My application for its interference was perfectly correct, and your Excellency's reference to the tribunal is, as to any useful object, perfectly nugatory; for Mr. Meade must necessarily be answered that the tribunal has not any control over His Majesty's treasury. I had flattered myself with a hope that, in our conference on the 5th instant, I had succeeded in convincing your Excellency that the case between Mr. Meade and Mr. McDermot, and that between Mr. Meade and His Majesty's treasury, were altogether distinct. I do not solicit any act of injustice against Mr. McDermot, and I ought to presume that it is His Majesty's desire to do justice to Mr. Meade. In acceding to my demand in his favor, your Excellency will accomplish that desire; and so far from impugning the claims of Mr. McDermot, the effect of the measure will be to satisfy them by payment, and to extinguish all the processes to which they had given rise.

I do trust, then, on reconsidering the case, your Excellency will perceive that only two inquiries are necessary, viz: whether Mr. Meade did, by order of the Consulado, deposit the funds in question with the Treasurer General; and whether they yet exist in the hands of the treasurer. Of these facts I have already laid before you indisputable proof in the papers marked Nos. 1, 2, 3, transmitted to you with my note of August 27, viz: No. 1. The order of the Consulado, directing Meade to deposit. No. 2. The receipt of the Treasurer General for the deposit made. No. 3. The acknowledgment of the treasurer that he holds said deposit in specie, subject to the orders of the Consulado. It is for want of these funds, now in His Majesty's treasury, that Mr. Meade is in prison; the payment of them to the order of the Consulado will quiet all claims, and satisfy all parties, and will not interfere with the jurisdiction, or require the intermediation of any tribunal whatever.

He recurs, then, to the King, whose power to enforce is as indisputable as his disposition to do right; and I, on his part, require only the plainest act of justice when I demand that an express royal order be issued for his immediate liberation from prison, and for the payment of the funds deposited by him in the royal treasury of the province to the Consulado of Cadiz, or to such person as it may appoint to receive the same.

I remain, sir, with great respect, your most obedient servant,

GEORGE W. ERVING.

Minister United States.

His Exc'y M. CEVALLOS.

No. 7.

Don José Pizarro to the Minister of the United States.  
PALACE, November 7, 1816.

SIR: I have laid before His Majesty your note of the 21st of last month, in which you insist that the sums deposited by Mr. R. Meade in the royal treasury should be paid over to the tribunal of commerce of Cadiz, or to whomsoever it may authorize to receive them. This affair appertaining to the Ministry of the Treasury, His Majesty has been pleased to determine that your said note be transmitted to the Secretary of that Department, that, through this channel, it may again be submitted to His Majesty's decision.

I renew, &c.

JOSE PIZARRO.

No. 8.

Extract of a letter from Mr. Erving to the Secretary of State, dated

MADRID, May 12, 1817.

By my despatches, Nos. 20, 23, 26, I had the honor to submit to you copies of the first part of my correspondence with the Spanish Secretary of State, on the case of Richard W. Meade. As that gentleman, despairing of the success of my efforts in his favor, desires that the whole of his case may be laid before you, I now transmit copies of all the notes which have passed on it since the month of November.

No. 9.

Mr. Erving to Mr. Pizarro.

MADRID, December 28, 1816.

SIR: On the 7th November your Excellency replied to my note of 21st of October, on the case of R. W. Meade, an American citizen in prison at Cadiz, that you had transmitted the same to the Minister of Hacienda, that the royal resolution might be given through that ministry. In consequence, as I presume, of your Excellency's communication to the Minister of Hacienda, Mr. Navarrete, the Treasurer General, wrote to the Consulado of Cadiz on the 19th of November; the answer of that tribunal is dated on the 29th of November. It is completely satisfactory and in perfect accord with what I have stated to you on the case. Why a copy of it has not been already transmitted to you, I will not undertake to conjecture; but seeing that this document, as well as others in the cause, do virtually confess that the proceedings against Mr. Meade are of the unjust and violent character which I have attributed to them, and that every unnecessary delay is an augmentation of the injustice, as I ought to believe, and am persuaded, entirely contrary to the disposition of His Majesty—for these reasons I pray your Excellency to demand from the Minister of Hacienda a copy of Mr. Navarrete's aforesaid correspondence with the Consulado, and to lay it, in conjunction with my representations, before His Majesty.

GEORGE W. ERVING.



No. 10.

Mr. Erving to Mr. Pizarro.

MADRID, March 14, 1817.

SIR: In a note of September 16, 1816, to your Excellency's predecessor, I required that the Treasurer General of the district of Cadiz should be ordered to pay, to such person as the Consulado of Cadiz should appoint to receive the same, a certain sum of money, which had been deposited with the said Treasurer by R. W. Meade, an American citizen, in obedience to an order of said Consulado, and for which sum said Meade then was, as he still is, held in prison.

Having been answered by Mr. Cevallos, generally, that the affair of Mr. Meade was before the council of war, I insisted on my former demand, (in a further note of October 21,) showing to the Minister that it had no necessary connexion with any process depending before the council of war; and further, that it was not possible for the council to satisfy my reclamation, even if it should be disposed to do so, because it had no faculty to give such orders to his Majesty's treasurer as I had desired.

In answer to that note, your Excellency was pleased to inform me, on the 7th of November, that, as my demand related to the duties of the Minister of Hacienda, His Majesty had resolved that my note of 21st October should be passed to that Minister, to the end that through that department the royal resolution should be given. ("Se pasa la citada nota al señor Secretario de dicho Departamento para que por su conducto recayga la real resolución.")

In consequence, I presume, of this measure, the Treasurer General, Señor Navarrete, wrote to the Consulado of Cadiz, on the 19th of November, requiring that tribunal to inform him particularly as to the aforesaid deposit. The Consulado replied to the treasurer on the 29th of November, that the deposit had been made by its order; that it had been made "in effective specie," ("en libramientos de plata efectiva;") that it existed at the treasury; and that the treasurer had made himself responsible to the said Consulado for the amount.

I annex to this note a copy of that most important correspondence between the Treasurer and the Consulado, and which your Excellency was pleased also to procure a copy of from the Minister of Hacienda, pursuant to the request contained in my note of December 25.

This correspondence leaves not the least doubt as to the nature of the deposit, or its actual existence; and I assured myself that it was all that could be desired, and that it must necessarily produce an immediate order for the release of Mr. Meade from prison. I am therefore much surprised to find that the affair, instead of having been despatched, as I understood by your Excellency's note of November 7 that it would be, has again fallen back into the hands of the council of war; which tribunal, as before observed, cannot have any control over the operations of His Majesty's Treasury.

If the council of war should enter into any inquiry as to the nature of the deposit, can the result, whatever it may be, of that inquiry, be opposed to the complete, plain, unequivocal declaration of the Consulado of Cadiz, the very tribunal by order of which the deposit was made, which is most interested to ascertain its nature, and its actual existence? But in no view can it be of the least importance in considering, or should it have the least influence in deciding, upon my reclamation, whether the deposit is, or is not, satisfactory to the council of war; and therefore I will not here enter into its past and present proceedings, nor will I advise Mr. Meade to appear before that tribunal to prove anything which may relate to the nature of that deposit. It is sufficient that the deposit was made by the order of the Consulado; that it was paid into His Majesty's Treasury, and is now there. All this is proved by the confession of the Consulado itself; and I cannot acknowledge the justice of any plea for holding Mr. Meade in prison, by a decision of another of His Majesty's tribunals, for the very sum thus deposited.

His Majesty's Treasury has the money in question. Mr. Meade is suffering in prison under His Majesty's authority! What can be more simple than the course pointed out by justice in this case?

As the representative of the American Government, the natural protector of its citizens against all injustice, I appeal directly to His Catholic Majesty against the injustice of those acting in his name and under his authority; and I request your Excellency, as the proper channel of communication, to lay my reclamation before him. And if His Majesty should desire to be more particularly informed of the proceedings of the council of war, and of all the persecutions which this American citizen (who, I cannot but remind your Excellency, so much contributed to support the cause of Spain in the most critical epoch of her affairs) has suffered; then if His Majesty will condescend to peruse the last memorial which Mr. Meade addressed to him, he will, I doubt not, see enough to reprehend.

GEORGE W. ERVING.

No. 11.

Mr. Erving to Mr. Pizarro.

MADRID, March 24, 1817.

SIR: With my note of the 14th instant upon the case of R. W. Meade, an American citizen confined in the castle at Cadiz, I transmitted to your Excellency what ought to be considered as the most satisfactory and conclusive evidence relative to the nature and the actual existence of the deposit made by him in the royal treasury of that district, by order of the Consulado of Cadiz. It appeared to me that nothing further could be required, and, if your Excellency would lay it before His Majesty pursuant to my request, that it must produce an instant order for the release of Mr. Meade; but seeing that the sufferings of this individual still continue, I cannot omit any

measure, however superfluous it may appear, which may possibly contribute to his release, heaping proof upon proof of the injustice done to him. It is therefore that I now send to you (herewith enclosed) a certificate, dated 15th of March, (regularly authenticated,) of Don Antonio Ysarbe, "contador principal de rentas provinciales" of Cadiz, who is the only person authorized to grant certificates relative to the operations of the treasury in that district, and through whose hands all such matters must necessarily pass. This certificate has been granted on the petition of Mr. Meade, which I also take the liberty of enclosing.

I beg your Excellency's particular attention to this certificate; it is ample and explicit in every respect, and I am persuaded must convince you that no further research on the points in question can be necessary. I therefore confidently re-urge my request, that your Excellency would be pleased to lay my reclamation before the King; and I rely on His Majesty's just dispositions for the immediate release of Mr. Meade.

GEORGE W. ERVING.

No. 12.

Mr. Pizarro to Mr. Erving.

MADRID, April 12, 1817.

SIR: Immediately that I received your note of the 24th of last March, I directed, by order of the King, my master, the supreme council of war to despatch with all urgency the "consulta" which had been required of it, relative to the affairs of Mr. Richard Meade with the house of Hunter, Raynes & Co., of London; and I wait for the said consulta to lay the matter before His Majesty, and to obtain his sovereign resolution.

I renew, &amp;c.,

JOSE PIZARRO.

No. 13.

Mr. Erving to Mr. Pizarro.

MADRID, May 9, 1817.

SIR: I have the honor to acknowledge the receipt of your Excellency's note of the 12th of April, in reply to mine of the 24th of March, relative to the case of Mr. Meade. You are pleased to inform me that on sight of my said note you ordered the council of war to despatch, in all haste, the "consulta" which you had previously asked of it, relative to the affairs "between Don Ricardo Meade and the house of Raynes, Hunter & Co., of London." I ought to presume that by this order your Excellency meant to promote the object of my former representations; but permit me to observe, referring to those representations, that in no part of them have I considered the termination of any process which may be pending before the council of war, between Mr. Meade and the English merchants, as at all essential to my purpose, which has been simply to obtain the release of an American citizen from an unjust imprisonment—an imprisonment which you yourself, in a letter of 15th Con. 1st Sess.—58

December 8 to the council of war, have declared to be illegal. In that letter your Excellency has said that Mr. Meade's case is not sufficiently comprehended within the law under the pretence of which he has been imprisoned: "quien, (Meade,) no esta bastante determinadamente comprendido en el caso de la ley que se cita para su arresto." Independent of this legal point, I have shown to your Excellency, in my former notes, that the imprisonment is unjust, because His Majesty's Treasury has the very funds which should be paid to satisfy the judgment of the tribunals. It was long since decided that Mr. Meade was a debtor to the English merchants; the funds in question had been deposited in the royal treasury, by order of the competent tribunals; and, it has been proved, by authentic and complete documents, that the deposit exists in the treasury as effective cash. What I have required, then, as a measure of the plainest justice, is, that these funds should be paid by the treasury, to satisfy the judgment. Thus Mr. Meade would be released from prison, of course; and all necessity of legal decision, as to the nature of his imprisonment, would be superseded; and all litigious questions between him and the English creditors would cease. I had certainly succeeded in impressing your Excellency with this view of the subject, for, as far back as the 7th of November, you informed me that the affair was properly within the Department of Hacienda, and that His Majesty would give his decision through that department. Under the same impression, doubtless, you wrote to the Minister of Hacienda, on the 4th of December, desiring that a statement of the facts within the cognizance of his department might be sent to you, to the end that you might submit them to His Majesty, to enable him to decide on the consulta of the council of war, (of November 28,) at that time before him. In the same way your Excellency wrote to the council of war, on the 8th of December, requiring that all the original documents which relate to the nature of the deposit made by Mr. Meade should be sent to you. Even in your letter of February the 7th, to the same council of war, by which you return to it the "antecedents," you confine your view principally to the existence and nature of the deposit.

Convinced, then, as your Excellency was, that the imprisonment of Meade was illegal, and as to the nature of the deposit, (a point which you considered all-important in the case, having before you the certificates of the officers of Hacienda, as well as of the Consulado of Cadiz, proving that it existed in effective specie,) I could not doubt but that you intended to submit the case to His Majesty's decision, as announced in your letter of December 4th to the Minister of Hacienda, and conformably to what I had repeatedly proposed. You have not been pleased to acquaint me with whatever motives you may have had for deviating from this intention; but it does appear that you have required of the council to determine on the legality of the imprisonment, which was its own act—an act of which, in your



letter of December 8th, you expressed His Majesty's disapprobation, and the injustice of which has been made still more apparent by the above mentioned proofs as to the nature of the deposit. It appears, also, that you transmitted to the same council, in the month of February, documents which you demanded from it in the month of December, for the purpose of being laid before the King, but which are now to be enveloped in questions from which they had been, and stood, entirely separated.

In thus sending the affair back to the council, the parties (Meade and McDermot) are made uselessly to litigate about the nature of a deposit which the Government knows to exist, in specie, in its own treasury. Thus, the simple act of justice which I have demanded is procrastinated to an indefinite time, being made dependent upon contentious questions, with which it has no necessary connexion. Your Excellency is perfectly convinced, by documentary evidence of indisputable authority, from every department of the Hacienda, that the royal treasury is debtor to Meade for the amount, in specie, of the deposit made by him; that, with or without law, Meade has been twelve months, and still is, in prison, for the same amount due to the English claimants, for whose benefit the said deposit was made, by order of the tribunal which at that time had cognizance of the then pending suit; and it is evident that the repayment of this money would release Meade from prison, at the same time that it would satisfy the English creditors. Allow me, then, to ask, to what useful end is the Council of War now employed? To declare the illegality of its own acts? But all investigations of that nature will be rendered unnecessary by the repayment of the money now in the hands of Government. The council can decide to whom, of right, the money deposited belongs; but on this point there is no dispute. The deposit belongs, of right, to the English creditors, represented by McDermot. The council has no control over the treasury. In examining, therefore, into the nature of the deposit, it can have no other guide than the very official documents which have been before your Excellency. These are unequivocal and conclusive. It matters not now whether the deposit, in its original form, was, or was not, of a nature to satisfy the demands of the English creditor. We can dispense with an examination of that question also; because, in whatever form the deposit was originally made, it has been now converted, by regular fiscal operations, into effective cash; and in that form exists, and in that form will be readily received by Mr. McDermot. The documents which certify the real nature of the deposit can neither be called in question nor set aside by the council; nor is there any necessity of a judicial investigation to establish the authenticity or validity of them. Upon those grounds, therefore, I renew my demand, in every aspect of it so just, that your Excellency would lay this case ministerially before the King, and procure his order for the immediate repayment of the deposit existing in his treasury.

*Petition of Mrs. Meade, and papers communicated by her in relation to Richard W. Meade.*

PHILADELPHIA, Dec. 4, 1817.

To his Excellency the President of the United States the following case is respectfully submitted:

Richard W. Meade was born in Chester county, in Pennsylvania, in June, 1778. He went to Spain in 1803, to claim restitution of property detained at Buenos Ayres; in which claim he was unsuccessful. He then established a commercial house at Cadiz, where he has ever since resided in the character of an American citizen, and having held, from 1806 till the present year, the station of navy agent of the United States for the port of Cadiz. Mr. Meade has a wife (the undersigned) and nine children, now residing in Philadelphia.

In their late struggles, he rendered essential services to the people of Spain, as repeatedly and publicly acknowledged. In 1812, being in actual advance to the Government of Spain to the amount of near eight hundred thousand dollars, and being satisfied that the Treasurer General, Don Victor Soret, was using the funds which by contract had been appropriated to repay that advance, he appealed to the Regency against the conduct of the Treasurer; and, receiving no satisfaction, published a pamphlet containing a statement of his contracts with the Government, and its injustice towards him; in consequence of which publication he was imprisoned for three months, and then released on bail. On an appeal to the Cortes, Mr. Meade obtained an order for the payment of his advances, which order has been but partially complied with, and that under enormous sacrifices, amounting, in many instances, to one-third of the capital, besides several years' interest, for which no allowance has ever been made. Mr. Meade also appealed to the Cortes against the unjust proceedings of the Regency in imprisoning him; the Cortes reported the proceedings as illegal and unjust, and decreed the Constitutional penalties against the Minister who gave, and the judge who executed, the order. The dismissal of the Regency by the Cortes, and the subsequent dissolution of the Cortes itself, on the arrival of King Ferdinand, prevented the report of the Cortes against the Regency being acted on; and the affair being revived by the Supreme Council of War, composed of men subservient to the old Regency, (who are now all in high offices round the Court,) it was lately decreed that Mr. Meade should pay a fine of two thousand ducats for the publication, which they termed a libel on the late regents.

It is to be understood that the affair above related, of the imprisonment in 1812, is altogether distinct from the present confinement of Mr. Meade and its causes, though often erroneously blended with it; it will clearly appear, however, that the rancor produced by the event related has operated with many now in power in stimulating the present persecution, the circumstances leading to which are as follows:

In 1811, Mr. Meade was appointed assignee to the estate of James W. Glass, of Cadiz, declared bankrupt in England, in consequence of his connexion with the house of Hunter, Rainy, and Co., of London, against whom a commission of bankruptcy had issued; the appointment of Mr. Meade was made by the tribunal of commerce of Cadiz, with the approbation of all the creditors in Cadiz, and was confirmed by the assignees in London—the tribunal of commerce having cognizance of all commercial affairs in Spain, and all persons carrying on trade there (even foreigners) being amenable thereto. Mr. Meade gave bonds, accordingly, to take charge of the estate, and to be responsible solely to the tribunal for the proceeds; being prohibited, under the penalty of the bonds, from disposing of the funds without the sanction of the tribunal.

Having settled the affairs of the estate, and paid all demands thereon, there remained in his hands about fifty-two thousand dollars, which he several times petitioned the tribunal to be permitted to remit to the assignees in London. The delays attending all Spanish proceedings prevented the petitions being acted upon, until Mr. Duncan Hunter, one of the principals of the bankrupt house, was sent to Cadiz; and when on the eve of getting the business settled, Mr. Glass, (escaping from his bail in England,) appeared also in Cadiz, and laid an embargo on the funds, under the pretence of having been illegally included in the bankruptcy. John McDermot was appointed as the agent of Hunter, and Mr. Meade offered to pay to Hunter or McDermot the amount in his hands, on their giving bonds satisfactory to the tribunal of commerce, in lieu of his own. Those persons not being able to procure such sureties as the tribunal would accept, that body suddenly, and of its own accord, decreed that Mr. Meade should, on the following morning, place the money in the King's treasury, until McDermot or Hunter should give the security required; it being declared that all Mr. Meade's property should be embargoed in case of non-payment at the time limited. In pursuance of the said order, Mr. Meade made the deposit on the following morning, and presented to the tribunal the receipt in which the treasurer acknowledged to have received the sum in question by order of the tribunal, to be held subject to the future disposition of that body. A question having been made, at the instigation of Mr. McDermot, whether the sum had been paid into the treasury in specie, or treasury notes, the intendant answered, to the official inquiry of the tribunal, that "the deposit had been made in due form under his inspection, in effective specie; and that whenever the tribunal should order its payment, His Majesty would pay it in the same coin."

Notwithstanding this, a suit was brought against Mr. Meade by McDermot; and the tribunal, aware that it had done wrong in ordering the deposit, decided that Mr. Meade should pay the money a second time! An appeal was entered from this decree to the superior tribunal, called *alzadas*, (Mr. Meade having a right to

that appeal by the seventh and twentieth articles of the Treaty between the United States and Spain.) While the cause was there pending, the plaintiff (through the English Minister) procured an order for the removal of the case to the council of war at Madrid, where the sentence was confirmed. Mr. Meade had a right of appeal, but was refused. He petitioned the King, who commanded that he should be heard by the same court; but as Mr. Meade conceived the judges to have evinced a partiality in the case, at Mr. Meade's request, five new judges were added to the five of which the court was before composed. In this state of the case, McDermot presented a petition, stating that Mr. Meade was about to leave Spain, and praying that he should be compelled to pay the money or be put into confinement; and the order was accordingly granted (through the influence of the British Minister) by the five primitive judges, though the King had expressly decreed that no measure should be taken in the case of Mr. Meade but with the presence of the new judges. On the 2d of May, 1816, Mr. Meade was seized and imprisoned in the castle of Sta. Catalina, at Cadiz, confined in a dungeon with a sentinel at the door, and for several months locked up at night.

The Minister of the United States, Mr. Erving, has made strong remonstrances to the Spanish Government against these unjust and cruel persecutions of an American citizen; those remonstrances have drawn from the King an order to the council to despatch Mr. Meade's case; but there is at the same time strong reason to believe that while such an order is given to amuse the American Minister, a secret order is given to delay the decision, as the present state of the Treasury would render the payment of the money inconvenient, it being apparent that the money must be paid on the liberation of Mr. Meade.

For corroboration of the principal facts of the foregoing statement, and particularly those respecting the deposit, and the circumstances under which it was made, the President is referred to the documents herewith sent, (Nos. 1 to 7.) Copies of those relating to Mr. Erving's correspondence with the Spanish Government have also been transmitted to the Department of State at Washington.

The undersigned, in making this appeal to the President, will not presume to add a single comment, but must await the result in trembling anxiety. She cannot, however, avoid respectfully intimating a hope that, if kindly disposed to act efficiently in a case so interesting to Mr. Meade and his family, the President will adopt some other means of attaining his purpose than through the agency of Mr. Erving; it being now perfectly ascertained that the representations of that gentleman to the Spanish Government, on Mr. Meade's case, are not received with that respect, or attended to with that promptness and desire of accommodation, due to their justice, to his station and conduct, or to the character of the country he represents. On the contrary, his communications have been treated with marked



*Imprisonment of R. W. Meade.*

disregard, or answered by trifling equivocations, inasmuch as to render his exertions, however well intended and spirited, utterly useless.

MARGARET MEADE,  
Wife of Richard W. Meade.

Copy of an official letter addressed by Don Victor Soret, Treasurer General of Spain for the year 1817, to the Treasurer of the Revenue or Provincial Rents of Cadiz.

MADRID, April 22, 1817.

By return of post, without fail, you will please state if the deposit exists, as yet, which R. Meade made on the 19th February, 1814, of 1,050,327 reals and 20 maravedis, in virtue of a sentence of the royal tribunal of the consulado of the day prior thereto. God preserve you many years.

VICTOR SORET.

[ANSWER.]

CADIZ, April 29, 1817.

In the moment that I received your official letter of the 22d of the present month, relative to the deposit of R. Meade, I sent a copy of said letter to the Administrator General of the Revenue of the Province, on the 28th of the same month, in consequence of all the archives corresponding to the year in which the said deposit was made existing in his department and under his control, and under this date he answered me as follows:

"GENERAL ADMINISTRATION OF THE  
RENTS OF THE PROVINCE.

"By the archives of judicial deposits, and corresponding to the year 1814, which exist in this Administration, it appears unquestionably that R. Meade deposited, on the 19th February of said year, in virtue of a sentence of the royal tribunal of the consulado of the day before, the sum of 1,050,327 reals of vellon and 20 maravedis; and that no sum has ever been returned, to the present day, on account of said deposit, which I beg leave to state in answer to your official letter of yesterday, in which you transmit me a copy of the letter received by you from the Treasurer General of the 22d of this month.

"God preserve you many years.

"ANTONIA YSARBE."

and which I therefore beg leave to transcribe to you, as an answer to your official letter.

God preserve you many years.

B. ELSERS, Treasurer of Cadiz.

CADIZ, April 29, 1817.

An exact copy.

R. W. MEADE.

[Correspondence referred to by Mr. Erving, in his letter of the 14th March.]

Copy of an official letter addressed by Don Julian Fernandez Navarrete, Treasurer General of Spain for the year 1816, to the Prior and Consuls of the Royal Tribunal of Commerce of Cadiz, and their answer.

MADRID, November 19, 1816.

In order to answer with due or correct knowledge a certain information or request which has

been demanded of me by my superiors, with the least possible delay, you will be pleased to inform me, as early as possible, whether, by order of your tribunal, R. Meade made a deposit in the treasury of royal finances, or in that of the revenue? of what amount said deposit was? if it exists at present? and whether there is any impediment to returning the same to him?

God preserve you many years.

J. F. NAVARRETE.  
R. W. MEADE.

An exact copy.

[REPLY.]

CADIZ, November 29, 1816.

Under date of the 19th instant, you were pleased to say to this royal tribunal, that, in order to answer certain information which had been demanded by your superiors, this tribunal should state whether it was true that, by its order, R. Meade had made any deposit in the royal treasury of finance, or that of the revenue? of what amount it consisted? if it existed at present? and if there was any impediment to its being returned to him?

In reply to these questions the Consulado begs leave to state that, at the suit of John McDermot, who claimed from R. Meade, for balance of accounts, the sum of 1,050,327 reals of vellon and 16 maravedis: In the course of the proceedings, this tribunal gave its sentence, commanding R. Meade to deposit the aforesaid sum in the royal treasury of the revenue; and this was done in treasury notes of effective cash, which said Meade had to receive from said department; and the deposit was thus made, the treasurer obliging himself to hold the amount at the disposition of this tribunal. The sum deposited subsists; and though McDermot afterwards pretended that R. Meade should deliver him said sum, without regard to the deposit, it did not take place, on account of R. Meade having appealed. The said Meade applied to His Majesty, and, through the minister of finance, there was issued a royal order, dated 10th August 1815, in which it was commanded, that, in the mean time, that funds could be collected wherewith to return the aforesaid deposit, this tribunal should suspend its proceedings. This tribunal consulted the supreme council of war on this point, and, in virtue of a despatch, (of which the adjoined is the literal copy,) they submitted the *auto* or proceedings to the supreme council, as commanded by said royal order. The supreme council makes merit of the same in the aforesaid document; and it is the strongest proof that the deposit exists at the disposition of this tribunal, from the circumstance of the *auto* or suit being still pending in the appeal before the supreme council. This tribunal cannot resolve to whom the sum so deposited is to be returned; and, whilst the suit is dependent upon the appeal, this tribunal cannot regulate its sentence or proceedings.

MIGUEL DE MARRON.  
NICHOLAS BLANCO.

An exact copy.

R. W. MEADE.

*Imprisonment of R. W. Meade.*

Mr. Erving to His Excellency Don José Pizarro, First Secretary of State.

MADRID, June 29, 1817.

SIR: My last note to you on the case of R. W. Meade, was on the 9th May; that representation induced your Excellency to repeat His Majesty's orders to the council of war, to the end that it might forthwith evacuate the consulta, which has been so long demanded from it. It was to be expected, in a case of this urgency, where the liberty, fortune, health, and domestic happiness of an innocent man had been wantonly sacrificed, that the tribunal would have hastened to repair the errors which it had fallen into, more particularly as, in the name of my Government, I had demanded the liberty of this individual. It was not, however, till the 26th May that the fiscal's *dictamen* was given; that document, after a vain attempt to justify the anterior proceeding complained of, concluded in these words: "Pero en el dice quano existe el deposito como si fuese dinero efectivo segun expone el Tesorero General y quando el Consulado asegura que preceptuó a Meade verificase el deposito en tesoreria de rentas, parece que habiendo cumplido con ambos extremos no debe continuar por mas tiempo su arresto."

The conclusion which the fiscal has thus arrived at, and the facts on which he has founded it, were as true twelve months ago as they are now. In fine, here is a confession of the fiscal himself, according to which there is no ground for continuing the imprisonment of Mr. Meade a single moment; but though the *dictamen* was given on the 26th of May, Mr. Meade has not been released. I therefore pray that your Excellency would be pleased to order that the council act in conformity to it, without the least delay.

I renew to your Excellency assurances of my most distinguished consideration, &c.

GEORGE W. ERVING.

The Secretary of State to Don Luis de Onis, Envoy Extraordinary and Minister Plenipotentiary from Spain.

WASHINGTON, December 26, 1817.

SIR: I am directed by the President of the United States to invite your immediate attention, and to urge that of your Government, to the case of Richard W. Meade, a citizen of the United States, who has been confined since the 2d of May, 1816, in the prison of Santa Catalina, at Cadiz.

It has been repeatedly represented to your Government, by the Minister of the United States at Madrid, that the imprisonment of this person was under a sentence of a tribunal at

"But, at present, while the deposit exists as if in effective money, as set forth by the Treasurer General, and while the Consulado declares that they ordered Meade to make that deposit in the provincial treasury, it appears that, having complied with both orders, his arrest and imprisonment should not be continued any longer."

Cadiz, condemning him to pay a second time a sum of money which, by virtue of a prior decree of the same tribunal, he had already paid into the royal treasury. This fact has never been denied or contested by your Government. It has been proved to them by the attestations and certificates of their own officers.

It was to have been presumed that upon the first moment that such a fact was authentically presented to your Government, an order would instantly have issued from it for the discharge of Mr. Meade from his imprisonment. The President regrets that, after so many and such urgent representations in his behalf, by the Minister of the United States at Madrid, it should yet be necessary to address this call upon the most common principle of justice to you. I am instructed by him to say that, in renewing this demand for Mr. Meade's immediate liberation, he confidently expects it will not be in vain.

I pray you, sir, to accept, &c.

J. Q. ADAMS.

The Chevalier Don Luis de Onis to the Secretary of State.

WASHINGTON, December 29, 1811.

SIR: I have received your note dated the 26th of this month, in which, by order of the President, you communicate to me what appears to have taken place in Spain, in the case of a lawsuit against Richard W. Meade, a citizen of these States, in order that I should make the necessary representations on this subject to the King, my master, and solicit his release from confinement.

In compliance with the wishes of the President, and yours, sir, I shall, with great pleasure, make this request in favor of Mr. Meade, although I am not informed of the details of the suit instituted against him, nor of those which have produced his confinement.

Confiding in the just intentions of the King, and his high consideration for the United States, I must hope that His Majesty will attend efficaciously to this request, and so use his authority in having justice promptly done to Mr. Meade, that the laws may be observed with the strictest impartiality, and no motive or pretext whatever left to doubt of the immaculate (*acendrada*) purity which has ever been acknowledged as the particular attribute of the Spanish magistracy.

I renew my respects to you, sir, and pray God to preserve you many years.

LUIS DE ONIS.

[The following reports, on the same subject, were made the 24th of March, and 4th of April, 1818.]

IN SENATE OF THE UNITED STATES,  
March 24, 1818.

The Committee of the Senate on Foreign Relations, to whom was referred the petition of sundry citizens of Philadelphia, asking the interposition of Congress in behalf of Richard W. Meade, an American citizen, unjustly and wan-



*Imprisonment of R. W. Meade.*

tionly confined in a dungeon in Spain, by the authority of that Government, have given to the subject the deliberation its importance deserved, and beg leave to submit the following report:

It appears from the documents that R. W. Meade is an American citizen, who went to Spain in the year 1803 on lawful business; that, in the year 1806, such was the confidence of the Government in his integrity, that he was appointed navy agent for the United States at the port of Cadiz; a station which he held until the time of his confinement. Such was the correctness of his deportment, as to have been appointed by the tribunal of commerce at Cadiz, with the consent of all the parties concerned, assignee of a bankrupt, the amount of whose estate involved a high responsibility. He performed the duties thus devolved upon him honestly; and having collected for distribution fifty thousand dollars, he several times petitioned the tribunal to permit him to remit this sum to the creditors of the bankrupt resident in England; the only proper course left him to pursue, inasmuch as he had, when appointed agent of the bankrupt, given his bond to that tribunal conditioned to take charge of the effects of the bankrupt, and to be responsible solely to the tribunal for the proceeds, being prohibited under the penalty of the bonds from disposing of the funds without the sanction of the tribunal. A controversy having arisen between the creditors and bankrupt about the distribution, Meade offered the money to either, if they would give a bond, with surties, to the satisfaction of the tribunal of commerce, by which his own might be cancelled. This they were unable to do. The tribunal, of its own accord, and unexpectedly, decided that Meade should, on the following morning, place the money in the King's treasury until the parties litigant should give the security required; being declared that all Meade's property should be sequestered in the case of non-payment at the time limited. The money was forthwith paid by Meade into the treasury, in treasury notes equal to specie, and hence acknowledged by the Treasurer that the deposit had been made in due form, under his inspection, in effective specie; and that whenever the tribunal should order its payment, His Majesty would pay it in the same coin.

Notwithstanding this judgment, and the discharge thereof, by the payment aforesaid, Mr. McDermot, the agent for the British creditors, brought suit against Meade in the same court to recover the very sum he had heretofore paid in conformity to its own judgment. The court awarded judgment against Meade a second time for this money. The latter appealed to the superior tribunal, called *alzadas*. During its pendency, it is charged by Meade that the cause was removed, by the interposition of the British Minister, to the council of war; and by the same interposition his arrest and confinement were procured from which he could be relieved only by a repayment of the money. He has languished in confinement from the 2d of May,

1816, down to the last accounts from Spain. The representative of this nation at that Court has repeatedly appealed to His Catholic Majesty for the relief of Meade, and the appeal has been in vain; the Court of Spain having refused either to restore the money deposited in its own treasury, by order of its own competent judicial authority, or to release the person of Meade from the long confinement to which he has been doomed. And, finally, the President of the United States, whose peculiar province it is to take cognizance of subjects of this kind, has caused a representation on the subject to be made to the Minister of Spain to the United States, demanding his immediate liberation. Nothing but a confidence that this representation will produce the desired result would have restrained your committee from recommending the adoption of measures of severe retribution.

Your committee are of opinion that it is due to the dignity of the United States to adopt, as a fundamental rule of its policy, the principle that one of its citizens, to whatever region of the earth his lawful business may carry him, and who demeans himself as becomes his character, is entitled to the protection of his Government, and that whatever intentional injury may be done him should be retaliated by the employment, if necessary, of the whole force of the nation.

IN THE HOUSE OF REPRESENTATIVES,  
April 4, 1818.

The committee to whom were referred a resolution of the 12th of February, and a memorial from a number of citizens of the United States, residing in the city of Philadelphia, relating to the imprisonment of Richard W. Meade, report:

That, upon an examination of the documents communicated to the House by the President, the following facts appear:

On the second day of May, 1816, Richard W. Meade, a native citizen of the United States, who has resided in Cadiz for some years past, was arrested and closely confined in the castle of St. Catalina, which is described by the Minister of the United States at the Court of Spain as a felon's prison. At the time of the arrest Mr. Meade was the navy agent of the United States at the port of Cadiz, and acted as consular agent, under an authority derived from Mr. Cathcart, the Consul of the United States at that place, and with the approbation of the Spanish authorities; Mr. Cathcart having appointed him to act in his stead, during his absence upon a visit he made to the United States. Mr. Meade does not appear to have ever renounced his character of a citizen of the United States, nor to have accepted from any foreign Power any right or privilege, nor to have contracted any obligation that could for a moment make his citizenship doubtful, or impair the claim he has upon his country for protection.

Soon after his confinement began, George W. Erving, Minister of the United States at the

*Imprisonment of R. W. Meade.*

Court of Spain, interposed to obtain his liberation, and from the 27th of August, 1816, to the 9th of May, 1817, made repeated and earnest applications to the public functionaries of Spain, claiming his release, as a citizen of the United States unjustly deprived of his liberty. It is chiefly from this correspondence, accompanying the Message of the President, that the committee have been able to obtain any knowledge of the causes that led to Mr. Meade's arrest and imprisonment.

Mr. Meade, it seems, had been regularly appointed assignee at Cadiz of the estate of James W. Glass, declared a bankrupt in England, and in that capacity, after faithfully executing his duty, there remained in his hands a sum of about \$52,000 belonging to the estate, which there is reason to believe was the subject of controversy between different claimants. There is no complaint or suggestion that Mr. Meade improperly retained this money in his hands, or was prevented from paying it over by any consideration but that of a just regard for his own security, which did not, under the then existing circumstances, permit him to part with the fund; and it seems that he could not under any circumstances pay the money, without the consent and direction of the Consulado of Cadiz.

In this state of things, on the 18th of February, 1814, the Consulado of Cadiz, a tribunal whose jurisdiction over the matter does not appear to be questioned, made a summary order, requiring Mr. Meade, within a limited and very short time, (about twenty-four hours,) to deposit the abovementioned sum of money in the treasury general of the province. With this order Mr. Meade complied on the following day. The fact of his compliance was vouched at the time by the usual and authentic evidence from the proper officer, and has since been satisfactorily established, in the manner that will hereafter appear.

The Consulado, by its own act, in taking the fund from the hands of Mr. Meade, and causing it to be deposited in the public treasury, would seem, upon every just principle, to have liberated him from further accountability. That tribunal, nevertheless, soon after entertained a new proceeding against Mr. Meade, at the instance of a certain John McDermot, the agent of Duncan Hunter, having for its object to compel him to pay to the Consulado the same amount which he had been previously ordered to pay, and, under their order, had already paid into the public treasury; that is, in substance, to pay the same sum a second time. The Consulado made a decree against him to that effect. From this decree Mr. Meade appealed to the superior tribunal of the province, called the *alzadas*, "but its interference was overruled by the tribunal of war at Madrid, and this latter confirmed the sentence of the Consulado at Cadiz."

On the 4th of August, 1815, a royal decree was issued, suspending the further proceedings of the Consulado against Mr. Meade, until funds

could be collected by the treasury to restore the deposit made by Mr. Meade.

From the date last mentioned, (4th of August, 1815,) it does not appear that any proceedings took place until the 2d of May, 1816, when the tribunal of war issued the order under which Mr. Meade was arrested and continues to be imprisoned.

This order was founded upon a suggestion made by McDermot, that Mr. Meade was about to leave the Kingdom, and required him to "deliver up the aforesaid deposit, (meaning the money belonging to the bankrupt's estate,) in like manner, and in the same specie, as he had received it, or to give full, clear, and sufficient security, to the satisfaction of the tribunal of commerce at Cadiz; and, in default thereof, to be removed to a public prison, to prevent all evasion of the sentence against him." It is understood that the tribunal would receive nothing as satisfactory security but a deposit of specie.

The proceeding of the tribunal of war is apparently so destitute of all foundation in justice, and so plainly contradictory to the royal decree of the 4th August, 1815, that it becomes necessary to examine, for a moment, the only suggestion bearing the semblance of a vindication of it that has been offered on the part of the Spanish authorities.

Don Pedro Cevallos, in his note to Mr. Erving of the 10th September, 1816, alleges "that Mr. Meade attempted to restore (alluding to the payment into the Treasury) the money demanded of him, in credits of the Treasury." The precise import of this allegation may be understood to be, that Mr. Meade had made the deposit in Government paper, instead of making it in specie.

That Mr. Meade made the deposit in what was equivalent to specie, and was received as such by the officer authorized to receive it, is perfectly clear. The Intendant of the Treasury gave him a receipt for the deposit, made pursuant to the order of the Consulado. In answer to an inquiry soon after directed by the Consulado, the same officer replied, that the deposit had been made in effective specie, and that he would respond for the specie. The royal order, or decree, of the 4th August, 1815, is founded upon the admission of the same fact. But there is still further evidence, though further evidence would seem to be unnecessary. In November, 1816, the Treasurer General of Spain distinctly put the questions to the Consulado, whether the deposit had been made? whether it still existed? and whether there was any impediment to its return? That tribunal, with equal distinctness, replied, that the deposit was made, pursuant to their order, "in Treasury notes of effective cash, which said Meade had to receive from said Department, and the deposit was thus made: the Treasurer obliging himself to hold the amount at the disposition of this tribunal." They state, also, that the deposit still exists at their disposition, and that they cannot resolve to whom it is to be returned. And, again, on the 29th April, 1817, the treasurer of the revenue, or provincial rents of Cadiz,



*Relations with Spain—Blockades.*

states explicitly to the Treasurer General of Spain, that the deposit had been made, and had not been returned.

With such an accumulation of evidence from sources of unquestionable authenticity, and wholly uncontradicted, to show that the deposit had been made in what was equivalent to specie, and received as specie, and that the Treasury became, and acknowledged itself to be, answerable for the amount, it is almost superfluous to add a remark, which the course of the business very naturally presents, tending to the same result. If the order made by the Consulado in the first instance had not been complied with, that tribunal would have proceeded to enforce its authority by summary and direct compulsion; in other words, it would have used the means with which it is invested by law to compel Mr. Meade to do exactly what that order required. This would have produced an immediate inquiry whether he had or had not complied, and would have enabled Mr. Meade to justify himself. The resort to an irregular and arbitrary course, which avoids that question, affords the strongest reason to believe that the allegation of Mr. Cevallos was known to be untenable. In fact, that allegation has since been wholly abandoned; for, in the three notes subsequently addressed to Mr. Erving, in reply to his urgent remonstrances, one by Mr. Cevallos, and two by his successor, Mr. Pizarro, it is not even alluded to.

It is impossible, however, to avoid remarking the extraordinary character of one of the questions put to the Consulado in November, 1816, and the still more extraordinary character of the answer. The inquiry alluded to was, whether there was any impediment to its (the deposit) being returned? The answer is, that, from the circumstances of the suit still pending, this tribunal cannot resolve to whom the sum so deposited is to be returned. Why Mr. Meade should be imprisoned pending that suit, which was to determine to whom the money in the Treasury was to be paid, is a question that seems to admit of no answer that is reconcilable with common justice, more especially as the same document implies that the Treasury was to pay the money as soon as the suit should be decided, and, of course, the object of the suit was not to coerce Mr. Meade to pay, but simply to determine who was to have the money from the Treasury.

There is still another view of this matter which the committee think it proper to submit, and which they deem of itself decisive to establish the flagrant injustice of Mr. Meade's imprisonment. If the deposit was made in paper, it is beyond a doubt that the paper was the evidence of a debt due from the Treasury to Mr. Meade, and the receipt of it amounted to nothing more than a payment of what was justly due to him; in fact, it was the same thing as if the Treasury had paid him the money, and he had immediately after repaid the same money to the Treasury. The Treasury, therefore, had no just cause to complain. It is equally evident that the individual interested in the deposit (Mr. McDermot, or his constituent) had no reason to complain. Whether the deposit was made in specie, or in what was equivalent to specie, or how it was made, could not be material to him, provided it was so made as to give him a right to call upon the Treasury; that is, to make him a creditor of the Treasury for the amount, in case of an eventual decision in his favor. That this was the effect of the deposit made by Mr. Meade, and received by the Treasurer, is not, and cannot be disputed. The Treasurer cancelled the securities deposited, and engaged to respond for the amount in specie.

If the Treasury of Spain had been ready and willing to fulfil this engagement, Mr. Meade's imprisonment could not have continued for a single moment; and it is, therefore, evident that he is kept in confinement simply because it is not convenient for the treasury to pay the money. And your committee are well assured that the Government of Spain, aware that, let the decision be what it might, the royal treasury would be called on to pay money in dispute, has, by a secret exertion of the authority which it possesses over the proceedings of the tribunals, commanded "the business to be prolonged as much as possible."

In every point of view, then, in which the case can be considered, your committee can discover no justification for the imprisonment and sufferings of Mr. Meade. It does not appear that he has violated any civil or social duty which he owed by the laws of Spain, and for which, in the ordinary administration of justice, he might rightly be imprisoned. They are satisfied, too, that the continuance of his imprisonment is dependent upon the pleasure of the Government of Spain, and that his liberation may at any time be effected by that Government.

Your committee hope and believe that the demand made by the President will not be unavailing, but they think it proper, at the same time, on the part of this House, to give assurance of support in the measures that may become necessary, in case this expectation should be disappointed. They, therefore, submit the following resolution:

*Resolved*, That the House is satisfied that the imprisonment of Richard W. Meade is an act of cruel and unjustifiable oppression: that it is the right and duty of the Government of the United States to afford to Mr. Meade its aid and protection; and that this House will support and maintain such measures as the President may hereafter adopt to obtain the release of the said R. W. Meade from confinement, should such measures be proper and necessary.

## SPAIN—BLOCKADES.

[Communicated to the House, February 17, 1818.]  
To the House of Representatives of the United States:  
Conformably with a resolution of the House of Representatives of the 6th of this month, I now

*Relations with Spain—Blockades.*

lay before that House a report received from the Secretary of State, with a copy of the correspondence referred to, and requested by that resolution.

JAMES MONROE.

FEBRUARY 12, 1818.

DEPARTMENT OF STATE, Feb. 12, 1818.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 6th of this month, requesting the President to cause to be laid before that House the correspondence with the Government of Spain, to which a letter of the Minister of the United States at the Court of Madrid, of the 25th of October, 1816, communicated with a late message of the President to that House, relates, has the honor, herewith, to submit to the President a copy of the correspondence requested.

JOHN QUINCY ADAMS.

*The Chevalier Don Luis de Onis to the Secretary of State.*

PHILADELPHIA, September 5, 1815.

SIR: Under the date of 30th June, I am advised by Lieutenant General Don Pablo Morillo, Captain General of Caraccas, and commander of the expedition which His Majesty has destined to re-establish tranquillity at Carthagena, that, with a view to accelerate this important object, he is about to establish the most rigorous blockade of the ports of the viceroyalty of Santa Fe, including Carthagena, and that, in consequence, every neutral vessel which shall be found, not only in those ports, but on those coasts, shall be made prize of, in order to prevent those who have revolted from His Majesty's authority receiving succors of any kind.

I have thought it proper to communicate this to you, for the information of the President, that the injuries may be avoided which would result to the citizens of this Republic, if they continue, as heretofore, to trade with the rebels against the authority of my sovereign.

I renew to you, &amp;c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

PHILADELPHIA, March 2, 1816.

SIR: Don Pablo Morillo, Commander-in-Chief of the forces destined by the King, my master, for the pacification of the viceroyalty of Santa Fe, says to me, under date of the 19th of December last, that, after having compelled Carthagena to surrender at discretion, he had found it expedient, for the complete re-establishment of the tranquillity of the viceroyalty, to continue the blockade from Santa Marta to the river Atrato, inclusive; and to give orders that if any vessel be met with further south than the mouths of the Magdalena, or further north than the parallel of Cape Tiburon, on the Mosquito shore, and between the meridians of those points, she would

be declared a good prize, whatever documents or destination she might have; but that he had left open to the commerce of neutrals the two ports of Santa Marta and Porto Bello.

I have the honor to give you this notice, as it may be interesting to the merchants of the United States, and to renew the assurances, &c.

LUIS DE ONIS.

*Mr. Monroe, Secretary of State, to the Chevalier de Onis, Envoy Extraordinary and Minister Plenipotentiary, &c.*

MARCH 20, 1816.

SIR: I have had the honor to receive your letter of March 2, announcing the continuance of a blockade of the Spanish coast in South America, from Santa Marta to the river Atrato, inclusive of the latter, by the Commander-in-Chief of His Catholic Majesty's forces; and that if any vessel is met south of the mouths of the Magdalena, or north of the parallel of Cape Tiburon, on the Mosquito coast, and between the meridian of those points, she shall be seized and condemned as prize, whatever may be her documents or destination. You state, also, that the ports of Santa Marta and Porto Bello are left open to neutrals.

I have to state that this proclamation of General Morillo is evidently repugnant to the law of nations, for several reasons, particularly the following: that it declares a coast of several hundred miles to be in a state of blockade; and because it authorizes the seizure of neutral vessels at an unjustifiable distance from the coast. No maxim of the law of nations is better established than that a blockade shall be confined to particular ports, and that an adequate force shall be stationed at each to support it. The force shall be stationary, and not a cruising squadron, and placed so near the entrance of the harbor or mouth of the river as to make it evidently dangerous for a vessel to enter. I have to add, that a vessel entering the port ought not to be seized, except in returning to it after being warned off by the blockading squadron stationed near it.

I am instructed by the President to state to you these objections to the blockade which has been announced in your letter, that you may communicate them to your Government, and in confidence that you will, in the mean time, interpose your good offices, and prevail on General Morillo to alter his proclamation, and practice under it, in such a manner as to conform, in both respects, to the law of nations.

In stating to you these well-founded objections to the blockade of General Morillo, I have the honor to observe that your motive for communicating it is duly appreciated.

I have the honor to be, &amp;c.

JAMES MONROE.

*Don Luis de Onis to the Secretary of State.*

PHILADELPHIA, March 25, 1816.

SIR: I have received your official letter of the 20th of this month, in which you state that the



*Relations with Spain—Blockades.*

proclamation of General Morillo is repugnant to the laws of nations, as well because it declares a coast of several hundred miles in a state of blockade, authorizing the capture of every neutral vessel at an unlimited distance from the coast, as that it is an established maxim among nations that a blockade should be limited to the ports where there may be a stationary and not a cruising force sufficient to make the entrance of the harbor or river where it may be placed dangerous; and, finally, even in this case, a vessel ought not to be captured when she is about to enter a port, save only when, after having received notice of the blockade, she attempts to infringe it. You are pleased to state to me that the President desires that I will communicate these observations to my Government, and that I would use my good offices, confidentially, with General Morillo, so to modify his blockade as to make it conform to the laws of nations.

I will communicate to His Majesty, in compliance with the wishes of the President, what you have stated to me in your note; and I will, with pleasure, avail myself of the departure of Mr. Hughes to write to General Morillo, inviting him, in the execution of his blockade, to avoid the injurious effects resulting therefrom to the citizens of this Republic, so far as may be compatible with the security and tranquillity of His Majesty's dominions under his command.

I must, however, observe to you, sir, that General Morillo has a naval force disposable and competent as I conceive, to the object in view; that, on the 3d of February, there sailed from Cadiz a squadron of a ship-of-the-line, two frigates, and several smaller vessels, as a reinforcement; that, on the coast intended to be blockaded by the said General, there are no other ports of entry for merchant vessels than those of Carthagena, Santa Marta, and Porto Bello; and, finally, that the measure taken by him, not being directed against an enemy's country, is not, as stated in your esteemed note, contrary to the laws of public rights. The object of the General's proclamation is to notify the traders of foreign nations that he will maintain the laws for the regulation of the Indies in their full force; the observance of which had been relaxed, in latter times, by the effect of circumstances, though modified, however, in favor of neutrals, by leaving two ports open to their commerce. You are aware that, agreeably to those laws, no foreign vessel was allowed to trade with the dominions of His Majesty on that continent, without a special license, and that vessels found near, or evidently shaping a course towards them, were liable to confiscation as interlopers. Not only that part of the coast lying between Santa Marta and the river Atrato, but the whole coast eastward and southward of those points, from the Orinoco to the territory of this Republic, belongs to the Spanish monarchy; and, consequently, any vessel whatever found near it, or standing towards it, can have no other object than to carry on smuggling, or stir up a civil war in the King's dominions: in either case, the laws of nations recommend the seizure of the vessels so

employed. Actuated by a constant desire to prevent the misfortunes which such injuries might occasion to the citizens of this Republic, I have, on other occasions, suggested a very simple mode of putting an end to them, namely, that the President would be pleased to issue orders that no vessel should be cleared at the custom-houses save for a specified port, according to the general practice of nations. The practice of clearing many vessels for the West Indies, generally, carries with it a suspicion of a design to carry on a contraband trade, or to disturb the public tranquillity in the dominions of the King, my master; and, therefore, the owner who clears out his vessel in this way, and without the certificates of the Spanish Consuls, cannot complain if it be detained as suspicious. In fact, what difficulty can a merchant, acting fairly, have to specify the port of Havana, Kingston, Santa Marta, Guaira, Porto Bello, Rio Janeiro, or any other of an independent nation? None, unquestionably; since, in case of not finding a good market at one place, he proceeds to another, with a declaration made at the port he touched at of the motives which obliged him to alter his destination. The wisdom and humanity which eminently distinguish the President and the Administration cannot fail to perceive the solidity of these observations, nor to approve of the policy of His Majesty in taking the most suitable and effectual measures to secure his subjects from the civil war which a number of adventurers are endeavoring to kindle in his dominions; and I therefore flatter myself that he will be pleased to take into consideration the expediency of adopting the measure I have had the honor to suggest to you, by preventing the collectors of the customs from clearing out vessels, except for specified ports, and notifying merchants trading with the possessions of the King to conform to the established rules and orders, regulating not only neutrals but Spanish vessels also, that they may avoid the consequences of their non-observance, notwithstanding His Majesty's desire to afford them, within his dominions, all the benefits and advantages compatible with the public safety and his royal interests.

I hope that the explanation which I have thus taken the liberty to make, until I have received the answer of the King, my master, will quiet the anxiety of the President as to the proclamation of General Morillo, and that it will be viewed by him as a continuation of my earnest desire to reinstate the commerce of the two nations, reciprocally, on the most liberal and favorable footing.

I renew my respects, &c.

LUIS DE ONIS.

*Extract of a letter from the Secretary of State to Mr. Erving, dated*

DEPARTMENT OF STATE, July 20, 1816.

You have been apprized already of a similar measure which was taken in regard to the vessels which had been seized at Carthagena, and the citizens of the United States, who, under various pretenses, had been arrested and imprisoned

*Relations with Spain—Blockades.*

there. I have the pleasure to state that the application succeeded as to our citizens, though it failed as to the vessels. You will interpose directly with the Spanish Government in favor of the latter; documents respecting which shall be forwarded to you, either by the present or some other early opportunity.

*Mr. Erving to His Excellency Don Pedro Cevallos, First Minister of State, &c.*

MADRID, Sept. 26, 1816.

SIR: I am ordered by my Government to apply to His Majesty, through your Excellency, for the restitution of sundry American vessels and cargoes which have been seized and brought into Carthagena, or other places within that command or viceroyalty, under pretext of a pretended blockade, issued by Don Pablo Morillo, in December, 1815.

When that blockade was communicated to the American Government, Mr. Monroe, Secretary of State, in a note of March 20, 1816, addressed to His Majesty's Minister at Washington, formally protested against it; and it was hoped that, on proper representations being made by that Minister to General Morillo, he would retract his measure, or, if not, that his Majesty, being made acquainted with the remonstrance of the American Government, would immediately send out orders which might produce the same effect, and assure for the future due liberty to the American commerce in those seas.

But it now appears that, as late as the month of June, no alteration had taken place in the measures of Morillo; no attention had been paid to the interference of Don Luis de Onis; and, finally, the Commissioner, Mr. Hughes, who was sent by the Government of the United States to Carthagena, for the purpose, amongst others, of reclaiming the property seized, was obliged to return to the United States, on that point altogether unsatisfied. Indeed, the Viceroy of Santa Fe, Don Francisco de Montalvo, gives this Commissioner to understand, by a letter of June 9th, whereof the enclosed is a translated copy, that he (the Viceroy) does not pretend to be acquainted with the law of nations; and, at the same time that he goes on executing the arbitrary and illegal decrees of General Morillo, devastating the commerce of the United States, he refers the American Government to His Majesty for redress.

It is therefore that I now find it necessary to write to your Excellency upon this disagreeable subject.

It is in vain, sir, to hope that the United States will ever consent to blockades upon the principles of General Morillo; they will acknowledge none to be valid which are not strictly conformable to the well-known principles of public law—principles most clearly defined and quite indisputable, to which the United States have always adhered in their own practice, and to the infringement of which, in any form, in any degree, or

under whatever pretext, they have always opposed themselves.

The blockade of General Morillo is repugnant to the law, because it extends over several hundred miles of coast, and to an indefinite distance from the shores; of course it cannot be enforced as a blockade, but remains a bare pretext for spoliation. A blockade by sea, to be acknowledged as valid by the United States, must be confined to particular ports, each having a force stationed before it, sufficient to intercept the entry of vessels; and no vessel shall be seized, even in attempting to enter a port so blockaded, till she has been previously warned away from that port.

I may be excused from dilating on rules so perfectly established, so consonant to justice and to reason, in writing to a person of your Excellency's knowledge and experience.

His Majesty, who does not fail, through his Minister, Mr. Onis, to assure the United States of his constant disposition to cultivate relations of friendship with them, and to that end to satisfy all their just reclamations, will certainly be sensible to the violent proceedings of which my Government now complains, and, I persuade myself, will not hesitate in ordering that the proclamation of embargo issued by General Morillo be declared null, and that all the American property which may have been taken under it be immediately restored to its owners.

In this confidence, I annex hereto a list of the vessels already known to have been captured.

Renewing to your Excellency, &c.

GEORGE W. ERVING.

Schooner Adeline, of Baltimore, at Carthagena; Friend's Hope, of Baltimore, at Carthagena; schooner Count, of Baltimore, at Carthagena; Charles Stewart, of New Orleans, at Santa Marta; Edward Graham, at Santa Margarita; Ghent, of Norfolk, at Puerto Cavello.

N. B. It is believed that the cargoes of several of these vessels have been confiscated without even the form of trial.

*Don Pedro Cevallos to George W. Erving, Minister Plenipotentiary of the United States.*

OCTOBER 17, 1816.

SIR: Having communicated to the King your note of the 26th ultimo on the subject of the seizure of several American vessels in the port of Carthagena, South America, in consequence of the blockade established on those coasts by General Morillo, and your demand of their restitution, His Majesty has been pleased to determine that information shall be requested (*se pida informe*) of the court of admiralty on this business.

I renew to you the assurances, &c.

PEDRO CEVALLOS.

*Mr. Erving to Mr. Cevallos.*

MADRID, October 25, 1816.

SIR: By your Excellency's note of the 17th instant, in reply to mine of September 26, respecting the proclamation blockade of General Mo-



*Relations with the Kingdom of Sicily.*

rillo, and the ravages on the American commerce which are committing under it, I am told that His Majesty has ordered that information shall be taken (*se pida informe*) of the tribunal of admiralty.

That General Morillo has issued such a proclamation as I have described in my note of September 26, is a fact of universal notoriety. Your Excellency has had before you, long since, the correspondence between the American Secretary of State and Mr. Onís on the subject, and I have transmitted to you a copy of the letter of Don Francisco Montalvo, Viceroy of Santa Fe, to the American Commissioner, Mr. Hughes, in which the existence of the blockade is admitted, and in which the American Government is referred for redress to His Catholic Majesty. It was, therefore, that, by the orders of my Government, I wrote to you on the subject. With the fact which I have above stated before you, I am wholly at a loss to imagine what kind of information the tribunal of admiralty can afford which may regulate the decision of His Majesty on the subject.

The tribunal cannot deny the existence of the proclamation; it cannot show that the proclamation is legal; it cannot deny that American vessels have been taken under the proclamation; it cannot contest the right of the American Government to demand the restitution of such vessels.

In fine, sir, it is my duty to assure you that any demur or delay in affording the satisfaction demanded, in a case of this principal importance, cannot but be very sensibly felt by the Government of the United States. I renew, &c.

GEORGE W. ERVING.

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

MADRID, December 15, 1816.

I had the honor, by my letter (of October 27,) to communicate to you the continuation of my correspondence with Mr. Cevallos on various subjects; and by that of October 31st, (No. 24,) to inform you that he had been dismissed from his employments, and succeeded in them by Don José Pizarro.

I herewith submit to you copies of my correspondence with this new Minister.

He has not replied to my note of the 25th October, respecting Morillo's blockade proclamation.

*Don Luis de Onís to the Secretary of State.*

PHILADELPHIA, October 26, 1816.

Sir: His Excellency the Viceroy of the Kingdom of New Granada communicates to me, under date of the 2d of September last, that tranquillity being restored throughout the whole Kingdom of Santa Fe, and all its provinces having submitted to his Majesty's Government, the commander-in-chief, Don Pablo Morillo, has thought fit to raise the blockade which he had established on those coasts, the causes having ceased which obliged him to impose it; and that, in consequence of this determination, the before-men-

tioned Viceroy has been pleased to open the provinces of that Kingdom, and particularly the port of Cartagena, to the commerce of the Powers in amity with His Majesty, under the regulations specified in the printed papers which I have the honor to transmit herewith.

I hope, sir, that you will be pleased to bring this to the knowledge of the President, that he may see the disposition of His Majesty to favor the commerce of this Republic in everything that may be compatible with the security of his dominions, and that comports with his interests.

I renew my respects, &c.

LUIS DE ONÍS.

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

MADRID, March 10, 1817.

On this affair [proclamation of Morillo] I wrote on the 26th September, 1816, and was answered October 17th that an "*informe*" should be taken of the *almirantazgo*; I wrote again on the 25th October, and remain without any answer.

# KINGDOM OF SICILY.

[Communicated to the House, March 2, 1818.]

*To the House of Representatives of the United States:*

I lay before the House a report from the Secretary of State, together with the papers relating to claims of merchants of the United States upon the Government of Naples, in conformity with a resolution of the House of the 30th of January last.

JAMES MONROE.

FEBRUARY 28, 1818.

DEPARTMENT OF STATE, Feb. 27, 1818.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 30th of January last, requesting such information possessed by the Executive, as may be communicated without injury to the public interest, relative to the claims of merchants of the United States for their property seized and confiscated under the authority of the King of Naples, has the honor of submitting to the President the papers in the possession of this Department concerning that subject.

JOHN Q. ADAMS.

*Extracts of a letter from Mr. Monroe, Secretary of State, to Mr. Pinkney, Special Minister to Naples, dated*

DEPARTMENT OF STATE, May 11, 1816.

Being appointed by the President, with the advice and consent of the Senate, Envoy Extraordinary and Minister Plenipotentiary to the Emperor of Russia, and in a similar trust to the King of Naples, the duties of the latter mission, which is special, will engage your attention in the first instance. The Washington, a ship-of-

*Relations with the Kingdom of Sicily.*

the line, is ordered into the Chesapeake to receive on board and to convey you and your family to Naples. You will be furnished with the usual commission and letter of credence to the King.

A principal object of your mission to Naples is to obtain indemnity for the losses which our citizens sustained by the illegal seizure and confiscation of their property by the Neapolitan Government. You will be furnished with such evidence in support of the claim as is in possession of this Department; and as notice has been given to the collectors in the principal cities of your appointment and its object, that it might be communicated to the parties interested, it is expected that you will receive much further light on the subject directly from them.

The President does not entertain a doubt of the right of the United States to a full indemnity for these losses. They were inflicted by the then Government of the country without the slightest cause. The commerce of the United States was invited into the Neapolitan ports by special decrees, with the promise of protection and encouragement; on the faith of which many ships having entered with valuable cargoes, the whole amount was seized by the Government itself, and converted to public use. For this very extraordinary and unlawful act no plea has been urged that we have heard of, except that of necessity, which is no argument against indemnity. The injury being inflicted by a Government in full possession of the sovereignty of the country, exercising all its powers, recognised by the nation and by foreign Powers, by treaties and by other formal acts of the highest authority, it is not perceived on what ground an indemnity can be refused. No principle is better established than that the nation is responsible for the acts of its Government, and that a change in the authority does not affect the obligation. In the disordered state of that country for several years past, it has been thought useless to press this claim; but now that affairs appear to be better settled, it would be improper longer to delay it. The President indulges a strong hope that reparation will now be made. In the discharge of this trust, in the manner of the negotiation, and in the provision for the debt, should such be made, you will manifest a spirit of conciliation towards the Government of Naples. Any reasonable accommodation as to the time and the mode of payment which may be desired will be cheerfully allowed.

As you will be well acquainted with the nature of these claims, and the right of the United States to an indemnity, with the principles on which it is founded, and the arguments and facts which support it, it is unnecessary for me to enter further into the subject. The President has full confidence that nothing will be wanting on your part to secure success to the mission. Satisfied that you will discharge its duties with equal ability and discretion, it is thought improper, by too much precision, to impose any restraint on your judgment, either as to the man-

ner or the argument to be used in the negotiation.

Your mission to Naples being special, its object limited, and being likewise anticipated by the Neapolitan Government, it is expected that it may be concluded in a few interviews. It is very important that the United States should be represented at St. Petersburg by a Minister of the highest grade employed by them, without any delay which can be avoided. The President desires, therefore, that you will use every effort in your power to terminate the business with Naples as soon as it may be possible, and that you will proceed thence, immediately afterwards, to St. Petersburg.

*Extracts of a letter from Mr. Pinkney, Minister at Naples, to Mr. Monroe, Secretary of State, dated*

NAPLES, August 29, 1816.

On Saturday, the 27th, I prepared an official note to the Marquis di Circello, announcing my quality of Envoy Extraordinary to the King.

His answer (appointing Wednesday, the 31st, for our interview) was sent immediately.

My reception on the 31st was extremely friendly, and in the highest degree respectful to the Government of the United States. The regular purpose of my visit was to show my credentials, furnish a copy, and arrange the customary audience. I did not, therefore, suppose that it presented a suitable opportunity for introducing a very detailed explanation of the objects of my mission; but, in conformity with a desire expressed by the Marquis himself, I stated them to him as fully as was necessary to enable him to communicate them to the King.

Although the Marquis di Circello was, as you know, for several years the Minister of this Court in London, he does not speak a word of English, and does not understand it when it is spoken by others. Our conversation was, therefore, in French. Amid a good deal of well-managed discourse on his part, which rather related to me than to my mission, he made several observations which had a bearing upon my principal errand. He spoke of the poverty of their public treasury in terms somewhat more strong than I was prepared to expect; of the unprincipled manner in which Monsieur Murat (as he styled him) appropriated to his own use whatever of value he could lay his hands upon, and, in particular, the vessels and merchandise belonging to our citizens; of the prodigality with which he dried up all the usual resources of the country, and dissipated, moreover, all the means which rapacity afforded. He drew no very precise conclusion from those and similar remarks, although I took such notice of them as their tendency prescribed; but, upon the whole, it was evident that the claim which I was charged to make in behalf of our merchants was not likely to be very readily admitted, and that I should only waste my time by talking over its merits from day to day with a Minister who could of himself decide nothing, and whose report of my statements and



*Relations with the Kingdom of Sicily.*

arguments to those who must make or greatly influence the final decision would not be the most advantageous channel by which they might be communicated. In consequence, before the interview was closed, I determined to prefer the claim as soon as possible in an official note, and in the meantime to forbear to urge it in conversation with any other view than to obtain from the Marquis di Circello such intimations as might be useful to me in the preparation of my paper.

On Sunday, the 11th, I had another interview with the Marquis di Circello, to which Mr. King accompanied me.

I then adverted to the principal object of my mission, and intimated that I should very soon send him a note upon it. To my surprise, he professed not to understand to what I alluded as the principal object of my mission; but, when I mentioned the spoliation by Murat, he seemed suddenly to remember that I had at least talked to him of them before, and immediately, without giving me time to proceed, remarked that he would relate to me frankly all that the present Government had been able to discover respecting them. He said that Murat's conduct in that affair appeared to be so bad that nothing could be worse, and that it amounted to a downright robbery; that it appeared that the proceeds of the sales had been ordered by Murat into the public treasury, but that a few months afterwards he took them out again, and they knew not what he had done with them. To all this I thought it sufficient to answer, that, whatever might have become of these proceeds, I hoped the King would cause our merchants to be indemnified for the loss of them; but that I had no desire at this interview to do more than inform the Marquis di Circello that I believed it would be as well to present the whole of that subject to him without delay in a note, to which I flattered myself I should have such a reply, in writing, as would be satisfactory to my Government. Without either admitting or denying the responsibility of his Government, he said that such a course would be acceptable to him, and proper in itself, and that his answer should not be unnecessarily postponed. His manner, while this topic was under notice, was kind, and even good humored; although he could not, perhaps did not wish to disguise that it was by no means a pleasant one.

On the 28th instant (yesterday morning) I sent in my note upon Murat's confiscations. The necessity of making some previous inquiries here, upon matters connected with them, had a little retarded the completion of the note, and, after it was ready, I concluded that I should lose nothing by withholding it for a few days, especially as the Marquis di Circello was incapable of attending to business, and had so informed me.

What will be the answer to the note, it is impossible to conjecture with anything like certainty. It may be such as to make it necessary for me to reply to it; but the President may be assured that my further stay in Naples shall be as short as I can make it.

*Mr. Pinkney to the Marquis di Circello.*

NAPLES, August 24, 1816.

The undersigned, Envoy Extraordinary of the United States of America, has already had the honor to mention to his Excellency the Marquis di Circello, Secretary of State and Minister for Foreign Affairs of His Majesty the King of the Two Sicilies, the principal objects of his mission; and he now invites his Excellency's attention to a more detailed and formal exposition of one of those objects.

The undersigned is sure that the appeal which he is about to make to the well-known justice of His Sicilian Majesty, in the name and by the orders of his Government, will receive a deliberate and candid consideration; and that if it shall appear, as he trusts it will, to be recommended by those principles which it is the interest as well as the duty of all Governments to observe and maintain, the claim involved in it will be admitted, effectually and promptly.

The undersigned did but obey the instructions of the President of the United States when he assured his Excellency the Marquis di Circello, at their first interview, that his mission was suggested by such sentiments towards His Sicilian Majesty as could not fail to be approved by him. Those sentiments are apparent in the desire which the President has manifested, through the undersigned, that the commercial relations between the territories of His Majesty and those of the United States should be cherished by reciprocal arrangements, sought in the spirit of enlightened friendship, and with a sincere view to such equal advantages as it is fit for nations to derive from one another. The representations which the undersigned is commanded to make upon the subject of the present note will be seen by His Majesty in the same light. They show the firm reliance of the President upon the disposition of the Court of Naples impartially to discuss and ascertain, and faithfully to discharge its obligations towards foreign States and their citizens; a reliance which the undersigned partakes with his Government, and under the influence of which he proceeds to state the nature and grounds of the reclamation in question.

It cannot but be known to his excellency the Marquis di Circello, that, on the first of July, 1809, the Minister for Foreign Affairs of the then Government of Naples addressed to Frederick Degan, Esquire, then Consul of the United States, an official letter, containing an invitation to all American vessels, having on board the usual certificates of origin, and other regular papers, to come direct to Naples with their cargoes, and that the same Minister caused that invitation to be published in every possible mode, in order that it might come to the knowledge of those whom it concerned. It will not be questioned that the promise of security necessarily implied in this measure had every title, in the actual circumstances of Europe, to the confidence of distant and peaceful merchants. The merchants of America, as was to have been expected, did con-

*Relations with the Kingdom of Sicily.*

side. Upon the credit, and under the protection of that promise, they sent to Naples many valuable vessels and cargoes, navigated and documented with scrupulous regularity, and in no respect obnoxious to molestation; but scarcely had they reached the destination to which they had been allured, when they were seized, without distinction, as prizes, or as otherwise forfeited to the Neapolitan Government, upon pretexts the most frivolous and idle. These arbitrary seizures were followed, with a rapacious haste, by summary decrees, confiscating, in the name and for the use of the same Government, the whole of the property which had thus been brought within its grasp; and these decrees, which wanted even the decent affectation of justice, were immediately carried into execution, against all the remonstrances of those whom they oppressed, to enrich the treasury of the State.

The undersigned persuades himself that it is not in a note addressed to the Marquis di Circello that it is necessary to enlarge upon the singularly atrocious character of this procedure, for which no apology can be devised, and for which none that is intelligible has hitherto been attempted. It was, indeed, an undisguised abuse of power, of which nothing could well enhance the deformity but the studied deception that preceded and prepared it; a deception which, by a sort of treason against society, converted a proffer of hospitality into a snare, and that salutary confidence, without which nations and men must cease to have intercourse, into an engine of plunder.

The right of the innocent victims of this unequalled act of fraud and rapine to demand retribution cannot be doubted. The only question is, from whom are they entitled to demand it? Those who at that moment ruled in Naples, and were in fact, and in the view of the world, the Government of Naples, have passed away before retribution could be obtained, although not before it was required; and, if the right to retribution regards only the persons of those rulers as private and ordinary wrongdoers, the American merchant, whom they deluded and despoiled in the garb and with the instruments and for the purposes of sovereignty, must despair forever of redress.

The undersigned presumes that such is not the view which the present Government will feel itself justified in taking of this interesting subject. He trusts that it will, on the contrary, perceive that the claim which the injured merchant was authorized to prefer against the Government of this country before the recent change, and which, but for that change, must sooner or later have been successful, is now a valid claim against the Government of the same country, notwithstanding that change; at least the undersigned is not at present aware of any considerations which, applied to the facts that characterize this case, can lead to a different conclusion; and certainly it would be matter for sincere regret that any consideration should be thought sufficient to make the return of His Sicilian Majesty's power fatal to the rights of friendly strangers, to whom no fault can be ascribed.

The general principle, that a civil society may contract obligations through its actual Government, whatever that may be, and that it is not absolved from them by reason simply of a change of government, or of rulers, is universally received as incontrovertible. It is admitted, not merely by writers on public law, as a speculative truth, but by States and statesmen, as a practical rule; and, accordingly, history is full of examples to prove that the undisturbed possessor of sovereign power in any society, whether a rightful possessor or not with reference to other claimants of that power, may not only be the lawful object of allegiance, but by many of his acts, in his quality of sovereign *de facto*, may bind the society, and those who come after him as rulers, although their title be adversary to, or even better than his own. The Marquis di Circello does not need to be informed that the earlier annals of England, in particular, abound in instructions upon this head.

With regard to just and beneficial contracts entered into by such a sovereign with the merchants of foreign nations, or (which is the same thing) with regard to the detention and confiscation of their property for public uses, and by his authority, in direct violation of a pledge of safety, upon the faith of which that property arrived within the reach of confiscation, this continuing responsibility stands upon the plainest foundations of natural equity.

It will not be pretended that a merchant is called upon to investigate, as he prosecutes his traffic, the title of every sovereign with whose ports, and under the guaranty of whose plighted word, he trades. He is rarely competent. There are few in any station who are competent to an investigation so full of delicacy, so perplexed with facts and principles of a peculiar character, far removed from the common concerns of life. His predicament would be to the last degree calamitous, if, in an honest search after commercial profit, he might not take Governments as he finds them, and, consequently, rely at all times upon visible, exclusive, acknowledged possession of supreme authority. If he sees all the usual indications of established rule, all the distinguishing concomitants of real, undisputed power, it cannot be that he is, at his peril, to discuss mysterious theories above his capacity, or foreign to his pursuits; and, moreover, to connect the results of those speculations with events of which his knowledge is either imperfect or erroneous. If he sees the obedience of the people, and the acquiescence of neighboring princes, it is impossible that it can be his duty to examine, before he ships his merchandise, whether it be fit that these should acquiesce or those obey. If, in short, he finds nothing to interfere with or qualify the dominion which the head of the society exercises over it and the domain which it occupies, it is the dictate of reason, sanctioned by all experience, that he is bound to look no further.

It can be of no importance to him that, notwithstanding all these appearances announcing lawful rule, the mere right to fill the Throne is claimed by or even resides in another than the



*Relations with the Kingdom of Sicily.*

actual occupant. The latent right, (supposing it to exist,) disjoined from and controverted by the fact, is to him nothing while it continues to be latent. It is only the sovereign in possession that it is in his power to know. It is with him only that he can enter into engagements. It is through him only that he can deal with the society. And if it be true that the sovereign in possession is incapable, on account of a conflict of title between him and another, who barely claims, but makes no effort to assert his claim, of pledging the public faith of the society and of the monarch to foreign traders, for commercial and other objects, we are driven to the monstrous conclusion that the society is, in effect and indefinitely, cut off from all communication with the rest of the world. It has and can have no organ by which it can become accountable to or make any contract with foreigners, by which needful supplies may be invited into its harbors, by which famine may be averted, or redundant productions be made to find a market in the wants of strangers. It is, in a word, an outcast from the bosom of the great community of nations, at the very moment too when its existence, in the form which it has assumed, may everywhere be admitted. And, even if the dormant claim to the Throne should at last, by a fortunate coincidence of circumstances, become triumphant, and unite itself to the possession, this harsh and palsyng theory has no assurance to give, either to the society or to those who may incline to deal with it, that its moral capacity is restored—that it is an outcast no longer—and that it may now, through the protecting will of its new sovereign, do what it could not do before. It contains, of course, no adequate and certain provision against even the perpetuity of the dilemma which it creates. If therefore a civil society is not competent, by rulers in entire possession of the sovereignty, to enter into all such promises to the members of other societies as necessity or convenience may require, and to remain unanswerable for the breach of them into whatever shape the society may ultimately be cast, or into whatsoever hands the Government may ultimately fall; if a sovereign entirely in possession is not able, for that reason alone, to incur a just responsibility in his political or corporate character to the citizens of other countries, and to transmit that responsibility even to those who succeed him by displacing him, it will be difficult to show that the moral capacity of a civil society is anything but a name, or the responsibility of sovereigns anything but a shadow. And here the undersigned will take the liberty to suggest, that it is scarcely for the interest of sovereigns to inculcate as a maxim that their lost dominions can only be recovered at the expense of the offending citizens of States in amity, or, which is equivalent to it, to make that recovery the practical consummation of intermediate justice, by utterly extinguishing the hope of indemnity, and even the title to demand it.

The undersigned will now, for the sake of perspicuity and precision, recall to the recollection of his Excellency, the Marquis di Circello, the

situation of the Government of Murat at the epoch of the confiscations in question. Whatever might be the origin or foundation of that Government, it had for some time been established. It had obtained such obedience as in such times was customary, and had manifested itself, not only by active internal exertions of legislative and executive powers, but by important external transactions with old and indisputably regular Governments. It had been (as long afterwards it continued to be) recognised by the greatest potentates as one of the European family of States, and had interchanged with them Ambassadors, and other public Ministers and Consuls. And Great Britain, by an Order in Council of the 26th April, 1809, which modified the system of constructive blockade promulgated by the orders of November, 1807, had excepted the Neapolitan territories, with other portions of Italy, from the operation of that system, that neutrals might no longer be prevented from trading with them.

Such was the state of things when American vessels were tempted into Naples by a reliance upon the passports of its Government, to which perfidy had lent more than ordinary solemnity, upon a declaration, as explicit as it was formal and notorious, that they might come without fear, and might depart in peace. It was under these circumstances, that, instead of being permitted to retire with their lawful gains, both they and their cargoes were seized and appropriated in a manner already related. The undersigned may consequently assume, that, if ever there was a claim to compensation for broken faith which survived the political power of those whose iniquity produced it, and devolved in full force upon their successors, the present claim is of that description.

As to the demand itself, as it existed against the Government of Murat, the Marquis di Circello will undoubtedly be the first to concede, not only that it is above reproach, but that it rests upon grounds in which the civilized world has a deep and lasting interest. And with regard to the liability of the present Government, as standing in the place of the former, it may be taken as a corollary from that concession; at least until it has been shown that it is the natural fate of obligations, so high and sacred, contracted by a Government in the full and tranquil enjoyment of power, to perish with the first revolution, either in form or rulers, through which it may happen to pass; or (to state the same proposition in different terms) that it is the natural operation of a political revolution in a State, to strip unfortunate traders who have been betrayed and plundered by the former sovereign of all that his rapacity could not reach—the right of reclamation.

The wrong which the Government of Murat inflicted upon American citizens wanted nothing that might give to it atrocity or effect as a robbery introduced by treachery; but, however pernicious or execrable, it was still reparable. It left in the sufferers and their nation a right, which was not likely to be forgotten or abandoned, of seeking and obtaining ample redress, not from Murat simply, (who, individually, was lost in the sovereign,) but

*Relations with the Kingdom of Sicily.*

from the Government of the country whose power he abused. By what course of argument can it be proved that this incontestable right, from which that Government could never have escaped, has been destroyed by the reaccession of His Sicilian Majesty, after a long interval, to the sovereignty of the same territories?

That such a result cannot in any degree be inferred from the misconduct of the American claimants, is certain; for no misconduct is imputable to them. They were warranted, in every view of the public law of Europe, in holding communication with Naples in the predicament in which they found it, and in trusting to the direct and authentic assurances which the Government of the place affected to throw over them as a shield against every danger. Their shipments were strictly within the terms of those assurances; and nothing was done by the shippers or their agents by which the benefit of them might be lost or impaired.

From what other source can such a result be drawn? Will it be said that the proceeds of these confiscations were not applied to public purposes during the sovereignty of Murat, or that they produced no public advantages with reference to which the present Government ought to be liable? The answer to such a suggestion is, that let the fact be as it may, it can have no influence upon the subject. It is enough that the confiscations themselves, and the promise of safety which they violated, were acts of State, proceeding from him who was then, and for several successive years, the sovereign. The derivative liability of the present Government reposes not upon the good, either public or private, which may have been the fruit of such a revolting exhibition of power, emancipated from all the restraints of principle, but upon the general foundations which the undersigned has already had the honor to expose.

To follow the proceeds of these spoliations into the public treasury, and hence to all the uses to which they were finally made subservient, can be no part of the duty of the American claimant. It is a task which he has no means of performing, and which, if performed by others, could neither strengthen his case nor enfeeble it. And it may confidently be insisted, not only that he has no concern with the particular application of these proceeds, but that, even if he had, he would be authorized to rely upon the presumption that they were applied as public money to public ends, or left in the public coffers. It must be remembered, moreover, that whatever may have been the destiny of these unhallowed spoils, they cannot well have failed to be instrumental in meliorating the condition of the country. They afforded extraordinary pecuniary means, which, as far as they extended, must have saved it from an augmentation of its burdens; or, by relieving the ordinary revenue, made that revenue adequate to various improvements, either of use or beauty, which otherwise it could not have accomplished. The territories therefore under the sway of Murat must be supposed to have returned to His Sicilian

15th Cox. 1st Sess.—59

ian Majesty less exhausted, more embellished, and more prosperous, than if the property of American citizens had not in the meantime been sacrificed to cupidity and cunning. It must further be remembered, that a part of that property was notoriously devoted to the public service. Some of the vessels seized by the orders of Murat were, on account of their excellent construction, converted into vessels of war, and, as such, commissioned by the Government; and the undersigned is informed that they are now in the possession of the officers of His Sicilian Majesty, and used and claimed as belonging to him.

The undersigned having thus briefly explained to the Marquis di Circello the nature of the claim which the Government of the United States has commanded him to submit to the reflection of the Government of His Sicilian Majesty, forbears at present to multiply arguments in support of it. He feels assured that the equitable disposition of His Majesty renders superfluous the further illustrations of which it is susceptible.

The undersigned has the honor to renew to his Excellency the Marquis di Circello the assurances of his distinguished consideration.

WILLIAM PINKNEY.

*Mr. Pinkney to Mr. Monroe.*

NAPLES, September 28, 1816.

SIR: My exertions have not yet been sufficient (although they have been unremitting) to obtain an answer to my note of the 24th August; and the season is so far advanced that I fear I have only another week for further exertions. If I do not set out for Russia without delay, I shall subject myself to the hazard of being confined to Italy by rains and bad roads during a great part of the Winter. It is my determination, therefore, to press immediately and finally for a categorical reply to my note, although I am persuaded that the Marquis is in no situation to give it. He must either reply at once, or show why he cannot.

It has been mentioned to me by those in whom I have confidence, that this Government has been extremely perplexed by the demand contained in my note, and has had it under constant and anxious consideration; that, fearing after much consultation to take the ground suggested for it, as I think in America, of irresponsibility for such acts of Murat's Government as my note sets forth, it has been and still is searching for information as to facts; that diligent inquiry, for example, has been made and is yet making, for the original papers of the different vessels and cargoes for which we require compensation, or for such evidence as might supply their place; and that it is probable that in the end an attempt will be made to encounter at least a part of our demand with proof (good or bad) that our case is not altogether such as we suppose it to be in the circumstances.

I am told their search after the papers of the vessels and cargoes is not likely to be very successful; very few—perhaps none—remain; and



*Relations with the Kingdom of Sicily.*

it is not easy to conjecture what satisfactory or even plausible substitutes they can procure.

I wrote yesterday a private letter to the Marquis di Circello, urging a prompt answer to my note, and desiring that he would tell me, with a view to preparations for my departure, (which of course he knew I could not much longer postpone,) when I might count upon receiving it; but I now think it necessary to demand an interview, with the same object, to take place either to-day or to-morrow. I have the honor to be, &c.

WILLIAM PINKNEY.

*Extracts of a letter from Mr. Pinkney, Special Minister of the United States at Naples, to Mr. Monroe, Secretary of State, dated*

NAPLES, October 5, 1816.

On Sunday, the 29th of last month, I had an interview with the Marquis di Circello, in pursuance of the intention announced in my last. I pressed him for his promised answer to my note of the 24th of August, and insisted that, if he could not reply to it immediately, he would name the time within which it was probable he could do so. He said that an immediate answer was really impossible, and that he could not, without running the risk of misleading me, fix any precise time for the giving of such an answer as should be categorical. I asked the reason of this. He observed that the papers relative to the vessels and cargoes, for which we now demanded an equivalent, had, in Murat's time, been scattered about in such a way, that, with all the diligence they could use, they had not yet been able to collect them, or such information as might stand in their place; that all proper steps had been taken by the King's Government for obtaining these papers, and whatever else was connected with and material to our claim, and that they hoped that they would soon be successful; that our claim, apparently of large amount, was made upon those who confessedly had no participation in the transactions upon which it was founded; that, it was, therefore, manifest, they had all their knowledge of those transactions to gain; that they were sincerely desirous of understanding them thoroughly; that, without all the knowledge of the circumstances of the case which could at this time and by due inquiry be recovered, the King could not decide whether he was or was not answerable to us as we alleged; that a decision would undoubtedly be hastened and made known to me as soon as possible, and, as he believed, within a period of time not by any means distant; but that I must perceive that it was not in his power, without practising disingenuousness, to assure me that this could be done in a few weeks. After some further conversation on this point, I told him that I feared I should be obliged to leave Naples before his answer was prepared; and as he knew that my ulterior destination was St. Petersburg, I informed him, finally, that I had determined to set out for Russia on Saturday, the 5th instant, (this day,) unless, by waiting a week or two more, I

could be sure of adjusting the business of my mission. He replied, with his characteristic good breeding, that they should be extremely sorry to lose me, and that they had hoped to have me with them for some time, but that, if my duty elsewhere called me away, he would undertake to send the answer to my note, the moment it could be given, wherever I would indicate; that there was no probability that, if I left Naples as soon as I spoke of, or even a week or two later, I should receive the answer here, but that if it could be given so promptly it should. I rejoined that I doubted if, without instructions, it would be well for me to receive the answer after I had left the King's court and territories; that I confidently trusted the answer would admit our claim, (though we had no desire to urge them inconveniently, as to the time or mode of payment, or even to push our demand to its utmost extent,) but that, however little such a result was to be expected, the answer might contest our demand, or an important portion of it; in which case it was both my duty and inclination to reply to the answer, and to maintain, as I did not fear to be able to do, the grounds of fact and law upon which I had already relied; and that this could not be done with advantage, nor, perhaps, with propriety, unless with the approbation of my Government, after my departure for another station.

The Marquis immediately expressed an opinion that I might regularly receive the answer after I had left the Neapolitan dominions; and, in consequence of a question which I put to him in this stage of the conversation, (whether it might not be more in rule to offer to deliver the answer to whom, and to where, the Government of the United States should think fit?) he said that he should have no objection to any course which I preferred, but that he thought it would be best (as being more respectful to me) that he should undertake to send the answer as I should prescribe, especially as this course essentially included the other. It would have been impossible for me to dispute an opinion referred to so civil a motive, even if the matter had been worth disputing.

I did not think, however, that it was worth more words than had been bestowed upon it; and I therefore left the Marquis, to take his own way upon it, reserving to myself the power of taking mine in due season.

In the whole of this conversation (of which I have very shortly stated the import) not a word was dropped by the Marquis condemning our claim, or intimating that it was likely to be rejected, although much of what I said was calculated to provoke him to do so; but again, he said nothing which amounted to an admission that the claim would be acknowledged.

Before I went away, I requested (and he promised) that he would write me a note, expressing briefly what had passed between us; and, the evening of the same day, I received from him a paper (of which a copy is among the enclosures) written and sent in consequence of that request;

*Relations with the Kingdom of Sicily.*

but, on examining that paper, I found it referred to my unofficial letter, mentioned in my last, and not to our interview; and moreover, it was dated the 27th of September, (perhaps a mistake for the 29th, or possibly my mistake of his figures,) which was antecedent to the interview. I took it for granted, however, that the Marquis had understood me to wish that this mode should be adopted; and, as it was of no importance, I did not put him, as at first I thought of doing, to the trouble of changing it. I therefore founded upon it the three notes, (bearing date, two of them the 30th of September, and the other the 1st of October,) of which copies are enclosed. On the 2d instant I received the Marquis's answer to my note of the 30th of September, which desired an audience of the King; and I took leave, accordingly, on Friday, the 4th instant, one of the days referred by the Marquis's note to my choice, as you will perceive by the copy of it herewith transmitted. The King was polite and kind, and conversed for some time with me on this occasion; but nothing was said by him which had any relation to the objects of my mission.

Having received my passports, my intention is to commence my journey for St. Petersburg in a very few days. Mr. King left me for Russia about a fortnight ago, as my letter of the 18th September informed you he would; and the gentlemen attached to my legation have gone before me to Rome, where I hope to arrive on Thursday or Friday next.

I beg your attention now to a few words upon the course which I have pursued as Envoy Extraordinary to Naples, and upon the actual position and prospects of the claim which produced it. My stay here has, perhaps, been a little longer than was anticipated when I sailed from America; but, upon a careful examination of my instructions, it appeared to me that I was directed by them to make the attempt to obtain an acknowledgment of our claim upon this Government, as full and complete as possible, without sacrificing to it the interests of my mission to Russia. I have done this. As the claim was of great magnitude in a pecuniary sense, involved important principles, and turned upon facts into which those with whom I had to deal had a right to inquire, I could scarcely hope to bring it to an issue of any kind within less than the two months which have elapsed since my first reception here. With regard to my mission to Russia, I have yet made no sacrifice.

Independently of the explanations which I have had, from time to time, with the Count Morenigo, (the Russian Minister here) with regard to my own anxiety, in conformity with the order of my Government, to be in St. Petersburg without delay, those who have experience of the road assure me that, if I had started sooner, I should have been obliged to wait upon the route for the setting in of the frost, and that I should, therefore, have gained nothing.

On the other hand, certainly I could have no apology for protracting my stay in Naples beyond the time to which I have limited it. My instruc-

tions, which are precisely what they ought to be, would not justify it. By remaining here a few weeks more, I should postpone for several months, perhaps, my arrival at St. Petersburg, by losing the best season for quitting Italy.

Of the manner in which my negotiation has been conducted I have little to say. Avoiding extremes of every kind, I have sought to write and speak with politeness, but at the same time explicitly and firmly. My object has been to let the King and his ministers understand that the claim must be settled, and to place it upon such ground as to convince them that we are in earnest in considering them as our debtors. Without being studiously conciliatory, I have forbore all menaces.

They have, indeed, treated me and my errand with so much respect, that it would have been difficult for me, even if it had been wise and honorable, to endeavor to force the claim upon them by arrogance and harshness.

I might, indeed, have contrived to display a more active and zealous importunity than my letters will be found to describe; but it could only have been that teasing importunity, which, wanting dignity, and unauthorized by usage, has nothing to recommend its introduction into transactions like this. No proper opportunity has, I think, been missed, to urge this Government to a favorable decision. As to the footing upon which the claim now stands, and the value of its future prospects, it is obvious that much has been gained. It has been presented, (whether well or ill, I dare not judge.) It has been received in a becoming manner, and entertained for deliberation and inquiry. The way to adjustment has been prepared and smoothed. The great principle on which the demand was rested by the Government of the United States is impliedly conceded, and, at any rate, has been greatly strengthened by the forbearance of this Government, not only in *limine*, but even to the last moment of my mission, to deny it, with opportunity and every inducement to do so constantly presented to it. It was to have been expected, and was expected, that the Court of Naples would resist, at the threshold, a demand which directly, as well as implicitly, asserted its responsibility for the violence and frauds of Murat. It was its true policy to repel such a demand at once, (without reference to details,) if it meant to contest at all the responsibility, upon which the claimants altogether depended, and which formed, in truth, the only dubious part of their case. It was prepared to take that course (as I was well assured) upon my first arrival, yet it has not ventured to take it. On the contrary, it has avowedly busied itself, since the presentation of my note of the 24th of August, in efforts (which cannot be successful) to lay a foundation of fact for distinctions that may give it a chance of escaping from our principle, which finally it declines to question.

The reasons suggested by this Government for a short postponement of its decision are such as I suppose I could not have quarrelled with, without putting myself in the wrong. They are per-



*Relations with the Kingdom of Sicily.*

feetly respectful to the United States, and of real weight in themselves. Their effect is to leave negotiation open, to give encouragement to resume it, and, at the same time that they impart new solidity to our claims, to render an acquiescence on our part in a brief adjournment of it not only consistent with our honor, but a duty. In the mean time, the two Governments are not brought to a disagreeable issue, as (if the claim had been rejected without ceremony, or even with all the ostentation of civility,) they might have been.

In not consenting to receive the answer of this Government after my departure from Naples, I was a good deal influenced by the apprehension that they might possibly give me such an answer when absent as they would not give me if present. I desired, moreover, to insure to my Government a just control over the subject, and to the claimants a clear stage for their own private exertions. I thought that a more convenient resting point could scarcely be had, and that it would be better that I should afford time to advise upon the case to those who had more right than I to dispose of it in future, than that, adhering to my mission after I had separated myself from those to whom I was accredited, I should risk the loss of everything by the exercise of a very doubtful authority, under all sorts of disadvantages.

*The Marquis di Circello to Mr. Pinkney, dated  
NAPLES, September 27, 1816.*

The Marquis di Circello, in reply to the private letter of his Excellency Mr. Pinkney, in which he is pleased to remind him of his official note of the 24th of August last, has the honor to inform him, that notwithstanding the great anxiety of him (the Marquis di Circello) to give the reply which he owes to the said note, he is not yet able to give it, since it must be the result of a reunion and accurate examination of all the information which the subject of that note requires, and for obtaining which orders have been given. This may probably occupy several weeks more, and it is of course impossible for him yet to fix the epoch at which the said reply may be given as Mr. Pinkney desires. The writer, however, assures his Excellency, that in case his situation should not permit him to wait for the said reply, he will make it his duty to forward it wheresoever he may indicate.

In the mean time, he profits of this occasion to have the honor to confirm to His Excellency the assurances of his distinguished consideration.

IL MARCHESE DI CIRCELLO.

*Mr. Pinkney to the Marquis di Circello, dated  
NAPLES, September 30, 1816.*

The undersigned, Envoy Extraordinary of the United States of America, had the honor to receive last night the note of his Excellency the Marquis di Circello, bearing date the 27th instant, upon the subject of the note of the undersigned of the 24th of August.

The undersigned certainly regrets that the Government of His Sicilian Majesty has not been able already to honor him with a precise reply to that note; and he regrets still more that, on account of the difficulty of collecting the information supposed to be necessary to a correct decision upon the claim which it preferred, he cannot hope to have such a reply during the time to which he is obliged to limit his present stay in Naples.

He is perfectly sure, however, that the epoch is at hand when His Majesty's Government will be possessed of this information, and when the justice of the claim of the Government of the United States, in behalf of its injured citizens, will be fully perceived and distinctly acknowledged.

The undersigned, in answer to that part of the note of the Marquis di Circello which proposes to send a reply to the note of the undersigned of the 24th of August wheresoever the undersigned may indicate, has the honor to state to the Marquis di Circello, that, upon this point, as well as upon all such ulterior steps as his mission and the subject of it may be calculated to produce, the undersigned will think it his duty to refer himself to his Government, which, at the same time that it will give their due weight to the reasons which are now assigned for a short postponement of the claim in question, will take such measures as it shall think the case requires with regard to the future.

The undersigned takes this occasion to renew to his Excellency the Marquis di Circello the assurances of his distinguished consideration.

WM. PINKNEY.

*Mr. Pinkney to the Marquis di Circello, dated  
NAPLES, September 30, 1816.*

The undersigned, Envoy Extraordinary of the United States of America, being about to leave the Court of His Majesty the King of the Two Sicilies, upon the business of his Government, has the honor to request that his Excellency the Marquis di Circello will have the goodness to inform him at what time His Majesty will honor him with an audience.

The undersigned avails himself of this opportunity to renew to his Excellency the Marquis di Circello the assurance of his most distinguished consideration.

WM. PINKNEY.

*Mr. Pinkney to the Marquis di Circello, dated  
NAPLES, October 1, 1816.*

The undersigned, Envoy Extraordinary of the United States of America, has the honor to request of his Excellency the Marquis di Circello the usual passports for himself, his family, and suite, and their baggage, &c.

It is his present intention to go to St. Petersburg by the way of Vienna; but it is possible that he may abandon that route in favor of the road through Berlin. He wishes to set out at the end of this week.

He begs his Excellency the Marquis di Cir-

*Relations with the Kingdom of Sicily.*

cello to accept the renewed assurances of his distinguished consideration.

WM. PINKNEY.

*The Marquis di Circello to Mr. Pinkney, dated  
NAPLES, October 2, 1816.*

The undersigned, Secretary of State and Minister of Foreign Affairs, in reply to the official note of the 30th of last month, in which his Excellency Mr. Pinkney, Envoy Extraordinary of the United States of America, has requested an audience of His Majesty the King of the Two Sicilies, hastens to inform him that His Majesty will with pleasure receive him at the royal palace in Naples either to-morrow or next day, (as may be most convenient to his Excellency,) at half-past eleven o'clock in the forenoon.

The undersigned renews to his Excellency, &c.  
IL MARCHESE DI CIRCELLO.

*Mr. Pinkney, Envoy Extraordinary and Minister Plenipotentiary of the United States at St. Petersburg, to Mr. Adams, Secretary of State.*

ST. PETERSBURG, Feb. 27, 1817.

SIR: Notwithstanding the explicitness of my answer of the 30th of September of the last year to the proposal contained in the note of the Marquis di Circello of the 27th of the same month, I had scarcely quitted Naples when he sent after me his reply to my note of the 24th of August. The obstacles which, while I was present, threatened to retard that reply for many a week, and even for months, disappeared with a marvellous rapidity after I had departed; for the reply passed me on the road to St. Petersburg, and arrived there long before me.

The Neapolitan Minister at this Court (to whom it was forwarded by the Marquis di Circello, for the purpose of being delivered to me) manifested immediately upon my arrival here a very anxious desire that I should receive it. He even entreated me to do so, with such earnestness as it was not easy to resist. I refused, however, to have anything to do with his packet, and assigned as my reasons that I had ceased to have any right to meddle with the subjects of my late mission to his Government; that the Marquis di Circello was distinctly told by me, when I found that I must leave Naples without an answer to my note, that I would not continue to correspond with him upon the claim which it preferred, unless I should be instructed to do so by my Government; and that he could not but know, without the help of anybody's information, that it was impossible that I should so soon be in possession of such instructions, even if the President approved of that course, (as it was probable he would not,) for the conclusion of my negotiation.

The Duke proposed finally to write me a letter, importing that he had the reply to my note, and that he wished me to take it. I assented to this, and the short correspondence, of which a copy is enclosed, was the consequence.

If I had been perfectly sure that the reply was

a favorable one, and required no further discussion, (which, indeed, I did not understand it to be the intention of the Sicilian Government to indulge me in,) I would have received it. The celerity with which it had followed me, however, suggested the opposite presumption; and the Duke's desultory conversations with me, as often as I met him, (in which he talked, as the Marquis di Circello was wont to do, of the poverty of his master, &c.,) did not weaken that presumption. Certain newspapers, too, professing to speak from authority, had affected to quote the reply as a refusal, which had already been given to me. You will find a republication of one of those articles in the enclosed *Conservateur Impartial*, and will be satisfied that the Sicilian Government, or its Minister at Vienna or St. Petersburg, has dictated the latter part of it.

Upon the whole, having lost my power to deal with the reply as its contents might require, and fearing it was not what it ought to be, I thought it my duty to insist upon the impropriety of sending it at this moment to me, (an impropriety for which the Marquis di Circello could have no motive that I ought to sanction,) and upon that ground to decline to take it. The Duke has shown uneasiness at this course, and I am not sorry for it. His Government is a good deal disturbed by our claim, and we hazard nothing (and may gain) by practising upon its anxiety within certain bounds, or even to any extent we think fit.

I have the honor to be, with very distinguished consideration, sir, your most obedient humble servant,

WILLIAM PINKNEY.

HON. SECRETARY OF STATE.

*The Duke of Serra Capriola to Mr. Pinkney.  
ST. PETERSBURG, Feb. 7, (19,) 1817.*

SIR: I have received from my Court a note in answer to that addressed by your Excellency to the Marquis di Circello on the 24th of August last, and which it was not possible to deliver you before your departure, on account of the information necessary to be taken relative to the business with which you were charged by your Government.

I have the honor to give you this information, for the purpose of knowing if you are willing to receive it, and take your arrangements for that purpose.

In the meanwhile, be pleased to receive the assurances of the very distinguished consideration with which I have the honor to be, sir, your Excellency's most humble and most obedient servant,

SERRA CAPRIOLA.

*Mr. Pinkney's answer to the foregoing.*

ST. PETERSBURG, Feb. 20, 1817, (N. S.)

SIR: It would have been particularly agreeable to me to obtain, during the continuance of my functions as the Envoy Extraordinary of the



*Relations with the Kingdom of Sicily.*

United States at Naples, while I might regularly have taken and acted upon it, an answer to the note which in that character I addressed to the Marquis di Circello on the 24th of August of the last year, and I certainly spared no efforts for that purpose.

I found it impracticable, however, after the importunity of many weeks, to obtain either an answer, or the designation of any precise time within which I might be authorized to expect one; and, as my ulterior duties here would not suffer me to wait at Naples for the issue of inquiries and deliberations, of which avowedly the term could not be foreseen even by those who were engaged in them, I was compelled to leave unsettled the subject of my note and to put an end to my mission.

My power to correspond with the Government of the King of the Two Sicilies upon that subject, or otherwise to assume an agency in it, has consequently ceased, and can only be revived by the President of the United States, from whom I derived it originally, and to whom I have rendered an account of the use which I was able to make of it. Whether it will be his pleasure to renew it in any degree, or in what other way he will think it proper to deal with the subject, I have no means of knowing. I know only that he has yet given me no orders upon it, and that there has not been time for such orders.

The Marquis di Circello must be prepared for this answer to your Excellency's letter to me of the 19th instant if he does me the honor to preserve any recollection of my note to him of the 30th of September last, of which (as well as of his note to me of the 27th of the same month) I shall be very willing to give you a copy if you desire it.

I have the honor to be, with very distinguished consideration, your Excellency's most obedient humble servant,

WILLIAM PINKNEY.

His Exc'y the DUKE OF SERRA CAPRIOLA.

*The Duke of Serra Capriola to Mr. Pinkney.*

ST. PETERSBURG, Feb. 9, (21,) 1817.

SIR: I received yesterday the letter by which your Excellency has been pleased to reply to that which I addressed to you on the 7th (19th) of this month, stating the reasons by which you consider yourself no longer authorized to receive the note in answer to it, transmitted to me by the Minister of His Majesty the King, my master.

Your Excellency will readily conceive how unpleasant and painful it must have been to the King not to have been able to cause an answer to be given to your note of the 24th of August last, during your mission at Naples; but you are aware, sir, that that answer must necessarily have been founded on documents and proofs not easily procured, inasmuch as the transaction in discussion took place under a Government foreign to the existing one. If this delay was painful to the King and to his Ministry, how much more will it not be on seeing the answer again impeded. I

consider it, therefore, my duty, sir, to engage you to receive the packet I am charged with, at least for the purpose of transmitting it to your Government. By this means you will satisfy the wishes of my Government, and make the President of the United States acquainted with the well-founded arguments which might accelerate the termination of this affair.

Availing myself of the offer you have made me, sir, I have to request you would be pleased to favor me with a copy of the Marquis di Circello's letter, and of your answer of the 30th September. You will thereby greatly oblige me, sir; and, in thus tendering you my acknowledgments for it, I seize the present occasion of renewing to you the assurances of the very distinguished consideration with which I have the honor to be, sir, your Excellency's most humble and most obedient servant,

SERRA CAPRIOLA.

*Mr. Pinkney's reply to the foregoing.*

ST. PETERSBURG, Feb. 21, 1817, (N. S.)

SIR: It would really give me sincere pleasure to be able to conform to the wish which your Excellency presses upon me with so much earnestness; but I feel insurmountable repugnance, arising out of what I believe to be a correct sense of my duty, to giving any sanction to the making of a communication to me, as if I were still the accredited Envoy of the United States at Naples. I can have no difficulty, however, in consenting to forward to the Secretary of State of the United States anything which, by order of your Court, you may think fit to address to him.

What may be the nature of the packet which has followed me from Naples I do not know, and do not desire to know, further than that it is in answer to a note written by me in an official character which I no longer possess. I have the utmost confidence, indeed, that it proposes a fair indemnity to our plundered merchants, not only with reference to that part of the spoil which, not having been sold by Murat, has passed into the hands of His Majesty the King of the Two Sicilies, and is now in his possession, but with reference also to that larger portion of it which was converted into money. But let it propose what it may, it is not to me that it should address itself, at least until my Government is known to have given me such instructions, which it has not yet had time to give, even if it be disposed to adopt that course, as may justify me in receiving it, and in acting upon it as its contents may require.

The copies which you desire are herewith enclosed. They will satisfy you that the Marquis di Circello ought to anticipate the answer which I now repeat to your application.

I have the honor to be, with the most distinguished consideration, your Excellency's most obedient, humble servant,

WILLIAM PINKNEY.

His Ex. the DUKE OF SERRA CAPRIOLA.

*Relations with the Kingdom of Sicily.*

*Extract of a letter from Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States at Paris, to Mr. Monroe, Secretary of State, dated*

PARIS, November 19, 1816.

I received, on the 16th instant, a note from the Neapolitan Ambassador, enclosing, by order of his Court, the copy of an official note, dated 15th October last, and addressed by the Marquis di Circello to Mr. Pinkney, after his departure from Naples. In answer to a verbal inquiry, the Ambassador told me that he did not know whether that note had been directed to Mr. Pinkney, at St. Petersburg, or at any other place on the road. He also said that his Government had authorized him to add to that communication to me any further observations which he might deem proper, but that he had abstained from it, knowing that neither he nor myself had any powers on that subject, and wishing, therefore, to avoid an unprofitable discussion.

It may be presumed that the Neapolitan Government delayed that note in order to prevent the possibility of a reply; and that their intention in communicating it to me was to hasten its transmission to you. Copies of the official note itself, and of that of the Ambassador to me, are enclosed.

PARIS, November 15, 1816.

The undersigned, Ambassador Extraordinary of His Majesty the King of the Two Sicilies, has the honor to transmit, by order of his Court, to Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, a copy of an official note, addressed by the Marquis di Circello, Minister and Secretary of State of his said Majesty, to Mr. Pinkney, Envoy Extraordinary and Minister Plenipotentiary of the United States, in answer to his note of the 24th of August last, on the subject of certain American vessels confiscated in 1809 by Murat.

The undersigned avails himself of this occasion to renew to Mr. Gallatin the assurances of his high consideration.

CASTELCICALA.

*The Marquis di Circello, Minister of Foreign Affairs at Naples, to Mr. Pinkney, Special Minister of the United States.*

NAPLES, October 18, 1816.

Although the Government of His Majesty the King of the Two Sicilies was from the first moment, in a situation to judge of the validity of the remonstrance and demands made by his Excellency Mr. Pinkney, Envoy Extraordinary of the United States of America, in his note of the 24th August last, nevertheless, wishing to examine and discuss them under all their aspects of right and of fact, it has waited, accordingly, until all the materials and lights were collected proper to this end.

The many difficulties attending the search after those materials, owing to the change in the order of things during which the facts occurred

that have given rise to the demands of Mr. Pinkney, rendered it impossible for the Royal Government to reply to the note of his Excellency before his departure from Naples.

Now that the papers and appropriate inquiries have shed the strongest light upon the affair in question, the undersigned, Councillor and Secretary of State, Minister of Foreign Affairs of His Majesty the King of the Two Sicilies, hastens to give, by order of his Sovereign, the following reply to Mr. Pinkney, requesting his Excellency to be pleased to communicate it to his Government.

All the arguments contained in the note of the 24th August look to the end of making His Majesty's Government responsible for the consequences of the confiscation and sale, whether just or unjust, of several American vessels and cargoes, which took place in Naples while the kingdom was held by Murat.

In support of this pretension, it is assumed that the abuse of power and violation of good faith, by which these arbitrary acts were committed, are of such a nature as to survive the political authority of the author of them, and that, of course, as there accrued a right of reclamation against the Government of Murat, there exists one also against the present Government of the Two Sicilies.

His Excellency adds, that although the American claimants have not the means of ascertaining to what uses the produce of the abovementioned sales was applied, yet they may presume that it was expended in works and objects of public utility, or left in the public coffers; and therefore affirms that, under this point of view, likewise, His Majesty's Government is bound to indemnify the victims of the spoliations committed during the ascendancy of Murat.

Without undertaking to inquire whether a sort of succession or inheritance, in legitimate and illegitimate Governments, can be maintained upon good grounds, the undersigned will be content to remark that, whatever may be the opinion of publicists as to this point, no one has ever pretended to visit the injustice of the contracts or deeds of usurpers upon the people subjected to their yoke, or upon the legitimate sovereigns.

That theory would, indeed, be a disconsolate one which should extend the power of an enemy not only to the consequences of fact, but even to those of right. The victory which restored the legitimate prince would be fatal to both, if it must have the effect of making him responsible for the acts of injustice and violence which the usurper might have perpetrated against foreign nations.

It avails not to say that these are of the description of obligations and engagements which survive the overthrow of the usurped dominion, as common to the nation over which that dominion was exercised. This would be the place to determine whether we could reasonably qualify, as an obligation, an engagement from Government to Government, or nation to nation, a mere right of reclamation, which, according to the obligation of Mr. Pinkney himself, the Unit-



*Relations with the Kingdom of Sicily.*

ed State, kept in reserve, to be exercised with Murat, had not his power been subverted.

But the undersigned will simply ask his Excellency if that very right is not to be regarded as null, seeing that the continual, strong, vehement demands, officially made by the Consul General of the United States at Naples upon the Minister of Murat, for the restitution of the confiscated vessels and cargoes, or compensation to the American owners, were rejected, or remained without a reply? However this may be, it is always incontestable that it is not against the actual Government of His Majesty that a right, to which he who created it would not hearken, can be tied, as it were, in the nature of an appeal.

It is among the principles of reason and justice, that a sovereign, who never ceased to be in a state of war with the usurper of his dominions, and who, very far from having afforded grounds for presuming that his rights were waived, as is asserted in his note of the 24th August, carried into effect, in concert with his ally, England, a powerful expedition in the islands of Procida and Ischia, nearest to the capital of his usurped kingdom, in the year 1809, precisely that in which the confiscation of the American ships at Naples took place. It is among the principles of reason and justice, that he should not be, on regaining his dominions in process of the war which had compelled him to absent himself from them, held responsible for the excesses of the enemy.

Let, then, the relations of the usurper with the Powers friendly or allied to France have been what they may, the inference which the American merchants may have drawn from them, in relation to the prosecution of their trade at Naples, should not be made to recoil upon the treasury of a sovereign who not only did not show any the least acquiescence in the usurpation, but did all that was in his power, and all that circumstances would permit, to vindicate his abused rights. There is still less foundation for the arguments brought forward in the note of the 24th August to prove that the Neapolitan nation was, in some sort, a party to the measures by which the Americans suffered, and therefore liable, *in solidum*, for the consequences.

If the inhabitants of the kingdom of Naples could only have signified their wishes, these would undoubtedly have been for the maintenance of relations of justice and friendship with the Americans, the only nation which, by means of its neutrality, might provide a vent for the commodities accumulated through so many years in the kingdom, under the operation of the noted continental system of ruinous memory.

But everybody knows that the Neapolitan nation, prestrated by a foreign domination, was but the mournful spectator and first victim of the arbitrary acts which were daily committed. So far, then, from being able to indemnify others, it would be exceedingly fortunate if she could find means of compensating herself for the losses and immense injuries which she sustained during the occupation of the kingdom.

These considerations would be more than suf-

ficient to prove that the claims of the American merchants cannot reach either the actual Government of His Majesty or his people.

But, to make the demonstration complete, and to exhibit the question under all its aspects, the undersigned will admit, for a moment, the absurd hypothesis, that the present Government of Naples stands in the place of that of Murat, and has succeeded to all his obligations.

The demand of Mr. Pinkney will not be, on this account, the less unsustainable, since the confiscation and sale of the American vessels and cargoes were acts which proceeded directly from the power and from the will of Bonaparte. There exists, in fact, in the archives of the Treasury, a report of the Minister, Agar, who presided over that Department in 1809, addressed to Murat, who was then at Paris.

The Minister relates, in this report, that two American ships had arrived at Naples, one from Salem, the other last from Algiers, laden with colonial produce; and that the necessary orders had been given to put the same under sequestration, conformably to the directions antecedently issued from higher authority, with respect to the other vessels arrived at Naples, before the departure of Murat for Paris.

He proceeds then to point out the great benefit which the treasury would derive from opening the market to the colonial produce lying on board those ships, or in the custom-house of Naples, by the duties which would be collected upon the sale of it, and upon the export of the oils which the Americans would take as return cargoes.

The Minister remarks, in fine, that the confiscation itself of the American vessels and cargoes was but an inconsiderable resource, compared with the very great advantage which would have resulted to the treasury from an active American trade, could it have been tolerated in the ports of the kingdom.

Murat did not deem himself authorized to decide in any way, and submitted the report to his brother-in-law, Napoleon, who decreed, in margin, that the vessels and cargoes in question should be confiscated, because the embargo laid in the ports of the United States induced him to believe that the produce must be British property, and its introduction into the Continent a breach, therefore, of the two famous Berlin and Milan decrees.

On the disclosure of this decision of Bonaparte in Naples, it was ordered, also, that the proceeds of the sales should not be paid over to the treasury of the State, but that a separate and special account should be opened for them, which was done accordingly. In order to understand well this distinction, and to be able to draw from it the consequences applicable to the case, it is useful to note, that during the military occupation of the kingdom, there existed a treasury, so called, destined to receive the public revenues and defray the public charges; and as, among the latter, the support of the luxurious household of Murat was not the least onerous, accordingly the sums allot-

*Independence of the Spanish Provinces.*

ted to this purpose were paid into the hands of a particular treasurer, who disposed of them as his master directed.

Besides this particular chest, into which, moreover, all the proceeds of the private domain were emptied, Murat established another, by the name of separate account or fund, (*conto a parte*), as a receptacle for the sums arising from the sale of the vessels and cargoes confiscated in 1809 and 1812, and also for the profits of the licenses which, in imitation of England and France, he sold to the vessels entering and leaving the ports of the kingdom. The new fund was always considered as appertaining to the extraordinary and private domain of Murat himself. An irrefragable proof of this may be offered. The first article of one of his decrees, of 25th April, 1812, is conceived in the following terms: "The commission established by our decree of November 30, 1811, for the purpose of liquidating the accounts of our royal household, is, in addition, charged with examining the accounts of the vessels sequestered in our ports, regarded by us as the property of our extraordinary and private domain."

Besides, it is enough to read the account rendered of the cashier of the separate fund, to know that the sums paid into it were dissipated in largesses to the favorites of Murat, in marriage portions to some of his relatives, and in other licentious expenses of Murat and of his wife, especially during their visit at Paris. It appears, moreover, that Murat having anticipated on said fund a sum of two hundred thousand livres on account of the treasury, towards the cost of the expedition with which, during several months, he menaced Sicily with an invasion from Calabria, the Minister of the Finances lost no time in reimbursing the fund with the proceeds of the public taxes.

From the foregoing statement, two important and obvious consequences are to be drawn. The first is, that Murat only lent his name in the confiscation of American ships, as he did merely in all the other measures pursued in Naples during the occupation of the kingdom. This was no mystery, nor could foreign nations be ignorant of it. Still less could they be unacquainted with the extent of the power which Bonaparte usurped, in order to give all possible latitude of effect to his decrees of Milan and Berlin, in the countries over which he exerted his fatal influence.

Obstinate in his fantasies, absolute in his will, he studied only to enlarge the sphere of his favorite plan. A mere remonstrance on this head, if Murat had allowed himself to prefer one, would have cost the latter his crown. Holland furnished an incontestable example of this truth.

Murat, then, let it be repeated, was but the passive instrument of the will of Bonaparte in the confiscation of the American ships; and if this could give birth to responsibility, such responsibility should no longer be imputed to the country over which he reigned, and still less to the Government which has there resumed its lawful authority.

The other, and not less important consequence,

is, that the treasury, which was the fund of the State, never enjoyed the proceeds of the confiscations, and that, instead of being employed to alleviate the burdens of the people, or applied to the improvement or embellishment of the country, as is supposed in the note of the 24th of August, those proceeds only served to feed the caprices and the oriental pomp of the family of Murat and his adherents.

After this rapid and faithful exposition of facts, the undersigned will not enter upon the inquiry whether the American merchants would have been entitled to call for indemnity, if the Power which commanded and executed the confiscation of their property had, unfortunately, continued to flourish.

He will go no further than to remark to Mr. Pinkney, that such a call could not affect the actual Government of His Majesty, nor his people; and his Excellency and his Government are too enlightened and too impartial not to be fully convinced of this, now that they can dwell upon circumstances which perhaps were not previously within their knowledge.

The undersigned renews to Mr. Pinkney, on this occasion, the assurance of his most distinguished consideration.

IL MARCHESE DI CIRCELLO.

## INDEPENDENCE OF THE SPANISH PROVINCES.

[Communicated to the House, March 25, 1818.]  
To the House of Representatives of the United States:

In conformity with the resolution of the House of Representatives of the 5th of December last, I now transmit a report of the Secretary of State, with a copy of the documents which it is thought proper to communicate, relating to the independence and political condition of the provinces of Spanish America.

JAMES MONROE.

WASHINGTON, March 25, 1818.

DEPARTMENT OF STATE,  
March 25, 1818.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 5th December, has the honor of submitting the documents herewith transmitted, as containing the information possessed at this department requested by that resolution.

In the communications received from Don Manuel H. de Aguirre, there are references to certain conferences between him and the Secretary of State, which appear to require some explanation.

The character in which Mr. Aguirre presented himself was that of a public agent from the Government of La Plata, and of private agent from that of Chili. His commissions from both simply qualified him as agent. But his letter from the Supreme Director (Pueyrredon) to the Pres-



*Independence of the Spanish Provinces.*

ident of the United States requested that he might be received with the consideration due to his diplomatic character. He had no commission as a public Minister of any rank, nor any full power to negotiate as such. Neither the letter of which he was the bearer, nor he himself, at his first interview with the Secretary of State, suggested that he was authorized to ask the acknowledgment of his Government as independent; a circumstance which derived additional weight from the fact that his predecessor, Don Martin Thompson, had been dismissed by the Director Pueyrredon, for having transcended his powers, of which the letter brought by Mr. Aguirre gave notice to the President.

It was some time after the commencement of the session of Congress that he made this demand, as will be seen by the dates of his written communications to the department. In the conferences held with him on that subject, among other questions which it naturally suggested were those of the manner in which the acknowledgment of his Government, should it be deemed advisable, might be made; and what were the territories which he considered as forming the State or nation to be recognised. It was observed, that the manner in which the United States had been acknowledged as an independent Power by France was by a treaty concluded with them, as an existing independent Power; and in which each one of the States then composing the Union was distinctly named; that something of the same kind seemed to be necessary in the first acknowledgment of a new Government, that some definite idea might be formed, not of the precise boundaries, but of the general extent of the country thus recognised. He said the Government of which he desired the acknowledgment was the country which had, before the revolution, been the viceroyalty of La Plata. It was then asked whether that did not include Montevideo, and the territory occupied by the Portuguese; the Banda Oriental, understood to be under the government of General Artigas; and several provinces still in the undisputed possession of the Spanish Government? He said it did; but observed that Artigas, though in hostility with the Government of Buenos Ayres, supported, however, the cause of independence against Spain; and that the Portuguese could not ultimately maintain their possession of Montevideo. It was after this that Mr. Aguirre wrote the letter offering to enter into a negotiation for concluding a treaty, though admitting that he had no authority to that effect from his Government. It may be proper to observe, that the mode of recognition by concluding a treaty had not been suggested as the only one practicable or usual, but merely as that which had been adopted by France with the United States, and as offering the most convenient means of designating the extent of the territory acknowledged as a new dominion.

The remark to Mr. Aguirre, that, if Buenos Ayres should be acknowledged as independent, others of the contending provinces would, perhaps, demand the same, had particular reference

to the Banda Oriental. The inquiry was, whether General Artigas might not advance a claim of independence for those provinces, conflicting with that of Buenos Ayres, for the whole viceroyalty of La Plata. The Portuguese possession of Montevideo was noticed in reference to a similar question.

It should be added, that these observations were connected with others, stating the reasons upon which the present acknowledgment of the Government of La Plata, in any mode, was deemed by the President inexpedient, in regard as well to their interests as to those of the United States.

JOHN QUINCY ADAMS.

## No. 1.

*Don Yono. Alvarez to the President of the United States.*

BUENOS AYRES, Jan. 16, 1816.

MOST EXCELLENT SIR: The circumstances are well known which have heretofore prevented these provinces from establishing with the United States of America the relations of amity and strict correspondence which reciprocal interest and a common glory ought to have inspired. At length, the obstacles which were opposed to our desires have been overcome, and we have the fortune to be able to send near your Excellency a deputy, to implore from your Excellency the protection and assistance we require for the defence of a just cause and sacred in its principles, and which is, moreover, ennobled by the heroic example of the United States, over whom your Excellency has the glory to preside.

A series of extraordinary events and unexpected changes, which have taken place in our ancient mother country, have constrained us not to make a formal declaration of national independence; nevertheless, our conduct and public papers have sufficiently expressed our resolution. When this letter reaches your Excellency, the general Congress of our Representatives will have met; and I can assure you, without fear of being mistaken, that one of its first acts will be a solemn declaration of the independence of these provinces of the Spanish monarchy, and all other sovereigns or powers.

In the meantime, our deputy near your Excellency will not be invested with a public character, nor will he be disposed to exceed the object of his mission, without an understanding with your Excellency and your Ministers. That these views may be exactly fulfilled, I have selected a gentleman who, from his personal qualities, will not excite a suspicion that he is sent by the Government invested with so serious and important a commission. He is Colonel Martin Thompson, who, independently of this credential, has the title which we are accustomed to give to our deputies. I hope that your Excellency will be pleased to give him full credit, and secure for him all the consideration which, in a like case, we would give and secure to the Ministers whom your Excellency may think proper to send to these provinces.

*Independence of the Spanish Provinces.*

The said deputy has it specially in charge to offer to your Excellency, in my name, and in that of the provinces under my direction, the profound respect and particular estimation with which we view the very illustrious chief of so powerful a Republic. May your Excellency deign to receive these expressions, and to give us an occasion to accredit them.

God preserve your life many years.

YONO. ALVAREZ.

## No. 2.

*Declaration of Independence of the Provinces of La Plata, communicated by Mr. Aguirre to the Department of State, 24th December, 1817.*

We, the representatives of the United Provinces of Rio de la Plata, in general Congress assembled, invoking the Supreme Being who presides over the universe, and calling on heaven, earth, and mankind, to witness the justice of our cause, in the name and in virtue of the authority of the people whom we represent—

Solemnly declare, that it is the unanimous will of the people of these provinces to break asunder all the bonds which unite them with the Kings of Spain; to reinstate themselves in the enjoyment of the rights of which they have been deprived; and to raise themselves to the high rank of a free and independent nation, capable of giving themselves such a government as justice and imperious circumstances may require. Authorized by the United Provinces in general, and by each one of them in particular, to declare and lay them under the obligation to support this independence, we hereby pledge their lives, fortunes, and sacred honor.

Mindful of the respect due to those nations which take an interest in our fate, and conscious of the necessity of declaring the weighty reasons which have impelled us to this act, we resolve that a manifest, setting them forth, be immediately made public.

Given and signed in the hall of our sittings, sealed with the seal of the Congress, and countersigned by our Secretaries, in the city of Tucuman, this 9th day of July, 1816.

F. N. DE LAPRIDA, *President.*

J. M. SERRANO, } *Secretaries.*  
J. J. PASSO, }

A true copy.

AGUIRRE.

## No. 3.

*J. Martin de Pueyrredon to the President of the United States.*

BUENOS AYRES, Jan. 1, 1817.

MOST EXCELLENT SIR: Being placed at the head of these provinces by the suffrage of the Congress of its representatives, and having had the honor, on a former occasion, of offering to your Excellency the tribute of my respects, and at the same time of transmitting the act of the declaration of our independence of the ancient Government of the King of Spain and his successors, I profit of the present occasion to notify

your Excellency that I have ordered Colonel Don Martin Thompson, the agent of this Government near the Government of your Excellency, to cease to exercise the functions appertaining to his character as such. When first sent to the United States, he went in the character of agent; and of this your Excellency was apprized by despatches of the 16th of January of the last year, in which was assigned, as the reason for not having appointed to so important a mission a person of greater consideration and weight, the necessity of obviating all suspicion that might otherwise have arisen concerning its object. It is with much concern that I have learned, by the communications themselves of our said agent, that he has arbitrarily departed from the line of the duties marked out for him, and that, without having duly estimated the honor of conferring with you, he has granted licenses which are in direct contradiction with the said principles. My predecessor rested all his hopes of a favorable issue to the commission given to Mr. Thompson on the generosity and magnanimity of your Excellency; and I, who entertain the same sentiments, venture to hope that, suspending for the present the appointment of an agent, we shall receive proofs of your friendly dispositions towards these people; but if your Excellency should deem it necessary that a formal agent should be appointed, I shall, upon the first intimation, take a particular pleasure in making choice of a person who may be worthy of the consideration of the illustrious chief to whom he will be sent.

I have the honor to avail myself of this occasion to renew to your Excellency the sentiments of respect and high esteem, which it is the boast of the people over whom I preside to entertain for you, and to offer you the like homage in my own name.

May God preserve you many years.

J. M. DE PUEYRREDON.

## No. 4.

*Don J. Martin de Pueyrredon, Supreme Director of the Government of Buenos Ayres, to the President of the United States.*

PALACE OF THE GOVERNMENT,  
Buenos Ayres, March 5, 1817.

MOST EXCELLENT SIR: The liberal and benevolent principles which distinguish your Government induce me to believe that the recent triumphs of liberty in these United Provinces of South America will be heard with pleasure by your Excellency and the happy citizens of your Republic. This confidence, and the conformity of the principles which actuate the inhabitants of this hemisphere with those that stimulated the heroic efforts of the United States of the North in the achievement of their independence, encourage me to make known to your Excellency the restoration of the opulent kingdom of Chili, by the patriot forces of my Government.

The printed documents which I have the honor to enclose contain accounts of the most



*Independence of the Spanish Provinces.*

memorable events of the last campaign. It was opened by the passage of the formidable mountains of the Andes; and, through the interposition of Providence, our victorious arms have given liberty to a million and a half of the inhabitants of the New World.

I pray your Excellency to accept the assurance of my respectful consideration, and my desire to strengthen the bonds of union and mutual interest between the two nations.

God preserve you many years.

J. M. DE PUEYRREDON.

## No. 5.

*Commission of Mr. Aguirre from Chili.*

The Supreme Director of the State of Chili, &c. It being important to the maintenance and advancement of the provinces under my command to have therein all those resources of armament which, being useful to the army as well as to the navy, may protect them from invasion, and wrest them from the hands of the enemies of our liberty, I have, therefore, with a view to accomplish the said object, given and granted full power and authority to Don Manuel de Aguirre, to enter into and set on foot all such negotiations as may be relative to the purchase of vessels of war, including a frigate, completely armed and equipped; also, for the purchase of all descriptions of arms, warlike stores, and supplies, useful to the army; it being understood that the value of the different kinds, which he is commissioned to purchase or stipulate for, and the transport thereof to Chili, are to be fully paid for upon due verification of the same, and that, for the fulfilment of this promise, all the interests of the public fund, and of the State of Chili in general, are made responsible.

In testimony whereof, I have ordered the present to be executed. Signed by me, sealed with the arms of this Government, and countersigned by my Minister of State, in the city of Santiago de Chili, this 8th day of March, 1817.

BERNARDO O'HIGGINS.

MIGUEL ZANARTU,

*Minister of State.*

## No. 6.

*Commission to Don Manuel H. de Aguirre, granted by the Supreme Director of the United Provinces of South America.*

The Supreme Director of the United Provinces of South America.

Inasmuch as it is necessary to appoint a person who, in the character of agent of this Government, may promote whatever conduces to the progress of the cause in which these provinces are engaged, to their honor, and the consolidation of the great work of our liberty; therefore, the necessary qualities of probity, capacity, and patriotism, uniting in the Commissary General of War, citizen Don Manuel Hermenegildo de Aguirre, I have appointed him agent of this Gov-

ernment near that of the United States of North America, granting to him the privileges, pre-eminences, and prerogatives which belong to the said title.

In pursuance whereof, I have given the present, signed by me, countersigned by my Secretary of State for the Department of the Government and Foreign Affairs, and sealed with the seal of the national arms. Given at Buenos Ayres, the 28th day of March, 1817.

J. M. DE PUEYRREDON.

GREGORIO TAGLE,

*Minister of State.*

## No. 7.

*Don Bernardo O'Higgins to the President of the United States.*

SANTIAGO, IN CHILI, April 1, 1817.

MOST EXCELLENT SIR: The beautiful kingdom of Chili having been re-established on the 12th of February last by the army of the United Provinces of Rio de la Plata, under the command of the brave General Don José de St. Martin, and the supreme direction of the State being conferred on me by the choice of the people, it becomes my duty to announce to the world the new asylum which these countries offer to the industry and friendship of the citizens of all nations of the globe.

The inhabitants of Chili, having thus reassumed their natural rights, will not hereafter submit to be despoiled of their just prerogatives, nor tolerate the sordid and pernicious policy of the Spanish Cabinet. In its numerous population, and the riches of its soil, Chili presents the basis of a solid and durable power, to which the independence of this precious portion of the New World will give the fullest security. The knowledge and resources of the neighboring nation of Peru, which has resolved to support our emancipation, encourage the hope of the future prosperity of these regions, and of the establishment, on liberal grounds, of a commercial and political intercourse with all nations. If the cause of humanity interests the feelings of your Excellency and the identity of the principles of our present contest with those which formerly prompted the United States to assert their independence disposes your Government and people favorable towards our cause, your Excellency will always find me most earnestly desirous of promoting the commercial and friendly relations of the two countries, and of removing every obstacle to the establishment of the most perfect harmony and good understanding.

God preserve you many years.

BERNARDO O'HIGGINS.

## No. 8.

*Translation of a letter from the Supreme Director Pueyrredon to the President of the United States, dated*

APRIL 28, 1817.

When the interests of sound policy are in accord with the principles of justice, nothing is

*Independence of the Spanish Provinces.*

more easy or more pleasing than the maintenance of harmony and good understanding between Powers which are connected by close relations. This seems to be exactly the case in which the United States and these provinces stand with respect to each other; a flattering situation, which gives the signal of our success, and forms our best apology.

It is on this occasion that citizen Don Manuel Hermenegildo de Aguirre, Commissary General of War, is deputed towards you in the character of the agent of this Government. If his recommendable qualities are the best pledge of the faithful discharge of his commission and of its favorable issue, the upright and generous sentiments of your Excellency are not less auspicious to it. The concurrence of these circumstances induces me to hope the most favorable results.

I trust, therefore, that your Excellency will be pleased to grant to the said citizen Aguirre all the protection and consideration required by his diplomatic rank and the actual state of our relations. This will be a new tie, by which the United States of the North will more effectually secure the gratitude and affection of the free provinces of the South.

PUEYRREDON.

## No. 9.

*Don José San Martín, General of the Army of the Andes, to the President of the United States.*

MOST EXCELLENT SIR: Charged by the Supreme Director of the provinces of South America with the command of the army of the Andes, Heaven crowned my forces with a victory on the 12th of February over the oppressors of the beautiful kingdom of Chili. The sacred rights of nature being restored to the inhabitants of this country by the influence of the national arms and the efficacious impulse of my Government, fortune has opened a favorable field to new enterprises, which secure the power of liberty and the ruin of the enemies of America. Towards securing and consolidating this object, the Supreme Director of the Government of Chili has considered, as a principal instrument, the armament in these States of a squadron destined to the Pacific ocean, which, united to the forces that are preparing in the river La Plata, may co-operate in sustaining the ulterior military operations of the army under my command in South America; and, convinced of the advantages which our actual political situation promises, I have crossed the Andes in order to concert in that capital, among other things, the guaranty of my Government, and, in compliance with the stipulations between the Supreme Director of Chili and its intimate ally, to carry into effect the plan which has been confided to Don Manuel Aguirre. Your Excellency, who enjoys the honor of presiding over a free people, who contended and shed their blood in a similar cause to that in which the inhabitants of South America are now engaged, will, I hope, deign to extend to the above-named person such protection as is compatible with the

actual relations of your Government; and I have the high satisfaction of assuring your Excellency that the arms of the country, under my orders, will not fail to give consistency and respect to the promises of both Governments.

I am happy in having this agreeable occasion to pay a tribute to your Excellency of the homage and profound respect with which I have the honor to be, your Excellency's most humble servant,

JOSE DE SAN MARTIN.

## No. 10.

*Don Caetano Bezares to the Secretary of State.*

PALACE OF THE GOVERNMENT,

Pampatar, May 22, 1817.

The Executive Department of the Confederate States of Venezuela has charged me to transmit to his Excellency the President of the United States, through your hands, the annexed copies of the act of the happy re-establishment of the Congress of Venezuela, the exercise of its powers, and other particulars therein contained.

Be pleased sir, to lay the whole before his Excellency, and assure him that this Government will have the highest satisfaction in communicating to him whatever may occur hereafter.

May Heaven preserve your life for the general good of mankind, and the prosperity of your Republic.

CAETANO BEZARES,

*Secretary of State ad interim.*

SECRETARY OF FOREIGN AFFAIRS, U. S.

## No. 11.

*The President of the United States of Venezuela to His Excellency the President of the Republic of the North, communicating the re-establishment of the Federative Government of the provinces of Costa Firme, (the Main.)*

FEDERAL PALACE, PAMPATAR,

May 21, 1817.—7th.

MOST EXCELLENT SIR: The fortune of arms, which decides the fate of empires, and a disastrous combination of circumstances well known to your Government, have interrupted the progress of this Republic, established by a proclamation of the 5th June, 1811, and occasioned the capitulation of the 26th July, 1812, entered into between the Commander-in-Chief of the patriot army, Francisco Miranda, and Don Domingo Monteverde, commander of the Spanish forces, which compact, shamefully violated in the end, has drawn on Venezuela the signal disasters this country has yet to deplore, and of which you have received information through citizens Scott and Lowry, who were eye-witnesses of those events. This has been followed alternately by prosperous and adverse fortune, which this continent has experienced since the year 1812. To this date nothing more propitious has presented itself than the reinstatement of the Federative Government, which was brought about on the 8th of the present month in the city of San Felipe



*Independence of the Spanish Provinces.*

de Carico, within the jurisdiction of the State of Cumana, by the legal proceedings, which your Excellency may perceive by reference to the official documents which, in the name of the Executive department, I have the honor of forwarding to you. And I have to assure your Excellency that, having wrested Venezuela from the hands of the enemies of her liberty and independence in almost every part of the seven provinces of the Confederation, she desires nothing more earnestly than to extend her relations with her brethren of North America, identified as they are by nature, and by political and republican principles, with the great family of the South.

Venezuela, at the first period of its emancipation, deputed to your Republic two of its citizens, John Vicente Bolivar and Talisfero Orea, both furnished with credentials and competent powers to transact all business, and who had it expressly in charge to assure your Excellency of the ardent wishes of the people of Venezuela to make such arrangements as would conduce to the happiness of both nations. The state of affairs in Europe at that period retarded the success which Caracas promised herself by the acknowledgment of her independence by the Republic of the North; but a change having taken place, and a sentiment favorable to our cause extended throughout the continent of Colombia, the Government of this people, whom I represent, does not doubt that your Excellency, taking into consideration the mutual interests which we propose, will give your concurrence, in as far as depends on yourself, towards the establishment of diplomatic arrangements and stipulations, which citizen Joseph Cortes Madariaga has it in charge to open; and, being assured of the noble qualities attached to your Excellency, I flatter myself that our negotiations will be speedily concluded.

The Executive Department has the honor to tender to your Excellency the homage of this Republic, and the high consideration and respect with which, in its name, I remain

Your Excellency's most obedient servant,  
FRSO. XAVIER DE MAYS,  
*President pro tempore.*

CITY OF SAN FELIPE DE CARIACO,  
May 8, 1817.

His Excellency General Santiago Marino, second in command of the Republic, having by note called upon the following persons to assemble in a meeting, namely, his Excellency Admiral Luis Brion, commander of the naval forces, the Intendant General Antonio Zea, Joseph Cortes Madariaga, canon of the holy church of Caraccas, Jacobo Xavier Mays, who acted as president of the executive department at the time of the recess of the Congress of Venezuela, Francisco Xavier de Alcala, Diego Valenilla, Diego Antonio Alcala, Manuel Ysaba, Francisco de Paula Naval, Diego Bautista Urbanesa, and Manuel Maneyro, he thus addressed them:

Citizens: Never have I experienced greater satisfaction than on the present occasion, in seeing

you truly reunited to deliberate on the most proper measures to be adopted for the safety of our country, under such extraordinary political events, which have induced our illustrious compatriot, José Cortes Madariaga, to attend as supreme chief, in whose name, and at whose request, I have the honor of addressing you as second in command.

The above honorable citizen, José Cortes Madariaga, here present, will explain to you his sentiments and reasons; that you will be able to judge for yourselves whether they be not of such weight as to induce you to institute immediately a provincial Government, without calling together deputies, whose election cannot be effected soon enough, in consequence of the state of commotion and war in which our country is placed.

No one can be ignorant that, in all its reverses, our Republic has not had a firmer supporter or a warmer friend than our incomparable patriot and citizen General Simon Bolivar, all whose designs have been directed to the re-establishment of the representative Government, which the people had fixed upon as their fundamental constitution, but vested with more energy, force, and unity. This has been his most ardent desire, and the object for which he has twice convoked the Congress; the assembling of which, as I have before observed, has been retarded by political machinations and military commotions. But, in consequence of the extraordinary circumstances above alluded to, I have thought proper to do, in the name and at the instance of the supreme chief, what would be done by him if present; and that is, to propose a provisional Government, conformable to the constitution decreed by the Congress of Venezuela. Whilst the deputies to the new Congress are reassembling, he will proceed to make such reforms and modifications as may be deemed necessary in our political institutions. It is on this subject I wish to obtain your sentiments and advice, after hearing citizen Cortes.

Citizen Cortes followed, and observed:

That, animated by sentiments of friendship and attachment towards the South Venezuelans, and their noble compatriots, particularly since the year 1812, he should pass over the series of reverses, in the course of which a multitude of persons, of all ages, sexes, and professions, who, by their numbers, virtues, valor, and wisdom, aggrandized the States of the Confederacy, had been swept away by the calamities of an exterminating warfare, declared and carried on against us by our enemies; and having heard, through the most respectable channel, of the public expression, that the time had arrived when South America should arise, in all its dignity, and declare itself in the face of the world, he had taken a considerable journey, and repaired to this continent from the Windward islands, for the express purpose of imparting to his fellow-citizens the favorable tidings which led him to hope that Venezuela will be included in the common prosperity of South America within the present year; and, by means of its exterior relations, contribute to the inspiring of confidence, and establishing its eman-

*Independence of the Spanish Provinces.*

cipation on a solid and permanent basis, worthy of this precious portion of the globe. He declared, moreover, that he abstained, through delicacy, from making, on this occasion, certain other reflections of great importance, which he had communicated in his official correspondence with the supreme chief of the republic to General Marino, second in command, and to the admiral of the squadron; and being convinced of their weight and importance, the two latter gentlemen had given proofs of the respect with which they had received his communications. Referring himself to the president as to their contents, he concluded by recommending anew the imperious necessity of the measure, and called for the prompt establishment of the Government.

The Admiral next addressed the assembly in the following manner:

*Fellow-citizens and brothers:*

Nothing has filled with greater pleasure an adopted son of Venezuela than the presence of this respectable assembly, called together by the second in command, who is vested with the powers of the first, on a subject so important to the salvation of our country; his name from this day will be immortalized, having complied with the wishes of the sovereign people of Venezuela, and fulfilled those of our sovereign chief. I felicitate you, brothers, on so wise a step, and I have the satisfaction of announcing to you, for your own, that the sacrifices which I have made to this day in the service of my country, are nothing in comparison to what I pledge myself to consecrate to it henceforward; convinced as I am that a Government, stable and energetic, by supporting our own force, will likewise induce our foreign friends to extend to us the hand of friendship, and contribute to the maintenance of our liberty and independence. They are already well disposed. They are acquainted with the integrity of my principles. They know that I have not shrunk from any fatigues or exertions in the cause of Venezuela; and, with the aid of the squadron under my command, they only wait to co-operate with your virtue, union, and wisdom, in consolidating the republic and increasing its respectability.

All of the speakers were of a unanimous opinion on the subject proposed, and demonstrated, with great energy, the necessity of immediately establishing the provisional Government proposed by his Excellency; applauding, at the same time, his patriotic determination, and adding, that he would do immortal honor to the republic if he would immediately consent to be installed, and that they should re-establish, as well as circumstances would admit of, the Government of the constitution. They urged, by many important arguments, the political considerations which had rendered this measure indispensable and urgent; and showed, by the most solid reasoning and conclusive references, that the measure was conformable to the unanimous voice of the people, to the upright and well-known wishes of the supreme chief, and to the interests of mankind.

The President then rose, and observed:

Approving as I do of your resolution, and believing it to be conformable to the patriotic views of the supreme chief, and to the sentiments which he has so often expressed in all his proclamations, I declare, in the presence of the Supreme Being and of the people of Venezuela, whom you represent, that the Supreme Congress of the republic is, from this moment, installed; and I resign into your hands the supreme authority, which, by the act passed at Margarita, was conferred, in the first instance, on General Simon Bolivar, and by him on me, acting in his and my own name, in virtue of the republican principles which we both possess, and which equally animate all our friends and companions in arms, who have with so much valor and glory defended the holy cause of liberty and independence. I retire, that you may freely deliberate on what may be most conducive to the safety of the State, requesting you only to hold in mind that my highest ambition is to shed my blood in combatting for the independence of my country, and that I do not aspire to or desire any higher honor from the republic than to contribute, in favor of my friends and fellow-citizens, to the establishment of the blessings of liberty.

His Excellency, being in the act of withdrawing from the assembly, accompanied by the Admiral, Intendant, and the canon Cortes, called upon the officer of the guard, and ordered him to place himself at the disposal of the Congress, the senior member of which proceeded to occupy the seat of the President, and, all the members standing, the oath prescribed by the Federal Constitution, according to the form therein laid down, was administered to them by the citizen and Secretary Diego Bautista Urbanesa, qualified for that purpose. They then entered into a discussion on the various points relating to the object for which the assembly was called, and, after deliberating and agreeing unanimously on all of them—

The citizen President read the following act:

CITY OF SAN FELIPE DE CARIACO,  
On the 8th day of May, 1817.

We, the representatives of the United States of Venezuela, Francisco Xavier Mays, deputy to the Federal Congress for the State of Cumana, a member of the executive department, and President of the same (in rotation) at the time of its recess at Valencia, on the 9th of May, 1812, Francisco Xavier de Alcala, Manuel Ysaba, Diego Valenilla, Francisco de Paula Naval, Diego Antonio Alcala, Diego Bautista Urbanesa, and Manuel Maneyro.

On mature deliberation, and with a free will, formally decree: That, from this time, we resume the constitutional character and representation, in the full and absolute possession of which we have been reinstated by the distinguished General Santiago Marino, in the name of the supreme chief of the republic, the meritorious citizen Simon Bolivar, and in his own person, as second chief of the State, and, consequently, at this moment holding in his hands the reins of govern-



*Independence of the Spanish Provinces.*

ment; and we make known to all the people of the Confederacy, and call upon the Supreme Being to witness the purity of our intentions, that, from this date, the Federal Government of the republic is reinstated in its three departments, Legislative, Executive, and Judicial, for the requisite despatch of all business to them respectively appertaining; and we therefore appoint, for the administration of the Executive Government, Citizen General Ferdinand del Toro, citizen Francisco Xavier Mays, who were heretofore members of the said department; also, citizens General Simon Bolivar, Francisco Zea, José Cortes Madariaga, and Diego Valenilla; it being understood that the three latter shall exercise the power only *ad interim*, until the honorable citizens Toro and Bolivar, now absent, shall repair to such city as may be designated for the residence of the Government. To the judicial department we appoint citizens Juan Martinez, José Espana, Gaspar Marciano, and Ramon Cadiz; the latter for the judicial administration.

And as, in consequence of the weighty and momentous considerations which have determined our most excellent fellow-citizens now acting as chiefs *ad interim* of the Republic, to divest themselves of the attributes of administration, and restore them, through the medium of the Government, reinstated by the indefatigable zeal of both for the salvation of the country, which has thus recovered its political rank, it is necessary that a new oath should be administered to the functionaries and authorities, both civil and military, of the departments that have regained their liberty, and successively of those which shall regain it; and be, in forthwith with those of this city, I name, and appoint to-morrow morning at nine o'clock for them to take the said oath before us; and that proper orders to all public functionaries, absent in foreign countries, be given to present themselves, within the space of thirty days, in the city of Annunciation, the capital of the State of Margarita, which, under existing circumstances, being most conveniently situated, and of the most easy and free access, we name, for the present, the residence of the Federal Government, with the facility of removing the same to any other capital on the continent which may appear most convenient. And if it shall be made to appear that the said public functionaries shall, without just and lawful motives, fail to comply with this summons, they shall, by that act itself, be understood as having forfeited their rights of citizenship, and, consequently, every civil and military right in the Republic.

We finally implore the mercy of the Most High, in the humble hope that he will vouchsafe to protect us; and we solemnly declare, in his presence, and that of all the people of the earth, that the sole object of our unremitting endeavors is to preserve in the enjoyment of peace and liberty the virtuous remains of the great Venezuelan family, saved by the special interposition of his adorable goodness, from the savage fury and destruction of despotism; protesting before him, that our determination is sooner to bury

ourselves under the ruins of the Republic, than to return to the slavery and chains we have endured for three centuries, which, after the bright example of our brethren of Colombia, we have broken forever. And be it known to all, that we, the representatives who have hereunto subscribed, are firmly resolved, and do solemnly promise and engage, by all the most sacred obligations which bind in one, both politically and morally, to seal with our blood this our patriotic resolution.

That this act, together with the requisite exposition of the motives which have produced it, be communicated to General Simon Bolivar; and that he be invited, so soon as his military duties will permit, to come and take possession of a station in which he will not fail to render the Republic immortal services, and worthy of his name. That certified copies of this act be transmitted to all the chief officers of the departments, both civil and military; and that the Commander-in-Chief of the Army, and the admiral of the squadron, be notified of the result of the proceedings of the Federal Assembly, that they may concur with the Executive power in taking the oath, and communicating its orders, to the end that the said oath be taken both by the Army and Navy. That it be publicly proclaimed in this city, and all the towns of the federation, and that, by public festivals and rejoicings, the general joy be manifested on the restoration of the national sovereignty under a formal constitution, which, being tempered and modified agreeably to the lights of the age and the lessons of experience, will be the safeguard of our independence and liberty.

Whereupon the sitting closed, and they signed, namely: Francisco Xavier de Mays, President; Manuel Ysaba, Diego de Valenilla, Francisco Xavier Alcala, Diego Antonio Alcala, Francisco de Paula Naval, Manuel Maneyro, Diego Bautista Urbanesa, secretary, with the power of taking the votes.

In the city of San Felipe de Cariaco, this 9th day of May, 1817, the Federal Congress having thus re-assembled, there appeared before it the citizens, the Commander-in-chief of the armies of the Republic, and commander of the armed force, Santiago Marino, and Admiral Luis Brion, who, having taken the oath before the President, and me, the aforesaid Secretary, agreeably to the form prescribed by the federal Constitution of Venezuela, recognised and acknowledged the sovereign authority vested in this body, and other authorities derived from it, promising and engaging to obey and support the federative compact expressed and set forth in the said code. In like manner, the citizen Francisco Xavier Mays withdrawing from the Presidential chair, and the citizen Francisco Xavier Alcala occupying it in his place, the oath was taken in the same form by the three members who are to enter into the discharge of the Executive power, namely, citizen Francisco Xavier Mays, Francisco Antonio Zea, and José Cortes Madariaga, who were thereupon invested with the functions attached to their high office (the two latter in the quality of provisional members) until the appearance of the

*Independence of the Spanish Provinces.*

Generals Bolivar and Toro. And the Assembly having verified this act, and taken into consideration the existing circumstances, declared itself in a state of adjournment, to which the following members subscribed their signatures: Francisco Xavier de Mays, Francisco Antonio Zea, José Cortes Madariaga, Santiago Marino, Luis Brion, Francisco Xavier Alcala, Diego Valenilla, Manuel Ysaba, Diego Antonio Alcala, Francisco de Paula Naval, Manuel Maneyro, Diego Bautista Urbanesa, (*vocal secretario*) Secretary authorized to take the votes.

A true copy:  
C. BESARES, Acting Sec. of State.

## No. 12.

General Artigas to James Monroe, President of the United States of North America.

HEADQUARTERS AT PURIFICATION,  
September 1, 1817.

MOST EXCELLENT SIR: I had the honor to communicate, in the first instance, with Mr. Thomas Lloyd Halsey, Consul of the United States in these provinces, and I have to congratulate myself on so fortunate an incident. I have tendered to him my respects and all my services; and I will avail myself of this favorable occasion of presenting to your Excellency my most cordial respect.

The various events of the revolution have hitherto deprived me of the opportunity of according this duty with my wishes. I pray your Excellency to be pleased to accept them, now that I have the honor to offer them to you, with the same sincerity that I strive to promote the public weal and the glory of the Republic. To their support are all my efforts directed, aided by the sacrifices of thousands of my fellow-citizens. Heaven grant our wishes!

In that event I shall renew to your Excellency, still more warmly, the assurance of my cordial regard, and of the high consideration with which I have the honor to be, sir, yours, &c.

JOSE ARTIGAS.

## No. 13.

Mr. Aguirre to the President of the United States of North America.

WASHINGTON, Oct. 29, 1817.

MOST EXCELLENT SIR: Three centuries of colonial oppression by a corrupt, superstitious, and ignorant nation, whose obstinate and iniquitous policy ever has been to vilify the inhabitants of South America, as being destined to vegetate in obscurity and debasement; (such are the expressions of the Viceroy Albancos;) the violent system of keeping them in ignorance of all information in compatible with its principles of colonial dependence; the perverse policy of denying to the children of the mother country, and their lawful descendants on the American continent, the rights of citizens in the exercise of a practical equality; the exclusive monopoly of commerce despotically exercised, regulated by the laws solely in favor of

15th CON. 1st SESS.—60

the mother country, and maintained by force at the price of the blood of innocent victims, natives of the country; the black ingratitude with which it has conducted itself towards the capital of Buenos Ayres, after having so gallantly and energetically defended the Spanish dominion against the English army under General Beresford in 1806, and the army of 12,000 men of the same nation, commanded by General Whitelock in 1807; finally, the infamous engagement to force them, against their consent, to submit to the yoke which the Emperor Napoleon (an instrument, as it were, of divine justice for the chastisement of thrones) imposed upon Spain, to avenge the bloody usurpations of the Empires of Mexico and Peru, prepared these people, on the 25th of May, 1810, for their separation from the Spanish nation, already conquered by the French, not to admit the additional circumstance that the inhabitants of these provinces preserved them for the captive King Don Ferdinand VII. and his lawful successors.

On the restoration of the King of Spain to his throne, a sufficient time was afforded to give him the opportunity of correcting his counsels, stating the grievances and injuries he complained of, and finally of proposing an honorable termination of these differences. Although the deputy had not yet arrived at the Court of Madrid, the King had already despatched his inexorable and bloody decrees; and the expedition under General Morillo crossed the seas to wage a war of devastation on these countries. The natural right of self-defence imposed the necessity of taking measures to repel force by force. Hostile armies were the worst means which could be employed to bring about an accommodation.

When the deputy of the Court of Madrid informed this Government that the King of Spain insisted on leaving no other alternative than the most abject submission, and that he claimed these provinces as the property of his crown, (doubtless to make them the victims to Spanish vengeance,) then it was that the sovereign Congress of these provinces having assembled did, in imitation of the example of their brethren and natural friends of North America, unanimously proclaim, in the city of Tucuman, on the 9th day of July, 1816, the solemn act of their civil independence of the Spanish nation, of the King of Spain, his heirs and successors, and did swear, together with the people represented by them, to support their political emancipation at the risk of their lives, fortunes, and honor.

God preserve your Excellency many years.  
MANUEL H. DE AGUIRRE.

## No. 14.

Don Manuel H. de Aguirre to the Secretary of State.

CITY OF WASHINGTON,  
December 16, 1817.

MOST EXCELLENT SIR: Having had the honor to inform you in October last, that the United Provinces in South America had declared themselves free and independent States, and to lay be-



*Independence of the Spanish Provinces.*

fore you the reasons which supported that declaration, together with the object and credentials of my mission to the Government of the United States; the respect I owe to the instructions of my constituents, and the due discharge of the trust with which they have honored me, now induce me to demand of this Government the acknowledgment of those provinces as such free and independent States.

By my previous communications, you will have perceived that this declaration was not premature, and that the provinces of Rio de la Plata abstained from making it whilst it could have been attributed to the effect of the difficulties of the mother country. They held so lofty a conception to be among the obligations which they were about to contract on placing themselves in the rank of nations; and, before they cut short the interminable catalogue of vexatious and patient sufferings of which Spanish America offers so striking an example, they preferred exhausting all the means of conciliation which prudence could suggest, and proving whether their own conviction of their rights, and of the injuries they had suffered, would rise superior to their ancient habit of submission and obedience, and whether they were able to surmount the obstacles and embarrassments inseparable from their new situation. It was after repeated proofs of this kind, and after uniform results, that the Congress of those provinces declared them sovereign States, on the 9th of July, 1816.

Notwithstanding all these proofs and precautions, the respect due to foreign nations made my Government anxious farther to obtain an attitude which might inspire greater confidence before it asked of them to acknowledge her as worthy of the high rank to which she had raised herself. During the space of six years previous to their declaration of independence, the forces of these provinces had obtained signal successes on the eastern border, having captured the whole of the royal squadron which attacked them; reduced one of the strongest places in our hemisphere, after a memorable siege, and made prisoners of war the strong garrison which defended it; and if victory was not always the inseparable companion of our arms in Peru, it was often so, and enabled us to drive back the satellites of tyranny to a greater distance from our territories.

Almost eighteen months have passed since this declaration—eighteen months, during which the King's forces have had no other object in view than to rivet anew the chains which Spanish America had burst asunder and shaken off. If such an undertaking had been within the power of Spain, she never could have had a more favorable opportunity than at present, when she has had at her disposal, disengaged from any other calls of service, an army numerous and warlike, and the aids of all who interest themselves in perpetuating the monopoly and subjection of our country. It is true that Spain proceeded to fit out an expedition the most brilliant that was ever employed in the subjugation of our continent; but this expedition, although repeatedly re-

inforced, has scarcely been able to maintain its ground with honor in a single province; consumed as it has been by the dreadful phenomena of nature, and, above all, by a six years' war of the most sanguinary and exasperated character; while the provinces of Rio de la Plata have not only been able, during all that time, to preserve the precious treasure of their liberty, but to bestow it, without foreign aid, on their brethren of Chili, and to force the King's troops to retire towards Peru, which, having been reinforced by fresh detachments, had ventured to show themselves on our territory. It is under such circumstances, it is after having shown and proven the grounds and motives of its declaration, and the means it possesses to support it, that my Government has thought it conformable to the respect due to nations to make it known to them, and to solicit their acknowledgment of its sovereignty.

My Government, considering that of the United States as one of the first of whom it ought to solicit this acknowledgment, believed that the identity of political principles, the consideration of their inhabiting the same hemisphere, and the sympathy so natural to those who have experienced similar evils, would be so many additional reasons in support of its anxiety. There still exist, there still preside over the councils of the nation, many of those who supported and sealed here with their blood the rights of man; their wounds, permit me to say so, are so many powerful advocates here for the Spanish Americans. The recollection that it was these States which first pointed out to us the path of glory, and the evidence that they are enjoying most fully the blessed effects of liberty, inspire me with the conviction that it is for them also to show that they know how to appreciate our efforts, and thereby animate the other provinces which, less fortunate, have not yet been able to put an end to the sanguinary struggle.

I cannot close this communication without requesting you to make known to the President the wishes of the United Provinces in South America; and, also, to represent to him their earnest desire to see firmly established, between these States and those provinces, relations mutually beneficial, suited to Governments and people whose institutions are so analogous, and all whose interests invite them to promote and maintain a close and permanent friendship.

God preserve you many years.

MANUEL H. DE AGUIRRE.

No. 15.

Don Manuel H. de Aguirre to the Secretary of State.

DECEMBER 26, 1817.

SIR: I had the honor to inform you, on the 16th of this month, that the United Provinces of South America, having declared themselves free and independent, had made a request to be considered as such by these United States; and, as you expressed a desire, in the conference with which you honored me the day before yesterday, to be more fully informed of the grounds on

*Independence of the Spanish Provinces.*

which those provinces formed their request, I now comply with your desire.

In my said note I particularly stated the circumspection with which my Government had proceeded, and the precautions it had taken from a sense of its own honor, and the respect due to other nations, before it required to be considered by them as a sovereign Power. You were pleased to remark on the uncertainty of establishing a new Government, and the hesitation naturally produced by such a request; and you preferred that it should be delayed, or not made until all doubt was removed of the real existence and duration of their sovereignty, and they have given a pledge to foreign nations that there existed no intention to commit them by making this request.

For more than seven years have these provinces carried on, alone, an active and successful war. The evidences of their successes have been witnessed in the capture of the royal squadron, the occupation of Montevideo, the numerous prisoners of war who fertilize our fields, the chastisement of the King's forces in Peru, and the recovery of the provinces of Chili. Meanwhile, our interior organization has been progressively improving. Our people have made an essay in the science of government, and have appointed a congress of representatives, which is engaged in promoting the general weal. A plan of military defence has been formed, in which we were before deficient, and a system of revenue organized that has hitherto been competent to provide for our numerous wants; finally, public opinion is daily gaining ground, unsupported by which the Government would have been unable to undertake the enterprises which have distinguished it.

The strength of our oppressors diminishing with the increase of our means of defence, their hopes declining of longer tyrannizing over us, a regular system of government, the decision of our citizens, a competent revenue, an organized force sufficiently strong for the defence of the country, a squadron afloat, a disposable army in Chili, and a second operating in Peru—all this must surely undeceive our enemies, even if the habit of authority should still flatter them with hopes.

Notwithstanding the professions of neutrality on the part of the United States, towards the contending parties in Spanish America; notwithstanding the indifference, if I may say so, with which the United States have looked on a country deluged with blood by its tyrants, I would not offend you, sir, by the idea that you consider it necessary that we should offer proofs of the justice of our cause. The few of our sufferers that have come to the knowledge of foreign nations have filled them with horror and indignation; never was the human race so debased elsewhere as we have been; never did men draw their swords in a more sacred cause. But the provinces of Rio de la Plata mean not to excite the sensibility of the United States. They only call upon their justice. The contest

in South America can be viewed in no other light than as a civil war; and I have proven to you, sir, the prosperous and respectable attitude of those provinces. Are they, then, to be thought worthy of being ranked among nations? Do their full enjoyment of all the rights of sovereignty for more than seven years, their successes, and present position, give them a right to become one?

The apprehension that this acknowledgment might involve the United States in a war with the chief of the adverse party could not be justly considered by my Government as a sufficient motive to prevent their soliciting it; since, however little of justice or prudence may be found in the councils of the King of Spain, even that would suffice to prove that other nations have distinct and fixed rules whereby to estimate political successes: that, practically, they acknowledge no other sovereign power than that which is *so de facto*; that they can inquire no further without interfering with the internal concerns of other nations; and that, when a nation is divided into two parties, or the bonds of the political compact between the monarch and the people happen to be otherwise broken, they both have equal rights, and owe the same obligations to neutral nations. It follows, therefore, that the contending parties in Spanish America are not subjected to different rules.

If these rules may sometimes be varied, or admit of any alteration, the exception should always be in favor of the oppressed against the oppressor. It is therefore strongly contended by many of the most celebrated civilians, "that in all revolutions produced by the tyranny of the prince, foreign nations have a right to assist an oppressed people;" a right dictated by justice and generosity. Now it cannot be supposed that the observance of justice ever gave a pretext for war to the party or nation most interested in a different conduct. Since, therefore, my Government has limited its pretensions to the acknowledgment of its real and effective sovereignty, which even our adversary himself would not call in question, it considers itself authorized to take this step, by the practice of nations, by public opinion, and the sanction of eternal justice.

In our late conference, you appeared to find an objection in the occupation of Montevideo by the Portuguese troops. But if credit is to be given to the correspondence between my Government and that of Brazil, the principal motive for this war is the ancient pretension of the King of Brazil to more extensive limits. It will probably be impossible for him to obtain them, as one of our most distinguished commanders, supported by the most ample resources, is now engaged in repelling them; and notwithstanding the double family ties which now connect that Sovereign with the King of Spain, our national existence, so far from being seriously threatened by the war in that quarter, [La Banda Oriental,] is strengthened by it. You also remarked, that similar pretensions had been formed by other provinces of Spanish America now contending



for their liberties. Would to Heaven that they all could now offer to this Government the same proof of their effective sovereignty, and equal pledges of their respective preponderating power! Humanity would then have much fewer evils to deplore, and all America would exhibit a united people, only rivalling with each other in the art of improving their civil institutions, and extending the blessings and enjoyment of social order.

When I contemplate the distinguished part the United States may take in realizing this grand enterprise, and consider how much it is in their power to hasten this happy period, only by giving an example of national justice, in acknowledging the independence of those Governments who so gloriously and by so many sacrifices have known how to obtain it, my reason persuades me that the wishes of the United Provinces cannot fail to be speedily accomplished.

I have the honor to renew to you, sir, the assurances of my highest consideration, and pray God to preserve you many years.

MANUEL H. DE AGUIRRE.

No. 16.

*Don Manuel H. de Aguirre to the Secretary of State.*  
CITY OF WASHINGTON, Dec. 29, 1817.

SIR: It is painful to me to trespass on your attention with complaints; but I should be wanting both to the trust committed to me by my Government, and my duty to my country, if, after being informed of the purport and effect of the law passed on the 3d of March last, for the more effectual preservation of the neutral relations of the United States, I did not represent to you that its effects bear hard only on those who are struggling for the independence of Spanish America.

By the law and usages of nations, neutrals are forbidden, if I am not mistaken, to afford any active aid to any of the contending parties; to sanction any law granting or refusing privileges to one, which are not at the same time effectually granted or refused to the other; and, in fine, to change their commercial or other regulations, so as to improve the condition of the one to the exclusion of the other.

If, on comparing the abovementioned law with this doctrine, and observing that whether we look to the time of its enactment or the period of its duration, it could only be applicable to the contest now carrying on in South America, we cannot but be surprised that it tends so directly to injure those who are defending themselves against the most horrible tyranny; and not only prohibits the irregularities arising from the deficiency of measures to preserve a strict neutrality, but also prohibits or subjects to bonds, amounting to a prohibition, the exportation of arms and ammunition, or any other mercantile operation which may be considered as calculated to aid, or in any manner to co-operate in, any measure of hostility.

If you permit me, sir, to point out the effect of that law upon those provinces which, although

engaged in the same cause with those of Rio de la Plata, are, notwithstanding, under distinct Governments, I would observe that their state of defence is much inferior to that of the enemy; that some of them, perhaps, have not the means of increasing it, if the nearest neutral nation shuts their markets against them; and that the law which subjects them to the impossibility, or increases the difficulty, of augmenting their means of defence, has a direct tendency to promote their subjugation. The unequal effects of this law are still more evident, if we consider that, while it immediately deprives several of those provinces of the most essential supplies, it allows their enemies to draw supplies from hence, without which their troops could not move a step. It cannot be possible that, in refusing all manner of aid to those who are engaged in our bloody struggle, the United States should so far restrict their commerce as to prohibit the exportation of provisions.

I shall abstain from calling your attention to consequences still more injurious, resulting from such a precedent; but I cannot avoid observing that the fourth section of the law in question is evidently favorable to the King of Spain exclusively, if we attend to the time and circumstances when it passed.

I confidently rely, sir, on your laying before the President the subject of the present complaint, which nothing but the necessity of the case has compelled me to make; and also on your submitting to him, that, in our present struggle, we not only defend the rights of mankind and the best interests of civilized society, but that we are contending for the preservation of our families and for our existence.

God preserve you many years.

MANUEL H. DE AGUIRRE.

No. 17.

*Don Manuel H. de Aguirre to the Secretary of State.*  
CITY OF WASHINGTON, Jan. 6, 1818.

SIR: In the last interview with which you honored me a few days ago, you were pleased to state that the act of the acknowledgment of the independence of the United Provinces in South America ought to be reduced to a formal treaty between the two independent Governments, as was practised in the case of the Treaty of Amity and Commerce between the United States and His Most Christian Majesty, in 1778.

Not considering myself, in truth, sufficiently authorized by my Government to treat with that of the United States, in special terms, I then had the honor to explain to you that my powers did not extend so far; but, keeping in view the spirit and object of my commission, (as appear by the credentials now in your possession,) namely, "to promote as far as may be the honor and consolidation of the cause in which these provinces are now engaged;" and, it appearing evident, on the other hand, to be the intention and desire of the said sovereign Congress closely to connect themselves by direct relations of mutual

friendship and commerce with these United States, I have not the least hesitation to assure you that I consider myself fully authorized by my Government to enter into a negotiation with that of the United States on the general basis of a reciprocal amity and commerce.

I have the honor to renew to you the assurances of the highest consideration, &c.

MANUEL H. DE AGUIRRE.

No. 18.

*Don Manuel H. de Aguirre to the Secretary of State.*  
WASHINGTON CITY, Jan. 16, 1818.

SIR: I had the honor, in my interview with you on the 13th of this month, to state to you the light in which the invasion of one of the United Provinces, by the troops of the King of Portugal, was viewed by my Government, thereby violating the neutrality which they had bound themselves to maintain conjointly with my Government. I likewise deemed it fit to inform you, that this act of invasion by a neutral nation, for the purpose of dismembering the integrity of the territory of Spanish America within its lawful limits, was considered by the councils of my Government as an act of hostility between the nations at variance, and that on this principle they had regulated their conduct towards the King of Portugal.

In the same conference, I had the satisfaction to represent to you that the trade and communication between the provinces of Rio de la Plata and the United States had no other basis than a decree of the Government of those provinces, by which a free trade is granted to foreign nations, in consequence of the imperious circumstances of the mother country in the years 1808 and 1809, and by which that Government reserved the right of limiting its duration, on the termination of the urgency of the case.

In the note which I previously had the honor to address you, I considered it my duty to express the sincere and earnest desire of my Government to establish reciprocal and close relations of amity and commerce with the United States; and you will now permit me to request you, sir, that, in making the President acquainted with these loyal sentiments, you will also inform him that it is equally its desire to establish a solid and lasting friendship, in order that the consequent predilection may have its full effect on the communication and trade between both countries.

Our Lord preserve you many years.

MANUEL H. DE AGUIRRE.

#### ILLEGAL ARMAMENTS—OCCUPATION OF AMELIA ISLAND.

[Communicated to Congress, March 14, and to the House of Representatives, March 26, 1818.]

To the Senate and House of Representatives of the United States:

In compliance with a resolution of the Senate of the 16th of December, and of the House of

Representatives of the 24th of February last, I lay before Congress a report of the Secretary of State, and the papers referred to in it, respecting the negotiation with the Government of Spain. To explain fully the nature of the differences between the United States and Spain, and the conduct of the parties, it has been found necessary to go back to an early epoch. The recent correspondence, with the documents accompanying it, will give a full view of the whole subject, and place the conduct of the United States, in every stage and under every circumstance, for justice, moderation, and a firm adherence to their rights, on the high and honorable ground which it has invariably sustained.

JAMES MONROE.

MARCH 14, 1818.

DEPARTMENT OF STATE, March 14, 1818.

The Secretary of State, to whom have been referred the resolutions of the Senate of the 16th of December, and of the House of Representatives of 24th February last, has the honor of submitting to the President the correspondence between this department and the Spanish Minister residing there, since he received the last instructions of his Government to renew the negotiation, which, at the time of the last communication to Congress, was suspended by the insufficiency of his powers. These documents will show the present state of the relations between the two Governments.

As in the remonstrance by Mr. de Onis, of the 6th of December, against the occupation by the United States of Amelia Island, he refers to a previous communication from him, denouncing the expedition of Sir Gregor McGregor against that place, his note of 6th July, being the paper thus referred to, is added to the papers now transmitted. Its date, when compared with that of the occupation of Amelia by McGregor, will show that it was written ten days after that event; and the contents of his note of 6th December will show that measures had been taken by the competent authorities of the United States to arrest McGregor as soon as the unlawfulness of his proceedings within our jurisdiction had been made known to them by legal evidence, although he was beyond the reach of the process before it could be served upon his person. The tardiness of Mr. Onis's remonstrance is of itself a decisive vindication of the magistrates of the United States against any imputation of neglect to enforce the laws; for if the Spanish Minister himself had no evidence of the project of McGregor, sufficient to warrant him in addressing a note upon the subject to this department, until ten days after it had been accomplished, it cannot be supposed that officers whose authority to act commenced only at the moment of the actual violation of the laws, and who could be justified only by clear and explicit evidence of the facts in proof of such violation, should have been apprized of the necessity of their interposition, in time to make it effectual, before the person accused had departed from this country.



*Illegal Armaments—Amelia Island.*

As in the recent discussions between Mr. Onís and this department there is frequent reference to those of the negotiation at Aranjuez in 1805, the correspondence between the extraordinary mission of the United States at that period and Don Pedro Cevallos, then the Minister of Foreign Affairs in Spain, will be also submitted as soon as may be, to be laid before Congress; together with the correspondence between Don Francisco Pizarro and Mr. Erving immediately preceding the transmission of new instructions to Mr. Onís, and other correspondence of Mr. Onís with this department, tending to complete the view of the relations between the two countries.

JOHN QUINCY ADAMS.

MARCH 25, 1818.

To the House of Representatives of the United States:

I transmit to the House of Representatives, in compliance with their resolution of March the 20th, such information, not heretofore communicated, as is in the possession of the Executive, relating to the occupation of Amelia Island. If any doubt had before existed of the improper conduct of the persons who authorized, and of those who were engaged in, the invasion and previous occupancy of that island, of the unfriendly spirit towards the United States with which it was commenced, and prosecuted, and of its injurious effect on their highest interests, particularly by its tendency to compromise them with foreign Powers in all the unwarrantable acts of the adventurers, it is presumed that these documents would remove it. It appears by the letter of Mr. Pazos, agent of Commodore Aury, that the project of seizing the Floridas was formed and executed at a time when it was understood that Spain had resolved to cede them to the United States, and to prevent such cession from taking effect. The whole proceeding, in every stage and circumstance, was unlawful. The commission to General McGregor was granted at Philadelphia, in direct violation of a positive law; and all the measures pursued under it by him, in collecting his force and directing its movements, were equally unlawful. With the conduct of these persons I have always been unwilling to connect any of the colonial Governments, because I never could believe that they had given their sanction either to the project in its origin, or to the measures which were pursued in the execution of it. These documents confirm the opinion which I have invariably entertained and expressed in their favor.

JAMES MONROE.

Don Luis de Onís to the Secretary of State.

WASHINGTON, January 2, 1817.

SIR: The mischiefs resulting from the toleration of the armament of privateers in the ports of this Union, and of bringing into them, with impunity, the plunder made by these privateers on the Spanish trade, for the purpose of distributing it among those merchants who have no scruple in engaging in these piracies, have risen to such

a height, that I should be wanting in my duty if I omitted to call your attention again to this very important subject.

It is notorious that, although the speculative system of fitting out privateers and putting them under a foreign flag, one disavowed by all nations, for the purpose of destroying the Spanish commerce, has been more or less pursued in all the ports of the Union, it is more especially in those of New Orleans and Baltimore, where the greatest violations of the respect due to a friendly nation, and, if I may say so, of that due to themselves, have been committed: whole squadrons of pirates having been [fitted] out from thence, in violation of the solemn treaty existing between the two nations, and bringing back to them the fruits of their piracies, without being yet checked in these courses, either by the reclamations I have made, those of His Majesty's consuls, or the decisive and judicious orders issued by the President for that purpose.

The American privateer "Swift," which, as I mentioned to you in my note of the day before yesterday, had captured, under the name of the "Mongore," and the flag of Buenos Ayres, the Spanish polacre "Pastora," just arrived at New Bedford, is now in Baltimore river; and her captain, James Barnes, who has so scandalously violated the laws of nations, the neutrality of this Government, and the existing treaty, has had the effrontery to make a regular entry of his vessel at the custom-house of Baltimore, declaring his cargo to consist of bales and packages containing silks, laces, velvets, and other valuable articles—all, as you may suppose, plundered from the Spaniards.

The three-masted schooner called the "Intrepid," lately arrived at New York from Montevideo, is, as His Majesty's Consul there informs me, the Spanish vessel called the "Leona," captured off Cadiz by the schooner "Orb," of Baltimore, whose armament I denounced to you at the time, and communicated the positive information I had received that her object was to cruise against the subjects of the King, my master. This pirate (for that is the name by which both nations have agreed to consider a privateer of this description) was armed at Baltimore, manned by subjects of this Republic, and commanded by a Portuguese called Almeyda, an American citizen.

The schooner "Leona," now at New York, under the name of the "Intrepid," and ostensibly owned by one Miffin, at Philadelphia, had on board, when captured, thirty thousand dollars in specie, three hundred boxes of sugar, some grain, with other property belonging to Moreno, De Moro, and others, merchants at Cadiz; and had a cargo of jerked beef and other articles, belonging, as I have heard, to the merchants in Baltimore who furnished the funds for equipping the "Orb."

The Consul at New Orleans informs me that the pirate Mitchell, with the vessels under his command, fitted out by different merchants at that port, of whom a Mr. Dupuy is supposed to be the principal, has lately taken several Spanish

*Illegal Armaments—Amelia Island.*

prizes to Galveston, and that, from the proceeds of their sales, he has remitted to the said deputies one hundred and five thousand dollars, which he has deposited in the Bank of Louisiana, after deducting the shares of the captain and crew, amounting, as is supposed, altogether, to two hundred thousand dollars. The same Consul adds, that two of the prizes, one from Campeachy and the other from Guatemala, were burnt, and their crews landed by that savage monster near Boquilla de Piedras, that they might be, as they actually were, put to death by his great friend Villapinto, a noted rebel ringleader, who, being pursued by the King's troops, had retreated to the seashore to make his escape. Of ninety men, composing these crews, only nine were saved.

The Consul at Norfolk informs me of the arrival there of a privateer schooner from Buenos Ayres, one of several fitted out at Baltimore, and wholly owned there; that, from what he has been able to ascertain, among other vessels, she plundered a Spanish ship laden with a cargo of cochineal, indigo, and specie, to the amount of more than two hundred thousand dollars, and proceeded to Baltimore to divide the spoil among the concerned. The said Consul, in the discharge of his duty, and the exercise of his rights, addressed an application to the collector of the customs, (copy of which is annexed, and also of the answer of the collector,) by which you will perceive that he declines this just reclamation. I could cite innumerable other cases, as well attested as those I have just stated, but I omit them, as their detail would fatigue you, without tending to demonstrate more effectually that they proceed from non-observance by the officers of this Government of the President's proclamation, and of the treaty of limits and navigation between the two Governments. Although His Majesty has too much confidence in the rectitude of the President to doubt that due compensation will be made for these injuries to his subjects, on the same principles as have been observed by His Majesty, on other occasions, towards the United States, yet I cannot omit requesting, in his royal name, that, in the meanwhile, the President may be authorized to take the most energetic measures required by the case, to put an end to these practices, and that he would be pleased to cause the vessels I have before mentioned to be confiscated, together with their cargoes, and security to be given by Mr. Dupuy for the amount of his deposits in the Bank of Louisiana, as being the proceeds of the Spanish prizes made by the pirate Mitchell; and that, as a general measure, every privateer coming into these ports under a flag not acknowledged be detained and sequestered, to be made responsible for the depredations committed by it. I trust that the President will be the more disposed to accede to this request, as, in addition to its justice, it is strictly conformable to his friendly sentiments towards my Sovereign, and the humane principles by which he is characterized.

I renew to you my respects, sir, and pray God to preserve you many years.

LUIS DE ONIS.

[Enclosure in Don Luis de Onís's letter of January 2, 1817.]

SPANISH CONSUL'S OFFICE,

Norfolk, December 16, 1816.

SIR: On seeing an armed vessel in this harbor, in front of the town, displaying a flag unknown to me, and, I will venture to say, unknown to the United States, and, at any rate, not recognised by them; and there being no doubt that this vessel is one of those known to be committing great depredations at sea on the Spanish trade, and frequently also on ships of all other nations, not excepting those under the merchant flag of these States, I have thought it my duty to apply to you, to request you to give me some information respecting said armed vessel, her character and nationality, and under what authority she navigates the seas as a public or private ship of war, who commands her, and how she is manned, and in what light you view her in your official capacity?

In making these inquiries of you, I hope that you will only see a desire on my part to acquire information upon a question of vast importance to the commerce of Spain, as it affects materially the safety of her merchant ships; whether or not those sea plunderers are to find an asylum in the ports of the United States, which would so greatly increase the means of carrying on their spoliations. I am confident that it is not the wish of this Government to afford any sort of protection to a set of men (for the most part foreigners to the country they pretend to serve) who avail themselves of the dissensions which unfortunately prevail between Spain and some of her colonies, to exercise their merciless rapacity upon the inoffensive merchant, not only of Spain, but in many instances of other countries; and I am too well acquainted with your own character to suppose that you would be inclined to favor them. Indeed, the intentions and good disposition of this Government towards Spain are rendered manifest in the President's proclamation of the 1st September, 1815; and it is there forbidden to American citizens to take any part in the contentions between Spain and some of her distant possessions; and it is enjoined on all officers, civil and military, under the Government, to be vigilant in searching out and bringing to punishment all such citizens as shall act contrary to the intent of said proclamation; and there being a report in town that many of those composing the crew of the vessel in question are Americans, I have thought it necessary to call your attention to this point, not doubting that you will consider it as meriting your particular examination. I will conclude by availing myself of this opportunity to assure you of the great respect with which I remain, sir, your most obedient and humble servant,

ANTONIO A. VILLALOBOS.

CHARLES K. MALLORY, Esq.,

Collector of Norfolk and Portsmouth.



*Illegal Armaments—Amelia Island.*

[ANSWER.]

COLLECTOR'S OFFICE,  
Norfolk, December 16, 1816.

SIR: I have had the honor to receive your note of this morning. In respect to the vessel which is the subject of it, I deem it only necessary to remark, that she is recognised in this office in no other character than that of any other foreign vessel in our waters from a foreign port; that my duty does not require of me to request her flag, so far as to make it a criterion or condition of her admission into this port; and that I shall take care, in this, as in other cases, to see that the laws of the United States and other regulations of the Government, so far as they come within the sphere of my authority, be duly observed.

I reciprocate the sentiments of respect you express for me, and am, &c.,

CHARLES K. MALLORY.

DON ANTONIO ARGOTE VILLALOBOS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, Jan. 15, 1817.

SIR: On the 1st instant I informed you of the arrival at New Bedford, of the Spanish polacre "Pastora," captured by the American privateer "Swift" under the name of the "Mongore," and the flag of Buenos Ayres, commanded by a Captain Barnes, a citizen of these States. Two days afterwards I addressed to you another note, stating the arrival, in the river and port of Baltimore, of the said privateer, with the booty piratically plundered from the subjects of the King, my master; and requesting that you would be pleased to obtain of the President such orders as would most effectually insure the confiscation both of the vessel and the privateer, that they might be made answerable for the damages justly claimed by the owners of the property. Although I am persuaded that it is the multiplicity of business that has prevented your answering my notes, yet I cannot doubt that the President will have given the orders I requested in them. Notwithstanding this, and the application made by His Majesty's Consul at Baltimore, in the discharge of his duty, to the attorney for that district, (a copy of which is annexed,) I regret to announce to you that the collector and the aforesaid attorney have thought fit to allow the said pirate to depart; and that, after having ascertained that fact, the said attorney wrote a note to His Majesty's Consul, (copy of which is enclosed,) inviting him to call at his house to confer with him on the subject of his note.

It is not my wish to trespass on your attention with the reflections that are naturally produced by such notorious proceedings, nor pointedly to notice the incivility of the attorney for that State towards a Consul of my nation; my only object is to bring to your view what has occurred in the case of the vessel that, by submitting it to the President, he may be convinced that the injuries sustained by the King's subjects in these ports, by the violation of the existing treaty between

the two nations, which has the force of a law, are daily augmenting, and that, the more they are diffused, the more difficult will it be hereafter to adjust the indemnities due to His Majesty's subjects.

I trust, sir, that you will only see in the step I now take a continued proof of my desire to restore that good understanding and sincere sense of justice between the two countries which form the basis of real harmony in every society, and that you will therefore be induced to give this subject all the attention due to its importance.

I beg leave to renew the assurances of my perfect respect, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, Jan. 16, 1817.

SIR: I have just received information, from the King's Consul at New Orleans, of the capture, within sight of the Balize of that port, and at little more than musket-shot from the land, of the Spanish schooner "Hipolita," Captain Don Buenaventura March, by the pirate "Jupiter," under the Margarita flag. To enable you fully to judge of the atrociousness of this capture, manifestly in violation of the territory of the United States, I have the honor to enclose the declaration of the captain of the said schooner, made before His Majesty's Consul at the aforesaid port; by which it appears he was at anchor in the Pass of the Mississippi, and with *Pratigue*, from the Balize, on board, when he was boarded by the aforesaid pirate, and so inhumanly treated by him as to be left weltering in his blood on the deck.

It would be superfluous to affect your sensibility by a detail of the multiplied injuries and outrages incessantly sustained by His Majesty's subjects in these ports; they have already been admitted by the President in his Message to Congress, recommending the adoption of such measures as in their wisdom may appear best calculated to repress them; thereby offering to the King, my master, a pledge that his Excellency admits the necessity of indemnifying them as far as possible. It is, however, with great regret that I have to remark on the delay in carrying such urgent measures into execution, and that the injuries complained of have not been prevented by a due observance of the laws of nations and of the existing treaty, which, by the Constitution, has the force of a law in all the courts, in consequence of its ratification by the President and Senate.

I pray you, sir, to accept the assurances of my perfect consideration.

God preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, Jan. 16, 1817.

SIR: I have just learned, with the greatest satisfaction, that the marshal of Baltimore has

*Illegal Armaments—Amelia Island.*

despatched a boat, with a picket of soldiers, in pursuit of the pirate Mongore, which has been brought back to that port, in conformity to the orders which I had flattered myself would have been issued by the President. I shall lose no time in giving an account to His Majesty of the friendly dispositions manifested by this Government; and add the hope that this evidence of it will be the forerunner of sentiments calculated to remove every shadow of misunderstanding between the two Governments.

I offer you, sir, the renewed assurances, &c., and pray God to preserve you many years.

LUIS DE ONIS.

*Mr. Onis to the Secretary of State.*

FEBRUARY 10, 1817.

SIR: In addition to the schooner *Hipolita*, which I informed you, in my note of the 16th of last month, had been captured by the pirate *Jupiter*, in the pass of the Balize of New Orleans, at anchor, within musket-shot of the land, I have just received official notice of the capture, by the same pirate, of the Spanish brig called "*Reyna de los Angeles*," proceeding from Campeachy. This vessel was also at anchor in the Balize, very near the land, and with the pilot on board to ascend the river; but no consideration was sufficient to restrain that pirate in his injustice. I am informed that Commodore Patterson, in consequence of the reclamation made by the Consul of His Majesty in the said port, has despatched a vessel in pursuit of her, and there are appearances that he will succeed in rescuing the prizes, and placing them at the disposition of their owners; but you cannot but know that, if the perpetration of this crime go unpunished, as has been the case on other occasions, or if their escape be permitted, as has happened in Baltimore with the captain and crew of the pirate *Mongore*, neither the vassals of His Majesty will be able to obtain the evidence which might be drawn from their declarations, in order to reclaim their property, nor the crimes discovered that they may have committed, nor the number of these robbers be diminished, who so highly compromise the neutrality of the Government, robbing, indiscriminately, the vessels of all nations, confident that all the harm that can happen to them is, that they should be deprived of some of the proceeds of their piracies.

In proof of the solidity of these assertions, I ought to add that, at the time these captures took place at New Orleans, in violation of the territory of this Republic, General Hubbert, the chief of a band of robbers, armed and equipped in the province of Louisiana, who had occupied Galveston, had arrived at New Orleans to solicit provisions and munitions for that establishment. Not only have they been sent under the American flag, but the agent (Mr. de Souvinet) has bought a brig with the products of the robberies of these pirates, which are now deposited in the Bank of Louisiana, amounting to \$180,000, as you will see by the annexed paragraph of the

Gazette of New Orleans; and this vessel is preparing to carry more provisions and munitions to that establishment, and to take back to the United States the spoils of the Spaniards, which are not considered secure in that place.

In the port of Baltimore, the brig *Peace*, (Paz,) mounting sixteen guns, commanded by Captain Stafford, well known for having before commanded the privateer schooner *Maria*, which was confiscated in Port au Prince, has been lately bought for the purpose of cruising against the Spanish commerce. According to information which I have received, the brig called the *Fourth of July* has gone out of that port with the same object, commanded by Captain Watkins, and armed by order of the famous Thomas Taylor, Commissioner of Buenos Ayres; finally, schooner *Romp*, whose outrages and piracies are of public notoriety, has again sailed for Norfolk, with the design of equipping there, to proceed again on her cruise.

I consider it my duty to make you acquainted with all these acts, which are in manifest contravention of the treaty existing between the two nations, to the end that the President, giving them the consideration which they deserve, may issue the orders that may appear to him best adapted to restrain them, until Congress determines to destroy them at the root, whereby the commerce of all nations may be secure.

I renew, &amp;c.

LUIS DE ONIS.

*Mr. Onis to the Secretary of State.*

WASHINGTON, Feb. 11, 1817.

SIR: When I had the honor to communicate to you that, in virtue of the orders which the President had sent to the marshal at Baltimore, the pirate *Mongore* had been detained and embargoed in that port, I had a right to believe that the marshal, as well as the attorney of the United States, would have caused the captain and crew to be immediately arrested, to take from them the declarations which public vengeance and the interests of Spain, as well as of this Government, required, to ascertain the names of the vessels plundered by that pirate, the depository of the effects, and the fate of the Spanish crews.

You may consider what was my surprise on receiving positive information that the marshal has liberated the captain and crew of that pirate; that he has not proceeded to take from them any declaration; and has even permitted that the *Mongore* should go to sea again, under bond, to commit her piracies. The said vessel is yet in the river, stopped by the ice, and her captain (Barnes) very tranquil in his house, occupied in taking out of it, publicly, the effects plundered by him, which, it is calculated, exceed eighty thousand dollars in value, without any impediment being put to his proceedings by the authorities at Baltimore.

It is extremely painful to me to interrupt your attention so often, on such unpleasant subjects; but I should be wanting in my duty if I should delay to inform this Government of the manner



*Illegal Armaments—Amelia Island.*

in which the orders of the President are eluded in Baltimore, in order to heap injury upon injury on a friendly nation, and promote the revolution of its provinces. In vain will it be alleged, in order to cover this proceeding, that the laws are not sufficient to pursue, without a positive evidence, those citizens who commit hostilities against Spain. The treaty which exists between the two nations is a law of the Republic; and no tribunal can decline its observance. The proofs of its infraction cannot be more manifest or decisive. The Spanish schooner captured by this same vessel, which is permitted to go out to sea, is now in a port of this Union; the effects on board of the one and the other belonging to the King's vassals. The seamen, the log-book of the respective vessels, and the captain himself, ought to give all the evidence that justice requires to decide. If these are not examined, on the equivocal pretext that they cannot be found, or that there is no evidence for proceeding against them, the consequence will be the continuation of an organized piracy for the robbery of all nations, that public vengeance will remain unsatisfied, and humanity exposed to all the horrors of such highway robbers.

I cannot do less than repeat my solicitations to the President, in the name of the King, my master, that the corsair Mongore may be secured; that the effects found on board may be deposited, as well as those which may have been already discharged from her; that the papers on board be examined, as well as the journals, crew, and captain; and that it be proposed to make all the investigations that would, under similar circumstances, be made in Spain, if a like case should occur to the United States, in order to remedy the damages and prevent their repetition.

I flatter myself that you cannot fail to find my solicitude just, and that the President will accede the more cheerfully to it, as it is agreeable to the sentiments of humanity and impartiality which characterize him, and to the desire which he has manifested to me to strengthen the bonds of friendship with my Sovereign. I renew, &c.

LUIS DE ONIS.

*The Minister of Spain to the Secretary of State.*

WASHINGTON, Feb. 12, 1817.

SIR: After my official letters of the 10th and 11th of this month were written, I received advice from Baltimore that Captain John Chase was now there, and that it was understood that he had left the command of the privateer Potosi, (alias the Spartan, of Baltimore,) and likewise that there were in that city more than thirty officers and sailors who had belonged to the said privateer, and who had come there for the purpose of claiming from the said Chase their portion of the prize money from the Spanish ship "Ciencia," of which they had taken possession at sea, in the manner you will see detailed in the declarations of four of the sailors of the said privateer, copies of which are enclosed.

This, without doubt, is a case which merits all

your attention, as it is proven, in the most positive manner, that a certain number of American citizens had armed and equipped a vessel in Baltimore, had gone to sea in her, and had committed an act of hostility against Spain, contrary to the laws of nations, and in violation of the fourteenth and of other articles of the treaty existing between the two nations; thus compromising the dignity of the United States, who cannot but disapprove such conduct, and violating the rights of the King, my master.

The Consul of His Majesty in Baltimore has, without loss of time, proceeded judicially against the before-mentioned John Chase, by soliciting his arrest; and at the same time is taking measures to attach, in the hands of Mr. Didier, merchant, of Baltimore, twenty odd thousand dollars, which it is known he has received from the said prize; but I see at once that all the efforts of the Consul will be in vain, unless this Government interpose all their authority, by giving the proper orders for vindicating their own dignity, which has been compromised by the atrocious conduct of these bad citizens. I do not deem it necessary to repeat to you the many observations I have had the honor to make to you, upon various occasions, on occurrences of this kind; and I therefore limit myself to asking of you to communicate this case to the President, who, I ought to expect, will take such measures as he may think best adapted to the correction of this disorder, and for doing justice to the aggrieved party.

I renew to you my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, Feb. 22, 1817.

SIR: In confirmation of what I had the honor to state in my note to you of the 12th instant, I now enclose a list of the articles which Mr. Henry Didier, a merchant of Baltimore, has landed there, under the usual forms of the custom-house, from on board the American schooner "Remittance," Captain James Rogers, from Aux Cayes; they being the same which had been plundered from the Spanish ship "Ciencia" by the privateer "Potosi," Captain James Chase, by whom they were transhipped on board the said schooner, and consigned to the above mentioned Didier.

In consideration of these proofs, I trust that you will be pleased to obtain from the President the necessary order to effect the delivery or security of this property, for the benefit of its lawful owners; and that you will have the goodness to advise me of the same for my government.

I renew to you my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, Feb. 28, 1817.

SIR: The session of Congress being within two days of closing, and the Senate not having given its assent to the bill passed by the House of

*Illegal Armaments—Amelia Island.*

Representatives for the purpose of putting a stop to the armaments making in different parts of the Union, in violation of the laws of nations and of the treaty existing between His Catholic Majesty and this Republic, I have considered it my duty to represent to you the injuries resulting from this delay to Spain, and likewise to all the nations of Europe; to the end that, if the President sees fit, he may be pleased to cause this subject to be taken into serious consideration.

I renew to you my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Acting Secretary of State.*

WASHINGTON, March 11, 1817.

SIR: In an official letter, under date of the 11th of last month, which I had the honor to direct to the Secretary of State, I represented to this Government that, contrary to my expectation, I had just received positive information that the marshal at Baltimore had left at liberty the captain and crew of the pirate "Mongore," and had even permitted her to go to sea to renew her excesses, without having even so much as taken their declarations, which the public vengeance and the interests of both Governments demanded; I dwelt on the great injuries which would follow to my nation from the impunity and toleration which these highway robbers met with in this country; and requested that the President would give the correspondent directions for preventing this injury.

In my official letter of the 12th of the same month I took occasion again to call the attention of this Government to the same subject, though in a different case, in consequence of having received advice that Captain John Chase, who commanded the privateer "Potosi," alias the Spartan, of Baltimore, and more than thirty persons belonging to her crew, had arrived at Baltimore, of whom four had given very detailed declarations respecting the capture of the Spanish vessel the "Ciencia," of her halting place, and of the existence in Baltimore, in the possession of Mr. Henry Didier, [of articles] to the amount of more than \$20,000; and requested that the Government would interpose its authority to give effect to the prosecution which the Consul of His Majesty had set on foot against the person of Chase, and [to] the legal proceedings under which he has succeeded in attaching, in the hands of Mr. Didier, the said interests; and, under date of the 22d of same month, I enclosed a list of these effects, which were in the hands of Mr. Didier.

I have not, as yet, had the honor to receive an answer to any of the above mentioned notes; and I have just understood that the authorities at Baltimore, contemning the evidence of the four witnesses who had presented themselves, and the entry in the custom-house, in the name of Didier, of the effects robbed from the Spanish, have permitted the said Captain Chase to go very tranquilly to Norfolk, to enjoy the fruits of his depredations; that, with universal scandal, and

notwithstanding the character of Captain Barnes, as a pirate, was established by the decision of the court of the United States in Boston, which had declared as illegitimate his prize, the Spanish schooner "Pastora," and ordered that she should be restored to her owners, he has sailed from Baltimore, with his privateer "Mongore," as soon as the ice permitted, and gone down the bay, to go to sea, to repeat his cruelties, without its having been possible for the Consul of the King to get the declaration of Barnes and his people taken as to what had been the lot of the crews of the Spanish vessels which they had captured; declarations which, not only by the laws of nations, but by the more sacred law of humanity, should have been taken, considering the vehement and well-founded suspicions there were that they had assassinated all the individuals who had had the misfortune to fall into their hands.

The consideration, then, of the excesses committed against the subjects of the King, my master, and of those which, from the impunity and toleration on the part of the authorities of this country, are in a state to be repeated, with vessels purchased, armed, manned, and equipped in the ports of these States, contrary to all the laws of nations, to the express stipulations of the treaty which exists between the two countries, and to the laws of humanity itself, I cannot do less, in discharging my obligation, than to represent and reclaim, in the name of my Sovereign, the damages and injuries which have resulted, and may hereafter result, to his subjects, and to protest against the authors of all of them. At the same time I cannot omit to beg you, with earnestness, to be pleased to inform me of the measures which this Government may have taken for the purpose of having restored to the Spanish owners the effects of which they have been robbed, and also to ascertain the fate of the unfortunate crews of the Spanish vessels which have been captured and destroyed by the two pirates above mentioned, as likewise by the other two, called the Orb and the Romp, that were in like manner, armed in Baltimore.

I hope you will have the goodness to give me the information I ask, that I may bring it to the knowledge of the King, my master.

I renew to you my respects, &c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, March 15, 1817.

SIR: I had the honor to receive your note of the 13th instant, in which, by order of the President, you enclose a copy of the act passed by Congress on the 3d, entitled "An act more effectually to preserve the neutral relations of the United States," by which the President trusts that my Government will perceive a new proof on the part of the United States of a desire to cultivate just and friendly dispositions towards Spain.

I cannot but be highly gratified by all those occasions on which the Government of these States manifests a disposition corresponding with



*Illegal Armaments—Amelia Island.*

that entertained by the King, my master, to maintain and strengthen the amicable relations subsisting between the two nations; and I therefore hope that the President will cause the most effectual measures to be taken to enforce an observance of this law by the officers of this Government, with greater exactness than has hitherto been paid to the existing laws, and to the express stipulations of the present treaty between the two nations.

I shall embrace the first opportunity to transmit a copy of this act to my Court, for the information of my Sovereign; and, with renewed assurances of my respects, I pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, March 26, 1817.

SIR: I have just been informed that there have entered at Norfolk two pirates, under the flag of Buenos Ayres, the principal of which is called the "Independencia del Sud," armed with sixteen guns and one hundred and fifty men. Her captain is the well-known pirate, called Commodore Chaytor. The second is the schooner "Romp," which, to enter that port, has her name changed to that of "Altavella." She has a crew of seventy men, and appeared to be commanded by a person called Grennolds. Both vessels were built and fitted out at Baltimore; belong to citizens of that place, and others in this Republic; and their crews and captains are of the same. Their entrance into Norfolk has been public, to revictual and return to their cruise against the subjects of the King, my master; but their principal object is to place in safety the fruits of their piracies, which must be of great importance, if we attend to the information from Havana, which states that they have robbed a single Spanish vessel coming from Vera Cruz of ninety thousand dollars; and to the fact that, on the 21st of the present month, they had deposited sixty thousand dollars in the Bank of Norfolk, had landed a number of packages of cochineal, and had declared that they had taken to the amount of two hundred and ninety thousand dollars. I am informed that the person called Commodore Chaytor was about to set out for Baltimore, probably to settle accounts and divide his robberies with the persons interested in the outfit. It is a circumstance worthy of remark, that these two pirates saluted the fort at Norfolk, and that it returned the salute upon the same terms as would have been done with a vessel of war of my Sovereign, or of any other nation acknowledged by all independent Powers.

It would be superfluous to take up much time in representing to you how sensitive my Sovereign, and likewise all maritime nations, must be, to see that their flags are treated on an equality with pirates in the territory of this Union. So obvious a reflection cannot be withheld from your knowledge and that of the President. I therefore do not doubt, that if (as I persuade myself)

there has been a mistake in the honors paid to these pirates, you will be pleased to disapprove the conduct of the commander of the fort, and give suitable orders to prevent its happening in future.

At the same time that I expect this measure from the justice of the President, I claim, in the name of the King, my master, that all steps be taken for the arrest of these pirates, whether they be at Norfolk, or that they repair (as is probable) to Baltimore, where their principal associates are; that they be proceeded against, according to the act of Congress of the 3d instant, and to the stipulations of the treaty between His Majesty and this Republic; that legal means be taken to ascertain all the captures made by them during their cruise, the fate of the Spanish crews that have fallen into their hands, and the place of deposit of the property taken from on board them, in order that, by attaching the same by the competent tribunals, it may be held for the disposal of the owners who may prove their property.

This request being, moreover, founded in justice, is supported by the friendly sentiments of this Government towards His Catholic Majesty, by the assurances which the President has given to me of his sincere desire to put an end to a piracy which, although in opposition to the sentiments of the Administration, highly compromises the dignity and character of a people distinguished for their rectitude, morality, and refined virtue. I therefore cannot but confidently hope that you will enable me to inform my Government of the measures which may be taken in this matter.

LUIS DE ONIS.

*Don Luis De Onis to the Secretary of State.*

MARCH 16, 1817.

SIR: The pirate Orb, fitted out at Baltimore, under the name of the "Congreso," and flag of Buenos Ayres, commanded by Joseph Almeyda, a Portuguese, and a citizen of this Republic, has had the audacity to return and enter the said port, there to deposit a part of his robberies. The piratical character of this vessel is as fully acknowledged, as it is proved that she was armed and manned with people of this country and of others in the above mentioned port, and that she had made different prizes in the neighborhood of Cadiz and other points, since there now is in the port of New York the Spanish polacre, the "Leona," captured by her, whose cargo, consisting of two hundred thousand dollars, is concealed—where, it is not known; and in the same port of Baltimore there are deposited the proceeds of the Spanish brig "Serenio" and her cargo, captured by the same vessel. No evidence can, in my judgment, be offered, which gives greater certainty to facts so notorious. If, by chance, anything could be added thereto, it would be the acknowledgment of their atrocities. Nevertheless, I have the mortification to say, that neither this notoriety nor the reclamations of His Majesty's Consul at that port have as yet been sufficient to produce those steps which are required

*Illegal Armaments—Amelia Island.*

by humanity, to secure the person of this notorious pirate, to take the declarations of the crew, and to prevent their enjoying their plunder to the prejudice of the lawful owners.

I think it my duty to bring this incident to your knowledge, and I doubt not that the President when informed thereof by you, will take it into the serious consideration which it merits, and give the most positive orders that a suit be instituted against this pirate, that an attachment be laid on all his property and funds wheresoever they may be placed throughout this Republic, and that they be held at the disposal of those owners who may prove their property.

As I propose to despatch a messenger in a few days to my Government, and it will be very agreeable to me to give to His Majesty an assurance that the United States are seriously disposed to put an end to the injuries resulting to Spain from the non-observance of the treaty between the two nations, I will thank you to inform me as speedily as possible of the measures which may be taken in this case, and in that on which I address you in a separate despatch of this date.

LUIS DE ONIS.

DEPARTMENT OF STATE,

MARCH 28, 1817.

SIR: I have had the honor receive your two notes, dated the 26th of this month, stating that you have been informed that two armed vessels, which have been committing unauthorized depredations upon the commerce of Spain, have recently arrived at Norfolk, and that a third, liable to the same charge, has arrived at Baltimore; thus bringing themselves within the reach of those laws against which, in the above and in other ways, it is alleged they have offended.

Conformably to the constant desire of this Government to vindicate the authority of its laws and the faith of its treaties, I have lost no time in writing to the proper officers, both at Norfolk and Baltimore, in order that full inquiry may be made into the allegations contained in your notes, and adequate redress and punishments enforced, should it appear that the laws have been infringed by any of the acts complained of.

I use the present occasion to acknowledge also the receipt of your note of the 14th of this month, which you did me the honor to address to me, communicating information that had reached you of other and like infractions of our laws within the port of Baltimore; in relation to which I have to state, that letters were also written to the proper officers in that city, with a view to promote every fit measure of investigation and redress. Should it prove necessary, I will have the honor to address you more fully at another time upon the subjects embraced in these several notes. In the meantime, I venture to assure myself, that, in the readiness with which they have thus far been attended to, you will perceive a spirit of just conciliation on the part of this Government, as well as a prompt sensibility to the rights of your sovereign.

I pray you, sir, to accept the assurances of my distinguished consideration and respect.

RICHARD RUSH.

The CHEVALIER DE ONIS.

*Don Luis de Onis to the Acting Secretary of State.*

WASHINGTON, March 29, 1817.

SIR: By your note of yesterday I am apprized that the President, on being informed by the notes to which you have replied of the audacity with which the pirates armed in this country introduce into it the fruits of their robberies, has been pleased to give suitable orders to the authorities at Norfolk and Baltimore that, having ascertained the facts which I have brought to his knowledge, they should duly proceed according to law against the violators of the laws of this Republic. The district attorney for the United States at Baltimore has replied to the King's Consul there that he has no evidence upon which he can proceed against Captain Almeyda; but if a witness should offer, who will depose to the facts referred to, he will proceed to order an embargo to be laid on his vessel. I am perfectly aware that good order, the personal security of individuals, and the prevention of any violence being committed upon them, require that suits should be instituted according to the rules of court; but when a crime is notorious to all, and is doubted by none; when the tranquillity and security of the State, the honor of the nation, and the respect that independent Powers owe to each other, are interested in putting a stop to crimes so enormous as those I have had the honor to denounce to you;—it appears to me that the magistrates are authorized to collect a summary body of information, to inquire whether the public opinion is doubtful, and if there be ground to institute a suit. The collector of the customs cannot be ignorant that the three vessels which I have named to you were built and fitted out at Baltimore; that they were cleared at that custom-house as Americans; that their crews were, at their departure, composed of citizens of this Union, as were their captains; and that the effects which they have landed can only come from Spanish countries. What stronger testimony (if more is wanted) than their own declaration can be desired, to proceed against these pirates?

The ships' papers, the declarations of the crews, the log-book, are all testimony which can throw light upon the truth or falsehood of the crime alleged, and makes it unnecessary to trouble them, until it be ascertained that there is ground for proceeding judicially against them.

It must have been known to you, sir, that when the rebel *Mina* armed and equipped at Baltimore for the purpose of attacking the dominions of the King, His Majesty's Consul presented two declarations, sworn to by two officers, who had accompanied him, setting forth all the plans and projects of this traitor, and the manner in which he had violated the laws of the Republic; that, on another occasion, the same Consul presented the declarations, on oath, of four sailors



*Illegal Armaments—Amelia Island.*

of the pirate Potosi, stating the prizes they had made, the merchants to whom were addressed the effects stolen from the vassals of the King, and that, in both cases, they were considered insufficient to proceed against these highway robbers, and to afford the vassals of His Catholic Majesty that protection which they had a right to expect of a friendly Power.

At this very moment I have received advice from His Majesty's Consul at Norfolk, stating that a quantity of zeroons of cochineal, indigo, and Jesuit's bark, brought in by the two privateers, the Independence of the South, Captain Chaytor, and the Altavella, alias Romp, Captain Grenolds, has been shipped at that port on board the packet which sailed on the 23d instant for New York, in order that, by changing place and appearing to be cleared out by other merchants, the vessels of His Majesty may be deprived of their property, and the pirates and merchants who have fitted them out become the owners of the booty. No one renders more justice to the rectitude of the President than I do, and to the sincere desire that he has to put a stop to practices so contrary to the virtue and good faith which characterize this Republic; but it is that very cause which lays me under the necessity of exposing these practices, with an entire confidence that the President will only see in this communication my anxious desire to prevent any obstacles being thrown in the way of the friendly arrangement now pending between the two Powers. The Treaty of Limits and Navigation existing between them establishes, in the most positive manner, that the two nations have agreed to consider as pirates all vessels fitted out in the two countries, respectively, manned and commanded by their respective subjects or citizens, acting in a hostile manner against one or the other of the two contracting parties under a foreign commission. The acts of Congress of the 5th of June, 1794, of the 14th of June, 1797, and the second section of that of the 30th of April, 1790, prescribe the punishment to be inflicted on these persons, and the steps to be taken on both sides to restore the property to its lawful owners. I rely on your justice and friendly sentiments towards my Government for promoting with the President such orders as, in his wisdom and foresight, will seem to him best adapted to prevent the evasion of the laws, and the sacrifice of that portion of His Catholic Majesty's subjects who have been robbed by these pirates.

I renew, &c.

LUIS DE ONIS.

Don Luis de Onis to the Acting Secretary of State.  
WASHINGTON, April 4, 1817.

SIR: Although I have always made it a duty not to intrude on the attention of this Government by remonstrances which are not founded on incontestable facts, or at least on moral evidence, yet it appeared to me, in the conference which I had with you yesterday, that you were not satisfied with the complaints I lately addressed to you against the pirates Potosi, Mon-

gore, Congreso, Independencia del Sud, and Altavella. I have now the honor to annex a copy of a letter from the owners of the Spanish ship Nuestra Señora de los Dolores, and of one from the consignee at Havana, by which you will be informed that the said vessel was captured near to Cadiz by the pirate Independencia del Sud, Captain James Chaytor.

I also enclose to you the declaration, on oath, of Joseph Ojeda, captain of the Spanish schooner Catalina, captured by the pirate Almeyda, commanding the Orb, alias the Congreso. By this declaration you will see the number of Spanish vessels he has plundered, those he has burnt, and those he has sent to other ports. I flatter myself that you will find in these documents, if not all the evidence required by the laws of the United States for the punishment of a man who has committed so many atrocious acts, at least sufficient to justify the detention, for the benefit of the lawful owners, of the property which he is endeavoring to introduce clandestinely into this country, in violation of the Treaty of Friendship, Limits, and Navigation, now existing between the two Powers.

I hope, sir, that you will allow me to use the term *pirates*, in speaking of these banditti. My impression is, (and I found it upon the treaty of amity I have just referred to,) that every vessel built or fitted out within the jurisdiction of this Republic, manned and commanded by citizens of the Union, which is navigated and commits hostilities under a foreign flag, is and must be deemed a pirate; that, as such, it is liable to confiscation, with all the property on board, that it may be afterwards restored to the lawful owners, although no one should present themselves to make the claim in their behalf, as would be done in the case of any known murder, or of one against whom there existed strong suspicions of having committed a crime against society, and this for the purpose of satisfying the calls of public vengeance. I hope that you will have the goodness to inform me if I am mistaken in this conception, and, in case it should be that of the President, that you would be pleased to obtain such measures of him as, in his wisdom, he may deem most proper to prevent the vessels above mentioned, together with their captains, again putting to sea, and to afford that protection to His Majesty's subjects which they have a right to expect, from the close friendship existing between the two Governments, by laying an attachment on the property on board those vessels, that it may be delivered up when its owners are ascertained.

I renew, &c.

LUIS DE ONIS.

No. 1.

HAVANA, December 17, 1816.

SIR: The foregoing is a copy of my last of the 4th instant, which I confirm. I am again obliged to trouble you by requesting you would be on the watch, if the ship called the Na. Sa. de los Dolores, alias the Primera, should put into any port of the United States; which vessel I despatched

*Illegal Armaments—Amelia Island.*

for Cadiz on the 10th of July, under the command of Captain Nicholas Larrea, with a cargo of sugar consigned to the owner, Don Juan Fisco de Vergara, of the same place, who, under date of the 3d of September, informs me of her capture on the 27th of August, near Cape St. Vincent, by the privateer Independencia del Sud, Captain James Chaytor, and gives me authority to claim or ransom her, as you will see by a copy of his letter, enclosed. I, therefore, hope you will do me the favor to advise me of whatever may turn up in the affair, that the requisite orders may be promptly given.

F. DE PAUL DE MAURA.

Don THOMAS STOUTON.

No. 2.

CADIZ, Sept. 3, 1816.

On the 27th of August last, at the distance of twenty-two leagues from Cape St. Vincent, the ship Na. Sa. de los Dolores, alias Primera, Captain Nicholas Larrea, which sailed on the 10th of July of the present year, was captured by the insurgent schooner brig of Buenos Ayres, called the Independencia del Sud, commanded by Jas. Chaytor. On being captured, Captain Larrea endeavored to ransom his vessel and cargo, and the commander of the privateer actually agreed to estimate the sale at \$50,000, including therein \$5,000 for the vessel, the ransom to be paid in Cadiz. When they were on the point of drawing up the necessary writings, the brig Golondrina, from Cumana, appeared in sight, which being likewise made prize of, she was afterwards liberated to carry to Cadiz the crew of the Primera, and on that account the ransom was not carried into effect. As it appears, by information, that the privateer which captured her was fitted out in North America, and commissioned by the insurgent Government of Buenos Ayres, she will be purchased for little or nothing. I understand that she will be ordered to the Cayes of St. Louis, St. Thomas, St. Bartholomew, North America, Jamaica, or some other English port. It will, therefore, be for my interest and that of your brother, Don Pascal, &c.

J. F. DE VERGARA.

Don F. de P. MORENA DE MAURA.

No. 3.

BALTIMORE COUNTY, State of Maryland, to wit:

Be it remembered that, on the 1st day of April, 1817, personally appeared before me, Daniel Rogers, notary public for this State, Diego José Ojeda, and, being first duly sworn according to law, deposes as follows: That he was captain of a Spanish schooner called the Nueva Catalina; that he was taken in the said schooner, on the coast of Cuba, by a privateer called the Congreso de Buenos Ayres, commanded by Joseph Almeyda; that, in the night of the same day, the 9th of February last, his said schooner was taken by the Spanish brig of war Campedor, and immediately afterwards taken again by the same

privateer; when, having taken out all the provisions and best part of the sails, fire was put to the said schooner Catalina, and her crew put on board an American schooner, with the exception of the captain, the second mate, the cook, and two passengers; whom Captain Almeyda said he would not liberate until the same had been done with one of his officers and five men who had been taken prisoners there; during the deponent's stay on board of Almeyda's privateer he took the schooner Ardilla from Omoa with a cargo of sarsaparilla and \$2,000; which sum was taken out and the schooner burnt.

On the 19th of February he captured two brigs, the San Antonio de Padua, from Vera Cruz, for the Havana, in ballast, and having some money on board; this vessel was also burnt. The other brig, San José, from Havana to Campeachy, with a cargo of brandy, wine, and other goods, was completely plundered, and the prisoners of the Ardilla and San Antonio, with the two passengers of the Catalina, were put on board of her, keeping a man of each vessel on board of the privateer; the San José was then allowed to proceed to Campeachy.

On the 24th he captured the Paz, bound from Sisal to Havana, on board of which vessel a prize-master and eight sailors were sent, as also the mate of the Catalina. She was then despatched for Galveston. Her crew were put on shore at about eleven leagues from the port of Sisal; and this deponent further states that Almeyda made sail for this place, where the said deponent was not allowed to land until the 28th of March last, when he was sent on shore without any of the papers of his vessel, Almeyda having taken possession of them.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said notary, have hereunto set my hand and affixed my notarial seal, the day and year first hereinbefore written.

DANIEL ROGERS, N. P.  
DIEGO OJEDA.

The foregoing is a copy of the original, transmitted under this date to the district attorney for the district of Maryland.

PABLO CHACON.

Don Luis de Onis to the Acting Secretary of State.  
WASHINGTON, April 5, 1817.

SIR: As nothing can be more flattering to me than to prove to you that all my reclamations bear the stamp of the most scrupulous exactness and truth, I have the honor to enclose the declaration, on oath, of two seamen of the Spanish brig San Antonio de Padua, captured by the pirate Almeyda, by which you will see that this pirate has not confined himself to taking and burning Spanish vessels, but has also detained and robbed an English vessel upon the high seas.

I hope that you will have the goodness to bring the said document to the knowledge of the President, as a corroboration and support to the



*Illegal Armaments—Amelia Island.*

reclamations which I have addressed to you, in order that the property plundered by that pirate, and by the Potosi, Independencia del Sud, Mongore, and Altavela, may be secured for the subjects of the King, my master, and that they may not be permitted to return to sea, to continue their depredations. I renew my respects, &c.

LUIS DE ONIS.

BALTIMORE COUNTY, State of Maryland, to wit:

Be it remembered that, on the 4th day of April, in the year of our Lord 1817, personally appeared before me, a justice of the peace of said county, Lewis Falcone, Italiana, and, being first duly sworn according to law, depose as follows:

That they belonged to the crew of the Spanish schooner San Antonio de Padua, he, the said Lewis, being gunner thereof; that having sailed from St. Jago de Cuba, bound for Havana, on or about the 28th of January last, they were chased and captured the same day by a Buenos Ayres privateer, called the Congreso, commanded by one Jose Almeyda, who took the deponents on board his vessel, depriving them of fifty boxes of cigars, four barrels, and five bundles of Spanish tobacco, and a bag containing silk handkerchiefs; that, during their stay on board Almeyda's vessel, he took seven Spanish prizes, three of which he burnt; and on or about the 15th of March, near the port of Havana, he fell in with a British brig, chased her under Spanish colors, and, when sufficiently near, fired into her, hoisting at the same moment the Buenos Ayres flag. The brig, being armed, was defended by discharges of grape-shot nearly the whole day, but, being boarded in the evening, was compelled to surrender: during the whole transaction the British ensign was at her main peak, and no other flag. Her crew were taken on board the Congreso, and the vessel plundered of several valuable articles of gold and silver. She was given up and allowed to proceed. Her mate received a musket shot through the head, of which wound it was almost impossible he could recover. And these deponents further state, that Almeyda after this proceeded to the United States, and arrived at Baltimore on or about the 28th of March last.

LEWIS FALCONE.

BERNARD FALCONE.

Sworn to and subscribed before me, by Anthony Canno.

THOS. W. GRIFFITH.

*The Chevalier de Onis to the Acting Secretary of State.*

WASHINGTON, April 18, 1817.

SIR: By the information which has been transmitted to me by His Majesty's Consul at Baltimore, in relation to the legal steps taken by him for the seizure of the pirate "Congreso," Captain Almeyda, and the attachment of the cargo, it appears that the court of Baltimore county has declared its incompetency to take cognizance of this cause, on the plea that the Congress had not the power to alter the mode pointed out by the Constitution, in which similar causes are heard

and decided in the Supreme Court of the United States; from which decision it follows that no State judge, or justice of the peace, has power to arrest any individual for a violation of the laws of this Republic. I will not permit myself to indulge in any reflection upon the form of law which may be laid down for cases of this nature, nor upon the powers which are, or are not, within the competency of the Legislature; but I cannot the less express to you my surprise that the States' attorney has not given the direction recommended by the laws to an affair which, in addition to the justice due to the subjects of His Catholic Majesty, so essentially interested the honor of the United States, by the violation of its statutes, its treaties, and its neutrality with foreign nations.

The result of all which is, that the pirate Almeyda is at full liberty; that his vessel, the "Congreso," is released from attachment; and that he is free to land, and place in safety, the fruits of his piracies; that, during several weeks, he has had thirty hands at work upon his vessel, sheathing her with copper, making new sails, and giving her a thorough repair; and that there is an appearance that he will profit by the first favorable wind to put to sea, and continue with greater fury his atrocities and piracies, before the suit can be instituted in the court which is now designated, if effectual measures be not taken to prevent him.

I therefore hope that you will be pleased to lay the foregoing subject before the President; and I doubt not that, animated by his desire to preserve the friendship which happily subsists between Spain and this Republic, he will adopt those measures which appear to him most suitable to prevent the evasions employed to obstruct the course of justice, and burden the United States with an indemnification for injuries of such magnitude, occasioned to the subjects of the King, my master, by reason of the non-observance of the treaty which exists between the two nations.

LUIS DE ONIS.

*The Chevalier de Onis to the Acting Secretary of State.*

WASHINGTON, April 19, 1817.

SIR: Although I was persuaded that the act of Congress of the 3d of March, relative to the preservation of the neutrality of the United States, in addition to the Treaty of Friendship, Limits, and Navigation, existing between Spain and this Republic, and to the act of 1797, which prescribes the mode of pursuing the violators of the laws of this Republic, would exempt me from again calling your attention, by new reclamations, to the injuries which the subjects of the King, my master, incessantly experience from the privateers armed in the ports of this Union, the annexed copies of notes which His Majesty's Consul at Norfolk has addressed to the States' attorney, and to the collector of the customs, and the answer which he received from the latter, will show you that noth-

*Illegal Armaments—Amelia Island.*

ing is sufficient to put a stop to the evil of which I have so often complained to this Cabinet.

By these documents you will see, notwithstanding the proofs presented by Don Antonio Argote Villalobos, that the pirates "Independencia del Sud" and "Altavela" were both fitted out at Baltimore; that their captains, Chaytor and Grennolds, are American citizens, as well as their crews; that both the one and the other have received commissions, and cruised under a foreign flag, against the Spanish commerce; that they were then strengthening their armament and increasing their crew; and, finally, that the same collector, who acknowledges they bring no manifest (*registro*) of the articles they have on board from any authority or port, known or unknown, thereby evidently proving that they were stolen on the high seas, refused to arrest this property, unquestionably stolen, to hold it at the disposal of the owners, who might prove their claims; and to detain the vessels, which, in manifest violation of the laws of this Republic, and, above all, of the act of Congress of the 3d of March, are there preparing to return to their cruise.

I shall abstain from fatiguing you further upon a subject to which I have so often claimed your attention and that of the President. I flatter myself that the transmission of the proceedings, such as they have been transmitted to me, and the elucidation afforded by the annexed copies, will be sufficient to induce the President to acknowledge the urgency of adopting measures really effectual, at once to put an end to these piracies; otherwise His Majesty will not be able to see, in a continuance of these excesses, a confirmation of the assurances which the President has given me of his desire amicably to adjust, by means of a treaty, all the differences pending between the two Governments, and to strengthen the friendly relations with His Majesty by new arrangements mutually advantageous to both States; nor the pledge which I have already given him, that if the abovementioned act of the 3d of March did not repair the evils suffered by his subjects until that period, it would at least prevent those by which they were threatened in future.

I renew to you, &c.

LUIS DE ONIS.

No. 1.

SPANISH CONSUL'S OFFICE,  
Norfolk, April 10, 1817.

SIR: I found it my duty, on a former occasion, to make an official application to you, in the case of the armed schooner "Potosi," Captain Chase, said to be acting under a commission from the pretended Government of Buenos Ayres, (where, by the by, she had never been,) but which had been fitted out, armed, and equipped in the port of Baltimore, to cruise against the subjects of Spain, contrary to the law of nations, and in violation of the neutrality of the United States, their laws, and stipulations in the existing treaty between the two nations, concluded on the 27th October, 1795,

15th CON. 1st SESS.—61

and in opposition to the intentions of the Government, manifested in the President's proclamation of the 1st September, 1815, and since more fully displayed by the act of Congress passed on the 3d March ultimo, entitled "An act more effectually to maintain the neutral relations of the United States."

I do not doubt, sir, but that you participate in the indignation which every honest man feels at the lawless proceedings, the greedy rapacity, and, in many instances, horrid cruelties of this set of sea depredators, who, being for the most part citizens of the United States, are a disgrace to this country; but still, you did not think yourself authorized to interfere, though in your reply, dated the 15th of December ultimo, you expressed that you would take care in that, as in other cases, to see that the laws of the United States and other regulations of the Government are duly observed.

Impelled again by duty, and relying on the assurance (just quoted) in your said letter of the 16th of December ultimo, I do myself the honor of addressing you the present letter, to request you to interpose your authority for the purpose of detaining the armed brig "Independencia del Sud," alias the "Mammoth," commanded by James Chaytor, and the schooner "Altavela," alias the "Romp," Captain Grennolds; both vessels have been armed and equipped in this country, in violation of the law of nations, the neutrality laws, explicit stipulations, and professed intentions of the Government of the United States, and are commanded, and principally manned, by citizens thereof.

As these violators of all law pretend to shield their conduct under a commission from a Government the existence of which is not acknowledged by this or any other civilized country, it becomes necessary for me to call your attention to the 14th article of the treaty existing between Spain and this country, by which you will find that it is expressly forbidden to the citizens and subjects of either nation, respectively, to take any commission from any Prince or State with which the other nation shall be at war; and such as will take such a commission are punishable as pirates. Upon the strength of this article, and in vindication of the laws and honor of the United States, I must solicit you to put a stop to the further proceedings of these freebooters, and to deter them from going on in their criminal course to the great detriment of the commerce of Spain, a nation in amity with this country, and to the annoyance of the peaceable commercial subjects of all other nations. I must further solicit you to stop these vessels, on the ground that they have in this port improved their equipment and considerably augmented their crews, by enlisting several individuals, contrary to the said act of Congress of the 3d of March ultimo; which enlistment is the more aggravating, because most of the individuals so enlisted are known to be citizens of this country. I also solicit you to stop and keep in your possession certain stolen goods, namely, cochineal and indigo, which I am told are now in the custody of the custom-



house under your direction, reserving to myself to prove hereafter the true owners of this property. I must add the request to be furnished with a copy of the entry or manifest of the goods or articles of merchandise imported by, and landed at this port from, the said cruisers.

In closing this letter, I cannot forbear expressing a hope that you will give to this application all the attention which the nature of the case requires, and that you will not delay your answer, from the tenor of which I shall regulate my conduct, so as to acquit myself of that duty to my King and country imposed upon me as well by my office as by my personal feelings.

With great respect, I remain, your obedient servant,

ANTONIA A. VILLALOBOS.

CHARLES K. MALLORY,  
Collector of Norfolk and Portsmouth.

No. 2.

SPANISH CONSUL'S OFFICE,  
Norfolk, April 10, 1817.

SIR: The enclosed is a copy of an official letter which I have addressed this day to the collector of the customs of this port.

As there is no question but that the Government of the United States are bound to punish such of their citizens as, in defiance of all law, have committed hostilities against a friendly nation, and also to arrest them in their progress when they are seen within their jurisdiction preparing to continue their nefarious course; and as it is in your province, as district attorney, to see that the laws of the Union are duly enforced, both in the punishment of crimes and in the prevention of them, I make the same application to you that I have made to the collector, requesting you, in the name of my Government and the suffering subjects of Spain, to issue such process as will detain James Chaytor and Captain Grennolds, their officers and crews, mostly American citizens, from going out of this port to renew their depredations on Spanish commerce; at the same time that I leave it to your discretion to institute any further proceedings that the nature of the offences already committed may admit of, and of which I shall furnish proofs in due time. I must also request you to secure, in behalf of the true owners of the stolen property which can be come at, namely, a parcel of cochineal and indigo, landed by these privateersmen at this port, and said to be now in the custody of the custom-house.

I hope, sir, that you will see the propriety of my applying to you in the present instance, and that you will do me the favor to answer this letter, apprizing me of the course you mean to adopt, for my information, and to enable me to give proper intelligence to my Minister.

I remain, &c.

ANTONIO A. VILLALOBOS.

WILLIAM WIRT, Esq.,  
U. S. District Attorney, Richmond.

No. 3.—COLLECTOR'S OFFICE,  
Norfolk, April 11, 1817.

SIR: I had the honor to receive your note of yesterday, in relation to the two armed vessels now lying in this port, under the flag of the Government styling itself "the United Provinces of the river Plata," the one called "Independencia del Sud," and the other "Altavella." You require me to detain these vessels upon the grounds that, in violation of the law of nations, the neutrality, laws, explicit stipulations, and professed intentions of the Government of the United States, they have been armed and equipped "in this country, and are commanded and principally manned by citizens thereof;" that, under the fourteenth article of the treaty between Spain and this country, they are pirates; and that, in violation of the act of Congress of the 3d March last, "more effectually to preserve the neutral relations of the United States," "they have in this port improved their equipment, and considerably augmented their crew, by enlisting several individuals." In reply to which, I conceive it proper only to remark, that these vessels have not been unnoticed by me, and that, in my conduct towards them, I shall endeavor, as I have done, to observe that course which my official duties appear to me to have prescribed. In pursuing which, that I may have the aid of every light to guide me which facts can afford, and the allegations thus made by you in an official form must be presumed to be bottomed on positive facts, which have come to your knowledge, you will have the goodness, I trust, to furnish me, with as little delay as possible, with the evidence of their existence in your possession.

In respect to the merchandise landed from these vessels, and deposited in the public store, which you request me to retain in my custody for proofs to be obtained by you as to the owners of it, I have to observe that the circumstances of the case, as far as they are at present known to me, do not seem to require that I should take upon myself the responsibility; on the contrary, that these goods should be regarded as the property of those who deposited them, subject to be delivered to them, on complying with all the requisites of the laws for the protection of the public revenue.

There was no regular manifest or entry of these articles, or a copy of it should be furnished to you, according to your request; but simply a memorandum of them, and a receipt of the keeper of the public store, from which it appears that there were ninety-two bales or packages of cochineal, jalap, and vanilla, consisting chiefly of the first-mentioned article. I am, &c.

CHARLES K. MALLORY.

DON. ANTONIO A. VILLALOBOS,  
His Catholic Majesty's Consul, Norfolk.

No. 4.

SPANISH CONSUL'S OFFICE,  
Norfolk, April 12, 1817.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday, in answer

to mine of the day before, soliciting you to detain the privateers "Independencia del Sud" and "Altavella," on the grounds that those vessels have been originally armed and equipped in this country, and are now commanded and principally manned by citizens of the United States, and because they have in this port improved their equipment, and augmented their crews by enlistment; and further, soliciting you to retain in your possession, and not to redeliver to those privateersmen, certain articles of stolen goods now under your custody; in reply to which you are pleased to observe that those vessels have not been unnoticed by you, and that you shall endeavor to observe, with regard to them, that course which you think your official duties prescribe to you; requesting me, at the same time, to furnish the evidence to prove the facts that I have set forth, in order that you may have the aid of every light to guide you; and, finally, you observe that, from the circumstances of the case, you do not think you ought to take upon yourself to retain possession of the property above mentioned, of which you give a description in general terms.

With regard to the evidence you require, I will not hesitate to say that, as the facts I have stated are matter of public notoriety, known to everybody, and I had no reason to suppose that you were ignorant of them, I did not deem it incumbent upon me to add any proof to the simple narration of them; and I was confident that, by going on to point out to you the stipulations and laws which are infringed in consequence of those facts, you would think yourself authorized to interfere in the manner requested.

I will assert, sir, as a known fact, that the brig, now called *Independencia del Sud*, is the same vessel which was formerly known under the name of the *Mammoth* privateer, belonging to Baltimore, armed and equipped in that port, from which she sailed under the command of the same Chaytor who still commands her; that the very same James Chaytor was necessarily then, and cannot have ceased since to be, a citizen of the United States; is settled, and has a family in Baltimore, whence his wife came down a few days ago in the packet *Walter Gray*, and is now in this town on a visit to her husband; that he has enlisted men in this port, many of whom are not so obscure as not to be generally known. I will mention, as an example, Mr. Young, of Portsmouth, who is now acting as first lieutenant on board the said brig. I will assert, as a fact, that the *Altavella* is the very schooner known before under the name of the *Romp*, the same that underwent a trial for piracy before the federal court in this State; that her present commander, Captain Grennolds, is a native of one of the neighboring towns, and very well known in this place; and, finally, that this vessel has been at one of the wharves altering her copper, which I call an improvement in her equipment.

If these public facts, falling within the knowledge of every individual, require more proof than the public notoriety of them, I must request to

be informed as to the nature of that proof; and, also, whether you are not warranted to act upon just grounds of suspicion, without that positive evidence which is only necessary before a court of justice.

Respecting the property which I have solicited you to stop, as you seem not to think yourself authorized so to do, I must observe to you that, by the law in general practice in this and other countries, property in suspicious hands is frequently stopped; and I will go further, and assert that there is no doubt of the goods in question being stolen goods, or what, by way of softening the expression, are called prize goods; and all such property hitherto brought into this country by this sort of cruisers has been adjudged by the federal courts stolen property, and has been ordered to be restored to the rightful owners. I do, therefore, most solemnly lay claim to this property in behalf of the lawful owners, who, I am confident, will, at no distant period, come forward themselves to demand it; and I hereby reserve to them their rights unimpaired, to sue and recover from whomsoever they may be entitled to claim under the law of nations, and in conformity to the sixth and ninth articles of the treaty between Spain and this country, concluded on the 27th of October, 1795, and under any other law that may make in their favor.

I will now conclude, by expressing a hope that, upon a thorough view of the subject, you will consider it consistent with the duties of your office to accede to my solicitation for the relief of the injured subjects of Spain, and to prevent a number of bad citizens of this country from committing further depredations on their commerce.

I remain, &c.

ANTONIO A. VILLALOBOS.

CHARLES K. MALLORY, Esq.

No. 5.

COLLECTOR'S OFFICE, NORFOLK,  
April 14, 1817.

SIR: I have had the honor to receive your letter of the 12th instant, and have bestowed upon it all the attention which the limited time allowed me would admit of.

From the view I have taken of the facts, as now stated by you, which it is to be presumed are to be regarded as specifications under the more general charges set forth in your letter of the 10th instant, I must really confess I do not at present see grounds sufficient to justify the steps you require me to take against the armed vessels now in this port, and the merchandise which has been permitted to be laden from them, and deposited in the public store.

You assert, as known facts, that the brig now called the "*Independencia del Sud*," is the same vessel that was formerly known under the name of the *Mammoth* privateer, belonging to Baltimore, armed and equipped in that port, from which she sailed under the command of the same James Chaytor who still commands her. That this very same James Chaytor was necessarily



*Illegal Armaments—Amelia Island.*

hen, and cannot have ceased since to be, a citizen of the United States; is settled, and has a family in Baltimore, whence his wife came down a few days ago in the packet Walter Gray, and is now in this town on a visit to her husband. That he has enlisted men in this port, many of whom are not so obscure as not to be generally known; and you mention, as an instance, Mr. Young, of Portsmouth, who you allege is now acting as first lieutenant on board the brig. You further assert as a fact, "that the Altavella is the very same schooner which was known under the name of the Romp, the same that underwent a trial for piracy before the federal court in this State; that her commander, Captain Grennolds, is a native of one of the neighboring towns, and is very well known in this place." And, finally, that this vessel has been at one of the wharves altering her copper, which you call an improvement in her equipment.

Now, sir, supposing these facts to be what you affirm they are, matter of too great public notoriety to require anything like demonstration; do they prove so clearly that the brig now called *Independencia del Sud* was originally fitted out in this country to aid the United Provinces of the river Plata in their struggle for independence? That James Chaytor, a citizen of the United States, assumed the command of her with that intention, under a commission from that Government, in the port of Baltimore? and that he commenced his cruise against the vessels of the subjects of His Catholic Majesty, with whom the United States are in amity, from that port? On the contrary, do they not, with equal or greater certainty, tend to show that this brig, which you acknowledge was formerly the Mammoth privateer, belonging to Baltimore, was fitted out during the late war between this country and Great Britain, to cruise against the vessels of the subjects of His Britannic Majesty; that she was then under the command of, and probably owned in whole or in part, by the said James Chaytor; that, on the termination of that war the owners of the said vessel having a right to dispose of her wheresoever and to whomsoever they thought fit, may have sent her under the command of the said James Chaytor, from Baltimore to Buenos Ayres, where she may have been purchased by the Government of that place, and put upon their naval establishment, and that the same James Chaytor might then and there have accepted the commission appointing him to the command of her? I wish not to be understood as contending that this was the case, but that it is an inference which may be fairly deduced from the facts as specified by you. The log-book and other documents which I have in my possession seem, moreover, to corroborate this view of the subject. It appears from them that she is a public armed vessel, not a privateer, and commenced her cruise from Buenos Ayres under the orders of that Government (be it whatever you may please to term it) in May, 1816. Whether the said James Chaytor had the right, under such circumstances, to accept the commission or not; or whether, when

he sailed from Baltimore, being then a citizen of the United States, he cannot have since ceased to be one, appears to me plainly and simply the question: has a citizen of the United States the right to expatriate himself, and enter the service of a foreign Power not at war with his native country? A question which it is not my province to discuss, but about which, I apprehend, there can be but little doubt in this country, whatever be the antiquated notions prevailing upon the subject in the old Governments of Europe. His having a wife in Baltimore, and her coming to see him here, does not appear to me to affect the case at all; inasmuch as nothing is more common than for foreigners to have wives here, natives of the country; an illustrious instance of which might be given.

With respect to the facts assumed by you, of the enlistment of men in this port, of which you mention Mr. Young as an evidence, suffice it to say that, from intimations I had received anterior to the date of your letter, I had determined to make the proper inquiries, and to be satisfied upon this point before those vessels are permitted to sail, and shall be governed by the result; although it does not appear altogether perfectly certain that such an augmentation of their force is interdicted by the act of Congress of the 3d of March last, which, being a law highly penal in its nature, will admit of no latitude of construction. Permit me to observe, "*en passant*," that this Mr. Young is by birth an Englishman, served several years in the British navy, several in ours, and, I suppose, has now an equal right, provided it be not done in a manner to violate the laws of the United States, to enter into the service of the Government calling itself the "United Provinces of the river Plata," or any other Government that will receive him.

With respect, also, to the vessel called the Altavella, asserted by you to be the very schooner formerly known by the name of the Romp, and tried for piracy, I proceed to remark, that this vessel furnishes a strong argument against you; for, after a full investigation of all the charges against her, supported, as I believe they were, by some of her own crew, she was acquitted, as well as the commander of her, Squire Fish, who had previously been an officer in the Navy of the United States. The same remark will apply with equal force to her present commander, Captain Grennolds.

Upon the subject of the fact lastly stated by you, of the improvement in the equipment of this vessel at one of our wharves, I have to observe that, on the arrival here of these vessels, I had them examined, and an inventory of their armament, equipment, &c., taken; and before their departure I shall cause a resurvey to be made, with a view to ascertain whether they have undergone, in any respect, any alterations prohibited by the laws of the United States. I cannot agree with you, however, that a mere alteration of her copper, rendered necessary, perhaps, by some damages which I understand were sustained

*Illegal Armaments—Amelia Island.*

in the bottom of the vessel, can be considered as an improvement "in her equipment."

As for merchandise which you "most solemnly lay claim to," in behalf of those whom you term the lawful owners, which you assert "there is no doubt of being stolen, or what, by way of softening the expression, are called prize goods," I can only say, that I neither officially nor individually have any claim to it whatsoever. It is only deposited in the public store for safe-keeping, to guard against injury, as in other cases, which might result to the revenue of the United States; and I see no reason, from anything you have advanced, to change the opinion expressed in my last upon the subject. I know of no decisions, such as you speak of, in the federal courts, adjudging prize goods to be "stolen property, and ordering it to be restored to the rightful owners." If there be any such decisions, they only go to show that it is by such authority only, and not by any that I possess, that the articles in question can be detained or restored.

Having thus, sir, gone through the different topics presented by you for my consideration, I shall conclude, by assuring you it did not require anything you have pointed out to me to remind me of any duty which the circumstances of this case have rendered, or may render it incumbent on me to perform. I am, &c.

CHARLES K. MALLORY.

DON. ANTONIO A. VILLALOBOS,  
*His Catholic Majesty's Consul.*

No. 6.

SPANISH CONSUL'S OFFICE,  
*Norfolk, April 15, 1817.*

SIR: I have received the letter which, in answer to mine of the 12th instant, you did me the honor to address to me yesterday.

Without denying any of the facts, on the strength of which I requested your interposition to prevent two armed vessels now in this port, commanded and principally manned by citizens of the United States, from sallying forth to renew their depredations upon the commerce of Spain, you state that you do not see sufficient grounds for stopping those vessels, or the merchandise landed from them, and now in deposit in the public storehouses in this place.

I do not mean to enter, on the present occasion, into a minute discussion of the several reasons you assign for the line of conduct which you think proper to pursue in this case, because I think it sufficient for me to transmit copies of my correspondence with you to my Government, through the channel of the Minister Plenipotentiary of His Catholic Majesty in this country. Still, you will permit me to advert to that part of your argument, purporting that it is not so clearly proved that Chaytor's views on leaving Baltimore with the armed vessel under his command, were to cruise against the subjects of Spain under a commission from the pretended Government of the river Plata; upon which I will remark, that it is no longer necessary to form con-

jectures about the probable intentions of men, when facts and overt acts have already fully developed their evil purposes. Thus, whether James Chaytor, in going out of Baltimore with the armed vessels still under his command, had hostile views against the subjects of Spain, a nation in amity with this country, is sufficiently solved by the hostilities which he has already committed, and still intends to commit, in the same vessel, against the said subjects.

I must also be allowed to notice that part of your argument, "that, whatever may be the antiquated notions prevailing upon the subject in the old Governments of Europe, there is little doubt in this country about the question, whether a citizen of the United States has a right to expatriate himself, and enter the service of a foreign Power not at war with his native country?" In this you certainly appear to me to have set up a mere speculative opinion in opposition to a positive law, namely, the stipulation in the fourteenth article of the Treaty with Spain, by which the United States have solemnly pledged themselves not to permit their citizens to accept commissions from any Prince or State at war with Spain, for the purpose of cruising against her subjects, and to punish as pirates such of their said citizens as will act contrary to that stipulation.

With regard to the schooner Altavella, formerly the Romp, which vessel, you say, "furnishes a strong argument against me," because, although tried for piracy, she was not actually condemned, I cannot avoid remarking, that, since the time when she escaped merited condemnation, and her commander and crew condign punishment, she has been out cruising with the armament and commission she took out from this country; (it is pretty well ascertained that she has never been at Buenos Ayres;) and that, in every respect, she is evidently a pirate, under the true meaning and intent of the said fourteenth article of the Treaty with Spain; and that her said commander and crew are actually engaged in piratical pursuits, in which course it behooves the constituted authorities of this country to stop them when within their jurisdiction and completely in their power.

Nor can I forbear to observe, before I dismiss the subject, that the self-styled Government of the United Provinces of the river Plata will gain very little "in their struggle for independence," by commissioning such a gang of greedy freebooters, the scum of this and other countries, who, caring little for the fate of that deluded people, excite, by their voracious appetite for plunder, the indignation not only of the people of Spain, but of the honest and good of all other nations.

I will now conclude, sir, by repeating my solicitations and assertions contained in my letters of the 10th and 12th instant, and by solemnly protesting, in the name of my Sovereign, against permitting a number of citizens, now within their jurisdiction, and under their control, to go out to cruise against the commerce of Spain, and to renew their hostilities against her subjects; and I do also protest against delivering back to them



*Illegal Armaments—Amelia Island.*

certain articles of merchandise, described by you in general terms in your letter of the 11th instant, which articles of merchandise are obviously taken from Spanish subjects contrary to law, and especially contrary to the fourteenth article of said Treaty with Spain, and which, from the tenor of the sixth and ninth articles of the same treaty, ought to be retained in behalf of the lawful owners. I am, &c.

ANTONIO A. VILLALOBOS.  
CHARLES K. MALLORY, Esq.,  
Collector of Norfolk and Portsmouth.

No. 7.

COLLECTOR'S OFFICE, NORFOLK,  
April 15, 1817.

SIR: I have been honored with your letter of to-day, in answer to mine of yesterday, and am perfectly pleased that our correspondence has issued in a determination on your part to transmit copies of it to your Government, through its Minister in this country.

I have nothing further to add on my part, but assurances of the respect with which I am, &c.

CHAS. K. MALLORY.  
Don ANTONIO A. VILLALOBOS,  
H. C. M. Consul, Norfolk.

*Dr. Rush to the Chevalier de Onis.*

DEPARTMENT OF STATE, April 22, 1817.

SIR: By direction of the President, I have the honor to ask whether you have received instructions from your Government to conclude a treaty for the adjustment of all differences existing between the two nations, according to the expectation stated in your note to this Department of the 21st of February? If you have, I shall be happy to meet you for that purpose. If you have not, it is deemed improper to entertain discussions of the kind invited by your late notes. This Government, well acquainted with and faithful to its obligations, and respectful to the opinion of an impartial world, will continue to pursue a course, in relation to the civil war between Spain and the Spanish provinces in America, imposed by the existing laws, and prescribed by a just regard to the rights and honor of the United States.

I have the honor to be, &c.

RICHARD RUSH.

*Don Luis de Onis to the Acting Secretary of State.*

WASHINGTON, April 23, 1817.

SIR: I have received your letter of yesterday's date, in which you are pleased to inform me, by order of the President, that, if I have received the instructions which I expected, to conclude a treaty for the arrangement of all the differences pending between the two nations, you are authorized to enter into that negotiation with me; but, if not, you consider it improper to entertain discussions on the subjects treated of in my last notes.

In reply to these points I have to inform you, with respect to the first, that (my conjectures be-

ing confirmed) my instructions have been intercepted by the pirates which infest the seas, whereby their arrival is so much delayed. I have despatched my Secretary, Don Luis Noeli, in order that, by informing His Majesty of this unexpected event, he may cause them to be renewed to me. As to what relates to the second point, I refer to what I stated to you in my letter of the 21st of February, that I would entirely conform to the wishes of the President, to wait the discussions of those points until the arrival of the instructions.

In the same note you have been pleased to add, in reply to the different notes which I have addressed to you on the subject of the armament of privateers in this country, for the purpose of cruising against the subjects of the King, my master, that this Government, faithful to its obligations, and respectful to the opinion of the impartial world, will continue to pursue a course, in relation to the civil war between Spain and the Spanish provinces in America, imposed by the existing laws, and prescribed by a just regard to the rights and honor of the United States.

As all my notes have been directed to this single object, and as I have, in conformity to your intimations, given correspondent orders to His Majesty's consuls to require of the tribunals the execution of those same laws, there is nothing left for me to do but to transmit to His Majesty this new assurance of the President, and to continue on my part to inform this Government of everything which may contribute to maintain unalterable the relations of friendship which exist between the two nations, until the arrival of the instructions which I have requested, and further to strengthen them by a treaty which may put an end to all pending discussions.

I have the honor, &c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

PHILADELPHIA, Sept. 2, 1817.

SIR: The Viceroy of New Spain informs me, in several despatches which I have lately received, of the frequent cases which have occurred of American vessels, both merchantmen and armed ships, which, in running along the coasts of those parts of the dominions of His Catholic Majesty, enter their bays, roads, and harbors, sometimes for the purpose of exploring the country and examining the state of things there, and at others for that of assisting the rebels with provisions, arms, and warlike stores, and of landing adventurers and other dangerous persons, whose object is to join the insurgents. The Viceroy states that the American Colonel Perry had joined the traitor Mina with five hundred men; and Savary, the commandant of the mulattoes, with another body, having gone from New Orleans to incorporate their force with that of Mina and Aury at Galveston, a place within the Spanish dominions; that American vessels are continually sailing from New Orleans with supplies of arms, ammunition, and provisions, for those ban-

*Illegal Armaments—Amelia Island.*

ditti; that the American schooner "Saeta," from New Orleans, entered the harbor of Tampico under the pretence of stress of weather, but, without any manner of doubt, for the purpose of examining the country; and that the privateer or pirate "Jupiter" had captured two Spanish vessels off the bar of the Mississippi, very near to several American vessels, &c. The Viceroy concludes by saying, that he cannot possibly think that so many acts of hostility and violation of the laws of nations, and of the existing treaty, can be permitted or tolerated by the Government of the United States; and that, being desirous to contribute on his part to the maintenance of the amicable relations subsisting between this Government and that of His Catholic Majesty, he had treated the American vessels and citizens, even in the cases of hostility and violation referred to, with unexampled kindness; but that now he left it to my zeal to endeavor to obtain of this Government effectual remedies against these excesses; that, in the meantime, he had given orders to the governors, commandants, and other officers, at the most suitable places within his Viceroyalty, neither to admit nor tolerate any American vessel, or of any other foreign nation, without the requisite passport and license; and that he would exercise the rigor of the laws against those who should disturb the good order and tranquillity of the King's dominions.

In consequence, therefore, of this request of the Viceroy, I add this reclamation to those which I have already had the honor to address to the President, through the medium of the Department committed to you, on similar cases, and in the name of the King, my master; and I trust that, on your laying the whole before his Excellency, he will cause the most effectual measures to be adopted to prevent the continuation of these excesses, and to enforce the due observance of the general principles of the law of nations, and of the treaty which governs between Spain and the United States. I renew, &c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

PHILADELPHIA, Sept. 19, 1817.

SIR: A complaint having been laid before His Catholic Majesty's Government by a part of the crew of the Spanish polacre "Santa Maria," captured on her passage from Havana to Cadiz by the pirate called the "Patriota Mexicano," commanded by José Guillermo Estefanos, manned with citizens of these States, and covered by their flag, under which he chased and brought to the said polacre, until, having ascertained her capture, he hoisted the insurgent flag. I have received the commands of the King, my master, to request of the President, through your medium, the most decisive measures for putting an end to the abuses practised in the ports of this Union, by arming privateers to cruise against the Spanish trade; thus prostituting the flag of the United States by these predatory acts, and trampling under foot, with unparalleled audacity, national

rights, and the existing treaty between Spain and these States.

I, therefore, now renew those urgent reclamations which, on former occasions, I have submitted to the President, through your Department, on this important point; and I trust that the numerous instances of these abuses and horrible depredations will induce his Excellency to adopt energetic measures to restrain these excesses, which so deeply compromise the neutrality of the United States in the eyes of all nations, and are wholly repugnant to the friendship and good understanding happily subsisting between them and His Catholic Majesty. I renew, &c.

LUIS DE ONIS.

*The Chevalier de Onis to the Secretary of State.*

PHILADELPHIA, November 2, 1817.

SIR: His Majesty's Consul at New York has transmitted to me a copy of his correspondence with the United States attorney for that district, whereby he requests that, in conformity with the act of Congress of the 3d of March last, he would oblige a certain armed brigantine to give security or cause her to be seized; the said vessel having arrived at that port from Norfolk, under the flag of Venezuela, and recruited men to increase her crew, in order to proceed afterwards to Amelia Island, there to join the adventurer McGregor, and to co-operate in his nefarious plans against the possessions of my Sovereign and against the Spanish trade.

I have the honor to enclose a copy of the said correspondence, on the contents of which I think it entirely superfluous to make any comment; leaving it to you, sir, to decide whether the solicitude of His Catholic Majesty's Consul at New York has been in conformity with the laws and the above-mentioned act of Congress, and whether the attorney for that district will rightfully have conformed thereto, by his strict observance of them, in obliging the owner or captain of the said armed brigantine to give the requisite security that he will commit no hostilities against the subjects of His Catholic Majesty, and preventing him from proceeding freely to sea to commit new depredations.

It is very disagreeable to me to have to repeat to you, sir, what, unfortunately, I have been several times under the necessity of submitting to the President, through the medium of your predecessors, namely, that the act of Congress of the 3d of March, 1817, has in nowise lessened the abuses by which the laws are evaded, and render entirely illusory the laudable purposes for which they were enacted. From the greater part of the ports of these States there frequently sail a considerable number of vessels, with the premeditated intention of attacking the Spanish commerce, which carry their armament concealed in the hold. It rarely happens that they can be arrested, inasmuch as the collectors of customs say that they have not at their disposition the naval force necessary to effect it; on the other hand, armed vessels, under the flag of the insur-



*Illegal Armaments—Amelia Island.*

gents, enter into the ports of the Union, and not only supply themselves with all necessities, but also considerably increase the means they already have of destroying the trade of Spain, as has recently been the case at New York, whereby the (so called) privateers of His Majesty's revolted provinces, which are in reality nothing more than pirates, manned by the scum of all countries, enjoy greater privileges than the vessels of independent Powers.

I request you, sir, to lay particularly before the President the case which now obliges me to trouble you, in order that his Excellency, being made fully acquainted therewith, may be pleased to take such measures as are within his reach to cause the provisions of the laws of this Republic to be carefully fulfilled, to preserve the observance of the neutrality with other Powers, and prevent the infraction of the treaty existing between the two nations; and thus avoid not only the serious evils that the said pirates cause to the subjects of His Catholic Majesty, but the increase of the difficulties which the two Governments are endeavoring to overcome, for the purpose of establishing their relations upon a more friendly and permanent footing.

I flatter myself that you will honor me with your answer; and, reiterating my respects, &c.  
LUIS DE ONIS.

## No. 1.

[Enclosed in Don Luis de Onis's letter of November 2, 1817.]

CONSULATE OF SPAIN, NEW YORK,  
September 16, 1817.

SIR: Some days ago there arrived in the port of New York an armed brig proceeding from Norfolk, which, I have been very credibly informed, is a vessel pretending to have a commission from Venezuela, but whose object, in coming to this port, was to procure an additional supply of men wherewith to commit hostilities against the subjects and possessions of the King of Spain. A few days ago I presented to the collector of the port of New York an affidavit of a man named John Reilley, stating that he had been requested to enlist on board of a vessel, which was represented to him to be the privateer schooner *Lively*, bound to Amelia Island, to join General McGregor, to invade the territories of His Catholic Majesty.

I am now informed that the brig abovementioned is the vessel alluded to, Reilley having either been mistaken in the name, or designedly deceived by the agents of the privateer. I now enclose the affidavit of John Finegan, by which you will perceive that the officers of the above brig (whose name is the *Americano Libre*, commanded by Captain Barnard) are enlisting, and have enlisted, men in this port to proceed against the Spanish possessions. I have caused application to be made to the collector, who doubts the extent of his authority in interfering with this vessel. Now, as there must be provisions in the laws and treaties of the United States vesting an

authority in some of its officers to prevent the equipment of vessels and the enlistment of men in the United States to proceed against a foreign nation at peace with the United States, I make this application to you, most urgently requesting you to take whatever measures may be necessary immediately, in order to prevent the departure of the above vessel, at least until she shall give bonds that she will not commit hostilities against Spanish subjects. The vessel, it is said, will sail to-morrow morning.

Indeed, if an inquiry were instituted, I am induced to believe that the above brig would be found to be a pirate. I have the honor, &c.

THOMAS STOUGHTON.

J. Fisk, Esq., U. S. District Attorney.

Copy: LUIS DE ONIS.

## No. 2.

[Enclosed in Don Luis de Onis's letter of 2d November, 1817.]

STATE OF NEW YORK, ss:

John Finegan, at present in the city of New York, being duly sworn, saith: That he was requested by a man, who is represented to be the commissary of the vessel next mentioned, to go out in the patriot brig now lying at the quarantine ground; that the destination of the said vessel is to fight against the Spaniards; that the deponent was told, on his arrival in the Spanish possessions, he was to join the land service of the patriots; that deponent knows of five persons who have been engaged in like manner, who are about to proceed on board said brig; that deponent was told, that, as soon as he gets on board, he will receive his advance; that officers are at present employed in the city of New York, in looking out for men, and endeavoring to enlist them to proceed in the said vessel.

JOHN FINEGAN, his X mark.

Sworn this 16th day of September, 1817, before me,

SAMUEL B. ROMAINE.

Es copia: THOMAS STOUGHTON.

Es copia: LUIS DE ONIS.

## No. 3.

[Enclosed in Don Luis de Onis's letter of 2d November, 1817.]

CONSULATE OF SPAIN, NEW YORK,  
September 17, 1817.

SIR: I enclose the deposition of John Reilley, relating to the privateer brig, about which I yesterday had the honor to address you. You will perceive, by the affidavit, that officers belonging to that brig are openly employed in this city in recruiting and enlisting men to join with General McGregor, and invade the possessions of the King of Spain.

I need not remind you that, by the existing laws of the United States, these enlistments are unlawful, and that not only the vessel on board of which they are to embark is liable to seizure and forfeiture, but that the captain and the offi-

*Illegal Armaments—Amelia Island.*

cers thereof, who are engaged in this business, are liable to a heavy fine and imprisonment. As these are flagrant violations of the laws of the United States, and calculated to produce serious injury to the property and to the possessions of His Majesty's subjects, I flatter myself that you will take, without delay, such steps as may be necessary to put a stop to these proceedings.

I have the honor, &c.

THOMAS STOUGHTON.

J. Fisk, Esq., U. S. District Attorney.

Copy: LUIS DE ONIS.

## No. 4.

[Enclosed in Don Luis de Onis's letter of 2d November, 1817.]

STATE OF NEW YORK, City of New York, ss:

John Reilley, at present of the city of New York, mariner, being duly sworn, saith: That some days ago, deponent was requested to embark on board of a vessel which was said to be lying at the Narrows, in the bay of New York, for the purpose of going to join General McGregor, and to fight against the Spaniards; that, after he arrived at Amelia Island, he might either join the land service or the naval service; that deponent would be paid as soon as he got on board; that several persons were engaged in looking out for recruits to proceed upon the same service, and many men were spoken to for the purpose. Deponent was then informed that the vessel was the privateer schooner "*Lively*," but has since learned that it was a mistake, and that the vessel in question is the patriot brig "*Americano Libre*," Captain Barnard, which is lying at quarantine ground, and is armed with several large guns, and many men; that several persons, who are officers, captains, lieutenants, and so forth, are at present employed in recruiting men to join that service, and proceed in the said brig to Amelia; that many hands have already been bespoken, and are now waiting for money, which has been promised to them; that the offers to them are to give them eight dollars a month, and clothing together with ten or twelve dollars, in advance. Deponent supposes that the officers abovementioned were in treaty with about twenty persons, who were to go on board as soon as their advance was paid to them, and which the said officers told them would be during the course of the day; among the officers there is one who is called a general. That the above men were told, in deponent's presence, by the officers who were enlisting them, that they were principally wanted to join the land service against the royalists. And further the deponent saith not.

JOHN REILLEY.

Sworn this 16th day of September, 1817, before me,

F. R. TILLON, Notary Public.

Es copia: THOMAS STOUGHTON.

Es copia: LUIS DE ONIS.

[Enclosed in Don Luis de Onis's letter of 2d November, 1817.]

NEW YORK, September 17, 1817.

SIR: I have duly received your notes of yesterday evening and of this day, and have referred to the statutes providing for the punishment of the offences stated. It is not a case, from the evidence mentioned, that would justify the collector in detaining the vessel; the aggression is to be punished in the ordinary mode of prosecuting those who are guilty of misdemeanors. Oath is to be made of the facts by the complainant, who enters into a recognizance to appear and prosecute the offenders, before any process can issue. This oath being made, and recognizance taken, the judge of the circuit court will issue a warrant to apprehend the accused, and bring them before him, to be further dealt with according to law. When apprehended, it is the province of the attorney of the United States to conduct the prosecution to judgment. I have no authority to administer an oath, or to issue a warrant, nor have I the power to issue any process to arrest and detain the vessel in question, unless by the direction of an Executive officer of the United States. By the reference you have furnished, the parties complained of are to be prosecuted either under the fourth section of the act of Congress passed on the 3d March, 1817, or under the second section of the act passed 5th June, 1794. By adverting to these statutes, it will be seen that the vessel is not liable to seizure for the act of any person enlisting himself to go on board, or for hiring or retaining another person to enlist. The punishment is personal to the offenders; and those who disclose the fact, on oath, within thirty days after enlisting, are protected from prosecution. The offenders are to be arrested and prosecuted in the manner I have stated. I beg you to be assured, sir, that it is not from a disposition either to shrink from the performance of my duty, or to decline interfering to defeat any illegal enterprise against the subjects or possessions of a Power with whom the United States are at peace, that I have stated to you the embarrassments I must encounter in attempting a compliance with your request upon any information with which I am furnished. If it is in your power to procure the names of the parties, and the evidence upon which a prosecution for a misdemeanor can be founded, I will readily co-operate with the proper authorities in having every offender arrested and brought to justice. It is impracticable for me, or any other officer of the United States, to take any legal measures against aggressors upon the indefinite statement of certain persons being concerned in an illegal transaction. Since the receipt of your notes, I have had an interview with the collector, and we are unable to discover any other legal course of proceeding in this case than that adopted in the ordinary cases of misdemeanor. I have the honor to be, &c.

JONATHAN FISK.

THOMAS STOUGHTON, Esq.

Es copia: THOS. STOUGHTON.

Copy: LUIS DE ONIS.



*Illegal Armaments—Amelia Island.*

No. 6.

[Enclosed in Don Luis de Onís's letter of 2d November, 1807.]

CONSULATE OF SPAIN, NEW YORK.  
September 19, 1817.

SIR I have the honor to acknowledge having received yesterday your letter dated the 17th instant, a reply to mine of the 16th and 17th, wherein you mention that the case whereof I informed you in those communications was not one which would justify the collector in detaining the vessel; that the aggression is to be punished in the ordinary mode of prosecuting those who are guilty of misdemeanors; that oath is to be made of the facts by the complainant, who enters into a recognizance to appear and persecute the offenders before any process can issue; that this oath being made, and recognizance taken, the judge of the circuit court will issue a warrant to apprehend the accused and bring them before him, to be further dealt with according to law; and that, when apprehended, it is the province of the attorney of the United States to conduct the prosecution to judgment; that you have no authority to administer an oath or to issue a warrant, nor have you the power to issue any process to arrest and detain the vessel in question, unless by the direction of an executive officer of the United States.

In reply, permit me to request that you will take this subject again into your serious reflection. I do not urge it for the present occasion, because, even though you should upon consideration adopt a different opinion from that which you have communicated to me, it is now too late, since the vessel in question sailed from this port this morning. But, sir, can it be possible that the doctrine can be correct which you lay down in your letter, and which forms your reason for declining to proceed against the persons who were enlisting men in this city, with the open and avowed design of taking them in a privateer under the Venezuela flag to join with McGregor, and commit hostilities against the Spanish possessions? I furnished you with the affidavits of two persons stating the fact, and you will excuse me in saying that I cannot think the laws of the United States render it incumbent upon me to present myself before a judge of the circuit court, and enter into bonds to appear and prosecute the offenders. On the contrary, sir, the thirty-fifth section of the judiciary act imposes upon the Attorney of the United States for each district the duty of prosecuting all delinquents for crimes and offences cognizable under the authority of the United States. I conceive, therefore, that as soon as the Attorney of the United States receives information of the infraction of the laws, it becomes his duty to take such measures as may be necessary to bring the offenders to justice; he is the person who must take the witnesses before a judge or magistrate; he must become the informer; he must prosecute; that is, he must take, or cause to be taken, the steps which are necessary to arrest the offenders and bring them to punishment. I am more confirmed in this belief, because the thirty-third sec-

tion of the judiciary act directs that offenders may be imprisoned by a judge or magistrate, at the expense of the United States, and leaves it discretionary to the witness to appear and testify. That act does not require that the informer should enter into bonds to appear and prosecute. The offence of which I have complained is of a most serious nature. The United States should not afford means to one nation at peace with them to annoy and invade another nation also at peace with them. And it becomes the duty of all the officers of the United States, as they value the reputation and the interest of their country, to discharge with alacrity and zeal those duties assigned to them, which can preserve the neutrality of their country, and prevent its becoming the centre of reunion for the enemies of Spain, and to prevent their own citizens joining in measures of hostility and aggression. It is a matter of notoriety that the insurgent Governments of South America all have their agents in this country; that swarms of privateers are fitted out, armed, and equipped for war in the United States; and all the injuries and desolation committed by them upon the Spanish commerce emanate from the facilities which they find in the United States to prepare themselves for these outrages. And, sir, Congress having passed laws rendering these acts illegal, I cannot admit that individuals must undertake the task of informing against and prosecuting the offenders. These offences are against the dignity of the country; they affect the community at large. I cannot, therefore, bring myself to believe that it is the province of individuals to bind themselves to prosecute offenders, any more than I can think it is the duty of an individual who gives information that a murder has been committed to enter into bonds to prosecute the murderer. No, sir; the laws must have confided this odious but necessary task to its public officers; they must see that offenders are brought to punishment; and, sir, I do further consider that this duty has by law been devolved upon you. Regretting, therefore, that this expedition has been permitted to proceed unmolested, notwithstanding the information which I communicated to you, you will excuse me if, on all future occasions of a similar nature, I should renew my application to you to prevent a new aggression.

I beg you to be assured, &c.,

THOMAS STOUGHTON.

J. Fisk, Esq., U. S. District Attorney.

Es copia: LUIS DE ONÍS.

*The Chevalier de Onís to the Secretary of State.*

PHILADELPHIA, Nov. 2, 1817.

SIR: I have just received a statement, dated the 14th of July, addressed to me by the directors of the Royal Philippine Company at Madrid, informing me of the unfortunate fate of two ships belonging to the said company, the one named "Nuestra Señora del Buen Suceso," alias "La Esperanza," and the other "El Triton," captured the first on the 8th of June last, the day on which she sailed from Cadiz for Calcutta and Manilla,

*Illegal Armaments—Amelia Island.*

by the pretended insurgent privateers "La Independencia del Sud," commanded by James Chaytor, of 18 guns and one traversing 42 pounder; and the Mangore, under the orders of the same Chaytor, of 14 guns and one traversing 36 pounder; and the ship "Triton," from Calcutta and the coast of Coromandel, which was captured off the Cape de Verd islands, after a gallant defence of two hours and a half, in which she lost twenty killed, and sprung her foremast, by a privateer (of the same description as the two above mentioned) called the Regent, alias Trepacámara, commanded by one Manson, who, when seventeen days out from Baltimore, fell in with the "Triton," and conducted her as a prize to Buenos Ayres, where she arrived on the 2d day of April last, according to the advices received by the underwriters at Lloyd's from their agent at Buenos Ayres.

The directors of the Royal Philippine Company, in giving me an account of these distressing events, inform me that they have understood, by the advices which I have given to the principal Secretary of State of the King, my master, that Captain James Chaytor, of the piratical vessel "La Independencia del Sud," kept depending a demand made at the instance of the Spanish Consul at Norfolk, relative to the safe-keeping of certain Spanish property deposited in the customhouse of that port by the above-named pirate, and one called the "Altavela;" whence it is incontestably proven that the armament of "La Independencia del Sud" is made in the ports of these States, and that the captain, officers, and the greater part of her crew, are likewise subjects of the same States. From presumptive causes and circumstances, they suppose that the other privateer may be the "Regent," alias "Trepacámara." Captain Manson, which vessel sailed from Baltimore seventeen days previous to his capturing the "Triton."

I have repeatedly found myself under the painful necessity of representing to the President, through the medium of your predecessors, that the fourteenth article of the treaty between His Catholic Majesty and the United States establishes the most positive right of reclamation on the Government and those citizens who have taken or do take part in the numerous armaments of privateers which have taken place in the ports of this Republic, under cover of the pretended commissions so profusely circulated by the insurgents of the revolted provinces of the King, my master, to attack openly and in a barefaced manner the subjects and commerce of Spain; and that the same article declares those to be pirates who engage in these horrid cruises, and consequently obliges the contracting parties to punish them as such, as a just atonement for their offences. On the 2d and 15th of January, and on the 29th of March last, I officially addressed your immediate predecessor, and remonstrated against the robberies and outrages committed by various privateers, and among others, by those called "Independencia del Sud" and "Mangore," the captains of which, James Chaytor and Barnes,

are citizens of these States. In the note transmitted to the Secretary on the 4th of March, [14th March.] I found myself under the necessity, in consideration of the excesses committed against the subjects of the King, my master, and of those which, through the impunity and toleration of some of the authorities of this country, were about to be repeated by vessels bought, armed, manned, and equipped in the ports of this Republic, in violation of the laws of nations, of the express stipulations of an existing treaty, and of the rights of humanity; and in discharge of my duty, I was laid under the necessity, I say, of representing and remonstrating, in the name of my Sovereign, on the subject of the injuries and losses which had already resulted, and might further result, to his subjects; and, at the same time, of protesting against the authors of the same. The capture of the ship "Esperanza" has been one of the fatal consequences of allowing the privateer "Independencia del Sud" to proceed freely to sea from Norfolk, after His Catholic Majesty's Consul, Don Antonio Argote Villalobos, had made proof of the illegal conduct and atrocious acts of her captain, James Chaytor; and that of the ship "Triton" proceeds likewise from toleration granted in this country of arming and equipping against the trade of Spain; under which supposition, I cannot refrain from stating to you, in order that you may be pleased to communicate the same to the President, that the aforesaid Royal Company of the Philippines have an incontestable right to claim of this Republic full compensation for the value of the said ships and cargoes, by reason of the armament of the privateers which captured them having been made in its ports.

I have the honor to enclose, for the suitable purposes, a note of the articles shipped on board the "Esperanza," at Calcutta and Manilla, for the account of the Royal Philippine Company, and of the return cargo of the "Triton," from Bengal and the coast of Coromandel to Cadiz; which sums united, amount, according to the invoice, to that of seven hundred and one thousand nine hundred and eighty dollars; to which is to be added an interest of fifteen per cent. on the disbursement of the amount of the cargo of the "Triton," for the period of one year and a half, and of six per cent. in Europe on the cargo of the "Esperanza."

I hope you will take into consideration the contents of this note, and be pleased to call the attention of the President to the interesting subject treated of in it, that His Catholic Majesty may adopt such measures as his wisdom may dictate to him, for the purpose of collecting, as far as it may be possible, any parts of the two prizes above named, for the benefit of their owners, and at the same time, giving orders to the competent authorities in the ports of this Republic to discover such effects as may arrive, making part of the same.

I therefore hope this from your established zeal, and the well known rectitude of the President, deferring to my return to the Seat of Government the verbal communication of a plan



*Naval Armament on the Lakes.*

which I have meditated, from a desire to settle amicably an affair of such importance.

I avail myself, &c.,

LUIS DE ONIS.

## NAVAL ARMAMENT ON THE LAKES.

[Communicated to the Senate, April 6, 1818.]

To the Senate of the United States:

An arrangement having been made and concluded between this Government and that of Great Britain, with respect to the naval armament of the two Governments, respectively, on the lakes, I lay before the Senate a copy of the correspondence upon that subject, including the stipulations mutually agreed upon by the two parties. I submit it to the consideration of the Senate whether this is such an arrangement as the Executive is competent to enter into by the powers vested in it by the Constitution, or is such a one as requires the advice and consent of the Senate, and, in the latter case, for their advice and consent, should it be approved.

JAMES MONROE.

APRIL 6, 1818.

Mr. Bagot, *Envoy Extraordinary and Minister Plenipotentiary*, to Mr. Monroe, *Secretary of State*.

WASHINGTON, July 26, 1816.

SIR: Mr. Adams having intimated to His Majesty's Government that it was the wish of the Government of the United States that some understanding should be had, or agreement entered into, between the two countries, in regard to their naval armaments upon the lakes, which, while it tended to diminish the expenses of each country, might diminish also the chances of collision, and prevent any feelings of jealousy, I have the honor to acquaint you that I have received Lord Castlereagh's instructions to assure you that His Royal Highness the Prince Regent will cheerfully adopt, in the spirit of Mr. Adams' suggestion, any reasonable system which may contribute to the attainment of objects so desirable to both States.

Mr. Adams not having entered into any detailed explanation of the precise views of his Government for giving effect to the principle which he had offered for consideration, the British Government is unacquainted with the particular arrangements which the Government of the United States would propose to make for this purpose; but I have been instructed to assure you of the general disposition of His Royal Highness the Prince Regent to listen with satisfaction to any proposal which may secure such ends, and of his readiness to act in a spirit of the most entire confidence upon the principle which has been suggested by Mr. Adams.

I have the honor to be, &c.

CHARLES BAGOT.

HON. JAMES MONROE.

Mr. Monroe to Mr. Bagot.

DEPARTMENT OF STATE,

August 2, 1816.

SIR: I have had the honor to receive your letter of the 26th of July, by which you inform me that Mr. Adams had intimated to your Government the desire of the President to arrange, by compact, the naval force which should be retained on the lakes by both nations, with a view to lessen equally the expense of each, and likewise to guard against collision, but that he had not explained in sufficient detail the proposal which he had been authorized to make, to lead, at that time, to any practical result. You assure me that His Royal Highness the Prince Regent is well disposed to the object, and that, in concert with this Government, he is willing to adopt such measures as may be deemed expedient to give it effect.

The President, being satisfied that, if each nation should maintain on the lakes a large naval force, it would expose both to considerable and useless expense, while it would multiply the risks of collision between them, instructed Mr. Adams, shortly after the peace, to make the proposals which you mention, in the hope, from the amicable spirit in which it was conceived, and the advantage which it was believed both parties would derive from it, that it might be carried into immediate effect. It is very satisfactory to the President to find that your Government approves the principle on which the proposal is founded, and that His Royal Highness the Prince Regent is willing to act on it.

I infer from your letter that you are desirous of obtaining a precise project, either for the purpose of acting on it here immediately, in conformity with the powers already given you, or of transmitting it to your Government for its consideration. Whether it be for the one or the other purpose, I am instructed to afford all the facility that I may be able; though it would, undoubtedly, be more agreeable to the President that the arrangement should be made and executed with the least delay possible.

I have the honor now to state that the President is willing, in the spirit of the peace which so happily exists between the two nations, and until the proposed arrangement shall be cancelled, in the manner hereinafter suggested, to confine the naval force to be maintained on the lakes, on each side, to the following vessels: that is, on Lake Ontario, to one vessel not exceeding one hundred tons burden, and one eighteen-pound cannon; and on the upper lakes, to two vessels of like burden and force; and on the waters of Lake Champlain, to one vessel not exceeding the like burden and force; and that all other armed vessels on those lakes shall be forthwith dismantled; and, likewise, that neither party shall build or arm any other vessel on the shores of those lakes.

That the naval force thus retained by each party on the lakes shall be restricted in its duty to the protection of its revenue laws, the trans-

*Naval Armament on the Lakes.*

portation of troops and goods, and to such other services as will in no respect interfere with the armed vessels of the other party.

That should either of the parties be of opinion, hereafter, that this arrangement did not accomplish the object intended by it, and be desirous of annulling it, and give notice thereof, it shall be void and of no effect after the expiration of — months from the date of such notice.

If this project corresponds with the views of your Government, and you are authorized to accede to it, under any modifications which you may propose, and in which we can agree, I am instructed to give it immediate effect, either by convention, the interchange of notes, or in any form which may be thought best adapted to the ends proposed. If, on the other hand, you consider it your duty to submit this project to your Government for consideration, and to wait its sanction before you can adopt it, and have power to make, *ad interim*, any provisional reciprocal arrangement, having the same objects in view, I shall be happy to digest with you such provisional arrangement, and to carry it reciprocally into effect, for such time, and in such manner, as may be agreed on; or, should your powers be adequate, I am ready to concur in an immediate suspension of any further construction or equipment of armed vessels for any of the waters above named.

I have the honor to be, &c.

JAMES MONROE.

Right Hon. CHARLES BAGOT, &c.

Mr. Bagot to Mr. Monroe.

WASHINGTON, August 6, 1816.

SIR: I have had the honor to receive your letter of the 2d instant, containing the project of an arrangement into which it is proposed that our respective Governments should enter, for the purpose of giving effect to the principle upon which I had the honor to acquaint you, in my letter of the 26th ultimo, that His Royal Highness the Prince Regent was willing to act in respect to the naval armaments upon the lakes.

The general coincidence of sentiment which exists between our Governments, in regard to entering into some arrangement upon this subject, gives reason to hope that the several parts of it will become matter of easy adjustment; but as, in the consideration of any precise proposition to this effect, reference must necessarily be had to various points connected with the internal administration of His Majesty's provinces, and to the naval assistance which the ordinary business of a Peace Establishment may require, I am not authorized to conclude, definitively, any agreement as to details, without previously submitting it to my Government.

I shall, therefore, immediately forward for consideration the proposal contained in your letter; but I shall, in the meantime, willingly take upon myself to give effect to any arrangement upon which we may mutually agree, for the purpose of suspending the further construction and

equipment of armed vessels upon the lakes, and of generally abstaining from exertion in those quarters.

I have the honor to be, &c.

CHARLES BAGOT.

HON. JAMES MONROE, &c.

Mr. Monroe to Mr. Bagot.

DEPARTMENT OF STATE, Aug. 12, 1816.

SIR: I have had the honor to receive your letter of the 6th of this month, by which you inform me that, although you have full confidence that an agreement will be finally entered into by our Governments to limit in a satisfactory manner the naval force to be maintained by them on the lakes, you consider it your duty to submit to your Government the project which I lately communicated to you to that effect, and to wait its orders, before you can proceed to make a definitive arrangement on the subject. You intimate, however, that you are willing to give effect to any arrangement on which we may agree, for suspending, in the meantime, the further construction and equipment of armed vessels on the lakes, and for abstaining from further exertion there.

To this delay no objection is entertained, provided such a provisional arrangement is made as may accomplish the just objects which our Governments have in view. This arrangement, however, like the other, should be equal. In the same spirit, therefore, I now propose the regulations stated in my former note to be adopted as a provisional arrangement. If your powers authorize, and you approve those regulations, on being assured that you will adopt a similar measure, an order will be immediately issued by this Government for carrying them fully into effect.

If your powers do not extend to this object, but are confined exclusively to the suspension of the further augmentation of the naval force on the lakes, I have then to observe, that, on receiving from you a statement of the force which your Government now has on the lakes, with an assurance that its further augmentation shall be suspended, an order will be immediately issued by this Government for confining the naval force of the United States there strictly within the same limit.

I have the honor to be, &c.

JAMES MONROE.

Right Hon. CHARLES BAGOT, &c.

Mr. Bagot to Mr. Monroe.

WASHINGTON, August 13, 1816.

SIR: I have had the honor to receive your letter of yesterday's date. For the same reasons which I have assigned in the letter which I had the honor to address you on the 6th instant, I conceive that I am not authorized to make, even provisionally, any precise agreement as to the exact manner in which the respective naval forces upon the lakes shall be limited; as, in any such agreement, whether permanent or provisional, ref-



*Naval Armament on the Lakes.*

erence must equally be had to the arrangements of a Peace Establishment and the ordinary administration of His Majesty's provinces.

I am not in possession of a correct statement of His Majesty's naval force now in commission upon the lakes, but I will take the earliest means of procuring and communicating to you the most accurate information upon this point; and I can, in the meantime, give you the assurance that all further augmentation of it will be immediately suspended.

I have the honor to be, &c.

CHARLES BAGOT.

Hon. JAMES MONROE, &c.

*The same to the same.*

WASHINGTON, November 4, 1816.

SIR: In conformity with the arrangement made between us in our correspondence of the 12th and 13th of August last, I have now the honor to enclose to you an account of the actual state of His Majesty's naval force upon the lakes; and to acquaint you that its further augmentation is suspended until the sentiments of His Majesty's Government upon the project contained in your note of the 5th [2d] of August (and which I have transmitted to Lord Castlereagh) are known.

I have the honor to be, &c.

CHARLES BAGOT.

Hon. JAMES MONROE, &c.

*Statement of His Majesty's naval force on the Lakes of Canada, September 1, 1816.*

ON LAKE ONTARIO.

St. Lawrence, can carry 110 guns, laid up in ordinary.

Psyché, can carry 50 guns, laid up in ordinary.

Princess Charlotte, can carry 40 guns, laid up in ordinary.

Niagara, can carry 20 guns, condemned as unfit for service.

Charwell, can carry 14 guns, hauled up in the mud; condemned likewise.

Prince Regent, can carry 60 guns, in commission, but unequipped, being merely used as a barrack or receiving ship, and the Commander-in-chief's headquarters.

Montreal, in commission, carrying 6 guns; used merely as a transport for the service of His Majesty.

Star, carrying 4 guns; used for current duties only, and unfit for actual service.

Netley, schooner, carrying no guns; attached for the most part to the surveyors, and conveying His Majesty's servants from port to port.

There are, besides the above, some row-boats, capable of carrying long guns; two 74-gun ships on the stocks, and one transport of four hundred tons, used for conveying His Majesty's stores from port to port.

ON LAKE ERIE.

Tecumseh and Newark, carrying four guns each; and Huron and Sauk, which can carry one gun

each. These vessels are used principally to convey His Majesty's servants and stores from port to port.

ON LAKE HURON.

The Confidence and Surprise schooners, which may carry one gun each, and are used for purposes of transport only.

ON LAKE CHAMPLAIN.

Twelve gun-boats; ten of which are laid up in ordinary, and the other two (one of which mounts four guns, and the other three guns) used as guard-boats. Besides the above, there are some small row-boats, which are laid up as unfit for service.

Keel, stem, and stern-post of a frigate, laid down at the Isle aux Noix.

J. BAUMGARDT,

Captain H. M. ship Prince Regent, &c.

*Mr. Monroe to Mr. Bagot.*

DEPARTMENT OF STATE, Nov. 7, 1816.

SIR: I have received and laid before the President your letter of the 4th instant, in which you do me the honor to give me an account of the actual state of His Britannic Majesty's naval force on the lakes, with an assurance that its further augmentation is suspended until the sentiments of your Government upon the project contained in my note of the 5th [2d] of August are known.

As this proceeding is in conformity to one of the propositions heretofore made by me, I have now the honor to enclose to you an account of the actual state of the naval force of the United States on the lakes, and to assure you that orders will be immediately given by this Government to prevent any augmentation of it beyond the limit of the British naval force on those waters. I have the honor to be, &c.

JAMES MONROE.

*The same to the same.*

DEPARTMENT OF STATE, Nov. 8, 1816.

SIR: I have the honor to inform you that the orders alluded to in my letter of yesterday's date, in relation to the naval force on the lakes, have been given by this Department. I am, &c.

JAMES MONROE.

*Mr. Bagot to Mr. Monroe.*

NOVEMBER 8, 1816.

SIR: In the statement of the American naval force upon the lakes, which I yesterday morning received from you, at your office, in exchange for a similar statement at the same time delivered to you of the naval force of His Majesty, I observe that no return is made of any force upon the upper lakes.

I shall be much obliged to you, if you will have the goodness to acquaint me whether the force upon those lakes is comprehended in the return

*Naval Armament on the Lakes.*

of that upon Lake Erie. I have the honor to be, &c.

CHARLES BAGOT.

Hon. JAMES MONROE, &c.

*Mr. Monroe to Mr. Bagot.*

NOVEMBER 8, 1816.

SIR: I hasten to inform you, in reply to your letter of this date, that the naval force of the United States upon the upper lakes is comprehended in the return of that upon Lake Erie, which I gave to you yesterday. I have the honor, &c.

JAMES MONROE.

*Mr. Bagot to Mr. Rush, Acting Secretary of State.*

WASHINGTON, April 28, 1817.

The undersigned, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honor to acquaint Mr. Rush that, having laid before His Majesty's Government the correspondence which passed last year between the Secretary of the Department of State and the undersigned, upon the subject of a proposal to reduce the naval force of the respective countries upon the American lakes, he has received the commands of His Royal Highness the Prince Regent to acquaint the Government of the United States that His Royal Highness is willing to accede to the proposition made to the undersigned by the Secretary of the Department of State, in his note of the 2d August last.

His Royal Highness, acting in the name and on behalf of His Majesty, agrees that the naval force to be maintained upon the American lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side; that is:

On Lake Ontario, to one vessel, not exceeding one hundred tons burden, and armed with one eighteen pound cannon.

On the upper lakes, to two vessels, not exceeding like burden each, and armed with like force.

On the waters of Lake Champlain, to one vessel, not exceeding like burden, and armed with like force.

And His Royal Highness agrees, that all other armed vessels on these lakes shall be forthwith dismantled, and that no other vessels of war shall be there built or armed.

His Royal Highness further agrees, that, if either party should hereafter be desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The undersigned has it in command from His Royal Highness the Prince Regent to acquaint the American Government that His Royal Highness has issued orders to His Majesty's officers on the lakes, directing that the naval force so to be limited shall be restricted to such services as will in no respect interfere with the proper duties of the armed vessels of the other party.

The undersigned has the honor to renew to Mr. Rush the assurances of his highest consideration.

CHARLES BAGOT.

*Mr. Rush to Mr. Bagot.*

DEPARTMENT OF STATE, April 29, 1817.

The undersigned, acting Secretary of State, has the honor to acknowledge the receipt of Mr. Bagot's note of the 28th of this month, informing him that, having laid before the Government of His Britannic Majesty the correspondence which passed last year between the Secretary of State and himself, upon the subject of a proposal to reduce the naval force of the two countries upon the American lakes, he had received the commands of His Royal Highness the Prince Regent to inform this Government that His Royal Highness was willing to accede to the proposition made by the Secretary of State in his note of the 2d of August last.

The undersigned has the honor to express to Mr. Bagot the satisfaction which the President feels at His Royal Highness the Prince Regent having acceded to the proposition of this Government, as contained in the note alluded to; and, in further answer to Mr. Bagot's note, the undersigned, by direction of the President, has the honor to state that this Government, cherishing the same sentiments expressed in the note of the 2d of August, agrees that the naval force to be maintained upon the lakes by the United States and Great Britain shall henceforth be confined to the following vessels on each side; that is:

On Lake Ontario, to one vessel, not exceeding one hundred tons burden, and armed with one eighteen-pound cannon.

On the upper lakes, to two vessels, not exceeding the like burden each, and armed with like force; and

On the waters of Lake Champlain, to one vessel, not exceeding like burden, and armed with like force.

And it agrees that all other armed vessels on these lakes shall be forthwith dismantled, and that no other vessels of war shall be there built or armed.

And it further agrees that, if either party should hereafter be desirous of annulling this stipulation, and should hereafter give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The undersigned is also directed by the President to state that proper orders will be forthwith issued by this Government to restrict the naval force thus limited to such services as will in no respect interfere with the proper duties of the armed vessels of the other party.

The undersigned eagerly avails himself of this opportunity to tender to Mr. Bagot the assurances of his distinguished consideration and respect.

RICHARD RUSH.

*Mr. Rush to Mr. Crowninshield, the Secretary of the Navy.*

DEPARTMENT OF STATE, April 30, 1817.

SIR: I have the honor to enclose to you, herewith, the copy of a letter, dated yesterday, embracing the terms of a stipulation which has been



*Naval Armament on the Lakes.*

entered into with the British Government relative to the reduction of the naval force upon the lakes, and to request, in conformity with the President's desire, that you will be so good as to issue such orders as may be necessary for giving all the contemplated effect to the stipulation in question. I am, &c.

RICHARD RUSH.

*Mr. Crowninshield, Secretary of the Navy, to Captain D. S. Dexter, commanding naval officer of the United States, Erie, Pennsylvania.*

NAVY DEPARTMENT, May 2, 1817.

SIR: Conformably to stipulations which have been recently entered into between this Government and that of Great Britain, it is agreed that the naval force to be maintained on the upper lakes—viz: Erie, Huron, &c.—shall henceforth be confined to two vessels on each side, neither of which to exceed one hundred tons in burden, nor mount more than one eighteen pounder. The schooners Porcupine and Ghent—the former armed with an eighteen pounder, and the latter with a twelve or eighteen pounder, will be retained for occasional service upon the upper lakes; in the performance of which you will be particularly careful not to interfere in any respect with the proper duties of the British armed vessels.

For your information and government, I enclose to you, herewith, an extract copied from the stipulations. I am, very respectfully, &c.

B. W. CROWNINSHIELD.

Captain D. S. DEXTER,  
Com'g Naval Officer, Erie, Penn.

*The Secretary of the Navy to Captain Woolsey.*

NAVY DEPARTMENT, May 2, 1817.

SIR: Conformably to stipulations which have been recently entered into between this Government and that of Great Britain, it is agreed that the naval force to be maintained on Lake Ontario shall henceforth be confined to one vessel on each side, not exceeding one hundred tons burden, and mounting not more than one eighteen pounder. The schooner Lady of the Lake, armed with one eighteen pounder, will be retained on Lake Ontario for occasional service; in the performance of which you will be particularly careful not to interfere in any respect with the proper duties of the British armed vessel.

For your information and government, I enclose to you, herewith, an extract copied from the stipulations.

I am, very respectfully, &c.

B. W. CROWNINSHIELD.

Captain M. T. WOOLSEY,  
Com'g Naval Officer, Sackett's Harbor.

*The Secretary of the Navy to Captain Leonard.*

NAVY DEPARTMENT, May 2, 1817.

SIR: Conformably to stipulations which have been recently entered into between this Government and that of Great Britain, it is agreed that

the naval force to be maintained on Lake Champlain shall henceforth be confined to one vessel on each side, not exceeding one hundred tons burden, and mounting not more than one eighteen pounder. The galley Allen, with her armament of one twelve or eighteen pounder, will be retained for occasional service upon Lake Champlain; in the performance of which you will be particularly careful not to interfere in any respect with the proper duties of the British armed vessel.

For your information and government, I enclose to you, herewith, an extract copied from the stipulations.

I am, very respectfully, &c.

B. W. CROWNINSHIELD.

Captain JAMES T. LEONARD,  
Com'g Naval Officer, Whitehall, N. Y.

[This arrangement having been approved by the President, the following proclamation was issued.]

*By the President of the United States of America.*

A PROCLAMATION.

Whereas an arrangement was entered into at the City of Washington, in the month of April, in the year of our Lord one thousand eight hundred and seventeen, between Richard Rush, Esq., at that time acting as Secretary for the Department of State of the United States, for and in behalf of the Government of the United States, and the right honorable Charles Bagot, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, for and in behalf of His Britannic Majesty; which arrangement is in the words following, to wit:

"The naval force to be maintained upon the American lakes, by His Majesty and the Government of the United States, shall henceforth be confined to the following vessels on each side, that is—

"On Lake Ontario, to one vessel, not exceeding one hundred tons burden, and armed with one eighteen-pound cannon.

"On the upper lakes, to two vessels, not exceeding like burden each, and armed with like force.

"On the waters of Lake Champlain, to one vessel, not exceeding like burden, and armed with like force.

"All other armed vessels on these lakes shall be forthwith dismantled, and no other vessels of war shall be there built or armed.

"If either party should be hereafter desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

"The naval force so to be limited shall be restricted to such services as will in no respect interfere with the proper duties of the armed vessels of the other party."

And whereas the Senate of the United States have approved of the said arrangement, and recommended that it should be carried into effect; the same having also received the sanction of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Britannic Majesty:

*Spain—Imprisonment of Citizens of the United States.*

Now, therefore, I, James Monroe, President of the United States, do, by this my proclamation, make known and declare that the arrangement aforesaid, and every stipulation thereof, has been duly entered into, concluded, and confirmed, and is of full force and effect.

Given under my hand, at the city of Washington, this twenty-eighth day of April, in the year of our Lord one thousand eight hundred and eighteen, and of the independence of the United States the forty-second.

JAMES MONROE.

By the President:

J. Q. ADAMS, Secretary of State.

SPAIN—IMPRISONMENT OF CITIZENS OF THE UNITED STATES.

[Communicated to the House, April 15, 1819.]

*To the House of Representatives of the United States:*

In compliance with a resolution of the House of Representatives of the 10th instant, relative to the capture and imprisonment of certain persons, citizens of the United States, therein specifically mentioned, I now transmit a report from the Secretary of State, which, with the documents accompanying it, embrace the objects contemplated by the said resolution.

JAMES MONROE.

APRIL 15, 1818.

DEPARTMENT OF STATE, April 13, 1818.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 10th inst. requesting information relative to the capture and imprisonment, at Santa Fe, in Mexico, of Auguste Pierre Chouteau, Julius Demun, and their company, Robert McKnight, James Baird, and their company, likewise J. Farro, citizens of the United States, has the honor of submitting to the President copies of the papers in this Department concerning the subject of that resolution, in relation to McKnight, Baird, and their company. He transmits, at the same time, the original papers which contain the information relative to the place where Chouteau, Demun, and their company were captured, requested by the resolution of the House.

1. Deposition of Baptisti Ficio and others, taken 25th September, 1817, before F. M. Guyolo, a justice of the peace in the Missouri Territory.

2. Depositions of Toussaint Charbonneau and Michel Carriere.

3. Letter from Julius Demun to the Governor of the Missouri Territory, enclosing a draught of a map, showing the spot where he (Demun) and his company were taken.

4. Statements marked A, B, C, and D, of expenditures by Chouteau and Demun.

There is at the Department no information relative to the capture or imprisonment of J. Farro.

It is desirable that the original papers, after 15th CON. 1st SESS.—62

being communicated to the House, should, if they think proper, be returned to this Department.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE, Feb. 8, 1817.

SIR: As you have intimated a willingness to interpose your good offices in behalf of the unfortunate persons to whom the enclosed papers relate, I deem it unnecessary to do more than request your early attention to the subject.

If you could, in addition to your application to the Viceroy of Mexico, address one to the local authorities at Santa Fe, the relatives of the unfortunate captives would undertake to have it forwarded across the country from St. Louis, provided you would give the passport necessary for the protection of the messenger. This appears to me the best method of effecting an early release of the captives, and I take the liberty to recommend it accordingly. I have, &c.

JAMES MONROE.

The CHEVALIER DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, February 13, 1817.

SIR: I have had the honor to receive your note of the 8th instant, with several enclosures, relating to certain individuals detained in the province of Santa Fe, on the ground of their having entered the Spanish territory without being furnished with the necessary passports.

In conformity to what I before stated to you, I shall transmit these documents to the Viceroy of Mexico, and specially recommend this business to his attention, with a request to exert his authority to cause these persons to be immediately liberated, provided there appear no sufficient reason to the contrary.

With respect to the passport requested by you, to enable the families of the parties so detained to send a messenger by land, and apply immediately to the local authorities of Santa Fe, I am sorry to say it is not in my power to grant it; His Majesty having, under the existing circumstances, reserved to himself the right of issuing passports, through the medium, exclusively, of his principal Secretary of State, for the admission and passage of any individual whatsoever into his colonial territories; but, with a view to facilitate, as far as depends on me, this application to the Viceroy, I now do myself the honor to enclose a duplicate of my letter to that officer, to enable you to avail yourself of one of the frequent opportunities which now offer directly for Vera Cruz, in consequence of the opening of that port for the vessels of all friendly nations taking provisions thither. I renew to you, &c.

LUIS DE ONIS.

Hon. JOHN Q. ADAMS.

WASHINGTON CITY, Dec. 29, 1817.

SIR: In 1811 or 1812, Robert McKnight, Benjamin Shrive, James Baird, Alfred Allen, Michael



## Spain—Imprisonment of Citizens of the United States.

McDonough, William Mines, Samuel Chambers, Peter Baum, Thomas Cook, and one — Miera, as their interpreter, and probably some others whose names I do not know, all citizens of the United States, of the Missouri Territory, went up the Missouri river, and from thence into the Spanish provinces; they were arrested and imprisoned by the authorities of that country, at Santa Fe, and from then till now have been detained from returning to their families and their homes. Last Winter I laid this subject before the Secretary of State, and he procured from the Spanish Minister something like an order (the Minister not feeling authorized to give more) for their release, (triplicates;) one was stated to have been sent directly to the Viceroy, another was said to have been sent on for the royal signature, and the third was given to me, with a view of having it sent directly on from St. Louis, by some gentlemen who were expected to go shortly through, but who did not go. The paper thus obtained did not amount to a passport to protect any person who would bear the same; and the consequence was, no person would venture to be the bearer of it, when they also ran the risk of being immersed with those they went to relieve; and it is presumed, from the delay, either that the orders have never reached the Viceroy, or have been disregarded. I understood, even if the copy of the order destined directly to reach the Viceroy did arrive, that it did not amount to positive orders for their release, but recommended it, and that they should be furnished with the means of returning home; and, should this fail, the one sent for the royal signature at all events would procure their release.

I hope you will take up this subject; and if an order for their discharge can be obtained, together with a passport, they have friends (and some of them brothers) at St. Louis, who would go or send instantly to their assistance.

If deemed proper by you, I should be glad to know the result as early as possible.

I have the honor to be, &c.

JOHN SCOTT.

Hon. J. Q. ADAMS.

*The Secretary of State to Don Luis de Onis, Envoy Extraordinary and Minister Plenipotentiary from Spain.*

DEPARTMENT OF STATE,  
WASHINGTON, Jan. 7, 1818.

SIR: I have the honor to enclose a copy of a letter received at this department from the Delegate in Congress of the Missouri Territory, and to request information of you whether you have received any advices showing the effect of the applications suggested in the letter to have been transmitted by you, in behalf of the persons stated to have been imprisoned at Santa Fe; and if you have not, I am directed by the President to ask of you a renewed application for the release of these citizens of the United States; and, if that is obtained, a passport or safe-conduct for any friend or relation of the prisoners to go to Santa

Fe, for the purpose of furnishing them the means of returning to their country.

Be pleased, sir, to accept, &c.

JOHN QUINCY ADAMS.

*Don Luis De Onis to the Secretary of State.*

WASHINGTON, January 12, 1818.

SIR: In answer to your very esteemed note of the 7th of this month, enclosing a letter from the Delegate of the Missouri Territory, I have to assure you of my great regret in not being able to communicate to you positive information of the result or effect of the application which I made on the 13th of February last, to the Viceroy of New Spain, in behalf of Mr. James Baird, Mr. McKnight, and other individuals arrested by the Spanish authorities, on the ground of their having entered the territory of New Mexico, on their way from St. Louis to the capital, without being furnished with the necessary passports.

On the same date I made a representation of this case to His Catholic Majesty's Government, and I requested both His Majesty and the Viceroy of New Spain to be pleased to take into consideration the innocence or good faith of the parties in question, by permitting and facilitating their return to St. Louis, or other point on the frontier most convenient to them.

I have yet received no answer either from my Court or from Mexico, which is doubtless to be attributed to accidental circumstances, such as the miscarriage of letters, and others of the like nature, which frequently happen. But, being anxious to comply with your wishes, and render a service to the above-mentioned individuals, I shall renew my application and request to the Viceroy of New Spain, and again make a communication on this subject to my sovereign. I am sorry, however, to inform you, that it is not within my province to grant the passport wished for Santa Fe, in New Mexico, as it is only His Catholic Majesty's principal Secretary of State who has authority to issue passports of that nature.

In consequence of which I enclose a duplicate open letter for the Viceroy of Mexico, which may be transmitted by the parties interested, by the way of Havana, to some merchant or other person there, to be by them forwarded and properly recommended to Vera Cruz, for the purpose of obtaining a speedy answer and ascertaining the result, which I flatter myself will be completely satisfactory, provided nothing has occurred in the case repugnant to the laws of the monarchy, and those particularly regulating the affairs of the Indies.

I shall forward a triplicate and quadruplicate of the same letter to the Viceroy, it not being in my power to do more. I avail myself, &c.

LUIS DE ONIS.

*Don Luis de Onis to Don Ruiz de Apodaca, Viceroy of the Kingdom of New Spain.*

WASHINGTON, January 12, 1818.

MOST EXCELLENT SIR: On the 13th of Febru-

## Spain—Imprisonment of Citizens of the United States.

ary, of last year, I had the honor to inform your Excellency that the Secretary of State of the Republic had addressed to me a note, requesting me to employ my good offices with your Excellency in behalf of a Mr. James Baird, who, together with the persons named McKnight, Mercer, Server, Allen, Brown, alias Baum, McDonough, and others, had been arrested and imprisoned at Santa Fe, having been found within the territory of New Mexico without passports. I then stated to your Excellency, that it was alleged by the families of the above-mentioned citizens of these States, that their error proceeded from their ignorance of our laws for the administration of the Indies, that is, those which prohibit an entrance into the country to all foreigners, and that their object in going to Santa Fe was purely and simply commercial; in consideration of which, I could not do less than recommend to your Excellency to give due attention to the request of the said Secretary, by ordering the requisite inquiries to be made, and the persons so detained to be liberated, provided there appeared no sufficient reasons to the contrary, that they might immediately return to their families.

As I have yet received no answer from your Excellency on this subject, and the Secretary of State has addressed to me another note, on the 7th instant, enclosing a copy of a statement of the deputy of Missouri Territory, to which the parties in question belong, and requesting me to communicate to him the result of my recommendation to your Excellency in behalf of the sufferers, I think it my duty to renew it to you, as I now do in the most particular manner, in the hope that your Excellency will give immediate orders that, with an especial reference to this matter, the necessary inquiries be made into the case of James Baird and other American citizens confined at Santa Fe, and that, in consideration of the length of time since their arrest and separation from their distressed families, and of their unintentional error, your Excellency will be pleased to mitigate as far as possible the punishment they may have incurred, by granting them permission and the requisite facilities to return to the Missouri Territory, or other part of the American territory most suited to their convenience.

I doubt not that your Excellency will pay due attention to this request, and communicate to me the result with all possible despatch, that I may give the necessary information to this Government. In the mean time, I renew, &c.

LUIS DE ONIS.

*Statement and proof in case of Chouteau and Demun, of their loss and treatment by the Spaniards.*

UNITED STATES, TERRITORY OF MISSOURI,  
County of St. Louis, set:

The undersigned, having been first duly sworn on the holy evangelists, severally depose and say: That, in the beginning of September, 1815, they were engaged by Auguste P. Chouteau & Co. at St. Louis, in the Territory of Missouri, for a

trading expedition with the Indians of the headwaters of the rivers Arkansas and Platte. The party, conducted by the said Auguste P. Chouteau, proceeded to their grounds on the headwaters of the Arkansas, and continued the trade until the Spring of 1817; at which time our encampment was visited by a guard of Spaniards, two hundred or more in number, the commanding officer of which guard was the bearer of an order from the Governor of New Mexico to conduct our whole party to Santa Fe. This order was executed. Auguste P. Chouteau, together with the whole party, consisting of twenty-one persons, accompanied the troop or guard, and, on their arrival at Santa Fe, were reviewed by the Governor, and immediately put into close confinement. At the time of the arrest of our persons within the limits of the United States, Mr. Chouteau, conscious, no doubt, that he had violated none of the Spanish regulations, took with him a part of his property to defray expenses; none of which he was permitted to retain, to exchange, or to make any use of. Not only that, but also the whole stock of the company, cached or concealed in the ground near our camp, east of the mountains, and on the headwaters of the Arkansas, was seized by the Spaniards under special order from the Governor, and taken to Santa Fe. We remained in prison (some of us in irons) forty-eight days, during which time we were dieted in a very coarse and meager manner, with boiled corn or beans, without salt.

When we speak of the review and confinement of the party, we mean the men generally; for Mr. Chouteau and the conductors of our trade preceded us, and arrived first at Santa Fe. We know not the particulars of their reception or treatment, except that, when they were liberated, (after forty-eight days,) their property was not restored to them.

Long previously to our arrest, Mr. Chouteau had equipped several parties for different parts of the upper country; all, as we constantly understood, within the acknowledged limits of the United States. Of the fate of these detached parties we know nothing. Our arrest and detention in the Spanish province interrupted that correspondence on which their success must, in a great degree, have depended. As well as we recollect, Mr. Chouteau's party, on leaving St. Louis, amounted to forty-six.

JEAN BAT. BRIZA, his x mark.

BAPTISTI FICIO, his x mark.

C. BOURGUIGNON, his x mark.

JOSEPH CISDELLE, his x mark.

ETIENNE PROVOTT, his x mark.

FRANCOIS MAUANT, his x mark.

PIERRE LEGRIS, his x mark.

FRANCOIS PAKET, his x mark.

FRAN. DERPORT, his x mark.

ANTOINE BIZET, his x mark.

JOSEPH BISSONET, his x mark.

Sworn to, and delivered and signed before me, a justice of the peace in the county and township aforesaid, this 25th day of September 1817.

F. M. GUYOLO, J. P.



*Spain—Imprisonment of Citizens of the United States.*

William Clark, Governor of the Territory of Missouri, commander-in-chief of the militia, and superintendent of Indian affairs, to all whom it may concern:

Be it known, that F. M. Guyolo is, and was on the 25th September last, a justice of the peace within and for the county of St. Louis, Territory of Missouri, regularly commissioned. In testimony whereof, I have caused the seal of the Territory to be hereunto affixed.

Given under my hand, at St. Louis, the 22d day of November, A. D. 1817, and of the independence of the United States the forty-second.

WILLIAM CLARK.

By the Governor:

FREDERICK BATES,

Secretary of Missouri Territory.

TERRITORY OF MISSOURI,  
County of St. Louis, ss:

Toussaint Charboneau, being of lawful age, and duly sworn, on his oath saith: That he did, some time in the month of July, in the year 1816, engage with Julius Demun, of the firm of Auguste P. Chouteau & Co. to go on a trading voyage in the rivers Arkansas and Platte, among the different nations of Indians residing on the said rivers and the waters thereof; that the said Auguste P. Chouteau & Co. agreed to pay him for said voyage the sum of two hundred dollars; that he staid with the said Auguste P. Chouteau & Co. from the said month of July, the time of their starting from this place, until July in this same year; and on his return to this town of St. Louis, did receive from the said Auguste P. Chouteau & Co. the sum agreed upon, to wit, the sum of two hundred dollars: and further saith not.

TOUS. CHARBONEAU, his x mark.

Sworn to and subscribed this 7th day of December, A. D. 1817, before me,

J. V. GARNIER, J. P.

Frederick Bates, Secretary, exercising the government of the Territory, of Missouri, to all whom it may concern:

Be it known that J. V. Garnier was on the 8th ultimo, and is, a justice of the peace in and for the county of St. Louis, in the Territory of Missouri, regularly commissioned. In testimony whereof, I have hereunto affixed the Territorial seal.

Given under my hand at St. Louis, the third day of January, A. D. 1818, and of the independence of the United States the forty-second.

FREDRICK BATES.

TERRITORY OF MISSOURI,  
County of St. Louis, ss:

Michel Carriere, being of lawful age and duly sworn, on his oath, saith: That he did, on or about the beginning of September, in the year 1815, engage with Auguste P. Chouteau and Julius Demun, being then and there preparing for a trading voyage under the style, name and description of Auguste P. Chouteau & Co., to go and trade among the different tribes of Indians residing and hunting on the rivers Arkansas and

Platte, and the waters thereof; that he did, according to his contract with the said Auguste P. Chouteau & Co., go on his said voyage, and remained thus employed for the space of two years, for which he did receive from the said Auguste P. Chouteau & Co., as a compensation or wages, a sum of two hundred dollars, which was actually paid to him by his said employers: and this deponent further saith not.

MICHEL CARRIERE, his x mark.

Sworn to and subscribed this 22d day of December, A. D. 1817, before me,

J. V. GARNIER, J. P.

Frederick Bates, Secretary, exercising the government of the Territory, of Missouri, to all whom it may concern:

Be it known, that J. V. Garnier is, and was on the 27th ult., a justice of the peace within and for the county of St. Louis, Territory of Missouri, regularly commissioned. In testimony whereof, I have hereunto affixed the seal of the Territory.

Given under my hand, the 3d day of January, A. D. 1818, and of the independence of the United States the forty-second.

FREDERICK BATES.

St. Louis, Nov. 25, 1817.

Sir: Having to relate to your Excellency the unfortunate event which has thrown me, Mr. Auguste P. Chouteau, and twenty-four men, for forty-eight days, in the dungeons of Santa Fe, and which, by depriving us of everything we possessed, has brought us to the brink of ruin, I must beg your Excellency's indulgence if I take too much of your time. But I think myself bound to give a detailed account of what has happened; the more so, as your Excellency's right of granting us a license to go to the headwaters of Arkansas and Platte rivers was denied by the Governor of New Mexico, Don Pedro Maria de Allande.

In the month of September, 1815, Mr. A. P. Chouteau and myself fitted out an expedition to go to the headwaters of Arkansas river, to trade with the Aarapahos, and other Indians living thereabout; and, having obtained a license from your Excellency, we started from this place on the 10th of same month, in company with Mr. Philibert, a trader, who had gone to the mountains the year before, and who had come back to get a supply of goods to enable him to buy horses to bring in his furs.

It being late in the season, we had great difficulties to encounter; some of our horses giving out every day, we had to walk more than one-half of the way to the mountains, where we arrived on the 8th of December.

On our way we had bought of Mr. Philibert his furs, goods, horses, &c., and the time of his men. These we expected to find at the fork called by the Spaniards *El Haerfano*, and denominated on Pike's map the Third Fork, where Philibert had given them rendezvous; but in this we

*Spain—Imprisonment of Citizens of the United States.*

were disappointed. After our researches were over, we met some Indians, who told us that the men, not seeing Philibert return about the appointed time, and being destitute of everything necessary to support themselves, had gone over to the Spaniards. We had then no alternative. We determined that I should go in quest of them; and I started in the beginning of January, 1816.

I arrived at Taos, where I found the men, who had been received with the greatest hospitality, and allowed to pass the Winter there. I went on to Santa Fe, to explain to the Governor the reasons of my coming into the country. As soon as I alighted in the capital I was presented to the then Governor, Don Alberto Maynez, who at first expressed his surprise to see me; but no sooner had I told him the circumstances under which I came than he treated me very politely.

Don Alberto is an old gentleman of good information, who possesses, in a great degree, the good manners and politeness peculiar to his nation.

Having seen on my way to Santa Fe that the rivers abounded with beaver, I asked the Governor the permission of coming, with a fixed number of hunters, to catch beaver in the rivers which empty themselves into Rio del Norte. This he could not take upon himself to grant, but had the goodness to write on that subject to the commandant General. As I could not wait for the answer, Don Alberto told me to come back, when convenient, to know the General's answer. I must not omit to say that the Governor did not seem a moment to doubt that we had a right to frequent the east side of the mountains, and there to trade or catch beaver if we could; for he advised me not to go to the south of Red river of Natchitoches, but from that river to the northward we might trade and hunt as we pleased.

I returned to Taos, from whence I started, with all our engagees and two Spaniards the Governor had ordered to accompany us, to the Rio della Trinehera; from thence, in three days, we reached Mr. Chouteau's camp at the mouth of the Third Fork. Finding ourselves with more men than we expected at our departure from St. Louis, and not having a necessary equipment, it was necessary for one of us to come back. I started on the 27th February with Philibert and one of our men, and did not reach this place but after forty-six days' journey, through barren prairies, which, at that season, did not afford any pastures for our horses, having sometimes to travel in the night to avoid the Panis' war parties we had the good fortune to discover in the day time. I bought the goods and engaged men for a new expedition, and, having taken another license, started on the 15th July to go by water to the Kansas river, where Mr. Chouteau and I appointed to meet. On his way from the mountains Mr. Chouteau was attacked by the Pawnees, about two hundred in number, had one man killed and three wounded; five Pawnees remained on the spot, and a great many wounded.

At the Kansas river we found ourselves forty-five. We shipped the furs to St. Louis, and

started again for the mountains. There we met a party of Spanish traders, who told us that the Yutas and Apaches Indians were hovering in this quarter; and as those Indians had already killed two of Philibert's men, our return would not have been safe had our party gone to any distance, so that we agreed that Chouteau should wait for me at the pass called by the Spaniards *La Sangre de Christo*, or thereabout. Myself and two men went in company with the Spanish traders to the *Rio de la Culebra*, where we left them, and continued our way to Taos. When I arrived at Rio Colorado (a small fork of Rio del Norte) I found that a new village had been established since my first passing there. I alighted at the house of the commandant of the place, who told me that I could not go further till he had given notice to the alcalde of Taos, and received his orders. I waited patiently that night and next day. On the second night, at about 12 o'clock, arrived a party of forty men, commanded by Don Mariano Penne, with verbal orders that I must go back with him to my men, and that the Governor would not allow me to go to Santa Fe. I answered that I was ready and willing to follow him, but wished to write to his Excellency; to which he consented.

In my letter I explained the object of my coming—that it was by the orders and with the consent of his predecessor, and begged of him to permit me to go to Santa Fe, in order to know precisely what to depend on. This appeared to me the more necessary, as Don Mariano had not brought any written orders.

My letter being despatched, we started from Rio Colorado to go and rejoin our party. Mr. Chouteau was not at Sangre de Christo, but we traced him up the Rio del Norte, near where it enters into the mountains. Here Don Mariano, after spending one day with us, took leave. At his departure, he told us that we should remain there, or rather go lower down the river, to wait for the Governor's answer.

I do not know what caused the delay, but it was not until about twenty days after that I received a letter from the Governor, saying that the commandant General would not permit us any time to stay in the Spanish dominions, and to go out of them immediately. I wrote to the alcalde of Taos that I had just received the Governor's orders, and, in compliance with them, we were recrossing the mountains; that, when on the east side of them, we should remain all Winter; that we gave this notice, having no bad intentions, nor any motives to conceal our movements. Receiving no answer, we took it for granted that, being on this side of the mountains, we gave the Spaniards no uneasiness. We had almost every week some traders from the upper villages, of whom we bought several horses, bread, flour, &c.

We had fixed on the 15th of March, 1817, for the day of our departure, to go in search of the Crow Indians, whom we knew to be somewhere about the headwaters of the Columbia; but as the Spanish traders, during the Winter, repeatedly



*Spain—Imprisonment of Citizens of the United States.*

told us that the Governor had written to the commandant General, in order to obtain permission to hunt on the rivers running west of the mountains; we did not think proper to abandon a subject so interesting to us. For that purpose I went to Taos in March; there I was told that there were very unfavorable reports. It was said that at the first fork of the Arkansas (Rio de las Animas) we had built a fort; that we had there twenty thousand men, with many cannons and ammunition, and other such idle tales; that a party of two hundred men had been raised to go and investigate the truth of all those absurd reports. The alcalde having to write to the Governor, I wished him to say that I felt very satisfied to have come under such circumstances; that I proposed to remain as a hostage till the truth should be known; and that my life would answer for the good behaviour and pacific occupation of our party. Two days after, the two hundred men commanded by Lieutenant Don Francisco Salazar, of the militia, and Sergeant Manuel Vaca, of the regulars, arrived at Taos. They intimated their orders, which were to take me back to my party, visit all the places where we had encamped from the mountains to the Rio de las Animas, and to dig out all the goods we had put in the ground for security, having no use of them in the winter. We started from Taos, and a few days after reached this side of the mountains, where we were soon joined by Mr. Chouteau, to whom we had sent an express. We took out of the ground all the goods and furs, &c. we had hidden in different places. This being done, Sergeant M. Vaca told us that the Governor had further ordered that the whole of our party must go to visit with them our former encampments, as low down as Rio de las Animas; that, if no fort was found, he would leave us there, to get to St. Louis as well as we could. To this we could not consent, for it would have carried us to an inevitable destruction, it being the time when the Pawnees were lurking for prey in all directions about Arkansas river; besides, we should have lost the benefit of our spring trade. We proposed to the sergeant that I should go with him to the Rio de las Animas; that Mr. Chouteau would remain where we then were, with a party that he (the sergeant) would leave to guard him; and that at our return we would go away in a northern direction. Both commanders agreed to this proposition. I started with a party of fifty men to search the so-much-talked-of fort, which, it is needless to say, could not be found. Everything was in order, and a good understanding existed between our people and the Spaniards when we returned. Next day we parted, and were accompanied some distance by the lieutenant, sergeant, and a few men. Much delay having taken place by the coming of the Spaniards, it was now impossible for us to proceed to the headwaters of the Columbia by the route we had at first intended to go, which was by following the foot of the mountains, up the Rio del Almagre, and then turn to the west. Though we knew the road to be good, we could

not undertake it for want of time, therefore we resolved to enter the mountains on the north side of Arkansas river. We passed the first chain with great ease, but we were no sooner on the other side than we foresaw all the difficulties we had to encounter. We had before us a chain of snow-capped mountains much higher than the one we left behind. The cold was intense, and the recital of hardships would renew the sufferings we underwent. After three days of steady labor through the snow, in order to cut a route, we had the mortification to retrace our way back. Perceiving that nothing advantageous could be performed that season, it was agreed that seventeen men, with the most reduced horses, should go down the river Platte, and there wait for Chouteau, who was determined to remain one year longer. Both he and I, with the balance of our men, (except five Shawnee Indians, who had left us several days before,) came on this side of the first chain of mountains, to take the goods we had put into the ground at the entrance of the mountains, and myself to take the furs and return to St. Louis, which was fixed on the 23d of May.

In the night a very heavy rain commenced, which continued all day on the 23d, and prevented my starting. At about two o'clock P. M., one corporal and four soldiers came to us; they said that a large party was behind, and would come up to us next day. On the 24th Sergeant Mariano Vernal came up with his party, and informed us his orders were to take us all to Santa Fe. (Afterwards we were told he had instructions to take us alive or dead.) We secured again our goods in the earth, and were escorted to New Mexico. When on our way there, Sergeant Vernal, as it was reported, sent a detachment of his men back to steal our property, of which we never heard anything until three days previous to our leaving Santa Fe, while the Governor made a kind of an inventory of the same. When we got to the Rio de la Culebra, Chouteau, myself, and one of our hands, under an escort of ten men, took the advance, and on the 1st of June arrived at Santa Fe. I was first introduced to the Governor, who inquired, in a very angry manner, why I had not obeyed him, when ordered to go out of the Spanish dominions? I replied, his orders were obeyed as soon as received; that we were taken on the American territory, where our Governor had given us a license to go. At this he got into a violent rage, saying that we should pay for our own and our Governor's ignorance; using all the time very abusive language; repeating several times that he would have our brains blown up; that we were fortunate he had not come himself, for he would not have taken us alive.

Mr. Chouteau told me since, that he experienced the same treatment, and was likewise confined in a dungeon and in irons.

On the 7th of the same month, the Lieutenant, Don José Maria de Arce, came in to give the welcome intelligence that the Governor had ordered my irons should be taken off. After forty-

*Hanseatic Cities—Repeal of Duties.*

four days' imprisonment, we were presented before a court martial, composed of six members and a president, who was the Governor himself. Only one of the six members appeared to have some information, the others not knowing even how to sign their names. Many questions were asked, but more particularly why we had staid so long in the Spanish dominions? I answered, that, being on the waters of the Arkansas river, we did not consider ourselves in the domains of Spain, as we had a license to go as far as the headwaters of said river. The president denied that our Government had a right to grant such a license, and entered into such a rage that it prevented his speaking, contenting himself with striking his fist several times on the table, saying, gentlemen, we must have this man shot. At such conduct of the president I did not think much of my life, for all the other members were terrified in his presence, and unwilling to resist him; on the contrary, do anything to please him. He (the president) talked much of a big river that was the boundary line between the two countries, but did not know its name. When mention was made of the Mississippi, he jumped up, saying, that that was the big river he meant; that Spain had never ceded the west side of it. It may be easy to judge of our feelings, to see our lives in the hands of such a man. That day the court did not come to any determination, because the president (as I heard himself say to Lieutenant de Arce) had forgot everything he had to say. Next day we were again presented to the court, but, as I knew then what kind of a man I had then to deal with, I never attempted to justify myself of his false assertions. We were dismissed, and Mr. Chouteau and myself put in the same room.

Half an hour afterwards, the lieutenant came in with a written sentence; we were forced to kneel down to hear the censure of it, and forced likewise to kiss the unjust and iniquitous sentence that deprived harmless and inoffensive men of all they possessed—of the fruits of two years' labor and perils.

What appears the more extraordinary is, that the Governor acknowledged to me afterwards, and in the presence of Don Pedro Pino, the deputy of New Mexico to the Cortes, and several others, that we were very innocent men; yet, notwithstanding this, all our property was kept, and we permitted to come home, each with one of the worst horses we had.

I have already taken too much of your time in narrating our journey. Many incidents are probably unnecessary, but, by relating facts as they really are, I thought you would sympathize with our sufferings. Our actual loss amounts to \$30,380 74. The benefits which we had a probable, indeed a most assured, confidence to reap from our labors, would no doubt have fully compensated us. It remains now to know whether our Government will demand satisfaction of the King of Spain for outrages committed by his ignorant Governor on American citizens. Our accounts have been forwarded to the honorable

J. Scott, our delegate, and we hope that your Excellency will assist our case with the zeal and generosity so congenial with your feelings of justice. I remain, &c.

JULIUS DEMUN.

His Exc'y WILLIAM CLARK,  
Governor, &c.

## HANSEATIC CITIES.—REPEAL OF DUTIES.

[Proclamation made August 1, 1815.]

By the President of the United States of America.

## A PROCLAMATION.

Whereas, by an act of Congress of the United States, of the 3d of March, 1815, so much of the several acts imposing duties on the ships and vessels, and on goods, wares, and merchandise imported into the United States, as imposed a discriminating duty of tonnage between foreign vessels and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States, were repealed, so far as the same respected the produce or manufacture of the nation to which such foreign ship or vessel might belong; such repeal to take effect in favor of any foreign nation, whenever the President of the United States should be satisfied that the discriminating or countervailing duties of such foreign nation, so far as they operate to the disadvantage of the United States, have been abolished:

And whereas satisfactory proof has been received by me, from the burgomasters and senators of the free and Hanseatic city of Hamburg, that, from and after the 13th day of November, 1815, all discriminating or countervailing duties of the said city, so far as they operated to the disadvantage of the United States, have been and are abolished:

Now, therefore, I, James Monroe, President of the United States of America, do hereby declare and proclaim, that so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise imported into the United States, as imposed a discriminating duty of tonnage between vessels of the free and Hanseatic city of Hamburg and vessels of the United States, and between goods imported into the United States in vessels of Hamburg and vessels of the United States, are repealed, so far as the same respect the produce or manufacture of the said free Hanseatic city of Hamburg.

Given under my hand, at the City of Washington, this first day of August, in the year of our Lord one thousand eight hundred and eighteen, and the forty-third year of the independence of the United States.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,  
Secretary of State.



## Condition of South America.

## CONDITION OF SOUTH AMERICA.

[Communicated to Congress, November 17 and December 15, 1818.—2d session 15th Congress.]

*Mr. Rodney to the Secretary of State.*

WASHINGTON, Nov. 5, 1818.

SIR: I have the honor to present the report herewith enclosed, agreeably to the desire of Mr. Graham, who, on reflection, preferred submitting some additional remarks in a separate paper. For this purpose, two of the documents referred to in the report remain in his possession—Dr. Funes's Outline of Events in the United Provinces since the Revolution, and the Manifesto of Independence by the Congress at Tucuman.

I have the honor to be, with great respect, your most obedient servant,

C. A. RODNEY.

Hon. JOHN Q. ADAMS, Sec'y of State.

*Mr. Rodney to the Secretary of State.*

SIR: I have now the honor to submit to your consideration my report on the subject of the late mission to South America, embracing the information derived from the various sources within my power, so far as I had an opportunity of improving the advantages possessed.

With the history of the conquest of the Spanish possessions in America you must be familiar. They were principally, if not exclusively, achieved by private adventurers. When completed, a most oppressive system of government, or rather despotism, was established by the parent country.

These extensive regions were originally swayed by two Viceroyalties. The dominions of Spain in North America were under the government of the Viceroy of Mexico, and all her possessions in South America were subject to the control of the Viceroy of Peru.

The remoteness of some parts of the country from the residence of the Viceroy of Lima occasioned, in 1718, the establishment of another Viceroyalty at Santa Fe de Bogota, in the kingdom of New Granada. In 1731 New Granada was divided, and a number of the provinces composing that kingdom were separated from it. These were put under the jurisdiction of a captain general and president, whose seat of government was at Caracas.

In 1565 Chili was erected into a separate captain generalship; in 1778 a new Viceroyalty was established at Buenos Ayres, comprehending all the Spanish possessions to the east of the Western Cordillera, and to the south of the river Marañon.

This immense empire seems, according to the laws of the Indies, to have been considered a distinct kingdom of itself, though united to Spain and annexed to the crown of Castile. In this light it is viewed by Baron Humboldt, in his Essay on New Spain.

With some slight shades of difference in the regulations established in these Governments, the prominent features of their political institutions

exhibit a striking resemblance, as the general system was the same.

Their commerce was confined to the parent country and to Spanish vessels exclusively. They were prohibited, under the penalty of death, to trade with foreigners. The natives of Old Spain composed the body of their merchants. Though this part of the system had, previously to the revolution, been relaxed, in some degree, (particularly by the statute of free commerce, as it is styled,) the relief was partial, and the restrictions continued severe and oppressive.

All access to the Spanish settlements was closed to foreigners, and even the inhabitants of the different provinces were prohibited from intercourse with one another, unless under the strictest regulations.

The various manufactures that might interfere with those of Spain were not permitted. They were prevented, under severe penalties, from raising flax, hemp, or saffron. In climates most congenial to them, the culture of the grape and the olive was prohibited. On account of the distance of Peru and Chili, and the difficulty of transporting oil and wine to these remote regions, they were permitted to plant vines and olives, but were prohibited the culture of tobacco. At Buenos Ayres, by special indulgence of the Viceroy, they were allowed to cultivate grapes and olives merely for the use of the table.

They were compelled to procure from the mother country articles of the first necessity, and were thus rendered dependent on her for the conveniences of life as well as luxuries. The Crown possessed the monopoly of tobacco, salt, and gunpowder.

To these oppressive regulations and restrictions was added an odious system of taxation. From the Indians was exacted a tribute in the shape of a poll tax, or a certain servitude in the mines called the *mita*. A tenth part of the produce of cultivated lands was taken under the denomination of *tithes*. The alcavala, a tax varying from two and a half to five per cent. on every sale and resale of all things moveable and immoveable, was rigidly exacted, though in some cases a commutation was allowed. Royal and municipal duties were laid on imports and on the tonnage, entrance, and clearance of vessels, under the different appellations of *almoxarifazgo*, sea, alcavala, *cerco*, *consulado*, *armada*, and *armadilla*. To these may be added the royal fifths of the precious metals, the most important tax in the mining districts. Besides all these, there were stamp taxes, tavern licenses, and sums paid for the sale of offices, of titles of nobility, papal bulls, the composition and confirmation of lands, with a number of others of inferior grade.

Under the Spanish monarchs, who had early obtained from the Pope the ecclesiastical dominion, and thus had united in their royal persons all civil and religious authority, a most oppressive hierarchy was established, with its numerous train of offices and orders, succeeded by the inquisition.

The posts of honor and profit, from the highest

## Condition of South America.

to the lowest, were filled almost exclusively by natives of Old Spain.

The principal code of laws thus maintaining the supremacy of Spain over those distant regions, almost locked up from the rest of the world, emanated from the Council of the Indies, established by the King, in which he was supposed to be always present. The royal rescripts, the recopilaciones of the Indies, and the *partidas*, furnished the general rules of decision; and, when these were silent or doubtful recourse was had to the opinions of professional men.

This system was generally executed by the viceroys, captains general, and by the tribunals of justice, with a spirit corresponding with the rigorous policy that produced it. To this form of government the country had for centuries submitted with implicit obedience, and probably would have continued to submit much longer, but for events in this country and the changes in Europe. The sagacious minds of many able writers, penetrating into the future, had predicted at some distant date a revolution in South America before that in North America had commenced. From the period of the successful termination of our own struggle for independence, that of the inhabitants of the south has been with more confidence foretold; and there is reason to believe it has been hastened by this fortunate event. The conduct of Spain, during the war of our Revolution, was calculated to make a lasting impression on her colonies. The result was then foreseen by intelligent politicians; many were surprised that she could be so blind to her own interests after she had, on one occasion, manifested the strongest suspicion of Paraguay; for, to her scrupulous jealousy of this Power the expulsion of the Jesuits from that country in 1750 is to be attributed.

The wars that arose from the French revolution have produced in Europe changes of the greatest magnitude, which have had an immense influence on the affairs of South America. When Spain joined France against the combined princes, she exposed her distant possessions to British hostilities. The great naval power of England gave her ready access to the American colonies. Engaged in an arduous contest, she was prompted by her feelings and interests to retaliate on Spain the conduct she experienced from her during the war of our independence. Encouraged, perhaps, by the councils of her enemies, the first symptoms of insurrection in the continental possessions of Spain were exhibited in the year 1797, in Venezuela. These were succeeded by the attempts of Miranda in the same quarter, which were accompanied, or were followed, since the vacillating state of the Spanish monarchy, by revolutionary movements in Mexico, Granada, Peru, Chili, and Buenos Ayres; and from which scarcely any part of the Spanish dominions in America has been entirely exempt.

The occurrences that led the way to the subsequent important events in the provinces of La Plata were, the invasion of the British under Popham and Beresford in the year 1806, and

their expulsion a few months afterwards by the collected forces of the country under Leniers and Pueyrredon. These incidents fortunately gave to the people a just idea of their own strength; and they afterwards repelled, with a firmness and bravery that did them great honor, the formidable attack of the British under General Whitlocke.

The wretched state to which Spain was reduced by the policy, the power, and the arts of Napoleon, the resignation of Charles the Fourth in favor of Ferdinand the Seventh, and the renunciation by both in favor of Napoleon, were productive of the most important results. They threw the kingdom into the greatest confusion. The alternate success and disasters of the French armies produced a new era in Spain. The people, generally, revolted at the idea of being governed by the brother of Napoleon, to whom he had transferred the crown. Juntas were established, who acted in the name of Ferdinand, then confined in France. These were substituted for the ancient Cortes and the regular council of the nation, to which, in times of imminent danger, they ought to have resorted, agreeably to their usages. Conflicting authorities produced a distracted state of affairs. In the scenes that ensued the proper attention was not paid to the American provinces. Their conduct towards them was versatile and inconsistent; they were lost sight of or neglected until it was too late. Conceiving they were abandoned by the parent State, they thought it justifiable to act for themselves. It was not very long before the inhabitants of Buenos Ayres, embracing the example of their brethren in Spain, established a Junta, which assumed the reins of government, and finally, in the year 1810, sent off the Viceroy Cisneros and his principal adherents. For a summary of events subsequent to this period, until the time of my departure, I beg leave to refer to the "Outline" subjoined, (Appendix A,) from the pen of Dr. Funes, drawn up, in part, at my request. Without vouching for the perfect accuracy of the work, I think, from the information received, it will probably be found to contain, in general, a correct and impartial sketch of the prominent transactions and occurrences.

In perusing this interesting document, I have to lament that its pages are marked with some cases of severity and cruelty, which seem almost inseparable from great revolutions. It must, however, be consoling to observe, that they appear to have passed through that state which might possibly have rendered examples necessary, and to have arrived, perhaps, at that stage when the passions becoming less turbulent and the people more enlightened, a milder system may be expected to prevail.

Their dissensions have produced most of their calamities—in such seasons they were naturally to be expected. But their disputes have been principally healed by the prudent and energetic measures of the Congress which commenced its sittings in Tucuman in the year 1815, and adjourned in the year following from thence to



## Condition of South America.

Buenos Ayres, where it remains in session, occupied with the task of forming a permanent constitution. This respectable body, besides acting as a convention or a constituent assembly, exercises temporarily legislative powers. Their sittings are public, with a gallery of audience for citizens and strangers. The debates are frequently interesting, and are conducted with ability and decorum; they are published every month for the information of the people.

The dispute with Artigas, the chief of the Orientals, has not been adjusted. This, with a certain jealousy of the superior influence of the city of Buenos Ayres on the general affairs of the province, the conduct of the Government of Buenos Ayres towards the Portuguese, and the high tariff of duties which, I understand, have been since reduced, appeared to constitute the principal causes of dissatisfaction at the time of my departure.

The Declaration by Congress of that independence which they had for many years previously maintained in fact, was a measure of the highest importance, and has been productive of a unanimity and a decision before unknown. This summit of their wishes was only to be reached by slow and gradual progress. The public mind had to be illumined on the subject by their pulpits, their presses, and their public orations. The people were to be prepared for the event; when the season arrived, they cut the knot which could not be untied. The declaration of independence was adopted in the directorship of Mr. Pueyrredon, on the 9th day of July, 1816. It was succeeded by an able exposition of the causes that extorted it, to justify to their fellow-citizens and to the world the measure they had deliberately voted to support with their fortunes and their lives.

Believing the latter paper might be thought worthy of perusal, a translation has been annexed, (Appendix B.)

The salutary influence of this bold and decisive step, was at once felt throughout the country. It gave new life and strength to the patriotic cause, and stability to the Government. The victories of Chacabuco and Maipu, achieved by the arms of Chili and Buenos Ayres, have produced and confirmed a similar declaration of independence by the people of Chili, which is also annexed (Appendix C,\*) and cemented the cordial union existing between the confederate States. The consequence has been that, within these extensive territories, there is scarcely the vestige of a royal army to be found, except on the borders of Peru.

Having thus, in connexion with the succinct account given by Dr. Funes, traced the principal events since the revolution in Buenos Ayres, I shall proceed to state the result of the information received, according to the best opinion I could form, of the extent, population, government, and resources of the United Provinces, with their

\* Not transmitted.

productions, imports and exports, trade and commerce.

The late Viceroyalty of Buenos Ayres, of which that city was the metropolis, was by many considered the largest as well as the most valuable of all the Spanish dominions of South America, extending, in a direct line, from its north to its south boundary, a distance of more than two thousand miles, and, from its eastern to its western, not less than eleven hundred.

It was composed, at the commencement of the Revolution, of the nine provinces or intendencias following: Buenos Ayres, Paraguay, Cordova, Salta, Potosi, La Plata, Cochabamba, La Paz, and Puno.

Watered by the great river La Plata, and its numerous tributary streams, which afford an easy communication with countries of immense extent, and furnishing an easy access to the treasures of South America, it has always been regarded by Spain as one of her most precious acquisitions. Enjoying every variety of climate to be found between different and distant latitudes, and blessed with a large portion of fertile soil, it is capable of producing all that is to be found in the temperate or torrid zones. Immense herds of cattle and horses graze on its extensive plains, and constitute, at this time, their principal source of wealth. The mines of Potosi are also included within its boundaries. There are no woods for a very considerable distance from Buenos Ayres. No forest trees are to be seen on the widely-extended pampas, except at intervals a solitary umboo. After passing the Saladillo, in a northerly direction, the woods begin; and, proceeding in the upper provinces, the hills appear, and mountains rise in succession, interspersed with rich valleys. On the east side of the rivers La Plata and Parana, the country is said to be very fine. The Entre Rios is represented as capable of being made a garden spot; and the Banda Oriental presents hills and dales, rich bottoms, fine streams of water, and, at a distance from the great river, on the banks of the smaller streams, some excellent woodland. Between Maldonado and Montevideo, the east ridge of the Cordilleras terminates on the river La Plata.

Since the Revolution five more provinces have been erected, making, in all, fourteen within the limits of the ancient Viceroyalty, viz: Tucuman, taken from Salta; Mendoza, or Cuyo, taken from Cordova; Corrientes; Entre Rios, comprising the country between the Uruguay and the Parana; and the Banda Oriental, or eastern shore of the river La Plata. The two last were taken from the province of Buenos Ayres, which was thus reduced to the territory on the south side of that river. The subordinate divisions of the country, with the principal towns, will be found in the appendix to this report, with an account of the produce or manufactures of the different districts. (Appendix D.)

Of the fourteen provinces into which the ancient Viceroyalty is now divided, five were, at my departure, principally occupied by the royal forces, (which, in consequence of the victory of

## Condition of South America.

Maipu, were expected soon to retreat to Lower Peru,) or partially under their influence, viz., Potosi, La Plata, Cochabamba, La Paz, and Puno; and the nine following, independent *de facto* of Spain, were in the possession of the patriots, viz., Buenos Ayres, Paraguay, Mendoza, Salta, Corrientes, Cordova, Tucuman, Entre Rios, and Banda Oriental. But Paraguay and the city of Santa Fe, act independently of Buenos Ayres—though Paraguay is not on unfriendly terms with them, and it is hoped by some will before long join the union. Entre Rios and the Banda Oriental, under General Artigas, in the character of Chief of the Orientals, are in a state of hostility with Buenos Ayres.

Montevideo, the capital of the eastern shore, was occupied by a Portuguese army, and a squadron of ships of war of Brazil blockaded the ports of Colonia and Maldonado, and prohibited the entrance of neutral vessels, unless they paid them the same duties on their cargoes that were charged on the importation of the goods when landed in the country.

The territory of the United Provinces is computed to contain one hundred and fifty thousand square leagues, though it probably exceeds that quantity. The lands occupied in the country, remote from the cities, are generally converted by their owners into estancias, or large grazing farms for cattle, and chacaras for growing grain. The small farms, or quintas, in the neighborhood of cities, are in fine order. Those around Buenos Ayres, which furnish their market with an ample supply of fruit and vegetables, are, by irrigation, in the highest state of culture.

The population, exclusive of the Indians, is now calculated at about one million three hundred thousand; but adding the civilized Indians only, who are of great importance, it would, in all, probably exceed two millions.

The whole population consists of natives of Old Spain, and their descendants born in the country, or, as they style themselves, South Americans; of Indians civilized, or unreclaimed, with different "castes," or mixed blood; of Africans, and their descendants, or negroes and mulattoes.

I could not ascertain, with satisfaction, the population of the different provinces; the province of Buenos Ayres contains about one hundred and twenty thousand, whilst the population of Entre Rios and Banda Oriental is computed at fifty thousand.

The city of Buenos Ayres contains a population of sixty thousand. The inhabitants of this place appear to be an amiable and interesting people. They are considered brave and humane; possessing intelligence, capable of great exertions and perseverance, and manifesting a cheerful devotion to the cause of freedom and independence.

There is also a certain mediocrity and equality of fortune prevailing among them, extremely favorable to a union of the popular sentiment in support of the common weal. Many industrious mechanics and enterprising merchants are, how-

ever, increasing their estates, and adding to the stock of capital in the country.

The people of the province of Buenos Ayres, residing out of the city, are, generally speaking, poor, and rather indolent, though a hardy race; and, when excited to action, they become zealous defenders of the liberties of their country. They are capable of great improvement, and under the influence of a good example, when a change takes place in their habits and manner of living, they bid fair to become useful and industrious citizens.

The inhabitants of Cordova are said to be more superstitious and more industrious, but less patriotic. This is principally attributed to the loss of the trade with Peru, occasioned by the revolutionary war.

Tucuman, I was informed, possessed an excellent population.

The people of Mendoza, or Cuyo, are moral, industrious, and patriotic. They have sacrificed largely at the shrine of independence, supporting with zeal and confidence the cause of their country; whilst the citizens of Santa Fe are represented as immoral and insubordinate, and manifesting on most occasions an extreme jealousy of their neighbors.

The population of Entre Rios and Banda Oriental is, perhaps, not inferior in valor to that of Buenos Ayres; nor is it deficient in military skill, particularly in carrying on a partisan warfare, for which its troops are admirably adapted. Their other good qualities have been probably somewhat impaired by the system pursued in that quarter, where they have been compelled to give up everything like civil avocations, and to continue without any regular kind of government, under the absolute control of a chief, who, whatever may be his political principles or professions, in practice concentrates all power, legislative, judicial, and executive, in himself.

The General Congress of the United Provinces assembled at Buenos Ayres, on the 3d of December, of 1817, established, by a provisional statute, a temporary form of Government, which will be found in appendix marked E.

This Congress is composed of deputies from the different provinces. It actually consists of twenty-six members; but, as a representative is allowed for every fifteen thousand citizens, it would be more numerous if all the provinces had sent delegates in that ratio of population.

With some exceptions, and particularly of that palladium of our rights which is unknown to the civil law, the trial by jury, the provisional government will be found, on an attentive perusal, to contain a distinct recognition of many of the vital principles of free government. A church establishment, also, that of the Catholic faith, is contrary to our ideas of religious freedom, though a measure adopted from necessity, perhaps, by them.

It declares that all power—legislative, judicial, and executive—resides in the nation. The Congress are to be chosen by electors, who are to be voted for by the people in the primary assemblies. The Cabildos, or municipalities, are to be elected



*Condition of South America.*

immediately by the citizens. It recognises the independence of the judiciary, and declares the tenure of office, with respect to the superior judges, to be during good behaviour. It provides for the election of a Chief Magistrate by Congress, removable when they choose to appoint a successor, and responsible for the execution of the duties of his office, which are defined and limited. In the oath of office, he is sworn to preserve the integrity and independence of the country.

The three great Departments—of State, of the Treasury, and of War—are distinctly marked out, and their respective powers and duties assigned.

On some subjects it enters more into detail than is usual with us, particularly in those of their army, navy, and militia; but this, perhaps, in their situation, was necessary.

It provides that no citizen shall accept a title of nobility, without forfeiting the character of citizenship.

It provides also against general warrants, and the arrest of individuals, unless on probable proof of guilt.

It contains a salutary provision that a judge, having original jurisdiction, before taking cognizance of a cause, shall use all possible means of reconciling the parties. This constitution is but temporary. The Congress are engaged in the task of forming a permanent one. In the meantime no alteration can be made in the present, unless with the consent of two-thirds of the members. In this manner some alterations have been adopted.

The subject of a permanent constitution was before a committee of sixteen members of Congress. There was a difference of opinion prevailing among them on the point of a confederated or a consolidated Government. If they should adopt the former, they will frame the constitution in all probability, nearly after the model of that of the United States. Should they decide on the latter, it is highly probable they will incorporate the leading features of our system into their form of Government. They seem to concur in the proposition to have a Chief Magistrate elected for a term of years, and a Representative Legislature, to consist of two branches—a Senate, to constitute the most permanent body, and a House of Representatives, whose term of service will be of shorter duration.

Perhaps it would be better for them to delay the completion of this all-important task, after the example of the United States, until a period of peace. Their present provisional statute is an improvement on those which preceded it; and we may expect their proposed constitution will be still more perfect as they advance in the knowledge of those principles on which republican Governments are constituted.

But, however free in theory this provisional statute may be, it is undoubtedly true that, unless administered agreeably to its letter and spirit, it will not afford security to the citizen. Whether any infractions have occurred since the date of its existence I cannot pretend to determine, not being in full possession of the facts.

When we recollect that they have the benefit of our example, it may reasonably be expected that they will, in general, adhere to their written constitution. They have also the fatal result of the French Revolution, warning them of the dangers of its excesses, of which they appear to be sensible.

The productions and the manufactures of the different provinces will be found in appendix D; but I was unable to procure any satisfactory estimates of the probable value or amount in each province. There is, however, a considerable internal trade carried on, in the interchange of various articles between the several provinces; cattle, horses, and mules, furnish a considerable source of barter; with the latter, Peru is usually supplied; the Paraguay tea is a great article of trade throughout the country; the brandy, wine, raisins, and figs of Mendoza and San Juan, are becoming important; the hides of oxen, the skins of the vaccina and granaco, with a number of fine furs, afford valuable articles of exchange. These, with the foreign goods transported in every direction from Buenos Ayres very readily by oxen and mules, which also furnish the means of carrying their native productions to their seaports, form a branch of trade of great magnitude, considering the population of the country.

Their exports are calculated, with some degree of accuracy, at ten millions of dollars. These consist principally of ox hides, jerk beef, and tallow, the present great staples of the country; a variety of furs and peltry, some grain, copper, mostly brought from Chili, with gold and silver in bullion, and in coin, chiefly from the mines of Potosi.

The imports are computed to be about equal to their exports; British manufactures form the principal mass, and they are to be had in great abundance. They consist of woollen and cotton goods of every description, some of them wrought to imitate the manufactures of the country; ironmongery, cutlery, hardware, saddlery, hats, porter, ale, and cheese, are among the remaining articles.

From the United States they receive lumber of all kinds, and furniture of every description, coaches and carriages of all sorts, codfish, mackerel, shad, and herring, leather, boots and shoes, powder, and munitions of war and naval stores, ships and vessels, particularly those calculated for their navy or for privateers.

From Brazil they receive sugar, coffee, cotton, and rum.

From the north of Europe they receive steel and iron, and from France a number of articles of its manufacture.

Their foreign commerce is principally carried on by British capitalists, though there are some Americans, a few French, and other foreign merchants, also settled at Buenos Ayres; they are all placed, I believe, on the same footing of equality.

The revenue of the State may be estimated at about three millions of dollars annually; but their system of finance is very imperfect, and, although

*Condition of South America.*

their debt is small, their credit is low. They have hitherto avoided the issuing of paper money, and they have established no bank; but they have sometimes anticipated their revenue, by giving due bills receivable in payment for duties on goods imported or articles exported. The impost furnishes the principal part of the revenue. A copy of their tariff, as at first established, was some time since transmitted, I believe, to the Department of State; in this the duties were generally specific and high. I understand they have been lately reduced, as their exorbitancy had occasioned much smuggling.

Voluntary contributions from those friendly to the Revolution, and forced loans from the Old Spaniards, have constituted another portion of their funds. To show the public capital adequate to all exigencies, their different civil, military, and naval establishments have been taken into view, and are comprised in the estimate furnished—a thing unusual with us; but they have omitted their public lands, which, if a prudent use be made of them, must at no distant day become a very productive source of revenue to the State.

The mines of Potosi, which in all probability will very soon fall into their hands again, may furnish them with a considerable supply of the precious metals. It is stated, on respectable authority, that, so late as the year 1790, the amount of gold and silver coined at Potosi in that year was calculated to have been \$299,846 in gold, and \$2,983,176 in silver.

The state of their army, and the condition of their navy, will be seen by a reference to the original return presented. (Appendix F.\*)

Their army is composed of regular troops, cioreos, and militia; in one or other of these classes, they are educated to the military art, and, as far as I had an opportunity and was capable of judging, they appeared to be well acquainted with the elements of their profession. Their forces, according to the paper furnished, are estimated at nearly thirty thousand men. They are composed of 1,296 artillery, 13,693 infantry, and 14,768 cavalry, of which 12,143 are troops of the line, 7,041 are cioreos, and 10,573 militia. These form the different armies of the centre of Peru, of the Andes, of Cordova, and the auxiliary forces in the Entre Rios. This statement, however, only includes the militia of the province of Buenos Ayres itself. Their supply of arms and munitions of war is ample, as will be seen by the statement annexed on that subject.

Their navy is small, and some of their vessels are laid up in ordinary. A list of them, as well as of their privateers, will be found in Appendix F.\* Their privateer armed vessels are subjected to very strict regulations, agreeably to their prize code, which is among the original papers presented and herewith delivered. It may be proper in this place to introduce the subject of the irregular conduct of the privateers under the patriot

flag, against which the Commissioners were directed to remonstrate. Having taken an opportunity of explaining to Mr. Tagle, the Secretary of State, the proceedings of our Government relative to Amelia Island and Galveston, agreeably to their instructions, the Commissioners embraced a suitable occasion to urge the just cause of complaint which the malpractices of private armed vessels, wearing the patriot colors, had furnished our Government; on both topics they had long and interesting conversations. With the conduct of the Government respecting Amelia Island and Galveston, Mr. Tagle expressed himself perfectly satisfied, and he disclaimed for his Government any privacy or participation in the lodgments made at those places, by persons acting in the name of the patriots of South America. In reference to the acts of cruisers under the patriot flags, he said he was sensible that great irregularities had occurred, though his Government had done everything in their power to prevent them, and were willing, if any instance of aggression were pointed out, to direct an inquiry into the case, and, if the facts were established, to punish those concerned, and redress the injured individuals. He professed his readiness to adopt any measures that would more effectually prevent a recurrence of such acts, in which he expressed his belief that the privateers of Buenos Ayres had rarely participated, though the character of the Government had suffered from the conduct of others. He stated that they had, on one occasion, sent out some of their public vessels to examine all cruisers wearing the Buenos Ayrean flag, to see that they were lawfully commissioned, and to ascertain whether they had violated their instructions.

Among the causes of dissatisfaction to which I have alluded, the preponderance of the capital has been mentioned. Its great weight in the scale of national affairs is to be ascribed to its greater exertions in the national cause. These are owing to its comparative wealth, and to its active, intelligent, and enterprising population. The armies that have been raised in this city and the neighboring country, with the supplies in money and munitions of war drawn from these sources, have been truly extraordinary.

It would be a difficult task to make an exact calculation, or to form even a probable estimate, but all seemed to concede the superior merit claimed on account of their exertions, when compared with their wealth and population; and it is not unlikely that Buenos Ayres has, in consequence, assumed a higher tone, and acquired a controlling influence, which she has sometimes abused.

Another source of discontent is, the unfortunate dispute between the Banda Oriental and Buenos Ayres, which had also an influence on the proceedings of the latter towards the Portuguese.

The original cause of division may be traced to a jealousy long subsisting between the rival cities at Montevideo and Buenos Ayres. This has become habitual, and has extended to the

\* The document referred to is not sent.



## Condition of South America.

country. Private interests and personal views have also increased their dissensions.

General Artigas (who bears the character of chief of the Orientals, as has been already stated, and has also assumed that of the Protector of the Entre Rios and Santa Fe) was originally, in the royal service, a captain in a provincial corps. In this he continued for some time after the revolution had commenced at Buenos Ayres. But, in the year 1811, taking offence, as it is said, at some conduct of the Spanish commandant of Colonia, he abandoned the royal cause, and entered into the service of the patriots. So early as the year 1813, when acting against Montevideo, he became dissatisfied with Sarraute, the Commander-in-Chief from Buenos Ayres. On his removal from the head of the army, he quarrelled with General Rondeau, who it was supposed would have been acceptable to him, and finally withdrew, before the siege of Montevideo was finished under General Alvear. For this conduct, Posadas, when he succeeded to the Government, treated him as a deserter from their service. By a proclamation, he offered a reward for his apprehension, and set a price upon his head—an act which General Artigas never forgot or forgave.

During the subsequent directorship of Alvear, he induced the Cabildo of Buenos Ayres to issue a similar proclamation against General Artigas. When Alvear was dismissed, the people of Buenos Ayres endeavored to atone for their conduct by burning, with every mark of ignominy, the degrading proclamation. They also addressed a conciliatory letter to the General, and received from him a corresponding answer. These were preliminary to a fruitless attempt at reconciliation, made by the director *ad interim*, Colonel Alvarez, who succeeded Alvear. The correspondence on this occasion is annexed. (Appendix H.) Other endeavors to reconcile him have failed, notwithstanding the changes in the office of Director at Buenos Ayres. On one occasion, the proposition was made that the Banda Oriental should remain independent of Buenos Ayres, and merely send deputies to the General Congress to concert measures against the common enemy. On another, when the Portuguese army was approaching the frontiers of the Banda Oriental, an effort was made by Pueyrredon to reconcile him, and to unite him in the common defence. Ample supplies of arms and munitions of war were offered, and some furnished; but this attempt also failed.

In order that a fuller view of this subject may be had, I have subjoined a translated copy of an animated letter from General Artigas to Mr. Pueyrredon. (Appendix I.) It is but justice to add, that General Artigas is thought, by persons entitled to credit, to be a firm friend to the independence of the country. To express a decided opinion on this delicate question would scarcely be expected of me, as my position did not command a view of the whole ground. I had not the satisfaction to be derived from a personal interview with General Artigas, who is unquestion-

ably a man of rare and singular talents. But, if I were to hazard a conjecture, I think it not improbable that in this, as in most family disputes, there have been faults on both sides. It is to be lamented that they are in open hostility. The war has been prosecuted with great animosity, and in two late engagements the troops of Buenos Ayres have been defeated with great loss. By some, it was said that the inhabitants of the eastern shore were anxious that a reconciliation should take place, whilst the people in the country preferred their present state.

I must not omit to take a glance at the situation of Paraguay. This province presents a singular spectacle. It stands aloof from the rest. The people, with the aid of the few remaining royal troops, repulsed an army sent to compel them to join the common standard. Very soon afterwards they expelled the royalists, and set up for themselves. Since this period, they appear to have adopted a partial non-intercourse system. But Buenos Ayres, on one occasion, succeeded in obtaining an understanding with them. Some suspect that they are secretly inimical to the existing order of things, and wish to keep themselves within their shell in case of a change, that they may profit by future events; others calculate, with some confidence, on their ultimate union with Buenos Ayres, with which, at present, they indulge a limited and reluctant intercourse. Paraguay is under the immediate control of a person named Francia, who styles himself Dictator of Paraguay.

From the domestic concerns of the provinces we naturally turn to their foreign relations. On this subject the Commissioners were informed that they had nothing more than a friendly understanding with any foreign nation. With the Portuguese Government they concluded an arrangement in 1812, under the mediation, it is said, of the British, with respect to the Banda Oriental. They have since had a correspondence with them on the subject of their entrance into that province, and the forcible occupation by a Portuguese army of the city of Montevideo, of which a copy is annexed. (Appendix I.) This will present the state of affairs between Buenos Ayres and the Brazils, which has been the theme of much discussion. The superior naval force of the Portuguese stationed in the river La Plata could have effectually blockaded all the ports of Buenos Ayres. By this means they would have prevented supplies of arms and munitions of war, and entirely destroyed the great source of revenue to the State, the duties on imports and tonnage, at a season when money was much wanted: for, about this period, Buenos Ayres had a powerful army to contend with on the side of Peru, and had taken the burden of the renewed contest of Chili with Spain. Under such circumstances, they were in some measure obliged to adopt a cautious and moderate policy. Their unhappy state with the Orientals had also an influence on their measures; they alleged that the restless conduct of Artigas has furnished the Portuguese with a pretext for the invasion; but

## Condition of South America.

it is probable that they will ultimately break with the Government of Brazil.

The British Government have, through their official agents, entered into commercial stipulations with General Artigas, as the chief of the Orientals, on the subject of their trade with the eastern shore. A copy of this instrument will be found in Appendix K.\*

The Government of Buenos Ayres have a confidential person in Europe, soliciting, from England and other Powers, it is said, assistance of every kind, and a recognition of their independence. England has a Consul, who, with her naval commander on that station, appeared to conduct the confidential affairs of the British Cabinet with the Government of Buenos Ayres.

What effects the victory of Maipu will produce abroad, it would be hazardous in me to conjecture. Whether, like the capture of Burgoyne, it will procure for the United Provinces foreign alliances, I cannot pretend to say.

From a source which is entitled to credit, I was informed that the raising and embarkation of Osorio's army in Peru was not accomplished without serious difficulties. Alternate force and persuasion were used to collect them; and nothing but the name, character, and promises, of their General, could have induced them to go on board of the vessels prepared for the purpose at the port of Callao. Some of them were actually in a state of mutiny, notwithstanding they were told they would be received with open arms by their brethren in Chili.

The forces finally embarked, agreeably to an account furnished by a gentleman of undoubted veracity on the spot, consisted of the following troops:

One company of artillery	- - -	70
One company of sappers and miners	- - -	81
Regiment of Brigos	- - -	900
Regiment of San Carlos, infantry	- - -	907
Regiment of Arequipa	- - -	1,000
Arequipa dragoons	- - -	160
Limas	- - -	144
		<hr/> 3,262 <hr/>

This army was composed of all the regular soldiers they could spare from Lima, who were united at Talcahuana to the royal forces left in Chili. By the battle of Maipu it has ceased to exist. The probable effects in Peru, and other parts of South America, may be conjectured, but cannot be affirmed. The same gentleman who has been mentioned, and who is conversant in Peruvian affairs, apprehended that important changes would result.

I cannot conclude this paper without drawing your attention to a rapid survey of the reforms and improvements in the province of Buenos Ayres, produced by the revolution, and its influence on knowledge, society, and manners.

The effects of the revolution are visible in the

\* Not transmitted.

changes produced in the state of society. The difference in the freedom of acting and thinking which preceded the revolution must necessarily be great. The freedom of commerce must have given a spring to exertions of native enterprise and intelligence; while the active scenes of war and politics, for the last ten years, have awakened the genius of the country which had so long slumbered. The generation now on the stage may almost be said to have been reared under a new order of things. The common stock of ideas among the people had been greatly augmented, the natural consequence of the important political events which daily transpire, and in which every man, like the citizen of Athens, feels an interest. The newspapers are everywhere circulated, together with the manifestoes of the Government, which is obliged to court the approbation of public opinion on all measures of moment. It is not very unusual for the same countryman, who, a few years ago, never troubled himself about anything beyond the narrow circle of his domestic concerns, to purchase a newspaper on coming to town, as a matter of course, and, if unable to read, to request the first one he meets to do him that favor. The country curates are, moreover, enjoined to read the newspapers and manifestoes regularly to their flocks. The spirit of improvement may be seen in everything. Even some of those who are under the influence of strong prejudices against the revolution frequently remark the changes for better which have taken place. Their habits, manners, dress, and mode of living, have been improved by intercourse with strangers, and the free introduction of foreign customs, particularly English, American, and French. Great prejudices prevail against whatever is Spanish. It is even offensive to them to be called by this name; they prefer to be identified with the aborigines of the country. The appellation which they have assumed, and in which they take a pride, is that of South Americans.

A powerful stimulus must necessarily have been given to their industry by two important circumstances—the diminution in prices of foreign merchandise, and the great increase in value of the products of the country, with the consequent rise of property. Though the grounds in the neighborhood of cities are highly improved, as I have already stated, agriculture, comparatively speaking, is in a low condition. In general, the lands are badly tilled; the plough is rarely used, and the substitute is a very indifferent one. But, notwithstanding the disadvantages of the present method of culture, I was informed by reputable persons that the average crop of wheat is not less than fifty bushels per acre in good seasons.

On the subject of religion, especially, the change in the public mind has been very great. The Catholic faith is established as that of the State; but there are many advocates, both in conversation and in writing, of universal toleration. Some members of Congress are said to be strongly in favor of it; but the ignorant and superstitious



*Condition of South America.*

part of the people, together with the regular clergy, would not be satisfied with such a measure, while the liberality prevailing among the better informed classes is such as to secure a virtual toleration for the present. Besides, from the circumstances of there being no sects in the country, such a provision may wait the progress of liberality in public opinion. In fact, the human mind has been set free on all matters of a general abstract nature, although the liberty of the press is circumscribed, in some degree, with respect to strictures on public measures and men, and the established religion; but there is neither inquisition nor previous license. They acknowledge the Pope as a spiritual head merely, and do not think him entitled to any authority to interfere in their temporal concerns. His bull in favor of the King of Spain against the colonists, which may be almost regarded as an excommunication, produced little or no sensation.

The number of monks and nuns never was very great in Buenos Ayres, when compared with other portions of the Spanish dominions. They have diminished since the revolution. There was at one time a positive law passed forbidding any one to become a monk or nun; but they were obliged to repeal it, and it was afterwards passed with some modifications. The restrictions substituted, aided by public opinion, have nearly produced the desired effect. Few of the youth of the country apply themselves to the study of theology, since other occupations, much more tempting to their ambition, have been opened to their choice. Formerly, the priesthood was the chief aim of young men of the best families who were desirous of distinction, as, in fact, it constituted almost the only profession to which those who had received a liberal education could devote themselves; which will readily account for the circumstance of so many of the secular clergy directing their attention at present almost exclusively to politics. The regular clergy, who are not permitted by the nature of their profession to take part in the business of the world, nor to hold secular offices, are, many of them, Europeans; but those of them who are natives take the same lively interest in passing events with the other classes of the community.

They have gone cautiously to work in reforms in the different branches of their municipal laws and the administration of them. The number of offices has been considerably diminished, and responsibility rendered more direct and severe. The judiciary system has undergone many improvements, and nearly all the leading features of the law which did not harmonize with the principles of free government have been expunged, though some of the former evils still remain. The barbarous impositions on the aborigines have been abolished, the odious alcavala and other obnoxious taxes modified so as no longer to be vexatious, slavery and the slave trade forbidden in future, and all titles of nobility prohibited under the pain of the loss of citizenship. The law of primogeniture is also expunged from their system. In the provisional statute, as has already been stated,

nearly all the principles of free representative government are recognised, accompanied, it is true, with certain drawbacks, for which they plead the necessity of the times, but which they profess their intention to do away with on the final settlement of the Government—a consummation anxiously desired by all classes of inhabitants. The example of France has warned them not to attempt too much at first. They have followed the plan of the United States in the introduction of gradual reforms, instead of resorting to violent and sudden innovations and revolutions.

Next to the establishment of their independence by arms, the education of their youth appears to be the subject of the most anxious interest. They complain that every possible impediment was thrown in the way of education previous to the revolution; that, so far from fostering public institutions for this purpose, several schools were actually prohibited in the capital, and the young men were not without restraint permitted to go abroad for their education. There was a college at Cordova, at which those destined for the bar or the priesthood completed their studies upon the ancient monkish principles. Another, called San Carlos, (now the Union of the South,) had been opened at Buenos Ayres, but was afterwards converted into barracks for soldiers. It is an immense building, more extensive, perhaps, than any which has been dedicated to learning in this country, and it has lately been fitted up at very great expense. The school was to have been opened in May or June last on a more modern and liberal plan of discipline and instruction. The library of the State is kept in an adjoining building; it occupies a suite of six rooms, and contains nearly twenty thousand volumes, the greater part rare and valuable. It is formed out of the library of the Jesuits, the books collected in the different monasteries, donations from individuals, and an annual appropriation by the Government, and contains works on all subjects and in all the languages of the polished nations of Europe. A very valuable addition has been lately made of several thousand volumes, brought to Buenos Ayres by M. Bonpland, the companion of the celebrated Humboldt.

Besides the University of Cordova, at which there are about one hundred and fifty students, there are public schools in all the principal towns, supported by their respective corporations. In Buenos Ayres, besides an academy, in which are taught the higher branches, and the college before mentioned, there are eight public schools, for whose support the corporation contributes about seven thousand dollars annually; and, according to the returns of last year, the number of scholars amounted to eight hundred and sixty-four. There are five other schools, exclusively for the benefit of the poor, and under the charge of the different monasteries; these are supplied with books and stationary at the public expense. There are also parish schools in the country, for the support of which a portion of the tithes has been lately set apart. It is rare to meet with a boy ten or twelve years of age, in the city of Buenos Ayres, who

*Condition of South America.*

cannot read and write. Besides the scholars thus instructed, many have private tutors. In addition to all this, I must not omit to mention the military academies, supported by Government, at Buenos Ayres and Tucuman, at which there are a considerable number of cadets.

There are no prohibited books of any kind; all are permitted to circulate freely, or to be openly sold in the bookstores; among them is the New Testament in Spanish. This alone is a prodigious step towards the emancipation of their minds from prejudices. There are several bookstores, whose profits have rapidly increased; a proof that the number of readers has augmented in the same proportion. There had been a large importation of English books, a language becoming daily more familiar to them. Eight years ago the mechanic art of printing was scarcely known in Buenos Ayres; at present, there are three printing offices, one of them very extensive, containing four presses. The price of printing is, notwithstanding, at least three times higher than in the United States; but as there is no trade or intercourse with Spain, all school books used in the country, some of them original, are published at Buenos Ayres; the business is therefore profitable, and rapidly extending. There are many political essays, which, instead of being inserted in the newspapers, are published in loose sheets; there are also original pamphlets, as well as republications of foreign works. The constitutions of the United States and of the different States, together with a very good history of our country, and many of our most important State papers, are widely circulated. The work of Dean Funes, the venerable historian of the country, comprised in three large octavo volumes, considering the infancy of the typographic art in this part of the world, may be regarded as an undertaking of some magnitude.

There are three weekly journals, or newspapers, published in the city, which have an extensive circulation through the United Provinces. They all advocate the principles of liberty and republican forms of government, as none other would suit the public taste. The year before last, it is true, one of the papers ventured to advocate the restoration of the lucas of Peru, with a limited monarchy; but it was badly received. No proposition for the restoration of hereditary power, of any kind, as far as I could learn, will be seriously listened to for a moment by the people. Even the ordinary language has changed. They speak of "the State," "the people," "the public," "country," and use other terms, as in the United States, implying the interest that each man takes in what appertains to the community. The first principle constantly inculcated is, "that all power rightfully emanates from the people." This, and similar dogmas, form a part of the education of children, taught at the same time with their catechism. It is natural that the passion for free government should be constantly increasing. A fact may be mentioned to show the solid advancement they have made, which is, that the number of votes taken at their elections increases every

15th CON. 1st SESS.—63

year. In becoming habituated to this peaceful and orderly mode of exercising their right of choosing those who are to be invested with authority, the tumultuous and irregular removal, by a kind of general oratory or acclamation, of those who have been chosen, will gradually cease.

Rather than disturb the order of society, they will endure with patience until the time arrives for effecting a regular and constitutional change. Since the election of the present Director, none of these tumults, before so frequent, have occurred. These tumults have seldom been attended with bloodshed, yet they produce great confusion and disorder, and give rise to habits of insubordination, at the same time that they are ruinous to the character of a nation.

The Viceroyalty of Buenos Ayres differed from the rest in one important particular. It contained no nobility; or, if any, very few. This may be regarded as a favorable circumstance in their society. Another favorable feature, very necessary to the successful administration of their affairs, is the conduct of many individuals who have filled the highest office of State, in descending from that dignified situation to inferior posts, and discharging their duties with alacrity. Thus we behold General A. Balcarce, who was formerly Director, acting as second in command to Colonel San Martin; Colonel Alvarez, also a Director at one period, now serving in the staff under the chief of that department, General Azcuena; and General Rondeau, once elected to the Chair of State, is at present employed in a minor office. There are others, who have occupied the same elevated post, who have retired to the station of private citizens.

The general capacities of the United Provinces for national defence are also important, in many respects. The nature and extent of the country afford the inhabitants numerous advantages over an invading army. The ease with which their herds of cattle may be driven to distant places, beyond the reach of an enemy, and the rapid movements the troops of the country can make, from the ample supply of horses and mules, are circumstances of great consequence in a military view. Even the towns not fortified, from the manner in which they are built, and from the construction of their houses, furnish powerful means of defence, as the British army under General Whitlocke experienced, in their attack on Buenos Ayres.

I am sensible that, in the course of these statements and remarks, some inaccuracies and errors must have occurred; but they have been unintentional. I have only to add, that the reception of the Commissioners at Buenos Ayres, by the Chief Magistrate, was friendly and flattering. From every class they met with a cordial welcome. The people, in general, appear to be very much attached to the American character, and to the Government and citizens of the United States.

Should anything further occur, it shall be made the subject of a future paper.

I have the honor to be, with great respect, your most obedient servant, C. A. RODNEY.



*Condition of South America.**Mr. Graham to the Secretary of State.*CITY OF WASHINGTON,  
November 5, 1818.

SIR: Mr. Rodney having undertaken to draw up, for our joint signature, a report respecting the present situation of the country we recently visited under the orders of the President, and circumstances having prevented him from presenting it to me for perusal until his late arrival in this city, I was not aware until then that I should have occasion to present to you my individual views on that subject. But, on an attentive perusal of the paper he drew up, I found that, although there was not, perhaps, any important fact on which we essentially differed, yet that some were stated of which I was not aware; and that we had taken views which it might be difficult to combine during the short time then allowed to us, and of which it might be proper that you should be put in possession. Under these circumstances, I thought it better to submit to the disadvantage of hastily throwing my observations together, and of presenting them separately, than to ask him to derange the general tenor of his report by introducing them into it.

The arrival of Mr. Bland, who will necessarily make a separate report, will, I trust, reconcile the President to the course I have taken, as, from a combined view of what we individually state, he may, perhaps, be better enabled to draw his own inferences as to the actual situation and future prospects of the country we visited, than from any just report in which we could all have agreed; as, under ordinary circumstances, that must have been the result of a compromise of opinions, and would, probably, have excluded some facts, or some views, which one or the other of us will, in the mode now adopted, present to you.

In my particular situation, however, I thought it less necessary to go into detail, as I knew that the report of Mr. Rodney would furnish information on points which I omit.

With great respect, &amp;c.

JOHN GRAHAM.

The Hon. JOHN Q. ADAMS,  
Secretary of State.

The country formerly known as the Viceroyalty of Buenos Ayres, extending from the north-western sources of the river La Plata to the southern cape of America, and from the confines of Brazil and the ocean to the ridge of the Andes, may be considered as that which is called "the United Provinces of South America."

Under the royal Government, it was divided into the intendencies or provinces of Buenos Ayres, Paraguay, Cordova, Salta, Potosi, La Plata, Cochabamba, La Paz, and Puno. Subsequently to the revolution, in the year 1814, another division was made; and from the provinces of Cordova, Salta, and Buenos Ayres were taken those of Cuyo or Mendoza, Tucuman, Corrientes, Entre Rios, and the Banda Oriental. The others, it is believed, retained their former boundaries, and, with the

exception of Paraguay, are generally called "Upper Peru."

This widely-extended country embraces almost every variety of climate and soil, and is capable of almost every variety of production. A large part of it, however, particularly on the west side of the river La Plata, and southerly towards Cape Horn, is deficient in wood, even for fuel, and in water; that which is found is generally brackish.

Although three centuries have passed by since the Spaniards made their first settlement in this country, and some considerable towns and cities have grown in it, yet its general improvement and population have by no means kept pace with them, for the lower provinces have been almost entirely abandoned to the immense herds of cattle which graze on their plains, and require only the partial care of a comparatively few herdsmen; and the inhabitants of Upper Peru have been engaged more generally in the business of mining than was favorable to improvement or population. Certain small districts, having peculiar advantages, are said to be well cultivated, and very productive; but agriculture has, in general, been very much neglected. It is, in a great degree, confined to the vicinity of the towns and cities, and may be said to limit its supplies to their demands. This state of things, combined with the regulations of the former Government, the influence of climate, and the force of example, has stamped the character of indolence upon that class of society usually considered as the laboring class. The same causes have not operated (at least not with the same force) upon the other inhabitants of the country; hence, they are more industrious and more active. Their manners are social, friendly, and polite. In native talents, they are said to be inferior to no people; and they have given proofs that they are capable of great and persevering efforts, that they are ardently attached to their country, and warmly enlisted in the cause of its independence.

It is not necessary for me to enter into a detail of the causes which led to the revolution in 1810. The most immediate, perhaps, are to be found in the incidents connected with the two invasions of the country by the British, in the years 1805 and 1806, and in the subsequent events in Spain; as they had a direct tendency to show to these people their own strength, and the incapacity of Spain to give them protection or enforce obedience. The ground-work was, however, laid in the jealous and oppressive system adopted at a more early period by the Kings of Spain, whose policy it seemed to be to keep within as narrow limits as circumstances would permit the intelligence, wealth, and population of that part of America subject to their dominion, as the surest means of preserving an empire which they considered the great source of their wealth and power.

The revolution having been auspiciously commenced in the city of Buenos Ayres, was warmly and zealously supported by the great mass of the people descended from the Spaniards; but the

*Condition of South America.*

native Spaniards, as well those domesticated in the country as those in the service of the King, were almost all opposed to it, particularly at the time and under the circumstances it took place. Dissensions were the immediate result, and their long-standing jealousy and distrust of each other have, by subsequent events, been heightened into deadly hostility, which time alone can wear away. These dissensions have been considered as one of the causes that produced those which subsequently took place amongst the patriots themselves, and which have been most serious obstacles to the progress of the revolution. Other obstacles, however, have been presented by the royal Government in Peru, which has hitherto not only been able to maintain itself there, but has found means, by enlisting the native Peruvians into its service, to send, at different times, considerable armies into the upper provinces on the La Plata, where the war has been carried on from the commencement of the revolution to the present day with various success; the great extent and peculiar character of the country, and the want of resources, having prevented either party from making a blow decisive of the contest. When we came away the advantage in that quarter was on the side of the Spaniards, as they were in possession of the provinces of Upper Peru, which had, to a certain degree at least, joined in the revolution, and some of which are represented in the Congress. Everywhere else they have been obliged to yield up the Government and abandon the country, or submit to the ruling power. The peculiar situation of Montevideo, on the east side of the river La Plata, open to the sea, and strongly fortified, enabled the Spanish naval and military forces, at an early period in the revolution, to make a stand there. They were ultimately obliged to surrender it; not, however, until long-protracted, and perhaps ill-directed efforts, on the part of the assailants had given rise to many jarring incidents between those who came from the opposite shores of the river, probably the effect, in part at least, of ancient jealousies, kept alive by the individual interests of particular leaders; these have been followed by events calculated to produce a still greater alienation; and, although several attempts have been made to bring about a union, they have hitherto been unsuccessful. The provinces of the "Banda Oriental" and the "Entre Rios," on the eastern side of the river, under the direction of General Artigas, are now at war with those on the western side, under the government of the Congress at Buenos Ayres.

This war has originated from a combination of causes, in which both parties have, perhaps, something to complain of, and something to blame themselves for.

General Artigas and his followers profess a belief that it is the intention of the Government of Buenos Ayres to put them down, and oblige them to submit to such arrangements as will deprive them of the privileges of self-government, to which they claim to have a right. They say, however, that they are willing to unite with the people on the western side of the river, but not

in such a way as will subject them to what they call the tyranny of the city of Buenos Ayres. On the other hand, it is stated that this is merely a pretext; that the real object of General Artigas, and of some of his principal officers, is to prevent a union on any terms, and to preserve the power they have acquired, by giving an erroneous excitement to the people who follow them; that it is wished and intended to place those provinces on a footing with the others; that the respectable portion of their inhabitants are aware of this fact, and anxious for a union, but are prevented from openly expressing their sentiments from a fear of General Artigas, whose power is uncontrolled by law or justice, and hence the propriety and necessity of aiding them to resist it. Armies have accordingly been marched, within the present year, into these provinces; but they were not joined by a number of the inhabitants, and were defeated with great loss.

This war is evidently a source of great injury and regret, and at the same time of extraordinary irritation to both parties; for, independently of other causes of recrimination, each accuses the other of having brought about the state of things which threatens to place a most important and valuable portion of their country in the hands of a foreign Power, who has invaded it with a regular and well-appointed army, and is gradually taking possession of commanding points, from which it may be difficult for their united force hereafter to dislodge them. That they will unite is, I think, to be calculated on, unless some event disastrous to the cause of the revolution itself takes place; for their mutual interest requires a union. But more of moderation and discretion may be necessary to bring it about than is at this time to be expected from the irritated feelings of some of the principal personages on both sides.

The city of Santa Fe, and a small district of country around it, also refuse to acknowledge the authority of the Government of Buenos Ayres.

In Paraguay, the events of the revolution have differed from those in any other province, as the inhabitants of that country have uniformly resisted the efforts of the other provinces to unite with them. After having aided the Spanish placed over them to repel a military force which had been sent to overthrow them, they themselves expelled from their country these authorities, and established a government of their own, totally unconnected with that of the other provinces, with whom they manifest an unwillingness to keep up even a commercial intercourse. This has given rise to a suspicion in the minds of some that there is a secret predilection among them for the ancient order of things. But, from what is said of their cold and calculating character, from the safe position of their country, and its capacity to supply its own wants, it is probable that their object is to husband their resources, and profit by the exertions of others, without giving their own in aid of them; and possibly, in case of ultimate failure, to place their conduct in a less objectionable point of view before the Government of Spain. What-



## Condition of South America.

ever may have been their motives, they have hitherto contrived to escape, in a great measure, the evils of war.

Their resources in men and money are said to be considerable, and no country is more independent of foreign supplies.

Their conduct furnishes a striking contrast to that of the people of Buenos Ayres, who entered into the revolution with unbounded zeal and energy, and have ever been ready to meet the difficulties of so great an undertaking. This circumstance, connected with their local situation, greater resources, and more general information, and perhaps the fact of their having been the first to get power into their hands, have had the effect to give them a controlling influence over the revolutionary government, which has not failed to excite, in some degree, the jealousy of the other provinces, and amongst themselves a feeling of superiority little calculated to allay that jealousy. Great evils were at one time apprehended from this state of things; but the Congress which met at Tucuman, in March, 1816, composed of deputies from the several provinces then united, assumed the sovereign power of the country, boldly declared its absolute independence, and adopted a provisional form of government, which is understood to have the effect of allaying dissensions, and of introducing a more regular administration of public affairs.

It will be seen, from the documents in your possession, that this provisional constitution recognises many of the principles of free government, but with such drawbacks as are little calculated to enforce them in practice. Great allowances are doubtless to be made for the circumstances of the times, and the danger and difficulty of tearing up ancient institutions, or of adapting new principles to them. But, after due allowance for all these considerations, it did not appear to me that so much had been done for the cause of civil liberty as might have been expected, or that those in power were its strongest advocates. It is generally admitted, however, that some changes for the better have been made. Much care seems to be taken to educate the rising generation; and as those who are now coming on the theatre of action have grown up since the commencement of the revolution, and have had the advantage of the light thrown in by it, it is fair to suppose that they will be better prepared to support and administer a free government than those whose habits were formed under the colonial government of Spain.

The commerce and manufactures of the country have grown beyond its agriculture. Various causes, however, have contributed to lessen some branches of manufacture since the revolution, but commerce is understood to have been increased by it. A much greater variety and quantity of foreign goods is imported, and a greater demand is opened for the productions of the country. The city of Buenos Ayres is the seat of this commerce. From it, foreign and some domestic goods are spread through the in-

terior, as far as Chili and Upper Peru, and, in return, the various productions are drawn to it. This trade is carried on principally by land, as is that between the different various provinces, though some small portion of it finds its way up and down the large rivers forming the La Plata, which is itself not so much a river as a great bay. The abundance of cattle, horses, and mules, and of some other animals peculiar to the country, which are used in the mountainous regions of Peru, furnishes facilities for transportation not to be found in any other country so little improved; hence the price of transportation is very low, and the internal trade greater than it otherwise would be, though it had been materially lessened in some important branches by the war with Peru, and the system adopted in Paraguay.

The export and import trade is principally in the hands of the British, though the United States and other nations participate in it to a certain degree. It is depended on as the great source of revenue to the State; hence they have been tempted to make the duties very high, and to lay them upon both imports and exports, with the exception of lumber and military stores. This circumstance, connected with the fact that payment is demanded at the custom-house before the goods are delivered, has led to a regular system of smuggling, which is said to be carried to great excess, and doubtless occasions the official returns to fall short of the actual amount of the trade. This may be the reason why they were not given to us. The articles imported are almost every variety of European and East India goods, principally from England—rum, sugar, coffee, tobacco, cotton, and timber from Brazil; lumber of almost every description, codfish, furniture, gin, and some smaller articles from the United States, together with military stores, which, however, find their way into the country directly from Europe, and are thus furnished at a cheaper rate than we can sell them. The principal articles of export are taken from the various animals of the country, tame and wild, from the ox to the chinchilla; copper from Chili, and some of the precious metals drawn principally from Peru; but as gold is worth seventeen dollars per ounce, and passed by tale at that rate, very little of it is exported. Hence the currency of the country is gold, for they have no paper money. The *libranzas* or bills of credit issued by the Government are however an article of traffic among the merchants, as they are received in payment for one-half of the duties. No distinction is made in favor of the trade of any nation, save only that the British merchants have some peculiar facilities granted them in relation to their letters, which are an object of taxation, at least so far as applies to those sent out of the country.

In the official statements given to us, and to which I beg leave generally to refer for information as to the foreign relations, the productions, military and naval force, revenue, and population; the latter is stated at one million three hundred thousand, exclusive of Indians. This is understood as comprehending the population of

## Condition of South America.

all the provinces; but as some of them are not under the Government of Buenos Ayres, I have thought it proper to annex the several estimates I collected of the population of each province, as they may serve to give some general information on that point. The most immediate difficulty felt by the Government, while we were in the country, seemed to arise from the want of money; for, although the debt was small, their credit was low. It had not been found practicable to adopt a system of finance adequate to the exigencies of the times, though it would seem, from the statement given to us, that the revenue of the last year exceeded the expenses. The important events of the present year in Chili, of which you are informed, will doubtless have the effect to raise the credit of the country, and to lessen the pressure upon it, at least for a time, and will probably leave the Government more at leisure to attend to its internal affairs.

When we came away, it was understood that a committee of the Congress was engaged in draughting a new constitution, the power of forming and adopting it being exclusively vested in the Congress. Whether it will assume a federal or national character is somewhat doubtful, as there are evidently two parties in the country, whose views in this respect are very different, and it is believed that they are both represented in the Congress. The one party is in favor of a consolidated or national Government, the other wishes for a federal Government, somewhat upon the principles of that of the United States. The probability seems to be, that although there might be a majority of the people in the provinces generally in favor of the federal system, it would not be adopted, upon the ground that it was not so well calculated as a national Government to provide for the common defence—the great object now in view. The same general reason may be urged perhaps for giving to the latter, should it be adopted, less of a republican character than probably would have been given to it in more quiet and peaceful times. There is danger, too, as the power of forming and adopting the constitution is placed in the hands of a few, that the rights and privileges of the people may not be so well understood or attended to as they would have been had the people themselves had a more immediate agency in the affair. It is not to be doubted, however, that it will at least have a republican form, and be bottomed upon the principles of independence, which is contended for by all descriptions of politicians in the country who have taken part in the revolution, and will it is believed be supported by them in any event to the last extremity.

Their means of defence, of which they are fully aware, are, in proportion to their numbers, perhaps greater than those of almost any other people; and the duration and events of the war have strengthened the general determination never to

submit to Spain. This determination rests upon the recollection of former sufferings and deprivations; upon a consciousness of their ability to defend and to govern themselves; and upon a conviction that, in case of submission on any terms, they would, sooner or later, be made to feel the vengeance of the mother country. These considerations have the most weight upon the minds of those who have taken a leading part. They, of course, use all their influence to enforce them, and thus to keep up the spirit of the revolution. In this they probably have had the less difficulty, as, although the sufferings of the people have been great, particularly in military service and in raising the contributions necessary for that service, yet the incubus of Spanish power being thrown off, and with it that train of followers who filled up almost every avenue to wealth and consequence, the higher classes have been awakened to a sense of advantages they did not before enjoy. They have seen their commerce freed from legal restraints, their articles of export become more valuable, their supplies furnished at a lower rate, and all the offices of Government or other employments laid open to them as fair objects of competition. The lower classes have found their labor more in demand and better paid for, and their importance in society greater than it formerly was. They are yet, however, from their indolence, general want of education, and the great mixture of "castes" among them, in a degraded state, but little felt in the affairs of the Government. The stimulus now given will operate to produce a change in them for the better, and, it is to be presumed, will gradually have its effect, as their docility, intelligence, and activity, when called into service, give evidence that they are not deficient in natural or physical powers.

Labor, as it becomes more general, will become less irksome to individuals; and the gradual acquisition of property, which must necessarily result from it in such a country under a good Government, will doubtless produce the happy effects there which it has uniformly produced elsewhere, and more especially in countries where the population is small when compared to the extent of territory.

I am very sensible that I may have been led into errors of fact or inference. In that case I can plead honesty of intention, and the difficulty of collecting at a single point, and within a limited time, correct information, or of analyzing that which was collected, respecting a people in a state of revolution, who are spread over an immense country, and whose habits, institutions, and language are so different from our own.

I have only to add, that we were politely received by the Supreme Director, who made every profession for our Government, and every offer of accommodation to us, as its agents, which we had a right to expect; and the people manifested, on all occasions, the most friendly dispositions.



## Condition of South America.

Estimate of the population of the provinces of Buenos Ayres, Cordova, Tucuman, Mendoza or Cuyo, and Salta, under the names of the different towns or districts which send Representatives to the Congress.

TOWNS, &c.	By an imperfect census, (1815,) excluding Indians, transient persons, troops.	By more recent estimates excluding Indians.	Excluding Indians.	Including Indians.
Buenos Ayres	98,105	105,000	120,000	250,000
Cordova	-	75,000	75,000	100,000
Tucuman	-	45,000	45,000	20,000*
Santiago del Estero	-	45,000	60,000	-
Valle de Calamarca	-	36,000	40,000	-
Salta	-	20,000	20,000	-
San Juan	-	34,000	34,000	-
Mendoza	-	38,000	38,000	-
San Luis	-	16,000	16,000	-
San Carlos	-	25,000	25,000	-
San Pedro	-	50,000	50,000	-
Provinces of Upper Peru—				
Cochabamba	-	100,000	120,000	200,000
Potosi	-	112,000	112,000	250,000
La Plata, or Charcas	-	112,000	112,000	175,000
La Paz	-	-	-	300,000
Cuyo, under the name of Santa Cruz de la Sierra Quira	-	120,000	-	30,000†
Paraguay	-	-	-	150,000†
Santa Fe, and Entre Rios	-	-	-	50,000†
Paraguay	-	-	-	300,000
Santa Fe, and Entre Rios	-	50,000	-	-

Note.—It is not understood that any part of the province of Corrientes, or that of the city or district of Santa Fe, is included in this estimate; and some districts of some of the other provinces may be omitted.

\* Probably the town only. † Under the various names of Santa Cruz de la Sierra, Majos, and Chequitor.

## APPENDIX TO MR. RODNEY'S REPORT.

## A.

Historical sketch of the Revolution of the United Provinces of South America, from the 25th of May, 1810, until the opening of the National Congress on the 25th of March, 1816; written by Dr. Gregorio Funes, and appended to his History of Buenos Ayres, Paraguay, and Tucuman.

It is the advice of a sage that the history of revolutions should be written neither so long after they have happened that many of their events will be forgotten, nor so immediately after they have occurred as to preclude it from being executed with the requisite impartiality. In the last case, all who read it, sitting in judgment upon it, approve or condemn according to their feelings, and in consequence, it is deemed a chaos of uncertainties. We have, therefore, determined to give merely a sketch of the Revolution, and to refrain from such narration as would perhaps revive animosities which patriots wish never to see renewed.

1810.—A succession of reverses had deranged all the plan of defence adopted by Spain to resist the attacks of France. The pass of Sierra Morena being forced, the army of the enemy extended its conquests to the island of Leon. Af-

fairs were in this desperate situation when the timorous Cisneros addressed his celebrated proclamation to the people, more for the sake of repelling the danger which menaced his authority than of furnishing them rules to regulate their conduct in case of the French succeeding in their ambitious designs against the mother country. A martyr to the suspicions to which he had given himself up, as if he disdained artifice, he endeavored to gain credit with the people by palming upon them his statement of the utter imbecility of Spain, which they knew as well as he, for noble sincerity. In fine, he descended to propose a plan of national representation as remote from justice as from utility.

This was a conjuncture which the people of Buenos Ayres anxiously expected. That period had long passed away when America, without any object with which to compare herself, had believed men bound implicitly to be guided by the maxims of their predecessors. The revolution of North America, and the recent one of France, had revived among us the natural rights of man. The same Regency, although thereby doing violence to its feelings, said to us, "that we were elevated to the dignity of freemen; that we were, not like our ancestors, oppressed by a yoke rendered more galling by their distance from the centre of power, viewed with indiffer-

## Condition of South America.

ence, and made vile by ignorance." In fine, in the reconquest of Buenos Ayres, by expelling the English, we had made trial of our strength; and convinced that we might now safely cast off the leading-strings of infancy, he believed that this was the time to shake off the authority of a decrepit and tyrannical mother. We were also impelled to this measure from its appearing probable that Napoleon would render permanent the Government he had established in Spain.

A number of brave men\* united themselves secretly for the purpose of extirpating tyranny, and at the risk of their tranquillity, and fortune, and life, formed the plan of this Revolution. Though destitute of military force, they dared provoke a powerful Viceroy; without experience, they yet lulled to sleep the vigilance of their Governors; without money, they gained over many of the soldiery; without authority, they reigned in the hearts of their fellow-citizens. This being the situation of things, the volcano at last burst forth. A junta of nine persons, with full powers,† assembled on the 25th May, 1810, agreeably to the summons of Cisneros, the Viceroy. This was the first step in our Revolution; a revolution effected without bloodshed, maintained by success, ardently desired by the good, and capable of producing the happiest effects.

Although the considerations we have mentioned would have justified the declaration of independence, the capital did not proceed to this extremity. It considered that to pass at once the immense interval between slavery and liberty would be a premature measure, and, contrary to the inviolable law of nature, that improvement shall be gradual. Besides this, although they knew that the enjoyment of the social rights was an object so dear to the hearts of many Americans, they knew, also, that there were among them some timid men, who, exposing themselves to universal derision, reprobated the good purchased by any other than pacific means; others who, destitute of love of country, were strangers to the most heroic passions; and others so unenlightened as to deem servitude their natural and proper state.

As well to make an experiment upon these dissimilar classes of men as to leave the great measure of declaring independence untried till events should render it expedient, the capital limited itself, for the present, to the only plan sanctioned by prudence. This was, that the provinces, in the name of Ferdinand VII., should assume the direction of public affairs. Everything prompted us to this innovation. The peninsular Government, its springs having lost their elasticity, appeared insufficient to secure the existence of the nation. The very provinces of Spain were, more

or less, in open opposition to her authority. Her governmental orders were either entirely violated, or imperfectly obeyed. This monarchy was completely unhinged. The component parts of this vast body politic were so widely dispersed that they could have no tie capable of binding them together. This want of union rendered the nation weak. It was doubtful whether the Central Junta could, of itself, establish a Regency. In fine, America was an integral part of the monarchy, and enjoyed equal rights with Spain.

This innovation excited greatly the feelings of the people, and gave birth to as little speculation. Men, who had submitted without a murmur to be treated as slaves, blessed the moment when, at least, they were no longer instrumental to their own sufferings. But, on the other hand, interest and arrogance caused the European Spaniards to regard with rage the newly-awakened energy of a people they had long contemned—an energy which menaced them with the deprivation of office and influence.

The odores of Buenos Ayres were the first who manifested a disgust, unbounded and promotive of insubordination. The Junta excluded from the Government certain individuals\* regardless of everything but self-interest. For them it substituted others more worthy.

The royal marine, characterized by ignorance and indocility, also gave loose to selfish passions. It retired to Montevideo; endeavored to stir up the people to insurrection; implored succors from Brazil; dispersed the army; imprisoned its chiefs, and even sent them to Spain; in fine, threw all things into confusion.

The State was upon the eve of civil war. Lima, Montevideo, Paraguay, the chiefs of Cordova, Potosi, and Charcas, prepared themselves for a bloody contest with the capital and its adherents. But their animosity excited vigilance in the Government, and enthusiasm in the patriots.

To guide the people in the novel and daring career upon which they had entered, the Government and the clergy furnished them with productions written with ability and with energy. To enlighten the public, and, consequently, to triumph over the errors of education, was deemed a sacred duty. The conduct of the ecclesiastics was particularly praiseworthy, since they acted in opposition to the bishops of their dioceses, more occupied with the advantages of posts they feared to lose than interested for their flocks.

As the provincial chiefs in opposition to the Government were deaf to persuasion, it determined to obtain by force for the people the enjoyment of their rights. It organized an auxiliary expedition to operate against the enemies of liberty in their interior provinces. At this very time Concha, Governor of Cordova, and the bishop Orellana, excited by the ardent Liniers, viewed the revolution as a criminal enterprise

\* These were Casteli, Belgrano, Chiclana, Paso, Vieytes, Pena, Danaguetra, Paso, Terrada, Thompson, Vietes, Balcarce, Beruti, Rodriguez, Donado, Prigoyen.

† These were Colonel Seapedra, President; Casteli, Belgrano, Azeninaga, Alberti, Mateu, Larrea, Moreno, and Paso.

\* They were sent to the Canaries, and were Cisneros, Velezco, Reyes, Billota, Carpe, Danaguetra, Escharraria, Medeano, and Cosis, the fiscal.



## Condition of South America.

against the State, and excited the people to disobedience and to vengeance. To cure them of this phrensy, and to convince them that they were laboring for their own ruin and that of the people, my opinion delivered in a Junta,\* was ineffectual. At last, these deluded men discovered, to their cost, that they were struggling in an unknown sea against a tempest they could not withstand. Abandoned by their own soldiers, who never heartily embraced their cause, they were taken prisoners.†

The Junta determined to cement the revolutionary Government with the blood of those mistaken men, and thus to terrify into silence the enemies of freedom. When informed of this resolve, my surprise and grief were equally great. It was on the eve of its execution that I was informed of this determination. To avert from a cause, so far untainted by injustice, the imputation of atrocity, nay, even of sacrilege—for such those accustomed to kneel before their bishops would have deemed this act; to prevent the secession from the patriot cause of many reputable and influential families;‡ whose reputation and feelings such an execution would have deeply wounded; in fine, impelled by humanity, I felt bound to urge these reasons upon Don Francisco Antonio Ocampo and Don Hipoleto Vиейtes, chiefs of the expedition, and to supplicate the suspension of so odious a sentence. The impressions which these reasons, and others added by my brother, Don Ambrosio Funes, made upon their minds produced the desired effect a few hours before the time appointed to inflict the punishment. The Government deemed this extreme moderation incompatible with the security of the State. The blockade of the capital by the royal marine from Montevideo; the intrigues of the European Spaniards, ever on the alert; in fine, opinions in favor of Liniers, whispered among our troops, the companions of his dangers and glory, compelled the Government to choose between the death of these conspirators, and the ruin of dawdling liberty. Placed in this dilemma, from a sense of duty, it did violence to its feelings and confirmed the sentence, except that part relating to the bishop. Thus died, prematurely, men who, in other times, might have been useful citizens.§

Among the chiefs assembled by Concha and Liniers, the most conspicuous were Sans, Gov-

\* This Junta met at the house of the Governor, Concha: Liniers, Orellana, two oidores, Nonorarios, Colonel Allende, the assessor Rodriguez, the alcades ordinarios, the Ministro de las Cajas, Moreno, and myself, were present. Talono was in favor of the capital. My opinion may be seen in the *Gazeta de Buenos Ayres*, or in the *Periodico Espanol*.

† Except the oidores and alcades ordinarios.

‡ Allende and Rodriguez were related to the principal families of Cordova, Liniers, and Concha, the most respectable of Buenos Ayres; some of the relatives of the two last had taken part in the revolution.

§ The execution took place between the Post Kabaza del Tigra and that of Lobation.

ernor of Potosi, and Nieto, President of Charcas. Nieto, licentious as was ever any minion of tyranny, oppressed with vexations each garrison under his command, imprisoning the soldiers in caverns, and even condemning them to toil in bake-houses. Thus this idiot expected to prop the tottering fabric of slavery, and to perpetuate meanness of spirit and misery. While these and other events agitated the centre of Peru, the Junta gave additional respectability to the auxiliary expedition. Castelli having resigned the command, Don Antonio Balcarce was appointed in his stead. The victory of Suipacha put an end to the enterprises of certain rash men. The Major General, Cordoba, Sans, and Nieto, were shortly after put to death.

It was not so much from external obstacles, as from a weakness common to all States in times of revolution, that our affairs were not always prosperous. It must be perceived that we are now about to speak from intestine dissensions. When we threw off the yoke, we thought that, in organizing a Government, it was impossible to recede too much from the tyranny which had caused our sufferings and our shame. A youth of talents and information, says a modern author, astonished at reading, in each page of the ancients, a diary of what passed before his eyes in the late French revolution, happily thought of writing its history, with passages extracted from these authors; and, without any other labor than that of citation, composed an original work. So true it is, adds he, that there are no annals more authentic and instructive than those of the human heart. When we attentively consider our dissensions, it appears as if Cicero, and Tacitus, and Sallust, were their historians.

Governments destitute of solid foundations will always be playthings. Scarcely had the first Junta begun to exercise its authority, when the clouds gathered and the lightnings flashed around them. Our germ of discontent, not dissembled, was exclusion from a share in command of the deputies of the people, appointed to give a legal existence and form to the new political\* structure. This exclusion excited personal resentments; and those who deemed themselves injured endeavored to avenge themselves in the name of the public weal. The events which occurred in consequence will be recounted in the course of this sketch.

These provinces were now the theatres of civil war. The Paraguayans had not yet resolved to sacrifice a tranquil slavery for a liberty precarious and tumultuary. The first Junta perceived that this state of that province was the consequence of fears inspired by its Governor, Velasco, and

\* To unite the provinces in a Congress, by their representatives, was the first resolve of the capital. Circular letters having been written for this purpose by the Junta, elections were holden in the most tranquil cities. In these letters it was stated that the deputies, when elected, should be incorporated in the Government. It was now the middle of December, and the deputies (of whom I was one, representing Cordova) were not incorporated.

## Condition of South America.

felt it a sacred duty to open its eyes to its interest and honor. This was the object of another expedition, commanded by Don Manuel Belgrano. It was, at first, unsuccessful; but what three bloody battles failed to win, was the fruit of a negotiation most sagaciously conducted by the General. The Paraguayans began to be persuaded that the zeal of Velasco was refined selfishness, obedience to him meanness of spirit, and submission to Spain contrary to the public good. The movements of the enemy at Montevideo, until now, though seditious, were unimportant. The arrival there of a viceroy for Buenos Ayres inspired the hope of humbling us. Idiots! to indulge such a hope. We knew Elio, and counted upon his follies as most efficient auxiliaries. This soldier, whose motto was "boldness," promised the Regency to convert the capital into a dungeon of slaves. It was natural that silly and extravagant expectations should be indulged and promulgated to his employers by a viceroy incompetent to fill the most petty office. Elio had the insolence to require the Junta to recognise him; but this body treated his demand with the contempt it deserved.

1811.—In consequence of this repulse, Elio declared the Junta rebellious, and answerable for all the blood that might be shed in the contest. His first effort was to reduce the Orientals to obedience. But these brave men taught him, what daring spirits, in robust bodies, could effect. The conquest of Gualaguachu and the victory at Soriana were merely preludes to actions more glorious.

Certainly the fury of Elio was far less dreadful to the State than the internal dissensions which now convulsed it. While the Junta of Deputies labored in performance of its duties, new plots were hatched, during a repose which was compulsory, by a rival party. It was attempted, by black calumny, to abuse credulity in order to render the deputies suspected. It was whispered that they intended to sell their country to the Portuguese for money and office—a base slander,\* which never would have obtained believers, were it not true at all times that the great characteristic in party is blind deference to leaders. The Junta did not yield to this persecution, but the deputies, stigmatized as traitors and tyrants, opposed no other shield against calumny than a faithful discharge of duty.

Nevertheless, they were still victims of detraction, when a revolution, known as that of the 5th and 6th of April, in which the Government had no share, took place. This event afforded no pleasure to the Junta; it knew that in the ordinary course of the passions one revolution engen-

\* In support of this calumny, a letter written by the English Captain Fleming to the Government of Chili was triumphantly urged. But Lord Strangford, the British Ambassador near the Prince Regent of Portugal, in his official letter of September 7th to the Governor of Buenos Ayres, thus expresses himself: "I can, in the most authentic manner, in the name of my Court, disavow the letter of Captain Fleming."

ders others of the same kind; for when parties are once formed, interest and justice become with them convertible terms. The Junta had always been persuaded that the true object of the revolution ought to be to secure the people the advantages of a free Government. It held the opinion that persons in authority, if unrestrained by the jealous and unceasing attention of colleagues, invariably became corrupt; that, after being guilty of usurpations, to become despotic, became necessary to insure impunity; and that from violations of the laws to despotism is but a step. Supported by these reasons, and the unanimous vote of the people, it introduced the government of Juntas into all the provinces.

Animated by the same spirit, it introduced, also, the liberty of the press. The Junta was of opinion that the time had arrived when thought ought no longer to be imprisoned by the will of the magistrate, who, in the words of a celebrated genius, "with the cord that binds it in his hand, measures and fixes the distance of its flight."

These cases were succeeded by others of a different nature and importance. To excite the Orientals to resist their foe, and not to be at the mercy of the furious Elio and his rapacious followers, among the different objects soliciting attention, deserve the preference. By repeating frequently the words Sparta, Rome, liberty, patriotism, and by aid lavish and opportune, we had at last the consolation of interesting them in the salvation of the country. The taking of Canelones by Don Benancio Benovidez, and the victory of San José, gained by troops of Don José Artigas, will always excite delightful feelings. But the Junta expected to gather the best fruits after, from policy, it had transferred the command of the army, and sent reinforcements to Colonel Don José Rondeau. Nor was it deceived; the towns of Minas, San Carlos, and Maldonado yielded successively to the conqueror Don Manuel Artigas; and the Orientals, rising in mass, invested the walls of Montevideo. Success so brilliant filled Elio with consternation, and made him deem it necessary to stop the patriots in their prosperous career, by some great effort. Twelve hundred of his best troops, with a great train of artillery, occupied Piedras. Notwithstanding their superiority in numbers, arms, situation, and discipline, they were conquered by men who, animated by the glory of conquering, forgot their nakedness, weariness, and all the horrors of death. The General, Don José Artigas, manifested on this occasion that ardor and coolness with which he inflamed or moderated the passions of his troops, as circumstances required.

These victories, and General Rondeau's removal of his headquarters to Mercedero, for the purpose of besieging Montevideo, filled Elio, till then over-confident, with despair. He inquired of the Junta if an accommodation were possible, and offered to purchase it, even with the humiliating sacrifice of his office. While the Junta was deliberating upon this proposal, it received intelligence that Paraguay had at last awakened from its lethargy, and turned against its oppressors



arms placed in the hands of its sons in order to be used against the country, thus profiting by its error. This pleasing information produced a reply to Elio, which showed him that nothing remained for him but submission.

This energetic reply lighted up anew his flame of war. Elio, harkening alone to the rage which filled his bosom, prepared to bombard the capital. Michelena, with a squadron of five ships, appeared off the harbor, and informed the Junta of his hostile intent. This body, unintimidated, boldly answered, in reply, "Proceed, and receive practical lessons of the energy of a people whose courage and resources are incalculable." The bombardment was executed, but with more injury to the enemy than to the capital.

It is now time to turn our eyes to the army of Peru. Thus far it was successful. Castelli, with six thousand men under his command in the vicinity of Desaguadero, expected decisive events, which would cover our arms with glory; but, instead of adopting measures suitable to his circumstances, he entered into useless negotiations, and obtained an armistice, which Goyeneche perfidiously turned to his own advantage. Six days before it expired, the armies of the country were attacked in Guaygu and Chibiraga, points distinct and distant from each other. In the first battle, the enemy were victorious; in the second, (at Chibiraga,) neither party conquered, but the dispersion of our army left the foe master of the field of battle on the following day. Our auxiliary expedition being thus unfortunate, the enemies became masters of Upper Peru. The Junta was undismayed by this reverse of fortune. In its proclamation to the people, it reminded them that the Roman Senate, after the defeat of Cana, thanked the Consul Varro for not despairing of the republic, and declared that it did not despair. This proclamation, circulated throughout the country, roused the people to generous exertions.

It is proper here to narrate the capture of the island of Roa. The besieging army of Montevideo was greatly in want of powder, and this island contained a quantity equal to what it required. Although the attack was extremely hazardous, it was made with sagacity and valor by Don José Quesado, commander of our troops, and crowned with success. He abandoned it, after spiking the cannon, bringing with him twenty quintals of powder.

We had not only to contend against the Spanish troops, but also to be on our guard against a stranger whose ambition was well known. Our revolution had early awakened the policy of the Portuguese, and the Court of Brazil, under the pretext of preserving in favor of Ferdinand VII. the integrity of his dominions, desired to get possession of his South American territories, in order to secure the rights which might accrue to the Princess Carlota. The Junta considered that, if Portugal retained from doing what both her fears and her ambition prompted, it would be a phenomenon in history. It, therefore, mistrusted

\* As Castelli himself states in a despatch.

this Power, and took all the precautions prudence dictated to render Elio's demands for assistance unavailing.

The Court of Brazil caused its troops to enter the territory of the State, but, before it resorted to arms, made experiment of what it could effect by policy. Removing at last the veil that had enveloped its designs, it proposed to the Junta to purchase, by voluntary submission, its acknowledgment of the independence of La Plata, and its solemn engagement that, even if Ferdinand recovered the Spanish throne, it should not be again subjected to the authority of the mother country. The Junta considered that it would merit public hatred and vengeance, should it hearken favorably to a proposal with which it could not comply without imbecility and baseness, although, since the victory of Goyeneche had made him master of Peru, almost environed with foes, the Junta thought only of putting into requisition all the resources of the country, and, when these failed, to bury itself beneath its ruins. A little less folly on the part of Elio would have placed him in a situation to open a negotiation (as he proposed) with the Junta, to have assisted and been assisted by it against the Portuguese, and to have settled satisfactorily all matters in controversy. From the various sources for bettering the situation of the country which suggested themselves to the Junta, it selected that of reforming the Government. We had long experienced the evils of a system disproportioned, incapable of commanding means adequate to the ends to be effected, and destitute of the power necessary for putting in motion and directing the machine of Government. The exclusion of the deputies from a share in the Government, which we have before related, may have resulted from artifice, precipitation, or other cause; but it is certain that to have admitted them all would have been incompatible with the secrecy, celerity, and vigor, without which to govern well is impossible. To obviate the inconveniences resulting from the want of these essentials, the Junta determined to create an executive power which, in the language of the sapient Necker, "should in the body politic represent that mysterious power which in man causes the action to correspond with the will." The consideration that, when the executive authority has no just limits, the State is but a confused heap of oppressors and oppressed, induced the Junta, in order to temper it, to reserve to itself, with the title *guardian of the public rights*, the power of legislation; not, however, to its full extent, for it could be thus exercised only by a national Congress, but merely to provide for exigencies, to restrain the operation of laws prejudicial to the State, to deliberate upon important affairs, and to calm the distrust in their governors with which growing fondness for liberty inspired the people.

With these limitations the Junta created an executive power, vested in three persons, who were Dr. Don Juan José Paso, Don Feliciano Chichana, and Don Manuel Sarratía. If these new

magistrates would have respected the barriers that limited their power, they would have spared the capital a tumult, the deputies an affront, and their own reputations a death-wound. From a reprehensible desire of authority, without the proper counterpoise, they stigmatized the regulation made by the deputies, in virtue of the power they had reserved, "as a code calculated to precipitate the country into the abyss of ruin." The deputies being made the victims of public disorder, their place in the Government remained vacant. The manifestoes issued in justification of this measure could easily have been refuted; but the deputies, aware that, when the feelings of the people are in a state of irritation, it is in vain to appeal to them for justice, wisely trusted their defence to events which they were confident would, sooner or later, make apparent their innocence. They did not miscalculate; for the prosperity subsequently enjoyed by the country, under a political system very similar to the one they proposed, has completely refuted the calumnies of their adversaries.

It is impossible, in a sketch like the present, to give a full view of the perturbed state in which this violent measure left the capital. It was divided into factions familiar with every kind of petty artifice. Bitter invectives, false relations, exaggerated fears, were employed to obtain whatever they deemed promotive of their interests. "Each party," says an intelligent observer, "strengthens itself by railing at and calumniating its opponents. Party zeal gives reputation to factions, and to be deemed by them a man of worth, it is sufficient to be one of them." The most despicable persons were selected for chiefs, for the absence of talent and honesty insured their *innocuousness*. The situation of the capital was truly deplorable.

In this state of things, the sergeants, corporals, and soldiers of the 1st regiment openly mutinied and jeopardized their safety, by indiscreetly attempting to prevail against their officers. The capital was converted into a field of battle. The mutineers were compelled to surrender, and eleven of their number were executed to punish this outrage against the laws. The Government did not confirm their sentence with dry eyes, but it knew that rulers invariably bring their authority into contempt by giving impunity to criminals.

Fear and trouble mingle with the very elements of unstable Governments. The deputies of the people retired to their hearths, after they were left at liberty to do so, by their exclusion on the 5th and 6th of April from the Government. The intractable Bishop Orellana, by his hypocrisy, obtained his restoration to a chair from which his crimes excluded him. These occurrences augmented distrust and jealousy. When Government adheres to a party, it makes, says a sage, the political bark to incline to one side, and accelerate a shipwreck in which it is also lost. It is true, though, adds he, that neutrality is not always warranted by justice, but rather by ambition, which, standing aloof from

disorders, draws from them its greatest advantages.

While the bosom of the country was thus torn to pieces, the extremities were in no better condition. It is certain that, in consequence of an almost general insurrection of the Indians, the district of Paz was recovered, the city besieged, and the army of Lomberra routed; it is also true that the brave Don Estevan Arce made himself master of Cochabamba. But, notwithstanding these triumphs, the conqueror of Guaqui retained his conquest. The retreat made from Potosi by Colonel Don Juan Martín Pueyrredon, with the remnant of the army and wealth of the country, was executed so heroically that it deserves to be taken for a model. It is only given to intrepid spirits to make themselves respected in the hour of danger.

The Banda Oriental presented nothing which could tranquillize us. It is true that the Portuguese, though acting with their accustomed dissimulation, had not gathered its expected fruits. Their troops had approached Montevideo with the hope that, circumstances opening to them the gates, she would change her language, even if her feelings remained unchanged. Experience showed that the projects of cabinets sometimes fail. A treaty of peace made between this city and the capital, by which it was agreed that, upon our troops raising the siege, and retiring beyond the Uruguay, the Portuguese should evacuate the Banda Oriental, disconcerted all their plans. Still they did not despair. As remarkable for perfidy as we for good faith, by a scandalous invasion on their part, they renewed the war, and gave the troops of General Artigas an opportunity of showing these foes that none offended them with impunity. It was evident that to obtain Montevideo was the object of the Portuguese. Their seductive influence induced her to break the treaty, and renew the blockade of the capital.

It is only the pusillanimous that are disheartened by danger. Men count the number of their efforts by their reverses. Fortune enters into their calculations in doubtful cases, but they rely solely on virtue. The Government, convinced that victory is not essential, and that brave men, when reduced to the greatest straits, are most efficient, undismayed, strained every nerve to save us. The scarcity of money was supplied by a confiscation of enemy's property, and an annual contribution of six hundred and thirty-eight thousand dollars; an *estado mayor general* was created; a methodical plan furnished for reforming the army; subordination was better established; the liberty of the press confirmed; the army of Peru reinforced; and additional troops opposed to the coalition of our enemies.

While these measures were adopting, a new occurrence relighted the torch of discord in the capital. By a regulation of the executive power, an assembly, to meet at stated periods, was organized, for the object of deliberating, during a session positively limited to eight days, upon great State affairs, and of selecting every six



## Condition of South America.

months a successor to the chief of the Government, whose term of service expired. As love of liberty had generated inquietude and distrust, it was difficult to take any step without interrupting tranquillity. Don Juan Martin Pueyrredon was elected. The assembly considered that it could not without imbecility refrain from assuming supremacy over the General Government and all the provinces of the Union. This was stigmatized by the executive, as an excess subversive of the law which gave this body being. The assembly urged that the law cited against them was the work of force; force terminated the contest, the assembly was dissolved, and the citizens still more disunited.

Discord, the tendency of which is to subvert all authority, debilitates the State. But this does not happen when it is awakened by love of liberty. Nothing is more natural than that the people should observe with fear the hand which governs them, but it is a fear neither enervating courage nor weakening understanding. The confusion into which General Arce, after the rout at Asate, and General Artigas, after a victory over a division of Portuguese, put the Generals Goyeneche and Sousa, ought to have made them know that attempts against liberty are always vain. The Court of Brazil, convinced of this truth, perceived that it would be best for it to be upon terms of amity with us. It, therefore, by its Plenipotentiary, Don Juan de Redemarker, submitted proposals to us, to which, under the guaranty of Great Britain, we acceded.

Although Goyeneche, in Upper Peru, was filled with grief by the desertion of his troops, and other repeated misfortunes, pride would not permit him to abandon his conquest. Thus circumstanced, availing himself of our retreat to Tucuman from the right bank of the river Suipacha, he resolved to attempt the conquest of Cochabamba. With the greatest and best part of his troops he marched, routed General Arce, and approached the city. Antezana, president of its Junta, perceiving himself without resources, offered submission, and implored the clemency of the conqueror. This proceeding, though prudent, was viewed with extreme disgust by a magnanimous people who had acquired so much glory. Although destitute of solid support, they preferred the horrors of war to the advantages of a humiliating peace, and commenced an irregular fight, in which the women\* intermingled with the men. The contest was very unequal; after some resistance they yielded with considerable loss. This gallantry was sufficient to incite Goyeneche to the most base and cruel vengeance. The town was delivered up to plunder for three hours, which afforded opportunity for the commission of every sort of crime.

\* To commemorate the heroism of these families, and as an incitement to patriotism, an *ayudante* in each corps of the army of Peru, at roll-calling in the evening, calls out the women of Cochabamba, as if they ought to be presented, and a sergeant replies, they died in the field of honor.

That the soldiers should have been guilty of monstrous excess, is not surprising, since Goyeneche, himself incited them by his example.\* It is a fact, well authenticated, that, entering with one-half of his cavalry the gate of the mother church, the sacrament being exposed, he killed, with a stroke of his sword, the fiscal Lopez Andrea, who presented it trembling with terror.

He then pursued boldly the several precedents of tyrants: by banishments, confiscations, and executions, this homicide rivalled Nero in infamy. In the places subjected to his yoke, a gesture, a clouded visage, an indiscreet word, a tear stealing down the cheek, was a crime of State. It may be remembered that eleven of the dispersed soldiers of General Arce were sacrificed to his vengeance at Chuquisaca. It was necessary for the timid to be encompassed by men like themselves, that they might not encounter, on whichever side they turned, this head of Medusa which froze the heart. But, in general, he failed to obtain the expected fruit from his barbarous policy. He inspired more hatred than terror. On all sides his troops were attacked with fury.

While we are drawing near the moment when the arms of the country achieved more important victories over the enemy, let us notice other successes, more nearly relating to the capital.

The measures of the Portuguese we last mentioned, and the obstinate resistance of Montevideo, induced the Government to send Don Manuel Sarratea to the other side of the river, as its representative and general. The primary object of this mission was to renew the siege of Montevideo, and to set limits to extravagant pride. The success of this undertaking depended upon the co-operation of the eastern with the western troops. But the appointment of Sarratea was not approved by General Artigas, and his jealousy impeded the execution of this project. But at last, after some opposition from Agui and Salto Chico, the union which should ever subsist between the several members of the same State was in fact obtained. Some troops joined the army, though slowly, and bodies of men were stationed in the vicinity of Montevideo by General Rondeau. The Governor, Vigodet, perceived that this new siege was about to produce inevitable misfortune. Knowing that all our forces had not united, he formed the design of surprising our camp, and executed it with vivacity, at the head of two thousand men. In this history are recorded few days more glorious than the 31st of December, 1812, in which our General, his subalterns, Soler, Ortiguera, Quintana, Eocalada, and other officers, manifested a valor and intelligence worthy our cause. Their efforts made the audacity of the enemy degenerate into cowardice. Being very roughly handled, the

\* By the express orders of Goyeneche the monastery of Santa Clara was not plundered, because he knew that the most valuable property of the town was there deposited, and wished to appropriate it to his own use.

## Condition of South America.

foe retreated, leaving dead on the field of battle Major General Muesas, with many officers and soldiers. Many prisoners were taken.

It was decreed that our freedom should be purchased with blood and with danger. The rejoicings for this victory were mingled with astonishment at the discovery of a most atrocious plot. A considerable number of European Spaniards, resident in Buenos Ayres, had confederated to cover it with havoc and mourning. These perfidious associates held their treasonable meetings in profound secrecy, and adjusted a plan so inhuman that posterity will be unable to read the account of it without shuddering. The members of the Government, the magistrates, the most zealous Americans, and even European Spaniards, friendly to independence, were to be beheaded on the scaffold. Those who escaped from the carnage were to be banished from their habitations, to make room for Spaniards from the interior. The provinces, these assassins expected, would speedily be subjugated to their authority. Martin de Alzaga, a man formed by nature for crimes of this sort, had the direction and execution of this atrocious conspiracy confided to him. For the sake of humanity, the tutelar genius of the country defeated the plan of these conspirators. At the very instant they were issuing forth to commence the work of desolation, they were discovered and arrested sword in hand. When this affair became public, indignation could be read in every countenance. By the assistance of the citizens, the principal criminals were apprehended. The Government, subjecting these disturbers of the public peace to the utmost rigor of the law, inflicted on those the punishment they designed for others.

While we were rejoicing at our escape from so atrocious a plot, we were still apprehensive of being assailed by an army which, considering our weakness as part of its strength, menaced us from Jujuy and Salta. Three thousand men, with three pieces of artillery, commanded by General Don Pio de Trestan, a native of Arequipa, and second in command of Goyeneche, fell upon our army of Tucuman, amounting to only sixteen hundred soldiers; the greater part of them heard in this battle for the first time the whistling of balls. Only the most daring could hope for victory. General Belgrano, who united the most insinuating sweetness of manners with the most rigid justice, possessing, too, the art of penetrating the designs of the enemy and concealing his own, at the head of a patriotic band of the vicinity, decided the fortune of the day. Colonel Don Raymond Balcarce also signalized himself; where the battle most raged, there was he to be found. The other officers also entitled themselves to their country's gratitude. As if they had not been humbled in the action of the 24th of September, the enemy offered us a new insult on the following day. Conquered as they were, without artillery, munitions, or baggage, they dared demand the surrender of a town to which the infantry had retired with part of the cavalry. The Major General Don Eustacio

Diaz Velis, who commanded there, was one of those men who live only for their country. His energetic reply put to flight the hope which the enemies were silly enough to indulge, and forced them to a disorderly and shameful retreat.

The news of this memorable victory reached the capital when it was convulsed by a new commotion. The spirit of party we have so much lamented on every change in the Government produced some disturbance. In this state of things, says an elegant observer, no one grasped the command but an adventurer destined to fall by reason of his very elevation. To give a successor to the chief of the Government, whose term of service expired, the assembly met and chose Dr. Don Pedro Medrano; a popular commotion ensued. The consistorial assembly reassumed the authorities of the people; a new Government was appointed, composed of the citizens Don Juan José Paso, Don Nicholas Pena, and Don Antonio Albares Jonte, and was recognised.

Power is mere nullity, if those who ought to obey it think that in all cases they have a right to sit in judgment upon what it commands. This was the situation of the State. Instead of having recourse to the energetic measures necessary to support Governments, the new Government weakly resorted to decrying the one which had been subverted, to promising great advantages from the subsisting one. It believed that a general assembly, with unlimited powers, was indispensably necessary to give constitutional existence to the State, and summonses were issued for this purpose.

This step being taken, it turned its attention to the internal and external security of the State. The European Spaniards had not taken learning from the exemplary chastisements we had inflicted upon them. More obstinate than ever, they confederated again for our destruction; the conspiracy was discovered, five of the traitors were executed, and their bodies exposed to public view, as a salutary warning to rash men.

1813.—This desperate plot originated in a criminal combination between the Spaniards resident in Buenos Ayres and Montevideo. Terrified by the siege of the last-mentioned place, and goaded by pride, upon Don Manuel Sarratea's withdrawing from the command, terminated that quarrel, which, the poisoned source of a thousand evils, prevented the complete reunion of the Oriental troops with the besieging army. The besieged, who always retained the hope of profiting by our discord, were filled with consternation by the defeat of this conspiracy. Ever obstinate, they repeated their sallies; but the besiegers, headed by Soler, Villarino, Terrado, Cruz, Ortiguera, and French, repelled them all.

The possession of Montevideo was important to the Spaniards in prosecuting their scheme of subjugating us. Availing themselves of their marine, they infested our coasts, and endeavored to recover in brutal inroads the reputation they had lost in regular campaigns. With the confidence their superiority inspired, they landed two hundred and fifty men in the vicinity of San



## Condition of South America.

Lorenzo. They speedily perceived that they had landed only to augment their misfortunes. Attacked by a force as inferior in numbers as superior to them in bravery, by General San Martin, who, contemning death, knew how to win the favors of inconstant fortune, they were completely routed.

This victory was soon followed by that gained by the arms of the country over the army of Tristan. This General, fortified in the city of Salta, perhaps hoped to repair his past misfortunes by future success in his criminal designs against his country. The conqueror of Tucuman sought him there with his army, filled with the enthusiasm liberty inspires. The signal for battle was given, and it continued for three hours and a half. The combatants availing themselves of all that genius, science, valor, nay even desperation, could contribute to victory, we at last gained the battle. In the heat of the fight Major General Diaz Velis was severely wounded, but not prizing so much a prolongation of his days as to risk for it the loss of the battle, he concealed his wound, and remained on the field until, his strength entirely failing him, he was forced to retire. In this action General Don Martin Rodriguez, and the *commandantes de division*, Don-ego, Saperi, Pico, Forest, Alvarez, Pedriel, Zelaga, Balcarce, Rodriguez, Arivalo, &c., were much distinguished. General Belgrano, being strongly urged by Tristan and his troops to set them at liberty, complied. This General, doubtless, thought it would be glorious to give freedom to men who had endeavored to enslave us, and that it would be impolitic to let slip an opportunity of conquering by clemency the hearts of those whose bodies his brave troops had by force subdued. For this, and other generous acts, they made a base return. Freed from captivity, they employed in seducing the people the time they ought to have devoted to proclaiming our generosity and manifesting their gratitude.

After the victory of Salta, the tyrant Goyeneche fled precipitately to Oruro, thus relieving from suffering Potosi, Charecas, Cochabamba, Santa Cruz de la Sierra, and other places. The fear this defeat inspired, caused him to supplicate General Belgrano for an armistice. The moderation of this officer, which no success could affect, induced him to grant it; but the perfidy of Goyeneche soon frustrated it.

Our country was now advanced by rapid strides to independence; we were led to think so from these victories, and principally because the National Assembly was organized and commenced its session on the 31st of January, 1813. This body thought it a glaring inconsistency for the nation to make such sacrifices for liberty, and still to shelter slavery in its bosom. The situation of the country not permitting this evil to be corrected at once, this assembly declared that, from the day of its creation, all children of slaves should be born free; and thus, in part, repairing the injury committed against nature, and immortalizing its birthday.

It did itself no less honor by the abolition of

*tributo* and *mita*, which were odious permissions to commit every species of crime, and the abolition of which had been decreed in 1811. These beneficent measures were no less politic than just. The Indians, whose services we needed, were thus conciliated.

The celebrated victory of Salta filled with surprise the Viceroy of Lima, and made him resort to the usual measures of alarmed despotism. The General Penzuela took the command of the army of Goyeneche, and, with a reinforcement, took up his headquarters at Oruro. Pezuela undoubtedly possessed military talents far superior to those of Goyeneche, and, if towns which had sworn to be free could have been subdued, he would have achieved the odious victory.

All measures preparatory to a battle between the opposing armies were taken. The victory gained, and the flame kindled by the spark of liberty in all parts, not even excepting Lima, presaged a happy issue to the patriots. But, perhaps, to give us lessons of moderation and prudence, the Almighty decreed that we should lose the battles of Vilcapugio and Hayouma. Upper Peru was thus snatched from our hands. Pezuela extended his conquests even to Jujuy and Salta, and the remnant of our army took shelter in its former place of refuge, Tucuman.

But this imprudent contest could not impede nature in her course. Our felicity was the offspring of reverses which corrected our inexperience. From this fatal moment a new enthusiasm for the country, and a new order of things gradually established, produced the happiest effects. The Cochabambinos, full of the fury desperation inspires, retired to Valle-Grande. Although one of the reverses incident to warfare had tried their fortitude, the victory of Florida, gained over a body of one thousand men, by General Warnes, in conjunction with his Cruceños, checked the daring march of our forces. The flame was rapidly communicated. The same Warnes marched to Chiquitos, where he shut himself up with the royal troops. General Camargo defended himself in Chayanta, destroyed several detached parties, and preserved the province from the detested yoke. Padilla established his headquarters at Yampamez, routed Tacon in many encounters, and changed the aspect of the enemy's affairs. The Indians made great exertions to prevent the yoke from which they had escaped from being again imposed upon them, and tasted the pure pleasures of liberty.

After garrisoning several places in Peru, Pezuela brought a force equal to what he left there to Jujuy and Salta. Parties of the inhabitants under the orders of the Captain Seravia, and of the advance under their commandante Guemez, after the droves of horses and provisions had been withdrawn to places inaccessible to the enemy, attacked them whenever they moved and wherever they were posted. Those of the enemy who imprudently left the main body of their forces were instantly made prisoners by our parties. Never was partisan warfare better conducted, and more successful. General Pezuela

## Condition of South America.

saw with bitterness his laurels wither, and, to escape the ruin with which a half-starved army menaced him, retreated, first, to his ancient posts, and then, filled with apprehension, retired to Peru to succor there the terrified royalists.

He misled some patriots by blandishments, places, and promises, but always, distrustful them, kept them in subaltern stations, although the importance of their services entitled them to the first offices. One of these, Don Saturnio Castro, a native of Salta, whose efforts had cost his country dear, felt his indignation redoubled when he cast his eyes upon his wounds, and, impelled by wounded self-love, hearkened to the salutary counsels of reason. In this state of mind, he determined to avenge his country himself, by a plot against the oppressors.

It was discovered, its author arrested, and condemned to death.

Pezuela was unnecessarily cruel and vindictive. Enthusiasm for the country daily gained ground. The city of Cuzco at least sundered its chains, and new Peruvian heroes espoused the cause. Pinelo, the *presbitero*, Dr. Munecas, the King's brigadier, Pumakagua, and Angulo, joined the patriots, and caused an almost general revolution in public opinion. The two first triumphed at La Paz, but their lives and those of their troops were more endangered after the victory than during the battle. The enthusiastic Spaniards conceived the project of burying them under the ruins of their laurels. These barbarians had familiarized themselves with every species of crime. They poisoned the springs, and formed two mines for the destruction of the patriots. Their foresight was not sufficient to apprise them of the horrors that environed them. One of these mines exploded, and the death of a hundred and fifty persons (some say three hundred) was the melancholy result of this treachery. The people, who could only think of taking vengeance for this last and worst of their atrocities, put to the sword all the Spaniards, with their Governor, Valdehoyos. In recompense for the risks they had incurred, these brave men deserved to be the arbiters of their fortune. But she is by nature a jilt, who denies her favors when most needed. Pinelo and Munecas left La Paz, and, uniting at Desaguedero, formed a body of eight hundred men, with which they opposed the troops of Pezuela, who marched in pursuit of them; battle was given, and the enemy was victorious, by reason of superiority of numbers.

The Indian Pamakagua marched upon Arequipa, that noble city which, stifling its feelings, was enslaved. With manly courage he quickly engaged an army of more than a thousand men, routed it, took prisoner its chief, Picoaga, the Governor, Moscozo, and Lavalle, who, being conducted to Cuzco, were put to death. More than two hundred Spaniards were sacrificed to a just indignation. The victor was compelled to march to Cuzco, by the defeat of Pinelo and Munecas. Ramirez, a name that will be eternally infamous, pursued the patriots furiously. The retreat of

Pumakagua left the passage to Arequipa open to the royalists, and afforded an opportunity to repeat the enormities perpetrated at La Paz.

Another of the Angulos had displayed his energy at Guamanga, routing four hundred Taleberinos, detached by the Viceroy of Lima; but the capture of Arequipa by Ramirez called his attention to Cuzco. This great city was a prey to disorder; nothing could support its wretched existence; there the three Angulos were beheaded, and their heads carried upon a pike to Sicuania.

A reform of the Government, reducing it to a single Director of the State, in the person of the citizen Don Gervasio Posadas, placed in the capital great obstacles to the vibrations of the passions. Titus Livius observes that Rome would have perished, if, from a premature love of liberty, it had in its infancy abolished regal power. The public authority was strengthened by the politic measure of trusting the affairs of the State to the activity of a single individual.

Our Oriental army rendered itself more respectable by a stroke which proved its vigilance and its firmness. The Spaniards of Montevideo, losing the hope of advancing their cause by open warfare, had recourse to assassination. A conspiracy of their agents was discovered in our camp, and the traitors sacrificed to the public security.

1814.—But this unfortunate discovery did not free the State from all peril, for in its bosom a storm was brewing, and ready to burst. General Artigas, that singular man, who united to extreme sensibility the appearance of coldness; a most insinuating urbanity to decent gravity; a daring frankness to courtesy; an exalted patriotism, to a fidelity at times suspicious; the language of peace, to a native inclination to discord; in fine, a lively love of independence, to most extravagant notions as to the mode of achieving it; this man, we say, disgusted with the Government, because it bestowed rewards upon those he expected to see chastised, had already sowed the seeds of civil war among the troops. His great ascendancy over the Orientals compelled them either to seek his amity or to tremble at his enmity. Those citizens who loved order, labored with zeal and dexterity to extinguish a flame menacing ruin to the State. This end appeared to be obtained by an Oriental Congress, which General Rondeau convened in the name of the Government, for the purpose of nominating deputies for a National Congress, and a provincial Governor. All was on the eve of being verified when General Artigas, as Chief of the Orientals, commanded, in the name of the same Government, that the electors should present themselves at his headquarters, in order to receive instructions from him. This proceeding, so strongly savoring of despotism, offended every one. The electors assembled in the chapel of Maciel, and fulfilled their trust. The real disposition of General Artigas then discovering itself, he annulled the Congress, thus assuming absolute power. But this daring measure had no effect upon what this body had done; the selection of



deputies and a governor was celebrated in all the encampments, and the last named officer began to exercise his functions. General Artigas viewed these measures with a hatred lively as dissembled, and prepared to avenge himself. Under various pretexts he withdrew from his country, and at last, in the garb of a countryman, deserted his post, thus leaving exposed the right of our line. This rash proceeding made it apparent that he preferred his own interests to those of his country; but many officers, and others of the Orientals, did not follow this pernicious example.

It is not easy to conceive the terrible confusion into which this event threw the besiegers. Three times orders were given to raise the siege, and as often they were revoked, so great were the evils on each side; at last the encampments were abandoned, with incalculable loss and unutterable grief. The enemy, upon discovering this, were filled with surprise, though they did not abandon themselves to immoderate joy, because they feared it might be a feint; but the people, less cautious, hurried away by the desire to breathe fresh air, went in crowds without the walls. From proper foresight, the redoubts of our advanced parties had not been abandoned; French, officer of the day, ordered a most unexpected discharge of cannon, which made the enemy attribute to stratagem what resulted, in truth, from our weakness. The terror this created in the city prevented sallies being made.

This advantage, combined with the lucky arrival, on the same day, of supplies, and the consolatory information that a small squadron was equipping to transport a reinforcement, changed the appearance of things. The public mind was tranquilized; the fugitives returned in parties; the people of the vicinity tendered their assistance, and General Rondeau knew how to profit by these inestimable advantages; the siege was renewed more efficiently than it ever had been.

The Director, Posadas, viewed the desertion of General Artigas with a hatred carried beyond the bounds of prudence. Taking counsel from his anger, he thought that justice should take its course. By a solemn decree, he declared him infamous, deprived of his offices, and an outlaw, and incited the people to pursue him, as a duty they owed the country; in fine, believing that he could stifle rebellion in the blood of the rebel chief, he set a price upon his head, offering six thousand dollars to whoever would bring him in, alive or dead. Experience has shown that moderation would have been far wiser than this violence. The Director took a wrong course; whether Artigas was as guilty as he thought him, the reader can decide. But even if he was so, what other effect could impotent rigor produce, than contempt of authority and obstinacy in the delinquent? Even this was not all. The Orientals had enthroned Artigas in their hearts; as that which is abhorred is deemed always to be in the wrong, the very proofs upon which the Director founded his decree were, with the partisans of Artigas, so many evidences of his innocence. This proscription became that of a vast

district, and reconciliation almost impossible. God grant that we may not see this sad truth perpetuated!

The army of the capital and the naval force of the country were at this time considerably augmented. The troops demanded to be led to battle; the fleet panted to dispute with the enemy the command of the river; in short, the fortune of war gave us decisive successes. Two men, with all the talents required by the ends for which they were destined, the Secretary Larrea and Colonel Alvear, being substituted for General Rondeau, concerted the capture of Montevideo, and all obstacles yielded to their activity and the accuracy of their calculations. A naval battle, in which Brown commanded our ships, and defeated shamefully the Spaniards, who were stronger in vessels than we, made us masters of the port. To give the finishing stroke to their misfortunes, Montevideo shortly after yielded, notwithstanding a criminal correspondence between Vigodet and the patriot Torguez. Thus was despotism deprived of its stronghold.

Our Peruvian army was now commanded by General Rondeau, who, having sustained with credit the siege of Montevideo, had not the glory of triumphing over it. The Government transferred the command of this army from him to the conqueror of Montevideo. It is certain that Alvear united all the qualities of a warrior, and possessed a military experience, which he owed more to genius than to years. But this change of command was viewed by the chief of this army as the measure of a policy without forethought, and an ambition without limit. Something further contributed to render it odious, and this was the alarming suspicion that the country was about to be shamefully betrayed by treachery. This suspicion was countenanced by the anticipated mission of Don Ventura Vasquez, confidential officer of the Government, to place in the hands of Pezuela certain letters; his exclusive nomination to treat with this enemy; the sending commissioners to the Spanish Court; and the appointment of new officers in this army. The public mind was thus distracted with doubts and apprehensions, when General Rondeau abdicated the command; notwithstanding which, his subalterns coalesced, the regiments confederated, and Alvear was not admitted.

This event was foreseen. A general disgust portended and precipitated it. It has often happened that people have refused to submit to despotism, and not known how to use liberty. The General, thus rejected by the army, returned to the capital, and was created Director. This impolitic act challenged hatred where there was already sufficient to incite to vengeance.

This election caused an almost universal murmur, which presaged important movements. The reasons assigned in justification of this dissatisfaction were, that the army of Peru not being able to obey as Supreme Director one whom they had refused to recognise as their chief, all the terrible effects of anarchy were about to be experienced; that the capital and other parts of the

country felt too much animosity against the party to which the Director owed his elevation, to recognise him without discontent; and that, under protection of the army of Peru and General Artigas, they might dissolve an assembly disgraced by intrigue, in their opinion, and prostrate an idol to which the tongue paid homage, the heart disavowed; in fine, that the recollection of those acts by which the province deemed themselves outraged, might induce them to push resentment further than they ought.

These apprehensions were, in a great measure, realized. The army of Peru refused obedience to the new Director. Cordova, listening more to anger than to prudence, preferred danger to ignominy, and withdrew from its connexion with the capital. Santa Fe, counting more upon its courage than strength, adhered to the system of independence it had adopted since the troops of Artigas had invaded it.

The situation of the army of Peru was critical and dangerous. The anxiety which began to prevail as to the consequences of these dissensions; desertion veiled under the shadow of a new Government; succors withdrawn; in fine, the unfortunate action of Tejar, multiplied cares, and alarmed the imagination. Nevertheless, General Rondeau did not lose his natural equanimity. He knew how to make the discontented hearken to reason, and to give a favorable beginning to an enterprise. Putting his army in motion, he opened an entrance into Peru, by the victories of Puesto Grande and Mochara.

1815.—The new Director perceived the cloud that had gathered over his head, and hastened to use all expedients in his power to avert it. Convinced that hope and fear are the great exciting principles of human actions, he endeavored to operate upon the first by rewards, upon the other by chastisements. These instruments failed in his hands. The tragical death of the unfortunate Ubeda, on one of the most solemn days of worship, caused less terror than indignation; and the triumph over the Cabildo of the capital, by compelling it to subscribe an odious proclamation against General Artigas, served only to make it resolve to prolong its existence in spite of this usage.

On the eve of a political disorganization the Director marched the veteran troops to subject the towns to a detested yoke. But the chief of the vanguard, Don Ignacio Alvarez, with three hundred and fifty men under his command, ashamed of being the instrument of his exaltation and vengeance, declared in favor of those he was sent to attack, and arrested the suspected officers, among whom was General Viana, who came to take the command. He encamped, and was joined by several detachments from Mendoza. The Director, surrounded in his encampment, put into play whatever could contribute to save him in so critical a situation, but in vain; for fortune had determined to put an end to his glory and prosperity. The Cabildo of Buenos Ayres, instructed by Alvarez, and called by general acclamation to the command, assumed it.

15th Con. 1st Sess.—64

The civicos, with many officers of distinction, rallied around it as its protectors. So many obstacles filled the Director with despair. At last he yielded, and, cast out of his country, was forced to beg an asylum in a foreign land. This cable being broken, the national assembly, with its system of favoritism and speculation, was involved in ruin. All, even the Orientals, irreconcilable enemies of the capital, applauded a success which appeared to be the beginning of order.

In order to give a successor to the deposed Director, a body of electors was constituted, who chose General Rondeau chief of the army of Peru, and named as his deputy Colonel Alvarez, who took the lead in the recent subversion of Alvear's authority.

His election would not have secured the public tranquillity if the causes which disturbed it had not been removed. It was perceived that heretofore the Executive, availing itself of the distractions or patience of the people, had gradually rendered itself absolute. Reason required that this power should be balanced by another. Therefore, a provisional statute was formed, and a Junta of Observation erected, to watch the punctual fulfilment of this law, to cry out against the least infraction, and to resist everything prejudicial to the general good. It was to be regretted that this statute gave more liberty than was compatible with the public good; but we had just escaped from one of those cruel situations in which the excesses of oppression prevent us from seeing those of its relief. A system of distrust and restriction made authority a mere political skeleton. We shall see the disorders which arose in consequence.

One of the earliest advantages expected to result from this new order of things was the re-establishment of that fraternal union with the Orientals, the rupture of which had cost the country so many tears. The Cabildo of Buenos Ayres, regarding with indignation the proclamation Alvear had extorted from them, commanded it to be burned by the common executioner in the Plaza de Victoria. The Government also substituted moderation for the ancient system; and if the Orientals, with their chief, had been capable of perceiving the greatest enemy of the country and themselves to be anarchy, doubtless a reconciliation would have been effected. But experience has shown that they had determined to bury themselves in an abyss of evils rather than yield. Without doubt, too, General Artigas believed that a calm would diminish the authority with which he had been invested in tempestuous times.

The Government, fearful of seeing civil war propagated in the centre of the neighboring provinces, marched troops to Santa Fe, under the command of Don Juan Jose Viamont. This city was a key with which General Artigas opened at pleasure the door to his seditious communications. In order to remove the distrust, and to prevent the opposition of those in the vicinity of this city, the deputy Director promised them perfect liberty, and that the troops should not meddle



with their domestic affairs. The death of the Governor, Candioti, produced much disorder. Contradictory pretensions, well or ill-founded, ceremonious debates, stratagems inseparable from party, all attended the selection of the Lieutenant Governor, Don Juan Francisco Tarragona. The city of Santa Fe was much incensed at this appointment. What resulted from it will be seen.

Grieved at the melancholy posture of affairs in this section of the country, we were consoled by pleasing prospects in Peru; we will give briefly the principal ideas of General Rondeau's manifestos. Pezuela, filled with consternation, abandoned his positions, and retreated to the neighborhood of Oruro. The desertion of his soldiers, and the difficulty of subsisting those that remained, announced his weakness. Our troops improved in numbers, in arms, and discipline. The insurrection of La Costa by Penaranda and Reyes; the approach of Dr. Munecas; the state of fermentation in which all the provinces were; the aids on their march from the capital—all indicated a prosperous warfare.

It was necessary that the chance of arms should be sometimes inconstant as the throw of dice, to give the melancholy shading of misfortune to this picture. Our reverses commenced with the battle of Venta y Media, where a party of the enemy, attacking Brigadier Rodriguez, were, most unexpectedly, successful. This event seemed to give its character and color to the succeeding ones. The active Pezuela fell upon our army with the rapidity of lightning. To avoid the encounter, General Rondeau removed his camp to a rocky situation, remote from Cochabamba. Here the enemy sought him, filled with the boldness success inspires. Battle being inevitable, Rondeau took post at Sipisipi, forming a camp according to military rules. Hostilities commenced. The enemy would not have had much cause for boasting, if fortune, which a general cannot command, had not favored his cause. His left wing outflanked, his right wing almost routed, his centre almost destroyed by our artillery; such, said Rondeau, was the state of the battle, when a series of inauspicious occurrences gave the victory to the foe, and deprived us of glory and of hope.

The victory of Sipisipi, by turning the brain of Pezuela, advanced the cause of liberty. Our situation was not so disastrous as that of the United Provinces of Holland, when they caused themselves to be represented under the image of a ship, without sails and without rudder, at the mercy of the waves, with this Latin inscription, *incertum quo fata ferant*. General Rondeau placed his headquarters at Tupiza, with the remnant of his army, and endeavored to reorganize it. Our Government, as if foreseeing the unfortunate issue of the battle, had sent forward troops, arms, and munitions; nor were the towns of the Union, at this distressful period, backward in extending assistance. The brave Camargo, La Medria, Padilla, Warnes, and Munecas, by rapid incursions, showed that the cause of liberty would prevail in spite of our misfortunes.

The accession of strength our cause seemed to gain, even by reverses, ought to have made Pezuela see that his hopes of re-establishing despotism were chimerical; but he still cherished the delusion. He displayed his inhumanity by atrocious violations of his prisoners' rights, appearing to think that to become a rebel was to cease to be a man, and to forfeit all claims to justice and to compassion. Even that sex\* regarded with some respect by the most abandoned, was not exempt from his rage. Many women, among them the most circumspect matrons, were banished, or immured in dungeons.

The dangers which menaced the political existence of the country demanded an Executive sufficiently energetic to maintain order and to triumph over the enemy. Unfortunately, the provisional statute had too much curtailed the Executive power. It was embarrassed by so many restrictions as to be prevented often from availing itself of circumstances upon which success depends, and which must be seized the instant they present themselves, or the opportunity is forever lost. In a situation so critical, the *Director Suplente* appealed to the sovereign people, and asked for a reform of the constitution. The capital, always docile and provident, when not misled by designing men, actuated by that prudence which dictates pacific measures, approved the proposed change, and by direct vote appointed reformers of the constitution.

One of the most urgent objects which claimed the attention of Government was the city of Santa Fe. The disgust with which this city saw itself governed by a lieutenant governor it abhorred, the exile of many reputable citizens, the suggestions of the Oriental chief, all conducted to some violent measure. The inhabitants rising in mass under the citizen Don Mericana Vera, and aided by the troops of Baxada civil war commenced. General Viamont was attacked by the disaffected with all the fury that marks insurrections, and, after bloody contests, capitulated. We know not why the capitulation was not fulfilled. Cordova adhered to its system of independence. La Rioja imitated its example, and the other cities became more or less anarchical.

1816.—All desired a tutelary power, which, being the creature of the people, should be energetic enough to render the laws respected. This authority could only be derived from representatives of the people. The people, convinced of the necessity of the change, elected them, and a sovereign Congress was opened at Tucuman on the 25th March, 1816. Its principal care was to select a Director who would draw closely the cord of union, and direct the efforts of all to their dar-

\* Among many others, Dona Antonio Paredes, Dona Justa Varela, Dona Felipa Barrientes, ladies of the age of nineteen; Dona Teresa Bustos, the two sisters Malarias, and Dona Barbara Cevallos, were imprisoned; Dona Teresa perished in prison; Dona Barbara was banished to Oruro, being forced to abandon nine infant children; the Malarias were also banished.

ling object—*independence*. Don Juan Martin Pueyrredon was chosen director.

With many, the most desirable object was to obtain a moment of calm, during which the supreme authority might be assigned to able hands. It was, however, at the very moment that the National Congress was deliberating on this matter that the tempest was heard to roar with the most violence.

In consequence of the resignation of the directorship *ad interim* by Colonel Alvarez, the Junta of Observation, in conjunction with the Cabildo of the capital, elevated Brigadier General Antonio Balcarce to that station as his successor. This remedy was momentary. The measure was by no means in consonance with the wishes of the people; and, by a kind of fatality which often presides over events, it was not long before an explosion was produced among materials so well prepared. The electors and elected were soon discovered figuring together on the theatre of discord.

In the meanwhile, the new Director *ad interim* used every exertion to destroy the seeds of discord, which had already produced so much ill blood between the Orientals and the capital, and to render all parties sensible of the advantages of living under the same law. Although the first attempt made by him for this laudable purpose promised a favorable result, every means were found in the end unavailing to bring about a reconciliation.

This discord had been propagated in the manner of a contagion; and the remedies applied to restrain its devastations were found to possess no efficacy. The city of Santa Fe,\* although just escaped from a bloody contest, and threatened by dangers of a more serious nature, still pursued its peculiar ideas of independence, with what may more properly be called obstinacy than constancy.

Cordova, always devoted to the maxims of federalism, notwithstanding her having sent deputies to the General Congress, considered her absolute submission to the capital as unworthy a free people, and still cherished the idea of this submission being temporary.

The other provinces, according to their respective situations and characters, expressed more or less their dislike to what they considered a species of subjection.

The causes of this political phenomenon, if sought for, will not be difficult to be found. The opinion most prevalent in the provinces was decidedly in favor of the federative system, and which they were desirous of seeing realized, even in anticipation of all the essential and first objects of their new career. It had been the darling wish of the provinces, almost from the commencement of the revolution; one which had still greater charms for them, since they had seen it realized with so much glory, in the United States of North America. For the present, however, the governments, the capital, and not a few of

\* General Diaz Velis, with a body of troops, was besieged at San Nicolas.

the more intelligent citizens, were opposed to this idea. Each of these parties supported its opinion by weighty reasons. From the statement of those I am about to make, the enlightened reader may judge between them.

Those in favor of the Government already established were of opinion that the federative system could not be legally substituted until sanctioned by a general Congress; assuming it as a principle that the constitution of a State should receive its existence from the hands of the nation itself, and not from partial concurrence and unconnected acts; that, when the nation first regained its liberty, and all the provinces were united under the same Government, the present was the form which they adopted, and under this form it was that the existence of the Republic had been preserved in the midst of the most trying disasters; that, until all the provinces could be again united—a thing by no means hopeless—it would be improper to deviate further than was absolutely unavoidable from what had before existed; and that, at all events, if the preponderance of the capital was an evil, it was one which would soon be corrected, when the preponderance ceased to be necessary to the common safety. Further reasons, derived from views of policy, were added. According to the federative system, said they, each State is sovereign and independent as respects the rest; each may possess, and in reality does possess, separate interests; it is therefore to be feared that each will rather seek what it may conceive to be its own interest than the interest which is common to all, and, in consequence of this egotism and misplaced jealousy, be involved in a common ruin; that, in the midst of the alarming dangers which threaten this newborn State, the necessity of a complete union of all the parts, under the guidance of one head, for the better concentration and direction of its forces, is dictated by the plainest maxims of prudence; and where, it was asked, can this be placed with more propriety than in the capital, where the revolution itself received its origin, whence every great effort in the general cause has emanated, and which, from its position, its enterprise, and intelligence, is enabled to manage the common concerns of the nation, for the present at least, to the greatest possible advantage? The first thing to be done, continued they, is to place our independence out of danger; let this be accomplished before we disagree about the manner of using it. They further insisted that it was not altogether safe to confide in the example of the United States of North America, which had always been educated in republican virtues, and to which we were not to be compared, reared as we have been under the rod of despotism; and that it would be unwise to trust the fate of the nation, in such dangerous times, to virtues which had not yet been sufficiently put to the trial; that it would be most prudent to leave to time and education, under the influence of a free Government, to produce the same character of enlightened patriotism. Those of the federal party contended on different principles.



They admitted that the Government of Buenos Ayres, the capital of the former viceroyalty, had been the first to shake off the Spanish yoke, and by its influence had induced the provinces to follow its example. At the same time they alleged the repeated protestations on the part of this Government that its preponderance should be but momentary; that a general Congress should be convened without delay, for the purpose of fixing the General Government on a permanent basis. It was by these protestations that the provinces had been induced to enter into the views of the capital, and to place their resources at its disposal; they complained that so long a time had elapsed without performing this engagement; that their situation thus far was but little different from that under the Spanish monarchy; that they had obtained but little more than a change of masters. They did not deny the difficulty of calling a National Congress during the stormy period of the revolution, but said that, in default of a Congress, the General Government of the capital ought to have ceased, and the provinces ceased to be swayed by it, seeing that the general voice was in favor of the federative system. Far from being inadequate to the exigencies of the times and the objects of the revolution, they asserted that the individual acts of the provinces had contributed most to raise the character of the Republic, and to advance the general cause. If our dissensions, said they, have caused us discredit with foreign nations, it is to be attributed to the clashing of the government of the capital with the feelings and wishes of the provinces; that, as there can be no effect without a cause, the federative system, by putting an end to these odious rivalries and jealousies, would prevent the recurrence of scenes so disgraceful. It is true, said they, the tumultuous proceedings of the capital had generally sprung from other causes, chiefly from the inordinate thirst for office in many of its inhabitants, the ambitious turning to their advantage, even the extreme jealousy of their liberties on the part of the people. Was it just, it was asked, that the provinces should be compelled to follow these frequent and capricious changes, in which they took no part? But would not these evils have long since ceased with the establishment of the federative system? What temptations could there be to seduce the aspiring in the limited and definite powers which the federative system would present? On the contrary, what could be more tempting to the ambitious than a system which enabled those in power to be the masters and arbiters of the Republic—one which would enable them to prefer their flatterers, and favorites, and those who were neither, but merely happened to be about them, to able and meritorious citizens; and to consult their private wishes more than the public good? They alleged that, in fact, the capital had thus far paid much more attention to its own peculiar interests than to the rights of the provinces; that she had gratified the ambition and avarice of many in the provinces, in order, by enlisting the human frailties and passions on her side, to sow the seeds of

discord and disunion in other parts of the Confederacy, these persons engaging to repress the sentiments of the people, and draw them into a subordination which accorded only with their interested views. When these things, said they, are impartially considered, how can we draw closer the cords of union under a Government like the present, which, by its oppressions as well as by its favors, weakens that love of country which the federative system has a tendency to foster—a system which, at the same time that it leaves the citizen in the full enjoyment of that portion of liberty which the good of society does not require him to surrender, imparts enough for all the purposes of the general safety and happiness? But let it not be said, continued they, that there are no republican virtues amongst us. To what else is to be attributed the noble resolution we have taken, and which we have sanctioned by our oaths, to die rather than not live free and independent? To what else that energetic and heroic resistance which has given so many days of glory to our country? And even if it be admitted that we do not possess those virtues, are they to be inculcated by the example of a Government which teaches nothing but selfishness and corruption?

Thus reasoned the opposite parties. With respect to our own opinion, we should say, that from the impossibility of attaining this end without encountering the evils of anarchy and perhaps civil war, on account of the preponderating influence of the capital, it was perhaps the wisest course on the part of the provinces to make a sacrifice for the present of their obedience to that unity of action, without which our ultimate success must be doubtful. It is to be expected that our enemies will labor without ceasing to regain their lost domination, and, flattered by our dissensions, they will be continually engaged in forming new projects to enslave us, lured by the hope that we shall be able to bring forward but feeble and divided efforts in support of our liberties. I have thus traced without dissimulation the melancholy picture of our domestic discords.

A number of citizens of Buenos Ayres, touched with the unfortunate antipathy of the provinces to join heartily in the cause of their common country, and fearing that our dissensions would form a bridge over which the enemy might pass to reduce us to subjection, united their wishes, and honestly confessing that the balance of public opinion inclined to federalism, petitioned the governor intendant of the province to strip Buenos Ayres of its prerogative, and to place it on the same footing with the other provinces. They believed that this measure would put an end to their irritated jealousies, that a fraternal feeling would succeed, enabling them to complete the edifice which they had so gloriously begun. In an affair of so much importance, the Intendant, in order to ascertain with accuracy the sentiments of the people, decreed that the petition be taken into consideration in a general assembly or Cabildo to be convened for the purpose, and one was accordingly ordered to meet on the 19th

of June, 1816. This unexpected event lighted up anew the imperfectly extinguished fire of discord. The Junta of Observation, although agreeing in opinion with the Intendant as to the propriety of taking the sense of the people, were not satisfied that this should be done by general suffrage; from apprehension of dangerous\* and tumultuous agitations, they thought it would be more advisable to ascertain their will through deputies elected for the purpose. This contrariety of opinion fractured the State into parties, whose disputes were conducted with so much heat and violence that it was seriously feared they would not stop short of an appeal to arms. Had this subject been considered unmixed with private and personal feelings, it would scarcely have given rise to a difference in thinking.

This contest, although suffered to remain in *status quo*, left the minds of the parties too much ulcerated to permit them to settle down in peace and harmony. It was at the same time so far aggravated by another dispute, that the Junta of Observation, in concert with the Cabildo, assuming the tone of authority, proceeded to depose the Director *ad interim*. In his place was substituted a gubernatorial commission, composed of Don Francisco Antonio Escalada and Don Miguel Iregogen.

While these things were taking place, the troops of Buenos Ayres, under the command of Colonel Don Eustacio Diaz Velis, were approaching the city of Santa Fe, while at the same time a small squadron of vessels under the command of Colonel Don M. Iregogen placed it under blockade. The arms of these two cities rivalled each other in intrepidity and courage. It would be uncandid to conceal the admiration we feel in beholding a small town like Santa Fe, without disciplined troops, and with little assistance, causing itself to be respected by its enemy, and under the direction of its chief, supporting the cause of its independence. It is true, the Santafecinos abandoned their city, believing that they carried it along with them wherever they could live free. It was not long before they besieged their invaders themselves, and caused them to experience the sufferings of famine; and by a lucky accident having made themselves masters of several of their enemy's vessels, together with the commander of the squadron, there appeared but little likelihood of their being about to succumb to their invaders.

Two important occurrences which had taken place in the city of Tucuman, were of a nature to divert the current of dissension. The first was the election to the supreme directorship of Colonel Don Juan Martin Pueyrredon; but the exigencies of the war claimed the first attention of the Director, the cities of Salta and Jujuy being menaced by the enemy; this of course delayed his return to the capital.

The other was the solemn declaration of our

\* Two petitions were presented, one with one hundred and one signatures, the other with one hundred and ten.

independence made by Congress on the memorable 9th of July, 1816. Six years had elapsed since that dark period when we were regarded in no other light than as a flock tamely obedient to the will of its owner; in which we quietly looked on while strangers directed the economy of our house; in which our own hands were employed to erect fortresses intended to enslave us. Six years of the most profound and universal interest, felt, I might almost say, even by the infant in the mother's arms, had awakened a crowd of new ideas throughout all classes of society, and inspired a general wish to rise to that condition which nature herself seemed to designate. These provinces, ashamed of having so long delayed to declare this emancipation, raised at last the sublime acclamation of liberty.

It was thought sufficiently probable that those important occurrences would have quieted the provinces, and convinced them of the necessity of a well organized whole. Unfortunately this was not the case. "From Cordova," said the Director, in his manifesto, "with what painful anxiety did I cast my eyes towards the agitated province of Buenos Ayres!" And not without cause; for, in going to enter upon his government, he was about to place himself upon the top of a volcanic mountain. It was, notwithstanding, his good fortune to succeed in conquering the antipathies of his most inveterate enemies. Would to God he had been equally successful in finding the means of restoring perfect tranquillity to the State! The wild and ungovernable Orientals and Santafecinos still, however, persisted in this restless and inconsiderate course. Over and above the numerous causes which rendered their rupture so calamitous, others followed of a nature to render them more lasting. The Court of Brazil, about this time, raised the mask which had hitherto concealed the perfidious project it had long since formed of taking possession of the delightful countries on the eastern side of the river.

The Court of Brazil had already made frequent attempts to obtain this territory, which, for more than a hundred years, it had coveted with so much greediness, but was as often compelled to abandon its prey, until our lamentable dissension at last seemed to guaranty the success of an invasion. The Director seized this opportunity to revive with General Artigas that ancient friendship whose combined force had, on former occasions, frustrated the shameful designs of the Portuguese. A deputy was despatched to him, carrying a supply of arms and munitions of war, and requesting him to state with frankness what were his wants; that these should be the measure of the aid to be furnished. But to speak of reconciliation with Artigas was to speak to the desert. His obduracy could neither be softened by concession, nor his pride be humbled by dangers. Although he received the donations, he heard the proposals with displeasure; preferring that history should accuse him of having sacrificed the occasion to his private hatred, his duties to his caprice, and his country to his interests.

With respect to the Santafecinos, the Director



*Condition of South America.*

was not more actuated by a desire to prevent the disagreeable consequences of this city remaining in a state distinct and separate from all the other members of the republic, than anxious to place the forces under General Diaz Velis in security; with this view he despatched deputies with propositions highly advantageous to them, and which ought to have sufficed for the restoration of the ancient harmony and brotherhood. Before their arrival at Santa Fe, our army had already evacuated the place, and descended the river. The late invasion was by no means calculated to dispose their minds to reconciliation; and, even if the Santafecinos had given this proof of their love of order, it is probable they would soon have repented of an act which would have lessened them in the estimation of their protector, General Artigas; however this may be, the negotiation terminated without effect.

Although the city of Cordova, with her deputies in Congress, and submitting to the capital, inclined to the side of the Orientals and Santafecinos, her character would not permit her to abandon the last of these in the period of adversity; the dangers which threatened her neighbor served but to draw more closely the ties of amity, and which increased in proportion to the risk she encountered. A body of Cordovians, to the number of four hundred, under the command of Don Juan Pablo Bulnes, hastened as far as the city of Del Rosario in the aid of the Santafecinos, but, finding no enemies, they returned home without any material occurrence.

The expedition of Bulnes was not undertaken with the approbation of the Governor of Cordova, Colonel Don José Dias; not because this officer was not inclined to the side of the Santafecinos and the cause of federalism, but because it suited the political course he had resolved to follow to give merely a negative consent; or, perhaps, seeing Bulnes at the head of a more considerable force than he himself could command, he did not think it prudent to oppose him. Be this as it may, it laid the foundation of a reciprocal animosity as indiscreet as badly intended. While Bulnes was on his return to Cordova, Dias was collecting a force to receive him. He was fearful that his rival might entertain the intention of deposing him, and placing himself at the head of the Government. These two bodies were in a little while arrayed against each other; and after a military farce—a few shot fired in the air—Bulnes was left in possession of the field of battle, and entered the city in triumph.

These agitations and disorders were in direct violation of the public authority. They proceeded from an active force, supported by the opinion which was most prevalent; in their consequences they were to be dreaded, both for the present and the future, as exhibiting the most dangerous examples. The rights claimed by the Government and the Congress were weighed in distinct scales from their own. The only remedy which the Congress could apply to these evils was in appealing to the good sense of the people. A manifesto was published, breathing, in eloquent lan-

guage, the sentiment of love of country, lamenting and severely censuring the public disorders, thundering anathemas against the disturbers of the public repose, and exhorting all to obedience and submission to the supreme authority, which had only for its object to secure the safety and happiness of the Republic. As might have been expected, little impression was produced by this publication among a people who considered themselves as betrayed when denied the form of government which they preferred. In fact, they regarded the manifesto like one of those autumnal clouds which lighten much, but bring them no rain.

A more successful measure was adopted with respect to the province of Cordova, which was the placing its government in the hand of Don Antonio Funes, (brother of the author of this sketch,) a native and inhabitant of the city of Cordova. This appointment, whether considered with a view to the capacity and virtues of the individual, or the prudence of the choice, was worthy of applause. He was a citizen who possessed talents by no means vulgar; of a mind refined by application to belles-lettres, and elevated by the study of the sciences, he was regarded as an honor to literature. A man of unusual nerve, of a character severe without austerity, more a lover of virtue than of his fortune, of his family, or of his life. Exemplary in the fulfilment of his social duties, his house wore the appearance of a sanctuary to which the unfortunate might resort for comfort and protection. From his politics, dark intrigues, cunning management, and all perfidious practices were excluded. A noble frankness characterized his deportment; detesting artifice, yet prudent and cautious in his speech, and in all times a friend of social order. Our revolution, on which justice had set her seal, could not fail to draw him to its side; he embraced its cause with sincerity, and propagated it with discretion; but the unsettled state of things which succeeded had induced him to bury himself in a retirement where, without being exposed to the clashing of contending parties, he might pursue the stoical severity of his life, and indulge his passion for literary pursuits. With a firmness superior to the reverses of fortune, he supported without murmuring the loss of nearly all that he possessed,\* his credits to a great amount, and what was more severe, of two promising sons in the flower of youth, when the National Congress cast its eyes upon him as the most suitable person to oppose the torrent of disorders of which Cordova had become the theatre.

To a common mind, the situation in which the Governor was placed would have presented almost insuperable difficulties, the city of Cordova being occupied by Bulnes, his son-in-law; and, in the very first step he would have to take, it would be necessary that he should be armed with a

\* This estimable man happened to possess property to a large amount in Peru, which, on the breaking out of the revolution, was confiscated by the royalists.—*Translator.*

*Condition of South America.*

severity which knows no relationship but that of reason and the law. In the course of the revolution he had not declared himself in favor of any of the forms of government which this republic might think proper to adopt. His opinion was in favor of that which the will of the nation, solemnly expressed in Congress, should sanction; and until this could be known, he thought that no one, without violating the laws of order and just subordination, could forcibly resist the established authorities. In opposition to these sentiments, Bulnes made a show of force before his eyes, and his conduct gave few or no indications of a sense of honor, respect, or deference. The Governor prudently concealed his determination until he should be supported by a sufficient force to enable him to carry it into effect. It was not long before a body of veteran troops, under the command of Colonel Sayos, came down from Tucuman to his assistance. Bulnes had the arrogance to take the field against him, but Sayos, in the presence of the Governor himself, completely routed his forces, and put him to flight. A common mind would have been pleased with a flight which would have spared the painful conflict between the ties of relationship and the demands of justice. But this was a case calculated only to call forth the firmness and energy of the new Governor. He caused a diligent pursuit to be made, until, placed in his power, he should be delivered over to all the severity of the law. The fortitude required by such occasions allows of no mixture of human weakness; and, as a celebrated orator has justly said, the magistrate who is not a hero scarcely deserves to be regarded as an honest man. The province for the present remained tranquil, and the cause of Bulnes was subjected to the legal forms by order of the Congress.

From the volcanic eruptions of the provinces, which about this time happily became less frequent, let us direct our attention to exterior affairs. The policy of assailing the enemy's commerce was found to operate as a powerful aid to our cause, and was about this time carried on with great success. The enemy's ports in the Pacific were greatly harassed by the flotilla under Commodore Brown. Nothing could more fully prove the state of subjection to which the people were reduced by Spanish tyranny; under its vile domination it seemed as if all the springs of the mind had been destroyed, and, instead of national feeling, there existed nothing but sordid personal interest. Near the isle of Ormigas, Brown captured five prizes; he dared even to brave the castles of the port of Callao, and to defy the Spanish armed ships. He found the port of Guayaquil in a still greater state of abandonment; here he entered in triumph, and carried off property to the amount of seven hundred thousand dollars.

While the Viceroy of Lima was thus harassed by sea, his armies in Peru and Salta experienced an almost uninterrupted series of disasters. Col. Don Manuel Asensio Padilla sustained with much glory the standard of our country against the in-

human Facon. The valor and patriotism of this officer had attached to his person a considerable number of patriots, into whom he inspired confidence, activity, and courage. In order to throw some obstacles in the way of his triumphs, a body of about one thousand men was ordered to march towards Laguna. Here they were expected by Padilla, who had instructed the defence of various posts to his captains, and one of them (which may sound somewhat singular to the reader) to the command of his wife, a very extraordinary woman, Doña Juana Azunduy. The enemy was completely repulsed after having made a furious assault, and this heroic female had the satisfaction of presenting to her husband the banner of the enemy, which she had taken with her own hands.\* Padilla did not go to sleep beneath his laurels; without giving time to the enemy to collect his forces, he pursued them in every direction, and shut what remained of them in the town of Chuquisaca. Scarcely less glorious was the victory of Warnes, who destroyed another body of nearly one thousand men, commanded by Facon in person.

The perils of the war in the district of Jujuy and Salta drew from the inhabitants proofs of heroism, in support of their independence, equal to what was exhibited in declaring it. General Guemes, formidable alike for his constancy and valor, continually presented a threatening front to Pescuela, and by his activity deprived him of his conquests as fast as they were made. Abandoning Jujuy precipitately, Pescuela encountered losses of considerable moment. The guerrillas, led by Don Augustin Ribera, Don Diego Calla, Don Diego Tallangiana, Don Justo Ganzalis, Don José Miguel Valdiviesa, Don Francisco Guerreros, and Don Francisco Briondo, contributed much to diminish his credit and the weight of his authority.

1817.—These advantages in some measure made amends for the mortification of seeing the troops of Portugal in the territory of the State. From the time it was known that the Prince Regent of Portugal had raised the colonies of Brazil to the pre-eminence of metropolis, it was strongly suspected that he would attempt to aggrandize himself by the occupation of these countries. The powerful temptations which had continually attracted the Portuguese towards our territories had almost become one of the fixed principles of their policy; it was, therefore, not surprising that they should profit by an opportunity which seemed the most favorable for the gratification of their ambition. But as mere ambition furnishes no justification for the invasion of the territory of other nations, the Director considered it as his duty to remonstrate with General Lecor, commander of the Portuguese forces, on the step he

\* This was the celebrated banner under which the enemy had reconquered La Paz, Peru, Aroquips, and Cuzco, and on which account it was distinguished by magnificent embroidery. For this action, the lady was rewarded by the State with the commission and emolument of Lieutenant Colonel.



was about to take, and to warn him of the consequences of the aggression. At the same time that he took this step, he communicated it to General Artigas and the Cabildo of Montevideo, requesting that at this moment of common danger, which required the combination of all their forces, their differences might be forgotten; and, in order to fix upon the principles of reconciliation, he deputed with full powers the Mealdes Don Juan José Durar and Don Juan Giro. In the preliminary conferences which took place, the errors of discord and the benefits of harmony between the two countries were represented in the most animated terms; and it was finally agreed that the eastern shore (Banda Oriental) should acknowledge the sovereignty of Congress and the authority of the Supreme Director of the State; that members in proportion to its population should be sent; and that the Government should promptly furnish what assistance was necessary for its defence.

The joy produced by this event, which, in putting an end to the unhappy disputes that divided the country, appeared to restore its pristine strength and glory, was celebrated with pomp and magnificence. At the very moment, however, when the people were engaged in giving vent to their feelings, which were excited to a degree that might almost be considered immoderate, information was received that the Orientals had refused to ratify the convention, no doubt influenced by their chief. Artigas considering the natural tendency of the connexion and dependence of the eastern shore as destructive to the absolute sway which he had so long been accustomed to exercise, in his conception, the dangers and devastations of a war with the Portuguese were to be preferred to the influence of the capital.

The remonstrance of the Supreme Director with General Lecor did not produce the effect on his mind which it merited. This chief contented himself with declaring that, in order to place the Portuguese frontier out of danger from the contagion of anarchy which threatened it, it had become necessary to take possession of a country which, in becoming independent, had given itself up to every species of disorder and misrule. The futility of this pretext was fully exposed by the Director in his subsequent official letters, and also by the eloquent editor of the Ministerial Gazette, Don Julian Albanes. Nothing can be added to the force of their reasonings. Taking it for granted that a sovereign has a right to interfere in the domestic quarrels of his neighbors, whenever he may think them of a nature to disturb the tranquillity of his own States, yet it is an undoubted principle of the law of nations that he should first make suitable representations to the party offending, before actually resorting to the use of force. To occupy a country by force under the mask of peace, can only be learned in the school of Machiavel. There is certainly some difference between acting the part of a sentinel to watch for the preservation of self, and thus intruding into the country of another, *hospite insalutato*, with

no object in reality but that of conquest. The dispute of the Orientals and the capital was a family quarrel, but a quarrel which had not dissolved the ties of the first with the nation. These people, as well by their own will as by the constitution of the State, were integral parts of the American Confederation. Common decency, not less than respect for the laws of nations, would have forbidden this resort to violence, before all the proper measures had been taken, without effect, to place in a state of security the nation which declared itself in danger; otherwise, the world would be continually exposed to become the prey of the first occupant who could support his cause by force. Like the ambitious Portuguese, there would never be wanting a pretext for invasion.

The management of the war, together with the other important cares of government, rendered it desirable that the Congress and the Directors should be nearer each other, in order, by their combined wisdom, to conduct the affairs of the State with greater promptitude and judgment. Its removal to the capital was, however, a step of no small danger. The sound of discord was still heard like the hollow murmuring of the waters after the tempest has subsided. It was much to be feared, in the agitations which might ensue, that this national assembly, which was considered by many of the friends of order as the last resort, would, like the similar attempts formerly made, prove abortive. Besides this, the provinces were desirous that the Congress should hold its sessions at a distance from the capital, in order that, being free from undue influence, and the fear which bayonets might cause, they would be able to pursue their course with the more perfect freedom. After much discussion, and important reasons urged on both sides of the question, they finally yielded to the solicitations of the Directors, who strongly urged their removal to the capital, and accordingly carried the resolution into effect, in the midst of new commotions and disturbances.

One of them had its origin in the audacious mind of an inhabitant of Santiago de Lestera, named Don Francisco Borges. This indiscreet man had been engaged for some time in secretly exciting the minds of those who entertained an aversion to the constituted authorities. His intrigues engaged on his side not a few of his fellow-citizens, who, together with others in the neighboring towns, raised the standard of rebellion under his command. A corps of veteran troops was immediately despatched against them from Tucuman. Borges, more skilled in forming factions than in profiting by them when formed, was unable to maintain his ground; beaten, pursued, and taken prisoner, he paid with his life the price of his temerity.

The Governor of Cordova, although possessing more prudence and foresight than his predecessor, was unable to provide against a conspiracy which surprised him in his own house. Bulnes, from his prison, colloquing with some of those wretches who are everywhere to be found in an unsettled

state of society, was enabled through this means to corrupt the garrison; and, not satisfied with obtaining his release, he assailed the house of the Governor, whom he seized and placed in confinement, together with the military commandant, Sayos.

The chief of this plot was not possessed of sufficient talents to direct any important object, nor had the soldiers whom he had corrupted a sufficient interest to serve him. These were, with few or no exceptions, veteran Spanish troops who had deserted to us, and who had been placed under the command of a European, named Quintana, but who would willingly sell themselves to whoever offered most. Bulnes was deposed, and in his stead was chosen a certain Urtubei, a person in whom the conspirators fancied they could repose their confidence with greater safety. The situation of the conspirators was critical; they knew that their indecent and dishonorable conduct was detested by the inhabitants of Cordova, and that their force was inadequate to sustain them; they, therefore, justly feared the punishment which the Congress and the Director would inflict upon their crimes. In this embarrassment, they fell upon the plan of compelling Don Juan Andres de Pueyrredon, brother of the Director, to accept the office of Governor of the Province, in an open Cabildo or assembly, composed chiefly of the factious. It was not long before all those who were openly concerned in this disgraceful business were obliged to beg an asylum in Santa Fe, to which place they retreated. Colonel Sayos, who, with his officers, was ordered to be conducted to some remote place, contrived to gain over the guard to his side at the end of a few days' march. At this moment he was accidentally joined by Governor Funes, who, by the permission of Bulnes, was on his way to Buenos Ayres. They immediately set about collecting a force for the purpose of returning to put down the insurrection. This consisted, however, of very indifferent militia, upon which little or no dependence could be placed. Notwithstanding this, and the obstacles thrown in the way by a handful of vicious, unprincipled men, the Governor succeeded in re-establishing order, and in entering upon the duties of his office.

The chief of the insurrection was arrested and sent to Buenos Ayres, where, together with several of the European soldiers, he was tried, condemned, and executed.

These discords in the east, the west, and the north, contributed chiefly to flatter the hopes of our enemies, and encouraged them to form new plans for our subjugation. Ten thousand Portuguese, under the command of General Lecor, in three divisions, were marched into the territory of the eastern shore. The first consisted of five thousand men under his immediate command, who directed his march by the way of Santa Teresa; the second, under the command of General Silveira, consisting of sixteen hundred, by the way of Serno Largo; the third, which formed the right of the enemy, under Curau, proceeded

towards the town newly founded by Artigas, in the vicinity of the Uruguay. It was utterly impossible for the General to oppose this torrent. Although the Orientals were gifted with great strength of body and intrepidity of mind, yet neither their numbers, the nature of their arms, their discipline, nor their subordination, could enable them openly to take the field against invaders in these respects so much superior. This superiority very soon manifested itself. General Pinto, with nine hundred men, advanced as far as India Muerta, where he was attacked by General Ribera with eleven hundred men; and, although he sustained a vigorous fight, he was compelled to retire with less than one-half of his division. Possessing, however, that coolness which characterizes the brave in critical situations, he did not neglect to detach a part of his force to watch the operations of the enemy. Soon after this, a detachment consisting of a hundred men fell in with an equal number of Portuguese, who had marched out of Maldonado. Stung by shame, and roused to desperation by the disgrace of the last affair, they rushed with irresistible fury upon their enemies, who were literally cut to pieces.

General Forguese was opposed to General Silveira, at the head of eight hundred men, but was more distinguished for stratagem and astuteness than enterprise. It was of great importance to impede the march of Silveira, whose object was to form a junction with Lecor. Ribera having united his force with that of Forguese, they determined to attack, but, through some unaccountable accident, the former retreated to Rio Negro. The Portuguese army, although continually harassed by Ribera, reached the Barra de Casupa, at Santa Lucia la Grande. Ribera did not despair of being able to defeat the enemy; but, considering the smallness of his force, he besought the town of Montevideo to send the delegate Barcino with a reinforcement of four hundred men. The only force that could be spared was the corps of Libertos, commanded by Colonel B—; but, from a spirit of rivalry ill becoming the times, this officer was unwilling to serve under Ribera. This reinforcement being thus denied, General Silveira effected a junction with General Lecor; after which they proceeded to the capture of Montevideo, on the 19th January, 1817, Barcino having abandoned it in much disorder.

The fortune which had formerly attended the Orientals was now reversed. They fled the presence of those whom they had been before accustomed to repel; or, if they showed resolution, it usually degenerated into rashness. The right wing of the Portuguese army, commanded by Curau, directed its march towards the place at which the chief of the Orientals was stationed, and arrived at the Arroyo de los Catalanos. This frontier was defended by General La Torre, with three thousand men. Full of an arrogant confidence, which did not permit him to calculate the risk, he determined on attacking the enemy. Mondragon, who commanded the cavalry, with more prudence, remonstrated against this step, alleging



that, having had the good fortune to deprive the enemy of his horses, oxen, and carts, these ought first to be secured, before exposing himself anew to the chance of battle, which, considering the present situation of the Portuguese, must be extremely doubtful. La Torre, either not convinced by this reasoning, or despising it, exercised his authority, and imprudently fell upon the enemy with his whole force. The action was obstinate and bloody, but terminated in the most disastrous manner. General Artigas occupied a position some distance in the rear, with a small corps of one hundred men. The consequence of this unfortunate affair reached even his encampment. Here he was surprised by four hundred men, and was only enabled to escape with the assistance of a Charua Indian, but with the loss of all his baggage.

In the midst of the progress of Lecor, he found himself all at once shut up in Montevideo, suffering hunger and all the privations of a siege. His situation becoming intolerable, he marched with two thousand men in search of cattle and other provisions. The indefatigable Ribera, who closely watched his movements, prepared an ambuscade with much sagacity at the pass of San Lucia, and, causing no small loss to the enemy, attained his object for the moment. Lecor was not compelled, however, to abandon his enterprise, but proceeded as far as the pass of Pinto, where he was again attacked by Ribera, and experienced a loss of two hundred men. These advantages were of too partial a nature to enable the Orientals to derive hopes from them in the face of an enemy so powerful. They contributed chiefly to raise the reputation of Ribera.

The cry now became universal on the part of the Orientals, and even of their chiefs, for a re-establishment of their union with Buenos Ayres, as the only means of finding shelter from the desolating tempest. In virtue of this state of mind, a communication was opened with the Director, who at once met so desirable a proposition, and immediately sent a supply of arms and munitions of war by way of Colonia. Although Ribera had given his consent to the union, he stipulated to withdraw it, in case it should not meet the approbation of Artigas. For this purpose, he communicated the stipulation he had entered into, in his absence, to that chief. To Artigas it was of little importance that such an event would be advantageous to the republic; he saw in it nothing but a diminution of his own consequence and power. In order to prevent the discontent which his refusal might produce, at the same time that with one hundred men he went down to dissuade Ribera, he caused his partisans to circulate the most scandalous abuse of the capital and its intentions, proclaiming that a union with the capital would be a union with perfidy and robbery, and that it would be exchanging their liberty for a shameful and atrocious servitude. These odious imputations could not fail of producing an effect upon the simple, well-meaning people, who reposed implicit confidence in Artigas, as well as in the minds of those

who had, on former occasions, been ill-treated by the Government of Buenos Ayres, of which number was Ribera. The party in favor of union was, however, too strong to be easily dissuaded from its purpose. In fact, Barsinos Bansa, colonel of the Libertos, Ranios, commander of the artillery, a body of chasseurs, and some corps of militia, under the command of Don Tames Garcia, having elected the latter as their commander, entered into articles of union with Buenos Ayres. Ribera, offended with an act which was very little short of a revolt against him by a part of the troops under his command, hastened with three hundred chosen men to call them to an account for this procedure. After some warm altercation, Garcia, being the strongest, remained with the command, and Ribera, sending a copy of the offensive articles to Artigas, called for a detachment of five hundred men for the purpose of attacking his opponents. It was well known that Artigas would destroy without mercy those who set about diminishing his authority. In truth, this man, taking counsel only from his ambition, and from a mischievous Franciscan friar, who for a long time had swayed him, resolved to comply with the request of Ribera with all possible expedition. General Forges, one of the most reputable among the Orientals, opposed with energy a measure which was about to awaken the horrors of civil war, and declared for a union with the capital. Of the five hundred, only fifty were despatched to Colonia, under the pretext of defending this place, which was threatened by a Portuguese flotilla, but with the real intention of uniting with Ribera, and to make war upon those who should be in favor of the union. The party of Artigas prevailed. The Director had hoped that the Orientals, won over by his friendly conduct, would lower their pretensions, but his patience was wearied out by so much obstinacy.

While these clouds obscured the east, the west appeared more serene; the Governor of Cuyo, Colonel Don José de San Martín, a man bold enough to conceive great designs, sufficiently a lover of glory to devote himself to them, and not wanting good fortune in their execution, had for some time past meditated in silence the reconquest of Chili. This country had been completely subdued by the Spaniards; more than one hundred of the most influential people had been banished to the island of Juan Fernandez; the inhabitants completely disarmed, and held under the most rigid subjection; their secret wishes, however, as may be readily supposed, were in favor of independence, and San Martín had every reason to believe that, if he could cross the mountains with a respectable army, he would have none but the Spaniards to contend with, and would find the people, as far as was in their power, disposed to co-operate with them. The situation of the United Provinces, continually threatened from Chili and Peru, plainly pointed out the immense importance of expelling the Spaniards from the former, by which means they would at the same time strike the severest blow to their enemy, and gain a powerful ally. A sense of duty also called upon them

to assist their brethren, those who, on a former occasion, when Buenos Ayres was threatened by the Spanish general Elío, had contributed both men and money to her assistance. But the chief difficulty lay in procuring the means of raising such an army as would be adequate to the enterprise. The State, notwithstanding its recent declaration of independence, was at no time since the commencement of the war in a condition so deplorable; it might almost be said to be drifting at the mercy of the winds and waves. The province of Cuyo, at the first glance, seemed to promise less; its soil but indifferent, its population small, its products, of late, much reduced in value, and, as the frontier, continually exposed to the invasion of the Spaniards. But San Martín possessed the talent of winning the hearts of those with whom he was connected, of awakening the higher passions, and of enlisting them not by halves, but entirely in his plans. He had possessed himself so completely of the affections of the people of Cuyo, that they placed, without reserve, everything they had at his disposal. They freely yielded up their male slaves, to the number of six hundred; they furnished three thousand horses, ten thousand mules, and contributed their personal services for the construction of quarters, encampments, armories, and in conducting troops and munitions from Buenos Ayres. Much of this is doubtless to be attributed to the moderation and self-denial, both in public and private life, of the chief who commanded—the best security for the confidence of the people; but it is likewise to be attributed to a cause which does much honor to the province, to wit, its uniform patriotism and good conduct. Correct morals are most conducive to love of country, and love of country is not less conducive to good morals. Had they been less pure, this patriotism would have been less, and less, also, would have been the influence of San Martín. After a twelve-month spent in collecting, organizing and disciplining his army, which at the same time afforded Marco an opportunity of making the necessary preparations to oppose him, San Martín put in execution his daring attempt to cross the Andes. The mere idea of such an undertaking is enough to strike the mind with astonishment, as amounting almost to a violation of the laws of nature. We can form but a faint idea of this enterprise, when we consider that the mountains to be crossed, for one hundred leagues, are the highest on the globe, with defiles so narrow as not to admit two persons abreast along the giddy verge of frightful gulfs, while the severity of the climate seemed to contend with the ruggedness of the passage; added to these, the difficulty of transporting artillery, at the same time embarrassed with the baggage and provisions for thirty days, and, after all, trusting to the uncertain chances of success after the termination of these labors and fatigues; in truth, when everything is considered fairly, this achievement may justly rank with the most celebrated of those recorded in history. In thirteen days the army effected its passage, with the loss of about five thousand horses and mules, and

of a small number of men, chiefly blacks, who were unable to stand the cold. After some slight skirmishes, the army took up its position at Acoracouga.

The passage of the mountains was, in itself, an achievement of a nature to give assurances of the result. The heroic army which had vanquished the Andes, fighting under the banners of liberty and the country, could no more be resisted than a torrent of the mountains. The splendid triumph of Chacabuco, which took place soon after, raised San Martín to the pinnacle of glory, and gave a new aspect to the affairs of South America. "In twenty-four days," said the General, "we have terminated the campaign; we have crossed the most elevated mountains of the globe; put an end to the sway of tyrants, and given liberty to Chili." The President Marco was taken prisoner, and the remains of his forces took refuge in the fortress of Talcahuana. A Junta of the Chilians was convened at Santiago; through gratitude to San Martín, they offered to invest him with the Directorship, which he declined; they then elected Don Bernardo O'Higgins. The Chilians afterwards sought, by various modes, to express their gratitude to the *General of the Andes*, by which name San Martín, by a kind of involuntary concurrence, was now distinguished; but, considering these offers as incompatible with the notions of greatness which he entertained, they were positively declined. It would be improper not to mention the restoration of the banished Chilians to their families, which was almost the first act of the Government. San Martín returned to Buenos Ayres to receive new orders and concert new plans with the Government, all eyes being now turned towards Peru, as the quarter in which their long-looked for peace and liberty would be sealed. On approaching Mendoza, the capital of Cuyo, he was met by its inhabitants, the youth strewing roses in the road, and all demonstrating the most heartfelt expressions of regard; the inhabitants of Buenos Ayres were equally desirous of showing every mark of veneration for this hero; but San Martín, being apprized of their preparations, stole into the town unobserved. Some are disposed to condemn what appears to them an affected squeamishness and false delicacy, in thus declining honors which are known in general to be grateful to the human heart; but, for this very reason, in my opinion, it is great and noble to decline or despise them.

The cause of the State, in Peru, when conducted by the virtues, experience, and abilities of Belgrano, who, on his return from his important mission to Europe, had once more assumed the command, was again seen to revive. In the rencontres already related we have seen that victory had also returned to our side. General Serna, who succeeded Pescuela, was not possessed of the abilities of his predecessor. Although the celebrated leaders Padilla and Merceces were killed, Warnes and Ganderilla and Fernandez supported the cause of their country. By these the sanguinary Facon was pushed to the very verge of the precipice; but this victim was



reserved for another hand: a ray of lightning sent from Heaven put an end to his days and his cruelties. His army was reduced almost to nothing.

General Serna discovered only a vain and arrogant confidence in his own powers. He had scarcely assumed the command, when he conceived the design of attempting the reconquest of Salta and Jujuy, and even of Tucuman. The history of his predecessor ought to have opened his eyes. These places had proved the sepulchres of the Spaniards, and he might cause them to be so again. These admonitions were disregarded by Serna, who, more haughty than the Knight of La Mancha, entered Jujuy at the head of an army of upwards of two thousand men. Governor Guemes rendered the possession of the place little better than a trap for his destruction. He and his brave countrymen invested him so closely, that he soon began to repent of his folly. His forces were incessantly harassed by a great number of guerrillas, and much reduced by the actions of San Pedrita, Huniaquaca, Tarija el Barrada, and others. From the deserters, who were continually coming over, with misery painted in their countenances, it appeared that they were perishing of famine in their trenches. Guemes, with his brave officers, Roxas A—, Tarenos, La Madrid, Cardad, &c., compelled Serna to retire, at last, with great loss, and to renounce his designs upon the cities before mentioned. These flattering occurrences were only interrupted by the lamentable rivalry of the Orientals with the capital. Although Artigas, by means of his chiefs, succeeded in gaining over the greatest part of those whom his conduct had alienated, there were still many who remained firm in their resolution of a separation from his authority—a conduct which they considered necessary to the safety of the Republic. Of these, not a few were of the province of Entre Rios, by their chiefs, Erenu and Samanuego, who, lowering their tone, acknowledged that they had been wrong, and sought the friendship of the Director. A circumstance which might possibly lead to the overthrow of an ambitious man, and assure the liberty of the country, was not to be despised. Resentment for personal insult might also, perhaps, have had its influence with the Director; he had just received from Artigas a letter couched in the most declamatory and abusive language, accusing him of paying no regard to his offers, by better, of sending deputies to the union, charging him with connivance at the supplies furnished the Portuguese, with being in their interest, and threatening to pursue him even into the capital itself.

1818.—The Director, with a view of securing the Baxada de Santa Fe, which commands the interior country of Buenos Ayres, and at the same time of furnishing assistance to the inhabitants of Entre Rios, despatched a body of troops under Montes de Oca. These were furiously attacked by a detachment from Artigas, and completely defeated. This unfavorable occurrence did not deter the Director from his design; he

despatched Colonel Marcos Balcarce with reinforcements to take the field anew. The Orientals, inflamed by that rage which characterizes civil wars—and the more on this occasion, as they regarded themselves as ungenerously attacked by their countrymen, at the moment they were fighting the enemies of the Republic—with an impetuosity bordering on desperation, fell upon the army of Balcarce, and, after a short but brave resistance on the part of the latter, victory declared itself for the Orientals. Let us deeply lament the fatal policy or necessity of delaying, with our own hands, the progress of events by which we are to gain our independence, and turning upon one another those arms which ought to be reserved only for our common enemies.

About the same time, news of a much more serious nature reached the capital, and produced the most painful sensations. While San Martin and O'Higgins were endeavoring to reduce the last stronghold of the Spaniards in Chili, (the fortress of Talcaguana,) the Viceroy of Lima, with all possible despatch, threw fifteen hundred men into that place, which, in point of strength, may be compared to Gibraltar. The army of Chili, under the command of San Martin was increased to nearly double its number by the new levies among the Chilians; but time was requisite to train and discipline them. O'Higgins took possession of the town of Concepcion, of which Talcaguana, is the seaport. Here a great part of the Summer was passed away in skirmishes, in which the enemy were generally worsted. San Martin was, however, occupied in designs of greater magnitude. He was unremittently engaged in preparing to strike the same blow in Peru which had so successfully paralyzed the power of Spain in Chili. The want of transports was the principal cause of delay, as a march through the desert of Atacama would be impracticable. The Viceroy, dreading the enterprise of San Martin, and knowing the materials by which he was himself surrounded, conceived it most prudent to risk the fate of Peru in Chili. Accordingly, after an effort which, in the present fallen state of the Spanish power, might be considered great, he collected about five thousand men, who were hastily embarked for Talcaguana under Osorio, leaving Peru entirely defenceless. Osorio had scarcely reached that place, when he commenced preparations for proceeding directly to the capital of Chili. He calculated with confidence on the superiority of his troops over those whom experience had not yet taught him to respect. He also flattered himself with being able to overtake the army of O'Higgins before he could form a junction with San Martin. Osorio, taking with him nearly all the garrison of Talcaguana, together with two thousand of the natives of Chili, marched rapidly through the province of Concepcion with an army of nearly eight thousand men. Before he passed the Maule, the patriot army had already formed a junction, and consisted of an equal number of regulars, besides considerable bodies of the militia of the country. In a few days it was completely organized and consoli-

dated; but so large a body of men, when collected, soon began to experience considerable wants. The capital of Chili confidently trusted to the abilities and valor of San Martin; while the circumstance of the wants of his army, when made known to them, afforded an opportunity of displaying a magnanimity which we have unjustly supposed to have been buried beneath the ruins of Greece and Rome. San Martin announced that his army was ready to take the field against the enemies of the country, and that all were willing to sacrifice their lives in its defence, but that it was in want of bread and other supplies. The effect which this intimation produced in the noble-minded people of Chili is best displayed in the reply which they made through the different officers of the municipality and corporations.

"Your Excellency," said they, "has just informed us that our brethren in the field of battle are in hourly expectation of being called upon to shed their blood and sacrifice their lives for our preservation. Your Excellency recalls to our recollection the sad image of Chili laid waste, for two-and-a-half years, with an atrocity truly Spanish; and our children, our fathers, and our wives, terrified at the chains and gibbets preparing for them by the monsters that have reached in the plains of Talca, turn their tearful eyes towards the brave that, on the banks of Tanguena, have sworn to perish sooner than behold their desolation. But your Excellency, at the same time, intimates to us that these brave men are in want of bread and other supplies, in order to sustain the vigorous arms destined to exterminate our enemy; and that the public fund having been exhausted, there scarcely remained a sufficiency for the hospital where the wounds received in our defence are to be healed." "And what does your Excellency expect will be the reply of the Chilians to a representation so mournful and affecting? That all our fortunes, without reserve, belong to our country. That, from this moment, we request that your Excellency will be pleased to accept the spontaneous offer of whatever silver we have in our possession, together with the vow which we make before our country and the universe, that, so long as the war shall last, and the wants of Chili may require it, there shall not be seen a single article of plate in our houses.

"The people of Chili are unwilling that the silver of the churches should be touched until that which belongs to individuals shall be entirely exhausted. We shall then humbly say before the Supreme Being—To preserve the precious gifts of life and liberty which thou hast bestowed upon us, we present ourselves naked to implore thy protection, while we endeavor to support thy ordinances with the aid of those things which we had set apart to adorn thy worship. Our vows and ardent adorations shall henceforth be the most pure and becoming homage we can offer thee.

"In the meanwhile, will your Excellency be pleased to accept the offer, on the part of the secular and regular clergy, of whatever articles

of plate belonging to them in particular, and which do not appertain to the ceremonies of religion, and whatever belongs to the magistrates and corporate bodies, which we offer in our name and in the name of the people of Santiago?

"Your Excellency will therefore be pleased to accept these offerings, and to inform our brethren that they may rely on the utmost exertions of our gratitude."

This unexpected but sublime display of gratitude was replied to by the Director in a suitable manner. Accepting their offer, he declared himself unable to find expressions sufficiently strong to do justice to the magnanimity of their conduct; but, for the purpose of commemorating so glorious an action, he ordered the following inscriptions to be engraven on the two columns which adorn the eastern and western entrances of the city:

"On the 5th of March, 1818, the people of Santiago voluntarily stripped themselves of all their plate and utensils of silver, protesting that they would acquire no others until their country shall be out of danger."

"Nations of the universe! strangers who enter Chili! say whether such a people deserve to be slaves!"

The patriot army lost no time, after its junction, in marching to meet the enemy. The army of Osorio had already passed Talca; it was not long before a continual skirmishing took place between the invaders and the patriots. These were kept up for several days, until the 10th, when an affair of some importance took place between the advanced corps under O'Higgins and a part of the Spanish army, in which the latter was compelled to fall back with considerable loss, being pursued into the very streets of Talca. The whole Spanish force had been compelled to fall back upon its steps. Osorio now discovered that his contempt of San Martin's army had led him into error; it was so much superior to his, particularly in cavalry, that the chances of success would be decidedly against him, knowing that, in all probability, San Martin would attack him the next morning with his whole force; and that, if defeated, with a large river and numerous bodies of militia in his rear, retreat would be no longer possible. In this critical situation, by the advance of General Ordines, he determined to select two thousand of his best troops, and try the fortune of a night attack, which, if successful, would enable him to retire without fear of pursuit. The principal part of the army had, in the evening, halted within a short distance of Talca; the remainder of the infantry having arrived, and the ground being reconnoitered, orders were given about nine o'clock for each division to occupy the position assigned to it. The right wing had already been posted, and the left was also in motion, when the enemy rushed upon them in the most furious and unexpected manner; the baggage and artillery were first thrown into confusion, which was soon communicated to the troops on their march; these, after a short resistance, broke and dispersed in every direction, in spite



*Condition of South America.*

of the exertions of their leaders. The Director of Chili, who commanded in person, was severely wounded in the arm in his efforts to rally them. The right, however, under the immediate command of that excellent officer, Colonel Las Heras, retired in good order, and, together with some bodies, collected by the exertions of San Martin and his officers, continued the contest for some time, but were compelled at last to give way. The next morning presented a spectacle truly melancholy—an army, of which the day before our country might justly have been proud, the best appointed that had taken the field on the side of independence in South America, stripped of its artillery and baggage, and more than one-half dispersed, and this without having been beaten.

San Martin conducted the fragments of his army to the narrow pass of Angulemu, which lies on the route to Santiago, and which the enemy could not avoid without making a very considerable circuit. Here he remained in the most painful situation, deprived of his baggage, and his men in want of everything. In the meantime, the stragglers dispersed through the valleys of Chili, spread the most disheartening accounts among the inhabitants, and so complete was supposed to have been the defeat of San Martin, that the partisans of Spain, wherever any of them happened to be, could scarcely refrain from openly declaring themselves. San Martin, with the Director, whose presence was required in the capital, made it a hasty visit, for the purpose of inspiring confidence in the people, and of procuring the means of recomposing his army. He now judged it most prudent to fall back upon the capital, where his army could be recruited with greater celerity, and intending, in case of defeat, to retire into the city, which the Director was actively engaged in placing in a state of defence. The army, under the creative hand of San Martin, with a celerity almost incredible, in the course of a few days, and after a march of eighty leagues, once more presented a formidable front on the plains of Maipu. The most animated proclamations were circulated through the country by him and the Director; hope was seen to revive, and the Patriot army was animated by a desperation gathered even from its late disgrace. The news of this lamentable occurrence arriving at the same time with that of the misfortunes of the eastern shore, cast a gloomy shade over Buenos Ayres. The most melancholy anticipations filled the breast of every American, while the Spaniards among us discovered their joy, on some occasions, with very little discretion. Our apprehensions induced us to believe that the affairs of Chili were still worse than the Government had been willing to communicate; the very importance of the contest in that country was enough to produce doubts in the minds of the most sanguine. Osorio, finding the success of his attack to have so far exceeded his expectations, determined to follow up his blows, but, having experienced a considerable loss, he was somewhat retarded in setting off; his march was, notwithstanding,

withstanding, rapid, having approached the Maipu in twelve days after the dispersion of the Patriot army. On the third and fourth of April there were frequent skirmishes, and early in the morning of the fifth the two armies came in sight of each other, the body of the Spanish forces having crossed the Maipu. The whole morning was passed in manœuvring; each chief in vain endeavored to gain some advantage over his opponent. San Martin rode incessantly along his lines, addressing each individual corps, and infusing into them his own feelings, while the patriotic songs and marches resounded through the army. Seeing, at last, that there was no probability of his being attacked that day by the Spaniards, and finding his men roused to the highest pitch of enthusiasm, he gave orders to advance. With the exception of a small height, which the enemy had occupied with some pieces of artillery, the ground was nearly level, and well adapted to military manœuvres. The infantry was placed under the command of General Balcarce, Colonel Las Heras on the right wing, and Colonel Alvarado on the left; the artillery and cavalry posted on each wing, and a strong reserve in the rear under Colonel Quintana. In this order the army moved towards the enemy, who opened a dreadful fire from his infantry, and from several pieces of artillery posted on the small elevation before-mentioned, but without arresting its progress; a body of the enemy's cavalry charged at the same time, but were driven back by those of the country, who pursued them even under their guns. The action now became general and bloody; our line, at last, appeared to vacillate; but at this moment, the reserve being ordered up, the whole returned to the charge, and, with an irresistible impetus, carried everything before them. The resistance of the enemy was, however, so obstinate, that they had to be literally pushed from the ground with the bayonet. The regiment of Burgos, composed of the best troops of Spain, and twelve hundred strong, was not broken until after repeated charges, which San Martin is said to have led in person. The remnant of the enemy's force then threw themselves into some narrow lanes, made by walls, and, under their shelter, commenced the contest anew, but were at length entirely overcome. This action lasted from noon until six o'clock in the evening, and was contested on either side with a courage and firmness worthy of the great prize that was at stake—not merely the independence of Chili, but perhaps of South America. The history of wars furnishes us with few instances of a victory more complete; the whole Spanish army was annihilated; artillery, military chests, everything belonging to it, fell into the hands of San Martin. Its chief alone fled with some horsemen, when he saw that the day was lost. Ordóñez, the second in command, one hundred and ninety-eight officers, three thousand rank and file, surrendered their arms; and two thousand of their dead covered the field of battle. The loss of the country did not exceed one thousand in killed and wounded. The capital, from its extreme depression, was now elevated

*Condition of South America.*

ated to the highest pitch of joy. The streets before silent and fearful, were suddenly filled by the inhabitants, like the blood which, after some moments of deep suspense and anxious fear, rushes again from the heart to the extremities of the body. The scene which ensued can only be conceived by those who have witnessed the sublime effusions of popular feeling, when each thinks his own happiness, that of his posterity, his friends, and his country, are entirely involved. There was a general and almost universal exclamation, "At last we are independent!" while San Martin was hailed as the genius of the Revolution.

## B.

*Manifesto directed to all nations by the General Constituent Congress of the United Provinces of Rio de la Plata.*

Honorable fame is the jewel which mortals prize above existence itself, and which it is their duty to defend above all earthly good, however great and valuable. The Government of Spain has accused the United Provinces of Rio de la Plata, before the nations of the world, of perfidy and rebellion; and has denounced, as perfidious and rebellious, the memorable declaration of independence of the 9th of July, 1816, by the National Congress of Tucuman; imputing to them ideas of anarchy, and intentions of introducing seditious principles into other countries, and their recognition of this declaration, that they may assume a place among the nations of the earth. The first among the most sacred duties of the National Congress is to do away so foul an imputation, and to justify the cause of our country, by publishing to the world the motives and the cruelties which concurred to impel to the declaration of independence. This is not a submission which concedes to any one the right to dispose of a condition purchased by America with torrents of blood, and every species of sacrifice and endurance. It is a duty of imperious obligation which it owes to its wounded honor, and to the respect due to other nations.

We shall waive all discussion with respect to the right of conquest, of papal grants, of other titles by which the Spaniards have supported their domination; it is unnecessary for us to recur to principles which may give rise to theoretic disputes, or to questions which have found advocates. We appeal to facts, forming a lamentable contrast between the sufferings endured by us and the tyranny of the Spaniards. We shall expose to view the frightful abyss into which these provinces were about to be precipitated, had not the wall of their emancipation been interposed. We shall give reasons, the soundness of which no rational being can question, unless it be his aim to persuade a nation to renounce forever all idea of felicity, and to adopt for its system ruin, opprobrium, and shameful acquiescence. We shall exhibit this picture to the world, that no one may contemplate it without being deeply affected with the same feelings that belong to ourselves.

From the moment the Spaniards took possession

of these countries, they thought only of securing their power of exterminating and degrading. Their systems of devastation were immediately set on foot, and were continued, without intermission, for three hundred years. They began by assassinating the Incas of Peru, and they afterwards practised the same upon the other chiefs who fell into their power. The inhabitants of the country, attempting to repel these ferocious invaders, became victims to fire and sword, by reason of the inferiority of their arms, while their cities and villages were consigned to the flames, everywhere applied without pity or discrimination.

The Spaniards then placed a barrier to the increase of the population of the country; they prohibited, by vigorous laws, the entrance of strangers into it, and in latter times they opened it to the immoral—to convicts cast out of the Peninsula. Neither the vast but beautiful deserts, formed here by exterminating the natives, nor the benefit which might accrue to Spain herself, by the cultivation of plains fertile as they are extensive; nor the existence of minerals, the richest and most abundant of the globe; nor the attraction of innumerable productions, some until then unknown, others precious from their intrinsic value, and capable of animating industry and enlivening commerce, carrying the one to its highest pitch, and the other to the utmost extent of opulence; nor, in fine, the unceasing exertions to keep the fairest regions of the earth submerged in wretchedness, had sufficient influence to change the dark and portentous policy of the Court of Madrid. From one city to another of this country there are hundreds of leagues lying waste and uninhabited. Entire nations have disappeared, buried under the ruins of mines, or perishing in an atmosphere poisoned with antimony, under the diabolical institution of the Mita. Neither the lamentations of Peru, nor the energetic representations of the most zealous Ministers, have been sufficient to put a stop to this system of extermination.

The science of working mines, regarded with indifference and neglect, has remained without undergoing those improvements common to other nations in an enlightened age; thus rudely wrought, the richest have disappeared, either by the dilapidation of excavated hills or by the influx of water. Other rare and valuable productions of the country have remained in the great storehouse of nature, without having excited the attention and zeal of the Government; and if at any time an enlightened individual presumed to publish these advantages, he was sure to be reprehended by the Court, and compelled to be silent, lest, possibly, a diminution of the demand for some of the productions of Spain might ensue.

It was forbidden to teach us the liberal sciences; we were only permitted to learn the Latin grammar, the philosophy of the schools, civil and ecclesiastical jurisprudence. The Viceroy, Don Joaquin Pirio, gave much offence by permitting a nautical school at Buenos Ayres; and, in compliance with a mandate of the Court, it was or-



dered to be shut, while at the same time it was strictly prohibited to send our youth to Paris for the purpose of studying the science of chemistry, in order to teach it on their return.

Commerce was ever a monopoly in the hands of merchants of the Peninsula, and of their consignees sent by them to America. All public offices and employments belonged exclusively to the Spaniards; and although Americans were equally called to them by the laws, they were appointed only in rare instances, and even then not without satiating the cupidity of the Court by enormous sums of money. Of one hundred and seventy Viceroyalties that have governed in this country, but four of them have been Americans; and of six hundred and ten Captains General and Governors, all but fourteen are Spaniards. The same took place in every post of importance, and even amongst the common clerks of offices it was rare to meet with Americans.

Everything was disposed on the part of Spain, in America, to effect the degradation of her sons. It did not suit the policy of Spain that sages should rise up amongst us, fearful lest men of genius should bethink them of advancing the condition of their country, and of improving the morals and excellent capacities with which its sons have been gifted by their Creator. It was her policy incessantly to diminish and depress our population; lest one day we should imagine ought against her domination, guarded by a force contemptible for regions so various and vast. Commerce was exclusively confined to herself, from a mean suspicion that opulence would make us proud, and render us capable of aspiring to free ourselves from so many vexations. The growth of industry was checked, in order that the means of escaping from our wretchedness and poverty might be denied us; and we were excluded from all participation in public employments, in order that the natives of the Peninsula might have entire influence over the country, so as to form the inclinations and habits necessary for retaining us in a state of dependence, that would neither permit us to think nor to act but in conformity to the modes dictated by the Spaniards.

This system was acted upon with the utmost rigor by the Viceroyalties; each of them was invested with the authority of a Viceroy; their power was sufficient to annihilate all those who dared to displease them; however great the vexations they practised, we had to bear them with patience, while these were compared by their satellites and worshippers to the effects of the wrath of God. The complaints which were addressed to the Throne, were either lost in the distance of many thousand leagues, over which they had to pass, or they were smothered in the offices at Madrid by the protectors of those who tyrannized over us. Not only was this system not softened, but there was no hope of its moderating in the course of time. We had no voice, direct or indirect, in legislating for our country; this was done for us in Spain, without conceding to us the privilege of sending delegates or councillors to be present, and to state what would be suitable, or otherwise,

as is practised by the cities of Spain. Neither did we possess such influence in the Government set over us, as might serve to temper the severity of its administration. We knew that there was no remedy for us but to bear with patience; and that for him who could not resign himself to every abuse, death was considered too light a punishment; for, in such cases, penalties have been invented of unheard-of cruelty, and revolting to every sentiment of humanity.

Less enormous, and less pertinaciously persevered in, were the outrages which compelled Holland to take up arms, and free herself from Spain; those which induced Portugal to shake off the same yoke; those which placed the Swiss, under William Tell, in opposition to the Emperor of Germany; those which induced the United States of North America to resist the encroachments of Great Britain; or those of any other countries which, without being separated by nature from their parent States, have separated themselves in order to shake off an iron yoke, and to take into their own hands the care of their own felicity, than what we have experienced. We, however, separated by an immense ocean, inhabiting a country gifted with every variety of climate, possessing distinct wants, and treated like flocks and herds, have exhibited the singular example of patient endurance under such degradation; remaining obedient, even when the most seducing circumstances presented themselves for casting off the yoke, and driving the Spanish power to the other side of the ocean.

We address ourselves to the nations of the world; and to manifest so much effrontery as to think of deceiving them in matters to which they have been witnesses, is impossible. America remained tranquil during the whole war of the succession, and waited the termination of the contest between the houses of Austria and Bourbon, in order to follow the fortunes of Spain. A favorable occasion then presented itself to free ourselves from so many vexations, but we did not seize it; on the contrary, we exerted ourselves in her defence, arming in her cause alone, and with a view of maintaining our connexion with her. Without having any concern in her differences with European nations, we have embarked in her wars; we have suffered the devastations; we have borne, without a murmur, all the privations to which we were exposed by her nullity on the ocean, one of which was the interruption of the usual communication with her.

In the year 1806 our country was invaded; an English expedition surprised and captured Buenos Ayres, the capital, through the imbecility of the Viceroy, who, though without European troops, had numerous resources fully adequate, which he knew not how to avail himself of. We prayed assistance from the Court, to enable us to defend ourselves against a new expedition which threatened us; and the consolation we received was, a royal mandate to defend ourselves as we could. The following year the eastern shore (Banda Oriental) was occupied by a new and more formidable expedition; the town of Monte-

video was besieged and taken by assault; here the British troops were augmented, and a powerful force prepared for making another attack on the capital, and, in fact, the attack was made a few months afterwards; happily the valor of our citizens triumphed over the enemy in the assault, compelling him, after a brilliant victory, to evacuate Montevideo, and the whole of the eastern shore.

A more favorable opportunity of rendering ourselves independent could not have been desired than that which now presented itself, if the spirit of rebellion or perfidy had been capable of moving us, or if we had been susceptible of those principles of anarchy and sedition imputed to us. At that time we had abundant cause for doing what we have since done. It was by no means our duty to be indifferent to the state of degradation in which we had so long existed. If at any time victory authorizes the conqueror to be the arbiter of his own destinies, we might justly then have fixed ours; we were, with arms in our hands, triumphant, and there was not a single Spanish regiment to oppose us; and if neither victory nor force can give right, ours was still greater no longer to tolerate the domination of Spain. We had nothing to apprehend from the forces of the Peninsula; its ports were blockaded, and the seas commanded by the fleets of Britain. Notwithstanding the favorable conjuncture thus presented to us by fortune, we chose to preserve our connexion with Spain, hoping, by this distinguished proof of loyalty, to effect a change in the system of the Court, and render it sensible of its true interest.

But we flattered ourselves with vain hopes. Spain did not regard this conduct as an evidence of the generosity of our dispositions, but as a bare act of duty. America still continued to be ruled with the same tyranny, and our sacrifices, though most heroic, had no other effect than to add a few more pages to the history of that oppression under which we had so long groaned.

Such was the situation in which we were found by the revolution of Spain. We, who were habituated to yield a blind obedience to all her mandates, readily acknowledged Ferdinand VII. of Bourbon, although raised to the throne by a tumult at Aranjuez, which deposed his father. We saw him soon after pass over into France; we saw him there detained with his parents and brothers, and deprived of the crown which he had just usurped. We saw that Spain, everywhere occupied by French troops, was shaken to her centre, and that in her civil convulsions the most distinguished individuals, who governed with wisdom in the provinces, or served with honor in her armies, fell victims to the insensate fury of rivals; that, in the midst of these vibrations, governments rose up in each of those provinces, styling themselves supreme, and claiming sovereign authority over America. A Junta of this kind, formed at Seville, had the presumption to be the first to demand our obedience, and we were obliged by our viceroys to recognise and yield it submission. In less than two months

another, entitled the Supreme Junta of Galicia, pretended to the same right, and sent us a viceroy, with the indecent menace that thirty thousand men should also be sent, if necessary. The Junta Central next erected itself; we immediately obeyed it, without having had the slightest share in its formation, zealously and efficaciously complying with all its decrees. We sent succors of money, voluntary donations, and supplies of every kind, to prove that our fidelity would stand any trial to which it could be subjected.

We had been tempted by the agents of King Joseph Bonaparte, and great promises were held out to us of bettering our condition, should we unite ourselves with his interests. We knew that the Spaniards of greatest note had already declared for him; that the nation was without armies, and without the vigorous direction requisite in moments of so much difficulty. We were informed that the troops of Rio de la Plata, who were prisoners at London, after the first expedition of the English, had been conducted to Cadiz, and there treated with the greatest inhumanity, and that, in a state of nakedness, they had been sent off to fight against the French. Yet our situation continued unchanged until the Andalusias having been occupied by the French, the Junta Central was dispersed.

Under these circumstances, there was published a paper, without date, and signed only by the Archbishop of Laodicea, who had been president of the extinguished Junta Central. By this paper a regency was ordered to be formed, and three persons, as those who should compose it, were designated. An occurrence so unexpected could not but cause us to hesitate and ponder over it seriously. Our situation became alarming, and we had reason to be apprehensive of being involved in the misfortunes of the capital. We reflected upon its uncertain and vibrating state, more especially as the French had already presented themselves before the gates of Cadiz and the island of Leon: we distrusted the new regents, who were unknown to us; the most distinguished Spaniards having passed over to the French, the Junta Central dissolved, its members denounced as traitors in the public papers. We saw the inefficacy of the decree published by the Archbishop of Laodicea, and the insufficiency of his powers for the establishment of a regency; we knew not but that the French had taken possession of Cadiz, and completed the conquest of Spain in the interval which must elapse before these papers could come to our hands; and we doubted whether a Government formed out of the fragments of the Junta Central would not soon meet with the same fate. Considering the perils which surrounded us, we resolved to take upon ourselves the care of our own safety, until we should obtain better information of the true condition of Spain, and whether her Government had acquired stability. Instead of discovering this stability, we soon learned the fall of the regency, and saw it succeeded by continual changes of Government in moments the most arduous and critical.



In the meanwhile we formed our Junta in imitation of those of Spain. It was purely provisional, and in the name of our captive King. The Viceroy, Don Baltazar Hidalgo Cisneros, despatched circulars to the provincial governors, in order to light up the flames of civil war, and arm provinces against provinces.

The Rio de la Plata was immediately blockaded by a squadron; the Governor of Cordova immediately set about raising an army: the Governor of Potosi and the President of Charcas marched with another to the confines of Salta, and the President of Cusco, presenting himself with a third army on the margin of Desaguadero, entered into an armistice of forty days, and, before its term had elapsed, recommenced hostilities, attacked our troops, and a bloody battle ensued, in which he lost fifteen hundred men. Memory is horror-struck in recalling the abominable cruelties then perpetrated by Goyeneche in Cochabamba. Would to God it were possible to forget this ungrateful American, who, on the day of his entrance into the city, ordered the respectable Governor Intendant to be shot, and, observing with complacency, from the balcony of his house, this iniquitous assassination, ferociously cried out to his troops not to shoot the victim in his head, as it was wanted to be stuck upon a pike; and when it was severed from the body, the headless trunk was dragged through the streets, while, at the same time, the brutal soldiers were barbarously permitted to dispose, at pleasure, of the lives and property of the inhabitants during many successive days.

Posterity will be shocked by the ferocity manifested towards us by men who ought to have been interested in the preservation of the Americans; and they will regard, with astonishment, the madness of attempting to punish, as a crime, an act marked with the indelible seal of fidelity and love. The name of Ferdinand of Bourbon preceded all the acts of the Government, and headed its public documents. The Spanish flag waved on our vessels, and served to animate our soldiers. The provinces, seeing themselves reduced to a kind of orphanage by the dispersion of the National Government, by the want of another of a legitimate character, and capable of commanding respect, and by the conquest of nearly the whole of the mother country, had raised up for themselves an argus to watch for their safety, and to preserve them entire, so that they might be restored to the captive King, in case he should regain his liberty. This measure was sanctioned by the example of Spain herself, and produced by her declaration that America was an integral part of the monarchy, possessing equal rights, and which had already been practiced in Montevideo, at the instance of the Spaniards themselves. We offered to continue our pecuniary aids for the prosecution of the war and a thousand times published the uprightness and sincerity of our intentions. Great Britain, to which Spain was then so much indebted, interposed her mediation and good offices to prevent our being treated in a manner so harsh and

severe. But the Spaniards were fixed in their sanguinary caprice, rejected the mediation, and despatched rigorous orders to all their generals to prosecute the castigation of the Americans with redoubled activity; scaffolds were everywhere erected, and ingenuity was taxed for inventions to frighten and afflict.

From thenceforward no pains were spared, and no means left untried, to divide and engage us in mutual extermination. They spread abroad the most atrocious calumnies against us, attributing to us the intention of renouncing our holy religion, and of encouraging an unbounded licentiousness of manners. They have made a religious war against us, contriving by a thousand ways to disturb and alarm the conscience, and causing the Spanish bishop to publish ecclesiastical censures and excommunications, and to sow, through the means of some ignorant confessors, fanatical doctrines, even in the penitential tribunal. By means of those religious discords, families have been divided against themselves; they have occasioned dissensions between father and son; they have broken asunder the delightful ties which unite husband and wife; they have sown rancor and hatred between the most affectionate brothers; they have, in fine, endeavored to poison all the harmony of society.

They have adopted the dreadful system of putting men to death indiscriminately, for no other purpose than to diminish our numbers, and, on entering our towns, have been known to put to death even the unfortunate market people, driving them into the public square in groups, and shooting them down with cold-blooded, wanton cruelty. The cities of Chuquisaca and Cochabamba have more than once been theatres of this shocking barbarity.

They have compelled our soldiers, taken prisoners, to serve against their wills in the ranks of their armies, carrying the officers in irons to distant outposts, where it was impossible for them to preserve health for a single year, while others have been starved to death in dungeons, and many have been forced to labor on the public works. They have wantonly shot the bearer of flags of truce, and have committed the utmost horrors upon chiefs after their surrender, and other principal personages, notwithstanding the humanity that had been shown by us to those prisoners who fell into our hands. In proof of this assertion, we need only mention the Deputy Matos of Potosi, Captain General Pumacagua, General Angulo, and his brother, the Commandant Munecas, and other partisan chiefs, shot in cold blood, many days after having surrendered as prisoners.

In the district of Valle-Grande they indulged themselves in the brutal sport of cutting off the ears of the natives, and then transmitting a pannier full of them to headquarters; they afterwards destroyed the town by fire, burnt about forty populous villages of Peru, and took a hellish pleasure in shutting up the inhabitants in their houses before setting them on fire, in order that their unhappy victims might be burnt alive.

They have not only shown themselves cruel and implacable in murdering our countrymen, but they have thrown aside all regard to decency and morality; causing old men of the religious profession, in the public places, and women, to be made fast to a cannon, but first stripped naked, and their bodies exposed to shame.

They have established an inquisitorial system for all these punishments: they have dragged out peaceful inhabitants from their houses, and transported them across the ocean to be tried for pretended offences, and have executed without trial a multitude of citizens.

They have chased our vessels, sacked our sea-coast, murdered defenceless inhabitants, without sparing clergymen, and those in extreme old age; by the order of General Pezuela, they burnt the town of Puno, and, meeting with no others, they put to the sword old men, women, and children. They have excited atrocious conspiracies among the Spaniards residing in the midst of us, imposing upon us the painful necessity of putting to death the fathers of numerous families.

They have compelled our brothers and sons to take up arms against us, and, forming armies by the impressment of the natives of Peru, have compelled them, under the command of Spanish officers, to fight against our troops. They have excited domestic insurrections, corrupting with money and every species of seduction the pacific inhabitants of the country, in order to involve us in a frightful anarchy, and to enable them to attack us weakened and divided. They have displayed a new invention of horror, in poisoning fountains and food, when beaten in La Paz by General Pinelo; and the mildness with which they were treated, when compelled to surrender at discretion, was rewarded by the barbarous act of blowing up the barracks, which had been previously mined for the purpose.

They have had the baseness to attempt to tamper with our Governors and Generals, and, abusing the sacred privilege of flags of truce, they have repeatedly written letters inciting to treason. They have declared that the laws of war, recognised by civilized nations, ought not to be observed towards us; and, with contemptuous indifference, replied to General Belgrano that treaties could not be entered into or kept with insurgents.

Such had been the conduct of Spaniards towards us when Ferdinand of Bourbon was restored to the throne. We then believed that the termination of our troubles had at last arrived; it seemed to us that the King, who had been formed in adversity, would not be indifferent to the miseries of his people. We, therefore, despatched a deputy to him to make known our situation. We could not doubt but that he would give us a reception worthy a benign Prince, and that he would feel an interest in our supplications, as well from gratitude as from that beneficence which the Spanish courtiers had praised to the skies. But a new and before unknown ingratitude was reserved to be experienced by the countries of America, surpassing all example

that the history of the worst of tyrants can present. Scarcely had he returned to Madrid, when he, without ceremony, at once declared us insurgents. He disdained to listen to our complaints, or hearken to our supplications, tendering a pardon as the only favor he could offer. He confirmed in authority the Viceroys, Governors, and Generals, who had perpetrated the bloody deeds before detailed. He declared as a crime of State the having pretended to form a constitution for ourselves, that we might be placed beyond the reach of the capricious, arbitrary, and tyrannical power to which we had been subjected for three centuries; a measure which could displease none but a prince who is inimical to justice and beneficence, and consequently unworthy of ruling.

With the aid of his Ministers, he at once set to work in collecting forces for the purpose of being sent against us. He caused numerous armies to be transported to this country, in order to complete the devastations, conflagrations, and robberies so well begun. He availed himself of the moment when complimented by the principal European Powers, on his return from France, to engage them to deny us every succor, and to look on with indifference, while he was gratifying the cruelty of his disposition in destroying us.

He has established a peculiar regulation for the treatment of American privateers, barbarously ordering their crews to be hanged. He has forbidden the observance towards us of the Spanish naval ordinance, established in conformity with the laws of nations, and he has denied everything to us which we invariably allow to his subjects captured by our cruisers. He sent his Generals with decrees of pardon, which they caused to be published, with no view but to deceive the simple and ignorant, in order to facilitate their entrance into cities and towns; but giving, at the same time, private instructions authorizing and commanding them, after having thus obtained possession, to hang, burn, sack, confiscate, assassinate, and to inflict every possible suffering on such as had availed themselves of such supposititious pardons. It is in the name of Ferdinand of Bourbon that the heads of captured patriot officers have been stuck up on the highways; that a distinguished partisan leader has been actually impaled; and that the monster Centano, after having murdered Colonel Gamargo in the same manner, cut off his head, and sent it as a present to General Pezuela, informing him that it was a miracle of the *Virgen del Carmen*. It has been by a torrent of evils and bitter afflictions such as these that we have been compelled to take the only course that remained to us. We reflected deeply on our situation and future fate, and, turning our eyes to every quarter, we were unable to see anything but the three elements of which it must necessarily be composed—opprobrium, ruin, and abject submission. What could America expect from a King, actuated, at the very moment of seating himself on the throne by sentiments so inhuman?—of a King who, previous to commencing his devastations, hastened to prevent the interposition of any other Prince



*Condition of South America.*

to restrain the effects of his insensate fury?—of a King who has no other rewards but chains and gibbets, for the immense sacrifices of his Spanish subjects in releasing him from captivity?—subjects who, at the expense of their blood and of every privation, have redeemed him from a prison, in order to bind his temples with a crown? If these men, to whom he owed so much, thus received death, were doomed to perpetual imprisonment or to base slavery, for no other crime than that of having framed a constitution, what might we not expect to be reserved for us? To hope for a benign treatment from him and from his bloody Ministers would have been to seek among tigers for the mildness of the dove.

Then, indeed, would have been repeated towards us the ensanguined scenes of Caraccas, Carthagena, Quito, and Santa Fe; we should then have spurned the ashes of the eighty thousand persons who have fallen victims to the fury of the enemy, and whose illustrious names, with justice, call for revenge; and we should have merited the execrations of every succeeding generation, condemned to serve a master always disposed to ill-treat them, and who, by his nullity on the sea, has become impotent to protect them from foreign invasion.

We, therefore, thus impelled by the Spaniards and their King, having declared ourselves independent, and in self-defence against tyranny, have staked our honors, our lives, and our fortunes. We have sworn before the Supreme Judge of the Universe, that we will never renounce the cause of justice; that we will not permit the country which he gave us to be buried beneath ruins and submerged in blood by the hands of executioners; that we shall never forget the obligations that we owe to save her from the dangers which threaten her, nor the sacred right to require of us all necessary sacrifices to prevent her from being soiled by the foul footsteps of tyrants and usurpers. This declaration is engraven on our hearts, that we may never cease to combat in her cause. And at the same time that we unfold to the world the motives that have induced to this step, we have the honor to make known our desire of living in peace with all, and even with Spain herself, from the moment she thinks proper to accept our offer.

Given at the Congressional Hall in Buenos Ayres, 25th of October, 1816.

DR. P. I. DE CASTRO Y BANOS,

President.

J. E. DE ELEAS, Secretary.

## D.

*Notes which the Secretary of State in the Department of the Government and of Foreign Relations places in the hands of Messrs. the Deputies of the United States of North America, for the information of the President of those States.*

The nation is styled the United Provinces of South America.

The number and denomination of each, with

its intendencies and chief towns of districts (*cabesas de partido*) according to the former state of the Viceroyalty, appears in document No. 1.

In 1814, five more provinces were erected, whose names are Tucuman, Mendoza or Cuyo, Corrientes, Entre Rios, and Oriental del Rio de la Plata.

The capitals of the two latter are the town of Concepcion del Uruguay, or Arroya de la China, and the city of Montevideo.

Out of the fourteen provinces into which the territory of the ancient Viceroyalty is now subdivided, there are nine in the hands of the patriots, which are stated in said document under the title of free provinces; and those occupied with troops, or under the influence of the Spanish army, are the other five, whose names are Potosi, Plata or Charcas, Cochabamba, La Paz, and Puno.

In all the territory of the ancient royalty there is but one archbishopric, which is that of La Plata, and six bishoprics, which are stated in said document under the denomination of suffragans.

The territory of the United Provinces contains one hundred and forty-five thousand square leagues; their population, according to the nearest estimate, amounts to one million three hundred thousand, without including the aborigines. Their productions, manufactures, and articles of commerce, will be seen in statement No. 2.

The political state of the provinces called free is quiet and tranquil; they are under the influence of the supreme direction of the States, which resides in Buenos Ayres. They have their Governors in the intendencies, or capitals, Lieutenant Governors in the chief towns, villages, &c. The province of Assumption del Paraguay is an independent State, as also the Oriental del Rio.

The funds, public revenues, and annual expenditures, will be seen in the statement No. 3, with the notes on the same.

The land military force of the united territory appears in the statements Nos. 4 and 5; the latter shows the amount of arms and munitions of war which it possesses in its armies, parks, in its manufactories, and its armory.

The naval force will be seen in the statements Nos. 6 and 7.

The authority of the Supreme Director, of his secretaries, and of the tribunals of justice, are detailed in the provincial regulations, a copy of which is annexed under No. 8.

There is a tribunal of prizes, which is composed of the Secretary of the War Department, the President of the Chamber of Appeals, the Asesor del Gobierno, and the Auditor General of War; there is another tribunal, which takes cognizance of appeals from the decisions of the former, and is composed of the Supreme Director of the State, the Secretary of State for the Government and for Foreign Affairs, and the Secretary of the Treasury. This tribunal takes cognizance also in case of supplication; and all being subject to the reglamento del corso, (No. 9,) and other special regulations, which, although

*Condition of South America.*

not appearing in the provincial regulations established by Congress, have notwithstanding been approved by the same.

At the present moment the formation of a constitution for the State is in progress. A committee consisting of members of Congress are assiduously engaged, and will soon present a project of the constitution.

The population of the city of Buenos Ayres, according to the census of 1815, amounted to fifty thousand nine hundred and ninety-nine inhabitants. This census was inaccurate and underrated. Since then the emigration of foreigners has been unusually great, as also the emigration of numerous families from the Banda Oriental and Entre Rios, so that its population is at present estimated at sixty-two thousand souls.

Besides other institutions, this capital has what is called the Colegio Seminario; another institution for the education of youth, called the Union of the South, will be opened on the 25th May next, with a general plan of education, particularly of the languages and sciences; there is also an academy of jurisprudence, one of drawing, four of the study of medicine, and a board for the examination of those who prepare to practice.

There are three printing offices, a public library with twenty thousand volumes, schools for teaching the first elements in every parish; there is a society of men of taste for the stage, another of friends of the country, another of agriculture, a cannon foundry, a manufactory of small arms, one of swords, an armory, three parks of artillery, three powder magazines, and a variety of manufactories in different branches.

The independence of the State was declared at Tucuman the 9th of July, 1816, the Congress being assembled at that place, and there sanctioning it. To obtain its acknowledgment by foreign Powers, communications and invitations have been made to them, and in Europe there is an Envoy Extraordinary to its several Courts—he is Doctor Bernadine de Rivadavia.

These provinces have been *de facto* independent of Spain since the year 1810, when they openly made war upon her in Peru, in Paraguay, and in Montevideo. Early in 1813, as soon as the province of Potosi was taken possession of by the patriots, they coined money there impressed with arms of the State, hoisted the national flag, and took other public steps which were equivalent to the most solemn declaration of the new rank which they assumed.

They armed a considerable number of privateers, which have ruined the Spanish trade, and they have even blockaded some ports in the Peninsula.

It was not the proclamation of independence which gave origin to the rights of the Americans; it merely recognised them as they had before existed, and had been claimed since the memorable epoch of the 25th of May, 1810.

It appears unnecessary to make any further explanations of those facts and circumstances, which, having come within the knowledge of the Commissioners, particularly of late, must have afforded the information desired.

GREGORIO TAGLE.

Buenos Ayres, April 21, 1818.



## Condition of South America.

## No. 1.

Table of the ancient division of the Viceroyalty of Buenos Ayres.

Provinces.	Intendencias.	Archbishoprics.	La Plata.
Buenos Ayres	Montevideo.	Yampais.	Paraguay.
	Montevideo.	Jonina.	Sta. Cruz de la Sierra.
	Corrientes La Plata.	Palaya and Paspaya suffragans.	La Paz.
	Sta. Fe.	Oruro.	Buenos Ayres.
	Maldonado.	Paria.	Cordova.
	Colonia.	Carangas.	Salta.
Paraguay,	Villa Rica.	Sta. Cruz de la Sierra.	
	Curiguate.	Valle-Grande.	
	Villa Real, Cochabamba.	Misque.	Buenos Ayres.
		Eliza.	Paraguay.
Cordova,	Mendoza.	Arque; free provinces.	Mendoza.
	Rioja.	Tapicure; including those.	Tucuman.
	St. Juan.	Ayopaya, laid off in 1814.	Salta.*
	St. Louis.	Sacaba.	Corrientes.
Salta,	Jujuy.	Paycayas.	Oriental.
	Tucuman.	Sicasica.	Entre Rios.
	Santa del Estero La Paz.	Onvasayos.	
	Catamarca.	Laricayo.	
Potosi,	Porco.	Chulamani.	
	Chayante.	Apolobamba.	
	Chicas.	Lampa.	
	Tarija.	Caravaya.	
	Puno.		
	Lipes.	Arangaro.	
	Atacama.	Chicuito.	

\* These are the intendencias and chief towns of subordinate districts; as each one has a number of other districts belonging to it.

BUENOS AYRES, April 21, 1818.

## TABLE.

## No. 2.

Showing the productions, manufactures, and branches of commerce of the free intendencias and their dependencies.

**Buenos Ayres.**—Grain, hides, tallow, wool, hair, horns. These are an inexhaustible supply of commercial resources; the trade with the Pampas Indians alone, in montas, wool, salt, bridle reins, and feathers, exceeds the sum of \$100,000 per annum.

**Paraguay.**—Wood of a superior quality, of many varieties; the herb, mani, tobacco, guambe, and peasaba for cables, honey and molasses, dried sweetmeats, sugar, rice, cotton cloths, various kinds of gums, and raisins, beautiful birds.

**Cordova.**—Grain, hides, woollen and cotton cloths, raising of mules and herds, excellent lime, minerals of gold and silver.

**Mendoza.**—Dried fruits of many different kinds, wines and brandy, grain, cattle, woollen cloths, carriage of goods, and wagons for the transportation of commodities to Chili, Buenos Ayres, and other provinces, minerals of gold.

**Tucuman.**—Woods, grain, rice, oranges, mani, tobacco, honey, wax, excellent cheese, woollen and cotton cloths, raising of herds, transportation of merchandise, and wagons.

**Salta.**—The raising of herds, mules, (of which there are annually sent seventy or eighty thousand head to Peru,) grain, sugar, honey, molasses, and brandies, wool of a superior quality, as also of the vacuna cloths of it, woods, minerals of gold and silver, copper, iron, and tin, sulphur, alum, and vitriol.

**Corrientes.**—Hides, hair, cotton, agi, mani of different kinds, honey, dried sweetmeats, sugar, charcoal, cotton and woollen cloths.

**Entre Rios and Banda Oriental.**—Ox hides, horse hides, deer skins, otter and chinchilla skins, tallow, dried and salt meat.

BUENOS AYRES, April 21, 1818.

## TABLE.

## Condition of South America.

## No. 3.

General Table furnished by the Secretary of the Treasury, in pursuance of the order of the Supreme Director of the State, showing the capitals or funds, and branches which compose the mass of the national revenue, its produce in the year 1817, the expenditures, and the balance remaining in the treasury at the end of the same year, with an account of the other funds and capitals of the State, debts, and credits, viz:

	Receipts, 1817.	Expenditures, 1817.
<i>Branches of revenue—1st class.</i>		
Balance in the treasury January 1, 1817, -	\$880 5½	
Tenth, and old duty of one and a half per cent. on silver, -	823 4	
Sales of land, -	1,508 7½	
First-fruits of civil offices -	17,563 2	
Stamp paper, -	16,750 2	
Tavern licences, -	106,647 4	
Other treasures, -	4,276 6	
Ninths of the State, -		\$260 5½
Invalidos (or insolventcies,) -	369,427 0½	369,427 0½
Bills of exchange, -	885,074 1½	65,143 5
Ordinary revenue, -	1,113,102 3½	1,113,102 3½
Receipts of the custom-house, pledged in the same, -	98,604 6	73,988 4½
Receipts of the custom-house, pledged in the same, -	336,890 3½	336,558 7½
Receipts from the post office, -	50,156 2	49,484 4½
Receipts of the police, -		
	3,201,709 0½	2,007,965 7½
<i>Expenditures charged on the mass of the revenue.</i>		
Salaries of civil or political officers, -		56,164 3½
Salaries of ministers and foreign agents, -		9,584 5
Salaries of the military, and expenses of the War Department, -		453,060 2½
Contingent expenses, -		430,853 6½
		2,957,619 0½
<i>Branches of the second class.</i>		
Vacant benefices -	17,245 3	6,509 7½
Escheats, -	1,900 0	
Ecclesiastical first-fruits, -	75 0	
Ecclesiastical dues, -	111 5	
Temporalities, or glebes, -	6,784 2½	8,959 4
Military fund, -	812 5	11,683
Ministerial fund, -	4,976 2	4,084 5
Surgeons' fund, -	93 5	
Municipal war, -		60 7½
Deposites, -	3,479 6	14,306 6
	3,037,187 5½	*3,003,223 4½
<i>Result, or summary.</i>		
Produce of all the branches, 1817, -		\$3,037,187 5½
Expenditures of the same, in the same, -		3,003,224 4½
Remaining in the treasury, in cash -		33,963 1½
In deposits, -		6,429 2½
In capitals of temporalities, placed at interest, redeemable at five per cent. -		93,359 3½
In good unsettled accounts of former years, -		8,554,404 2½
Amount in property, good accounts, deposits, and sums at interest, -		8,688,166 1½
Amount real and personal estate of the commonwealth, -		9,310,472 5½
In advances made by the State treasuries, -		297,078 7½
Balance on accounts liquidated -		759,889 7
Total of the funds of the State, -		19,055,597 5½
Debts of the State, -		1,438,054 0
Balance in favor of the national fund, -		17,617,543 5½

\* Balance, \$33,963 1½.



## Condition of South America.

## Exposition of the property and funds of the State, in all their various classes.

In cash in the treasuries of the State, of the custom-house, post office and police	-	\$33,963	1
In good unsettled accounts of former years	-	8,554,403	2
Deposites	-	6,429	2
In capitals of temporalities, at 5 per cent. interest	-	93,350	3
		8,688,156	1

## In real and personal estate of the Commonwealth.

By value of the effects in the storehouses of the treasury	-	\$2,263,104	1
By value of amount in custom-house chests	-	2,233	2
By value of the custom-house and resguardia, and fifteen vessels	-	12,197	0
By value of the marine, and fifteen vessels	-	188,199	0
By value of the public library	-	158,322	3
By idem of the commissariat of clothing	-	53,462	3
By idem of edifices belonging to the State, and under the direction of the Secretary of the Treasury	-	928,625	4
By idem of others, in which the State has an interest	-	70,000	0
By idem of mathematical instruments	-	2,184	4
By idem of the articles belonging to the police	-	24,017	2
By idem of the general of accounts	-	3,259	4
By idem of the proceeds of the post office and the buildings	-	60,895	4
By idem of the Colegio de la Union, temple, and adjacent buildings	-	2,000,000	0
By idem of the edifice which serves as a military prison	-	45,000	0
By idem of the furniture, &c. of the different offices in the fort or government house	-	15,000	0
By idem of the arms, ordnance, and munitions of war, with the armies	-	460,149	7
By idem of the general park in this capital	-	1,337,876	3
By idem of the cannon foundry	-	59,312	3
By idem of the manufactory of small arms	-	88,206	0
By idem of the arsenal	-	307,535	0
By idem of military edifices in the capital, and at Ensenada	-	1,168,981	5
By idem on the frontier	-	26,000	0
By idem of the effects, &c. in the storehouses of the commissariat of war	-	29,652	4
By idem in that of the capital	-	6,258	0

9,310,472 5

## Advances.

Those made from the State treasury	-	290,078	7
------------------------------------	---	---------	---

## Balances on accounts settled.

On those liquidated by the general treasury	-	\$62,908	2
Same at the custom-house	-	454,396	4
Same at the post office	-	16,039	1
Same by the collector of contributions from commerce, from different bodies, incomes, bread, and beef	-	176,200	0
Same by the debt due from the State of Chili, as far as liquidated	-	50,346	0

759,889 7

\$19,055,597 5

## NOTES.

1st. The public lands of the State, which consist of hundreds of leagues in the vast extent of the provinces, and whose value may be estimated at many millions of dollars, are not included in this statement.

2d. The whole of the property and funds exhibited relates only to the province of Buenos Ayres, excluding those of Entre Rios, Sta. Fe, and Corrientes; without making mention of the estimates of the rest, which amount to many millions, in the produce of their peculiar branches and property of different kinds, on account of some of them being occupied by the enemy, and not possessing sufficient data to state the particulars with accuracy; nevertheless, according to the table of estimates made by the general of accounts in the year 1810, taking the whole of the provinces of the ancient viceroyalty, which at present compose the union, it appears that, at that date, the liquidated estimates, without including incomes, lots of ground, capitals at interest, and other funds, but merely the administrable proceeds, amounted to six million eleven thousand eight hundred and two dollars.

3d. No mention is made in this table of the annual revenues of the Cabildo of this capital, which,

## Condition of South America.

in 1817, amounted to \$367,263, because, as municipal funds, they have their peculiar destination; leaving, however, a considerable residue, which, in case of necessity by the State, may be appropriated to its use, as also those of the other Cabildos of the union, of which, from the distance and shortness of time, it has not been possible to give an exact account.

4th. The amount of public debt acknowledged by the States accrued in former years, until the close of last December, paid during the administration of the present Director, is \$1,135,483 5.

5th. Although the Post Office Establishment produces, at present, after deducting all expenses, a small balance in favor of the State, this is owing to the franks on ultramarine communications, and the interruption of intercourse with the provinces occupied by the enemy; but, in case of their becoming free, the administration of this capital alone will produce a surplus of \$30,000, and the interior provinces in proportion.

ESTEVAN A. GASCON.

BUENOS AYRES, April 14, 1818.

## No. 6.

Table showing the vessels of war of the navy of the State, which are at present in commission.

Vessels.	Number of officers.	Marine.	Seamen.	Guns.	Muskets.	Pistols.	Cutlasses.	Pikes.
Brig Belen	2, commandant and second	20	26	12—2 of 18, 8 of 8, 2 swivels	34	12	10	20
Brig Aranzair	2, commandant and second	24	34	10—2 of 18, 8 of 8	20	—	12	16
Brig Twenty-fifth May	2, commandant and second	18	25	14—2 of 18, 8 of 8, and 2 car. of 8	15	25	24	6
Galvez	2, commandant and second	7	22	8 of 6—8	8	4	—	—
Chacabuco	2, commandant and second	10	23	8 of 8, 10 car. of 10	14	—	—	16
Cutter Invincible	2, commandant and second	8	18	8 of 6	8	3	—	—
Fortune	1, commandant	7	17	8 of 8 car., 6 of 6	9	—	—	—
Felucca St. Martin	1, commandant	—	20	1 of 8	7	—	—	6
Total 8.	14	94	185	69 different calibre.	115	44	62	60

NOTE.—There are, besides the above-mentioned brigs, the Eol and the Rosario, which are at present engaged in procuring their crews; also, there are two gunboats, a felucca, and a launch employed.

MATTIAS DE ALDAO.

BUENOS AYRES, March 13, 1818.

## No. 7.

Statement of the private armed vessels which have sailed from this port since the month of June, 1817.

June 25, 1817,	Ship Argentinea,	-	-	-	-	Capt. Hipolito Buchard.
August 18, 1817,	Brig Atrovido del Sud,	-	-	-	-	Capt. John D. Handell.
November 6, 1817,	Corvette Union,	-	-	-	-	Capt. John Brown.
November 20, 1817,	Schooner Pueyrredon,	-	-	-	-	Capt. Diego Barnes.
December 6, 1817,	Brig Independence,	-	-	-	-	Capt. Juan Grinaldes.
January 19, 1818,	Schooner Tucuman,	-	-	-	-	Capt. George Wilson.
January 3, 1818,	Schooner Cyripo,	-	-	-	-	Capt. Adam Pond.
February 20, 1818,	Schooner Buenos Ayres,	-	-	-	-	Capt. Juan Dester.
February 24, 1818,	Schooner Alerto	-	-	-	-	Capt. Daniel Chaytor.
February 24, 1818,	Ship Vigilancio,	-	-	-	-	Capt. George Ross.
March 4, 1818,	Corvette Picado de Buenos Ayres, trading and cruising	-	-	-	-	Capt. Ebenezer H. Atia.

IRIGOEN.

BUENOS AYRES, March 18, 1818.

BUENOS AYRES, April 22, 1813.

I send you, gentlemen, the statements and notes which exhibit the present situation of the United Provinces of South America, in order that, with the information they may afford, his Excellency



## Condition of South America.

the President of the United States of North America may proceed in his steps in relation to these countries in the way most conformable to his high intentions; and to the greater prosperity and aggrandizement of the new world. God preserve you many years, &c.

GREGORIO TAGLE.

Messrs. C. A. RODNEY and J. GRAHAM.

E.

*Provisional regulation, sanctioned by the Sovereign Congress of the United Provinces of South America, for the government of the State, to be observed until the adoption of the constitution.*

## SECTION I.—OF MEN IN SOCIETY.

## CHAPTER 1.—Of the rights which belong to all the inhabitants of the State.

Art. 1. The rights of the inhabitants of the State are those of reputation, liberty, equality, property, and security.

Art. 2. The first has an acceptation so uniform as to render its explanation superfluous. The second is the good opinion of his fellows, which every man strives to win by the rectitude of his conduct. The third is the right of acting according to the dictates of a man's own will, so long as he neither violates the rights of the public nor those of individuals. The fourth consists in the law being equal to all, preserving alike the rights of the weak and the powerful. The fifth is the right of full and unmolested enjoyment of property. The sixth is a guaranty granted by the State to every one that his rights shall not be violated, unless the conditions be broken upon compliance with which their enjoyment is by law made to depend.

Art. 3. Every inhabitant of the State, be he American or foreigner, citizen or not, shall enjoy these rights.

## CHAPTER 2.—Of the religion of the State.

Art. 1. The Apostolical Roman Catholic religion shall be the religion of the State.

Art. 2. Every man ought to respect the public worship and the holy religion of the State; the violation of this law shall be deemed an infraction of the fundamental laws of the country.

## CHAPTER 3.—Of citizenship.

Art. 1. All the municipalities of the provinces shall form immediately a public register, to consist of two books; in one of which it shall be an indispensable duty to write the names of all the citizens, with a statement of the age and origin of each; in the other shall be written the names of those who have lost the right of citizenship, or are suspended from its enjoyment.

Art. 2. Every citizen shall obtain a certificate, signed by the *alcalde ordinario de primer voto*, and attested by the notary of the municipality, of his enrolment in the register aforesaid; without which evidence he shall not vote at the elections hereinafter mentioned.

Art. 3. Every free man, born and resident in the territory of the State, is a citizen, but shall not exercise the rights of citizenship until he shall attain the age of twenty-five, or be emancipated.

Art. 4. Every foreigner, of the same age, who may have established himself in the country, with the intention of fixing there his domicile, and, having been resident there for four years, shall have become possessed of four thousand dollars worth of property, or, not holding property to such amount, shall exercise some trade, or pursue some occupation useful to the State, shall enjoy the right of suffrage in the assemblies of the citizens, provided he knows how to read and write.

Art. 5. After ten years' residence, he shall be eligible to all public employments, except those of the administration of the Government; but, to entitle him to the right of suffrage, and to render him eligible, he must first renounce all other citizenship.

Art. 6. No European Spaniard shall enjoy the right of suffrage, or be eligible to office, while the independence of these provinces is unacknowledged by the Government of Spain.

Art. 7. With the exception of Spaniards of this class, who have declared in favor of liberty, and have rendered distinguished services to the State; these shall enjoy citizenship, proper letters of naturalization being first obtained.

Art. 8. Those born in the country, of African blood, whose ancestors may have been slaves in this continent, shall have the right of suffrage, their fathers being freemen, and shall be eligible to office, provided they be in the fourth degree from said ancestors.

Art. 9. Those Spaniards and other foreigners who solicit citizenship must first prove their good conduct.

Art. 10. They shall both swear to defend, even to the extent of sacrificing property and life, the independence of the United Provinces of South America against that of the King of Spain, his successors, and the metropolis, and every other foreign Power. The Supreme Director shall have the power to appoint one or more commissioners to administer the oath.

Art. 11. Letters of naturalization shall be granted only to those who have resided four years within the territories of the State, unless eminent merit, distinguished services, or the public weal demands that such residence be dispensed with; it shall be left, for the present, to the wisdom of the Supreme Director to determine when it shall be expedient so to dispense with it.

Art. 12. The proofs of adhesion to the sacred cause of national independence, and other requisites expressed, shall be made before the governors or lieutenant governors of the provinces in whose territories the applicant may reside, with formal hearing before the *sindico procurador*, on being notified by the municipality, and the said governor; and, in default of this, the application

## Condition of South America.

shall be rejected. The letters of naturalization shall be published in the Ministerial Gazette.

## CHAPTER 4.—Of the privileges of citizenship.

Art. 1. Every citizen is a component part of the national sovereignty.

Art. 2. In virtue of which, he has the right of suffrage, and is eligible to office in those cases designated by this provisional regulation.

## CHAPTER 5.—Of the several modes in which citizenship may be lost, and its enjoyment suspended.

Art. 1. Citizenship shall be lost by naturalization in a foreign country; by accepting offices, pensions, or titles of nobility from another nation; by the illegal infliction of corporal or infamous punishments; by fraud in a debtor, until, the reproach being wiped away, a new qualification be obtained.

Art. 2. Citizenship shall be suspended when a debtor to the State is under execution; by accusation of a crime, provided it be well founded, and the punishment prescribed be corporal or infamous; by being a hired domestic servant; by not holding property, or pursuing some occupation lucrative and useful to the country; by madness or insanity.

Art. 3. Any magistrate who deprives a citizen of his right of citizenship, except for the causes enumerated in article 2, shall be punished by being deprived of his own.

Art. 4. Those judges who shall neglect to convey to the several municipalities information of the names which ought to be erased from the register, mentioned in article 1, chapter 3, in consequence of legal conviction of crime, shall be deprived of the right of suffrage, and be ineligible at two succeeding elections.

## CHAPTER 6.—Of the duties of every man in the State.

Art. 1. Every man in the State owes, in the first place, complete submission to the law; doing the good which it enjoins, and avoiding the evil which it prohibits.

Art. 2. Obedience, honor, and respect, are due to the magistrates, as ministers of the law and first citizens.

Art. 3. Every man, unless he be a foreigner, shall cheerfully make all the sacrifices required by the country in its necessities and dangers, not even excepting that of life.

Art. 4. It is his duty to contribute to the support and preservation of the rights of the citizen, and to the felicity of the State.

Art. 5. To deserve the delightful and honorable title of man of worth, being a good father of a family, a good son, a good brother, and a good friend.

## CHAPTER 7.—The duties of society.

Art. 1. Society ought to secure to its members the enjoyment of the rights of man.

Art. 2. It ought to alleviate the misfortunes of the citizens, and to use adequate means for their prosperity and instruction.

Art. 3. Any regulation or statute contrary to

the principles established in the preceding articles shall be of no effect.

## SECTION II.—OF THE LEGISLATIVE POWER.

## CHAPTER 1.

Art. 1. The legislative power is resident originally in the nation; its permanent exercise, the mode, and its limits, shall be established by the constitution of the State. In the interim, this provisional regulation shall be in force, which shall be neither amended, interpreted, or have any addition made to it, except by the sovereign Congress; two-thirds of its members concurring in the measure, and circumstances demanding its adoption.

Art. 2. Until the constitution makes proper provision, all the statutes and regulations, as well general as particular, of the ancient Spanish Government, which may not be hostile to the liberty of these provinces, nor in contrariety to this provincial regulation and also such of the regulations, made since the 25th of May, 1818, as are in conformity with it, shall subsist.

Art. 3. The Supreme Director of the State, the judges, and public officers of every denomination, may communicate to Congress, and consult with that body, upon the doubts that may occur in the application of the laws and regulations, general or particular, whenever they consider them in conflict with declared rights and the actual system of the Government; and the resolutions adopted in consequence shall be communicated to the executive power.

## SECTION III.—OF THE EXECUTIVE POWER.

## CHAPTER 1.—Of the mode of choosing the Director of the State, and of his powers.

Art. 1. The supreme executive power, until by it elsewhere placed, is in the nation, and shall be exercised by a Director of the State.

Art. 2. Until a constitution be adopted, the Congress shall name, from among all the citizens of the provinces, him most worthy and best qualified for so high an office.

Art. 3. In case of the absence of the Director in the defence of the State, or of other legal impediment in the exercise of this office, the Congress shall make suitable provision.

Art. 4. Those citizens who are natives of the country, and who have resided in it at least five years immediately preceding the election, can only be elevated to the Supreme Directorship.

Art. 5. The compensation of the Director of the State shall be twelve thousand dollars annually, and he shall receive no other emolument.

Art. 6. The person filling this office shall continue in it until a constitution be adopted, or until such time, anterior to it, as Congress may deem proper.

Art. 7. His title shall be that of *Excellency*; his guard and honors those of a captain-general of the army, respect being had to the ordinance.

Art. 8. Upon his entrance into office, he shall, before the Congress, or such commissioner or commissioners as they may appoint, assisted by



all the corporations of the place, take the following oath:

"I, —, do swear, by God, our Lord, and these Holy Evangelists, that I will discharge faithfully, and conformably to law, the office of Supreme Director of the State, to which I have been appointed; that I will observe the provisional regulation adopted by the sovereign Congress, the 3d of December, 1817; that I will protect the Apostolical Roman Catholic religion, being ever watchful to secure it respect and observance; that I will defend the territory of the provinces of the Union against all hostile aggression, adopting such measures as I may deem suitable to preserve its integrity and independence; and I will retire from this office when the sovereign Congress shall so order. If I do thus, God prosper me! if not, to him and my country will I be accountable."

Art. 9. He shall watch over the execution of the law, and the right administration of justice, urging its functionaries thereto, and to the carrying into effect the regulations of Congress, giving for the last object the necessary orders.

Art. 10. He shall submit to the consideration of the national representatives projects and reforms conducive to public happiness.

Art. 11. He shall be commander-in-chief of all the forces of the State, and shall have under his orders the navy, the army of the line, and the national militia of every description, for the protection of civil liberty, the defence, tranquillity, and good order of all the territory of the Union.

Art. 12. He shall be the organ, and shall represent the United Provinces, for the purpose of treating with foreign Powers.

Art. 13. When he deems a rupture with any foreign Power inevitable, he shall submit to Congress the causes which impel to it.

Art. 14. If, upon a view of these, or for other reasons, Congress should decree war, the Supreme Director shall proceed to its solemn declaration, being authorized to raise land and sea forces, to direct their movements, and to adopt all the measures necessary to the common defence and the annoyance of the enemy, respect being always had to article 4, chapter 1, section 6, of the army and navy.

Art. 15. He shall have the power of commencing, conducting, and signing treaties of peace, alliance, commerce, and other foreign relations, which, however, to be valid, must be approved by the Congress within the time stipulated for their ratification, he transmitting in this stage of the negotiation all the documents relating to it.

Art. 16. In those cases in which secrecy is not essential to the happy result of negotiations, he shall submit to Congress their object and their state, to procure from this body such assistance as may facilitate them.

Art. 17. He shall receive the ambassadors, envoys, and consuls of other States, and shall nominate those whom it may be proper to send to foreign courts.

Art. 18. He shall appoint to all military offices and employments, generalships of the army, and

naval forces, conforming to the existing ordinances of the army and marine, so far as they may be applicable.

Art. 19. He shall have the power of rewarding meritorious officers by promotion, and by bestowing medals of such form and design as he may deem best, without any allowance in money, however, independent of the pay.

Art. 20. He shall have the general superintendence over all the branches of the national property and revenues, over mints, mines, posts, and highways.

Art. 21. He shall appoint for the present to all offices vacant in the cathedrals of the United Provinces, and to all other benefices to which may pertain the right of presentation.

Art. 22. He may suspend public officers for just cause, giving afterwards an account to Congress.

Art. 23. If the suspension be merely for reasons of policy, the sovereign Congress itself shall take it into consideration.

Art. 24. If it be for imputed criminality, the sovereign Congress shall appoint a commission, which shall not be of their body, before which the *agente de la camara* shall accuse the person suspended; and the said commission, having heard the parties, shall declare whether or not he deserves to be removed from office.

Art. 25. He shall have the power of removing officers to other offices; and if, in consequence, they should be greatly prejudiced, they may bring the affair before Congress.

Art. 26. He shall nominate the three Secretaries—of State, of the Treasury, and of War, and their several officers; being responsible for the bad selection of the first.

Art. 27. He shall grant passports for travelling from the provinces of the State by sea and land, and licenses for the loading, unloading, and departure of vessels.

Art. 28. He shall be particularly careful to preserve unimpaired the credit of the State, being attentive to the collection of its revenues, and to the faithful payment of its debts, to the extent its exigencies will admit.

Art. 29. He may, of his own authority, expend freely the said revenues in defence of the State, during the war it is now waging for independence, with previous information in writing from the Secretaries of the Treasury and of War.

Art. 30. He shall confirm or revoke, in conformity to the opinion of his *asesor*, (who shall be the auditor general of war,) sentences passed on individuals by the military tribunals established in the armies, or in the capital, or by the ordinary councils of war in the other towns of the districts.

Art. 31. He shall have the power of suspending the execution of the capital sentences, of pardoning or commuting punishments on the anniversary of the national independence, or on the occurrence of any signal event, which shall augment the glory of the State, hearing first the information communicated by the tribunal before which the convict has been tried.

Art. 32. He shall every year transmit to the national representation an exact statement of all the receipts into the different treasuries of the State, and of the municipalities of the several provinces, in money or in credits, together with the expenditures, debts, and credits, giving timely orders to those who ought to prepare said statement.

Art. 33. The orders of the Supreme Director shall be obeyed exactly in the whole extent of the United Provinces.

Art. 34. He shall grant letters of naturalization for the present, and until a constitution be adopted.

#### CHAPTER II.—Limits of the Executive Power.

Art. 1. The Supreme Director shall not send expeditions by water, or by land, against any of the provinces in Congress united, or others of this continent who are engaged in sustaining their independence, without the consent of Congress previously obtained.

Art. 2. He may, nevertheless, do so in those cases in which it is absolutely necessary to act promptly, giving afterwards a particular account of such proceedings to the Congress.

Art. 3. He shall, in no case, hold command of a particular regiment.

Art. 4. He shall not exercise any jurisdiction, civil or criminal, in virtue of his office, nor upon petition of the parties; he shall not alter the system prescribed by the law for the administration of justice.

Art. 5. He shall in no way, interfere with the causes cognizable by the tribunals of justice, either when pending, or when sentence has been pronounced, or carried into execution.

Art. 6. When the urgency of the case compels him to arrest any citizen, he shall, within the third day after, place him at the disposal of the proper officers of justice to await their judgment; giving, at the same time, a full statement of the motives of the arrest, and all other circumstances connected with it.

Art. 7. With the exception of those cases in which a compliance with what is required in the preceding article would endanger the public security, in which case he shall hold the arrested in custody, with the consent of his assessor, and the fiscal of the chamber of appeals, who shall share with him the responsibility for the time necessary to take the requisite measure for safety, placing him then at the judge's disposal.

Art. 8. He shall neither impose new taxes, contributions, nor loans, nor augment those subsisting, directly or indirectly, without a previous resolution of the Congress.

Art. 9. He shall issue no order, nor make any communication, without the previous subscription of the secretary of the department to which the business belongs; in defect of which subscription, the order of communication shall be void.

Art. 10. He shall not grant to any person in the State monopolies, or exclusive privileges, except to the inventors of arts, or to establish-

ments of public utility, with the approbation of Congress.

Art. 11. The epistolary correspondence of the citizen is a thing sacred, which the Director shall neither violate nor intercept without incurring responsibility.

In cases, nevertheless, of well-founded fear of treason, or subversion of the public order, at the discretion of the Director, the Secretary of State and *Sindico Procurador de Commun*, who, in this case, shall each have a vote, being bound to secrecy and under equal responsibility, the former shall have the power of proceeding, with his said associates, to open and examine correspondence. The same power, under the same responsibility and like obligation to secrecy, in the governors and lieutenant governors of the several provinces, with their secretaries and *sindico procuradores*; in defect of whom the two first capitularies shall act.

Art. 12. Those who upon a scrutiny, as aforesaid, of correspondence shall appear to be guilty of the crime of treason, or subversion of public order, shall be proceeded against, and secured according to the greater or less imminence of the danger.

Art. 13. Except in the cases mentioned in article 30 of the preceding chapter, the Director shall not dispose of the funds of the State for extraordinary expenses, without the previous consent of the three secretaries, the assessor general, and the fiscal of the camara, and without its being made appear before the *escribano de hacienda* that the expenditure proposed is useful and necessary.

Art. 14. He shall not exercise the prerogative given him in article 32 of the preceding chapter, in case of treason, and other excepted cases.

Art. 15. He shall not bestow any office, civil or military, upon any person related to him in the third degree of consanguinity, or in the first of affinity, without the knowledge and approbation of Congress.

Art. 16. With the exception of those who, being already in service, may have been recommended for promotion by their respective chiefs, respect being had to seniority according to their merits.

Art. 17. He shall not confer the grade of brigadier, or of colonel-major, without the knowledge and approbation of Congress.

Art. 18. Excepting the case in which, for some brilliant action in war or extraordinary military service, it may be proper to reward immediately a chief whose grade is next to one of those abovementioned.

#### CHAPTER III.—Of the Secretaries of State.

Art. 1. The three Secretaries of State shall discharge all the duties assigned them in the last ordinance regulating their offices, which shall be in force, except where in contrariety to these articles.

Art. 2. They shall not, in any case, business, or circumstances, deliberate without the previous order and notification of the Director.



Art. 3. They shall have the power of communicating, of themselves, the orders issued by Government in the affairs of men, or importance, being bound to make an entry thereof in the book of entries, as is provided.

Art. 4. They shall not attest decrees or regulations contrary to the provisional regulation, not even at the request or command of the Director, if compelled so to do, they shall make proper protests, and give immediate information of the affair to Congress.

Art. 5. They shall be removable at the will of the Director, equally with their subordinate officers.

Art. 6. When the removal is in consequence of inability, want of competent information, or any other defect compatible with integrity, they shall be indemnified with other employments suitable to their circumstances and merit. They shall incur no stigma by such removal.

Art. 7. When any one of these secretaries is removed for malversation, or upon petition of a party aggrieved, Congress shall take cognizance of the case.

Art. 8. The Supreme Director may, *ex officio*, or upon accusation, proceed summarily against the secretaries, giving an account of the proceeding to Congress.

Art. 9. For the trial of the secretaries, Congress shall appoint a commission, either of their own members, or of others, or it shall be appointed by such other body as they may substitute.

Art. 10. Sentence of acquittal, pronounced by the commission, shall not necessarily be followed by a restoration to office.

Art. 11. The secretaries may, for good cause, challenge the commissioners, and they may appeal from the sentence to three individuals, to be chosen out of nine, whom the Congress, a second time nominating, shall appoint.

Art. 12. The salary of these secretaries shall be three thousand dollars annually to each; the official title "señor."

#### SECTION IV.—OF THE JUDICIAL POWER.

##### CHAPTER 1.

Art. 1. The judicial power is in the body of the nation, until by them elsewhere placed; it shall be exercised for the present, and until a constitution be adopted, by the court established in article 14 of the following chapter; by the courts of appeal (*las camaras de apelaciones*), and by the other judges. For those cases which have no court assigned by the law, Congress shall provide.

Art. 2. The judicial power shall be entirely independent of the executive and its principles; its form and extent shall be subject to the laws by which it is established.

##### CHAPTER 2.—Of the Courts of Justice.

Art. 1. The courts of appeal (*las camaras de apelaciones*) shall have the same territorial jurisdiction as heretofore; shall be composed of five individuals, and one fiscal; when united in a body, shall have the title of excellency, (*excel-*

*lencia*), individually, that of *usted* simply; their salary shall be fifteen hundred dollars each, free from payment of first-fruits, (*media annata*), and all other charges.

Art. 2. The presidency of the courts in the interior, and at certain public assemblages, shall be held in turn by the five members every four months, according to seniority; the president shall take the votes, attend to the despatch of business, preservation of order, exercising all the powers of the ancient *regentes*, so far as they conform to this provisional regulation, and shall have the title of *señor* in official matters.

Art. 3. No one hereafter shall be named, even provisionally, for any of the offices of the courts of appeal, unless he be more than five-and-twenty years of age, and a lawyer who has practised at least six years.

Art. 4. When vacancies happen in these courts, no nominations of persons to fill them shall be made by the Director; in each vacancy, four persons being selected by the same tribunals from among the lawyers of the district, after examination and comparison of talents and services, and proposed to him.

Art. 5. The numerical order in which the aforesaid four persons are proposed shall give no preference; two of these shall be from the place where the court sits, the remaining two from other parts of the district.

Art. 6. These offices shall be holden during good behaviour, but there may be removal from one court to another; and these officers shall be subject to scrutiny in their conduct every five years, or oftener, if justice should require it.

Art. 7. The court shall have two *relatores*, to be chosen after competition had; the salary of each shall be fifteen hundred dollars, and they shall have no other emolument.

Two assistants, one of the law civil, the other of the law criminal, dividing between them the business relating to the public revenues at the discretion of the fiscal. The salary of each shall be twelve hundred dollars, without the ancient perquisite of *vistas* (presents.)

Two bailiffs, (*porteros*), who shall each have a salary of five hundred dollars, and who shall execute alternately for a week the office of *alguacil*.

Six attorneys, (*procuradores*), whose intervention shall extend, when parties choose, to the subaltern judges of original jurisdiction, but not to the consulado; and the *juzgados de alçadas y disputaciones de comercio*.

And two notaries, (*escribanos*), who shall only receive fees for services actually rendered, according to the regulation, (*arancel*), without those called *tiras*,\* which are henceforth forbidden.

Art. 8. They shall take cognizance, not only of all causes and business of which according to prior laws, the now abolished audiences had cognizance, but also of such as the provisional regulation designates.

\* Fees paid when appeals were taken.

Art. 9. Appeals from the decrees of the *tribunal de alçadas de comercio*, because of their nullity or notorious injustice, shall be decided in the aforesaid courts of appeal (*camaras*.)

Art. 10. The trial of appeals (*alçadas*) shall be taken in turn by the members of the court of the district in which the appeal occurs.

Art. 11. Questions that may occur between the ordinary and mercantile jurisdictions shall be decided by the aforesaid president, (*camarista presidente*), conforming to the character by which the consulado is established.

Art. 12. They shall take cognizance, for the present, of first appeals in cases of smuggling, and other branches of the revenue, leaving their trial, in the first instance, to the *intendentes de provincia*; but in cases of capture, or detention of vessels by public or private armed ships, the cognizance shall continue in the tribunals in which it is already vested.

Art. 13. When a second appeal is taken, because of nullity, or notorious injustice, the courts, after hearing had, shall transmit an account of the proceedings, with the documents, to the Director.

Art. 14. Who, with the advice of his assessor general, (*asesor general*), shall nominate immediately a commission of five lawyers, who shall decide the cause, and, having done so, shall be dissolved. While exercising this office, they shall have the title of *excellency*.

Art. 15. There shall be named by the Director of the State, in the capital of every province, upon the recommendation under oath of its court, a lawyer, who shall exercise the function of judge of appeals throughout the said provinces.

Art. 16. His salary shall be eighteen hundred dollars, free from first-fruits and other charges.

#### CHAPTER 3.—Of the Administration of Justice.

Art. 1. Justice shall be administered according to the principles and method which have been heretofore observed, so far as is compatible with the subsequent provisions.

Art. 2. The judges of appeals in the several provinces shall take cognizance of all appeals in civil cases from the ordinary *alcaldes* and other ministers of justice.

Art. 3. Appeals to the *camaras*, to the full extent given by law, shall be allowed to those interested in all cases, except those in which the amount of property involved is one thousand dollars, or less, when two similar sentences shall be conclusive.

Art. 4. They shall have cognizance of criminal causes of every kind, referring to the courts of appeal (*las camaras*) those which, according to law, ought to be referred to them.

Art. 5. Parties in the said causes shall have the privilege of resorting directly to the courts of appeal, (*las camaras*), passing by the provincial judge.

Art. 6. The ordinance of the 20th April, 1812, shall be abolished.

Art. 7. In criminal cases the accused shall have the privilege of choosing a person to assist him,

(*padrino*), who shall be present at his confession, and at the examination of the witnesses, without prejudice to the lawyer established by law, and the practice of the courts.

Art. 8. The assistant mentioned in article seven shall take care that the confession and depositions of the witnesses shall be heard by the notary or judge, clearly and distinctly, in the terms in which they may be expressed, without modification or alteration; assisting the accused, whenever, from fear, want of intellect, or other cause, he is unable, unassisted, to make himself understood.

Art. 9. Criminal causes of all classes, which may be pending without this new mode of defence, shall be prosecuted according to the usual course of law.

Art. 10. The taking of oaths shall be restored without innovation in all cases, except that of the accused's confession of his own criminality.

Art. 11. Sentences to hard labor, to whipping, or a banishment, shall not be executed without previous consultation with the courts of appeal, (*las camaras*), under the penalty of two thousand dollars, and perpetual disqualification to be inflicted upon the judge violating this important article.

Art. 12. Except in those extreme cases in which the public safety is so greatly endangered by popular commotion, or other cause, as not to admit of execution's being deferred; information being always given to the *camaras*.

Art. 13. All sentences in criminal causes, to be valid, must be pronounced according to the express letter of the law. The infraction of this article shall be a crime in the magistrate, punishable by the payment of costs, and all losses incurred in consequence.

Art. 14. By the last article, it is not intended to repeal the laws authorizing the infliction of punishment, at the discretion of the judge, according to the nature and circumstances of the offence; neither is it intended to re-establish any others which, from their cruelty, have been abolished, or softened by the practice of the superior tribunals.

Art. 15. No individual shall be arrested without semi-plenary proof of guilt, at least, which shall be stated in the previous process.

Art. 16. At the end of the third day the accused shall be informed of the cause of his arrest; and if the judge arresting be not authorized to take any further steps in the case, he shall refer it to the officer to whom its cognizance belongs.

Art. 17. No accused person shall be prevented from taking the sacrament after his confession, nor at any time for more than ten days, without just cause, which shall be entered of record; information of the obstacle to his communicating being given to the accused every third day while it continues.

Art. 18. Persons being for safe-keeping, and not for the punishment of the accused, whatever, under the pretext of securing, serves only maliciously to harass, shall be punished by the supe-



rior tribunals, and proper indemnity being given to the aggrieved.

Art. 19. To decree arrest, seizure of goods, and examination of papers, against any inhabitant of the State, his name, or the marks which distinguish his person, and the object of the proceeding, must be mentioned in the decree.

Art. 20. When goods are seized, an inventory shall be carefully made of them in the presence of the accused; a duly-attested copy of it shall be given to him, and they shall be placed for safe-keeping in the custody of the notary employed in the case; or, in defect of him, of the judge decreeing the seizure, and two witnesses.

Art. 21. When, at the time of seizure, it is impracticable to make the aforesaid inventory, the goods shall be secured under two keys, one of which shall be taken by the judge, the other by the accused. When this is not practicable, the chests shall be closed and sealed in his presence; and the doors of the house, as soon as circumstances will admit, shall be opened in his presence, and the inventory made.

Art. 22. When the seizure must be made in the presence of the accused, the judge shall name a respectable and substantial citizen, who shall act for him, and be recompensed in proportion to his labor; but if the absence of the accused arises from sickness, he shall appoint such person as he pleases as his substitute.

Art. 23. The judge or deputy arresting any citizen, (not being taken in the act,) without conforming to article fifteen of this chapter, shall be removed. He who fails to do what is prescribed when goods are seized shall be responsible to the owner, and make good any loss accruing in consequence.

Art. 24. The *tribunal de concordia* being abolished, the judge having original jurisdiction, before taking cognizance of a cause, shall use all possible means of reconciling the parties.

Art. 25. Notaries shall serve personal notices on the parties, who are to subscribe them. In case of resistance, or incapacity to sign, the service shall be supplied by a witness, with a statement of the defect.

Art. 26. If the notary shall not find the party to be notified at his house, he shall seek him there twice more; if then he does not find him there, he shall leave a paper signed by him, which shall contain the decree or other matter he goes to serve; and it being made to appear in the process that due diligence has been used to execute it, the same effects shall result as if the party had been personally notified.

Art. 27. Every omission of the notaries, in a matter so interesting, shall be punished by the judge before whom the cause is pending, according to the enormity and other circumstances of the case.

#### CHAPTER 4.—Of the Governors of Provinces.

Art. 1. The governors and lieutenant governors shall not, in virtue of office, have any jurisdiction, civil or criminal, retaining however all the powers relating to revenue, police, and war.

Art. 2. The code of the intendencies shall be observed by them and all others to whom it relates, save only what relates to the junta superior de hacienda, which shall be abolished, and also what may be contrary to this provisional regulation.

Art. 3. Neither the governors nor lieutenant governors shall use the power which the fifteenth article of the said code gives for confirming the decrees of the Cabildos.

Art. 4. In those cases however of well-founded fear that the public order will be subverted by executing said decrees they may suspend them, being responsible should the Director not previously approve the proceedings.

Art. 5. All that is prohibited in chapter two, section three, to the Supreme Director of the State, shall be also forbidden to the governors and lieutenant governors, so far as it is applicable to their respective offices.

Art. 6. The office of deputy assessor of the intendencies, established by the code mentioned in article two, shall be suppressed. Those who have obtained this office shall be attended to by the courts (*camaras*) in their recommendations for other employments.

Art. 7. The governors while in office shall appoint as secretaries such persons as they please, who must however be lawyers, and who shall assist them in the departments of Government enumerated in article one of this chapter. They shall, when they have thus nominated, inform the Director, that he may grant proper commissions.

Art. 8. The salary of such secretary shall be for the present twelve hundred dollars a year, including the six hundred provided by the code mentioned in article two for the expenses of the secretaryship, free from first-fruits and other charges.

Art. 9. No public officer of the Government mentioned in the chapters of this section shall receive any emoluments, except in case of services rendered in defect of the notary, other than those assigned by law to his office.

#### SECTION V.—THE MODE OF CHOOSING PUBLIC OFFICERS.

##### CHAPTER 1.—Of the manner in which the Governor, Lieutenant Governor, and Subdelegados, shall be chosen.

Art. 1. Governors, lieutenant governors, and subdelegados, shall be appointed by the Director of the State, from the lists of persons eligible, either within or without the particular province, which the several Cabildos, the first month after election, shall form and transmit to him.

Art. 2. These lists, which shall be printed, shall not contain more than eight nor less than four persons for each province.

Art. 3. Of those comprehended in one list, no more than two shall be chosen, unless a third should be included in the lists of another province.

Art. 4. The appointments of subdelegates of districts having a numerous population, without Cabildos, shall be made provisionally, until municipalities are established in them.

Art. 5. The aforesaid officers shall hold their offices for the term of three years; at the expiration of which they shall be subject to scrutiny into their conduct, (*residencias*.)

Art. 6. The salary of governors of provinces, in territory actually free, shall be three thousand dollars, and that of lieutenant governors two thousand.

Art. 7. If any individual, by artifice, intrigue, bribery, or other unlawful means, procures the insertion of his name on the aforesaid list, it shall be erased therefrom by the Director of the State, and he shall be declared incapable of holding any office, there being sufficient evidence of his guilt.

Art. 8. If the capitulares are in any way delinquent in forming the said lists, they shall incur the punishment in the last article mentioned.

#### CHAPTER 2.—Election of Cabildos.

Art. 1. Election to deliberative offices (*empleos consples*) shall be by the people in the cities and towns where Cabildos are established, but the notifications to electors shall not extend to those who reside beyond their precincts.

Art. 2. The citizens, nevertheless, of the vicinity and county, in the exercise of the rights of suffrage, may vote if they so think proper, at said election.

Art. 3. The city or town shall be divided into four sections, in each one of which the citizens comprehended in it shall vote for as many electors as correspond to the number of inhabitants in said district, in the proportion of one elector to every five thousand souls.

Art. 4. In the cities and towns whose population may not be sufficient for the appointment of five electors, five shall however necessarily be chosen, each votable voting in his own section for such persons as he deems proper.

Art. 5. At this election shall preside a capitular, associated with two *alcaldes de vauo* and a notary, or, in defect of him, two inhabitants of the vicinity, in the quality of witnesses; and it shall be holden on the 15th day of November.

Art. 6. The votary being concluded in the several sections, all the votes shall be collected in the sala capitular; and, being publicly counted by those who have presided as aforesaid, associated with the *alcalde de primer voto*, those shall be elected who have a majority in their favor.

Art. 7. The electors shall meet on the 15th of December, in the same sala capitular, to make the election for the ensuing year; and it being made, they shall notify the elected, in order that they may be ready to enter upon their offices as soon as the term of service of the Cabildo they are to succeed expires; information being given to the Governor and to the Director of the State.

Art. 8. The Cabildos, the second day after entering into office, shall elect the *alcaldes de barrio, hermandad, and pedaneros*, who may be necessary to maintain order and administer justice, according to the powers vested in them, in all the curacies and departments of the country comprehended in their respective territories.

Art. 9. They shall form a book for the said election.

15th CON. 1st SESS.—66

tions, which shall be made to fall upon persons of the best repute for talents and integrity, residents in the vicinity, and who know how to read and write; and they shall transmit a list of the persons elected to the governor or lieutenant governor of the province, for his information.

Art. 10. They shall appoint an assessor, (*letrado*), who must be of the corporation, and one of the *alcaldes ordinarios*.

Art. 11. The Cabildo shall establish the salary of the assessor, it being charged upon the funds of the municipality, if it has not been previously established; when such funds are inadequate, information shall be given to the Supreme Director, in order that he may make proper provision.

Art. 12. The governors, and lieutenant governors, and Cabildos already established, under the highest responsibility, shall be required to inform the Congress of the places in which, from their possessing the requisite population, it may be proper to erect new corporations, with the titles of cities or towns.

#### CHAPTER 3.—Mode of appointing Ministerial Officers.

Art. 1. Those public officers who are required to be lawyers, with the exception of the *asesores de Cabildo*, and *secretarios, asesores de intendencias*, shall be nominated by the Director, upon the recommendation, under oath, of the courts of appeal for the respective districts. The order in which persons may be named in the aforesaid recommendation shall give no preference.

Art. 2. Recommendations for appointments to military offices of every grade and description shall be strictly made according to the order and scale which the *ordenanza general del exercito* prescribes.

Art. 3. Appointments to offices relating to revenue, police, dockyards, manufactories, the office of captain of the port, and the like, shall be made by the Director, upon the recommendation of their respective chiefs, according to seniority, when there is an equality as to ability and services.

Art. 4. The list of persons recommended shall be published by the chief recommending in the office or department where the vacancy happens, at least eight days before he transmits it to the Director, that opportunity may be afforded to those aggrieved by it to obtain suitable redress.

Art. 5. When his interposition is proper, the Director shall interpose, and, proceeding summarily, declare the recommendation just, if he so finds it, and go on to nominate, or return it to the chief making it, to be amended.

Art. 6. In commissions, the qualifications and condition of the person commissioned shall always be expressed; without which, he shall not be enrolled in the tribunal of accounts and the offices which belong to it, nor receive the salary to which he would be otherwise entitled.

Art. 7. Appointments to the offices of chiefs of every description shall be made by the Director, respect being had to the right of choice in those in the vicinity where the vacancy happens, (if such right exist,) and timely information being



## Condition of South America.

given, as far as the public interest will admit; the Director shall be responsible for the bad selection of the said chiefs.

Art. 8. All other offices in the State, the appointment to which is not by law otherwise vested, shall be open to the Director, to be filled by him with such citizens as he may deem most suitable.

Art. 9. All ministerial offices shall be holden during good behaviour.

CHAPTER 4.—Of the mode of electing the Deputies from the Provinces to the General Congress.

Art. 1. Prior to the meetings of the primary assemblies, (*asambleas primarias*), to be holden for the election of the deputies of the provinces, there shall be taken an accurate census of all the inhabitants of each district, unless it has been already done, at least eight years from the present time, with a statement of that portion of the population inhabiting cities, towns, and villages.

Art. 2. The primary assemblies in the cities and towns which have municipalities shall be held in four sections, in each of which shall preside one member of the municipality, and two *jueces de barrio*, of the greatest probity, assisted by a notary, if there be a competent number of these officers; if otherwise, in the presence of two witnesses.

Art. 3. In every section, the votables shall vote for so great a number of electors as shall correspond to the total of population, in such manner as that there shall be one elector for every five thousand souls; but if the city or town does not admit of division into four sections, all the citizens shall vote in one place.

Art. 4. In the country the same proportion shall be observed at elections, but the method as to the sections shall be different.

Art. 5. In every primary assembly there shall be sections, and each citizen shall vote therein for an elector.

Art. 6. The principal judge of the curacy, and the curate, with three neighbors of probity to be appointed by the municipality of the district, shall meet at the house of the first, and shall receive the votes as they are given in, depositing them immediately in a small chest under three keys, which shall be distributed between the judge, the curate, and one of the aforesaid neighbors.

Art. 7. The vote may be given either verbally or in writing, open or closed, as may be most agreeable to the voter; in it he shall name such person for the office of elector as he shall think proper.

Art. 8. The voter, after he has given in his vote, and, if verbally, after its insertion in a schedule, shall retire; the judge shall attend particularly to this, to prevent confusion and altercation.

Art. 9. If any one be charged at such election, or afterwards, with either offering or taking a bribe, he shall immediately make verbal defence before the five judges of the section; the accuser and accused being confronted, and the charge

being substantiated, he shall forever after be incapable of voting, and be ineligible to any office; false accusers shall suffer the same punishment as those they accused would have done had the charge been substantiated.

Art. 10. The voting shall positively be concluded at the end of two days. The votes of each section shall remain shut up; and the following day the *alcalde*, with two of the three associated neighbors aforesaid, shall take the chest containing them to the *seccion de numero*, the curate then delivering that key which was intrusted to him.

Art. 11. The district of united curacies, which shall include in its territory five thousand souls, shall be the *seccion de numero*.

Art. 12. If there should be no town in the district of the *seccion de numero*, the municipality of some neighboring territory shall designate the curacy, which shall be the head of the section, preferring always the most populous and deciding questions which may arise in it.

Art. 13. To the head of the *seccion de numero* shall be brought the chests of the *secciones de proporcion*, and they shall be received by the judge, the curate, and the three associated neighbors aforesaid, who, opening them, shall count the votes, declaring and certifying the majority. All this shall be done publicly.

Art. 14. Those chosen electors shall be informed of their election, and shall immediately repair to the place where the electoral assembly is to be held.

CHAPTER 5.—Of the Electoral Assemblies.

Art. 1. The electoral assembly shall meet in the town-house of the city or town which has a municipality, where they shall assemble on the day appointed, according to distance and other circumstances, without delay.

Art. 2. The governor, lieutenant governor, or subdelegado, who may be at the head of the municipality, shall preside at the first act of the electors, which shall be to nominate a president from among themselves to preserve order. He having the majority of votes shall be president; and, upon his election, the president *pro tem.* shall give place to him, and retire immediately.

Art. 3. The proceedings of the electoral assembly shall be put in writing by the notary (*escribano*) of the municipality; and this assembly shall only have the power of doing, previously to the business for which they are chosen, such things as are necessary to establish the regularity and validity of its election, without occupying for such purpose more time than is necessary, or four and twenty hours.

Art. 4. It shall proceed immediately to the election of deputies for the Congress, and the election shall result, for the present, from a simple plurality of votes.

Art. 5. If the case should be such that, by the scattering of votes, and adherence to them after the third voting, no simple majority results, then those between whom there is an equality of votes shall draw lots, and this shall decide.

## Condition of South America.

Art. 6. No elector shall vote for himself. Within three days the election shall positively be concluded, and the result published. The president shall immediately inform each person selected of his election, transmitting a proper certificate, authenticated by the notary, of the fact.

Art. 7. As the number of deputies to form the General Congress must depend upon the census spoken of in article 1, chapter 4, there shall be such regulation that for every fifteen thousand souls there shall be one representative named.

Art. 8. Should there be any fractions, the following rules shall be observed: 1. If, in the *seccion de numero*, there should be any fraction not exceeding two thousand five hundred souls, only one elector shall be voted for; but, if it exceed that number, two. 2. If, in the district of fifteen thousand souls which each deputy shall represent, there should be any fraction exceeding seven thousand five hundred souls, there shall be named for them in the electoral assembly one deputy; but, if the fraction should be less, they shall not have such additional representative, but be considered as represented by the deputies of the provinces.

Art. 9. Each province may lessen the number of its representatives, conferring the necessary powers and giving the proper instructions to those they may deem sufficient, if the want of sufficient funds, distance, or other just cause, prevent their naming the number adequate to their population, with the express condition that in such powers the cause of the diminution be stated.

Art. 10. No one while in the office of representative shall hold any other public office, employment, or commission. If he accept any other, he shall lose the first; but if his constituents, after his so losing it, re-elect him, he may, in this case, hold the two offices, exercising the last by deputy.

SECTION VI.—OF THE ARMY AND NAVY.

CHAPTER 1.—Of the Marine and Regular Troops.

Art. 1. In all that relates to the naval forces, the last ordinance of marine (*ordenanza de marina*) shall be observed, so far as it is conformable to the actual circumstances of the State.

Art. 2. The Director shall have the whole military authority, and be commander-in-chief of the navy, the army, and the militia; he shall appoint a commandant of each, the *estado mayor* general serving at present in lieu of them.

Art. 3. The provision in article 3, of the limits of the executive power, shall extend equally to the chief of the *estado mayor* general and the generals of the army.

Art. 4. New regiments shall not be created while those already created are not filled up.

Art. 5. The supernumerary officers of all descriptions, who, at different epochs of the Government, may have been dismissed from active service, either with reason or without, (which shall be ascertained,) upon declaration of their readiness to serve, shall be classed for appointments to vacancies in their regiments, without prejudicing those actually serving in them, or to

other vacancies suitable to the circumstances of the individual.

Art. 6. If the supernumeraries in the preceding articles mentioned should have received whole pay, or half, or one-third, the Directors of the State shall require from the officers of the treasury a catalogue of them, and the orders that may have been received for their payment, correcting them according to what results from the provision in said preceding article.

Art. 7. Until there be a complete regulation on this head, there shall be no appointment to offices of profit except those of *escala natural* in the regiment, upon the recommendation of their respective chiefs, according to the ordinance, and through the medium of the *estado mayor* general, to whom the scale of classification, mentioned in article 5, shall be sent, that it may appear who are in service, and who are not.

Art. 8. Until the establishment of the uniform systems mentioned in article 17 of this chapter, the tribunal militar, established under the regulation under which it was governed, shall continue in lieu of the ancient commission, it being the duty of the defender of the accused to be present at confession.

Art. 9. That article of a prior regulation, which imposes upon deserters the punishment of death for the first offence, and which declares that the plea of pay being withheld shall not avail, being abolished in future, the *ordenanza militar* shall govern, and the punishment it provides for cases of desertion be alone imposed.

Throughout the State shall be observed the ordinance of 30th January, 1814, as to supplying vacancies caused by desertion. [Note.—The following article was in the original erroneously marked the 10th.]

Art. 11. Governors, lieutenant governors, and subdelegados shall be ever watchful for the apprehension of deserters; if they fail in this particular, it shall be one of the first duties, when *residencia*\* takes place, to inflict upon them exemplary punishment.

Art. 12. If neglect in this particular be proved against them before their offices expire, it shall be the indispensable duty of the Director to remove them.

Art. 13. The *alcaldes de hermandad* and *pedancas de los curatos*, for like neglect, shall incur for the first offence a fine of one hundred dollars, to be applied to defray the expenses of recruiting; and, upon the repetition thereof, be removed.

Art. 14. The soldier who shall inform against a deserter, shall, upon his apprehension, be rewarded with ten dollars, and the abatement of two years of his term of service.

Art. 15. The subaltern officers shall read frequently to the soldiers of their respective com-

\* *Residencia*.—According to the Spanish law, officers, at the expiration of term of service, are bound to reside for a certain period in the places where they exercised their offices, to give an opportunity to proceed against their malversations.



panies the ordinances of the penal laws, from article 26 to article 43, inclusive, of tit. 10, trat. 8.

Art. 16. This ordinance, being in a great measure altered, shall be, without delay, reduced to order by another, which shall be formed by a military commission of three individuals, to be named by the Director, associated with the asesor general of war, and, being framed, shall be transmitted to Congress for its sanction.

Art. 17. The Director shall also name another commission of five individuals, military men of the most extensive information, who shall form a uniform military system, embracing the regular forces of the State and National militia.

Art. 18. He shall also appoint another commission, composed of as many individuals as he thinks proper, to form a uniform system for the regulation of the marine, in all branches, embracing arrangements as to ports, the establishment of nautical and mathematical schools, and transmitting it, when formed, to Congress.

Art. 19. He shall establish in the capital a permanent academy, appointing its president for the instruction of cadets of the regiment of infantry and cavalry, upon a plan to be furnished by the estado mayor general, and approved by the Director.

#### CHAPTER 2.—Of the national militia.

Art. 1. Every individual of the State being in America, every foreigner enjoying the right of suffrage, every European Spaniard with letters of naturalization, and all free persons of African or mixed blood, inhabitants of the cities, towns, villages, and country, from the age of fifteen to sixty, unless incapacitated by infirmity, are soldiers of the State, bound to support the independence which has been declared.

Art. 2. From the aggregate of all these inhabitants shall be formed, with all possible speed, in the respective provinces, by the respective governors, lieutenant governors, and sub-delegados, a body of national militia of infantry or cavalry, according to the quota of the province, and upon that footing as to force which the Director shall determine by regiments, battalions, squadrons, or independent companies, subject to the regulation of the 14th January, 1801, made for the provincial militia, the estado mayor general giving information of variations and additions when deemed necessary.

Art. 3. The governor, lieutenant governor, and sub-delegado of each province shall be commander-in-chief of its militia, while in office, and shall make all recommendations for promotion to the Director, through the medium of the estado mayor general, in the Department of Buenos Ayres. The governor shall, in like manner, command the militia, if he be a military man, if not, the comandante general de las armas shall command.

Art. 4. In the national militia shall be included all persons who have obtained commissions in it since the date of the last cited regulations, being Americans or European Spaniards, with letters of naturalization.

Art. 5. It shall be one of the first duties of the

governors, lieutenant governors, or sub-delegados, to preserve the national militia in a state of good discipline.

Art. 6. The principal object of this militia shall be to defend the State, and to aid and reinforce the army of the line when it shall be necessary.

Art. 7. When it may be necessary to detach a portion of the militia to reinforce the army of the line, the abovementioned chiefs shall do so with persons having no just ground to claim exemptions from the service, supplying immediately the place of the force detached, in order to preserve entire the national force of the province.

#### CHAPTER 3.—Of that portion of the militia termed Civicos.

Art. 1. Of the inhabitants of the several cities, towns, and villages, shall be formed the corps of civicos, by regiments, battalions, or independent companies.

Art. 2. This militia shall be solely of such as have property worth one thousand dollars at least, of the owners of open shops, and of all who exercise a trade or pursue some public occupation.

Art. 3. In the department of Buenos Ayres, the civicos shall be subject to the Cabildo in subordination to the Supreme Director.

Art. 4. Of the residue of the inhabitants, the Cabildos shall have the command of as many as they can organize, without prejudice to what belongs to the governors, lieutenant governors, and sub-delegados, in virtue of their offices.

Art. 5. The appointment of officers (to captains inclusive) shall be made by the Director, upon the recommendations of the chiefs of regiments, which the Cabildos shall transmit through the medium of the estado mayor general. The Cabildos shall, by themselves, recommend for officers of higher grades.

Art. 6. Those persons only of the regular army incorporated as chiefs, as sergeants or corporals, for the purpose of instruction, shall be out of the ordinary civil jurisdiction, in order better to prevent unjust punishment.

Art. 7. The principal duties of the civicos shall be to maintain good order in the towns, to assist in the administration of justice, and defend the country.

Art. 8. No soldier of the army, of the line or militia, national or civic, to whom arms have been intrusted, shall use them factiously against any inhabitant of the State.

Art. 9. The persons thus misusing them shall be tried and punished within the third day by the judge to whom the cognizance of the offence belongs, for the satisfaction of public justice, deeply interested in personal security.

#### SECTION VII.—PERSONAL SECURITY AND THE LIBERTY OF THE PRESS.

##### CHAPTER I.

Art. 1. For those actions offending neither against public order, nor interfering with private rights, men are solely accountable to God.

Art. 2. No inhabitant of the State shall be obliged to do that which the law does not clearly

and explicitly command, nor restrained from that which it does not, in like manner, prohibit.

Art. 3. Crime is solely the infraction of laws in full force, since, without this requisite, they are not obligatory.

Art. 4. No inhabitant of the State shall be punished, without legal sentence and regular process.

Art. 5. All orders that shall be issued by magistrates in the regular exercise of authority, to promote public order, or to regulate the business pertaining to their office, shall be in writing.

Art. 6. Excepting orders relating to the army in matters belonging to the service, as to which the ordinance of the provinces of the union shall be observed.

Art. 7. Every citizen shall keep in his house powder and arms, for the defence of his person and property, in those urgent cases in which he cannot avail himself of the protection of the magistrate.

Art. 8. The Government shall not take possession of such arms unless the public defence should require them, paying their just value.

Art. 9. The house of a citizen is a sanctuary, which it shall be a crime to violate; it shall not be forcibly entered, except in cases of resistance to legal process.

Art. 10. The right of forcible entry, given in article 9, shall be exercised with moderation, personally, by the judge issuing the process; and, in case of his being utterly unable to act in person, the order, delegating the power, shall be in writing, with all necessary specifications, a copy being given to the individual when apprehended, and to the owner of the house, should he so require.

Art. 11. No citizen shall resist the arrest of his person, or the seizure of his goods, when decreed by a competent magistrate; but he shall have the right of claiming the full benefit of the provisions in favor of personal security, contained in chap. 3, section 4, of this provisional regulation.

Art. 12. Every man shall have the liberty of remaining in the territory of the State, or of departing therefrom, as he thinks proper, so long as the public security is not thereby endangered, or its interests prejudiced.

Art. 13. The preceding provisions in favor of personal liberty, shall never be suspended.

Art. 14. Except in those extreme cases in which the public security may require such suspensions, the public authorities, driven by so lamentable a necessity to this measure, shall give an account of it to Congress, who shall examine into its cause and the time of its duration.

#### CHAPTER 2.—Liberty of the press.

Art. 1. The decree concerning the liberty of the press, which was issued October 26, 1811, and which is incorporated in this chapter, shall be observed.

Art. 2. To facilitate the use of this liberty, it is declared that any individual, be he native or foreigner, may freely erect printing presses in any city or town of the State, with this sole condition, that he shall give previous information to

the provincial governor, lieutenant governor, and Cabildo, and that everything printed shall bear the name of the printer, and of the place where the press is erected.

Art. 3. The intendentes de policia shall be particularly careful that in periodical works and public papers the greatest possible decorum shall be preserved, without failure of the respect due to magistrates, to the public, and to individuals.

Art. 4. In cases of violations of article 3, it shall be the duty of the said intendentes to give notice to the tribunal of the liberty of the press, which, conformably to the laws establishing and regulating it, shall scrupulously examine it.

#### Decree of the liberty of the press of October 20, 1811.

Art. 1. Every man may publish his opinions freely, and without previous license, (*previa censura*;) all laws and regulations contrary to this liberty shall be of no effect.

Art. 2. The abuse of this liberty is a crime when it invades private rights; its prosecution belongs to the persons interested, and to all the citizens when it endangers the Roman Catholic religion, the public tranquillity, or the constitution of the State. The magistrates having cognizance shall impose the punishment according to law.

Art. 3. To guard against abuses in the classification and graduation of crimes of this kind, there shall be created a body of nine individuals, with the title of protectors of the liberty of the press. In order to its formation, the Cabildo shall present a list of fifty respectable persons not employed in the administration of the Government; from these selections shall be made according to plurality of votes. The electors shall be the prelado eclesiastico, alcalde de primer voto, sindaco procurador, fiscal de la camera, and two respectable persons of the vicinity, nominated by the Cabildo. The escribano de pueblo shall certify the election and respective commissions, which shall be delivered to the elected without loss of time.

Art. 4. The power of these protectors shall be limited to determine whether or not there be criminal matter in such publications as may be submitted to them. The punishment of the crime, after the evidence is declared, shall belong to the magistrates. The protectors shall hold their offices for one year, at the expiration of which there shall be a new election.

Art. 5. The third of the votes in favor of the accused shall be a sentence of acquittal.

Art. 6. Any party interested appealing, the protectors shall choose, by lot, nine individuals of the forty-one remaining on the list out of which they themselves were selected; these shall review the matter, and their sentence, if in favor of the accused, shall be irrevocable. In cases of challenge for just cause, the places of the challenged shall be supplied in the same manner.

Art. 7. The same method shall be followed in the provincial capitals, substituting, for the prior



## Condition of South America.

de consulado, the diputado de comercio, and, for the fiscal de la camera, the promotor fiscal.

Art. 8. Works which treat of religion shall not be published without scrutiny by the diocesan. In case of accusation, the work shall be re-examined by the same ecclesiastic, assisted by four of the protectors, and the majority of votes shall constitute an irrevocable sentence.

Art. 9. Authors are responsible for their works, or the printers, not making it appear to whom they belong.

Art. 10. This decree shall be observed till Congress otherwise determine.

## FINAL CHAPTER.—General provisions.

1. The reglamento de policia, (regulation of police,) issued the 22d day of December, 1812, for the capital and province of Buenos Ayres, shall subsist for the present under the following limitations:

The powers of the intendente de policia shall remain vested as they are, in the governor of the province; the three commissaries, with the powers and duties designated in the said regulation, shall continue for the present under the inspection of the governor, and among them seniority as to the possession of office shall alone give preference; except their salaries, they shall receive no emolument for services performed in quality of commissaries. The governor shall undertake no work requiring expenditure of public money, without previous consent of the Cabildo and the approbation of the Director. Every payment shall be made according to the mode prescribed in the said regulation. No payment shall be made at the treasury without the approbation of the Supreme Director, and the treasurer shall replace money paid by him contrary to this article. The 3d, 4th, and 5th articles, which establish an assessor, portero, and escribano de ramo, shall be repealed, the last office being exercised by a like officer of the General Government. The 8th, 10th, and 14th, shall only have effect so far as they are compatible with personal security, liberty of the press, and other rights of man, which have been declared. The 11st of the circular instruction to the alcaldes de barrio shall be observed, so far as it is compatible with the chapter upon the liberty of the press. All the change that may have been made contrary to the said reglamento de policia, and to what the estatuto provisional (provisional statute) of May 5, 1815, in article 1, final chapter of general provisions, provides, shall be amended, the office of four commissaries last established being suppressed.

2. The Cabildos of the other cities and towns of the State shall appoint a commission of four persons of the vicinity, of the best information and the greatest zeal for the public good, who, keeping in mind the said reglamentos of the capital, shall form one suitable to the circumstances of the place, transmitting it to Congress for their approbation.

3. Securities for the due discharge of duty shall be required from all officers, according to the nature of each office; the laws formerly re-

quiring them being hereby restored. Those exercising offices for the due performance of which security ought to be given, are peremptorily required to give it within six months from the date of this provisional regulation, the Director and governors attending to this, with the privilege of taking four securities, each security binding himself for one-fourth of the whole amount.

4. To the officers of the treasury, (*ministros de hacienda*), and the officers of the custom-house, (*administradores de aduana*), shall be restored the coercive jurisdiction for the recovery and collection of debts, certain and liquidated, in favor of the State.

5. The laws and decrees made by the last convention, (*asamblea*), as to religious profession, shall be of no effect.

6. Contributions imposed in one province for its special benefit shall not extend to the other.

7. All the provinces in the union, cities, and towns, having Cabildos, may, without the necessity of obtaining permission, giving, however, previous information to the Director, make all the establishments they may deem useful and promotive of their industry, prosperity, arts, and sciences, without prejudice to the friends of the State.

8. All those in possession of letters of naturalization, which have not been issued by the former General Constituent Assembly, by the present Congress, or the Supreme Director for the time being, in virtue of the decree of the 29th August, shall present them to the present one for ratification, should they deserve it, without which they shall be of no effect.

9. All the offices of the Government, including the Supreme Director of the State and his Secretaries, shall, upon termination of office, be liable to inquiry into their conduct; the Director and his Secretaries before Congress, the others before judges to be appointed by the Congress; the last shall be liable to such inquiry for four months after termination of office.

10. The present provincial regulation shall be observed throughout all the territory of the State from the time of publication, which the Director shall cause to be made in a convenient form; those articles of the provisional statute (*estatuto provisoria*) passed by the Junta de Observacion, not comprehended herein, being repealed, and all anterior laws, regulations, and decrees in opposition to it, being in like manner repealed.

Sanctioned by the General Congress, sealed with the provisional seal, signed by the president, and countersigned by his Secretary, in Buenos Ayres, the third day of December, A. D., one thousand eight hundred and seventeen.

PEDRO LEON GALLO.  
J. E. ELEAS, Secretary.

## H.

The Director (*ad interim*) of the State, in Buenos Ayres, to the citizens of all the provinces.

BUENOS AYRES, Aug. 8, 1815.

I could wish, by means of a detailed manifesto,

## Condition of South America.

to explain to the people every step which has been taken for the purpose of establishing concord with the Chief of the Orientals, and the difficulties which have constantly opposed themselves to so desirable an object; by this means, also, holding out a warning to all minds of the evils which must flow from these unfortunate differences. But, for the present, this is not possible, nor so necessary as the immediate communication to all of the results of our last negotiations.

No mystery has been attempted in this business; even the minutest particulars have been made known to all such as were desirous of being informed; but, at a distance, everything is liable to misrepresentation. It is, therefore, my duty to provide against it. For this purpose, I confine myself, for the present, to the publication of the documents necessary for the information that may be desired. These will save me the trouble of a statement that may possibly deserve the imputation of being made with passion; while the citizens of all the provinces will thus be left at liberty to form their opinions according to the dictates of their reason, without being led astray by partiality.

It is notorious that I sent deputies to the Chief of the Orientals, in order that we might fix upon some plan of establishing such an understanding and harmony as would be sufficient to avoid reciprocal aggressions until the General Congress should be assembled, and arrange our differences on permanent principles.

The propositions reciprocally made did not satisfy either. The decision was reserved for a future Congress.

Such was the state of things when there appeared in this city four deputies, sent from an assembly of the Orientals, and, united with these, Cordova, Santa Fe, and Corrientes, with official instructions from General Artigas, which authorized them to enter into stipulations. The documents subjoined have originated from this procedure.

Finally, after refusing to sign the statement No. 2, of the document No. 3, they returned, giving assurances, by word, that they went in peace, and they were answered, "Peace be with you." People of the provinces! it is for you to judge; the case is yours, and your safety is the supreme law of the State.

IGNACIO ALVAREZ.

GREGORIO TAGLE.

Plan for the establishment of harmony, presented by the deputation of the Chief of the Orientals to the Government of Buenos Ayres.

BUENOS AYRES, July 3, 1815.

There shall be a union, offensive and defensive, between the provinces under the direction of the Chief of the Orientals and the Government of Buenos Ayres.

The troops of Buenos Ayres which passed over to the eastern shore of the Uruguay shall be considered as purely auxiliary, until the occupation

of Montevideo. There shall be restored of what was carried away from that place three thousand stand of arms, one thousand swords, twelve pieces of light artillery, of twos, fours, and sixes. There shall be mounted on the fortifications the number of pieces of artillery that may be requisite, the principal portion to be brass, with the necessary material for all and each of said cannon; nine gunboats, with all requisite supplies; powder, fixed ammunition for cannon of every caliber; also for small arms, and fifty-five thousand flints; one-half of the mortars taken away; the bombs and grenades, with everything for using them, together with the printing press.

To Santa Fe there shall be delivered five hundred stand of arms.

To Cordova a like number.

The remainder of the articles withdrawn from the Oriental province of the Uruguay shall remain in Buenos Ayres as a deposit, for the purpose of aiding the other provinces, to be used at the instance of the Chief of the Orientals, and for the aid of the province of Buenos Ayres itself, according to its future exigencies.

The deputation has the honor to state to his Excellency the Director of Buenos Ayres that they will cheerfully enter into any discussions to which their propositions may give rise with the magistracy of this capital, according to the 25th article of the first chapter, section three, of the provisional statute.

MIGUEL BARRIERO,  
JOSE ANTONIO CABRERA,  
JOSE GARCIA DE CASSIO.

Official letter of His Excellency the Director of the State to the Chief of the Orientals.

BUENOS AYRES, Aug. 1, 1815.

The deputation sent by your Excellency to this Government presented your esteemed communication of the 29th ultimo, which, at the same time that it served as the credentials of the mission, manifested the desire of conciliation which animates your Excellency. I was, indeed, induced to expect from this that the mission had been directed to propose more reasonable grounds of accommodation than those offered by yourself to my deputies, Colonel Pico and D. Riverola. Judging by my own heart, I considered the negotiation already ended. I requested the deputies to give me their proposals in writing; and the following day they reproduced, in substance, the same as before offered, with the addition of several supernumerary articles. I immediately took steps to assemble the authorities, according to the provisions in such cases of the twenty-fifth article, chapter first, section third, of the provisional statute, by whom the subject has been maturely considered, and the plan proposed anew on your part duly weighed. They have resolved to give for answer that the claims of your Excellency ought to be left to the supreme judgment of the General Congress of all the provinces; that if, in reality, the sovereignty of this august body is to be recognised, it is proper to wait for its deter-



mination, which will irrevocably terminate our differences. We concurred in our private opinions how injurious to the common cause these discords must be, particularly in this important portion of the country. The sending to your Excellency the beforementioned deputies was an act dictated by the necessity of coming to an amicable understanding, so that the expedition expected from the Peninsula should find us acting in concert, as I have expressly stated in my communication of the 11th of May. In such circumstances, it was plainly for the common interest that we should at least agree not to make war upon each other, even if we should be unable to agree upon anything else. It never could be just to expose the fate of all the provinces, by disputes between the Orientals and Buenos Ayres, for advantages reciprocally claimed over each other. But, since the danger which threatened us is dissipated, let us await the decision of the Supreme Congress on our cause. If we are liberal in our principles, and are not disposed to wrong the other provinces, let us give them a share in the adjudication of rights, when it so properly belongs to them.

Buenos Ayres, by the sacrifices she has made, has been reduced to her present state of honorable poverty; her efforts were made as a member of the union and as the capital of all: as a member, she has brought all her wealth into the common fund; as the capital, she has received contributions from the other members without discrimination. But for none has there been so much expended as for Montevideo. Your Excellency, in her name, demands those articles which have been taken away, and generously bestows a thousand stand of arms upon Cordova and Santa Fe, the remainder to remain in deposit in this place, to be used at your instance (see intervention) to aid the other provinces. The difficulty consists in this, that if all the other provinces should follow the examples of the Orientals, and demand what they have contributed, Buenos Ayres will also come in for a share, and it will be her duty to make an equal distribution of the property which has been saved in the general bankruptcy to each creditor according to the amount of his credit. But Buenos Ayres cannot be both party and judge; it is therefore evident that the next Congress is the only tribunal for the decision of this important cause. Until then, aspiring still to the praise of acting with the same moderation you have shown in the midst of the severe trials experienced in the cause of liberty, as you have observed in your communication) your conduct will be such as to preclude the occurrence of unhappy contentions, while, on my part, I shall do nothing but to endeavor to prevent it. To this end I have ordered a force to Santa Fe, with instructions to publish the proclamations herewith enclosed. The deputies of your Excellency have experienced some detention, because, having informed them of the measure beforementioned, I was apprehensive that they would hasten to your Excellency in order to oppose the carrying it into effect with

the necessary tranquillity. They have not, with all persons, observed the greatest prudence in their conversation, forgetful of the character in which they appeared, and of the frankness with which they were received in this city.

I ought not to omit, on this occasion, to satisfy your Excellency with respect to the surprise which you tell me in your letter, already noticed, of the 10th July, was felt by you at my stating in mine, of the 1st of the same month, that your Excellency was unwilling to enter into details on the subject of the establishment of mutual harmony. This complaint (which I confess surprised me much) was made by your Excellency in your communication of the 18th of June, brought by my deputation. Your Excellency will please to examine the original, and I hope your Excellency will not persist in asserting officially what can thus be refuted. Let us not be intolerant because we happen to differ in matters of opinion. Athens and Lacedemon, under different forms of government, attained equal glory and felicity; we have differed as to what best suits us, we have not yet fixed on the kind of government that is to be adopted, and for this reason our differences appear to be interminable; so that, in whatsoever mode the question is received, there is the greater reason for referring it to the decision of the General Congress; we shall otherwise be at variance, without the possibility of coming to a compromise. May the day of its accomplishment, with the establishment of our ardently desired liberty, soon arrive!

IGNATIO ALVAREZ.

GREGORIO TAGLE, *Secretary.*

*Official letter of Don Antonio Saens to the Director of the State, accompanied by the notes designated 1 and 2.*

Buenos Ayres, Aug. 4, 1815.

MOST EXCELLENT SIR: I have entered into conference with the deputies of the Chief of the Orientals, in pursuance of your Excellency's instructions. I considered it expedient not to defer it until they should produce sufficient credentials from the Congress of Paysander, of which they declare themselves the deputies. It appeared to me that the informality of their powers ought not to stand in the way of the establishment of an honorable peace, when the stipulations might afterwards be legalized by confirmation; and as it is not possible for them to obtain regular credentials from the Congress, which no longer exists, the adjustment may still be considered as made with the Chief of the Orientals. After protracted debates, it was finally agreed that peace should be established, and that the Orientals should renounce their pretensions. Without a moment's loss of time, I proposed the establishment of its basis according to the principles agreed upon, and to sanction it by our signatures. But I soon found that in their conceptions it was not so easy to sign as to promise. They then delivered me the signed paper No. 1. I saw that it was not in my power to affirm it on account

of the doubts which it presented, and the interpretations of which it was susceptible, the simple proposition which it contains being conceived in vague and indefinite terms, and the authority of the Supreme Director narrowed in an offensive manner, placing it even below that of the chief of the Orientals, and being changed into the simple Government of Buenos Ayres; and finally, because it is not couched in the terms used amongst civilized nations. For these reasons, I presented them the note No. 2, and requested their sanction. They replied that the articles were conformable to what had been argued upon in our conferences, but they were all consequences of the single article establishing peace, &c.; they said they would religiously pledge their faith and honor for the true performance of them, but that they were unwilling to sign the paper. This is the only reason they have thought proper to give for a conduct so strange. They dropped something, it is true, about its not being expedient to sign at the present moment, although just to do so, and that they would give an explanation of the reasons more fully on their return home. Such have been the subterfuges with which they evaded signing the accommodation which I proposed them, and such also is the result of our protracted conferences. The most earnest and energetic representations have been unavailing to induce them to desist from a conduct so injurious. The conferences at length closed without effecting anything. I have the honor to be, &c.

ANTONIO SAENS.

No. 1.

*To the Supreme Director.*

The citizens Don José Garcia de Cassio, Don José Antonio de Cabrera, Don Pascal Andrino, and Don Miguel Barriero, deputies from the Congress of the Orientals, to treat of peace with the Government of Buenos Ayres, have terminated a conference with citizen Don Antonio Saens, authorized by his Excellency for that purpose, with this only proposition:

There shall be peace between the territories under the Government of the Chief of the Orientals, and his protection, and the Government of Buenos Ayres.

MIGUEL BARRIERO,  
DON JOSE GARCIA DE CASSIO,  
DON PASCAL ANDRINO,  
JOSE ANTONIO CABRERA.

Signed at BUENOS AYRES, August 3, 1815.

No. 2.

Buenos Ayres, August 3, 1815.

The Commissioner, on behalf of his Excellency the Supreme Director of the State, appointed to treat of peace with the four deputies who have come for this purpose from Paysander, sent by General Artigas, requires that the sole proposition of peace, which they have subscribed,

should be reduced to a formal and solemn treaty, as expressed in the following articles:

First. There shall be perpetual peace, friendship, and alliance between the Chief of the Orientals and the Government of Buenos Ayres.

Second. The same shall be established between the citizens who reside under the Government and protection of each.

Third. Both territories and governments shall be independent of each other.

Fourth. The Parana shall be the line of demarcation between them.

Fifth. Each of the contracting parties shall renounce all claims to indemnity for what may have been attributed to the common cause.

Sixth. They likewise oblige themselves to send deputies to the Congress of Tucuman.

Seventh. The vessels which have left Buenos Ayres for Montevideo, or other parts under the Chief of the Orientals, shall be permitted to return.

Eighth. A veil shall be cast over the past, and no one be persecuted for his conduct heretofore.

Ninth. The four deputies of the Congress of Paysander shall produce sufficient powers to ratify the treaty.

Tenth. The present treaty shall be ratified by the competent authorities in three days, and by the Congress assembled at Paysander within twelve.

ANTONIO SAENS.

*An official letter from His Excellency the Director of the State to the Chief of the Orientals.*

Buenos Ayres, August 7, 1815.

After having delivered to the deputies from your Excellency the communication dated the first of the present month, advising you of the last negotiations, they proposed that some mode should be adopted to render negotiation less difficult. I immediately took steps for this purpose, in order that the deputies might depart in peace, and that the same should be with this Government. I repeated that I should be unchangeable in my principles of moderation, and that I would preserve all possible harmony as far as was compatible with the honor and interests of the provinces over which I have the honor to preside. I expect the like sentiments on the part of your Excellency, and in this confidence I pray you to permit the return of the vessels which have left this river in good faith, to the ports of the eastern shore, and which suffer great prejudice in consequence of the detention. In this case, justice will acquire the credit of generosity, and variance of opinion on the part of the Governments will be less calamitous to the unfortunate citizens who have no part in their discords.

IGNACIO ALVAREZ.

GREGORIO TAGLE.

To Gen. JOSE ARTIGAS,  
*Chief of the Orientals.*



## I.

*General Artigas to the Supreme Director, Pueyrredon.*

PURIFICATION, November 13, 1817.

EXCELLENT SIR: How long does your Excellency mean to sport with my forbearance? Eight years of revolution, of privations, of dangers, of reverses, and misfortunes, ought to have sufficed to establish the rectitude of my intentions, and the character of my Government; the dignity of the Oriental people has more than once show forth; they ought to know the delicacy I have manifested in reference to the inalienability of their sacred rights; and your Excellency has the boldness to insult them. Your Excellency is doing everything in your power to provoke my moderation; the thought of this alone should cause your Excellency to tremble. However specious may be the motives alleged in support of such conduct, they are incompatible with the general interest assailed by the Portuguese aggression. Your Excellency is guilty of a criminal conduct in repeating those slanderous insults under cover of which the enemy believe the success of their invasion to be certain.

It is in vain for your Excellency to attempt a display of the generosity of your sentiments; the course of events alone is sufficient to refute the attempt, and these prove that your Excellency is more zealously occupied in embroiling the nation, than inspiring freemen with the energy which should animate them against tyrants; otherwise, how could your Excellency have ventured to publish the pretended recognition of the Government of Buenos Ayres by the Orientals? A crime of so revolting a nature could only be perpetrated by the most impure hands; and your Excellency has had the audacity to commit it. But it was in conformity with the mysterious plans of your Excellency to destroy the firmest rampart opposed to their execution. A people enthusiastic in the cause of their liberties must be taken by surprise; the dangers are every moment increasing, and the recognition before mentioned was brought in aid of your Excellency's designs for our common destruction. Your Excellency knows sufficiently well the dignity of my character, and that the unjust reproaches heaped upon me are the offspring of your perfidy; and this is the foundation upon which your Excellency rests your disgraceful neutrality. But it is in vain to imagine that this paltry excuse can justify your Excellency in the treachery of supplying the enemy at Montevideo with wheat, while besieged by me. It is also a fact little to the honor of your Excellency, that you have made arrangements for a third expedition against Santa Fe, with a view to foment the intrigues of the Parana, and promote insurrection on the eastern shore. The same unfriendly disposition induced your Excellency to protect the Portuguese who fled from Seriano, sending them back to their General, while, instead of practising a similar generosity towards the Chief of the Orientals, you did not think proper to return the

arms and other articles which those persons carried with them in the vessels on board of which they fled. It is thus that your Excellency has endeavored to seize a favorable moment to light up the fire of discord, to plot with the Portuguese, and excite disaffection in the regiment of Libertos, seducing them to your side, and receiving them in triumph; an act of so gross a character cannot be mentioned without scandalizing the perpetrator; and your Excellency is still the Supreme Director of Buenos Ayres.

An officer openly in the service of Portugal could not have acted more faithfully for his King; and to the impartial mind it must have been evident that your conduct was dictated by motives much more black than the cold neutrality which you allege. But, whatever may be the merit of our respective criminations, sound reason declares them to be out of place, in the presence of an ambitious stranger; more than once have I exhibited an example to your Excellency of my determination to act up to this principle. Alas! it is but too true that the road of virtuous patriotism is as rough as the name of country is delightful. Without proving a traitor to your own understanding, it is impossible for your Excellency to be indifferent upon the subject of the detestable incursion of General Lecor into our territory. Your Excellency has already protested against his conduct; and how will your Excellency deny the work of your own hands? Are not the Portuguese of this year the same as of the last? Do not the same complaints exist now as then? Has not your Excellency outraged the people of Santa Fe, and in them those of the other provinces? Confess, sir, that you have no other object in putting on this affected neutrality but to conceal your intrigues. The Supreme Director of Buenos Ayres neither can nor ought to be neutral. Did not your Excellency accuse the Portuguese General of violating the laws of civilized warfare, in the threat he held out against the Orientals? And how can this be reconciled to the character of a neutral? Be then a neutral, an indifferent spectator, an enemy; but let me tell you to beware of the just indignation of those who, having sacrificed everything to the love of liberty, fear nothing but its loss.

Renounce the despicable expectation that on the ruin of the Orientals you may one day raise the lofty column of your glory and our degradation. The greatness of the Orientals is only to be compared with itself. They know how to meet dangers, to subdue them, and to be reanimated by the presence of their oppressors. I at their head shall march whenever danger threatens. Your Excellency knows me, and ought to fear the justice of my vengeance. Your Excellency does not cease to repeat insults offensive to my moderation, and to the discredit of the common cause. Your Excellency ought not to think me insensible. While I am in the field, engaged in a bloody conflict with the invaders, you are laboring to weaken our force by mingling with it an affair which does not fail to excite well-founded suspicion. While I am engaged in opposing the

Portuguese, you are taking measures to favor them. Would your Excellency, in my place, have regarded these things with a serene countenance? I acknowledge to your Excellency that I have made a sacrifice of my feelings to my country, which claimed a concentration of all its forces. It was this which induced me to seek a peace with your Excellency, while you were endeavoring to provoke me to a war. I opened the door which, for weighty reasons, I ought to have kept shut. I sent back to you the officers taken prisoners, without subjecting them to the sufferings which ought to have followed the crime of their violent and cruel aggression against an innocent people. Your Excellency cannot deny those acts of generosity, which, notwithstanding your repeated promises of reconciliation, you have not been able to equal.

It is true your Excellency did send some supply of arms to the Parana, but without giving me the least intimation of it. This deceitful act had for its object the exculpation of your Excellency from the charge of indifference in the eyes of the provinces, and evinces the fertility of your machinations; but do not think that this shallow artifice will enable you to escape. We have just experienced the effects of this generosity in the disturbance of the Parana and Entre Rios. Can it be concealed from the provinces with what views these arms were distributed, when done without the knowledge of the Chief? Let me pray your Excellency to cease your generosity, if such are to be its effects; let me beseech you to refrain from aiding the country, if you can do nothing but obscure its splendor by such hateful scenes. No, sir, it is not from you that our country can expect to be freed from the ambition of the Brazilian King; instead of boasting of having saved the country, your Excellency has nothing to boast of but of having tortured my patience to the utmost point of endurance. I have suffered for my country, and yet your Excellency dares to criminate me in public and in private. I have no need, like your Excellency, of having defenders; incontrovertible facts speak in my behalf.

Sir, I am still ready to enter into an amicable adjustment of our difference, so as to unite our forces against the Portuguese; and I repeat the offer which I made in June last. I then requested that deputies should be sent, with full powers to draw closer and closer the ties of union. Your Excellency could not deny the importance of this request, and engaged to send them. In consequence of this, I announced to the people the pleasing hope of reconciliation; but, until the present day, nothing but disappointment has been the result. Your Excellency, it seems, has had the effrontery to announce that deputies were expected from the eastern shore at Buenos Ayres. It is but little becoming in your Excellency to frustrate so desirable an object, and afterwards to calumniate me; this is the last insult I am willing to bear, and henceforth must request your Excellency to be silent. Such imposture is not less injurious to the reciprocity of the country than

insulting to me. In opposing the reconciliation of the two shores, your Excellency can be regarded in no other light than as a criminal, and unworthy of consideration.

Your Excellency, by this time, must be wearied in hearing truths, but you ought to be more so in giving cause for them; they are stamped with the characters of sincerity and justice. Your Excellency has occasionally provoked my moderation; my wounded honor will demand satisfaction. I speak for once and for all, your Excellency is responsible before the altars of the country for an inaction incompatible with its interests, and the day will arrive when its justice will call you to a severe account.

In the mean time, I challenge your Excellency to appear with me in front of the enemy, and to combat with a courage which will display all the virtues that render glorious the American name.

I have the honor to salute your Excellency with cordiality and respectful consideration.

FERNANDO JOSE ARTIGAS.

## J.

*Extract from the Gazette of Buenos Ayres of the 5th of February, 1818.*

## INVASION OF THE PORTUGUESE.

In the Gazette of the 1st of December last, we published the official letter of his Excellency the Director to the Portuguese General in the Banda Oriental, requiring him to cease his march into a territory whose union with the United Provinces of the South had not been renounced, but accidentally suspended. The Portuguese General, in his reply, denied the principles on which this protest was founded, insisting on the pretext which had induced his Court to a rupture so unjustifiable: but as, at the same time, he referred for his justification to the orders of his Prince, from which he was not at liberty to depart, there were reasons to suspect that, from the slowness of his operations and other circumstances, he might possibly have received instructions to suspend his marches, and evacuate the country unjustly invaded. This doubt has disappeared with the event, and the occupation of Montevideo has been preceded by an action in which that precious soil has been moistened by the blood of its sons. We shall hereafter make some further observations upon this conduct; at present we shall insert the reply of the Portuguese General, as also an official letter of his Excellency the Director, transmitted by Don Manuel Roxas, who sailed for Montevideo the 2d of the present month.

*Official letter of the General of the Portuguese Army in the Banda Oriental, in reply to that of this Government, published in the Gazette of the 1st of December last.*

HEADQUARTERS, PASO OF SAN MIGUEL,  
November 27, 1816.

MOST EXCELLENT SIR: Taking into consideration what you have been pleased to communicate to me in your official letter of the 13th of



August last past, delivered to me by Col. Vidia on the 24th of this month, (November,) I can assure your Excellency that my marches have for their sole object the removal of the germ of disorder from the frontier of the kingdom of Brazil, and the occupation of a country abandoned to a state of anarchy.

This wise and necessary measure ought in no respect to excite uneasiness in the Government of Buenos Ayres, since it has been executed in a territory which has declared itself independent of the western side.

The most scrupulous regard has been paid to the armistice concluded on the 26th of May, 1812, establishing amity between the two countries; and in case of being attacked, I shall only act on the defensive, until the receipt of further orders from my King and Sovereign.

The proclamation which I enclose to your Excellency (the same which has already appeared in our newspapers) will make known the spirit in which I come to this unfortunate country by the commands of my Sovereign.

I continue my marches, which can only be suspended by order of the King my sovereign; and it will shortly be in my power to manifest to your Excellency the good faith of my military operations by a better opportunity and from a nearer point.

I thank your Excellency for the occasion you have afforded me of being acquainted with Col. Vidia. God preserve your Excellency.

CARLOS FREDERICO LECOR,  
Lieutenant General.

Illmo. and Exmo. J. M. PUEYRREDON.

*Reply to the foregoing letter by the Supreme Director.*

GOVERNMENT HOUSE,  
BUENOS AYRES, Feb. 1, 1817.

MOST EXCELLENT SIR: The suspension which I observed in the operations of the army under your command, after the receipt of your reply of the 27th of November last, together with the proclamation which it enclosed, gave me reason to hope that your Excellency, doing honor to the armistice concluded on the 26th of May, 1812, between His Faithful Majesty and this Government, whose violent infraction I protested against under date of the 31st October last, would refrain from giving rise to the horrors of war; or, at least, that you would enter into some temporary arrangement, until the explanations of your Court could be obtained in an affair considered not less important to the inhabitants west of the Uruguay and the Parana than to those of the Banda Oriental. Your Excellency, notwithstanding, at an unexpected moment, hastened your marches; and, under the sole justification of force, you have gone so far as to oppress with your arms the place which you now occupy, but without any other effect than to convince you of the abomination with which its inhabitants regard every foreign yoke.

The assurances which your Excellency pre-

sents to this Government in your beforementioned official letter, far from affording tranquillity, only excite our alarm; and the United Provinces, in the last steps of your Excellency, can discover nothing but the sad presage of the evils which threaten them, should they remain insensible to the aspirations of a foreign Power over a constituent part of the nation.

In order to demand an explanation of this aggression upon the rights of the provinces, so notoriously unjust, I have determined to send an Envoy Extraordinary to His Faithful Majesty, as also to learn the origin and object of a war, which will be provoked with a State at peace, in order to secure the immunity of the Banda Oriental.

Until the reply of His Faithful Majesty shall have been received, I hope your Excellency will not prosecute the war in that territory, but immediately suspend the operation of your arms, under a provisional armistice, which will be entered into by means of a person whom I shall send with sufficient authority, so soon as your Excellency will inform me of your willingness to meet my proposal, as I hope will be done by the hand of Colonel Manuel Roxas, who is the bearer of this communication.

If your Excellency, in strict obedience to the orders of your sovereign, under these extraordinary circumstances, should continue the war, your Excellency will be responsible to humanity for the blood that will be shed; and the impartial world will justify the means of indemnity that will be taken for the sacrifices of conquest, protesting as I do against all usurpation of territory comprehended within the limits recognised before the opening of the campaign of your Excellency, and beyond the frontiers of the kingdom of Brazil.

God preserve your Excellency many years.  
JUAN MARTIN PUEYRREDON.  
General FREDERICO LECOR.

*To the House of Representatives  
of the United States:*

I lay before the House of Representatives copies of the remainder of the documents referred to in the Message of the 17th of last month.

DECEMBER 15, 1818.

JAMES MONROE.

*Report of Theodorick Bland, on the condition of  
South America.*

BUENOS AYRES.

BALTIMORE, November 2, 1818.

SIR: The fair prospects which seemed to be opening upon some portions of the people of South America; the lively sympathy for their cause felt by the citizens of the United States; and the deep interests of our country in the fate of those provinces where colonial rule or independent freedom seem to have been put at issue, and contested with all the energy which such a stake never fails to excite, justly attracted the most serious attention of the Government. In what-

ever disposition of mind the South American contest and its scenes were contemplated, whether with feelings of benevolence, and the best wishes, or with regret, and under a sense of injury, the first thought, that which appeared most naturally to arise in the mind of every one, was the want of information as to the actually existing state of things. A new people were evidently making every possible effort against their transatlantic masters, and preparing themselves to claim a recognition in the society of the nations of the earth. In this struggle, each contending party endeavoring to strike his antagonist beyond the immediate area of the conflict, our commercial rights had frequently received a blow, and our municipal regulations were sometimes violated. New and fertile regions, rich and extensive channels of commerce, were apparently about to be opened to the skill and enterprise of the people of the United States; as to all which, their feelings and their interests seemed to require to be gratified with further information. Under these considerations, it became the earnest wish, and was deemed the right and the duty of our Government to explain the views it had in some of its measures; by timely representations and remonstrances, to prevent the further injury which our commercial and other rights were likely to sustain, and to procure correct intelligence as to the existing state of affairs in those parts of our continent where the revolutionary movements had attracted the most attention and excited the strongest interest.

For this purpose, three persons, of whom I had the honor to be one, were selected, and sent in a public ship to South America; who being, among other things, directed that "if, while in the execution of their instructions at Buenos Ayres, they should find it expedient or useful, with reference to the public service, that one or more of them should proceed over land to Chili, they were authorized to act accordingly." They did, therefore, at Buenos Ayres, take into consideration the expediency and utility of going to Chili, and did there determine that, under the then existing circumstances, it would be expedient and useful for one or more of them to go to that country. In consequence of which I crossed the Andes; and, having returned, it now becomes my duty to communicate a statement of such facts, circumstances, and documents, as I have been able to collect, and which presented themselves as most likely to be of importance, or in any manner useful to the nation.

When I contemplate the wide range of the expectations of the Government, as indicated by our instructions, and the vast extent of the subject, and more especially when I meditate on the novelty and complicated nature of the scene I am called on to portray, and the many circumstances peculiar to the state of society in South America, which cast a shade of obscurity over its affairs, and in some instances have absolutely as yet closed the avenues of information, I feel myself under the necessity of asking for the most liberal indulgence for the errors I may have fallen into,

as well from the difficulties of the subject itself as from my own want of ability to remove them.

We sailed in the United States frigate the Congress, from Hampton Roads, on the 4th of December, 1817, and touched, as directed, at Rio Janeiro, where we delivered the despatches committed to our charge to Mr. Sumter, the Minister of the United States resident there. After a stay of a few days, we proceeded thence direct for the river Plata, which we ascended in the Congress as far as Montevideo. Mr. Graham and myself visited that city, and found it, with the country immediately around, to the extent of about three miles, in the actual possession of a Portuguese army under the command of General Lecor. We were treated by the General with politeness, and an offer was made by him of permission to procure there every facility we might want to convey us thence to Buenos Ayres; and also of leave to obtain for the ship every refreshment and accommodation she might want. Finding that it would be impossible for the Congress to proceed much further up the river, owing to there not being a sufficient depth of water for her over a bar between Montevideo and Buenos Ayres, which traverses the river entirely, and on which it is only eighteen feet deep, we took passage thence in a small vessel, and landed at Buenos Ayres on the 28th of February last.

After consulting and advising together as to the extent, object, and manner of executing our instructions, it seemed to us that no time should be lost in presenting ourselves to the Government or chief constituted authorities of the place, and in making known to them all those subjects which we were directed to present to their view. In arranging those points, it was deemed most proper, in the first place, to express the friendly and neutral disposition of our Government, and to place in a fair and amicable point of view those measures which it had been supposed were likely to be interesting, or materially to affect the feelings or the claims of the people of the river Plata; and then to present the injuries many of the citizens of the United States had sustained, and the infractions of their laws which had been committed by armed vessels assuming the name and character of patriots, belonging to the independent Governments of South America; and to seek the information which our Government had directed us to obtain, and which it had been deemed most advisable to procure from the public functionaries themselves as far as practicable.

Accordingly, after ascertaining the names and style of the principal personages in authority, we called on his honor El Señor Don Gregorio Tagle, the Secretary of State; and having made known to him who we were, and expressed our wish to have an interview with the Chief Magistrate of the country, a day and hour was appointed for the purpose; when we called, and were accordingly introduced by the Secretary of State to his excellency El Señor Don Juan Martin de Pueyrredon, the Supreme Director of the United Provinces of South America. After the interchange of some complimentary expressions



of politeness, good wishes, and friendly dispositions, we made known to the Director, in general terms, the character of special agents, in which we had been sent by our Government to communicate with him, and that our communications might be either with himself or his secretary. The Director replied that they would be received in a spirit of brotherly friendship, and in that form and through either of those channels which we should deem most convenient.

In a short time after our introduction to the Director, and in about a week after our arrival, we waited on the Secretary of State, as being the most formal and respectful mode of making our communications to this new and provisional revolutionary Government. We stated to the Secretary that our Government had not viewed the struggle now pending between the provinces of South America and Spain merely as a rebellion of colonists, but as a civil war, in which each party was entitled to equal rights and equal respect; that the United States had, therefore, assumed, and would preserve with the most impartial and the strictest good faith, a neutral position; and in the preservation of this neutrality, according to the established rules of the law of nations, no rights, privileges, or advantages would be granted by our Government to one of the contending parties, which would not, in like manner, be extended to the other. The Secretary expressed his approbation of this course; but, in an interview subsequent to the first, when the neutral position of the United States was again spoken of, he intimated a hope that the United States might be induced to depart from its rigid neutrality in favor of his Government; to which we replied, that as to what our Government might be induced to do, or what would be its future policy towards the patriots of South America, we could not, nor were we authorized to say anything.

We stated to the Secretary that certain persons assuming the name, character, and authority of an independent Government in some part of the Mexican portion of South America, had, not long since, taken possession of Amelia Island, where they had attempted, with the name of the patriot cause, to put on the garb, and exercise the rights incident to national independency; that this island, so seized, lay on the coast of the Atlantic, and immediately adjoining the boundary of the United States; that the persons by whom it was held, under the name of the patriot authority, had committed numerous violations and piratical depredations on the commerce of most nations found in that neighborhood, and more especially on that of the United States. They had not only lawlessly seized our vessels which were navigating those seas rightfully and in peace, but the immediate vicinity of the island to our territory had enabled them to commit other outrages on our rights, no less serious and injurious. It was used by a nest of smugglers to introduce their merchandise into the United States without paying the duties; it had become a harbor for runaway slaves from the neighborhood;

and it had become a place of deposit for the most infamous of all traffic, the trade in cargoes of slaves, which were landed there, and thence illegally introduced into the adjoining States, in violation of the most positive prohibition, thus defrauding our revenue, depriving our citizens of their property, and disturbing our peace; that the cruisers, which so mischievously prowled the ocean from this island, not being at all scrupulous about consistency of character, had, as was found most convenient, assumed the flag of Buenos Ayres, or that of the other patriot Governments of South America; that, notwithstanding the notoriety of the daring violence committed by this band of adventurers of Amelia Island, it appeared that Spain, too feeble, or otherwise too much occupied, had not extended its authority over it, and suppressed what could not but be considered as an expulsion and contempt of its jurisdiction. We further stated, on this subject, that a station in all respects similar, and as pernicious, had been formed at a place called Galveston, situated near the mouth of Trinity river, and immediately on the coast of the Gulf of Mexico; that, under these circumstances, the United States had deemed it a right and a duty to break up, and entirely to remove those two establishments, as well to preserve their own interests and that of their citizens, as their peace with other nations; and that the Government of Buenos Ayres, we were sure, could not fail to see, in this measure, the highly honorable and amicable disposition of the United States towards all foreign nations, and more especially to perceive the happy effect which it would have on the patriot name and cause, by preventing it from being soiled with the imputation of acts which the really honorable patriot Governments did not deserve, and could not countenance. We stated, in addition, that our Government would take and hold possession of Amelia Island, in order to prevent the misuse of it in future, subject to explanations to be given to Spain; and that Galveston would be taken possession of and held as a part of the territory of the United States.

To which the Secretary replied that the Government of Buenos Ayres had not before been informed or heard of the abuses committed by those who had taken possession of Amelia Island and Galveston; that it had no connexion whatever with those who had exercised any authority at either of those places; and that the removal of those establishments could not fail to be attended with good consequences to the patriot cause, by preventing any improper imputations being cast on it; and, therefore, his Government could certainly only see in that measure of the United States the manifestation towards it of the most friendly disposition. We stated to the Secretary that it had been understood that many unprincipled and abandoned persons, who had obtained commissions as privateers from the independent patriot Government, had committed great depredations on our commerce, and had evidently got such commissions not so much from any regard to the cause of independence and freedom as with

a view to plunder; and that we entertained a hope that there would be a due degree of circumspection exercised by that Government in granting commissions which, in their nature, were so open to abuse.

The Secretary replied that there had hitherto been no formal complaint made against any of the cruisers of Buenos Ayres; and, if any cause of complaint should exist, his Government would not hesitate to afford proper redress on a representation and proof of the injury; that the Government of Buenos Ayres had taken every possible precaution in its power in such cases; that it had established and promulgated a set of rules and regulations for the government of its private armed vessels, a copy of which should be furnished us; and that it had, in all cases, as far as practicable, enjoined and enforced a strict observance of those regulations and the law of nations.

We stated to the Secretary that a considerable portion of the people of the United States had manifested a very favorable disposition towards the patriot cause in South America; and the Government, also, had every disposition to treat the patriot authorities with the justice, dignity, and favor which they merited; that, although our Government had, for the present, determined on adhering to a strict and impartial neutrality between the contending parties, it might yet deem it politic and just hereafter to adopt other measures; and, therefore, with a view to regulate its conduct and policy with perfect good faith and candor, as well with regard to its neutrality as with regard to any other measures it might deem advisable to take, it had charged us, as special agents, to seek and endeavor to obtain, in this country, such information as to the actual state of things as would enable it to act with correctness, precision, and understandingly, in whatever course it may hereafter pursue. That the information thus to be obtained might be of a character deserving the highest confidence, we had been directed to ask it of those actually in authority, and of the then existing Government of the country. We observed that we did then, in pursuance of our instructions, ask of that Government to furnish us with a statement, or full information, as to the actually existing state of things; of what number of provinces that Government was composed; the form of its confederacy, and the constitution by which they were united; the population in each province; the principal commodities of commerce, the imports and exports; the amount of its revenue derived from foreign commerce as well as from internal taxation; the strength of its regular army, and the number of its militia; the amount of its tonnage, and the strength and number of its public and private vessels of war; and what were its relations with foreign nations, or with the adjoining provinces; or had the Government of Buenos Ayres formed any treaty or understanding with any foreign nation, or with any other of the provinces of South America who had actually declared themselves independent, or were then in a state of revolution and at war with

Spain. We assured the Secretary that our Government sought for this information from an experience of the want of it, and in a spirit of the most perfect amity; that, until the commencement of the present revolutionary movements in that country, it had been so comparatively locked up from the eye, observation, and intercourse of every foreign nation, that the real state of things in it had been but very imperfectly, and, in some respects, was wholly unknown; that the friendship so openly and decidedly expressed by a considerable portion of the people of the United States would furnish conclusive proof of the spirit of goodwill in which this information was sought, and, in itself, was a guaranty that their Government would, under no circumstances, use the communications that might be made for improper or unfriendly purposes towards the people of that country. But, if that Government should think proper to note any communications it should make as private and confidential, we pledged ourselves that our Government would never suffer it to go to the public; if, indeed, there could be wanting any other more solemn and decided manifestation of respect, on its part, than the very act itself of our having been sent in a public ship of war to have this intercourse with them. The Secretary, in reply, said that his Government had the greatest confidence in the friendly dispositions of that of the United States, and that the people of the two countries were friends and brothers, felt as such, and would act towards each other as brothers; that the information sought for should certainly be granted, and that orders would be given to the proper public functionaries to collect, digest, and arrange it in the most acceptable and intelligible form; that, as regarded foreign nations, they had hitherto had no official communication with any of them; and that their relations with all, except Spain, were those of mere peace, such as were obvious to the world, without any treaty or stipulation of any kind whatever; that from some they had met with acts of injustice and hostility, but, finding themselves so much occupied with their revolutionary movements as to be unable to resist or resent, they had therefore borne with wrong, and suffered the mere relations of peace to continue.

We had several conversations with the Secretary, all of which were asked for by us, in the course of which the matters I have related were fully and in various forms reiterated and explained to him; and in all, from the first to the last, the request for information was repeated in terms of similar import, and at each interview the promise of its being soon and fully granted was renewed.

As the promised communication was not, however, made before I took leave of the Director and left Buenos Ayres, I shall proceed to present such information relative to the United Provinces of South America as I have been able to collect from those sources which were within my reach, and that appeared to deserve confidence; leaving my statements to be corrected by the



official account which I understand has been furnished by the Government of Buenos Ayres, where they materially differ, or to be revised by any other standard you may think proper to apply.

The new Political Union, whose Government we found seated on the shores of the river Plata, which once styled itself "The United Provinces of the river Plata," and which now, having been actuated by caprice, or by more correct or more enlarged views, assumes the name of "The United Provinces of South America," has declared the independence, and claims the privilege of self-government for all the people, and the rights of a nation over all the territory of which the late Spanish viceroyalty of Buenos Ayres was composed in the beginning of the year 1810. It thus designates the boundaries of its territorial claims, and the extent of the jurisdiction it asserts. It will be proper, therefore, to trace out its extreme limits as the country relative to which our inquiries are to be more particularly directed.

The Spanish viceroyalty of Buenos Ayres is situated to the southward of the Portuguese dominions of Brazil, and, according to the treaty of St. Ildefonso, of 1777, the following boundary between them was finally adjusted: Beginning on the coast of the Atlantic at a place called Invernada de Felix José, a little to the south of the Rio Grande de St. Pedro; thence, in a northerly direction, along mountains or highlands, to the Rio Iquacu, or Caluetiba, or Coreitiba; thence, down that river, to the Parana; thence, up that river, to the lower end of the Illia Grande de Salto; thence, in a westerly direction, to where the Rio Paraguay is intersected by the tropic of Capricorn; thence, up that river, to the mouth of the Rio Laurequiqui, near the foot of the Cordillera de St. Fernando; where, taking leave of the dominions of Brazil, the boundary of the viceroyalty, excluding the Indian territory to the north, was further designated by a line directed; thence, nearly west, to the Sierras Altisimas; thence, along the confines of the province of Mizque and the Altos Intinuyo, including the province of La Paz, to the Cordilleras of the Andes which pass to the westward of Oruro and Paria, to the Cordillera Real; thence, south, along the most elevated summit of the principal Cordillera of the Andes, until it is intersected by the parallel of thirty-eight and a half degrees of south latitude; thence, due east, to the Atlantic; thence, with the coast of the ocean, to the beginning, at Invernada de Felix José.

To the south of latitude thirty-eight degrees and a half, and between the Andes and the Atlantic, as far as the Straits of Magellan, is, at present, entirely in possession of the various tribes of Patagonian savages, over whom the colonial Government exercised no authority, nor asserted any claim, other than that of a right of pre-emption and of settlement in their territory against all foreign nations; to which rights and benefits the independent Government claims to have succeeded. That tract of country which now forms the

three provinces of Mendoza, San Juan, and St. Louis, and which, under the Spanish Government, was called the Province of Cuyo, was about half a century ago, attached to the colonial viceroyalty of Chili; since that time it has continually belonged to Buenos Ayres. And the province of Arica, which covers that space to the westward of Potosi and Chicas from the summit of the Andes down to the Pacific Ocean, was, by a royal order, about the year 1774 taken from the viceroyalty of Buenos Ayres, and annexed to that of Lower Peru or Lima, and is at present under that jurisdiction.

The vast elevated plains, a great part of which are, in the rainy season, entirely overflowed, lying to the north of Llanos de Manso and the Sierras Altisimas, that are traversed by the principal branches of the Rio Madeira, which winds its way along the back of Brazil into the Maranon, and that are also drained of their waters by some of the branches of the Paraguay, and which are comprehended under the three colonial divisions of the Chequitos, the Government of Santa Cruz de la Sierra, and the province of the Moxos de Musu, like the great pampas to the southward of the Rio de la Plata, seem to be destined to eternal vacancy, or to the rearing of innumerable herds, and to be inhabited only by their keepers. At present they are in the possession of several tribes of Indians, over whom, and their territory, the Government of the viceroyalty claimed no other right or jurisdiction than over the pampas of the south; which, however, the Patriot Government in like manner asserts, has devolved on it by the revolution.

To the westward of Paria and Oruro lie the provinces or jurisdiction of Carangas, Pacajes or Berenguela, and to the north of La Paz, and to the west of the Cordillera de Acama, lie the provinces or districts of Omasuyos, Chucuyto or Puno, Lampa, Asangaro, and some others; all of which are said by Ulloa to be within the audience of Charcas, the scene of the celebrated rebellion of Tupac Amaru; and which audience, according to Dean Funes, was given entire to the viceroyalty of Buenos Ayres when it was erected, and it is so laid down. But I have excluded these provinces by the general outline I have drawn of the viceroyalty, because, not being able to learn that any revolutionary movements had been made in them, I wished to disencumber the subject of our survey as much as possible, as well by separating it from such districts as from Indian territory.

Such are then the outlines of this Union, or rather proposed Government, and asserted confederation, embracing an extent of territory much more prodigious than has ever been yet known to be comprehended under one and the same voluntary association. Excluding the great triangular space of Indian territory, of upwards of two hundred thousand square miles in extent, called the Llanos de Manso, lying between the province of Paraguay and the mountains, and excluding also the high plains to the north and the pampas to the south, we shall find a mixed and civilized population of

one million and eighty thousand souls scattered over a space of about seven hundred and sixty-three thousand square miles, from one extremity of it to the other. The thirteen United States of North America, within the boundary designated by the treaty of 1783, comprehended a territory of about eight hundred and thirty-one thousand square miles. They erected almost all, and some of the best of their political institutions in the severest season of the revolutionary struggle, in a "time that tried men's souls." They vanquished their enemy, and accomplished the final establishment of their independence and freedom, with a population of about three millions, seated between the seashore and the mountains, on a tract of country of not more than two hundred and fifty thousand square miles; their population was composed almost exclusively of agriculturists, very thinly scattered, as was said of them, over an immense forest. The difficulties which the invader had to encounter, the ease with which his blows were parried or eluded, and the fortitude with which he was met, and the deadly skill with which he was struck, it has been often said, were owing to various peculiar circumstances—to the nature of the country, its water-courses, forests, mountains, and fastnesses; to the habits, manners, and customs, of the people, arising out of their political institutions, their situation, and their necessities. Each, no doubt, had some effect; and, in the natural order of events, tended to the same great end, the accomplishment of our independence and freedom.

A revolutionary struggle not materially dissimilar to that which so much excited the interest and feelings of the civilized world, as exhibited on the northern coasts of the Atlantic, is now making some of its most active efforts on the shores of La Plata, and within the extensive limits I have designated. The people of the United States, who sympathize warmly with this new contest, will take great interest in drawing out a comparison of difficult situations, and deducing inferences from trying circumstances analogous to those with which they or their fathers formerly contended; and, to enable their Government to act understandingly, and to bestow their friendship in a manner worthy of its dignity and value, it will be necessary to look over and examine this newly-asserted Union; to survey the locality of the several parts of which it is composed, and to estimate the numbers and powers of each; to measure the spaces between them, that we may form some opinion as to how and when they may be filled; to see how each has been, and how it is now governed; and to inspect the bonds which hold them together, and the repulsive principles which have driven some of them asunder. It will be proper that these things should be done, that we may understand how much it is to be attributed to nature, and how much to accident; how far the revolution has been promoted by the virtues and patriotic wishes of the people, and how much retarded by designing and ambitious military leaders; what is to be feared, and what to be hoped, from the future.

15th CON. 1st SESS.—67

The viceroyalty of Buenos Ayres, like all others of the Spanish possessions in America, was laid out into civil and ecclesiastical divisions, which grew up under peculiar circumstances, were from time to time altered, and often cast from the jurisdiction of one viceroy or governor under that of another, according to the increase or change of population, as convenience suggested, or to gratify the caprice or cupidity of the regal rulers. And, besides, the very nature of the colonial Government itself was but illy calculated to define and preserve, with any tolerable degree of distinctness, the territorial boundaries of the several audiences, provinces, bishoprics, jurisdictions, intendencies, presidios, and governments, into which the viceroyalty was divided. I have, therefore, put together all I have been able to collect from books and some intelligent persons; and, with what I saw, and by the help of the largest and best map extant of the country, corrected down to the year 1807, I shall describe and give the name of province to each of these cities or districts which appear to be politically distinct, by having been at any time so treated, or being now, or at any time heretofore, separately represented in the body called the Sovereign Congress of the Union.

I propose first to direct your attention to the provinces successively, that we may note the geographical situation, extent, and population of them severally, and the relation which each one has, by representation or otherwise, with the confederacy—recollecting that the ratio of representation, fixed by the existing government or *reglamento provisorio*, is one representative for every fifteen thousand citizens.

The province of Buenos Ayres, situated in the southeastern corner of the Union, is bounded by the Rio de la Plata; by the ocean to the southward of that river; by the territory of the Patagonian Indians as far as about the sixty-first degree of west longitude; thence by a line north to the Aroyo del Medio; thence, by that watercourse, to the Paraguay; and thence, by that river, to the Rio de la Plata. This is by much the most populous of the provinces below the mountains. It contains, according to the last census, ninety-eight thousand one hundred and five souls, which is said to be exclusive of troops and transient persons; but, including those, it is said to amount to one hundred and five thousand persons of all description. The army, quartered in Buenos Ayres, is said to amount to two thousand five hundred men; if so, then it follows that, exclusive of citizens and soldiers, this province contains a population of more than four thousand resident foreigners and others. According to the same census, there are within the same city and suburbs of Buenos Ayres forty-seven thousand one hundred and eighty-four souls, exclusive of troops and transient persons. The principal towns or villages are Ensenada, St. Isidro, and Las Conchas, on the river Plata, and Luxan in the plain. There are, besides these, some lesser groups of population, the rest of which is scattered over the plains of this pampa province, that may be estimated as containing fifty thousand square miles.



In the city of Buenos Ayres is situated the strong fort, within which is the palace, where the former Vice-king dwelt, and which is now occupied as the residence of the Supreme Director. This city was formerly the capital and seat of the colonial Government, and therefore, and for that reason, asserts and maintains that it is of right, and ought now to be, the capital and seat of the independent Government; and the Government is now seated there accordingly. This province is represented in the existing Congress by seven representatives, which is its full quota according to its population.

The province called Montevideo under the royal Government, but which, since the revolution, has acquired the appellation and is most frequently designated by the name of the Banda Oriental, with relation to the river Uruguay, which forms its entire western boundary, and from its lying wholly to the eastward of it; this province lies immediately opposite to that of Buenos Ayres, and is situated in the northeastern extremity of the Union; it is bounded by the ocean on the east, by the Rio de la Plata on the south, by the river Uruguay on the west, and by the Portuguese dominions of Brazil on the north. Its present population is said to amount to about forty-five thousand inhabitants, who have for their chief leader and Governor, General José Artigas. The city of San Felipe, or Montevideo, as it is more usually called, from an elevated hill or look-out place opposite to the point of land on which the city stands, contains at present, after the waste, devastation, and destruction of the English, Spaniards, and Portuguese in succession, a population of about ten thousand souls. Maldonado is another of its towns, situated on the Rio de la Plata, near the seacoast; it contains about two thousand inhabitants. The capital, or present seat of Government, is held at a place called Purificación, formerly Capilla Nueva; it is a town which contains between three and four thousand inhabitants. This province, with some unsettled Indian territory, embraces about eighty-six thousand square miles. It has no representative in Congress, and refuses to be represented in that body under the present political system; and is now at open war with Buenos Ayres.

The province of Santa Fe, within which may be included what was called, under the colonial Government, the jurisdiction of Corrientes, lies immediately adjoining and west of the Banda Oriental and Buenos Ayres. It extends in a narrow slip entirely across the Union, from the Patagonian territory on the south, to the dominions of Brazil on the north. It is sometimes called the Entre Rios, from the greater portion of it lying between the rivers Uruguay and Parana. That part of the province which extends over the pampa south of the Paraguay is bounded on the west by a line drawn nearly south from that river, above the city of Santa Fe, passing the easternmost point of the Lagunas Saladas de los Porogos, leaving the village of Frayle Muerto on the Rio Tercero to the west, unto the land of the Patagonians; thence east to the province of Buenos Ayres. This province of Santa Fe or Entre

Rios, exclusive of the Guarana tribes of Indians dwelling above Corrientes, and the Charrnas, seated below the city of Santa Fe, contains a civilized population of about twenty-five thousand souls. The city of Santa Fe, its capital, which is pleasantly and conveniently situated on the right bank of the Paraguay, is said to contain a population of not much more than six thousand inhabitants; and the city of Corrientes, farther up the river, is about the same size. This long, narrow, province comprehends, including the territory of its Indians, about one hundred and four thousand five hundred square miles. In the year 1814, and prior to that period, it had one representative in the Congress of the Union; it now has none, and is in alliance with the Banda Oriental, and at war with Buenos Ayres.

The province of Cordova is composed nearly of that which was formerly the colonial jurisdiction of Cordova. It is bounded by the territory of Santa Fe and the Rio Salado on the east; by the Patagonian boundary over the pampas on the south; thence, on the west, by the line to the Sierra Comichigeles, and along that ridge to its northern extremity; thence in a northeast direction, including the town of Tamisqui, on the Rio Dulce; and thence across the Rio Salado. Its capital, the city of Cordova, is a neat town, delightfully situated on the Rio Primero, and contains about ten thousand inhabitants. The population of the whole province is estimated at seventy-five thousand souls; and it measures about one hundred and five thousand square miles in extent. It has, therefore, gone astray from the Union; but it has been brought back into the fold of the confederation by the bayonets of Buenos Ayres. It is reckoned a godly or tory province. It has now only three representatives in the existing Congress, although its full quota is five; because, as it is said, it does not choose to defray the expense of a greater number.

The province of Punta San Luis has been carved out of the easterly portion of the royal province of Cuyo. It is bounded on the east by the territory of Cordova; on the south by the Patagonia pampas; on the west by the Rio Moyalac, Leuvu, and the Desaguadero, to the Laguna Grande; thence, on the north, by a line drawn in an easterly direction to the confines of Cordova. The province contains a population of not much more than ten thousand souls. Its chief town, and seat of Government, is San Luis de la Punta, or the point of St. Lewis, from its being situated at the but-end of one of the ridges of the mountains of Cordova. The town contains about two thousand inhabitants, and is agreeably situated in a well-watered valley. From this place, the post road from Buenos Ayres to Mendoza passes over the Travesia, the most dreary region I ever saw, sixty miles in breadth, where there is not a single human habitation, nor one drop of fresh water to be had. The town of San Luis is made one of the principal places of confinement for the prisoners of war captured in Chili and on the frontiers of Peru. This province is the poorest, and has been always the most faithful to the Union. It

contains about forty thousand square miles in extent. One representative is now and has always been received from it, although its population is below the given ratio. The present Supreme Director was its representative when he was elevated to the station he now holds.

To the westward of the province of San Luis, stretching along the great Cordillera which separates it from Chili, as far south as the Rio Blanco, lies the province of Mendoza. This province is another, and the largest of those which have been formed out of the colonial one of Cuyo. Its whole population is calculated at thirty-eight thousand inhabitants; of which, about twenty-one thousand are found in the capital and its suburbs, the town of Mendoza, which is very advantageously situated on one of the branches of the Tunuyan, immediately at the eastern foot of the Andes. Mendoza has a beautiful public walk, and has been much improved of late years. The province has always been zealous and hearty in the cause of independence and liberty. It is of right entitled to two representatives; but it at present has only one member in the existing Congress. It contains, of plains and mountainous territory, about thirty-eight thousand square miles.

To the north of Mendoza, lying along the eastern foot of the Andes, and extending as far north as the ridge which separates the waters of the Rio Magana from those of the Rio Famatina, is that fine territory, bounded on the east by Cordova, formerly called the valley, now the province of San Juan. This includes the residue of what was formerly comprehended under the name of Cuyo. It embraces a tract of about thirty-six thousand square miles, and contains a population of thirty-four thousand souls; about nineteen thousand of which are seated in its capital, San Juan de la Frontera. The patriotic public spirit of San Juan has never been questioned; and yet it has no more than one representative in the present Congress, when, according to its population, it should have two.

Still further north is that pleasant valley now called the province Rioja, towards whose boundaries we are directed by the Rio Anqualasta, by which it is watered and rendered fruitful, and which, after lifting its arms in various directions among the surrounding mountains that designate the confines of the province, terminates and subsides in a lake to the southward of Simbolan. Its whole surface may be estimated at twenty-two thousand four hundred square miles. The population of this province amounts to twenty thousand souls, and its capital town is Todos Santos de Rioja la Nueva. Rioja has always been attached to the Union. It has at present one representative in Congress, and is entitled to no more.

Turning immediately to the east, and adjoining, we find the delightful valley of Catamarca, which now, with that of Conando, next to it on the north, forms the province of Catamarca. The adjacent ridges form a great rampart all round these two valleys, and are the acknowledged and natural limits of the province. It contains a pop-

ulation of thirty-six thousand souls, and its chief city and seat of Government is Catamarca. Its extent of territory does not exceed eleven thousand and two hundred square miles. Catamarca, besides other efforts in the cause, has manifested its sincere devotion to independence and freedom, by furnishing from itself alone nearly six thousand men to the patriot army. It has now, however, no more than one representative, although its population entitles it to two.

Directly to the east of the valley of Catamarca lies the province of Santiago, formerly the colonial jurisdiction of Santiago del Estero. It is bounded on the south by the territory of Cordova; on the north by a line running in a north-easterly direction from the head of the Hondo to the Laguna de Molares, and by the Indian territory of the Great Llanos de Manso on the east. This province embraces a territory of forty thousand square miles in extent, and has a population of forty-four thousand souls. Its chief city and seat of Government is Santiago del Estero, situated on the banks of the Rio Dulce, in which there are about ten or fifteen thousand inhabitants. Santiago has wavered in its attachment to the Union, but has never been wanting in bravely defending the cause. Its population rightly entitles it to three representatives in Congress, it has, however, at present only one.

Along the whole northern frontier of Santiago, and of the valley of Conando, lies the province of Tucuman, formerly the royal jurisdiction of St. Miguel de Tucuman. It is bounded on the east by the mountains of the Yuanes; on the north by a line extended from that ridge westerly to the confluence of the Tala and the Salado; thence, to the source of the Tala; thence, along the ridges which include the valley of Palicipa, to the great Cordillera; thence, along the Andes, to the Rio de Betlen; thence, to the confines of the valley of Conando. The population of this province amounts to forty-five thousand souls; its chief city and seat of Government is San Miguel de Tucuman, situated on the Rio de San Miguel, which unites with the Rio Dulce not far below the city. The province comprehends about an extent of fifty thousand square miles of territory; it has been generally attached to the Union and the cause. It was once honored with the presence of Congress, in which body it has two representatives, although it is entitled to three.

Rising from the unbroken plains, and proceeding still farther to the northward, we next enter the province of Salta, lying in level spaces among the elevated spurs of the Andes. It is bounded on the east by the Rio Vermejo; on the north by the Rio Grande, to the confluence of the Aquilotes and Siancas; thence, to the source of the Rio Perico; thence, including the valley of Calchaqui, which forms its western boundary. This province contains fifty thousand inhabitants, and an extent of forty-one thousand square miles of territory. Its chief city is San Felipe el Real de Salta. Salta has been accused of wavering in its attachment to the Union and the cause, but it has been very much the seat of war. It is now



said to be a firm member of the Confederation, and it is made the headquarters of the patriot army of Peru, under General Belgrano. Although it ought to have three representatives, according to its population, it has now no more than one member in the Congress.

Ascending still in a northerly direction, we next enter the province of Jujuy, stretching along the whole northern frontier of Salta, and extending westward to the ridges in which are found the sources of the Rio de San Salvador; thence, with its summits as far north as the ridge which surrounds St. Bernardo, and along the mountains of Tacora; thence, descending by the eastern branch of the Rio Tarija, to the territory of Salta, embracing a mountainous tract of thirty thousand square miles. The population of Jujuy amounts to twenty-five thousand inhabitants. Its chief city is San Salvador de Jujuy, situated on the Rio Grande de Jujuy, or de Aquilotes. It has one member in the present Congress, which is its full quota of representation. The whole, or the greater part of this province, is said to be at this time occupied by the enemy.

Turning to the west, and crossing the mountains, is found the province of Chicas, extending along the brow of the great Cordillera of the Andes, which separates it from the desert district of Atacama; and north of the province of Tucuman, as far as the source of Pilcomayo; thence, descending that stream, and passing the ruins of ancient Tarija, and ascending the Rio Toxo until it intersects the Chica mountains, it forms what is called the province of Chicas, extending over a space of twenty-six thousand four hundred square miles, and which has a population of ten thousand souls. Its chief town is the city of Tupiza, distant one hundred and eighty miles from the city of Potosi; besides which, it contains the city of Catagayta, on the river of the same name, which pours itself into the San Juan below the town and great pass of Suipaca, which, together, unite soon after with the Pilcomayo. This province sends one representative to Congress, to which it is entitled, and no more. It is, at present, under the royal Government.

To the north, and adjoining Chicas, lies the far-famed Potosi. The valleys of Porco, Pasayo, and Yamparaes, compose the present province of Potosi; and the circumjacent ridges of mountains, which overlook those valleys, form its lofty barrier and boundary, which embraces an extent of territory not exceeding twelve thousand square miles. This province contains a population of one hundred and twelve thousand inhabitants, thirty thousand of which are seated in the city of Potosi itself; and the city of La Plata, or Chuquisa, is said to be no less populous. This province was attached but a short time to the Union. According to some accounts there were four representatives in Congress, which assembled at Tucuman in the year 1816. Its population would entitle it to seven members, but, at this time, it is not represented in Congress at all; and has been, for some years past, entirely under the royal authority.

To the eastward of Potosi, and between the Rio Condorillo, which divides it from Cochabamba and the mountains, or Altos de la Intinuyo, is the province of Mizque, which is composed of the valleys of Pomabamba, Tomina, and Mizque. It contains a population of fifteen thousand souls, and is nine thousand square miles in extent. Its chief city is Pomabamba. The population of this remote province exactly entitles it to one representative, which it has sent, although it is now subject to the colonial Government.

Directly to the west of Mizque, and north of Potosi, lie the valleys of Charcas, or Chayanta, and Oruro, extending to the principal elevation of the Andes, which compose the province of Charcas, that measures only five thousand square miles, and contains a population of one hundred and twenty thousand inhabitants; thirty thousand of whom are found in the city of Charcas, or Chayanta, which is its capital. This province is now, and has been for some time past, under the government of the mother country. But, like some others, as we have seen, from illiberality, policy, or intrigue, it has placed or continued three members in the present Congress, and yet, to be fully represented, Charcas ought to have ten representatives.

To the north of Charcas lies the small but prodigiously fertile territory formerly called the valley, now the province of Cochabamba, at the head of the Rio Grande de la Plata, or Guapahi, which pours its waters into the Great Marañon. This province contains a population of one hundred thousand souls, the capital of which is the city of Oropesa, and yet its extent does not exceed three thousand four hundred square miles. Cochabamba, according to its population, ought to have seven representatives. As being now, and having been for some time past, entirely under the royal Government, it ought not to be represented at all; yet, according to some notions, or views, or circumstances, which I do not understand, it has one member in the present Congress.

Crossing the ridge of mountains which bound Cochabamba on the north, we enter a delightful valley called Cicacica, watered by various small streams with which the Rio Beni, one of the limbs of the great Amazon, begins to form itself. This valley constitutes the province of La Paz, the most northerly and remote one of the Union. It is said to contain a population of about sixty thousand inhabitants, and may be estimated at an extent of ten thousand square miles. When represented it will be entitled to four representatives. It is now, however, entirely in possession of the colonial authorities, and has no member in Congress.

From the northern boundary of La Paz, leaving the lofty ridges called the Sierras Altisimas, which are almost entirely encircled by the Rio Grande de la Plata, and passing by Santa Cruz de la Sierra la Nueva, or San Lorenzo el Real de la Frontera, to the mouth of the Rio Latirequiqui, thence down the Rio Paraguay to the lowest extremity of the territory of the Abipones,

a short distance above Santa Fe; thence, ascending again by the way of the Laguna de Molares, and along the eastern boundary of the provinces whose limits have been just described, to the Altos de Intinuyo, will present a very extensive triangular space of country running in a southerly direction into the United Provinces of South America. This territory is altogether owned and occupied by various tribes of Indians. It is an extensive elevated plain called the Llanos de Manso, watered by various branches of the Paraguay passing through it; but it is very illy supplied with timber. The tribes of the Llanos de Manso, as well as many others to the northward, were formerly under the pious pupilage of the Jesuit missionaries; but their pastors having been withdrawn and expelled, they have lost all the genuine notions of civilization that were taught them, if, indeed, they really ever learned any, and are now, in situation and habits, similar to our neighbors, the Osages and Mandans of the river Missouri.

And, finally, after passing in an easterly direction over this great triangle of Indian territory, the province of Paraguay, in many respects the most interesting and important of the Union, presents itself. It is bounded by the rivers Paraguay and Parana, and the dominions of Brazil; and, with an extent of forty-three thousand two hundred square miles, it contains a population of about one hundred and ten thousand souls. Its capital is the ancient city of Asumpcion, situated on the left bank of the Paraguay. This province has never been attached to the Union. About the year 1810 the Government of Buenos Ayres sent an army into it, under the command of General Belgrano, for the purpose of forcing it into the Confederacy. The Buenos Ayres forces were compelled to retire. Soon after Paraguay declared itself independent, or some of the chiefs snatched the power from the hands of the colonial rulers, and declared war or a hostile non-intercourse against Buenos Ayres, which is the present state of the relations between them. And not long after Paraguay assumed a similar stand with regard to the provinces of Santa Fe and the Banda Oriental. Paraguay, therefore, has never, at any time, had a representation in the Congress of the Union, but, according to its population, it would be entitled to send seven members.

This completes the survey I proposed to take of the several political divisions of this extensive Union, and of the local situation, the extent, the amount of population, and the relationship of each to the whole.

They having sprung from the same origin, and speaking the same language, having been bred up in the same religious creed, and been governed by the same laws, are of themselves strong foundations whereon to rest a political union. These circumstances operate very powerfully throughout Spanish America; they are among the leading causes which hold together a part of the provinces which I have described, and they produce a disposition in them all to unite; indeed, they

seem, at times, to have excited the expression of a hope that all who speak the Castilian tongue, and worship according to the Catholic faith in America, might be formed into one grand Confederacy. But the good sympathy arising from these circumstances will be displaced by the experience of profitable advantages; and the benevolence that is awakened by the sound of the mother tongue from the lips of the stranger, and his observance of the same forms of Divine adoration, will be suppressed or banished by the dictates of self-interest, and a regard to those calls and necessities which local circumstances suggest or imperiously demand, and by those habits and customs which the peculiarities of the country insensibly inculcate and cherish. Therefore, to form an opinion of the nature and strength of those sympathies, interests, and circumstances, by which these provinces are now in part united or disunited, attracted towards or repelled from each other, and also to render some of the traits in the character of its population more intelligible, and to understand the nature of its commerce, it is necessary that we should take a survey of this Union, with reference to the physical character of the country, and observe what are the articles produced by its soil, or by the ingenuity and industry of its inhabitants, making no other reference to the provinces than as they may serve to assist in designating the extent of each of those districts which are naturally and characteristically different from the rest.

Supposing we were to draw a line, beginning on the river Paraguay, near the city of Santa Fe, which should sweep northwardly, so as to include a portion of the province of Cordova; thence, bending round below that ridge of the mountains of Cordova, near the foot of which stands the town or village of St. Augustine; and thence, passing along a little below the eastern boundary of the province of the Punta San Luis, proceeding due south, we should very nearly designate the western limits of one of the most extensive and peculiar plains in the world, which stretches from the shores of the Rio de la Plata toward the southern extremity of our continent, between the line I have described and the coast of the Atlantic ocean. This is the vast flat plain or pasture ground of Buenos Ayres, or, as it is most usually and correctly called, the *pampas*, which word, in the Quecha tongue of Peru, signifies properly a valley.

This pampa, which forms a part of the territory of Cordova and of Santa Fe, and all that of Buenos Ayres, if measured entire into the country of the Patagonian tribes, extends in length fifteen hundred miles, and in breadth, in a direct line, following the southern boundary of the Union, five hundred miles from the ocean to its western confines. Over all this immense space there is not a tree, not a shrub, nor a single perennial plant to be seen, save only those few which here and there lift their heads near a herdsman's hut. There are no hills or eminences, and the undulations are so gentle as only to be perceived by taking a long view over its surface; and then



the eye passes round and round the horizon as over the face of the undulating ocean in a calm, where there is not a single object to delight, or to relieve, or to vary the scene. The keen blasts called the *panperos* sweep over the houseless and unsheltered plain without the least obstruction; and the fierce rays of the sun are felt in all their unmitigated fervor. You are sometimes in sight of thousands of animals, but they are chiefly horned cattle and horses, and the deer, ostriches, wild dogs, and others, fly as you approach. For as while the pampas present the mind with an agreeable astonishment; but that soon subsides, and the eye may often be directed in vain in any way to obtain a single glimpse of society. Surrounded by a boundless, silent sameness, one sensibly feels the value of the voice and variegated scenes of nature. This interminable plain spreads out one of the most expanded and awful solitudes on earth.

I do not know that any chemical analysis has ever been made of the nature of the qualities of the soil of the pampas, nor can I say that the few experiments that have been tried to shade them with a lofty growth were made with botanical skill; but they have all hitherto failed. I can only relate what I saw, and what were recounted to me as the trials of husbandmen and others, who, actuated by a love of gain, or directed by fancy, were anxious to aggrandize themselves, or to decorate their possessions. It is now two hundred and thirty-eight years since the city of Buenos Ayres was founded, and in six miles out from the Plaza Mayor you take leave of all quintas, gardens, and orchards, and enter upon the great, naked plain. The post road from Buenos Ayres to Mendoza (along which I travelled) passes five hundred miles over these pampas. In all that distance I saw not a single stone, no gravel, nor any sand; the surface of the earth appeared to be entirely a soft, black, rich soil on the banks of some of the rivers, and in places a reddish clay appeared. The water in almost every well in the city of Buenos Ayres is brackish; that of the wells in the pampas is generally as bad, and in some places worse. The water of the river Plata is used for drinking where it can be had. Many of the rivers of the pampas are brackish, as their names indicate, and there are in these plains many salt lakes; those called the Laguna Brava, one hundred and twenty miles, the Laguna Palantalen, one hundred and forty miles, the Lagunas de Monte and del Oeste, two hundred miles, and the Salinas de Paraguayes, two hundred and sixty miles from Buenos Ayres, before the revolution, at one time employed constantly from three to four hundred carts in carrying salt from them to the city for the supply of the country, and they now furnish a considerable quantity. There is under the whole of these pampas from three to twelve feet, and in some places more, below the surface, a stratum of earth of a foot or more in thickness, which appears to be a concreted clay, about as firm as a common brick. This concretion, as it projects along the water's edge of the Rio de la Plata at the city of Buenos Ayres, is called *tosco*, or rough

earth. On the margins and beds of most of the watercourses this stratum of *tosco* is visible; and the Rio Arecefe, or the river of the paved bottom, rolls entirely over it for a great distance. Near the banks of the La Plata, the Paraguay, and their branches, there are a few large trees and some shrubbery; but most of the lesser streams creep through the plains as in crooked ditches, without their courses being perceived at any distance, either by trees, shrubs, cliffs, or valleys.

The pampas are exceedingly productive in grass, and a great proportion of them are beset with a species of thistle, which grows from two to seven feet high, and is not unlike our garden artichoke. The only tree that seems to flourish everywhere, as a natural free citizen, is the *embudo*, or the perennial poke; its trunk, however, is a mere watery pulp, and the growth is utterly useless for every thing but shade. The peach grows well; but, in our country, it flourishes best on the seacoast and on the borders of the salt marshes. The olive and the fig also thrive; but they are natives of the dry and saline deserts of Arabia. Except these, there are no trees which appear to indicate that nature made them welcome where they were. There is no tradition that, in all this immense extent of territory, called the pampas, one single stick of good timber has been ever found growing at the distance of one mile from the rivers. If I might be indulged in adding a conjecture to the facts I have related, I would say that it seemed to me that this great plain had been gently lifted just above the level of the ocean, and left with a surface so unbroken and flat as not yet to have been sufficiently purified of its salt and acrid matter, either by filtration or washing, as to admit of the growth of anything more than mere grass and herbage, out of the upper stratum by which it is covered. The pampas are sometimes afflicted with the most wasteful droughts, when vegetation is parched up, the ponds and streams are dried, and the numerous herds of cattle either die of thirst, or wander away towards the rivers in pursuit of water, and are wholly lost.

The soil of the pampas produces good wheat, barley, and Indian corn; but the crops frequently fail. The grain of the wheat has the appearance of a very inferior quality; but it makes excellent flour, and is said to be much superior to that of Chili, which looks so much better on comparison. Chacaras, or grain farms, have neither been extended nor multiplied since the revolution; and I question whether agriculture be likely soon to increase in this country; while, on the one hand, it has to overcome the difficulties incident to the want of timber, and the peculiarities of the soil, and, on the other, to resist the temptations to pasturage, to which the country invites so strongly, and to which it is so eminently suited. The staple commodities of this great district of pasture ground are derived chiefly from its innumerable herds of cattle. It might furnish any quantity of salted beef; but the present Government has thought proper to prohibit the putting it up. Therefore, the only articles which it now

furnishes are hides, tallow, horns, wool and hair, viscacha, sheep and wild dog skins. In some years it produces a surplus of wheat; and it has furnished, and still supplies, some salt from its lakes. There are, also, some furs and swan skins, and feathers, brought from the Patagonian territory. The ostrich of the pampas, with the size and speed, and much of the manners and habits of that of Africa, has not a single feather of his soft waving elegance of plumage. The pampa bird is clad in a very coarse gray garb, which, when plundered from him, except what is suited for bedding, is neither ornamental nor useful. Buenos Ayres is the principal city of this district; and as it is the seat of Government, the public manufactory of arms has been erected there. The productions of its industry are playing cards, beer, spirits distilled from barley and fruit, cleaned hair and wool, hats, boots and shoes, tinware, Windsor chairs, cabinet manufacture, olive oil, candles, soap, shipbread, and some few others. In the country, the people manufacture some hats, boots, shoes, and coarse woollen cloths.

Taking in the whole of the Banda Oriental, that which may be properly called the Entre Rios; all the residue of Cordova, below the mountains; all of Santiago del Estero; and so much of Tucuman and Salta as is not extended over the mountains, and we shall describe another vast district of the pasture lands and plains of this Union, the uses of which have been hitherto similar to those of the pampas; but the nature and capacities of which are very different, and the destinies of which may finally, perhaps soon, receive another direction.

The soil of the Banda Oriental is uncommonly productive, and well adapted to all kinds of grain, of which it can easily be made to yield a most liberal return. Its surface is very waving, and everywhere abundantly irrigated with never-failing springs and streams of the purest water. There are some great spaces destitute of timber, particularly along the coast of the river La Plata, towards the Portuguese settlement of Rio Grande de San Pedro. Groves of fine timber, more than sufficient for all its necessary probable wants, are, however, scattered over its whole extent, and its more northern extremity is, for the most part, an entire forest. There has no quality yet been discovered in its generous soil, which indicates the least unkindness to any species of vegetable growth. There are no bogs, swamps, or lakes to be found in any part of it; and its climate throughout is remarkably salubrious. In short, buxom nature frolics over this beautiful scene, and with an open hand bestows everywhere health, variety, gaiety, and fecundity. The Banda Oriental has, however, hitherto been applied to no other purpose than pasturage, and the rearing of cattle, mules, and horses.

The country properly called the Entre Rios is, in most particulars, similar to the Banda Oriental; it is very fertile, and is furnished with an abundance of timber. There are, however, some extensive plashes in it, such as the *baxada*, or low grounds opposite Rosario, which are dry in Sum-

mer, and, in the wet seasons, covered with water; the soil, in such places, shoots up a species of reed, or large coarse straw; hence they are distinguished by the Spanish name *pajanal*. It was in one of those *pajanales*, then dry, near Santa Fe, in which the Buenos Ayres troops suffered so severe a defeat in April last. Almost the whole of the Entre Rios, like the Banda Oriental, has hitherto been employed only as a pasture ground; and, for that purpose, its fertile rincóns, or forks of rivers, have been considered as the most valuable *estancias*, or pasture farms, in the country.

The residue of the territory of Cordova, not embraced as pampa or mountain; all that of Santiago del Estero, with so much of Tucuman and Salta as lays below the mountains, is, in general, an elevated, dry, sandy plain, destitute of timber, except near the watercourses. The Rio Dulce occasionally overflows its banks, and fills large ponds near it, leaving them stagnant, and making the neighborhood very unhealthy. Hence the addition of Estero to the name of the city of Santiago; for, when the Rio Dulce pours its waters over its banks, forming a great lake in its vicinity, it is then, unfortunately during a sickly season, truly called Santiago of the Lake. This vast plain, as well as that of the pampas, seems destined to eternal pasturage; hitherto it has been applied to no other purpose. Being at a little distance from the rivers, higher, drier, and more copiously supplied with pure water than the pampas, it is, therefore, better adapted to the rearing of horses, mules, and sheep, of which there are great herds and flocks on those plains.

The principal internal commerce from Cordova and this district, prior to the revolution, was its trade in mules sent over to Lower Peru and Lima. This traffic, although at present wholly cut off by the war, deserves notice as illustrating the actual state of the country, and the nature of its productions. At two and a half years old the mules were purchased of the breeders, in the Banda Oriental, Entre Rios, and round about, and gathered in herds near Cordova, where they were wintered, and remained about six months. Thence they were taken up to Salta, where they spent a second winter; in which time they obtained their full growth, and were put in good order for the prodigious journey they had before them. Thus, somewhat gentled, seasoned, and prepared, they were presented for sale in the great mule fair at Salta, which opened in the month of March, where they were sold at from ten to fifteen dollars a head. The drover having purchased as many as, assisted by his peons or hirelings, he could manage, which was, on an average, two or three thousand, he set out on his journey towards Lima; which, taking into account the circuits he would be obliged to make to find pasturage for the drove, may be safely computed at not less than two thousand miles, and a great part of the way over the crags and defiles of the most rugged and lofty portions of the Cordilleras, among which many of his mules commonly strayed off, and were wholly lost. To reach Lima with two-thirds of the number with which the journey



was commenced from Salta, was reckoned a successful voyage. Mules which cost in Salta fifteen dollars, were sold in Lima for twenty-five or thirty dollars. One year with another, there were, in this manner, travelled over, from Salta to Peru, from fifty to seventy thousand mules. All the labor and transportation by beasts of burden in Peru has been, until lately, performed entirely by mules; and they seem to be the only animals which can be trusted along its precipices, and can labor under its burning sun, or that are well suited to the climate and country. This mule trade has now been so long cut off, that the stock of these useful animals in Peru is nearly exhausted, and the conveniences and productions of the country are materially affected by it. The price of a good mule now in Peru is more than three or four times what it was in the years before the revolution.

The productions of this extensive district of dry plains and wooded pasture, which I have just described, are chiefly similar to those of the pampas; they are hides, horns, tallow, hair, wool, sheep and wild dog skins, and some peltry, Indian corn, wheat, barley, and rice, fine potatoes, oranges, figs, grapes, and thence wine, brandy, and raisins, tobacco, timber, and lime. The articles which the ingenuity and industry of the people of this district produce for home consumption or domestic exchanges, are hats, tanned leather, coarse cotton and woollen cloths, candlewick, and ponchos or cloak of the country.

To the southward of the mountains of Cordova, and to the westward of the pampas, including the whole of the province of the Punta San Luis, and the eastern part of the province of Mendoza, is another district of mere pasturage. It is a high, dry, broken plain, and perhaps the most barren and unproductive of any in the Union. A great part of it is covered with several kinds of thorny scrubbery, interspersed with which there are some small timber trees. This district produces hides, tallow, horns, some grain, wine, brandy, and dried fruit.

By including a considerable extent of the Entre Rios round Corrientes, and the whole of the province of Paraguay, we shall designate a district which by many is considered as the fairest portion of this great Union, and equal, in its various excellencies, to any tract of similar extent in all our continent. Its climate is delightful, possessing all the advantages of that of the torrid zone, without being visited by the fierce rays of its sun, or being enveloped in its pernicious vapors. The face of the country is not mountainous, nor anywhere flat; it is well supplied by a great variety of streams of pure water; its soil is everywhere found to be exceedingly fertile and productive, and a rich and variegated forest originally overshadowed the whole, and now covers a great part. This forest produces mahogany, and several other kinds of beautiful wood suited to cabinet work, and furnishes, besides, an abundance and variety of timber excellently adapted to domestic and naval architecture. This may be regarded as more particularly and especially

the agricultural district of the Union. The state of husbandry in Paraguay is said, however, to be, like that of the other provinces, in a very low and unimproved condition, and conducted in the most rude and unskilful manner. The productions of the country are as various as they might be abundant. The sugar cane grows well, but little sugar is made; its juice is chiefly manufactured into spirits. This district produces Indian corn, wheat, and barley, but exports little or none. All the European fruit trees flourish and produce well; the orange, fig, olive, and vine grow luxuriantly. It produces cotton, flax, hemp, and tobacco, hides, tallow, lion skins, tiger skins, and some peltry. Its inhabitants manufacture hats, shoes, and several kinds of coarse cotton and woollen cloths for home consumption chiefly, and they make, for the markets of the other provinces, tobacco, cigars, and matte.

Within this district grows that singular vegetable, so much in demand and use over all South America, called matte, or the yerba of Paraguay. It is a perennial plant, rather a tree than a shrub, and, when full grown, is about the size of a common apple tree. Every Spring, when the tree puts forth, as it does very luxuriantly, its succulent boughs, to about the length of two or three inches, and, when the leaves are about half formed, the young shoots, are cut, gathered, and carefully dried; and, when perfectly cured, are put up in sacks, made of raw hide, of about one or two hundred pounds weight, and sent abroad over all the adjoining provinces. The young shoots and leaves of the matte, it would seem, have received the name of yerba, rather from the soft and herbaceous state in which they are gathered, than from the character of the plant. The yerba is used in decoction, like the tea of China; but, instead of making it, like that, in a pot, and serving it out in cups, it is made in a little vase, and sucked up through a small tube of about a foot in length, called a bombilla, or little pump, at which each one draws. The matte is used by all ranks and classes, and is one of those luxuries which has grown into an inveterate and necessary habit as the use of the tea of China in the United States.

Embracing all the residue of the Union under one view, we find an extensive mountainous district, stretching along below the eastern brow of the Andes, from Mendoza to La Paz, and spreading out over the whole of the province of Jujuy, as low down as the confines of the Llanos de Manso. On all those within this district I shall bestow the epithet of the *High Provinces*, as lying entirely among the broken and rugged elevations of the Cordilleras of the Andes; some of them, from Jujuy north and west, have been rather vaguely designated heretofore by the name of Peru-Alto, from their having formed a part of the empire of the Incas, whose seat was at Cuzco, three hundred and seventy miles to the north of La Paz. Throughout the whole of the high provinces, almost every one of the Spanish settlements seem to have been originally attracted to its present seat by an expectation of the wealth

to be derived by the extracting of the precious metals from some mine in its vicinity. Each town and valley, from that of Uspillata, near Mendoza, to those of Chicas, Potosi, and La Paz, has had, or now has, some productive mine in its neighborhood. Population has gathered about these subterranean masses of wealth, and agriculture was made necessary for the support of those who came to dig, or to profit by digging for silver and gold. Recourse was had to the neighboring valleys, and the cultivation of their generous soil has, in many respects, been found more profitable, and exposed to fewer disappointments than mining. Hence, this great district, first seated as a mining country, has now become rather more of an agricultural one. The mines of Uspillata and Famatina have ceased to enchant, or to be as productive as formerly; and the watered and cultivated fields and vineyards of Mendoza, San Juan, Rioja, Catamarca, and many other valleys, have brought such a pleasing and a comfortable wealth to their owners, that they are, in many respects, perfectly cured of their fanatic love of Plata, and have become as indifferent about searching after it as their predecessors the original natives.

I directed my inquiries in various ways, for the purpose of ascertaining, with some degree of certainty, what had been, or now was, the total amount of the precious metals extracted from the high provinces of the Union, but found it impossible to obtain any data whence a tolerably fair estimate of their fecundity could be made. Before the revolution the productions of the mines of Peru-Alto were, in part, sent to Lima, in part to the ports of Cobija and Arica, on the Pacific; but the greater part was exported from the city of Buenos Ayres, whence between two and three millions of dollars were sent to Europe annually; but then a very great proportion of that amount was derived from Chili. Again: the amount sent to Spain from Chili, every year, was about two or three millions of dollars; but then the whole of that amount, together with what was sent over the Andes, cannot be set down as its own production either, because a great proportion of it was obtained from Lima, Arica, and Cobija, in payment for its wheat; so that if we are to ascertain the amount of the exports of each of the three Viceroyalties of Peru, Chili, and Buenos Ayres, it would be difficult to say how much was properly its own production, because of their having been so intermingled. Since the revolution the mines of the high provinces have been very much neglected, owing to the country's having been in so distracted a state, and so much the seat of war. It is said that, within the last year, Buenos Ayres has exported about two millions of dollars; if so, a very small amount has been obtained from the high provinces, because much the greater production, or nearly all of that amount of its metallic exports, has been, in various ways, drawn from Chili.

In addition to the precious metals, the high provinces produce copper, tin, lead, and iron;

hides, tallow, wool, wheat, corn, and barley, rice and cotton, of which last article Catamarca is uncommonly productive. They produce, also, wine, brandy, and abundance of dried fruit. It will be proper to observe, however, that this district extends over a part of that singular region of America where, owing to the elevation and range of the Andes, or to some other causes, the vapors that are lifted into the sky are not permitted to fall on it in rain during the summer months; and, consequently, as it does not rain for many months together, the valleys, to be made arable, must be irrigated from some neighboring stream of water. Beside the productions of the mines and the valleys of this district there is drawn from the heights and obscure retreats of the mountains a considerable quantity of peltry, of which gunaca, vecuna, and chinchilla skins are the chief. The gunaca wool is equal to the merino, and the wool or fur of the vecuna seems not only to be capable of being manufactured into the finest cloth, but hats made of it rival, in lightness and fineness of texture, those made of beaver. The inhabitants of this district of the high provinces manufacture hats, shoes, tanned leather, and several kinds of cotton and woollen cloths, and ponchos. And, in many respects, the native Indian mode of manufacturing, as well as the form of the fabric, has been retained.

The various routes, and the facilities by which internal exchanges are effected, and the points at which they draw together and meet the commerce of foreign nations, with much truth may be considered as the cords by which a nation or a union is bound together; along which, as by so many nerves, each province is made sensible that it belongs to one whole, and every limb is made to brace itself in the common cause of all. Therefore, to complete the concise review which I propose to present you of this Union, its several parts, and its productions, I shall exhibit some of its principal paths and channels of commerce, and the manner and places at which its productions are collected for barter among themselves, or gathered together to meet the exchanges of our citizens and those of other nations. These details may, perhaps, appear to be unnecessarily tedious, but I know not how to compress them; and, besides, statistical information consists in mere matters of calculation and interest, in which we look rather to the value and the utility of the knowledge, than to the beauty of the scene which it is in the power of the narrator to depict.

I have endeavored to lay before you a fair representation of the peculiarities of the country; and, as may readily be supposed, some of the peculiarities and the facilities of internal transportation grow out of, or are the natural suggestions of those of the country. The pampas are, in rainy seasons, very wet, and in places there are great pantanas, or spaces of soft mud; for want of stone, or gravel, or wood, the roads cannot be rendered firm for carriages. There are few places of refreshment or repair, and the dis-



tance over them is prodigious. The carriage of burden is, therefore, accommodated to these circumstances. The Tucuman and Mendoza carts, at a little distance, look like thatched cabins slowly moving over the plain. The whole machine is destitute of a nail or a bit of iron; its great coarse wheels are not less than eight feet in diameter; six oxen, in general noble, strong animals, move it. The two front pair have a great length of cord by which they draw; and the load of the cart, which, on an average, is not less than four thousand weight, is pretty nearly balanced on the axle-tree; the body of the cart is either covered with raw hide or thatch made of reeds or straw; and, with a collection of brushwood as fuel, tied on the top, and brought from the westward of the pampas, these carts are seen crossing the plains in caravans of from thirty to forty together. On the journey the oxen are unyoked occasionally through the day, and at night, and permitted to seek their food round about. Thus, without any other provision than what is necessary for himself, the carrier pursues his way over a waste of thirty days or six weeks' passage. There are in Buenos Ayres and Mendoza a number of owners of these carts; and the several common carriers of Tucuman keep about two hundred of them constantly employed in the trade of that city. From Buenos Ayres to Mendoza the distance is nine hundred miles, and the fare is from one hundred and forty to two hundred dollars the cart load downwards; but, to the westward, the fare is only about forty dollars the load. The route is performed in about thirty days. From Buenos Ayres to Cordova the distance is four hundred and fifty miles, the fare, per cart load, is twenty-five dollars, and the journey is performed in about sixteen or eighteen days. It is nine hundred miles from Buenos Ayres to Tucuman, and the fare, per load, according to seasons, is about one hundred and fifty dollars. From Buenos Ayres to Jujuy, the distance is twelve hundred miles, and it is the utmost extent to which the roads are practicable for wheel carriages; the fare is not less than two hundred dollars the cart load.

Mules are used for transportation in every direction over land, as well where carts can, as where they cannot travel. But they are most commonly employed to traverse the mountains, and to bring down to Buenos Ayres the productions of the high provinces. San Juan is only one hundred and eighty miles to the north of Mendoza; and along the valley parallel to the Andes there is a good cart road from one to the other; but the direct road from San Juan to Buenos Ayres is no more than nine hundred miles, but it is only practicable for mules. In general, in the high provinces, there are no roads which are at all passable for carriages. A mule load, according to the custom of the country, is four hundred pounds weight, for which the fare between San Juan and Buenos Ayres is ten dollars, and the route is usually performed in thirty days. From Buenos Ayres to Cordova the fare is seven dollars, and so in proportion further, or

in other directions. From Jujuy, whence the transportation can only be effected, in any westwardly or northwardly direction, on mules, the distance to La Paz, the most remote city of the Union, is about seven hundred miles, and the fare is thirty-five dollars the mule load. The carriers, who make a business of transportation by mules, have from fifty to one hundred of these animals in a drove, the greater number of which are loaded when on a journey; and whatever may be the route they pursue, they carry no provisions with them, nor purchase any by the way for these beasts of burden. Either on the plains, or in the mountains, the patient, hardy animal, relieved of his pack, is turned loose at night to gather his food, and take his rest; and in the morning the load is replaced, and he is driven on, very commonly, the whole day without stopping.

The mail leaves Buenos Ayres for the north-west four times in the month. The whole distance to La Paz is little short of nineteen hundred miles; and the mail usually reaches that city from Buenos Ayres in forty days. It is said that individuals, by the usual mode of taking relays of hired post horses, and pressing forward, have gone the whole route to La Paz in twenty days, and that extraordinary expresses have gone through in twelve days from Buenos Ayres.

These are the principal paths of the commercial intercourse of the Union over land; the channels of communication by water, that have been accessible to foreigners, or which have been at all used by the inhabitants, are only those of the Rio de la Plata and its tributary streams. If we should measure directly across the mouth of this great river, from the Portuguese dominions to the line I have designated as the boundary of the Patagonian territory, we shall find a length of not more than about three hundred and seventy miles of coast on the Atlantic belonging to the Union; but if, as seems to be most correct, the river Plata be considered merely as a great arm of the sea, and its shore be taken into the account, then the Union will be found to have an extent of between five and six hundred miles of coast. The Rio de la Plata is said by navigators to have many dangerous singularities, and materially to differ from every other known river of the world. No vessel drawing more than eighteen feet water can pass up to Buenos Ayres; and all navigators are cautioned to beware of its singularly changeful currents, and the destructive blasts, called pamperos, which occasionally sweep over its surface. There are no fish of passage, which, at any season, frequent this estuary; and, therefore, there can be no fishery anywhere in it for the purposes of profitable commerce, except, indeed, the seals that may be taken on the islands of Flores and Lobos, near its mouth. The Rio de la Plata commences from Cape St. Maria, on the north, and Cape St. Antonio, on the south; thence it gradually narrows until it reaches Buenos Ayres, where it is about forty miles broad, and it terminates by a round end just above the small island of Martin Garcia, which is said to command the mouths

of all the rivers which unite a little to the north-west of it, and pour their waters into the La Plata. At present this island is uninhabited, and seems to be considered as of little other importance than as a convenient place to procure paving stones for the city of Buenos Ayres.

On the shore of the Banda Oriental, just within Cape St. Maria, is the port of Maldonado. The harbor is chiefly formed by the small island of Gorette. There are six or seven fathoms water within it, but it is not of easy access, except for small vessels; those drawing eighteen feet or more must enter by a crooked channel to the westward of the island. Next above Maldonado, on the same side, is Montevideo. It is a tolerably good harbor for such vessels as can enter, but it has not more than fourteen feet of water within the cove. The ensenada de St. Lucia, above Montevideo, has about eighteen feet of water at its mouth, but furnishes no harbor. The Rio las Conchas, whose mouth is in the territory of Buenos Ayres, just below the Paraguay, is entered by vessels of ten or twelve feet draught of water, and for such it affords a good harbor. The city of Buenos Ayres is itself situated on a long, straight reach of the coast of the La Plata, and the vessels trading or belonging there lie out from two to seven or eight miles from the shore, in a bleak, unsheltered roadstead. The ensenada de Barragan, or the mouth of the creek of Barragan, below Buenos Ayres, affords a harbor for vessels of about twelve feet draught of water. Except these, the only security for any vessel, anywhere within the Rio de la Plata, is her ground tackle.

Passing the island of Martin Garcia, and ascending the Uruguay, on tide, by a broad and bold navigation fifty-four miles, the beautiful Rio Negro presents itself, entering from the eastward. This limpid stream, whose waters, collected from the pasture ground and groves, beset with sarsaparilla, of the Banda Oriental, are pleasant to the taste, and said to be for many cases medicinal, is navigable for all vessels that can pass over the bar in the La Plata, as far as Capilla Nueva, about forty miles from its mouth, where the capital of the country, now called Purification, has not long since been fixed. This river hides its head in the Cerro de Lascano, nearly three hundred miles farther up, and is said to be navigable for boats some distance above Purification.

Returning, to follow up the Uruguay, it is found to afford an easy, uninterrupted navigation as far as St. Antonio, or Salta Chico, more than two hundred miles above its mouth, to which place the Government of Buenos Ayres, in the year 1810, sent several launches, of many tons burden, laden with provisions and munitions of war for its army then stationed there; and I have understood that it is navigable to Capilla St. Pero, a hundred miles still further up; thence the stream is uncommonly rapid for more than three hundred miles, to where it receives the Rio Pepry from the west, and its right bank forms the boundary of Brazil; thence, about fifty miles

farther, it is met by the Rio Vermejo from the east; and from thence to its source, in the Sierra de Sta. Catherine, opposite the island of St. Catherine, on the coast, a distance of about two hundred and fifty miles, it passes wholly within the Portuguese dominions. The general course of this river is nearly northeast; and its whole length, travelling with its course, may be estimated, from its source to its mouth, at little short of one thousand miles.

Immediately opposite to the island of Martin Garcia, within a space of about forty miles, the great river Paraguay pours its mighty collection of waters into the Rio de la Plata through seven mouths, of which Brazo de la Tinta, on the left, enters the Uruguay from the west, and the Boca de las Palmas, on the right, enters the La Plata on a line with its western coast, just above the Rio de Lujan; but the chief opening, and that which is most usually navigated, is the Boca del Guante, which presents itself directly to the west of Martin Garcia. Any vessels which can cross the three-fathom bank in the La Plata below Buenos Ayres may ascend the Paraguay with ease and safety to Santa Fe, three hundred miles to the westward of Buenos Ayres, which, with a fair wind, may be reached in ten or twelve days; indeed, it is said that such sized vessels may ascend as high as Corrientes. In ascending the Paraguay from the mouth, you pursue a northwest course, about two hundred miles, to Rosario, a town on the right bank; thence north, one hundred miles, to Santa Fe, which is also situated on its right bank, and just above its confluence with the Rio Salado; thence, bending away nearly northeast, and ascending about four hundred and fifty miles further up, and twenty miles below the mouth of the Parana, you arrive at the city of Corrientes, situated on its left bank. Pursuing the same course about two hundred miles still further up, you arrive at the ancient city of Assumption, once the capital of the whole country, now that of the province of Paraguay only; thence, following a course more northwardly, after ascending about one hundred and fifty miles further up, you reach the Brazil line at the Rio Ipane, which enters from the east, at the mouth of which is situated the village of Nueva Sta. de Belem; thence rising along the stream, in a direction nearly north, and having the Portuguese dominions on the right, for a distance of three hundred miles, you meet with the Rio Latireiquiqui, entering from the west, near the end of the Cordillera de San Fernando, which elevated range of mountains forming the boundary of Brazil, the river becomes wholly the right of the Portuguese; thence pursuing the same course for a distance of three hundred miles further through the great morass of the Xareyes, you find the marco, or marble pyramid, erected as a boundary in 1754, near the mouth of the Rio Jouru; by ascending which some distance, the traders of the country carry their boats over a portage of four thousand eight hundred yards into the Guapore; by descending which to the Madeira, and thence downward, they reach



the mighty Marañon. About three hundred miles farther up you find the sources of the Paraguay in the *Prisidios dos Diamantos*; so called from its being said to have the richest diamond mines in all Brazil, perhaps in the world. So that the Paraguay, in the whole, extends itself, in a northwardly direction, nearly two thousand miles; about fifteen hundred of which affords good boat navigation, and between six and seven hundred is said to be practicable for sea vessels.

The principal branch of the Paraguay is the Parana; and, on entering it, you ascend in an east direction about two hundred and thirty miles to La Candelaria; thence ascending northeast one hundred and fifty miles, to the point at which it receives the Rio Ipane from the east, which is the boundary of Brazil; thence, with these dominions to the east, pursuing the same course one hundred and thirty miles farther up, and you arrive at the Salta Grande, or great waterfall, which interrupts the further navigation of this stream at the lower end of the *Ilha Grande*, and near the end of the *Cordillera Alto de Maracayu*, which is the Brazilian boundary on the right bank of the river. From this, the Parana ascends, in a northeast direction, into the Portuguese dominions, about four hundred miles, where it is divided into two branches, one the Rio Grande, which, turning to the eastward, and extending about four hundred miles farther, is lost in the great mountains, about one hundred and fifty miles to the north of Rio Janeiro; the other branch, called the Parana-iva, after stretching due north about three hundred and fifty miles, reaches its source in the lofty ridges of the *Sierra de Maracayá*.

Of those rivers which enter the Paraguay from the west, there are only three which, as far as I can learn, merit particular attention. The Rio del Pasaje, after collecting the waters from the valley of Calchicui, and traversing the greater portion of the province of Salta, unites with the Rio Tala, and forms the Rio Salado; which, after winding its way, in a southeast direction, through the plains of Tucuman, Santiago, and Cordova, travelling a distance of about four hundred miles, throughout the whole of which it is said to afford boat navigation, slants into the Paraguay at Santa Fe. The river Vermejo, after receiving the waters of the valleys of Tarija and Rosario, descends to the western margin of the *Llanos de Manso*, along which it moves past the territories of Jujuy and Salta; then, turning to the eastward, it crosses those great plains, and enters the Paraguay about fifty miles above the mouth of the Parana, travelling a distance from the town of Tarija of more than seven hundred miles; and, about midway of its course, receives the Rio Jujuy, after it has pursued a route of about two hundred miles in length from the city of Jujuy. In the year 1790, Colonel Cornejo, in a boat of several tons burden, did actually ascend the Rio Vermejo as far as the town of Tarija, without meeting any material obstructions from cataracts or ripples. The river Suipacha, after receiving the waters of the St. Juan from the

salt pampas at the foot of the principal *Cordillera* of the Andes to the north, and those of the Rio del Oro, which are precipitated from the same lofty eminences, to the south, in the province of Chicas, and passing the crags, and wilds, and fertile valleys which it meets in a course of three hundred miles, finds itself associated with the branch called the Pilcomayo or Paspayo, which has traversed a similar country for a distance of three hundred miles from the foot of the mountain of the famed silver mine of Potosi; thence, moving on their joint waters, they meet with the Rio Chachimayo, after it has descended from the mountains of Charecas, and passed the city of La Plata or Chuquisaca, at one hundred and fifty miles above; with which river they unite to form the Pilcomayo, properly so called, near the eastern end of the fertile valley of Ingre, in which the warlike *Chiriguano* Indians have twenty-six villages; from which the Pilcomayo, entering directly into the *Llanos de Manso*, and crossing them in a southeasterly direction, passing great numbers of the habitations of the savages who dwell in those plains, pours its waters into the Paraguay by two mouths forty miles below the city of Assumption. How far this river is practicable for boats of any size, I have not been able to learn; but I am induced to believe, from the description of the plains through which it passes, that it must be navigable a great part of the way.

These are the principal paths and channels by land and water; and this is the manner in which the greater part of the productions of this extensive Union are transported from one province to another, or by which those suited for a foreign market find their way to the city of Buenos Ayres; for the new Government allows of no other port, either for exportation or importation. One of the consequences of independence and union to our country was, that its commerce, as well internal as external, almost immediately left many of its former colonial courses, and sought others; directing itself to points and along ways adapted to the natural advantages of the country and the best interest of the people. Hence, the decline of some of our colonial towns, and the very rapid growth of some of our cities. A similar consequence, to a much greater extent, might have been expected to have arisen from the revolution of the Spanish colonies on the river Plata; but none such has yet taken place. On the contrary, those noble rivers which nature seems to have poured through their country as immense conveniences, advantages, and benefits, have been to them the waters of bitterness and discord. An attempt was made to export and import from and to Santa Fe, which was so great an advantage to all the country west and north of it that much traffic began to flow that way. Buenos Ayres forbade it; and this is one of the grounds of the controversy between Santa Fe and Buenos Ayres. The people of the Union are contending for independence, that they may, among their other rights and liberties, establish the freedom of commerce, so that its courses may be directed solely

and exclusively by convenience, profit, and advantage. If commerce be dragged away from courses so chosen, it is a monopoly; and, although it may not, in some respects, be as pernicious as that of Cadiz, it is a monopoly. One of the consequences of the present strife to Buenos Ayres is, that it can procure not a single stick of that necessary article, timber, with which the banks of the rivers beyond the La Plata abound; but is supplied from Cordova by its carts, or timber is brought from Brazil, or the United States; in which cases, it is admitted free of duty, and is said to yield a good profit, such are the present high prices of timber in this new country.

The aggregate amount of the imports of Buenos Ayres, within the last two or three years, has been estimated at about eight millions per annum; of this amount, about one-half consists of British manufactures, and productions of one kind or other; and the rest is made up principally of French, German, and India goods of various descriptions and a small proportion of the manufactures and productions of the United States. The principal of our commodities which found their way to advantage to Buenos Ayres, seem to be cordage, pitch, tar, salt fish, furniture, Windsor and rush-bottom chairs, rice, butter, spermaceti candles, porter, ale, cider, gin, peach brandy, writing paper, plank, and some other articles that I may have omitted. But latterly our trade thither has been very limited, and has consisted rather in carrying the goods of European and Indian continents for the purpose of procuring the few articles we want from them, than its being a market for our productions of any sort.

The exports of Buenos Ayres for some years past have been, it is said, on the decline. During the last year, they have been thus estimated; it has exported one million of hides of all descriptions, which, valued on an average at three dollars each, makes three millions of dollars; it is computed to have made up three millions more, of the following articles: tallow, horns, horse hair, jerked beef, copper, tin, lead, chinchilla skins, nutria, lion, tiger, wild dog, seal, swan, viscacha, and sheep skins; sheep, vecuna, and guanaca wool, and feathers, with some few others of less value, or that are produced in smaller quantities. And the balance, consisting of two millions, it is said, has been made up by specie derived from the mines of the high provinces, and from Chili, in return for the foreign manufactures sent thither by the way of Mendoza, and in payment for its matte, and by various other ways and means.

The Spanish settlers in America have everywhere discovered a disposition to group themselves together in towns and cities. It is rare to meet a country gentleman resident on his estate, or to find a wealthy land owner, who has not a house in the city, which is his usual place of abode; from which his *chacaras* and *estancias*, that is, his grain and grazing farms, committed to the care of peasants or slaves, are occasionally visited. The reason of this mode of life, it is said,

arises from the inertia of the Spanish habits. The owner commits the care of his estates to his slaves, or makes them grazing farms, which require little attention, that he may lounge away his time in a city, with every convenience about him, and enjoy those long intervals of repose of which a Spaniard is so fond. But the modern Egyptian and the modern Greek, whose countries were once the busy hives of industry, and the lands of enterprise and science, are as inert and as fond of repose as the modern Spaniard; may we not, then, suppose the cause of this love of repose to have been the same in all?—the debilitating political and ecclesiastical institutions, whose impressions have been with fire and sword, and fagot, cut and branded upon them all? But, whatever may have been the cause, such is the fact, that the more wealthy, intelligent, and better sort of people are universally found in the cities and the towns. The best and fairest sample of the population of the Union, it is said, is to be found in the city of Buenos Ayres; and there are some circumstances which render the assertion not improbable. That city, almost ever since its foundation, has been a seat of Government, and the emporium of all the foreign commerce of the country; the people have had much intercourse with foreign nations; and, of late years particularly, they have had the means of information poured in upon them; and they have, from every account, profited by it very much. They are, in general, very intelligent, and very unanimous in their determination to support their independence, and to establish their freedom. The lower classes have materially benefited by the change, and they are perfectly sensible of the happy results. With very few shades of difference, however, the population of the great cities and principal towns of Buenos Ayres, Montevideo, Mendoza, Santa Fe, Cordova, Salta, Tucuman, Jujuy, Corrientes, Assumpcion, Potosi, Chuquisaca, &c., are all alike as to intelligence and general information. In the cities are found the great body of the leading and influential citizens of the Union, and their numbers are by no means inconsiderable, who have given an impulse to public opinion, and have kept, and will keep, the ball of the revolution in motion until the great end be accomplished of independence and substantial freedom.

The herdsmen or peasantry of the pampas plains form a very considerable proportion of the population of the country. Thinly strewed over the great pastures, those residing at a distance from the cities have, most commonly, each one the charge of an *estancia*, many leagues in extent. They have little society, are totally illiterate, lead an indolent life, and dwell on an immense waste, in continual solitude. Their habitations are constructed in the simplest form; in general, they consist of low mud walls, thatched with the long grass of the plains, tied on a layer of reeds, with raw hide thongs, or stuck on with mud. In the pampas a few peach trees stand round about; but the *embudo*, one single one, and no more, seems to be the herdsman's favorite



shade, and designation of his dwelling. The bedding and clothing of the family, and the whole household furniture, exhibit a scene of laziness and dirt, yet mingled with apparent cheerfulness, great kindness, much natural intelligence, and an evident independence of character.

From infancy the herdsman is taught to ride, and there are, perhaps, no more expert horsemen in the world; much riding is required by his situation and mode of life; and to ride well is his pleasure and his pride. Either from the custom of his Spanish ancestors, or from its real and constant utility, the herdsman is never without a long butcher's knife, worn about his waist. His cloak is that gray, party-colored covering, formerly used by the natives, which seems to have been universally adapted to his taste and convenience. The Indians and the herdsmen's cloak, or poncho, as it is called, is a square piece of cloth, something larger than a Dutch blanket, with a slit in the middle, through which the head is put, leaving it to hang down all around. This poncho is his bed at night, and by day his cloak, a felt, a saddle cover, or a bag, as fancy or necessity may require. It would seem as if similar circumstances everywhere made similar suggestions. Within that region of the globe designated as Central Asia, there are immense steppes or plains, not materially different from those traversed by the La Plata and its rivers. And it is said the Asiatic herdsman of those plains, like him of America, has, from the most remote ages, always used as a utensil, or weapon, the lazo, or running noose, either to manage his herd, or to attack his foe. The lazo is a cord or thong, made of strong, well-prepared hide, about thirty yards long, with an iron ring, or a loop at one end, through which a running noose or lazo may be made in an instant; the other end is fastened to the cincho or board surcingle, which secures the saddle. The lazo, hung in a coil to the hinder part of the saddle, is thus ready for use. So soon as it is thrown and takes effect, the horse, as he has been taught, stands firm or moves off with what has been caught. The lazo is thrown by a herdsman with unerring aim, either on foot, or on horseback, or at full speed, at a fleeing animal or retreating foe. The herdsman of the plains is usually provided with another instrument similar in its use to the lazo. The bola is an instrument made with three cords of about three feet each from the knot which unites them in the middle; to the end of each of which is fastened a ball of about two pounds weight. The bola, with a few twigs over the head, is thrown like a stone from a sling; and, entangling about the legs of the animal at which it is directed, instantly prostrates it at the mercy of the pursuer. And, whether thrown standing or at full speed, the herdsman's bola seldom flies in vain. This instrument, like the lazo, is usually slung to the hinder part of the saddle. Mounted, and thus equipped, the herdsman is ready for a journey of a thousand miles, the protection or the seizing of his herd, or for the defence of his country.

The European armies that have been landed

on the shores of the river Plata have found the lazo and the bola to be weapons of war of a new, surprising, and singular cast. Their outposts often silently disappeared, they knew not how; a dragoon, when at a sufficient distance, apparently, to be out of danger from his enemy, would have his horse suddenly thrown from under him, or in an instant he himself would be snatched from his seat and dragged to death. The European forces saw the plains covered with cattle; but none of the wild herd could be taken; their chase and fire frightened them beyond their reach. The nakedness of the country was thus perceived to be its chief fastness, and security to its inhabitants and their herds against foreign invaders. The wars that have been waged in that country, particularly on the Banda Oriental, have made the herdsmen of those plains as expert in the use of a gun on horseback, as of a lazo or the bola, all of which they now carry in their warlike excursions; and they may be considered as the most formidable guerrilla or partisan soldiery that ever existed. In courage they are inferior to none; and the exploits that are related of their adroit and rapid horsemanship exceed what has been told of the Parthian, the Scythian, or the Cossack of the Don. Such are the herdsmen of the pampas and plains, who are usually called gauchos; an epithet, like that of yankee, originally cast on them in derision, but one which has now ripened into a distinctive and common appellation that is no longer offensive. The most active and efficient portion of the Buenos Ayrean army of Peru, under Belgrano, is the guerrilla party of gauchos commanded by Colonel Guemes.

The peasantry of the high provinces are, a great majority of them, agriculturists, with the addition of the laborers in the mines. This class of the population of the Union is not materially dissimilar from the like class as it is described to exist under all arbitrary Governments. They are wholly illiterate, are superstitious and indolent; but, from the thinness of the population and abundance of the necessities of life, this class has not been so pressed upon, and is therefore not so sordid and boorish as in some other countries; they are cheerful, docile, active, and extremely susceptible, and desirous of improvement.

Of those three classes of population it must be observed that each has evidently been mingled and discolored with Indian blood. The city class least of any; but the gauchos are a third or a half of Indian descent; and the husbandmen of some of the cultivated valleys of the high provinces have the appearance of being little else than the civilized descendants of the aborigines.

There were at the commencement of the revolution a considerable number of slaves in the Union, of the Indian or African race. But slavery has been abolished. The negroes have, generally, been transferred from domestic slavery to the ranks of the army, into which about four thousand have been enlisted; the half of which were sent to Chili, where their numbers have been reduced nearly half. Some were sent to carry on the war against Artigas, and have been much cut

up; and the residue are quartered in the city of Buenos Ayres, where they are believed to make good soldiers. They are used as guards about the directoral palace, the hall of Congress, and the city.

The people of Paraguay have traits of character differing alike from the citizen, the gaucho, and the husbandman of the high provinces. The district of Paraguay was taken into the possession of the Spaniards from the natives, at as early period, almost, as any portion of the viceroyalty; it has a greater population, in proportion to its extent of territory, than most of the other provinces. Paraguay long had the peculiar care of the Jesuits, and has had all the benefits of their spiritual instructions. It is at once a fair sample of their skill at civilization, and of the effects of their system, the fundamental maxim of which was to exclude all strangers. The present race of Paraguayans are said to be a mixture of the European Spaniards and natives with perhaps more than half Indian. They are remarkably peaceful, and taciturn in their temper and deportment. They are more industrious than the people of the other provinces, prodigiously attached to their country, or rather the place of their nativity, yield a passive obedience to the powers that be, and are much averse to strangers, to changes and new modes of every sort. They are excessively clanish; when they have heretofore visited Buenos Ayres, for the purpose of trade, it has been always remarked that, wherever the leader of the squad dealt, there all would deal and nowhere else. It is rare to meet a Paraguay who cannot read and write, and who does not understand the rudiments of arithmetic. Yet they make no other use of this precious acquisition than to read some few homilies, and to make notes and keep accounts of their little dealings. They never apply it to the acquisition of any useful knowledge whatever. Their literature is merely elementary, and made less use of than the hieroglyphics of their progenitors of Peru. Their stern religion or more rigid habits seem to forbid them to stray from the precepts inculcated in their youth, with so alluring, so wanton, and so erratic a guide as modern philosophy; lest a perverse doubt, like an artful and suspected stranger, should seduce them from the good old ways of their ancestors. The Paraguayans are generally healthy, robust men, very abstemious and sober; the great body of them are agriculturists; and their delightful country, alike suited to the growth of the productions of the temperate and torrid zones, supplies them with every necessary, and a variety of the luxuries of life. They manufacture much within themselves, get scarcely anything from abroad, and have little intercourse with the rest of the world. It is a question which future experience must solve, whether the gay and docile, but illiterate husbandman of the Andes, or the Paraguay agriculturist, with his smattering of letters and his Jesuit habits, shall rise most rapidly from the obscurity of his colonial condition, and profit most by the revolutionary changes now in progress.

This country and these people, whose extent, situation, and character I have endeavored clearly, concisely, and fairly, to delineate, were governed by the Spanish power with the coarse machine of monarchy, and according to its few and simple principles. The first magistrate of Buenos Ayres was the viceroy, who was appointed by the King of Spain; and this viceroy governed all, overruled all, and commanded all, civil and military, but the King his master. The members of the supreme tribunal of justice, called the royal audience, were also appointed by the King. And all the other officers of the Government were appointed by the viceroy or the King, or sold by him, responsible to him alone, and removable only at his pleasure.

Whenever the population of a district of country increased to such a number as to require it, or it was otherwise thought worthy of the honor, it was laid off into what was called a province, or jurisdiction, and a Governor appointed over it; and if the population was increased and condensed into a town, or its inhabitants had influence with the viceroy, or the viceroy thought a spot suitable for a town, it was laid out as such, and declared to be a city; and a tribunal called a Cabildo was organized for the regulation of its police, and the administration of justice within it, and a certain district round. This ayuntamiento, Cabildo, or corporation, was composed of from six to twelve members, called regidores, according to the size of the city. The Governor of the province was, ex officio, President of the Cabildo, with power to control or overrule its ordinances or decisions, in like manner as the viceroy could those of the royal audience, whenever he chose to take his seat, and act as president. The office of regidor, like most others in the Spanish Government, was venal; the price paid for it in Chili was about five hundred dollars; and I have reason to believe that in Buenos Ayres it was valued at about the same; it was held for life. Besides those to be had in the market, there were generally four other regidores, residents of the city, who were appointed by the viceroy. The alguacils, or sheriffs, and bailiffs of this tribunal were venal, bought and sold at a given price, like any other merchantable commodity of the Spanish dominions. It is of these jurisdictions the present provinces of the Union have been constituted; and the Cabildos, thus organized, and which were continued by traffic, and the Chief Magistrate of the Union, for the time being, until the present form of government was adopted, are the sources, with little variation, whence sprang the existing Congress.

Besides these, there were appointed in districts too extensive for justice to be conveniently administered by the Governor or the Cabildo, village or country alcaldes, or territorial justices. The jurisdiction of these officers, however, extended only to petty matters, or the apprehension of offenders; they were a sort of justices of the peace. In addition to these, there was, in the cities of Buenos Ayres and Montevideo, a tribunal called the consulado, invested with jurisdiction in commercial affairs only, from which there might be an appeal



to the viceroy. These were the civil tribunals, into which the colonist entered, with his purse in one hand and his documents in the other, to seek protection and right, and to obtain redress against the wrongdoer.

The right of patronage to all ecclesiastical benefices belonged exclusively to the King; but it is said there are a few unimportant livings in Buenos Ayres in the gift of individuals. All ecclesiastical affairs were cognizable only before the spiritual courts, of which each bishop had one, composed of the bishop himself, the fiscal, proctor, or lawyer, and the provisor. These tribunals also were subject to the control of the viceroy.

But there was one tribunal which bore sway over all, and that was the tribunal of the holy inquisition, which had the power to fine, confiscate, imprison, hang, or burn, for the offence of which the accused was convicted by it. The two vice-royalties of Buenos Ayres and Chili were subject to the holy inquisition of Lima, which tribunal appointed its commissioners in those two vice-royalties, who furnished it with information, had its process executed, and the accused sent forward for examination, trial, and suffering.

There was no tribunal, or any officer of any description whatever, emanating from the people, or appointed by them, or responsible to them, either directly or indirectly, in any manner. There was not, in the whole country, one single popular meeting allowed of, except at church for worship, or any such thing known as a legal and standing congregation of men, gathered from the people for any purpose whatever. Of all the various formal and informal means of which the people of our country have, at different times, availed themselves, to make an expression of their collected and united voices, not one of them, or anything of the sort, ever appears to have been known in Buenos Ayres before the revolution. The people of that country appeared to have been governed with so total a disregard to their will, or with so watchful a determination that their voice should not be heard in any way, that they seemed to be strangers to the methods by which it may be collected and expressed to advantage, or not to have estimated them as they ought. The viceroy, with a suitable number of military adjutors and underlings, took charge of the person and property, and the holy inquisition, by its commissioners, had the curacy of the mind of the humble colonist; which independent, irresponsible, and holy officers of the royal power, could only be rendered merciful, or flexible, or just, by the secret but potent operations of tangible gold. The sword of the military and fagot of the church thus executed the will of the Monarch; no one dared resist; complaint was never heard; the colonist submitted in silence, and suffered, and groaned inwardly.

The Spanish colonial Government of Buenos Ayres was of a character calculated to blight every hope of freedom, and make men passive and calm. Hence, the people of those provinces

did not begin their revolution in opposition to the oppressions of the mother country. They were not excited, like those of the United States, first to make head against the arbitrary attempts of the parent State, to claim their privileges, to declare their independence and to resume a Government which had been abused by their transatlantic rulers. It was not until, by the great agitations of Europe, the gripe of the colonial power was loosened; until after the hand of the Monarch had been by those struggles, for a time, taken off, that the colonists began to think and feel as men; not until after the people on the shores of the La Plata had been visited by a portion of the wars, and the blaze of those political conflicts of Europe, that they were aroused, and excited to seek, and to endeavor to obtain and defend their own long lost rights.

The British Government, for a long time past, appear to have had a very strong disposition to obtain a station or plant a colony on the shores of the La Plata. So early as the year 1740, the project was proposed, and the subject discussed. At the peace of Paris, in 1763, the subject was renewed, and the value of such an acquisition much urged. In the latter end of the year 1805, the expedition under Sir Home Popham made a formal attack, with a view to obtain possession of Buenos Ayres, but was driven back. And the disgraceful and unfortunate expedition under General Whitelocke, in the year 1807, appears to have quieted British notions of adding to their transmarine possessions in that quarter. At present, the British are pursuing with avidity a free, peaceful, and lucrative commerce, where, by their repeated wishes and attacks, they have failed in establishing conquest and monopoly. These attacks of the English gave the first shock to the colonial establishments of Buenos Ayres.

In the month of July, in the year 1807, a French Government vessel arrived in the river Plata, with the intelligence that the old dynasty of the mother country had been pushed from the throne, and Joseph Bonaparte declared King in the place of a Bourbon. Liniers, the then viceroy of Buenos Ayres wished to recognise the new King, and induce the people to acquiesce in the change. This, notwithstanding all their sufferings under the Bourbon line, they refused to do, drove Liniers from power, and declared their adhesion to the old dynasty, and to what they conceived to be the cause of their country. In this state of things, Cisneros came out from Spain, commissioned by the Junta of Cadiz as viceroy, and resumed the reins of Government. Thus the old order of things, after having received a rude shock from the English, was thrown entirely into confusion. The British and other foreign traders, finding the old opposition removed or paralyzed, poured into the country; and the people, during these agitations and changes, began to perceive and to feel that a free commerce brought with it considerable advantages; that there were many abuses to reform; and that there was in fact no power in Spain which could be said to represent the Bourbon King, to whom they still were de-

termined to adhere, notwithstanding all they had experienced and suffered.

In consequence of these agitations, to advise for the best, and restore harmony, a Junta was convened in Buenos Ayres, composed of some of the principal persons of that city, and their Cabildo. And on the 25th May, 1810, this Junta determined to take the Government into their own hands until a Junta could be called and convened composed of representatives from the other provinces, into whose hands it should then be committed, until Spain should so far recover from its misfortunes as to be able to do justice to itself, and to redress the evils in the administrations of its colonies. Accordingly, Cisneros was stripped of all power, and permitted to depart in peace for Europe. This day is called the commencement of the revolution, and it is now noted among the *fiestas cívicas* of the country, as the day on which "the people of the United Provinces of the Rio de la Plata were, by a singular providence, delivered from the slavery which the Americans had suffered for three hundred years"—as the day "the political regeneration of those provinces, by the free use of the rights of man, of which they had been despotically deprived by the Spaniards since the conquest of both Americas." There was still a hope or an expectation, however, that harmony and a union of some sort might some day be restored between them and the mother country, compatible with their freedom and self-government; which freedom, from that day, it became the wish and determination of all good men to endeavor to obtain.

With this resolution to establish a free government of their own, if possible, constantly present, and operating on the minds of a great and increasing majority of the people, the cause has been pushed forward with improving experience and brightening lights, amidst intrigues, and factions, and superstition, and angry passions, from a beginning where even rudiments were to be collected along a curious, crooked, and wavering line, to the present point, at which the people have finally resolved on independence, and totally renounced all prospect of returning to their allegiance to Spain. This declaration of independence was made by the Congress at Tucuman, on the 9th day of July, in the year 1816; and in the *fiestas cívicas* of the country it stands noted as the declaration of their absolute independence, "*De la declaracion de nuestra absoluta independencia.*" At this point the people now are where they seem to be much more disposed calmly to investigate, to learn, and impartially to decide, than their present rulers are willing to indulge the freedom of their speculations. I shall barely sketch out the path of this revolution from point to point so far, leaving the causes by which it has been impelled, and the obstacles by which it has been checked, to be more fully collected and understood from the history of the times, except so much as may be immediately necessary for the elucidation of the present state of things.

After Cisneros was displaced from the Vice-15th CON. 1st SESS.—68

royalty, in the year 1810, and compelled, with some of his adherents, natives of Spain, to embark for Europe, a Junta of seven was formed, and a General Congress was called. The Cabildos of the provinces, favorable to the cause of self-government, appointed deputies, who assembled in Buenos Ayres in the month of March of the following year; and, after a deal of altercation, were admitted as members of the Junta Provisional, of whom the historian Dean Funes, from Cordova, was one. A person named Saavedra, by intriguing with the sturdy and free-spirited gauchos of the pampas of Buenos Ayres, obtained their countenance and aid, by which means, on the 6th of April of the same year, he effected a change in the organization of the ruling power, and another set of men were placed at the helm; which change is distinguished by the name of Saavedra's revolution. On the 9th of October following, this ruling party was suppressed, many of its members imprisoned or banished, and a new one formed and placed at the head of affairs, called the triumvirate. The first triumvirs were Chicklana, Dr. Pasos, and Saratea, with Rivadavia as secretary, all of Buenos Ayres. This triumvirate gave a new impulse to political movements, and caused great changes in the opinions of the people: "instead of following the public opinion for the independence and liberty of the people, it took the opinion of parties who sought to govern according to the interest of each faction." Hence jealousies, suspicions, fears, and rivalships, were then sown, which have continued to rankle and grow from that to this time, and are not likely soon to be eradicated. One of them, Saratea, was sent to take the command of the patriot army at Montevideo, in the Banda Oriental, and had not been there long before he and José Artigas, who now commands that portion of the gaucho population, quarrelled. Artigas, being apprized in time of an attempt that was to be made on his person, fled to the plains, was soon followed by all the Orientals, and has been at war with Buenos Ayres, except at short intervals, ever since. Rivadavia filled the seat of Saratea from the 10th of March, 1812, or thereabouts, until the 25th of May, when Pueyrredon, the present Director, arrived from the army in the high provinces as his successor, and Rivadavia resumed his station as secretary until the month of July following, when, owing to some misunderstanding among the rival chiefs, Chicklana was expelled with disgrace, and Rivadavia reinstated as a triumvir. This Rivadavia is said to be a man of talents. He is now in France; and his object in visiting Europe is said to have been to ascertain the feelings of the monarchs of the old world toward the provinces of the new, which were struggling for independence; to see if the combined potentates could be propitiated, by concessions or otherwise, to mercy and forbearance; whether the angry principles by which they had been united would induce them to make an effort of their strength on this side of the Atlantic against the rising principles of reform; or whether they would be governed and divided by



a rational view of their interests as regards the regions of the new world.

On the 9th of October of the same year (1812) the Moreno faction overturned the triumvirate, and seized on the reins of Government. The Doctor Moreno who headed this faction was a man of a very fine and highly cultivated understanding. He died soon after, on his passage to England. The chiefs of this party were Larea, Lastelle, Pena, Asquinaga, Vieytes, and Posados, who effected the revolution by the assistance of José San Martín, now the commander-in-chief of the united army of the Andes in Chili; and Charles Alvear, who was then the colonel, and lieutenant colonel of a regiment of cavalry stationed in Buenos Ayres. Major Zapiola and Captain Igarasabel, of this regiment, being ordered by its commander to seize or destroy Pueyrredon, then a triumvir, now the Director, repaired to his house, and searched for him with naked weapons; and it is said he narrowly avoided assassination, and effected his escape in disguise, and was finally saved by remaining some time concealed. Of this party, Pena, Paso, and Jonte, were declared to be the ruling Junta, of which Pena was president. He was after some time displaced, and succeeded by Rondeau, who continued in office until the month of —, when he went to take command of the army in the Banda Oriental. On representing the inconveniences attending an executive Junta, composed of three members, to the Congress, that body formed a single executive, and Posados was elected by it as Director, in December, 1813, and continued one year in office; when Lieutenant Colonel Charles Alvear was elected by the Congress to succeed him. This Alvear was a man of a bold, unbridled temper and disposition. He had been appointed by the Congress to the army of Peru; but, being rejected by the inferior officers, was obliged to relinquish that command, and return. In Buenos Ayres he quietly entered upon the duties to which he was elected. The people however were from time to time much provoked by his highly offensive and arbitrary conduct; until at length roused past all forbearance by the barbarous murder of Uvieda, a worthy citizen, on Easter Sunday night, in prison, they flew to arms and put the city in a state of defence. The Director threatened to force his way in at the point of the bayonet, but was given to understand that his army would not obey him; and he then surrendered, under guaranty of being permitted to embark on board a British ship then lying in the roads; and with the greatest difficulty made his way, alone and unattended, past an exasperated people, who pursued him to the boat on the shore which the British commander sent to receive him. This man is now in Rio Janeiro, where he has taken refuge.

A Junta of the people of the city of Buenos Ayres was then summoned by sound of the Cabildo bell; which town meeting or junta, after some warm debates, elected as Director Colonel Ignacio Alvares, acting commander-in-chief of the troops, who had been faithful to the people, in opposition to Alvear; and about the same time

the Congress passed an act, called the Statute Provincial, by which various restrictions were laid down to prevent abuses in the exercise of the directorial authority. The clamors of the people against Alvares—charging him with arbitrary proceedings, mismanagement, and speculation in office—caused him to resign his power on the day of the expiration of the term for which he was elected; and in April, 1815, Antonio Balcarce, now brigadier general in the united army of the Andes in Chili, was elected, and after continuing in office about three months, was forced from his post by intrigue and faction. An executive or government of three was then again formed, composed of Francisco Escalada, Irregogen, and

During all these various changes and revolutions there has existed a body called the representatives or deputies from the several provinces. The members of this assemblage were chosen or appointed by the Cabildos of the principal cities which had joined in the revolution; and it is said that there were instances and times when they were chosen by something like a popular election; the traces of such elections are, however, very faint and obscure, such as perhaps would not be deemed popular by the people of the United States, where the substance and outline of such elections are distinctly recollected by the very boys of the country. It does not appear that the members of this representative body were elected for any given time, or that the Cabildos, by whom they were chosen, were at all jealous of their length of service. Some of them have been members several years, some are newly elected, and others represent provinces in the possession of the enemy, who, therefore, can neither be rejected, recalled, nor re-elected by the provinces they represent. Nor does it appear that they were tenacious of the numbers sent from each province, or that they have been always the same. Buenos Ayres had only four, Mendoza two, and San Juan had two members in the Congress which met at Tucuman in 1816. Now, Buenos Ayres has seven members, and Mendoza and St. Juan only one member each; and yet the members vote in Congress numerically, and not by provinces. Nor does it appear that any stipulated, personal, or local qualification has been required. About half the body are priests; and the citizens of Buenos Ayres seem to be deemed eligible and suitable to represent any province; in consequence of which, the church and that city have always had their full influence. The body, it would seem, had changed its name almost as often as its component numbers and individuals; at first, it was called the Junta; then the Junta Provisional; then the National Constituent Assembly; and now it is styled the Sovereign Congress. Its deliberations appear to be conducted with religious solemnity and much debate; the yeas and nays are most generally recorded; yet the body is guarded by soldiery, usually negroes, deemed perfectly trustworthy; and there is neither frequent elections, nor a free press to call them to an account. Of

all the passions and gales of the revolution, whose violence has broken in so many directions, this body has been struck by none. It seems to have glided on, preserving the even tenor of its way, and to have happily retained the buoyancy of its nature amidst every angry burst and threatening squall. Fortunately for itself, this august body has never undertaken to call any State delinquent to account, nor in any instance run counter to the will of the Chief Magistrate for the time being. If the Congresses of Venezuela, Mexico, and Chili, by a factious, headstrong disposition, (as has been solemnly said,) have repeatedly lost those countries to the patriot cause, no such restiveness of temper can be imputed to the Congress of Buenos Ayres; on the contrary, it has, at times, so highly respected the opinions of the people as to yield a little to a gaucho intrigue, or a town meeting, convened by the sound of a Cabildo bell.

Some of the acts of Congress have, however, been of vital importance to the best interests of the cause and the union. On the 9th of July, 1816, it made and promulgated a declaration of absolute independence. And thus it cast the die. The minds of the people were thus brought solemnly up, and finally fixed at that great point about which there had previously been some wavering; and in December, 1817, its ordinance, called the *reglamento provisorio*, was ratified, establishing a temporary Government for the Union, in which is defined the forms of two popular elections; one of which, that of electing Cabildos, has since, with great ease and success, been reduced to actual practice. The form of electing members of Congress is also prescribed; but no time of election or term of service being specified, there has been no use made of the terms laid down. There have been two popular elections of Cabildos in Buenos Ayres; the first was made in 1816, when only about five hundred votes were taken: but when the same election came round, and was made, according to the provisions of the *reglamento provisorio*, in the year following, there were as many as three thousand five hundred votes given for the same officers. This is the first form of a popular election ever offered to the people of Spanish America; and although confined to mere police, or corporation offices, it is of great importance in its direct and indirect consequences. It is a beginning which must draw after it more valuable and efficient elections, and the whole representative system. And the great increase of votes is a proof of the readiness with which the nature and uses of the rights of franchise can be understood and adopted by any people.

The Congress which, on the 24th March, 1816, had assembled in the city of Tucuman, elected Juan Martín Pueyrredon Supreme Director of the State; after which it made the solemn declaration of absolute independence, and then founded the present temporary Government called the *reglamento provisorio*, (annexed and marked as exhibit G;) and Pueyrredon has continued in office as Supreme Director from that time to this.

By the sixth article of the first chapter of the third section of this provisional Government, it is declared that the person filling the station of Supreme Director shall continue in office until a constitution is formed, unless sooner displaced by Congress. The only check upon this loose and indefinite grant of executive power and influence to control Congress and postpone the formation of a constitution is that of a *residencia* designated in the ninth article of the last chapter. As this mode of responsibility by a *residencia* is an adoption of that by which it was intended under the colonial system, a governor or viceroy might be called to an account; and as it is wholly unlike any of the forms by which the responsibility of a public agent is secured by any of our political institutions, it may be well concisely to describe it. According to the Spanish laws of the Indies, when a viceroy or governor was removed from office, the King appointed an agent or commissioner, most commonly a lawyer of the country, to receive the *residencia* of the displaced officer. Such commissioner accordingly repaired to the capital, and announced, in the most public manner, the time and place when and where he would be prepared to hear and determine on any complaint that might be made against the late officer, by any person, of whatever order or class, as well Indians as others. This scrutiny could only continue in the case of a governor for sixty days, and of a viceroy only six months, after the date of the proclamation of its commencement; and no cause of complaint, however grievous, could be heard or inquired into, which was not made known by the commissioner of the *residencia* within the appointed time. This sort of impeachment of an officer, after the extinction of his functions, is not unlike the sage old Egyptian process of bringing the dead to justice. It may accord with Spanish colonial notions of calling a public functionary to account, but I should suppose it would be deemed widely different from what we should call republican responsibility.

Before the revolution there was a printing press in Buenos Ayres, whence issued a weekly newspaper, merely for the purpose of printing and publishing sundry papers and documents for the convenience of the viceroy, and under his sanction entirely. The profits of this press (for it yielded some) were given to an institution in the city of Buenos Ayres called the *Ninos Expositos* or Foundling Hospital. Hence the press obtained that name. This press is still continued, and the ministerial paper called the *Buenos Ayres Gazette*, issues from it weekly. There are in all three printing presses in Buenos Ayres, and from one or the other of them there are published four newspapers weekly. Besides these, there is a small weekly newspaper printed in Tucuman. From the second chapter of the seventh section of the *reglamento provisorio*, one would be induced to infer that there existed something like a freedom of the press; but nothing would be more fallacious than such an inference. The press has never been tolerated with a single day of genuine



and manly freedom in Buenos Ayres. Nothing is published but what is flattering to the powers that be, nor is anything inserted in the papers from abroad, without being curtailed or remodelled to suit the taste of the ruling party. A few attempts have been made to discuss political subjects with severity, and to censure the political conduct of some men; the consequence of which has been that, without ceremony, the parties have been instantly banished or imprisoned. The press of Buenos Ayres is a servile instrument, which neither has nor merits any respect or influence whatever. Public opinion receives its direction and gives its impulse, not through that prostituted instrument of much good, but from books and papers read in the closet, and from verbal conversation and private discussion; and in that manner it has acted so efficiently as to turn a chief magistrate from his fort, or to chase a wicked Director into exile, at the very moment when this cowardly or crippled sentinel was going the rounds, and crying out all was well.

Laying aside the abstract principles contained in the reglamento proviso, which speak for themselves, and the value of which depends on the accuracy with which they are expressed, the currency with which they are received, and the facility with which they can be applied and enforced, it appears that the Spanish code of laws, so far as it is compatible with the changes that have been made, has been adopted. This code, I take it for granted, like that of all others of the civilized nations of Europe, which has been gradually formed from that of ancient Rome, is, in the main, and in a moral point of view, a rational and excellent system. But, as to all the modes and forms of administration which give to a code the pure practical operation which its principles breathe, and which are generally understood to constitute the leading, if not sole distinctions between free and arbitrary institutions, the reglamento proviso presents us with a beggarly account of provisions, with large exceptions, which do so alay the good precedent, and articles so pared away that there is left no bold promontory in all its coasts, behind which the storm-chased innocent skiff can take shelter from any of the gales of power. Except the case of the elections of the Cabildos, the whole is, substantially, a mere reorganization of the colonial Viceroyalty. It is regarded as such in practice, and, therefore, has obtained little or none of the real respect and confidence of the people.

But the sentiments and wishes of the people, as in all similar circumstances, have had considerable sway over this newly-created Government. There is a point beyond which it dares not go; and a limit, as the numerous changes that have taken place clearly show, beyond which the forbearance of the people cannot be stretched. As the revolution has progressed, more information has been obtained; the people begin to have a correct knowledge of their rights; they are becoming more watchful, and their rulers more respectful. And, as the bounds of information are extended, the field of discussion enlarges, and the

political horizon gradually clears and expands in all directions. The past changes and struggles would seem, at first view, to have been a fruitless waste of time and labor: it has not been so; the people have been instructed and improved by them. Public opinion, the pioneer and precursor of all revolutions and beneficial institutions, has been ripening, and the crisis is rapidly approaching when another and a firmer step will be taken, assisted by the newly-acquired light and helps. More of the old system will be removed, and such institutions will be introduced as will furnish some practical evidence at home of the benefits of civil and political freedom, and the work of the revolution will approach its consummation. This crisis will be considerably accelerated by the present state of the provinces, their murmurings and civil wars; to pacify which, and for their own welfare and safety, it has obviously become necessary to make an entire change, and to introduce a new order of things. The voice of the people must and will be heard.

On inquiring for the causes of these unfortunate differences and hostilities among the several patriot causes, and after removing from about them all that mere vituperation and angry invective with which they have been too much mingled and confused, they will be found to be of vital importance; to have for their object principles materially affecting the good of the people, and to have originated in very rational views as to a frame of government best suited to their country, and which was most likely to promote and secure its general as well as its particular interests. The people of this part of Spanish America have, from the commencement of their struggles, looked towards the example and the precepts of the United States in the management of their revolution and the organization of their political institutions.

Without, in general, entering into any profound arguments or deep speculations, for which, from their previous education and habits, they were utterly unprepared, they took a view of their own situation *en masse*; they saw themselves, by the removal of the colonial institutions, almost at a single blow divested of every implement of civil government. They looked over the immense extent of their country, and saw that it had been cut up into provinces and jurisdictions, and in that manner governed. They then turned their eyes towards the United States, and saw, or thought they saw, many analogies, and a prosperity which evinced that all they beheld was worth copying. But whether these suggestions were made from such a comparative view, or from the nature of things, or from whatever other cause, the idea and utility of separate State governments in each province, like those of the United States, with magistrates selected by its own people from among themselves, became very general, and was warmly embraced by a great portion of the patriots. This party, however, in favor of the system of confederation and representation, whatever might be its numerical strength or the force of its reasonings, were, as

they now are, by much the weakest in point of actual power and operation; because they had not the means, nor have ever been allowed to exhibit any examples of their principles; and, besides, they were obliged to address themselves to a people to whom the entire field of politics was a novelty; and they had no press to give stability and currency to their arguments. In opposition to those principles and this party, there arose a faction in Buenos Ayres, who, looking attentively to the interests and the aggrandizement of that city, wished to establish a consolidated government under a Chief Magistrate invested with powers analogous to those of the late Viceroy; but somewhat bridled and controlled with a revival of the political and civil institutions of the colony, so modified as to suit the existing state of things. And the general impression of the necessity of being constantly armed and prepared to meet the hostilities of the metropolis induced the people to yield a ready obedience to their military leaders for the time being. Hence, to get the command of the army, and take possession of the fort at Buenos Ayres, has hitherto been the same thing as a complete revolution. It has at once placed in the hands of such a chief the revenues; because Buenos Ayres has been the sole point of collecting all the customs, all the forces, and the entire command of the State, the affairs of which could be wielded and managed at pleasure by such a Chief Magistrate, according to the forms of the colonial institutions. While, on the other hand, the opposing popular party which advocated State governments, and the representative system, never have as yet had any forms or means by which they could gather together and express their wishes, or even make a show of their numbers and power.

In October, 1812, while Saratea commanded in chief at Montevideo, and Artigas, before the same place, commanded the forces of the Banda Oriental, this great principle of separate State or Provincial governments, interwoven, as it very probably was, with personal and local considerations, gave rise to a heated controversy between them. Saratea, finding Artigas to be refractory, and unmanageable by temptations, threats, or persuasions, determined to have him arrested. Artigas, being apprized of this design, fled to the plains, and in a short time all the Orientals followed; in consequence of which, the further prosecution of the siege of Montevideo, at that time, was abandoned. The ruling party of Buenos Ayres, perceiving the popularity of the cause of Artigas, and his power, became extremely anxious to win him over, or at least to conciliate him.

At the request of Artigas, therefore, who then thought, or affected to believe, that this controversy with Saratea was merely personal, Saratea and some others were removed from the command of the army, and his place was filled by Rondea, and other officers put in command, whose principles, being unknown, were, therefore, not so obnoxious to the Oriental chief. But at the same time, Artigas followed up the controversy, and

tested the designs of the Government of Buenos Ayres, by demanding, in form, that the Banda Oriental should be considered and treated as a State under its own government, and, as such, should be left to regulate its own concerns for itself, and be represented in due form and proportion in a General Congress. This was treated by Buenos Ayres as an open dereliction of the standard of the country; and a most unreasonable, criminal, and declared rebellion against the only legitimate Government of the union of all the provinces, which, as it contended, extended over the whole territory that had been subject to the late Viceroyalty; of which the city of Buenos Ayres always had been, of right was then, and always ought to be, the capital, whence alone all authority should emanate. This Artigas opposed, and denounced as the assertion of a spirit of unjust and unreasonable domination on the part of Buenos Ayres, to which he could not, and would not submit. The parties were heated, reason was silenced, liberality banished, and they repaired from the field of argument to the field of battle. Artigas, either from an indisposition to push matters to the greatest extremity, from policy, or from a sense of his own inferiority in point of strength, has hitherto acted on the defensive, and confined himself within the territory of the Banda Oriental, or of the Entre Rios, since it has taken sides with his cause. It is said that, in this controversy, there have already been fought fifteen or sixteen sharp battles, in each of which conflicts Buenos Ayres has been defeated, and suffered severely. In the last, which was fought about the 1st of April last, near Santa Fe, on the north-eastern side of the Paraguay, there were of the Buenos Ayres army, which was about nineteen hundred strong, eight hundred left dead on the field of battle, and the rest dispersed, so that the whole army may be said to have been extinguished at a blow. This fatal catastrophe was heard in silent gloom at Buenos Ayres; not a syllable about it was uttered from the press, yet all seemed to lament the policy by which it had been brought about, or rendered unavoidable.

Until the year 1814 the province of Santa Fe, or the district of country called Entre Rios, had a representative in the Congress of Buenos Ayres. Since that time it has withdrawn itself from the Union, and sided with Artigas and the people of the Banda Oriental. This change and desertion of the standard of the country are charged by the Government of Buenos Ayres to the intrigues and seductive principles of Artigas; but if Artigas has been practising his arts with the people of Santa Fe, the acts of Buenos Ayres have most powerfully seconded his designs. By adverting to the situation of the population of the Union, and the various paths of internal commerce through it, by land and by water, it will be seen how very advantageously Santa Fe is situated as a port of entry and great depot for all the country to the west and north of it. As such it had opened itself; and commerce began to flow into it, when Buenos Ayres interposed, and declared that no trade should go to Santa Fe but what passed through



the city of Buenos Ayres itself. This odious and unjust monopoly was at once revolting to the minds of the people of Entre Rios, and a proof of the correctness of the principles contended for by Artigas. They therefore abandoned Buenos Ayres, and are now the allies of Artigas.

In the year 1810 the Government of Buenos Ayres sent a force of five hundred men, under the command of General Belgrano, up to the province of Paraguay, to expel the royal authorities, and to introduce that province under the Government of the Union. But the people of Paraguay rejected the proffered Buenos Ayres auxiliaries. After some time, however, they of themselves expelled the Spanish authorities; and, refusing to submit either to a Spanish or Patriot viceroy or chief, planted in any way at Buenos Ayres, they attempted to establish a government of their own; and, from thenceforward until the present time, they have absolutely renounced and forbidden all intercourse or trade with Buenos Ayres. No active hostilities appear, however, to have been carried on as yet between these two provinces.

The Government of the people of the Banda Oriental and Entre Rios, since their alliance, has been altogether in the hands of Artigas, who rules by his will alone, like an absolute monarch, without attendant guards, or an Indian casique. No frame of constitution is exhibited; none is pretended to exist. Justice is rendered voluntarily, or is administered according to the mandate of the chief.

In Paraguay the reins of government are held by Francisco, who it is said makes a show of administering all political and civil affairs in the manner, and according to the forms, of the consular Government of ancient Rome.

The two powerful provinces of Cordova and Santiago del Estero have both been in rebellion against the ruling power of Buenos Ayres, which has charged Cordova with being a very godo, or tory province, and both of them with being seduced into an unnatural desertion of the cause of liberty by the arts and intrigues of Artigas. But Cordova has lost by the revolution its very profitable mule trade, the nature of which I have described, and both have suffered heavy contributions; and all their resources have been made tributary to the Buenos Ayres monopoly, and to sustain its pre-eminence. They have both been brought back by force of arms under the Union, and are now silent and passive. In short, it cannot, nor ought it to be concealed that the ruling party of Buenos Ayres has managed the affairs of the Union in such a strain of domineering monopoly as to retard reform, delay the progress of the revolution, and to render the most patriotic provinces extremely dissatisfied. Mendoza occasionally murmurs, and San Juan is very much discontented with the present state of affairs; and the people of those two provinces, heretofore most attached to the Union, begin to speak openly, in sharp terms, of the domineering, monopolizing temper and conduct of Buenos Ayres.

Of the one million and eighty thousand souls

which the late viceroyalty of Buenos Ayres has been estimated to contain, it will be seen, by the details I have furnished, that four hundred and eighty-three thousand, including Jujuy, are all that acknowledge themselves subject to the present Government of Buenos Ayres; that the patriot provinces at war with Buenos Ayres contain a population (exclusive of Indians) of one hundred and eighty thousand souls; and that so many of the high provinces in which there have been any revolutionary movements as contain four hundred and seventeen thousand souls, are at this time and have some of them been continually under the colonial yoke. The patriot provinces of Salta and Jujuy have been the chief seat of war from the commencement of the revolution. The royal army was once in possession of Salta, which is now the headquarters of the patriot forces under Belgrano. And the patriot army was once so successful as to penetrate as far towards Lima as the city of Chayanta, in the province of Charcas; but they gave back from thence, and the Spanish army is now, it is said, in the possession of the city of Jujuy.

Such is the extent, nature, and circumstances of this new and revolutionary Union. The present bonds which hold it together are temporary in name, and more so in their nature. A final declaration of independence has been made; the people have renounced all expectation of a compromise with Spain; and the separation has been resolved on amidst such immitting severities and cruelties, that any kind of return to their former allegiance is utterly impossible and impracticable. The expectation of reconquest is no less vain; and, to be convinced of it, it is only necessary to view the country, and reflect a few moments on its nature, and the situation and character of its inhabitants.

But what is to be the future course of this revolution, is a question more difficult to determine. One thing, however, appears clear, that unless the present civil dissensions are healed, and the warring provinces are pacified and reconciled with each other, a very great proportion, if not all, the benefits and advantages of the revolution which would accrue immediately as well to themselves as to foreign nations, will be totally destroyed, or, at least, very much diminished and delayed. The great benefit which they are continually promising themselves from it is, the introduction of the representative system of Government, with all its kindly and fostering institutions. But their military chiefs will not suffer the system to have a commencement, to be planted at all, or to have a single undisturbed day to take root. For the petty Cabildo elections are proofs of the wishes of the people and their disappointments. The chiefs (one and all) allege that, during the effervescence of a revolution, popular elections are dangerous; that submission to a strong and energetic power is necessary in such times; and under this plea of the distractions and necessities of the times, they all alike refuse to permit the people to make a single experiment of a general, genuine popular election. Artigas,

situated as he is, driven first in one direction and then in another, on one side attacked by the Portuguese, on another by the patriots of Buenos Ayres, and watching lest in another direction an unexpected blow might reach him from Spain, has all the population of the Banda Oriental thus pressed under an unqualified submission to his will; and he is thus furnished with a plausible pretext for ruling over all as arbitrarily as an Indian casique. The rulers of Buenos Ayres talk to the people under them of the infinite dangers to be apprehended from Spain on all hands; and of the indispensable necessity of keeping up a strong army next Peru; of raising forces to invade, reconquer, and now to hold Chili; of the threats and wrongs of Portugal; of the indispensable necessity of having Artigas, and the rest of their wicked subjects, and the rebellious provinces, completely subdued; and of the great importance of preserving the capital, the city of Buenos Ayres itself, in perfect security, by the presence of a strong military force. The military chief of Paraguay finds or frames similar arguments in favor of an energetic Government; and the people have been so far baffled, and not trusted with the means of expressing their will or of exercising their power. Nothing is easier than to make a fine partisan soldier of a gaucho: those of the plains of the Banda Oriental, under Artigas, and those of Salta, under Guemes, are proofs how readily those peaceful herdsmen can be made terrible in war; they are a class of people who have a predisposition to an unrestrained, roving life. To lead them to independence, therefore, an enterprising, spirited leader was all that was necessary. And if the gauchos of the pampas shall, like those of the Banda Oriental, find a bold leader who shall inspire them with a resolution to insist on having their voice heard through their lawful representatives, the city of Buenos Ayres itself may then soon be what Montevideo now is—a place where commerce once was. The peace and commerce of Buenos Ayres have a happy and continually improving effect upon the neighboring inhabitants of the pampas. With such an example, how misguided, how cruel was the policy which converted the city of Santa Fe from a new and flourishing seat of commerce, exciting industry, diffusing information, the arts of peace, and innumerable benefits all around, into the stronghold of bands of hardy and warlike gauchos. The evils of these distractions and civil wars, as regards the fruits, productions, and resources of the country, are obvious. It is acknowledged that they have not merely prevented the increase of husbandry, but have diminished its amount; many fine chacaras or grain farms have been totally neglected or destroyed; and the stocks of cattle, which furnish the great staple commodities of all the plains, have been everywhere very much diminished.

These are some of the effects of these pernicious conflicts—criminations and recriminations of leaders—and are fruitless, or only serve to irritate and make matters more incurable. As regards the rights of self-government, certainly

that which is sound justice and solid argument in Buenos Ayres against Spain, is equally sound and solid in the Banda Oriental and in Paraguay; if any one has the right to throw off the yoke, and to assume to itself its own government, all have the same right. The rights of all of them are, then, perfectly equal; and no one province can, in justice, have the privilege of ruling over any other of them without its consent. To restore peace and harmony to these contending provinces, would be to bestow on them the greatest imaginable benefit; by removing the most imposing and plausible pretext for all internal guards and military forces, the soldiery must be sent, where they ought to be, to meet the foreign enemy on the frontier, which is the only foe in arms the people ought to have to contend with. The chiefs being thus deprived of the source of their arbitrary power, the effect would be, at once, to give the people their liberties, and to restore to their country all its abundance, its resources, and its blessings. But, without this, to attempt to give to any one of the provinces a preponderancy over the rest, would be to confirm or to drive the people of every province into an unqualified submission to the military chief of each division of the country; and it would be to lend a helping hand to settle the country down under the government of a number of petty Kings or Princes, instead of a confederated republic. The British Government and its authorities, with a continually wakeful regard to their commercial interests, have endeavored to pursue the incongruous and difficult policy of thwarting and confounding the republican principles of the people; and, at the same time, of discountenancing the inveterate hostility of the chiefs of the provinces, so wasteful of the commercial productions of the country. The English Admiral, Bowles, concluded a treaty of agreement with General Artigas, regulating the British commercial intercourse with the people whom he controls; and an English Consul, resident in Buenos Ayres, with a ship of war always near, without promoting the establishment of free institutions anywhere, insures an unrestrained trade with all the warring provinces.

Although, by the Treaty of St. Ildefonso, of 1777, between Spain and Portugal, the limits which separate Brazil from the Spanish dominions were finally settled; and, therefore, as it would seem, on the score of right, the King of Portugal cannot have the least pretension whatever to the Banda Oriental, or indeed to any portion of the territory of the late Viceroyalty of Buenos Ayres; yet that monarch has invaded the Banda Oriental, claiming to hold it by right of conquest, or on some other ground, (I know not what,) as a part of Brazil; and a Portuguese army, under the command of General Lecor, is now in the actual occupation of the city of Montevideo, and about three or four miles around it. The Government of Buenos Ayres and the King of Portugal are now at peace, and apparently a perfectly friendly intercourse is carried on between Buenos Ayres and Montevideo; while, on



## Condition of South America.

the other hand, there exists at this time, and has always been waged, the most inveterate hostility between Artigas and the Portuguese. It would appear that Artigas and his gauchos are bravely defending their homes, their rights, and their country; that the King of Portugal, availing himself of the weakness and distractions of the affairs of his kinsman Ferdinand VII., intended to aggrandize himself by annexing a portion of his provinces to Brazil; and that Buenos Ayres, desirous of preserving the lucrative commerce of the river unembarrassed, had either actually compromised with Portugal, or was willing to look with solemn dignity upon that which it felt too feeble to resist or resent; or that it was at present so much exasperated at the enemy against whose edifice the blow of Portugal is aimed, as to refuse to ward it off, even although it may, by its striking effectually, itself be seriously wounded by the scattering fragments.

The revenue of the Government of Buenos Ayres has been extremely fluctuating, owing to the very unsettled state of its political affairs. During the early period of the revolution, it was said to have amounted to between three and four millions of dollars per annum; at present, it does not amount to fully two millions. In the first years of the revolution, confiscation of the property of gados, and imprestos, or forced loans, levied off the disaffected, poured considerable sums into the treasury. These sources of revenue are now exhausted, or have ceased. A great source of revenue is the tithes, which are all paid into the treasury, except the salaries of the canons, two thousand dollars per annum each, and a small deduction, which goes to the support of the clergy generally; who, with that allowance from the tithes, their first fruits, alms, &c., and the proceeds of their own property, are very well supported. It may be estimated that the clergy of the several provinces amount to one-seventeenth part of the whole population. But monkish institutions are rapidly falling into disrepute, and the people have every prospect of being soon relieved from their influence and their burden. The product of the tithes depends very much upon the state of husbandry; and agriculture having declined, this source of revenue has also been diminished. The other branches of revenue, derived from internal taxation, are the alcavala, licenses to retailers, and such like indirect taxes. But the principal source of revenue to the Government of Buenos Ayres is that derived from the customs, or its duties on imports and exports. The changes that have already begun, and are likely to continue and increase, will account for the diminution of its revenue in this principal branch also. Under the Viceroyalty, Buenos Ayres and Montevideo were the only ports of entry and collection of the customs for the whole country; but, in consequence of the wars and devastations about Montevideo, commerce was driven entirely up the river, and passed exclusively through Buenos Ayres; since then, the Banda Oriental and Entre Rios have declared themselves independent and unconnected,

and, having made a commercial regulation with the British Admiral, much of the trade which used formerly to fill the coffers of Buenos Ayres is now beginning to find its way direct to the opposite side of the river; and the trade of Paraguay, having been for some time closed against Buenos Ayres, is also taking that direction. A considerable part of the foreign goods, particularly British, which paid a duty at Buenos Ayres, was sent into many places and provinces beyond its immediate jurisdiction. A large amount was sent over the Andes from Mendoza into Chili, or into the high provinces to the northwestward. Since the opening of the ports of Chili, this route of transportation must be too expensive to continue; and, consequently, the revenue thus derived to Buenos Ayres must cease. Some of these causes are permanent, and others will continue to operate until harmony among the provinces shall be restored, and the establishment of peace, order, and freedom, shall give that security to person and property which is the only true mode of encouraging all profitable pursuits, of husbandry and pasturage, as well as all others.

The Government of Buenos Ayres has an outstanding public debt of about one million of dollars. This debt has been chiefly created by an issue of what are called boletas, or due bills, given in discharge of salaries due from the State to its military and civil officers. The Government, finding the revenue fall short, ordered one-half only of all salaries to be paid in cash, and the other half to be paid in this scrip called boletas, which is redeemable indefinitely and at pleasure. In April last, boletas were as much as fifty and sixty per cent. below par. Notwithstanding this economical measure of issuing boletas, the Government, not still being able to meet the various demands on it as they were made, has, therefore, from time to time, issued its notes or bills payable on demand, as funds should accrue in the treasury. These notes are called Government cash paper; there is no great amount of it afloat, and it is said to be equal to what we should call good mercantile paper at ninety days.

The military force of Buenos Ayres, as estimated by intelligent persons of that city, according to the representations current there, amount, in the whole, to thirteen thousand infantry, fourteen hundred cavalry, and fifteen hundred artillery, which was thus distributed. From the sum total, the army of Santa Fe, estimated at nineteen hundred, which was extinguished about the 1st of April last, is to be deducted. And of the residue of this military force, there are quartered in and about the city of Buenos Ayres twenty-five hundred; there are, in the army of Peru, at Salta, commanded by General Belgrano, three thousand; and in the army of Chili, under General San Martin, which, in Buenos Ayres, is called and estimated as a part of the military establishment of the United Provinces of the Rio de la Plata, and in Chili is called the united army of the Andes, there were said to be nine thousand five hundred. Of this latter army, about two thousand freed negro troops were sent from Bue-

## Condition of South America.

nos Ayres, with an intention of finally getting rid of them by wasting them in the wars of that country, or of leaving them to be disbanded there. The rest of the army of the Andes was originally composed of fugitive Chilianos. The army of Peru has been almost wholly recruited in the high provinces, and has, in many respects, imposed upon them peculiar hardships; all its provisions, cavalry, and stores, have been furnished from that country, and its ranks have been entirely filled from it. And the numerous desertions, and continual recruiting, has had the effect not so much of wasting and diminishing the aggregate amount of population, as it has of throwing it loose from the ties of its habits and domicile, and of shifting and changing its individual location.

The naval armament of the Government of Buenos Ayres consists of ten small vessels, brigs, and schooners, of from two to twelve guns each, among which there is distributed a marine corps of about two hundred and fifty men.

I have made every effort to methodize and arrange all I had to present to you, relative to the Viceroyalty or provinces of Buenos Ayres, in such form and manner as to cause the subject to be seen in a clear light, and to be fully understood. I trust my efforts have not been altogether fruitless. And, as likely to aid the obtaining a correct view of what I have related, and to facilitate the use and application of some important facts, I have made out and annexed the following statistical table:

A statistical table of the late Viceroyalty of Buenos Ayres.

Number.	Names of the provinces.	Population of			Territorial extent in square miles of			Representatives.	
		Those in the Union.	Opposed to Union.	As yet colonies.	Those in the Union.	Opposed to Union.	As yet colonies.	Now sent.	Entitled.
1	Buenos Ayres	105,000	-	-	50,000	-	-	7	7
2	Banda Oriental	-	45,000	-	-	* 86,000	-	-	3
3	Entre Rios	-	25,000	-	-	* 104,500	-	-	2
4	Cordoba	75,000	-	-	105,000	-	-	3	5
5	Punta San Luis	10,000	-	-	40,000	-	-	1	1
6	Mendoza	38,000	-	-	38,000	-	-	1	2
7	San Juan	34,000	-	-	36,000	-	-	1	2
8	Rioja	20,000	-	-	22,400	-	-	1	1
9	Catamarca	36,000	-	-	11,200	-	-	1	2
10	Santiago del Estero	45,000	-	-	40,000	-	-	1	3
11	Tucuman	45,000	-	-	50,000	-	-	2	3
12	Salta	50,000	-	-	41,000	-	-	1	3
13	Jujuy	25,000	-	-	30,000	-	-	1	1
14	Chicas	-	-	10,000	-	-	26,400	1	1
15	Potosi	-	-	112,000	-	-	12,000	-	7
16	Misique	-	-	15,000	-	-	9,000	1	1
17	Charcas	-	-	120,000	-	-	5,000	3	10
18	Cochabamba	-	-	100,000	-	-	3,400	1	7
19	La Paz	-	-	60,000	-	-	10,000	-	3
20	Paraguay	-	110,000	-	-	43,200	-	-	7
Total		483,000	180,000	417,000	643,600	233,700	65,800	26	71
Aggregate of population and territory		-	-	1,080,000	-	-	763,100		

NOTE.—The productions of these provinces are cattle, wood, skins, fruit, wine, tobacco, lime, salt, matte, brandy, peltry, precious metals, grain, sugar, and timber.

\* The estimate of the extent of these provinces includes their Indian territory



## CHILI.

On the 15th of April, 1818, I left Buenos Ayres, and on the 26th arrived in Mendoza. The distance, by the way of the post road which I travelled, is estimated at nine hundred miles. After making the necessary preparations in Mendoza for crossing the Andes, I set out on the 29th of April, and arrived in Santiago de Chili on the 5th of May following. On the 7th of May I called on Don Antonio José de Irisarri, and told him I wished to present my respects to the Supreme Director of the State, and to make some communications to him, with which I was charged by the President of the United States. Mr. Irisarri, after seeing the Director, replied that it would be agreeable to him to receive my visit on the next day at ten o'clock, when he would do himself the pleasure of introducing me.

On the next day, accordingly, at the hour appointed, I waited on the Director, and found him in the common hall of audience and business. He received me respectfully, and I congratulated him on the late splendid victory of Maipú, which had freed his country from its foreign foes, secured its independence, and would, I was sure, be attended with the happiest consequences. He expressed his pleasure at my congratulations and good wishes.

I told him I was one of those who had been sent by the President of the United States in a public ship to that country, for the purpose of obtaining correct information of its situation, and of making some communications as to the course pursued by the United States, as well in a general as a particular point of view; that the President and people of the United States felt a lively interest in the fate of that country, whose people were not looked on as insurgents in rebellion, but as waging a civil contest, in which each of the contending parties were entitled to equal rights and respect; that the United States had and would observe the most strict and perfect neutrality; and that nothing should be yielded, or in any manner conceded to the one which would not, in like manner, be granted to the other, according to the law of nations. He said he had already been assured of the friendly and neutral disposition of the United States, and that it was expected the independence of Chili would be first recognised by the first independent Government of their own continent. I assured him that the United States wished no advantages of any kind whatever of this infant Republic; that he would see, by the late Message of the President to Congress, the United States neither wished, nor would ask, any commercial advantages of that country, in any treaty which might hereafter be formed between them; that the interests of my country were altogether and perfectly compatible with the best interests of that; that the United States not only wished that country independent, but also earnestly hoped it might be free, so that each might thus form a security to free institutions, and contribute

to the prosperity of the other; and that the late splendid victory having swept from Chili everything like a foreign foe, I presumed it would now set about forming a constitution and form of government for itself. He said he felt assured of the mutual interests and good will which subsisted between our countries, and that he should be glad to see the President's Message to Congress; that the state of that country hitherto had been such, that no constitution could be formed; but that in a short time a provisional regulation would be promulgated for its temporary government. He added that, under existing circumstances, it was deemed impracticable to form a constitution, and dangerous to convene a congress. I expressed a hope that there could not now be the least apprehension of a foreign foe. He said there was not; but that congresses had been found to be very dangerous; that they brought with them and excited feuds, and jealousies, and party spirit, and intrigue; that that country had once already been lost by a congress; that Venezuela and other provinces had been lost by a congress; therefore, no representation would be convened there until affairs were more suitable. I told him I had been charged by the President to seek and to ask for information concerning that country from the most correct sources and the highest authorities; that the Government of the United States, owing to that country's having been so entirely closed against all foreign intercourse under its late system, was comparatively very uninformed as to its situation, strength, and resources: I was therefore directed to ask for a statement of its population, its military and naval forces, its revenue, and resources of every description, and its relations with other Powers; that the communications might be made confidentially; or, in whatever way it should be made, I could assure him that the Government of the United States was actuated only by the most frank and friendly motives, by no other views than those of regulating its conduct hereafter with a correct knowledge of the state of affairs, and that no use whatever should be made of the information thus communicated, other than to promote the amicable relations and the best interests of both countries; that it was important, as well to that country as to the United States, that any measures hereafter to be taken should be adopted advisedly, and with a perfect knowledge of the state of things. He expressed his assent to what I stated respecting the propriety of acting with information of circumstances; and added, that he should take pleasure in ordering the communication to be made out as requested. I then told him I should take the liberty of again troubling him, when he was at leisure, with some other communications which I was directed to present to his view. He replied that he should feel great pleasure in having an interview with me upon matters relative to our countries, whenever it might be convenient, and I took my leave.

On the 9th of May I called on the Director, and delivered to him a printed copy of the President's Message of the 2d of December last, which

he had expressed a wish to see. I said to him that he would perceive by it that the United States were desirous of cultivating the most friendly intercourse with that country. He replied that they felt sensibly the value of our amicable dispositions, and should not be wanting, on their part, in promoting amicable relations on the most liberal terms. I expressed a hope that the information I had asked for would be made out as soon as the convenience of the public offices would allow, as I was anxious to return by the first safe opportunity. He replied that it should be made out without delay. I told him there were some other points which I should, at another time, bring into view, but with which I would not then engage his attention. In answer to which, he expressed a readiness to hear me with pleasure when convenient. I asked him if there was any news or any occurrence of importance of late. He said there was nothing but the singular and unlucky affair of their ship, the *Lautaro*, which, after having vanquished two frigates of the enemy, the *Esmeralda* and *Pezuela* had, in the most unaccountable manner, suffered them to escape. I observed that I had heard it spoken of as an extraordinary event. He said he could only attribute it to the misconduct of the Chilinos on board the *Lautaro*, who were wholly unacquainted with maritime affairs. I observed that I presumed there were but few sailors among the people of the country. He replied it was true; for, indeed, there was not a sailor to be found among all the people of Chili; and, he added, that such was their information of the then circumstances of Peru, and the feebleness of the royal forces there, that if Chili now had but a few ships-of-war to clear the coast, and to transport its forces to Lima, that city, with the whole province, would at once be relieved from under the colonial yoke; but that the difficulties of procuring a naval armament were very great. I expressed my regret that an achievement so splendid, one so important in its consequences, and on every account so much to be desired by them, should be obstructed by a difficulty so serious and insurmountable, and bade him adieu.

On the 14th of May I called again on the Director. I told him that there were some other points which I had been directed by the President to bring into the view of the public authorities of the Patriot Powers I should visit. The first of these related to Amelia Island and Galveston, which had lately been taken possession of by the United States. The Director said he had never before heard of these places, and asked for an explanation of their situation and nature. I described to him the geographical position of these two places; and then added, with regard to Amelia Island, that the United States had not taken possession of it as being a part of its own territory, but to prevent its being used as a means of violating its municipal regulations, by smuggling merchandise into the United States in fraud of its revenue, and by introducing negro slaves into the States immediately adjoining, contrary to its positive law, and thus increasing a species

of population which was considered as an evil, and the addition to which it was determined to prevent by all possible means. That Amelia Island had been a rendezvous for a set of pirates and freebooters, who had, for some time past, infested those seas, interrupting and annoying as well the commerce of the United States as the fair traders of other nations; that, for those reasons, the United States had thought proper to take possession of that island, and to expel those cruisers who pretended to sail under commissions from the patriot authorities of Mexico, of Venezuela, or such of them as seemed best to answer their purpose; that Amelia Island was taken possession of by the United States under a law or act of Congress, which authorized the President to occupy Florida, so as to prevent its falling into the hands of any other nation until the claims of the United States against Spain were adjusted; and that it would be held, accordingly, subject to explanations to be given to Spain.

With regard to Galveston, the same reasons had induced the United States to take possession of it, so far as regarded the violation of its municipal and commercial regulations; and, in addition to these, the United States claimed, and would continue to hold that position as a portion of its own territory, included, as it contended, within the true and rightful boundary of Louisiana; that, in occupying those two places, and driving off those cruisers who prowled along and infested those seas, in the name of the patriots of South America, the United States conceived that they were, so far from injuring, rendering an essential service to the patriot cause, by preventing its name and honor from being tarnished and disgraced by a set of sea robbers and freebooters, committing the greatest outrages under its name and flag. The Director said he saw it clearly, and was very glad the United States had adopted so correct and decisive a measure; and, so far from seeing anything unfriendly, he anticipated from it the happiest consequences to the patriot cause, by thus preventing an odium from being unjustly brought upon its name. I then told him that the Government of the United States had been informed that some of the cruisers, under the real flag of the patriot authorities, had committed considerable violations on our commerce; that, if any such wrongs were to be committed by armed vessels sailing under the Chilino flag, he could not but perceive how inevitably such acts would tend to disturb all harmony between the two countries, and to crush, in the very formation, every friendly relation that might be begun, and desired to be matured between the two nations, since my Government would feel itself bound to protect the rights of its citizens against the insults or injuries of any other people, however deeply it might regret the repulsive measures it was thus driven to adopt; and that the President would wish to be informed if there were any prize courts yet established in the country; and, if any, what regulations had been adopted for the government of the public and private armed vessels of Chili. The Director



said that, whatever cause of complaint the United States might have against the people of any other of the Patriot Powers, none he felt satisfied, could be made against Chilianos, or those under the flag of Chili; because, until very lately, there were no shipping or vessels of any kind belonging to it, excepting, indeed, some fishing boats, and that, within a few months past only, some few vessels had been commissioned; that he had heard of complaints of abuses committed under the flag of other Patriot Powers; and to prevent the like, as far as practicable, from being perpetrated by those of Chili, it had been determined to put on board each an officer, and such a number of marines as would be able to control, and prevent the mischievous propensities of seamen; that, with regard to matters of prize, they were brought before the ordinary and temporary tribunals of the country, until more formal and systematic institutions could be established; and that, for the regulation and government of armed vessels, a set of rules and orders had been adopted, a copy of which should be furnished me, which was accordingly handed me, and accompanies this as document marked A. I expressed much pleasure at hearing that measures would be taken to prevent an injurious and wrongful course of conduct in the only subject which seemed likely at all to disturb the harmony which it was so desirable should be cultivated and improved between the two republics; that the people of the United States not only felt a wish to cherish the amicable relations between the two countries, with an eye to the extension of the channels of commerce with countries which had what they wanted, and were purchasers of that which they had to spare, but they also felt a very lively interest in the patriot cause, arising from moral and political causes. They had once been colonies, and recollected the colonial Government from which they had disengaged themselves by a sharp and trying struggle; and, having since experienced the blessings, and ascertained the prosperity flowing from an independent state, with liberal political and civil institutions, they could not but feel a very strong sympathy in favor of the people of South America, who, they were induced to believe, were not only struggling to throw off an odious colonial system, but also to establish for themselves republican institutions substantially similar to those they enjoyed. These were powerful causes for sympathy, and the people of the United States felt them with all their influence.

That, with regard to the present condition of Europe, it seemed to be admitted by all that it was in the most unsettled and unhappy state; that it could not, and would not, long remain pacific; and whenever its peace should again be entirely broken up, then that country must look to its neutral friend, the United States, as its only carrier; that former experience has evinced, under similar circumstances, that, while the contending nations and warring monarchs of Europe, pursuing a policy peculiarly their own, and with which the United States is fortunately not entangled, had closed every channel of commerce

against each other, the peaceful republic became the same carrier to them all; so, when a similar state of things shall again arise, as seemed by no means improbable, Chili, being without a single seaman, must see that the only neutral willing and able to conduct its commerce in such an event would be the United States. Indeed, in whatever light the subject was viewed, that country must see that the United States was its natural, permanent, and fast friend, who had no interest incompatible with its most rapid prosperity, its greatest welfare, and most perfect freedom; that, although Chili formed a portion of this vast continent, yet such were the natural barriers which divided it from the rest, passable only at certain seasons of the year, along mere mule paths, it should be regarded, in many respects, as an island separated from the world, perfectly secure, and capable of being defended by its own citizens, unaided, against any foreign force whatever; that Chili was now truly independent; nor was it by nature tied by any ligatures, other than those of free and mutual benefit, to any other country on earth, and, therefore, should henceforth regard itself as holding its destinies in its own hands. The people of the United States wish you independent, not to bargain with you, by treaty, for commercial advantages, (for, as you have seen by the President's Message, they stand pledged before the world to ask no such stipulations from the new-born nations of our continent,) but to trade freely, upon terms of equality and mutual benefit. They ask justice and equality—no more, and for the rest rely on their own skill and enterprise. You are reproached with the epithet *rebel*. The people of the United States recollect when the term, with as little liberality, was cast upon them, and they sympathize with you. They are free; and their freedom has caused them to prosper above all other nations; they wish you, in like manner, to be free; that, by freedom, you too may prosper; and because free institutions are better calculated than any other to preserve the peace of nations; and the more you flourish, the greater will be the scope of our commercial and beneficial intercourse with you. It is with these views that I have been directed to visit and seek correct information of you, to the end that the relations between our countries may be better understood, and, in due season and manner, matured into strong and lasting friendship. The Director expressed himself much gratified at my view of things; declared that, on his part, nothing should be wanting to promote the most perfect amity, and that he did most cordially reciprocate the friendly dispositions of the United States; but, said he, in times of revolution, we have seen that it is difficult at once to bring about any important, material change, however desirable and reasonable, without endangering everything. We have seen that our people are not like yours; they are not used to Congresses; and, therefore, Congresses have often lost the country. The Mexican Congress lost that country; the Congress of Venezuela had once lost that country; and the Congress of Buenos Ayres had endangered that

country, until now of late it had learned to act more in concert and with greater propriety. I observed that, no doubt, in the beginning, errors would be committed; but that everything good must have a beginning, notwithstanding some minor evils might arise; that I hoped soon to see the representative system introduced into that country; and that, if it could not be effected at once upon a large and comprehensive scale, by filling some of the leading offices by election, the whole system would soon begin to flourish; and, if cherished and sustained by a perfectly free press, I felt no doubt that the happiest effects would soon arise, and that the principles of free government would be as well understood there as in the United States. He said it was his determination to adopt, as soon as practicable, the representative system of government; and that, in a few days, his manifesto would be published, in which all his views and intentions would be disclosed. A copy of this manifesto is annexed, and marked as exhibit B. After these observations I bade the Director adieu.

On the 21st May, being in company with the Supreme Director, in the course of some trivial conversation with him on the affairs and situation of Chili, he said to me that there always had been a good understanding between the Government of Buenos Ayres and that of Chili since the revolution, but now the tie between them was very intimate and strong; in short, said he, whatever the Government of Buenos Ayres was to ask of this Government, no matter what, it would be done; and, on the other hand, whatever should be asked by Chili of Buenos Ayres, would in like manner be granted; so that, in fact, the bonds of union are as strict as they can be, for they are as two bodies animated by one soul. Previous to the late battle of Maipu, said he, we were obliged to manage and get on as well as we could, but now the two Governments are united, never more to be separated; they cannot be separated. You may hear some dissatisfied people talk, and say many things; but the truth is, that Chili and Buenos Ayres can never hereafter be separated. The conversation then turned on other subjects.

On the 25th May, again meeting with the Director, after the usual civilities and some other conversation, I asked him if he had heard of the news or the rumor that was said to have been brought by the last Buenos Ayrean mail. He asked what it was. I told him I understood it was of no less importance than that an agent or commissioner had arrived at Buenos Ayres, bringing authority from England and the Allied Powers to mediate between the Patriot authorities and the King of Spain. He said he had not heard any such news, and he did not think it could be true, or even probable. I told him I viewed the matter in a light rather more serious than he seemed to do, and would give him my reasons. I then told him that, on my way thither from home, I had stopped at Rio Janeiro, and there had heard, through our Minister resident there, from the Spanish Minister resident at the same place, that Spain had prevailed on England to

use her influence with the Allied Powers to prevail on them to undertake a mediation between Spain and her colonies, to induce the colonies to return to their allegiance, on the conditions of granting them free trade, and some other privileges, and modifications of the colonial system, the basis and principles of which were formerly proposed, and rejected by the Cortes or revolutionary Government of Spain, prior to the restoration of Ferdinand VII., and which rejected articles of pacification were to be found inserted in a book lately published in England, entitled "An outline of the Revolution in Spanish America," which book I understood Mr. Irisarri, his secretary, late from England, as well as Mr. Montegudo, an officer of the Government, and who had also lately been in England, were well acquainted with; and, further, that I had understood England had actually agreed to intercede with the Allied Powers, and it was confidently expected its intercession would be effectual, and that the Allied Powers would at least be induced to give the subject a serious consideration; but that I did not understand that England, or any other of the monarchs of Europe, had once thought of including the Republic of the United States in the contemplated pacification of the Patriot authorities; perhaps, because that they saw that the interests of the independent Republic of North America were so wholly unconnected and dissimilar from their own, that to include them would not fall within the compass of their schemes, or might materially embarrass their plans. The Director, after a moment's pause, said, that he did not think there was anything in the report that England wanted their commerce, and he did not believe she would take an active part against them; and that, as to any modification of the colonial system, or return to the allegiance of Old Spain, by that country, it was entirely out of the question. I replied, that, although the last report might be groundless, he might rely on it that there was then an actual negotiation on foot to induce the Allied Powers to take sides with Spain against them, and that England had actually moved in the negotiation. What was the nature and complexion of the negotiation, or what would be its result, time alone would disclose. I made some further observations as to the general policy of the European Powers, and the acknowledged and avowed political principles of hostility to all new and reformed Governments, which had held them together as allies for some years past, when the conversation turned upon other subjects.

On the 7th June, in the course of conversation with the Director, he said to me that he had thought, at the time, that there could not be anything in what I had told him respecting the mediation of the Allied Powers, as moved by England, and that I must have been misinformed; now, however, said he, I am perfectly satisfied of its truth, for Captain Shirriff, of the British frigate *Andromache*, who had just left Santiago, told me he had in his power papers on that subject, with which he was going to Lima; that he should soon return here on the same subject, and bring



with him some account of what might be done; and that his Government had, he was sure, induced the Allied Powers to mediate between Spain and her colonies, and that the subject would soon be taken up in due form. The Director did not seem willing to go further in explanations as to what Captain Shirriff had communicated, but gave me to understand that all attempts at a reconciliation between Spain and that country, upon any other basis than that of the recognition of the entire independence of Chili, would be vain and fruitless.

On the 9th July I received the statistical information which had been promised, and which is hereto annexed, and marked as document C. I then called at the office of the Secretary of State, and, after having some conversation with Mr. Irisary on the subject of his communication, I took my leave of him. I then called on the Supreme Director for the purpose of taking leave of him. I told him I should leave the city on the ensuing day for Valparaiso, where I intended to embark for my country; that I had received the promised communication, which, although very concise and much condensed, would, I hoped, be deemed satisfactory; and that I had also received a copy of the rules and regulations for the government of cruisers. He said that he had intended to write to the President of the United States, merely to say to him, as the chief magistrate of a great nation, that Chili had declared itself independent, so that he might be officially apprized of that fact, and also to enclose him his late manifesto, a copy of which he had sent me, (and is annexed,) and that if he could find leisure he should still do so; but that the state of his crippled arm, (his right arm had been broken by a musket ball in the conflict of Canchaguala,) and the great press of other business of more immediate urgency, had not left him a moment's leisure or ease. I observed I should, with pleasure, be the bearer of any despatches he might think proper to send to my Government; and, if he thought proper, I would call on him again. He said he would not ask that, but would endeavor to have his letter prepared before I left town, and send it to me. He then expressed a hope that much good might grow out of my mission, and that it would lead to the most permanent friendly relations between our two countries. I told him I most cordially reciprocated the hopes he had expressed; that, for myself, and as an individual, I had seen, since my visit to Chili, much that should induce the United States to cultivate its friendship; that the interests of the two countries appeared to me to harmonize as perfectly as any two nations could possibly do; that they were, in no respect, at variance; that all the best interests of my country were compatible with the most perfect freedom, and the most rapid growth and prosperity of Chili. The Director said the subject had made a similar impression on his mind; still, however, said he, as it would have a powerful effect in confirming the independence which Chili had declared, to have it recognised by some of the most respectable independent nations, Chili

would be willing, indeed does actually expect and intend, to extend many commercial advantages to that nation which shall first recognise its independence; and, in doing so, it would be peculiarly gratifying that that favored nation should be the United States, a republic of our own continent, to which Chilianos are strongly disposed to become attached, and to be upon terms of the most intimate and cordial friendship.

I told him that the people of the United States sympathized very strongly with that country in its struggle for freedom, and had, in various ways, more particularly in the mission which had been sent to it, shown a very great disposition to sanction the independence, and to cultivate the friendship of Chili, but, with regard to any commercial advantages to which he alluded, I had no instructions to speak; indeed, on the contrary, he would perceive that the President, in his late Message to Congress, had taken that manly, open, and generous ground from which I did not believe the nation would wish to depart. The United States wanted no commercial advantages held out to them as an inducement to the acknowledging, or as a compensation for sustaining the recognition of the independence of Chili; the republic to which I belong wishes to be informed—to see its way clear—to act with a due degree of circumspection, and it will then treat with a new people contending for their liberties, as it ought, upon terms of the most exact equality and reciprocity, and be prepared to meet all consequences. But, said the Director, we shall certainly make regulations in favor of that nation which shall first recognise our independence; our people will expect it, and it will be done. I observed, that the people of the United States would not fail duly to appreciate whatever municipal regulations, in favor of the commerce of their country, might flow from the voluntary goodwill of the Government of Chili, in the event of its independence being recognised, but I felt confident that my Government would not ask to have any advantageous stipulations inserted in any treaty it might enter into with Chili; that the United States sought only for justice and perfect equality, and relied for all advantages on the intelligence, skill, and enterprise of its citizens, to insure to them every benefit they could wish from their good friends the Chilianos. The Director then desired that I would present his highest respects to the President of the United States, and express to him his amicable disposition, as well for himself, personally, as in the name and in behalf of Chili. I wished him much happiness, &c., and bade him adieu.

On the next day, the 10th July, 1818, I left Santiago de Chili. On the day following I arrived in Valparaiso. On the 15th I sailed from thence, in the brig America, Captain Daniel Rea, bound, by the way of Cape Horn, for Philadelphia, where I arrived on the 29th October, 1818. In contemplating the state of things in Chili, one is struck at once with the variety and novelty. A country exhibiting features so bold, and in many respects so entirely singular; where nature

has been in some cases so liberal in bestowing her benefits, yet has withheld them in others no less important; whose soil is generous in the nutrition of the cereal gramina to the utmost bounds of what has been anywhere known, yet more than half of its whole extent refuses to sustain a timber tree; a sky seldom overshadowed with a cloud, and rarely swept by a tempest; the surface of the territory bound with chain above chain of rocky mountains, yet frequently trembling with earthquakes, and seldom refreshed by a shower; a people mild, amiable, brave, and uninformed, who but yesterday passively yielded obedience to a monarch known to them only through the medium of his oppressive deputies, yet whose cause they for a time espoused, and whose wrongs, deposition, and vices, agitated and awoke them into their present revolution; a people who have, with a bravery never surpassed, and worthy of the cause in which they have engaged, declared themselves independent and determined to be free; who have begun to disengage themselves from their shackles, and to throw off their sackcloth and ashes: a country where the old institutions are many of them tumbled into ruins, and there seems to be a wish or a necessity to abandon them all; where society has swung from its ancient moorings, and is loosely or only held together by the first principles of civilization, or an ill-jointed military despotism, well disposed to command, yet trembling at the very name of the people; altogether presenting a scene which cannot be viewed with indifference, to which it is difficult to do justice, and with which the understanding may be readily misguided by the feelings. In such a state of things, to collect, digest, and arrange a clear and distinct view of affairs, of the commerce of Chili, of its strength, military and naval, of its capacities in peace and war, its political institutions now existing, or the nature of those likely to be framed, is by no means an easy task. In a time of revolution every fact and circumstance is apt to be distorted by the passions; generosity hopes too confidently and paints too fair; ambition colors to suit its purpose; and malice and indolence are always boding ill, and often denounce venal feelings as evidence of incurable vice, and proofs of the necessity of continuing the exercise of arbitrary power. Without, however, presuming to indulge in speculation, I shall confine myself to the path of duty, and endeavor to draw together and arrange a plain account of present and existing facts and circumstances relative to a country in many respects so interesting to the United States.

The long and mountainous territory of Chili commences on the Pacific, at the mouth of the Rio Salado; thence, ascending that river, and extending away from it toward Paquil by a line in a northeasterly direction, over a portion of the frightful desert of Atacama beyond the twenty-fourth degree of south latitude, until it intersects the great chain of the Andes covered with perpetual snows; thence, turning directly south, and taking for its boundary the summit of the most elevated Cordillera, and continuing along it south,

embracing what is sometimes called New Chili, or the land of Magellan, until it reaches the strait of the same name; thence, returning by a coast of more than two thousand miles in extent, indented by numerous bays and harbors, along which are found the mouths of about thirty-five rivers, which, after irrigating some of the most productive valleys on earth, pour the melted snows of the Andes into the Pacific; including also, as a part of the dominion of Chili, along its bold, brown coast, many islands, besides the great one of Chiloe, or those which form the archipelago of Chiloe or the Ancud.

The traveller who should set out from the straits of Chacao, and make the tour of Chili entirely to its northern boundary, the Rio Salado, would form an opinion of the country in many respects materially different from what would be taken up by reading any account of it that has been hitherto published; he would find a land whose advantages and inconveniences are in many respects peculiar, which has been sufficiently eulogized in general terms, yet the excellencies of which have not been so accurately described and estimated as they ought to have been. Laying aside, however, all that belongs to history and philosophy, and without entering into a scientific discussion of the physical peculiarities of Chili, I shall make some few observations on the qualities of the territory, and its capacities, as evinced by past experience, to furnish its quota to the general stock of commerce, and as being in itself the avenue to a more extended scope of mercantile enterprise and profit. Supposing the tourist to commence from the straits of Chacao with these objects in view, he would naturally have his attention directed to the number of the articles of the first necessity with which the country was clothed or furnished by nature; and he would no less attentively observe its capacity to produce those articles by cultivation as well as what might be extracted from it of real or of artificial value; and, these being ascertained, everything belonging to natural philosophy would be understood relative to Chili necessary for a foreign Government to know in order to regulate its commercial intercourse with it to advantage.

Taking leave of the shore opposite the island of Chiloe, and entering into the territory of the Araucanian Indians, a citizen of the United States might imagine himself among the mountain forests of his own country. He would, no doubt, be struck with the great dissimilarity of almost every individual belonging to the vegetable kingdom from those of the northern hemisphere, but without proceeding to inquire and investigate as a mere botanist, he would see a country abundantly clothed with fine timber, excellent of its kind, and extremely well adapted to domestic and to naval architecture, and all other useful purposes; he would find the soil which was thus valuably shaded prodigiously fertile, almost all of it fit for tillage, and well adapted to the cultivation and growth of the various kinds of grain; the climate he would find not materially different from that to be met with in the United States among the



*Condition of South America.*

mountains at a similar distance from the equator; not so intensely cold in the winter, but no less generally salubrious. This would be found to be the general face of the country until he arrived at the banks of the Biobio. He would find this fine region at present owned and occupied by the celebrated Araucos, a peculiar race of American aborigines, who, with rapidly sinking fortunes and broken spirits, still have something of their pristine character and virtue left, but who are declining in numbers and in strength, and among whom the names of Lautaro and Capuligon are yet remembered, but are revered as the last of the Araucos.

Crossing the Biobio he would enter immediately into the bishopric of Concepcion, a country occupied by Spanish population, and similar to that of Arauco, except so far as its present civilized owners have wrought changes on its features. At the river Maule, he would take leave of the bishopric of Concepcion and enter that of Santiago; but he would here perceive that a boundary much more important than that which had been drawn between the temporalities of the church had been established by nature herself; that her clothing of rich forests, which have been gradually made thinner, was here entirely thrown off; he would observe, here and there, a solitary tree, but no more of what could be called a timber forest; he would observe some trees and thickets skirting the margins of the rivers, and notice that the valleys and mountain sides were gayly decorated with flowers of the most vivid colors, of various shrubs and plants, and that they were thickly clad with grass and herbage, but that, stripped of all umbrageous covering, nature lay exposed under a calm and cloudless sky, basking in the strong rays of a fervid sun. From the city of Concepcion to Santiago, the capital of the State, he would, with the exception of one or two ridges, pass through one continued village of peasantry; and, pursuing his route still northwardly, until he arrived at the river Aconcagua, he would observe that the soil had nowhere diminished in its general fertility, but that it was yet more destitute of timber and forest trees; and he would remark that, from Santiago, and indeed some distance to the southward of that city, no valley or field could be planted or cultivated in any way which was not so situated as to be regularly irrigated from some river or stream of water.

After crossing the river of Aconcagua, he would perceive that he had left the forests and the timbered regions of Chili far behind; that he had passed the country so astonishingly productive of wheat and barley; and that he had now entered upon the dry and sultry regions of the mines of tin, copper, silver, and gold, where the soil was less productive of vegetable fruits, where nature was in those respects less kind or more neglected than farther to the south. After passing this comparatively unproductive but golden region, whose riches chiefly lie hid beneath its surface, he might be received into the wretched casucha of a vacuna hunter on the banks of the

Salado, the northern boundary of the State, and on the confines of the dreary desert of Atacama where thirst and famine claim an entire dominion, and forbid, under heavy penalties, the encroachment of either vegetable or animal life. He would then have passed over numerous valleys of a rich black and chocolate-colored soil, some in grain, but mostly grass and herbage, of almost incredible fecundity. He would have frequently passed steep cuestas, or declivities, and portezuelas, or little doors, in the ridges which appear to girt and belt the country in every direction. He might, on casting up his eyes as he crossed a valley, imagine himself in the bottom of an immense natural basin, surrounded on all sides by high mountains, by which the rays of the sun appear to be concentrated to a focus, and poured with the greatest intensity upon the flat, unshaded surface below. Until he had reached the river Maule, he might occasionally at any season have been deluged with rain; but at Santiago, for seven months in the year, the valley is never once refreshed by a single shower; and beyond Copiapo rains are scarcely known. He would have sometimes risen, and again descended, from one valley into another; and holding a course generally from south to north, he would occasionally have followed the valleys as they inclined or declined easterly or westerly. He would have scarcely ever lost sight of the principal towering Cordillera of the Andes on the right; and now and then, rising on an eminence, or looking through a portezuela, in the ridge which lifts its brown side almost perpendicularly above the waves, he would have had a sight of the great Pacific ocean. He would have travelled upwards of one thousand miles, and seen all Chili.

Taking this as the extent of Chili, as it is generally considered when spoken of by its own people, (for they seldom make any account of the land of Magellan,) the State may be divided, as to its climate, into two regions; the variable and humid region south of the Maule, where the weather is changeable, and it rains occasionally throughout the year, as in the United States, and the invariable and dry country to the north of that river, where it does not rain for two-thirds of the year, and in the most northerly provinces of which it rains not at all. And with reference to its natural productions, the country south of the Maule may be called the timber region, from the Biobio to the valley of Aconcagua, inclusive, a land flowing with corn, wine, and oil; and from thence to the northern boundary, the region of valuable and precious metals. These leading characteristic traits and features are intelligibly and visibly stamped upon it by the hand of nature; they are evident at first sight, and at once attract the attention of every stranger. But to this, as to other general rules, there are exceptions; there are some forest trees near Santiago, and they will grow wherever there is a regular supply of moisture. Wheat and vines are cultivated near Copiapo, and iron is said to be found in greatest abundance near the southern extrem-

*Condition of South America.*

ity of the State. And the Chilinos, when in their boastful mood, say, with more foundation of truth than at first might be imagined, that they possess a country which is throughout of greater fecundity than any other on the globe, and that they never put their foot upon it without treading on silver and on gold.

The average production of wheat in the grain country south of Aconcagua I believe to be truly estimated at about fifty bushels for one sown. The soil of the valleys of Chili certainly has every external appearance of fertility; but still I am inclined to believe that much is to be attributed to the peculiarity of the climate of the middle and northern parts of the State. The grain is sown at the commencement of the rainy season, or soon after it sets in; after that is over, and as it is required, the field is regularly watered from a neighboring stream; there is not much dew, no rain, and never a wind to break or prostrate the stalk of the grain during the period of its growth. Thus furnished with an abundance of moisture at the root, where for wheat it seems to be only wanted, a fervid sun, uninterrupted either by fogs, or rains, or heavy blasts, or cold seasons, which in our country so often disappoint the hopes of the farmer, urges an uncommonly generous soil to exert all its energies, and gently bring to maturity all its fecundity. As a proof of the uncommon aridity of the atmosphere, near and north of Santiago, it is usually observed that iron retains its polish a long time, and is very slowly affected by rust. But accident drew my attention to what appeared to be a more accurate test of the dryness of the air in Chili. In the humid atmosphere of the neighborhood of Punta San Luis, just above the great pampas, there is found in abundance, growing wild, a small parasitic plant much admired for the beauty and sweetness of its flower, called the flora del ayre, from its deriving its subsistence entirely from the air; it has been taken to Buenos Ayres, and there flourishes well. But, on inquiring for this little parasite in Chili, I was told that it had been very often brought over the Andes, but was never known to survive the extreme dryness of the atmosphere of Chili more than one season.

The soil of the valleys of Chili is as productive of barley as of wheat, and apparently for the same reason; but there is not much Indian corn raised, because, as is said, it requires its top as well as its root to be moistened and refreshed, and, therefore, the climate does not everywhere suit its growth as well as it does small grain. Chili is no less wonderfully fruitful in the production of hemp than in wheat. In all the humid region, and in every part of it where the soil can be regularly irrigated, hemp may be produced in any quantity. The vine also flourishes exceedingly well wherever it can be watered, and is very generally cultivated with great profit. The fruit of the vineyards of Chili is very abundant; but the means used for preparing the product for market are awkward, wasteful, and bad. Their presses and distilleries for making wine and brandy are rudely managed, and the liquor

is generally bad; but I have tasted some excellent Chili wine that had been made with care in Penco, near Concepcion, and by one or two others near Coquimbo. The raisins, when carefully dried, are very fine. Figs grow in great abundance and perfection. The olive tree also grows to a great size, and yields abundant crops of very large fruit. Almost all the olive oil used in Chili is made in the country; it is as well tasted as that of Europe, but not so well clarified. The stocks of cattle are everywhere numerous, particularly from Aconcagua to the southward. Each landholder has a great number of horned cattle; the oxen would be reckoned very fine in the United States. The cattle are of a large size, and generally in a condition for beef, except about two months in the year, when the pasturage north of the Maule fails; that is, after the first rain has destroyed the grass which has been dried on the surface of the earth, and before the next covering springs up. The horses of Chili, whose rising forehead and sprightly countenance bespeak them to be of the Moorish race of Andalusia, are uncommonly active, spirited, and serviceable; they are numerous and cheap. The most common beasts of burden of the country, however, are the mules; they are raised in great numbers, and are certainly the finest I have seen anywhere. The country seems to be in many respects peculiarly adapted to sheep. There are none, or very few, of the merino breed; but of the common kind there are great flocks that are little attended to, and by some owners not shorn of their wool once during the whole year.

In the dry regions, the ridges and lesser mountains, which cannot be watered, seem to be condemned to perpetual pasturage. They are annually clothed with a rich coat of grass, which is slowly ripened and gradually dried into hay, in which state it remains on the ground as good food for the cattle until the first rain in Autumn, when it is spoiled or swept off, and then follows a season of scarcity of about two months until this mountain grass springs up again. This is a short interval, and of pleasant weather, compared to our Winters; but the cattle feel it severely, as nothing is provided for them. Hides, tallow, horns, and jerked beef, are, at present, cheaper in Chili than in Buenos Ayres; but its mountain pastures can never be expected, upon a large scale, to compete, in these articles, with the great pampas of Buenos Ayres. The husbandry of Chili is in the very rudest and lowest state: there appeared to be no one single operation conducted with skill, or with the proper advantages; yet there are few, if any, countries on earth where the labors of the husbandman, shepherd, and herdsman, are so generously and liberally rewarded. The riches that Chili even now derives from these articles are considerable, and they might be immense. It is now, and must always be, the granary of all tropical regions fronting on the Pacific. But Chili has not hitherto been permitted to know its own value, or to exhibit the various sources of its wealth. There are a few flour mills in the country which manufac-



## Condition of South America.

ture some for exportation. It is not, however, for want of streams and falls of water that more and better mills are not erected. Immediately in the suburbs of Santiago de Chili there are three mills turned by the river Mapocho. They are said to be as good as any in the country, and are what would be called, in the Middle States of our Union, tub-mills, from the structure of the water wheel. The whole machinery of them is extremely simple and rude.

There are so many valuable and productive mines in the province of Coquimbo and the country to the north of Aconcagua, and the people there are so little engaged in agriculture, and so much devoted to the digging after metals, that it is emphatically called the mining country. But, besides the mines beyond Aconcagua, there are mines and lavaderos all over the State, which contribute more or less to the general amount. It is difficult to form a very accurate estimate of the actual annual amount of the precious metals produced from Chili during the past years of colonial peace, owing to the loose, obscure, and mingled state of things under the late system, and which have been still more confused since. If it be true, as has been said, that two millions were exported during the last year from Buenos Ayres, there can be little doubt that much the greater part of that amount was obtained from Chili; because, as is acknowledged by all, there never was a period of time when the mines of the high provinces were less productive, owing to the country's having been so long and so much the seat of war; and, indeed, of the reduced amount that has been extracted, the greater part was from the mines of those provinces in the actual possession of the royalists; and, therefore, from thence none could have gone to Buenos Ayres. In corroboration of these reasons, it seems to be the universal impression, acknowledgment, or complaint, in Chili, that great sums of money have been sent over the Andes, during the last year, to Buenos Ayres. Besides that which has made its way abroad over the mountains, there has gone from Chili, direct to foreign nations, in other ways, in payments for its imports by sea, upwards of one million more, which would swell the last year's coin or bullion to near three millions—in a year, too, of distraction and civil war. Hence it would appear that the State has, in that time, sent abroad more than twice the amount of precious metals that has been coined at its own mint; and, from the present exhausted state of the country, and other circumstances, I am induced to believe it very probable.

But the precious metals of Chili can be considered as among the number of the articles of its commerce only to that amount which is over and above what may be necessary as coin to carry on its own domestic exchanges. After deducting the amount of its necessary circulating medium, the surplus is clearly one of its productions, which it offers to the exchanges of foreign nations. It is true, as Mr. Secretary Irisarri has observed, that the coinage at the mint does not give the amount actually extracted from

the mines. The exportation of bullion is prohibited altogether, yet a considerable amount is annually smuggled out of the country; (and this is the contraband to which he alludes;) and it will increase, because of the temptations held out by the high duties on coin. All metal is directed to be carried to the mint, where it pays a *quint*, or one-fifth, duty; and then the coin, if it be exported, is taxed with a duty of nine per cent. more; but if the bullion be smuggled abroad, the *quint* and nine per cent. are saved. That species of bullion called *plata pina*, from the silver having been cast into lumps resembling a pine burr, is worth one-eighth more than the standard coin. This furnishes another inducement to smuggle; and, so soon as it shall be well ascertained that *plata pina* may be passed for the same superior value in China which it bears in Chili, this inducement will be much increased. Before the ports of Chili were opened to foreign commerce, the people had no means of procuring many necessary household utensils, such as plates, dishes, mugs, cups, bowls, forks, &c., other than those made in the country; hence it was not altogether pride and ostentation which caused so general a use of silver utensils of this description; they were necessities, and the cheapest; indeed, in some cases, the only kind to be had. This is the home consumption alluded to by Mr. Irisarri; and it is articles of this description, chiefly, which in the mint report annexed to his letter, are designated by the name of *chafalonia*, or botched, old-fashioned ware. The consumption of silver in this way, formerly, to gratify the ostentation and the convenience of the Spanish families, was very considerable; but, since the porcelain from China, the British Liverpool ware, and the English cutlery, have been introduced, the *chafalonia*, or old-fashioned articles, disappear very rapidly. Therefore, of the two causes alluded to by Mr. Irisarri, which render the mint estimate an unfaithful guide in ascertaining the actual production of the mines, the one increases and the other diminishes with the opening of the ports and the activity of foreign commerce. Upon the whole, however, it is reasonable to suppose that Chili produced, just before the commencement of the revolution, more than three millions of the precious metals; and as but a small quantity of this could be required to keep up the necessary amount of its circulating medium at home, this article of its commerce may, therefore, be set down at about three millions annually.

Beside the precious metals, the copper mines of Coquimbo have actually produced, during the last year, ending 1st May, 1818, amidst the difficulties of the times and the dangers of the State, and shipped in foreign vessels, chiefly of the United States, forty-one thousand quintals. The copper mines are principally situated near the coast, and are believed to be the most productive in the world. In addition to the copper, there has also been shipped from Chili a considerable amount of tin. Of these two metals, the annual production may be estimated at about five hundred thousand dollars.

## Condition of South America.

In the valley of Santiago there is a great abundance of a species of thorny shrub, or scrub tree, called *espino*, and which we should, from its appearance, most probably call a dwarf honey locust. It is from this the city is supplied with fuel. This kind of growth is found all the way to the north, but less and not so abundant in Coquimbo as farther south. This is the only fuel at present used in the furnaces for extracting metals; and the mine country has been so nearly stripped of even this scanty supply, that it is dug up by the roots. Fuel has of late become of much more serious consideration, in the process of extracting metals, than it used to be; and if the mines were wrought with greater activity than they are at present, the country of the principal mines would, ere long, be entirely deprived of all fuel. This difficulty has, however, been looked to and considered as it approached. It is said that, in addition to the wood fuel which might be had from the timber country, there is, immediately on the banks of the Biobio, near the city of Concepcion, as fine pit coal to be had, and in as great abundance, as in any part of the world.

Besides the territory north of the river Biobio, or all that portion of Chili settled by a civilized population, which is commonly alluded to when speaking of it in general terms, there are the city and district of Valdivia, the land of Magellan, or New Chili, the island and archipelago of Chiloe, and some other islands of less importance. The district of Valdivia is about thirty miles in length and eighteen in breadth, but thinly populated, and more remarkable and valuable for its timber than anything else. There are said to be forty-seven islands scattered about in the archipelago of Ancud, or Chiloe, as it is more frequently called; the largest of them is that which has imparted its name to the whole group. It is about one hundred and fifty miles long, and fifty broad. The inhabitants of this and the whole group are a mixed race, the greatest proportion native. They are called Chilotes, are much civilized, and have been long under the Spanish Government. The principal articles of commerce furnished from these islands is timber, which is brought to Valparaiso, and the ports north of it, in planks, scantling, &c., chiefly for domestic uses, and pork, a considerable quantity of which is cured into hams, that find a market in the city of Santiago de Chili, and in other more northern parts of the State. This archipelago of Ancud is principally valuable, however, on account of its fishery, and as bidding fair to be the future nursery of Chilino seamen. The two islands of Juan Fernandez, so famous for having been once the habitation of the fabulous Crusoe and the real Selkirk, are at present uninhabited, and seem destined by nature to remain so. The largest, called Isla Tierra, from its being nearest the shore, was made the prison of the patriots by General Osorio when he resubdued Chili, from which they were relieved, after suffering two years' confinement, when Marco was defeated and taken at the battle of Chacabuco, and the patriots regained their

ascendency. The Government of Chili has always claimed the land of Magellan, but has as yet had no civilized population within it, nor exercised any other jurisdiction or influence over it than over the other neighboring tribes of savages.

There are few or none of the valleys of Chili from which there is a gentle communication into those adjoining. A high ridge or a mountain surrounds them all; and a *cuesta*, or a *portezuela*, more or less rugged and precipitous, and passable only for mules, is, in almost all cases, the only means by which the society of one valley carries on its intercourse with that of its vicinity. In some happier times, the industry of the inhabitants and the energies of the people may be directed by more liberal and enlarged views, when the present difficulties and restraints upon internal communication from valley to valley may be rendered so easy as more intimately to combine and develop the best feelings and greatest interest of the country. At present there are not more than three carriage roads in all Chili: one, which has been made at a considerable expense, over three or four very elevated ridges, from Santiago, the capital, a distance of nearly one hundred miles, to Valparaiso, the principal seaport on the Pacific. There is another road, passable for carriages, between the same cities, by the way of Melipilla, thirty or forty miles farther about, but, in some respects, a better road. This was the original route of communication between the capital and its port. From the city of Santiago to the city of Concepcion there are only two ridges to prevent the passage of carriages the whole way, a distance of four hundred and thirty-five miles. Except these, there is not another road on which a wheeled carriage can be travelled with safety out of the particular valley to which it belongs. The very clumsy ox-carts, which effect a great portion of the transportation between Santiago and Valparaiso, are a week or more in performing the journey. They carry from one ton to a ton and a half, and charge for it twenty-five dollars per load. Except these carts, all transportation beyond the valley is made on mules. The fare per mule load, which is four hundred pounds weight, from Santiago to Valparaiso, is one dollar and a half, and so in proportion in any other direction. This inconvenience and expense of inland transportation was much enhanced to the mine country under the colonial system, which exacted a duty on wheat and flour shipped coastwise from one province to another. Coquimbo drew from its southern neighbors a great portion of its bread, and was, therefore, under the necessity of getting its wheat from Aconcagua on mules, or of paying this duty on it by sea. This colonial regulation has, however, been abolished by an edict of the present Director, passed on the 29th May, 1818.

The numerous ridges by which the surface of Chili is broken present difficulties in the way of internal communication, but such as are nowhere insurmountable. The loose composition of those ridges is such that roads may be shaped along their



sides with comparatively little labor; and, when made, such is the temperate regularity of the seasons, that, with few repairs, they may be preserved for ages. But the wide desert and the lofty Cordillera, by which Chili is enclosed and separated from the rest of the continent, present a barrier formed of a lifeless waste, or a range of mountains lifted in such rugged masses, and reared so far into the region of snows, that it is only practicable for mules by some few narrow passes, and during particular seasons of the year. The desert of Atacama may be said to commence in Chili almost immediately after crossing the river Juncal, or Dry river, as it is sometimes called; thence to the river Salado, the northern boundary of the State, is a distance of fifty miles; thence to the town of Atacama, in the viceroyalty of Peru, is a distance of nearly three hundred miles, by the way of the coast, and the road passes wholly over a dry sandy plain, where the traveller meets no living thing either of the vegetable or animal kingdom; and, losing sight of every other guide, his way is often only to be directed by the bleached bones of mules which have perished in attempting to force a passage over that terrible waste. Instead of passing this dreary region, it is generally thought safer and better to climb the steep crags of the mountains, and take the road leading over the Andes, along their giddy precipices and narrow passes. Travellers and postriders sometimes cross the desert of Atacama along the lower and more level road, but few or no traders or carriers ever venture to pass that way; nor, it is presumed, would any military leader lightly be induced to encounter its difficulties for the purpose of carrying hostilities along that route into Chili. The desert of Atacama may, therefore, be considered as a great natural barrier, by which it is closed on that side against both commercial and hostile visitors.

The great elevated boundary of Chili, the principal Cordillera of the Andes, is passable only for mules from any part of the civilized settlements on one side to those of the other. The pass most frequented is that of Putaendo or Uspallata, leading from San Felipe to Mendoza, and is the one by which all travellers from Buenos Ayres to Santiago de Chili cross the Andes. On going out of Chili, after passing the village of Villa Nueva, on the river Aconcagua, about six miles above the city of San Felipe el Real, you ascend the valley of Putaendo, and begin almost immediately to climb the mountain; from Villa Nueva to the guardia or outpost of Chili, is a distance of thirty-eight miles; and thence it is thirty-two miles to the cumbre, or extreme ridge. The path winds along near the margin of the river Aconcagua, rising from elevation to elevation, by a zig-zag path, up rough ascents, that seem to be almost perpendicular; or passes along frightful precipices, from whose dizzy height the stream is seen below foaming and tumbling through rocks abruptly and sounding far, until at length, arriving at the source of the river which gushes from the foot of the highest ridge, by another laborious march you reach the bleak cumbre itself; whence, be-

low, on the west, are seen the fountain waters of the river Aconcagua, that, with headlong speed, are hastening to the Pacific; and on the east, at the foot of a long steep slope of naked clay, is seen one of the head branches of the Tunuyan, which, with a rapid current, but not with such impatient haste, is bearing off its waters to swell the great collection, made from among these snow-capped elevations, that is poured into the Rio Colorado, which glides over the great pampas into the South Atlantic ocean. From the cumbre to Uspallata, a distance of seventy miles, the path is extremely rugged, but not so precipitous as that on the western side. A large branch of the Rio Tunuyan is poured through the valley of Uspallata, which forms some level, the grass and shrubbery of which afford a little picking for the mules. On this stream the guardia or outpost of Buenos Ayres is planted. From Uspallata to Villavicencio is sixty miles; and, with the exception of two or three steep, narrow passes, the mule path is comparatively good. From the last eminence the boundless plain, stretching along the eastern foot of the Andes, presents itself like the ocean seen from a lofty promontory's top. Making an estimate of the width of the Andes along this mule path, as it mounts and descends the ridges, or winds around about them, from Villa Nueva, in Chili, to Villavicencio, in the province of Mendoza, the whole will be found to be about two hundred miles. The whole distance along this route, from Santiago de Chili to Mendoza, is three hundred miles, and common carriers usually perform the journey in seven or eight days.

The chief difficulty in passing the Cordilleras, by the way of Putaendo, seemed to arise from the want of food for the mules; the little they could gather from the shrubbery and herbage at night, when unladen and turned loose among the crags of the mountains, was scarcely sufficient to keep the creatures from famishing; yet the carriers never think of taking along any food to sustain them by the way. On each side of the cumbre there are four or five casuchas, or huts, built entirely of brick, and covered by an arch; they are about twelve feet square within, and the floor is elevated about eight feet from the ground. These casuchas are placed at short and convenient distances one from another, and are intended as places of refuge for those who may happen to be caught in a *temporal*, or one of the terrible snow storms of the Andes, like the similar buildings of the natives along the same path, of which there are the ruins of one or two remaining.

There is another pass over the Andes to the north of this, leading from the city of San Felipe el Real, in Chili, to San Juan, called the Patos. The distance through the mountains is greater, and the path much more rugged than that of Putaendo. It was through those two passes, of the Putaendo and Patos, that San Martin conducted the army which fought the battle of Chacabuco, took or destroyed all the royal army, captured Marco, its commander, and restored Chili to the patriot power. Farther to the north,

the mountains are wider, and the passes leading from Copiapo, in Chili, in the direction toward Rioja, Tucuman, and Salta, are much longer than that of Putaendo, and as rugged. There is a pass to the southward of Santiago, which follows the Rio Maipo to its source, and thence crosses over to a branch of the Rio Mendoza, which is said to be much easier than that of Putaendo; and, still farther to the south, the Andes, are said to subside into such gentle slopes, that a good carriage road might be had the whole way from Chili to Mendoza; but the country is entirely in possession of the savages, who have hitherto refused to suffer their territory to be made a thoroughfare; or there is so little traffic and commercial intercourse leading in a southerly direction, that those passes have been as yet only explored, and are very little used.

The pass of Putaendo, the Patos, and most of the others, are utterly impracticable, even for mules, in the winter season, that is, from the middle of May until the 1st of October; but during that time they are continually passed on foot. Peons, or laborers of the country, are hired to carry the baggage of the traveller, made up in diminished packages, over the frozen and snowy region, which is about four or five days' journey in that manner. A Swedish officer, who was travelling for his own amusement, or the information of the King, his master, arrived at Santiago a short time before I left it, having crossed at the pass of Putaendo on the snow. He told me he did not think it so bad as many of the mountains of Sweden in the winter season; but that the people, being little accustomed to such passes, as there were few in the country, were ill provided, and very awkward in encountering their difficulties.

It is by the pass of Putaendo principally, and those of the north of it, that all inland trade between Chili and the provinces east of the Andes has hitherto been conducted.

During the colonial system this traffic was considerable, and for some time after the battle of Chacabuco they were almost the only routes of the foreign commerce of Chili. The manufactures of Europe, of England particularly, made their way into Chili by these paths. The *matte*, or yerba of Paraguay, so necessary a luxury to Chilianos, will, perhaps, long continue to be imported by these ways; and if the experiments now making should prove that tobacco cannot be raised in Chili in as great perfection as is expected, that is another article of which there will, perhaps, continue to be considerable importation over the Andes from Paraguay, Tucuman, and Salta. The citizens of Buenos Ayres have been declared to be naturalized citizens of Chili. Hence they import and export, in this way, almost all articles free of duty. *Matte*, when brought in by this route, is free of duty; when imported by sea, it pays four dollars per quintal. Tobacco is imported in the same way on similar terms. Specie, when exported from Chili by sea, pays nine per cent. duty; when sent over the Andes, it pays nothing; and if exported from Buenos Ayres, it pays six per cent. From Santiago to Buenos Ayres the

exchange is two per cent.; so that to remit specie from Santiago by the way of Buenos Ayres, there would be a saving of one per cent., supposing all duties and charges paid, and all other expenses equal. This intercourse along the paths of the Andes, so beneficial to Buenos Ayres, and disadvantageous to Chili, may subsist so long as their ruling chiefs shall find it convenient to do what either may ask of the other, right or wrong, or to act as two bodies animated by one soul; but it is obvious it cannot continue long under any circumstances which shall leave the Pacific ocean open to foreign intercourse, and the real interests of Chili to their fair and natural operation.

Mr. Irisarri has thought proper, in his communication, to confine himself to a mere list of the several cities, ports, and towns of Chili, without saying anything as to their population, commerce or other circumstances, which might be interesting to a foreign and friendly Government. I will endeavor to supply this omission as far as in my power. The city of Santiago, situated near the western foot of the Andes, and about a hundred miles from the seacoast, is the principal city of Chili; it contains a population of about forty thousand souls; it is the seat of Government, and, also, singular as it may seem, the seat of the custom-house, into which all foreign merchandise must be brought to be valued and assessed with the duties payable to the State. The cities of Coquimbo and Concepcion are not much inferior in size to Santiago, and, from the greater communication with foreigners, and their better means of information, the inhabitants are said to be, generally, more intelligent than those of Santiago. All the other towns of the State are similar in general character, differing only in size; as to which, however, it must be recollected, that the distinction between city and town is not always made with reference to the importance and population of the place, but more commonly in allusion to the organization of its corporation. Rancagua is a small town; but the patriot forces under the present Director having formerly made a bold stand there against the royalists, he has thought proper to issue an edict investing it with the name, honors, and privileges of a city. So, too, the little village of Casablanca, situated in the midst of a fine valley, held chiefly by mayorazgos, and, therefore, not cultivated as fully as it might be, was too distant and inconveniently situated to be held under the jurisdiction of Quillota, and, therefore, the present Director, by his edict, gave it the separate magistracy of a town. The inland towns of Chili are, perhaps, not worthy of attention in any other respect than as being the seats of manufacturers, or of so much intelligent population, and, consequently, political power and commercial capacity and wants. But the seaports are the doors by which we shall communicate with Chili, and are, therefore, more particularly interesting.

The northern seaport of Chili is Copiapo. It is situated immediately at the mouth of the river of the same name. The harbor affords good anchorage, is easy of access for vessels of any size, and is safe from the northerly and southerly



wind. The country round Copiapo is the least productive of any in Chili; indeed, it may, in some respects, be considered as barren. It is visited chiefly for the metals which are extracted from the adjacent country. Coquimbo is farther to the south; it is seated a short distance above its harbor, which is a fine, capacious bay, easy of access; and when vessels are anchored in from six to ten fathoms, near the Tortugas rocks, they are not only protected from all winds, but likewise from the uneasy swell and roll of the sea. This is the chief port of the mine country; the richest copper mines are near it, and husbandry is in as good a state just above this city as in any part of Chili. Refreshments may be readily had there. Guasco, or Huasco, is a port about fifty miles south of Coquimbo, with good anchorage, and capable of receiving large ships, having from eighteen to twenty fathoms near the land. The small town of Guasco is about six miles to the southward of the river of the same name. The next port south of Guasco, and one which, on several accounts, is most interesting to citizens of the United States, as well for the honor which was there sustained by their flag, as for its conveniences of trade, is that of Valparaiso. A high brown promontory projects into the Pacific, forming a deep crescent, the concavity of which, opening to the north, forms the harbor. The entrance is immediate, easy, and safe; and ships of any size, or in any number, may ride at good anchorage in perfect safety against all winds but those coming directly from the north, when, if it blow a gale, the harbor is unsafe, and vessels must go to sea or be driven on shore. But such gales seldom happen. The trade-winds of the coast of Chili setting almost invariably from south to north throughout the year, there is a considerable swell usually setting in from the ocean which might be very easily checked by piers from the projecting points of the harbor. Such a useful erection was once begun by an enterprising individual, but was stopped by the colonial Government, lest it might favor smuggling. Valparaiso contains about ten thousand inhabitants, in a town principally strewn round the beach, and in the gullies of the promontory by which the harbor is formed. In the suburb called the Almendral, or Almond Orchard, situated a little to the east of the usual landing place, there are a few small quintas; except which, there are no gardens or any cultivation near the town. Its supplies are almost altogether brought from the fertile and plentiful valley of Quillota, about thirty-six miles to the south, along a road over ridges which project into the Pacific. But the provisions derived from thence are so cheap, that, according to an account which an American captain showed me, he had made out to render to his owners, his crew of eleven men, including himself, were abundantly supplied with bread, meat, and fresh provisions of every kind, for more than six months, for three hundred and fifty-six dollars. Valparaiso is the principal port of importation into the country at present held by the patriots. It was fortified, under the colonial Gov-

ernment, against a maritime attack, and some new works were thrown up during the last year for a similar purpose, but they are not yet finished.

Talcahuana is the port and harbor of the city of Concepcion, on the north side of the river Biobio. It is one of the most capacious and finest bays on the coast of the Pacific ocean; quite easy of access for ships of any size; and, when in, there is good anchorage and safety against all weather. It is about six miles from the city, which stands immediately on the river Biobio. This harbor has never been fortified against a marine force; and it seems to be questionable whether it can be perfectly secured from an attack in that way. It is at present the rendezvous of the royal marine force acting against Chili. Six or eight miles to the south of the Biobio is the bay and harbor of St. Vicente, which is also secure against all winds. But this good harbor is too little noticed and valued, owing to its having so fine a bay and harbor as Talcahuana in its immediate neighborhood. The port and harbor of Valdivia is fine, capacious and safe. It is much celebrated in the history of Chili for having excited the cupidity of the predatory Dutch and English prowlers. But there is no extent of territory and civilized population round Valdivia, to give value to any intercourse with it at present; it is, therefore, rather estimated as the future seat of an extensive commerce than for its importance at this time. If I am not mistaken, the port of Arauco, spoken of by Mr. Irisarri, is that formerly held by the Spanish colonial authorities on the river Larampague, whose mouth is opposite the island of Sta. Maria, and to the south of the Biobio; if so, it is now entirely within the acknowledged territory of the Araucanian Indians. Nor have I been able to learn where the port of El Gobernador, of which he speaks, is situated, unless it be at the mouth of the river Tucapel Viejo, where Governor Valdivia was killed by the Indians, which is between the islands of Mocha and Santa Maria. Besides Valdivia, there are the harbors of Imperiale, at the mouth of the river Cuetan, the Estero Maulin, Calbuco, and others within the Araucanian territory, which will be more known, used, and valued, when the progress of the civilized population of Chili shall either expel or incorporate the Indians of that country. Of the various rivers of Chili, there are none which are navigable except for small vessels, and a short distance into the country.

Mr. Irisarri, in his communication, sets down the population of the State according to a census made a few years since, during the first period of the Patriotic Government, at one million two hundred thousand, and makes an allusion to some supposed inaccuracies, the nature of which he has not explained. I am induced, however, to believe that the census was substantially correct, from the general understanding and belief in the country, from the number of towns, and the apparent numbers inhabiting the several valleys; and, also, because Chili not being at that time at all connected with any other province, there could be no motive for underrating its population, or of misrepresenting its strength in any way, or for any purpose

whatever. All the civilized or Spanish population, except the small parcels of Valdivia and the islands, is situated altogether north of the river Biobio; and if, from this portion of Chili, is deducted all that dry unproductive district to the north of the river Juncal, which, except a few vacuna hunters, has not an inhabitant upon it, then it will appear that nearly the whole of this population of one million two hundred thousand is seated on perhaps less than two-thirds of that extent of territory which is generally understood to be comprehended under the name of Chili. The entire length of the State, from the straits of Chacao to the river Salado, may be estimated at about nine hundred miles; and from the brow of the Andes to the shore of the Pacific, it cannot be fairly estimated at more than one hundred and forty miles in width, on an average. This, then, would give an extent of one hundred and twenty-six thousand square miles altogether; only about eighty of which are occupied by the civilized Chilinos of European or mixed descent. On comparing this country with some portions of our own, it will be found to contain nearly as many inhabitants to the square mile. The States of Maryland and Virginia, including the District of Columbia, together, contain seventy-four thousand nine hundred square miles, and the sum total of their population, according to the last census, was one million three hundred and seventy-nine thousand one hundred and ninety souls. If we recollect the mountainous surface of Chili, and that there are few or no inhabitants on the mountain sides, it will appear evident that its population is very much condensed in its several valleys. Of the whole of this civilized population there is, at present, no more than about two-thirds of it, or eight hundred thousand, at this time, actually under the government of the Patriot authorities. The royalists have possession of Penco, with a considerable extent round the city of Concepcion, which is well fortified on the land side, and is their stronghold; they have Valdivia and the archipelago of Chiloe also, whence they have drawn a few recruits for their army, and some other resources.

Immediately after it had been determined that a partial independence, at least, should be carried into effect, the patriot or ruling authorities of Chili, in the year 1811, passed a law entitled "An act for opening and encouraging commerce and navigation." This law declared the ports open to all friendly and neutral nations, and specified Talcahuana, Valparaiso, and Coquimbo, as the greater or proper ports of entry for all foreign merchandise; and went on to regulate the commerce and navigation of Chili in various particulars, and prescribed a tariff of duties. This legislative act, with some few alterations, contains the tariff and regulations by which foreign commerce is at present governed. I procured the manuscript copy which accompanies this, marked as exhibit F, by which you may ascertain specifically and in detail what are the existing commercial regulations in all material points therein specified. But as there are some matters which

would not appear, or be readily understood, merely from reading it, I shall, therefore, give an explanation of the duties, charges, and embarrassments to which our trade with Chili is at this time actually subjected.

The duty called *almoxarifazgo* is one which has been levied and collected in Spanish America ever since its settlement. It is levied on everything imported into or exported out of the country, but is more generally and properly the name given to import duties. It has, from time to time, been raised and lowered, and varied with the various articles on which it has been laid; but the *almoxarifazgo* duty of Chili, at this time, is twenty-two per cent. on all imports. The *alcavala* is an excise paid on all articles sold. This is also a very ancient Spanish form of taxation, and is an excise, the origia of which, in America, is coeval with its settlement. All foreign merchandise imported is subjected to this *alcavala*, and, at present, its amount is ten per cent. When a vessel arrives at her destined port in Chili, her cargo must be landed and placed in the warehouse of the Government, until the amount of duties is adjusted and paid, or secured. To prevent smuggling, and also that the importer may not be imposed on, the Government undertakes, as it says, this operation of landing and storing; and, that it may be paid for this trouble, it imposes another duty, called *subvencion* or help, for this its assistance given to the importer, of one and a half per cent. The custom-house officers, and other agents of the Government employed in collecting the customs, are allowed no fees, to insure their integrity and vigilance; however, in order to raise a fund to pay them a salary, there is an additional half per cent. duty imposed for that purpose, called the *impuesta de averia por el estado*. The court of justice called the *consulado* is a tribunal that was erected for the use of merchants particularly. None of the members or officers of this court are allowed by law to receive any fees; but, as they labored for merchants, it seemed fair that commerce should be taxed to raise for them a reasonable compensation; therefore, there is another tax of one-half per cent. laid and collected for this purpose, called the *impuesta de averia por el consulado*.

These several *ad valorem* duties are laid on according to a valuation of the goods at the market price in Santiago, when they arrive there; the sum total of them makes what is called the regular legal amount of single duties on all imports; that is, thirty-four and one-half per cent. When double duties are imposed, which is the case on liquors, ironmongery, claret in casks, Windsor chairs, ladies' silk and morocco shoes of French fabric, and some other articles, all these duties are doubled, except the *subvencion*, by which the sum total of duty on such articles is raised to fifty-seven and one-half per cent. But tobacco, snuff, arms, and ammunition, are to be sold only to the Government, unless by special permission. This rule, however, has been much relaxed of late.

Such is the law; now for the practice. The



custom-house is in the city of Santiago, a distance from Valparaiso, the nearest seaport, of ninety or one hundred miles. The mere underlings and the guard only are situated at the ports; consequently all authoritative communications, permits, and the like, can only be had from Santiago, where the whole cargo must be sent and deposited, before any of its packages can be opened or exposed to sale, with the exception of some few heavy articles, such as iron, &c.—Notwithstanding what is paid for subvencion for the State, and for the Consulate, the importer finds himself under the necessity of hiring assistants, of feeing the officers and the consulate, or, in fact, bribing them, or his business stands still. I shall give the example of an American ship, the cargo of which was valued at \$197,000; but, as regards the following fees and charges, they do not materially vary with the value of the cargo; they are paid in the lump, and must be incurred to have the cargo, great or small, placed in the stores for sale. The first charge is for inspectors, porters, boatmen, storage, &c., \$155; that is for subvencion, which the Government, by that phrase, had intimated was not to be paid by the individual. The next is for despatching mules, carts, and permits for the goods, \$200. Another is for transporting the goods to the custom-house in Santiago, and thence into the stores in the same city for sale, \$814; these two last items of expense are incurred merely from the custom-house being planted at the foot of the Andes, instead of being near the wharf; for some of these very goods were sent back and exposed to sale in Valparaiso. And, finally, the expense of petitions and expenses, \$26; fees to the officers of the consulado, to whose use a per centage had been paid for rendering their services to the merchant gratis. These charges amount to \$1,195, and no more than what is usual, in addition to the delay, vexation, and trouble of the merchant.

The export duties are similar in their nature. On tin there is paid a *derechos de salido*, or an export duty of three per cent., and the subvencion, the *averia por el estado*, and the *averia por el consulado*; making a sum total of five and a half per cent. on the standing Government valuation of ten dollars per quintal. On copper, the sum total of duty is thus divided: the *derechos de salido* three per cent., *alcavala* six per cent., subvencion, *averia por el estado*, *averia por el consulado*, and two rials per quintal. These are all paid into the *aduana* or custom-house. The *ventado*, or inspection, five per cent.; and one rial per quintal to be paid into the Treasury, or *cajas del estado*. These *ad valorem* duties are levied on the market price of the copper, and amount to sixteen per cent. and three rials, or thirty-seven and a half cents per quintal besides. On wheat, hides, tallow, &c., the growth of the country, exported in foreign bottoms, (and there are as yet but one or two others,) the duties are as follows: *almoxarifazgo*, one and a half per cent., *alcavala* four per cent., subvencion three-fourths per cent., *averia por el estado*

one-quarter per cent., usually making the estimate of duty on the most reduced market prices; on which articles the total amount of export duty is thus made up to seven per cent. The law allows the merchant to bond for the payment of the duties in three months, which indulgence the Government frequently extends to six, and even nine months. The exportation of gold and silver bullion is absolutely prohibited; and coin, on being exported by sea, is subjected to a duty of nine per cent.

In reply to my inquiry, what was the amount of the revenue of Chili, the sources whence it was derived, and the objects on which it was expended, Mr. Irisarri has thought proper merely to furnish a copy of some of the treasury accounts of the last year. This might, perhaps, be deemed the most concise, accurate, and perspicuous mode of answering a citizen of Spanish America, but not a foreigner. Therefore, as these accounts may in the United States be considered as obscure, I shall take a review of them, and make such observations as appear to be necessary in order clearly to understand their nature, and what are the sources of the revenue of the State, and the objects on which it is expended.

The papers annexed to Mr. Irisarri's communication, marked as Nos. 4 and 5, are two treasury accounts of receipts and expenditures of revenue. The first of these papers furnishes exemplifications of everything relative to the present revenue of Chili. I shall, therefore, notice each of its several items. The whole receipts of the treasury, according to this account, are comprehended under nineteen distinct items. The first is the amount of the common internal revenue; the fourth is the duty on tobacco. The eleventh, twelfth, and fifteenth, are duties on flour, liquor, quicksilver, gunpowder, stamped paper, hides, and other articles, all of which are principally collected in the shape of an *alcavala*. The second and fourth, derived from mining and coining, have been already explained. The third is the amount of the customs or duties, or the exports and imports of the country, laid and collected, as has also been explained. The sixth is the proceeds of papal bulls and indulgences, or dispensations from crimes, sins, and observances of the church; they are of two classes; bulls for the living, and bulls for the dead. By the first may be obtained absolution from crime, from sin, or the party be indulged in eating eggs and milk, or even flesh meat, during fast days and lent. This is a greater relief than might at first be imagined. Near the bay of San Antonio I was shown a species of seaweed of which the faithful peasant made a porridge when neither the bull nor fish could be had. The bull for the dead is purchased by the relations of the deceased on his behalf, and is a means whereby the pains of purgatory may be lessened and shortened. These bulls are small pieces of printed paper, intimating, in substance, what extent of indulgence the pious holder may ask for; and, after having been duly and regularly sanctified in the church, they are put into

the shops, and sold as a sort of stamped paper. And it would also seem, from this item of the treasury account, that contributions are still, in the most distant regions of the earth, levied on the faithful to raise a crusade for the relief of the Holy Land, and for the redemption of those made captive in so glorious and pious an enterprise.

The seventh item was the amount of what were called the monthly contributions, which, in a note, Mr. Irisarri says have been abolished, without telling us what has been substituted in their place. On looking among the edicts issued by the present Patriot Government, however, I found that which furnished the explanation. By this edict, dated on the 9th of December, 1817, after reciting that the burdens of the State ought to be equally and proportionably borne; that large landed estates were held in absolute proprietorship by all the religious institutions; that almost all the great landholders had, in one way or other, charged their estates with the render of some rent, corrody, or benefit to one or other of the religious institutions; that such institutions also held a considerable amount of censos or money at interest; and that merchants, who might not have any lands or tangible property, were yet, commonly, wealthy in floating capital, it enacts and declares that all lands and other property, whether held by the church or individuals, shall be taxed one per cent. per annum, a quarter of which shall be paid by the religious institutions in whose favor the land was charged, or the mortgagee, to be adjusted proportionably, according to an actual valuation which shall be made; and that merchants shall also be taxed one per cent. on what shall appear, on investigation, to be the actual amount of their capital. What will be the amount of the proceeds of this tax it is impossible to say, as the first year's collection of it had not been brought into the treasury. It is, however, I believe, the first direct internal land and property tax ever attempted to be levied in Spanish America, and the first tax that ever has been laid on the property of the church in the Spanish settlements; and I am inclined to believe that it will prove to be more fruitful in revenue, and in its consequences, than any tax ever laid in Chili. The eighth source of income set down is that of the tithes. By adverting to the paper No. 2, attached to Mr. Secretary Irisarri's communication, it will be perceived that he has given an average of the product of the tithes of all Chili, under the old regime, when the State had not been wasted or disturbed by war, at two hundred and sixteen thousand eight hundred and eleven dollars. This is stated to have been the annual amount paid into the treasury; but of the entire product, a small part of what is actually collected (but what proportion I could not learn even from the Secretary himself) is paid to the clergy. It has always been usual in Chili to farm out the collection of the tithes, sometimes to favorites, at a considerable sacrifice to the State. During the last year, the tithes of the valley of Coquimbo, which were estimated and said to have actually pro-

duced twenty-four thousand dollars, were farmed out to a collector for sixteen thousand. The ninth article is the amount of the voluntary contributions. This is an evidence of the patriotic spirit of the people; and, on looking over the names, most of which had been published, I find the ladies of Chili as distinguished for their patriotic liberality as their countrymen. The tenth item is made up principally of fines and confiscations imposed on godos or Tories and their property. It is inevitable and fair that those whose principles have induced the contest should abide the loss; but I am very sorry to be obliged to say that no inconsiderable portion of this amount is derived from fines and the sequestered property of real patriots, who do not happen to belong to the present reigning faction, but who are, perhaps, still more inimical to the royalists and godos than those in power. It would seem, however, that such is the indiscreet eagerness with which property is seized, under the pretext of disaffection, or such the liberality of the ruling authorities, that a great part of what is seized is restored. The thirteenth item is a toll collected for the repairs of the pass of Putaendo over the Andes. This toll was gathered under the colonial Government, and is continued since; but, except the *casuchas*, there appears to have been very little applied to the improvement of the road. The fourteenth article is the proceeds of the estates of the Jesuits. When the King of Spain expelled that religious order from his dominions, its estates were taken into the hands of Government as regal property; and the amount here set down is the proceeds of those estates lying within the reach of the present patriot rulers. The sixteenth item is the proceeds of a duty imposed on all goods required to be weighed by the Government. The seventeenth is the amount of a prize captured by the brig Eagle, a Government vessel. The eighteenth is the amount of property the owner of which is unknown, or the right to which is contested. The Government, therefore, holds and uses it as revenue, until the true owner is discovered, or the right settled. The nineteenth and last source of revenue specified is that derived from a discount on the salaries of civil officers. These are the several sources of revenue, and the amount of each, derived from so much of Chili as is subject to the present patriot authorities.

The same paper will show the various ways in which the receipts of the treasury have been expended. Of the twenty articles of expenditure, it sufficiently appears, from the face of them, that the first, second, third, fourth, seventh, twelfth, thirteenth, and fourteenth have been incurred to carry on the present war for independence and freedom. The fifth item of expense is what may, in some respects, be deemed a distribution of a small portion of the first-fruits of Chili, after the battle of Chacabuco. This sum of new coin, as appears by a report to the delegated Supreme Director, dated on the 1st of July, 1817, was thus disposed of: one thousand dollars were given to his Excellency the Supreme



Director of Buenos Ayres, Don J. M. Pueyrredon; one thousand to General Belgrano, commander of the Buenos Ayres army of Peru; one thousand to the Supreme Director of Chili, Don B. O'Higgins, to be distributed among the officers of the army of the south then under his command, near Concepcion; and the other thousand to the Commander-in-chief, General San Martin, to be, in like manner, distributed among the officers of the army in Santiago under his command. The sixth is the amount of debts paid which were contracted in the first epoch of the Patriot Government. The eighth is the aggregate amount of pensions and annuities charged upon and payable out of the treasury. A part of these were granted during the Government of the Viceroyalty. The ninth is the amount of property which had been sequestered, but, not being confiscated, was therefore restored. The tenth is the amount of the civil list. The eleventh and seventeenth are two items showing the amount of the rents or annuities and pensions with which the Jesuits' property was charged. The twelfth item is the amount of expenses incident to the Treasury Department. The fifteenth specifies the gross amount of the expenses of the armory in Santiago. The eighteenth is the salaries of the superintendents of the mines.

The nineteenth item is for defraying the expense of completing the valuable work or canal of Maipo. I have before described the vast importance of water to the valleys of Chili south of the Maule; some of which cannot be watered at all by any artificial means, others have not an abundant supply, and in none is the water so carefully and judiciously distributed as it ought to be. One of the most valuable and interesting of the remaining monuments of Indian ingenuity and improvement in that country, is the Salto del Agua, about five miles to the northeast of the city of Santiago, where a great part of the river Mapocho, on which the city stands, is brought, by means of a canal, through a gap in the ridge, which terminates at and immediately overlooks the city. From this gap, standing on the margin of the Indian canal, and nearly on a level with the valley behind, you have under your view a part of the city, and the fairest portion of the valley of Santiago. The water, on passing the gap, is, one part of it, made to wind along the mountain side to the north, another to pass along to the south, and the surplus is suffered to leap immediately down its steep side, from eight hundred to a thousand feet almost perpendicular, whence the work takes its name of the Leap of the Water. The water of the southern canal turns a grist-mill on its way down; and all, after reaching the plain, is poured over it in many directions, so as to irrigate the various vineyards, quintas, gardens, and farms, which are thus rendered astonishingly fruitful. The Spaniards say that the Salto del Agua remains now as the savages left it more than two centuries and a half ago, without any alteration, and with little repairs. The river Mapocho, a part of whose waters had been thus turned in so useful a direction by the Indians, after

passing the city of Santiago, crosses the valley in an easterly direction; then, pursuing its course south along the foot of the opposite ridge, sinks under it, and, rising again near Francisco del Monte, hurries into the Maipo, which it finds above Melipilla, after that river had taken leave of the principal Cordillera, about twenty miles south of Santiago, and made its way directly east over the valley. Between these two rivers, on a dry swell of the plain, about ten miles southeast from Santiago, the famous battle of Maipo was fought. And this portion of the plains lay so high, for many thousand of acres in extent, that it could not be watered from the small canals of the Mapocho, and, therefore, was only used as pasture ground. It is intended, by the work of Maipo, to bring the waters of that river along the foot of the mountain in a canal, terminating at the Mapocho above the city of Santiago, so as to water and render fit for cultivation all these plains, which, anciently as well as lately, have been so celebrated. Such are the works of a people, whether of aboriginal or of foreign descent, who really own a country, and govern and manage it for themselves. The nature of the two last items of expenditure in this account needs no explanation.

Among the official printed accounts of the state of the treasury, which have been sometimes published monthly, from which Mr. Irisarri appears to have copied his No. 4, and made up his succeeding No. 5, I find the official treasury account up to the last of February, 1818, and, by adding its gross amount to that of Mr. Irisarri's No. 4, it will give the amount of the first year's receipts and expenditures of the Patriotic Government, reckoning from the battle of Chacabuco, which was fought on the 12th day of February, 1817; according to which it appears that the whole amount of revenue received amounts to two million one hundred and seventy-seven thousand nine hundred and sixty-seven dollars, and the total amount of expenditures, in the same time, has been two million one hundred and nineteen thousand five hundred and ninety-five dollars, leaving a balance in the treasury of fifty-eight thousand three hundred and seventy-two dollars. This exhibits a view of one year of the war establishment of Chili. To see what would be the state of its finances in peace, according to this same account, we have only to deduct the net amount of the confiscations, the proceeds of the prize, and the sum raised to purchase arms, which, together, amount to one million and ninety-nine thousand six hundred and twenty-four dollars, from the receipts of the year, and we shall have one million and seventy-eight thousand three hundred and forty-three dollars, the receipts of the treasury from what appears to be the product of the ordinary system of peace taxation. And if we then, in like manner, deduct from the gross amount of expenditure all those items which have been manifestly occasioned by the present war, it will appear that the peace establishment would cost no more, according to the present system, than four hundred and seven thousand two hundred and thirty dollars, which deducted from

the peace receipts, would leave a balance in the treasury of six hundred and seventy-one thousand one hundred and thirteen dollars. This calculation ought not, I should conceive, to be at all affected by what is said in the Treasurer's note to No. 5, because he speaks of charges that will evidently be included in the following year's account. According to these views, it would appear, then, that the abilities of Chili to defray the expense of its own Government, and to sustain the extraordinary expenditures of a war of defence, are not only very abundant, but that its usual ordinary resources, in time of peace, would be amply sufficient for all the purposes of roads, canals, and other public works, so valuable in all countries, and which would be to Chili of the most incalculable benefit.

But it would seem that these formal accounts of the state of the treasury, from time to time published for the information of the people, are not altogether so correct as they should be; that the abilities of Chili have, probably been strained much beyond what is here represented; and that there have been dispositions of its treasure to a considerable amount over and above those set down. In a communication I had with Mr. Irisarri, on the 1st of July last, he assured me that the revenue of Chili had, during the last year, yielded four millions of dollars; and in the written communication now before us, he says that there are not comprehended in the official account some receipts of much importance, which, by their uncertain nature, ought not to be included in it. In addition to these declarations of the Secretary of State, it seemed to be the current opinion and belief that the last year's revenue had yielded about four millions of dollars. Chili, it was said, was much exhausted, and there had been a clamor that its revenue had been grossly misapplied, which clamor, it was said, caused the resignation of one of the secretaries. It would seem, then, that since the battle of Chacabuco, a sum not far short of two millions of dollars has been gathered up in some way or other, (in what manner I could not learn,) and either lies dead in the country, or has been sent out of it. It could not have gone out by fair commerce; because an exportation of riches in that way would, instead of exhausting the people and causing them to complain, have benefited them much. But I need make no further observations; the facts and circumstances are before you.

Mr. Irisarri has given a statement of what, he says, are the numbers of the veteran forces of Chili, and nothing more. It is of importance, however, that the nature and composition of this veteran force should be understood. Under the first government of the patriots, many who had offended the reigning party, which was at times the Carreras, and at other times the Larrains, with O'Higgins at their head, were banished to the other side of the mountains; and in consequence of these internal divisions, in a great measure, a principal portion of the patriot forces of Chili, under the command of the present Director which had made a stand at the town of

Rancagua, were there attacked and defeated by the royalists on the 2d day of October, 1814, after which the remnant of the patriotic forces, with all who could, and deemed it prudent, fled in every direction over the Andes. This defeat of Rancagua closed what is called the first epoch of the Patriot Government. The Chilean refugees and exiles of all parties rendezvoused at Mendoza. General San Martin, who was then there, made common cause with O'Higgins and the Larrain faction, and undertook to reorganize an army from these motley and shattered materials. He procured arms and a reinforcement of about two thousand free negroes from Buenos Ayres. O'Higgins was made brigadier general; but almost all the other officers of the army were either citizens of Buenos Ayres, or commissioned and appointed from thence. There was no Chilino officer in it higher than a captain, except O'Higgins. This army, thus composed, amounting in number to about four thousand, was led over the Andes by General San Martin, through the passes of Putaendo and Patos. With some skirmishing in the pass of Putaendo, but without any material loss, the whole arrived safely in the valley of Aconcagua, near the city of San Felipe, and pushing forward toward Santiago, it was met by the royal army under the command of Marco, at the foot of the cuesta which enters into the valley of Chacabuco. A battle ensued on the 12th of February, 1816; Marco was captured, and his whole army cut to pieces or made prisoners. Thus the patriots regained Chili. O'Higgins was made Supreme Director, as he says in his manifesto, by the voice of the capital and the State; but every one will perceive that this army, at least, had its influence in the appointment.

This army has been occasionally divided and united; its parts have been distinguished by various names; it has sustained many losses and been often recruited; but it has received no aid from abroad, it has been supported, wasted, and strengthened, altogether in Chili; it is now called "the united army of the Andes." As it fell back on the approach of the royal army under the command of Osorio, it was said to have sat down at Cancharayda nine thousand five hundred strong. It may have then consisted of that number; but on the night of the 19th March last it was attacked by the royal army, panic struck, and almost totally dispersed. It rallied again in the valley of Santiago. The royal army under Osorio came up, the troops of which were composed principally of veterans from Spain, that had been transported by the way of Cape Horn to Lima, and thence to Concepcion; and, with some Chilotes and other auxiliaries of the country, was about five thousand strong. The rallied patriot army could not have exceeded, according to any account, six thousand men, almost all raw troops or militia, except the Buenos Ayres negroes. The royalists had a decided advantage of ground, and twelve pieces of artillery more than the patriots. In this situation, the two armies met about ten miles to the southeast of the city of Santiago, on the plains of Maipo; and early on the morning of the 5th of



*Condition of South America.*

April last a most desperate conflict commenced. The royalists charged fiercely; the negro troops fled; but the Chilianos, the militia no less than the rest, animated by one invincible fervor of patriotism, with shouts of "Viva la Patria," carried all before them, sword in hand, or at the point of the bayonet. The field was literally strewn with heaps of slain. The combat continued with various fortunes until late in the afternoon. It is said that, for the numbers engaged, there never was a more obstinately contested combat or a more bloody battle fought in any part of the world. Of the royal army, the half were found dead or wounded on the field, and all the rest made prisoners. The loss sustained by the patriot army is estimated at about fifteen hundred. The victory of Maipu has completely confirmed the independence of Chili. Since the battle, many of the troops who had fled from Cancharayca have been rallied, and there have been also many recruits enlisted. Yet, after making all allowances, I could not find among the citizens that any one estimated the army at more than six thousand strong on the 1st of July last. But it may, as Mr. Irisarri states, amount to eight thousand four hundred. Of the officers of the army, there are at present but two Chilianos in it above the rank of captain; the one is the present Director, who is a brigadier general under General San Martin, and the other is Colonel Raymon Freyre, a native of Santiago, about twenty-three years of age, but confessedly one of the most distinguished officers in the patriotic service; he is as modest and unassuming as he is intrepid, and is said to be firmly devoted to the establishment of the liberties, as well as to the independence of his country. A part of the united army of the Andes is now in the province of Concepcion, near the enemy, and another part, including the Buenos Ayres negroes, is in Santiago, as a guard to the capital and the palace.

With respect to the militia, the estimate given by Mr. Irisarri is of so much of the country as is at present in the power of the patriots. I did not, however, understand that they had been completely officered or organized. As to arms, they have few or none; and I question whether the Government has arms for them over and above those necessary for the regular troops. There are, however, a great many arms in the country, belonging to merchants, for sale; and the people are, either by purchasing arms for themselves, or by being occasionally exercised in the militia, improving very rapidly in the knowledge and use of arms.

The marine of Chili is made up of those vessels specified in the paper No. 7, attached to Mr. Irisarri's communication. They have been lately purchased, and are altogether officered and manned by foreign seamen, chiefly Americans and English. The brig *Aquila*, of eighteen guns, has performed some service; she was purchased soon after the battle of Chacabuco. The brig *Buenos* is of not much value.

Just previous to the battle of Maipu the English ship *Windham*, carrying fifty-two guns, then

lying in the harbor of Valparaiso, bound on a trading voyage to Botany Bay and India, was purchased by sundry persons, principally Americans and English, in partnership with the Government, and commissioned as a Chilino cruiser, under the name of the *Lautaro*. She made one short cruise, in which she had a combat with the two Spanish ships *Esmeralda* and *Pezuela*. About the latter end of June last, she was purchased by the Government entirely of the individual owners. Since then she has not been completely manned. The *Coquimbo* was a privateer ready for sea in the beginning of July last, and in that situation purchased by the Government. As to the two ships, *San Martin* and *Chacabuco*, spoken of in this paper, General San Martin had a considerable sum of money sent over to Buenos Ayres, where he employed Mr. Aguirre and Mr. Gomez, two gentlemen of that city, and placing the funds of Chili in their hands, with a commission from it for Aguirre, sent them to the United States as agents to contract for the building of two vessels of war; where they arrived and contracted for the building of them in the city of New York. Since then further sums have been remitted from Chili, through Buenos Ayres, to Messrs. Aguirre and Gomez, to meet the expenses of completely fitting out these ships, which were to be called *San Martin* and *Chacabuco*. They had not arrived when I left Valparaiso. As to the privateers of Chili, it has not been long since they commenced their career; some, it is said, have been successful. A copy of the rules and regulations by which they are to be governed was handed to me by Mr. Irisarri, and accompanies this, marked as exhibit A. I did not hear that any acts or conduct contrary to the usual practices and the laws of nations in such cases had been imputed to any of these vessels.

It would not, perhaps, be correct to consider either the exports and imports of Chili, during its subjection to the late colonial system, any more than what it has received and sent abroad during the present revolutionary epoch, as an accurate criterion by which alone to ascertain the annual value of its commerce, when the whole country shall be united and settled in a state of peace under one and the same Government. But a knowledge of existing facts and circumstances, taken in connexion one with another, will enable us to form some opinions approaching the truth as to what its real capacity now is, and may be in future.

Considering the precious metals, in bullion and in coin, over and above what is necessary to carry on the exchange of the country, as among the articles of its exports, the following is a list of the chief of them at present: gold, silver, copper, tin, wheat, flour, hemp, cordage, hides, tallow, jerked beef, vacuna, guanaco, and chinchilla skins, and several kinds of dried fruit, figs, raisins, &c.

Since the opening of the ports of so much of Chili in February, 1817, as the patriots obtained possession of, there have arrived twenty-four American vessels, principally ships of two hun-

*Condition of South America.*

dred tons and upwards. Of these, four were whale ships, and four other ships engaged in the sandal wood and northwest coast trade; these ships called, obtained refreshments, and had some little trade. The other sixteen brought cargoes for the Chili market, consisting of arms, ammunition, naval stores, tobacco, iron, furniture, iron hollow-ware, British dry goods and crockery, India goods, French goods, and jewelry; which have been, at a reasonable estimate, supposed to be worth one million three hundred and eighty-five thousand dollars. And, during the same period of time, there arrived twenty British vessels, one on a whaling voyage, and one bound to the northwest coast, and eighteen with cargoes, either from the river Plata, with articles collected there, as yerba, tobacco, &c., or from Europe, but chiefly with British goods. The total amount of their cargoes has been pretty fairly estimated at about one million eight hundred and thirty-five thousand dollars. Many of these vessels, as well Americans as British, had left Chili in July last; others still remained there; and it was estimated that neither the Americans nor English had, at that time, collected much more than half the returns for the imports. Besides these, there had arrived, in the same time, two Russian ships, one Swedish, one French, and one merchantman from Buenos Ayres in ballast, which was sold there and fitted out as a privateer. The British have, it is said, for a long time had a ship of war on the coast of Chili for the protection of their trade. The British frigate *Amphion* left Valparaiso in February last; and in May the sloop of war *Blossom*, and soon after her the frigate *Andromache*, arrived on the coast. The *Blossom* had sailed to Columbia river, and the *Andromache* was at Lima on the 15th of July last.

The whole amount of imports into that portion of Chili held by the patriots during the last year, as well over the Andes as by sea, has been estimated at little short of four millions of dollars; of which, two millions, it is believed, have come from England, one from the United States, and one from Buenos Ayres; while, during the same period of time, it is supposed there has not been exported from the country, including specie, more than about two millions; which, at present, leaves an apparent balance against it of half the whole amount of its imports. This is owing to two causes: in the first place, according to the colonial system and course of trade, which is continued, with few alterations, merchandise imported was never sold, so as, within the last year, to place the returns in the hands of the importer, because, if he was a foreigner, as has uniformly been the case latterly, he was not, nor is he now, allowed to retail them himself; or, as the law has defined what shall be considered retail, by reference to a mule load, to sell any package, two of which are equal to a mule load, or, in other words, to sell a package of less than two hundred pounds weight. And, according to the former custom of the country, no retailer would take more than what he immediately wanted. This precautionary and dilatory custom has increased

with the late precarious revolutionary times. The consequence has been, that as great an amount of goods has not been vended as might have been if the actual demands of the people had been gratified. The other cause is, that, in anticipation of the market, without a correct knowledge of the wants and taste of the people, a greater amount of some articles has been introduced than was, for the present, wanted; and a considerable amount of others has been imported, which are utterly unsaleable. Hence, in some respects, commerce has not yet completed its circuit; the goods are unsold, still lying in the hands of the foreign merchant; the country is not indebted for them; and, therefore, the balance of trade is not so much against Chili as would at first appear.

As regards foreign commerce, the market of Chili may be considered as being yet untried, unexplored, and but very imperfectly known. Many things are getting into use, and the demand for others increases as the people become better acquainted with their utility. There are some few articles of the growth or manufacture of the United States which have been found to answer, as saddlery, Windsor chairs, furniture, tobacco, and some others; of the European fabrics, those of France and Germany are greatly preferred. It has been remarked, that even the miserable casuchas of the huasos are beginning to exhibit some conveniences of foreign fabric, which, until the opening of the ports of their country, were unknown to them. Indeed, I presume it will be regarded as one of the inevitable consequences of the present revolution, that, as the comforts and conveniences of the mass of the people shall be substantially improved by it, their wants will be multiplied, and their capacity to pay for them proportionably augmented.

In estimating the powers of a State, we naturally look first at its physical qualities; the salubrity of its climate; the fertility of its soil; the means of intercourse by which one district may aid and supply another; the nature of its productions, and how its population is seated; whether crowded into a small space, or sparsely scattered over a great tract. These, and such circumstances, are necessary to be known, in order to form a just opinion of the capacities and energies of a people. I have, therefore, endeavored to present you with a clear view of all these matters as regards Chili. But the human institutions of a country, though not so indelible and unchangeable, are often no less powerful in their operation than those physical qualities. Superstition spreads over the social visage the sickly hue of pestilential vapors, and the hands of arbitrary drones disappoint the hopes of the harvest like the rust or a mildew. In a salubrious climate, amidst the abundance of agricultural pursuits, and with the advantage of a condensed population, if anywhere, it would seem that there life should have all its gayety, its delights, and its value; that there all the social ties should be most strongly felt, and that there human excellencies should be most fully developed; but a



mayorazgo, a monk, and a regal superior, shall be permitted to walk hand in hand over this godly scene, and they will gather up all its abundance, banish its festivities, and leave it like a barren but inhabited waste, a scene of beggary, of squalid raggedness, and filth; where the human creature, inspired by no motive, and lost to every sentiment of his own dignity and worth, shall value nothing so much as a long interval of repose; and a modern philosopher, unmindful of Christian feeling, shall look upon such creature, so circumstanced, and in a spirit of what, by some, might be deemed philosophical liberality, at once pronounce him utterly unfit for liberty. All human institutions which in their operations and consequences paralyze human industry, or waste and consume its fruits, are most serious evils. Their pernicious effects are always severely felt, and they never fail to abstract from the capacities of a nation, to enfeeble it more effectually than war, famine, or plague. All colonial establishments are ruinous to a colony, because they gather up the wealth of the country, regardless of the beneficial reciprocity of fair commerce, and send it abroad. An ecclesiastical establishment consumes the productions of a country within itself, yielding no return. It is like a rot in the ear of the corn. They are both of them political evils of a similar nature. The one Chili has banished forever; the other has been shaken and loosened, but it yet remains.

The church, in all the Spanish possessions in America, was well provided for; in Chili particularly so. There are said to be about ten thousand monks and nuns in the whole country; that is, of the class called regular clergy, in contradistinction to the seculars. The religious institutions, filled by these regular clergy, are said to hold, in one way or other, either in absolute proprietorship, or charged with the payment of annual sums or corrodies, or under mortgages, nearly one-third of the landed property of the State. The lands of the religious houses held in absolute proprietorship are usually rented by a person, who again underlets them to other tenants, who hire slaves and huasos or peasants, and cultivate them, as a sort of terre-tenants or stewards. Thus two sets of drones are supported from its profits—the monkish proprietors and the mesne tenants, neither of whom ever pay any other attention to the estate than to collect the rents when due. The effect upon agriculture and society of suffering a great portion of the land of a country to be held in mortmain is well understood, and in Chili it is quite obvious. In addition to the landed estates held by the religious institutions, they have what are called their censos, or money lent out on interest of five per cent. per annum, to the amount of ten millions of dollars; and besides their share of the tithes, which the State still permits them to draw, the clergy have the first-fruits or *anatos*, which yield to each curate between two and three hundred dollars per annum. When we contemplate this prodigious wealth of the church of Chili, compared with the revenues of the State, and recollect the searching

prevalency of pecuniary influence, we shall at once see the full force of the Spanish saying, that, in that country, "it is doubtful whether the State be in the Church, or the Church in the State."

The present patriot authorities, owing to the nature of revolution itself, to their prodigality, to their having too many hungry expectants about them, or to some other causes, are continually pressed for resources. They have repeatedly cast an eye upon the accommodations and the wealth of the church. They have solemnly asked the opinion of the holy fathers as to the propriety and policy of raising a considerable sum of money by the sale of bulls and indulgences; and were answered that neither right nor religion would forbid it. They have seized upon two large monasteries, turned out the monks to seek accommodation elsewhere among their brethren, and made barracks of the holy lodgings. They have taken the house of exercise, that is, the large edifice where the faithful used to resort to receive the pious instruction of the fathers, and to punish the body for the good of the soul, and converted it into an armory. They have tried and convicted monks and nuns of high treason, and sent them into banishment; and, some months ago, urged by their continual pecuniary necessities, they proposed merely to borrow the censos of the monasteries, and accordingly instituted an inquiry into their amount; and thus ascertained that, in the bishopric of Santiago, they rose to about six millions of dollars; and in the bishopric of Concepcion they were in amount about four millions. The church clamored prodigiously at this most unholy attempt to touch the support of religion. The State, however, made out to relieve itself from its exigencies in some other way, and for the present abstained from borrowing the ecclesiastical censos; but a fair and general tax has been laid on all church property.

The Spanish chiefs or viceroys under whose auspices Chili was conquered, made very extensive grants of its territory among their principal followers and favorites; or, actuated by the religious fervor of the times, they made settlements of whole valleys, or the most choice and extensive tracts, upon some religious houses, or for some pious purposes. The lands thus granted to the religious institutions being held in mortmain, were inalienable; and those large tracts granted to individuals were commonly entailed, and transmitted entire, as fettered inalienable inheritances, according to the principles of the Spanish law of primogeniture called *mayorazgo*. The expressions often used in an original grant, as descriptive of the tract conveyed, will give an idea of their extent. They were, that the grantor should have and hold all the tract within the waterfalls, from such a point to such another point. These expressions, not unfrequently, by thus calling for the circumjacent ridges as the confines, comprehended the greater part of a large valley; so that the *mayorazgo* might stand on his estate, and behold its outlines and boundaries, like an immense

circumvallation thrown up by the hand of nature all around. The effects upon husbandry, commerce, and the state of society generally, of suffering these fettered inheritances to continue in any country, are well known. It is said that their effects have been extremely pernicious in Chili. The present Director has, however, put an end to them. By his edict of the 5th of June last, all *mayorazgos* are forever abolished and prohibited in future.

Before the revolution there never was a printing press in Chili; nor did any science reach it but what was carefully passed through the sieves and strainers of the holy inquisition of Madrid, or the no less holy inquisition of Lima. The taste for intellectual pleasures was everywhere suffocated or religiously restrained; and the charms and heresies of modern literature were permitted, in no shape, to lead the faithful Chilinos astray. The press, until within these few years, was a machine of as much entire novelty and curiosity to the people of that country as any other of the useful mechanical inventions of modern times; its powers and its value were unknown; and the earthly immortality which it bestows upon the labors of virtue and genius was a matter wholly beyond their conception. The press is, however, no more than the great instrument by which all human knowledge may be speedily and extensively diffused, and easily multiplied, renewed, and perpetuated. But it never has, nor can it be used as a machine to create a talent for discussion and investigation, or to arouse a people to an assertion of their rights, whose minds have not been previously impressed with a knowledge of letters, and also been imbued with a talent for discussion. The first revolutionary impulses, on such a people, like those made on the Romans in the time of the elder Brutus, or on the English at Runnimead, or on the Swiss in the days of Tell, or on the Spaniards who followed the fortunes of Padilla, must be from other causes and by other means than through the instrumentality of the press; and, perhaps, I should not be wrong in observing that the first and most successful revolutionary impulses in favor of liberty, in all ages and countries, have not been those made by that cool but potent instrument of reason, but by those animating strokes which, falling directly upon the heart, and on the sentiments and feelings of the bosom, arouse passions sufficiently strong to burst all bonds and to encounter all perils. Such is the impulse which has been given to Chili; and the Spaniards will long remember that, on the plains of Matpu at least, the sentiments and feelings of Chilinos were kindled to deeds of noble daring, far beyond all ordinary power of resistance. After a people have thus had their passions and sentiments completely unfettered, the influence of the press gently follows, as a reasoning friend, who diligently instructs the head and justifies the feelings of the heart. The press has, as yet, therefore, had little or no effect in Chili, nor is its operation likely to become immediately, and at once, extensive and powerful, under any circumstance in which it could

now be placed, owing to the previous habits and education of the present generation of the people.

The Christian religion, as has been justly observed, is, in all its various forms, essentially an intellectual mode of worship. All its different sects, more or less, inculcate the communion of mind with infinitely amiable and benevolent mind. Its fundamental principles, therefore, correctly understood, are exceedingly friendly to the cultivation of the intellect. But a contrast of the Catholic establishment in Chili, with the established church and toleration of our country, under its colonial system, will show how extremely different the effect and consequences of the same divine emanations may be, in proportion as they are mingled or effused with the sordid objects of Governments and of men. The rival sects in our country, as well as the church of the State, which was itself a deviation from the older establishment, made the cultivation of the mind and exercise of the intellect essentially necessary, as well for the pastor as for each of his flock. To set forth the correctness and the excellence of his creed, and to expose the errors of others, which he deemed it a solemn duty to instruct his followers to avoid, continually called on the preacher for an intellectual effort, and imposed on him a ceaseless task of reasoning.

The church was thus made to every hearer a school of polemical exercise, as well as a house of adoration and prayer. The colonist of our country thus had his mind imperceptibly enlarged and invigorated, his polemical skill continually improved, and his reasoning faculties sharpened and prepared for political as well as religious subjects. On the other hand, the established church of Chili tolerates no rival, suffers nothing like religious controversy, and is itself the congregated original, whose creed suggests no inquiry, nor challenges any investigation. The mind hears the dogma dictated which it is commanded to believe, without daring to doubt, or presuming to ask a question. Men are faithful but not rational believers: the rich and shining ceremonies of the church glitter before their senses; they yield reverence from habit; and their minds, overshadowed with a gloomy obeisance, rest content in a kind of irrational silence. The Catholic religion itself is better understood in our country; because its principles are discussed and explained, and much has been published in its vindication. But in Chili it is never controverted, seldom expounded, and stands in need of no vindication. It is upheld by power. The people comply with its ceremonies without presuming to question their meaning; and, consequently, the great mass of them understand little of the principles of the religion they profess. Hence, from this cause among others, in our country the first revolutionary blow aroused multitudes of the most adroit veterans in argument, whose reasoning powers attracted the admiration of the world. But the Chilino, with awakened feelings as keen and as strong, and animated by a courage as determined and invincible, is, as yet, a stranger to mental struggle and political controversy.



Soon after the commencement of the revolution, in the year 1811, when the Carrera party was in power, a printing press was imported from New York, which was set up and managed by three citizens of the United States, who went with it, and a weekly newspaper was published called the *Aurora*, edited by Camilla Henriquez, now of Buenos Ayres. This was the first newspaper ever published in Chili. After the Carreras were put out, and the party now in power obtained the ascendancy, the paper was called *Arauco*, and was edited by Mr. Irisarri, the present Secretary of State. Since then there has been continually a newspaper published in Chili. But it has always been under the absolute control of the reigning party. Some one dared to say that the victory of Chacabuco had been gained chiefly by the brave efforts of the sons of Chili; and, by an edict of the present Director, of the 14th of March, 1817, the printer was commanded to give up the name of the author, that he might be punished as a libeller, who designed to excite jealousies in the minds of the Chilenos against the generous defenders of their liberties from Buenos Ayres. There are, at present, four weekly newspapers published in Santiago; none anywhere else in the State; the *Ministerial Gazette*, a Government paper, formally made such on the 2d day of May, 1818, and placed under the management of the Secretary of State, *El Argos*, *El Duende*, and *El Sol*, each issuing once a week; and all of which are printed at one and the same press, belonging to the Government, are understood to be edited by the clerks and officers of Government and are wholly subservient to the powers that be. There are two other printing presses in the country, which were carried there by citizens of the United States for sale, but they are not found to be saleable articles.

The present Director, on the 25th of June, 1818, issued an edict, exempting all newspapers and pamphlets from postage, and allowing all books to be imported free of duty. Thus, light may begin to break in. But there is a fellowship and a social principle in human rights which prompts each to cherish and sustain the other. Nothing can prevent the introduction of the representative system; for the hearts of the people are bent upon it; that will draw after it discussion; the press is the very chief instrument of investigation; and when a people begin, with that help, to think, to inquire, and to vote, their advancement must inevitably be very rapid, unless their country be distracted and devastated by foreign foes. Thanks to Heaven! there are few hereditary enemies to reform on this continent; none which surround Chili; and not many on the globe who have strength and length of arm to strike it; not one that can subdue it.

The greater part of the Europeans who settled in Chili are said, by some, to have emigrated from the southern provinces of Spain. But there is a tradition in the country, that, immediately after the barbarous wars conducted by the Duke of Alva in the Netherlands, many of the adherents of Philip II. of that country emigrated to

Chili. But, from whatever portion or province of Europe they have principally derived their descent, every stranger acquainted with other Spanish settlements in America at once remarks the fairness of the complexion of the Chilenos of unmingled European descent; blue eyes and fair hair are common. Perhaps a regular mountain climate has rather given prevalence, and cleared than darkened the fine complexion of the first European settlers. It is among this class that all the intelligence of the country is found, who are said to be in general much better acquainted with ancient than modern literature. And, as in every other Spanish settlement, all the most respectable land owners are residents of the cities, and do not dwell on their estates in the country.

When Chili was conquered, the natives who survived the war, and submitted to their invaders, had a portion of land allotted to them, which was called the Indian pueblo, or town; all the rest was parcelled out among the new comers. There was in almost every valley a pueblo of peaceful and submissive Indians; besides these, there were throughout the country many Indians held as slaves, whose descendants, held in slavery at this time, are said to amount to about fifty thousand. The mixture with those of the European race in and about the Indian towns is so general, and the population has been so blended and whitened in them, that, in the project of a constitution presented to the Congress of the first period of the Patriot Government, it was proposed to consider them as a portion of the people, entitled to all the privileges of citizens. The huasos, or peasantry of the country, are all of this mixed class; they are universally illiterate and indolent, but kind, docile, brave, and humane. Previous to the arrival of the Buenos Ayres negro auxiliaries, there were not, in all Chili, one thousand of the African race, bond and free. By a law passed during the first epoch of the Patriot Government, the children of all slaves born after that date were declared free from their birth. This law, suspended by the return of the royalists, has been since held to be in force. Upon the whole, it is universally admitted that the population of Chili has less of the African blackening, has a smaller proportion of slaves, and is altogether more homogeneous, than any other of all Spanish America.

But the order and arrangement of nature in Chili, according to some plausible theories, is such as will have a strong tendency to inculcate that animated love of country which, in its legal and ecclesiastical institutions, there has been manifested so much anxiety to crush and destroy. Liberty is sometimes called a mountain nymph; yet mountainous countries have been often enslaved and subjected to arbitrary government. But when liberty does, in such countries, once obtain a habitation and a name, it rises and flourishes with more vigor than in most others.

There is an inspiring genius in the mountain scenery of Greece, which prompted its ancient owners to assign a guardian divinity to reign over the grandeur of every lofty eminence, and

to protect the beauties of every valley. They admired and rejoiced over the gay diversities of their country, and were patriotic. Switzerland presents a similar scenery, which operates so powerfully in binding the affections of the inhabitants to it, that the Swiss love of country is not only an ardent sentiment, but, under some circumstances, a preying infirmity. In ancient Rome, the annual festival of the terminalia called the proprietors, cultivators, and peasantry to the fields at the most enlivening season of the year to offer sacrifices and make libations to the God of Boundaries, to ask a blessing on the fruits of the earth, and to make a religious processioning of their lands. This gay festival cherished the social feelings; by anticipating, it prevented controversy; and it filled and warmed the bosom with an ardent love of country. Amidst the mountain regions of Greece, of Switzerland, and of Chili, nature herself leads out the inhabitants of each valley to an annual terminalia. The mountain boundary is gayly decorated; the streams pour down their libations on the fruits of the earth; they flourish and are blessed; the inhabitants rejoice over the coming abundance; their affections are warmed, and they are thus inspired with an animating love for their country. An intelligent civilian of Santiago has called his country the Switzerland of America; it is so in scenery; it is so in bravery; and why should there not be William Tells among Chilenos, who will, ere long, lead the mountain nymph triumphant through the land, and give her a welcome and a home in every valley?

Without travelling through a long historical detail of events, it will be sufficient to observe that, in Chili as in Buenos Ayres, the moving causes of the revolution were not the oppressions of the Spanish monarchy. The people of Chili were not first awakened by persecutions and sufferings to a sense of their power and their rights; they had always been quiet for more than two centuries and a half. The united vigilance and cares of church and state had tamed every restless spirit, and checked every wayward thought. The rulers and pastors of the people had diligently removed every hope of liberty, and passive obedience had become a habit. When the wars arising out of the French revolution, involving and disturbing all the nations of Europe, overwhelmed the peninsula of Spain, drove the ancient dynasty from the throne, produced a struggle for the sceptre, and broke loose at once those carious bonds of mere prejudice and superstition which held the various parts of that great monarchy together, such was the state of the mother country that it was manifest the colonies could no longer be governed as formerly. Each one, consequently, began calmly to think of self-government, not as a matter to which it had been excited and persecuted, nor in a spirit of rebellion, but as a deplorable act of necessity, in obedience to a melancholy fatality which had rent asunder the several parts of a great empire that had been until then so quietly and happily united.

The Junta or Congress assembled in Chili in 15th CON. 1st SESS.—70

1810 was much influenced by this view of the subject, and by a strong sentiment in favor of the mother country. But there were many men in it, and in the country, of much capacity and intelligence, who clearly saw, at that day, that the only alternative allowed to it was absolute independence or colonial despotism, who admired the political example and precepts of the United States, and who regarded that as the favorable moment for giving a new and improving direction to the destinies of their country, which ought not, for a moment, to be lost. At the head of this party was the venerable but unfortunate Don Ignacio Carrera and his sons. There was another party who, swayed by old prejudices, were disposed to compromise. Don Juan Egana, a lawyer of eminence, and who is one of the commissioners appointed by the present Director to draught a constitution for the State, was of this party. He drew up a project of a constitution in the year 1811, and submitted it to the Congress then in session, who ordered it to be published for information and discussion. In this project, which asserts that Chili should have a government of its own, free trade, &c., the idea of a political reunion with Spain, and the other provinces of America, when circumstances would admit, is provided for and continually held out.

Thus the minds of the people began for the first time to be awakened. They were thus looking around, and slowly taking a survey of their circumstances and their interests, when civil war, with all its fury, rushed into their country along with the preparations for political inquiry and discussion. The agitation was great; the people staggered, changed, and faltered. They had the courage, but not having the information and the means of concert at once to assume a correct course and to maintain it, they were distracted, divided, and beaten.

The party now in power, and who, it would seem, had then, as now, a great respect for the British, were induced by the English Captain Hillyar, of the ship of war *Phœbe*, then lying in Valparaiso, to compromise with the royalists. "But who would believe," says the present Director, in his manifesto of the 12th of February, 1818, "that in a crisis as favorable to our enterprises as melancholy to the self-styled national army, the capitulations of the 3d of May, 1814, would have been made? It is necessary to explain to wipe away the shame; suffice it to recollect that it was ratified by our Government, guaranteed by the mediation of Commodore Hillyar, with the authorities of the Viceroy of Peru, accepted by the commander of the troops from Lima; ours retired, restored to the enemy the prisoners, and obliged the people to acknowledge the peace so solemnly published." After thus making peace, as they supposed, with the enemy, they were attacked anew by the royal or national army, and on the 2d of October, 1814, entirely defeated at Rancagua. The remnant of the patriot forces fled over the Andes, where, with other Chilino refugees and the two negro regiments, and the officers from Buenos Ayres, they



were reorganized under the name of the united army of the Andes, re-entered Chili, vanquished the enemy at Chacabuco, and thus regained their power. In June last a commissioner arrived in Santiago from Lima, charged with a proposition from the Viceroy of Peru to adjust an exchange of prisoners of war; and, on inquiry, it was found that all the Chilino prisoners that had been taken by the royalists, having been placed upon the island of Juan Fernandez, were released by the patriots after the battle of Chacabuco, and, consequently, that there were now few or none in their hands. But the Patriot Government of Chili had, on the one side or the other of the Andes, eight thousand of the royalists prisoners of war, which they were willing the Buenos Ayres authorities should exchange for those of the United Provinces in the possession of the Viceroy. No cartel of exchange was, however, agreed on, owing to some informal or contemptuous style in which the patriot authorities had been addressed.

This short statement of the chief causes and course of the Chilino revolution will be further illustrated by the declaration of the present Director, dated on the 1st of January, 1818, (annexed, marked D,) and by that of the 12th of February following, (annexed, and marked E,) and which, together with his manifesto of the 5th of May last, will furnish an outline of the course of events; they will show that a brave people are now unanimously resolved on independence and liberty; that they have boldly met, vanquished, and captured, in succession, almost every man of two well-appointed veteran armies that had been sent against them, leaving none of either to return upon their country; and that they have determined to adopt the representative system of government; for, in the proclamation of the 1st of January, the Director declares "that the then actual circumstances of the war would not allow of the convocation of a Congress;" in that of the 12th of February he says, "it has been wished to delay the calling of a Congress, so difficult to be gathered together during the effervescence of war!" and makes a solemn pledge that a Congress of the representatives of the people shall be called as soon as circumstances will admit. In his manifesto of the 5th of May he declares that arrangements are making for introducing the representative system; that a committee has been appointed to draught a constitution on that basis; and he has issued his edict actually making the appointment. All which are acknowledgments and proofs (if, indeed, proofs were wanting) of the anxious and unanimous wishes of the people, and of the existence of a design somewhere to pacify or elude the gratification of those wishes. This strong and general popular desire to have a Congress called, thus, under various pretenses, postponed, parried, or evaded, must soon prevail. It not only pervades the minds of the citizens generally, but, since the victory of Maipu, it has begun to spread along all the ranks of the Chilinos of the army. The much talked of invasion and liberation of Peru is a project plausible and

popular enough; but it draws off the attention of none from the great object of having a Congress at home. The restraint of some, the banishment of others, and even the destruction of one of the active advocates of the call of a Congress, has rather served to excite and irritate, than to quiet the minds of the people. A Congress will, ere long, be convened, and the work of reformation then really be commenced; awkwardly and unintelligibly at first no doubt, and, perhaps, passionately; but the revolution will move on, often checked and diverted from its best course, as all others have been, by the working off of the pernicious old leaven of kingcraft and priestcraft, to the attainment of much good and substantial freedom ultimately.

The movements of the military leaders, and the position in which they have left the patriot forces under their command, have, in the judgment of some, been so contrary to everything like military skill, zealously directed for the good of the cause, as to cast a shade of obscurity and mystery over all the affairs of state. The same observations are made on this subject in Buenos Ayres as in Chili. Why, it is asked, are not the militia of the high provinces attached to the Union, and who are so extremely zealous in the cause, furnished with arms? It is said that the gauchos, under the command of Guemes, are more than a match for all the guerrilla parties of the royalists in that quarter; and, also, that the people of Potosi, Chuquisaca, and their neighborhood, are resolved on independency and freedom. If so, it is asked, why are not Belgrano and Guemes ordered to press forward to Peru, and leave arms with the people in their rear, to protect themselves in case of need, instead of remaining so long stationary near Salta? Why is an army of twenty-five hundred men, principally freed negroes, left in the city of Buenos Ayres, when no enemy threatens it, and only three thousand sent under Belgrano to the frontiers to face the national foe? Why not arm the militia of the capital and its vicinity for its temporary defence, in a moment of emergency, such as that of the late attack of the English, and send the regular forces to the frontier? In Chili similar observations and inquiries are made. Almost immediately after the battle of Chacabuco, San Martin, the Commander-in-Chief, instead of pursuing the enemy to the walls of Concepcion, and closely investing him there, if no more could be done, or of instantly and vigorously pursuing the royal forces in every direction, and of destroying the adhesions to the old system wherever to be found, left the army in Santiago, and went over to Buenos Ayres, and staid there so long that, when he returned, the royal forces were recruited and prepared for the siege which he then laid to the city of Concepcion. The battle of Maipu was fought on the fifth of April; and, about ten days after, instead of leading the veteran African auxiliaries of Buenos Ayres, with the brave Coquimbos and Aconcaguas, instantly towards Concepcion, and laying siege to it, cutting off all its supplies, the Aconcaguas were sent home, the Coquimbos to

the neighborhood of Penco, and the negro regiments quartered in Santiago, while San Martin again made a visit to Buenos Ayres, where he still remained in the middle of July last, concerting measures, according to some reports, for the invasion of Peru.

It is said that this invasion can only be made with certainty of success by sea, and that ships-of-war and transports must be procured for the purpose. The chiefs say that, in the bustle and effervescence of warlike preparations and efforts, the representative system, and the excellent political institutions they intend giving to Chili, cannot be adjusted on a correct firm basis; and, therefore, this great work must be postponed until the patriot forces have taken possession of Lima. On the other hand, distinct intimations are heard among the people of Chili, that, while the military chiefs are celebrating their triumphs in Lima, they will occupy themselves in founding the representative system of government for their country. Not more than one-third of the population of Peru are whites of unmixed blood; a great majority of them are, however, ripe for revolution, and desirous to throw off the colonial yoke; but the other two-thirds are negroes and mulattoes, bond and free; many of whom are wealthy, and have been as well instructed and educated as the whites. Hence the whites, friendly to a revolution, are afraid, alone, to make the least effort for emancipation, lest they should kindle the latent flame of a servile war. They are, therefore, it is said, determined to wait the arrival of the forces of their brethren of the South or the East, who may be ready to extinguish the dreaded flame, should it break out.

Whether the movements of the military leaders are the result of mere ignorance or imbecility, or whether they are made with a design to procrastinate the war, so as to continue a pretext for holding the country, by means of the army under their control, and with a design to crush the rising spirit of republicanism, which accumulates and gathers strength with the progress of independence, is not positively known; but some burning jealousies have been lighted up on both sides of the Andes. What will be the consequence when the patriot forces shall plant the standard of independence in the Plaza of Lima, is also problematical; it would evidently contribute to the final and secure establishment of the independence of Buenos Ayres as well as Chili, to expel all royal authority from Lima. But when a military leader from Buenos Ayres or Chili shall make himself master of Lima, what will then be the consequence to Peru itself; and what may, in a short time, be the nature of the reaction from thence on Buenos Ayres and Chili, of such a chief established there, and believed there to be necessary to prevent the flames of a servile war from bursting out, are questions which time alone can solve.

The colonial government of Chili, like that of all the other Spanish provinces, was a simple unqualified despotism, in which the people had neither voice nor influence such as I have de-

scribed that of Buenos Ayres to have been. Don Bernardo O'Higgins tells us, in his manifesto of the 5th of May last, that, after the expulsion of the royalists, "the first step was to nominate a person who might be charged with the executive government in circumstances so difficult; that the capital of Santiago called him to that station by the universal acclamation of its inhabitants; and that that voice had been uniformly followed by the provinces and the people of the State; that he entered on the administration, and already knew that it is only by a vigorous and energetic government that tranquillity and order can be maintained, and the public mind prepared to receive convenient institutions." Whether his Excellency was called to the supremacy of the State by the people of the capital, or of Chili, in reality, or by the Buenos Ayres chiefs of the army, I shall leave others to determine; but certain it is that the much more loud call of the people latterly for a Congress does not appear to have been so distinctly heard, or it has not been so willingly attended to. The Supreme Director O'Higgins has taken possession of the palace of the ex-vice-king, which he has now guarded principally by the Buenos Ayres negro regiments. Finding himself invested with all the powers of a vice-king, without the control of a royal master, he uses his authority accordingly, and the Government of Chili is, in other respects, organized as it was under the colonial system.

Upon the whole, when I reflect upon the circumstances and state of things in Chili; a million or more of agriculturists gathered into the small compass of its delightful valleys; a population so homogeneous as to leave no ground even to suspect the existence of any latent cause of civil feud or servile war; a people extremely ignorant, but, like all villages of agriculturists, easily instructed and susceptible of rapid improvement; secure among mountains, and far remote from the contending potentates of modern times, yet seated immediately along the margin of the ocean; a country that has hitherto been debarred of all the benefits of foreign intercourse, but which, from the nature of its productions, will command a choice of commerce; I am strongly impressed with a belief that the day is not distant when she will, in spite of faction and craft, and the occasional risings of the leaven of her late institutions, be admired and respected by the nations of the earth as another of the firmly established Republics of our continent; when she will stand, like another young Minerva, with her back against a wall—that wall the mighty snow-capped Cordilleras of the Andes—looking with mild composure upon an ocean which presents to her a new world of commerce, which will be navigated by no rival, which is too distant for the hostilities of the angry nations of Europe to reach, and whose placid surface is seldom visited by a storm. Thus stationed, she will be only accessible by way of her high brown coast, neither fearing nor being feared by foreign nations, making all welcome to her bold shores, and pouring out her abundance and her riches to all who



want and seek to obtain them by the just and peaceful ways of fair commerce.

I have so far confined my inquiries to Chili itself; and the interest which the United States have in its independence and freedom appear to be in themselves sufficiently important to attract the serious attention of our country. The subject, however, enlarges as we approach, and there opens before us an extensive and fruitful field, not confined to Chili alone, yet evidently connected with it. The free access to that great bread country of the other hemisphere lays open channels of trade hitherto closed against us, and cherishes and sustains every other branch of all our rich, profitable, and increasing commerce of the Pacific, which heretofore encountered so many privations and perils. I shall take the liberty merely to make a sketch of those branches of trade, and their probable value, which must inevitably be either opened, cherished, or enlarged, in consequence of the independence of Chili, leaving it to others who are more fully informed to determine on the correctness of the facts and circumstances I shall relate, and to say what will be the new state of things most likely to arise out of them.

I have endeavored to give an idea of the amazing fruitfulness of the valleys of Chili in wheat. I did so, because I was impressed with the belief that its grain-fields are now destined to become the means of its happiest improvement, its most rapid prosperity, and its inexhaustible sources of wealth. Chili is now, and must, from the nature of things, continue to be, the great granary of all the countries fronting on the shores of the Pacific and South Atlantic ocean of this continent. In this supply it can have no rival; and now that the doors of its commerce are thrown open, the demand for Chili grain has already so extended that the price has risen, notwithstanding its old colonial market has been, and will, for a while longer, be entirely shut up. None of the tropical regions of America, either on the Atlantic or Pacific shores, produce wheat, or indeed any bread stuff, in sufficient abundance for their inhabitants.

In Brazil, there is no wheat cultivated, nor is there any portion of it, on navigable waters, suited to its growth, except it be the plains on the Rio Grande de San Pedro, immediately bordering on the Banda Oriental, to which it is similar in its nature, and at present is, like it, applied solely to the purposes of grazing. All the fresh beef presented to the market of the city of Rio Janeiro at this time is drawn from Rio Grande. The Portuguese value that part of their Brazilian territory very much, on account of its furnishing an abundant and cheap supply of jerked and fresh beef to those other portions of it which, as they conceive, are so much more profitably employed in rearing the tropical productions of coffee, sugar, cocoa, and the like. It is not likely, therefore, that wheat will soon be cultivated for sale in any part of Brazil; it must, consequently, be supplied from abroad. Heretofore it has procured some from the United States, and from the Mediter-

nean, as far as Odessa or Oczakon, on the Euxine; but latterly there have been several American and English ships laden with wheat at Valparaiso for Rio Janeiro, which yielded a good profit. Brazil may, therefore, be considered as one of the standing markets for Chili wheat.

I have described the pampas of Buenos Ayres, and, from all I could learn of the actual experiments that have been made on them, I cannot believe their grain productions will soon be brought to rival those of Chili anywhere; on the contrary, the population on the shores of the river Plata have, of late, received occasional supplies from Chili; and the Banda Oriental seems, also, from the character and situation of its present owners, to be destined to continue as pasture grounds for some ages to come. As a proof of the extent and value of the market on the coast of the South Atlantic, wheat was at a higher price, under all the embarrassments of trade in Valparaiso, in July last, with these new markets only open, than it ever was under the colonial system, when the trade of Chili was confined entirely to Peru.

But the great, constant, and increasing demand for Chili wheat is to be found on the shores of the Pacific. At present, there is no island in the north or south of all that great ocean, nor any civilized settlement on the shores of the continent, which either cultivates or is suited to the growth of wheat, other than Chili. California, it is said, will one day be a grain country, and I have understood that small quantities have been purchased there by some of our northwest-coast traders. But it will be unnecessary to inquire into the ability of California to rival Chili anywhere, until it shall be settled, civilized, and cultivated. Under present circumstances, which are not likely to be altered by any revolution now in agitation, or that may probably soon take place, it may be confidently asserted, therefore, that the whole of the settlements on the coast of the Pacific, from Acapulco to Cobija, are entirely dependent upon Chili for bread; and that they do, in almost all respects, as regards supplies of bread and necessities, stand in the same relation to Chili that the West Indies do to the United States. Although the table lands near the city of Mexico produce as abundantly and as fine grain as any in the world, yet, owing to the distance and the ruggedness of the way, flour is sent cheaper from Baltimore than from Mexico to Vera Cruz; and, for the same reason precisely Acapulco can be supplied with flour from Valparaiso cheaper than from the plains of Mexico. But the existing state of things has furnished conclusive proof of the correctness of this statement. The last crop of grain, just before harvest, in the territory of Penco, and in the neighborhood of the city of Concepcion, was laid waste for the purpose of cutting off the supplies from the royal army. No wheat was, therefore, exported from Talcahuana, and the war completely closed all communication between the patriot portion of Chili and Peru. In consequence of which, wheat, which could in June last be put on

board a vessel in the harbor of Valparaiso for two dollars the fanega, (seventy-five cents the bushel,) had risen in Lima, at the same time, to the enormous price of twenty-five dollars the fanega, (ten dollars the bushel,) and was even scarce at that price. Therefore, whatever may hereafter be the condition of Peru, whether independent or colonial, this grain trade with Chili must be open, and accumulate its resources to the benefit of foreigners, or, what is most likely, be carried on by them; because Chili, as was admitted by the Director himself, has not, at present, a single seaman of its own. The returns for Chili wheat will be, as under the colonial system, made in specie, because Peru has nothing else with which it can pay for what it wants, over and above the supply of Chili in sugar, coffee, &c.

But the inevitable consequence of allowing this necessary partial opening of the ports of the Pacific for the admission of breadstuffs will be, that a very great proportion of the precious metals will make its way out, through them, from every part of the rich mine districts of the Andes to the northward of Chili; and it seems to be in the natural course of things that the precious metals extracted from Peru-Alto, or most of the high provinces of Buenos Ayres, should also take a direction to the ports of the Pacific, if not altogether, at least in as great a proportion as heretofore. The port of Arica, situated about three hundred miles to the south of Lima, was a place of some importance, and much frequented, under the colonial system. It was from the wonderful salt mines in the neighborhood of Arica whence most of the settlements along the coast were supplied. The salt is cut in large blocks of about one or two hundred pounds weight, and thus brought to the city for exportation. I have seen mules laden with these blocks of salt in Valparaiso, going into the interior. Arica was also visited for the specie, from the rich mines of Potosi and its neighborhood, which found its way from thence. The port of Cobija, situated about three hundred miles south of Arica, on the Rio Salado, and two hundred and sixty miles beyond the river of the same name, which is the northern boundary of Chili, was also remarkable as another of the ports whence some of the precious metals of the mines to the eastward of it got abroad. Commerce naturally and inevitably seeks and adopts its best interests and greatest conveniences, unless dragged away from them by a master as inconsiderate and arbitrary as a Spanish Viceroy. It is, therefore, reasonable to presume that the commerce of Potosi, and the provinces round it, will, under any future peaceful condition of them, be suffered to follow as much or rather more of their own interests than they have done heretofore; if so, a view of their geographical situation will clearly show in what direction those interests will lead.

The distance from the port of Arica to the city of Potosi is one hundred and twenty miles; thence to La Plata or Chuquisaca it is fifty miles farther; but, from Potosi to Jujuy, on the direct road to Buenos Ayres, the distance is four hun-

dred and forty-seven miles; and thence, by a cart road, to the city of Buenos Ayres, it is twelve hundred miles farther. From the port of Arica to the city of Catagayta, one of the principal cities of Chicas, a rich mining province, still farther south than Potosi, it is one hundred and ninety-two miles; and thence to Jujuy it is two hundred and fifty-five miles. And again, from the port of Cobija to Potosi is only two hundred and fifty miles; and from the same port to Catagayta it is two hundred and twenty miles further. It must be recollected, however, that all the roads of the country of which I am speaking, from the seacoast as far east as the city of Jujuy, are only practicable for mules; but they are, by every one, allowed to be as good from the coast to Potosi, and the other middle valleys of the Andes, as they are thence to Jujuy at the eastern foot of them. Hence, it will appear that the natural and most convenient ports, for almost all the rich and rugged provinces lying among the mountains, are those on the coast of the Pacific.

Supposing, then, that the precious metals, and the foreign commerce of the high provinces of Peru-Alto be directed toward Arica and Cobija, and all the coast to have a trade partially open, which it must have to Chili at least, the benefits of that trade will be so much in addition or accumulation of that flowing directly from Chili alone. What may be the amount of the advantages likely thus to arise to the United States, I have been able to collect no data which would enable me to form an estimate founded on facts; but I should suppose that, on comparing it with the other branches of commerce connected with Chili, and the probable value of a trade entirely open and free to all that rich coast, it would not be deemed extravagant to estimate it as likely to yield profits amounting to somewhere about one million of dollars per annum.

Our countrymen have, for some time past, carried on a very extensive commerce over the Pacific ocean, that has been no less creditable to their bold spirit of enterprise than lucrative to themselves and beneficial to their country. I allude to that which has been fished up out of the ocean itself; which has been gathered from the various groups of islands scattered over it from south to north; and, also, that which has been derived from trending along the coast of our continent, from Cape St. Lucas, the extreme southern promontory of the peninsula of California, north, through the great inlet, called Lynn canal, to its bottom, in the fifty-ninth degree of north latitude. The hardy adventurers in this branch of commerce have gone forth from their country, have almost circumnavigated the world, and have bid defiance to the perils of the ocean in all the various latitudes of storms and calms, of the frozen zone, and under the fierce rays of a vertical sun. They have suffered privations and encountered difficulties of every sort, and have nowhere found friendship and succor; they have never been cheered by the protecting wave of their country's flag. Skill, courage, and fortitude, have been their only resources. But a more



## Condition of South America.

propitious time seems to have arrived. Immediately in front of the mountain coast of Chili is the great whale fishery of the Pacific, which has been so profitably pursued by the citizens of the United States. There are engaged in this business, annually, about fifteen or twenty American ships. All their stores and provisions, as well as implements and such outfits, they have hitherto been obliged to take from home, and to rely altogether on their own resources for completing their cargo, without the least protection or succor from any quarter whatever, except what they derived from a covert and hazardous trade with the Spanish provinces on the coast, with a few select articles brought for the purpose of thus procuring refreshment and necessities as opportunities offered. But the sufferings, hardships, and losses they have sustained at such an immense distance from home, for the want of some friendly port of a civilized nation which they could enter and procure supplies, have been exceedingly great, and by no means unfrequent. The advantages and conveniences to this branch of trade of the open free ports of such a country as Chili are obviously prodigious. These ships gather their valuable cargoes from the ocean, in cruising along the American coast, having it often in sight, between the latitudes of the island of Chiloe and that of the bay of Panama; and, when it is completed, they most usually return direct home, by the way of Cape Horn. The aggregate value of this branch of trade may be estimated at one million of dollars per annum.

The shores of the numerous islands of the great North and South Pacific oceans are very frequently found to be swarming with one or other of the various species of phoca or seals or sea dogs, whose skins find a ready sale in India; and most of those islands that lie near and within the tropics have considerable forests of sandal-wood, which is to highly valued by the Chinese, either from the delightful odor of the sap extracted from it, or from its being held by them to be an acceptable burnt-offering to their gods. There are on an average not less in each year than five American ships, of from two to three hundred tons, that make a cruise among these various islands for the purpose of collecting a cargo of seal-skins and sandal-wood for the China market. These ships require to be armed, well manned, and found; but their valuable cargoes are picked up with almost nothing, the amount which they carry to barter with the natives is so very trifling. These ships, when outward bound, always pass directly by Chili, and would find great advantage in having its ports open to them for outward freight, for supplies, and for protection. The cargoes of these vessels, I have been assured, may be safely estimated as being worth in China sixty thousand dollars each.

The coast of our continent, from the southern point of California to the bay or river St. Francisco, is claimed by the Spaniards, and they have some small parcels of civilized population strewed all along it, by which they hold possession, and exercise a kind of jurisdiction by means of some

few soldiers and a priest at each residio or station. The holy father, in proportion as he has been successful in obtaining an influence over the savages, or in converting them to the true faith, governs them, and takes into his keeping as well their temporal as spiritual concerns. There are not less than four ships from the United States that, in each year, make trading voyages along this coast, and carry on a barter with the independent tribes, or through the agency of the priest at each presidio, with whom they trade for such articles as he himself wants, or may be necessary for the soldiers of the station, if there be any, or as his flock, the natives, may fancy, in exchange for land and sea otter skins and other furs. These ships might, in many respects, be very advantageously supplied on their outward voyage from the ports of Chili, which are directly in their way. Their cargoes are estimated as worth about eighty thousand dollars each in China.

Along the coast of the continent, to the north of St. Francisco, is carried on that commerce entirely with the natives of the country, which is usually and properly called the trade of the northwest coast. To the northward of Columbia river there are numerous bays and rivers of very great extent. It is on the shores of these bays that our navigators most usually carry on their trade; and which are collectively called the inner coast, in contradistinction to that fronting on the ocean itself, and a great part of which the Russians claim as appertaining to their settlement at Sitka or Norfolk Sound. There are not less on an average than fourteen ships, of from two to three hundred tons, that go every year on a trading voyage to the northwest coast. Among the articles which they have for carrying on their barter on the coast, is hard bread, of which it is calculated they altogether take about four hundred tons. This article could be had in Chili for less than its freight there from the United States would amount to. These ships pass directly along the coast of Chili, and might be very materially aided in other respects, as well as protected, from its ports. The aggregate worth of the cargoes of the northwest traders in China is estimated at about one million of dollars.

I have given the computed value of these last three branches of trade from the United States to the Pacific, in China, because they all go out by the way of Cape Horn, and make a circuit, by the way of China, home. A capital in China is generally allowed to be worth thirty per cent. additional in the United States; consequently, the sum total of this commerce in the United States may be calculated at two million one hundred and fifty-eight thousand dollars.

I am aware that, since the United States have obtained the peaceful and unquestioned possession of Columbia river, a settlement will soon grow up there, whence much of the countenance, facilities, and protection to our commerce on the Pacific may and will be derived, which could only otherwise be had from independent Chili. But it is no less evident, from the nature of things, that Chili will furnish the means of cher-

## Condition of South America.

ishing and hastening the growth of that settlement; for, besides the supplies which an infant establishment may draw from Chili, the settlement at Columbia river will have a ready and unrivalled market on the southern Spanish coast, particularly in Chili, for what are understood to be its staple commodities. Ships' spars and lumber are scarce, and in some places not to be had between Guayaquil and Concepcion. The shores of Columbia river are at present encumbered with the greatest abundance of them, and of the finest quality. All accounts concur in representing the quantities of salmon and halibut to be in Columbia river as prodigious. The Catholic Spanish settlements to the south will be a market always open for them.

I have shown that, from the month of February, 1817, to the month of July, 1818, during the first of the second epochs of revolution and distraction in Chili, within a time when the opening of its ports could not much more than have been heard of, there have been actually landed in the ports of Chili, by citizens of the United States, merchandise to the amount of one million three hundred and seventy-five thousand dollars, and a much greater value might have been imported with a certainty of its finding a market and being paid for in a fair course of trade, but for the inconveniences growing out of the present state of things, some of which I have endeavored to explain. But if we recollect the advantages which our citizens have in the China and India trade, by being unfettered with the monopoly of an East India Company, and that the silver and copper of Chili will enable them to extend their enterprise, and push their commerce to a greater advantage than ever, I think it will not be deemed an exaggeration to set down the commerce of Chili itself as worth to the United States, annually, about two millions of dollars.

Summing up the whole of these several branches of commerce, they will form a total of six million one hundred and fifty-eight thousand dollars of annual value to the United States, which will be either produced, cherished, or protected from that new and interesting country.

These are my views of the benefits, profits, and advantages, which the citizens of the United States are likely to derive from independent Chili. I may be allowed to declare that I feel, in common with my countrymen, a lively sympathy and a deep interest in the fate of a brave and generous people struggling for their liberties, yet it would be presumptuous in me to point to the measures which the Government ought to pursue; because the excellent institutions of my country have provided the means of calling together the impartial intelligence and wisdom of the nation, to determine the course of measures to be adopted upon that as upon all other similar and important subjects. But I shall esteem myself honored, and feel gratified with having done some good, if it shall be found that I have added somewhat to that stock of information which has been sought for, to enable the Government to direct its steps with a justice and a dignity worthy

of itself upon so interesting an occasion, and, at the same time, in a manner best calculated to promote the cause of freedom and humanity.

Be pleased, sir, to accept the assurance of my highest respect.

THEODORICK BLAND.

The Hon. JOHN QUINCY ADAMS,  
Secretary of State.

## APPENDIX.

## B.

*A manifesto of the Government to the people who form the State of Chili.*

All the people of the land have an imprescriptible right to the establishment of their liberty, but few obtain the enjoyment of it, because the great sacrifices it requires of them are superior to the terrors inspired by despotism in their weak souls. They know that the first step in this enterprise is to resolve to lay aside all that to which they had previously submitted; and, to reform the political institutions of a people, it is necessary that the greater part should renounce their habits, abandon their interests, lose their tranquillity, and many times endanger their reputation itself. In the current of a revolution calculated to innovate on the destinies of half the world—perhaps the whole—it is difficult for an individual to change or have a choice of sacrifices. The people of Chili have now known, from their own experience, the necessity of passing this intermediate period of dangers and vicissitudes, before the establishment of those reforms which are required by the age in which we live, and the actual relations of the human race. But, neither the multiplied horrors of a war, carried on with the ferocity of the Spanish Government, nor the weight of those calamities which give a shock to the rude passions of a new-born nation—nothing has been able to change those sentiments which were evinced in the celebrated revolution of the 18th September of the year 1810. From that epoch until the 1st October, 1814, we made an essay of our powers, and thence may know that they are sufficient to sustain the wishes of an offended people, that internal grievances might not always exhaust their resources, who, in proportion as they are united, were animated by the same feelings and were threatened by equal dangers.

We could not run counter to that first principle which declares that every one may follow the physical and moral law of his nature; and consequently, in the progress of our destiny, to conceive ideas, to form opinions, and to execute projects, that communicated the tendency of our views; which manifest our sincere endeavor to obtain our object, and at the same time avoiding those errors which stir the angry passions and excite public commotions; resisting internal and external enemies, although we sometimes yielded to the impulse of force or hostile manœuvres. These causes had such an effect upon our operations, that the enemy triumphed by means of the enthusiasm and the sacrifices Chili had made



since it had undertaken the work of its regeneration. The country fell again under the Spanish yoke, and its inhabitants were treated as rebels: for all unsuccessful revolution is rebellion. The oppression and outrages which had been previously suffered by Chili, the atrocities of which it was the victim in that epoch were the signal of a great conflagration, or a scene of frightful shipwreck, compared with the reality of those catastrophes. A torrent of calamities inundated this beautiful country; hatred and revenge dictated the law to which all the actions of Chilinos and the fruitfulness of the land itself were subjected. The oppressor calculated that he was now able to repose in tranquillity under his laurels; that the fruit of his victory would beslayery without end; and that he might yet make America forget the origin of its pretensions and its rights. The impulse was however only for the instant; it made an impression but of short duration over a vast continent, the several parts of which could not be suffered to remain unattended to for a moment to give direction to the whole.

It was proper that the United Provinces, existing under a new form, and feeling the interests of Chili inseparable from their own, should make a last effort of their strength to save it, or both to fall entombed under their own ruins. In short, the army of the Andes was organized, and the 13th of February, 1817, arrived, to put into our hands the destiny to which we aspired. Liberty was restored to Chili—a time to benefit by the history of past misfortunes; for the tenor of those public acts should admonish us to preserve harmony in affairs, with practical ideas which constitute true liberty, and would not drive us against the rock of adopting principles that conduct to anarchy, and convert jealousy into fanaticism.

The first step was to nominate a person who might be charged with the executive government in circumstances so difficult. The capital of Santiago called me to that station, by the universal acclamation of its inhabitants; and that voice had been uniformly followed by the provinces and the people of the State. I entered on the administration, and already know that it is only by a vigorous and energetic government that tranquillity and order can be maintained, and the public mind be prepared, in time, to receive convenient institutions. To this end, it became necessary to banish rivals who acted under the American name, and to take precaution against those who, by a false calculation of our interests, had the power to mislead the unthinking. These measures were the more urgent, as the enemy had reinforced the province of Concepcion by the remainder of those he had saved from Chacabuco, and hoped to receive in Talcahuana auxiliaries from Lima, with which to renew on the offensive. At all events, it was necessary to organize a respectable force capable of securing peace, and of imposing respect from the invaders. I directed all my views to this end, and the result has been fully commensurate to my wishes. Under the conduct of General San Martin, the united army was put, in a short time, in a footing that did honor to America, and gave

us a right to hope for a decisive triumph in the first battle. But a force so considerable could not be maintained without great sacrifices. The extraordinary expenses of the war, and other charges upon the revenue, left a deficit which it was necessary to fill at all hazards. The Government saw, at the same time, with distress, all the sources of national wealth obstructed; and the country, almost entirely drained by the Spaniards, left hardly any means to meet calls so great. The economy and the generous zeal of the Chilino people were the only funds which neither the reverses of war nor the universal interdiction of our mercantile relations were able to destroy; with these, although at the expense of great privations, the army was maintained, and the other exigencies of the State deferred; thus, for the present, public affairs were immediately taken care of, when the duties of the war called on me to take command of the army of the South, and I delegated the exercise of the functions of Supreme Director to other persons. The conduct pursued in this interval by these delegated governors has been entirely satisfactory, for their duties were discharged with great activity. But all shall be recollected with glory, and amends be made for the great afflictions which once impeded our enterprise, which has terminated in such important results.

In the meantime the army of the enemy, secure by the strength of its position, remained shut up in Talcahuana, and was insulted by our valor, without being exposed to the risk of testing his prowess. I knew very well the difficulties of an assault; but, after one painful campaign had been wasted, it was impossible any longer to restrain the impatience of courage, when, on the 5th of October last, we made a stroke on the besieged, and, although the attack was honorable to our arms, we were obliged to yield, for triumph is not always the recompense of the brave. At this time an expedition from Lima, united to the troops of Talcahuana, was announced; according to the calculations of General Osorio, to whose command it was intrusted, it was amply sufficient to re-establish the ancient domination. On the 18th of January the convoy arrived at Talcahuana, and it must be acknowledged that the forces brought against us were superior to all that had been seen in the field against America, since the beginning of our revolution.

Here opens the epoch in which Chili was driven unto the extremes of its sacrifices, and in which the Government put forth all the means of its power to frustrate the pride and the arrogance of the enemy. The conflict of the 19th March is one of those events which valor could not prevent, and which timidity itself is incapable of apprehending. An army, respectable, anxious for the combat, habituated to order, and directed by General San Martin, saw itself attacked in the darkness of the night, and in the same moment that its position was changed to display its bravery on the following day; after sustaining the first shock, a part of our troops were dispersed, the rest put in confusion, and the camp was aban-

doned to the enemy. This unexpected reverse of fortune struck a universal terror, spread consternation over the country, and debilitated the powers of Government; for such circumstances relax obedience, and leave authority embarrassed. The recollection of Spanish authority, and the dread of falling under its domination, prevailed over every hope. The greater part of the patriots abandoned their houses and families, or fled with them without any other means than were necessary to save their lives. This concurrence of circumstances made the reorganization of the army, in itself sufficiently difficult, much more vexatious; but the brave did not tremble, and in a short time rallied in the neighborhood of Santiago. Everything is extraordinary—all is grand—in the historical detail of those moments! From the 19th of March until the 4th of April, we have seen the greater part of the army dispersed, making a retreat of eighty leagues without dissolving itself, preserving order in the midst of confusion, repairing its losses, notwithstanding the scantiness of its means, and preparing itself for a battle, which in the revolution of the new world will be as memorable as was that of the old, which decided the fate of Europe in the field of Waterloo. On the 5th of April the enemy presented himself on the plains of the Maipu; his force was superior to ours, his position seemed calculated for victory, and his ferocity corresponded to the nature of his pride; that alone which was wanting to insure his triumph with absolute certainty was the darkness of the night. General San Martin led on the attack at noonday. Our soldiers remembered that they were the conquerors of Chacabuco, and after six hours of combating, in which time the field was drenched with blood, the whole of the army of the enemy was left in our power, and General Osorio only escaped with his escort. In the annals of war there is no recollection of a triumph more complete, nor one in which there could be more obstinate courage on both sides; neither is there any recollection of a success so fruitful in results.

Chili, with its numerous population, the fertility of its soil, the richness of its mines, and the advantages of these means of prosperity, will now belong only to itself. Our relations with foreign nations will have only for their basis reciprocity of interests; and the epoch is not distant when the Government, having completed its regulations for loosening the fetters from our commerce, facilitating the exportation of our productions, the class of industrious agriculturists, secure in meeting a demand that will recompense their labors, will soon be doubled. In the meantime it will be useless to avoid partial projects, the execution of which can only be the result of our general combinations. Although the country is now almost entirely free from its enemies, yet, in consequence of his maritime ascendancy, the immediate market for our productions groans beneath the weight of Spanish monopoly, and is in want of those articles most necessary for its consumption.

It is true that the battle of the 5th of April has

made a breach in the exclusive system which erected such a barrier between us and the ports of Lima; but it is necessary to make new and mutual efforts to remove all obstacles. Lima cannot long be withheld from the general destinies to which America yields, and its principles must accord with those proclaimed by Chili and the United Provinces. The simultaneous operation of our forces, and ascendancy of public opinion in Upper Peru, will determine whether it be possible to form on the American continent a grand confederation capable of irrevocably sustaining its civil and political liberty, whatever may be the form of government that may be established in those confederated States. The solemn declaration which was made by the United Provinces on the 9th of July, 1816, and that which we ourselves pronounced on the 12th of February last, will be soon loudly repeated in the capital of Peru; and henceforth it will be these that give date to the age in which was commenced the breaking of the chain which bound America to the potentates of Europe, who were accustomed to look on it as an exclusive property of the smallest quarter of the globe. The United States gave the first example; it lives, and it is impossible to destroy it. Brazil, although following different principles, has also ceased to belong to Europe, and is now the second Power in America. The times cannot retrograde; the universal opinion of men has practically fixed the difference between authority and despotism, between obedience and slavery, between liberty and licentiousness. The examples which have broken forth in the midst of those despots, and the experience of those evils which have afflicted Europe in our days, are beacons that will warn the people to shun the brilliant theories of an-archists.

Let us move on firmly to our destiny, but without deviating from the justice and spirit of order that is presented to us. We approach the moment when the will of the Chilino people shall be the sole guaranty of their institutions. The calling of a General Congress is the solemn thought that occupies me: if my own ardent wishes were sufficient alone to accelerate it, we would now be on the eve of that great event. But to lay the foundation of the representative system to which we aspire, it is necessary that the numbers of the representation of the people should guard the greatest proportion of them possible, by their being represented. This apportionment is not ascertained; it must, therefore, be preceded by the taking of a general census. I have commanded it to be made immediately; and my Secretary of State is charged with the execution of this decree, and with communicating to the municipalities of the State proper instructions, by which means the estimate may be performed with exactness. Until this is done, I have taken good care also to order two commissioners, which shall be publicly announced in the first ministerial gazette, the one for the purpose of preparing a provisional statute, which may govern until the meeting of the Congress, with the sanction of all the people of the State;



and the other for the formation of a constitution, under which a Congress may be called, when it shall be committed to their care, and they shall establish the division of supreme power according to the will of the people, and conform to the plan that our actual relations may suggest. I promise myself much from the zeal of the municipal bodies who aid my powers. They will hasten the meeting of the Chilino Congress, and not postpone the day on which I shall declare the number of the national representation, by virtue of the extraordinary power which has been reposed in me, under the guaranty of my responsibility. I shall, therefore, continue until then in the exercise of those high functions that are proper for a Chief Magistrate under such circumstances as the present.

The experience of fifteen months that I have administered the public concerns under the old existing forms, and the success that we have obtained by its influence, makes me hope that, following the same course, the Government will be carried to the end of its undertakings, the citizens will see termination of their sacrifices, and the people will put the seal to their destiny. But if, contrary to my expectations, any obstacles should present themselves, I am sure we shall find means to overcome all, be the causes of opposition what they may. Against foreign enemies we have an army that has twice conquered; as terrible in the day of battle as constant in adversity, and humane after victory. The General who commands it will very soon return from the capital of the United Provinces, where he has been hastily carried by the interests of our grand combinations; and neither the distance of more than four hundred leagues, nor the difficulties that are presented by the Andes in the middle of winter, will be able to delay his return. He will sustain there, as well as here, the honor of both national flags united, and his name shall be the standard of the brave. Against the naval power which until now has been shown by the enemy, we have the elements of a force that has begun to make its first essays, which, we promise ourselves, will in a short time give us a decided superiority over the sea as we have now obtained by land. In spite of the scantiness of our resources we have armed the ship *Lautaro*, of fifty-two guns; and she, alone, has been sufficient to raise the blockade maintained by the frigate *Esmeralda*, the brig *Pezuela*, and other Spanish vessels, which, in the very first action, have struck their flag to ours, and would now have augmented the trophies of Chili if Captain O'Brien had survived the glory he obtained in that attack. Against internal enemies the Government will constantly place the rectitude of its views, the zeal of its good offices, and the vigilance of all the public functionaries. If any shall attempt to mislead the opinion of simple men, and to give to the Chilino people an impulse contrary to their pacific character and honorable feelings, I will employ all my authority to stifle the disorder and to avoid those rocks. But I flatter myself with the hope that the influence and foresight of the subaltern authorities will

enable me to shun the pain of adopting measures which would cost my heart an afflicting sacrifice. It is not many days since the honorable municipality of this capital gave an example of vigilance in preserving public order, co-operating with my power for the purpose of uniting the opinion of some citizens, who, substantially wishing the same that I anxiously desire, would suggest reforms, which are only dangerous by being untimely. The Government had made a just discrimination in its zeal, and has taken precaution against those who mask their designs under its name.

Such is the outline which the revolution in Chili presents, until the period in which we at present find ourselves; in it we will discover a continual struggle between education and conviction, between interest and custom, between naked truth and error. This has been the most difficult combat, because we have had to make a conquest over ourselves, in order to triumph over the enemy.

Now is the time that will decide for Spain who has obtained the victory in this contest, and if yet there can be a hope that the ancient prejudices shall forever endure for the support of its power. Chilinos! the eighth year of our revolution is going to be eternally memorable. No one can contemplate our destiny without recollecting the 5th of April, and the plains of Maipo, and what has been there written; let us redouble our energies to augment the series of our grand successes. In the present year we have declared ourselves absolutely independent; we have obtained a triumph that would astonish Europe, if that had been the theatre of our exertions; and we are going to open a campaign which will give liberty to the continent, and lay the foundation of a triple confederation, in which we see the Chilino Congress united, if some unforeseen occurrence does not prevent it. What generations will spread over our territory! what numbers will wish to place themselves exactly in our circumstances! what great souls will desire to be transported into the midst of us, to have the glory of influencing here the happiness of half the world! We should be thankful to Providence that we have now in our hands the fortunes of the country. Let us save it at every hazard, and leave to posterity other rights which will make it grateful to us, and rally about a constitution sanctioned by the will of the people.

Given at our Directorial Palace of Santiago, 5th May, 1818.

BERNARDO O'HIGGINS.

ANTONIO JOSE DE IRISARRI.

C.

JULY 8, 1818.

DEAR SIR: I enclose you, in No. 1, an account of the cities, ports, and towns, with the State of Chili, at the foot of which will be found the actual population computed in the whole country, according to a census imperfectly made in the year 1814; but there may result from the new

one that is going to be made a very material difference, giving grounds to the suspicion, of which we have formed an idea, of the irregularity with which the previous one had been made.

The paper No. 2 represents the products of the tithes, within a period of five years, from 1805 to 1819, selected as an example, it being the close of the period when the province of Concepcion was united to that of Santiago; observing, however, that for the ten years previous to this time the tithes of Santiago have produced the same, with little difference from those of the before-mentioned term of five years.

The statement No. 3 exhibits a view of the coinage for the year 1817, and of the present, until this day; producing from coined gold and silver one million six hundred and ninety-five thousand nine hundred and twenty-five dollars and seven rials, leaving a profit to the State of two hundred and forty-eight thousand one hundred and fifty dollars and two and three-fourths rials. But from this statement an idea of the products of the mines cannot be drawn with exactness, but only approaching to the truth, without (in such case) taking into the account, for that purpose, the value of metals withdrawn by contraband, and employed in the fabrics made up by the silversmiths for the use of the country.

By the statement No. 4 are shown the receipts and expenditures of the public treasury since the 13th of February, 1817, until the end of December of the same year; but it must be observed that there are not comprehended in it some receipts of much importance, which, by their uncertain nature, ought not to be entered in that account.

By the statement No. 5 are seen the receipts and expenditures of the national treasury in the six past months of the present year. It will, however, be proper to observe, that the receipts which will be had in the six ensuing months, it is clear, may be more from other sources than those shown in this statement, which have not for the present been brought into the treasury, except a very small part of the tithes; and there are very great sums which are payable for particular duties.

In the statement No. 6 is presented, at the foot, the strength of our veteran troops, and of the militia, according to the last muster that has been rendered of them.

Finally, in No. 7 are expressed our ships of war and privateers, which up to this day have been armed in this country.

These being the only documents I have been able to make out for you in the short space of time that has been allowed me for it, I hope they may be sufficient for you, and come up to your expectations.

God grant you many years of health.

ANTONIO JOSE IRISARRI.

THEODORICK BLAND, Esq.

No. 1.

A list of the cities, ports, and towns, within the State of Chili.

Cities.—Santiago, Concepcion, Talca, Coquimbo, Valparaiso, Chillan, Rancagua, Valdivia, Osorno, Los Angeles.

Ports.—Valparaiso, Coquimbo, Guasco, Copiapo, El Gobernardo, Talcahuana, San Vicente, Arauco, Valdivia.

Towns.—Copiapo, Guasco, Guasco-alto, Illapel, Ligua, Petorca, Quillota, Casablanca, Melipilla, Andes, Aconcagua, San José, San Fernando, Curico, Caquenes, Linares, San Carlos, Parral, Quirihue, Ninhue, Florida, Yumbel, Coelemu, Puchacay, Talcahuana, San Carlos, Santa Juana, Nacimiento, Talcababida, Santa Barbara, Colcura, San Pedro, Arauco, Hualqui, Reri, La Alaxa.

The population of this country, according to the last census, is computed at one million two hundred thousand souls.

No. 2.

A statement showing the value of the tithes of the Provinces of Concepcion and Santiago, in a period of five years, between the years 1805 and 1809.

Years.	Santiago.	Concepcion.
1805 - - - -	\$140,728	\$63,582
1806 - - - -	158,178	65,450
1807 - - - -	145,293	69,788
1808 - - - -	154,578	69,212
1809 - - - -	148,828	68,422
Total - - - -	\$747,605	\$336,454
Sum total - - - -	\$1,084,059	
Average - - - -	216,811 4-5	



## Condition of South America.

## No. 3.

A statement showing the number of tesos of gold and bars of silver that have been received into the mint in all the year 1817, and from the 1st of January until the 3d of July of the current year; distinguishing that which has paid the quint from that which has been coined in both metals in the same time; all taken from the books of the accountant.

Periods of receipt.	No. of tesos of gold.	Alloy of 22½ quintals.	Castellanos made.	A. 20 R. marks valen.	Paid for quintos.
In the year 1817	210	5,974 6 0 3 3	298,738	781,990 5	31,279 4½
In the same year	7	166 6 3 0 10	1,340	21,831 8	
Until 3d July, 1818	86	1,689 1 6 2 0	84,461	221,089 0½	8,843 4½
	303	7,830 6 2 0 1	391,532	1,024,910 6½	40,123 1½

  

Periods of receipt.	Bars of silver.	Of 11 deneros.	Valen A. 8 ps. 2 marks.	Paid for quintos.
In the year 1817	254	32,318 0 1	258,781 6	29,371 6
Chafalonía	124	18,756 2 0	150,187 7½	
Until 6th July, 1818	141	23,236 7 4	186,066 2½	21,118 4
Chafalonía	65	9,486 1 2½	75,959 0½	
	584	83,797 2 7½	671,019 0½	50,490 2

## SUMMARY OF PROFITS.

The coinage of metals has produced	\$131,869 3½
From quintos paid	90,613 3½
For the purchase of Chafalonía	25,667 4

Total of profits, - - - \$248,150 2½

Which shows that of the 303 tesos of gold which have been received in the mint since the 1st January of the year 1817, until this time, there have been paid for the quintos 40,123 dollars 1½ rial; and from the 584 bars of silver which in the same time have been received, 50,490 dollars 2 rials; which, with the 131,869 dollars 3½ rials, have yielded of profit to the operations of the mint from both metals, and the 25,667 dollars 4 rials that have been derived from the bars of Chafalonía, a total amount of profits of 248,150 dollars 2½ rials.

ACCOUNTANT OF THE MINT OF THE STATE OF CHILI, SANTIAGO, July 6, 1818.

JOSE SANTIAGO PORTALES.

## No. 4.

A general statement showing the receipts and expenditures of the public treasury of the State of Chili since the 13th of February, 1817, when the victorious army of the Andes entered the capital, until the end of December of the same year.

RECEIPTS.	
1. Receipts of the hacienda, collectively,	\$154,889 4
2. Proceeds of the mint, in aid of the treasury,	80,043 6
3. Receipts of the custom-house,	251,080 5
4. The duties on tobacco,	133,993 7
5. The quintos and duties on the mines,	63,840 4
6. Bulls for crusades and indulgences,	2,615 3
7. Monthly contributions of the city and districts,	80,108 0
8. The tithes closing with the year 1816, and those anterior,	75,047 3
9. Voluntary donations, in aid of the treasury, to purchase arms,	155,704 0
10. Forced loans, mulcts, and sequestrations	872,702 2
11. Imposts on flour, liquors, and other articles,	30,620 5
12. From quicksilver, powder, and stamped paper,	11,302 2
13. Toll on the road from Anconegau,	1,029 0
14. Receipts from the temporalities, or estates of the Jesuits,	11,406 1
15. From hides,	3,000 0
16. From the weighmaster,	10,053 3
17. From the cargo of the prize, the frigate Perla,	22,743 7
18. Deposits, until ascertained to whom they belong,	38,680 7
19. Discounts on the salaries on the civil list,	4,546 2

\* This contribution has been entirely abolished.

\$2,003,208 1

## Condition of South America.

## EXPENDITURES.

1. Paid to the troops of the army of the Andes	\$393,222 6
2. Remittances to the army of the south, and bills drawn by its commissary	295,522 3
3. To Valparaiso and Coquimbo, for the expense of the service	74,404 5
4. Effects taken in Mendoza for the army of the Andes	20,555 5
5. To Buenos Ayres, Peru, and Concepcion, in the new coin of Chili	4,000 0
6. Debts contracted by the State in 1814	12,720 0
7. To the Military Hospital, and that of St. John the Divine	22,793 4
8. Military pensions and pious donations	10,619 4
9. Sequestered property returned	14,289 3
10. Civil salaries	57,011 0
11. Rents due from the consolidated capital of the Jesuits	5,039 5
12. Extraordinary expenses of the hacienda	47,267 5
13. The troops of the State of Chili, including those of the South	80,833 2
14. To the commissary and quartermaster of the army, for food and clothing	324,183 2
15. The expense of the armory	171,680 3
16. Extraordinary expenses of the war	360,215 2
17. Pensions charged on the Jesuits' estates	3,632 5
18. The expense of the tribunal of the mines	8,009 3
19. For the work of Maipu	17,500 0
20. The expense of the weighmaster's establishment	5,201 0
21. Deposits paid, the right to which was ascertained	5,167 7

\$1,960,870 3

Remaining to the State—

In the possession of our deputy in Valparaiso	\$39,782 0
In the possession of our deputy at Talca	2,089 3
In payments, on account of artillery	10,466 3

42,337 6

\$2,003,208 1

GENERAL TREASURY OF SANTIAGO, December 31, 1817.

RAFAEL CORREA DE SAA,  
JOSE XIMENES TENDILLO.

## No. 5.

A general statement of the receipts and expenditures of the National Treasury of the State of Chili, from the 1st of January, 1818, to the end of June of the same year.

## RECEIPTS.

1. Receipts of the hacienda, collectively	\$28,216 6
2. Proceeds of the mint	123,738 2½
3. The receipts of the custom house	211,826 1½
4. The duties on tobacco	11,907 1
5. The quintos and duties on the mines	48,240 5
6. Bulls for crusades and indulgences	6,300 2
7. From quicksilver, powder, and stamped paper	21,684 0
8. Proceeds of the Jesuits' estates	912 4
9. Various imposts in aid of the Treasury	38,673 3½
10. From voluntary donations	53,786 0
11. Forced loans, mulcts, and sequestrations	370,160 2
12. Tithes paid into the Treasury	11,487 4
13. From the cargo of the Perla	58,044 1
14. Deposits, until ascertained to whom they belong	17,666 5
15. From the weighmaster	10,200 4½
16. From hides	1,000 0

\$1,013,424 2½

## EXPENDITURES.

1. To the commissary of the army of the Andes	\$160,270 7½
2. To the commissaries of the armies of the South and West	156,922 6
3. To Talca, Valparaiso, and Coquimbo, for expenses of the service	26,505 6½
4. Troops paid from the general treasury	165,079 3
5. Civil salaries	31,493 7
6. Ordinary and extraordinary expenses of the hacienda	14,973 7½
7. Return of some loans made to the Treasury	2,550 0
8. Return of quintos improperly exacted	1,370 1½
9. Military pensions and pious donations	7,849 1



## Condition of South America.

10. Sequestered property returned	-	-	-	-	-	\$3,674 4½
11. Pensions charged on the Jesuits' estates	-	-	-	-	-	1,296 0
12. To the tribunal of the mines	-	-	-	-	-	2,774 1½
13. To the hospitals	-	-	-	-	-	11,648 6
14. Returns from the mint	-	-	-	-	-	27,408 1
15. Expenses of the weighmaster's establishment	-	-	-	-	-	1,051 3½
16. For the work of Maipo	-	-	-	-	-	1,900 0
17. Extraordinary expenses of the war in our armament, in our armory, provisions for the army, &c.	-	-	-	-	-	260,191 2
18. Consolidated arrearages of debts	-	-	-	-	-	122,281 7½
19. Paid on account of deposits	-	-	-	-	-	6,949 4½
20. Interest on consolidated capital	-	-	-	-	-	1,237 2
21. For the making of powder for the mines	-	-	-	-	-	1,867 3½
22. For the purchase of salt, on account of the State	-	-	-	-	-	1,490 6½
						\$1,010,047 2½
Remaining in the treasury						3,386 7½
						\$1,013,434 2½

GENERAL TREASURY OF SANTIAGO, June 30, 1818.

RAFAEL CORREA DE SAA,  
JOSE XIMENES TENDILLO.

## No. 6.

A statement representing the strength of the regular army, and of the militia of the State of Chili, including that of the Andes.

REGULAR TROOPS.	
10 battalions of infantry, of 600 each	6,000
3 regiments of cavalry	1,400
2 battalions of artillery, of 500 each	1,000
	8,400
MILITIA.	
20 battalions of infantry, of 720 each	15,400
22 battalions of cavalry, of 600 each	13,200
3 companies of artillery	360
	28,960

Note. There is actually forming a marine brigade of artillery of one hundred and fifty men, and there will be organized, in a few days, a marine brigade of five hundred.

EST. MAY. DE SANTIAGO DE CHILI,  
July 8, 1818.

## No. 7.

A statement of the vessels which compose the national marine of Chili, and the privateers that have been commissioned.

VESSELS OF WAR.	
The ship Autaro, of	52 guns.
The frigate San Martin, of	36 "
The frigate Chacabuco, of	22 "
The corvette Coquimbo, of	22 "
The brig Aquila, of	18 "
The brig Buenos, of	14 "
Three gunboats. One sloop.	
PRIVATEERS.	
The ship Minerva; the brig Chilino; the brig Fueroso; the brig Rayo; and the brig Maipo.	
These are the privateers commissioned by the Secretary of Marine, but it is not yet known whether any	

have been armed by virtue of commissions sent to Buenos Ayres, and other points of America; nor, for the present, the particulars relative to the arming of some other vessels.

SANTIAGO, July 8, 1818.

## D.

## Proclamation of the Independence of Chili.

THE SUPREME DIRECTOR OF THE STATE.

Force has been the supreme reason which, during upwards of three hundred years, has maintained the new world under the necessity of reverencing as a dogma the usurpation of its rights, and seeking therein the origin of its most important duties. It was evident that a day should come when this enforced submission should cease; but, in the meantime, it was impossible to anticipate it; the resistance of the inferior against the superior stamps, with a sacrilegious character, his pretensions, and serves only to discredit the justice upon which they are founded. For the nineteenth century was reserved the spectacle of hearing innocent America claim her rights, and show that the period of her sufferings could continue no longer than that of her debility. The revolution of the 18th September, 1810, was the first effort Chili made towards accomplishing these high destinies, to which she was called by time and nature. Her inhabitants have given, since, proofs of the energy and firmness of their will, scorning all the vicissitudes of a war, in which the Spanish Government has wished to show that her policy towards America will survive the overthrow of all abuses. This conviction has naturally suggested to them the resolution of separating themselves from the Spanish monarchy, and proclaiming their independence in the face of the whole world.

But the actual circumstances of the war not permitting the convocation of a National Congress to sanction the public vote, we have ordered

## Condition of South America.

that a register should be opened, in which all the citizens of the State might declare for themselves, free and spontaneously, their votes for the urgent necessity of the Government proclaiming immediately their independence, or for delaying it, or for the negative; and, having found that the generality of the citizens have, irrevocably, decided for the affirmative of this proposition, we have thought proper, in the exercise of the extraordinary power with which we have been vested by the people, for this particular case, to declare solemnly, in their names, in the presence of the Almighty, and to make known to the great confederation of mankind, that the continental territory of Chili, and her adjacent islands, form, in fact and right, a free, independent, and sovereign State, and are forever separated from the monarchy of Spain, and fully qualified to adopt the form of government most convenient to their interests. And, in order that this declaration may have all the force and solidity which must characterize the first act of a free people, we warrant it with the honor, life, fortunes, and all the social relations of the inhabitants of this new State, pledging our word, the dignity of our station, and the honor of the arms of our country; and we order that, with the books of the grand register, the original act shall be deposited in the records of the corporation of Santiago, and circulars despatched to the towns, armies, and corporations, to have it sworn to immediately, in order that the emancipation of Chili may be confirmed forever.

Given at the Directorial Palace of Concepcion, on the first January, 1818, signed with my hand, and countersigned by our Ministers and Secretaries of State, for the Departments of State, Treasury, and War.

BERNARDO O'HIGGINS.

MIGUEL ZANARTU,  
HIPOLITO DE VILLEGAS,  
JOSE IGNACIO ZENTENO.

## E.

Manifesto, addressed to all nations by the Supreme Director of Chili, on the motives which justify the revolution of that country, and the declaration of its independence.

When the justice of the cause of America is no longer an object exclusively consigned to the pens of philosophers, who so vigorously anticipated its defence that their writings were condemned by the inquisition; when, to examine this cause, all civilized nations are now at work, judging rather by the probable issue of its struggle than by the rectitude of the principles of our emancipation, in which they are all unanimously agreed, (for these principles are no other than those proclaimed by Spain in the maintenance of her own sovereignty, and in the vindication of her resistance against the oppression of the French;) in fine, when the succeeding generations are not in need of having recourse to the press to know the history of our events, better preserved on the pages of liberty, from age to age,

by tradition, it may seem unnecessary to produce the reasons which actuated the inhabitants of Chili to declare their independence, if custom and respect for the dignity of other nations, at whose side we are going to range ourselves, did not make it requisite, besides being justly expected as due to our own honor.

Indeed, for the happiness of mankind, that gloomy era is at present no more when the learned of Europe were lamenting the shameful state of the colonies; yet in us it was considered a crime to complain. At that epoch, even all the recollections of the conquest were forbidden, save only to praise the bloody arm of the usurpers. Those times of chivalry, when the absurd practice of duelling arose, and which gave birth to the pretended right of the strong, exist no more; but this right, obscure in itself, and as inconsistent as violence and consent, without which no man can exercise dominion over his fellow-creatures. Abuse undermined the very foundation of the right erected upon it; for the subjects were free to recover their liberty by force, or the manner of their losing it was illegal.

Such is the fact with respect to America: Spain invading our coasts under the sacrilegious pretence of religion, profaned by those false apostles—men who came to preach the gospel, but searched only the mines of the mountains, as the surgeon who comes only to bleed looks after the blood vessel, but never after attempted to legalize this hideous title, at least by that expedient which statesmen devise to give validity to the famous diploma of conquest, the consent and ratification of the people. Instead of this, America, without the least participation in the Cortes convened, and subservient to the capricious will of the monarch, was bound by the superstition of an oath, administered without authority by a municipal officer who had indecorously procured his office at auction; and precluded from discussing the motives of her passive obedience—condemned in short to slavery, without the privilege of remonstrance—she would have lost with the liberty of speech even the recollection of her wrongs, if it had been as easy to forget as to be silent. But these evils were repeated by a fixed system in the policy of the tyrants, and our complaints suffocated in the noise of our chains. The insolence of the oppressor increased with our patience.

The miserable residue of the aborigines, who survived so many millions of victims, and who moved and roved in different tribes, as the piles of sand in a desert, preserve in their mournful history the memory of their persecutions, and show very clearly their repugnance to the yoke in the perpetual war they have always carried on against our frontiers, and which interrupts our tranquillity. What argument, then, can Spain produce in her favor, hated as she is by the natives, and resisted by the sons of the conquerors so soon as they were able to make known their wishes without the impending fears of the dungeon? We claim that right which a slave may claim against a cruel master; the right of a man who, arrived at the age of maturity, feels able to provide for



himself by his own exertions and industry; the right of a person whose minority has expired, but who is generous enough not to call his guardian to an account; the right of a clerk, richer than his employer, who, instead of expecting protection, can offer support. But all these examples fall very far short of our case. We hold this land as our country by birthright. We here first saw the light and received the civilization of the age.

All the efforts of tyranny cannot prevail against this right of nature. We compose a civil association as free as that formerly conquered. Yet Spain, not less cruel to either or both of them, adhering to her system of death and desolation, has afflicted us by her laws with all the horrors committed during the conquest. Let us pass in silence that code of the Indies calculated for the education of slaves under the ecclesiastical feudalism of the curates and the shocking lordships of the *encomiendas*. That humble portion of the species for whom the barbarous decrees of the Isabella, Ferdinands, Philips, and Charleses were promulgated, exists no longer in our community. A more enlightened people have followed after those devastations, who are, of course, the more sensible of the infamy of the three centuries preceding. The sister provinces, who, before us, have constituted themselves independent States, have already produced to the world a picture of vexations so horrid as excites the astonishment of nations at our sufferings and our patience, and have saved us the trouble of repeating it in this exposé; for the system of oppression and depredations has been universal, and the ravages of servitude, supported by the contrivances of the most inhuman despotism, too common.

The object of government being no other than to procure to men the security and prosperity of society, how can it be supposed that the people of America would have submitted to misery and humiliation? Who would believe that Americans, possessing the most precious soil in the universe, would submit to live in it only to moisten its fields with their tears, and to obey sacrilegious edicts inhibiting the productions of nature? For olive trees and vines were ordered to be pulled up by the roots in Chili,\* that they might receive oil and wine from the Peninsula. Were we to take from Cadiz the regulations of our passive trade? Were we, in this exclusive intercourse, to live flattered by restrictions similar to those exercised by the Government of Juan Fernandez over miserable convicts? Were we to see our coasts abandoned to the enterprise of every invader, and yet Spain draining from us fifty millions of dollars in duties under the pretence of its defence, with vessels which never appeared but to commit hostilities against ourselves? Were we to be excluded from intercourse with other nations; to be condemned to buy for ten what they may sell to us for one; and to see all foreigners driven from Chili with the literature of their

\* By a royal command, by advice of the Council of the Indies, (cedula of 15th October, 1767.)

language?† That under a monopoly of every kind, and even of ideas, the freedom of the press and of thought prohibited, and our university forbidden from discussing the pretended prerogatives of the monarch of the Indies, lest the title of his void and shameful dominion should be known? In short, that when our archives were stuffed with regulations of etiquette and ceremonies about the appeals called the *one thousand and five hundred*, bought with the substance and despair of the petitioner,‡ and, respecting *pecuniary privileges*, which from the distance of three thousand leagues were distributed to the highest bidder, we should be indifferent to our fate, and ought to receive with cheerfulness the gifts of our masters.

How was it practicable for them, amidst the intelligence of the age, to preserve their pretensions, after we had become ashamed of so many years of suffering, after our rude infancy was over, and when we had been more marked for our unfortunate habitual obedience, than the conquest of America for its importance to the three quarters of the globe then known? Has not the moment yet arrived for cancelling the debt contracted by the pledge of the jewels of Isabella for the expedition of Columbus? Are we yet debtors, after the millions exported to Madrid? No; the revolution of Spain and the obstinacy of our executioners have placed in our hands the power of casting off the burden. To suffer this favorable occasion to pass by, is to become responsible to posterity. To learn our rights from the instructions given by Spain herself, and yet not to secure them in a solid independence, would be a crime deserving the execration of our sons, and the opprobrium of the present generation. We have declared it, and the sighs forced from us by the hostilities of our unreasonable antagonists shall be sweetened by the satisfaction of insuring to the offspring of the conquerors that liberty of which the Spaniards stripped their ancestors.

We want—we can—then we ought to be free. Here is a conclusion drawn most precisely from antecedents, as evident in fact as in right.

We shall not question Spain any more about the right she can plead against us. Let us consider those she has alleged in favor of her sovereignty, after the imprisonment of Ferdinand; let us regard her conduct; let us compare her proceedings with ours; and, mindful of her circumstances and station, we must inevitably conclude in favor of the justice of our own cause.

The news of the coronation of Ferdinand reached us together with the tidings of his imprisonment, and the mysterious history of the scenes of the

\* An order of the 1st of September, 1750.

† A famous appeal in the Spanish jurisprudence, known by the name of *one thousand five hundred*, from the supreme court in Spain, where, to revise the case, it was necessary to enter into a bail for that amount of rials. The slowness of its proceedings passed for a proverb, and, by the people, the name of *one thousand five hundred* was understood to be the number of years for the trial.—TRANSLATOR.

Eseurial, Aranjuez, and Bayonne. At that very time, the Junta of Seville invited us to send deputies to the Central Government; for America having no part in such a centre, it was quite unworthy of that name; for the first time America was declared "to be an integral part, equal in rights to the rest of the monarchy, and no more a colony or factory, as were those of other nations;" she was informed of the establishment of the provincial Juntas, their object, form, and attributes; she heard the noble privileges of man, the sacred principles of the social compact; the rights of the people, and the return to the exercise of sovereignty, held before by the King as their agent, then disabled to continue in his functions in virtue of his captivity; finally, we were assured of the happy prospect of having a constitution to restrain the arbitrary conduct of Government, and guaranty the citizen in the protection of the law by his representatives in a National Congress.\*

The stroke of light was too strong not to penetrate the most obscure mind, not to raise the most thoughtless spirits. The idea of the sovereignty excited that instinct of independence born with man. Yet, united to the fate of the Peninsula, it formed in the heart a contrast between the habitual wishes for the prosperity of the metropolis, and the necessity of providing for us in case of that country falling under the victorious armies of France. The diffident and menacing vigilance of our chiefs inclined the scale to this side, and induced us to believe that the generous exceptions of the liberal from the other side of the Atlantic were mere artifices to maintain America yoked to the chances of fortune. Besides this, every criticism on the events of Spain was deemed a treason; and to repeat the flattering proclamations of her Government was in us considered as the sound of perfidy. Our assemblies were closely watched, and every man of sense had a sentinel placed over him. This was the plan formed in the closets of the inferior tyrants. At Venezuela, the citizens Ortega, Rodriguez, and Ianz, were exiled from their families by Emparan; Roxas, Ovalle, and Vera, in Chili, by Carrasco. That Governor ordered his assessor to be admitted to his functions forcibly; here Carrasco, surrounded by bayonets, gave possession to a like officer of the first seat in the Cabildo. At that moment fears began to be superior to hope, and personal freedom began to engage the sentiments of the people. With some doubts about the fidelity of the chief, a part of the inhabitants observed that the conduct of this man was in contradiction with the promises of the Spanish Government; and from Spain he was advised that the greater part of her ministers, counsellors, generals, nobles, and bishops, had adhered to the French party.† We noticed the removal from office of the Peninsula's chiefs; the

\* Orders of the 19th and 20th March, of the 30th September, 1808; of the 1st and 22d January, and the manifesto of the 28th October, 1809.

† Orders of the 28th of July, 1808, of the 14th of February, 23d of March, and 24th of May, 1809.

inactivity of their successors; and the expedient adopted by the people for their safety, in the erection of juntas. The news of one having been established at Buenos Ayres put Chili in motion. Carrasco hoped to pacify it by the hypocritical recall of the exiles, which was detected and treated as a fraud, and the governor deposed. The Spaniards residing at Santiago were the most strenuous for his removal, and the command was conferred on brigadier Count de la Coriquista, as senior officer, according to ancient regulations. The oidores trembled at the aspect of this alteration, which seemed to them a presage of the expiration of their authority; their consciences accused them of having subscribed too pliantly with their advices the treacheries of Carrasco. They believed that the occasion for promoting discord agreeably to the secret order of 15th of April, 1810, had arrived; and, in fact, they excited it between Americans and Spaniards. A meeting was proposed from the most respectable persons of both parties; and the result was to convene the people for the 18th of September. On this ever memorable day was established the Supreme Junta to rule over the country in the name of Ferdinand VII., with submission to the regency erected in Spain over the ruins of the Central Junta. The then sympathy for the misfortunes of a suffering King, the habitual respect, and the spirit of imitation, were more powerful than the sense of our rights. Yet, called by the order of events, the intelligence of the age, and a just regard to our interests, there were heard, even then, some voices for independence.

Our new Government was approved by the regency. But this approbation was a snare to the candor and generosity of Chilianos, to make them a prize to the contemplated bloody invasion which was ordered to be made by the Viceroy of Peru. We should have calculated on this after seeing our brethren in Buenos Ayres proscribed, Carracas blockaded, and the tyrant Melendez directed to practise the most cruel severities.\* Thus it was, amidst our most frank intercourse with Lima, in the season when our produce was exported to Callao, when \$120,000 had just been acknowledged to have been received in Spain† by this consulate, and of \$200,000 by the treasury, together with a voluntary contribution to assist Spain in her afflictions, that, as if waiting for this assistance to proceed to our extermination, Pareja landed at St. Vincentas with the army of devastation, in the name of Ferdinand VII.

Then we brought to our recollection what the regency had told us,‡ that to this name would be forever united the epoch of the regeneration and happiness of the monarchy in both hemispheres; that our destinies did no longer depend on the viceroys and governors; that they were in our

\* Orders of the 2d of August, and 4th September, 1810.

† Letter from the Spanish Government of 15th August, 1810.

‡ Manifesto of the 14th of February, 1810.



own hands; and we asked ourselves what that equality of rights was with which they had flattered us, when, on making use of it, they judged us "guilty of high treasonable innovation." We looked to the causes that produced the regency in Spain, and we argued thus: "The people of the Peninsula have founded their revolution on no other title but the exigency of the circumstances. Why should not the people of America be proper judges, as well as the people of Spain, to decide whether they are, or are not, in the same pressing necessity? From the moment the Regency and the Cortes proclaimed, as the only base of their authority, the sovereignty of the people, they lost all pretension to command any people who wish to exercise their own. If the sovereignty emanate from the Spanish people, and if that people have no power over the Americans, who, as Spain, are an integral part, and the principal part of the nation, why could we not ourselves represent the King, and act in his name, as is done by the same persons who declare us rebels? Have they received from the captive some special commission, which has not reached us, besides the order from Bayonne, to admit the new dynasty of Napoleon, which they resist with so much heroism? And what with them is a virtue and a right cannot be with us a crime. If Spain does not submit to the French, although they intend to command her in the name of Ferdinand, and by virtue of his resignation, with more reason shall we repulse those who bring war to us in that same name, because we have preserved him at the head of our Government, and lavished an undeserved gratitude to persons who were traitors to their own principles."

Thus we were undeceived about the true meaning of those theories as brilliant as they were seducing, and we discovered, on the reverse of the talisman, that, under pretence of restoring him to the throne usurped from his father, they concealed the fraudulent design of stamping on us and our posterity a more fatal slavery than in former times, and that this was their urgent motive for ordering all the schools to be closed, that we might only be employed in remitting to Spain men, money, provisions, with blind obedience.\* Then we cast our eyes on the map, we considered the natural and political position of Spain, and we were amazed that we had not, for so many years, dropped the curtain in this comedy, where the performers from the small theatre of a peninsular angle of Europe have kept in silent admiration a whole world, without tiring and disgusting us by the uniformity of a plot conducted through the wiles of mere intrigue, and the denouement of which could visibly be no other but the discharge of a thousand lightnings on the spectators.

We reflected, and said to ourselves, "Shall twenty-two thousand square leagues, and a million of inhabitants, animated with the temper and sobriety of the Araucanos, be kept depending on a point of the old hemisphere, which begs its

\* Order of the 30th April, 1810.

resources from us, which perishes without them, lives by them, and endeavors to destroy us with them? Since when has the distinction of social relations been so absurd, that the maimed must serve his crutches? that the infant's mouth changes the milk into blood, to spit it into the face of his nurse? that the needy rises up and wishes to command his benefactor? Whence did that legislation spring, by which neither mature age, nor sound judgment, nor opulence, nor proper disposition for administration, nor superiority of forces, nor any of the many elements favorable to individual liberty, cannot procure liberty to a whole nation? Who has dictated that code which authorizes the treacherous and ungrateful to be adored by the offended, and have their crimes sanctioned? And who has deprived us of our intellects, that we do not discover the cruelties of Spain, even in the imprudent gifts of her favors? Called to the Cortes, with an equal representation, we see a member for every thirty thousand peninsulars, and hardly a million of us is a sufficient number to elect one! There the suffrage is popular; here it is consigned to the vote of a president, under the sanction of corporations. There the form of elections does not vary; here each mail brings us new forms, with the view that we should never be represented by any power than that of substitutes, introduced with as much legality as the deputies of the Congress of Bayonne; some unknown to the people they represented, and others objected to expressly by their constituents; not one of them with proper credentials, and every one of them placed there by peninsular influence.\* There they trade freely with all nations; and here they shut our ports to even vessels from England, to whose alliance Spain owes all her power; and they are not ashamed to declare as null and void a decree of the 17th of March, 1809, which it was supposed was favorable to a free trade.† There, all foreign periodical papers, literary productions, liberal opinions of statesmen and philosophers, formerly stifled by despotic terror, and now rendering homage to nature and to the elements of civilization, are freely circulated; and here they have prescribed even national productions, the liberty of the press, and all writings relating to the Spanish revolution, except the ministerial papers of the regency, recommending to the inquisition the most scrupulous and responsible vigilance,‡ and pretending that, to enlighten Chili, it was only necessary to send twenty missionaries, to fill up the number of the missionaries in Chillan, in order that the holy religion should not be lost for want of ministers. Such is, in 1810, the language of the regency who orders our treasury to pay the passage of those fanatics, to the great honor of our priests, and the piety and understanding of the country.¶ Such is the

\* Orders of October 6, 1809, and 29th March, 1810.

† Orders of 10th July, and 27th June, 1809.

‡ Cedula of 1st January, 1809, and orders of 31st April, 1810.

¶ Orders of the 13th and 19th July, 1809.

grand system of equality and elevation they offer us. Such is the expression of flattery they have substituted to the deceits with which they formerly robbed the artless Indians of their treasures, and with which flattery they intend to deprive us of our feelings and instinct, accompanying these words with bayonets, that they may exterminate us in case we should rely in the faith of their promises. What decency and circumspection in these pretended sovereigns!"

As we were taken up with these considerations, at the light of the fire of the war they had kindled, we felt ashamed of our improvidence and generosity, and a universal cry of independence was the effect of remorse drawn out by justice and the sight of our evils. The least of those motives we were contemplating was sufficient to declare independence. However, satisfied with the hopes of a triumph, which, by undeceiving our aggressors, should reduce them with the arms of persuasion, we delayed this august act to which we were compelled by nature, time, and our successes. We fought and vanquished. Our arms, covered with glory in the battles of Yerbos Buenos, San Carlos, El Roble, Concepcion, Talcahuana, Cucha, Membrillar, and Quechereguas, brought us to that crisis in which, the forces of the new General Guinza driven to the small precincts of Talca and annihilated, we might impose law on the man who brought us the Spanish constitution—that crafty piece, which, under the appearance of liberty, contained only the conditions of slavery for America, who had not concurred in its formation; nor could she have been represented by the thirty-one substitute deputies legislating amidst the one hundred and thirty-three Spanish representatives. We could wish to consign to eternal oblivion that fatal epoch in which all the intrigues of perfidious Spain were contending against the magnanimity and openness of the Chilino character. Who could believe that, in a crisis so favorable to our undertakings, and so fatal to the self-styled national army, the capitulations of the 3d of May, 1814, would have been effected?

It is necessary to save us the shame of analyzing them. Suffice it to record, that being ratified by our Government, guaranteed by the mediation of Commodore Hillyar, with powers from the Viceroy of Peru, accepted by the chief of the troops of Lima, our troops withdrawn, the prisoners restored to the enemy, and the people obliged to acknowledge peace solemnly proclaimed, it became necessary to assist the invaders to whom it was then impossible to move, and accept their nullity as an apology for their remaining employed in treasons at Talca, which place was to have been evacuated in thirty hours. They had hardly left our city and crossed the Maule, when Guinza pressed every spring to make up his losses; he recruited, assembled, and disciplined another army, which he spread in the province of Concepcion. In the recruiting he spent all the money which was destined, through him, to repair the losses sustained by the inhabitants; he laid hands on all the funds; he ap-

pointed judges; and, in a word, he set up for lord and master of that same ground which he had agreed to evacuate in two months, until the arrival of Osorio, who renewed hostilities, and threatened to put everything to fire and sword unless we surrendered at discretion,\* and opened our bosoms to the proclamations and pardons of his vizier.† It was too late to trust in the caresses of the lion who concealed his claws under the folds of the standard of war; we knew the consequences of the pardons granted in Mexico, Venezuela, Quito, Huanuco, and Upper Peru. These summonses excited our alarm; but in what circumstances, when with the views of the restoration of Ferdinand to the throne, we had just received his decree annulling the regency, the Cortes, their orders and constitution, and maintaining the established authorities in both hemispheres.

We did not wish to call upon these satellites of tyranny for their right to spread devastation in the country, but only for the right that supported their present aggression, and converted another time their royal army into a national army. If they had impudence enough to become the sport of a versatile Government, was that a reason why the people should deliver themselves to the sword and implicated designs of their assassins? You cannot any longer name the constitution as an authority; (which, by the by, did not give you any right or claim to obeisance, any more than a constitution, however beneficial and admirable, made by Joseph Napoleon, would have given him over the peninsula.) Ferdinand has reassumed his sceptre, and torn to pieces that celebrated act. And now by what new act have the Americans re-established the authority of the son of Maria Louisa, which, being null in its origin, he had himself abdicated and lost by repeated and subsequent acts of infamy and cruelty?

Allow us to recall to remembrance the scenes of the Escorial, Aranjuez, and Bayonne. In 1807 Ferdinand is declared a traitor to his father, and unworthy of succeeding to the crown. In 1808 the scene changes at Aranjuez, and Charles the Fourth, used with violence by the same faction which was stifled at the Escorial, cedes the crown to the son, proclaimed amidst the disturbances of the Court. The old pupil of Godoy escapes to France, to seek the protection of the Emperor, who, in the conferences of Bayonne, causes the diadem to be restored, in order to accept it himself, and place it on the head of his brother Joseph.

This kingly-comic transaction has been represented to us by the Central Junta and Regency, under the veil of exalted exclamations tending to move all our sensibility in behalf of the misfortunes of that youth in whose party they were engaged. And thence it is that they despatched executive orders to America to apprehend the

\* Summons of the 20th of August, 1814, from Chillan.

† Proclamation and pardon of the Viceroy of Lima, 14th March.



parent King and his suite, in case they appeared on these coasts, and to remit them to Spain under arrest.\* That tender enthusiasm, imposed upon us by our compassion and hopes, being subsided, who can discover less violence in the renunciations of Bayonne than in that of Aranjuez? Was the presence of Bonaparte more imposing to Ferdinand, than the presence of a mob at the gates of his palace to Charles the Fourth? The Bourbons have abandoned the nation against the will of the people, and by this act they have lost even those obscure rights upon which their dynasty was raised. A nation left without a chief, on account of their domestic quarrels, could not belong to those emigrants. Ferdinand, from Valencia, could not keep in his hand the extremity of the noose, or, speaking more properly, of the chain which fastens America.

When Spain declared war against Denmark, they said in their manifesto: "If this Power is oppressed, and subject to the will of Napoleon, Spain declares her war as against a province of France."† Why do they not hold the same language with respect to Ferdinand, a prisoner, or rather willingly given up to the disposal of the Emperor? Will the world ever forget the base, horrid, and sacrilegious denunciation by which he betrayed the Baron de Kolly, engaged in saving him from the castle, with the intervention and credentials of George the Third?‡ Considering as false the report of Mr. Bertheny, the commander of that fort, in which he states that Ferdinand in his communication dared to assert "that England continued to shed blood in his name, deceived by the false idea that he was forcibly detained there;" supposing even that his letter to Napoleon, requesting him to adopt him for his son, should be a fabrication, (accusations of which he has not cleared himself,) is not the infamy of such denunciation sufficient to deprive the informer of the character of a prince? How do they dare to bind us with that oath, taken without our consent, to oblige our consciences in an epoch full of perplexities and tumultuous afflictions, at the sight of promises which have never been complied with, and in circumstances that have long ago ceased to exist? But for the commissioners engaged in the destruction of America, the theatre never changes; their object is to annihilate her; and it is the same for them to commit hostilities in the name of the constitution, as in the name of the despot who tramples under foot that same constitution which they came to announce to us.

Such has been the conduct of Osorio in Chili; it is necessary to repeat it; he enters with the sword in one hand and the code in the other. We show him (and he knew it beforehand) that it has been annulled by Ferdinand; with the same facility he fights for the law, or for the enemy of

the law. Can justice, a virtue invariable and constantly the same in all times and climates, be supported upon contradictory bases and discordant interests? No. It was not justice that gave to the tyrant the victory of the 2d of October, 1814. It was not justice that suggested to him to set fire to the hospital where our wounded soldiers were. It was not justice that fired the gun on the victims who fled for refuge to the churches of Ramagua. Justice did not authorize the violence by which the sanctuary of religion and innocence was polluted. Justice did not put in their sacrilegious hands the vases of priesthood to be used in their bacchanalias. Justice did not cover with blood the roads from Talcahuana to the capital, that these traces of death might serve to show the way to the headquarters of the Sicaris, where our most respectable citizens, wandering in the mountains, were obliged to present themselves, to be transported to the rock of Juan Fernandez. Justice did not sharpen the knife which stuck the nine persons murdered in the prisons, under pretence of a supposed conspiracy, without any other trial than the ferocity of the perpetrators of the catastrophe of Quito. It is not justice that has cast into the casemates\* so many deserving persons, who have been snatched from their families, without any form of trial, and are now lamenting their orphanage; and the refusal of an exchange of prisoners, the vizier of Peru sacrificing the fate of his own mercenaries rather than to ameliorate the fate of our fellow-citizens. It was not justice that erected the four scaffolds, for the recreation of the coward modern Baptos,† and which he ordered to be immediately taken away from the public square, at the news of the triumph of the 12th of February, 1817, the anniversary of which day we celebrate. (Aracabuco.)

Justice granted to Chili that day of glory and splendor, well satisfied that by two years and a half of sufferings we had atoned for our undue tolerance, and our blindness in not knowing that by tolerance we betrayed the sacred rights of our country, belied the necessity of independence, and the sincere wish of the people, that proclaimed it with so much the more eagerness that they had just learned, at the school of tyranny, that independence is the only desirable end of this bloody struggle of seven years; that the inability and impotence of our aggressors, and of the despot they serve, had become evident; that the idol and his name had tumbled to the ground; and that we ought not any longer to be guilty of the meanness of invoking him, when Spain herself, after being chilled by his ingratitude on his reascending the throne, tears herself in the convulsion of a paralysis that carries her to her last consumption.

\* Horrible dungeons in the Callao of Lima.

† Marco, successor of Osorio, is not less remarkable for his cruelties than for his effeminacy, resembling that of the Baptos, so much despised in ancient Greece. The mentioned tyrannical acts are recorded judicially in our archives.

\* Cedula of the 12th of August, 1808, and orders of 1st of March, 1809, and 26th of June, 1810.

† Manifesto of October 4, 1809.

‡ Vide the documents in the work *El Espanol*, No. 2 Mar 30, 1810.

Such is the state of that unfortunate nation, rendered less miserable by the fierceness of the monster than by the obstinate tenacity of keeping her engaged in this destructive struggle, in which, after losing all the acquisitions of the first conquest, she will remain excluded forever from the sole relations with which she might have repaired the losses of twenty-five years. Spain existed by America; now she receives nothing from her, and she is obliged to strain her funds to fight her. Nobody can she seduce now, in the state of poverty which devours her. Should a miraculous effort enable her to send over gladiators, these men cannot be indifferent to the reluctance of abandoning their native soil to descend to the grave at such a distance from their cradle, and they will be convinced that they are engaged in an undertaking in which any ephemeral triumph will hardly make them resemble the bird cutting the air, which closes again after it has passed. Morillo, with the best army that Spain has sent out, and with all the other divisions, is proof of it. Whilst they occupy a place, the insurrection rages in others; and finally, all the disseminated mass of the conquerors comes to be consumed in the centre of the conflagration. The combustion is universal, the space is immense, and the fire of the revolution inextinguishable. We will not belong to an insignificant nation when we do not want for anything, and who, being in want of us, only seeks to kill us. We will not belong to a nation unfaithful in her promises, violating her contract, and contradictory in her principles, who intends to affirm these pretensions of her decrepit usurpation; and of a dynasty divested by itself even of the appearances of right, and make us responsible to the rest of our brethren nobly emancipated, to the improvement of the age, which venerates liberty as the goddess of civilization; to our posterity, who, from the sign of his future existence, awaits for the happy turn in which they are to enter without trouble in the enjoyment of days of order, honor, and peace, their fathers bought for them with their blood; to all human kind, who can now rely with secure and abundant places of refuge in these regions, blessed, by the Creator, and formerly shut by proud ambition to the hospitality of men unwilling to become slaves; to nature, who placed in our minds the sense of choice and merit incompatible with slavery; and, finally, to Heaven itself, who has unfolded the list of the nations, and has pointed out the place we were to occupy in the rank of the independents.

Chili has obeyed its call. The solemn act of the 1st January, 1818, is the expression of the individual vote, and the result of all private determinations. She has not deferred her revolution until the convocation of a Congress, difficult to assemble in the effervescence of war; she has dictated herself the measure which, in all circumstances, would have been sanctioned by her representatives, faithful to the trust and confidence of their constituents. When the latter will depute them, the representatives will ascend the altar of the law invested with all the plenitude of sover-

eignty required to proclaim it. This epoch is getting nearer as the expiring remnants of our enemies fly terrified. In the mean time, to defend the magna charta, every citizen runs spontaneously to arms. A veteran army of twelve thousand brave men, and enlisting of the militia, without exemption, are the pledge and the eternal foundation of our independence.

Free people of the universe! you who behold the basis of your sovereignty secured by this new monument of justice upon which Chili has raised its own, decide, in this fatal struggle, between humanity and the vain spirit of domination; teach Spain that the former is the origin and object of every Government, and ask her then who is to give up? By uniting your vows to ours, you will stop the blood which overflows vigorous America, and draws the last breath of expiring Spain. If you are touched by our destinies, convince her of her impotence, and of the mutual advantages of our independence; let her be affected by her own evils, and by those we have suffered during three centuries; inspire her with a comparative feeling on her fate and ours; and when, calculating candidly the consequences that threaten her, she lays down her arms, and sacrifices to justice and liberality the illusions which precipitate her to her ruin, assure her, on our honor, that generous Chili will open her heart to the friendship of her brethren, and participate with them, under the glorious empire of the laws, in all the benefits of their immutable independence.

BERNARDO O'HIGGINS.

DIRECTORIAL PALACE OF CHILI, Feb. 12, 1818.

MIGUEL ZANARTU, Secretary of State.

#### REPORT OF MR. POINSETT.

Mr. Adams to Mr. Poinsett.

DEPARTMENT OF STATE,  
Washington, Oct. 23, 1818.

SIR: I am directed by the President of the United States to request of you such information, in relation to the affairs of South America, as your long residence in that country, and the sources of intelligence from thence which have remained open to you since your return, have enabled you to collect, and which you may think it useful to the public to communicate to the Executive Government of this Union.

I have the honor to be, &c.

JOHN QUINCY ADAMS.

J. R. POINSETT, Esq., Charleston, S. C.

Mr. Poinsett to Mr. Adams.

COLUMBIA, November 4, 1818.

SIR: In conformity with the request of the President of the United States, contained in your letter of the 23d of October, I have the honor to transmit to you such information as I possess in relation to the affairs of South America.

I regret that my absence from Charleston, where most of my documents are, does not allow me to



enter more into detail, and to give a fuller description of those countries.

As the Executive will doubtless have received from the Commissioners ample information with regard to the recent occurrences at Buenos Ayres and Chili, I have only brought down the events of the revolution to the period of their arrival at Buenos Ayres. In the course of this narrative I have confined myself to facts; for I thought it unnecessary to dwell on the motives which induced the creoles to shake off the Spanish yoke. The oppression under which they labored, the severe and absurd restrictions upon their commerce and industry, are too notorious to require a comment; and the situation of the mother country not only justified but rendered it necessary for them to establish for themselves an internal government.

By letters which I have received since the return of the Commissioners from Buenos Ayres, I learn that the Portuguese forces are in possession of the principal places on the eastern shore of the Uruguay, and of the country between the Parana and Uruguay. Their advanced posts extend to the Corrientes. The royal forces in Upper Peru are posted at the defiles of Jujuy, and are in possession of the country above Salta. The forces of Buenos Ayres, under the command of Belgrano, are at Tucuman. By the last victory gained by the patriots of Chili on the plains of Maipo, the royalists have been driven within the fortifications of Talcahuana.

I have the honor to be, with great respect, sir, your most obedient and humble servant,

J. R. POINSETT.

Hon. JOHN QUINCY ADAMS,  
Secretary of State.

The government of Spanish America is confided to the Council of the Indies. Their authority over the colonies is unlimited; they are the source of all favor, and have the presentation to all civil and ecclesiastical appointments; they constitute likewise a court of appeal from the decision of the audiences.

The viceroy is commander-in-chief, governor, intendant of the province where he resides, and president of the royal audience, and other tribunals. As commander-in-chief he is assisted by a council of general officers, and as governor by an assessor and legal counsellors. He assists with great ceremony at the session of the royal audiences, which tribunal watches his conduct, and has a legal control over his actions; and he in turn renders an account to the Council of the Indies of the public act and private conduct of the members of the audience. The viceroy is not allowed to trade or to form any connexion with the people of his government, and it was not customary for him to enter any private house. The laws of the Indies, which in theory are calculated to protect the colonists and Indians from oppression, grant him almost regal powers, but restrain the arbitrary exercise of them by the responsibility attached to any abuse of authority. At the expiration of

his office a commission is appointed to inquire into his past conduct, and all people, including the Indians, are called upon to prefer charges against him, and state any grievance or vexation they may have experienced during his administration. This residencia, as it is called, has become an unmeaning ceremony. The royal audience, which is the supreme court in the colonies, is composed of the viceroy, who is the president, of a regent, three oidores, two fiscales, a reporter, and an alguazil.

The law lays both them and their families under the severest restrictions, and the president is enjoined to watch their conduct, and to receive and transmit to the King an annual statement of their acts.

They constitute the last court of appeal in America. The viceroy is recommended to consult them in all emergencies of the State, but is left at liberty to act as he thinks proper. Where the authority of the president interferes with their decisions, they may remonstrate, but his will is executed. They have the privilege of corresponding directly with the King, and may make any representations they think proper on the conduct of the viceroy.

When the functions of the viceroy are suspended by sickness or death, the regent is his legal representative.

Of the Cabildo we have already spoken. Besides the alcaldes of this body, there is a criminal judge. The city is divided into barrio or quarters, and each quarter has an alcalde de barrio or justice. There are likewise justices of the peace, or lieutenants of justice, as they are called, whose jurisdiction extends over a certain district of country. They are accountable to the Governor, and are appointed for two years.

The military and clergy claim their *fuero*, that is, the right of being judged by their peers, and an *esprit du corps* generally screens the culprit from justice.

The spirit of litigation pervades all classes, interrupts the harmony of society, and destroys the confidence and affection which ought to reign in families and among near connexions. The lawyers are a numerous body; and the practice is not, as in the United States, an open appeal to impartial justice, but the art of multiplying acts and of procrastinating decisions until the favor of the judge is secured by influence and bribery.

The ecclesiastical jurisdiction belongs exclusively to the King and Council of the Indies. The Pope has ceded all his pontifical rights except that of issuing bulls of confirmation, and even these are limited to the candidate presented by the King of Spain.

The bishop, assisted by a fiscal and a provisor, forms the highest ecclesiastical tribunal; the business is transacted by the provisor, and the bishops assist only in cases which concern ecclesiastics of rank. The ecclesiastical tribunals have cognizance in all cases of a spiritual nature, and which concern ecclesiastics, and in all questions arising from pious donations and legacies. The ecclesiastical *fuero* or privileges are extensive; it is

sometimes (although very rarely) mixed, as when the plaintiff is an ecclesiastic and the defendant a layman, the cause is tried by a secular tribunal, and *vice versa*.

Buenos Ayres has a chapter consisting of a dean, a sub-dean and chapter, and a certain number of prebendaries.

The parishes are served by rectoral curates, and doctrinal curates officiate in the Indian settlements and villages, which are divided into doctrinas. The former derive their revenue from the fees of baptism, marriage, and interments, which the latter are forbidden to receive, but have an allowance from the treasury. Priests have been frequently employed in the administration of the public affairs, and have had great influence over the minds of the people, and a powerful agency in subduing and attaching them to the sovereign of Spain.

The zeal of the missionaries in this part of South America effected more than the arms of the first adventurers, who after they had conquered the country, were repeatedly cut off by insurrections of the natives, roused to desperation by their rapacity and oppression.

The conquest of Paraguay by the Jesuits; their large establishments on the Uruguay; the privileges granted them by the King in order that they might prove their assertion that, if left to themselves, and not intruded upon by the Spaniards, they would subdue the Indians of that extensive territory, and convert them to the Catholic faith; their rigid policy in detecting and sending out of their limits any one whom curiosity or interest might have tempted to trespass on their territory; the rapid subjection and conversion of the tribes on the Uruguay and Paraguay, who were incorporated with the Guaranis Indians; their submission to the organization of the Jesuits, who distributed the day into periods of work, recreation, and devotion, and established, after the manner of the Moravians, a common magazine for the reception of the produce of their industry, and dealt out to them, according to the number of members in a family, the necessary articles of food and clothing; the frequent attacks made upon them by the unsubdued tribes, and the depredations committed by the Mamalukes, the lawless inhabitants of the Portuguese frontier and of Saint Pablo; the jealousy excited by the flourishing state of these settlements about the period of the expulsion of the Jesuits from Europe; the resistance made to the decrees sent against them from Spain, and the final destruction of their power and confiscation of their possessions, are facts frequently treated of, and in the hands of every one.

There is a fund still devoted to the propagation of the Christian faith and to the payment of missionaries, who transfer the converted Indians to the doctrinas, where they are placed under the charge of doctrinal curates.

In the jurisdictions of Moxos and Chignitors there are some missionary settlements, where the missionaries enjoy nearly the same privileges which were formerly extended to the Jesuits, but they are not animated with the same zeal or by

the same ambition, and the progress of civilization has been very slow in those countries. The missionaries are forbidden to exact any compensation from the Indians for the performance of any Catholic rite, but this regulation, like all the excellent and philanthropic laws instituted by the Council of the Indies to protect the wretched Indians from the rapacity of the Europeans, is evaded by a shameful traffic in images, rosaries, and scapularies, and by receiving presents and exacting work from the Indians, notwithstanding the laws expressly exempt them from that obligation.

In the first conquest of these countries, the Spaniards profited by the feuds which they found existing among the different nations of Indians; they brought them into the field against each other, and the first adventurers were successively their allies and conquerors.

The Indians were sold into captivity, and thousands perished under the hard treatment of their inhuman masters, until the noble efforts of Las Casas and other friends of humanity drew the attention of the Spanish Court to their sufferings. Commissioners were then despatched from Madrid to inquire into these abuses, and to suggest the means of reforming them, and of alleviating the condition of the Indians. The first attempt at amelioration was the Repartimientos de Indios, by which they were divided among the Spaniards, who had the profits of their labor, without a right of property in their persons. Next, the encomiendas, by which they were placed under the superintendence and protection of the Spaniards. The encomendero was bound to live in the district which contained the Indians of his encomienda, to watch over their conduct, instruct and civilize them, to protect them from all unjust persecutions, and to prevent their being imposed on in trafficking with the Spaniards. In return for these services they received a tribute in labor or produce. The abuse of these protecting regulations followed closely their institution.

The encomiendas were granted to Spaniards who never were in the country. The Indians were hired out, and the most exorbitant tribute was exacted of them. In order to check these abuses, it was decreed that the amount of tribute received from encomienda should not exceed two thousand dollars, the surplus to be paid into the treasury. They were made inalienable, and reverted to the Crown. All these regulations were found ineffectual to secure the Indians against the rapacity of the encomenderos, and encomiendas were abolished. The Indians were next confided to the care and protection of the missionaries and of doctrinal curates. The last regulation in their favor gave them magistrates of their own choice, superintended, however, by a corregidor, to prevent the Indian alcaldes from committing excesses in the exercise of their authority.

In the viceroyalty of Peru the Indians were subject to a tribute to the Crown, levied on males only, from the age of ten to fifty. It was collected by the corregidor, who had the power of exempting such as were unable, from sickness or bad



seasons to make up the sum. They could enter into no legal contract or sale, without the consent of the porregidor, or make any conveyance of real estate. Their lands were sometimes seized and sold to satisfy the tribute, and in that way only could a transfer be made, or a legal title be obtained for Indian lands. The Indians were burdened with a personal service to the Crown, called the mita; this was a conscription raised among those subject to the tribute, in order to work the mines of Potosi. Thousands of these unfortunate people were marched every year to Potosi; and although the period of service was only eighteen months, they were attended by a numerous train of friends and relations, who, on the eve of their entering the mines, sang melancholy dirges, and, sounding a horn in solemn strains, mourned over them with all the ceremonies which they used to evince their sorrow on the death of a relative. Their wives and children remained with the conscripts, who, harassed by a long march, seldom resisted more than a year the excessive labor and noxious air of the mines. The Indians of Peru have the appearance of habitual melancholy, and still wear mourning for the destruction of their Incas. According to an ancient prophecy, they expect to be one day delivered from their oppressors by a descendant of the Incas, who is to revive the former glory of the nation. They are prohibited from carrying any weapon, or from exercising any trade which might render them familiar with the use of fire-arms. This law has been so strictly executed, that the unsubdued tribes are not dangerous enemies, and for more than a century have not disturbed the tranquillity of the Spanish settlers; and the attempts made by the civilized Indians to recover their former independence have been more easily defeated. The Indians hand down from father to son the remembrance of their wrongs, and constantly watch some opportunity to revenge them.

The insurrection in 1778 was the most formidable known since the conquest, and laid in ruins some of the finest towns of Upper Peru. Oruro was totally destroyed, and La Paz lost the greater part of its inhabitants by famine, whilst it was blockaded by the Indians. Had they known the use of fire-arms, the whole of the white population of those provinces would have been destroyed. The revolutionary Government, immediately on its installation, released them from the service of the mita, which was the most obnoxious to them, and from the vassalage in which they were held by their magistrates. The tribute was continued from necessity, as it afforded a revenue which could not be relinquished at this period. In 1814 they were relieved from the payment of the tribute, and have taken an active part in favor of the creoles.

The Intendant of the province is the chief of every branch of the administration of finance; he is assisted by an assessor, who reports on all questions of law. The Intendant may reject his decision, and either determine on his own responsibility, or consult another lawyer. The tribunal

de cuentas, over which he presides, consists of a contador mayor and a treasurer; they examine and verify all accounts. There is, moreover, a supreme court of finance. This court, of which the Intendant is president, is composed of the regent of the royal audience, (chief justice,) the contador mayor, the treasurer, and the solicitor of the tribunal of accounts. These members, when their sentences are appealed from, do not assist at the session. The customs are collected by an administrator of the customs and a treasurer. Their accounts are received by the tribunal de cuentas.

By the Spanish colonial laws the taxes were levied on the product alone. The alcavala was reduced to five per cent. on every transfer of property and every contract of sale. The retail dealer generally paid a composition, which was calculated annually on the value of their stock.

The almoxarifazgo is a duty on entry, and varies from fifteen to five per cent.; the corso is a duty of two per cent. applied to support the guarda-costas; and the consulate one and a half on imports and exports. This last goes to defray the expenses of the consulado or board of trade. There is an excise on distilleries. The pulperias, or small grocery stores, pay, independent of the alcavala, a certain sum per annum, about thirty-five dollars, for license to retail liquors. A fund was formerly derived from the sale of lands, and from the royal domains. The treasury receives the rents of vacant bishoprics and prebendaries until the new dignity is in possession, and the half-yearly product of all offices. Notaries, attorneys, receivers of the customs, tax-gatherers, excise officers, &c., pay a fine to the Crown in proportion to the value of their office. Ecclesiastics pay the amount of the first month of their benefice.

All articles seized on account of illicit trade, after paying the duties, are divided among the informer, the Intendant, the captors, and the Crown. The bull areas and cockpits belong to the King. A considerable revenue is derived from stamps; the highest cost six dollars; and all deeds and titles, as also papers signed by chief officers of the administration, must be written on this paper. If the instrument cannot be contained in a single sheet, the rest is written on a stamped paper of a dollar. Contracts and wills must be written on stamped paper, which costs one dollar and a half the sheet. Every document presented in the courts of law must be on stamped paper of — the sheet; and all petitions presented by the poor, and by Indians, must be written on stamped paper of the sixteenth of a dollar.

The paper, ready stamped, was sent from Spain, and was renewed every two years.

For some time the treasury received one-fifth of the product of the mines. It was afterwards reduced to one tenth.

The mint affords a further revenue by the exclusive sale of quicksilver, and by coining.

The monopoly of tobacco is another article to revenue. The administrador de tabaco grants licenses to cultivate, and establishes shops to re-

tail tobacco. These estancos, as they are called, are kept by persons who receive a certain percentage on the sales, and who give security to account for all the tobacco put into their hands. The other monopolies, salt, cards, &c. &c., are not productive. The post office is in the hands of Government, and yields a considerable revenue.

The Indians who were subdued paid a capitulation tax. It included all males from ten to fifty years of age, and amounted to between five and seven dollars. This tribute was collected by the corregidor, who had the power of dispensing with the payment, when, from indisposition or bad seasons, the Indian was supposed to be deprived of the means of acquiring the amount. They could enforce it by the sale of their lands. The only legal purchase of lands belonging to Indians was at these sales; in every other transaction they were considered as minors; and no contract or bargain was valid until it received the sanction of the corregidor.

The ecclesiastical dominion of the Spanish American colonies was yielded by the bull of Alexander VI. to the sovereign of Spain. Tithes were established in America by Ferdinand and Isabella in 1501; and in 1541 Charles V. ordained that the proceeds of the tithes should be divided into four parts; one to be appropriated to the bishop; another to the chapter; and out of the other two, that they should set aside two-ninths for the King, three for building and repairing churches, and the remaining four-ninths for the payment of curates and officiating ecclesiastics. This regulation continues in force, and the tithes are farmed and sold in each province to the highest bidder.

The sale of the bulls of the crusade produces a very considerable revenue. The general bull is bought by all the faithful, and is divided into classes, according to the rank and fortune of the purchaser. Viceroy and their wives pay fifteen dollars; the chief dignitaries, civil, ecclesiastical, and military, and all possessed of fortunes exceeding twelve thousand dollars, pay five dollars; all possessed of fortunes exceeding six thousand dollars, pay one and a half dollar; all other persons pay thirty-one and a half cents. The virtues of this bull are various; but the most useful is the dispensation from fasting on Fridays, and almost all Lent. The bull to eat milk and eggs is likewise divided into classes; the first costs six dollars; the second three dollars; the third one and a half dollar, and the fourth thirty-eight cents.

The bulls of composition are bought by those who have obtained money or goods by unlawful means. All classes pay two and a half dollars for this bull.

The bull for the dead lessens the term, or entirely releases the soul from purgatory; the first class costs seventy-five cents, and the second twenty-five cents.

The bulls of the holy crusade are printed on very coarse paper, and the name of the purchaser is written at full length.

In the viceroyalty of Buenos Ayres the ninths

of the sale of bulls, and the administration of the confiscated lands of the Jesuits, formed a branch of the revenue, under the title of temporalidades.

The following tables present the state of the Treasury of Buenos Ayres, from January, 1811, and subsequently to January, 1812.

January, 1811.		February, 1811.	
Remaining in the Treasury from	Received.	Paid.	Balance in hands.
Temporalidades	\$8,456 44	\$9,163 24	\$399 74
Tobacco	12,386 64	14,352 14	9,149 14
Post office	1,842 34	3,947 24	1,456 64
Custom-house	100,671 54	159,068 74	103,241 44
From the royal hacienda	21,177 44	236,829 14	2,661 44
			\$116,828 64
Temporalidades	\$17,007 44	\$17,914 44	\$4,956 44
Tobacco	25,027 14	27,033 34	12,386 64
Post office	4,274 64	2,168 14	1,842 34
Custom-house	144,141 64	149,096 64	100,671 54
Royal hacienda	12,775 04	227,667 84	21,177 44
Balance in hand, March 1, 1811			\$141,141 44

A summary view of the trade of Spanish America will complete this exposition of their colonial policy.

It is scarcely necessary to recapitulate all the vexatious imposts with which the Spanish Government oppressed the internal commerce of the kingdom. Of all these, the alcavala was the most destructive of the national prosperity. It consisted of a duty varying from six to four per cent. upon every transfer of property, and every contract of sale. The millones was an excise on the prime necessities of life, and was generally compounded for with the Government by the municipalities; in consequence of which, the magistrates established public magazines, at which all taxed commodities were to be purchased; and such as were found to have any articles of monopo-



*Condition of South America.*

ly, not obtained from the magazines, were prosecuted with the utmost rigor. Almost all these regulations, with the royal monopolies of brandy, cards, lead, saltpetre, sulphur, gunpowder, sealingwax, quicksilver, salt, and tobacco, were extended to the colonies, where their pernicious effects were more sensibly felt than in the mother country. The trade between Spain and the colonies was confined to particular classes in both countries, until Charles V. allowed all his Castilian subjects to fit out expeditions from the principal port of Spain; but exacted, under the penalties of death and confiscation, that they should return to the port of Seville, which became the emporium of the American trade. The personal influence of the inhabitants increasing with their wealth, they induced the Government to withdraw the permission to clear out from other ports. In 1720, when the navigation of the river was impeded by sandbars, and became unfit to admit vessels of burden, the monopoly, with all its advantages, was transferred to Cadiz. Twenty-seven vessels were fitted out for the annual supply of Peru, Chili, and Terra Firma; and every three years twenty-three were despatched to Mexico and the northern provinces. The colonists were prohibited from trading with foreigners, or with Spanish vessels, not included in their periodical fleets, and also from trading with each other. Peru could not receive supplies from Mexico, or Buenos Ayres from Terra Firma. No Spaniard could interfere with the trade of the interior, nor could any colonist embark his goods to Spain on his own account. A board of trade, established at Seville in the sixteenth century, regulated the extent, assortment and distribution of the periodical cargoes. No person could load or land articles from the return cargoes without a license from this board. The galleons could not touch at any port, or break bulk on their passage out or home. The triennial supplies could only be distributed over the northern colonies, and the annual galleons were appropriated to the settlements of the South. These were extremely limited, it being supposed that the Crown had an interest in making the same amount of duties fall upon a small supply of goods; that the duties might be more easily levied, and that the colonists might be made to pay the whole. The duties were levied in the form of direct customs on the goods exported, or of fees and dues for licenses on tonnage. An impost was laid on the bulk of the articles shipped, without regard to their nature or value. The indulto was a duty on the produce imported from the colonies, and fixed anew by Government every time the fleets returned from America. The declining state of the Spanish manufactures, and the inability of the mother country to furnish the necessary supplies of goods, obliged the Council of the Indies to use foreign articles, but they forced them to pass through the hands of the merchants of Seville, and afterwards of Cadiz. The profits of the monopolists of Cadiz were one hundred and seventy per cent. on goods bought in America, and two hundred and fifty on goods sold there. The import and export duties were exorbitant.

Colonial produce bore a very high price in Spain; and the colonists purchased the necessary articles with this monstrous accumulation of profits and charges. Ulloa mentions that, in Quito, a pound of iron sold for a dollar, and one of steel for one dollar and fifty cents. The contraband trade was, in consequence, very extensive; but although this gave the colonists a more abundant supply, it did not diminish the prices; the profits of the smugglers always bearing a proportion to the risk of entering the goods, and to the profits of legal commerce.

In 1740 expeditions separate from the periodical fleets were permitted to sail from the American colonies to ports formerly debarred all direct intercourse with Spain. The high prices paid by these registered ships for licenses amounted to a heavy duty on exports. In 1748 the permission was extended to other ports, but was soon restored exclusively to Cadiz. In 1764 regular packet boats were first established, and sailed from Corunna to the chief ports of America. Although permitted to trade, their cargoes were limited in extent, and to Spanish produce. They were obliged to sail from and return to Corunna. In 1765 the trade of the windward colonies was laid open to several ports of Spain. The palmeo was commuted to a duty of six per cent. on exports, and ships were cleared without licenses. The grant which had already included Louisiana was extended in 1770 to Yucatan and Campeachy. In 1766 the cotton trade was opened to Catalonia duty free, and in 1772 to the other provinces. In 1774 colonial produce duty free was permitted to be imported into several ports of Spain. In 1778 the ordinance of 1765 was extended to Buenos, Chili, and Peru, and soon after to Santa Fe and Guatemala. This last ordinance granted some abatement of duties to vessels laden with Spanish produce, and to the precious metals, which had hitherto paid an enormous duty of entrance. The jealousy of extending the benefits of their trade to foreigners yielded to the necessity of supplying the colonies with slaves. The Spaniards were incapable of conducting this traffic, and for a certain time it was in the hands of a class of merchants in France. By the Treaty of Utrecht, the asiento was transferred to Great Britain. The contraband trade which the English mingled with the importation of slaves brought on a war, and put a stop to this foreign monopoly. The slave trade was then transferred to a private company, whose entrepot was Porto Rico. The total failure of this company obliged the Government to take the supply into their own hands; and the incapacity of the Spanish merchants to conduct this complicated trade forced them to contract with a British commercial house for an annual supply of three thousand slaves. For one year the Philippine company introduced into Buenos Ayres nearly four thousand slaves. In 1789 the slave trade with the islands and with Caraccas was thrown open to Spaniards and foreigners. Several exclusive companies have been formed since the commencement of the eighteenth century,

*Condition of South America.*

but the Philippine company alone survived the restrictions and extravagant duties imposed on their trade by the Government. The profits of this company are represented to have been very inconsiderable—not exceeding three or four per cent. On the 12th of October, 1778, the Council of the Indies issued a decree of free commerce. The vessels were to belong exclusively to Spaniards, and to be of national construction; all the officers and two-thirds of the crew to be Spanish. This decree confined the free trade to a few ports; but subsequent regulations extended the privilege to all the chief ports in Spain. The ports of the colonies were divided into major and minor ports; and some privileges were granted to the latter, in order to encourage them. The exports from Spain were divided into three classes: the articles of the growth and manufacture of the mother country were called free articles, and paid nine and a half per cent. duty; the second class consisted of articles only of the manufacture of Spain, and paid twelve and a half per cent. duty; the third class included all foreign goods shipped to the colonies through Spain; they paid fifteen per cent. entry into Spain, seven per cent. export, and seven per cent. entry into America; and with the maritime alcavala, the consulate, and other charges, the duties amounted to thirty-three and a third per cent. In 1778 the exports to the colonies were made in one hundred and seventy ships, were worth 74,000,000 of reals vellon, and paid 32,000,000 duty. The imports of the same year were made in one hundred and thirty ships, valued at 74,000,000, and paid nearly 3,000,000 duty. In 1778 the value of exports was 500,000,000, and of imports 804,500,000, and the duties exceeded 55,000,000. In Buenos Ayres the receipts of the customs in 1791 were \$336,532; 1792, \$468,850; 1793, \$423,623; 1794, \$407,984; 1795, \$310,858. The average of five years was \$389,569. It appears that in 1796 the exports to Buenos Ayres amounted to \$2,852,944, and the imports from that port to \$5,058,882. The latter consisted of 874,593 ox hides, 43,752 horse hides, 24,436 skins, 46,800 arrobas (twenty-five pounds,) 771 arrobas of vacuna wool, 2,254 arrobas of common wool, 291 guanaco wool, 11,890 goose wings, 451,000 horns, 3,223 cwt. of copper, four cwt. of tin, 2,541 tanned hides, 222 dozen of dressed sheep skins, 2,128 cwt. of jerked beef, and 185 cwt. of cured pork, valued at \$1,076,877, and the remainder, 2,556,304, in gold and silver. In the year 1802, after the peace of Amiens, the receipts in Buenos Ayres were \$857,702.

Shortly after the war broke out between England and Spain, the invasion of these provinces by Sir Home Popham opened a new era in the trade of Buenos Ayres. This officer, on his return to England, wrote a circular to the merchants, setting forth the extensive and lucrative market opened by this conquest to the trade of the British Empire. The want of markets in Europe at that period, and the exaggerated picture of commercial advantages presented by Sir Home Popham, occasioned great speculation to be made to the river

Plata, and large convoys of merchantmen accompanied the expeditions of Sir Samuel Auchmuty to Montevideo, and of General Whitlocke to Buenos Ayres. Montevideo, during the short time it remained in the hands of the English, afforded a very limited market, and the total failure of General Whitlocke's expedition obliged the merchants to return to England without having made any considerable sales. The loss experienced on this occasion was attributed altogether to the defeat of General Whitlocke; and an opinion still prevailed among the merchants in London, that the markets of Spanish America, if opened to their trade, would enable them to bear the loss of the commerce of the continent, and to be at least equal to that in the United States. After the British troops had evacuated the provinces of La Plata, the clamors of the people obliged the viceroy to open the ports to neutrals. Some Americans traded to the river Plata, but the high duties and restrictions discouraged the commercial spirit even of our own countrymen. The trade was very limited, and principally carried on by English and Spanish capital, covered by the American flag, and the goods were introduced by bribery, or by favor of the viceroy. The revolution of Spain put a stop to another attempt of the British to obtain possession of these colonies. The deposition of the Spanish authorities, and the establishment of the Junta in Buenos Ayres, again opened the ports of the river Plata to the British flag. Eager to realize their former dreams of commercial prosperity, a large capital was immediately turned into this channel. Entirely ignorant of the consumption of the country, and of the wants of the inhabitants, they overstocked the market with every article of British manufacture. The quantity of merchandise brought into these ports during the first six months was equal to the former consumption of six years; and skates and warming pans were seen dangling in the shops of Buenos Ayres and Montevideo. The former exorbitant duties continued to be levied with so little regard to justice, that frequently the merchants not only lost the prime cost and freight of the articles, but had a further sum to pay for duties; and several petitions were presented, praying to be allowed to abandon the goods in satisfaction of the duties. The monthly receipts of customs in Buenos Ayres, during the year 1810, sometimes exceeded two hundred thousand dollars, and the aggregate of that year was two million two hundred and ten thousand dollars. From the state of the market in Buenos Ayres, the merchants in England were ruined by the slowness of the returns; and many found it necessary to instruct their agents to make any sacrifice, and to sell at any price. Sales at auction, to an immense amount, were consequently made below the first cost of the articles. The effect of these sales was to reduce the price of all English manufactures; and afterwards saw English prints and calicoes retailed in the shops of Mendoza, a distance of three hundred leagues from the coast, below the retail price in London. The English agent, who received his per centage on the sales, and the Spanish or native consignee, whom



the law obliged him to employ, were enriched, but the principals in England failed. Frequent attempts were made to prevail upon the Government of Buenos Ayres to simplify the manner of collecting their duties, and to establish a tariff of their own, independent of the absurd and complex regulations of Spain. A more liberal system was with difficulty extorted from them. The monopolies were abolished. The obligation to employ a Spanish or native consignee was done away, and foreign merchants permitted to enter their ships and dispose of their cargoes in their own name. At the commencement of the revolution the exportation of silver was permitted on payment of five per cent. duty. It was afterwards prohibited; but the Government, finding it impossible to prevent its being smuggled from the country, again permitted the exportation, increasing the export duty to six per cent. for coined silver, and twelve per cent. for uncoined silver; two per cent. for coined gold, and eight per cent. for uncoined gold, and an additional half per cent. on both for the consulate. The mines of Potosi have not been worked to any considerable amount since the revolution. The specie exported is brought chiefly from Chili, and amounts to about three millions of dollars annually. The British frigates on this station are relieved every six months, and since the year 1810 have carried to England nearly ten millions of dollars. This money was shipped partly on account of individuals, and partly on that of the British Government. Their agent in Buenos Ayres, the consul general, bought the specie at a premium, chiefly from the Spanish merchants, who were anxious to remove their funds from America. In 1813 the Government published the following commercial regulations, which remained in force for some time. The Government being anxious to regulate the duties, and to establish the order of their collection in the custom-houses within the territories of the United Provinces, in the manner most convenient to the general interests of commerce, and do away all former abuses; to proportion the imports to the nature, necessity, and value of the articles of commerce, so far as the extraordinary demand and present situation of the treasury will admit; and to furnish the merchants with a clear and exact statement of the duties to be paid, in order that they may in no event be involved in doubts and perplexity, which might intimidate their enterprise, or retard the progress so important to the public prosperity;—have decreed, with the previous concurrence of the Permanent Council of the Sovereign Assembly: First. From the 1st day of January, 1814, twenty-five per cent. shall be collected on all manufactures and foreign articles, except those hereafter specified, as the only duty of entry, to be calculated on the current market prices at the time of their extraction from the warehouse. Secondly. For this purpose the merchants will present the invoices with the prices affixed, which the officers of the customs shall examine, in order to calculate the duties. Thirdly. In case the prices fixed by the merchant be not regulated on

the market price, the officer of the customs shall signify it to him, and should any dispute arise two arbiters shall be named—one by each party, and a third chosen by them—in order to decide thereon. Fourthly. Foreign wines and brandies, oil, ready-made clothes, boots and shoes, and furniture, thirty-five per cent. Fifthly. Muslins and hats, fifty per cent. Sixthly. Crockery and glass, fifteen per cent. Seventhly. The following articles are free of all duties: quicksilver, machinery and instruments for mining, and those of the sciences and arts, all implements and tools of trade, books and printing presses, as likewise boards and all sorts of lumber; saltpetre, gunpowder, flints, fire-arms, and sabres and swords for the use of cavalry. Published in the Ministerial Gazette, and signed by Nicholas R. Pena, Juan Sarrea, Gervasia Antonio Posadas, (*Manuel*) José Garcia, Secretary.

The market of Buenos Ayres continues to be overstocked with English goods, but their merchants are now better acquainted with the wants of the inhabitants; ponchos, rugs, saddles, bits, lassos, balls, and in short every article formerly supplied by their domestic manufactures are now brought from England. The Guernsey and Jersey traders bring French and German goods, which are preferred to English. Furniture, cordage, canvass, naval stores, paper, liquors, and strong, black tobacco, find a ready sale, and will bear the duties. All goods mentioned in the seventh commercial regulation are in constant demand. China and India goods sell well, and the British merchants resident in Buenos Ayres have lately despatched three ships, direct to India and China, from the river of Plata. The principal returns are hides, tallow, horses, vacuna wool, skins, feathers, bark, copper, gold, and silver. Hides pay twenty per cent. export duty, and all the other articles, except the precious metals, fourteen per cent. The commerce of Chili offers great advantages to the traders to China and to the East Indies. It is a well-known fact that specie is almost our only medium of trade with those countries, which not only deprives the merchant for many months of the use of a large sum, but obliges him often to collect dollars at a premium; whereas, if the ports of Chili were used as a scale, the goods suited to the market—such as furniture and French and German manufactures—are obtained in the United States at a credit, and the returns received in Chili in copper and silver. In Chili the mines of silver are the most productive ever wrought. The mineral of those discovered within the last three years in the province of Guasco yielded a most extraordinary product of silver, which, compared with that of Potosi, is as forty to fourteen. It is not ascertained whether these rich mines extended to any great depth.\*

Furs might be obtained if there was any en-

\* In Potosi a caxon of ore yields from fourteen to twenty marks of silver, and in Guasco seventy marks have been extracted from a caxon, but the average product is forty marks.

couragement to collect them. Traders might station small detachments along the coast and on the islands, to procure seal skins, an article of great demand in China, and very abundant in these seas. All instruments of trade and manufactures are introduced into both countries free from duty. During the last war between Russia and England, a press was erected in Valparaiso for the purpose of packing hemp, and large quantities of that article were sent to England. In the event of the intermediate ports, as they are called, (*puertos intermedios*), Arica, Arequipa, &c., being opened to a free trade, it is probable that Upper Peru will be supplied through that channel. The distance is not so great, and the roads are better than those to the Atlantic ports. The trade of Chili has hitherto been confined to Lima and Buenos Ayres. The viceroyalty of Lima was supplied with grain from the ports of Valparaiso and Talcahuana, and the returns made in sugar, fossil salt, rice, and cotton. The trade between Buenos Ayres and Chili was carried on by caravans of carts from Buenos Ayres to Mendoza, at the foot of the Andes, and from thence on mules to Santiago. The principal articles sent across the continent by the merchants of Buenos Ayres were European dry goods and the herb of Paraguay. They received in return the sugar of Lima, copper, and gold and silver.

In the hands of freemen who were sensible of its advantages, and under an enlightened Government, Chili, from the number and variety of its productions, which yield the raw material of every sort of manufacture, has within itself the means of greatness; and, from the number of its harbors and great extent of coast, might carry on an extensive and lucrative commerce with the intermediate ports, and the viceroyalty of Lima, the Philippine islands, the East Indies, and China.

The commercial regulations of these countries have been so frequently altered, that it is difficult to say what they now are. This uncertainty discourages commercial enterprise, even more than exorbitant duties.

#### The geographical division of the Viceroyalty of Peru.

The viceroyalty of Peru extends 365 leagues north and south, from 3 degrees 35 minutes of south latitude, and 126 leagues east and west, between 63 degrees 56 minutes and 70 degrees 18 minutes from the meridian of Cadiz.

The bay of Tumbes separates it on the north from the kingdom of Granada. The river of Loa on the south from the desert of Atacama, and the kingdom of Chili. The Cordillera of Vilacota, in 14 degrees south, separates it from Buenos Ayres. On the east it is bounded by an immense desert, and on the west by the Pacific ocean. The face of the country is extremely unequal; bordering on the coast it is a barren, sandy desert, with a few small but fertile valleys, and in the interior are the lofty mountains and deep valleys of the Cordillera. The temperament varies, therefore, in the same latitude. In the habitable

parts of the mountains the thermometer of Reaumur varies from 3 degrees below 0 to 9 degrees above. At Lima, and generally along the coast, the constant variation of the thermometer is from 13 degrees to 23½ degrees. The productions of Peru follow the nature of its different climates. Wine, oil, and sugar are the most valuable productions of the coast; corn and wheat of the valleys; and bark and cocoa of the mountains.

The annual product of the mines is valued at \$4,500,000.

The population of the viceroyalty is calculated at 1,076,997 souls.

It is divided into seven intendancies, comprehending 51 districts; the latter governed by sub-delegates responsible to the intendant, who is under the direction of the superintendent general, a dignity always invested in the viceroy.

The viceroyalty contains five dioceses.

Lima, the capital of Peru, is situated in 12 degrees 2 minutes 51 seconds south latitude, and 70 degrees 50 minutes 51 seconds longitude, and was founded by Don Francisco Pizarro in 1535.

Notwithstanding the frequent earthquakes which destroyed the city in the years 1586, 1630, 1655, 1687, and 1764, Lima occupies an area of ten miles circumference, including the suburb of San Lazaro. The population amounts to 52,627 inhabitants: 292 clergy, 991 religious monks and friars, 572 nuns, 84 beatas, 17,215 Spaniards and white creoles, 3,912 Indians, 8,960 negroes, and the remainder intermediate classes mixtures of the others.

The intendancy of Lima comprehends 74 doctrinas, (curacies,) 3 cities, 5 towns, and 173 townships; population 149,112 souls: 431 clergy, 1,100 religious, 572 nuns, 84 beatas, 22,370 Spaniards and Spanish creoles, 63,180 Indians, 13,747 mestizoes, 17,864 mulattoes, and 29,763 slaves. It is divided into eight districts in the following order:

*Cercado de Lima.*—This district comprehends 14 curacies, 1 city, and 6 townships, and contains a population of 62,910 souls: 309 clergy, 991 religious, 572 nuns, 84 beatas, 18,219 Spaniards and Spanish creoles, 9,744 Indians, 4,879 mestizoes, 10,231 free people of color, and 17,881 slaves. The principal produce is fruit, honey, sugar, and vegetables, which are consumed in the capital to the amount of \$500,000 per annum.

*Canete.*—This district comprehends 7 curacies, 1 city, 1 town, and 4 townships. It is inhabited by 12,616 souls: 15 clergy, 19 religious, 465 Spaniards and Spanish creoles, 7,025 Indians, 737 mestizoes, 992 free people of color, 3,363 slaves: produces sugar, grain, and some nitre; annual value, \$350,000.

The district of Ica comprehends 10 curacies, 1 city, 2 towns, and 3 townships. Inhabitants 20,576: 22 clergy, 72 religious, 2,158 Spaniards and Spanish creoles, 6,607 Indians, 3,405 mestizoes, 4,305 free people of color, 4,004 slaves. A copper mine is wrought in this district, which also produces brandy, olives, and some sugar, and manufactures glass and soap; annual value, \$588,742 4 rials.

Yauco comprehends 7 curacies and 25 town-



ships. It is inhabited by 9,574 souls: 12 clergy, 13 Spaniards and creoles, 8,005 Indians, 93 mestizoes, and 1,451 free people of color: produces cattle and sheep; annual value \$20,200.

**Huarocho** comprehends 11 curacies and 35 townships, and is inhabited by 14,024 souls: 25 clergy, 220 Spaniards and Spanish creoles, 13,084 Indians, 591 mestizoes, 19 free people of color, and 44 slaves. The produce of this district is grain and cattle, and it possesses rich silver mines; annual value not ascertained.

**Cañta** comprehends 9 doctrinas and 54 townships, and is inhabited by 12,133 souls: 20 clergy, 57 Spaniards and Spanish creoles, 10,333 Indians, and 1,723 mestizoes: produces Indian corn, potatoes, and cattle; annual value, \$20,103.

**Chancay** comprehends 9 doctrinas, 2 towns, and 23 townships, and is inhabited by 13,945 souls: 16 clergy, 15 religious, 969 Spaniards and Spanish creoles, 7,510 Indians, 1,081 mestizoes, 759 free mulattoes, and 3,604 slaves: produces grain, sugar, and cattle; annual value, \$465,504 4 reales.

**Santa** comprehends 7 doctrinas and 14 townships, and is inhabited by 3,334 souls: 10 clergy, 279 Spaniards and Spanish creoles, 873 Indians, 1,237 mestizoes, 108 free mulattoes, and 827 slaves: produces sugar, grain, and cattle; annual value \$245,000.

**Intendancy of Cuzco.**—The city of Cuzco, capital of the former Incas, is situated in 13 degrees 32 minutes 20 seconds south latitude, 65 degrees 15 minutes 20 seconds longitude. It was founded in the eleventh century by Manco Capac, and taken possession of by Francisco Pizarro in 1534. The population is estimated at 32,082 souls: 89 clergy, 436 religious, 166 nuns, 113 beatas, 16,122 Spaniards and Spanish creoles, 14,254 Indians, 203 negroes, and the remainder mestizoes and mulattoes.

The intendancy of Cuzco comprehends 102 doctrinas, 1 city, 2 towns, 131 townships, inhabited by 216,382 souls: 315 clergy, 474 religious recluses, 166 nuns, 113 beatas, 31,828 Spaniards and Spanish creoles, 159,105 Indians, 23,104 mestizoes, 993 free mulattoes, and 283 slaves.

**Cercado del Cuzco** comprehends 8 doctrinas, 1 city, inhabited by 32,082 slaves, 89 clergy, 436 religious recluses, 166 nuns, 113 beatas, 16,122 Spaniards and Spanish creoles, 14,254 Indians, 646 free mulattoes, 203 slaves, the remainder mestizoes: produces grain, and manufactures some woollen and cotton stuffs.

**Abacay.**—This district comprehends 9 doctrinas and 8 townships, inhabited by 25,259 souls: 33 clergy, 1,937 Spaniards and Spanish creoles, 18,419 Indians, 4,739 mestizoes, 50 free mulattoes, 81 slaves: produces sugar, cotton, grain, and cocoa; annual value, \$350,000.

**Aynaraes** comprehends 16 doctrinas and 34 townships, inhabited by 15,281 souls: 24 clergy, 1 recluse, 4,474 Spaniards and Spanish creoles, and 10,782 Indians: produces various kinds of dyes, raises cattle, and manufactures some woollen stuffs; annual value, \$145,000.

**Culja and Lares** comprehend 5 doctrinas and

6 townships, inhabited by 6,199 souls: 13 clergy, 347 Spaniards and Spanish creoles, 5,519 Indians, and 320 mestizoes: produce grain, cotton, red pepper, cocoa, and manufacture some woollen stuffs; annual value, \$176,239.

**Urabamba** comprehends 6 doctrinas and 4 townships, and is inhabited by 9,250 souls: 22 clergy, 35 religious, 835 Spaniards and Spanish creoles, 5,164 Indians, and 3,194 mestizoes: produce grain, cocoa, and a variety of fruits; annual value, \$89,098.

**Colabambas** comprehends 13 doctrinas and 14 townships, and is inhabited by 19,824 souls: 19 clergy, 186 Spaniards and Spanish creoles, 18,237 Indians, and 1,382 mestizoes: produces Indian corn and grain; annual value, \$20,000.

**Pararo** comprehends 9 doctrinas and 19 townships, inhabited by 20,236 souls: 20 clergy, 1 recluse, 2,331 Spaniards and Spanish creoles, 15,034 Indians, 2,733 mestizoes, and 117 free mulattoes: produces grain and cattle, and manufactures linen cloth; annual value, \$96,471.

**Chumbivilcas** comprehends 11 doctrinas and 12 townships, and is inhabited by 15,973 souls: 27 clergy, 4,471 Spaniards and Spanish creoles, and 11,475 Indians: produces grain, and manufactures linen cloths; annual value, \$18,600.

**Tinta** comprehends 11 doctrinas and 13 townships, and is inhabited by 36,968 souls: 27 clergy, 324 Spaniards and Spanish creoles, 29,045 Indians, 5,420 mestizoes, and 152 free mulattoes: produces grain and ships, and manufactures linen cloths; annual value, \$152,309.

**Quispicanchi** comprehends 10 doctrinas and 16 townships, and is inhabited by 24,337 souls: 25 clergy, 1 recluse, 37 Spaniards and Spanish creoles, 19,947 Indians, 4,306 mestizoes, and 21 free mulattoes: produces grain, cattle, wool, and salt, and manufactures linen cloths; annual value, —.

**Paucartambo** comprehends 4 doctrinas and 8 townships, and is inhabited by 12,973 souls: 16 clergy, 764 Spaniards and Spanish creoles, 11,229 Indians, 957 mestizoes, and 7 mulattoes; produces wood and cocoa; annual value, \$390,972.

**Intendancy of Arequipa.**—The city of Arequipa is situated in 16 degrees 13 minutes 20 seconds south latitude, 66 degrees 6 minutes 30 seconds longitude. Its population is estimated at 23,988 souls: 50 clergy, 225 religious, 162 nuns, 5 beatas, 15,737 Spaniards and Spanish creoles, 1,515 Indians, 4,129 mestizoes, the remainder mulattoes and negroes.

The intendancy of Arequipa comprehends 60 doctrinas, 2 cities, 2 towns, and 8 townships, inhabited by 136,801 souls: 326 clergy, 284 religious, 126 nuns, 5 beatas, 39,357 Spaniards and Spanish creoles, 66,609 Indians, 17,797 mestizoes, 7,003 free mulattoes, and 5,258 slaves.

**Cercado de Arequipa** comprehends 11 doctrinas, 1 city, and 2 townships, inhabited by 37,721 souls: 93 clergy, 325 religious recluses, 162 nuns, 5 beatas, 22,687 Spaniards and Spanish creoles, 5,929 Indians, 4,908 mestizoes, 2,477 free mulattoes, and 1,225 slaves: produces grain, wine, brandy, sugar, cotton, and oil; annual value, \$636,800.

**Camana** comprehends 7 doctrinas and 8 town-

ships, inhabited by 19,052 souls: 34 clergy, 9 religious recluses, 5,005 Spaniards and Spanish creoles, 1,249 Indians, 1,021 mestizoes, 1,747 free mulattoes, and 887 slaves: produces wine, sugar, and oil; annual value, \$300,000.

**Condesuyos** comprehends 9 doctrinas and 18 townships, and is inhabited by 20,145 souls: 35 clergy, 3,603 Spaniards and Spanish creoles, 12,011 Indians, 4,358 mestizoes, 34 free mulattoes, and 44 slaves: contains gold mines, and produces cochineal and grain; annual value, \$26,458.

**Collaguas** comprehends 16 doctrinas and 10 townships, and is inhabited by 13,905 souls: 40 clergy, 212 Spaniards and Spanish creoles, 11,872 Indians, 1,417 mestizoes, 335 free mulattoes, and 29 slaves: produces grain and wool, and manufactures some woollen stuffs; annual value, \$70,100. The silver mines in this district yield annually 34,000 marks.

**Moquegua** comprehends 6 doctrinas and 6 townships, and is inhabited by 28,279 souls: 53 clergy, 29 religious recluses, 5,596 Spaniards and Spanish creoles, 17,272 Indians, 2,916 mestizoes, 887 free mulattoes, and 1,526 slaves: produces grain and wine; annual value, \$705,000.

**Arica** comprehends 7 doctrinas, 1 city, and 26 townships, inhabited by 18,776 souls: 44 clergy, 21 religious recluses, 1,585 Spaniards and Spanish creoles, 12,870 Indians, 1,977 mestizoes, 985 free mulattoes, and 1,294 slaves: produces wine, grain, cotton, and oil; annual value, \$160,500.

**Tarapaca** comprehends 4 doctrinas and 12 townships, inhabited by 7,923 souls: 27 clergy, 509 Spaniards and Spanish creoles, 5,406 Indians, 1,200 mestizoes, 528 free mulattoes, and 253 slaves: produces wine and some grain; annual value, \$81,400. The silver mines of this district produce annually 72,462 marks.

**The intendancy of Truxillo.**—The city of Truxillo is situated in 8 degrees 5 minutes south latitude, and 72 degrees 44 minutes longitude, founded by Francisco Pizarro in 1535: population, 5,790 souls; 133 clergy, 60 religious recluses, 129 nuns, 1,263 Spaniards and Spanish creoles, 274 Indians, 704 mestizoes, 1,000 negroes, and the rest mulattoes. The intendancy of Truxillo comprehends 87 doctrinas, 5 cities, 2 towns, and 142 townships, population 230,267 souls: 400 clergy, 160 religious recluses, 162 nuns, 19,098 Spaniards and Spanish creoles, 115,647 Indians, 76,949 mestizoes, 13,757 free mulattoes, and 4,725 slaves.

**Cercado de Truxillo** comprehends 10 doctrinas and 6 townships, population 12,032 souls: 144 clergy, 60 religious, 129 nuns, 1,434 Spaniards and Spanish creoles, 4,577 Indians, 1,549 mestizoes, 2,357 free mulattoes, and 1,582 slaves: produces sugar, rice, oil, cotton, and various gums; annual value, \$31,756.

**Lambayeque** comprehends 20 doctrinas and 7 townships, population 35,192 souls: 62 clergy, 27 religious, 2,299 Spaniards and Spanish creoles, 22,333 Indians, 5,448 mestizoes, 3,192 free mulattoes, and 1,831 slaves: produces grain, saffron, sugar, tobacco, and cotton; manufactures some cotton and woollen stuffs, soap, &c.; annual value, \$397,799.

**Puira** comprehends 12 doctrinas and 14 townships, population 44,491 souls: 61 clergy, 18 religious, 2,874 Spaniards and Spanish creoles, 24,797 Indians, 10,654 mestizoes, 5,203 free mulattoes, and 884 slaves: produces grain, cotton, and some indigo; abounds with cattle; annual value, \$72,686.

**Caxamarca** comprehends 17 doctrinas, and 26 townships, population 62,199 souls: 23 clergy, 50 religious, 33 nuns, 7,835 Spaniards and Spanish creoles, 29,692 Indians, 22,299 mestizoes, 1,875 free mulattoes, and 328 slaves: produces grain and cotton; abounds in cattle; and manufactures cotton and woollen stuffs; annual value, \$—.

**Chota.**—Not able to ascertain any correct information respecting this district; possesses rich mines.

**Huamachuco** comprehends 8 doctrinas and 23 townships, population, 38,150 souls: 64 clergy, 2,273 Spaniards and Spanish creoles, 17,117 Indians, 18,367 mestizoes, 250 free mulattoes, and 79 slaves; produces grain and cocoa, and manufactures linen cloths; annual value, \$57,853.

**Pataz** comprehends 3 doctrinas and 13 townships, population, 13,508 souls: 11 clergy, 3 religious, 987 Spaniards and Spanish creoles, 4,627 Indians, 7,678 mestizoes, 194 free mulattoes, and 8 slaves: produces grain and sugar, and abounds in cattle; annual value, \$35,264. The gold mines of this district yield 250 pounds per annum, and the silver 500 marks; value of both, \$35,500.

**Chacapoyas** comprehends 17 doctrinas and 60 townships, population, 25,398 souls: 34 clergy, 11 religious, 1,396 Spaniards and Spanish creoles, 12,504 Indians, 10,954 mestizoes, 486 free mulattoes, and 13 slaves: produces tobacco, bark, sugar, and cocoa.

**Intendancy of Huamanga.**—The city of Huamanga is situated in 13 degrees 1 minute south latitude, and 68 degrees 6 minutes longitude; population 25,970 souls: 25 clergy, 42 religious, 82 nuns, 169 Spaniards and Spanish creoles, 20,373 Indians, 4,382 mestizoes, and the remainder mulattoes and negroes.

The intendancy of Huamanga comprehends 50 doctrinas, 1 city, and 134 townships, and is inhabited by 111,559 souls: 176 clergy, 45 religious, 82 nuns, 5,378 Spaniards and Spanish creoles, 75,284 Indians, 29,621 mestizoes, 943 free mulattoes, and 30 slaves.

**Cercado de Huamanga** comprehends 3 doctrinas and 2 townships, and is inhabited by 25,970 souls: 25 clergy, 42 religious, 82 nuns, 169 Spaniards and Spanish creoles, 20,373 Indians, 4,372 mestizoes, 30 slaves, the rest free mulattoes: possesses some manufactures; annual value, \$34,268.

**Anco** comprehends 1 doctrina and 4 townships, inhabited by 2,022 souls: 9 Spaniards, 1,744 Indians, 269 mestizoes: produces sugar and coffee; annual value, \$18,795.

**Huanta** comprehends 7 doctrinas and 20 townships, and is inhabited by 27,337 souls: 45 clergy, 3 religious, 219 Spaniards and Spanish creoles, 19,981 Indians, 10,080 mestizoes, and 9 free mulattoes.



## Condition of South America.

**Congallo** comprehends 10 doctrinas and 31 townships, and is inhabited by 12,474 souls: 31 clergy, 62 Spaniards and Spanish creoles, 10,011 Indians, 2,363 mestizoes, and 7 free mulattoes: produces grain and cattle.

**Andahuaylas**.—This district comprehends 10 doctrinas and 18 townships, and is inhabited by 12,026 souls: 20 clergy, 3,000 Spaniards and Spanish creoles, 5,000 Indians, 4,000 mestizoes: produces grain and sugar; annual value, \$74,384.

**Lucanas** comprehends 14 doctrinas and 44 townships, and is inhabited by 15,727 souls: 27 clergy, 662 Spaniards and Spanish creoles, 12,700 Indians, 2,076 mestizoes, and 60 free mulattoes: produces grain and cattle.

**Parinacochas** comprehends 14 doctrinas and 16 townships, population 16,011 souls: 28 clergy, 1,057 Spaniards and Spanish creoles, 8,475 Indians, and 6,451 mestizoes: raises cattle and manufactures cotton stuffs; annual value, \$56,000.

**Intendancy of Huancavelica**.—The town of Huancavelica is situated in 12 degrees 53 minutes south latitude, and 68 degrees 46 minutes longitude: population 5,156 souls: 21 clergy, 18 religious, 560 Spaniards and Spanish creoles, 3,803 Indians, 631 mestizoes, and the remainder mulattoes and negroes.

The intendancy of Huancavelica comprehends 22 doctrinas, 1 city, 1 town, and 86 townships, and is inhabited by 30,917 souls: 81 clergy, 18 religious, 2,341 Spaniards and Spanish creoles, 23,899 Indians, 4,537 mestizoes, and 41 slaves.

**Cercado de Huancavelica**.—This district comprehends 4 doctrinas and 6 townships, inhabited by 5,146 souls: 21 clergy, 18 religious, 560 Spaniards and Spanish creoles, 3,803 Indians, 731 mestizoes, and 13 slaves.

**Angaraes**.—This district comprehends 5 doctrinas and 25 townships, inhabited by 3,244 souls: 23 clergy, 219 Spaniards and Spanish creoles, 2,691 Indians, 309 mestizoes, and 3 slaves: produces sugar, grain, and cattle; annual value, \$85,000.

**Tayacaza** comprehends 5 doctrinas and 22 townships, inhabited by 13,161 souls: 21 clergy, 1,394 Spaniards and Spanish creoles, 9,020 Indians, and 2,726 mestizoes.

**Castroverreyna** comprehends 8 doctrinas and 35 townships, inhabited by 9,365 souls: 16 clergy, 168 Spaniards and Spanish creoles, 8,385 Indians, 771 mestizoes, and 25 slaves: produces grain and cattle; annual value, \$76,000.

**Intendancy of Tarma**.—The town of Tarma is situated in 12 degrees 33 minutes 49 seconds south latitude, and 69 degrees 29 minutes longitude: population 5,538 souls: 2 clergy, 361 Spaniards and Spanish creoles, 1,878 Indians, 3,244 mestizoes, the rest mulattoes and slaves.

The intendancy of Tarma comprehends 79 doctrinas, 1 city, 2 towns, and 203 townships, inhabited by 201,259 souls: 229 clergy, 127 religious, 15 beatas, 15,939 Spaniards and Spanish creoles, 105,187 Indians, 78,682 mestizoes, 844 free mulattoes, and 236 slaves.

**Cercado de Tarma** comprehends 13 doctrinas, 1 town, and 45 townships, and is inhabited by

34,491 souls: 32 clergy, 1,681 Spaniards and Spanish creoles, 18,821 Indians, 14,300 mestizoes, and 77 free mulattoes: produces grain and bark; annual value, \$8,315. The mine of Yauricocha yielded, in 1793, \$2,016,703. Rent of the Crown for Diezmos and Cobos, \$231,283.

**Xauja** comprehends 14 doctrinas, 1 town, and 16 townships, inhabited by 52,286 souls: 32 clergy, 84 religious, 1,713 Spaniards and Spanish creoles, 28,477 Indians, 21,922 mestizoes, and 58 slaves.

**Caxatambo** comprehends 13 doctrinas and 56 townships, and is inhabited by 16,872 souls: 31 clergy, 504 Spaniards and Spanish creoles, 10,500 Indians, 4,808 mestizoes, 629 free mulattoes: produces grain and cattle; annual value, \$30,000.

**Conchucos** comprehends 15 doctrinas and 19 townships, and is inhabited by 25,308 souls: 40 clergy, 2 religious, 1,364 Spaniards and Spanish creoles, 9,899 Indians, and 13,983 mestizoes: produces grain, and possesses mines, but which are not very productive; annual value, \$73,476.

**Huamalis** comprehends 8 doctrinas and 30 townships, inhabited by 14,234 souls: 18 clergy, 593 Spaniards and Spanish creoles, 8,957 Indians, 4,625 mestizoes, and 43 slaves: produces bark, cocoa, and cattle; annual value, \$53,420.

**Huaylas** comprehends 12 doctrinas and 20 townships, inhabited by 40,822 souls: 67 clergy, 11 religious, 3,604 Spaniards and Spanish creoles, 20,935 Indians, 15,971 mestizoes, 138 free mulattoes, and 96 slaves.

**Huanuco** comprehends 4 doctrinas, 1 city, and 7 townships, inhabited by 16,826 souls: 9 clergy, 30 religious, 15 beatas, 6,160 Spaniards and Spanish creoles, 7,598 Indians, 3,075 mestizoes, and 39 slaves: produces bark and cocoa, and exports a small quantity of silver; annual value, \$45,094.

**Panatahuas**.—Military government of Callao and of the archipelago of Chiloe.

**Number of Indians for the collection of tributes levied on males from 10 to 50 years of age.**

Males	314,863
Females	304,227

	619,190
Exempt from age, sex, and rank	473,615

Contributing	145,575
--------------	---------

Amount of tributes	\$885,586 0
Of the common hospital fund	25,852 7

	911,438 7
Pensions, expenses, &c.	374,052 4

Net rent	\$537,356 3
----------	-------------

## Duties.

Imposts into Callao 6 per cent. alcavala, and 3 per cent. customs; woollen exports 3 per cent.

The interior commerce pays 6 per cent. alcavala.

Alcavala were first levied in Peru, in the year

## Condition of South America.

1596, at 2 per cent. until the year 1771, when they were increased to 4 per cent. In the year 1777 they were increased to 6 per cent. The expenses of collecting the customs at Lima exceeds \$50,000.

Years.	EXPORTATION.			IMPORTATION.		
	Produce.	Gold and silver.	Total.	Foreign effects.	Spanish effects.	Total.
1781	\$177,766 7	\$443,306 0	\$621,072 7	\$309,230 3	\$114,952 7	\$424,183 3
1782	906,290 2	16,182,915 4	17,121,206 6	633,435 3	566,128 1	1,199,563 4
1783	732,587 1	7,144,325 3	7,877,912 6	1,049,348 4	695,295 7	1,744,644 3
1784	882,807 1	8,286,659 7	9,168,467 0	2,073,530 4	1,020,434 1	3,093,964 5
1785	906,022 1	4,616,246 3	5,522,268 3	3,727,267 4	2,318,448 1	6,045,715 5
1786	579,160 2	5,463,973 1	6,043,133 3	7,630,681 7	6,136,067 4	13,766,749 3
1787	523,080 0	2,449,945 6	2,972,575 6	2,911,898 1	3,870,200 7	6,782,099 1
1788	448,695 1	5,220,387 2	5,668,482 3	1,194,066 7	1,557,904 0	2,751,967 1
1789				1,460,226 3	1,209,196 5	2,669,423 0
1790				2,465,499 2	2,297,964 4	4,763,461 6
	\$5,158,809 1	\$49,678,305 1	\$54,837,114 3	\$23,455,186 4	\$19,786,677 5	\$43,241,862 7

In the moneys exported is included \$3,562,000, sent by the Royal Philippine Company.

Importation	\$43,241,862 7
Exportation	54,837,114 3

Balance in favor of exports	\$11,595,251 4
-----------------------------	----------------

The excess of exports was occasioned by the war. Four ships arrived in 1779 and sailed in 1784, occasioning the great export of that year, \$17,121,206 6.

The Kingdom of Chili is comprised within the narrow strip of land which extends east and west from the summit of the Cordilleras de los Andes 15th Con. 1st Sess.—72

to the Pacific ocean, and stretches along the coast north and south, from the river Salado and the desert of Atacama to the straits of Magellan. From the chain of frontier posts (which begin at Arauco, on the coast, and extend to the Cordilleras) to the town of Valdivia, the country is in possession of the warlike tribe of Araucanians, who still remain independent; and from Osorno, south, it is inhabited by the various tribes of Patagonia, whose territories have not been explored.

The population of Chili, by the census taken in 1791, was found to be 750,000 souls. From the strong motives of concealment, as the census is taken for the purpose of proportioning the taxes according to the population of each district, the population of Chili cannot be estimated at less than one million.

The distance from the Cordilleras to the Pacific ocean is thirty leagues, between the latitudes of 25 degrees and 36 degrees south; and 40 leagues, between 36 degrees and 43 degrees south.

The country comprised between the 25th and 43d degrees of south latitude may be considered the length of the Kingdom of Chili, it being unsettled, and even unexplored, farther south.

From the Cordilleras de los Andes to the Pacific, the inclination is so great, that all the rivers flow with the rapidity of torrents, and are therefore not navigable. They serve to irrigate the valleys, and render them the most fertile in the world. The climate makes this method of cultivation absolutely necessary; for from the Salado to the Itata, that is, from 25 degrees to 36 degrees of south latitude, not a cloud is to be seen above the horizon from the month of November to the month of May. The atmosphere, during this period, is perfectly clear, and the dews are scarcely perceptible, nor is the heat oppressive. The proximity of the Andes tempts the air, and the mercury fluctuates between 70 degrees and 80 degrees of Fahrenheit, and rarely rises to 85 degrees. Thunder storms, so frequent on the east of the Andes, are unknown in this part of Chili. Winter commences in the month of May; the cold is mild, and the rains gentle, and unattended with wind. The rains of the winter fertilize the hills, and the plains, which cannot be irrigated, during that season afford pasture for the cattle. The Spring commences in September, and the face of nature in Chili is then peculiarly beautiful. The hills are verdant, and covered with innumerable flowering shrubs; and the plains present to the eye a carpet of flowers. The abundance of water and the peculiarity of climate enable the inhabitants to raise all the fruits of the earth in great perfection. The wheat which is cultivated in the valleys is of excellent quality, and the product seldom less than forty times the seed; sometimes ninety; and, on the best land, even one hundred. Indian corn is likewise cultivated, and produces abundantly. Barley is raised in great quantity for the use of horses and mules, which, in the winter, are fed on this grain, mixed with chopped straw, as in Arabia and Old Spain. Hemp and



flax grow luxuriantly. Cotton is here and there cultivated for their domestic manufactures; and there is one sugar plantation. The climate and soil are well adapted to the culture of sugar; but they have been long accustomed to get that article from Lima, in exchange for their wheat, and are not disposed to change their ancient habits. Rice, likewise, would grow on their low lands, but it is brought from Lima.

South of the river Itata the climate varies. Rains are frequent in the Summer, and, in the Winter, are attended by storms of wind. The grapes are chiefly cultivated in these districts, and the wine is better than where the vineyards are irrigated.

The olive grows luxuriantly throughout all Chili, and the oil is of the first quality.

On the banks of the river Maule, and on all the rivers south of 35 degrees 17 minutes, there is excellent timber, and the whole country abounds with forests of a thorny minosa, which makes good charcoal, and is in general use for fuel.

In the neighborhood of Talcahuana, within 500 yards of the sea, there is a fine vein of sea coal, which has been used by our whaling ships.

The Kingdom of Chili was governed by a president and captain-general, who was amenable only to the Council of the Indies, and was assisted by an audiencia, or supreme court. His powers were the same as the Viceroy of Lima and Buenos Ayres.

There were two bishoprics in Chili; that of Santiago comprehended the territory from the river Salado to the Maule; and the bishopric of Concepcion included the country from the Maule to the island of Chiloe. The presidency was divided into districts (*partidos*) governed by a subdelegate. Copiapo, the most northern, was the first conquered by the Peruvians, under the Incas, who extended themselves subsequently to the banks of the Maule.

The Spaniards followed the track marked out by the enterprise of this extraordinary people, and, passing along the edge of the Cordilleras, descended into Chili by the mountains of Copiapo. This district extends from the Cordilleras to the sea. On the south it is separated from the Viceroyalty of Lima by the desert and district of Atacama, and extends north seventy leagues to the district of Guasco. The town of Copiapo is situated in 26 degrees 50 minutes south latitude, twenty leagues from the coast. It is small and inconsiderable; for the only part of this district capable of cultivation is the narrow valley which extends from the Cordilleras to the town, the river losing itself in the sands between the town and the ocean. South from the Hospederia de Yerba Buena extends a desert tract, (*traviesa*) about thirty leagues to the borders of Guasco.

La Caldera Copiapo, the port, is situated in 26 degrees 1 minute south latitude.

The wine of Copiapo is much esteemed, and is of excellent flavor, but has not body to keep any length of time.

The district of *Guasco* extends from the Cordilleras to the sea, and from that of Copiapo to the district of Coquimbo, occupying a line of coast of thirty leagues extent. The principal town is small, and situated about sixteen leagues from the sea.

The mines of gold in this district have been abandoned, but those of copper produce annually eighteen to twenty thousand quintals. The King exercised the right of purchasing copper at seven and a half dollars per quintal, payable in Santiago. In consequence of this monopoly, the miners preferred disposing of it to smugglers, who gave them fourteen dollars, in goods. The mines of silver discovered in this district in 1811 are the richest ever known; the veins which have been hitherto wrought are near the surface of the earth, and have yielded the extraordinary product of forty marks, and sometimes even seventy marks, to the caxon of ore.\*

The port of *Guasco* is formed by two rocks, running out from the island of Carnero, and Point Expedition. It is situated in 28 degrees 26 minutes south latitude, and 75 degrees longitude west of Cadiz.

The district of *Coquimbo* extends from the Cordilleras to the sea; it bounds north on *Guasco*, and extends fifty leagues south, to the district of *Cuzco*. The capital, La Serena, commonly called *Coquimbo*, is situated in 29 degrees 54 minutes south latitude, on the south bank of the river *Coquimbo*, within half a league of the coast. The land slopes gradually from the town to the sea, and, being meadow, forms a lawn of never-failing verdure. The town is regular and well built, and is surrounded with gardens which produce all the tropical fruits in great perfection. The inhabitants are remarked for their urbanity and hospitality to strangers, and the climate is equal and temperate.

The river *Coquimbo* waters the valley of *Hualque*, the most fertile part of the district; and the *Liman*, which is a large stream, waters the country above and below the juntas of *Guamalata*.

The gold mine of *Talca*, which is situated in this district, is very productive. The copper of *Coquimbo* is esteemed the best in the world, and contains a small portion of gold. The French formerly imported this copper through Spain, and extracted the gold from it. Mining is carried on by voluntary labor; the mita, or conscription of the unfortunate Indians to toil in the mines, was never practised in Chili.

\* The method of estimating the product in Potosi, Chili, and generally in Peru, is by the caxon of ore, which contains fifty quintals of one hundred pounds each. The mark of silver is eight ounces of eight ochavas, each ochava of seventy-five grains. The caxon of ore at *Guasco* produces forty marks, or three hundred and twenty ounces of silver. In Potosi, fourteen marks is the average, or one hundred and twelve ounces; and in *Guanaxuato*, the richest mines of Mexico, the average is four ounces the quintal, or two hundred ounces the caxon.

The port of *Coquimbo* is formed by the head lands of *Teatimo* and *Pelicanos*, and is one of the best known, and the most secure of the Pacific. It is situated in 29 degrees 54 minutes south latitude.

The district of *Cuzco* extends from the Cordilleras to the sea, and from *Coquimbo*, south, to the district of *Petorca*. *Rozas* is the principal town.

The river *Chaupo* fertilizes this district; near where it falls into the sea is a large lake, abounding with fish.

The district of *Petorca* extends from the Cordilleras to the sea, and from *Cuzco*, its northern boundary, south, to *Quillota*. The capital is *Petorca*, sometimes called *Santa Ana de Bribiesca*. This district possesses gold and copper mines, and is watered by the rivers *Longotama* and *Ligua*. On the banks of the latter stands the town of *San Domingo de Rozas*, and near it the settlement of *Placilla*. There is a large Indian town in the valley, called *Valle Hermoso*.

The port of *Valparaiso* is situated in 33 degrees 1 minute 45 seconds south latitude. It is the most frequented in Chili, although open to the north and northeast, and to northwest winds, which blow with great violence in the winter, accompanied with a heavy sea.

The town extends around the bay, from the castle of *St. Antonio*, for nearly a mile, and is separated from the *Almendral* (a suburb of *Valparaiso*) by a low beach. The houses are irregularly scattered over the sides of steep hills, which rise abruptly from the shore, and extend along the ravines of *St. Augustin*, *St. Francisco*, and *Gomez*, the ground being very broken and rugged. The country near the town is very barren, and all the supplies are drawn from *Quillota*. That abundant district furnishes, at a very cheap rate, supplies for the vessels that frequent *Valparaiso*. Stock of every description, fruit, potatoes, vegetables, and excellent biscuit, may be bought at a very moderate price. The best water is brought from the *Almendral*, at some trouble and expense.

Until the late revolution, the only commerce from this port was with *Lima*; between forty and sixty cargoes were brought annually, consisting of fossil salt, sugar, rice, cotton, and a coarse cotton manufacture called *toculle*; and the returns made in wheat, hemp, beef and tallow, hides, &c.

The population of *Valparaiso*, including the *Almendral*, does not exceed 6,500 souls.

The district of *Quillota* is bounded north by *Petorca*, south by the district of *Melipilla*, east by that of *Aconcagua*, and west by the Pacific ocean. The principal town, *San Martin de la Concha*, commonly known by the name of *Quillota*, is situated on the south bank of the river *Quillota*, near the river of *Olcancagua*. The streets diverge from the principal square, and intersect each other at right angles; and the houses are commodious and well built. The town occupies a great space, each house having a garden adjoining, where the inhabitants raise

vegetables and fruit for the supply of *Valparaiso*. From the summit of an adjoining hill the eye embraces a highly rich and variegated prospect of the town, interspersed with groves and gardens, and surrounded by extensive artificial pastures, principally of luzerne; and of the fields intersected by canals from the river, and cultivated in wheat, corn, hemp, and flax. The cultivation in every part of Chili, as has been before observed, is conducted by irrigation; and the *Aconcagua* here affords a plentiful supply of water. The climate is mild and healthy, and the inhabitants lively and hospitable. There are mines of gold and copper in this district, although not wrought; and they make oil and wine. *Petorca* and *Cuzco* are included with *Quillota*, for all the purposes of Government.

The port of *Herradura de Quintero*, in 32 degrees 47 minutes 33 seconds south latitude, and a little north of *Valparaiso*, is one of the best and safest harbors in these seas, being very extensive, with deep water and clean anchorage. At the *Punta de las Ventanas* is a good watering place, with abundance of wood; and the country is beautiful and fertile.

The road direct to the capital is so rugged and mountainous that this advantageous port has been neglected.

Any wind that permits you to approach the coast will carry you in; and, at the anchorage, you have only to avoid the shoal of *Tortuga*.

The district of *Melipilla* is bounded north by that of *Quillota*, south by the river *Maipo*, east by the district of *Mapocho*, and extends west to the Pacific ocean.

The chief town, *San José*, commonly called *Melipilla*, is beautifully situated near the north bank of the broad and rapid river of *Maipo*, which furnishes the means of irrigating an extensive and well cultivated country. The road to *Valparaiso* formerly passed through this town. The whole district is well settled, and highly cultivated in wheat, barley, Indian corn, and vines. It is watered by the rivers *Maipo* and *Mapocho*; on the latter is situated the small but flourishing town of *San Francisco del Monte*, the environs of which, for a considerable distance, are a vast garden, interspersed with orchards and vineyards. The convent of *St. Francisco* is endowed with extensive possessions. A little below the town the *Mapocho* falls into the *Maipo*; and near the outlet of the latter is the bay of *St. Antonio*, in 33 degrees 30 minutes south latitude. It is open to the north, and very insecure.

The district of *Mapocho* occupies an extensive plain at the foot of the Andes, being bounded on the north by *Santa Rosa*, south by the river *Maipo*, east by the Cordilleras, and west by *Melipilla*.

The city of *Santiago de Chili* is situated in this district, and was founded on the 12th of February, 1541, by Don Pedro de Valdivia, on the south bank of the *Mapocho*, in 33 degrees 31 minutes south latitude. He at first called the country overrun by his arms after his native



province, Estramadura, and the capital Santiago de Estramadura; but it soon lost this title in the original name of Chili. Santiago contains forty thousand inhabitants; it was founded on the lands belonging to the Ulmen, or Cacique Guelingala, whose jurisdiction extended from the river Chuapa on the north, to the river Maule on the south, and east and west from the Cordilleras to the sea. The plain on which the city is situated extends along the foot of the Andes, certainly to the line, and I believe quite to the isthmus of Panama, north, and south to the straits of Magellan. This is the only uniform level in Chili; from hence to the coast the descent is very rapid, and broken by irregular mountains and valleys. On the eastern extremity of the city rises the small rocky hill of Santa Lucia, formerly called the mountain of Guelon. These insulated hills are frequently seen on the great plain of Chili.

Santiago is divided into four quartels. The ministers of the royal audience were chiefs of quartels, and an alcalde, or magistrate in each, attended to the police, and reported to the chief.

The Cabildo, or municipal council, is composed of a royal standard-bearer, (who carries the standard of Santiago on the festival of that saint,) an alguacil, alcalde of the province, two regidores, and five executors, which are permanent offices, and are sold to the highest bidder; and so fond are the people of distinction, that they are purchased at a high price. These choose two ordinary alcaldes, or magistrates of the province, who have jurisdiction in ordinary cases, and whose duty it is to keep the peace.

The tribunal of commerce is composed of a prior, two consuls, an assessor or syndic, and nine counsellors. These are chosen every two years, and have jurisdiction in all commercial causes. They have a fund arising from internal taxes and from fees; and are charged nominally with everything relating to commerce and to the superintendence of roads and harbors.

A broad road extends round the south side of the town, like the boulevards in Paris, and separates it from the suburbs, which are extensive and well built. There are several handsome churches and convents in this canada, or boulevard, and a large canal carries a stream of water along the south side of it. North from the principal square a wide street leads to the bridge over the Mapocho, which is built of stone and brick, and stands on nine lofty arches. The view from it along the banks of the Mapocho, and towards the Andes, is very picturesque; and the inhabitants resort to this bridge in the Summer afternoons, to enjoy the refreshing air from the mountains. The river is broad and shallow, and in the Summer flows in several channels; but in the Spring of the year, when swollen by the melting of the snows, it rises to the height of the arches, and has at times overflowed, and laid half the city under water. A dike has been built along the banks of the river, to protect the city from these inundations. It is a solid wall about five feet thick, with a parapet.

For the ecclesiastical government of the city, the town is divided into four curacies, viz: the Cathedral, Santa Ana, San Isidro, and San Lazaro. The jurisdiction belongs exclusively to the bishop, who is assisted by an ecclesiastical cabildo, composed of the canons, and presided by the proviso, who is the chief of the ecclesiastical court, and the director of the convent of nuns. There are seven nunneries and seven convents of monks in Santiago.

The monks of San Juan de Dios have two large hospitals; one for men, with the church of San Juan de Dios attached to it, in the suburbs of the canada; and one for women, annexed to the chapel of San Borja. These orders have all vast estates, both in lands, which they farm themselves, and which are always well cultivated, and in mortgages, which they hold to a great amount.

The district of *Santa Rosa* is separated from Alconcagua on the north by the river of Alconcagua, on the south it borders on the district of Mapocho, east on the Cordilleras, and west on Quillota. Its capital, Santa Rosa de los Angeles, is situated on the road from Santiago to Mendoza.

The district of *Rancagua* is bounded north by the Maipo, which separates it from that of Mapocho, south by the Cachapoal, which divides it from Colchagua, and it extends east and west from the Cordilleras to the sea. The capital of this district, Santa Cruz de Triana, commonly called Rancagua, is in thirty-four degrees south latitude, twenty-six leagues south of Santiago. It stands near the north bank of the Cachapoal, which, after its confluence with the Tinguiririca, takes the name of Rapel. This is a very fertile district, exporting grain, and cattle, and fruits. There are several gold mines which have been abandoned, but the silver mine of Copana is still productive.

The district of *Colchagua* extends east and west from the Cordilleras to the sea, and from the river Cachapoal on the north to the districts of Curico and Maule on the south. Colchagua is very fertile and well cultivated; the principal export is wheat; some gold and copper has been found in this district. The warm mineral springs of Canquenes are situated in the mountains of Colchagua, and are much frequented by the inhabitants of Santiago during the summer. San Fernando, the capital, is situated on the north bank of the Tinguiririca.

The district of *Curico* extends from the Cordilleras to the sea. It borders north on the district of Colchagua, and south on that of Maule. The Villa de San José de Buena Vista, more commonly known by the name of the district, is the capital.

The district of *Maule* extends from the Cordilleras to the sea. It borders north on Curico, and on the south is separated from the Isla de Maule, and from Canquenes, by the broad and rapid river Maule. The banks of this river are covered with timber, and there is a ship yard at Bilbao, near its mouth. The entrance of the river is obstructed by a bar. Talca is the principal town of this dis-

trict. There are still some lavaderos for gold in Maule; the mountain of Chibats, near Talca, has been very productive.

The district of the *Isla de Maule* extends from the Cordilleras to the district of Canquenes. It is bounded on the north by the river Maule, and south by the district of Chillan. The town of Linaras is situated in this district, between the rivers Gutagan and Longavi, and the town of Parral is on the south of Longavi.

The district of *Canquenes* extends from the Isla de Maule, its eastern boundary to the Pacific ocean. It borders north on the river Maule, and south on the district of Itata. The chief town, La Mercedes de Manso, commonly called Canquenes, is situated on the stream of Tutubín. The town of Bilbao, at the mouth of the Maule, is in this district.

The district of *Chillan* extends from the Cordilleras to the district of Itata, and bounds north on the Isla de Maule. The town of San Carlos is situated between the Longavi and the Nuble; and Chillan, the capital, between the Nuble and the Chillan, in thirty-five degrees fifty-six minutes south latitude, and seventy-one degrees five minutes west longitude. This town is well built, and is ornamented by several churches and convents. The monks of Chillan own almost all the lands in this district, which is very fertile and productive. There is a manufactory of woollen cloths at Chillan.

The district of *Itata* borders east on that of Chillan, west on the sea, and north on the district of Canquenes. The fine river of Itata flows through this district. The chief town of Itata is Culemu. Quirique is likewise situated in this district, which is famous for the excellence of its wine.

The district of *Rere* extends from the Cordilleras to the district of Puchacay. It borders north on Itata, and south on the military frontier posts. The chief town is San Luis Gonzaga, formerly known by the names of Buena Esperanza, and Estancia del Rey.

The district of the *Isla de la Laja* is comprised in the strip of land between the rivers La Laja and Biobio, and is surrounded by the Cordilleras of the Andes; it is very fertile and productive. Los Angeles is the chief town, and has a citadel, being one of the frontier posts. There are three passes in the Cordilleras from this district: Antuco, Villacura, and Cuinco, which are fortified against the Indians.

The district of *Puchacay* borders east on that of Rere, west on Concepcion, south on the river Biobio, and north on the Itata. The chief towns in this district are Hualqui and Florida. The country is rugged and mountainous, but produces good wheat and wine.

*Concepcion de Chile.*—This district borders east and north on that of Puchacay, on the south it is bounded by the river Biobio, and extends on the west to the Pacific. The city of Concepcion was founded by Don Pedro de Valdivia in the year 1550, and was built in the valley of Penco; it was repeatedly destroyed by the Araucanians, and re-

built by the Spaniards on the same spot. After the earthquake, in November, 1774, which laid the city in ruins, the present city of Concepcion was built about three leagues south of the former position, on the Mocha. This town is the see of a bishop, whose jurisdiction extended from the river Maule to the southern extremity of Chili. There is a small town erected on the ruins of the former capital, called Peneo.

*Talcahuana*, in the bay of Concepcion, is situated in thirty-six degrees forty-one minutes fifty seconds south latitude, and in sixty-six degrees fifty-three minutes thirty seconds west longitude from Cadiz. This is the largest and most secure port on the coast of Chili; it is protected on the north by the island of Quiriquina. The channel between the north point of Quiriquina and the point of Loberia is the best entrance to this bay, and is called Boca Grande; the other channel, or Boca Chica, has sufficient depth of water; but a shoal, which runs out in a westwardly direction from the island, renders its approach more dangerous. The best anchorage is at the southwestern extremity of the bay, opposite the town of Talcahuana. There is good anchorage under the south side of the island of Quiriquina. There is a chain of military posts, extending from the Pacific to the Cordilleras. The first is Arauco, on the seacoast, where there is a small bay, a few leagues south of Talcahuana; San Pedro, on the south side of Biobio, opposite the town of Concepcion; Talcamavida, a small fort; Yumbel, a fortress, with a small well built town; Mesavida, a fort; San Carlos, a town defended by a fort; Santa Barbara, a fortress, situated in the passage of the Cordilleras, by which the Indians called Pehuenches pass into Chili, to traffic with the Spaniards. The river Biobio was settled as the boundary of the Araucanians at the peace of Negrete. This river falls into the sea in thirty-six degrees fifty minutes south latitude.

The territory occupied by the warlike tribes of Araucania is divided into four provinces, which they call Meli Guatamaipo; it extends from thirty-six degrees fifty minutes south latitude, to the river Totten, in thirty-nine degrees south latitude, and from the Cordilleras de los Andes to the Pacific ocean. These provinces are divided by lines running north and south. The first, Languen Maipo, or the district of sea, is Araucania proper, and is inhabited only by that warlike nation. The Spanish fortresses of Arauco, San Pedro, Colcura, Tucapel, formerly stood in this district; they were all abandoned at the conclusion of the peace, except San Pedro. The bay of Arauco is a tolerable roadstead, and the port of Caruero, at the mouth of the river Canten, affords shelter to the shipping on the coast. A chain of mountains separates the district of Languen Maipo from that of Leibun Maipo, which occupies an extensive plain, extending from the base of the mountains, in a westwardly direction, to Yupaire, Maipo. The only town, or rather fortress, which the Spaniards now possess in this district, is Santa Juana. They were driven from the ports of Millapoa, Santa Cruz de Coza; and evac-



uated the fortress of Purin, which was situated fifteen leagues from the sea, and forty leagues south of the Biobio. They were forced to abandon the city of Imperial, which they had built on the banks of the river Canten, about twelve leagues from the sea.

The district of *Yuapire Maipu* extends along the plain at the foot of the Andes. Nacimiento, Mallien, Corve, Chacayco, Quechireguas, and Guangua, were situated in this district. The Spaniards now occupy only the fortress of Nacimiento, on the south side of the Biobio, between the rivers Bergara and Tubulen. The missionary settlements on the river Malloa, and those on the Tolpague and Maguehue, have been abandoned.

The district of *Pive Outalmaipu* is situated in the Cordilleras de los Andes, and is inhabited by the Pehuenches, whose territory extends from the fortress of Santa Barbara, and occupies the valleys of the Cordilleras. This Outalmaipu formerly extended from the river Maule, and the Pehuenches occupies the passes of the Maule Longari. A few still remain about the sources of the rivers Retamp, Renegado, and Alico. They now chiefly reside in the valleys of Antuco, Vellacura, Cuinco, and about the sources of the river Totten.

The *Huilli Maipu* is the district of country south of the river Totten from the Andes to the sea. It includes the eastern valleys of the Cordilleras. The Huilliches divide this extensive Outalmaipu into four districts. The first is Totten, and extends from the south bank of that river to the river Valdivia, and from the eastern side of the Andes to the sea. The second district stretches along the coast from the river Valdivia to the archipelago of Chiloe. The inhabitants are called the tribe of Cuncos. The third district occupies the plains from the Cordilleras to the province of the Cuncos, and extends north and south from the river Valdivia to the river Sin Fondo, in forty-four degrees south latitude. The inhabitants of this district are called Outa Huilliches. The last division extends south from the river Sin Fondo, as far as is known of the northern continent, and is inhabited by Huayguenes. The Spanish authorities represent this country as thinly inhabited by a wandering, wretched, and barbarous people.

The town of *Villarica*, on the Totten, has been abandoned by the Spaniards; and the fort of San José of Mariguina was destroyed by the Indians.

The fort of *Cruseo*, on the river of the same name, is still occupied by the Spaniards.

There are three missionary settlements; one at Totten; Baxo, called San Francisco del Solano; one at Niebla; and one called San Antonio de Guanabue, on the south bank of the river Callacalla, or, as it is called by the Spaniards, the river Valdivia. There is a missionary settlement in the province of the Cuncos, and another twenty leagues to the east of the city of Valdivia, called Nuestra Señora de Pilar.

There are several lakes in these districts at the foot of the Andes. The river Valdivia takes its rise from the lake of Guanegue; Rio Bueno from the lake of Ranco. At the head of the lake which

gives rise to the river Chico, there are warm sulphurous springs. Expeditions have been sent from Valdivia to explore the lakes of Puyegue, and Llayguihue, and to discover the remaining inhabitants of Villarica and Osorno, who are reported to have taken refuge near these lakes after the destruction of their towns. These expeditions failed in their object. The last party ascended the volcano of Ribahanco, but gave no particular account of that mountain.

*Mehuín* is a roadstead, situated in thirty-nine degrees twenty-six minutes south latitude, and sixty-seven degrees seven minutes thirty seconds longitude west of Cadiz. It is only frequented by small vessels, or by ships driven to leeward of Valdivia by the south wind. It is formed by the island of Silla and the point of Sembrados.

The island of *La Mocha* is separated from the continent by a channel six leagues wide. The centre of the island is in thirty-eight degrees twenty-two minutes twenty-five seconds south latitude, and sixty-seven degrees forty-five minutes thirty seconds longitude west of Cadiz.

There are two anchorages on the coast of *La Mocha*; one near the southeast point, called the Anogadira, in six or seven fathoms; here there is a good landing; the other is near English creek, in thirteen fathoms water. This island affords an abundant supply of wood and water, and is well stocked with goats and horses.

The island of *Santa Maria* is separated from the continent by a channel 4,391 toises wide. The centre of the island lies in thirty-seven degrees three minutes forty-one seconds south latitude, and sixty-seven degrees twenty-two minutes longitude west of Cadiz. There is a harbor on the north side of the island, and one on the south. The latter is the most secure, and possesses the advantage of a safe landing at the Punta de Aguada, where supplies may be obtained of water, wood, apples, quinces, celery, and sorrel.

The archipelago of *Chiloe*, with some inconsiderable settlements on the opposite shore, constitutes the province of Chiloe, which is attached to the viceroyalty of Lima. The Chilotes, as the inhabitants of this province are called, are of a diminutive stature; and, as far as my observations extended, the cold, bleak climate of the southern hemisphere has the same effect on the growth of animals and plants as that of the north. The inhabitants subsist principally by fishing; they navigate these stormy seas in piraguas, boats of ten and fifteen tons, made of plank, bound together with twisted fibres, and the seams pitched over. The robal abounds in the bays and harbors; it is salted and sent to Lima. They manufacture excellent camlets, coarse woollen stuffs and ponchos, which they dye with a great variety of colors. Their principal trade is in boards and lumber, which they send to Lima, and receive fossil salt, brandy, herb of Paraguay, sugar, and dry goods.

The city of *Valdivia* is situated on the south bank of the river Valdivia, about five leagues from the sea. It was founded by Don Pedro de Valdivia in 1552, and was destroyed by the Araucanians in 1599. In the year 1639 the Dutch landed

at this place, and attempted to rebuild the town; but the decided hostility of the natives forced them to abandon their purpose. The ensuing year a Spanish squadron, which had been fitted out to expel the Dutch, entered the bay of Valdivia. The town was rebuilt and fortified. It is now a frontier fortress, and is the presidio for criminals, who are transported here from Peru and Chili. It was attached to the presidency of Chili, from whence it received an annual supply of money, clothing, and provisions. An annual ship supplied the inhabitants with sugar, the herb of Paraguay, dry goods, and brandy, and carried off boards and lumber. The settlements are extended to Rio Bueno, where they pasture some cattle and raise vegetables.

The port of Valdivia is situated in thirty-nine degrees forty-nine minutes seventeen seconds south latitude, and sixty-seven degrees nineteen minutes fifteen seconds longitude west of Cadiz. The entrance is well fortified. The bay of Corral is the best anchoring ground.

Osorno was founded by Don Garcia, while governor of Valdivia. It is situated in the Huilli Maipu, in forty-one degrees south latitude, six leagues south of Rio Bueno, and on the banks of the river Canogas. This town was destroyed by the Indians; and the towns of Carel Maipu and Calbuco were founded by the fugitives. Osorno was rebuilt in 1796 by the Captain General O'Higgins, and is now a flourishing settlement. The town of San José de Alcudia was built at the same time, in the plains of Molino, on the north bank of Rio Bueno, about ten leagues from Osorno.

A road was opened from Valdivia to the archipelago of Chiloe, by the garrison of Valdivia and a party of Indians. They began at Raygue, and in a little more than three months completed the road to the fort of Maulin, the last Spanish settlement on the continent to the south, and situated opposite the north point of the island of Chiloe. The island of Caylin, in forty-three degrees thirty-four minutes south latitude, opposite the lofty peak of the Corcobado, is inhabited by some few Spanish descendants.

The river of *La Plata*, called by the natives Parana Quasu, (Great Parana,) was discovered by the Spaniards, under the conduct of Don Juan Dias de Solis, in the year 1516.\*

\* The Portuguese claim the northern shore of the river La Plata by right of discovery, and the Spanish authors are so very contradictory in their dates of the first voyage to that river as to make it doubtful to an impartial reader. They generally agree that the gold and silver which Sebastian Cabot procured from the Guanani Indians, in the year 1526, had been taken from some Portuguese adventurers who were returning from Peru; and that in 1535 Pedro de Mendoza found a party of Portuguese on the northern shore of the La Plata. The Portuguese accounts attribute the first discovery and settlement of that territory to their countrymen, Alexis and Diego Gavica. In the year 1680 the Portuguese formed a settlement on the northern shore of the river and erected the fort of Colonia del Sacramento directly opposite Buenos Ayres; the

The earliest establishment appears to have been made on its shores in 1526, by Sebastian Cabot, a Venetian navigator in the service of Spain; and the town of Buenos Ayres to have been first settled in 1535, by Don Pedro de Mendoza. After being twice destroyed by the Indians, it was rebuilt in 1580, and has flourished since that period. Buenos Ayres was at first annexed to the government of Paraguay, and afterwards made dependent upon the viceroyalty of Lima and the audiencia of Charcas. In the year 1776, the provinces of Buenos Ayres, Paraguay, and Cuyo, were united under the government of a viceroy. In 1778 the provinces of Upper Peru were added to the viceroyalty of Buenos Ayres. It extended on the north to the frontiers of the Brazils, and to the viceroyalty of Lima, where it bounded on the provinces of Carabaya, Cuzco, and Chucuito, and westwardly on the river Desaguadero and the province of Arica. It included the district of Atacama, which extends along the Pacific ocean from Arica to the desert of Atacama. On the west it was separated from Chili by the Cordilleras de los Andes, and extended south to the straits of Magellen.

By the decree of 1778 this viceroyalty was divided into eight intendencias; each intendencia was subdivided into partidos or districts.

The intendancy of *Buenos Ayres* includes the town of Santa Fe, situated between the river Salado and the Parana, in thirty-one degrees forty-six minutes south latitude. Corrientes, situated on the east side of the Parana, near its junction with the Paraguay, in twenty-seven degrees thirty-three minutes south latitude. The military government of Montevideo, situated on the northeast shore of the river La Plata, in thirty-four degrees fifty-four minutes forty-eight seconds south latitude, and in fifty-six degrees nine minutes fifteen seconds longitude west of Greenwich. The territory of the eastern shore of Uruguay, or Banda Oriental, together with the thirty towns of Guanani missions on the river Uruguay, which formerly belonged to the Jesuits, and the territory of the Rio Negro, in Patagonia, which is occupied by a chain of military posts extending from Luxan to the port of Rio Negro. Buenos Ayres, the capital, is situated in thirty-four degrees twenty-five minutes twenty-six seconds south latitude, and in fifty-eight degrees thirty-

same year they were driven out of it by the Spaniards, but it was restored by the provisional treaty of 1681. In 1705 Colonia was again wrested from the Portuguese, and was restored to them by the peace of Utrecht, in 1715: whereas Montevideo and Maldonado were not settled by the Spaniards until the year 1724. Colonia was besieged and taken by the Spaniards in 1762, but was again given up by the Treaty of Paris of 1763. The Portuguese were not entirely driven from their possessions on the northern shore of the river until the year 1777, and the right of territory has remained a subject of dispute ever since. Commissioners have been appointed, and have frequently met, but have not been able to settle the claims of their respective Courts. To the long residence of one of these unsuccessful commissioners, Azara, we owe an excellent work on the zoology of these countries.



one minutes thirteen seconds west longitude. It is the see of a bishop, and includes thirty-four curacies.

The principal articles of export from Buenos Ayres are hides, tallow, horns, skins, bark, vacuna wool, copper, and the precious metals. Buenos Ayres is supplied with salt, from the salt lakes in Patagonia, by annual caravans.

The intendency of *Paraguay* extends on the north and eastern bank of the river Paraguay to the river Corrientes, which falls into the Paraguay, and to the mouth of the Jaura, in sixteen degrees thirty-four minutes twenty-two seconds south latitude; on the east to the Brazils; on the south to the river Parana, from its confluence with the Paraguay to the river Guasupiraro, which falls into it a little west of the town of Candelaria; thence the line runs to the mountains of Santa Ana, including the towns of Candelaria, Santa Ana, Loreto, San Ignacio Mini, and Corpus. This intendency embraces the districts of Candelaria, Santiago, Villarica, Curuguati, and Villareal. Paraguay is the see of a bishop, and includes twelve vicarages. The exports from this intendency are sugar, cotton, tobacco, and the herb of Paraguay, commonly called matte, from the calabash in which it is served. The two last are the principal articles.

The capital town, Assumption, is situated in twenty-five degrees sixteen minutes forty-six seconds south latitude.

The intendency of *Cordova* extends to the district of Tucuman on the north, west to the intendency of Buenos Ayres, and on the east is bounded by Paraguay. It includes the districts of Mendoza, San Juan, San Luis, and Rioja.

The town of Cordova is the capital, and is situated in thirty-one degrees fifteen minutes south latitude. Mendoza is situated on a river of the same name, at the foot of the Cordilleras, in thirty-three degrees thirty-one minutes seventeen seconds south latitude. The principal articles exported from this intendency are grain, fruits, wine, and brandy. The bishopric of Cordova includes eight vicarages.

The intendency of *Salta* extends on the north to the district of Tarija in Potosi, on the south to Cordova, west to the Cordilleras, and east to the Grand Chaco. The districts of this intendency are Tucuman, Santiago del Estero, Catamarca, Jujuy, Nueva-Ovan, and Puna. Salta, the capital, is situated in twenty-four degrees thirty minutes south latitude.

San Miguel, the chief town of the district of Tucuman, is situated in twenty-seven degrees ten minutes south. The principal trade of this intendency consists of horses and mules.

The intendency of *Potosi* extends on the north to the districts of Yamparaes and Tomina, in Charcas; south to the district of Jujuy, in Salta; it reaches west to the Pacific ocean, and is bounded on the east by Cochabamba. The districts of this intendency are Porco, Chayanta, Chicas, Tarija, Lipes, and Atacama, which last is separated from the province of Arica by the river Loa, and from Chili by the desert of Atacama. The pre-

cious metals constitute the principal exports from this intendency.

Potosi, the capital town, is situated on the north side of the celebrated mountain of that name, in nineteen degrees fifty minutes south latitude, and sixty-six degrees sixteen minutes west longitude. From the year 1736 to 1800, the tenths from the produce of the mines in Potosi amounted to \$18,618,917.

The intendency of *Charcas*, sometimes called the presidency of Charcas, from being the seat of a royal audiencia, or supreme court, extends north to the intendency of La Paz, south to Potosi, west to the Desaguadero, and east to the intendency of Cochabamba. This intendency comprehends the districts of Yamparaes, Tomina, Pelaya, and Oruro. Charcas is an archbishopric, and contains fourteen vicarages.

The capital, Chuquisaca, called also La Plata, is situated in 19 degrees 25 minutes. This intendency abounds in minerals, salt, sulphur, &c.

The intendency of *La Paz* extends north to the provinces of Carabaya and Cuzco, in the Viceroyalty of Lima, south to Charcas, west to the provinces of Chucuito and Arica, and on the east is bounded by the government of Moxos and the intendency of Cochabamba. The districts of this intendency are Sicarica, Pacages, Omasuyos, (to which is annexed the island of Titicaca, in the lake of Chucuito,) Laricaxa, Chulumani, and Apolabamba. The bishopric of La Paz comprehends thirteen vicarages.

La Paz, the capital of the intendency, is situated in 16 degrees 50 minutes south latitude. The chief produce is the Peruvian bark and an herb called cocoa, which the Indians and creoles chew, and are very fond of. It is an article of export to the other provinces.

The intendency of *Cochabamba* extends on the north to the government of Moxos, south it is bounded by the intendancies of Charcas and Potosi, west by Charcas and La Paz, and east by the river Paripiti, which separates it from the government of Chiquitos. The districts of this intendency are Santa Cruz de la Sierra, Valle Grande, Mezque, Elisa, Arque, Tapacari, Hayopaya, and Sacaba. The bishopric of Santa Cruz de la Sierra comprehends three vicarages and four curacies. Cochabamba is the most fertile of all the intendancies, and is called the granary of Upper Peru. Orepesa, the capital, is situated in 17 degrees 2 minutes south latitude.

The military government of Chiquitos extends north to the mountains of Tapacures, which divide it from Moxos; south to the mountains of Zamucos; west to the district of Santa Cruz de la Sierra; and is bounded on the east by the lake Xarayes. This government is inhabited principally by Indians. There are some missionary settlements among them.

The military government of *Moxos* is very extensive. Separated from Cochabamba by the Cordilleras, it extends south to Chiquitos, and east to the frontiers of the Brazils. It is divided into three districts—Moxos, Baures, and Pampas; and is inhabited by the tribes of Raches, Sirionos,

Solostros, and Juracares, among whom are some missionary settlements.

There are several small harbors and roadsteads in the river of La Plata. Maldonado, situated on the north shore, is not far from the capes, and is said to be the best part of the river. The next, the port of Montevideo, is exposed to the southwest winds, which sweep over the plains of Buenos Ayres, and blow with incredible violence.

There are several inconsiderable roadsteads between Montevideo and the Ensenada de Barragan, the first good harbor on the southwestern shore of the river. This port is easy of access, and is protected on every side. The only objection to ships lying there, in preference to the insecure roadstead opposite the town of Buenos Ayres, is the low swampy land which surrounds Barragan, and renders the roads always bad, and in the Winter almost impassable. There was a deduction of four and a half per cent. from the duties on goods landed at this port, in order to defray the expense of transportation to Buenos Ayres.

There is a small stream about two miles below Buenos Ayres which is navigable to Baraceas. From hence lighters convey the cargoes to the outer roads.

The entrance of this creek is obstructed by a bar, and, during the prevalence of westerly winds, there is not water enough for the lighters to pass. This circumstance often occasions great detention in loading.

The tides extend a great distance up the river, but their duration depends upon the winds. Indeed, the currents are so very uncertain, and run with such rapidity, that it is advisable to heave the log with a lead attached to the line.

The city of *Buenos Ayres* is built on the south shore of the river, and extends along the bank nearly three miles. The streets intersect each other at right angles, dividing the town into solid squares of one hundred and fifty yards each. The houses are generally two stories high, and are built with terrace roofs. The city is defended by a fort, and is ornamented by convents, nunneries, churches, and the buildings formerly appropriated to the royal monopolies. The population of Buenos Ayres and of the adjacent country was estimated at about 70,000 souls.

The climate is healthy and temperate. The northerly winds, when moderate, last for several days, and have the effect of the sirocco on the feelings. When violent, this wind seldom lasts longer than twenty-four hours, shifting to the south and southeast, with rain and thunder. These storms are invariably terminated by a pampero, or southwest wind. The west and west-northwest winds blow with great violence, but are not frequent. During the prevalence of the southwesterly winds the atmosphere is remarkably dry, and the electric fluid acquires very great activity. On passing the low ridge which skirts the river, the eye extends over an immense plain, spotted with a few settlements and enclosures of the cylindrical opuntia, which attains a great height in this climate. Orchards of peach

trees are cultivated to supply the town with fuel. The trees are planted very close to each other, and are kept low, so as to resist the force of the winds, which tear up larger trees.

The uncultivated plains in the vicinity of the city are overgrown with the wild artichoke. This wood grows with such luxuriance that, in the great scarcity of fuel, it is used to heat stoves and ovens.

These plains or pampas extend one hundred and sixty leagues in a west course from Buenos Ayres. They resemble very much the steppes of the south of Russia. Both exhibit the same boundless, unbroken expanse, the same fertility of soil during the rainy season, and dry, parched appearance in the heat of Summer; the total absence of trees; the streams few, flowing with a sluggish current, and brackish to the taste; the lakes and ponds of both incrustated with salt; this mineral efflorescence on the surface of the soil in some places giving it the appearance of being covered by a hoar frost. The character of the inhabitants adds to the resemblance. The Querandis, or Indians of the pampas, are Nomades, living in temporary huts and tents on the borders of the rivers: and, when they have exhausted the pasture on one spot, roving with their herds and flocks to where it is abundant. The small deer of the pampas resembles the antelope of the steppes, and the spur-winged teal is common to both. On these plains animal putrefaction scarcely goes on at all. On the borders of the rivers, and in low, wet places, the entrails of animals putrefy, but on the high land animal substances will dry up. This is the case in some parts of Spain and Portugal; but at Buenos Ayres, where fuel is so scarce, this drying quality in the air enables the inhabitants to burn in their furnaces and kilns the flesh and bones of animals. Sheep were formerly dried, stacked, and sold at two dollars and a half the hundred for these purposes.

From the mildness of the climate, and the abundant pasture afforded by the extensive plains of Buenos Ayres, the cattle originally brought from Spain have become so numerous that they furnish the chief support of the inhabitants; this is, perhaps, the cause of the miserable state of the interior of this country. It is not uncommon to see a proprietor of a league square of land owning several thousand heads of cattle, and sheep, and horses, living in a miserable hut, and having the bare necessities of life. His house is covered with hides; his furniture is made of the same materials. His yard is enclosed by a few stakes, bound together with thongs; and he may be seen, with his herdsmen, seated by a fire, cutting off slices of beef from a spit stuck in the ground, and eating it without bread or salt.

In the vicinity of Buenos Ayres there are some very productive farms; and wheat and corn are raised in great abundance, by simply scratching the ground with a wooden plough, and harrowing in the grain, by drawing over it a hide filled with earth. Even in the centre of the plains there are some spots cultivated in grain, but



## Condition of South America.

the distance from the market prevents their raising more than sufficient for their own consumption. The eastern shore of the river Uruguay, including the shore of La Plata, abounds with cattle, and most of the inhabitants are shepherds; where the land is cultivated it has been found very productive, and this territory was the most valuable of the intendancy of Buenos Ayres. Paraguay is an agricultural province, and the domestic manufactures supply all the wants of the inhabitants. The effects of the government of the Jesuits are still felt in this country. The people generally receive the rudiments of education, and are very subordinate to their leaders. They were organized into regiments of infantry, and it is said that Paraguay can bring into the field upwards of 40,000 men. Many of the provinces of Upper Peru possess mines, and the population is divided between the wealthy proprietors, the speculators, and those who work in the mines; and here to be found all the corruption and misery which are inseparable from this species of gambling.

Cochabamba and some other provinces are agricultural, and the inhabitants are active and intelligent. During the time Upper Peru was in the power of the royalists, the spirit of the revolution has been kept up in these provinces by the guerrillas of Cochabamba.

In the city of Buenos Ayres property is equally divided; there are no very large proprietors, no entailed estates, and but little property in mortmain; the inhabitants are generally well informed, and their intercourse with foreigners has given them habits of industry.

There is very little mixture of blood in Buenos Ayres, and there are only three castes—the creoles, Indians, and negroes. Notwithstanding this port was for some time the entrepot of the African trade, very few slaves remained at Buenos Ayres, and the Government has been able to emancipate them without any serious injury to society.

Previous to the late revolution the means of education were withheld from the creoles. It is true there were colleges at Cordova, Chuquisaca, and Santiago de Chili, where the student was taught Latin, law,\* and theology; but they were prohibited from reading any book that could enlarge their views, or give them an idea of their civil or political rights. Every work that bore the stamp of genius was prohibited by the inquisition.

It was considered sinful to read any book marked with the censure of the church, and was deemed an act of piety to denounce any one who was known to possess such a work.

When this restraint was removed, they read eagerly the theories of speculative politicians, and the controversies and attacks on the Christian

\* The practice of the law in these countries was not, as in the United States, an open appeal to impartial justice, but the art of multiplying acts, and procrastinating a suit, until the favor of the judge was secured by bribery or influence.

religion, published at the commencement of the French revolution; they saw the monstrous absurdity of the doctrines which had been taught them, and they too often stopped there, and became sceptics in religion, and in politics wild and theoretical; their legislators were ignorant of the principles of political economy, and the common maxims of the science of legislation.

In the first Government, the executive and legislative powers were vested in the deputies of Buenos Ayres; next, in an assembly of all the deputies from the chief towns. This assembly transferred their executive powers to a junta of three, and styled themselves the Sovereign Assembly, declaring the executive and magistrates subordinate to them; the executive refused to acknowledge their sovereignty, and published an estatuto, or provisional constitution. By this constitution, one member of the executive resigned his office at the expiration of every six months, and no one could act as president for a longer period. The new members were to be elected by an assembly composed of the municipality of the representatives of the towns, and of a considerable number of citizens elected by the people of the capital, according to the manner to be hereafter prescribed by this Government. The Government formed a high court of appeal; they decreed the liberty of the press, and the security of individuals from illegal arrest. These decrees have been renewed by each successive Government; but the people of these countries never have enjoyed the freedom of the press or individual security. This junta took the title of the Superior Provisional Government of the United Provinces of the river La Plata, in the name of Ferdinand VII. Pamphlet No. 1 contains the constitution and the decrees. Shortly after this estatuto was published, the assembly was dissolved; after dissolving another assembly, this Government was abolished, and a Supreme Director chosen. The Congress afterwards assembled and confirmed this form of government; and the same men who voted to deprive the president of the first Junta of all distinctions, and whose fears were excited by his having an escort of twenty-five dragoons, have vested the Supreme Director with regal power, and have given him a guard of three hundred select cavalry.

In all these changes the people have borne but little part. In a capital containing upwards of 50,000 inhabitants, not more than five or six hundred have ever voted; and the town meetings which generally decided the change of rulers, and often the form of government, were rarely composed of more than two or three hundred, sometimes of less than one hundred persons. Since the commencement of the revolution, there has been a constant struggle for power between the capital and the provinces.

Buenos Ayres has hitherto maintained the ascendancy, from the superior intelligence of the inhabitants, and from having within itself the means of carrying on the war. The duties on imports and exports furnish the principal resources of the Government, and the leaders of the revo-

## Condition of South America.

lution are for the most part citizens of Buenos Ayres. The provinces are governed by a commander appointed by the executive of Buenos Ayres. Paraguay first revolted from this dependence on the capital, and, from the commencement of the revolution to the present day, has been governed by its own chiefs; they are not at war with Buenos Ayres, but have no connexion nor hold any communication with that Government. They too have tried a great many political experiments, and their present form of government is copied from the ancient Roman; it consists of a senate and two consuls. Francia, the principal leader in the revolution, is said to govern that country despotically. As in Buenos Ayres, the constitutional restrictions have been found a feeble check to the arbitrary exercise of military power.

The inhabitants of the eastern shore of La Plata have refused to submit to the capital, and have successfully opposed the arms and negotiations of Buenos Ayres; their character is represented as turbulent and daring, but they are warlike and enthusiastically attached to their leader, Artigas, who contends for independence, both from the Government of Spain and from that of Buenos Ayres. No Government has ever been organized on the territory of the eastern shore, owing to the dissensions between the capital and the provinces. The people of Peru have not taken a very active part in the revolution, and many creoles were to be found in the royal armies; the influence of the clergy contributed for some time to this state of things. By the Spanish laws, the high offices in the convent were divided alternately between the European and creole monks. The church being the only road to preferment open to the creoles, they crowded into it; but this alternative balanced their influence. The European monks sent from Spain were chosen from amongst the most zealous and intelligent, and from the pulpit and in the confessional chair successfully inculcated the doctrines of divine right and of unqualified submission to the King, and, above all, of implicit belief in the infallibility of the clergy.

The Government of Buenos Ayres abolished the alternative, and banished some of the most intolerant of the European monks and clergy. The creoles who have taken orders are enthusiastic in favor of the revolution, and have been highly useful to that cause in the interior provinces. The influence of the clergy in the city of Buenos Ayres appears to be at an end. The condition of the people of Chili is different from that of any other of the Spanish colonies; the country is for the most part, in the hands of large proprietors, who let out their lands to tenants upon the conditions of personal service, and of the payment of a moderate rent in produce. As the landlord may, at will, drive the tenant from his farm, or augment the rent, according to the increased value, the farmers are deterred from improving their houses or land, and content themselves with raising what is necessary to pay the landlord and to subsist their families. Most of

the large estates are grazing farms, and the personal services of the tenants consist principally in tending the cattle. They are expected, however, at all times to be ready to obey the orders of their landlord. Many of these estates are entailed, and all of them encumbered with some legacy to the church. More than half the property in Chili is in mortmain. With few exceptions, the clergy have been opposed to the revolutions in each of the districts. In Chili there is a regiment of militia cavalry, well mounted, and armed with lances. These regiments are under the control of the colonel, and have, in every instance, followed him to the field, and fought for the cause he espoused. Unfortunately, this country has been divided into violent and irreconcilable factions by two powerful families, the Carreras and Larrains, both equally anxious to liberate their country from the yoke of Spain, and both using every means in their power to obtain the command.

In Lima there has been no revolutionary movement. The landed estates are in the hands of large proprietors, and are cultivated by slaves. They are fearful that any attempt to change the form of government would be attended by a loss of their property; and, from the great number of blacks and mulattoes in this viceroyalty, the contest would probably terminate in the same manner as the revolution of St. Domingo.

Buenos Ayres and Chili have been virtually independent for the last eight years, and the effect upon the character and condition of the people has been highly beneficial. The human mind appears to have risen with elasticity from the weight of tyranny which had so long oppressed it, and to have improved rapidly in the arts, in knowledge, and in all the comforts and enjoyments of life. These are benefits which will not be surrendered without a desperate struggle. Their forces are numerous, well organized and disciplined, and were the provinces united, they possess the means of defending themselves against the efforts both of Spain and Portugal. Their dissensions and ambition render them, in the opinion of some, unworthy to be free; but let us recollect that the virtues which adorn society and brighten the page of history are the offspring of freedom and science, and that, when a people have been for centuries kept in subjection by ignorance and superstition, the first effort to burst their fetters will call into action the most violent of the human passions, and hurry men to commit the greatest excesses. The course of such a revolution will be too often stained by cruelties and crimes, and will almost inevitably terminate in a military despotism. From the mild and intelligent character of the creoles of South America, there is every reason to hope that, when emancipated from Spain, and relieved from these present difficulties, they will follow the bright example of the United States, and establish a government of laws.

From the year 1580, when the city of Buenos Ayres was permanently settled, until the year 1778, the history of these countries comprises



only a series of domestic vexations from the despotism of viceroys, of privations from monopolies and commercial restrictions, and of sufferings from wars foreign to their interests. In the year 1778 the Indians of the provinces of Upper Peru made an ineffectual attempt to shake off the Spanish yoke. They assembled in great force, and, under the command of Tupac Amaru, a descendant of the Incas of Peru, plundered and destroyed a great many small towns. They twice laid siege to the city of La Paz, but, being without firearms, or ignorant of the use of them, they were repulsed with great loss. After a hopeless contest of three years, they were defeated by the combined armies of Buenos Ayres and Lima. Tupac Amaru, who had been proclaimed Inca, fell into the hands of the conquerors, and, together with the principal leaders of the revolt, was put to death with the most cruel torments. This decisive action put an end to the insurrections of the Indians of Peru, and these colonies remained tranquil until the sudden invasion of the English in 1806.

Sir Home Popham, aware of the disposition of his Government to obtain a footing in the Spanish colonies, and well informed of the defenceless state of Buenos Ayres, determined to make an attack upon that city. Instead of returning direct to England from the Cape of Good Hope, he entered the river La Plata; and, to the astonishment and consternation of the inhabitants, General Beresford landed a few miles below the city of Buenos Ayres with two thousand men. The viceroy, Sombremonte, was panic struck; arms were distributed to the militia, who, ignorant of their use, ran out without order to look at the enemy, and General Beresford marched into the city, and took possession of the citadel without opposition. Don Juan Martin Pueyrredon was the only officer who, at the head of a company of hussars, harassed the enemy's march.

Sir Home Popham returned to England with the fleet, and General Beresford did everything that could be expected from a brave and generous commander to reconcile the inhabitants, and to secure his conquest. These officers had calculated only the facility of surprising the town, and had overlooked the difficulty of keeping possession of an enemy's country with a small force, at so great a distance from their resources. The inhabitants were irreconcilably opposed to the British. The Chevalier de Liniers, a French emigrant in the service of Spain, passed over to the eastern shore of the river and excited the inhabitants to arms; and the viceroy, who had fled to Montevideo, assembled a small force, the command of which was given to Liniers; he crossed the river, and was joined by all the inhabitants of Buenos Ayres who could escape the vigilance of the British sentinels.

The English commander being summoned to surrender the town, signified his determination to defend himself to the last extremity. General Liniers, at the head of his regular forces, immediately commenced the attack, and soon drove

the garrison into the fort, where they were forced to capitulate.

The British general officers were sent on their parole to Luxan, a small town twelve leagues from Buenos Ayres, and the rest of the prisoners were marched into the interior.

The emancipation of the Spanish colonies appears to have been a favorite project with Mr. Pitt. The ex-Jesuit Don Juan Pablo Viscardi Gusman, a native of Arequipa, and an enthusiast in favor of the liberty of America, had frequent conferences with that Minister, and, in his answers to a series of inquiries presented to him, gave a favorable view of the facility with which a revolution might be effected in that country. He afterwards published in London an eloquent appeal to his countrymen, exhorting them to shake off the yoke of Spain. During the administration of Mr. Adams some proposals on this subject are said to have been made to our Government by the British ministry, which were not acceded to. In 1797 a disposition to emancipate their country was manifested by the inhabitants of the Caraccas, and was encouraged by General Picton's proclamation, issued from the island of Trinidad.

In 1801, Mr. Pitt's eagerness to open this market to the trade of Great Britain induced him to aid the untimely and ill-planned expedition of Miranda; and it appeared at the trial of Sir Home Popham that the administration had countenanced the attack upon Buenos Ayres.

From the little opposition experienced by the British troops on this expedition, and from the facility with which Buenos Ayres had been occupied, the plan of emancipating these colonies appears to have been relinquished, and the conquest of all the Spanish possessions in America determined upon by the British Cabinet. This change of policy may be inferred from comparing the proclamation of Sir Thomas Picton, published at Trinidad by order of Mr. Dundas, Minister of His Britannic Majesty for Foreign Affairs, dated 26th of June, 1797; and the instructions given in 1807 to Generals Whitlocke and Crawford. The former encourages the inhabitants "to resist the oppressive authority of their Government;" and declares that "they may be certain, whenever they are in that disposition, to receive all the succors to be expected from His Britannic Majesty, be it with forces or with arms and ammunition, to any extent; with the assurance that the views of His Britannic Majesty go no further than to secure to them their independence, without pretending to any sovereignty over their country, nor even to interfere in the privileges of the people, nor in their political, civil, or religious rights."

The instructions of the right honorable Mr. Windham, Secretary at War, to Generals Whitlocke and Crawford, were in a different spirit. The first was to proceed with the forces under his command to the river of Plate, and to take possession of Buenos Ayres in the name and behalf of His Britannic Majesty. He is ordered not to introduce into the Government any alter-

ation, except in the appointment of individuals, whose change should be found necessary; nor to give any assurance that they shall not be given up to Spain at the conclusion of the present war. General Crawford was to proceed to the river La Plata, subject to the orders of General Whitlocke. Thence, as it was supposed that his forces would not be required after the reduction of Buenos Ayres, he was directed to pass round Cape Horn, and take possession of Valparaiso. He is ordered to discourage all hopes of any other change in the condition of these countries than that of transferring their dominion to the Crown of Great Britain.

The generals on the Atlantic and Pacific are instructed to establish a line of military posts across the continent. Their operations are limited strictly to these points, whatever prospects of easy conquest may be held out from the defenceless state of Peru, as an untimely movement might defeat the ulterior operations intended against those countries. These instructions are to be found among the official documents annexed to the report of General Whitlocke's trial, published in 1808.

The following extracts from General Whitlocke's defence will show the effect of this policy upon the inhabitants of Buenos Ayres, and will give the opinion of the commanders of that expedition with respect to the means of defence:

"It was known that the people were divided into factions, and that various causes had rendered a large proportion of the inhabitants ripe for revolt; and great numbers were anxiously looking to a separation from their mother country as the only means of availing themselves of the natural advantages of their local situation. It was, therefore, naturally concluded that people, who feel themselves oppressed rather than protected, as excluded, by restrictions founded upon a narrow and selfish policy, from many commercial advantages, would gladly change their Government; and if it were once established in a military post in the country, the above causes would make it easy to open an extensive intercourse with the inhabitants, and new channels for trade and commerce.

"It was supposed that the character of this country\* for liberality and good conduct towards those who came under our dominion insured us the good wishes of the greater part, and the co-operation of a large proportion, at least, of the community. The public hopes and expectations were raised to the highest pitch, and no suspicion existed that it was possible for the greatest part of the population of South America to entertain any other than a just feeling of attachment to our Government; still less that it was possible that such a rooted antipathy could exist against us as to justify the assertion (the truth of which has been proved to demonstration) that we had not, when I arrived in South America, among the inhabitants, one single friend in the whole country. Whether the opinion of the illustrious

\* Great Britain.

statesman,\* now no more, who had so frequently turned his thoughts towards South America, had led him to contemplate the propriety of establishing military posts there, or the co-operating only with those who would gladly have followed the example of North America, and availed themselves of our assistance in establishing their independence, I have no means of knowing; but experience has shown that any other course of proceeding than that last mentioned, even if most successful, and almost in proportion to success, must have had the effect of placing us at a greater distance than ever from our ultimate objects, those of friendly intercourse and trade with the country.

"It is supposed in my instructions, that, after effecting my first object, I might safely part with a proportion of the force under my command, and retain only about eight thousand, which, it was supposed, must, in any case, in addition to such troops as I might raise in the country, be amply sufficient to conquer and keep possession of the country; for such had been the misrepresentations to Government upon this subject, that it was supposed that a considerable force of this description might with safety be established. I was directed, as the court will have observed, to use precaution as to the raising of this local force, and particularly to take care that one-third of each rank of officers should be British, and to select the description and classes out of which it was to be framed; but, subject to these precautions, it was conceived, and so stated in my instructions, that much aid might be derived from this source towards securing His Majesty's possessions in that quarter, and avoiding, at the same time, the necessity of too large a demand on the regular forces of this country, (I use the very words of the instructions.) Such, as the court will have seen, was the impression in this country on my appointment to the command.

"What was the actual situation of the country on my arrival?

"I naturally resorted to the very able and experienced officer who commanded at Montevideo, and who had diligently employed himself in acquiring every possible information upon this subject. I found that, in the course of his operations against Montevideo, and after its capture, he had every reason to believe that the people were, without exception, inimical to us; that, previous to the surrender of Montevideo, he could place no confidence in any information he received; and that, after its capture, a sullen silence pervaded every rank. But he also found reason to believe that, however inimical they were to us, they were still more so to their present Government; for, upon reports arriving at Montevideo, which afterwards proved false, of the abolition of the court of audiencia, the setting aside of the King's authority, and not hoisting the Spanish colors, those who had appeared hostile and inveterate now pressed him to advance a corps to Buenos Ayres, and assured him that, if he would

\* Mr. Pitt.



acknowledge their independence, and promise them the protection of the English Government, the place would submit.

"The party in power were mostly all natives of Spain, in the principal offices of church and state, and devoted to the Spanish Government. The second party consisted of natives of the country, with some Spaniards settled in it. The disposition of the mother country had made them most anxious to shake off the Spanish yoke; and though, from their ignorance, their want of morals, and the barbarity of their dispositions, they were totally unfit to govern themselves, they aimed at following the steps of the North Americans, and erecting an independent State. If we would promise them independence, they would instantly revolt against the Government, and join us with the great mass of the inhabitants. The next consideration was our giving up the footing we had in South America. On this subject many important considerations presented themselves. First, the situation of the country and the nature of our instructions. It was supposed, from the information received by Government, that the country would be conquered and kept in subjection by eight thousand troops, which was considered as a large force; but the information received by Government upon this subject must have been founded in ignorance of the true state of the country. I found, on my arrival, that the resistance we should have to contend with far exceeded every calculation; not a single friend had we in the country; on the contrary, every inhabitant was determined to exert his individual strength. Upon this subject I rely upon the experience of Sir Samuel Auchmuty, who stated that double the number of troops I have mentioned would be required to conquer and keep possession of the country." On the return of the Viceroy Sobremonte from Montevideo, the people refused to receive him, and wished to proclaim Liniers. That officer appeased the tumult, and reinstated Sobremonte in his command. The Cabildo, however, deposed him as soon as they heard of the approach of another British expedition, and gave the command to Liniers. They then despatched a deputation to Spain, in consequence of which Sobremonte was recalled, and Don Santiago Liniers appointed Viceroy of La Plata.

The advanced guard of the second expedition, under the command of Sir Samuel Auchmuty, landed on the eastern shore of the river La Plata, and laid siege to Montevideo. Soon after batteries were opened, a breach was made, and the place taken by assault. The main body, under General Whitlocke, arrived in the river Plate on the 9th of May, 1807, and, after remaining at Montevideo until the arrival of General Crawford's division, the British army proceeded up to Buenos Ayres; General Whitlocke, following the example of General Beresford, landed his troops below the town, and experienced incredible difficulty in the transportation of his artillery over the low swampy lands which skirt the borders of the river.

The country people were decidedly hostile, and none could be prevailed upon to serve as guides, or to procure cattle for the army. The columns mistook the road, and the men were almost famished when they arrived before the town. The want of proper accommodations for his troops, and the dread of the rainy season, induced General Whitlocke to order an immediate attack. During the march of the British troops from Ensenada, the inhabitants of Buenos Ayres recovered from their first panic; and dispositions were made to defend the town by cutting ditches across the principal streets, placing the militia on the flat roofs, and securing the entrance of the houses.

Sir Samuel Auchmuty, who commanded one column of attack, entered the upper part of the town, and, after a sanguinary conflict, drove the Spaniards from the square, and took possession of the Plaza de Toros, a large circular building, where the bull fights are held. This position commands the whole town. General Crawford led the column which entered the lower part of the town. He met with little opposition until he had advanced within a few hundred yards of the fort; suddenly a tremendous fire was opened upon the column from the windows. Bombs and grenades were showered down upon the ranks from the roofs of the houses; without petards, scaling ladders, or even axes, the troops in vain endeavored to break open the doors; and General Crawford, after losing half his force, without being able to make any effectual resistance, retreated into a large church, where he defended himself for some time. The church was exposed to the fire of the fort, and he was at length compelled to surrender at discretion. This decided the fate of the expedition.

General Whitlocke was informed of the capture of General Crawford's columns, and it was intimated to him that, if the attack continued, it would be impossible to protect the prisoners from the rage of the people. Finding that the object of the Government could not be accomplished, he entered into a treaty with Liniers, by which he agreed to evacuate Montevideo, and the territory of the river La Plata, provided he was permitted to re-embark his troops. These conditions were immediately conceded, and the British forces abandoned the shores of La Plata.

The expedition under General Whitlocke, assisted by the disposition of the people, might have secured the emancipation of these colonies, but was not adequate to transfer their dominion to the Crown of Great Britain.

The revolution in Spain changed the destination of a still more formidable expedition fitted out by Great Britain, and intended for the final conquest of these colonies. Monsieur de Chasne, an emissary of Napoleon, arrived in Buenos Ayres in 1808. The viceroy, Liniers, laid his despatches before the audiencia and the Cabildo, and Monsieur de Chasne was sent off. He afterwards fell into the hands of General Elio; and, after experiencing the most cruel treatment, was sent back to Buenos

Ayres, from whence he was conveyed as a prisoner to Cadiz.

The viceroy, Liniers, issued, about this time, a proclamation setting forth the state of the Peninsula, and exhorting the people to remain tranquil, and to follow the fortune of the mother country, whatever might be the issue of the present contest. The same language was held by the regency of Spain. In an address to the Americans, they say, it is sufficient for you to be Spaniards, unless, whatever be the event of fortune, you also belong to Spain.

General Elio, who had been appointed military governor of Montevideo, had secretly excited the inhabitants of the eastern shore to revolt against the authority of the viceroy. He now accused Liniers of treason, refused to obey his orders, and formed a Junta in Montevideo, on the model of the Provincial Government in Spain. The arrival of Goyeneche, who left Madrid as the emissary of Murat, and afterwards accepted a commission from the Junta of Seville to proclaim Ferdinand VII. in South America, contributed to agitate the public mind, and to encourage the spirit of revolution. The people were invited to take part in the dissensions of the chiefs, and were called upon for the first time to think and to act. Goyeneche landed at Montevideo, where he approved the conduct of General Elio, and assured him that the formation of a Junta would be highly acceptable to the Government of Spain; at Buenos Ayres he applauded the loyalty of Liniers; in the provinces through which he passed on his way to Lima, he advised the establishment of Juntas. At Lima he solicited and obtained the command of the army sent against the Junta of La Paz, and conducted the war against that province in the most sanguinary and impolitic manner.

Notwithstanding the Central Junta of Spain had been recognised by Liniers, and through his influence by the people of Buenos Ayres, that Government listened to the accusations of his enemies, and superseded the only man whose popular character and services to the State could have preserved this colony from immediate revolt.

On the arrival of the new Viceroy, Cisneros, Liniers was strongly solicited to retain the command. The military offered to support him; and hopes were entertained by the patriots that the impolicy and injustice of the Spanish Government would drive over to their party this able and popular leader. But Liniers, who appears to have acted throughout with chivalric honor, disappointed their hopes, by privately withdrawing himself from the solicitations of his friends and the persecution of his enemies.

Cisneros did not possess the character or abilities necessary to repress the revolutionary spirit of the people of Buenos Ayres. The decree of free trade, extorted from this Viceroy in 1809, increased their intercourse with foreigners; and the ignorance and superstition by which their allegiance had been hitherto secured was fast wearing away; while their conquest of the capital, and their successful defence against the last

formidable invasion, without any assistance from the mother country, gave them confidence in their strength and resources.

Shortly after the news of the seizure of the royal family reached the Brazils, manifestoes were published by the Infant Don Pedro, and by the Princess Charlotte, the sister of Ferdinand VII., and the consort of the present King of Portugal, setting forth their right to the Spanish dominions in America. They were accompanied by letters addressed to the viceroys and governors of provinces, and were circulated from Mexico to Buenos Ayres. The first scheme of the revolutionists was formed upon these pretensions.

They proposed to deliver up the country to the Princess Charlotte, expecting to retain the administration in their own hands; and intending, at some more fortunate period, to assert their entire independence.

They despatched an agent, with their proposals, to Rio de Janeiro. The princess accepted their offer, upon condition that they should admit a Portuguese garrison into Buenos Ayres. As this measure would have defeated the plan of the revolutionists, the negotiation was dropped.

The first revolutionary movement in the Viceroyalty of La Plata was made in La Paz; and a Junta was formed in the capital of that intendancy, after the plans of the provisional Juntas of Spain.

The Viceroy of Lima resolved immediately to suppress this party, and despatched Goyeneche, at the head of a large force, into Upper Peru. La Paz was taken, and the members of the Junta, with some of the principal citizens, put to death—the first example of the exterminating fury with which Goyeneche conducted the war in Upper Peru. The failure of the plan to transfer the Government to the Princess Charlotte obliged the leaders of the revolution to adopt more decisive measures. Their intentions were discovered, and it was expected that every means would be used to frustrate them. Their danger obliged them to act with promptness and resolution; and the first attempt of the Viceroy to check them was followed by an open declaration on their part. He was peremptorily ordered to resign his command, and, after a short struggle, and a vain appeal to the people, was obliged to comply. Immediately upon his resignation, a meeting of the principal inhabitants was held in the town-hall of Buenos Ayres. In this assembly, the bishop, whose influence had hitherto been unbounded, ventured to oppose the current of public opinion; but his authority was no longer sacred, and his assertions, that the last Spaniard who remained in America ought by right to govern the country, excited such universal indignation, and drew upon him such a torrent of abuse, that he retired to his palace confounded and dismayed.

This assembly, still wishing to temporize, created a provisional Junta, and named the ex-viceroy president; but the people, who had felt their power, refused all compromise, and on the 25th of May, 1810, a Junta was elected from the creoles



of Buenos Ayres, and took possession of the command, amidst the universal acclamations of the people.

Every exertion was immediately made to extend the revolution to the interior provinces, and troops were despatched to favor the patriots in Peru and Paraguay.

The ex-vice-roy and fiscals endeavored to counteract this plan, and maintained a correspondence with the Spanish authorities in those provinces. As soon as this conduct was known to the Government, they were summoned to the fort, and directly conveyed on board an English cutter, chartered to transport them to the Canaries. The royal audience was at the same time dismissed for contempt of the Junta; and the Cabildo, chiefly composed of Europeans, having, in a secret meeting, sworn allegiance to the regency of Spain, the members were banished, and it was declared by law that no European should hold any public office under the Government of Buenos Ayres.

The Count de Liniers, who had retired to Cordova, assembled a small force, and determined to oppose the progress of the revolution in the interior. Before he had time to strengthen himself, his party was attacked and totally defeated by the troops of Buenos Ayres; and he, with the bishop, the Governor of Cordova, and four of the principal officers, fell into the hands of the victors.

Either from the personal enmity of his judges, or from fear of his popularity and extensive influence, which made it equally dangerous, at that early stage of their revolution, to banish or imprison him, it was resolved in the Junta that Liniers and his accomplices should be put to death, except the bishop, whose sacred character protected him. They were met on the road to the capital by a military commission, and were shot, after being confessed by the bishop, who was forced to witness the execution of his friends.

The expedition to Upper Peru was conducted by a commission; Castelle was the member selected for this important command; he was one of the earliest and most distinguished leaders of the revolution from the Junta of Buenos Ayres.

The Indians were emancipated from the most oppressive services; the auxiliary army, hailed by these unfortunate people and by the creoles as their deliverers, soon occupied the whole territory of the viceroyalty, and the towns were invited to elect deputies to represent them in the Congress about to be held at the capital.

In the mean time, the dissensions natural to a Government composed of one numerous body broke out, and produced those factions which have since divided their councils and distracted the State. They originated in the personal animosities of the president of the Junta\* and of the Secretary of State,† a man of violent temper, ardent in his love of liberty, and too conscious of his superior abilities to brook control. As the secretaries had a right to deliberate and vote in

\* Don Cornelio Saavedra.

† Moreno.

the Junta, he was enabled to oppose the president in all his views, and obtained a decree depriving him of all distinction, except that of his presidency when sitting in Junta. On the arrival of the deputies from the provinces, they were admitted into the Provincial Government, and the spirit of party was augmented by this accession of numbers. As they had been received contrary to the opinion of the secretary, who contended that it defeated the intention of the election, which had been to form a deliberative body, the president found no difficulty to procure the secretary's banishment; he was sent on a mission to England, and died on his passage.

The members of the opposition, unable to resist the president's party in the Junta, determined to establish a club in the city, and, by uniting the most factious of the military and citizens, control the measures of Government. Aware of the probable effects of this combination against him, the president had recourse to the most violent and unjustifiable measures to destroy it. On the morning of the 5th of April, 1811, three regiments devoted to his interest were drawn up in the principal square of the city. The corporation were assembled, and the petition was presented to them from two or three hundred peasants, who, in the name of the people, demanded the banishment of the members and officers most inimical to the president. The corporation, awed by the military, reluctantly complied; the obnoxious persons were banished; the club abolished; and a number of the citizens thrown into prison.

This impolitic measure was the commencement of those violent changes which have so frequently retarded the progress of the revolution. The leaders of the army of Peru, which was now encamped on the frontiers of the viceroyalty of Lima, declared against the revolution of the 5th of April, and threatened to turn their arms against its authors. It was thought a necessary measure of precaution on the part of the Junta to introduce discord among the chiefs, and their dissensions finally occasioned the entire defeat of that army, at the battle of Hualqui, when the royalists and patriots mutually accused each other of breaking an armistice. The news of this disaster, which well nigh proved the ruin of their cause, was received with joy by the ruling party in Buenos Ayres, who only saw in it the destruction of a formidable rival.

The Junta of Buenos Ayres had neglected to occupy the important place of Montevideo at the commencement of the revolution; and the Spanish marine, which, with equal oversight, had been permitted to leave Buenos Ayres, rendezvoused there, and commenced hostilities against the Junta; they harassed the commerce on the rivers, and blockaded the ports of Buenos Ayres.

On the arrival of General Elio with the appointment of captain general and viceroy of these provinces, he withdrew the blockade, and made an attempt to get possession of the command, either as viceroy or as president of the Junta.

His proposals were treated with contempt by

the Government of Buenos Ayres, and he shortly after despatched a small squadron to the Parana, in order to destroy some vessels belonging to Buenos Ayres, which were stationed there for the protection of the trade. This was effected, and the blockade renewed. The British admiral did not consider the authority of the viceroy sufficient to establish a legal blockade, and came down in person from Rio de Janeiro to insist upon the inviolability of the British flag. After some negotiations with General Elio, he gave orders to the commander on this station to protect the entrance of British vessels into all the ports of the river La Plata. The blockade became, therefore, of no effect; and the squadron was employed in ravaging the coast, but returned from time to time to bombard the city.

During these attacks, the Europeans in Buenos Ayres were harassed and mortified. The unmarried were banished, and those who remained were subjected to the most vexatious and humiliating regulations.

In the midst of these transactions, the inhabitants of the eastern shore of the river La Plata had been excited to revolt against the European authorities in Montevideo, and, as General Elio was particularly disliked by them, this was easily effected: they rose in mass, defeated the royalists at Piedras, and drove them within the walls of the town. A small regular force was immediately despatched to aid their operations, and that town was blockaded by land.

The expedition against Paraguay had failed of its object, and had served only to irritate the inhabitants of that province; and although they shortly afterwards expelled their European magistrates, and established a provisional Junta, they have constantly refused all connexion with Buenos Ayres. General Elio, alarmed at the spirit manifested by the people of the eastern shore, and pressed by a besieging army, sent deputies to Buenos Ayres to solicit peace, offering to return to Spain, and stipulating that the town of Montevideo should send a deputy to the Congress of Buenos Ayres, provided it was suffered to remain independent of the Junta. The news of the revolution in Paraguay, which was received at the same time, prevented the Government of Buenos Ayres from acceding to this proposal. Ignorant of the intention of the chiefs of that province, and presuming that they would unite in the common cause, they insisted upon the unconditional surrender of Montevideo. General Elio then applied for assistance to the Court of Brazil: that cabinet, in hopes to realize their favorite project, and to obtain possession of Montevideo, immediately granted his request, and 2,500 men were ordered to pass the frontiers. In consequence of this measure, the situation of Buenos Ayres became alarming. From the state of their discipline, the defeat at Hualqui proved a total dispersion of that army, and the forces of Lima successively occupied La Paz, Potosi, and Cochabamba.

The Portuguese troops advanced rapidly to the relief of Montevideo, and great discontent reigned

in the capital. In this state of affairs it was thought advisable that the president should proceed to Peru, in order to collect their scattered forces, and, by his presence, restore the confidence of the inhabitants of the provinces not yet occupied by the enemy. He consented to this arrangement, and appointed to the command of the garrison, during his absence, those men who had served under him in the revolution of the 5th of April, and of whose attachment and fidelity he felt secure. He had scarcely left the capital before a town meeting was assembled, which deposed him; they then named an executive of three,\* and declared the Assembly of Deputies a deliberative body. In their eagerness to change, they neglected to secure themselves against the abuse of power.

They intrusted to the executive the right of enacting their own laws, and permitted them to frame a constitution for their own government. The legislative assembly proved an intolerable restraint upon an executive furnished with such powers, and a pretext was soon found to dissolve that body.

The first act of the new Government of Buenos Ayres had been to conclude a treaty with General Elio, by which it was agreed, on the one part, that the troops should be withdrawn from the siege of Montevideo, and that that place, including the eastern side of the river La Plata, should remain under the Spanish authorities; on the other part, that the trade of Buenos Ayres should not be molested, and that the Portuguese forces should retire to their own frontier. On the part of Buenos Ayres, the conditions of this treaty were faithfully executed, and the territory of the eastern shore was immediately evacuated by their troops. General Elio, who had discovered the intentions of the Court of Brazil, had been induced to conclude this treaty from fear of so dangerous an ally; but the commander of the Portuguese army, who had been made a party in the treaty without being consulted, declared that he could not act until he received instructions from his Court, and proceeded to fortify himself in Maldonado. Having failed in his attempt to obtain possession of Montevideo, without which it was impossible to retain any part of the eastern shore, the Portuguese Court sent an agent to Buenos Ayres, and concluded an armistice with that Government; in consequence of which, their troops evacuated the territory of La Plata.

The people of the eastern shore, who dreaded the vengeance of the royalists, to which they had been shamefully abandoned, deserted their homes, drove off their cattle, and followed Artigas, their favorite leader, to the other side of the Araguay.

Shortly after the return of the army from Montevideo, an unsuccessful attempt was made, by the regiment of patricians, to effect a revolution, and to re-establish their former colonel the

\* Chicana, Sarratea, and Passos, were the members chosen upon this occasion. The secretaries of this Junta were Rivadavia and Pevea.



first president of the Junta. Although abandoned in the moment of execution by the officers who had excited the revolt, they were not reduced until after a bloody conflict.

As soon as it was known in Spain that General Elio had concluded a treaty with Buenos Ayres, he was recalled; and his successor, General Vegodet, who arrived with reinforcements, recommenced hostilities against the revolutionary Government. The command of the army of Buenos Ayres was intrusted to a member, Don Manuel Sarratea, of the executive, who crossed the river at Santa Fe, and again invested Montevideo.

A Government so constituted as that of Buenos Ayres, without restrictions and without responsibility, could not long command the confidence of the people, or exist in harmony.

The citizens were oppressed, and the rulers were entirely taken up with their own private animosities and disputes. These dissensions, as usual, soon extended their effects to the armies before Montevideo. The inhabitants of the eastern shore separated their forces from those of Buenos Ayres, and the latter caballed against their commander-in-chief, dismissed him, and appointed one of their own choice. The Europeans saw, in these disorders, a favorable opportunity to effect a counter-revolution. A plan was formed to obtain the watchword by surprising the patrols, to seize on the barracks, and, favored by a descent from the squadron of Montevideo, to get possession of the city.

This conspiracy was discovered on the eve of its execution, and thirty of the principal conspirators were tried and executed.

In October, 1812, deputies arrived from the interior provinces to form a Congress at Buenos Ayres; but differences arising between them and the Executive, the Assembly was dissolved on their first session.

The remains of the army of Peru had retired before the victorious troops of Lima, until the want of means to continue their retreat forced them to make a stand at Tucuman. On the 24th September, 1812, an obstinate engagement took place, which, from the active co-operation of the inhabitants of Tucuman, ended in the total defeat of the royalists.

Owing to the dissensions of the Government, the army of Peru was left without the means of advancing, and could not profit by their success. The discontent became general, and the party opposed to the Government seized the opportunity to effect a revolution.

The military, so often the instrument of faction, again lent their aid, and a new Executive was appointed by a cabildo abierto, or town meeting. Succors were at length sent to the army of Peru, which enabled General Belgrano to advance and attack the royalists at Salta. In this action, fought in February, 1813, the Spaniards were defeated with great loss; and Belgrano, following up his victory, took Salta by assault, and captured General Tristan, with the remains of the royal army. The prisoners were

released on their parole, which they immediately violated, and were again incorporated into the army of Goyeneche. This General had commanded the royal army in Peru since the memorable invasion of La Paz; but being forced to evacuate the territory of Buenos Ayres, by the approach of the victorious army of Belgrano, he was recalled by the Viceroy of Lima.

The Viceroyalty of La Plata was again freed from enemies, and the deputies from the provinces and towns once more assembled at Buenos Ayres. They assumed the title of the Sovereign Assembly, and conferred that of supreme executive power upon the former superior Government, which was composed of three persons.\* They declared the sole right of making laws to be vested in the Assembly, and the Executive to be responsible to them for its acts.

One of the first decrees of the Sovereign Assembly manumitted the offspring of slaves born after February, 1813, and emancipated all slaves that might be brought into the territory of La Plata after that period.

The slaveholders were called upon for every third slave, which were enrolled in the army of the republic. On this occasion many of the inhabitants voluntarily manumitted their slaves, upon condition of their serving during the war; and two regiments, called *liberti*, were formed of them; they are officered by whites.

Commissioners were sent by the Assembly into Upper Peru, to examine into and report on the state of those provinces and of the army.

Towards the close of the year 1813 the arms of Buenos Ayres met with serious reverses. The General of their forces in Upper Peru was induced, by false intelligence, to attack the army of Lima, although advantageously posted at Vilcapugio, and was defeated with the loss of all his artillery. Being pursued by the enemy, and eager to repair his losses, he risked a second engagement at Ayuma, under the most unfavorable circumstances, in which he was again defeated, and forced to retire below Salta, with the remnant of his army.

The garrison of Montevideo had received supplies and reinforcements from Spain; and, although they had been defeated in a sortie against the besieging army, it was apprehended that a junction might be effected at Santa Fe of the victorious army of Lima with the disposable force in Montevideo. The royal squadron having the command of the river La Plata rendered this movement very practicable.

The party in power seized this opportunity to strengthen the Government. They represented to the Assembly that an executive of three persons could not exert the energy and despatch called for by the present perilous situation of the State, and proposed to vest the authority in one person.

This proposal was warmly discussed in the Assembly; but the military declaring in favor of the change, a Supreme Director was appointed.

\* Pena, Perez, and Alvarez, jointly.

The Assembly was prorogued during the pleasure of the Director; and a council of seven, called the Permanent Council of the Sovereign Assembly, was chosen to assist him.

The general who had commanded in Peru was superseded, and orders were given to his successor to collect the scattered remains of that army, and to fortify himself in Tucuman, whilst they determined to direct their whole force against Montevideo. Aware of the importance attached by Great Britain to the trade of these colonies, and expecting to derive great advantages from opposing the commercial spirit of that nation to the jealous colonial policy of Spain, they sent an agent\* to London; and even willing, at that time, to secure the favorable mediation of the English Court by granting any privileges, they are said to have instructed their agent to declare that Buenos Ayres would rather be governed by a foreign prince than submit unconditionally to Spain.

The same policy induced them to yield to the solicitations of the English Minister at Rio de Janeiro, who was desirous of adjusting the differences between Buenos Ayres and Montevideo, and had expressed a wish that the former should acknowledge the regency of Spain, accept the constitution, and send deputies to the Cortes. Commissioners were sent with proposals to Montevideo; but the viceroy, who now contemplated the approaching fall of Buenos Ayres, and considered this measure as a proof of their weakness, refused to receive or treat with them. This result had been foreseen by the Government, and great exertions had been made to fit out a squadron, which might give them the command of the river; some stout merchant vessels had been purchased, which were armed from the batteries of Buenos Ayres and Ensenada, and manned by foreigners; and this fleet, immediately on the return of the commissioners, appeared off Montevideo. This measure did not excite much alarm in that place; it was supposed that armed merchantmen would prove an easy conquest to national ships, and a squadron was immediately despatched to attack and destroy them.

The event did not justify this opinion of their superiority. To their astonishment, and dismay of the garrison of Montevideo, who witnessed the action, the national squadron was entirely defeated; two only escaped into port, and the remainder fell into the hands of the patriots. The viceroy, finding himself pressed by superior forces, both by land and water, now condescended to solicit a peace, which he had but a few days before rejected with contempt; but the Government of Buenos Ayres retaliated his conduct towards them, and refused to receive his commissioners, or to open his despatches. He was soon after reduced to the necessity of treating with the general† of the besieging army.

It was agreed that the Government of Buenos Ayres should acknowledge the regency, and send deputies to Spain. The town of Montevideo was to be given up; the garrison to be sent to

\* Don Manuel Sarratea.

† Don Carlos Alvear.

Spain; two thousand men to march out with their arms, field-pieces, and ammunition, and to be encamped until the conditions were carried into execution.

Whilst this treaty was pending, disputes arose between the troops of the garrison and the armed citizens, who were violently opposed to the capitulation.

The viceroy, finding it impossible to suppress these commotions, which threatened the destruction of all parties, ordered the gates to be thrown open, and admitted the army of Buenos Ayres. The two thousand men were permitted to march out with the honors of war; and it was at first supposed that the articles of the capitulation would be adhered to. They were soon undeceived. The general of the besieging army published a proclamation, in which he declared that, having entered the town before the capitulation had been signed by either party, exposed to a *ruse de guerre*, and to the risk of being attacked, he considered Montevideo to have been surrendered at discretion to the arms of Buenos Ayres. The viceroy was furnished with a vessel to carry him to Spain; but the garrison, consisting of six thousand men, were sent prisoners of war to Buenos Ayres. The persons and property of the inhabitants were respected.

To the honor of Buenos Ayres, they have used their victories with moderation, notwithstanding the irritation which existed between the royalists and the patriots, and that the former have frequently disgraced themselves by massacres in cold blood, and by the barbarous treatment of their prisoners. The troops of Buenos Ayres have never sullied their arms by these sanguinary measures, not even in retaliation.

Montevideo had been defended with the utmost obstinacy for nearly four years, and not less than seven thousand persons perished during the siege, principally by famine and disease. The victors acquired seven thousand stands of arms, five hundred pieces of artillery, and a profusion of warlike stores. An amicable arrangement was made with the inhabitants of the eastern shore, and the troops were withdrawn in order to reinforce the army of Peru. It had been determined to destroy the fortifications of Montevideo, which are formidable, from the place being situated on a very narrow peninsula. It may be considered the key of the river La Plata, and, consequently, of the whole Viceroyalty; and once in the possession of an enemy, particularly of a maritime Power, they could not expect to wrest it from them, nor could they defend it long against a regular force.

Moreover, in the present unsettled state of the country, it would prove a powerful engine of faction, and the military Governor of Montevideo might dictate to the Government of Buenos Ayres, or involve the country in a civil war. The artillery and stores were to have been moved to Tucuman, to which point the armies might retreat in the event of a formidable and irresistible invasion obliging them to abandon the coast.

The Limanean army, which had advanced as



far as Salta, on receiving intelligence of the fall of Montevideo, retired precipitately upon Potosi. The commanders of that army, led on by the hope of forming a junction with the troops of Montevideo, and of investing Buenos Ayres, in two instances abandoned the strong positions of Oruro and Potosi, which secured to them the possession of Peru, and advanced towards the plains of Tucuman. The first had weakened his army by leaving garrisons in the towns, and particularly in Orepera de Cochabamba, the capital of the most fertile and populous of the interior provinces.

The present commander, to avoid this fault of his predecessor, to which he attributed his defeat in Tucuman, left his rear and flank unprotected, and exposed to the attacks of the Indians and cavalry of Cochabamba, which harassed his retreat. The revolution of Chili partook, in some degree, of the distinctions which mark the character of that people.

The creoles of that kingdom saw and rejoiced in the success of Buenos Ayres. They wished to follow what they considered a noble example, but were restrained by their natural timidity, when the Captain General, on some slight denunciation, arrested three of the principal inhabitants of Santiago—Ovalle, Roxas, and Vera.

Ovalle and Roxas were sent to Lima; but Vera, a native of Santa Fe, in the Viceroyalty of Buenos Ayres, feigned himself sick, and from the castle of Valparaiso, where he was confined, incited the Chilians to reclaim their countrymen, and to protest against this act of oppression, which he represented as the prelude to a general persecution of the creoles. He excited their fears to such a degree that they gathered courage from despair, and addressed a strong remonstrance to the Captain General, which alarmed him, and induced him to recall those gentlemen, whom he had accused of treasonable practices, and of forming plans to separate the colonies from the mother country.

These acts of weakness on the one part, and of firmness on the other, decided the revolution. Encouraged by their success, the people declared themselves openly; in the hopes of freedom, even family feuds were forgotten; all the creoles of distinction in Santiago united, deposed the captain general, and instituted a Provisional Government, which acknowledged and acted in the name of the authorities of Spain.

They soon, however, assumed a bolder tone, and a Congress was assembled, which governed in the name and behalf of Ferdinand VII.

On the 1st of April, 1811, the day appointed for the election of the members for the capital, an attempt was made by some Europeans to restore the ancient Government; an engagement took place in the principal square, which ended in the total defeat of the royalists. The captain general and the royal audience were implicated in this conspiracy, and, in consequence, were banished the kingdom, and retired to Lima.

In the Congress, party spirit soon mingled with all their debates; the provinces of Concep-

tion complained that they were not fairly represented, and the affairs of the Government were neglected, in the animosities and mutual accusations of the members.

The command of the artillery was in the hands of a European, who was supposed to be a partisan of the Princes Charlotte of Brazil. The creoles dreaded the power and influence of this man, and the three brothers Carrera resolved to make an effort to wrest from him this important command. The eldest, who was a major in the regiment of grenadiers, had distinguished himself on the 1st of April, and was a great favorite with the soldiery.

They chose the hour of the siesta for the attack, and, at the head of sixty grenadiers, surprised the artillery barracks, and seized the commander.

After this action, some reform was made in the representation, and the Congress commenced business by inviting all who were inimical to the present order of things to retire from the kingdom.

They rendered the clergy inimical to the cause of independence, by forbidding them to receive any money from their parishioners for the performance of their clerical duties, assigning a moderate salary to the curates in lieu of fees. They passed an act manumitting the future offspring of slaves, and declared that all slaves brought into Chili after that period should receive their freedom, after a residence of six months. They opened the ports to commerce, and published commercial regulations.

The places of the alcaldes (members of the Cabildo) were, by the laws of Spain, sold to the highest bidder. They were now made elective. The first Junta, or Executive of Chili, was composed of seven members. The struggle for power between the family of the Carreras and that of the Larraíns commenced at that period, after the successful attack on the artillery barracks. The eldest brother was promoted to the colonelcy of the grenadiers, and the youngest to that of the artillery; from the barracks of these officers a remonstrance was addressed to the Congress, which induced that body to depose a Junta of seven, and to appoint an Executive of five. José Miguel Carrera entered into the Government on this occasion.

This Junta did not long endure the control of a legislative body; and the Congress was dissolved on the 2d of December, 1811. Some of the members of the Executive resigned on this occasion, and a new Junta was formed, consisting of three persons, J. M. Carrera, J. Portales, and J. N. Cerda. The members from the southern provinces protested loudly against this flagrant breach of the privileges of the people; and, upon their arrival in Concepcion, excited their constituents to oppose the Executive of Santiago, and to take up arms in defence of their rights.

Forces were collected on both sides, and were marched to the banks of the river Maule, which separates Santiago from Concepcion. Both parties, however, preferred negotiation and intrigue to blows. They retired without coming to ac-

tion, and Concepcion, being destitute of resources, was shortly after forced to submit to the capital. Some attempts having been made by the colonel of grenadiers to awe the Executive into his measures, José Miguel Carrera resigned his office in the Junta, and his father was nominated to supply his place. The brothers were soon after reconciled; a constitution was framed, and offered to the people for their acceptance, and, having been signed by the military, the Cabildo, and all the respectable inhabitants, was adopted by the Government. The father resigned, and J. M. Carrera was reinstated in the Junta. A Senate was elected, according to a provision of the constitution, and assembled in November, 1812. The first Junta established in Chili had been acknowledged by the regency; and the supply of grain was so necessary to the Viceroyalty of Lima, that the intercourse between these countries had not been interrupted by the late changes of Government. But the dissensions which existed between the provinces of Santiago and Concepcion enabled the viceroyalty to carry into execution a plan for the conquest of the latter.

The garrisons of Valdivia and of San Carlos de Chiloe were landed in the bay of San Vicente, and thence marched to Talcahuana. That post was delivered up to them by some European officers in the service of Chili, and the town of Concepcion was afterwards taken without opposition. The royal forces were joined by several regiments of militia cavalry, and they soon occupied the whole of the province.

The greatest exertions were made in Santiago to repel this invasion; the three brothers Carrera put themselves at the head of the forces, and the armies met on the banks of the Maule.

A body of five hundred men crossed the broad and rapid river Maule in the night, and surprised the camp of the royalists at Yervas Buenas. This action deterred them from crossing the river in front of such an enemy, and being baffled in an attempt to turn the flank of the patriot army, they retired towards Concepcion. The Chilians crossed the river, and overtook the royal forces at San Carlos; an obstinate engagement ensued, in which both parties claimed the victory. The royal army crossed the river Nuble at the dawn of day, and retired to Chillan. J. M. Carrera, leaving his brother at the head of the main body, moved with a detachment towards Concepcion. The garrison of that place retreated to Talcahuana, and that post was immediately attacked and taken by assault. The army then laid siege to Chillan, which the royalists had strongly fortified. After spending a month before this place, the continued rains of the winter obliged the patriots to retire.

The Executive Junta established themselves shortly after at Talca; from thence they issued a decree new modelling the army. They deprived Carrera of the command, and appointed Don Bernardo O'Higgins general-in-chief. The three brothers immediately withdrew from the army; the two youngest were taken prisoners by

the royalists as they were returning to Santiago, and were conducted to Chillan.

The royal forces now marched towards Santiago, crossed the Maule, and occupied Talca. The Chilians followed them by rapid marches, and, crossing the Maule lower down the river, took a position to protect the capital. This state of things called for a more energetic Government; and, on the return of the Executive to Santiago, the Junta was dissolved, and a Supreme Director appointed.

The royal forces continued to advance, when Captain Hillyar, the commander of the British squadron in the Pacific, proffered his mediation. As it appeared that he was authorized by the Viceroy of Lima, his proposals were accepted by both parties.

It was agreed that the royal forces should evacuate the territory of Chili within two months, and that the Government of Chili should acknowledge the regency and Cortes, and send deputies to Spain to learn the decision of the mother country, to which they agreed to submit. This treaty was signed on the 5th May, 1814, and hostages exchanged by the contracting parties. Both parties were dissatisfied with this arrangement. The Carreras, who had been excluded from the general amnesty and mutual liberation of prisoners agreed upon by the treaty, escaped from their confinement at Chillan. The youngest brother, Don Luis, upon his return to Santiago, was seized and imprisoned by the Government; and Don J. M. Carrera, after escaping the same fate, entered the capital at the head of some of his partisans. The troops received him with enthusiasm; the Supreme Director was deposed, and a Junta of three established.

General O'Higgins determined to enforce the execution of the treaty, and marched towards the capital. The armies met on the plains of Maipo, and an action was fought, which terminated in favor of the forces of the Junta. The continuation of this civil war was prevented by the unexpected news of the arrival of reinforcements from Lima, and the refusal of the viceroy to ratify the treaty. This intelligence united the armies of Chili, and they marched against the common enemy. The royalists had advanced to the river Cachapoal, which separates the province of Rancagua from San Fernando.

General O'Higgins fortified himself at Rancagua, but was surprised by the royalists, and his forces totally routed. This decisive action compelled the patriots to evacuate the territory of Chili. They passed the Cordilleras, and took refuge in the province of Mendoza.

In this state of affairs, intelligence of the restoration of Ferdinand VII reached South America. The Government of Buenos Ayres, notwithstanding they had changed the national flag and cockade, and had coined money with the arms of the Republic, had always issued their decrees in the name of Ferdinand VII. It was resolved, therefore, to send a deputy to Spain to proffer their allegiance, on conditions which would secure them in the free exercise and enjoyment of their



rights, and hopes were entertained that the present administration would adopt a conciliatory policy towards the colonies, in opposition to the violent measures of the regency. These hopes were disappointed, and their agent returned to Buenos Ayres without effecting his object.

The capture of Montevideo had put into their hands a valuable armament and abundant warlike stores; and the ships, which had contributed so materially to their success, were now employed to harass the commerce of Spain. Some of their cruisers doubled Cape Horn, while others proceeded to intercept the return of Spanish ships off the port of Cadiz.

Don Carlos Alvear, who had commanded the forces of Buenos Ayres at the capitulation of Montevideo, ambitious to conclude the war in Peru, induced the Supreme Director to appoint him general-in-chief of that army, and left Buenos Ayres at the head of a large reinforcement. On the road he was met by the unpleasant intelligence that the officers and troops refused to receive him as their commander, and he returned with his forces to Buenos Ayres. The Supreme Director was glad to resign his title to one who had for some time exercised the chief authority. Alvear was, in consequence, proclaimed Supreme Director in Buenos Ayres; but not being acknowledged in the provinces, or by the army of Peru, the greatest confusion prevailed in the State.

After the conquest of Montevideo, the Government of Buenos Ayres concluded a treaty with Artigas; but, upon their afterwards sending him a commission, he returned it, telling them that he desired his authority from the free election of the people of the eastern shore; that the inhabitants of that province were willing to be the allies, but would never submit to be the vassals of Buenos Ayres.

The troops which were sent to reduce him to subjection not only failed in their object, but were forced to abandon Montevideo. Artigas, after driving the forces of Buenos Ayres from the eastern shore, crossed the Parana, and took possession of Santa Fe. Two thousand men were despatched to recover this important post; but the officers came to an understanding with Artigas, and turned their arms against the Supreme Director. Under these circumstances, and threatened by a revolt of the citizens, Alvear withdrew his forces from Buenos Ayres, and encamped at a short distance from the city. A town meeting was immediately assembled, which deposed both the Supreme Director and the Sovereign Assembly, and vested the authority in the Cabildo. The city was placed in a state of defence, but Alvear, after some threats, resigned his command, and, with his family, took refuge on board a British frigate then stationed in the river.

The Cabildo then appointed a Junta of Observation, published a new constitution, and elected Rondeau, the general of the army of Peru, Su-

preme Director. This officer, who had formerly refused to resign his command to Alvear, preferred remaining at the head of the army, and a Supreme Director *pro tempore* was nominated, until he should think proper to assume his command. Another attempt was made to dispossess Artigas of Santa Fe, but the troops of Buenos Ayres were defeated with great loss. General Pezuela, who had fortified himself in Oruro, having received reinforcements from Lima, attacked the army of Peru on the 22d of November, 1815, at Sipisipi, and, after an obstinate engagement, the patriots were forced to retire.

The army of Buenos Ayres retreated to Salta, and the royal forces remained in possession of all the upper provinces of Peru. The people were displeased with the administration of the Supreme Director's substitute, and, assembling tumultuously, they forced him to resign the command; another was appointed, who was soon after treated in the same manner, and the Government was then placed in the hands of a Committee of Safety.

The Congress, which had been convoked according to a provision in the last estatuto, assembled in June, 1816, at Tucuman. They nominated Don Juan Martin Pueyrredon Supreme Director, who immediately repaired to Buenos Ayres and assumed the reins of Government. Don Manuel Belgrano, who, since the battle of Velcapugio, had remained in retirement, resumed the command of the army of Peru. The troops received with enthusiasm the General who had so often led them to victory; who had generously distributed to the widows and orphans of those soldiers who had fallen in the battle of Salta the money voted to him by the Government of Buenos Ayres as a reward for that distinguished service; and who had preserved his political integrity amidst the changes of party and the intrigues of faction, and had manifested no other ambition than that of devoting his life and fortune to the great cause in which he was engaged.

An army was assembled at Mendoza to protect that frontier against the royal army which was in possession of Chili, and the command of this force intrusted to San Martin, who had distinguished himself by repulsing, with a small corps of cavalry, a detachment of the royal forces at San Lorenzo, on the Parana.

On the 9th of July, 1816, the Congress published their formal declaration of independence. In December following, the Portuguese troops entered the territory of the eastern shore, which is claimed by that Government. The invading army, after occupying the towns on the frontiers, took possession of Maldonado, and advanced upon Montevideo. This important military post was surrendered to them without opposition.

Artigas, with the desultory forces under his command, opposed in vain the progress of the invaders, but still continued to harass them by every means in his power.

## STATE OF THE FINANCES.

[Communicated to the Senate, December 8, 1817.]

In obedience to the directions of the act supplementary to "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates:

## Revenue.

The net revenue arising from duties upon imports and tonnage, internal duties, direct tax, public lands, postage, and incidental receipts during the year 1816, amounted to - \$49,552,852 02

viz:	
Customs	\$36,303,231 77
Internal duties	5,963,225 88
Direct tax	5,723,152 25
Public lands, exclusive of those in the State of Mississippi and the Alabama Territory	1,287,959 28
Postage and incidental receipts	275,282 84

And that which accrued from the same sources during the year 1816 amounted to - 36,743,574 07

viz:	
Customs, (see statement A)	\$27,569,769 71
Internal duties, (see statement B)	4,396,133 25
Direct tax, (see statement C)	2,785,343 20
Public lands, exclusive of those in the State of Mississippi and the Alabama Territory, (see statement D)	1,754,487 38
Postage and incidental receipts	237,840 53

It is ascertained that the gross amount of duties on merchandise and tonnage which has accrued during the first three quarters of the present year exceeds \$17,000,000, and that the revenue arising from internal duties and from the public lands during the same period exceeds that of the corresponding quarters of the year 1816.

The balance in the Treasury on the 1st day of January, 1817, exclusive of \$10,665,287 89 in Treasury notes of every description, amounted to - \$11,295,592 86

The payments into the Treasury during the first three quarters of the year are estimated to amount to - \$27,095,984 14

viz:	
Customs	\$21,732,068 22
Internal revenue and direct tax	3,480,173 43
Public lands, exclusive of those in the State of Mississippi and the Alabama Territory	1,326,077 44
Postage and incidental receipts	26,913 92
Repayments into the Treasury	530,751 13

And the payments into the Treasury, during the fourth quarter, from the same sources, are estimated at - 5,980,000 00

Making the total sum estimated to be received into the Treasury during the year 1817 amount to - 33,075,984 14

Which, added to the sum in the Treasury on the 1st day of January last, makes the aggregate amount of - 44,371,577 00

The application of this sum for the year 1817 is estimated as follows, viz: To the 30th September the payments have amounted to - \$32,710,002 88

viz:	
Civil, diplomatic, and miscellaneous expenses, exclusive of \$375,000 paid to the State of Georgia from the proceeds of the Mississippi lands	\$2,798,248 75
Military service, including arrearages	7,105,816 90
Naval service	2,044,474 25
Public debt, exclusive of \$3,592,927 60 of Treasury notes, which have been cancelled in due course of settlement	20,761,462 98

During the fourth quarter it is estimated that the payments will amount to - 5,660,000 00

viz:	
Civil, diplomatic and miscellaneous expenses	600,000 00
Military service	1,110,000 00
Naval service	1,300,000 00
Public debt to 1st January, 1818	2,650,000 00

Making the aggregate amount of - 38,370,002 88



## State of the Finances.

And leaving on that day, exclusive of \$8,682,697 70 in Treasury notes, which are in a train of settlement in order to be cancelled, a balance in the Treasury of - \$6,001,574 12

## Of the public debt.

The funded debt, contracted before the year 1812, which was unredeemed on the 1st day of October, 1816, as appears by statement 1, amounted to - \$37,494,267 01  
By the same statement it appears that the funded debt contracted subsequent to the 1st day of January, 1812, amounted to - 71,201,551 28

Making, together, the sum of - 108,695,818 29  
To which must be added the temporary loan from the Cumberland Bank, of - 50,000 00

Making the aggregate amount of - \$108,745,818 29  
On the 1st day of January, 1817, there was added to the above amount, including \$7,000,000 of 5 per cent. stock subscribed to the bank, and including also a temporary loan from the bank of \$500,000, the sum of - 7,877,471 61  
From which deduct the amount of the old 6 per cent. deferred stock, reimbursed between the 1st day of October and the 1st day of January, 1817, inclusive, amounting to - 815,484 42

Leaving the sum of - 7,061,987 19

Making the public debt, which was unredeemed on the 1st day of January, 1817, amount to 116,807,805 48  
From the 1st day of January to the 30th day of September, 1817, inclusive, there was, by funding Treasury notes, added to the public debt, the amount of - 1,097,315 43

Making, on that day, the aggregate amount of - 116,905,120 91  
During the same period there was purchased and redeemed of the public debt, including \$550,000 of temporary loans, the sum of - 16,993,275 50

Which, deducted from the amount of the public debt last stated, leaves unredeemed on the 1st day of October, 1817, the amount of - 99,911,848 41  
Since the 30th September there has been purchased or redeemed of the principal of the public debt, the amount of - \$333,235 16  
And there will be reimbursed of the principal of the old 6 per cent. deferred stock to the 1st of January, 1818, inclusive, the amount of - 709,513 70

Making, together - 1,042,748 86

Which, being deducted from the aggregate amount of the public debt on the 1st October, there will remain unredeemed on the 1st January, 1818, the sum of - 98,869,096 55

By the same statement it appears that the principal of the public debt, purchased and redeemed during the year 1817, including \$55,000 of temporary loans, amounts to - \$18,036,023 72

In this sum is included all the funded debt held by the Bank of the United States.

The old six per cent. stock will be redeemed in the course of the year 1818. The first instalment of the Louisiana debt falls due on the 21st day of October of that year. According to the terms of the convention, this debt is to be discharged by annual instalments of not less than three millions each. It is, therefore, presumed that, consistently with the letter of the convention, the whole debt cannot be discharged in one payment. But for this obstacle, in the present state of the Treasury, and under the existing provisions of the Sinking Fund, the whole amount of the stock might be redeemed on the 21st day of October next. It is believed that neither the letter nor spirit of the convention forbids the redemption of that stock in two annual instalments, by which the whole debt will be redeemed on the 21st day of October, 1819.

After the redemption of the Louisiana stock, there is no part of the principal of the public debt redeemable at the will of the Government until the 1st day of January, 1825, except the five per cent. stock subscribed to the Bank of the United States. As the Commissioners of the Sinking Fund are not authorized to redeem the five per cent. stock, the permanent annual appropriation of \$10,000,000 from the year 1819 to 1825, under the existing laws, can only be applied to the payment of the interest of the public debt, and to the gradual reimbursement of the principal of the six per cent. deferred stock, and will leave during that period an annual surplus of nearly \$5,000,000.

During the year 1825 the exchanged six per cent. stock, the six per cent. stock of 1812, and the stock created by funding Treasury notes, amounting, together, to \$18,895,456 23, will be redeemable. To the redemption of the whole of this stock within that year, the Sinking Fund, by the aid of its surpluses, will not only be entirely adequate, but will be amply sufficient to redeem the remainder of the public debt at the several periods at which the different stocks of which it is composed be-

## State of the Finances.

come redeemable. The whole debt, including the five per cent. stock, will be extinguished during the year 1830, except the three per cent stock, which is not redeemable at the will of the Government.

It is not presumed that taxes will be imposed and collected for the express purpose of purchasing the funded debt above its nominal value. It is, however, believed to be unsafe to reduce the revenue below the permanent annual expenditure, as now authorized by law, including the appropriation constituting the Sinking Fund. A reduction below that amount would postpone the redemption of the public debt beyond the periods when the several loans of which it is composed become redeemable, or impose upon the Legislature the duty of resorting to them anew for that object.

If, then, the revenue shall, until the year 1825, be equal to the present annual expenditure, it is respectfully suggested whether the public interest will not be promoted by authorizing the Commissioners of the Sinking Fund to purchase the funded debt at such rates above par as in their judgment will be for the interest of the nation, rather than to suffer the annual surplus of the Sinking Fund to remain in the Treasury unapplied for five successive years. Should such an authority be given to the Commissioners of the Sinking Fund, it is probable that the different species of stock would advance in price above their present current value; but as the authority would be permissive, not imposing the obligation to purchase, it is probable that the surplus of the Sinking Fund might be more beneficially employed in purchasing the public debt than by remaining idle in the Treasury until the year 1825. If that surplus could be annually invested early in each year, at the present prices of the different species of stock, it would produce a saving to the nation of not less than \$4,000,000, between the first days of January, 1820 and 1825. The interest which will accrue on the five per cent. stock between the first days of January, 1820 and 1830, when it is estimated the whole redeemable debt will be discharged, will amount to \$3,500,000. If, therefore, it is intended to redeem that stock, the surplus in the Sinking Fund may be legitimately applied to that object during the years 1820 and 1821.

By statement 8, it appears that the Treasury notes which have issued under the several acts of Congress on that subject, have amounted to - \$36,133,794 00  
Of which there has been cancelled at the Treasury - \$26,874,431 00  
There is now in the Treasury, which will be cancelled when settled, exclusive of \$422,519 77, the estimated interest upon them, the amount of - 8,633,400 00

Making, together the sum of - 35,497,831 00

Leaving outstanding an estimated balance of - \$635,963 00

As the outstanding Treasury notes are convertible into funded debt, which is considerably above par, it is presumed that such portions of them as are not lost or destroyed will be funded instead of being paid into the Treasury in discharge of duties and taxes. It is therefore probable that an addition to the public debt will be made during the year 1818, nearly equal to the Treasury notes estimated to be outstanding.

Statement E presents the state of the land offices in the State of Mississippi and in the Alabama Territory, from which it appears that the receipts into the Treasury have amounted to \$1,124,100 81, of which \$431,120 were in Mississippi stock.

From the proceeds of the sales of these lands there has been paid to the State of Georgia the sum of \$688,441 33, and there has been transferred to the State, by the Commissioners of the United States under the act compromising the Yazoo claims, that part of the original purchase money remaining in the State Treasury, amounting to \$184,515 94, making, together, the sum of \$872,957 27, and leaving still due to the State the sum of \$377,042 73, which is now ready to be paid under the provisions of the act of the 3d of March last.

By statement 7, it appears that the Mississippi stock awarded by the Commissioners amounts to - \$4,278,434 00  
From which deduct the amount received into the Treasury - 431,120 00

Leaves outstanding the sum of - \$3,747,314 00

Which it is estimated will be received into the Treasury, during the two succeeding years, in payment of the public lands in the State of Mississippi and in the Alabama Territory, or will be discharged by payments from the Treasury out of the proceeds of the sales of those lands.

## Of the estimates of the public revenue and expenditures for the year 1818.

The importation of foreign merchandise during the years 1815 and 1816, so greatly exceeded what was presumed to be equal to the annual average consumption, that a general impression was produced that the importations during the present year would fall greatly below that demand. Under this impression, the revenue accruing from that source for the year 1817 was, in the annual report of the Treasury of 16th of December, 1816, estimated at \$12,000,000. But it is ascertained that the gross revenue arising from that source during the first three quarters of the year has exceeded \$17,000,000, and it is estimated that that of the whole year will exceed \$22,000,000.



## Revision of the Revenue Laws.

It is presumed that the importations from the East Indies during the present year greatly exceed those which will take place during several consecutive years; and that the reaction produced by the excessive importations of 1815 and 1816 has, in some degree, been diminished by that circumstance. There is, however, just ground to believe that the revenue derived from this source will not, for any given series of years, fall below that of the present year. Considering that this revenue during the year 1807 (the last year that our commerce was not greatly embarrassed by belligerent aggression) exceeded \$16,000,000; that the duties then imposed are considerably augmented by the present tariff; and that our population has increased more than thirty per cent., carrying with it in the same degree an increase of the means of procuring foreign articles, with an undiminished relish for their consumption; it is presumed that the revenue from that source, during the present year, will be found to be less than that of any number of consecutive years.

According to these views, the permanent annual revenue may be estimated to amount to - \$24,525,000 00

VIZ:	
Customs	- \$20,000,000 00
Internal duties	- 2,500,000 00
Public lands, exclusive of the Mississippi and Alabama lands	- 1,500,000 00
Bank dividends at seven per cent.	- 490,000 00
Postage and incidental receipts	- 35,000 00

And the payments into the Treasury during the year 1818 may be estimated at the same amount.

To which add the balance estimated to be in the Treasury on the 1st day of January, 1818 6,000,000 00

Making, together, the sum of - \$30,525,000 00

The probable authorized demands upon the Treasury, during the year 1818, are estimated to amount to - \$21,946,351 74

VIZ:	
Civil, miscellaneous, diplomatic, and foreign intercourse	- 2,069,843 29
Military services, including an arrearage of \$500,000	- 6,265,132 25
Naval service, including \$1,000,000 for the gradual increase of the navy	- 3,611,376 20
Public debt	- 10,000,000 00

Which, being deducted from the amount estimated to be received into the Treasury, including the balance on the 1st of January, 1818, leaves on the 1st of January, 1819, a balance in the Treasury of \$8,578,648 26, which, however, will be applied to the redemption of the Louisiana stock, under the provisions of the act for the redemption of the public debt, passed on the 3d day of March, 1817, as far as those provisions will admit.

All which is respectfully submitted.

WM. H. CRAWFORD.

TREASURY DEPARTMENT, December 5, 1817.

## REVISION OF THE REVENUE LAWS.

[Communicated to the House, January 20, 1818.]

In obedience to the resolution of the House of Representatives of the 28th of February, 1817, directing the Secretary of the Treasury to report to Congress, at their next session, "such measures as may be necessary for the more effectual execution of the laws for the collection of the duties on imported goods, wares, and merchandise," I have the honor to report:

That, shortly after the close of the last session of Congress, measures were adopted, as well for the detection of the frauds which might be committed upon the revenue, as for ascertaining the defects of the collection laws.

The collectors of the customs, under an express injunction to inform the department of every attempt to evade the provisions of the existing laws which should be discovered, accompanied by suggestions of the remedy best calcu-

lated to repress the evil, made no communication whatever upon the subject. Considering that this experiment was made without previous notice to those concerned in importations, and for more than six months of the most active commerce in our ports, the tacit evidence of the collectors that frauds are not committed to any considerable extent, and that the provisions of the collection laws are not materially defective, appears to be well calculated to command respect.

Notwithstanding the result of this experiment, there is just reason to believe that frauds to a considerable extent have been, and now are, committed upon the revenue, in the importation of articles upon consignment, paying ad valorem duties.

The practice of shipping merchandise from Europe to the United States on account of the foreign shipper has greatly increased since the late peace. The immediate cause of this increase may be probably found in the general distress which at and since that epoch pervaded univer-

## Revision of the Revenue Laws.

sally the manufacturing establishments, from whence our supply of foreign merchandise has been principally derived. The manufacturers, unable to dispose of the products of their labor in their accustomed markets, assumed the character of exporting merchants, and shipped their merchandise directly to the United States, where it has been sold by their agents or consignees. In adopting this course, not only the fair profit of the manufacturer and exporting merchant is concentrated in the hands of the latter, but also the loss which the revenue sustains, by invoicing the merchandise at the actual cost of the raw material, and the price of the labor employed in its manufacture. Should any part of this profit not be realized, from the circumstance of the merchandise being sold in a glutted market, or, from any other cause, the articles reach the hands of the consumer at a rate lower than it could be sold by the fair American importer; in either event, the honest American merchant is driven from the competition; and, in the latter, the domestic manufacturer is deprived of the protection which was intended to be secured by the Legislature. But, independent of this evasion of the revenue laws, which, by those who practise it, may be deemed consistent with the principles of morality, a practice of a less equivocal character is known to exist in importations made by foreign merchants upon consignment. There is abundant reason to believe that it is now customary, in importations of this nature, to send with the merchandise an invoice considerably below the actual cost, by which the entry is made and the duties secured. Another invoice at or above the actual cost is forwarded to a different person, with instructions to take and sell the goods by such invoice.

In this manner the person who enters the goods remains ignorant of the fraud to which he has been innocently made a party, and the fraudulent importer escapes with impunity. The facility with which frauds may be practised, by permitting entries to be made by persons who know nothing of the correctness of the invoices by which the duties are to be ascertained, so strongly invites to the substitution of false for true invoices, that the practice must necessarily become universal, if suitable checks are not devised against it. It is also ascertained that resident merchants have in some instances connected themselves with foreign mercantile houses, which are in the habit of purchasing cloths of every description in their rudest state of manufacture, which are in their hands brought to the highest state of perfection by dyeing, dressing, or bleaching, according to the kind of cloth purchased. Such articles are invoiced at the price given for them in their unfinished state of manufacture, and upon those invoices the duties are estimated. Connexions of this kind will necessarily increase, and eventually embrace the whole catalogue of articles paying ad valorem duties, unless checks calculated to repress the evil are promptly devised and applied.

The practice of entering goods without invoice

is another mode now frequently resorted to, for the purpose of evading the payment of the duties which are legally demandable upon them. In these cases, (and indeed in all cases where the collector shall suspect that the invoices are fraudulent,) the resort to appraisement authorized by law is generally found to be in favor of the importer, and against the Government. This may in some measure be attributable to the defect of the existing provisions upon that subject; but the universal experience of every department of the Government proves the danger there is of submitting any question to the decision of persons acting as arbitrators between the United States and individuals. In most cases of this kind the appraisers are influenced by a morbid sensibility which almost invariably impels them to sacrifice the interest of the nation to that of the individual. Independent, however, of this indefensible principle of action, there must necessarily exist, in most cases of appraisement under the collection laws, some individual bias in favor of the importer. The decision is to be made by merchants, and, if made in favor of the Government, the reputation of the party in interest must be seriously affected. The persons called upon to decide may themselves be placed the next day in a situation to have their reputation assailed by the same means. The great body of the merchants may, in the question under consideration, be viewed as a distinct community, bound together by ties generally inscrutable to the collector, performing successively for each other acts by which their pecuniary interests oftentimes acquire a unity, totally incompatible with the disinterested discharge of the duties of an appraiser. Should however the appraisement in despite of all these obstacles correspond with the impressions of the collector, and seizure of the merchandise be made, the party is allowed to prove the actual cost of the articles, and time is generally allowed by our courts for the examination of witnesses beyond the seas. The result of an investigation under such circumstances can hardly be considered doubtful. In making these observations, no imputation upon the character of the American merchants is intended. As a body of men, they are highly respectable for their intelligence, integrity, and respect to the laws. So far as they are directly concerned in importations, I believe, with the collectors of the customs, that the revenue has been generally fairly paid. But it is impossible that the high character which they have hitherto maintained should be preserved against the ruinous competition in which they have since the peace been engaged, unless the frauds practised by the foreign importer shall be effectually restrained. Indeed, there is some reason to believe that some among them have already resorted to practices not less effectual for evading the payment of duties justly demandable of them, than those which have been with so much success employed by foreign importers. It has frequently happened that a vessel bound to a particular port is freighted by merchants residing in the principal commercial cities. In such



cases the goods have generally been entered by an agent or consignee residing in the port where the vessel arrives, and the goods so entered are reshipped in their original packages to the ports where the owners severally reside, or to other ports of the United States. The entries are consequently made upon such invoices as are forwarded to the agent or consignee, of the correctness of which he is wholly ignorant. The goods thus reshipped in the original packages having undergone no examination, are not subjected at the port to which they are reshipped to that kind of examination which they would have undergone had they arrived directly from a foreign port. The importer therefore not only avoids the necessity of swearing to the correctness of the invoices, but also eludes the vigilance of the custom-house, as his merchandise, at the port where it is opened and sold, has acquired the character of articles upon which the duties have been paid or secured. Cases of this kind have so greatly increased since the war, that it is difficult to avoid ascribing the increase in some degree to motives incompatible with the high character for integrity and respect for the laws which the American merchants, as a body of men, have so justly acquired.

There is some reason to believe that evasions are sometimes practised under color of discounts allowed on the prices charged in the invoices. Under the Treasury regulations no conditional discounts are allowed, but it is extremely difficult to ascertain whether they are absolute or conditional.

In order to provide an adequate remedy against the frauds and evasions which already exist, and to prevent their further increase, it is respectfully submitted that provisions to the following effect be adopted:

1. No goods to be admitted to entry where the invoices are not produced, except goods taken from wrecks, and under other circumstances which preclude the possibility of producing them.

2. In every entry of goods subject to duty, the party making the entry to state upon oath whether he is the owner, and, if not, to state the name and residence of such owner.

3. Every oath of entry, in addition to what is now required, shall state that the invoices produced exhibit the true current value of the article in the state of manufacture in which the goods then are.

4. If the goods do not belong to the person who enters them, bonds shall be given, as in case of an agent, that the owner shall in due form of law verify the invoices by which the entry is made, or produce other invoices verified in like manner.

5. That where goods are reshipped coastwise, in the original packages, invoices certified under the hand and official seal of the collector must be produced at the port to which they are shipped, and the same inspection shall take place as if the vessel should arrive direct from a foreign port; on failing to produce such invoice, the vessel and goods to be forfeited.

6. That after the — day of — next, no en-

try of merchandise paying ad valorem duties shall be made upon any invoices, where the owner resides out of the United States, which shall not be verified by the owner in the manner required by the foregoing provisions, before the American Consul at the port of shipment, or of some other port. And such owner shall further state whether he is the manufacturer of the goods described in such invoices; in which case, he shall further swear that the prices charged are the current value of the articles, and such as he would have demanded had they been sold in the usual course of trade.

7. That, for the appraisement of goods in all cases required by these provisions, there shall in each of the principal ports be appointed two persons well qualified to perform that duty, who, together with a respectable merchant, to be chosen by the party in interest, shall, upon oath, make such appraisement. In every case the merchant selected by the party in interest shall, upon oath, declare that he has no direct or indirect interest in the case. In the smaller ports, an inspector of the revenue best qualified for that purpose, and a disinterested merchant selected by the collector, and another by the party in interest, shall be the appraisers.

8. Merchants selected by the parties in interest and by the collectors shall be compelled to serve, by the enactment of suitable penalties. The compensation to be allowed them to be equal to the rate received by the appraisers.

9. In all cases where there shall be just grounds to suspect that goods paying ad valorem duties have been invoiced below their actual cost, the collector shall order them to be appraised in the manner already described; if the appraisement shall exceed by — per cent. the invoice prices, then, in addition to the per cent. laid upon correct and regular invoices by the existing laws, there shall be added — per cent. upon the appraised value; upon which aggregate amount the duties shall be estimated.

10. One-half the duties accruing upon such additional per cent. shall be distributed, according to law, between the custom-house officers of the port.

11. The same proceeding shall be had in all cases coming within the sixth provision proposed, where the invoices are not verified before an American Consul. The same additional per cent. shall be laid upon the appraised value as in case of fraudulent invoices.

12. But no such addition shall be made in any case where the goods are shipped from a country or State in which no American Consul resides.

13. Nor shall such appraisement be necessary where the foreign owner is present and enters the goods.

14. The same appraisement shall be made previous to the entry of goods taken from wrecks, and also where a reduction of duty is claimed on account of the goods being damaged in the course of the voyage.

15. The expenses of appraisement shall be borne by the owners of the goods in all cases,

except where the appraisement ordered in the allegation of fraudulent invoices shall not subject the owner to the additional per cent. directed by the foregoing provisions, and in cases of goods taken from wrecks.

16. The appraisers in the principal ports shall receive, as a compensation for their services, — dollars per annum. The inspectors in the other ports, who shall perform the duties of appraisers, shall receive the full allowance of inspectors, whether they are actually employed throughout the year or not.

17. In every case of entry upon invoices, the collector of the port where the entry is made shall certify the invoices under his official seal. In all contestations concerning the said goods, no other evidence of the value thereof shall be admitted in any court of the United States on the part of the owner of such goods.

18. Counterfeiting any certificate required by these provisions to be felony.

19. That, for every verification of invoices before an American Consul, there shall be paid, by the party making the oath, the sum of — dollars for the use of such Consul.

20. That no discount be allowed, except where the oath of entry, or that taken before the American Consul, shall expressly state that it has been actually allowed to the purchaser in the payment made by him for such goods.

21. That the collectors of the different ports be authorized, at their discretion, or upon instructions from the Treasury Department, to subject to the most rigid inspection a certain proportion of the packages imported into their respective ports; and if they are not agreeable to invoice, or falsely charged, a full inspection of the whole shall be made. Where any package shall contain articles not described in the invoice, the whole package to be forfeited.

22. Every bond taken for duties shall be executed by at least one American merchant, or by a foreign merchant who has resided at least — years in the United States, and has held by lease during that time a tenement of the yearly rent of at least — dollars.

23. The bondsmen to be liable for any pecuniary penalty incurred by frauds on the revenue. Such liability to cease upon the delivery of the goods subject to forfeiture.

24. The execution of a bond for the payment of duties by one partner to bind the firm.

The adoption of the foregoing provisions will, as far as it is practicable, prevent the entry of foreign goods without an appeal, under the sanction of an oath, to the conscience of the party who is in possession of all the circumstances connected with the purchase of them in foreign countries. Where this oath is not obtained, the provisions are intended to guard against decisions injurious to the Government from indirect interest, or from the more general inclination which seems to exist in the community to favor the interest of individuals at the expense of the nation.

Whatever may be the reliance which ought to

be placed in the efficacy of the foregoing provisions, it is certainly prudent to diminish, as far as practicable, the list of articles paying ad valorem duties.

The best examination which circumstances have permitted has resulted in the conviction that the following list of articles now paying ad valorem duties may be subjected to specific duties viz:

Anvils, 2 cents per pound each.

Axes, broad, 30 cents per pound each; narrow, 25 cents per pound each; hatchets, 15 cents per pound each; adzes, 25 cents per pound each.

Augers, not exceeding half an inch, 1½ cents per pound each; above that size, and not exceeding one inch, 2 cents per pound; above an inch, and not exceeding 1½ inch, 2½ cents per pound; above that size, 3 cents per pound each.

Chisels, not exceeding half an inch, 1 cent per pound each; above that size, and not exceeding one inch, 1½ cents per pound each; above an inch and not exceeding 1½ inch, 2 cents per pound each; above that size, 2½ cents per pound each.

Hammers, blacksmiths', 2½ cents per pound each; claw hammers, (carpenters'), 5 cents per pound each.

Hoes, broad, 12 cents per pound each; narrow, 12 cents per pound each.

Knives, cutters', 40 cents per pound each; cutting, 25 cents per pound each; drawing, 25 cents per pound each.

Scythes, 25 cents per pound each.

Reaping hooks or sickles 5 cents per pound each.

Rakes, 10 cents per pound each.

Saws, cross cut, 100 cents per pound each; whip-saw, 100 cents per pound each; hand-saw, 25 cents per pound each; tenon-saw, 20 cents per pound each.

Spades, 15 cents per pound each.

Andirons, cast iron, 1 cent per pound each; wrought iron, 50 cents per pair; brass, or of brass and any other metal, 200 cents per pair.

Fenders, iron, 100 cents each; of brass, or steel, or parts of either, 200 cents each.

Shovels and tongs, iron, 30 cents per pair; steel, or brass, or parts of either, 75 cents per pair.

Muskets, 150 cents per stand.

Rifles, 250 cents each.

Fowling and hunting pieces, single barrel, 400 cents each; double barrel, 500 cents each.

Cannon, cast iron, 2 cents per pound; brass, 5 cents per pound.

Frying pans, 25 cents each.

Gridirons and griddles, 20 cents each.

Vessels, cast iron, not otherwise specified, 2½ cents per pound; of copper, 10 cents per pound; of pewter, including dishes, plates, basins, tankards, spoons, and other utensils not specified, 3 cents per pound.

Tin in sheets or plates, 4 cents per pound.

Bandana, flag, and other silk kerchiefs, from India, not exceeding 36 inches square, 15 cents each; above that size, 20 cents each.

Cards, for carding, 20 cents each.

Cotton bagging, 6 cents.



Drugs, aloes, 2 cents per pound; ammoniacum, (gum,) 4 cents per pound; arabic, (gum,) 2 cents per pound; assafœtida, (gum,) 5 cents per pound; senegal, (gum,) 1 cent per pound; guaiacum, (gum,) 2 cents per pound; cream of tartar, one cent per pound; jalap, 3 cents per pound; ipecacuanha, 10 cents per pound.

Gloves or mits, long silk, \$1 per dozen; short, 60 cents per dozen; children's, 40 cents per dozen; long, cotton, 70 cents per dozen; short, 50 cents per dozen; children's, 30 cents per dozen.

Hats, woollen or felt, men or women's, 20 cents each; children's, 12 cents each; beaver, men or women's, \$1 each; children's, 50 cents each.

Hams, and other bacon, 3 cents per pound.

Honey, 6 cents per gallon.

Hair powder, 6 cents per pound.

Horns, ox, 75 cents per 100.

Horn tips, 50 cents per 100.

Horse hair, 2 cents per pound.

Leather, sole, 8 cents per pound; dressed, 10 cents per pound.

Lard, 2 cents per pound.

Lemons, 25 cents per 100.

Limes, 10 cents per 100.

Liquorice, 2 cents per pound.

Mahogany, 1 cent per c. foot.

Madder, 1 cent per pound.

Mustard, (except seed,) 10 cents per pound.

Nankeens, India, short pieces, not exceeding 7 yards, and 18 inches in breadth, 25 cents per piece; India, long, not exceeding 10 yards and 25 inches in breadth, 40 cents per piece; pieces exceeding these dimensions, the duty to be in proportion to the foregoing rates.

Oil olive, in bottles, 40 cents per gallon; castor, 20 cents per gallon; linseed, 20 cents per gallon.

Olive, 50 cents per gallon.

Capers, 50 cents per gallon.

Oranges, 50 cents per 100.

Opium, 25 cents per pound.

Pickles, 10 cents per gross.

Pine apples, 2 cents each.

Pipes, smoking, 10 cents per gross.

Prussian blue, 10 cents per pound.

Preserves, comfits, and sweetmeats, in sugar or brandy, 10 cents per pound.

Quicksilver, 5 cents per pound.

Rice, 50 cents per 100 lbs.

Rhubarb, 4 cents per pound.

Saltpetre, refined, 2 cents per pound; crude, 1 cent per pound.

Slates, 1 cent each.

Saddletrees, 25 cents each.

Snake root, 2 cents per pound.

Saffron, 2 cents per pound.

Senna, 2 cents per pound.

Sanaparilla, 2 cents per pound.

Stockings, silk, or where silk is the principal material, whole, 240 cents per dozen; half, do. do., 120 cents per dozen; quarter, do. do., 75 cents per dozen; cotton, wool, or flax, whole, 150 cents per dozen; half, 80 cents per dozen; cotton, wool, or flax, quarter, 35 cents per dozen; children's, the duty upon the quarter respectively.

Vitrol, 4 cents per pound.

Umbrellas or parasols, covered with silk, 100 cents each; cotton, 60 cents each; sticks and frames, 30 cents each.

Wool blankets, 20 cents per yard; carpets, inferior to Brussels, 25 cents per yard; Brussels, and others, superior, 35 cents per yard; flannels, or cotton mixtures, 12 cents per yard.

At present Bohea tea pays a duty of twelve cents a pound, while all other black teas pay twenty-five cents. The great difference in the duty paid by these kinds of tea, and the difficulty in distinguishing between them, have, it is believed, led to the commission of frauds upon the revenue, by importing, under the name of Bohea, every species of black tea. As the whole of these teas, in common with Bohea, have grown into general use among the poorer classes of the community, the propriety of considering them all to be of the same class, for the purpose of duties, and of laying upon them eighteen cents a pound, instead of the duties now imposed, is respectfully suggested.

By the present tariff, Madeira, Burgundy, Champagne, Rhenish, and Tokay wines pay one hundred cents a gallon, and Sherry and St. Lucar sixty. All other wines, when imported in bottles or cases, pay seventy cents a gallon. This last duty principally affects the claret wines of France, which, at the principal port of shipment, do not generally cost ten cents a gallon. A small portion, however, of these wines sell as high in Bordeaux as Madeira wine in the United States. The small quantity of this quality of wine produced in France, and the great demand for it, produced by the necessary supply for the tables of the rich in that and the neighboring countries, will never admit of any considerable importation of it into the United States. To determine the duty upon claret, with a view to this inconsiderable portion of it, does not appear to be judicious. Considering the cheapness of the common clarets and the salutary effects produced by them, compared with most other wines, the expediency of reducing the duty to a more reasonable proportion to the cost of the article is respectfully suggested. A duty of thirty cents a gallon upon all claret imported in bottles or cases, and of fifteen cents when imported in any other manner, would be higher than the duty now imposed upon Madeira wine, in proportion to their respective cost.

Smuggling, by the introduction of articles clandestinely and without entry, is principally confined to the eastern section of the seacoast; to the points of the coast bordering on East and West Florida, to the coast west of the mouth of the Mississippi river, and to the inland frontier. The vigilance of the custom-houses, with the aid of revenue cutters, and of some additional provisions which have been suggested by experience, will be sufficient to repress practices of this kind, which are necessarily resorted to only by persons in desperate circumstances, and, consequently, are carried on upon a contracted scale, compared with the great mass of importations into the country. The multiplication of small ports of entry in the Chesapeake bay has probably, and

certainly according to public opinion, given rise to more smuggling than any advantage fairly resulting to the inhabitants of those ports from their establishment will compensate. As a measure well calculated to aid in repressing this kind of smuggling, it is proposed to authorize the commanders of the revenue cutters to require the production of the manifests of the cargo of all vessels boarded by them, when an officer of the customs is not present, and that they be empowered to perform all acts which an inspector or other revenue officer would be permitted to perform, in relation to the manifests so produced.

It is also respectfully suggested that provision be made for requiring of all pilots licensed under the State laws to report, under the sanction of an oath, every vessel piloted by them into any port or place, to the collector of the port to which they belong, as well as to the collector of the district into which the vessel is piloted, within — after such vessel is conducted to its place of destination. On failure to comply with this provision, to be fined — dollars, or imprisoned — months; and, upon second conviction of the same offence, to be rendered incapable of exercising the functions of pilot, in addition to the penalties prescribed for the first offence; or the pilots might be sworn not to pilot any vessel arriving from any foreign port into any other than a port of entry, and bonds might be required to that effect.

The difficulties which have been experienced in the execution of the commercial convention between this country and Great Britain, resulting from the entire independence of this class of men of the laws of the Union regulating foreign commerce, and which have produced serious reclamations on the part of the British Government, may suggest the propriety of extending the authority of the Federal Government over them still further than the safety of the revenue may require.

More effectually to guard against smuggling upon our inland frontier, it is necessary that provisions of the following nature be adopted:

1. That all boats, skiffs, and other craft, of every size and description, be compelled to enter and clear in all the waters bordering upon the British possessions; and that for every violation of this provision, and for unloading without such entry, the boat, skiff, or craft, with tackle, rigging, and cargo, to be forfeited.

2. That every wagon, sleigh, or any other vehicle, in which goods are found subject to duty which have not been entered, shall, with the team by which they are respectively drawn, together with the goods, be forfeited; and the party shall, moreover, forfeit and pay double the value of such goods.

3. That it shall be lawful for any person importing foreign merchandise by land from the British dominions in America to enter such goods at the office of the nearest deputy collector to the road by which they are imported; and in all cases where goods so imported shall be found not being entered after having passed by such

office, they shall be liable to seizure and condemnation, as being illegally imported.

Upon the whole of our inland frontier, bordering upon the British possessions, an impression generally prevails that injustice is suffered by the inhabitants, from being subjected to a higher rate of duty upon all merchandise imported from these possessions than is paid by that portion of their fellow-citizens who receive their supply of foreign merchandise from the Atlantic ports. This impression has enlisted the feelings and sympathies of the people in favor of the illicit introduction of foreign merchandise, by which the revenue is greatly defrauded, in proportion to the importations which are made from the British possessions. The loss of the revenue, however, is but a secondary object in the consideration of this subject. The influence which the continuation of this state of public feeling must necessarily have in corrupting our citizens, and producing an habitual disrespect for the laws, demands the peculiar attention of the Legislature. If the inequality in the contributions paid by the consumers of merchandise imported from Canada can be destroyed, there is just reason to believe that public opinion will, upon that frontier, be enlisted on the side of the laws, and that smuggling will be considered as disgraceful there as on the Atlantic coast.

It is, therefore, respectfully submitted, whether it is not expedient to provide that, in all cases of importations into the United States from Quebec, Montreal, or any other commercial town in the British territories, the duties shall be estimated upon the cost of the articles at the place of original purchase, under the following regulations, viz:

1. The merchant from whom the goods are bought in the British dominions shall, before the mayor of the city, or a judge of the court of record, and in the presence of the purchaser and importer into the United States, produce a copy of the original invoice, and swear that it contains an accurate statement of the price given for the goods described in their then state of manufacture.

2. The importer into the United States shall produce the copy of the original invoice so verified, and also a copy of the invoices of the goods purchased by him, accurately exhibiting the current value of the said articles at the place of purchase, and which has been paid; and shall upon oath declare to the correctness of the latter, and that the former was verified in his presence.

The adoption of regulations of this kind, it is believed, will effectually guard the revenue against frauds and evasions arising from attempts to enter merchandise below its real cost, and may have the happiest effect in discountenancing smuggling of the most flagrant character, and in restoring public opinion upon this important subject to a sound and healthful state.

The district of Champlain extends from the shores of Lake Champlain to the river St. Lawrence. The waters falling into the former are separated from those falling into the latter by a



## Revision of the Revenue Laws.

mountainous range, which, in a great measure, insulates the one from the other.

It is, therefore, deemed expedient to form another collection district of that part of the Champlain district which lies west of that range, including the northern part of the district of which Ogdensburg is the port of entry.

From information obtained from the gentlemen who traversed the lakes during the Summer and Autumn of 1816, as far as Lake Superior, for the purpose of determining the boundaries of the United States, according to the provisions of the treaty of Ghent, it is believed that the public interest requires that a collection district should be formed, comprehending the shores and waters of Lake Superior lying within the United States and the western shore of Lake Huron; the port of entry of the district to be at the falls of St. Mary, on the water communication between those lakes.

Another collection district also appears to be necessary in the western extremity of the State of Louisiana. That section of the country has lately been the scene of the most active smuggling, especially in African slaves, from Galveston. Although the suppression of that establishment may for some time check the smuggling practices which have been carried on in that quarter, yet there is just ground to apprehend that they will be resumed from other points of the same coast, unless suitable measures of prevention are adopted.

The act of 1799, in the fifty-eighth section, fixes the tare which shall be allowed upon packages, casks, &c., therein described, containing articles paying specific duties. The enumeration, however, is, by practice, found to be imperfect. The defects have been supplied by regulations, which are probably not uniform in all their parts. The statement A, hereto annexed, presents a list of the principal items embraced by those regulations.

The act of the 27th of March, 1804, which imposes specific duties upon a great variety of articles which before paid ad valorem duties, has made no provision for ascertaining the tare of such articles, when imported in packages, &c. Statement B contains an enumeration of those articles, with the tare allowed by regulation. The propriety of establishing those rates, by law, is respectfully suggested.

Under the navigation act, vessels employed in the coasting trade are subject to a tonnage duty of fifty cents, unless the officers and three-fourths of the crews are American citizens. This duty is to be paid upon every voyage by registered vessels, and once a year by licensed vessels. The proof is to be made by the collector, to whom the duty is payable. This proof is much more easily made at the port to which the vessel belongs, than at the port to which it is bound. It seems, therefore, to be expedient that the proof of citizenship should be tendered to the collector of the port from whence the vessel sails. The certificate of the collector should be considered a satisfactory evidence by the collector of the port to which the vessel is bound, unless where the contrary should be made to appear. Every change in the officers or crew should be certified by the

collector of the port where such change is made. It is only by recording such changes, as they occur, and certifying the character of the crew as often as they happen, that it is possible for a licensed vessel to exempt itself from the payment of fifty cents per ton.

The act of 1793, for registering and licensing vessels, is considered defective, by reason of not defining, with sufficient accuracy, the condition upon which the bonds should be forfeited. It is understood that the courts have declared them void.

The bond for delivering the register of a vessel sold to foreigners does not fix the time within which the register shall be surrendered, and is, therefore, generally nugatory. There is no remedy against the discharge of American seamen in foreign ports, where the vessel is sold. If the bond should embrace this object, and should be forfeited in six months after the sale of the vessel, if the register should not be delivered within that time, where the sale was made in Europe, and twelve in countries beyond the Cape of Good Hope, the object contemplated by requiring the bond might be secured. The party might be permitted to send the sailors home at his own expense, and avoid the penalty of the bond, so far as that condition was concerned.

The forfeiture of four hundred dollars, for departing from a port to which a vessel has cleared, and in which it has arrived without entering, is believed to be inadequate to the object.

The act of Congress intended to secure to the United States a priority over individual creditors, in the recovery of debts, in all cases of the insolvency of its debtors, has been found to be inadequate to the object for which it was enacted. This has arisen, in some degree, from the provisions of some of the State laws, by which liens are obtained, by taking out attachments, which are levied upon the property of their debtors, when upon the brink of insolvency, or immediately after such insolvency is known.

As no doubt is entertained of the justice and propriety of securing this legal priority, in all cases connected with the revenue, or with the tenure by which offices are held under the United States, the expediency of revising the act relating to this subject, in order to render it effectual, is respectfully suggested.

It may be proper, in closing this report, to bring into view subjects which, though not strictly embraced by the resolution, may be considered as fairly incidental to it. Among these may be mentioned the inconvenience and loss to which the Treasury is subjected, by suffering, in particular States, landed property to be set over to the United States, upon appraisements, in discharge of debts arising from custom-house bonds. The property is always appraised for more than it will sell; it has, therefore, been generally retained, with a view to realize the sum at which it has been received. In the mean time, for the want of proper agents, or indeed agents of any kind, it remains not only unproductive but generally becomes less valuable. This principle seems to

## Revision of the Revenue Laws.

have been adopted from a respect to the State laws. Its inequality is, however, a sufficient argument against its continuation, independent of the loss which the Treasury suffers from it. In some of the States where the United States are subjected to this inconvenience, the States have taken better care of their own interests, by excepting them from the operation of it. If the law, in this regard, is not changed, it will be necessary to authorize the appointment of agents in those States, to take charge of the real property of which the United States are already, or may hereafter, become the owners; or else it will be necessary to make sale of them, with as little delay as possible, without regard to the loss which may be incurred.

If it is judged expedient to legislate upon the subject, it may be proper to authorize the sale of those lands by the marshal, with the power to make titles to the purchaser. Under the existing laws, the practice is for the Secretary of the Treasury to execute the titles.

Should the principal provisions which are recommended be adopted, the importance of public warehouses will be greatly increased.

The appropriation which was made for that object, in the year 1816, was applied by the late Secretary of the Treasury, to the purchase of custom-houses and warehouses in Boston, New York, and Philadelphia. Measures have been taken, during the last year, to build or to procure suitable establishments for the same purpose in Baltimore and in Charleston. Statement C, which is annexed, shows the application of the sum appropriated, and an estimate of the sum necessary for the accomplishment of the object for which it was made. It may be proper to observe, that a considerable expenditure will be necessary in Philadelphia before the object of the appropriation can be effected.

Statement D shows the application of the appropriation of \$50,000 for purchasing or erecting, for the use of the United States, suitable buildings for custom-houses and public warehouses, in such principal district, in each State, where the Secretary of the Treasury shall deem it necessary, for the safety and convenient collection of the revenue.

Under this appropriation, custom-houses and public warehouses have been purchased at Portsmouth, in New Hampshire, and New Haven, in Connecticut. Lots have been purchased at Providence, in Rhode Island, and at Norfolk, in Virginia. In the former, a contract will shortly be made for the erection of the building. The price of suitable lots in Norfolk and in Savannah, and the high price demanded for the erection of buildings in those places, will not authorize the Department to enter into any engagements for the erection of necessary buildings, until it is ascertained whether an additional appropriation will be made for that object. It may not be improper to state, that, in some of the ports to the eastward, houses and lots have been set over to the United States, which are represented to be suitable to the object in question. The commerce,

15th CON. 1st SESS.—74

however, of those ports is inconsiderable, and probably will remain so for many years.

All which is respectfully submitted.

WM. H. CRAWFORD.  
TREASURY DEPARTMENT, Jan. 17, 1818.

## Circular.

TREASURY DEPARTMENT, May 7, 1817.

SIR: A general impression appears to prevail in all the commercial cities, that frauds upon the revenue are committed to considerable extent, by invoicing merchandise paying an ad valorem duty, which costs less than twenty-five cents the yard, with those which exceed that price, so as to produce an average value above twenty-five cents the yard, and thereby introduce coarse and cheap fabrics without paying the duty contemplated by the tariff. According to the same impression, frauds of a more glaring nature are frequently committed upon the revenue, especially in importations upon consignment, by the introduction of articles not described in the invoices, which, from the imperfect manner in which the inspection of the packages are made, escape with impunity. It is possible that this impression may not be correct to the extent that it has been made; but it is believed that a due regard to public opinion upon this subject requires that a more rigid inspection than has heretofore been made should now be attempted, with a view to detect the frauds which are supposed to be practised. It is, therefore, proposed,

1st. That a certain proportion of the packages which contain goods subject to ad valorem duties shall be selected from each invoice by the collector, which shall be strictly inspected, with a view to detect frauds which may be attempted, by putting in the same invoice goods of greater and less price than twenty-five cents a yard.

2d. That a certain proportion of packages paying specific duties be designated in like manner by the collector, which shall be thoroughly examined for the purpose of detecting any attempt which may be made to smuggle articles not described in the invoice.

3d. That the proportion of packages to be designated by the collector, on importations upon consignment, be double the number when the person who enters them is the owner and importer.

4th. That, in all cases of consignment, the packages designated shall be lodged in the public warehouses until the inspection be made.

5th. That every importation shall be deemed to be upon consignment, unless the person who makes the entry shall expressly negative the fact in oath of entry.

In order that the inspection directed for detecting frauds of the first kind may be skilfully executed, the inspector, whose habits and information qualify him for the discharge of that duty, and in whose judgment and fidelity you have most implicit confidence, should be exclusively employed for that purpose.

As it is an object of importance that the revenue system should be rendered as perfect as pos-



## State of the Sinking Fund.

sible, and that every attempt to evade the provisions of the existing laws should be known, you are requested to communicate to this Department every circumstance of that nature, accompanied by suggestions of the provisions necessary to repress the evil.

WM. H. CRAWFORD.

## A.

Sugar, in canisters, 40 each; sugar, in seroons, 8 per cent; cocoa, in seroons, 8 per cent; cheese, in casks, 15 per cent; indigo, in cases, 15 per cent; twine, in cases, 15 per cent.

## B.

Taxes allowed by custom, July 25, 1804.

Almonds, bags,	4 per cent.
frails,	10 do
casks,	15 do
Cassia, Chinese, boxes,	18 do
mats,	6 do
Cinnamon, boxes,	25 do
Cloves, casks,	12 do
bags,	4 do
Currants, casks,	12 do
boxes,	10 do
Pigs, boxes,	10 do
mats, or frails,	4 do
Glue, casks,	20 do
boxes,	15 do
Lead, white, in oil,	8 do
dry,	6 do
red,	5 do
Mace, casks or boxes,	18 do
Nutmegs, casks,	12 do
bags,	4 do
Ochre, yellow, in oil,	12 do
dry,	10 do
Powder, gun, quarter casks,	5 each.
half hundred,	9 do
whole hundred,	23 do
Plums, boxes,	8 per cent.
Prunes, boxes,	8 do
Raisins, boxes,	15 do
jars,	18 each.
casks,	8 per cent.
frails,	4 do
drums,	10 do
Spanish brown, casks,	12 each.
Sheet iron, boxes,	8 do
Tallow, casks,	12 per cent.
seroons,	8 do

Tallow, tubs,	15 per cent.
Fish, dry, casks,	12 do
boxes,	12 do
Snuff, casks,	12 do
boxes,	15 do
Almonds, cases,	8 do
Steel, cases,	8 do
Spanish brown, in oil and in kegs,	8 do
Figs, casks,	12 do
Almonds, seroons,	10 do
Figs, drums,	8 do

## C.

Amount of money expended under the appropriation of \$250,000 for providing suitable buildings for the custom-houses at Boston, New York, &c.

Amount of appropriation,	\$250,000 00
Expenditures:	
At Boston,	\$29,000 00
New York,	70,000 00
Philadelphia,	33,600 50
Baltimore,	50,000 00
	182,600 50
Unexpended balance,	\$67,399 50

In conjunction with the above-mentioned balance, it is estimated that there will be required the further sum of \$87,600 50 for the following ports, viz:

Baltimore,	\$20,000
Philadelphia,	75,000
Charleston,	60,000
	\$155,000

## D.

Statement of moneys expended and contracted to be expended under the appropriation of \$50,000 for purchasing or erecting suitable buildings for custom-houses and public warehouses, &c.

At Portsmouth, New Hampshire,	\$8,000
Providence,	3,000
New Haven,	5,000
Norfolk,	9,000
	\$25,000

It is estimated that, in addition to the unexpended balance of the above-mentioned appropriation, the further sum of \$75,000 will be required to accomplish the object.

## SINKING FUND.

[Communicated to the Senate, February 10, 1818.]

The Commissioners of the Sinking Fund respectfully report to Congress as follows: That the measures which have been authorized by the board, subsequent to their report of the 7th of February, 1817, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to the board, dated the 6th day of the present month, and the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report.

JOHN GAILLARD, *President of the Senate pro tempore.*J. MARSHALL, *Chief Justice of the United States.*JOHN QUINCY ADAMS, *Secretary of State.*WM. H. CRAWFORD, *Secretary of the Treasury.*WM. WIRT, *Attorney General.*

WASHINGTON, February 7, 1818.

## State of the Sinking Fund.

TREASURY DEPARTMENT, February 7, 1818.

The SECRETARY OF THE TREASURY respectfully reports to the Commissioners of the Sinking Fund:

That the balance of moneys advanced on account of the public debt, remaining unexpended at the close of the year 1815, and applicable to the payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to \$38,650 94

From which, however, is to be deducted a sum twice credited by the commissioner of loans at Boston, and included in Cc, of last year, and which formed a part of that balance, since corrected by Treasury statement, on said loan office account No 32,187, 12,440 00

\$26,210 94

Together with sums disbursed from the Treasury during the year 1816, on account of the principal and interest of the public debt, which sums, as appears by the revised statement Cc, accompanying this report, amounted to 25,682,188 12

Together with a further sum arising from profit in exchange on remittances from London to Amsterdam during the year 1816, as appears by an explanation thereof annexed to the Treasury statement No. 34,730, 18,688 67

And with a further sum, arising from damages and interest on certain protested bills, being the difference between the amount paid for said bills of exchange and the amount received into the Treasury in repayment thereof, 7,361 09

Amounting, together, to \$25,734,448 82

Have been accounted for in the following manner, viz:

1. There was repaid into the Treasury, during the year 1816, on account of the principal of moneys heretofore advanced for the payment of the principal of the public debt, as appears by the statement E, annexed to this report, the sum of \$922,132 19
2. The sums actually applied during the year 1816 to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to this Department, amounted, as appears by the annexed statement A, to the sum of \$24,212,115 60

In the reimbursement of the principal of the old 6 per cent. and deferred stocks \$1,662,124 18

In the reimbursement of temporary loans 1,225,000 00

Payment of the principal of Treasury notes 14,167,491 00

17,054,615 18

On account of the interest and charges of the same 7,157,500 42

24,212,115 60

There was transferred from the funds provided for the payment of interest on Louisiana 6 per cent. stock the sum of £957 17s. 10d. sterling, to the funds provided for the diplomatic department abroad, and credited by the agents at Amsterdam, as per Treasury statement No. 32,889 4,257 29

There was a loss in exchange on remittances from America to Europe, during the year 1816, as appears by statement D, annexed to last report, the sum of 75,446 94

3. The balance remaining unexpended at the close of the year 1816, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the annexed statement B, to 520,496 80

\$25,734,448 82

That during the year 1817, the following disbursements were made out of the Treasury on account of the principal and interest of the public debt, viz:

On account of the interest on the funded domestic debt and reimbursement of the principal of the old and deferred 6 per cent. stocks \$6,019,312 48

On account of the principal and interest of temporary loans—

Reimbursement of principal \$550,000 00

Payment of interest 18,106 16

568,106 16

On account of principal and interest of Treasury notes 3,592,927 60

On account of the principal and interest of the Louisiana stock payable in Europe—

On account of the reimbursement of principal 419,189 74

Payment of interest 328,329 69

747,519 43

On account of the reimbursement of the domestic debt 14,955,735 25

Amounting, together, as will appear by the annexed list of warrants marked C, to the sum of \$25,883,600 92



*State of the Sinking Fund.*

Which disbursements were made out of the following funds, viz:

From the annual appropriation of ten millions of dollars for the year 1817, agreeably to the second section of the act to provide for the redemption of the public debt, passed the 3d March 1817	\$10,000,000 00
And the additional sum appropriated by the third section of the said act	9,000,000 00
And so much of the sum of four millions designated in the said section of that act	2,830,108 52
And paid from the funds "arising from the proceeds of duties on merchandise imported, and on the tonnage of vessels, and from the proceeds of internal duties, and of the sales of Western lands," agreeably to the said act.	
From repayments into the Treasury on account of moneys heretofore advanced for the purchase of bills of exchange, for the payment of interest and reimbursement of the funded debt, and of Treasury notes	460,564 80
From the appropriation by law in relation to Treasury notes, being the amount of payments for principal and interest of Treasury notes at the Treasury, and for which warrants were issued for payment as per foregoing recited statement C	3,592,927 60
Make the amount paid upon warrants, as before stated	25,883,600 92
That the disbursements above mentioned, together with the balance before stated, which remained unexpended at the end of the year 1816, amounted to	520,496 80
With two items of gain on remittances for the redemption of the Louisiana 6 per cent. stock, and for the payment of interest on said stock, as per statements D and Dd, amounting to	3,512 59
	26,407,610 31
Have been accounted for, so far as respects the redemption of the funded debt, under the act passed the 3d March, 1817, and as exhibited in a particular statement of its application, as per statement F annexed, and which is rendered as a part of this report	14,955,735 25
The residuary balance of	\$11,451,875 06
Will be accounted for in the next annual report, in conformity to the accounts which shall have been rendered to this Department.	
In the meantime, the manner in which the said balance has been applied is estimated as follows:	
In the reimbursement of the old and deferred 6 per cent. stocks for 1817	\$1,603,997 70
In the reimbursement of temporary loans	550,000 00
Towards the redemption of the Louisiana 6 per cent. stock	419,189 74
In the payment of the principal of Treasury notes	3,058,234 00
Principal	5,631,421 44
In the payment of interest on the funded debt, temporary loans, and Treasury notes, as per estimate F	6,390,495 79
	\$12,021,917 23
In the next annual statement the repayments in 1817 will be exhibited as a deduction from the total amount of warrants issued for the public debt for that year, and of which they form a part, to the amount of	460,564 80
	12,482,482 03
As the funds in the banks from which a part of the above payments, to the amount of \$12,021,917 23, were not covered by warrants until after the 31st December, 1817, the amount thereof forms a deduction, and will appear in the next annual statement	1,030,606 97
Leaves the amount of the residuary sum, as before stated, of	\$11,451,875 06
The statement G, accompanying this report, exhibits a sum provided abroad to be applied to the payment of the interest on the 6 per cent. Louisiana stock, at London and Amsterdam, to the amount of	\$220,694 84
The amount of protested bills returned for non-payment, and which remain to be recovered, as per list herewith included in statement G	135,072 52
	\$355,767 36

That funds were provided for the payment of the Treasury notes, which, by the last report to the board, remained unprovided for and unpaid; and that the examination, cancelment, and final adjustment of that medium of circulation is in full operation at the Treasury.

That all temporary loans have been discharged.

That agreeably to the act passed last session, and in pursuance of the directions of the board, all certificates for funded stock redeemed that had been issued are in a course of being cancelled and destroyed.

A statement marked H is annexed, which exhibits the amount of the debt of the United States on the 1st January, 1818. All which is respectfully submitted.

WM. H. CRAWFORD.

*Indulgence to Purchasers of Public Lands.*

## INDULGENCE TO PURCHASERS OF PUBLIC LANDS.

[Communicated to the Senate, March 27, 1818.]

TREASURY DEPARTMENT,  
March 27, 1818.

SIR: I have the honor to acknowledge the receipt of your letter enclosing the resolution of the Senate of the 25th instant, instructing the Committee on Finance "to inquire into the expediency of extending further time to the purchasers of public lands to complete their payments for the same."

In answering your request for information upon this subject, I have the honor to observe, that, in general, the means of meeting with punctuality the demands of the Government upon the purchasers of public lands have never, at any period, been more ample. If the seasons have for several years past been unfavorable to abundant crops, the high price which the surplus of those crops have commanded has amply rewarded the labors of the husbandman.

The inability of the purchaser to comply with his engagements to the Government must be sought, if it exists, in other causes than the want of liberal prices for his surplus products. It, in fact, is to be found in the inundation of certain sections of the Union with a paper currency, which, without possessing the essential properties of a circulating medium, has, by the facility with which it has been obtained, excluded from circulation the bills of banks of more established credit and of more general currency. In order to diminish the pressure which was apprehended in passing from paper to specie payments by the banks, during the Winter and Spring of 1817, the paper of all incorporated banks which ostensibly discharged their bills in specie was received by the collectors and receivers of public money. At that period there was in the public treasury more than a million and a half of the bills of various banks, which were not current, and was therefore inapplicable to the current expenses of the Government. By giving time to the banks by which these bills had been issued, it was hoped that they would be able to redeem their notes by establishing credits with banks of greater stability and of more extensive credit. In many instances this expectation has been realized; but the diminution, thus effected, has been nearly balanced by the receipt since that time of the bills of banks which will not be entered as specie to the credit of the Treasury by the Bank of the United States, its offices, or State banks employed as offices of deposit. It is a fact, that there is now in the Treasury more than a million of dollars of special deposit, which cannot be immediately applied to the emergencies of the Government. To bring an evil of this magnitude to a termination as prompt as the public interest would permit, the collectors and receivers of public money throughout the nation have been instructed to receive in payment of duties, taxes, and

public lands, nothing but current specie, the bills of the Bank of the United States, its offices, and State and other local banks employed as offices of deposit, and the bills of such other banks as will be received by them and credited as specie for the use of the United States. It may be proper to observe, that the Bank of the United States and its offices receive as specie the bills of all local banks which pay specie, that are established in the places where that bank and its offices are respectively established. The local banks employed as offices of deposit by the Bank of the United States have, it is believed, generally adopted the same rule. The enclosed list of the offices, and local banks employed by the Bank of the United States in that character, will enable the committee to form some estimate of the number of banks, the bills of which are receivable by the Government under the existing regulations. The number is not accurately ascertained, but it is presumed that the number of State and local banks, the bills of which are received in all payments due to the Government, exclusive of those which are employed as offices of deposit, cannot fall short of one hundred. From this view of the subject, it is manifest that no pressure can be produced by the instructions which have been recently given to the collectors and receivers of public money, except in those sections of the Union where the multiplication of local insulated banks, with little, and, in some cases, no capital, have driven from general circulation the paper of banks whose credit is perfectly established. The bills of such banks are driven from circulation within the immediate sphere of the circulation of the local banks, by their assuming the character of articles of commerce, the value of which is continually fluctuating, but always of greater value than the bills of such local banks. As articles of commerce, they are exported from the districts of country inundated with the bills of local and insulated banks. By this course of things, the inhabitants of such districts are unable to procure any other bills than those of the little local banks, which, compared with the bills of the Bank of the United States, and of those of the banks which are received by that bank and its offices, are greatly depreciated. These bills cannot be received by the Government consistently with the public interest, or with the obligations imposed upon the Secretary of the Treasury by the existing laws. To pay the demands of the Government in those districts in any other than the bills of the local banks will subject the debtors for public lands to a loss equal to the depreciation of those bills compared with the bills which are receivable. The expediency of extending the time of payment depends upon the difficulty and the loss to which the public debtors will be subjected by refusing to receive depreciated paper in satisfaction of their debts. The state of the Treasury does not render it expedient to press unnecessarily upon the public debtors. The only ground upon which the expediency of the measure may be questionable is, that the evil from which re-



*Settlement of Public Accounts.*

It is intended to be given is the creation of those who are to be relieved. The events of the last Autumn and Winter, in the section of the country where the expediency of extending the time of payment alone exists, are calculated to produce an impression that the cause of the evil is not there understood, and that it will probably be increased until this important discovery shall be made.

I have the honor to be, your most obedient servant,

WM. H. CRAWFORD.

Hon. G. W. CAMPBELL,  
Chairman Committee on Finance.

## SETTLEMENT OF PUBLIC ACCOUNTS.

[Communicated to the Senate, January 22, 1818.]

In obedience to a resolution of the Senate of the 11th of December, 1817, requiring the Secretary of the Treasury "to lay before the Senate information of the progress which has been made in the settlement of public accounts, under the act to provide for the prompt settlement of public accounts;" and that he also state what further legal provisions may be necessary, in his opinion, to insure the speedy settlement of public accounts," I have the honor to submit the enclosed reports of the First and Second Comptrollers and the five Auditors of the Treasury.

From them it appears that that portion of the public accounts which are subjected to the examination of the Second and Fourth Auditors have been adjusted, and that the books of those officers have been brought up to the 1st day of the last month.

In the office of the First Auditor much remains to be done before the accounts subjected to the examination of that officer can be adjusted.

The imposition of the internal and direct taxes in the year 1813, and in the subsequent years, together with the embarrassment produced by the issue of Treasury notes bearing interest, (each of which, in its final redemption or payment into the Treasury, not only presented a complicated account involving generally several calculations of interest, but rendered the account of every officer through whose hands it passed extremely complex,) greatly increased the duties of this officer and of the First Comptroller of the Treasury. This increase in the duties of those officers was not attended by a correspondent increase of the force placed at their disposition for the performance of the services required of them.

The great number of banks which became the depositories of the public money after the dissolution of the late Bank of the United States, and particularly after the derangement of the currency in the year 1814, together with the complexity introduced in the accounts of the Secretary of the Treasury, and of the Treasurer of the United States, by the subdivision of the public revenue into cash, special deposits, small Treasury notes, and Treasury notes bearing interest, had, during

the years 1815 and 1816, produced some irregularity in the accounts of these two officers, which it has required much labor and assiduity to correct.

This circumstance, and the other causes which have been stated, have necessarily produced in the office of the First Auditor of the Treasury a considerable arrearage in the settlement of the accounts confided to him. So far as the accounts of the Secretary of the Treasury are connected with this arrearage, the cause of delay has been removed. The abolition of the internal duties will considerably diminish the labors of the First Auditor, and will enable him to settle with promptitude the accounts which are examinable in his office.

The accounts assigned to the Fifth Auditor of the Treasury were greatly in arrear. That officer, however, believes that, with the number of clerks subject to his direction, he will be able to examine and report upon them without unnecessary delay.

In the office of the Third Auditor of the Treasury, where all the old accounts of the War Department are to be examined, a great mass of accounts remain unsettled. It is in that office where the greatest difficulties are to be surmounted, where remedies of the most energetic character are required. By referring to the report of that officer, it will be found that the most serious obstacle to the prompt settlement of the public accounts is the want of power to compel delinquent officers to render their accounts and vouchers. In the Pay Department it is extremely unsafe to settle the accounts of any paymaster until the accounts and vouchers of every paymaster employed in the same part of the country are rendered.

The same observation applies with nearly the same force to the Quartermaster's Department. The great mass of officers employed in both of these departments during the late war, and whose accounts are still unsettled, are now out of office. Should a small number of these officers obstinately withhold their accounts and vouchers, the settlement of the accounts of the others, as well as their own, will be indefinitely protracted, unless the power of coercing settlements shall be greatly extended. At present, the means of compelling delinquent officers to render their accounts and vouchers for settlement consist, 1st. In ordering an action to be brought against the delinquent, upon the trial of which no voucher is admissible which has not previously been presented to the accounting officers of the Treasury; 2d. The forfeiture of commissions, and the payment of interest at the rate of 8 per cent. from the time the money was received until it is repaid into the Treasury, if the final judgment should be in favor of the United States; and, 3d. The payment of costs, whether the judgment is for or against the defendant.

The first is found in practice to be wholly inefficient, as the party never fails, under the third and fourth sections of the act which contains these provisions, to have his retained vouchers

*Settlement of Public Accounts.*

presented to the Treasury after the commencement of the action, so as to remove that objection to their legal admissibility. The payment of interest from the time the money was received until it is repaid into the Treasury is nothing more than what is required by the ordinary demands of justice, and can hardly be considered as a penalty. The forfeiture of the commissions to which the party would have been entitled had he acted correctly is generally more than balanced by the benefit derived from the possession of the public money for the length of time which generally elapses before the sum embezzled can by legal process be wrested from the delinquent. A reference to the acts of the 3d of March, 1795, and of the 3d of March, 1797, which contain the principal provisions for the recovery of debts due the United States, will furnish some idea of the delays to which the settlement of the public accounts must necessarily be subjected where the accounts of the delinquents are not connected with those of other officers; but where they are connected with the accounts of a great number of other officers, the delays which must necessarily result on account of the refusal or neglect of a small number of them to render their accounts and vouchers may be considered, with respect to any practical result, as interminable.

It is therefore respectfully suggested that further provision be made for compelling the officers of the Government to whom the disbursement of the public money is confided to render their accounts and vouchers at stated periods. As long as the officer remains in office, the power of removal vested in the Executive Department may be considered sufficient for this purpose; but when that power has been exercised, or when the office has in any other way become vacant, the means of coercing a settlement are extremely defective. For a definition of the power which ought to be vested in the officer charged with the collection of debts due to the United States, as well as for the general reasoning on this subject, the Senate is respectfully referred to the report of the Secretaries of the different departments, made upon this subject to that honorable body on the 6th of December, 1816, and to a letter from the same officers to the chairman of the committee to whom that part of the President's message relating to changes in the organization of the departments was referred in the House of Representatives, bearing date the 31st day of December of the same year.

The views and opinions presented in those papers not only remain unchanged, but have acquired additional force from the experience of the past year. The money remaining in the hands of the officers employed during the late war, whose accounts remain unsettled, must be very considerable. In several cases where they have rendered their accounts, and admit considerable balances to be in their hands, they have refused to pay over the balance until their accounts are finally settled; which, from the explanations already given, may be protracted to a period so remote as to subject the Government to the eventual loss of the whole

from the death, insolvency, or emigration of the principal and sureties.

If the power recommended by the reports referred to should not be vested in the Government, some provision for promptly enforcing the payment of sums admitted to be in the hands of officers no longer employed is certainly necessary. The propriety of absolutely rejecting, on the trial of any action brought against a delinquent officer, every voucher which had not been presented to the accounting officers of the Treasury before the commencement of the action, is respectfully suggested.

Independent of the changes proposed in the existing provisions upon this subject, the appointment of an officer who shall be exclusively charged with the power of instituting and superintending all actions brought by the United States for the recovery of money is again respectfully submitted to the consideration of the Senate. This recommendation is founded upon the fullest conviction that the duties now required of the First Comptroller of the Treasury, cannot be correctly performed by any officer whatever. The revision of accounts reported to that officer by the First and Fifth Auditors of the Treasury, and by the Commissioner of the General Land Office, if revision is intended to be any substantial check upon the acts of those officers, must, by every person who will take the trouble to examine into the subject, be considered sufficient to command the whole of his time and attention.

It is not expected that the principal officer in the primary or secondary departments of the Government, will be able minutely to examine every case upon which they decide; but unless it is understood that a certain portion of the cases will be so examined, a degree of negligence and laxity on the part of the subordinate officers in those departments, whether principal or secondary, may reasonably be expected. The gradation from unintentional error to wilful negligence, and from the latter to the practice of deception, is gentle and almost imperceptible. The principal officer of each office is responsible to the nation for the correct discharge of the duties required of him, and legal checks have been devised to correct and detect the errors which may be committed in the execution of their public functions. The clerks or subordinate officers are responsible to the chief of the office for the correct discharge of their duties; the only check, however, which he possesses is the examination which he is able to make of their official acts before they receive his official signature. If, then, the duties required of any officer are so great and multifarious as to prevent his giving to the acts of his subordinate officers such an examination as will render the detection of any errors which may be committed by them probable, there is imposed upon him the highest responsibility, without the adequate means of acting up to that responsibility. Such is believed to be the situation of the First Comptroller of the Treasury.

The correspondence which he is compelled to carry on with the collectors of the customs, the



*Settlement of Public Accounts.*

district attorneys, and the marshals, will afford ample employment to an active and intelligent officer, aided by a recording clerk. Should it, however, be deemed advisable to continue with the Comptroller the duty of corresponding with the collectors of the customs, and deciding upon legal questions arising under the revenue laws, the officer proposed to be appointed might find ample employment by being charged with the light-house establishment, which is now under the superintendence of the Commissioner of the Revenue. He might also be directed to perform any other duty which the President of the United States might think proper to require of him.

From the best view of the subject which I have been able to take, the appointment of a Solicitor of the Treasury appears to me to be indispensable, without any reference to the decision of Congress upon the changes which have been proposed to the laws relating to the collection of debts.

If such an office is not created by law, it must exist in fact, as the Comptroller of the Treasury must of necessity delegate to one of his clerks the power of corresponding with the district attorneys and marshals, and hold him responsible for the due execution of that duty, without being able to examine his acts in a manner necessary to the exercise of a salutary check upon them.

The opinion expressed by the Second Auditor of the Treasury, relative to the distribution of the accounts of the War Department between the Second and Third Auditors, is entitled to consideration; but there is some reason to believe that the inconvenience of which he complains is rather the result of ignorance or negligence in the officers who make returns, than of any defect in the distribution made between those officers. The evil will necessarily diminish by time and experience. The irregularity in the returns of the quartermasters, military storekeepers, and commissaries, will be corrected, by instructing them how to make their returns. It is not believed that the public service requires any essential change to be made in the distribution of duty between the accounting officers of the Treasury as now established by law. A more simple distribution between the two Comptrollers might confine the duty of the First to the settlement of all accounts arising from the collection of the revenue, and payment of it into the treasury; whilst the Second should take charge exclusively of all accounts resulting from its disbursement from the treasury. Some difficulty, however, would arise in carrying this principle into effect, especially in distributing the duty between the Auditors.

It may, however, be proper to observe, that the report of the heads of Departments, before referred to, recommended a transfer of the Indian Department from the War to the Home Department. As that part of the system was not adopted, the Secretary of War is not relieved from examining and sanctioning all the contingent allowances made to the agents, interpreters, &c., employed in our intercourse with the Indian tribes. The transfer of the Indian accounts to

the Fifth Auditor of the Treasury is not attended with any good effect. It introduces an anomaly into the Departments, by making the Treasury disburse the Indian appropriations, under the direction of the Secretary of the War Department. As relief to the Secretary of War, and not to the Second and Third Auditors, was the object of that recommendation, the assignment of those accounts to one of the Auditors last mentioned is respectfully recommended.

It may be proper to state that this suggestion does not embrace the accounts of the Superintendent of Indian Trade, which were previously settled in the Treasury Department.

All which is respectfully submitted.

WM. H. CRAWFORD.

TREASURY DEPT., Jan. 21, 1818.

TREASURY DEPARTMENT,  
Comptroller's Office, Jan. 5, 1818.

SIR: In compliance with your request to be furnished, so far as the accounts under my direction were involved, with the information required by the resolution of the honorable the Senate of the United States, of the 11th ultimo, relative to the progress which has been made in the settlement of public accounts, under the act to provide for the prompt settlement of public accounts, and as to what further legal provisions may be necessary to insure the speedy settlement of those accounts, I have the honor to state that a communication on the subject was addressed by me to the First and Fifth Auditors of the Treasury, copies of whose answers are transmitted herewith.

It will be seen, from the representation of the First Auditor of the Treasury, that all the accounts of the customs for the year 1816 have been reported upon by him, which, with a few exceptions, have been revised and finally passed upon by me; that he is progressing with, but has not yet reported on, the accounts relative to the internal revenue for the same year, a small proportion of the accounts, under which head for the year 1815, recently reported on by him, remain to be revised and passed by this office; and that the accounts of every other description are examined by him as presented, and adjusted with all the despatch which their bulk and nature admit of. These accounts may be comprised under the following heads, viz:

- 1st. Accounts of marshals.
- 2d. Accounts of the Bank of the United States, its branches, and of such State banks as have been designated by that institution, under the act of 3d March last, to perform the duties of the late commissioners of loans relative to the public debt, and to the payment of pensions of invalids.
- 3d. Accounts of the officers under the civil list.
- 4th. Accounts relative to the marine hospital establishment.
- 5th. Accounts relative to the light-house establishment.
- 6th. The accounts of the Treasurer of the United States, for receipts and expenditures of the United States.

*Settlement of Public Accounts.*

7th. His accounts as agent for the War and Navy Departments.

8th. Accounts of the mint.

9th. Accounts of the Superintendent of the City of Washington, and Commissioner for Public Buildings.

10th. Accounts on the awards by the commissioner for liquidating claims for property lost.

11th. And a variety of miscellaneous accounts.

The accounts of the War Department, comprehended under the head of "Old books," to the 30th June, 1814, and those under the head of "New books," to the 31st December, 1814, and the accounts of the Navy Department to the 31st December, 1813, have been finally acted upon by me.

The First Auditor of the Treasury has reported on the accounts of the War Department for the first and second quarters of 1815, and of the Navy Department for the first, second, third, and fourth quarters of 1814, which are now in my office to be passed upon. He has remaining in his office the accounts of the War Department for the third quarter of 1815, and of the Navy Department for the fourth quarter of 1814, and for the first, second, third, and fourth quarters of 1815.

It results that all the accounts settled by the late Accountant of the War Department, from the 1st October, 1815, to the 3d March, 1817; by the late additional Accountant, between the 29th April, 1816, (the date of the act establishing the office,) and the 3d March, 1817; and by the late Accountant of the Navy Department, from the 1st January, 1816, to the 3d March, 1817, remain to be reported upon by these officers, respectively, and to be transmitted to the First Auditor of the Treasury, after whose revision of them they are to be finally acted upon at my office.

In relation to the representation made by the Fifth Auditor of the Treasury I have to observe, that all the accounts which have been reported upon by him have been revised and passed upon by this office, with the exception of the accounts of the General Post Office. These I have not been able to take up, as I had previously received four quarterly accounts of that Department reported upon by the First Auditor of the Treasury, under the former organization of the Departments. Three of these quarterly accounts have been examined and passed upon by me since the 3d March last, as well as three quarterly accounts of the late Accountant of the War, and three of the late Accountant of the Navy Department, which had also been reported upon by the last-mentioned Auditor.

The following is a concise view of the accounts to be reported upon by the Fifth Auditor of the Treasury, and, of course, to be revised and passed upon at my office, viz:

1. Accounts of ministers, consuls, and foreign agents of every description.
2. Accounts under the Indian Department, in all its ramifications.
3. Accounts of all the postmasters and mail carriers in the United States, rendered quarterly by the Postmaster General.

4. And a variety of miscellaneous accounts.

Besides the accounts already enumerated, the accounts of the land officers, or receivers of public moneys, which are in the first instance examined in the office of the Commissioner of the General Land Office, and reported upon by him directly to me, form a component (and not a small) part of the public accounts coming under my cognizance for revision. These accounts are increasing by the increase of the number of land offices.

In relation to the progress made in their settlement since the 3d March last, the following view of them is communicated, viz:

The accounts of James Findlay, from the 1st January, 1809, to 31st December, 1815, have been finally passed upon.

The accounts of Park Walton, from 1st July, 1810, to 31st December, 1813, have been finally passed upon.

The accounts of John Braham, from 8th August, 1809, to 31st December, 1813, have been finally passed upon.

The accounts of Samuel Smith, from 1st July, 1815, to 25th May, 1817, have been finally passed upon.

The accounts of Peter Wilson, from 3d November, 1808, to 30th June, 1816, have been finally passed upon.

The accounts of Samuel Findley, from 1st April, 1806, to 30th June, 1815, have been finally passed upon.

The accounts of Edmund H. Taylor, from 1st January, 1812, to 31st December, 1813, have been finally passed upon.

The accounts of Benjamin Stephenson, from 28th October, 1816, to 31st December, 1816, have been finally passed upon.

With reference to that part of the resolution of the Senate which requires information as to what further legal provisions may be necessary to insure the speedy settlement of public accounts, I take leave to observe that, out of the number of clerks appropriated for my office, I have not been able, from the various duties incident to it, to assign more than seven of them for the examination and revision of all the accounts enumerated as coming under my superintendence.

From the nature and extent of the accounts committed to the charge of these clerks, it is impracticable for them to enter into a minute and correct investigation of principles and details, and at the same time progress so fast in the settlements with that accuracy and despatch which the public interest requires, as to bring up the accounts of the office now in arrear.

When the accounts of the internal revenue shall have been finally settled, and the accounts of the late Accountants of the War and Navy Departments, to the 3d March, 1817, shall have been brought up, the number of clerks now employed in my office being put on other accounts appertaining to it, will, I trust, insure a careful, efficacious, and prompt examination of them after that time. But I must take leave to observe that it will be morally impracticable, without more



clerks, to keep pace with the current accounts, and bring up the arrears of business in the office which existed for many years anterior to my accession to it, (and I speak confidently,) for want of the requisite number of clerks.

Whilst on this subject, I cannot forbear to mention that even after the War and Navy accounts shall have been completely settled up, under the former organization of the Department, the accounts to be passed upon by me will not have been much diminished, as the accounts to be reported upon by the Fifth Auditor of the Treasury, agreeably to the act for the prompt settlement of public accounts, for expenditures under the head of Indian Department, annuities to Indians, trading-houses with Indians, &c., and the great increase in the Post Office and Land Office accounts, will, in a great measure, counterbalance them.

It may be remarked, too, that since the peace, the revenue business appertaining to my office has been increased to a great extent. This, among other causes, may be ascribed to the change in the system produced by the adoption of a new tariff of duties, the convention with Great Britain, and by recent acts of Congress relative to tonnage duties, &c.

These changes have produced a multiplicity of applications to this Department for decisions on questions arising under the new tariff, the convention, and these acts of Congress.

The correspondence on this branch of business has consequently been swelled beyond all former precedents; another cause for which is to be looked for in the unexampled embarrassments experienced by the mercantile class of the community for some years past. I am fully satisfied, from experience, that the other public avocations of my office will not allow me to devote as great a portion of time to the means necessary to a prompt and rigorous collection of the many old balances due to the Government, and to prevent their accumulation, as the importance of this business requires; for it has been found, by experience, that an extensive and persevering correspondence with the attorneys, marshals, and other officers, and in many instances with the debtors themselves, is indispensably requisite; and this correspondence has hitherto been done almost exclusively by myself. I, therefore, consider it a duty which I owe to the Government as well as to myself respectfully to state that the interest of the public would be materially promoted if Congress would either authorize the appointment of a Solicitor for the Department, (whose duty it should be to attend specially to this business,) or to grant me such an appropriation as will enable me to employ a clerk of the requisite qualifications to attend to it under my superintendence.

I have the honor to be, with great respect, your most obedient servant,

JOSEPH ANDERSON.

Hon. WM. H. CRAWFORD,  
Secretary of the Treasury.

TREASURY DEPARTMENT,

Second Comptroller's Office, Dec. 23, 1817.

SIR: In compliance with the resolution of the honorable the Senate of the United States of the 11th instant, I have now the honor to state the progress that has been made in the settlement of public accounts in the War and Navy Departments, under the act "to provide for the prompt settlement of public accounts," to wit:

The accounts relating to the different branches of expenditure in the War Department, including arrearages, which have been adjusted and settled from the 4th March last to the 22d instant, inclusive, amount to - - \$2,390

The accounts relating to the Navy Department for the same period, which have been settled, amount to - - 397

Aggregate of accounts settled - - \$2,787

The number of warrants drawn on account of the War Department for the above-mentioned period, including advances to contractors, &c., is 1,969, amounting to \$6,555,688 97.

The number of warrants drawn on account of the Navy Department for the same period, including advances, &c., is 635, amounting to \$2,679,733 95.

Respecting the progress made and making in the settlement of the several species of accounts, I beg leave to refer you to the reports of the Second, Third, and Fourth Auditors, herewith enclosed.

With great respect, I have the honor to be, sir, your obedient servant.

RICHARD CUTTS.

Second Comptroller of the Treasury.

Hon. WILLIAM H. CRAWFORD,  
Secretary of the Treasury.

TREASURY DEPARTMENT,

First Auditor's Office, Dec. 15, 1817.

SIR: In reply to your letter of the 14th instant, I have the honor to state that the settlement of the revenue accounts in this office has been much retarded by the want of warrants to cover payments by the collectors into the Treasury. Those of the customs, however, are now completed to the 31st December, 1816; and those relating to the internal duties and taxes for the same year are fast progressing. The accounts of every other description are examined as presented, and are adjusted with all the despatch which their bulk and nature admit of.

I am, very respectfully, sir, yours, &c.

R. HARRISON.

JOSEPH ANDERSON, Esq.,  
Comptroller of the Treasury.

TREASURY DEPARTMENT, Dec. 19, 1817.

The Second Auditor, to whom has been communicated the resolution of the Senate of the 11th instant, requesting the Secretary of the Treasury to lay before them information of the progress

which has been made in the settlement of public accounts under the act "to provide for the prompt settlement of public accounts," and that he also state what further provision may be, in his opinion, necessary to insure the speedy settlement of public accounts, has the honor to report to the Second Comptroller:

That there are, of the current business of his office, but few unsettled accounts, and they are under examination; and that the books of his office have been brought up to the 1st of the present month. That, since the undersigned came into office, numerous accounts to a very considerable amount, in discharge of claims originating in the current business of the office, between 1st July, 1815, and his appointment, have been presented and settled; many others have yet to come in, and he presumes, in the coming year, he will be able to close them all, should they be presented.

It is proper for him to state that, by the division of the office of the Accountant of the War Department, which took place in May, 1816, the additional Accountant then appointed became charged with the arrearages up to the 30th June, 1815. As that arrangement threw considerable business into the office of the additional Accountant, it was thought reasonable that the Accountant should prepare for the Treasury all the quarterly statements which were by law required to be submitted to the accounting officers of that Department for revision, up to May, 1816. In consequence of this arrangement, one of the bookkeepers attached to this office has been exclusively occupied in balancing the books of the Accountant of the War Department and in preparing the quarterly statements. They have been completed to the end of the third quarter of the year 1815, and the statements have been sent to the Treasury.

The undersigned does not think that the balancing of the old books and arrearages in these quarterly accounts properly belongs to this office; but, in order to assist all in his power in the prompt settlement of public accounts, he has thought it his duty to continue the preparation and adjustment of them, though the work militates greatly against the current business of the office, which, to be kept up, ought not to be shackled with any old arrearages.

Under the act of the 3d of March, for the prompt settlement of public accounts, there have been assigned to this office, under the head of military and hospital stores, all accounts relating to the Ordnance Department, including arsenals, armories, materials for mounting cannon, &c.; while to the Third Auditor the accounts of the Quartermaster's Department have been assigned.

This distribution does not tend to the prompt settlement of the public accounts; on the contrary, it retards it. When the Quartermaster's accounts arrive at the Third Auditor's office, he dissects them, and sends to this office such parts as relate to the discharge of all claims originating between 1st July, 1815, and 31st December, 1816, together with all the vouchers appertaining to the Medical and Hospital Department, Ordnance

Department, and contingencies; from which vouchers new abstracts are to be made out in this office.

The making out of these abstracts and dissecting these accounts causes confusion, and creates as much labor as would the whole of the Quartermasters' accounts, were they to be adjusted in this office. The same confusion takes place in many of what are called store accounts. It has been thought expedient, under the act of 3d March, 1817, to charge the Second Auditor with the settlement of the principal part of the accounts of the late office of Superintendent General of Military Supplies, as coming also under the head of military and hospital stores. By this distribution, he is to adjust the accounts relating to ordnance, military stores and equipments, clothing, medical and hospital stores, also quartermasters' stores in the hands of military storekeepers and assistant commissaries. He is to hold officers accountable to the United States for the public property in their possession, to see that all issues are made conformably to law, and upon proper vouchers, and to be able at any time to give a full and explicit statement of the quantity of public property in the possession of officers and at the various depots. Here a like inconvenience occurs as relates to the quartermasters' stores, for the division of these accounts with the Third Auditor is attended with as much trouble as the entire examination and settlement of the whole would occasion; for, owing to the returning officers having for so long a time been accustomed to blend quartermasters' stores with other property, either received or issued, they are frequently embraced in the same invoice or voucher.

These remarks are made to show the necessity of transferring the whole of the quartermasters' accounts from the Third to the Second Auditor. It is proper here to observe that the affairs of this office suffer considerably for want of room for the clerks. The undersigned has five persons in the room with him; the remainder are distributed about the house at a considerable distance from him, and out of the reach of that close inspection which is necessary in the discharge of all public business, and particularly that of the settlement of accounts. Five rooms for the clerks, and a fireproof one for the accounts, are necessary for the proper distribution of the business of the office, and the speedy settlement of public accounts.

Respectfully submitted.

WM. LEE, Second Auditor.

R. CUTTS, Esq., Second Comptroller.

TREASURY DEPARTMENT,

Third Auditor's Office, Dec. 22, 1817.

SIR: I have received your letter of the 13th instant, enclosing the copy of a resolution of the Senate of the United States requiring information of the progress which has been made in the settlement of public accounts under the act "to provide for the prompt settlement of public accounts," and requesting me to furnish a statement of the progress made in the settlement of the public ac-



*Settlement of Public Accounts.*

count in this office. I have accordingly to state that, so far as it regards the accounts of the current service, confided by the aforesaid act to the Third Auditor, it may be stated that they have been generally rendered and settled for the third quarter of the present year; in some cases, accounts have not been rendered, as late, and in others, where they have been rendered, some explanations and additional vouchers are necessary to a settlement, but they are comparatively small.

Of the other description of accounts confided to the Third Auditor under the act of the 3d of March, consisting of all the accounts of the War Department which remained unsettled at the conclusion of the late war, a great variety, and to a very large extent, remain to be settled. These may be arranged under the following heads:

1st. Accounts of the several States for disbursements made on account of the services of their militia, whilst in the service of the United States.

2d. Paymasters and their assistants, and others employed in paying regular troops, militia, and volunteers.

3d. Officers' recruiting and contingent accounts.

4th. Quartermasters' accounts.

5th. Contractors' accounts.

6th. Outstanding claims for supplies during the war, and for arrearages due soldiers discharged, and officers and soldiers deceased, of the regular Army, militia, and volunteers.

1. Of State accounts.

There has not been much progress made in the examination of this description of accounts. Those of the State of Virginia, having been first rendered, were taken up for examination, and, from the great extent of disbursements and vouchers, have necessarily consumed a great length of time in their examination. The accounts are nearly completed. The other accounts remain unexamined.

2. Of paymasters' accounts, and those of their assistants and others employed in paying troops.

There have been but an inconsiderable number of the accounts of this description settled, owing to the preparatory measures necessary. There were turned over to this office for settlement, on the 27th of June, 1816, one hundred and ninety-eight unsettled accounts of persons who had received public money on account of the pay department. It was found necessary, before any of those accounts could be correctly settled, to ascertain, from the investigation of all the payments, the names of the persons who had received public money, that it might be known whether all the accounts had been rendered; this was business of great labor, and was only completed during the last Summer. It resulted that, in addition to the accounts rendered, a large number of persons had received public money who had not rendered any accounts, and others who had only rendered them in part. It therefore became necessary to call upon all such persons, and some of both descriptions have been received, but a number yet remain to be rendered, constituting, in the aggregate, more than three hundred accounts in this Department which re-

mained to be settled on the 3d of March last; of those in the office, fifteen paymasters' accounts have since been settled, and a number have been examined, and only await explanations and some additional vouchers to complete their settlement.

3. Of officers' recruiting and contingent accounts.

There were also turned over for settlement to this office a large number of this description of accounts, and others have been called for and received; a considerable number yet remain to be rendered. Of those in the office, there have been settled, since the 3d of March last, three hundred and seventy-one accounts, but a large number remain unsettled.

4. Of quartermasters' accounts.

There have been settled, since the 3d of March last, eighteen accounts of this description, and a number yet remain to be settled, and others to be rendered.

5. Of contractors' accounts.

There have been settled, since the 3d of March last, seven accounts of this description, and some yet remain to be settled.

6. Of outstanding claims and balances due officers and soldiers, &c.

Of this description of accounts there have been eleven hundred and seventy settled since the 3d of March last; those relating to soldiers' arrearages forming the principal part; and, from the daily applications and the large number remaining in the office, this branch of business may be stated to be yet in a very unsettled state, and will require much time and labor to complete.

Thus the number of settlements made of the accounts of the late war have, in the aggregate, amounted to upwards of seventeen hundred since the 3d of March last.

It may be proper further to add that the books of the office were greatly in arrears on the 3d of March last, and have required the attention of all the force applicable to that object to bring them up to that date: they are not yet completed. This may be accounted for from the circumstance of there being upwards of five thousand accounts open on the books.

From the foregoing view of the business of this office, it will appear manifestly necessary that additional means be afforded to make an impression on the unsettled accounts within any reasonable period; these consist, in the opinion of the Auditor, of an increased number of clerks, and additional room for their accommodation.

The pressing business of the office has prevented an early reply to your letter.

Very respectfully, I am, sir, your obedient servant,

PETER HAGNER, Auditor.

RICHARD CUTTS, Esq.,  
Second Comptroller of the Treasury.

TREASURY DEPARTMENT,  
Fourth Auditor's Office, Dec. 16, 1817.

SIR: I have received your letter of the 13th instant, in which was enclosed a resolution of the

*Settlement of Public Accounts.*

Senate, requiring the Secretary of the Treasury to lay before them information of the progress which has been made in the settlement of public accounts under the act "to provide for the prompt settlement of public accounts;" and also what further legal provision may be, in his opinion, necessary to insure the speedy settlement of public accounts.

To answer these inquiries, as far as relates to the business of this office, I have observed that it was necessary that all the accounts in the office of the Accountant of the Navy should be closed, and the balances carried forward to the books of this office. This required considerable labor and many separate statements.

In the principal seaports there are navy agents.

Applications have been daily made from every section of the Union for balances due to officers or seamen; therefore, whenever these balances have not exceeded one hundred dollars, orders have been given for the amount upon the nearest navy agents to the residence of the applicant. This mode has greatly facilitated business, as these orders will be passed to the credit of the agents upon the settlement of their accounts.

The examination of pursers' accounts is very laborious, and occupies more or less time, according to the length of the cruise of the vessel to which they are attached. Monthly returns of accounts and vouchers have hitherto been required, and will be continued to the end of the present year, from the several navy agents: these have been examined, and settlements made thereof as rapidly as has been consistent with correctness. After the 1st of next January these returns will be made quarterly.

In order that there should not be any unnecessary delay in the settlement of small accounts by claimants residing near to the seat of Government, one of the clerks performs in this office the duties of a navy agent.

Besides the foregoing, there is a deal of current business which it would be difficult to define. What, however, has been noticed, gives full employment. The books of this office are brought up to the 1st day of the present month; and, in future, they will always be in this state of forwardness.

As the new system had been in operation but nine months, it might be presumptuous to pronounce it the best which could be devised; but, so far as it has gone into effect, it has admirably answered all the good expected from it in this office. I should not, therefore, propose any alteration for the present.

I am, with great respect, sir, your obedient servant,

CONST. FREEMAN, Auditor.

RICHARD CUTTS, Esq.,  
Second Comptroller of the Treasury.

TREASURY DEPARTMENT,  
Fifth Auditor's Office, Dec. 22, 1817.

SIR: I have had the honor to receive your letter of the 13th instant, enclosing a resolution of

the Senate requiring information as to "the progress which has been made in the settlement of public accounts under the act 'to provide for the prompt settlement of public accounts,' and as to what further legal provisions may be necessary to insure the speedy settlement of public accounts."

The law above alluded to assigned to this office the settlement of all accounts appertaining to the Department of State, to Indian Affairs, and to the General Post Office; in addition to which, the unsettled accounts of the late office of Commissary General of Prisoners were attached to it by the Executive. It will be proper to notice them under distinct and appropriate heads.

*Of the Department of State.*

It has been, and still is, the practice of the Ministers and Consuls of the United States, and of all their other agents abroad, to receive their salaries and other authorized allowances of the bankers of the United States, either at London or Amsterdam, and, on the receipt of the bankers' accounts at the Treasury, to charge the respective persons with the sums they may have received. In some cases no accounts have been rendered by the agents to balance these charges; and, in others, where accounts have been received, they were so imperfect as not to admit of settlement. Thus, individuals have been reported to Congress as public debtors, and the Treasury books been swelled with balances, where nothing was really due. Most of the accounts have been of long standing, and some of them of more than twenty years.

In entering upon the duty assigned me under the law for the prompt settlement of public accounts, my attention was forcibly drawn to accounts of this nature, and every exertion has been made to effect a due and speedy settlement of them. Many of the persons interested, and who are yet living, were in different parts of Europe, or in remote places in the United States, from whom the necessary vouchers and explanations could not immediately be procured. As much progress, however, has been made in the settlement as these circumstances, the current business of the office, and the short period which has elapsed since its organization would admit of, as will be seen by a comparison of the balance list of the present with that laid before Congress the last session.

*Of Indian Affairs.*

These accounts are of two classes: 1st. Those relating to trading-houses; 2d. Those of annuities to Indians, expenses of agents, commissioners treating with Indians, implements of husbandry, &c.

Upon these accounts, and those of the Department of State, four persons have been employed, and many of the accounts of the second class, involving considerable expenditures, have been adjusted. In those of the trading-houses the same progress has not been made; but I feel confident that, with the application of the same force the ensuing year, the old accounts, both of the Department of State and of Indian Affairs,



*Boundary between Kentucky and Tennessee.*

as well as the current business in those branches, will be duly disposed of.

*Of the General Post Office.*

None of those accounts were settled subsequently to the year 1810. They are rendered quarterly by the General Post Office, and comprise the accounts of about two thousand five hundred post offices, and increase in number as they advance in point of time. Although five persons have been employed on them, yet so extensive and laborious are the examinations and calculations they require, that those gentlemen have been unable to advance with the settlement to a later period than the last quarter of 1812. I do not, however, consider any additional aid in this branch of the accounts necessary.

*Of the late office of Commissary General of Prisoners.*

Many accounts were received from this office on its termination in March last, some wholly unsettled, and others partially so. Two persons of that office who accompanied the accounts, on their transfer, have been employed in the adjustment of them, under the superintendence of the Fifth Auditor, and it is expected they will be able finally to close them in the first half of the ensuing year.

I have the honor to be, with great respect, sir, your most obedient servant,

STEPHEN PLEASANTON.

The Hon. JOSEPH ANDERSON,  
Comptroller of the Treasury.

**BOUNDARY BETWEEN KENTUCKY AND TENNESSEE.**

[Communicated to the Senate, March 2, 1818.]

To the Congress of the United States of America:

The memorial of the General Assembly of the Commonwealth of Kentucky respectfully represents:

That, for many years past, an unpleasant controversy has existed between this State and the State of Tennessee, relative to the boundary line between them. Many attempts have been made to settle the difference to the mutual satisfaction of both States, but hitherto all these attempts have been unavailing; and, judging from the past, there remains very little ground of hope that the dispute will be adjusted by amicable arrangement and mutual concession. As far back as the year 1801, the Legislature of Kentucky passed an act, the object of which was to ascertain and mark the true position of the boundary line between the two States, according to their chartered limits. This act was repealed at the next session of the General Assembly of this Commonwealth. In the year 1812, the subject was again taken up by the Legislature of Kentucky, and an act passed authorizing the appointment of commissioners, to co-operate with com-

missioners to be appointed on the part of the State of Tennessee, for the purpose of running and marking the boundary line between the two States, according to its true position. This act was predicated on a resolution passed by the General Assembly of the State of Tennessee, the provisions of which were promptly acceded to by this State. It was at this period that the people of Kentucky contemplated a speedy termination of the differences between the two States. Both parties had assented to the same proposition, and public faith seemed to stand pledged to carry into effect the mutual agreement. But this fair prospect was soon darkened by the conduct of the State of Tennessee. The State of Kentucky saw with regret that the State of Tennessee would not abide by the terms which she had at first proposed; she abandoned her own propositions, and, by the departure, defeated the adjustment of the existing difference. The consequence of this conduct on the part of the State of Tennessee was the passage of an act by the General Assembly of Kentucky, in the year 1813, requesting the Governor of this State to communicate to the Executive and Legislature of the State of Tennessee the ultimate determination of our Government on the subject of the boundary between the two States. By this act of 1813 our Executive was requested to solicit from the Government of the State of Tennessee a recognition of the principles contained in the resolutions adopted by the State of Tennessee, in pursuance of which our act of Assembly in 1812 had been passed, and the adoption of the necessary measures for carrying the same into complete operation; and, further, to express to the Government of Tennessee, in case of their final rejection of the overture made by the act of 1813, that the disagreeable necessity of having the contested question of boundary finally settled by a resort to the means pointed out by the Constitution of the United States for the decision of such controversies would be imposed upon the Government of Kentucky. The Government of the State of Tennessee gave no official answer to the communications made in pursuance of the act of 1813. Her failure produced a memorial by the Legislature of Kentucky to your body, asking the interference of Congress, as the last resort for settling the controversy, (all other means having apparently failed,) approved by the Executive of this State February 1, 1814. During the session of the General Assembly of this State in the Winter of 1815 and 1816, the State of Tennessee sent a commissioner to our Government authorized to renew the negotiations between the two States on the subject of boundary. He was heard at the bar of the House of Representatives. The result was the passage of a law on our part, approved February 10, 1816, the provisions of which, in the opinion of this Legislature, are liberal, as it relates to the State of Tennessee. The people of this State waited with much anxiety for the meeting of the Legislature of the State of Tennessee after the passage of the act of 1816. It was hoped that the Government of

*Boundary between Kentucky and Tennessee.*

Tennessee would not hesitate to accede to all the propositions contained in our act of 1816; but in this we have been greatly disappointed. It is true that the Legislature of Tennessee took up the subject at their last session, and passed an act concerning it, but its provisions fall very far short of those contained in our act of 1816, and are such as cannot meet with the approbation of this Legislature. This Assembly is constrained to regard the failure on the part of the State of Tennessee to reciprocate the provisions of the act of 1816 as evincing a disposition to delay the settlement of the controversy, unless done upon terms derogatory to the interests and rights of Kentucky; it therefore becomes the imperious duty of this Assembly to appeal to your body as the arbiter, under the authority of the Constitution of the United States, to point out the mode by which the contest unhappily existing shall be decided. The laws which the Legislature of Kentucky has passed on the subject, and to which your body is referred for more particular information, will prove that our State has not been wanting in exertions to have the difference amicably adjusted. It is conceded on all sides that the true line should run on a parallel of thirty-six degrees thirty minutes north latitude. The constitutions of the States of North Carolina and Tennessee both recognise that latitude as limiting their northern boundary; and in this they coincide with the charter of King Charles II. It is presumed that no objection can be made to the establishment of the true line, unless it be on account of the effect it will probably have on individual rights to land lying between the said latitude and what is now called Walker's line, to which, at present, both States exercise jurisdiction. To obviate this objection, the Legislature of Kentucky will be governed by the most liberal principles. If the establishment of the true line should operate so as to give more territory to this State, whereby many persons, now citizens of Tennessee, living on lands title to which they have derived by grant from the State of North Carolina or Tennessee, this Legislature doth pledge the faith and character of Kentucky to ratify all such claims wherever they do not interfere with claims founded on the land laws of the State of Virginia, or of this State; and where they do so interfere, the occupant in all cases shall have the benefit of the laws in force in this State for the time being, made for the protection of occupying claimants, the statute of limitations excepted. The unsettled state of the line is calculated to have an effect in the formation of new counties which bind on it. To particularize all the evils to the State, and especially to those individuals who have claims to land founded on the laws of Virginia and this State, lying within our chartered limits, and who are kept from the enjoyment of those rights by the present exercise of jurisdiction over their lands by the State of Tennessee, would be unnecessary. Nothing short of the establishment of the line between this State and the State of Tennessee, according to its true latitude, will now comport with the

wishes of this Legislature; and as it is a right appertaining to our State, which can only be enforced by the Supreme Court of the United States, acting under the wise provisions of the Constitution of the United States, we ask of your body the passage of a law directing the proceedings in the Supreme Court by which one State, having a subject of difference with another, may have the same legally decided. To effectuate this desirable object, this General Assembly concur in the following resolutions, to wit:

*Resolved by the General Assembly of the Commonwealth of Kentucky,* That the foregoing memorial to Congress be adopted as the earnest prayer of this Legislature.

*Resolved,* That the acting Governor of the State be, and he is hereby, requested to transmit a copy of this memorial and resolutions, and copies of all laws passed by the Legislature of Kentucky, and all laws and resolutions passed by the Legislature of Tennessee alluded to in the foregoing memorial, to each of our Senators and Representatives in Congress, to be by them laid before that body.

*Resolved,* That our Senators in Congress are hereby instructed, and our Representatives requested to use their exertions to effectuate the object of this memorial.

*Resolved,* That the acting Governor be, and he is hereby, also requested to transmit copies of this memorial and resolutions, and copies of all laws and resolutions passed by the Legislatures of this State and Tennessee, to each of the Senators and Representatives of the State of Tennessee in the Congress of the United States.

*Resolved,* That our Senators and Representatives in Congress be, and they are hereby, requested to report to the Governor of this State the steps which they may take to effectuate the object of the foregoing memorial, and the result to be by the Governor laid before the next General Assembly.

An Act concerning the boundary line between this State and the State of Tennessee. Approved December 14, 1801.

Whereas doubts have arisen with respect to the position of the boundary line, or some part thereof, between this State and the State of Tennessee: Therefore,

*Be it enacted by the General Assembly,* That the Governor of this State be authorized and requested, as soon as he is informed that commissioners are appointed on the part of the State of Tennessee to appoint two commissioners to meet such commissioners, and with them to settle and remove all doubts upon the subject aforesaid, by running and marking the said line, or as much thereof as may not extend within the lands reserved by Congress to any Indian tribe, agreeably to the chartered limits of the States of Virginia and North Carolina; and the commissioners so appointed shall have power to employ a surveyor, and as many hands as may be necessary to carry the same into effect, at the joint expense of both



*Boundary between Kentucky and Tennessee.*

States. The commissioners so appointed on behalf of this State shall receive for their services and expenses three dollars per day for every day they may be actually employed in going to, continuing on, and returning from, said line; and shall make report to the Governor of their proceedings as soon as the same is completed; and also certify how many hands were employed, and for what purpose, and what is due to said hands from this State: which report and certificate the Governor shall lay before the next Assembly. And if the proceedings of the said commissioners shall be approved by this State and the State of Tennessee, the line so run and marked shall be the line forever between the said States, unless altered by mutual consent. If any lands claimed under titles derived from the State of Tennessee shall be found, on running the said line as beforementioned, to lie within the limits of this Commonwealth, all such claims shall, as soon as a similar and reciprocal law shall be passed by the Legislature of the State of Tennessee, on behalf of persons claiming lands lying in the said State, under titles derived from this State, be as valid as if they were derived from this Commonwealth. And the Auditor, on the order of the Governor, shall issue a warrant to the said commissioners for any sum not exceeding one hundred and fifty dollars, to enable them to provide for the execution of the business assigned them by this act, and the treasurer shall pay the same accordingly, out of any money in the treasury. The Governor of this State shall transmit a copy of this act to the Governor of the State of Tennessee as soon as possible, who is requested to lay the same before the next Legislature which shall be held for said State.

An Act to repeal the act entitled "An act concerning the boundary line between this State and the State of Tennessee." Approved December 22, 1802.

Whereas it appears to this present General Assembly, that the act passed at the last session entitled "An act concerning the boundary line between this State and the State of Tennessee" is defective, inasmuch as it provides that the boundary line between the said States shall be run agreeably to the chartered limits of the States of Virginia and North Carolina, and it does not appear to us that any charter ever was granted describing the limits of the last mentioned States, respectively: Therefore,

SEC. 1. *Be it enacted by the General Assembly,* That the said recited act shall be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted,* That the Executive of this State shall, as soon as possible, send a copy of this act to the Governor of the State of Tennessee.

This act shall be in force from its passage.

An Act to provide for the ascertainment of the boundary line between this State and the State of Tennessee. Approved February 4, 1812.

Whereas it is desirable to have the boundary line between this State and the State of Tennessee

run and marked according to its true position: and whereas the General Assembly of the State of Tennessee have passed a resolution at their last session authorizing the Executive thereof to appoint two commissioners to cause to be run and marked the boundary line between this State and the State of Tennessee: wherefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Governor of this State be, and he is hereby, authorized to appoint two fit persons as commissioners, who shall be, and they are hereby, authorized to meet the commissioners to be appointed on the part of the State of Tennessee under the resolution aforesaid, and then proceed to run and mark said line according to its true position, as it is established by the charter of King Charles II., and recognised by the twenty-fifth section of the declaration of rights in the constitution of the State of North Carolina, and also recognised by the thirty-second section of the declaration of rights in the constitution of Tennessee, beginning on the top of Cumberland mountain, at thirty-six degrees and thirty minutes north latitude, when accurately taken, and from thence to run west a right line in thirty-six degrees and thirty minutes north latitude, so far as not to run into the lands claimed by the Indians.

SEC. 2. *Be it further enacted* That the said commissioners are empowered to employ a surveyor at three dollars and fifty cents per day, and chain-carriers and markers at one dollar per day each, and cause the said line to be run and marked between this State and the State of Tennessee agreeably to the provisions of this act.

SEC. 3. *Be it further enacted,* That the commissioners so to be appointed on behalf of this State are authorized to confer with the commissioners on behalf of the State of Tennessee as to the most advisable plan for quieting the titles to land which may be claimed by the citizens of either State between the boundary line and the line commonly called "Walker's line."

SEC. 4. *Be it further enacted,* That if the commissioners on the part of the State of Tennessee shall fail or refuse to act and proceed with the commissioners to be appointed on the part of this State, or if the Executive of said State of Tennessee should not appoint such commissioners, nevertheless the commissioners so to be appointed on the part of this State may proceed, unless forbidden by the Executive of the State of Tennessee, upon proper observations of the true point and direction of thirty-six degrees and thirty minutes north latitude, to cause the said boundary line to be run and marked so far as not to run into the lands at present claimed by the Indians.

SEC. 5. *And be it further enacted,* That said commissioners shall, for the time they shall be necessarily employed in the said service, each receive the sum of five and a half dollars per day; and that, upon the Governor's certificate of their appointments as commissioners, and of their being ready to proceed to the discharge of the duties herein prescribed, they shall be entitled to

*Boundary between Kentucky and Tennessee.*

draw a sum from the treasury of this State, (for which the auditor is hereby required to issue his warrant on the treasurer,) not exceeding six hundred dollars, for the payment in part for a surveyor, chain-carriers, makers, and furnishing the requisite provisions; which latter shall be furnished at the expense of the State.

SEC. 6. *And be it further enacted,* That it shall be the duty of the commissioners to report their proceedings, together with an account of the necessary expenses of said services, to the next session of the Legislature.

An Act concerning the boundary line between this State and the State of Tennessee. Approved February 3, 1813.

Whereas it appears, from the communications made by the Governor to this Legislature at the commencement of the present session, that the Legislature of the State of Tennessee, by an act of their last session, have indicated a disposition to depart from the proposition formerly made by their Government to this, of proceeding by the agency of commissioners mutually appointed on the part of each, and acting in concert together, to ascertain, by correct and scientific observation, the true line of separation between the respective States, agreeably to their chartered limits; and whereas it is deemed by this Legislature that the true interest and sound policy of this State, as well as those of Tennessee, require an explicit declaration of the views and ulterior determination of each other on this point, so important to the cultivation of harmony and a proper understanding between the Governments as well as citizens of two contiguous and friendly States: wherefore,

SEC. 1. *Be it enacted by the General Assembly,* That the Governor of this commonwealth be requested to communicate to the Executive and Legislature of the said State the final determination of the Government of this commonwealth in relation to the ascertainment of the said boundary line, to be in conformity with that evinced by the Government of Tennessee in their proposition to ascertain the true boundary line between the said States, agreeably to their chartered limits as first alluded to in the preamble of this act, and to solicit, in the most respectful terms, from the said Government, a recognition of this principle, and a correspondent determination on their part, with the adoption of the necessary measures for carrying the same into complete operation; and further expressing to the said Government, in case of their final rejection of this overture, the disagreeable necessity imposed upon the Government of Kentucky of having the long-contested question finally settled by a resort to the means pointed out by the Constitution of the United States for the decision of such controversies.

An Act to settle the boundary line between this State and the State of Tennessee. Approved February, 10, 1816.

Whereas a dispute exists as to the true position  
15th CON. 1st SESS.—75

of the boundary line between this State and the State of Tennessee, which has produced many attempts at accommodation hitherto unsuccessful; and the State of Tennessee, by an act of its Legislature, passed on the 17th day of November, in the year 1815, has appointed a commissioner to wait on the constituted authorities of this State, and adopted the principles for adjusting the said boundary line; and although this State cannot meet every proposition contained in the said recited act, and pass one on the part of this State in all respects similar, because, first, the establishment of Walker's line (as it is usually called) would not determine the whole extent of boundary between the two States; and, secondly, because this Legislature is forbidden by our own constitution to form any compact with a sister State, or do any other thing within the purview of legislative authority, which might take from individuals a right of property in lands near the contemplated line, without previously paying the claimants a compensation therefor: yet, the Legislature of this State, being willing to keep open the door of accommodation and adjustment, and feeling desirous that mutual harmony between the two States should not be molested by a territorial controversy, do propose the following terms:

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the line usually called Walker's line, so far as it was originally run and marked, to wit, from a point near the mouth of Obed's alias Aba's river to the Tennessee river, be the true jurisdictional line between this State and the State of Tennessee; and as to the residue of the line between the two States, the following shall be adopted as the true position thereof: At the eastern extremity of Walker's line, near the mouth of Obed's river aforesaid, a line shall be run at right angles, either north or south, as the case may require, till it reaches the true chartered limits of the two States, in the latitude of thirty-six degrees and thirty minutes north; and from that point the line shall be extended to the east, still keeping the same latitude, till it reaches the eastern boundary of this State. And at the west extremity of Walker's line, to wit, at the Tennessee river, a line shall be extended up or down said river, (as the case may require,) till it reaches the true chartered latitude of thirty-six degrees and thirty minutes north; and from that point the line shall be extended due west, still keeping the same latitude, till it reaches the river Mississippi. And the line so pointed out by this act shall be and remain the true jurisdictional line between this State and the State of Tennessee: *Provided,* The following articles, conditions, and stipulations hereby adopted on behalf of this State, are acceded to on the part of the State of Tennessee, to wit:

*First.* The lines so pointed out shall be marked or remarked, and well cleared, at the joint expense of each State, by two commissioners, attended with proper surveyors, chainmen, markers, and laborers; and one of said commissioners



## Boundary between Kentucky and Tennessee.

shall be appointed by each State. And, in running that part of the line called Walker's line, the commissioners shall be governed by the old marks, if they can be found, or the most notorious places of the line as now acknowledged, still making the line as straight as can be practicable if the old line shall be found to be crooked.

*Second.* The true chartered limits between the two States shall be run on that part now supplied by Walker's line, and marked in numerous places, so that hereafter it may be found with ease and convenience, and may furnish evidence of the situation of claims when they shall be adjusted as hereafter directed.

*Third.* If the true chartered limits in that part of the line supplied by Walker's line shall turn out to be north of Walker's line, and encroach on what is now under the jurisdiction of Kentucky, and any fair connected titles to land derived under the laws of the State of North Carolina or Tennessee, completed by patent from the proper authority, shall appear between Walker's line and the true chartered line, and shall interfere with any title, or cover any occupant holding title under the laws of this State or the State of Virginia, the claimants, at their option, may relinquish such claim, and be entitled to compensation for the value thereof from the State of Kentucky, ascertained in a manner pointed out by this act; or such claimants may take any remedy to recover the land which may be most proper for their case; and if, on the contrary, the true chartered limits shall be south of Walker's line, and include a portion of the land now under the jurisdiction of the State of Tennessee, and any fair connected titles to land derived under the laws of the State of Virginia or Kentucky, completed by patent from the proper authority, shall appear between Walker's line and the true chartered line, and shall interfere with any title, or cover any occupant holding title under the laws of the State of North Carolina or Tennessee, the claimants, at their option, may relinquish such claim, and be entitled to compensation for the value thereof from the State of Tennessee, ascertained in the manner pointed out by a stipulation between the two States; or such claimants may take any remedy to recover the land which may be most proper for their case.

*Fourth.* If any claimant holding title under one State shall not elect to take compensation for the land according to the next preceding article, and shall, by any suit in law or equity, recover the land from any occupant holding title under the laws of the other State, he shall be compelled, as a mode pointed out by the laws governing such court, where the recovery may be had, to compensate the occupant for his improvements of the land according to their intrinsic value. Without any deduction for rents or waste; and for such compensation the occupant shall have a lien on the land so recovered, and shall not be disturbed in the possession thereof till the compensation legally ascertained shall be paid to such occupant.

*Fifth.* If any claim for land shall fall between

Walker's line and the true chartered limits, and shall come under the jurisdiction, by this arrangement, of the State from which such title did not originate, and shall not be patented when [said] line is thus settled, and shall interfere with a title derived from the State to whom the jurisdiction shall be assigned by this compact, no patent shall ever issue therefor; and all patents issued contrary to this article shall be void.

*Sixth.* If in the territory ceded by this compact there shall exist any claim between Walker's line and the true chartered limits, which claim shall be regularly derived under the laws of either State or the parent States, and shall not interfere with any other claimant, but shall be on land vacant as to other claims, the same shall be, and is hereby, ratified; and if not completed by patent, provision shall be made by the State into whose jurisdiction it may fall to complete the title by the emanation of the grant.

*Seventh.* And whereas it is believed that many claims granted for actual settlement under the laws adopted by the State of Kentucky since its separation from Virginia were granted contrary to the true intent and meaning of said laws, without any actual *bona fide* settlement, and that some of them are laid south of what is actually Walker's line; and it is also believed that many removed certificates under the laws of the Commonwealth of Kentucky, originally granted for actual settlement, have been removed and located for speculative purposes south of Walker's line; now it is hereby declared that such claims, where they interfere with any claims derived under the laws of North Carolina and Tennessee, south of Walker's line, are not aided by the provisions of this act, and that the owners of such claims shall not be entitled to any compensation under this compact, provided they fall within the ceded territory, nor shall the State of Tennessee be bound to allow patents to emanate for such claims unless they are entered on land entirely vacant.

*Eighth.* If any claimant between Walker's line and the true chartered limits shall choose to relinquish his claim according to the first article of this compact, he may produce authenticated copies of his title-papers to any court of general jurisdiction of matters of law and equity in the State of Kentucky which may hold its sessions nearest the lands so to be relinquished, and also to some court of the State of Tennessee which may possess general jurisdiction of matters of law and equity, and which may hold its sessions nearest the lands so to be relinquished; and said courts shall each appoint some discreet person to act as commissioner to value said lands so to be relinquished, if the claim shall come within this act; and said two commissioners shall proceed to appoint and associate with them one other commissioner, and the three being duly sworn before some judge or justice of the peace well and truly to value the land so relinquished according to the best of their skill and judgment without partiality or favor to either party, and without regard to any improvements which may have been made thereon, shall proceed to value

## Boundary between Kentucky and Tennessee.

said lands, and certify the same under their hands and seals; and, on producing said valuation to the court appointing the commissioner in the State where the land lies, and also producing a certified copy of the relinquishment of said land according to the laws of that State where the land may then be, the court shall order the value thereof, so ascertained by commissioners, to be certified, and the same shall be paid out of the public treasury of that State in which the land may be situated.

*Sec. 2. Be it further enacted,* That if the State of Tennessee shall pass a law at or before the next stated session of their Legislature, similar in all respects to this act, the Governor of this State shall proceed to appoint a fit person as commissioner, to run and ascertain the position of the lines directed to be run by this act, who shall receive for his services five dollars per day during the time he shall be necessarily employed in running the lines aforesaid, and five dollars per day for every twenty-five miles he may necessarily travel in going to and returning from the lines aforesaid. The surveyor or surveyors, if any are employed on the part of this State, shall each receive for his or their services five dollars for each day he or they may be actually employed in running the lines aforesaid. And said commissioner shall take an oath well and truly to execute all the duties assigned him by this act to the best of his skill and judgment, and to render a true account thereof; and his services, certified by the Governor, shall be paid out of the public Treasury, by virtue of a warrant from the auditor of public accounts. Each laborer and chain-carrier employed on behalf of this State shall receive as a compensation for his services three dollars per day, to be paid by the commissioner out of any funds which may be placed in his hands by the Governor of this State for that purpose; and the Governor of this State shall have at his disposal, to be drawn from the Treasury at his order, two thousand dollars, to be paid in contingent expenses, for the purposes aforesaid. Each chain-carrier shall be sworn by the commissioners, or one of them, well and truly to carry the chain, and render a true account of the distance. But if the State of Tennessee shall refuse to pass an act similar in its provisions, this act shall cease to operate, and have no force and effect; nor shall any fact or concession therein be binding or obligatory upon the State of Kentucky in any future discussion of the said boundary line, whether that discussion be legislative or judicial.

An Act for adjusting the boundary line between this State and the State of Kentucky.

Whereas great injury may happen, as well to the citizens of the State of Kentucky as to the citizens of this State, from suffering any part of the boundary line between the two States to remain unascertained and unmarked: Therefore,

*Sec. 1. Be it enacted by the General Assembly of the State of Tennessee,* That the line commonly

called Walker's line, so far as the same has been run and marked, shall be considered and taken to be the true line between said States.

*Sec. 2. Be it enacted,* That so soon as the State of Kentucky shall pass a law agreeing thereto, a direct line from the eastern extremity of the line called Walker's line as marked at Cumberland river, to Walker's line at a place called Cumberland Gap, shall be taken and considered the true line between the two States.

*Sec. 3. Be it enacted,* That this State will, provided the State of Kentucky agree thereto, apply to the Executive of the United States to appoint a commissioner to ascertain the true point where the boundary line between this State and the State of Kentucky will strike the Tennessee river on the western bank thereof, and that from said point a line shall be run directly west to the west boundary line of the State of Tennessee, which shall be the line between the two States.

*Sec. 4. Be it enacted,* That the Governor of this State shall have full power and authority, whenever he shall receive information that the State of Kentucky has agreed to the appointment of commissioners to run and mark the lines herein described, to appoint commissioners on behalf of this State, to superintend the running and marking the said lines.

*Sec. 5. Be it enacted,* That, when said lines shall have been run and marked, every grant which may have been issued by the State of Kentucky, and which may cover lands lying south of said line, shall be considered as good and valid as if such grants had been issued under the authority of the State of Tennessee: *Provided, always,* That this section shall not have any effect until the State of Kentucky shall have passed a law containing a similar provision with respect to such grants as may have been issued by the State of Tennessee, and may cover lands lying north of the line.

*Sec. 6. Be it enacted,* That this State shall stand pledged to pay one-half of the expense of the commissioner who may be appointed by the Executive of the United States.

THOMAS WILLIAMSON,  
Speaker of the House of Representatives.

EDWARD WARD,  
Speaker of the Senate.

Passed November 24, 1817.

An Act to repeal all laws passed by this State relative to the southern boundary line. Approved January 30, 1818.

*Sec. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all laws heretofore passed by the General Assembly of this Commonwealth, relative to the boundary line between this State and the State of Tennessee, shall be, and the same are hereby, repealed.

*Sec. 2. Be it further enacted,* That the southern boundary line of this State shall be and remain on a line running west from the top of Cumberland mountain to the Mississippi river,



in thirty-six degrees and thirty minutes north latitude, anything in any former law passed by this State to the contrary notwithstanding.

STATE OF KENTUCKY, }  
Secretary's Office, } *act.*

FRANKFORT, Feb. 13, 1818.

The foregoing memorial and resolutions, and the several laws annexed thereto, are true copies of all the proceedings and laws passed by the Legislature of this State, and of the last law passed by the Legislature of the State of Tennessee, on the subject of the boundary line between those States.

Attest: JOHN POPE, Secretary.

#### DISPUTED BOUNDARY WITH GREAT BRITAIN.

[Communicated to the House, April 11, 1818.]

Mr. P. P. BARBOUR made the following report: The committee to whom, by a resolution of the House of Representatives of March 27, 1818, were referred the President's Message and accompanying documents upon the subject of the expenses incurred under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent, with instructions to inquire into the nature and causes of said expenses, and into the principles upon which the Commissioners under the sixth and seventh articles of said treaty have proceeded in the execution thereof, report: That they have endeavored, as far as they have been able, to investigate the subjects which have been confided to them, and now beg leave to present to the House the result of their inquiries. They will begin with the sixth and seventh articles first, though last in numerical order, because their attention has been much more particularly called to them, and they have had more evidence before them in relation to these articles, upon which they feel it to be their duty to make a detailed report.

The sixth article, in substance, authorizes the commissioners, by a report or declaration under their hands and seals, to designate the boundary from the point where the forty-fifth degree of north latitude strikes the river Iroquois or Catagauy, through the said river, the Lakes Ontario, Erie, and Hudson, through the water communications between said lakes, and to the water communications between Lake Huron and Lake Superior; and to decide to which of the two contracting parties the islands lying within the said river, lakes, and water communications do respectively belong, in conformity with the true intent of the treaty of 1783, by which it was provided that this whole line should uniformly pursue the middle of these waters.

The seventh article authorizes the same commissioners to fix the boundary line from the water communication between Lakes Huron and Superior, to the most northwestern point of the

Lake of the Woods, and to decide to which of the two parties the several islands lying in the rivers, lakes, and water communications forming said boundary do respectively belong, in conformity with the treaty of 1783, and to cause such parts of said boundary as require it to be surveyed and marked. It further requires the commissioners to designate the boundary aforesaid, to particularize the latitude and longitude of the most northwestern point of the Lake of the Woods, and of such other parts of said boundary as they may deem proper. These are the duties to be performed. In relation to the manner of their performance, the committee refer to the letter of General Peter B. Porter, the American commissioner, to the Secretary of State, under date of November 3, 1817, marked F; to a statement in writing of the same gentleman presented to the committee, under date of April 3, 1818, marked G; and to an affidavit of David P. Adams, the astronomical surveyor, marked H; all of which are annexed as a part of this report. The letter and statement of General Porter describe in general terms the manner in which the commissioners proceeded to ascertain the boundary line, but the affidavit of Mr. Adams goes into a minute description of it; from that it will be seen that an accurate survey of the line was considered necessary, and the plan which was adopted was this: a connected series of triangles was arranged throughout all the various channels, and an entire concatenation of them was preserved along the whole extent of the work, being somewhat more than forty miles in extent, executed the last year; all the angles were carefully measured and verified at their respective stations; likewise all the angles of the incurvation and excurvation of the intermediate coast of water lines were minutely measured for the purpose of platting the shores with exactitude. It is obvious that this course must be extremely slow in its execution, and must involve an immense expense; and, consequently, if any mode could be devised which would answer the proposed purpose, and at the same time be much cheaper, and require much less time for its execution, it would be highly desirable. General Porter, in his letter and statement before referred to, goes into reasoning to prove the propriety of the course adopted; he considers that the line cannot be correctly designated but by a map; that, being a water line, it must be delineated by relation to the shores and islands, and that this cannot be done but by actual survey. That the mode adopted is the most precise and accurate one, cannot be questioned; but the committee, though they are not conversant with such subjects, are decidedly of opinion that the accuracy and precision which are produced by the course pursued are not necessary to designate the boundary; they further are impressed with a belief that a map is not required for that purpose, and that even surveying is not necessary, unless in

\* This and all the papers subsequently referred to have been omitted.

particular situations. Although the treaty of 1783 fixes upon the middle of the river, lakes, &c., as the line, yet it would seem that it must have contemplated the middle of the best navigable channel; otherwise, in pursuing the precise course of the middle, islands would frequently be separated into parts, and one part belong to each of the Governments; and, further, the right of navigation of each would be impaired, if not destroyed, by the line crossing the navigable channel. If this idea be correct, the great subject of inquiry would be to ascertain the best navigable channel; and this, it seems to the committee, might be done by observation, and sounding the depth of the water: all the islands which had names of notoriety might be described by their names; and where they had not such names, monuments might be erected upon them, and, if thought necessary, monuments might also be erected upon the land opposite to them, and their relative position, as well as distance from the shore, might be ascertained by survey. This system, if it would answer, would save much time and money; for, to proceed in the same manner, and with only equal speed, as was done last year, would require a long series of years to complete the work. Mr. Adams states, indeed, that, from the changes which he understands are proposed in the mode of proceeding, they will be able to proceed the next year with double the celerity; and General Porter, in his statement before referred to, expresses the opinion that as the last year was one necessarily in some degree of projection and experiment, and as they have determined to change the mode of proceeding, in the manner pointed out in his statement, they can, with not much increase of expense, proceed with three or four times the speed, and, after passing the St. Lawrence, in which there are many obstructions, with rapidity; but, even with all these changes and improvements, there is no comparison between the mode adopted by the commissioners and that suggested by the committee (if it will answer the purpose proposed) in point of expense, and the time necessary for the completion of the work. The committee are disposed to think that the treaty did not contemplate a map of this boundary, from this circumstance—that the fifth article requires the commissioners to make a map of the boundary therein mentioned, whereas there is no such provision in the sixth and seventh articles. The committee differ in another respect from the commissioners in regard to the manner of executing their duties; they seem to have thought that, with a view to the complete execution of those duties, it was necessary for them to attend in person, and superintend the survey. The committee are disposed to think that, whatever course should have been pursued in order to get the necessary evidence upon which to settle the boundary, whether by survey or otherwise, the commissioners constitute a court whose business is to decide, and that it belongs to the agents to furnish the facts for decision; they, however, do not mean to say that the commissioners may not direct the agents'

attention to such points as they may deem necessary, nor that they might not, in particular cases of difficulty, make actual personal observations. This opinion results from what they consider a correct construction of the treaty. The sixth and seventh articles have reference to and adopt the provisions of the fourth, in relation to the oath and duty of the commissioners: by the fourth it is provided that they shall be sworn impartially to examine and decide upon the said claims, according to such evidence as shall be laid before them on the part of His Britannic Majesty and the United States, respectively. After the board of commissioners was organized, a difference arose between them and Samuel Hawkins, agent of the United States, in relation to the boundaries of the respective Powers. The views of the agent, together with his reasons, will be seen by reference to three documents herewith referred to, and numbered from 5 to 7, both inclusive: the first, a remonstrance presented by the agent of the commissioners the 29th May 1817; the second, a statement addressed to the Secretary of State the 26th February, 1818; and the third, a statement presented to the committee under date of the 2d April, 1818. As connected with this part of the report, the committee also refer to a correspondence between the agent and Secretary of State, numbered from 1 to 4, inclusive. The views of the commissioners will be seen by a reference to a document marked R, June 24, 1817. The committee being referred to the precedent under the treaty of 1794, sought information in relation thereto from the State Department. The information obtained will be found in the letters from that Department, marked L and N; from the latter of which it appears (the first not being considered sufficiently precise) that the commissioners did personally inspect the rivers respectively alleged to be the St. Croix of the treaty of 1783; but they did not attend at the actual astronomical surveys and the projection of the maps. It ought to be remarked that, for some time after the board was organized, no agent was appointed on the part of Great Britain.

As it respects the principles upon which the commissioners have proceeded, (if thereby be meant the rules of decision by which, as general principles, the individual questions of doubt and difficulty are to be determined as they may occur,) it cannot perhaps be said that any have been solemnly decided. The only information which the committee have will be found by a reference to a part of the document marked G, (General Porter's statement,) that, though the commissioners have had full and frequent conversations as to the principles by which they should be guided in certain hypothetical cases which might arise, yet they have never adjudicated or settled any abstract principles; and he does not feel himself at liberty to give to the committee, as such, the incidental conversations above alluded to.

We come now to the expenses incurred in the execution of the sixth and seventh articles. The document marked E shows the aggregate amount



*Disputed Boundary with Great Britain.*

to be \$35,283 53½, composed of, first, commissioner's compensation for two years \$8,888; secondly, the proportion of the United States, that is, one-half of the contingent expenses, which proportion is \$10,357 39½; thirdly, agent's account for two years' salary and contingent expenses, \$16,038 14.

The compensation of the commissioner is provided for in the eighth article of the treaty, by declaring that the commissioners shall be paid in such manner as shall be agreed between the two contracting parties, such agreement being to be settled at the time of the exchange of the ratifications of the treaty. The document K shows an agreement between the United States and the British Chargé d'Affaires, declaring the principles of the payment of the commissioners to be the same as under the treaty of 1794, that is, the expense to be equally borne; but it does not fix the amount. It appears, however, by a letter from the Secretary of State, (marked L,) to be understood that the American commissioners are entitled to £1,000 sterling.

As to the contingent expenses, the eighth article of the treaty provides that all other expenses (after having provided for the payment of the commissioners) attending the commission shall be defrayed equally by the two parties. The document marked C shows the whole amount of the United States' share of the contingent expenses, and that, together with the one marked M, exhibits the several items composing that amount. From an examination of these, it will be seen that \$6,580, part of the \$10,357 39½, goes to the salaries and wages of assistant secretary, surveyor, and others employed. The treaty recognises the appointment of a secretary by name, but not of an assistant secretary; and though it authorizes the employment of such surveyors and other persons as shall be judged necessary, yet the committee incline to the opinion that these words do not include the idea of any distinct office; of this, however, the House will judge for themselves. If their idea as to the assistant secretary be correct, then his salary of \$2,200 may be saved; and if their opinion also be correct as to the practicability of ascertaining the boundary without actual survey and map, then there would be a very great saving in the other items of the wages and expenses of persons concerned in the survey. According to the opinion of the committee, that part of the expenses which are personal to the commissioners is not properly chargeable to the Government. It is for the House to determine what influence the precedent under the treaty of 1794, hereafter mentioned, shall have as to the expenses of a passage to the river to be decided on. As to the residue, as the document C presents them in minute detail, the House have upon the subject all the information which the committee have. General Porter considers that he was referred by the Government generally to the proceedings of the commissioners under the treaty of 1794 for precedents, and he was of opinion that the precedent of those commissioners justified the charge

of his necessary personal expenses. In relation to the opinion of the Government that the commissioners would pursue the rules established in 1794, see letter from the Department of State, No. 4. The committee have procured from that Department one letter (marked L) of the 3d April, 1818, and another (marked N) of the 8th April, 1818; the first of these states, in general terms, that no allowance was made to the commissioners for their personal expenses in addition to their salaries; the second letter states that the commissioners did allow themselves the contingent expenses of their passages by sea between the United States and the British provinces, which became necessary for the execution of their duties, and that no other personal expenses appear to have been allowed to them.

As to the expenses of the agent, the statement before referred to (marked E) shows the whole amount of the agent's account, consisting of two years' salary and contingencies, to be \$16,038 14. The account D, therein mentioned, shows the items of which it is composed. Those items are, first, two years' salary, at \$4,444 44, equal to \$8,888 88; secondly, one year's salary paid the secretary of the agency, \$1,000; thirdly, contingent expenses thus charged: "For expenses for myself, Major Roberdeau, boatmen, chainmen, flagmen, &c. on an exploring excursion from St. Regis to Lake Superior, audited in March, 1817, \$3,258 12," (see document O;) and fourthly, contingent expenses thus charged: "To amount of expenses for agency for 1817, as per account, \$2,891 14." The particulars of the audited part of the contingent expenses do not appear before the committee other than as above stated; but as to the other charge for contingent expenses, to wit, the \$2,891 14, not yet audited, (as is believed,) there is a paper before the committee purporting to be an account of them, though not signed by the agent, from which the particulars appear. (See that paper, marked P.) It appears also, from a document marked Q, (an audited account,) that \$428 was allowed to Major Isaac Roberdeau as topographical engineer on the exploring party with the agent. The agent considers himself entitled to a salary of £1,000 sterling for the following reasons: he says in his statement (No. 7) that in 1816 the then Secretary of State (Mr. Monroe) assured him his salary should equal that of the British agent; that, though in the formation of the register under a resolution of Congress the sum of \$3,000 was set against his name, he was assured by the Department of State that it was not intended by that act to settle the agent's salary. He refers in his statement to the letter of Mr. Rush, then Secretary of State, (No. 4,) in which it is said that it is the wish of the President that his salary should ultimately be equal to that of the British agent, should that exceed \$3,000, at which his was then for the present fixed. He states, further, that the State Department having learned that the British agent received £1,000 sterling, both under the treaty of 1794 and that of Ghent, the accounting officer of that Department informed him his salary was fixed at

*Disputed Boundary with Great Britain.*

that sum; and, finally, that the agent's salary under the fourth article has been actually fixed at that sum. These are the grounds of his claim; they are submitted to the House. The committee would have doubted much the power of the agent under the treaty to appoint a clerk; the letter, however, from the Secretary of State (No. 4) authorized him to do so, at a salary of \$1,000, which is what has been paid. (See also the agent's reasoning as to the necessity of one in his statement No. 7.) As to the residue of the expenses attending the agency, the committee have presented all the evidence in their possession to the view of the House; they will only add that, by the letter from the Secretary of State, (No. 2,) dated 8th July, 1816, the scheme of exploring the whole boundary in dispute, taking an accurate view of each island, the depth of the water, &c. is approved.

In the progress of this inquiry, two intimations were given to the committee, which they thought it their duty to investigate, to wit: 1st. That Gen. Porter was interested in the islands of the St. Lawrence; 2d. That he had acted improperly in the disbursement of a part of the money which the Government had advanced him towards paying the expenses of the commission. As it respects the first of these subjects, (that is, the interest of General Porter in the islands, &c.,) the committee have examined every person who was suggested to them as probably knowing anything in relation to it. The various statements subjoined to this report, and sworn to, marked S, T, U, and V, contain the whole of the evidence. From this, the committee are satisfied that General Porter is in nowise concerned or interested in any island in the St. Lawrence; nor is there any proof that he has any interest in any but one upon the whole boundary line, to wit, in the Niagara; and it seems that there is some doubt whether that belongs to him or his brother, (see document marked V, Ogden's evidence;) and this island is, perhaps, three hundred miles above where they have been surveying. The mistake most probably occurred in this way: Mr. Ogden, of the House of Representatives, lays claim to many of the islands in the St. Lawrence. He also claims a large tract of land on the main land in New York, having no island attached to it, in which General Porter is concerned. It appears that these two speculations have been confounded, and that the rumor of General Porter being concerned in the island speculation has arisen from the circumstance of his being concerned in the other. (See Hawkins's affidavit, marked W; Delafield's affidavit, marked T; Ogden's affidavit, marked V; and Adams's affidavit, marked U, in relation principally to this point.)

As to the subject of the money, the document marked W (the evidence of Samuel Hawkins) contains all the information which the committee have got on that subject. From this it appears that the money advanced by Government to General Porter was in a draft on the Branch Bank of New York; that General Porter paid Mr. Hawkins \$1,000, in New York, in Buffalo Bank notes,

which were at about three per cent. discount; and that he paid, for provisions and other purposes of the commission, those and other notes of the interior, during the last season. But the witness states that the Buffalo Bank was a specie-paying bank; that its notes were generally current and at par on the frontier; and that the discount in New York was probably owing to the risk and expense of transporting specie; and, further, that he does not know that General Porter is interested in the bank; and that he could not suppose General Porter had deposited the money in the Buffalo Bank for his individual interest. General Porter himself states that he had been interested in the Buffalo Bank, but that he had sold out his interest some months before the transaction above-mentioned, and that he in no shape derived, or expected to derive, one cent of profit. He states, further, that he drew on New York, on his own account, and received the notes of the Buffalo Bank; that he expected to expend the money on the frontier, where they were at par; and that he did not know they were at a discount in New York. Upon the whole view of the subject, the committee are decidedly of opinion that he derived no advantage from the transaction. As it respects the other articles of the treaty, the resolution requires the committee to investigate the nature and causes of the expenses incurred under them.

The fourth article, in substance, requires the commissioners, by a declaration under their hands and seals, to decide to which of the contracting parties the islands in the bay of Passamaquoddy, and the island of Grand Menan, in the bay of Fundy, respectively, belong, in conformity with the true intent of the Treaty of 1783. Under this article, the documents E and A show the amount of the accounts settled at the Treasury to be \$10,406 04, consisting of the compensation of the agents from 11th April, 1816, to 11th December, 1817, at \$4,444 per annum, amounting to \$7,407 40, and the United States' proportion of the contingent expenses, \$2,998 64; and the document X shows the amount of the compensation claimed by the commissioner to be \$3,172 48, being the sum which would be due to him, at the rate of \$4,444 44 per year, from 16th January, 1816, to 17th November, 1817, inclusive, of which \$4,500 has been paid him. Adding the commissioner's claim to the other gives the total amount of the expense to the United States under this article, to wit, \$18,578 52. With regard to the commissioners and agents' salaries, it is presumed they will both stand on a common footing with the same officers under the other articles; and, therefore, the remarks already made apply to them. As to the contingent expenses, see the document No. 8, showing them in detail. As far as any of these expenses can be considered personal to the commissioners, the committee would object to them as not being allowable; and, indeed, the commissioners themselves did not intend to charge them, as appears from a letter of Mr. Holmes, the American Commissioner, marked AA. Amongst those which devolve on the Gov-



*Disputed Boundary with Great Britain.*

ernment, in that letter, are mentioned the chartering of a vessel to examine the islands, room for commissioners, secretary and clerk's pay. As to the pay of the secretary, it certainly is chargeable to the Government. As to the clerk's pay, that also would be chargeable in like manner, if the commissioners had authority to employ them. The words of the eighth article are, "that they may employ such surveyors and other persons as they shall judge necessary." As to the necessity for their employment, and the amount of compensation paid them, see the statement of Mr. Holmes, American Commissioner, marked BB, as also his letter already referred to, satisfactorily showing that economy was consulted by their employment. As to the expense of the passage to the islands, the committee would have thought that not properly chargeable; but the commissioners are justified, not only by the precedent under the Treaty of 1794, (see letter from State Department before referred to, marked N,) but also, as appears from the letter of Mr. Holmes, marked AA, by the authority of the Government. He states that he chartered a vessel by order of the Government. As it relates to the room, the question is submitted to the House.

The fifth article of the treaty, in substance, requires the commissioners to ascertain the north-west angle of Nova Scotia, and the north-westmost head of Connecticut river; and to cause to be surveyed that part of the boundary line which extends from the source of the river St. Croix, directly north, to the northwest angle of Nova Scotia; thence, along the highlands which divide the waters of the St. Lawrence and Atlantic, to the northwesternmost head of Connecticut river; thence, down along the middle of that river, to the forty-fifth degree of north latitude; thence, by a line due west on said latitude, till it strikes the river Iroquois or Cataraguy. In relation to the expenses incurred under this article, it is not in the power of the committee to give the House as precise information as they could wish. All which they possess themselves is contained in the document marked B; from which it appears that the aggregate amount of all the expenses under the fifth article is \$27,854, consisting of a charge for commissioner's salary of \$3,888, being two years at \$4,444, per annum; agent's salary for one year \$4,444; United States' proportion of secretary's salary \$1,111; salary of principal surveyor, \$1,500; and a charge thus stated: "the pay to the assistant surveyor, the necessary number of chain bearers, provision carriers, and other men, expense of instruments, supplies of provisions and other necessary articles, transportation to and from New Brunswick, and other necessary contingent expenses on the part of the United States, in the whole, about \$11,911." It will at once be seen that there is not sufficient detail in this on which to form an accurate opinion. It is proper further to state that this is only an estimate of what the commissioner supposes it will be; it has, as yet, not been passed by the Board. (See reasons assigned in the document C.) The committee having stated the nature

and amount of the charge, the House have the same means of forming an opinion as themselves. They will remark that, during the inquiry, they have heard what gives them an unfavorable impression as to the despatch and economy which attended the execution of this article during the last year; but that which they heard could not itself be used as evidence, and the person from whom it is said to have come is not within the reach of the committee; they doubted the propriety of mentioning it, but they thought the House ought to have even the intimations which were given them. The committee have now presented as full a view of this subject as the evidence before them enabled them to do; they have felt some difficulty in deciding how to attain the object which they have in view; they have, however, finally determined to recommend to the House the adoption of the following resolution:

*Resolved*, That the President of the United States be requested to arrange with the British Government some mode of designating the boundary line under the sixth and seventh articles of the Treaty of Ghent, which shall require less time and expense than the one which the commissioners have heretofore pursued.

IN THE HOUSE OF REPRESENTATIVES, U. S.

April 14, 1818.

*Ordered*, That the Committee of the whole House be discharged from the further consideration of the report of the select committee appointed to inquire into the expense incurred under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent, and that the same be referred to a select committee.

*Ordered*, That Mr. Taylor, Mr. Williams, of Connecticut, Mr. Claiborne, Mr. Rich, Mr. Morton, Mr. Sherwood, and Mr. Ballard Smith, be the said committee.

Attest: T. DOUGHERTY, C. H. R.

The select committee appointed under a resolution of this House of the 14th of April, 1818, to whom was referred a report of the committee raised to inquire into the expenses incurred under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent, have had the same under consideration, and report:

That they have not attempted to re-examine the various matters detailed by the said committee, but have endeavored to ascertain the cause of the unfavorable impression mentioned in the following sentence, extracted from the last page of that report: "They [the committee] will remark that, during the inquiry, they have heard what gives them an unfavorable impression as to the despatch and economy which attended the execution of this article during the last year; but that which they heard could not itself be used as evidence, and the person from whom it is said to have come is not within the reach of the committee; they doubted the propriety of mentioning it, but they thought the House ought to have even

*Disputed Boundary with Great Britain.*

the intimations which were given them." The committee find that the communication referred to in the foregoing sentence is contained in the letter of Charles Turner, jun., addressed to a member of this House, which, together with a letter of that member, addressed to the chairman of the said committee, is hereto annexed, for the purpose of being considered part of this report. The following resolution is respectfully submitted:

*Resolved*, That the select committee be discharged from further considering the said report.

WASHINGTON, April 13, 1818.

DEAR SIR: In consequence of having mentioned to you the other day a part of the contents of this letter, and observing that it was confidential, it was unexpectedly intimated that the committee would expect to know the contents. I was aware that the letter was confidential, but on your request I attended before the committee and read the letter, concealing the name. The report in relation to the subject requiring, as you think, explanation, and you and I agreeing that the facts contained in the letter are somewhat important, by your request I am constrained to deliver you the letter.

As you have a right to demand it, I cannot be accused of a breach of confidence. I do not see, however, that the letter implicates the American Commissioner.

I am yours, respectfully,

J. HOLMES.

SCITUATE, MASSACHUSETTS,  
March 26, 1818.

HONORED SIR: At the time I (probably by your friendship) was requested to attend to the lines under the fifth article of the Treaty of Ghent, I was requested to give my opinion upon the arrangements suggested by the agents for progressing in the business. The route prepared for us to get to the mark, with necessary provisions, I knew to be very difficult, and attended with so many embarrassments as would probably consume the season in getting with our baggage to the place of beginning, viz: the monument at the source of the Schaudie, alias St. Croix; in this I was supported, though unknown to me, by the opinion of the British surveyor at St. Andrew's, although we were three hundred miles apart, and had no acquaintance, having never seen each other; he, however, had no opportunity to convey his ideas to the agents, but must prepare boats, &c., to be ready on my arrival. I had the good fortune to convince the agents of the impropriety of attempting that route, a distance of seventy to a hundred miles, up a small river, full of falls, rapids, and shoals, and the water would fail us seven to ten miles short of the monument; whereas, by going up St. John's river, we went with the whole company and the whole of the baggage in flat-bottomed boats that would carry ten tons each, without unloading a single article until we were within ten miles of the line, and a passable wagon-road to the line, and we should strike the

line about ten miles in advance of the place of commencement. But I was not so successful as to some other things in which I was requested to give an opinion. I suggested a diminution of the number of men, from an apprehension that more were proposed to be employed than could be advantageous; that they would stand in each other's way; that a less number would probably make greater progress; that employing so many men for chainmen, flag bearers, and instrument carriers, did not appear to me to be advantageous; that, to employ so great a number of axemen or laborers, under an idea of their carrying provisions for the company, in a country where pack-horses could not be made use of, did not amount to much, for they must eat as well as those for whom they carried provisions; that several men belonging to the United States, settled near the line north of the monument, might be hired as cheap as in any other part of the United States. I requested the sort of provisions which I, from experience, had found best calculated for such business, viz: principally pickled or salted pork of a good quality; hard, commonly called ship bread; perhaps a little good beef; dry pease or beans; a little molasses; black tea; some small quantity of rum, and small articles of very inconsiderable value, such as pepper, mustard, ginger, &c. But to all these suggestions I was answered that this was business done by the two Governments, and that they would not probably wish men to be too much exposed or outdone; they would willingly furnish all things needful and comfortable, &c., and suggested that they had made arrangements satisfactory to themselves; in these respects intimating, at least, that I might be silent. I took the hint; but I also knew that somebody would eventually be blamed, and it would as probably fall on me as on any others. From the appearance of things in Boston, I apprehended that whoever undertook the running and demarcation of the line would not be allowed to proceed in it to cross St. John's river, (which I knew the line would cross,) and consequently interrupt their line of communication between the provinces of Nova Scotia, New Brunswick, and Lower Canada, which those employed by the British Government perhaps did not know, or were at least unwilling should be the case. This apprehension I suggested at the time, and it was in my mind confirmed by every step taken; first, by putting the cart before the horse, or, in other words, employing the principal surveyors, with all the instruments, to go forward and explore the country, leaving the assistant, by them (the British) called deputy surveyors, with incompetent instruments, to perform the important service of settling the true line; by increasing the expense at every possible stage, thereby, in my opinion, to discourage the American Government from pursuing the business; and by delays in various shapes to prevent the establishment of the line so far as to cross St. John's river. Shall I say every little intriguing artifice was made use of to prevent a rational progress, and to swerve us from the direct pursuit of the business? This, however,



*Disputed Boundary with Great Britain.*

will be denied; but it is not so easy to deny the expense, because the Government will have something to do in that business.

When Mr. Campbell and myself were left by the surveyors general and principal surveyors, they furnished us with a single theodolite, incorrect in construction; but it was a great while before I could convince Mr. Campbell of its incorrectness. He alleged the instrument had been procured by a gentleman of astronomical ingenuity in the province; that it came from the best factory in London; that he had full confidence in its correctness. I invited him to join me in making some sideral observations, to test the correctness of our work, or the correctness of the instrument. This he declined, alleging that the surveyors general had taken all the responsibility on themselves, by fixing, as they termed it, a true meridian line, and given us our directions for the prolongation of it; had ordered their initials to be placed on the monument, and on every milestone or post; that, therefore, he should take no responsibility on himself; and said he had made a declaration to Colonel Baughettu to that effect. I observed to him that I felt my personal reputation at stake; that it was incumbent on us to see that our line was correct, and, if erroneous, to put it right; and asked if he had any objection to my making use of the instrument in making observations of the stars, &c. He said he had none, and would join me as a mere matter of amusement, but not with a view to correct a line which he was satisfied with, or to attempt to rectify an instrument in which he had full confidence. As soon as the weather would admit I made some observations, but so unsatisfactory in the result that I could not determine whether the line was erroneous, or the amount of the error, if any. Although I was not satisfied of the correctness of the instrument, or of the latter part of the line, I doubted the propriety of taking on myself the responsibility of discontinuing the work until I could convince Mr. Campbell of the incorrectness. Having at length succeeded in this, we left the line, and proceeded home, and to discharge the hands as fast as possible. Had we had competent instruments, and pursued the line twenty days longer, as we contemplated, we should have added much to that line. Whether the business will be resumed, and proceed in the present year, I have not learned. I think it but just to state that it ought to be done with more economy; which it might be, without the Government being chargeable with parsimony. I apprehend some new arrangement will be proposed and adopted; and, from various circumstances, I am induced to believe I shall have leave to retire. I think somebody must be left out of the business, and perhaps it is best those should be left out who disturb the quiet of those concerned. I am, however, conscious that I have obtruded my opinion on none, when it was not asked. I know, sir, I am treading on hallowed ground. I know that I have no right to suggest that the measures pursued by those appointed by the Government are not the best. I have sug-

gested some thoughts to the American agent, perhaps with too much freedom.

I have, sir, communicated these thoughts and facts for your information, trusting you will consider them as confidential, that you may know something of the matter, and be able to make use of any suggestions that I have made; while, at the same time, I am not to be understood as complaining against any gentleman acting under the American Government in the business. I can only regret that I am liable to be made the scapegoat to bear the sins of the people.

We learn that your session is drawing towards a close, and you will soon be allowed to visit your agreeable family.

Accept, sir, the respects and best wishes of your humble servant,

CHARLES TURNER, JR.

HON. JOHN HOLMES.

*Estimate of the expenditures under the fifth article of the Treaty of Ghent, in the years 1816 and 1817.*

MARCH 3, 1818.

Commissioner's salary, two years, not yet fixed, but say \$4,444 per annum	\$8,888
Agent's salary, one year, (no agent having been appointed in the year 1816)	4,444
Salary of the Secretary of the board, one year	\$2,222
Deduct the share of the British Government	1,111
Salary of the principal surveyor on the part of the United States	1,500
The pay to the assistant surveyor, the necessary number of chain bearers, provision carriers, and other men; the expense of instruments; the supplies of provisions and other necessary articles; the transportation to and from New Brunswick, and other necessary contingent expenses on the part of the United States, in the whole about	11,911
	27,854
Paid by the United States	14,444
Balance	13,410

The accounts which are in this statement estimated at \$11,911 will be examined and adjusted by the commissioners at their next meeting, which will be about the 1st of May next. The amount, it is believed, will not materially vary, though it may prove something more or less.

Several of those accounts have accrued in the province of New Brunswick, and under the superintendence of the agents and surveyors. The British agent and surveyor reside, the former at St. John's, in New Brunswick, and the latter at Quebec, in Canada; and it was not possible, after the surveyors discontinued their work last Fall, for the board of commissioners and the other persons concerned to convene and close the accounts of the year. Nor was it considered necessary to

*Claim of Caron de Beaumarchais.*

meet during the Winter merely for that purpose, when it had been agreed to hold a meeting of the board about the 1st of May next, to receive the surveys made the last year, and to give the necessary instructions to the surveyors for the present year.

It is contemplated to commence this Spring the latitude line from Connecticut river to the river Iroquois, commonly called St. Lawrence, and at the same time to continue the survey commenced last year on the eastern part of the boundary line. This will, of course, render the business of the commission more expensive than the last year, but it will sooner bring it to an end, by which the Government will ultimately save money. By deducting from the foregoing estimate the salary of the commissioner for the year 1816, the residue is \$23,410, which is the amount of all the expenses, including salaries for the last year. Some of those expenses, being peculiarly incident to the commencement of an undertaking of this kind, will not again be incurred; of course, the amount required for continuing the survey at the eastward will be less for the present year than it was the last.

I am, therefore, of opinion that the sum of \$25,000 will be sufficient for all the necessary purposes, under the fifth article of the treaty of the present year, including the labor to be done, both on the northern and eastern parts of the boundary line designated in that article of the treaty.

Respectfully submitted.

C. P. VAN NESS.

HON. WM. LOWMEDE, Chairman, &c.

CLAIM OF CARON DE BEAUMARCHAIS.

[Communicated to the House, January 16, 1818.]

To the Senate and House of Representatives:

The claim of the representatives of the late Caron de Beaumarchais having been recommended to the favorable consideration of the Legislature by my predecessor, in his Message to Congress of the 31st of January last, and concurring in the sentiments therein expressed, I now transmit copies of a new representation relative to it, received by the Secretary of State from the Minister of France, and of correspondence on the subject between the Minister of the United States at Paris and the Duke of Richelieu, enclosed with that representation.

JAMES MONROE.

WASHINGTON, Jan. 12, 1818.

To the Senate and House of Representatives of the United States:

The Envoy Extraordinary and Minister Plenipotentiary of His Most Christian Majesty having renewed, under special instructions from his Government, the claim of the representative of Caron de Beaumarchais for one million of livres, which were debited to him in the settlement of

his accounts with the United States, I lay before Congress copies of the memoir on that subject, addressed by the said Envoy to the Secretary of State.

Considering that the sum, of which the million of livres in question made a part, was a gratuitous grant from the French Government to the United States, and the declaration of that Government that that part of the grant was put in the hands of M. de Beaumarchais as its agent, not as the agent of the United States, and was duly accounted for by him to the French Government; considering, also, the concurring opinions of two Attorneys General of the United States, that the said debit was not legally sustainable in behalf of the United States, I recommend the case to the favorable attention of the Legislature, whose authority alone can finally decide on it.

JAMES MADISON.

JANUARY 31, 1817.

M. Hyde de Neuville, Envoy Extraordinary and Minister Plenipotentiary of His Most Christian Majesty, to the Secretary of State.

WASHINGTON CITY, Jan. 22, 1817.

SIR: I have the honor to address to you a note which I solicit of you the favor to submit to the consideration of the President.

I am not very particularly acquainted with the heirs of Mr. Beaumarchais; but the view which has been given to me of the whole affair, the importance which the French Government has invariably attached to it since the year 1778, the instructions which have been sent to me, the interest which the Duke of Richelieu and the Minister of the Interior feel in relation to that claim, and, above all, the opinion which I entertain of the legality of this debt, of which I have examined and weighed all the circumstances with the most scrupulous impartiality, induce me, with entire confidence, to claim your benevolence in behalf of the daughter of Mr. Beaumarchais, who, by her misfortunes and personal qualities, is worthy of it.

Receive, sir, the assurances of my high consideration.

HYDE DE NEUVILLE.

The Envoy Extraordinary and Minister Plenipotentiary of His Most Christian Majesty has the honor to transmit to the Secretary of State a new exposé of the affair of the heirs of the late Caron de Beaumarchais.

The documents which have not been hitherto brought forward, and which are annexed to the present claim, seem to remove every doubt which this debt may have given rise to.

The undersigned Minister Plenipotentiary has received from his Government reiterated instructions to call for another investigation of a transaction which bears every character of justice, and which, under this consideration, cannot fail to engage, in a very particular manner, the attention of his Excellency the President.

The undersigned is particularly enjoined to re-



## Claim of Caron de Beaumarchais.

new the declaration made by Mr. Girard, His Majesty's Minister, as early as 1778, and subsequently repeated by his successors in this country, that "the French Government has always been unconnected with the mercantile operations of M. de Beaumarchais."

It is likewise his duty to state that the million which, in 1791, was deducted from the private account of Mr. Beaumarchais, was not paid to him by the French Government on account of supplies furnished to the Americans, but for a secret political service, as appears by the statement submitted to the King by M. de Vergennes, on the 7th of December, 1776, and approved by His Majesty, which exonerates the Minister, and places the expenditure in its regular course.

The undersigned deems it proper to recall to mind that the million in question formed a part of the three millions granted by the King prior to the year 1778, and the account of which was settled by the convention of the 25th of February, 1783, between France and the American commissioners.

The latter, doubtless, did not think that they ought to insist on being made acquainted in a positive manner, with the application of this million; or if one or more of them were informed of it, they probably thought, and with reason, that the secret which the King had kept within his own control could not be divulged without the express sanction of the sovereign, who had authorized and rewarded the service.

But the question is not, at best, to know whether the American Commissioners were or were not informed of the true application of the million. France has given it. Congress has acknowledged it, in agreeing to the Convention of the 25th of February, 1783. If, therefore, the employment of this million be not found specifically recorded, it is because certain State policy at that period rendered it improper to furnish any other information on the subject.

The undersigned will not examine into the grounds and extent of the measures which have since been adopted to discover a secret of which His Majesty had thought it expedient to reserve to himself the knowledge; a circumstance which not only explains but justifies the refusal which M. de Vergennes constantly opposed to the demands which were frequently made on him for an insight into the affair.

The question to be examined in relation to the claim of the heirs of Beaumarchais appears to be solely this: This million received by M. de Beaumarchais from the French Government, and by order of the King, on the 10th of June, 1776—has it been given to the agent of the United States on account of supplies furnished by him to the Americans, or only to the French agent, for a secret political service, foreign to commercial operations?

It will be allowed that, if the million had been remitted on the 10th of June, 1776, to any other individual than M. de Beaumarchais, the present misunderstanding would never have taken place. Will the objection be better founded if it should

be discovered that M. de Beaumarchais really acted in two capacities—as the agent and furnisher of supplies for the United States, and as the secret political agent of the French Government?

It is in the latter capacity that he declares he received the million. He affirms that it was received for a secret political service, which had relation to the United States, but for which he had to render an account only to his own Government. The account has been rendered by M. de Beaumarchais to the Minister; by the Minister to the King. The affair thus finds its regular adjustment, more particularly as it respects the agent, in a manner not to be contested.

What, then, can be objected to the agent of supplies: that the million remitted to the political agent has been, perhaps, paid on account of the supplies which he furnished? The Government, which gave the million, declares the contrary. It declares, and it has not ceased to declare these thirty-nine years, that it has been always unconnected with the mercantile transactions of M. de Beaumarchais with the United States. How, therefore, upon principles of equity, is it possible to make the commercial agent responsible with regard to an incident which itself cannot in any manner affect the political agent, inasmuch as his Government, to which alone he ought to account for the employment of this million, has given an authentic discharge for it, as is proved by the documents of the 7th of December and 9th of June, 1776, which will be found annexed to the renewal of the claim of the heirs of M. de Beaumarchais.

These two documents, written by M. de Vergennes (at that time Minister for Foreign Affairs) and approved by the hand of His Majesty Louis XVI. himself, will serve, without doubt, to remove uncertainties, to dissipate presumptions and probabilities, which in no instance ought to be opposed to a legal certainty.

The French Government interferes in this affair only because it is convinced, as the Attorney General of the United States is, that, in justice and in equity, the million which M. de Beaumarchais received on the 10th of June, 1776, by order of the King, and for a secret political service, ought not to be charged to his private account.

The undersigned Minister Plenipotentiary, in adverting to the services rendered by M. de Beaumarchais during the war of independence, cannot avoid observing that, by a series of accumulated misfortunes, his family will be nearly ruined if it does not speedily regain a capital which was devoted to the success of the cause of the United States.

He has, therefore, the honor to request that the Secretary of State will lay his note before the President, in order that this affair, which has been so long pending, and which is so important to the heirs of M. Caron de Beaumarchais, may be submitted to a new investigation, and definitively adjusted and determined.

The undersigned, &c.

G. HYDE DE NEUVILLE.

The Hon. the SECRETARY OF STATE.

## Claim of Caron de Beaumarchais.

M. Hyde de Neuville, Envoy Extraordinary and Minister Plenipotentiary of His Most Christian Majesty, to the Secretary of State.

WASHINGTON, Dec. 6, 1817.

SIR: The President of the United States was pleased last year to recommend to Congress, by a special Message, and in the most particular manner, the claim of the heirs of Beaumarchais, relative to the settlement of an account for supplies furnished at an early period of the war of independence.

This Message was referred to a committee, and in that state the affair rested. The shortness of the session was probably the only cause why it did so.

Since that period, His Most Christian Majesty's Minister of Foreign Affairs has again recommended to me this claim of the heirs of Beaumarchais, and communicated the correspondence which took place on this subject at Paris between His Majesty's Minister and Mr. Gallatin, Minister of the United States, a copy of which I have the honor to enclose you.

Mr. Gallatin, after repeating in his letter to the Minister the objections which had been at first started, as to the employment of the million in question, gives it to be understood that he can say that a simple but explicit declaration by the French Government, "that the said million was not applied to the purchase of the supplies furnished by M. de Beaumarchais to the United States," would have removed all the doubts expressed by the public officer at the head of the Treasury, when these accounts were exhibited there.

His Majesty's Minister, after a new investigation of the facts, positively renews, in his answer, the declaration "that the million paid on the 10th of June was not applied to the purchase of the shipments made to the United States at that period by M. de Beaumarchais." As these two papers complete, in some sort, the body of information requisite for a due examination of this affair, I request, sir, you would be pleased to lay them before the President. They preclude the necessity of my adding any further, either to the notes which have been successively presented, or to mine of the 22d of January last on this subject.

It may be that the President will judge fit to transmit these documents to Congress with a new Message, to be annexed to those formerly sent, if, after the explanations which have been given, there can remain any hesitation or doubt, founded on former prepossessions not then sufficiently combated and removed.

I flatter myself that this latter communication will have the weight with Congress to which it is entitled, and dispose it to decide this affair in a manner which the claimants confidently expect from the justice of the United States.

Be pleased, sir, &c.

DE NEUVILLE.

Mr. Gallatin to the Duke de Richelieu.

PARIS, December 2, 1816.

MONSIEUR LE DUC: The late M. de Beaumarchais's accounts with the United States having

been settled according to law, by the Comptroller of the Treasury, the claim of the heirs on account of the million of francs which they complain to have been unjustly charged to M. de Beaumarchais by that officer, is still before Congress for their ultimate decision. For that reason, and also because it was stated in the letter which your Excellency addressed to me on the 11th of October last on that subject, that M. Hyde de Neuville was instructed to insist on a final decision of that claim, it appeared that the natural course for me was to transmit your Excellency's letter to my Government, which has accordingly been done.

Knowing, however, that the Government of the United States is not less anxious to pay its just debts than bound to repel unfounded claims, I beg leave to present to your consideration some observations on that affair, with no other motive than that of obtaining, if practicable, such elucidations as may enable Congress to repair the wrong, if any has in this case been done by the department of accounts.

It has been fully established, and is not denied by the parties, that one of the three millions stated (in the preamble of a contract settled on the 25th February, 1783, between Count de Vergennes and Dr. Franklin) to have been an aid and subsidy granted as a gratuitous assistance prior to the treaty of February, 1778, by His Most Christian Majesty to the United States, was paid on the 10th day of June, 1776, for the use of the United States, or for some object connected with their interest, but not to any of their agents; and that that sum is the identical million which was on that day advanced by the Government of France to M. de Beaumarchais.

Under those circumstances, the accounting officers of the Treasury of the United States, presuming that the said million had been thus advanced by the Government of France for the purpose of enabling M. de Beaumarchais to purchase the supplies intended for the said States, and thinking that, at all events, for the application of a sum granted as an aid and subsidy, he must be accountable to the Government which was to receive, and not to that which gave the subsidy, charged him with the same, and demanded from him an account of its expenditures. This M. de Beaumarchais declined doing, because he considered himself accountable for that sum only to the King, and because he thought himself restrained by particular considerations from giving any explanations on that subject.

The Government of France has, however, at several times caused it to be declared: 1st. That the French Government had ever been unconnected (*est resté constamment étranger*) with any of the commercial transactions of M. de Beaumarchais with the United States. 2d. That the million had been advanced for a secret political service, and had been applied according to the intentions of the King, and duly accounted for to his satisfaction by M. de Beaumarchais.

These declarations did not appear to Congress sufficient to remove the objections to the claim,



*Claim of Caron de Beaumarchais.*

because they were consistent with the supposition that the million had been advanced for the purpose of enabling M. de Beaumarchais to purchase supplies. By the first declaration, it must have been only intended to exclude the supposition that the French Government had any concern in the commercial risks, profits, or losses of M. de Beaumarchais. That it was not intended to convey the idea that they had not made to him sales or advances on account of his supplies, is inferred from the fact, which appears on the face of the accounts, that the artillery, and a part of the military stores sent by him to the United States, were taken from the King's stores and arsenals. And if the million had been advanced to him for the purpose of purchasing part of the other supplies furnished by him to America, an advance for such an object, at such a time, would certainly have been considered as an expense for a secret political service; and if it had been thus applied by him, it would have been applied according to the King's intentions, and the sum would, by exhibiting the proof of such an application, have been duly accounted for to His Majesty.

Without asking for the disclosure of the true application of that million, and without anticipating what species of proof will satisfy Congress, I may say that a simple but explicit negative declaration on the part of His Majesty's Government, "that the said million was not applied to the purchase of the supplies furnished by M. de Beaumarchais to the United States," would have removed the doubts entertained by the officers at the head of the Treasury Department when the account was settled there. It does not belong to me to conjecture whether such declaration can or ought at this time to be made by the Government of France. But its importance will be better appreciated when it is recollected that all the difficulties on that subject have arisen from former partial disclosures by the Government of France, and particularly from the insertion made by Count de Vergennes in the contract of the 25th February, 1783, of the said million, as part of the gratuitous aid and subsidies of His Most Christian Majesty to the United States. They were till that time wholly ignorant of such an advance having been made for their use; and had it not been thus brought to their knowledge, M. de Beaumarchais's claim would long ago have been definitively settled and discharged.

have the honor, &c.

ALBERT GALLATIN.

*The Duke of Richelieu to Mr. Gallatin.*

PARIS, December 20, 1816.

Sir: I have received the letter which you did me the honor to address to me on the 2d of this month, in answer to mine of the 11th of October last, on the subject of the claim of the heirs of Beaumarchais.

After informing me that you had transmitted my letter to your Government, you enter into some details of the reasons which have hitherto prevented it from pronouncing on their claims.

You are of opinion that the declarations made to the Congress at different times by the French Government could not have been deemed sufficient to overcome all objections and remove all difficulties. Finally, sir, you express a desire that new information should be given to it, to the end that its future decision may be conformable to the principles of that fair and strict justice which it professes.

I cannot, sir, adopt the opinion manifested by your Government. The notes successively presented by the Ministers of France are so particular and positive, (*affirmatives*) that they seem to remove all doubt on the facts of the subject in dispute, and consequently all hesitation as to the decision to be given.

It was in fact stated that the French Government had no concern in the commercial transactions of M. de Beaumarchais with the United States. By this declaration it was not only intended to convey the idea that the Government was not interested in his operations, or in his chances of loss or gain; but a positive assurance was also given that France was wholly unconnected with them: whence it results that, in relation to them, she is neither to be considered as a lender, a surety, nor as an intermediate agent. The whole of these transactions were spontaneous on the part of M. de Beaumarchais, and the right and agency derived from them appertain exclusively to him.

If, as is supposed by the committee of the Treasury, permission had been granted to him by the French Government to draw from its arsenals and magazines the supplies furnished by him to the United States, and the million in question had been advanced to enable him to replace the articles delivered to him, he certainly would have been bound in the first place to exhibit to the King's minister a provisional statement, showing the mode in which they were disposed of, to enable him to receive a provisional acquittance; and subsequently to the treaty of the 20th February, 1778—a period which rendered all dissimulation unnecessary—this statement and its approval would have been required and delivered according to the usual forms.

It is however unquestionably the fact that nothing of this has been done. The million delivered on the 10th of June immediately reached its intended destination, and a simple authorization (*approuve*) of the King, but a few months subsequent to the payment of the sum, was the only document which finally placed the expenditure in the regular train of fiscal settlement.

I am therefore warranted, sir, after a fresh examination of the facts, in persisting in the declarations above stated, and in considering as a matter of certainty that the million paid on the 10th of June was not applied to the purchase of the shipments made to the United States at that period by M. de Beaumarchais.

I have reason to hope, sir, that these explanations, which, when taken in connexion with those that have been already offered, may seem superfluous, will throw all the light upon the subject under discussion that can reasonably be desired.

*Claim of Caron de Beaumarchais.*

The Congress will thus be enabled to decide the affair promptly and favorably; the issue of which must however rest with it, as well in conformity with the common laws of equity as with the considerations of benevolence and good will towards the family so deeply interested in it.

There is no member of the Government who can be ignorant of the services rendered by the head of that family to your cause, and the influence produced on its early successes by his ardent zeal, extensive connexions, and liberal employment of his whole fortune.

Be pleased, sir, to receive, &c.

RICHELIEU.

[Communicated to the House February 24, 1818.]

Mr. BASSETT, from the committee to whom was referred the President's Message in relation to the heirs of Caron de Beaumarchais, reported:

That, on the settlement of the account of the late Caron de Beaumarchais with the United States, he was charged with one million of livres received by him from the French Government on the 10th June, 1776, and for which, as was alleged by the accounting officers of the Treasury Department, he had never accounted to ours. The receipt of this sum is admitted, but it has uniformly been denied by M. de Beaumarchais that it was received under any accountability to the United States, but solely to the French Government, from whom he received it, to whom he did account, and by whom he was discharged. Before the treaty of 1778, the King of France had furnished for the use of the United States three millions of livres: two millions paid to our banker in Paris, in four equal instalments, in January, April, July, and October, 1777, and one million paid to M. de Beaumarchais, 10th June, 1776. These were all the pecuniary supplies which preceded the treaty. During the years 1776 and 1777, M. Beaumarchais had furnished to the United States supplies of arms and military stores, and goods, amounting, with charges, to near five millions of livres. They consisted of eight cargoes shipped from France and received at the following places: four at Portsmouth, New Hampshire; two at Martinique, by Mr. Bingham, and two at Cape François, by Mr. Carobasse; from the latter ports they were shipped to the United States. Most of the arms and military stores were taken from the King's arsenals in different fortresses; other articles were purchased by M. Beaumarchais from individuals, and all were charged by him in his account to the United States. The accounts were mostly examined and certified by Mr. Silas Deane, who had, by an appointment from the secret committee, repaired to Europe in 1776 to purchase goods for the Indians, and arms and other supplies for our troops. The receipt and the amount of these supplies were never questioned; but there were various opinions about the source from which they were furnished. By some they were said to have been furnished by the King of France gratuitously, and to have been sent to us through

the agency of Beaumarchais, to give the appearance of an individual and commercial transaction; by others, that they were really furnished by the latter on his own account; that he was charged and held accountable to the French Government for the articles taken from the public stores, and thus become a debtor to France and a creditor to the United States, and purchased the other articles on his own credit and resources. This question seems not to have been settled until in the year 1770, when, after a formal application to the French Government, and a very tedious examination of the transactions, accounts, and correspondence of our public agents, Congress, by various resolutions, admitted that the supplies were not furnished by the Government, but that they were indebted to M. Beaumarchais for them. Since that time there has been no act or resolution of Congress questioning the source of these supplies; and, although many years elapsed before the accounts were finally settled, the question of liability, in the first instance, seems to have been at rest; though the account has been very differently stated at different times by the public officers appointed to settle it, yet all have concurred in giving M. Beaumarchais credit for the supplies furnished. In 1785, Mr. Thomas Barclay was appointed a special commissioner to proceed to Europe, to settle this and our other public accounts in France. After a very laborious examination, he stated and settled the account of M. Beaumarchais, and reported the United States in debt to him upwards of fifteen hundred thousand livres, not including any interest. This settlement, it seems, was not satisfactory; and the accounts were referred to the Treasury Board, who, in 1788, reported a balance due by Beaumarchais of more than seventeen hundred thousand livres. It was discovered that very great errors had crept into this latter account, and it was revised in 1791 and 1793, and finally settled in 1805, on the principles detailed by the Auditor and Comptroller in their reports. The committee do not deem it necessary to go into an examination of this or any of the other statements of this account, or to notice any of the items, except the one million received from the King in June, 1776, which was conditionally placed to the debit of M. Beaumarchais by the Board of Treasury in 1788, and finally ordered to be charged to him in the final settlement in 1805. The committee, considering the question of original indebtedness as settled by the various resolutions of Congress, and the settlement of the accounts by the authorized officers of the Government, find but one question presented for their consideration:

Whether this million was justly chargeable to Mr. Beaumarchais, as a payment on account, or as an offset to a debt otherwise admitted to be due?

The application of this million does not seem to have been known to any of our agents in France during the Revolution; and though Dr. Franklin, in the contract of 1783, acknowledges the receipt of it, yet no account was demanded



*Claim of Caron de Beaumarchais.*

of its expenditure until in 1786, when there was much said about the lost million, and a formal demand made of the French Court in relation to it, when it was declared by the Count de Vergennes, then and in 1776 Minister for Foreign Affairs, that it was paid by the King's order on the 10th June, 1776, for a secret political purpose, of which the King reserved to himself the exclusive cognizance. All further explanation was refused, and none other has ever been given. It was then supposed to have been received by Beaumarchais, and his account was conditionally charged with it in 1788. The application of this sum was thenceforth considered as a mystery of the Cabinet, and was not further inquired into until in 1794, when, on the application of Mr. Morris, then our Minister in France, the original receipt of Mr. Beaumarchais was procured, it being for one million of livres, received by him on the 10th June, 1776, for which he was to account to M. de Vergennes. It was on the faith of this receipt that this sum was finally charged in the account of Mr. Beaumarchais. At this time it does not appear that any other of the secret papers of the French Court, in relation to this transaction, were examined. But, in 1806, that Government declares that they had examined the archives, and had discovered conclusive evidence that Beaumarchais had accounted to the King for this sum; that it had been disbursed for a secret political purpose, and not for the purchase of supplies for the United States. The present Government has renewed, in a more explicit manner, these declarations, and furnished a document, which seems to the committee to be entitled to full credence, by which it satisfactorily appears that this million had been, before December, 1776, applied to the purposes intended by the King, who approved of it in the manner in which he usually signified his approbation. The committee are of opinion that Mr. Beaumarchais thus became discharged from all further accountability to the Government from whom he received the money, and to whose Minister, by the tenor of his receipt, he engaged to render an account. The tenor of this receipt creates no accountability to the United States, which can only arise by its satisfactorily appearing that the secret political purpose for which the money was advanced was the purchase of these supplies for them; of this the committee have discovered no evidence. It was well known to our agents in France that the supplies of a military nature were procured from the King's stores; it was so stated on the face of the accounts; they bore the King's mark. This was well known to Congress, and was never attempted to be concealed. It, therefore, could not have been necessary to ascertain this fact to make a formal demand of the French Court; this could not have been the mystery of the Cabinet and the important state secret which the King refused to disclose, even on the formal application of the United States. In 1786 there could exist no possible motive for concealing the supply of arms more than of money, for it was disclosed to the world by the treaty and the con-

tract of 1783; but there might be very cogent reasons for concealing forever the knowledge of the application of money for secret political purposes, as it might involve the safety of individuals and the reputation of their families. As the advance was gratuitous, and the insertion of it in the contract made, not for the purpose of creating a charge, but merely as an evidence of friendship, it might, as the committee conceive, very properly have been alleged by the French Government, who made the present, that ours ought to be satisfied with any application which the donor might choose to make. If this million was not applied for our benefit, we lost nothing, because we paid nothing. If the donor declared it was for our use, it was all we had a right to ask; if he was mistaken in his application of it, and we derived no benefit from it, the King could derive none, and, at the most, it was a mistake in judgment. This surely could not make that Government accountable to ours for this sum, and, whether disbursed by the King, his Ministers, or his or their agents, would not vary the question, as they must be accountable to those, and to those only, from whom it was received, unless the tenor of the receipt imported an accountability to others. A donor has an undoubted right to direct the application of his bounties. This money was set apart by the orders of the King, in May, 1776, for an object of which he reserved to himself the exclusive knowledge. It was paid in June to Beaumarchais.

The United States had then no agent in France. The money was applied; the account rendered, approved, and closed in the same year. The accountability of Mr. Beaumarchais had then ceased as to the French Government. He had complied with the condition of his receipt. He did not know the United States in the transaction, for the money was not put into his hands for their general use or account, but for a special and definite object, which the King thought would result beneficially to them. If he had refused to account to the King, alleging his accountability to the United States, he would not have complied with the terms of his receipt; and, at all events, it is to be presumed that the King would not have admitted it as a compliance. Had Beaumarchais dared to disclose a State secret which the King had forbade his Minister to publish, it is not to be doubted that the disclosure would have cost the liberty, if not the life, of Beaumarchais. It was his duty as a subject and a secret agent of the King to keep the secret; and it could not have been expected that he would or dare betray such a trust. The payment of this million to Beaumarchais was not even suspected until in 1786, for, until that time, it had been considered as the million advanced by the farmers general. This was ten years after he had rendered his account to the King. The discovery of this fact could not transfer the accountability of Beaumarchais to our Government, without the consent of the French, and divest the latter of its control over its subjects or agents. It could create no new liability, nor

*Claim of Caron de Beaumarchais.*

revive one which had been discharged ten years before by the parties concerned. The receipt of the money made him a debtor to the King until he accounted for it. When the account was received and approved, he ceased to be a debtor. He did not know, and could not be accountable for any arrangements between the two Governments. He was no party to the contract of 1783, and it could not affect him; it could not make him accountable to both, and no circumstances could make it his duty to disclose to the United States the application of this money, in violation of the orders of his Sovereign. It is certainly dealing harshly with him to charge him in his account with this million, because he would not account to us for the manner in which he had applied it. The dilemma is a cruel one. The refusal to disclose costs him his fortune; a disclosure may cost him his life. It was a rigorous mode of extorting from the necessities of Beaumarchais a secret which could not be obtained from the Government. Had the contract of 1783 recited the gratuitous advance of only two millions for the use of the United States, there could have been no question about this million. In consequence of this, Mr. Beaumarchais is held accountable for this million, because it appears by his receipts to have passed through his hands. If this recital is sufficient evidence to create a liability, and we attach this weight to this declaration of the French Government in our favor, may not Mr. Beaumarchais attach the same weight to their uniform declarations that he had accounted to them for this sum, that it was not applied in the purchase of supplies, and that we are not entitled to a credit for it in our account with him?

It is admitted that there is no evidence that this money was applied to the purchase of supplies, but what has been furnished by the French Government; it is, then, but fair and consistent with the principles of justice, that all their declarations on the same subject should be taken together and considered as one; they are all consistent, and it is believed that all the difficulty in the settlement of this account has been in giving credence to that one which gives a color for charging the million to Beaumarchais, and giving none to those which declare the charge an improper one. The committee have devoted much time, and made a laborious examination of the merits of this case; they have been able to discover no reason why the uniform declaration of the French Government should not be credited; there is no fact to contradict them; there is no evidence that this million was applied to the purchase of supplies charged by Beaumarchais to the United States. If the French Government now, or at any time, claimed payment of the three million of gratuities; if there were any facts clearly proved, contradicting their assertions, then we might properly exact a strict accountability from their agents, and be justified in so departing from the respect due to a friendly Government as to contradict its solemn asseverations. But the committee do not

15th CON. 1st Sess.—76

think this should be done to a Government which, in trying times, evinced its friendship to ours, when the sum in question was a present and not a charge, and when, after an investigation of near forty years, no evidence has been found to impugn their declarations. It is not to be supposed that the French Government would advance this sum to Mr. Beaumarchais to purchase supplies from itself, or that he would, in less than six weeks after the receipt of this money, and under their eye, make a contract with Mr. Deane for payment by the United States, and thus be permitted to deceive one Government and defraud another. Indeed, the accounting officers of the Treasury do not allege that the charge was made against Beaumarchais on any evidence of the misapplication of the million by him, or of the falsity of the declarations of the French Government, or collusion between them and Beaumarchais; but on the ground of his accountability to the United States, and not to the King. The committee do not think that this conclusion is justified by the evidence before them, and can discern no reason founded on any legal or equitable principles in support of this charge, and are unanimously of opinion that the million in question has been improperly passed to the credit of the United States.

The committee would have felt that their duty would have ended with the expression of their opinion on this part of the case submitted to them, had it been one of a common cast. If any debt is due to Mr. Beaumarchais, it is a very large one. It was contracted more than forty years ago, and under circumstances which makes its payment an imperious duty. The claim has been made and persisted in, by every possible means, since 1777. No act of limitation has attached to it, and it has been made the subject of the especial and repeated interposition of the French Government; and it is equally due to them and us that it should be fully investigated and finally settled.

In a common case it would be deemed sufficient evidence of the validity of a claim on a Government that its agents, accounting officers, and Legislature, had uniformly admitted its justice; had promised payment, when it was unable to do more, and have made remittances when it was able; that the account had been closed for twenty-five years, except as to one item, which two Executive Magistrates and two Attorneys General had decided was not sustainable as a credit. Yet as this subject has been heretofore referred to committees, who have reported unfavorably to the heirs of M. de Beaumarchais, and whose opinions are entitled to the highest respect, the committee have felt it their duty to inquire not only into the propriety of the charge of the one million, but for the source of the supplies which form the charge against the United States, and to ascertain whether any were furnished gratuitously by the Government of France, or purchased by Mr. Beaumarchais on his own credit, and from his own resources. The committee have examined every document submitted or accessible, and are fully of opinion that they are properly chargeable to the United States.



It has never been denied that they were furnished by him, that he procured and shipped them, and that payment must be made to him, if the Government of France did not employ him as their agent, and intend these supplies as gratuitous aids; for they never were attributed to any other than the two sources.

The Government of France never pretended that they had furnished more than three millions before the treaty of February, 1778, and this was in money. These supplies amounted to more than four millions; and if they were gratuitous, then the Government must have furnished seven millions before the treaty. It is not credible that Dr. Franklin and the Count de Vergennes, in the contract of 1783, should have committed so great a mistake as the omission of four millions. There was then no motive for concealing supplies of arms more than of money; and as these gratuitous aids were inserted in the contract merely to remind us of our obligations, it is to be presumed that their extent would not have been unknown or unacknowledged. The French Government have uniformly declared that they furnished no supplies of arms or military stores; have disclaimed all connexion with the commercial transactions of Mr. Beaumarchais; that the United States must pay him; that the King furnished nothing, but simply permitted him to provide himself from the arsenals, on condition of replacing the articles he took; and that the King never intended to make a present of any of the military stores taken from his arsenals; that they were furnished by Beaumarchais in the way of trade; and that, by furnishing them, he became a debtor to France, and a creditor to the United States. These declarations have been the same from the year 1778 to the present time. In January, 1779, Congress, by a solemn and unanimous resolution, declared that these supplies were not a present from the King, and that he did not preface his alliance with any supplies sent to America. In the same month they order a remittance of three thousand hogsheads of tobacco to Beaumarchais, in part payment of his debt, and recognise as valid a contract made with his agent in April, 1778. The president, Mr. Jay, was directed to write him a letter, acknowledging the debt, promising payment, and assuring him that he will receive the merited applause of the new world.

The committee are not aware that there can be stronger evidence, as to the source of these supplies, than the concurring declarations of both Governments, simultaneously made, and uniformly persisted in. Peculiar force will be found due to them when a recurrence is had to some facts, which show the situation of Congress at that time, and afford a history of this transaction, in relation to the accounts of Beaumarchais.

In January, 1776, Congress resolved that a quantity of arms and other stores should be imported for the use of the United States, and forty thousand pounds worth of goods for the Indians. The secret committee were directed to pursue the most effectual measures for procuring them. They appointed Mr. Silas Deane for this purpose,

and he repaired to Europe. He arrived at Bordeaux 6th of June, 1776; the exact time of his arrival in Paris is not known, but, in July, after various letters had passed between him and Mr. Beaumarchais, an agreement was made for the supply of the articles required, not by a formal contract, but by the letters referred to. The prices were not definitively settled, but it was agreed that the United States, at their option, should pay for the articles their current value when delivered in America, or their cost in France, with the addition of transportation to the seaports, freight, commission, and insurance. A separate contract was some time afterwards made for freight between Messrs. Monthieu, Deane, and Beaumarchais, which was reduced to writing. In pursuance of this agreement, the articles were furnished and received in the United States. It was not then supposed that these supplies were gratuitous aids from the King; for, in November, 1776, Mr. Deane writes to the committee that the United States were largely indebted to Beaumarchais for them, and presses for remittances to be made to him. In August, 1777, Congress ordered that the correspondence between the secret committee and Mr. Deane be laid before them; and, in September and October of that year, remittances of tobacco were received by Mr. Beaumarchais on account. In that year he sent Mr. Francis, his agent, to the United States, in order to receive payment of his account. In March, 1778, Congress paid him twenty thousand dollars; and in April following, by a committee, made a contract, stipulating for payment of principal and interest for what had been then furnished, and for the supply of twenty-four millions of livres if the contract was ratified by Mr. Beaumarchais and our commissioners in France; this was not done, and that sum was not furnished. In the latter part of 1776, Dr. Franklin, Silas Deane, and Arthur Lee, were appointed joint commissioners at the Court of France. They did not long act in harmony, and dissensions rose among them, which Congress resolved were highly injurious to the honor and interest of the United States. Dr. Franklin and Mr. Deane appear to have been on friendly terms, but both otherwise as to Mr. Lee. Mutual complaints seem to have been made. Mr. Deane was recalled in November, 1777, and in December ordered home, and to attend Congress with all convenient despatch, in order to give an account of our affairs in Europe. He returned from France 11th July, 1778, and appeared before Congress on the 15th August, when he was ordered to give a detailed account of his proceedings, and especially of his transactions with Beaumarchais. This was the more necessary, as, on the 2d of May preceding, a letter had been received from Mr. Lee, dated in October preceding, in which he stated that the supplies for which Beaumarchais charged the United States were gratuitously furnished by the King, and that the agreement for furnishing them had been made in London, in April, 1776, between Mr. Lee and Beaumarchais, who assumed the name of Hortales & Co. Congress having

made a contract in April, by which they had assumed payment for those supplies, it became all-important to ascertain their source. They wrote to our Ministers in Paris, enclosing a copy of the contract made with Mr. Francis, and instructed them to call on the French Court to know whether they had furnished any, and what, supplies. A letter was addressed to the Count de Vergennes; he informed them that the King had furnished nothing, and Mr. Girard, the Minister here, was ordered to make the same assurances to Congress, which he did. In the meantime the inquiry proceeded before that body. All the correspondence of our foreign agents was laid before them. Mr. Deane was examined in person, (he was so ordered,) and presented a statement in writing. In September a committee made a report on the letters of Mr. Lee and Dr. Franklin. In December Mr. Deane was again heard, and presented a long detail in writing. In January Congress passed the resolutions, and directed the letter before noticed to be written. In April, 1779, the committee reported on the conduct of our commissioners in France, and the accounts of Mr. Deane were ordered to be settled by a committee. This was never done. In August Mr. Deane was discharged from further attendance, and ten thousand five hundred dollars were ordered to be paid to him for his expenses in attending on Congress. During this investigation of more than twelve months, the inquiry was not confined to the conduct and accounts of Mr. Deane; the accounts of Beaumarchais necessarily formed an important part of the matters they acted on. Congress must have been fully informed in relation to them, and therefore possessed better means of judging correctly than possibly could have existed at any subsequent time. The transactions were then recent, the witnesses were alive, and all the papers tending to elucidate the transactions were fully considered. Under such circumstances, the resolutions of January, 1779, ought to have conclusive force, more especially when, in June following, Congress agreed to a report of a committee appointed to settle the accounts of Beaumarchais, in which they state, but do not settle, his account; acknowledge the United States to be largely indebted to him; order bills of exchange to be drawn in his favor for two million four hundred thousand livres, and direct all the tobacco which the United States then had to be paid to him. The committee cannot feel themselves justified in considering the account as open for discussion after all these solemn recognitions of its justice. It is worthy of remark, that all the evidence which is now to be procured was then fully considered; nothing new has been discovered. The former examinations were minute, and the result was satisfactory. The bills were paid to Beaumarchais, and various remittances were made to him in 1777, '78, '79, '81, and '83. The debt was never questioned, but its amount could not be ascertained here; it was, in 1785, ordered by Congress to be settled in Europe; and it was settled by Mr. Barclay, the special agent of the United States for that purpose.

Before the committee would feel themselves authorized to reject a claim thus sanctioned, they would feel it indispensable that the most clear and explicit proof should be produced—such, indeed, as would not leave remaining a reasonable doubt. A due respect for the old Congress of 1778-9, to public credit, and the often plighted faith of the Government, would seem to make this a duty imperious, not only on the committee, but on Congress. Such evidence has been sought for in vain, and, it is believed, does not exist. The committee have attentively examined the correspondence of our commissioners in Europe, and can discern in that no evidence that the supplies were furnished by the French Court. If, indeed, the statement of one of them was alone to be believed, there might have been reason to doubt on the subject, and it certainly afforded fair grounds for inquiry when the statement was received in 1778; but the committee do not know any reason why greater credit should now be given than it seemed entitled to then. It was at most but the declaration of an agent, and the principal has disavowed it, and admitted a liability which the agent denied. It is thought not consistent with good faith for this Government to rely solely on the declarations of one of its agents when it happens to be in their favor, and to disregard the assertions of others when they operate against it. If our agents in Europe dispute about the source of these supplies, the solemn and repeated declarations of both Governments would seem sufficient to turn the scale. If our Government denied its liability, it might not be deemed so important, as it was interested in proving the supplies to be gratuitous; but when it admits its liability, and that, too, when it was so extremely hard pressed for money as in the year 1779, it ought to be conclusive. It is not now a sufficient allegation to reject and disprove the justice of this debt to say that one of our agents in 1777 and '78 declared that the supplies were gratuitous; that at some times another doubted, and at other times admitted the justice of the claim. If the United States had ever paid for these supplies, and were now repelling an attempt to exact payment a second time, there would be more reason for taking advantage of slight circumstances. But the present is a far different case: we admit the receipt of the supplies; they were of infinite importance: payment has never been made by the United States, and is now resisted on no other ground than that they were intended as presents. Such intention is solemnly contradicted, and no proof offered that it existed. Congress has already repeatedly decided on the statements produced, and the committee think that their decision cannot be disturbed consistently with good faith. They fully agree with our great revolutionary financier, (Robert Morris,) "that, if anything is due Mr. Beaumarchais, the reputation of the country will be compromised until it is paid; that the payment of debts may be expensive, but that it is infinitely more expensive to withhold the payment. The former is an expense of money, when money may be com-



*Claim of Caron de Beaumarchais.*

manded to defray it; but the latter involves the destruction of that source from which money can be derived when all other sources fail. That source, abundant, nay, almost inexhaustible, is public credit. The country in which it may with greatest ease be established and preserved is America, and America is the country which most stands in need of it." In conclusion, the committee will remark that, in every point in which the case can be viewed by them, they are fully of opinion that the heirs of Mr. Beaumarchais are creditors of the United States, and beg leave to report a bill for their relief.

## No. 1.

*Letter of the Count de Vergennes to Louis XVI., dated May 2, 1776, (taken from the General History of French Diplomacy.)*

SIRE: I have the honor of submitting to your Majesty the paper which is to authorize me to furnish a million of livres for the use of the English colonies, if you should deign to ratify it with your signature. I add to this, Sire, the draught of the reply which I mean to make Mr. Beaumarchais; if your Majesty should approve of it, beg that it may be returned to me without delay. It shall not go forth in my handwriting, nor in that of any of my clerks or secretaries. I will employ that of my son, which cannot be known; and, although he is only in his fifteenth year, I can answer positively for his discretion. As it is of consequence that this operation should not be detected, or at least imputed to the Government, I propose, if your Majesty consents, to call hither the Sieur Montaudouin. The ostensible motive will be to ask an account of his correspondence with the Americans, and the real one to charge him with the transmission to them of the funds which your Majesty is pleased to grant them, directing, at the same time, all the precautions to be taken as if he advanced the funds on his own account. On this head, also, I take the liberty of requesting the orders of your Majesty. That being done, I will write to the Marquis Grimaldi, (Secretary of Foreign Affairs in Spain) I will inform him in detail of our operation, and propose to him (*de la doubler*) to do the same. I am, &c.

## No. 2.

*Reimbursement of funds advanced for secret services. VERSAILLES, December 7, 1776.*

It is nearly six months since the King deemed it expedient to order the amount of one million of livres to be advanced, applicable to secret political services of his administration, exclusively under his cognizance.

M. de Harvelay, keeper of the royal treasury, has made the advance out of his funds, and the amount has been applied to the purposes intended by the King. It now remains for me to procure the King's orders for the reimbursement of the loan with the accruing interest. With this view, I have the honor to propose to the King that five

hundred thousand livres be refunded from the interest of public moneys, which, I conceive, may be disposable at the close of the receipts for the present year, and the remainder from that of those for 1777. Should the King accede to this arrangement, I solicit His Majesty to give it sanction by his act, and authorize the issue of such orders as may be necessary for its consummation.

"Good."

## TWO ARTICLES.

1st. A loan of one million ordered to be made in 1776 for secret political purposes of His Majesty.

2. An order to hold disposable the aforesaid one million, and to see that it be duly paid.

## 1st Article.

M. de Harvelay will hold, subject to my orders, one million of livres, the which he shall not suffer to be taken out of his hands but on the receipt of the particular which I shall send in relation to it. The aforesaid million is for matters pertaining to the King's Government.

DE VERGENNES.

VERSAILLES, Saturday, May 4, 1776.

## 2d. Article.

M. de Harvelay will pay the bearer of this order one million of livres, agreeably to the decree of the 4th of May of the present year, and he will deposit the proper acknowledgment. He will account for this advance, and interest thereon, in the statement which he will render at the close of this year of the disposition he shall have made of the moneys appropriated to foreign affairs.

DE VERGENNES.

VERSAILLES, June 5, 1776.

Good for one million livres.

## No. 3.

*The first letter of Mr. Arthur Lee, under the name of Marie Johnston, to Mr. Beaumarchais, under the name of Roderique Hortales & Co.*

LONDON, May 23, 1776.

Be persuaded that M. le Comte de \* \* \* cannot, in any manner, embarrass you. I pray you to consider, in your arrangements at the Cape, that the want of tobacco ought not to hinder your sending out supplies to the Americans; for tobacco is so weighty an article that it will greatly impede the sailing of the ships, and the essential object is to maintain the war.

M. HORTALES.

## No. 4.

*Mr. Beaumarchais's answer to the above.*

PARIS, June 6, 1776.

I received your letter of the 23d May. I will perform my promises in the way I pointed out. I am about to send to Cape François, in the island of St. Domingo, a ship loaded with merchandise to the value of £25,000 sterling, besides cannon,

*Claim of Caron de Beaumarchais.*

powder, and stores; but this last article will arrive but in small parcels, on account of the risk. On your part, do not fail to send a ship loaded with good Virginia tobacco; and let your friend send in the ship an intelligent, discreet, and faithful person, with powers to receive the money or merchandise and powder, and to make the remittances in tobacco, which I can no more do without than your friend can without what I send to him; in a word, let him give his notes to my house for what he shall not be able to pay in tobacco, and make certain and solid arrangements with my agent at the Cape for the future.

The captain, on his arrival at the Cape, must inquire of the first magistrate who is the merchant intrusted with the affairs of Roderique Hortales & Co., and he will introduce him to the correspondence of your humble servant.

M. JOHNSTON.

## No. 5.

*The second letter of Mr. Lee to M. de Beaumarchais.*

LONDON, June 14, 1776.

SIR: I have but one moment to thank you in for your letter of the 6th June, which I received safe this moment. I will do my utmost to answer your wishes; but I advise you, as my friend, to consider always that the communication of sentiments is difficult; and, for that reason, we ought to do all in our power, without insisting on a certain and immediate return.

[In ciphers.]

Consider, above all things, that we are not transacting a mercantile business, but that politics are greatly concerned in this affair.

[In letters.]

I have written on your account to our friend Grayman.

## No. 6.

*The second letter of Mr. Beaumarchais to M. A. Lee.*

[In ciphers.]

PARIS, June 26, 1776.

I refer you to my former letter of the 6th June, of which I pray you to follow the disposition.

The difficulties which I have met with in my negotiation with the Minister have made me take the resolution of forming a company, which shall send out the supplies of powder and stores to your friend, depending, in the mean time, on remittances in tobacco at Cape François, and always under the name of your servant,

RODERIQUE HORTALES & CO.

## No. 7.

*From M. de Beaumarchais to Mr. Deane.*

JULY 18, 1776.

I do not know, sir, if you have anybody with you whom you may trust for translating the French letters which treat on important affairs. On my part, I shall not be able to treat with security in English till after the return of a person

whom I expect at this moment from London, and who will be an interpreter between us; meanwhile, I have the honor to inform you that I had for some time past the desire of helping the brave Americans to shake off the English yoke. I have already tried several means to open a secret and sure correspondence between the General Congress and a house which I am about to establish on that occasion. I shall exert my endeavors to provide the continent, either by the way of our West Indies, or straight from here if possible, with all such articles which the Americans shall be in need of, and which they cannot any more get from England. I have already mentioned my plan to a gentleman in London, who pretends to be much attached to America; but our correspondence, since I left England, having been carried on with difficulty and in ciphers, I have received no answer to my last, in which I have tried to fix some terms for that great and important affair.

But, since you are vested with a character which permits me to have confidence in you, I shall be very glad to begin anew, in a manner more certain and more regular, a negotiation which was before but touched on. My means are not very considerable, but they may be much increased if we can establish together a treaty of which the conditions shall be honorable and advantageous, and the execution of the same shall be exact.

I cannot grant, either to Mr. Dubourg or to anybody else, the confidence of speaking freely of my plan; but when you will have compared the nature of the offers which shall be made to you from every quarter to the disinterested zeal which attaches me to the cause of America, you will perceive what difference there is between treating with common merchants and on the hardest terms, and the good fortune of meeting with a generous friend who shall think himself happy in proving to your nation and to you, its secret representative, how truly he is devoted to them. I am, sir, yours, &c.

CARON DE BEAUMARCHAIS.

## No. 8.

*From Mr. Deane to Mr. Beaumarchais.*

JULY 20, 1776.

SIR: In compliance with your request at our interview of yesterday, I send you enclosed copies of my commission, and an extract from my instructions, which will fully satisfy you of my being authorized to make the purchases I have applied to you for. To understand this extract, it is necessary to inform you that I was ordered to make my first application to the Ministers, and to procure the supplies wanted of them, by way of purchase or loan; and in case the credit or influence of Congress should not be such, under the present circumstances, as to obtain them from that quarter, I was instructed then to apply elsewhere. My application to the Minister, and his answer, I have already acquainted you with. With respect to the credit which will be required



*Claim of Caron de Beaumarchais.*

the goods and stores which I propose to engage of you, I hope that a long one will not be necessary. Twelve months has been the longest credit my countrymen have ever been accustomed to; and Congress having engaged large quantities of tobacco in Virginia and Maryland, as well as other articles in other parts, which they will ship as fast as vessels can be provided, I have no doubt but very considerable remittances will be made within six months from this time, and for the whole within a year; this I shall, in my letters, urge Congress to do. But the events of war are uncertain, and our commerce is exposed to be affected thereby. I hope, however, that at least such remittances will be made you that you will be able to wait for whatever sum may remain due after the credit we shall agree on is expired, having the usual interest allowed you.

I send you also an invoice of the clothing, and of many articles of the furniture and stores necessary for our army, in which I cannot be so particular at present as it will be necessary to be hereafter in case you undertake it; but as the articles for the uniforms can at this time be ascertained as well as ever, I have made out a detail of them. Though my instructions speak of but one hundred brass cannon, and of arms and clothing for 25,000 men, yet, considering the importance of the articles to America, I shall (if to be obtained) venture in a larger quantity; the probability of some part being taken, with other circumstances, will, I think, fully justify me therein. But it is improper to add on this subject until you resolve whether you will undertake, and on the terms which I presume you will do. As soon as you shall have obtained a translation of this and the enclosed, I will do myself the honor of waiting on you; in the mean time, I am, with the utmost respect and attachment, Sir, yours &c.

SILAS DEANE.

No. 9.

From Mr. Deane to M. de Beaumarchais.

PARIS, July 24, 1776.

SIR: I have considered the letter you honored me with on the 22d, and am of the opinion that your proposals for regulating the prices of goods and stores are just and equitable. The generous confidence you place in the virtue and justice of my constituents affords me the greatest pleasure, and gives me the most flattering prospect of success in the undertaking to their as well as your satisfaction; and permit me to assure you the United Colonies will take the most effectual measures to make you remittances, and to justify, in every respect, the sentiments you entertain of them; but, at the same time, as the invoice for clothing only, and without the incidental charges, amounts to about two or three millions of livres, and as the cannon, arms, and stores, will raise the sum much higher, I cannot, considering the uncertainty of the arrival of vessels during the war, venture to assure you that remittances will be made for the whole within the time proposed;

but in that case, as I wrote you before, I hope that the interest on the balance will be satisfactory. With respect to cargoes sent from America, either to France or the West Indies, designed as remittances for your advances, I think there can be no objection to their being sent to the address of a house in France, or to your agents, where they may arrive.

I find that cannon, arms, and other military stores, are prohibited, and cannot be exported but in a private manner. This circumstance gives me many apprehensions, for, as I cannot have those things shipped publicly, I cannot have them purchased openly, without giving alarms, perhaps fatal to our operations; in this case, various deceptions and impositions may be practised. You know that the ambassador of England is attentive to everything done by me, and that his spies watch every motion of mine, and will probably watch the motions of those with whom I am known to be connected. In this situation, and being a stranger in a great measure to your language, I foresee many embarrassments, which I know not how to obviate, and such as I fear may greatly perplex even yourself, notwithstanding your superior knowledge and address. Two things you will agree with me are as essential as even the procuring of the cannon, arms, &c. First, that they are good and well laid in, and that they be embarked without being stopped and detained. The fate of my country depends, in a great measure, on the arrival of these supplies. I cannot, therefore, be too anxious on the subject; nor is there any danger or expense so great but what must be hazarded, if necessary, to effect so capital and important an object. I pray you to consider this subject, and to give me your thoughts upon it. I called on you this morning with Dr. Bancroft, to have conversed with you on this subject, but found that you were gone to Versailles. Permit me to urge your early attention to this subject, and to assure you that I have the honor to be, with the highest respect, Sir, yours,

SILAS DEANE.

No. 10.

Letter of Beaumarchais, under the signature of Roderique Hortales & Co., to the Secret Committee of Correspondence, dated

AUGUST 18, 1776.

GENTLEMEN: The respectful esteem that I bear towards that brave people who so well defend their liberty under your conduct, has induced me to form a plan concurring in this great work, by establishing an extensive commercial house, solely for the purpose of serving you, in Europe; there to supply you with necessaries of every sort; to furnish you expeditiously and certainly with all articles, clothes, linens, powder, ammunition, muskets, cannon, or even gold for the payment of your troops; and, in general, everything that can be useful for the honorable war in which you are engaged. Your deputies, gentlemen, will find in me a sure friend, an asylum in my house, money in my coffers, and every means

*Claim of Caron de Beaumarchais.*

of facilitating their operations, whether of a public or a secret nature. I will, if possible, remove all obstacles that may oppose your wishes from the politics of Europe. At this very time, and without waiting for any answer from you, I have procured for you about two hundred pieces of brass cannon, (four pounders,) which will be sent to you by the nearest way; 200,000 pounds of cannon powder, 20,000 pounds of excellent fusils, some brass mortars, bombs, cannon balls, bayonets, platines, clothes, linens, &c., for the clothing of your troops, and lead for musket balls.

An officer of the greatest merit for artillery and genius, accompanied by lieutenants, officers, artillerymen, cannoniers, &c., which he thinks necessary for the service, will go for Philadelphia even before you have received my first despatches. This, gentlemen, is one of the greatest presents that my attachment can offer you. Your deputy, Mr. Deane, agrees with me in the treatment which he thinks suitable to his office, and I have found the powers of this deputy sufficient that I should prevail with this officer to depart, under the sole engagement of the deputy respecting him, the terms of which I have not the least doubt but Congress will comply with. The secrecy, gentlemen, necessary in some part of the operations which I have undertaken for your service, requires also, on your part, a formal resolution that all the vessels and their demands should be constantly directed to our house alone, in order that there may be no idle chattering or time lost—two things that are the ruin of affairs. You will advise me what the vessels contain which you shall send into our ports. I shall choose so much of their loading, in return for what I have sent, as shall be suitable to me. When I have not been able beforehand to inform you of the cargoes which I wish, I shall facilitate to you the loading, sale, and disposal of the rest. For instance, five American vessels have just arrived in the port of Bordeaux, laden with salt fish; though this merchandise, coming from strangers, is prohibited in our ports, yet, as soon as your deputy had told me that these vessels were sent to him by you to raise money from the sale for aiding him in his purchases in Europe, I took so much care that I secretly obtained from the farmers general an order for landing it without any notice being taken of it; I could even, if the case had so happened, take upon my own account these cargoes of salted fish, though it is nowise useful to me, and charge myself with its sale and disposal, to simplify the operation, and lessen the embarrassment of the merchants, &c., of your deputy. I shall have, gentlemen, a correspondent in each of our seaport towns, who, on the arrival of your vessels, shall wait on the captains, and offer every service in my power; he will receive their letters and bills of lading, and transmit the whole to me; even things which you may wish to arrive safely in any country in Europe, after having conferred about them with your deputy, I shall cause them to be kept in some secure place; even the answers shall go with great

punctuality through me, and this way will save much anxiety and many delays. I request of you, gentlemen, to send me next Spring, if it is possible for you, ten or twelve thousand hogsheads, or more if you can, of tobacco from Virginia, of the best quality. You very well understand that my commerce with you is carried on in Europe; that it is in the ports of Europe I make and take returns. However well bottomed my house may be, and however I may have appropriated many millions to your trade alone, yet it would be impossible for me to support it if all the dangers of the sea, of exports and imports, were not entirely at your risk. Whenever you choose to receive my goods in any of our windward or leeward islands, you have only to inform me of it, and my correspondents shall be there according to your orders, and then you shall have no augmentation of price but that of freight and insurance. But the risk of being taken by your enemies still remains with you, according to the declaration rendered incontestable by the measures I shall take by your deputy himself. This deputy shall receive, as soon as possible, full power and — to accept what I shall deliver to him, to receive my accounts, examine them, make payments thereupon, or enter into engagements which you shall be bound to ratify as the head of that brave people to whom I am devoted; in short, always to treat about your interests immediately with me. Notwithstanding the open opposition which the King of France, his Ministers, and the agents of administration show, and ought to show, to everything that carries the least appearance of violating foreign treaties and the internal ordinances of the kingdom, I dare promise to you, gentlemen, that my indefatigable zeal shall never be wanting to clear up difficulties, soften prohibitions, and, in short, facilitate all operations of a commerce which my advantage, much less than yours, has made me undertake with you. What I have just informed you of, gentlemen, is only a general sketch, subject to all the augmentations and restrictions which events may point out to us. One thing can never vary or diminish—it is the avowed and ardent desire I have of serving you to the utmost of my power. You will recollect my signature; that one of your friends in London some time ago informed you of my favorable dispositions towards you, and my attachment to your interest.

Look upon my house then, gentlemen, from henceforward, as the chief of all useful operations to you in Europe, and my person as one of the most zealous partisans of your cause, the soul of your success, and a man the most deeply impressed with respectful esteem, with which I have the honor to be,

RODERIQUE HORTALES & CO.

P. S. I add here, to conclude, that every American vessel, though not immediately armed or loaded by you, will be entitled to my good offices in this country; but yours, particularly addressed to my house, will receive a particular preference from me. I ought also to intimate to you, gen-



men, that, from the nature of my connexion, it is to be wished you would use discretion, even in the accounts that you give to the General Congress. Everything that passes in your great assembly is known (I cannot tell how) at the Court of Great Britain; some indiscreet or perfidious citizen sends an exact account of your proceedings to the palace of St. James.

In times of great exigency, gentlemen, Rome had a dictator; and in a state of danger, the more the executive power is brought to a point, the more certain will be its effect, and there will be less to fear from indiscretion. It is to your wisdom, gentlemen, I make this remark; if it seems to you just and well planned, look upon it as a new mark of my ardor for your rising republic.

R. H. & Co.

No. 11.

From Mr. Deane to M. de Beaumarchais.

PARIS, August, 19, 1776.

SIR: Since the stores and goods have been engaged and getting ready, I have made inquiry of several merchants respecting the charter of vessels for America generally, without mentioning what their cargoes should consist of, and have written in the same way to some of my correspondents; and, in the whole, I find I shall not be able to provide them so early as is necessary at my rate, and I fear not without making their destination and object too public. You will recollect that I mentioned my apprehensions on this subject to you some days since, and now propose (if consistent with your other engagements) that you would take the procuring of the vessels necessary on you, at least so far as to be security for the payment of their charter. It gives me pain to put this additional trouble and expense on you, but I know that you think nothing within your power is too great to be undertaken for the service of the United Colonies of America, whose grateful acknowledgments must equal, though they can never exceed, your generous exertions in their favor at this critical and important period of their affairs. These vessels will return with cargoes on your account, which, with what will probably arrive from other resources, will enable you to proceed to the greatest extent in executing the great and liberal plan you have proposed. I shall do myself the honor of waiting on you to-morrow morning on this and other affairs; mean time, I am, with the utmost respect and attachment, sir, yours, &c.

SILAS DEANE.

No. 12.

Letter of Beaumarchais to the Secret Committee of Correspondence, dated

SEPTEMBER 15, 1776.

GENTLEMEN: In writing this letter, I imagine you are informed by my first of my active zeal for your interest; I therefore suppose you will do me the honor to acknowledge me among your friends and faithful servants. These titles I adopt

with pleasure, because I think myself worthy of them. In addition to the offers of what I possess, I shall presume to make another of those reflections which I think may be useful to you. Living in Europe, and being better able than you to unfold the secret springs which give motion to States in this part of the world; and, above all, persuaded you have only shaken off the yoke of one of the people that compose it to become a more certain friend to the rest, I will venture to reason with you upon your present situation. Whatever haughty confidence, gentlemen, your enemies may affect, your declaration of independence has thrown them into consternation. Flattering themselves no more to regain you by their adroitness, they begin to fear they will not be able to subdue you by force. Their finances shattered, their commerce lessened, their force exhausted, plainly indicate that the present great effort is the last thing they will be able to make against you; and if your courage, gentlemen, is only sufficiently fortunate to bear the weight of the present campaign, it is almost impossible that they will dare to undertake another. But, whilst you are fighting in America to free yourselves from their yoke, the events of Europe concur to hasten the moment of your delivery. The blunder Portugal has lately fallen into of shutting her ports, with still more imprudence than haughtiness, seems to be an act of Heaven in your favor, of which you cannot too soon avail yourselves. From the resentment which Spain has long borne for Portugal, if I had the honor of presiding in your committee, gentlemen, I would not hesitate to persuade you immediately to declare war against Portugal, and without delay to send a fleet to the Brazils. This unexpected and bold measure would be productive of many good effects: the first would be certainly to interest Spain in your success, and perhaps engage her to make a like declaration against Portugal. From that moment, united with Spain in resentment, you become in some sort her allies; for the enemies of our enemies are more than half our friends. Do not entertain a doubt but that Power will then open her American ports to your armed vessels, and send a private order to receive in them your privateers and the prizes they may make upon the Portuguese. And if your declaration is fortunate enough to draw Spain in openly, (as I scarce have a doubt but it will,) so great a diversion will soon oblige the English to divide their force, and fly to the assistance of Portugal, unless they choose also to lose this sort of a colony, at the same time that you are openly renouncing their authority, which is not probable. And what immense advantage would not this division of their forces give to a collection of yours! and your force and success will be continually increasing, gentlemen, if Spain declares herself openly for the assistance of vessels. Troops and money, which France cannot refuse to that Power, when she enters into a war, according to the spirit and letter of the family compact, will render it necessary for England to supply Portugal with more considerable support. Then all the

reproaches of England cannot prevent France from opening her ports to you without reserve, and permitting you to draw from thence, by way of trade, plentiful supplies of every sort. "What do you require of us?" the Minister of France would say to the English Ambassador. The King, our master, furnishes assistance to Spain, much less from a desire of making war, than from faithfully observing his treaties. If he had any other motive than a regard to his engagements, what should hinder him at present from making use of so fine an opportunity to make war upon yourselves? And if he does not make it upon his rivals and almost his enemies, ought he to provoke any of your people to declare it against him? See what has happened to Portugal! Do you wish that, in shutting our ports to the Americans, with whom we have no dispute, we should suggest to them our inclination of attacking our American possessions, or of seducing and detaching from us our colonies, by a hope of associating with them? Do you wish they should desolate our island by the multitude of their cruisers, against which even the whole force of England at this time can do nothing? To oblige the English, shall we fall into the absurdity of making war against the Americans on the one hand, whilst on the other, in assisting Spain, we shall be forced perhaps to act in concert with the same Americans against the Portuguese? This, gentlemen, is what our Minister would say, and this appears to me unanswerable; and who knows how far things may be carried in Europe from interests so different, so remote, and at the same time so confounded together? Now all this may and probably will be the fruit of your declaring war against Portugal. I have taken this second opportunity to transmit this advice to you. It seemed to strike your deputy, whose good sense immediately perceives whatever has force or propriety in it. I doubt not but he will write to the same purpose. It is therefore my opinion, gentlemen, that you cannot too soon weigh the importance of this idea, and come to some resolution thereupon, worthy of your bravery. Lay hold of the encouragements which fortune offers, and which my respectful attachment for you points out. I have the honor to be, &c.

No. 13.

Statement of a verbal report made to the Secret Committee of Correspondence, by Mr. Thomas Story, October 1, 1776, (being a copy of a paper which was before the Committee of Claims in 1808.)

Mr. Thomas Story (who had been sent by the Committee of Secret Correspondence, December 13, 1775, to France, Holland, and England) reported verbally, as follows: On my leaving London, Arthur Lee, Esq. requested me to inform the Committee of Correspondence that he had several conferences with the French Ambassador, who had communicated the same to the French Court; that, in consequence thereof, the Duke de Vergennes had sent a gentleman to Arthur Lee, who informed him that the French Court could

not think of entering into a war with England, but that they would assist America, by sending from Holland this Fall £200,000 sterling worth of arms and ammunition to St. Eustatia, Martinique, or Cape François; that application was to be made to the governors or commandants of those places, by inquiring for Monsieur Hortales, and that, on persons properly authorized applying, the above articles would be delivered to them.

Philadelphia, October 1, 1776. The above intelligence was communicated to the subscribers, being the only two members of the Committee of Secret Correspondence now in this city; and on our considering the nature and importance of it, we agree in opinion that it is our indispensable duty to keep it a secret, even from Congress, for the following reasons:

1. Should it get to the ears of our enemies at New York, they would undoubtedly take measures to intercept the supplies, and thereby deprive us not only of those succors, but of others expected by the same route.

2. As the Court of France have taken measures to negotiate this loan and succor in the most cautious and most secret manner, should we divulge it immediately, we may not only lose the present benefit, but also render that Court cautious of any further connexion with such unguarded people, and prevent their granting other loans and assistance that we stand in need of, and have directed Mr. Deane to ask of them; for it appears, from all our intelligence, they are not disposed to enter into an immediate war with Britain, though disposed to support us in our contest with them: we, therefore, think it our duty to cultivate their favorable disposition towards us, draw from them all the support we can, and in the end their private aid must assist us to establish peace or inevitably draw them in as parties to the war.

3. We find, by fatal experience, the Congress consists of too many members to keep secrets, as none could be more strongly enjoined than the present embassy to France. Notwithstanding which, Mr. Morris was this day asked by Mr. Reese Meredith whether Doctor Franklin and others were really going Ambassadors to France; which plainly proves that this committee ought to keep this secret, if secrecy is required.

4. We are of opinion that it is unnecessary to inform Congress of this intelligence at present, because Mr. Morris belongs to all the committees that can properly be employed in receiving and importing the expected supplies from Martinique, and will influence the necessary measures for that purpose. Indeed, we have already authorized William Bingham, Esq., to apply at Martinique and St. Eustatia for what comes there, and remit part by the armed sloop Independence, Captain Young, promising to send others for the rest. Mr. Morris will apply to the Marine Committee to send other armed vessels after her, and also to Cape François, (without communicating this advice,) in consequence of private intelligence lately received that arms, ammunition, and



*Claim of Caron de Beaumarchais.*

clothing, can now be procured at those places. But, should any unexpected misfortune befall the States of America, so as to depress the spirits of Congress, it is our opinion that, on any event of that kind, Mr. Morris (if Doctor Franklin should be absent) should communicate this important matter to Congress, otherwise keep it until part of the whole supplies arrive, unless other events happen to render the communication of it more proper than it appears to be at this time.

BENJAMIN FRANKLIN,  
ROBERT MORRIS.

Communicated to me this 11th October, 1776, and I concur heartily in the same.

RICHARD HENRY LEE.

Communicated to me this 10th October, 1776, and I do also sincerely approve of the measure.

WILLIAM HOOPER.

## No. 14.

*Extract of a letter from Doctor Franklin to the President of Congress, dated*

NANTZ, October 8, 1776.

I understand Mr. Lee has lately been at Paris, that Mr. Deane is still there, and that an underhand supply is obtained from the Government of two hundred brass field-pieces, thirty thousand firelocks, and some other military stores, which are now shipping for America, and will be conveyed by a ship of war. The Court of England, Mr. Penel tells me, (from whom I have the above intelligence,) had the folly to demand Mr. Deane to be given up, but was refused.

## No. 15.

*Extract of a letter from Silas Deane, Esq., dated*

PARIS, November 6, 1776.

Two hundred pieces of brass cannon and arms, tents and accoutrements for thirty thousand men, with ammunition in proportion, and I believe twenty or thirty brass mortars, have been granted at my request; but the unaccountable silence on your part has delayed the embarkation some weeks already.

I yesterday got them again in motion, and a part are already at Havre-de-Grace and Nantz, and the rest on their way there, but am hourly trembling for fear of counter-orders.

Had I received proper powers in season, this supply would, before this, have been in America, and that under the convoy of a strong fleet; the disappointment is distressing, &c.

## No. 16.

*Extract of a letter from Silas Deane, Esq., to the Secret Committee of Congress, dated*

PARIS, November 29, 1776.

The several letters you will receive with this will give you some idea of the situation I have been in for some months past, though, after all, I

must refer you to Mr. Rogers to be particular on some subjects. I should never have completed what I have but for the generous, the indefatigable, and spirited exertions of Monsieur Beaumarchais, to whom the United States are on every account greatly indebted; more so than to any other person on this side of the water. He is greatly in advance for stores, clothing, and the like, and therefore I am confident you will make him the earliest and most ample remittances. He wrote you by Mr. McCreery, and will write you again by this conveyance.

I cannot, in a letter, do full justice to Monsieur Beaumarchais for his great address and assiduity in our cause. I can only say he appears to have undertaken it on great and liberal principles, and has, in the pursuit, made it his own. His interest and influence, which are great, have been exerted to the utmost in the cause of the United States, and I hope the consequences will equal his wishes.

## No. 17.

*Extract from the letter of M. de Beaumarchais to Congress.*

PARIS, December 1, 1776.

GENTLEMEN: With regard to me, gentlemen, my sincere attachment to your cause, and my respectful esteem for your persons, have not suffered me to hesitate and to wait until vessels loaded by you should arrive in this country with the produce of your own in exchange for our merchandise; but on the faith of the powers of your commissioner (a duplicate of which he has left in the hands of our ministry) I have procured from our manufactories all what I have thought might be useful to you in your present situation; and I have begun to send supplies to you by the ship that carries this letter, with a brief account of what it contains for your use, as I expect to send you my invoices, in good order, attested and signed by Mr. Deane, by another ship that will carry you a fresh supply of ammunition, and the invoices of which I shall send by a third ship, and so for all the others.

But, gentlemen, however warm may be the zeal that animates me, my friends will never be sufficient to double and treble my advances if, on your side, you do not send me on my ships and on your own remittances in country produce, in proportion as you receive my supplies.

What I call my ships, gentlemen, are some French vessels hired for freight, according to a bargain agreed to between a merchant and myself, in presence of Mr. Deane, for want of your own vessels, which we had been long expecting, but did not arrive. Here, enclosed, you have a copy of the agreement.

Now, gentlemen, I beg you will send me my remittances, either in excellent Virginia tobacco, or in indigo, rice, &c. My advances in this expedition must be soon followed by a second as considerable. It amounts to about one million tournois.

*Claim of Caron de Beaumarchais.*

[Referred to in the preceding.]

*Articles of affreightment of armed vessels and merchandise entered in and agreed to between Messrs. De Monthieu and Roderique Hortales & Co., and Mr. Silas Deane.*

We, the subscribers, John Joseph de Monthieu and Roderique Hortales & Co., are agreed with Mr. Silas Deane, agent of the United Colonies, upon the subsequent arrangements:

That I, De Monthieu, do engage to furnish, on account of the Thirteen United Colonies of North America, a certain number of vessels to carry arms and merchandise to the burden of sixteen hundred tons, or as many vessels as are deemed sufficient to transport to some harbor of North America, belonging to the Thirteen United Colonies, all the ammunition and appurtenances agreeably to the estimate signed and left in my possession, and which we esteem would require the above-mentioned quantities of vessels to carry sixteen hundred tons burden, which are to be paid for at the rate of two hundred livres the ton, and that I will hold said vessels at the disposal of said Messrs. Hortales & Co. ready to sail at the ports of Havre, Nantz, and Marseilles, viz: The vessels which are to carry the articles and passengers mentioned in the aforementioned list, and are to depart from Havre, as well as those that are to go from Nantz, to be ready in the course of November next, and the others in the course of December following, on condition that one-half of the aforementioned freight of two hundred livres per ton, both for the voyage to America and back to France, laden equally on account of the Congress of the Thirteen United Colonies and Messrs. Hortales & Co. aforesaid, who are responsible for them, shall be advanced and paid immediately in money, bills of exchange, or other good merchandise or effects, and the other half said Messrs. Hortales & Co. do agree to furnish me with, in proportion as the vessels are fitting out, in the same money or other effects as above; over and above this, they are to pay me for the passage of each officer not belonging to the ship's crew the sum of five hundred and fifty livres tournois, and for every soldier or servant two hundred and fifty livres, and for every sailor who goes as passenger one hundred and fifty livres. It is expressly covenanted and agreed between us that all risks of the sea, either in said vessels being chased, run on shore, or taken, shall be on account of the Congress of the United Colonies, and shall be paid agreeably to the estimation which may be made of each of these vessels, agreeably to the bills of sale of each, which I promise to deliver to Messrs. Hortales & Co., before the departure of any of the said vessels from any of the ports of France mentioned above.

Finally, it is agreed that if the Americans detain these vessels longer than two months in their ports, without shipping on board them the returns they are to carry to France, all demurrage, wages, or expenses on them from the day of their arrival to that of their departure, (these two months excepted,) shall be at their charge, and paid by them or by Messrs. Hortales & Co. in our own name,

as answerable for the Congress of the United Colonies. We accept the above conditions as far as they respect us, and promise faithfully to fulfil them, and, in consequence, we have signed this instrument of writing, one to the other, at Paris, 15th October, 1776.

MONTHIEU.

RODERIQUE HORTALES & CO.

SILAS DEANE,

*Agent for the United Colonies.*

## No. 18.

*Extract of a letter from Arthur Lee, Esq., to the Secret Committee of Congress, dated*

PARIS, January 3, 1777.

The politics of this Court are in a kind of trembling hesitation. It is in consequence of this that the promises which were made me by the French agent, in London, and which I stated to you by Mr. Story and others, have not been entirely fulfilled.

The changing the mode of conveying what they promised was settled with Mr. Deane, whom Hortales or Beaumarchais found here, on his return from London, and with whom, therefore, all the arrangements were made.

## No. 19.

*Extract of a statement made by William McCreery to John Hancock, President of Congress.*

BALTIMORE, January —, 1777.

On the 18th of August last, I took charge of a packet directed to the Secret Committee of Correspondence at Philadelphia, from Silas Deane, Esq., at Paris, with directions from him to destroy it in case of danger; and having been taken near the Capes of Delaware, the latter end of October last, by the Lively man-of-war, belonging to the King of England, I sunk the packet and all the other papers that I had relating to public matters. During my stay with Mr. Deane at Paris, which was seven days, he communicated sundry matters to me; I shall therefore recite them here for your satisfaction as they occur to me.

On his way to Paris he visited the greatest foundry of cannon that there is in France, at Angoulême, which he described to me, and requested that I should visit myself on my way to Bordeaux, which was prevented by an accident which happened to me in the neighborhood of the place; but, as I hear of a man who proposes carrying on the work here on a similar plan, I shall omit saying any more about it. What were called manufacturing towns between that and Paris, he said, were unworthy the name; which I found afterwards to be the case.

At Paris he had a most cordial reception from Doctor Dubourg, to whom he had a letter from Doctor Benjamin Franklin. The old gentleman has entirely laid aside his own business, and devotes his whole time to the service of America; and I may venture to assert that few among us have more anxiety for our welfare, or undergo



*Claim of Caron de Beaumarchais.*

more drudgery to serve the cause than he does. During Mr. Deane's first interview with the French Minister, the latter asked a number of questions about America; among the rest, whether the loss of the fishery would not affect us most severely? and how could we possibly do without our trade? To the former of these, he answered that only a part of us used the fisheries, and that the seamen employed therein were all taken into our navy and army; to the latter, that our vessels that might fall into the hands of the English would be but of trifling value, while our privateers took the most valuable vessels and cargoes. Every demand that Mr. Deane made on them was cheerfully granted, so as it might be done or executed in a private manner; but as to espousing our quarrels, or receiving Mr. Deane publicly, it could not be done.

Independence, he said, was a matter in the womb of time. When the Americans would declare that, and renounce all connexion with Great Britain, they might then expect everything that France could do. He wanted to contract with the public, or rather with the Crown, for the arms, &c., which he wanted. The Minister, however, avoided that mode; but a creature of the Court, a mere man of pleasure, whose real circumstances are perhaps much worse than nothing, offered to supply him with the arms, &c., which he wanted on credit. He readily guessed that this gentleman was employed by the Minister. Doctor Dubourg insisted that this was not a proper man to treat with, and proposed another method. A change being expected in the ministry every day, embarrassed Mr. Deane a good deal, as he wanted to act so as to give umbrage to none, and whom he contracted with I really do not know. He has, however, purchased arms, clothing, accoutrements, and everything for an army of twenty-five thousand men, together with two hundred brass field-pieces, all of which, I believe, are 4-pounders. These things were to be shipped under the direction and inspection of General Goudray, who is to come out to America with them. He is an experienced general, sober, sensible, and indefatigable in every undertaking, and has great interest at that Court. There were also coming a number of young nobility of France, some of whom are sons of the first people at Court. Mr. Deane expected that all those things would be shipped in September or October. He intended to make application for a convoy, and had hopes of obtaining it, &c.

## No. 20.

*Extract from the letter of M. de Beaumarchais to Congress.*

PARIS, February 28, 1777.

GENTLEMEN: I have the honor to fit out, for the service of the Congress, by the way of Hispaniola, the ship *Amelia*, loaded with field and ordnance pieces, powder, and leaden pigs. As the season is too far advanced that the ship might go straightway to your ports, I have charged M. Carabane, my correspondent at Cape François,

to reverse the whole cargo on Bermudian, or even on American ships, if he finds any at her arrival in that port, and to transmit to you as soon as possible.

This is the fourth ship I have addressed to you since December last; the other three have steered their course towards your eastern ports.

The first is the *Amphitrite*, of four hundred and eighty tons, Captain Sautrel, loaded with cannon, muskets, tents, entrenching tools, tin, powder, clothing, &c. Left Havre-de-Grace on the 14th of December, 1776.

The second is the *Seine*, from the same port, Captain Morin, of three hundred and fifty tons, loaded with muskets, tents, mortars, powder, tin, cannon, musket balls, &c.

The third is the *Mercury*, of three hundred and seventeen tons, Captain Herand, from Nantz, loaded with one hundred thousand pounds of powder, twelve thousand muskets, the remainder in cloth, linen, caps, shoes, stockings, blankets, and other necessary articles for the clothing of the troops.

In my letters of August, September, and December last, the duplicates of which have been delivered to you by the chief officer of those that went over to your service in the *Amphitrite*, I have requested you to order that my ships might not wait long for the remittances I ask for in the same letters, my design being to send you uninterrupted supplies, and such as may be of the greatest use to you. I hope, on your side, you will, as soon as possible, load again and send me back my vessels.

## No. 21.

*Letter from Arthur Lee, Esq., to the Secret Committee of Congress.*

PARIS, August 16, 1777.

I perceive, by your last letters, that you made a consignment to Hortales and Co., which, in fact, is to M. de Beaumarchais. I think it, therefore, my duty to relate to you all the facts relative to that gentleman, upon which you will judge how far it is fit to continue those consignments. About May twelve months, M. de Beaumarchais was introduced to me in London, as an agent from the French Court, who wished to communicate something to Congress. At our first interview he informed me that the Court of France wished to send an aid to America to the amount of 200,000 louis d'or in specie, arms, and ammunition, and that all they wanted to know was, to what island it was best to make the remittance, and that Congress should be apprized of it.

We settled the Cape as the place, and he urged me by no means to omit giving the earliest intelligence that it would be remitted in the name of Hortales. At our next meeting he desired me to request that a small quantity of tobacco, or some other production, might be returned, to give it the air of a mercantile transaction, repeating, over and over again, that it was for a cover only,

*Claim of Caron de Beaumarchais.*

and not for payment, as the remittance was gratuitous. Of all this I informed the committee by every opportunity.

At the same time I stated to M. Beaumarchais that, if his Court would despatch eight or ten ships of the line to our aid, it would enable us to destroy the British fleet, and settle the business at one stroke.

I repeated this to him in a letter after his return to Paris; to which the answer was, that there was not spirit enough in his Court for such an exertion, but that he was hastening the promised succors. Upon Mr. Deane's arrival the business went into his hands, and the things were at length embarked in the *Amphitrite*, *Mercury*, and *Seine*.

M. de Vergennes, the minister, and his secretary, have repeatedly assured us that no return was expected for those cargoes, or for what M. de Beaumarchais furnished us. This gentleman is not a merchant, but is known as a political agent, employed by the French Court. Remittances, therefore, to him, so far from recovering the business, would create suspicions, or rather satisfy the British Court that these suspicions are just. At the same time his circumstances and situation forbid one to hope that your property, being once in his hands, could ever be recovered; and, as an attempt to force him to account would hazard a discovery of the whole transaction, this Government would, of course, discountenance or forbid it. These are the facts which I have thought it my duty to state to you. Your better judgment will direct you whether to continue the remittances or not. I have, &c. A. L.

## No. 22.

*Extract of a letter from Dr. Franklin and Silas Deane, Commissioners of the United States at Paris, to the Secret Committee of Congress, dated*

PARIS, Sept. 8, 1777.

It gave us great joy to hear of the arrival of the *Mercury*, *Amphitrite*, and other vessels carrying supplies. Another ship, with a similar cargo, which had long been detained at Marseilles, we hope will soon arrive with you. We hope also that you will receive between twenty and thirty thousand suits of clothes before winter, and, from time to time, quantities of new and good arms we are purchasing in different parts of Europe. But we must desire you to remember that we are hitherto disappointed in your promises of remittance, either by the difficulties you find in shipping, or by captures; and that, though far short of completing your orders, we are in danger of being greatly embarrassed by debts, and failing in performance of our contracts, and losing our credit with that of the Congress.

## No. 23.

*Extract of a letter from Silas Deane, Esq., to the Secret Committee of Congress, dated*

PARIS, Sept. 20, 1777.

This will be handed you by Mr. Francis, who is agent for Hortales & Co.; you will see by the

bills of lading the quantities of stores shipped by that house, and make some judgment of their considerable amount. The vessel in which Mr. Francis comes, is loaded with stores which were long since engaged. I still hope they will come in safety, and in season to be of service.

Messrs. Roderique Hortales & Co. have other vessels which will follow this in a short time, which they want to have despatched with tobacco, agreeably to what they formerly wrote you, and Mr. Francis comes partly on that account; I must, therefore, pray you to furnish means of procuring the quantity he will want for them in season.

As the vessels of Messrs. Hortales & Co. will arrive at a time when despatch will be of the utmost importance, they are desirous to have their cargoes ready on their arrival.

## No. 24.

*Mr. Arthur Lee to the Secret Committee of Congress. PARIS, October 6, 1777.*

GENTLEMEN: From Berlin, on the 11th of June, and from this place, the 29th of July, I had the honor of informing you at large of my proceedings in Prussia. Not having received an answer from that Court relative to the reception of our privateers and their prizes in Prussian ports, I have written lately to press for one, which I hope will be favorable, as I left so friendly a disposition there that I was desired to communicate His Majesty's warmest wishes for our success. I mentioned, too, the improbability of our enemy's receiving assistance from Russia for the next campaign, and how much their resources were exhausted in Germany.

By Captain Young I received the commands of Congress in their commission to me for the Court of Spain. As Dr. Franklin had announced his appointment, with an assurance of his readiness to repair to Madrid as soon as that Court thought proper to receive him, it seemed unnecessary immediately to apprize them of the new appointment. During my absence in Germany, a letter was received from Monsieur Gardoqui, at Bilboa, intimating an expectation of returns from you for what was transmitted to you through their house. But, upon application to his Court, I am again authorized to assure you that for the supplies already sent no return was expected; but, in future, that remittances of American produce were expected for supplies through the house of Gardoqui. It is impracticable to bring them to such an explanation as to know with certainty whether they mean this in earnest, or only as a cover. Should the transaction transpire, I am inclined to think the latter. However, I wrote to Mr. Gardoqui, in consequence, as follows: "We are now to begin on a new footing; and I shall take care that my constituents be informed that, for all the aids they receive hereafter from your quarter, they are to make returns in tobacco, pitch, tar, &c., to your house. I beg to know by your next whether the same arrangement is to take place for the future with regard to the de-



*Claim of Caron de Beaumarchais.*

positives at the Havana and New Orleans, or whether nothing further is to be transmitted through those channels, that, if so, the trouble of sending thither, and the disappointment, may be prevented. As the winter's campaign is approaching fast, in which blankets are of the greatest utility, I wish you to send as many of them as possible."

Upon this subject of returns, I think it my duty to state to you some facts relative to the demands of this kind from Hortales. The gentleman who uses this name came to me, about a year and a half ago, in London, as an agent from this Court, and wishing to communicate something to Congress. At our first interview he informed me that the Court of France wished to send an aid to America of 200,000 louis d'or in specie, arms, and ammunition; and all that they wanted was to know through which island it was best to make the remittance, and that Congress should be apprized of it. We settled the Cape as the place; and he urged me by no means to omit giving the earliest intelligence of it, with information that it would be remitted in the name of Hortales. At our next meeting he desired me to request that a small quantity of tobacco, or some other production, might be sent to the cape, to give it the air of a mercantile transaction, repeating, over and over again, that it was for a cover only, and not for payment, as the remittance was gratuitous. Of all this I informed Dr. Franklin, chairman of the committee, by sundry opportunities. At the same time I stated to Monsieur Hortales that, if his Court would despatch eight or ten ships of the line to our aid, it would enable us to destroy all the British fleet, and decide the question at one stroke. I repeated this in a letter to him after his return to Paris; to which the answer was, that there was not spirit enough in his Court for such an exertion, but that he was hastening the promised succors. Upon Mr. Deane's arrival the business went into his hands; and the aids were at length embarked in the Amphitrite, Mercury, and Peine. The Minister has repeatedly assured us, and that in the most explicit terms, that no return is expected for these subsidies.

have the honor to be &c.

ARTHUR LEE.

To the SECRET COM'EE OF CONGRESS.

No. 25.

PASSY, NEAR PARIS, Oct. 7, 1777.

GENTLEMEN: We received duly your despatches by Mr. McCreery and Captain Young, dated May 2d and 30th, June 13th, 18th, and 26th, and July 2d; the intelligence they contain is very particular and satisfactory. It rejoices us to be informed that unanimity continues to reign among the States, and that you have so good an opinion of your affairs, in which we join with you. We understand that you have also written to us, of later dates, by Captain Holm. He is arrived at port L'Orient, but, being chased and nearly taken, he sunk his despatches.

We are also of your sentiments with regard to

the interests of France and Spain respecting our independence, which interests we are persuaded they see as well as we, though particular present circumstances induce them to postpone the measures that are proper to secure those interests. They continue to hold the same conduct described in our last, which went by Wickes and Johnson, a copy whereof we send herewith, as Johnson is unfortunately taken.

We have lately presented an earnest memorial to both Courts, stating the difficulties of our situation, and requesting that, if they cannot immediately make a diversion in our favor, they would give a subsidy sufficient to enable us to continue the war without them, or afford the States their advice and influence in making a good peace.

Our present demand, to enable us to fulfil your orders, is for about eight millions of livres. Couriers, we understand, are despatched with this memorial to Madrid, both by the ambassador of Spain and the minister here; and we are desired to await with patience the answer, as the two Courts must act together. In the meantime they give us fresh assurances of their good-will to our cause, and we have just received a fourth sum of five hundred thousand livres. But we are continually charged to keep the aids that are or may be afforded as a dead secret, even from the Congress, where they suppose England has some intelligence; and they wish she may have no certain proofs to produce against them with the other Powers of Europe. The apparent necessity of your being informed of the true state of your affairs, obliges us to dispense with this injunction; but we entreat that the greatest care may be taken that no part of it shall transpire, nor of the assurances we have received that no repayment will ever be required from us of what has been already given us, either in money or military stores. The great desire here seems to be, that England should strike first, and not be able to give her allies a good reason.

The total failure of remittances from you for a long time past has embarrassed us exceedingly. The contracts we entered into for clothing and arms, in expectation of those remittances, and which are now beginning to call for payment, distress us much; and we are in imminent danger of bankruptcy, for all your agents are in the same situation, and they all recur to us to save their and your credit. We were obliged to discharge a debt of Myrtille's at Bordeaux, amounting to about five thousand livres, to get that vessel away; and he now duns us by every post for between four and five thousand pounds sterling, to disengage him in Holland, where he has purchased arms for you. With the same view of saving your credit, Mr. Ross was furnished with twenty thousand pounds sterling to disentangle him. All the captains of your armed vessels come to us for their supplies, and we have not received a farthing of the produce of their prizes, as they are ordered into other hands. Mr. Hodge has had large sums of us. But to give you some idea for the present, till a more perfect account can be rendered of the demands upon us that we have

*Claim of Caron de Beaumarchais.*

paid, we enclose a sketch for your perusal, and shall only observe, that we have refused no application in which your credit appeared to be concerned, except one from the creditors of a Mr. Ceronio, said to be your agent in Hispaniola, but of whom we had no knowledge; and we had reason to hope that you would have been equally ready to support our credit as we have been of yours, and from the same motives—the good of the public, for whom we are all acting; the success of our business depending considerably upon it.

We are sorry, therefore, to find all the world acquainted here that the commissioners from Congress have not so much of your regard as to obtain the change of a single agent who disgraces us all. We say no more of this at present, contenting ourselves with the consciousness that we recommend that change from the purest motives, and that the necessity of it, and our uprightness in proposing it, will soon fully appear.

Messrs. Gardoqui, at Bilbao, have sent several cargoes of naval stores, cordage, sail-cloth, anchors, &c. for the public use, consigned to Elbridge Gerry, Esquire. They complain that they have no acknowledgment from that gentleman of the goods being received, though they know the vessels arrived. We have excused it to them, on the supposition of his being absent at Congress. We wish such acknowledgment may be made, accompanied with some expressions of gratitude towards those from whom the supplies came, without mentioning who they are supposed to be. You mention the arrival of the Amphitrite and Mercury, but say nothing of the cargoes.

Mr. Hodge is discharged from his imprisonment, on our solicitation, and his papers restored to him; he was well treated while in the Bastille. The charge against him was deceiving the Government in fitting out Cunningham from Dunkirk, who was represented as going on some trading voyage, but as soon as he was out began a cruise on the British coast, and took six sail. He is got safe into Ferrol.

We have received and delivered the commissions to Mr. William Lee and Mr. Izard. No letters came with them for those gentlemen with information how they are to be supported on their stations. We suppose they write to you, and will acquaint you with their intentions.

Some propositions are privately communicated to us, said to be on the part of Prussia, for forming a commercial company at Embden. We shall put them into the hands of Mr. Lee.

We do not see a probability of our obtaining a loan of two millions sterling from any of the money-holders in Europe, till our affairs are, in their opinion, more firmly established. What may be obtained from the two Crowns, either as a loan or a subsidy, we shall probably know on the return of the couriers, and we hope we shall be able to write more satisfactorily on those heads by Captain Young, who will by that time be ready to return. With respect, &c.

BENJAMIN FRANKLIN,  
SILAS DEANE,  
ARTHUR LEE.

*Extract of a letter from Arthur Lee to the Committee of Foreign Correspondence.*

A letter was received from Monsieur Gardoqui, at Bilbao, intimating an expectation of returns from you for what was transmitted to you through their House; but, upon application to his Court, I am again authorized to assure you that, for the supplies already sent, no return was expected.

No. 26.

Extract from the same to the same, dated

PARIS, December 18, 1777.

We have accepted five bills drawn on us by the President, in favor of some returned officers, and shall pay them punctually. But as we receive no remittances for our support, and the cargo\* of the Amphitrite is claimed from us by Mr. Beaumarchais, and we are not certain that we can keep it, we hope Congress will be sparing in their drafts, except for the interest mentioned in our former letters, of which we now repeat the assurances of payment; otherwise we may be much embarrassed, and our situation rendered very uncomfortable.

No. 27.

Copy of a letter of the American Commissioners to Messrs. Berard, Freres, at Port L'Orient.

PASSY, December 24, 1777.

GENTLEMEN: M. de Beaumarchais having satisfied us that he had a prior claim upon the cargo of the Amphitrite, according to an agreement between him and Mr. Deane, we desire you to deliver the cargo, or the produce, into his hands, or into those of his agent, at his disposition, without any deduction for the advances you may have made on account of the freights. We are, &c.

B. FRANKLIN,  
SILAS DEANE,  
ARTHUR LEE.

No. 28.

Letter of Louis XVI. to Charles III., King of Spain, (taken from General History of French Diplomacy,) dated

JANUARY 8, 1778.

SIR, MY BROTHER AND UNCLE: The sincere desire which I feel of maintaining the true harmony and unity of our system of alliance, which must always have an imposing character for our enemies, induces me to state to your Majesty my way of thinking on the present condition of affairs. England, our common and inveterate enemy, has been engaged for three years in a war with her American colonies. We had agreed not to meddle with it; and, viewing both sides as English, we made our trade free to the one that found most advantage in a commercial intercourse. In this manner, America provided herself with arms and ammunition, of which she

\* Of rice and indigo from the United States.



*Claim of Caron de Beaumarchais.*

was destitute. I do not speak of the succors of money and other kinds which we have given her, the whole ostensibly on the score of trade. England has taken umbrage at these succors; and has not concealed from us that she would be revenged, sooner or later. She has already, indeed, seized several of our merchant vessels, and refused restitution. We have lost no time on our part. We have fortified our most exposed colonies, and placed our fleets upon a respectable footing, which has contributed to aggravate the ill-humor of England.

Such was the posture of affairs in November last. The destruction of the army of Burgoyne, and the straitened condition of Howe, have totally changed the face of things. America is triumphant, and England cast down. But the latter has still a great unbroken maritime force, and the hope of forming a beneficial alliance with her colonies; the impossibility of their being subdued by arms being now demonstrated. All the English parties agree on this point. Lord North has himself announced, in full Parliament, a plan of pacification for the first session; and all sides are assiduously employed upon it. Thus, it is the same to us whether this minister or any other be in power. From different motives, they join against us, and do not forget our bad offices. They will fall upon us in as great strength as if the war had not existed. This being understood, and our grievances against England notorious, I have thought, after taking the advice of my counsel, and particularly that of M. d'Ossun, and having consulted upon the propositions which the insurgents make, that it was just and necessary to begin to treat with them, to prevent their reunion to the mother country. I lay before your Majesty my views of the subject. I have ordered a memoir to be submitted to you, in which they are presented more in detail. I desire eagerly that they should meet your approbation. Knowing the weight of your probity, your Majesty will not doubt the lively and sincere friendship with which I am, &c.

No. 29.

*Copy of Count Lauragais's testimonial.*

PARIS, February 8, 1778.

I was present in Mr. Arthur Lee's chambers in the Temple, London, some time in the Spring of the year 1776, when Mr. Caron de Beaumarchais made offers to Mr. Lee to send supplies of money and stores, through the Blands, to the Americans, to the amount of two hundred thousand louis d'or; and he said he was authorized to (*pour faire*) those proposals by the French Court.

B. C. D. LAURAGAIS.

*Arthur Lee to the Secret Committee of Congress, dated*  
PARIS, February 15, 1778.

I have before written to you the reason I had to conceive that M. de Beaumarchais's demands of payment for the supplies furnished in the Amphitrite, Mercury, and Flomand, are unjust. The

above testimonial from Count Lauragais will corroborate what I informed you relative to his having himself proposed the supplies to me as a subsidy from the Court. Mr. Wilkes knows it more accurately, but his situation prevents him from giving it under his hand. The ministry, as you will see by your joint letter, have often given us to understand that we were not to pay for them; yet still Mr. Beaumarchais, with the perseverance of such adventurers, persists in his demand. He alleges some promise or agreement made with Mr. Deane. I should suppose Mr. Deane would have apprized you of it if any such exists; but certainly Dr. Franklin and myself are kept so much in the dark about the existence of such agreement as to expose us to much unnecessary plague from this Mr. Beaumarchais, who I cannot think has any right to make the demand in question. A copy of the above declaration has been given to Count Maurepas; but I have not heard his sentiments upon it.

No. 30.

*Extract of a letter from Messrs. Franklin, Lee, and Deane, to the Secret Committee of Congress.*

PARIS, February 16, 1778.

We have, to avoid disputes at a particular time, delivered up the cargo \* \* \* brought by the Amphitrite to Mr. Beaumarchais. We hear that he has sent over a person to demand a great sum of you on account of arms, ammunition, &c. We think it will be best for you to leave that demand to be settled by us here, as there is a mixture in it of public and private concern, which you cannot so well develop.

No. 31.

*Extract of a letter from Messrs. Franklin, Lee, and Adams, to the Secret Committee of Congress.*

PASSY, July 29, 1778.

We have not yet seen Mr. Beaumarchais, but the important concern with him shall be attended to as soon as may be.

No. 32.

*Messrs. Franklin, Lee, and Adams, to the Count de Vergennes.*

PARIS, September 10, 1778.

SIR: By some of the last ships from America, we received from Congress certain powers and instructions, which we think it necessary to lay before your excellency, which we have the honor to do in this letter.

On the 13th of April last, Congress resolved "that the commissioners of the United States in France be authorized to determine and settle with the house of Roderique Hortales & Co. the compensation, if any, which, by them, for the use of the United States, previous to the 14th day of April, 1778, over and above the commission allowed them in the sixth article of the proposed contract between William Ellery, James Forbes

*Claim of Caron de Beaumarchais.*

W. H. Drayton, and William Duer, Esqs., Committee of Congress, and John Baptiste Lazarus Theveneau de Francis," &c.

In the letter of the Committee of Commerce to us, in which the foregoing resolution was enclosed, the committee express themselves thus: "This will be accompanied by a contract entered into between John Baptiste Lazarus de Theveneau de Francis, agent of Peter Augustin Caron de Beaumarchais, representative of the house of Roderique Hortales & Co., and the Committee of Commerce. You will observe that their accounts are to be fairly settled, and what is justly due paid for us; as, on the one hand, Congress would be unwilling to evidence a disregard for, and contemptuous refusal of, the spontaneous friendship of His Most Christian Majesty, so, on the other, they are unwilling to put into the private pockets of individuals what was graciously designed for the public benefit. You will be pleased to have their accounts liquidated, and direct, in the liquidation thereof, that particular care be taken to distinguish the property of the Crown of France from the private property of Hortales & Co., and transmit to us the accounts so stated and distinguished. This will also be accompanied by an invoice of articles to be imported from France, and resolves of Congress relative thereto. You will appoint, if you should judge proper, an agent or agents to inspect the quality of such goods as you may apply for to the house of Roderique Hortales & Co., before they are shipped, to prevent any impositions."

On the 16th of May last Congress resolved "that the invoice of articles to be imported from France, together with the list of medicines approved by Congress, be signed by the Committee of Commerce and transmitted to the commissioners of the United States at Paris, who are authorized and directed to apply to the house of Roderique Hortales & Co. for such of the said articles as they shall have previously purchased or contracted for; that copies of the invoice be delivered to Mr. Francis, agent for Roderique Hortales & Co., together with a copy of the foregoing resolution; and that the articles to be supplied by the house of Roderique Hortales & Co. be not insured, but that notice be given to the commissioners in France that they may endeavor to obtain a convoy for the protection thereof."

We have the honor to enclose to your Excellency a copy of the contract made between the committee and Mr. Francis, a copy of Mr. Francis's powers, and a copy of the list of articles to be furnished according to that contract, that your Excellency may have before you all the papers relative to this subject. We are under the necessity of applying to your Excellency upon this occasion, and of requesting your advice.

With regard to what is past, we know not who the persons are who constitute the house of Roderique Hortales & Co., but we have understood, and Congress has ever understood, and so have the people of America in general, that they were under obligations to His Majesty's good will for the greater part of the merchandise and warlike

15th CON. 1st SESS.—77

stores heretofore furnished under the firm of Roderique Hortales & Co. We cannot discover that any written contract was ever made between Congress or any agent of theirs and the house of Roderique Hortales & Co., nor do we know of any living witness, or any other evidence, whose testimony can ascertain to us who the persons are that constitute the house of Roderique Hortales & Co., or what were the terms upon which the merchandise and munitions of war were supplied, neither as to the price nor the time or conditions of payment.

As we said before, we apprehend that the United States hold themselves under obligations to His Majesty for all these supplies, and we are sure it is their wish and their determination to discharge the obligation to His Majesty as soon as Providence shall put it in their power. In the mean time, we are ready to settle and liquidate the accounts according to our instructions, at any time and in any manner which His Majesty and your Excellency shall point out to us.

As the contract for future supplies is to be ratified or not ratified by us, as we shall judge expedient, we must request your Excellency's advice as a favor upon this head, and whether it would be safe or prudent in us to ratify it, and in Congress to depend upon supplies from this quarter; because, if we should depend upon this resource for supplies, and be disappointed, the consequences would be fatal to our country.

B. FRANKLIN,  
ARTHUR LEE,  
JOHN ADAMS.

His Excellency COUNT DE VERGENNES.

*To all whom it may concern.*

Whereas Roderique Hortales & Co., of Paris, have shipped, or caused to be shipped, or laden on board sundry ships or vessels, considerable quantities of cannon, arms, ammunition, clothing, and other stores, most of which have been safely landed in America, and delivered to the agents of the United States for the use and service thereof; and whereas the said Roderique Hortales & Co. are willing and desirous to continue supplying these States with cannon, mortars, bombs, arms, ammunition, clothing, and every sort of stores that may be wanting or required, and also with specie, provided satisfactory assumption be made and assurance given for the payment in France of the just cost, charges, and freight of the cargoes already shipped, as well as those to be hereafter shipped, and of specie to be advanced: and whereas some cargoes of American produce have already been shipped to the address of Roderique Hortales & Co., or their assigns, for sale on account of the United States of America, the net proceeds whereof are to be applied in part to the discharge of their claims:

Now know ye, that John Baptiste Lazarus Theveneau de Francis, agent of Mr. Peter Augustin Caron de Beaumarchais, as representative of the house of said Roderique Hortales & Co., by him



especially appointed and empowered to act fully and effectually in all things on his behalf, as appears by a certain letter of attorney or instrument of writing, bearing date the 10th day of September, A. D. 1777, a copy whereof is hereunto annexed, doth, for and on behalf of said Hortales & Co., represented by Mr. Beaumarchais as aforesaid, in virtue of the powers in him vested, contract, agree, and engage to and with the Hons. William Ellery, James Forbes, William Henry Drayton, and William Duer, Esqs., a Committee of Commerce, properly appointed and authorized by the delegates of the United States of America in Congress assembled, to enter into, execute, ratify, and confirm this contract, for and on behalf of the said United States, as follows:

1st. That the costs and charges of the several cargoes already shipped by the said Roderique Hortales & Co., shall be fairly stated at the current prices and usual mercantile charges in France, of the dates at which they were shipped.

2d. That the freight of the said cargoes shall be charged agreeably to the contract made by and between Mr. Beaumarchais, Mr. Silas Deane, and Mr. Montheu.

3d. That all orders for cannon, mortars, bombs, arms, ammunition, clothing, or other stores, which may hereafter be transmitted to Messrs. Roderique Hortales & Co., or delivered to their agents in America by the said committee, or any other persons properly authorized by Congress to transmit or deliver such lists or orders, shall be executed and shipped with all possible despatch.

4th. That all articles to be hereafter shipped to America, in virtue of this contract, shall be provided as nearly to the orders as possible, at not higher than the current prices, and attended with the most moderate charges, not higher than the usual mercantile charges of the place from whence they are exported.

5th. That good ships shall be chartered or bought on the most moderate terms for transporting the stores to America, and carrying back such cargoes as the committee shall choose to ship in them.

6th. That agents appointed under the authority of Congress, shall have free liberty to inspect the quality and require the prices of all articles to be shipped for the account of the United States, with power to reject such as they judge unfit or too highly charged; they shall also be party in the charters and purchases of ships to be employed in this service.

7th. That bills on the house of Roderique Hortales & Co., aforesaid, for twenty-four millions of livres tournois annually, shall be duly honored and paid; the bills to be drawn at double usance, and at the following periods, viz: in the months of May, July, September, November, January, and March, for four millions each two months.

In consideration whereof, the said William Ellery, James Forbes, William Henry Drayton, and William Duer, Esq., commercial committee of Congress, by virtue of the powers and authorities delegated to them by the Congress, do, for and on behalf of the said United States, covenant, agree,

and engage with the said Roderique Hortales & Co., by their said agent, as follows:

1st. That remittances shall be made by exports of American produce and otherwise to the said Roderique Hortales & Co., or their agent, for the express purpose of discharging the debt already justly due, or hereafter to become justly due, in consequence of this agreement.

2d. That all cargoes of merchandise shipped on account of the United States for France, and appropriated towards the discharge of the said debt, shall be addressed to the house of Roderique Hortales & Co., or their assigns, for sale; subject, however, to the inspection and control of an agent appointed under the authority of Congress, who shall have liberty to inspect the quality of such merchandise, assent to or reject the prices offered, postpone the sales, and do every thing for the interest of his constituents.

3d. That the customary interest of France, not exceeding six per cent. per annum, shall be allowed on the debt already due, or that from time to time may be due, to the said Roderique Hortales & Co. in virtue of this agreement, computing the interest on money from the time of its being paid, and on goods by them exported from the usual periods of commercial credits on such goods.

4th. That any payments of continental currency in America, required by the said Roderique Hortales & Co., or their agents, and agreed to by Congress, shall be computed at the current or equitable course of exchange at the date of the payment, and interest be discounted on the amount from that date.

5th. That the remittances to be made for the purpose of extinguishing the debt now due, or to become due, to the said Roderique Hortales & Co., shall be made at such times and seasons as shall be most safe and convenient for the American interest, but are to continue until the entire debt, principal and interest, shall be fully and fairly discharged.

6th. That a commission of two and a half per centum shall be allowed to the said Roderique Hortales & Co. on the amount of the invoices, freight, or other charges and moneys paid and disbursed by them for account of the United States.

7th. That the customary commissions in France shall be also allowed the said Roderique Hortales & Co. on the amount of all payments made to them on account of the United States.

*Provided always,* That the seventh article of this agreement, respecting the annual supply of twenty-four millions of livres, shall not be considered as absolutely binding upon either of the parties to this contract, unless the same shall be ratified by Roderique Hortales & Co. and the commissioners of the United States at Paris; for which purpose it is agreed to be submitted to them, anything herein contained to the contrary notwithstanding.

But it is nevertheless to be understood that the United States may and shall have liberty to draw, in the course of five or six months from the date

hereof, upon the said Roderique Hortales & Co. for the sum of one hundred thousand pounds sterling, equal to two million three hundred thousand livres tournois, which shall be duly paid.

In witness whereof, the contracting parties have hereunto set their hands and seals this sixteenth day of April, in the year of our Lord one thousand seven hundred and seventy-eight.

J. B. L. T. DE FRANCIS,  
WILLIAM ELLERY,  
JAMES FORBES,  
WILLIAM H. DRAYTON,  
WILLIAM DUER.

Signed, sealed, and delivered in presence of  
CHARLES THOMSON,  
*Secretary of Congress.*

*Copy of the powers given to John Baptiste Lazarus Theveneau de Francis.*

Before the counsellors of the King, the notaries of the court-house of Paris, undersigned, was present Mr. Pierre Augustin Caron de Beaumarchais, representing in France the house of Roderique Hortales & Co., living in the city of Paris, in Old Temple street, and parish of St. Gervais, who, by these presents, did make and constitute his procurator general Mr. John Baptiste Lazarus Theveneau de Francis, just about to embark for America, to whom he gives power, for and in the name of the said house of Roderique Hortales & Co., to manage and administer all the affairs of the said house and company, as well actively as passively, and consequently to solicit and recover all debts relative to all the cargoes, past, present, and future, sent by the said house to America; to receive all moneys and make all purchases relative to the returns of the said cargoes, and to pay all expenses relative to them; to settle all accounts with correspondents of the said house of Roderique Hortales & Co., whether upon invoices or otherwise; to call, if necessary, for the reciprocal correspondence, registries, and accounts current; to debate the interests of the said constituent and company; to allow the articles in the said accounts; to close and settle them by receipts of every kind; to give, by the said constituted procurator, all quittances, discharges, and valid liquidations, either for specie, merchandise, or produce; and to accept all bills and orders drawn by him; in default or refusal of settlement, and after settlement made, to do, in the name of the said constituent and company, all conservatory acts, pursuits, and necessary works; to appear before all judges who may be concerned, to present demands, and to pursue them effectually to final judgment; to treat, compose, and transact at the prices, charges, clauses, and conditions which the said constituted procurator shall judge most useful to the interests of the said constituent and company; to make all oppositions and arrests that shall be necessary, in case of bodily restraint, to carry it into execution; to give discharges; to consent to all things; to stop processes; to constitute procurators and

lawyers in any cause; to propose and agree to arbitrations and arbiters; to choose his residence; and, in general, to manage for the greatest interest of the said constituent and his house whatever circumstances shall require not provided for in these presents, and without having need of more special power; the aforesaid constituent promising to acknowledge all agreeable, until revocation of this power, to which also shall be submitted all treaties made or to be made with the said constituted procurator, whether anterior or posterior to these presents; and the said constituted procurator being obliged, as is just, to render accounts of his mission the most exactly, faithfully, and legally that may be.

Made and passed at Paris, at the Studies, in the year one thousand seven hundred and seventy-seven, the tenth day of September; and a minute of these presents, lodged with M. Mornet, one of the undersigned notaries, hath been signed. Sealed the same day.

DE MAUFORT,  
MORNET.

The above instrument was executed by a public officer in my presence.

Attest:

S. DEANE.

*Extract of a letter from the Count de Vergennes to Mr. Girard.*

The plenipotentiaries (Dr. Franklin and his colleagues) have just addressed to me an official note, which embraces two objects: the first concerning the settlement of the account of M. de Beaumarchais, under the name of the house of Roderique Hortales & Co.; and the second concerning the ratification of the contract which Congress, or rather the Committee of Commerce in their name, have formed with the Sieur Theveneau de Francis, agent of the Sieur Caron de Beaumarchais. Dr. Franklin and his colleagues wished to know the articles which have been furnished by the King, and those furnished by M. de Beaumarchais on his own account; and they intimate that Congress are persuaded that all, or at least a great part of what has been sent forward, is on account of His Majesty. In reply, I have informed them that the King has furnished nothing; that he simply permitted M. de Beaumarchais to provide himself from his arsenals, on condition of replacing the articles; and, further, that I would with pleasure interpose to prevent them from being pressed for the reimbursement of the articles of a military nature.

With respect to the contract formed with the Sieur Francis, the commissioners have the power of ratifying or rejecting it; and they apply for my advice as to what they should do. As I do not know the house of Roderique Hortales & Co., and cannot undertake for them, it is impossible for me to form an opinion of their solidity or punctuality in fulfilling their engagements. You will be pleased, sir, to communicate these two replies to Congress. I am persuaded that they will feel the justice of them.



## Claim of Caron de Beaumarchais.

No. 33.

Extract of a letter from Messrs. Franklin, Lee, and Adams, to the Secret Committee of Congress, dated

PASSY, January 7, 1778.

We are very unhappy that we are not able to send to Congress those supplies of arms, ammunition, and clothing, which they have ordered; but it is absolutely impossible, for want of funds; and Mr. Beaumarchais has not yet informed us whether he will execute the agreement made for him with you or not.

No. 34.

Extract of a letter from Dr. Lee to the Secret Committee of Congress, dated

PARIS, January 5, 1779.

We wrote to Mr. Beaumarchais, upon our receiving your letter and the agreement with his supposed company, that we were ready to settle accounts with him whenever he chose. He has made no answer.

No. 35.

Extract of a letter from the same to the same, dated

PARIS, February 25, 1779.

Mr. Deane is entirely at a loss to understand what I mean by saying almost everything remained to be paid for. I will tell him of some gross sums, which may satisfy him without descending to a multitude of lesser:

Mr. Beaumarchais's demand	- 6,000,000
Mr. Monthieu's	- 674,000
Mr. Williams's	- 300,000
	<u>6,974,000</u>

No. 36.

Extract of a letter from Arthur Lee to the Chairman of the Secret Committee, dated

APRIL 20, 1779.

Three months before Mr. Deane's arrival, Mr. Beaumarchais settled with me in London the sending these supplies of money and munitions of war by the Cape, under the firm of Hortales & Co., and that I should apprise Congress of it, which I did by Mr. Story and other opportunities, at the gentlemen of the secret committee know. The very despatches by Mr. Carmichael, which Mr. Deane stands charged with having opened, and most certainly detained, gave also, if my memory does not much deceive me, the same intelligence. Upon Mr. Beaumarchais's return to Paris, he wrote me several times concerning these supplies, mentioning the difficulties which are in the execution, from the timidity of the Court, but that he was putting it into the mercantile train, which would soon overcome all difficulties. I

\* My situation in London prevented me from keeping copies of my despatches, which might have been evidence against my life.

did not fail to press the despatch of them, and proposed, too, the sending some ships of war to protect our coast, exactly similar to what we were afterwards instructed by Congress to obtain.

I do not state this to assume any merit to myself for these supplies. I had none. Mr. Beaumarchais sought me out in London. He found me by means of Mr. Wilkes, and communicated to me what I was to convey to Congress; that the sum of two hundred thousand louis d'or from this Court was ready for our support. It was, therefore, no address of mine that procured this aid. I was only the instrument of conveying this intelligence. As far as I know, the merit is due to Mr. Beaumarchais. I never refused it to him. But I objected to his making demands directly contrary to what he had repeatedly assured me, and not only desired but urged me to report to Congress. I did so, and I never retract one iota of that information.

When the business was thus settled and in this train, Mr. Deane arrived.

No. 37.

Extract of a letter from B. Franklin to Robert Morris, Esq., dated

PASSY, August 12, 1782.

The plan you intimate for discharging the bills in favor of Beaumarchais, though well imagined, was impracticable. I had accepted them, and he had discounted them, or paid them away, or divided them among his creditors. They were therefore in different hands, with whom I could not manage the transactions proposed. Besides, I had paid them punctually when they became due, which was before the receipt of your letter on that subject. That he was furnished with his funds by the Government here, is a supposition of which no foundation appears. He says it was by a company he had formed; and when he solicited me to give up a cargo in part of payment, he urged, with tears in his eyes, the distress himself and associates were reduced to by our delay of remittances. I am glad to see that it is intended to appoint a commissioner to settle all our public accounts in Europe. I hope he will have better success with M. Beaumarchais than I have had. He has often promised solemnly to render me an account in two or three days. Years have since elapsed, and he has not yet done it. Indeed, I doubt whether his books have been so well kept as to make it possible.

No. 38.

Extract of a letter from Robert Morris, Esq., to the Minister of France, dated

JANUARY 13, 1783.

As to M. de Beaumarchais's bills, I expected that some arrangements might have been taken with relation to them, according to our conversations; for, although you declared that you had no instructions on that subject, yet you saw, with me, that our funds would not bear such a deduction, and the line of conduct which you advised

## Claim of Caron de Beaumarchais.

was precisely that which I pursued, as I shall presently have occasion to mention.

Extract from the same letter.

It was not, therefore, until the investigation of Mr. Grand's accounts that I was struck with the deficiency above mentioned, and which arose from the difference of one million due on the former transactions more than I had calculated, and two millions and a half to Mr. Beaumarchais. The moneys which I supposed to be at my sole disposal were, I found, subject to Mr. Franklin's order, and therefore Mr. Grand, instead of six millions, possessed only two and a half, to answer my bills drawn in 1782. I had written to Dr. Franklin in the manner agreed between us as to M. de Beaumarchais, but the money was paid before the letter arrived. I should not, however, do that justice to Mr. Franklin which I ought, if I did not observe that I think he was perfectly right in causing these bills to be paid. You will consider, sir, that they had been drawn in 1779, and negotiated for three years through different parts of Europe and America, on the public faith and credit of the United States. It is a moderate calculation to suppose that a thousand different people were interested in the sum of three and a half millions; protesting the bills, therefore, would have sent them back again from one person to another, affixing a stigma on our character wherever they went.

No. 39.

Extract of a contract concluded on the 25th of February, 1783, between His Most Christian Majesty and the United States of North America, signed by Count de Vergennes and Benjamin Franklin.

ARTICLE 2. For better understanding the fixing the periods for the reimbursement of the six millions at the royal treasury, and to prevent all ambiguity on this head, it has been found proper to recapitulate here the amount of the preceding aids granted by the King to the United States, and to distinguish them according to their different classes:

In the third class are comprehended the aids and subsidies furnished to the Congress of the United States, under the title "of gratuitous assistance from the pure generosity of the King;" three millions of which were granted before the treaty of February, 1778, and six millions in 1781; which aids and subsidies amount in the whole to nine millions of livres tournois. His Majesty here confirms, in case of need, the gratuitous gift to the Congress of the said thirteen United States.

No. 40.

Extract of a letter from B. Franklin to Mr. Grand, Banker at Paris, dated

PHILADELPHIA, July 11, 1786.

I send you, enclosed, some letters that have passed between the Secretary of Congress and me, respecting three millions of livres, acknowledged to have been received before the treaty of

February 17, 1778, as *don gratuit* from the King, of which only two millions are found in your account, unless the million from the farmers general be one of the three. I have assured that all the money received from the King, whether as loan or gift, went through your hands; and as I always looked on the million we had of the farmers general to be distinct from what we had of the Crown, I wonder how I came to sign the contract acknowledging three millions of gift, when in reality there were only two, exclusive of that from the farmers. And as both you and I examined the project of the contract before I signed it, I am surprised that neither of us took notice of the error. It is possible that the million furnished ostensibly by the farmers was in fact a gift of the Crown; in which case, as Mr. Thomson observes, they owe us for the two ship loads of tobacco they received on account of it. I must earnestly request of you to get this matter explained, that it may stand clear before I die, lest some enemy should afterwards accuse me of having received a million not accounted for.

No. 41.

Letter from Mr. Durival to Mr. Grand.

VERSAILLES, August 30, 1786.

SIR: I have received the letter which you did me the honor to write the 28th of this month, touching the advance of a million which you say was made by the general farm to the United States of America, the 3d of June, 1777. I have no knowledge of that advance; what I have verified is, that the King, by the contract of the 25th February, 1783, has confirmed the gratuitous gift which His Majesty has previously made of the three millions hereafter mentioned, viz:

One million delivered by the royal treasury the 10th of June, 1776, and two other millions advanced also by the royal treasury in 1777, on four receipts of the deputies of Congress, of the 17th January, 3d April, 10th June, and 15th October of the same year.

This explanation will, sir, I hope, resolve your doubt touching the advance of the 3d of June, 1777. I further recommend to you, sir, to confer on this subject with Mr. Girard, who ought to be better informed than we, who have no knowledge of any advances but those made by the royal treasury. I have the honor to be, &c.

DURIVAL.

No. 42.

From the same to the same.

VERSAILLES, September 5, 1786.

I laid before the Count de Vergennes the two letters which you did me the honor to write touching the three millions, the free gift of which the King has confirmed in favor of the United States of America.

The Minister, sir, observed that this gift has nothing to do with the million which the Congress may have received from the general farm in 1777; consequently, he thinks that the receipt



## Claim of Caron de Beaumarchais.

which you desire may be communicated to you cannot satisfy the object of your view, and that it would be useless to give you the copy which you desire. I have the honor to be, &c.

DURIVAL.

No. 43.

*Copies of sundry papers relative to the lost million.*

PARIS, Sept. 9, 1786.

DEAR SIR: The letter you honored me with, covered the copies of three letters which Mr. Thomson wrote you to obtain an explanation of a million, which is not to be found in my accounts. I should have been very much embarrassed in satisfying him, and proving that I had not put that million in my pocket, had I not applied to Mr. Durival, who, as you will see by the answer enclosed, informs me that there was a million paid by the royal treasury on the 10th of June, 1776. This is the very million about which Mr. Thompson inquires, as I have kept an account of the other two millions, which were also furnished by the royal treasury, viz: the million in June and April, 1777; the other in July and October of the same year, as well as that furnished by the farmers general in June, 1777.

Here, then, are the three millions exactly, which were given by the King before the Treaty of 1778, and that furnished by the farmers general. Nothing, then, remains to be known but who received the first million in June, 1776. It could not be by me, who was not charged with the business of Congress until January, 1777. I, therefore, requested of Mr. Durival the copy of the receipt for the one million. You have the answer which he returned to me. I wrote to him again, renewing my request; but as the carrier is just setting off, I cannot wait to give you his answer; but you will receive it in my next, if I receive one. In the meanwhile I beg you will receive the assurance of the sentiments of respect with which I have the honor to be, &c.

GRAND.

Dr. B. FRANKLIN.

No. 44.

VERSAILLES, Sept. 10, 1786.

I have laid before M. the Count de Vergennes, as you, sir, seem to desire, the letter which you did me the honor to write yesterday. The Minister persists in the opinion that the receipt, the copy of which you request, has no relation with the business with which you were intrusted on behalf of Congress, and that this piece would be useless in the new point of view in which you have placed it. Indeed, sir, it is easy for you to prove that the money in question was not delivered by the royal treasury into your hands, as you did not begin to be charged with the business of Congress until January, 1777, and the receipt is of the date of 10th June, 1776.

I have the honor to be, &amp;c.

Mr. GRAND.

DURIVAL.

No. 45.

Postscript from Mr. Grand.

PARIS, September 12, 1786.

I hazard a letter, in hopes it may be able to join that of the 9th at L'Orient, in order to forward to you, sir, the answer I have just received from Mr. Durival. You will therefore see, sir, that notwithstanding my entreaty, the Minister himself refuses to give me the copy of the receipt which I asked for. I cannot conceive the reason for this reserve, more especially since, if there has been a million paid, he who received it has kept the account, and must in time be known.

I shall hear with pleasure that you have been more fortunate in this respect in America than I have been in France, and repeat to you the assurance of the sentiments of regard with which I have the honor to be, &c.

GRAND.

No. 46.

*Letter from Dr. Franklin to Charles Thomson, Esq. PHILADELPHIA, January 25, 1787.*

DEAR FRIEND: You may remember that in the correspondence between us in June last, on the subject of a million, *free gift* of the King of France, acknowledged in our contract to have been received, but which did not appear to be accounted for in our banker's accounts, unless it should be the same with the million said to be received from the farmers general, I mentioned that an explanation might doubtless be easily obtained by writing to Mr. Grand or Mr. Jefferson. I know not whether you have accordingly written to either of them, but, being desirous that the matter should be speedily cleared up, I wrote myself to Mr. Grand a letter upon it, of which I now enclose a copy, with his answers, and several letters from Mr. Durival, who is *Chef du Bureau des Fonds* (and has under his care *la finance*) *des Affaires Etrangères*. You will see by these letters that the million in question was delivered to somebody on the 10th June, 1776, but it does not appear to whom. It is clear that it could not be to Mr. Grand, nor to the commissioners from Congress, for we did not meet in France until the end of December, 1776, or beginning of January, 1777; that banker was not charged before with our affairs. By the Ministers refusing him a copy of the receipt, I conjectured it must be money advanced for our use to Beaumarchais, and that it is a *mystère du cabinet*, which perhaps should not be further inquired into, unless necessary to guard against more demands than may be just from that agent; for it may well be supposed that, if the Court furnished him the means of supplying us, they may not be willing to furnish authentic proofs of such a transaction so early in our dispute with Britain.

Pray tell me, has he dropped his demands, or does he still continue to worry you with them?

I should like to have these original letters returned to me, but you may, if you please, keep copies of them.

## Claim of Caron de Beaumarchais.

It is true the million in question makes no difference in your accounts with the King of France; it not being mentioned or charged as so much lent and to be repaid, but stated as freely given. Yet, if it was put into the hands of any of your agents, or Ministers, they ought certainly to account for it. I do not recollect whether Mr. Deane had arrived in France before the 10th June 1776; but, from his great want of money when I joined him a few months after, I hardly think it could have been paid him.

Possibly Mr. Jefferson may obtain the information though Mr. Grand could not; and I wish he may be directed to make the inquiry, as I know he would do it directly; I mean, if, by Hortales & Co.'s further demands, or for any other reason, such an inquiry should be thought necessary.

I am ever, my dear friend, &amp;c.

B. FRANKLIN.

CHARLES THOMSON, Esq.

No. 47.

*The Minister Plenipotentiary of the United States to the French Republic, to the Commissary of Exterior Relations.*

SAINFORT, (3d Messidor,)

June 21, 1794.

During the last war, there were furnished by France to the United States of America sundry sums of money, either as loans or gratuities.

The first of these advances was one million. It appears to have been made on the 10th of June, 1776, and is charged as part of the gratuities; but it is not known to whom it was paid, or for what purpose expended. Doctor Franklin, in adjusting the accounts of the United States with the French Minister, neglected to demand information on this subject; and afterwards, when the banker of the United States applied, in the months of August and September, 1786, to Mr. Durival, he was answered that his demand had been communicated to the Count de Vergennes, and that this Minister persisted in believing that the receipt in question could be of no use to the banker, since he was not charged with the pecuniary affairs of the United States before the month of January, 1777, and that this payment had been made on the 10th of June, 1776. Our Ministers were also told that it was unnecessary to insist on information regarding a payment which did not form a part of the sums to be reimbursed by the United States. Doctor Franklin concluded that this advance had been placed in the hands of the Sieur Beaumarchais, and that it was a mystery of the Cabinet, an explanation of which ought to be a matter of indifference to us, unless it should be necessary to oppose this sum against the claims of the Sieur Beaumarchais for supplies shipped by him to the United States.

This casualty has occurred, but, independent of it, you will perceive that the payment of it having been acknowledged by the United States, the receiver, whoever he may be, ought to render to them an account of its expenditure. Besides, mysteries serve too often no other purpose than

to hide dilapidations, of which the people are the victims.

It is, therefore, given me in charge to solicit a communication of the documents which relate to the free gift of one million made by France to the United States on the 10th of June, 1776. I believe they may be found amongst the papers of the Sieur Durival, then principal of the Office of Foreign Affairs; and I address myself to you on this occasion with the more confidence, as I am fully persuaded of the good-will of the French Government towards the United States.

GOUV. MORRIS.

No. 48.

*The Commissary of Exterior Relations to the Minister Plenipotentiary of the United States.*

LIBERTY, EQUALITY, FRATERNITY, OR DEATH.

AT PARIS, (19th Messidor,)

2d year of the Republic, one and indivisible.

By your letter of the 3d of this month, you requested a communication of the documents which relate to the employ of a million advanced to the United States on the 10th June, 1776.

I communicated this request to the Committee of Public Safety, which has been found to be due from its justice to give the satisfaction to the United States which had been refused to them by the Ministers under the old regime. In consequence of which, I have caused the necessary search to be made, and I enclose, herewith, a copy of a receipt, dated June 10, 1776, which appears to be the one necessary to the United States in adjusting their accounts.

Mystery, as you very well remark, does not suit two people united by all the ties of friendship and a common interest.

BUCHOT.

AT PARIS, June 10, 1776.

I have received from Monsieur Du Vergier, agreeably to the orders, transmitted to him, of Monsieur the Count of Vergennes, dated the 5th current, the sum of one million, for which I will account to my said Sieur Count de Vergennes.

CARON DE BEAUMARCHAIS.

Good for one million of livres tournois.

BUCHOT.

No. 49.

*The Minister of Finance to Citizen De la Rue.*

PARIS, 24th Fructidor, 8th year of the French Republic, one and indivisible.

I have communicated, citizen, to the treasury, and to the national accountant's office, the petition by which you ask, as being heir to Caron de Beaumarchais's estate, that a certificate be delivered to you, in order to prove that the payment of a million, said to have been made the 10th June, 1776, to Beaumarchais, by the *ci-devant* royal treasury for the United States of America, was never effected.

It results, from the information received by the



*Survey of the Coast.*

director of the public treasury, that the account of the year 1776 was rendered by citizen Lavalette, senior ancient guard of the treasury, to the *ci-devant* chamber of accounts, where it was judged; and that the books and journals of that year, and of the subsequent years, have not been deposited at the treasury, but have remained in the custody of that ancient guard; therefore, the director has it not in his power to undertake the verification by you demanded. He declares, nevertheless, that if the payment of one million has been made the 10th June, 1776, it must have been carried as expenses, with the vouchers, in the accounts of that year.

As to the commissioners of the national account office, they have announced, by their letter of 12th instant, that they have ordered the most exact research to be made in the accounts of the *ci-devant* royal treasury of the year 1776, rendered by citizen Lavalette, ancient guard of the treasury, of the million which is thought to have been paid on the 10th of June for account of the United States of America; but that not a single article relative to that payment has been found in the said accounts, and in those subsequent.

Such is, citizen, the result of the researches which have been made on the subject of your petition. These informations must answer instead of the declaration which you wish for.

GAUDIER,  
Minister of Finance.

PARIS, 8th Vendémiaire, 8th year.

The Minister of Exterior Relations certifies as true the signature of the Minister of Finance abovementioned.

CH. MAU. TALLEYRAND.

[L. s.] By the Minister:

D. HERMARA.

PARIS, Oct. 2, 1800.

The undersigned, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America, certify, that the above signature of Ch. Mau. Talleyrand is that of the Minister of Exterior Relations of the French Republic.

OLIVER ELLSWORTH,  
WILLIAM R. DAVIE.

SURVEY OF THE COAST.

[Communicated to the Senate, March 16, 1818.]

To the Senate of the United States:

In compliance with a resolution of the Senate of the United States of the 3d of February last, requesting the President to cause to be laid before them "a statement of the progress made under the act to provide for surveying the coast of the United States, passed February 10, 1807, and any subsequent acts on the same subject, and the expenses incurred thereby," I transmit a report from the Secretary of the Treasury containing the information required.

JAMES MONROE.

WASHINGTON, March 16, 1818.

TREASURY DEPARTMENT, Feb. 28, 1818.

In obedience to a resolution of the Senate of the 3d instant, requesting the President of the United States to cause a statement of the progress made under the act to provide for surveying the coast of the United States, passed February 10, 1807, and any subsequent acts on the same subject, and the expenses incurred thereby, to be laid before the Senate, which has been referred by the President to this Department, the Secretary of the Treasury respectfully reports the enclosed communications to and from F. R. Hassler, and a statement of the sums which have been expended in the execution of that service.

Of the appropriations which have been made for this object, \$49,284 25 was on the 31st of December, 1810, carried to the credit of the surplus fund; and the further sum of \$29,720 57 was carried to the credit of the same fund in the year 1815, and the part of the \$50,595 45, now unexpended, which shall be unapplied on the 27th of April next, will be carried to the credit of that fund in the same manner, as the Treasury has no means of avoiding the operation of the law directing all appropriations which are not expended within two years from their respective dates to be carried to the credit of the surplus fund.

Deducting the sums which have been carried to the credit of the surplus fund, it appears that there has been expended, under the several acts directing the survey of the coast, the sum of fifty-four thousand one hundred and twenty-five dollars and twelve cents.

All which is respectfully submitted.

WM. H. CRAWFORD.

The PRESIDENT of the U. S.

TREASURY DEPARTMENT, Aug. 3, 1816.

SIR: The correspondence relative to your being employed as superintendent of the survey of the coast, under the act of Congress respecting that object, has been submitted to the President, and your services are engaged on the following terms:

1. The whole of your time, labor, talents, and attention shall be given to the work, as well in relation to the superintendence of the duties to be performed by military or naval officers and assistants, or by draughtsmen and engravers, as in relation to the parts of the work which are to be executed.

2. You will be provided with competent assistance of officers and men from the corps of engineers, and from the Navy, with tents and field equipage, with baggage wagons and horses; and you will have the free use of the public instruments and books for the purposes of the survey.

3. The parties of officers, men, and assistants, accompanying you will be ordered to conform to your instructions; and all the incidental expenses of the survey, which are of a public nature, will be defrayed by the Government; but your own personal expenses are to be defrayed by you, whether you are employed at home or abroad.

4. Funds will be placed from time to time,

*Survey of the Coast.*

upon your requisitions, in the hands of the chief officer of the party accompanying you, to be disbursed, upon your order, in the payment of the expenses of a public nature, and to be accounted for by him at the Treasury once at least in every three months.

5. You will receive, in full of all your services, a compensation at the rate of \$3,000 per annum, and for all your personal expenses an allowance at the rate of \$2,000 per annum, to commence on the 18th day of June, 1816, and to be paid quarterly at the Treasury, upon your drafts.

6. You will make frequent reports of your progress to this Department, and deposit here all the surveys, draughts, notes, charts, maps, journals, and documents, in anywise belonging to the survey of the coast; and you will return the public instruments and books to such place as shall be directed, when they are no longer required for the business of the survey.

7. If at any time it should be necessary to explain the nature and extent of your employment, your communications to this Department, and particularly the article submitted by you on the 12th of July, 1816, will be resorted to.

It only remains to repeat the President's solicitude for a successful and speedy execution of the great national work which is thus confided to you, and to assure you of the esteem with which I am, sir, your most obedient servant,

A. J. DALLAS.

Mr. F. R. HASSLER, Philadelphia.

[The above conditions were assented to by Mr. Hassler, by letter, dated August 21, 1816.]

First Report to the Treasury Department of the United States upon the survey of the coast.

The settlement of my accounts upon my mission to London, for procuring the instruments for the survey of the coast, being completed on the 21st of July, 1816, I returned to Philadelphia, to communicate with the Secretary of the Treasury, Mr. Dallas, upon the beginning of the operations to activate the work of the survey.

Mr. Dallas wished me to proceed immediately, saying that I had no need of anything more than to request from General Swift, commander-in-chief of the United States engineers, the necessary military assistance; that Major Abert, of the topographical engineers, would accompany me, take the command of the military, and be provided with the necessary funds for the expenditures of a public nature occurring.

The first operation in a work of this kind is to find a proper and well-situated locality to measure a base line of from seven to ten miles in length, if possible, by which all the subsequent triangulations become calculable. Plains of such an extent of solid ground without impediments, are not frequent in any country; and the proper situating of the bases, to evolve a good and advantageous system of triangles from them, requires always much combination, particularly in countries yet much wooded.

It was, therefore, first of all, necessary for me

to reconnoitre such localities of the seashore and its neighborhood as, by a general knowledge of the country, might be most likely to present these requisites united, or at least approximate them the nearest.

Such a locality I hoped to find on the low shores of New Jersey or on Long Island, where, in the first place, the triangles should soon extend over New York bay by the means of the highlands of Neversink; or, in the second, over the Sound, by means of the hills of Long Island and Connecticut.

The 27th of July, I left Philadelphia, with the necessary instruments, intending to meet Major Abert in Mount Holly, New Jersey, to request him to accompany me in a tour to the northeastern seashore of this State. His not yet being provided with means and funds to assist me preventing him from coming, I attempted to proceed alone, but accidental impediment prevented also me, and proved to me, at this first outset, that it would be impossible to proceed in the intended work without that kind of assistance which I had required, namely, military.

I returned, therefore, in the high road from Trenton to New York, visiting the eminences which I thought might afford points of triangle to connect the head of the navigation of the Delaware with the New York bay, and attending to the situation of the roads, to see if any one of them might furnish a proper locality for the base line. The result, however, was reduced to the discovery of one well-situated point on the Sand hills about eight miles southwest of New Brunswick, which, projecting towards the eastern plains, is likely to give a good triangle point for the said connexion.

The 1st of August, I arrived at Gen. Swift's, in Brooklyn, on Long Island, to request assistance in soldiers and means of conveyance for the instruments, &c.; which, however, the situation of the military service did not enable him to assist me with. But, upon the General's friendly invitation, three cadets of the Military Academy, Messrs. Kurck, Bonnet, and Newton, volunteered their services in the tour which I intended to make over Long Island and Connecticut, to visit Hempstead plains, which the General thought one of the most likely places for a base thereabout, and the hills on both sides of the Sound.

In the company of these young gentlemen I left Brooklyn the 6th of August; visited both shores of Long Island as far as Setauket, and particularly Hempstead plains, and the range of hills through the middle of the island; and, on Connecticut side, from Fairfield to New York.

The hills on Long Island are so much upon one line, and of so near equal elevation, that though some tops of them are free of woods, yet the next wooded hill always covers the view of all the others. Hempstead plains, though not very even, would, however, afford a good ground for the measurement of a base, but it lies too near the hills, so that a base could actually be measured, which would be the largest side of the first



triangle, and therefore render its length useless. Hempstead Harbor hill, which is the only point presenting itself as a third point to the first triangle, lies only between three and four miles perpendicularly from the most distant line which could be measured in the plain. From this to a hill in Eastwoods, the proportion of the triangle would be advantageous, requiring only to cut way through the wood on the top of Hempstead Harbor hill; but then the next corresponding point which could be obtained would be about White Plains, near the boundary between New York and Connecticut; this lies so far off as to give a too acute-angled triangle.

From there, eastwards, the sides of the triangles crossing the Sound will become of considerable length, and it will require careful research to find distances on the same shore corresponding with them, because the elevations in Long Island are too much wooded, and those of Connecticut do not admit very distant views. The connexion between them might most likely succeed by connecting alternately a point on the hills with one on the shore.

On the west side, towards New York, the equality of the elevated lands northeast of the city will oblige to lay some of the principal points to the west side of the Hudson river, to form the connexion with the bay of New York. I arrived again in Philadelphia about the 18th of August, and stated, in my letter to the Treasury Department of that date, the necessity to continue reconnoitring till to Cape May, before a plan of operations could be formed for the survey of this part of the country.

In Philadelphia I gave directions upon some wood work to be made for the base measuring arrangements, and received other works that were done.

The cadets who had accompanied me having, of course, returned to the Military Academy, and General Swift and Major Abert not yet being provided with means to assist my further operations, (which means they expected, however, upon to obtain,) I employed the time from this to the 5th of September to effect the removal of my family to Newark, without detriment to the work of the survey.

I had directed Major Abert to meet me in South Amboy, with the instruments, (which I had left under the care of General Swift,) two soldiers, and the necessary conveyance. On his information that he was ready to repair to the place, I met him there on Sunday, the 8th September, provided with a small Jersey wagon, two horses which he had purchased, and two soldiers from the garrison of West Point.

The heavy storms of this month interrupted us here till the 16th, on which day I went to New York, to proceed by water to South Amboy, in order to take a view of the shores of New York bay and the Narrows. The 18th of September we proceeded on our tour over the Highlands of Neversink, Sandy Hook, and Shrewsbury, which I had intended to visit on my first outset from Philadelphia, and from which we

had lately been prevented by storms. The Neversink presented us again a chain of elevations of so near equal heights, that the woods on most of them impede greatly the view of one from the other. However, the beach and plain of Long Branch, south of Sandy Hook, appeared to promise better prospects for a base than Hempstead plains. We visited, therefore, all the remarkable hills west of it, and measured the angles of all the prominent points of the vicinity by always observing the whole circle of the horizon with the theodolite, as I had done already in my former excursion, attending particularly to such points as would direct upon the visible extent of the Long Branch shore from the hills which might become the points of the first triangle.

With similar inquiries we proceeded till south of Freehold, or Monmouth court-house, where an apparently lasting storm interrupted us. Our horses had suffered severely by travelling in the heavy sands and marshes; one of them was wounded, and the wagon needed some repairs. Major Abert and I parted, therefore, from one another, appointing to meet again four days after at New Brunswick, at which place we met again the 27th of September. We went to the point on Sand hill, which I had visited before, and put up a temporary signal; but haziness prevented us making any observations, and also to see this signal again from some hills south and east of it, which we visited under way to go to the seashore in an easterly direction, in search of points of connexion towards Trenton first, and again from Shrewsbury to the more southern shore; but, with the exception of a beacon hill between Cranberry and the Burnt tavern, no interesting hill or elevated point appeared; and from this latter place till to the seashore, which we met again at Beaver dams, (the head of Cranberry bay,) thick pine plains fully destroyed every expectation to find either an advantageous triangle point, or a locality for a base line, which remained, of course, yet our principal object, as Long Branch is much more limited than I should properly wish.

We continued our route from there southerly on the beach, outside the bay, until opposite Forked river, where we passed again on the main, having seen almost nothing but fogs and moschetoës. We continued on the main through pine barrens and cedar swamps until Tuckerton, from where we crossed again over to see the two beaches forming Little Egg Harbor inlet, and returned to the main at Leeds point, south of Mullico river, on which last place, under somewhat more favorable weather, we confirmed our former judgment, formed on the information collected, and what little we had been able to see, viz: that this country is unfit for a survey on an extensive scale, and can only be surveyed by secondary and detailed operations. This, therefore, indicates again, as the only possible route for the main triangulation, that from the Neversink, through New Jersey, in a southwest direction, to Trenton, Philadelphia, and Wilmington, which I had always had in contemplation as the most proper

and advantageous to the general accuracy and speed of the work. However, we continued our route on till Cape May island with regard to the views taken upon this subject.

The shores of the Delaware bay, particularly near its outlet into the sea, seemed, by a general view of their configuration, to hold out some expectations for the main object which we had in view—the finding of an advantageous base; but they were fallacious.

The Jersey shore presented nothing useful for the intended purpose, and only some projecting low points of land useful for a secondary triangulation, in the whole length, till up to Salem, which we were obliged to follow, on account of the impossibility to obtain a passage over the bay.

We crossed the Delaware opposite New Castle, and proceeded to Wilmington, where a consultation with Colonel McLane, collector of the State of Delaware, destroyed all hopes of better success on the western shore of the bay; we limited ourselves, therefore, to the visiting of a base of near three miles, measured by Major Roberdeau, from Port Penn northward, which could by no means answer our wishes, and, by giving us an idea of the nature of the ground, showed that we would lose nothing to trust to the informations obtained, and would spend our time better in a speedy return, to inquire nearer into the results of the reconnoissances hitherto made, if possible to take advantage of the remainder of the season to go into the detailed inquiries upon the base on Long Branch, &c. Besides this, the weather proved now so adverse as to frustrate even our desire of a nearer inquiry into the vicinity of Wilmington, where the hill on which Dr. Tilton lives seems to offer a very good point of junction from the Delaware to the head of Chesapeake bay, which is again the proper direction for the main triangulation, in like manner and for the same reasons as mentioned with respect to New York bay and the Delaware.

We arrived in Philadelphia the 16th of October, and I set off immediately for home, to make the necessary platting and comparison of the observations and informations collected in the different reconnoissances hitherto related.

The result of these inquiries was, that the plain of Long Branch was the only locality, of all those hitherto visited, giving any probability to allow a base line of only admissible length, to be measured upon in a position to admit a continuance of triangles. In this latter respect, it appeared superior to Hempstead plains, if Polhemus hill, between Colt's Neck and the Academy, would be allowed to be taken as first triangle point, which depended on the length and particular places of the beach visible from this hill; and for this I had some hopes, as a considerable angle was subtended between the northernmost visible point of the beach and the place where high pines made it certain that the view was lost towards the south; the lower intervening woods I hoped could be overseen by a high signal and an elevated stand for the instrument.

More difficulties seemed to be expected in the second necessary requisite, that of determining by the first triangles two points, one near the east, the other near the west end of the Neversink highland, which would be visible from one another, and present a sufficiently extensive line open to the view of the shores of New York bay, and for the further continuance of the survey north and east of it.

To inquire into the details of these two questions, it became necessary to go again to the place. I went, therefore, to New York, to request of General Swift the necessary assistance, and particularly that of the two soldiers who had accompanied us before, whom I wished to meet me either at Mount Pleasant, Middletown township, on the 8th of October, or at Long Branch on some future day. I wrote also to Major Abert, requesting his presence, with the necessary means of assistance, at the same places mentioned; or, in case he should not be able to come himself, to send me the wagon, with horses, the instruments, and some tools.

By an excursion from home, during the period I staid there, I had also visited the vicinity of Newark, Snake Hill, and Bergen Neck, to ascertain the probability of finding such points as could serve to connect from the Neversink, and through Staten Island and Long Island, the country northeast of New York, and the further hills of Long Island. This I think possible, in a satisfactory manner.

I went, the 4th of November, upon Staten Island to ascertain the necessary points for the connexion just mentioned under way to the main object for which I had appointed to meet my assistants. I made use, for this intermediate part, of a small pocket instrument, lent to me by General Swift, and took my son with me as assistant. I found several very suitable points for my purpose upon the hills of the northern part of the island, among which, to make a choice will be the task of future arrangements, when the points south of the bay will be determined upon.

A few hours after I had arrived at Mount Pleasant, the appointed day, I received from Major Abert our wagon, with two hired horses, and a driver, together with the instruments and tools required. He could not come himself, for want of funds to defray the expenditures of a public nature which I had mentioned to him. The soldiers, also, did not come, and did not join me afterwards during the course of the following operations. I kept, therefore, my son with me all the time, to have at least his assistance, being much in need of it.

As the Fire Beacon hill, in Mr. Nott's farm, about one mile west of the wooded hill, particularly called Mount Pleasant by the seamen, is hid from the east by the wooded parts of the highlands, I fixed a signal to a tree upon the highest part of Mount Pleasant, which is thickly wooded, to ascertain its position and visibility from the places I was going to visit, as I hoped it might become the western point of the Neversink which I was in quest of; and I ob-



served that, in an easterly direction, it would afford a view of the eastern part of the highlands at a considerable distance, if a way was cut for it through the wood on the spot. Then I proceeded to Polhemus hill, as the first point from the base, and distinguished plainly my signal on Mount Pleasant. Proceeding from thence to Long Branch, I found the southernmost part of the plain intercepted by three marshy creeks or ponds lying in deep hollows; this was the part which had been hidden from the direct view of Polhemus hill by apparently low woods. I proceeded until Deal, where the open plain changes into a thick pine wood, and a large pond, with an inlet from the sea, would, at all events, interrupt all further extent of a base. This I considered to be the southernmost point of view from Polhemus hill, mentioned above. Under an angle corresponding about with the direction towards Polhemus hill, the wood appeared rather lower than on the sides of it; but, being without sufficient assistance, I could not erect a high signal to try the effect of it upon this view, or upon that in the direction of the beach itself, which, being much more elevated in the intermediate parts between this and the probable northern end of the base, interrupted naturally also this view from the ground at Simpleman's Height. To ascertain, however, by observation, on my return, in which places a line drawn from this, northwardly, would pass the creeks mentioned, I erected a plank on this spot. Better than two miles to the north of this, in Mr. West's farm, lies a hill, of gentle ascent, and about fifty feet elevation: from this the prospect extends itself pretty freely for most of the interesting points of the vicinity. As to Polhemus hill, however, it was uncertain, because the direction for it falls for about six degrees within more wooded parts of the view. This hill seemed, however, so advantageously placed as to make it desirable to form the south end of the base; therefore, I made a signal and the necessary observations upon it. On the north part of the beach, in Mr. Wardell's farm, I found a point which enjoyed a full view both of Polhemus hill and West's hill, in such a direction from the latter as just to avoid a pond lying near it, and probably admitting good ground on the whole length of the line of a base laid between them, which, therefore, I conceived proper to become the north end of a base.

In searching for a second point of triangles on the east part of Neversink, I came upon Portland hill, enjoying a commanding view over Long Branch and Shrewsbury, with the advantage of seeing the light-house on Sandy Hook. I had every reason to believe a mountain seen towards the west to be Mount Pleasant; and, as far as Eddy's map of the vicinity of New York may be considered as a sufficient approximation to compare with any preliminary rough calculations, seems to agree with it, and also its position, about west, seems to correspond with the remark made there.

If, therefore, Polhemus and West's hills could have been visible one from the other, I considered

my first triangle as sketched, and forming the system joined here, No. 1,\* which I made under this supposition. The triangles of it are well enough proportioned and grounded upon a base of about five miles. To ascertain this possibility, I began by erecting, on West's hill, a signal about twenty feet high, in form of a tripod, made of a ladder and two stack-poles, from the top of which the view extended itself more. Then Mr. West volunteered his assistance by firing signals with gunpowder by night, three times, at intervals—about one-third of a pound of powder each time, of which I should have been able to observe the flash on Polhemus hill, where I went with the theodolite, and left it in the position in which it had served for the observation by day. Neither of these two trials succeeding to render the plain visible, Mr. Polhemus assisted me the following night by lighting a torch of tar and hemp on a pole, near the signal upon his hill, while I was upon West's hill, burning simultaneously a tar-barrel filled with shavings and tar mixed; however, also this proved unsuccessful; neither of us saw the signal of the other.

To observe all the signals made in the vicinity, to get the data required for the sketches of triangle systems joined here, I went under way in the various courses which these trials occasioned me upon the intermediate point of Cedar hill, from which all these points are visible, though it lies itself too near the base to serve as a main point of the triangulation, as it would occasion a complicated, long, and not well-proportioned system of triangles. There the circumstance occurred which occasioned my letter of the 18th instant, to which I take the liberty to refer in this respect.†

Polhemus hill is the principal point upon which the first triangles must turn if a base is measured on Long Branch; there is no point in the vicinity which can be substituted for it, as I have convinced myself by a proper investigation on my return here.

In passing over the highlands of Neversink, I visited also Beer's hill, which stands in the range of it, has the view of New York bay, and admits a sight of the light-house of Sandy Hook through the wood, under favor of their present nakedness; but the weather did not allow me any observations.

The invisibility of Polhemus hill from West's hill occasioned me to project new systems of triangles, grounded upon a change of position in the base, which, I think, might be admissible by the nature of the ground, and in respect to the view from Polhemus hill. In the direction from there, (in these projects,) to determine the position of this new base, the sea is well visible, and therefore a somewhat high signal should be visible also.

To inquire into the possibility of these plans, I

\* This sketch, as well as those subsequently referred to in this report, is omitted.

† This letter relates to a suit brought by a Mr. Holmes for a trespass in cutting one of his trees, to be used as a signal.

intended to make a longer stay at Long Branch, but was determined to postpone this inquiry on account of the circumstances mentioned in my letter, and the want of sufficient assistance; it being necessary to have night signals made in various places at once. I had intended, also, in case of success, to make the detailed survey of the plain, which is necessary before the actual measurement of the base, in order to lay it out free of impediments, and direct the preparing of the ground for the base: the same reasons made this impossible.

In the triangle system No. 2, the only change made is in the position of the base, which is laid more north and close to the seashore. There remains to inquire if the north point is admissible, so as required, without leading the base through a pond, which is near it, leaving only a narrow beach between it and the sea, and if the view of Polhemus hill remains open over the protraction of Cedar hill. No. 3 is grounded upon the possibility of seeing the light-house of Sandy Hook and Mount Pleasant from this same point; and No. 4 substitutes Beer's hill for Mount Pleasant in the last plan, to avoid the cutting out of view in the woods of Mount Pleasant. This last system is the most preferable, but also the most doubtful. To inquire into the possibility of either one of these systems, the present season of the year is the most favorable, on account of the nakedness of the woods and the clearness of the colder atmosphere; I should like, therefore, to be properly assisted for so doing. I intend to write to Major Abert to that effect as soon as I know him provided with the necessary means.

For, the case of none of the above plans being admissible, I revisited, with proper attention, in my return, the roads between Brunswick and this place, the straightness of which might induce to believe them fit ground for a base line; but they are entirely useless for the purpose, unless I should be obliged to content myself with a line of only four miles between here and Elizabethtown, which would occasion a number of inconveniences and a complication of small triangles.

I arrived again here on the 18th instant, and sent next day the wagon and horse back to Major Abert, keeping the instruments, as the theodolite wants much repair, though in no very essential parts. I had bought the two small common and strong theodolites expressly for similar purposes as better instruments would have been destroyed, by such conveyance.

The telescope I supplied by a ship-glass of mine, after seeing that the better ones of the Government's collection would be too much exposed by the quick travelling.

F. R. HASSLER.

NEWARK, N. J., November 23, 1816.

Report upon the operations made in the Spring of 1817 for the survey of the coast.

The locality of Long Branch, on the Jersey coast, which had been visited in detail last Fall, with a view to measure there a base line for the survey, not having been found sufficiently advanta-

geous, it occurred to me that a better locality might be furnished by the valley of the Hackensack river, west of the North River mountains.

In a reconnoitering turn, between the 16th and 28th of April, I found that the valley of English Neighborhood and Tinively, at the west foot of the North River mountains, would afford a sufficiently extensive and suitable ground for the measurement of a base line, from which the first triangle point could be laid on the Weasel mountains near Paterson, in the ridge of Newark mountains, first range; presenting to the east a naked rock, those north, to the road from Acquackanonk to the Little Falls of the Passaic.

The first operations becoming necessary, then, were to survey, upon a large scale, the details of the locality, in order to ascertain fully its fitness, and to make a proper choice of the ground through which the base line should pass, and of the places of the end stations; to make the preliminary measurement of this base; and to place the signals of the first triangle scheme to be formed upon it with the approximate measurement of the angles, to direct in a proper choice of stations, with several other works incident to these.

These operations were executed between the 7th of May and 10th June last. I made a detailed plan of the part of the plain through which the base shall pass, on the scale of 1-2000 with the plane table, as the instrument best adapted to this purpose. Two preliminary measurements of the line were made with a chain constructed for the purpose, giving, by a mean, 30,992 feet, with a very trifling difference between the two measurements; and the signals were placed for the sketch of triangles joined here, (No. 1,) which are to be grounded upon this base on the west of the bay of New York, joining, in the south, those on Neversink, of which I forwarded a sketch last Fall.

To plan the continuation of the survey eastward, it became necessary to reconnoitre the part of Long Island from its west end till to Huntington and Babylon, which was done in a turn between the 19th of June and 6th of July; the result of which is the sketch of triangles, No. 2, in which I hope to find a verification base between Fort Lewis and the east end of Gravesend beach. In this turn it would have been very advantageous if I could have obtained the assistance of some more officers or cadets, whom I could now send there to give signals to here, as the junction from here immediately would be the most advantageous, but is uncertain. I abstained from extending this reconnoitering turn to the north shore of Long Island Sound, which would have required about ten days more, on the following considerations:

1. The season was so eminently favorable that I was anxious to take advantage of it, for the trial and adjustment of the instruments and the exact measurement of some triangles, which was also very desirable to give a more certain ground to the planning of further works, than that which was obtainable by the preliminary approximate observations upon objects not sufficiently determinable.



## Survey of the Coast.

2. My signals are cones, made of sheet tin, having about sixteen inches height by an equal base, and about fourteen inches top, from which they taper off to an obtuse angular top, by which they are nailed on the top of a pole; it was necessary to be sure of their success in proportion to the distances of the stations and the power of the telescopes in my instruments. They have proved to answer very well in a morning or evening illumination, the only one under which objects are distinctly visible, as about noon even steeples become invisible: they present, then, a bright reflection from the sun; and I have seen from here and upon Beer's hill, in the Neversink highlands, at a distance of more than thirty miles in a direct line.

As the point of Weasel mountain, which I am now upon, is the first triangle point after the base ends, and a solid rock, about six hundred and twenty-five feet above the level of the sea, enjoying an extensive eastern view, I selected it for the first point of exact operations and the trials and adjustments of the instruments, which I stated already, in an early letter, as being best done on the first station of the actual survey.

It was to be expected that the instruments would stand much in need of many adjustments after a long voyage over sea and some land travelling, during which they must of course be confined in boxes, and frequently under unequal pressure of their different parts. Indeed, they had all lost every kind of adjustment, and recovered their free state and spring only after having been several days freed of their boxes. The two-feet theodolite seems, besides the loss of the adjustments, to have met with an accident, which has occasioned it to become eccentric, and has, therefore, given me much perplexing work: it will give me still more to bring it right again; I shall use every exertion towards it. Notwithstanding this, the angles which I measured with it give ultimately good results, as the nature of its construction tends very much to correct its own errors.

The eighteen-inch multiplying circle, similar to the one I lent for the determination of the Northern boundary, depending, by the nature of its construction, very little on its adjustments, has given me the least trouble, notwithstanding its few adjustments were lost also. I shall stand more in need of this instrument in the field than I thought, as I shall have to observe in light-houses, steeples, and high buildings, where the theodolite kind of instruments cannot be used. Besides this, the astronomical observations are to be made by it.

This kind of instrument being best adapted to supply in an observatory (the construction of at least one of which becomes now indispensable to the advancement of the survey) the absence of the mural instrument, I must wish very much that the one lent for the boundary may be returned immediately after that service.

The repeating theodolite, of one foot diameter, being calculated for transportability more than the large instruments, has also suffered more by the voyage than any other; and it has proved

that, with proper care and repetition, it gives the angles with as much accuracy as the great theodolite, so that the advantages of the larger instruments over the smaller consist principally in the power of the telescope, which is of course proportionable to their size, and will make it preferable for the greatest distances. Besides, when I shall have brought the two-feet theodolite fully right again, it will be more expeditious, particularly in a precarious state of the weather.

As far as I have been able to try the reflection circles, and other instruments, they have proved satisfactory; but it was just in this part that my diseased hand and the want of assistance were of the most impediment, as far as relates to observations.

F. R. HASSLER.

WEASEL MOUNTAIN, Aug. 6, 1817.

GRAVESEND BEACH, ON LONG ISLAND,  
December 8, 1817.

MOST HONORED SIR: It would have been earlier, in the course of my duty, to make you some report upon my proceedings in the survey of the coast, but the favorable weather which has lately prevailed pressed upon me to take advantage of all my time for the work itself. I postponed therefore till now to give you a more determined view of what work I may expect to fulfil in the campaign of this year.

The month of October having been very unfavorable, by almost constant bad weather, my work was so much delayed at that period that it seemed almost to prohibit me to fulfil the plans I had proposed, and of which I had the honor to give you an idea, by the two sketches of triangles forwarded in the earlier part of the season.

While on Staten Island, in the course of last month, the weather cleared up so favorably, with the beginning of the cold, that, my expectations being again raised, I began the work with the second of the two sketches alluded to, including part of Long Island, &c. I have come in it so far as to be now just leaving the second station of the verification base, to go to Rockaway beach to complete that part of this triangle scheme which I contemplate for my task of this year.

Then I shall yet go to the north end of the base in Tinively, where the angles could not be observed while the leaves were on the trees, because the signals to be used show from there only through the tops of the trees of an intermediate wood, through which it would have been difficult to make a proper cut.

At the station of Bergen Neck it was necessary to cut large trees to open the view of a hill on Staten Island in Vice President Tompkins's land, which commands such a favorable prospect over all New York, its harbor to the south of Long Island, as to have become the most favorable to the acceleration of this year's work.

The results of my observations have proved very satisfactory in point of accuracy. As far as the preliminary calculations have led hitherto, the sums of those triangles, of which all three angles are measured, being within about one sec-

## Survey of the Coast.

ond in a mean, equal to two right angles; and the distances concluded by various elements agreeing in a mean within about one foot in distances from eight to twenty miles. So that every desirable accuracy is likely to be obtained by the proper combination and reduction of the observations, and their accurate calculation, which must be the work of this Winter; and the results will, I hope, enable me to begin next Summer the detailed survey of the part of the country in which I have worked this year.

It is however necessary for this that, the season notwithstanding, I persevere in the work for the two stations mentioned, in order to obtain all the elements necessary for the accurate calculation of the whole system of this year's work; and I can speak decidedly in this respect only after the full closure of the campaign, and the execution of the main part of the calculations. I must therefore now be satisfied with the above short statement of the manner in which the plan has been acted upon, which I had the honor to communicate to you at the beginning.

F. R. HASSLER.

NEWARK, (N. J.) Dec. 18, 1818.

MOST HONORED SIR: Unforeseen expenses occasion me to take the liberty to request the favor to forward me the amount of my compensation for the quarter which will expire the first of next March, by a draft of \$1,250 upon any of the banks of this neighborhood. You will oblige me very much by it.

I have just returned from Rockaway, where the bad weather has frustrated me of the hopes to make that station yet this year; which therefore remains postponed to next Spring, with some more in that neighborhood.

I intend to take some of the first fair days to make the station at the north end of the base, and shall later make the observations on the station here in the high part of the town. I shall also, in the course of this Winter, make a series of latitude observations here, and for that purpose fix a proper sheltered place for observing.

The verification base having agreed in its measurement so exactly with the results of the calculations, the execution of the two stations above-mentioned during this Winter will enable me to propose the beginning of detailed surveys next Spring, though the base in English Neighborhood is not yet measured with the means of accuracy which it is intended to employ by the apparatus intended for it. The possible difference affecting only very large distances, I dare safely postpone this so very important part of the work until next Summer.

It becomes therefore interesting to know the intentions of the Legislature of this State in respect to the plan I proposed; for which purpose I shall in a few days speak with the Governor, who has in answer to my letter said he would propose it, and expected an early decision in what is called the long session in January.

I have the honor to join here, on a small scale,

a sketch of the triangles executed this, year, and within which the detailed survey can be begun. In the course of this Winter, I shall have the honor to present to you the results of the calculations and projections of the triangles in the papers to be used for the detailed surveys which I shall now work upon. I have the honor to be, &c.

F. R. HASSLER.

HON. W. H. CRAWFORD.

Statement showing the amount of appropriations for the Survey of the Coast, the amount of warrants drawn upon those appropriations, and the balance of appropriation remaining in the Treasury applicable to that object; also the several amounts from time to time carried to the Surplus Fund.

## APPROPRIATIONS.

Appropriated in 1807	-	-	\$50,000 00
Appropriated in 1812	-	-	49,284 25
Appropriated in 1816	-	-	84,441 14

Total appropriations - - - \$183,725 39

## EXPENDITURES.

Drawn upon warrants in favor of the following persons:

Name.	Date.	Amount.
Isaac Briggs	April 7, 1808	\$715 75
Surplus fund	Decem'r 31, 1810	49,284 25
F. R. Hassler	April 8, 1812	100 00
Bowie & Kurtz	June 11, 1812	8,888 89
F. R. Hassler	June 30, 1812	1,105 62
F. R. Hassler	June 30, 1812	186 67
F. R. Hassler	August 12, 1812	942 50
F. R. Hassler	August 12, 1812	1,042 50
F. R. Hassler	August 12, 1812	1,042 50
F. R. Hassler	March 5, 1813	150 00
F. R. Hassler	June 9, 1813	892 50
F. R. Hassler	June 9, 1813	2,085 00
F. R. Hassler	February 1, 1814	1,042 50
F. R. Hassler	February 1, 1814	1,042 50
F. R. Hassler	June 4, 1814	1,042 50
Surplus fund	1815	29,720 57
James Cox	June 27, 1816	7,362 42
F. R. Hassler	July 8, 1816	1,042 50
F. R. Hassler	July 8, 1816	1,042 50
F. R. Hassler	July 8, 1816	1,042 50
F. R. Hassler	July 20, 1816	6,572 68
John J. Abert	August 12, 1816	1,000 00
F. R. Hassler	August 26, 1816	1,428 57
John J. Abert	Decem'r 24, 1816	2,000 00
F. R. Hassler	January 6, 1817	1,250 00
John Steele	January 14, 1817	104 52
F. R. Hassler	April 5, 1817	1,250 00
John J. Abert	April 19, 1817	3,000 00
F. R. Hassler	July 11, 1817	1,250 00
John J. Abert	Septem. 30, 1817	3,000 00
F. R. Hassler	October 10, 1817	1,250 00
F. R. Hassler	Decem'r 22, 1817	1,250 00
Total	-	\$133,129 94

Which sum of \$133,129 94, being deducted from the total appropriations of \$183,725 39, (as above,) leaves the balance of unexpended appropriations of \$50,595 45.



## DEFENCE OF THE MARITIME FRONTIER.

[Communicated to the Senate, February 11, 1818.]

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 13th of February, 1817, I now transmit copies of the reports, in relation to the surveys, and examinations made by naval officers in co-operation with officers of the corps of engineers.

JAMES MONROE.

WASHINGTON, February 6, 1818.

NAVY DEPARTMENT, Feb. 4, 1818.

SIR: I have the honor to transmit to you, herewith, copies of the reports, in relation to the surveys and examinations which have been made by naval officers in co-operation with officers of the corps of engineers, in pursuance of the resolution of the Senate of the United States, passed on the 13th day of February, 1817.

Enclosed is a list of the charts, &c., which accompany this communication.

I have the honor to be, &amp;c.

B. W. CROWNINSHIELD.

The PRESIDENT of the U. S.

*List of Charts.*

Rhode Island and Narraganset bay.  
Newport and Gardner's bay.  
Boston harbor.  
Eastern entrance to Long Island sound.  
General map from Haerlem to Sandy Hook, exhibiting the line of defence.  
Falmouth harbor.  
Portsmouth (New Hampshire) harbor.  
Sandy Hook.  
Penobscot river and bay.  
Boston harbor, including Salem and Marblehead.

BOSTON, October 18, 1817.

SIR: In pursuance of your orders of the 23d of May, and the detailed instructions from the Commissioners of the Navy Board, dated the 29th May, addressed to myself, Captains Evans and Perry, who were appointed commissioners by the President of the United States, to carry into effect the resolution of the Senate for the purpose of ascertaining the practicability of defending the eastern entrance of Long Island sound, and also of examining the coasts and waters north of the Delaware, with a view to the selection of a proper site for a naval depot, rendezvous, and dock-yard, the commissioners, accompanied by General Swift, and Colonel McRee of the corps of engineers, appointed to co-operate with them, did proceed to examine accordingly. On the subject of the points of defence, there has been an unanimous opinion, and a report will be made thereon to the Navy and War Departments, to which I beg leave to refer you. It would have been gratifying to me, as I doubt not it would be to the other members of the commission, if an unanimous opinion had also been formed in se-

lecting the proper site for a naval depot; but as there has been a difference of sentiment, it becomes my duty as a member of that commission to state my opinion on the subject, founded on observations and examinations made by the commissioners, and which will appear in detail. In doing so, I shall mention the different harbors included in the instructions of the Navy Board in the order of arrangement followed in the examination.

I beg leave, however, before entering into an examination of the subject, to state the requisites which, in my opinion, are necessary for the establishment of a naval depot, rendezvous, and dock-yard.

1. A sufficient depth of water for ingress and egress at all times of tide, and accessibility in all seasons of the year for ships of the largest class.

2. A safe and secure harbor from wind, tide, and ice.

3. Means of protection by a numerous and dense population; susceptibility of defence by its natural situation, and without extensive fortifications.

4. A situation free or difficult of blockade.

5. A population to furnish the requisite number of mechanics at the lowest price and to the best advantage; where few or many may at all times be commanded without paying an indirect tax to induce them to locate themselves at or near an establishment for a special purpose and for a limited time.

6. The vicinity of a large and commercial town where skillful artisans are established to furnish the various parts of the mechanism of a ship; the greater proportion of which can generally be obtained on better terms for the public interest at private manufactories than can be supplied within a naval establishment.

7. A favorable situation for obtaining, in peace or war, a supply of ship timber, and timber suitable for masts and spars.

8. The advantageous situation of the place selected for the construction of dry docks.

9. And generally a location most favorable for obtaining, all supplies connected with a navy or naval establishment, particularly provisions and seamen.

In the execution of the duties prescribed to the commissioners, the place which first received examination was Portland, in the District of Maine.

Portland has a good harbor, and is easy of access. A good site might be found for a dock-yard, and a sufficient depth of water at all times of tide; but it would require the erection of very considerable fortifications for its protection. In the event of a war, I should recommend a small naval depot or deposite of naval stores for the accommodation of such vessels of our navy as might find it convenient to stop here; but I should not think it advisable to make an extensive establishment.

Portsmouth, situated on Piscataway river, has an outer harbor easy of access at all seasons of the year, with a sufficient depth of water at all times of tide. This outer harbor is above the

fortifications and consequently protected by them, but owing to a very rapid tide in the Narrows above the outer harbor, a large vessel cannot get to the navy yard or inner harbor except with a fair wind, and, for the same reason, but few vessels can be safely moored there. The island on which the navy yard is located is commodious for building ships, has bold water, good timber docks for docking timber, and excellent building ways for a ship of the line. Dry docks might also easily be constructed. The island is exposed to a commanding height on Seaver's island, where the remains of an old fort are yet seen; the possession of this height is, in my opinion, important to the safety of the navy yard and harbor. I should recommend this navy yard in its present situation as a good building yard, but on account of the rapidity of the tide I am decidedly of opinion that it is an unfavorable situation for the establishment of a general rendezvous.

*Salem.*—This has a harbor accessible to ships of war into safe anchorage, as the frigate Constitution found in the late war, when pursued by a superior force, and merits the attention of Government to some additional works of defence.

*Boston.*—This port possesses, in an eminent degree, all the great advantages necessary for a naval establishment. It has a sufficient depth of water at all times of tide, and is accessible at all seasons of the year.

It has a safe, commodious, and secure harbor from wind, tide, and ice; and its accessibility is proven by the records of the custom-house, a copy of which, marked A, is hereto annexed, showing the numerous arrivals and departures in every winter month in the year.

It has great means of protection in the numerous and dense population in its immediate vicinity; the strength of its natural situation, and by its fortifications. The requisite measures for the defence of the town of Boston will always give protection to a naval establishment situated within its waters; and, from its naturally strong situation, it may be made defensible against a naval force with small expense. There cannot probably be brought to the defence of any place in the United States, within the same time, so numerous and well organized militia as can be brought to the defence of Boston; for accurate information on this point I refer to the report of the adjutant general of the State of Massachusetts, a copy of which is annexed, marked B.

It is a situation difficult of blockade. This fact is shown by the events of the late war, during which the frigates of our navy entered and departed from this port twice as often as from all the other harbors of the United States together. The list herewith accompanying, marked C, shows the number of times our ships of war entered and departed from the port of Boston during the late war.

It has a numerous body of mechanics, and the price of labor is low. Its advantages on this point can be proven by the records of the Navy Department, particularly the low price of mechanical labor.

15th CON. 1st Sess.—78

It is a large and commercial town, abounding in artisans well skilled in all the variety of arts necessary for the building and equipping of large ships.

It is favorably situated for obtaining timber for ship building, and for masts and spars. The country near Boston has the best of white oak timber, which is brought in large quantities, and the Middlesex canal communicating with the Merrimack river, and through that river to the State of New Hampshire, opens an ample source for the supply of timber for years to come; continuations of this canal, connecting it with other water carriage, are in contemplation, which promise to supply all the timber that may be required, and of an excellent quality. The advantageous situation of Boston for the supply of timber to build, repair, and mast and spar ships of every size was fully demonstrated, during the late war, in the building of a seventy-four and a twenty-four gun ship; in repairing several frigates and several sloops of war, the materials of which were all drawn from Boston and its vicinity, and through the Middlesex canal, and which it would have been very difficult, if not impracticable, to have procured by the way of the ocean, in consequence of the superior marine force of the enemy on the coast.

It is favorably situated for the construction of dry docks, though it may be conceded that they can be built at Portsmouth or Fall river for a less sum than at Boston. As the difference, however, in this expenditure is merely the difference in the first cost of the docks, it cannot be brought in comparison with the saving which, from the possession of other and superior advantages, would be realised in a few years in the daily and continued expenditures which attend such establishments. And as docks can be as well constructed at Boston as at either of the other places, the difference of the expense in the construction ought not, in my opinion, to be entitled to any importance in the selection of a place suitable for a dock-yard, depot, and rendezvous. If it were, however, a circumstance deserving consideration, when put in opposition to other advantages already mentioned, it must lose its weight when compared with the situation of Fall river, or any other place requiring extensive fortifications, and the support of large military establishments for the sole purpose of protecting a naval depot, as also the necessity of paying the mechanics who may be employed higher wages to induce them to locate at a new establishment, out of the vicinity of a populous town, and where also there is a deficiency of timber and other materials for ship building, and of provisions and all kinds of stores.

The facility of obtaining provision and seamen. In these advantages Boston, in my opinion, stands unrivalled. The provisions put up at this place are of the very first quality, and seamen can generally be obtained more readily than at most other ports. All those articles, also, which are generally required for ships of war, and naval purposes, can be procured here in as sufficient quantity,



## Defence of the Maritime Frontier.

and on as good terms, as at any other place; the advantages it possesses on this head, it is believed, will be fully corroborated by the numerous contracts which have been made at this place by the Navy Department for the supply of the Navy.

*Providence river* has barely a sufficient depth of water for large ships, and the channel below Gasby point, which is the best situation on the river for a naval depot, is too narrow for a ship to turn to windward; consequently long delays might arise in getting to sea from the establishment, which, if located at this place, would require extensive fortifications for its protection, in addition to those which would be necessary for the defence of Newport harbor.

*Fall river* is favorably situated for the construction of dry docks, and this, in my opinion, is the only advantage it possesses for a naval depot. There is in its vicinity some timber for ship building, but not in large quantities, and, from the best information I could procure, would soon be exhausted. In approaching it in ships there is a shoal of three quarters of a mile in extent which must be passed, and which has only seventeen feet at low water; the tide rising here only five feet does not produce a sufficient depth, even at high water, for ships-of-the-line to pass when prepared for sea. A naval establishment at this place would require, for its special protection, extensive fortifications, and a large military garrison; and to enable ships to get to sea the channels, on the east and west side of Canonicut island, must, in a state of war, be at all times commanded.

To protect the outlet to the ocean from Fall river, which is the harbor of Newport, it is the opinion of the commissioners, and the officers of the corps of engineers co-operating with them, that, in addition to those already erected, the following mentioned fortifications, together, with the filling up of the western channel of Canonicut, would be required, that is to say:

A fort on Dutch island.  
A fort on Canonicut island.  
A fort and entrenchments extending from Beaver-tail cove to the Dumplings.  
To occupy the Dumplings.  
Fortifications on Brenton's point and Telegraph hills.

Fortifications on Tammany hill, and on Hunneman's, overlooking Eaton's beach.

A fort on Coaster's Harbor island, and a strong fortification on Rose Island.

A fort on Balt's hill, and  
Tiverton heights to be occupied.

For a more minute detail of the requisite fortifications, a reference is made to the report of the commissioners appointed to examine the practicability of defending Newport harbor. From this statement it is obvious that fortifications of such extent would require a very large military force to defend them; and which, in a state of war, must be constantly kept up, as it would be impracticable to man, on an emergency, such extensive works from the surrounding population.

The vicinity of Fall river to the waters of Sea-

connet passage, and of Buzzard's, render it accessible to an enemy who may approach by water within seven to ten miles, and who could march through the country, of not a very dense population, to Fall river. It may, therefore, be asserted that it will not only be necessary to completely defend the island of Rhode Island, but also to erect fortifications, and maintain a force at Fall river sufficient to defend it against any attack that might be made by land. The magnitude of the fortifications, and military force necessary for this purpose, is, in itself, an objection sufficient, in my opinion, to render the location of a naval depot at this place highly inexpedient.

*Newport* has already been mentioned in relation to the fortifications necessary to protect it. It has a good harbor, is accessible at all times of tide, and in all seasons of the year. It is worthy the attention of Government as a port favorable for the ships of our navy occasionally to enter. From my examination of the waters of Rhode Island I am decidedly of opinion that the most favorable situation for a naval depot, within those waters, is between Bristol ferry and Mount Hope bay, marked M on the chart, made from Captain Evans's survey in 1815. But I do not think that situation equal to several others in the United States.

*New London.*—This has an excellent harbor, accessible at all seasons of the year, at all times of tide, and unobstructed by ice. It is, in many respects, well calculated for a naval depot, having a very good situation at Comstock point, on the river Thames. But the ease with which it may be blockaded, as was proven in the late war, should be an insuperable objection to its being selected for such an establishment as is contemplated by the resolution of the Senate of the United States.

*New York.*—This port, possessing many of the great advantages necessary for a large naval establishment, has a bar at the southern entrance of its harbor, on which there is but twenty-two feet six inches at low water, which will not admit ships of war of the large class to pass at that time of tide. In winter the harbor is obstructed by drifting ice. It possesses the advantages of great population and excellent artisans, which gives security in a state of war, and great facility at all times in building and equipping a navy. It has two outlets to the ocean; consequently would require a double blockading force to keep vessels within its port. Frog's point, fourteen miles above the city, is an excellent harbor, but requires fortifications. This point, and the opposite point on Long Island, are most favorably situated for the defence of the outer harbor to the port of New York through the sound. It is the key of the sound, and, in my opinion, ought to be immediately fortified. New York is so important a place for a naval establishment that, although I do not consider it has all the advantages Boston possesses, particularly as it is not accessible at all times of tide, and as vessels lying in the harbor, in winter, are exposed to danger from the floating ice, I am firmly of opinion, un-

## Defence of the Maritime Frontier.

der every view of the subject, that, next to Boston, it is the most suitable place for such an establishment, and one worthy the attention of Government as a naval depot.

Having thus detailed the advantages of the several places had under examination by the commissioners appointed for that purpose, and considering that a place suitable for the location of an establishment, such as is contemplated by the resolution of the Senate, should possess, if possible, the advantages recited in this report, I feel bound to express my perfect conviction that Boston is the most eligible situation, in every respect, for the establishment of a naval depot, rendezvous, and dock yard. I will add one other consideration which, though it may not appear to some as important, is, in my opinion, deserving of attention. The establishment is of a nature that should be permanent, and looking forward to the time when the navy of this country may be expected not only to prevent a blockade of our coast, but even to extend its operations on the coast of America to the northeast of the United States; the situation of Boston as a naval rendezvous, in such an event, would have a most important advantage over Fall river in its acces-

sibility by avoiding the shoal of Nantucket, the most dangerous shoal on our coast.

Although, sir, it may appear irrelevant in this report to offer a further opinion, I will, nevertheless, venture to give it, trusting in the purity of my motives for so doing, and in the liberality of the Government to receive opinions when respectfully submitted.

So extensive a coast as that of the United States requires at least three considerable naval arsenals. Geographical situation appears to me to mark decidedly Boston, New York, and Norfolk, as the proper sites. Boston for the eastern section of the country, New York for the middle, and Norfolk for the southern. All these three possess the great advantages of a numerous population for the security of the establishments, susceptibility of defence, and the sufficient and cheap supply of materials and mechanics for the building, repairing and equipping of ships.

I have the honor to be, &c.

WM. BAINBRIDGE.

Hon. B. W. CROWNINGSHIELD,  
Secretary of the Navy, Washington.

## A.

A statement of the number of vessels which were entered and cleared from and for foreign ports, at the custom-house in Boston, in the months of January, February, and December, for three successive years, viz: 1814, 1815, and 1816, designating the number for the first, second, and third parts of each month; exhibiting also the number of coasters which did actually enter and clear in the months and years aforesaid, and the estimated number of coasters which arrived and departed without entering or clearing at the custom-house, during the same periods.

1814.	Entered.	Cleared.	1815.	Entered.	Cleared.	1816.	Entered.	Cleared.
From the 1st to the 10th January - -	3	1	From the 1st to the 10th January - -	-	1	From the 1st to the 10th January - -	13	12
Do. 10th to 20th - -	1	1	Do. 10th to 20th - -	-	4	Do. 10th to 20th - -	5	13
Do. 20th to 31st - -	2	4	Do. 20th to 31st - -	-	1	Do. 20th to 31st - -	16	11
	6	6		-	6		34	36
From the 1st to the 10th February - -	2	2	From the 1st to the 10th February - -	2		From the 1st to the 10th February - -	10	17
Do. 10th to 20th - -	5	1	Do. 10th to 20th - -			Do. 10th to 20th - -	3	9
Do. 20th to 28th - -	2	2	Do. 20th to 28th - -			Do. 20th to 29th - -	10	8
	9	5		2			23	34
From the 1st to the 10th December - -	-	1	From the 1st to the 10th December - -	13	15	From the 1st to the 10th December - -	17	17
Do. 10th to 20th - -	-	3	Do. 10th to 20th - -	27	13	Do. 10th to 20th - -	20	27
Do. 20th to 31st - -	-	2	Do. 20th to 31st - -	15	18	Do. 20th to 31st - -	7	11
	-	6		55	46		44	55



## Defence of the Maritime Frontier.

Statement A.—continued.  
COASTERS.

From the 1st to the 10th January -	3	48	From the 1st to the 10th January -	7	4	From the 1st to the 10th January -	12	54
Do. 10th to 20th -	13	27	Do. 10th to 20th -	10	8	Do. 10th to 20th -	39	25
Do. 20th to 31st -	24	18	Do. 20th to 31st -	7	3	Do. 20th to 31st -	25	44
	40	93		24	15		76	123
From the 1st to the 10th February -	10	23	From the 1st to the 10th February -	1	1	From the 1st to the 10th February -	21	30
Do. 10th to 20th -	27	13	Do. 10th to 20th -	4	3	Do. 10th to 20th -	18	22
Do. 20th to 28th -	47	60	Do. 20th to 28th -	6	2	Do. 20th to 29th -	31	33
	84	96		11	6		70	85
From the 1st to the 10th December -	3	7	From the 1st to the 10th December -	41	70	From the 1st to the 10th December -	60	55
Do. 10th to 20th -	6	7	Do. 10th to 20th -	46	69	Do. 10th to 20th -	29	60
Do. 20th to 31st -	12	10	Do. 20th to 31st -	34	83	Do. 20th to 31st -	40	56
	21	24		121	222		129	171

## RECAPITULATION.

Total number of coasters which entered and cleared in the Winter of 1814 -	358
Estimated number of coasters which did not enter or clear -	358
Total number of vessels entered and cleared from foreign ports in the Winter of 1814 -	32
Total number of coasters which entered and cleared in the Winter of 1815 -	241
Estimated number of coasters which did not enter or clear -	241
Total number of vessels entered and cleared from foreign ports in the Winter of 1815 -	109
Total number of coasters which entered and cleared in the Winter of 1816 -	654
Estimated number of coasters which did not enter or clear -	654
Total number of vessels entered and cleared from foreign ports in the Winter of 1816 -	226

Total - - - - - 2,873

Whole number of vessels arrived and departed in the Winter of 1814 -	748
Do. do. do. 1815 -	591
Do. do. do. 1816 -	1,534

2,873

## B.

## Commonwealth of Massachusetts:

ADJUTANT GENERAL'S OFFICE,  
BOSTON, November 1, 1817.

DEAR SIR: In answer to your letter of the 22d ultimo, I would hereby certify that thirteen thousand one hundred and eighty-two militia are enrolled in the infantry, seven hundred and sixty-four artillery, and six hundred and sixty-five cavalry, within twenty miles of Boston, amounting to fourteen thousand six hundred and eleven men, and may be assembled in this place, in time of alarm, within twenty-four hours. To this number may be added the exempt and others, who might be brought into service on a special occasion, three thousand five hundred more; making an effective force of eighteen thousand one hundred and eleven men.

Six thousand may be assembled in ten hours in Boston. Within thirty miles, a force of the same description, of twenty-four thousand five hundred, in forty-eight hours; within forty miles,

in ninety-six hours, thirty thousand. In the late war, some companies arrived in Boston in five days from ninety-five miles distance. I am, &c.

E. MATTOON, Adjutant General.

Commodore BAINBRIDGE.

## C.

Table showing the number of times of arrival and departure from the port of Boston of the vessels of the Navy during the late war with Great Britain.

Frigate Constitution -	7
Frigate President -	4
Frigate United States -	2
Frigate Chesapeake -	3
Frigate Congress -	4
Sloop Hornet -	2
Sloop Frolic -	1
Sloop John Adams -	1
Brig Argus -	2
Brig Nautilus -	4
Brig Rattlesnake -	2
Brig Siren -	2

## Defence of the Maritime Frontier.

BOSTON, September 13, 1817.

The undersigned, appointed by the President of the United States, in conjunction with General Swift, of the corps of engineers, to examine Castine, in the Penobscot bay, and the waters adjoining, with a view to ascertain its importance as a military position, and the practicability of fortifying it, having attended that duty, has the honor to submit the following observations and reflections:

The Penobscot is a spacious bay, containing many excellent harbors, the borders of which, and the islands within it, are in a state of improved cultivation, and possess considerable population. Castine is situated on a promontory, nearly at the head of the eastern side of the bay. It has an excellent harbor for any number of ships of the largest size, has bold water, and is accessible at all seasons of the year. The promontory is connected with the main by a narrow isthmus.

Proceeding up the river from Castine to Buckstown, the river is divided by Orphan island, the western channel of which is alone used for the passage of large vessels. This part of the river, nearly opposite Buckstown, is what is termed the Narrows, and has been thought by some as a suitable place for extensive fortifications.

Castine has great strength from its natural situation, and, if proper batteries were erected, might almost bid defiance to an attack. From the narrowness of the isthmus which connects it with the main, it could be insulated without much labor or expense; and this mode of defence, in addition to strong batteries, would, if in the possession of an enemy who had the superiority at sea, render it impregnable. In its present situation it might easily be taken, and, when taken, could be held with a comparatively small force. From an attentive examination of the bay and river Penobscot as high up as Buckstown, it is believed that an enemy cannot possess himself of any position along the waters of the Penobscot, (Castine and the islands within the bay excepted,) without leaving in his rear places advantageous either for driving him from the points he might possess, or for cutting off his retreat; the surface of the country along the river presenting innumerable military positions. The importance, therefore, of fortifications at the Narrows, near Buckstown, is of minor consequence when compared with the defence and possession of Castine, since an enemy would hardly dare to proceed up the river until he secured the command at the entrance.

The very great importance which has been attached by the British to the possession of this place has been proved by the events of the late and of the Revolutionary war; and the consequences which would evidently result to this portion of the country from an early and continued occupation of Castine by an enemy are so obvious, as to supersede the necessity of dilating upon the subject.

Its bold water and excellent harbor, affording shelter for the largest fleets, its accessibility at

all seasons of the year, its favorable situation for the entry of prizes, and, above all, its geographical situation, communicating in a few days' sail with Halifax, and, by a short route up the Penobscot, with Quebec, giving a command of all the intermediate country from the Penobscot to the St. Croix, make its possession an object of the highest consequence, in the event of another war with Great Britain.

The undersigned is fully of opinion that Castine may be fortified, without great expense, so as to resist any force which would probably be brought against it; and that its importance is great, and such as to merit the high consideration of the Government.

WILLIAM BAINBRIDGE,  
United States Navy.

UNITED STATES NAVY YARD,  
NEW YORK, October 30, 1817.

SIR: In obedience to the orders received from the Navy and War Departments, the undersigned, commissioners, officers of the United States Navy and Corps of Engineers, have examined the ports and harbors east of the Delaware bay as far as Portland. From Portland to Penobscot bay, was examined by only two of them.

The undersigned respectfully submit to the Departments of Navy and War, their opinions of the several harbors and ports which they have examined, in relation to their importance as rendezvous for ships of war, and for depots; and also of their susceptibility for defence.

In examining the chart of the American coast, we find various positions that might be very advantageously occupied for naval purposes in time of war. There are a number of harbors which afford convenient rendezvous for ships of war; and which contain sites for depots and for national defence. They also combine facilities for the organization of naval expeditions. Some of these harbors should be occupied by the United States, not only for the purposes desired, but also to prevent any enemy of great naval power from taking possession of them for similar purposes in time of war. Possessed of these positions, such an enemy would be enabled, by their advantages, to increase the evils of blockade, and perhaps to prolong the contest. The positions presenting the most importance in respect of good harbors, depots, and defensible sites, are to be found in the waters of the Chesapeake and Narraganset bays.

Of the harbors which the commissioners have examined they have the honor to state as follows:

*Penobscot bay in the District of Maine.*—This bay is one of the most spacious in the United States. It is of easy access and contains two positions which can be perfectly fortified, to wit: Castine and Fort Point. These positions afford in their immediate vicinity good anchorage. The advantages which this bay possesses in the general view abovementioned, are much enhanced



by its situation, in relation to Canada and Nova Scotia. The route into the former country is direct upon the waters which disembogue at this bay, and which approach the Chaudier emptying into the St. Lawrence. Although the United States possess harbors nearer to Nova Scotia than Penobscot bay, yet, from a combination of advantages, it commands a preference, because it seems better to unite, in one position, the convenience of a good harbor, the benefits of a naval depot, and the superiority of ground for fortification, than to possess them separately. It must be acknowledged that while an enemy possess the command on the ocean, Penobscot bay could be blockaded, which, in time of war, would reduce the United States to the necessity of transporting by land munitions, &c., not in depot at Castine or Fort Point. The sketch of the bay will present to view the points mentioned. These observations on Penobscot bay are made from the examination of it by Commodore Bainbridge and General Swift.

**Portland, District of Maine.**—At this place all the commissioners met and proceeded to examine with the views submitted in their instructions. Relative to a navy yard or depot, the harbor offers one position at Portland-head near the Sack Cove, sufficiently capacious for such a Naval Establishment, as will be seen by consulting the sketch of the harbor. This harbor and site for a depot, can be defended by strengthening the present works, by constructing enclosed works in the rear of forts Scammel and Preble, by occupying Rennie's island with an enclosed work, and the height in Yarmouth also, as indicated upon the sketch. The harbor of Portland is not large, though in every other particular it is a good one, easily entered, and is a convenient harbor for a squadron to "make" occasionally.

**Portsmouth Harbor.**—This harbor is of easy access, and has an abundance of water, though from its confined and deep channel the tide runs with too great a velocity to allow a fleet to manoeuvre or to anchor in it with safety. It has already a building establishment, and, in the opinion of the commissioners, it would be advisable to retain this yard on account of the excellent ship timber to be found in its vicinity. The defence of this harbor is not difficult; the strengthening of the present works, and an enclosed work on Sullivan's or Trefethern's island, would secure the harbor from any naval inroad.

**Salem, Cape Ann, and Marblehead Harbors.**—None of these harbors are sufficiently capacious, or otherwise well situated for any other naval purposes than occasional harbors.

**Boston.**—This harbor is well known to be amongst the most important, in a commercial point of view, in the United States. It is capacious, and can be entered by any vessel of war. Reports have been in circulation that a bar exists at the mouth of this harbor. The commissioners have so far ascertained that this report is unfounded, as that there are on this bar four and one quarter fathoms of water at low tide. The commissioners having examined this important point,

with a view of determining its comparative value, are of opinion that Boston harbor possesses many advantages resulting from its natural means of defence, and its ample space for anchorage in the lower harbor and Nantasket roads. Other advantages are to be found in the proximity of the present establishment to materials for naval construction, in the dense population of the town and its vicinity. But from the uncertainty of entrance into this harbor, and that a fair wind is requisite to enter President Roads from those of Nantasket; and that the harbor is occasionally obstructed by ice; from the difficulty of getting to sea in easterly weather; from its susceptibility of blockade, situate as it is, at the bottom of the bay, and from the dangerous navigation of Boston bay in the Winter season, the commissioners are of opinion (with one exception) that it is advisable to retain the present establishment, connecting with it a dry dock, for occasional building and repair, but that it is not advisable to establish a great national depot and rendezvous at this place. The harbor can be secured from maritime attack by occupying George's and Long Island, and by strengthening the defences of the works on Castle, Governor's and Noddle's island.

**Rhode Island Harbor and Narraganset bay, Watch Hill, Fisher's Island Sound, and New London Harbor.**—The examination of these waters has convinced the commissioners that they are of great national value, not only in a naval point of view, but also in that of defence. The connexion of them, which is here made, is intended to exhibit the opinion of the commissioners that in naval as well as in commercial operations the power of maintaining this connexion should be preserved as far as may be practicable, and indeed extended, were it within reasonable means, by the line across the sound from the western extreme of Fisher's Island by the Race and Gulls to Gardner's bay. But the distance exhibited on the map from Fisher's Island to the Gull, the rapidity of the tides, and great depth of water, the distance from the Gull to Gardner's bay, and the distance of good anchorage in Gardner's bay from that island are such as to preclude, in the unanimous opinion of the commissioners, the hope of extending a line of defence by permanent fortifications from Fisher's Island to the bay just mentioned. The use of steam batteries in these waters would, in the opinion of the commissioners, aided by a supporting fortification on Gardner's Island, form an important and imposing obstacle to the occupancy of these waters by an enemy who may possess a greater naval force than the United States. For all the objects of naval rendezvous and national defence, the commissioners agree unanimously in the opinion herein expressed, in relation to the waters of Narraganset bay, the sound, and New York. The commissioners, except one, are of opinion that Narraganset bay presents the best site for a naval depot in the Union, north of Chesapeake bay, for the following reasons: The population within two days' march of this bay is equal if not superior to any section of the Union of equal area;

consequently, the means of defence which a dense population affords is to be found in the vicinity of it in an equal degree with any other point on the coast. Because, in a geographical view, this bay and that of the Chesapeake, for the two great points on the seacoast conveniently situated as to distance from the Atlantic extremes of the Union, affording mutual advantage to affect a concentration of any naval force, and the line of their communication would afford to such a force the means of protecting important intermediate positions, to wit: the Delaware, New York, and Long Island sound, because, particularly, as it relates to Rhode Island harbor, it is very accessible from sea at all seasons of the year; it affords capacious harbors, can be entered from the ocean, and the ocean can be reached from it in a few hours' sail; because it can be entered when the wind is northwest, and because it is not susceptible of a continued blockade: nor is it obstructed by ice. An examination of this bay has satisfied the commissioners, with one exception, that the best site for a great naval depot east of the Chesapeake bay is to be found in this bay, and the various positions upon the waters of it. The sites are Gaspe Point, Mount Hope bay, near Bristol, the basin, and Fall river. The basin at the northern extremity of Rhode Island, formed by the north part of the eastern passage, and the stone bridge at Howland's Ferry, and Fall river, at the margin of Taunton river, present the best sites. Both have great advantages; the first, from its accessibility, and from the circumstance that the defence of Rhode Island will include that of this position. The latter named place has natural means for forming dry docks, and to propel machinery by its falls. Inasmuch as the water of Watupor South Pond, can be conveyed by conduits to the basin, and as the site at Fall river would involve an extensive line of defence, the commissioners prefer the Basin. The commissioners have received information that an abundance of oak timber, iron ore, and of workmen, can be procured within a range of thirty miles from this Basin. The line of defence for Rhode Island harbor, including that of the depot, is indicated upon the map commencing at Dutch Island in the western passage between Canonicut Island and the main land, and extending by the Dump-lins, Brenton's Point, Tammany Hill, Butt's Hill, to Tiverton Heights.

In relation to the connexion before mentioned of the harbor of Rhode Island and those near Watch Hill, Fisher's Island sound, and New London, the line of defence upon these positions is indicated on the map. Ships-of-war and merchantmen in coming from sea, could, in a north-east wind, make the harbor by Watch Hill and Fisher's Island, or could reach New London harbor, without being cut off by an enemy occupying Gardner's bay. From these positions a westerly or southerly wind would enable fleets to run through Fisher's Island sound by Watch Hill to Rhode Island harbor, without incurring the danger of being intercepted by any vessel lying in Gardner's bay. The harbor of New London is

of very easy access, and is capacious and safe; and in relation to the line through Fisher's Island sound, is deemed a very valuable harbor. An abundant depth of water extends from New London to Comstock Point. This point has many advantages for a naval depot; the commissioners, however, with the exception before mentioned, prefer Narraganset bay, for reasons which have been assigned.

**New York Harbor.**—This harbor presents itself in a twofold view, inasmuch as it has a double communication with the ocean, and is connected with Canada by means of the Hudson and Lake Champlain. These views deservedly attach a great importance to New York harbor for naval and military purposes. Any ship of war can enter this harbor from the ocean, by Sandy Hook, or through the sound, and, although the commissioners do not deem it advisable to establish a large naval depot and rendezvous at this place, yet they advise the occupancy of the present yard for occasional depot, building and repairs, and for a dry dock. This depot should be established to insure naval supplies, and to aid such military operations as a state of war may render necessary. This harbor may, from the sound side, be considered as, in some degree, connected with New London, and more particularly so, as Frog's Point, at the entrance of the sound, offers a site for a fortification, which would amply secure an outer harbor to that of New York. There is an abundance of water and good anchorage near this point. New York harbor is occasionally obstructed with ice. The commissioners were, from unavoidable circumstances, prevented meeting and commencing their examinations until the 21st of July. The time in which it was necessary to make up their report has not been sufficient to enable them to enter into details of survey, or of calculation as to the expenses of constructing forts at different places. These calculations require much time, as they refer to the fortification of as many sites as shall be selected for defence between Penobscot Bay and New York. It may with propriety be said, that the expenses of constructing fortifications cannot be estimated from the data furnished by the costs of the works that have been heretofore erected. These works have been, in almost every instance, constructed upon the scale of redoubts, and not upon that deserving the name of fortifications.

The commissioners have, in their survey and examination, only determined where it would be best to locate a great naval depot, and where sites for defence should be selected. They are convinced that the impracticability of defending the entrance into Long Island sound from the western point of Fisher's Island to the Gull's and Gardner's bay. They are convinced that the entrance through Fisher's Island sound may be defended. They have indicated the positions which should be occupied for defence. They have decided that Frog's Point can be so secured as to form a good outer harbor to New York, and an inner harbor from the side of the sound.

If the positions recommended should be deemed



*Privateer General Armstrong.*

of sufficient importance to be occupied, engineers should be sent to make the most minute surveys, so as to determine the position and form of the works, which, when constructed, are to last many years, and which in their construction must involve a great expenditure. As to the expense of constructing docks, &c., the remark in relation to details of fortifications will equally apply to these constructions. The enclosed memorandum, relative to timber, workmen, and iron ore, is furnished for reference. Commodore Bainbridge will communicate his own opinion upon the subject of a great depot, as he does not agree with the other commissioners in recommending the location of such a depot in Narraganset Bay.

We have the honor to be, &c.,

J. G. SWIFT, B. G.,  
SAMUEL EVANS,  
O. H. PERRY.

Hon. B. W. CROWNINSHIELD,  
*Secretary of the Navy.*

OLD POINT COMFORT,  
*Hampton Roads, Jan. 24, 1818.*

The undersigned, commissioners appointed to examine the lower part of Chesapeake bay, Hampton Roads, and York river, for the purpose of determining whether the entrance into the former could be prevented by fortifications extending from the Horse Shoe to the Middle Ground, whether the latter could be so fortified as to prevent the entrance of a hostile force, have the honor to state, that, from various causes, they were not enabled to assemble until the latter part of the month of December, 1817; that they commenced to discharge the duty assigned them on the 1st of January, 1818, at Old Point Comfort. From the advanced stage of the season, and the consequent uncertainty of having such weather as would enable the commissioners to effect a thorough examination of the waters of Chesapeake bay, and the entrance of York river, they recommend that the execution of their duty in relation to those places may be postponed until the first of May next.

To the date of this report from the 1st of January, the commissioners have been employed in surveying and examining Old Point Comfort, the Rip Rap shoals, and the entrance into Hampton Roads. The result of this examination is a conviction, on the part of the commissioners, that the passage into those roads can be so fortified as to prevent the entrance of any hostile fleet. The extent and efficiency of such fortifications will depend upon the decision of the Government as to the length of time which the works should be enabled to withstand the attack of a combined naval and land force, of a given magnitude.

If the amount of resistance to be made at this pass be merely an obstruction of the entrance into Hampton Roads, without any reference to a land attack, the commissioners believe that competent water defences may be constructed to such an effect. As, however, the object of forcing an entrance into Hampton Roads might be

deemed by an enemy worth the expense of a regular siege, the commissioners deem it their duty to recommend a system of defence equal to such an exigency. Such a system should embrace the occupation of the Rip Rap shoal with a castellated fort; the channel between that shoal and Old Point Comfort with a boom raft; and Old Point itself with an enclosed work: the whole to be so located as to afford a mutual protection, and to embrace, in the total, the power to resist any force which may be brought against the pass into Hampton Roads. The commissioners have not, as yet, been able to collect sufficient data to authorize them to offer you a complete plan. The magnitude of the work may affect the prices of materials and workmanship; and, as the nature of the substratum at the sites has not yet been sufficiently ascertained, no determinate amount of expense can be estimated upon which the commissioners can with safety rely.

For a general view of the subject, the commissioners present the enclosed charts, which will exhibit the positions that should be occupied, and may enable you to form some opinion of the approximate expense which the adoption of the system would involve; in aid of which, they also enclose an estimate for a work on the Rip Rap shoal, which is predicated on the supposition that the substratum of that site is solid, and upon the usual prices of materials and workmanship in this section of the Union.

It is the wish of the commissioners to lay before you their reasons in detail upon the proposed system; to which effect, the commissioners can with usefulness employ their time till May next, in acquiring further information, and in digesting as perfect a plan as the nature of the case will admit. The commissioners deem it their duty to state to you that Majors Roberdeau and Kearney, and Lieutenant Blaney, have attended the commissioners, and have, by their assiduous attention, been materially beneficial in surveying and drawing.

Respectfully submitted.

J. G. SWIFT, B. G.  
L. WARRINGTON,  
W. K. ARMISTEAD,  
W. McREE.  
J. D. ELLIOTT.

Hon. B. W. CROWNINSHIELD,  
*Secretary of the Navy.*

#### REWARD TO THE OFFICERS AND CREW OF A PRIVATEER.

[Communicated to the House, March 4, 1818.]

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the petition of Samuel C. Reid, captain of the late private armed brig the General Armstrong, on behalf of himself, the officers and crew of the said brig, report:

It appears from the petition, and other docu-

*Privateer General Armstrong.*

ments, that the circumstances which gave rise to the application, were in substance the following:—Captain Reid, in the private armed brig the General Armstrong, of seven guns and ninety men, left the port of New York on a cruise, early in September, 1814; on the 26th of the same month they came to anchor in the port of Fayal, one of the Azores or Western Islands, belonging to the Crown of Portugal; in the evening of the same day, a British squadron, consisting of the Plantagenet of seventy-four, the Rota of forty-four, and the Carnation of eighteen guns, under command of Captain Lloyd, anchored in the same port. During the night, which was entirely clear, the moon near or at the full, and shining brightly, which enabled the Americans to examine accurately, and observe distinctly the movements of the enemy, four boats full of armed men were observed to be approaching the Armstrong, from the smallest of their vessels which lay near; Captain Reid hailed them repeatedly to know what were their views; no answer being returned, and the boats continuing to approach orders were given to fire upon them, which were instantly obeyed with destructive effect, and after a short contest the boats retreated to their ships. It was soon discovered that the enemy were making preparations to renew the attack, which was commenced about midnight, with twelve or fourteen boats, containing, as was supposed, about four hundred men completely armed and prepared. After a most obstinate, and, on the part of the enemy bloody contest, which lasted about forty minutes, they were entirely frustrated in their attempts to carry the brig, and again retreated to their ships. In this contest several of the enemy's boats were destroyed, and two of them taken possession of by the crew of the Armstrong, literally filled with dead. After the second retreat of the enemy, the greatest exertions were used by the Americans to prepare their vessel for action in case of another attack. About this time, Captain Reid received a note from Mr. Dabney, the American Consul, requesting to see him on shore; when he repaired thither, the Consul informed him that the Portuguese Governor had addressed a note to the commander of the British squadron, protesting against his violating the neutrality of the port, and requiring him to cease from further outrage on those whom it was his duty to protect. To this note Captain Lloyd returned a menacing reply, that he would take the Armstrong at every hazard, and if she was injured by her crew, he would consider the place as an enemy's port, and treat it accordingly. During the last action with the boats, the Armstrong lay within pistol-shot of the castle. Captain Reid then returned on board his vessel, and about day-break a cannonade was commenced from one of the enemy's vessels on the Armstrong. Thus situated, finding the enemy determined to persevere in their outrage, and from the immense superiority of their force, knowing it would be impossible to save his vessel, Captain Reid, having due regard for the safety of his comrades who had so nobly supported him, determined

to scuttle her and leave her; this he did, when she was immediately set on fire by the enemy and destroyed. In these several contests, from good information, there is reason to believe the loss of the enemy, at a moderate calculation, amounted at least to two hundred and fifty men in killed and wounded; that of the Americans was two killed and seven wounded. The petition further states, that this British squadron was on its way to the West Indies to join the force destined to make an attack on New Orleans; that in consequence of the injury which they sustained, their junction was so much retarded, and the expedition so much delayed, that the Americans had time to prepare for the defence of that place, which, but for this circumstance, could probably not have been effected. The petition concludes with a prayer that Congress would bestow something on those who so gallantly defended the American flag, under circumstances so hopeless; and who in the contest lost nearly the whole of their little all.

This case has engaged much of the attention of the committee. They do not believe that the annals of our Government furnish a precedent of rewards bestowed on men situated as were the crew of the Armstrong, not in the public service. They are fully aware also of the weight attached, and justly attached, to precedents which have been settled on due consideration; it would, therefore, be with much reluctance, they would consent to establish one, to which an appeal might be made in future cases, somewhat analogous in principle. But on mature reflection, apprehensions from the precedent which may be established by this case are much diminished. It will not be going too far, in the opinion of the committee, to say, that among all the achievements which embellish the annals of the late war, there was not one which surpassed that now under consideration. A few brave men in the middle of the Atlantic ocean, who had no personal interest in the preservation of the vessel they defended, and the mere preservation of which, without a miracle, must have been impracticable, could have been actuated by nothing short of the noblest motives which impel men to the achievement of valiant deeds; those motives could have been only their honor and the glory of the flag under which they fought. They knew well the high value which was placed by their country on the rising reputation of their infant navy; they knew it was all-important that that reputation should be sustained by Americans in whatever situation they might be placed: and impelled by these generous motives, and these alone, they hazarded everything to accomplish their object. They succeeded; and though, after two complete victories, the second gained under circumstances of the greatest inequality, they were ultimately obliged to yield to a superior force, yet the honor of the flag was supported, and the American character raised to an elevation calculated to produce the most beneficial effects. Should this Congress bestow on these gallant men some mark of their bounty, the committee think it would be



well bestowed; and should it have the effect of producing similar exertions in future wars, and this precedent be pleaded in support of similar applications, they do not believe the country will have cause to regret the application of a small sum to a purpose so beneficial. From all the circumstances of the case, the committee recommend to the House, the passage of a bill herewith reported, to divide among the officers and crew of the Armstrong the sum of ten thousand dollars.

*To the honorable the Congress of the United States, in Senate and House of Representatives convened:*

The memorial of Samuel C. Reid, late commander of the private armed brig General Armstrong, on behalf of the officers and crew of the said vessel, respectfully sheweth:

That on the 26th September, 1814, the said vessel being at anchor in the port of Fayal, and having on board a crew of ninety men, and seven guns, was attacked by a superior force under the command of Commodore Lloyd, and that the said vessel was finally burnt and destroyed.

For the details of that action, your memorialist refers to the letter of John B. Dabney, Esq., then Consul for the United States at Fayal, to the Secretary of State, dated 5th October, 1814.

It would not become your memorialist to speak of the merit (if any there was) of the officers and crew of the Armstrong in that action. He may, nevertheless, be allowed to state as a fact, that the squadron with which they engaged was a part of that armament which was destined to make the descent upon New Orleans, and that the injury sustained by this squadron in the action above mentioned, delayed for a time its junction with the fleet then in the West Indies, and thus retarded the progress of the expedition, which gave time for the brave Jackson to collect and arrange his forces.

The officers and crew of the Armstrong do not arrogate to themselves any personal merit, by reason of events and consequences which they could not have foreseen. Yet if, by the faithful discharge of their duty as citizens, they have, under Providence, been the instruments in effecting a great public good, they may hope thence to derive a fairer claim to the notice of their Government.

The memorialist, on behalf of the said officers and crew, begs leave further to observe, that when they were attacked by a force so vastly superior, and when there was no longer a hope of successful resistance, or of the preservation of the vessel, they would have been justified to the owners, and would perhaps have escaped the reproaches of their fellow-citizens, if they had abandoned their vessel, and sought only their personal safety. But they owed a duty to their country, and it was this impulse alone that could induce them to make such resistance at the expense of their lives and property, no other object being in view; and they do hope, therefore, that their case may not be confounded with that of those who

may have fought bravely from the mere prospect of gain.

The officers and crew of the Armstrong had not the advantages of being in the immediate employ, nor of enjoying the pay and emoluments of Government; but they have been led to presume that a service rendered to their country is not the less meritorious for having been performed without the obligation of contract, or previous stipulation for reward.

It may be true that valiant deeds are not to be rewarded with money, yet the practice of our own Government, and that of every civilized nation in the Old World, testifies their opinion, that sound policy requires, that the citizens or subjects who perform such deeds as attract the notice of Government, should not want the means of decent support; and Congress have deigned to bestow, and our naval heroes have not declined to receive, pecuniary reward for services they may have rendered their country in the destruction of men and ships of the enemy.

It is with great reluctance and hesitation that your memorialist, the said Samuel C. Reid, claims the attention of Congress for himself; he should have been forever silent, but he can no longer resist the importunities of those who were his associates in that action, nor be longer a passive witness to their poverty and distress, some of which feel the smart of their wounds to this day.

The said officers and crew having lost most of their baggage and other necessities, and having also suffered great privations and distress, arrived in the United States about the close of the war, and owing to the embarrassments of commerce and navigation, have been unable, by any exertions, to procure for themselves and families a bare subsistence; whence far the greater part of them, and their families, are now actually suffering from want.

Your memorialist hath been led to believe, that these facts are unknown to Congress, and that it would not be deemed honorable to the nation or its Government, that those whom the journals of Congress have though proper to eulogize, should exist but in misery and distress in the bosom of their own country.

SAMUEL C. REID.

*Copy of a letter from the American Consul at Fayal to the Secretary of State.*

FAYAL, October 7, 1818.

SIR: I have the honor to state to you that a most outrageous violation of the neutrality of this port, in utter contempt of the laws of civilized nations, has recently been committed here, by the commanders of His Britannic Majesty's ships Plantagenet, Rota, and Carnation, against the American private armed brig General Armstrong, Samuel C. Reid, commander, but I have great satisfaction in being able to add, that this occurrence terminated in one of the most brilliant actions on the part of Captain Reid, his brave officers and crew, that can be found on naval record.

The American brig came to anchor in this port in the afternoon of the 26th of September, and at sunset of the same day the above named ships suddenly appeared in these roads; it being nearly calm in the port, was rather doubtful if the privateer could escape if she got under way, and relying on the justice and good faith of the British captains, it was deemed most prudent to remain at anchor. A little after dusk Captain Reid, seeing some suspicious movements on the part of the British, began to warp his vessel close under the guns of the castle, and while doing so, he was at about eight o'clock P. M. approached by four boats from the ships filled with armed men. After hailing them repeatedly, and warning them to keep off, he ordered his men to fire on them, and killed and wounded several men. The boats returned the fire and killed one man and wounded the first lieutenant of the privateer, and returned to their ships; and as it was now light moonlight, it was plainly perceived from the brig as well as from the shore, that a formidable attack was premeditating. Soon after midnight, twelve or more large boats, crowded with men from the ships, and armed with carronades, swivels, and blunderbusses, small arms, &c., attacked the brig; a severe contest ensued which lasted about forty minutes, and ended in the total defeat and partial destruction of the boats, with a most unparalleled carnage on the part of the British. It is estimated by good judges that near four hundred men were in the boats when the attack commenced, and no doubt exists in the mind of the numerous spectators of the scene that more than half of them were killed or wounded; several boats were destroyed; two of them remained alongside of the brig literally loaded with their own dead. From these two boats only seventeen reached the shore alive; most of them were severely wounded. The whole of the following day the British were occupied in burying their dead; among them were two lieutenants and one midshipman of the Rota: the first lieutenant of the Plantagenet, it is said, cannot survive his wounds, and many of the seamen who reached their ships were mortally wounded, and have been dying daily. The British, mortified at this signal and unexpected defeat, endeavored to conceal the extent of the loss; they admit, however, that they lost in killed, and who have died since the engagement, upwards of one hundred and twenty of the flower of their officers and men. The captain of the Rota told me he lost seventy men from his ship. Two days after this affair took place the British sloop of war Thais and Calypso came into port, when Captain Lloyd immediately took them into requisition to carry home the wounded officers and seamen; they have sailed for England, one on the 2d, and the other on the 4th instant, each carrying twenty-five badly wounded. Those who were slightly wounded, to the number, as I am informed, of about thirty, remained on board their respective ships, and sailed last evening for Jamaica. Strict orders were given that the sloop of war should take no letters to England, and those orders were rigidly adhered to.

In face of the testimony of all Fayal, and a number of respectable strangers who happened to be in this place at the moment, the British commander endeavors to throw the odium of this transaction on the American captain, Reid, alleging that he sent boats merely to reconnoitre the brig, and without any hostile intention. The pilot of the port did inform them of the privateer the moment they entered the port. To reconnoitre an enemy's vessel in a friendly port, at night, with four boats, carrying, by the best accounts, one hundred and twenty men, is certainly a strange proceeding. The fact is, they expected, as the brig was warping in, that the Americans would not be prepared to receive them, and they had hopes of carrying her by a *coup de main*. If anything could add to the baseness of this transaction on the part of the British commander, it is want of candor openly and boldly to avow the facts. In vain can he expect, by such subterfuge, to shield himself from the indignation of the world, and the merited resentment of his own Government and nation, for thus trampling on the sovereignty of their most ancient and faithful ally, and for the wanton sacrifice of British lives.

On the part of the Americans the loss was comparatively nothing—two killed, and seven slightly wounded: of the slain, we have to lament the loss of the second lieutenant, Mr. Alexander O. Williams, of New York, a brave and meritorious officer.

Among the wounded are Messrs. Worth and Johnson, first and third lieutenants. Captain Reid was thus deprived, early in the action, of the services of all his lieutenants; but his cool and intrepid conduct secured him the victory.

On the morning of the 27th ultimo, one of the British ships placed herself near the shore, and commenced a heavy cannonade on the privateer. Finding further resistance unavailing, Captain Reid ordered her to be abandoned after being partially destroyed, to prevent her falling into the hands of the enemy, who soon after sent their boats and set her on fire.

At nine o'clock in the evening, (soon after the first attack,) I applied to the Governor, requesting his Excellency to protect the privateer, either by force, or by such remonstrance to the commander of the squadron as would cause him to desist from any further attempt. The Governor, indignant at what had passed, but feeling himself totally unable, with the slender means he possessed, to resist such a force, took the part of remonstrating, which he did in forcible and respectful terms. His letter to Captain Lloyd had no other effect than to produce a menacing reply, insulting in the highest degree. Nothing can exceed the indignation of the public authorities, as well as all ranks and description of persons here, at this unprovoked enormity. Such was the rage of the British to destroy this vessel, that no regard was paid to the safety of the town; some of the inhabitants were wounded, and a number of the houses were much damaged. The



strongest representations on this subject are prepared by the Governor for his Court.

Since this affair the commander, Lloyd, threatened to send on shore an armed force and arrest the privateer's crew, saying there were many Englishmen among them; and our poor fellows, afraid of his vengeance, have fled to the mountains several times, and have been harassed extremely. At length Captain Lloyd, fearful of losing more men if he put his threats in execution, adopted this stratagem: he addressed an official letter to the Governor, stating that in the American crew were two men who deserted from his squadron in America, and, as they were guilty of high treason, he required them to be found and given up. Accordingly a force was sent into the country, and the American seamen were arrested and brought to town, and as they could not designate the said pretended deserters, all the seamen here passed an examination of the British officers, but no such persons were to be found among them. I was requested by the Governor and British Consul to attend this humiliating examination, as was also Captain Reid, but we declined to sanction by our presence any such proceedings.

Captain Reid has protested against the British commanders of the squadron, for the unwarrantable destruction of his vessel in a neutral and friendly port, as also against the Government of Portugal, for their inability to protect him.

No doubt this Government will feel themselves bound to make ample indemnification to the owners, officers, and crew, of this vessel, for the great loss they have severally sustained.

I shall as early as possible transmit a statement of this transaction to our Minister at Rio Janeiro, for his Government.

I have the honor to be, &c.

JOHN B. DABNEY.

To the SECRETARY OF STATE.

FAYAL, Oct. 4, 1814.

With infinite regret I am constrained to say, it has eventually fallen to my lot to state to you the loss and total destruction of the private armed brig General Armstrong, late under my command.

We sailed from Sandy Hook on the evening of the 9th ultimo, and about midnight fell in close aboard of a razeed and ship of the line. They pursued till next noon, when they thought proper to give over chase. On the 11th, after a nine hours' chase, boarded the private armed schooner Perry, John Colman, six days from Philadelphia; had thrown over all his guns. On the following day fell in with an enemy's gun brig; exchanged a few shots with him and left him. On the 24th boarded a Spanish brig and schooner, and a Portuguese ship, all from the Havana. On the 26th following came to in Fayal Roads, for the purpose of filling water; called on the American Consul, who very politely ordered our water immediately sent off, it being our intention to proceed to sea early the next day. At five P. M. I went

on board, the Consul and some other gentlemen in company. I asked some questions concerning enemy's cruisers, and was told there had been none at these islands for several weeks; when about dusk, while we were conversing, the British brig Carnation suddenly hove in sight, close under the northeast head of the harbor, within gun-shot when first discovered.

The idea of getting under way was instantly suggested; but finding the enemy's brig had the advantage of a breeze, and but little wind with us, it was thought doubtful if we should be able to get to sea without hazarding an action. I questioned the Consul to know, if, in his opinion, the enemy would regard the neutrality of the port? He gave me to understand I might make myself perfectly easy, assuring me, at the same time, they would never molest us while at anchor. But no sooner did the enemy's brig understand from the pilot boat who we were, when she immediately hauled close in, and let go her anchor within pistol-shot of us. At the same moment the Plantagenet and frigate Rota hove in sight, to whom the Carnation instantly made signals, and a constant interchange took place for some time. The result was, the Carnation proceeded to throw out all her boats; despatched one on board the Commodore, and appeared otherwise to be making unusual exertions; from these circumstances I began to suspect their real intentions. The moon was near its full, which enabled us to observe them very minutely, and I now determined to haul in nearer the shore; accordingly, after clearing for action, we got under way, and began to sweep in. The moment this was observed by the enemy's brig, she instantly cut her cable, made sail, and despatched four boats in pursuit of us. Being now about 8 P. M., as soon as we saw the boats approaching, we let go our anchor, got springs on our cable, and prepared to receive them. I hailed them repeatedly as they drew near, but they felt no inclination to reply. Sure of their game they only pulled up with greater speed. I observed the boats were well manned, and apparently as well armed; and as soon as they cleverly got alongside we opened our fire, which was as soon returned; but, meeting with rather a warmer reception than they had probably been aware of, they very soon cried for quarters and hauled off; in this skirmish I had one man killed, and my first lieutenant wounded. The enemy's loss must have been upwards of twenty killed and wounded.

They had now repaired to their ships to prepare for a more formidable attack. We, in the interim, having taken the hint, prepared to haul close into the beach, where we moored head and stern within half pistol-shot of the castle. This done, we again prepared, in the best possible manner, for their second reception. About 9 P. M. we observed the enemy's brig towing in a large fleet of boats. They soon after left the brig, and took their station in three divisions, under cover of a small reef of rocks, within about musket shot of us. Here they continued manœuvring for some time, the brig still keeping under way to

act with the boats, should we at any time attempt our escape.

The shores were lined with the inhabitants, waiting the expected attack; and from the brightness of the moon they had a most favorable view of the scene. The Governor, with most of the first people of the place, stood by and saw the whole affair.

At length, about midnight, we saw the boats in motion, (our crew having laid at their quarters during the whole of this interval;) they came on in one direct line, keeping in close order; and we plainly counted twelve boats. As soon as they came within proper distance we opened our fire, which was warmly returned from the enemy's carronades and small arms. The discharge from our long Tom rather staggered them; but soon reconnoitering, they gave three cheers, and came on most spiritedly; in a moment they succeeded in gaining our bow and starboard quarter, and the word was board. Our great guns now became useless; we attacked them sword in hand, together with our pikes, pistols, and musketry, from which our lads poured on them a most destructive fire. The enemy made frequent and repeated attempts to gain our decks, but were repulsed at all times, and at all points, with the greatest slaughter. About the middle of the action I received intelligence of the death of my second lieutenant; and, soon after, of the third lieutenant being badly wounded. From this, and other causes, I found our fire had much slackened on the forecastle; and, fearful of the event, I instantly rallied the whole of our after division, who had been bravely defending, and now had succeeded in beating the boats off the quarters. They gave a shout, rushed forward, opened a fresh fire, and soon after decided the conflict, which terminated in the total defeat of the enemy, and the loss of many of their boats; two of which, belonging to the Rota, we took possession of, literally loaded with their own dead; seventeen only escaped from them both, who had swum to the shore. In another boat under our quarter, commanded by one of the lieutenants of the Plantagenet, all were killed, saving four. This I have from the lieutenant himself, who further told me that he jumped overboard to save his own life.

The duration of this action was about forty minutes; our decks were now found in much confusion, our long Tom dismounted, and several of our carriages broken; many of our crew having left the vessel, and others disabled. Under these circumstances, however, we succeeded in getting long Tom in his birth, and the decks cleared in some sort for a fresh action, should the enemy attack us again before daylight. About 3 A. M. I received a message from the American Consul, requesting to see me on shore, when he informed me the Governor had sent a note to Captain Lloyd, begging him to desist from further hostilities. To which Captain Lloyd sent for answer, that he was now determined to have the privateer, at the risk of knocking down the whole town; and that, if the Governor suffered the Americans to injure the privateer in any manner,

he should consider the place an enemy's port, and treat it accordingly. Finding this to be the case, I considered all hopes of saving our vessel to be at an end. I therefore went on board, and ordered all our wounded and dead to be taken on shore, and the crew to save their effects as fast as possible. Soon after this it became daylight, when the enemy's brig stood close in, and commenced a heavy fire on us with all her force; after several broadsides she hauled off, having received a shot in her hull, her rigging much cut, and her foretopmast wounded, (of this I was informed by the British Consul.) She soon after came in again, and anchored close to the privateer. I then ordered the Armstrong to be scuttled, to prevent the enemy from getting her off; she was soon after boarded by the enemy's boats, and set on fire, which soon completed her destruction.

They have destroyed a number of houses in the town, and wounded some of the inhabitants.

By what I have been able to learn from the British Consul and officers of the fleet, it appears there were about four hundred officers and men in the last attack by the boats, of whom one hundred and twenty were killed, and one hundred and thirty wounded. Captain Lloyd, I am told by the British Consul, is badly wounded in the leg; a jury of surgeons had been held, who gave as their opinion that amputation would be necessary to insure his life. It is said, however, that the wound was occasioned by an ox treading on him. The fleet has remained here about a week, during which they have been principally employed in burying their dead, and taking care of their wounded.

Three days after the action they were joined by the ship *Thais* and brig *Calypso*, (two sloops of war,) who were immediately taken into requisition by Captain Lloyd, to take home the wounded men. The *Calypso* sailed for England, with part of the wounded, on the 2d inst., among whom was the first lieutenant of the Plantagenet. The *Thais* sails this evening with the remainder. Captain Lloyd's fleet sailed to-day, supposed for the West Indies.

The loss on our part, I am happy to say, is comparatively trifling; two killed and seven wounded. With regard to my officers, in general, I feel the greatest satisfaction in saying they one and all fought with the most determined bravery, and to whom I feel highly indebted for their officer-like conduct during the short period we were together; their exertions and bravery deserved a better fate.

I here insert for your inspection a list of the killed and wounded.

Killed.—Mr. Alexander O. Williams, second lieutenant, by a musket ball in the forehead, died instantly; Burton Lloyd, a seaman, do., through the heart, do.

Wounded.—Frederick A. Worth, first lieutenant, in the right side; Robert Johnson, third do. left knee; Basilla Hammond, quartermaster, left arm; John Piner, seaman, knee; William Castle, do. arm; Nicholas Scalsan, do. arm and leg;



John Harrison, do. hands and face, by the explosion of a gun.

It gives me much pleasure to announce to you that our wounded are all in a fair way of recovery, through the unremitted care and attention of our worthy surgeon.

Mr. Dabney, our Consul, is a gentleman possessing every feeling of humanity, and to whom the utmost gratitude is due from us for his great care of the sick and wounded, and his polite attention to my officers and myself.

Mr. Williams was a most deserving and promising officer. His country in him has lost one of its brightest ornaments, and his death must be sadly lamented by all who knew his worth.

Accompanied with this you will find a copy of my protest, together with copies of letters written by Mr. Dabney to the Governor of Fayal, our Minister at Rio Janeiro, and our Secretary of State. These letters will develop more fully the circumstances of this unfortunate affair.

We expect to sail to-morrow in a Portuguese brig for Amelia Island, who takes the whole of our crew; till when, I remain, gentlemen, your obedient humble servant,

SAMUEL C. REID.

#### TRIAL OF CAPTAIN CREIGHTON.

[Communicated to the House, March 4, 1818.]

NAVY DEPARTMENT, Feb. 28, 1818.

Sir: I have the honor to transmit, herewith, in compliance with a resolution of the House of Representatives of the 26th instant, a copy of the proceedings of the court martial ordered by Commodore Isaac Chauncey, at the instance of Midshipman Marston, for the trial of Captain John Orde Creighton; and also of the memorials of the midshipmen and other officers in the Mediterranean squadron, emanating from the proceedings of the said court martial.

I have the honor to be, &c.

B. W. CROWNINSHIELD.

Hon. the SPEAKER H. of R.

*Minutes of the proceedings of a court martial assembled on board the frigate Constellation, in the bay of Naples, upon the 26th of August, 1818, and held every day afterwards till —*

Present: Captain John Shaw, president; Captains Charles Gordon, O. H. Perry, W. M. Crane, John Downes, members; Doctor Robert S. Kearney, judge advocate.

Captain Creighton appeared in court, and all persons admitted. The order of Isaac Chauncey, Esq., Commodore, and commander-in-chief of the United States naval forces in the Mediterranean sea, dated the 26th day of August, 1816, directed to Captain John Shaw, for the trial of Captain John Orde Creighton, of the United States ship Washington, was read. The several members of the court were duly sworn, and the judge advocate also sworn. Captain Creighton, being

asked, declared he had no objections to the members of the court.

The court adjourned till to-morrow at ten o'clock.

TUESDAY MORNING, August 27, 1816.

The court met, pursuant to adjournment. Present: the president, members, and judge advocate.

The following charges and specifications, addressed to the president, were publicly read in court, and in the presence of Captain Creighton:

#### CHARGE 1st.—Oppression.

*Specification.*—In that on the 8th day of July, in the year of our Lord one thousand eight hundred and sixteen, in contempt and in direct violation of the laws for the better government of the Navy of the United States, John Orde Creighton, a captain in the Navy of the United States, and in command of the United States' ship Washington, did, on the quarter-deck of the said United States' ship Washington, while under way in the harbor of Gibraltar, then and there, without cause of provocation, violently strike me, John Marston, Junior, while in the execution of my duty, being a midshipman on board the United States' ship aforesaid, much to my discomfiture and disgrace.

#### CHARGE 2d.—Ungentlemanly and unofficerlike conduct.

*Specification.*—In that on the 9th day of July, in the year of our Lord one thousand eight hundred and sixteen, John Orde Creighton, a captain in the Navy of the United States' ship Washington, did provokingly and falsely accuse me, John Marston, Junior, being a midshipman on board the United States' ship aforesaid, of telling a mischievous falsehood; and in that the above mentioned John Orde Creighton did, then and there, on my denying the accusation, most vehemently threaten to heave me overboard, assuming thereby an authority not guaranteed by the laws of the United States, nor by the sacred principles of justice.

JOHN MARSTON, JUN.

Captain Creighton being desired to plead to the foregoing charges, pleaded "not guilty;" whereupon the court proceeded to trial, as follows:

JOSEPH ODION, seaman, belonging to the United States' ship Washington, duly sworn on the part of the prosecution, says: I saw Captain Creighton strike Mr. Marston, who was standing by the capstan, while the ship was working out of the bay of Gibraltar.

Question by the court. What did Captain Creighton strike Mr. Marston with?

Answer. His hand—with his fist.

Question. Did it appear to you that Captain Creighton struck Mr. Marston by accident or design?

Answer. Design.

Question. What time of day was it?

Answer. Dusk.

Question. What part of his body did he strike?

Answer. The back.

Question. Where was Mr. Marston standing?

Answer. By the capstan, on the quarter deck.

Question. When Captain Creighton struck him, where were you standing?

Answer. At the breast-backstay-falls; I was stationed there.

Question. Did Captain Creighton appear to know who Mr. Marston was?

Answer. I cannot say.

Question. How was Mr. Marston standing when Captain Creighton struck him?

Answer. I do not know how he was standing.

Question. Was there much noise at the time, in consequence of working ship?

Answer. There was some noise in consequence of working ship.

Question. Did Captain Creighton speak to Mr. Marston before or after striking him?

Answer. I cannot say. I did not hear him.

Question. Was Mr. Marston standing alone, or in a crowd?

Answer. I do not recollect.

Question. What effect had the blow upon Mr. Marston?

Answer. I did not notice the effect.

Question. Did Mr. Marston speak to Captain Creighton after receiving the blow?

Answer. No. I did not hear him.

Question. What induced you to believe that Captain Creighton struck Mr. Marston intentionally?

Answer. He appeared to be very angry; that induced me.

Question. Did he appear to be very angry with Mr. Marston only?

Answer. He was very angry with the men working ship.

Question. Was Mr. Marston in uniform, or easily distinguished in his dress from the men?

Answer. In his uniform, and easily distinguished from the men.

Question. Was it dark, or broad daylight?

Answer. It was dark; it was dusk.

Question. Was you so situated that you only could see Captain Creighton strike Mr. Marston?

Answer. There were others there who might have seen it.

Question. Which side of the capstan did this occur?

Answer. The starboard side.

Question. Were not the men working ship, and at their stations?

Answer. Yes.

#### Witness questioned by Captain Creighton.

Question. Did you not say I had a trumpet in the hand I struck Mr. Marston with?

Answer. You had a trumpet in your hand, but not in the one you struck him with.

Question. Was not Mr. Marston standing with his back to me?

Answer. I cannot say how Mr. Marston was standing.

Question. Did you not suppose it was to call his attention, and not meant as a blow?

Answer. It was intended as a blow.

#### Witness questioned by the Court.

Question. Was Mr. Marston standing, leaning, or walking the deck?

Answer. I do not know.

The witness declares he knows nothing in relation to the second charge. Directed to withdraw.

The prosecutor being asked, declined questioning the witness, and being also asked if he had any other witnesses to produce, named a Mr. Middleton, and on inquiry being made for him, it appears he is not in reach of the court. Mr. Marston then stated that the beforementioned Mr. Middleton was a material witness to make good his charges against Captain Creighton.

All parties were ordered to withdraw, and the court took the above statement into consideration. They observe thereon, that as it has been ascertained that Mr. Middleton is not within reach of the court, and also that, as he is not amenable to any process issuing from this court, and as there is no reasonable expectation that his attendance can be procured hereafter, they cannot put off the trial to a more distant day; it also appearing that Mr. Middleton is a witness both for and against the prosecution.

Midshipmen TALLMADGE and DERBY were duly sworn on the part of the prosecution.

Midshipman TALLMADGE examined, states as follows:

I heard Captain Creighton make use of this expression to Midshipman Marston, that he was guilty of of a malicious falsehood, but have since been induced to believe that he said a mischievous one.

Question by the court. Did you hear Captain Creighton tell Midshipman Marston he would throw him overboard?

Answer. I did not.

Question. Where was Captain Creighton and Midshipman Marston standing at the time Captain Creighton said he told a mischievous falsehood?

Answer. On the gun-deck, on the larboard side.

Question. What part of the ship were you in when you observed the parties?

Answer. I was passing the hatch on the quarter deck, and stopped there. I could not see all their bodies, I only saw the lower part of them.

Question. How did you know that Captain Creighton was speaking to Mr. Marston?

Answer. I heard their voices; and have no doubt on the subject.

The prosecutor being asked, declined putting any questions to the witness.

#### Witness was then questioned by Capt. Creighton.

Question. Are you positive it was on the gun-deck this expression was used?

Answer. Yes.

Question. On what part of the gun-deck?

Answer. Just forward of the bulk-head, near the ladder.

The witness was directed to withdraw.



*Trial of Captain Creighton.*

Midshipman DEASY examined, states, that he knows nothing in relation to the second charge and specification.

*Witness questioned by prosecutor.*

Question. Did not Mr. Tallmadge call on you to witness certain expressions of Captain Creighton?

Answer. He did call on me, but I heard nothing.

*Witness questioned by Captain Creighton.*

Question. When Mr. Tallmadge called you, did you see me, and what part of the ship was I in?

Answer. When Mr. Tallmadge called me, you was under the half deck; I was on the spar-deck at the after hatch.

The witness was directed to withdraw.

Midshipman MARSTON desired that his testimony might be heard by the court; he was sworn accordingly, and stated as follows: On the 8th of July, when we were standing out of Gibraltar bay, I was attending as usual on the quarter-deck to the commodore. I received a blow on the back; I turned round. Captain Creighton said damn my blood, why don't you attend to have the fore brace hauled in. I saw the order executed. The next day I wrote a letter to the commodore, stating that Captain Creighton had struck me. Captain Creighton called me on the main deck, and said, my report to the commodore was a mischievous falsehood. A short time afterwards he called me to the starboard gangway, and made use of the same expression. On denying his assertion, he told me he would throw me overboard. He then said, go and tell the commodore that he told me to be out of his sight; which order I obeyed.

*Witness questioned by the Court.*

Question. What did he strike you with?

Answer. With his fist as far as I could judge; he might have had the trumpet clenched in his hand.

Question. Was the blow severe or slight?

Answer. Pretty severe.

Question. Where was the commodore, and how near standing to you?

Answer. A little forward of me.

Question. Did you inquire the reason of the blow at the moment it was given; and did you say anything to Captain Creighton on the subject?

Answer. I did not.

Question. Were there any persons near you at the time, either officers or men?

Answer. There were a great many men. I did not observe any officers; there was considerable bustle.

Question. Was the blow given to call your attention to the duty going on, or was it from any other motive?

Answer. From the severity of the blow, I must think it was given maliciously.

Question. Was your manner and language perfectly respectful to Captain Creighton, when he

charged you with having asserted a mischievous falsehood?

Answer. It was not.

Question. Did Captain Creighton by his manner show any disposition to repeat the blow after you turned towards him?

Answer. I did not observe that he manifested a disposition to repeat the blow. I hurried off to execute the order.

Question. Did Captain Creighton speak to you in a loud tone of voice when he said, Damn my blood? &c.

Answer. Not very; he spoke in his common tone.

Question. Was the trumpet in the hand he struck you with?

Answer. From the feeling of the blow, I think it was with the plain fist.

Question. Did you make any complaint or remonstrance to Captain Creighton, he being your captain, previous to your report to the commodore?

Answer. I did not.

Question. Were you alone or in a crowd?

Answer. There were scattering men around me; they were going on with their duty; there was no great crowd.

Question. Was the ship in a situation to excite much anxiety in Captain Creighton, he being the captain of the ship?

Answer. At the time referred to the ship was not in such a situation as to cause anxiety.

Question. Did Captain Creighton strike many of the men on this occasion?

Answer. He broke one, or, I believe, two trumpets over the men's heads.

Question. Were not the officers generally at their stations on the deck?

Answer. I saw no officer on the deck at the time I went to execute the order.

Question. How did Captain Creighton compel you to retreat after you turned towards him?

Answer. He did not compel me; but from the manner in which he spoke and looked, it was my wish to be away from him as quick as possible.

Question. Have you ever had any conversations or private interviews with the seaman, (your witness,) on the subject of his evidence, and how did you know that he noticed the blow you complain of?

Answer. I have had no private interview with the sailor. I first heard from an officer that the sailor had observed the blow which I received from Captain Creighton. I afterwards took an opportunity of speaking to the sailor in the gangway on the subject; the opportunity was a mere chance; he was going on with duty with some other men. I asked him if he could swear in court to this assertion; he said he could. I added, that I presumed a court martial would sit in a few days, and I should call upon him.

Question. Did any other conversation take place between him and you on this subject?

Answer. No.

Question. Did you know that the first witness has ever been punished by Captain Creighton?

*Trial of Captain Creighton.*

Answer. He was formerly captain of the main-top, but broke. I do not know that he was flogged.

Question. What officer told you that this seaman noticed the occurrence; and how long after?

Answer. I understood from several officers that Midshipman Crowninshield had said this man saw the blow given.

Question. Did Captain Creighton say that your report was a malicious or a mischievous falsehood?

Answer. A mischievous.

Question. Which side of the capstan were you when you received the blow?

Answer. The starboard side.

*The witness questioned by Captain Creighton.*

Question. Which hand had I the trumpet in?

Answer. I do not recollect.

Question. How far from the capstan was you standing?

Answer. About two feet.

The evidence on the part of the prosecution here closed.

Commodore Isaac Chauncey, Lieutenant Shubrick, and Lieutenant Dudley, were duly sworn on the part of Captain Creighton.

Commodore Chauncey examined as follows:

Question by the court. Did you see Captain Creighton strike Mr. Marston?

Answer. No.

Question. Do you know anything in relation to the second charge?

Answer. Nothing. The Commodore proceeded to state, that he remembers the ship was working out of Gibraltar bay, on the evening of the 8th July. He heard Captain Creighton speak to a person who stood near him, and judged that he spoke to Mr. Marston, as he heard Mr. Marston reply, "he was attending on the Commodore." The next day he received a letter from Mr. Marston, stating that Captain Creighton had struck him. This letter I handed to Captain Creighton. The following day I received another letter from Mr. Marston, containing the charges and specifications. I had a conversation with Mr. Marston, and made some overtures to him by way of reconciling the subject of his complaint, stating to him my belief that Captain Creighton was incapable of offering such violence to an officer, and that I doubted not but Captain Creighton would readily satisfy him on this subject; these he declined, and stated his reasons for doing so. I repeated these overtures to Mr. Marston some days after, and they were still rejected. I then acquainted him that as the frigate United States had now arrived, and as soon as she should be released from quarantine, I should order a court martial for the trial of Captain Creighton.

Question by Captain Creighton. Did I not tell you when you showed me both of Midshipman Marston's letters that I was entirely ignorant of the circumstances he complained of, and have I not repeatedly told you so since?

Answer. When I showed Captain Creighton the first letter, he denied having any knowledge

15th CON. 1st SESS.—79

of the circumstance. Captain Creighton has denied ever having any intention to strike Mr. Marston.

Question. Did not Mr. Marston say to you that he was urged by some officer to write you again on the subject?

Answer. Yes.

Question. Have you ever known me to show a disposition to tyrannize or oppress the officers of the Washington?

Answer. No. I should conceive it my duty to check it, if I made such discovery.

Question. Do you not think that I wished to call Mr. Marston's attention, and not to strike him?

Answer. I never believed for a moment that you struck Mr. Marston maliciously. When I received Mr. Marston's first letter, I supposed that you probably had pushed him with your trumpet to call his attention; it was quite dark at the time.

Question. Do you not think the officers of the Washington have every kindness and indulgence shown them that the service will admit of?

Answer. I know nothing to the contrary.

Question. If it had been a severe blow, are you not of opinion, standing where you did, that you should have heard something of it?

Answer. I think I should.

The Commodore further states to the court that the ship, at the time she was working out of the bay of Gibraltar, was in such a situation as to excite very great anxiety both in himself and Captain Creighton, and required the exertions of all the officers and crew.

The witness withdrew.

The court adjourned till to-morrow, ten o'clock.

WEDNESDAY MORNING, Aug. 28, 1816.

The court met pursuant to adjournment. Present: the members and Judge Advocate.

Lieutenant Shubrick examined as follows:

Question by Captain Creighton. Did I not request of you to see Mr. Marston, and assure him that I disavowed having given him, intentionally, anything like a blow, and that, if he chose to withdraw the charges, I would satisfy him fully on what he complained of?

Answer. I told Mr. Marston that Capt. Creighton disavowed any knowledge of having struck him, and that if he would withdraw the charges, he would satisfy him fully as to the language he complained of.

Question. Did he not at first show an indication to accept the proposal?

Answer. I had two conversations with Mr. Marston—one in the morning, the other in the afternoon. In the morning I thought he manifested some disposition to withdraw them; in the evening he did not.

Question. Did he not say that Commodore Rodgers was broke for striking a midshipman, and that it was only necessary to swear to the fact to have me punished in the same way?

Answer. He observed to me that one of the first officers in service was broke on a similar charge,



*Trial of Captain Creighton.*

and he supposed it only necessary to swear to the fact. I told him I thought differently. I presumed a court would inquire particularly into the intention of the person charged with the offence. The prosecutor declined putting any questions to the witness.

Lieutenant Shubrick withdrew.

Captain Creighton declined troubling the court with the examination of Lieutenant Dudley. The prosecutor claimed the privilege of questioning Lieutenant Dudley, and the court took the same under consideration.

All parties withdrew.

The court came to the resolution to address the prosecutor as follows:

Sir: You having been highly favored in consequence of your youth, being allowed to appear as an evidence yourself, and to produce to the court two additional witnesses in support of your charges, the court decide that they will not receive the testimony of Lieutenant Dudley, believing that it cannot possibly be of any importance towards the support of your charges. The court have noticed in you a want of due respect to them, which their forbearance alone has heretofore prevented from noticing. The court warn you in future to bear in mind that similar conduct will call from them a more strong expression of their disapprobation.

There being no other witnesses to examine for or against the prosecutor, Captain Creighton presented to the court the annexed defence which was read by the judge advocate.

The court was then cleared, and the minutes read over by the judge advocate, and the following sentence pronounced.

## SENTENCE.

The court having maturely and deliberately weighed and considered the whole matter, agree that the charges and specifications are not proved, and do therefore adjudge Captain Creighton to be acquitted; and he is hereby most fully and honorably acquitted accordingly.

The court further agree in opinion that the overture made by Captain Creighton to Midshipman Marston, through Commodore Chauncey, even if the charges could have been proven, ought to have been amply sufficient to an officer of Mr. Marston's grade, more especially when coming through the commander-in-chief, the public guardian of all our rights, who advised it. It has appeared, moreover, that a similar overture was made through the first lieutenant of the Washington, and rejected; the court do believe therefore that the prosecution was persisted in from malignant motives, and they feel it a duty they owe the service to express their decided disapprobation of such malicious, frivolous, and vexatious accusations. The court adjourned *sine die*.

JOHN SHAW, President.  
CHARLES GORDON,  
O. H. PERRY,  
WM. W. CRANE,  
JOHN DOWNES,  
R. S. KEARNEY, J. A.  
I. CHAUNCEY, Comdr.

Approved:

Mr. President, and gentlemen of the Court:

I will trespass as little on your patience as possible, and only make such observations on the subject before you as appear necessary, in justice to my own character and reputation.

I had hoped that it would not be found necessary to trouble you at all with this affair; but, finding all my exertions to satisfy the young gentleman were ineffectual, I was at last driven to the necessity of asking the decision of a court martial—the only way I saw left me of checking exaggerated reports, and of removing unjust imputations against myself; and it is with the greatest cheerfulness that I place my honor in the hands of such characters as form this court. They can only judge what is right; and although they will tenaciously guard a young officer from oppression and wrong, yet I feel fully sensible that they will never encourage him in presuming beyond his age and station.

I am charged with having struck a midshipman upon the quarter deck, and of having violated the fifteenth article of the "rules and regulations for the better government of the navy." I will state to the court how these charges originated; and I trust I have already proved to its satisfaction that it is not the high sense of honor, nor the fine feelings, nor yet the high sense of injury, that has induced this young man thus obstinately to reject every proper and honorable proposal to satisfy his feelings, but that he has been worked upon, and his mind poisoned, by some unworthy member of our corps, who, unable to make himself conspicuous as an officer or a seaman, takes delight in sowing the seeds of discontent; and, instead of doing his utmost to convince young officers that it is impossible for their commanders to harbor a hostile feeling towards them, he appears to exercise the feeble talent he possesses towards disorganizing the ship and creating insubordination. For himself, it is well he keeps concealed; but for the service it is truly unfortunate.

On the 7th day of July last, while at anchor in the bay of Gibraltar, I received an order to get the ship under way, which I attempted, and hove up the anchor. Finding I had not wind enough to take me clear of the vessels in the harbor, and that the current had set in towards the rock, I was under the necessity of anchoring again, until the boats of the squadron could come to our assistance; they having assembled round the ship, she was again got under way. It was then about sunset; and, in consequence of the light and baffling state of the wind, we were compelled to pass through our own and the Dutch squadron, and it required the greatest attention to the Washington to prevent her from falling on board one or more ships then at anchor. This made me extremely anxious, first, that no accident might happen; secondly, that the ship should be so managed as to sustain the character the navy had already acquired; and, thirdly, I was anxious for my own reputation as an officer and seaman. The situation of the ship, therefore, kept me constantly in motion, sometimes in one gangway,

*Trial of Captain Creighton.*

then in the other; sometimes one side of the quarter-deck, then on the other; and it is not unlikely, in passing thus quickly about the deck, that if a midshipman, or any other person, stood in my way, I might have shoved him out of it, or pushed him, to call his attention. Beyond this, I declare, in the presence of my God, was never my meaning or intention, (admitting the fact;) and when such trifles are magnified, and made the basis of a serious charge, it can only be considered frivolous and vexatious conduct. If he received anything like a blow, I solemnly aver it to be an accident; it never was intentional; for it would be as impossible for me to raise my hand in anger to an inferior officer, as it would be to move Mount Vesuvius. But, gentlemen, I am as ignorant of the whole of this transaction as you are, who did not see it; nor did I hear of it until the next day at noon. After reflecting upon the matter frequently, I have some slight recollection of speaking sharply to a midshipman then standing idle on the quarter-deck, and of his replying that he was attending on the Commodore; but at what time it happened, or on what part of the deck, I have racked my brain to think, and am yet in perfect darkness respecting it. I am particularly anxious to remove the impression this charge would convey; and I trust, after the solemn asseveration I have made, that no member of this court, or any other person present, can believe me to have been capable of such an outrage. Gentlemen, I am anxious to remove it on another ground. Can it be supposed for a moment that I would strike a midshipman by the side of the commander-in-chief, and one, too, that I had particularly ordered to attend him? Could I be so disrespectful? It is impossible; and I trust you are all convinced it is so. Had this officer turned to me at the time, and said, "Sir, you have struck me," I should immediately have made him ample apology on the spot for the accident, (for it could only be accidental, if it occurred at all,) and the matter there would have rested; but, on the contrary, he suffers the affair to slumber until noon the next day, and then addresses a letter to the Commodore, through whom I received my information. Offended at the indignity shown me, I sent for the midshipman in the starboard gangway, and inquired respecting the subject of his letter; and, believing myself as innocent as the child unborn, I did say it was a "mischievous falsehood." This I did religiously believe, and therefore pronounced it so. But, admitting that I did utter some hasty expressions, they were forced from me in consequence of the very provoking manner that he contradicted me, which the very law that he complains I violated forbids him to do; and is there nothing to set off against a little warmth of temper? Does the midshipman receive nothing from his captain? To whom does he look for comforts, for privileges, and indulgences, nay, for protection? Mr. President and gentlemen of the court, I conceive this rod was never intended to be held over the head of a captain; for if he is to be tried for every imaginary wrong that an officer may think proper to set

forth, there is at once an end to all authority and subordination.

I beg you, gentlemen, to bear in mind that it must have been dusk when the alleged offence was committed, and that the complainant had his back to me; and that I have made every effort to soothe his feelings, and remove any impression that I meant to do him an injury; and I do assure the court that I have taken more pains, and gone further to effect this, than I should have done to an equal or superior. The court, I am sure, will also recollect that the principal evidence they have, as to the blow, is the prosecutor himself; and I rest satisfied that they will consider well what he has said before they suffer his testimony to make an impression. As to the respectable witness he brought in support of the charge, I have no hesitation of saying, as my opinion, that he neither saw nor knew anything of the matter at the time; and I think I have proved by Lieutenant Shubrick that the complainant thought it only necessary to come before this court, and make oath to the fact, to deprive me of my sword. But whether he will succeed or not rests with this honorable body. Therefore, gentlemen, if it has been proved to the court that what is complained of was accidental and unintentional, (admitting that it took place,) and that it was zeal for the service and anxiety for the ship that made me notice him at all, why then I trust your acquittal will be full and honorable; and if, on the other hand, you are satisfied that I struck him designedly, and in contempt of the law, let your punishment be as exemplary.

JOHN ORDE CREIGHTON.

To His Excellency James Monroe, Esq., President of the United States of America.

This memorial respectfully sheweth:

Whereas we, as officers of that Government whose scheme of national welfare and virtuous policy has no equal in the history of the world, conceive it our high privilege and duty, both to ourselves and country, when any grievance of a serious and general, as well as individual nature, prevails, to appeal in a respectful manner to that authority which officially created us, praying suitable redress for the same. In the present view of things, the power of granting this the President and Congress alone possess.

It is not intended or desired that denunciation, or anything of an inflammatory or indecorous nature, shall take any part or have any place in this measure; nor is there any individual person upon whom we wish to vent a splenetic spirit; nor yet, as we conceive, does the moving cause alone concern any individual of us; but that all, particularly junior officers in the service, are equally interested, though probably some on home stations may not as yet be equally aware of the same.

However painful to your memorialists, they are compelled to declare that the laws of our service do not, in effect, secure us against perso-



*Trial of Captain Creighton.*

nal injury from (we would fain hope, and do believe) the few commanders, and other officers, who may be disposed to infringe upon our feelings, or do violence to our persons, by striking with the fist, sword, or any other weapon.

We are free to assert, as the facts have been unequivocally substantiated, indeed acknowledged, that upon this station American officers have not only been cursed, abused, insulted, and spurred, but traduced, and actually struck, by certain commanders, and for which no adequate penalty, redress, or correction has been adjudged by Commodore Chauncey, nor by legally organized courts martial. Measures of this kind may be productive of a menial and servile fear, such as characterize the oppressed and degraded mariners of fallen monarchies, but can never inspire or insure that spontaneous and dignified respect with which officers should deport themselves towards each other and their superiors. Your memorialists beg leave to draw your special attention, besides other instances, to the causes which have led to, and the subsequent proceedings and issue of, certain recent courts martial upon this remote and important station, the documents of which, we presume, have been forwarded to, and received at, the proper department. They deem it unnecessary at this time to cite specifically and in detail the numerous cases in view, as it would swell this instrument to an improper length; but when an investigation of the most important of them shall have been instituted by the President, or any other competent authority, it has only to signify or require it, when we stand prepared to substantiate facts and circumstances which no American can acquiesce in, and which, we trust, that authority to which we appeal will not suffer to pass by with impunity.

Should it be found necessary, as your memorialists apprehend will be the case, they hope that your wisdom may suitably suggest and urge to Congress the propriety of enacting a law, holding sacred our feelings from abuse, and persons from injury, until duly convicted of offences, for which suitable punishment shall have been awarded by a competent tribunal. That authority which officially created us, we are confident, will not subject us to injury and injustice.

On a home station your memorialists would not be under the painful necessity of presenting this address to your notice, believing, as they most firmly do, that it would not have for its foundation similar causes with those which have originated in extraordinary and unwarrantable practices here. In regard to their superior officers, they feel assured that the Government will not decide in favor of a presumptuous declaration made by an officer of elevated rank, that "the laws were not created to be held as a rod of chastisement over the heads of post captains." Can any American commander, we would ask, be allowed to utter such a monarchical and tyrannical

sentiment, particularly in the presence of so many young officers, who should ever look up to that grade of officers for examples of virtue, patriotism, and principles of correct discipline? If we are a free people, as is represented by the laws of our country, we pray that they may not be more rigidly enforced on inferiors than those set over them, where violations and crimes are the same; though laws, we are truly aware, extend to all alike, and an abuse of them cannot be imputed to their defect, but abused authority.

Your memorialists are not sensible of any article of the rules and regulations for the better government of the navy of the United States that is in anywise too rigid, as it is certain that a system of strict discipline is the basis and soul of every well-regulated and efficient military establishment.

Your memorialists forbear to enlarge further upon this subject, upon the numerous and baneful consequences which are certain to arise from a state of things where all discipline is disregarded. They are too obvious to require elucidation. With alacrity and a laudable zeal do we endeavor to execute, with promptitude, the orders of our superior officers; but if, unfortunately, we casually err, as is often innocently the case, we desire to be corrected, as the Government has ever contemplated, by the salutary mode prescribed by itself.

With every confidence in the justice of the Chief Executive of our beloved country, we beg leave to subscribe ourselves, with the most unfeigned respect, sir, your obedient humble servants,

James Goodrum,	William J. Belt,
Henry D. Scott,	Jacob Crowninshield,
Dan'l L. Desaussure,	Francis Sanderson,
Charles Ellery,	Benjamin Tallmadge,
William Jamesson,	John M. Channing,
Otho Stallings,	Robert Armistead,
Corne's K. Stribbling,	Irvine Shubrick,
Fred'k Wolbert, jr.,	David R. Stewart,
French Forrest,	Thomas R. Gerry,
Walter F. Jones,	William C. Wetmore,
Thomas A. Conover,	Charles Boarman, jr.,
John B. Montgomery,	Solomon Rutter, jr.,
John A. Cook,	Matthew C. Stout,
Abraham Hosack,	Rob't B. Cunningham,
Charles Gaunt,	James G. Boughan,
Richard M. Potter,	Arch'd R. Bogardus,
Joseph Mattison,	Edward A. Lansing,
George A. Weaver,	Wm. M. Armstrong,
F. W. C. Story,	Joseph Moorhead,
Charles Lowndes,	Thomas Patten,
Patrick H. Overton,	George F. Pearson,
William W. Ramsay,	Russell Baldwin,
Wm. H. Campbell,	John P. Tuttle,
Richard S. Hunter,	Joshua W. Cochran,
George N. Hollins,	Green Lynch,
John S. Nicholas,	William F. Shields,
James T. Gerry,	John L. Cumming,
	Midshipmen.

## PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE FIFTEENTH CONGRESS, BEGUN AND HELD AT THE CITY OF WASHINGTON, MONDAY, DECEMBER 1, 1817.

## An Act to abolish the Internal Duties.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That, from and after the thirty-first day of December, one thousand eight hundred and seventeen, the internal duties on licenses to distillers; on refined sugars; licenses to retailers; sales at auction; carriages for the conveyance of persons; and stamped vellum, parchment, and paper, shall be discontinued; and all acts, and parts of acts, relative thereto, shall, from and after the said thirty-first day of December, be repealed: *Provided,* That, for the collection, recovery, remission, and receipt of such duties as shall have accrued, and on the day aforesaid remain outstanding, and for the payment of drawbacks or allowances on the exportation of any of the said spirits or sugars legally entitled thereto, provided the exportation be effected previous to the first day of January, one thousand eight hundred and nineteen, and for the recovery and distribution of fines, penalties, and forfeitures, and the remission thereof, which shall have been incurred before and on the said thirty-first day of December, the provisions of the aforesaid acts shall remain in full force and virtue.

*SEC. 2. And be it further enacted,* That the offices of the collectors of the internal duties and direct tax shall continue in each collection district, respectively, until the collection of the duties abovementioned, and of the direct tax, shall have been completed in such district, and no longer, unless sooner discontinued by the President of the United States, who shall be, and hereby is, empowered, whenever the collection of the said duties and tax shall have been so far completed in any district as to render, in his opinion, that measure expedient, to discontinue any of the said collectors, and to unite into one collection district any two or more collection districts, lying and being in the same State; in which case the collectors, thereafter employed in the collection of the said duties and tax in such State or district, shall be appointed and removable by the President alone; and for the promoting of the collection of any of the abovementioned duties or tax, which may be outstanding after the said thirty-first day of December, the President of the United States shall be, and he hereby is, empowered, at any time thereafter, to make such allowance as he may think proper, in addition to the commis-

sions now allowed by law, to any of the collectors of the said duties and tax, and the same, from time to time, to vary: *Provided,* That the whole of such additional allowances shall not, in the aggregate, exceed five per centum of the amount of the duties and tax paid into the Treasury after that day; and that the extraordinary allowances authorized by the second and fourth sections of the act, passed March third, one thousand eight hundred and fifteen, entitled "An act to fix the compensation and increase the responsibility of the collectors of the direct tax and internal duties, and for other purposes connected with the collection thereof," shall, after the said thirty-first day of December, cease; and the office of commissioner of the revenue shall cease, and be discontinued, whenever the collection of the duties and tax abovementioned shall be completed, unless sooner discontinued by the President of the United States, who shall be, and hereby is, empowered, whenever the collection of the said duties and tax shall have been so far completed as, in his opinion, to render that measure expedient, to discontinue the said office; in which case, the immediate superintendence of the collection of such parts of the said duties and taxes as may then remain outstanding, shall be placed in such officer of the Treasury Department as the Secretary, for the time being, may designate: *Provided, however,* That all bonds, notes, or other instruments, which have been charged with the payment of a duty, and which shall, at any time prior to the said thirty-first day of December, have been written or printed upon vellum, parchment, or paper, not stamped or marked according to law, or upon vellum, parchment, or paper, stamped or marked at a lower rate of duty than is by law required for such bond, note, or other instrument, may be presented to any collector of the internal revenue, or collector of the customs within the State, and, where there is no such collector, to the marshal of the district, whose duty it shall be, upon the payment of the duty with which such instrument was chargeable, together with the additional sum of ten dollars; for which duty and additional sum, the said collector or marshal shall be accountable to the Treasury of the United States; to endorse upon some part of such instrument his receipt for the same; and thereupon the said bond, note, or other instrument shall be, to all intents and purposes, as valid and available to the person holding the same, as if it had been or were stamped, or



marked, as by law required; anything in any act to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That all persons who shall obtain, or who shall have obtained, licenses for stills or boilers, or for selling by retail, or certificates for carriages, extending beyond the said thirty-first of December, shall be allowed a deduction from the duties paid or secured by them, proportionate to the part of their term which may remain unexpired on the said thirty-first of December; and the several banks or bankers which may have agreed to make the annual composition of one and a half per centum on their dividends, in lieu of the stamp duty on the notes issued by them, shall pay only at the rate of one and a half per centum per annum on such dividends for the portion of a year that shall remain from the time of the last annual payment to the said thirty-first of December, to be estimated upon the dividend or dividends that have been or shall be declared and made by such bank or bankers, respectively, within a year from the time of such last annual payment; and in all cases in which payments shall have been made, or duties secured, for a term extending beyond the said thirty-first of December, on account of any certificates for the use of a carriage, or license to distil or retail, so much of the sums so paid or secured, as shall be proportioned to the part of the term which may remain unexpired, shall be refunded or remitted: *Provided*, That all duties on sales at auction effected, and on refined sugar removed, previously to the first day of January, one thousand eight hundred and eighteen, shall be paid in the same manner as if this act had not been passed.

SEC. 4. *And be it further enacted*, That all persons who shall, on or after the said thirty-first day of December, have any blank vellum, parchment, or paper, which has been stamped, and on which a duty has been paid to the use of Government, shall be entitled to receive, from the collector of the district to whom it may be delivered, or from such other revenue officer in the respective States or districts as may be designated for that purpose by the Secretary of the Treasury, the value of the said stamps, after deducting, in all cases, seven and a half per centum; and the said officers are hereby authorized to pay the same: *Provided*, The said blank vellum, parchment, or paper be presented within four months after the said thirty-first of December.

SEC. 5. *And be it further enacted*, That on all sums that may be refunded in virtue of this act, as well as all sums received after the thirty-first day of December aforesaid, and before notice of this act, the collectors shall be allowed a commission of six per centum, to be charged by them in settling their accounts with the Treasury Department.

SEC. 6. *And be it further enacted*, That in case a collector shall not have in his hands a sufficient sum out of which to refund the sums authorized to be refunded by this act, or to defray the expenses incident to the collection of the outstanding duties and direct tax, such repayments and

expenses shall be made and defrayed out of any money in the Treasury not otherwise appropriated.

SEC. 7. *And be it further enacted*, That if, on the settlement of the accounts of any collector relative to the direct tax and internal duties, balances shall be found due to and from him on the different accounts, they may be adjusted, so as to ascertain the final balances; and if this be in favor of the collector, it shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the fifth section of the act, passed the third day of March, one thousand eight hundred and fifteen, entitled "An act to fix the compensation and increase the responsibility of the collectors of the direct tax and internal duties, and for other purposes connected with the collection thereof," shall cease after the thirty-first day of December, one thousand eight hundred and seventeen.

JOHN GAILLARD,

President pro tem. of the Senate.

HENRY CLAY,

Speaker of House of Representatives.

Approved, December 23, 1817.

JAMES MONROE.

An Act further to prolong the continuance of the Mint at Philadelphia.

*Be it enacted, &c.*, That the act, entitled "An act concerning the Mint," approved March the third, one thousand eight hundred and one, is hereby revived, and continued in force and operation for the further term of five years from the fourth day of March next.

SEC. 2. *And be it further enacted*, That, during the continuance of the Mint at the city of Philadelphia, the duties which were enjoined on the Commissioner of Loans for the State of Pennsylvania, by the second section of the act, entitled "An act concerning the Mint," passed on the third day of March, one thousand eight hundred and one, shall be performed by the Collector of the port of Philadelphia for the time being.

Approved, January 14, 1818.

An Act allowing compensation to the members of the Senate, members of the House of Representatives of the United States, and to the Delegates of the Territories, and repealing all other laws on that subject.

*Be it enacted, &c.*, That, at every session of Congress, and every meeting of the Senate in the recess of Congress, after the third day of March, in the year one thousand eight hundred and seventeen, each Senator shall be entitled to receive eight dollars for every day he has attended, or shall attend, the Senate, and shall also be allowed eight dollars for every twenty miles of estimated distance, by the most usual road, from his place of residence to the seat of Congress, at the commencement and end of every such session and meeting; and that all sums for travel

already performed, to be due and payable at the time of passing this act. And in case any member of the Senate has been, is, or shall be, detained by sickness on his journey to or from such session or meeting, or, after his arrival, has been, is, or shall be, unable to attend the Senate, he shall be entitled to the same daily allowance. And the President of the Senate pro tempore, when the Vice President has been, or shall be, absent, or when his office shall be vacant, shall, during the period of his services, receive, in addition to his compensation as a member of the Senate, eight dollars for every day he has attended or shall attend the Senate: *Provided always*, That no Senator shall be allowed a sum exceeding the rate of eight dollars a day, from the end of one such session or meeting to the time of his taking his seat in another: *Provided also*, That no Senator shall receive more for going to, and returning from, the meeting of the Senate on the fourth day of March last, than if this act had not been passed.

SEC. 2. *And be it further enacted*, That at every session of Congress after the said third day of March, one thousand eight hundred and seventeen, each representative and delegate shall be entitled to receive eight dollars for every day he has attended, or shall attend the House of Representatives, and shall also be allowed eight dollars for every twenty miles of the estimated distance, by the most usual road, from his place of residence to the seat of Congress, at the commencement and end of every such session and meeting; and that all sums for travel already performed, to be due and payable at the time of passing this act. And in case any representative or delegate has been, is, or shall be, detained by sickness, on his journey to or from the session of Congress, or, after his arrival, has been, is, or shall be, unable to attend the House of Representatives, he shall be entitled to the same daily allowance. And the Speaker of the House of Representatives shall be entitled to receive, in addition to his compensation as a representative, eight dollars for every day he has attended, or shall attend, the House: *Provided always*, That no representative or delegate shall be allowed a sum exceeding the rate of eight dollars a day, from the end of one session to the time of his taking his seat in another.

SEC. 3. *And be it further enacted*, That the said compensation, which shall be due to the members of the Senate, shall be certified by the President thereof, and that which shall be due to the representatives and delegates, shall be certified by the Speaker; and the same shall be passed as public accounts, and paid out of the public Treasury.

SEC. 4. *And be it further enacted*, That all acts, and parts of acts, on the subject of compensation to members of the Senate and of the House of Representatives, and delegates of the Territories, be, and the same are hereby, repealed from and after the third day of March last.

Approved, January 22, 1818.

An Act making further provision for repairing the public buildings.

*Be it enacted, &c.*, That for the purpose of repairing the public buildings, a sum, not exceeding two hundred thousand dollars, be, and the same is hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be applied by the commissioner, under the direction of the President of the United States.

Approved, January 27, 1818.

An Act to allow the benefit of drawback on merchandise transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise.

*Be it enacted, &c.*, That all goods, wares, and merchandise, duly imported into either of the ports of Bristol and Boston, which shall be transported by land conveyance from the port of Bristol, by the way of Dighton and Taunton, to Boston; or from Boston on the same route, to Bristol; and which, being imported into Bristol shall be exported from Boston; or being imported into Boston shall be exported from Bristol; shall be entitled to the benefit of the drawback of the duties thereof, upon exportation to any foreign port or place, under the same provisions, regulations, restrictions, and limitations, as if the said goods, wares, and merchandise, were transported coastwise from one to another of the said districts; and on the proviso, that all the provisions, regulations, limitations, and restrictions, existing in the case of goods, wares, and merchandise, transported by any of the routes mentioned in the seventy-ninth section of the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine, shall be duly observed.

Approved, February 6, 1818.

An Act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment, previous to the first of January, one thousand eight hundred and seventeen.

*Be it enacted, &c.*, That, for defraying any expenses which may have been incurred for the support of the Military Establishment, and those which have been incurred for calling out the militia, previous to the first of July, one thousand eight hundred and fifteen, there be appropriated the sum of four hundred thousand dollars; and that there be appropriated the further sum of one hundred thousand dollars, to defray any of the aforesaid expenses which may have been incurred from the first of July, one thousand eight hundred and fifteen, to the first of January one thousand eight hundred and seventeen.

SEC. 2. *And be it further enacted*, That the act passed on the third of March, one thousand eight hundred and seventeen, entitled "An act supplementary to an act, entitled 'An act further to amend the several acts for the establishment



and regulation of the Treasury, War, and Navy Departments," shall not be so construed as to prevent the President from making transfers from any appropriation which may have been made for the support of the Military Establishment, previous to the first of January, one thousand eight hundred and seventeen, agreeably to the provisions of the act passed on the third of March one thousand eight hundred and nine, further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments.

Approved, February 16, 1818.

An Act to incorporate the Columbian Insurance Company of Alexandria.

*Be it enacted, &c.,* That the Columbian Insurance Company of Alexandria, which was formed and established in the town of Alexandria on the twenty-eighth day of April, in the year one thousand eight hundred and fifteen, be and they are hereby created a body politic, and by that name shall have succession, shall sue and be sued, implead and be impleaded, in covenant, debt, case, by bill or by warrant, before any judge or justice, and in all courts of law and equity.

SEC. 2. *And be it further enacted,* That the capital of the said company, which now consists of two hundred and seventy-seven thousand dollars, in shares of fifty dollars each, may be increased whenever the business of the said company, in the opinion of the president and directors for the time being, may require it, to an extent not exceeding one million of dollars, in like shares.

SEC. 3. *And be it further enacted,* That the existing board of president and directors of said company may serve in those capacities until the next election of directors, on the first Monday of November, in the year one thousand eight hundred and eighteen; fourteen days before which period public notice shall be given by the said president and directors to the stockholders that an election will be held on that day; and they shall appoint two or more other stockholders as commissioners to superintend the same; at which election every stockholder shall be entitled to give one vote for each share which has stood in his name twenty days last preceding, for eleven persons, being stockholders, citizens of the United States, and residents of the District of Columbia, or of the county of Fairfax, in Virginia, as directors of said corporation. The persons thus elected shall, at their first meeting, proceed forthwith to fix the salary of the president, and afterwards to his election from their own body, and shall continue in office until the succeeding election of directors, and no longer. Under the same regulations shall an election be repeated annually. But if one happens not to be made on the day hereby limited, this charter shall not therefore be void, provided an election be completed within thirty days thereafter. No person shall continue president or director after ceasing to be a stockholder.

SEC. 4. *And be it further enacted,* That the pre-

sident and directors shall have power to make regulations for the government of the corporation: *Provided,* They be not repugnant to the laws of the United States or this act: to appoint a secretary, all other officers and servants, and to fix their compensations; to supply vacancies in their own body; to hold such real estate as may be necessary for the transaction of their business, not exceeding in amount forty thousand dollars, or that may be conveyed to them as security for debt; to vest the corporate funds in stock of the United States, or of any of the individual States, or in stock of any incorporated company, this corporation being inhibited from issuing any promissory note in the way of banking; to lend money on bottomry and respondentia; to insure lives; also, property against all manner of risks: *Provided,* Every insurance be expressed in writing, signed by the president, and attested by the secretary; and to sell the shares of any stockholder who shall fail to give satisfactory security for any part thereof that may be unpaid; also to sell, if the security which may have been given be manifestly impaired and deficient, and such stockholder shall fail to make it satisfactory when thereunto required; and further, to sell if such stockholder shall fail to pay instalments when demanded: nor shall any such sale preclude the liability of any such stockholder, his executors, and administrators, the endorser or endorsers, or any security he may have given, from making good any further injury which may be sustained.

SEC. 5. *And be it further enacted,* That the said president and directors shall conduct business in the town of Alexandria, in the District of Columbia; that they shall keep proper books and record their proceedings therein; that, on the first day of May and the first day of November in every year, they shall declare a dividend of so much of the clear profits as they may deem advisable, and within ten days thereafter shall pay the same to the stockholders: but it shall not be lawful for the said president and directors to include in such dividend the premium of any risk which has not actually terminated, nor to divide more than two-thirds of the clear profits, until, by the half-yearly appropriation of the other third thereof, a contingent fund of twenty thousand dollars shall be formed; and so often as the fund shall be impaired by losses, the said president and directors shall continue the half-yearly appropriation aforesaid, until it be restored to the amount before-mentioned.

SEC. 6. *And be it further enacted,* That every director who shall be present at the declaration of any dividend, in violation of the sixth section of this act, shall be individually answerable to the stockholders for the injury resulting therefrom, unless his protest be recorded on the books of the corporation.

SEC. 7. *And be it further enacted,* That every stockholder may sell and transfer his stock, provided the transferee give satisfactory security for the regular payment of such part of said stock as may then be uncalled for and unpaid; but all debts actually due and payable to the corporation

by the transferer, must be satisfied before such transfer shall be made; and, until such debts be recovered and paid, all dividends due, and which may become due, shall be applied to the credit thereof, unless the president and directors shall direct to the contrary.

SEC. 8. *And be it further enacted,* That this corporation shall continue until the thirty-first day of December, in the year one thousand eight hundred and thirty-seven; and on the dissolution or expiration of this charter, the president and directors for the time being shall take prompt and effectual measures for closing all its concerns; but no such dissolution or expiration shall operate so as to prevent any suits being brought or continued by or against the said corporation for any debt or claim due by or to the same, and which arose previously to said dissolution or expiration; but, for the purpose of closing its concerns, its corporate powers shall remain unimpaired.

SEC. 9. *And be it further enacted,* That Congress may, at any time during the period for which this charter is granted, repeal and annul the same.

Approved, February 16, 1818.

An Act making provision for the establishment of additional land offices in the Territory of Missouri.

*Be it enacted, &c.,* That, for the disposal of the lands of the United States west of the Mississippi river, and in the Territory of Missouri, in addition to the land office now established by law, there shall be established within the said Territory the following offices, to wit: One at the seat of justice in the county of Howard, for all the lands lying within the following boundaries; beginning at a point where the western line of range ten, west from the fifth principal meridian, intersects the north line of township thirty-four; thence, west with said township line, to where the same intersects the Osage boundary line; thence, north with the Osage boundary line, to the Missouri river; thence, up and with the Missouri river, to the western Indian boundary line at the mouth of Kansas river; thence, north with the said western Indian boundary line, to where the same shall intersect the northern Indian boundary; thence, east with the said northern Indian boundary, to where the same shall intersect the aforesaid west line of range ten; thence, south with the said range line, to the place of beginning. And a land office shall be established in the county of Arkansas, at such place as the President shall deem most convenient, for all the lands in the district bounded as follows: beginning on the river Mississippi, at the thirty-third degree of north latitude; thence, up and with the Mississippi river, to the mouth of St. Francis river, where the base line intersects the same; thence, west with the said base line to where the same shall intersect the meridian on which the Osage boundary line is run; thence, due south, to the thirty-third parallel of latitude; thence, east with the said parallel, to the place of beginning. And a land office shall be established at

the seat of justice in the county of Lawrence, for all the lands in the district bounded as follows: beginning on the base line, at the mouth of St. Francis; thence, up and with the Mississippi river, to the intersection of the same by the north line of township fifteen north; thence, west with the said north line of township fifteen, to where the same shall intersect the Osage boundary line; thence, due south to the aforesaid base line; thence, east with the said base line, to the place of beginning. And a land office shall be established at the town of Jackson, in the county of Cape Girardeau, for all lands in the district bounded as follows: beginning on the Mississippi river, where the north line of township fifteen north intersects the same; thence, up and with the Mississippi, to its intersection by the north line of township thirty-four north; thence, west with the said north line of township thirty-four, to the Osage boundary line; thence, south with the said boundary, to the north line of township fifteen; thence, east with the said township line, to the place of beginning. And all the lands within the following boundaries shall form a district for the land office established by law at St. Louis, in the county of St. Louis, viz: beginning on the Mississippi river, where the north line of township thirty-four north intersects the same; thence, up and with the Mississippi river, to the mouth of Desmoin river; thence, up and with the Desmoin, to the north Indian boundary line; thence, west with the said boundary, to the west line of range ten west; thence, south with said range line, to the north line of township thirty-four north; thence, east with the said township line, to the place of beginning.

SEC. 2. *And be it further enacted,* That as soon as, in the opinion of the President of the United States, there shall be a sufficient quantity of the public lands surveyed, within all or either of the land districts hereby established, to authorize the opening of all, or either, of the land offices aforesaid, he shall cause the same to be opened, and shall proceed, from time to time, to appoint, with the advice and consent of the Senate, for each of the said offices, a register and receiver of public moneys, who shall give security in the same sums, and in the same manner, and whose compensation, emoluments, and duties, and authority, shall, in every respect, be the same, in relation to the lands which shall be disposed of at their offices, as are, or may be, provided by law, in relation to the registers and receivers of public moneys in the several land offices established for the disposal of the lands of the United States northwest of the river Ohio and above the mouth of the Kentucky river.

SEC. 3. *And be it further enacted,* That, whenever a land office shall have been established in any of the districts aforesaid, and a register and receiver of public moneys appointed for the same, the President of the United States shall be, and he is hereby, authorized to direct so much of the public lands lying in such district as shall have been surveyed according to law, to be offered for sale, with the same reservations and exceptions,



and on the same terms and conditions in every respect, as was provided for the sale of the public lands in the Territory of Louisiana, by the tenth section of an act, entitled "An act providing for the final adjustment of claims to lands, and for the sale of the public lands, in the Territory of Orleans and Louisiana, and to repeal the act passed for the same purpose, and approved February sixteenth, one thousand eight hundred and eleven," except that the register and receiver of public moneys alone may be competent to superintend the public sales; and that, instead of one township for the support of a seminary of learning, there shall be two townships located for the purpose by the Secretary of the Treasury, and reserved from sale: *Provided*, That one of said townships shall be located on the waters of the Missouri, and the other on the waters of the Arkansas.

Approved, February 17, 1818.

An Act making appropriations for the military service of the United States for the year one thousand eight hundred and eighteen.

*Be it enacted, &c.*, That the following sums be, and the same are hereby, respectively, appropriated, viz:

For the pay of the Army of the United States, one million three hundred and three thousand dollars.

For subsistence, one million twenty-five thousand nine hundred and twenty-seven dollars.

For forage for officers, three thousand one hundred and sixty-eight dollars.

For bounties and premiums, forty-four thousand dollars.

For clothing, six hundred and eighteen thousand one hundred and fifty dollars.

For the medical and hospital department, fifteen thousand dollars.

For the ordnance department, one hundred and fifty-four thousand two hundred dollars.

For fulfilling contracts already entered into for cannon and shot, seventy thousand three hundred dollars.

For completing the arsenals and other works at Watertown, near Boston, thirty-nine thousand dollars.

For an arsenal near Augusta, in Georgia, forty thousand dollars.

For an arsenal at Baton Rouge, fifteen thousand dollars.

For an arsenal at Detroit, ten thousand dollars.

For completing the arsenal and other works at Watervliet, near Albany, ten thousand dollars.

For completing the arsenal and other works at Pittsburg, five thousand dollars.

For armories, three hundred thousand dollars.

For the Quartermaster's department, four hundred and sixty thousand dollars.

For contingencies of the army, sixty thousand dollars.

For the Indian department, two hundred thousand dollars.

For the purchase of maps, plans, books, and

instruments, for the War Office, one thousand dollars.

For gratuities and travelling expenses to soldiers discharged, seventy thousand dollars.

For fuel, transportation, class-books, repairs of barracks, and other buildings, and for contingent expenses of the Military Academy at West Point, twelve thousand and seventy-five dollars.

For the expense of medals for the officers of the army, ten thousand dollars.

For making and running the lines of the several cessions of land made by the Indians in the Illinois Territory, five thousand dollars.

For defraying the expense, which may have been incurred, for running and marking the boundary lines of the several cessions of land made by the Indians in the Missouri Territory, five thousand dollars.

To defray the expense of employing a brigade of militia, three hundred and six thousand seven hundred and forty-three dollars.

Approved, February 19, 1818.

An Act concerning the District of Brunswick, in the State of Georgia.

*Be it enacted, &c.*, That the collector of the district of Brunswick shall reside at Darien, which shall be the sole port of entry for the said district; and that, instead of a surveyor for the port of Darien, there shall be one surveyor for the said district of Brunswick, who shall reside at such place in the said district as may be directed by the Secretary of the Treasury.

Approved, March 9, 1818.

An Act supplementary to the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes," &c.

*Be it enacted, &c.*, That the time limited by the act, passed on the sixteenth day of April, one thousand eight hundred and sixteen, and to which this is a supplement, for issuing military land warrants, shall be extended to the first day of March, one thousand eight hundred and nineteen; and the time, limited by the said act, for the location of unlocated military land warrants, shall be extended to the first day of October, one thousand eight hundred and nineteen.

Approved, March 9, 1818.

An Act providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes.

*Be it enacted, &c.*, That, for the purpose of ascertaining the quantity, and providing for the sale, of the lands belonging to the United States, within the limits of a tract of one hundred thousand acres granted to Rufus Putnam, Manassah Cutler, Robert Oliver, and Griffin Green, in trust for the persons composing the Ohio Company of Associates, in pursuance of the third section of an act, entitled "An act authorizing the grant and

conveyance of certain lands to the Ohio Company of Associates," passed on the twenty-first of April, seventeen hundred and ninety-two, it shall be the duty of the Surveyor General, and he is hereby authorized, to require of the said Rufus Putnam, and other surviving patentees, in trust as aforesaid, to make a report to him of the quantity and situation of the lands by them conveyed, as bounties, to actual settlers, according to the conditions of the said third section and grant aforesaid; and, also, a duly attested copy of the field notes and plat of the surveys of the lands by them conveyed to actual settlers as aforesaid. And the Surveyor General, on receiving a satisfactory report of the quantity and situation of the lands so conveyed, shall cause the residue of the lands within the said tract to be surveyed in the same manner as the other public lands; or, if he shall deem it more convenient, into tracts of one hundred acres, conforming, as far as practicable, to the plan on which lots granted to actual settlers were laid off; and he shall make return of the surveys to the General Land Office, and the register of the land office at Marietta.

*SEC. 2. And be it further enacted*, That every person, or their legal representatives, whose claims were confirmed by any of the several acts for confirming claims to land in the district of Vincennes, and which claims have not been located, shall be authorized to enter their locations with the register of the land office at Vincennes, on any part of the tract set apart for that purpose in the said district, by virtue of an act, entitled "An act respecting claims to land in the Indiana Territory and State of Ohio," and in conformity to the provision of that act, and shall be entitled to receive certificates and patents in the same manner as provided by former laws respecting locations in the same tract: *Provided*, That the locations authorized by this act, and those authorized by an act, entitled "An act for the relief of certain claimants to land in the district of Vincennes," passed on the sixteenth of April, one thousand eight hundred and sixteen, shall be made before the first day of September next; and, after the said locations shall have been made and the surveys thereon completed, the Surveyor General shall cause the residue of the said tract to be surveyed, conforming, as far as practicable, to the plan for surveying the other public lands, and he shall make a return of the surveys to the General Land Office, and to the register of the land office at Vincennes.

*SEC. 3. And be it further enacted*, That such part of the tract, described by the first section of this act, as shall appear to belong to the United States, shall be offered for sale at Marietta, and such part of the tract described by the second section of this act, as shall not have been located under confirmed claims, shall be offered for sale at Vincennes. The said lands, in the said respective tracts, with the exception of the usual proportion for the support of schools, shall be offered for sale to the highest bidder, under the direction of the register of the land office and the receiver of public moneys for the said dis-

tricts, on such days, respectively, as shall, by proclamation of the President, be designated for that purpose; the sales at each place shall remain open six days, and no longer; the lands shall not be sold for less than two dollars an acre; and shall, in every other respect, both as to public and private sales, be sold on the same terms and conditions as other public lands in the same districts; and patents shall be obtained in the manner, and on the terms, provided in case of other public lands sold by the United States.

*SEC. 4. And be it further enacted*, That the superintendents of the public sales, directed by this act, shall each receive four dollars a day for each day's attendance on the said sales.

Approved, March 18, 1818.

An Act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war.

*Be it enacted, &c.*, That every commissioned officer, non-commissioned officer, musician, and private soldier, and all officers in the hospital department and medical staff, who served in the war of the Revolution until the end thereof, or for the term of nine months, or longer, at any period of the war, on the continental establishment; and every commissioned officer, non-commissioned officer, mariner, or marine, who served at the same time, and for a like term, in the naval service of the United States, who is yet a resident citizen of the United States, and who is, or hereafter, by reason of his reduced circumstances in life, shall be, in need of assistance from his country for support, and shall have substantiated his claim to a pension in the manner hereinafter directed, shall receive a pension from the United States: if an officer, of twenty dollars per month during life; if a non-commissioned officer, musician, mariner, marine, or private soldier, of eight dollars per month during life: *Provided*, No person shall be entitled to the provisions of this act until he shall have relinquished his claim to every pension heretofore allowed him by the laws of the United States.

*SEC. 2. And be it further enacted*, That, to entitle any person to the provisions of this act, he shall make a declaration, under oath or affirmation, before the district judge of the United States of the district, or before any judge or court of record of the county, State, or Territory, in which the applicant shall reside, setting forth, if he belonged to the Army, the company, regiment, and line, to which he belonged; the time he entered the service, and the time and manner of leaving the service; and, in case he belonged to the Navy, a like declaration, setting forth the name of the vessel, and particular service in which he was employed, and the time and manner of leaving the service, and shall offer such other evidence as may be in his power; and, on its appearing, to the satisfaction of the said judge, that the applicant served in the Revolutionary war as aforesaid, against the common enemy, he shall certify and transmit the testimony in the



## Public Acts of Congress.

case, and the proceedings had thereon, to the Secretary of the Department of War, whose duty it shall be, if satisfied the applicant comes under the provisions of this act, to place such officer, musician, mariner, marine, or soldier, on the pension list of the United States, to be paid in the same manner as pensions to invalids who have been placed on the pension list are now paid, and under such restrictions and regulations, in all respects, as are prescribed by law.

SEC. 3. *And be it further enacted*, That every pension, by virtue of this act, shall commence on the day that the declaration under oath or affirmation, prescribed in the foregoing section, shall be made.

SEC. 4. *And be it further enacted*, That, from and after the passage of this act, no sale, transfer, or mortgage, of the whole, or any part, of the pension payable in pursuance of this act, shall be valid; and any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

Approved, March 18, 1818.

An Act making appropriations for the support of the Navy of the United States, for the year one thousand eight hundred and eighteen.

*Be it enacted, &c.*, That, for defraying the expenses of the Navy for the year one thousand eight hundred and eighteen, the following sums be, and they are hereby, respectively appropriated, viz: for pay and subsistence of the officers, and pay of the seamen, one million one hundred and thirty-five thousand five hundred and ninety-five dollars. For provisions five hundred and eleven thousand dollars. For medicine, hospital stores, and all expenses on account of the sick, including the marine corps, twenty-five thousand dollars. For repairs of vessels, three hundred thousand dollars. For contingent expenses, three hundred thousand dollars. For repairs of navy yards, docks, and wharves, one hundred thousand dollars. For pay and subsistence of marine corps, seventy-three thousand dollars. For clothing for the same, thirty-two thousand dollars. For military stores for the same, eleven hundred dollars. For contingent expenses for the same, sixteen thousand dollars. For the purchase of medals and swords, directed by different resolutions of Congress, fifteen thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 18, 1818.

An Act for altering the time for holding the District Court for the District of Virginia.

*Be it enacted, &c.*, That the terms of the district court for the district of Virginia, which are now directed by law to be holden on the twelfth day of April, in each year, shall hereafter be holden, for the said district, on the second day of April in each year, except where such day shall

occur on Sunday, when the term of the said court shall commence and be holden on the next succeeding day.

Approved, March 19, 1818.

An Act extending the time for obtaining Military Land Warrants in certain cases.

*Be it enacted, &c.*, That the provision of the second section of the act, entitled "An act to provide for designating, surveying, and granting the military bounty lands," passed on the sixth day of May, one thousand eight hundred and twelve, which limits the time within which persons entitled to military bounty lands shall make their application for a land warrant to five years from and after such person shall become entitled thereto, shall not be construed to apply to, affect, or bar, any application for a military land warrant, which may be made by the heirs and representatives of a deceased person, who was entitled thereto by services performed in the late war, or application by the heirs and representatives of any non-commissioned officer or soldier killed in action, or who died in the actual service of the United States, and entitled by existing laws to a bounty in lands; but the heirs and representatives of such persons shall be allowed to make their applications therefor at any time before the first day of May, one thousand eight hundred and twenty; any act to the contrary notwithstanding.

Approved, March 27, 1818.

An Act in addition to "An act making appropriation for repairing certain roads therein described."

*Be it enacted, &c.*, That the sum of five thousand dollars be, and the same is hereby, appropriated, and payable out of any moneys in the Treasury not otherwise appropriated, for the purpose of repairing and keeping in repair, the road between Fort Hawkins, in the State of Georgia, and Fort Stoddard in the Alabama Territory.

SEC. 2. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, and payable out of any moneys in the Treasury not otherwise appropriated, for the purpose of repairing, and keeping in repair, that part of the road leading from Columbia, in the State of Tennessee, by the Choctaw agency, to Madisonville, in the State of Louisiana, which lies between the southern boundary of the State of Tennessee and the Indian boundary line, near Zadock Brashears' in the State of Mississippi; which sums shall be expended under the direction of the Secretary for the Department of War.

Approved, March 27, 1818.

An Act allowing additional salary and clerk hire to the Surveyor for the Illinois and Missouri Territories, and for other purposes.

*Be it enacted, &c.*, That the Surveyor of the lands of the United States in the Territories of Illinois and Missouri, shall hereafter be allowed

## Public Acts of Congress.

an annual compensation of two thousand dollars, in lieu of the compensation now fixed by law, and shall also be allowed three clerks, whose whole compensation shall not exceed two thousand dollars per annum.

SEC. 2. *And be it further enacted*, That the accounting officers of the Treasury Department be authorized to adjust and settle the accounts of William Rector, for his services as principal Deputy Surveyor, and Surveyor of the Illinois and Missouri Territories, and to allow him, in addition to his salary as fixed by law, the following fees, that is to say: for examining and recording the surveys executed by any of his deputies, at the rate of twenty-five cents for every mile of the boundary line of the surveys executed under his direction in the offices aforesaid: *Provided*, The allowance shall not be made on the surveys of private claims in any case where he has received, or is entitled to receive, similar fees from individuals.

Approved, April 3, 1818.

An Act to provide for the due execution of the laws of the United States within the State of Mississippi.

*Be it enacted, &c.*, That all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said State of Mississippi as elsewhere in the United States.

SEC. 2. *And be it further enacted*, That the said State shall be one district, and be called the Mississippi district. And a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of the said State, two sessions annually, on the first Mondays in May and December; and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act, entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district, who shall reside, and keep the records of the court at the place of holding the same; and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is entitled for similar services.

SEC. 3. *And be it further enacted*, That there shall be allowed to the judge of the said district court the annual compensation of two thousand dollars, to commence from the date of his appointment; to be paid, quarter yearly, at the Treasury of the United States.

SEC. 4. *And be it further enacted*, That there shall be appointed, in the said district, a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars, as a full compensation for all extra services.

SEC. 5. *And be it further enacted*, That a marshal be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the

same fees, as are prescribed to marshals in other districts; and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

Approved, April 3, 1818.

An Act altering the time for holding a session of the District Court in the District of Maine.

*Be it enacted &c.*, That the district court, heretofore by law holden on the last day of May, in each year, at Portland, within and for the district of Maine, shall hereafter be holden, at the same place, on the first Tuesday of June in each year.

Approved, April 3, 1818.

An Act respecting the Courts of the United States within the State of New York.

*Be it enacted, &c.*, That, from and after the passing of this act, the district court of the United States, for the northern district of New York, shall be holden by the judge of the said district, and, in case of his inability on account of sickness, absence, or otherwise, it shall be the duty of the judge of the southern district of New York to hold the said court, in and for the said northern district, and to do and perform all other acts and duties of the judge of the said northern district, with the like power and authority in all respects. And whenever such inability of the judge of the said northern district, to hold any term of the said court, shall exist, it shall be his duty to give previous timely notice thereof to the judge of the said southern district.

SEC. 2. *And be it further enacted*, That there shall be held, in each year, three terms of the district court for the northern district of New York, to wit: at the city of Albany, on the second Tuesday of May, and on the second Tuesday of November; and at the village of Utica, in the county of Oneida, on the third Tuesday of May. And all suits and proceedings in the said court shall be revived, and shall continue in full force, in the same manner as if the said court had been regularly held according to law and had been adjourned to the term next to be holden by virtue of this act. And all process already issued, or which may be issued, out of the said court, before the passing of this act, shall be held and deemed returnable to the next term thereof to be holden by virtue of this act. And it shall be at the discretion of the judge of the said northern district of New York, or, in case of his inability, of the judge of the said southern district, to appoint and hold a court or courts at any other time or place, than those before mentioned, within and for the said northern district, as the business therein may require.

SEC. 3. *And be it further enacted*, That the said northern district of the State of New York shall be, and the same is hereby, enlarged, so as to include the counties of Albany, Rensselaer, Schenectady, Schoharie, and Delaware, in the said State.

SEC. 4. *And be it further enacted*, That all pro-



ceedings hitherto had in the district courts of the United States, either for the northern or for the southern district of New York, in any suit at common law, or in any civil cause of admiralty and maritime jurisdiction, in continuation of any such suit or cause which had been instituted in the former district court of the United States for the district of New York, be, and the same hereby are, declared as valid and effectual as if the same suit or cause had been originally instituted in the district court in which such proceedings have been had.

Sec. 5. *And be it further enacted*, That the jurisdiction of every suit or cause, either at common law, or of maritime and admiralty jurisdiction, whether the same hath or hath not been instituted in the district court of the former district of New York, wherein the cause shall have arisen, or the seizure shall have been made, within the limits of the northern district of New York, as prescribed by this act, and which hath not been proceeded in to final judgment or decree, shall be vested in the district court for the northern district of New York; and all pleadings, libels, claims, evidences, and papers, whatsoever, that may have been filed, and all moneys which may have been paid or deposited, in the office of the clerk of the former district of New York, or of the clerk of the southern district of New York, in every such suit or cause, shall be transferred to, and filed and deposited in, the office of the clerk of the northern district of New York. And the said district court for the northern district of New York shall have as full power to hear, try, and determine, the said suits and causes, and to proceed therein to final judgment and decree, as the district court for the district of New York had by law. And the jurisdiction of all suits or causes, whether at common law, or of admiralty and maritime jurisdiction, whether the same hath or hath not been instituted in the district court, for the former district of New York, wherein the cause of action shall have arisen, or the seizure shall have been made, within the limits of the southern district of New York, and which have not been proceeded in to final judgment or decree, shall be vested in the district court for the said southern district of New York, and the said court shall have as full power to hear, try, and determine, the said suits and causes, as the district court for the district of New York had by law.

Sec. 6. *And be it further enacted*, That the original jurisdiction of the circuit court of the southern district of New York shall be confined to causes arising within the said district, and shall not be construed to extend to causes of action arising within the northern district of New York.

Approved, April 3, 1818.

An Act to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia.

*Be it enacted, &c.*, That it shall and may be lawful for the levy court of the county of Alexandria, in the District of Columbia, to erect, or cause to be erected, a good and sufficient jail for

said county; and, whenever the levy court of the said county shall transmit to the marshal a certificate, that the jail hereby provided for is so far finished as to be ready for the reception of persons, it shall be the duty of the marshal forthwith to remove to the said jail all prisoners who shall at that time be confined in the present jail of the said county.

Sec. 2. *And be it further enacted*, That the said levy court may cause to be erected, if they deem expedient, at the expense of the county, a good and convenient court-house, and a fire-proof office for records, to be built of stone or brick; and that it shall be the duty of the said court to cause the jail before provided for, and the said court-house and office, when erected, to be kept in a good state of repair. And if it should be considered expedient by the said court to erect the said court-house and office in any other place than the present market square, the said court is hereby authorized and empowered to purchase, within the limits of the town of Alexandria, a lot of ground, not exceeding two acres, for the erection of the said buildings and of the said jail, and for no other use whatever.

Sec. 3. *And be it further enacted*, That the levy court of the county of Alexandria shall, from time to time, as it shall be necessary, levy on the titheable, and other taxable property, within the said county, the sums of money which shall be necessary to carry into full effect the several provisions of this act.—Approved, April 3, 1818.

An Act to regulate the fees of Public Notaries in the county of Washington, in the District of Columbia.

*Be it enacted, &c.*, That the public notaries appointed for, and residing in, the county of Washington, in the District of Columbia, shall be, and they are hereby, severally authorized to demand and receive, for any services required of them in that capacity, such fees as are now allowed to the public notaries of the State of Maryland, by the laws of that State, for similar services.

Approved April 4, 1818.

An Act to establish the Flag of the United States.

*Be it enacted, &c.*, That, from and after the fourth day of July next, the flag of the United States be thirteen horizontal stripes, alternated red and white: that the union be twenty stars, white in a blue field.

Sec. 2. *And be it further enacted*, That, on the admission of every new State into the Union, one star be added to the union of the flag; and that such addition shall take effect on the fourth day of July then next succeeding such admission.

Approved, April 4, 1818.

An Act supplementary to the act, entitled "An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same," passed the eighteenth of April, one thousand eight hundred and six.

*Be it enacted, &c.*, That it shall be lawful for

the State of Tennessee to issue grants and perfect titles on all special entries and locations of lands in the said State, made, pursuant to the laws of North Carolina, before the twenty-fifth day of February, in the year one thousand seven hundred and ninety, which were good and valid in law, and recognised by the act of the said State of North Carolina, commonly called the cession act, passed the — day of December, one thousand seven hundred and eighty-nine, and which lie west and south of the line described in the act to which this is supplementary; and also to issue grants and perfect titles on all warrants of survey, interfering entries and locations, which might be removed by the cession act of North Carolina aforesaid, and which are good and valid in law, and which have not been actually located or granted, east and north of the aforesaid line; and all interfering grants which are good and valid in law, or the warrants or certificates legally issued, in consequence of such interference, on land lying south and west of the said line, in the manner, and under the same or similar rules, regulations, and restrictions, as are prescribed by the laws now in force in the said State of Tennessee, for issuing grants and perfecting titles on claims of a like nature for lands lying north and east of the said line.

Sec. 2. *And be it further enacted*, That, previous to issuing a grant or perfecting a title on any of the claims hereinbefore described, the warrant, or other legal evidence of such claim, shall be laid before the Commissioner of Land Claims for West Tennessee, for the time being, appointed by the authority of the said State, and approved by him as valid, upon sufficient legal evidence being adduced of such validity, according to the rules and regulations prescribed by the laws of the said State now in force, for deciding on warrants and other land claims of the like nature, authorized to be perfected into grants, north and west of the aforesaid line; and upon such warrant or other legal evidence, of any of the claims aforesaid, being declared valid by said commissioner, it shall be lawful for the surveyor of the proper district, or county, to lay off and survey the same, in the manner prescribed by the laws of the said State in similar cases, and return such survey to the register of the land office of West Tennessee, who shall thereupon be authorized to make out a grant thereon, to be executed by the Governor, and countersigned by the Secretary of the said State, in the manner provided by the laws of the same: *Provided*, That no surveys shall be made, grants issued, or titles perfected, by virtue of this act, for any land to which the Indian claim has not been previously extinguished.

Sec. 3. *And be it further enacted* That those persons who have had surveys made, and obtained grants, from the State of North Carolina, since the twenty-third day of December, in the year of our Lord one thousand eight hundred and eleven, for lands lying within the State of Tennessee, shall, upon surrendering such grants to the said commissioner of land claims for West Tennessee, for the time being, to be cancelled

and vacated, be allowed to produce the entries, warrants, or other evidences of claims, upon which such grants were founded; and if the said claims shall be deemed good and valid by the said commissioner, then it shall be lawful for the State of Tennessee to issue grants and perfect titles on such claims, in the same manner as if no such grants had been issued by the State of North Carolina.

Approved, April 4, 1818.

An Act declaring the consent of Congress to an act of the State of North Carolina for the relief of sick and disabled American seamen.

*Be it enacted, &c.*, That the assent of Congress be, and hereby is, granted and declared to an act of the Legislature of the State of North Carolina, entitled "An act for the relief of sick and disabled American seamen," and passed on the twenty-third day of December last; and the said act is hereby ratified and confirmed.

Sec. 2. *And be it further enacted*, That this act shall be in force for five years, and no longer.

Approved, April 4, 1818.

An Act concerning the bounty or allowance to fishing vessels in certain cases.

*Be it enacted, &c.*, That, where any fishing vessel of the United States has been, since the eighteenth day of February, in the year one thousand eight hundred and fifteen, prevented, by illegal capture or seizure, under authority, or pretence of authority, from any foreign Government, from fishing at sea, for any part of the term of four months required by law to be employed by such vessel in fishing, in order to entitle the owner of such vessel to the bounty or allowance prescribed by law, the time of the unlawful detention of such vessel shall be computed as a part of the said four months, and such bounty or allowance shall be paid accordingly: *Provided*, That such vessel has, in all other respects, complied with the requisites of the laws now in force.

Approved, April 4, 1818.

An Act limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid.

*Be it enacted, &c.*, That every person claiming lands in virtue of the act, entitled "An act for the relief of the inhabitants of the late county of New Madrid, in the Missouri Territory, who suffered by earthquakes," passed on the seventeenth day of February, one thousand eight hundred and fifteen, shall make application therefor, and produce evidence in support of his claim to the recorder of land titles for the said Territory, on or before the first day of January next; and the said recorder shall not issue a certificate for any claim as aforesaid, the evidence in support of which shall not have been produced to him within the time limited as aforesaid.

Approved, April 9, 1818.



An Act concerning the Territory of Alabama.

*Be it enacted, &c.*, That any person or persons who have or may hereafter purchase, from the United States, one quarter section or more of land in the Alabama Territory, and shall have paid one-fourth part thereon, as the law in such cases requires, and shall have obtained a certificate of the proper land office to that effect, shall be competent to hold any office of honor or profit in the said Territory, anything in the ordinance or former laws of the United States to the contrary notwithstanding.

Approved, April 9, 1818.

An Act to incorporate a Fire Insurance Company in the city of Washington.

*Be it enacted, &c.*, That the subscribers to this company, their successors and assigns, shall be, and they are hereby, created a body politic, by the name and style of the Franklin Insurance Company, and shall, by that name, have succession, and shall be able to sue and be sued, implead and be impleaded, in all courts of law in the United States.

SEC. 2. *And be it further enacted*, That a subscription be opened in the city of Washington, under the direction of John Davidson, Satterlee Clark, Alexander Kerr, R. C. Weightman, Benjamin G. Orr, William Brent, Samuel Miller, and William Doughty, or a majority of them, for raising a capital stock of two hundred and fifty thousand dollars, in shares of twenty-five dollars each; and that each person, upon subscribing, pay to the persons above mentioned, five dollars upon each share so subscribed for; and that the remainder of the said twenty-five dollars shall be secured by negotiable notes, signed and endorsed to the satisfaction of the aforesaid John Davidson, Satterlee Clark, Alexander Kerr, R. C. Weightman, Benjamin G. Orr, William Brent, Samuel Miller, and William Doughty, or a majority of them, and payment thereof may be thereafter demanded, at such times, and in such proportions, as the president and directors, hereafter mentioned, shall judge advisable, giving six weeks' notice in at least three of the gazettes printed in the District of Columbia.

SEC. 3. *And be it further enacted*, That every subscriber shall be entitled to vote by himself, his agent, or proxy, appointed under his hand and seal, attested by two witnesses, at all elections made by virtue of this act; and shall have as many votes as he holds shares, as far as ten shares; one vote for every five shares, which he may hold over ten shares, as far as fifty other shares; and one vote for every thirty shares, which he may hold over sixty shares; and every stockholder, (not in debt to the company) may, with the assent of the president and directors, in person, or by power of attorney, assign and transfer his stock in the company, in the books of the same, or any part thereof, not being less than a whole share; but no stockholder, indebted to the company, shall be permitted to make a transfer, or receive a dividend, until such debt is paid, or se-

cured to the satisfaction of the president and directors.

SEC. 4. *And be it further enacted*, That, as soon as five thousand shares shall be subscribed, the persons hereby authorized to receive subscriptions shall call a meeting of the subscribers, giving two weeks' notice in two of the papers printed within the District; and the subscribers who shall assemble in person, or by proxy, shall choose, by ballot, from among the stockholders, by a majority of votes, twelve directors, who shall continue in office until the first Monday in June, in the year one thousand eight hundred and nineteen; on which Monday in June, in every succeeding year thereafter, an election shall be held for twelve directors, as aforesaid, who shall continue in office for one year from the time of their election, and until others be chosen in their stead. And the said directors, at their first meeting, shall choose, from among themselves, or from the stockholders at large, a president, and allow him a reasonable compensation for his services; and in case of death, removal, resignation, or other disqualification of the president, or any of the directors, the remaining directors may elect others to supply their places during the remainder of the term for which they were chosen; and in every case where one of the directors shall be chosen president, the vacancy shall be supplied, as in the case of death, removal, or resignation. That the persons hereby authorized to receive subscriptions, or any three of them, be a committee to superintend the first election of directors, and a committee of three stockholders, not being directors, be appointed by the directors to superintend every succeeding election.

SEC. 5. *And be it further enacted*, That the president and directors shall have power to ordain and make such by-laws, ordinances, and regulations as shall appear necessary for regulating and conducting the concerns of the company, not being contrary to this act, or the laws and Constitution of the United States. And the funds of the company, as they shall arise, may be vested in the funded stock of the United States, or of any individual State, or in the stock of any incorporated bank.

SEC. 6. *And be it further enacted*, That the members of the company shall not be liable for any loss, damage, or responsibility, other than the property they have in the capital or funds of the company, to the amount of the shares respectively held by them, and any profits arising therefrom not divided: *Provided*, The said corporation shall, from time to time, apply all sums of money received by them for premiums, to the payment of losses in the first instance, and to make up the amount of their original capital, whenever it shall have suffered any diminution by losses.

SEC. 7. *And be it further enacted*, That the president and directors, for the time being, shall have power to dispose of, according to the provisions of the second section of this act, the shares which may remain unsold at the formation of the company; and they shall have power

also to provide, by purchase or otherwise, a suitable place for an office, to make all rules and regulations for conducting the business of insurance and the concerns of the company, not provided for by this act; to appoint a secretary, and such other officers as they may find necessary; and to make such compensation for their services as they may deem proper; that they shall have full power and authority to make insurances against fire, on any and every description of property. All policies of insurance and other contracts, made by said company, signed by the president and countersigned by the secretary, shall be obligatory on said company, and have the same effect as if the said policies and contracts had been attested by corporate seal.

SEC. 8. *And be it further enacted*, That the said president and directors shall conduct business in the city of Washington; that they shall keep proper books, and record their proceedings therein; that, on the first Monday of May, and the first Monday of November, in every year, after the first year, they shall declare a dividend of so much of the clear profits as they may deem advisable, and within ten days thereafter shall pay the same to the stockholders; but it shall not be lawful for the said president and directors to include, in such dividend, the premiums of any risk which has not actually terminated, nor to divide more than two-thirds of the clear profits, until, by the half-yearly appropriation of the other third thereof, a contingent fund of twenty thousand dollars shall be formed; and as often as the fund shall be impaired by losses, the said president and directors shall continue the half-yearly appropriation aforesaid, until it be returned to the amount beforementioned.

SEC. 9. *And be it further enacted*, That every director who shall be present at the declaration of any dividend in violation of the eighth section of this act, shall be individually answerable to the stockholders for the injury resulting therefrom, unless his protest be recorded in the books of the corporation.

SEC. 10. *And be it further enacted*, That in case any action shall be prosecuted on any insurance made by virtue of this act, it shall be deemed sufficient service of such process to leave a copy thereof with the president or secretary for the time being, and all recoveries had in any such action or actions shall be conclusive on the company, so far as to render the stock and property of the company liable, and no further.

SEC. 11. *And be it further enacted*, That this act shall be and continue in force for and during the term of twenty years from and after the passing thereof, and until the end of the next session of Congress; and on the dissolution or expiration of this charter, the president and directors, for the time being, shall take prompt and effectual measures for closing all its concerns; but no such dissolution or expiration shall operate, so as to prevent any suits to be brought or continued, by or against the said corporation, for any debt or claim due by or to the same, and which arose previously to said dissolution or ex-

piration; but, for the purpose of closing its concerns, its corporate powers shall remain unimpaired.

SEC. 12. *And be it further enacted*, That this corporation shall not issue any promissory note in the way of banking; and that Congress may, at any time during the period for which this charter is granted, repeal and amend the same.

Approved, April 9, 1818.

An Act making appropriations for the support of Government for the year one thousand eight hundred and eighteen.

*Be it enacted, &c.*, That the following sums be, and the same are hereby, respectively, appropriated; that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, two hundred thousand dollars.

For the expenses of fire wood, stationery, printing, and all other contingent expenses, of the two Houses of Congress, thirty-seven thousand dollars.

For the expenses of the library of Congress, including the librarian's allowance, for the year one thousand eight hundred and eighteen, one thousand three hundred and fifty dollars.

For compensation to the President of the United States, twenty five thousand dollars.

For compensation to the Vice President of the United States, five thousand dollars.

For rent and repairs of a house occupied by the President of the United States, eight hundred and ninety dollars.

For compensation to the Secretary of State, five thousand dollars.

For compensation to the clerks employed in the Department of State, thirteen thousand seven hundred and fifty dollars.

For compensation to the messenger in said Department, and for the Patent Office, six hundred and sixty dollars.

For the contingent and incidental expense of the said Department, including the expenses of printing and distributing copies of the laws of the first session of the fifteenth Congress, and printing the laws in newspapers, and to provide for a deficiency in the appropriation for the year one thousand eight hundred and seventeen, nineteen thousand eight hundred and thirty dollars.

For compensation to the Secretary of the Treasury, five thousand dollars.

For compensation to the clerks employed in the office of the Secretary of the Treasury, ten thousand four hundred and thirty-three dollars.

For compensation to the messenger and assistant messenger in the office of the Secretary of the Treasury, seven hundred and ten dollars.

For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.

For compensation to the clerks employed in the office of the First Comptroller of the Treasury, fifteen thousand five hundred and sixteen dollars.



For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Comptroller of the Treasury, three thousand dollars.

For compensation to the clerks employed in the office of the Second Comptroller of the Treasury, eight thousand eight hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the First Auditor of the Treasury, three thousand dollars.

For compensation to the clerks employed in the First Auditor's office, fifteen thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Auditor of the Treasury, three thousand dollars.

For compensation to the clerks employed in the Second Auditor's office, sixteen thousand seven hundred and seventy-five dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Third Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the Third Auditor's office, twenty thousand eight hundred and sixty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Fourth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks employed in the Fourth Auditor's office, fourteen thousand seven hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Fifth Auditor of the Treasury, three thousand dollars.

For compensation to the clerks employed in the Fifth Auditor's office, nine thousand eight hundred and fifty dollars.

For compensation to the messenger in said office, including a provision for his services in one thousand eight hundred and seventeen, for which no appropriation was made, seven hundred and thirty-three dollars fifty cents.

For compensation to the Treasurer of the United States, three thousand dollars.

For compensation to the clerks employed in the Treasurer's office, five thousand four hundred and forty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioner of the General Land Office, three thousand dollars.

For compensation to the clerks employed in the office of said Commissioner, eleven thousand nine hundred and fifty dollars.

For compensation to additional clerks employed in that office, during the last quarter of one thousand eight hundred and seventeen, one thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioner of the Revenue, three thousand dollars.

For compensation to the clerks employed in the office of the said Commissioner, nine thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Register of the Treasury, three thousand dollars.

For compensation to the clerks employed in the office of said Register, seventeen thousand and twenty-eight dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For stating and printing the public accounts for the years one thousand eight hundred and seventeen, and one thousand eight hundred and eighteen, two thousand four hundred dollars.

For the expense of translating foreign languages, allowed to the person employed in transmitting passports and sea-letters, for stationery, printing, fuel, and other contingent expenses in the said department, and in the several offices therein, thirty-three thousand six hundred and fifty dollars.

For compensation to a superintendent and two watchmen, employed for the security of the Treasury buildings, and for repairs of two fire engines, hose, and fire-buckets, one thousand one hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation to the Secretary of War, four thousand five hundred dollars.

For compensation to the clerks employed in the office of the Secretary of War, fifteen thousand two hundred and thirty dollars.

For compensation to the messenger and his assistants in said office, seven hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in said office, four thousand dollars.

For compensation to the Paymaster General of the Army, two thousand five hundred dollars.

For compensation to the clerks employed in the office of the Paymaster General of the Army, ten thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, two thousand dollars.

For compensation to the Commissary General of Purchases, three thousand dollars.

For compensation to the clerks employed in the office of the Commissary General of Purchases, two thousand eight hundred dollars.

For compensation to the messenger in said office, three hundred and sixty dollars.

For expense of fuel, stationery, printing, office rent, and other contingent expenses, in said office, nine hundred and thirty dollars.

For compensation to the clerks employed in the office of the Adjutant and Inspector General, one thousand eight hundred dollars.

For compensation to clerks employed in the Ordnance office, one thousand dollars.

For compensation to the Secretary of the Navy, four thousand five hundred dollars.

For compensation to the clerks employed in the office of the Secretary of the Navy, seven thousand two hundred and thirty-five dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, two thousand five hundred dollars.

For compensation to the Commissioners of the Navy Board, ten thousand five hundred dollars.

For completing the surveys of certain ports and harbors, for the purpose of selecting two stations for the establishment of arsenal ports, twenty-five thousand dollars.

For discharging the sum to be paid to the Creek nation of Indians, during the present year, pursuant to the treaty with them of the twenty-second January, one thousand eight hundred and eighteen, twenty thousand dollars.

For defraying the expenses of printing done pursuant to the resolution directing the publication and distribution of the journal and proceedings of the Convention which formed the Constitution of the United States, ten thousand dollars.

For defraying the expenses of digesting and printing certain laws and regulations relative to the navigation and trade of the United States in foreign countries, pursuant to a resolution of the Senate of the third of March, one thousand eight hundred and seventeen, five thousand dollars.

For compensation to the Secretary of the Navy Board, two thousand dollars.

For compensation to the clerks employed in the office of the Navy Board, three thousand three hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For the contingent expenses of the Navy Board, two thousand dollars.

For compensation to a superintendent and two watchmen, and for other expenses incurred for the security of the buildings occupied by the State, War, and Navy Departments, two thousand four hundred dollars.

For compensation to the Postmaster General, three thousand dollars.

For compensation to the Assistant Postmaster General, one thousand seven hundred dollars.

For compensation to the Second Assistant Postmaster General, one thousand six hundred dollars.

For compensation to clerks employed in the General Post Office, nineteen thousand three hundred and five dollars.

For compensation to the messenger and his assistants in said office, six hundred and sixty dollars.

For the contingent expenses of the General Post Office, three thousand six hundred dollars.

For compensation to the Surveyor General and his clerks, four thousand one hundred dollars.

For compensation to the Surveyor south of Tennessee, his clerks, and for the contingent expenses of his office, three thousand seven hundred dollars.

For compensation to the Surveyor in the Illinois and Missouri Territories, one thousand dollars.

For compensation to the Surveyor in the northern part of the Alabama Territory, one thousand five hundred dollars.

For compensation to the Commissioner of the Public Buildings in Washington, two thousand dollars.

For compensation to the officers and clerks of the Mint, nine thousand six hundred dollars.

For wages of persons employed in the different operations of the Mint, eight thousand five hundred dollars.

For repairs, cost of iron and machinery, rents, and other contingent expenses of the Mint, three thousand two hundred and seventy-five dollars.

For allowance for wastage in the gold and silver coin, three thousand dollars.

For compensation to the Governor, Judges, and Secretary of the Illinois Territory, six thousand six hundred dollars.

For stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Missouri Territory, seven thousand eight hundred dollars.

For stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Alabama Territory, six thousand six hundred dollars.

For stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Chief Justice, the Associate Judges, and District Judges of the United States, including the Chief Justice and Associate Judges of the District of Columbia, sixty-three thousand dollars.

For compensation to the Attorney General of the United States, three thousand dollars.

For compensation of sundry District Attorneys and Marshals, as granted by law, including those in the several Territories, eight thousand three hundred dollars.

For compensation to the Reporter of the Decisions of the Supreme Court of the United States, for the years eighteen hundred and seventeen and eighteen hundred and eighteen two thousand and dollars.



For the payment of sundry pensions granted by the late and present Governments, sixteen hundred and forty dollars.

For the payment of the annual allowance to the pensioners of the United States, to be disbursed under the direction of the Secretary of War, three hundred and sixty thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, stake-ages of channels, bars, and shoals, including the purchase and transportation of oil, keepers' salaries, repairs, and improvements, and contingent expenses, sixty thousand two hundred and thirty-six dollars.

For discharging the claims of the inhabitants of the late province of West Florida, for advances made for the use of the United States prior to, and since, the taking possession of the said Territory, as liquidated by the Department of State, including principal and interest, forty-one thousand three hundred and fifty-six dollars and seventy cents.

For compensation to the Commissioner for settling claims for property lost, five hundred and fifty dollars.

For compensation to the clerk employed in the office of said Commissioner, two hundred and seventy-five dollars.

For stationery, fuel, printing, and other contingent expenses in said office, including a deficiency in the appropriation of last year, six hundred and sixty-five dollars.

For the salary of additional clerks, from the first of February, one thousand eight hundred and seventeen, to ninth of April, one thousand eight hundred and eighteen, fourteen hundred and thirty-nine dollars.

For the hire of a messenger for the same period, four hundred and eighty-four dollars.

For defraying the expense of surveying the public lands within the several States and Territories of the United States, one hundred and sixty thousand seven hundred and sixty dollars.

For salaries of the Ministers of the United States to London, Paris, St. Petersburg, Rio Janeiro, Stockholm, Madrid, and the Hague, and their several secretaries of legation, seventy-seven thousand dollars.

For outfits of Ministers of the United States at London and St. Petersburg, eighteen thousand dollars.

For the contingent expenses of the missions aforesaid, ten thousand dollars.

To provide for a deficiency in the appropriation of one thousand eight hundred and seventeen, for intercourse with foreign nations, twenty thousand dollars.

For the contingent expenses of intercourse between the United States and foreign nations, eighty thousand dollars.

For the expenses of intercourse with the Barbary Powers, forty-two thousand dollars.

For the expenses necessary during the present year, for carrying into effect the fourth, fifth, sixth, and seventh articles of the Treaty of Peace, concluded with His Britannic Majesty on the

twenty-fourth day of December, one thousand eight hundred and fourteen, including the compensation of the commissioners, agents, and surveyors, and to make good a deficiency in the preceding year, seventy-four thousand eight hundred and thirty-six dollars.

For the salaries of the agents for claims on account of spoliations, and for seamen, at London and Paris, four thousand dollars.

For nine months' salary of the agent at Copenhagen, one thousand five hundred dollars.

For the relief of distressed American seamen for the present year, and to make good a deficiency in the preceding year, one hundred and thirty thousand dollars.

To provide for the payment of the sums directed to be paid by an act of the twenty-ninth April, eighteen hundred and sixteen, entitled "An act for settling the compensation of the commissioner, clerk, and translator, of the board for land claims in the eastern and western district of the Territory of Orleans, now State of Louisiana," six thousand four hundred and eighty-one dollars.

For the discharge of such claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, six thousand dollars.

For the purchase or erection of custom houses and public warehouses, two hundred thousand dollars.

For discharging the judgment obtained by Gould Hoyt against David Gelston and Peter Schenk, in an action of trespass, for seizing the ship American Eagle under instructions from the Treasury Department, a sum not exceeding one hundred and thirty thousand dollars.

To indemnify the owners of the British ship Venus, taken by the Peacock after the conclusion of the peace with Great Britain, a sum not exceeding seven thousand six hundred and seventy-eight dollars.

Approved, April 9, 1818.

An Act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia Military tract.

*Be it enacted, &c.,* That the officers and soldiers of the Virginia line on continental establishment, their heirs, and assigns, entitled to bounty lands, within the Virginia military tract, between the Little Miami and the Sciota rivers, shall be allowed a further term of two years, from the ratification of any treaty extinguishing the Indian title to lands within the said boundaries not heretofore extinguished, to obtain warrants and complete their locations; and a further term of three years, from the ratification of any treaty extinguishing the Indian title to lands within the said boundaries not heretofore extinguished, as aforesaid, to return their surveys and warrants, or certified copies of warrants, to the General Land Office; anything in any former act to the contrary notwithstanding.

Sec. 2. *And be it further enacted,* That the

provisions of the act, entitled "An act authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants," passed on the third day of March, one thousand eight hundred and seven, shall be revived and in force, with all its restrictions, except that the respective times allowed for making locations and returning surveys thereon, shall be limited to the terms prescribed by the first section of this act for the location and return of surveys on other warrants, and that the surveys shall be returned to the General Land Office: *Provided,* That no locations, as aforesaid, in virtue of this or the preceding section of this act, shall be made on tracts of lands for which patents had previously been issued, or which had been previously surveyed; and any patent which may, nevertheless, be obtained for land located contrary to the provisions of this act, shall be considered null and void: *Provided, also,* That no locations or surveys shall be made within that part of the said military tract to which the Indian title remained heretofore unextinguished, until after six months shall have elapsed since the date of a proclamation of the President of the United States, declaring a treaty or treaties to have been concluded and ratified, providing for the extinguishment of the Indian title to such lands; nor shall any patent be granted for any location, survey, or entry, that has been, or shall be, made prior to the expiration of six months from and after the ratification of such treaty.

Sec. 3. *And be it further enacted,* That from the source of the Little Miami river to the Indian boundary line established by the Treaty of Greenville, in one thousand seven hundred and ninety-five, the line designated as the westerly boundary line of the Virginia tract, by an act of Congress, passed on the twenty-third day of March, one thousand eight hundred and four, entitled "An act to ascertain the boundary of the lands reserved by the State of Virginia northwest of the river Ohio, for the satisfaction of her officers and soldiers on continental establishment, and to limit the period for locating the said lands," shall be considered and held to be such until otherwise directed by law: And from the aforesaid Indian boundary line to the source of the Sciota river, the line run by Charles Roberts, in one thousand eight hundred and twelve, in pursuance of instructions from the commissioners appointed on the part of the United States, to establish the western boundary of the said military tract, shall be considered and held to be the westerly boundary thereof; and that no patent shall be granted on any location and survey that has or may be made west of the aforesaid respective lines.

Approved, April 11, 1818.

An Act to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States' lands within the same.

*Be it enacted, &c.,* That the Secretary of the Treasury shall, from time to time, and whenever the quarterly accounts of public moneys of the

several land offices shall be settled, pay three per cent. of the net proceeds of the lands of the United States, lying within the State of Indiana, which, since the first day of December, one thousand eight hundred and sixteen, have been, or hereafter may be sold by the United States, after deducting all expenses incidental to the same, to such person or persons as may be authorized by the Legislature of the said State to receive the same; which sums, thus paid, shall be applied to making public roads and canals within the said State, in conformity to the provision on this subject, contained in the act, entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," and to no other purpose whatever; and an annual account of the application of the same shall be transmitted to the Secretary of the Treasury, by such officer of the State as the Legislature thereof shall direct; and in default of such return being made, the Secretary of the Treasury is hereby required to withhold the payment of any sum that may then be due, or which may thereafter become due, until a return shall be made, as herein required.

Approved, April 11, 1818.

An Act to change the name of the District of Erie, in the State of Ohio.

*Be it enacted, &c.,* That, from and after the thirtieth day of June, one thousand eight hundred and eighteen, the district of Erie, in the State of Ohio, shall be called the district of Cuyahoga.

Approved, April 11, 1818.

An Act for the relief of John Rodgers.

*Be it enacted, &c.,* That the proper accounting officers of the Treasury settle the account of John Rodgers, for expenses actually incurred in the defence of a suit brought against him by John Donnell, of Baltimore, owner of the schooner Eleanor, and finally reversed in the superior court of the United States, and pay him the sum of sixteen hundred and ninety-five dollars seventy-nine cents.

Sec. 2. *And be it further enacted,* That the sum of sixteen hundred and ninety-five dollars seventy-nine cents be appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of said Rodgers.

Approved, April 11, 1818.

An Act to authorize the payment of certain certificates.

*Be it enacted, &c.,* That so much of an act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt," passed the third day of March, one thousand seven hundred and ninety-five; and so much of the act, entitled "An act respecting loan office and final settlement certificates, indents of interest, and the unfunded and registered debt, credited on the books of the Treasury," passed



the twelfth day of June, one thousand seven hundred and ninety-eight, as bars from settlement or advance certificates commonly called loan office and final settlement certificates, and indents of interest, be, and the same is hereby, suspended for the term of two years, from and after the passing of this act; notification of which temporary suspension of the act of limitation shall be published by the Secretary of the Treasury, for the information of the holders of the said certificates, in one or more of the public papers in each of the United States.

SEC. 2. *And be it further enacted*, That all certificates, commonly called loan office certificates, countersigned by the loan officers of the States respectively, final settlement certificates, and indents of interest, which, at the time of passing this act, shall be outstanding, may be presented at the Treasury, and, upon the same being liquidated and adjusted, shall be paid to the respective holders of the same, with interest, at six per cent. from the date of the last payment of interest, as endorsed on said certificates.

SEC. 3. *And be it further enacted*, That, for carrying this act into effect, the sum of eighty thousand dollars be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated.

Approved, April 13, 1818.

An Act to incorporate the Mechanic Relief Society of Alexandria.

*Be it enacted, &c.*, That the society known by the name of the Mechanic Relief Society of Alexandria, be, and the same is hereby, created a body politic and corporate, under the name and style of the "Mechanic Relief Society of Alexandria," and by that name shall have perpetual succession and a common seal, with a capacity to purchase, receive, and possess goods and chattels, lands and tenements, in fee or otherwise, and the same to grant, sell, let, or assign: *Provided, however*, They shall not purchase, receive, or possess more lands and tenements than shall be sufficient to enable them to erect a seminary of learning for the instruction of youth, and the necessary accommodation and convenience of the said society; and by the name aforesaid may sue and be sued, plead and be impleaded, in all causes in law or equity.

SEC. 2. *And be it further enacted*, That so much of the affairs of said society as relates to the erection and superintendence of the said seminary of learning, shall be and remain under the direction of the following named trustees and their successors, to wit: John Longden, Dederick Shekell, William F. Thornton, Lewis Hipkins, James Galt, Charles Pascoe, James S. Scott, John Cohagen, Bernard Cook, Alexander Baggett, James Carson, Adam Lynn, Greenberry Griffith, Horace Field, and Amos Alexander; the said trustees shall have power to fill any vacancies which may occur in their own body: *Provided*, That the trustees named and created by this act shall continue and serve until the first

day of May, one thousand eight hundred and eighteen, or until others shall be appointed; and on that day, or as soon thereafter as convenient, not exceeding thirty days, and annually, the like number of trustees, they being members thereof, shall be elected by said society.

SEC. 3. *And be it further enacted*, That this act shall commence and be in force from and after the passing thereof, and for the term of twenty years thereafter.

SEC. 4. *And be it further enacted*, That the amount of real and personal property which may, at any time, be held by this society, shall not exceed the sum of forty thousand dollars; nor shall the said society be engaged in any banking or commercial operations; and Congress shall at all times have power, during the period for which this charter is granted, at their pleasure, to repeal or alter the same.

Approved, April 13, 1818.

An Act to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States."

*Be it enacted, &c.*, That so much of the third section of the act, passed the tenth day of February, one thousand eight hundred and seven, entitled "An act to provide for surveying the coasts of the United States," as authorizes the employment of other persons in the execution of said act, than the persons belonging to the Army and Navy, be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That all instruments and property of the United States, and all surveys, draughts, notes, charts, maps, and documents, in anywise belonging to the survey of the coasts, be deposited in such place as the President of the United States shall direct.

Approved, April 14, 1818.

An Act in addition to an act, entitled "An act for the relief of John Thompson."

*Be it enacted, &c.*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to review the settlement of the account of John Thompson made under the authority of the act to which this is in addition, approved the eleventh day of May, one thousand eight hundred and twelve, and to allow the said John Thompson interest, at six per centum per annum, from the fourth of March, seventeen hundred and eighty-seven, to the twentieth of May, eighteen hundred and twelve, on the sum which was found due to him, and paid under the act aforesaid; and that the amount of interest, which shall be so found to be due him, be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 14, 1818.

An Act making further appropriations for the construction of the Cumberland Road.

*Be it enacted, &c.*, That the sum of fifty-two thousand nine hundred and eighty-four dollars and sixty cents be appropriated for the claims

due and remaining unpaid at the Treasury, on account of the Cumberland road, to be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That, to meet the demands which will be made under existing contracts, on account of the Cumberland road, the sum of two hundred and sixty thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 14, 1818.

An Act regulating the Staff of the Army.

*Be it enacted, &c.*, That so much of the act "fixing the Military Peace Establishment of the United States," passed the third of March, one thousand eight hundred and fifteen, as relates to hospital stewards and wardmasters, and so much of the "Act for organizing the general staff, and making further provision for the Army of the United States," passed April twenty-fourth, one thousand eight hundred and sixteen, as relates to hospital surgeons, hospital surgeons' mates, judge advocates, chaplains, and forage, wagon, and barrack masters, and their assistants, be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That there shall be one surgeon general, with a salary of two thousand five hundred dollars per annum, one assistant surgeon general, with the emoluments of a hospital surgeon, one judge advocate, with the pay and emoluments of a topographical engineer, to each division, and one chaplain, stationed at the military academy at West Point, who shall also be professor of geography, history, and ethics, with the pay and emoluments allowed the professor of mathematics; and that the number of post surgeons be increased, not to exceed eight to each division.

SEC. 3. *And be it further enacted*, That so much of the act of the twenty-fourth of April, one thousand eight hundred and sixteen, aforesaid, as relates to the quartermaster general of division, shall be repealed; and the quartermaster's department shall consist, in addition to the two deputy quartermasters general, and the four assistant deputy quartermasters general, now authorized, of one quartermaster general, with the rank, pay, and emoluments, of a brigadier general, and as many assistant quartermasters general as the President shall deem proper, not exceeding, in the whole number, twelve.

SEC. 4. *And be it further enacted*, That, to each commissioned officer who shall be deranged by virtue of this act, there shall be allowed and paid, in addition to the pay and emoluments to which they will be entitled by law, at the time of their discharge, three months' pay and emoluments; and that the provisions of this act be carried into effect on or before the first day of June next.

SEC. 5. *And be it further enacted*, That the pay and emoluments of the inspector generals of divisions be, and is hereby, raised to be equal to

the pay and emoluments of the adjutant generals of division.

SEC. 6. *And be it further enacted*, That as soon as the existing state of contracts for the subsistence of the army shall, in the opinion of the President of the United States permit it, there shall be appointed by the President, by and with the advice and consent of the Senate, one commissary general, with the rank, pay, and emoluments, of colonel of ordnance, who shall, before entering on the duties of his office, give bond and security, in such sum as the President may direct; and as many assistants, to be taken from the subalterns of the line, as the service may require, who shall receive twenty dollars per month in addition to their pay in the line, and who shall, before entering on the duties of their office, give bond and security, in such sums as the President may direct. The commissary general and his assistants shall perform such duties, in purchasing and issuing of rations to the army of the United States as the President may direct.

SEC. 7. *And be it further enacted*, That supplies for the army, unless in particular and urgent cases the Secretary of War should otherwise direct, shall be purchased by contract, to be made by the commissary general on public notice, to be delivered, on inspection, in the bulk, and at such places as shall be stipulated; which contract shall be made under such regulations as the Secretary of War may direct.

SEC. 8. *And be it further enacted*, That the President may make such alterations in the component parts of the ration as a due regard to the health and comfort of the army and economy may require.

SEC. 9. *And be it further enacted*, That the commissary general and his assistants shall not be concerned, directly or indirectly, in the purchase or sale, in trade or commerce, of any article entering into the composition of the ration allowed to the troops in the service of the United States, except on account of the United States, nor shall such officer take and apply to his own use any gain or emolument for negotiating or transacting any business connected with the duties of his office, other than what is or may be allowed by law; and the commissary general and his assistants shall be subject to martial law.

SEC. 10. *And be it further enacted*, That all letters to and from the commissary general, which may relate to his office duties, shall be free from postage: *Provided*, That the sixth, seventh, eighth, ninth, and tenth, sections of this act shall continue and be in force for the term of five years from the passing of the same, and thence until the end of the next session of Congress, and no longer.

Approved, April 14, 1818.

An Act regulating the pay and emoluments of brevet officers.

*Be it enacted, &c.*, That the officers of the army, who have brevet commissions, shall be entitled to receive the pay and emoluments of their



brevet rank when on duty, and having a command according to their brevet rank, and at no other time.

Sec. 2. *And be it further enacted*, That no brevet commission shall hereafter be conferred but by and with the advice and consent of the Senate.

Approved, April 16, 1818.

An Act in addition to "An act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States."

*Be it enacted, &c.*, That in every case where a person has been put on the pension list, or granted a certificate of pension, by virtue of the first section of an act, passed the fourth day of March, in the year eighteen hundred and fourteen, entitled "An act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," the Secretary of the Navy be, and he is hereby, authorized, at the expiration of the term of five years, for which any pension certificate shall have been granted as aforesaid, to allow the full monthly pension to which the rank of the deceased would have entitled him for the highest rate of disability, and that such pension shall continue to such person for the further term of five years: *Provided*, That such pension shall cease on the death of such widow, child, or children.

Sec. 2. *And be it further enacted*, That if any officer, seaman, or marine, shall have died since the eighteenth day of June, in the year eighteen hundred and twelve, in consequence of an accident or casualty which occurred while in the line of his duty on board a private armed vessel, leaving a widow, or, if no widow, a child or children under sixteen years of age, the Secretary of the Navy be, and he is hereby, authorized to place such widow, child, or children, on the pension list, and allow to such widow, child, or children, the same monthly pension as if the deceased had died by reason of wounds received in the line of his duty: *Provided*, That all moneys paid by virtue of this act shall be paid out of the private pension fund, and no other.

Approved, April 16, 1818.

An Act directing the manner of appointing Indian agents, and continuing the "Act for establishing trading-houses with the Indian tribes."

*Be it enacted, &c.*, That the superintendent of Indian trade, the agents and assistant agents of Indian trading-houses, and the several agents of Indian affairs, shall be nominated by the President of the United States, and appointed by and with the advice and consent of the Senate.

Sec. 2. *And be it further enacted*, That, from and after the eighteenth instant, no person shall act in either of the characters aforesaid, who shall not have been thus first nominated and appointed. And every agent as aforesaid, before he shall enter upon the duties of his office, shall give bond to the United States, with two or more sufficient

securities, in the penal sum of ten thousand dollars, conditioned faithfully to perform all the duties which are or may be enjoined on them as agents as aforesaid.

Sec. 3. *And be it further enacted*, That the act, entitled "An act for establishing trading-houses with the Indian tribes," passed on the second day of March, one thousand eight hundred and eleven, and which was continued in force for a limited time by an act passed third day of March, one thousand eight hundred and seventeen, shall be, and the same is hereby, further continued in force until the first day of March, one thousand eight hundred and nineteen, and no longer.

Approved, April 16, 1818.

An Act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

*Be it enacted, &c.*, That the inhabitants of the Territory of Illinois be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

Sec. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the mouth of the Wabash river; thence, up the middle of the same, and with the line of Indiana, to the northwest corner of said State; thence, east, with the line of the same State, to the middle of Lake Michigan; thence, north, along the middle of said lake, to north latitude forty-two degrees thirty minutes; thence, west, to the middle of the Mississippi river; and thence, down along the middle of that river, to its confluence with the Ohio river; and thence, up the latter river, along its northwestern shore, to the beginning: *Provided*, That the convention hereinafter provided for, when formed, shall ratify the boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided also*, That the said State shall have concurrent jurisdiction with the State of Indiana on the Wabash river, so far as said river shall form a common boundary to both, and also concurrent jurisdiction on the Mississippi river, with any State or States to be formed west thereof, so far as said river shall form a common boundary to both.

Sec. 3. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory six months previous to the day of election, and all persons having in other respects the legal qualifications to vote for representatives in the General Assembly of the said Territory, be and they are hereby authorized to choose representatives to form a convention, who

shall be apportioned amongst the several counties as follows:

From the county of Bond, two representatives;  
From the county of Madison, three representatives;

From the county of St. Clair, three representatives;

From the county of Monroe, two representatives;

From the county of Randolph, two representatives;

From the county of Jackson, two representatives;

From the county of Johnson, two representatives;

From the county of Pope, two representatives;

From the county of Gallatin, three representatives;

From the county of White, two representatives;

From the county of Edwards, two representatives;

From the county of Crawford, two representatives;

From the county of Union, two representatives;

From the county of Washington, two representatives; and

From the county of Franklin, two representatives.

And the election for the representatives aforesaid shall be holden on the first Monday of July next, and the two following days, throughout the several counties in the said Territory, and shall be conducted in the same manner, and under the same regulations, as prescribed by the laws of the said Territory regulating elections therein, for members of the House of Representatives.

Sec. 4. *And be it further enacted*, That the members of the convention, thus duly elected, be and they are hereby authorized to meet at the seat of government of the said Territory, on the first Monday of the month of August next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said Territory; and if it be expedient, the convention shall be and hereby is authorized to form a constitution and State government; or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and shall then form for the people of said Territory a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to the ordinance of the thirteenth of July, seventeen hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the States therein to be formed: *And provided also*, That it shall appear, from the enumeration directed to be made

by the Legislature of the said Territory, that there are within the proposed State not less than forty thousand inhabitants.

Sec. 5. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

Sec. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Illinois, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States and the said State:

First. That section numbered sixteen, in every township, and, when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State, for the use of the inhabitants of such township, for the use of schools.

Second. That all salt springs within such State, and the land reserved for the use of the same, shall be granted to the said State, for the use of the said State, and the same to be used under such terms, and conditions, and regulations, as the Legislature of the said State shall direct: *Provided*, The Legislature shall never sell nor lease the same for a longer period than ten years, at any one time.

Third. That five per cent. of the net proceeds of the lands lying within such State, and which shall be sold by Congress, from and after the first day of January, one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: two-fifths to be disbursed, under the direction of Congress, in making roads leading to the State; the residue to be appropriated, by the Legislature of the State, for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university.

Fourth. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the Legislature of the said State, to be appropriated solely to the use of such seminary by the said Legislature: *Provided always*, That the four foregoing propositions, herein offered, are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January, one thousand eight hundred and nineteen, shall be exempt from any tax laid by order, or under any authority of, the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale: *And further*, That the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt, as aforesaid, from all taxes, for the term of three years from and after the



date of the patents respectively; and that all the lands belonging to citizens of the United States residing without the said State, shall never be taxed higher than lands belonging to persons residing therein.

**Sec. 7. And be it further enacted,** That all that part of the territory of the United States lying north of the State of Indiana, and which was included in the former Indiana Territory, together with that part of the Illinois Territory which is situated north of and not included within the boundaries prescribed by this act, to the State thereby authorized to be formed, shall be and hereby is, attached to, and made a part of, the Michigan Territory, from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress, according to the right reserved in the fifth article of the ordinance aforesaid, and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects, with the other citizens of the Michigan Territory.

Approved, April 18, 1818.

**An Act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina.**

**Be it enacted, &c.,** That, from and after the thirtieth day of April, one thousand eight hundred and eighteen, the port of delivery established at the mouth of Slade's Creek, within the district of Washington, and State of North Carolina, shall cease, and the office, authority, and emoluments, of the surveyor of said port shall also, from thenceforth, terminate and be discontinued.—Approved, April 18, 1818.

**An Act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, of the Clerks employed in their offices, and of the Librarian.**

**Be it enacted, &c.,** That the Secretary of the Senate and Clerk of the House of Representatives shall severally receive the sum of three thousand dollars annually, payable quarterly, as heretofore; and that their principal clerks shall receive one thousand eight hundred dollars each, and their engrossing clerks one thousand five hundred dollars each.

**Sec. 2. And be it further enacted,** That the Librarian of the Library of Congress shall annually receive, as a compensation for his services, the sum of one thousand five hundred dollars, payable quarter yearly at the Treasury.

**Sec. 3. And be it further enacted,** That this act shall be held to take effect from the first day of January, one thousand eight hundred and eighteen, and shall continue in force for three years therefrom, and no longer; and that so much of any act heretofore passed, as provides compensation, salary, or perquisites, of any kind, for the officers and clerks herein mentioned, shall be held to be repealed from the same day.

Approved, April 18, 1818.

#### An Act concerning Navigation.

**Be it enacted, &c.,** That, from and after the thirtieth of September next, the ports of the United States shall be and remain closed against every vessel owned wholly or in part by a subject or subjects of His Britannic Majesty, coming or arriving from any port or place in a colony or territory of His Britannic Majesty that is or shall be, by the ordinary laws of navigation and trade, closed against vessels owned by citizens of the United States; and such vessel, that, in the course of the voyage, shall have touched at, or cleared out from, any port or place in a colony or territory of Great Britain, which shall or may be, by the ordinary laws of navigation and trade aforesaid, open to vessels owned by citizens of the United States, shall, nevertheless, be deemed to have come from the port or place in the colony or territory of Great Britain, closed as aforesaid against vessels owned by citizens of the United States, from which such vessel cleared out and sailed before touching at, and clearing out from, an intermediate and open port or place as aforesaid; and every such vessel, so excluded from the ports of the United States, that shall enter, or attempt to enter, the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

**Sec. 2. And be it further enacted,** That, from and after the aforesaid thirtieth of September next, the owner, consignee, or agent, of every vessel, owned wholly or in part by a subject or subjects of His Britannic Majesty, which shall have been duly entered in any port of the United States, and on board of which shall have been there laden for exportation any article or articles, of the growth, produce, or manufacture, of the United States, other than provisions and sea stores necessary for the voyage, shall, before such vessel shall have been cleared outward at the custom-house, give bond, in a sum double the value of such articles, with one or more sureties, to the satisfaction of the collector, that the article or articles so laden on board such vessel for exportation, shall be landed in some port or place other than a port or place in a colony or territory of His Britannic Majesty, which, by the ordinary laws of navigation and trade, is closed against vessels owned by citizens of the United States; and any such vessel that shall sail, or attempt to sail, from any port of the United States, without having complied with the provision aforesaid, by giving bond as aforesaid, shall, with her tackle, apparel, and furniture, together with the article or articles aforesaid, laden on board the same as aforesaid, be forfeited to the United States: *Provided always,* That nothing in this act contained shall be so deemed or construed, so as to violate any provision of the convention to regulate commerce between the territories of the United States and of His Britannic Majesty, signed the third day of July, one thousand eight hundred and fifteen.

**Sec. 3. And be it further enacted,** That the form of the bond aforesaid shall, be prescribed by

the Secretary of the Department of the Treasury; and the same shall and may be discharged, and not otherwise, by producing, within one year after the date thereof, a like certificate to that required by and under the regulations contained in the eighty-first section of the act "to regulate the collection of duties on imports," passed the second day of March, seventeen hundred and ninety-nine, that the articles of the growth, produce, and manufacture, of the United States, laden as aforesaid, were unladen and landed conformably to the provisions of this act, or in cases of loss by sea, by capture, or other unavoidable accident, by the production of such other proofs as the nature of the case will admit, according to the provisions of the said eighty-first section of the act aforesaid.

**Sec. 4. And be it further enacted,** That all penalties and forfeitures incurred by force of this act, shall be sued for, recovered, distributed, and accounted for, and may be mitigated or remitted, in the manner and according to the provisions of the revenue laws of the United States.

Approved, April 18, 1818.

**An Act fixing the time for the next meeting of Congress.**

**Be it enacted, &c.,** That, after the adjournment of the present session, the next meeting of Congress shall be on the third Monday in November next.

Approved, April 18, 1818.

**An Act to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon.**

**Be it enacted, &c.,** That the operation of the sixth condition of the fifth section of the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States Northwest of the Ohio and above the mouth of Kentucky river,'" be, and the same is hereby, suspended until the thirty-first day of March next, in favor of the purchasers of public lands at any of the land offices of the United States: *Provided,* That the benefit of this act shall not be extended to any one purchaser for a greater quantity than six hundred and forty acres of land.

Approved, April 18, 1818.

**An Act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario, and the head of the river St. Lawrence.**

**Be it enacted, &c.,** That it shall be lawful for the President of the United States to establish, when it shall appear to him to be proper, in addition to the ports of entry and delivery already established on Lake Ontario, one other port of entry and delivery at the village of Cape Vincent, at the fork of Lake Ontario, and the head of the river St. Lawrence, and to appoint a collector of the customs to reside and keep an office thereat.—Approved, April 18, 1818.

**An Act supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, one thousand seven hundred and ninety-nine.**

**Be it enacted, &c.,** That, from and after the passing of this act, no goods, wares, or merchandise, imported into the United States, and subject to an ad valorem duty, shall be admitted to entry with the collector of the district into which the same are brought, unless the owner, consignee, or other importer, of such goods, wares, or merchandise, shall produce to such collector the original invoice thereof; but the same shall be deposited, and remain, in the public warehouse, at the expense and risk of the owner of such goods, wares, or merchandise, until such invoice be produced: *Provided, however,* That in all cases where such goods, wares, or merchandise, shall have been imported from a port or place on this side the Cape of Good Hope, if such invoice or invoices be not produced in six months, and from the Cape of Good Hope, or any port or place beyond the same, within nine months, from the time of such importation, then the said goods, wares, or merchandise, shall be appraised, and the duties estimated thereon, in the manner hereinafter directed: *And provided always,* That this prohibition shall not extend to such goods, wares, or merchandise, as shall have been taken from a wreck.

**Sec. 2. And be it further enacted,** That the Secretary of the Treasury be, and is hereby, authorized and empowered, if, in his judgment, the circumstances under which such goods, wares, or merchandise, shall have been imported, or any other circumstances connected therewith, render it expedient, to direct the collector in whose district such goods, wares, or merchandise, may be, to admit the same to entry, on an appraisement duty made thereof in the manner hereinafter prescribed: *Provided,* The owner, agent, consignee, or importer of such goods, wares, or merchandise, shall first give bond, with sufficient sureties to the United States, to produce to such collector the invoice of such goods, wares or merchandise, within eight months, if the same were imported from any port or place on this side the Cape of Good Hope, and within fifteen months, if from the Cape of Good Hope, or port or place beyond the same, and to pay any amount of duty to which it shall appear, by such invoice, the said goods, wares, or merchandise, were subject, over and above the amount of duties estimated on the said appraisement.

**Sec. 3. And be it further enacted,** That, when an entry shall be made with any collector, of any goods, wares, or merchandise, imported into the United States, and subject to an ad valorem duty, the person making such entry shall, if he be owner of such goods, wares, or merchandise, declare the same on oath, and if he be not the owner, shall declare on oath the name and residence of the owner of such goods, wares, or merchandise.

**Sec. 4. And be it further enacted,** That the ad valorem rates of duty upon goods, wares, and



merchandise, shall be estimated by adding twenty per cent. to the actual cost thereof, if imported from the Cape of Good Hope, or from any island, port, or place, beyond the same, and ten per cent. on the actual cost thereof, if imported from any other place or country, including all charges, except commissions, outside packages, and insurance.

SEC. 6. *And be it further enacted*, That, in addition to the oath now required by law to be taken by any owner, consignee, agent, or importer, on the entry of any goods, wares, or merchandise, imported into the United States, such owner, consignee, agent, or importer, shall, on the entry of any goods, wares, or merchandise, so imported, and subject to ad valorem duty, declare, on oath, that the invoice produced by him exhibits the true value of such goods, wares, or merchandise, in their actual state of manufacture, at the place from which the same were imported.

SEC. 6. *And be it further enacted*, That, when goods, wares, or merchandise, imported into the United States, subject to an ad valorem duty, shall be consigned to any person, to be entered by him, and to be delivered to order, or to any other person, such goods, wares, or merchandise, shall be deposited and remain in the public warehouse, at the expense and risk of the owner, until the person authorized to receive them shall appear and make the additional oath required by the fifth section of this act, or (if such person shall not reside at the place of such importation) until the invoice of such goods, wares, and merchandise, accompanied by a notarial act of having taken the said oath, shall be produced to the collector in whose district such goods, wares, or merchandise, may be: *Provided*, That, if the provisions of this section shall not be complied with in four months from the time of the importation of such goods, wares, or merchandise, the same shall be subject to the appraisement required by this act.

SEC. 7. *And be it further enacted*, That when goods, wares, or merchandise, imported, and subject to duty as aforesaid, shall be reshipped and transported coastwise, from one district to another, in the packages in which the same were imported, an invoice, or a copy of such invoice, verified by the additional oath required by the fifth section of this act, and certified under the official seal of the collector with whom the entry on the importation of such goods, wares, or merchandise, was made, shall be produced at the port to which the same shall be transported, and the same inspection of such goods, wares, or merchandise, shall be made, as if they had been brought direct from a foreign port or place; and if the invoice, verified as aforesaid, shall not be so produced, such goods, wares, or merchandise, shall be deposited and remain in the public warehouse, at the expense and risk of the owner thereof, until the invoice, verified and certified in the manner above required shall be produced; and goods, wares, or merchandise, imported, and subject to duty as aforesaid, may be transported

coastwise, to one or more districts within the United States.

SEC. 8. *And be it further enacted*, That any goods, wares, or merchandise, imported and subject to duty as aforesaid, and belonging to a person or persons residing, and, at the time of such importation, being out of the United States, shall not be admitted to entry, after six months from the passage of this act, if imported from a port or place on this side the Cape of Good Hope, or, after fifteen months from the passage thereof, if imported from the Cape of Good Hope or any port beyond the same, unless the invoice of such goods, wares, or merchandise, shall be verified in the manner required by the fifth section of this act, before the Consul of the United States at the port at which the said goods, wares, or merchandise, were shipped, or before a Consul of the United States in the country in which the said port may be; and such owner or owners shall further declare on oath, whether he or they are the manufacturers, in whole or in part, of such goods, wares, or merchandise, or are concerned, directly or indirectly, in the profits of any art or trade by which they have been brought to their present state of manufacture; and, if so, he or they shall further swear, that the prices charged in the aforesaid invoice are the current value of the same at the place of manufacture, and such as he or they would have received if the same had been there sold in the usual course of trade: *Provided*, That, if there be no Consul of the United States in the country from whence the shipment of such goods, wares, or merchandise, is made, the oath hereby required shall be made before a notary public, or other officer duly authorized to administer oaths, whose official character shall be certified by a consul of a nation at the time in amity with the United States, if there be one in such country.

SEC. 9. *And be it further enacted*, That, for the appraisement of goods, wares, or merchandise, required by this act, or by any other act concerning imports and tonnage, the President of the United States, by and with the advice and consent of the Senate, shall appoint, in each of the ports of Boston, New York, Philadelphia, Baltimore, Charleston, and New Orleans, two persons well qualified to perform that duty, on the part of the United States, who, before they enter thereon, shall severally make oath diligently and faithfully to inspect and examine such goods, wares, or merchandise, as the collector may direct, and truly to report, to the best of their knowledge and belief, the true value thereof when purchased, at the place or places from whence the same were imported; and, when any appraisement is to be made in the said principal ports, the two appraisers so appointed therein, together with a respectable resident merchant, chosen by the party in interest, and sworn in like manner, to examine and report, shall make such appraisement, the said merchant having also made oath that he has no direct or indirect interest in the case; but when any appraisement is to be made in ports other than those abovenamed, two respectable resident

merchants, selected by the collector, together with a respectable resident merchant, chosen by the party in interest, who shall have severally taken the oaths required by this section, shall be the appraisers: *Provided*, That in any case where the party in interest shall decline or neglect to choose a respectable resident merchant to join in such appraisement, the collector shall make the selection necessary to the due execution of this act, and the appraisement so made by them, or a majority of them, shall be valid and effectual in law; and the Secretary of the Treasury shall have authority to direct the appraisers for any collection district to attend in any other district for the purpose of appraising any goods, wares, or merchandise, imported therein; and for such service they shall, respectively, receive at the rate of five dollars a day whilst engaged therein, and at the rate of five dollars for every twenty-five miles in going to, and returning from, such district; which shall form no part of the salary provided for by this act. And the President of the United States is hereby authorized, in the recess of the Senate, to appoint the appraisers of the said ports, which appointments shall continue in force until the end of the next session of Congress.

SEC. 10. *And be it further enacted*, That any merchant who shall be chosen by the collector, or by the party in interest, to make any appraisement required under this act, or under any other act respecting imports and tonnage, and who shall, after due notice of such choice has been given, decline or neglect to assist at such appraisement, shall be subject to a fine of not more than fifty dollars, and to the costs of prosecution in any court of the United States having cognizance of the same.

SEC. 11. *And be it further enacted*, That whenever, in the opinion of the collector, there shall be just grounds to suspect that goods, wares, or merchandise, subject to an ad valorem duty, and imported into his district, have been invoiced below the true value of such goods, wares, or merchandise, in their actual state of manufacture, at the place from which they were imported, such collector shall direct the same to be appraised in the manner prescribed by the ninth section of this act; and if the value at which the same shall be appraised shall exceed, by twenty-five per centum, the invoice prices thereof, then, in addition to the ten or twenty per centum, as the case may be, laid upon correct and regular invoices according to law, there shall be added fifty per cent. on the appraised value; on which aggregate amount the duties on such goods, wares, or merchandise, shall be estimated.

SEC. 12. *And be it further enacted*, That in all cases where the appraised value of any goods, wares, or merchandise, appraised under this, or any other act concerning imports and tonnage, shall exceed, by less than twenty-five per centum, the invoice value thereof, such appraised value shall be considered the true value of such goods, wares, or merchandise, upon which the duty is to be estimated, with the addition of such per centum as is by law required: but in all cases

where the appraised value, shall be less than the invoice value, the duty shall be charged on the invoice value in the same manner as if no appraisement had been made.

SEC. 13. *And be it further enacted*, That any goods, wares, or merchandise, subject to an ad valorem duty, and belonging to a person or persons, residing, and, at the time of the importation thereof, being, out of the United States, and which shall be imported in the United States, but, for want of the verification required by the eighth section of this act, not admitted to entry, shall be subject to the same appraisement, and to the same addition to the appraised value, as are prescribed by the eleventh section of this act, in the case of fraudulent invoices.

SEC. 14. *And be it further enacted*, That one-half of the duty accruing on the additional fifty per centum, which may be imposed on any goods, wares, or merchandise, in virtue of the eleventh section of this act, shall be divided among the custom-house officers of the port in which such goods, wares, or merchandise, may be, in the manner prescribed by the act, entitled "An act to regulate the duties on imports and tonnage," passed on the second of March, one thousand seven hundred and ninety-nine.

SEC. 16. *And be it further enacted*, That, before any goods, wares, or merchandise, which may be taken from any wreck, shall be admitted to entry, the same shall be appraised in the manner prescribed by the ninth section of this act; and the same proceedings shall also be had, where a reduction of duties shall be claimed, on account of damage which any goods, wares, or merchandise, imported into the United States, shall have sustained in the course of the voyage.

SEC. 16. *And be it further enacted*, That the expenses of appraisements made under this act shall, in all cases, be borne by the owner or owners of the goods, wares, or merchandise, appraised, except when the appraisement ordered under the eleventh section shall not exceed the invoice value of such goods, wares, or merchandise, and where it shall be made on goods damaged by the voyage; and except, also, when the goods, wares, or merchandise, appraised, shall have been taken from a wreck.

SEC. 17. *And be it further enacted*, That each of the appraisers who may be appointed under the ninth section of this act, in the several ports therein named, excepting New York, shall receive, as a compensation for his services, one thousand five hundred dollars per annum, and the appraisers for the port of New York shall receive each two thousand dollars per annum; and the merchants who may act as appraisers under this act shall receive for their services, while employed on that duty, a compensation of five dollars per diem; and the said sum of five dollars per diem for each of the appraisers, (whether official appraisers or selected merchants,) shall be paid to the collector, by the owner or agent of the goods, wares, or merchandise, appraised by them, respectively, in all cases where such owner or agent may be liable to the expense of appraise-



ment, before the delivery of such goods, wares, or merchandise, by the collector. The sums so received shall be forthwith paid by such collector to the appraisers, and the amount so paid to the official appraisers shall be in part satisfaction of their salary.

SEC. 18. *And be it further enacted*, That, for every verification made under this act, before a Consul of the United States, such Consul shall be entitled to demand and receive, from the person making the same, a fee of two dollars.

SEC. 19. *And be it further enacted*, That when any goods, wares, or merchandise, shall be admitted to entry upon invoice, the collector of the port in which the same are entered shall certify such invoice under his official seal; and no other evidence of the value of such goods, wares, or merchandise, shall be admitted on the part of the owner or owners thereof, in any court of the United States, except in corroboration of such invoice.

SEC. 20. *And be it further enacted*, That any person or persons who shall counterfeit any certificate or attestation made in pursuance of this act, or use such certificate or attestation, knowing the same to be counterfeit, shall, upon conviction thereof before any court of the United States having cognizance of the same, be adjudged guilty of felony, and be fined in a sum not exceeding ten thousand dollars, and imprisoned for a term not exceeding three years.

SEC. 21. *And be it further enacted*, That no discount shall be allowed on any goods, wares, or merchandise, subject to ad valorem duty, admitted to entry, unless the importer shall expressly state, on oath or affirmation, that such discount has been actually and bona fide allowed to the owner, or owners of such goods, wares, or merchandise, in the payment made for the same.

SEC. 22. *And be it further enacted*, That the collectors of the customs shall be required to cause at least one package out of every invoice, and one package at least out of every fifty packages, of every invoice of goods, wares, or merchandise, imported into their respective districts, to be opened and examined, and if the same be found not to correspond with the invoice thereof, or to be falsely charged in such invoice, a full inspection of all such goods, wares, or merchandise, as may be included in the same entry, shall be made; and if any package is found to contain any article not described in the invoice, the whole package shall be forfeited, and in case such goods, wares, or merchandise, shall be subject to an ad valorem duty, the same proceedings shall be had, and the same penalties shall be incurred, as are provided in the eleventh section of this act: *Provided*, That nothing herein contained shall save from forfeiture any package having in it any article not described in the invoice.

SEC. 23. *And be it further enacted*, That any bond to the United States, entered into for the payment of duties by a merchant belonging to a firm, in the name of such firm, shall equally bind the partner or partners in trade, of the person or

persons by whom such bond shall have been executed.

SEC. 24. *And be it further enacted*, That in all cases of entry of merchandise for the benefit of drawback, the time of twenty days shall be allowed from the date of the clearance of the ship or vessel in which the same shall be laden, for giving the exportation bonds for the same: *Provided*, That the exporter shall, in every other particular, comply with the regulations and formalities heretofore established for entries of exportation for the benefit of drawback.

SEC. 25. *And be it further enacted*, That all penalties and forfeitures incurred by force of this act, shall be sued for, recovered, distributed, and accounted for, in the manner prescribed by the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed on the second day of March, one thousand seven hundred and ninety-nine, and may be mitigated or remitted, in the manner prescribed by the act, entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned," passed on the third day of March, one thousand seven hundred and ninety-seven.

SEC. 26. *And be it further enacted*, That this act shall continue in force for the term of two years from and after the passing thereof.

Approved, April 20, 1818.

An Act to provide for the publication of the laws of the United States, and for other purposes.

*Be it enacted, &c.*, That, at and during the session of each Congress of the United States, the Secretary for the Department of State shall cause the acts and resolutions passed by Congress at such session to be published, currently as they are enacted, and as soon as practicable, in not more than one newspaper in the District of Columbia, and in not more than three newspapers in each of the several States, and in not more than three newspapers in each of the Territories of the United States. And he shall also cause to be published, in the like manner, in the said newspapers, or in such of them as he shall for that purpose designate, the public treaties entered into and ratified by the United States.

SEC. 2. *And be it further enacted*, That, whenever official notice shall have been received, at the Department of State, that any amendment which heretofore has been, or hereafter may be, proposed to the Constitution of the United States, has been adopted, according to the provisions of the Constitution, it shall be the duty of the said Secretary of State forthwith to cause the said amendment to be published in the said newspapers authorized to promulgate the laws, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States.

SEC. 3. *And be it further enacted*, That the proprietor of every newspaper in which the laws, resolutions, treaties, or amendments, shall be so

published, shall receive, as full compensation therefor, at the rate of one dollar for each printed page of the laws, resolutions, and treaties, as published in the pamphlet form in the manner hereinafter directed. And if it shall appear, on the examination of any account, that there has been any unreasonable delay or intentional omission in the publication of the laws aforesaid, the proper accounting officer of the Treasury is hereby authorized and required to deduct, from such account, such sum as shall be charged therein for the publication of any laws which shall have been so unreasonably delayed or intentionally omitted. And in any such case it shall be the duty of the Secretary of State to discontinue the publication of the laws in the newspaper belonging to such proprietor, and such newspaper shall, in no event, be again authorized, nor shall the proprietor thereof be again employed, to publish the laws of the United States.

SEC. 4. *And be it further enacted*, That the Secretary of State shall cause to be published, at the close of every session of Congress, and as soon as practicable, eleven thousand copies of the acts of Congress at large, including all resolutions passed by Congress, amendments to the Constitution adopted, and all public treaties made and ratified since the then last publication of the laws; which copies shall be printed on paper, and in the size of the sheet and type, in a manner to correspond with the late revised edition of the laws published by Bioren and Co.; which copies shall be distributed in the following manner: To every person who has been President of the United States, one copy to each, during their respective lives; to the present and every future President and Vice President, one copy to each, during their lives; one copy to the actual President and Vice President, to be deemed an appertenant to their offices, respectively; to each member of the Senate and House of Representatives, and to each Delegate in Congress from any Territory, one copy each; twenty copies to the Secretary of the Senate, and fifty copies to the Clerk of the House of Representatives, for the general use of the committees and members of the respective Houses; to the judges and clerks of the supreme and district courts, and the marshal and attorney of each district or section of a district, one copy each; to the Secretaries of State, of the Treasury, of War, and of the Navy, and to each of their chief clerks, one copy each; one copy to the Attorney General, to each of the Comptrollers and Auditors, and to the Register and Treasurer of the United States, and to the Commissioner of the Revenue, and the Commissioner of the General Land Office, and to the Paymaster General, and the Adjutant and Inspector General, and to the Commissary General of Supplies, and the Director of the Mint; one copy to each collector, naval officer, surveyor, and inspector of the customs; to the governors, judges, secretaries, and clerks of the Territories of the United States, one copy each; to the Postmaster General, and each Assistant, one copy; and one copy to each of the surveyors general of the lands of the United States, and to each regis-

ter of a land office; and one copy to each publisher of a newspaper authorized to promulgate the same. The delivery of the said copies shall be under the direction of the Secretary of State, or such officer as he shall, for that purpose, authorize.

SEC. 5. *And be it further enacted*, That three hundred of the said copies shall be annually placed in the Library of Congress; and every member of Congress, and every Delegate, shall be entitled to the use of a copy during the session, and the same shall be returned and accounted for, as may be prescribed by the rules of the Library. And one hundred of the said copies, authorized by this act to be printed, shall be delivered to the Secretary of War, and fifty copies to the Secretary of the Navy, to be by them respectively distributed among such officers of the army and navy as the public service may require. Four hundred copies shall be reserved by the Secretary of State, to be distributed by him, at his discretion, among the public and foreign Ministers and Consuls, and other public agents.

SEC. 6. *And be it further enacted*, That the residue of the said number of copies, authorized to be printed, shall be distributed among the several States and Territories, in proportion to the number of representatives and delegates to which each State and Territory may be entitled in Congress, at the time of such distribution.

SEC. 7. *And be it further enacted*, That, whenever the Secretary of State shall enter into any contract with any person for the publication of the laws, in the pamphlet form, as aforesaid, he shall require at least two good and sufficient sureties for the faithful performance of the contract; and, in every such agreement, it shall always be stipulated that the number of copies hereby authorized to be printed, shall be delivered at the office of the Secretary of State within thirty days after the adjournment of each session of Congress, and that, for every day's delay in such delivery, the person so contracting shall forfeit the sum of one hundred dollars, to be deducted from the compensation to which he otherwise would have been entitled.

SEC. 8. *And be it further enacted*, That all acts, or parts of acts, heretofore passed, which in any manner contravene the provisions of this act, or which may be inconsistent with the same; and all acts or parts of acts, in which are contained any provisions for the publication of the laws, either in a pamphlet form or in newspapers, be, and the same are hereby, repealed: *Provided*, That such repeal shall not be construed to prevent the payment of any compensation that may be due, for the publication of the laws, previous to the promulgation of this act.

SEC. 9. *And be it further enacted*, That whatever sum of money may be necessary to carry into effect this act, besides any specific appropriations for the same objects, that have been, or may be, made, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 20, 1818.



## Public Acts of Congress.

An Act to provide for erecting additional buildings for the accommodation of the several Executive Departments.

*Be it enacted, &c.*, That the Commissioner of the Public Buildings cause to be erected, under the direction of the President of the United States, two buildings, suitable for offices for the Executive departments, to be placed north of the buildings at present occupied by those departments, and on a line parallel therewith; each of said new buildings to contain forty rooms of convenient size.

SEC. 2. *And be it further enacted*, That, for the purpose of carrying this act into effect, the sum of one hundred and eighty thousand seven hundred and forty-one dollars be, and the same is hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be expended under the direction of the President of the United States.

Approved, April 20, 1818.

An Act supplementary to the several acts relative to direct taxes and internal duties.

*Be it enacted, &c.*, That the Secretary of the Treasury shall be, and he is hereby, authorized to cause any omissions or defects in the assessment of the direct tax, laid in the years one thousand eight hundred and fifteen and one thousand eight hundred and sixteen, in the fifth collection district of Virginia, to be supplied or corrected by the principal assessor for the said district, in such manner as the said Secretary shall see fit: *Provided*, That the said corrections be made, as nearly as may be under existing circumstances, in conformity with the principles applicable to other collection districts, and that the same, so far as they regard the tax laid in the year one thousand eight hundred and fifteen, shall have reference to the day prescribed by the act of January ninth, one thousand eight hundred and fifteen, and so far as they regard the tax laid in the year one thousand eight hundred and sixteen, shall have reference to the first day of June, one thousand eight hundred and sixteen: *And provided*, That, previous to making such corrections, the said principal assessor shall attend at the courthouse of each county within his district, for at least three days, for the purpose of hearing appeals, of which attendance he shall give thirty days' notice, either by handbills posted up, or in a newspaper printed in each county. The time at which the taxes for the said years shall become due, shall be that on which the tax list shall be delivered to and receipted for by the collector. And to defray the expenses of making said corrections, there is hereby appropriated a sum not exceeding five thousand dollars, to be paid out of any moneys not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be authorized, in case, in his opinion, the public interest require it, to pay for the publications of the collectors of the direct tax, prescribed by the twenty-eighth and twenty-ninth sections of the act of January ninth,

one thousand eight hundred and fifteen, a price that shall not exceed that usually paid by individuals for publications made by their order.

SEC. 3. *And be it further enacted*, That, in case of the sale of property for direct taxes, laid in the years one thousand eight hundred and thirteen, one thousand eight hundred and fifteen, and one thousand eight hundred and sixteen, belonging to infants, persons of insane mind, married women, or persons beyond sea, its redemption shall be effected at any time within two years after the removal of such disability, or the return to the United States, on paying to the collector of the district, or other officer of the United States on whom his duties may be devolved, as the case may be, the amount paid by the purchaser, together with ten per cent. per annum thereon, and on paying to the purchaser of the land a compensation for all improvements he may have made on the premises subsequent to his purchase, the value of which improvements to be ascertained by three or more neighboring freeholders, to be appointed by the clerk of the district court, who, on actual view of the premises, shall assess the value of such improvements on their oath, and make a return of such valuation to the clerk aforesaid immediately. And the clerk of the court shall receive such compensation for his services herein, to be paid by, and received from, the parties, like costs of suits, as the judge of the district court shall, in that respect, tax and allow.

SEC. 4. *And be it further enacted*, That the time allowed for the redemption of lands which have been, or may be, sold for the payment of taxes, under the act passed the second day of August, one thousand eight hundred and thirteen, entitled "An act to lay and collect a direct tax within the United States," and purchased on behalf of the United States, be extended three years beyond the time heretofore allowed: *Provided*, That such extension of time shall not be beyond the first of June, one thousand eight hundred and twenty, and that on such redemption interest be paid, at the rate of twenty per centum on the tax, and additions of twenty per centum chargeable thereon; and the right to redeem shall enure as well to persons holding an equitable or reversionary interest in lands so purchased on behalf of the United States, as to the original owners thereof.

SEC. 5. *And be it further enacted*, That the President of the United States be authorized, whenever he shall consider it expedient, to abolish all the existing offices of collectors of the direct tax and internal duties, in any State or Territory, whereupon the duties remaining to be performed shall be devolved upon such officer of the United States, within such State or Territory, as the President may designate. And whenever, in virtue of this authority, or of that conferred by the act of December twenty-third, one thousand eight hundred and seventeen, entitled "An act to abolish the internal duties," the office of any collector shall be abolished, or its duties transferred, to any other collector, or officer of the United States, it shall be the duty of such collector or

## Public Acts of Congress.

officer to make deeds for land sold for direct taxes, in the same manner and for the same fees as are provided by law in cases where no such transfer of duties has taken place. And such collector or officer shall give bond for the performance of his duties, in such sum as the Secretary of the Treasury shall prescribe, and shall receive like compensation with that allowed to the present collectors of direct tax and internal duties. In all cases, previous to the making a deed, there shall be delivered to, and filed by, the collector, or other officer authorized to make the same, the receipt for the purchase money paid for the real property sold for any tax. At the expiration of three months after the time allowed for the redemption of property sold for taxes, the collectors or other officers aforesaid, in each State, except the designated collectors, shall make out and lodge with the clerk of the district court distinct statements of the property then unredeemed, sold to individuals, and of the like property purchased in behalf of the United States; which statements shall designate the names of the persons taxed, where resident, the amount of the tax and additions, the description, situation, and quantity, of the property sold for taxes, the name of the owner, or presumed owner, when sold, the name of the purchaser, and the amount paid by the purchaser; and the said collectors or other officers shall likewise pay over, to the said clerk, the moneys received for the purchasers and in their hands, for which statements and moneys the clerk shall give them a receipt. The said clerk shall henceforth have exclusive authority to grant deeds, and to perform all the other duties previously performed by the collector, or other officer aforesaid, in regard to the direct tax: *Provided*, That one-half of the compensation made therefor be for the use of the clerk, and the other half for that of the collector, any law to the contrary notwithstanding. And the same course shall be pursued, in regard to the respective designated collectors, whenever their offices shall be abolished by the President of the United States, in which case the right of redemption that may still remain shall be effected through the said clerks. The clerks of the district courts shall, on the first of January in each year, render to the Secretary of the Treasury distinct statements of their proceedings, in such form as shall be prescribed by him, and shall pay over the moneys received by them for the use of the United States.

SEC. 6. *And be it further enacted*, That an abatement from the amounts of the bonds given for internal duties, at the rate of eight per centum per annum, shall be made on the payment thereof previous to their becoming due.

SEC. 7. *And be it further enacted*, That in all cases in which deeds for property sold for the direct tax imposed in the year one thousand seven hundred and ninety-eight, shall not have been made, or in which defective deeds have been made, deeds may and shall be granted therefor by the marshal of the respective districts in which the property is situate, within two years from the passage of this act, where the right of redemption has expired, and in other cases within two

years after the said right may expire, on the terms, and subject to the conditions, fixed by law: *Provided*, That where new deeds may be made, the same shall only be granted on the delivery of the defective deed to the marshal, who shall cancel the same as soon as the new deed is made, which shall, after reciting at length the defective deed, declare the property to be conveyed to the original grantee, his heirs or representatives, subject to any right or claim thereto that may have accrued subsequent to the date of the defective deed; and said marshal shall receive two dollars for preparing and executing each deed.

SEC. 8. *And be it further enacted*, That in any suit or action which shall be hereafter instituted by the United States against any corporate body, for the recovery of money upon any bill, note, or other security, it shall be lawful to summon, as garnishees, the debtors of such corporation; and it shall be the duty of any person, so summoned, to appear in open court, and depose, in writing, to the amount which he or she was indebted to the said corporation, at the time of the service of the summons, and at the time of making such deposition; and it shall be lawful to enter up judgment in favor of the United States, for the sum admitted by such garnishee to be due to the said corporation, in the same manner as if it had been due and owing to the United States: *Provided*, That no judgment shall be entered against any garnishee, until after judgment shall have been rendered against the corporation defendant to the said action, nor until the sum in which the said garnishee may stand indebted be actually due.

SEC. 9. *And be it further enacted*, That where any person summoned as garnishee, shall depose in open court that he or she is not indebted to such corporation, nor was not, at the time of the service of the summons, it shall be lawful for the United States to tender an issue upon such demand, and if, upon the trial of such issue, a verdict shall be rendered against such garnishee, judgment shall be entered in favor of the United States, pursuant to such verdict, with costs of suit.

SEC. 10. *And be it further enacted*, That if any person summoned as garnishee under the provisions of this act, shall fail to appear at the term of the court to which he has been summoned, he shall be subject to attachment for contempt of the court.

SEC. 11. *And be it further enacted*, That so much of an act passed the thirtieth of April, one thousand eight hundred and sixteen, entitled "An act to allow drawback of duties on spirits distilled and sugar refined within the United States, and for other purposes," as allows a drawback of four cents upon every gallon of spirits distilled from molasses, and a drawback of four cents per pound upon refined sugar exported from the United States, together with all the regulations and provisions of the said act upon the subject of the said drawbacks, shall be deemed, construed, and taken, to be and remain in full force and virtue, any act or acts to the contrary notwithstanding.

Approved, April 20, 1818.



An Act to defray the expenses of the Militia when marching to places of rendezvous.

*Be it enacted, &c.,* That the expenses incurred, or to be incurred, by marching the militia of any State or Territory of the United States to their places of rendezvous, in pursuance of a requisition of the President of the United States, or which shall have been, or may be, incurred in cases of calls made by the authority of any State or Territory, which shall have been, or may be, approved by him, shall be adjusted and paid in like manner as the expenses incurred after their arrival at such places of rendezvous, on the requisition of the President of the United States: *Provided,* That nothing herein contained shall be considered as authorizing any species of expenditure, previous to arriving at the place of rendezvous, which is not provided by existing laws to be paid for after their arrival at such place of rendezvous.

Approved, April 20, 1818.

An Act for the relief of Volunteer Mounted Cavalry.

*Be it enacted, &c.,* That every non-commissioned officer, or private, who served in any volunteer corps of cavalry during the late war, and furnished his own horse or horses, while in the public service aforesaid, shall be allowed at the rate of forty cents per day for each horse so furnished, which such officer, non-commissioned officer, or private, was entitled by law to keep in such service. And that when any officer, non-commissioned officer, or private, in the cavalry service aforesaid, having lost the horse or horses which may have been taken by him into the said service, and having received from the United States another horse or horses, in lieu or in part payment for the horse or horses so previously lost as aforesaid, such officer, non-commissioned officer, or private, shall be entitled to receive the allowance of forty cents per day for the use and risk of the horse on which he may have been so remounted.

Approved, April 20, 1818.

An Act to regulate and fix the compensation of Clerks in the different Offices.

*Be it enacted, &c.,* That the Secretary for the Department of State be, and he is hereby, authorized to employ one chief clerk, whose compensation shall not exceed two thousand dollars per annum; two clerks, whose compensation shall not exceed one thousand six hundred dollars each; four clerks, whose compensation shall not exceed one thousand four hundred dollars each; one clerk, whose compensation shall not exceed one thousand dollars; two clerks, whose compensation shall not exceed eight hundred dollars each; one Superintendent of the Patent Office, whose compensation shall not exceed one thousand five hundred dollars; and one clerk in said Patent Office, whose compensation shall not exceed one thousand dollars.

*Sec. 2. And be it further enacted,* That the Secretary of the Treasury Department be, and

he is hereby, authorized to employ, for the office of the Treasury Department, one chief clerk, whose compensation shall not exceed two thousand dollars per annum; two clerks, whose compensation shall not exceed one thousand six hundred dollars each; three clerks, whose compensation shall not exceed one thousand four hundred dollars each; and one clerk, whose compensation shall not exceed one thousand dollars. For the office of the first comptroller, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; four clerks, whose compensation shall not exceed one thousand four hundred dollars each; five clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; four clerks, whose compensation shall not exceed one thousand dollars each; and one clerk, whose compensation shall not exceed eight hundred dollars. For the office of the second comptroller, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; two clerks, whose compensation shall not exceed one thousand four hundred dollars; three clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; one clerk, whose compensation shall not exceed one thousand dollars; and one clerk whose compensation shall not exceed eight hundred dollars. For the office of the first auditor, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; two clerks, whose compensation shall not exceed one thousand four hundred dollars each; six clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; three clerks, whose compensation shall not exceed one thousand dollars; and one clerk, whose compensation shall not exceed eight hundred dollars. For the office of the second auditor, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; two clerks, whose compensation shall not exceed one thousand four hundred dollars each; six clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; five clerks, whose compensation shall not exceed one thousand dollars each; and one clerk, whose compensation shall not exceed eight hundred dollars. For the office of the third auditor, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; five clerks, whose compensation shall not exceed one thousand four hundred dollars each; ten clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; six clerks, whose compensation shall not exceed one thousand dollars each; and three clerks, whose compensation shall not exceed eight hundred dollars each. For the office of the fourth auditor, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; two clerks, whose compensation shall not exceed one thousand four hundred dollars each; five clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; four

clerks, whose compensation shall not exceed one thousand dollars each; and one clerk, whose compensation shall not exceed eight hundred dollars. For the office of the fifth auditor, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; one clerk, whose compensation shall not exceed one thousand four hundred dollars; four clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; two clerks, whose compensation shall not exceed one thousand dollars each; and one clerk, whose compensation shall not exceed eight hundred dollars. For the office of the treasurer, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; one clerk, whose compensation shall not exceed one thousand four hundred dollars; one clerk, whose compensation shall not exceed one thousand one hundred and fifty dollars; and one clerk, whose compensation shall not exceed one thousand dollars. For the office of the register, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; four clerks, whose compensation shall not exceed one thousand four hundred dollars each; three clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; six clerks, whose compensation shall not exceed one thousand dollars; and seven clerks, whose compensation shall not exceed eight hundred dollars each. To the office of the commissioner of the land office, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; two clerks, whose compensation shall not exceed one thousand four hundred dollars each; three clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; five clerks, whose compensation shall not exceed one thousand dollars each; and twelve clerks, whose compensation shall not exceed eight hundred dollars each.

*Sec. 3. And be it further enacted,* That the Secretary of the War Department be, and he is hereby, authorized to employ, for the office of the War Department, one chief clerk, whose compensation shall not exceed two thousand dollars per annum; three clerks, whose compensation shall not exceed one thousand six hundred dollars; five clerks, whose compensation shall not exceed one thousand four hundred dollars each; eight clerks, whose compensation shall not exceed one thousand dollars each; and five clerks, whose compensation shall not exceed eight hundred dollars each. For the office of the paymaster general, one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; one clerk, whose compensation shall not exceed one thousand four hundred dollars; two clerks, whose compensation shall not exceed one thousand one hundred and fifty dollars each; three clerks, whose compensation shall not exceed one thousand dollars each; and one clerk, whose compensation shall not exceed eight hundred dollars. For the office of the adjutant and inspector general, one clerk, whose compensation shall not ex-

ceed one thousand one hundred and fifty dollars; and one clerk whose compensation shall not exceed one thousand dollars. For the office of the ordnance department, one clerk, whose compensation shall not exceed one thousand one hundred and fifty dollars per annum; one clerk, whose compensation shall not exceed one thousand dollars; and one clerk, whose compensation shall not exceed eight hundred dollars. For the office of the superintendent of Indian trade, one clerk, whose compensation shall not exceed one thousand one hundred and fifty dollars per annum; one clerk, whose compensation shall not exceed one thousand dollars; and one clerk, whose compensation shall not exceed eight hundred dollars.

*Sec. 4. And be it further enacted,* That the Secretary of the Navy Department be, and he is hereby, authorized to employ one chief clerk, whose compensation shall not exceed two thousand dollars per annum; one clerk, whose compensation shall not exceed one thousand six hundred dollars; two clerks, whose compensation shall not exceed one thousand four hundred dollars each; one clerk, whose compensation shall not exceed one thousand dollars; and one clerk, whose compensation shall not exceed eight hundred dollars.

*Sec. 5. And be it further enacted,* That the commissioners of the Navy be, and they are hereby, authorized to employ one clerk, whose compensation shall not exceed one thousand six hundred dollars per annum; one clerk, whose compensation shall not exceed one thousand one hundred and fifty dollars; and one clerk, whose compensation shall not exceed eight hundred dollars.

*Sec. 6. And be it further enacted,* That the Attorney General be allowed to employ one clerk whose compensation shall not exceed one thousand dollars per annum.

*Sec. 7. And be it further enacted,* That the Postmaster General be, and he is hereby, authorized to employ one chief clerk, whose compensation shall not exceed one thousand seven hundred dollars per annum; two clerks, whose compensation shall not exceed one thousand four hundred dollars; five clerks, whose compensation shall not exceed one thousand two hundred dollars each; nine clerks, whose compensation shall not exceed one thousand dollars each; and four clerks, whose compensation shall not exceed eight hundred dollars each.

*Sec. 8. And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized to employ, in the office of the third auditor, until the first day of January, one thousand eight hundred and twenty, six additional clerks, at a compensation not exceeding one thousand dollars each per annum; and three additional clerks, at a compensation not exceeding eight hundred dollars each; and in the office of the second comptroller, for the same period, two additional clerks, at a compensation not exceeding one thousand dollars per annum each; and one additional clerk, at a compensation not exceeding eight hundred dollars.



SEC. 9. *And be it further enacted*, That the compensation allowed by this act to clerks, shall commence from and after the thirty-first day of March last. And it shall be the duty of the Secretaries for the Departments of State, Treasury, War, and Navy, of the Commissioners of the Navy, and the Postmaster General, to report to Congress, at the beginning of each year, the names of the clerks they have employed respectively in the preceding year, together with the time each clerk was actually employed during the year, and the sums paid to each; and no higher or other allowance shall be made to any clerk in the said departments and offices than is authorized by this act: And all acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Approved, April 20, 1818.

An Act in addition to the "Act for the punishment of certain crimes against the United States," and to repeal the acts therein mentioned.

*Be it enacted, &c.*, That if any citizen of the United States shall, within the territory or jurisdiction thereof, accept and exercise a commission to serve a foreign prince, state, colony, district, or people, in war, by land or by sea, against any prince, state, colony, district, or people, with whom the United States are at peace, the person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than two thousand dollars, and shall be imprisoned not exceeding three years.

SEC. 2. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States, with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people, as a soldier, or as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, every person, so offending, shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years: *Provided*, That this act shall not be construed to extend to any subject or citizen of any foreign prince, state, colony, district, or people, who shall transiently be within the United States, and shall, on board of any vessel of war, letter of marque, or privateer, which, at the time of its arrival within the United States, was fitted and equipped as such, enlist or enter himself, or hire or retain another subject or citizen of the same foreign prince, state, colony, district, or people, who is transiently within the United States, to enlist or enter himself to serve such foreign prince, state, colony, district, or people, on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district or people.

SEC. 3. *And be it further enacted*, That, if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and

arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out or arming, of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, or shall issue or deliver a commission within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed as aforesaid, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than ten thousand dollars, and imprisoned not more than three years; and every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition and stores, which may have been procured for the building and equipment thereof, shall be forfeited; one-half to the use of the informer, and the other half to the use of the United States.

SEC. 4. *And be it further enacted*, That if any citizen or citizens of the United States shall, without the limits thereof, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly aid or be concerned in the furnishing, fitting out, or arming, any private ship, or vessel of war, or privateer, with intent that such ship or vessel shall be employed to cruise, or commit hostilities upon the citizens of the United States, or their property, or shall take the command of, or enter on board of any such ship or vessel, for the intent aforesaid, or shall purchase any interest in any such ship or vessel, with a view to share in the profits thereof, such person so offending shall be deemed guilty of a high misdemeanor, and fined not more than ten thousand dollars, and imprisoned not more than ten years; and the trial for such offence, if committed without the limits of the United States, shall be in the district in which the offender shall be apprehended or first brought.

SEC. 5. *And be it further enacted*, That if any person shall, within the territory or jurisdiction of the United States, increase or augment, or procure to be increased or augmented, or shall knowingly be concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger calibre, or by the addition thereto of any equipment solely applicable to war, every person so offending shall be deemed guilty of a high misdemeanor, shall be fined not more than one thousand dollars, and be imprisoned not more than one year.

SEC. 6. *And be it further enacted*, That if any person shall, within the territory or jurisdiction

of the United States, begin or set on foot, or provide or prepare the means for, any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding three thousand dollars, and imprisoned not more than three years.

SEC. 7. *And be it further enacted*, That the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof.

SEC. 8. *And be it further enacted*, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States as before defined, and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or state, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or state, or of any colony, district, or people, in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibitions and penalties of this act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged, and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he shall empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be necessary to compel any foreign ship or vessel to depart the United States, in all cases in which, by the laws of nations or the treaties of the United States, they ought not to remain within the United States.

SEC. 10. *And be it further enacted*, That the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof,

shall enter into bond to the United States, with sufficient sureties, prior to clearing out the same, in double the amount of the value of the vessel and cargo on board, including her armament, that the said ship or vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property, of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

SEC. 11. *And be it further enacted*, That the collectors of the customs be, and they are hereby, respectively, authorized and required to detain any vessel manifestly built for warlike purposes, and about to depart the United States, of which the cargo shall principally consist of arms and munitions of war, when the number of men shipped on board, or other circumstances, shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens, or property, of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace, until the decision of the President be had thereon, or until the owner or owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this act.

SEC. 12. *And be it further enacted*, That the act passed on the fifth day of June, one thousand seven hundred and ninety-four, entitled "An act in addition to the act for the punishment of certain crimes against the United States," continued in force, for a limited time, by the act of the second of March, one thousand seven hundred and ninety-seven, and perpetuated by the act passed on the twenty-fourth of April, one thousand eight hundred, and the act, passed on the fourteenth day of June, one thousand seven hundred and ninety-seven, entitled "An act to prevent citizens of the United States from privateering against nations in amity with, or against the citizens of, the United States," and the act, passed the third day of March, one thousand eight hundred and seventeen, entitled "An act more effectually to preserve the neutral relations of the United States," be, and the same are hereby, severally repealed: *Provided, nevertheless*, That persons having heretofore offended against any of the acts aforesaid, may be prosecuted, convicted, and punished, as if the same were not repealed; and no forfeiture heretofore incurred by a violation of any of the acts aforesaid shall be affected by such repeal.

SEC. 13. *And be it further enacted*, That nothing in the foregoing act shall be construed to prevent the prosecution or punishment of treason, or any piracy defined by the laws of the United States.

Approved, April 20, 1818.

An Act to continue in force an act, entitled "An act relating to settlers on lands of the United States."

*Be it enacted, &c.*, That an act, entitled "An act relating to settlers on the lands of the United States," passed the twenty-fifth of March, one



thousand eight hundred and sixteen, be, and the same is hereby, continued in force for one year, from and after the third day of March last.

Approved, April 20, 1818.

An Act in addition to "An Act to prohibit the introduction [importation] of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," and to repeal certain parts of the same.

*Be it enacted, &c.,* That, from and after the passing of this act, it shall not be lawful to import or bring, in any manner whatsoever, into the United States, or Territories thereof, from any foreign kingdom, place, or country, any negro, mulatto, or person of color, with intent to hold, sell, or dispose of, any such negro, mulatto, or person of color, as a slave, or to be held to service or labor; and any ship, vessel, or other water craft, employed in any importation as aforesaid, shall be liable to seizure, prosecution, and forfeiture, in any district in which it may be found; one-half thereof to the use of the United States, and the other half to the use of him or them who shall prosecute the same to effect.

*Sec. 2. And be it further enacted,* That no citizen, or citizens of the United States, or any other person or persons, shall, after the passing of this act, as aforesaid, for himself, themselves, or any other person or persons whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare any ship or vessel, in any port or place within the jurisdiction of the United States, nor cause any such ship or vessel to sail from any port or place whatsoever, within the jurisdiction of the same, for the purpose of procuring any negro, mulatto, or person of color, from any foreign kingdom, place, or country, to be transported to any port or place whatsoever, to be held, sold, or otherwise disposed of, as slaves, or to be held to service or labor; and if any ship or vessel shall be so built, fitted out, equipped, laden, or otherwise prepared, for the purpose aforesaid, every such ship or vessel, her tackle, apparel, furniture, and lading, shall be forfeited, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for said forfeiture, and prosecute the same to effect; and such ship or vessel shall be liable to be seized, prosecuted, and condemned, in any court of the United States having competent jurisdiction.

*Sec. 3. And be it further enacted,* That every person or persons so building, fitting out, equipping, loading, or otherwise preparing, or sending away, for causing any of the acts aforesaid to be done with intent to employ such ship or vessel in such trade or business, after the passing of this act, contrary to the true intent and meaning thereof, or who shall, in anywise, be aiding or abetting therein, shall, severally, on conviction thereof, by due course of law, forfeit and pay a sum not exceeding five hundred dollars, nor less than one thousand dollars, one moiety to the use of the

United States, and the other to the use of the person or persons who shall sue for such forfeiture and prosecute the same to effect, and shall moreover be imprisoned for a term not exceeding seven years, nor less than three years.

*Sec. 4. And be it further enacted,* That if any citizen or citizens of the United States, or other person or persons resident within the jurisdiction of the same, shall, from and after the passing of this act, take on board, receive, or transport, from any of the coasts or kingdoms of Africa, or from any other foreign kingdom, place, or country, or from sea, any negro, mulatto, or person of color, not being an inhabitant, nor held to service by the laws of either of the States or Territories of the United States, in any ship, vessel, boat, or other water craft, for the purpose of holding, selling, or otherwise disposing of such person as a slave, or to be held to service or labor, or be aiding or abetting therein, every such person or persons so offending shall, on conviction by due course of law, severally forfeit and pay a sum not exceeding five thousand, nor less than one thousand dollars, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for such forfeiture, and prosecute the same to effect; and, moreover, shall suffer imprisonment for a term not exceeding seven years, nor less than three years; and every ship or vessel, boat, or other water craft, on which such negro, mulatto, or person of color, shall have been taken on board, received, or transported, as aforesaid, her tackle, apparel, and furniture, and the goods and effects which shall be found on board the same, or shall have been imported therein in the same voyage, shall be forfeited, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for and prosecute the same to effect; and every such ship or vessel shall be liable to be seized, prosecuted, and condemned, in any court of the United States having competent jurisdiction.

*Sec. 5. And be it further enacted,* That neither the importer or importers, nor any person or persons claiming from or under him or them, shall hold any right, interest, or title whatsoever, in or to any negro, mulatto, or person of color, nor to the service or labor thereof, who may be imported or brought into the United States, or the Territories thereof, in violation of the provisions of this act, but the same shall remain subject to any regulations not contravening said provisions, which the legislatures of the several States or Territories may at any time heretofore have made, or hereafter may make, for disposing of any such negro, mulatto, or person of color.

*Sec. 6. And be it further enacted,* That if any person or persons whatsoever shall, from and after the passing of this act, bring within the jurisdiction of the United States, in any manner whatsoever, any negro, mulatto, or person of color, from any foreign kingdom, place, or country, or from sea, or shall hold, sell, or otherwise dispose of, any such negro, mulatto, or person of color, so

brought in, as a slave, or to be held to service or labor, or be in anywise aiding or abetting therein, every person so offending shall, on conviction thereof by due course of law, forfeit and pay, for every such offence, a sum not exceeding ten thousand, nor less than one thousand dollars, one moiety to the use of the United States, and the other to the use of the person or persons who shall sue for such forfeiture, and prosecute the same to effect; and, moreover, shall suffer imprisonment, for a term not exceeding seven years, nor less than three years.

*Sec. 7. And be it further enacted,* That if any person or persons whatsoever shall hold, purchase, sell, or otherwise dispose of, any negro, mulatto, or person of color, for a slave, or to be held to service or labor, who shall have been imported or brought, in any way, from any foreign kingdom, place, or country, or from the dominions of any foreign State immediately adjoining to the United States, into any port or place within the jurisdiction of the United States, from and after the passing of this act, every person so offending, and every person aiding or abetting therein, shall severally forfeit and pay, for every negro, mulatto, or person of color, so held, purchased, sold, or disposed of, one thousand dollars, one moiety to the use of the United States, and the other to the use of the person or persons who may sue for such forfeiture, and prosecute the same to effect, and to stand committed until the said forfeiture be paid: *Provided,* That the aforesaid forfeiture shall not extend to the seller or purchaser of any negro, mulatto, or person of color, who may be sold or disposed of, in virtue of any regulations which have been heretofore, or shall hereafter be, lawfully made by any Legislature of any State or Territory in pursuance of this act and the Constitution of the United States.

*Sec. 8. And be it further enacted,* That in all prosecutions under this act, the defendant or defendants shall be holden to prove that the negro, mulatto, or person of color, which he or they shall be charged with having brought into the United States, or with purchasing, holding, selling, or otherwise disposing of, and which, according to the evidence in such case, the said defendant or defendants shall have brought in aforesaid, or otherwise disposed of, was brought into the United States at least five years previous to the commencement of such prosecution, or was not brought in, holden, purchased, or otherwise disposed of, contrary to the provisions of this act; and in failure thereof, the said defendant or defendants shall be adjudged guilty of the offence of which he or they may stand accused.

*Sec. 9. And be it further enacted,* That any prosecution, information, or action, may be sustained, for any offence under this act, at any time within five years after such offence shall have been committed, any law to the contrary notwithstanding.

*Sec. 10. And be it further enacted,* That the first six sections of the act to which this is in addition, shall be, and the same are hereby, re-

pealed: *Provided,* That all offences committed under the said sections of the act aforesaid, before the passing of this act, shall be prosecuted and punished, and any forfeitures which have been incurred under the same shall be recovered and distributed, as if this act had not been passed.

Approved, April 20, 1818.

An Act to establish and alter certain Post Roads.

*Be it enacted, &c.,* That the post roads hereafter named be discontinued.

*In New Hampshire*—From Concord, by Loudon, Gilmanton, Middleton, Lewis, Eaton, Conway, and Fryeburg.

*In Massachusetts*—From Kingston to Halifax. From Northampton, by Hadley, to Montague.

*In Connecticut*—From Hartford, by Springfield, to Northampton, Massachusetts.

*In Virginia*—From Clarksburg, by Lewis Courthouse, to Point Pleasant.

From Clarksburg, by Buchanan, to Beverly.

*In Kentucky*—From Glasgow to Lebanon, Tennessee.

*In Georgia*—From Madison to Monticello. From Montgomery Courthouse, by Blackmore's and Hardin's, to Riceborough.

*In Pennsylvania*—From Montrose, by Orwell and Warren, to Athens.

From Middletown to York Haven.

*In Alabama*—From Fort Stoddert to Ford's, on Pearl river.

*In Missouri*—From St. Louis to St. Charles.

*In New York*—From Esperanza, by Schoharie Courthouse, to Middleburg.

From Albany, by Spencertown, to Sheffield, Massachusetts.

*Sec. 2. And be it further enacted,* That the following be established post roads:

*In Maine*—From Augusta, by Belgrade and Dearborn, to Mercer.

From Canaan, by Cornville, Athens, Harmony, Ripley, Dexter, Garland, and Corinth, to Bangor.

From North Yarmouth, by Pownal, Durham, Lisbon, and Litchfield, to Gardiner.

From Alfred, by Sanford and Lebanon, to Shaplaigh.

From Warren, by Thomaston, to Camden.

From Belfast, by Brooks and Jackson, to Dixmont.

From Norridgewalk, by Stark's and Mercer, to New Sharon.

From Bath to Phippsburg.

From Anson, in Somerset county, by New Portland, Freeman, Phillips, Avon, and Strong, to Farmington.

*In New Hampshire*—From Walpole, by Alstead, to Ackworth.

From Washington, by Newport, to Claremont.

From Concord, by Canterbury, Northfield, Meredith, Moultonborough, Sandwich, Tamworth, on the North road, by Gilman's Mills, Eaton, and Conway, to Fryeburg.

From Amherst, by Goffstown, West Meeting House, Dunbarton, Hopkinton, Concord, Isle



## Public Acts of Congress.

Hookset, Piscataquay Bridge, and Bedford, to Amherst.

From Fitzwilliam, by Rindge and Ashby, to Townsend.

From Keene, by Swansea, to Richmond.

From Dunstable, by Merrimack, to Piscataquay Bridge, in Bedford.

*In Vermont*—From Burlington, by Craftsbury and Irasburgh, to Brownington.

From Norwich, by Stafford, Chelsea, Washington, Orange, and Barre, to Montpelier.

From Chester, by Springfield and Cheshire Bridge, to Charleston, New Hampshire.

From Bellows Falls, by Grafton, Windham, and Londonderry, to Peru.

From Guildhall, by Maidstone, Brunswick, Minchew, and Lemington, to Canaan.

From Montpelier, by Waterbury, Watfield, and Warren, to Hancock.

From Brattleboro', by Newfane, to Townsend.

*In Massachusetts*—From East Bridgewater, by Huxford, Plympton, and Kingston, to Plymouth.

From Boston, by Malden and South Reading, to Reading.

From Haverhill, by Methuen, to Windham, New Hampshire.

From South Hadley, by Amherst, West Parish, to Sunderland.

From Springfield, by West Springfield and Southampton, to Northampton.

From Northfield to Warwick.

*In Connecticut*—From Hartford, by East Hartford, East Windsor, Enfield, Long Meadow, Springfield, South Hadley, Hadley, Sunderland, Montague, Northfield, Chesterfield, New Hampshire, Westmoreland, Walpole, Charlestown, Claremont, Cornish, Plainfield, and Lebanon, to Hanover.

*In New York*—From Hamilton, by Lebanon and Georgetown, to Cooley's Inn, in Otseick, in the county of Chenango.

From Hamilton, by Hartshorn's Tavern, in Lebanon, to Sherburne.

From Utica, by Clinton, Chandler's Store, Augusta, and Madison, to Hamilton village.

From Hampton to Utica.

From Vernon to Sconandoo.

From Bloomfield, by Pittsford, to Charlotte.

From Great Barrington, Massachusetts, by West Stockbridge, Canaan, Chatham, and Nassau, to Albany.

From Geneva, by Seneca, Phelps, Farmington, Palmyra, and Perrinton, to Pittsford.

From Batavia to Bergen.

From Batavia to Attica.

From Essex Courthouse, by Bosworth's Tavern, to Chesterfield.

From Denmark, by Leraysville, to Wilna.

From Naples, by Gorham, to Canandaigua.

From Troy to Schenectady, on the turnpike road.

From Rhinebeck, by North East and Amenia, to Sharon.

From West North East to Attleborough.

From Lisle to Caroline.

From Binghamton, by Lisle, to Homer.

From Lenox, by Clockville, Peterborough, Morris' Flats, and Eaton, to Log City.

From Albany, by Bethlehem, Rensselaerville, Blenheim, to Maryland or Susquehanna Bridge, on the turnpike road.

From Catskill, by Greenville, Broome, Middleburg, Cobleskill, and Sharon, to Cherry Valley.

From Jericho to Musqueto Cove, in Oyster Bay.

From Leicester, by Perry, East Nunda and West Nunda, to Olean or Hamilton Village.

*In New Jersey*—From Freehold, by Squancum, Manasquan, Tom's river, Cedar creek, and Manahawkin, to Tuckerton.

*In Pennsylvania*—From Philadelphia to West Chester.

From Quakertown, by Springtown, to Durham.

From Harrisburg, by Cumberland, to York Haven.

From York, by McCall's Ferry, to Mount Pleasant.

From Carlisle to Newville.

From Columbia to Marietta.

From Tunckhannock, by Springfield, Four Corners, to Montrose.

From Montrose to Binghamton.

From Athens, by the turnpike road, to Ithaca.

From York, by Lower Chanceford, to Bellair.

From Lititz to Emaus.

From Somerset, by Jones' Mills, Mount Pleasant, and Stewart's, to Pittsburg.

From Pittsburg, by Elizabethtown, Freeport, Perryopolis, and Middletown, to Uniontown.

From Beavertown, by Brighton, to Greensburg.

From Beavertown to Butler.

From Butler, by Lawrenceburg, to Kittanning.

From Meadville to Kinsman, Ohio.

From Mount Pleasant, in Wayne county, to Schockhooking post office, New York.

*In the District of Columbia*—From Georgetown, by Captain John's Mill, Seneca Mills, and Barnestown, to New Market.

*In Virginia*—From Norfolk, by the Falls of Roanoke, Warrenton, North Carolina, Williamsborough, Oxford, Daniel's Store, Red House, and Milton, to Danville, Virginia; from thence, by Jamestown, North Carolina, Germantown, Huntsville, Wilkesborough, and Ashe Courthouse, Elizabethtown, to Jonesborough, Tennessee.

From Danville to the Lead Mines.

From South Quay, by Isle of White Courthouse, to Smithfield.

From Richmond, by the United States' Arsenal and Jefferson, to Cartersville.

From Richmond, along the turnpike, and Three Notched Road, to Milton.

From Fauquier Courthouse, by Thornton's Gap, to New Market.

From Blacksburg, in Montgomery county, by Christiansburg, to Franklin Courthouse.

From New London, by Clayton's Store, Staunton River, Anthony's Ford, Newbill's, and John Smith's, to Pittsylvania Courthouse.

From Lilly Point to Halcyonville.

## Public Acts of Congress.

From Abington to Russell Courthouse.

From Clarksburg, by Preston, Bulltown, Salt Works, and Lewis Courthouse, to Charleston.

From Tyler Courthouse to Sistersville.

From Preston, by Buckhanon's, to Booth's Ferry.

From Morgantown, by Crab Orchard, to Kingwood.

From Kingwood, by the Swamps, Harden's Cove, Gladly Creek, Hunter's Fork, and Leading Creek, to Beverly.

From Clarksburg, by Booth's Ferry, and Leading Creek, to Beverly.

From Middleburg, by Rectortown, Oak Hill, along Manassah road, by Front Royal, to Stoverstown.

From Wheeling, by Alexandria, to Washington, Pennsylvania.

*In North Carolina*—From Salem to Mount Pizgab.

From Raleigh, by Delk's and Alston's, to Hillsborough.

From Mason Hall, by Cannon's Mills and the Shallow Ford, on Haw River, to Greensborough.

From Snow Hill, by Hookerstown, to Kinston.

From Currituck Courthouse, to Knot's Island.

From Currituck Courthouse to Powell's Point.

From Lewisburg, by William's Store, Ransom's Bridge, and Moon's Store, to Enfield.

From Duplin Courthouse to Newbern.

*In South Carolina*—From York Courthouse, by Harmony, George Caruth's, and Rutherfordton, to Asheville, North Carolina.

From Cambridge to Hickory Grove.

From Andersonville, by Beaver Dam, to Housatonic.

From Pendleton Courthouse to Socony.

*In Georgia*—From Milledgeville, by Eatonton, and Garner's Ferry, to Greensborough.

From Milledgeville to Monticello.

From Montgomery Courthouse, by Tatnall Courthouse, to Darien.

*In Ohio*—From Marietta, by Brown's Mills and Oliver's Settlement, to Lancaster.

From Lancaster, by Royaltown, Circleville, to Washington.

From Marietta, by Bellepre, Wilkesville, Jackson Courthouse, and Piketown, to West Union.

From New Salem, by Rumley, New Hagerstown, Leesburgh, New Philadelphia, and Paintville, to Wooster.

From Columbus, by Mount Vernon, Loudenville, Wooster, and Harrisville, to Granger.

From Delaware, by Oxford, Florida, and Lexington, to Mansfield.

From Hamilton, by Jacksonborough, to New Lexington.

From Coschocton to Newark.

From Troy to Dark Courthouse.

From Granville, by Johnstown, Sunbury, and Berkshire, to Worthington.

From Warren, by Parkman, Burton, and Char-don to Painesville.

From Warren, by Newton, to Canton, in Starke county.

From Youngstown to Newbedford, Pennsylvania.

From Ravena to Burton.

From Stow, by Medina Courthouse, to Huron Courthouse.

From Brookfield to Mercer, Pennsylvania.

From Marietta, by Toulman's and Lexington, to Woodfield.

From West Union, by the mouth of Brush Creek and Sandy Spring, to Vanceburgh, in the State of Kentucky.

*In Indiana*—From Hartford to Rising Sun.

From Lawrenceburg, by the Rising Sun, to Vevay.

From Corydon, by Elizabeth and Liconia, to Elizabethtown, Kentucky.

From Fort Harrison, through Monroe county and Lawrence county, to Brownstown.

From Peola, by Orleans, to Lawrence Courthouse.

From Salem, by Bono, to Monroe Courthouse.

From Madison, by Graham's, to Brownstown.

From Vevay, by Edenborough, Ripley Courthouse, to Brookville.

From Centerville to Jacksonborough.

From Lexington, by Provine's, New Washington, Bethlehem, and New London, to Lexington.

From Ripley Courthouse, by Vernon, to Brownstown.

From Jeffersonville to New Albany.

*In Missouri Territory*—From St. Genevieve to St. Michael.

From Jackson to Betts's Ferry.

From St. Genevieve, by Potosi, to Franklin, Howard county.

From Franklin, Howard county, to Chariton.

From St. Louis, by Florissant, to St. Charles.

*In Kentucky*—From Hopkinsville, by Williams's and Boyd's Landing, to Long Creek, Caldwell county.

From Columbia to Hazle Patch.

From Danville, by Lancaster, to Somerset.

From Bowling Green to Sparta.

From Lewisville, by Woodsonville, Glasgow, Burksville, and Seventy Six, to Monticello.

From Lewisville to Hardensburgh.

From Elizabethtown to Bowling Green.

From Newburgh, by Ewingsville, to Clarksville.

From Port Royal, by Ewingsville, to Hopkinsville.

From Glasgow, by Tompkinsville, to Burksville.

From Barbourville, by Whitley Courthouse, to Somerset.

From Flemingsburg, by the mouth of Fleming and Carlisle, to Millersburgh.

From Paris, by North Middleton, to Owensville.

*In Tennessee*—From Murfreesborough, by Lebanon and Gallatin, to Glasgow, Kentucky.

From Lebanon, by Trowsdale's Ferry, to Mount Richardson.

From Lebanon, by Marysville, in Wilson county, to Liberty.

From Greenville, by Newport, Dandridge, and Hill's, to Knoxville.



## Public Acts of Congress.

From Winchester, by Marion Courthouse, to Pikeville.

From Rogersville, by McCann's Store, and Black Water Salt Works, to Lee Courthouse, Virginia.

From Blountville to Papersville, on Sinking Creek.

In Mississippi—From Natchez, by Sweazy's Ferry, Woodville, and Pinkneyville, to St. Francisville, in the State of Louisiana.

In Alabama—From Fort Claiborne, by Fort Montgomery, to Blakely.

From Huntsville, by Milton's Bluff, Falls of Black Warrior, and French Settlement on Black Warrior, to St. Stephens.

From Huntsville to Cotton Port, in Limestone county, by Pulaski, to Columbia, in Tennessee.

From Fort Mitchell, by Fort Bainbridge, Fort Jackson, Burnt Corn Springs, Fort Claiborne, and the town of Jackson, to St. Stephens.

From Fort Jackson, by Cahaba Valley, to the Falls of Black Warrior.

From St. Stephens, by Winchester, to Ford, on Pearl River, in Mississippi.

From Mobile to Blakely.

In Illinois—From Bellville, by William Padfield's and the Seat of Justice of Bond county, to Palmyra, in the Illinois Territory.

From Edwardsville to the Seat of Justice of Bond county.

From Kaskaskia, by Wideman's, on Kaskaskia river, to Bellville, St. Clair county.

Approved, April 20, 1818.

An Act to increase the salaries of the Judges of the Circuit Court for the District of Columbia.

*Be it enacted, &c.*, That, in addition to the compensation heretofore allowed by law to the judges of the circuit court for the District of Columbia, the sum of five hundred dollars per annum be paid to the chief justice of the said court, and the same sum per annum to each of the assistant judges of said court, payable quarter yearly; the first quarterly payment to be made on the first day of April, one thousand eight hundred and eighteen.

Approved, April 20, 1818.

An Act making appropriations for the public buildings, and for furnishing the Capitol and President's house.

*Be it enacted, &c.*, That there be appropriated, for the completion of the wings of the Capitol, in addition to the sum of two hundred thousand dollars already appropriated, the further sum of eighty thousand dollars.

For procuring materials, laying the foundation, and other preparations, for the centre building of the Capitol, one hundred thousand dollars.

For finishing the President's house, fifteen thousand two hundred and fourteen dollars.

For offices to the President's house, seven thousand dollars.

For the wall north of the President's house, with gates and iron railing the width of the house, three thousand five hundred and eighteen dollars.

For contingencies, four hundred and thirty-seven dollars.

For graduating and improving the President's square, ten thousand dollars.

For erecting a temporary building for committee rooms near the Capitol, three thousand six hundred and thirty-four dollars.

For furnishing the Representative chamber and committee rooms, thirty thousand dollars.

For furnishing the Senate chamber and committee rooms, twenty thousand dollars.

For furnishing the President's house, twenty thousand dollars.

For making good a deficiency in the appropriation of the past year for furnishing the President's house, ten thousand dollars.

Which said several sums of money, hereby appropriated, shall be paid out of any money in the Treasury not otherwise appropriated.

*SEC. 2. And be it further enacted*, That the sum hereby appropriated for furnishing the Representative chamber, shall be expended under the direction of the Speaker of the House of Representatives; that for the Senate, under the direction of the Vice President of the United States; and the remaining sums under the direction of the President of the United States.

Approved, April 20, 1818.

An Act to increase the duties on certain manufactured articles imported into the United States.

*Be it enacted, &c.*, That, from and after the thirtieth day of June, one thousand eight hundred and eighteen, the duties now in force upon the articles hereinafter enumerated and described, at their importation into the United States, shall cease; and that, in lieu thereof, there shall be thenceforth laid, levied, and collected, upon the said articles, at their importation, the several and respective rates or duties following, that is to say: on articles manufactured from copper, or of which copper is the material of chief value, twenty-five per centum ad valorem; on silver-plated saddlery, coach and harness furniture, twenty-five per centum ad valorem; on cut glass, thirty per centum ad valorem; on tacks, brads, and sprigs, not exceeding sixteen ounces to the thousand, five cents on every thousand thereof; and on tacks, brads, and sprigs, exceeding sixteen ounces to the thousand, the same duty as on nails; brown Russia sheetings, not exceeding fifty-two archines in each piece, one dollar and sixty cents per piece; white Russia sheetings, not exceeding fifty-two archines in each piece, two dollars and fifty cents per piece.

*SEC. 2. And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed, in respect to all such goods, wares, and merchandise, which, after the said thirtieth day of June, one thousand eight hundred and eighteen, shall be imported in ships or vessels not of the United States: *Provided*, That this additional duty shall not apply to goods, wares, and merchandise, imported in ships or vessels not of the United States,

## Public Acts of Congress.

entitled by treaty, or by any act or acts of Congress, to be entered in the ports of the United States, on the payment of the same duties as are paid on goods, wares, and merchandise, imported in ships or vessels of the United States.

*SEC. 3. And be it further enacted*, That there shall be allowed a drawback of the duties, by this act imposed, on goods, wares, and merchandise, imported into the United States, upon the exportation thereof within the time, and in the manner, prescribed in the fourth section of the act, entitled "An act to regulate the duties on imports and tonnage," passed on the twenty-seventh day of April, one thousand eight hundred and sixteen.

*SEC. 4. And be it further enacted*, That the existing laws shall extend to, and be in force for, the collection of the duties imposed by this act, on goods, wares, and merchandise, imported into the United States; and for the recovery, collection, distribution, and remission, of all fines, penalties, and forfeitures; and for the allowance of the drawbacks by this act authorized, as fully and effectually as if every regulation, restriction, penalty, forfeiture, provision, clause, matter, and thing, in the existing laws contained, had been inserted in, and re-enacted by this act. And that all acts, and parts of acts, which are contrary to this act, shall be, and the same are hereby, repealed.

Approved, April 20, 1818.

An Act to increase the pay of the militia while in actual service, and for other purposes.

*Be it enacted, &c.*, That the monthly pay of the militia, which have been called into the service of the United States since the first day of September, eighteen hundred and seventeen, or which hereafter may be called into the said service, in prosecuting the war against the Seminole tribe of Indians, shall be the highest allowed by law to the militia in the service of the United States, during the late war with Great Britain.

*SEC. 2. And be it further enacted*, That the widows and orphans of the militia who have been called into the service of the United States since the said first day of September, eighteen hundred and seventeen, or who hereafter may be called into the said service, in prosecuting said war, and who may have died or been killed, or hereafter may die or be killed, in such service, shall be entitled to the same half pay, for five years, and pensions allowed by the laws now in force, to the widows and orphans of the militia who died or were killed in the service of the United States during the late war with Great Britain.

Approved, April 20, 1818.

An Act respecting the organization of the Army, and for other purposes.

*Be it enacted, &c.*, That hereafter the company officers of the corps of artillery shall consist of one captain, two first lieutenants, and two second lieutenants; and in the corps of light artillery the company officers shall consist of one captain,

one first lieutenant, and two second lieutenants; and one of the second lieutenants in each company shall act as a conductor of artillery, as in the case of the corps of artillery, whose duty it shall be to receipt and account for all ammunition, implements, and cannon; and for the performance of these services they shall be allowed, each ten dollars extra per month.

*SEC. 2. And be it further enacted*, That to each regiment of infantry, riflemen, and to each battalion of the corps of artillery, and to the regiment of light artillery, there shall be attached one armorer, with the pay and emoluments allowed to armorers employed by the ordnance department.

*SEC. 3. And be it further enacted*, That, in all cases during the late war, where an officer or soldier has been delayed the receipt of his pay, and emoluments, or any part thereof, by having been transferred from one corps to another, or omitted to be returned on the muster roll, pay roll, or receipt roll, or from any other cause whatever, upon a satisfactory evidence of the justice of such claim, the same shall be adjusted and paid.

Approved, April 20, 1818.

An Act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum.

*Be it enacted, &c.*, That, from and after the thirtieth day of June one thousand eight hundred and eighteen, the duties now by law levied, collected, and paid, on iron in pigs, iron castings, nails, on iron in bars and bolts, excepting iron manufactured by rolling, and on alum, imported into the United States, shall cease and determine; and there shall be levied, collected, and paid, in lieu thereof, the several and specific duties hereinafter mentioned, that is to say: on iron in pigs, fifty cents per hundred weight; on iron castings, seventy-five cents per hundred weight; on nails, four cents per pound; on spikes, three cents per pound; on iron in bars and bolts, manufactured without rolling, seventy-five cents per hundred weight; on anchors, two cents per pound; and on alum, two dollars per hundred weight.

*SEC. 2. And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed upon the several goods, wares, and merchandise, aforesaid, which, after the said thirtieth day of June, one thousand eight hundred and eighteen, shall be imported in ships or vessels of the United States: *Provided*, That this additional duty shall not apply to such goods, wares, and merchandise, imported in ships or vessels not of the United States, entitled by treaty, or by any act or acts of Congress, to be entered in the ports of the United States, on the payment of the same duties as are paid on goods, wares, and merchandise, imported in ships or vessels of the United States.

*SEC. 3. And be it further enacted*, That there shall be allowed a drawback of the duties by this act imposed on goods, wares, and merchandise,



imported into the United States, upon the exportation thereof within the time, and in the manner prescribed in the fourth section of the act, entitled "An act to regulate the duties on imports and tonnage," passed on the twenty-seventh day of April, one thousand eight hundred and sixteen.

Sec. 4. *And be it further enacted*, That the existing laws shall extend to, and be in force for, the collection of the duties imposed by this act on goods, wares, and merchandise, imported into the United States, and for the recovery, collection, distribution, and remission, of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, restriction, penalty, forfeiture, provision, clause, matter, and thing, in the existing laws contained, had been inserted in, and enacted by, this act.

Approved, April 20, 1818.

An Act fixing the compensation of Indian Agents and Factors.

*Be it enacted, &c.*, That, from and after the passage of this act, Indian agents and factors shall receive the following salaries per annum, in lieu of their present compensation, to wit:

The agent to the Creek nation, one thousand eight hundred dollars.

The agent to the Choctaws, one thousand eight hundred dollars.

The agent to the Cherokees on the Tennessee river, one thousand three hundred dollars.

The agent to the Cherokees on the Arkansas river, one thousand five hundred dollars.

The agent to the Chickasaws, one thousand three hundred dollars.

The agent in the Illinois Territory, one thousand three hundred dollars.

The agent at Prairie du Chien, one thousand two hundred dollars.

The agent at Natchitoches, one thousand two hundred dollars.

The agent at Chicago, one thousand three hundred dollars.

The agent at Green Bay, one thousand three hundred dollars.

The agent at Mackinac, one thousand four hundred dollars.

The agent at Vincennes, one thousand two hundred dollars.

The agent at Fort Wayne and Piqua, one thousand two hundred dollars.

The agent to the Lakes, one thousand three hundred dollars.

The agent in the Missouri Territory, one thousand two hundred dollars.

And all sub-agents, five hundred dollars per annum.

Sec. 2. *And be it further enacted*, That all factors shall receive one thousand three hundred dollars, and assistant factors seven hundred dollars, per annum.

Sec. 3. *And be it further enacted*, That the sums hereby allowed to Indian agents and factors shall be in full compensation for their services; and

that all rations, or other allowances, made to them, shall be deducted from the sums hereby allowed. Approved, April 20, 1818.

An Act to continue in force, from and after the thirtieth of June, one thousand eight hundred and nineteen, until the thirtieth of June, one thousand eight hundred and twenty-six, the fourth paragraph of the first section of the act, entitled "An act to regulate the duties on imports and tonnage."

*Be it enacted, &c.*, That the fourth paragraph of the first section of the act, entitled "An act to regulate the duties on imports and tonnage," passed the twenty-seventh of April, one thousand eight hundred and sixteen, shall, from and after the thirtieth of June, one thousand eight hundred and nineteen, continue to operate in the same manner, and to have the same effect, until the thirtieth of June, one thousand eight hundred and twenty-six, that the above-mentioned fourth paragraph now has, and will continue to have, until the thirtieth of June, one thousand eight hundred and nineteen, any law to the contrary notwithstanding.

Approved, April 20, 1818.

An Act to divide the State of Pennsylvania into two Judicial Districts.

*Be it enacted, &c.*, That the State of Pennsylvania be, and the same is hereby, divided into two districts, in manner following, to wit: the counties of Fayette, Greene, Washington, Alleghany, Westmoreland, Somerset, Bedford, Huntingdon, Centre, Mifflin, Clearfield, McKean, Potter, Jefferson, Cambria, Indiana, Armstrong, Butler, Beaver, Mercer, Crawford, Venango, Erie, and Warren, shall compose one district, to be called the Western district; and the residue of the said State shall compose another district, to be called the Eastern district; and the terms of the district court for the said Eastern district shall be held in the city of Philadelphia, at the several times they are now directed to be held in said district of Pennsylvania; and the terms of the circuit court for the Western district shall commence and be held in the city of Pittsburg on the first Mondays of the months of June and December, in each and every year, and be continued and adjourned, from time to time, as the court may deem expedient for the despatch of the business thereof.

Sec. 2. *And be it further enacted*, That Richard Peters, now judge of the district court of Pennsylvania, shall be, and he is hereby, assigned as the judge to hold the courts in the Eastern district, and to do all things appertaining to the office of a district judge, under the Constitution and laws of the United States.

Sec. 3. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized and directed, by and with the advice and consent of the Senate, to appoint a district judge for the said Western district of Pennsylvania; which judge, when appointed, shall receive

a salary of one thousand six hundred dollars per annum, to be paid in the same manner as the salary of the judge of the Eastern district of said State; and he shall also do and perform all such duties as are enjoined on, or in anywise appertaining to, a district judge of the United States.

Sec. 4. *And be it further enacted*, That the circuit court of the United States shall be held, for the Eastern district of Pennsylvania, at the city of Philadelphia, at the times, and in the manner, now directed by law to be held for the district of Pennsylvania; and the district court for the said Western district, in addition to the ordinary jurisdiction and powers of a district court, shall, within the limits of the said Western district, have jurisdiction of all causes, except of appeals and writs of error, cognizable by law in a circuit court, and shall proceed therein in the same manner as a circuit court; and writs of error shall lie from decisions therein to the circuit court in the said Eastern district of Pennsylvania, in the same manner as from other district courts to their respective circuit courts.

Sec. 5. *And be it further enacted*, That the President of the United States, by and with the advice and consent of the Senate, be, and hereby is, authorized to appoint one person as district attorney, and one person as marshal, for the said Western district, whose terms of appointment and service, as well as duties and emoluments, shall be the same with those respectively annexed to the said offices in the Eastern district. And the district attorney and the marshal for the district of Pennsylvania shall, respectively, be district attorney and marshal for the said Eastern district.

Sec. 6. *And be it further enacted*, That all actions, suits, process, pleadings, and other proceedings, of a civil nature, except in cases of appeals and writs of error, commenced or pending in the district or circuit court of said district of Pennsylvania, in which no verdict shall have passed, or plea to the merits shall have been decided, and which by law should have been had or commenced in said district court of said Western district, if the same had been had or commenced before the passing thereof, and where the parties to the same shall not otherwise agree, shall be, and hereby are, continued over to the district court of the Western district established by this act, and shall there be proceeded in with like effect, and in the same manner, as if originally had or commenced therein. And the said district and circuit courts of said Eastern district shall possess and exercise all necessary powers for the removal of all papers and files relating to such actions, suits, process, pleadings, and other proceedings, to the said district court of said Western district, so continued over as aforesaid: *Provided*, That nothing herein contained shall be construed to affect any bond or recognizance made or entered into in any of the actions or suits hereby directed to be removed; but the same shall continue of as much validity as though this act had not passed.

Approved, April 20, 1818.

An Act supplementary to the several acts making appropriations for the year one thousand eight hundred and eighteen.

*Be it enacted, &c.*, That the following sums be, and they are hereby, respectively appropriated, and shall be paid out of any money in the Treasury not otherwise appropriated.

For the payment of balances due several States, on an adjustment of their accounts, for expenses incurred by calling out the militia during the late war, six hundred thousand dollars.

Towards erecting barracks at Baton Rouge, forty thousand dollars.

For carrying into effect the treaty with the Cherokee Indians, eighty thousand dollars.

For defraying the expenses of holding Indian treaties in the year one thousand eight hundred and eighteen, fifty-three thousand dollars.

For arrearages in the Indian department, thirty-five thousand dollars.

For additional pay to the militia, fifty thousand dollars.

For expenses of mounted volunteers, ninety thousand dollars.

For pensions for one thousand eight hundred and eighteen, in addition to the sum already appropriated for that purpose, fifty thousand dollars.

For pensions to officers and soldiers of the Revolutionary army, under the act of the eighteenth of March last, three hundred thousand dollars.

For deficiency in the appropriation for clerk hire, in the office of the Department of War, for the year one thousand eight hundred and seventeen, eight hundred dollars.

For rent of offices for the above department, for the year one thousand eight hundred and seventeen, five hundred dollars.

For office rent for the above department, for one thousand eight hundred and eighteen, one thousand dollars.

For additional clerk hire, a sum not exceeding fifty thousand dollars.

Approved, April 20, 1818.

An Act concerning tonnage and discriminating duties, in certain cases.

*Be it enacted, &c.*, That so much of the several acts imposing duties on the tonnage of vessels in the ports of the United States, as imposes a discriminating duty between foreign vessels and vessels of the United States, is hereby repealed, so far as respects vessels truly and wholly belonging to the subjects of the King of the Netherlands; such repeal to take effect from the time the Government aforesaid abolished the discriminating duties between her own vessels and the vessels of the United States arriving in the ports or places aforesaid.

Sec. 2. *And be it further enacted*, That so much of the several acts imposing duties on goods, wares, and merchandise, imported into the United States, as imposes a discriminating duty between goods imported into the United States in



## Public Acts of Congress.

foreign vessels and vessels of the United States, be, and the same is hereby, repealed, so far as the same respects the produce or manufactures of the territories, in Europe, of the King of the Netherlands, or such produce and manufactures as can only be, or most usually are, first shipped from a port or place in the kingdom aforesaid, the same being imported in vessels truly and wholly belonging to subjects of the King of the Netherlands; such repeal to take effect from the time the Government aforesaid abolished its discriminating duties between goods, wares, and merchandise, imported in vessels of the United States and vessels belonging to the nation aforesaid.

Approved, April 20, 1818.

An Act authorizing a subscription for the Statistical Annals of Adam Seybert, and the purchase of Pitkin's Commercial Statistics.

*Be it enacted, &c.,* That the Secretary for the Department of State be, and he is hereby, authorized and directed to subscribe for, and receive, for the use and disposal of Congress, five hundred copies of the Statistical Annals proposed to be published by Adam Seybert, of Philadelphia; and that he also be directed to purchase, for the purpose aforesaid, two hundred and fifty copies of Pitkin's Commercial Statistics of the United States.

SEC. 2. *And be it further enacted,* That the sum or sums of money necessary to defray the cost of the subscription and purchase aforesaid, shall not exceed the sum of five thousand seven hundred and fifty dollars; and the same is hereby appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, April 20, 1818.

An Act making the port of Bath, in Massachusetts, a port of entry for ships and vessels arriving from the Cape of Good Hope, and from places beyond the same; and for establishing a collection district, whereof Belfast shall be the port of entry.

*Be it enacted, &c.,* That the port of Bath, in the State of Massachusetts, be, and hereby is, made a port of entry for ships or vessels arriving from the Cape of Good Hope and from places beyond the same.

SEC. 2. *And be it further enacted,* That a collection district be, and hereby is, established in the State of Massachusetts, which shall include all the ports and harbors on the western shore of the Penobscot bay and river, from the town of Camden to the town of Bangor, both inclusive; and a collector shall be appointed for the district to reside at Belfast, which shall be the only port of entry for said district.

Approved, April 20, 1818.

An Act to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described.

*Be it enacted, &c.,* That the Secretary of the Treasury be, and he is hereby, directed to cause

to be paid or remitted all alien or discriminating duties, either upon tonnage or merchandise imported, in respect to all British vessels which have been entered in ports of the United States, at any time between the third day of July, inclusive, and the eighteenth day of August, one thousand eight hundred and fifteen, which have been paid, or secured to be paid, contrary to the provisions of the convention regulating commerce between the territories of the United States and of His Britannic Majesty, bearing date the third day of July, eighteen hundred and fifteen: *Provided,* That this act shall not take effect until a similar provision shall be made by the Government of Great Britain, in favor of American vessels, in regard to duties on tonnage and merchandise entered in the British European ports during the same period.

Approved, April 20, 1818.

An Act authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile.

*Be it enacted, &c.,* That the President of the United States shall have power, and he is hereby authorized, whenever, in his opinion, it shall be consistent with the public interest, to abandon the use of the navy arsenal, military hospital, and barracks, in the city of New Orleans, and of Fort Charlotte, at the town of Mobile; to cause the lots of ground whereon the said arsenal, hospital, and barracks, in New Orleans, and Fort Charlotte, at Mobile, now stand, to be surveyed and laid off into lots, with suitable streets and avenues, conforming, as near as may be, to the original plan of the city and town aforesaid; and, when the surveys are completed, one plat thereof shall be returned to the Secretary of the Treasury, and another to such officer or agent as the President shall have authorized to dispose of the said lots; and the said lots of ground shall be offered at public sale at the city of New Orleans and town of Mobile, respectively, on such day or days as the President shall, by his proclamation, designate for that purpose, in the same manner, and on the same conditions and terms of credit, as is provided by law for the sale of public lands of the United States, and patents shall be granted therefor as for other public lands sold by the United States.

SEC. 2. *And be it further enacted,* That the President of the United States is hereby authorized, as soon as in his opinion the public interest will permit, to cause the Fort of St. Charles to be demolished, and the navy yard in said city to be discontinued; and the lot of ground on which the said fort is erected shall be appropriated to the use of a public square, and may be improved for that purpose by order of the corporation of the said city.

Approved, April 20, 1818.

An Act for changing the compensation of Receivers and Registers of the Land Offices.

*Be it enacted, &c.,* That, instead of the compensation now allowed by law to the receivers of

## Public Acts of Congress.

public moneys for the lands of the United States, they shall receive an annual salary of five hundred dollars each, and a commission of one per centum on the moneys received, as a compensation for clerk hire, receiving, safe-keeping, and transmitting, such moneys to the Treasury of the United States: *Provided, always,* That the whole amount which any receiver of public moneys shall receive, under the provisions of this act, shall not exceed, for any one year, the sum of three thousand dollars.

SEC. 2. *And be it further enacted,* That, instead of the compensation now allowed by law to the registers of the land offices, they shall receive an annual salary of five hundred dollars each, and a commission of one per centum on all the moneys expressed in the receipts by them filed and entered, and of which they shall have transmitted an account to the Secretary of the Treasury: *Provided, always,* That the whole amount which any register of the land offices shall receive, under the provisions of this act, shall not exceed, for any one year, the sum of three thousand dollars.

Approved, April 20, 1818.

An Act for transferring the claims in the office of the Commissioner to the Third Auditor of the Treasury Department.

*Be it enacted, &c.,* That all claims under the act, entitled "An act to authorize the payment of property lost, captured, or destroyed, by the enemy, while in the military service of the United States, and for other purposes," passed the ninth of April, one thousand eight hundred and sixteen, and the act in amendment thereof, passed the third of March, one thousand eight hundred and seventeen, now remaining in the office of the Commissioner of Claims, and not acted on finally by said commissioner before the ninth of April, one thousand eight hundred and eighteen, be, and the same are hereby, transferred to the office of the Third Auditor of the Treasury Department; and the said third auditor, in all adjudications upon the claims aforesaid, shall be governed, in all respects, by the same rules, regulations, and restrictions, as have heretofore been prescribed to the Commissioner of Claims under the above recited acts.

SEC. 2. *And be it further enacted,* That the Third Auditor aforesaid, for performing the duties hereby required of him, shall be allowed and paid the sum of five hundred dollars, out of any money in the Treasury not otherwise appropriated.

Approved, April 20, 1818.

An Act respecting the surveying and sale of the public lands in the Alabama Territory.

*Be it enacted, &c.,* That the powers and duties of the surveyor for the lands in the northern part of the late Mississippi Territory, shall extend to the whole of the Alabama Territory, and that only. And it shall be his duty to cause such of

the said lands, to which the Indian title has been, or shall hereafter be, extinguished, as the President of the United States shall direct, to be surveyed and divided in the same manner, and under the same regulations, as are provided by law in relation to other public lands. And the said surveyor shall receive for his services, hereafter, an annual compensation of two thousand dollars, and shall be allowed not exceeding two clerks, whose whole compensation shall not exceed fifteen hundred dollars per annum.

SEC. 2. *And be it further enacted,* That in every public sale hereafter to be made of public lands, in the Territory of Alabama, there shall, in addition to the usual reservation of section sixteen, in each township, for the support of schools, be excepted from the sales of such sections, not exceeding ten in any one land district, as the President of the United States shall have designated, for the purpose of laying out and establishing towns thereon; which sections, so designated and reserved, for the purpose aforesaid, shall be laid off into lots, and offered for sale, in the manner, and on the terms and conditions, and with the same limitation as to price, as is prescribed, for the laying off and sale of lots, by the fifth section of the act, entitled "An act to authorize the appointment of a surveyor for the lands in the northern part of the Mississippi Territory, and the sale of certain lands therein described," passed on the third of March, one thousand eight hundred and seventeen. And there shall be reserved from sale, in the Alabama Territory, an entire township, which shall be located by the Secretary of the Treasury, for the support of a seminary of learning within the said Territory; and also, any one entire section, which may be located under the direction of the Governor of the said Territory, for the seat of Government therein.

SEC. 3. *And be it further enacted,* That all the lands lying between the basis meridian, and the first standard meridian, in the Alabama district, be attached to the land district east of Pearl river. And the lands so attached to the said district, east of Pearl river, after having been surveyed according to law, shall with the exception of section number sixteen in each township, which shall be reserved for the support of the schools therein, and with the further exception of such reservations as may be made in pursuance of the second section of this act, shall be offered for sale to the highest bidder, under the direction of the register of the land office, and the receiver of public moneys, at the place where the land office is kept, and on such day or days as shall, by proclamation of the President of the United States, be designated for that purpose: the sale shall remain open two weeks and no longer. The lands shall not be sold for less than two dollars an acre, and shall, in every other respect, be sold in tracts of the same size, and on the same terms and conditions, as have been, or may be, provided for lands sold in the same district. All the lands offered for sale, and remaining unsold at the close of the said public sales, may be disposed



of at private sale, by the register of the land office, in the same manner, and on the same terms and conditions, as are or may be provided for the sale of other lands in the same district; and patents shall be granted in the same manner, and on the same terms, as for other lands in the said district. Approved, April 20, 1818.

An Act to alter and amend an act, approved the third day of March, one thousand eight hundred and seventeen, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory."

*Be it enacted, &c.*, That the judicial power of the judges of the Alabama Territory, appointed, or hereafter to be appointed, under the authority of the Government of the United States, shall extend as well to any other county or counties which have been, or may be, formed within the limits of said Territory, as to those which are specially mentioned and named in the act, entitled "An act to establish a separate territorial government for the eastern part of the Mississippi Territory," approved March the third, one thousand eight hundred and seventeen. And that in such county or counties, superior courts shall be holden by said judges in the like manner, and with the like powers and jurisdiction, as the superior courts are now directed by law to be holden in the counties specially mentioned, as aforesaid, in the act aforesaid. And the powers of the general court of the said Territory shall extend to all cases of admiralty and maritime jurisdiction: And their judgments or decrees in such cases shall be subject to appeals to the Supreme Court of the United States, in like manner; and upon the like terms, as appeals in similar cases are allowed and prosecuted from the judgments or decrees of the circuit courts of the United States.

*Sec. 2. And be it further enacted*, That the Legislature of the said Territory shall have power to appoint, change, and regulate, the times and places of holding the superior courts in each of the counties of said Territory, and also to prescribe the number of terms to be holden in each county: *Provided*, They do not exceed two annually.

*Sec. 3. And be it further enacted*, That so much of the said act, approved March the third, one thousand eight hundred and seventeen, as provides, "that no judge shall sit more than twice in succession in the same court," be, and the same is hereby, repealed.

*Sec. 4. And be it further enacted*, That the Secretary of the said Territory, judges, members of the Legislative Council, members of the House of Representatives, justices of the peace, and all other officers, civil and military, who may not have taken an oath of office, shall, before they enter on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; which oath or affirmation shall be taken before

the Governor of the said Territory, or such person as he shall appoint and direct.

Approved, April 20, 1818.

An Act to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common for the use of the inhabitants of the said town.

*Be it enacted, &c.*, That the trustees of the town of Vincennes shall have power, and they are hereby authorized, to examine and adjust all claims to lots in the town of Vincennes; and if, upon an accurate survey, it shall be found that there are lots within the precincts of the town to which no individual claims can be substantiated, the same are hereby granted to the inhabitants thereof, to be sold by the trustees, and the money arising from the sale to be applied to such public purposes as may be agreed upon by a majority of the citizens. And the said trustees are hereby empowered, in all cases, when they shall confirm claims to lots, to give deeds to the claimants for the same.

*Sec. 2. And be it further enacted*, That the trustees of the town of Vincennes shall have power, and they are hereby authorized, to dispose of a tract of land containing about five thousand four hundred acres, which, by the fifth section of the act, entitled "An act for granting lands to the inhabitants and settlers at Vincennes and the Illinois country, in the territory northwest of the Ohio, and for confirming them in their possessions," passed on the third day of March, one thousand seven hundred and ninety-one, was appropriated as a common, to the use of the inhabitants of the said town; the said tract shall be divided into lots, as the trustees shall direct, of not more than fifty, nor less than the quantity of five, acres, and shall be sold in the manner, and on the terms, which may by them be deemed most expedient and advantageous. They shall also have power to convey, by complete title, the lots sold to the purchasers; and the proceeds of the lands so disposed of, or so much thereof as may be necessary for the purpose, shall be applied, under the direction of the said trustees, to the draining of a pond in the vicinity of the town; and the residue of the money arising from the said sales, if any there shall be, shall be paid over to the trustees of the Vincennes University, and shall, by them, be applied to the benefit of the said university.

*Sec. 3. And be it further enacted*, That the said trustees, when they shall have performed the duties assigned to them under this act, shall make a report thereof to Congress.

Approved, April 20, 1818.

An Act providing for the deposit of wines and distilled spirits in public warehouses, and for other purposes.

*Be it enacted, &c.*, That it shall be lawful for any importer of wines or distilled spirits, which may be imported into the United States at any time after the first day of June next, at his option,

to be determined at the time of making entry therefor, either to secure the duties thereon, on the same terms and stipulations as on other goods, wares, and merchandise, imported, or to give his bond, in double the amount of the duties thereupon, with condition for the payment of the said duties, in twelve calendar months from the date of such bond; which bond shall be accepted by such collector, without surety, upon the terms following, viz: the wines or distilled spirits, for the duties whereof such bond shall be accepted, shall be deposited at the expense and risk of the importer, in such public or other storehouses as may be agreed upon between the importer and the surveyor, or officer of inspection of the revenue, for the port where the said wines or spirits shall be landed: and such wines or spirits shall be kept under the joint locks of the inspector and the importer; but no delivery shall be made of such wines or spirits without a permit in writing, under the hand of the collector and naval officer of the port.

*Sec. 2. And be it further enacted*, That no permit shall be given for the removal of the wines or spirits deposited under the provisions of the foregoing section, unless the duties upon the wines or spirits, for which it shall be required, be first paid or secured, in the manner following, viz: the importer, or his assignee, shall give bond, with one or more surety or sureties, to the satisfaction of the collector, in double the amount of the duties, upon the wines or spirits in each case to be delivered, with condition for the payment of the said duties, at the same credits, to be computed from the date of the permit, as would have been allowed on bonds for the same articles, if they had not been deposited under the provisions of this act: *Provided*, That the time to be allowed for the payment of the duties upon any wines or spirits so delivered, or for any part of such duties, shall not be such as to extend the credit beyond the term of twelve calendar months, originally allowed, upon depositing such wines and spirits.

*Sec. 3. And be it further enacted*, That if the duties on any wines or spirits, deposited under the provisions of this act, shall not have been paid, or secured to be paid, in the manner described in the foregoing section, within the term of twelve calendar months from the time of their importation, it shall be the duty of the collector to cause so much of such wines or spirits, as may be necessary, to be sold at public auction, and, retaining the sum necessary for the payment of the duties which have not been secured or paid, together with the expenses of safekeeping and sale of such wines or spirits, shall return the overplus, if any, to the owner, or to his agent or lawful representative; and the amount of each bond, taken for the duties on wines or spirits delivered, after being deposited, as directed by this act, shall be endorsed immediately on the original bond given by the importer, specifying the articles delivered and the date of the delivery.

*Sec. 4. And be it further enacted*, That no drawback shall be allowed of the duties paid on

15th Cox. 1st Sess.—82

any wines or spirits, which shall be imported into the United States, after the first day of June next, unless such wines or spirits shall have been deposited in public or other stores, under the provisions of this act, and there kept, from their landing to their shipment.

*Sec. 5. And be it further enacted*, That if any wines or other spirits deposited under the provisions of this act, shall be embezzled, or fraudulently hid or removed, from any store or place wherein they shall have been deposited, they shall be forfeited, and the person or persons so embezzling, hiding, or removing, the same, or aiding or assisting therein, shall be liable to the same pains and penalties as if such wines or spirits had been fraudulently unshipped or landed without payment of duty.

*Sec. 6. And be it further enacted*, That, from and after the first day of June next, the bonds for duties on articles imported by sea, the produce of foreign places or islands, situated on the eastern shores of America, north of the equator, or in its adjacent seas, bays, and gulfs, salt excepted, shall be payable, one half in six and one half in nine calendar months; and the bonds for duties on goods, wares, and merchandise, (other than wine, salt, and teas,) imported from any other place than Europe and the West Indies, shall be payable, one third in eight, one third in ten, and one third in eighteen calendar months.

Approved, April 20, 1818.

An Act to incorporate the Columbian Institute, for the promotion of arts and sciences.

*Be it enacted, &c.*, That Edward Cuthbush, Andrew Hunter, Thomas Law, Joseph Anderson, Robert Brent, Overton Carr, Nathaniel Cutting, Elias B. Caldwell, John Law, Roger C. Weightman, William Thornton, Josiah Meigs, James H. Blake, Samuel H. Smith, and others, composing the association in the District of Columbia denominated the Columbian Institute, for the promotion of arts and sciences, and their successors, duly elected in the manner hereinafter mentioned, be, and they are hereby, constituted and declared to be a body politic and corporate, by the name and title of the Columbian Institute, for the promotion of arts and sciences.

*Sec. 2. And be it further enacted*, That all and singular the goods, chattels, and effects, heretofore given, granted, or devised, to the said Columbian Institute, for the promotion of arts and sciences, or to any person or persons for the use thereof, or that may have been purchased for, or on account of the same, be, and the said goods, chattels, and effects, are hereby vested in and confirmed to the said corporation hereby created; and the said corporation are hereby authorized and empowered to take and receive any sum or sums of money, or any goods, chattels, or effects, of any kind or nature whatsoever, which shall or may hereafter be given, granted, or bequeathed unto the said corporation, by any person or persons, bodies politic or corporate, capable of making such gift or bequest: *Provided, always*, That



## Proclamation by the President.

such money, goods, chattels, or effects, be laid out or disposed of for the use and benefit of the said corporation, according to the intention of the donors.

SEC. 3. *And be it further enacted*, That the said corporation, hereby created, shall have full power and authority to fill all vacancies which may happen in their number; to make, ordain, establish, and execute such by-laws and ordinances as may be deemed useful to the institution, and the same to alter, amend, and abrogate at pleasure; to make, have, and use a common seal, and the same to break, alter, and renew at will; to appoint such officers as may be required for the management of the concerns of said corporation, and to assign them their duties; and, generally, to provide for the transaction of all business appertaining to the said corporation: *Provided*, That no by-law, rule, or ordinance, of the said corporation, shall be made repugnant to the laws of the District of Columbia.

SEC. 4. *And be it further enacted*, That the said corporation may procure, by purchase or otherwise, a suitable building for the sittings of the said institution, and for the preservation and safekeeping of a library and museum; and also a tract or parcel of land for a botanic garden, not exceeding five acres: *Provided*, That the amount of real and personal property to be held by the said corporation shall not exceed one hundred thousand dollars.

SEC. 5. *And be it further enacted*, That there shall be an annual meeting of the members of the said corporation, at such time and place as the proper officers of the said corporation may appoint, of which due notice shall be given in one or more of the newspapers published in the District of Columbia; at which time and place the members present shall elect or choose, by ballot, the officers of the institution, to serve for one year ensuing their election, and until others shall be elected and consent to serve in their places.

SEC. 6. *And be it further enacted*, That the said corporation shall not be engaged in any banking or commercial operations; and the continuance of this charter shall be limited to twenty years from and after the passage of this act, unless sooner revoked by Congress.

Approved, April 20, 1818.

## PROCLAMATION.

*By the President of the United States of America.*

Whereas, by an act of the Lieutenant Governor, Council, and Assembly, of His Britannic Majesty's province of Nova Scotia, passed in the year one thousand eight hundred and sixteen, it was, among other things, enacted, that, from and after the first day of May, of that year, "no plaster of Paris, otherwise called gypsum, which should be laden or put on board any ship or vessel at any port or place within the limits of the

said province, to be transported from thence to any other port or place within or without the said limits, should, directly or indirectly, be unladen or landed, or put on shore, at any port or place in the United States of America eastward of Boston, in the State of Massachusetts, nor unladen or put on board any American ship, vessel, boat, or shallop, of any description, at any port or place eastward of Boston aforesaid, under the penalty of the forfeiture of every such ship or vessel from which any such plaster of Paris, or gypsum, should be unladen contrary to the provisions of the said act, together with her boats, tackle, apparel, and furniture, to be seized and prosecuted in manner thereafter mentioned."

And whereas, by an act of the Congress of the United States, passed on the third day of March, one thousand eight hundred and seventeen, it was enacted, that, from and after the fourth day of July, then next, no plaster of Paris, the production of any country, or its dependencies, from which the vessels of the United States were not permitted to bring the same article, should be imported into the United States in any foreign vessel; and that all plaster of Paris imported, or attempted to be imported into the United States, contrary to the true intent and meaning of the said act of Congress, and the vessel in which the same might be imported, or attempted to be imported, together with the cargo, tackle, apparel, and furniture, should be forfeited to the United States, and liable to be seized, prosecuted, and condemned in the manner therein described:

And whereas, by the said act of Congress it was further enacted, that the same should continue and be in force five years, from the thirty-first day of January, one thousand eight hundred and seventeen: *Provided, nevertheless*, That if any foreign nation, or its dependencies, which, at the time of the passage of the said act of Congress, had in force regulations on the subject of the trade in plaster of Paris, prohibiting the exportation thereof to certain ports of the United States, should discontinue such regulations, the President of the United States was thereby authorized to declare that fact by his proclamation; the restrictions imposed by the said act of Congress should, from the date of such proclamation, cease and be discontinued in relation to the nation or its dependencies discontinuing such regulations:

And whereas, an act of the Lieutenant Governor, Council, and Assembly, of His Britannic Majesty's province of Nova Scotia, repealing the abovementioned act of the said province, passed in the year one thousand eight hundred and sixteen, has been officially communicated by his said Majesty's Envoy Extraordinary and Minister Plenipotentiary to this Government:

And whereas, by the said repealing act of the said province of Nova Scotia, one of the dependencies of the United Kingdom of Great Britain and Ireland, the regulations of the time of the passage of the said act of Congress, in force in the said province on the subject of the trade in plaster of Paris, prohibiting the exportation there-

## Resolutions.

of to certain ports of the United States, have been and are discontinued:

Now, therefore, I, James Monroe, President of the United States of America, do, by this, my proclamation, declare that fact, and that the restrictions imposed by the said act of Congress do, from the date hereof, cease, and are discontinued, in relation to His Britannic Majesty's said province of Nova Scotia.

Given under my hand, at the City of Washington, this twenty-third day of April, in the year of our Lord one thousand eight hundred and eighteen, and in the forty-second year of the independence of the United States.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,  
Secretary of State.

## RESOLUTIONS.

Resolution for the admission of the State of Mississippi into the Union.

Whereas, in pursuance of an act of Congress passed on the first day of March, one thousand eight hundred and seventeen, entitled "An act to enable the people of the western part of the Mississippi Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, the people of the said Territory did, on the fifteenth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the Territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven and hundred seventy-seven:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the State of Mississippi shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, December 10, 1817.

Resolution authorizing the distribution of certain Public Documents.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of State cause to be distributed one set of State papers and public documents, printed by T. B. Wait and Sons, in pursuance of acts of Congress heretofore passed, to the President of the United States; one set to the Vice President of the Uni-

ted States; one set to each of the Heads of Departments, to the Attorney General of the United States, to each of the Senators and Representatives, and to each Delegate of Territories, of the Fifteenth Congress; one set to each branch of the Legislature of each State or Territory, and one to each of the Executives of the several States and Territories; one set to each University and College in the United States; six sets to the Secretary of the Senate, for the use of the Senate, and eighteen sets to the Clerk of the House of Representatives, for the use of that House; and the residue of the sets of the State papers and documents aforesaid shall be deposited in the Library of Congress.

Approved, December 23, 1817.

A Resolution directing the distribution of certain laws among the Members and Delegates of Territories of the Fifteenth Congress.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of State be directed to distribute copies of the laws of the United States, published by Bioren & Co., among the Members and Delegates of Territories, of the present Congress, who may not have received the same in pursuance of any former act or resolution of Congress.

Approved, December 23, 1817.

Resolution directing the procurement of certain laws.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, of the laws passed at the first and second sessions of the Fourteenth Congress, remaining in the office of the Secretary of State, thirty copies be by him deposited in the office of the Clerk of the House of Representatives, and fifteen copies in the office of the Secretary of the Senate, for the use of their members, respectively.

Approved, January 22, 1818.

Resolution relative to the distribution of the late edition of the Land Laws.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the copies of laws prepared and printed under the authority of the act, entitled "An act to authorize a new edition of the collection of laws respecting the public lands," shall be distributed in the manner following, that is to say: one copy shall be delivered to the President of the United States, the Vice President, and to each member of the Senate, House of Representatives, and Delegate from Territories; fifteen copies shall be delivered to the Secretary of the Senate, and thirty copies to the Clerk of the House of Representatives, for the use of said Houses, respectively; one copy shall be delivered to each of the Judges of the



## Resolutions.

Supreme Court and clerk thereof, to each of the judges of the district courts, and to each of the clerks, marshals, and attorneys, of each district; one copy shall be delivered to the Secretary of State, to the Secretary of the Treasury, to the Secretary of War, to the Secretary of the Navy, the Attorney General, to the Director of the Mint, to the first and second Comptrollers of the Treasury, to the first, second, third, fourth, and fifth Auditors, and Register of the Treasury; to the Treasurer; to the Postmaster General, and the two Assistant Postmasters General, and to the Commissioner of the General Land Office; two copies shall be delivered to the Legislatures of the several States and Territories, respectively; and one copy shall be delivered to each of the Governors of the several States and Territories; and one copy shall be delivered to each of the judges of the courts of the several Territories; one copy shall be delivered to the Surveyor General of the United States, the surveyor of the lands of the United States south of Tennessee, to the surveyor of the public lands in the northern part of the late Mississippi Territory, and the surveyor of the public lands in the Territories of Illinois and Missouri; to each of the principal deputy surveyors one copy; there shall be delivered one copy to each of the registers and receivers of public moneys in the land offices established, or that may hereafter be established, in the several States and Territories; and fifty copies shall be placed in the hands of the Secretary of the Treasury, to be distributed among the officers and clerks in his department, as he may think proper; two hundred and fifty copies shall be placed in the library, and remain there under the same regulations as the other laws of the United States; and the remainder shall be placed in the library, and each member of Congress hereafter elected shall, so long as any remain, exclusive of the two hundred and fifty copies beforementioned, be entitled to one copy at the commencement of that session of Congress next succeeding his election.

Approved, March 9, 1818.

Resolution directing the Judges of the Supreme Court to be furnished with Wait's State Papers.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State cause to be distributed one set of State Papers and Public Documents, printed by T. B. Wait and Sons, in pursuance of acts of Congress heretofore passed, to the Chief Justice, and to each of the Judges of the Supreme Court of the United States.

Approved, March 18, 1818.

Resolution authorizing the transportation of certain documents free of postage.

*Resolved by the Senate and House of Representatives of the United States of America in*

*Congress assembled,* That the Members of Congress, the Delegates from Territories, the Secretary of the Senate, and Clerk of the House of Representatives be, and they are hereby, authorized to transmit, free of postage, the Message of the President of the United States, of the fourteenth day of March, one thousand eight hundred and eighteen, and the documents accompanying the same, printed by order of the Senate, and by order of the House of Representatives, to any post office within the United States and the Territories thereof.

Approved, March 19, 1818.

Resolution directing the publication and distribution of the Journal and Proceedings of the Convention which formed the present Constitution of the United States.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Journals of the Convention which formed the present Constitution of the United States, now remaining in the office of the Secretary of State, and all acts and proceedings of that Convention, which are in the possession of the Government of the United States, together with the secret journals of the acts and proceedings, and the foreign correspondence of the Congress of the United States, from the first meeting thereof down to the date of the ratification of the definitive Treaty of Peace between Great Britain and the United States, in the year seventeen hundred and eighty-three, except such parts of the said foreign correspondence as the President of the United States may deem it improper at this time to publish. And, that one thousand copies thereof be printed, of which, one copy shall be furnished to each member of the present Congress, and the residue shall remain subject to the future disposition of Congress.

Approved, March 27, 1818.

Resolution directing the distribution of the laws of the Fourteenth Congress among the Members of the Fifteenth Congress.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Senate and Clerk of the House of Representatives be directed to procure from the Secretary of State as many copies of the laws of the Fourteenth Congress as shall be necessary, and to distribute one copy thereof to each Senator, Representative, and Delegate from the Territories, of the Fifteenth Congress who have not been supplied therewith.

Approved, March 27, 1818.

Resolution directing the Secretary of State for the Department of State to prepare an Index to the Acts and Resolutions of Congress, after the close of every session.

*Resolved by the Senate and House of Repre-*

## Resolutions and Acts relative to Florida.

*Representatives of the United States of America in Congress assembled,* That, after the close of each session of Congress, an alphabetical index of the acts and joint resolutions passed at the preceding session shall be prepared, printed, and distributed, therewith, under the direction of the Secretary for the Department of State.

Approved, April 3, 1818.

Resolution requesting the President of the United States to present a Sword to Colonel Richard M. Johnson.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be requested to present to Colonel Richard M. Johnson a sword, as a testimony of the high sense entertained by Congress of the daring and distinguished valor displayed by himself and the regiment of volunteers under his command, in charging, and essentially contributing to vanquish, the combined British and Indian forces under Major General Proctor, on the Thames, in Upper Canada, on the fifth day of October, one thousand eight hundred and thirteen.

Approved, April 4, 1818.

Resolution directing Medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison, and Governor Shelby; and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of Congress be, and they are hereby, presented to Major General William Henry Harrison, and Isaac Shelby, late Governor of Kentucky, and, through them, to the officers and men under their command, for

their gallantry and good conduct in defeating the combined British and Indian forces under Major General Proctor, on the Thames, in Upper Canada, on the fifth day of October, one thousand eight hundred and thirteen, capturing the British army, with their baggage, camp equipage, and artillery; and that the President of the United States be requested to cause two gold medals to be struck, emblematical of this triumph, and presented to General Harrison, and Isaac Shelby, late Governor of Kentucky.

Approved, April 4, 1818.

Resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he hereby is, requested to cause to be resumed and completed, the surveys heretofore commenced, preparatory to the establishment of two naval arsenals; and that, to the naval officers employed in this service, officers of the corps of engineers be joined, with instructions to prepare plans of the fortifications necessary to be erected for the defence of such arsenals, with an estimate of the expense of erecting the same. And, that the President be further requested to cause such a survey of the Chesapeake Bay to be made, as may be requisite to ascertain what points are necessary to be fortified for the protection of the commerce of said bay; and a report of the same, with a plan of the works necessary to be erected, with an estimate of the expense of the same, to be made to Congress in the first week of their next session.

Approved, April 20, 1818.

## RESOLUTION AND ACTS

## Relative to the occupation of the Floridas by the United States of America.

## RESOLUTION.

Taking into view the peculiar situation of Spain, and of her American provinces; and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquillity, and commerce: Therefore,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign Power; and that a due regard to their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory; they, at the same time, de-

clare that the said territory shall, in their hands, remain subject to future negotiation.

Approved, January 15, 1811.

An Act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized to take possession of, and occupy, all or any part of the territory lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, in case an arrangement has been, or



*Resolutions and Acts relative to Florida.*

shall be made with the local authority of the said territory, for delivering up the possession of the same, or any part thereof, to the United States, or in the event of an attempt to occupy the said territory, or any part thereof, by any foreign Government; and he may, for the purpose of taking possession, and occupying the territory aforesaid, and in order to maintain therein the authority of the United States, employ any part of the army and navy of the United States which he may deem necessary.

SEC. 2. *And be it further enacted* That one hundred thousand dollars be appropriated, for defraying such expenses as the President may deem necessary for obtaining possession as aforesaid, and the security of the said territory, to be applied under the direction of the President, out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That, in case possession of the territory aforesaid shall be obtained by the United States, as aforesaid, that until other provision be made by Congress, the President be, and he is hereby, authorized to establish, within the territory aforesaid, a temporary government, and the military, civil, and judicial powers thereof shall be vested in such person and persons, and be exercised in such manner, as he may direct, for the protection and maintenance of the inhabitants of the said territory in the full enjoyment of their liberty, property, and religion.—Approved, January 15, 1811.

An Act concerning an act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes, and the declaration accompanying the same.

*Be it enacted, &c.*, That this act, and the act

passed during the present session of Congress, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes," and the declaration accompanying the same, be not printed or published, until the end of the next session of Congress, unless directed by the President of the United States, any law or usage to the contrary notwithstanding.

Approved, March 3, 1811.

An Act authorizing the President of the United States to take possession of a tract of country lying south of the Mississippi Territory and west of the river Perdido.

*Be it enacted, &c.*, That the President be, and he is hereby, authorized to occupy and hold all that tract of country called West Florida, which lies west of the river Perdido, not now in possession of the United States.

SEC. 2. *And be it further enacted*, That, for the purpose of occupying and holding the country aforesaid, and of affording protection to the inhabitants thereof, under the authority of the United States, the President may employ such parts of the military and naval force of the United States as he may deem necessary.

SEC. 3. *And be it further enacted*, That, for defraying the necessary expenses, twenty thousand dollars are hereby appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be applied, for the purposes aforesaid, under the direction of the President.

Approved, February 12, 1813.

---

## INDEX

TO THE FIRST SESSION OF THE FIFTEENTH CONGRESS.

---



# INDEX

## TO THE PROCEEDINGS AND DEBATES OF THE FIRST SESSION OF THE FIFTEENTH CONGRESS.

### SENATE.

A.		Page.	Alabama Territory—continued.	Page.
Aborn, Joseph, Mr. Burrill presented the petition of, referred	-	32	a memorial presented from the Legislature of, remonstrating against the extension of the limits of the State of Mississippi, read	242
that committee discharged, and the petition referred to another	-	35	another memorial from the same, praying to be invested with power to incorporate certain companies, referred to a select committee	228
Adlum, John, Mr. Goldsborough presented the petition of, referred	-	215	said committee discharged	388
an adverse report thereon	-	260	a bill from the House of Representatives concerning, read	301
read, and concurred in	-	263	read a second time	307
African Slave Trade, Mr. Burrill submitted a resolution on the subject of	-	71	ordered to a third reading	312
agreed to, and resolution referred	-	108	read a third time, and passed	340
Agents to Indian Tribes, &c., Mr. Campbell submitted a resolution respecting the expediency of nominating, to the Senate, &c.	-	84	Alien Duties, a bill to authorize the Secretary of the Treasury to repay or remit certain, read	260
amended, agreed to, and referred	-	92	read a second time	263
a bill directing the manner of appointing, read	-	116	ordered to a third reading	268
read a second time	-	120	read a third time, and passed	270
ordered to a third reading	-	132	Allen, Andrew, a letter from, presenting a copy of the first Message of President Monroe, printed on gilt leather, read	67
read a third time, and passed	-	137	Allison, Rev. Burgess, notice of the election of, as Chaplain by the House of Representatives	24
returned from the House of Representatives with amendments	-	343	Amelia Island, a Message from the President on the subject of	111
Senate disagreed, and asked a conference to which the House of Representatives assented, and managers were appointed	-	349	American Bible Society, Mr. Sanford presented the petition of the, referred	65
report of the managers	-	363	the committee discharged	341
the Senate disagreed to a part of the recommendation of the managers, and agreed to another part thereof	-	364	American Manufactures, Mr. Lacock presented the memorial of the Philadelphia Society for the promotion of, referred	175
the House of Representatives receded from the amendment disagreed to	-	366	Ames, David, and others, Mr. Ashmun presented the petition of, referred	109
Mr. Campbell submitted a resolution relative to the salaries of	-	164	Amory, Jonathan, and others, a bill from the House of Representatives for relief of, read twice, and referred	358
agreed to, and referred	-	167	reported without amendment	360
Mr. Williams submitted a resolution asking for the names of	-	167	ordered to a third reading	377
agreed to, and committee accordingly appointed	-	168	read a third time, and passed	379
a Message from the President transmitting a list of	-	357	Anderson, John, a bill from the House of Representatives for relief of, read a first and second time, and referred	78
Aikman, Samuel, a bill from the House of Representatives for relief of, read	-	69	reported without amendment	109
read a second time, and referred	-	72	referred to the Committee of Claims	302
reported with an amendment	-	79	another bill from the House of Representatives of the same title read twice, and referred to the same committee	345
ordered to a third reading as amended	-	81	reported without amendment	357
read a third time, and passed as amended	-	84	a third reading negatived	366
Alabama Territory, a bill respecting the surveying and sale of public lands in, read	-	226		
read a second time	-	228		
ordered to a third reading	-	269		
read a third time, and passed	-	270		



## Senate Proceedings and Debates.

	Page.		Page.
Annapolis, Mr. Goldsborough submitted a resolution requesting the President to add, to the harbors named in the resolution concerning arsenal ports - - -	300	Bankruptcies, Mr. Daggett submitted a resolution on the subject of - - -	27
the resolution was agreed to - - -	307	amended, agreed to, and referred - - -	33
Appropriations, a bill from the House of Representatives supplementary to the several acts making, for service of 1818, read twice - - -	384	Mr. D. also presented the memorial of the Philadelphia Chamber of Commerce, concerning - - -	64
read a third time, and passed - - -	389	a bill from the House of Representatives making provision for supplying vacancies in the commissions of, read - - -	133
Armories, Mr. Wilson submitted a resolution of inquiry as to the number of arms and accoutrements manufactured at the several arsenals, and a committee appointed - - -	160	read a second time, and referred - - -	134
agreed to, and a committee appointed - - -	163	the committee discharged - - -	231
a Message from the President, with the report of the Secretary of War in reply - - -	217	Barbour, Mr., speech of, on his resolution touching internal improvement - - -	22
Army, a bill from the House of Representatives respecting the organization of the, read twice, and referred - - -	345	on his resolution to present a sword to Colonel R. M. Johnson - - -	302
reported with amendments - - -	364	on the Navigation bill - - -	313
ordered to a third reading, as amended - - -	380	Bate, John, a bill from the House of Representatives for relief of, read - - -	286
read a third time, and passed - - -	587	read a second time, and referred - - -	291
Army Register, the Secretary of War sent copies of the, for the Senate - - -	78	reported without amendment - - -	294
Arrearages, a bill from the House of Representatives making appropriation for the payment of, read - - -	120	read a third time, and passed - - -	296
read a second time, and referred - - -	129	Bath, a bill from the House of Representatives establishing a port of entry at, read twice, and referred - - -	370
reported with amendments, and ordered to a third reading - - -	137	reported without amendment - - -	376
read a third time, and passed as amended - - -	160	ordered to a third reading - - -	382
Arrival of Mails, Mr. Storer submitted a resolution of inquiry as to the causes that prevent the due - - -	256	read a third time, by consent, and passed - - -	382
agreed to, and referred accordingly - - -	258	Bayly, Mountjoy, on motion of Mr. Tichenor, authorized to employ an assistant, &c. - - -	11
Arsenal Ports, Mr. King submitted a resolution requesting the President to cause to be made surveys of certain harbors, for the purpose of fixing on two or more suitable stations for - - -	268	Beaumarchais, a Message from the President, with sundry papers, calling the attention of the Senate, &c., to the claims of the heirs of - - -	118
amended, and agreed to - - -	270	referred to the Committee on Finance - - -	139
Ashmun, Eli, of Massachusetts, took his seat - - -	24	said committee discharged - - -	161
Austin, Major Loring, and George R. Wells, a bill from the House of Representatives for relief of, read a first and second time, and referred - - -	343	papers referred to a select committee - - -	162
reported without amendment - - -	360	the same discharged - - -	388
ordered to a third reading - - -	377	Beck, Paul, and Thomas Sparks, Mr. Roberts presented the memorial of, referred - - -	111
read a third time, and passed - - -	379	the committee discharged - - -	161
Authentication of acts, records, &c., of the respective States, Mr. Campbell submitted a resolution respecting the - - -	228	Belding, Godfrey H., Mr. Taylor presented the petition of, referred - - -	164
agreed to, and referred to the Judiciary Committee - - -	231	adverse report thereon - - -	263
a report of inexpediency - - -	277	considered, and concurred in - - -	266
considered and concurred in - - -	286	Belfast, (See Bath, in the bill for which it is included.) - - -	
B.		Bell, George, on motion of Mr. Sanford, the Committee on Pensions were instructed to inquire into the expediency of placing, on the list of pensions - - -	363
Bailey, David, Mr. Smith presented the memorial of, referred - - -	212	the committee discharged - - -	387
adverse report thereon - - -	224	Bennett, Weaver, Mr. Burrill presented the petition of, referred - - -	32
considered and concurred in - - -	226	adverse report thereon - - -	73
Baker, Stephen.—(See Miller, Thomas.) - - -		considered, and concurred in - - -	243
Bank of the United States, a memorial of the President, &c., of the, read, and referred report thereon read, and recommitted - - -	147	Berry, Benjamin, a bill from the House of Representatives for the relief of, read twice, and referred - - -	358
a bill supplemental to the act to incorporate the, twice read - - -	352	reported without amendment - - -	360
ordered to a third reading - - -	362	ordered to a third reading - - -	377
read a third time, and passed - - -	365	read a third time, and passed - - -	379
		Bevan, Joseph, Mr. Troup presented the petition of, referred - - -	109
		adverse report thereon - - -	135
		considered, and concurred in - - -	137
		Biddle, Charles, Mr. Lacock presented the petition of, referred - - -	220
		committee discharged, and petition referred to the Committee of Claims - - -	230

## Senate Proceedings and Debates.

	Page.		Page.
Birdsall, Benjamin, and William S. Foster, a bill from the House of Representatives for the relief of, read - - -	349	Brown, John, Sr., Mr. Ruggles presented petition of, referred - - -	67
read a second time, and referred - - -	350	adverse report thereon - - -	83
reported without amendment - - -	382	considered and concurred in - - -	90
read a third time, and passed - - -	391	Brown, Major General Jacob, a bill from the House of Representatives for relief of, read twice, and referred - - -	343
Bogert, John G., Mr. King presented the petition of, referred - - -	229	reported with amendments - - -	349
a bill for the relief of, read - - -	272	read a third time, and passed as amended - - -	360
read a second time - - -	278	Brown, Frederick, a bill from the House of Representatives for the relief of, read - - -	349
ordered to a third reading - - -	293	read a second time - - -	350
read a third time, and passed - - -	295	amended, and ordered to a third reading - - -	365
Boundary Line, a bill to establish the, between the State of Mississippi and Territory of Alabama, read - - -	306	indefinitely postponed - - -	391
read a second time - - -	309	Brunswick, Georgia, a bill concerning the district of, read - - -	116
Bounty to Fishing Vessels, a bill concerning the, read - - -	257	read a second time - - -	120
read a second time - - -	260	ordered to a third reading - - -	132
ordered to a third reading - - -	279	read a third time, and passed - - -	137
read a third time, and passed - - -	287	Bullen, Joseph, Mr. Williams, of Mississippi, presented the petition of, referred - - -	66
Bowie, Belinda, Mr. Sanford presented the petition of, referred - - -	260	the committee discharged - - -	386
adverse report thereon - - -	264	Bunnell, Cata, Mr. Roberts presented the petition of, referred - - -	231
considered, and concurred in - - -	266	a bill for relief of, read - - -	240
Brady, James, Mr. Lacock presented the petition of, referred - - -	278	read a second time - - -	256
committee discharged - - -	386	ordered to a third reading - - -	278
Brent, Daniel, and others, (clerks,) Mr. Eppes presented the petition of, read - - -	364	read a third time, and passed - - -	287
(See Clerks.) - - -		Burnett, Daniel, Gibson Clark, and the legal representatives of Hubert Rowell—a bill from the House of Representatives for the relief of, read - - -	286
Brevet Officers, a bill to regulate the pay and emoluments of, read - - -	212	read a second time, and referred - - -	292
read a second time - - -	214	reported with an amendment - - -	294
ordered to a third reading - - -	227	ordered to a third reading - - -	299
reported without amendment - - -	239	read a third time, and passed as amended - - -	301
ordered to a third reading - - -	274	Burrill, Mr., remarks of, on his resolution concerning the African slave trade - - -	74, 76
read a third time, and passed - - -	279	speech of, in support of the same - - -	95
Brevet Rank, Mr. Daggett submitted a resolution to abolish - - -	164	Business, committees appointed under the 22d and 42d rules for conducting - - -	11
amended, and referred to the Military Committee to inquire into the expediency of abolishing - - -	165	a resolution from the House of Representatives for a joint committee to consider and report what, ought to be attended to before adjournment, agreed to - - -	308
Briggs, Isaac, Mr. Dickerson presented the memorial of, referred - - -	115	report of said committee - - -	340
a bill for the relief of, read - - -	130	Byington, Abraham, a bill from the House of Representatives for relief of, read - - -	271
read a second time - - -	132	read a second time, and referred - - -	272
ordered to a third reading - - -	134	reported without amendment - - -	286
read a third time, and passed - - -	137	ordered to a third reading - - -	295
returned from the House of Representatives with an amendment, non-concurred in - - -	367	read a third time, and passed - - -	298
Brobson, James, Mr. Van Dyke, presented the memorial of, referred - - -	93	C.	
adverse report thereon - - -	174	Campbell, George W., of Tennessee, took his seat - - -	20
considered, and concurred in - - -	213	remarks of, on the resolution respecting the African slave trade - - -	76
Brooks, John, Mr. Ruggles presented the petition of, referred - - -	343	a letter from, stating that he had resigned his seat in the Senate - - -	385
adverse report thereon concurred in - - -	362	Campbell, Samuel, and others, Mr. Sanford presented the petition of, referred - - -	92
Broutin, Narcissus, and others, a bill from the House of Representatives for relief of, read - - -	286	the committee discharged - - -	161
read a second time, and referred - - -	292	Canans, Shubal, Mr. Ruggles presented the memorial of, referred - - -	269
reported with amendments - - -	307	(See Dequindue, Louis and Antoine.) - - -	
ordered to a third reading - - -	312	Cape Vincent, a bill from the House of Representatives to establish a port of entry at, read twice and referred - - -	343
read a third time, and passed as amended - - -	340		
Brown, Samuel, Mr. Ruggles presented the petition of, referred - - -	62		
an adverse report thereon - - -	376		
considered and concurred in - - -	379		



## Senate Proceedings and Debates.

	Page.		Page.
Cape Vincent—continued.		Clifford, Thomas and John, and others, a bill	
reported without amendment	356	from the House of Representatives for	
ordered to a third reading	366	relief of, read	311
read a third time, and passed	369	read a second time, and referred	341
Carter, Landon, Mr. Williams, of Tennessee,		reported without amendment	352
presented the petition of the heirs of, re-		ordered to a third reading	368
ferred	32	read a third time, and passed	377
a bill for the relief of the heirs of, read	60	Coasts of the United States, Mr. Storer submit-	
read a second time, and ordered to a third		ted a resolution of inquiry concerning the	
reading	61	progress made in the survey of the	162
read a third time, and passed	63	amended, and agreed to	165
leave granted to withdraw the papers in the		a message containing reports in reply	175
case	386	another message on the same subject	265
Cavalier, Anthony, and Peter Petit, the petition		a bill to repeal part of the act for surveying	
of, presented at the last session, was refer-		the, read	311
red to the Committee on Public Lands	256	read a second time	341
a bill confirming the claims of, to a tract of		ordered to a third reading	348
land, read	311	read a third time, and passed	349
read a second time, and ordered to a third		Collection of Customs, a letter from the Secre-	
reading	346	tary of the Treasury, with a statement	
read a third time, and passed	347	of the pay and emoluments of persons	
Certain crimes against the United States, a bill		employed in the	231
from the House of Representatives in ad-		Columbian Institute, a bill from the House of	
dison to the act to punish, read	291	Representatives to incorporate the, read	
read a second time, and referred	294	twice, and referred	358
reported with amendments	307	reported without amendment	379
ordered to a third reading	360	amended, and read a third time	383
read a third time, and passed as amended	361	Columbian Insurance Company, a bill from the	
the House of Representatives disagreed to		House of Representatives to incorporate	
one amendment	384	the, read	89
the Senate receded from the same	385	read a second time, and referred	93
Certain laws, a resolution for the procurement		reported with amendments	162
of, read twice	90	ordered to a third reading	166
Certificates, a bill from the House of Represent-		read a third time, and passed as amended	167
atives to authorize the payment of cer-		Colvin, John B., Mr. Morrow presented the pe-	
tain, read	271	tition of, referred	174
read a second time, and referred	272	committee discharged	340
reported without amendment	311	Commerce and Manufactures, appointment of	
ordered to a third reading	347	the standing committee on	26
read a third time, and passed	349	Compensation, a bill from the House of Repre-	
Chaplain, on motion of Mr. Tichenor a resolution		sentatives concerning, to members, read	89
for the appointment of two, of differ-		read a second time	93
ent denominations, was agreed to	11	amended, and ordered to a third reading	94
a message from the House of Representa-		read a third time, and passed as amended	109
tives that they concur in the same	21	Mr. Campbell presented the instructions of	
Chardon, Anthony, Mr. Roberts presented the		the Legislature of Tennessee, concerning	162
petition of, referred	220	Congress, a resolution from the House of Repre-	
Chesapeake Bay, a resolution from the House		sentatives for the temporary adjourn-	
of Representatives for completing the		ment of, read three times, by consent,	
survey of the, twice read, and referred	351	and passed	66
reported without amendment	357	another resolution from the House of Repre-	
ordered to a third reading	377	sentatives for adjournment of the 1st	
read a third time, and passed	380	session of the 15th Congress, (appoint-	
Claims, appointment of the standing commit-		ing a joint committee)	228
tee of	26	read three times, concurred in, and a joint	
Clark, A. A., the petition of, referred	240	committee appointed	229
a bill for the relief of, read	260	the committee report a resolution fixing a	
read a second time	263	day for adjournment of, read	240
ordered to a third reading	268	read a second time	258
Clark, Gibson. (See Burnett, Daniel, &c.)		indefinitely postponed	301
Clay, Henry, a message from the House of		a resolution from the House of Representa-	
Representatives that they have elected,		tives of the same tenor, read	256
Speaker	11	read a second time	258
Clerks, report from the Secretary of War, of		amended, read a third time, and passed	298
the, employed in his Department	139	a bill from the House of Representatives fix-	
report from the Secretary of the Treasury,		ing the time for the next meeting of, read	308
of the, employed in his Department	161	read a second time	309
a bill from the House of Representatives to		ordered to a third reading	364
regulate and fix compensation of, read	384	amended, read a third time, and passed	369
read a third time, and passed	390		

## Senate Proceedings and Debates.

	Page.		Page.
Constitution, Mr. Dickerson presented a resolu-		Daniel, William—continued.	
tion and instructions from the Legislature		read a first time	291
of New Jersey relative to an amendment		read a second time, and referred	291
of the, read	65	reported without amendment	294
read a second time, and referred	67	indefinitely postponed	309
ordered to a third reading	229	Davis, John, Mr. Morrill presented the petition	
negated	242	of, referred	67
Mr. Macon presented a similar resolution,		adverse report thereon	230
&c., from North Carolina, referred	114	read and concurred in	241
reported with amendments	136	Deposites of provisions in advance, &c., Mr. Tich-	
resolutions and instructions from the Legis-		enor submitted a resolution of inquiry	
lature of Tennessee, received and entered	170	concerning certain	212
Contracts, report of, made by the Navy Depart-		Mr. Williams, of Tennessee, offered a sub-	
ment	82	stitute for the above	213
ditto from the War Department	131	the substitute withdrawn and the original	
ditto from the Postmaster General	167	amended and agreed to	216
Controversies, between two or more States, a bill		a Message from the President with a report	
concerning, read	252	from the War Department in reply	258
read a second time	278	Deposit of Wines, &c., in public warehouses,	
indefinitely postponed	307	a bill from the House of Representatives	
Courthouse, jail, &c., in Alexandria, a bill from		providing for the, read twice, and referred	370
the House of Representatives to provide		reported without amendment	379
for the erection of a, read	271	read a third time, and passed	383
read a second time, and referred	272	Deputy Postmasters, a bill to increase the com-	
reported without amendments	296	pensation of, twice read, and referred	370
ordered to a third reading	299	reported with an amendment	382
Creek Indians, a bill from the House of Repre-		ordered to a third reading	389
sentatives for the relief of certain friendly,		Dequindue, Louis and Antoine, a bill for relief	
read	311	of, read	292
read a second time, and referred	342	read a second time, and ordered to a third	
reported with amendments	368	reading	294
ordered to a third reading	381	read a third time, and passed	299
read a third time, and passed	387	Deweese, Sarah, a bill from the House of Repre-	
Green, Adam, the Committee of Pensions were		sentatives for relief of, read	311
instructed to inquire into the expediency		read a second time, and referred	341
of placing, on the list of pensioners	296	reported without amendment	342
Crittenden, John J., appointed a Senator by the		ordered to a third reading	348
Legislature of Kentucky, was qualified,		read a third time, and passed	349
and took his seat	9	D'Wolfe, Charles, and others, Mr. Burrill pre-	
Cumberland Road, a bill from the House of Repre-		sented the petition of, referred	27
sentatives making further appropri-		Dickerson, Mr., speech of, on the proposition to	
ations for the construction of the, read	308	amend the Constitution	178
read a second time, and referred	309	on the resolution to present medals, and the	
reported without amendment	340	thanks of Congress to General Harrison	
ordered to a third reading	348	and Governor Shelby	283
read a third time, and passed	349	Dillon, John, a bill from the House of Repre-	
Cumming, Joseph, administrator, Mr. Troup pre-		sentatives for relief of, read twice, and	
sented the petition of, referred	70	referred	361
adverse report thereon	131	reported without amendment	366
considered and concurred in	133	ordered to a third reading	380
Cutting, Nathaniel, Mr. Epes presented the		read a third time, and passed	387
petition of, referred	80	Direct Taxes and Internal Duties, a bill from the	
adverse report thereon	93	House of Representatives supplemental to	
considered and concurred in	111	the several acts relating to, read twice,	
		and referred	584
D.		read a third time, and passed	585
Dabney, John B., a bill from the House of Repre-		District of Columbia, appointment of the stand-	
sentatives for relief of, read twice, and		ing committee on the	26
referred	367	report of the Secretary of the Treasury on	
reported without amendment	377	the subject of the banks in the	241
read a third time, and passed	382	District Courts of the United States within the	
Dana, Edward, Mr. Sanford presented the peti-		State of New York, a bill from the House	
tion of, referred	63	of Representatives respecting the, read	257
adverse report thereon	80	read a second time, and referred	258
considered and concurred in	83	reported with an amendment	261
Dana, Samuel W., took his seat	351	ordered to a third reading	280
Daniel, William, a bill from the House of Repre-		read a third time, and passed as amended	282
sentatives concerning the legal repre-			
sentatives of	281		



Senate Proceedings and Debates.

	Page.	Emigrants—continued.	Page.
District of Maine, a bill from the House of Representatives altering the time for holding the district court in the, read	242	Mr. Goldsborough presented the memorial of those of Baltimore, referred to same committee	206
read a second time, and referred	258	Mr. Lacock, the same, of those of Philadelphia, referred to same	212
reported without amendment	261	the committee discharged	386
ordered to a third reading	279	Eppes, John W., appointed a Senator by the Legislature of Virginia, produced his credentials, was qualified, and took his seat	10
read a third time, and passed	287	Erie, a bill from the House of Representatives to change the name of the district of, read a first and second time, and referred	310
Dicks, on motion of Mr. Eppes, the President was requested to cause an estimate to be laid before the Senate of the sum necessary to establish two	271	reported without amendment	342
a Message with the estimate of the Navy Department	279	ordered to a third reading	348
Document, a bill from the House of Representatives for the transportation of certain, free of postage, read three times by consent, and passed	277	read a third time, and passed	349
Dohrman, Rachel, had leave to withdraw her papers filed at last session	229	Esenbeck, William, a messenger in the Treasury Department, the President of the Senate communicated the petition of, referred	63
Dougherty, Thomas, notice from the House of Representatives that they have elected, clerk	11	an adverse report thereon	82
Dow, John. (See Iron.)		read and concurred in	90
Drawback on merchandise transported by land, a bill to allow the benefit of, in a certain case, read	80	Essary, Jonathan D., and John Seybold, a bill from the House of Representatives for relief of, read twice, and referred	367
read a second time	81	reported with amendments	385
ordered to a third reading	84	read a third time, and passed	391
read a third time, and passed	90	Executive Departments, a bill from the House of Representatives providing for the erection of additional buildings for the accommodation of the, read	349
Dubbs, Martin, Mr. Lacock presented the petition of, referred	199	read a second time, and referred	350
adverse report thereon	224	reported with an amendment	357
read, and concurred in	227	read a third time, and passed as amended	377
Dubois, Toussaint, Mr. Taylor presented the petition of, referred	134	Expenditure and application of money, a report of the, from the Secretary of War	78
committee discharged	386	the same from the Secretary of the Navy	82
Duties on merchandise imported, Mr. Sanford submitted a resolution to inquire concerning	21	Expenses of Militia, when marching to rendezvous, a bill to defray the, read	229
considered, and agreed to	60	read a second time	231
Duties on manufactured articles imported, a bill from the House of Representatives to increase the, read twice, and referred	370	ordered to a third reading	269
reported without amendment	379	read a third time, and passed	270
read a third time, and passed	383	Extinguishment of Indian titles, Mr. Talbot presented a resolution of the Legislature of Kentucky, and one of his own, in relation to the, referred	226
E.		Mr. Williams presented a similar resolution from the Legislature of Mississippi, referred to the same committee	227
Farwood, Joel, a bill from the House of Representatives for relief of, read	70	committee discharged	274
read a second time, and referred	72	Extra Duties, a Message from the President with sundry papers relating to	206
reported with amendments	79	referred to the Finance Committee	209
ordered to a third reading as amended	81	F.	
read a third time, and passed with amendments	84	Farquhar, A., Mr. Ruggles presented the petition of, referred	109
the House of Representatives concurred, with an amendment, which was agreed to	94	adverse report thereon	114
Fenton, Rufus, Mr. Morrow presented the petition of, referred	388	read and concurred in	118
Farrand, Wm. P., and others, Mr. Robertson presented the petition of, referred	62	Farrand, Wm. P., and others, Mr. Robertson presented the petition of, referred	128
a bill for relief of, read	70	adverse report thereon	301
read a second time	72	indefinitely postponed	311
amended, and ordered to a third reading	73	Farris, William, Mr. Ruggles presented the petition of, referred	62
read a third time, and passed	79	adverse report thereon	93
Fleet, Jonathan, Mr. Morrow presented the petition of, referred	213	read and concurred in	111
committee discharged	340	Finance, appointment of the standing committee of	26
Emigrants, Mr. Sanford presented the memorial of the Irish, of New York, referred	202		

Senate Proceedings and Debates.

	Page.		Page.
Fire Insurance Company in Washington, a bill to incorporate a, read	260	Georgetown, Delaware, Mr. Horsey submitted a resolution, respecting an increase of allowance to the postmaster at	296
read a second time	266	agreed to, and referred to the Post Office Committee	297
ordered to a third reading	287	Giles, Aquilla, Mr. King presented the petition of, referred	162
read a third time, and passed	293	a bill for relief of, read twice	310
Fisk, James, appointed by the Legislature of Vermont a Senator in place of Dudley Chace, resigned, produced his credentials, &c.	9	ordered to a third reading	346
a letter from, stating that he had resigned his seat	119	read a time, and passed	348
Flag of the United States, a bill from the House of Representatives to establish the, read	291	Gist, Captain Henry, and Captain H. Johnson, a bill from the House of Representatives for relief of, read twice, and referred	361
read a second time, and referred	294	reported without amendment	367
reported without amendment	296	ordered to a third reading	381
read a third time, and passed	302	read a third time, and passed	387
Fletcher, Thomas, and others, Mr. Van Dyke presented the petition of, read	379	Goldsborough, Robert H., of Maryland, took his seat	20
Foreign Relations, appointment of the standing committee on	25	resumed his seat after an absence	82
Forfeiture of Lands, a bill to suspend for a limited time the sale of, read	344	speech of, on the bill to provide for surviving officers of the Revolution	191
read a second time	346	Golden, Thomas, Mr. Taylor presented the petition of, referred	132
ordered to a third reading	358	the committee discharged	386
read a third time, and passed	360	Goodwyn, Peterson, of Virginia, a message from the House of Representatives, that they have passed a resolution to wear crape, in memory of the late honorable	215
Forrest, Joseph, Mr. Roberts presented the petition of, referred	91	Government, a bill from the House of Representatives making appropriations for the support of, for the year 1818, read twice, and referred	301
adverse report thereon	130	reported with amendments, and ordered to a third reading	311
read and concurred in	163	read a third time, and passed as amended	340
Fort Charlotte, on motion of Mr. Williams, the Committee on Public Lands were instructed to inquire into the expediency of authorizing the sale of the land attached to	338	Government Dividends on the Bank of the United States stock, Mr. Troup submitted a resolution to set apart the, for the purchase of arms, &c., for the militia	287
Fort St. Charles, Mr. Fromentin presented the representation of the Legislature of Louisiana, praying the demolition of, &c., referred	297	agreed to, and referred to the Committee on the Militia	291
Foster, William T. (See Birdsall, Benjamin.)		said committee reported that it was inexpedient	339
French Spoliations prior to 1800, Mr. Storer called up the memorial presented at the last session, on the subject of, and it was referred	79	the report indefinitely postponed	346
Frisby, Richard, Mr. Goldsborough presented the petition of, referred	172	Graeff, Jacob, a bill from the House of Representatives for relief of the widow and children of, read first and second time, and referred	358
adverse report thereon agreed to	272	reported without amendment	360
Fromentin, Eligius, of Louisiana, took his seat	91	ordered to a third reading	381
Funded Debt, Mr. King submitted a resolution directing the Secretary of the Treasury to report the sum of the, &c.	312	read a third time, and passed	387
resolution agreed to	340	Grant, Moses, and others, Mr. Otis presented the memorial of, referred	168
report from the Secretary of the Treasury in reply	370	Gregory, Jeremiah, and others, Mr. Taylor presented the petition of, referred	134
Gaillard, John, election of, as President pro tem.	300	the committee discharged	386
Gale, Anthony, Mr. Johnson presented the petition of, referred	225	H.	
adverse report thereon	292	Half pay for life, Mr. Roberts presented a petition in behalf of the Pennsylvania line of Revolutionary soldiers, praying an equitable settlement of their, referred	63
read, and concurred in	294	the committee discharged	230
Gales & Seaton, Mr. Eppes presented the petition of, referred	267	Hall, John T., and others, Mr. Morrow presented the petitions of, referred	65
Gamble, William, Mr. Wilson presented the petition of, referred	210	committee discharged	386
adverse report thereon	240	Hall, John, Paymaster of Marines, Mr. Smith presented the petition of, referred	139
read, and concurred in	256	adverse report thereon	241
Gardiner, John, chief clerk of Land Office, a letter from, presenting a map to the Senate, read	20	report reversed, and bill ordered	343



## Senate Proceedings and Debates.

	Page.		Page.
Hall, John—continued.		Hooker, Samuel F., Mr. Sanford presented the	
a bill for relief of, read	345	petition of, referred	273
read a second time	346	a bill for the relief of, read	308
ordered to a third reading	352	read a second time	309
read a third time, and passed	388	ordered to a third reading	350
Hall, Joseph, Mr. Daggett presented the petition		read a third time, and passed	351
of, referred	200	Horsey, Outerbridge, of Delaware, took his seat	20
the committee discharged	309	Howell, Hubert, the legal representatives of	
Harrison, Jonas, a bill from the House of Repre-		(See <i>Burnett, Daniel, &amp;c.</i> )	
sentatives for the relief of, read twice, and		Hunter, William, of Rhode Island, took his seat	78
referred	361	Illinois Territory, a map of the bounty lands in,	
reported without amendment	366	presented to the Senate	20
ordered to a third reading	380	a bill from the House of Representatives to	
read a third time, and passed	387	enable the people of, to form a constitu-	
Hart, Eli, Mr. Sanford presented the petition of,		tion, &c., read twice, and referred	345
referred	229	reported with amendments	351
a bill for the relief of, read	286	ordered to a third reading	363
read a second time	292	read a third time, and passed as amended	365
a third reading negative	296		
Haslett, John, leave to withdraw the petition of,		I.	
refused	62	Imported Salt, Mr. Smith submitted a resolution	
Mr. Smith presented a petition of, referred	280	respecting the duties on	65
the committee discharged	352	agreed to, and referred to the Secretary of	
Hawley, Rev. William, election of, as Chaplain	24	the Treasury	66
Heads of Departments, the bill to increase the		report of that officer in reply	69
salaries of, read twice, and ordered to a		Mr. S. then submitted a resolution to refer the	
third reading	293	report to the Finance Committee, with	
read a third time, and passed	295	instructions to inquire into the propriety	
returned from the House of Representatives		of repealing the laws laying duties on	69
with amendments, to some of which the		agreed to, and said committee instructed	
Senate agreed, and to others disagreed	386	accordingly	71
receded from disagreement to one amend-		report of that committee that it is inexpe-	
ment, and insisted upon disagreeing to		dient	135
others	392	considered, and concurred in	210
Heirs of Soldiers, Mr. Wilson submitted a reso-		Imports and Tonnage, a bill supplementary to	
lution relative to securing bounty lands		the act to regulate the collection of duties	
to the	110	on, read twice, and referred	370
agreed to, and referred to a committee	111	reported with amendments, and ordered to	
the committee discharged	164	a third reading	387
Henderson, Francis, and family, heirs of John		read a third time and passed	388
Laurens, Mr. Hunter presented the peti-		a bill from the House of Representatives to	
tion of, referred	261	continue in force a certain part of the act	
a bill for the relief of, read	310	to regulate duties on, twice read, and re-	
read a second time	340	ferred	379
indefinitely postponed	347	reported amended, read a third time, and	
Hibbert, John, and others, Mr. Stokes presented		passed	383
the petition of, referred	61	Index to Acts and Resolutions, a resolution from	
adverse report thereon	33	the House of Representatives directing	
read, and concurred in	91	the Secretary of State to prepare an, at	
Hill, Rees, Mr. Lacock presented the memorial		the end of every session of Congress	281
of, referred	82	read, and passed to a second reading	286
adverse report thereon	113	read a second time, and ordered to a third	
read, and concurred in	115	reading	292
Hill, William, and others, Mr. Sanford presented		read a third time, and passed	295
the petition of, referred	187	Indian Agents and Factors, a bill fixing the	
adverse report thereon	221	compensation of, twice read	362
read, and concurred in	226	ordered to a third reading	365
Hill, William, and others, Mr. Noble presented		read a third time, and passed	369
the petition of, referred	220	Inakeep, John, and others, Mr. Lacock presented	
Hogan, Michael, Mr. Sanford presented the peti-		the memorial of, referred	89
tion of, referred	113	Internal Duties, a report from the Secretary of	
a bill for the relief of, read	262	the Treasury in relation to	21
read a second time	263	a bill from the House of Representatives	
ordered to a third reading	292	to abolish, read and referred	26
read a third time, and passed	295	reported with amendments, and read a sec-	
Holland, a Message from the President respect-		ond time	34
ing negotiations with	274	Mr. Wilson presented memorials praying	
referred to the Committee of Foreign Rela-		the abolition of	34
tions	278	the bill read a third time, and passed	35

## Senate Proceedings and Debates.

	Page.		Page.
Internal Improvement, Mr. Barbour proposed an		Jourdan, B. and P., brothers, a bill from the	
amendment of the Constitution so as to		House of Representatives for relief of	386
grant the power of, read	21	read twice, and referred	387
read a second time, and referred	24	ordered to a third reading	393
reported without amendment	211	a motion to suspend the rule so as to read it	
indefinitely postponed	292	a third time, negative	393
Introduction of Slaves, a bill in addition to the		Journal and proceedings of the Convention	
act to prohibit the, read	307	which formed the Constitution, Mr. San-	
read a second time	312	ford submitted a resolution to direct the	
ordered to a third reading	351	publication of the, read twice, and re-	
read a third time, and passed	358	ferred	73
returned from the House of Representatives		reported with amendments	114
with amendments	378	ordered to a third reading	116
read, and concurred in	379	read a third time, and passed	117
Invalid Pensions, a bill from the House of Rep-		returned from the House of Representatives	
resentatives concerning, read	384	with an amendment, agreed to	271
read a second time, and indefinitely post-		Judges of the United States Courts, the bill to	
poned	385	increase the compensation of certain,	
Iron, Mr. Dickerson presented a memorial of the		read twice, blanks filled, and ordered to	
manufacturers of, praying an additional		a third reading	344
duty on, referred	27	read a third time, and passed	346
a bill from the House of Representatives to		Judges of the Circuit Court for the District of	
increase the duties on, in bars, &c., read		Columbia, Mr. Campbell presented the	
twice, and referred	370	memorial of the, praying increase of sal-	
amended, and ordered to a third reading	381	ary of, referred	128
read a third time, and passed as amended	387	a bill to increase the salaries of, read	136
Island of New Orleans, a bill for adjusting claims		read a second time	139
to land in districts east of the, &c., read	201	recommitted to the Judiciary Committee	165
read a second time	211	reported without amendment	187
ordered to a third reading	279	ordered to a third reading	220
indefinitely postponed	385	read a third time, and passed	222
Issue and location of Certificates of Lands, on		Judicial System, Mr. Talbot submitted a resolu-	
motion of Mr. Morrow, the Committee on		tion respecting a change of the	135
Public Lands were instructed to inquire		amended and agreed to, and referred to the	
into the expediency of making provision		Judiciary Committee	138
for limiting and controlling the	120	Judiciary, appointment of the standing commit-	
		tee on the	26
J.		Justices of the Peace, in Washington, a bill to	
Jarret, John, Mr. Morrow presented the petition		make valid certain acts of the, read	267
of, referred	388	read a second time	269
Jelley, Samuel, Mr. Noble presented the petition		ordered to a third reading	288
of, referred	67	read a third time, and passed	293
Jervy, Thomas Hall, Mr. Smith presented the		returned from the House of Representatives	
petition of, referred	128	with an amendment	351
the committee discharged	388	read, and disagreed to	357
Johnson, Richard M., a bill for relief of, twice		the House of Representatives insist and ask	
read, and referred	169	a conference, which is agreed to	362
reported without amendment	175	K.	
ordered to a third reading	188	Keemie, John, Mr. Roberts presented the me-	
read a third time, and passed	200	morial of, referred	116
Mr. Barbour submitted a resolution to pre-		adverse report thereon	130
sent a sword to, read twice	302	read and concurred in	132
read a third time, and passed unanimously	307	Kendall, Jeduthan, Mr. Morrow presented the	
Johnson, Henry, appointed a Senator by the Le-		petition of, referred	388
gislature of Louisiana, in place of W. C.		Kennedy, L. P., Mr. Williams, of Mississippi,	
C. Claiborne, produced his credentials,		presented the memorial of, referred	65
was qualified, and took his seat	221	Kennedy, Joseph P., and others, the same mem-	
Jones, Henry, Mr. Wilson presented the petition		ber presented the petition of, referred	66
of, referred	68	Kentucky, Mr. Talbot presented a memorial of	
adverse report thereon	214	the Legislature of, respecting boundaries	224
read, and concurred in	215	Kentucky Ohio Canal Company, on motion of	
Jones, William, and others, Mr. Roberts pre-		Mr. Talbot, the Committee on Roads and	
sented the petition of, referred	224	Inland Navigation were instructed to in-	
Jones, Michael, Mr. Morrow presented the peti-		quire into the expediency of authorizing	
tion of, referred	266	a subscription to the stock of the	273
a bill for relief of, read	300	Kidnapping, Mr. Roberts presented petitions	
read a second time	307	from Friends, in several States, on the	
ordered to a third reading	309	subject of, &c., referred	20
read a third time, and passed	311		



## Senate Proceedings and Debates.

	Page.	Laws of the United States—continued.	Page.
Kidnaping—continued.		read a third time, and passed	60
Mr. Goldsborough presented a similar petition from the Philanthropic Society of Boston, Maryland	92	Mr. Morrill submitted a resolution providing for the distribution of the sixth volume of the, read	115
Killgore, John, Mr. Horsey presented the petition of, referred	216	read a second time	117
King, Mr., speech of, on the resolution respecting the African slave trade	75, 87	referred to the Judiciary Committee	120
on the motion to strike out the latter clause of the same	105	reported without amendment	175
on the Navigation Bill	324	consideration resumed and postponed	177, 218
King, Henry, a bill from the House of Representatives for relief of, read twice, and referred	361	read a third time, and passed	262
reported without amendment	367	returned from the House of Representatives with amendments, agreed to	271
indefinitely postponed	384	a bill for the purchase and distribution of the, read	202
Kirkendall, Samuel, Mr. Dickerson presented the petition of, referred	286	read a second time	209
the committee discharged	386	referred to a select committee	218
Knox County, Indiana, an adverse report on the petition of sundry inhabitants of	293	ordered to a third reading	262
read and concurred in	302	read a third time, and passed	253
Kohn, Samuel, Mr. Johnson presented the petition of, referred	230	a bill from the House of Representatives, to provide for the publication of, read twice and referred	310
committee discharged	386	reported with amendments	340
		ordered to a third reading	351
		read a third time, and passed	358
		returned from the House of Representatives with concurrence, except as to the seventh and eighth amendments, and the Senate receded from the seventh but insisted on the eighth	367
L.		Leake, Walter, appointed a Senator by the Legislature of Mississippi, produced his credentials, was qualified, &c.	25
Lacotte, Hyacinth, Mr. Fromentin presented the petition of, referred	342	drew the lot for the term of four years	28
committee discharged	352	Lee, Richard Bland, Mr. Barbour presented the petition of, referred	357
Lacock, Mr., speech of, on the resolution respecting the African slave trade	107	Levie, Alexander, Mr. Smith presented the petition of, referred	201
Land Claims of Florida, a memorial of the Legislature of Louisiana respecting the, was referred	62	adverse report thereon	281
Mr. Williams presented a memorial and protest of certain members of the same Legislature on the subject of, referred	64	report recommitted	287
Land Laws, a resolution relative to the distribution of the late edition of the collection of, read	164	reported with an amendment, and leave given to withdraw the petition	290
read a second time	167	the committee discharged	386
ordered to a third reading	171		
read a third time, and passed	173	Lewis, Winslow and Henry, a bill from the House of Representatives, for the relief of, twice read and referred	71
Land Marks, a resolution respecting the perpetuation of, agreed to	34	reported with amendments	82
Land Offices, Mr. Noble submitted a resolution relating to, in the eastern part of Indiana a bill from the House of Representatives, to establish additional, in Missouri Territory, read	70	recommitted with instructions	91
read a second time, and referred	72	reported with amendment, and ordered to a third reading	92
reported with amendments	128	read a third time, and passed as amended	94
ordered to a third reading	131	Library, on motion of Mr. Tichenor, a committee on the, was appointed	11
read a third time, and passed	134	a message from the House of Representatives announcing the appointment of a joint committee on the	20
the House of Representatives concurred, with an amendment	168	Location and Survey, under military land warrants, &c., Mr. Morrow submitted a resolution concerning the	34
read and agreed to	169	agreed to, and referred to the proper committee	60
Land Patents, on motion of Mr. Roberts, the Committee on Public Lands were instructed to inquire into the expediency of providing for the authentication of, without the signature of the President	240	Loomis, Jairus, and James Bassett, Mr. Fromentin presented the petition of, referred	130
Laurent, John, (See Henderson, Francis.)		committee discharged	361
Laws of the United States, a resolution from the House of Representatives directing the distribution of certain, read	24	Lorman, William, and others, Mr. Goldsborough presented the petition of, referred	82
read a second time, and referred	25	committee discharged	166
reported without amendment	32	Lyman, D., Mr. Burrill presented the petition of, referred	27
ordered to a third reading	35		

## Senate Proceedings and Debates.

	Page.	M.	Page.		Page.
Mackay, James, a bill from the House of Representatives, for relief of, read twice and referred	367	Merchants, Insurance Companies, &c., of sundry cities and ports, an adverse report on the memorial of sundry	227		
reported with an amendment	385	Message, the President's first, read	12		
read a third time, and passed as amended	390	two thousand copies thereof ordered to be printed	19		
Macomb, Alexander, Mr. Ruggles presented the petition of, referred	69	Messengers and servants of the Senate, a resolution to compensate the, read	379		
committee discharged	386	read a second time, and passed	382		
Macon, Mr., speech of, on the bill for relief of revolutionary survivors	152	on motion of Mr. Lacock, an extra allowance was ordered to the	383		
Manufactures, Mr. Sanford presented a petition from inhabitants of Oneida county, praying encouragement of, ordered to be printed	84	Michigan Territory, a bill from the House of Representatives to authorize the election of a delegate in, read	271		
Marietta and Vincennes, a bill providing for the sale of certain lands in the districts of, read	162	read a second time, and referred	272		
read a second time	165	reported without amendment	290		
ordered to a third reading	168	indefinitely postponed	299		
read a third time, and passed	169	the memorial of the Governor and Judges of, concerning the boundary line between said Territory and Ohio, was referred	213		
Marino Corps, a memorial of the, relating to the rights of subalterns, referred	26	Milford Marble Company, Mr. Daggett presented the petition of, referred	175		
report of the committee	121	Military Affairs, appointment of the standing committee of	26		
Marshall, William, Mr. Smith presented the petition of, referred	240	Military Bounty Lands, Mr. Morrill submitted a resolution relating to the survey of	25		
Mason, Cornelia, a bill from the House of Representatives for relief of, read	384	amended, and agreed to, requesting information from the President	25		
read a second time, and referred	385	a Message, with a report from the Secretary of the Treasury, in reply	61		
read a third time, and passed	389	Mr. Morrill submitted a joint resolution to furnish each soldier, who receives a patent, a description of the quality of the lot, read	66		
Massachusetts, Mr. Otis submitted a resolution respecting the militia claims of	135	read a second time, and referred	67		
agreed to, and referred to the Committee of Claims	177	reported without amendment	135		
committee discharged	388	third reading negatived	139		
May, Hugh, Mr. Noble presented the petition of, referred	134	Mr. Wilson submitted a resolution relative to the designating, surveying, and granting	187		
report of the Secretary of the Treasury on the petition of	161	agreed to	202		
referred to the Committee of Claims	167	Military Establishment, a Message from the President, with a report from the Secretary of War of the contingent expenses of the	210		
committee discharged, and petition referred to the Secretary of War	175	Military Land Warrants, Mr. Burrill submitted a resolution respecting the extension of time for the exhibition of claims for	162		
Meade, Richard W., report of the Committee of Foreign Relations in the case of	282	agreed to, and the committee instructed to report a bill	165		
Mechanic Relief Society, of Alexandria, Mr. Eppe presented the petition of the, referred	71	a bill further extending the time for locating, &c., read	174		
a bill to incorporate the, read	120	read a second time	176		
read a second time, and referred	129	ordered to a third reading	188		
reported without amendment, and recommitted with instructions	131	read a third time, and passed	200		
again reported without amendment, and ordered to a third reading	133	a bill extending the time for obtaining, in certain cases, read	216		
read a third time, and passed	137	read a second time	219		
Medals to Harrison and Shelby, Mr. Dickerson submitted a joint resolution to present the thanks of Congress, and directing, read	285	ordered to a third reading	257		
read a second time	286	read a third time, and passed	260		
amended, and ordered to a third reading	295	Military Service, a bill from the House of Representatives making appropriations for the, read	120		
read a third time, and passed	298	read a second time, and referred	129		
Meigs, Phineas, Mr. Daggett presented the petition of, referred	206	reported with amendments	161		
adverse report thereon	272	read a third time, and passed as amended	167		
read and concurred in	287	the House of Representatives agreed to some and disagreed to others of the amendments	168		
Merchants' Bank, of Newport, Mr. Hunter presented the petition of the, referred	209				
a bill for relief of the, read	277				
read a second time	286				
ordered to a third reading	295				
read a third time, and passed	298				



## Senate Proceedings and Debates.

	Page.		Page.
Military Service—continued.		Mississippi—continued.	
the Senate resolved to insist	169	Mr. Williams offered the instructions of the Legislature of, concerning the eastern limits thereof	187
House of Representatives also insist, and ask a conference, which is agreed to	171	a bill from the House of Representatives to provide for the due execution of the laws of the United States therein, read	271
detailed report of the Managers	188	read a second time, and referred	273
House of Representatives adhered, and the Senate recessed	201	reported without amendment	286
Military Staff, Mr. Tichenor submitted a resolution concerning the	129	ordered to a third reading	296
agreed to, and referred to the Military Committee	131	read a third time, and passed	298
Militia, appointment of the standing committee on the	26	Mode of supplying the Troops, Mr. Barbour submitted a resolution to inquire into the expediency of changing the	211
Mr. Tait submitted a resolution instructing the said committee to inquire into the expediency of augmenting the pay of, when called into service	68	agreed to, and referred to the Military Committee	213
resolution agreed to	69	Moneys transferred, report of the Secretary of War, on the subject of	78
the committee discharged from further consideration of the subject	340	Moore, James, Mr. Lacock presented the petition of, referred	216
Mr. Storer submitted a resolution requiring the Secretary of War to procure copies of the laws of the several States relating to	264	adverse report thereon	257
agreed to	269	read, and concurred in	260
a bill from the House of Representatives to increase the pay of, while in actual service, read twice, and referred	358	Morril, Mr., speech of, on the resolution concerning the African slave trade	102
reported without amendment	366	on the bill to provide for Revolutionary services	150
ordered to a third reading	381	on the fugitive slave bill	242
read a third time, and passed	387	Morrow, Jeremiah, of Ohio, took his seat	25
Miller, Thomas, and Stephen Baker, a bill from the House of Representatives for relief of, read twice, and referred	349	Myers, John, Mr. Morrow presented the petition of, referred	388
reported with amendments	356	McArthur, Duncan, Mr. Morrow presented the petition of, referred	199
ordered to a third reading	366	committee discharged	388
read a third time, and passed as amended	369	N.	
Miller, Noah, a bill from the House of Representatives for relief of, read	64	Naval Affairs, appointment of the standing committee on	26
read a second time, and referred	66	Naval Depots, Mr. Barbour submitted a resolution concerning the establishment of	114
reported without amendment	69	agreed to, and referred	117
Miller, Major Samuel, Mr. Barbour presented the petition of, referred	206	a bill to establish, read	201
the committee discharged	388	read a second time	206
Mint, a bill from the House of Representatives respecting the, read	28	referred to the Naval Committee	287
read a second time, and referred	33	committee discharged	361
reported with amendments	66	Naval Discipline, report on the subject of	120
read a third time, and passed as amended	69	committee discharged	345
a letter from the Secretary of the Treasury on the subject of the	187	Naval Register, a letter from the Secretary of the Navy, with copies of the, for the use of members	118
Mississippi, on motion of Mr. Barbour a committee was appointed to inquire whether any legislative provision is necessary for the admission of, into the Union	10	Navigation, a bill concerning, read twice	307
a resolution to admit, reported, read, and passed	20	ordered to a third reading	339
a letter from David Holmes, Governor of, with a copy of the constitution of said State as ratified by convention	20	read a third time, and passed	341
Mr. Williams submitted a resolution instructing the Judiciary Committee to inquire what provisions are necessary to give effect to the laws of the United States within the State of	32	Navy, Mr. Tait submitted a resolution of inquiry as to what had been done under the act for the gradual increase of the	83
resolution agreed to	35	agreed to, and referred to Secretary of the report from that officer in reply	163
Mr. Leake presented a memorial of the Legislature of, praying an extension of the limits of said State, referred	34	a bill from the House of Representatives making appropriations for the support of the, read	219
		read a second time, and referred	222
		reported without amendment	226
		read a third time, and passed	240
		Navy Pension Fund, report of the Commissioners of the	116
		Mr. Tait submitted a resolution requesting the President to cause to be laid before the Senate at their next session a full statement of the	376
		resolution agreed to	379

## Senate Proceedings and Debates.

	Page.		Page.
New Madrid, a bill limiting the time for claims for lands authorized to be granted to the inhabitants of, read	299	Orr, Benjamin Grayson, Mr. Roberts presented the petition of, referred	256
read a second time, and ordered to a third reading	301	a memorial of, requesting investigation of his conduct as contractor, read	281
read a third time, and passed	307	Osgood, Lemuel H., Mr. Wilson presented the petition of, referred	295
New Orleans, Mr. Johnson presented the petition of the Mayor, &c. of, referred	224	a bill for the relief of, read	296
committee discharged	386	read a second time	301
a bill authorizing the disposal of certain lots in, read	311	ordered to a third reading	307
read a second time	343	read a third time, and passed	309
ordered to third reading	348	Otis, Harrison Gray, of Massachusetts, took his seat	12
read a third time, and passed	349	P.	
Newspapers, on motion of Mr. Lacock, an order was passed for the usual supply of	10	Page, Joseph W., Mr. Smith presented the petition of, referred	80
New York, a bill from the House of Representatives for altering the time for holding the circuit court in the southern district of	242	committee discharged	257
read a first time	256	Parker, Samuel, executor, Mr. Troup presented the petition of, referred	70
read a second time, and referred	258	an adverse report thereon	131
reported without amendment	261	read and concurred in	133
ordered to a third reading with amendments	280	Passengers in mail coaches, Mr. Ashmun submitted a resolution touching the security of	136
read a third time, and passed as amended	281	agreed to, and referred to a committee	139
North Carolina, Mr. Campbell, of Tennessee, submitted a resolution respecting lands granted by, to which the Indian claim has not been extinguished	28	report thereon	294
Mr. Williams, of Tennessee, also presented a representation of the Legislature of his State, respecting grants of land by, referred	35	the committee discharged	297
Mr. Stokes presented the representation and remonstrance of the Legislature of, referred to the same committee	168	Patten, Thomas, Mr. Wilson presented the petition of, referred	69
on motion of Mr. Macon, the proper committee was instructed to inquire into the expediency of granting the assent of Congress to an act of the Legislature of	267	adverse report thereon	286
the bill declaring the assent, &c., as instructed, read	281	read and concurred in	291
read a second time	286	Patterson, William, and others, Mr. Goldsborough presented the petition of, referred	92
ordered to a third reading	295	Paymasters and Quartermasters of the late Army, Mr. Ruggles submitted a resolution to compel a more prompt settlement of the accounts of	174
read a third time, and passed	298	agreed to, and referred to the Military Committee	176
Notaries Public, a bill to regulate the fees of, in Washington, read	261	Pearson, George, a bill from the House of Representatives for relief of the representatives of, read	309
read a second time	263	read a second time, and referred	310
ordered to a third reading	287	reported without amendment	346
O.		ordered to a third reading	360
Ohio, Mr. Morrow submitted a resolution concerning the northern boundary of	35	read a third time, and passed	362
agreed to, and referred to a select committee	60	Pennsylvania, Mr. Lacock submitted a resolution to inquire into the expediency of dividing the State of, into two judicial districts	27
Ohio Company's Purchase, Mr. Ruggles submitted a resolution authorizing the sale of so much of the, as has not been conveyed to settlers	115	agreed to, and referred to the Judiciary Committee	33
agreed to, and referred to the Committee on Public Lands	118	a bill to divide the State of, &c., read	111
Orphans and Widows of persons slain in public or private armed vessels of the United States, a bill in addition to the act giving pensions to, read	134	read a second time	115
read a second time	138	ordered to a third reading	138
ordered to a third reading	167	read a third time, and passed	162
read a third time, and passed	169	Pennsylvania Hospital, a bill from the House of Representatives to remit the duties on a painting for the, read	69
Orr, John, and others, Mr. Morrill presented the petition of, referred	93	read a second time, and referred	72
		reported without amendment	80
		ordered to a third reading	82
		read a third time, and passed	84
		Pensioners of the United States, Mr. Wilson submitted a resolution asking for a list of	214
		agreed to, and referred to the President, &c.	215
		a Message, with report, in reply	297
		Pensions, appointment of the standing committee on	26



## Senate Proceedings and Debates.

	Page.		Page.
Persons held to labor, &c., a bill from the House of Representatives to provide for the delivery of, &c., read -	161	President, committee appointed to inform the, of a quorum for business, &c. -	10
read a second time, and referred -	165	the first Message of the -	12
reported with amendments -	211	reference of the same to appropriate committees -	28
ordered to a third reading -	259	Prisoners of War, a report from the Secretary of the Treasury, relative to the fund appropriated for the safe-keeping, &c., of -	25
read a third time, and passed as amended -	262	Promulgation of the Acts of Congress, Mr. Wilson submitted a resolution in relation to considered, and agreed to -	171
Peters, John, and Sabin Pond, Mr. Otis presented the petition of, referred -	63	Public Accounts, Mr. Sanford submitted a resolution of inquiry into the progress made under the act for the prompt settlement of, agreed to, and referred -	223
report of the Secretary of Treasury thereon -	72	report of the Secretary of Treasury in reply referred to the Finance Committee -	25
report and petition referred to the Committee of Claims -	73	the committee discharged -	128
an adverse report thereon -	116	Public Buildings, on motion of Mr. Lacock, so much of the President's Message as relates to, was referred to the Committee on the District of Columbia -	160
read and concurred in -	133	a bill from the House of Representatives, making further provision for repairing the, read -	362
Petit, Peter. (See Cavalier, Anthony.)		read a second time, and referred -	92
Pettibone, Daniel, Mr. Tichenor presented the memorial of, referred -	224	reported without amendment -	94
committee discharged -	388	ordered to a third reading -	114
Philadelphia Bible Society, Mr. Roberts presented the petition of, referred -	65	read a third time, and passed -	117
committee discharged -	341	Mr. Goldsborough submitted a resolution calling for an annual report of the progress made in the, &c. -	120
Philanthropic Society of Easton, Mr. Goldsborough presented the petition of, -	92	agreed to, and a committee appointed to present it to the President -	132
Phillips, John, the memorial of was referred -	223	a Message, transmitting a report in reply to a bill from the House of Representatives making appropriations for the, read -	138
adverse report thereon -	227	read a second time, and referred -	201
read and concurred in -	230	reported with amendments -	349
Piano-Forte and organ makers, Mr. Goldsborough presented the petition of, referred -	230	ordered to a third reading -	350
Piqua, Ohio, Mr. Morrow presented a petition praying that a land office may be established at -	388	read a third time, and passed as amended -	357
Plantou, Julia, a letter from, proposing to sell to Congress her painting of the Treaty of Ghent, referred -	114	the House of Representatives concurred in some and disagreed to other amendments -	378
report that it is inexpedient to purchase -	118	the Senate receded from the amendments disagreed to -	380
read, and agreed to -	119	Public Deposits, report of the Secretary of the Treasury on the subject of the -	385
Poidevin, Madame, a bill from the House of Representatives for relief of, read twice -	384	Public Documents, Mr. Daggett offered a resolution authorizing the distribution of certain, read -	29
read a third time, and passed -	390	read a second time, and referred -	20
Porter, General Moses, a bill from the House of Representatives for relief of, read -	271	reported with amendments -	21
read a second time, and referred -	272	ordered to a third reading -	34
reported with amendments -	342	read a third time, and passed -	35
ordered to a third reading -	348	Mr. Daggett offered another resolution authorizing a further distribution of certain, read -	61
read a third time, and passed as amended -	349	read a second time -	199
Post Offices and Post Roads, appointment of the standing committee on -	26	read a second time -	202
Post Roads, a bill from the House of Representatives, to alter and establish certain, read -	384	Public Lands, appointment of the standing committee on -	26
read a second time, and referred -	385	Purcell, Wm., adverse report on the petition of read, and concurred in -	83
reported without amendment, and ordered to a third reading -	390	Purchasers of Public Lands, a bill to authorize certain, to withdraw their entries and transfer the moneys, &c. -	91
read a third time, and passed -	392	read a second time -	174
Post Routes, Mr. Ashmun presented the petition of sundry inhabitants of Massachusetts, praying the establishment of certain, referred -	79	ordered to a third reading -	176
Mr. Noble presented a resolution on the subject of -	114	read a third time, and passed -	188
agreed to and referred -	117		200
Mr. Wilson submitted a similar resolution respecting, in New Jersey -	201		
agreed to and referred -	206		
Mr. Ruggles presented a petition for -	281		
Mr. Troup presented a petition for change of Preemption, Mr. Williams presented a memorial of the Legislature of Mississippi relative to the right of, referred -	294		

## Senate Proceedings and Debates.

	Page.		Page.
Quorum, interchange of messages, &c., on the subject of a -	10	Rivers, Joel, Mr. Macon presented the petition of, referred -	26
		adverse report thereon -	80
		read, and concurred in -	81
		Roads, a bill making appropriations for repairing certain, read -	73
		read a second time -	79
		referred to a select committee -	110
		reported with an amendment -	116
		ordered to a third reading -	124
		read a third time, and passed -	130
		Roads and Inland Navigation, appointment of a select committee on -	33
		Mr. Ruggles submitted a resolution to instruct said committee concerning a certain road -	61
		which, being amended, was agreed to -	63
		Robinson, Thomas, and others. (See Half-pay for life.)	
		Rodgers, Commodore John, a bill from the House of Representatives for the relief of, read -	311
		read a second time, and referred -	314
		reported without amendment -	342
		ordered to a third reading -	348
		read a third time, and passed -	349
		Rose, Martin, and William Purcell, Mr. Taylor presented the petition of, referred -	60
		adverse report thereon -	83
		read, and concurred in -	91
		Ross, Henrietta, Mr. Johnson presented the petition of, referred -	240
		committee discharged -	300
		Rossiter, Timothy, and others, Mr. Sanford presented the petition of, referred -	133
		Rotch, Thomas, Mr. Ruggles presented the memorial of, referred -	164
		Rudolph, John, Mr. Horsey presented the petition of, referred -	267
		adverse report thereon -	290
		read, and concurred in -	294
		Russell, Nathaniel, and others, Mr. Smith presented the memorial of, referred -	64
		S.	
		Salaries of certain Officers. (See Heads of Departments.)	
		Sale of Public Lands, Mr. Leake submitted a resolution directing inquiry into the expediency of amending the law relating to the agreed to, and referred to the Land Committee -	73
		a bill from the House of Representatives to suspend the, in Louisiana, &c., read twice, &c. -	384
		indefinitely postponed -	389
		Sanford, Mr., speech of, on his motion relating to duties on importations -	36
		Sargent, John, Mr. Tichenor presented the petition of, referred -	212
		committee discharged -	386
		Secretary of the Senate and Clerk of the House of Representatives, a bill from the House of Representatives fixing the compensation of the, read -	210
		read a second time, and referred -	214
		reported with amendments -	219
		ordered to a third reading -	256
		read a third time, and passed as amended -	260
		Rangers, a bill from the House of Representatives for relief of a company of, read -	361
		read a second time, and referred -	361
		reported without amendment -	367
		indefinitely postponed -	380
		Ready-made Clothing, Mr. Lacock presented the petition of sundry journeymen tailors, praying an additional duty on the importation of, referred -	200
		Receivers and Registers, a bill from the House of Representatives to change the compensation of, read twice, &c. -	384
		read a third time, and passed -	389
		Rector, William, Mr. Morrow presented the petition of, referred -	210
		Regulations for Naval Service, a message, with a copy of the rules and -	392
		Reserved sections of land in Ohio, a bill respecting certain, read -	216
		read a second time -	219
		ordered to a third reading -	264
		read a third time, and passed -	266
		Revolutionary War, a bill from the House of Representatives to provide for surviving officers of the, read -	69
		read a second time, and referred -	72
		reported with amendments -	116
		ordered to be printed -	212
		read a third time, and passed as amended -	223
		the House of Representatives agreed, with an amendment -	231
		in which the Senate concurred -	241
		a resolution from the House of Representatives for printing and distributing the above act, read -	301
		read a second time -	307
		indefinitely postponed -	312
		Rheams, Tobias, a bill from the House of Representatives confirming the claim of, to a certain tract of land -	281
		read the first time -	286
		read a second time, and referred -	291
		reported without amendment -	300
		ordered to a third reading -	308
		read a third time, and passed as amended -	309
		Rhode Island Brigade, Mr. Burrill presented the memorial of the, referred -	114
		committee discharged -	309
		Rice, John, Mr. Fisk presented the petition of, referred -	61
		adverse report thereon -	80
		read, and concurred in -	83
		Rice, Elijah, Mr. Daggett presented the petition of adverse report thereon -	169
		read, and concurred in -	222
		Ridgely, William G., Mr. Goldsborough presented the petition of, referred -	113
		adverse report thereon -	161
		read, and concurred in -	164
		Rights of Subalterns, a memorial from commissioned officers of the Navy, praying legislative provision for the protection of the referred to the Naval Committee -	26



## Senate Proceedings and Debates.

	Page.		Page.
Section No. 29, Mr. Ruggles submitted a resolution respecting -	80	Smith, Israel—continued.	
agreed to, and referred to the Land Committee -	83	read a second time, and referred -	166
Seminole Indians, a Message from the President in relation to the -	288	reported without amendment -	175
the Message ordered to be printed -	289	ordered to a third reading -	223
Senate list of members present at the opening of the -	9	read a third time, and passed -	224
the Vice President of the United States took his seat as President of the -	212	Smith, Catharine M., Mr. King presented the petition of, referred -	274
Settlers on lands of the United States, a bill from the House of Representatives concerning, read -	349	adverse report thereon -	286
read a second time -	350	report reversed, and a bill ordered -	291
reported without amendment -	365	a bill for relief of, read -	295
ordered to a third reading -	380	read a second time -	296
read a third time, and passed -	387	the third reading negatived -	302
Seybert's Statistical Annals, Mr. Barbour submitted a resolution authorizing a subscription to, read -	341	Smith, Samuel, Mr. Lacock presented the petition of, referred -	345
read a second time, and referred -	344	adverse report thereon agreed to -	364
a bill to authorize subscription to, read -	359	Smoot, Benjamin, Mr. Williams presented the petition of, referred -	240
read a second time -	360	committee discharged -	386
ordered to a third reading -	365	Spain, Mr. Barbour submitted a resolution respecting pending negotiations with -	33
read a third time, and passed -	369	agreed to, and the resolution directed to be laid before the President -	35
Seybold, John. (See <i>Essary, Jonathan, &amp;c.</i> )		a Message from the President, with the papers asked for -	265
Shaler, Ephraim, and others, Mr. Tichenor presented the petition of, referred -	34	referred to Committee of Foreign Relations -	286
adverse report thereon -	117	Sparks, Thomas. (See <i>Beck, Paul.</i> )	
read and concurred in -	119	Specie payments on Lands, Mr. Ruggles presented a petition, representing the hardships of requiring, referred -	300
Shoal Creek, Tennessee, a committee appointed to inquire into the expediency of establishing a military depot, &c., at -	173	Sprague, Seth, and others, a bill from the House of Representatives for relief of, read -	349
Sinking Fund, report of the Commissioners of the -	173	read a second time, and referred -	350
Sixth Circuit Court, Mr. Fromentin submitted a resolution relative to compensating the judges of the -	110	reported without amendment -	356
agreed to, and referred to the Judiciary Committee -	115	ordered to a third reading -	366
an adverse report from said committee -	129	read a third time, and passed -	369
read, and concurred in -	202	Staff of the Army, a bill to reduce the, read -	210
Slade's Creek, a bill from the House of Representatives to abolish the port of delivery established at, read -	340	read a second time -	214
read a second time, and referred -	344	referred to the Military Committee -	268
reported without amendment -	356	reported with an amendment -	273
ordered to a third reading -	366	ordered to a third reading -	290
read a third time, and passed -	369	read a third time, and passed -	293
Slaves, Mr. Roberts submitted a resolution respecting the introduction of, into the United States -	266	returned from the House of Representatives with an amendment -	349
agreed to, and referred to a select committee -	267	read, and concurred in -	350
Slocum, Smith P., Mr. Burrill presented the petition of, referred -	299	Standing Committees, appointment of the -	25
adverse report thereon -	343	Stark, Major General John, a bill from the House of Representatives for relief of, read -	384
indefinitely postponed -	349	read a second time, and referred -	385
Small, John, Mr. Taylor presented the petition of, referred -	216	reported without amendment -	387
a bill for relief of, read -	226	ordered to a third reading -	391
read a second time -	228	a motion that it be then read a third time objected to, as against the rule -	391
ordered to a third reading -	269	Stiles, George. (See <i>Tenant, Thomas.</i> )	
read a third time, and passed -	270	Stockton, John, Mr. Horsey presented the petition of, referred -	160
Smith, Mr., speech of, on the bill to provide for Revolutionary survivors -	140	adverse report thereon -	206
on the Fugitive Slave bill -	231	read, and concurred in -	216
Smith, Israel, a bill from the House of Representatives for relief of, read -	161	Stokes, Mountford, of North Carolina, took his seat -	21
		Storer, Clement, appointed a Senator by the Legislature of New Hampshire in place of J. Mason, resigned, produced his credentials, &c. -	9
		Storer, Joseph, Mr. Storer presented the petition of, referred -	63
		committee discharged -	388
		Stubbs, John G., Mr. Morrow presented the petition of, referred -	62
		(See <i>Edwards, William.</i> )	

## Senate Proceedings and Debates.

	Page.		Page.
Sturgess, Robert, Mr. Taylor presented the petition of, referred -	164	Tennessee—continued.	
report of the Secretary of War thereon, referred -	200	reported with amendments -	274
Subsistence of troops, employed against the Seminole tribes, Mr. Williams, of Tennessee, submitted a resolution of inquiry into the manner of -	119	ordered to a third reading -	288
agreed to, and the resolution ordered to be presented to the President -	129	read a third time, and passed -	293
a Message, with report from the Secretary of War in reply -	160	Mr. Campbell presented a memorial of the Legislature of, relating to unsatisfied claims derived from North Carolina, ordered to be printed -	68
Sullivan, Mary, a bill from the House of Representatives for relief of, read twice, and referred -	350	referred to the committee on the above bill -	159
reported without amendment -	360	Territorial Government, Mr. Tait submitted a resolution to repeal the act to create a separate, in the eastern part of Mississippi -	117
ordered to a third reading -	377	agreed to, and referred -	119
read a third time, and passed -	379	a bill to alter and amend the act mentioned, read -	136
Surplus Lands, Mr. Taylor submitted a resolution relating to -	93	read a second time -	138
agreed to, and referred to the Land Committee -	109	referred to a committee -	169
Surveyor of Public Lands, Mr. Williams submitted a resolution to inquire what had been done under the act authorizing the appointment of a, in the northern part of Mississippi -	110	reported with amendments -	175
amended, and ordered to be presented to the President -	115	ordered to a third reading -	217
a Message, containing a reply thereto -	217	read a third time, and passed -	219
a bill allowing an additional salary to the, in Illinois and Missouri, read -	226	Texas, on motion of Mr. Fromentin, the petition of the inhabitants of, presented at the last session of Congress, was referred to the Land Committee -	172
read a second time -	228	the committee discharged -	386
ordered to a third reading -	264	Third Auditor, a bill from the House of Representatives, transmitting the claim from the office of Commissioner of Claims to that of the, read three times, and passed -	392
read a third time, and passed -	266	Thompson, John, a bill from the House of Representatives, in addition to the act for relief of, read twice, and referred -	78
Swain, Joshua, and others, Mr. Dickerson presented the petition of, referred -	119	reported without amendment -	90
an adverse report thereon -	170	recommitted to same committee -	93
read, and concurred in -	172	reported, and a third reading negatived -	116
St. Clair, Major General Arthur, a bill from the House of Representatives for relief of, read twice, and referred -	173	Mr. Barbour presented the petition of, and gave notice that he meant to ask leave to bring in a bill -	119
reported with amendments -	176	according to notice, Mr. Barbour introduced a bill, in addition to the act for the relief of, which was read -	162
ordered to a third reading -	200	read a second time -	165
read a third time -	212	ordered to a third reading -	168
after debate, passed as amended -	214	read a third time, and passed -	169
		Thorn, Joseph, a bill from the House of Representatives for the relief of, read -	308
		read a second time, and referred -	309
		reported without amendment -	356
		third reading negatived -	368
		Thorndike, Israel, Mr. Otis presented the petition of, referred -	128
		a bill for relief of, read -	280
		read a second time -	286
		indefinitely postponed -	295
		Three per cent., Mr. Noble submitted a resolution respecting the, due to Indians on the sales of lands, &c. -	64
		agreed to, and referred -	66
		a bill to provide for paying the, read -	80
		read a second time -	84
		read a third time, and passed -	90
		returned from the House of Representatives with amendments -	311
		read, and disagreed to -	342
		Tiernan, Luke, and others, Mr. Goldborough presented the petition of, referred -	206
		committee discharged -	386
		Timberlake, John B., Mr. Barbour presented the petition of, referred -	364
		committee discharged -	388



## Senate Proceedings and Debates.

	Page.		Page.
Tompkins, Daniel D., Vice President, attended, and took the Chair	212	Vaccine Agents—continued.	
notice that he will retire for the session	299	read a second time, and referred	292
Tonnage and Discriminating Duties, a bill concerning, read twice	362	reported with amendments	294
ordered to a third reading	365	bill rejected	299
read a third time, and passed	369	Valle, John Baptist, Mr. Morrow presented the petition of, referred	64
returned from the House of Representatives with amendments	384	committee discharged	386
read, and concurred in	389	Van Dyke, Nicholas, of Delaware, took his seat	62
Traffic in Negroes, Mr. Goldsborough presented a memorial of the Society of Friends on the subject of, referred	61	Varick, Richard, and others, Mr. King presented the memorial of, referred	70
Transportation of Persons of Color, a bill respecting the, read	172	committee discharged	255
read a second time	174	Vincennes, Mr. Taylor presented the petition of the Trustees of the University, referred	62
ordered to a third reading	261	adverse report thereon	94
read a third time, and passed	263	read, and concurred in	109
Treasurer of the United States, the general account of, presented	273	Mr. Taylor presented the petition of citizens of, referred	201
Treasury Notes, a bill from the House of Representatives to authorize payment on lost, &c., read twice, and referred	358	a bill to adjust the claims to lots in the town of, read	219
indefinitely postponed	390	read a second time	222
Treaty of Ghent, Mr. Troup submitted a resolution to inquire of the President as to the execution of the first article of the	32	ordered to a third reading	268
agreed to, and the resolution directed to be presented	35	read a third time, and passed	270
a Message, with the report of the Secretary of State in reply	68	Mr. Taylor presented another petition of citizens of, read, and referred	262
another Message, relating to the construction given by the Commissioners to the fourth article	225	committee discharged	386
Troup, George M., of Georgia, took his seat	24	Vine and Olive, Mr. Daggett submitted a resolution asking the President for information as to proceedings under the act to encourage the cultivation of the	70
remarks of, on Mr. Burrill's resolution relating to the African slave trade	74, 75	amended, and agreed to	72
speech of, in reply to Mr. Burrill	99	a Message, with the information asked for referred to the Land Committee	280
Troup, James, and others, Mr. Troup presented the petition of, referred	82	Virginia, a bill from the House of Representatives altering the time for holding the district court of, read	219
Troup, John, Mr. Sanford presented the petition of, referred	219	read a second time, and referred	222
Tyler, Benjamin O., a letter from, presenting to the Senate the first fac simile copy ever made of the Declaration of Independence	381	reported without amendment	226
U.		ordered to a third reading	269
Useful Arts, a bill to promote the progress of, read	174	read a third time, and passed	270
read a second time, and referred	176	Virginia Military Land Warrants, Mr. Eppes submitted a resolution extending the time for locating &c.	62
reported with amendments	223	agreed to, and referred	63
ordered to a third reading	262	a bill to extend the time, &c., read	64
read a third time, and passed	263	read a second time	66
a bill in addition to the act to promote the progress of, read twice, and referred	219	ordered to a third reading	68
reported with amendments	223	read a third time, and passed	69
ordered to a third reading	262	returned from the House of Representatives with amendments	310
indefinitely postponed	362	read and concurred in	346
Useless Officers of the Customs, Mr. Goldsborough presented a resolution requesting the President to cause to be laid before the Senate at the next session a list of	368	Volunteer Mounted Cavalry, a bill from the House of Representatives for relief of, read	361
modified and agreed to	376	read a second time, and referred	361
V.		reported without amendment	367
Vaccine Agents, a bill from the House of Representatives to extend the privilege of franking to	281	ordered to a third reading	383
read	286	read a third time, and passed	387
		W.	
		Wait, Thomas B. & Sons, Mr. Otis presented the memorial of, referred	171
		a bill authorizing a subscription for the eleventh volume of the State Papers of, read	219
		read a second time	222
		ordered to a third reading	274
		read a third time, and passed	279
		Wait's State Papers, a resolution from the House of Representatives directing the Judges of the Supreme Court to be furnished with	206

## Senate Proceedings and Debates.

	Page.		Page.
Wait's State Papers—continued.		Williams, Benoni, Mr. Lacock presented the petition of, referred	266
resolution read	210	adverse report thereon	272
read a second time, and referred	214	read, and concurred in	278
reported without amendment	215	Wilson, William, and others, Mr. Goldsborough presented the petition of, referred	70
read a third time, and passed	227	Wilson, Richard K., Mr. Roberts presented the petition of, referred	218
Walder, Loring A., Mr. Noble presented the petition of, referred	118	adverse report thereon	286
committee discharged, and papers referred to the Postmaster General	388	read, and concurred in	291
Ward, Samuel, Mr. King presented the petition of, referred	216	Wigman, Charles. (See Clifford, Thomas, and others.)	
a bill for relief of, read	258	Wiseman, Abraham, Mr. Taylor presented the petition of, referred	136
read a second time	260	Witnesses before Courts Martial, Mr. Ashmun submitted a resolution relating to provision for the attendance of	94
ordered to a third reading	279	agreed to, and referred	110
read a third time, and passed	287	report thereon	128
Warnack, Frederick C., Mr. Williams of Tennessee presented the memorial of	171	referred to the Naval Committee	174
Warner, Martin, Mr. Daggett presented the petition of, referred	132	said committee discharged therefrom	361
a bill for the relief of, read	172	Work, John, a bill from the House of Representatives for relief of, read twice, and referred	345
read a second time	174	reported without amendment	361
ordered to a third reading	177	ordered to a third reading	380
read a third time, and passed	187	read a third time, and passed	389
Washington, Mr. Goldsborough presented the petition of the Mayor, &c. of the city of, referred	256	Worthington, Gad, a bill from the House of Representatives for relief of, read	311
a bill supplemental to the act to amend the charter of, read	266	read a second time, and referred	341
read a second time	267	reported without amendment	352
ordered to a third reading	288	third reading negatived	368
read a third time, and passed	301	Wright, Thomas, Mr. Morrill presented the petition of, referred	115
Wells, George R. (See Austin, Major Loring.)		adverse report thereon	230
Wells, Benjamin, Mr. Lacock presented the petition of, referred	210	read, and concurred in	241
adverse report thereon	257	Y.	
read, and concurred in	260	Yeas and Nays, on striking out part of the resolution on the African slave trade	108
Welsh, Ann, Mr. Daggett presented the petition of	110	on concurring in the adverse report in the case of Peter & Pond	133
adverse report thereon	306	on entering on the Journal the resolution and instructions of Tennessee	170
read, and concurred in	309	on indefinite postponement of the bill for relief of survivors, &c.	200
Wendell, Jacob, and others, Mr. Storer presented the petition of, referred	214	on amending the same	211, 220, 221, 222
Wetmore, Alphonso. (See Shaler, Ephraim.)		on referring the bill for relief of General St. Clair	212
White, Hatfield, Mr. Ruggles presented the petition of, referred	27	on the final passage of the same	214
a favorable report made	73	on the third reading of the bill providing for survivors, &c.	222
read, and negatived	79	on amending the Fugitive Slave bill	225, 259
White, Margaret, Mr. Wilson presented the petition of, referred	161	on the third reading of the resolution to amend the Constitution	229
adverse report thereon	257	on discharging the Military Committee from certain petitions	230
read, and concurred in	260	on concurring in certain amendments of the House of Representatives to the bill for survivors, &c.	241
White, Vassel, Mr. Ashmun presented the petition of, referred	167	on the third reading of a resolution to amend the Constitution	242
adverse report thereon	294	on indefinite postponement of the Fugitive Slave bill	258
read, and concurred in	297	on the final passage of the same	262
Wilcox, De Lafayette. (See Shaler, Ephraim.)		on concurring in adverse report on a petition in behalf of Revolutionary officers	263
Willard, Silas, Mr. Fisk presented the petition of, referred	32	on fixing a day for the adjournment of Congress	267
a bill for the relief of, read	66		
read a second time	68		
ordered to a third reading	73		
negatived	81		
Williams, John, appointed a Senator by the Legislature of Tennessee, produced his credentials, &c.	9		
Williams, Thomas H., appointed a Senator by the Legislature of Mississippi, produced his credentials, &c.	25		
drew the lot for longest term	28		



## House Proceedings and Debates.

Yeas and Nays—continued.	Page.	Yeas and Nays—continued.	Page.
on amending the bill for adjusting claims to land in Indiana and Missouri -	272, 279	on the final passage of the bill for compensation to certain judges -	346
on the question of passage of the same -	281	on the third reading of the bill for relief of John Hall -	353
on the third reading of the bill authorizing Tennessee to issue grants, &c. -	288	on the third reading of the bill supplemental to the act to incorporate the United States Bank -	365
on the third reading of the bill to reduce the staff of the Army -	290	on amending the bill concerning Executive Departments -	369
on indefinite postponement of Mr. Barbour's resolution to amend the Constitution -	292	on the third reading of the same -	369
on postponement of the bill concerning controversies -	308	on amending the bill making appropriations for repairing, &c., the public buildings -	378
on postponement of the bill to increase the compensation of certain judges -	310	on amending the bill laying additional duties on iron -	381
on the third reading of the Navigation bill -	339	on amending the resolution giving extra pay to servants, &c., of the Senate -	383
on the final passage of the same -	341		
on filling the blanks in the compensation to certain judges -	344		

## HOUSE OF REPRESENTATIVES AND APPENDIX.

A.	Page.	Alphabetical Index—continued.	Page.
Abbott, Mr., of Georgia, speech of, on the right of expatriation -	1086	read a third time, and passed -	1457
Abolition Society of Kentucky, Mr. Trimble presented the petition of the, referred -	517	Amelia Island, appointment of a select committee on the subject of -	405
Mr. Sergeant presented a similar petition from Pennsylvania, also referred -	829	Mr. Rhea submitted a resolution concerning amended, agreed to, and a committee appointed to wait on the President -	409
Accounts, appointment of the standing committee of -	400	a Message, with the information asked for report of select committee on the state of -	416
on motion of Mr. Bassett, the said committee were instructed to inquire into the manner in which the contractor for printing and stationery had performed that duty -	431	a Message from the President, stating that the United States forces had taken possession of -	448
a report, exculpatory of the contractor, read -	486	on motion of Mr. Sergeant, a committee was appointed to request of the President any further information he may possess relating to -	646
Adams, Mr., of Massachusetts, remarks of, on the Fugitive Slave bill -	837	a Message from the President, transmitting sundry papers in relation to -	711
African Colonization, Mr. Mercer's report on the subject of -	1771	the papers and documents then transmitted, (Appendix) -	1447
Aguirre, Don Manuel, &c., correspondence of, with the Secretary of State -	1889	documents from the Secretary of State relating to the occupation of -	1523
Aikman, Samuel, a bill for relief of, read twice ordered to a third reading -	475	(Appendix) -	1785
read a third time, and passed -	508	documents from the Secretary of State relating to the occupation of -	1897
returned from the Senate with an amendment -	515	American Bible Society, Mr. Sergeant presented the petition of the, referred -	499
read, and concurred in -	579	a bill for remission of certain duties on importations by the, read twice -	818
Alabama Territory, the Speaker presented the petition of the Legislature of, praying to be invested with the power to incorporate turnpike companies, &c., referred -	609	read a third time, and ordered to lie on the table -	823
a bill concerning, read twice, &c. -	1451	recommitted to a Committee of the Whole -	879
read a third time, and passed -	1456	American and British Tonnage, Mr. Pitkin submitted several resolutions concerning -	516
Alien Duties, a bill from the Senate to remit certain, read twice, &c. -	1431	American Colonization Society, on motion of Mr. Mercer, the committee on the memorial of the, were instructed to inquire into the expediency of more effectual provision for prohibiting the African slave trade -	528
reported without amendment -	1450		
read a third time, and passed -	1778	American Manufactures, Mr. Johnson submitted a resolution to clothe the Army in -	495
Allison, Rev. Mr., election of, as Chaplain -	406	Amory, Jonathan, a bill for relief of, read twice ordered to a third reading -	846
Alphabetical Index to acts and resolutions, Mr. Taylor submitted a resolution respecting an, read twice, and ordered to a third reading -	1452	read a third time, and passed -	1698

## House Proceedings and Debates.

Page.	Page.
Amount of sums awarded under the Property Act, a report stating the, from the Secretary of War -	982
referred to the Committee of Claims -	1007
Anderson, Mr., of Kentucky, remarks of, on the Commutation bill -	480
speech of, in the case of Colonel John Anderson -	618
on the bill concerning the right of expatriation -	1035
on the Ohio contested election -	1435
Anderson, Colonel John, a bill to indemnify, twice read -	517
ordered to a third reading -	531
read a third time, and passed -	534
Mr. Williams, of North Carolina, submitted to the House a letter he had received from, offering a bribe, which was read -	580
Mr. Forsyth submitted a resolution requiring the Sergeant-at-Arms to take, into custody -	582
passed unanimously -	583
is brought to the Bar of the House -	608
letters from the Speaker, read -	650
interrogatories propounded to, at the Bar of the House -	777
address of, to the House -	789
address of the Speaker to -	789
discharge of, from custody -	790
Anderson, John, a bill for relief of, twice read the Speaker presented a petition of, praying that the bills reported for his relief may be taken up and disposed of, laid on the table -	1455
ordered to a third reading -	1677
read a third time, and passed -	1681
Andrew, James, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing, on the pension list -	431
Appropriations, a letter from the Secretary of the Treasury with estimates of -	476
a bill supplementary to the act making, for the current year, read twice -	1717
Ariadne, ship, a bill for relief of the owners of the, ordered to a third reading -	1715
the third reading negatived -	1719
Armories, report of the Secretary of War of expenditures, &c., at each of the -	879
Arms and Military Stores, on motion of Mr. Huntington, the Secretary of War was directed to make a report of -	530
report of that officer in obedience thereof -	981
Armstrong, General, a bill authorizing payment of certain bills drawn by, in favor of Thomas Morgan, read twice, &c. -	1222
Army of the United States, on motion of Mr. Mercer, a committee was appointed to request the President to cause to be laid before the House a return of the present strength of the, &c. -	432
a Message, with a report of the Secretary of War in reply -	496
a bill respecting the organization of the, &c., read twice, and committed -	818
reported with amendments, and ordered to a third reading -	1680
read the third time, and passed -	1681
Army of the United States—continued.	
returned from the Senate with amendments, and concurred in -	1777
a bill from the Senate regulating the staff of the, read twice, &c. -	1568
reported without amendment, and ordered to lie on the table -	1656
amended, and returned to the Senate for concurrence -	1692
Arrearages, a bill making appropriation for the payment of, read twice -	737
read a third time, and passed -	799
returned from the Senate with an amendment -	832
read and referred -	842
agreement recommended and concurred in -	846
Arundel, Mrs., committee discharged from considering the petition of -	1721
Assessors of the United States, on motion of Mr. Barbour, of Virginia, the Committee of Ways and Means were instructed to inquire into the expediency of authorizing the President to distribute an annual sum amongst the, for extra services -	854
report adverse to the expediency of the measure, read -	1681
Aury, Commander-in-Chief at Amelia Island, letters from, to the United States officers who summoned him to surrender said island -	1804
Austin, Archibald, of Virginia, appeared, and was qualified -	468
remarks of, on the motion to inquire into the conduct of clerks -	786
speech of, on the resolution concerning internal improvement -	1201
Austin, Major Loring, a bill for relief of, read twice, &c. -	814
reported, and ordered to a third reading -	1672
read the third time, and passed -	1676
Authentication of Public Acts, &c., on motion of Mr. Spencer, the Judiciary Committee were instructed to inquire concerning the -	431
a bill concerning the, read twice -	500
indefinitely postponed -	799
Auxiliary Colonization Society, of Richmond, Mr. Tucker presented the memorial of the, referred -	529
Awards under the Property Act, on motion of Mr. Forsyth, the Secretary of War was directed to report an account of the -	431
report of the Secretary of War in reply -	983
B.	
Baker, John, a bill for relief of the legal representatives of the late, and of the late Peter Trouillet, read twice, and committed -	1223
Baldwin, Henry, of Pennsylvania, appeared and was qualified -	405
remarks of, on the bill to abolish internal duties -	428
speech of, on the question of its passage -	434
on the Commutation bill -	481
remarks of, on the bill concerning records &c. -	564
on the Fugitive Slave bill -	828
on the resolution for adjournment -	1181
Ball, Mr., of Virginia, remarks of, on the Commutation bill -	479



## House Proceedings and Debates.

	Page.		Page.
Ball, Mr.—continued.		Beaumarchais—continued.	
speech of, on the motion to appoint a committee of privileges	603	papers communicated to the House, relating to the claim of	2389
remarks of, on the motion not to receive the Pazo memorial	1256	correspondence of the Secretary of State with Ministers of France on the claim of	2393
Ball, Mottrem, a bill for the relief of, read twice	1223	the correspondence of Caron de, with Messrs. Leo and Deane	2409
Bank of the United States, the Speaker presented the petition of the, referred	710	Beavertown, Pennsylvania, on motion of Mr. Moore, the Committee on Post Offices, &c., were instructed to inquire into the expediency of allowing extra compensation to the postmaster at	445
a bill to amend the act to incorporate the, read twice	792	Beecher, Mr., of Ohio, remarks of, on the bill to abolish internal duties	430
a bill from the Senate in addition to an act to incorporate the	1724	on the Commutation bill	484
read a first time, and a motion to read a second time negatived	1725	on the motion for a committee of privileges	592
the bill indefinitely postponed	1762	speech of, on the adoption of said motion	605
Mr. Forsyth submitted a motion concerning the, read	846	remarks of, on the report of that committee on Mr. Spencer's resolutions in the case of Anderson	650
Bankruptcy, a bill to establish a uniform system of, read twice	444	speech of, on Mr. Rhea's proposed amendment to the same	748
read a third time, <i>in extenso</i>	896	Belfast, made a port of entry for a new collection district. (See <i>Bath</i> .)	
indefinitely postponed	1027	Berry, Benjamin, a bill for relief of, read twice	890
Barbour, Mr., of Virginia, speech of, on the repeal of internal duties	438	ordered to a third reading	1697
in the case of Colonel John Anderson	624	read the third time, and passed	1714
in reply to objections made against his arguments	705	Bienvenue, Antoine, report of the Secretary of State on the petition of, referred	445
on the Bankrupt bill	1020	adverse report thereon	501
on the resolution concerning internal improvement	1151	Birdsall, Benjamin, and William S. Foster, a bill for relief of, read twice, &c.	819
in reply to a remark of Mr. Clay	1179	ordered to a third reading	1682
Baribeau, Pierre, on motion of Mr. Scott, the petition of, presented a year ago, was referred to the Committee on Public Lands	823	read the third time, and passed	1687
Bar Iron, &c., on motion of Mr. J. S. Smith, the Secretary of the Treasury was directed to report to the House a statement of the number of tons of, annually imported	893	Blagrove, William, the Speaker presented a letter from, complaining of the Chief Clerk of the Navy Department, read, and ordered to lie on the table	1691
Barker, Stephen. (See <i>Miller, Thomas</i> .)		Bland, Theodorick, report of, on the condition of South America	2104
Barney, John, adverse report on the petition of, concurred in	818	Bloomfield, Mr., remarks of, on the bill for surviving officers, &c.	491, 493
Barton, William, a bill for relief of, read twice	1013	on proposed inquiry into conduct of clerks	786
Bassett, James. (See <i>Gunboats</i> .)		Bogert, John G., a bill from the Senate for relief of, read twice and referred	1604
Bassett, Mr., remarks of, on his motion to lay on the table the motion of Mr. Forsyth, not to receive the memorial of Vincente Pazos	1266	the committee recommend the rejection of, and bill and report committed	1660
Bate, John, Mr. Johnson reported a bill for relief of, twice read	409	Boundary Lines, on motion of Mr. Burwell, the Secretary of the Treasury was directed to report a statement of the expenses of the Commissioners for settling the, under the Treaty of Ghent	893
referred to the Secretary of the Treasury	447	a letter from the Secretary of the Treasury, with a statement	953
his report thereon referred to the Committee of Claims	508	report of the committee on the subject of disputed, with Great Britain	2375
bill reported, with amendment	566	between Kentucky and Tennessee, memorial of the Kentucky Legislature on the subject of	2363
ordered to a third reading, with the amendment	1451	Bounties to Manufacturers, on motion of Mr. Drake, of Massachusetts, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of offering, in certain cases	509
read a third time, and passed	1452	Brevet Officers, a bill from the Senate regulating the pay and emoluments of, read	1456
Bateman, Ephraim, of New Jersey, appeared, and was qualified	399	read a second time, and referred	1469
Bath, Massachusetts, a bill making, a port of entry, &c., read twice	1723	ordered to a third reading	1721
read the third time, and passed	1738	read the third time, and passed	1723
Bayley, Thomas, of Maryland, appeared, and was qualified	405		
Beaumarchais, the heirs of, a Message from the President relating to the claim of, referred	782		
the committee discharged, and papers referred to Committee of Claims	790		
the latter discharged, and referred to a select committee	792		
a bill relative to the claim of, read twice	1006		

## House Proceedings and Debates.

	Page.		Page.
Brevet Rank, on motion of Mr. Mercer, the Secretary of War was directed to report a list of all officers who held, at the close of the war	487	Bursiel, James—continued.	
a letter from the Secretary of War, with a statement in reply	514	the vote of concurrence reconsidered, and the report laid on the table	518
a bill respecting the allowance of extra pay, &c., to officers holding, read twice, &c.	893	taken up, and again concurred in	1393
indefinitely postponed	1721	Burwell, Mr., of Virginia, remarks of, on the bill concerning the public buildings	590
Briggs, Isaac, a bill from the Senate for relief of, read twice, and referred	825	on his resolution calling for a statement of the expenses of the Commissioners under the Treaty of Ghent, &c.	882
reported, with an amendment	829	Business, Mr. Bassett submitted an amendment to the standing rules, &c., relative to the order of, read	792
ordered to a third reading	1721	question of agreement negatived	793
read the third time, and passed as amended	1724	on motion of Mr. Pitkin, a joint committee was appointed to report on the, before the two Houses	1656
the Senate disagreed to the amendment	1737	report of said committee ordered to lie on the table	1674
the House receded	1739	Byington, Abraham, an adverse report on the petition of, recommitted, with instructions to report a bill	513
Brook, Edmund, an adverse report on the petition of, referred to a Committee of the Whole	580	a bill for the relief of, twice read, &c.	533
report agreed to, and the prayer of the petition rejected	1452	ordered to a third reading	1401
Brown, Major General Jacob, a bill for relief of, read twice, and committed	866	read a third time, and passed	1405
ordered to a third reading	1672		
read the third time, and passed	1676	C.	
returned from the Senate, with amendments concurred in	1738	Cadets, a bill for the admission of, into the Military Academy	1007
Brown, Frederick, a bill for relief of, read twice	1429	Cape Vincent, a bill to establish a port of entry at, read twice, &c.	1671
ordered to a third reading	1682	read the third time, and passed	1676
read the third time, and passed	1687	Capture and imprisonment of certain persons, a Message from the President relative to the	1739
Broutin, Narcissus, and others, a bill for relief of, twice read, &c.	935	Carr, Thomas, and others, a bill for the benefit of, twice read, &c.	866
reported with amendments, and ordered to lie on the table	1451	laid on the table	1721
ordered to a third reading	1452	Carroll, Daniel, a letter from, on the subject of a site for the Executive offices, read	1450
read a third time, and passed	1457	Carroll, Major General William, and Brigadier General John Coffee, Mr. Claiborne submitted a resolution, requesting the President to present gold medals to each	1667
returned from the Senate with an amendment, which was concurred in	1677	resolution laid on the table	1671
Buell, Samuel, on motion of Mr. Palmer, the report of the Secretary of the Treasury on the petition of, was referred to the Committee of Ways and Means	831	Carter, Landon, a bill from the Senate for relief of the heirs of	489
Bullock, Josiah, a bill for the relief of, read twice	824	read twice, and referred	490
reported with an amendment, and ordered to a third reading	1697	reported without amendment, and referred to the Committee of Pensions and Revolutionary Claims	508
read the third time, and rejected	1715	reported with an amendment, and committed	1673
Bunnell, Cata, a bill from the Senate for relief of, read twice, and referred	1523	indefinitely postponed	1769
reported without amendment, and ordered to a third reading	1656	Carvers and Gilders of wood, adverse report on the petition of, concurred in	1655
Burch, Benjamin, appointment of, as assistant doorkeeper	399	Cavalier, Anthony, and Peter Petit, a bill from the Senate to confirm a certain claim of	1691
Burghart, Adolphus, a bill for relief of the heirs of, read twice, &c.	1380	read twice, and referred	1696
Burnet, Daniel, Gibson Clark, and the representatives of Hubert Rowell, a bill for the relief of, twice read, &c.	935	reported, without amendment	1718
ordered to a third reading	1451	Caze and Richaud, the petition of, read	871
read a third time, and passed	1452	Certain crimes against the United States, a bill in addition to the act to punish, read twice, &c.	542
returned from the Senate with an amendment, and referred	1656	indefinitely postponed	1406
agreement reported with an amendment, and ordered to lie on the table	1674	vote reconsidered, on motion of Mr. Clay, and the bill amended and ordered to be printed	1435
amendment withdrawn, and the Senate's amendment concurred in	1681	ordered to a third reading	1455
Burr, Samuel, a bill for relief of, read twice, &c.	1447	read a third time, and passed	1469
Bursiel, James, adverse report on the petition of, concurred in	515	returned from the Senate, with amendments	1721



## House Proceedings and Debates.

	Page.		Page.
Certain crimes, &c.—continued,		Clagett, Mr.—continued.	
report of the Committee of Foreign Relations on those amendments	1737	remarks of, on the report of the Committee on Internal Improvement	1115
amendments of the Senate agreed to in part, and disagreed to in part	1765	speech of, on the resolution relative to the same	1132
a bill more effectually to provide for the punishment of, read twice, &c.	1012	Claiborne, Thomas, of Tennessee, appeared, and was qualified, &c.	399
Certain Judges of the United States, a bill from the Senate to increase the compensation of, twice read	1687	remarks of, on his resolution concerning the Judiciary	419
indefinitely postponed	1692	on his proposition to add the names of Generals Carroll and Coffee to that of Colonel R. M. Johnson, in the Senate's resolution to present a sword to the latter	1665
Certificates and Indents, Mr. Rhea submitted a resolution concerning	463	on his resolution for medals to the officers named above	1667, 1669
agreed to, and referred to the Committee on Pensions, &c.	464	speech of, on the supplementary Bank bill	1749, 1761
a bill to authorize the payment of certain, read twice, &c.	533	Claims, appointment of the standing committee of	400
ordered to a third reading	1401	report of the Secretary of War, of sums awarded by the Commissioner of, under the act authorizing payment for property lost, &c.	982
read a third time, and passed	1405	Claims to land in Illinois, a bill confirming certain, read twice, &c.	1006
returned from the Senate, with amendments read, and concurred in	1691	Clammorgan, Jacques. (See <i>Winter, Elisha, and others.</i> )	
Cevallos, Don Pedro, correspondence of, with Mr. Erving, on the subject of Mr. Meade's imprisonment	1818	Clapp, Stephen, adverse report on the petition of	1072
Chalmers, John, report of facts relative to the claim of, referred	866	Clark, Gibson. (See <i>Burnet, Daniel.</i> )	
Champe, Nathaniel, and others, Mr. Harrison presented the petition of, referred	1405	Clark, Ashael, a bill from the Senate for relief of, read twice, &c.	1431
Chaplains, a resolution from the Senate for the appointment of two, concurred in	405	read the third time, and passed	1687
Cheney, Samuel, and Robert Ramsay, a report from the Secretary of the Navy on the petition of	1451	Claxton, Thomas, appointment of, as Doorkeeper	399
Cheney, Meley. (See <i>Johnson, John.</i> )		Clay, Henry, election and address of, as Speaker	398
Chesapeake Bay, a joint resolution directing the completion of the survey of, read twice	1692	speech of, on his motion to amend a reference to the Committee of Foreign Relations	401
read a third time, and passed	1697	remarks of, on the bill to abolish internal duties	427
returned from the Senate, with amendments read, and concurred in	1766	on the Commutation bill	461
Chesapeake and Delaware Canal Company, on motion of Mr. McLane, the Committee on Roads and Canals were instructed to inquire into the expediency of authorizing a subscription to the stock of the	445	on presenting a new bill on the same subject	469
Chew, Beverly, Collector of New Orleans, a letter from, to the Secretary of the Treasury, on the subject of piratical establishments	1769	speech of, in reply to several speakers	473, 485
Chili, Mr. Bland's report on the condition of	2163	remarks of, on the Compensation bill	573
manifesto of the Government to the people of	2222	on the power of the House to issue a warrant of arrest	583
statistics of	2230	address of, to Colonel John Anderson, at the bar of the House	608
Christmas Holiday, Mr. Spencer offered a resolution for temporary adjournment for the, read three times, and passed	508	remarks of, on the Fugitive Slave bill	828
Circuit Court of the United States, a bill from the Senate to extend the jurisdiction of, to cases under the Patent law, read twice	1381	on the bill for uniform system of bankruptcy	1010
reported, without amendment	1382	on the report of the Committee on Internal Improvement	1115, 1117
Circuit and District Courts of the United States, on motion of Mr. Parris, the Judiciary Committee were instructed to inquire into the expediency of requiring further security from the clerks, &c., of the	737	speech of, in reply to Messrs. Barbour and A. Smyth	1164
Circular, from the Secretary of the Treasury	2338	in reply to a remark of Mr. Barbour	1179
Clagett, Mr., of New Hampshire, speech of, on the case of Anderson	738	on the Constitutional power of Congress over internal improvement	1359
on the Fugitive Slave bill	825	remarks of, on the bill in addition to the act to punish certain crimes, &c.	1403
		speech of, on offering an amendment to the same	1406
		in reply to Messrs. Forsyth and Lowndes	1414, 1433
		in reply to Messrs. Smith and Tucker, of Maryland	1424
		on the sending Commissioners to South America	1465
		in reply to Mr. Forsyth, on the same subject	1467

## House Proceedings and Debates.

	Page.		Page.
Clay, Henry—continued.		Commerce and Manufactures, appointment of the standing committee of	400
speech of, on his proposition to send a Minister to Buenos Ayres	1474	Committee of Privileges, Mr. Forsyth submitted a resolution to appoint a, to consist of seven members, to sit immediately, and report a mode of proceeding in the case of John Anderson	592
in reply to objections to his proposition	1605	agreed to, and appointment made	606
in reply to Messrs. Forsyth and Smith, of Maryland	1643	report of the	607
Clerks, on motion of Mr. Ingham, a committee was appointed to inquire what alterations are necessary in the act to fix the compensation of	815	Commutation of Military Bounty Lands, on motion of Mr. Comstock, the Military Committee were instructed to inquire into the expediency of making provision for a	405
a bill to regulate and fix the compensation of, read twice, and committed	1223	a bill authorizing the, read twice	409
reported, and ordered to a third reading	1765	a third reading negatived	816
read the third time, and passed	1769	Compensation, a bill allowing, to members of Congress, twice read	542
report of the committee appointed to inquire into the official conduct of the	1649	ordered to a third reading	579
Mr. H. Nelson presented the petition of the, in the Executive Departments, referred	1722	read a third time, and passed	589
Clifford, Thomas, and John, a bill for relief of, twice read	772	returned from the Senate, with an amendment	710
ordered to a third reading	1667	read, and concurred in	791
read the third time, and passed	1672	Comstock, Mr., of New York, remarks of, on the Commutation bill	472
returned from the Senate, with amendments read, and concurred in	1744	speech of, on his resolution to pension the wounded officers of the late army	537
Coasts of the United States, a bill from the Senate to repeal a part of the act for surveying the	1691	remarks of, on the Compensation bill	578
read twice, and ordered to a third reading	1696	on the resolution for a Committee of Privileges	606
read the third time, and passed	1714	on the motion to inquire into the official conduct of clerks	784
Cobb, Mr., of Georgia, speech of, on the bill relative to the militia claims of said State	522	Congress, Mr. Sergeant submitted a resolution for the adjournment of, on the — day of March, which was laid on the table	1054
remarks of, on the bill concerning the authentication of records, &c.	536	on motion of Mr. Taylor, a joint committee was appointed to fix the day of adjournment of, and notice thereof sent to the Senate	1097
speech of, on the Compensation bill	585	report of said joint committee, with a resolution fixing the 13th of April, twice read	1138
remarks of, on the examination of Colonel Watson	780	read a third time	1181
on the Commutation bill	808	and, after further discussion, passed	1182
on the Fugitive Slave bill	828	on motion of Mr. Taylor, a committee was appointed to inquire into the expediency of appointing an earlier commencement of the next session of, than the stated time	1450
speech of, on the bill concerning expatriation	1066	a bill fixing the time for the next meeting of, read twice	1456
on the memorial of Vincente Pazos	1267	ordered to a third reading	1656
on his resolution to increase the pay of militia engaged in the Seminole war	1673	read a third time, and passed	1664
Cole, Mehitabel, a bill granting the land therein mentioned to, read twice, &c.	1007	returned, with amendment	1738
Colonial Trade, report in relation to the	866	concurrent in	1739
Colston, Mr., of Virginia, remarks of, on the Commutation bill	480	the resolution fixing the 13th April for adjournment of, was returned from the Senate with an amendment, substituting the 20th of April, and agreed to	1649, 1770
on the bill concerning Revolutionary survivors	492	adjournment of, to the third Monday in November	1782
on the inquiry into the official conduct of clerks	783	Constitution, Mr. Harrison submitted a resolution to amend the	611
on the memorial of Vincente Pazos	1262	a Message from the President, with a report from the Secretary of State, of the several States that have ratified the 13th article of amendment to the	865
on the resolution respecting internal improvement	1278	Mr. Lewis submitted a proposition to amend the	1744
on a resolution granting medals to certain officers	1669	Consuls on the Barbary Coast, a bill to increase the allowance to, read twice, &c.	1662
Columbian Institute, Mr. Herbert presented a petition to incorporate the, referred	565		
a bill to incorporate the, read twice, &c.	846		
ordered to a third reading	1697		
read the third time, and passed	1714		
returned from the Senate with amendments, and concurred in	1777		
Columbian Insurance Company, a bill to incorporate the, read twice	463		
ordered to a third reading	518		
read a third time, and passed	543		
returned from the Senate, with amendments read, and concurred in	850		
	854		



	Page.		Page.
Contempt of the House, Mr. Williams, of North Carolina, submitted a letter he had received from Colonel John Anderson, offering him a bribe -	580	Cumberland Road—continued.	
(See <i>Anderson, Colonel John</i> .)		letter from the Secretary of the Treasury in reply -	1781
Contracts for Rations, in Georgia, on motion of Mr. Huntington, the Secretary of War was directed to lay before the House a copy of all, &c. -	1007	Currituck Sound, on motion of Mr. Sawyer, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of staking the channel of -	906
Copper Mines, on motion of Mr. Smith, of Maryland, the Committee on Public Lands were instructed to inquire into the expediency of making reservations of all -	815	Cushman, Mr., of New York, remarks of, on the Commutation bill -	472
Cork Cutters, adverse report on petition of the, of N. York and Philadelphia, agreed -	1687	speech of, on the Internal Improvement resolution -	1185
Cotton and Woollen Fabrics, Mr. Ross presented the petition of sundry manufacturers of, in Rhode Island, praying encouragement &c., referred -	446	Custom-Houses, on motion of Mr. Silsbee, the Committee of Commerce and Manufactures were instructed to inquire concerning the -	490
Mr. Shaw presented a similar petition from Massachusetts -	486		
Mr. Mason presented a similar petition from the same State -	494	D.	
Mr. Storrs presented a similar petition from New York -	494	Dabney, John B., a bill for relief of, twice read -	893
Courthouse, Jail, &c., in Alexandria, a bill to provide for the erection of, twice read -	533	ordered to a third reading -	1721
amended, and ordered to a third reading -	1402	read the third time, and passed -	1724
read a third time, and passed -	1405	Daily, John, and Samuel Thompson, a bill for relief of, twice read -	1681
Cranch, Dallas, and Wheaton, on motion of Mr. Sergeant the Clerk was directed to procure, for the use of the House, three copies each of the respective reports of -	462	the third reading negatived -	1697
Cravat, Richard. (See <i>Johnson, John</i> .)		Dana, Edmund, an adverse report on the petition of, concurred in -	542
Creek Indians, a bill for the relief of certain friendly, read twice -	792	Daniel, William, a bill confirming the claim of, read twice -	566
read the third time, and passed -	1672	read a third time, and passed -	1452
returned from the Senate with amendments, and concurred in -	1777	Darien, Georgia, on motion of Mr. Forsyth, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry at -	409
Creighton, Captain John Orde, on motion of Mr. Johnson, of Virginia, the Secretary of the Navy was directed to furnish a copy of the proceedings of the court martial ordered at the instance of Midshipman Marston on a letter from the Secretary of the Navy in obedience -	1104	Darnall, John, a bill for relief of, read twice -	1567
copy of proceedings on the trial of -	2491	Davis, Hannah, a report of facts in the case of, referred to the Committee of Claims -	1181
Crowell, John, a delegate from Alabama, appeared, was qualified, &c. -	1180	Davis, Henry, a bill for relief of, read twice -	1339
Crowninshield, B. W., Secretary of the Navy, correspondence of, with Captain Elton and Commodore Henley, on the subject of the piratical establishments -	1809	Deane, Franklin, and Arthur Lee, on motion of Mr. McLane, a committee was appointed to request of the President copies of the several letters of, addressed, in 1777, to the Committee of Foreign Relations -	882
Cumberland Road, on motion of Mr. Tait, the Committee on Roads and Canals were instructed to inquire into the state of the report of said committee on the subject of the, read -	1250	a Message from the President, with the letters asked for -	906
recommitted to the same, with two new members -	1282	the Message and correspondence referred to the committee on the claim of Beaumarchais's heirs -	1006
a bill making further appropriations for the, read twice, &c. -	1389	copies of the said correspondence -	2409
reported without amendment, and ordered to a third reading -	1660	Deceased Pensioners, on motion of Mr. Whitman, the Committee on Pensions, &c., were instructed to inquire into the expediency of continuing to the widows and children the pensions of -	462
read a third time, and passed -	1664	Deed of Conveyance to the United States, on motion of Mr. Ingham, the Commissioner of Public Buildings was directed to report to the House a copy of the original, of lots in Washington -	841
on motion of Mr. Mercer, the Secretary of the Treasury was requested to report certain statements in relation to the -	1724	a letter from the Commissioner, with a copy of the -	871
		Defence of New York, Mr. Irving presented the petition of the Mayor, &c., of the city of New York, praying that provision may be made for the adjustment of their claims in relation to the, referred -	737
		Delafield, John, a bill for relief of, read twice -	1447
		Delaware and Chesapeake Canal Company, a bill authorizing subscription to the stock of the, read twice, &c. -	1393

	Page.		Page.
Deputy Postmasters, a bill to increase the compensation of, in certain cases, read twice -	1723	Dougherty, Thomas, election of, as Clerk of the House -	399
read the third time, and passed -	1738	Douthet, Samuel, Mr. Blount presented the petition of, referred -	849
Dequindue, Louis and Antoine, a bill from the Senate for relief of, twice read, &c. -	1648	Drawback on Merchandise transported by land, a bill from the Senate to allow the benefit of, from Bristol to Boston, &c., read twice, and referred -	592
reported without amendment, and committed -	1720	reported without amendment, and ordered to a third reading -	799
Desertion of Foreign Seamen, on motion of Mr. Whitman, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of making some provision on the subject of -	418	read a third time, and passed -	816
Desha, Mr., remarks of, on the Commutation bill -	469	Dunn, Thomas, appointment of, as Sergeant-at-Arms -	399
speech of, on the Compensation bill -	568, 588		
on the case of Colonel Anderson -	652	E.	
on the bill to reduce the staff of the army -	1688	Earle, Elias, of South Carolina, appeared, was qualified, &c. -	416
Desha, Major General Joseph, a resolution submitted to present a medal to -	1667	special report of the Committee of Elections, in the case of -	562
resolution laid on the table -	1671	report of the Committee on Expenditures in the War Department, on contract with is confirmed in his right to a seat -	1450
Deweese, Sarah, a bill for relief of, read twice -	70	Earneat, Charles, on motion of Mr. Clay, the name of, was added to the list of invalid pensioners -	1763
ordered to a third reading -	1667	Earwood, Joel, on motion of Mr. Hendricks, the Committee on Public Lands were instructed to inquire into the claim of -	409
read the third time, and passed -	1672	a bill for relief of, read twice -	475
Dillon, John, a bill for relief of, read twice -	870	ordered to a third reading -	508
ordered to a third reading -	1715	read a third time, and passed -	515
read the third time, and passed -	1718	returned from the Senate, with amendments concurred in, with an amendment -	609
Direct Taxes and Internal Duties, a bill supplemental to the several acts relative to, read twice -	1108	Eastern Branch Bridge Company, a bill to incorporate the, read twice, &c. -	1094
ordered to a third reading -	1765	Mr. Herbert presented a petition of said company, praying that permission may not be granted to build another bridge over the Eastern Branch, referred -	1380
read the third time, and passed -	1769	Eaton, Elizabeth, Mr. Williams of Connecticut presented the petition of, referred -	819
Discriminating Duties, a Message from the President on the subject of -	906	Edwards, Mr., of North Carolina, remarks of, on a motion respecting the Neutrality act -	521
Discipline of the Navy, report of the Naval Committee on the subject of the -	1682	on his motion to ask certain information of the President -	530
the report agreed to, and the committee discharged therefrom -	1684	on the motion to inquire into the official conduct of clerks -	786
District of Columbia, appointment of the standing committee on the -	400	on the Internal Improvement resolution -	1136
a bill from the Senate to increase the salaries of the judges of the circuit court for the, read twice, and referred -	1053	on the resolution for adjournment -	1181
reported, without amendment -	1108	on the bill from the Senate, supplemental to the act authorizing the State of Tennessee to issue grants, &c. -	1568
read the third time, and passed -	1778	Edwards, William, and John G. Stubbs, a bill from the Senate for relief of -	542
report of the Secretary of the Treasury on the condition of the banks of the -	1181	read twice, &c. -	566
District Courts of the United States, on motion of Mr. Tyler, the Judiciary Committee were instructed to inquire into the expediency of causing offices to be erected for the safekeeping of records, &c., of the -	476	ordered to a third reading -	1450
report of said committee thereon -	533	Elections, appointment of the standing committee of -	400
a bill concerning the, within the State of New York, read twice -	1108	Elliot, Jonathan, report of the Secretary of State on the petition of, laid on the table -	1676
ordered to a third reading -	1185	referred to a select committee -	1718
read a third time, and passed -	1224	Emigrants, Mr. Johnson, of Kentucky, presented the petition of certain, from Switzerland, referred -	566
returned from the Senate with amendments, read, and referred -	1469	an adverse report thereon concurred in -	711
agreement reported, and concurred in -	1567	Mr. Taylor, of New York, Mr. Baldwin, of Pennsylvania, and Mr. Smith, of Maryland, each presented a petition in behalf of, referred -	893
Docket of Bills, Resolutions, &c., Mr. Pindall offered a resolution for printing a, for each week, for the use of members -	818		
considered, and disagreed to -	850		
Documents, a joint resolution authorizing the transportation of certain, free of postage, read three times, and passed -	1429		
Domestic State Papers, a bill authorizing subscription to Jonathan Elliot's edition of, read twice -	1764		



## House Proceedings and Debates.

	Page.		Page.
Emigrants—continued.		Extra Services, on motion of Mr. H. Nelson, the Committee of Accounts were authorized to make the same allowance for, to the persons serving in the House as at last session	1743
an unfavorable report on the whole	1013	F.	
discussed, and concurred in	1053	Fairbanks, Jason. (See <i>Keys, Purley.</i> )	
Emoluments of Collectors, a report of the Secretary of the Treasury relative to the	1074	Farish, Thomas B., a bill for relief of, read twice, &c.	1180
Erie, a bill to change the name of the district of, read twice	792	Fees, Mr. Hopkinson submitted a resolution concerning a bill of	711
read a third time, and passed	1666	agreed to, and referred to the Judiciary Committee	712
Ernest, Frederick, and Frederick Williamson, report of the Secretary of the Navy on the petition of	1381	on motion of Mr. H., the said committee were instructed concerning certain	791
Ervin, James, of South Carolina, appeared, was qualified, &c.	529	report thereon read, &c.	1723
speech of, on case of contempt of the House	642	Fields, John, an adverse report on the petition of, concurred in	818
on the bill for relief of Gen. Arthur St. Clair	842	Finances, annual report of the state of the, laid on the table	409
Erving, G. W., correspondence of, with Don Pedro Cevallos, on the subject of Mr. Meade's imprisonment	1814	detailed report of the	2317
Essary, Jonathan D., and John Seybold, read twice	1713	Firearms, a report of the Secretary of War concerning contracts for the supply of	879
ordered to a third reading	1722	Fire Insurance Company of Washington, a bill from the Senate to incorporate the, read twice	1566
read the third time, and passed	1724	reported without amendment, and ordered to a third reading	1656
Estimates of Revenue and Expenditures	2321	Fisher, Elisha & Co. (See <i>Clifford, Thomas and John, and others.</i> )	
Evans, Daniel, an adverse report on the petition of, concurred in	447	Fishing Vessels, a bill from the Senate concerning the bounty to, read twice, and referred	1523
Exchappe of Lands with the Choctaw and Chickasaw Tribes, Mr. Poindexter offered a resolution on the subject of an	514	read a third time, and passed	1568
being amended, to include the Creeks and Cherokees, it was agreed to, and referred to the Committee on Public Lands	514	Flag, on motion of Mr. Wendover, a committee was appointed to inquire into the expediency of altering the, of the United States	464
Executive Departments, a bill to provide for erecting additional buildings for the accommodation of the, read twice	818	a bill to alter the, read twice, &c.	566
ordered to a third reading	1691	ordered to a third reading	1463
read the third time, and passed	1692	read a third time, and passed	1469
Expatriation, Mr. Robertson, of Louisiana, submitted a resolution for a committee to inquire into the expediency of providing by law for the exercise of the right of	448	Floyd, John, of Virginia, appeared, was qualified, &c.	408
agreed to, and a committee appointed	450	speech of, on the proposition relating to the Spanish American provinces	1546
a bill providing the manner, &c.	495	Ford, Nathan, a report of facts in the case of, referred	1380
a motion to strike out the first section of the bill debated	1054	Foreign Affairs, appointment of a select committee on	404
after considerable debate the motion prevailed	1070	Foreign Coins, on motion of Mr. Huntington, the Committee of Ways and Means were instructed to examine the act regulating the currency of	954
Mr. Johnson, of Virginia, introduced a substitute for the remaining sections of the bill, which was read and negated	1076	Foreign Merchandise, Mr. Wendover presented the petition of merchants of New York praying a duty on sales of, at auction, referred	446
Mr. Robertson offered a substitute	1093	a bill relating to duties on, read twice, &c.	1283
the substitute was discussed	1104	Foreign Seamen, deserting, &c., a bill to authorize the apprehension of, read twice, &c.	1108
and finally adopted	1106	Foreign Wines and Liquors, on motion of Mr. Lowndes, the Committee of Ways and Means were instructed to inquire into the expediency of making provision for allowing, to be deposited in the public stores, &c.	847
after twice reading, the third reading negated	1107	a bill to provide for the deposit of, in the public warehouses, read twice, and referred	1283
Expenditures in the several Departments, appointment of the standing committees on	400		
Extension of Credit, on certain duties, on motion of Mr. Pitkin the Committee of Ways and Means were instructed to inquire into the expediency of an	870		
on public lands, Mr. Baldwin submitted a resolution on the subject of	1113		
which was agreed to, and referred to the Committee on Public Lands	1113		
Extension of Pensions, a committee was appointed to bring in a bill concerning the, to widows, &c.	894		
(See <i>Widows and Orphans.</i> )			
Extinguishment of Indian titles, on motion of Mr. T. M. Nelson, a committee was appointed to inquire concerning the,	487		

## House Proceedings and Debates.

	Page.		Page.
Foreign Wines—continued.		Fourteenth Congress—continued.	
ordered to a third reading	1725	reported with an amendment, and ordered to a third reading	1406
read a third time, and passed	1738	read a third time, and passed	1431
returned from the Senate with amendments, and concurred in	1777	Franking Privilege, on motion of Mr. Barbour, the Committee on Post Offices and Post Roads were instructed to inquire into the expediency of extending the, to the Adjutant General of the respective States, &c.	772
Forfeited Lands, a bill from the Senate to suspend the sale of, read twice, and referred	1720	on motion of Mr. Little, the same were instructed in relation to the Secretary of the Senate and Clerk of the House of Representatives	1452
ordered to a third reading	1723	a bill to that effect read twice, &c.	1714
Forrest, Joseph, a report from the Secretary of State on the petition of, referred	422	Frauds by Purchasers of Public Lands, on motion of Mr. Edwards, of North Carolina, the Committee on Public Lands were instructed to inquire into the expediency of making provision to prevent	445
the Committee of Claims made an adverse report thereon, agreed to	464	report that no further provision is necessary	530
Forsyth, Mr., remarks of, on the motion respecting the Spanish American provinces	408	French, Thomas. (See <i>Kinsey, Adam.</i> )	
on the resolution concerning Amelia Island	410	Fugitive Slaves, on motion of Mr. Pindall, a committee was appointed to inquire into the expediency of making further provision on the subject of	446
on his motion relative to representative qualifications	423	a bill to amend the act for the recovery of, read twice, and referred	513
speech of, on the Commutation bill	504	reported, with amendments	829
remarks of, on the motion respecting neutral relations	520, 521	ordered to a third reading	831
on the warrant of arrest in the case of Anderson	583	read a third time, and passed	840
on his motion to appoint a committee of privileges	593	returned from the Senate, with amendments	1339
speech of, in reply to Mr. Livermore	597	read, and ordered to lie on the table	1393
on the resolutions of Mr. Spencer	621	Fuller, Timothy, of Massachusetts, appeared, and was qualified	532
on the letters from Anderson to the Speaker	650	Funds in the District Court of New York, report of the Judiciary Committee on the	1108
remarks of, on Mr. Rhea's amendments to Mr. Spencer's resolutions	742	(See <i>District Courts in New York.</i> )	
on the resolution respecting naval discipline	806	G.	
on submitting a second call for information on the state of negotiations with Spain	1007	Galloo Island, a bill for erecting a light-house upon, read twice	1696
on the militia claim of Georgia	1103	Gardiner, John, a letter from, with a map of the bounty lands in Illinois	400
on the resolution for adjournment	1182	General Armstrong, private armed Brig, a bill authorizing a sum of money to be distributed among the officers and crew of the, twice read, &c.	1104
on the bill concerning the district courts of New York	1183	General Courts Martial, a report from the Secretary of War, of the expenses of	1523
a motion by, not to receive the Pazos memorial	1251	General Post Office, on motion of Mr. Harrison, the Committee on Post Offices, &c., were instructed to inquire into the expediency of establishing a branch of the, in one of the Western States	1113
speech of, on the motion to lay his motion on the table	1262, 1268	unfavorable report thereon	1717
remarks of, on the bill to subscribe for the Delaware and Chesapeake Canal	1397	Gelston, David, Mr. Lowndes presented the petition of, for himself and Peter A. Schenck, referred	1380
on the bill in addition to the act to punish certain crimes, &c.	1403, 1404	report thereon, read, and ordered to lie on the table	1451
speech of, in reply to Mr. Clay, on his motion to amend the said bill	1408	Georgia, on motion of Mr. Cobb, a committee was appointed to inquire into the claims of, for militia services, &c.	432
in reply to Mr. Clay again	1418	a bill for the payment of certain militia claims of, read twice, &c.	494
on the appropriation for Commissioners to South America	1466	third reading rejected	1112
on Mr. Clay's amendment to the same	1500	on motion of Mr. Terrill, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of assenting to an act of the State of	1523
in reply to Mr. Tucker, and others	1634		
on Mr. Trimble's substitute, for the resolution reported in the case of Mr. Meade	1712		
on the Senate bill concerning navigation	1717		
on the supplemental Bank bill	1747, 1762		
on the bill to divide Pennsylvania	1778		
Foster, William S. (See <i>Birdsall, Benjamin.</i> )			
Fourteenth Congress, Mr. Whitman submitted a joint resolution that the thirty copies of the acts passed at the first and second sessions of the, now in the office of the Secretary of State, be deposited in the Clerk's office of the House for the use of members, read twice, and ordered to a third reading	534		
a resolution from the Senate, directing the distribution of the laws of the, among the members of the fifteenth Congress, read twice, and referred	1381		



## House Proceedings and Debates.

	Page.		Page.
Georgia—continued.		Greer, Jacob, an adverse report on the petition of	513
a bill to that effect read twice, and ordered to lie on the table	1671	Griffin, Thomas. (See <i>Armstrong, General</i> .)	
a bill authorizing the appointment of an additional judge for the district of, read twice	1714	Griffith, Camillus, the Military Committee were discharged from considering the petition of	1764
the third reading negatived	1714	Grounds in the City of Washington, a bill explanatory of the act authorizing the sale of certain, read twice, &c.	905
Ghent, a message, with a decision of the question submitted to the Commissioners under the Treaty of	1073	Gunboats Nos. 149 and 154, a bill authorizing payment of a sum of money to the officers and crews of, read twice, &c.	1450
Mr. Claiborne submitted a resolution of inquiry concerning the expenses under a certain article of the Treaty of	1113		
amended, and agreed to	1138	H.	
a message, with a report of the Secretary of State in reply	1470	Half-pay Pensions, a bill concerning, read twice, and referred	872
referred to a select committee	1567	reported without amendment	878
a report thereon referred to a Committee of the Whole	1718	Hall, Major John, a bill from the Senate for relief of	1715
who adopt a resolution, requesting the President to arrange with the British Government the mode of designating the boundary line	1781	read twice, and referred	1718
estimate of expenditures under the fifth article of the Treaty of	2388	reported without amendment	1737
Giles, Aquilla, a bill from the Senate for the relief of	1691	read a third time, and passed	1777
read twice, and referred	1696	Hall, Willard, of Delaware, appeared, and was qualified	488
Gist, Captain Henry. (See <i>Johnson, Captain Benjamin</i> .)		Hammond, C., a petition of, contesting the election of Samuel Herrick, referred	417
Goddard, Samuel, and others, a bill for relief of, read twice, &c.	871	report of the Committee of Elections	543
Gold and Silver Mines, on motion of Mr. Storrs, the Committee on Public Lands were instructed concerning the reservation of, in sales	530	the memorial of, presented before the committee	550
Goodwyn, Peterson, of Virginia, appeared, and was qualified	399	Hanseatic Cities, the President's proclamation announcing the repeal of duties with respect to the	1966
Mr. Newton announced the death of	1005	Harper, Samuel G., a bill for relief of, read twice	1723
the usual resolution on the subject	1006	Harrison, Mr., speech of, on the resolution concerning Amelia Island	415
Government, a bill making appropriations for support of, read twice, &c.	905	speech of, on his resolution to provide for sufferers in the late war	450
debate on the item concerning Commissioners to South America	1464	remarks of, on the Commutation bill	470
ordered to a third reading	1655	on the bill concerning Revolutionary survivors	492
read a third time, and passed	1656	on the Compensation bill	575, 578, 583
returned from the Senate with amendments, and agreed to	1677	on Colonel Anderson's letter to Mr. Williams	582
a bill supplementary to the several acts making appropriation for the support of, for the year 1818, read twice, and ordered to a third reading	1765	on his proposition to amend the Constitution	611
read the third time, and passed	1769	on the case of Colonel Anderson	651
Governors of States and Territories, on motion of Mr. Huntington, the Committee on Post Offices, &c., were instructed to inquire into the expediency of authorizing, to receive and transmit official communications free of postage	530	on the motion to inquire into the official conduct of clerks	784
adverse report concurred in	1714	speech of, on his motion respecting Kosciusko	795
Gracff, Mary, on motion of Mr. Sergeant, the report of the committee on the memorial of, was reconsidered, and referred to a Committee of the Whole	772	remarks of, on the resolution relative to naval discipline	806
report reversed, and bill ordered	1681	on the resolution for adjournment	1181
a bill for relief of, read twice	1687	on a resolution to grant medals to certain officers	1668
ordered to a third reading	1697	on Mr. Trimble's resolution in the case of R. W. Meade	1709
read the third time, and passed	1714	on the supplementary Bank bill	1749
Graham, John, report of, to the Secretary of State, on the condition of South America	2987	on the bill for relief of General Stark	1770
		Harrison, Jonas, and others, a bill for relief of, read twice &c.	866
		ordered to a third reading	1715
		read the third time, and passed	1719
		Harrison, General, and Governor Shelby, a resolution from the Senate granting medals, &c., to, read three times, and passed	1648
		Hassler, F. R., first report of, to the Treasury Department, on the survey of the coast	2449

## House Proceedings and Debates.

	Page.		Page.
Heath, John, Captain of Marines, on motion of Mr. Johnson, of Virginia, the Secretary of the Navy was directed to report a copy of the proceedings of the court martial ordered on	808	Hopkinson, Mr.—continued.	
a letter from the Secretary, with the copies called for	832	speech of, on the motion for a Committee of Privileges	595
referred to the Naval Committee	1028	remarks of, on the case of Anderson	651
report of said committee	1661	on his resolution concerning judicial fees	711
Heath, Nathaniel P. (See <i>Renner, Daniel</i> .)		speech of, on Mr. Spencer's resolutions	722
Hendricks, Mr., remarks of, on submitting a resolution concerning the Jefferson Ohio Canal Company	1113	remarks of, on the report in the case of the Richmond Church	834
Herrick, Samuel, a letter of, to the chairman of the Committee of Elections	550	speech of, on the Bankrupt bill	898
the report of the Committee of Elections that he is entitled to his seat, agreed to	1449	in reply to objections	988
Herring, Elbert, a bill for relief of, read twice, &c.	854	remarks of, on the resolution concerning internal improvement	1136
Hicks, Oliver H., and Lockwood de Forest, an adverse report on the petition of, for remission of duties, concurred in	1457	on the appropriation for Commissioners to South America	1468
History of Congress, Mr. Robertson, of Louisiana, presented a petition of Gales and Seaton, praying aid and patronage in their proposed publication of the, referred to a select committee	1391	on a resolution to grant medals to certain officers	1670
report of said committee, with a bill authorizing subscription to, read twice, &c.	1650	speech of, on Mr. Trimble's substitute for the resolution reported in the case of R. W. Meade	1708
report thereon ordered to lie on the table	1663	remarks of, on a motion to rescind the resolutions fixing the day of adjournment	1770
bill amended, and ordered to lie on the table	1681	on the bill to divide Pennsylvania	1778
Hitchcock, Peter, of Ohio, appeared, and was qualified	408	Hosteller, Jacob, of Pennsylvania, a certificate of the election of, as a member of the House	1666
Hogan, Michael, a bill from the Senate for relief of, read twice, and referred	1604	Hour of Meeting, Mr. Rich, of Vermont, moved that the, be 11 o'clock, laid on the table	580
reported with an amendment, and committed	1671	House of Representatives, list of members present at the opening of the	397
Holmes, Mr., remarks of, on the resolution concerning Amelia Island	413	Howell, Hubert. (See <i>Burnet, Daniel</i> .)	
speech of, on the repeal of internal duties on the Commutation bill	437	Hughes, Samuel, on motion of Mr. Smith, of Maryland, the petition of, was referred to the Secretary of the Navy	881
memorial of, on behalf of Mr. Herrick	558	Hutchison, Thomas, and partners, an adverse report on the petition of, read, and concurred in	1569
remarks of, on the Compensation bill	574	Hyden, Daniel, on motion of Mr. A. Smyth, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing, on the list of pensioners	871
speech of, on the case of Colonel Anderson	664		
remarks of, on the examination of Colonel Watson	780	I.	
on his resolution to inquire into the official conduct of clerks	784	Illinois Territory, Mr. Pope presented the petition of the Legislature of, praying that the said Territory may be formed into a State government	782
on the Fugitive Slave bill	828, 838	a bill to enable the people of, to form a constitution, &c., read twice	814
on the remission of duties to the Monument Church at Richmond	835	amended, read a third time, and passed	1678
speech of, on the Bankrupt bill	913	returned from the Senate with amendments	1724
on the Spanish American Provinces	1579	concurred in	1738
on his resolution further to provide for survivors of the Revolution	1698	Imports of Merchandise, &c., annual statements of, from the Treasury Department	1739
on the bill from Senate concerning navigation	1717	Imported Goods, Wares, &c., a letter from the Secretary of the Treasury concerning the collection of duties on	792
Hooker, Samuel F., a bill for relief of, read twice a bill from the Senate of the same tenor, read twice, &c.	1403	Imported Salt, on motion of Mr. McCoy, the Committee of Ways and Means were instructed to inquire into the expediency of repealing the duty on	418
reported without amendment	1764	Mr. Silsbee presented a petition for the repeal of the duty on, referred	446
read the third time, and passed	1776	report of the Committee of Ways and Means, adverse to repeal	1095
Hopkinson, Mr., remarks of, on the resolution concerning the Judiciary	419	Imports and Tonnage, on motion of Mr. Smith, of Maryland, the Committee of Ways and Means were instructed to inquire what amendments are necessary in the act regulating duties on	432
speech of, on the repeal of internal duties on the claim of John Thompson for interest	531		
remarks of, on the bill concerning public records, &c.	565		



House Proceedings and Debates.

	Page.		Page.
Imports and Tonnage—continued.		Iron, Mr. Bloomfield presented the petition of	
a bill to continue in force for a limited time		sundry inhabitants of New Jersey, pray-	
the fourth paragraph of the first section		ing that an additional duty may be laid	
of the act to regulate duties on, read		on the importation of, referred - - -	446
twice, &c. - - -	865	Mr. Maclay and Mr. Sergeant, of Pennsyl-	
ordered to a third reading - - -	1743	vania, presented similar petitions, referred	463
read a third time, and passed - - -	1744	Mr. Southard, Mr. Hall, and Mr. Bassett,	
returned from the Senate with amendments,		severally, did the same - - -	494
and concurred in - - -	1777	a bill to increase the duties on, read twice	865
a bill supplemental to the act to regulate the		sundry papers from the Secretary of the	
collection of duties on, read twice, &c. -	866	Treasury on the subject, referred - - -	1008
a letter from the Secretary of the Treasury		bill ordered to a third reading - - -	1736
respecting certain - - -	1448	read the third time, and passed - - -	1740
ordered to a third reading - - -	1726	returned from the Senate with amendments,	
read a third time, and passed - - -	1739	and concurred in - - -	1777
Imprisonment of citizens of the United States by			
Spain, correspondence on the subject of	1953	J.	
Indian Affairs, appointment of a select commit-		Jackson, Andrew, for himself and wife, Mr.	
tee on - - -	405	Claiborne presented a remonstrance of,	
report of the same - - -	451	referred - - -	819
Indian Agents, a bill from the Senate directing		Jefferson Ohio Canal Company, Mr. Hendricks	
the manner of appointing, &c. - - -	824	submitted a resolution to subscribe to the	1114
read twice, and referred - - -	829	Jeffries, Richard, adverse report on the petition of	463
reported without amendment - - -	854	Jervy, Thomas Hall, a bill for relief of, read	
ordered to a third reading - - -	1672	twice, &c. - - -	1054
read a third time, and passed - - -	1676	Johnson, R. M., remarks of, on the resolution	
Indian Agents and Factors, a bill from the Sen-		concerning Amelia Island - - -	414
ate fixing the compensation of - - -	1738	speech of, on his military resolutions - - -	420
read twice, and referred - - -	1739	on the repeal of internal duties - - -	440
reported without amendment, and ordered		remarks of, on the bill for relief of John	
to a third reading - - -	1764	Bate - - -	447
read a third time, and passed - - -	1769	on the Commutation bill - - -	460, 484
Indian Claims, a bill making appropriation to		on his resolution to clothe the army in Ame-	
extinguish certain, read twice, &c. -	1393	rican manufactures - - -	495
ingham, Mr., remarks of, on the bill for remission		speech of, on the bill for Revolutionary sur-	
of certain duties - - -	822	vivors - - -	509
on the supplemental Bank bill - - -	1751	remarks of, on the resolution for engraving	
Interest in Claims, discussion on the subject of		the map of bounty lands - - -	523
allowing - - -	531	on Thompson's claim of interest - - -	531
Internal Duties, &c., the annual statement rel-		on his resolution concerning the militia -	542
ative to - - -	406	to increase the salary of the Postmaster	
a bill to abolish, twice read, and referred		General - - -	543
report of the Committee of Ways and		on the Compensation bill - - -	577
Means - - -	424	on the case of Colonel Anderson - - -	582, 603
bill ordered to a third reading - - -	430	testimony of, on oath, in the same case -	778
read a third time, and passed - - -	443	speech of, on the half-pay Pension bill -	872
returned from the Senate with amendments		on his nine military resolutions - - -	888
read and concurred in - - -	476	on his resolution touching the office of	
Internal Improvement, appointment of a select		claims - - -	895
committee on - - -	405	on the right of expatriation - - -	1042
report of said committee, with a resolution		remarks of, on the motion not to receive	
debate on the resolution - - -	1114	the Pazos memorial - - -	1256
progress reported, with leave to sit again -	1138	speech of, on the internal improvement reso-	
debate thereon resumed 1139, 1185, 1268	1340	lutions - - -	1381
	1381	on the proposition relating to the Spanish	
resolution that Congress have power over,		American Provinces - - -	1556
agreed to - - -	1389	on the supplemental Bank bill - - -	1761
report of resolutions by the committee on the		a bill from the Senate for the relief of, read	
President's Message relating to - - -	1649	twice, and referred - - -	894
resolutions concurred in - - -	1679	reported without amendment - - -	897
Invalid Pensioners, a bill regulating payment to,		read the third time, and passed - - -	1777
read twice, &c. - - -	866	the resolution from the Senate presenting a	
ordered to a third reading - - -	1765	sword to, read three times, and passed -	1665
read a third time, and passed - - -	1769	Johnson, James, of Virginia, appeared, and was	
Invalid Pensions, a bill concerning, read twice	1661	qualified - - -	415
Invalids, a bill respecting, read twice, &c. -	1007	speech of, on his resolution relating to naval	
Ireland, John, an adverse report on the petition		discipline - - -	802, 806
of recommitment - - -	817	on the Expatriation bill - - -	1063
supplemental report, ordered to lie on the		in reply to Mr. Williams of North Carolina	1088
table - - -	896		

House Proceedings and Debates.

	Page.		Page.
Johnson, James, of Virginia—continued.		Justices of the Peace—continued.	
remarks of, on the internal improvement		amended, read a third time, and passed -	1697
resolution - - -	1136	the Senate disagreed to the amendment -	1715
speech of, on the Constitutional power of		the House insisted, and appointed managers	
Congress, touching the same - - -	1224	of a conference - - -	1718
Johnson William, Judge, on motion of Mr. Mid-		report of the managers, and subject indefi-	
dleton, the Judiciary Committee were		nately postponed - - -	1737
instructed to inquire into the expediency			
of granting additional compensation to -	543	K.	
(See Sixth Circuit.)		Kalb, Baron de, the Speaker presented a letter	
Johnson, Captain Benjamin, and Captain Henry		from the Governor of Maryland, respect-	
Gist, a bill for relief of, read twice, &c. -	866	ing the monument ordered to be erected	
ordered to a third reading - - -	1715	at Annapolis in honor of the memory of,	
read the third time, and passed - - -	1719	referred - - -	1072
returned from the Senate with amendments		the committee discharged from its consider-	
and concurred in - - -	1777	ation - - -	1094
Johnson, Hickman, as guardian of J. E. Sellers,		Mr. Reed submitted a resolution on the same	
report of facts in the case of, referred -	936	subject, which the House refused to con-	
Johnson, John, Henry Perry, Richard Cravat,		sider - - -	1095
and Beley Cheny, a bill for relief of, read		a motion by Mr. R., to take up his resolu-	
twice, &c. - - -	1523	tion, negatived - - -	1113
Jones, John, a bill for the relief of, read twice -	782	Kennedy, John, and Henry Nail, a bill for relief	
Jones, Michael, a bill from the Senate for relief of,		of, read twice, &c. - - -	854
read twice, and referred - - -	1675	Kentucky, the Speaker presented a memorial of	
reported without amendment - - -	1714	the Legislature of, respecting the bound-	
ordered to a third reading - - -	1722	ary line between said State and Tennes-	
read the third time, and passed - - -	1724	see, referred - - -	1071
Jones, Mr., of Tennessee, speech of, on internal		Kentucky Ohio Canal Company, on motion of	
improvement resolution - - -	1274	Mr. Anderson, the Committee on Roads	
Jourdan, B. and P., brothers, a bill for relief of,		and Canals were instructed to inquire in-	
read twice, &c. - - -	897	to the expediency of subscribing for shares	
reported with an amendment, read the third		in the - - -	1448
time, and passed - - -	1776	Kenzie and Forsyth, a bill for relief of, read	
Journals of the Old Convention, &c., a bill from		twice, &c. - - -	1567
the Senate for the publication and distri-		Keys, Purley, and Jason Fairbanks, a bill for re-	
bution of the - - -	799	lief of, twice read - - -	583
read twice, and referred - - -	800	ordered to a third reading - - -	1401
reported with an amendment - - -	1393	read a third time, and rejected - - -	1405
read a third time, and passed as amended -	1401	King of Naples, on motion of Mr. Smith, of Ma-	
Journal of the House, a motion of Mr. Poindex-		ryland, a committee was appointed to re-	
ter to amend the record of proceedings on		quest of the President information rela-	
the memorial of Vincente Pazos negatived	1282	tive to the seizure and confiscation of	
Judge Advocates of the Army, on motion of Mr.		American vessels, &c., under the author-	
Storrs, the Secretary of War was directed		ity of the - - -	832
to report the cases in which counsel has		King, Henry, an adverse report on the petition	
been employed to assist the - - -	824	of - - -	1028
report of the Secretary of War in obedience	1523	report reversed, and a bill ordered - - -	1180
Judges of the Supreme Court, on motion of Mr.		a bill for the relief of, read twice - - -	1250
Hopkinson, the Judiciary Committee were		ordered to lie on the table - - -	1697
instructed to inquire into the expediency		ordered to a third reading - - -	1715
of increasing the salary of the - - -	870	read the third time, and passed - - -	1719
Judiciary, appointment of the standing commit-		King, William, a bill for relief of, read twice, &c. -	1223
tee on the - - -	400	King, Samson R., a bill for the relief of, read	
on motion of Mr. Claiborne, the said com-		twice, &c. - - -	1446
mittee were instructed to inquire what		Kinsey, Adam, and Thomas French, a bill for	
alterations are necessary in the system -	419	relief of, twice read, &c. - - -	1480
Jurors and Witnesses, on motion of Mr. Herrick,		Knaggs, Whitmore, a report of facts in the case	
the Judiciary Committee were instructed		of, referred - - -	936
to inquire into the expediency of increas-		Kosciusko, Mr. Harrison submitted a joint reso-	
ing the compensation of - - -	500	lution for a committee to inquire and re-	
Justices of the Peace, on motion of Mr. Holmes,		port proper measures to manifest respect	
the same committee were instructed to in-		to the memory of General, read - - -	794
quire into the expediency of providing by		after debate the resolution was withdrawn	800
law for the appointment of - - -	500		
a bill from the Senate to make valid certain		L.	
acts of the, in the District of Columbia,		La Coste, Peter, a letter from the Secretary of	
read twice - - -	1568	State on the petition of, referred - - -	445
reported without amendment, and ordered		an adverse report thereon - - -	501
to lie on the table - - -	1656		



## House Proceedings and Debates.

Page.		Page.
	Lands in Alabama—continued.	
	read twice, &c. - - -	1431
	reported without amendment, and com-	
	mitted - - -	1661
	read a third time, and passed - - -	1779
	La Plata, declaration of independence of the	
	provinces of - - -	1877
	Law, Andrew, a bill authorizing the renewal of	
	a patent to, read twice, &c. - - -	1007
	Lawrence, widow of Captain James, on motion	
	of Mr. Tallmadge, the Naval Committee	
	were instructed to inquire into the expedi-	
	ency of continuing the pension of half-	
	pay to - - -	530
	committee discharged - - -	1731
	Laws of the United States, a joint resolution	
	authorizing the distribution of a new edi-	
	tion of the, twice read - - -	409
	read a third time, and passed - - -	417
	returned from the Senate with an amend-	
	ment, and concurred in - - -	677
	Mr. Johnson submitted a resolution for the	
	publication of the, referred - - -	531
	a bill to provide for the publication of the,	
	read twice, &c. - - -	782
	ordered to a third reading - - -	1663
	read a third time, and passed - - -	1666
	returned from the Senate with amendments	
	all concurred, in except two, to which the	
	House disagreed - - -	1720
	the Senate receded from one and insisted	
	on the other - - -	1737
	the House receded from the amendment in-	
	sisted on - - -	1739
	Lazaretto Channel, on motion of Mr. Hopkin-	
	son, the Committee of Commerce and	
	Manufactures were instructed to inquire	
	into the expediency of providing for ex-	
	penses of laying down and taking up	
	buoys in the, &c. - - -	854
	Lead Mines, on motion of Mr. Scott, the Com-	
	mittee on Public Lands were instructed	
	to inquire into the expediency of leasing	
	and working the public - - -	463
	Mr. S. submitted another motion concern-	
	ing the disposal of certain - - -	677
	Lee, Richard Bland, the Speaker presented a let-	
	ter from, with report of facts in the cases	
	of certain claimants under the Property	
	Act - - -	417, 422, 831
	Leonard, Henry, on motion of Mr. A. Smyth,	
	the Committee on Pensions, &c., were	
	instructed to inquire into the expediency	
	of placing the name of, on the pension list	
	of Lewis, Mr. J., of Virginia, appeared and was	
	qualified - - -	399
	Lewis, Winslow and Henry, a report of the Sec-	
	retary of State on the petition of, referred	
	a bill for relief of, read twice - - -	448
	ordered to a third reading - - -	515
	read a third time, and passed - - -	518
	returned from the Senate with an amend-	
	ment - - -	677
	read and concurred in - - -	790
	Lewis, William B., a bill for relief of, read	
	twice, &c. - - -	1007
	Lewis, Edwin, a letter from, respecting Judge	
	Toulmin, referred to the Judiciary Com-	
	mittee - - -	1723
	Michigan, on motion of Mr. Holmes, of	
	Massachusetts, the Committee on Roads	
	and Canals were instructed to inquire into	
	the expediency of constructing a naviga-	
	ble canal, to unite the waters of, with the	
	Mississippi - - -	430
	and Claims, on motion of Mr. Scott, the Com-	
	mittee of Public Lands were instructed to	
	inquire into the expediency of providing	
	for a final adjustment of, in the Territory	
	of Missouri - - -	445
	on motion of Mr. Robertson, the Secretary	
	of the Treasury was directed to lay be-	
	fore the House the reports of the commis-	
	sioners for Louisiana, &c. - - -	841
	letter from the Secretary of the Treasury	
	in obedience - - -	851
	a bill supplemental to the several acts for	
	the adjustment of, in Louisiana and Mis-	
	souri, read twice, &c. - - -	866
	and District, on motion of Mr. Cobb, the Com-	
	mittee of Public Lands were instructed to	
	inquire into the expediency of establish-	
	ing a separate, in a part of the Territory	
	of Alabama - - -	818
	and Laws, a resolution from the Senate rela-	
	tive to the distribution of the late edition	
	of the, read twice - - -	871
	read a third time, and passed - - -	935
	and Offices, on motion of Mr. Scott the Com-	
	mittee of Public Lands were instructed	
	to inquire into the expediency of estab-	
	lishing various additional - - -	430
	a bill providing for additional, in Missouri	
	Territory, read twice - - -	486
	ordered to a third reading - - -	508
	read a third time, and passed - - -	515
	returned from the Senate with amendments	
	read and referred - - -	825
	reported with an amendment, and agreed to	
	on motion of Mr. Simkins the Committee	
	on Public Lands were instructed to inquire	
	into the expediency of establishing other,	
	in the Territory of Alabama - - -	1450
	a bill to establish certain, with districts	
	east of Island of N. Orleans, read twice -	
	laid on the table - - -	1661
	Land Patents, for soldiers' bounties, instructions	
	to the Land Committee to provide for some	
	other person than the President, to sign	
	1523	
	Land Titles, on motion of Mr. Pope, sundry pe-	
	titions from inhabitants of Illinois Terri-	
	tory, relating to, were referred to the	
	Committee on Public Lands - - -	422
	Land Warrants, a report from the Secretary of	
	the number of, issued for military boun-	
	ties - - -	443
	on motion of Mr. Merrill, the Secretary of	
	War was directed to report names, &c.,	
	of recipients of - - -	489
	letter from the Secretary of War in reply -	
	841	
	Land to Revolutionary Survivors, on motion of	
	Mr. Parr, the Military Committee were	
	instructed to inquire into the expediency	
	of granting one hundred and sixty acres	
	of, to each - - -	897
	Lands in Alabama, a bill from the Senate relat-	
	ing to the survey and sale of the public,	

## House Proceedings and Debates.

Page.		Page.
	Library, a resolution from the Senate for the ap-	
	pointment of a joint committee on the,	
	was concurred in, and a committee ap-	
	pointed - - -	405
	Linn, Mr., speech of, on the Commutation bill -	
	808	
	Little, Peter, remarks of, on the bill to abolish	
	internal duties - - -	428
	on the Compensation bill - - -	578
	Livermore, Mr., remarks of, on the Commuta-	
	tion bill - - -	473
	on the warrant for arrest of Anderson -	
	583	
	speech of, on the motion to appoint a Com-	
	mittee of Privileges - - -	594
	in reply to other speakers - - -	599
	on the Fugitive Slave bill - - -	830, 837
	on the bill concerning the district courts of	
	New York - - -	1184
	on the Potos memorial - - -	1266
	remarks of, on the bill for relief of Major	
	General Stark - - -	1770
	Loan Office Certificates, on motion of Mr. Allen,	
	the Committee on Pensions, &c., were	
	instructed to inquire into the expediency	
	of authorizing payment of - - -	447
	Loomis, Jarius, and James Bassett. (See Gun-	
	boats.)	
	Low, Catharine, on motion of Mr. Comstock,	
	the Military Committee were instructed	
	to inquire into the expediency of making	
	provision for - - -	905
	Lowndes, Mr., remarks of, on the bill to abolish	
	internal duties - - -	425, 426, 428, 429
	on the motion to inquire into the official	
	conduct of clerks - - -	785
	on the Commutation bill - - -	810
	on remission of duties to Richmond church	
	on the case of Richard W. Meade - - -	848
	speech of, on the Expatriation bill - - -	1050
	remarks of, on his proposition to divide the	
	resolution on internal improvement - - -	1135
	speech of, on the resolution as reported -	
	1235	
	remarks of, on the Potos memorial - - -	1252
	on the Delaware and Chesapeake canal -	
	1399	
	speech of, on Mr. Clay's motion to amend	
	the Neutrality bill - - -	1412
	in reply to Mr. Clay - - -	1418, 1432
	in answer to a question concerning the Com-	
	missioners to South America - - -	1464
	M.	
	Mackall, John G., an adverse report on the peti-	
	tion of, concurred in - - -	475
	Mackay, James, a bill for relief of, read twice -	
	1523	
	ordered to a third reading - - -	1721
	read a third time, and passed - - -	1724
	Maclay, William, of Pennsylvania, appeared and	
	was qualified - - -	406
	Maclay, William P., remarks of, on the Fugitive	
	Slave bill - - -	830
	Maine, on motion of Mr. Whitmore, the Judi-	
	cary Committee were instructed to inquire	
	into the expediency of altering the time	
	of holding the district court in the Dis-	
	trict of, - - -	851
	a bill to that effect read twice - - -	1112
	read a third time, and passed - - -	1138
	Manufactured Articles, a bill to increase the du-	
	ties on certain, imported, read twice -	
	1661	
	Manufactured Articles—continued.	
	committed to the Committee of the Whole	
	ordered to a third reading - - -	1718
	read a third time, and passed - - -	1736
	returned from the Senate with amendments,	
	and concurred in - - -	1739
	Manufacturers of looking-glasses in frames, &c.,	
	adverse report on the petition of, agreed to	
	1655	
	Manumission and Colonization Society of North	
	Carolina, Mr. Settle presented the petition	
	of the, referred - - -	533
	Mr. Blount presented the petition of a simi-	
	lar society of Tennessee, referred - - -	799
	Marietta and Vincennes, a bill from the Senate	
	providing for the sale and location of cer-	
	tain lands, in the districts of - - -	851
	read twice, and committed - - -	855
	reported without amendment, and ordered	
	to a third reading - - -	1013
	read a third time, and passed - - -	1053
	Maritime frontier of Maryland, Mr. Little pre-	
	sented sundry resolutions concerning the	
	defence of the - - -	1013
	Maritime frontier of the United States, report of	
	the operations under the act of February,	
	7, 1817 - - -	2463
	Marshal of the Northern District of New York,	
	on motion of Mr. Porter the Judiciary	
	Committee were instructed to inquire in-	
	to the expediency of increasing the com-	
	ensation of the - - -	495
	a report that it is not expedient concurred	
	in - - -	533
	Maryland, the Speaker presented a resolution	
	of the Legislature of, relative to the	
	establishment of a naval depot within	
	said State, referred - - -	1447
	Mason, Armistead T., Mr. Strother presented the	
	petition of, contesting the election of	
	Charles F. Mercer, &c., referred to the	
	Committee of Elections - - -	565
	said committee discharged from considera-	
	tion of the same - - -	790
	Mason, James B., of Rhode Island, appeared,	
	and was qualified - - -	609
	Mason, Mr., of Massachusetts, remarks of, on the	
	Fugitive Slave bill - - -	838
	speech of, on the Bankrupt bill - - -	982
	Mason, Cornelius, a bill for relief of, read twice	
	1567	
	read the third time, and passed - - -	1769
	Massachusetts, on motion of Mr. Mason, the mi-	
	litia claims of the State of, were referred	
	to a select committee - - -	820
	a letter from the Secretary of War on the	
	claims of, referred to same - - -	854
	a bill to authorize the settlement and pay-	
	ment of certain claims of the State of,	
	read twice, &c. - - -	1223
	Matchin, Capt. Thomas, on motion of Mr. Saw-	
	yer, the Committee of Pensions were in-	
	structed to inquire into the expediency of	
	correcting a mistake in the amount of	
	pension paid to - - -	1339
	Matters ordered to be printed, Mr. Spencer sub-	
	mitted a motion respecting the number of	
	copies, and distribution of all - - -	1430
	amended, and agreed to - - -	1470
	Mayhew, Thaddeus, a bill for the relief of, read	
	twice, &c. - - -	1339



## House Proceedings and Debates.

	Page.		Page.
Meade, Richard W., Mr. Trimble, of Kentucky, submitted a resolution requesting of the President information as to the imprisonment of, in Spain -	502	Midshipmen, memorial of the, of the United States Navy to the President of the United States -	2502
agreed to, and a committee appointed to present it -	504	Military Academy, on motion of Mr. Robertson the Military Committee were instructed to inquire into the expediency of preparing a bill concerning the, embracing certain principles, &c. -	895
a message, with a report from the Secretary of State, in reply -	832	Military Affairs, appointment of a select committee on -	404
Mr. Trimble presented another resolution concerning -	847	Military Bounty Lands, on motion of Mr. T. M. Nelson, a committee was appointed to make certain inquiries concerning -	487
referred to a select committee -	883	Mr. Taylor submitted a joint resolution directing the Commissioner of the General Land Office to cause to be engraved the map of -	514
report of the same, read and ordered to be printed -	1674	twice read, and ordered to a third reading -	515
Mr. Trimble submitted a substitute for the resolution reported -	1700	read the third time -	518
which was negative, and the report of the committee agreed to -	1713	Military Establishment, Mr. Johnson, of Kentucky, submitted sundry resolutions relating to various matters connected with the -	419
diplomatic correspondence relating to the imprisonment of -	1814	a bill making appropriations for the, read twice -	737
letter of Mrs. Meade, enclosing sundry papers, to the President -	1828	ordered to a third reading -	792
Mechanics' Relief Society, of Alexandria, a bill from the Senate to incorporate the -	824	amended, and ordered to be engrossed as amended -	794
read twice and referred -	829	read the third time, and passed -	799
reported without amendment -	846	returned from the Senate with amendments, and referred -	847
ordered to a third reading -	1697	one amendment disagreed to, the rest concurred in -	850
read a third time, and passed -	1714	the Senate insist on the amendment disagreed to -	851
Medical Society of Washington, a bill to incorporate the, read twice, &c. -	1431	the House insist, and ask a conference -	855
McDonists, Mr. Beecher presented the petition of, referred -	408	detailed report of the Managers -	883
Mercer, Chas. F., of Virginia, remarks of, on his resolution respecting African slave trade the Speaker presented sundry documents contesting the election of, which were referred to the Committee of Elections -	518	the House resolved to adhere -	894
speech of, on the case of John Anderson -	636	Military Land Warrants, resolution of Mr. Walker, of North Carolina, on the subject of -	591
remarks of, on the remission of duties to the Church at Richmond -	836	a bill from the Senate further extending the time for issuing, &c., read twice -	894
on the Bankrupt bill -	1011	ordered to a third reading -	935
on the report concerning internal improvement -	1115, 1137	read a third time, and passed -	954
speech of, on the resolution submitted by the committee -	1284	a bill from the Senate extending the time for obtaining, read twice -	1139
remarks of, on the Delaware and Chesapeake Canal -	1398	read the third time, and passed -	1429
speech of, on the supplemental Bank bill -	1752	Military Pensions, a bill providing for, &c., read twice -	711
Merchants' Bank of Newport, a bill from the Senate for relief of the, read twice, &c. reported without amendment, and committed -	1648	Military Peace Establishment, Mr. Trimble submitted resolutions directing the Secretary of War to report at next session what reductions may be made in the, &c. amended and adopted -	1766
Merchants, Traders, and Tailors, adverse report on the petition of, concurred in -	1655	amended and adopted -	1767
Merino Wool, a motion to exempt, from duty -	878	Militia, appointment of a select committee on the -	404
Message, the President's annual, five thousand copies of the, ordered to be printed -	399	on motion of Mr. Marr, the committee was directed to inquire into the expediency of making provision for the disabled officers, &c., of the -	431
reference of the, to appropriate committees -	401	Mr. Johnson submitted a resolution concerning the general staff of the -	542
Michigan, on motion of Mr. Johnson, a committee was appointed to prepare a bill authorizing the people of the Territory of, to send a delegate to Congress -	1180	agreed to, and referred to the committee on the -	543
a bill to that effect read twice -	1393	report of an organization of the -	609
ordered to a third reading -	1401	a bill for organizing, classing, and arming the, laid on the table -	841
Michigan Claims, report of the Secretary of State on certain -	477		
Miss, private armed schooner, Mr. S. Smith presented the petition of the owners of the, in behalf of the officers and crew -	1763		

## House Proceedings and Debates.

	Page.		Page.
Militia—continued.		Missouri Territory—continued.	
a bill from the Senate to defray the expenses of, while marching to rendezvous, read twice, and referred -	143	Mr. Scott also presented a petition, praying for a division of -	1392
reported without amendment, read a third time, and passed -	1779	a bill to authorize the people of, to form a constitution, &c., twice read, &c. -	1672
a bill to increase the pay of, while in actual service, read twice -	1672	Mitchell, Richard, report of the Secretary of the Treasury on the petition of -	534
ordered to a third reading -	1697	Mogadore, on motion of Mr. Bloomfield, the Committee of Foreign Affairs were instructed to inquire into the expediency of establishing a Consul at -	897
read the third time, and passed -	1715	a report thereon read -	1451
Militia Courts Martial, the Speaker presented the petition of sundry inhabitants of Pennsylvania respecting the conduct of certain officers engaged on, referred -	1392	Mohr, Carl Theodore, of Germany, a letter from, respecting the manufacture of porcelain -	646
Miller, Mr., of South Carolina, remarks of, on the resolution concerning Amelia Island on his motion respecting neutral relations -	414	Moneys transferred, report of the Secretary of War on the subject of -	541
on a resolution respecting the Military Peace Establishment -	1767	Monumental Church, at Richmond, an adverse report on the petition for remission of duties to the -	833
Miller, Noah, a bill for relief of, read twice -	444	considered, and concurred in -	837
ordered to a third reading -	490	Moore, Mr., of Pennsylvania, speech of, on the bill supplementary to the Bank act -	1746
read the third time, and passed -	495	moved to rescind the resolution fixing the day of adjournment -	1770
Miller, Thomas, and Stephen Baker, a bill for relief of, read twice -	841	Morgan, Thomas. (See <i>Armstrong, General</i> .)	
ordered to a third reading -	1687	Morris, Richard, adverse report on the petition of	467
read the third time, and passed -	1692	Morton and Sneed. (See <i>Treasury Notes lost</i> .)	
returned from the Senate with amendments concurred in -	1739	Moseley, Mr., of Connecticut, speech of, on the Compensation bill -	587
Miller, John, on motion of Mr. Williams, of New York, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing, on the pension list -	897	Mumford, George, report of the Committee of Elections in the case of -	855
Mills, Elijah H., of Massachusetts, appeared, and was qualified -	845	a letter from, to the said committee -	857
speech of, on the Bankrupt bill -	954	is confirmed in his right to a seat -	1450
remarks of, on the motion not to receive the Paoz memorial -	1255	McConnell, John, and Luke Hoff, adverse report on the petition of, agreed to -	447
Minors in the late Army, Mr. Walker, of North Carolina, submitted a resolution concerning -	417	McGirt, Zachariah, on motion of Mr. McCoy, the adverse report on the, was recommended, with instructions -	829
considered and rejected -	882	McGraw, John, a bill for relief of the legal representatives of, read twice, &c. -	1523
Mint, on motion of Mr. Seybert, a committee was appointed on the subject of the -	406	McHenry, James, late Secretary of War, on motion of Mr. Livermore the Clerk was ordered to procure to be printed 600 copies of a report made by, on the militia claims of the State of Georgia -	534
a bill supplemental to the act to establish the, read twice -	417	McIntosh, Mr., extract of a letter from, to the Secretary of the Treasury -	1800
ordered to a third reading -	432	McLane, Mr., of Delaware, speech of, in the case of John Anderson -	684
read the third time, and passed -	445	on the bill relating to expatriation -	1054
returned from the Senate with amendments, and agreed to -	515	in reply to Mr. Johnson, of Virginia -	1065
Mississippi, a resolution from the Senate to admit, into the Union, read twice -	405	on the Delaware and Chesapeake Canal -	1399
read the third time, and passed -	409		
on motion of Mr. Poindexter, the Judiciary Committee were instructed to inquire into the expediency of making provision for the due execution of the laws of the United States within the State of -	475	N.	
a bill providing for the same, read twice -	517	Nail, Henry. (See <i>Kennedy, John</i> .)	
recommitted to the Judiciary Committee -	531	Names of Delinquent Paymasters, on motion of Mr. Slocumb, the Secretary of War was directed to report to the House the -	936
reported, without amendment -	533	a letter from the Secretary in reply -	1072
ordered to a third reading -	1403	Naples, a Message from the President, in relation to the claims of merchants against the Government of -	1074
read a third time, and passed -	1405	Naval Affairs, appointment of a select committee on -	404
Missouri Territory, the Speaker presented the petition of sundry inhabitants of, praying that said Territory may be erected into a State, &c., referred to a select committee	591	Naval Armament on the Lakes, correspondence relating to the, between the Secretary of State and the British Minister -	1943
Mr. Scott presented a similar petition, referred to same -	840, 1391	Naval Discipline, Mr. Johnson, of Virginia, submitted a resolution relating to -	805



## House Proceedings and Debates.

	Page.		Page.
Naval Discipline—continued.		New York, a bill to alter the time for holding the circuit court in the southern district of, read twice	1112
amended, and referred to the Naval Committee	807	read a third time, and passed	1138
report of said committee thereon, that it is inexpedient to make any change in the	1682	returned from the Senate with amendments, and referred	1469
agreed to, and the committee discharged from its further consideration	1684	agreement reported	1567
Navigation, a bill from the Senate concerning, read twice	1717	(See <i>District Courts of</i> .)	
read a third time, and passed	1720	New York State Company, adverse report on the petition of, concurred in	1661
Navy, a bill making appropriations for the support of the, twice read	893	Niagara Frontier, a bill for relief of sufferers on the, read twice, and referred	1567
ordered to a third reading	982	reported with amendments	1696
read a third time, and passed	1007	the third reading negatived	1699
Navy Hospitals, on motion of Mr. Bassett, the Secretary of the Navy was directed to report what had been done on the subject of a report in obedience thereto	495	Noah, M. M., on motion of Mr. Tallmadge, the Secretary of State was directed to communicate a copy of the accounts of, as Consul at Tunis	462
Navy Pension Fund, annual report of the Commissioners of the	793	letter from the Secretary of State in reply	495
Mr. Tallmadge submitted a resolution concerning the	1692	Notaries Public, in Washington, a bill from the Senate to regulate the fees of, read twice	1568
agreed to, and referred to the Secretary of the Navy	1694	ordered to a third reading	1656
Navy Surgeons, the Naval Committee discharged from considering the petition of the	1764	O.	
Nelson, Hugh, of Virginia, speech of, on the Amelia Island affair	410	Office of Claims, Mr. Johnson submitted a resolution of inquiry concerning the	895
remarks of, on the Internal Improvement resolution	1137	amended and referred to Secretary of War	896
on the bill concerning the district courts of New York	1183	Officers wounded in the late war, Mr. Comstock submitted a resolution to provide for placing, on the pension list	537
speech of, on the Spanish American province	1596	considered and rejected	888
in reply to Mr. Clay	1645	Official conduct of Clerks, Mr. Holmes submitted a resolution for a committee to inquire into the	783
remarks of, on a motion to rescind the resolution fixing the day of adjournment	1770	agreed to, and a committee appointed	786
Nelson, Thomas M., of Virginia, appeared and was qualified	399	Colonel Watson's letter referred to said committee	791
remarks of, on the examination of Colonel Watson	780	report of said committee	1649
on Mr. Clay's amendment to the Neutrality bill	1432	Ogden, David A., of New York, appeared and was qualified	591
Nesbitt, Wilson, of South Carolina, appeared and was qualified	399	Ogle, Alexander, of Pennsylvania, appeared and was qualified	494
Netherlands, a Message from the President concerning our relations with the	1448	remarks of, on the Compensation bill	574, 589
Neutral Relations, Mr. Miller submitted a resolution of inquiry into the laws concerning our	519	on a resolution to grant medals, &c.	1669
laid on the table	522	O'Higgins, Bernardo, letters from, to the President of the United States	1880
(See <i>Certain crimes against the United States</i> , in which bill the subject is embraced.)		Ohio, report of the committee on the contested election of members from	543
New Madrid, a bill from the Senate limiting the time for claims to land granted to the inhabitants of, read twice	1662	the Speaker presented a petition of the Legislature of, for a certain road, referred	1112
read the third time, and passed	1667	a bill from the Senate to vest in trust in the Legislature of, certain sections of land, read twice, and referred	1400
New Orleans, Mr. Robertson presented a memorial of the citizens of, &c., referred	541	reported without amendment	1447
a bill from the Senate respecting certain lots in the city of	1691	ordered to lie on the table	1769
read twice, and referred	1696	Onis, Chevalier Don Luis de, correspondence of, with the Secretary of State on the case of Mr. Meade	1834
reported without amendment	1714	on the blockades declared by Spain	1841
read a third time, and passed	1778	on the occupation of Amelia Island	1903
Newton, Mr., of Virginia, remarks of, on the bill to remit certain duties to the Pennsylvania hospital	512	on the imprisonment of American citizens	1953
announcing the death of Mr. Goodwyn	1005	Organization of the Courts of the United States, a bill for the more convenient, read twice, and committed	936
		Orphans and Widows of persons slain in the public and private armed vessels of the United States, a bill from the Senate in addition to the act giving pensions to	851

## House Proceedings and Debates.

	Page.		Page.
Orphans and Widows—continued.		Pennsylvania Hospital—continued.	
read twice, and referred	855	a bill to remit the duties on a painting presented to the, read twice	422
reported without amendment	878	read a third time, and passed	513
ordered to a third reading	1721	Pennsylvania Line of the Revolution, Mr. Hopkinson presented the petition of the	494
read a third time, and passed	1724	Pension Agent, on motion of Mr. Claiborne, the Committee of Pensions and Revolutionary Claims were instructed to inquire into the expediency of establishing a, within the district of West Tennessee	418
Orr, Mr., remarks of, on the bill concerning Revolutionary survivors	492	Pensions and Revolutionary Claims, appointment of the standing committee of	490
Orr, James, a bill for the relief of, read twice, and committed	1660	Pensions to Invalids, on motion of Mr. T. M. Nelson, the two Committees on Military and Naval Affairs were instructed to inquire into the expediency of amending the laws relating to	1072
Osgood, Lemuel H., a bill from the Senate for the relief of	1667	Pensioners, Mr. Taylor submitted a resolution calling on the Secretary of War for a list of, &c.	486
read twice, and referred	1672	report of the Secretary in reply	541
reported without amendment, and ordered to a third reading	1691	Perry, Martha, Mr. Harrison presented the petition of, referred	566
read a third time, and passed	1687	Perry, Oliver H., on motion of Mr. Johnson, of Virginia, the Secretary of the Navy was directed to report to the House the proceedings of the court martial on	808
P.		letter from the Secretary complying with the order	832
Page, Joseph W., report of the Secretary of War on the petition of	894	referred to the Naval Committee	1028
Paper, Mr. Mason, of Massachusetts, presented a petition of the manufacturers of, referred	565	report of said committee	1661
Mr. Gage also presented a similar petition from the same State	737	Perry, Henry. (See <i>Johnson, John</i> .)	
Paper Hangings, an adverse report on the petition of the manufacturers of	1687	Persons of Color, Mr. Mercer presented the petition of a Society of Friends, concerning	488
Parker, Daniel, Mr. T. M. Nelson presented the memorial of, laid on the table	1674	Persons who have received Public Moneys, and failed to account for the same, report of the Secretary of War, with the names of, in obedience to a resolution	1072
Parliament of Great Britain, Mr. Smith, of Maryland, laid on the Clerk's table two acts of the, in relation to colonial trade	1676, 1723	Persons disabled by known Wounds, &c., report of the Secretary of War, of	1283
Parris, Mr., of Massachusetts, remarks of, on the bill for repairing the public buildings	590	Petit, Peter. (See <i>Cavalier, Anthony</i> .)	
remarks of, on the resolution respecting the official conduct of clerks	984	Philadelphia Bible Society, Mr. Sergeant presented the petition of the, referred	499
a letter from, giving notice of his resignation	850	Piano Forte Makers, adverse report on the petition of the, concurred in	1661
Passenger Ships and Vessels, a bill regulating, read twice, and committed	1222	Piatt, John H., Mr. Johnson, of Kentucky, presented the petition of, referred	1052
Patterson, J., an adverse report on the petition of, concurred in	817	committee discharged	1764
Paulding John, on motion of Mr. Tallmadge, the Committee on Pensions, &c., were instructed to inquire into the expediency of continuing for five years the pension to the widow and children of	1138	Pilsipher, Oliver, on motion of Mr. Hubbard, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the pension list	1013
Mr. Wilkin laid on the table a resolution on the subject of	1780	Pindall, Mr. speech of, on the case of John Anderson	671
Pay of Members, on motion of Mr. Holmes, a committee was appointed to inquire into the expediency of providing for the	475	remarks of, on the resolution to inquire into the official conduct of clerks	785
Pazos, Vincente, the Speaker presented the memorial of, read	1251	speech of, on the Fugitive Slave bill	827, 834
Mr. Forsyth's motion not to receive said memorial prevailed	1268	on the Bankrupt bill	918
the Speaker presented a petition of, for compensation, &c., referred	1666	on the bill relating to expatriation	1045
Pearl River, on motion of Mr. Poindexter, the Committee on Roads and Canals were instructed to inquire into the expediency of appropriating a sum of money to improve the navigation of	1381	remarks of, on the motion not to receive the Pazos memorial	1255
Pearson, George, a bill for relief of, read twice	782	speech of, on internal improvement	1340
ordered to a third reading	1662	Pinkney, William, correspondence of, with the Secretary of State	1848
read a third time, and passed	1667	with the Marquis di Circello	1863
Pennsylvania, a bill from the Senate to divide the State of, into two judicial districts, read twice, and referred	847	with the Duke of Serra Capriola	1866
reported without amendment	981	Piratical Establishments, report of the Committee of Foreign Relations on the subject of, accompanied with sundry documents	1785
read a third time, and passed	1778		
Pennsylvania Hospital, Mr. Sergeant presented the petition of the, referred	405		



House Proceedings and Debates.

Page.	Page.
Medical Establishments—continued.	Post Offices, &c.—continued.
a Message from the President announcing the suppression of, - 1801	on motion of Mr. Allen, similar instructions were given respecting a road from Burlington - 418
letters from Army and Navy officers, detailing their operations against - 1803	on motion of Mr. Simpson, similar instructions were given respecting a road from Bridgewater to Plymouth - 431
Wickin, Mr., remarks of, on the bill to abolish internal duties - 429, 442	on motion of Mr. Barber, of Ohio, similar instructions were given respecting a road from Marietta to Lancaster - 439
on the Compensation bill - 579	on motion of Mr. Williams, of North Carolina, similar instructions were given respecting a road from Norfolk to Tennessee - 462
on the case of John Anderson - 651, 673	Post Roads, a bill to alter and establish certain, read twice - 1674
on the imprisonment of R. W. Meade - 848	ordered to a third reading - 1767
on the motion not to receive the Pazos memorial - 1253	read the third time, and passed - 1769
on the Delaware and Chesapeake Canal bill - 1394, 1397	returned from the Senate with amendments, and concurred in - 1782
Wickin's Commercial Statistics, a bill from the Senate for the purchase of - 1738	Prairie du Chien, a bill for relief of the inhabitants of, read twice, &c. - 1013
read twice, and referred - 1739	Preble, Commodore Edward, and officers and crew of the brig Syren, a bill authorizing the distribution of a sum of money among the representatives of, read twice, and referred - 1072
reported without amendment - 1743	Preemption, Mr. Poindexter presented the petition of the Legislature of Mississippi respecting the right of, referred - 1647
ordered to a third reading - 1764	Price of Public Lands, on motion of Mr. McCoy, the Committee on Public Lands were instructed to inquire into the expediency of increasing the - 494
read the third time, and passed - 1776	report of said committee that it is inexpedient - 542
Warro, Don Jose, correspondence of, with Mr. Erving, on the Meade case - 1822	Prince, James, adverse report on the petition of, concurred in - 513
Wassants, Mr., remarks of, on the resolution relating to naval discipline - 807	Prisoners of War, letter from the Secretary of the Treasury with a statement respecting the fund appropriated for - 422
Woldevin, Madame, a bill for relief of, twice read - 897	Prisons of Santa Fe, on motion of Mr. Floyd, a committee was appointed to request of the President any information in his possession relative to the confinement of certain persons in the - 1223
ordered to a third reading - 1766	Private Land Claims, appointment of the standing committee on - 400
read the third time, and passed - 1769	Privateer General Armstrong, report on the petition of the officers and crew of the - 2480
Woldevin, George, of Mississippi, appeared and was qualified - 446	Property Act, the Committee of Claims reported the expediency of continuing the office created under the - 1250
remarks of, on the Compensation bill - 577	Public Accounts, letter from the Secretary of the Treasury on the subject of the settlement of - 2347
speech of, in the case of John Anderson - 653	Public Buildings, appointment of a select committee on the - 405
remarks of, on the report on the Richmond church petition - 834	a bill making further provision for repairing, &c., read twice - 566
on the office of claims - 895	ordered to a third reading - 591
on the resolution for adjournment - 987	read the third time, and passed - 592
speech of, on the motion not to receive the Pazos memorial - 1254	returned from the Senate with amendments, the first of which was disagreed to, and the rest concurred in - 1767
on the Spanish American Provinces - 1620	a bill making appropriations for, read twice - 1180
remarks of, on the resolution to present a sword to Colonel R. M. Johnson - 1665	Public Debt, a bill making appropriations for redemption of the, read twice - 1222
on the resolution to present medals to certain officers - 1670	analysis of the - 2319
Wassett, J. R., report of, to the Secretary of State, on South America - 2250	
Woldevin, M., Aid-de-Camp to Lafayette, a bill making provision for the claims of, read twice, &c. - 1604	
Wool, Benjamin, a bill for relief of, read twice, &c. - 1013	
Woldevin, Nathaniel, delegate from Illinois, was qualified - 408	
remarks of, on the bill to admit Illinois into the Union - 1678	
Woldevin, Brigadier General Moses, report of the Secretary of War on the petition of - 894	
a bill for relief of, read twice - 1401	
read the third time, and passed - 1405	
returned from the Senate with an amendment - 1691	
read, and concurred in - 1696	
Postmaster General, Mr. Johnson, of Kentucky, moved a resolution to increase the salary of the, referred - 543	
a bill to increase the salary of the, read twice, &c. - 1392	
Post Offices and Post Roads, appointment of the standing committee on - 400	
on motion of Mr. Ingham, the said committee were instructed concerning a road from Fort Montgomery, &c. - 418	

House Proceedings and Debates.

Page.	Page.
Public Documents, a resolution from the Senate authorizing the distribution of certain, read three times, and passed - 476	Registers and Receivers—continued.
Public Expenditures, appointment of the standing committee on - 400	report of the Secretary in reply - 841
Public Lands, appointment of the standing committee on - 400	on motion of the same gentleman, the Committee of Ways and Means were instructed to inquire into the expediency of amending the laws in relation to the salaries and emoluments of - 894
Public Money, a bill to authorize the recovery of, read twice - 1745	a bill for changing the compensation of, read twice - 1180
ordered to a third reading - 1746	ordered to a third reading - 1265
read the third time, and ordered to lie on the table - 1766	read the third time, and passed - 1769
Pueyerredon, J. M. de, letters from, to the President of the United States - 1878	Regulating the number of Passengers, on motion of Mr. Forsyth, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of, to be brought into the United States according to tonnage - 815
Purchasers of Public Lands, letter from the Secretary of the Treasury on the subject of indulgence to - 2345	Renner, Daniel, and Nathaniel H. Heath, a bill for relief of, read twice - 1392
Q.	Repairing certain roads, a bill from the Senate in addition to the act making appropriations for, read twice, and referred - 799
Quarles, Mr., speech of, on the case of John Anderson - 678	reported without amendment - 816
Quartermasters and Paymasters' Accounts, on motion of Mr. Storrs, the Secretary of War was directed to report a statement of balances due on - 855	ordered to a third reading - 1400
a letter from the Secretary with the statement called for - 1283	Reports of the Committee on Commerce and Manufactures, on motion of Mr. Drake, the Clerk was directed to furnish each of the members with a printed copy of certain - 936
Quorum, interchange of messages respecting a - 399	Representative Qualifications, Mr. Forsyth submitted a resolution instructing the Committee of Elections to inquire concerning - 422
R.	considered, and agreed to - 423
Raisin, on motion of Mr. Harrison, the petition of sundry inhabitants on the river, was referred to a select committee - 422	a resolution reported by said committee was adopted, requesting the President to cause to be furnished a list of the members of Congress who have held office under the United States since the 4th of March last - 444
report of the Secretary of State on the subject of - 477	a Message from the President, with the information asked for - 515
Ramey, Robert. (See Cheney, Samuel.)	Revenue, statement of the, from all sources - 2317
Rangers, a bill for the relief of a company of, read twice, and referred - 866	Revisal and Unfinished Business, appointment of the standing committee on - 400
reported without amendment - 878	Revision of the Revenue Laws, Mr. Crawford's report on the - 2323
ordered to a third reading - 1715	Revolutionary Army, a bill concerning certain officers and soldiers of the, read twice - 445
read the third time, and passed - 1719	ordered to a third reading - 508
Receipts into the Treasury, on motion of Mr. Herbert, the Secretary of the Treasury was directed to report the amount of, annually - 490	read the third time, and passed - 512
letter from the Secretary in reply - 518	returned from the Senate with amendments, and referred - 1053
Redemption of Lands sold for direct Taxes, Mr. Livermore submitted a resolution of inquiry concerning the - 591	agreement reported, with an amendment - 1108
amended, and referred to the Committee on Public Lands - 592	report of the committee further amended, and bill sent back for concurrence - 1110
Reed, Mr., remarks of, on a resolution respecting the Peace Establishment - 1767	Mr. Smith, of North Carolina, submitted a resolution to print and distribute the said act, read twice - 1568
Reed, Captain Samuel C. (See General Armstrong, Brig.)	read the third time, and passed - 1605
Refined Sugar exported, on motion of Mr. Sergeant, the Committee of Ways and Means were instructed to inquire into the expediency of allowing drawback on - 646	Mr. Holmes, of Massachusetts, submitted a resolution instructing the Military Committee to inquire into the expediency of providing for such officers and soldiers, as well militia as regulars, of the, as may not be embraced in the act just passed, which, being considered, was not agreed to - 1698
a favorable report thereon, ordered to be printed - 1446	Rhea, Mr., remarks of, on his resolution concerning Amelia Island - 410, 415
Registers and Receivers, on motion of Mr. Barber, of Ohio, the Committee on Public Lands were instructed to inquire into the expediency of increasing the salaries of the, at Marietta - 799	
on motion of Mr. Robertson, of Louisiana, the Secretary of the Treasury was directed to report a statement of the salaries of the respective - 815	



## House Proceedings and Debates.

	Page.		Page.
Rhea, Mr., remarks of—continued.		Ross, John, of Pennsylvania, appeared, and was	
on his resolution concerning certificates		qualified	446
and indents	463	remarks of, on the bill concerning the effect	
speech of, in the case of John Anderson	704	of certain records, &c.	564
on Mr. Spencer's resolutions in that case	735	on the resolution concerning clerks	785
remarks of, on the Fugitive Slave bill	834, 839	notice of the resignation of	1451
speech of, on the right of expatriation	1091	Rules, Regulations, &c., for the Naval Service,	
on the motion not to receive the Pazos me-		a Message from the President of the Uni-	
morial	1217	ted States, transmitting the report of the	
remarks of, on the resolution to present cer-		Navy Commissioners on the	1780
tain medals	1671		
Rheame, Tobias, a bill confirming the claim of,			
to certain land, read twice	566		
ordered to a third reading	1451		
read the third time, and passed	1452		
returned from the Senate with amendments	1667		
read, and concurred in	1672		
Rice, Thomas, of Massachusetts, appeared, and			
was qualified	798		
Rich, Mr., remarks of, on the case of Anderson	653		
speech of, on Mr. Rhea's amendment to Mr.			
Spencer's resolutions	773		
remarks of, on the resolution concerning the			
clerks	786		
Road, on motion of Mr. Herrick, the Committee			
on Roads and Canals were instructed to			
inquire into the expediency of authorizing			
a certain	815		
Roads, on motion of Mr. Tucker, of Virginia, a			
committee was appointed to request of			
the President of the United States infor-			
mation as to what, have been made	417		
a message, with the report of the Secretary			
of War in reply	814		
Robbins, Brintnell, report of the Secretary of			
War on the petition of	1381		
Robertson, Mr., of Louisiana, speech of, on sub-			
mitting a resolution respecting the South			
American provinces	406, 1525		
remarks of, on the resolution respecting			
Amelia Island	413		
speech of, on his motion concerning expatri-			
ation	448		
remarks of, on offering an amendment to			
the Commutation bill	522, 810		
speech of, in the case of Anderson	829		
on his bill concerning expatriation	1029		
on the memorial of Vincente Pazos	1260		
remarks of, on bill to punish certain crimes	1403		
speech of, on Mr. Clay's motion to amend			
the same	1410		
Robinson, Paul, an adverse report on the peti-			
tion of, concurred in	853		
Rock Creek Church, a bill to authorize the sale			
of a part of the glebe of, read twice	1691		
Rodgers, Commodore John, a bill for relief of,			
twice read	792		
ordered to a third reading	1667		
read the third time, and passed	1672		
Rodney, Caesar A., report of, to the Secretary of			
State, on South America	1967		
appendix to the report of	1995		
Rogers, Thomas J., the Speaker presented a let-			
ter from the Governor of Pennsylvania,			
enclosing the return of the election of, as			
Representative from that State, vice			
John Ross, resigned, referred to the Com-			
mittee of Elections	1451		
appeared, and was qualified	1455		

## House Proceedings and Debates.

	Page.		Page.
Secretary of War, letters from the acting, to Ma-		Slade's Creek, a bill to abolish the port of entry	
ajor Bankhead, on the subject of Amelia		at, read twice	1671
Island	1806	read the third time, and passed	1676
Sellers, Juliet, Eliza, &c. (See Johnson, Hick-		Slate Company, of New York, adverse report on	
man.)		the memorial of the	1661
Seminole War, Mr. Cobb presented a resolution		Slavery, Mr. Livermore submitted an amend-	
to increase the pay of the militia engaged		ment to the Constitution on the subject	
in the	1672	of	1675
agreed to, and referred to the Military Com-		read, and the question of consideration nega-	
mittee	1673	tived	1676
(See Militia.)			
Sergeant, John, of Pennsylvania, appeared, and			
was qualified	399	Slaves, a bill from the Senate to prohibit the im-	
speech of, on the repeal of internal duties	435	portation of	1715
on the Commutation bill	475	read twice	1718
on the motion to appoint a Committee of		ordered to a third reading	1749
Privileges	601	amended, read the third time, and passed	1744
remarks of, on the bill for the remission of		a bill prohibiting the introduction of, into	
certain duties	821	the United States, twice read	650
on the Fugitive Slave bill	830	Mr. Middleton offered a substitute, which	
on the case of Richard W. Meade	887	was agreed to, and ordered to be printed,	
speech of, on the Bankrupt bill	936	and referred	1662
on the Pazos memorial	1263	reported with amendments	1720
on the Delaware and Chesapeake canal	1398	Small, John, a bill from the Senate for relief of,	
on Mr. Trimble's resolution in the case of		read twice	1031
R. W. Meade	1716	read the third time, and passed	1623
Settle, Mr. of North Carolina, speech of, in the		Smith, Ballard, of Virginia, appeared, and was	
case of Anderson	700	qualified	406
Settlers on Public Lands, on motion of Mr. Scott,		speech of, on the internal improvement reso-	
the Committee of Public Lands were in-		lution	1128
structed to inquire into the expediency of		on the subscription to the Delaware and	
amending the act relating to	677	Chesapeake Canal stock	1395
a bill to continue in force the act relating to,		Smith, Samuel, of Maryland, remarks of, on the	
read twice	818	bill to abolish internal duties	427
ordered to a third reading	1682	on the bill concerning Revolutionary sur-	
read the third time, and passed	1687	vivors	493
Sevier, George W., Mr. Claiborne presented the		on the resolution relating to naval discipli-	
petition of, referred	819	ne	806
Seybert's Statistical Annals, a bill from the Sen-		on the Fugitive Slave bill	830
ate authorizing subscription to	1738	on the remission of duties to the Church	
read twice, and referred	1739	in Richmond	834
reported without amendment	1743	speech of, on the Bankrupt bill	946
ordered to a third reading	1764	on Mr. Clay's amendment to the Neutrality	
read the third time, and passed	1776	bill	1421
Seybold John. (See Esary, Jonathan D.)		in reply to Mr. Clay	1427
Shaw, Basil, adverse report on the petition of,		on the condition of the South American	
concurred in	846	provinces	1538
Shields, Thomas, Mr. Robertson of Louisiana pre-		in reply to Mr. Clay on the same subject	1637
sented the petition of, referred	823	remarks of, on the resolution to grant med-	
Shieldsborough, on motion of Mr. Poindexter,		als	1669
the Committee of Commerce, &c., were		speech of, on the supplemental Bank bill	1756
instructed to inquire into the expediency		remarks of, on a resolution relating to the	
of making, a port of entry	824	Peace Establishment	1767
Shover, George. (See Soldiers who left the service.)			
Sicilian Sumac, a motion to exempt, from duty	818		
Sicily, papers relative to the claims of our mer-			
chants against the Government of	1844		
Simkins, Eldred, of South Carolina, appeared			
and was qualified	865		
speech of, on the internal improvement res-			
olution	1217		
on the Cumberland Road bill	1657		
on the bill to increase the duty on iron	1751		
Simonton, John W. and others, Mr. Jones pre-			
sented the petition of, referred	823		
Sinking Fund, annual report of the	866		
detailed report of the Commissioners of the	2339		
Sixth Circuit, a bill providing additional compen-			
sation to circuit judge of the, read twice	824		



## House Proceedings and Debates.

	Page.		Page.
Smyth, Harold, on motion of Mr. Tucker, the Military Committee were instructed to inquire into the expediency of authorizing the proper accounting officers to audit and settle the accounts of -	1112	Stafford, Lieutenant Aaron, on motion of Mr. Hubbard, the Committee on Pensions, &c., were instructed to inquire into the expediency of increasing the pension of	936
a bill for the relief of, read twice, and committed -	1392	Standing Committees, appointment of the several	400
Soldiers who left the service, without leave, &c., a bill allowing bounty lands to certain, read twice, and ordered to lie on the table	1655	Standing Rules, Mr. Bassett submitted a motion to amend the -	431
South American Provinces, reports and documents exhibiting the condition of the -	1967	the amendment agreed to -	445
South Carolina, a Message from the President transmitting a letter from the Governor of, to the Secretary of State, relative to a proposed amendment of the Constitution, ordered to lie on the table -	1074	Mr. Poindexter submitted another amendment to the -	486
Southard, Mr., of New Jersey, remarks of, on the Commutation bill -	475	also agreed to -	489
on bill concerning Revolutionary survivors	493	on motion of Mr. Harrison, another rule was added to the -	489
on the resolution respecting clerks -	786	Mr. Wendover offered another amendment which was also agreed to -	514
speech of, on the half-pay Pension bill -	875	Mr. Taylor submitted a motion to amend the, read -	1223
Spain, on motion of Mr. Forsyth, a committee was appointed to request of the President information touching our relations with	854,	the motion agreed to -	1402
a Message, with a report from the Secretary of State, in reply -	1008	Stansbury, Tobias E. and William, a report of facts in the case of, referred -	936
one thousand four hundred copies of the Message and documents ordered to be printed -	1390	Stark, Major General John, Mr. Butler presented the petition of, referred -	1112
documents accompanying the Secretary's report -	1393	a bill for the relief of, read twice -	1186
Spanish American provinces, Mr. Robertson, of Louisiana, submitted a resolution relating to the -	1814	read the third time, and passed -	1770
modified and agreed to, and a committee appointed -	406	Statutes of the several States, on motion of Mr. Taylor, of New York, the Clerk was directed to procure a copy of the last edition of the, to be kept in his office for the use of members -	1013
Mr. Clay proposes to send a Minister to the -	1406	Stephens, Ebenezer and others, a bill for relief of, read twice, &c. -	1392
the proposition negatived -	1646	Sterner, Barnhard, Mr. Hendricks presented the petition of, referred -	824
Mr. Anderson renewed Mr. Clay's proposition -	1652	Stewart, James, of North Carolina, appeared and was qualified -	817
again negatived, the yeas and nays being taken -	1655	Stiles, George. (See <i>Tennant, Thomas.</i> )	
Spanish Blockades, correspondence in relation to the -	1840	Stone, Peter and Mary, Mr. McCoy presented the petition of, referred -	416
Spanish Grants, Mr. Poindexter presented the petition of sundry inhabitants of Mississippi against the confirmation of -	1016	Storrs, Mr., of New York, remarks of, on the bill to abolish internal duties -	427
Spanish Records, &c., on motion of Mr. Robertson, a committee was appointed to request the President to obtain all, relating to Louisiana -	1743	on the Commutation bill -	470,
Spencer, Mr., of New York, remarks of, on the bill respecting the authentication of records -	535, 564	on the Compensation bill -	574
speech of, on his resolutions in the case of Anderson -	612, 651	speech of, in the case of Anderson -	668
on withdrawing the preamble from his resolutions -	912	remarks of, on the resolution concerning clerks -	784
remarks of, on the Georgia claims -	1113	on the Fugitive Slave bill -	828,
on the bill concerning the district courts of New York -	1184	speech of, on the Bankrupt bill -	972
on Mr. Clay's proposition to send a Minister to South America -	1655	Strong, Mr., remarks of, on the bill relating to authentication of records -	564
on the case of R. W. Meade -	1711	on the Compensation bill -	588
on his motion concerning Judge Van Ness -	1715	Strother, Mr., speech of, on the bill concerning Revolutionary survivors -	497
Sprague, Seth, a bill for relief of, read twice -	1681	remarks of, on the Compensation bill -	578
read the third time, and passed -	1687	on the examination of Colonel Watson -	780
		on the bill for remission of certain duties -	820
		speech of, on the motion not to receive the Pazos memorial -	1258
		Stubbs, John G. (See <i>Edwards, William.</i> )	
		Subsisting the Army, on motion of Mr. Forsyth, a committee was appointed to inquire into the expediency of changing the mode of -	981
		Sullivan, Mary, an adverse report on the petition of, reversed, and the Committee of Claims ordered to prepare a bill -	1691
		a bill for relief of, read twice -	1696
		ordered to a third reading -	1697
		read a third time, and passed -	1714

## House Proceedings and Debates.

	Page.		Page.
Surgeons of the Navy, on motion of Mr. Parris, the Naval Committee were instructed to inquire into the expediency of altering the rank of -	430	Taylor, John, (a Revolutionary soldier,) on motion of Mr. Butler, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the pension list -	866
Survey of the Coast, documents showing the progress made in the -	2447	Tennant, Thomas, and George Stiles, adverse report on the petition of, agreed to -	1661
Surveyor of Missouri and Mississippi, a bill from the Senate allowing additional salary to the, read twice, and referred -	1401	Tennessee, on motion of Mr. Holmes, of Massachusetts, the Committee on Roads and Canals were instructed to inquire into the expediency of uniting the Tombigbee and, rivers -	430
reported without amendment -	1446	Mr. Rhea presented the petition of the Legislature of, concerning titles to lands accruing under grants from N. Carolina, &c. -	489
ordered to a third reading -	1450	Mr. Marr presented the petition of the same, respecting the Chickasaw lands -	1391
Surviving Revolutionary Patriots. (See <i>Revolutionary Army.</i> )		Mr. Blount presented a petition concerning an exchange of certain lands -	1400
St. Clair, General Arthur, a bill for relief of, read twice -	831	Mr. Marr, the same, on subject of land titles a bill from the Senate, supplemental to the act authorizing the State of, to issue grants of, read twice -	1568
on motion of Mr. Cobb, the Secretaries of the Treasury and of War were directed to report statements of all the accounts of on motion of Mr. Forsyth, the accounting officers were directed to settle the accounts and pay with interest whatever might be found due -	849	read the third time, and passed -	1568
the bill was ordered to a third reading -	853	Terrill, Mr., speech of, on the Georgia claims -	1098
read the third time, and passed -	853	Territorial Government, a bill from the Senate to alter and amend the act to erect a separate, for the eastern part of Mississippi, read twice, and referred -	1013
a letter from the Secretary of War, with a statement of the accounts of -	866	reported, without amendment -	1052
St. Stephens, on motion of Mr. Edwards, the Committee on Public Lands were instructed to inquire into the expediency of adding to the land district of, certain lands acquired from the Chickasaw and Choctaw Indians -	930	read the third time, and passed -	1778
		on motion of Mr. Forsyth, the Judiciary Committee were instructed to inquire into the expediency of altering the laws relating to -	1401
T.		Terry, Mr., remarks of, on the proposed arrest of John Anderson -	583
Tallmadge, Mr., remarks of, on the bill to abolish internal duties -	426,	on the motion for a Committee of Privileges -	605
speech of, on the case of Anderson -	712	Thomas, Colonel James, on motion of Mr. Desha, the accounts and papers in the case of, were referred to the Attorney General	1714
remarks of, on the examination of Colonel Watson -	780	Thompson, John, a bill from the Senate, in addition to the act for the relief of, read twice -	855
on the resolution concerning clerks -	783	ordered to a third reading -	1697
on the Georgia claims -	1103	read the third time, and passed -	1714
speech of, on the bill to subscribe for stock in the Delaware and Chesapeake Canal -	1395	a bill in addition to the act for relief of, read twice -	489
on his resolution respecting the navy pension fund -	1692	ordered to a third reading -	532
Tariff, on motion of Mr. Ingham, the Secretary of the Treasury was directed to report, at the next session of Congress, what further improvements might be made in the -	1777	read the third time, and passed -	534
Taxation, on motion of Mr. Taylor, the Committee on Public Lands were instructed to inquire into the expediency of exempting bounty lands from -	418	Thompson, Samuel. (See <i>Daily, John.</i> )	
Taylor, William, and Ezekiel Walker, report of the Secretary of the Treasury on the petition of, referred -	444	Thorn, Joseph, a bill for relief of, read twice -	737
Taylor, Mr., of New York, remarks of, on his resolution calling for a list of pensioners on the resolution to engrave the surveyor's map of bounty lands -	519	ordered to a third reading -	1656
on continuing the office of Commissioner of Claims -	896	read the third time, and passed -	1662
on the resolution fixing the day of adjournment -	1281	Three per cent., a bill from the Senate for paying to Indiana, on the proceeds of the sales of lands in that State, read twice, and referred -	592
on the supplemental Bank bill -	1762	reported, without amendment -	782
Taylor, John, a bill authorizing, to be placed on the navy pension list, read twice -	591	amended, and ordered to a third reading -	1667
ordered to a third reading -	1450	read the third time, and passed as amended -	1678
read the third time, and passed -	1452	the Senate disagreed to the amendment -	1676
		Titles to Lands, Mr. Robertson presented the petition of the Legislature of Louisiana concerning, referred -	1072
		Titles of Nobility, &c., Mr. Edwards submitted a resolution, requesting information of the President as to the number of States that had ratified the amendment of the Constitution in relation to -	530



## House Proceedings and Debates.

	Page.		Page.
Toll Bridge over the Eastern Branch, Mr. Peter presented the petition of the inhabitants of Washington, praying an act for a	878	Tucker, Mr.—continued.	
Tonnage, the annual statement of the, from the Treasury Department	782	remarks of, on the Pazos memorial	1252, 1267
on motion of Mr. Silsbee, the Committee of Commerce and Manufactures were instructed concerning the duty, &c.	841	speech of, on the constitutionality of internal improvement	1318
a letter from the Secretary of the Treasury respecting	1448	remarks of, on the Delaware and Chesapeake Canal	1497
Tonnage and discriminating duties, a bill from the Senate concerning	1738	on Mr. Clay's motion to amend the Neutrality bill	1499
read twice, and referred	1739	speech of, on the South American provinces	1585
reported without amendment	1764	Turnbull, John, a bill for relief of the legal representatives of, read twice	1456
amended, and passed as amended	1769	Turner, Thomas, a bill concerning the heirs and legatees of, read twice	1456
Torres, Manuel, the Speaker presented a paper from, which was referred to the Committee of Ways and Means	1660	Turner, Charles, jr., a confidential letter from, to the honorable John Holmes	2385
postponed to the next session	1737	Tyler, Mr., remarks of, on the report of the committee on remission of duties to the Richmond church	833
Toulmin, Judge Harry, the Speaker presented a paper from Edwin Lewis requesting that his charges against, may be taken up, and it was referred to the Judiciary Committee	1722	speech of, on the Bankrupt bill	907
the committee discharged from its further consideration	1769	in reply to Mr. Smith of Maryland	953
Townsend, Sylvanus, on motion of Mr. Comstock, the claim of, was referred	448	Tyler, Benjamin O., the Speaker presented a letter from, accompanied with a fac simile copy of the Declaration of Independence	1768
Trading-houses with the Indian tribes, a bill for establishing, read twice	800		
Transfer of Claims, a bill for the, from the Commissioner under the property act, to the third Auditor, read twice	1737	U.	
read the third time, and passed	1778	Unexpended Appropriations, on motion of Mr. Taylor, the Secretary of the Navy was directed to report, at the next session of Congress, the sums expended under the several acts rewarding the officers, &c., of certain vessels, for purchase of vessels captured on Lake Erie, &c., and the balances of	1675
Transfer of Deposits, a letter from the Secretary of the Treasury on the subject of the	444	V.	
Transfer of Public Debt, report on the legality of a, by the Bank of the United States	1283	Vaccine Agents, on motion of Mr. Floyd, a committee was appointed to inquire into the expediency of granting the franking privilege to	500
Transportation of persons of color, for sale, &c., a bill from the Senate, respecting the, read twice, and referred	1381	a bill to extend the privilege of franking to, read twice	542
Treasury Notes lost or destroyed, a bill to authorize the payment of, in certain cases, read twice	846	ordered to a third reading	1450
ordered to a third reading	1697	read the third time, and passed	1452
read a third time, and passed	1715	Van Dyke, Charles, report of the Secretary of the Navy on the petition of	1071
Treaty of Ghent. (See <i>Ghent</i> .)		Van Ness, Judge, on motion of Mr. Spencer, a committee was appointed to inquire into the official conduct of	1715
Trimble, Mr., speech of, on his motion concerning R. W. Meade	502	Villere, Jacques, report of the Secretary of State on the petition of, referred	445
on his resolution authorizing the President to make reprisals	847	adverse report thereon	501
remarks of, on the motion not to receive the Pazos memorial	1253	Vincennes, a bill from the Senate to adjust claims to land in the town of, read twice	1431
speech of, on offering a substitute for the resolution reported by the Meade committee	1700	committed to the Committee of the Whole	1666
in reply to Mr. Hopkinson	1700	reported without amendment, read the third time, and passed	1779
remarks of, in answer to Mr. Forsyth	1713	Virginia, on motion of Mr. Pindall, the Judiciary Committee were instructed to inquire into the expediency of establishing a district court for, west of the Alleghany mountains	534
on submitting a resolution relating to the Peace Establishment	1766	a bill to that effect read twice, &c.	981
Trouillet, Peter. (See <i>Baker, John</i> .)		on motion of Mr. Tyler, the same committee were instructed to inquire into the expediency of altering the time for holding the United States courts in	897
Tucker, Mr., of Virginia, speech of, on the motion for a Committee of Privileges	595	a bill for that purpose read twice	981
on the resolutions of Mr. Spencer	631	read the third time, and passed	1007
on the Bankrupt bill	962		
remarks of, on the report on internal improvements	1114		
speech of, on the resolution submitted by that committee	1116		

## House Proceedings and Debates.

	Page.		Page.
Virginia Military Land Warrants, a bill from the Senate to extend the time for locating, &c., read twice, and referred	517	Whitman, Mr., remarks of—continued.	
reported with amendments	737	on the Fugitive Slave bill	839
amendments adopted, and ordered to a third reading	1662	speech of, on the Bankrupt bill	1614
read the third time, and passed as amended	1667	remarks of, on the supplemental Bank bill	1755
Volunteer Cavalry, a bill for the relief of certain, read twice	1223	Widows and Orphans of the Officers and Soldiers of the late War, Mr. Harrison submitted a resolution on the subject of the	450
ordered to a third reading	1715	agreed to, and referred	451
read the third time, and passed	1719	on motion of the same, the Secretary of War was directed to report the amount of pensions granted to the	476
W.		a bill to extend for a further term of five years the pensions to, read twice	872
Wait, Thomas B., and Sons, Mr. Mason, of Massachusetts, presented the petition of, referred	893	Widows of Militia Soldiers, Mr. Edwards, of North Carolina offered a resolution to inquire into the expediency of making provision for the	881
Wait's State Papers, Mr. Sergeant submitted resolutions directing that a copy of, be furnished to each of the judges of the Supreme Court, read twice	881	agreed to, and referred to the Military Committee	881
read the third time, and passed	897	a bill concerning, read twice, &c.	1007
a bill from the Senate authorizing subscription for the 11th volume of, read	1456	Williams, Lewis, remarks of, on the bill to abolish internal duties	425
read a second time, and committed	1469	remarks and statement of, on Anderson's letter to him	580
Walker, Ezekiel. (See <i>Taylor, William</i> .)		speech of, on the Compensation bill	584
Ward, Samuel, a bill from the Senate for relief of, read twice, and referred	1523	Mr. Anderson's examination of	786
Warner, Martin, a bill from the Senate for relief of, read twice	881	remarks of, on the resolution concerning the office of claims	895
read the third time, and passed	1648	speech of, on the bill concerning expatriation	1076
Washington, a bill from the Senate supplemental to the act further to amend the charter of the City of	1656	remarks of, on the case of R. W. Meade	1711
read twice, and referred	1662	on a resolution concerning the Peace Establishment	1767
reported with an amendment, and committed	1674	Williams, Mr. of Connecticut, remarks of, on the bill relating to records, &c.	536
Watson, Colonel Joseph, examination of, at the bar of the House	779	remarks of, on the Fugitive Slave bill	839
a letter from, to the Speaker, read	783	speech of, on the Bankrupt bill	977
Ways and Means, appointment of the standing committee of	400	Williams, Henry, on motion of Mr. Blount, the House reconsidered their vote of concurrence in the adverse report of the Committee of Claims, and the petition of, was referred to the Committee of the Whole	818
Webster, John, committee discharged from the petition of	1768	Williams, Thomas, of the Iroquois tribe, report of the Secretary of War on the petition of, laid on the table	1283
Weights and Measures, on motion of Mr. Linn, a committee was appointed to inquire into the expediency of establishing a standard of	591	Williams, Frederick. (See <i>Ernest, Frederick</i> .)	
Wells, George R., a bill for relief of, read twice	1672	Wilmot, John, a bill for relief of, read twice, &c.	878
read the third time, and passed	1676	Wilson, John, of Massachusetts, appeared, and was qualified	817
Wells, Benjamin and John, the committee discharged from the petition of	1768	Windmill Point, on motion of Mr. Newton, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of erecting a light-house on	791
Wendover, Mr., remarks of, on his resolution respecting the flag of the United States	464	Wines and Distilled Spirits, a bill to provide for the deposit of, in the public warehouses, read twice, and referred	1283
speech of, on the bill to alter the same	1458	reported without amendment, and ordered to a third reading	1725
Wharton, Lieutenant Colonel Franklin, on motion of Mr. Floyd, the Secretary of the Navy was directed to lay before the House the proceedings of the court martial on	1523	read the third time, and passed	1738
letter from the Secretary, transmitting the same	1682	returned from the Senate with amendments, and concurred in	1777
Wheeler and Cook, an adverse report concurred in, on the petition of	1655	Winter, Gabriel, Mr. Johnson presented sundry documents in support of the petition of, which were referred	422
Whistler, Major John, adverse report on the petition of	854	Winter, Elisha and William, a bill for the relief of, read twice, &c.	517
Whitman, Mr., remarks of, on the bill to abolish internal duties	426	a bill for the final adjustment of the land claims of, read twice, &c.	878
speech of, in the case of Anderson	740		
remarks of, on the resolution concerning clerks	786		



## House Proceedings and Debates.

	Page.	Yeas and Nays—continued.	Page.
Wingman, Charles. (See Clifford, Thomas and John, &c.)		on indefinite postponement of the Georgia claims	1107
Withdrawal of Entries, &c., bill from the Senate concerning the, read twice, and referred	894	on the Senate's amendments to the bill concerning Revolutionary survivors	1109
reported without amendment, and ordered to a third reading	935	on the third reading of the Georgia Claims' bill	1111
read the third time, and passed	954	on the final passage of the resolution to adjourn 13th April	1183
Woodworth, Roswell, an adverse report on the petition of, agreed to	514	on receiving the memorial of Vicente Pazos	1268
Work, John, a bill for the relief of, read twice	818	on indefinite postponement of the first resolution for internal improvement	1384
ordered to a third reading	1680	on concurring with the committee on said resolution	1385
read the third time, and passed	1684	on agreeing to the second resolution	1386
Worster, Alexander, an adverse report on the petition of	444	on amending the third resolution	1387
read, and reversed by the Committee of the Whole	516	on agreeing to the same	1388
Worthington, Gad, a bill for the relief of, read twice	790	on agreeing to the fourth resolution	1388
ordered to a third reading	1667	on the third reading of the Senate bill concerning certain roads	1400
read the third time, and passed	1672	on reversing the report on the Ohio contested election	1448
Y.		on agreeing with the Committee of Elections	1449
Yeas and Nays, on the final passage of the bill to abolish internal duties	443	on indefinite postponement of the Neutrality bill	1459
on amending the Compensation bill 575, 576, 577	589	on amending the said bill	1454
on the final passage of the same	589	on the third reading of the same	1455
on indefinitely postponing Mr. Spencer's resolutions in the case of Anderson	775	on Mr. Clay's proposition for a Minister to South America	1655
on Mr. Culbreth's amendment to Mr. Tallmadge's resolution	776	on indefinite postponement of the Cumberland road	1657
on the question calling Anderson forthwith to the bar of the House	777	on the final passage of the said bill	1664
on striking out the appropriation for brevet rank	794	on the final passage of the bill fixing the time for next meeting of Congress	1664
on indefinite postponement of the Commutation bill	811	on the resolutions relating to internal improvement	1679
on the third reading of the same	816	on the appropriation for furnishing the Representatives' Chamber	1685
on the third reading of the Fugitive Slave bill	831	on the appropriation for the centre building of the Capitol	1690
on the final passage of the same	840	on the third reading of the bill for relief of sufferers on the Niagara frontier	1699
on the Senate's amendments to the Military Appropriation bill	850	on considering the Senate's amendments to the Fugitive Slave bill	1716
on concurrence with the committee in the pension to General St. Clair	853	on the third reading of the bill for relief of the owners of the Ariadne	1719
on amending the bill concerning half-pay pensions	879	on the third reading of the Navigation bill	1719
on the third reading of the same	880	on amending the bill to increase the duty on iron	1736
on indefinite postponement of the Bankrupt bill	1027	on the final passage of the same	1740
on the question of reversing the report on the Irish emigrants	1053	on amending the bill concerning duties on imports and tonnage	1741, 1742
on striking out the first section of the Expiration bill	1071	on the third reading of the same	1743
on indefinite postponement of the same	1093	on indefinite postponement of the supplemental Bank bill	1762
on Mr. Robertson's substitute	1106	on indefinite postponement of the bill to increase certain salaries	1774
		on amending the same	1775

## Public Acts and Resolutions.

## PUBLIC ACTS AND RESOLUTIONS.

	Page.
A.	
Additional Land Offices, an act making provision for the establishment of, in the Territory of Missouri	2513
Alabama, an act concerning the Territory of	2527
an act respecting the survey and sale of lands in	2589
Alien Duties, an act to authorize the Secretary of the Treasury to remit or pay certain	2587
Army, an act to regulate the staff of the	2541
an act respecting the organization of the	2581
Arrearages in the Military Establishment, an act making appropriations for the payment of	2510
B.	
Bath, in Massachusetts, an act making, a port of entry, &c.	2587
Brevet Officers, an act to regulate the pay and emoluments of	2542
Brunswick, in Georgia, an act concerning the district of	2516
C.	
Cape Vincent, an act to establish a port of entry at	2549
Certain Certificates, an act for payment of, &c.	2538
Certain Crimes against the United States, an act in addition to the act to punish	2567
Chesapeake Bay, resolution directing the completion of the survey of the waters of the	2602
Claims in the Office of the Commissioner, an act for transferring to the Third Auditor the	2589
Coasts of the United States, an act to repeal the act to provide for surveying the	2540
Columbian Institute, an act to incorporate the, &c.	2594
Columbian Insurance Company, in Alexandria, an act to incorporate the	2511
Compensation, an act allowing, to members of Congress, &c.	2508
Congress, an act fixing the time for the next meeting of	2549
Courthouse, Jail, &c., in Alexandria, an act to provide for the erection of a	2523
Cumberland Road, an act making further appropriations for the continuance of the	2540
D.	
Direct Taxes and Internal Duties, an act supplemental to the act relative to	2559
District of Columbia, an act to increase the salaries of the Judges of the Circuit Court for the	2579
Documents, resolution authorizing the distribution of certain public	2597
resolution directing the transportation of certain, free of postage	2599
Drawback, an act allowing the benefit of, in a certain case	2510
E.	
Eastern part of Mississippi, an act to alter and amend the act to establish a separate Territorial government for the	2591
Erie, an act to change the name of the district of	2538
F.	
Fire Insurance Company of Washington, an act to incorporate a	2527
15th CON. 1st SESS.—D	
Fishing Vessels, an act concerning the bounty or allowance to	2526
Flag of the United States, an act to establish the	2524
Florida, resolution relative to the occupation of, by the United States	2601
an act to enable the President to take possession of	2602
an act concerning the said act	2603
Forfeiture of Lands, an act to suspend for a time the sale or, &c.	2549
Fourteenth Congress, resolution directing the laws of the, to be distributed among the members of the fifteenth Congress	2600
G.	
Government, an act making appropriation for the support of	2530
an act supplemental to the act making appropriations, &c.	2582
I.	
Imports and Tonnage, an act to continue in force a certain part of the act to regulate the duties on	2584
Index to the Acts and Resolutions of Congress, a resolution directing the Secretary of State to prepare an	2600
J.	
Journals and Proceedings of the Convention which formed the present Constitution, resolution directing the publication and distribution of the	2600
L.	
Land Laws, resolution relative to the distribution of the late edition of the	2598
Land and Naval Service, an act to provide for certain persons engaged in the	2518
Laws of the United States, an act to provide for the publication of the	2556
resolution directing the distribution of certain, among the members and delegates of Territories of the Fifteenth Congress	2598
resolution directing the procurement of certain	2598
M.	
Maine, an act altering the time for holding a session of the district court in the district of	2522
Manufactured Articles imported, an act to increase the duties on certain	2580
Marietta, an act providing for the sale of certain lands in the district of	2510
Mechanics' Relief Society of Alexandria, an act to incorporate the	2539
Medals to Major General Harrison and Governor Shelby, a resolution directing to be struck and presented, together with the thanks of Congress	2601
Military Land Warrants, an act supplemental to the act further extending the time for issuing and locating, &c.	2516
Military Service for 1818, an act making appropriations for the	2515



## Public Acts and Resolutions.

	Page		Page
Militia, an act to defray the expenses of, while marching to their places of rendezvous -	2563	Repairing certain Roads, an act in addition to the act making appropriations for -	2520
an act to increase the pay of, while in actual service -	2581	Rodgers, John, an act for the relief of -	2538
Mint, an act further to prolong the continuance of the, at Philadelphia -	2308	S.	
Mississippi, an act to provide for the due execution of the laws of the United States within the State of -	2521	Settlers on lands of the United States, an act to continue in force an act in relation to -	2570
resolution for the admission of the State of, into the Union -	2597	Seybert's Statistical Annals, an act authorizing subscription for -	2587
an act authorizing the President of the United States to take possession of the country lying south of, and west of the river Perùdo -	2604	Slade's Creek, an act to abolish the port of entry and delivery at -	2547
N.		Slaves, an act in addition to the act to prohibit the importation of -	2571
Navigation, an act concerning -	2548	Surveyor of Illinois and Missouri Territory, an act allowing additional salary and clerk-hire to the -	2520
Navy of the United States, an act making appropriations for support of the -	2519	Sword to Colonel Richard M. Johnson, a resolution requesting the President of the United States to present a -	2601
New Madrid, an act limiting the time for claims to land granted to the inhabitants of -	2526	T.	
New Orleans and Mobile, an act authorizing the disposal of certain lots in the town of -	2588	Tennessee, an act supplementary to the act to authorize the State of, to issue grants, &c. -	2524
New York, an act respecting the courts of the United States, within the State of -	2522	Thompson, John, an act in addition to the act for the relief of -	2540
North Carolina, an act declaring the consent of Congress to an act of the State of -	2526	Three per Cent., an act to provide for paying, to the State of Indiana, on the sales of lands within said State -	2537
O.		Tonnage and Discriminating Duties, an act concerning -	2586
Orphans and Widows of persons slain in the public and private armed ships of the United States, an act giving pensions to -	2543	V.	
P.		Vincennes, an act providing for the location of claims and sale of certain lands in the district of -	2516
Pennsylvania, an act to divide the State of, into two judicial districts -	2584	an act to adjust the claims to lots in -	2592
Pickin's Commercial Statistics, an act authorizing the purchase of -	2587	Virginia, an act for altering the time for holding the district court of -	2519
Post Roads, an act to establish and alter certain -	2574	Virginia Military Land Warrants, an act to extend the time for locating, &c. -	2536
Public Buildings, an act making further provision for repairing the -	2510	Volunteer Cavalry, an act for the relief of -	2563
an act making further appropriation for the, and for furnishing the Capitol and President's house -	2579	W.	
Public Notaries in Washington, an act to regulate the fees of -	2524	Wait's State Papers, a resolution directing, to be furnished the judges of the Supreme Court -	2599
R.		Wines and Distilled Spirits, an act providing for the deposit of, in the public warehouses -	2592
Receivers and Registers, an act changing the compensation of -	2588		



---

ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

---

FIFTEENTH CONGRESS.—SECOND SESSION.

---



THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

---

FIFTEENTH CONGRESS—SECOND SESSION:  
COMPRISING THE PERIOD FROM NOVEMBER 16, 1818, TO MARCH 3, 1819,  
INCLUSIVE.

---

COMPILED FROM AUTHENTIC MATERIALS.

---

WASHINGTON:  
PRINTED AND PUBLISHED BY GALES AND SEATON.  
.....  
1855.



## PROCEEDINGS AND DEBATES

OF

### THE SENATE OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY OF  
WASHINGTON, MONDAY, NOVEMBER 16, 1818.

MONDAY, November 16, 1818.

The second session of the Fifteenth Congress commenced this day at the City of Washington, conformably to the act passed the 18th of April, 1818, entitled "An act fixing the time for the next meeting of Congress;" and the Senate assembled.

#### PRESENT:

DAVID L. MORRIL, from the State of New Hampshire.

PRENTISS MELLIN, from Massachusetts.

JAMES BURRILL, junior, from Rhode Island and Providence Plantations.

ISAAC TICHENOR and WILLIAM A. PALMER, from Vermont.

DAVID DAGGETT, from Connecticut.

RUFUS KING and NATHAN SANFORD, from New York.

MAELON DICKERSON and JAMES J. WILSON, from New Jersey.

ARNER LACOCK and JONATHAN ROBERTS, from Pennsylvania.

ROBERT H. GOLDSBOROUGH, from Maryland.

JAMES BARBOUR and JOHN W. EPPES, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

JOHN WILLIAMS and JOHN HENRY EATON, from Tennessee.

BENJAMIN RUGGLES, from Ohio.

ELIGIUS FROMENTIN and HENRY JOHNSON, from Louisiana.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

WALTER LEAKE and THOMAS H. WILLIAMS, from Mississippi.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

PRENTISS MELLIN, appointed a Senator by the Legislature of the State of Massachusetts, to supply the vacancy occasioned by the resignation of Eli P. Ashmun; WILLIAM A. PALMER, appointed a Senator by the Legislature of the State of Vermont, to supply the vacancy occa-

sioned by the resignation of James Fisk; and JOHN HENRY EATON, appointed a Senator by the Executive of the State of Tennessee, to supply the vacancy occasioned by the resignation of George W. Campbell, respectively produced their credentials, were qualified, and took their seats in the Senate.

A quorum being present, a message was sent to the House of Representatives, notifying that body of the fact.

A committee was appointed, jointly with a committee to be appointed by the other House, for the purpose of waiting on the President of the United States, to inform him that the two Houses were organized, &c. Messrs. MACON and DAGGETT, were appointed of the committee on the part of the Senate.

A Committee of Engrossed Bills was appointed, consisting of Messrs. RUGGLES, DICKERSON, and MORRIL.

A Committee of Accounts was appointed, consisting of Messrs. LACOCK, DAGGETT, and DICKERSON.

Mr. MORRIL offered a resolution for appointing a joint Library Committee, and Mr. WILSON a resolution for appointing a Chaplain to each House; both of which resolutions received their first readings; and, after adopting the usual rule respecting newspapers, the Senate adjourned.

TUESDAY, November 17.

JEREMIAH MORROW, from the State of Ohio; and ALEXANDER C. HANSON, from the State of Maryland, attended this day.

The resolution for the appointment of Chaplains to Congress, was read the second time, considered as in Committee of the Whole, reported to the House without amendment, read the third time by unanimous consent, and passed.

Mr. MACON reported, from the joint committee, that they had waited on the President of the United States, and that the President of the United States informed the committee, that he would make a communication to the two Houses this day.



Mr. MORRIL submitted the following motion for consideration; which was read:

*Resolved*, That Mountjoy Bayly, Doorkeeper and Sergeant-at-Arms to the Senate, be, and he hereby is, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper of the Senate, which expense shall be paid out of the contingent fund.

*Ordered*, That it pass to the second reading.

The engrossed resolution for the appointment of a joint Library Committee, was read a third time, and passed; and Messrs. DICKERSON, KING, and FROMENTIN, were appointed the committee on the part of the Senate.

#### PRESIDENT'S MESSAGE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Fellow-citizens of the Senate  
and of the House of Representatives:*

The auspicious circumstances under which you will commence the duties of the present session will lighten the burdens inseparable from the high trust committed to you. The fruits of the earth have been unusually abundant; commerce has flourished; the revenue has exceeded the most favorable anticipation, and peace and amity are preserved with foreign nations on conditions just and honorable to our country. For these inestimable blessings we cannot but be grateful to that Providence which watches over the destiny of nations.

As the term limited for the operation of the commercial convention with Great Britain will expire early in the month of July next, and it was deemed important that there should be no interval, during which that portion of our commerce, which was provided for by that convention, should not be regulated, either by arrangements between the two Governments, or by the authority of Congress, the Minister of the United States at London was instructed, early in the last Summer, to invite the attention of the British Government to the subject, with a view to that object. He was instructed to propose, also, that the negotiation which it was wished to open, might extend to the general commerce of the two countries, and to every other interest and unsettled difference between them; particularly those relating to impressment, the fisheries, and boundaries, in the hope that an arrangement might be made, on principles of reciprocal advantage, which might comprehend and provide, in a satisfactory manner, for all these high concerns. I have the satisfaction to state, that the proposal was received by the British Government in the spirit which prompted it, and that a negotiation has been opened at London embracing all these objects. On full consideration of the great extent and magnitude of the trust, it was thought proper to commit it to not less than two of our distinguished citizens, and, in consequence, the Envoy Extraordinary and Minister Plenipotentiary of the United States at Paris has been associated with our Envoy Extraordinary and Minister Plenipotentiary at London; to both of whom corresponding instructions have been given; and they are now engaged in the discharge of its duties. It is proper to add, that, to prevent any inconvenience resulting from the delay incident to a negotiation on so many important subjects, it was agreed, before entering on it, that the existing convention should be continued for a term not less than eight years.

Our relations with Spain remain nearly in the state in which they were at the close of the last session. The convention of 1802, providing for the adjustment of a certain portion of the claims of our citizens for injuries sustained by spoliation, and so long suspended by the Spanish Government, has at length been ratified by it; but no arrangement has yet been made for the payment of another portion of like claims, not less extensive or well founded, or for other classes of claims, or for the settlement of boundaries. These subjects have again been brought under consideration in both countries, but no agreement has been entered into respecting them. In the meantime events have occurred, which clearly prove the ill effect of the policy which that Government has so long pursued, on the friendly relations of the two countries, which, it is presumed, it is at least of as much importance to Spain, as to the United States, to maintain. A state of things has existed in the Floridas, the tendency of which has been obvious to all who have paid the slightest attention to the progress of affairs in that quarter. Throughout the whole of those provinces to which the Spanish title extends, the Government of Spain has scarcely been felt. Its authority has been confined almost exclusively to the walls of Pensacola and St. Augustine, within which only small garrisons have been maintained. Adventurers from every country, fugitives from justice, and absconding slaves, have found an asylum there. Several tribes of Indians, strong in the number of their warriors, remarkable for their ferocity, and whose settlements extend to our limits, inhabit those provinces. These different hordes of people, connected together, disregarding, on the one side, the authority of Spain, and protected, on the other, by an imaginary line, which separates Florida from the United States, have violated our laws prohibiting the introduction of slaves, have practised various frauds on our revenue, and committed every kind of outrage on our peaceable citizens, which their proximity to us enabled them to perpetrate. The invasion of Amelia Island, last year, by a small band of adventurers, not exceeding one hundred and fifty in number, who wrested it from the inconsiderable Spanish force stationed there and held it several months, during which, a single effort only was made to recover it, which failed, clearly proves how completely extinct the Spanish authority had become, as the conduct of those adventurers, while in possession of the island, as distinctly shows the pernicious purposes for which their combination had been formed.

This country had, in fact, become the theatre of every species of lawless adventure. With little population of its own, the Spanish authority almost extinct, and the colonial governments in a state of revolution, having no pretension to it, and sufficiently employed in their own concerns, it was in a great measure derelict, and the object of cupidity to every adventurer. A system of buccannery was rapidly organizing over it, which menaced, in its consequences, the lawful commerce of every nation, and particularly of the United States; while it presented a temptation to every people, on whose seduction its success principally depended. In regard to the United States, the pernicious effect of this unlawful combination was not confined to the ocean. The Indian tribes have constituted the effective force in Florida. With these tribes these adventurers had formed, at an early period, a connexion, with a view to avail themselves of

that force, to promote their own projects of accumulation and aggrandizement. It is to the interference of some of these adventurers, in misrepresenting the claims and titles of the Indians to land, and in practising on their savage propensities, that the Seminole war is principally to be traced. Men who thus connect themselves with savage communities, and stimulate them to war, which is always attended, on their part, with acts of barbarity the most shocking, deserve to be viewed in a worse light than the savages. They would certainly have no claim to an immunity from the punishment, which, according to the rules of warfare practised by the savages, might justly be inflicted on the savages themselves.

If the embarrassments of Spain prevented her from making an indemnity to our citizens, for so long a time, from her treasury, for their losses by spoliation and otherwise, it was always in her power to have provided it, by the cession of this territory. Of this her Government has been repeatedly apprized, and the cession was the more to have been anticipated, as Spain must have known that, in ceding it, she would, in effect, cede what had become of little value to her, and would likewise relieve herself from the important obligation secured by the treaty of 1795, and all other commitments respecting it. If the United States, from consideration of these embarrassments, declined pressing their claims in a spirit of hostility, the motive ought, at least, to have been duly appreciated by the Government of Spain. It is well known to her Government that other Powers have made to the United States an indemnity for like losses sustained by their citizens at the same epoch.

There is, nevertheless, a limit, beyond which this spirit of amity and forbearance can in no instance be justified. If it was proper to rely on amicable negotiation for an indemnity of losses, it would not have been so to have permitted the inability of Spain to fulfil her engagements, and to sustain her authority in the Floridas, to be perverted, by foreign adventurers and savages, to purposes so destructive to the lives of our fellow-citizens, and the highest interests of the United States. The right of self-defence never ceases. It is among the most sacred, and alike necessary to nations and individuals. And, whether the attack be made by Spain herself, or by those who abuse her power, its obligation is not the less strong. The invaders of Amelia Island had assumed a popular and respected title, under which they might approach and wound us. As their object was distinctly seen, and the duty imposed on the Executive, by an existing law, was profoundly felt, that mask was not permitted to protect them. It was thought incumbent on the United States to suppress the establishment, and it was accordingly done. The combination in Florida, for the unlawful purposes stated, the acts perpetrated by that combination, and, above all, the incitement of the Indians, to massacre our fellow-citizens, of every age, and of both sexes, merited a like treatment, and received it. In pursuing these savages to an imaginary line, in the woods, it would have been the height of folly to have suffered that line to protect them. Had that been done, the war could never cease. Even if the territory had been, exclusively, that of Spain, and her power complete over it, we had a right, by the law of nations, to follow the enemy on it, and to subdue him there. But the territory belonged, in a certain sense, at least, to the savage enemy who inhabited it; the power of Spain had ceased to exist

over it, and protection was sought, under her title, by those who had committed on our citizens hostilities which she was bound by treaty to have prevented, but had not the power to prevent. To have stopped at that line would have given new encouragement to these savages, and new vigor to the whole combination existing there, in the prosecution of all its pernicious purposes.

In suppressing the establishment at Amelia Island, no unfriendliness was manifested towards Spain, because the post was taken from a force which had wrested it from her. The measure, it is true, was not adopted in concert with the Spanish Government, or those in authority under it; because, in transactions connected with the war in which Spain and the colonies are engaged, it was thought proper, in doing justice to the United States, to maintain a strict impartiality towards both the belligerent parties, without consulting or acting in concert with either. It gives me pleasure to state, that the Governments of Buenos Ayres and Venezuela, whose names were assumed, have explicitly disclaimed all participation in those measures, and even the knowledge of them, until communicated by this Government, and have also expressed their satisfaction that a course of proceedings had been suppressed, which, if justly imputable to them, would dishonor their cause.

In authorizing Major General Jackson to enter Florida, in pursuit of the Seminoles, care was taken not to encroach on the rights of Spain. I regret to have to add, that, in executing this order, facts were disclosed respecting the conduct of the officers of Spain, in authority there, in encouraging the war, furnishing munitions of war, and other supplies, to carry it on, and in other acts, not less marked, which evinced their participation in the hostile purposes of that combination, and justified the confidence with which it inspired the savages, that, by those officers they would be protected. A conduct so incompatible with the friendly relations existing between the two countries, particularly with the positive obligation of the 5th article of the treaty of 1795, by which Spain was bound to restrain, even by force, those savages, from acts of hostility against the United States, could not fail to excite surprise. The Commanding General was convinced that he should fail in his object; that he should in effect accomplish nothing, if he did not deprive those savages of the resource on which they had calculated, and of the protection on which they had relied in making the war. As all the documents relating to this occurrence will be laid before Congress, it is not necessary to enter into further detail respecting it.

Although the reasons which induced Major General Jackson to take these posts were duly appreciated, there was, nevertheless, no hesitation in deciding on the course which it became the Government to pursue. As there was reason to believe that the commanders of these posts had violated their instructions, there was no disposition to impute to their Government a conduct so unprovoked and hostile. An order was in consequence issued to the General in command there to deliver the posts—Pensacola, unconditionally to any person duly authorized to receive it; and St. Marks, which is in the heart of the Indian country, on the arrival of a competent force, to defend it against those savages and their associates.

In entering Florida to suppress this combination, no idea was entertained of hostility to Spain, and, how-



ever justifiable the Commanding General was, in consequence of the misconduct of the Spanish officers, in entering St. Marks and Pensacola, to terminate it, by proving to the savages and their associates that they should not be protected even there; yet the amicable relations existing between the United States and Spain could not be altered by that act alone. By ordering the restitution of the posts, those relations were preserved. To a change of them the power of the Executive is deemed incompetent. It is vested in Congress only.

By this measure, so promptly taken, due respect was shown to the Government of Spain. The misconduct of her officers has not been imputed to her. She was enabled to review with candor her relations with the United States, and her own situation, particularly in respect to the territory in question, with the dangers inseparable from it; and, regarding the losses we have sustained, for which indemnity has been so long withheld, and the injuries we have suffered through that territory, and her means of redress, she was likewise enabled to take, with honor, the course best calculated to do justice to the United States, and to promote her own welfare.

Copies of the instructions to the Commanding General, of his correspondence with the Secretary of War, explaining his motives, and justifying his conduct, with a copy of the proceedings of the courts martial, in the trial of Arbuthnot and Ambrister; and of the correspondence between the Secretary of State and the Minister Plenipotentiary of Spain near this Government; and of the Minister Plenipotentiary of the United States, at Madrid, with the Government of Spain, will be laid before Congress.

The civil war, which has so long prevailed between Spain and the provinces in South America, still continues without any prospect of its speedy termination. The information respecting the condition of those countries, which has been collected by the Commissioners, recently returned from thence, will be laid before Congress, in copies of their reports, with such other information as has been received from other agents of the United States.

It appears, from these communications, that the Government of Buenos Ayres declared itself independent in July, 1816, having previously exercised the power of an independent Government, though in the name of the King of Spain, from the year 1810: that the Banda Oriental, Entre Rios, and Paraguay, with the city of Santa Fe, all of which are also independent, are unconnected with the present Government of Buenos Ayres: that Chili has declared itself independent, and is closely connected with Buenos Ayres; that Venezuela has also declared itself independent, and now maintains the conflict with various success; and that the remaining parts of South America, except Montevideo, and such other portions of the eastern bank of the La Plata as are held by Portugal, are still in the possession of Spain, or, in a certain degree, under her influence.

By a circular note addressed by the Ministers of Spain to the allied Powers with whom they are respectively accredited, it appears that the allies have undertaken to mediate between Spain and the South American provinces, and that the manner and extent of their interposition would be settled by a Congress, which was to have met at Aix-la-Chapelle in September last. From the general policy and course of proceeding observed by the allied Powers in regard to

this contest, it is inferred that they will confine their interposition to the expression of their sentiments; abstaining from the application of force. I state this impression, that force will not be applied, with the greater satisfaction, because it is a course more consistent with justice, and likewise authorizes a hope that the calamities of the war will be confined to the parties only, and will be of shorter duration.

From the view taken of this subject, founded on all the information that we have been able to obtain, there is good cause to be satisfied with the course heretofore pursued by the United States, in regard to this contest, and to conclude, that it is proper to adhere to it, especially in the present state of affairs.

I have great satisfaction in stating, that our relations with France, Russia, and other Powers, continue on the most friendly basis.

In our domestic concerns we have ample cause of satisfaction. The receipts into the Treasury, during the three first quarters of the year, have exceeded seventeen millions of dollars.

After satisfying all the demands which have been made under existing appropriations, including the final extinction of the old six per cent. stock, and the redemption of a moiety of the Louisiana debt, it is estimated that there will remain in the Treasury, on the first day of January next, more than two millions of dollars.

It is ascertained that the gross revenue which has accrued from the customs during the same period amounts to twenty-one millions of dollars, and that the revenue of the whole year may be estimated at not less than twenty-six millions. The sale of the public lands during the year has also greatly exceeded, both in quantity and price, that of any former year; and there is just reason to expect a progressive improvement in that source of revenue.

It is gratifying to know, that, although the annual expenditure has been increased by the act of the last session of Congress, providing for Revolutionary pensions, to an amount about equal to the proceeds of the internal duties, which were then repealed, the revenue for the ensuing year will be proportionally augmented, and that, while the public expenditure will probably remain stationary, each successive year will add to the national resources, by the ordinary increase of our population, and by the gradual development of our latent sources of national prosperity.

The strict execution of the revenue laws, resulting principally from the salutary provisions of the act of the 20th of April last, amending the several collection laws, has, it is presumed, secured to domestic manufactures all the relief that can be derived from the duties, which have been imposed upon foreign merchandise, for their protection. Under the influence of this relief, several branches of this important national interest have assumed greater activity, and, although it is hoped that others will gradually revive, and ultimately triumph over every obstacle, yet the expediency of granting further protection is submitted to your consideration.

The measures of defence, authorized by existing laws, have been pursued with the zeal and activity due to so important an object, and with all the despatch practicable in so extensive and great an undertaking. The survey of our maritime and inland frontiers has been continued; and, at the points where it was decided to erect fortifications, the work has been commenced, and, in some instances, considerable pro-

gress has been made. In compliance with resolutions of the last session, the Board of Commissioners were directed to examine in a particular manner the parts of the coast therein designated, and to report their opinion of the most suitable sites for two naval depots. This work is in a train of execution. The opinion of the Board on this subject, with a plan of all the works necessary to a general system of defence, so far as it has been formed, will be laid before Congress, in a report from the proper department, as soon as it can be prepared.

In conformity with the appropriations of the last session, treaties have been formed with the Quapaw tribe of Indians, inhabiting the country on the Arkansas, and with the Great and Little Osages north of the White river; with the tribes in the State of Indiana; with the several tribes within the State of Ohio, and the Michigan Territory; and with the Chickasaws; by which very extensive cessions of territory have been made to the United States. Negotiations are now depending with the tribes in the Illinois Territory, and with the Choctaws, by which it is expected that other extensive cessions will be made. I take great interest in stating that the cessions already made, which are considered so important to the United States, have been obtained on conditions very satisfactory to the Indians.

With a view to the security of our inland frontiers, it has been thought expedient to establish strong posts at the mouth of Yellow Stone River, and at the Mandan village, on the Missouri; and at the mouth of St. Peters, on the Mississippi, at no great distance from our northern boundaries. It can hardly be presumed, while such posts are maintained in the rear of the Indian tribes, that they will venture to attack our peaceable inhabitants. A strong hope is entertained that this measure will likewise be productive of much good to the tribes themselves; especially in promoting the great object of their civilization. Experience has clearly demonstrated, that independent savage communities cannot long exist within the limits of a civilized population. The progress of the latter has, almost invariably, terminated in the extinction of the former, especially of the tribes belonging to our portion of this hemisphere, among whom, loftiness of sentiment, and gallantry in action, have been conspicuous. To civilize them, and even to prevent their extinction, it seems to be indispensable that their independence, as communities, should cease, and that the control of the United States over them should be complete and undisputed. The hunter state will then be more easily abandoned, and recourse will be had to the acquisition and culture of land, and to other pursuits tending to dissolve the ties which connect them together as a savage community, and to give a new character to every individual. I present this subject to the consideration of Congress, on the presumption that it may be found expedient and practicable to adopt some benevolent provisions, having these objects in view, relative to the tribes within our settlements.

It has been necessary, during the present year, to maintain a strong naval force in the Mediterranean, and in the Gulf of Mexico, and to send some public ships along the Southern coast, and to the Pacific Ocean. By these means, amicable relations with the Barbary Powers have been preserved, our commerce has been protected, and our rights respected. The augmentation of our Navy is advancing, with a steady progress, towards the limit contemplated by law.

I communicate, with great satisfaction, the accession of another State, Illinois, to our Union; because I perceive, from the proof afforded by the additions already made, the regular progress and sure consummation of a policy, of which history affords no example, and of which the good effect cannot be too highly estimated. By extending our Government, on the principles of our Constitution, over the vast territory within our limits, on the lakes and the Mississippi, and its numerous streams, new life and vigor are infused into every part of our system. By increasing the number of the States, the confidence of the State governments in their own security is increased, and their jealousy of the National Government proportionally diminished. The impracticability of one consolidated Government for this great and growing nation will be more apparent, and will be universally admitted. Incapable of exercising local authority, except for general purposes, the General Government will no longer be dreaded. In those cases of a local nature, and for all the great purposes for which it was instituted, its authority will be cherished. Each Government will acquire new force and a greater freedom of action, within its proper sphere. Other inestimable advantages will follow: our produce will be augmented to an incalculable amount, in articles of the greatest value for domestic use and foreign commerce. Our navigation will, in like degree be increased; and, as the shipping of the Atlantic States will be employed in the transportation of the vast produce of the Western country, even those parts of the United States, which are most remote from each other, will be further bound together by the strongest ties which mutual interest can create.

The situation of this District, it is thought, requires the attention of Congress. By the Constitution, the power of legislation is exclusively vested in the Congress of the United States. In the exercise of this power, in which the people have no participation, Congress legislate in all cases, directly on the local concerns of the District. As this is a departure, for a special purpose, from the general principles of our system, it may merit consideration, whether an arrangement better adapted to the principles of our Government, and to the particular interests of the people, may not be devised, which will neither infringe the Constitution, nor affect the object which the provision in question was intended to secure. The growing population, already considerable, and the increasing business of the District, which it is believed already interferes with the deliberations of Congress on great national concerns, furnish additional motives for recommending this subject to your consideration.

When we view the great blessings with which our country has been favored, those which we now enjoy, and the means which we possess of handing them down, unimpaired, to our latest posterity, our attention is irresistibly drawn to the source from whence they flow. Let us then unite in offering our most grateful acknowledgments for these blessings to the Divine Author of all Good.

JAMES MONROE.

NOVEMBER 16, 1818.

The Message was read, and two thousand copies thereof ordered to be printed for the use of the Senate.

WEDNESDAY, November 18.

HARRISON GRAY OTIS, from the State of Massachusetts, attended this day.



## SENATE.

## Standing Committees.

NOVEMBER, 1818.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands, inquire into the propriety of amending the existing laws, in such manner, that the signature of the President of the United States shall not be requisite to patents for land.

The resolution to authorize the Doorkeeper and Sergeant-at-Arms to the Senate to employ one assistant and two horses, was read the second time, considered in Committee of the Whole, reported to the House without amendment, read the third time by unanimous consent, and passed.

On motion by Mr. BARBOUR, it was resolved that the standing committees to be appointed by the Senate consist of five members each, and that they have leave to report by bill or otherwise; and, on his motion, it was resolved that the Senate will, on Friday next, at 12 o'clock, proceed to the appointment of the standing committees of this House.

THURSDAY, November 19.

JOHN J. CRITTENDEN, from the State of Kentucky, attended this day.

Mr. SANFORD submitted the following motions for consideration:

*Resolved*, That so much of the Message of the President of the United States as relates to foreign affairs, be referred to the Committee on Foreign Relations.

*Resolved*, That so much of the Message of the President of the United States as relates to finance, be referred to the Committee of Finance.

*Resolved*, That so much of the Message of the President of the United States as relates to commerce and manufactures, be referred to the Committee of Commerce and Manufactures.

*Resolved*, That so much of the Message of the President of the United States as relates to the District of Columbia, be referred to the Committee for the District of Columbia.

*Resolved*, That so much of the Message of the President of the United States as relates to the Indian tribes, be referred to a select committee, with leave to report by bill or otherwise.

On motion by Mr. WILSON, the Senate proceeded to the appointment of a Chaplain on their part, and, on the ballots having been counted, it appeared that the Rev. JOHN CLARK had a majority, and was elected.

FRIDAY, November 20.

CLEMENT STORER, from the State of New Hampshire, attended this day.

## STANDING COMMITTEES.

The Senate proceeded to the appointment of the standing committees, which are as follows:

*Committee on Foreign Relations*—Mr. MACON, Mr. BARBOUR, Mr. KING, Mr. LACOCK, and Mr. DAGGETT.

*Committee on Finance*—Mr. EFFES, Mr. TALBOT, Mr. KING, Mr. MACON, and Mr. EATON.

*Committee on Commerce and Manufactures*—

Mr. SANFORD, Mr. DICKERSON, Mr. BURRILL, Mr. HORSEY, and Mr. MORRIL.

*Committee on Military Affairs*—Mr. WILLIAMS, of Tennessee, Mr. LACOCK, Mr. TICHENOR, Mr. TAYLOR, and Mr. STORER.

*Committee on the Militia*—Mr. RUGGLES, Mr. NOBLE, Mr. ROBERTS, Mr. MACON, and Mr. STORER.

*Committee on Naval Affairs*—Mr. SANFORD, Mr. TAIT, Mr. WILLIAMS, of Mississippi, Mr. DAGGETT, and Mr. CRITTENDEN.

*Committee on Public Lands*—Mr. MORROW, Mr. WILLIAMS, of Mississippi, Mr. TAYLOR, Mr. HUNTER, and Mr. JOHNSON.

*Committee of Claims*—Mr. GOLDSBOROUGH, Mr. WILSON, Mr. ROBERTS, Mr. RUGGLES, and Mr. MORRIL.

*Committee on the Judiciary*—Mr. BURRILL, Mr. CRITTENDEN, Mr. OTIS, Mr. SMITH, and Mr. LEAKE.

*Committee on the Post Office and Post Roads*—Mr. STOKES, Mr. WILSON, Mr. PALMER, Mr. MELLEN, and Mr. RUGGLES.

*Committee on Pensions*—Mr. LACOCK, Mr. NOBLE, Mr. VAN DYKE, Mr. TALBOT, and Mr. STORER.

*Committee for the District of Columbia*—Mr. GOLDSBOROUGH, Mr. DAGGETT, Mr. BARBOUR, Mr. EFFES, and Mr. HANSON.

The Senate resumed the consideration of the motions of the 19th instant, for referring the Message of the President of the United States to different committees, and agreed thereto; and,

*Ordered*, That Mr. MORROW, Mr. WILLIAMS of Tennessee, Mr. WILLIAMS of Mississippi, Mr. TAYLOR, and Mr. CRITTENDEN, be the committee on so much of the Message as relates to the Indian tribes, in pursuance of the last resolution.

The Senate adjourned to Monday morning.

MONDAY, November 23.

NICHOLAS VAN DYKE, from the State of Delaware, attended this day; JOHN FORSYTH, appointed a Senator by the Legislature of the State of Georgia, to supply the vacancy occasioned by the resignation of George M. Troup, produced his credentials, was qualified, and he took his seat in the Senate.

Mr. DAGGETT presented the petition of Samuel F. Hooker, of the State of New York, praying indemnification for certain property captured and condemned by the enemy during the late war, as stated in the petition; which was read and referred to the Committee of Claims.

Mr. ROBERTS presented the petition of Lucy Cottineau, of the State of Georgia, praying a pension, in consideration of the services of her late husband; and the petition was read and referred to the Committee on Pensions.

Mr. ROBERTS also presented the petition of John Brown, of the city of Philadelphia, praying a pension; which was read and referred to the same committee, to consider and report thereon.

The Senate resumed the consideration of the motion of the 18th instant, "that the Committee

NOVEMBER, 1818.

## Proceedings.

## SENATE.

on Public Lands inquire into the propriety of amending the existing laws in such manner that the signature of the President of the United States shall not be requisite to patents for land; and agreed thereto.

Mr. DICKERSON gave notice that to-morrow he should ask leave to introduce a bill to provide for the removal of the Library of Congress to the north wing of the Capitol.

TUESDAY, November 24.

The PRESIDENT communicated a report of the Secretary of the Treasury, prepared in obedience to the act entitled "An act to establish the Treasury Department;" which was read.

Mr. FROMENTIN submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States of America as relates to the restitution of slaves, and which has not heretofore been communicated.

Mr. OTIS presented the petition of Nathaniel Goddard, and others, of Boston, owners of the ship *Ariadne*, and her cargo, which have been condemned in the Supreme Court of the United States, having been captured by the United States brig *Argus*, praying relief; which was read and referred to the Committee on Finance.

Mr. BARBOUR gave notice that to-morrow he should ask leave to introduce a bill to increase the salaries of certain officers of Government.

Mr. DAGGETT presented the petition of Hannah Douglas, of Branford, Connecticut, widow and relict of Colonel William Douglas, deceased, praying relief, in consideration of the services of her late husband during the Revolutionary war; and the petition was read and referred to the Committee of Claims.

Mr. BURRILL presented the petition of Joseph Aborn, surveyor of the port of Patuxet, within the district of Providence, in the State of Rhode Island, praying an increase of salary; which was read and referred to the Committee on Commerce and Manufactures.

Mr. DICKERSON presented the memorial of William Lambert, relating to the establishment of a first meridian for the United States, at the Seat of their Government, according to the original plan of the city of Washington; and the memorial was read and referred to a select committee, to consider and report thereon, by bill or otherwise; and Messrs. DICKERSON, KING, and BURRILL were appointed the committee.

Mr. SMITH presented the petition of Thomas Chapman, collector of the customs for Georgetown district, in the State of South Carolina, praying the restoration of a certain sum of money as his proportion of the cargo of the brig *Diana*, a Swedish vessel, forfeited for a violation of the revenue laws; which was read and referred to the Committee of Claims.

Mr. NOBLE submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of continuing in force the act entitled "An act to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payments thereon," until the 31st day of March, 1821.

Mr. MELLEN submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire as to the expediency of establishing, by law, a circuit court of the United States, to be holden at Portland, within and for the District of Maine.

Mr. GOLDSBOROUGH gave notice, that to-morrow he should ask leave to introduce a resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie.

Agreeably to notice given, Mr. DICKERSON asked and obtained leave to introduce a bill, to provide for the removal of the Library of Congress to the north wing of the Capitol; and the bill was read twice by unanimous consent.

WEDNESDAY, November 25.

OUTERBRIDGE HORSEY, from the State of Delaware, attended this day.

The PRESIDENT communicated the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky, praying reimbursement of a certain fine, imposed in the year 1798, at the suit of the United States; together with the costs and other losses attending the same, as stated in the memorial; which was read, and referred to the Committee on the Judiciary.

Agreeably to notice given, Mr. BARBOUR asked and obtained leave to introduce a bill, to increase the salaries of certain officers of Government; and the bill was read twice by unanimous consent.

Mr. FORSYTH presented the petition of Richard H. Wilde, praying that the sum of 1,171 dollars 80 cents, may be passed to the credit of James Wilde, deceased, in the settlement of his accounts as paymaster in the service of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. BURRILL presented the memorial of Nicholas Brown, and Thomas P. Ives of Providence, in the State of Rhode Island, praying reimbursement of certain duties paid by them on the cargo of the ship *Charlotte*, imported in the Spring of the year A. D. 1816, from the coast of Africa; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. BURRILL also presented the petition of John Slocum, of Providence, in the State of Rhode Island, praying an increase of pension; and the petition was read, and referred to the Committee on Pensions.

Mr. MORRIL presented the petition of George Stone, of the State of New Hampshire, praying a pension; and the petition was read, and referred to the same committee, to consider and report thereon.



SENATE.

Amendment to the Constitution.

NOVEMBER, 1818.

A message from the House of Representatives informed the Senate that the House have passed a resolution declaring the admission of the State of Illinois into the Union, in which they request the concurrence of the Senate.

The said resolution was read twice, by unanimous consent, and referred to the Committee on Public Lands.

Agreeably to notice given, Mr. GOLDSBOROUGH asked, and obtained leave to introduce a resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where he now lies; and the resolution was read, and referred to the second reading.

Mr. WILLIAMS, of Tennessee, submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of increasing the pay of the officers, non-commissioned officers, musicians, and privates, of the Army of the United States.

The Senate resumed the consideration of the motion of the 24th instant, "That the Committee on the Judiciary be instructed to inquire into the expediency of establishing, by law, a circuit court of the United States, to be holden at Portland, within and for the District of Maine;" and agreed thereto.

The Senate resumed the consideration of the motion of the 24th instant, "That the President of the United States be requested to cause to be laid before the Senate, such information as he may possess, touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States of America, as relates to the restitution of slaves, and which has not been communicated;" and agreed thereto.

The Senate resumed the consideration of the motion of the 24th instant, "That the Committee on Public Lands be instructed to inquire into the expediency of continuing in force the act, entitled 'An act to suspend, for a limited time, the sale, or forfeiture of lands for failure completing the payment thereon,' until the 31st day of March, 1821;" and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the removal of the Library of Congress to the north wing of the Capitol, and no amendment having been made, it was reported to the House; and ordered to be engrossed, and read a third time.

#### AMENDMENT TO THE CONSTITUTION.

Mr. SANFORD offered the following proceedings and instructions of the Legislature of the State of New York, which were received and read:

STATE OF NEW YORK,  
in Senate, April 14, 1818.

Whereas the Legislature of the State of North Carolina hath proposed an amendment to the Constitution of the United States, in the words following, to wit: "That, for the purpose of choosing representatives in the Congress of the United States, each State shall,

by its legislature, be divided into a number of districts equal to the number of representatives to which said State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the Constitution to be represented. In each district the qualified voters shall elect one representative and no more. That, for the purpose of appointing electors for the President and Vice President of the United States, in each district entitled to elect a representative in the Congress of the United States, the persons qualified to vote for representatives shall appoint one elector and no more. The additional two electors, to which each State is entitled, shall be appointed in such manner as the legislature thereof may direct. The electors when convened, shall have power, in case any of them appointed as above prescribed shall fail to attend for the purposes of their said appointment, on the day prescribed for giving their votes for President and Vice President of the United States, to appoint another or others, to act in the place of him or them so failing to attend. Neither the districts for choosing representatives nor those for appointing electors shall be altered in any State, until a census and apportionment of representatives under it, subsequent to the division of the States into districts, shall be made. The division of States into districts, hereby provided for, shall take place immediately after this amendment shall be adopted; and afterwards, whenever a census and apportionment of representatives under it shall be made. The division of each State into districts, for the purposes both of choosing representatives and of appointing electors, shall be altered agreeable to the provisions of this amendment, and on no other occasion." Thereupon,

*Resolved*, (if the honorable the Assembly concur herein,) That our Senators in the Congress of the United States be instructed, and our Representatives requested, to endeavor to obtain the said amendment to the Constitution of the United States.

*Resolved*, (if the honorable the Assembly concur herein,) That his Excellency the Governor of this State be requested to forward a copy of the preceding resolution to each of our Senators and Representatives in the Congress of the United States; and also to the Governors of the several States, with a request that the same may be laid before their respective Legislatures for their consideration and adoption.

STATE OF NEW YORK,  
in Assembly, April 16, 1818.

*Resolved*, That the Assembly do concur with the honorable the Senate in all of their preceding resolutions, with the recital.

By order of the Assembly.

AARON CLARK, Clerk.

Mr. STORER offered the following proceedings and instructions of the Legislature of the State of New Hampshire, which were also received and read:

STATE OF NEW HAMPSHIRE,  
in Senate, June 26, 1818.

Whereas the General Assembly of the State of New Jersey hath proposed an amendment to the Constitution of the United States, in the following words, to wit:

"That, for the purpose of choosing representatives in the Congress of the United States, each State shall

NOVEMBER, 1818.

Proceedings.

SENATE.

by its legislature, be divided into a number of districts equal to the number of representatives to which such State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the Constitution to be represented. In each district the qualified voters shall elect one representative and no more. That, for the purpose of appointing electors for the President and Vice President of the United States, in each district entitled to elect a representative in the Congress of the United States, the persons qualified to vote for representatives shall appoint one elector and no more. The additional two electors, to which each State is entitled, shall be appointed in such manner as the Legislature thereof may direct. The electors, when convened, shall have power in case any of them appointed as above prescribed shall fail to attend for the purposes of their said appointment, on the day prescribed for giving their votes for President and Vice President of the United States, to appoint another or others, to act in the place of him or them so failing to attend. Neither the districts for choosing representatives nor those for appointing electors shall be altered in any State, until a census and apportionment of representatives under it, subsequent to the division of the States into districts, shall be made. The division of States into districts, hereby provided for, shall take place immediately after this amendment shall be adopted and ratified as a part of the Constitution of the United States; and successively, immediately afterwards, whenever a census and apportionment of representatives under it shall be made. The division of each State into districts for the purposes both of choosing representatives and of appointing electors, shall be altered agreeable to the provisions of this amendment, and on no other occasion."

*Resolved*, That our Senators in the Congress of the United States be instructed, and our Representatives requested, to endeavor to obtain the said amendment to the Constitution of the United States.

*Resolved*, That his Excellency the Governor of this State be requested to forward a copy of the preceding resolution to each of our Senators and Representatives in the Congress of the United States, and also to the Governors of the several States, with a request that the same may be laid before their respective Legislatures for their consideration and adoption.

JONATHAN HARVEY, President.

Approved, June 30, 1818.

WILLIAM PLUMER.

THURSDAY, November 26.

The PRESIDENT communicated a letter from the Secretary of War, transmitting a report showing the organization and strength of the militia of the several States and Territories, as far as returns have been made, together with such militia laws as have been received by that Department, conformably to a resolution of the Senate of March 17, 1818; and the communications were read, and referred to the Committee on the Militia.

Mr. BARBOUR presented the petition of John Jamison, Indian agent at Natchitoches, praying an increase of compensation; which was read, and referred.

Mr. MORRIL presented the petition of James

Pike, of New Hampshire, praying a pension; and the petition was read, and referred to the Committee on Pensions.

Mr. NOBLE presented the petition of William Crawford, of Indiana, praying a pension; and the petition was read, and referred to the same committee, to consider and report thereon.

Mr. MORRIL presented the petition of Stephen Fuller, of New Hampshire, praying an increase of pension; and the petition was read, and referred to the same committee, to consider and report thereon.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the resolution declaring the admission of the State of Illinois into the Union, reported the same without amendment.

Mr. BURRILL submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to lay before the Senate copies of the several documents and papers referred to in his Message to Congress, at the commencement of this session.

Mr. RUGGLES, from the committee, reported the bill to provide for the removal of the Library of Congress to the north wing of the Capitol, correctly engrossed; and it was read a third time, and the blank filled with "two thousand." The bill was then passed.

The Senate resumed the consideration of the motion of the 25th inst., "That the Committee on Military Affairs be instructed to inquire into the expediency of increasing the pay of the officers, non-commissioned officers, musicians, and privates, of the Army of the United States;" and agreed thereto.

On motion by Mr. FROMENTIN, the petition of Anthony Cavalier and Peter Petit, of the State of Louisiana, praying the confirmation of their title to a certain tract of land in said State; the memorial of the General Assembly of the State of Louisiana, relative to the land claims of Florida, and also the representation and protest of certain members of the Legislature of the State of Louisiana, against the memorial of said Legislature, respecting titles to lands in the Florida district, which were before the Senate at the last session, were severally referred to the Committee on Public Lands, to consider and report thereon.

The resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" also a resolution authorizing the transmission of certain documents free of postage; in which bill and resolution they request the concurrence of the Senate.

The bill and resolution last mentioned, were read, and severally passed to the second reading. And the resolution was read the second time by unanimous consent.



SENATE.

Compensation to certain Officers.

NOVEMBER, 1818.

Mr. MACON submitted the following motion for consideration:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of authorizing the President of the United States to cause a survey to be made of the shoals of Cape Hatteras, Cape Lookout, and the Frying Pans; and to have such an examination made of them respectively as will ascertain the practicability of erecting a light-house, lighted beacon, or buoy, on, or near the extreme points of them, or either of them.

## COMPENSATION OF CERTAIN OFFICERS.

The bill to increase the compensation of certain officers of Government [the Secretaries of the Departments, the Attorney General, and Postmaster General] was taken up for consideration. Mr. BARRETT rose to offer a few remarks on the propriety of this bill, which he had introduced. He adverted to the proceedings on this subject at the last session, and observed, that, from all the information which had come before him then, he had thought an increase of one-third of the present compensation of those officers would be just and proper; a majority, however, had deemed an addition of twenty-five per cent. sufficient; in this opinion he had cheerfully acquiesced; and, at the proper time, when the blanks in the bill came to be filled, it was his intention to propose such an increase. It had been admitted, on all hands, Mr. B. said, that the salaries at present allowed to those officers were totally inadequate to their decent and comfortable support; the necessary and inevitable consequences of which, if the compensation was not increased, was, that none but men who possessed large fortunes and were willing to sacrifice them in the public service, could fill those offices, and the gentlemen who now filled must abandon them. It was contrary, he well knew, to the spirit of our institutions, to allow exorbitant salaries, but it was equally improper to deny what was just and reasonable—the true object was to find the medium between the two extremes, and such was his desire in the present proposition.

Mr. BURRILL moved to add to the bill a new section, embracing an increase of the salaries of the Chief Justice and Judges of the Supreme Court. He submitted it to the Senate whether the compensation of these officers did not also require increase; and, if so, whether it was not better and fairer to provide for it in the present bill. He remarked, further, that if gentlemen, as was probable, thought additional compensation due to the district judges also, an amendment to that effect could be likewise offered, and thus the whole subject be brought at once before Congress. Mr. BARRETT said that, as regarded the principle of the amendment, his opinion was testified by his vote in its favor at the last session; but he objected to associating that question with the proposition to increase the compensation of the heads of Departments, &c. The questions, he said, were perfectly distinct, and, if this amendment were admitted in the bill, other gentlemen could press the increase of the salaries of other

officers, and, said Mr. B., we shall go on in a circle until the bill be so loaded with amendments as to sink under their weight. He thought it proper to decide the insulated question proposed by the bill: on this question there was, he believed, no doubt or difference of sentiment; on the other there might be doubts, and the copartnership proposed by the amendment might be fatal to the first proposition, and the individuals involved in it suffer injustice. If an increase of salary was proper for the judges, why not, he asked, present the proposition separately, when, if it was the will of Congress, the increase would be dispensed to them? But, if the present motion was here persisted in, the connexion might destroy that which all admitted to be necessary, and the public will be thus thwarted? But this was not the only objection, Mr. B. said. He adverted to the difficulties which had occurred from the presumed want of jurisdiction in the State courts to execute the laws of the Union, and the necessity which might make additional judges necessary fully to administer the laws in the States, if the State authorities went on denying their power to act under the laws of the Union: in this case the duties of the present judges would cease to be itinerant, their duties would be lightened, and their present compensation be deemed sufficient. Mr. B. made incidentally a few remarks, on the salutary effect of some such change in the constitution of the Judiciary Department, and concluded by repeating his desire that the proposition contained in the amendment might be kept distinct from the present bill.

Mr. BURRILL's motion was then negatived—yeas 9; and the bill ordered to be engrossed (in blanks) for a third reading.

FRIDAY, November 27.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I lay before the Senate a report from the Commissioner of the Public Buildings, made in compliance with a resolution of the 28th of January last, requiring a statement of the expenditures upon the Public Buildings, and an account of their progress, to be annually exhibited to Congress.

JAMES MONROE.

NOVEMBER 26, 1818.

The Message and accompanying report were read, and referred to the Committee for the District of Columbia.

Mr. STORER presented the petition of James H. Clark, a purser in the Navy of the United States, praying relief in the settlement of his accounts, in consequence of his having been robbed of a certain sum of money, as stated in the petition; which was read, and referred to the Committee on Naval Affairs.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning invalid pensions;" a bill, entitled "An act concerning the western district court of Pennsylvania;" and a bill, entitled

NOVEMBER, 1818.

Proceedings.

SENATE.

"An act to increase the number of clerks in the Department of War," in which bills they request the concurrence of the Senate.

The three last mentioned bills were read, and severally passed to the second reading.

On motion by Mr. LACOCK, the bill, entitled "An act concerning the western district court of Pennsylvania," was read the second time by unanimous consent, and referred to the Committee on the Judiciary.

On motion of Mr. WILLIAMS, of Tennessee, the bill, entitled "An act to increase the number of clerks in the Department of War," was read the second time by unanimous consent; and referred to the Committee on Military Affairs.

Mr. JOHNSON presented the petition of Rosalie P. Deslonde, the petition of J. Pellet, the petition of Joseph Lefevre, the petition of Jacques Villere, the petition of Barthelemy Duverge, the petition of Francis B. Languille, the petition of John Rodriguez, the petition of Joseph McNeal, the petition of B. & P. Jourdan, the petition of Lewis H. Guerlin, the petition of Thaddeus Mayherr, the petition of L. B. Macarty; the petition of Pierce Dennis de la Ronde, and the petition of Alexander Milne, of the State of Louisiana, praying indemnification for losses sustained by them during the late war, by invasion of the enemy, as stated in the several petitions; which were read, and severally referred to the Committee of Claims to consider and report thereon.

Mr. JOHNSON also presented the petition of Nathaniel Amory, of Boston, and John Carrere and Henry Messonier, of Baltimore, praying confirmation of their title to a tract of land in the State of Louisiana, known as Bastrop's Grant; and the petition was read and referred to the Committee on Public Lands.

Mr. Mellen presented the petition of John G. Brown, praying the remission of duties on certain goods imported into the United States, as stated in the petition; which was read, and referred to the Committee on Finance.

The bill to increase the salaries of certain officers of the Government was read a third time, and passed.

The Senate resumed the motion of the 26th instant, "That the President of the United States be requested to lay before the Senate, copies of the several documents and papers, referred to in his Message to Congress, at the commencement of this session;" and the consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the motion of the 26th instant, for instructing the Committee on Naval Affairs to inquire into the expediency of causing a survey to be made of the shoals of Cape Hatteras, Cape Lookout, and the Frying Pans, &c.; and agreed thereto.

The bill entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountains," was read the second time, and referred to the Committee on the Judiciary.

The Senate resumed, as in Committee of the Whole, the resolution declaring the admission of the State of Illinois into the Union, and the fur-

ther consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the resolution authorizing the transmission of certain documents free of postage; and it was referred to the Committee on the Post Office and Post Roads.

The Senate resumed, as in Committee of the Whole, the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and the further consideration thereof was postponed until Monday next.

MONDAY, November 30.

ISHAM TALBOT, from the State of Kentucky, attended this day.

Mr. TICHNOR submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of changing the present judicial system of the United States, so far as to provide for the gradual diminution of the number of judges who at present compose the Supreme Court; for the restricting of the functions and duties of the judges of that court to the holding of the sessions thereof, and the other duties incidental thereto; of establishing and organizing a circuit court in each State of the Union; and of providing for the appointment of a competent number of judges for the holding of the said courts.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act to increase the number of clerks in the Department of War," reported the same without amendment.

Mr. LACOCK presented the petition of the Mayor, Aldermen, and Common Council, of the city of Washington, praying for a renewal of the act of incorporation, and the several supplements thereto, with certain amendments; and the petition was read and referred to the Committee for the District of Columbia.

Mr. EATON presented the petition of Matthew Barrow, of Tennessee, praying remuneration for a certain sum recovered of him, acting as principal forage master for Major General William Carroll's division of militia, in the fall of the year 1814, as stated in the petition; which was read and referred to the Committee on Military Affairs.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky, praying reimbursement of a certain fine imposed in the year 1798, at the suit of the United States, together with the costs and other losses attending the same, reported that the petition ought not to be granted; and the report was read.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Committee of Finance inquire into the expediency of continuing in force the act of the 29th April, 1816, regulating the currency of certain foreign coins within the United States.



Mr. DAGGETT gave notice that to-morrow he should ask leave to introduce a bill, further to extend the Judicial system of the United States.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with the resolution of the 17th of April, I transmit to the Senate a report from the acting Secretary of the Navy, which, with the documents accompanying it, will be found to contain all the information required.

JAMES MONROE.

NOVEMBER 30, 1818.

The Message, together with the report and accompanying documents, were read and referred to the Committee on Naval Affairs.

The Senate resumed the consideration of the motion of the 26th instant, "That the President of the United States be requested to lay before the Senate, copies of the several documents and papers referred to in his Message to Congress at the commencement of this session; and agreed thereto.

The bill, entitled "An act concerning invalid pensions," was read the second time, and referred to the Committee on Pensions.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and, on motion by Mr. ROBERTS, it was referred to a select committee to consider and report thereon; and Mr. GOLDSBOROUGH, Mr. ROBERTS, and Mr. BURRILL, were appointed the committee.

Mr. WILSON, from the Committee on the Post Office and Post Roads, to whom was referred the resolution authorizing the transmission of certain documents free of postage, reported the same with amendment; which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution declaring the admission of the State of Illinois into the Union; and no amendment having been made thereto, it was reported to the House, and ordered a third reading.

Mr. BURRILL, from the Committee on the Judiciary, reported a bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and the bill was read, and passed to a second reading.

TUESDAY, December 1.

Agreeably to notice given, Mr. DAGGETT asked and obtained leave to introduce a bill further to extend the judicial system of the United States; and the bill was read and passed to a second reading.

On motion by Mr. SANFORD, the Committee on Naval Affairs, to whom was referred the petition of James H. Clark, a purser in the Navy of the United States, were discharged from the further consideration thereof, and it was referred to the Committee of Claims.

Mr. DICKERSON gave notice that, to-morrow, he should ask leave to introduce a resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States.

Mr. DAGGETT gave notice that, to-morrow, he should ask leave to introduce a bill, more effectually to provide for the punishment of certain crimes against the United States, and for other purposes.

Mr. FORSYTH submitted the following motion for consideration:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of prohibiting the exportation of the gold, silver, and copper coins of the United States.

The Senate resumed the consideration of the motion of the 30th ultimo, "That the Committee of Finance inquire into the expediency of continuing in force the act of the 29th of April, 1816, regulating the currency of certain foreign coins within the United States;" and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the number of clerks in the Department of War;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution authorizing the transmission of certain documents free of postage, together with the amendment reported thereto, by the Committee of the Post Office and Post Roads; and the amendment having been agreed to, the PRESIDENT reported the resolution to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the resolution be read a third time as amended.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky; and the further consideration thereof was postponed until to-morrow.

The resolution declaring the admission of the State of Illinois into the Union, was read a third time, and passed.

Mr. GOLDSBOROUGH presented the petition of Joseph Forrest, of the city of Washington, praying compensation for the loss of a certain schooner called the William Yeaton, chartered in the month of May, 1812, to the agent of the United States, to take a cargo of provisions from New York to Lagaira, which was seized and condemned, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Samuel F. Hooker, of New York, made a report; which was read.

Mr. GOLDSBOROUGH also reported a bill for the

relief of Samuel F. Hooker; and the bill was read and passed to the second reading.

The Senate resumed the motion of the 30th ultimo, for instructing the Committee on the Judiciary to inquire into the expediency of changing the present judicial system of the United States; and the further consideration thereof was postponed until to-morrow.

WEDNESDAY, December 2.

MONTFORD STOKES, from the State of North Carolina, attended this day.

Mr. GOLDSBOROUGH, from the Committee to whom was referred the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, reported the same amended, as follows: Strike out the word "Resolved," wherever it occurs, and to insert in lieu thereof, "Be it enacted;" and the amendment was read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Richard H. Wilde, made a report, accompanied by a bill to authorize the settlement of the account of James Wilde; and the report and bill were read, and the bill was passed to the second reading.

Mr. SANFORD, from the Committee on Naval Affairs, to whom the subject was referred, reported a resolution directing a survey of certain parts of the coast of North Carolina; and the resolution was read, and passed to the second reading.

Mr. SANFORD submitted the following motion for consideration:

Resolved, That the Committee on Pensions inquire into the propriety of granting a pension to George Bell.

Mr. RUGGLES submitted the following motion for consideration:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of making provision, by law, for clothing the Army of the United States in domestic manufactures.

Agreeably to notice given, Mr. DICKERSON asked and obtained leave to introduce a resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and the resolution was read, and passed to the second reading.

Mr. LEAKE submitted the following motion for consideration:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the several laws providing for the disposal of public lands, as to divide the fractions into quarter sections, where the same is practicable; and to authorize the sale of fractions in quarter sections, in the same manner as the other lands of the United States.

And also, where lands have reverted to the United States for non-payment, to direct the sale thereof again at public sale, upon the same terms and conditions of

15th Con. 2d Sess.—2

all other public sales, unless the same shall have been sold, within six months after such reversion, at private sale, for a price not less than that for which it had before been sold.

On request, Mr. TICHENOR had leave to withdraw the motion submitted by him, on the 30th ultimo, for instructing the Committee on the Judiciary to inquire into the expediency of changing the present judicial system of the United States.

The Senate resumed the consideration of the motion of the 1st instant: "That the Committee on Finance be instructed to inquire into the expediency of prohibiting the exportation of the gold, silver, and copper coins of the United States;" and agreed thereto.

The Senate resumed the report of the Committee on the Judiciary, on the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky; and the consideration thereof was further postponed until to-morrow.

Agreeably to notice given, Mr. DAGGETT asked and obtained leave to introduce a bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and the bill was read, and passed to the second reading.

Mr. KING presented the memorial of the Governors of the New York Hospital, relative to distressed American seamen, relieved by that institution; and the memorial was read, and referred to the Secretary of the Treasury, to consider and report thereon to the Senate.

The bill, entitled "An act to increase the number of clerks in the Department of War," was read a third time, and passed.

The amendment to the resolution authorizing the transmission of certain documents free of postage, having been reported by the committee correctly engrossed, the resolution was read a third time, as amended, and passed.

Mr. LACOCK, from the Committee of Pensions, to whom was referred the petition of George Stone, reported as follows:

"That the said petitioner sets forth that he served three years in the Massachusetts line, in the Revolutionary war; that he was, while in the discharge of his duty, wounded in the shoulder, which has ever since considerably lessened and disabled his arm, which, together with the infirmities of old age, and misfortunes, renders it necessary for him to ask of his country to make his situation in advanced life comfortable.

Your committee, on this occasion, would observe, that, notwithstanding the facts set forth in the petition appear to be proven by numerous vouchers, it would be inexpedient to grant the prayer of the petitioner, inasmuch as the existing laws on the subject of pensions prescribe the mode of taking testimony, and every other prerequisite by which they may be obtained, in a full, ample, and it is conceived, liberal manner, and, to depart from those general rules and regulations, and to make each individual case a subject of legislative inquiry and enactment, would be extremely burdensome and inconvenient, and perhaps in some cases might subject the Government to im-



SENATE.

Proceedings.

DECEMBER, 1818.

position and fraud. They, therefore, offer the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition."

Mr. LACOCK, from the same committee, to whom was referred the petition of John Brown, made report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. LACOCK, from the same committee, to whom was referred the petition of Luce Cottineau, also made a report, accompanied by a resolution, that she have leave to withdraw her petition. The report and resolution were read.

THURSDAY, December 3.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act granting to Mehitabel Cole, the lands therein mentioned;" and a bill, entitled "An act for the relief of Major General John Stark;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate, of the 16th of April last, in relation to the offices of the customs, which it may be proper to suppress; and the report, together with the accompanying documents, were read, and ordered to be printed for the use of the Senate.

Mr. RUGGLES presented the petition of Gabriel Godfrey, of Michigan Territory, praying compensation for the destruction of his property during the late war with Great Britain; and the petition was referred to the Committee of Claims.

Mr. SMITH presented the petition of Mary Cassin, of South Carolina, praying payment of arrearages of certain soldiers' pay, as stated in the petition; which was read, and referred to the Committee of Claims.

The bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, was read the second time.

The Senate resumed the report of the Committee on the Judiciary, on the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky; and the consideration thereof was further postponed until Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate copies of such of the documents referred to in the Message of the 17th of last month, as have been prepared since that period. They contain a copy of the reports of Mr. Rodney, and Mr. Graham, two of the Commissioners to South America, who returned first from the mission, and of the papers connected with those reports.\* They also present a

\* For these reports, see Appendix to 1st session, 15th Congress.

full view of the operations of our troops employed in the Seminole war in Florida.

It would be gratifying to me, to have communicated with the Message, all the documents referred to in it, but as two of our Commissioners from South America made their reports a few days only before the meeting of Congress, and the third, on the day of its meeting, it was impossible to transmit at that time more than one copy of the two reports first made.

The residue of the documents, will be communicated as soon as they are prepared.

JAMES MONROE.

DECEMBER 2, 1818.

[The papers accompanying the Message, so far as they relate to South America, are those which were previously laid before the other House; and, so far as respects the Seminole War, of letters between the War Department and General Gaines, and the War Department and General Jackson, and of the proceedings of the court martial for the trial of Arbuthnot and Ambrister.]

The Message and documents were ordered to lie on the table.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with the resolution of the Senate, of the 25th of last month, requesting to be furnished with such information as may be possessed by the Executive, touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States, as relates to the restitution of slaves, and which has not heretofore been communicated, I lay before the Senate a report made by the Secretary of State, on the 1st instant, in relation to that subject.

JAMES MONROE.

DECEMBER 2, 1818.

DEPARTMENT OF STATE, Dec. 1, 1818.

The Secretary of State, to whom has been referred the resolution of the Senate, of the 13th ultimo, requesting information not heretofore communicated, relating to restitution of slaves, conformably to the first article of the late Treaty of Peace between the United States and Great Britain, has the honor of reporting to the President of the United States, that the difference of construction given by the two Governments to that part of the first article of the Treaty, and the claim of the citizens of the United States to indemnity for slaves carried away contrary to its stipulations, form one of the subjects of negotiation now pending in England; which negotiation having commenced towards the close of the month of August, no report of its progress has yet been received at this Department, from the Plenipotentiaries, to whom, on the part of the United States, it has been committed.

JOHN QUINCY ADAMS.

The Message and documents were read, and ordered to lie on the table.

FRIDAY, December 4.

WILLIAM HUNTER, from the State of Rhode Island and Providence Plantations, attended this day.

Mr. EPPES, from the Committee on Finance, to whom was referred the petition of John G.

DECEMBER, 1818.

Proceedings.

SENATE.

Brown, made a report, accompanied with a resolution, that he have leave to withdraw his petition. The report and resolution were read.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the petition of Stephen Fuller, made a report, accompanied by a resolution, that he have leave to withdraw his petition. The report and resolution were read.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain," reported the same without amendment.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill for the relief of Matthew Barrow; and the bill was read, and passed to the second reading.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That a joint committee of the two Houses of Congress be appointed to consider and report, whether any, and if any, what further provisions by law are necessary to insure despatch, accuracy, and neatness, in the printing done by order of the two Houses, respectively; and that they have leave to report by bill.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That the Message of the President and documents relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers.

On motion, by Mr. BURRILL, five hundred copies of the Message of the President of the United States, of the 2d instant, together with the documents relative to the Seminole war, were ordered to be printed for the use of the Senate.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That no paper or document shall hereafter be printed for the use of the Senate, but by special order, except Messages from the President of the United States, or communications from the House of Representatives.

Mr. Mellen presented the petition of John G. Brown, praying the passage of an act to authorize the payment of a forfeiture remitted by the Secretary of the Treasury, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 2d instant, "That the Committee on Military Affairs be instructed to inquire into the expediency of making provision, by law, for clothing the Army of the United States in domestic manufactures;" and agreed thereto.

The Senate resumed the consideration of the

motion of the 2d instant, "That the Committee on Pensions inquire into the propriety of granting a pension to George Bell;" and agreed thereto.

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Public Lands to inquire into the expediency of amending the several laws providing for the disposal of public lands; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of George Stone; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

NINIAN EDWARDS and JESSE B. THOMAS, respectively appointed Senators by the Legislature of the State of Illinois, produced their credentials, were qualified, and they took their seats in the Senate.

On motion by Mr. MORROW,

*Resolved*, That the Senate proceed to ascertain the classes in which the Senators of the State of Illinois shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires.

*Ordered*, That the Secretary put into the ballot box two papers of equal size, numbered 1 and 3; each of the said Senators shall draw out one paper. The Senator who shall draw No. 1 shall be inserted in the class of Senators whose term of service will expire on the 3d of March, 1819; and the Senator who shall draw No. 3, in the class of Senators whose term of service will expire on the 3d of March, 1823.

Whereupon, the numbers abovementioned were by the Secretary rolled up and put into a box; when Mr. EDWARDS drew No. 1, and is accordingly of the class of Senators whose term of service will expire on the 3d of March, 1819; and Mr. THOMAS drew No. 3, and is accordingly of the class whose term of service will expire on the 3d of March, 1823.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of John Brown; and in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Luce Cottineau; and, on motion, by Mr. ROBERTS, the further consideration thereof was postponed until the second Monday in January next.

The bill further to extend the judicial system of the United States was read the second time; and, on motion, by Mr. DAGGETT, the further consideration thereof was postponed to, and made the order the day for, Monday next.

The bill for the relief of Samuel F. Hooker, was read the second time.

The bill to authorize the settlement of the account of James Wilde was read the second time.

The resolution directing a survey of certain parts of the coast of North Carolina was read the second time.



The resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States, was read the second time; and on motion, by Mr. DICKERSON, it was referred to a select committee, to consist of five members, to consider and report thereon; and Mr. DICKERSON, Mr. EDWARDS, Mr. KING, Mr. BARBOUR, and Mr. MACON, were appointed the committee.

The bill, entitled "An act granting to Mehitabel Cyle the lands therein mentioned," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Major General John Stark," was read the second time, and referred to the Committee on Pensions.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, together with the amendment reported there-to by a select committee; and the amendment having been agreed to, on motion, by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

On motion by Mr. SANFORD, the Message from the President of the United States, of April 20, 1818, received at the last session, together with the rules, regulations, and instructions, for the naval service, prepared by the Board of Navy Commissioners, in obedience to an act of Congress, passed 7th of February, 1815, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners," transmitted therewith, were referred to the Committee on Naval Affairs, to consider and report thereon.

The Senate adjourned to Monday.

#### MONDAY, December 7.

The PRESIDENT communicated a letter from John Gardiner, presenting to the Senate maps of the Alabama Territory, and of the military bounty lands in the Missouri Territory; and the letter was read.

Mr. WILLIAMS, of Mississippi, presented the petition of merchants, traders, and inhabitants of St. Stephens, in the Alabama Territory, praying to be made a port of entry; and the petition was read, and referred to the Committee on Commerce and Manufactures.

Mr. MORRIL presented the petition of David Stephens, of Ohio, praying the privilege of re-entering a certain quarter section of land for the original consideration; and the petition was

read, and referred to the Committee on Public Lands.

Mr. JOHNSON presented the petition of Solomon Provost, praying compensation for property taken for the use of the Army of the United States; the petition of Noel Destrahan, for and in behalf of the heirs of E. Macarty, praying indemnification for property destroyed during the late war; and also the petition of Peter Lacoste, praying indemnification for the loss of slaves, taken away by the British during the late war; and the petitions were respectively read, and referred to the Committee of Claims.

Mr. JOHNSON submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of passing a law, authorizing the President of the United States to take provisional possession of East Florida, or of such parts of it as he may deem essential, now or hereafter, to control the Indians, and to prevent them from committing hostilities against the citizens of the United States.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act concerning the western district court of Pennsylvania," reported the same without amendment.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Major General John Stark," reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on the Judiciary, on the memorial of Matthew Lyon; and the consideration thereof was postponed until to-morrow.

The bill for the relief of Matthew Barrow was read the second time.

The bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon, was read the second time.

The bill, introduced some days ago by Mr. DAGGETT, to extend the judicial system of the United States, was next taken up as in Committee of the Whole.

Mr. DAGGETT rose in support of this bill, and, after observing that it was, with the exception of a few of its features, similar to the bill on the same subject before the House of Representatives at the last session, proceeded to explain briefly, but distinctly, its several provisions, showing the expediency of some and the absolute necessity of others. When Mr. D. concluded his remarks, the bill was, on his motion, referred to the Judiciary Committee.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and Mr. BARBOUR having submitted a motion to recommit the bill to the Committee on the Judiciary, with instructions; on motion by Mr. ORIS, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 4th instant, for the appointment of a joint committee, to consider and report, whether any further provisions by law are necessary, in relation to the printing done by order of Congress; and agreed thereto.

The Senate resumed the consideration of the motion of the 4th instant, "That the Message of the President and documents relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers;" and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 4th instant, "That no paper or document shall hereafter be printed, for the use of the Senate, but by special order, except messages from the President of the United States, or communications from the House of Representatives;" and agreed thereto.

The bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and, on motion by Mr. HANSON, the further consideration thereof was postponed until this day fortnight.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and, on motion by Mr. WILSON, the further consideration thereof was postponed until this day fortnight.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of John G. Brown; and in concurrence therewith, resolved that the prayer of the petition ought not to be granted.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Stephen Fuller; and in concurrence therewith, resolved that he have leave to withdraw his petition.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the settlement of the account of James Wilde; and, on motion by Mr. WILSON, it was recommended to the Committee of Claims, further to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, directing the survey of certain parts of the coast of North Carolina; and the same having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the resolution was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" and, on motion by Mr. WILLIAMS, of Mississippi, the

further consideration thereof was postponed until this day fortnight.

#### AMENDMENT TO THE CONSTITUTION.

Mr. DAGGETT communicated the following resolutions of the Legislature of the State of Connecticut, which were read:

*At a General Assembly of the State of Connecticut, held at Hartford, in said State, on the second Thursday of May, in the year of our Lord, one thousand eight hundred and eighteen.*

*Resolved by this Assembly*, That, for the purpose of choosing Representatives in the Congress of the United States, each State shall, by its Legislature, be divided into a number of districts equal to the number of Representatives to which such State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the Constitution to be represented. In each district the qualified voters shall elect one Representative, and no more. That for the purpose of appointing Electors for the President and Vice President of the United States, in each district entitled to elect a Representative in the Congress of the United States, the persons qualified to vote for Representatives, shall appoint one Elector, and no more. The additional two Electors to which each State is entitled, shall be appointed in such manner as the Legislature thereof may direct. The Electors when convened, shall have power, in case any of them appointed as above prescribed, shall fail to attend for the purposes of their said appointment, on the day prescribed for giving their votes for President and Vice President of the United States, to appoint another, or others, to act in the place of him or them so failing to attend.

Neither the districts for choosing Representatives, nor those for appointing Electors, shall be altered in any State, until a census and apportionment of Representatives under it, subsequent to the division of the States into districts, shall be made. The division of States into districts, hereby provided for, shall take place immediately after this amendment shall be adopted, and ratified as a part of the Constitution of the United States; and successively, immediately afterwards, whenever a census and apportionment of Representatives under it shall be made. The division of each State into districts, for the purpose both of choosing Representatives and of appointing Electors, shall be altered agreeably to the provisions of this amendment, and on no other occasion.

*Resolved*, That our Senators in the Congress of the United States be instructed, and our Representatives requested, to endeavor to obtain the said amendment to the Constitution of the United States.

*Resolved*, That his Excellency the Governor of this State be requested to forward a copy of the preceding resolution to each of our Senators and Representatives in the Congress of the United States, and also to the Governors of the several States, with a request, that the same may be laid before their respective Legislatures, for their consideration and adoption.

#### BANK OF THE UNITED STATES.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate, of the 15th of April last, requiring him to procure from the Bank of the United States sundry statements of its con-



SENATE.

*Bank of the United States.*

DECEMBER, 1818.

cerns and transactions, and to lay them before the Senate; which was read, as follows:

TREASURY DEPARTMENT, Dec. 4, 1818.

SIR: In obedience to a resolution of the Senate of the 15th of April last, requiring the Secretary of the Treasury to procure from the Bank of the United States sundry statements of its concerns and transactions, and to lay them before the Senate immediately after the commencement of the next session of Congress, I have the honor to submit the enclosed statements and communications made to this Department by that institution.

I have the honor to be, &c.

WM. H. CRAWFORD.

Hon. JOHN GAILLARD,  
President of the Senate pro tem.

TREASURY DEPARTMENT, June 11, 1818.

SIR: The enclosed resolution is submitted to the president and directors of the Bank of the United States, for the purpose of obtaining the information required by it in time to be communicated to the Senate at the commencement of the next session of Congress. It is presumed that the statement required by the second member of the resolution may be furnished up to the 30th of September next.

I am, very respectfully, &c.

WM. H. CRAWFORD.

WILLIAM JONES, Esq.,  
President of the Bank of the U. S.

BANK OF THE UNITED STATES,  
November 11, 1818.

SIR: I have the honor to transmit the statements required by the resolution of the Senate of the 15th of April, a copy of which you were pleased to communicate in your letter of the 11th of June last.

The statements are numbered in the order of the several members of the resolution, and the details and accompanying remarks it is considered will render them perfectly intelligible.

In respect to the payments made on account of the cash part of the second and third instalments of the capital of the bank, it is impossible to designate the amount actually paid in coin.

When the second instalment became due, the Bank of the United States was in operation, and had issued a large amount of its notes; bills were also discounted and passed to the credit of individuals, and specie received on deposit; therefore, the notes of and checks on the bank were equivalent to specie, and would have drawn out the specie to pay the cash part of the instalment; if the literal formality of paying in specie had been required. The general course pursued by the subscribers was to deposit the coin and notes in the bank, and draw a check for the precise amount of the cash part of the instalment.

The banks in the principal cities resumed specie payment on the 20th of February, 1817, and the third instalment became due on the 1st of July following; their notes were, of course, received in all payments due to the bank and to the revenue, and also on deposit, for which specie was liable to be drawn; of course, the notes of and checks on the Bank of the United States, and the notes of the banks actually paying specie, were indiscriminately received with gold and silver in payment of the cash part of this instalment.

In the statement exhibiting the debts due to the bank and its offices, the amount of bills discounted bears an undue proportion to the relative trade and importance of the respective places; but the efforts of the board of directors to produce a more equal apportionment have been counteracted by circumstances which they could not control, the origin of which may be referred to the state of the currency and of domestic exchange at the period immediately preceding the establishment of the bank, the consequences of which are yet visible in the moneyed operations of those places.

The funds of the cities east of Philadelphia, derived from the sale of their imported commodities, had been suffered to accumulate during the late war, and until the establishment of the bank, chiefly in the cities of Philadelphia and Baltimore, to an immense amount, in anticipation of that event and the prospects entertained of the consequent improvement in the currency. The public revenue had also accumulated in the middle and western sections of the United States, to the amount of many millions, particularly in the banks of Philadelphia, Baltimore, and the District of Columbia; and the banks of those places were greatly indebted to those to the eastward of them respectively.

Shortly after this period, as you will recollect, sir, the banks of New York, Philadelphia, Baltimore, and Virginia, agreed to resume specie payments on the 20th of February, under a special agreement with the Bank of the United States, which, in order to bring about this desirable and indispensable event, engaged its credit and resources in protecting the debtor banks, and in liquidating these immense balances by actual remittances to the eastward in specie and bills at par as the only possible means of maintaining what had been so happily begun. In the mean time, the public deposits in the banks of those places which had been transferred to the Bank of the United States, and the revenue subsequently collected in the same, were chiefly expended in the cities east of the Susquehanna.

These circumstances have constantly maintained so great a demand for exchange in the eastern cities, that the directors have been unable to extend the discounts at the offices at New York and Boston, as they have earnestly desired to do, without getting in debt to the banks of those places, and incurring the immediate liability to a demand of payment in specie; of the large importations of which by the Bank of the United States, at a great expense, not one dollar has been expended south or west of Philadelphia. It is a fact, corroborated by the experience of all banks, that their operations must necessarily be regulated by those of the banks in their immediate vicinity, otherwise those which are most prudent or parsimonious will become the creditors of those who are the most liberal or extravagant; the consequence of which is an immediate specie responsibility. The Bank of the United States and its offices do not form an exception to this rule; and facts have demonstrated that a bank of very limited resources, governed by an avaricious policy, and applying its means not to the purpose of public accommodation, but to the traffic in specie, by collecting the bills of other banks, drawing out the specie for sale, and repeating the operation daily, may subject the largest capital to incessant contribution. It is conceived that what has been said will satisfactorily prove that the Bank of the United States could not remit and liquidate debts of the southern, western, and mid-

DECEMBER, 1818.

*Bank of the United States.*

SENATE.

dle sections, to the eastern cities, and at the same time loan a large additional capital to the latter; and that, if the latter have not participated in the loans of the bank in proportion to their great wealth and commerce, they have at least derived as substantial benefits from the operations of the bank as any other section of the Union.

In regard to the discounts on bills secured by the pledge of public and corporate stocks, it is respectfully observed, that these loans originated in the sudden redemption of \$13,000,000 of the funded debt, part of the capital of the bank, with the public funds which had been transferred to the bank in the manner represented. This event took place in a few months after the bank had commenced its operations, when few of its offices were in operation, and while the circumstances of the institution precluded the possibility of an equitable distribution of its capital. It therefore became a desirable object to employ this capital for the benefit of the institution without delay; and the only question which the case appeared to involve was, whether the loans ought to be made on the collateral security of public and corporate stocks, or on the more precarious security of mere personal responsibility, where that species of accommodation did not appear to admit of so great an extension. The board determined upon the former course, and proceeded to discount bills on the pledge of stock, without regard to persons or place, and indiscriminately, to the extent which it was offered; and, of course, the greatest loans have been where the greatest amount of stock was held. The whole amount of the loans on pledged stock of every description has not at any time reached by two millions the amount of the funded debt redeemed by the Government, although the original amount of the funded debt, part of the capital of the bank, was intended to have been \$28,000,000. To have loaned these funds in New York and Boston, would have required their previous conversion into specie, or the funds of those cities, which, from the course of exchange, and the extraordinary demand for specie, was impracticable; and to have demanded the immediate payment of specie due by the banks in Philadelphia, Baltimore, District of Columbia, and the western country, would have been to require impossibilities. The funds were therefore loaned where they were current, and in their operation produced the gradual diminution of the debts due by the banks in those places to the Bank of the United States, which they had not the ability to discharge in specie on demand. The reason why no part of the coin in possession of the bank is exhibited in the statement No. 2 of the existing capital of the bank is assigned in the note annexed to that statement; but the whole amount of specie in the bank and its offices at that time was \$2,815,208 96, as exhibited in the general statement rendered to the Department.

The crisis in which the directors of the Bank of the United States have acted, has been one of peculiar delicacy and difficulty. The policy and effect of their administration cannot be appreciated by an abstract view of any single measure; it must be taken in connexion with every other which it involves. They have earnestly endeavored to promote the interest of the public and of the institution, but they disclaim the presumption that would exempt them from error.

I have the honor to remain, &c.

WM. JONES, Pres't.

Hon. WM. H. CRAWFORD.

*The Secretary of the Treasury to the President of the Bank of the United States.*

TREASURY DEPARTMENT, Nov. 27, 1818.

SIR: I have the honor to return the statements which were enclosed in your letter of the 11th instant. By comparing these statements with the reports of the Register of the Treasury, which are now transmitted for your consideration, it will appear that the amount of the funded debt purchased or redeemed by the Commissioners of the Sinking Fund from the bank, exceeds the whole amount stated by you to have been received by the bank; whilst it is admitted that about \$400,000 of the funded debt was in the possession of the bank at the date of those statements. The information required by the resolution is more detailed than that which is furnished by the bank. You have given the amount of funded debt subscribed to the bank, at each of the payments, without distinguishing between the different species of stock of which the several payments were composed. It is, I think, manifest, that the resolution requires this distinction.

The difference between the amount of stock stated to have been received by the bank at the different periods of the payment, and that which has been redeemed, arises, probably, from the circumstance of excluding, in the statement made by the bank, all the stock which was received at dates subsequent to the several periods when the different instalments became due.

As soon as the statements required by the resolution of the Senate are received, they will be communicated to that body. I am, &c.

WM. H. CRAWFORD.

WM. JONES, Esq., President U. S. Bank.

*The President of the Bank of the United States to the Secretary of the Treasury.*

BANK OF THE UNITED STATES,  
December 1, 1818.

SIR: I have the honor to transmit the statements required by the resolution of the Senate of the 15th of April last, which were communicated with my explanatory letter of the 11th ultimo, and returned under cover with your letter of the 27th ultimo, having substituted, agreeably to your construction of the first member of that resolution, a statement more in detail, exhibiting the amount of the several species of funded debt subscribed to the bank, and including as well the payments made subsequently to the times prescribed by the charter, as the payments made at those periods, which the words of the resolution appeared alone to require; thus at once embracing the whole amount of the capital stock actually paid in gold and silver coin, or bank notes and checks equivalent thereto, and in funded debt; from which the amount of funded debt redeemed by the Government from the bank being deducted, shows the balance of funded debt remaining as a part of the capital stock of the bank at this time. The result accords with the statement No. 1 of the Register of the Treasury, showing the amount of the several species of funded debt redeemed from the bank, with the books of the bank and the loan office carefully examined. I have the honor, &c.

WM. JONES.

Hon. WM. H. CRAWFORD,  
Secretary of the Treasury.



*The President of the Bank of the United States to the Secretary of the Treasury.*

BANK OF THE UNITED STATES,

December 1, 1818.

SIR: I have the honor to return the statement No. 2, of the Register of the Treasury, showing the "amount of stock to the credit of the Bank of the United States, per dividends, to the 30th June, 1818." This statement refers to the date just mentioned, but appears also to be brought up to the 21st October, as the moiety only of the Louisiana debt held by the bank at the former date is included in the amount.

The notes, however, which I have added to the foot of the statement, reconcile the statement No. 1, rendered by order of the Senate, with the statement No. 2 of the Register, with which it agrees within one cent. I have the honor to be, &c.

W. JONES.

Hon. WM. H. CRAWFORD,  
Secretary of the Treasury.

TUESDAY, December 8.

The PRESIDENT communicated a report from the Secretary of the Treasury, made in obedience to a resolution of the Senate of the 18th of April last, referring the reports of the Commissioners for the districts east and west of Pearl river, in West Florida, relative to land claims, together with the memorials, petitions, and other papers addressed to the Senate upon the same subject, to the Secretary of the Treasury, and directing him to report a plan to the Senate at their next session, for the adjustment of the claims to lands in said districts, accompanied by a draft of a bill for that purpose; which were read.—Referred to the Committee on Public Lands.

Mr. WILSON, from the Committee of Claims, to whom was referred the bill to authorize the settlement of the account of James Wilde, reported the same with an amendment; which was read.

Mr. WILSON, from the same committee, to whom was referred the petition of Thomas Chapman, collector of the customs for Georgetown district, in the State of South Carolina, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, reported a bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island; and the bill was read, and passed to the second reading.

Mr. BURRILL gave notice that to-morrow he should ask leave to introduce a bill respecting the transportation of persons of color, for sale, or to be held to labor.

#### MEMORIAL OF MATTHEW LYON.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of Matthew Lyon, of Eddyville, in the State of Kentucky, praying reimbursement of a certain fine, imposed in the year 1798, at the suit of the United States, together with the costs and other losses attend-

ing the same, to wit: "That the prayer of the petition ought not to be granted." Whereupon, Mr. CRITTENDEN submitted the following motion as an amendment:

*Resolved*, That all persons, who were prosecuted and fined under and by virtue of the second section of the act of Congress, commonly called the sedition law, approved the 14th day of July, 1798, and entitled "An act in addition to the act entitled 'An act for the punishment of certain crimes against the United States,'" ought to be reimbursed and indemnified out of the public Treasury, to the amount of the fines imposed upon, and paid by them, respectively.

Mr. CRITTENDEN said he considered the sedition act as having been unconstitutional, not only from a defect of power in Congress to pass such a law, but because its passage was expressly forbidden by the Constitution. The sense of the nation had unquestionably pronounced it unconstitutional, and that opinion being generally entertained, it ought to be solemnly pronounced by the Legislature, that history and the records of the country may not hand it down to posterity as a precedent for acts of similar usurpation. If a revision of the proceedings in that case was important in a public point of view, it was certainly so as it related to the individuals who became the subjects of prosecution under that act. To each of them, and to every citizen of the United States, the Constitution of the United States had guaranteed certain rights, which had been violated by that law. This guarantee entitled them to indemnity in cases wherein those rights were violated; of this indemnity, the decisions of courts ought not to deprive them. If they did, he said, there is no redeeming spirit in the Constitution. Legal sanctions cannot vitiate Constitutional provisions. The Judiciary is a valuable part of Government, and ought to be highly respected; but is not infallible. The Constitution is our guide—our supreme law. Blind homage can never be rendered by freemen to any power. In all cases of alleged violations of the Constitution, it was for Congress to make a just discrimination. In doubtful cases, he said, he would not interfere; but, when the Constitution forbade a law, he would not hesitate to interpose for the relief of those who suffered by its inflictions. The case now before the Senate, he considered a fair case for the interposition of Congress. It had a peculiar character. The individual had a right to remuneration; this right ought not to be sacrificed to contingencies, or to speculative opinions. We may not do wrong that right may come of it. Justice to the individuals, to the Constitution, to the country, all required this course. Let us add, said Mr. C., new defences and guards to the Constitution in this assailable point. Let us secure it, as far as in our power, from future infraction on the ground of precedent.

Mr. BURRILL said he hoped the amendment would not prevail. If it was negatived, the gentleman would yet have it in his power to try the general question by introducing a bill embracing his proposition. But, Mr. B. said, not a fact alle-

ged in the petition now before the Senate was supported by any proof, though the facts were extraordinary in their nature, and not to be believed without proof. The petitioner had asked relief from Congress, on the ground of not having had a fair trial. Ought not this to be proved, instead of being merely asserted? He had called Judge Patterson a second Jeffries, himself an Algernon Sydney; but this was not a ground on which the Senate could found a legislative act. The question regarding the Constitutionality of the act of Congress, which had been agitated, Mr. B. said he would not argue; not that he had any doubts on the subject, but because it was unnecessary now to discuss it. The question really before the Senate was one which could be discussed without reference to the character of Judge Patterson, and without reflecting on the administration of justice in the courts of our country. The facts alleged were not proved, and Mr. B. believed they were not susceptible of proof. There might have existed in the public mind, amidst the conflict of parties, prejudices for and against Matthew Lyon; but Judge Patterson never could have been guilty of the acts alleged. It was proposed now to interfere with the judicial proceedings of the country, in a manner in which they never had been interfered with in this or any other country, by setting aside decisions of the courts, and indemnifying the parties who were the subject of them, and that, too, without proof. He did not, he said, believe in the infallibility of the Judiciary; but neither did he in that of Congress. The gentleman himself, who thought himself quite right, might be mistaken in his views, as infallibility did not belong to humanity. What right, Mr. B. asked, had Congress to pass on the Constitutionality of this law? They could repeal laws, but they could not revise the adjudications under them. The law had been passed by Congress, and been executed by the courts of the United States, after solemn examination. If Congress were to interfere in this case, they might in all others; and the Senate would see to what consequences the establishment of this principle would lead. Against such evils as the petitioner alleged, they might guard by law, with a view to prevention; but, having occurred, they could only interfere in extreme cases, and that in the manner prescribed in the Constitution—by impeachment and removal of the Judge. To proceed as now proposed, would be, instead of considering the Judiciary in its true light of a co-ordinate branch of the Government, to render it dependent and subordinate. If Congress were so to act, said he, posterity might impute to them party feelings, as we now do to those who have gone before us. Let us not then pronounce censure on any past Congress, or on the acts of the Judiciary.

Mr. BARBOUR said he had not intended to speak on this question, unless impelled by an imperious sense of duty. He was happy, he said, that the question presented to the Senate, instead of being decided on the merit or demerit of an individual, was to be decided on the broad ground of prin-

ciple. Was the course proposed in the amendment, he asked, an unusual course? Was it not a daily practice to include all who were in the same predicament in the same remedy? An individual, Mr. B. said, was responsible for any charges he made; and they are not to be received as facts until satisfactorily proved. Let not, therefore, the great Constitutional question now presented rest on the merit of the claim of a single individual, or be encumbered by questions of fact peculiar to an isolated case. The true question now to be decided, was, did the Government, by the sedition act of 1798, from improper motives or party feelings, violate the Constitution and oppress individuals? If they did, ought not the new trustees to whom the people had confided their authority, to remedy the evil as far as in their power? The public sentiment, he said, called upon Congress to repair the wrongs which had been inflicted, and to administer, like the good Samaritan, the healing balm to every wound. This, he thought, was a propitious moment to retrace the former steps, in deference to the opinion of the people, and erect a barrier against the recurrence of similar aggressions of power on inherent and Constitutional right. This, he said, was not the tribunal to take cognizance of judicial delinquency: that was the province of the other House. But it was quite within the power of this body, as one branch of the Legislature, to pronounce that those who gave the authority exercised by the judiciary had no right to do so, and that, therefore, the judiciary had proceeded unconstitutionally in executing the law, the Constitution being the paramount law. He believed, he said, our courts were the purest in the world; but those who composed them were mere men, and some of them, possibly, bad men. Was there anything, he asked, in the ermine robe, which conferred on the wearer exemption from human frailties? It was rather calculated to inflate the vanity, and increase the confidence of the judge in his own infallibility. He would not, he said, act indelicately towards the judiciary, or any member of it; but, in regard to the violation of the Constitution, in the passage and execution of the sedition law, a tribunal from which there was no appeal had decided on it. There was among the people, at this day, scarcely a dissentient voice on that subject. Would the decision of four or five individuals counterbalance this unanimous opinion? The sedition act, Mr. B. proceeded to say, was one of the most conspicuous among the acts of misrule, in consequence of which the party who then held the reins of Government was precipitated from power. The law, he said, was unconstitutional, and Congress ought to say so, and to repair the ravages made under color of its authority. Suppose Congress had decreed the punishment of death and corruption of blood for the offences designated in the act; they had the same right to do that as what they did do. Suppose the victim had been immolated, and his property confiscated, and that the heirs had applied for a reversal of the attainder, the same answer might



be given as was now given by the gentleman from Rhode Island, that we ought not to interfere. This, he said, was not the answer due by Congress to such an application. Apprehensions had been expressed, that, from a different course, great inconveniences were to be feared. Mr. B. thought not. It would teach men in authority that, too often, in possession of power, they forgot right: it would teach them to look forward to the sentiments which posterity would entertain of their conduct. Our halcyon days, said he, may not always continue. We ought to erect land marks for the benefit of future ages; we ought to encourage future patriots to resist usurpation. Our Government, he said, was made for the people, and for the conservation of their rights; and we ought to repair injuries unrighteously inflicted on them. But, if precedents were to be sought in the history of other Governments, there were precedents to be found in British history.

The successors of the Stuarts repaired, as far as in their power, the injuries they had done. In the case of Russell, he was permitted to resume the right of blood and property—and other cases might be cited. When Congress, the President, or the Judiciary, exceeds the powers delegated them by the Constitution, the people have a right to resist unto blood. By way of illustration, Mr. B. put a case: had Burr, he said, been imposed on the nation as President by Congress, bloody vengeance would have pursued the usurper and his confederates. In the case of the sedition law there was no need of a resort to force; the redeeming spirit of the people was appealed to; it was roused, and it was effective. The actors in these scenes were driven from power, and covered with popular displeasure. But had anything been done to redress the individual wrongs inflicted? Certainly not. For one, he said, he wished to enter his solemn protest in this case, that, if a name so insignificant as his should ever meet the eye of posterity, it might be seen how he had acted on this occasion. What had been unconstitutionally exacted Congress ought to restore. The Senate, he said, ought to look at the consequences of acting on different grounds. What individual, he asked, would have patriotism and firmness enough hereafter to resist oppression, unless this excitement of indemnity for injury should be held out? The case of the sufferers under the sedition law would forewarn them from attempting to resist the exercise of arbitrary authority. Mr. B. concluded his animated speech by a brief recapitulation of his argument. Independent of all consideration of the merits or demerits of the particular case before the Senate, he was in favor of granting relief, generally, in all that class of cases, on the principle, that, when a man has been injured by an unconstitutional law, it is the bounden duty of Congress to repair the breach, and enter up a protest against the injury. This, he said, was an unique case, and one in which this great fundamental principle could be safely established. To show at least what his opinion was on the

subject, Mr. B. required the question on the motion to be taken by yeas and nays.

Mr. ORRIS said, this debate was wholly unexpected by him, until the gentleman from Kentucky gave him an intimation a day or two ago, that he intended to oppose the report of the committee. He did not then intend to interfere, as he believed the few observations he might make would be wholly unprofitable; and nothing but some allusions which had been made, would induce him to address the Senate. He was the only member of Congress, now in the Senate, who voted for the sedition law; and there were but four or five in the other House, who had aided in passing this law. It might be expected he would let the world see he was not ashamed of his old friends, nor of his old principles. He was not now an advocate for a sedition law. The public opinion, as clearly ascertained, forbade it. He respected this opinion as sincerely as those who much oftener referred to it. It was his inclination, as well as his duty, to conform to it. But, though he would not repeat the offence, he could not repent it. In supporting that law on its passage, he acted from a sense of duty. Those who acted with him, were governed by motives equally honorable. He admitted the law was inexpedient, but he thought gentlemen mistaken when they pronounced it unconstitutional. This question had been ably discussed, as well by those who were opposed to the law, as by those who advocated it; and he should not now enter deeply into the subject. Every Government had an inherent right to punish offences which endangered its existence; and on this definition he relied for a justification of the law. If the President and Congress were convinced there was a necessity for such a law, they had a right to enact it. It was passed in a period of great danger and alarm. It was true, it had been said these were chimerical. He trusted this would not now be said. It was a period of war, and of threatened invasion. Our ministers of peace had been spurned by the French Republic, who had demanded more money. The nation was preparing to resist. At this moment the law was passed. It was a measure of defence—a part of the general system. Of this system WASHINGTON approved, and accepted the command of the Army. Mr. O. did not wish to excite unpleasant feelings, and would endeavor to avoid it. There was one argument more he would urge. Had gentlemen lately read the law? If they had, they would remember that its second section only punished the publication of false, scandalous, and malicious matter, and admitted the truth to be given in the defence. He had always been surprised that this section was found fault with, while the first section, defining a conspiracy, and prescribing its punishment, had been passed over without animadversion. The law was doubtless inexpedient, but it was not new in principle. Similar provisions existed in several of the States; and this act was deemed essential for the defence of the Constitution and its authorities. It was not intended to affect the poor individuals who be-

came its victims; but it was thought that France, who was everywhere endeavoring to extend her influence by intrigue and corruption, would, by her agents, busy herself in our concerns, and, that the provisions of this act were necessary to defeat their efforts, and preserve the Government. No matter whether those apprehensions were unfounded or not—they existed. Nor need it be wondered at. We had since seen and heard it asserted, that the finger of Great Britain was discovered in the proceedings of men, whose principles, services, lives, families, and fortunes, were certain pledges of their fidelity to their country. But, admitting that gentlemen are correct, and that indelible stigma should be stamped on the law and its authors, can Congress remedy the wrong done? We have no Constitutional power to declare any law unconstitutional, in any other mode than by repealing it. If gentlemen thought we had, he would thank them to point out the clause. They could not do it. We have no such power. The Judiciary could do justice in such cases, but the Legislature cannot. Have we any precedent? He would not admit the extreme cases put by the gentleman from Virginia. This was an ordinary case—had we any precedent for interfering here? None. Would there be any use in adopting this measure? It might be a precedent for another Congress to pass a resolution restoring the Constitution to the construction given it by the sedition law. The honorable gentleman was not sent here to do this act; it was not connected with his legislative powers. He dreaded the consequences which might flow from the proposed resolution. Gentlemen seemed to have lost sight of analogies; and the sedition law alone was the "hydra and chimera dire." But, take the embargo laws and their execution. Many eminent statesmen deemed them unconstitutional. They believed the power given to Congress, to regulate commerce, did not carry with it the power to destroy commerce. Mr. DEXTER had publicly and boldly denounced the embargo as unconstitutional; and he might fairly be deemed the parent of all the heresies, if such they were, which prevailed in the East on this subject. Yet, he soon found favor with the Government. Some ten, fifteen, or twenty years hence, the question may be raised concerning the constitutionality of the embargo laws, and the propriety of restoring fines and forfeitures under them. Suppose a gentleman should then address the Senate, as the gentleman from Virginia now does, with the same zeal and eloquence, would he not be able to arouse our prejudices and feelings against the embargo laws? But were there no other cases? The United States Bank was once deemed unconstitutional, and had been so pronounced by the great inquest of the nation, of which the gentleman from Virginia had spoken. But this opinion had passed away, and it had been found useful and necessary, and admitted to be Constitutional. Is there nothing else on which controversies like this may hereafter arise? Yes—roads and canals. Was there not a great difference of opinion as to the constitutionality of these? Suppose these

should hereafter be called in question, and motions made to restore fines and penalties incurred under them? Would not this create great difficulties and injuries? These effects naturally flowed from this act; and we ought to avoid them. The great corrective of errors of our Government was in public opinion—this was the redeeming spirit. But gentlemen said the remedy this afforded was not perfect. Were any of our laws or institutions perfect? To our feeble perceptions, were the dispensations of God himself perfect? Individual cases ought not to interfere with the general safety or welfare. But, by what test will the gentleman from Virginia satisfy you that the revolution in the Government was effected by the sedition act? Was not this act combined with many other measures, which have been since re-enacted and adopted by the majority with whom that gentleman acts? Suppose a dialogue should take place between a gentleman now in the majority, and one formerly so—and such a dialogue might be carried on in perfect good humor. The former might say "you acted extremely wrong and indiscreet when you were in power, and well deserved to be displaced." That may be, replies the other, but I should like to be informed in what particulars? "Why, you raised a standing army." True, we raised a provisional army in time of war; but you maintain a standing army, much larger, in time of profound peace. "But you established a navy!" We did—and your most eloquent men opposed it with all their energy; but you have found, on experience, that you must have a navy, and to your honor you have imitated the example we set you. "But you borrowed money, at eight per cent." So did you, at almost double that rate of interest. But what else did we do? "You passed alien and sedition acts." Well, you did not pass an alien act; but an act concerning alien enemies, not much unlike it. You did not pass a sedition law—but this was only one link in the chain, and was not the means of the change which took place. The whole of our measures, taken in connexion, occasioned our expulsion from power; you have adopted them all but one, and remain in. The people bear you out, and would not us. We are content. God speed you. On the whole, Mr. O. said, he thought it inexpedient and improper for Congress to form itself into a high court of errors, and interfere in the present case, and thus arouse party feelings, and establish a dangerous precedent.

Mr. SMITH said, that, being of the committee who reported against the petition, and of opinion that the prayer of it ought not to be granted, he deemed it a duty to offer his reasons for differing from the gentlemen from Kentucky and Virginia. He was in favor of the report, and against the amendment. His political principles were and always had been republican or (as they had been formerly called, by way of reproach) democratic. His principles had never changed, nor was it probable they ever would. He was sorry gentlemen had gone so deep into the question, as it might awaken feelings which had better be permitted



slumber. When the sedition law passed, public opinion revolted against its principles and provisions, not because it was unconstitutional, but because of the temper manifested in enacting and executing it, which induced a belief that the object was to crush all opposition to the party in power. That party were continually pouring in addresses upon the President, applauding his measures, and denouncing those who differed from them in opinion. The very children presented their adulatory offerings; and it was remarked by some one at the time, that the President had as many addresses in his bureau as James the First had. The Democrats were denounced, and the President called on to remove them all from office; and on every removal of one of them, addresses were sent to the President approving his conduct. This created the alarm. To this violence the sedition law owed the opposition it experienced, and not to the belief that it was unconstitutional. The times were not now what they were in 1798. The Government now admitted its opponents to a participation in its offices, and its friends did not clamor for their dismissal.

But he would drop this subject, and return to the question. The gentlemen from Massachusetts and Rhode Island justly opposed the assumption by Congress to decide on the constitutionality of a law. Our Constitution had very properly separated the powers of Government—the Executive, Legislative, and Judicial. They should be kept separate. The Judiciary was to construe laws. Congress could not reverse their decisions, nor repair their injuries. When they had passed a law, and the President signed it, they could not touch it, unless to repeal or amend it. The opinions of legal men ought to have great weight. The Judiciary was composed of such. They were selected for their legal acquirements. They deliberated well before they decided. They would not have stooped to party purposes, but they gave the law its full operation. This could give Congress no right to interfere. Are you to presume the judges were perjured and prostituted? We ought not to do so without proof; and we have here only the suggestions and recollections of eighteen or twenty years ago. And he must here say, the petitioner had here given evidence that he can now write bitterly, if he did not then. He appealed to gentlemen who had professionally studied law, whether the sedition act was unconstitutional. He was not satisfied it was so, but inclined to think otherwise. In this case at least, the applicant ought not to be believed, as there was no evidence of the truth of his allegations. In the infancy of our Government, the common law of England was adopted. This formed the proof of any fact alleged, and was much more severe than the sedition law. Under the common law, instead of admitting the truth as a justification, "The greater the truth, the greater the libel." The jury could only decide on the act of publication, and the court could fine and imprison at their discretion. There was no offence punishable by the sedition act but was indictable

at common law, save perhaps in a single case; and while under the former the truth might be given in evidence, and the jury had cognizance both of law and fact, under the latter the truth but aggravated the offence, and the offender was at the mercy of the court. The sedition law was therefore an amelioration of the common law. But the great evil was in the spirit which prevailed in its enactment and administration. He should not follow the gentleman from Massachusetts on the subject of the embargo laws, &c., but, if you indemnify Matthew Lyon under this unconstitutional law, suppose the party who passed the law should regain the ascendancy—which he was not without apprehension of, notwithstanding they extended to us the right hand of fellowship, and professed to think we were "all Republicans, all Federalists"—they might repeal this law, take the money again out of his hands, and put it into the Treasury, as we were about to take it out of the Treasury and put it into his hands. Another Congress might reverse this proceeding, and refund him the money. This zigzag course might be endless. This was too apparent to be questioned. He had always gone with the party in power, in most of their measures. He still should do so, when they were right. He thought they were not so in this proposition; that we had no right to adopt it; that it would be dangerous as a precedent; and that precedents were already obtaining too much influence in legislation. They are likely soon to have more authority than the Constitution. If you refund Matthew Lyon's fine, where are we to stop? He would like to be informed, for he could not himself see.

Mr. MAcon had hoped the resolution would be discussed on its merits, as it did not even mention Matthew Lyon's name. The true question was, will you review the proceedings under the sedition law, now, while party spirit is hushed, and all is calm? This calm he did not wish to disturb. But if you agree to the report, and reject the petition, how will you bring the question before you? He was told the precedent would be dangerous. He would meet this at once. If any party in power thought it their duty to follow it, let them do so. He did not admire precedent more than the gentleman from South Carolina, but, when wrong was done, it ought to be righted. The adoption of the Constitution, and the state of things abroad and at home, which ensued, had excited heats in the country; and he supposed both parties were sometimes wrong. The country is now peaceful, and we can act free from prejudice or party. He should not attempt to discuss the constitutionality of the sedition law. He had often been heard on this subject, and he supposed every man had made up his mind on the question. If the Senate was satisfied the law was unconstitutional, they ought to adopt the resolution; if they had doubts, they ought to reject it. Some facts were stated in the petition not known to him; but he believed Matthew Lyon had remunerated all the members who advanced money to relieve him from his fine. Ac-

cording to some gentlemen we were to regard the judiciary more than the law, and both more than the Constitution. It was a misfortune the judges were not equal in infallibility to the God who made them. The truth was, if the judge was a party man out of power, he would be a party man in. The office would not change human nature. He had no doubt that the sedition law, and the proceedings under it, had more effect in revolutionizing the Government than all its other acts. He well remembered the language of the times—pay your taxes, but don't speak against Government. The gentleman from Massachusetts admits the inexpediency of the law, but not its unconstitutionality. This was of itself a great concession. Would he, or the gentleman from South Carolina, put his finger on the clause of the Constitution which authorized that law? He would not impute evil motives—he had nothing to do with them, but with acts. He would have preferred a silent vote; but, being referred to in the petition, he could not be silent. Money is paid back daily from the Treasury to individuals, without its being called revising the decision of the judges. He did not agree with the gentleman from Massachusetts about the powers of the Government. That gentleman thought it might do any act necessary to its preservation. He, Mr. M. believed it could not go beyond the Constitution. We have in this country two governments. The Constitution defines the powers of the General Government, and leaves the State governments untouched. He thought the position clear, that if there was no Constitutional power to pass the law, the money was taken wrongfully, and ought to be restored. Mr. MAcon was sorry the names of judges had been introduced. We ought to pass lightly over the ashes of the dead. Let them sleep quietly with their fathers—he would not disturb them. He regretted that the gentleman from South Carolina had spoken of the manner in which the petition was drawn. The effect of this might be to create disgust with the man, and thus weaken the arguments in favor of the claim. We had nothing to do with the person but with the principle. He thought the gentleman was also mistaken in the law of England on the subject of libels. He had read a speech of Mr. Erskine, on what occasion he did not recollect, which he thought conclusive and satisfactory, that the truth might there be given in evidence.

Mr. SMITH explained. He said his friend from North Carolina had misconceived some of his arguments. He had not meant to enforce his arguments by traducing the petitioner; and, perhaps, he had better not have mentioned him. He had not said the sedition law was Constitutional; but, as the Judiciary had decided it was so, he could not withhold his assent. The common law of England was the law of many of the States at the time the sedition law was enacted. He did not particularly recollect the speech which the gentleman from North Carolina adverted to; but had no doubt the representation he had given of it was correct. In England the common law had

been ameliorated in some measure by a bill introduced by Mr. Fox, which admitted the truth to be given in evidence in relation to public officers. The Constitution had been quoted—"Congress shall make no law abridging the freedom of speech or of the press." This was intended to secure the liberty of the press, but not its licentiousness. It meant to protect the truth—not falsehood. He thought Congress had no right to construe their own laws—this power belonged exclusively to the Judiciary. If we may abrogate one law by explanation, we may another; and thus frustrate the ends of government.

Mr. MAcon said he thought the power of punishing libels remained in the State governments, and was not conveyed to the General Government. He added a few words, which were not distinctly heard.

The Senate adjourned, without taking the question.

#### WEDNESDAY, December 9.

The PRESIDENT communicated a letter from the Secretary of the Treasury, transmitting a report of the Director of the Mint, giving the result of sundry assays made of the several species of foreign gold and silver coins made current in the United States, by an act of Congress, passed the 29th of April, 1816; and the letter and report were read.—Referred to the Committee on Finance.

The Senate resumed the consideration of the motion of the 4th instant, referring, to a select committee, the Message of the President, and documents relative to the Seminole war; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Friday next.

Agreeably to notice given, Mr. BURRILL asked, and obtained leave, to introduce a bill, respecting the transportation of persons of color, for sale, or to be held to labor; and the bill was read, and it passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Chapman, collector of the customs for the Georgetown District, in the State of South Carolina; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, together with the motion to recommit the bill with instructions; and, after debate, the further consideration thereof was postponed until Wednesday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of William Barton;" a bill, entitled "An act for the relief of William King;" "A bill entitled "An act for the relief of the heirs of Adolphus Burghart, deceased;" and also, a bill, entitled "An act making a partial appropriation for the military service



of the United States, for the year 1819, and to make good a deficit in the appropriation for holding treaties with the Indians;" in which bills they request the concurrence of the Senate. They have concurred in the resolution of the Senate for the appointment of a joint committee, to consider and report whether any further provisions by law are necessary, relative to the printing done by order of Congress, with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the resolution last mentioned, and concurred therein; and Mr. WILSON, Mr. LACOCK, and Mr. BURRILL, were appointed the committee on their part.

The four bills last brought up for concurrence were read, and passed to the second reading.

The engrossed resolution directing a survey of certain parts of the coast of North Carolina was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Matthew Barrow; and, no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the further consideration thereof was postponed to Monday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act respecting invalids;" a bill, entitled "An act for the relief of William B. Lewis;" and a bill, entitled "An act for the relief of Frederick Brown;" in which bills they request the concurrence of the Senate.

#### CESSION OF FLORIDA.

Mr. JOHNSON, of Louisiana, having obtained leave, withdrew the resolution submitted by him some days ago, respecting a provisional occupation of East Florida; and in lieu thereof submitted the following, which lies on the table one day of course:

*Resolved*, That the President of the United States be requested to lay before the Senate, copies of the correspondence between the Government of the United States, and the Government of Spain, relative to the cession of the Floridas to the United States, which has not already been communicated and which, in his opinion, may be communicated with safety to the public interest.

In withdrawing the one resolution, and offering the other, Mr. JOHNSON said, in substance, that he was not influenced by any change of opinion on the subject of his first proposition; he believed it to be the proper course to be ultimately pursued; an opinion confirmed by information he had seen in the New Orleans papers, that hostilities were yet rife between the Seminoles and the frontier settlers. But, having understood, that a correspondence had

been going on between our Government and the Minister of Spain, he had thought it would be proper to understand first what was the result of this correspondence, as it might have some bearing on the object he had in view. He, therefore, for the present waived his motion, desiring it to be understood that he reserved the right of renewing it, should it still appear necessary, after the information required by his present motion should be received.

#### MEMORIAL OF MATTHEW LYON.

The Senate resumed the consideration of the report of the Judiciary Committee unfavorable to the petition of Matthew Lyon; Mr. CRITTENDEN's motion to reverse the report, and to make general provision for the indemnification of all similar cases occurring under the sedition law, being yet under consideration:

Mr. MORRIS said, the discussion had taken a course which was unexpected; and he felt it a duty to make some remarks, and assign the reasons which would govern his vote. The question turned on the constitutionality of the sedition law. He was opposed to the resolution, because he believed the law Constitutional. The law only punished false, licentious, and malicious writings. The Constitution did not mean to prohibit a law to punish these. It was intended to cherish virtue and morality, and to preserve our rights and privileges; and which of these did we esteem higher than reputation? The Constitution prohibited any law abridging the freedom of speech or of the press. Now, freedom and liberty are synonymous and convertible terms. The law was not intended to abridge the liberty of the press, but its licentiousness. The second section allowed the truth to be given in evidence. If the publication was licentious, the charge could not be supported, and the offender would be punished. If it contained facts, they could be maintained, and an acquittal would take place. He was opposed to the resolution on another ground—this was not the proper tribunal to decide the question of unconstitutionality. The judiciary was the proper tribunal. If Congress should indemnify in one case, they might in others—and where would we stop? All would be confusion and uncertainty. The consequence appeared to him alarming. We have no proof of corruption in the judges—no evidence of the facts stated in the petition. All were unsupported allegations upon which we were called to act in this case; though, in support of claims, it was usual to require the oaths of parties, as well as other testimony. Another reason why he was opposed to this resolution, was, that we had many claims more just and equitable. He believed the law Constitutional, and that the petitioner suffered justly according to law. But there were many sufferers by the late war—many bereaved widows and helpless orphans, who needed and deserved our assistance. These claimed the preference, and ought to be first relieved.

Mr. CRITTENDEN felt himself bound to reply to some observations which had been made. The

public voice had determined the unconstitutionality of the sedition law: it had removed one party from power, and elevated another. He had expected Congress would confirm the decision of the people. He should be sorry if he were disappointed; but it would be a great consolation that the opinion of the nation was with him. The proposition that the law was unconstitutional, appeared to him so plain, that he feared an attempt at demonstration would but involve in darkness a question as clear as sunshine. The Constitution says "Congress shall pass no law abridging the freedom of the press." If this law did not abridge that freedom, why was it passed? No law of the General Government then existed on the subject: the State authorities alone took cognizance of libels. That the Constitution was meant as a mere moral restraint, was a novel idea. The convention who formed it, was not a conventicle of Puritans, but an assemblage of statesmen. The morals of the nation were left to other tribunals: political motives alone led to its formation and adoption, and to the provision referred to. The framers of it well knew that the licentiousness of the press was not as much to be feared as the power to restrain its freedom. History was full of examples on this point. Our Government was different from all others in its principles, objects, and provisions. The press, so far from being dangerous to it, was its greatest safeguard. No ruler was above its animadversion, nor beyond its influence. Tyrants, all over the world, dreaded its effects in imparting light and energy to the human mind. But what had our Government—a Government of the people—to fear from it? It could not injure, it could not affect it. Experience had verified this. When all the offices in the country were in the hands of a party, wealthy, influential, and powerful, all could not save them. On the other hand, had not our former illustrious Chief Magistrate, who was brought into power by means of the sedition law, and other correspondent measures, been assailed with the most infamous and vindictive abuse and slander? Had it sullied his public or private character? Had it lessened the affection or confidence of the people? No—the press could only have influence when it conformed to public sentiment; its licentiousness can only be dangerous to those who misrule. It was but a faithful sentinel, to announce the approach of public danger, and excite the people to vigilance. Mr. C. admitted that the States might pass such laws as the one alluded to; but the General Government could not. The former possessed the right—to the latter, the power was never delegated. The fair construction of the sedition law was, that it could punish anything that tended to bring the rulers into contempt or disrepute. Opinions, however well-founded, were not susceptible of proof—yet they were subject to punishment. Truth, if it could not be proved, was as punishable as falsehood. The gentleman from South Carolina had called it an amelioration of the common law. O tender mercies of the sedition law! Happy amelioration of the common law! How blind had the people been to the benevolent in-

tentions of the law! How ungrateful for the protection it afforded them! But the gentleman had forgotten that, when this act passed, there was no common law on the subject in the General Government, and that this act introduced the first restraint on the press. Ought we then to withhold the money paid under this unconstitutional law? If the law was a violation of the national compact, which guaranteed to every individual freedom to speak and to publish what he chose, could we retain fines incurred under this law? In a moral point of view, the money ought to be refunded; and he knew not on what ground the claim could be resisted. For the judiciary he felt a proper respect; but he would not bow submissively to everything the judiciary should say. As a man, and as a member of the Senate, he had a right to form opinions for himself. The Constitution he regarded as the supreme law, and entitled to our first attention and respect. By this resolution we should cast no stigma on any judge or court: it was not revising any judicial decision; it was no indelicacy to the judiciary. The blame attached to Congress more than to the judiciary. We ourselves have done an injurious act; it is for us to repair the wrong. There was no more indelicacy in the present case, than there would be in moving the repeal of a law. He thought gentlemen quite too sensitive on this subject. He had no wish to cast a stigma on either the judiciary or Congress—no desire to impute impure motives to either; but purity of motive could not make the law Constitutional. Victorious parties might pursue their adversaries too far, as well in the Senate as in the field; hence arose the act in question. The stability of the judiciary was not to be affected by this resolution. He judged the law by the Constitution. He did not like the judiciary less than others, but he loved the Constitution more. He deemed it both proper and necessary to adopt this resolution. He was surprised to hear gentlemen, and Republicans too, say the law was not deemed unconstitutional. He thought this point had long been put beyond controversy, and his object was to evoke and call forth from Congress an expression of opinion against the law, that the freedom of speech and of the press might be established by authority as well as argument. He believed that ninety-nine out of an hundred deemed the law unconstitutional. No man would now dare to attempt its renewal; no man would thus expose his head and his character to the imprecations and reproaches he would draw upon himself. But shall we leave the law, and decisions under it, for future example and precedent? He was for banishing them from our records; he was for making amends, as far as possible, for the violation of our Constitution. The sum in controversy was small, very small, indeed, to the nation, though something to a poor individual; but, small as it was, it had created great alarm in the mind of the gentleman from New Hampshire, lest, if it was refunded, the widows and orphans of the late war would be deprived of the aid of Government, and left to suffer! The gentleman need not, he thought, be alarmed. The



SENATE.

Proceedings.

DECEMBER, 1818.

finer under the sedition law were not numerous, and their amount was small. Mr. Jefferson had remitted Callender's fine, and this was high authority for us. Congress had acted on the same principle in a great variety of cases—on the application of General Brown, and many others. Was this considered a stigma on the judiciary? Yet the principle was precisely the same. The law was unconstitutional, and we ought to restore all the money taken under it. We have the power to repair as well as to violate. No branch of the Government is infallible, and, when we do wrong, we ought to repair it; and we ought to erect some barrier against future injurious and unconstitutional action on this subject. Mr. C. apologized for having occupied the attention of the Senate so long.

Mr. OTIS said he should not enter into the argument of the question; but would merely suggest a fact which he had before omitted. He believed the people of the United States had never demonstrated their opinion that the sedition law was unconstitutional. After the Virginia Legislature had passed their resolutions, denouncing this law, and circulars enclosing their proceedings were sent to the Legislatures of the several States, those of New England unanimously declined expressing their disapprobation of the law, and so far gave their sanction to it. Virginia again took up the subject, and gave a comprehensive view of all the arguments against the law; and this was carried through the Legislature but by about two to one. He thought at least one-half of the people of the United States might be considered as having expressed their opinion that the law was Constitutional; yet, he would not at this time so far outrage public opinion as to vote for a renewal of this law. He hoped it might be done without; but it might have to be recurred to in times of imminent public danger. A crisis might arrive, when it would not be safe to let the press denounce the President of the United States as an usurper and highwayman, and the Congress as swindlers, and participators in his plunder; and to declare that the people had no resource but in a convention of delegates.

Mr. SMITH asked leave to explain. His friend from Kentucky had misconceived him. He had never been an admirer of the sedition law—he liked it as little as any other person. He had not said it was deemed Constitutional in South Carolina; he did not know that this was a fact. But he thought, if it were passed now, little alarm would be excited, and little said against it. He feared he was also misunderstood respecting the judiciary; he did not deem them infallible, but they were the proper expositors of the law. If they did wrong, they were impeachable. Congress were unauthorized to give laws a construction. As a sound lawyer, he would appeal to the gentleman from Kentucky, if any such authority existed; he could point to none. Popular opinion was, nine times out of ten, right; but, when called on to give a vote, he must consult his own judgment. He went on the ground that Congress had no cognizance of the case, and that the conse-

quences of interfering, would be injurious to the country.

Mr. MORRIL made a few remarks in explanation. He was not in favor of sedition laws, nor did he think that law was expedient. But he believed it was Constitutional, and that the present resolution was inexpedient and unnecessary.

The question was taken on Mr. CRITTENDEN's proposition, and decided in the negative—yeas 17, nays, 20, as follows:

YEAS—Messrs. Barbour, Crittenden, Edwards, Epes, Forsyth, Lacock, Macon, Morrow, Palmer, Roberts, Ruggles, Sanford, Stokes, Talbot, Thomas, Williams of Mississippi, and Wilson—17.

NAYS—Messrs. Burrill, Daggett, Fromentin, Gailard, Hanson, Hunter, Johnson, King, Leake, Mellen, Morrill, Noble, Otis, Smith, Storer, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

The report of the Committee was then concurred in—yeas 20.

THURSDAY, December 10.

Mr. OTIS presented the memorial of the representatives of the yearly meeting of the Friends of New England, representing the condition of the Indian natives, within and near the United States, and praying the fostering aid of the Government; and the memorial was read, and referred to the Committee on Indian Affairs.

Mr. OTIS also presented the petition of Joseph Marquand, collector of the customs for the port of Newburyport, praying additional compensation for services performed; and the petition was read, and referred to the Secretary of the Treasury, to consider and report thereon to the Senate.

Mr. NOBLE presented the memorial of Jonathan Parker, and others, inhabitants of the States of Indiana and Ohio, praying an extension of the act of March, 1817, to suspend the sale or forfeiture of lands; and the memorial was read, and referred to the Committee on Public Lands.

The three bills last brought up yesterday for concurrence were read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 9th instant, requesting a copy of the correspondence relative to the cession of the Floridas to the United States; and, on motion, by Mr. BARBOUR, the further consideration thereof was postponed until this day four weeks.

The bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island, was read the second time.

The bill, entitled "An act for the relief of William Barton," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of William King," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of the heirs of Adolphus Burghart," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act making a partial appropriation for the military service of the United States, for the year 1819, and to make good a de-

DECEMBER, 1818.

Proceedings.

SENATE.

ficit in the appropriation for holding treaties with the Indians;" was read the second time, and referred to the Committee on Finance.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the western district court of Pennsylvania;" and, no amendment having been made thereto, the PRESIDENT reported it to the House, and it was passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States; and on motion, by Mr. DAGGETT, it was referred to the Committee on the Judiciary to consider and report thereon.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, to authorize the settlement of the account of James Wilde, together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the bill was reported to the House, amended accordingly; and, the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major General John Stark;" and the further consideration thereof was postponed until Wednesday next.

The PRESIDENT communicated a report of the Secretary of the Treasury, to whom was referred the memorial of the governors of the New York hospital, relative to distressed American seamen relieved by that institution; and the report was read, and referred to the Committee on Commerce and Manufactures.

FRIDAY, December 11.

CHARLES TAIT, from the State of Georgia, attended this day.

Mr. MELLEN submitted the following motion for consideration:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of increasing the compensation now by law allowed to the postmaster at Kennebunk, in the District of Maine.

Mr. WILSON presented the petition of William Robertson, of the city of Trenton, in the State of New Jersey, praying for an addition to his pension; and the petition was read, and referred to the Committee on Pensions.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John H. Clarke, a purser in the Navy of the United States, made a report, accompanied by a resolution that the prayer of the petitioner is unreasonable, and ought not to be granted. The report and resolution were read.

On motion, by Mr. JOHNSON, the report of the Secretary of the Treasury, of the eighth instant, made in obedience to a resolution of the Senate, of the 18th of April last, of a plan for the ad-

15th CON. 2d SESS.—3

justment of the claims to land in the districts east and west of Pearl river, in West Florida, together with a draught of the bill for that purpose, were ordered to be printed for the use of the Senate.

Mr. TAIT presented the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying admission into the Union as a State; and the memorial was read, and referred to a select committee, to consist of five members, to consider and report thereon, by bill or otherwise; and Messrs. TAIT, MORROW, WILLIAMS, of Mississippi, EDWARDS, and WILLIAMS, of Tennessee, were appointed the committee.

Mr. HUNTER presented the petition of Thomas Arnold of Rhode Island, praying payment of the commutation provided by law for the officers serving in the Revolutionary war, and erroneously surrendered by the petitioner, from a mistake of the law; and the petition was read and referred to the Committee of Claims.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act granting to Mehitabel Cole the lands therein mentioned," reported the same without amendment.

Mr. MORROW, from the same committee, to whom was referred the bill, entitled "An act for the relief of William Barton," reported the same without amendment.

Mr. EPES, from the Committee on Finance, to whom was referred the bill, entitled "An act making a partial appropriation for the military service of the United States, for the year 1819, and to make good a deficit in the appropriation for holding treaties with the Indians," reported the same without amendment, and the bill was considered as in Committee of the Whole; and, no amendment having been made, it was passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed the motion of the 4th instant, for referring to a select committee the Message of the President of the United States, and documents relative to the Seminole war; and, on motion by Mr. LACOCK, the consideration thereof was further postponed until Monday next.

The bill entitled "An act concerning invalids," was read the second time, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of William B. Lewis," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act for the relief of Frederick Brown," was read the second time, and referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island; and no amendment having been made, it was reported to the House; and the blank having been filled with "two hundred," the bill was ordered to be engrossed and read a third time.



The bill to authorize the settlement of the account of James Wilde was read a third time, and passed.

Mr. RUGGLES presented the petition of Shubael Conant, praying the remission of certain duties upon goods, transported from New York to Detroit, by the way of Canada; and the petition was read, and referred to the Committee on Finance.

The Senate adjourned to Monday.

MONDAY, December 14.

Mr. TAIT presented the memorial of M. B. Forsyth, and others, inspectors for the port and district of Savannah, in the State of Georgia, praying some further provision to be made for them; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary inquire what provisions may be necessary to give effect to the laws of the United States in the State of Illinois.

Mr. LEAKE presented the memorial of the Mississippi convention, praying an extension of the limits of that State; and also the memorial of the Legislative Council and House of Representatives of the Alabama Territory, against the said extension; and the memorials were respectively read, and severally referred to the committee to whom was referred the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying to be admitted into the Union as a State, to consider and report thereon by bill or otherwise.

Mr. EATON presented the petition of Nicholas Perkins, of Nashville, in the State of Tennessee, praying to be confirmed in his title to a certain tract of land in the Alabama Territory; and the petition was read, and referred to the Committee on Public Lands.

Mr. TAIT presented the memorial of Andrew Jackson, and others, proprietors of land in the northern district of the Alabama Territory, praying the adoption of measures, by Congress, for the improvement of the navigation of the Tennessee river at the Muscle Shoals; and the memorial was read, and referred to the Committee on Public Lands.

Mr. TAIT presented the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying certain amendments to their judicial system; and the memorial was read, and referred to the Committee on the Judiciary.

The Senate resumed the motion for referring the Message of the President of the United States, and documents relative to the Seminole war, to a select committee; and, on motion by Mr. LACOCK, the consideration thereof was further postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 11th instant, "That the Committee

on the Post Office and Post Roads be instructed to inquire into the expediency of increasing the compensation now by law allowed to the postmaster at Kennebunk, in the District of Maine;" and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a purser in the Navy of the United States; and the report was recommitted to the Committee of Claims further to consider and report thereon.

The bill respecting the transportation of persons of color, for sale, or to be held to labor, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon, and the further consideration thereof was postponed until Thursday next.

Mr. EATON submitted the following motion for consideration:

*Resolved*, That a committee be appointed to inquire if any, and what, amendments are necessary, to the present existing laws, the more effectually to prevent the importation of slaves into the United States.

Mr. KING submitted the following motion for consideration:

*Resolved*, That the Committee of Finance be, and are hereby, instructed to inquire into the expediency of such alteration in the laws concerning the coasting trade as shall authorize ships and vessels of twenty tons and upwards, licensed to trade between the different districts of the United States, to carry on such trade between the said districts in the manner, and subject only to the regulations, required to be observed in carrying on trade from district to district, in the same State, or from a district in one State to a district in the next adjoining State.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William Barton;" and no amendment having been made, the bill was reported to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act granting to Mehitabel Cole the lands therein mentioned; and no amendment having been made, it was reported to the House; and it was passed to a third reading.

The engrossed bill for the relief of Matthew Barrow was read a third time, and passed.

The bill to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island, was read a third time, and passed.

Mr. KING presented the petition of Thomas Ludlow Ogden, of the city of New York, in behalf of himself and others, praying compensation and indemnity for the use and occupation of certain real estate near Sackett's Harbor, by the troops of the United States, during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

On motion the Senate adjourned.

TUESDAY, December 15.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, conformably with the provisions of the resolution, for the appointment of a joint committee to inquire and report upon the subject of the public printing.

They have passed a bill entitled "An act concerning widows of the militia;" and also a bill entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was recommitted the report of said committee, on the petition of James H. Clarke, a purser in the Navy of the United States, reported the same without amendment.

Mr. KING presented the memorial of Aquilla Giles, who was a major in the Revolutionary army, stating that in December, 1782, he received a warrant from the War Office, drawn on the Paymaster General of the Army, for five hundred dollars, being the amount of pay due him for that year, which was not paid, the paymaster not having funds, and praying the passage of an act, authorizing the officers of the Treasury to pay the same, together with interest thereon; and the memorial was read, and referred to the Committee of Claims.

The Senate resumed the consideration of the motion of the 14th instant, "That a committee be appointed to inquire if any, and what, amendments are necessary, to the present existing laws, the more effectually to prevent the importation of slaves into the United States;" and agreed thereto; and Messrs. EATON, BURRILL, SMITH, MACON, and HORSEY, were appointed the committee.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor; and, on motion by Mr. BURRILL, it was referred to the committee last appointed, to consider and report thereon.

The Senate resumed the consideration of the motion of the 14th instant, "That the Committee on the Judiciary inquire what provisions may be necessary to give effect to the laws of the United States in the State of Illinois;" and agreed thereto.

The Senate resumed the consideration of the motion of the 14th instant, for instructing the Committee of Finance to inquire into the expediency of altering the laws concerning the coasting trade, and agreed thereto.

Mr. DICKERSON, from the committee to whom was referred the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of representatives in the Congress of the

United States, reported the same with amendments; which were read.

Mr. FROMENTIN submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of extending the right to a bounty in lands to the soldiers who were enlisted to serve in the company of bombardiers, sappers and miners, and in the corps of ordnance.

The bill entitled "An act for the relief of William Barton" was read a third time, and passed.

The bill entitled "An act granting to Mehitabel Cole the lands therein mentioned," was read a third time, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate copies of the remainder of the documents referred to in the Message of the 17th of last month.

JAMES MONROE.

DECEMBER 15, 1818.

The Message and accompanying documents were read.

The PRESIDENT communicated a report of the Secretary of the Treasury, to whom was referred the petition of Joseph Marquand, collector of the customs for the port of Newburyport; and the report was read.

Mr. EDWARDS presented the petition of John Rice Jones, of the Territory of Missouri, praying compensation for services rendered, as interpreter and translator to the Board of Commissioners, appointed under the act of Congress of 20th February, 1812, for the revision of former confirmations, and for confirming certain claims to land in the district of Kaskaskia; and the petition was read, and referred to the Committee on Public Lands.

Mr. RUGGLES presented the petition of Alexander Macomb, praying to be confirmed in his title to certain islands situate at the mouth of the river Detroit; and the petition was read, and referred to the Committee on Public Lands.

WEDNESDAY, December 16.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Committee of Commerce and Manufactures consider and report what provisions may be proper for obtaining more accurate statements of the annual exports and imports of the United States.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to lay before the Senate copies of the correspondence between the Government of the United States and the Government of Spain, relative to the Seminole war, and the execution of Arbuthnot and Ambrister; and also copies of the correspondence between the Government of the United States and General Andrew Jackson, on the subject of the destruction of the Chehaw village, and the conduct of Captain Wright on that occasion; together with copies of the



correspondence of this Government with Governor Rabun, of Georgia, on that subject, or such part thereof as, in the opinion of the President, may be communicated with safety to the Government.

Mr. KING presented the memorial of the Religious Society of Friends, in the State of New York, and parts adjacent, respecting the Indians; and the memorial was read, and referred.

The Senate resumed the motion of the 4th instant, for referring to a select committee the Message of the President, and documents relative to the Seminole war; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the motion of the 15th instant, for instructing the Committee on Military Affairs to inquire into the expediency of extending the right to a bounty in lands to certain soldiers therein mentioned, and agreed thereto.

The bill entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren," was read the second time, and referred to the Committee on Naval Affairs.

The bill entitled "An act concerning widows of the militia," was read the second time, and referred to the Committee on Pensions.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a purser in the Navy of the United States; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, together with the motion to recommend the bill with instructions; and, on motion by Mr. FROMENTIN, the further consideration thereof was postponed until Wednesday next.

Mr. EPPES, from the Committee on Finance, to whom the subject was referred, reported a bill for the relief of Louis and Antoine Dequindre; and the bill was read, and passed to the second reading.

Mr. E., from the same committee, communicated a letter from the Secretary of the Treasury, with a statement, giving a comparative view of the duties which have accrued upon imports and tonnage during the two first quarters of the years 1817 and 1818; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of representatives in Congress of the United States, together with the amendment reported thereto by a select committee; and the amendment having been agreed to, on motion by Mr. MORRIL, the further consideration thereof was postponed to, and made the

order of the day for, the first Monday in January next.

#### GENERAL JOHN STARK.

The Senate proceeded again to the consideration of the bill for the relief of General Stark, an amendment having been heretofore agreed to, on motion of Mr. TICHENOR, to change the commencement of the pension from the 4th of July, 1817, to the 16th of August, (the anniversary of the battle of Bennington, in which General Stark so greatly signalized himself,) and the question was on ordering it to a third reading.

Mr. ROBERTS commenced a brief debate on the bill, by objecting to its passage, though under the highest sense of General Stark's merits, on the general ground of being adverse to a system of pensions, when not justified by disability incurred in the public service; that, if a pension were granted in this case, the same argument would justify pensions in numerous other cases; and because, in this instance, the relief was not solicited by General Stark himself, but by others for him.

Mr. FROMENTIN replied to Mr. ROBERTS, and advocated the bill with much earnestness, remarking, in substance, that he would act on this single case, without extending his views to other possible cases to which his attention was not called; that the very silence of General Stark was the most eloquent appeal he could possibly make for support, because age and infirmity had rendered him incapable of making his own petition; that, on the score of expense, there was little to apprehend on that account; for, so far from the probability that General Stark would be a burden to the Treasury, there was danger that, ere the present bill could receive the approbation necessary to make it a law, the object of it (now ninety odd years of age) would have descended to the tomb, as was almost the fact in the case of General St. Clair, who did not enjoy his pension more than three months, when he became a tenant of the grave.

Mr. KING rose merely to remark that, if the Senate were composed altogether of men of his age, he believed there would not be a dissenting voice heard against the bill; because they would all have then, as he had, personal recollection of the singular and extraordinary Revolutionary services of General Stark. Mr. K. mentioned, as particular examples, the unrivalled conduct and services of General Stark at the battle of Bunker Hill; his subsequent success in arresting the triumphant progress of Burgoyne; the feelings of joy and encouragement in the cause, which were diffused throughout all the northern section of the States, by the achievements and success of Stark, and which, if every member were old enough to remember, as he did, there would, he repeated, be not a solitary objection to this bill.

Mr. SMITH followed in opposition to the bill. He argued, in reply to its advocates, that, if General Stark was so near his end as was represented, there was the less necessity for this bill, because he could not live to enjoy it, and the doctrine was

long since exploded that a man had use for money after his decease—passage-money was no longer deemed necessary. If it was for relief, it was unnecessary; but, if it was intended as a compliment, that was another question. In either view he was opposed to it. Mr. S. denied the power of giving pensions for the purpose of distinction, and he had therefore never given his assent to any pension not previously provided for by law. He did by no means deny the great merits of General Stark; but this being another case in the improper system of pensions, now becoming common, he was opposed to it, and hoped it would not pass.

Mr. MORRIL made a few remarks in reply to some of the observations made by gentlemen on this subject, when before under consideration, and added a few words on the uncommon merits of General Stark—briefly noticing his gallant conduct at Bunker Hill, at Bennington, at Trenton, at Princeton, &c., adducing the voluntary letters of compliment from Mr. Jefferson and Mr. Madison, respectively, on their succeeding to the Presidency, and concluded by saying, that if merit was to be estimated by services rendered to one's country, there was none so deserving as the veteran hero the Senate was now called on to relieve from penury.

The question was then taken on ordering the bill to a third reading, and decided in the affirmative, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Morrow, Otis, Palmer, Ruggles, Sanford, Stokes, Storer, Talbot, Taylor, Thomas, Tichenor, Williams of Mississippi, Williams of Tennessee, and Wilson—29.

NAYS—Messrs. Eppes, Lacock, Macon, Noble, Roberts, and Smith—6.

#### THURSDAY, December 17.

Mr. MORROW presented the memorial of the representatives of the Yearly Meeting of Friends, held in Baltimore, for the Western Shore of Maryland, and the adjacent parts of Pennsylvania and Virginia, respecting the Indian tribes bordering on the western and northwestern frontiers of the United States; and the memorial was read, and referred.

Mr. EPPES, from the Committee of Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne, and her cargo, made a report, accompanied by a resolution, that the prayer of the petition ought not to be granted. The report and resolution were read.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the memorial of the Legislative Council of Alabama, praying for certain amendments in the judicial system, made a report, that, as there was reason to believe that the Territory of Alabama would, within a short period, be received into the Union as one of the States, it was unnecessary for Congress, at the present session, to make any changes in the or-

ganization or location of their courts; which report was read.

Mr. B., from the same committee, reported a bill, prescribing the mode of commencing, prosecuting, and deciding controversies, between two or more States; and the bill was read, and passed to the second reading.

Mr. B., from the same committee, reported a bill for the due execution of the laws of the United States within the State of Illinois; and the bill was read, and passed to the second reading.

Mr. EATON presented the memorial of the receiver and register of the land office at Huntsville, in Alabama Territory, praying a revision of the act of the 20th of April, 1818, entitled "An act for changing the compensation of the receivers and registers of the land offices," and that it may be so altered, as to allow them sufficient compensation for their services; and the memorial was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 16th instant, "that the Committee on Commerce and Manufactures consider and report what provisions may be proper for obtaining more accurate statements of the annual exports and imports of the United States;" and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the motion of the 16th instant, for requesting of the President of the United States copies of certain documents relative to the Seminole war; and the same having been modified, was agreed to as follows:

*Resolved*, That the President of the United States be requested to lay before the Senate, copies of the correspondence between this and the Government of Spain, and of her officers with the officers of this Government, in relation to the Seminole war, and the execution of Arbuthnot, and Armbrister, with the orders which authorized Major General Jackson to advance into Florida; also, copies of the correspondence between this Government and Major General Jackson, on the subject of the destruction of the Chehaw village, and the conduct of Captain Wright, on that occasion, with Governor Rabun's correspondence, or such parts thereof, as may be communicated with a view to public safety.

The bill for the relief of Louis and Antoine Dequindre, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers, who died, or were killed, in the late war," a bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, between Eleventh and Twelfth streets



east, in the City of Washington;" a bill, entitled "An act for the relief of Thomas B. Farish;" and a bill, entitled "An act for the relief of Samuel H. Harper;" in which bills they request the concurrence of the Senate.

The four bills last mentioned were read, and severally passed to the second reading.

Mr. WILSON, from the joint committee on the subject of the public printing, made a report, accompanied by the following resolution:

*Resolved*, That, when any printing is done by virtue of a joint rule or resolution of the two Houses, the Secretary of the Senate and Clerk of the House of Representatives, and when ordered by either House, the Secretary and Clerk, respectively, be authorized and required to employ such printer or printers as will most expedite its execution, and allow him or them the same prices now allowed to the printer employed by the said Secretary and Clerk, giving the latter the preference, when it shall be practicable for him to execute and deliver it as soon as it can be done by any other printer or printers.

The report and resolution were read, and agreed to.

FRIDAY, December 18.

The PRESIDENT communicated the petition of the "Saint Andrew's Society of the city of Charleston," in the State of South Carolina, praying the remission of duties on a set of chandeliers imported for the use of said society; and the petition was read, and referred to the Committee on Finance.

Mr. TAIT, from the committee to whom the subject was referred, reported a bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and the bill was read, and passed to the second reading.

Mr. WILSON, of New Jersey, rose to offer a resolution. He observed that the resolution he was about to submit required a few words of explanation. The traffic in slaves and servants of color had been carried on to considerable extent from the State of New Jersey; and, under color of this traffic, it was believed many free persons, or who were soon to become free, had been consigned to slavery for life. The Legislature of New Jersey, at its late session, had *unanimously* passed a law to prevent this traffic; but it was feared this law could not be carried into complete effect, without the co-operation of the revenue officers of the United States, authorized by an act of Congress. The Legislature had therefore instructed their Senators, and requested their Representatives in Congress, to use their endeavors to procure the passing of an act to prevent the transportation of slaves, or servants of color, from any State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited. In conformity with these instructions, as well as agreeably to his own feelings and principles, he therefore begged leave to submit the following resolution:

*Resolved*, That the committee on the subject of the slave trade be instructed to inquire into the expediency of making provision, by law, "to prevent the transportation of slaves, or servants of color, from any one State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited."

Mr. MORRIS submitted the following motion for consideration:

*Resolved*, That the Committee for the District of Columbia be requested to inquire into the expediency of making some further provision, by law, for preventing and extinguishing fires, which may happen in this city.

The Senate resumed the consideration of the motion of the 4th instant, for referring to a select committee the Message from the President, and documents, relative to the Seminole war; and, on motion by Mr. EATON, the same having been amended, was agreed to as follows:

*Resolved*, That the Message of the President, and documents, relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers: that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Marks were amenable to, and under the control of Spain; and, particularly, what circumstances existed, to authorize or justify the Commanding General in taking possession of those posts.

Messrs. LACOCK, EATON, FORSYTH, KING, and BURRILL, were appointed the committee.

The bill entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed, in the late war," was read the second time; and referred to the Committee on Pensions.

The bill entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, between Eleventh and Twelfth streets, east, in the City of Washington," was read the second time; and referred to the Committee for the District of Columbia.

The bill entitled "An act for the relief of Thomas B. Farish," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act for the relief of Samuel H. Harper," was read the second time, and referred to the Committee on Public Lands.

The bill to provide for the due execution of the laws of the United States, within the State of Illinois, was read the second time, and considered as in Committee of the Whole; and, on motion by Mr. BURRILL, the bill having been amended, it was reported to the House accordingly, and ordered to be engrossed, and read a third time.

The bill entitled "An act for the relief of Major General John Stark," was read a third time as amended, and passed.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship *Ariadne*

and her cargo; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon; and the further consideration thereof was postponed until Monday next.

Mr. KING submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be, and hereby are, instructed to inquire into the expediency of so altering the laws concerning the sale of the public lands, that from and after the — day of — credit shall not be given on such sales, but the public lands shall be sold for money only.

On motion, by Mr. OTIS, the petition of Joseph Marquand, collector of the customs for the port of Newburyport, praying additional compensation, together with the report of the Secretary of the Treasury thereon, was referred to the Committee on Commerce and Manufactures.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, for the relief of Louis and Antoine Dequindre; and no amendment having been made, the bill was reported to the House; and ordered to be engrossed and read a third time.

The Senate adjourned to Monday.

MONDAY, December 21.

Mr. LACOCK presented the memorial of a number of citizens of the United States, residing in New York and Pennsylvania, praying a revision and amendment of the act, entitled "An act to prohibit the importation of slaves into any port or place, within the jurisdiction of the United States, from and after the first day of January, 1808;" and the memorial was read, and referred.

Mr. HUNTER presented the memorial of Christopher Fowler, of Newport, in the State of Rhode Island, surviving administrator of the estate of Samuel Fowler, deceased, praying indemnification for certain final settlement certificates as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. LACOCK presented the petition of Charles Higgins, contractor for the supply of rations to the United States' troops, stationed within the State of Pennsylvania, stating that the sum of two thousand dollars had been illegally paid to Jared Irwin, and debited to him on the books of the War Department, and praying relief; and the petition was read, and referred to the Committee of Claims.

Mr. SANFORD presented the petition of John Troop, of New York, who was owner of a certain ship, called the *New York*, with her cargo, which has been libelled and condemned as forfeited to the United States, in violation of the non-intercourse laws, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. STORER presented the petition of Abner Greenleaf, of Portsmouth, in the State of New

Hampshire, praying an additional allowance for brass and copper foundry and plumbing work, furnished for the United States ship *Washington*, built at the navy yard at Portsmouth, for reasons stated in the petition; which was read, and referred to the Committee on Naval Affairs.

Mr. NOBLE submitted the following motion for consideration:

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of so amending the "act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," as to authorize the Legislature of the State of Indiana, at their discretion, to locate the lands granted to the said State, for the purpose of fixing their seat of government, in quarter sections and fractions.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Frederick Brown;" the bill, entitled "An act for the relief of the heirs of Adolphus Burghart;" the bill, entitled "An act for the relief of William King;" and also the bill, entitled "An act for the relief of William B. Lewis;" reported the same severally without amendment.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act concerning widows of the militia;" and also the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers, who died or were killed in the late war," reported the same severally without amendment.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Aquilla Giles; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Thomas Arnold, made a report accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

The PRESIDENT communicated a report of the Secretary of the Treasury, comprehending the statements relating to the internal duties and direct tax, required by the 33d section of the act of Congress, of the 22d of July, 1818; and the report was read.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the committee on the subject of the slave trade to inquire into the expediency of making provision, by law, to prevent the transportation of slaves, or servants of color, from any State, to any other part of the United States, in certain cases; and agreed thereto.

The Senate resumed the consideration of the motion of the 18th instant, "That the Committee for the District of Columbia be required to inquire into the expediency of making some further provision by law, for preventing and extinguishing fires in this city;" and agreed thereto.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Public Lands to inquire into the



expediency of altering the laws concerning the sale of public lands; and agreed thereto.

The bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, was read the second time.

Mr. DAGGETT submitted the following motion for consideration:

*Resolved*, That the Committee on Pensions be instructed to inquire into the propriety of so amending the act, entitled "An act to provide for certain persons, engaged in the land and naval service of the United States in the Revolutionary war," approved on the 18th of March, 1818, as that lieutenants of marines, acting under a warrant, shall be considered as entitled to the provision therein made for lieutenants of the navy, acting under a commission.

The Senate resumed the consideration of the report of the Committee of Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship *Ariadne*, and her cargo; and the further consideration thereof was postponed until the first Monday in January next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a purser in the Navy of the United States; and, on motion by Mr. STORER, to amend the resolution reported by the committee, so as to read "*Resolved*, That the prayer of the petitioner is reasonable, and ought to be granted;"

On motion by Mr. ROBERTS, it was agreed to take the question by yeas and nays; and, after debate, the further consideration thereof was postponed until the first Monday in January next.

The PRESIDENT communicated a report of the Secretary of the Treasury, comprehending statements of the sales of public lands, during the year 1817, and the three first quarters of the year 1818; and the report was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain."

On motion by Mr. EPPES, the bill was referred to the Committee on the Judiciary, with the letter and proceedings of the delegation in the Virginia Assembly, to consider and report thereon.

The bill to provide for the due execution of the laws of the United States within the State of Illinois, was read a third time, and passed.

The bill for the relief of Louis and Antoine Dequindre, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and the further consideration thereof was postponed until Thursday next.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act directing the payment of certain bills drawn by General Armstrong, in favor of William Morgan;" a bill, entitled "An act for the relief of Doctor Mottrom Ball;" a bill, entitled "An act regulating passenger ships and vessels;" and a bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased;" in which bills they request the concurrence of the Senate.

The said four bills were read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General George Washington, where they now lie; and the further consideration thereof was postponed until Monday next.

#### TUESDAY, December 22.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig *Syren*," reported the same without amendment.

The Senate resumed the consideration of the motion of the 21st instant, to instruct the Committee on Public Lands, to inquire into the expediency of amending the act, authorizing a State constitution in Indiana; and agreed thereto.

The Senate resumed the consideration of the motion of the 21st instant, to instruct the Committee on Pensions to inquire into the expediency of amending the act of the 18th of March, 1818, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war;" and agreed thereto.

Mr. GOLDSBOROUGH presented the memorial of John Davis, and others, praying to be invested with the power to make a turnpike road from the City of Washington, to the boundary line of the District of Columbia, in the direction to Rockville, Maryland; and the memorial was read, and referred to the Committee for the District of Columbia.

The bill for the relief of Aquilla Giles was read the second time.

The bill, entitled "An act regulating passenger ships and vessels," was read the second time, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Doctor Mottrom Ball," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act directing the payment of certain bills, drawn by General Armstrong, in favor of William Morgan," was read

the second time, and referred to the Committee on Finance.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until this day three weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States; and after progress adjourned.

#### WEDNESDAY, December 23.

Mr. RUGGLES presented the memorial of the representatives of the Religious Society of Friends, in the States of Ohio, Indiana, and Illinois, praying the adoption of measures for the civilization and improvement of the Indians; and the memorial was read, and referred.

Mr. ROBERTS presented the petition of John Clark, of York, in the State of Pennsylvania, praying compensation for services rendered during the Revolutionary war, as stipulated and agreed upon by the Board of Treasury of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH presented the petition of Michael Hogan, of the city of New York, praying indemnification for damages sustained by him, in consequence of the use and occupation of a valuable house belonging to him, in the village of Utica, by a detachment of United States troops, on their march from Buffalo to Sackett's Harbor, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TALBOT presented the memorial of the inhabitants of the county of Macomb, in the Territory of Michigan, praying a delegate in Congress to represent said Territory; and the memorial was read, and referred to the Committee on Public Lands, to consider and report thereon.

Mr. RUGGLES presented the petition of William Bell, of Ohio, praying the confirmation of his title to a piece of land therein described; and the petition was read, and referred to the same committee, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Daniel Renner, and Nathaniel H. Heath;" and also a bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1819;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Peter Lacoste, made a report, accompanied by a resolution, that the petitioner have leave to

withdraw his petition. The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill for the relief of John Rice Jones, and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of granting by law, to the State of Mississippi, certain portions of the public lands, for the seat of Government, and for the support of seminaries of learning within the said State.

On motion by Mr. JOHNSON, the Committee on Public Lands, to whom was referred the petition of N. Amory, and others, were discharged from the further consideration thereof, and they had leave to withdraw their petition and papers.

The bill prescribing the mode of commencing, prosecuting, and deciding controversies, between two or more States, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the convenient organization of the courts of the United States, and the appointment of circuit judges; and, on motion by Mr. MACOM, the further consideration thereof was postponed until the first Monday in January next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the heirs of Adolphus Burghart;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William King;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William B. Lewis;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An



SENATE.

Proceedings.

DECEMBER, 1818.

act concerning widows of the militia;" and, on motion by Mr. LACOCK, the further consideration thereof was postponed to, and made the order of the day for, Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed in the late war;" and, on motion by Mr. LACOCK, the further consideration thereof was postponed to, and made the order of the day for, Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Aquila Giles; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

THURSDAY, December 24.

Mr. SANFORD presented the memorial of the New York Society for promoting the manumission of slaves, and for protecting such of them as have been, or may be, liberated; and the memorial was read, and referred to the committee on that subject.

Mr. MORRILL presented the petition of Daniel Merrill, praying compensation for his services in the Revolutionary war; and the petition was read, and referred to the Committee of Claims.

Mr. STOKES, from the Committee on the Post Office and Post Roads, who were instructed by a resolution of the 14th instant to "inquire into the expediency of increasing the compensation by law allowed to the postmaster of Kennebunk, in the District of Maine;" made a report, accompanied by a resolution, that it is inexpedient at this time to increase the compensation allowed by law to the postmaster at Kennebunk, in the District of Maine. The report and resolution were read.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased," reported the same without amendment.

The bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1819," was read the second time, and referred to the Committee on Naval Affairs.

The bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," was read the second time, and referred to the Committee of Claims.

The Senate resumed the consideration of the motion of the 23d instant, for instructing the Committee on Public Lands to inquire into the

expediency of granting by law to the State of Mississippi certain portions of the public lands for certain purposes; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until the first Monday in January next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Hooker; and the further consideration thereof was postponed until Monday next.

On motion by Mr. NOBLE,

*Resolved*, That the Secretary of the Treasury be directed to lay before the Senate information relative to the effect of an act to suspend for a limited time the sale or forfeiture of lands, of the 18th of April last, upon the receipts into the Treasury, and the probable effect, by continuing in force the act aforesaid for one year, with a condition "that, if the purchasers complete their payments on or before the expiration of the period aforesaid, interest shall only be required on the instalments due from the time that they became due until paid."

The bill for the relief of John Rice Jones was read the second time.

The bill for the relief of Aquila Giles having been reported by the committee correctly engrossed, was read a third time and passed.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Peter Lacoste; and the further consideration thereof was postponed until Monday next.

The Senate adjourned to Monday.

MONDAY, December 28.

Mr. GOLDSBOROUGH presented the petition of Richard J. Jones, praying compensation for certain property destroyed by the enemy during the late war with Great Britain; and the petition was read and referred to the Committee of Claims.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act concerning invalid pensions," reported the same with amendments; which were read.

On motion by Mr. LACOCK, the Committee on Pensions, to whom was referred the petition of William Robertson for an addition to his pension, were discharged from the further consideration thereof, and it was referred to the Committee on Naval Affairs to consider and report thereon.

On motion by Mr. LACOCK, the Committee on Pensions, to whom was referred the petition of Martha Whitmore, were discharged from the further consideration thereof; and the petitioner had leave to withdraw her petition and documents.

On motion by Mr. LACOCK, the Committee on Pensions, who were instructed to inquire into the propriety of granting a pension to George Bell, were discharged from the further considera-

DECEMBER, 1818.

Proceedings.

SENATE.

tion thereof; and the petitioner had leave to withdraw his documents.

Mr. FORSYTH presented the petition of Samuel J. Axson, a surgeon in the Revolutionary army, praying the half pay and land, to which he states himself to be entitled; and the petition was read and referred to the Committee on Pensions.

Mr. NOBLE presented the petition of Jacob Wetzell, of Franklin county, in the State of Indiana, praying compensation for his expenses in voluntarily opening a road in said State; and the petition was read, and referred to the Committee of Claims.

Mr. KING gave notice, that to morrow he should ask leave to introduce a bill for the relief of Samuel Ward.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, of the city of Washington, made a report, accompanied by a bill for the relief of Joseph Forrest; and the report and bill were read, and the bill passed to a second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate, of the 17th instant, I transmit to that House a report from the Secretary of State, with the papers and documents accompanying it.

JAMES MONROE.

DECEMBER 28, 1818.

The Message and accompanying documents were read, and referred to the committee to whom was referred, on the 18th instant, the Message of the President and documents relative to the Seminole war, to consider and report thereon.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Peter Lacoste; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the Post Office and Post Roads, who were instructed to inquire into the expediency of increasing the compensation by law allowed to the postmaster of Kennebunk, in the District of Maine; and in concurrence therewith, resolved, that it is inexpedient at this time to increase the compensation by law allowed to the postmaster of Kennebunk, in the District of Maine.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, to enable the people of the Alabama Territory, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and the further consideration thereof was postponed until Thursday next.

Mr. ROBERTS presented the memorial of the American Convention for promoting the abolition of slavery, and improving the condition of the African race; and the memorial was read, and referred.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief

of Samuel F. Hooker; and, on motion of Mr. ROBERTS, the further consideration thereof was postponed until the first Monday in March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the heirs of Adolphus Burghart;" and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the second Monday in March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William King;" and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the second Monday in March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of William B. Lewis;" and no amendment having been made it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased;" and no amendment having been made it was reported to the House, and it passed to the third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Rice Jones; and no amendment having been made it was reported to the House, and ordered to be engrossed and read a third time.

Mr. WILLIAMS, of Mississippi, presented the petition of John B. Timberlake, praying provision for an equitable adjustment of his accounts, as purser, with the Navy Department; and the petition was read, and referred to the Committee on Naval Affairs.

TUESDAY, December 29.

Mr. RUGGLES presented the memorial of the representatives of the Religious Society of Friends



in Ohio, Indiana and Illinois, and the adjacent parts of Pennsylvania and Virginia, representing the condition of the African race, and praying amendments to the acts of Congress therein referred to; and the memorial was read, and referred.

Mr. TICHENOR presented the petition of Daniel Pettibone, praying a renewal of a patent, issued in the year 1806, for his improvements in the art of forming edge tools; and the petition was read, and referred to a select committee to consider and report thereon, and Messrs. KING, DAGGETT, and TICHENOR, were appointed the committee.

Mr. ROBERTS submitted the following motion for consideration:

*Resolved*, That the Committee on Naval Affairs be, and they are hereby, instructed to inquire whether the rules, regulations, and instructions for the naval service of the United States, communicated to the Senate by the Message of the President of the 20th of April last, are conformable to the provisions of the act, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners;" and whether, or not, they inconveniently interfere with other acts of Congress relative to the Naval Establishment; and how far they may appear to be expedient; and also whether any, and if any, what legislative provision may be necessary to give them the force and effect of law.

The bill for the relief of Joseph Forrest was read the second time.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed, in the late war; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until Monday next.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and, on motion by Mr. ROBERTS, the consideration thereof was further postponed to Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions," together with the amendments reported thereto, by the Committee on Pensions; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until Monday next.

The bill for the relief of John Rice Jones was read the third time, and passed.

Agreeably to notice, Mr. KING asked and obtained leave to bring in a bill for the relief of Samuel Ward; and the bill was read, and passed to the second reading.

The bill, entitled "An act for the relief of the legal representatives of Alexander Montgomery, deceased," was read the third time, and passed.

The bill, entitled "An act for the relief of William B. Lewis," was read the third time.

On motion by Mr. EATON, the bill was amended by unanimous consent, and passed.

Then, on motion, the Senate adjourned.

WEDNESDAY, December 30.

Mr. LACOCK presented the memorial of a number of citizens of the United States, residing at Carlisle, in the State of Pennsylvania, praying an amendment of the laws to prohibit the importation of slaves into the United States; and the memorial was read, and referred.

Mr. RUGGLES presented the petition of Mark and Conant, of Detroit, praying reimbursement of a certain sum of money advanced by them to promote the public service during the late war with Great Britain, as stated in the petition; which was read, and referred to the Committee on Military Affairs.

Mr. TICHENOR presented the memorial of Paul Beck, jr., and Thomas Sparks, of the city of Philadelphia, manufacturers of shot, praying an additional duty on imported shot, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. FORSYTH presented the petition of Joseph Thorn, a citizen of Savannah, in the State of Georgia, praying the remission of certain duties paid, and the actual expense incurred by him in the prosecution of his claim, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of John Troop, of New York, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the petition of Abner Greenleaf, of Portsmouth, New Hampshire, made a report, accompanied by a resolution that it is inexpedient to grant the prayer of the petitioner, and that he have leave to withdraw his petition. The report and resolution were read.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of authorizing, by law, the purchase of live oak timber, suitable for building sloops of war, or other small vessels necessary for the naval service.

The Senate proceeded to consider the motion of the 29th instant, for instructing the Committee on Naval Affairs relative to the rules, regulations and instructions for the naval service of the United States, communicated to the Senate by the Message of the President of the United States of the 20th of April last, and agreed thereto.

The bill for the relief of Samuel Ward was read the second time, and referred to the Committee of Claims.

A message from the House of Representatives informed the Senate that they have concurred in the amendment of the Senate to the bill entitled "An act for the relief of William B. Lewis." The House have passed a bill, entitled "An act for the relief of Harold Smyth;" a bill, entitled "An act for the relief of Samuel F. Hooker;" a

bill, entitled "An act for the relief of Sampson S. King;" a bill, entitled "An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory;" and also a bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed;" in which bills they request the concurrence of the Senate.

THURSDAY, December 31.

On request, Mr. GOLDSBOROUGH had leave to withdraw the report of the Committee of Claims on the petition of Joseph Troop, of New York.

Mr. KING presented the petition of Augustus Sacket, praying compensation for certain property destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

Mr. LACOCK presented the petition of Rees Hill, praying relief in the settlement of his accounts; and the petition was read, and referred to the Committee of Claims.

Mr. STORER moved to reconsider the vote on postponing the further consideration of the bill for the relief of Samuel F. Hooker, until the first Monday in March next; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Monday next.

A message from the House of Representatives informed the Senate of the death of the honorable GEORGE MUMFORD, late a member of the House of Representatives from the State of North Carolina, and that his funeral will take place to-morrow morning at 10 o'clock.

On motion by Mr. MACON,  
*Resolved unanimously*, That the Senate will attend the funeral of the honorable George Mumford, late a member of the House of Representatives from the State of North Carolina, to-morrow morning at 10 o'clock; and as a testimony of respect for the memory of the deceased, they will go into mourning, and wear a black crape round the left arm for thirty days.

The Senate adjourned to Monday morning.

MONDAY, January 4, 1819.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the memorial of Nicholas Brown and Thomas P. Ives, of Providence, in the State of Rhode Island, made a report, which was read.

On motion by Mr. TALBOT, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of empowering the Postmaster General to contract for the transportation of the mail of the United States in steamboats.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I lay before the Senate a report from the Secretary of State, accompanied with a copy of a letter from

Governor Rabun, which was not communicated on a former occasion from that department.

JAMES MONROE.

JANUARY 4, 1819.

The Message and accompanying documents were read, and referred to the committee to whom was referred, on the 18th of last month, the Message of the President and documents relative to the Seminole war.

Mr. WILLIAMS, of Tennessee, presented the petition of Frederick C. Warnack, agent for the heirs of his uncle Frederick C. Warnack, deceased, who served as a lieutenant colonel of a corps of engineers in the Virginia line, during the Revolutionary war; and in consideration of his services, was entitled under the laws of the State of Virginia to six thousand acres of land, which his heirs, being aliens, cannot inherit, and praying relief from Congress; and the petition was read, and referred to the Committee on Public Lands.

Mr. ROBERTS presented the memorial of a number of citizens of the United States, residing in Philadelphia, praying an amendment of the act, entitled "An act to prohibit the importation of slaves into the United States;" and the memorial was read, and referred.

Mr. HANSON presented the petition of Robert Sewall, praying compensation for a house which, with the furniture therein, was destroyed by the enemy on their invasion of the city of Washington, in August, 1814, in consequence of its having been converted into a military fortress, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TICHENOR submitted the following motion for consideration:

*Resolved*, That the Secretary of War be directed to lay before the Senate, as soon as may be, a statement of the effective force now composing the military establishment of the United States; also, a statement of the different posts and garrisons, at and within which troops are stationed, and the actual number of officers, non-commissioned officers and privates at each post and garrison respectively; also, to designate in such statement the number of artillerymen, and the number and calibre of ordnance, at each of the said posts and garrisons.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the petition of William Robertson, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. MELLETT submitted the following motion for consideration:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the expediency of surrounding the Capitol Square with a stone side walk, of a suitable width for foot passengers, and having the same completed before the meeting of the next Congress.

The five bills brought up on the 30th of last month for concurrence were read, and severally passed to the second reading.

The Senate resumed the consideration of the



motion made on the 31st of last month, to reconsider the vote of the Senate on postponing the further consideration of the bill for the relief of Samuel F. Hooker until the first Monday in March next; and, on the question to agree thereto, it was determined in the negative.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goldard, and others; and the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Peter Lacoste; and, on motion by Mr. FROMENTIN, the further consideration thereof was postponed until Monday, the 18th instant.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a Purser in the Navy of the United States; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the petition of Abner Greenleaf; and in concurrence therewith, resolved, that it is inexpedient to grant the prayer of the petitioner, and that he have leave to withdraw his petition.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and, on motion by Mr. TALBOT, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

#### ORGANIZATION OF THE COURTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and, the question recurring on the following motion submitted by Mr. BARBOUR:

*Resolved*, That the bill be recommitted to the committee that brought it in, with instructions so to amend it as to abolish the circuit courts, and transfer their jurisdiction to the district courts, to authorize an appeal directly from such courts, to the Supreme Court, and enlarge the right of appeal, by reducing the amount on which the right may be exercised."

Mr. BARBOUR addressed the Chair as follows:

Mr. President: I entirely agree with the friends of the bill, that a change in our judicial system is necessary: so far, at least, as will relieve the judges of the Supreme Court from traversing the widely extended territory of the United States. The truth is, we require of them to perform duties which are highly incompatible. In a judge of the Supreme Court, we look for a

capacity and a character which belong only to one advanced in life; and yet we exact a service, of some of them at least, which can be performed only by youth and a robust constitution. For example, we require a judge to traverse the States of Ohio, and Tennessee, and Kentucky, twice a year, and his attendance also at Washington in the depth of Winter. The history of the appointments to that high station will justify me in the above remark, viz., that none but men considerably advanced in life have received the appointment; and we are, therefore, justifiable in concluding, that none others will be appointed. If, which is also a fair calculation, they should continue on the bench till they become infirm, the incompatibility of their duties will become the more palpable, by their utter incapacity to perform them. In addition to this difficulty, I would suggest another, that, even now, we are told they are compelled to adjourn the Supreme Court before the business is disposed of, for the purpose of attending their respective circuits. Thus their docket, instead of diminishing, continually increases; an evil of no ordinary magnitude; for all experience evinces that a tardy administration of justice aggravates litigation.

To remedy this serious inconvenience, not to say great evil, is an object deserving of the wisdom of Congress. But, in the attempt, let us not produce a greater: let us not subject ourselves to an alarming increase of judges and the consequent expense, which the bill, if it pass, must produce. The course I have had the honor of proposing will remedy the one evil, and avoid the other. By my plan, I confine the judges of the Supreme Court to the duties of that court exclusively; and, by preserving the districts, a federal jurisdiction is carried, without inconvenience to the judge, and without expense to the Government, to every State; and, where large, to different districts in the same State. As, for instance, Massachusetts, New York, Pennsylvania, and Virginia—it being now proposed to divide Virginia. It has been objected to my plan, that, from the duties of the judge of the district court, he should always be at the place of holding his court. The answer to that objection is readily furnished, by the fact, that he does not now even reside at the place of holding his court. The truth is, that, in some of the States, they hold their courts at different places; and, besides, are co-ordinate members of the circuit court; so that, in giving them circuit jurisdiction, the only change in the system would be, to deprive them of the aid of the judge of the Supreme Court. Besides, when called on to act judicially, the case being always on record, though he should not be present, yet the facility and rapidity of communication by mail removes, if not time, at least space, and, in effect, gives him the attribute of ubiquity. It is objected, that the judges of the district court were appointed with no view to the important duties which this bill devolves upon them, and, therefore, that they are incompetent. In the first place, the fact is not true; because they were at all times associate judges of the circuit court,

and had heretofore the precise duties to perform that will be now assigned them. And, secondly, I deny their incompetency; for, as far as my knowledge extends, which I am free to admit is limited to Virginia, the gentleman who holds that station there ranks, in point of reputation, with the most distinguished legal characters in the United States. It is said, however, that it is too high a trust to devolve on a single judge the cognizance of criminal trials involving capital punishments. Sir, on that subject, I at least can have no apprehension; because, in Virginia, the criminal justice of the whole State is administered by a single judge to each criminal court. This has been the case for a number of years; and yet I have never heard, in a solitary instance, of even a murmur of complaint that any man has been improperly punished. The fact is, in criminal trials in this country, the judge rather sits to preserve order than to take part in the trial. The great security of innocence, without meaning any disparagement of the judges, is to be found in the grand jury and the jury of the vicinage. The latter, I have ever thought, and in and out of this place have declared it, the happiest effort of the human mind; and that to this institution, and a free and enlightened press, under Providence, would our liberty be indebted for the immortality of its duration. Far from regretting the extinction of the circuit courts, I doubt whether it will not be an advantage. You rid suitors of the necessity of multiplied appeals. In the event of a case of great importance, and of a doubtful nature, the unsuccessful party will be as little satisfied with the judgment of the circuit court as of the district court. They will be content only with the decision of the court of the last resort; and going through the circuit will be attended with no other consequence than a loss of time and an accumulation of costs. The very right to appeal will, most generally, supersede the necessity of resorting to it. The judge, should such a monster ever appear on our bench, who would be otherwise corruptly disposed, would lose all temptation to commit iniquity, as the rod of correction, through the right of appeal, would be continually brandished over his head; and a remedy, by this right, at all times within reach of the party aggrieved. Sir, in a measure so important as this, it behooves Congress to advance with extreme caution and circumspection. This scene has already been acted in the United States. The sixteen, by some called the midnight judges, were created only to be destroyed. What a spectacle are we about to exhibit to the people of the United States! Your predecessors in power, some seventeen or eighteen years past, made a similar experiment; differing in nothing from this except in extent; and if this should obtain, in a few revolving years we need have no cause to doubt but that, in this regard, the resemblance will be complete. What was the result? The people spoke out; and, in defiance of the charge that the repeal of the law was unconstitutional, and in defiance of the threats of one State, Delaware, of its high displeasure at your proceedings, the law, and the judges with

it, passed away. This took place in the commencement of your career, when you reflected the image of the public sentiment. If now you revive the system then so strongly reprobated, and for whose destruction you received such deserved commendation, what will be said of you? That you were dissatisfied, not with the law itself, nor yet the offices which it created, but because you were excluded from all participation in the benefits thereof.

Although I readily and cheerfully exempt every gentleman here from any such motive, yet I am at a loss to conceive what apology can be assigned for this capricious and changeable course. Is it pretended, sir, that the business in these courts (I mean the circuit) has increased? I affirm, from all that I have heard, (for I am no lawyer,) that it has diminished. It is true, sir, that during our restrictive system, when disloyalty and cunning sought to elude and destroy its salutary effects, the business of these courts might have increased; but, upon the restoration of peace, and the re-establishment of our accustomed relations, this source of litigation dried up, and business everywhere diminished, except in the two States of Kentucky and Tennessee, which will be hereafter satisfactorily accounted for. If this be not a correct statement of the fact, let it be corrected by those who are better advised. But, sir, is it not a little remarkable, when so great a change as the present is proposed, we have been furnished with no official documents (the dockets of the respective courts, for instance) to ascertain to us the extent of the business therein depending, so that we might have something sure to stand on? I am, therefore, at liberty to contend, till the contrary appears, and by evidence of record, that the business has diminished, with the exception alone of Tennessee and Kentucky. The state of the business there results from causes peculiar to those two States. The suits depending in the courts of those States, said to amount to several hundred, result from conflicting land claims. The States of Virginia and North Carolina, of which they were once parts, in the disposition of their waste lands, permitted a mode of appropriation which not unfrequently produced from two to ten (perhaps more) claims for the same portion of soil—as it granted to every applicant a patent, if its emanation were not contested. To adjust these conflicting claims, is the great source of litigation in the courts of those States. But, thanks to the superior wisdom of Congress, resulting from the experience, and warned by the disastrous consequences of the course adopted by Virginia and North Carolina, no such result can occur in the States whose soil was disposed of by Congress. Its division into ranges, townships, and sections, and even quarter sections, places all land claims upon the footing of mathematical certainty, and excludes the possibility of a contest between different patentees. How indefensible, therefore, is this plan, which goes to a modification of the whole judicial system of the United States, by which the number of judges is most unreasonably increased, when it is not pretended



that an evil of the same kind exists elsewhere, and when, by the plan I propose, the remedy may be applied precisely and exclusively to the evil complained of. There is one consideration which I cannot forbear to advert to, and which I think entitled to some, if not to considerable weight; and that is, if, upon experiment, the plan I propose should prove defective, it may be easily remedied—on the contrary, should the bill, in its present shape, become a law, although you should find that your new judges should have little or nothing to do, and thereby become sinecures, yet the good people of the United States are remediless; for I know not by what process you are to get clear of them.

In questions of great importance, it will become us to recur to just principles; and, where doubt and difficulty exist, to take the spirit of the Constitution, and the origin of its existence, as our guide. Sir, the Federal Government owes its birth to purposes exclusively international. The States designed to retain to themselves whatever was internal or municipal. The Federal courts, in their jurisdiction, should be limited to the just spirit of the Constitution—to subjects external or foreign in their nature, while the State courts should exercise unlimited jurisdiction upon all other subjects. I would, therefore, erect no federal court but what was absolutely necessary: such I consider the supreme and district courts—the circuit courts are not. I do not like the policy of erecting federal tribunals, not necessarily called for, but whose effect will be to draw off subjects of legislation from the State courts, where they ought to be adjudicated.

When we advert to the progress of the courts in the country to which we generally refer for lessons of experience, it is not an idle apprehension we express, when we say we are fearful lest these federal tribunals will go on, gradually, to draw within their cognizance, by fictions, which they so easily glide into, the whole range of judicial authority. The courts of the States, being abandoned, will be considered as an unnecessary burden, and their entire extinction will be an easy and natural death. Comparing great things with small, permit me to say, the very consequence against which I am warning you, is already occurring in Virginia. The county courts in that State, were long the favorite object of our policy. I thought them, and still think them, the best part of our judicial system. The persons who compose those courts, are our most respectable citizens; they serve without any reward; their motive is disinterested patriotism, and may, without a figure, be called the salt of the land; their jurisdiction, both in common law cases and in equity, was unlimited. Some few years since, however, a superior court, composed of one judge of the general court, was sent to every county; and I learn, and it is with deep regret, that a policy has been uniformly pursued since, to give these superior courts something to do, by continually encroaching on the county courts; or, by some means or other, withdrawing the business from the county courts—while chancery courts are ex-

tending themselves in every direction, so as to absorb the whole of their equitable jurisdiction. It requires no spirit of prophecy to foretell the probable result. The intelligent and patriotic citizen will withdraw himself from so humble a situation—and, their authority falling into unworthy hands, they will become contemptible, and hence lose all value. And such, I fear, will be the progress of the Federal courts in relation to the State courts. The old adage, that the big fish eat the little ones, will apply with as much force to the moral as the physical world. In fine, the result of my best reflections upon this interesting subject, is, that we are bound to reject this bill, whether we are governed by a regard to economy or policy. We are called upon, by the bill, to multiply judges, while their business is diminishing, except in a small portion of the United States, where causes of a peculiar kind have existed, but from their nature are transient, and in so far to violate every consideration of economy, which, in the consideration of this question, is entitled to particular regard, as our judicial system is the most expensive in the world, not excepting England, whose prodigality is proverbial: it results, in part from our singular Government—the necessity of keeping up two distinct systems. If we comprehend the justices of the peace, the judges of the Supreme Court, of the general court, of the court of appeals, of the judges in chancery, in the States, and our district and supreme judges, in the Federal courts, we may fairly set down the number of from ten to fifteen thousand persons, who are engaged in dispensing justice to the people of the United States. Add to this, though not entirely relevant to the question, that we have this day not less than three thousand legislators engaged in framing laws for their government, and the host of Executive officers, from the President down to the lowest Executive subaltern, and we are presented with a number of public officers, that is truly prodigious. It is not only the money they cost us—a subject, however, of serious amount—but it is the diversion of such a mass of intelligence from productive and beneficial pursuits, that constitutes, with me, the greatest objection. To limit the number as much as is practicable, is therefore desirable. But, in point of policy, the objection to this bill, in its present form, rests on considerations still more important: it is protruding the sphere of Federal authority so as to infringe on that of the States; the sequel of which collision, according to the universal law to which all human things are subject, must be the injury of the latter, as being the weaker.

When Mr. B. had concluded, the question was determined in the negative, yeas 11, nays 23, as follows:

YEAS—Messrs. Barbour, Dickerson, Lacock, Macon, Roberts, Sanford, Smith, Stokes, Taylor, Thomas, and Williams of Mississippi.

NAYS—Messrs. Burrill, Daggett, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Morrow, Otis, Palmer, Storer, Tait, Talbot, Tichenor, Van Dyke, and Williams of Tennessee.

TUESDAY, JANUARY 5.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of John Troop, of New York, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. GOLDSBOROUGH presented the memorial of the Presidents of the Marine Insurance Companies of the city of Baltimore, praying the improvement of the navigation of the river Patapsco, and of the Chesapeake bay; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

Mr. SMITH presented the petition of John Buchanan, and Hugh Milling, officers in the Revolutionary war, praying grants of land in the Alabama Territory, in lieu of those granted them in the State of Ohio; and the petition was read, and referred to the Committee on Public Lands.

The PRESIDENT communicated the memorial of Benjamin H. Latrobe, late Surveyor of the Public Buildings in the City of Washington, in vindication of his professional character; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. HUNTER presented the memorial of a number of the inhabitants of Newport, Rhode Island, praying amendments to the act to prohibit the importation of slaves into the United States; and the memorial was read, and referred.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill to provide relief for sick and disabled seamen; and the bill was read, and passed to the second reading.

On motion by Mr. LACOCK, the Committee on Pensions, who were instructed to inquire into the propriety of granting a pension to Michael Bannon, were discharged from the further consideration thereof; and he had leave to withdraw his papers.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Thomas B. Farish," reported the same with an amendment; which was read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act for the relief of Doctor Mattrom Ball," reported the same with an amendment.

Mr. OTIS gave notice that to-morrow he should ask leave to introduce a bill to extend the jurisdiction of the circuit courts of the United States to cases arising under the law relating to patents.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Samuel H. Harper," reported the same without amendment.

The PRESIDENT communicated a letter from the Secretary of War, transmitting a copy of the Army Register of this date, for each member of the Senate, conformably to a resolution of the 15th CON. 2d Sess.—4

Senate, of December 15, 1815; and the letter was read.

The bill, entitled "An act for the relief of Harold Smyth," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Samuel F. Hooker," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Sampson S. King," was read the second time, and referred to the Committee of Claims.

The Senate proceeded to consider the motion of the 4th instant, for instructing the Committee on the District of Columbia to inquire into the expediency of surrounding the Capitol Square with a stone side-walk, for foot passengers; and agreed thereto.

The Senate proceeded to consider the motion of the 4th instant, for information respecting the Military Establishment of the United States; and the same having been amended, was agreed to as follows:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate, as soon as may be, a statement of the effective force now composing the Military Establishment of the United States: Also, a statement of the different posts and garrisons, at and within which, troops are stationed, and the actual number of officers, non-commissioned officers, and privates, at each post and garrison respectively: Also, to designate in such statement, the number of artillerists, and the number and calibre of ordnance, at each of the said posts and garrisons.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James H. Clarke, a Purser in the Navy of the United States.

On motion, by Mr. STORER, the resolution having been amended, it was resolved that the prayer of the petitioner is reasonable, and ought to be granted, and the Committee of Claims were instructed to report a bill accordingly.

The Senate proceeded to consider the report of the Committee on Naval Affairs, to whom was referred the petition of William Robertson; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

On motion, by Mr. GOLDSBOROUGH, the Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Forrest; and, on his motion, the further consideration thereof was postponed until Monday next, and the Secretary of the Senate was authorized to



SENATE.

Proceedings.

JANUARY, 1819.

furnish the circuit court for the District of Columbia with the papers filed therewith, to be used in evidence in a suit pending in said court.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and, after further progress, the further consideration thereof was postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to Congress a proclamation, dated the 22d of last month, of the Convention made and concluded at Madrid, between the Plenipotentiaries of the United States and His Catholic Majesty, on the 11th of August, 1802; the ratifications of which were not exchanged until the 21st ultimo, together with the translation of a letter from the Minister of Spain, to the Secretary of State.

JAMES MONROE.

WASHINGTON, January 4, 1819.

The Message and accompanying documents were read.

The PRESIDENT communicated a letter from the Secretary of the Navy, transmitting fifty copies of the Naval Register for the use of the Senate of the United States, in compliance with their resolution of the 13th of December, 1815; and the letter was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States; and on motion, by Mr. CRITTENDEN, the further consideration thereof was postponed to, and made the order of the day for, Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the bill having been amended, it was reported to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, together with a proposed amendment; and, after debate, the Senate adjourned.

WEDNESDAY, January 6.

DANIEL D. TOMPKINS, Vice President of the United States and President of the Senate, attended, and took the Chair.

Mr. ROBERTS presented the memorial of the American Convention for promoting the abolition of slavery, and improving the condition of the African race; and the memorial was read.

Mr. RUGGLES presented the petition of a number of inhabitants of the State of Ohio, praying amendments to the laws to prohibit the importa-

tion of slaves into the United States; and the memorial was read and referred.

Mr. RUGGLES also presented the petition of a number of inhabitants of the State of Ohio, praying an extension of the time for completing the payments for public lands, purchased by them, for reasons stated in the petition; which was read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Jacob Whetzell, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the 24th ultimo, directing him to lay before the Senate information relative to the effect of an act to suspend, for a limited time, the sale or forfeiture of lands, of the 18th of April last, upon the receipts into the Treasury, and the probable effect by continuing in force the act aforesaid for one year, with a certain condition; and the report was read.

On motion, by Mr. RUGGLES, the Committee on Pensions were instructed to inquire into the expediency of amending the act of last session, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war;" so as to provide for a more certain and uniform rule of taking testimony, and more effectually to guard against abuses that may be committed under the said act.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; reported the same without amendment.

Mr. BURRILL, from the same committee, to whom was referred the bill further to extend the judicial system of the United States, reported the same without amendment.

Agreeably to notice given, Mr. OTIS asked and obtained leave to introduce a bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents; and the bill was read, and passed to the second reading.

The Senate proceeded to consider the report of the Committee of Claims, to whom was referred the petition of John Troop of New York; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and on motion, by Mr. BARBOD, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide

JANUARY, 1819.

Proceedings.

SENATE.

for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and the bill having been further amended, and a motion being made to recommit it with instructions, the further consideration thereof was postponed until to-morrow.

The amendment to the bill, entitled "An act for the relief of Frederick Brown," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to incorporate the Medical Society of the District of Columbia;" a bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia;" a bill, entitled "An act authorizing the Corporation of the City of Washington, to open and extend certain streets in said city, through a public reservation;" and a bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to, or from the boundary of the City of Washington, in the District of Columbia, through the said District to the line thereof;" and also a resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the library; in which bills and resolution they request the concurrence of the Senate.

The four bills and resolution last mentioned were read, and severally passed to the second reading.

THURSDAY, January 7.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Charles Higgins, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition.

Mr. GOLDSBOROUGH, from the same committee, pursuant to instructions, reported a bill for the relief of James H. Clark; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," reported the same with an amendment; which was read.

Mr. DAGGETT presented the petition of William Prout, of the City of Washington, praying payment for certain property in said city, as stated in the petition; which was read, and referred to the Committee on the District of Columbia.

Mr. WILLIAMS, of Tennessee, presented the petition of Elizabeth B. H. Forsyth, widow of Colonel Benjamin Forsyth, praying the extension of the term to which the act granting pensions to the widows and orphans of deceased officers and soldiers was limited; and the petition

was read, and referred to the Committee on Pensions.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain," reported the same with an amendment; which was read.

The Senate resumed the consideration of the report of the Committee on Commerce and Manufactures, to whom was referred the memorial of Nicholas Brown and Thomas P. Ives, of Providence in the State of Rhode Island; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until Monday, the 25th instant.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Jacob Whetzell; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne and her cargo; and the further consideration thereof was postponed until Monday next.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred a resolution of the 2d of last month, directing an inquiry into the expediency of making provision by law for clothing the Army of the United States in domestic manufactures, made a report, that it is inexpedient to make any provision by law on this subject; and the report was read.

The bill, entitled "An act authorizing the Corporation of the City of Washington, to open and extend certain streets in said city, through a public reservation," was read the second time, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to authorize the President and managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend, and make their turnpike road to, or from the boundary of the City of Washington in the District of Columbia, through the said District to the line thereof," was read the second time, and referred to the same committee, to consider and report thereon.

The bill, entitled "An act to incorporate the Medical Society of the District of Columbia," was read the second time, and referred to the same committee, to consider and report thereon.

The bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents, was read the second time.

The resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the library, was read the second time.

Mr. GOLDSBOROUGH gave notice that to-morrow he should ask leave to bring in a bill, supplemental to an act, entitled "An act further to amend the charter of the City of Washington."

The bill, entitled "An act to incorporate the



SENATE.

Organization of the Courts.

JANUARY, 1819.

Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia," was read the second time, and referred to the same committee, to consider and report thereon.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act authorizing the election of a delegate from the Michigan Territory, to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," reported the same with an amendment, which was read.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States; and on motion, by Mr. BARBOUR, the further consideration thereof was postponed until Monday next.

#### ORGANIZATION OF THE COURTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and,

On the question to agree to the following motion submitted yesterday, by Mr. ROBERTS:

"That the bill be recommitted to the committee who reported it, with instructions to provide, in lieu of the provisions of the bill, for the appointment of two additional district judges in the States of Kentucky and Tennessee, who with the district judges, now in commission, shall hold the circuit court in those States, with the jurisdiction those courts now exercise."

Mr. ROBERTS said, that, in the good temper (which it was not his intention to disturb) that had for some time happily prevailed, he was at first undecided as to whether he should eventually vote for the bill or not. Seeing around him so many learned and experienced jurists, he had waited to be enlightened by them. He found they held different opinions, and that it became his duty to decide on the best view of the case he could obtain. The proposition and argument of his friend from Virginia (Mr. BARBOUR) had opened in his mind interesting views; and his call for the necessity of the proposed extension of the judiciary establishment had not been responded to satisfactorily by the supporters of the bill. The proposition of the committee having been matured to their satisfaction, his best reflection had resulted in a settled conviction that it ought not to pass. Willing, however, to extend to others the indulgence the Congress had lately extended to his own State, he had felt it not enough to object to the bill; he had also offered a substitute. On a former day, the gentleman from Massachusetts (Mr. OTIS) had intimated, pretty distinctly, that he understood the Republican party to have resorted to all the measures they had condemned in their predecessors, save only that they had not passed a sedition law. He was glad the gentleman had not adjudged

them to have violated the Constitution. He hoped also the gentleman would hold them acquitted of having as yet sanctioned a law creating a host of useless judges. That had been one of the things which the gentleman's party stood charged with, and one that had received as strong a stamp of reprobation as the sedition law; with this difference, that while the latter had been modified, in its enactment, to disappear with the party whose measure it was, the former had been repealed after perhaps one of the most copious and elaborate discussions any question ever had in Congress. Mr. R. remarked, he was one of those who had always believed there was an essential difference in the principles of the two parties, that have long divided political opinion in our country. What was wrong formerly, circumstances not changed, must be wrong still.

He was not ready to admit that the course of the two parties, while in authority, had been identified in everything but a sedition law. It was not necessary to show, though he believed it might be successfully shown, that there were few acts of the Republican party which were not entirely consistent with the tenets they held. At no time has a Republican Legislature, or a Republican Executive, shown any willingness to create or retain useless officers. It was, he said, by recurring to this principle, that he felt so strong a repugnance to this bill, inasmuch as it not only extended, unnecessarily, offices, but of such kind as were more permanent than any others. When gentlemen have been desired to show the necessity for this, and why the district judges may not hold the circuit courts, the reply has been a sort of admission that they are not competent, being chosen for different purposes. Yet these very judges are to form an equal part of the new benches. There was, he knew, an impression around him that he was not penetrated with due respect for the judicial character. As for the existing judges, he thought them, collectively, as able and virtuous men as we can reasonably hope to get. He could not, however, hold them in such respect as to sanction the principle on which they hold their offices. The truth is, the Constitution is, in this regard, essentially vicious. It is a principle falsified by the nature of man. A tenure in office of good behaviour must be held in derogation of the fact, that man is liable to frailty and decay. This will attend the judge as well as the representative; and that Constitution is anomalous and defective which does not provide a remedy for the evil in both cases.

The gentlemen favorable to the bill admit the district judges are not competent to hold the circuit courts, not so much from their want of numbers as from their not having been selected with a view to perform those duties. It will be obvious, said Mr. R., that the duties of the district judges, as established by law, are of quite as important a character as those that would devolve on them as circuit judges. It will, he said, be found to be a fact, that we are only beginning to experience the evils of the ten-

JANUARY, 1819.

Organization of the Courts.

SENATE.

ure of good behaviour. Our Government has existed about thirty years, and many of the district judges which have been appointed were in the vigor of life, and are only now advancing far into the shades of the evening; the inefficiency of age, it seems, is overtaking them; their courts have fallen into disesteem, and we are called upon to prop them up by corps of new creation. Gentlemen have not attempted to show there is any exigency in our jurisprudence, except in a single section of the Union. There it must obviously be temporary. The conflicting grants of land in Kentucky and Tennessee must terminate, even by course of time alone, though it is admitted this remedy would be entirely intolerable. Mr. R. said he was willing to provide efficient tribunals for their adjustment: the motion submitted would reach that object. He was not willing, however, in doing so much, to create judges throughout the Union because one or two were wanted in one section. It would seem to be aggravating the evil we now feel, instead of curing it, the tenure of office being as it is. We have no security we shall get better men than those who hold the district courts; and they must decay, like those who have gone before them. The Constitution is defective, and requires amendment; and it must eventually obtain.—While, however, it remains as it is, it would seem wisdom not to multiply judges unnecessarily. Experience has proved we have no remedy against frailty in a judge, short of misdemeanor, but by impeachment. Trial has proved this almost worse than none. What we have seen in this way was not very strong proof that the tenure of the judge's office was founded in wisdom and truth. An instance had occurred where the judge had become so odious that difficulty occurred in finding him a location for the exercise of his office. There is certainly difficulty, and it is almost insuperable, in getting rid of a bad judge. Let us take care how we make them without necessity. "A breath can make them!" but it cannot unmake them; such a task will require the utmost effort of our Government.

It had been urged strongly, on a former day, that, to refund a fine inflicted by a decision of a court, would attach reproach to the sanctity of such a decision. Having on many occasions since he had a seat in the Senate, Mr. R. said, discovered an overweening disposition in some gentlemen to sanctify the Judicial branch of the Government—a spirit from whence he deemed arose the erroneous principle of a tenure in office of good behaviour—he was led to advert to the nature of the judge's office. It is a common phrase to call the Judiciary a co-ordinate branch of the Government: the metaphor is too strong. Surely, gentlemen will not soberly contend it is of equal authority with the Legislative or Executive branches, by whom it is quickened into life, governed, supported, and preserved. The notion of equality will not bear the touch of inquiry. It was, he granted, an important and independent branch of the Government, constitutionally,

and made so wisely. But the bench of judges are not the Judiciary. The judicial power is to be vested in a Supreme Court and other courts; not in the judges only, but in the judges, jury, and other officers. The judges are the only officers who have a tenure of office of good behaviour; and in this they were, he admitted, especially distinguished, for it forms them into a species of privileged order. Notwithstanding this, however, all the sanctity that art could raise around them could never swell them into a comparison, as to authority, with the other branches of the Government. The nature of their functions determines their importance. It is impossible for so few men, however learned, virtuous, and capable, who are doomed to sit in obscurity, to distribute justice and administer law, who are seen by few, and whose affected importance is felt by still fewer, to hold rank with the Congress and with the President. Mr. R. inferred the feature of the Constitution he was objecting to had been derived from that country whence we had sprang; which country, by a measurable application of the rules of common sense, had realized many truths in the judicial science. They had however been extorted from the abominable heresy that the King is the fountain of honor, justice, and power. At first the written laws were obtained from him by supplication and prayer. He was held to be the sole dispenser of justice, but, as he had not the attribute of ubiquity, it became necessary to adjudicate by deputy. These deputies or judges, being emanations of royal authority, shared its sanctity and partook of its inviolability. It was certainly a great point to dissolve the dependence of the judge on the King; and hence the value of the judge's independence, as it is understood in England. Setting out from a wrong point, it is not easy to arrive at a right one. The English tenure of judicial office becomes a horrible deformity in a free constitution, like ours. Those who preside over the administration of distributive justice ought everywhere to be independent of every sort of influence from the other branches of the Government, except the fear of punishment for wrong doing. Misconduct in a judge ought to be punished as certainly as in any other person. The only cure for evils incident to such a state of things is to apply to it the corrective principles applied to the other branches of Government—a periodical limitation of office. In these free strictures, he wished to be understood as neither wanting veneration for the Constitution nor respect for the Judiciary. The Constitution had been amended in the articles touching the administration of justice already. These amendments were of vital importance. While it proves that originally it was imperfect, it justifies the conclusion that its imperfections are not all cured. Every day adds new proofs that the judge's tenure of office is most egregiously erroneous. The Constitution of the United States was only designed to make them a community for specific general purposes, leaving to the States every attribute of local sovereignty not expressly delegated to the General Govern-



ment. Such a scheme must necessarily comprehend a Judiciary branch. The laws must be enforced, and rights arising out of the general concerns require adjudication. The jurisdiction of the United States courts was at first narrow, in regard to the principle of distributive justice. Amendments have made it narrower. It was once a favorite idea with some to make States a party in these courts at the suits of individuals. On the first trial it was abandoned, and the functions of the court suspended while the suit was yet pending. This fact, taken in connexion with the repeal of the law of 1800, proves pretty strongly there has been no undue partiality for the Federal courts heretofore. It is not shown, after the strongest calls on gentlemen, that the bill is necessary from any existing business. It is within the knowledge of all, that there are much fewer actions in the courts of the maritime States than during the times of the restrictive system. That business is principally disposed of, and the only difficulty alleged is the land controversies in Kentucky and Tennessee. For this, said Mr. R., the resolution makes ample provision. Gentlemen have declined attempting to show their measure is founded upon any business the courts now have before them. What were the facts in the State he in part represented? Business like that existing in Kentucky and Tennessee, also existed in the western section of Pennsylvania. An additional district court—the judge having circuit court powers—was asked for, and the Congress were so liberal as to grant the request, for which she is grateful. The calls of justice, we may hope, will be met by this provision, as far as they were designed to be. Mr. R. said he felt a perfect willingness to extend the same benefits to other States, where they were needed. A bill is now on our files providing salaries for the clerk and marshal of the western and the clerk of the eastern district. The fees in these offices are those of the highest State courts, and they have, beside, the fees for recording copy rights. There can be no question that the business has lessened. It has a strange appearance to be providing salaries for marshals and clerks at the same time you are multiplying your judges. Evil may be apprehended from a too great facility in the Federal courts for business. Every man who may be made a judge may not be willing to exercise the authority of opening and adjourning the courts, without any other display of power. The history of courts, said Mr. R., will show they have an appetite, like others in authority, to extend their jurisdiction. We see in the country whence we derive much of our forms of jurisprudence courts, established for entirely different objects, have found means to get cognizance of all kinds of actions, by the resort to the most absurd and monstrous fictions. We have felt something like this in Pennsylvania; in which case the United States courts seemed to get round the Constitution, which denies to them the power of making a State a party at the suit of an individual, by no very conclusive train of reasoning. By their decree, money

was in effect extorted from the State treasury, contrary to the Federal and State Constitutions. The resistance made by the State to this strange decree was artfully coupled and classed, for party purposes, with the resistance to the acts of Congress in another quarter. This two-fold injury was suffered to pass off here without explanation; but it sunk deep into the feelings of the State, who knows her duties, and who will not easily forget her wrongs.

Now, let us compare this bill with that of 1801, a law stamped with indelible features of public disapprobation. If there was any difference, it was in favor of that project. There was then six, there is now to be nine circuits. There was then sixteen, there is now to be nine judges. The expense was then thirty-two thousand dollars, now it is to be twenty-three thousand dollars per year. Then you had a bench of those judges, placed on a rational equality; now there is to be two numerically, but one is to give judgment, disregarding the other if he differs in opinion, though he may be the abler and the better man. The repeal of the former judiciary law, and the abolishment of the judge's office, was one of the strongest acts of legislation which has appeared in our history. It was solidly based on the public voice. It was then held to be unnecessary and mischievous. It was viewed as the last act of a system of measures to give an efficiency to the Government, that was deemed to derogate from and endanger the rights of the citizen. When the sentence of condemnation was about to pass, the sanctity and inviolability of the judge, and his tenure of office, was rung through all the changes to no purpose. What was taken then as so wrong, cannot now be right, circumstances not changed; and he was bold to say, there was no new necessity for the measure.

The bill is recommended as introducing symmetry and consistency into our judicial system; and yet, on the very front of it, two judges of the Supreme Court are hung up as useless sinecures. It confesses they will be useless and unnecessary. It is invidious as to the judges themselves, though the reproach may rest among the whole, rather than on any two of them. On the superior bench there must be useless judges; on that of the circuit court there is no equality of character, nor respectability. There is much less irregularity in the present system, and even that of 1801 was less objectionable. The circuit court is only intended to sit twice in a year in the plan before us; if there was really an accumulation of business, they ought to be required to sit until they had really disposed of it. I need not advert to the manner the docket will be settled in such a system. One court must follow the other in so quick a succession, that, in sitting twice a year only, justice must be unavoidably delayed.

On the other hand, the proposition submitted as a substitute offers an efficient court in the only places where it is pretended there is any call for a more adequate administration of justice. Two judges only are required instead of nine, at an annual expense of five, instead of more than

twenty-two thousand dollars per annum. It contains no new or doubtful principle; it is in exact conformity with those with which we are familiarized. It may be enlarged as the calls of justice shall require. It does really seem to be all that is incumbent on the Congress to provide, and we may hope the gentlemen from Kentucky and Tennessee will meet it in the spirit it has been proposed, to obtain for their country an administration of justice, without sale, denial, delay. Mr. R. said he was led the more to hope for a favorable reception of his motion, as it admitted of prompt application. He would ask gentlemen, was it reasonable to expect this bill to pass in time to give the President an opportunity of a judicious selection of the judges? Under any circumstances it would impose on him a most arduous duty, and his embarrassment must be increased from the rival pretensions of the States to have the judges. Judge, said he, by the course of the observations I am offering, how much time must pass away, before it could obtain the sanction of both Houses. If it pass at all, it would seem to me indispensable to postpone its operation until beyond the meeting of the Senate, at the future session. By a modification of the bill, its passage would be facilitated and insured. The most prompt operation of it can be had—selections of the most efficient men can be made without difficulty. If, however, the wisdom of the Senate should decide in favor of the bill, and he had no reason to feel surprise if they should, after the failure of the motion of the gentleman from Virginia, (Mr. BARNES,) and it should become a law, he should yield to the decision, as it was his duty to do. But in such an event, he should feel called upon to exert his feeble efforts to have the Constitution so amended as to obtain some remedy against the burden of a host of superannuated judges.

He would greatly prefer, however, to forbear to change that instrument while its defects were tolerable. He would rather see it as it was, obtain the sanction of time, and he was not even disposed to perfect its more dubious features hastily. If the unnecessary increase of a description of officers, whom we must take for better or worse, in sickness and in health, can be avoided, and who, when made, must be incumbent on the public Treasury, in endless succession, the deformity of a tenure of office during good behaviour, not being so palpably felt, may not so soon be considered insupportable. But, if a system of judicial benefices is to increase without necessity, the time will have arrived when the office ought to be held by a less secure and more useful tenure; it will devolve a duty on us to attempt a remedy by an amendment of the Constitution.

The question was taken and determined in the negative, yeas 9, nays 29, as follows:

YEAS—Messrs. Barbour, Dickerson, Lacock, Macon, Noble, Roberts, Sanford, Smith, and Taylor.

NAYS—Messrs. Burrill, Crittenden, Daggett, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Hanson, Horsey, Hunter, Johnson, King, Leake, Melan, Morrill, Morrow, Otis, Palmer, Storer, Tait, Talbot,

Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

Mr. ROBERTS having submitted another motion to recommit the bill to the committee who reported it, with instructions; the further consideration thereof was postponed until to-morrow.

FRIDAY, JANUARY 8.

Mr. SANFORD presented the petition of Eli Hart, praying compensation for property destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

Mr. SANFORD presented the memorial of Joseph Landon, praying compensation for property destroyed by the enemy during the late war with Great Britain; and the memorial was read, and referred to the Committee of Claims.

Mr. SANFORD also presented the petition of Vincent Grant, praying compensation for property destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the same committee, to consider and report thereon.

Mr. SMITH presented the memorial of Elihu Hall Bay, of South Carolina, praying to be confirmed in his title to certain tracts of land in the Alabama Territory; and the memorial was read.

Mr. GOLDSBOROUGH presented the memorial of John Mason, and others, praying the repeal of an act of Congress, exempting the City of Washington from taxation for county purposes; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. JOHNSON presented the petition of the heirs and executors of John O'Connor, praying to be confirmed in their claim to a certain tract of land on Buffalo Creek in the State of Mississippi; and the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 9th of last month, "That the President of the United States be requested to lay before the Senate, copies of the correspondence between the Government of the United States and the Government of Spain, relative to the cession of the Floridas to the United States, which has not already been communicated, and which, in his opinion, may be communicated with safety to the public interest;" and, on request, Mr. JOHNSON had leave to withdraw the same, the object having been attained, by a transmission of said correspondence on the 28th of last month.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the subject of clothing the Army of the United States in domestic manufactures; and the further consideration thereof was postponed until Monday next.

Mr. JOHNSON, from the Committee on Public Lands, to whom the subject was referred, reported a bill for adjusting the claims to land, and establishing land offices in the districts east of the Island of New Orleans; and the bill was read, and passed to the second reading.



The bill to provide for sick and disabled seamen was read the second time.

Agreeably to notice given, Mr. GOLDSBOROUGH asked and obtained leave to bring in a bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington," and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, together with the motion to recommit the bill with instructions; and, on motion by Mr. SMITH, the further consideration thereof was postponed until Monday next.

The bill for the relief of James H. Clarke was read the second time.

Mr. TALBOT, from the Committee on Finance, to whom the subject was referred, reported a bill supplementary to the acts concerning the coasting trade; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Sampson S. King," reported the same with an amendment; which was read.

The PRESIDENT communicated three several annual reports from the Secretary of the Navy, to wit: comprehending contracts made by the Navy Commissioners, showing the names and salaries of clerks employed in that office, and on the expenditure and application of moneys; and the reports were respectively read.

On motion by Mr. TAIT, they were severally referred to the Committee on Naval Affairs, to consider and report thereon.

The PRESIDENT communicated a letter from William Lambert, transmitting fifty copies of a work, entitled *Abstracts of Calculations to ascertain the Longitude of the Capital, in the City of Washington, from the Greenwich Observatory in England*, for the disposition of the Senate; and the letter was read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the petition of John Buchanan and Hugh Milling, made a report, accompanied by a resolution, that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. MORROW presented the memorial of the Legislature of the Missouri Territory, in relation to pre-emption claims, and the extension of the same; and also the memorial of George Gill, and others, praying the right of pre-emption to certain lands; and the memorials were respectively read, and referred to the Committee on Public Lands.

#### MONUMENT TO WASHINGTON.

The Senate then resumed the consideration of the bill providing for the erection of a monument over the remains of General GEORGE WASHINGTON, where they now lie.

Mr. BARBOUR moved that the bill be recommit- ted with instructions to report a bill appropriating

money for the erection of an equestrian statue of General WASHINGTON, in conformity with the resolution of Congress of 1783.

[This resolution was passed on the 7th of August, 1783, and directs substantially that an equestrian statue of bronze be erected at the Seat of Government; that the General be represented in a Roman dress, holding a truncheon in his right hand, his head encircled by a laurel wreath; that the pedestal be of marble, on which to be represented in relief the following principal events of the war in which General W. commanded in person, viz: the evacuation of Boston; the capture of the Hessians at Trenton; the battle of Princeton; the battle of Monmouth, and the surrender of York. The resolution directed also the inscriptions; that it shall be executed by the best artists, &c.]

The motion produced a short debate, and was finally decided in the affirmative, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Macon, Mellen, Morrill, Otis, Palmer, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee—30.

NAYS—Messrs. Lacock, Morrow, Noble, Roberts, Ruggles, and Smith—6.

MONDAY, January 11.

Mr. GOLDSBOROUGH, from the Committee for the District of Columbia, to whom was referred the bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to, or from the boundary of the City of Washington, in the District of Columbia, through the said District to the line thereof," reported the same without amendment.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act to incorporate the Medical Society of the District of Columbia," reported the same with amendments, which were read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia," reported the same with an amendment; which was read.

Mr. BARBOUR called up the memorial of Richard Bland Lee, Commissioner under the claims' law, presented at the last session, praying additional compensation for his services; and, on his motion, it was referred to the Committee of Claims.

Mr. TAYLOR presented the petition of William N. Perry and Mark Burnett, praying to be confirmed in their title to a certain tract of land; and the petition was read, and referred to the Committee on Public Lands.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act regulating passenger

ships and vessels," reported the same with amendments; which were read.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Attorney General procure and lay before the Senate, at the commencement of their next session, accurate lists of all causes, which may be depending on the — day of — in the several district and circuit courts, and in the Supreme Court of the United States; distinguishing therein, civil and criminal cases; suits between citizens of different States; suits to which the United States are parties, stating separately suits for duties; original causes, and causes removed by appeal or writ of error; with the times of the commencement of the suits, in the several courts; and such other statements or explanations, as may appear to him proper, to exhibit the actual state and amount of the business depending in the several courts.

The Senate resumed the consideration of the report of the Committee on Pensions, on the petition of Lucy Cottineau; and, in concurrence therewith, she had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others; and the further consideration thereof was postponed until Monday next.

Mr. OTIS submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to communicate to the Senate any information in his possession, and which, in his opinion, the public interest may permit to disclose, relating to the seizure and detention of the property of American citizens, by the Government of the island of Hayti, and the state of any negotiation or attempts at negotiation to procure restitution.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of John Buchanan and Hugh Milling; and, in concurrence therewith, the petitioners had leave to withdraw their petition.

Mr. DAGGETT presented the memorial of a number of citizens of the United States, residing at Hartford, Connecticut, praying amendments to the acts prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee appointed on the 15th of last month, on the subject, to consider and report thereon.

On motion by Mr. CRITTENDEN, the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States, was recommit- ted to the Committee on the Judiciary, further to consider and report thereon.

#### TERRITORY OF ALABAMA.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; and, on

the question to agree to the following amendment, proposed by Mr. LEAKE:

After the word "the" in the ninth line of the second section, strike out the remaining part of the ninth line, and the first part of the tenth line, to the word "to," in the said tenth line, and insert: "Cotton Gin Port, on Tombigbee river; thence down the same to the Mobile bay; thence, through the same, between Mobile Point and Dauphine island:"

It was determined in the negative—yeas 3, nays 32, as follows:

YEAS—Messrs. Johnson, Leake, and Williams of Mississippi.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Forsyth, Fromentin, Gaillard, Horsey, Hunter, King, Lacock, Macon, Mellen, Morrill, Morrow, Otis, Palmer, Roberts, Ruggles, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

Whereupon, Mr. LEAKE moved to strike out of the tenth line of the second section, the words "due south," and insert, "along the line established by an act of the Assembly of the Mississippi Territory, between the counties of Wayne, Green, and Jackson, on the one side, and the counties of Washington, Baldwin, and Mobile, on the other side;" and, on the question to agree thereto, it was determined in the negative—yeas 3, nays 32, as follows:

YEAS—Messrs. Leake, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Forsyth, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Thomas, and Van Dyke.

The bill having been amended, it was reported to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

#### CLOTHING THE ARMY IN DOMESTIC MANUFACTURES.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the subject of clothing the Army of the United States, in domestic manufactures.

Mr. RUGGLES, of Ohio, submitted a motion to recommit the report, with instructions "to report a bill to authorize and require the Secretary at War, to supply the Army of the United States with clothing of domestic manufacture, in all cases where the same can be procured of suitable quality, and on terms equal (exclusive of the cost of transportation) to that of foreign manufactures."

Mr. RUGGLES said he had introduced the resolution to recommit the bill, under the firmest conviction of its expediency. He believed the time had arrived when a measure of this kind ought to be adopted by the Government. It was a measure of national interest and importance, and ought not to be longer neglected. He said he had expected the report of the committee would have been of a different character, and that provision would have been made by law, at



this session, for clothing the Army of the United States in domestic manufactures. The report of the committee, he was sorry to say, had not given that full and detailed view of the subject which had been desirable—they barely report that a preference is now given to domestic manufactures, without showing the nature and extent of that preference. A definite statement, designating what quantity of clothing was of domestic, and what of foreign manufacture, with a comparative view of the quality and prices of each, would have enabled the Senate to have judged with more correctness on the expediency of the measure, than they now possibly can do. But, Mr. R. said, he was so well convinced of the capacity of the manufacturers to supply the demand, and that, too, upon favorable terms, that he had no hesitation on the subject.

The obvious policy of this nation, said Mr. R., is to rely upon its own resources, and become independent of all other nations, in fact as well as theory. All supplies for clothing the Army, and he said he would also include the Navy, ought to be the product of our own soil and industry. This constitutes one item in the system of national policy, that ought not to be overlooked. No money drawn from the Treasury should ever be permitted to pass out of the country, when it could be advantageously expended among our own citizens, for, by so doing, we strengthen others, and weaken ourselves.

Mr. R. said he had no doubt but the Secretary of War was friendly to such a measure, and was desirous of carrying it into effect as far as possible, under the law, as it now stands. But, he said, if he was correctly informed, a greater quantity of foreign cloths were now used in the Army, than domestic: if he was wrong, he hoped the Military Committee would correct him. Whatever course it might have been expedient heretofore to pursue, he believed the time had now arrived when Congress ought to take a decisive course, go the whole length, and exclude every article of foreign manufacture from the supplies of the Army. The measure is highly important, and intimately connected with the great and growing interests of this nation. That every article necessary for clothing the troops can be furnished in the United States, there remains no doubt. The raw materials of wool and cotton are produced in great abundance. By a report from the Commissary General, in 1814, it appears, that the manufacturing establishments had progressed so rapidly, as to be able, even at that time, to furnish every article of clothing necessary for the Army, blankets only excepted. Certainly, then, they are now abundantly competent to meet the demand, and it becomes the duty of the nation to turn their attention to them. Domestic cloths may possibly bear a little higher price, but when their superior quality and durability are taken into consideration, they will be found the cheapest.

This subject should be considered in a two-fold point of view, both as it regards the encouragement of domestic manufactures, and also as

it relates to the policy of the nation, by providing in time of peace certain means for clothing the Army in case of future war. If in peace you look to your manufacturers for the necessary articles to clothe your Army, in war they will be ready and competent to supply you, when your supplies from other sources will be rendered precarious, or entirely cut off.

On the subject of encouragement to domestic manufactures, Mr. R. said, there ought to be but one opinion. Their success is identified with the future glory of the nation. Our commerce, navigation, and wealth, are intimately connected with their prosperity. On this subject the will of the Legislature had been twice definitely expressed, and it may now be considered as a fixed and settled rule of policy for this nation. The principle should then be followed up in all its bearings. At the first session of the fourteenth Congress a law was passed, establishing a general tariff of duties on foreign goods imported into the country. With the express view of aiding the manufacturing establishments, a duty of twenty-five per cent. was imposed on all cotton and woollen goods for the term of three years. As a further expression of the national will, the duty of twenty-five per cent. was, at the last session, made permanent for four years longer, making in the whole seven years. So far Congress has done its duty; the measure has met the wishes and expectations of the nation. But, can nothing more be done? Can no other benefits be conferred without prejudice to the public interest? The proposition embraced in the resolution submitted, contemplates other advantages, though it is admitted not of a very extensive character. It is, however, strengthening another link in the great chain of policy that is to elevate the power and wealth of this nation. It may be considered more valuable as a principle connected with our public interest, than as a source of benefit to the manufacturers. The Government makes no sacrifice in adopting it; it only becomes the customer of our own countrymen instead of foreigners, retains the public treasure in the country, encourages productive industry, increases the wealth of the community, and supports a greater proportion of inhabitants. These are objects that ought not to be passed over without notice by a wise Legislature.

Every nation, in the management of its concerns, should adopt a comprehensive system of policy, embracing in its range subjects of a smaller as well as greater interest. Every act of the Government should contribute towards its own prosperity and perpetuation. The nation, said Mr. R., might talk of its boasted independence, but when the melancholy fact is told that it relies upon the industry and skill of other countries for clothing to supply the Army, its degrading dependence is seen and felt. The fact is humiliating. The strong arm of your support and defence becomes enfeebled; protection and security are rendered precarious. The history of the last war furnishes painful evidence of these facts. At the commencement of hostilities,

the nation was unprepared, and very deficient in the various articles of clothing, in consequence of which great difficulties occurred during the whole war.

In the Spring of 1812, the present Postmaster General, then Governor of Ohio, was directed by the President of the United States to organize a small army of militia, for the protection of the northwestern frontier. No sooner were the orders issued by the Governor than a sufficient number of the citizens of that State volunteered their services, and, in obedience to orders, rendezvoused at Cincinnati. Among them were farmers, mechanics, and gentlemen of every profession. This little band, the vanguard of your armies in the late war, was composed of the best blood of the State. The zeal and promptitude with which the occasion was met, and the celerity with which they moved to the place of destination, found them, on their arrival at Cincinnati, destitute of blankets necessary for the campaign. The stores could furnish but a limited supply. One resource only was left. Governor Meigs, whose valuable services during the late war will ever be highly appreciated by his country, made an appeal to the liberality and patriotism of the ladies of the town, to supply the soldiers with blankets. The appeal was effectual. The next day several hundred blankets were furnished by them to the Governor, sufficient to supply the wants of his army. This act of female patriotism and devotion to liberty deserves immortality, and history ought to record it as an example for the benefit of posterity.

Mr. R. said, other instances of scarcity and distress might be enumerated, for the want of clothing and blankets during the late war; and the same calamity will continue in all future wars, unless timely exertions are made to obtain them from our own resources. The nation ought to benefit by experience, and profit by past misfortune. It was not until towards the close of the late war that any considerable proportion of the clothing of the Army could be produced by our own country; and this ability to supply was owing to the unparalleled success of the manufactures, which grew out of the war. The nation was then, in a great measure, at the mercy of the enemy—that very enemy with whom our gallant soldiers were contending triumphantly on the banks of the Niagara and the plains of New Orleans.

The time has now arrived when there will be no difficulty or danger in adopting the resolution under consideration. The number of manufactures in operation, and the large amount of capital invested in those establishments, will furnish a supply far beyond the present wants of the Army. There will be sufficient competition in the market to insure a sale at a low and reasonable price; there can be no possible danger from a monopoly. Gentlemen refer to the scenes of the last war—tell us of the manufacturers demanding and receiving an unreasonable price for their cloth—and say, if this measure is adopted, that this nation will again be subject to the

same imposition. Mr. R. said he was not disposed to go into a justification of their conduct in this particular, but thus much might be said in their favor: they had done no more than every class of society would have done in a similar situation; it was only the ordinary operation of human nature. The manufacturers converted a capital, formerly employed in commerce, which had been cut up by embargoes, non-intercourse, and war, into those establishments. They partially succeeded during these times, unaided and unassisted by the Government. When war commenced, the pressure of circumstances compelled the Government to look to them for clothing for the Army. The demand was great, and they obtained a price in proportion to the demand. Do not the merchant and agriculturist adopt the same course, and yield to the same principles? When an article is scarce in the market, and the demand considerable, do they not raise the price in proportion to the exigency, regardless of the original cost of the article? If, then, the merchant and the agriculturist adopt precisely the same principle, with respect to the sale of their commodities, is it just to complain of the manufacturers for following the same course?

Your Army at present consists of ten thousand men, scattered over the whole extent of your frontiers. The expense of clothing this army, according to the estimate of the Secretary of the Treasury, is \$400,000. This sum is not large in amount, but it is to be remembered that it relates to the present Peace Establishment. The most favorable time, then, to commence this system of policy, is the present, when the demand is small, and the ability to supply it abundant. Congress may delay this measure for one, two, or three years; but the time will soon come when they will be compelled to adopt it.

Let the Senate remember that this country is not always to remain at peace. If the clouds of misfortune should again gather round the nation; if the dreadful calamities of war should become inevitable, the nation, without a prudent forecast, without a timely preparation, would again be found unprepared for the conflict. Your Army instead of ten thousand, would be swelled to the number of fifty or sixty thousand men; your expenditure for clothing, instead of \$400,000 per annum, would probably exceed \$2,000,000. It is to prepare for these great events, and large expenditures, Mr. R. said, that he was desirous to commence with zeal and firmness in the proposed system.

It is but proper to inquire what has been the course of other nations on this subject. What have been the means which have led them to power, wealth, and greatness? England furnishes a prominent example. It has been the steadfast policy of that nation not only to encourage manufactures in every possible shape, but also to clothe her armies, navies, and indeed all her people, in domestic fabrics. Edward III. laid the foundation of these principles. Before his reign all the wool in England, except a small quantity



manufactured into coarse cloths, was sold to the Flemings, and manufactured by them. The Flemings returned the manufactured cloth, after having had the benefit of its increased value by the manufacture. Edward soon discovered the mistaken policy of the nation, and invited the Flemish weavers to settle in his country. The exportation of wool was prohibited; no foreign cloth could be imported, under pain of forfeiture; an ordinance was passed, that no person in the nation should wear foreign manufactures, the royal family excepted. This encouragement, so decisive and efficacious in its character, gave new life and vigor to productive industry—promoted individual as well as national wealth, and gave a total change to enterprise and commerce. Before the establishment of manufactures, the English carried on but little commerce; they owned but few ships or vessels; every article was brought to them by their more fortunate and enterprising neighbors. Foreigners gathered all the profits arising from a supply of their wants. But, when they changed their policy, what mighty effects were produced! From small beginnings they have become the most great and powerful nation on earth.

There is another consideration that ought not to be overlooked. The present object of the British Government is to render themselves altogether independent of the United States, as regards their customary supplies of cotton. This article is the staple of the South. England at present furnishes a demand for it, and that too at a very high price; but England is using her utmost exertions to obtain her supplies from other countries. She is already furnished with large quantities from her East India possessions—from South America and the West Indies. These sources of supply will be encouraged and cultivated at the expense of the United States. They are already rapidly increasing upon us, and will continue to do so until their competition will seriously affect, and finally destroy, our market in that quarter altogether. If, then, this is the object of Great Britain, and she is hunting out new sources for the raw material, with which to supply her manufactures, it becomes the imperative duty of this Government to adopt such a policy as shall countervail her regulations, and furnish a market at home for the cotton of the South.

Mr. R. said he would not longer detain the Senate on this subject. The view he had taken, he said, was a hasty one, but he believed it was correct. The operation of the principle for which he contended, would be more extensive and more useful than might at first be apprehended. Sustain your manufactures while you have them in existence, and suffer them not to fall and perish through the means of a cold and languid policy. Cherish them as the sources of your wealth, your safety, and power. The purchase of foreign cloths throws the balance of trade against the nation; it is a growing and ruinous calamity. Let the Government, then, as far as possible, break down this destructive sys-

tem, which is rendering the nation bankrupt, and destroying its healthful energies. Instead of expending \$400,000 for the purchase of foreign cloths for the use of the Army, retain it at home—place it in the hands of your own countrymen, and build up your own manufactures. The effects will be beneficial—the example worthy of the nation.

On motion by Mr. TALBOT, the further consideration of the subject was postponed until Friday next.

#### TUESDAY, JANUARY 12.

Mr. ROBERTS presented the memorial of the Religious Society of Friends, in Pennsylvania, New Jersey, Delaware, and part of Maryland, representing the condition of the Indian tribes, and praying for their improvement; and the memorial was read, and referred.

Mr. ROBERTS presented the petition of Alexander McCormick, of the City of Washington, praying indemnity for losses sustained by the destruction of his property by the invading enemy in August, 1814, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. KING presented the petition of Nathan Ford, of the State of New York, praying compensation for property lost during the late war with Great Britain, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. CRITTENDEN presented the petition of Jacob Purkhill, of Kentucky, praying compensation for the loss of a negro man, pressed into the service of the United States, during the late war with Great Britain, as stated in the petition; which was read, and referred to the same committee, to consider and report thereon.

Mr. NOBLE presented the memorial of a number of the inhabitants of the States of Ohio and Indiana, praying the extension of the time allowed for payments of public lands, for reasons stated in the memorial; which was read.

Mr. STORER presented the petition of John A. Dix, a lieutenant in the Army of the United States, praying compensation for extra services, as stated in the petition; which was read, and referred to the Committee on Military Affairs.

Mr. ROBERTS presented the petition of John Haslett, of the city of Charleston, praying the remission of penalties by him innocently incurred on the importation of thirty-six puncheons of rum in the brig Margaret, Captain Halm, from Porto Rico, in July, 1812, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. BERRILL, from the Committee on the Judiciary, to whom was recommitted the bill prescribing the mode of commencing, prosecuting, and deciding, controversies between two or more States, reported the same with amendments; which were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Clark,

made a report, accompanied by a bill for the relief of John Clark; and the report and bill were read. The bill passed to the second reading.

Mr. TICHENOR submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate, a statement, showing the measures that have been taken to collect the balances stated to be due from the several supervisors and collectors of the old direct tax of two millions. Also, a similar statement of the balances due from the officers of the old internal revenue, and to designate in such statement the persons who have been intrusted with the collection of said debts, and the sums by them respectively collected, and the time when the same were collected.

The bill to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, was read a third time, and passed.

Mr. MORROW, from the Committee on Public Lands, reported a bill providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the motion of the 11th instant, for information touching our relations with the Government of the island of Hayti; and agreed thereto.

The Senate resumed the consideration of the motion of the 11th instant, for information in relation to the business depending in the courts of the United States; and the same having been modified, the further consideration thereof was postponed until Monday next.

The bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans, was read the second time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 5th instant, requesting me "to cause to be laid before it a statement of the effective force composing the Military Establishment of the United States; also, a statement of the different posts and garrisons, at and within which troops are stationed, and the actual number of officers, non-commissioned officers and privates, at each post and garrison respectively; also, to designate in such statement, the number of artilleryists, and the number and calibre of ordnance, at each of the said posts and garrisons," I transmit a report from the Secretary of War, which, with the documents accompanying it, contains all the information required.

JAMES MONROE.

JANUARY 11, 1819.

The Message and accompanying documents were read.

The bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was read the second time.

The bill supplementary to the acts concerning the coasting trade was read the second time.

The Senate resumed, as in Committee of the Whole, the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed to, and made the order of the day for, tomorrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon.

On motion, by Mr. NOBLE, to amend the bill, by inserting, after the word "States" in the tenth line, the following:

"And that, on the instalments which are or may become due before the 31st day of March, 1820, interest shall not be charged, except from the time they became due until paid; but, in failure to pay the said instalments, on the said 31st of March, 1820, interest shall be charged thereon, in conformity with the provisions heretofore in force, from the date of the purchase."

It was determined in the negative—yeas 7, nays 29, as follows:

YEAS—Messrs. Edwards, Morril, Noble, Ruggles, Taylor, Thomas, and Williams of Mississippi.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Forsyth, Gaillard, Goldsborough, Hanson, Horsey, Hunter, Johnson, King, Leake, Leake, Macon, Mellen, Morrow, Otis, Roberts, Sanford, Smith, Stokes, Storer, Talbot, Tichenor, Van Dyke, and Williams of Tennessee.

And no amendment having been agreed to, the bill was reported to the House; and ordered to be engrossed, and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Thomas Hall Jervey;" a bill, entitled "An act making appropriations for the military service of the United States for the year 1819;" and also a bill, entitled "An act for the relief of Daniel Moss;" in which bills they request the concurrence of the Senate.

The said bills were read, and passed to the second reading.

The PRESIDENT communicated a report of the Commissioners of the Navy Pension Fund, containing statements in relation to that fund, made in obedience to the "Act for the better government of the Navy of the United States;" and the report was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed, in the late war;" and the further



SENATE.

Organization of the Courts.

JANUARY, 1819.

consideration thereof was postponed until Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel H. Harper;" and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Doctor Mattrom Ball," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the bill was reported to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

#### ORGANIZATION OF THE COURTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges.

Mr. SMITH said, the Senate had been kind enough to indulge him with a postponement of this question, when it was last before them. As he was a member of the committee who reported the bill under consideration, and had entertained a different opinion from the other gentlemen on that committee, as regards the propriety and expediency of this change in the judiciary system of the United States, he would beg leave to offer some remarks upon it.

One prominent ground upon which this change is contemplated, is the immense distance which some of the circuit judges have to travel to the City of Washington. This place is not consecrated to the courts. They can as easily be held at a central point, by which the distance the several judges will have to travel can be better equalized. And he saw no reason why they should be confined there, and compel some of your judges to travel a thousand miles, whilst others did not travel one-tenth of the distance; and this, too, whilst much of your wealth, population, genius, and learning, were going from the worn-out and sterile fields along the Atlantic, and its vicinity, in which Washington itself was included, to inhabit and cultivate the immense tracts of rich and productive lands to the West, from a source whence you may calculate on a considerable portion of your lawsuits to spring.

Sir, the bill before you provides for a supreme court of appeal, to consist of seven judges, until two of the present number shall go off, by death or resignation. It is thought the present number is too unwieldy; that five are a more appropriate number; and it is argued, if you add two more to the present number, the system will be still more unmanageable.

If two are added to take the Western States, as the amendment proposes, all the circuits can be easily attended, and probably seven out of nine, will always attend the Supreme Court. But, if the whole nine should attend, it would appear, sir, that no unfavorable apprehensions ought to be entertained. These judges, whilst they hold their seats under the present system, ought to be practical men. They will be useful in bringing together their aggregate knowledge of the various rules of practice from the different States, and will give that universality to the decisions that is essential to every rule of law. Besides, if anything can be drawn from experience in England, from whence we have derived many of our rules and maxims, we shall find that nine is a moderate number. In England there are twelve judges, all of whom are practical men, attending the circuits, and hearing causes in the first stages, and then associating together to hear them upon review. And in all important cases the twelve judges sit together. The last resort is an appeal to the House of Lords, and when that is the case, in addition to that numerous body of more than one hundred, the twelve judges are usually called in to aid in the decision. This accumulated wisdom is never thought unwieldy in that country.

Mr. S. observed, that one great objection to the amendment proposed by the gentleman from Virginia, (Mr. BARBOUR,) was the great number of district judges, and their inadequacy to try important cases. Sir, these district judges, if the diminishing system had begun there, would have been much more easily reduced than your circuit judges. The former must either starve or resign, and look for some other employment, unless you make better provision for them than has been heretofore done. Some of the district judges are now doing as arduous duties as your circuit judges, and receive but a thousand or twelve hundred dollars for a salary. If these judges are unequal to the discharge of their duties, the earliest possible measures ought to be adopted to get rid of them, and the system ought to be modified so as to crumble them away, or they ought to be put on a respectable footing, and men appointed, in future, of respectable talents, to whom the public business may be with safety confided. There ought to be no secondary judges. The cause of three hundred dollars is often as important to the parties litigant, as one of a far greater amount is to a rich man. What is justice to a rich man, is justice to a poor man. But the bill now under consideration, does not propose an abolition of the district courts; they are to remain untouched, and the district judges are to sit with the circuit judges; so that the eight circuit judges, to be appointed under this bill, are to be in addition to all the judges, both district and supreme, now existing, and no provision made for lessening the number of district judges in future. The more simple a judiciary system is, the greater are the chances for justice, and the more hope of purity in the system.

Mr. S. said, we had heard that the judges of the Supreme Court were now advancing in life,

JANUARY, 1819.

Organization of the Courts.

SENATE.

and ought to be relieved from the duties of the circuit, and left to the more important duties in the supreme court of appeals. He had himself every possible respect for the judges, and, if it appeared that higher salaries were necessary, let them have it. But, heretofore, they had no ground to complain. The salary had been considered, until very lately, an adequate compensation. It was so much so, that, whenever a vacancy happened, there were immediate applications, and a competition for it. There was a time when nature pointed to repose; and it was not to be doubted, unless in rare cases, that, when the body fails, from age and infirmity, the mind becomes enfeebled too; and you have no other mode to test this principle, but by that active course which your judges were obliged to pursue under the present system. If you sit them down at their ease, in the decline of life, they will soon forget the maxims of law, if they should not the grand principles of justice. And the maxims of law are the law, and must be retained by a judge, if you expect to keep the rules of law equal and permanent.

Suppose a judge becomes superannuated; if you take him from his labors he has nothing to admonish him to retire. He, most probably, will be the last man to feel the imbecility of his mind; and how are you to get rid of him? You have already had some experience of this sort. One of your judges became insane, and you had no alternative but to impeach him. Some of the States have had experience of this sort likewise, and have been tortured for expedients to relieve themselves from the infirmities of age and imbecility.

The Senate has heard complaints from no quarter but the Western States. The relief offered by the amendment will be fully sufficient to put them on an equal footing with the other States. This relief to the supreme judges was first brought into view by Mr. President Madison, in his Message to the last Congress during his administration. With every regard for the great political information and experience of that venerable patriot, it is to be recollected he was not a practical lawyer. Borne down, himself, by the fatigues and duties of a life devoted to the public service, and languishing for retirement, he seems to have transferred his feelings to the judges. Such a sympathy was natural, especially in the halcyon days of his Administration. But the life of a judge is a life of labor; it is the character of the station; and whenever he becomes unfit to bear the labors, he becomes unfit to discharge the high duties attached to it. The State of New York has given us a valuable lesson on this subject. It has limited the tenure of office to sixty years. At that age a judge is compelled to retire. Look at their decisions, as given to us in their books of report; they are inferior to none in this country, or perhaps any other in the world. They are the fruits of vigorous minds not yet impaired by age and infirmity.

Sir, in a country like this, it is of some importance that your judges should ride the circuits,

not only to become practically acquainted with the different rules that govern the decisions in the different States of the Union, but that they may not forget the genius and temper of their government. Adopt the system now before you, and your supreme judges will be completely cloistered within the City of Washington, and their decisions, instead of emanating from enlarged and liberalized minds, will assume a severe and local character. This will not apply to the honorable gentlemen who now fill your bench with so much ability, but it will result from the system, and from human nature.

The increased duties which are intended to be imposed on the circuit judges, to be appointed under the provisions of this bill, will in nowise render the station of a circuit judge less laborious than what falls to the lot of each of the present circuits, including their travels to Washington, and duties there. Only take a view of the present circuits, and compare them with those that are to be substituted, and the thing will be manifest. So it is only enlarging the number of your judges, without diminishing the duties in the same proportion; and this is contrived by associating the district judges, who have heretofore given general satisfaction alone, with the circuit judges now to be created by this bill.

Mr. S. said, he would now examine into the present system, and see if it employed the judges as constantly as had been alleged. The judges had made no representation of overgrown dockets from any of the Atlantic States. It has been represented by the gentlemen from the Western States, that they must have another judge there, and two are offered them by the amendment. No data had been given upon which you would ground a supposition that the business had recently increased. He had hoped that the resolution offered a few days ago, by the honorable gentleman from New York, (Mr. SANFORD,) would have superseded the bill, for the present at least. The object of that resolution was to obtain, before the next session of Congress, an official return from all the circuit courts in the United States of the number and character of the causes depending in each. This would satisfactorily show the necessity or impropriety of an augmentation of your judges. If the state of the business of the courts did not require it, it would certainly be an incautious policy to make it.

There was one evidence, that there was no great pressure of business, given by the judges themselves. One of them had turned historian, and had written the history of his country in five large volumes, which would redound to his imperishable honor, and the unspeakable advantage of his countrymen. It now adorned the library of every man of science. It is said that Gibbon, the celebrated historian, was incessantly engaged for twenty years in writing the history of the decline and fall of the Roman Empire, which is but a little larger than this. Surely, then, the honorable judge could not have been oppressed by the duties of his office, or he could never have found



time to have written so elegant and voluminous a work.

But, sir, to come down to the present time, we find the same evidence existing now. It is not a secret in the literary world, that another honorable gentleman of the Supreme Court is now engaged in collecting materials for, and writing the history of, the late General Greene. This is not mentioned as anyhow objectionable on the part of these gentlemen; but, if they have time to indulge in such extensive works of genius and taste, it was an unqualified proof that they had much leisure from their professional duties.

If he could be permitted to compare the State courts to the supreme courts of the United States, he would take the liberty to mention the judiciary of New York. In that extensive State, they had about sixty circuit courts. They had but five judges to do the duties in these courts. The riding of the judges was as extensive as that of any of your supreme judges. You have one court of appeal in the year; the judges of New York hold two courts of appeals in the year. In addition to this, they formed a committee of revision, and, in that character, had to attend a long session of their Legislature every year, and inspect all their bills before they passed into laws. In short, their labors were at least four times as great as that of our supreme judges.

The honorable gentleman from Massachusetts (Mr. ORRIS) was a member of that Congress which passed the act in 1801, modifying your judiciary pretty much after the manner of the one under consideration. That was a little more enlarged than this. It was then urged that there was an imperious necessity to augment your judges, which was done to the number of sixteen. This was under the Administration of Mr. President Adams. Before the next succeeding session of Congress Mr. Jefferson came into office, and he procured an official statement from all the courts in the United States, of all the causes, of every description, which had been commenced or prosecuted from the commencement of the Government up to November, 1801, including eleven years. The whole of the causes, criminal, civil, and equitable, in all that time, did not amount to nine thousand. And the number of suits commenced in the District of Maine during that eleven years was only nine, and but three of them remained undisposed of. Sixteen additional circuit judges were appointed to aid in this mighty work. More than four thousand causes have appeared on the docket, at one court, in the city of Charleston, which is half the number that were in all the courts of the United States for eleven years; and the judges of the State of South Carolina had twenty-seven circuit courts to attend besides Charleston. This is a fair comparison of labor. However, the succeeding Congress, after a protracted and warm debate, repealed the law, and the new created judges sunk with it. The same honorable gentleman (Mr. O.) has shown an equal zeal upon this occasion; and there is little question but that he is as much

mistaken in his calculations now as he was then, if he had the same means to test it.

There was much party spirit displayed in the appointment of the judges, which have been so emphatically called Mr. Adams's midnight judges. He appointed them in the last hours of his Administration, and the whole sixteen of them were Federal. As this office had been created, and as no member of Congress could be appointed to office who had been a member at the time of its enactment, such gentlemen as wanted to go from Congress to a seat in the courts were nominated to be district judges, as that office had been created before, and the district judges which they were appointed to succeed were promoted to circuit judges. Some of those would not accept the promotion, and the offices to which they had been appointed became vacant, of course, and were filled by appointments made by Mr. Jefferson; among which there was not one but what was of the opposite politics. When this system was abrogated, some of the circuit judges, who lost their offices, did not hesitate to accept of the appointment of district judges, and have held the office ever since. This at least proves that all your district judges were not appointed from men of inferior legal learning.

Mr. S. said it was worth while to take a different view of this subject, and to examine if there were not very strong reasons to conclude that your United States courts, and especially those to which you were about to give such an increase of judges, could never have a great deal of business. By the Constitution, their jurisdiction is very limited, except in maritime and admiralty cases; and these were by law exclusively given to the district courts. The district courts also take cognizance of all crimes and offences, where no other punishment than whipping, not exceeding thirty lashes, is inflicted, or where the fine does not exceed one hundred dollars; or where the punishment is by imprisonment, not exceeding six months. This diminishes down the jurisdiction of the circuit courts, in criminal cases, to a mere shadow. The district courts have likewise the exclusive jurisdiction in all cases of seizures by land or on rivers. And the district courts have concurrent jurisdiction in almost every other case, under the limited jurisdiction given by the Constitution to the United States courts.

In addition to this, the Congress have condescended to give by law to the county and State courts, established by the State authorities, only a concurrent jurisdiction in all cases for taxes, for duties, for fines, for penalties, and for forfeitures; and that to any amount. This would show that in this great division and distribution of jurisdiction, there is but very little left for the circuit courts. Besides, in all cases of common law, and there are very few of any other character in the courts of the United States, the courts under State authority have jurisdiction likewise; and very many who might bring their suits in the courts of the United States, prefer the State courts. There is every reason for doing so.

There is generally an earlier decision; and, notwithstanding the distinguished talents employed in the United States courts, there is, perhaps, as much in many of the State courts. Two of the gentlemen that now fill your Supreme Court were taken from the State courts, one from South Carolina and the other from New York. There are many other instances. Judge Rutledge, who was inferior to no man in legal talents, was taken from the State courts of South Carolina by President Washington, and appointed Chief Justice of the United States. His appointment was not confirmed by the Senate, it was true, but it was said to be on account of some political feelings that sprung from his opposition to the Treaty with Great Britain. But he was, nevertheless, a great man, and equal to the discharge of the duties of that high appointment.

Mr. S. said, independent of all these incontrovertible facts, there were other strong circumstances to induce a belief that the causes for litigation were decreasing, and with them litigation itself. In all the old States almost all the titles to lands were now put beyond doubt. They have either been settled in a legal way, or the parties have become more circumspect as regards their land titles, as that property has increased in value. In the new States, and the Territories now settling, the lines were so distinctly marked that they were visible to every man who rode through the woods. And no eluding titles could occur, as they were derived by a sale immediately from the General Government, and did not depend upon the old practice, of every man going into the woods and surveying for himself; and oftentimes two or three surveying the same tract. Your laws are all repealed that imposed internal taxes and duties. No causes can arise from that source.

But, sir, there is another cause more powerful still, and which in the most of cases on contract, and especially in all the cities and towns, and many other places, has almost superseded the courts of law. It is the banks. They are sovereign. Their language is the language of energy. Although they care very little about paying their own debts, and when it becomes necessary they suspend payments in specie, and nobody to say them nay, yet, the very moment the day of grace is past, they send the paper of the best man in the community to a notary public; it is there protested in solemn form, and he is as fast bound as if he was transfixed by a spear. This is now the medium through which merchants collect their debts. They cannot wait the ordinary process of law, and submit to the doctrine of imparlance, a term derived from the Scriptures. This would produce delay. The common law course is tedious throughout. It is not so in the banks; everything must yield to them. There is no more credit given to a merchant, mechanic, or any other person who comes within their sphere, if he is behind with the bank. He is pointed out—he has failed! To avoid this dire calamity, everything must give way. The debtor sells his beds, his plate; his goods are rolled off to the

15th CON. 2d Sess.—5

vendues, "and must be sold positively." From all these considerations, he said, he should vote for the amendment, because it presented to his view the most eligible alternative.

Mr. LACOCK said, that he rose to offer his objections on the bill before the Senate under circumstances peculiarly embarrassing and discouraging. The bill had been reported by the Judiciary Committee, composed of gentlemen of the first legal talents in the Senate, perhaps in the Union. For himself he boasted of no such talents; he assumed not the character of a lawyer; he had generally acquiesced in questions of minor importance and mere judicial regulation, in the opinion of those whose pursuits in life gave them a better opportunity of judging than himself. But this was a very different question. It proposed a new organization and modification of the judicial powers of the Government, that vitally affected the interest of the nation. He therefore thought it his duty not to give a silent vote on the occasion, and begged the indulgent ear of the Senate while he attempted to point out what appeared to him radical defects in the system proposed.

Mr. L. said he objected to the bill, in the first place, because, instead of strengthening the bench of the Supreme Court of the United States it weakened it. In the second place, it subjected the judges of that court, by locating them in the City of Washington, to dangerous influences and strong temptations, that might bias their minds and pollute the streams of national justice. These positions, Mr. L. said, he should endeavor to demonstrate. It would be admitted, said Mr. L., that this court possesses powers, legitimately granted by the Constitution, of the most extensive and important character. It had been urged by the chairman of the committee, Mr. BURRILL, as a reason for the passage of the bill, that the business in the courts of the United States had vastly increased, and would continue to increase and magnify in proportion to the increased population and wealth of the nation; and yet, notwithstanding this acknowledged increase of important duties, the bill reported by the committee, that state those facts, proposed to reduce the number of judges from seven to five, thus diminishing at one blow near one third of the mental and legal strength and character of the court. Does this, said Mr. L., appear like improving your system of jurisprudence, and adapting it to the increased exigencies of the nation? But this, said Mr. L., is not the worst feature in this system—you not only propose to diminish the number of judges, but you destroy, or very much, at least, impair the efficiency and usefulness of those who remain on the bench. We are told that these judges are to be men advanced in years, that it is necessary to relieve them from the labor incident to a discharge of their circuit duties in the States, and, therefore, provision must be made for their convenience. I fear, said Mr. L., that gentlemen have consulted more the ease and convenience of the judge than the benefit of the nation, and that this bill will suit the judge bet-



ter than the people. So soon, said he, as you cut off the judge from his circuit duties you destroy half his worth—it is there his mind is enlightened and his judgment informed—it is the discussions at the bar, the collision and struggle of genius and talents, that elicits the spark that illumines the darkest subject, and discovers the road to a correct decision. Were it not for this the wisest judges would frequently grope their bewildered way in vain, and never arrive at the temple of justice! But this, said he, is not all the advantage derived by judges in the discharge of their circuit duties, particularly in the trial of titles to lands granted under State authorities. To have a knowledge of those cases involved in extreme doubt and difficulty, it is indispensable that the judge should be intimately acquainted, not only with the numerous laws under which the grants are made, but the customs and common law usages of the section of country where the land lies. All those advantages are overlooked and disregarded by the bill before you; and we are called upon to acknowledge and believe that those judges will, when appointed, be put in possession of immaculate purity, of intuitive wisdom, and supernatural intelligence. How else, said he, could you expect them to discharge the duties imposed by this measure? They are to be deprived of the means of obtaining information—every motive or inducement to application, industry, and exertion, is taken away or greatly diminished. Hard thinking was unpleasant and arduous. No man would labor without a pretty strong moral necessity for so doing. Take away that necessity, and the exertion ceases. This bill takes away, said he, the inducement, and the necessity will cease with it, and the laborer be no longer worthy of his hire. These, Mr. L. said, were not mere speculative opinions; they were deductions and results drawn from the character of the creature, man, after analyzing his nature, and discovering the secret springs by which volition and action were produced. They applied to all men in all situations, but most strongly would they be found to operate on the conduct of the judge. He held his office by an almost irresponsible tenure; he was to have an ample independent salary; he was to be located in the City of Washington. Thus, in old age, you invite him to take his ease and comfort; and, my word for it, said Mr. L., you will not be disappointed.

But, said Mr. L., by this organization of your judicial system, the Supreme Court will be the weakest part of the whole establishment. The circuit courts, respectively, and the bar generally, will possess more legal talents, and, of course, weight of character, than the Supreme Court that are to decide in the last resort. Let me not be told, said Mr. L., that every subject will receive a full and fair examination and discussion on its merits in the court. Nothing short of a miracle, said he, under this system could make it so. You will have not only your judges, but your attorneys confined to the City of Washington. The judges are to be old men when ap-

pointed, and the infirmities of old age will every day increase, and as the useful and vigorous faculties of their minds diminish, in the same proportion will their obstinacy and vanity increase. Old men are often impatient of contradiction, frequently vain and susceptible of flattery. These weaknesses incident to old age will be discovered and practised upon by the lawyer willing to make the most of his profession, and located in the same city, holding daily and familiar intercourse with the judge. And thus, said Mr. L., your court may become subservient to the Washington bar. The judges, bowed down by the weight of years, will be willing to find a staff to lean upon; and the opinion of the Washington bar is made the law of the land. A knot of attorneys at or near the Seat of Government having gained the ear, and secured the confidence of the court, will banish all competition from abroad.

For the truth of this position, Mr. L. said, he would appeal to the professional gentlemen around him, particularly to those of Kentucky, who seemed anxious to adopt the measure proposed—the adoption of which might deprive that State of the talents and usefulness of a judge on the bench of the Supreme Court, so soon as Judge Todd should leave it. And with what painful reflections and awful forebodings, said Mr. L., would a Kentucky lawyer enter this court? No man that had heard the cause argued at home—no man personally known to him, and on whom he can rely for official integrity, is seen on the bench. Like a stranger in a strange land he feels his situation comfortless and gloomy. He takes his solitary seat at the bar—he views the court as belonging to the same family, and almost identified with the great Crown lawyers that are to oppose him; and thus with fear and trembling he approaches the cause of his client, doubting and half believing that the cause has already been prejudged by the bench, or that the weight and influence of legal talents will stifle the calls of justice; and should an observation drop from the bench during the discussion to confirm his doubts, he abandons, as desperately hopeless, the cause of his client, however just. This, said Mr. L., would be a deplorable state of things. But, said he, adopt this system, (thus subject to abuse,) and the state of things takes place sooner or later. The distributive justice of the nation may be subjected to the control of a combination of Washington lawyers. The inquiry will be by the people, not the merits of the cause pending in court, but what attorneys are employed? Have Mr. Wirt and Mr. Pinkney been secured? If they have, the result cannot be doubted. Mr. L. said he mentioned those gentlemen to illustrate the subject merely, and meant no personal allusion to the gentlemen named. They were upright and honorable men, for whom he felt the highest esteem. Neither did he wish to be understood, in anything he had said or should say, as alluding to the present judges of the Supreme Court. They, too, he believed, were wise, upright, and honorable men, and he wished to keep them so;

and not by the adoption of this system to tempt and invite them to be otherwise.

It was, however, Mr. L. said, due to himself to state, that he was not one of those who subscribed to the perfection and infallibility of the judicial character; he had, by long experience, found that judges, and lawyers out of whom they were made, were very much like other folks; he did not believe the profession calculated to make them better; he would be sorry to say they were worse than other men: neither did he believe that taking a man from the usual pursuits of life, or even from the grand councils of the nation, and placing him on the bench of the Supreme Court, was likely to change his character for the better, or that wrapping his limbs in a silken mantle, to excite the gaze and admiration of the ignorant, would add any thing to his stock of legal knowledge, and improve his understanding. The truth is, he would still remain a poor, imperfect, feeble being, clothed with all the infirmities, and liable to all the frailties of human nature. It was the duty, said Mr. L., of the lawgiver to guard society against the abuses of power, wherever it might be lodged. He had endeavored to prove that judges, like other men, were liable to commit errors and crimes, and to abuse the confidence reposed in them. To prevent such abuses, it was necessary to remove the judges as far as possible from every source of political temptation. He did not wish to see the judges imbedded in the city of Washington, another appendage to the Executive authority; he wished them identified with the people of the nation, domiciliated in the different States, and called together as a court in bank as often as the nature of the case required.

It could not be denied, said Mr. L., that there had been, and he supposed always would be, two great political parties in this nation. It is true, said he, it is said this is the era of good feelings, that we now enjoy a calm; but it might be found a delusive one, and such as usually precedes a tornado in the South; at all events, we could not expect those halcyon days would forever last: he therefore took it for granted that the people would be divided into two great political parties; one he would call (for the sake of distinction, and not to revive party feelings which had so happily subsided) the aristocratic, and the other the democratic party. The struggle between these two great parties will be unceasingly and vigorously maintained, particularly in the popular branch of the legislature, and of course throughout the nation. The Executive will consequently belong to the party that may happen to prevail at the time of his election; but not so with the judges. It is not uncharitable to conclude that they, from the independent tenure of their offices, the distance you remove them from the control of the people, would naturally incline to the aristocratic party. Taking this to be the fact, Mr. L. said he would illustrate the subject by supposing, hypothetically, that the party now out of power should regain their ascendancy and elect a President suitable to their wishes; that this Pre-

sident, with a willing or subservient Congress at his back, should determine to perpetuate his power and the duration of a system of misrule and tyranny, by the passage of another sedition law, muzzling the press and sealing the lips of inquiry by the threatening horrors of a dungeon. But, I shall be gravely told, said he, there can be no danger; that an independent judiciary would declare the law unconstitutional, and rescue the citizen from Executive oppression. And to whom do gentlemen look for this relief? What mighty arm is to interpose between the humble citizen and an enraged Executive, struggling with the convulsive grasp of death to retain abused power? Why, said Mr. L., the bill before us answers the question; it declares the Supreme Court shall consist of five judges, any three of whom shall constitute a quorum; and of course two judges, being a majority of a quorum, are made competent to decide this or any other question. And how, said Mr. L., can gentlemen flatter themselves that a decision made by two or three judges, on a question of this magnitude, would give general satisfaction? The question he had stated was one of vital interest to the nation. It would be a decision of political life or death to an ambitious President and his associates. Could it be believed that Executive influence would not be brought to bear on the subject? Would the dazzling splendors of the palace and the drawing-room have no charms for judges in the immediate neighborhood? Would the flattery and soothing attentions of a designing Executive, aided by a powerful cabinet, be lost and entirely unavailing? I fear, said Mr. L., they would not. It would be almost in vain to hope for a favorable result to the cause of justice and freedom under such adverse circumstances.

Mr. L. said, further to illustrate the subject, he would mention a recent occurrence, to show how likely it was that judicial officers would concur with our Executive in political opinions. As early as 1795 an act was passed, (agreeably to Constitutional provisions) authorizing the President to call upon the Governors, or any militia officers of the respective States, for such portions of the militia as he deemed necessary to repel even a threatened invasion of the country. Under this law, in the late war, the President of the United States called upon the Governor of Massachusetts for his quota of militia. The Governor refused to comply with the requisition, alleging that it belonged to the State authorities—that it was left to their directions to say whether the necessity existed or not, that was to justify the calling forth the militia. The Governor, however, determined to lay the subject before the judges of the Supreme Court of Massachusetts. A majority of them were convened, and they unanimously and solemnly decided that the Governor was right in disregarding the orders of the President, issued in strict conformity to the Constitution and laws of the United States. He would not charge, Mr. L. said, the Governor nor the judges, in this case, with wilful corruption. Motives so base ought not to be imputed



to the officers of a sister State; but, he must believe they acted under the influence of the strongest political delusion. With their motives, however, he had nothing to do. It was sufficient for him to state the fact, for the purpose of showing with what facility the judges may be brought to act in accordance with the political views of the Executive.

Mr. L. said he felt a strong repugnance to that part of the bill that invited the judges to make Washington the seat of their settled residence. This Government was emphatically called that of the people. Its existence depended on the all-powerful influence of public opinion. The affection of the people for the Government and its functionaries, is the cement, the adhesive quality that binds the nation together. Dissolve this, and all is lost. How necessary then, said Mr. L., is it that you should secure that affection. To do this, as relates to the judicial branch, it is necessary that they should be domiciliated in the different sections of our country; that they should perform circuit duties; that, as citizens of the State in which they live, they should feel a sacred regard for State rights, and that, as men, they should mingle with the great family of the American people, securing their esteem by social and friendly intercourse. By this means, said he, your judges, when they come together, would not only be better qualified to discharge their important functions, but would bring with them the confidence and esteem of the nation.

Mr. L. said that, it appeared to him, the committee who reported the bill had not considered, with their usual sagacity, its provisions, nor the vast and almost unlimited province of the court to be established. They had wrought on a small scale, as if providing for the administration of justice in a town corporate, or a single county. They surely had not considered that this court of two, three, or at most, five judges, held in their hands the political destinies of this mighty nation; and yet, said Mr. L. a single decision, if acquiesced in, and such a decision as was made by the Massachusetts court, would unbinge the whole system, and its demolition would follow, as if by the magic wand of enchantment. This court, said Mr. L., beside the powers specifically granted by the Constitution, is said to possess the power to declare such laws void as they may consider unconstitutional. This extends as well to the State laws coming within their cognizance, as to the acts of Congress. Against the right to exercise this tremendous power, I have, said he, feebly protested, when it has been asserted on this floor; but the right has been exercised by the court, silently acquiesced in by the nation, and often conceded in this Senate. This goes far, said Mr. L., to establish its legitimacy, and he would, for the sake of argument, so consider it. In this point of view, then, said he, the subject becomes still more imposing. This is not a court clothed with ordinary powers for the purpose of distributing justice between man and man, and the punishment of offenders against the laws, nor is its jurisdiction confined to controversies between the in-

dividual State sovereignties; but this august tribunal is the grand revising council of the nation, with the power of an absolute veto on the laws passed by Congress. In short, said he, this court is to decide the extent of legislative authority under the Constitution. And did gentlemen wish the judges to be on the spot, that they might be conveniently consulted as to what bills should be passed and what rejected? If so, he confessed the bill on the table would answer their purpose. But for his part, Mr. L. said, considering the extensive and important powers lodged in this court, he could wish to see the number of judges increased instead of diminished. He never would consent that the right of Congress to call forth the militia for national defence, the liberty of speech and of the press, with other questions of vital interest to the nation, should be submitted to the judgment of any two men, and they, perhaps, rendered imbecile, impotent, and almost torpid with age and infirmity.

Mr. L. said, as there were many gentlemen in the Senate much further advanced in life than himself, he would not undertake to advise or admonish them; but his duty compelled him to beseech and conjure them to reflect, and pause before they passed the Rubicon of error. If, he said, this measure, be adopted, he should be almost willing to agree with the gentleman from Massachusetts, (Mr. Otis,) that we were treading in the footsteps of a former Administration, that had been put down by an offended nation, and, like them, said he, we should deserve and receive the same reward.

When Mr. L. had concluded, the further consideration of the bill was postponed until tomorrow.

#### WEDNESDAY, January 13.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act authorizing the Corporation of the City of Washington to open and extend certain streets," reported the same without amendment.

Mr. RUGGLES presented the petition of Abalom Litt, praying the passage of an act to enable him to enter a section of land, in lieu of one erroneously made, as stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. EATON presented the petition of William Langston, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Richard Bland Lee, made a report, accompanied by a resolution that the prayer of the petitioner cannot be granted. The report and resolution were read.

The Senate resumed the consideration of the motion of the 12th instant, for information in relation to the measures that have been taken to collect the balances stated to be due from the

several supervisors and collectors of the old direct tax of two millions, and of the balances due from the officers of the old internal revenue; and agreed thereto.

The bill for the relief of John Clark was read the second time.

The bill entitled "An act for the relief of Thomas Hall Jervy," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act for the relief of Daniel Moss," was read the second time, and referred to the same committee, to consider and report thereon.

The bill entitled "An act making appropriations for the military service of the United States for the year 1819," was read the second time, and referred to the Committee on Finance.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for the distribution of Seybert's Statistical Annals; and directing Pitkin's Commercial Statistics to be deposited in the Library; and the same having been amended, it was reported to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the resolution be read a third time as amended.

The bill further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon, was read a third time, and passed.

The amendment to the bill entitled "An act for the relief of Doctor Matrom Ball," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

#### AMENDMENT TO THE CONSTITUTION.

The Senate took up for consideration, as in Committee of the Whole, the amendment to the Constitution, which provides for a uniform mode of choosing (by districts) Electors of President and Vice President, and of Representatives in Congress.

Mr. DICKERSON, of New Jersey, spoke nearly as follows:

Mr. President, at the last session of Congress I had the honor to introduce a resolution similar to the one under consideration. This I did, in obedience to instructions received from the Legislature of the State of New Jersey, which State I have the honor, in part, to represent. After a discussion of the merits of the resolution, a large majority of the Senate were found to be in favor of it, but not a majority of two thirds, and of course it was lost.

For several years past, the principle of this resolution (first adopted, I believe, in the Legislature of North Carolina) has been gaining ground, and particularly within the last year, as we may fairly conclude, from the instructions which have been recently laid upon our table, from the States of New Hampshire, Connecticut, and New York.

If there were no reasonable hopes of bringing this measure to a favorable issue, I might be fairly considered as rendering myself unnecessarily

troublesome, by agitating it at this time; but while there is a hope of success, and I think present circumstances warrant such a hope, I cannot consider myself absolved from the obligations imposed upon me by my instructions. Under this impression, and acting as well from a sense of the great importance of the subject as a sense of the duty which I owe to my constituents, I again earnestly, but respectfully, solicit the attention of the Senate to this resolution; which I should have introduced in the first week of the present session, but from a hope that some other member of this honorable body would have taken upon himself that task. As no one seemed so disposed, it appeared to me improper longer to procrastinate a measure which ought to receive a discussion before our attention is engrossed by the usual objects of legislation.

As the Senate have once indulged me with a hearing upon this resolution, it is my intention to be as brief in the observations which I am now about to make, as the nature and importance of the subject will permit, more especially on those points of argument which I had the honor to submit; for, as the subject is old and hacknied, I am sensible, and I feel oppressed by the reflection, that any observations I can now make will be considered as tedious and irksome by most of those who hear me.

The Constitution of the United States wisely provides for its own amendment, but, in doing this, it interposes such obstacles to the spirit of innovation, as not only effectually to prevent all unnecessary alteration, but, as I fear, to prevent the most salutary reform.

An amendment cannot be proposed to the States, unless two-thirds of each branch of the National Legislature concur in the measure; and when proposed, three-fourths of the States must concur before it can become a part of the Constitution; great, therefore, are the difficulties, arduous the task, and doubtful the issue, of any attempt to alter the Constitution. There is, besides, a sort of sanctity attached to this instrument, that leads many to consider it as something superhuman, something partaking of divine origin—such consider any attempt to alter it as a sort of political profanation; a sacrilege against the palladium of our liberties. In addition to this, there is a general disinclination to disturb established regulations, a species of *vis inertia*, which can only be overcome by the most pressing urgency. These are difficulties attending all attempts to alter the Constitution.

The amendment under consideration is attended with difficulties peculiar to itself. It proposes to the dominant parties in the respective States, without whose aid it cannot succeed, to give up a portion of their power. Such applications are always unwelcome, and but rarely attended with success, whether made to individuals, to States, or to political parties.

The dominant party in New York, for instance, by no means an overwhelming majority, can, under the present system, give twenty-nine votes, that is, the whole vote of the State, on a Presi-



dential election; under the proposed system of choosing Electors, their vote would be proportioned to their numbers. The same observation will apply, in a greater or less degree to the dominant parties in all the States of the Union.

It requires no small degree of patriotism, on the part of majorities, to divest themselves of the power of restraining the minorities, whom they always consider as their political adversaries. I trust, however, that notwithstanding these multiplied difficulties, the paramount consideration of the general good will prevail, and that this measure will be attended with ultimate success. Such a result, however, would be utterly hopeless in times of political rancor and party violence, when majorities always think that the public good is most effectually promoted by restraining, as far as possible, the power of the minorities, who, in such unhappy times, are always considered, and always stigmatized, as the enemies of their country.

Happily for us, the present moment is peculiarly auspicious for undertaking the proposed amendment, as there is less of party animosity now than there has been at any period since the establishment of our Government. If the present opportunity be suffered to pass by unimproved, it may never again occur; for we discover very little sagacity, if we presume that the present political calm is to be permanent, or even of any considerable duration.

This plan, of dividing the States into districts, is no new experiment; it is no innovation, whatever, upon the Constitution; it is only calculated to render permanent and uniform a regulation which has prevailed in nearly all the States, and which ought to have prevailed in all, and would have prevailed in all, by common consent, but for the disorganizing spirit of party. Whatever mode may be adopted for choosing Electors and Representatives, it is universally allowed that it ought to be uniform throughout the United States.

Under the old Confederation the Congress was considered as a representation of the States, and they voted by States. The House of Representatives is now, or ought to be, a representation of the people, and they are emphatically called the popular branch, to distinguish them from the Senate, which may still be considered as a representation of the States; and the popular branch is considered as the main stay and strong hold of the republican principles of our Government.

If the Legislature of a State should appoint their Representatives to Congress, as they do their Senators, (even if the Constitution were as vague and uncertain, in this particular, as it is with respect to the appointment of Electors,) we should consider the proceeding in the highest degree preposterous, inasmuch as it would leave to such Representatives no character of a popular branch. Yet the choosing the Representatives of a State by what is called a general ticket, in which the voice of the minority is completely merged, is equally preposterous, and generally much more so, as the people vote for candidates of whose qualifications and characters they are ignor-

ant, upon the recommendation of individuals, of whom, frequently, they know nothing, who assemble in convention or caucus, settle the fate of the election before the people are called upon for their votes, and thus pervert every principle of what we are pleased to call the universal right of suffrage.

The resolution proposes that each State shall be divided into as many districts as it has Representatives; the districts to consist of contiguous territory, and to contain, as nearly as may be, an equal number of persons entitled to be represented. It would be impossible to go further in this particular, without introducing too much regulation, without rendering the system unnecessarily complicated. The rule is perfectly fair, perfectly republican, attended with no difficulties, and, if adopted, will secure to all parties that degree of influence and power, proportioned to their numbers, which, in a Republic, they may fairly claim by every principle of honor and justice.

As these districts are to be altered but once in ten years, the tendency to fluctuation and change will be sufficiently counteracted. It may be thought that, as the new States are rapidly increasing, the districts should be altered more frequently, to correspond with the rapid increase of population. We must recollect, however, that altering the districts could not increase the number of Representatives or Electors to which a State might be entitled; and in any other point of view, it can be of but little importance.

Under the present system of choosing Representatives, it is the practice, as much as possible, to suppress the voice of the minorities, and this provoking tyranny is practised under the specious garb of Republicanism. In the small States, the elections take place most commonly, by what is called a general ticket. This completely suppresses the voice of the minority, and may be a representation of the dominant party, but not of the people of a State.

In the large States, the difficulties of voting by general ticket are so great, that they are induced, from necessity, to adopt some system of forming districts; but the dominant parties, unwilling to give to the minorities the weight to which they are entitled by their numbers, or anything like it, have adopted an irregular mode of districting, known by the opprobrious term of gerrymandering; by which they cut up and parcel out a State into unequal and inconvenient districts, formed, too frequently, with a total disregard of the principles of justice, the rights of the citizen, or the appearance of decency.

In what estimation can we hold the majority of a Legislature, coolly and deliberately, dividing and carving up a State into irregular districts, some large, and some small—some to choose one Representative, some two, some three, and some four, in such a manner as to suppress, as far as possible, the influence of their political opponents, taking care to have in each district, a sufficient majority of their own party to make all safe, but no more. In forming such districts, the utmost

skill and address have been observed, creditable indeed to the ingenuity, but disgraceful to the motives and the principles of the actors. I could relate many instances of outrage and abuse under this head, as I did on a former occasion; but I am unwilling to exhibit the disgusting picture. Such gross perversion of the principles of our Government, has a direct tendency to destroy all respect for our political institutions, to bring our Constitution into contempt, and to introduce into our legislative bodies no small degree of moral, as well as political, turpitude.

It may, and probably will, be said, that it is not necessary to amend the Constitution on this point, as Congress have the power to regulate the election of Representatives. There is no probability that Congress will ever exercise this power, except in cases where States wholly refuse or neglect to provide for the election of its Representatives. It is by no means clear that Congress have the power to pass a law, making it obligatory on the Legislature of a State, to divide that State into districts: and if Congress should undertake to divide the States into districts, they would find themselves involved in infinite difficulties—besides, should a State be divided without the consent of its Legislature, in a manner unaccountable to a majority of the people, it would create the greatest discontent, and be considered as a sort of State degradation.

The Convention thought proper to give this power to Congress, under an apprehension that a combination of States might embarrass the measures of Government by refusing to send Representatives to Congress. In this point of view, the provision was a wise one; but the danger against which it was meant to provide, has long since passed by, and the new States which we have added to the Union have a tendency to prevent such combinations.

Important as the proposed amendment is, as it respects the choice of Representatives in Congress, it is vastly more important as it respects the choice of Electors. In the first case, the just rights of a large portion of our citizens are constantly infringed; in the latter, those rights are not only equally infringed, but the permanency and existence of our Government is put to hazard.

To choose a chief magistrate for ten millions of people, jealous of their rights, and impatient of control, even in the best regulated system, must be attended with no small degree of danger: this danger increases with the increasing extent of our territory, and the increase of our population. What have we not to apprehend when our population shall amount to fifty millions, as it will do in a period less than that which has elapsed since the Declaration of Independence!

We are in the habit of looking with great composure upon the return of our Presidential elections; but, little as we apprehend from this subject, it is probably the rock upon which our liberties are to be wrecked. We all remember when the power of our country, perhaps the existence of our Government, hung in doubtful

suspense upon the frail breath of two or three individuals, and that from a fault in that part of the Constitution which the framers of it thought the most perfect—pleasing indeed in theory, but utterly fallacious in practice.

This amendment proposes, that each district shall choose one Elector; the two additional Electors, to which a State may be entitled, to be appointed as the Legislature thereof shall direct. This avoids the inconvenience of double districts, which would be complicated and troublesome, and it adopts the spirit of that part of our Constitution which apportions the Electors of a State, not in a ratio of its Representatives or its Senators, but in a compound ratio of both. The two additional Electors may be considered as analogous to the Senators, and the others as analogous to the Representatives. This is not a consideration of great importance, but it is a recommendation of the measure, inasmuch as it more distinctly marks this peculiar feature of our Constitution.

This will give as fair an impression of the public will as can possibly be obtained, unless, indeed, we resort to a general vote of the people at large, without regard to the limits of States or Districts. And it appoints to us a point of immense magnitude; one upon which depends the vital principle of our Constitution, and even the existence of our Government. It secures to us, that the President of the United States shall be elected by a majority, and never by a minority of the people.

Upon a calculation of chances, the probabilities of a fair expression of the public will are increased by dividing the States into districts, and in the ratio of the number of districts to the number of States. It is true, the minority in the respective districts would be suppressed; but as the minority of one which might be suppressed in one district, would probably be balanced by the suppression of the minority of the other party in another district, the general result would be a fair expression of the public will. If, in the State of Massachusetts, we suppose the political parties which now exist, or hereafter may exist, to be about equally divided, an election by a general ticket would, of necessity, entirely suppress the voice of the minority—but if the State were divided into twenty districts, as it would be by the proposed amendment, such a result would not happen once in a thousand elections. It would be an equal chance that the Representatives so chosen would be as their constituents, about equally divided. If the parties were as one to two, it would be an equal chance that the representation would be in the same ratio; but these points are too clear to need elucidation.

Besides, the distinct system will place insuperable barriers to the intrigues of ambitious individuals, who will hereafter agitate the Union at the approach of every Presidential election.

In the process of electing a President there ought to be more uniformity, more precision, and more certainty, than in the election of any other officer whatever; and yet, strange as it may ap-



pear, there is less. It is a reproach to us, that there is scarcely the shadow of uniformity, precision, or certainty, in any of the rules by which we elect, beyond comparison, the most important officer in our Government.

By the Constitution each State shall appoint, as the Legislature thereof shall direct, its number of Electors. By the letter of this provision, the Legislature of a State may direct that the Electors shall be chosen by the people, in a general ticket; or they may direct that they shall be chosen in equal districts, or they may resort to the iniquitous system of irregular districts; but, I cannot admit that, by a strict construction of the Constitution, the Legislature shall direct how they themselves shall appoint the Electors. Yet, this power has been assumed by the Legislatures of most of the States. If this be an infringement of the Constitution, the procedure ought to be corrected. If there be a doubt upon the subject, which I think will not be denied, a remedy should be supplied; for, in this vital part of our Constitution, there should be no doubtful points.

When the Legislatures have taken this power into their own hands, they have made the appointments sometimes by a joint vote of the two Houses, sometimes by concurrent vote, sometimes by compromise; sometimes the resolutions, under which the appointments have been made, have received the approbation of the Executive, when such approbation was necessary, and sometimes not. The Executives have sometimes been authorized to fill up the vacancies in the list of Electors; sometimes the Electors themselves to fill the vacancies, and sometimes the case has been unprovided for; when the people have exercised this power, it has sometimes been by general ticket, sometimes by equal districts, and sometimes by a detestable system of gerrymandering. This great variety of modes, has put into operation the most extensive intrigues, which have disgraced our Constitution, and on one occasion, that of 1801, put to hazard the peace of our country.

Many of the States have adopted the worst possible system of choosing Electors; that is, by their Legislatures. Other States, although they condemn this mode, will be induced to adopt it as a measure of self-defence, and will be justified in doing so—and it will soon be adopted in all, or nearly all the States. And, when so generally adopted, will afford to some aspiring individual the means of arriving at the Presidential chair, against the will of a large majority of the people, and of perpetuating his power by destroying the liberties of his country.

It is evident that if the Legislatures of the States appoint the Electors, the voice of the minorities in the respective States must be entirely suppressed—than which nothing can be more unjust, or more dangerous; as it would, independently of other circumstances which I have mentioned, increase the rancor and bitterness of party in the States, and exhibit the States in a sort of hostile array against each other.

When this subject was under discussion, last

session, I had the honor of submitting a calculation, showing the manner in which a President might be elected against the will of a large majority of the people, and a large majority of States, which I will beg leave to repeat. The whole number of Electors for the nineteen States composing the Union at the last Presidential election is 221, of which 111 make a majority, and can choose a President. The States of New York, New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina, which are composed of contiguous territory, and may have strong political reasons for combination, have 113 Electors,—two more than are necessary for choosing President. A bare majority in the Legislatures of these six States—one of them a small State, and one of middle size—could, by possibility, counteract the will of six or seven millions of people, and elect a President in defiance of the residue of the Union. The Legislatures of five States—Massachusetts, New York, Pennsylvania, Maryland, and Virginia—which have 112 Electors, could produce the same effect. But, if we take into calculation the twenty-one States now forming the Union, they have 227 Electors; add Alabama, which is soon to be a State, the number would be 220—a majority of 116. The six first-mentioned States, with the State of Delaware, have 117 Electors, and can choose a President.

The cases I have stated are extreme cases. It is said extreme cases prove nothing. So it would be with these, if the evil to be apprehended must happen in the extreme degree stated, or not happen at all. But it is very obvious that there are many intermediate degrees of mischief, which may and will happen at every contested Presidential election, if we adhere to our present system.

How easily will it be to procure combinations among State Legislatures, and how admirably calculated to promote the schemes of ambition! The small band of intriguers necessary for such operations would have the strongest possible inducements for perseverance, as they would divide or calculate to divide among themselves the whole patronage of the President, and all the places and emoluments within his gift. In this, however, they would sometimes find themselves disappointed, when the individual they had elevated should find himself in a situation to kick from under him the ladder by which he had ascended.

In proportion as we diminish the circle upon which intrigue is to act, in the same proportion do we add to the force and energy of that intrigue. Suppose it to be ascertained that the majority in five of the six States first mentioned are in favor of a particular candidate as President, and that the point is doubtful as respects the sixth, and that the gaining an influential individual would turn the balance: the force of intrigue, which would produce no sensible effect upon two hundred and twenty-one districts, would be irresistible when applied to a single point.

And here let me observe, that our present system holds out the most inviting theatre for the

exercise of foreign intrigue and foreign influence, against which we are warned to guard and protect ourselves by the histories of all nations who have lost their liberties. We must all have observed, that the greatest struggles for power between the political parties have immediately preceded the Presidential elections. These struggles in the States nearly equally divided—especially in the large States—will continue to be pursued to desperation under the present system; for the object, vastly greater than it should be, is calculated to call forth every possible exertion. Everything is put to hazard. A party must gain or lose all: there is no intermediate point on which to rest. In the State of New York, for instance, if the Federal party should gain such an accession of strength as to give them a bare majority in the Legislature, they would, instead of having no vote whatever in the election of a President, be enabled to give their candidate twenty-nine votes; and this number, taken from the opposing candidate, would in fact make a difference of fifty-eight votes in the election. The object therefore being so very great, no bound would be set to the parties in their struggle for power; and in the furious contest, honor, justices conscience, all, would go to wreck.

Whenever the majority in a great State changes from the one side to the other, it produces such a concussion as not only to shake the State to the centre, but to produce an agitation in the Union, destructive of the harmony that ought to prevail in our system.

This very circumstance, in no small degree, tends to create and keep alive that party animosity, that political warfare, which almost constantly agitates and distracts the larger States. How different would the case be under the proposed amendment! Suppose the Federalists in New York to be nearly equal to their opponents, and to have majorities in thirteen of the twenty-seven districts into which that State would be divided, a struggle, which under the present system would give them a bare majority in the Legislature, and make a difference of fifty-eight votes in the Presidential election, would be in fact but gaining one district and the power of appointing the two additional Electors—being a gain of three Electors, and making a difference of six in the election. The object, therefore, not being comparatively of great importance, would produce no desperate struggle—no dangerous agitation. There would still, however, be enough left to call forth all the party feeling that ought ever to be excited.

Under the present system, it is greatly to be apprehended that some aspiring individual may gain the supreme power, against the will of a great majority of the people. To submit to such a President would be deemed an intolerable oppression, and would probably end in the loss of our liberties. To resist the most probable alternative would bring on a civil war, which would terminate in a military despotism; and the danger of this result is evidently increased by increasing the number of States.

It is not probable that the Constitution when submitted to the States for ratification was such as exactly pleased any one of the Convention who formed it, or those who concurred in its ratification. It was perhaps the best that could have been agreed upon, amidst the conflicting interests and contrariety of sentiments, that prevailed among the members of the Convention. The wonder is, not that it has faults, but that it has so few faults, considering the circumstances under which it was formed. The instrument carries on its face an admission, that it is imperfect, by providing the means of its amendment, without which provision it would never have been ratified by the required number of States. Indeed many who concurred in the ratification, did it under express declarations, that important amendments were necessary, some of which were stated at the time, and have since become a part of the Constitution. But human wisdom could not foresee all the amendments, that experience might prove to be necessary. And in the second contested Presidential election, that of 1801, our Government was upon the point of dissolution, in consequence of the provision requiring the Electors to vote for two persons as President, against which no voice has been raised.

The most difficult task that devolved upon the Convention who formed our Constitution, was to establish the principles which should regulate the election and control the power of the Chief Executive. This subject no doubt received their most diligent attention, their most laborious investigation. And yet I hope I shall not be accused of any want of respect for the statesmen and patriots who formed that Constitution, if I express an opinion, that the provisions on this subject do not exhibit that degree of wisdom, which, judging from other parts of the same instrument, we had a right to expect from them.

The regulations for choosing the Executive of the United States are more vague, more uncertain, more undefined, more variable, more subject to abuse, than are the regulations for choosing the meanest officer in the community. And as to any effectual control upon the power of the Executive, that must depend, as it heretofore has done, rather upon the virtues of the individual exercising the office, than upon any positive regulations contained in the Constitution. The broad road to monarchy is left open—encumbered indeed with obstructions, but such as will easily yield to the pressure of ambition.

The most obvious barrier to the career of ambition on the part of a President, would have been a reasonable limit to the time in which any one could exercise this important office. This, however, was omitted, no doubt after a full discussion of the subject, and for reasons which I cannot divine. As yet, it is true, experience has not exhibited any necessity for such a barrier, for the ambition of our Presidents, thus far, has been, not to extend or perpetuate their power, but to increase the happiness and prosperity of the country over which they have presided. This, however, let us remember, is not the usual current of ambition.



SENATE.

Amendment to the Constitution.

JANUARY, 1819.

We have constantly the most deplorable evidence of the total inadequacy of our system to regulate, with any degree of safety, the election of a President. In the year 1801, it was in the power of a single individual, in the Senate of Pennsylvania, to give to that State fifteen Electors or to deprive her entirely of a vote, at his pleasure. In the election of a President that year, all the Electors of South Carolina were in favor of the candidate who ultimately succeeded, but the State, in the House of Representatives, voted against him; at the same time all the Electors of New Jersey voted against that candidate, and the State in the House of Representatives voted in his favor, in six and thirty ballots. In 1812, a very large majority of the State of New Jersey and all their Representatives in Congress were in favor of the candidate then elected, but the votes of all her Electors were against him; and this by an abuse of power, that may probably be practised again, in that as well as other States.

We cannot look into the history of our Presidential elections, without meeting at every step, the most deplorable proofs of the imbecility of our system.

Warned by the dangers we escaped in 1801, we have so far altered the Constitution that we shall not again be exposed in precisely the same manner, and by precisely the same cause we were before. But there are other dangers much more apparent than that was, before actual experiment had presented it to our view;—dangers which can never be obviated while the minority have the power of choosing a President.

Great as the danger is, that some ambitious individual may gain the Presidential Chair against the will of a large majority of the people, the subject presents itself in another point of view, not less interesting. I mean the operation of our system, to enable an ambitious President to perpetuate his power and to transmit it to his posterity. It is true, the illustrious patriots who have filled that exalted station have none of them discovered a wish to continue in office, for a longer period than eight years;—but such instances of voluntary retirement from power are rare occurrences in the annals of the world, and will some ages hence be cited as almost incredible instances of the virtue of the ancient Republic. Such examples, however, will in future times be rather the object of praise than of imitation.

Let us suppose, that at some future period, we shall have a President of forty years of age, of great talents, unbounded ambition, and an insatiable thirst for power; the period of eight years would elapse at about that period of life when ambition takes the firmest hold of the human mind. He would easily persuade himself that the public interests would suffer by his retiring from office. The great facility of securing a re-election under our present system, would be a temptation not to be resisted. And the host of choice spirits, by whom he would be surrounded, would certainly succeed in persuading him to bear the weight of Government, for another period, and another, and another, to the end of his life.

Suppose this President to have a son of talents and ambition like his own, and of a suitable age to become his successor. The transmission of the power from the father to the son would excite no unusual apprehension. His election would be a mere matter of form, and our Government would quietly sink into an hereditary monarchy; after which a Tiberius, Caligula, or a Claudius, might reign uncontrolled in America. These are not mere illusions—mere phantoms of the brain. Had the candidate in 1801, for whom such desperate but unsuccessful efforts were made, succeeded in obtaining, in the House of Representatives, a place for which he was not intended by a single Elector who voted, he would eagerly have seized upon the reins of Government. And what would have been the consequence? We have reason to believe he would have been hurled from his chair, by an insulted and an indignant people. Terrible indeed would have been this resort, which would have produced the utmost anarchy and confusion and all the horrors of a civil war.

But suppose he had possessed those great military talents which his friends have gratuitously ascribed to him, and had been enabled, with the Treasury and the small military force that would have been at his disposal, to crush all opposition to his power, would he not under our present system, with his talents for intrigue, which have never been overrated, by his friends or his enemies, and which have been rarely equalled in any country?—would he not have been able to secure a re-election, and another, and another, to the end of his life?

But suppose an incredible case, that, at the expiration of eight years, his ambition had ceased to operate, and that he no longer wished to continue in power: Would he have dared to retire to private life? Would he have dared to relinquish a power which for eight years he had held by force and fraud, in despite of the will of a great majority of the people? If he had despised danger as it respected himself, would he have abandoned his friends who had faithfully adhered to his fortunes, and supported his authority at all hazards? Sir, the moment he should have retired from power, a reaction would have taken place which would have overwhelmed him and his friends in ruin. Unfortunate indeed would be the situation of such a President; not so the situation of one elected by a majority of the people. He would rest securely upon the strong arm which had placed him in power, and which could protect him there. He would fear no popular commotions, no insurrections against the exercise of his lawful authority; and when he should have performed his official functions for a reasonable period, he might relieve himself from the weight and the cares of Government, and retire to private life, amidst the blessings of his fellow-citizens, where, exercising the virtues which have adorned the illustrious characters who have presided over the United States, he would find in his declining years that literary, philosophic, and sweet repose, so ardently desired by the great and the good in all ages of the world.

JANUARY, 1819.

Amendment to the Constitution.

SENATE.

Let us not, while contemplating such examples of exalted virtue, which are the pride and the boast of our nation, be lulled into fatal security. Let us not forget that the constant tendency of our Government is towards despotism. Let us not forget that ambition is the strongest passion of the soul: "By that sin fell the angels." Let us not forget that it is a duty we owe to ourselves and to posterity to adopt every measure which may have a tendency to preserve the republican principles of our Government.

Have I overrated the dangers to be apprehended from ambition? I believe not. Those dangers are not immediately at our doors, but their existence is not the less certain on that account.

Sir, the time will come, I fear, when our country will be filled with an army of pensioners, always the friends of arbitrary power. The time will come when we shall have a numerous host of officers, civil and military, in every department of the Government, spread over our immense territory, looking up to the President as the source of their power and emoluments. The time will come when luxury and extravagance will banish from our country every species of republican virtue; and the time will come, I fear, when this Senate shall be no more than the shadow of what it was intended to be by those who formed our Constitution; when it shall be no check whatever upon the Executive; when it shall be as insignificant as was the boasted Senate of Rome, in the time of Tiberius. The whole patronage of Government will centre in the President, and that patronage, under our present system of choosing Electors, will become a machine of irresistible power. The management of this power will become a matter of science. He will be deemed the greatest politician and the most able minister, who can, with a given portion of patronage, produce the greatest effect. The force of this power will be applied to effect the purposes of ambition, with as much economy and skill as the force of water is applied to the wheel, or that of steam to the engine. It would be difficult to devise a plan better calculated to accelerate the approach of those deplorable events, or to promote the views of an ambitious President, than the present system of choosing Electors.

When, by a combination of a few States, by the obvious means which I have suggested, an ambitious President could control a majority of the people, he might throw off every show of ambition; might exercise from period to period the supreme power, with seeming reluctance, yielding to what would be called the voice of the country, and paving the way to monarchy, while the world would be amused with his hypocritical pretensions of a desire to retire from the weight of public affairs.

When Augustus Cæsar had secured to himself the support of the Senate and the army of Rome, he played the hypocritical farce of attempting to abdicate his usurped power; but was persuaded by those, who he knew would persuade him, to be considered as the head or Prince of the Senate, and, in conjunction with them, to administer

the affairs of the Government for ten years, by which time peace and prosperity might be restored to the Commonwealth. At the expiration of that period the same ridiculous farce was repeated, and again and again, during his long life; and after he was as firmly seated on the imperial throne of Rome, as Alexander is upon that of all the Russias.

When Augustus seized upon the liberties of Rome, Brutus was dead; but his spirit was not extinct. Augustus found the Roman people, though greatly corrupted by the civil wars of his time, and those which immediately preceded it, still possessed of some spirit of independence, some love of liberty, but he left them all slaves.

The history of this extraordinary man affords the most impressive, the most admonitory lessons to the citizens of the United States. While his insidious march to empire will afford a model for the imitation of some future President, it should warn every citizen, who has the least love for his country, to watch with the utmost vigilance, and to provide every possible check against the ambition of such Presidents as may attempt to establish their power by the subversion of our liberties.

Some gentlemen may think that I have overrated the dangers to be apprehended from our present mode of choosing Electors; it may be so; I may have given more importance to the circumstances connected with this subject than they merit; but, if gentlemen, thinking so, deem my observations worthy of an answer, let them not satisfy themselves by showing that I have thus overrated those dangers; let them show that no such dangers exist; let them show that the Constitution already provides sufficient checks against the career of ambition, and I will vote with them.

The friends of this measure do not flatter themselves that the proposed amendment will afford a remedy for all the evils complained of; but it will afford a remedy for part of them. It will not eradicate the principles of ambition, but it will retard their progress. It will not render perpetual our republican form of Government, but it will probably add ages to its duration, and this is gaining an object of immense magnitude. It is gaining all that we are permitted to hope for.

The seeds of death are interwoven in our Constitution. Its fate is inevitable. No human wisdom can save it from dissolution; but by wise measures its existence may be continued for many ages. Ardent must be the wish of every patriot to put off the moment of its dissolution, and to the latest possible period.

We all know that the term of our life is limited; that death awaits us. None but madmen seek to evade this law of our nature; yet it is the dictate of wisdom to devise the means of prolonging life, and for putting off the moment of dissolution, to the latest period which the laws of our nature will permit.

It is my fervent prayer that the proposed amendment may be adopted, not with the vain hope of rendering our Government immortal, but for the purpose of securing the prosperity and



integrity of the Union for many ages yet to come, and for the purpose of extending the blessings which we enjoy, to millions and millions of human beings who may inhabit our immense territories in a long succession of ages.

Mr. BARBOUR, of Virginia, said: If the honorable gentleman from New Jersey rises with reluctance to address the Senate on the proposition under consideration, how much more should I, who, in addition to the reason assigned by the gentleman, labor under the consciousness of having to address an unwilling audience; who, instead of instructions in my pocket, justifying me in the course I should pursue, have no guide but a very fallible judgment; and who, instead of coming into the debate with my arguments and facts, digested with the aid of the most mature reflection, have to encounter those of my adversary in a desultory manner, with only a moment's warning. No ray of consolation meets my eye in this cloud of difficulties with which I am surrounded, but the conviction that I have a just cause, and the consolation that if I must fail I will not have done it without a struggle. The course I propose to pursue, is to submit a proposition for an indefinite postponement of the question, because I am indisposed to tampering with the Constitution; but if in this I should fail, I shall then propose an amendment which, as the one proposed by the gentleman from New Jersey, will break down the distinction between the States, and make the election national in its manner; it shall become essentially national in all its parts. I have a repugnance almost invincible to tampering with the Constitution—not from an idolatrous reverence, not from a belief that the instrument is perfect, as is intimated. Alas! I know too well that it is the work of finite, imperfect beings, and bears upon its face the impress of its authors; but because, under it, the people of the United States enjoy the greatest share of happiness which has been dispensed to human kind through countless ages. Nor are we alone interested in its blessings. What nation or what people, between the poles, where one ray of science has ever penetrated, who does not look to us as the last and best hope of suffering humanity? What suffering victim of lawless sway that does not cast his eye to this land of promise, looking to us across the waste of waters, with scarcely less hope than do we to that distant bourne where the wicked cease from troubling and the weary are at rest? To maintain this instrument, thus charged with the future destinies of the world, in its present form, till an evil of magnitude is disclosed, and till the remedy is presented, a remedy whose consequences are sure, is a species of loyalty and attachment which reason ratifies, and which every feeling of my heart cherishes. Yes, sir, the defect must be most apparent, and the remedy as palpable. The only disease is frequently rather in the doctor than the patient. This prodigious effort of political wisdom should always be contemplated as a whole. A part may strike the eye as defective, but, in connexion with the rest, may be indispensable as well to its har-

mony as its strength. I protest against adventures after theoretic perfection. In attempting this, you may involve us in disastrous consequences; and, however perfect a proposed remedy may appear in the abstract, yet, when it comes to be acted upon by the tempestuous and irregular passions of man, its results may be most pernicious.

If these be my sentiments upon alterations in the Constitution, which do not involve the fundamental articles of that instrument—articles the result of compromise between the States—they acquire additional strength when an amendment is proposed, which affects such parts of the Constitution as palpably resulted from such compromise, and upon which its validity mainly depends. To illustrate my views, permit me to state, were a doubt to arise as to the power granted, a particular branch of the Government, or, if you will, Congress—take for example the right of connecting the States by inland navigation, by which their commerce, whose regulation is confided to Congress—would be greatly benefited; if a doubt should exist as to the right of Congress to exercise such a power, and the nation were divided on this question, I should feel no difficulty in appealing to the people, the original source of our authority, for their interpretation of the extent of their own grant, and to abide by an expression of their will. On the contrary, were some Utopian to suggest that the representation of the small States in this body, when compared to the large, was too unequal to be endured, and propose as a remedy a recurrence to the basis of our institutions, the will of the majority, I should consider the proposition as involving an entire departure from the compact, and as essentially involving the most sacred engagement, one which had for its guarantee the plighted faith of the contracting parties. Considering, therefore, that one branch of the amendment proposed does seriously affect an article of the Constitution, thus secured, I am anxious to defeat it.

The resolution under consideration proposes two amendments:—The one to regulate the manner of choosing Representatives; the other of choosing Electors for President and Vice President. As to the first, it is unnecessary, because, by the 4th section of the Constitution, Congress have the power already to direct the time, place, and manner, of choosing Representatives. Why ask for an amendment of the Constitution; why not bring in a bill? Because, says the gentleman, he cannot indulge a hope of its success. A suggestion the more remarkable, as the gentleman had already expressed his fears of failure in his efforts to obtain an amendment to the Constitution, from the obstacles presented in the instrument itself, two-thirds of Congress and three-fourths of the States being requisite to give validity to the amendment. If he cannot procure a majority of Congress to a bill which should take the principle of his amendment as its basis, he has, indeed, good cause to apprehend that he will be unable to procure the Constitutional majorities here and in the State Legislatures. For my part, I am

far from mingling my regrets with those of the honorable gentleman, in regard to the difficulty of obtaining amendments. On the contrary, I hail it as a new evidence of the wisdom of the authors of the Constitution—a majority of whom had arrived at that period of life from which they might look upon the past and read the lesson of experience. They must have seen that restlessness of spirit in man which was even fatigued with doing well, and which continually prompts us to pursue an imaginary good, to grasp at a shadow and lose the substance; an attribute implanted in our nature by Providence for some wise purpose, but which, unless regulated by wholesome checks, not unfrequently involves individuals and nations in remediless ruin.

But, sir, it is to me no small matter of surprise, that such a proposition as this should be submitted to this body; a body to whom, at the last session, an amendment of the Constitution was submitted, to explain a doubt as to the extent of our power; a question which had equally divided the nation, taking the sentiments of the Representatives as a just criterion. I mean, of course, the power of the National Government as to internal improvements; a question which, above all others, called for an amendment, and nine voices only, I believe, were in its favor. How then can the Senate, composed of the same members, give their assent to the present, when it is not pretended that our power is not full and explicit. The people will reply, as they ought. Why mock us in this way? You ask for power which you unequivocally have; and refuse to consult us upon that which is doubtful. It is no part of my duty to attempt to reconcile this palpable inconsistency. One word further. I will promise the gentleman, if he will bring in a bill in conformity to the 4th section, my cordial support, for I entirely approve the principle, that the Representatives should be elected by districts, as thereby a result will be produced most essential to the full effect of the true principles of our Government, that the Representative should be fully known to his constituents; and, by residing among them, should know their wants, and participate their feelings and interests; presenting in this a strong contrast to that of the Elector, who has but one insulated duty to perform, that of voting for the character his constituents prefer, as President, and of whom a pledge is always required, and indeed given, before he is supported by the people. So that, in effect, it is of little consequence who is selected, as he serves only as an organ, to convey the wishes of his constituents to the Electoral college. He furnishes the only requisite, by the pledge he previously gives of supporting the man of their choice.

But to proceed to the second amendment, which proposes to change the mode of electing Electors. It must be perceived that the first effect will be to deprive the States of the power, given them by the Constitution, of directing the mode of their election.

It is worthy of remark, that while the Constitution has given to Congress the power of regu-

lating the time, place, and manner of choosing Representatives, and also of regulating the time and manner of choosing the Senators; yet Congress had no power to touch this subject save only that of directing the time of choosing the Electors, and that power retained only from necessity, for the purpose of producing a uniformity as to the time, to guard against corruption throughout the United States. If it were esteemed proper to give this right to the States, and to withhold it from Congress, upon the adoption of the Constitution, what delinquency have the States committed to produce a forfeiture of their rights? What reason presents itself to justify this curtailment of their privileges? It is urged, because in New Jersey and Pennsylvania they abused the power; and because two States of the Union, in times of great party heat, conducted themselves irregularly, disgracefully if you will, the sin is to be imputed to every State in the Union so as to result in their disfranchisement. Upon the same principle, if one or two of the districts were to conduct themselves in the same way, and complaint was lodged against them, the whole also should forfeit their rights, and some new mode must be substituted. It is vain to argue against a system because bad men, when in power, occasionally abuse it. It is sufficient, for human purposes, if it has been exposed to the most violent shocks, and, upon the whole, has survived unhurt, and produced all the good consequences anticipated. Such, I contend, is the mode as at present established by the Constitution. In no instance has one been elected to the high station of Chief Magistrate of the nation who had not, at the time, a majority of the people; and, without indulging vain hopes, we may confidently expect we shall never have to encounter a severer trial than that through which we have passed.

But my principal objection to the proposed amendment arises from the gross inequality of its effects against the large, and in favor of the small States. If, therefore, the Senate should resolve to cancel the compromise out of which, unquestionably, grew the arrangement of the Constitution in regard to the Presidential election, and gentlemen are sincere in their professions that they wish the election of the President to depend on the unbiassed and uncontrolled will of the majority, and to effect this they are prepared to strip the States of a portion of the power given them by the Constitution, then let them unite with me in an amendment which shall place the election upon their choice, without regard to the division of territory into States. That is, if the election must be national in its manner, let it also be in principle; to that end let the number of Electors be in proportion to the Representatives of each State, to the exclusion of Senators, and in the event of no election by a majority of the people, and the consequent devolution of the election on the House of Representatives, let the election there be decided by plurality of voices, and not by States. This mode presents a national election, not merely in form, but in sub-



stance. I wish it to be distinctly understood that I do not wish to disturb the present arrangement, and nothing would induce me to submit a proposition of the kind but as a defensive measure.

By the Constitution, as at present, the election is of a compound character. Partly national, in so far as the number of Electors shall be equal to the number of Representatives, and Federal in so far as the Electors shall, from each State, great or small, be equal to their representation in this body; and exclusively Federal, or by the States, in the event of devolution of the election on the House of Representatives where they vote, not numerically, but by States. Leaving the right of regulating the election to the States, the large States do not so sensibly feel these advantages, already enjoyed by the small States. Voting, as they do, unanimously, they have something like their due weight in the election; but cut up into districts, it may happen that Rhode Island may have four votes, and New York, in effect only one, by a division of votes. If regard were had only to numbers, the weight of Rhode Island to New York would be as thirteen and a half to one; but, in consequence of the two votes given to Rhode Island as an independent State, she is entitled to four votes, and New York, to twenty-nine, and consequently reducing the influence of New York, when compared to Rhode Island, to seven and a half instead of thirteen and a half, and thereby depriving her of nearly half her influence. Nor is this all, for, in the event of no election by the people, New York and Rhode Island have precisely an equal influence in the election of President. With all these advantages under the existing regulations, the small States are not yet satisfied, but propose an amendment by which this important advantage may be frequently brought into active operation—by the division of the vote for President. I am justifiable in saying that the election will more frequently devolve upon the House of Representatives by the adoption of the amendment, as there is a much greater probability of a division in an assembly of three hundred than of twenty-one. The former shortly will be the number of Electors; the latter is the number of States at present. The mode of election, if left to the States, permits only twenty-one bodies of Electors, and therefore, as far as the question of division is concerned, furnishing only twenty-one Electors; for, by the general ticket, there can be no division in the State vote, whereas there will be shortly three hundred Electors, who, in addition to sectional considerations, common to both, have all the seeds of division which such an unconnected mass always carries within its bosom.

So much of the amendment as still retains to the States the right of electing two Electors, independent of its incongruity, I would say, but for personal respect to the mover of the proposition, was an insult to the States. What does it avail New York, when, by districting her, you have shorn her of her real strength; when you have spoiled her of the substance, to leave this effigy of her former power? Nay, sir, by this very ar-

range, the weight of the small States is increased. Delaware sends two by districts and elects two by her Legislature. Her vote must always be three to one; generally, an undivided vote. New York—and so with the large States generally—if divided into districts, and Electors of different parties, or candidates, should be elected, will not be able to weigh as much in the scale.

But why this incongruity? Either divide the State into districts equal to her Electors, or leave it as it is, and pretend not to compensate for the rights which you take by so insignificant a boon as the one held out.

The honorable gentleman has entered into a long and intricate calculation to show that a minority may elect the President under the present arrangement. If the fact be admitted, what is the advantage gained by his argument? When the States are districted, may not the same result happen? And if the election is in the House of Representatives, to be decided by States, will not an insignificant portion of the people of the United States have the election in their hands? In illustration of the first suggestion, take the State of New York, divide it into south and north; the former shall be unanimous in favor of A, and shall have thirteen districts; the latter shall in each district be equally divided, save one casting vote, in favor of B: hence it will result that although nearly three-fourths of New York are in favor of A, yet B will have a majority. In proof of the latter suggestion, we need only refer to the representation of eleven of the small States in the House of Representatives, equal to thirty-six members, yet eleven being the majority of twenty-one, the whole number of the States, would have power to decide the election against the express will of four-fifths of the United States. The fact is, that a consequence of this kind, if extreme cases be admitted, is inseparably incident to every election made by Electors taken from the different divisions of the territory. In one section they may be unanimous, in another a majority of one may weigh through the Electors, whose election his vote has decided equally with thousands in another territory. This position is too plain to require further elucidation, and the amendment proposed by the gentleman will be as subject to its influence as the present arrangement.

But the principal ground upon which the gentleman rests his argument is, that it will avoid intrigue and foreign influence. If this were true of intrigue, then, indeed would the gentleman have a right to challenge a unanimous vote, not only here but through the nation. As to foreign influence, I have no apprehension. I have no belief that all the money in the bowels of the earth would be able to corrupt the Legislatures, or a majority of them, of the twenty-one States. If ever that time should arrive, it will be of but little avail what we shall this day do. The people will no longer be fit for a free government, and whatever may be written in the Constitution will not weigh against the dust of the balance.

That ambitious men will always exist, and who will seek to gratify their views by the most irregular efforts, is readily admitted. That the Presidential chair should be guarded against their approach, by every precaution which human wisdom can devise, is equally true. With these admissions, which I most freely make, permit me to inquire where these efforts are likely to have the greatest effect? Upon the Legislatures of the States, composed of thousands, or on the House of Representatives, when voting by States, where one man, by being the only Representative of a State, has a vote which, in effect, will weigh against a million of inhabitants whose delegation is limited also to one vote? The alarms of the honorable gentleman are alive only to the danger of the corruption of the many of the State Legislature, but are perfectly quieted as to the possibility of the corruption of one, if he be a member of the House of Representatives. He takes, therefore, all power from the former, lest they should be the instruments of intrigue or foreign influence, while he rejects, with a species of horror, any curtailments of the power of the latter, as violating the sacred principles of the compact between the States, and rejects all apprehension of the attempts of intrigue and foreign influence in that quarter as chimerical; and yet the honorable gentleman has resorted to the only occasion which has ever occurred of a devolution of the election on the House of Representatives furnishing much aid in support of his proposed amendment. Had I resorted to it in support of my amendment to cause the election to be decided by plurality of votes, I should have thought it conclusive; but that the gentleman should attempt to enlist it in support of his, is truly astonishing. What, sir, when on that occasion an attempt was made disgraceful, wicked, and alarming, to place a President in office who had not received one vote for that office, and thirty odd ballots were taken before the question was decided, a question which depended upon the fidelity of one or two individuals representing States which gave them one vote, what can create more surprise than that an incident of this kind should be brought into view, in support of an amendment the inevitable consequences of which will be, as I have already attempted to show, frequently to produce the possibility, at least, of a similar scene? I would to God that over this melancholy part of our annals the mantle of forgetfulness could forever rest; but as that is a desperate hope, let us, if possible, draw good out of evil, by profiting by the lesson it inculcates. Let us, instead of multiplying the chances of its recurrence apply a direct remedy, and cut up the evil by the roots.

As the honorable gentleman has justly and, I may add, without flattery, eloquently, depicted the consequences which were hanging on that event, it behooves him to unite with me in interposing barriers against its repetition. Here it is that intrigue will address itself. One man may be corrupted—millions cannot. That corruption did not take place, and, as a consequence, that

Burr was not elected as President, was not because the tempter did not present himself, but because there were, at that time, no Judases to accept the bribe. For we have been told by a then member, in a public memorial at this session, that the chief priests offered him not thirty but some hundred pieces of silver, not indeed to betray the Saviour of mankind, but what was only second in importance, the political salvation of this country, and, with it, that of the world. If the prophecy of the gentleman should be fulfilled, that, as we advance in age, we shall advance in corruption, under similar circumstances some Iscariot may be found who will sell his soul to perdition and his country to ruin. I will submit therefore to the decision of the Senate, without further comment, whether the amendment I propose, or that of the gentleman's, is most likely to protect us from a repetition of this disgraceful scene. The honorable gentleman has endeavored to excite our alarms by representing that, with the expansion of the Republic, intrigue will increase, and its effects be more violent and destructive. We have been presented with our future fate in the catastrophe of Rome. I abhor, as sincerely as the gentleman from New Jersey or any other, every species of intrigue; yet I will not surrender myself to any unnecessary fears from the example of ancient times; there is no point of resemblance; here, power is distributed through an almost boundless empire; there, it was confined to a single city filled with fit materials on which for the ambitious demagogue to act. To gain an ascendancy in Rome was to conquer the world; here, however, though our metropolis might be agitated, if Cæsar himself were to be the master spirit by which it was produced, its effect on this great Republic would be as impotent as the zephyr playing on the bosom of that ocean which prescribes our limits to the West.

The honorable gentleman, with a prophetic spirit, though I pray God not a true one, has concluded his remarks by exhibiting a frightful picture of our ultimate destiny, in the execution of which he has dipped his pencil in colors of the darkest dye—a corrupt people, a servile Representation, a timid Senate, like that of Tiberius, recording edicts only of blood to gratify the tyrant in the person of some successful military chieftain; these, he tells us, are the dreadful consequences of a rejection of his proposition. If this is the condition which, under any circumstances, awaits us, it is but idle to deliberate upon Constitutional questions. The successful usurper will give himself but little trouble in consulting its provisions—his sword, like that of Alexander's, will cut the gordian knot. It is to this instrument he will appeal for the extent of his powers. To these unhallowed auguries, I make this reply: That, if it be the will of Providence to give up this happy land, this last abode of freedom, to become a den of despots, and to surrender to their ruthless hands that liberty, without which life ceases to be a blessing, then, I pray, most fervently pray, the great disposer of



## SENATE.

## Organization of the Courts.

JANUARY, 1819.

events, that the day which witnesses their realization, may be that which shall produce the long foretold and awful curse denounced against all terrestrial things—"Time is no more."

When Mr. B. had concluded, Mr. FORSYTH rose and opposed the resolution at considerable length. The resolution having been amended, the question was taken on ordering it to be engrossed, and read a third time, and decided in the affirmative—yeas 28, nays 11, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eaton, Edwards, Fromentin, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Sanford, Smith, Stokes, Storer, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Daggett, Eppes, Forsyth, Gaillard, Horsey, Leake, Roberts, Ruggles, Tait, and Taylor.

THURSDAY, January 14.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs to whom the subject was referred, reported a bill for the relief of John A. Dix; and the bill was read, and passed to the second reading.

Mr. FORSYTH submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of prescribing by law the mode of quartering soldiers, during war, in the houses of citizens, when the public exigencies may make it necessary, and the mode by which private property may be taken for public use; designating, particularly, by whose orders property may be taken, the manner of ascertaining its value, and the mode by which the owner shall receive, with the least possible delay, the just compensation for the same, to which he is entitled by the Constitution of the United States.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That, in lieu of the nineteenth of the standing rules of the Senate, the following shall henceforth be one of the standing rules of the Senate.

"All bills, on a second reading, shall first be considered by the Senate in the same manner as if the Senate were in Committee of the Whole, before they shall be taken up and proceeded on by the Senate, agreeably to the standing rules, unless otherwise ordered."

"And when the Senate shall consider a treaty, bill, or resolution, as in Committee of the Whole, the Vice President, or President *pro tempore*, may call a member to fill the Chair during the time the Senate shall remain in Committee of the Whole; and the chairman, so called, shall, during such time, have all the powers of Vice President or President *pro tempore*."

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Bland Lee, and, in concurrence therewith, resolved that the prayer of the petitioner cannot be granted.

Mr. JOHNSON presented the memorial of a number of the inhabitants of Louisiana, praying the confirmation of certain titles to lands therein, as

stated in the memorial; which was read, and referred to the Committee on Public Lands.

Mr. TAIT, from the Committee on Naval Affairs, to whom the subject was referred, reported a bill for the relief of John B. Timberlake; and the bill was read, and passed to the second reading.

## ORGANIZATION OF THE COURTS.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges; and, on the question to agree to the following motion submitted by Mr. ROBERTS:

"That the bill be recommitted to the committee who reported it, with instructions to provide in the bill for the appointment of one or more additional justices of the Supreme Court; and so to alter the present divisions of the United States into circuits, as to provide for the more speedy administration of justice in the States of Tennessee, Kentucky, Louisiana, Indiana, Mississippi, and Illinois."

It was determined in the negative—yeas 11, nays 28, as follows:

YEAS—Messrs. Dickerson, Eppes, Forsyth, Lacock, Macon, Noble, Roberts, Sanford, Smith, Stokes, and Taylor.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Morrow, Otis, Palmer, Ruggles, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the affirmative—yeas 25, nays 14, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrow, Otis, Ruggles, Storer, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Dickerson, Eppes, Lacock, Macon, Morrill, Noble, Palmer, Roberts, Sanford, Smith, Stokes, Taylor, and Thomas.

FRIDAY, January 15.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill for the relief of Samuel Ward, and also the bill entitled "An act for the relief of Samuel F. Hooker," reported the same respectively without amendment.

Mr. JOHNSON, from the Committee on Public Lands, to whom the subject was referred, reported a bill confirming Anthony Cavalier and Peter Petit, in their claims to a tract of land; and the bill was read, and passed to the second reading.

Mr. ROBERTS presented the petition of David Henly, late of Knoxville, Tennessee, praying compensation for a number of arms impressed

JANUARY, 1819.

## Proceedings.

## SENATE.

into the service of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. NOBLE presented the memorial of the Columbian United Abolition Society, praying the passage of an act more effectually to protect persons of color entitled to freedom; and the memorial was read, and referred to the committee appointed on the 15th of last month, on the resolution of the Senate respecting the slave trade, to consider and report thereon.

Mr. DAGGETT presented the petition of James Simpson, American Consul at Morocco, praying that he may be allowed for his services at the rate of four thousand dollars per annum, with house-rent in addition; and the petition was read, and referred to the Committee on Foreign Relations.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the resolution of the Senate, directing an inquiry as to the propriety of extending the act of the last session relative to Revolutionary officers and soldiers, so as to provide for placing the warrant officers in the naval service on the same footing, as to the amount of pension, as other officers in that service; made a report, accompanied by the following resolution:

*Resolved*, That the committee be discharged from the further consideration of the subject.

The report and resolution were read.

Mr. LACOCK, from the same committee, who were directed to inquire into the expediency of increasing the pension of Caleb Austin, made a report, accompanied by a resolution, that the committee be discharged from the further consideration of the subject. The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the petition of Alexander Macomb, made a report, accompanied by the following resolution:

*Resolved*, That the prayer of the petitioner, so far as it relates to Stoney Island, ought to be granted.

The report and resolution were read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Benjamin Pool;" a bill, entitled "An act for the relief of Henry Davis;" a bill, entitled "An act for the relief of Adam Kinsley, Thomas French, and Charles S. Leonard;" a bill, entitled "An act authorizing the payment of a sum of money to the officers and crews of gunboats number one hundred and forty-nine, and one hundred and fifty-four;" a bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased;" and also a bill, entitled "An act for the relief of Kenzie and Forsyth," in which bills they request the concurrence of the Senate.

The six bills last mentioned were read, and severally passed to the second reading.

On motion by Mr. LACOCK, it was agreed to reconsider the vote of the Senate, on engrossing and passing to a third reading, the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Elect-

15th CON. 2d SESS.—6

ors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States; and the consideration of the same having been resumed, as in Committee of the Whole:

On motion by Mr. BARBOUR,

"That the resolution be referred to a select committee, with instructions so to modify it, that, in the event of the happening of any of the contingencies in the Constitution, by which the election devolves on the House of Representatives, the choice of President shall be made by plurality of votes and not by States;"

It was determined in the negative—yeas 6, nays 32, as follows:

YEAS—Messrs. Barbour, Eppes, Roberts, Ruggles, Sanford, and Taylor.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Eaton, Edwards, Forsyth, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Smith, Stokes, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The resolution having been amended—

On motion, by Mr. OTIS, it was recommitted to a select committee, to consist of five members, further to consider and report thereon; and Messrs. DICKERSON, KING, MACON, EDWARDS, and BARBOUR, were appointed the committee.

The amendment to the resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the library, having been reported by the committee correctly engrossed, the resolution was read a third time as amended, and passed.

Mr. GOLDSBOROUGH, from the committee to whom was recommended the resolution to erect a monument over the remains of the late General GEORGE WASHINGTON, where they now lie, with instructions, and in conformity therewith, reported a bill to erect an Equestrian Statue of General WASHINGTON, in the Capitol Square; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 14th instant, for altering and amending the nineteenth of the standing rules of the Senate; and agreed thereto.

The Senate adjourned to Monday.

MONDAY, January 18.

Mr. GAILLARD presented the memorial of Archibald B. Lord, and others, in behalf of the officers and crew of the United States cutter Boxer, praying that one-fourth of the proceeds of the brig Diana, and her cargo, libelled and condemned for a violation of the non-intercourse law, may be distributed among them, for reasons stated at large in the memorial; and the memorial was read, and referred to the Committee on Naval Affairs, to consider and report thereon.

Mr. BURRILL presented the memorial of a number of the inhabitants of New Bedford, in the State of Massachusetts, praying amendments to the acts prohibiting the importation of slaves.—Referred to the committee appointed to consider the subject on the 15th December last.



Mr. TAYLOR presented the petition of Edward Pyle, of Crawford county, State of Indiana, praying permission to withdraw his entry of a section of land, and that the sum paid therefor may be placed to his credit, on account of a section subsequently entered; and the petition was read, and referred to the Committee on Public Lands.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act respecting invalids," reported the same without amendment.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed," reported the same with an amendment; which was read.

Mr. EPPES, from the same committee, to whom the subject was referred, reported a bill for the relief of Joseph Thorne; and the bill was read, and passed to the second reading.

Mr. MACON communicated attested copies of two acts of the Legislature of the State of North Carolina, entitled "An act for removing logs, shoals, and other impediments in the Tar river, below the town of Washington, in the county of Beaufort, and for other purposes;" and "An act to amend an act, passed in the year 1816, entitled 'An act for removing logs, shoals, and other impediments in the Tar river, below the town of Washington, in the county of Beaufort, and for other purposes,'" requesting the consent of the Congress thereto; and also the report of the select joint committee of the Legislature of that State, to whom was referred so much of the Governor's Message as relates to the decision of the Supreme Court of the United States on the claim of that State, to perfect titles to certain lands within the State of Tennessee; and the acts and report were read.

Mr. EPPES, from the Committee on Finance, to whom was referred the petition of John Haslett, reported a resolution, that the prayer of the petitioner ought not to be granted. The resolution was read.

Mr. EPPES, from the same committee, to whom was referred the memorial of the St. Andrew's Society of Charleston, reported a resolution, that the prayer of the petition ought not to be granted. The resolution was read.

Mr. TICHENOR, from the committee, to whom the subject was referred, reported a bill for the relief of Daniel Pettibone; and the bill was read, and passed to the second reading.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to the "Act of March 3d, 1809, further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," containing the several statements thereby required; and the report was read.

He also communicated a statement exhibiting the amount received by each clerk in the several offices of the Treasury Department, for services rendered during the year 1819; which was read.

The bill providing for a grant of land for the

seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State, was read the second time.

The bill for the relief of John A. Dix was read the second time.

The bill for the relief of John B. Timberlake was read the second time.

The bill to erect an Equestrian Statue of General WASHINGTON, in the Capitol Square, was read the second time.

The bill confirming Anthony Cavalier and Peter Petit in their claim to a tract of land, was read the second time.

The bill, entitled "An act for the relief of Henry Davis," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Benjamin Pool," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Adam Kinsley, Thomas French, and Charles S. Leonard," was read the second time, and referred to the same committee.

The bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased," was read the second time, and referred to the same committee.

The bill, entitled "An act for the relief of Kenzie and Forsyth," was read the second time, and referred to the same committee.

The bill, entitled "An act authorizing the payment of a sum of money to the officers and crews of gunboats No. 149 and 154," was read the second time, and referred to the Committee on Naval Affairs.

The bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, was read a third time; and the blanks having been filled, on the question, Shall this bill pass? it was determined in the affirmative—yeas 22, nays 14, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, Leake, Mellen, Morrow, Otis, Ruggles, Storer, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Dickerson, Eppes, Lacock, Macon, Noble, Palmer, Roberts, Sanford, Smith, Stokes, Taylor, Thomas, and Wilson.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Peter Lacoste; and the further consideration thereof was postponed until Monday next.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act making appropriations for the military service of the United States for the year 1819," reported the same with amendments; which were read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Daniel Merrill, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.

The Senate resumed the consideration of the

motion of the 11th instant, for information in relation to the business depending in the courts of the United States; and the same was agreed to, modified as follows:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate, at the commencement of their next session, accurate lists of all causes, which may be depending on the first day of September next, in the several district and circuit courts, and in the Supreme Court of the United States; distinguishing therein, civil and criminal cases; admiralty and maritime cases; suits between citizens of different States; suits to which the United States are parties, stating separately, suits for duties; original causes, and causes removed by appeal or writ of error; with the times of the commencement of the suits, in the several courts; and such other statements or explanations, as may appear to him proper, to exhibit the actual state and amount of the business depending in those several courts; together with a statement of the fees and emoluments of the marshals, district attorneys, clerks, and other officers of the district and circuit courts for the last two years, and the tables or rules by which such fees have been taxed.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Charles Higgins; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

#### TUESDAY, January 19.

Mr. SANFORD presented the memorial of the members of the various Religious Societies in New York, praying the adoption of such measures as may best promote the security, preservation, and improvement of the Indians; and the memorial was read, and referred to the Committee on Indian Affairs.

The bill for the relief of Joseph Thorne was read the second time.

The bill for the relief of Daniel Pettibone was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the report of the Committee on Pensions, relative to the extension of the provisions of the act of last session, providing for Revolutionary officers and soldiers; and in concurrence therewith, the committee were discharged from the further consideration of the subject.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of Alexander Macomb; and, in concurrence therewith,

*Resolved*, That the prayer of the petitioner, so far as it relates to Stoney Island, ought to be granted.

*Ordered*, That the Committee on Public Lands be instructed to report a bill accordingly.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Daniel Merrill; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the St. Andrew's Society at Charleston; and the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the motion of the 14th instant, for instructing the Committee on the Judiciary to inquire into the expediency of prescribing by law the mode of quartering soldiers during war, &c.; and it was ordered that the further consideration thereof be postponed until Friday next, and that it be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers, who died, or were killed in the late war;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel H. Harper;" and, no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions," together with the amendments reported thereto, by the Committee on Pensions; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the military service of the United States, for the year 1819," together with the amendment reported thereto by the Committee on Finance; and the further consideration thereof was postponed until to-morrow.

Mr. FROMENTIN submitted the following motion for consideration:

*Resolved*, That the rule adopted by the Senate, during the present session, the purport of which is to prevent the printing of any motion or resolution offered to the Senate, except on special order, be rescinded.

The PRESIDENT communicated a report from the Secretary of War, made in pursuance of the 5th section of the act of the 3d of March, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," showing the expenditure of money appropriated for the contingent expenses of the Military Establishment for the year 1818; and the report was read.



WEDNESDAY, January 20.

Mr. GOLDSBOROUGH presented the petition of Francis Le Baron, of New York, praying permission for himself and his associates to lease, for a term of years, from the Chippewau nation of Indians, residing on the south side of Lake Superior, a certain tract of country for the sole purpose of working any copper mines, which he has or may discover thereon, for reasons stated in the petition; which was read, and referred to the Committee on Commerce and Manufactures, to consider and report thereon.

Mr. NOBLE presented the memorial of the General Assembly of the State of Indiana, praying the appointment of an additional surveyor general, whose duties shall be confined to the superintendence of the public surveying in that State alone, for reasons set forth in the memorial; which was read, and referred to the Committee on the Public Lands.

Mr. DICKERSON presented the memorial and remonstrance of sundry citizens of the United States, residing in the State of New Jersey, praying amendments to the act prohibiting the importation of slaves, so as more effectually to prevent their introduction into the United States; and the memorial was read, and referred to the committee on the subject of the slave trade.

Mr. DICKERSON also presented the petition of William McFarland, late a corporal in the ninth regiment of infantry, praying an increase of pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. DICKERSON also presented the petition of Rachael Sturgis, praying that provision may be made for the maintenance and education of the three orphan children of John T. Bentley, formerly a captain in the sixth regiment of infantry, who died in service in the year 1808, whilst under the command of General Wilkinson, in the vicinity of New Orleans, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. DICKERSON also presented the petition of Ann Vreeland, and others, surviving executors of Nicholas Vreeland, deceased, praying payment for a certificate issued in 1778, to the deceased, by Benjamin Thompson, commissioner for the State of New Jersey, for two hundred and forty-five dollars and sixty-six cents, bearing interest from 1st of January of that year, which was accidentally destroyed; and the petition was read, and referred to the Committee of Claims.

On motion of Mr. RUGGLES, the Committee on the Public Lands were instructed to inquire into the expediency of making provision, by law, for the division of the territories recently ceded by the Indians, in the States of Ohio, and Indiana, into suitable districts, and for the establishment of land offices for the sale thereof.

Mr. EPPES, from the Committee of Finance, to whom was referred the bill, from the House of Representatives, entitled "An act directing the payments of certain bills drawn by General Arm-

strong, in favor of William Morgan," reported the same without amendment.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, from the House of Representatives, entitled "An act authorizing the payment of a sum of money to the officers and crews of gunboats No. 149 and 154," reported the same without amendment.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of B. and P. Jourdan, made a report, accompanied by a bill for the relief of B. and P. Jourdan, brothers; and the report and bill were read, and the bill passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Alexander McCormick, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted; and the report and resolution were read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Jacob Purkhill, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition; and the report and resolution were read.

Mr. STORER submitted the following motion for consideration:

*Resolved*, That the Committee on Finance be, and hereby are, instructed to inquire into the expediency of so altering the amount of compensation to certain collectors of the customs, as shall make the same more commensurate with the duties required of them.

The Senate resumed the consideration of the report of the Committee on Pensions, on the propriety of placing Caleb Austin on the pension list; and the consideration thereof was further postponed to Monday next.

The Senate resumed the consideration of the report of the Committee of Finance, on the petition of Nathaniel Goddard, and others; and the consideration thereof was further postponed until to-morrow.

The Senate proceeded to consider the motion submitted yesterday by Mr. FROMENTIN, to rescind a late rule of the Senate respecting the printing; and it was postponed until to-morrow.

The bill from the House of Representatives, entitled "An act for the relief of Samuel H. Harper," was read the third time, and passed.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the expediency of providing, by law, for clothing the Army of the United States in domestic manufactures, together with the motion to recommit the same, submitted by Mr. RUGGLES; and, on request, Mr. R. obtained leave to withdraw said motion.

On motion, by Mr. LACOCK, the further consideration of the report was postponed to the 4th day of March next.

On motion, by Mr. RUGGLES,  
*Resolved*, That the President of the United States be requested to cause a report to be laid before the Senate, at their next session, of such facts as it may be within the means of the Government to obtain, showing how far it may be expedient or not, to pro-

vide, by law, for the clothing of the Army with articles manufactured in the United States.

THURSDAY, January 21.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri;'" a bill, entitled "An act making provision for the claim of M. Poirey;" a bill, entitled "An act making provision for the claim of M. de Vienne;" a bill, entitled "An act supplementary to the act, entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District, to the line thereof;'" and also a bill, entitled "An act allowing further time to complete the issuing and locating of land warrants;" in which bills they request the concurrence of the Senate.

The five bills last mentioned were read, and severally passed to the second reading.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, reported a bill for the better organization of the Military Academy; and the bill was read, and passed to the second reading.

Mr. WILLIAMS also communicated an estimate of the increased expense of the Military Academy, proposed by said bill; which was read.

Mr. WILSON presented the petition of James Greene and Company, manufacturers of copperas, in New Jersey, praying an increase of duty on the importation of copperas; and the petition was read, and referred to the Committee on Commerce and Manufactures, to consider and report thereon.

Mr. RUGGLES presented the petition of John Anderson, of the Territory of Michigan, praying compensation for property destroyed during the late war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TAYLOR presented the memorial of the trustees of the Vincennes University, praying for the sale of the remainder of the seminary lands in Gibson county, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The PRESIDENT also communicated the petition of Cornelia Schoonmaker, administratrix, and Peter Marius Greene, administrator of the estate of Zachariah Schoonmaker, praying relief in the settlement of the deceased's accounts, as paymaster of the second regiment of the United States volunteer artillery; and the petition was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Kenzie and Forsyth," reported the same with an amendment; which was read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act for the relief of Adam Kingsley and Thomas French," reported the same without amendment.

The Senate resumed the consideration of the motion of the 19th instant, "That the rule adopted by the Senate during the present session, the purport of which is to prevent the printing of any motion or resolution offered to the Senate, except on special order, be rescinded;" and, on the question to agree thereto, it was determined in the negative.

On motion, by Mr. EPPES, the Committee on Pensions were instructed to inquire into the expediency of placing Peter Francisco on the list of United States pensioners.

Mr. MORROW, from the Committee on Public Lands, pursuant to instructions, reported a bill confirming the claim of Alexander Macomb, to a tract of land in the Territory of Michigan; and the bill was read, and passed to the second reading.

Mr. MACON presented the petition of Benjamin Putney, praying relief on account of his services in the Revolutionary war; and the petition was read, and referred to the Committee of Claims.

Mr. MORROW presented three memorials of a number of the inhabitants of Ohio, praying the adoption of measures for the improvement of the Indians; and the memorials were read, and referred to the Committee on Indian Affairs.

The Senate resumed the consideration of the motion of the 20th instant, for instructing the Committee on Finance to inquire into the expediency of altering the amount of compensation to certain collectors of the customs; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on Finance, on the petition of Nathaniel Goddard, and others; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas B. Farish," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed, to the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to extend the judicial system of the United States; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.



SENATE.

Military Roads.

JANUARY, 1819.

## MILITARY ROADS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the military service of the United States for the year 1819," together with the amendments reported thereto by the Committee on Finance; the second amendment having been agreed to; and,

On the question to agree to the first amendment reported as follows: "Strike out the 19th, 20th, and 21st lines to wit: For extra pay to non-commissioned officers and soldiers, employed in the construction and repairs of military roads, ten thousand dollars;" it was determined in the negative—yeas 18, nays 18, as follows:

**YAYS**—Messrs. Barbour, Daggett, Eaton, Eppes, Gaillard, Goldsborough, Leake, Macon, Mellen, Morrill, Palmer, Roberts, Smith, Stokes, Talbot, Tichenor, Williams of Mississippi, and Williams of Tennessee.

**NAYS**—Messrs. Crittenden, Dickerson, Forsyth, Fromentin, Hunter, Johnson, Lacock, Morrow, Noble, Otis, Ruggles, Sanford, Storer, Tait, Taylor, Thomas, Van Dyke, and Wilson.

The VICE PRESIDENT gave the casting vote. The following is a sketch of the remarks with which he prefaced his vote on this occasion:

If the clause proposed to be expunged embraced the Constitutional question which has been made the subject of discussion in the Committee, I should deem this decision of great responsibility and importance. But I do not perceive that this, or any other Constitutional principle, is involved in the clause under consideration. It imparts no new powers, nor gives any definite directions to the Executive Department of the Government, with regard to fatigue duty of the army or military roads; but merely appropriates ten thousand dollars to pay the non-commissioned officers and privates of the army for that portion of their labor which may be performed on military roads in 1819. The proper department will, of course, be governed in the expenditure of that sum by a just construction of the clause with reference to the objects of the bill to the Constitution of the United States, and to the provisions of previously existing laws.

Even, if the opinion were tenable, that no antecedent laws have vested the President of the United States with a discretion of devoting a part of the fatigue duty of the army, or of appropriations for the Quartermaster's department, to the formation or repair of military roads, this clause would be unobjectionable and harmless; because no lawful application of the money granted by it could take place until further legislative provision should be made on the subject.

Without insisting on the Constitutional prerogatives of the President of the United States, as Commander-in-Chief of the Army and Navy, or upon the express powers to make public roads through Indian territory and elsewhere, frequently granted by Congress, the Legislature of the nation has repeatedly conferred the authority of applying the labor of the Army and general appropriations to the objects contemplated in this

section; for, when they give to the Executive plenary powers to effect any certain and legal public object, the right to employ all lawful means to accomplish that object is necessarily implied and conferred. Thus the law which enjoins on the President the erection of fortifications, implies and comprehends the right to procure the title and jurisdiction of eligible sites; to build wharves, bridges, and edifices; to improve the navigation of waters, and to open or repair the roads, indispensable to the occupation of those sites, for the accommodation of the persons employed in the works, and for the conveyance and landing of materials to construct, munitions to equip, of troops to garrison, and of provisions to supply those fortifications. Roads of this description are military roads, within the purview of the bill before the committee. In like manner, under the laws which impose on the Executive the duty of guarding and securing our remote frontier, when it becomes indispensable to that end to occupy posts on Indian tracts, or beyond inhabited territory, the right to open and make roads of access to such posts is clearly implied and granted. These, also, may be denominated military roads, on which this appropriation may, with propriety, be expended. In various other instances similar powers are incidental to, and comprehended in, general provisions. In this community none other can be tolerated, at the present time, as military roads, than such as may be made by the Army, and are indispensable to the accomplishment of some present military object, sanctioned by the Constitution and the laws already enacted. In pursuance of this exposition, without any express provision for the purpose, a part of the labor of the Army, and of the general appropriation for the Quartermaster's department, have been judiciously, and, in my opinion, legally, devoted, for a number of years past, to the construction and repair of roads of this description. To such roads, and to such only, the Executive, on a sound and legal construction of the section, notwithstanding its departure, in phraseology, from the grants of money heretofore made for, and applied to, the same purposes, will be restricted in the application of this appropriation. If that be conceded to be the extent of the import of the clause before us, there can be no solid objection to its retention in the bill; and I therefore request the Secretary to take my decision, of the motion to strike out, in the negative.

FRIDAY, JANUARY 22.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1819," reported the same with amendments; which were read.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom the subject was referred, reported a bill to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the

JANUARY, 1819.

Proceedings.

SENATE.

Post Office Establishment;" and the bill was read, and passed to the second reading.

The bill entitled "An act making provision for the claim of M. Poirey," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act supplementary to the act entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company, of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District, to the line thereof,'" was read the second time, and referred to the Committee for the District of Columbia.

The bill entitled "An act allowing further time to complete the issuing and locating of military land warrants," was read the second time, and referred to the Committee on Public Lands.

The bill entitled "An act making provision for the claim of M. de Vienne," was read the second time, and referred to the Committee of Claims.

The bill entitled "An act explanatory of the act entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri,'" was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of B. and P. Jourdan, brothers, was read the second time.

The bill confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan, was read the second time.

Mr. ROBERTS presented the memorial of a number of the inhabitants of Philadelphia, praying amendments to the act prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee appointed on the 15th of last month, on that subject, to consider and report thereon.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Michael Hogan; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Thomas L. Ogden, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. PALMER presented the petition of Otho Stephens, of Vermont, praying a pension; and also the petition of Experians Fisk, of Vermont, praying for a pension; and the petitions were severally read, and referred to the Committee on Pensions.

Mr. MORRILL, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Benjamin Pool," reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the St. Andrew's Society of Charleston; and the further consideration thereof was postponed until Monday next.

Mr. GOLDSBOROUGH, from the Committee for the District of Columbia, to whom was referred

the bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, from the southern termination of Eleventh street east, in the city of Washington," reported the same without amendment.

Mr. MORROW presented the petition of Jacob Cooper, praying relief in consideration of an erroneous entry of a certain quarter section of land, as stated in the petition; which was read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Alexander McCormick; and, in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act to provide for the prompt settlement of public accounts,'" and also a bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana and Louisville, in the State of Kentucky;" in which bills they request the concurrence of the Senate.

The said bills were read, and passed to the second reading.

Mr. MACON submitted the following motion for consideration:

*Resolved*, That the Committee of Claims be instructed to inquire into the expediency of reporting a bill to provide for the payment of slaves impressed into the public service, and lost in the said service.

Mr. DICKERSON, from the committee to whom was referred the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, reported the same with amendments; which were read.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That the Secretary of the Senate be directed to procure and cause to be printed—copies of the documents accompanying the report of the committee of the House of Representatives on the subject of the National Bank; provided the same can be procured at the usual rate of allowance for printing similar documents.

Mr. EDWARDS presented the petition of John Hay and others, citizens of the village of Cahokia, praying the confirmation of the title in fee simple estate of certain land laid off as a common of said village, whereon a town has been laid off, named "Illinois City;" and the petition was read, and referred to the Committee on Public Lands.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Henry Davis," reported the same without amendment.

The amendment to the bill, entitled "An act for the relief of Thomas B. Farish," having been reported by the Committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the



SENATE.

Petition of Jacob Purkhill.

JANUARY, 1819.

Whole, the consideration of the bill, entitled "An act making appropriations for the military service of the United States for the year 1819," and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended.

Mr. EPPES, from the Committee on Finance, communicated sundry estimates of moneys required for the expenses of the War Department and military service of the United States for the year 1819; which were read.

#### PETITION OF JACOB PURKHILL.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Jacob Purkhill.

Mr. CRITTENDEN proposed the following as an amendment:

*Resolved*, That the prayer of the petitioner ought to be granted, and that the Committee of Claims be instructed to bring in a bill for his relief.

On motion by Mr. MACON, to substitute the following for the latter clause thereof, "that the Committee of Claims be, and they are hereby, instructed to bring in a bill providing for the payment of slaves lost to their owners, by being impressed into the military service of the United States," it was determined in the negative—yeas 12, nays 22, as follows:

YEAS—Messrs. Eppes, Forsyth, Fromentin, Johnson, Lacock, Macon, Roberts, Ruggles, Smith, Stokes, Tait, and Williams of Mississippi.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Eaton, Edwards, Goldsborough, Hunter, Leake, Mellen, Morrill, Otis, Palmer, Sanford, Storer, Talbot, Taylor, Thomas, Tichenor, Van Dyke, Williams of Tennessee, and Wilson.

The question recurring on Mr. CRITTENDEN's proposition, it was determined in the affirmative—yeas 24, nays 11, as follows:

YEAS—Messrs. Crittenden, Daggett, Eaton, Edwards, Eppes, Forsyth, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Macon, Mellen, Otis, Palmer, Sanford, Stokes, Tait, Talbot, Taylor, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Dickerson, Hunter, Lacock, Morrill, Roberts, Ruggles, Smith, Storer, Tichenor, and Wilson.

So it was resolved, that the prayer of the petitioner ought to be granted, and that the Committee of Claims be instructed to bring in a bill for his relief.

The Senate adjourned to Monday.

MONDAY, JANUARY 25.

On motion of Mr. WILLIAMS, of Tennessee, the President of the United States was requested to cause to be laid before the Senate a copy of the rules and regulations adopted for the government of the Military Academy at West Point. Also, how many cadets have been admitted into the Academy; the term of the residence of each cadet

at that institution; and how many of them have been appointed officers in the Army and Navy of the United States.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased," reported the same without amendment.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Robert Sewall, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. WILSON presented the memorial of a number of citizens of the United States, residing in the city of Trenton, and State of New Jersey, praying amendments to the acts prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee appointed on the 15th of last month, on the subject of the slave trade.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the establishment of a district court within the Territory of Michigan.

Mr. ROBERTS submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be, and they are hereby, instructed to inquire into the expediency of placing all criminal prosecutions and suits in which the United States shall be a party, and the officers of the United States who commence such suits and prosecutions, under the supervision and direction of the Attorney General; and whether it be expedient to provide for the appointment of an Assistant Attorney General, who shall perform the duties of District Attorney, and such other duties as may be assigned him by law.

Mr. GAILLARD presented the petition of Henry Ingraham, and others, praying to be exonerated from the payment of interest on a balance due the Government, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

The bill entitled "An act supplementary to the act, entitled 'An act to provide for the prompt settlement of public accounts,'" was read the second time, and referred to the Committee on Finance.

The bill entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky," was read the second time, and referred to the Committee on the Post Office and Post Roads.

The bill for the better organization of the Military Academy was read the second time.

The bill for the relief of Michael Hogan was read the second time.

The bill to repeal part of an act passed on the twenty-seventh day of February, 1813, entitled "An act in addition to 'An act regulating the

JANUARY, 1819.

Proceedings.

SENATE.

Post Office Establishment," was read the second time.

Mr. EPPES, from the Committee on Finance, to whom the subject was referred, reported a bill to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces; and the bill was read, and passed to the second reading.

Mr. EPPES, from the same committee, communicated sundry documents in relation to the same subject, which were read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of the heirs of Edward McCarty; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, pursuant to instructions, reported a bill for the benefit of Jacob Purkhill; and the bill was read, and passed to the second reading.

The amendments to the bill, entitled "An act making appropriations for the military service of the United States for the year 1819," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1819," together with the amendments reported thereto by the Committee on Naval Affairs; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time, as amended.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the memorial of Nicholas Brown and Thomas P. Ives, and concurred therein.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Peter Lacoste; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas I. Ogden; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the memorial of the St. Andrew's Society of Charleston; and, in concurrence therewith, resolved that the prayer of the petition ought not to be granted.

The Senate resumed the consideration of the motion of the 22d instant, for instructing the Committee of Claims to inquire into the expediency of reporting a bill to provide for the payment of slaves impressed into the public service, and lost in the said service; and agreed thereto.

The Senate resumed the consideration of the motion of the 22d instant, for printing certain documents; and the same having been amended, was agreed to as follows:

*Resolved*, That the Secretary of the Senate be directed to procure and cause to be printed five hundred copies of the report and of the documents accompanying the report of a committee of the House of Representatives on the subject of the National Bank: *Provided*, The same can be procured at the usual rate of allowance for printing similar documents.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further to extend the judicial system of the United States; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Sampson S. King," together with an amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time, as amended.

Mr. Mellen submitted the following motion for consideration:

*Resolved*, That the Committee on Finance be instructed to inquire whether it is expedient to make



SENATE.

Exportation of Domestic Coins.

JANUARY, 1819.

any alteration of, or addition to, the act passed on the 18th of January, 1815, entitled "An act to provide additional revenues for defraying expenses of Government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same."

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill respecting the location of certain sections of land to be granted for the Seat of Government, in the State of Indiana; and the bill was read, and it passed to the second reading.

Mr. MORROW, from the same committee, to whom was referred the petition of William Bell, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. MORROW, from the same committee, to whom was referred the petition of William N. Perry and Mark Barnett, made a report, accompanied by a resolution, that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. LACOCK presented the petition of James Brady, of Pennsylvania, praying the renewal of two warrants for Revolutionary bounty lands, stated to have been deposited by his order, in the Land Office, and which cannot now be found; and the petition was read, and referred to the Committee on Public Lands.

On motion by Mr. EPPES, the Committee on Military Affairs were instructed to prepare and report a bill to regulate the compensation and other allowances made to officers and soldiers employed on fatigue duty.

## EXPORTATION OF DOMESTIC COINS.

Mr. TALBOT, from the Committee on Finance, to whom was referred a resolution of the Senate to inquire into the expediency of prohibiting by law the exportation of the gold, silver, and copper coins of the United States, made the following report, which was read:

The Committee on Finance, to whom was referred a resolution to inquire into the expediency of prohibiting by law the exportation of the gold, silver, and copper coins of the United States, report:

That, the measure contemplated in the resolution intimately connecting itself with the fiscal concerns of the nation, the committee, through their chairman, addressed a note to the Secretary of the Treasury, requesting his opinion of the propriety of adopting measures for the attainment of the object in contemplation; from whom they received in reply a communication, (which accompanies this report, with the arguments and opinions expressed in which, those of your committee substantially correspond.

Of the inefficiency, if not entire impotence of legislative provisions to prevent the escape of the precious metals beyond the territorial limits of the Government, the history of all countries in which the power of legislation has been thus exercised, bears testimony. And, if all the efforts of arbitrary power in despotic Governments, if regulations dictated by the most cautious and jealous policy, guarded by penalties and punishments the most cruel and sanguinary, and enforced with a rigor which knows no mitigation, have been in

vain, what hope can be indulged that a Government like ours—the genius and spirit of which breathes mildness and moderation—a country in which cruel and unusual punishments are unknown—could find the means of obtaining, by this mild spirit of legislation, this desirable end? Indeed, no error seems more entirely renounced and exploded, if not by the practice of all nations, at least in the disquisitions of political economists, than that which supposed that an accumulation of the precious metals could be produced in the dominions of one sovereign by regulations prohibiting their exportation to those of any other. The evils resulting to the community from a scarcity, or too small a portion of the precious metals, seem to your committee to be too deeply seated to yield to any remedies within the competency of legislation to afford. It is a malady which admits of no cure but that of time, patient industry, and persevering economy. As long as the balance of trade is against us, so long will a constant efflux of the precious metals be required for the discharge of such balance.

From this axiom in commerce, the correctness of which, it is believed, never was questioned, it follows that it remains with the people themselves to adjust this balance, and to produce a preponderance in favor of our own country. Highly favored as they are by the bounty of Providence; blessed with a country of unparalleled fertility; with soil, climate, and situation almost infinitely diversified; with capacities of rivaling every quarter of the globe in the agricultural productions, as well as in the perfection of their manufactures, raw materials for which are so abundantly furnished them within the bosom of their own country; aided by a moderate and wise economy in a limited enjoyment of foreign luxuries—with these advantages, duly appreciated and fully improved, to what elevated condition in their intercourse with foreign nations may they not aspire? To the protection of our domestic manufactures by the imposition of duties on foreign importations, the National Government seemed to have gone as far as sound policy would warrant or permit; the present tariff having been framed with a view as well of raising the requisite supply of revenue for the support of Government, as, by the amount of the duties imposed on foreign articles of manufacture, to enable our own manufacturer of similar articles to meet the importer of such foreign manufactures, in our own market, on terms of fair and equal competition.

Further than this, it would seem to your committee, the Congress of the United States ought not to go. To commercial enterprise, to the sagacity of this class of the community, sharpened by the keen sense of interest, and enlightened by long experience, it should be left to explore the old, or, seeking new channels of commerce, find out the most profitable markets for the productions of our native and domestic industry, and to bring us in exchange such of the productions of foreign climates, and of foreign labor, as our citizens are willing to purchase. In short, it is the opinion of your committee that commerce is always destined to flourish most where it is permitted to pursue its own paths, marked out by itself, embarrassed as little as possible by legislative regulations or restrictions.

From these considerations your committee are induced to recommend the adoption of the following resolution:

*Resolved*, That it is not expedient for Congress to adopt any regulations for preventing the exportation of the gold, silver, or copper coins of the United States.

JANUARY, 1819.

Exportation of Domestic Coins.

SENATE.

TREASURY DEPARTMENT, Dec. 29, 1818.

SIR: In reply to your letter, enclosing the resolution of the Senate, of the 2d instant, instructing the Committee of Finance "to inquire into the expediency of prohibiting the exportation of the gold, silver, and copper coins of the United States," I have the honor to state that, from the best consideration which I have been able to bestow upon the subject, it would be inexpedient to adopt the measure at this time: 1st, because it cannot be rendered effectual; and 2d, that, so far as it may be rendered effectual, it will operate in favor of the corrupt part of the community, and injuriously to the fair and conscientious merchant. The latter position is so manifestly true, that no argument will be offered in its favor.

In support of the first position, the experience of other States furnishes the most irrefutable evidence. During the dark ages, and those which immediately followed the revival of letters, arts, and commerce, in Europe, the exportation not only of the current coin of the respective States, but of the precious metals generally, was prohibited, under the most sanguinary penalties. This general prohibition, yielding to the progress of reason, and to the advancement made in the science of political economy during the seventeenth and eighteenth centuries, has been gradually reduced in most of the States of modern Europe, to the gold and silver coins of the respective States. According to the testimony of the most enlightened men of every State, for the last century, the absolute inefficacy of this modified prohibition, as a permanent measure, has been satisfactorily established.

By the immutable laws of commerce, the exportation of the precious metals must necessarily depend upon the general balance of trade, in despite of any municipal regulation which human ingenuity can devise, or human power execute, short of wresting from individuals the possession of it. As a general principle, it may be safely asserted, that the State which imports merchandise to a greater amount than it exports, must pay the balance in the precious metals. In free States, where public credit is firmly established, and moneyed institutions founded upon just principles, and wisely administered, it is admitted that balances may be for some time adjusted without the aid of specie, by transferring to the creditor interest-bearing securities, such as funded debt and bank stock. It needs, however, no effort of reason to determine that this means of adjusting balances must not only be limited in its extent, but injurious to the party which resorts to it, as it uniformly tends to increase and perpetuate the balance to the extent of the interest which is annually payable to the creditor.

But it may possibly be contended, that however inefficient the measure may be, as a permanent regulation, yet there are conjunctures in the affairs of every State which not only justify, but imperiously require its temporary adoption.

It cannot be denied that the history of our own Government strongly countenances this distinction. During the embargo of 1807-'8, and that of 1812, the exportation of specie of every description was rigidly prohibited by law. Admitting, for the purpose of this inquiry, the correctness of this decision, it may be proper to determine whether our political or commercial relations with foreign States, or our internal affairs, presents a case which calls for the temporary adoption of the measure. According to general appearances, it is believed that our relations with foreign

States have at no period of our national existence furnished less cause of inquietude.

The vexations to which our commerce was subjected by the principal belligerent nations, prior to the commencement of the late war; its almost total suspension during the war, and the irregularities and vicissitudes incident to its resumption on the return of peace, have doubtless produced the most serious embarrassments and losses. At this time, however, there is just reason to believe that these irregularities have ceased; that commerce has resumed its customary channels; and that the enterprising and prudent merchant will hereafter enjoy fair and reasonable profits. The rate of exchange between this country and the commercial States of Europe, is a sufficient security against the exportation of the gold and silver coins of the United States to those States. The exportation of specie to the East Indies is the only circumstance connected with our commercial intercourse with other States, which can be supposed to require the temporary prohibition of the exportation of the current coin of the United States. It is believed that this trade has been prosecuted more extensively by the merchants of the United States, since the late war, than anterior to that period. The extent to which it will be prosecuted in succeeding years, will depend upon the extent to which sales can be profitably made of the articles imported, and the practicability of obtaining the necessary amount of specie for its prosecution. Should the civil war which has for some time existed between Spain and the independent Governments in the Spanish American provinces be prosecuted for any considerable time longer, it is probable that there will be a general appreciation of the precious metals in the civilized world, and that the drain of the East Indies may not only be greatly diminished, but that they may be imported from thence into Europe and the United States. But there is no rational probability that in either event the pressure upon the community, which has produced this inquiry, will be temporary in its nature, or that it will yield to any temporary legislative expedient. It will be removed only when our importations shall be reduced below our exportations of merchandise to a greater extent than the amount of specie exported to the East Indies. Until this should be the case the pressure will continue, even should the quantity of the precious metals in general circulation be greatly increased. Whether the quantity be great or small, no part of it will permanently remain in a State against which there is an annual balance of trade, unless the coin of such State should be so adulterated as to destroy its currency. If these views be correct, we must look to the state of our internal affairs for circumstances which may justify a temporary prohibition of the exportation of the gold and silver coin of the United States. That the currency is disordered, and that much embarrassment is felt in the fiscal transactions of the Government, has been stated in the annual report of the Treasury. In the Spring of 1817 the principal banks in the commercial cities, in conjunction with the Bank of the United States, resumed specie payment. The example was ostensibly followed by the immense number of local banks established in the interior of the Atlantic States. In the Western States, specie payments were also resumed by the banks established before the refusal to pay specie, in 1814.

In making the effort to restore the currency to an equality with gold and silver, the banks were seconded by the community, which manifested a laudable for-



SENATE.

Proceedings.

JANUARY, 1819.

bearance to demand specie for the bank notes which formed the general circulation. This forbearance, however, could not be expected to continue after the banks had had time to regulate their paper circulation, according to the quantity of specie in their vaults. In the meantime the Bank of the United States, and some of the State banks, made considerable efforts to import specie. The exportation of it, during the same period, has, it is believed, been equal, if not greater than the importation by the banks and by individuals. It is presumed that the banks will not continue their exertions to import specie, but leave that to be effected by the commercial interest, which alone can bear the expense; but which will certainly not do it, so long as it shall be done by the banks. When the banks cease to import, they must withdraw their paper from circulation to a very great extent, or stop payment. The demand for a circulating currency must be made imperious before it will be imported to any considerable extent by the commercial interest. It is only when gold and silver shall form a large proportion of the circulating medium of the nation that the currency can be said to be sound. Since the resumption of specie payments, in the Spring of 1817, this has not been the case. What specie there was in the country has remained in the vaults of the banks until it has been drawn by the brokers, to be sold to the exporting merchant. It has not entered into the general circulation; and there is just reason to fear that much time will elapse before it does. What was the result of forbearance in the first instance, has been effected since by the operations of interest or of fear. If specie could be freely drawn by the exporting merchant from the vaults of the banks, at par, he would not pay the brokers eight or ten per cent. premium.

Bank stock, especially in the Eastern, Middle, and some of the Western States, forms so great a portion of the property of the wealthy and influential classes of society, that the interest of the banks is that of the whole community. The exporter of specie has, therefore, to choose between the hostility of the community and the payment of a premium upon the specie which he exports. There is even just reason to apprehend, that where banks shall stop payment, they may be permitted, by public opinion, in some parts of the Union, to continue to circulate their notes. Should this apprehension be realized, and the evil should be extended to different sections of the country, the currency could not fail to be vitiated in an extreme degree, unless the National or State Governments should adopt measures necessary to repress it. Against evils of this nature, the prohibition of the exportation of the gold and silver coins of the United States would furnish no relief. Nor is it conceived that this measure can, in any degree, repress or alleviate the sufferings of the community, resulting from the excessive multiplication of banks, and consequent inundation of bank paper which it was manifest could not be converted into specie at the will of the holder. If the banks shall be constrained by law, by public opinion, or by a correct knowledge of their interest, to stop their discounts when they cease to discharge their notes in specie when demanded, and confine their exertions exclusively to the collection and payment of their debts, the evils which now oppress society will be gradually diminished, and the currency everywhere will become equal to gold and silver. But, during this process, and after it shall be terminated, property of every description will be greatly diminished in value; and es-

pecially that which is fixed and permanent in its nature. In the liquidation of the existing debts, the relation of debtor and creditor will be sensibly changed in favor of the latter, who will be paid in money of greater intrinsic value than was received by the former. But this is an evil which necessarily results from fluctuations in the currency of every State, and cannot be charged upon the Government, which in the present case will be most seriously affected.

It is, however, conceived that a paper currency, founded upon a metallic basis, is more liable to sudden and violent fluctuations than one which is purely metallic. In the present state of the precious metals in general circulation, a metallic currency, it is confidently believed, could not be simultaneously resumed by the different States of the civilized world. We are then compelled, under existing circumstances, to continue a paper currency, founded upon a metallic basis, with all its liability to sudden and violent fluctuations, aggravated by the circumstance that more than twenty different sovereignties claim and exercise the right of increasing, *ad libitum*, that currency, through the instrumentality of banking institutions. These circumstances, together with the drain of specie produced by the East India trade, present the most serious obstacles to the preservation of the currency at an equal value to gold and silver. These obstacles now exist in, perhaps, their greatest force. The practicability of preserving the convertibility of bank notes into current specie, under circumstances so extremely adverse, is in a fair course of experiment. Whatever may be the result of this experiment, until it is obtained, no legislative interference is conceived to be necessary, except for the enforcement of the obligation on the part of the banks to discharge their notes in specie, when demanded. This can be most certainly effected by considering and punishing, as an act of bankruptcy, any attempt on the part of a bank to circulate its notes whilst it refuses to discharge them in specie, or the notes of other banks in the same situation.

I have the honor to be sir, very respectfully, your most obedient servant,

WM. H. CRAWFORD.

Hon. J. W. EPPES,  
Chairman Committee of Finance.

TUESDAY, JANUARY 26.

Mr. SANFORD presented the petition of William Edgar and Alexander Macomb, of the city and State of New York, stating that they had in the year 1787, purchased lands belonging to the United States, to a large amount, for which they paid into the Treasury thereof thirty thousand dollars; that being unable to complete their payment on account of said purchase, the said lands reverted to the United States, and the sum thus paid was declared forfeited, praying that this sum may be refunded, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Rees Hill, made a report, accompanied by a bill for the relief of Rees Hill; and the report and bill were read, and the bill passed to the second reading.

Mr. WILSON, from the Committee of Claims, to whom the subject was referred, reported a bill

JANUARY, 1819.

Proceedings.

SENATE.

for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; and the bill was read, and passed to the second reading.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the petition of Rachael Sturges, made a report, accompanied by a resolution that the petitioner have leave to withdraw her petition. The report and resolution were read.

Mr. LACOCK, from the same committee, to whom was referred the petition of Otho Stephens, made a report, accompanied by a resolution that it would be inexpedient to grant the prayer of the petitioner, and that he have leave to withdraw his petition. The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act allowing further time to complete the issuing and locating of military land warrants," reported the same without amendment.

The bill to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces, was read the second time.

The bill for the benefit of Jacob Purkhill was read the second time.

The bill respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana, was read the second time.

The bill for the relief of the heirs of Edward McCarty was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the payment, in certain cases, on account of the Treasury notes which have been lost or destroyed," together with the amendment reported thereto by the Committee on Finance; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom was referred the bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky," reported the same with an amendment; which was read.

The amendments to the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1819," having been reported by the committee correctly engrossed, the bill was read the third time as amended, and passed.

The amendment to the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendment to the bill, entitled "An act for the relief of Sampson S. King," having been

reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren," was read a third time, and passed.

The bill further to extend the judicial system of the United States was read a third time, and passed.

The bill to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents, was read a third time, and passed.

On motion by Mr. MORROW, the Committee on Public Lands were instructed to inquire whether any, and, if any, what amendments are necessary to be made to the act, entitled "An act for changing the compensation of receivers and registers of the land offices;" and to report thereon.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Pierre Denis de la Ronde; and the bill was read, and passed to the second reading.

Mr. JOHNSON presented the petition of Ferdinand L. Amelung, captain in the first infantry in the United States army, praying a proportion of certain prize money arising from seizures for violations of the revenue laws, in the western parts of the State of Louisiana, as stated in the petition; which was read, and referred to a select committee, to consider and report thereon by bill or otherwise; and Messrs. JOHNSON, ROBERTS, and BURRILL, were appointed the committee.

A message from the House of Representatives informed the Senate that they have passed a bill, entitled "An act regulating the payments to invalid pensioners;" a bill, entitled "An act for the relief of Phoebe Stuart;" and a bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett;" and also a resolution respectfully requesting the Senate to permit two of its members to attend, as witnesses, a select committee of the House; in which bills and resolution they request the concurrence of the Senate.

The said three bills and resolution were read, and severally passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" together with the amendment reported thereto by the Committee on the Judiciary; and the amendment having been agreed to, and the bill having been further amended, the PRESIDENT reported it to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

On motion by Mr. DICKERSON, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the



## SENATE.

## Proceedings.

JANUARY, 1819.

United States, together with the amendments reported thereto by the select committee, was made the order of the day for to-morrow.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, pursuant to instructions, reported a bill to regulate the pay of the Army when employed on fatigue duty; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States, together with the amendments reported thereto by the Committee on the Judiciary; and the amendments having been agreed to, the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

Mr. TAIT, from the Committee on Naval Affairs, to whom the subject was referred, reported a bill authorizing the purchase of live oak timber for naval purposes; and the bill was read, and passed, to the second reading.

## WEDNESDAY, January 27.

On motion by Mr. TAIT, the Committee on Naval Affairs, to whom was referred the petition of Archibald B. Lord, and others, in behalf of the officers and crew of the revenue cutter Boxer, were discharged from the further consideration thereof, and the petitioners had leave to withdraw their petition.

Mr. MACON, from the Committee on Foreign Relations, communicated three acts of the Parliament of Great Britain, one entitled "An act to consolidate and extend the several laws now in force for allowing the importation of certain goods and merchandise into, and from certain ports of the West Indies," passed the 27th June, 1805; and one, entitled "An act to allow British plantation sugar and coffee, imported into Bermuda in British ships, to be exported to the territories of the United States of America, in foreign ships or vessels; and to permit articles, the production of the said United States, to be imported into the said island in foreign ships or vessels," passed the 1st July, 1812; and the other, entitled "An act to permit the importation of certain articles into His Majesty's colonies or plantations in the West Indies, or on the continent of South America, and also certain articles into certain ports in the West Indies," passed the 23d May; and the acts were read.

The bill entitled "An act regulating the pay of invalid pensioners," was read the second time, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of Phoebe Stuart," was read the second time, and referred to the same committee.

The bill entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," was read the second time, and referred to the Committee of Claims.

On motion by Mr. VAN DYKE, the Committee on the Post Office and Post Roads were instructed to inquire as to the expediency of making an ad-

ditional allowance to the postmaster at Georgetown, in Sussex county, in the State of Delaware.

The bill for the relief of Pierre Denis de la Ronde was read the second time.

The bill to regulate the pay of the army, when employed on fatigue duty, was read the second time.

The bill for the relief of Rees Hill was read the second time.

The bill for the relief of the heirs and legal representatives of Nicholas Vreeland, was read the second time.

The bill authorizing the purchase of live oak timber for naval purposes was read the second time.

The resolution from the House of Representatives, respectfully requesting the Senate to permit two of its members to attend, as witnesses, a select committee of the House, was read the second time and considered. Whereupon,

On motion by Mr. BURRILL,  
*Resolved*, That the honorable DAVID DAGGETT and WILLIAM HUNTER, members of the Senate, have leave to attend a committee of the House of Representatives, appointed to inquire into the official conduct of William P. Van Ness and Matthias B. Tallmadge, to be examined, touching the subject of said inquiry, agreeably to a resolution of said House, passed on the 26th instant, requesting that such leave may be granted.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Nathaniel Goddard, and others, formerly owners of the ship Ariadne, and her cargo; and, on the question to agree thereto, it was determined in the affirmative—yeas 32, nays 4, as follows:

YEAS—Messrs. Barbour, Crittenden, Dickerson, Eaton, Eppes, Forsyth, Fromentin, Gaillard, Goldsborough, Johnson, Lacock, Leake, Macon, Morrill, Morrow, Noble, Palmer, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Burrill, Daggett, King, and Otis.

So it was resolved, that the prayer of the petition ought not to be granted.

The amendment to the bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed," having been reported by the committee, correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act to establish a judicial district in Virginia, west of the Alleghany mountain," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed the consideration of the report of the Committee on Pensions, on the propriety of placing Caleb Austin on the pension list; and the further consideration thereof was postponed until next Monday week.

The Senate resumed the consideration of the report of the Committee of Claims, to whom

JANUARY, 1819.

## Proceedings.

## SENATE.

was referred the petition of Thomas Arnold; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Robert Sewall; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

Mr. TAIT gave notice that to-morrow he should ask leave to bring in a bill authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on the Judiciary to inquire into the expediency of providing by law for the establishment of a district court within the Territory of Michigan; and agreed thereto.

## THURSDAY, January 28.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Thomas Hall Jervey;" the bill, entitled "An act making provision for the claim of M. Poirey;" and also the bill, entitled "An act making provision for the claim of M. de Vienne," reported the same respectively without amendment.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Gabriel Godfroy, of the Michigan Territory made a report, accompanied by a bill for the relief of Gabriel Godfroy; and the report and bill were read, and the bill passed to the second reading.

Agreeably to notice given, Mr. TAIT asked and obtained leave to bring in a bill authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Eli Hart, made a report, accompanied by a resolution that a bill be reported allowing to the petitioner the appraised value of his buildings. The report and resolution were read.

Mr. ROBERTS presented the petition of a number of inhabitants of the county of Lancaster, in the State of Pennsylvania, praying amendments to the acts prohibiting the importation of slaves into the United States; and the petition was read, and referred to the committee on the subject of the slave trade.

Mr. ROBERTS also presented the petition of a number of inhabitants of Chester county, in the State of Pennsylvania, praying the establishment of certain post offices and post roads; and the petition was read, and referred to the Committee on the Post Office and Post Roads.

Mr. WILSON, from the Committee of Claims, to whom was referred the petition of Cornelia Schoonmaker, widow and administratrix, and

Peter Marius Green, administrator of Zachariah Schoonmaker, deceased, late paymaster of the 2d regiment of United States volunteer artillery, made a report, accompanied by a resolution that the prayer of the petitioners ought not to be granted. The report and resolution were read.

The PRESIDENT communicated the credentials of WALTER LOWRIE, appointed a Senator by the Legislature of the State of Pennsylvania, for the term of six years, commencing on the fourth day of March next; and they were read, and laid on file.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on the Judiciary to inquire into the expediency of placing all criminal prosecutions, in which the United States shall be a party, under the direction of the Attorney General, and whether it be expedient to provide for the appointment of an Assistant Attorney General; and agreed thereto.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on Finance to inquire whether it is expedient to make any alteration of, or addition to, the act passed on the 18th of January, 1815, entitled "An act to provide additional revenues for defraying the expenses of Government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same;" and agreed thereto.

The Senate resumed the consideration of the motion of the 26th instant, for instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing a certain post route; and agreed thereto.

The Senate resumed the consideration of the resolution proposing to amend the Constitution, so far as to produce an uniform mode of electing Electors of President and Vice President of the United States, and the Representatives to Congress, together with the amendments reported thereto by the select committee.

[The amendments were: first, after providing that the districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of persons entitled by the Constitution to be represented, to insert, "or of persons qualified to vote for members of the most numerous branch of the State Legislature." Second, to add at the end of the section the following: "And if the Legislature of any State shall fail to provide for the election of Representatives, as hereby required, Congress shall have power to provide for the same in the manner prescribed by this article."]

After some discussion, the amendments were agreed to, and the resolution, as amended, ordered to be engrossed for a third reading.

Mr. DAGGETT, from the Committee on the District of Columbia, to whom was referred the petition of William Prout, reported a bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of the



SENATE.

Controversies between States.

JANUARY, 1819.

Public Buildings, and to direct a defence therein; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Nathan Ford; and the bill was read, and passed to a second reading.

Mr. MORROW, from the Committee on Public Lands, reported a bill to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana; and the bill was read, and passed to a second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of David Henley, made a report, accompanied by a bill for the relief of David Henley; and the report and bill were read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of William N. Perry and Mark Barnett; and, in concurrence therewith, the petitioners had leave to withdraw their petition.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of William Bell; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed, in Committee of the Whole, Mr. GAILLARD in the chair, the consideration of the bill more effectually to provide for the punishment of certain crimes against the United States; and, after making some amendments thereto, which were concurred in by the Senate, the bill was ordered to be engrossed and read a third time.

The Senate then resumed, as in Committee of the Whole, Mr. MACON in the chair, the bill to prescribe the mode of commencing, prosecuting, and settling controversies between two or more States, and after some time spent thereon, the Committee rose, and the Senate adjourned.

FRIDAY, JANUARY 29.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the case of Peter Francisco, made a report, accompanied by a resolution that the committee be discharged from the further consideration of the subject. The report and resolution were read.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Mark and Conant, of Detroit, made a report, accompanied by a resolution that the petitioners have leave to withdraw their petition. The report and resolution were read.

On motion by Mr. GOLDSBOROUGH, the Committee of Claims, to whom was referred the petition of Mary Cassin, of South Carolina, praying payment of arrearages of certain soldiers' pay, were discharged from the further consideration thereof, and it was referred to the Secretary of War, to consider and report thereon to the Senate.

Mr. EATON, from the committee appointed to

consider the subject, reported a bill respecting the transportation of persons of color, for sale, or to be held to labor; and the bill was read, and passed to the second reading.

Mr. EPES, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act to provide for the prompt settlement of public accounts,'" reported the same without amendment.

On motion by Mr. EPES, the Committee on Finance, who were instructed, by a resolution of the Senate, to inquire into the expediency of so altering the amount of compensations to certain collectors of the customs as shall make the same more commensurate with the duties required of them, were discharged from the further consideration of the subject.

The bill authorizing the President of the United States to purchase lands reserved by the act of the third of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation, was read the second time.

The bill for the relief of Gabriel Godfrey was read the second time.

The bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of the Public Buildings, and to direct a defence therein, was read the second time.

The bill for the relief of Nathan Ford was read the second time.

The bill for the relief of David Henley was read the second time.

Mr. TICHENOR asked and obtained leave to bring in a bill providing for the better organization of the Treasury Department, and the bill was read twice, by unanimous consent, and referred to the Committee on the Judiciary.

## CONTROVERSIES BETWEEN STATES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States.

A motion was made to strike out the words, in the first section, "or any other matter proper to be decided in a judicial way."

Mr. TALBOT spoke in favor of the bill, generally, while he gave his assent to the amendment, to obviate the objections of some gentlemen to the bill.

Mr. CRITTENDEN gave into the amendment from the same motive as his colleague, and was willing the bill should be confined to controversies respecting territorial limits.

Mr. WILLIAMS, of Tennessee, thought the bill unnecessary, in any respect, as the dispute between the States of Tennessee and Kentucky respecting limits could be settled without it; but he should be much less opposed to the bill if this amendment took place.

Mr. FROMENTIN was opposed to the amendment. He thought the Constitutional provision on the subject was meant to embrace all controversies between States, as well as those relating to boundary. He thought it the duty of Congress

JANUARY, 1819.

Controversies between States.

SENATE.

to pass the law; and he did not believe any difficulty would arise in carrying it into effect. He wished the provisions of the bill as general as possible, with a view to prevent all quarrels and applications of force to redress real or supposed injuries.

The amendment was agreed to.

Mr. EPES declared himself hostile to the bill, and moved to postpone it indefinitely. He believed this bill could only be executed by military force. The principles he contended for were ably supported in the work entitled "The Federalist." He would rather, had a motion to strike out the first section been in order, that the question should have been taken directly on the merits of the bill, to decide whether a provision of the Constitution, which had lain inactive for thirty years, should now be called into action. Congress had shrunk from the exercise of the power to district the States; and he thought this bill much more dangerous, and likely to produce disturbance, than that. The power to suspend the *habeas corpus* act had never been exercised. This wise course ought to be adhered to in the present case. This bill was calculated to increase discontent and suspicion. Mr. E. here read an extract from the *Federalist*, page 93, late edition, corroborating his idea, that a decree against a sovereign State could not be enforced but by the sword. The power of the Federal Court, said Mr. E., to try suits between an individual and a State has been expunged. With a few more observations, Mr. E. submitted the motion he had made.

Mr. CRITTENDEN said, the same course had been pursued at the last session as was now proposed, and if this motion now prevailed, it must be considered as a rejection of the bill. The State of Kentucky had addressed a memorial to Congress in favor of such a measure as was proposed by the bill, and he deemed it a duty to submit the reasons which occurred to him in support of it. Under the Constitution, power was given to Congress to make the provisions contemplated by this bill. Why tremble at the exercise of this power? There must be authority somewhere to settle disputes between States; and where would it be lodged so safely as in the national Judiciary? He believed no ground of alarm or apprehension existed. The greatest and proudest States in the Union would cheerfully submit to the decision of that tribunal any litigation between them. The States would be sued by their consent, as they had given their consent to the provision of the Constitution authorizing this law; and they could not, therefore, complain of any violation of their sovereignty or independence. He said, he deemed it essential to the perpetuity of our Union, that this power should have been given, and that it should be exercised. The very author which the gentleman had quoted supported this provision in the Constitution, by example and reason. The objections came from those States likely to be made defendants under this act, and from the great and powerful State of Virginia. This provision was meant to protect

15th Con. 2d Sess.—7

the small States against the large. And have we come to this, that the large and proud States shall threaten resistance to a Constitutional law? He hoped such threats would not terrify us into an abandonment of this power. He appreciated the high and honorable motives of the gentleman from Virginia; but he thought his apprehensions unfounded and visionary. He believed the judgment of the Supreme Court, as now limited, would execute itself silently and effectually. There was no danger of the necessity of employing military force. The States could not settle their disputes amicably themselves, without the mediation of a disinterested tribunal. Virginia and Pennsylvania had all but come to open war, on a territorial difference. Was this the *quariter in modo* which ought to be pursued in settling boundaries? And such a dispute would not now be settled so easily between those potent States. Suppose Kentucky should give up its claim rather than come to open war, would it be right for the General Government to see her stripped of her rights? She had no alternative but to do this, or appeal to the sword. Would it be just or magnanimous to refuse to exercise this power, and thus permit such wrongs to be done? Though proud of his State and of her character, he should not deem her disgraced by being made a defendant under this law, or by submitting to the decision of the Supreme Court. He wished such a high tribunal could be erected to settle all disputes between nations, and oblige proud and ambitious nations to submit to just and equitable terms of settlement. And should we, of one flesh and blood, quarrel among ourselves, when so easy a remedy is in our power? New Jersey has her disputes; Rhode Island has her disputes; and, if they are wrong, is there any honorable gentleman who would not wish to see them righted?

Mr. ORIS did not mean, he said, to attempt any reply to the honorable gentleman. In many of his opinions he concurred, and almost all his objections were obviated by the restrictions in the bill. He thought, however, some further restrictions were necessary; which he pointed out. He should not have risen, however, but for doubts whether this bill could be constitutionally passed. This bill provided for a suit being brought in the nature of a bill of equity. He asked whether it was competent for this Legislature to exclude the trial by jury, in cases alluded to in the bill? Had we a right to say that the court alone should decide, without the intervention of a jury? The provision of the Constitution was general, and applied as well to States as individuals. He thought the bill also ought not to operate on disputes which originated fifty or sixty years ago. Without a limitation in this case, he should vote against the bill. He thought the bill ought to be recommitted, if this motion should not be carried, for the purpose of making the amendments he had suggested.

Mr. EPES admitted that the right of the Supreme Court to act as provided in this bill was sanctioned in another part of the book he had quoted; but it was there expressly laid down that a



decree could only be executed by the sword. We had found, by experience, that this authority could not be carried into effect without force; and the best and safest course was for States to settle their own disputes. Between individuals judicial decisions would be easily carried into effect, but between communities and independent States they could not but by force.

Mr. BURRILL made some explanations of certain provisions of the bill, and intimated some amendments which he meant to propose, to obviate objections which had been made.

Mr. MELLEN said, he had an objection to the bill, but might be mistaken in his views, and, if so, was subject to correction. The bill was to settle disputes concerning territory; this could not be by a suit in equity. These must be settled as questions of law. Does Kentucky or Tennessee own certain property? This was certainly a question of law. Further, the bill only provides for amicable suits in equity; whereas he believed the remedy ought to be by a real suit at law. Mr. M. made some further observations in illustration of his objections.

Mr. EATON thought it unnecessary to go into the details of the bill, until the question of postponement was decided. He was opposed to the bill, because, though the power was vested in Congress, it was not prudent or expedient to exercise it. Had this law existed during the dispute between Virginia and Pennsylvania, it might not have been settled as well as it was by the two States. This law was certainly intended to answer a local purpose—to decide a dispute between Tennessee and Kentucky; and, in its consequences, might lead to heart-burnings and outrages. He apprehended, from the number interested in this dispute, serious contests would arise from it. The Constitution had, he confessed, given the right; but it did not follow that it was wise or safe to exercise it. Congress had prudently declined, for nearly thirty years, to exercise this power; and he thought this was a salutary and useful lesson to us. He thought this bill was calculated to produce discord among the States; but, by closing your doors against such disputes, they will be amicably adjusted. He thought it prudent, and just, and proper, to refuse to pass this bill.

Mr. TALBOT hoped the motion to postpone would be withdrawn, that a direct vote might be had upon the bill; that Kentucky might know what to rely on, and how to act. He thought this provision of the Constitution wise, and benevolent, and parental; and that it was peremptory. He thought Congress was bound to pass this law; that no election was given to Congress; that when a dispute has arisen, and Congress have been called on by a State to exercise this power, they were under a moral obligation to pass it. For many years this controversy had existed; all efforts to settle it between themselves had failed; and he saw no hope of its being adjusted, unless this bill passed. He looked forward with fearful anticipations of evil, unless the national tribunal were authorized to decide the dispute. He saw no resort but to force—to the sword—if

Congress did not interfere; and he deprecated the defeat of this bill, as leading to a serious contest. He was not afraid of any attempt to resist any decree of the Supreme Court, by any State, however powerful, however proud, however haughty. He hoped the motion would be withdrawn, and a motion made to strike out the first section.

Mr. EPPES said he would have great pleasure in complying with the wish of his friend from Kentucky, but that he thought the motion to postpone amounted to the rejection of the bill. Mr. E. replied to some of the arguments which had been advanced in favor of the bill. Let the two States allude to settle their own disputes; and let us not, for a single case, bring every State at the footstool of the Federal Judiciary.

Mr. LACOCK thought it would be best to give the Supreme Court jurisdiction in the case immediately in question, and not make the bill general in its provisions. He was willing to provide for the dispute between Kentucky and Tennessee; but this bill was not called for from any other portion of the Union. It might revive old disputes, and create great evils. He did not want to renew the disputes between Pennsylvania and New Jersey, and between New Jersey and New York, about Staten Island, the residence of the Vice President. He thought it much better to confine the provisions of the bill to the single object.

Mr. TALBOT was opposed to any limitation of this sort. He thought the provisions of the bill ought to be general. Mr. T. again went into a discussion of the question at large, and continued speaking for nearly an hour.

Mr. WILLIAMS, of Tennessee, read an extract from a law of Tennessee, proposing to Kentucky, to apply to the President of the United States to appoint a commissioner to settle the boundary line between the two States; and a law of Kentucky, repealing all laws on the subject of said line.

Mr. CRITTENDEN gave some explanation of these two acts, but deprecated the merits of this particular case from being brought into discussion.

The question on indefinite postponement was then taken by yeas and nays—yeas 14, nays 16, as follows:

YEAS—Messrs. Barbour, Eaton, Eppes, King, Lacock, Macon, Mellen, Palmer, Roberts, Sanford, Stokes, Tait, Williams of Tennessee, and Wilson.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Goldsborough, Horsey, Johnson, Leake, Morrow, Noble, Otis, Talbot, Taylor, Thomas, Van Dyke, and Williams of Mississippi.

The Senate adjourned to Monday.

MONDAY, February 1.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Pierre Lacoste, made a report, accompanied by a resolution that the petitioner have leave to with-

draw his petition. The report and resolution were read.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of Henry Ingraham, and others, made a report, accompanied by a resolution that the prayer of the petitioners ought not to be granted. The report and resolution were read.

Mr. GOLDSBOROUGH, from the same committee, to whom the several subjects were referred, reported a bill for the relief of Rosalie P. Deslande; a bill for the relief of Lewis H. Guerlain; a bill for the relief of Francis B. Languille; and also a bill for the relief of Joseph McNeil; and the bills were respectively read, and passed to the second reading.

Mr. BARBOUR submitted the following resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to employ a skillful artist to ascertain the latitude of 36° 30' north, on the west bank of Tennessee river, and from that point to cause a line to be run and marked due west along and with the said parallel to the Mississippi river.*

The resolution was read, and passed to the second reading.

Mr. DAGGETT presented the petition of Nathan G. Birdsye and Daniel Booth, praying the relinquishment of the title and interest of the United States, acquired by the levy of an execution on certain lands purchased by the petitioners, as stated in the petition; which was read, and referred to the Committee on the Judiciary.

Mr. DAGGETT also presented the memorial of a number of the inhabitants of Middletown, in the State of Connecticut, praying amendments to the laws prohibiting the importation of slaves into the United States; and the memorial was read, and referred to the committee on the subject of the slave trade.

On motion, by Mr. GOLDSBOROUGH, the report of the Secretary of the Treasury, of the 3d of December last, respecting the suppression of certain custom-house officers, was referred to the Committee on Finance, to consider and report thereon.

The engrossed joint resolution, proposing an amendment to the Constitution, so far as relates to the election of Electors of President and Vice President, &c., was taken up, when,

On motion of Mr. BURRILL, it was recommitted to the committee which reported it, for further consideration.

Mr. DICKERSON, subsequently, reported the resolution from the select committee, with an amendment striking out the following words, which had been heretofore added, as an amendment to the original resolution, viz: "and if the Legislature of any State shall fail to provide for the election of Representatives, as hereby required, Congress shall have power to provide for the same, in the manner prescribed by this article."

Mr. NOBLE presented the petition of a company of rangers, commanded by James Biggar, praying

further compensation for services rendered by the said company, in the late war with Great Britain; and the petition was read, and referred to the Committee on Military Affairs.

The bill to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana, was read the second time.

The bill respecting the transportation of persons of color, for sale or to be held to labor, was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Arnold; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on Pensions, on the petition of William McFarland; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on pensions, on the petition of Rachael Sturges; and, in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee on Pensions, on the petition of Otho Stephens; and, in concurrence therewith, he had leave to withdraw his petition.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Hannah Ring and Luther Frink;" in which bill they request the concurrence of the Senate.

The last mentioned bill was twice read by unanimous consent; and referred to the Committee on Pensions, with instructions to inquire into the expediency of making a general law on the subject.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred a resolution to inquire into the expediency of prohibiting, by law, the exportation of the gold, silver, and copper coins of the United States; and, in concurrence therewith, resolved that it is not expedient for Congress to adopt any regulations for preventing the exportation of the gold, silver, and copper coins of the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Eli Hart; and, in concurrence therewith, resolved, that a bill be reported allowing to the petitioner the appraised value of his buildings. The Committee of Claims were instructed to report a bill accordingly.

Mr. MELLEN gave notice, that, to-morrow, he should ask leave to bring in a bill authorizing a subscription for Wait's State Papers.

#### CONTROVERSIES BETWEEN STATES.

The Senate resumed the consideration of the bill providing for the commencement, prosecution, and settlement of controversies between two or



SENATE.

Proceedings.

FEBRUARY, 1819.

more States, (by referring them to the investigation and decision of the Supreme Court.)

Mr. WILLIAMS, of Tennessee, offered an additional section, providing that the validity of private claims shall not be affected by any decree of the Supreme Court. Mr. W. offered sundry observations in support of this amendment; and was replied to by Mr. TALBOT, who denied the right of Congress to make such a provision.

Mr. WILLIAMS answered, that this principle had been already acted on by other States, in similar controversies, viz: Pennsylvania and Virginia, and Virginia and Tennessee, and that it was consistent with justice and equity.

Mr. CRITTENDEN followed, with arguments against the power of Congress to adopt this provision; as it was a question for judicial decision, or for legislative provisions of the contending States.

Mr. WILLIAMS replied, and attempted to show that it was both competent and expedient for Congress to make the provision he had proposed.

Mr. TALBOT again spoke against the amendment, on the ground of the incompetency of Congress to adopt such a provision; and as the two States could more properly and easily adjust private claims.

Mr. EATON spoke at some length in support of the motion of his colleague; and adduced arguments to prove the constitutionality and expediency of the provision.

The question was then taken on Mr. WILLIAMS's amendment, and lost, ten only rising in the affirmative.

Mr. WILLIAMS, of Tennessee, then moved an amendment, similar to the preceding in principle, but varying as to the time it was to take effect.

This amendment, Mr. W. said, he hoped would not be objected to by the gentleman from Kentucky.

Mr. CRITTENDEN said, this amendment was of the same import as the one just negatived. He therefore hoped the Senate would reject it, as they had done the former.

Mr. WILLIAMS spoke in support of his motion; and was replied to by Mr. TALBOT.

The motion was lost, nine only voting in the affirmative.

Sundry amendments were made to the bill; when

Mr. EPPES moved so to amend the bill as to confine its operation to the controversy between the States of Kentucky and Tennessee; and offered sundry reasons in support of his motion.

Mr. BURRILL opposed the motion, on the ground that if Congress had the right to legislate in this case, they had in all other similar cases; and that it was better to legislate for all cases at this time, than to legislate in detail, as cases may arise. The latter he deemed both unconstitutional and inexpedient.

Mr. EPPES replied, that the gentleman's arguments, if they proved anything, proved too much; as he himself had consented to limit the exercise of the general power given to Congress, to the particular case of disputed boundaries.

Mr. EPPES's motion was then carried, 18 to 16.

Mr. WILLIAMS, of Tennessee, moved to postpone the bill to the 5th of March next, (reject it;) which motion was agreed to by the following vote, and the bill rejected:

YEAS—Messrs. Barbour, Eaton, Eppes, Forsyth, Goldsborough, King, Macon, Morrill, Palmer, Roberts, Ruggles, Sanford, Stokes, Tait, Thomas, Tichenor, Van Dyke, Williams of Tennessee, and Wilson—20.

NAYS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Edwards, Fromentin, Horsey, Hunter, Johnson, Lacock, Leake, Morrow, Noble, Otis, Talbot, Taylor, and Williams of Mississippi—17.

TUESDAY, February 2.

Mr. TALBOT presented the memorial of sundry inhabitants of the counties of Franklin and Shelby, praying the establishment of a post office at Hardinsville, Kentucky; and the memorial was read, and referred to the Committee on the Post Office and Post Roads.

Mr. ROBERTS, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of Eli Hart; and the bill was read, and passed to the second reading.

Mr. MELLE asked and obtained leave to bring in a bill authorizing a subscription for the eleventh and twelfth volumes of State Papers; and the bill was twice read by unanimous consent.

Mr. BURRILL, from the Committee on the Judiciary, to whom the subject was referred, reported a bill for the relief of Nathan G. Birding and Daniel Booth; and the bill was read, and passed to the second reading.

Mr. BURRILL, from the same committee, to whom was referred the bill providing for the better organization of the Treasury Department, reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of Mark and Conant; and in concurrence therewith, the petitioners had leave to withdraw their petition.

The bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, was read a third time, and on motion, by Mr. DICKERSON, the further consideration thereof was postponed until to-morrow.

Mr. DICKERSON presented the memorial of Richard Smyth, late collector of the internal taxes for the Territory of Michigan, praying relief in the settlement of his accounts, in consequence of his having been robbed of a considerable sum of money, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH presented the memorial of the Columbian Institute, praying the grant of a part of the public reservation of ground in the City of Washington, for purposes connected with said institution; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. MORROW presented the memorial of a number of the inhabitants of Green Bay, within the

FEBRUARY, 1819.

Sick Seamen.

SENATE.

Territory of Michigan, praying to be confirmed in their titles to land; and the memorial was read, and referred to the Committee on Public Lands.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Benjamin Putney, made a report accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. G., from the same committee, to whom the subject was referred, reported a bill for the relief of John Rodriguez; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Cornelia Schoonmaker, widow and administratrix, and Peter Marius Green, administrator of Zachariah Schoonmaker, deceased, late paymaster of the second regiment of United States volunteer artillery; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Pierre Lacoste; and the further consideration thereof was postponed until Thursday next.

The bill for the relief of Francis B. Languille was read the second time.

The bill for the relief of Lewis H. Guerlain was read the second time.

The bill for the relief of Rosalie P. Deslande was read the second time.

The bill for the relief of Joseph McNeil was read the second time.

The resolution to cause a certain line to be run and marked from the Tennessee river to the Mississippi river, was read the second time.

The Senate then took up, in Committee of the Whole, Mr. BARBOUR in the chair, and spent some time in the consideration of the bill for adjusting claims to land, and establishing land offices in the district east of the island of Orleans. Before getting through the bill, it was laid over until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of James H. Clark; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Forrest; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The bill to continue in force the act to regulate the currency of certain foreign coins, was taken up; and Mr. EPPES having explained the motives for certain provisions of the bill which limits the currency of foreign gold coins to the first of November next, and continuing the currency of certain foreign silver coins for two years longer, it was ordered to be engrossed for a third reading.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill, entitled "An act authorizing the election of a delegate from the Michigan Territory, to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to or from the boundary of the City of Washington, in the District of Columbia, through the said district to the line thereof;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

SICK SEAMEN.

The Senate resumed the consideration of the bill to provide for sick and disabled seamen; constituting a general fund out of the moneys which have been, or shall be, collected under the several acts on this subject, and forming a board of commissioners of the Secretaries of the Treasury, War, and Navy Departments, for its administration.

The bill provides that, from the thirtieth of September next, there shall be required of each seamen employed in the registered vessels of the United States, the monthly contribution of — cents per month, for the general fund.

Mr. SANFORD moved to fill this blank with forty, and supported his motion on the general ground of the inadequacy of the present contribution of twenty cents from each seaman, to provide a sufficient fund for their relief when sick or disabled on shore; and that, as the principle of creating the fund in this manner had been sanctioned by long usage, it was proper to make it adequate to its object.

Mr. BURRILL approved the object, but did not think it right that the whole fund for this purpose should be raised by a tax on the seamen themselves; that a tax of forty cents a month was a very heavy poll tax; and he thought the public Treasury ought to contribute something towards this fund.

Mr. KING did not view this contribution in the light of an absolute poll-tax; the seamen would receive a part of it in increased wages from his owner, the owner from his employer, &c.; and the payment of the tax would thus, in some measure, spread itself through the community, and not fall wholly on the seaman, although for his benefit.

Mr. TAIT referred to the letter of the Secretary of the Treasury, stating the inadequacy of the present tax on the seamen to provide for their relief, and argued that, setting aside the considera-



SENATE.

Proceedings.

FEBRUARY, 1819.

tion that it was for their own benefit, the increase was not unreasonable, when the depreciation of money, in twenty years, during which the contribution had remained unchanged, was taken into view; that, in all probability, the subject would not be touched again for twenty years to come.

The motion to fill the blank with forty cents was agreed to; and, the other provisions of the bill having been gone through, it was ordered to be engrossed for a third reading.

WEDNESDAY, February 3.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of Joseph Dozet and Antoine Bougard, made a report, accompanied by a bill for the relief of Joseph Dozet and Antoine Bougard; and the report and bill were read, and the bill passed to the second reading.

The bill for the relief of Eli Hart was read the second time.

The bill for the relief of Nathan G. Birding and Daniel Booth was read the second time.

The bill for the relief of John Rodriguez was read the second time.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Christopher Fowler, made a report, accompanied by a resolution that the prayer of the petitioner cannot be granted. The report and resolution were read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Henry Ingraham and others; and, in concurrence therewith, resolved, that the prayer of the petitioners ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Benjam Putney; and, in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The resolution proposing an amendment to the Constitution, as respects the mode of electing Electors of President, &c., was taken up; the amendment reported by the select committee agreed to, and the resolution ordered to be engrossed, and read a third time.

The bill to provide for sick and disabled seamen, was read a third time; and, on motion by Mr. DAGGETT, it was agreed to reconsider the vote on passing said bill to a third reading.

The bill to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces, was read a third time, and passed.

The bill for the relief of James H. Clark was read a third time, and passed.

The amendment to the bill, entitled "An act authorizing the election of a Delegate from the Michigan Territory, to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," having been reported by the committee correctly engrossed, the

bill was read a third time as amended, and passed.

The bill entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to or from the boundary of the City of Washington, in the District of Columbia, through the said District to the line thereof," was read a third time, and passed.

The Senate resumed the consideration of the engrossed bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Friday next.

The bill for the relief of Joseph Forrest was taken up, and, after some discussion of the merits of the claim, the question was put on ordering the bill to be engrossed for a third reading, and decided in the negative—14 to 13—so the bill was rejected.

The bill for adjusting claims to land and establishing land offices in the districts east of the Island of Orleans, was again taken up as in Committee of the Whole, and, after undergoing some discussion and amendment, it was ordered to be engrossed for a third reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

In compliance with a resolution of the Senate of the 13th of last month, requesting me "to cause to be laid before it a statement, showing the measures that have been taken to collect the balances stated to be due from the several supervisors and collectors of the old direct tax of two millions; also, a similar statement of the balances due from the officers of the old internal revenue; and to designate in such statement the persons who have been interested in the collection of the said debts, and the sums by them respectively collected, and the time when the same were collected," I transmit a report of the Secretary of the Treasury, which, with the documents accompanying it, contains all the information required.

JAMES MONROE.

FEBRUARY 2, 1819.

The Message and accompanying documents were read.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill to regulate and fix the salaries and compensation of the registers and receivers of public moneys of the land offices; and the bill was twice read by unanimous consent.

Mr. KING presented the memorial of Noah Brown and others, in behalf of the owners of the private armed brig Warrior, praying that they may be indemnified from loss, in consequence of the misconduct of the clerk of the district court of New York, to whom had been paid, by the order of that court, the proceeds of the brig Dundee, which brig had been libelled and condemned as lawful prize, as stated in the memorial; which was read, and referred to the Committee of Claims.

FEBRUARY, 1819.

Proceedings.

SENATE.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act regulating passenger ships and vessels;" together with the amendments reported thereto by the Committee on Commerce and Manufactures; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

Mr. EPPES, from the Committee on Finance, reported a bill making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned, together with a letter from the Secretary of War; and the bill and letter were read, and the bill passed to the second reading.

On motion, by Mr. EPPES, the bill was read the second time, by unanimous consent.

Mr. EPPES, from the same committee, also communicated a report from the Secretary of the Treasury, showing the gross amount of duties upon merchandise and tonnage, which accrued during the two first quarters of the year 1817 and 1818; and the report was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing a subscription for the eleventh and twelfth volumes of State Papers; and the Senate adjourned.

THURSDAY, February 4.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Augustus Sacket, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be allowed. The report and resolution were read.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of John Anderson, of the Michigan Territory, made a report, accompanied by a resolution that the prayer of the petitioner is reasonable, and ought to be granted. The report and resolution were read.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the bill, entitled "An act regulating the pay of invalid pensioners," reported the same with an amendment, which was read.

The report of the Committee of Claims unfavorable to the petition of Pierre Lacoste, of Louisiana, was taken up; and, after being opposed by Mr. FROMENTIN, at some length, it was postponed for two weeks, to await further information on the subject of the claim.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate of the United States:

I communicate to Congress copies of applications received from the Minister of Great Britain, in behalf of certain British subjects, who have suffered in their property, by proceedings to which the United States, by their military and judicial officers, have been parties. These injuries have been sustained under circumstances which appear to recommend strongly to the attention of Congress, the claim to indemnity for

the losses occasioned by them, which the legislative authority is alone competent to provide.

JAMES MONROE.

WASHINGTON, February 3, 1819.

The Message and accompanying documents were read.

On motion, by Mr. DAGGETT, the Committee on Pensions were instructed to inquire into the expediency of placing Thomas Lucas on the pension list.

The Senate resumed the consideration of the bill to provide for sick and disabled seamen; when, on motion of Mr. SANFORD, it was amended, by making the monthly contribution levied on each seaman, for this fund, *thirty-five* instead of *forty* cents, as first agreed on; and, thus amended, the bill was ordered to a third reading.

The Senate next took up the bill authorizing a subscription for five hundred copies of the 11th and 12th volumes of Wait's edition of State Papers; and, after being amended by providing the manner of their distribution,

Mr. ROBERTS moved to postpone the bill to a day beyond the session, (to reject it;) which motion was opposed by Messrs. OTIS and MELLE, and was finally negatived—ayes 10; and the bill was then ordered to be engrossed, and read a third time.

The bill for the relief of Joseph Dozet and Antoine Bougard was read the second time.

The bill for adjusting the claims to land, and establishing land offices in the districts east of the Island of New Orleans, was read a third time, and passed.

The amendments to the bill, entitled "An act regulating passenger ships and vessels," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

On motion by Mr. TALBOT, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of authorizing the Postmaster General to employ an armed guard for the protection of the mails of the United States, on such mail routes as he may deem necessary.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to extend, for a further term of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died, or were killed in the late war;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning widows of the militia;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Medical Society of the City of Washington," together with the amendments reported thereto by the Committee on the District of Columbia; and the amendments hav-



ing been agreed to, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States in the District of Columbia;" together with the amendment reported thereto by the Committee on the District of Columbia; and the amendment having been agreed to, and the bill having been further amended, the PRESIDENT reported it to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

#### AMENDMENT TO THE CONSTITUTION.

The engrossed joint resolution proposing an amendment to the Constitution, so far as to provide a uniform mode (by districts) of electing Electors of President and Vice President of the United States, and Representatives to Congress, was read the third time.

Mr. DAGGETT stated briefly the reasons which should induce him to vote, as he had always voted, against the resolution, although now differently instructed on the subject by the Legislature of Connecticut.

Mr. FORSYTH moved that the resolution be recommitted, with instructions to strike out that part which prescribed the mode of electing Representatives to Congress, considering the two subjects entirely distinct, and, opposed as he was to the whole proposition, yet, divested of this feature, it would be to him less objectionable than with it.

This motion brought on some discussion not only of the proposed amendment, but of the general merits of the resolution; in which Mr. FORSYTH opposed it at some length, and Messrs. DICKERSON, MACON, and KING, supported it.

Mr. FORSYTH's motion was negatived without a division; and the question was then taken on the passage of the resolution, and decided in the affirmative—yeas 28, nays 10, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eaton, Edwards, Fromentin, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Sanford, Storer, Stokes, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Daggett, Eppes, Forsyth, Horsey, Leake, Roberts, Ruggles, Tait, and Taylor.

So it was resolved, that this resolution pass, two thirds of the Senators concurring.

FRIDAY, February 5.

The PRESIDENT communicated to the Senate the annual report of the state of the Sinking Fund; and likewise a report of the Secretary of War, embracing a statement of moneys transferred during the late recess of Congress, by authority of the President of the United States, from one specific appropriation to another; which reports were read.

Mr. WILSON, of New Jersey, rose to make a

motion, and said, that, in introducing the resolution he was about to offer, he thought it proper to observe, that, by a late return to this House, from the War Department, of the militia of the United States, it appeared, that from eight States and two Territories, no returns of the militia had been received for the last year. Should a requisition be made for a detachment of militia, from the several States and Territories, Government were thus deprived of correct data for properly apportioning their respective quotas. A great difficulty, Mr. W. said, must also be experienced in the equitable distribution of arms among the several States and Territories, under the act for arming the whole body of militia. He thought these evils required a remedy, and that Congress had ample means of applying one. He therefore submitted the following resolution:

*Resolved*, That the Committee on the Militia be instructed to inquire into the expediency of making some further provision by law for insuring annual and accurate returns of the militia of the several States and Territories.

The resolution was agreed to.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the Message of the President of the United States, of the 20th of April, 1818, transmitting a copy of the rules, regulations, and instructions, for the Naval service of the United States, and the resolution of the Senate instructing the committee in relation thereto, reported the following resolution:

*Resolved*, That the Secretary of the Navy, under the direction of the President of the United States, report to the Senate, in the first week of the next session, whether the rules, regulations, and instructions, prepared by the Board of Navy Commissioners, in obedience to the act of the fifteenth of February, 1815, are conformable to existing laws, and, if there is any interference, wherein? And, if any, what further legislative provision may, in the opinion of the said Secretary, be necessary to give force and effect to the said rules, regulations, and instructions. And also, to report, as aforesaid, any other provision which the said Secretary may deem proper for the more perfect administration of any branch of the naval service.

The resolution was read.

On motion by Mr. FORSYTH, the Committee on the District of Columbia were instructed to inquire into the expediency of amending the laws existing in the county of Washington, in the District of Columbia, regulating the seizure and sale of persons of color suspected to be runaway slaves.

On motion by Mr. TICHENOR, the Committee on Pensions were instructed to inquire into the expediency of authorizing the Secretary of War to place upon the pension list Abraham Edwards, a marine in the naval service of the United States, in the Revolutionary war; who is now insane, and in such reduced circumstances as to need the assistance of his country.

The report of the Committee of Claims, unfavorable to the petition of Christopher Fowler, was taken up, and on motion it was reversed, and the Committee of Claims instructed to report a bill for his relief.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 25th of last month, requesting me to cause to be laid before it a copy of the rules and regulations adopted for the government of the Military Academy at West Point; also, how many cadets have been admitted into the Academy; the time of the residence of each cadet at that institution; and how many of them have been appointed officers in the Army and Navy of the United States;—I transmit a report from the Secretary of War, which, with the accompanying documents, will afford all the information required by the said resolution.

JAMES MONROE.

FEBRUARY 5, 1819.

The Message, together with the report and accompanying documents, were read.

Mr. EPPES presented the memorial of William Thornton, Superintendent of the Patent Office, praying an increase of his present compensation; and the memorial was read, and referred to the Committee on the Judiciary.

Mr. THOMAS presented the memorial of the register and receiver of the land office at Shawneetown, praying an increase of compensation; and the memorial was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the engrossed bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; and, on motion by Mr. FORSYTH, it was referred to the Committee on the Judiciary, further to consider and report thereon.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Anderson, of the Michigan Territory; and, in concurrence therewith, resolved that the prayer of the petitioner is reasonable, and ought to be granted. The Committee of Claims were instructed to report a bill accordingly.

On motion by Mr. SANFORD, the Message of the President of the United States, of the 3d instant, recommending legislative provision for indemnity to certain British subjects, for losses sustained by them in consequence of illegal capture, was referred to the Committee of Claims, to consider and report thereon.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Augustus Sacket; and, in concurrence therewith, resolved that the prayer of the petitioner ought not to be allowed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Medical Society of the District of Columbia;" and the bill having been further amended, it was reported to the House; and the amendments being concurred in, they were ordered to be engrossed, and the bill to be read a third time as amended.

Mr. RUGGLES presented the petition of Elderen Potter, praying compensation for a horse lost in the service of the United States; and the

petition was read, and referred to the Committee of Claims.

Mr. RUGGLES also presented the petition of William Harbaugh and E. Potter, praying further compensation for services rendered as quartermasters of Ohio militia; and the petition was read, and referred to the Committee on Military Affairs.

The bill to provide for sick and disabled seamen was read a third time, and passed.

The bill authorizing a subscription to the eleventh and twelfth volumes of State Papers was read a third time, and passed.

The amendments to the bill, entitled "An act to incorporate the Provident Association of Clerks in the civil Department of the Government of the United States, in the District of Columbia," having been reported by the Committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to the acts concerning the coasting trade. And the bill having been amended, on motion by Mr. OTIS, the further consideration thereof was postponed until Monday next; and the letter from the Secretary of the Treasury, in reply to one from the chairman of the Committee on Finance respecting the coasting trade, ordered to be printed for the use of the Senate.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill authorizing the purchase of fire engines, and for building houses for the safe-keeping of the same; and the bill was read, and passed to the second reading.

The bill to authorize the Corporation of the City of Washington to extend certain streets (across the Mall) was taken up, and, on the motion of Mr. GOLDSBOROUGH, postponed to a day beyond the session.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Clark. And the bill having been amended, it was reported to the House; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel F. Hooker;" and no amendment having been made, the bill was reported to the House, and passed to a third reading.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri,'" reported the same with amendments; which were read.

The Senate resumed, as in Committee of the



Whole, the consideration of the bill for the relief of Samuel Ward; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act respecting invalids;" and on motion, by Mr. LACOCK, the further consideration thereof was postponed until the fifth of March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John A. Dix; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John B. Timberlake; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate adjourned to Monday.

MONDAY, February 8.

Mr. GOLDSBOROUGH, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of Christopher Fowler; and the bill was read, and passed to the second reading.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the President of the United States to purchase the lands reserved by the act of the third of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The PRESIDENT communicated a report of the Secretary of War, to whom was referred the petition of Mary Cassin, of South Carolina; and the report was read, and referred to the Committee of Claims.

Mr. TICHENOR submitted the following motion for consideration:

*Resolved*, That the Committee on Commerce and Manufactures be instructed to report as to the expediency of uniting the two collection district of Alburgh and Champlain, adjoining the province of Canada, so that hereafter they shall form but one collection district.

Mr. ROGGELES, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of John Anderson; and the bill was read, and passed to the second reading.

Mr. DICKERSON presented the petition of John Brewster and others, inhabitants of the city of Perth Amboy, in the State of New Jersey, praying the passage of a law, directing the terms of the district court of the United States, which are now held in New Brunswick, to be held in future

at Perth Amboy, for reasons stated in the petition; which was read, and referred to the Committee on the Judiciary.

The bill authorizing the purchase of fire engines, and building houses for the safe-keeping of the same, was read the second time.

The Senate resumed the consideration of the resolution reported by Mr. TAIT, on the 5th instant, from the Committee on Naval Affairs, to whom was referred the Message of the President of the United States, of the 20th of April, 1818, transmitting a copy of the rules, regulations, and instructions, for the naval service of the United States, and the resolution of the Senate instructing the committee in relation thereto; and agreed to the same.

On motion, by Mr. DICKERSON, the Committee on Finance were instructed to inquire into the expediency of so far altering the laws for appointing collectors of the customs of the United States, district attorneys of the United States, and receivers of public moneys for lands of the United States, surveyors of the public lands, registers, and such other officers as they may think proper, as to have those officers respectively appointed for limited periods, subject to removal as heretofore.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the petition of Joseph Lefebvre, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom the several subjects were referred, reported a bill for the relief of John Pettit; a bill for the relief of Solomon Prevost; a bill for the relief of Bartholomew Duverge; and also a bill for the relief of Alexander Milne; and the bills were respectively read, and severally passed to the second reading.

The bill supplementary to the act, entitled "An act further to amend the charter of the City of Washington," was read a third time, and passed.

The bill for the relief of Samuel Ward was read a third time, and passed.

The bill for the relief of John Clark was read a third time, and passed.

The bill for the relief of John A. Dix was read a third time, and passed.

The bill for the relief of John B. Timberlake was read a third time, and passed.

The amendments to the bill, entitled "An act to incorporate the Medical Society of the District of Columbia," having been reported by the Committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, entitled "An act for the relief of Samuel F. Hooker," was read a third time, and passed.

Mr. MORRILL submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to strike from the rolls of the Army and Navy the names of all those officers who aided or counselled, directly or indirectly, in the late duel

fought by A. T. Mason and John M. McCarty, citizens of the United States.

Mr. EATON, from the committee to whom the subject was referred, reported a bill supplementary to an act passed the 2d day of March, 1817, entitled "An act to prohibit the importation of slaves into the United States;" and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming Anthony Cavalier and Peter Pettit in their claim to a tract of land; and, no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; and, the bill having been amended, it was reported to the House, and the amendments being concurred in, it was ordered to be engrossed and read a third time.

The Senate resumed as in Committee of the Whole, the consideration of the bill for the relief of Joseph Thorne; and no amendment having been made, it was reported to the House; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative. So the bill was rejected.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing additional penalties for false entries, for the benefit of drawback, or bounty on exportation;" and also a bill, entitled "An act to authorize the Secretary at War to appoint an additional agent for paying pensioners of the United States in the State of Tennessee;" in which bills they request the concurrence of the Senate.

The said two bills were read, and passed to a second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the payment of a sum of money to the officers and crew of gunboats No. 149 and No. 154;" and no amendment having been made, it was reported to the House; and, on the question, "Shall this bill be read a third time?" it was determined in the negative. So the bill was rejected.

TUESDAY, February 9.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Harbaugh and Potter, made a report accompanied by a resolution that the petitioners have leave to withdraw their petition. The report and resolution were read.

On motion by Mr. EPPES, Nathaniel Goddard and others, formerly owners of the ship Ariadne and cargo, had leave to withdraw their papers.

The Senate resumed, as in Committee of the Whole, the consideration of the bill more effectually to provide for the punishment of certain

crimes against the United States, and for other purposes; together with the amendments reported thereto by the Committee on the Judiciary; and the amendments having been agreed to, the bill was reported to the House as amended, and the amendments being concurred in, it was ordered to be engrossed and read a third time.

The bill, entitled "An act to authorize the Secretary at War to appoint an additional agent for paying pensions in the State of Tennessee," was read the second time, and referred to the Committee on Military Affairs.

The bill, entitled "An act providing additional penalties for false entries for the benefit of drawback, or bounty on exportation," was read the second time, and referred to the Committee on Finance.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," reported the same with an amendment; which was read.

The Senate resumed the consideration of the report of the Committee on Pensions, who were directed to inquire into the expediency of increasing the pension of Caleb Austin; and the further consideration thereof was postponed until the 5th day of March next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Lefebvre; and the further consideration thereof was postponed until to-morrow.

The bill for the relief of Solomon Prevost; the bill for the relief of Bartholomew Duverge; the bill for the relief of John Pettit; the bill for the relief of John Anderson; the bill for the relief of Alexander Milne; and the bill for the relief of Christopher Fowler, were severally read the second time.

The Senate took up a motion made yesterday by Mr. TICHENOR, to direct the Committee on Commerce and Manufactures to inquire into the expediency of uniting the districts of Alburgh and Champlain, in Vermont, into one district, and agreed thereto.

The engrossed bills to authorize the President to purchase the lands reserved by the act of 1817 to certain Creek chiefs and warriors; to provide a grant of land for the seat of government of the State of Mississippi, and for the support of a seminary of learning; and confirming Anthony Cavalier and Peter Pettit in their claim to a tract of land; were severally read the third time, and passed.

The Senate resumed the consideration of the bill to extend, for a further time of five years, the pensions heretofore granted to the widows and orphans of the officers and soldiers who died or were killed in the late war with Great Britain.

Much debate took place on the merits of this bill; in the course of which Mr. LACOCK moved that it be postponed to the 5th of March next, (to reject the bill;) which motion was decided in the affirmative, as follows:

YEAS—Messrs. Burrill, Daggett, Dickerson, Eaton,



Eppe, Forsyth, Goldsborough, Horsey, Lacock, Leake, Maco, Mellen, Morrill, Morrow, Otis, Roberts, Rugles, Storer, Tichenor, Van Dyke, Williams of Miss., and Wilson—22.

Nays—Messrs. Barbour, Crittenden, Fromentin, Noble, Palmer, Sanford, Tait, Talbot, Taylor, Thomas—10.

So, the bill was rejected.

#### SALES OF PUBLIC LANDS.

Mr. MORROW, from the Committee on Public Lands, who were instructed "to inquire into the expediency of so altering the laws respecting the sale of the public lands, that, from and after the 1st day of — next, credit shall not be given on such sales," made a report, accompanied by a bill, making further provision for the sale of public lands; and the report and bill were read, and the bill passed to the second reading.

The report is as follows:

That a view to the extensive territory placed at the disposal of the Government, the increasing demand for new lands for cultivation, arising from the progressive augmentation of the population in the United States, and the influence which the proposed alteration in the system for the sale of public lands must produce on the interests of a large portion of the community, give, in the opinion of the committee, more than ordinary importance to the inquiry which they are instructed to make.

From the connexion that the terms of credit have with the other provisions and conditions provided for the sale of the public lands, a correspondent alteration in the price and size of the tracts offered for sale, will be necessary, when the credit is discontinued on future sales. That provision, alone, would virtually operate an enhancement of the price, and lessen the facility to men of limited capital, of acquiring new lands for settlement and cultivation.

In this view, the committee have considered the expediency of providing for the discontinuance of credit, a reduction of the price, and a subdivision of tracts in future sales. The provisions for the sale of public lands now in force, with some subsequent alterations, were adopted by the act of the 10th day of May, 1800. By its general regulations, a credit is allowed on three-fourths of the purchase-money for the lands sold. The moneys credited may be retained by incurring the charge of simple interest, for five years, from the time of purchase. It would appear that, at the first sales under this law, the long term of credit allowed had induced excessive purchases. The term of credit on these sales expired in the year 1805; and in 1806 it became necessary for Congress to interpose for relief of the purchasers, to prevent extensive forfeitures for failure in payment; and, since that period, nine several acts have been passed for the relief of the purchasers of public lands; and these acts for mitigating the operation for the general provision of the law have been in force more than one half of the whole time since the system was first organized. The inducements of a long credit, which encourage purchases beyond the means for making payment, the general disposition in men to anticipate the most favorable results from the products of their labor, and the frequent unfavorable fluctuations in commerce, which cannot be foreseen by the most discerning, are the principal causes of the failures in payment by purchasers of public lands. It must appear from the Treasury state-

ment, at the present session, of the amount of outstanding balances, on account of the sales of public lands, with the embarrassments arising from the deranged state of the currency, that any degree of punctuality in the payment of the debts now due is highly improbable. If the laws were left to operate in the rigid exactions of the penalties and forfeitures, the most serious injuries, (in the present circumstances of the country) must follow to a large class of the community; and the effect of relief, by an extension for the time for payment, while the sales continue to progress, may produce an accumulation of the debt, and increase the difficulty in making the final payments.

The experience for several years of the effects of this system, the frequent recurrence of circumstances which render necessary the interposition of the Legislature to mitigate the general operation of law, and the extensive forfeitures which have been incurred, notwithstanding the aid of frequent remedial laws for the relief of the purchasers, seem to forbid any calculation on a successful operation of the same system in future sales. It cannot be correct policy to persist in the continuance of a system so much affected by circumstances, as that under consideration; which requires the frequent aid of mitigating expedients to preserve its existence, and to prevent its oppressive effects on a considerable portion of the community. It is not believed that any of the acts for the relief of the purchaser of public lands were unnecessary indulgences. The unfavorable state of things, during the restrictions on our commerce, and the late war, rendered such measures necessary; and the present state of the currency presents claims for indulgence still more imperative. Judging from the experience of the past, without any assurance of a more favorable state of things in future, it may be concluded that the system of credit is not well adapted to the circumstances of the country, and will be injurious so long as commerce is liable to fluctuation. The allowance of credit on the sales of the public lands, could not have been adopted for the benefit of capitalists; to them it is unnecessary, and for them it ought not to have been provided. And yet it is believed that it has operated most to the disadvantage of men destitute of capital. An individual who takes the whole term of credit allowed by law, on the three last instalments of purchase money, is charged on the moneys credited more than ten per cent. per annum above the purchaser who makes prompt payment; and, in many instances, if he possess no other resources than those arising from the land itself, he incurs a forfeiture of the money paid, and the land, with its improvements. If the allowance of credit on future sales was abolished, every subsequent purchaser would, without any liability to error, be able to calculate his means for payment; and if his purchase should not be so extensive, he would at once become an independent landholder, secure and quiet in his possession. In future, those fertile sources of discontent and disquietude, which arise from disappointment, and from the exercise of measures necessary to enforce the payments, as also the frequent distress occasioned by the forfeiture of lands on which settlements have been made, would be avoided; and (as will be proposed) were the public lands offered for sale in tracts of eighty acres, at one dollar and fifty cents per acre, then any individual, on the payment of one hundred and twenty dollars, might acquire a freehold estate, without encumbering himself with any debt whatever. It is believed that an advantage to the general interest of the districts in

which the public lands are sold, would result from discontinuing the credit on the sales. The purchaser is in possession of the lands purchased, for four or five years before the completion of his payment. The product of his labor, for that time, is applied in discharge of his debt, and passes into the Public Treasury. In as far as the instalments are collected in the district, it operates on the principle of rents collected, and withdrawn from circulation, or of a partial tax on that part of the community. The drain of money from circulation, thus occasioned, has been sensibly felt; and the balance in exchange against the Western country may, on this principle, be accounted for. In case of cash payments, the resources for payment would be drawn from other parts of the country, in as far as emigrants are the purchasers. In a more general point of view, the proposed measure appears important. The accumulation of debt, in particular districts, where the mass of citizens are the debtors, is a consequence attending the credit system. The principles of general policy require that charges on the people, for the necessary supply of revenue, should be diffused over the whole society; by adopting cash payments, this evil would be avoided; and the interest of subsequent purchasers would then be identified with that of the Government.

If credit shall not be allowed on the sale of the public lands, it is proposed that a corresponding reduction in the price shall be made. The public lands have ever been considered as a source of revenue to the Government, and the early regulations for their sale appear to have had that object principally in view. Several of the States ceded vacant territory to the United States, for the purpose of creating a fund for the discharge of the public debt. With this object in view, and to cover the considerable expenses of extinguishing the Indian title, and otherwise incidental to bringing the lands into market, the price was first fixed by general regulations at one dollar per acre, and subsequently increased to two. It would be difficult, without reference to any general principle of public policy, to fix any determined price, which, under all circumstances, would be proper for the sale of the public lands. The demand for new land to bring into cultivation will in some manner be proportioned to the increase of population in the agricultural class of the community. But the amount of sale will always depend (at any given price) on the capital destined to be so invested. The capital ordinarily employed for this object, is the surplus product of agricultural labor. If the profit in agricultural pursuits, so to be employed, will not purchase the supply of new lands necessary to the proper extension and prosecution of that important branch of national industry, it may then be fairly presumed that the price is excessive, and operates injuriously to the public interest. It is not alleged that the price at present fixed has produced that effect, but it is believed that it is much higher than has been required by any of the individual States, or in any other country, for vacant lands; and that the price required, connected with the credit allowed, has been found sufficiently high by the industrious class who are disposed to purchase, for the purpose of occupancy and improvement. Experience has exploded the opinion that injurious speculations might be discouraged, and monopolies prevented, by simply fixing a high price on the sale of the public lands; and if in any measure these salutary effects have been produced by that means, it has been at the expense of the cor-

responding disadvantage that, by the same means, the industrious class, with small capital, have been prevented from becoming purchasers, with a view to settlement and cultivation.

The only expedient which has been successfully resorted to, for preventing the public lands from being engrossed by capitalists, and perhaps the only one that will in any measure be effectual to that end, is the subdivision of the sections, and offering them for sale in small tracts, suited to the means of the purchaser, for actual settlement. And while ever a sufficient quantity of land is kept in market to satisfy the necessary demand arising from the increase of population in the country, and sold in small tracts to suit those who are disposed to purchase, for the purpose of occupying them, little may be apprehended from the evils of speculation and monopoly, whether the price be as now fixed, or shall be reduced.

The sales of lands are regulated by no other principle than that of any other traffic in any species of merchandise. While ever the market is fully supplied with any commodity, and a certainty that the supply can be kept up, and it is retailed in quantity and quality to suit the purchaser for use or consumption, monopolies will not be made, whether the price be high or low. A high price will discourage the consumption, and a low price promote it; but, while the price is steady, speculations will be unprofitable.

It has been alleged that discontinuing the credit and reducing the price would operate to the disadvantage of the poor; that they must be supplied on credit; and if it shall not be allowed by the Government, they must purchase at an advanced price from speculators. The idea of providing equal facility to the poor and to the rich, by any regulation, is incompatible with that of disposing of the land for a valuable consideration. While the Government requires a price, he who possesses the means of payment will have an advantage in making purchases over him who does not possess such means.

It is not apprehended that, speculations will be extensive, or be long continued, where they must be carried on by purchase for cash, and sale on credit, and when the sales must be confined to those who cannot advance one hundred and twenty dollars, and become purchasers from the United States.

From the foregoing consideration it is respectfully proposed that credit on future sales shall not be allowed; that the price of the public lands be fixed at one dollar and fifty cents; and that the lands be offered for sale in tracts of eighty acres.

And for that purpose they ask leave to report a bill.

#### DUELLING.

The Senate resumed the consideration of the motion, submitted yesterday by Mr. MORRILL, to request the President to dismiss certain officers from service.

Mr. MORRILL addressed the Chair as follows:

Mr. President, it is with no ordinary degree of sensation that I invite the attention of the Senate to the consideration of the resolution which I had the honor to present. The nature and enormity of the transaction can require but little illustration. It is not my intention to enter into a minute detail of the horror or magnitude of the crime; but, as I had the honor to offer the resolution, it may be expected that I assign some reasons in justification of the proposition. In the



first place, sir, I consider the practice of duelling as inhuman. What can be more repulsive to the philanthropic breast than to place before a musket, charged with a ball, at the distance of twelve or fifteen feet, a fellow-citizen for a mark? Humanity shudders, every tender feeling of the heart recoils, and Pagan barbarity itself is put to the blush. But, sir, it is immoral. It tends to demoralize society and corrupt the community. It banishes accountability from the human mind. It represents life and death as of no consequence, and immaterial. It may sometimes deprive society of its useful members.

The practice is unjust and wicked. In consequence of capital offences, by a legal tribunal life may be taken. But shall one citizen, for any trivial offence, take the life of his fellow? It cannot be justified upon any correct principle whatever, either Christian, humane, or civil. Christianity breathes a better spirit; humanity retires with disgust; the civil code condemns and executes the offender. What law, human or divine, will sustain the act? The articles of war forbid it; State laws forbid it; Virginia herself has forbidden it.

But, sir, General Mason has fallen. A husband, a father, a son, thus prematurely ushered into eternity. And, unless invention and vice are more than ordinarily active, he received encouragement to the sad catastrophe in this city; and the more to be lamented, for, is this the case, his blood must, at least in part, rest upon the heads of his guilty abettors and counsellors.

Lamentable fact! that a gentleman of high standing, who had been a member of this honorable body, and probably would have been the next Governor of Virginia, should be so overcome with pride or with passion as to fall a sacrifice to sentiments so absurd. And, sir, what plausible apology is offered to mitigate the crime? The only plea which ingenuity itself can invent, is grounded upon a false notion of honor. A gentleman is bound by his honor to commit an act of murder. His honor must be sustained by the commission of an offence beneath the dignity of the human species. If this be a correct mode of sustaining a gentleman's honor, why is it prohibited in your army? Why are laws against it? If it will sustain the honor of an individual, it will sustain the honor of the community; the honor of your country; and why do your laws condemn that on which your country's glory is erected?

But, sir, it is a gentleman's way of deciding a controversy. Yes, and the servants; the boys in the street, by this practice, learn high notions of honor, and, to display them, must fight a duel. Base practice, indeed; repugnant to all the refined feelings of a cultivated mind. The better feelings of man revolt at the act. Conscience condemns it, and it must, in time and eternity. From this view of the subject, sir, I am induced to offer the resolution, and am led to hope it will be adopted by the Senate. Let this be as it may, I have discharged my duty; I have expressed my opinion without reserve.

Mr. BARBOUR addressed the Senate as follows:

Mr. President, the event to which the resolution relates has filled me with the deepest affliction. I claim the melancholy privilege of being the chief mourner here. Mason was my friend—a long and intimate acquaintance, ripened into a sincere friendship by an association in this body for several years, gave me an opportunity of appreciating his distinguished worth. Virginia loved him as one of her favorite sons—in war her shield, her ornament in peace. With her the very name had been consecrated to patriotism, through successive generations. Its lustre lost nothing in the person of the deceased. He united the amiable qualities of the man to the higher virtues of the patriot. His loss will be mourned by his country as a public calamity. In the vigor of life, uniting both the affection and confidence of all, and surrounded with every blessing that promised happiness, he has suddenly fallen the victim of a barbarous practice. Cut off in the commencement of a splendid career, he leaves a wretched mother, a disconsolate widow, a fatherless child, and a weeping country.

Oh, what a scene was there! But yesterday Selma was the abode of happiness; to-day it is wrapped in mourning. See on yesterday the affectionate husband, the amiable wife, the tender infant—the pledge and cement of their happiness. To-day, behold that husband carried into the presence of his wife, bathed in gore. See her, frantic with despair, precipitating herself upon the corpse of her bleeding husband, mingling her tears with his flowing blood, and contending with the icy arms of death for the lifeless prize. She lifts her eyes to Heaven, the last refuge of the wretched, and in tones of agony cries out, my God, my God, restore my husband! Her prayers are given to the winds; his disembodied spirit has found its refuge and its home in the bosom of its God, while his earthly remains are consigned to the cold and narrow house appointed for all the living. Peace be to his ashes! And may a kind Providence become the friend of the widow; pour balm into her afflicted bosom, and bind up the broken heart; be the father of the fatherless, and let him be the mother's prop; rock the cradle of her declining years, and be a consolation in her dying hour! If anything can now administer to the affliction of his surviving friends, it will be the knowledge that Virginia, this day, through all her borders, weeps his untimely fall.

As to the practice of duelling, I have already, long since, given proofs of my sentiments, more substantial than mere professions. Whatever credit, if any, be due to it, to me it belongs, of having first presented to the Legislature of my native State the law against duelling. What will be its result on society, all-trying time must decide. The best hopes of humanity are connected with its success; nor is it presumptuous to hope that Heaven may smile on our efforts.

And yet, sir, with these sentiments, I must still be opposed to the resolution under consideration. As to the rumors to which the mover refers, and on which he rests, in part, at least, the success of

this motion, they may or may not be true. Incidents of this kind are generally attended with the most exaggerated statements. If, indeed, they be true, as represented, I should feel no hesitation in pronouncing them as deserving the deepest abhorrence. Of some of the persons concerned in this melancholy tragedy, I know nothing; with others I have a slight acquaintance. Their characters forbid the belief that they have acted dishonorably. The statement made by the mover, unsustained by proof, furnishes a strong reason against the adoption of the resolution. For it is palpably an *ex parte* proceeding, and we are called upon to consign to infamy men who have had no opportunity of being heard in their defence. Let us not multiply the regrets already attending this melancholy event, by doing an act of injustice. Let us not commit the dignity of the Senate, by taking cognizance of a subject which belongs to others. If a crime has been committed, the offenders are subject, if, as the resolution supposes, they be military men, to trial by court martial, and, in any event, by a civil tribunal. To the President, as Commander-in-Chief, belongs the former; the latter to the civil magistrate. By this irregular proceeding, should it prevail, we depart from our own duty, in prescribing to others, to whom of right the subject belongs, and of whose remissness there is no imputation. The crime of duelling is not to be corrected by a proceeding of this kind. The roots of the evil are too deep to be extirpated by a solitary paroxysm of zeal. Public opinion is the only corrective. No matter what may be the number or severity of penalties that are denounced against this ferocious practice; they, as experience has evinced, are inoperative, unless their enforcement can be secured by the coincidence of public sentiment, or unless, as with us, the law executes itself by disfranchising the offender. So long as public opinion requires of an individual a submission to what is most improperly called the laws of honor, to maintain his grade in society, it is as capricious as unjust to anathematize those who submit to its decrees. Let the press, let your schools, let the pulpit, let your legislatures, throughout the nation, make a simultaneous effort, and continue it with zeal and perseverance, to extirpate this practice, the undisputed progeny of a barbarous age. Upon such an undertaking, let us hope for the blessing of Heaven.

After other gentlemen had spoken—

Mr. MORRILL made the following remarks:

Mr. PRESIDENT: I learn with pleasure, from what honorable gentlemen have advanced on this subject, there is but one sentiment with respect to the nature and atrocity of the act. A difference of opinion as to the expediency and policy of the measure proposed, is the only difficulty to be encountered.

The honorable gentleman from Kentucky intimates a want of information, and an apprehension that no guilt can be attached to any implicated in this affair. It is very desirable, sir, that this should be the fact. If no guilt, no blame;

and of course no injury can be sustained by the innocent; and no evil is to be apprehended.

But, the gentleman suggests, that favorable expressions have fallen from gentlemen on the floor of the other House. Is this a fact, sir? it is the more to be lamented, and furnishes another reason why this House should express an opinion on the subject. But, sir, the honorable gentleman from Virginia, with whose eloquence I am generally captivated, and by whose arguments I am commonly drawn into his mode of thinking, has expressed the generous feeling of his heart, on the nature of the act, in a manner in perfect coincidence with my views of the subject. The spontaneous effusions of his heart, thus exhibited, I can by no means doubt, and can hardly suppose the social intercourse which he has holden in this House with the unfortunate sufferer should not have created a more than ordinary attachment. But, sir, the honorable gentleman intimates several reasons why this resolution should not be adopted. It is assuming the exercise of a power vested in another department. Your articles of war do not reach the case. They provide for the punishment of those who give or accept a challenge, but not those who are accessory thereto. As to the civil authority, sir, crimes of this kind, in this region, have passed too long unobserved to justify the most remote expectation that cognizance will be taken of this transaction. But, says the gentleman, it may consign to infamy individuals. If guilty, be it so; to this I have no objection. Would to God that all who are guilty of duelling might, by public disapprobation, be consigned to infamy as lasting as time itself. This would be the most successful and sure way to suppress the practice. The honorable gentleman intimates, the public opinion is incorrect, and this is the best corrective; and it is hard to criminate a person for committing a crime when public opinion requires him so to do to maintain his grade in society. Admit, sir, the public opinion is the best corrective, and that public opinion is incorrect—I would ask that honorable gentleman, what is the best method to correct public opinion? Will resolutions passed in private circles effect the object? Would not the opinion of the President have more influence upon society than that of an obscure individual? Would the gentleman, to purify a stream, cast his corrective into the ocean where it empties, or into the fountain where it originated? I presume, into the fountain. And, sir, upon the same principle, if the public opinion is corrupt, let the correction commence here—in the Senate of the United States. Let the stream be purified. Here, I wish to record my vote against an act so inhuman and wicked. A crime which I detest with all the powers of my soul. But, sir, as my desire is to accommodate the feelings of gentlemen, I will withdraw the resolution and submit a substitute.

Mr. M. then offered the following, which was agreed to:

*Resolved*, That the Committee on the Judiciary be



SENATE.

Statue of Washington.

FEBRUARY, 1819.

instructed to inquire into the expediency of providing, by law, for the punishment of all persons concerned in duelling within the District of Columbia.

WEDNESDAY, February 10.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act to authorize the Secretary of War to appoint an additional agent for paying pensions in the State of Tennessee," reported the same without amendment.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Hannah Ring and Luther Frink," reported the same with amendments; which were read.

Mr. NOBLE, from the same committee, who were instructed, by a resolution of the Senate, "to inquire into the expediency of placing Thos. Lucas on the pension list," made a report; which was read.

Mr. NOBLE, from the same committee, who were instructed, by a resolution of the Senate, "to inquire into the expediency of authorizing the Secretary of War to place upon the pension list Abraham Edwards, a mariner in the naval service of the United States in the Revolutionary war, who is now insane, and in such reduced circumstances as to need the assistance of his country," made a report; which was read.

On motion by Mr. MORROW, the Committee on Public Lands, to whom was referred the petition of William Edgar and Alexander Macomb, were discharged from the further consideration thereof, and the petitioners had leave to withdraw their petition and documents.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill providing for the correction of errors in making entries of land at the land offices; and the bill was read, and passed to the second reading.

Mr. BURRILL, from the Committee on the Judiciary, to whom was referred the memorial of William Thornton, reported a bill relative to the Patent Office, and the salary of the superintendent thereof; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the bill "concerning the widows of the militia," (granting five years' pension to the widows of such of the militia as died within four months after their return home, of disease contracted in service;) and, on motion of Mr. LACOCK, the bill was postponed a day beyond the session, and of course rejected.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated land within the same, passed the eighteenth of April, 1806,'" a bill, entitled "An act to authorize the Secretary of War to convey

a lot or parcel of land belonging to the United States, laying in Jefferson county, in the State of Virginia;" and a bill, entitled "An act for the relief of Isaac Minis, and others;" and, also, a resolution authorizing the transmission of the documents accompanying the report of the committee to examine into the proceedings of the Bank of the United States, free of postage; in which bills and resolutions they request the concurrence of the Senate.

The said bills and resolution were read, and passed to the second reading.

The said resolution was read the second time by unanimous consent, and considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned; and, no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Daniel Pettibone; and, the bill having been amended, it was reported to the House; and, the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The bill supplementary to an act, passed the second day of March, 1807, entitled "An act to prohibit the importation of slaves into the United States," was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act directing the payment of certain bills drawn by General Armstrong in favor of William Morgan;" and, no amendment having been made, it was reported to the House, and passed to a third reading.

The bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes, was read a third time, and passed.

#### STATUE OF WASHINGTON.

The Senate then resumed the consideration of the bill, providing for the erection of an equestrian statue of General WASHINGTON, in pursuance of the resolution of the Congress of 1783.

Considerable discussion took place on this subject; in the course of which Mr. WILSON moved to postpone the bill to the 5th of March, (to reject it,) with a view of then moving for estimates of expense, &c., to be reported to the House at the next session; which motion was decided by yeas and nays, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Dickerson, Edwards, Eppes, Lacock, Leake, Macon, Morrow, Noble, Palmer, Roberts, Ruggles, Tait, Taylor, Williams of Massachusetts, and Wilson—18.

NAYS—Messrs. Daggett, Eaton, Forsyth, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Mellen, Morrill, Otis, Sanford, Stokes, Talbot, Tichenor, Van Dyke, and Williams of Tennessee—18.

FEBRUARY, 1819.

Proceedings.

SENATE.

The Senate being equally divided on the question, the PRESIDENT gave the casting vote against postponing the bill, and the motion was accordingly negatived.

After further debate as to the amount necessary to be appropriated for the object, the bill was laid over until to-morrow.

THURSDAY, February 11.

The bill, entitled "An act to amend the act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated land within the same, passed the 18th of April, 1806,'" was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act to authorize the Secretary of War to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, in the State of Virginia," was read the second time, and referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of Isaac Minis, and others," was read the second time, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee of Claims, reported a bill for the relief of William and James Crooks; and the bill was twice read by unanimous consent.

Mr. GOLDSBOROUGH, from the same committee, reported a bill for the relief of Noah Brown, and others; and the bill was read, and passed to the second reading.

Mr. MORROW, from the Committee on Public Lands, reported a bill to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan; and the bill was read, and passed to the second reading.

Mr. JOHNSON, presented the memorial of Hyacinthe Bernard, of Louisiana, praying to be confirmed in his title to certain land, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The PRESIDENT communicated the memorial of Joseph Krittman, praying indemnity for property of which he was illegally deprived by the Senate of Hamburg, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. HUNTER presented the memorial of Nathaniel Cutting, praying additional compensation, in consideration of his "long" and "faithful" public services, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

Resolved, That the Secretary of the Treasury lay before the Senate, as early in their next session as practicable, an abstract of all bonds for duties on merchandise imported into the United States, which shall have become payable, and remain unpaid on the thir-

15th CON. 2d SESS.—S

tieth day of September next; exhibiting, in such abstract, the date of such bond, and the time when it became payable, its amount, the name of the obligors, distinguishing principals from sureties, and the district of the customs in which taken; together with such information as will show how much or what parts of such bonds are irrecoverable and lost to the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Cornelia Schoonmaker, widow and administratrix, and Peter Marius Green, administrator of Zachariah Schoonmaker, deceased, late paymaster of the second regiment of United States volunteer artillery; and, on motion by Mr. WILSON, the further consideration thereof was postponed until the 5th day of March next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of Harbaugh and Potter; and, in concurrence therewith, the petitioners had leave to withdraw their petition.

The bill making further provision for the sale of public lands; the bill providing for the correction of errors in making entries of land at the land offices; and the bill relative to the Patent Office, and the salary of the superintendent thereof; were respectively read the second time.

Mr. ROBERTS presented the petition of Rebecca Hodgson, widow of Joseph Hodgson, praying payment for the value of a certain house which was consumed by fire, whilst in the occupation of the Government of the United States, as the War Office in the City of Washington, in the year 1800, as stated in the petition; which was read, and referred to the Committee of Claims.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of Representatives of the United States:

I transmit to Congress, for their consideration, applications which have been received from the Minister Resident of Prussia, and from the Senators of the Free and Hanseatic cities of Hamburg and Bremen, the object of which is, that the advantages secured by the act of Congress of 20th April last, to the vessels and merchandise of the Netherlands, should be extended to those of Prussia, Hamburg, and Bremen. It will appear from these documents, that the vessels of the United States, and the merchandise laden in them, are, in the ports of those Governments, respectively entitled to the same advantages, in respect to imports and duties, as those of the native subjects of the countries themselves. The principle of reciprocity appears to entitle them to the return of the same favor, on the part of the United States, and I recommend it to Congress, that provision to that effect may be made.

JAMES MONROE.

FEBRUARY 11, 1819.

The Message together with the accompanying documents, were read, and referred to the Committee on Foreign Relations.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:



To the Senate and House of Representatives of the United States:

I transmit to Congress, a copy of a letter from Governor Bibb, to Major General Jackson, connected with the late military operations in Florida. This letter had been mislaid, or it would have been communicated with the other documents at the commencement of the session.

JAMES MONROE.

WASHINGTON, February 6, 1819.

The Message together with the accompanying letter, were read.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Secretary of the Senate procure, for the use of the Senate, — copies of the memorial of William Jones, late President of the Bank of the United States, to the House of Representatives of the United States, and presented to that body on the 8th instant, with the documents annexed thereto.

The bill making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned, was read a third time, and passed.

The bill for the relief of Daniel Pettibone was read a third time, and passed.

The bill entitled "An act directing the payment of certain bills drawn by General Armstrong, in favor of William Morgan," was read a third time, and passed.

Mr. FROMENTIN presented the petition of Labedoyere de Kermion, of the State of Louisiana, praying indemnity for losses sustained during the invasion of said State by the enemy in the Winter of 1814-'15, as stated in the petition; which was read, and referred to the Committee of Claims.

#### COASTING TRADE.

The Senate resumed the consideration of the bill supplementary to the acts concerning the coasting trade.

[This bill provides—1. That, for the more convenient regulation of the coasting trade, the seacoast and navigable rivers of the United States be divided into four great districts; the first to include all the districts on the seacoast and navigable rivers, between the eastern limits of the United States and the western limits of Rhode Island; the second to include all the districts between the western limits of Rhode Island and the southern limits of Virginia; the third to include all the districts between the southern limits of Virginia and the southern limits of Georgia; and the fourth, to include all the districts between the river Perdido and the western limits of the United States.

2. That every ship or vessel of the burden of twenty tons or upwards, licensed to trade between the different districts of the United States, is authorized to carry on such trade between the districts included within the aforesaid great districts respectively, in manner, and subject only to the regulations that are now by law required to be observed by such ships or vessels in trading from one district to another in the same State, or from a district in one State to a district in the next adjoining State.

3. That every ship or vessel of the burden of twenty tons or upwards, licensed to trade as aforesaid, is required, in trading from one to another district, to conform to and observe the regulations that, at the time

of passing this act, are required to be observed by such vessels in trading from a district in one State to a district in any other than an adjoining State.

4. That the trade between the districts not included in any of the four great districts aforesaid, shall continue to be carried on in the manner, and subject to the regulations, already provided for this purpose.]

The bill received some amendments, not affecting its principle, and was ordered to be engrossed for a third reading.

#### STATUE OF WASHINGTON.

The Senate resumed the consideration of the bill for the erection of an equestrian statue of General GEORGE WASHINGTON, in the Capitol square.

Mr. OTIS moved to postpone the bill to the 5th day of March, (to reject it;) which motion was decided in the negative, by yeas and nays, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Dickerson, Eppes, Lacock, Leake, Macon, Morrow, Noble, Otis, Roberts, Tait, Taylor, and Wilson—15.

NAYS—Messrs. Daggett, Eaton, Forsyth, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Mellen, Morrill, Sanford, Stokes, Storer, Talbot, Tichenor, Van Dyke, and Williams of Tennessee—18.

On motion of Mr. DAGGETT, the bill was amended, by adding a proviso, that, if the President should find that the monument would cost more than \$150,000, the sum appropriated, he should not proceed to execute the act, but make a report of the estimated cost to the next session of Congress.

The question was then taken on ordering the bill, as amended, to be engrossed and read a third time, and decided affirmatively, by yeas and nays, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Otis, Sanford, Stokes, Storer, Talbot, Thomas, Tichenor, Van Dyke, and Williams of Tennessee—23.

NAYS—Messrs. Eaton, Edwards, Eppes, Forsyth, Lacock, Macon, Morrow, Palmer, Roberts, Ruggles, Tait, Taylor, Williams of Mississippi, and Wilson—14.

FRIDAY, February 12.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act providing additional penalties for false entries for the benefit of drawback, or bounty on exportation," reported the same without amendment; and it was considered as in Committee of the Whole; and no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Harold Smyth," reported the same without amendment.

On motion by Mr. GOLDSBOROUGH, the Committee of Claims, to whom was referred the petition of Richard I. Jones, and also the petition of Mary Cassin, were discharged from the further consideration thereof respectively, and the peti-

tioners had leave to withdraw their papers; and the said committee, to whom was referred the memorial of Joseph Krittman, were discharged from the further consideration thereof, and it was referred to the Committee on Foreign Relations.

The bill for the relief of Noah Brown, and others, was read the second time.

Mr. WILSON, from the Committee of Claims, reported a bill for the relief of Labedoyere de Kermion; and the bill was read, and passed to the second reading.

On motion by Mr. STORER,

*Resolved*, That the President of the United States be, and he is hereby, requested to procure the cession of jurisdiction in and over such military and naval sites as have been or may be purchased for the use of the United States, and where such cession has not already been made.

The Senate resumed the consideration of the motion of yesterday, calling for an abstract of all bonds for duties on merchandise imported into the United States, which shall have become payable and remain unpaid on the 30th day of September next; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Lefebvre; whereupon, on motion by Mr. JOHNSON, the Committee of Claims were instructed to bring in a bill authorizing the Secretary of the Treasury to pay to the petitioner the amount claimed, or such part thereof as may be supported by satisfactory evidence that the property destroyed was taken by the authority of the commanding officer, and proving the several articles, and the amount thereof.

The bill to erect an equestrian statue of General Washington, in the Capitol square, was read a third time; and on motion by Mr. RUGGLES, that the further consideration thereof be postponed until the 5th day of March next, it was determined in the negative—yeas 13, nays 21, as follows:

YEAS—Messrs. Eaton, Edwards, Eppes, Lacock, Macon, Morrow, Noble, Otis, Roberts, Ruggles, Taylor, Williams of Mississippi, and Wilson.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Sanford, Stokes, Storer, Talbot, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

On the question, "Shall this bill pass?" it was determined in the affirmative. So it was resolved, that this bill pass, and that the title thereof be, "An act to erect an equestrian statue of General Washington in the Capitol square."

The Senate resumed the consideration of the motion of yesterday, for procuring for the use of the Senate — copies of the memorial of William Jones, to the House of Representatives, with the documents annexed thereto; and the blank having been filled with "five hundred," on the question to agree thereto, it was determined in the negative.

The Senate resumed the consideration of the report of the Committee on Pensions, in the case

of Peter Francisco; and the further consideration thereof was postponed until Monday next.

The bill supplementary to the acts concerning the coasting trade was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of Kenzie and Forsyth," together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the bill was reported to the House amended; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Adam Kingsley, Thomas French, and Charles S. Leonard;" and no amendment having been made, the bill was reported to the House, and it passed to a third reading.

Mr. CRITTENDEN presented the petition of Archibald Felts, praying for a pension in consideration of services rendered during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. OTIS presented the memorial of Benjamin Dearborn, praying Congress to take into consideration an invention for propelling wheel carriages, which would insure greater security against robbery, and promote celerity of movement, as stated in the memorial; which was read, and referred to the Committee on the Post Office and Post Roads.

The PRESIDENT communicated the petition of William Chivvis, of the city of New York, praying a grant of one hundred acres of land, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry Davis;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Pool;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of Potomac, from the southern termination of Eleventh street east, in the City of Washington; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan; and no amendment having been made, it was reported to the



SENATE.

Proceedings.

FEBRUARY, 1819.

House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of B. and P. Jourdan, brothers; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased;" and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Michael Hogan; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the heirs of Edward McCarty; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed the bill which originated in the Senate, entitled "An act to increase the salaries of certain officers of Government," with amendments; in which they request the concurrence of the Senate. They have passed a bill, entitled "An act for the relief of Joseph Wheaton;" and a bill, entitled "An act making appropriations for the support of Government, for the year 1819;" in which bills they request the concurrence of the Senate.

The said two bills were read, and passed to the second reading.

The amendments of the House of Representatives to the bill, entitled "An act to increase the salaries of certain officers of Government," were read; and the further consideration thereof postponed to, and made the order of the day for, Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the benefit of Jacob Purkhill; and the further consideration thereof was postponed until Wednesday next.

The Senate adjourned to Monday.

MONDAY, February 15.

Mr. EFFES, from the Committee on Finance, reported a bill, further supplementary to an act, entitled "An act to regulate the collection of duties on tonnage," passed on the second day of March, 1799; and the bill was read, and passed to the second reading.

The PRESIDENT communicated the memorial of the Society of the State of Delaware, for the promotion of American manufactures, praying protection; and the memorial was read, and referred to the Committee on Commerce and Manufactures.

The PRESIDENT also communicated the general account of the Treasurer of the United States,

from the first of January, 1817, to the first of July, 1818, as also the accounts of the War and Navy Departments, from the first of October, 1817, to the first of October, 1818, together with the reports thereon; which were read.

Mr. WILSON, from the Committee of Claims, to whom was referred the memorial of Vincent Grant, of Buffalo, in the State of New York, made a report, accompanied by a bill for the relief of Vincent Grant; and the report and bill were read, and the bill passed to the second reading.

The bill for the relief of Labedoyere Kermion was read the second time.

Mr. FROMENTIN submitted the following motion for consideration:

*Resolved*, That the Library Committee be instructed to inquire into the propriety of further extending the privilege of using the books in the Library of Congress.

The bill, entitled "An act for the relief of Joseph Wheaton," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act making appropriations for the support of Government for the year 1819," was read the second time, and referred to the Committee on Finance.

The bill to revive the power of the Commissioners, for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan, was read the second time.

The bill, entitled "An act for the relief of Adam Kingsly, Thomas French, and Charles S. Leonard," was read a third time, and passed.

The bill, entitled "An act for the relief of Henry Davis," was read a third time, and passed.

The bill, entitled "An act for the relief of Benjamin Pool," was read a third time, and passed.

The bill, entitled, "An act for the relief of Kenzie and Forsyth," was read a third time, and passed with an amendment.

The bill, entitled "An act providing additional penalties for false entries for the benefit of drawback or bounty on exportation," was read a third time, and passed.

The bill confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan was read a third time, and passed.

The bill for the relief of B. and P. Jourdan brothers, was read a third time, and passed.

The bill for the relief of Michael Hogan was read a third time, and passed.

The bill for the relief of Edward McCarty was read a third time, and passed.

The VICE PRESIDENT of the United States having retired from the Chair, the Senate proceeded to the election of a President, *pro tempore*; when Mr. BARBOUR, of Virginia, was duly elected, and took the Chair accordingly, from whence he made his acknowledgments to the Senate for the honor conferred on him.

On motion of Mr. BURRILL, it was ordered that the Secretary wait upon the President of the United States, and acquaint him with the election of

FEBRUARY, 1819.

Proceedings.

SENATE.

Mr. BARBOUR as President *pro tempore* of the Senate, and that he make a similar communication to the House of Representatives.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act concerning the allowance of pensions upon a relinquishment of bounty lands;" a bill, entitled "An act for the relief of Henry Batman;" and a resolution for the appointment of a joint committee, to inquire into and report what subjects it will be proper to act on during the present session; in which bills and resolution they request the concurrence of the Senate.

The two bills and resolution last mentioned were read, and passed to the second reading.

On motion by Mr. WILSON, the said resolution was read the second time by unanimous consent, and considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, passed to a third reading, and was read a third time by unanimous consent, and passed; and Messrs. BURRILL, MORROW, and GAILLARD, were appointed the committee on the part of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, from the southern termination of Eleventh street east, in the City of Washington;" and, the bill having been amended, it was reported to the House, and the amendments ordered to be engrossed, and the bill read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision for the sale of the public lands; and, the bill having been amended, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the heirs and legatees of Thomas Turner, deceased;" and, no amendment having been made, it was reported to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning invalid pensions;" and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the better organization of the Military Academy; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the Post Office Establishment;" and the further consideration thereof was postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the location of certain sections of lands, to be

granted for the seat of government in the State of Indiana; and, no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act allowing further time to complete the issuing and locating of military land warrants;" and, no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. GOLDSBOROUGH, from the Committee of Claims, reported a bill for the relief of Joseph Lefebvre; and the bill was read, and passed to the second reading.

TUESDAY, February 16.

On motion by Mr. MACON, the Committee on Foreign Relations, to whom was referred the memorial of Joseph Krittman, were discharged from the further consideration thereof, and it was referred to the Secretary of State, to consider and report thereon to the Senate.

Mr. MACON, from the Committee on Foreign Relations, reported a bill, in addition to "An act concerning tonnage and discriminating duties in certain cases;" and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, presented the petition of John Linton, of the city of New Orleans, praying the confirmation of his claim to a certain lot of ground, as stated in the petition; which was read.

Mr. ROBERTS presented the memorial of the Select and Common Councils of the city of Philadelphia, praying an exemption from duty, on the importation of certain cast-iron pipes, to be substituted in place of wooden pipes, at present used for the purpose of watering the city; and the memorial was read, and referred to the Committee on Finance.

Mr. R. also presented the memorial of James Smith and others, praying compensation for property of which they were wrongfully dispossessed by the authority of France, and for the detention of it from the year 1807, as stated in the memorial; which was read, and referred to the Secretary of State, to consider and report thereon to the Senate.

Mr. KING presented the petition of the stockholders of the Bank of the United States, residing in the city of New York, deprecating the abrogation of the bank charter, and praying that measures may be adopted by Congress to restore the bank to the confidence of the public; and the petition was read.

On motion, by Mr. VAN DYKE, the Committee on Pensions, to whom was referred the petition of William Langston, were discharged from the further consideration thereof; and the petitioner had leave to withdraw his petition.

The bill entitled "An act concerning the allowance of pensions, upon a relinquishment of bounty lands," was read the second time, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of



SENATE.

Proceedings.

FEBRUARY, 1819.

Henry Batman was read the second time, and referred to the Committee on Public Lands.

The bill for the relief of Vincent Grant was read the second time.

The bill for the relief of Joseph Lefebvre was read the second time.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the case of Peter Francisco; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky;" together with the amendment reported thereto by the Committee on the Post Office and Post Roads; and the further consideration thereof was postponed until Friday next.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the petition of Archibald Felts, made a report accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read, considered, and agreed to.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom was referred a resolution of the Senate of the 4th instant, instructing them "to inquire into the expediency of authorizing the Postmaster General to employ an armed guard for protection of the mails of the United States, on such mail routes as he may deem necessary," made a report, accompanied by the following resolution:

*Resolved*, That it is not expedient to authorize the Postmaster General to employ an armed guard for the protection of the mails of the United States.

The report and resolution were read.

The Senate resumed the consideration of the amendments of the House of Representatives to the bill, entitled "An act to increase the salaries of certain officers of Government."

On motion, by Mr. TALBOT, that the said amendments be referred to a select committee, with instructions "to provide for an increase of the salaries of the district judges," it was determined in the negative—yeas 16, nays 21, as follows:

YEAS—Messrs. Crittenden, Dickerson, Edwards, Eppes, Gaillard, Lacock, Macon, Noble, Palmer, Ruggles, Stokes, Talbot, Taylor, Thomas, Williams of Mississippi, and Wilson.

NAYS—Messrs. Barbour, Burrill, Daggett, Eaton, Fromentin, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Morrill, Otis, Roberts, Sanford, Storer, Tait, Tichenor, Van Dyke, and Williams of Tennessee.

On the question to agree to the second amendment proposed, as follows:

Line 9. After the word "dollars," insert, "to the Chief Justice of the United States, five thousand dollars; and to each of the Judges of the Supreme Court of the United States, four thousand five hundred dollars; and to the Assistant Postmaster General, and

additional Assistant Postmaster General, two thousand five hundred dollars each;"

It was determined in the affirmative—yeas 21, nays 17, as follows:

YEAS—Messrs. Barbour, Burrill, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Mellen, Otis, Ruggles, Sanford, Storer, Tait, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Crittenden, Dickerson, Eaton, Edwards, Eppes, Lacock, Macon, Morrill, Morrow, Noble, Palmer, Roberts, Stokes, Talbot, Taylor, Williams of Mississippi, and Wilson.

The other amendments having been agreed to, it was resolved, that the Senate concur in all the amendments of the House of Representatives to said bill.

The amendments to the bill, entitled "An act to incorporate a company to build a bridge over the Eastern Branch of the Potomac, between Eleventh and Twelfth streets east, in the City of Washington," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill entitled "An act concerning the heirs and legatees of Thomas Turner, deceased," was read a third time, and passed.

The bill entitled "An act allowing further time to complete the issuing and locating of military land warrants," was read a third time, and passed.

The bill respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana, was read the third time, and passed.

The Senate resumed the consideration of the motion of yesterday, for instructing the Library Committee to inquire into the propriety of further extending the privilege of using the books in the Library of Congress, and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Pierre Denis de la Ronde; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to regulate the pay of the army when employed on fatigue duty; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Rees Hill; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing the purchase of live-oak timber for naval pur-

FEBRUARY, 1819.

Committee on the Seminole War.

SENATE.

poses; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas Hall Jervey;" and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making provision for the claim of M. Poirey;" and no amendment having been made, it was reported to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making provision for the claim of M. de Vienne;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Gabriel Godfroy; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Nathan Ford; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of David Henley; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of the Public Buildings, and to direct a defence therein; and the bill having been amended, it was reported to the House; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

### WEDNESDAY, February 17.

The President communicated a letter from JOHN FORSYTH, notifying the resignation of his seat in the Senate; and the letter was read; and, on motion by Mr. TAIT, the President was requested to notify the Executive of the State of Georgia, of this resignation.

The bill further supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed on the 2d day of March, 1799, was read the second time.

The bill in addition to "An act concerning tonnage and discriminating duties in certain cases," was read the second time.

The bill, entitled "An act for the relief of Thomas Hall Jervey" was read a third time, and passed.

The bill, entitled "An act making provision for

the claim of M. Poirey" was read a third time, and passed.

The bill, entitled "An act making provision for the claim of M. de Vienne" was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" and also, a bill, entitled "An act for the relief of Patrick Callan;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

On motion, by Mr. TALBOT, the bill to authorize the people of the Missouri Territory to form a constitution and State government was read the second time, by unanimous consent, and referred to the committee on the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying admission into the Union as a State.

On motion, by Mr. GOLDSBOROUGH, the Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of William and James Crooks; and, on motion, it was referred to the Committee on Finance.

The bill for the relief of Pierre Denis de la Ronde was read a third time, and passed.

The bill to regulate the pay of the army, when employed on fatigue duty, was read a third time, and passed.

The bill for the relief of Rees Hill was read a third time, and passed.

The bill for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased, was read a third time, and passed.

The bill authorizing the purchase of live oak timber for naval purposes was read a third time, and passed.

The bill for the relief of Gabriel Godfroy was read a third time, and passed.

The bill to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Superintendent of Public Buildings, and to direct a defence therein, was read a third time, and passed.

The bill for the relief of Nathan Ford was read a third time, and passed.

The bill for the relief of David Henley was read a third time, and passed.

### COMMITTEE ON THE SEMINOLE WAR.

Mr. LACOCK submitted the following motion: *Resolved*, That a member be added to the committee already appointed on the subject of the Seminole war, in the place of the honorable Mr. FORSYTH, who has recently been appointed to a foreign mission.

After considerable debate, Mr. EATON moved to postpone the motion to the 5th day of March next, [to defeat it,] on the ground that it would be an unnecessary consumption of the time of the Senate, if not a deviation from the line of its duty, to enter at this late period of the session



into an investigation and debate on this subject, which, after a debate of unexampled length, had been solemnly decided on in the House of Representatives. To this it was replied, that nothing more was proposed, in this instance, than was on other occasions considered as matter of course. When an inquiry into the conduct of a public officer or officers, was asked from a respectable source, it was invariably granted; and it would be, it was said, no more than consistent with self-respect, to prosecute to some result the inquiry already commenced in this case. This motion to postpone was negatived, by yeas and nays, 21 to 16, as follows:

**YEAS**—Messrs. Crittenden, Dickerson, Eaton, Edwards, Fromentin, Johnson, King, Leake, Morrow, Otis, Ruggles, Sanford, Stokes, Storer, Williams of Mississippi, and Wilson.

**NAYS**—Messrs. Barbour, Burrill, Daggett, Eppes, Gaillard, Goldsborough, Horsey, Hunter, Lacock, Macon, Mellen, Noble, Palmer, Roberts, Tait, Talbot, Taylor, Thomas, Tichenor, Van Dyke, and Williams of Tennessee.

The motion of Mr. LACOCK to fill up the committee was opposed, and of Mr. EATON to postpone the proceedings, was supported by Messrs. OTIS, EATON, and FROMENTIN; on the other side were Messrs. LACOCK, EPPES, BURRILL, TALBOT, GOLDSBOROUGH, and MACON. It was contended by the former, that, without deciding upon the right of the Senate, abstractly, to institute inquiries into the conduct of public officers, or to exercise a censorial power in other cases than those of impeachment, it was sufficient to show that, in this instance, such an interference would be entirely inexpedient. For, that the conduct of the commanding officer in the Seminole war had been at least excused by the President of the United States, and that, so far as that general officer was censured, there was no difference between previous orders and a subsequent excuse or justification. In either case, the mantle of his superior officer was a screen for him; and, if the Executive government had thus assumed the responsibility without sufficient motives and reasons, persons other than General Jackson might be held to answer before the Senate in another capacity, and that this body might thus be placed in a situation of embarrassment, unfavorable to a just and impartial discharge of judicial duties. That if this were true in ordinary cases, it was most emphatically so in the present instance. The House of Representatives was the great inquest and Constitutional accuser of the nation. And, after a most laborious investigation and debate, had decided in favor of a *not pros.* It would seem then to betray a great eagerness to exercise the faculty of censure and condemnation, to pursue a supposed delinquent after that House had rejected a bill of indictment. The Senate would be placed in an unfavorable and undignified attitude—be chargeable with a spirit of persecution, and would separate themselves, not only from the House of Representatives, but from the people, and excite, in favor of the principal party, feelings of sympathy that would de-

feat the object of exhibiting the triumph of the civil over the military power. Many remarks were also added to show that to refuse to fill up the committee, or to postpone generally, or to discharge the committee, were equivalent motions, and all in perfect conformity with correct and dignified proceedings.

On the other hand, the filling up the committee was supported and the postponement resisted, upon the suggestion that the committee, after making progress in their inquiries, and after much laborious research, and after a majority of them were agreed on many points, were divided upon others, and that the Senate was bound by the respect due to itself to fill up the vacancy and not stifle the report; and that afterwards, upon a motion to discharge the committee, if it should be offered, conclusive reasons should be shown against that measure. To decline replacing a member, whose sentiments were known to be unfavorable to the proceedings in the Seminole war, and who had received an Executive appointment, would be to expose the motives of the Executive to misconstruction. That the Senate possessed a concurrent right with the House of Representatives to originate any investigation into the proceedings of public officers, or the conduct of public affairs, and was bound as an independent branch of the Legislature to discharge its duty, without any reference to the proceedings of the House, to which all allusions were unparliamentary and improper. It was denied to be the correct doctrine that a military officer is in all cases protected by the command or justification of his superior; and, if it were true, it might be better to disband the Army. That the present moment was favorable to sustaining and defining the rights of the Senate. And, finally, that it would not follow of course that the present proceedings would involve a question of censure or approbation of any officer; but the committee might possess evidence (and it was suggested that they did) of irregularities not exhibited to the House, which might demand legislative interposition and reform.

The motion of Mr. LACOCK, was then agreed to, and Mr. EPPES was appointed the member.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision for the sale of public lands; and, after debate, the Senate adjourned.

#### THURSDAY, February 18.

The bill, entitled "An act for the relief of Patrick Callan," was read the second time, and referred to the Committee of Claims.

Mr. OTIS gave notice that, to-morrow, he should ask leave to bring in a bill to authorize the President of the United States to employ the public armed vessels in protecting the merchant vessels of the United States from piratical aggression.

The Senate resumed the consideration of the report of the Committee on Post Offices and Post Roads, on the subject of protecting the

mails of the United States; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act entitled 'An act to provide for the prompt settlement of public accounts,'" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana; and, the bill having been amended, it was reported to the House, and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color, for sale, or to be held to labor; and no amendment having been made, it was reported to the House.

On motion by Mr. FROMENTIN, it having been agreed to take the question on passing said bill to be engrossed and read a third time, by yeas and nays, on his motion the further consideration thereof was postponed until Monday next.

Mr. MORROW, from the Committee on Public Lands, reported a bill to continue in force for a further time the act, entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes;" and the bill was read and passed to the second reading.

#### PUBLIC LANDS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill making further provision respecting the sale of the public lands.

Mr. EDWARDS moved to strike out the second section of the bill, which provides that,

"Credit shall not be allowed for the purchase money on the sale of any of the public lands which may be sold after the — day of — next, but every purchaser of land sold at public sale thereafter, shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale shall produce to the register of the land office a receipt from the Treasurer of the United States, or from the receiver of public moneys of the district, for the amount of purchase money on any tract, before he shall enter the same at the land office; and if any person, being the highest bidder at a public sale for a tract of land, shall fail to make payment therefor on the day on which the same was purchased, the tract shall be again offered at public sale, on the next day of sale, and such person shall not be capable of becoming the purchaser of that or any other tract offered at such public sales;

And to insert in lieu thereof, the following:

"That credit shall not be allowed for the purchase money on the sale of any of the public lands which shall be sold after the — day of — next, at any land office which shall have been open for the sale of lands five years previous to said day; nor at any other

land office now established, at any time after five years from the time it was first opened for the sale of public lands; but every purchaser of land, after the periods above specified, shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale, after the said periods respectively, shall produce to the register of the land office a receipt from the Treasurer of the United States, or from the receiver of public moneys of the district, for the amount of purchase money on any tract, before he shall enter the same at the land office; and if any person, being the highest bidder at the said public sales for a tract of land, shall fail to make payment therefor, on the day on which the same was purchased, the tract shall be again offered at public sale, and such person shall not be capable of becoming the purchaser of that or any other tract offered at such public sale."

This question was decided in the negative by yeas and nays, 32 to 1—as follows:

**YEAS**—Mr. Edwards.

**NAYS**—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Storer, Tait, Taylor, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

Mr. EDWARDS then moved to strike out of the 3d section (which prescribes the terms to purchasers at private sale) the words "at one dollar and fifty cents an acre, to be paid at the time of making such entry as aforesaid;" and in lieu thereof to insert the following:

"Upon the following terms, viz: to the purchaser of not more than eighty acres, at fifty cents an acre; to the purchaser of not more than one quarter section, at seventy-five cents an acre; to the purchaser of not more than one section, at one dollar an acre; and to purchasers of any amount exceeding one section, at — an acre: *Provided, however,* That no tract less than one section, purchased as aforesaid, shall be transferable in any manner whatever at any time within five years from the time of the purchase thereof."

This motion was determined in the negative—yeas 2, nays 32, as follows:

**YEAS**—Messrs. Edwards, and Thomas.

**NAYS**—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Storer, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

The fourth section of the bill being taken up, Mr. EDWARDS moved to strike therefrom the following clause:

"That the public lands heretofore sold, or which shall have been sold prior to the — day of — next, on terms of credit for part of the purchase money, and which have, or shall hereafter become forfeited, or revert in any manner to the United States, for failure to make payment, shall not be subject to entry at private sale, after the — day of — next, aforesaid: but all the lands which at that day shall have been forfeited or reverted to the United States, as aforesaid, in any of the districts established for the sale of the public lands, shall be offered at public sale, to the highest bidder, at the land office for such respective district,



under the superintendence of the register and receiver of public money for such district, in half-quarter sections, on the terms of a cash payment of the purchase money, on such day or days, in the respective districts, as the President of the United States shall, by proclamation, designate for that purpose; and all the heretofore reserved sections, for the future disposal of Congress, which shall remain unsold on the said — day of — next, shall be offered at public sale, at the same time and manner, and on the same terms with the lands which had reverted, and which are hereby directed to be sold; and any lands which shall have been sold prior to the — day of — next, and which shall thereafter revert, or become forfeited to the United States, for failure in making payment, shall not be subject to entry at private sale, until such lands shall have been first offered at public sale, in the manner and on the terms provided with respect to lands which shall revert, or become forfeited, before that day. The public sales for which shall take place at such time as shall be designated for the purpose, by the proclamation of the President of the United States."

And in lieu thereof to insert the following:

"That where any person shall be actually settled on any quarter section of land which shall have been previously offered at public sale, and remain unsold, such person shall, upon application to the register of the land office in the district in which the land may lie, be entitled, upon satisfactory proof thereof, to receive from said register a license to remain on the said land for the term of five years; during which time, provided the said settler shall continue to reside thereon, the said land shall not be liable to be sold to any other person; but if the said settler shall, at any time within the said five years, and during his actual residence on said land, tender payment for the same, at the rate of — an acre, with legal interest thereon, from the date of his license, and shall actually pay the same to the receiver, and produce his receipt as in other cases, the land shall be sold to the said settler, upon his making oath, before the register, that he has not purchased any other tract of land subsequent to the date of this license."

This motion was also decided in the negative—yeas 4, nays 32, as follows:

YEAS—Messrs. Edwards, Fromentin, Johnson, and Thomas.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, King, Lacock, Leake, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Roberts, Ruggles, Sanford, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee and Wilson.

Mr. EDWARDS next moved to add to the third section the following proviso:

"Provided, however, That no person shall be permitted to purchase, either directly or indirectly, at any land office, more than one section of land in any one year, and all purchases made contrary to this provision shall be utterly null and void."

The question being taken on this motion, it was determined in the negative—yeas 7, nays 29, as follows:

YEAS—Messrs. Edwards, Fromentin, Macon, Morrill, Ruggles, Thomas, and Wilson.

NAYS—Messrs. Barbour, Burrill, Crittenden, Dag-

gett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Mellen, Morrow, Noble, Otis, Palmer, Roberts, Sanford, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

Mr. EDWARDS then proposed to strike out of the third section, fixing the minimum price at which public lands shall be offered at public sale, at one dollar and fifty cents, per acre, the words "and fifty cents," so as to reduce the price to one dollar.

This motion was negatived—yeas 11, nays 24, as follows:

YEAS—Messrs. Crittenden, Edwards, Fromentin, Johnson, Leake, Noble, Ruggles, Taylor, Thomas, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Burrill, Daggett, Dickerson, Eaton, Eppes, Gaillard, Horsey, Hunter, King, Macon, Mellen, Morrill, Morrow, Otis, Palmer, Roberts, Sanford, Storer, Tait, Talbot, Tichenor, Van Dyke, and Williams of Mississippi.

The bill having been amended, it was reported to the House, and the amendments being concurred in—

Mr. EDWARDS moved so to amend the third section as to fix the price at one dollar and twenty-five cents per acre, instead of one dollar and fifty cents.

This motion was also negatived—yeas 9, nays 26, as follows:

YEAS—Messrs. Crittenden, Edwards, Johnson, Leake, Ruggles, Taylor, Thomas, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Burrill, Daggett, Dickerson, Eaton, Eppes, Fromentin, Gaillard, Horsey, Hunter, King, Lacock, Macon, Mellen, Morrill, Morrow, Noble, Otis, Palmer, Roberts, Storer, Tait, Talbot, Tichenor, Van Dyke, and Williams of Mississippi.

Mr. NOBLE then proposed in effect to reject the bill, by moving to postpone it to the fifth day of March.

This motion was determined in the negative—yeas 6, nays 28, as follows:

YEAS—Messrs. Edwards, Noble, Palmer, Ruggles, Talbot, and Thomas.

NAYS—Messrs. Barbour, Burrill, Daggett, Dickerson, Eppes, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Lacock, Leake, Macon, Mellen, Morrill, Morrow, Otis, Roberts, Sanford, Storer, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

Mr. EDWARDS moved to fill the blanks in the bill so as to put the act into operation on the 1st of October, 1820, which motion was lost—yeas 12, nays 24, as follows:

YEAS—Messrs. Barbour, Burrill, Edwards, Lacock, Mellen, Noble, Ruggles, Stokes, Talbot, Taylor, Thomas, and Williams of Tennessee.

NAYS—Messrs. Daggett, Dickerson, Eaton, Eppes, Fromentin, Gaillard, Horsey, Hunter, Johnson, King, Leake, Macon, Morrill, Morrow, Otis, Palmer, Roberts, Sanford, Storer, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

The blanks having been filled with the "first day of July, 1820," the bill was ordered to be engrossed and read a third time.

[For the following remarks, made by Mr. CRITTENDEN, in conclusion of a speech in support of the bill, we are obliged to a friend who was present at the debate, for being enabled to lay before our readers.—*Editors.*]

Mr. President, I must acknowledge to you that I feel a peculiar sort of partiality for this bill; and that, independent of the reasons which I have had the honor of submitting, I am influenced by feelings somewhat of a personal character to desire its passage. It is the work of the honorable gentleman from Ohio, (Mr. MORROW,) who is so soon to be finally separated from us. He has long been our Palinurus in everything that related to this important subject. He has steered us safely through all its difficulties, and, with him for our helmsman, we have feared neither Scylla nor Charybdis. We have heretofore followed him with increasing confidence. We have never been deceived or disappointed. The bill now before you is probably the last, the most important, act of his long and useful political life. If it shall pass, sir, it will identify his name and his memory with this interesting subject. It will be his "perennius are." A noble monument! which, whilst it guides the course of future legislation, shall perpetuate the remembrance of an honest man. Sir, if the ostracism of former times prevailed with us, I do not know the individual whose virtues would more expose him to its envious and jealous sentence. The illustrious Greek himself, who derived such unfortunate distinction from that ancient usage, did not better deserve the epithet of "just." Mr. President, I do not intend to flatter the honorable gentleman from Ohio. Flattery is falsehood. I burn no such incense at the shrine of any man. The sincere homage of the heart is not flattery. I have spoken the spontaneous feelings of my own breast. I am confident, too, that I have spoken the sentiments of the Senate. But yet, sir, I ought, perhaps, to beg pardon of the honorable gentleman. For, I have much cause to fear that the gratification I have had in offering this poor tribute of my respect, is more than counterbalanced by the pain it has inflicted on him.

FRIDAY, February 19.

Mr. GOLDSBOROUGH presented the memorial of a number of the citizens of the State of Maryland, on the subject of the deranged state of the circulating medium of the country, and the expediency of additional duties on cotton goods imported into the United States; and the memorial was read and referred to the Committee on Commerce and Manufactures.

Mr. LEAKE presented the memorial of the Legislature of the State of Mississippi, praying the establishment of a port of entry at or near the mouth of Pearl river; and the memorial was read.

Mr. LEAKE also presented the memorial of the said Legislature, on the subject of British claims to lands in Hancock and Jackson counties in said State; and the memorial was read.

Mr. NOBLE presented the petition of Samuel Sterrett, praying payment for his services as a mounted ranger; and the petition was read and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of Captain Biggar's company, made a report accompanied by a resolution that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. WILSON, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Joseph Wheaton," reported the same without amendment.

Mr. OTIS asked and obtained leave to bring in a bill to protect the commerce of the United States from piracy; and the bill was twice read by unanimous consent, and referred to the Committee on Foreign Relations.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the bill, entitled "An act concerning the allowance of pension upon a relinquishment of bounty lands," reported the same without amendment.

On motion by Mr. MACON, the Committee on Foreign Relations, to whom was referred the petition of James Simpson, American Consul at Morocco, were discharged from the further consideration thereof.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Daniel Moss," reported the same without amendment.

The bill, entitled "An act supplementary to the act entitled 'An act to provide for the prompt settlement of public accounts,'" was read a third time and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the benefit of Jacob Purkhill; and no amendment having been made thereto, it was reported to the House, and ordered to be engrossed and read a third time.

The bill to continue in force, for a further term, the act entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes," was read the second time.

The bill making further provision for the sale of public lands was read a third time, and passed.

The bill to designate the boundaries of districts and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana, was read a third time and passed.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the petition of Elizabeth B. H. Forsyth, widow of the late Lieutenant Colonel Benjamin Forsyth, made a report, accompanied by a resolution that the petitioner have leave to withdraw her petition. The report and resolution were read.

Mr. MORROW, from the committee to whom was referred so much of the Message of the President of the United States as relates to the Indian tribes, reported the following bill, which was read and passed to the second reading:



A bill making provision for the civilization of the Indian tribes adjoining the frontier settlements.

*Be it enacted &c.*, That, for the purpose of providing against the further decline and final extinction of the Indian tribes adjoining to the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the President of the United States shall be, and he is hereby, authorized in every case where he shall judge the improvement in the habits and conditions of such Indians practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation, and for teaching their children in reading, writing, and arithmetic, and for performing such other duties as may be enjoined according to such instructions and rules as the President may give and prescribe for the regulation of their conduct in the discharge of their duties.

*Sec. 2. And be it further enacted*, That the annual sum of — dollars be, and the same is hereby, appropriated for the purpose of carrying into effect the provisions of this act; and an account of the expenditure of the money, and proceedings in execution of the foregoing provisions, shall be annually laid before Congress.

#### PUBLIC PRINTING.

Mr. WILSON, from the Joint Committee on the subject of the Public Printing, made the following report:

That, regarding the subject committed to them as connected with the convenience of the members, the information of the community, the economy of time and money, and the character of the country, they have given it all the consideration which their other engagements permitted.

That three different modes of procuring the printing of Congress to be executed have undergone their discussion and deliberation:

I. Offering the work by advertisement (as at present) to the lowest bidder.

On this mode the committee would remark that, although at the first glance it may strike the mind as the most economical, experience and observation do not prove it so. Competitors for the work underbid each other, until it is undertaken for a less sum than it can be afforded at; and too small an establishment and too few workmen are consequently employed to execute the printing with the necessary promptitude. Hence both Houses have frequently to wait long for interesting and important communications from the President or heads of Departments, reports, bills, resolutions, &c., upon which they are called to act; and the loss of time thus incurred, considering the daily expense at which Congress sits, costs the nation much more than the difference between the present price and a liberal allowance, which would justify the application of a greater capital to insure the despatch of the work.

Another disadvantage attending the present mode is, that the reduced price of the work prevents that care and attention from being bestowed on it which is necessary to its neatness and accuracy. And documents are not only distributed through this nation, but dispersed through Europe, which are executed in such an inelegant and incorrect manner as must bring disgrace and ridicule on the literature and the press of our country.

That the present price of printing is too low would be readily discovered by any of the profession; and the fact that no other printer in the District could be found by the Secretary or the Clerk who would execute the work at the contract prices must satisfy the mind of every gentleman of the truth of what the committee have asserted. How far it is reputable for Congress to endeavor to get their work done below a fair and reasonable price, may be a matter of doubt; but it does not admit of a question that the compensation ought to be adequate to the object of procuring that work to be done at a proper time, and in a suitable manner.

II. A second mode suggested to and considered by the committee was the establishment of a national printing office, (with a bindery and stationery annexed,) which should execute the work of Congress while in session, and that of the various Departments of Government during the recess; and should do all the binding and furnish all the stationery for the Departments as well as for Congress. To ascertain the amount of expenditures on these objects, inquiries were addressed by the committee to the heads of Departments, Attorney General, and Postmaster General, and an answer received from each. Some of the reports were made in such a manner as not to enable the committee to separate the accounts for printing from those for binding and stationery; but the whole amount exceeds \$41,000. Add to this the expenditures of the Senate and House of Representatives on the same objects, viz: the former \$8,000 and the latter \$15,000, and the aggregate cost of the public printing, binding, and stationery, is about \$65,000 a year, of which probably one-half is for printing. And this, it will be remembered, does not include the great variety and number of blanks executed elsewhere than at the seat of Government, from copies furnished by the Departments of the Treasury, War, &c., and which might all be done here at a much less expense were a national printing office established.

The committee are of opinion that such an establishment, under the superintendence of a man of activity, integrity, and discretion, would be likely to produce promptitude, uniformity, accuracy, and elegance, in the execution of the public printing; and they are not certain that it would not, in the result, connecting with it a bindery and stationery, as already suggested, be found the most economical. But, as the principle is somewhat novel, and the details would require some deliberation, the committee have not deemed it advisable, at this late period of the session, and amidst the pressure which both Houses experience from the accumulation of business important to the nation, or interesting to individuals, to submit a proposition on which there would probably be a considerable diversity of opinion and consumption of time.

III. Under all circumstances, the committee have deemed it their duty to recommend that a tariff of prices for every kind of printing required to be done for Congress be fixed by a joint resolution of the two Houses, to continue in force for two years; and that, before the close of the present session, each House make choice by ballot of a printer, to execute its own work during the next Congress. The prices should be adequate to the employment of sufficient capital and workmen to perform the work expeditiously, and to insure such care and attention as shall give it such a degree of accuracy and elegance as shall not dishonor the literature and typography of the country.

With former contracts before us, and with the professional knowledge which may be called in aid, no difficulty would occur in forming the tariff alluded to on principles at once liberal to the printer and advantageous to Congress; and, in the selection of its printer, each House would doubtless take especial care to choose a man of capacity, probity, and responsibility. In addition to the bond and security to be required of them for the faithful performance of their obligations, a provision might be added, that, in case of any unreasonable delay, another person might be employed to do the work, at such a price as the Secretary or the Clerk might be able to get it done for, and that the public printers should, respectively, be responsible for any difference between the sum allowed them and that which it might be necessary to give him.

The committee, therefore, submit the following resolution:

*Resolved*, That the joint committee on public printing be instructed to report a resolution for carrying the foregoing propositions into effect.

The report and resolution were read.

#### BRITISH COLONIAL TRADE.

In Executive session—

Mr. MACOM, from the Committee on Foreign Relations, to whom was referred so much of the documents accompanying the Commercial Convention with Great Britain, as relates to the colonial trade, made the following report, which was read:

That the object of the negotiation with Great Britain, respecting the colonial trade, is the establishment of a regulation whereby a trade in articles of the produce and manufacture of the United States, and of the British colonies, may be carried on between them; and secondly, a regulation whereby the shipping of the two countries may be placed on an equal footing in the carrying on of this trade.

In respect to the articles of the trade, the United States would agree that all articles of the produce and manufacture of the United States, and of the respective colonies, should be included, and all other articles excluded. But as Great Britain probably would not consent to this arrangement, the United States would not object to the catalogue of articles of the produce and manufactures of the United States, and of the said colonies, enumerated in the British act of Parliament, and according to which the trade has heretofore been carried on in British bottoms.

As respects duties and charges, they should be placed on a footing of reciprocal equality: if Great Britain would consent to impose no higher or other duties on articles of the produce and manufacture of the United States imported into the colonies, than upon the like articles imported from her continental colonies, (whence only they can be obtained,) the United States might agree to impose no greater or other duties and charges on articles the produce and manufacture of her colonies, than on the like articles from other countries. To this adjustment Great Britain will probably disagree: in lieu thereof, and as a compensation for the stipulation not to impose greater or other duties on the colonial articles of Great Britain, than on the like articles of other countries, it might be stipulated, on the part of Great Britain, that the duties and charges on articles of the produce and manufacture of the United States, should not exceed by more than — per cent. those which should be

imposed on the like articles imported from the British continental colonies.

In no event should articles of the produce and manufacture of the United States pay higher duties and charges in the direct voyage from the United States than in the indirect or circuitous voyage through New Brunswick, Nova Scotia, Bermudas, or other intermediate ports; and as the direct trade should not be more restrained in respect to the articles thereof, than the indirect or circuitous trade, no article should be allowed to go or come indirectly or circuitously, which might not go or come directly.

There is nothing in principle or policy, that forbids the confining of this trade to articles of the produce or manufacture of the respective countries; that is, of the United States and of the British colonies: articles of produce and manufacture of other portions of the British territories coming through these colonies being excluded from the United States, as articles not of the produce and manufacture of the United States are excluded from Great Britain, and would be excluded from the British colonies.

As respects the shipping employed in this trade, it must be placed on a footing of practical and reciprocal equality, both as respects duties and charges, and the equal participation of the trade; on this adjustment, even, there will exist an advantage in favor of the English navigation; as it will be exclusively employed in the transportation of articles of the produce and manufacture of the United States, between the intermediate colonies aforesaid and the West Indian colonies, and likewise in a disproportioned degree, in the distribution of these articles among the British West India colonies.

Furthermore, as the voyage from the United States to New Brunswick, Nova Scotia, and Bermuda, is a short one, and would yield but little profit, the duties and charges must be as great on the British ships, and the articles of the produce and manufacture of the United States composing their cargoes, arriving in the British West India colonies, through these intermediate colonies, as on the same ships and articles arriving directly from the United States; otherwise the direct trade will be deserted in favor of the circuitous trade, and thereby the object of the arrangement, an equality in the employment of the shipping of the two countries, will be defeated. So far as the operation of the late navigation law is understood, it seems to have been advantageous, and especially in the increase of the American shipping engaged in the direct trade between the United States and Great Britain, and the corresponding decrease of that of Great Britain—but sufficient time has not yet been afforded satisfactorily to ascertain this point, or to determine other questions that are in a course of solution.

Perhaps it would be prudent to allow time for this important experiment, and to suffer the negotiation on this subject to remain where it is for the present. It ought not to be forgotten, that without cutting off the trade with New Brunswick, Nova Scotia, and Bermuda, this experiment cannot be fairly made. Whether it would be expedient at the present session to adopt this measure, is perhaps doubtful.

If the effect of our navigation law, reinforced according to the above suggestion, should prove to be such as it not improbably will be, it might, and probably would be our true footing to adhere to the law, and decline any convention with Great Britain, touching the colonial trade.



SENATE.

Proceedings.

FEBRUARY, 1819.

MONDAY, February 22.

SAMUEL W. DANA, from the State of Connecticut, attended this day.

Mr. TAIT, from the committee to whom had been referred the bill, from the other House, authorizing a constitution and State Government, &c., in the Missouri Territory, reported the same with amendments, which were read. [The amendment recommended by the committee is to strike out the clause which prohibits slavery in the new State.]

The bill making provision for the civilization of the Indian tribes, adjoining the frontier settlements, was read the second time.

The Senate resumed the consideration of the report of the Committee on the Post Office and Post Roads, to whom was referred a resolution of the Senate, instructing them to "inquire into the expediency of authorizing the Postmaster General to employ an armed guard for the protection of the mails of the United States on such mail routes as he may deem necessary; and in concurrence therewith,

*Resolved*, That it is not expedient to authorize the Postmaster General to employ an armed guard for the protection of the mails of the United States.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the bill for the relief of Phoebe Stuart, reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Elizabeth B. H. Forsyth; and in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the better organization of the Military Academy; and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until the 5th day of March next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to repeal part of an act passed on the twenty-seventh day of February, 1813, entitled "An act in addition to an act regulating the Post Office Establishment;" and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky; together with the amendment reported thereto by the Committee on the Post Office and Post Roads; and the amendment having been disagreed to, and no amendment having been made to the bill, it was reported to the House, and passed to a third reading.

Mr. BURRILL, from the joint committee, appointed to inquire and report what business it will be necessary to act on during the present session, made a report; which was read.

The Senate resumed the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor.

Some debate arose on this bill, in which it was advocated by Messrs. BURRILL, EATON, and WILSON, and opposed by Messrs. MACON, and FROMENTIN; in the course of which the last named gentleman, for the purpose of destroying it, moved to postpone the bill indefinitely.

This question was decided in the negative—yeas 7, nays 25, as follows:

YEAS—Messrs. Fromentin, Gaillard, Johnson, Maccon, Tait, Talbot, and Williams of Mississippi.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Eaton, Eppes, Hunter, King, Lacock, Leake, Mellen, Morrill, Noble, Otis, Palmer, Roberts, Rugles, Sanford, Stokes, Storer, Taylor, Thomas, Tichenor, Van Dyke, and Wilson.

The bill was then ordered to be engrossed for a third reading.

A message from the House of Representatives informed the Senate that the House have passed the bill which originated in the Senate, entitled "An act supplementary to the acts concerning the coasting trade, with amendments; also, the bill, entitled 'An act to enable the people of the Alabama Territory, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States,' with amendments; in which amendments they request the concurrence of the Senate. They have passed a bill, entitled 'An act establishing a separate Territorial government in the southern part of the Territory of Missouri;' a bill, entitled 'An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Wilson;' and, also, a resolution declaring the manner in which the vessels composing the Navy of the United States shall be named; in which bills and resolution they request the concurrence of the Senate.

The bills and resolution last mentioned, were read, and passed to the second reading.

The bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri," was read the second time by unanimous consent, and on motion by Mr. CRITTENDEN, it was referred to the committee, to whom was referred on the 11th December, 1818, the memorial of the Legislature of the Alabama Territory, praying admission into the Union as a State, to consider and report thereon.

The bill, entitled "An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Wilson,'" was read the second time by unanimous consent, and referred to the Committee of Claims.

The resolution declaring the manner in which the vessels composing the Navy of the United States shall be named, was read the second time by unanimous consent, and referred to the Committee on Naval Affairs.

The Senate resumed, as in Committee, the considerations of the bill making appropriations for the support of Government for the current year.

FEBRUARY, 1819.

Appropriation Bill.

SENATE.

Various amendments were reported by the Committee of Finance, making appropriations for objects authorized since the passage of the bill in the House, and to conform the provisions of the bill to salaries increased, &c. One of the amendments reported, was making a further appropriation of \$76,644 for the centre building of the Capitol.

The amendments were not gone through, when the bill was laid over until to-morrow.

TUESDAY, February 23.

The PRESIDENT communicated the credentials of WALLER TAYLOR, appointed a Senator by the Legislature of the State of Indiana, for the term of six years, commencing on the fourth day of March next; which were read, and laid on file.

Mr. WILLIAMS, of Mississippi, presented the petition of the inhabitants of Green, and of Jackson county, in the State of Mississippi, representing that the mouth of the Pascagoula river is the most suitable place for a port of entry and delivery in that State, and praying that it may be designated as such by the competent authority; and the petitions were read.

Mr. TAIT, from the committee, to whom was referred the bill entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri," reported the same without amendment.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of Captain Biggar's company; and in concurrence therewith, the petitioners had leave to withdraw their petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Pierre Lacoste; and, on motion by Mr. GOLDSBOROUGH, the further consideration thereof was postponed until the 5th of March next.

Mr. ROBERTS presented the petition of Michael Zorger, praying the renewal of the patent right for the further term of fourteen years, for the invention of a machine for shelling or hulling clover seed; and the petition was read, and referred to the Committee on Commerce and Manufactures.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to enable the people of the Alabama Territory to form a constitution and State government," &c., and concurred therein.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act supplementary to the acts concerning the coasting trade;" and concurred therein.

Mr. DAGGETT, from the Committee on Foreign Relations, reported the bill to protect the commerce of the United States from piracy, with sundry amendments; which were considered and agreed to by the Senate, and the bill ordered to be engrossed for a third reading.

The bill in addition to the act concerning tonnage and discriminating duties; and the bill to continue in force for a further time the act for establishing trading-houses with the Indian tribes severally passed through Committees of the Whole, were amended, and ordered to be read a third time.

The bill from the House of Representatives authorizing the transportation of the mails in steamboats, was read the third time, and passed.

The engrossed bill for the relief of Jacob Parkhill; the engrossed bill to repeal a part of the act concerning the Post Office Department, passed in 1813; and the engrossed bill respecting the transportation of persons of color for sale or to be held to labor, were severally read the third time, and passed.

Mr. GOLDSBOROUGH, from the Committee of Claims, made an unfavorable report on the petition of Samuel Sterrett; which was read.

Mr. GOLDSBOROUGH, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Patrick Callan," reported the same without amendment.

The Senate resumed the consideration of the report of the joint committee, on the subject of the public printing; and agreed thereto.

The joint resolution, directing the ascertainment of the 36th degree 30 minutes of north latitude, on the west bank of the Tennessee river, was taken up, and ordered to be engrossed, and was subsequently read the third time, and passed.

The bill for the better organization of the Treasury Department, passed through a Committee of the Whole, and was ordered to a third reading.

## APPROPRIATION BILL.

The Senate resumed, as in Committee of the Whole, the consideration of the bill "making appropriations for the support of Government for the year 1819;" together with the amendments reported thereto by the Committee on Finance; and the amendments having been all agreed to, excepting the one proposing an appropriation for prosecuting the work on the centre of the Capitol, which was disagreed to, the bill was reported to the House amended accordingly; and, on the question, to concur in the following amendment, agreed to as in Committee of the Whole:

Strike from line 296, to the end of the 313th line, and insert the following:

"For claims due, and becoming due under existing contracts, for constructing the United States road from Cumberland to the Ohio river, two hundred and fifty thousand dollars, and for completing the said road, the sum of two hundred and eighty-five thousand dollars, which several sums hereby appropriated, together with the amount heretofore advanced by the United States for making said road, shall be repaid out of the fund reserved for laying out and making roads to the States of Ohio, Indiana, and Illinois, by virtue of the several acts for the admission of the aforesaid States into the Union."



SENATE.

Report on the Seminole War.

FEBRUARY, 1819.

It was determined in the affirmative—yeas 22, nays 13, as follows:

YEAS—Messrs. Burrill, Daggett, Eaton, Epes, Gaillard, Goldsborough, Horsey, Johnson, King, Lacock, Leake, Mellen, Morrill, Otis, Palmer, Roberts, Sanford, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

NAYS—Messrs. Barbour, Crittenden, Edwards, Fromentin, Macon, Morrow, Noble, Ruggles, Stokes, Talbot, Taylor, Thomas, and Williams of Tennessee.

The other amendments having been concurred in they were ordered to be engrossed, and the bill be read a third time as amended.

WEDNESDAY, February 24.

Mr. THOMAS gave notice that to-morrow he should ask leave to bring in a bill granting a donation of land to the State of Illinois, for the seat of government of said State.

Mr. OTIS presented the petition of Henry Rice, of Boston, and also of Joshua Aubin, of the same place, praying that certain duties paid by them may be refunded, with interest thereon, or some other relief granted, as stated in the petitions; which were read, and respectively referred to the Committee on Finance.

Mr. ROBERTS, from the Committee of Claims, of whom was referred the bill, entitled "An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Willson,'" reported the same without amendment.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the resolution declaring the manner in which the vessels composing the Navy of the United States shall be named, reported the same without amendment.

A message from the House of Representatives informed the Senate that the House have concurred in the amendments of the Senate to the bill, entitled "An act regulating passenger ships and vessels," except the sixth, and in that, with amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells,'" and also a bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy;" in which bills they request the concurrence of the Senate.

The said two bills were read, and passed to the second reading.

The Senate proceeded to consider the amendments of the House of Representatives, to their sixth amendment to the bill, entitled "An act regulating passenger ships and vessels," and concurred therein.

The report of the Committee of Claims, unfavorable to the petition of Samuel Sterrett, was taken up, and agreed to.

The general appropriation bill for 1819 was read the third time as amended, and passed.

The engrossed bill, in addition to the act concerning tonnage and discriminating duties; the engrossed bill to continue in force for a further term the act to establish trading-houses with the

Indian tribes; the engrossed bill to protect the commerce of the United States from piracy; and the engrossed bill for the better organization of the Treasury Department; were severally read the third time, and passed.

The bill to regulate and fix the salaries of the registers and receivers of public moneys; the bill for the relief of Francis B. Languille; the bill for the relief of Lewis H. Guerlain; the bill for the relief of Joseph McNeil; the bill for the relief of Rosalie P. Deslande; the bills for the relief of Eli Hart, of Nathaniel Birdseye, and Daniel Booth, of John Rodriguez, and for the relief of Joseph Dozet, and Antoine Bougoud, severally passed through Committees of the Whole, and were ordered to be engrossed for a third reading.

The PRESIDENT communicated a report from the Secretary of the Treasury, exhibiting the emoluments of the collectors of the customs; which was read.

#### REPORT ON THE SEMINOLE WAR.

Mr. LACOCK, from the committee appointed in pursuance of a resolution of the Senate of the 18th December last, "That the Message of the President and documents, relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Marks were amenable to, and under the control of, Spain; and, particularly, what circumstances existed, to authorize or justify the Commanding General in taking possession of those posts," reported:

That they have, under the authority conferred on them, called for and examined persons and papers. The testimony obtained is herewith submitted. The committee, after the most mature and dispassionate examination of the subject, offer for the consideration of the Senate the following narrative of facts, and the opinions and deductions clearly arising from, and growing out of, the facts thus presented. On the origin of the hostilities between the United States and the Seminole Indians, the committee ask leave to remark, that the different savage tribes living within and on the borders of the Floridas, denominated Seminole Indians, were principally fugitives from the more northern tribes, resident within the limits of the United States. After the Treaty of 1814, with the Creek Indians, a considerable addition was made to the number of those fugitives, as the Indians who were dissatisfied with the provisions of that treaty took refuge in the Floridas; cherishing, there can be little doubt, feelings of hostility to the United States. These feelings seem to have been strengthened by the influence of foreign emissaries, who had taken up their residence among them; among whom, as the most conspicuous, were Alexander Arbuthnot and Robert C. Ambrister. In this state of things, it appears that the Executive Department of the Government deemed it necessary, for the security of the frontier, to establish a line of forts near the southern boundary of the United States, and to occupy those fortifications with portions of the regular forces, and by these means peace was maintained with the Indians until the Spring or Summer

FEBRUARY, 1819.

Report on the Seminole War.

SENATE

of 1817, when the regular forces were withdrawn from the posts on the Georgia frontier, and concentrated at Fort Montgomery, on the Alabama river, a considerable distance west of the Georgia line. But it seems that about this time a border warfare was commenced between the Seminole Indians and the frontier inhabitants of Georgia. It is difficult to determine with certainty who commenced those hostilities, or on whom the greatest injuries were inflicted. General Gaines, however, demanded a surrender of the Indians who had committed outrages on the frontiers of Georgia. With this demand they refused to comply, alleging that the first and greatest aggressions had been made by the white men. In consequence of this refusal, General Gaines was authorized by the Secretary of War, at his discretion, to remove the Indians still remaining on the lands ceded to the United States by the treaty made with the Creeks in 1814; in so doing he is told that it might be proper to retain some of them as hostages, until reparation was made for the depredations committed by the Indians. In pursuance of this discretionary authority, General Gaines ordered a detachment of near three hundred men, under the command of Major Twiggs, to surround and take an Indian village, called Fowl Town, about fourteen miles from Fort Scott, and near the Florida line. This detachment arrived at Fowl Town in the night, and the Indians, taking the alarm, and flying to an adjacent swamp, were fired on by the detachment, and one man and one woman killed. Two Indians were made prisoners. The detachment returned to Fort Scott. A day or two afterwards, as stated by Captain McIntosh, who was of the party, about the same number of troops paid a second visit to the same village, as he states, for the purpose of obtaining property. While loading their wagons with corn, and collecting horses and cattle, they were fired upon by the Indians, and a skirmish ensued, in which a small loss was sustained on both sides. It is stated by Captain Young, the topographical engineer, that this town contained about 45 Indian warriors, besides women and children.

A few days after the affair of Fowl Town, Lieutenant Scott, with a detachment of forty men, seven women, and some children, ascending the Appalachicola, with clothing and supplies for the garrison of Fort Scott, when within a few miles of that place was attacked by a party of Indians; himself and his whole party fell victims to their fury, except six men, who made their escape, and one woman made prisoner.

From this time the war became more serious; the Indians, in considerable numbers, were embodied, and an open attack was made on Fort Scott. General Gaines, with about 600 regular soldiers, was confined to the garrison. In this state of things, information having been communicated to the War Department, General Jackson was ordered to take the field; he was advised of the regular and militia force, amounting to 1,800 men, provided for that service, and the estimated force by General Gaines, of the enemy, said to be 2,800 strong; and directed, if he should consider the force provided insufficient to beat the enemy, to call on the Governors of the adjoining States for such portions of the militia as he might think requisite. On the receipt of this order General Jackson, instead of observing the orders of the Department of War, by calling on the Governor of Tennessee, then in Nashville, near the place of his residence, chose to appeal (to use his own expressions) to the patriotism of the West Tennesseans, who had served under him in the last war. 1,000

15th CON. 2d SESS.—9

mounted gun-men, and two companies of what were called life-guards, with the utmost alacrity, volunteered their services, from the States of Tennessee and Kentucky, and repaired to his standard. Officers were appointed to command this corps by the General himself, or by other persons acting under his authority. Thus organized, they were mustered into the service of the United States.

About the time General Jackson was organizing this detachment of volunteers in the State of Tennessee, or perhaps previously thereto, General Gaines was likewise employed in raising forces among the Creek Indians. There was this difference in the two cases: General Jackson raised his army in disregard of positive orders; General Gaines, without orders, took upon himself the authority of raising an army of at least 1,600 Creek Indians, appointing their officers, with a Brigadier General at their head, and likewise mustering this force into the service of the United States.

While your committee feel a pleasure in applauding the zeal and promptitude that have marked the military conduct of these general officers on many former occasions, they would feel themselves wanting in their duty to the Senate and the nation if they did not express their decided disapprobation of the conduct of the commanding generals, in the steps they took to raise and organize the force employed on this occasion. There was no law in existence that authorized even the President of the United States to raise or accept the services of volunteers. The law passed for that purpose had expired in the year 1815. The Constitution of the United States gives to Congress, exclusively, the power of raising armies, and to the President and Senate the power of appointing the officers to command those armies when raised. The Constitution, likewise, gives Congress power to provide for calling forth the militia to execute the laws of the Union—to suppress insurrections, and to repel invasions—but reserves to the States, respectively, the appointment of the officers. In conformity with the last recited provision of the Constitution, the Congress of the United States have passed laws authorizing the President, when the contingencies above alluded to should happen, to call on the governors, or any militia officers, of the respective States, for such portion of the militia as he might deem requisite for the occasion; and, in strict observance of these laws, was General Jackson ordered to call on the Governors of the States adjacent to the seat of war, for the requisite militia force.

It is with regret that the committee are compelled to declare, that they conceive General Jackson to have disregarded the positive orders of the Department of War, the Constitution, and laws; that he has taken upon himself not only the exercise of those powers delegated to Congress, as the sole legislative authority of the nation, and to the President and Senate, as it relates to the appointments, but of the power which had been expressly reserved to the States, in the appointment of the officers of the militia; a power the more valuable to the States because, as they had surrendered to the General Government the revenues and physical force of the nation, they could only look to the officers of the militia as a security against the possible abuse of the delegated power. The committee find the melancholy fact before them, that military officers, even at this early stage of this Republic, have, without the shadow of authority, raised an army of at least two thousand five hundred men, and mustered



them into the service of the United States. Two hundred and thirty officers have been appointed, and their rank established, from an Indian brigadier general down to the lowest subaltern of a company. To whom were these officers accountable for their conduct? Not to the President of the United States, for it will be found that it was not considered necessary even to furnish him with a list of their names; and not until the pay-rolls were made out, and payment demanded, were the persons known to the Department of War. And in this place it is proper to observe, that General Jackson seemed to consider those officers of his own creation, competent to discharge all the functions of officers appointed by the authority of the General or State Governments, for we find five of them detailed afterwards to set on a general court martial, on a trial of life and death. Might not, on the same principles, General Jackson have tried, condemned, and executed any officer of the Georgia militia, by the sentence of a court martial, composed of officers created by him, and holding their assumed authority by the tenor of his will?

Your committee will dismiss this branch of the subject by observing that, consistently with the character and genius of our Government, no officer, however high or exalted his station, can be justified for an infraction of the Constitution; it is an offence against the sovereignty of the nation, this sovereignty being vested in the great body of the people. The Constitution is the written expression of their will, and above the control of all the public functionaries combined. And when that instrument has been violated, the people alone have power to grant the indemnity for its infraction; and all that can be said in favor of the officer who transgresses his constitutional powers, must be taken not in justification of the act, but in mitigation of the enormity of the offence committed. With this view of the subject, which they conceive to be a correct one, the committee have in vain sought for an excuse for the commanding general. He has stated in his letter to the Secretary of War, assuming the power to judge for the National Legislature, that a volunteer force of mounted gun men would be the least expensive and the most efficient. His duty was to execute the orders of his superior officers, not to disobey them; to observe and enforce the laws, not violate them. Obedience and subordination are the first and highest duties of a soldier, and no one knew better the truth of, and the necessity for, observing this maxim, than the officer in question. For the truth of this observation, we have his own declaration. In his letter to the Secretary of War, of 20th January, 1818, he says, "your letter, enclosing your general order of the 29th ultimo, has been received; like yourself, I have no other feelings to gratify than those connected with the public good, and it gives me pleasure to find we coincide in those opinions calculated to produce it. Responsibility now rests where it should—on the officer issuing the order—and the principle acknowledged is calculated to insure that subordination so necessary to the harmonious movement of every part of the military machine."

It is to be regretted, that an officer who seemed to be so perfectly acquainted with what belonged to the duty of others, should have been so totally regardless or unconscious of his own; and while the committee are willing to admit that the volunteer forces called into service by General Jackson were more efficient and less expensive than the militia, had he confined him-

self to the usual proportion of officers, this, they conceive, should not be urged as an argument in favor of employing them, or plead in justification of the unlawful act; for if these reasons be considered conclusive, and should be acquiesced in, they will be applied with increased force (fortified by this precedent) in all future wars; an army of regulars will be considered (as they really are) more efficient and less expensive than either the volunteers, if authorized by law, or the militia; and the officer at the head of such army (acting on the principles before stated, and encouraged by the acquiescence of the nation) may dispense with the militia altogether, and increase the regular army to any extent that folly or ambition may suggest; and all this under the plea of necessity. The committee can scarcely imagine a possible case that may occur in a future war, where the necessity will be less strong than in the present. This war was waged when the United States were at peace with all the world, except this miserable undisciplined banditti of "deluded Indians" and fugitive slaves; their whole strength, when combined, not exceeding one thousand men; opposed to whom, (previous to General Jackson's taking the command,) and under General Gaines, were a force of one thousand eight hundred regulars and militia, besides the one thousand five hundred friendly Indians, illegally subsidized by the last mentioned general. What, then, in this state of the case, becomes of the plea of necessity? And if it be admitted in this case, to justify or palliate an act of military usurpation, the committee would anxiously inquire where it is to be disallowed or denied? And here the committee, having pledged themselves faithfully to disclose facts, and impartially to draw conclusions, beg leave to remark, that the conduct of the commanding general, in raising this volunteer corps, was approbated by the War Department, as will appear by the letter of the Secretary, dated the 29th day of January, 1818; and it is but justice to the Department to state, that it was not until the officers that had assisted in thus officering and organizing this corps, were examined by the committee, that they were apprized of the illegality of the measure; for there is nothing to be found in General Jackson's letters on this subject, to the Secretary of War, of the 12th, 13th, and 20th of February, 1818, from which it can be fairly inferred that he had appointed a single officer. Indeed, it would seem, from a fair interpretation of those letters, that the officers, at least, were of the regular militia of the States, and that the only departure from his orders by the general, was his having called on the subordinate officers of the militia, instead of the Governor of the State of Tennessee, and his preference of mounted men to infantry. And it will also appear, from the letters aforesaid, that had the Department of War disapproved of this conduct, and determined to countermand the order of General Jackson in raising this force, no order to that effect could have reached him before he had arrived at the seat of war, and of course the army might have been disbanded in sight of the enemy, and the objects of the campaign thereby jeopardized, and perhaps defeated.

The committee will next take notice of the operations of the army in the Floridas, whither they were authorized to pursue the enemy; and, connected with this authority, it was enjoined on General Gaines, to whom the first order to this effect was given, that in case the enemy took refuge under a Spanish garrison, not to attack them there, but to report the fact to the

Secretary of War; and the observance of this order, the committee conceive, was equally obligatory on General Jackson, who succeeded to the command—at least, it must have clearly evinced the will of the Secretary of War on that point, and how far this injunction was observed, will be found by what followed. It appears that General Jackson advanced into Florida with a force of 1,800 men, composed of regulars, volunteers, and the Georgia militia, and afterwards, on the first day of April, was joined by General McIntosh, and his brigade of 1,500 Indians, who had been previously organized by General Gaines; opposed to whom it appears, from the report of Captain Young, topographical engineer, and other evidence, the whole forces of the fugitive Seminole Indians and runaway negroes, had they all been embodied, could not have exceeded nine hundred or one thousand men; and at no time did half that number present themselves to oppose his march—of course little or no resistance was made.

The Micasuky towns were first taken and destroyed. The army marched upon St. Marks, a feeble Spanish garrison, which was surrendered "without firing a gun," and then occupied as an American post; the Spanish commandant having first, by humble entreaties, and then by a timid protest, endeavored to avert the measure. Here Alexander Arbuthnot was found, taken prisoner, and put in confinement, for the purpose, as it was stated by General Jackson, "of collecting evidence to establish his guilt;" and here, also, were taken two Indian chiefs, one of whom pretended to possess the spirit of prophecy; they were hung without trial, and with little ceremony.

This being done, and St. Marks garrisoned by American troops, the army pursued their march eastward to Suwaney river, on which they found a large Indian village, which was consumed, and the Indians and negroes were dispersed; after which the army returned to St. Marks, bringing with them Robert C. Ambrister, who had been taken prisoner on their march to Suwaney. During the halt of the army for a few days at St. Marks, a general court martial was called; Arbuthnot was arraigned; found guilty; sentenced to suffer death, and hung.

Ambrister was tried in like manner, found guilty, and sentenced to whipping and confinement. General Jackson annulled the sentence, and ordered him to be shot: and this order was executed.

It appears, by the testimony, that the army had arrived at St. Marks, on their return from Suwaney, on the 25th of April; and on the 26th General Jackson writes to the Secretary at War in the following manner: "I shall leave this in two or three days, for Fort Gadsden; and, after making all necessary arrangements for the security of the positions occupied and detaching a force to scour the country west of the Appalachicola, I shall proceed direct to Nashville; my presence in this country can be no longer necessary. The Indian forces have been divided and scattered; cut off from all communication with those unprincipled agents of foreign nations, who have deluded them to their ruin, they have not the power, if the will remains, of annoying our frontier." It appears, however, by the conduct of the commanding general, that he had, at this time, looked to different movements; for, at the time he was writing this letter, as will be seen by the testimony of Captain Call and Surgeon Bronaugh, he had despatched Lieutenant Sands to Mobile, to forward on a train of artillery, to a given point, to be ready to be made use of in reducing Pensacola and the fort of

Barrancas, should that measure be thereafter thought proper. Having made these arrangements, the army marched to Fort Gadsden, on the Appalachicola river. There, as stated by General Jackson, and confirmed by the testimony of Colonel Butler, information was received by a private letter, written by a merchant at Pensacola to Mr. Doyle, and shown to General Jackson, that a number of Indians had recently visited Pensacola, and were committing depredations on the Spanish inhabitants of that place, and were receiving aid and comfort from the garrison. On the receipt of this intelligence, the resolution seems to have been taken to garrison that place with American troops; and, after a march of about twenty days, having met his artillery, General Jackson, with about twelve hundred men, the rest having been discharged, appeared before Pensacola, the capital of the province. The place was taken with scarce the show of resistance. The Governor had escaped, and taken refuge in the fort of the Barrancas; to which place, distant about six miles, the army marched, and the fortress was invested on the 25th of May; and a demand being made for its surrender, and refused, the attack was made on the fortress by land and water, and after the bombardment and cannonading had been kept up for a part of two days, and some lives lost, the fortress was surrendered, the garrison made prisoners of war; and the officers of the Government, civil and military, transported to the Havana, agreeably to the terms of the capitulation; which terms General Jackson, in his letter of the 2d of June, 1818, declares, "were more favorable than a conquered enemy would have merited." The civil and military government of Spain thus annulled, General Jackson thought it necessary to abolish the revenue laws of Spain, and establish those of the United States, as more favorable to the commerce of the United States; and, for this purpose, Captain Gadsden was appointed collector, and by him, under the authority of General Jackson, that department of the new government was organized. The Spanish authorities being thus put down by the sword, both civil and military, a new government was established for this newly acquired territory, the powers of which, both civil and military, were vested in military officers. And General Jackson having declared, in numerous communications to the Department of War, that the Seminole war was closed, and the object of the campaign at an end, he returned to his residence at Nashville, State of Tennessee. And here it would have given the committee sincere pleasure to have stated, that the story of the campaign had closed, but facts which it becomes now their duty to report, require that history to be continued. On the 7th of August, 1818, more than two months after his consummation of the conquest of West and part of East Florida, he issued an order to General Gaines, directing him to take possession of St. Augustine, a strong fortress, and the capital of East Florida. A copy of this order is subjoined to this report, and his reasons for this measure are stated at large in the order, and reiterated and enforced by his letter to the Secretary of War, dated the 10th of the same month, which reasons, fully and beyond the possibility of doubt, discover the motives of the commanding general in all his movements against Spain.

The tendency of these measures by the commanding general, seems to have been to involve the nation in a war without her consent, and for reasons of his own, unconnected with his military functions.

Your committee would be unwilling to attribute im-



proper motives, where those of a different character could be possibly inferred, more especially, when it is to affect a character, whose military fame is the pride and boast of the nation; but even such a character becomes more eminently dangerous, when he exalts himself above the majesty of the laws; declares the public will, and becomes the arbiter between the United States and foreign nations. That these high and transcendent powers have been usurped and exercised in the present case, is, it appears to the committee, incontrovertibly evident from the facts adduced.

The Constitution declares, article first, section eight, "Congress shall have power to declare war, grant letters of marque and reprisal, and to make rules concerning captures on land and water." Surely, it was never designed, by this provision, that a military officer should first make war, and leave it to Congress afterwards to declare it. This would involve an absurdity that it is unnecessary to expose. It is sufficient to say that the Executive authority of the United States, and much less a subordinate officer, has no power to change the pacific relations of the nation. The President of the United States is bound, constitutionally, to preserve the peace of the country until Congress declares it in a state of war; he can only, while thus in a state of peace, use the military forces of the nation in three specified cases, that is: "to execute the laws of the Union, to suppress insurrection, and repel invasion." [See Constitution, article first, section eight; also, the act for calling forth the militia, passed 24th February, 1795.] It will not be pretended that Spain had invaded the United States, or that Congress had declared war against that nation; and, of course, the relations of peace did exist between the two countries at the time General Jackson took possession of the Spanish possessions in the Floridas. These facts being admitted, and they cannot be denied, the only question to decide is, whether the military conduct of General Jackson was not war against Spain, and on this subject there can be no room to doubt. The capital of a Spanish province is taken by the sword; a fortress is invested and bombarded; lives are lost, and the place surrendered on capitulation, the terms of which are declared "more favorable than a conquered enemy merited;" military officers and men, as well as those in the civil departments of Government, are transported to the West Indies, and a new Government established for the conquered country. If all these acts of hostility combined do not constitute war, the committee confess themselves utterly at a loss for its definition; or, if the fact be denied, the consequence of such denial will be a proof that no war was made by the Seminole Indians on the United States, and, of course, that the invasion of Florida was an unauthorized act of aggression on the part of the United States. But the committee will pursue this subject a little farther, and examine the reasons offered by the officer commanding for taking possession of and occupying the Spanish fortresses, more especially Pensacola and the Barrancas. Those reasons are to be found in his numerous reports to the War Department, and his letter to the Spanish officers who commanded in the different fortresses, and are these: That Spain had not observed her treaty stipulations with the United States as it related to the Florida Indians, and whose peaceable conduct she was bound to guaranty to the United States; that she had furnished those Indians at war with the United States with arms, ammunition, and supplies necessary to carry on the

war. Here the committee would observe that they are neither the advocates nor the apologists of Spain. There can be no doubt but she had, by the violation of her engagements, given sufficient cause of war; but they defend the Constitution by saying that General Jackson had no power to declare nor make the war; that neither he, nor even the President of the United States, had any discretion or power to judge what was or was not cause of war. This the Constitution had wisely lodged in Congress. The treaty with Spain still existed, it was made by the Constitution the supreme law of the land, and had Spain violated on her part every article of that treaty, still the Executive of the United States, who is bound to see the laws "faithfully executed," must, in good faith towards Spain, have observed on our part that treaty; and the obligation of preserving the peace of the nation would have remained until the treaty should have been revoked or annulled by Congress. Furnishing the Indians with arms, ammunitions, and supplies, were so many violations of treaty stipulations, and might have been considered good cause of war by Congress; but of this General Jackson was not the judge. His duty was pointed out. It was to subdue and punish the Seminole Indians, with whom we were at war. For this purpose he was ordered to pursue them into the territorial limits of Spain, and over a part of which territory those Indians had, at least, a qualified right of possession and property. Under these orders no act of aggression on the Spanish authorities could have been designed, nor can any such acts be justified. Spain, before she could become or be made a party to this war, must have merged her neutral character in that of the enemy, and clearly identified herself with the Seminole Indians, and, by acts of open and undisguised hostility to General Jackson, have opposed him by physical, not moral force.

But the weakness of the Spanish authorities is urged in justification of this outrage upon our Constitution. And is the weakness of an independent Power to disparage their neutral rights, or furnish pretences for a powerful neighbor to weaken them further by hostile aggressions? And is it thus we are to be furnished, by an American officer, with a justification for the dismemberment of Poland, the capture of the Danish fleet by Great Britain, and the subjugation of Europe by Bonaparte! and shall the United States be called upon to imitate the example, or silently acquiesce and thereby subscribe to doctrines and approve measures that are in direct opposition to the repeated and invariable declarations of the Government, given to this nation and the world, through the official medium of Presidential Messages and the correspondence of all her public Ministers, and sanctioned by all her public laws on the subject of neutral rights? Will it not be said that we have changed our national policy? Shall we not be addressed in the following language, by the nations of Europe?

"The time was, when the United States were also weak, she had no navy, she had no army. In those days, she was a strong advocate for neutral rights, anxious that free ships should make free goods; that the neutral flag of the Republic should protect all sailing under it, ever protesting against, and complaining of, the violation of her neutral rights by the belligerents of Europe. But these times have passed away; the nation has tried her strength in battle, and found herself quite equal to the struggle; she has had

time to strengthen her army and increase her navy; her former weakness forgotten, her former precepts abandoned, and feeling power and forgetting right, she walks over a prostrate Constitution to conquer and subdue a miserable and feeble, though neutral colony, whose very weakness (pleaded in excuse for the aggression) should have rather constituted an appeal to a generous people for protection."

In this unfavorable light, the committee have too much reason to fear, will the civilized world view this transaction, and, if sanctioned by the nation, they regret to say, there will be too much reason given thus to consider it.

But there are still other reasons disclosed and facts developed, that discover the motives of the commanding officer more fully than those above stated. More than two months after this campaign had ended, and the Seminole war was terminated, another expedition is planned, and the land and naval forces of the United States ordered to execute it; which is to reduce the fortress of St. Augustine, the capital of East Florida. The reasons offered for this measure are stated in his orders to General Gaines, dated Nashville, August 7, 1818, and are as follows:

"I have noted with attention Major Twigg's letter, marked No. 6. I contemplated that the agents of Spain, or the officers at Fort St. Augustine, would excite the Indians to hostility, and furnish them with the means of war. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take and garrison Fort St. Augustine with American troops, and hold the garrison prisoners until you hear from the President of the United States, or transport them to Cuba, as, in your judgment, under existing circumstances, you may think best.

"Let it be remembered, that the proceedings carried on by me, or this order, is not on the ground that we are at war with Spain; it is on the ground of self-preservation, bottomed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontiers; hence, the necessity of procuring evidence of the fact of the agents or officers of Spain having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war; this evidence being obtained, you will (if your force is sufficient) permit nothing to prevent you from reducing Fort St. Augustine, except a positive order from the Department of War.

"Orders some time since have been given to the officer of the ordnance, commanding at Charleston, to have in readiness a complete battering train, the number and calibre of the guns pointed out. I have no doubt you will find them in readiness.

"I enclose you the report of Captain Henley, of the naval force on that station; you will open a correspondence with Commandant A. J. Dallas, to insure his co-operation, provided it should be required."

In this projected expedition, it was not thought necessary or expedient to consult the Executive branch of the Government; the order sent to Gen. Gaines was peremptory, on the discovery being made that the Indians had been supplied with ammunition and provisions, and excited to war; the blow was to be struck, and nothing but an express order from the Secretary of War was to prevent it. Long before this period,

the commanding general had, by his letters to the Secretary of War, declared the Seminole war at an end, and after which not a single new act of hostility had been committed. Yet, in this state of peace, is a military officer directed to ascertain certain facts, and, on such facts being substantiated, to make war on the neutral colony of a nation in peace and amity with the United States; thus disregarding not only the legislative and executive authorities of the United States, but setting at naught the usages of all civilized nations, by making war without a previous and public declaration. Were this nation subject to the will of a military despot, and were there no Constitutional barriers to the inordinate exercise of military ambition, more than this could scarcely have been expected. It is with pain the committee are constrained to make these observations; but, where the vital principles of the Constitution have been violated, as they conceive, it would be criminal in them, under the instructions they have received from the Senate, and the duty they owe the nation, to be silent. Silence on their part would have been considered an acquiescence in those measures, and they fear this precedent and example may be pleaded and followed on future occasions.

If these things be admitted in the South, will they not be considered as authorized in the North? Are there not fortresses there to be won, and provinces to be conquered; and are there not Indians in that quarter likewise, and may not the officer in command find means to prove that those Indians have been, or hereafter may be, furnished by the British with arms and munitions of war; and, if so, may he not follow the example set in the South, and add something to his stock of military fame by reducing the British fortresses of Canada, and unfurling the star-spangled banner of this nation on the walls of Quebec?

We hope better things of the distinguished officer at the head of our armies, and we had hoped better things of the hero of New Orleans, but we have been disappointed; and if the conduct of the officers in the South be sanctioned and approved by the nation, we are free to declare that the reduction of Quebec (where Montgomery fell, unable to conquer) would present a much stronger claim to public approbation.

It is necessary here to remark, that a copy of the order issued by General Jackson to General Gaines, for the reduction of St. Augustine, was transmitted to the Secretary of War, and a countermanding order promptly despatched to General Gaines, which reached him before the military expedition set on foot by General Jackson had commenced; and thus was suddenly arrested a military scheme, as unconstitutional as it was impolitic, and which might, as stated by the Secretary of War in his letter of the 8th day of September, 1818, have involved this nation in a war with all Europe.

In thus promptly prohibiting the unauthorized seizure, at the will of a commanding general, of the possessions of a neighboring nation with whom the United States are at peace, the committee recognise that sacred regard to the rights of other nations, which ought never to be departed from by the Executive of a free country, and that vigilant attention to the conduct of the officers of the army which is necessary to secure a due subordination of the military to the civil power.

They consider that, on this occasion, the Executive of the United States has, by promptly restoring St. Marks and Pensacola, wrested from Spain in violation



of instructions, pursued the course that the Constitution demanded, that all former precedents justified, and to which the public sentiment gave a decided approbation.

In reviewing the execution of Arbuthnot and Ambrister, your committee cannot but consider it as an unnecessary act of severity, on the part of the commanding general, and a departure from that mild and humane system towards prisoners, which, in all our conflicts with savage or civilized nations, has heretofore been considered, not only honorable to the national character, but conformable to the dictates of sound policy. These prisoners are subjects of Great Britain, with whom the United States are at peace. Having left their country, and united their fate with savages, with whom the United States were at war, they forfeited their claim to the protection of their own Government, and subjected themselves to the same treatment, which might, according to the practice and principles of the American Government, be extended towards those with whom they were associated. No process of reasoning can degrade them below the savages with whom they were connected. As prisoners of war they were entitled to claim from the American Government that protection which the most savage of our foes have uniformly experienced when disarmed and in our power.

Humanity shudders at the idea of a cold-blooded execution of prisoners, disarmed, and in the power of the conqueror. And, although savages, who respect no laws, may, according to the strict principles of the law of nations, have their own system of cruelty inflicted on them by way of retaliation, it is believed that such a system would degrade and debase the civilized nation who should resort to it, and is not only repugnant to the mild principles of the Christian religion, but a violation of those great principles of moral rectitude which distinguish the American character. Retaliation in the United States has always been confined to specified acts of cruelty. It is not believed that any attempt has ever been made to retaliate for charges so general as those exhibited against Arbuthnot and Ambrister, viz: "Inciting the Indians to war." During the Revolutionary war, only two cases occurred of persons seized for purposes of retaliation, neither of whom was executed. The case of Asgill, seized on account of the murder of Huddy; and Governor Hamilton, of Vincennes, for specific acts of cruelty also. Hamilton was confined for a short time with rigor, and afterwards released. During the late war, marked with some cases of cold-blooded massacre on the part of our enemy, particularly the one at the river Raisin, no such measure as retaliation was resorted to.

The principle assumed by the commanding general, that Arbuthnot and Ambrister, by uniting in war against the United States, while we were at peace with Great Britain, "became outlaws and pirates, and liable to suffer death," is not recognised in any code of national law. Nothing can be found in the history of civilized nations, which recognises such a principle, except a decree of the Executive Directory of France, during their short career of folly and madness, which declares that neutrals, found on board enemy's ships, should be considered and treated as pirates.\*

The committee forbear to make any other remarks on the violation of the usual and accustomed forms in

\* See Mr. King's letter to the Secretary of State, Vol. 10. p. — State Papers.

the punishment and conviction of Arbuthnot and Ambrister, except that even despots claiming to exercise absolute power cannot, with propriety, violate their own rules.

Having detailed a court martial, for the purpose of trying the prisoners, the commanding general, by his own authority, set aside the sentence of the court, and substituted for that sentence his own arbitrary will. In trials involving the life of an individual, a strict adherence to form is in ordinary cases considered the best security against oppression and injustice.

A departure from these forms is calculated to inflict a wound on the national character and tarnish the laurels so justly acquired by the commanding general by his former victories. Such are the facts, as they appear to the committee, and such are the views taken by them of the important subjects referred to their consideration, and, together with their report, they submit various depositions and documents, to which, and to the correspondence and documents relating to the Seminole war, communicated to the Senate by the President of the United States, at the last and present session, they refer.

#### THURSDAY, February 25.

The PRESIDENT communicated the credentials of JOHN GAILLARD, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March next; which were read, and laid on file.

Mr. THOMAS asked and obtained leave to bring in a bill granting a donation of land to the State of Illinois, for the seat of government of said State; and the bill was twice read by unanimous consent, and referred to the Committee on Public Lands.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of making an extra allowance to the postmasters at the Chickasaw and Choctaw agencies.

The bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells,'" was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy," was read the second time, and referred to the same committee.

The bill explanatory of the act for the final adjustment of land titles in Louisiana and Territory of Missouri; and the bill concerning invalid pensioners, severally passed through Committees of the Whole, were amended, and ordered to a third reading.

The PRESIDENT communicated a report of the Secretary of War, comprehending contracts made by that Department in the year 1818, and those made by the Purchasing and Ordnance departments, for the same period, in compliance with "An act concerning public contracts," passed April 21st, 1808; and the report was read.

The bill for the relief of Francis B. Languille was read a third time, and passed.

The bill for the relief of Lewis H. Guerlain was read a third time, and passed.

The bill for the relief of Rosalie P. Deslande was read a third time, and passed.

The bill for the relief of Joseph McNeil was read a third time, and passed.

The bill for the relief of Eli Hart was read a third time, and passed.

The bill for the relief of John Rodriguez was read a third time, and passed.

The bill to regulate and fix the salaries and compensation of the registers and receivers of public moneys of the land offices was read a third time, and passed.

The bill for the relief of Nathan G. Birdseye and Daniel Booth was read a third time, and passed.

The bill for the relief of Joseph Dozet and Antoine Bougoud was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to regulate the pay of invalid pensioners," together with the amendment reported thereto by the Committee on Pensions; and the amendment having been agreed to, the bill was reported to the House amended accordingly; and the further consideration thereof was postponed until to-morrow.

On motion by Mr. VAN DYKE, the Committee on Pensions, to whom was referred the petition of William Crawford, of Indiana, were discharged from the further consideration thereof.

On motion by Mr. VAN DYKE, the Committee on Pensions, to whom was referred the petition of Experians Fisk, were discharged from the further consideration thereof, and the petitioner had leave to withdraw his petition and papers.

The bill authorizing the purchase of fire engines, for the protection of the public buildings; the bills for the relief of Robert McCalla, of Solomon Provost, of Bartholomew Duverge, of John Pellet, of John Anderson, of Alexander Milne, and of Christopher Fowler—were severally considered in Committee of the Whole, and ordered to be engrossed for a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, supplementary to an act passed the 2d day of March, 1807, entitled "An act to prohibit the importation of slaves into the United States." And the bill having been amended, on motion, the Senate adjourned.

#### FRIDAY, February 26.

On motion of Mr. RUGGLES, the Committee of Claims, to whom was referred the memorial of Joseph Landon, were discharged from the further consideration thereof.

Mr. JOHNSON, from the Committee on Public Lands, to whom was referred the bill granting a donation of land to the State of Illinois, for the seat of government of said State, reported the same without amendment; and, on motion by Mr. THOMAS, the bill was taken up and considered as in Committee of the Whole; and having been amended, it was reported to the House;

and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

Mr. SANFORD asked and obtained leave to bring in a bill to fix the time for the next meeting of Congress; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of yesterday, for instructing the Committee on the Post Office and Post Roads to inquire into the propriety of making an extra allowance to the postmasters at the Chickasaw and Choctaw agencies; and agreed thereto.

On motion by Mr. MORROW, the Senate resumed, as in Committee of the Whole, the consideration of the bill making provision for the civilization of the Indian tribes adjoining the frontier settlements; and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States;" together with the amendments reported thereto by the select committee; and, after debate, the further consideration thereof was postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House have passed the bill, which originated in the Senate, entitled "An act to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana," with an amendment; in which they request the concurrence of the Senate. They have passed a bill, entitled "An act to regulate duties on certain wines;" a bill entitled "An act making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings;" a bill entitled "An act to enforce those provisions of the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' which relate to the right of voting for directors, and for other purposes;" and also a resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe; in which bills and resolution they request the concurrence of the Senate.

The three bills and resolution last mentioned were read, and passed to the second reading.

The bill entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Terri-



tory of Missouri," was read a third time as amended, and passed.

Mr. EPPES, from the Committee of Finance, to whom was referred the memorial of the Select and Common Councils of the city of Philadelphia, praying to be allowed to import, free from duty, cast-iron pipes, for the purpose of conveying water through the streets of the city, made a report, accompanied by a resolution that the prayer of the petitioner ought not to be granted. The report and resolution were read, considered, and agreed to.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells,'" reported the same without amendment; and the bill was taken up and considered as in Committee of the Whole; and the further consideration thereof was postponed until Monday next.

Mr. EPPES, from the same committee, to whom was referred the bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy," reported the same without amendment; and the bill was taken up and considered as in Committee of the Whole; and no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. EDWARDS gave notice that to-morrow he should ask leave to bring in a bill to establish a land office in the State of Illinois.

#### SATURDAY, February 27.

The resolution declaring the manner in which the vessels composing the Navy of the United States shall be named, was considered; and no amendment having been made thereto, it was ordered to be read a third time, but was subsequently postponed to Tuesday, in order to let the vessel to be launched on Monday receive the name intended for her before the resolution takes effect.

The bill to regulate the duties on certain wines was read the second time, and referred to the Committee on Finance.

The bill to enforce those provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors, and for other purposes, was read the second time, and referred to the same committee.

The bill making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings, was read the second time, and referred to the Committee on the District of Columbia.

A message from the House of Representatives informed the Senate that the House have concurred in all the amendments of the Senate to the bill, entitled "An act making appropriations for the support of Government for the year 1819," except that which proposes an "appropriation of four thousand two hundred and forty-three dollars, to pay William and James Crooks the

amounts of the sales of the schooner Lord Nelson," to which they disagree. They have passed a bill, entitled "An act to alter and establish certain post roads;" in which bill they request the concurrence of the Senate.

The resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe, was read the second time, and referred to the committee to whom was referred on the 24th November, 1818, the memorial of William Lambert.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,'" passed the 18th of April, 1806," reported the same without amendment.

Mr. EDWARDS asked and obtained leave to bring in a bill to establish a new land office in the State of Illinois; and the bill was read, and passed to the second reading.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to designate the boundaries of districts, and establish land offices for the disposal of public lands, not heretofore offered for sale in the States of Ohio and Indiana." Whereupon,

On motion by Mr. NOBLE, resolved that they disagree thereto.

The bill, entitled "An act concerning invalid pensions," was read a third time as amended, and passed.

The bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," was read a third time as amended, and passed.

The engrossed bill authorizing the purchase of fire engines, and building houses for the safe-keeping of the same, was read a third time, and passed.

The engrossed bill for the relief of Solomon Prevost was read a third time, and passed.

The engrossed bill for the relief of Bartholomew Duverge was read a third time, and passed.

The engrossed bill for the relief of John Pettit was read a third time, and passed.

The engrossed bill for the relief of John Anderson was read a third time, and passed.

The engrossed bill for the relief of Alexander Milne was read a third time, and passed.

The engrossed bill for the relief of Christopher Fowler was read a third time, and passed.

#### MISSOURI CONSTITUTION.

The bill, entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri," was read a third time; and,

The bill from the other House to authorize the people of Missouri to form a constitution, &c., was resumed; and, with the various motions

relative to it, gave rise to a long and animated debate.

Mr. WILSON moved to postpone the further consideration of the bill to a day beyond the session, which motion was decided as follows:

YEAS—Messrs. Burrill, Daggett, Dickerson, King, Lacock, Mellen, Morrill, Olin, Roberts, Sanford, Storer, Tichenor, Van Dyke, and Wilson—14.

NAYS—Messrs. Barbour, Crittenden, Dana, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, Leake, Macon, Morrow, Noble, Palmer, Ruggles, Stokes, Tait, Talbot, Thomas, Williams of Mississippi, and Williams of Tennessee—23.

So the question was negatived.

On the question to agree to a proposition to strike out the restriction against the introduction or toleration of slavery in said new State, a division of the question was called for, and the question was taken on striking out the latter clause of said restriction, as follows: "And that all children of slaves, born within the said State, after the admission thereof into the Union shall be free, but may be held to service until the age of twenty-five years." And decided as follows:

YEAS—Messrs. Barbour, Crittenden, Daggett, Dana, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, King, Lacock, Leake, Macon, Morrow, Olin, Palmer, Roberts, Sanford, Stokes, Storer, Tait, Talbot, Thomas, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee—36.

NAYS—Messrs. Burrill, Dickerson, Mellen, Morrill, Noble, Ruggles, and Wilson—7.

So it was agreed to strike out that clause.

The question was then taken to strike out the first clause of said restriction, in the words following: "And provided also, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted;" and decided as follows:

YEAS—Messrs. Barbour, Crittenden, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Johnson, Lacock, Leake, Macon, Olin, Palmer, Stokes, Tait, Talbot, Thomas, Van Dyke, Williams of Mississippi, and Williams of Tennessee—22.

NAYS—Messrs. Burrill, Daggett, Dana, Dickerson, King, Mellen, Morrill, Morrow, Noble, Roberts, Ruggles, Sanford, Storer, Taylor, Tichenor, Wilson—16.

It was decided to strike out this clause also; and, before finally acting on the bill, the Senate adjourned.

#### MONDAY, March 1.

Mr. WILSON, from the Committee of Claims, reported a bill for the relief of Samuel J. Axon, and the bill was read and passed to the second reading.

The bill granting a donation of land to the State of Illinois, for the seat of government of said State, was read a third time, and passed.

The bill making provision for the civilization of the Indian tribes, adjoining the frontier settlements, was read a third time, and passed.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan; and the bill having been amended, it was reported to the House, and ordered to be engrossed and read a third time—years 18, days 6, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dana, Dickerson, Gaillard, Lacock, Morrow, Noble, Roberts, Ruggles, Sanford, Tait, Taylor, Thomas, Williams of Tennessee, and Wilson.

NAYS—Messrs. Eaton, Edwards, King, Leake, Macon, and Storer.

The Senate resumed the bill entitled "An act establishing a separate Territorial government in the southern part of the Territory of Missouri;" it having been previously read a third time.

On motion by Mr. BURRILL,

"That the said bill be recommitted to the committee to whom the same was first referred, with instructions so to amend the same that the further introduction of slavery or involuntary servitude within the said Territory, except for the punishment of crimes, be prohibited."

It was determined in the negative—years 14, days 19, as follows:

YEAS—Messrs. Burrill, Daggett, Dana, Dickerson, King, Lacock, Mellen, Noble, Roberts, Ruggles, Sanford, Storer, Tichenor, and Wilson.

NAYS—Messrs. Barbour, Crittenden, Eaton, Edwards, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Macon, Morrow, Stokes, Tait, Talbot, Taylor, Thomas, Williams of Mississippi, and Williams of Tennessee.

On the question, "Shall this bill pass?" it was determined in the affirmative. So it was resolved that this bill pass.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act confirming certain claims to land in the State of Illinois;" a bill entitled "An act for the relief of James Orr;" a bill entitled "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys on places designated in Boston, Buzzard, and Chesapeake Bays, Lakes Ontario and Erie, and for other purposes;" a bill entitled "An act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service;" a bill entitled "An act for the relief of John M'Causland;" and a bill entitled "An act for the relief of Robert Kid, Seth Webber, and Thomas Page;" in which bills they request the concurrence of the Senate.

The six bills last mentioned were read, and passed to the second reading.

The bill confirming certain claims to land in the State of Illinois was read the second time by unanimous consent, and referred to the Committee on Public Lands.

The bill for the relief of James Orr was read the second time by unanimous consent, and referred to the Committee on Military Affairs.



The bill to authorize the building, erecting, and placing light-houses, beacons, and buoys on places designated in Boston, Buzzard and Chesapeake bays, Lake Ontario and Lake Erie, and for other purposes, was read the second time by unanimous consent, and referred to the Committee on Commerce and Manufactures.

The bill extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service, was read the second time by unanimous consent, and referred to the Committee on Pensions.

The bill for the relief of John McCausland was read the second time by unanimous consent, and referred to the Committee on the Militia.

The bill for the relief of Robert Kid, Seth Webber, and Thomas Page, was read the second time by unanimous consent, and referred to the Committee on Finance.

The bill to alter and establish certain post roads was twice read, and referred to the Committee on the Post Office and Post Roads.

The bill to fix the time for the next meeting of Congress was read the second time.

The bill to establish a new land office in the State of Illinois was read the second time, and referred to the Committee on Public Lands.

The Senate proceeded to consider their amendment to the bill entitled "An act making appropriations for the support of Government for the year 1819," disagreed to by the House of Representatives, and resolved to recede therefrom.

Mr. DICKERSON, from the committee to whom was referred the resolution authorizing the President of the United States to cause astronomical observations to be made to ascertain the longitude of the Capitol in the city of Washington from some known meridian in Europe, reported the same without amendment; which was read.

The bill authorizing a State government in the Missouri Territory was taken up, and having been further amended, was ordered to a third reading.

The bill for the relief of George M. Brook and Edmund P. Kennedy was read a third time, and passed.

The Senate resumed the consideration of the bill, entitled "An act regulating the pay of invalid pensioners," and the amendment made, as in Committee of the Whole, having been concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the Secretary of War to appoint an additional agent for paying pensions in the State of Tennessee;" and no amendment having been made, it was reported to the House, and passed to a third reading.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act to enforce those provisions of the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' which relate to the right of voting for directors, and for other pur-

poses;" and also the bill, entitled "An act to regulate the duties on certain wines," reported the same, respectively, without amendment.

Mr. GOLDSBOROUGH, from the committee to whom was referred the bill, entitled "An act making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings," reported the same without amendment.

On motion of Mr. EPPES, the Committee on Finance, to whom was referred the petition of Joshua Aubin, and also of Henry Rice, were discharged from the further consideration thereof, respectively, and the petitioners had leave to withdraw their papers.

On motion of Mr. BURRILL, the Committee on the Judiciary, to whom was referred the petition of a number of the inhabitants of the city of Perth Amboy, praying that the district court of the United States may be held at that place, instead of New Brunswick, were discharged from the further consideration thereof.

Mr. KING presented the memorial of the New York Chamber of Commerce, representing the great evils that would arise from a repeal of the charter of the Bank of the United States; and the memorial was read.

On motion, by Mr. DICKERSON, the Library Committee, who were instructed to inquire into the propriety of further extending the privilege of using the books in the Library of Congress, were discharged from the further consideration thereof.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Hannah Ring and Luther Frink," together with the amendment reported thereto by the Committee on Pensions; and the amendment having been agreed to, the bill was reported to the House amended, and the amendment being concurred in, it was ordered to be engrossed, and the bill read the third time as amended.

Mr. LACOCK submitted the following motion for consideration, which was read, and passed to the second reading:

*Resolved*, That the Committee of Accounts be authorized and directed to make the same allowance for extra services to each person serving this House as was granted at the end of the last session.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, providing for the correction of errors in making entries of land at the land offices; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

On motion of Mr. RUGGLES, the Committee on the Militia, who were instructed to inquire into the expediency of making some further provision by law to insure annual and accurate returns of the militia of the several States and Territories, were discharged from the further consideration of the subject.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill relative to the Patent Office, and to the salary of the superintendent thereof; and the blank having been filled with "two thousand," the bill was reported to the House; and, being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Noah Brown and others; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until the fifth day of March, instant.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Harold Smyth;" and no amendment having been made, it was reported to the House, and passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Labedoyere de Kermion; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Vincent Grant; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Joseph Lefebvre; and no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time.

#### TUESDAY, March 2.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act for the relief of James Orr," reported the same without amendment.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District to the line thereof,'" reported the same without amendment.

The PRESIDENT communicated the credentials of JOHN F. PARROT, appointed a Senator by the Legislature of New Hampshire, for the term of six years, commencing on the fourth day of March, instant; which were read, and laid on file.

Mr. LACOCK, from the Committee on Pensions, to whom was referred the bill, entitled "An act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service," reported the same without amendment.

On motion, by Mr. GOLDSBOROUGH, the Committee on the District of Columbia, to whom was referred the petition of the Corporation of the City of Washington, praying for a renewal

of their charter; the memorial of John Mason and others, praying the repeal of an act of Congress exempting the City of Washington from county taxes; the memorial of the Columbian Institute, praying the grant of a part of the public reservation of ground in the City of Washington; and the resolution of the Senate instructing them to inquire into the expediency of amending the laws existing in the District of Columbia, regulating the seizure and sale of persons of color suspected to be runaway slaves, were discharged from the further consideration thereof, respectively.

On motion, by Mr. GOLDSBOROUGH, the Committee of Claims, to whom was referred the petition of Elderken Potter, the memorial of Nathaniel Cutting, the petition of Rebecca Hodgson, and the resolution of the Senate instructing them to inquire into the expediency of reporting a bill to provide for the payment of slaves impressed into the public service, and lost in the said service, were discharged from the further consideration thereof, respectively.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard, and Chesapeake bays, Lakes Ontario and Erie, and for other purposes," reported the same without amendment; and the bill was considered as in Committee of the Whole, and, having been amended, it was reported to the House, and the amendment being concurred in, it was ordered to be engrossed, and the bill was read a third time as amended.

On motion of Mr. TAIT, the committee to whom was referred the memorial of the Legislature of the Alabama Territory, against the construction of the limits of said Territory, were discharged from the further consideration thereof; and, on his motion, the Committee on Naval Affairs, to whom was referred, on the 8th of January, 1819, three reports of the Secretary of the Navy, were discharged from the further consideration thereof, respectively.

Mr. WILSON, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Isaac Minis, and others," reported the same without amendment.

The PRESIDENT communicated a letter from E. de Kraft, offering himself as a candidate for the printing of the Senate; and the letter was read.

Mr. RUGGLES, from the Committee on the Militia, to whom was referred the bill, entitled "An act for the relief of John McCausland," reported the same without amendment.

The Senate resumed the resolution, declaring the manner in which the vessels comprising the Navy of the United States shall be named, it having been previously read a third time—and resolved that this resolution pass.

The bill, entitled "An act for the relief of Harold Smyth," was read a third time, and passed.

The bill, entitled "An act to authorize the Sec-



SENATE.

Proceedings.

MARCH, 1819.

etary of War to appoint an additional agent for paying pensions in the State of Tennessee," was read a third time, and passed.

The amendments to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with amendments.

The amendment to the bill, entitled "An act regulating the pay of invalid pensioners," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

The amendment to the bill, entitled "An act for the relief of Hannah Ring and Luther Frink," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

The bill providing for the correction of errors in making entries of land at the land offices, was read a third time, and passed.

The bill relative to the Patent Office, and to the salary of the superintendent thereof, was read a third time, and passed.

The bill for the relief of Labedoyere de Kermion was read a third time, and passed.

The bill for the relief of Vincent Grant was read a third time, and passed.

The bill for the relief of Joseph Lefebvre was read a third time, and passed.

The bill to revive the powers of the commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to land at Green Bay and Prairie du Chien, in the Territory of Michigan, was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, which originated in the Senate, entitled "An act to continue in force an act regulating the currency within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France, and five franc pieces," with an amendment; in which they request the concurrence of the Senate. They have passed a bill, entitled "An act in behalf of the Connecticut Asylum for teaching the deaf and dumb;" a bill, entitled "An act authorizing the sale of certain military sites;" a bill, entitled "An act in addition to the acts prohibiting the slave trade;" and also a bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein;" in which bills they request the concurrence of the Senate.

They have concurred in all the amendments of the Senate to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," except the eleventh, and to that they disagree.

The Senate proceeded to consider the eleventh

amendment, disagreed to by the House of Representatives. [This amendment struck out the prohibitory clause concerning the toleration of slavery in said State.]

Whereupon, on motion of Mr. TAIT, the Senate resolved to adhere to their said amendment.

The four bills last brought up for concurrence were read, and passed to the second reading.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces."

Whereupon resolved, that the Senate concur therein.

The bill, entitled "An act in addition to the acts prohibiting the slave trade," was read the second time by unanimous consent, and referred to the committee appointed the 15th of December, 1818, on the subject of the slave trade.

Mr. EATON, from the said committee, subsequently reported the said bill with an amendment; [proposing to strike out the sixth section thereof, inserted in the other House, on motion of Mr. PINDALL, to make the offence of smuggling slaves from Africa punishable with death.]

The amendment was agreed to, and the bill was read a third time, and passed.

The bill, entitled "An act authorizing the sale of certain military sites," was read the second time by unanimous consent, and referred to the Committee on Military Affairs.

Mr. WILLIAMS, of Tennessee, from said committee, reported the bill without amendment.

The bill, entitled "An act in behalf of the Connecticut Asylum for teaching the deaf and dumb," was read the second time by unanimous consent, and referred to the Committee on Public Lands.

Mr. MORROW, from the said committee, reported the bill without amendment, and it was considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, and passed to a third reading.

The bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein," was read the second time by unanimous consent, and referred to the Committee on Foreign Relations.

Mr. MACON, from the said committee, reported the bill with amendments, which were read and considered as in Committee of the Whole; and, having been agreed to, the bill was reported to the House amended accordingly; and, the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

Mr. EPPES, from the Committee on Finance, to whom was referred the bill, entitled "An act for the relief of Robert Kid, Seth Webber, and Thomas Page," reported the same without amendment.

Mr. STOKES, from the Committee on the Post Office and Post Roads, to whom was referred the

MARCH, 1819.

Proceedings.

SENATE.

bill, entitled "An act to alter and establish certain post roads," reported the same with amendments, which were read, and considered as in Committee of the Whole; and, having been agreed to with further amendments, the bill was reported to the House amended accordingly; and, the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

The PRESIDENT communicated a letter from Jonathan Elliot, offering himself as a candidate for the printing of the Senate; and the letter was read.

The bill for the relief of Samuel J. Axon was read the second time.

Mr. WILSON, from the joint committee on the subject, reported a resolution, directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and providing for the appointment of a printer or printers; and the resolution was twice read by unanimous consent, and considered as in Committee of the Whole; and, no amendment having been made, it was reported to the House, and ordered to be engrossed, and read a third time. It was then read a third time by unanimous consent, and passed.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Henry Batman," reported the same, with amendments; which were read.

The resolution authorizing an allowance for extra services to persons serving the Senate was read the second and third times by unanimous consent, and passed.

The PRESIDENT communicated a letter from Daniel Rapine, offering himself as a candidate for the printing of the Senate; and the letter was read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill to establish a new land office in the State of Illinois, reported the same with amendments; which were read.

Mr. EDWARDS presented the petition of Samuel Abbott, of Randolph county, in the State of Illinois, praying relief for certain erroneous entries of land, as stated in the petition; which was read.

Mr. THOMAS presented the petition of the Legislature of the State of Illinois, praying that the right of pre-emption may be extended to certain settlers in said State, as stated in the petition; which was read.

WEDNESDAY, March 3.

The credentials of WILLIAM A. PALMER, appointed a Senator by the Legislature of the State of South Carolina, for the term of six years, commencing on the fourth day of March instant, were communicated and read, and laid on file.

The amendment to the bill, entitled "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard, and Chesapeake Bays,

Lakes Ontario and Erie, and for other purposes," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act to alter and establish certain post roads," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to fix the time for the next meeting of Congress; and the blank having been filled with "second Monday," on motion by Mr. ROBERTS, that the further consideration thereof be postponed until to-morrow, it was determined in the negative—yeas 6, nays 22, as follows:

YEAS—Messrs. Eppes, Lacock, Macon, Roberts, Ruggles, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Daggett, Dana, Dickerson, Eaton, Edwards, Fromentin, Gaillard, Goldsborough, Johnson, Leake, Mellen, Noble, Palmer, Sanford, Storer, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Wilson.

No amendment having been made to said bill, it was reported to the House; and ordered to be engrossed and read a third time. The bill was then read a third time by unanimous consent, and passed.

The PRESIDENT communicated a letter from Messrs. Gales & Seaton, from William A. Davis and from Andrew Way, jr., respectively offering themselves as candidates for the printing of the Senate; and the letters were severally read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to regulate the duties on certain wines;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that the House adhere to their disagreement to the eleventh amendment proposed and adhered to by the Senate to the bill, entitled "An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States."

The bill entitled "An act in behalf of the Connecticut Asylum for teaching the deaf and dumb," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the public buildings; for the purchase of a lot of land, and furnishing a supply of water for the use of certain



public buildings;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Isaac Minis, and others;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Robert Kid, Seth Webber, and Thomas Page;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplementary to an act, passed the second day of March, 1807, entitled "An act to prohibit the importation of slaves into the United States;" and, on motion by Mr. BURRILL, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage, passed on the 2d day of March, 1799;" and no amendment having been made, it was reported to the House, and ordered to be engrossed and read a third time. The bill was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the allowance of pensions upon a relinquishment of bounty lands; and no amendment having been made, it was reported to the House; and it passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joseph Wheaton;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Daniel Moss;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Phæbe Stuart;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry Batman," together

with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the bill was reported to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended. The bill was then read a third time by unanimous consent as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Patrick Callan;" and no amendment having been made, it was reported to the House; and passed to a third reading. It was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that the House have passed the bill, which originated in the Senate, entitled "An act for the relief of Michael Hogan," with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the last mentioned bill, and they concurred therein.

Mr. LACOCK presented communications from Robert Butler, Adjutant General of the Southern Division of the Army of the United States, and of Colonel George Gibson, in relation to their testimony before the committee, appointed in pursuance of the resolution of the Senate of the 18th of December last, on the subject of the Seminole war; which were read, and ordered to be printed for the use of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act, entitled 'An act to authorize and empower the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District to the line thereof;'" and no amendment having been made thereto, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act, supplementary to an act, entitled 'An act for the relief of Thomas Wilson;'" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the re-

lief of Samuel F. Hooker; and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,'" passed the 18th of April, 1806, and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act, entitled 'An act for the relief of Benjamin Wells;'" and, on motion by Mr. EPPES, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to enforce those provisions of the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' which relate to the right of voting for directors and for other purposes;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that the House concur in all the amendments of the Senate to the bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein," except that which proposes to add a new section, as a fifth section of the said bill, with amendments, and that they do not agree to so much of the amendments as proposes to add a new section as a fifth section of the said bill. They have passed a bill, entitled "An act concerning invalid pensioners;" and also a bill, entitled "An act in addition to, and alteration of an act, entitled 'An act laying a duty on imported salt; granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;'" in which bills they request the concurrence of the Senate.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act confirming certain claims to land in the State of Illinois," reported the same without amendment; and, on his motion, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe; and, on motion by Mr. BURRILL, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to establish

a new land office in the State of Illinois; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Orr;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate adjourned to six o'clock in the evening.

*Six o'clock in the evening.*

The Senate resumed the consideration of the amendments to the bill, entitled "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein;" whereupon,

*Resolved* That they do agree to the amendment of the House of Representatives to their fourth and fifth amendments, and that they do recede from their amendment, which proposes to add a new section, and disagreed to by the House of Representatives.

On motion by Mr. MORROW, the Committee on Public Lands were discharged from the further consideration of all subjects referred to them during the present session, upon which they have not reported.

On motion by Mr. STOKES, the Committee on the Post Office and Post Roads, to whom was referred the memorial of Benjamin Dearborn, were discharged from the further consideration thereof.

The bill, entitled "An act concerning invalid pensions," was read the first and second times by unanimous consent, and referred to the Committee on Pensions.

Mr. STOKES, from said committee, reported the bill without amendment; and, on motion, the further consideration thereof was postponed until to-morrow.

The bill, from the House of Representatives, entitled "An act, in addition to, and alteration of, an act, entitled 'An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries,'" was read three several times by unanimous consent, and passed.

The bill, to establish a new land office in the State of Illinois, was read a third time by unanimous consent, and passed.

On motion by Mr. WILSON, the Senate proceeded to the appointment of a printer, on their part, agreeably to the provisions of a joint resolution of this date; and on the ballots having been counted, it appeared that Messrs. Gales and Seaton had a majority and were elected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John McCausland;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.



SENATE.

Adjournment.

MARCH, 1819.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the sale of certain military sites;" and no amendment having been made, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to authorize the Secretary of War, to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, in the State of Virginia;" and no amendment having been made thereto, it was reported to the House, and passed to a third reading. It was then read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel J. Axson; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill further supplementary to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed on the 2d day of March, 1799; and, on motion, the further consideration thereof was postponed until to-morrow.

On motion by Mr. MACON, a committee was appointed on the part of the Senate, jointly with such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him, that unless he may have other communications to make to the two Houses of Congress, they are ready to adjourn. Mr. MACON and Mr. DAGGETT, were appointed the committee.

On motion by Mr. BURRILL,  
*Resolved, unanimously,* That the thanks of the Senate be presented to the honorable JAMES BARBOUR, Senator from Virginia, for the dignified and impartial manner in which he has discharged the important duties of the President of the Senate, since he was called to the Chair.

*Resolved, unanimously,* That the thanks of the Senate be also presented to the honorable JOHN GAILLARD, Senator from South Carolina, for the dignified

and impartial manner in which he discharged the important duties of President of the Senate during the time he presided therein.

Whereupon, Mr. BARBOUR addressed the Senate as follows:

*Gentlemen:* The sensibility produced by this new evidence of your kindness and approbation, is beyond my power to express. I would rather refer to your own bosoms as furnishing a more correct standard by which to appreciate it. I have the consolation to reflect, that whatever of zeal or capacity I possess, has been devoted to the discharge of the duties of my station; your approbation is more than an ample reward. Permit me as the moment of separating is approaching, from all for a season, from some perhaps forever, to tender you all an affectionate farewell, and to pray that upon your return to your respective homes, your reception may be such, in all your relations, as may make you happy.

Mr. GAILLARD then rose and made the following address:

Mr. President: Next to the satisfaction arising from the consciousness of faithfully performing our duty, the favorable opinion of those with whom we are associated affords the highest gratification that can be received; and the present vote of approbation, together with the many acts of kindness I have experienced from this honorable body, have excited in my mind feelings of gratitude which neither time nor circumstances can ever efface.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Mr. MACON reported, from the joint committee, that they had waited on the President of the United States, who informed them that he had no further communication to make to the two Houses of Congress.

The Secretary was then directed to inform the House of Representatives that the Senate, having finished the Legislative business before them, are about to adjourn.

The PRESIDENT then adjourned the Senate *sine die*.

## PROCEEDINGS AND DEBATES

OF THE

## HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE SECOND SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 16, 1818.

MONDAY, November 16, 1818.

This being the day fixed by law for the meeting of Congress, HENRY CLAY, the Speaker, THOMAS DOUGHERTY, the Clerk, and the following members of the House of Representatives, appeared and took their seats, to wit:

*From New Hampshire*—Josiah Butler, Clifton Clagett, Samuel Hale, Arthur Livermore, John F. Parrott, and Nathaniel Upham.

*From Massachusetts*—Benjamin Adams, Joshua Gage, John Holmes, Jonathan Mason, Marcus Morton, Benjamin Orr, Thomas Rice, Nathaniel Ruggles, Zabdiel Sampson, Henry Shaw, Nathaniel Silsbee, and Ezekiel Whitman.

*From Rhode Island*—John L. Boss, jun.

*From Connecticut*—Ebenezer Huntington, Jonathan O. Moseley, Timothy Pitkin, Nathaniel Terry, and Thomas S. Williams.

*From Vermont*—Heman Allen, Samuel C. Crafts, William Hunter, Orsamus C. Merrill, Charles Rich, and Mark Richards.

*From New York*—Oliver C. Comstock, John P. Cushman, Josiah Hasbrouck, John Herkimer, Thomas H. Hubbard, William Irving, Dorrance Kirtland, Thomas Lawyer, John Palmer, John Savage, Philip J. Schuyler, Tredwell Scudder, Henry R. Storrs, James Tallmadge, jun., John W. Taylor, George Townsend, Rensselaer Westerlo, James W. Wilkin, and Isaac Williams.

*From New Jersey*—Ephraim Bateman, Benjamin Bennett, Joseph Bloomfield, Charles Kinsey, John Linn, and Henry Southard.

*From Pennsylvania*—William Anderson, Henry Baldwin, Andrew Boden, Isaac Darlington, Joseph Hopkinson, William P. Maclay, David Marchand, Robert Moore, John Murray, Alexander Ogle, Thomas Patterson, Thomas J. Rogers, John Sergeant, Adam Seybert, Christian Tarr, James M. Wallace, John Whiteside, and William Wilson.

*From Maryland*—Thomas Bayley, Thomas Culbreth, John C. Herbert, Peter Little, George Peter, Philip Reed, Samuel Smith, and Philip Stuart.

*From Virginia*—Archibald Austin, Philip P. Barbour, William A. Burwell, John Floyd, Robert S. Garnett, William J. Lewis, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas Newton, James

Pindall, James Pleasants, Alexander Smyth, and Henry St. George Tucker.

*From North Carolina*—Weldon N. Edwards, Thos. H. Hall, George Mumford, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, James Stewart, Felix Walker, and Lewis Williams.

*From South Carolina*—Joseph Bellinger, Henry Middleton, and Sterling Tucker.

*From Georgia*—Zadock Cook, Joel Crawford, John Forsyth, and William Terrell.

*From Kentucky*—Joseph Desha, Richard M. Johnson, Anthony New, Tunstall Quarles, George Robertson, Thomas Speed, David Trimble, and David Walker.

*From Tennessee*—Thomas Claiborne, Francis Jones, and John Rhea.

*From Ohio*—John W. Campbell, and William Henry Harrison.

*From Indiana*—William Hendricks.

*From Mississippi*—George Poindexter.

The following members, elected to supply vacancies in the House, also appeared, were qualified, and took their seats, viz:

*From Massachusetts*, ENOCH LINCOLN, vice Mr. Parris, resigned.

*From Connecticut*, SYLVESTER GILBERT, vice Mr. Holmes, resigned.

*From Pennsylvania*, SAMUEL MOORE, vice Mr. Ingham, resigned; and JACOB HOSTETTER, vice Mr. Spangler, resigned.

*From Virginia*, JOHN PEGRAM, vice Mr. Goodwyn, deceased.

*From Louisiana*, THOMAS BUTLER, vice Mr. Robertson, resigned.

JOHN SCOTT, the delegate from the Territory of Missouri, and JOHN CROWEL, the delegate from the Territory of Alabama, also appeared and took their seats.

A quorum being present, messages were exchanged with the Senate to that effect.

Messrs. TAYLOR and BALDWIN were appointed on the part of this House, on the joint committee for waiting on the President.

The SPEAKER laid before the House a copy of the constitution of the State of Illinois, adopted



in convention at Kaskaskia, on the 26th day of August, 1818; which was ordered to lie on the table.

On motion of Mr. NEWTON, the Clerk was directed to furnish the members with such newspapers as they may elect; the expense of each member not to exceed the price of three daily papers.

#### TUESDAY, November 17.

Several other members, to wit: from Massachusetts, WALTER FOLGER, jr., and JOHN WILSON; from New York, BENJAMIN ELLICOTT and DAVID A. OGDEN; from Delaware, LOUIS McLANE; from Virginia, THOMAS M. NELSON, BALLARD SMITH, and EDWARD COLSTON; from North Carolina, JAMES OWEN; from Georgia, THOMAS W. COBB; from Tennessee, SAMUEL HOGG; and from Ohio, PHILEMON BEECHER and LEVI BARBER, appeared and took their seats.

Mr. TAYLOR, from the joint committee appointed to wait on the President of the United States, reported that they had discharged that duty, and that the President informed the committee he would this day make a communication to the two Houses of Congress.

#### STANDING COMMITTEES.

On motion of Mr. TAYLOR, the House proceeded to the appointment of the Standing Committees, pursuant to the rules and orders of the House. They are as follows:

*Committee of Ways and Means*—Mr. Smith, of Maryland, Mr. Burwell, Mr. Pitkin, Mr. Sergeant, Mr. Trimble, Mr. Crawford, and Mr. Tallmadge.

*Of Elections*—Mr. Taylor, Mr. Alex. Smyth, Mr. Merrill, Mr. Shaw, Mr. Boss, Mr. Whitman, and Mr. Tarr.

*Of Commerce and Manufactures*—Mr. Newton, Mr. Seybert, Mr. McLane, of Delaware, Mr. Mason, of Massachusetts, Mr. Irving, of New York, Mr. Baldwin, and Mr. Kinsey.

*Of Claims*—Mr. Williams, of North Carolina, Mr. Rice, Mr. McCoy, Mr. Samuel Moore, Mr. Walker, of Kentucky, Mr. Culbreth, and Mr. Gilbert.

*For the District of Columbia*—Mr. Herbert, Mr. Peter, Mr. Boden, Mr. Cobb, Mr. Claiborne, Mr. Colston, and Mr. Stuart, of Maryland.

*On the Public Lands*—Mr. Poindexter, Mr. Mercer, Mr. Campbell, Mr. Hendricks, Mr. Terry, Mr. Jones, and Mr. Butler, of Louisiana.

*On Private Land Claims*—Mr. Robertson, Mr. Pindall, Mr. Hogg, Mr. Hubbard, Mr. Bayley, Mr. Robert Moore, and Mr. Ballard Smith.

*On the Post Office and Post Roads*—Mr. Livermore, Mr. Blount, Mr. Barber, of Ohio, Mr. Townsend, Mr. Sampson, Mr. Terrell, and Mr. Settle.

*On Pensions and Revolutionary Claims*—Mr. Rhea, Mr. Wilkin, Mr. Ruggles, Mr. William P. Maelay, Mr. Ellicott, Mr. Owen, and Mr. Orr.

*On Public Expenditures*—Mr. Desha, Mr. Anderson, of Pennsylvania, Mr. Garnett, Mr. Cush-

man, Mr. Smith, of North Carolina, Mr. Hunter, and Mr. Williams, of Connecticut.

*On the Judiciary*—Mr. Hugh Nelson, Mr. Hopkinson, Mr. Edwards, Mr. Beecher, Mr. Storrs, Mr. Quarles, and Mr. Moseley.

*Of Accounts*—Mr. Little, Mr. Bennett, and Mr. Darlington.

*Of Revision and Unfinished Business*—Mr. Taylor, Mr. Hale, and Mr. Whiteside.

A communication, in writing, was received from the President of the United States; which was read, and committed to a Committee of the Whole on the state of the Union. [For this Message, see Senate proceedings of this date, ante page 11.]

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the annual statement of the receipts and expenditures of the United States for the year 1816; which was ordered to lie on the table.

#### WEDNESDAY, November 18.

Several other members, to wit: from New York, JOHN R. DRAKE, JAMES PORTER, and JOHN C. SPENCER; from Virginia, BURWELL BASSETT; and from Tennessee, WILLIAM G. BLOUNT, appeared and took their seats.

#### PRESIDENT'S MESSAGE.

The House resolved itself into a Committee of the Whole, Mr. H. NELSON in the Chair, on the state of the Union, and took into consideration the Message of the President of the United States, yesterday received.

Mr. TAYLOR, of New York, moved sundry resolutions, for reference of the different parts of the Message, to the following effect:

1. That so much as relates to the subject of foreign affairs, and to the independence of the South American States, be referred to a select committee.
2. That so much as relates to military affairs, and so much as relates to the proceedings of the courts martial on the trial of Arbuthnot and Ambrister, and to the conduct of the war with the Seminole Indians, be referred to a select committee.
3. That so much as relates to the Navy and to the naval depots, be referred to a select committee.
4. That so much as relates to cessions of territory from the Indians, be referred to the Committee of Public Lands.
5. That so much as relates to the civilization of the Indian tribes, be referred to a select committee.
6. That so much as relates to the subject of manufactures, be referred to the Committee of Commerce and Manufactures.
7. That so much as relates to the unlawful introduction of slaves into the United States, be referred to a select committee.
8. That so much as relates to the subject of revenue, be referred to the Committee of Ways and Means.
9. That so much as relates to the District of Columbia, be referred to the Committee for said District.
10. That the said committees have leave to report thereon by bill or otherwise.

These resolutions were severally agreed to without opposition or remark; and

Mr. Forsyth, Mr. Holmes, Mr. Barbour, of Virginia, Mr. Spencer, Mr. Baldwin, Mr. Allen, of Vermont, and Mr. Hopkinson, were appointed a committee pursuant to the first resolution.

Mr. Johnson, of Kentucky, Mr. Reed, Mr. T. M. Nelson, Mr. Huntington, Mr. Gage, Mr. Stewart, of North Carolina, and Mr. Peter, were appointed a committee pursuant to the second resolution.

Mr. Pleasants, Mr. Silsbee, Mr. Parrott, Mr. Sawyer, Mr. Schuyler, Mr. Rogers, and Mr. Bate-man, were appointed a committee pursuant to the third resolution.

Mr. Southard, Mr. Williams, of New York, Mr. Murray, Mr. Walker, of North Carolina, Mr. Richards, Mr. Butler, of New Hampshire, and Mr. Pegram, were appointed a committee pursuant to the fifth resolution.

Mr. Middleton, Mr. Upham, Mr. Lawyer, Mr. Floyd, Mr. Mumford, Mr. Lincoln, and Mr. Linn, were appointed a committee pursuant to the seventh resolution.

Mr. TAYLOR then submitted four other resolutions, to this effect:

1. That a committee be appointed to consider and report on the subject of the organization and discipline of the militia.
2. That a committee be appointed on the subject of internal improvement.
3. That a committee be appointed on the subject of the public buildings.
4. That a committee be appointed to inquire whether any amendment should be necessary to the act of the last session granting pensions to Revolutionary survivors.

Mr. TAYLOR remarked, on these resolves, that it would be seen they embraced subjects not referred to in the President's Message; but he believed it to be entirely consistent with parliamentary practice, in the Committee of the Whole on the state of the Union, to present for consideration any or all the important subjects likely to come before Congress during the session. Among these subjects, he thought, were those embraced in these resolutions. Among them, that of the organization and discipline of the militia was unquestionably of immense importance; the subject was, indeed, among the unfinished business of last session, but he thought it proper to raise a committee on it, that any propositions for improving or amending the system might be referred to it. The subject of roads and canals, too, though not noticed in the Message, was also lying over from the last session, and it was probable that other propositions of that character might be made during the session. The subject of the public buildings was one which had excited some interest and some inquiry into the causes of the disappointment of the reasonable expectations entertained that they would have been in a greater state of forwardness than they are at present: a committee would properly be appointed to inquire into the matter. The subject of Revolutionary pensions, also, incidentally noticed only in the Message, had produced some excitement in the

country, and a disposition prevailed among some to restrict, and among others to enlarge, the provisions of the law on the subject. This, therefore, appeared to him to deserve the attention of the House. He thought the subjects all of sufficient moment to justify the reference of them to committees.

Mr. PITKIN, of Connecticut, objected to acting on these subjects, as proposed, on the ground that they did not flow from the Message; and that it had been usual, in Committee of the Whole on the state of the Union, on the President's Message, not to introduce any proposition foreign to the Message. He thought the practice a good one, and did not wish to depart from it without strong reason. He therefore moved that these propositions lie on the table.

Mr. TAYLOR said that, being in Committee of the Whole on the state of the Union, everything relating to the public concerns was fully before them. He did not think it important that his motion should originate in committee, but he protested against being limited, in Committee of the Whole on the state of the Union, although the Message had been referred to it, to the range of subjects embraced in that document.

The resolves were ordered to lie on the table, by a vote of 61 to 50.

The Committee rose, and reported the resolves previously agreed to, which were concurred in by the House.

Mr. TAYLOR then moved, anew, the propositions last above stated, which in committee had been ordered to lie on the table.

After some conversation as to the manner, rather than the matter of the resolves, in which Messrs. SMITH, of Maryland, TAYLOR, HARRISON, and POINDEXTER took part, the resolves were agreed to.

Mr. Harrison, Mr. Alexander Smyth, Mr. Quarles, Mr. Morton, Mr. Jones, Mr. Savage, and Mr. Owen, were appointed a committee pursuant to the first resolution.

Mr. Tucker, of Virginia, Mr. Storrs, Mr. Lewis, Mr. Sergeant, Mr. Porter, Mr. Crafts, and Mr. Marchand, were appointed a committee pursuant to the second resolution.

Mr. Bassett, Mr. Bellinger, Mr. Adams, Mr. Clagett, Mr. Folger, Mr. Bayley, and Mr. Rice, were appointed a committee pursuant to the third resolution.

Mr. Bloomfield, Mr. Burwell, Mr. Ogle, Mr. Wallace, Mr. Drake, Mr. Herkimer, and Mr. Wilson, of Massachusetts, were appointed a committee pursuant to the fourth resolution.

A resolution of the Senate, for appointing a joint Library Committee, was taken up and agreed to.

A resolution for the appointment of a Chaplain to each House, was also agreed to.

The House then proceeded to ballot for a Chaplain on its part. Rev. Burgess Allison was nominated by Mr. BLOOMFIELD, and Dr. William Rogers by Mr. SERGEANT. The votes being counted out, were found to be—for Rev. Burgess Allison 72, Dr. Wm. Rogers 52.



H. OF R.

State of Illinois.

NOVEMBER, 1818.

So Mr. ALLISON was chosen Chaplain on the part of the House of Representatives.

THURSDAY, November 19.

Three other members, to wit: from Massachusetts, JEREMIAH NELSON; from Pennsylvania, WILLIAM MACLAY; and from Kentucky, RICHARD C. ANDERSON, jr., appeared and took their seats.

The SPEAKER laid before the House a letter from the Governor of the State of Pennsylvania, enclosing the credentials of SAMUEL MOORE, as a member of this House, in the room of Samuel D. Ingham, resigned; which was referred to the Committee of Elections.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the officers of the Army of the United States, their grade, where stationed, the number on duty, and those on furlough, with the period of furlough; made in obedience to the resolution of this House of the 20th of April last; which was ordered to lie on the table.

Ordered, That Mr. BASSETT be excused from serving on the Committee on the Public Buildings, and that Mr. BARBOUR, of Virginia, be appointed of that committee in his place.

On motion of Mr. IRVING, of New York, the Committee on Naval Affairs were instructed to inquire into the expediency of extending for the further term of five years the pensions heretofore granted to the widows and orphans of the officers, sailors, and marines, who were killed on board the armed ships of the United States during the late war.

On motion of Mr. JOHNSON, of Kentucky, a Committee was appointed to inquire into the expediency of allowing to the Territory of Michigan a Delegate in Congress; and Messrs. JOHNSON, of Kentucky, BEECHER, and PATTERSON, were appointed the said committee.

Ordered, That the Committee of the Whole to which is committed the fourth resolution submitted at the last session, (December 9, 1817,) by Mr. JOHNSON, of Kentucky, be discharged from the further consideration thereof, and that it be referred to the Committee on Military Affairs.

On motion of Mr. SAWYER, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing by law for staking the channel of Currituck sound, from the inlet to Powell's Point.

On motion of Mr. JOHNSON, of Kentucky, the Committee on Military Affairs were instructed to inquire into the expediency of establishing one or more additional military academies.

On motion of Mr. JOHNSON, of Kentucky, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of increasing the salary of the Assistant Postmaster General.

On motion of Mr. JONES, the Committee on Military Affairs were instructed to inquire into the expediency of providing by law for the payment for property lost or destroyed by the enemy;

and for horses lost for want of forage, during the late war between the United States and the Seminole nation of Indians.

STATE OF ILLINOIS.

Mr. McLEAN, Representative from the new State of Illinois, being in attendance—

The SPEAKER stated to the House a difficulty which he felt in deciding upon the propriety of administering the oath to him, in consequence of Congress not having concluded the act of admission of the State into the Union. Under this difficulty, he submitted the question to the decision of the House.

Mr. POINDEXTER, of Mississippi, said he thought it incumbent on the House, before admitting the Representative to a seat, to examine the constitution just laid before it, to see, first, whether the requisitions of the act of last session were complied with; and, secondly, whether the form of government established was republican, which the United States were bound to guaranty. He illustrated the irregularity of a different procedure, by putting the case that the member was admitted to a seat, allowed to vote on important questions, and the constitution subsequently rejected.

Mr. HARRISON, of Ohio, wished a different course to be pursued, and one for which he adduced precedent, in the case of the Representative from one of the States lately admitted. The House had taken for granted the fact of a compliance with the law, and of the republican form of government established, and had admitted the member without question to his seat. In the present case, Mr. H. was unwilling to depart from the precedent, for mere form's sake.

Mr. PITKIN, of Connecticut, said that this was a question which, he believed, had never before been presented to the House. He thought, for himself, that, before admitting a Representative to a seat, the question, whether the people who elected him were a State, ought to be decided. To the decision of this question, several things were necessary: for instance, the law of last session required that the Territory in question should have had a certain population, to justify its forming a constitution and State government. This fact ought to be officially established, &c. and the resolution of admission passed, before a Representative took his seat.

The question having been put, it was decided apparently by a large majority that the SPEAKER should not at this time administer the oath of office.

Ordered, That the constitution of the State of Illinois be referred to a select committee; and Messrs. ANDERSON, of Kentucky, POINDEXTER, and HENDRICKS, were appointed the said committee.

FRIDAY, November 20.

The SPEAKER presented a memorial and petition of Matthew Lyon, formerly a member of the House of Representatives from the State of

NOVEMBER, 1818.

State of Illinois.

H. OF R.

Vermont, detailing the circumstances attending his prosecution for sedition, in the year 1798, and complaining of the unconstitutionality of the act under which he was prosecuted, of illegality in the proceedings of the court, and of the fine which he was compelled to pay, and the imprisonment he suffered; and also setting forth the iniquity of the motives which prompted the said prosecution; and praying that the amount of the said fine, with the interest thereon, may be granted to him, together with such sum as Congress may think a just indemnity for his being dragged from his home, his family, friends, and business, and thrown into a loathsome dungeon, where he suffered every species of hardship and indignity, which the most persecuting spirit could devise, for four months.

Mr. WILLIAMS, of North Carolina, moved to refer the petition to the Judiciary Committee.

Mr. EDWARDS, of North Carolina, thought, that, as this petition embraced a claim, it would be proper to let it take the course of all other claims, by referring it to the Committee of Claims.

Mr. WILLIAMS, said, though it was a claim, it was a claim arising from the operation of a law of the country supposed by the petitioner to be unconstitutional. Who could so well determine a question with regard to the constitutionality or unconstitutionality of a law, as the Judiciary Committee? Such cases had been usually referred to that committee; and even at the last session that committee had been directed to inquire into a fraud, said to have been committed in one of the courts of the United States.

On motion of Mr. SPENCER, of New York, the petition was read through, and was then referred to the Committee on the Judiciary.

On motion of Mr. WILLIAMS, of North Carolina, the Committee of Ways and Means were instructed to inquire into the expediency of abolishing the duty on salt imported into the United States.

On motion of Mr. RHEA, the Message of the President of the United States, of the 18th of January, 1816, recommending the confirmation of certain grants or reservations of lands, made by the friendly Creek Indians to Major General Andrew Jackson, Benjamin Hawkins, and others, was referred to the Committee on Private Land Claims.

On motion of Mr. POINDEXTER, the Committee on the Public Lands were instructed to inquire into the expediency of prohibiting the emigration and settlement of the Choctaw tribe of Indians, on the land of the United States, west of the river Mississippi, until they shall have acquired that right by treaty with the United States, founded on a cession of lands inhabited by said tribe of Indians, east of the river Mississippi.

STATE OF ILLINOIS.

Mr. ANDERSON, of Kentucky, from the select committee, to whom was referred the constitution of the State of Illinois, reported a resolution, declaring the admission of the State of Illinois

into the Union, on an equal footing with the original States.

The resolution was read a first and second time.—Mr. ANDERSON proposed that it should be engrossed for a third reading.

Mr. SPENCER, of New York, inquired whether it appeared, from any documents transmitted to Congress, that the State had the number of inhabitants required by the law of the last session, as a preliminary to its formation of a constitution.

Mr. ANDERSON said, that the committee had no information on that subject before them, beyond what was contained in the preamble to the constitution, which states, that the requisitions of the act of Congress had been complied with, and that the convention had therefore proceeded to the formation of a constitution. Mr. A. said, the committee had considered that evidence sufficient; and he had, in addition, himself seen, in the newspapers, evidence sufficient to satisfy him of the fact, that the population did amount to forty thousand souls, the number required.

The resolve was then ordered to be engrossed for a third reading.

The House adjourned to Monday.

MONDAY, November 23.

Several other members to wit: from New York, DANIEL CRUGER, PETER H. WENDOVER, and CALEB TOMPKINS; from South Carolina, JAMES ERVIN, ELIAS EARLE, and ELDRED SIMKINS; appeared and took their seats.

Mr. HUGH NELSON presented a memorial of William Lambert, accompanied with abstracts of astronomical calculations, to ascertain the longitude of the Capitol in this city, from the observatory of Greenwich in England, soliciting the adoption of measures authorizing additional observations to be made to test the accuracy of the result already obtained; which was referred to a select committee; and Messrs. HUGH NELSON, FOLGER, SEYBERT, CRAWFORD, and BATEMAN, were appointed the said committee.

Mr. JOHNSON, of Kentucky, presented a petition of William Jackson, solicitor on behalf of the surviving officers of the Revolutionary army of the United States, praying that an act may be passed directing the accounting officers of the Treasury to adjust the claim of each surviving officer of the said army, who, by the resolves of Congress, was entitled to half pay for life, calculating the amount of the principal of the arrearages, from the time of his reduction, and deducting therefrom five years full pay; and, the balance of arrearages being thus ascertained, to issue a certificate, bearing interest, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half pay, in half yearly payments, for, and during the time of his natural life, which petition was referred to a select committee; and Messrs. JOHNSON, of Kentucky, SIMKINS, MERCER, HOPKINSON, and SPENCER, were appointed the said committee.

On motion of Mr. P. P. BARBOUR, of Virginia, he was excused from serving on the Committee of



H. OF R.

District of Columbia—Annual Treasury Report

NOVEMBER, 1818.

Public Buildings, on the ground that he was unacquainted with architecture, either in theory or practice, and that he had at the last session voted against the appropriation even for the commencement of some of those buildings; and another member [Mr. AUSTIN] was appointed in his place.

On motion of Mr. HARRISON, a committee was appointed to inquire into the expediency of authorizing the employment of a number of clerks (not exceeding twelve) in the Department of War, and Messrs. HARRISON, PEGRAM, and COMSTOCK, were appointed the said committee.

On motion of Mr. BALDWIN, the Committee on the Judiciary were instructed to inquire into the expediency of making provision, by law, to prevent the discontinuance of suits in the district court of the United States for the western district of Pennsylvania, on account of said court not having been holden on the day prescribed by law, and for other purposes.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting sundry documents showing the state and condition of the Navy Pension Fund, the sources from whence it arises, its amount, the manner in which it is collected, the sums received yearly from each State, since the 20th June, 1812; exhibited in obedience to a resolution of this House, of the 8th of April last; which was referred to the Committee on Naval Affairs.

The SPEAKER communicated to the House a letter addressed to him by JOHN FORSYTH, containing notice of the resignation of his seat in this House, as one of the members for the State of Georgia.

## DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a letter from William Cranch, Chief Justice of the circuit court of the United States, for the District of Columbia, transmitting a code of jurisprudence for the said district, prepared (by him) under the authority of the act of the 29th of April, 1816, entitled "An act authorizing the Judges of the circuit court, and the Attorney for the District of Columbia, to prepare a code of jurisprudence for the said District," which was referred to a select committee; and Messrs. HERBERT, CYLERETH, GARNETT, WILLIAMS, of Connecticut, and ADAMS, were appointed the said committee. The letter is as follows:

NOVEMBER 9, 1818.

SIR: The undersigned, one of the Judges of the circuit court for the District of Columbia, has the honor to present, for the consideration of Congress, a Code of Jurisprudence for that District, prepared under the authority of the act of the 29th of April, 1816, entitled "An act authorizing the Judges of the circuit court, and the Attorney for the District of Columbia, to prepare a Code of Jurisprudence for the said District."

It is to be regretted, that the engagements of the gentlemen intended by that act to have been associated with him, in the business, have deprived the public of the benefit of their labors. This circumstance will in part account for the lateness of the period at which the report is made. It is, however, a work which could

not have been hastily done; for, although the District is small, yet almost every case requiring the interposition of law, which can arise in the largest nation, may arise in this District, and ought to be provided for.

In preparing a substitute for the existing statute law, it was necessary, if possible to ascertain what that law was. This was not an easy task.

By the act of Congress, of the 27th of February, 1801, the laws of Virginia, as they then existed, were to remain in force in that part of the District which was ceded by Virginia, and the laws of Maryland in that part which was ceded by Maryland. The laws thus adopted, consisted of so much of the common law of England as was applicable to the situation of this country; of the bills of rights, constitution, and statutes of Virginia and Maryland, modified by the Constitution and laws of the United States, and, also, (in regard to that part of the District which was ceded by the State of Maryland,) of such of the English statutes as existed at the time of the first emigration to Maryland, "and which, by experience, had been found applicable to their local and other circumstances, and of such others as had been since made in England or Great Britain, and had been introduced, used, and practised by the courts of law or equity" of that State.

To ascertain, therefore, what was the existing statute law, it was necessary to know what statutes of England, enacted before the first emigration to Maryland, had by experience been found applicable to the local and other circumstances of the country, and what statutes since made in England or Great Britain, had been introduced, used, and practised by the courts of law or equity in that State: and also what statutes of England or Great Britain had been expressly re-enacted by the State of Virginia.

To obtain this knowledge with as much certainty as the nature of the case would permit, it was necessary to examine minutely the English and British statutes, and compare them with the statutes enacted by Virginia and Maryland.

From these three systems of statutes, to select such as were most important and best adapted to the circumstances of the District; to supply such defects as were discovered, and to combine the whole into one code—required more deliberation, and occupied more time, than was anticipated.

These circumstances must account for the apparent delay in making the present report, which is even now submitted with much diffidence.

With high consideration, the undersigned has the honor to be, sir, your obedient servant,

W. CRANCH.

Hon. HENRY CLAY,  
Speaker House of Representatives.

## ANNUAL TREASURY REPORT.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report upon the state of the finances; which was ordered to lie on the table. The report is as follows:

TREASURY DEPARTMENT, Nov. 21, 1818.

In obedience to the directions of the "Act supplementary to the Act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates.

## Revenue.

The net revenue arising from duties upon imports

NOVEMBER, 1818.

Annual Treasury Report.

H. OF R.

and tonnage, internal duties, direct tax, public lands, postage, and incidental receipts, during the year 1816, amounted to \$36,743,574, 07, viz:

Customs	\$27,569,769 71
Internal duties	4,396,133 25
Direct tax	2,785,343 20
Public lands, exclusive of Mississippi stock	1,754,487 38
Postage and incidental receipts	237,840 53

\$36,743,574 07

And that which accrued from the same sources during the year 1817, amounted to \$24,387,993 08, viz:

Customs (see statement A)	\$17,547,540 89
Internal duties and direct tax (see statement B)	4,512,287 81
Public lands exclusive of Mississippi stock (see statement C)	2,015,977 00
Postage and incidental receipts	312,187 38

\$24,387,993 08

It is ascertained that the gross amount of duties on merchandise and tonnage, which have accrued during the three first quarters of the present year exceeds \$21,000,000, and that the sales of the public lands, during the same period, greatly exceed, both in quantity and value, those of the corresponding quarter of last year.

The payments into the Treasury during the three first quarters of the year, are estimated to amount to \$17,167,862 26, viz:

Customs	13,401,409 65
Internal revenue and direct tax	993,574 36
Public lands, exclusive of Mississippi stock	1,875,731 20
Interest upon bank dividends	525,000 00
Postage and incidental receipts	49,438 19
Repayments into the Treasury	322,708 86

\$17,167,862 26

And the payments into the Treasury during the fourth quarter of the year, from the same sources, are estimated at

5,000,000 00

Making the total amount estimated, to be received into the Treasury during the year 1818

22,167,862 26

Which, added to the balance in the Treasury on the 1st day of January last, exclusive of \$8,809,872 10 in Treasury notes, amounting to

6,179,883 38

Makes the aggregate amount of

\$28,347,745 64

The application of this sum, for the year 1818, is estimated as follows.

To the 30th September the payments (exclusive of \$9,148,237 40 of Treasury notes, which had been drawn from the Treasury and cancelled) have amounted to \$16,760,337 05, viz:

Civil, diplomatic, and miscellaneous expenses	\$3,289,806 28
Military service, including arrearage	5,620,263 08
Naval service, including the permanent	

Amount brought forward - \$28,347,745 64

appropriation for the gradual increase of the Navy - 2,383,000 00

Public debt, exclusive of the \$9,148,237 40 of Treasury notes, which have been drawn out of the Treasury, and cancelled - 5,467,267 69

During the 4th quarter it is estimated that the payments will amount to \$9,475,000, viz:

Civil, diplomatic, miscellaneous expenses 520,000 00

Military service - 1,175,000 00

Naval service - 575,000 00

Public debt to 1st of January, 1819 - 7,205,000 00

Making the aggregate amount of - \$26,235,337 05

And leaving, on the 1st day of January 1819, a balance in the Treasury, estimated at

\$2,112,408 59

## Of the Public Debt.

The Public Debt, which was contracted before the year 1812, and which was unredeemed on the 1st day of October, 1817, as appears by statement (1.) amounted to - \$31,835,788 29

By the same statement it appears that the funded debt contracted subsequent to the 1st day of January, 1812, amounted to - 68,071,933 14

Making together the aggregate amount of - \$99,907,721 43

Which sum agrees with the statement of the unredeemed amount, on the 1st day of October, 1817, as per last report, excepting the sum of \$4,123 98 over estimated, and which has now been corrected by actual settlement.

On the 1st day of January, there was added to the amount, for Treasury notes brought into the Treasury and cancelled, and for which the following stock was issued, viz:

In six per cent. stock - 234,422 10

In seven per cent. stock - 99,019 00

333,441 10

From which deduct seven per cent. stock, purchased in the fourth quarter of 1817 - 332,984 60

And also the reimbursement of old six per cent. and deferred, stock, between 1st October, 1817, and 1st January, 1818 - 800,830 98

1,133,615 58

Making the public debt which was unredeemed on the 1st of January, 1818, per statement (2.) amount to - \$99,107,346 95



H. OF R.

## Annual Treasury Report.

NOVEMBER, 1818.

From the 1st January to 30th September, 1818, inclusive, there was, by funding Treasury notes and 3 per cent. stock, (\$20.08) issued, added to the public debt, as appears by statement (3,) the amount of - 73,795 49

From which deduct the amount of stock purchased and redeemed during that period per statement (4) - 415,993 87

And also the estimated amount of the final reimbursement of the old 6 per cent. stock - 709,312 03

And the estimated reimbursement of the deferred six per cent. stock - 230,401 76

Making on that day, as appears by statement (3,) the aggregate amount of - 97,825,434 78

Since the 30th September there has been redeemed, or provision made for the redemption of a moiety of the Louisiana stock, unpaid on the 1st October, 1818 - 4,977,950 00

And there will be reimbursed, of the principal of the deferred six per cent. stock, on the first day of January, 1819, by estimate - 252,091 63

There will remain unredeemed, by estimate, on the first day of January, 1819, the sum of - \$92,595,393 15

By statement (5) the Treasury notes which are yet in circulation, are estimated at - \$297,506 00

By statement (6) it appears that the whole of the awards made by the commissioners appointed under the several acts for indemnifying certain claimants of public lands, amount to - 4,282,151 12

Of which sum there has been received at the office of the Commissioner of the General Land Office, as appears by statement C, the sum of - 1,026,684 00

Leaving outstanding, at the date of the several returns from the land districts, the sum of - \$3,255,467 12

It is proper to observe, however, that extensive sales were made in the Alabama Territory, in the months of September, October, and November, of which no returns have yet been received.

## Of the Estimates of the Public Revenue and Expenditures for the year 1819.

In the annual report of the state of the Treasury, of the 5th of December, 1817, the permanent revenue was estimated at \$24,525,000 per annum; and the annual expenditure, according to the then existing laws, was stated at \$21,946,351 74. By the acts of the last session of Congress, the internal duties, estimated at \$2,500,000 per annum, were repealed, whilst the expenditure was augmented to nearly \$25,000,000; and that of the ensuing year is estimated at not less than \$24,515,219 76.

The apparent deficit produced by these acts, and by the application of more than \$2,500,000 to the payment of the interest and redemption of the principal of the public debt, beyond the annual appropriation of \$10,000,000 for that object, has been supplied by the receipts into the Treasury on account of the arrearage of the direct tax and internal duties, and by the balance of more than \$6,000,000, which was in the Treasury on the first day of January, 1818.

These temporary sources of supply being nearly exhausted, the expenditure of the year 1819 must principally depend upon the receipts into the Treasury from the permanent revenue during that year. As was anticipated in the last annual report, the reaction produced by the excessive importations of foreign merchandise, during the years 1815 and 1816, acquired its greatest force in the year 1817.

It is presumed that the revenue which shall accrue during the present year from imports and tonnage, may be considered as the average amount which will be annually received from that source of the revenue.

It is ascertained that the bonds taken for securing duties which were outstanding on the 30th day of September last exceeded \$23,000,000, and the receipts into the Treasury from that source of revenue during the year 1819 are estimated at - \$21,000,000 00

Public Lands - 1,500,000 00

Direct Tax and Internal Duties - 750,000 00

Bank Dividends at six per cent. - 420,000 00

First payment of bonus due by Bank of the United States - 500,000 00

Postage and incidental receipts - 50,000 00

Amounting together to - \$24,220,000 00

Which, added to balance in the Treasury on the first day of January, 1819, estimated at - 2,112,408 59

Makes the aggregate amount of - \$26,332,408 59

The probable authorized demands on the Treasury during the year 1819 are estimated to amount to the sum of \$24,515,219 76, viz:

Civil, Diplomatic, and Miscellaneous Expenses - \$1,619,836 31

Military Department, including the Indian Department, permanent Indian annuities, military and Revolutionary pensions, and arming the militia - 8,666,252 85

Navy Department, including one million dollars for the gradual increase of the navy - 3,802,486 60

Public Buildings, and for discharging the demands of the contractors for making the Cumberland road - 326,644 00

Public Debt - 10,000,000 00

NOVEMBER, 1818.

## State of Illinois—Slavery.

H. OF R.

For building custom-houses and public warehouses at New Orleans and other ports - 100,000 00

Total of estimated demands - \$24,515,219 76

Which being deducted from the amount estimated to be received into the Treasury, including the balance on the first day of January, 1819 - 26,232,408 59

Leaves a balance in the Treasury on the first day of January, 1820, of - \$1,717,188 83

In presenting this estimate of receipts for the year 1819, it is necessary to premise that the sum to be received from the customs is less than what, from the amount of the outstanding bonds, would under ordinary circumstances be received. The amount of the sales of public lands during the last year, and the sum due at this time by the purchasers, would justify a much higher estimate of the receipts from that important branch of revenue, if the most serious difficulty in making payments was not known to exist. The excessive issues of the banks during the suspension of specie payments, and the great exportation of the precious metals to the East Indies during the present year, have produced a pressure upon them which has rendered it necessary to contract their discounts for the purpose of withdrawing from circulation a large proportion of their notes. This operation, so oppressive to their debtors, but indispensably necessary to the existence of specie payments, must be continued until gold and silver shall form a just proportion of the circulating currency. In passing through this ordeal, punctuality in the discharge of debts, both to individuals and to the Government, will be considerably impaired, and well founded apprehensions are entertained that, until it is passed, payments in some of the land districts will be greatly diminished.

The extent to which the payments into the Treasury, during the year 1819, will be affected by the general pressure upon the community, which has been described, and which is the inevitable consequence of the overtrading of the banks and the exportation of specie to the East Indies, aggravated by the temporary failure of the ordinary supply of the precious metals from the Spanish American mines, cannot, at this time, be correctly appreciated. Should it exceed what has been contemplated in this report, the appropriations must be diminished, the revenue enlarged by new impositions, or temporary loans authorized to meet the deficiency. As the expenditure of the year 1820 will be greatly reduced by the irredeemable quality of the public debt, after the redemption of the remaining moiety of the Louisiana stock, which may be effected on the 21st day of October, 1819, a resort to temporary loans, or to the issue of Treasury notes, to the amount of the deficiency, should any occur, is believed to be preferable to the imposition of new taxes, which would not be required after that year.

All which is respectfully submitted.

WM. H. CRAWFORD.

## STATE OF ILLINOIS—SLAVERY.

The engrossed resolution declaring the admission of the State of Illinois into the Union, on an equal footing with the original States, was read a third time; and on the question, Shall it pass?

Mr. TALLMADGE, of New York, assigned the reasons why, in his opinion, the resolution ought not to be adopted. It appeared to him, in the first place, he said, there ought to be before Congress some document, showing that the Territory had the population required by the law of the last session. The recitation of the fact in the preamble of the constitution he did not consider as the proper sort of evidence. It was not, however, upon this point that he meant to rest his opposition to the adoption of the resolution. The principle of slavery, if not adopted in the constitution, was at least not sufficiently prohibited. The ordinance for the government of the territory northwest of the Ohio, which was in the nature of a convention between the United States and the people of the States and Territories to be formed out of that territory, contained some provisions applicable to this subject. The sixth article of that ordinance provided that, in the cession of territory accepted by the United States from Virginia, and comprising the whole northwestern territory, there should be neither slavery nor involuntary servitude, otherwise than as a punishment for the commitment of crimes; with a proviso, that this provision should not be construed to prevent the reclamation of runaway slaves. If the constitution was found to comport with that provision, it ought to be received by Congress; if not, it ought to be rejected. The sixth article of the constitution of the new State of Illinois,\* in each of its three sections, Mr. T.

\*ART. 6. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a bona fide consideration received, or to be received, for that service. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or, if made in this State, where the term of service exceeds one year, be of the least validity, except those given in cases of apprenticeship.

SEC. 2. No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the salt works, near Shawneetown; nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year one thousand eight hundred and twenty-five; any violation of this article shall effect the emancipation of such person from his obligation to service.

SEC. 3. Each and every person who has been bound to service by contract or indenture, in virtue of the laws of the Illinois Territory, heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws, shall serve out the time appointed by said laws: *Provided, however, That the children hereafter born of such persons, negroes,*



contended, contravened this stipulation, either in the letter or the spirit. These sections he separately examined, as to their construction and bearing, and felt himself constrained to come to the conclusion that they embraced a complete recognition of existing slavery, if not provisions for its future introduction and toleration; particularly in the passage wherein they permit the hiring of slaves, the property of non-residents, for any number of years consecutively. If Congress would observe in good faith the terms of the convention, he said, they were bound, under this circumstance, to reject the constitution of Illinois, or at least this feature of it. The State of Virginia, he said, had ceded the territory out of which this State was formed, on certain conditions, to the United States; one of which was that to which he had just adverted, and it was a monument to the fame of Virginia. It had often been cast as a reproach on this nation, that we, who boast our freedom, and pride ourselves on our independence, yet hold our fellow-beings in service. Americans had been represented, indeed, with one hand exhibiting the declaration of independence, and with the other brandishing the lash of despotism. When this stigma was attempted to be fixed on our country, it was a consolation to him, he said, that we have it in our power to cast it back again on the country from which we are severed—hers was the original sin, which we found in existence on our emancipation, and which it had been impossible to eradicate—we could do no more than control and regulate the evil. So far from wishing to invade the rights of the slaveholding States, or to assail their prerogatives, he believed they were equally sensible with him of the evils of slavery, and did what they could to control and regulate them. But, Mr. T. said, if Congress should voluntarily recognise this feature in a constitution submitted for their decision, and in violation, too, of a compact forbidding it, they would take upon themselves the unjust imputation he had alluded to. Mr. T. referred to the constitution of the State of Indiana, a State already admitted from the same territory, to show how carefully and scrupulously it had guarded against slavery, in any shape, and in the strongest terms reprobated it; and lest at some future day amendments to the constitution should admit its introduction, a clause of that constitution forbade any amendment of that sort to be made. These sentiments of the State of Indiana, Mr. T. said, he reciprocated. Our interest and our honor, said he, calls on us rigidly to insist on the observance of good faith under the article of the ordinance I have referred to, so far as that no involuntary service be permitted to be recognised in the constitution of any State to be formed out of that territory.

or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.—*Constitution of Illinois.*

Mr. POINDEXTER, of Mississippi, said he fully concurred with the gentleman from New York, in his solicitude to expel from our country, whenever practicable, anything like slavery. It is not with us, said he, a matter of choice whether we will have slaves among us or not: we found them here, and we are obliged to maintain and employ them. It would be a blessing, could we get rid of them; but the wisest and best men among us have not been able to devise a plan for doing it. The only question at present is whether the State of Illinois has virtually complied with her contract, and followed the example of the two other States already erected from the same territory. To illustrate that fact, Mr. P. referred to the constitution of Ohio, the erection of which State, from the Northwestern Territory, the gentleman appeared to have overlooked; and showed that the article on the subject of slaves was almost literally copied from the constitution of Ohio into that of Illinois. The third section of the article in question, in the latter, was the only variation, and the necessity of that additional provision would be obvious to any gentleman who would examine and reflect upon the subject. By an antecedent law of the Territorial government, all persons, slaves or under indenture, in the Territory, were required to be registered, as the only way in which they could be discriminated from fugitives, &c. The constitution directs that their children also shall be registered, that they may be secure of enjoying their freedom, when by the constitution they become entitled. From their color, (being *prima facie* slaves in other States,) was it not more secure to the freedom of the people of color, that their births, parentage, &c., should be recorded in the new State, than otherwise? So far from constituting an objection to it, Mr. P. said, he considered this a valuable part of the constitution of Illinois. As to children, born of slaves, not being free until eighteen or twenty-one years of age, Mr. P. said that would be no great hardship, seeing it was as soon as white persons were free from their parents, or from their indentures, if apprenticed. With respect to constitutional provisions on this subject, Mr. P. said, after all, it would be found impracticable, after admitting the independence of a State, to prevent it from framing or shaping its constitution as it thought proper. As to a constitution like that of Indiana, prohibiting the introduction of an amendment to it, of whatever nature, if the people were to form a convention to-morrow, that provision would be of no force: the whole power would be with the people, whom, in their sovereign capacity, no provision of that nature can control. Nor could Congress prevent them. Various attempts had already been made in Ohio to alter that feature. In the nature of free governments, no law could be irrevocable; though on this head, he observed, he hoped that neither Ohio, Indiana, nor Illinois, would ever permit the introduction of slavery within their limits. He hoped, as far as we could, we should expel slavery from the country. At the same time, he thought that Illinois, so far as she had gone, had done

better than the States which had preceded her in the same quarter, because she had provided for the security of the freedom of negroes, mulattoes, &c., and to prevent them from being kidnapped, by causing them to be registered.

Mr. ANDERSON, of Kentucky, repeated what he had said on Friday last, respecting the population of Illinois, and his own conviction that it was of the required amount. If on this subject Congress had been very scrupulous, Mr. A. said, they would have directed a census of the population to be taken by persons appointed by the United States for that purpose; but they had always heretofore in like cases submitted to Territorial counts and Territorial results, and he did not see why they should not do the same in the present case. All that was necessary was that they should be reasonably satisfied of their accuracy. With respect to the other objection of the gentleman, he thought he could satisfy him that his position was manifestly incorrect. It would be seen, on reading the articles of cession by Virginia, that no condition, such as the gentleman supposed, was annexed to it, respecting slavery. The conditions she required were of a different character, and this provision respecting slavery had been prescribed by Congress, among other articles framed for the government of the Territory thus ceded. Virginia had no concern in it, except so far as she was represented on the floor of Congress, when the ordinance was passed. Still less were the people of the Northwestern Territory a party to the compact, as the gentleman supposed it, not being represented at all, nor consulted on the occasion. Congress then are not in this respect bound by any pledge, nor by anything but a sense of expediency, co-operating with the like sense of the people of Illinois. The conditions reserved by Virginia on making the cession were that a certain number of States should be erected from the Territory, and all existing rights of the people preserved; and, Mr. A. said, there were slaves in the Territory at that day. So far from Virginia requiring the abolition of slavery, doubts had arisen whether, under the stipulations she made on ceding the Territory to the United States, Congress should pass the ordinance which they subsequently enacted. Serious doubts had arisen, after stipulating to make three States, whether Congress had a right to prescribe any condition respecting slavery, &c.; not, Mr. A. said, that he would destroy the ordinance, but he meant to state only how far its scope extended. There was nothing unconstitutional, in any view, in Congress accepting what the people of Illinois have done, if they thought proper; since the consent of the two contracting parties (supposing the ordinance to be a compact) would thus be given. With respect to the nature of the provisions referred to in the constitution, the gentleman who preceded him had clearly shown that they had been misunderstood by the gentleman from New York.

Mr. TALLMADGE replied.—In referring to the ordinance, as binding Congress not to permit slavery, in any of the States formed from the North-

western Territory, he conceived Congress to be bound by a tie not to be broken: but, if in this he was wrong, and Congress are bound by nothing but their sense of expediency, that tie became ten thousand times more strong. Are we, said he, to be drawn into a discussion of slavery, its merits and demerits, on abstract principles? He would not enter into such a discussion; but must persist in stating it as his opinion, that the interest, honor, and faith of the nation, required it scrupulously to guard against slavery's passing into a territory where they have power to prevent its entrance. Mr. T. again enumerated the provisions in the constitution of Illinois, to which he objected, and made further remarks on them. He considered it such, that to accept it, would be to violate a pledge solemnly given, and, if not a stipulation, yet, so simultaneously given, as to amount to a compact with Virginia. With respect to the power of a State to change its constitution, he was not prepared to say that a State was, in that respect, under no restraint. Would gentlemen admit a State into the Union to-day under a republican form of government, and permit it to call a convention to-morrow, and change its form of government to a monarchy? That State would cease, by the very act, to be a component part of the Union, and the same result would follow, he presumed, if a State were to violate the condition on which it was admitted into this Union, by admitting the introduction of slavery.

Mr. LIVERMORE requested the yeas and nays on the decision of this question.

Mr. HARRISON said, that, as a Representative of Ohio, he protested against the doctrine of the gentleman from New York. He could assure the gentleman that the people of that State were fully aware of their privileges, and would never come to this House, or to the State of New York, for permission so to alter their constitution as to admit the introduction of slavery, the object of the gentleman's abhorrence, as, said Mr. H., it is of mine. They had entered into no compact which had shorn the people of their sovereign authority. Mr. H. proceeded to make some remarks respecting the operation of the ordinance, cessions, &c. Though there were slaves in that country when ceded, there had been none in that part of it from which the State of Ohio had been formed, so that no provision had been necessary respecting them in the constitution of that State. In Indiana, the question relating to this description of property had been reserved for the decision of the courts of justice, &c., and he sincerely wished that Illinois had either emancipated its slaves, or followed the example of Indiana. In regard to the supposed compact, however, and its efficacy, Mr. H. said, he had always considered it a dead letter. He could not put his hand on the page, or on the letter, but he believed it would be found that, in one of the pages of the Federalist, the authority of which he presumed, at least, the gentleman from New York would respect, Alexander Hamilton had expressly declared the same opinion. He could not believe, he said,



that Congress would refuse to accept the State of Illinois on the ground of that compact: for his part, he wished to see that State, and all that Territory, disenthralled from the effect of articles to which they never gave their assent, and to which they were not properly subject. This much he wished, however he was opposed to slavery, and should lament its introduction into any part of that Territory.

After a few further remarks, from Mr. TALLMADGE, Mr. ANDERSON, and Mr. STORRS, the question on the passage of the resolution was decided in the affirmative—yeas 117, nays 34, as follows:

**YEAS**—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Blount, Boden, Bryan, Burwell, Butler of New York, Butler of Louisiana, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Cushman, Desha, Drake, Edwards, Ervin of South Carolina, Floyd, Garnett, Hall of North Carolina, Harrison, Hendricks, Herbert, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lewis, Lincoln, Linn, Little, McLane of Delaware, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Robert Moore, Samuel Moore, Moseley, Mumford, H. Nelson, T. M. Nelson, New, Newton, Ogden, Ogle, Owen, Palmer, Patterson, Pegram, Peter, Pindall, Pitkin, Pleasants, Poindexter, Porter, Quarles, Rhea, Rice, Robertson, Rogers, Ruggles, Sampson, Sawyer, Schuyler, Scudder, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Stuart of Maryland, Tarr, Terrell, Terry, Tompkins, Trimble, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina—117.

**NAYS**—Messrs. Adams, Bennett, Boss, Clagett, Crafts, Darlington, Ellicott, Folger, Gage, Gilbert, Hale, Hasbrouck, Hunter, Huntington, Livermore, Wm. Maclay, Wm. P. Maclay, Merrill, Morton, Murray, Jeremiah Nelson, Orr, Reed, Rich, Richards, Savage, Seybert, Southard, Tallmadge, Taylor, Wendover, Whitman, Wilson of Massachusetts, and Wilson of Pennsylvania—34.

So the resolution was passed, and sent to the Senate for concurrence.

TUESDAY, November 24.

Another member, to wit: from Massachusetts, SAMUEL C. ALLEN, appeared, and took his seat.

Mr. H. NELSON, from the Committee on the Judiciary, reported a bill concerning the western district court of Pennsylvania; which was twice read, and committed.

Mr. N., from the same committee, to whom was referred the memorial of Matthew Lyon, praying a reimbursement of the expenses incurred by the prosecution under the act of Congress of July, 1798, commonly called the sedition law, he then being a Representative in Congress from the State of Vermont, made a report thereon,

that the prayer of the petitioner ought not to be granted.

Mr. N. said, he felt himself constrained to state to the House that, on this question, he had been in a minority in the committee, and wished the subject to be fully laid before the House. He therefore moved that the report be referred for consideration to a Committee of the whole House.

The motion was agreed to.

Mr. HOPKINSON, under the instruction of the Judiciary Committee, reported a bill to establish a uniform system of Bankruptcy throughout the United States.

In introducing this bill, Mr. H. remarked, that the bill was in form the same which he had the honor to introduce to the consideration of Congress at their last session. It was not his intention, he said, to fatigue the House by a long argument at present; but he had thought it his duty to bring the subject once more before Congress, and have a vote taken on it, because the necessities of the people demanded it, and in the hope that, during the recess of Congress, the opinions of some gentlemen might have changed, from reflection, or from information derived from others, of the pressing occasion for such a law. Mr. H. hoped that gentlemen would not turn from this question with alarm, but that there would be a fair expression of the opinion of Congress on the subject.

The bill was read, and committed.

Mr. HARRISON, from the committee to whom the subject was referred, reported a bill to increase the number of clerks in the Department of War; which was twice read, and committed.

Mr. JOHNSON, of Kentucky, from the select committee, to whom the subject was referred, reported a bill to authorize the election of a Delegate from the Michigan Territory to Congress, and extending the right of suffrage to the people of said Territory; which was twice read, and committed.

Mr. TAYLOR introduced a resolution authorizing the franking of the documents accompanying the President's late Message; which was read three times, and passed.

On motion of Mr. POINDEXTER, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of giving effect, by law, to an act passed by the General Assembly of the State of Mississippi, entitled "An act making appropriations for the use of the Natchez hospital."

Mr. CAMPBELL was appointed of the Committee on Foreign Affairs, vice Mr. Forsyth resigned.

The SPEAKER laid before the House a letter from Richard Bland Lee, late Commissioner of Claims, transmitting a letter from Jacob Dox, soliciting compensation for his services as agent on behalf of the United States, in the taking of evidence in certain claims of great magnitude, on the Niagara frontier of the State of New York; which letters were referred to the Committee of Claims.

On motion of Mr. SPENCER, the committee appointed at the last session of Congress, to inquire into the official conduct of certain judges of the courts of the United States, were discharged from so much of their duty as relates to the conduct of William Stephens, who has resigned his office of judge of the court of the United States for the district of Georgia.

The House then proceeded to the orders of the day, lying over from the last session, which, by a rule of the House, are revived in *statu quo*, at the expiration of the first week of the present session.

The House first resolved itself into a Committee of the Whole, on the report of the Committee of Ways and Means unfavorable to the petition of Daniel Manly and Aaron Walker. Mr. WHITMAN moved to reverse the report; on which motion a debate ensued, wherein Mr. WHITMAN supported, and Messrs. TRIMBLE and SMITH of Maryland, opposed the motion; which was finally negatived by a large majority, and the report adopted. In which the House concurred, on the Speaker's taking the Chair.

#### NEW JUDICIAL DISTRICT.

The House next resolved itself into a Committee of the Whole, on the bill, reported at the last session, for erecting a separate judicial district west of the Alleghany mountain, in the State of Virginia.

In the course of the consideration of the bill, among other propositions, was one made by Mr. COLSTON, of Virginia, so to amend the bill as to retain in the eastern circuit, by accepting them from the western, the counties of Hampshire and Hardy; and one by Mr. MCCOY, of Virginia, to leave in the eastern circuit the county of Pendleton; both of which motions were agreed to.

Mr. B. SMITH moved to amend the bill so as to substitute the town of Lewisburg, in Greenbriar county, for Clarksburg and Wythe court-house, so as to have only one place of holding courts, instead of two, as proposed in the bill, and supported his motion by various explanations to establish its propriety.

This motion was opposed by Mr. PINDALL, and was in the end negatived.

Mr. TAYLOR, of New York, moved to strike out the provision for a salary to the marshal and attorney of the new district, on the ground that no salary had been allowed to those officers in the additional districts created in other States; and that, if any were allowed in this case, it ought to be by a general provision.

Mr. BALDWIN, of Pennsylvania, related some facts, showing that there were instances of salary allowed to those officers in some of the additional districts of other States; after which the motion was negatived.

Mr. FLOYD, of Virginia, moved to strike out Wythe court-house, and substitute Giles court-house, as one of the two places of holding the courts of the new district, and made some remarks in support of the motion.

Mr. A. SMYTH opposed the motion, and replied

to Mr. FLOYD, who rejoined; and, after some further remarks by Mr. SMYTH, the motion was negatived; and the bill being gone through, and the blanks filled, &c., it was reported to the House, and the amendments of the committee agreed to.

Mr. MCCOY, expressing his embarrassment how to vote on this bill, not being able to perceive any necessity for the proposed division, with the information he at present possessed, asked of the advocates of the measure to exhibit the reasons for its adoption.

Mr. PINDALL entered into a recapitulation of the reasons he had heretofore submitted in support of the justice and expediency of the establishment of the new district; and, after some remarks from Mr. MCCOY in reply, the bill was ordered to be engrossed, as amended, and read a third time.

WEDNESDAY, November 25.

Several other members, to wit: from Virginia, JOHN TYLER, JAMES JOHNSON, and GEORGE F. STROTHER; and, from SOUTH CAROLINA, WILLIAM LOWMEDES, appeared, and took their seats.

Mr. WILSON, of Pennsylvania, presented a petition of the President, Managers, and Company of the Milford and Oswego Turnpike Road, praying that an act may be passed authorizing a subscription on behalf of the United States to the capital stock of said company.—Referred to the Committee on Roads and Canals.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of William T. Nimmo, which was read; when Mr. W. reported a bill for the relief of the said William T. Nimmo, which was read twice, and committed.

On motion of Mr. SILSSEE, the Committee of Ways and Means were instructed to inquire into the expediency of allowing, in cases of exportation of goods entitled to debenture, the same time (of twenty days) for completing the export entry and oath, as is allowed by the act of the 20th of April last, for executing the export bonds, in lieu of ten days within which it is now required that the said oath and entry shall be completed.

Mr. WHITMAN offered for consideration the following resolution:

*Resolved*, That the Committee on Pensions and Revolutionary Claims be instructed forthwith to prepare and report a bill granting pensions to the individuals in whose favor a bill for that purpose passed this House at the last session, and at the rates and from the periods in the same bill prescribed.

Some debate took place on the relative propriety of acting as proposed, or of waiting for the Senate, in which body the bill fell through at the last session, to revive it. The latter course was supported by Mr. RHEA, and opposed by Mr. WHITMAN. With a view to his object, Mr. RHEA moved to lay the resolution on the table; which motion was negatived, and the resolution was agreed to.

An engrossed resolution authorizing the trans-



mission of certain documents free of postage, was read the third time, and passed.

The House spent some further time in Committee of the Whole, on the bill of last session, confirming certain claims to land in the Illinois Territory. After considerable debate, in which Messrs. POINDEXTER and HARRISON bore the principal part, the Committee rose, and obtained leave to sit again.

#### NEW JUDICIAL DISTRICT.

The engrossed bill to establish a separate judicial district in the State of Virginia, west of the Alleghany mountains, was read a third time; and on the question, Shall the bill pass?

Mr. FLOYD, of Virginia, moved to recommit the bill, for the purpose of amending it, so as to divide the eastern from the western judicial district by county lines, believing that to be a much better dividing line than that established by the bill. [The bill provides that the new district shall be composed of so much of the State of Virginia as is situate west of the summit of the mountains which separate the waters emptying into the Chesapeake bay and Roanoke river from the waters which fall into the Ohio river.]

This motion was opposed by Mr. PINDALL, who, though he admitted some inconvenience might result from the line proposed by the bill, thought it was an inconvenience inseparable from any division, and which would be only varied in its operation, but not changed in its nature, by an amendment such as that proposed by Mr. FLOYD.

The question on recommitment was decided in the negative, and the bill was passed.

#### DISCONTINUANCE OF SUITS.

The bill to prevent the discontinuance of suits in the western district court of Pennsylvania, in consequence of the court not having been held at the time appointed by law, (because the judge's commission was not received in time,) passed through a Committee of the Whole.

A proposition was made by Mr. PORTER, to amend the bill, so as to allow to the marshal and clerk of the western district of New York, the same salary (two hundred dollars each) as the bill proposes to allow to those of the western district of Pennsylvania.

Mr. BALDWIN, to disembarass this bill of any possible objection, as it was important it should pass speedily, moved to strike out the section allowing the salaries in question.

Which being agreed to, Mr. PORTER's motion fell with it; and the bill was ordered to be engrossed for a third reading.

#### ADDITIONAL CLERKS.

The House then resolved itself into a Committee of the Whole, Mr. SMITH of Maryland in the Chair, on the bill for appointing an additional number of clerks in the War Department.

On motion of Mr. HARRISON, an appropriation was inserted for a year's salary to the twelve additional clerks proposed by the bill.

Mr. WALKER, of North Carolina, expressing a

desire to be more particularly apprized of the causes which made this increase of clerks in the War Department necessary—

Mr. HARRISON stated that, from the information received from the Secretary of War, the committee who reported the bill had been satisfied of its necessity, to a timely decision on a large mass of applications under the act of the last session, for granting pensions to certain surviving Revolutionary officers. Among other facts, Mr. H. stated, that the applications which had been made under the act of last session, amounted to 19,973; of which 4,200 had been favorably received, 3,400 had been rejected or suspended for further evidence, and 12,373 remain to be decided. In this duty ten clerks had so far been employed, who, considering the labor necessary for examining and stating each claim, had decided on as many as possible. As an additional motive for passing the bill, besides its being the interest of the United States, to ascertain, as soon as possible, the total amount to be provided for, he said many of the applicants, who had formerly enjoyed pensions from the States or the United States, had been deprived of them in consequence of their application for the benefit of the new law, and were now in a state of great distress. In regard to the expense to be caused by the bill, which was limited to one year's duration, it was scarcely material, since so much clerk hire would be necessary for the business, whether it was expended at once to have it done, or protracted in its expenditure for two or three years.

The Committee rose and reported the bill, which was ordered to be engrossed for a third reading.

#### CITY OF WASHINGTON.

The House then spent some time in Committee of the Whole, on the bill to amend the act authorizing the sale of certain reserved lots in the City of Washington.

Mr. HERBERT explained the object of the bill to be, to enable the Commissioner of the city to carry into effect the common law, according to the intent of the act of Congress, and conformably to a plat by which Congress had intended those sales should be regulated; an object which was defeated by the wording of the former law.

Mr. SMITH, of Maryland, moved to strike out the first section of the bill, on the ground that the proceeding proposed to be sanctioned by it would be an interference with private rights, which, he said, ought to be touched with great circumspection at any time. Mr. S. proceeded to state the terms on which the proprietors had surrendered their rights in the land on which the city stands, taking alternate lots or squares, and receiving in addition twenty or twenty-five pounds per acre for the ground included in the public reservations. Any deviation from the plan of the city, which should throw these reservations into the market, these proprietors, he said, would consider as a violation of the contract they had entered into, and were ready, in case of the attempt to do it, to lay injunctions on the proceeding. Besides,

Mr. S. said, if Congress once began to alter the plan of the city, where would they stop? The citizens would be continually coming before them to make alterations, not to beautify the city only, but to serve their own interests. Indeed, he thought Congress must have been surprised into the passage of the law which this bill proposed to amend, or they would not have passed it.

Mr. HERBERT replied, that he had not been in favor of the principle of the original act; but that act had, after deliberation, received the approbation of Congress, and, if it was to have the effect intended when it passed, the amendment now proposed was necessary.

Mr. DESHA said, that, from what had taken place, the subject appeared to be but little understood, and information was wanting to enable the House to act understandingly on it. He, therefore moved that the Committee rise, and ask leave to sit again.

Which was agreed to, and the Committee rose, and had leave to sit again.

#### BANK OF THE UNITED STATES.

Mr. SPENCER, of New York, offered for consideration the following resolution:

*Resolved*, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States, and to report whether the provisions of its charter have been violated or not; and particularly to report whether the instalments of the capital stock of the said bank have been paid in gold and silver coin, and in the funded debt of the United States, or whether they were, in any instance, and to what amount, paid by the proceeds of the notes of stockholders, discounted for that purpose; and also to report the names of those persons who now own, or who have owned, any part of the capital stock of the said bank, and the amount of discounts, if any, to such persons respectively, and when made; and also to report whether the said bank, or any of its offices of discount and deposits, have refused to pay the notes of the bank in specie on demand, and have refused to receive in payment of debts due to them, or either of them, the notes of the bank, and whether the bank or any of its offices of discount, or any of their officers or agents have sold drafts upon other offices, or upon the bank, at an advance, and have received a premium for such drafts; also, the amount of the notes issued payable at Philadelphia, and at each office of discount respectively, and the amount of capital assigned to each office, together with the amount of the public deposits made at the bank and at each office, and an account of the transfers thereof, and the total amount of bills and notes discounted at the bank and its several offices since its organization; that the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks, the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

Mr. SPENCER remarked, on introducing this motion, that it was with considerable reluctance he had submitted it to the House—a reluctance, however, proceeding solely from his inability to do justice to the subject, and not from any doubt

of the necessity or of the propriety of the proceeding. He had waited till this day, in the hope that some member, whose experience was more extensive than his own, would have moved the inquiry; but, having been in this respect disappointed, he had felt it his imperious duty to do it. As to the authority of this House to make the investigation, he thought there could be little doubt. If there should be any doubt on the mind of any gentleman on this subject, he referred him to the 23d section of the act establishing the bank, which expressly authorized an examination of the books of the bank, when required, by a committee of Congress. As to the necessity of the inquiry proposed, he presumed there were few of those near him who were not aware of the agitation which exists in the public mind on this subject, and who did not perceive that, from one end of the country to the other, loud complaints were made against the conduct of the officers of the banks. It was necessary for him to state, Mr. S. said, as he did explicitly state, that he meant to implicate the conduct of the bank in no respect; on that point he had formed no opinion, and would form none, until the facts reported by the committee should justify him in drawing his conclusions on the subject. He was neither hostile to the bank, nor particularly friendly; he owed nothing to it; he was the proprietor of none of its stock, nor, that he knew of, were any of his friends. But, that complaints existed against the bank, he well knew; and, whether well or ill-founded, it was equally due to the nation and to the bank that a fair inquiry should take place, and such a report be made as would show that the complaints were unjust, if such should prove to be the fact, or, if otherwise, should exhibit the specific instances of misconduct which the committee should be able to discover. The objects specified in the resolve, Mr. S. said, were all those respecting which, to his knowledge, complaints had been made; and they were subjects respecting which it was at least certain that the nation required information. The friends of the bank, he thought, ought to solicit the inquiry proposed; they should be anxious that a full investigation should take place, and that, too, by a committee having no resentments against the bank to gratify, nor any feelings of friendship or attachment to bias them against it—by a committee, depending on their own inspection for facts, and not on information of a general nature derived from the officers of the bank. A full and fair view of the whole subject, thus obtained, would be attended with the most happy consequences to the nation and to the bank. If it should be shown that immense discounts had not been made to particular persons, for the purpose of speculation merely; that, by this means, the stock of the bank had not been blown up into a bubble which had now burst; that the bank had distributed its accommodations with a view to the accommodation of the community rather than of individuals; that it had used its best exertions to accomplish, what was one of the objects of its establishment, the equalization of the currency, as far as practicable;



H. OF R.

Proceedings.

NOVEMBER, 1818.

if it had done all this, and fairly endeavored to meet the public expectations, although it may have failed in that object, it would become an act of justice to rally around the institution, to sustain and give it credit, because no one could doubt the utility of such an institution to the nation, if properly conducted. With these observations, Mr. S. submitted the resolution to the will of the House.

Mr. McLANE, of Delaware, rose, he said, not to offer any opposition to the inquiry, but merely to request time to give to the subject of the resolution such a consideration as its importance deserved. It would be recollected by the House, that a resolution had passed the Senate during the last session, calling on the Secretary of the Treasury to lay before Congress a particular account of the state and transactions of the bank. This report might be expected shortly to be laid before Congress; and in that report would, perhaps, be embraced all the information required by the resolve. Although rumors had existed, Mr. McL. said, with regard to certain transactions in the bank, he thought it would be well not to institute an inquiry hastily on the foundation of mere rumor. He wished the resolution to lie on the table for a day, or for a longer time, that the House might have time to reflect on it. He, therefore, moved that it lie on the table, and be printed.

Mr. SPENCER said he had no sort of objection to this course; but he hoped that, after gentlemen should have reflected on it, they would be disposed to take it up and act on it at an early day.

THURSDAY, November 26.

Another member, to wit: from Ohio, SAMUEL HERRICK appeared, and took his seat.

Mr. RHEA, from the Committee on Pensions, reported a bill concerning invalid pensions, (being in form and substance the same as passed this House during the last session, and fell through in the Senate.) The said bill was read a first and second time, and ordered to be engrossed for a third reading; and was subsequently read a third time, passed, and sent to the Senate.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of sundry inhabitants of the town of Mobile, who pray indemnity for certain losses sustained by encampments of detachments of the Army on or near their property during the late war; and the report was agreed to.

Mr. WILLIAMS also made a report on the petition of Samuel Walker, accompanied by a bill for his relief; which was twice read, and committed.

Mr. PLEASANTS, from the Committee on Naval Affairs, reported a bill extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines who died in the public service; which was twice read, and committed.

On motion of Mr. POINDEXTER, the Clerk of

the House of Representatives was directed to furnish each standing committee of the House with a volume of the laws of the United States, having relation to the public lands.

Mr. CAMPBELL submitted the following resolution, which was read, and ordered to lie on the table for one day:

*Resolved*, That the standing rules of this House be amended, by rescinding rule fifteen, which is in these words:

"After six days from the commencement of a second, or subsequent session, of any Congress, all bills, resolutions, and reports, which originated in this House, and at the close of the next preceding session remained undetermined, shall be resumed and acted on, in the same manner as if an adjournment had not taken place."

On motion of Mr. BUTLER, of New Hampshire, a committee was appointed to prepare and report to this House, a bill granting a pension to Major General John Stark; and Messrs. BUTLER, of New Hampshire, HUNTINGTON, and BLOOMFIELD, were appointed the said committee.

A Message was received from the PRESIDENT OF THE UNITED STATES; which was read, and is as follows:

*To the House of Representatives of the United States:*

I lay before the House of Representatives a report from the Commissioner of the Public Buildings, made in compliance with a resolution of the Senate of the 28th of January last, requiring a statement of the expenditures upon the public buildings, and an account of their progress to be annually exhibited to Congress.

JAMES MONROE.

NOVEMBER 26, 1818.

The Message and documents were referred to the Committee on the Public Buildings.

Engrossed bills of the following titles, to wit:

An act to increase the number of clerks in the Department of War; an act concerning the western district court of Pennsylvania; and an act concerning invalid pensions; were severally read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to provide for the removal of the Library of Congress to the north wing of the Capitol;" in which they ask the concurrence of this House.

The said bill was read twice, and committed to a Committee of the whole House to-day.

On motion of Mr. MIDDLETON, the bill reported at the last session supplementary to the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States," passed the 2d of March, 1807, was referred to the committee appointed on that part of the President's Message which relates to the unlawful introduction of slaves into the United States.

The House then resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act to provide for the removal of the Library of Congress to the north wing of the Capitol." The bill was reported without

NOVEMBER, 1818.

Claim of Beaumarchais.

H. OF R.

amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

The bill for the relief of Mehitable Cole, passed through a Committee of the Whole, and, after some remarks in favor of it by Mr. CLAGETT, the bill was ordered to be engrossed for a third reading.

## CLAIM OF BEAUMARCHAIS.

The House then resolved itself into a Committee of the Whole, Mr. SMITH of Maryland in the chair, on the bill for the relief of the heirs and representatives of Caron de Beaumarchais.

[The magnitude of this claim makes it an important one, and the long interval of time which has elapsed since the debt was contracted, has at once tripled the amount of the debt, and involved in some obscurity the question of the justice of the claim. In the report of the committee to whom the subject was referred at the last session, and on which this bill is founded, the members of the committee were unanimous. This report, which is an elaborate and able one, was read through to-day by the Clerk. A report of a committee of a former Congress, adverse to the claim, and equally elaborate, was also read through.]

After the reading of these documents—

Mr. BASSETT made a few remarks on the merits of this claim, impressively urging on the House the justice of giving to the claim a liberal and serious consideration. He stated the important services rendered to the United States by M. Beaumarchais, and the reduced fortunes of his heirs. After reading the warm expression of thanks to that gentleman by the Continental Congress, and stating that his aid had essentially contributed to some of the most important and successful events of the Revolutionary war, Mr. B. expressed his hope that the door would not be closed in the face of his representatives, suing for a debt justly due by the United States, and the want of which had impoverished them.

Mr. PITKIN said that this claim was of that nature, and of that amount, too, which required a cool consideration of its nature; and that the House should closely examine into its merits for themselves. With regard to this claim, some of the documents unfavorable to it had been destroyed at the time of the invasion of 1814; others were not generally accessible, or not generally understood. As gentlemen could not have had time to look over the papers at the present session, and it was, withal, growing late, he moved that the Committee should rise, that, on meeting again, gentlemen might be better prepared than at present to go into a consideration of the question.

Whereupon the Committee rose, and obtained leave to sit again.

FRIDAY, November 27.

Another member, to wit: from Virginia, WILLIAM LEE BALL, appeared, and took his seat.  
15th CON. 2d SESS.—11

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Gad Worthington, which was read twice, and committed to a Committee of the Whole.

On motion of Mr. SPENCER, the testimony taken under commissions issued by Richard Bland Lee, Esq., Commissioner of Claims, and all other testimony in relation to the claims for remuneration for property captured and destroyed on the Niagara frontier, in the late war, which were before the Committee of Claims during the last session, was referred to the Committee of Claims.

On motion of Mr. LOWNDES, a committee was appointed to inquire whether it be expedient to make any amendment to the laws which regulate the coins of the United States and foreign coins; and Messrs. SEYBERT, NELSON of Massachusetts, IRVING, and HARRISON, were appointed the said committee.

On motion of Mr. THOMAS M. NELSON, the Committee on Military Affairs were instructed to inquire into the expediency of amending the act passed at the last session of Congress, approved the 14th of April, 1818, entitled "An act regulating the staff of the Army, so as to do away the offices of surgeon general and assistant surgeon general, and to have two surgeons general, corresponding to the present office of assistant surgeon general, with their present pay, emoluments, and duty, who shall make their returns, through the adjutant and inspector general, to the Secretary of War, as they now do through the surgeon general.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the names and places of residence of the several persons placed upon the pension list under the act of the last session, providing for persons engaged in the land and naval service of the United States in the Revolutionary war, made in obedience to a resolution of this House, of the 20th of April last, which was ordered to lie on the table.

On motion of Mr. TAYLOR, the Secretary for the Department of War was instructed, in addition to the report of Revolutionary pensioners, made to this House in pursuance of a resolution of the last session, to designate on the list thereof, the line, corps, or vessel, to which the pensioner belonged, the time of his service, and, if an officer, his rank in the Army or Navy.

Mr. SPENCER called for the consideration of the resolution submitted by him on Thursday, for an inquiry into the conduct of the Bank of the United States.

Mr. LOWNDES suggested to the mover the propriety of deferring the consideration of the resolution a day or two longer, when the House would be in possession of information on the subject which it had not yet received.

Mr. SPENCER not giving way to this suggestion, the question was taken whether the House would now proceed to consider the resolution, and decided in the negative—ayes 62, nays 73.



H. OF R.

Claim of Beaumarchais.

NOVEMBER, 1818.

## CLAIM OF BEAUMARCHAIS.

The House then again resolved itself into a Committee of the Whole on the bill for the relief of the heirs of Caron de Beaumarchais.

Mr. PITKIN, of Connecticut, opened the debate, in opposition to the bill, in a speech which occupied in the delivery the whole of the day's sitting. In the outset, he remarked on the importance of the subject in hand; the interest it had excited, and the feeling it had produced in the old Congress, as well as under the present Government, whenever it had presented itself for consideration. During the existence of the war of the Revolution, some of the documents relating to it had miscarried, and some had been stolen in their transmission; others had been since destroyed by fire, or overlooked in the mass of public papers. Hence the claim had been involved in much mystery, requiring close investigation to unravel it. Mr. P. then proceeded to the examination of the subject, as it had been viewed by the Commissioners of the United States at Paris, by the French Government, and by the claimants. In the course of his argument, he read extracts from letters of Arthur Lee, Benjamin Franklin, and Silas Deane; from the American and French diplomatic volumes; from Gordon's history, and from various other sources. From all these documents, and connecting all the facts disclosed by them together, Mr. P. thought the conclusion irresistible, that the supplies furnished by Caron de Beaumarchais had been a gratuitous aid by the Government of France, and not a private transaction of Beaumarchais. The French Government, which had always disclaimed all expectation of repayment of the aid thus afforded, under the critical circumstances in which it was then placed, Mr. P. contended, had availed itself of the cover of a mercantile transaction, and of the agency of Beaumarchais as the ostensible shipper of supplies; that it had done so, the public disavowal of any agency in this matter was no proof to the contrary, being a part of the policy of concealment which dictated the employment of mercantile agency in the first instance. This claim, therefore, Mr. P. considered as wholly unsustained, and founded on an attempt on the part of Beaumarchais to aggrandize himself and family, by taking advantage of the secret agency in which his name had been employed, and that of the Government and its officers wholly concealed, to claim remuneration from the United States for the supplies sent, as if the matter had been a speculation of his own.

After Mr. P. had concluded his remarks, the Committee rose and obtained leave to sit again.

MONDAY, November 30.

Two other members, to wit: JAMES B. MASON, from Rhode Island, and JOEL ABBOTT, from Georgia, appeared and took their seats.

Mr. GAGE presented a petition of John L. Polereczky, a citizen of the United States, and who was an officer in the French forces in the service of the United States in the Revolutionary war,

praying that the benefits of the act passed at the last session of Congress, for the relief of certain persons who served in the land and naval forces of the United States in the Revolutionary war, may be extended to him.—Referred.

On motion of Mr. HOLMES, the report of the Secretary of the Treasury, made to this House on the 2d of March last, in obedience to a resolution instructing him to report, whether any, and if any, what alterations or modifications are required to be made, in the emoluments of officers of the customs, was referred to the Committee of Ways and Means.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill in addition to the act of 1799, to regulate the collection of the revenue; [extending the time of taking the oath, to twenty days, in cases of exportation of merchandise entitled to the benefit of drawback;] and a bill for the relief of Denton, Little & Co., and of Harmon Kendricks, of New York; which bills were severally twice read, and committed.

Mr. SMITH, from the same committee, made an unfavorable report on the petition of certain coppersmiths and others, of Boston, which was read and concurred in.

On motion of Mr. HERBERT, it was

*Resolved*, That the Clerk of this House be authorized and directed to contract with any person or persons for the printing of two hundred and fifty copies of the code of jurisprudence for the District of Columbia, prepared and reported to Congress at the present session by the Chief Justice of the said District.

Mr. BUTLER, from the select committee, appointed on that subject, reported a bill for the relief of Major General John Stark, [providing for placing him on the pension list, with a pension of — dollars per month.]

On motion of Mr. BUTLER, the blank was filled with the word *sixty*, and thus amended, the bill was ordered to be engrossed for a third reading, *nem. con.*

The SPEAKER laid before the House a report from the Secretary of War, on sundry petitions for pensions and the increase of pensions, made in compliance with the 3d and 5th sections of the act of 10th April, 1806, which report was referred to the Committee on Pensions.

The engrossed bill granting to Mehitable Cole certain lands therein mentioned, was read the third time, and passed.

Mr. WHITMAN offered for consideration the following motion:

*Resolved*, That the Committee on Revolutionary Pensions be instructed to inquire into the propriety of granting pensions to such of the soldiers of the Revolution as served on continental establishment at least one year in the whole, though at different periods of the war, and would have been entitled to the same, by virtue of the act of last session, had they continued in the service uninterruptedly for the term of nine months.

On the question of agreeing to the resolution, it was decided in the negative—ayes 45, noes 69.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An

NOVEMBER, 1818.

Bank of the United States.

H. OF R.

act to increase the salaries of certain officers of Government," in which they ask the concurrence of this House.

The House again resolved itself into a Committee of the Whole on the report of the select committee on the claim of the representatives of Caron de Beaumarchais.

Mr. BALDWIN, of Pennsylvania, rose in support of the claim; and having spoken in defence of it for nearly an hour—

The Committee rose, reported progress, and obtained leave to sit again.

## BANK OF THE UNITED STATES.

The House having agreed now to proceed to the consideration of the resolution moved by Mr. SPENCER, of New York, a few days ago, in the words following:

*Resolved*, That a committee be appointed to inspect the books, and examine into the proceedings of the Bank of the United States, and to report whether the provisions of its charter have been violated or not, and particularly to report whether the instalments of the capital stock of the said bank have been paid in gold and silver coin, and in the funded debt of the United States, or whether they were, in any instance, and to what amount, paid by the proceeds of the notes of stockholders, discounted for that purpose; and also to report the names of those persons who now own or who have owned any part of the capital stock of the said bank, and the amount of discounts, if any, to such persons respectively, and when made; and also to report whether the said bank, or any of its offices of discount and deposit, have refused to pay the notes of the bank in specie on demand, and have refused to receive, in payment of debts due to them or either of them, the notes of the bank, and whether the bank, or any of its offices of discount, or any of their officers or agents, have sold drafts upon other offices or upon the bank, at an advance, and have received a premium for such drafts; also the amount of the notes issued, payable at Philadelphia, and at each office of discount respectively, and the amount of capital assigned to each office, together with the amount of the public deposits made at the bank and at each office, and an account of the transfers thereof; and the total amount of bills and notes discounted by the bank and its several offices since its organization. That the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks, the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

Mr. McLANE, of Delaware, said, he had no objection to the object of the proposed inquiry, though he had some objection to the form given to it. He thought it contemplated a wider scope of inquiry than was within the power of Congress. He referred to the act incorporating the bank, and quoted so much of it as reserved to Congress the power to appoint a committee to examine its books, &c., for the purpose of ascertaining whether or not the bank has violated its charter. He drew a distinction between this power and that of appointing a committee to inspect the

books and proceedings of the bank, for the purpose of reporting to this House and publishing to all the world all its transactions, of whatever nature. The specification of the objects of inquiry was so little necessary to the main object of the resolution, that it would lose nothing of its effect by striking them all out. The inquiry into the amount of discounts to a particular class of individuals, for example, he considered as exceptionable. The right of lending money is vested in the bank, at its discretion, to whomsoever it shall choose. If it have even exercised that power indiscreetly, it is immaterial to this House, with reference to a violation of its charter, (the object of inquiry,) to whom discounts have been made. If the House went so far as was proposed in this respect, it should go further. It should authorize a report to be made of the names of all those who have applied for discounts at the bank, and been refused; and also an inquiry into the character and solvency of all those persons, in order to make that branch of the inquiry effectual. The necessary powers in this respect, Mr. McL. said, the committee of this House would have, under the charter, without a specification of the objects of inquiry; if the committee had not, under the charter, the powers proposed to be given to it, the specification would not confer them. Since, then, the specification was unnecessary, and the resolution, divested of it, would answer every object the gentleman had in view, Mr. McL. moved to amend the resolution, by striking out all that part of it after the words "violated or not," near the beginning, to the word "organization," near the end of it, inclusive. This would leave the inquiry as broad and comprehensive as the nature of the subject would permit, and would divest the resolve of its objectionable features.

Mr. SPENCER opposed the amendment moved by Mr. McLANE. As to the powers of the House, the language of the resolution was that of the charter, respecting the power of inquiry reserved to Congress. The gentleman seemed to suppose that a committee of Congress, appointed for the purpose, might report whether the charter was violated or not, but were not at liberty to report the facts on which that opinion was founded. But, Mr. S. said, when a power is given, the means of carrying that power into execution are also given. If the power were given to inquire whether the charter of the bank had been violated or not, it irresistibly followed that the power was also given to report the facts which had led to that conclusion. But the gentleman objected, that such a report would involve the exposure of private accounts. Mr. S. said he thought he had not examined the resolution with his usual attention; if he would read it again, he would find that no private account whatever was proposed to be examined, except the accounts of the stockholders, so far as to the amount of discounts which they may have received. No inquiry was proposed as to the balance of private individuals' accounts; none as to their deposits; none as to the amount of the debts which they may now owe



to the bank, but the aggregate amount of discounts to the individual stockholders since the commencement of the operations of the bank. The resolution does not imply that the stockholders were not justly entitled to the accommodation they have received, nor does it question their solvency; but the particular inquiry objected to is essential, said Mr. S., to enable us to make up our minds whether the bank has acted correctly or not. The object of the resolution, Mr. S. went on to say, did not appear to be precisely understood, perhaps owing to his own neglect not more carefully to explain it. Its object was twofold; to inquire, first, whether there had been a violation of the charter or not; and, secondly, whether improper discounts had not been made to stockholders, &c. The mode of violation of the charter being pointed out in that instrument, needed no more precise definition than that contained in the first clause of the resolve. Then followed, however, in the resolution, other objects of inquiry, regarding the particular instances of alleged misconduct to which the attention of the public has been directed. To accomplish this object another power had been given, to send for persons and papers. It did not follow, because the committee was to report on these particular instances, that the committee was to derive its information from the books of the bank alone. There were other means at their disposal; they might examine papers not belonging to the bank, and persons having personal knowledge of its transactions. An objection had been raised, as he had understood, and to which (though not yet urged in this House) he would advert, that this specification of particular points of inquiry appeared to contain a censure upon the bank, or on the conduct of its officers. It was not so intended, Mr. S. said, nor did he think such an inference could be fairly drawn from the words of the resolve. It embraced some points of inquiry involving no misconduct in their result—that, for example, respecting the refusal of the bank to pay specie for the notes of its branches, &c. There were few who would say that that measure was an evidence of misconduct on the part of the bank, much less that it was a violation of its charter; because such a measure may have been necessary and unavoidable in the present state of the money concerns of the country. The resolution was not intended to convey charges against the bank, but to embrace all the topics respecting which the public mind had been agitated, and to obtain a report thereon from a respectable committee of this House. As to the facts which rendered such an inquiry necessary, it had been suggested that mere general rumor was not a sufficient foundation for this House to act upon. Mr. S. said, he had meant to be understood as having introduced this resolution, not under the influence of general rumor merely, but, as he now stated, he had individual information which left him no doubt of the truth of most of the allegations which he had heard on this subject. With respect to the fact of the payment of the second instalment by discounts to the stock-

holders, the letter of Mr. Lloyd to a committee of this House, and now on its files, established that fact; and from the circular letters of the cashiers of the bank and its branches, published for information in the public prints, he had evidence of the refusal to pay the notes of the bank or its branches, except where issued. There seemed, therefore, to be sufficient information to authorize an inquiry—sufficient, at least, to induce a belief that there was something to excite the agitation which all knew to exist in the public mind. It had, indeed, appeared to him to be due from him to the House, to state what charges he had heard against the bank, and what were the objects to which he was led to direct the inquiries of the committee. It had appeared to him proper, also, to let the bank and the community know to what objects the inquiry was pointed. He could see no harm from the specific designation of the objects of the inquiry; but, on the contrary, he said, good might be anticipated, for the reasons already stated. With these views he could not assent to the modification proposed, and should feel it to be his duty to vote against it.

Mr. LOWMEYER, of South Carolina, commenced his remarks in favor of the proposed amendment, by saying that he should not vote for it from any apprehension of defect of power in the House to prosecute the inquiry in the terms proposed. He had no doubt of the power of the House, if the public interest required it, to direct a committee to make such a report. He decidedly objected, however, to the specifications proposed to be stricken out, on the ground that, if retained, the inference would follow, that certain allegations were therein embraced, the truth of which being confirmed by inquiry, the censure of Congress if not the penalty due to a violation of the charter, would follow of course. If a committee should be directed to inquire whether the bank has violated its charter, and, particularly, whether it has paid its instalments by discounts, &c., the impression would be made on the mind of every man that the committee had nothing to do but to ascertain these facts, to prove the charter of the bank to have been violated. It did not comport with justice, nor, Mr. L. thought, with the dignity of the House; in a case, too, where the gentleman himself knew the principles involved to be susceptible of much argument and discussion for and against them, to force the public mind, as it were, to the conclusion that, certain facts being proved, the charter of the bank will be proved to have been violated. Therefore, he was in favor of excluding the specifications: With regard to the objects of them, he had no objection whatever to an inquiry on those and all others that might be suggested. The nation, said he, has a deep interest in the conduct and management of the bank; our duty to the people whom we represent, the national interest as owners of a large portion of the stock, its interest in the revenues being wholly payable in the notes of that bank, will justify us in a constant and vigilant attention to its proceedings. If there had been a doubt whether the conduct of the bank

had been proper or not, Mr. L. said, the House was fully justified in investigating into the facts, and inquiring whether abuses had been committed or not. Such an investigation he considered at present not only interesting to the public, but necessary to the bank. Many imputations had been thrown on the bank, the result of disappointed expectations, where the expectations themselves had been unreasonable; and it was the interest of the bank that a full inquiry should take place. Recurring to the observation of the effect the specifications in the resolution would have on the public mind, Mr. L. said, while he would therefore exclude them, at the same time voting for any inquiry in its broadest shape, he would remind gentlemen of some circumstances connected with the contents of the resolve. The mover of it had himself referred to a report made by a committee of this House appointed to inquire into the subject of the payment of the second instalment on the stock of the bank by discounts—a report made at a time when, if that course had been wrong, it was in the power of Congress to have prevented it. The fact of a general regulation having been adopted for discounting notes for payment of the second instalment, was acknowledged to the committee, who yet reported to this House a recommendation that the committee be discharged from the further consideration of the subject.

Mr. L. said he would not now enter into an investigation of the conduct of the bank on that occasion; his impression at the time had been, that the arrangement was beneficial to the community, by facilitating and expediting the organization of the bank, &c.; but that it was an imprudent one, on the part of the directors of that institution, whose object it should be to adhere to the very line of their duty, as pointed out by the charter. The point, however, to which he desired to call the attention of the House, was, that when the corrective and remedy were in their hands, if the act was wrong, a committee having been instructed to inquire into it, and having reported the fact, the House had not thought proper to interfere at all in the business. Under these circumstances, said he, it would be harsh indeed, at this late hour, availing ourselves of the new lights which experience has afforded us, to censure the bank for having done that to which, at the time, we tacitly consented. A distinction, of course, must be drawn between the second and third instalments, in regard to the mode of payment; the payment of the latter by notes, discounted for that purpose, everybody anticipated. The bank was then in full operation, discounting all good paper offered to it, and could not be expected to pass a law of exclusion in regard to its own stockholders, who had as fair a claim at least as others to accommodation; indeed, there never perhaps had gone a bank into operation in which the same thing had not occurred; it was therefore expected of the Bank of the United States in regard to the third instalment on its stock, and could not be considered as forming a ground of complaint against it. An-

other specific object of the inquiry was, whether the bank or its branches had sold drafts and received a premium thereon. The gentleman from New York had stated, with great candor, as he understood him, that he did not consider it an imputation on the bank that it had refused to pay specie for its notes at any other branch than that from which they issued; and that he therefore did not mean to contend that the bank ought to have made its paper and that of its branches payable indifferently at the bank or at any and all of its branches. Connected very closely with this subject, Mr. L. said, was the practice of selling drafts on distant banks for a premium. He knew, he said, that much of the disapprobation of the conduct of the bank proceeded from the disappointment of an expectation that it would emit and sustain a currency which should be of equal value throughout the Union; and, it might be of some importance, as many of the members of the present Congress were not members of the last, to advert to circumstances which proved that the expectation referred to was never entertained in this House at the time the bank was incorporated. The Congress which preceded that by which the bank was established, Mr. L. said, had had under its consideration a bill for establishing a bank, one clause of which did provide that the bank and all its branches should be obliged to pay the notes of each other; by which means, if practicable, the paper of all would have been everywhere of an equal value. That clause, however, was not inserted in the bill which actually passed. If there were no other, this would be sufficient proof, from the records of the House, that it was not expected that a currency that should be everywhere of equal value would be established. But, further: in the act incorporating the bank, there is a provision that the bank shall charge nothing to the Government for difference of exchange. Was this not, Mr. L. asked, positive proof that it was expected that the bank would charge in some cases the difference of exchange? Was it not proof that it was the expectation of the framers of the law that the present state of things would result? He would not enter at all into the general question whether it would or would not be possible for the Bank of the United States to equalize, without great loss, the exchange between different sections of the country, if by their charter they were bound to do so. If it were practicable, it would be even now their interest to do it; but, Mr. L. said, he believed it would be wholly impracticable. The question was not, however, whether it was possible for the United States to effect it, whether it would be beneficial to the country or to the institution, but whether the bank was bound to effect the object. The exclusion of the clause having this object, after it had been included in a like bill before Congress, at the preceding session, and, in addition, the express exception of the Government from all charge for difference of exchange, showed that it was not expected of the bank. If, however, he were to go into the discussion of the practicability of establishing a



H. OF R.

Bank of the United States.

NOVEMBER, 1818.

circulating medium of equal value in every part of the country, it would appear not only that in the reason of the thing it was not practicable, but experience also would show that in a large empire it is visionary to look for it. Even in England, as gentlemen well knew, when the bank paid in specie, the value of a bank note in different parts of the country was not the same. There was a settled rate of exchange between Edinburgh and London, and between all the important towns in Great Britain; and the Bank of England, with every advantage, improved by an hundred years of experience, had never been able to accomplish that object. The inquiry, however, was not whether the object was practicable or possible, but whether the bank was bound to effect it; and he had shown that it was not. Objections of a similar nature might be urged to most of the specifications in the resolve; but it was sufficient to say that, if necessary, the committee, under the general terms of inquiry, would feel themselves at liberty to inquire and report on any of the points in question; that no additional power could be conferred on the committee by descending to particulars; and that to retain the specification might produce an impression that the House had determined certain facts, if proved, to be conclusive against the bank, whilst the House had, in fact, expressed no opinion upon them. There was another objection, of a different kind, to the terms of the resolve as it now stood: that it specified certain objects, to which it in a manner thus limited the proposed inquiry, whilst, in his opinion, there were many facts not referred to, equally if not more important to the bank, and to the public interests, than those which were. Without justifying or censuring the conduct of the bank, without expressing, in a parenthesis, or by *insinuation*, an opinion unfavorable to it, Mr. L. said he thought it would be proper to institute a committee of inquiry, and leave them, on their own responsibility, to settle the principles on which they should proceed in it, and to report accordingly. He was in favor of leaving the committee wholly unfettered, except by their own opinion of what was required by the public good; and therefore hoped the amendment would be agreed to.

Mr. SPENCER again rose. He took a different view of his own motion from that which had been taken by the gentleman who had preceded him. The first branch of it embraced a distinct substantive object of inquiry, whether the bank has violated its charter. The resolution then recited other objects of inquiry, on which information was desirable, by which the House might be induced to exercise or refrain from exercising its discretion of requesting a removal of the directors on the part of the United States, &c. After denying that the enumeration of objects limited the range of inquiry to the committee, Mr. S. proceeded to notice the observation of Mr. LOWNDES, that he (Mr. S.) had admitted that the bank was not censurable, perhaps, in the present state of the currency, for not paying specie for the notes of its branches, &c. I might have pro-

ceeded, said Mr. S., and perhaps ought to have remarked, that it was a proper subject of inquiry, how far the state of the currency referred to has been produced by the bank itself. So far as he had understood, Mr. S. said, at the time the bank was chartered, loud complaints were made against the State banks, that they had issued a large amount of notes without a specie basis, which had of course ceased to circulate out of their immediate vicinity, except at a great rate of depreciation. This institution was established to remedy the evil, and was founded on a basis of specie and of public debt, so solid that it was supposed it would never be distressed for the means of paying its own notes, but would be always able to sustain the currency as well as the credit of the country. But, instead of correcting the evil, the bank had pursued the same course (as he understood it) as the State banks, and made things worse than they were. Instead of gold and silver, and public debt, it had received, in payment of its instalments, the credit of individuals as the basis on which to issue its notes and carry on its operations. How far, therefore, the present state of the currency was attributable to this institution itself, Mr. S. said he was not prepared to answer. He wished for facts to enable him to decide. Whatever, Mr. S. further said, had been the expectation in Congress at the time of passing the bank law respecting the establishment by it of an uniform national currency, the fact was otherwise with the public; and it became proper for him to show on what grounds the public expectation rested. The first document on the subject to which he referred was the Message of President Madison to Congress, of December 5, 1815, in which the establishment of a bank was suggested as the means of restoring the currency of the country from its disordered state; and, next, he referred to the annual report of Mr. Secretary Dallas, about the same period, wherein he proposed the establishment of a National Bank, as the means of establishing an uniform national currency. With these inducements before them, Congress had passed the law, and it was not without reason the public expected, from what had been predicted of it out of Congress, if not on this floor, that the bank would be the means of establishing an uniform national currency. He had, however, been informed by many who were members of Congress, that the only consideration which had induced them to vote for the bill for establishing the bank, was, that it was expected to restore an uniform national currency. Thus much, Mr. S. said, he thought necessary to state, to justify that part of the inquiry which relates to the fact of the bank's having refused to redeem with specie the notes of its branches, &c. Because, if the fact were so, the committee would inquire whether it was owing to causes not within the control of the bank, or to the misconduct of the latter. This inquiry, he said, was properly embraced in the resolution, although it did not go to establish the fact of a violation of the charter of the bank. There were remedies in the power of the Government to correct any

NOVEMBER, 1818.

Bank of the United States.

H. OF R.

misconduct short of a violation of its charter on the part of the bank: it was in the power of Congress to request the removal of the directors; to direct the deposits of the Government to be withdrawn from the bank, or to declare that the notes of the bank should no longer be received in payment of duties. There was therefore abundant reason for inquiry into any particular misconduct of the bank, though it should not amount to a violation of its charter.

Mr. LOWNDES made a few other remarks in favor of the amendment; among which was this: that he could not conceive what greater power any committee could desire over a bank than a *carte blanche* to examine into its whole proceedings.

The question having been taken on the proposed amendment, was decided in the affirmative—yeas 85, nays 64.

Mr. LOWNDES, then, to make the inquiry as comprehensive as possible, moved to insert, after the words "Bank of the United States," the words "to report thereon."

Mr. SPENCER suggested a different amendment, for directing the committee also to inquire into the instances of misconduct on the part of the directors of the bank, or of any of its offices of discount and deposit.

Mr. LOWNDES said he preferred his own motion, since that of Mr. S. would convey an imputation on the conduct of the directors, when it was only the object of the House to inquire what that conduct had been.

The amendment of Mr. LOWNDES was adopted.

Mr. BARBOUR, of Virginia, moved to strike out so much of the resolution, as amended, as gives leave to the committee to meet in the city of Philadelphia; which, it appeared to him, was not necessary to retain. With respect to an inspection of the books of the bank, if the necessary books could not be brought here, he should suppose the House might safely rely on transcripts made by the officers of the bank, under the inspection of the directors generally, of whom five were appointed by the United States. He would not say that he would refuse to agree to such a proposition, if he was convinced it was absolutely necessary; but, until he was, he thought it would comport better with the usual manner of proceeding in the Congress of the United States, to have a transcript from the books brought here, rather than that the committee should travel to where the books are.

Mr. TERRY, of Connecticut, hoped that the motion would not be agreed to, as it would defeat the object of the resolution. In the first place, the books were not in the keeping of the directors—they have a right to inspect the books, but they are in the keeping of the cashier. The books, he said could not be brought here, because they were wanted every day and every hour. As to making transcripts of the books, that, he said, would indeed be a Herculean task. It would be impossible to make the transcript within a reasonable time. It would, besides, be imposing a hardship on the Bank of the United States, to

send its books here, and keep them here the necessary time, so long almost wholly interrupting the business of the bank. He thought the object of the resolve could not be attained so readily in any other way as by an inspection of the books; for which purpose, it appeared to him absolutely necessary that the committee should go to Philadelphia.

Mr. SPENCER considered the part proposed to be stricken out as of the essence of the resolution. It amounted after all, only to a leave to the committee to go to Philadelphia if they should think it necessary. Since an inspection of the books of the bank was the object of the resolve, the question which presented itself was, whether it was better to bring the books here, or go to the books. If they were brought hither, independent of the consequent suspension of the business of the bank, the labor of the committee would be unusually increased by the confusion in which they must be brought, and the difficulty of afterwards arranging them. In regard to transcripts, the great labor of making them out of the question, it seemed hardly fair to call on the gentlemen implicated for the evidence of their own condemnation. How far others would be satisfied, said Mr. S. I know not—but, for myself, I should not be satisfied with any transcript from the books; not that I would impeach the integrity of those who would have to make them, but that it will take so long as to defeat the inquiry altogether. It was due to the bank, as well as to the nation, that the inquiry should be so conducted, as that there should be no pretence for any doubt of the entire correctness of the facts which the committee should report.

Mr. LOWNDES said, if there was to be an inspection of the books of the bank at all, it could only take place where the books were. He wished, for his part, that the investigation should be as close as possible, that no doubt should possibly be left on the subject upon the mind of any one. He had no objection that the committee should go not only to Philadelphia, but that they should afterwards repair to the different places, in succession, where branches were established. He had no objection, therefore, to giving all necessary powers; but he wished to give no more power than was necessary, and should have preferred withholding the leave to go to Philadelphia until the committee, finding it necessary, in the course of their investigation, should ask for it. This, he believed, had been the usual course in every case heretofore in which such powers had been granted. He should, therefore, vote for the amendment, with the determination, if the committee should, in the progress of their inquiry, think it necessary to go to Philadelphia, to vote for granting to them the necessary leave.

Mr. SPENCER demanded the yeas and nays on this motion. Unless the committee had adequate powers to obtain the object in view, the resolution was mere waste paper. What means would they have here of detecting deception, if any were attempted? How could they tell any better than they could now whether the measures



of the bank were correct or not? It seemed, from the very nature of the inquiry, that personal inspection was necessary; and it was the mode of inquiry which the charter itself seemed to have contemplated.

On the question on Mr. BARBOUR's motion, to strike out the leave to repair to Philadelphia, it was determined in the negative, as follows:

**YEAS**—Messrs. Abbott, Allen of Vermont, Barbour of Virginia, Bayley, Bryan, Butler of New Hampshire, Clagett, Cobb, Crafts, Cushman, Darlington, Decha, Earle, Garnett, Hale, Lowndes, Middleton, Morton, Mumford, Jeremiah Nelson, H. Nelson, Newton, Owen, Pindall, Rice, Richards, Settle, Sherwood, Silabee, J. S. Smith, Southard, Storrs, Strother, and Whitman—34.

**NAYS**—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Ball, Bassett, Bateman, Beecher, Bellinger, Bennett, Blount, Boden, Boas, Burwell, Butler of Louisiana, Campbell, Claiborne, Colston, Comstock, Cook, Crawford, Cruger, Drake, Edwards, Ellicott, Ervin of South Carolina, Floyd, Gilbert, Hall of North Carolina, Harrison, Hendricks, Herrick, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lawyer, Lincoln, Linn, Little, McLane of Delaware, W. Maclay, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Samuel Moore, Moseley, Murray, T. M. Nelson, New, Ogden, Ogle, Orr, Parrott, Patterson, Pegram, Pitkin, Pleasants, Poindexter, Porter, Reed, Rhea, Rich, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Schuyler, Scudder, Seybert, Shaw, Simkins, Slocumb, Bal. Smith, Alex. Smyth, Speed, Spencer, Stewart of North Carolina, Tallhedge, Tarr, Taylor, Terrell, Terry, Tompkins, Townsend, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania—115.

The question was then taken on the resolution as amended, so as to read as follows:

*Resolved*, That a committee be appointed to inspect the books and examine into the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not; that the said committee have leave to meet in the city of Philadelphia, and remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks; the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House.

And it was passed in the affirmative.

**Messrs. SPENCER, LOWNDES, McLANE, BRYAN, and TYLER**, were appointed the said committee.

TUESDAY, December 1.

Mr. MIDDLETON presented the petition of the Marquis de Vienne, stating, that he served as a Colonel in the service of the United States, in the Revolutionary war; that he was then rich and refused to receive any compensation, but

that, having been reduced to poverty by the revolutions in France, he is now compelled to seek a remuneration for his said services, from Congress, and praying to be paid such sum as may be thought a just equivalent therefor; which petition was referred to a select committee; and Mr. MIDDLETON, Mr. HARRISON, and Mr. COLSTON, were appointed the said committee.

Mr. POINDEXTER, from the Committee on the Public Lands, who were instructed to inquire into the expediency of prohibiting the emigration and settlement of the Choctaw tribe of Indians on the lands of the United States, west of the river Mississippi, until they shall have acquired that right by treaty, made a report thereon, which was read; when Mr. P. reported a bill to prohibit the Choctaw tribe of Indians from settling or hunting on the lands of the United States, west of the Mississippi, which was read twice, and committed.

On motion of Mr. SAWYER, the Committee on Military Affairs were instructed to inquire whether any, and, if any, what alterations are necessary to be made in the act, entitled "An act to amend the act entitled an act making further provision for military services during the late war, and for other purposes."

On motion of Mr. FOLGER, the Committee of Ways and Means were instructed to inquire into the expediency of granting to William Coffin and others, owners of the brig Bonif, a drawback of the duties on a quantity of whale oil imported from Patagonia and Brazil, in said brig, in the month of June, 1817, and which has since been exported out of the United States.

The bill from the Senate, entitled "An act to increase the salary of certain officers of Government," was read twice, and committed.

#### MIGRATION OF SLAVES.

Mr. LINN, of New Jersey, offered the following resolution:

*Resolved*, That the committee appointed on so much of the Message of the President of the United States as relates to the unlawful introduction of slaves into the United States, be instructed to inquire into the expediency of passing a law prohibiting the migration or transportation of slaves or servants of color from any State to any other part of the United States, in cases where, by the laws of such State, such transportation is prohibited; and that they have leave to report by bill or otherwise."

Mr. LINN said, in introducing his resolution, that it related to a subject of much interest in his part of the country, and, as the resolution only proposed an inquiry, he hoped it would not be objected to.

Mr. POINDEXTER, of Mississippi, objected to it. Any man, he said, had a right to remove his property from one State to another, and slaves as well as any other property, if not prohibited from doing so by the State laws. With those laws, whatever they were, the United States, he said had no right to interfere. The idea was a perfectly novel one, that there should be a double set of penal statutes on the same subject—one set by

the States, and one by the United States—and that the military force of the United States should be employed to carry into effect the penal statute of any State. How were the United States to interfere on this subject? What judicial tribunal would they resort to, to effect the object contemplated? Any penal statute they could pass on the subject, Mr. P. said, would be entirely nugatory, as it could not be carried into effect; and he was therefore opposed even to an inquiry into the matter.

Mr. COLSTON, of Virginia, in addition to what had fallen from Mr. POINDEXTER in opposition to the resolution, suggested that it was perfectly within the power of the State sovereignties to execute any law they might enact on this subject, more effectually than they could do by the aid of the authority of the United States.

The question on the passage of the resolve was then taken, and decided in the negative.

#### GENERAL JOHN STARK.

The bill for granting a pension of sixty dollars per month to Major General John Stark, was read a third time.

On the question, Shall the bill pass?

Mr. W. P. MACLAY asked for information of the committee who reported the bill, as no written report had accompanied it, on what grounds it stood; whether the pension was granted because of indigence on the part of General Stark, or for what other reason?

Mr. COBB, of Georgia, said he must join his voice to that of his friend from Pennsylvania. He knew not, from anything that appeared, what were the claims of General Stark, nor that he stood in need of a pension. Why was he selected, from among the many surviving officers of the Revolution, to receive a pension of this amount? He hoped the reason would be explained—or, though with reluctance, he must vote against the bill.

Mr. HARRISON, of Ohio, said his friend from Georgia could not have been present when this subject was before the House at the last session, or he would not have asked the information which he now desired. He had supposed his friend from Georgia was better acquainted with the history of his country, than not to know the merits and distinguished Revolutionary services of this hoary veteran. At the darkest period of the Revolution, General Stark had rendered the most important services to his country; and those services were not occasional, but were prolonged to the close of the contest. It was now said that this worthy was in indigent circumstances, and debilitated by old age; that, if not soon bestowed, he would not live to enjoy the aid about to be afforded to him. Was it possible, Mr. H. asked, that an American Congress could behold so distinguished a patriot, as he is, sinking into the grave in the want of every necessary of life, or that they would coldly place him among the mass of pensioners under the general act of last session? For his part, he would give out the last dollar in the Treasury for the relief of General

Stark. With him, he said, it was not a matter of choice to vote for the bill; it was an imperious duty.

Mr. LIVERMORE said, that as a member of this House, and as a citizen of New Hampshire, he was grateful to the gentleman from Ohio for the manner in which he had expressed himself on this occasion. He would only add that, as to the circumstances of General Stark, they were, to his personal knowledge, very reduced. He was, as to personal exertion for his support, at the age of ninety years, wholly helpless. He might or might not be owner of a small farm; but, if so, it was an unproductive one. He was, and had been for some time, dependent for support on his children, themselves in very moderate circumstances. This was the true situation of General Stark.

Mr. COBB said, if it was true, as suggested by the gentleman from Ohio, that he was not well versed in the Revolutionary history, should he want information on that head, he should know where to apply; for the gentleman himself was a living chronicle of the occurrences of that day. He did not, he said, doubt the merits of General Stark; but he had yet no evidence that the pension ought to be granted. The House had been told he was very old and infirm. But, if the House were to grant pensions to the old and infirm, where would they draw the line at which they would stop? Are we to be told, said he, that it is to Revolutionary officers only that pensions are to be granted? Some twenty or forty years hence, may not the same argument, by the aid of this precedent, be applied to General Jackson, General Brown, General Scott, or any other general who distinguished himself during the late war? He was free to say, for himself, that he thought the pension list had already been swelled to an amount which absolutely jeopardized the Treasury, or soon would, at the rate at which it still increased. General Stark had become poor, whether by his misfortune or his misconduct, he had not heard; but, if he had been so long supported without the aid of Government, he had no doubt he could be for the remainder of his life. He had yet heard no reason to induce him to vote for this pension.

Mr. LIVERMORE said, if the gentleman meant to insinuate that General Stark had been brought to poverty by intemperance, or by fault of any kind, he was wholly mistaken; the fact was not so. General Stark had worn himself out in the service of his country, in his youth, and had since supported himself as well as he could. He was in service before the Revolution, and during that trial he did the nation great service and himself great honor. At an early period of the Revolution, when every patriot was called a traitor, Stark was in the foremost rank. He was in the field at Bennington, and animated the courage of others by his conduct and example. All the inhabitants of New Hampshire, and of the Green Mountains, flocked where Stark was; where he fought, they fought and bled; had he died, they would have died with him.



H. or R.

Claim of Beaumarchais.

DECEMBER, 1818.

Mr. BUTLER, of New Hampshire, gave some further information respecting General Stark. He was, he said, the only surviving general officer of the Revolution, now declining in old age, extremely poor, and long supported by his sons, who were not very well able to do it. This, Mr. B. said, might be the last opportunity Congress could have of contributing to the relief of his wants. As a precedent had been demanded, Mr. B. quoted the pension granted at the last session to General St. Clair as directly in point. General Stark, he added, had served during the whole French war, and no man had afterwards done more than him to assert and establish the independence of his country.

Mr. COBB explained, that he did not mean to suggest that General Stark was intemperate, but merely to state his ignorance of the fact, whether his present poverty had been owing to his fault or misfortune.

The question on the passage of the bill was decided in the affirmative, without division.

## CLAIM OF BEAUMARCHAIS.

The remainder of the day's sitting was spent in Committee of the Whole, on the claim of the heirs of Beaumarchais.

Mr. BALDWIN concluded his speech in support of the justice of this claim, and the expediency of the Government's paying it.

Mr. COLSTON spoke for about half an hour against the claim.

When the Committee rose, reported progress, and obtained leave to sit again.

WEDNESDAY, December 2.

Another member, to wit: from Pennsylvania, JOSEPH HEISTER, appeared and took his seat.

A new member, to wit: from North Carolina, WILLIAM DAVIDSON, elected to supply the vacancy occasioned by the resignation of Daniel M. Forney, also appeared, was qualified, and took his seat.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred an inquiry into the expediency of repealing the duty on imported salt, made a report adverse to the expediency of the abolition of the duty, which was committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill authorizing the establishment of a national armory on the western waters; and the bill for the relief of Joseph Wheaton; which were severally twice read and committed.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting an estimate of the appropriations proposed for the service of the year 1819; which was referred to the Committee of Ways and Means.

The SPEAKER also laid before the House a letter addressed to him by Edward De Krafft, printer for Congress, remonstrating against the alleged violation of his contract with the Clerk

to do all the printing ordered by the House, by the resolution of the 30th ultimo, directing the printing by contract of the code of laws prepared for the District, and claiming said printing as matter of right; which letter was read and ordered to be laid on the table.

Mr. HARRISON, of Ohio, offered the following resolution:

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of continuing the act passed at the last session, entitled "An act to suspend for a limited time, the sale or forfeiture of lands for failure in completing the payments thereon;" and also to inquire what further relief it may be proper to give to the persons who are indebted to the United States for the purchase of lands.

In support of the inquiry, Mr. H. briefly referred to the difficulty which at present existed in Ohio, in making payments for land in the kind of money required by the Treasury Department, which, from the suspension of specie payments by the banks of Ohio, was now very limited, the notes of all such banks being refused, and the consequent necessity of extending the indulgence mentioned in his resolution. The motion was agreed to.

Mr. BRYAN, of North Carolina, asked and obtained permission of the House to be excused from serving on the committee appointed to inquire into the conduct of the Bank of the United States. Mr. B. stated, that, in asking this indulgence, he was not actuated by a desire to shrink from the important duty assigned him, but that he was a stockholder of the institution, and, as such, conceived that delicacy forbade his being one of those appointed to make the investigation ordered by the House—an investigation, upon the result of which the future character and prospects of the institution would mainly depend. [Mr. BURWELL was appointed in Mr. BRYAN's place.]

On motion by Mr. TALLMADGE, the Committee on Naval Affairs were directed to inquire into the expediency of increasing the amount of the security to be hereafter required from Navy Agents, and also of requiring security to a greater amount from those now in office.

On motion of Mr. SIMKINS, the Committee on Post Offices and Post Roads were instructed to inquire into the expediency of increasing the compensation of such postmasters as are on the main post route from Washington City, by Augusta, in Georgia, to New Orleans, where there are cross mails, and whose compensations do not exceed a certain sum.

Mr. S. justified the proposed inquiry by advertising to the unremitting and onerous duties required of certain postmasters, on the main southern post route, and the small and inadequate compensation at present afforded by their emoluments.

A message from the Senate informed the House that the Senate have passed the resolution "authorizing the transmission of certain documents free of postage;" with an amendment, in which they ask the concurrence of this House.

The amendment was read, and concurred in.

DECEMBER, 1818.

Claim of Beaumarchais.

H. or R.

The House took up and proceeded to consider the report of the Committee on Pensions and Revolutionary Claims, made at the last session, on the petition of William Lawrence: Whereupon, the petition was referred to the Secretary of War.

## CLAIM OF BEAUMARCHAIS.

The House then again resolved itself into a Committee of the Whole, on the bill for the relief of the heirs of Caron de Beaumarchais.

Mr. HOPKINSON occupied the floor in a speech of about an hour, in opposition to the claim of the petitioners; and

Mr. ERVIN, of South Carolina, followed at some length in support of the claim; when the committee rose, on the motion of Mr. HOLMES, and obtained leave to sit again.

THURSDAY, December 3.

Another member to wit: from Pennsylvania, LEVI PAWLING, appeared, and took his seat.

On motion of Mr. WILLIAMS, of North Carolina:

*Ordered*, That all petitions presented to the House and committed at the last session, from the consideration of which, without having decided on them, for the want of time, the several committees to which they were referred were discharged, be considered as again referred to the said committees, respectively, on the suggestion of any member to the Clerk of the House.

Mr. COBB presented a petition of the Senate and House of Representatives of the State of Georgia, on behalf of Lachlan McIntosh, junior, William Dennis, Stephen Heard, John Donaldson, Joseph Martin, John Sevier, and Thomas Carr, commissioners appointed by the State of Georgia, in virtue of a resolution of the General Assembly of that State, of the 20th of February, 1784, for surveying the lands lying on the Big Bend of Tennessee river, or their heirs or representatives, praying that the lands to which the commissioners aforesaid were entitled for their services in making said survey, and promised by the said resolution, may now be granted to such of the said commissioners as are living, and to the heirs or representatives of such as are deceased; which memorial was referred to a select committee; and Messrs. CLAIBORNE, COBB, HOGG, SETTLE, and CRAWFORD, were appointed the said committee.

*Ordered*, That the report made by a select committee at the last session, (10th of February, 1818,) on the petitions of General Andrew Jackson, Thomas Carr, and George W. Sevier, and others, and the bill for the relief of the said Thomas Carr, and others, together with the petitions aforesaid, be referred to the committee last appointed.

On motion of Mr. POINDEXTER, the Secretary of the Treasury was directed to lay before this House a statement of the sales of the public lands in the Alabama Territory, at public and private sale, specifying the date of such sales, and the period at which the last payment will become

due; and also the aggregate amount of money paid to the receiver of public moneys at Huntsville, in the said Territory; and the description of bank paper, if any, which is receivable there in payment of the public lands.

On motion of Mr. TRIMBLE, the Committee on the Public Lands were instructed to inquire whether any, and, if any, what provision ought to be made by law to authorize the emanation of patents to soldiers on furlough at the close of the war, and to whom discharges were not issued in consequence of their not being ordered to join their respective regiments.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*  
I transmit to the House of Representatives copies of such documents referred to in the Message of the 17th ultimo, as have been prepared since that period. They present a full view of the operations of our troops employed in the Seminole war, who entered Florida.

The residue of the documents, which are very voluminous, will be transmitted as soon as they can be prepared.

JAMES MONROE.

DECEMBER 2, 1818.

The Message was read, and, together with the documents, ordered to lie on the table.

## CLAIM OF BEAUMARCHAIS.

The House again resolved itself into a Committee of the Whole on the report of the select committee favorable to the claim of the heirs of Caron de Beaumarchais.

Mr. SPENCER spoke at large in support of the report of the committee.

Mr. STORRS followed on the opposite side of the question.

Mr. BALDWIN again addressed the committee in support of the claim, and Mr. PITKIN in opposition to it.

When the Committee rose, reported progress, and obtained leave to sit again.

FRIDAY, December 4.

Another member, to wit: from Massachusetts, TIMOTHY FULLER, appeared, and took his seat.

Mr. JOHN McLEAN appeared, produced his credentials, was qualified, and took his seat as the Representative of the State of Illinois in this House.

Mr. ALLEN, of Massachusetts, presented a petition of John Clarke, an officer in the Revolutionary Army, praying compensation for his services in the capacity aforesaid, as, also, for property lost in the public service.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making a partial appropriation for the military service of the United States for the year 1819, and to make good a deficit in the appropriation for holding treaties with the Indians; which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition



of Philip C. S. Barbour, accompanied by a bill for his relief; also, a general report on sundry petitions, for confirmation of certain land claims derived from the French and Spanish Governments, accompanied by a bill "for the final adjustment of certain land claims in the State of Louisiana and Territory of Missouri," which were twice read, the first committed, and the second laid on the table.

On motion of Mr. POINDEXTER, the Committee on Military Affairs were instructed to inquire into the expediency of authorizing the proper accounting officers of the Treasury to settle and adjust the accounts of John Smith, and the legal representatives of Ambrose D. Smith, and for supplies furnished to the Army of the United States, during the late war with Great Britain, on principles of equity and justice.

#### CLAIM OF BEAUMARCHAIS.

The House again resolved itself into a Committee of the Whole, on the bill reported by the select committee for the relief of the heirs of Caron de Beaumarchais.

Mr. TALLMADGE resumed the debate on this subject, and spoke about an hour in opposition to the claim and the bill. He was followed by Mr. BASSETT, in a speech of about the same length, in support of the claim, and in defence of the report of the committee thereon.

Mr. BALDWIN added some remarks on the same side, and in reply to gentlemen who had opposed the claim; after which, the Committee rose, and reported the bill without amendment to the House; when the question was taken whether the bill should be engrossed and read a third time, and decided in the negative, as follows:

YEAS—Messrs. Anderson of Kentucky, Baldwin, Ball, Bassett, Bellinger, Butler of Louisiana, Cobb, Cruger, Ervin of South Carolina, Garnett, Harrison, Holmes, Hostetter, Irving of New York, Johnson of Virginia, McLean of Illinois, W. Maclay, W. P. Mac-lay, Middleton, Samuel Moore, Murray, T. M. Nelson, Ogle, Owen, Poindexter, Robertson, Ballard Smith, Spencer, Tyler, Walker of Kentucky, and Wilson of Pennsylvania—31.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Austin, Barbour of Virginia, Barber of Ohio, Bateman, Bay-ley, Beecher, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler of New Hampshire, Campbell, Clag-ett, Claiborne, Colston, Comstock, Cook, Crafts, Cush-man, Dartington, Davidson, Desha, Drake, Earle, Ed-wards, Edlicott, Folger, Gage, Gilbert, Hale, Hall of North Carolina, Hasbrouck, Hendricks, Herbert, Her-rick, Heister, Hogg, Hopkinson, Hunter, Huntington, Jones, Kirtland, Lawyer, Lincoln, Linn, Little, Liv-ermore, Lowndes, McCoy, Marchand, Mason of Mas-sachusetts, Mercer, Merrill, Robert Moore, Morton, Moseley, Mumford, Jeremiah Nelson, H. Nelson, New-ton, Ogden, Orr, Palmer, Patterson, Pawling, Pegram, Peter, Pinball, Pitkin, Pleasants, Porter, Rhea, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Sawyer, Schuyler, Scudder, Settle, Seybert, Sher-wood, Silsbee, Simkins, Slocumb, S. Smith, Alexan-der Smith, J. S. Smith, Southard, Speed, Stewart of North Carolina, Storrs, Strother, Tallmadge, Tarr,

Taylor, Terrell, Terry, Tompkins, Townsend, Trimble, Tucker of South Carolina, Upham, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Massachusetts—123.

And so the said bill was rejected. The House adjourned to Monday.

#### MONDAY, December 7.

Two other members, to wit: from Maryland, SAMUEL RINGGOLD, and from Ohio, PETER HITCH-cock, appeared, and took their seats.

The SPEAKER presented a petition of the Legislative Council and House of Representatives of the Alabama Territory, accompanied with a census of the inhabitants of said Territory; praying that the said Territory may be admitted into the Union as a State; which petition was referred to a select committee; and Messrs. POIN-DEXTER, CLAIBORNE, COBB, ORR, and BUTLER of New Hampshire, were appointed the said committee.

The SPEAKER also presented another petition from the Legislative Council and House of Rep-resentatives of the Alabama Territory, praying for certain alterations in the judicial system of the said Territory; which petition was ordered to lie on the table.

Mr. McLEAN, of Illinois, presented a petition of the General Assembly of the State of Illinois, stating that previous to the survey of the public lands in the district of Shawneetown, several persons settled on public lands, which, since the survey, have been discovered to be the section No. 16, reserved for the use of schools; and praying that other lands may be assigned for the use of schools in such cases.

Mr. McLEAN presented another petition of the General Assembly of the State of Illinois, pray-ing for a donation of four sections of land for the purpose of establishing thereon the seat of the government of the said State, for twenty years.—Referred to the Committee on the Pub-lic Lands.

Mr. TAYLOR, from the Committee of Elec-tions, made the following report:

The Committee of Elections have examined the certificate of election of John McLean, who is re-turned a Representative of the State of Illinois, and find the same sufficient to entitle him to a seat in this House.

JOHN W. TAYLOR, *Chairman*.

DECEMBER 7, 1818.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the ap-plication of Jacob Dox, for compensation for his services as a commissioner on behalf of the Uni-tered States in taking evidence on the Niagara frontier, in relation to claims against the United States, which report was read; when Mr. W. reported a bill for the relief of said Jacob Dox, which was read twice, and committed.

Mr. JOHNSON, of Kentucky, from the Com-mittee on Military Affairs, reported a bill con-

cerning widows and orphans; which was read twice, and committed.

Mr. JOHNSON submitted to the House a letter addressed to him as Chairman of the Committee on Military Affairs, from the Secretary of War, upon the subject of the establishment of an ad-ditional armory, which was referred to the Com-mittee of the Whole, to which is committed the bill authorizing the establishment of a national armory.

On motion of Mr. HARRISON, the Judiciary Committee were instructed to inquire into the expediency of providing by law, that the ses-sions of the circuit and district courts of the Uni-tered States, for the district of Ohio, be held alter-nately in the city of Cincinnati, and at such other place as now is, or may hereafter be, ap-pointed by law, for holding the same.

On motion of Mr. LIVERMORE, it was

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of re-pealing an act passed March 3, 1814, entitled "An act to establish the districts of Mumphyre-magog, of Oswegatchie, and of the White Mountains."

Mr. L. observed, in explanation, that these dis-tricts were established during the embargo, and continued to be necessary during the war which followed; but that now, in time of peace, they were entirely useless, and as they involved an expense of about \$1,200, without being neces-sary, it was expedient they should be discon-tinued.

On motion of Mr. POINDEXTER, the Committee on Private Land Claims were instructed to in-quire into the expediency of authorizing the register of the land office and receiver of public moneys, west of Pearl river, in the State of Mississippi, to receive additional evidence in the claim to land of the legal representatives of Al-exander Montgomery, deceased, founded on a warrant of survey, from the Spanish Govern-ment, granted to John Montgomery, and report-ed to the Secretary of the Treasury, according to law.

On motion of Mr. STORRS, twenty-five hun-dred additional copies of the Message of the President of the United States, in relation to the Seminole war, communicated to this House on the 3d instant, and the documents accompanying the same, were ordered to be printed for the use of the members of this House.

On motion of Mr. PLEASANTS, the President of the United States was requested to cause to be laid before the House of Representatives, the proceedings which have been had under the act, entitled, "An act for the gradual increase of the Navy of the United States;" specifying the num-ber of ships which have been put on the stocks, and of what class, and the quantity, and kind of materials which have been procured in compli-ance with the provisions of said act; and also the sums of money which have been paid out of the fund created by said act, and for what ob-jects; and likewise the contracts which have been entered into in execution of the said act,

on which moneys may not yet have been ad-vanced.

On motion of Mr. FLOYD, the Committee on the Public Lands were instructed to inquire into the expediency of granting to each State a tract of land, not exceeding one hundred thousand acres, for the endowment of an university in each State.

The SPEAKER laid before the House a letter from John Gardiner, enclosing a map of the Ala-bama Territory, and of military bounty lands in Missouri, and stating that if Congress thinks proper to give to each soldier a map with his bounty land, he is willing to relinquish his im-pression on reasonable terms; which letter was referred to the Committee on Public Lands.

The House then resolved itself into a Com-mittee of the Whole, on the bill making a par-tial appropriation for the Military Establishment, &c.; which was reported to the House without amendment, and ordered to be engrossed for a third reading.

The House resolved itself into a Committee of the Whole on the bill for the relief of Wil-liam Barton; on the bill for the relief of Wil-liam King; and on the bill for the relief of the heirs of Adolphus Burghart, deceased; which were reported without amendment, and ordered to be engrossed, and severally read a third time to-morrow.

#### PETITION OF JOHN HAILE.

The House then resolved itself into a Commit-tee of the Whole, on the report of the Commit-tee of Claims on the petition of John Haile.

The petitioner in this case states that, in the month of December, 1814, the enemy entered the town of Tappahannock, and, in consequence of his house being used and occupied as a cus-tom-house, in which the public records were kept, set fire to and destroyed the same, with its contents. The petitioner further states, that, al-though the house was his own property, it was evident the enemy destroyed it in consequence of its being used as a public office, and he therefore prays Congress to grant him remuneration. The Committee report, as their opinion, that the pe-titioner cannot, under the law of April, 1816, or under any other law with which they are ac-quainted, be entitled to relief.

The report was opposed by Mr. GARNETT, on the ground that this property, being in the occu-pation of the Government, stood on the same foot-ing as property occupied in the military service of the United States, and for that reason destroyed. This position he sustained at some length. Mr. WILLIAMS, of North Carolina, defended the re-port, contending that, as the property was placed in the situation in which it stood, by the act of the individual, (who received from the Govern-ment a good salary for his services,) and not at the requisition of the Government, he had no manner of claim on the Government for relief.

The report was agreed to by the Committee, and, being reported to the House, was there con-



curred in. So the prayer of the petitioner was rejected.

#### SALES OF PUBLIC LANDS.

Mr. SIMKINS offered the following resolution:

*Resolved*, That the Secretary of the Treasury be requested to lay before this House a statement of the sales, public and private, of public lands northwest of the Ohio, and above the mouth of Kentucky river; the respective years in which such sales have taken place, the credits given on such sales, the sums which have been paid thereon, those which are now due, and the periods at which they became so; whether any instalments are yet to fall due, and to what amount; also what descriptions of paper have been received, and what are now receivable in payment for said lands.

On the suggestion of Mr. HENDRICKS, the motion was modified by striking out the words in *italic*, so as to make the scope of it embrace all the country northwest of the Ohio.

Some discussion then took place on the expediency of adopting the resolution; in which Mr. STROTHER objected to it, on the ground that much of it was anticipated by information heretofore communicated, or required by the House; that it embraced an extent of information which was unnecessary, and to afford which, would demand of the Treasury Department a labor perfectly herculean, &c.

Mr. HARRISON, under an idea that much of the information called for was already communicated in the annual reports from the Treasury, and unwilling to order such a laborious and extensive mass of information precipitately, moved that the resolution lie on the table and be printed; which being acquiesced in by Mr. SIMPKINS, whose object was not to give unnecessary trouble, but only to obtain information not already communicated;

The resolution was laid on the table.

#### SURVIVING REVOLUTIONARY OFFICERS.

Mr. JOHNSON, of Kentucky, from the committee appointed on the petition of William Jackson, solicitor for the surviving officers of the Revolutionary army, and to which were referred sundry petitions of said officers, and of inhabitants of the United States on their behalf, made a detailed report upon said petitions; which was read, and committed to a Committee of the Whole. The report is as follows:

That, on the 21st of October, 1780, by resolution of Congress, it was provided that the officers who should continue in service to the end of the war, should be entitled to half pay during life, to commence from the time of reduction. This stipulation emanated from a previous resolution of Congress, which promised seven years' half pay to the same class of officers, excepting those who might hold any office of profit under the United States, or any of the States.

By another resolution of Congress, in January, 1781, the stipulation was so extended as to embrace the hospital department and medical staff. In the beginning of the year 1783 a memorial was presented to Congress, from a committee of the officers of the Army under the immediate command of General Wash-

ington, proposing a relinquishment of the half pay for life, on condition that an equivalent should be provided, either by the payment of a gross sum or by a full compensation for a limited time. This proposition, which originated with officers of the army, grew out of a conviction that the half pay for life was regarded by their fellow-citizens as savoring too much of the spirit of a privileged order, which rendered the measure unpopular with many of the community; and the proposition, on the part of the officers, to relinquish the payment for life, was, and ever will be, viewed as an act of the most distinguished patriotism, in perfect accordance with that entire devotion to the country, which is so strikingly manifested in all their sufferings, sacrifices, and services.

Congress, well apprized of the prevailing objection to the allowance for life, which had been adopted only from necessity, readily embraced the occasion of removing a measure objectionable in its principle, by a commutation of five years' full pay in lieu of the half pay for life, in a resolution of March 22d, 1783, which provided that such officers as were then in service, and should continue therein to the end of the war, should be entitled to receive the amount of five years' full pay in money, or securities on interest, at six per cent. per annum, as Congress should find most convenient, instead of the half pay promised for life by the resolution of October 21st, 1780; the said securities to be such as should be given to other creditors of the United States, provided it should be at the option of the lines of the respective States, and not of officers individually of those lines, to refuse or accept the same. The commutation was acceded to by the officers generally, in the manner pointed out; and at the reduction of the Army they received commutation certificates for the amount prescribed. The memorialists state a variety of facts, and present many considerations, to prove that, by the commutation, great injustice has been done to the officers originally entitled to half pay for life, and their object is to induce the Government to resume the original contract of half pay for life upon certain terms therein expressed; and the memorial concludes with a specific prayer, that an act may be passed directing the accounting officers of the Treasury to adjust the claim of each surviving officer of the Revolutionary Army of the United States, who by the resolves of Congress was entitled to half pay for life, calculating the amount of the principal of the arrearages from the time of his reduction, and deducting therefrom five years' full pay; and the balance of arrearages being thus ascertained, to issue a certificate, bearing an interest of six per centum per annum, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half pay, in half yearly payments, for and during the term of his natural life. The committee have endeavored to investigate the subject with all the candor and attention which its merits require; and in any point of view difficulties of no ordinary magnitude presented themselves.

When contemplating the eminent services and generous sacrifices of that illustrious band, the committee could not withhold a favorable report to the full extent of the prayer of the petitioners, could they be governed alone by feeling. The resources of the nation would never repay the debt of gratitude which is due to the patriots and sages of the Revolution, whose counsels and achievements so essentially contributed to the establishment of that freedom and independence

from which so many blessings flow. Was the prayer of the petitioners asked as a gratuity only, new difficulties would arise: other classes of citizens, equally meritorious and much more numerous, whose sacrifices were not less extensive, would have equal claims, and merit equal attention. The whole Revolutionary struggle was marked with public sacrifices and public devotion; every class of citizens endured with cheerfulness the privations and losses to which those trying times subjected them, and in the happiness and independence of the country which followed every member of the community found its best reward; and however desirable it may be that every sacrifice, in time of great public calamity, may receive a pecuniary requital, the American Revolution demonstrates its impracticability, and necessity requires that the munificence of Government should have some limitation. Well aware of this view of the subject, the claim of the memorialists is predicated upon contract and legal obligation. In the light of justice, therefore, the committee have also considered this subject; and it is with feelings of extreme regret they find themselves compelled, in duty, to differ in opinion with the memorialists in the prayer of the petition.

The resolution of Congress, under which the claim for the half pay was commuted, was proposed by the officers, and the commutation voluntarily accepted by them in the manner specified. The memorialists also urge their claim upon the supposition that the commutation was not an equivalent for the original stipulation, that more than five years' full pay was then equitably due. The committee, on this point, are of opinion, that a just estimate was made by the parties when the commutation was agreed upon, under all the circumstances of the case, and ought not to be revised at this day. But, if it were necessary to look for relief, by reviewing the comparative amount, it will be found that the interest of five years' full pay, at six per cent. per annum, is equal to three-fifths of the whole amount of half pay for life: for example, take the advance to a captain, of five years' full pay, at forty dollars per month, \$2,400, the annual interest on which would make the sum of \$144 at six per centum, and the whole amount of half pay would make the sum of \$240 per annum.

The advance of five years' full pay will also be found equal to the present worth of half pay for more than fifteen years. The committee cannot, therefore, discover such a great inadequacy in the amount stipulated. The resolution of March, 1783, provided that the five years' full pay should be in money, or securities on interest at six per cent. per annum, as Congress should find most convenient; the said securities being such as should be given to the other creditors of the United States.

Congress found it most convenient to pay in securities on interest, and for this purpose gave certificates conformable to the stipulation; the only evidence of debt in their power, and the same as were given to other creditors of the United States; the faith of the nation was pledged for the payment of these certificates, and the pledge was subsequently redeemed by the payment of the nominal amount, with interest, in gold or silver, or equivalents, in the hands of the officer or his assignee. If the officers could not command the money in hand for these certificates, neither could they have done so at that day for their half pay, had there been no commutation: gold and silver were not in the reach of Government at that period. This is suggest-

ed only to show that the mode of payment alone was changed, and that the commutation was granted as a fair equivalent.

Upon the view taken by the memorialists, the committee could not see any justice in confining the prayer of the petitioner to those only who still survive. To provide for those, upon the principle of justice and legal obligation, and suffer the dead to be forgotten, would be but a partial remuneration; the heirs of the deceased would have equal claims upon the Government as the officer who survives. Again, the memorialists ask a resumption of the original contract, to which the same objections may be urged as in the year 1783. If then deemed objectionable, because not in accordance with the genius of our institutions, nor congenial with the sentiments of the American people, it may be equally so at this day. Upon the most extensive view which the committee have taken of this subject, they have found difficulties still thickening, and, to answer the prayer of the petition to its extent, would, in the opinion of the committee, go to establish a principle fraught with much evil. Conscious, at the same time, of the merits and worth of these distinguished heroes, whose devotion and deeds have given such glory and such happiness to our country; conscious of their patriotism and valor, which have imposed lasting obligations upon the grateful remembrance of the nation, the committee could not reconcile to their feelings or duty an entire rejection of the memorial; and they have looked for a combination of the principles of equity and of gratitude, on which might be rewarded, in some little degree, the labor and sufferings of the memorialists, without involving future difficulties, in the establishment of a dangerous precedent; this principle has been found in the depreciation of the commutation certificate, and the losses sustained by the untimely sale of these certificates. It is a well attested fact, that most of those certificates were sold at an amount of not more than from one-fifth to one-tenth of their nominal value. Gold and silver not being in the power of the Government, the pressing and immediate want of the holders rendered it necessary for them to dispose of their certificates at any price; and, upon this view of the subject, the committee recommend the following resolution:

*Resolved*, That each officer of the Revolutionary army who was entitled to half pay for life under the several resolves of Congress upon that subject, and afterwards, in commutation thereof, received the amount of five years' full pay, in certificates or securities of the United States, shall now be paid, by the United States, the nominal amount of such certificates or securities, without interest, deducting therefrom one-eighth part of the said amount.

#### MEMORIAL AND STATEMENT.

To the honorable the Senate and the honorable House of Representatives of the United States in Congress assembled, the memorial of the subscriber, Solicitor on behalf of the surviving Officers of the Revolutionary Army of the United States, most respectfully represents:

That his constituents, the surviving officers of the Revolutionary army, in renewing their application to your honorable Houses, for an equitable settlement of the half pay, as stipulated by the resolves of Congress, are not more impelled by the afflicting necessity, to which the faithful devotion of their youth to the military



service of their country has reduced them in the decline of life, than by a sense of duty to themselves, as men of honor, to demonstrate and establish, by incontrovertible proof, the truth and justice of the claim which they have preferred; and relying on the equity of the national councils, under such information, they have instructed your memorialist to state the following facts, with the evidence by which they are supported:

By the resolves of Congress, of August 11th, 1779, October 21st, 1780, and January 17th, 1781, it was stipulated that half pay for life should be allowed to the officers of the Revolutionary army, whose terms of service are specified in the said resolves.

The proofs of this stipulation are recorded in the acts of the Government, under the several dates above recited—and the repetition of the promise, so often made, not only declared the gratitude of the Government to the officers, for services already rendered, but manifested its anxiety for the continuance of those services, which it thus solemnly stipulated to reward.

The contract, on the part of the officers, was faithfully performed, at the sacrifice of every personal consideration, and the entire relinquishment of private pursuits.

The proof of this fact is recorded in the independence and sovereignty of the United States—and is but too sadly attested by the necessity which urges the present appeal to the justice of Government.

On the part of Government, no variance from the terms of the contract was disclosed until the 22d of March, 1783, (the preliminary articles of peace being then signed,) when a prejudice against the half pay having been excited in some sections of our country, the senior officers of the army suggested the idea of a commutation, which, although generally objected to by the junior officers, was, under the influence of age and rank, adopted by the lines composing the main army; and the resolve of Congress, proposing a commutation of five years' full pay, in lieu of the half pay for life, which had been so repeatedly stipulated, and which had unquestionably held an influence in deciding the younger portion of the officers to an abstracted pursuit of military duty, was passed.

Independently, however, of the objections offered by the junior officers of the main army, to the commutation of the half pay, there is a fact of decisive importance, as regards a large portion of the officers, in relation to that change of the compensation.

The officers of the lines of Georgia, South Carolina, North Carolina, and some corps of Virginia, had no voice whatever, either by lines or as individuals, in the question of commutation. They had been made prisoners of war before and at the capitulation of Charleston, on the 15th of May, 1780, and were not afterwards reorganized.

Your memorialist was at that time a captain of the first regiment of South Carolina, and aid-de-camp to Major General Lincoln, who then commanded in the Southern Department; and your memorialist, being afterwards appointed Assistant Secretary of War, is enabled to assure your honorable Houses that this statement is strictly correct. He is not, however, instructed to request any distinction; and he believes that the generous spirits of those lines, who survive to unite with their brother officers in the present application, do not desire to be separated from their faithful comrades in honor and misfortune; but, confiding on the justice of the claim, await with them that equitable decision,

which the just and magnanimous spirit of the National Councils shall award.

In addition to facts so conclusive as those already adduced in favor of the claim, your memorialist begs leave, with the most respectful deference, to state to your honorable House that, in commuting the half pay for life, an error of the most injurious nature to the officers was (no doubt inadvertently) committed—such an error, indeed, as, without impeaching the integrity of the Government, need only to be mentioned, even at this distant period, to procure immediate redress to the injured party.

The average age of the officers of the Revolutionary army, at the close of the war, in 1783, could not, by just computation, be reckoned beyond thirty-five years, which on an estimate of the expectation of life, collected from the most approved writers on annuities, would have entitled the officers to an average commutation of ten years and six months' full pay, instead of five years; and would have allowed to the younger officers, who disagreed to the commutation, an average of twelve years' full pay.

From these data your memorialist concludes that if the commutation of five years' full pay had been paid to his constituents in gold or silver, they would at this time, under the error here stated, have had a clear and equitable claim for the additional sum of five years and six months' principal of the full pay, with its accumulation of thirty-five years' interest, amounting to a sum far beyond the moderate proposition, which they now submit to your honorable Houses, of resuming the original contract without charging any interest on the arrearages of the half-pay, or making any deduction for the loss which they sustain in allowing the full nominal amount of the commutation certificate to be refunded, instead of the one-eighth or one tenth part which they received, on a sale forced for want of bread, twelve years after it was charged to them as gold or silver—no provision having been made by the Government in that time to redeem the principal or to pay any part of the interest.

Were it necessary to adduce any additional proofs in support of the claim, your memorialist apprehends that complete confirmation of all the facts and opinions herein stated will be found in the memorial of the citizens of the United States, which he is charged to present to your honorable Houses in behalf of his constituents, the surviving officers of the Revolutionary army. In that minute and interesting representation their services are not only gratefully recognised and appreciated, and the justice of their claim completely admitted, but a pledge is given by many thousands of the most respectable citizens that they will cheerfully contribute their proportion of assessment to the just and grateful purpose of fulfilling this national engagement.

As this liberal interposition in behalf of the surviving officers of the Revolutionary army, by the citizens of the United States, to many of whom public trusts of great importance are confided, is of high authority, and not only establishes the justice of the claim, but gives a pledge to make provision for its discharge, your memorialist, under the sanction, and in the words of their solicitation, on behalf of his constituents, most respectfully and most earnestly entreats that an act may be passed directing the accounting officers of the Treasury to adjust the claims of each surviving officer of the Revolutionary army of the United States, who, by the resolves of Congress, were

entitled to half pay for life—calculating the amount of the principal of the arrearages from the time of his reduction, and deducting therefrom five years' full pay—and the balance of arrearages being thus ascertained, to issue a certificate, bearing interest of six per cent. per annum, to the officer for the amount of said balance; and the officer to be thenceforth entitled to receive half pay, in half yearly payments, for and during the term of his natural life.

As the relief to be received by the surviving officers of the Revolutionary army, whose average age now approaches seventy years, will be greatly increased by the promptitude with which it is accorded, your memorialist also entreats that the attention of your honorable Houses may be directed to this interesting consideration. And your memorialist will ever pray.

W. JACKSON,

Solicitor on behalf of the Officers of the Revolutionary Army of the U. S.

*Statement of the Half Pay for Life, as stipulated by the Resolves of Congress.*

*In Congress August 11, 1779.*

"Resolved, That the half pay provided by the resolution of the 15th May, 1778, be extended to continue for life, and that the holding of a civil office under the United States, or either of them, shall be no bar to prevent any officer from receiving the same."

*In Congress, October 21, 1780.*

"Resolved, That the Commander-in-Chief, and commanding officer in the Southern department, direct the officers of each State to meet and agree upon the officers for the regiments to be raised by their respective States, from those who incline to continue in service; and where it cannot be done by agreement, to be determined by seniority; and make return of those who are to remain, which is to be transmitted to Congress, together with the names of the officers reduced, who are to be allowed half pay for life.

"Resolved, That the officers who shall continue in the service to the end of the war, shall also be entitled to half pay during life, to commence from the time of their reduction."

*In Congress, January 17, 1781.*

"Resolved, That all officers in the hospital department, and medical staff, hereinafter mentioned, who shall continue in service to the end of the war, or be reduced before that time as supernumeraries, shall be entitled to, and receive, during life, in lieu of half pay, the following allowance," &c.

By the preceding resolves of Congress, so often repeated, it is incontestably proved to have been the intention of Government to make a provision for the officers during life, to the full amount of their half pay, respectively—and the subjoined resolve, which proposed the commutation, expressly states that it should be for an equivalent.

*In Congress, March 22, 1783.*

"On the report of a committee, consisting of Mr. Hamilton, Mr. Dyer, and Mr. Bedford, to whom was referred a motion of Mr. Dyer, together with the memorial of the officers of the Army, and the report of the committee thereon; Congress came to the following resolutions:

"Whereas, the officers of the several lines under the immediate command of his Excellency General Washington, did, by their late memorial, transmitted 15th Con. 2d Sess.—12

by their committee, represent to Congress, that the half pay granted by sundry resolutions, was regarded in an unfavorable light by the citizens of some of these States, who would prefer a compensation for a limited term of years, or by a sum in gross, to an establishment for life; and did, on that account, solicit a commutation of their half pay for an equivalent, in one of the two modes abovementioned, in order to remove all subject of dissatisfaction from the minds of their fellow-citizens. And whereas Congress are desirous as well of gratifying the reasonable expectations of the officers of the Army, as of removing all objections which may exist in any part of the United States to the principle of the half pay establishment, for which the faith of the United States has been pledged; persuaded that those objections can only arise from the nature of the compensation, not from any indisposition to compensate those whose services, sacrifices, and sufferings, have so just a title to the approbation and rewards of their country: Therefore,

"Resolved, That such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the amount of five years full pay, in money, or securities on interest, at six per cent. per annum, as Congress shall find most convenient, instead of the half pay promised for life, by the resolution of the 21st day of October, 1780; the said securities to be such as shall be given to the other creditors of the United States, provided it be at the option of the lines of the respective States, and not of officers individually in those lines, to refuse or accept the same; and provided, also, that their election shall be signified to Congress through the Commander-in-Chief, from the lines under his immediate command, within two months, and through the commanding officer of the southern army, from those under his command, within six months from the date of this resolution.

"That the same commutation shall extend to the corps not belonging to the lines of particular States, and who are entitled to half pay for life, as aforesaid; the acceptance or refusal to be determined by corps, and to be signified in the same manner and within the same time as abovementioned.

"That all officers belonging to the hospital department, who are entitled to half pay by the resolution of the 27th day of January, 1781, may collectively agree to accept or refuse the aforesaid commutation, signifying the same through the Commander-in-Chief, within six months from this time.

"That such officers as have retired at different periods, entitled to half pay for life, may collectively, in each State of which they are inhabitants, accept or refuse the same—their assent or refusal to be signified by agents, authorized for that purpose, within six months from this period; that with respect to such retiring officers, the commutation, if accepted by them, shall be in lieu of whatever may be now due to them, since the time of their retiring from service, as well as of what might hereafter become due; and that, so soon as their acceptance shall be signified, the superintendent of finance be, and he is hereby, directed to take measures for the settlement of their accounts accordingly, and to issue to them certificates bearing interest at six per cent. That all officers entitled to half pay for life, not included in the preceding resolution, may also collectively agree to accept or refuse the aforesaid commutation, signifying the same within six months from this time."



Such were the resolutions of Congress, which stipulated that half pay for life should be allowed to the officers of the Revolutionary Army of the United States; and such the resolve which proposed to commute the half pay for life, for a gross sum in money or securities, which should, in the express words of the resolve, be equivalent to the half pay for life—that is to say, by estimating the expectation of life, according to the average age of the officers, which could not, by correct computation, be reckoned beyond thirty-five years. It remains, therefore, by a just and accurate calculation of the half pay for life, in all its relations and dependencies, to demonstrate that the commutation, by the erroneous estimate of five years, instead of ten years and six months full pay, has been productive of immense loss to the officers, and of correspondent gain and advantage to the public, on principles which no policy could require, and no reasoning can justify, as appears by the following

*Statement of the half pay and commutation in their relation to each other.*

At the close of the war for independence, in 1783, there were about 2,000 officers entitled, by the resolves of Congress, to half pay for life, which, calculated at the average rate of captains' half pay, amounted, at \$240 per annum, to \$480,000.

The commutation of which, on the expectation of life at thirty-five years, which was the average age of the officers of the Revolutionary Army of the United States, at the close of the war in 1783, ought, according to the annexed statements of Dr. Price and Mr. Morgan, and the opinions of all the most approved writers on annuities, to have been estimated at the rate of ten years and six months full pay, and would have amounted to - \$10,080,000

But on the estimate of five years, the rate at which the resolve of Congress, instead of an equivalent, fixed the commutation, either by arbitrary decision or erroneous calculation, which, on every principle, ought to be corrected, the commutation only amounted to - 4,800,000

Occasioning an aggregate loss to the officers of - \$5,280,000

And to each officer an average loss in principal of - \$2,840

And a loss in interest, at six per cent., for thirty-five years, of - 5,544

Making a total loss to each officer of - \$8,184

And an advantage to the public, against the resolve of Congress that the commutation ought to be an equivalent for the half pay, and against every equitable principle, amounting to - \$5,280,000

And thirty-five years interest thereon, at six per cent. - 11,088,000

Total advantage to the public, by not making the commutation a just equivalent, according to the resolve of Congress of March 22, 1783 - \$16,368,000

Say sixteen millions three hundred and sixty-eight thousand dollars gain to the public and loss to the officers, against the plainest principles of justice, on the calculation of simple interest, and according to the

payment of interest on the public debt, quarterly, and by compound interest, amounting to forty-two millions two hundred and ninety thousand nine hundred and twelve dollars.

And for which enormous sum the surviving officers, by their proposition to resume the original contract of half pay for life, relinquishing all arrearages of interest, and allowing the full nominal amount of the commutation certificate, (of which they only received one-eighth or one-tenth part,) to be refunded; and, estimating the survivors at two hundred, they would only receive in surties, as the principal of arrearages, \$1,200,000.

With half pay per annum to 200 officers, whose average age amounts to seventy years, \$48,000.

Whereas, at compound interest, calculated annually, the loss to the officers, by only allowing five years instead of ten years and six months full pay, which was the just equivalent of commutation for the half pay, and to which the average age of thirty-five years was fully entitled, is \$40,582,496 23.

Being to each officer an average loss of \$20,291.

For which they propose to receive an aggregate of \$1,200,000.

Leaving to the public, in thirty-five years, a clear gain on their hard-earned annuity, of \$39,382,496 23.

Exclusive of \$48,000, the amount of half pay to 200 officers, whose average age is seventy years; or, deducting even the capital of that annuity, a clear gain to the public of \$38,582,496 22.

Such, at the close of an eight years' war, in which the independence and sovereignty of the United States were established, was the cruel result to faithful public servants, whose abstracted devotion to the cause of their country, in her military service, had left them no other means of support than the stipulated reward of "those services, sacrifices, and sufferings," which, in the words of the resolve of Congress of March 22d, 1783, "had so just a title to the approbation and rewards of their country." Or, in the still more emphatic language of their illustrious leader, the immortal Washington, when addressing the Governors of the several States, on the subject of the half pay and commutation, he states in his letter, dated

"HEADQUARTERS, NEWBURG,

"June 18, 1783.

"I may be allowed to say, it was the price of their blood and of your independence; it is, therefore, more than a common debt—it is a debt of honor—it can never be considered as a pension or gratuity, nor cancelled until it is fairly discharged.

(Signed) "G. WASHINGTON."

The facts set forth in the preceding acts of Congress confirm and establish, beyond the shadow of a doubt, not only the justice, but the moderation, of the claim now presented by the surviving officers of the Revolutionary army, inasmuch as they prove—

1st. That half pay for life was solemnly and repeatedly stipulated to be paid to the officers, whose terms of service are specified in the aforesaid acts of Congress.

2dly. That, when it was resolved that the half pay for life should be commuted for a gross sum, it was expressly provided by the said acts of Congress that it should be for an equivalent.

And as the true intent and meaning of every contract are best collected, ascertained, and adjudged by the terms in which it is drawn, it is fortunate for the surviving officers of the Revolutionary army that the

essential term "equivalent," used in their memorial to Congress, is not only recognised, but recited in the resolve which proposes a commutation of the half pay for life; and it therefore only remains to decide, on the best authorities, what is the correct meaning of the word "equivalent."

Dr. Johnson says that "equivalent," used as an adjective, means "equal in value," and, as a noun substantive, it means "a thing of the same weight, dignity, or value." And he makes the following quotations, viz:

"The slave without a ransom shall be sent,

It rests with you to make the equivalent."—Dryden.

"They fancy a regular obedience to one law will be a full equivalent for their breach of another."—Rogers.

Having thus arrived at the true meaning of the word "equivalent," which neither party can disclaim, as it has been expressly used by both, we proceed to inquire whether the "commutation," as fixed by Congress, was a full equivalent for the half pay for life, as stipulated by the same honorable body; and, to simplify the inquiry as much as possible, we shall continue to consider the half pay of captain as the average rate.

By the resolve of Congress of October 21, 1780, the half pay allowed to a captain for life, was \$240 per annum.

By the resolve of March 22, 1783, the commutation was fixed at five years' full pay, which gave to a captain \$2,400.

But by the depreciation of the certificate to ten for one, as stated in the report of a committee of the House of Representatives, in February, 1810, at which rate it was sold for want of bread, twelve years after it was issued, and it only yielded \$240, or exactly one year's half pay. Was this a full equivalent? Is there one man who will say it was anything more than one-tenth part of what had been stipulated, even at the rate of five years' full pay; and when estimated by the just calculation of ten years and six months' full pay, the fair commutation to which, on the expectation of life at the average rate of thirty-five years, the officer was fully entitled? Is there an individual in the community who will say that it amounted even to the one-twentieth part of the sum which, as a just equivalent, ought to have been paid to the annuitant?

In both of these statements it is clearly shown that the error and defalcation were exclusively on the part of the public, as appears by the following facts:

1. No provision was made for many years after the date of the commutation certificate, (which had been fixed by Congress at one-half of what ought to have been its amount, say five instead of ten,) to redeem the principal, or to pay any part of the interest; it was utterly unproductive to the starving veteran, to whom twelve years before it had been paid as gold and silver, and, forced by want of bread, he sold it at a depreciation of ten for one!

2d. Admitting that this depreciated voucher was to be considered in the hand of the officer at its nominal value, equal to gold or silver, still its full nominal value, estimated in specie, is proved by the best authorities to have been only equal to one-half of what should have been paid as the just equivalent of the half pay for life, at the average age of thirty-five years.

The principles of justice are immutable; at all times and in all places they are equivalent; and as the facts set forth in the preceding statement cannot be controverted, and as the conclusions drawn from them are

produced by figures which cannot err, it follows inevitably that the claim which is now preferred to Congress for an equitable settlement of the half pay, is not only strictly just, but extremely moderate; and it is impossible that the enlightened Government of an independent and prosperous people should not cheerfully and promptly comply with the prayer of the petitioners, who have every claim to national justice and gratitude; and the more especially as less than the thousandth part, in value, of the land that was won by their toil and blood, would discharge the debt.

*Table of the expectation of life, from Dr. Price's Treatises on Annuities, volume 2, page 51.*

Expectation of life at years.	By table 9.	By table 15.	By table 16.
20	28 9	29 3	29 6
25	26 1	26 6	26 7
30	23 6	24 1	24 1
35	21 5	21 6	21 6
40	19 6	19 5	19 3
45	17 8	17 6	17 4
50	16 0	15 9	15 5
55	14 2	13 9	13 6
60	12 4	11 7	11 7
65	10 5	9 7	9 8
70	8 8	8 0	7 9

Extract from table No. 1, of the Pennsylvania Company on Lives and granting Annuities; showing the expectation of life in several places, and proving that Dr. Price's estimate is the lowest.

Age.	Northamp.	Breslau.	Philad.	London,
Years.	in England.	in Silesia.	Penn.	acc'g to Price.
35	25 68	24 93	23 40	21 76

Having thus demonstrated, by the clearest proofs, that, according to the usage of our own and of other nations, in estimating the value of annuities, the commutation of the half pay for life, as fixed by Congress, at the rate of five years, instead of ten years and six months full pay, was not, if it had been paid in gold or silver, one-half of the "equivalent" which the condition precedent in the resolve of Congress required; it only remains to show, that even the legal right is impaired or affected by any technical objection that may be raised to the present claim for an equitable settlement—as the plea of "contract" is completely rebutted by the non-fulfilment of the "equivalent" which the condition precedent, forming the very basis of the resolve of Congress which proposed the commutation had stipulated—nor can even the allegation of "acceptance" be suggested, as all personal option was taken

\* To avoid the possibility of underrating the age of the officers of the Revolutionary army, at the close of the war in the year 1783, the average of thirty-five years has been assumed, although it is the opinion of those who have the most distinct knowledge and recollection of the officers, that thirty-two years was nearer the average age. The Commander-in-Chief, General Washington, who had served in the war of 1765, was only fifty-one years old in 1783, and his age may be considered as the full average of that of the General officers. The average age of the field officers did not exceed forty years, and that of the captains and subalterns, who formed the great mass of the officers, was under twenty-eight years.



H. or R.

Foreign Merchant Seamen.

DECEMBER, 1818.

from the officer by the said resolve, which expressly and exclusively referred the acceptance of the commutation to "lines and corps," thereby destroying the vested right of the individual to the half pay for life, against his consent, and without rendering the stipulated equivalent!

As a brief summary of the preceding statement, the following observations, faithfully deduced, are again most respectfully submitted to the consideration of the members of the National Legislature.

The claim of the surviving officers of the Revolutionary Army of the United States, for an equitable settlement of the half pay for life, as stipulated by the resolves of Congress, originates, as is declared by the resolve of March 22d, 1783, in "the services, sacrifices, and sufferings of those who have so just a title to the approbation and reward of their country." In the heartfelt expression of the great Father of his Country, "it was the price of their blood, and of your independence; it is more than a common debt—it is a debt of honor—it can never be considered as a pension or gratuity, nor cancelled until it is fairly discharged." According to incontrovertible facts, and the consequences which follow, by arithmetical deduction, it rests on the immutable principles of justice; is sanctioned by correct conclusions, both in equity and law; and is advocated by the universal voice of the very people who are to furnish the means of its discharge.

As no reasoning can invalidate these incontrovertible truths, no additional arguments can be required to enforce them. A claim thus supported, and for which the faith of the United States has been pledged, is with confidence and safety referred to the wisdom and integrity of the National Senators and Representatives.

W. J.

## FOREIGN MERCHANT SEAMEN.

The House then resolved itself into a Committee of the Whole on the bill to authorize the apprehension of foreign seamen deserting from merchant vessels in the ports of the United States. The bill having been read through—

Mr. SMITH, of Maryland, briefly explained the object of the bill. He stated the nature of contracts made by seamen with captains for voyages; which, being violated by the desertion of seamen in the port of destination, or at any time before the termination of the voyage, sometimes broke up the whole voyage, and ruined those concerned in it. He further stated that in all other countries there were regulations for enforcing the observance of these contracts, of which we, in common with others, enjoyed the benefit. These regulations the present bill proposed to reciprocate, by establishing similar regulations on our part.

Mr. NEWTON, as chairman of the committee who reported the bill, further explained its object. To obtain information on the subject, he said, a letter was at the last session addressed to the Secretary of State, to inquire whether the captains of American vessels had in foreign ports the same privilege granted them, to enable them to recover their seamen, which were proposed to be allowed by this bill to foreigners in our ports. To this letter an answer had been received, which Mr. N. read to the House, and which had satisfied the

Committee, as he presumed it would the House, of the propriety of passing the bill.\*

On motion of Mr. WHITMAN, an amendment was made to the details of the bill, the effect of which was to extend the power of carrying the law into execution, to all civil magistrates.

The question being then about to be put on the Committee's rising and reporting the bill—

Mr. CLAY (Speaker) said he was not prepared to say that this bill ought to be reported to the House. If the principle of it was correct, the details were exceptionable. The principle was, that if a seaman, arriving in the ports of the United States, quits the service of the master of the vessel with whom he has contracted, without permission, he should be surrendered without trial to the captain. The pretext for establishing this principle was, that other States extend to us the privilege now proposed to be granted to them. Mr. C. said he was by no means satisfied of the propriety of this exception of seamen from the rules applying to all other citizens of foreign countries. He was not satisfied that a seaman, having contracted to perform a voyage, should, under no possible circumstances, be excused from the performance of that contract. Yet, according to this bill, without inquiry into the facts, without examination into the treatment the seaman may have received on the voyage, the seaman was to be bound hand and foot, and delivered over to the captain whose service he had perhaps been compelled by tyranny or abuse to quit. I care not, said Mr. C. what is done in other countries on the subject; their regulations in this respect form in my mind no justification of the provisions of this bill. The details of the bill, he said, were moreover objectionable. The delicate class of cases arising out of our naturaliza-

\* The letter is as follows:

DEPARTMENT OF STATE, Jan. 3, 1818.

SIR: In answer to the inquiries in your letter of the 25th ultimo, with reference to the subject of the resolution enclosed in it, I have the honor to state, that in all the maritime States of Europe, with which I have been personally conversant, there are magistrates invested with authority to arrest seamen, deserters from foreign merchant vessels in their ports, and to restore them to the masters of the vessels to which they belong, conformably to their contracts in the shipping papers. The process in such cases is, as by their nature it must be, to prove efficacious, immediate, and summary; and the masters of American vessels have the benefit of it, in common with others. In the city of London, the authority is vested in the Lord Mayor; and, at other places in Great Britain, in the ordinary police magistrates. I do not recollect having ever known an instance in which masters of American vessels were denied the benefit of such processes, unless in cases when, by the laws of the country, the deserting seaman was, on other accounts, liable to be detained. The practice is, so far as I have known, the same in every part of the European continent.

I am, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

THOMAS NEWTON, Esq., Chairman, &c.

DECEMBER, 1818.

Foreign Merchant Seamen.

H. or R.

tion laws would be seriously affected by its provisions. Suppose a person who, naturalized according to our laws, would *prima facie* be considered by ninety-nine out of a hundred as a foreigner, to be demanded by a foreign captain as a deserter—he would, on his affirmation, be given up, and thus an American citizen would be subjected to this odious provision. Gentlemen might say, they did not mean to carry the principle so far; but, Mr. C. said, such an interpretation might be given by the magistrate before whom the seaman was brought. He never could consent, that, in every case of a seaman leaving his ship, or of any other description of persons, because a contract has been alleged to be violated, without inquiry into the ground of complaint, however just it might be, the alleged offender should be surrendered. If the bill was adverted to, it would be found that two facts only were necessary to authorize the surrender: first, that the party should have made a contract, and, secondly, that he should have quitted the service of the master within the limits of the United States. Were gentlemen prepared to say, that in no possible case a seaman might be justified in quitting the merchant service? If there was a possibility of such justification, Mr. C. said, they ought not to give their assent to this bill. He knew, he said, that commerce and navigation, to a certain extent, make slaves; but that slavery should not be made unnecessarily severe. If in every instance we are to follow foreign examples in our statutes and usage, to what lengths may we not go? Impressment of seamen for national ships, said he, is a foreign practice: we may be called upon, on the principles of imitation, to sanction that practice. But, said Mr. C., if our Navy could be maintained only by impressment, dear as I consider that Navy to the interest and to the glory of the country, I would see it annihilated before I would sanction such a practice. Gentlemen, therefore, he said, would not get his assent to the bill by telling him what was done in foreign countries. Over our country a particular genius of liberty presided: we must take care not to banish it by following, step by step, in the wake of other nations, and justifying ourselves for what we do only by exhibiting a precedent in what they have done before us. Mr. C. had other objections to the bill. If there were cases in which it was found necessary to reciprocate provisions with foreign Powers for the security of navigation, and such cases there might be, let them be settled by treaty, by reciprocal stipulation. If they extend in their ports but bare civility to us, let us do the same to them. On what foundation was the House invited to pass a bill involving so many delicate considerations, and objectionable provisions? Why, on the ground of a letter—and, without any disrespect to the author of it, a very loose letter, from the Secretary of State. Mr. C. here read some passages of the letter. The honorable Secretary, he said, had not told the House how far his personal acquaintance with foreign countries extended, nor what was the nature of the provisions in that country, analogous to those of

this bill; whether in every possible instance a surrender is to take place; whether in all cases the seaman is inextricably yielded up to the captain claiming him. Mr. C. said he wished, before he could act on this subject, to see the laws of foreign countries, and not on such a vague indefinite account of them, to bottom such severe provisions. We have just learnt, too, said he, that, with regard to that Power with which we have had the greatest difficulty respecting seamen, an arrangement had been made, such as to remove all causes of complaint against her. I should like to see that arrangement, and examine its provisions, before acting on this subject. He hoped, he said, the honorable chairman of the Committee of Commerce and Manufactures would not hurry this bill to a decision. Let us first know, said he, the provisions of the foreign States with which the honorable Secretary has been personally conversant. Let us, above all, recollect, whatever foreign nations do, that here alone liberty flourishes, and personal rights are fully enjoyed; and that whatever we do should have reference to this peculiarly happy condition of our country, and be conformable to it.

Mr. NEWTON said he had not the least objection that time should be given to the Speaker, and to all the House, to obtain any information they might desire on this subject. But, he said, he did not view the provisions of the bill in the light which the gentleman had viewed them. The bill was a transcript of the act which passed as long ago as the year 1790, for securing to masters the services of American seamen engaging with them. Thus, it appeared, that it was no new principle the bill proposed to introduce into legislation, but as old as since January 20, 1790. Mr. N. said, he knew that the practice of impressment existed in some foreign countries. No one had a greater abhorrence of it than he; and the Speaker would perceive the bill proposed to confer no power to take up deserters from the British or any other navy, and restore them to their ships. It embraced the case of seamen deserting merchant vessels only, in violation and disregard of a voluntary contract. The captain, however, must also fulfil his part of the contract, and the magistrate before whom the seaman is brought may, if he choose, require proof of the fact, and decide upon the case according to his own discretion. Contenting himself at the present time with having made these suggestions, and desiring the subject should be well understood, and the information upon it be as full as possible, he had no objection that the bill should lie on the table.

Mr. WHITMAN defended the bill. The same provisions which it contains, he said, had been in operation in regard to our own seamen for twenty-eight years past, and are yet in force. In every seaport of the United States persons have been apprehended who have been alleged to have violated their contracts, committed to prison, and there detained until the vessel to which they belonged was bound to sea, and no inconvenience had ever been felt from the execution of the law.



With regard to their being delivered to the captain claiming them, without a hearing, the Speaker was mistaken in that particular. The act required examination before decision, and applied the same rules to this description of contract which prevailed in regard to all civil contracts. The gentleman's nice scruples on the subject would apply to any case in which individuals had by contract a right to the personal service of any other individuals.

Mr. W. said he should suppose the gentleman would be as tender of the liberties of our native seamen as of foreign seamen resorting to our ports; and it appeared that similar provisions had existed for near thirty years in regard to American seamen, without exciting any apprehension in regard to our liberties, and without endangering the rights of a single individual. And are we now, said he, to be frightened by bugbears, if the Speaker will excuse the remark, which could alarm only the most timid imagination? With respect to the reported treaty, Mr. W. said that the treaty could have no bearing on this question. He never knew a treaty to contain provisions for compelling seamen in the merchant service to return on board their vessels after deserting them. Heretofore, it had been supposed that the act of 1790, which was rather obscurely worded, did apply to foreign captains and foreign seamen, as well as to those of the United States; and the magistrates throughout the country had so executed it. But, of late, the question had been examined, and the act had received a different construction. It had, therefore, become necessary to supply an obvious defect in the law; in doing which, Mr. W. said, he could not see the danger to the natural rights of man, or the liberties of the citizen or foreigners, which the Speaker appeared to apprehend. With respect to naturalized foreigners, there could be no difficulty: the seaman would only have to produce to the magistrate the evidence of his naturalization, and the magistrate could not do otherwise than instantly liberate him. Apprehensions of abuse of power were, he said, no argument against necessary grants of it; and the argument from possible abuse would apply equally well to any other powers possessed by our magistrates as to this. When it was considered that, in all foreign ports, we enjoyed the right proposed by the bill to be allowed to foreigners in our ports, it was a sort of comity due to others to adopt this measure. Was it, he asked, to be considered a reprehensible principle, because foreign Governments had adopted it, when we ourselves have for many years acted on it? Mr. W. could not see any reason why the subject should be deferred. The bill, he said, did not affect British sailors only, but the sailors of every nation. Therefore nothing which is in the expected treaty, or is not in it, could obviate the necessity of a general provision, which, if not necessary as to British seamen, would be necessary as to all other foreign seamen visiting our seaports. There never, however, had been any negotiation between nations, that he knew of, in regard to pro-

visions such as those of this bill; and how there could be anything in the reported British Treaty about the subject, he could not conceive.

Mr. CLAY said he was far from being convinced by the gentleman's argument of the expediency of the provision embraced in the bill. He was exceedingly sorry, he said, to have incurred the reprehension of the honorable gentleman from Massachusetts; and congratulated that gentleman on the philosophical coolness with which he was able to survey what Mr. C. considered an assault meditated on the personal liberty of the citizen. That he could not so calmly contemplate it, might be owing possibly to the difference of their native climate, different modes of thinking, or difference of disposition. The gentleman, Mr. C. said, had not made out anything like a case. What was the existing law, to which this bill was likened? It was applicable to our own citizens, to be executed within the territory of the United States, and both parties amenable to the law. But there was a vast difference between this, and a provision for surrendering a person, being a foreigner, to the operation not of our own laws, but of laws we know nothing of. We have laws for the apprehension and punishment of deserters from our Army; and it has been a favorite object with the British Government to have a treaty stipulation for the reciprocal apprehension and restoration of deserters of that description: but that we have always constantly and properly refused. The gentleman might reason with the same propriety from our own provision in that case to the expediency of a provision for apprehending foreign deserters from an army or navy; and the gentleman might say, with equal force in that as in the present case, that there was no injury to natural liberty, nor any inconvenience, to be apprehended from it. There was, Mr. C. said, an essential difference between the cases: in the one, said he, the law applies to the captain as well as to the seamen—in the other, we should interpose our power against the seaman, and give him up to the tyranny of the captain, or of laws of which we are ignorant. Such a proposition he could not agree to at all, but, if at all, not in this shape: it should be by treaty stipulation; that we might know what we get for what we granted—on which point, he repeated, the information before the House was too vague. But, (said Mr. C.) now do attend to the gentleman from Massachusetts. He follows the seaman from the time he makes the contract, until he is brought before the magistrate on a charge of having violated it, and asks if there be any hardship in that? No: but what question is the magistrate to ask him? Have you made a contract? he will ask. If so, he is bound to surrender him without the cause of his leaving the ship being inquired into. No matter whether the contract was obtained from the seaman by force, fraud, or duress, the magistrate is to restore him to the captain claiming him. Mr. C. said he would admit to the gentleman, that in a case of clear obligation to act as a seaman, during a given voyage, being made out, and no better reason than a caprice of the seaman for vi-

olating it, he ought to be made to fulfil it. But the objection to the provision of this bill was, that it did not leave the seaman at liberty to show the ground on which he had deserted. No principle of comity, to which the gentleman had appealed with so much triumph, would induce him to give his vote for it. That inherent love of liberty which directs my course, (and which I trust, and am quite sure, the gentleman from Massachusetts inherits as well as myself,) forbids me to do so. If such a provision actually exists in regard to our own seamen, I regret it; in their case, however, it may be necessary and politic, but cannot be so in the case of foreigners, for reasons already assigned. In regard to the effect of such a provision on the rights of naturalized citizens, let me advert to a case, said Mr. C., which might have occurred at a period of excitement which existed some years back, and in the particular part of the country from which the gentleman himself comes. Let me suppose a certain magistrate, holding certain opinions very popular in that day in the same quarter, to have the case presented to him, of a seaman deserting the British merchant service. I am a citizen, says the sailor; and here is my certificate of naturalization. What would the magistrate do? Would he not tell you what has been urged again and again, even on the floor of this House, that the duty of *allegiance* is inviolate and perpetual; that it is contracted by birth, and cannot be shaken off? And would he not determine the seaman to be a Briton, his certificate notwithstanding? Mr. C. said he was not for submitting questions of this importance to the million of civil magistrates in the United States; for, by the amendment which had taken place, every justice of the peace was authorized to adjudicate the question. As to the case of indentured servants, which had been referred to as analogous, he doubted whether, in any State in the Union, if a servant were to make out a case of a breach of contract on the part of a master, he would be compelled without examination to return to his service. If any magistrate were to so decide, in the State in which he lived at least, the servant would have a clear remedy by writ of habeas corpus. Mr. C. protested, however, against the application of principles, arbitrary and rigorous, to all cases, which are fit only for extreme ones: and against the argument that, because in one case an arbitrary principle might be applicable, it must be equally so in all cases. In conclusion, Mr. C. said, he wanted information: he did not know that any information would obviate his objections to the bill; but, at all events, he was clear that it ought not to pass without more distinct information as to the practice of foreign Powers. He therefore moved that the Committee rise, and ask leave to sit again.

Mr. WHITMAN added a few more observations. The foreign seaman, he said, had precisely the same remedy as our own in cases of violation of contract on the part of the captain, and the same laws and courts to resort to for redress. The provisions of this bill were to prevent individuals from taking justice into their own hands, in cases

so important as that of service due on board merchant ships. The seaman should not be at liberty to say, I will serve no longer, and thus dissolve his contract. Contracts, once entered into, should be fairly fulfilled. If it were supposed that all powers confided to magistrates must be abused, there might be some ground for the objections to the bill, but otherwise there was none.

The Committee then rose, reported progress, and obtained leave to sit again.

#### TUESDAY, December 8.

Another member, to wit: from Massachusetts, ELIJAH H. MILLS, appeared and took his seat.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report upon the subject of the duties on wines and books; which was read, when Mr. S. reported a bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages; which was read twice and committed to a Committee of the Whole.

The Committee of Ways and Means were discharged from the further consideration of the report of the Secretary of the Treasury, upon alterations or modifications required in the acts fixing the emoluments of certain officers of the customs, and it was referred to the Committee of Commerce and Manufactures.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Frederick Brown; which was read twice and ordered to be engrossed and read a third time to-morrow.

The SPEAKER laid before the House a report from the Secretary of War, of a system providing for the abolition of the existing Indian trading establishments of the United States, and providing for the opening of the trade with the Indians, to individuals, under suitable regulations, "made in obedience to a resolution of this House of the 4th of April last;" which was referred to the Committee on Indian Affairs.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, containing a plan for the final adjustment and settlement of claims to land in the State of Louisiana and Territory of Missouri, accompanied with the draught of a bill, providing for that purpose, prepared in obedience to a resolution of this House, of the 16th of April last; which was read, and committed to a Committee of the Whole to-morrow.

Ordered, That the bill reported on the 4th instant for the final adjustment of certain claims to land in the State of Louisiana and Territory of Missouri, be committed to the Committee of the Whole last appointed.

A message from the Senate informed the House that the Senate have passed a resolution that a committee of the two Houses be appointed to consider and report whether any, and if any, what further provisions, by law, are necessary to insure despatch, accuracy, and neatness, in the printing done by order of the two Houses respec-



tively; in which they ask the concurrence of this House.

The resolution was read twice, and, after being amended, on the motion of Mr. HARRISON, by inserting therein before the word "accuracy" the word "economy," it was read the third time and passed.

The House took up and proceeded to consider the bill reported at the last session, (10th February, 1818,) supplementary to the several acts for the adjustment of land claims in the State of Louisiana and Territory of Missouri; whereupon it was ordered that the said bill be also committed to the Committee of the Whole House last appointed.

The engrossed bill making a partial appropriation for the support of the Military Establishment for the year 1819; the engrossed bill for the relief of William King; the engrossed bill for the relief of William Barton; and the engrossed bill for the relief of the heirs of Adolphus Burghardt, were severally read the third time, and passed.

The House then, on motion of Mr. HARRISON, resolved itself into a Committee of the Whole on the bill concerning invalids, [conferring on the Secretary of War the power of placing invalids of the Revolution on the pension roll, in the same manner that he is now authorized to place on the pension list invalids of subsequent wars.]

The bill was explained by Mr. JOHNSON, of Kentucky, on whose motion it received some amendments, rendered necessary by acts passed since the bill was framed at the last session, and was afterwards reported to the House, by whom the amendments were concurred in, and the bill ordered to be engrossed for a third reading.

The bill for the relief of William B. Lewis passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

#### SEMINOLE WAR.

Mr. HOLMES, Chairman of the Committee on Foreign Relations, rose to submit to the House a difficulty which embarrassed the proceedings of the committee of which he was chairman. In the investigation of some of the subjects referred to that committee, it found those subjects so intimately connected with some confided to another committee, that it was difficult to proceed, without infringing on matters not referred to its consideration. He alluded to the subject of the Seminole war. That war involved our relations with a foreign Power, which were committed to the Committee of Foreign Relations; but an important incident in that war, the execution of Arbuthnot and Ambrister, was confided to the Military Committee; and, in proceeding on one subject, they could not well avoid the other. The Committee of Foreign Relations did not, therefore, know well how to proceed, unless they had the whole matter before them; and, in offering the following motion, it was not done without an understanding to that effect with the Committee on Military Affairs. Mr. H. then submitted the following:

*Resolved, That the Committee on Military Affairs be discharged from the further consideration of so much of the President's Message as relates to the execution of Arbuthnot and Ambrister, and the conduct of the war with the Seminole Indians; and that the same be referred to the Committee of Foreign Relations.*

Mr. JOHNSON, of Kentucky, said he had not been apprized till this morning, of the difficulty which existed on this subject. He cheerfully acquiesced in the motion, and it had been the intention of the Committee on Military Affairs to ask to be discharged from the subject referred to in the resolution. The Military Committee would still have abundant business to occupy them, in the military affairs of the country.

Mr. T. M. NELSON objected to this course, as he thought the examination of the Seminole war, and particularly of the execution of Arbuthnot and Ambrister, belonged properly and exclusively to the Military Committee; and he was, therefore, averse to taking the subject from their hands.

Mr. POINDEXTER moved to amend the resolution by changing the word "execution" for the word "trial," as it was the word in the original reference of the subject to the Military Committee.

Mr. HARRISON suggested whether it would not be better to retain both words.

Mr. POINDEXTER stated that his object was only to preserve consistency in the proceeding, by retaining in this resolution the words used by the President in his Message on the subject, and in the original reference of it. The President had said nothing about the execution of these men, and of course the resolution proposed to refer to a committee a subject of the President's Message, which was not mentioned in the Message, &c.

The amendment was agreed to—ayes 66, noes 44.

Mr. HARRISON then moved to add the word "execution," that the reference might embrace both the trial and execution.

Mr. HOPKINSON thought this would be improper; for, although he was nearly indifferent about the question, it was certainly improper to refer to a committee, as a part of the President's Message, what the Message did not contain, and the Message was entirely silent about the execution of the individuals named.

The amendment proposed by Mr. HARRISON was agreed to.

Mr. W. P. MACLAY suggested whether the object of the resolution might not be got at better by simply referring those documents to the Committee on Foreign Relations, so far as they were connected with foreign affairs. The trial of those men seemed to him a subject peculiarly proper for the investigation of the Military Committee, and ought not to be withdrawn from it, &c.

Mr. BARBOUR, as a member of the Committee of Foreign Relations, stated what had been done in the committee, in relation to this subject. They had found that, in investigating our relations with one of the Powers of Europe, the Seminole war necessarily constituted an important

link in the inquiry, but that this subject was referred to another committee. It was then proper to ascertain the sense of the House how they should proceed. The committee wished neither to infringe on the duties of any other committee, nor to shrink from their own. As to what had been said on the amendment, he observed, incidentally, that if the committee went into an investigation of the trial, it would be proper to pursue it to the fruits of that trial. As to the question of reference, he should be satisfied in whatever way it was decided, &c.

Mr. JOHNSON, of Kentucky, had readily consented to this transfer of the subject, because he thought the military question was not so important as the political question. The military inquiry could result in nothing but a report of facts, not in any specific recommendation. The President had the power to act when an officer errs, even to striking him off the roll of the Army. He asked if circumstances, seeing that the President had refrained from any exercise of his power in this case, had not shown that the conduct of the officer was thus far sustained by the Executive? If so, the committee could not interfere between them. The political inquiry was of a different character. That was to ascertain how far the nation has acted with justice and in good faith towards a foreign Power; and in what or where it had failed in its duties to that Power. If, however, the House thought proper to refer the military question, or any other, to the Military Committee, he would promise for them that they would discharge their duty faithfully.

Mr. HARRISON supported the view taken by Mr. MACLAY. It would certainly be highly improper to take from the Military Committee this subject altogether—a subject which was so strictly military, one already referred to it, and one which greatly agitated this House. It would, he admitted, be proper to let so much of it as belonged to foreign affairs be referred to the committee, and leave the remainder where it was.

Mr. COBB thought all this proceeding premature, because the documents had not been read in the House, and were not yet laid before it, since ordered to be printed. Relying, however, on the correctness of the copies which had appeared in the newspapers, he thought it a proper subject of inquiry for the Committee of Foreign Relations how those individuals, subjects of a foreign nation, of Great Britain, came to be condemned to death by an American officer. In looking into this subject there would be found some very interesting questions, intimately connected with our foreign relations. He found, for one, that these trials established an entirely new principle in the law of nations. He found it announced by the Commanding General, on that occasion, as "an established principle of the laws of nations, that any individual of a nation making war against the citizens of any other nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." This, Mr. C. said, was a new principle to him, though it might be found in some work on public law, from which

he had not learned what the law of nations was. He then moved to amend the resolution by adding the following:

"With instructions to inquire whether in said trials the Constitution and laws of the United States, or the law of nations, have been violated."

This motion was agreed to.

Mr. COBB, then, with the view of obviating the objections to the resolution, and accommodate it to the general wish, moved some further amendments; but

Mr. BARBOUR conceiving the subject one in which it was important to decide rightly, thought it had better lie on the table one day, and moved that disposition of it.

After some conversation on the postponement, in which Mr. HOLMES opposed it, the motion prevailed, and the resolution was laid on the table.

#### WEDNESDAY, December 9.

Another member, to wit, from South Carolina, WILSON NESBITT, appeared and took his seat.

The SPEAKER presented a remonstrance of sundry inhabitants of the State of Illinois, in opposition to the petition of the General Assembly of that State, for a donation of four sections of land to be laid off as a town for the seat of their government for twenty years.—Referred to the Committee on Public Lands.

On motion of Mr. POINDEXTER, the memorial of the convention of the State of Mississippi, presented on the 17th of December, 1817, praying for an extension of the limits of that State, was referred to the committee appointed on the 7th instant, on the memorial of the Legislature of the Territory of Alabama for a State government.

On motion of Mr. COBB, the petition of the Legislature of the Territory of Alabama, presented on the 7th instant, respecting the Judiciary Establishment of said Territory, was referred to the Committee on the Judiciary.

Mr. POINDEXTER, from the Committee on Public Lands, made a report unfavorable to the proposition of John Gardiner, to supply the soldiers with maps of their bounty lands at a reasonable price; which was read and concurred in.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a report of the Director of the Mint, giving the result of sundry assays of foreign coins; which was read, and ordered to lie on the table.

Engrossed bills of the following titles, to wit: An act for the relief of Frederick Brown; An act respecting invalids; An act for the relief of William B. Lewis; were severally read the third time, and passed.

#### SEMINOLE WAR.

The House proceeded to the consideration of the resolution yesterday moved by Mr. HOLMES, as amended on motion of Mr. COBB, in the following words:

*Resolved, That the Committee on Military Affairs be discharged from the further consideration of so much*



of the President's Message as relates to the trial of Arbuthnot and Ambrister, and the conduct of the war with the Seminole Indians; and that the same be referred to the Committee of Foreign Relations, with instructions to inquire whether, in said trials, the Constitution and laws of the United States, or the law of nations, have been violated.

Mr. POINDEXTER moved to postpone the further consideration of the resolution until Monday; alleging, as a reason for the motion, that the documents were not in possession of the members, not being yet printed for the use of the House: the publication of them in a newspaper was not a proper ground for the House to act on. Were the resolution for a reference merely of the subject to this or that committee, as originally proposed, he should have felt, he said, perfectly indifferent respecting it. But, since the amendment by way of instruction to the committee, an emphasis had been given to the motion, and a bearing by implication, which made it necessary to act on it cautiously, and with a full understanding of the subject. He was not prepared to pronounce an opinion, even by way of specific instruction to a committee, until the documents on which that opinion must be founded were officially in his possession. If, however, the subject was not postponed, he should move additional instructions, rendered necessary by the amendment.

Mr. COBB said, as an inducement to the House not to postpone the consideration of the resolve, that, on examining further into the subject, he had discovered that the amendment agreed to on his suggestion did not go far enough, and that further amendment had become necessary. With this view he had prepared some other amendments, which he would move if the subject was now taken up. Mr. C. added that he saw no reason for waiting for documents. The proposed inquiry related to subjects referred to in the President's Message, and it was the usual and common course to refer the various subjects of the Message to committees before the documents accompanying it were printed.

Mr. FLOYD moved to postpone the resolution indefinitely, under the impression that the inquiry referred to in it was already before the proper committees. If the Constitution or law of nations had been violated by any of the officers of the Government, as had been suggested, he thought that would be a proper subject to be referred to a committee specially raised to investigate it.

Mr. HOLMES said that the Committee of Foreign Relations had thought the matter properly within the pale of their duty; but, having seen that it was specially referred to another committee, he had thought it proper to endeavor to obtain the sense of the House whether the subject ought to be examined by the Committee of Foreign Relations or not. The truth is, said Mr. H., we have had a war without the limits of the United States, which has been carried on somewhat within the territories of a nation at peace with us. The conduct of the commanding General was a subject into which it might be proper

for the House to examine. So far as respected his military conduct, that part of the subject belonged to the Military Committee. So as to the Seminole war—whatever regarded that war, with reference to its military conduct, and to the relations of the officer and the army to the country, belonged to the Military Committee. But, so far as related to the cases of Arbuthnot and Ambrister, these men were foreigners; they were said to have claimed to be British subjects, and it was thought by some that they owed a temporary allegiance to Spain. In this case, then, the investigation appeared to belong to the Foreign Relation Committee, as having a direct connexion with their duties. The Committee only wished that the House should decide whether they were or were not to examine the subject. If the House negatived the resolve, the Committee of Foreign Relations would consider it as the wish of the House that they should not examine the subject.

Mr. SIMKINS spoke in favor of postponement: the motion and amendment he thought, were founded on documents which had, indeed, appeared in the newspapers, but were not in possession of the House; which many gentlemen might not even have seen, and could not be prepared to act upon. Before he gave a vote for a resolve containing an instruction bearing against an officer of very high character, he wished to examine the grounds of the proceeding.

Mr. DESHA was in favor of postponement, as the subject was of a complicated character, and ought to be distributed, perhaps, among several committees. Whatever related to alleged violations of the Constitution or the laws of war, it appeared to him, belonged properly to the Judiciary Committee.

Mr. COBB restated his intention, if permitted, to propose to divide the subject among different committees.

Mr. RHEA said that the question presented itself now in a shape involving considerations of far more importance than at first view it seemed to do. As he wished to know the extent of the views and objects of the gentleman from Georgia on the subject, he hoped the gentleman who moved the postponement would withdraw the motion, to give Mr. COBB an opportunity of offering his amendments.

Mr. POINDEXTER declined withdrawing his motion, and repeated his reasons for having made it. As it now stood, the very inquiry contained in the resolve implied censure on the commander of the Southern division of the army, and required a full investigation before it was decided on.

Mr. HOLMES, finding the debate obliquely entering into the merits of the Seminole war, &c., proposed to withdraw the original proposition he offered yesterday.

This, however, he could not effect, because the proposition had been amended, and therefore could not be withdrawn.

Mr. WALKER said that the resolution, as amended, involved a delicate question. If it did not im-

plicate the correctness of the commanding General in the Seminole war, it certainly did insinuate that his conduct had been improper. As to what had taken place on the Spanish territory, Mr. W. thought this House had no right to inquire into it, unless representations were made through the proper authority on the subject by Spain. It would be time enough for Congress to act on that question, when it was properly presented to them. What he asked, would be the feelings of General Jackson and his brave officers and fellow soldiers, on hearing of the question being agitated here? He never had believed but their conduct had been correct, and according both to law and constitution; and that they had been the salvation of the frontier of the country which the honorable gentleman from Georgia particularly represented. He believed that, like all good men, the more their conduct was investigated, the more it would be approved—that the more they were tried, the brighter they would shine.

Mr. BALDWIN said, he thought it advisable, as the proposition had been the subject of so much difference of opinion, and was likely to promote unreasonable debate, that the motion for indefinite postponement should prevail.

Mr. JOHNSON, of Kentucky, said, if the motion for postponement did not prevail, he proposed to move such a reference to the several committees as would be satisfactory to all. He particularly wished, since so much had already been said on the subject, that the motion should not be postponed, but an opportunity might be given to the proper committees to investigate it.

The SPEAKER intimated his impression that the whole discussion had been premature, and that the original proposition, being one of mere reference, did not authorize the range which had been taken in debate. Gentlemen on all hands appeared disposed, he thought, to anticipate the debate which would more properly take place at a different stage of the business, after the committees should make their reports.

Mr. COBB said that his views on the subject of the latitude of debate were the same as the Speaker's; but as a motion for indefinite postponement, which went to the principle of the question, was now made, he thought himself called upon to state why he could not assent to it, and why he wished the inquiry to proceed as proposed. The subjects embraced by the resolution, he said, were two: the Seminole war, and the trials of Arbuthnot and Ambrister. Did this Seminole war or these trials of Arbuthnot and Ambrister concern our foreign relations? Were they likely to involve us in any disputes with foreign Powers, or to affect the relations of this with any other Government? If so, the subject belonged properly to the Committee of Foreign Relations. His own opinion was, Mr. C. said, that these matters had an intimate connexion with our foreign relations. It was somewhat doubtful, he continued, whether the whole of this war had not been waged on unconstitutional principles. He knew very well, he said, that it had heretofore been urged in this House, and was a

received opinion, that, under a law now in existence, the President could employ the military force of the United States for the purpose of repelling invasion by the Indians. But he had never understood that this power extended beyond the limits of the territory of the United States. It was yet a question, whether, under the plea or pretext of an invasion from without the limits of the United States, our army could be ordered without the limits of the United States to prosecute a war even with the Indian tribes. But, if this power did actually exist, it followed that the President of the United States could declare a war without the assent of Congress, unless the conclusion was drawn that it was not war to send a detachment of our army to carry on operations beyond our own limits. It is either war, said Mr. C., or it is not war. If it is, Congress, under the Constitution, alone has authority to make it. If it be not war, said he, and we must give it some other name, let it be called a man-killing expedition which the President has a right to direct whenever he pleases. It presented a question on which it was high time some principle should be established, if no such rule had existed heretofore. Mr. C. acknowledged that at the last session this question might have been brought forward. That it was not, however, was no reason why the House should now act equally erroneously. It was time to settle the question whether the President could make or carry on war against any nation, savage or civilized, without the authority of Congress. But another important question was embraced by the resolution on the table which it was now proposed to postpone. The President, he said, had informed the House that a war had been carried on by our troops on the Spanish territory, in the course of which St. Marks and Pensacola had been occupied. In the same Message in which this fact was announced, the President had told Congress that the commanding General had been led to the occupation of those posts by facts which came to his knowledge whilst on the theatre of action. Mr. C. said he wished to know what these facts were; and, inasmuch as this could not but be a proceeding affecting our relations with a foreign Power, it appeared to him properly to belong to the Committee of Foreign Relations to inquire into it. Mr. C. said he knew the reason which the newspapers had given for this proceeding. It was, that Spain, being a neutral Power, had failed to control the Indian hostility to us from within her limits. But the subject for inquiry was, who was responsible for this proceeding against the Spanish possessions? Who was to answer to the world for it? Was it not the nation at large? Was it contended that this burden could at pleasure be shifted from the shoulders of the nation to those of an individual? If not, it became necessary to inquire whether the measure had been authorized by the Constitution and laws of the United States. Has the President of the United States, said Mr. C., directed the Spanish posts to be taken? If not, had any subordinate officer a right to take them? He was free to say



that the President was right in saying that he had no authority to direct the taking or retaining thereof; and he was equally free to say that he who did direct it had violated the Constitution of the United States. The pretext of the violation of her neutrality by Spain, Mr. C. said, was no excuse for the act. If she had violated her neutrality, it was the business of the nation, and not of any particular officer of the army or Government, who chose to take it into his hands. These suggestions he threw out to show the propriety of this subject being referred to the Committee of Foreign Relations. He had discovered, he said, from the Message of the President, that he disclaimed the power of occupying the Spanish posts. But, Mr. C. said, if the doctrine were once tolerated, that, under the cloak, if he might so express it, of prosecuting a war against an Indian tribe, a military officer may, without the authority of Congress, proceed to hostilities against a foreign nation, because they took part with the Indians, it was established that there was a mode of making war with a foreign nation without Congress declaring it. With any man of consideration, it must be a matter of some consequence that a war could be waged without the consent of the representatives of the nation. We see at once, said Mr. C., that that part of the Constitution is nugatory, and does not protect the nation from being involved in war without its consent.

The SPEAKER here interposed. He had hoped, he said, at least after the gentleman's concurrence in opinion with the Chair, that he would not have gone into a discussion on this collateral question, to which no bounds could be assigned.

Mr. COBB waived any further remarks for the present.

Mr. EDWARDS agreed in opinion with the Chair respecting the latitude of debate, and was willing to await a disclosure of all the facts before he made up a final decision on the subject of investigation. But, said he, are we to be deterred from inquiry because, as has been intimated, the inquiry will involve the censure of a high officer of the Army? I protest, and always shall, against doctrines of that sort. Let it censure him or not, no matter who is the officer, I shall vote for inquiry into any public matter, from which I shall not be deterred by the elevation of character, or station of the officer whose character is to be inquired into. For one, Mr. E. said, he saw no reason for rejecting or postponing the resolution.

Mr. TAYLOR said, he had been unfortunately called out when the resolution was yesterday introduced; but, when he heard of it, it was with surprise—surprise, not that the subject was not in itself important, but because it was already referred in the most ample manner. Whatever was in the Message touching our foreign concerns, had, at the opening of the session, been referred to the Committee of Foreign Relations; and it was their business, he thought, to have acted on it, without coming to this House for instructions. It was not very long, he said, that he

had been a member of this House; but, short as was the time, an injurious practice had been since then introduced. At that time, it was the custom for committees to examine and report on the subjects referred to them; but now, at the suggestion of any gentleman, instructions were given to committees on subjects already referred to them, and which, without any instructions, it would be their business to bring before the House. Mr. T. went on to say, that things were already in precisely the same state before the committees that they would be were the resolve to pass. He thought the introduction of the resolution particularly unfortunate, too, as it was calculated to excite a discussion on a subject, vastly important in all its bearings, not fully before the House. He hoped the resolution would be indefinitely postponed. The Foreign Committee had their duty assigned them; let them discharge it. The Military Committee had also theirs, which they would no doubt discharge; and, in the end, he hoped Congress would not fail to do theirs.

Mr. HOPKINSON, as a member of the Committee of Foreign Relations, hoped the motion might be indefinitely postponed, that the House might afterwards dispose of the subject as they chose. As a member of the committee which had unfortunately fallen under the reprehension of the gentleman from New York, for what it had done and what it had omitted, Mr. H. said he took upon himself his share of it, with all the submission due to the censorial power vested in that honorable gentleman.

Mr. FLOYD rose merely to say, that, in moving the postponement, it was far from him to desire to avoid investigation, or to screen any officer, however high, if any such should be implicated in it. He only wished, when the House came to a discussion of this subject, that it should be with the aid of all the lights of which it was susceptible.

The question was then taken on indefinite postponement of the resolution, and decided in the affirmative by a large majority.

#### PENSIONS TO WIDOWS, &c.

The House resumed the consideration of the bill allowing half-pay pensions of five years to the widows and orphans of those soldiers enlisted for twelve months, for eighteen months, and of the militia who died within four months after their return home, of sickness contracted while in service.

On the question of ordering the bill to be engrossed for a third reading, a debate of considerable length took place; in which Messrs. BARBOUR, HARRISON, T. M. NELSON, of Virginia, JOHNSON, of Kentucky, and COMSTOCK, very earnestly advocated the bill, supporting it chiefly on the ground that it was required not only by humanity, but by equal justice, as the objects to be relieved by the bill were as much entitled to relief as the widows and orphans of those who died after their return home, of wounds received in service; that the expense was inconsiderable compared with the object, particularly as much

larger sums were lavished on objects of comparative insignificance.

The bill was as earnestly opposed by Messrs. SMITH, of Maryland, TAYLOR, TERRELL, SIMKINS, and LIVERMORE, on different grounds; but principally for the reasons that the Government had already gone far enough—much farther than any other Government—in relieving the individual distresses consequent on the war; that, admitting the provision to be proper at all, it would be opening the door too wide to extend it to cases of death within four months after the return of the soldier to his home; that the expense would be enormous; that feelings of humanity ought to have some limit in public expenditures, and that such feelings, if always obeyed, would find the whole Treasury insufficient; that it was time to draw some line of limitation, &c.

Mr. HARRISON said that he should be among the last men who would attempt to introduce into this country that system of sinecures and pensions which had produced so much misery in the other hemisphere of the world, dividing almost the whole population of Europe into two very unequal divisions—the one extremely rich, the other miserably poor. There could, however, he said, be no danger of this as long as our free Constitution remains. As long as the money of the people is appropriated by the real Representatives of the people, it will be given only for an equivalent public service, or for some suffering in that service claiming the public beneficence. An examination of one of the pension lists of a modern European Government would present a very different aspect from that on your table. Not moderate allowances for real services, but enormous grants for nominal duties, or for services to a Government whose interests are in direct hostility to the interest of the nation. It is not even the constant and unnecessary wars in which these Governments are engaged that have rendered their subjects miserable, but the wild profusion and extravagance of their corrupt Courts. It is this which, in the language of our great countryman, "obliges the European laborer to go supperless to bed, and moisten his bread with the sweat of his brow."

There are two kinds of suffering, said Mr. H., in the public service, which are recognised by our laws as giving a claim to the public bounty. The one in the case of wounds, or disability incurred in the Army or Navy of the United States. The other, an indirect suffering, as in the case of widows or children, who had lost their husbands or parents in that way. The claims of the first are not questioned. It is admitted by all, that the man who has lost a leg or an arm in serving the nation, as it lessens his ability to maintain himself, should be provided for during the continuance of his disability. But what appears to me, said Mr. H., to be a singular inconsistency; to the woman who has lost her husband who supported her, the child its parent, on whose exertions alone it depended for maintenance and education, our laws allow a limited

assistance, leaving the sufferers often in a worse situation than it found them.

I consider this difference, said Mr. H., at war with the dictates of justice, of sound policy, and the first republican principles. Permit me, Mr. Speaker, said Mr. H., to ask what was the motive for the enactment of the law of 1816 in relation to pensions? Was it to establish the great national principle of indemnity to the sufferers as far as indemnity could be given? Or was it intended as a mere temporary relief, as we would throw a dollar to the beggar in the street? If the first was the motive, the law was entirely inadequate to its object. If the second was the motive, it was, in his opinion, unworthy of the nation.

Equality, in the contributions for the public service, is one of the first principles of our Government.

The public burdens are to fall equally upon all in proportion to their means. No individual, and no family are to furnish more than their just share, either of money or of personal service, without an equivalent.

And yet here are 1,800 families who have contributed more than their proportion; some of them their all for the public service. You cannot, indeed, restore the husband to the widow, the parent to the child—but you can supply their places to a considerable degree, and, I think that it is your duty to do it.

The principle for which I contend, said Mr. H., may be more easily calculated by applying it to a small community. Let us suppose, then, that one hundred families were settled upon an island in the Pacific ocean, at such a distance from every civilized State as to make it necessary to form one of themselves—their situation would make it purely republican. All possessing equal right, and all bound to defend their little community against every aggression. The savages of a neighboring island attempt to dispossess them; a battle ensues, in which our little community is victorious, with the loss of five of their number killed and five wounded. The situation in which they would find themselves, is one for which they had not provided. The wounded men would say to the others, as we have been rendered unequal to the maintenance of our families by wounds received for the benefit of all, it is just that we should receive assistance from you to cultivate our farms. The claim would be readily admitted. As would, in the first instance, the claims of the widows and orphans of those who had fallen—but, at the end of five years, before the children of the widows had reached that age when they could labor for themselves and their mothers, they are told that they can receive no further aid while the wounded men are provided for for life. If this principle is admitted in our Government, our militia laws are most unjust and oppressive. They require the same personal service to be rendered by all, the rich and the poor. But the rich married man is allowed to furnish a substitute—the poor married man, unable to hire one, is obliged



when called upon to serve in person. As the poor, then, fight all your battles, which is, perhaps, unavoidable, it is just and right the consequences of their service should fall as lightly as possible on their families. In the late war, it was to their valor and patriotism that you were indebted for the preservation of Baltimore, Norfolk, and New Orleans, and your Northern and Western frontiers. It is possible that when the great emporiums of your commerce were attacked, some wealthy men might have been found in the ranks with their poor fellow-citizens. At Baltimore, for instance, there might have been a merchant, possessed of a fortune of half a million of dollars, placed by the side of a mechanic whose family depended for support on the daily labor of his hands. The former might say to the latter, "let us remember that we fight for our country, our families, and our property, let us rather die than suffer our city to be taken." The latter might have answered—as an American citizen I shall always be willing to defend my country with my life—and, I was just thinking how cheerfully I would meet the enemy, if my situation were like yours. If you fall, you leave your family in affluence—if the lot should be mine, I leave a beloved wife and children to the charity of an unfeeling world. Our laws are unequal and unjust; they require the same personal service of us both, when one day's labor is of more importance to my family than twenty of yours would be to your family—that I would disregard if our laws had provided that in the event of my fall, the wealth which I have sacrificed myself to defend should be taxed to support my orphan children.

Pass but this law, sir, said Mr. H., and you take from an American citizen, called on to serve his country in the field, every motive which would prevent him from doing his duty. An American army would be a band of heroes. The tenderest feelings of our nature are not inconsistent with the most heroic bravery. There are moments when the powerful influence of domestic attachment will find its way to the bosom of the warrior, but, unmingled with any distressing reflections as to the fortune of his family, it will only prove an incentive to the performance of his duty.

Permit me, sir, said Mr. H., to give another example to show the injustice and inequality of the existing laws in relation to pensions. It is a case as nearly similar as possible to that which was stated a few days ago by my friend from Virginia, (Mr. BARBOUR,) and if he will give me leave, I will again introduce to the House one of the widows whose case he so eloquently supported. I will take the one who has received the five years' pension, and contrast the situation of herself and family with that of a neighboring lady, whose husband had lost a leg in the late war. Both husbands had performed the same services, in the same corps, and with the same rank; one lost his life, and the other his leg. To the latter you give a pension for life—to the former a pension for five years. Is there any equal-

ity or justice in this? Is it not setting a higher value upon the leg of one man than the life of another? It may be said that in the one case it is given to the individual who suffered, in the other, to his family. Sir, said Mr. H., is not the wife and the children identified with the husband and parent? The misfortune of the one is the misfortune of the other, and there should be no difference in the relief you offer them.

The principle for which I contend (said Mr. H.) is not a new one; it is sanctioned by the practice of one, at least, of the great republics of antiquity and by the opinions of some of the wisest and best men that ever lived. In the elegant work of the Abbe Barthelemy, entitled the travels of Anacharsis, (an authentic history with a fictitious title, as every one knows,) the author brings his supposed traveller to Athens at the period of one of the great national festivals. The ceremonies were concluded by the advance of a herald followed by a number of young men completely armed; these, said he, (addressing the assembled Athenians and pointing to the youths,) these are the sons of those patriots who have fallen in the service of their country; they have been educated at the public expense until they have reached the age of manhood, and are now to be dismissed to their families clothed and armed at the expense of the State. Such was the law of Athens, promulgated by Solon, and continued without interruption for upwards of one hundred and fifty years, until she was first corrupted by the gold of Philip, and her liberties finally overturned in the fatal battle of Cheronea. It is mentioned by Pericles in his oration over the Athenians who fell in the first campaign of the Peloponnesian war. Referring to this law, he concludes his speech in these remarkable words: "For when virtue is best rewarded, then will patriotism most prevail." Nor is this great statesman (said Mr. H.) the only evidence I can adduce to show the good effects produced by this law to the Athenians. [Here Mr. H. read an extract from Stanley's life of Solon, showing the approbation given to this law by Aristides, Plato, and the ancient historian Laertius, and then continued.] I consider these authorities, said he, as decisive of the good effects produced by this law in the republic of Athens—a Government more nearly assimilated to our own, as it regards the principles upon which it was founded, than any other ancient or modern. After the experience of a century, the ablest statesmen and most virtuous men declared it to be one of the most powerful causes which produced that ardent patriotism and heroic valor which distinguished the period that has been emphatically denominated their age of glory.

The eulogium of Aristides upon the Athenians proves, to my satisfaction at least, that the passage of the bill before the House will not produce those ruinous consequences to the Treasury which some gentlemen seem to apprehend. Himself, the incorruptible statesman who presided over the finances of his nation; the honest man who suffered exile rather than flatter the follies

of his countrymen, affords the best evidence that it produced no pecuniary embarrassment to a State whose whole territory can scarcely be discovered upon a general map of Europe. Amidst all the calamities which war often brings upon a nation, the Athenians adhered to this law as the sheet anchor of their hopes. During the time it was in force their city was three times taken and twice razed to the ground. At the time that Pericles was speaking, the whole of their continental territory was in possession of their enemies, and ravaged with fire and sword. A pestilence also prevailed within the city with a malignity to which there is no parallel on record—an event which gave to a member of this House (Mr. HOPKINSON) an opportunity for an historical allusion, in one of the most splendid specimens of forensic eloquence which this country has ever witnessed.

Sir, said Mr. H., I consider that a great part of the money which may be taken from the Treasury by the passage of this bill will be as usefully employed for the benefit of the nation as it could well be. The pious and patriotic mothers to whom it will be given will employ it in the education of their sons, and they will never cease to remind them of the obligations they owe to their country. "Emulate the patriotism of your father," will be the reiterated lesson from childhood to manhood. To have such lessons taught to every youth in the country, I, said Mr. H., should be willing to give the yearly balances which may remain in the Treasury for fifty years to come. There is something in the female character admirably calculated to gain an ascendancy over the minds of those violent but generous youths, who are formed by nature to act a splendid part upon the theatre of the world; and who, when a proper direction is given to their passions, become the friends and benefactors of mankind. They listen with more attention to the mild admonitions of the mother, than the rougher mandates of an imperious father. It is very remarkable that the great votaries of liberty, both ancient and modern, have received the impulse from this source. The Gracchi, Brutus and Cassius of Rome, Agis and Cleomenes of Sparta, our own Washington, and perhaps Kosciusko, are a few out of the many instances that could be adduced.

I consider, said Mr. H., the law of 1816 not only inconsistent with other laws, but with itself. It directs that when the widow shall be married, and the children arrive at sixteen years of age, the pension shall cease; but it does not make a continued provision for those who have not arrived at the age of sixteen; and many of the widows and orphans are left in a worse situation than it found them. What, for instance, can a woman with four or five young children have been able to save out of forty-eight dollars per annum? It has enabled her to procure a few comforts only, of which she will more sensibly feel the want, when the means of procuring them are withdrawn, than if she had never enjoyed them. It is not my intention, nor would it be my wish, said Mr. H., to make the allowance

perpetual, but to limit it to those who had sons to the period of their reaching the age of sixteen.

From the length, said Mr. H., to which some gentlemen are desirous of carrying their system of economy, I apprehend that an idea is entertained that the wealth of the Treasury is the strength of the nation. But, however true the principle may be when applied to monarchies, I deny its correctness when applied to a republic. The strength of a republic consists in the correct principles of its citizens. Money is therefore never misapplied when it is used to disseminate correct principles among the people. Guard your Treasury, says the gentleman from South Carolina. Guard it, say I, also, against every unjust claim, and every expenditure inconsistent with the nature of our Government. But open it, wide as the gates of your temples, to every just claim, and for every expenditure which has for its object the interest or honor of the nation.

The gentleman from South Carolina has said that this is a popular measure. It is so, sir, said Mr. H. The money of the people could not be expended more to their satisfaction than by the passage of this bill. Go to the American ploughman, and speak to him of Montgomery and Mercer, of Pike and of Covington, and you will touch a chord that vibrates to his soul. Ask him if he is willing that their families should be supported from the Treasury, and he will answer, that, although poor, he is just and honest; although not a lettered man, he knows the source of the happiness he enjoys; of the immense distance, as to rights, which separates him from the ploughman of Europe—a distance as great as the wide ocean which rolls between them.

Mr. Speaker, said Mr. H., the persons who are to be benefited by the passage of this bill, do not come before you upon equal ground with the horde of claimants upon whose cases you daily decide. They are allowed to solicit for themselves—they visit the members at their lodgings, and urge their pretensions even in the streets. The veteran of the Revolution, when soliciting your justice, is permitted to exhibit, upon this floor, his war-worn countenance, and his locks, bleached under the helmet: and even the maimed soldier or seaman hobbles upon his crutches to the door of your hall, to excite your pity—to ask your benevolence. But the persons whose feeble advocate I am upon this occasion, are obliged, from the delicacy of their sex, or the tenderness of their age, to confine their sorrows or their sufferings within the walls of their own cottages. But, suppose it were otherwise; suppose the many hundred widows and orphans, the relics of the late war, were to be brought before us; with what different feelings should we vote upon this occasion. The thing cannot be—but I beg gentlemen to give some scope to their imaginations, and persuade themselves that they really see it. Here a venerable matron, followed by a large family of children; there, another, in the full bloom of beauty, a widow through choice, and under a sacred vow that the hero who had once filled her arms should never be supplied by ano-



ther; the lovely boy she holds by the hand was an orphan before he saw the light; and more and more unfortunate than Astyanax, had never been pressed in his father's arms, and dedicated to his country. What man, said Mr. H., could resist this appeal, accompanied by the reflection that their misfortune had secured his own happiness, and the safety of the nation?

It has been urged, Mr. Speaker, said Mr. H., as a reason against the passage of this bill, that the Government had done all that could be expected, having complied with all the engagements they had made, and that those who fell had done no more than their duty. I regretted extremely, said Mr. H., to hear an argument of this kind, and was sorry to find that the events of the late war were so illy understood, or so badly remembered. Is it intended, said Mr. H., to assert that the Government can owe no obligation to its citizens, but what is contained in a written law? This is a dangerous doctrine to promulgate; your citizens may imbibe it—and wretched, indeed, must that republic be, where the obligation from the citizen to the country, and from the country to the citizen, is to be determined by a written law. But I trust, said Mr. H., that there is a sentiment of duty towards his country, in every American bosom, which no legislature can impose, which no law can define. It was, sir, said Mr. H., under the influence of this sentiment that thousands of your fellow-citizens acted in the late war. What but this drew the veteran Shelby from the comforts to which his age and services entitled him; from the dignified station of Governor of a most respectable State, to encounter the hardships of a northern campaign, and that, too, under the command of an officer greatly his inferior in military talent, and experience? The whole Western population acted upon this principle, as they did, I am persuaded, in other parts of the Union. By this principle you not only got men to the field, but, when in the field, they did more than any law, written or unwritten, obliged them to perform. The custom of war, which is the military law, authorizes an officer badly wounded to retire. Had the gallant Spencer measured his duty by this law, he might still have lived a blessing to his numerous family. He was badly wounded in the head and thigh, but he refused to leave his post, until a third ball pierced his heart. Where was the law which obliged the gallant Captain Ritchie to vow never to leave his artillery alive? He remained by the side of his piece, bleeding to death, when, by retiring, he might have lived.

When your citizens thus, sir, disregarded the obligations of law, in fighting your battles, will you tell their widows and orphans, who apply to you for relief, that you have nothing to give, having complied with all the engagements you made?

Mr. Speaker, said Mr. H., let the gentleman who votes against this bill, return, after having done so, to the bosom of his own family, and when he finds himself surrounded by every

earthly blessing; when he sees happiness beaming from the eyes of a beloved consort, produced by his presence and his safety, let him think, if he can, upon those wives who have no husbands to return to them; upon those children who have no parents to bless them—and when, sir, he performs the pleasing task of instructing his children, particularly the darling boy whom, in imagination, he may destine to replace him here; when he would teach them a lesson of patriotism, drawn from the events of the late war, and describes the heroism of Pike, and the devotion of Covington; when he has made the impression he wished, and sees their little bosoms heave with emotion, their eyes kindle with the patriotic fire, let him change the subject, and teach them a lesson of republican economy, and tell them, that, notwithstanding their strong claim upon his gratitude, and the gratitude of the country, he had yet courage, under the influence of a mere Treasury calculation, to consign the orphans of these men to poverty and wretchedness. Let gentlemen do this if they can. I cannot, I will not, I dare not.

The question on engrossing the bill and ordering it to a third reading, was at length decided in the affirmative—yeas 87, nays 68, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Barbour of Virginia, Barber of Ohio, Beecher, Bellinger, Blount, Boden, Boss, Bryan, Claiborne, Comstock, Cook, Davidson, Earle, Edwards, Floyd, Folger, Garnett, Harrison, Hendricks, Herbert, Herrick, Heister, Hitchcock, Hogg, Holmes, Hostetter, Irving of New York, Johnson of Kentucky, Jones, Lawyer, Little, McLean of Illinois, W. Maclay, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Ogle, Parrott, Patterson, Pawling, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Rhea, Ringgold, Robertson, Rogers, Ruggles, Sampson, Savage, Schuyler, Sherwood, Silsbee, B. Smith, A. Smyth, J. S. Smith, Storrs, Strother, Terry, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, and Williams of New York.

NAYS—Messrs. Abbot, Adams, Allen of Massachusetts, Bassett, Bateman, Bayley, Bennett, Butler of New Hampshire, Campbell, Clagett, Cobb, Colston, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellicott, Gage, Gilbert, Hale, Hall of North Carolina, Hasbrouck, Hubbard, Johnson of Virginia, Kirtland, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Rhode Island, Middleton, Mills, Morton, Moseley, J. Nelson, Orr, Pitkin, Rice, Rich, Richards, Sawyer, Scudder, Settle, Simkins, Slocumb, S. Smith, Southard, Speed, Stewart of North Carolina, Tallmadge, Tarr, Taylor, Terrell, Tompkins, Townsend, Upham, Williams of Connecticut, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

The bill was ordered to be read a third time to-morrow.

The House then, on motion, adjourned until to-morrow.

THURSDAY, December 10.

The SPEAKER laid before the House a report of the acting Secretary of the Navy, transmitting documents in relation to the Navy Pension Fund, received since the report of the 21st ultimo, which was referred to the Committee on Naval Affairs.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of extending the provisions of the fifth section of the act of Congress, of the 12th of April, 1814, entitled "An act for the final adjustment of land titles in the State of Louisiana, and Territory of Missouri," to the inhabitants of that portion of Howard county, in the Missouri Territory, lying north of the Missouri river, and west of the county of St. Charles.

On motion of Mr. CAMPBELL, a select committee was appointed to report a bill for taking the fourth census or enumeration of the inhabitants of the United States; and Messrs. CAMPBELL, PINDALL, and FULLER, were appointed the said committee.

On motion of Mr. BALDWIN, the Committee on the Judiciary were instructed to inquire into the expediency of providing by law, for an additional compensation to the marshal and district attorneys, of the western district of Pennsylvania, the northern district of New York, and the clerk of the district court for the eastern district of Pennsylvania.

Mr. ROBERT MOORE presented the following resolution, which was read and rejected:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of granting a bounty in lands, to the soldiers who enlisted twelve months previous to the late war, and who served out the periods of their enlistments, and procured their honorable discharges, and to the heirs and legal representatives of those having so enlisted, who were killed in battle, or died in the service of their country.

On motion of Mr. STORRS, the President of the United States was requested to lay before this House copies of any correspondence between the Governor of the State of Georgia, and Major General Andrew Jackson, relative to the arrest, or other proceedings against Captain Obed Wright, which may have been transmitted to any of the Executive Departments of the United States.

On motion of Mr. J. S. SMITH, the Secretary of the Treasury was instructed to lay before this House a statement of the progress that has been made under an act of Congress, of the 3d of March, 1817, entitled "An act to set apart, and dispose of certain public lands, for the encouragement of the cultivation of the vine and olive;" whether four townships of six miles square each, had been laid off, and reserved for the purpose aforesaid; and whether any agent or agents, acting for the French emigrants, have contracted for said lands, and on what terms; and whether such agent, or agents, are now residing on said land; together with the number of French emigrants that have made settlements on said reservation, and the progress that has been made in the culture of the vine and olive.

15th CON. 2d SESS.—13

On motion of Mr. RICH, the Committee of Claims were instructed to inquire into the expediency of making compensation to Aaron Balamy, of Vergennes, in Vermont, for his vessel, captured by the enemy on Lake Champlain, in the Summer of 1813, while taking on board a cargo of flour for the United States; and that the testimony taken in the case, under a commission from the late Commissioner of Claims, be referred to the said committee.

On motion of Mr. ERVIN, of South Carolina, the Judiciary Committee were instructed to inquire if any, and what, amendments are necessary in the "copy right laws," in relation to suits brought in the courts of the United States, between citizens of the same State.

The House took up and proceeded to consider the resolution submitted on the 7th instant, by Mr. SIMKINS; which was amended and agreed to, as follows:

*Resolved*, That the Secretary of the Treasury be requested to lay before this House a statement of the sales, public and private, of public lands northwest of the river Ohio, the purchase money of which has not been fully paid; the respective years in which such sales have taken place; the credits given on such sales; the sums which have been paid thereon; those which are now due, and the periods at which they became so; whether any instalments are yet to fall due, and to what amount. Also, what description of paper has been received, and what is now receivable in payment for said lands.

A message from the Senate informed the House that the Senate have passed "a resolution directing a survey of certain parts of the coast of North Carolina;" in which they ask the concurrence of this House.

The bill for the relief of Thomas Hall Jervey, was in part considered in Committee of the Whole; but, without concluding the subject, the Committee rose and obtained leave to sit again.

The report of the Committee of Claims, unfavorable to the petition of Captain John Cowan, passed through a Committee of the Whole, in which, after much debate, the report was reversed; and being reported to the House, the Committee of Claims were instructed to bring in a bill for his relief.

*Ordered*, That Messrs. PITKIN, ROGERS, and LITTLE, be the committee on the part of the House, in pursuance of the resolution for the appointment of a joint committee, to consider and report if any further provisions are necessary, to insure economy, despatch, accuracy, and neatness, in the printing, ordered by the two Houses of Congress, respectively.

#### PENSIONS TO WIDOWS, &c.

An engrossed bill, entitled "An act concerning widows of the militia," was read the third time, and being on its passage—Mr. DESHA moved to recommit the bill to a Committee of the Whole.

And the question being taken thereon, it was determined in the negative—yeas 67, nays 77, as follows:



H. OF R.

Cadets at West Point.

DECEMBER, 1818.

YEAS—Messrs. Abbot, Adams, Allen of Massachusetts, Bassett, Bateman, Bayley, Bennett, Butler of New Hampshire, Butler of Louisiana, Campbell, Claggett, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Ellicott, Gage, Gilbert, Hasbrouck, Hopkinson, Hubbard, Huntington, Johnson of Virginia, Kirkland, Lawyer, Linn, Little, Livermore, W. P. Maclay, McCoy, Marchand, Samuel Moore, Morton, Moseley, Jer. Nelson, Palmer, Pitkin, Porter, Rice, Rich, Richards, Ringgold, Sawyer, Scudder, Settle, Seybert, Simkins, Slocumb, S. Smith, J. S. Smith, Southard, Speed, Stewart of North Carolina, Strother, Tallmadge, Tarr, Taylor, Terrell, Tompkins, Townsend, Upham, Williams of Connecticut, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Beecher, Bellinger, Blount, Boden, Boss, Claiborne, Comstock, Cook, Cruger, Davidson, Earle, Edwards, Ervin of South Carolina, Floyd, Folger, Garnett, Hall of North Carolina, Harrison, Hendricks, Herbert, Herrick, Heister, Hitchcock, Hogg, Holmes, Hostetter, Irving of New York, Jones, McLean of Illinois, W. Maclay, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Mumford, Murray, H. Nelson, New, Newton, Ogden, Ogle, Owen, Patterson, Pawling, Pegram, Peter, Pindall, Pleasant, Poindexter, Quarles, Rhea, Robertson, Rugles, Sampson, Savage, Schuyler, Shaw, Sherwood, Silsbee, Ballard Smith, Alexander Smyth, Storrs, Terry, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Wilkin, and Williams of New York.

The question was then taken, Shall this bill pass? and passed in the affirmative.

#### CADETS AT WEST POINT.

The House resolved itself into a Committee of the Whole on the bill, reported at the last session, "for the admission of cadets into the Military Academy;" [directing that in all applications for the admission of cadets into the Military Academy at West Point, a preference shall be given to the sons of officers and soldiers who were killed in battle, or who died in the military service of the United States in the late war; and that a further preference shall be given to those least able to educate themselves, and best qualified for the military profession.]

Mr. SMITH, of Maryland, moved to amend the bill by striking out the last clause, directing "a further preference to be given to those least able to educate themselves, and best qualified for the military profession," remarking that he saw no reason for the preference, and until he heard something convincing in favor of the discrimination, he should remain of opinion that it ought to be stricken from the bill.

Mr. STROTHER addressed the Committee at considerable length, in opposition to the object of the bill, urging chiefly that it was sanctioning a preference of a particular profession, and thus creating a privileged order in the community; that it was virtually declaring an unnecessary jealousy of the discretion now vested in the War Department, implying an opinion that it was not exercised properly; and would, moreover, preclude it from selecting the most fit and most wor-

thy; and was perverting the true object of the institution, which was established for the general benefit, &c.

Messrs. HARRISON and JOHNSON, of Kentucky, replied to the objections of Messrs. SMITH and STROTHER; stating that the bill had been reported in pursuance of a resolution adopted on the motion of a late distinguished member of this House, (Mr. ROBERTSON, of Louisiana;) that the provisions of the bill appeared to be required by the original purpose of the institution; that, instead of creating an aristocracy, it would tend to counteract any such thing, as the objects to be selected were from that class of the community whose pecuniary circumstances repressed any tendency towards undue influence.

The question on Mr. SMITH's motion was decided in the negative.

Mr. TAYLOR observed that, notwithstanding what had been said in defence of this bill, its effect was certainly to create a privileged order in the country; that, although the selection proposed might be expedient and laudable to a certain extent, there was no doubt that the department now vested with the selection would keep in view, as far as was proper, the principle proposed; but it would in his opinion be highly improper for Congress by a formal act to sanction such a distinction. In lieu, therefore, of the provisions at present proposed by the bill, he moved the following, as a substitute: "That cadets shall hereafter be admitted into the Military Academy at West Point, from the respective States and Territories, and from the District of Columbia, in proportion to the militia returns thereof."

Mr. HARRISON again protested against the assertion that this bill fostered a particular order of men. It might as well be said that the charitable appropriations for Sunday schools established a privileged order. It was no such thing. The bill proposed a benefit to be bestowed chiefly on the poor descendants of those who had served their country.

Mr. TAYLOR replied, that if there were Sunday schools to be paid for out of the public treasury, as this Academy was paid for, he should object, as he did now to its expenditure for a particular class: he should wish, in such a case, the benefit to be general, as he did in this.

Mr. SOUTHARD combatted the idea that this bill went to establish any aristocracy; it would have the contrary effect, by giving to the poor their portion of the benefits of an institution now confined chiefly to the rich, who sent their sons there to be educated free of expense, &c.

Mr. HARRISON reiterated his objections to the amendment, and observed, in addition to what he had submitted already, that the design of this bill was really to get rid of a practical aristocracy, instead of creating one; for it was a fact, he believed, that no son of a soldier (by the term he meant not also to include officers) had ever yet been educated at the Military Academy. Mr. H. then stated that if Mr. TAYLOR's amendment should prevail, he would move to add the following: "And that in all cases the preference be

DECEMBER, 1818.

Reduction of the Army.

H. OF R.

'given to those whose parents are least able to educate them;' and intimated that he should then move an additional section requiring cadets to remain at the Academy until the age of twenty-five years.

Mr. CLAY prefaced the motion he rose to make, by observing, in reply to the opponents of the bill, that it was a new thing to hear of an aristocracy of the poor: he should not be sorry to see something like such an aristocracy, but he did not think the bill would be productive of that or any other valuable effect. Believing that the selection might be very well left with the Secretary of War, in whom it was now vested, and not being able to perceive that any good would grow out of this bill, if passed, he moved that the Committee rise, report progress, and then let the House get rid of the whole subject.

This motion prevailed, and, the bill being reported to the House, the Committee was refused leave to sit again; and the bill was laid upon the table.

FRIDAY, December 11.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act to authorize the settlement of the accounts of James Wilde;" in which they ask the concurrence of this House.

Mr. WILLIAMS made a favorable report on the petition of Colonel Isaac Clark, accompanied by a bill for the relief of Colonel Clark, and the officers and soldiers under his command at the time of making an inroad into the country of the enemy during the late war; which was twice read, and committed.

Mr. POINDEXTER made a report, recommending the rejection of the prayer of the petition of the General Assembly of the State of Illinois, respecting the settlers on certain public lands in the district of Shawneetown; which was concurred in.

Mr. P. also reported a bill explanatory of the act "for the final adjustment of land titles in the State of Louisiana and Territory of Missouri;" which was twice read, and committed.

Mr. MIDDLETON made a favorable report on the petition of Marquis de Vienne, accompanied by a bill making provision for the claim; which was twice read, and committed.

On motion of Mr. WILLIAMS, of Connecticut, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of providing by law for the payment of pensions, when the pensioner, by reason of insanity or other cause, is legally incapable of performing the acts necessary to entitle him to receive the same.

On motion of Mr. NEWTON, the Committee of Commerce and Manufactures were instructed to inquire whether any, and if any, what alterations or modifications are required in the several acts of Congress establishing ports of entry and delivery.

On motion of Mr. BARBER, the Committee on

Public Lands were instructed to inquire into the expediency of procuring the field notes and plats of the reserved sections within the Ohio company's purchase.

On motion of Mr. HERRICK, the Committee on Public Lands were instructed to inquire whether the act entitled "An act for changing the compensation of receivers and registers of the land offices," approved on the 20th of April, 1818, requires any amendment; and, if so, what amendment is necessary to be made to the said act.

On motion of Mr. SIMKINS, the Committee on the subject of Revolutionary Pensions were instructed to inquire how far it may be expedient to amend the law, passed during the first session of the fifteenth Congress, granting pensions to Revolutionary officers and soldiers, so as to prevent frauds in the reception of pensions by pretended agents of, and in the names of, pensioners, who shall have died, after having, once or oftener, received their pensions.

The bill for authorizing the settlement of the accounts of James Wilde, and the resolve for a survey of the coast of North Carolina, &c., received from the Senate, were twice read, and committed.

The report of the Committee of Pensions unfavorable to the petition of John Porter, underwent some discussion in Committee of the Whole, in which Messrs. BARBOUR, RHEA, and SMITH, of Maryland, engaged; and being reported to the House, was concurred in without opposition.

The report of the Committee of Claims on the memorial of A. W. Hamilton, being called up, on motion of Mr. H. NELSON, the Committee of the Whole were discharged from the further consideration of it, and leave was given to the memorialist to withdraw his papers.

#### REDUCTION OF THE ARMY.

Mr. WILLIAMS, of North Carolina, after recalling the recollection of the House to the fact, that, at the session before the last, he had proposed a resolution for the reduction of the Army, announced his intention to renew that proposition. He yet thought the measure necessary. In all free countries, that standing armies are dangerous to liberty, was a truth generally admitted, and, in this country particularly, solemnly recognized. In this belief, he said, he had grown up; in this belief he had lived. His opinion as to the expediency of reducing our present military force remained unaltered by the events which had elapsed since he before suggested it; he might say, it had been confirmed. He had not thought proper at the last session to introduce this resolution. He had waited in the hope that some gentleman better qualified to sustain it would make the motion; in that hope he had so far waited at the present session. No one having undertaken what he now conceived his duty, he moved—

"That the Committee on Military Affairs be instructed to inquire into the expediency of reducing the Army of the United States."

Mr. W. not wishing to hurry the motion, it was, at his request, ordered to lie on the table.



The bill authorizing the distribution of a sum of money among the representatives of the late Commodore Edward Preble, &c., passed through a Committee of the Whole. [The object of this bill was explained by Mr. PLEASANTS. It is to allow the usual proportion of prize money for the brig Syren, captured for a breach of blockade by our squadron off Tripoli in 1804, and taken at that time into the service of the United States; but subsequently sold at a reduced price.] The bill was, without opposition, ordered to be engrossed for a third reading; and the House adjourned to Monday.

MONDAY, December 14.

Another member, to wit: from Delaware, WILLARD HALL, appeared, and took his seat.

Mr. STORRS presented a petition of sundry inhabitants of the State of New York, (the Governor of the State, and the mayor and common council of the city,) on behalf of the surviving officers of the Revolutionary army; which was referred to the Committee of the Whole, to which is committed the report of the select committee on the petition of William Jackson, solicitor for said officers.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Bowie and Kurtz, and others, which was read and committed to a Committee of the Whole, to-morrow.

Mr. WILLIAMS also reported a bill for the relief of Captain John Cowan and the company under his command, in the years 1814 and 1815, which was read twice, and committed to a Committee of the Whole.

Mr. RHEA made a report on the petition of Samuel Gibbs, which was read; when Mr. R. reported a bill for the relief of the said Samuel Gibbs, which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of John Rice Jones, which was read; when Mr. R. reported a bill for the relief of John Rice Jones, which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON also made a report on the petition of the heirs of Alexander Montgomery; and on the resolution instructing them to inquire into the expediency of authorizing additional evidence in support of the claim to land, of the said heirs, derived from the Spanish Government, through John Montgomery, to be received by the register and receiver of the land office east of Pearl river, which report was read; when Mr. R. reported a bill for the relief of the legal representatives of Alexander Montgomery, deceased, which was read twice, and committed to the Committee of the Whole to which is committed the bill for the relief of the legal representatives of John Baker, and the legal representatives of Peter Trouillet.

Mr. CLAIBORNE, from the committee appointed on the petition of the General Assembly of the

State of Georgia, and to whom was also referred the report of a select committee, made at the last session on the petitions of Thomas Carr, Andrew Jackson, and George W. Sevier, made report thereon, which was read; when Mr. C. reported a bill for the benefit of Thomas Carr, and others, which was read twice, and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island; and An act for the relief of Matthew Barrow; in which they ask the concurrence of this House.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*To the House of Representatives of the United States:* In compliance with a resolution of the House of Representatives, of the 10th instant, I transmit a report of the Secretary of War, with copies of the correspondence between the Governor of Georgia and Major General Andrew Jackson, on the subject of the arrest of Captain Obed Wright.

JAMES MONROE.

DECEMBER 12, 1818.

The said Message was read, and, together with the correspondence, referred to the Committee on Military Affairs.

The Committee of the Whole, to which is committed the bill of the last session, establishing trading-houses with the Indian tribes, and for the organization and encouragement of schools for their instruction and civilization, were discharged, and the said bill was referred to the Committee on Indian Affairs.

The bill from the Senate, entitled "An act to increase the compensation of the surveyor of the port of Patuxet, in Rhode Island," was read twice, and referred to the Committee of Commerce and Manufactures.

The bill from the Senate, entitled "An act for the relief of Matthew Barrow," was read twice, and referred to the Committee of Claims.

An engrossed bill, entitled "An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren," was read the third time, and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting information of the progress that has been made under the act of Congress, of the 3d of March, 1817, entitled "An act to set apart and dispose of certain public lands, for the encouragement and cultivation of the vine and olive," rendered in obedience to a resolution of the House of the 10th instant; which was read, and ordered to lie on the table.

#### FLORIDA AFFAIRS.

Mr. HOPKINSON submitted a motion, requesting the President to lay before the House, if he should not deem it improper to do so, copies of any instructions which have been given to the Minister of the United States at Madrid, relative to the

late proceedings of the army of the United States in Florida.

This proposition was objected to by Mr. POINDEXTER, as proposing an unusual course, and one not properly within the province of this House, but rather of the Senate—the treaty-making power. To obviate this objection the word "correspondence" was substituted, by consent of Mr. HOPKINSON, who considered the objection rather one of form than substance, for the word "instructions;" and the resolution was otherwise conformed to this amendment.

Having been so amended, on a suggestion of Mr. RICH, of the propriety of waiting to see whether the information desired would not be comprised in the communication on the subject of our relations with Spain, promised in the President's Message at the commencement of the session, and after some conversation on that point—

The motion of Mr. HOPKINSON was ordered to lie on the table.

#### EXTENSION OF MILITIA PENSIONS.

The bill to extend, for a further term of five years, the pensions granted to the widows and orphans of those militia who died or fell in battle during the late war, being the order of the day, passed through a Committee of the Whole, and, its objects being briefly explained by Mr. HARRISON, was reported to the House; when a spirited debate arose on it, which occupied the whole of this day's sitting.

Mr. SIMKINS, of South Carolina, opened the debate. The bill he characterized as one of magnitude in principle, and worthy of serious consideration, also, as drawing largely on the national purse. He was opposed to the bill on the ground that, in granting five years' pension as an alleviation, for the time, of sudden and inextricable distress, the Government had gone far enough; and that, if poverty was a proper subject for the munificence of Congress, no limit could be assigned at which its liberality would pause. The same reasons assigned now for the passage of this bill, would be equally valid five years hence, and during the lives of those who were the objects of its bounty. He particularly objected to the pension system, carried to this extreme, as leading a class of people to look to the Government for support, rather than exerting that industry which would sustain them in plenty and add to the national wealth. As to the obligation of gratitude, Mr. S. argued, it had been fully complied with. No nation on the globe had been more liberal to those who had suffered in the service of their country than this, and he was not for going further. This it was probable might be a popular measure, but when the increase of taxation, which such expenses would probably make necessary, was felt by the people, he doubted whether it would preserve its popularity. Of a liberal expenditure for such objects, he was the advocate; but the expenditure might be too liberal, and had in his opinion been sufficiently so.

Mr. T. M. NELSON, of Virginia, remarked, in favor of the bill, that the amount of expenditure it would occasion was yearly diminishing by the deaths and marriages of the widows, and the arrival at maturity of the orphans. As to the unpopularity of the measure, he would venture to say, that there could not be expended by the Government any part of its revenue which would afford such general satisfaction as that which provides for the helpless and destitute widows and orphans who were reduced to distress by the loss of their supporters and protectors during the late war.

Mr. HARRISON, of Ohio, was in favor of the bill. In regard to pension systems, he denied that there could be any analogy between that of this Government and of the Governments of Europe; the one being of moderate extent, and for actual services, the other of enormous extent, and bestowed on the principle of favoritism merely. Here, he said, were one thousand four hundred individuals concerned, as appeared by the pension list, who had contributed their all to the service of the country—the parent who supported and educated the child; the husband on whom the wife depended for protection and subsistence. The principle, he said, for which he contended—that the family of those who die in the public service should be provided for by the public—had been recognised by the best men and the oldest governments, and by those particularly to which ours bore the greatest resemblance; which he illustrated by a reference to Anacharsis's Travels, and to the authors quoted in that work. He went into an argument, enforced by cases which he stated, to show that it would be unjust to refuse to the widows and orphans of those who died in service the same compensation as was allowed to those who survived, but had been wounded: in the one case the pension was for life, and, on the same principle, ought to be so in the other. He referred to the gallant exploits of our Captain Ritchie, Colonel Wood, and other departed heroes, during the late war, to show the devotion to duty and to the country, which animated the American soldier; and hence argued that it was no more than just that the families of such men should be sheltered from want after they had fallen. In regard to the popularity of this law, if that argument were to have weight, he would vouch for its finding favor with the people. Go to any farmer—to any ploughman in your country—tell him of Montgomery and of Mercer, of Pike and of Covington, and you touch a chord to which his heart responds. Though poor, he is generous; though unlettered, he knows the history of his country sufficiently to appreciate their services. He knows the nature and value of his rights as an American citizen, and he entertains a just gratitude for the services of those who established and defended them. With such men, Mr. H. said, this measure could not but be popular. After drawing a contrast between the felicity of a happy and prosperous family, and the misery of one bereft of its only support and protector, Mr. H. expressed his anxious hope that the



House would do whatever was in its power to relieve such distress by the passage of this bill.

Mr. RICH, of Vermont, proposed to amend the bill. That some provision ought to be made for those who suffer in the service of their country, would be certainly agreed by all; but that there ought to be some limit to this provision, he presumed would equally be agreed; though, with respect to what that limitation should be, there might be expected to be some difference of opinion. He should not vote for the bill in any shape; but desired, if it should pass, to make it as little objectionable as possible to him. He therefore moved an amendment, the object of which was to destroy the distinction in the amount of pension between the officers and privates; the reasonableness of which, however just during the service of them, respectively, he could not see as it affected their families.

After some observations of Mr. HARRISON against, and Mr. RICH in favor of the amendment, it was negatived by a small majority.

The question recurring on the passage of the bill—

Mr. PITKIN, of Connecticut, spoke in opposition to it. The reasons assigned for this renewal of the pensions for five years, he said, were very different from those which were urged in favor of the original grant of five years' pension. It was then said that the regulars had bounty land, which went to their families after their decease, whilst the militia had none, though some of them had done equal service with the regulars. The pension had therefore been granted to place them on an equal footing. The bill now before the House, however, was founded on a new principle, of importance sufficient to induce the House to pause before they sanctioned it. He did not see how the same measure could be refused to the widows and orphans of regulars who had fallen in battle, nor where Congress were to stop. There must be some limits to this expenditure on the pension bill; which limits, he thought, would exclude the provisions of this bill.

Mr. JOHNSON, of Kentucky, warmly advocated the bill, which he thought bottomed on the true principles of our Government, and sustained by justice; without reference to the duties of charity and gratitude. Geographical considerations, he agreed, ought to have some weight in favor of this bill, when it was considered how great was the extent of our country, and how small the portion of it exposed to an enemy; the burden of the sufferings in such defence ought to be equalized in some degree by a contribution from the common purse for the relief of those who suffered most severely. We have lately, said he, voted upwards of two millions of money annually, it is computed, (and I thank God for it,) for the relief of the surviving officers and soldiers of the Revolutionary war; and that money is disbursed in the Eastern States principally, the West having been at that time a wilderness. And would gentlemen from the Eastern States refuse this small distribution of pension money among those who had wept tears of blood and of sorrow over the

victories of the late war? The whole amount, he stated, of these pensions was not more than \$100,000 annually; and where was it to go? To the patrician? To the wealthy favorite of fortune? To him who basked in the sunshine of ease and safety, whilst the brawny arm of the inhabitant of the West wielded his rifle and his bayonet in his defence? No; it was to go to objects which must command regard—to objects of charity, and who must so remain, &c. He hoped, therefore, the bill would receive the favor of the House.

Mr. SIMKINS again addressed the House in support of the ground he had before taken. If, he said, the House were to give the reins to these feelings, they might in a single day exhaust the treasury of the nation. There is not one among us, said he, though we may not, like the gentlemen from Ohio and Kentucky, personally have mingled in the scenes, who does not feel his bosom dilate with sentiments of gratitude towards the gallant defenders of their country. But, was this a reason why there should be no limit to the pension list, or why pensions for life should be granted to these persons?—for the same argument would apply to pensions for life as had been applied to the proposition for extending these pensions for five years longer. A regard to the state of the Treasury, and to the policy of the country, was as necessary as the feeling of gratitude. With respect to the popularity of this measure, Mr. S. said, he knew not the sentiments of his constituents respecting it. It was probable it would be popular. But he considered himself, as a member of this House, not a representative of a particular district, but of the whole nation; and he should act, in that capacity, as the public good appeared to him to require. He replied to several arguments in favor of the bill, and insisted more strongly on the argument that its tendency would be, as far as it extended, to weaken the spirit of industry and enterprise. The history of England, he said, afforded a commentary on such policy; by the operation of her poor laws and pension system, she had slid into an expense so great, that even the air they breathed, and the light of heaven, were become subject to taxation. He trusted, he said in conclusion, that he should always feel as grateful as any member for services rendered to the public, but on this occasion his object was to restrain the zeal of gentlemen to what he considered the sober rules of reason.

Mr. PITKIN made a few remarks in support of the ground he had before taken.

Mr. W. P. MACLAY, of Pennsylvania, moved to lay the bill on the table, with a view to a further examination of collateral provisions of other laws. Negatived, by a majority of one or two votes only.

Mr. HARRISON spoke at considerable length in support of his view of this question; and summed up his opinions in the broad position, that the children of those who die in the public service, ought to be educated at the public expense until they were eighteen years of age, and their widows to be shielded from absolute want, at least until

in a situation to procure their own maintenance. He assigned various reasons in support of the bill, besides the assertion of the general principle.

Mr. RICH moved another amendment, to this effect: that no pension to the family of officers should exceed the rate of ten dollars per month. This, he said, was one hundred and fifty per cent. more than the allowance to privates, and was precisely the proportion, between officers of every grade and soldiers, established by the Revolutionary pension act of the last session.

This motion was negatived, 71 to 47.

Mr. OGLE, of Pennsylvania, made some remarks in opposition to the bill, principally for the purpose of denying the similitude between this class of cases and that of the surviving Revolutionary officers and soldiers. The motives which had brought them into the field were different, and the rewards of the Government to them ought to be different. The soldiers of the Revolution fought for liberty; those of the late war for fame and fortune. He also adverted to the distinction between the regulars and militia, which was made by the system proposed in this bill, and which he considered unjust.

The question was then taken on ordering the bill to be engrossed for a third reading, and decided in the affirmative—yeas 79, nays 78, as follows:

YEAS—Messrs. Anderson of Kentucky, Baldwin, Barber of Ohio, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Colston, Comstock, Cook, Cruger, Davidson, Earle, Ervin of South Carolina, Floyd, Fuller, Gage, Gilbert, Harrison, Hendricks, Herbert, Horkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Lincoln, Little, McLean of Illinois, W. Maclay, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Ogle, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Sampson, Schuyler, Sergeant, Settle, Seybert, Silsbee, B. Smith, Alex. Smyth, Southard, Storrs, Trimble, Tucker of S. Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, and Wilkin.

NAYS—Messrs. Abbot, Adams, Austin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Bennett, Boss, Bryan, Butler of New Hampshire, Campbell, Claggett, Claiborne, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Edwards, Ellicott, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hopkinson, Hunter, Johnson of Virginia, Kinsey, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Scudder, Sherwood, Simkins, Slocumb, J. S. Smith, Speed, Stewart of North Carolina, Strother, Tallmadge, Tarr, Taylor, Terrell, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Westerlo, Williams of Connecticut, Williams of N. York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

The bill was then ordered to be read a third time to-morrow.

TUESDAY, December 15.

Mr. BLOUNT, presented a petition of sundry inhabitants of East Tennessee, praying for an appropriation of the sum of four hundred dollars, out of the public Treasury, to be applied in removing the obstructions in the Muscle Shoals, in the river Tennessee.—Referred to the Committee on Roads and Canals.

Mr. HUGH NELSON, from the Committee on the Judiciary, who were instructed on the 7th inst. to inquire into the expediency of holding the courts of the United States, within the State of Ohio, alternately at Cincinnati, and such other place, as may be hereafter designated by law, made a report against the proposition; which was read and ordered to lie on the table.

Mr. ROBERT MOORE, from the committee appointed on the first instant, on the petition of John B. C. Lucas and Clement B. Penrose, made a report thereon, which was read: when, Mr. M. reported bill for the relief of John B. C. Lucas and Clement B. Penrose; which was read twice; and committed to the Committee of the Whole, to which is committed the bill for the relief of Kenzie and Forsyth.

Mr. COLSTON offered for consideration the following resolution, prefacing it with the remark, that, as the subject of the Seminole war was one which considerably agitated the public mind, and on which every member of the House, and the whole community, were desirous of all the light which could be thrown on it, he should make no apology for this motion:

*Resolved*, That the President of the United States be requested to lay before this House any correspondence which may have taken place between this Government and that of Great Britain, relative to the trial and execution of Arbuthnot and Ambrister.

On motion of Mr. RICH, who thought such a motion premature until the information promised in the President's Message should have been laid before the House, the resolution was ordered to lie on the table.

On motion of Mr. NEWTON, the Committee on Commerce and Manufactures were directed to inquire into the expediency of erecting a light-house on Windmill Point, at the mouth of the Rappahannock river; and also, of placing a floating light on Willoughby's Shoals, between Lynhaven Bay and Hampton Roads.

On motion of Mr. POINDEXTER, the Committee on the Public Lands were instructed to inquire into the expediency of granting the several islands, in the Tennessee river, lying within the limits of the Alabama Territory, for the improvement of the navigation of said river.

On motion of Mr. HITCHCOCK, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry, at the mouth of Grand river, in the county of Geauga and State of Ohio.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*To the House of Representatives of the United States:*  
I lay before the House of Representatives copies of



the remainder of the documents, referred to in the message of the 17th of last month.

JAMES MONROE.

DECEMBER 15, 1818.

The Message was read, and, with the documents, ordered to lie on the table.

#### MILITARY PEACE ESTABLISHMENT.

The SPEAKER laid before the House a report of the Secretary of War, made in obedience to a resolution of the 17th of April last, directing him to report whether any, and, if any, what reduction may be made in the Military Peace Establishment of the United States, with safety to the public service, and whether any, and, if any, what change ought to be made in the ration, and in the mode of issuing it; and also, a system for the establishment of a Commissariat for the Army; which report was referred to the Committee on Military Affairs. The report is as follows:

DEPARTMENT OF WAR, Dec. 11, 1818.

In compliance with a resolution of the House of Representatives, passed the 17th April last, directing the Secretary of War to report, at an early period of the next session of Congress, whether any, and, if any, what reduction may be made in the Military Peace Establishment of the United States, with safety to the public service; and whether any, and, if any, what change ought to be made in the ration established by law, and in the mode of issuing the same; and also to report a system for the establishment of a Commissariat for the Army, I have the honor to submit the following report:

In order to form a correct opinion on a subject involving so many particulars, as the expense of our Military Establishment, it will be necessary to consider it under distinct and proper heads: To ascertain, then, "whether any, and, if any, what reductions may be made in the expenses of our Military Establishment," I propose to consider its number, organization, pay and emoluments, and administration. To the one or the other of these heads all of its expenses may be traced; and, if they are greater than what they ought to be, we must search for the cause in the proper extent of the establishment; the excessive number of officers in proportion to the men; the extravagance of the pay or emoluments, or the want of proper responsibility and economy in its administration.

Pursuing the subject in the order in which it has been stated, the first question which offers itself for consideration, is, whether our Military Establishment can be reduced "with safety to the public service," or can its expenditures be, with propriety, reduced, by reducing the Army itself. It is obvious that, viewed in the abstract, few questions present so wide a field for observation, or are so well calculated to produce a great diversity of sentiment as the one now proposed. Considered as an original question, it would involve in its discussion the political institutions of the country, its geographical position and character, the number and distance of our posts, and our relations with the Indian tribes, and the principal European Powers. It is conceived, however, that a satisfactory view of it may be taken, without discussing topics so extensive and indefinite.

The Military Establishments of 1802 and 1808, have been admitted, almost universally, to be suffi-

ciently small. The latter, it is true, received an enlargement from the uncertain state of our foreign relations at that time; but the former was established at a period of profound quiet, (the commencement of Mr. Jefferson's Administration,) and was professedly reduced, with a view to economy, to the smallest number then supposed to be consistent with the public safety. Assuming these as a standard, and comparing the present establishment (taking into the comparison the increase of our country) with them, a satisfactory opinion may be formed on a subject, which otherwise might admit so great a diversity of opinion.

Our Military Peace Establishment is limited, by the act of 1815, passed at the termination of the late war, to ten thousand men. The corps of engineers and ordnance, by that and a subsequent act, were retained as they then existed; and the President was directed to constitute the establishment of such portions of artillery, infantry, and riflemen, as he might judge proper. The general order of the 17th May, 1815, fixes the artillery at 3,200, the light artillery at 660, the infantry at 5,440, and the rifles at 660 privates and matrosses. Document A exhibits a statement of the Military Establishment, including the general staff, as at present organized; and B exhibits a similar view of those of 1802 and 1808; by a reference to which it will appear, that our Military Establishments, at the respective periods, taken in the order of their dates, present an aggregate of 3,323, 9,996, and 12,656. It is obvious that the establishment of 1808, compared with the then wealth and population of the country, the number and extent of military posts, is larger in proportion than the present; but the unsettled state of our relations with France and England, at that period, renders the comparison not entirely just. Passing that of 1808, let us compare the establishment of 1802 with the present. To form a correct comparison, it will be necessary to compare the capacity and necessity of the country then with those of the present time. Since that period our population has nearly doubled, and our wealth more than doubled. We have added Louisiana to our possessions, and with it a great extent of frontier, both maritime and inland. With the extension of our frontier, and the increase of our commercial cities, our military posts and fortifications have been greatly multiplied. Document marked C exhibits the number and positions of posts in the year 1802, and document D those of the present time; by a reference to which, it will be seen that, at the former period, we had but twenty-seven posts, the most remote of which was, to the north, at Mackinaw, and to the south, at Fort Stoddert, on Mobile river; but now we have seventy-three, which occupy a line of frontier proportionally extended. On the Lakes, the Mississippi, Missouri, Arkansas, and Red river, our posts are now, or will be shortly, extended, for the protection of our trade, and the preservation of the peace of the frontiers, to Green Bay, the mouths of the St. Peters, and the Yellow Stone river, Bellepoint, and Nachitoches. Document marked E exhibits a statement of the extent of the line of our frontier, inland and maritime, with the distance of some of the more remote posts from the seat of Government, drawn up by Major Long, of the topographical engineers, from the most approved maps.

If, then, the Military Establishment of 1802 be assumed to be as small as was then consistent with the safety of the country, our present establishment,

when we take into comparison the prodigious increase of wealth, population, extent of territory, number and distance of military posts, cannot be pronounced extravagant; but, on the contrary, after a fair and full comparison, that of the former period must, in proportion to the necessities and capacity of the country, be admitted to be quite as large as the present; and on the assumption that the establishment of 1802 was as small as the public safety would then admit, a reduction of the expense of our present establishment cannot be made, with safety to the public service, by reducing the army. In coming to this conclusion I have not overlooked the maxim, that a large standing army is dangerous to the liberties of the country, and that our ultimate reliance for defence ought to be on the militia. Its most zealous advocate must, however, acknowledge, that a standing army, to a limited extent, is necessary, and no good reason can be assigned why any should exist, but what will equally prove that the present is not too large. To consider the present army as dangerous to our liberty, partakes, it is conceived, more of timidity than wisdom. Not to insist on the character of the officers, who, as a body, are high-minded and honorable men, attached to the principles of freedom by education and reflection, what well-founded apprehension can there be from an establishment distributed on so extended a frontier, with many thousand miles intervening between the extreme points occupied? But the danger, it may be said, is not so much from its numbers, as a spirit hostile to liberty, by which, it is supposed, all regular armies are actuated. This observation is probably true, when applied to standing armies collected into large and powerful masses; but dispersed as ours is, over so vast a surface, the danger, I conceive, is of an opposite character, that both officers and soldiers will lose their military habits and feelings, by sliding gradually into those purely civil.

I proceed next to consider whether any reduction can be made with propriety by changing the organization, or by reducing the number of officers of the line, or the staff, in proportion to the men. It is obvious that, as the officers are much more expensive in proportion to their numbers, than the soldiers, that the pay of the army, in relation to its aggregate numbers, must be increased or diminished in the increase or the diminution of the former. It is impossible to fix any absolute proportion between officers and men, which will suit every country and every service; and the organization of different countries and of different periods, in the same country, has accordingly varied considerably. Our present organization, of which document marked A contains an exhibit, is probably as well or better adapted to the nature of our country and service than any other, as it seems to be the result of experience; for, by a reference to document marked B, it will be seen that it is nearly similar, with the exception of the general staff, in which the present is more extensive, to the organization of the Military Establishments of 1802 and 1808. It is believed that the proportion of officers of the line to the men, will require no further observations.

The staff, as organized by the act of the last session, combines simplicity with efficiency, and is considered to be superior to that of the periods to which I have reference. In estimating the expenses of the army, and particularly that of the staff, the two most expensive branches of it, the engineer and ordnance departments, ought not fairly to be included. Their duties are connected with the permanent preparation and de-

fence of the country, and have so little reference to the existing establishment, that, if the army were reduced to a single regiment, no reduction could safely be made in either of them. To form a correct estimate of the duties of the other branches of the staff, and, consequently, the number of officers required, we must take into consideration not only the number of troops, but, what is equally essential, the number of posts and extent of country which they occupy. Were our Military Establishment reduced one-half, it is obvious that, if the same posts continued to be occupied, which now are, the same number of officers in the quartermaster's, commissary's, paymaster's, medical, and adjutant and inspector general's departments, would be required.

To compare, then, as is sometimes done, our staff with those of European armies, assembled in large bodies, is manifestly unfair. The act of the last session, it is believed, has made all the reduction which ought to be attempted. It has rendered the staff efficient without making it expensive. Such a staff is not only indispensable to the efficiency of the army, but is also necessary to a proper economy in its disbursements; and should an attempt be made at retrenchment, by reducing the present number, it would, in its consequences, probably prove wasteful and extravagant.

In fact no part of our military organization requires more attention in peace than the general staff. It is, in every service, invariably the last in attaining perfection; and, if neglected in peace, when there is leisure, it will be impossible, in the midst of the hurry and bustle of war, to bring it to perfection. It is in peace that it should receive a perfect organization, and that the officers should be trained to method and punctuality, so that, at the commencement of a war, instead of creating anew, nothing more should be necessary than to give to it the necessary enlargement. In this country, particularly, the staff cannot be neglected with impunity. As difficult as its operations are, in actual service, everywhere, it has here to encounter great and peculiar impediments, from the extent of the country, the badness, and frequently the want of roads, and the sudden and unexpected calls which are often made on the militia. If it could be shown that the staff, in its present extent, was not necessary in peace, it would, with the view taken, be unwise to lop off any of its branches, which would be necessary in actual service. With a defective staff, we must carry on our military operations under great disadvantages, and be exposed, particularly at the commencement of a war, to great losses, embarrassments, and disasters.

As intimately connected with this part of the subject, it is proper to observe, that so many and such distant small posts as our service requires, not only adds to the expense of the Army, by rendering a more numerous staff necessary, but it increases the price of almost every article of supply, and the difficulty of enforcing a proper responsibility and economy. To an Army thus situated, the expenses and losses resulting from transportation alone constitutes a considerable sum. Under the best management, our Army must be more expensive, even were our supplies equally cheap, than European armies collected in large bodies, in the midst of populous and wealthy communities. These observations are not made to justify an improper management, or to divert the attention of the House from so important a subject, as the expense of our Military Establishment. They, in fact, ought to have an opposite effect; for, just in the same proportion that it is liable to be expensive, ought the atten-



tion and effort of the Government to be roused to confine its expenses within the most moderate limits which may be practicable.

The next question which presents itself for consideration is, can the expenses of our Military Establishment be reduced, without injury to the public service, by reducing the pay and emoluments of the officers and soldiers? There is no class in the community whose compensation has advanced less, since the termination of the war of the Revolution, than that of the officers and soldiers of our Army. While money has depreciated more rapidly than at any other period, and the price of all of the necessities of life has advanced proportionably, their compensation has remained nearly stationary. The effects are severely felt by the subaltern officers. It requires the most rigid economy for them to subsist on their pay and emoluments. Documents marked F and G exhibit the pay and subsistence during the Revolution, and as at present established; and document marked H exhibits the allowance of clothing, fuel, forage, transportation, quarters, waiters, stationery, and straw, at the termination of the Revolutionary war, and in 1802, 1816, and 1818. By a reference to those documents, it will be seen that, under most of the heads, the variation of the different periods has been very small; and that, on a comparison of the whole, the pay of an officer is not near equal now, if allowance is made for the depreciation of money, to what it was during the Revolution. I will abstain from further remarks, as it must be obvious from these statements that the expense of our Military Establishment cannot be materially reduced, without injury to the public service, by reducing the pay and emoluments of the officers and soldiers.

It only remains to consider, in relation to this part of the resolution of the House, whether the expense of our Military Establishment can be reduced by a proper attention to its administration, or by a more rigid enforcement of responsibility and economy. Our Military Establishment is doubtless susceptible of great improvement in its administration. The field is extensive, and the attention of the Government has not heretofore been so strongly directed towards it, as its importance deserves. Here all savings are real gain, not only in a moneyed, but in a moral and political point of view. An inefficient administration, without economy or responsibility, not only exhausts the public resources, but strongly tends to contaminate the moral and political principles of the officers who are charged with the disbursements of the Army. To introduce, however, a high state of economy and responsibility in the management of a subject so extensive and complicated as our Military Establishment, is a task of great difficulty, and requires not only a perfect organization of the department charged with it, but a continued energetic and judicious enforcement of the laws and regulations established for its government. The organization is the proper sphere of legislation, as the application of the laws and regulations is that of administration. The former has done all, or nearly all, that can be done. It is believed that the organization of the War Department, as well as the general staff of the Army, is not susceptible of much improvement. The act of the last session regulating the staff has not only made important savings in the expenses of the Army, but has given both to the department and the staff a much more efficient organization than they ever before had. Every department of the Army

charged with disbursements has now a proper head, who, under the laws and regulations, is responsible for its administration. The head of the department is thus freed from detail, and has leisure to inspect and control the whole of the disbursements. Much time and reflection will be required to bring the system into complete operation, and to derive from it all the advantages which ought to be expected. The extent of the saving which may result from it can only be ascertained by time and experience; but, with an attentive and vigorous administration, it doubtless will be considerable. In war it will be much more difficult to enforce economy and responsibility; but with a system well organized, and with officers trained to method and punctuality, much of the waste and frauds which would otherwise take place in war, will be prevented. In peace there can be no insuperable difficulty in attaining a high degree of responsibility and economy. The mere moneyed responsibility, or that of purchases and disbursements, will be easily enforced. The public now sustains much greater losses in the waste and improper use of public property, than in its moneyed transactions. In our Military Establishment, responsibility in the latter is well checked, and not badly enforced. The accounts are rendered with considerable punctuality, and are promptly settled; and even neglect or misapplication of public funds, by the disbursing officers, are not often accompanied with ultimate losses, as they are under bonds for the faithful discharge of their duties. Accountability, as it regards the public property, is much more difficult, and has heretofore been much less complete. Returns of property in many cases, particularly in the medical department, have rarely been required; and even where they have been, they have not been made with punctuality. It cannot be doubted but what the public has sustained very considerable damage from this want of accountability. Every article of public property, even the smallest, ought, if possible, to be in charge of some person who should be responsible for it. It will be difficult to attain this degree of perfection; but it is hoped, by making each of the subordinate departments of the War Department liable for the property in its charge, a very considerable improvement and reduction of expenses will be made.

On the quality of the ration, and the system of supplying and issuing it, which I propose next to consider, the health, comfort, and efficiency of the Army mainly depend. Too much care cannot be bestowed on these important subjects; for, let the military system be ever so perfect in other particulars, any considerable deficiency in these must, in all great military operations, expose an army to the greatest disasters. All human efforts must, of necessity, be limited by the means of sustenance. Food sustains the immense machinery of war, and gives the impulse to all its operations; and if this essential be withdrawn, even for a few days, the whole must cease to act. No absolute standard can be fixed, as it regards either the quantity or quality of the rations. These must vary, according to the habits and products of different countries. The great objects are, first and mainly, to sustain the health and spirit of the troops; and the next, to do it with the least possible expense. The system which effects these in the greatest degree, is the most perfect. The ration, as established by the act of the 16th of March, 1802, experience proves to be ample in quantity, but not of the quality best calculated to secure either health or economy. It consists of eighteen ounces of

bread, or flour, one pound and a quarter of beef, or three-quarters of a pound of pork, one gill of rum, brandy, or whiskey, and at the rate of two quarts of salt, four quarts of vinegar, four pounds of soap, and one pound and a half of candles to every hundred rations.

The objections to it in relation to the health of the Army, are fully stated in a report of the Surgeon General to the War Department, (marked I,) which I would respectfully annex as a part of this report. Under this view of the subject more need not be added, except to urge its importance, both on the score of humanity and policy.

Our people, even the poorest, being accustomed to a plentiful mode of living, require, to preserve their health, a continuation, in a considerable degree, of the same habits of life, in a camp; and a sudden and great departure from it subjects them, as is proved by experience, to great mortality. Our losses, in the late and Revolutionary wars, from this cause, were probably much greater than from the sword. However well qualified for war in other respects, in the mere capacity of bearing privations, we are inferior to most nations. An American would starve on what a Tartar would live on with comfort. In fact, barbarous and oppressed nations have, in this particular, a striking advantage, which, however, ought to be much more than compensated by the skill and resources of a free and civilized people. If, however, such a people want the skill and spirit to direct its resources to its defence, the very wealth by which it ought to defend itself becomes the motive for invasion and conquest. Besides, there is something shocking to the feelings, that, in a country of plenty beyond all others, in a country which ordinarily is so careful of the happiness and life of the meanest of its citizens, its brave defenders, who are not only ready, but anxious, to expose their lives for the safety and glory of their country, should, through a defective system of supply, be permitted almost to starve, or to perish by the poison of unwholesome food, as has frequently been the case. If it could be supposed that these considerations are not sufficient to excite the most anxious care on this subject, we ought to remember that nothing adds more to the expense of military operations, or exposes more to its disasters, than the sickness and mortality which result from defective or unwholesome supplies. Impressed with this view of the subject, considerable changes have been made in the ration under the authority of the 8th section of the act regulating the staff of the Army, passed at the last session of Congress. The vegetable part of the ration has been much increased. Twice a week, a half allowance of meat, with a suitable quantity of peas or beans, is directed to be issued. Fresh meat has also been substituted, twice a week, for salted. In the southern division, bacon and kiln-dried Indian corn meal have been, to a certain extent, substituted for pork and wheat flour. In addition, orders have been given, at all the permanent posts, where it can be done, to cultivate a sufficient supply of ordinary garden vegetables for the use of the troops; and, at the posts remote from the settled parts of the country, the order is extended to the cultivation of corn, and to the supply of the meat part of the ration, both to avoid the expense of distant and expensive transportation, and to secure, at all times, a supply within the posts themselves.

In addition to these changes, I am of opinion the spirit part of the ration, as a regular issue, ought to

be dispensed with; and such appears to be the opinion of most of the officers of the Army. It both produces and perpetuates habits of intemperance, destructive alike to the health and moral and physical energy of the soldiers. The spirits ought to be placed in depot, and be issued occasionally, under the discretion of the commanders. Thus used, its noxious effects would be avoided, and the troops, when great efforts were necessary, would, by a judicious use, derive important benefits from it. Molasses, beer, and cider, according to circumstances, might be used as substitutes. The substitution of bacon and kiln-dried corn meal, in the southern division, will have, it is believed, valuable effects. They are both much more congenial to the habits of the people in that section of our country. Corn meal has another, and, in my opinion, great and almost decisive advantage; it requires so little art to prepare it for use. It is not easy to make good bread of wheat flour, while it is almost impossible to make bad of that of Indian corn. Besides, wheat is much more liable to be damaged than the Indian corn, for the latter is better protected against disease and the effects of bad seasons in time of harvest than any other grain; and, when injured, the good is easily separated from the bad. Experience proves it to be not less nutritious than wheat or any other grain. Parched corn constitutes the principal food of an Indian warrior; and such are its nutritious qualities, that they can support long and fatiguing marches on it alone.

I next proceed to consider the system of supplying the Army with provisions, or the establishment of a commissariat, and as they are connected in their nature, I propose to consider that part of the resolution in relation to a commissariat, and the mode of issuing the rations, at the same time.

The system established, at the last session, will, in time of peace, be adequate to the cheap and certain supply of the army. The act provides for the appointment of a commissary general, and as many assistants as the service may require, and authorizes the President to assign to them their duties in purchasing and issuing rations. It also directs that the ordinary supplies of the army should be purchased on contracts to be made by the commissary general, and to be delivered, on inspection, in the bulk, at such places as shall be stipulated in the contract. Document marked J contains the rules and regulations which have been established by order of the President, and presents the operation of the system in detail. It is believed that it is as well guarded against fraud as any other department of our military supplies; and, judging from the contracts already formed under it, will, when improved by experience, probably make a very considerable saving. It would improve the system, to authorize the appointment of two deputy commissaries, one for each division, with the pay, rank, and emoluments, of major of infantry, to be taken from the line or from citizens, and so to amend the act of the last session as to authorize the President to appoint the assistant commissaries, either from the line or citizens. When the assistant commissary is not taken from the line, to make his pay equal to that of a subaltern appointed from the line, it ought to be \$56 per month, with two rations a day. It should be the duty of the deputy commissaries to perform such service as the commissary general might prescribe, and particularly to inspect the principal depots, and, in cases of necessity, to make the necessary purchases. When a suitable



subaltern cannot be had, or when his services are necessary in the line, the power proposed to be vested in the President, to select from citizens, would be important. It is not believed that any other alteration would be necessary in peace; but the system would require great enlargement in war to render it sufficiently energetic to meet the many vicissitudes incidental to the operations of war.

It would then be necessary to divide the system into two divisions, one for purchasing and the other for issuing of rations, with as many deputy commissaries of purchases and issues as there may be armies and military districts, to whom ought to be added a suitable number of assistants. The basis of the system ought, in war, to be the same as is now established. The ordinary supplies ought to be by contract on public proposals. By a judicious collection of provisions at proper depots, combined with an active and energetic system of transportation, it would be seldom necessary to resort to any other mode of purchasing. To provide, however, for contingencies, the purchasing department ought to be efficiently organized, and a branch of it, as already stated, attached to each army and military department. As it is the means to be resorted to in cases of necessity, it ought to possess those high and discretionary powers which do not admit of exact control. It is in its nature liable to many abuses, and, to prevent them from being great, more efficient regulations and checks are required than in any other branch of the general staff.

The defects of the mere contract system are so universally acknowledged by those who have experienced its operation in the late war, that it cannot be necessary to make many observations in relation to it. Nothing can appear more absurd, than that the success of the most important military relations, on which the very fate of the country may depend, should ultimately rest on men who are subject to no military responsibility, and on whom there is no other hold than the penalty of a bond. When we add to this observation that it is often the interest of a contractor to fail, at the most critical juncture, when the means of supply become the most expensive, it seems strange that the system should have been continued for a single campaign. It may be said, that, when the contractor fails, the commander has a right to purchase at his risk, by which the disasters, which naturally result from a failure, may be avoided. The observation is more specious than solid. If on failure of the contractor there existed a well organized system for purchasing the supplies, there would be some truth in it: but, without such a system, without depots of provisions, and with the funds intended for the supply of the Army, perhaps, in the hands of the contractor, his failure must generally be fatal to a campaign. It is believed that a well organized commissariat, whose ordinary supplies are obtained by contract founded on public notice, possesses (besides those peculiar to itself) all the advantages fairly attributable to the system of issuing rations by contract. It is equally guarded against fraud, and its purchases can be made on terms more advantageous. A considerable objection to the system of issuing the ration by contract, is, that the merchants and capitalists are deterred from bidding, by the hazard of issuing the ration; and thus the sphere of competition is contracted, and the contracts for supplying the Army often thrown into the hands of adventurers. This objection is avoided under the present system, by which the nation will be cheaply

supplied, and the danger of failure almost wholly removed. All of which is respectfully submitted.

J. C. CALHOUN.

#### RELATIONS WITH SPAIN.

Mr. HOPKINSON then called up the resolution which he yesterday submitted, calling on the President for certain documents connected with our relations with Spain.

The SPEAKER suggested that the Message just received probably embraced the correspondence the gentleman had in view, by his own motion.

Mr. HOPKINSON intimated that he believed it did not.

Mr. HOLMES proposed to modify the resolution, in a manner which he thought would meet the object of the gentleman, and be free from any objection, so as to read as follows:

"That the President of the United States be requested to cause to be communicated to this House such further correspondence and proceedings in relation to our affairs with Spain, as in his opinion it shall not be inconsistent with the public interest to divulge."

Mr. HOPKINSON accepted this modification.

Mr. HOLMES then said he was in favor of the resolution. He should not go into a detail of the particular reasons why he was in favor of the motion; but the Committee of Foreign Relations had thought a call of this kind to be necessary, and he hoped the House would grant it.

The resolve was agreed to, *nem. con.*, and a committee appointed to present the resolution to the President.

#### EXTENSION OF MILITIA PENSIONS.

The engrossed bill authorizing the extension of the pensions to the widows and orphans of the militia who fell in battle or died in service during the late war, for five years longer, was read a third time.

Mr. SMITH, of Maryland, made some remarks, rather of an explanatory than argumentative nature, on the subject of the bill.

Mr. BUTLER, of New Hampshire, conceiving the discrimination between the families of the militia and of the regulars, in the proposed extension, to be unjust, moved to recommit the bill to the committee who reported it, with instructions to report an amendment, embracing in the extension the provisions of the 2d section of the act of April, 1816.

This motion gave rise to some debate, in which Messrs. T. M. NELSON, and HARRISON opposed it, as calculated, by overloading the bill, to break it down; Messrs. SMITH, of Maryland, RICH, and PITKIN, supported it, as consistent with the principles of equity, which, in their administration, ought to know no distinction of persons.

Before the question on the pending motion was taken, a motion was made by Mr. WHITMAN to lay the bill on the table, and negatived.

Mr. PITKIN then moved to postpone the further consideration of the bill indefinitely.

This question was taken by yeas and nays—for the motion 79, against it 79, as follows:

YEAS—Messrs. Abbot, Adams, Allen of Massachusetts, Austin, Ball, Barbour of Virginia, Bassett,

Bateman, Bayley, Bennett, Boss, Bryan, Butler of New Hampshire, Campbell, Clagett, Claiborne, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Edwards, Ellicott, Folger, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hopkinson, Hunter, Huntington, Johnson of Virginia, Kirtland, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Sawyer, Scudder, Sherwood, Simkins, Slocumb, S. Smith, J. S. Smith, Speed, Stewart of North Carolina, Strother, Tarr, Taylor, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Colston, Comstock, Cook, Cruger, Davidson, Earle, Ervin of South Carolina, Floyd, Fuller, Gage, Gilbert, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lewis, Lincoln, Little, McLean of Illinois, W. Maclay, Mercer, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogle, Palmer, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Rogers, Sampson, Schuyler, Sergeant, Settle, Silsbee, Ballard Smith, Alex. Smyth, Storrs, Tallmadge, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, and Whitman.

The House being equally divided the SPEAKER voted in the negative; and so the motion was rejected.

The question then recurred to recommit the bill with instructions as aforesaid; and a division thereof being called for, was taken on the first member thereof, to wit: "Shall the said bill be recommitted to a select committee?" and also determined in the negative—yeas 62, nays 97, as follows:

YEAS—Messrs. Abbot, Adams, Allen of Massachusetts, Austin, Bennett, Boss, Bryan, Butler of New Hampshire, Clagett, Cobb, Crafts, Crawford, Cushman, Darlington, Desha, Edwards, Ellicott, Folger, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hopkinson, Hunter, Huntington, Johnson of Virginia, Kirtland, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Sawyer, Scudder, Sherwood, Simkins, Slocum, S. Smith, J. S. Smith, Speed, Stewart of North Carolina, Strother, Taylor, Terry, Tucker of Virginia, Upham, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Campbell, Claiborne, Colston, Comstock, Cook, Cruger, Davidson, Drake, Earle, Ervin of South Carolina, Floyd, Fuller, Gage, Garnett, Gilbert, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis,

Lincoln, Little, Livermore, McLean of Illinois, W. Maclay, Marchand, Mason of Massachusetts, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Rogers, Sampson, Schuyler, Sergeant, Settle, Silsbee, Bal. Smith, Alex. Smyth, Storrs, Tallmadge, Tarr, Tompkins, Townsend, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, and Wilson of Massachusetts.

The question was then taken, Shall the said bill pass? and passed in the affirmative—yeas 82, nays 79, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Beecher, Bellinger, Bloomfield, Blount, Boden, Butler of Louisiana, Colston, Comstock, Cook, Cruger, Davidson, Earle, Ervin of South Carolina, Floyd, Fuller, Gage, Gilbert, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Lewis, Lincoln, Little, McLean of Illinois, W. Maclay, Mercer, Middleton, Robert Moore, Samuel Moore, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogle, Palmer, Parrott, Patterson, Pawling, Pindall, Pleasants, Poindexter, Porter, Quarles, Rhea, Ringgold, Robertson, Rogers, Sampson, Schuyler, Sergeant, Settle, Silsbee, Bal. Smith, Alex. Smyth, Storrs, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, and Wilkin.

NAYS—Messrs. Abbot, Adams, Allen of Massachusetts, Austin, Ball, Barbour, of Virginia, Bassett, Bateman, Bayley, Bennett, Boss, Bryan, Butler of New Hampshire, Campbell, Clagett, Claiborne, Cobb, Crafts, Cushman, Darlington, Desha, Drake, Edwards, Ellicott, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hopkinson, Hunter, Huntington, Johnson of Virginia, Kirtland, Lawyer, Linn, Livermore, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Morton, Moseley, Jeremiah Nelson, Orr, Owen, Pegram, Pitkin, Rice, Rich, Richards, Ruggles, Savage, Sawyer, Scudder, Sherwood, Simkins, Slocumb, S. Smith, J. S. Smith, Speed, Stewart of North Carolina, Strother, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Westerlo, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

So the said bill was passed.

The remainder of the day was occupied on the following bills:

A bill to incorporate a company to build a bridge over the Eastern Branch of the Potomac, from the southern extremity of Eleventh street east, in the City of Washington.

A bill for the relief of Thomas B. Farish.

A bill for the relief of Samuel H. Harper.

Which severally passed through Committees of the Whole, and were ordered to be engrossed for a third reading to-morrow.

The House then, on motion, adjourned until to-morrow.



WEDNESDAY, December 16.

Mr. WILLIAMS, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Matthew Barrow," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. POINDEXTER, from the Committee on the Public Lands, reported a bill, allowing to each non-commissioned officer, musician, and private, in the Army of the United States, who were on furlough at the close of the late war with Great Britain, a bounty in land, as in other cases; which was read twice, and committed to a Committee of the Whole.

Mr. POINDEXTER, from the same committee, to which was referred the petition of the General Assembly of the State of Illinois, reported a bill granting a donation of land to the State of Illinois for the seat of government of said State; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of Captain Stanton Sholes; which was read; when Mr. J. reported a bill for the relief of the said Captain Stanton Sholes; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also made a report on the petition of Harvey Wakefield; which was read; when Mr. J. reported a bill for the relief of the said Harvey Wakefield; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill providing for the payment of property lost and destroyed in the Seminole war; which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of public lands sold in the Alabama Territory, and the amount paid to receivers, and the balance due by individuals; rendered in obedience to a resolution of this House, of the 3d instant; which was read, and ordered to lie on the table.

Mr. PITKIN was excused from a further service on the joint committee appointed upon the subject of the printing, ordered by the respective Houses of Congress, and Mr. SEYBERT was appointed of the said committee.

Mr. TARR submitted the following resolution, which was read and rejected by the House—ayes 55, noes 54:

*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of appropriating the sum of — dollars, to be expended under the direction of the Secretary of the Treasury, in further completing that part of the turnpike road lying between Cumberland, in the State of Maryland, and Wheeling, in the State of Virginia; and pledging for the repayment thereof the two per cent. fund arising from the sales of the public lands northwest of the river Ohio.

On motion of Mr. WALKER, of North Carolina,

the Committee on Military Affairs were instructed to inquire into the expediency of providing by law for allowing an equal bounty in land, as other soldiers, to all minors who enlisted in the army of the United States in the late war, and continued in service until peace was concluded and were regularly discharged.

On motion of Mr. POINDEXTER, the Secretary of the Treasury was directed to lay before the House of Representatives a statement of the tracts of land reserved for the establishment of towns in the Alabama Territory, specifying the price at which said lands have been sold, and such other information as may be in his possession relative to said reservations.

The engrossed bill for the relief of Thomas B. Farish; the engrossed bill for the relief of Samuel H. Harper; and the engrossed bill for the incorporation of a company for making a bridge across the Eastern Branch, from between Eleventh and Twelfth streets, in Washington city, were severally read a third time, and passed.

The House having proceeded to the orders of the day—

The bill providing for the payment of certain bills drawn by General Armstrong in favor of the William Morgan, &c., under the treaty with France, passed through a Committee of the Whole, and being explained and supported by Mr. SMITH, of Maryland, was ordered to be engrossed for a third reading.

The bill for the relief of Mattrom Ball, of the Northern Neck of Virginia, allowing him fourteen hundred dollars for a house destroyed by the British during the war, in consequence of its having been occupied by our troops, passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

#### IRISH SETTLERS IN ILLINOIS.

Mr. CLAGETT submitted the following resolution, to wit:

*Resolved*, That it is expedient to authorize the Secretary of the Treasury to designate and set apart — townships, each of six miles square, in the State of Illinois, east of the military bounty lands, each alternate section thereof to be settled by emigrants from Ireland, and sold to them at two dollars per acre, to be paid by three instalments, as follows, to wit: one-third part thereof, at the end of four years; one other third part thereof, at the end of eight years; and the residue thereof, at the end of twelve years from the day of sale, with interest on the said several sums: *Provided*,

First. That the said Secretary of the Treasury may, and it shall be his duty to, reject all applications of such emigrants, for the lands aforesaid; unless the applicants shall have been satisfactorily recommended as moral and industrious men.

Secondly. That no contract shall be made with any emigrant as aforesaid, unless he engage to improve at least twenty of each hundred acres, to be transferred as aforesaid; and also to erect a suitable dwelling-house and barn thereon.

Thirdly. That no contract shall be binding upon the United States, nor title vest in any emigrant settler, until he shall have made the settlement and im-

provements aforesaid, and fully paid for the lands contracted for as aforesaid.

Fourthly. That no such contract shall be made, nor a patent issued to any one settler or his heirs, for more than — acres of land.

Fifthly. That in every instance, where the conditions of settlement, improvement, or payment, shall not have been fully complied with, at the expiration of the term of twelve years from the date of such contract, the said premises so forfeited shall revert to the United States; and the Secretary of the Treasury shall cause the same to be sold for the benefit of the said United States: *Provided*, nevertheless, That in all cases where payment in part shall have been made, the sum or sums so paid, shall be refunded to such emigrant, or his heirs.

*Resolved*, That a committee be appointed and instructed to prepare and report a bill, embracing the subject matter, and in pursuance of, the foregoing first resolution.

The question was then taken. Will the House now proceed to consider the said resolution? and determined in the negative by a large majority.

#### MISSOURI—TERRITORIAL GOVERNMENT.

Mr. ROBERTSON, of Kentucky, offered for consideration the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of establishing a separate territorial government in that part of the new Territory of Missouri, lying south of thirty-six degrees and thirty minutes north latitude, which is called the Arkansas country, and which is not included in the proposed boundary of the projected State of Missouri, by the bill now before the House, for the purpose of establishing a State government in part of the Territory of Missouri, and that the said committee have leave to report by bill, or otherwise.

Mr. R. explained briefly the object of his motion. There being every reason to expect that the people of the Territory of Missouri would be authorized, at the present session, to form a constitution of State government, and with certain limited boundaries, the whole Territory being too extensive to be included within one State; that part of the Territory not included within the limits of the State, would of course have occasion for a separate Territorial government, which, as in the case of the admission of Mississippi into the Union, had been done in regard to the Territory of Alabama. But, if his expectation was disappointed, and an act should not pass at the present session to authorize the people of Missouri to form a State government, it was yet necessary that a separate Territorial government should be established. This Territory, which was likely to become in time one of the most populous Territories in the Union, was, from its remoteness from the present seat of Government, almost without either law or government.

Mr. SCOTT, of Missouri, said he did not rise to oppose the resolution; on the contrary, had he a vote to give, it would be for its adoption. He was not sensible that any remarks he was capable of making would have any influence on the vote of the House, but he rose lest his silence might be construed into an opposition, which he did not

intend; and to repel any inference that might be drawn that he had neglected his duty to a part of his constituents, in not being the mover of the proposition. He had intended to introduce a resolution of a similar character, so soon as he should receive from the Legislature of the Territory a memorial praying for the erection of a State in the northern section of the Territory, together with a certified copy of the census of the whole Territory, which he was in the daily expectation of receiving. This data had not yet arrived, and he felt a reluctance, in the press of business before the House, to present, voluntarily, a proposition, even for the consideration of the House, without having good authority, or some leading reason to justify him. He knew, however, that the situation of that portion of the Territory, removed four or five hundred miles from the seat of Territorial government, called loudly for the interposition of the General Government. They were not unfrequently without a competency of civil and military officers to administer justice, or keep order in the country; and although he was not in possession of the census of the Territory, or any petition from the people of that part of it, yet he was convinced that the quantity of the population, and its respectability, justified the request; and believing, as he did, that it was the wish of the people, and knowing it was their interest, he hoped the House would not consider the resolution premature, but that it would be adopted.

The motion was then agreed to, without opposition; and Messrs. ROBERTSON, BEECHER, and JONES, were appointed the said committee.

#### PASSENGER SHIPS.

The bill to regulate passenger ships and vessels came next in order.

Mr. NEWTON explained the necessity of this bill and the nature of its provisions. The great object of it was, he said, to give to those who go and come in passenger vessels, a security of sufficient food and convenience. In consequence of the anxiety to emigrate from Europe to this country, the captains, sure of a freight, were careless of taking the necessary quantity of provisions, or of restricting the number of passengers to the convenience which their ships afforded. To show how necessary such a bill as this had become, one or two facts would suffice. In the year 1817, five thousand persons had sailed for this country from Antwerp, &c., of whom one thousand died on the passage. In one instance a captain had sailed from a port on that coast with one thousand two hundred and sixty-seven passengers. On his voyage he put into the Texel, previous to doing which four hundred had died. After being on the passage to our shores, before the vessel arrived at Philadelphia, three hundred more had died. The remainder, when the vessel reached Newcastle, were in a very emaciated state from the want of water and food, from which many of them afterwards died. Many other cases might be stated, but these would suffice to show the absolute necessity of provisions such as those of



this bill. The bill restricted the number of passengers to two for every five tons' burden of the vessel. In Great Britain, formerly, but one had been allowed to every five tons; but now, one to every three tons. The committee had been of opinion that the scale of one to every two tons and a half would afford every necessary accommodation. With regard to the other sections of the bill, they were generally similar to those of the act respecting seamen, by which a captain is obliged to take on board a certain quantity of water and bread for each seaman employed.

No objection being made to the bill, it was ordered to be engrossed for a third reading.

The bill regulating pensions next passed through the Committee of the Whole.

Mr. T. M. NELSON stated the object of the bill to be to protect the Government from imposition. He knew of many men receiving pensions for wounds received in the late war, who had wholly recovered of those wounds, and were as hale, hearty men as any in the community, &c.

After some debate between Messrs. NELSON and MILLS, respecting an amendment proposed by the former, and an unsuccessful motion by Mr. W. P. MACLAY to recommit the bill, it was ordered to be engrossed for a third reading.

THURSDAY, December 17.

Another member, to wit: from South Carolina, STEPHEN D. MILLER, appeared and took his seat.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill concerning the marshal and district attorney of the western district of Pennsylvania, and the clerk of the eastern district of said State; which was read the first and second time, and committed to a Committee of the Whole to-morrow.

The SPEAKER laid before the House a letter addressed to him by HEMAN ALLEN, containing a notification of the resignation of his seat in this House, as one of the representatives from the State of Vermont, which was ordered to lie on the table.

Ordered, That Mr. ANDERSON, of Kentucky, be appointed of the Committee of Foreign Affairs, in the place of Mr. ALLEN, resigned.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting statements rendered in obedience to the resolution of this House of the 4th of April last, in relation to the expenditure of the several appropriations heretofore made, to reward the officers and crews of certain public armed vessels for captures made by them during the late war with Great Britain, which was ordered to lie on the table.

On motion of Mr. SCOTT, the Secretary of the Treasury was directed to communicate to this House a copy of the instructions given by him under the eighth section of the act of the 21st of April, 1806, entitled "An act supplementary to an act, entitled 'An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and district of Louisiana,' to

the several boards of commissioners, appointed under the act of the 2d of March, 1805, for the ascertaining and adjusting the titles and claims to land within the aforesaid Territories."

On motion of Mr. JOHNSON, of Kentucky, the Committee of Ways and Means were instructed to inquire into the expediency of providing by law for the payment of lost Treasury notes.

On motion of Mr. HENDRICKS, the Committee on the Public Lands were instructed to inquire into the expediency of so amending the act to enable the people of the Indiana Territory to form a constitution and State government as to authorize the selection of lands granted to the State, for the purpose of fixing their seat of government, in quarter sections and fractions, or parts of fractions, and, if necessary, in contiguous townships, as the Legislature of the State may direct.

On motion of Mr. SILBEE, the Committee of Ways and Means were instructed to inquire into the expediency of allowing goods on which the duty has been paid to be transported coastwise, to one or more districts within the United States, without loss of debenture.

On motion of Mr. SERGEANT, the Committee of Ways and Means were instructed to inquire whether any, and what, further powers are necessary to enable the accounting officers of the United States, to settle and adjust accounts of long standing, where, from loss of vouchers or other known cause, no additional evidence can be expected.

The engrossed bill for regulating payments to military pensioners was read a third time.

Mr. RICH moved to recommit the bill, with a view to amend it so as to reconcile some of its provisions with existing laws on the subject of pensions, with which, he thought, as the bill now stood, they were inconsistent.

Mr. TAYLOR seconded the motion, and stated particular cases of exceptions to any general provisions on this subject, which appeared to him to require a revision of this bill.

The question was then taken on recommitment, and decided in the affirmative.

The engrossed bill to regulate passenger ships and vessels; the engrossed bill directing the payment of certain bills drawn by General Armstrong in favor of William Morgan; and the engrossed bill for the relief of Dr. Mattrom Ball, were severally read a third time, and passed.

Mr. LITTLE, from the joint committee, on the subject of the public printing, made report, which was read and the resolution therein contained, was concurred in by the House, as follows:

Resolved, That when any printing is done, by virtue of a joint rule or resolution of the two Houses, the Secretary of the Senate and Clerk of the House of Representatives, jointly, and when ordered by either House, the Secretary and Clerk respectively, be authorized and required to employ such printer or printers as will most expedite its execution and delivery, and allow him or them the same prices now allowed to the printer employed by the said Secretary and Clerk, giving the latter the preference, when it be prac-

licable for him to execute and deliver it as soon as it can be done by any other printer or printers.

#### CASE OF GILES KELLOGG.

The House then resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the petition of Giles Kellogg.

This is a case in which Captain Kellogg, with a company of volunteers, entered the service of the United States, on the New York frontier, and, in the course of the campaign of 1812-13, sustained losses of clothing, &c., by consequence of a precipitate retreat ordered by Colonel Forsyth, on the invasion of Ogdensburg, in February, 1813, and by a subsequent retreat from Horse Island, in May, 1813. This clothing being their private property, they claim indemnification for its loss. The Committee of Claims report that, according to the practice of the Government, the petitioners are not entitled to relief; and, for a case in point, refer to the case of Commodore Barney's flotilla men, to whom Congress refused indemnification for the loss of clothing, occasioned by blowing up the flotilla in the Patuxent, by order of the commanding officer.

Mr. LAWYER, of New York, moved to reverse this report, and supported his motion by a long argument, founded on the general principles of equity, and supported by analogies derived from other cases, in which Congress had made indemnifications for losses of private property, occasioned by the operations of war. The private property of these volunteers, he argued, did not become public property by their volunteering their services, in the trying period, in defence of their country; and the loss of it being occasioned by the orders of officers under whose command they were placed, and by no fault of theirs, but rather from a devotion to duty, ought to be compensated by the Government.

Mr. WILLIAMS, as chairman of the Committee of Claims, defended the report. Whatever Congress might think proper to do in such a case, from motives of generosity, the petitioner and his company had no claim, either in law or equity, on the Government of the United States. To sustain this position, Mr. W. entered into an argument on the principle and the laws of the case. Mr. W. also objected to the evidence in this case, and deprecated the number of claims of this description pressed upon the consideration of Congress, without any better foundation than the wishes of the petitioners.

After some further remarks from Messrs. STORRS, WILLIAMS, of North Carolina, and LAWYER, the question was taken on the motion to reverse the report, and decided in the negative—yeas 43.

The Committee having reported its decision to the House, affirming the report—after an unsuccessful motion to recommit the report to the Committee of Claims (negated, 65 to 63) the question was proposed on concurring in the report.

Mr. STORRS spoke against the report, and contended, in the course of his argument, that, without appealing at all to the generosity of Congress,

15th Con. 2d Sess.—14

this claim was fully sustained on the principles of justice.

Mr. LIVERMORE and Mr. TERRY also spoke on the subject; when the question was taken, and the report finally concurred in.

FRIDAY, December 18.

The SPEAKER presented a memorial of the Legislative Council and House of Representatives of the Territory of Missouri, in the name and on behalf of the people of the said Territory, praying that they may be permitted to form a constitution and State government, with the boundaries described in said petition; and admitted into the Union on an equal footing with the original States.—Referred.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Daniel Bickley and of Catharine Clark, administratrix of John Clark, deceased; which was read twice and committed to a Committee of the Whole.

Mr. SMITH also reported a bill, making appropriations for the support of the Navy of the United States, for the year 1819; which was read twice and committed to a Committee of the Whole.

A motion was made by Mr. SMITH, of Maryland, that the House reconsider the vote taken yesterday, to concur in the resolution contained in the report made by the joint committee on the public printing; and the question being taken to reconsider the said vote, it passed in the affirmative, and the report was recommitted to the committee by which the same was made.

The Committee of the Whole, to which is committed the bill relating to duties on foreign merchandise, were discharged, and the said bill was postponed indefinitely.

The House resolved itself into a Committee of the Whole on the bill for the relief of the legal representatives of John Baker, and the legal representatives of Peter Trouillet, and on the bill for the relief of the legal representatives of Alexander Montgomery, deceased.

The Committee had leave to sit again on the first mentioned bill, and reported the last without amendment, which was ordered to be engrossed and read a third time.

The SPEAKER laid before the House, a letter from the Secretary of the Treasury, transmitting sundry statements relative to the internal duties and direct tax, as required by the 33d section of the act of the 22d July, 1813; which was ordered to lie on the table.

The SPEAKER also laid before the House, another letter from the Secretary of the Treasury, transmitting a statement of lands sold northwest of the river Ohio, the purchase money of which has not been fully paid, and of moneys received for said lands, and of the sums now due, together with a description of bank paper, which has been received and is still receivable for the same; which was also ordered to lie on the table.



## MASSACHUSETTS' CLAIM.

The SPEAKER having called over, among the orders of the day, the bill providing for the payment of the claim of the State of Massachusetts, for expenses incurred by her militia during the late war—

Mr. MASON, of Massachusetts, rose, and begged the indulgence of the House, that the order of the day might be passed for the present. He made this motion at the request of the gentlemen composing the delegation from the State of Massachusetts, who had been instructed respecting the claim. The Legislature of the State would be in session early in the month of January next, and the delegation were desirous of receiving further documents and communications relative to the claim prior to its discussion; but he hoped that, in the course of the session, the subject might be brought up, and receive a full and fair discussion.

Mr. MILLS, of Massachusetts, made a few remarks to the same effect.

Mr. FOLGER, of Massachusetts, however, moved that the House resolve itself into a Committee of the Whole on the subject.

And the question being taken on that motion, the House decided as follows: For going into committee 73, against it 63.

The House having accordingly resolved itself into a Committee of the Whole, and the bill having been read through—

Mr. CLAY (Speaker) rose to make a motion that the Committee should rise. He was persuaded, he said, that the House could not have heard what had been stated by the honorable gentleman (Mr. MASON) who was chairman of the committee which had reported this bill, or it would, on the present occasion, have exercised the courtesy usually shown to every chairman of a committee who reports a bill, of choosing his own time for calling it up. It might be proper for him to state, Mr. C. said, that his opinion on this subject did not differ, probably, from that of those gentlemen who had chosen to go into committee on the subject. But the chairman having stated to the House that, on a consultation of the delegation of the State, it had been thought proper not now to go into a Committee of the Whole on the subject; that he wished to have further communication with the government of the State on the subject; and that he hoped, in the course of the session, to bring the subject fully and fairly before the House, he thought it hardly possible, had his remarks been heard, that the discussion of the subject would be pressed against his wishes. With regard to the merits of this claim, Mr. C. continued, he would only say, that when the facts were all before the House, and the question open for discussion, gentlemen would find him as decided in his opinion, and as firm in maintaining it, as any other opponent of the claim. But, he said, a certain degree of liberality, of courtesy, of calm deliberation on this subject, was due from the House, no less to itself than to the State whose claims were the subject of consideration.

He hoped, when gentlemen were ready, however, they would enter into a full and fair discussion of the question. Holding the opinions he did, he should not fail to express them at a proper opportunity. But, if the discussion were now to proceed, and the question to be decided, gentlemen would have an occasion for saying that they were hurried into the discussion; that they were taken by surprise; they might, if he were allowed to introduce a forensic term to explain his meaning, say that the decision of the House was a snap judgment, rendered without an examination of evidence, or time given, &c. He hoped, therefore, the Committee might rise, to give the gentlemen in favor of the claim time to prepare themselves for the discussion.

Mr. CAMPBELL, of Ohio, said that he had voted for going into Committee on this subject, under the impression that it was the wish of the gentlemen who were in favor of the claim to have an investigation into its merits. But, not having heard the remarks of the gentleman who reported the bill, and the Speaker having now stated them, he had no hesitation in voting for the Committee to rise. He wished the question should not be settled until every species of proof on the subject was in possession of the House, because he wished the decision should be such as, when made, should be satisfactory to all parties.

Mr. TALLMADGE, of New York, said, as he had been a member of the committee who reported this bill, and had voted to proceed in the discussion, he thought it proper to rise on this occasion, lest, if silent, his views might be misconceived. With respect to the courtesy due to the gentleman from Massachusetts, and to the State he represented, Mr. T. said he entirely reciprocated the sentiments of the honorable Speaker. But, as the report of the committee in this case, if not acted on at the present session, might, and perhaps would, be adduced hereafter as an argument in favor of the claim; and, as he thought it probable this subject would not again come before the House at the present session, he should take this opportunity to state, that the report made on this subject by the committee was considered as a statement of the case in behalf of Massachusetts, drawn up by herself, as it was in fact by her agent. The committee had thought it a liberality due to a State, appearing as a petitioner before this House, to leave it to her agent, or immediate representative, to make a statement of her own case, in her own way. On the question in committee to accept that report, Mr. S. said, there was a minority; and he, for one, took this occasion to say that, had the discussion of this claim now gone on, and if it should recur at the present session, there was a variety of collateral documents relating to the history and merit of these claims, which he was ready and felt it his duty to urge in argument in opposition to allowing them. Desiring, however, to cultivate harmony in the Union, by treating every State in it with due respect, he did not wish to press the discussion now. Taking this opportunity, then, as the only one he might ever have, to protest

against the report of the committee accompanying this bill being considered as the deliberate opinion of the committee, or hereafter brought in as an argument in favor of the claim, being in fact the most favorable statement that a party interested could make of it, he was, for the reason before assigned, in favor of the Committee's rising.

The question was then taken on the Committee's rising, and decided in the affirmative.

Mr. NEWTON, of Virginia, in order to insure to this question a consideration during the present session, proposed that the Committee should be refused leave to sit again, and that the bill should be referred to a Committee of the Whole on the state of the Union, which, always having preference of other orders of the day, would insure its being taken up whenever desired by the friends of the claim.

Mr. ORR, of Massachusetts, objected to this course, as it would subject the House to the same inconvenience as they had just experienced; that of being called upon to act on the subject before the delegation might be prepared to take it up, &c.

Mr. PITKIN, of Connecticut, objected to it for a different reason. If referred to a Committee of the Whole on the state of the Union, it would be made the order of the day for every day, and might be called up and decided when scarce half the House was present.

On the question, leave was given to the Committee to sit again on the bill.

## THADDEUS MAYHEW.

The House then resolved itself into a Committee of the Whole on the bill for the relief of Thaddeus Mayhew, and the accompanying report of the Committee of Claims.

The claim of the petitioner in this case is for property used, lost, and destroyed by the British army, in consequence of the same being used as barracks, and for places of military deposit by the United States troops, to the amount of fifteen thousand eight hundred ninety-eight dollars. The committee say they believe the Government not bound to remunerate the petitioner; and, if it were considered so bound, would have protested against the extravagance of the charges. The committee report against the whole claim, therefore, with the exception of the sum of \$1,298 for beds, bedding, and other furniture taken for the use of the United States troops, and taken or destroyed by them. For the payment of this amount, the committee report a bill.

Mr. BUTLER, of Louisiana, moved to amend the bill so as to allow to Mr. Mayhew the whole amount of his claim; and supported his motion by an argument, on the principles and facts of the case, of considerable length.

An extended and able debate took place on this motion, in the course of which it was supported by Messrs. POINDEXTER, JOHNSON, of Kentucky, BALDWIN, SMITH, of Maryland, and BUTLER, and opposed by Messrs. WILLIAMS and MCCOY.

The debate resulted in agreeing to the motion

of Mr. BUTLER; and, thus amended, the bill was reported to the House, and ordered to be engrossed for a third reading.

Mr. POINDEXTER introduced a joint resolve for an adjournment from Monday next to Monday week; which was negatived; and the House adjourned to Monday.

## MONDAY, December 21.

Another member, to wit: from Massachusetts, SOLOMON STRONG, appeared and took his seat.

Mr. JOHNSON, of Kentucky, presented a petition of Hanson Catlett, a surgeon in the Army of the United States, praying compensation for a negro slave, who was drowned while attending him as a servant, during the late war with Great Britain.—Referred.

Mr. CAMPBELL, from the committee appointed on the 10th instant, reported a bill to provide for taking the fourth census or enumeration of the inhabitants of the United States; which was read twice, and committed to a Committee of the Whole.

Mr. MARCHAND, from the committee appointed on the petition of John Wells, made a report, which was read; when Mr. M. reported a bill for the relief of the said John Wells, which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Military Committee, reported a bill "concerning the Military Establishment of the United States." [This bill proposes a modification of parts of the staff of the Army, without reducing it.]

The bill was twice read, and committed.

Mr. JOHNSON, from the same committee, made a report on the petition of Patrick Callan, which was read; when Mr. J. reported a bill for the relief of the said Patrick Callan, which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Joseph Wheaton.

Mr. ROBERTSON, from the select committee appointed on that subject, reported a bill establishing a separate Territorial government for the southern part of the Territory of Missouri; which was twice read, and committed.

On motion of Mr. POINDEXTER, the Committee on the Public Lands were instructed to inquire into the expediency of amending the several laws, to prevent waste and damage on the public lands, by cutting timber thereon.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting statements of the sales of public lands, during the year 1817, and the three first quarters of the year 1818, which were intended to have accompanied the annual report on the state of the finances; which was ordered to lie on the table.

An engrossed bill, entitled "An act for the relief of the heirs of Alexander Montgomery, deceased," was read the third time, and passed.

The engrossed bill for the relief of Thaddeus Mayhew was read a third time.

Mr. STORRS, on the ground that the evidence



establishing the value of some of the articles destroyed was defective, moved to recommit the bill to the Committee of Claims to re-investigate that point.

After a long debate the motion was agreed to, and the bill recommitted.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Major General John Stark," with amendments. They have also passed bills of the following titles, viz: "An act to provide for the due execution of the laws of the United States, within the State of Illinois;" and "An act for the relief of Louis and Antoine Dequindre;" in which amendments and bills they ask the concurrence of this House.

The amendments to the bill, entitled "An act for the relief of Major General John Stark," were read and concurred in by the House.

The bill from the Senate, entitled "An act to provide for the due execution of the laws of the United States within the State of Illinois," was read twice, and referred to the Committee on the Judiciary.

The bill from the Senate, entitled "An act for the relief of Louis and Antoine Dequindre," was read twice, and referred to the Committee of Ways and Means.

The resolution for a temporary adjournment of Congress, offered on Friday last by Mr. POINDEXTER, was, on motion of Mr. TAYLOR, indefinitely postponed.

The House resolved itself into a Committee of the Whole, on the bill for the relief of Ebenezer Stevens, Lucretia Stevens, late Lucretia Sands, and others; and, after some time spent therein, the Committee rose and had leave to sit again thereon.

The House then resolved itself into a Committee of the Whole, on the bill making appropriations for the support of the Navy of the United States for the year 1819.

The bill includes the following items:

Pay of officers and seamen	\$1,270,333 50
Provisions	594,037 50
Medicines and all expenses of sick	36,000 00
Repairs of vessels	350,000 00
Contingent expenses	300,000 00
Repairs of navy yards, docks, &c.	100,000 00
Completing medals and swords	7,500 00
Pay and subsistence of marine corps	122,898 00
Clothing the same	2,038 10
Military stores for do.	1,087 50
Contingent expenses	18,600 00

The bill was then reported to the House, and ordered to be engrossed for a third reading.

The House then resolved itself into a Committee of the Whole on the bill for the relief of Renner and Heath.

The claim of the petitioners in this case is for the destruction of their ropewalk and its contents, in consequence of the walk having been employed in the manufacture of cordage for the United States, and in consequence of the carts and boats employed for the removal of their property having been pressed by officers of the United States.

The Committee of Claims report a bill for the payment of \$19,803, for the amount of cordage destroyed; rejecting the claim for payment for the building burnt by the enemy.

Mr. WILLIAMS, of North Carolina, opposed, at considerable length, the principle of the bill, and moved to strike out the first section; which motion was opposed by Mr. MCCOY, another member of the Committee of Claims, and decided in the negative.

The bill was then reported to the House, and ordered to be engrossed for a third reading.

#### TUESDAY, December 22.

Mr. HENDRICKS presented a petition of John James Dufour, on behalf of himself and his associates, stating that a short time past he went to the land office in Cincinnati, for the purpose of completing the payment for the lands lying within the State of Indiana, heretofore purchased by them for the cultivation of the vine; and that the bank paper which he offered would not be received in consequence of an order from the Treasury Department, directing the receiver not to receive anything in payment for lands except specie, or notes of the Bank of the United States; that he is unable to procure either within the time prescribed for the last payment, and that if the money is not paid by the first of January next, the lands will be forfeited to the United States; and praying for an extension of credit for one year from the said first day of January next, or such other relief as Congress may think proper to grant.—Referred to the Committee on the Public Lands.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act for the relief of Louis and Antoine Dequindre," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to provide for the due execution of the laws of the United States, within the State of Illinois," reported the same without amendment; and the bill was committed to a Committee of the Whole.

On motion of Mr. HARRISON, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of granting a pension to To-hon-do-che a Seneca Warrior, attached to the command of Brigadier General McArthur, and who was wounded in an action with the enemy at Malcolm's Mills, in the province of Upper Canada.

Among the petitions this day presented, was one by Mr. HERBERT, from the Rockville and Washington Turnpike Company, praying to be empowered to make that part of said road which lies between the line of the District and the boundary of the City of Washington; which was referred to the Committee on the District of Columbia.

Mr. SMITH, of Maryland, from the Committee

of Ways and Means, reported a bill making appropriations for the military service of the United States during the year 1819, and a bill for the relief of William Coffin and others; which were twice read, and committed.

Mr. HERBERT, from the Committee on the District of Columbia, reported a bill to incorporate the Provident Association of Clerks in the several departments of Government within the District of Columbia; which was twice read, and committed.

Mr. JOHNSON, of Kentucky, from the Military Committee, laid before the House a letter from the Secretary of War, respecting the alterations proposed to be made, by a bill now before the House, in the Military Establishment; which was referred to the Committee of the Whole, to whom the bill was referred.

On motion of Mr. PETER, the Committee for the District of Columbia were instructed to inquire into the expediency of authorizing the Corporation of the City of Washington to open and use as a way Four-and-an-half street west, across the Mall in the said city, until the said Mall may be wanted for national purposes.

Mr. BUTLER, of New Hampshire, submitted the following resolution:

*Resolved*, That the Committee on Revolutionary Pensions be instructed to consider the expediency of amending the law, of the last session, entitled "An act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war," approved March 18, 1818, so as to embrace such soldiers as enlisted or engaged for a less term than nine months, and at the request of the commanding officer or officers, continued and completed nine months, or more, actual service, at any one period of the war.

The question was then taken, Will the House now proceed to consider the said resolution? and determined in the negative.

On motion of Mr. JOHNSON, of Kentucky, the Committee of the Whole were discharged from the further consideration of the bill authorizing the people of Michigan Territory to elect a delegate to Congress, and the bill was ordered to be engrossed for a third reading.

The engrossed bill making appropriations for the Naval service of the United States, for the year 1819; and the engrossed bill for the relief of Daniel Renner and Nathaniel H. Heath, were read a third time, passed, and sent to the Senate for concurrence.

#### EBEN. STEVENS, AND OTHERS.

The House then resolved itself into a Committee of the Whole on the bill for the relief of Ebenezer Stevens, and others.

This claim is of the date of 1785, and is founded on an award of commissioners authorized, by resolutions of Congress, to examine the claims of Tench Francis, Comfort Sands, and others, then late contractors for the moving army, and of Comfort Sands and Co., then late contractors for the post of West Point and its dependencies, for damages sustained by them, from the late Super-

intendent of Finance having failed to make good the stipulated payments, and from his having withdrawn the contracts. The award was, in 1790, reported by the Auditor of the Treasury to be binding on the United States, to the amount of \$33,675 for the first company, and \$6,621 for the last mentioned company.

The documents on which this award was founded were also before the House, and were all read through.

When the reading of the documents was finished, the greater part of the day had been consumed. The Committee then rose, and obtained leave to sit again.

#### WEDNESDAY, December 23.

Mr. HOSTETTER presented a memorial of sundry inhabitants of the town of York, in the State of Pennsylvania, stating that, notwithstanding the act prohibiting the importation of slaves, persons of color have been illegally introduced into the United States, and have been seized and sold as slaves, by virtue of the fifth section of the said act, and praying the interposition of Congress to prevent the said practice.—Referred to the committee on so much of the President's Message as relates to the illicit introduction of slaves into the United States.

Mr. HERRICK presented a memorial of the representatives of the Religious Society of Friends, in the States of Ohio, Indiana, and Illinois, and the adjacent parts of Pennsylvania and Virginia, praying that schools may be established among the Indians, and that further measures may be adopted for their civilization.—Referred to the Committee on Indian Affairs.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, who were instructed by resolution to inquire into the expediency of allowing goods, on which the duty has been paid or secured, to be transported coastwise, to one or more districts within the United States, without loss of debenture, made report; which was read, and ordered to lie on the table.

Mr. SMITH, from the same committee, reported a bill to increase the duty on cotton imported into the United States, and to prohibit the allowance of drawback on the exportation of gunpowder; which was read twice, and committed to a Committee of the Whole.

Mr. SMITH also reported a bill to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

#### J. J. DUFOUR, AND OTHERS.

Mr. POINDEXTER reported, from the Committee of Public Lands, a bill to extend, for the term of twelve months, the time allowed to J. J. Dufour, and his associates, of Vevay, Indiana, for completing the payment for the lands purchased by them from the United States.

On this bill arose a debate, which wholly occupied the House until the usual hour of adjournment; in the course of which the bill was so



amended as to make the extension for six, instead of twelve months.

The debate was more animated than at the first glance one would have expected such a question to produce. The petitioners ask this indulgence, because such money as they have the receiver of public moneys will not take from them. The bill, therefore, was supported on various grounds, on the reasonableness of the request, and on the merit of the petitioners, on whom a high eulogium was pronounced. The bill was opposed on the general ground of the inexpediency of making a discrimination between these claimants and other petitioners. Messrs. POINDEXTER, HARRISON, TAYLOR, HENDRICKS, TRIMBLE, MERCER, and BEECHER, supported the bill, and Messrs. WILLIAMS of N. Carolina, SIMKINS, MILLS, STORRS, MCCOY, SERGEANT, and DESHA, opposed it.

The question on ordering the bill to a third reading having been taken by yeas and nays, was decided in the affirmative—yeas 73, nays 67, as follows:

**YEAS**—Messrs. Abbot, Adams, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Bayley, Beecher, Bellinger, Bloomfield, Boden, Butler of Louisiana, Campbell, Clagett, Comstock, Cruger, Ellicott, Floyd, Fuller, Harrison, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Jones, Kirtland, Lawyer, Lincoln, Linn, McLean of Illinois, Marchand, Mason of Massachusetts, Mercer, Merrill, Robert Moore, Moseley, H. Nelson, Nesbitt, Ogle, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Rogers, Ruggles, Sampson, Savage, S. Smith, Alexander Smyth, Tallmadge, Tarr, Taylor, Tompkins, Trimble, Upham, Walker of North Carolina, Walker of Kentucky, Wendover, Whiteside, Williams of New York, and Wilson of Pennsylvania.

**NAYS**—Messrs. Allen of Massachusetts, Ball, Bassett, Bennett, Blount, Boss, Butler of New Hampshire, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Darlington, Davidson, Desha, Edwards, Folger, Gage, Gilbert, Hall of Delaware, Hogg, Hopkinson, Huntington, Johnson of Virginia, Little, W. Maclay, W. P. Maclay, McCoy, Middleton, Miller, Mills, Samuel Moore, Murray, Jeremiah Nelson, Owen, Pawling, Pindall, Pitkin, Pleasants, Rice, Richards, Ringgold, Robertson, Sawyer, Schuyler, Scudder, Sergeant, Settle, Sherwood, Simkins, Slocumb, Bal. Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Terrell, Tucker of Virginia, Tucker of South Carolina, Westerlo, Whitman, Wilkin, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts.

THURSDAY, December 24.

Another member, to wit: from Tenn., GEORGE W. L. MARR, appeared, and took his seat.

Mr. LIVERMORE presented the petition of Alpheus Hutchins, praying to be allowed the land bounty to which he conceives himself entitled for his services as a soldier in the army, in the late war with Great Britain, which is withheld in consequence of his being a minor at the time of his enlistment and discharge.—Referred.

Mr. POINDEXTER, from the Committee on Pub-

lic Lands, reported a bill supplementary to the act admitting the State of Indiana into the Union; which was twice read, and committed.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred the resolution from the Senate, "directing a survey of certain parts of the coast of North Carolina;" reported the same without amendment, and the resolution was ordered to be read a third time to-day.

Mr. BLOOMFIELD made a report on the petitions of Hannah Ring and Luther Frink, which was read; when Mr. B. reported a bill for the relief of the said Hannah Ring and Luther Frink; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. BALLARD SMITH, the Committee of Ways and Means were instructed to inquire into the expediency of authorizing, by law, the Commissioner of the Revenue to appoint an agent in each of the counties of the several States, to receive the tax due therein to the General Government, on lands which are or may be sold for the non-payment of the said tax.

On motion of Mr. PINDALL, the Committee on Roads and Canals were instructed to inquire into the expediency of completing the road from Cumberland to Wheeling.

On motion of Mr. PLEASANTS, the Committee on Naval Affairs were instructed to inquire into the propriety of authorizing, by law, the purchase of the timbers, particularly live oak, necessary for building twenty sloops, or other small vessels of war.

On motion of Mr. LINCOLN, the Committee on Indian Affairs were instructed to inquire into the expediency of providing, by law, that it be the duty of the several public agents, employed by the United States to transact business with the Indian tribes, to obtain all the information in their power relative to the population, manners, and customs, history, languages, or anything peculiar to said tribes; and to report the same, annually, to the Secretary of War.

On motion of Mr. COBB, it was

*Resolved*, That the President of the United States be requested to lay before this House, if in his opinion the same should not be inconsistent with the public interest, copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June of the present year, communicated to this House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter of the 7th of May, 1818, also communicated to this House on the 12th inst.

Messrs. COBB and EDWARDS were appointed a committee to present the said resolution to the President.

On motion of Mr. GAGE, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of making compensation to Reuben Colburn, for boats and other supplies furnished by the authority of General WASHINGTON, to the expedition under the

command of Colonel Arnold, at the time it ascended Kennebeck river, in 1775; and that the documents forwarded by the claimant be referred to the said committee.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the report of the recorder of land titles in the Territory of Missouri, made in obedience to the act of the 20th of April, 1818, entitled "An act for the relief of James Mackay, of the Missouri Territory;" which was read, and referred to the Committee on Private Land Claims.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Aquila Giles;" in which they ask the concurrence of this House.

The said bill was read twice, and referred to the Committee on Pensions and Revolutionary Claims.

Engrossed bills of the following titles, to wit:

"An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory;" and,

"An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed;" were severally read the third time, and passed.

The resolution from the Senate, "directing a survey of certain parts of the coast of North Carolina," was read a third time, and passed.

J. J. DUFOUR, AND OTHERS.

An engrossed bill for the relief of John James Dufour, and his associates, was read the third time; and, being on its passage,

Mr. STROTHER moved that it be laid on the table; which motion was rejected.

The question was then taken, Shall the said bill pass? and determined in the negative—yeas 65, nays 66, as follows:

**YEAS**—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Bayley, Beecher, Bellinger, Bloomfield, Boden, Butler of Louisiana, Campbell, Clagett, Comstock, Cruger, Cushman, Drake, Ellicott, Floyd, Harrison, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Holmes, Hostetter, Hubbard, Hunter, Irving of N. York, Johnson of Kentucky, Jones, Kirtland, Lawyer, Lincoln, Linn, Livermore, McLean of Illinois, Marchand, Mason of Massachusetts, Merrill, Robert Moore, Moseley, Nesbitt, New, Ogle, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rich, Ruggles, Sampson, Savage, Seybert, Alexander Smyth, Tarr, Taylor, Tompkins, Upham, Wendover, Whiteside, and Williams of New York.

**NAYS**—Messrs. Ball, Bassett, Bateman, Bennett, Blount, Boss, Butler of New Hampshire, Claiborne, Cobb, Cook, Crafts, Crawford, Darlington, Davidson, Desha, Edwards, Folger, Gage, Hall of Delaware, Hall of North Carolina, Hogg, Hopkinson, Huntington, Johnson of Virginia, Kinsey, W. Maclay, W. P. Maclay, McCoy, Marr, Miller, Samuel Moore, Murray, Jeremiah Nelson, H. Nelson, Newton, Orr, Owen, Pindall, Pitkin, Pleasants, Rhea, Rice, Richards, Robertson, Scudder, Sergeant, Settle, Sherwood, Silsbee, Slocumb, Bal. Smith, J. S. Smith, Southard, Stewart

of North Carolina, Storrs, Strong, Strother, Terrell, Terry, Townsend, Tucker of Virginia, Tucker of S. Carolina, Whitman, Williams of Connecticut, Williams of N. Carolina, and Wilson of Massachusetts.

So the bill was rejected. And then the House adjourned to Monday.

MONDAY, December 28.

Mr. IRVING presented a petition of "The New York Society for promoting the Manumission of Slaves, and protecting such of them as have been or may be liberated;" praying that some effective provisions may be made to abolish the African slave trade, in any arrangement which may be hereafter definitively entered into between this country and Spain, or the South American provinces.

Mr. SERGEANT presented a memorial from the American Convention for promoting the Abolition of Slavery, and improving the condition of the African race, praying that the acts respecting the illicit introduction of slaves into the United States may be so amended, as that any person so introduced shall be declared free; and that the situation of slavery within the District of Columbia may be considered, and a plan devised, for its gradual and certain termination within said District.—Referred to the committee on that part of the President's Message which relates to the illicit introduction of slaves within the United States.

Mr. RHEA made an unfavorable report on the petition of Matthew McCauley; which was read, and ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was committed the bill for the relief of Thaddeus Mayhew, of the State of Louisiana, made a detailed report on the case of the said Mayhew; which was read, and ordered to lie on the table.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of General Robert Swartwout, which was read; when Mr. J. reported a bill for the relief of the said General Robert Swartwout; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Joseph Wheaton.

Mr. JOHNSON also made a report on the petition of Ezra Child, which was read; when Mr. J. reported a bill for the said Ezra Child; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill, supplementary to "An act providing for cases of lost military land warrants, and discharges for faithful services," and for other purposes; which was read twice, and committed to a Committee of the Whole.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the 15th inst., I lay before the House of Representatives a report from



H. OF R.

Petition of John J. Dufour.

DECEMBER, 1818.

the Secretary of State, with the papers and documents accompanying it. JAMES MONROE.  
DECEMBER 28, 1818.

The Message and documents were referred to the Committee on Foreign Affairs.

The SPEAKER laid before the House a letter from the Attorney General of the United States, in relation to the accounts of James Thomas, a quartermaster general in the Army in the late war with Great Britain; which was referred to him, by orders of this House, of the 17th of March, and 10th of April last; which letter was ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting copies of instructions given by the Secretary of the Treasury, under the eighth section of the act of the 21st of April, 1806, to the several boards of land commissioners, in the State of Louisiana and Territory of Missouri, rendered in obedience to a resolution of this House, of the 17th instant, which was ordered to lie on the table.

Mr. PALMER submitted the following resolution; which was read and rejected, viz:

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire whether any, and, if any, what amendments are necessary to be made to the act, supplementary to the act, to regulate the collection of duties on imports and tonnage, passed the 20th of April, 1818, in relation to the importation of goods, &c., into the United States, by land, from the dominions of Great Britain in North America; and, also, that the same committee be instructed to inquire into the expediency of so amending the fourth section of an act, entitled "An act to continue in force, an act, entitled 'An act further to provide for the collection of duties on imports and tonnage, passed the 3d day of March, 1815, and for other purposes,' passed the 3d day of March, 1817;" that the provision therein contained shall apply only to steamboats on Lake Champlain, which are employed solely in the transportation of passengers and their baggage; and that the said section shall not extend to authorize the entry of any goods, wares, and merchandise, except passengers' baggage, in any district, other than the one in which the same are to be landed.

On motion of Mr. JOHNSON, of Kentucky, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of authorizing the Postmaster General to contract for the transportation of the mail, by steamboats or otherwise, on navigable waters, in the same manner that he is authorized by law to contract for transportation of the mail by land.

On motion of Mr. TALLMADGE, the Judiciary Committee were instructed to inquire into the expediency of providing by law for the appointment, by the President, by and with the consent of the Senate, of the clerks of the several district courts of the United States; and, also, to require from them greater security for the performance of their duties.

J. J. DUFOUR, AND OTHERS.

Mr. PINDALL, after stating that information had come to his knowledge since the decision of

the House, on Thursday last, against the bill for the relief of J. J. Dufour and others, which he thought had a material bearing on the expediency of extending relief, in some shape, to the petitioners, and after entering into some reasons which, from reflection and further investigation, had occurred to him, in support of the motion he rose to make, moved to reconsider the vote which rejected the bill, and to bring it before the House to receive the modification which he thought would entitle it to the sanction of the House.

Mr. LINCOLN, of Mass., spoke as follows:

Mr. Speaker: I place my vote on the broad basis of national policy—the policy of encouraging emigration, and the culture of the vine. When I am told that the inhabitants of the little village of Vevay are the countrymen of the illustrious Tell, that they are planters of the vine, and industrious and virtuous people, delighting in the exercise of the rites of hospitality, I find my sympathy strongly excited; yet I do not suffer that sympathy to delude my understanding. But, should these people write to their friends across the Atlantic, and inform them that they are here, enjoying the patronage and fostering care of our Government, would not those friends, although looking around them, and seeing themselves surrounded by ramparts of mountains, yet, perceiving the avalanches of European power continually tumbling upon their heads, be disposed to abandon a country where their liberties are so insecure, and come to one where they should be assured of an asylum? On the other hand, should they be informed that these persons came to their hard-hearted creditor—that creditor an opulent, powerful nation, and told him that they had been unfortunate, but not guilty; negligent, but not delinquent; yet that he drove them from his door with scorn and contempt, bade them begone, and prepare to pay him the last farthing of their bond at the moment when it should become due, what, then, would be their feelings? They could not be other than those of the deepest aversion and horror. We cannot do too much, sir, to encourage the emigration of a class of population like that of the Cantons of Switzerland, a population remarkably assimilated to that of our own country, in manners, customs, feelings, and principles.

There is yet another argument more weighty than that just urged—I mean that resulting from the policy of encouraging the cultivation of the vine, encouraging it, paradoxical as it may seem, for the purpose of preventing intemperance; for, true it is, that there are no people more temperate than those of France and Switzerland. The reason is, that they make use of the products of their own vineyards, as the substitute for those deleterious ardent spirits which are here consumed to so lamentable an excess. Give then to these people a little indulgence, and you shall see not only the banks of the Ohio festooned by the grape vine, but it shall climb to our mountains tops, and its fruit bask in the sunshine upon all our hills.

DECEMBER, 1818.

Ebenezer Stevens, and Others.

H. OF R.

The question was then taken on reconsidering the vote on the bill, and decided in the affirmative; when, on motion of Mr. PINDALL, the bill was referred to a select committee.

EBENEZER STEVENS, AND OTHERS.

The House then again resolved itself into a Committee of the Whole, on the bill for the relief of Ebenezer Stevens, Lucretia Stevens, late Lucretia Sands, and others—the question to strike out the first section being still under consideration.

Mr. SHERWOOD supported the bill in a speech of considerable length, and very minute investigation. He was followed by Mr. RHEA in opposition to the bill; and, after refusing to strike out the first section, and a little discussion on its details, the bill was filled with the sum of \$21,431, with interest from October, 1787, and the bill reported to the House.

The sum with which the blank was filled was agreed to by the House; and, after some further remarks from Mr. RHEA, in opposition to the bill, the question was taken on ordering the bill to be engrossed for a third reading, and decided in the negative, by yeas and nays—yeas 63, nays 72, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachusetts, Baldwin, Ball, Bayley, Beecher, Boden, Boss, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Fuller, Gilbert, Hall of Delaware, Harrison, Hasbrouck, Herbert, Herkimer, Hitchcock, Hopkinson, Hostetter, Hubbard, Huntington, Johnson of Virginia, Kirtland, Lawyer, W. Maclay, Mason of Massachusetts, Mason of Rhode Island, Merrill, Middleton, Samuel Moore, Moseley, Murray, Jeremiah Nelson, Nesbitt, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Pitkin, Quarles, Rice, Ruggles, Schuyler, Sergeant, Sherwood, Silsbee, Storrs, Tallmadge, Taylor, Terrell, Terry, Upham, Westerlo, Whitman, Wilkin, and Williams of Connecticut.

NAYS—Messrs. Anderson of Kentucky, Bassett, Bateman, Bellinger, Bennett, Bloomfield, Butler of Louisiana, Campbell, Claiborne, Cobb, Cook, Crafts, Crawford, Culbreth, Davidson, Desha, Drake, Earle, Edwards, Folger, Gage, Hale, Hall of North Carolina, Hendricks, Herrick, Hogg, Holmes, Hunter, Jones, Kinsey, Linn, Livermore, Lowndes, McLean of Illinois, W. P. Maclay, McCoy, Marchand, Marr, Miller, H. Nelson, Newton, Patterson, Pindall, Pleasants, Rhea, Rich, Richards, Robertson, Sampson, Savage, Sawyer, Scudder, Settle, Seybert, Slocumb, Ballard Smith, Alexander Smyth, J. S. Smith, Southard, Speed, Stewart of North Carolina, Strother, Tarr, Tompkins, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wendover Whiteside, Williams of North Carolina, and Wilson of Pennsylvania.

TUESDAY, December 29.

Mr. H. NELSON, from the Judiciary Committee, to whom had been referred the letter of the Sergeant-at-Arms, respecting the suit commenced against him by John Anderson, reported a resolution authorizing and requesting the Speaker to employ such counsel, as he may think proper to defend the suit brought by John Anderson against the said Thomas Dunn, and that the expenses be

defrayed out of the contingent fund of the House; which resolution was concurred in.

Mr. N. reported also a bill concerning suits brought on copy rights; which was twice read, and committed.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the petition of Thomas Shields, for compensation for prisoners captured in the late war with Great Britain; which was read; when Mr. P. reported a bill concerning Thomas Shields and others; which was read twice, and committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed a bill of this House entitled "An act for the relief of William B. Lewis," with an amendment. They have also passed a bill, entitled "An act for the relief of John Rice Jones;" in which amendment and bill they ask the concurrence of this House.

Mr. HERBERT, from the Committee on the District of Columbia, reported a bill authorizing the corporation of the City of Washington to open and extend certain streets in certain parts of the City of Washington, through public reservations; which was twice read.

Mr. H., from the same committee, reported a bill authorizing the Rockville and Washington Turnpike Company to extend and make the same from the line of the District of Columbia to the boundary of the City of Washington; which bill was twice read, and was about to be ordered to be engrossed for a third reading, when, on motion of Mr. RICH, it was referred to a Committee of the Whole.

The verbal amendment of the Senate to the bill for the relief of William B. Lewis was taken up and agreed to.

The bill from the Senate for the relief of John Rice Jones was twice read, and committed.

The bill reported at the last session, authorizing a subscription to the Chesapeake and Delaware Canal Company, being called, as the order of the day—

Mr. TUCKER, of Virginia, after stating that the gentleman (Mr. McLANE, of Delaware,) who reported this bill, and who was particularly interested in its discussion, was absent from the House, as one of the Bank Committee; and that the information directed by a resolution of the last session to be collected by the Secretary of the Treasury, on the subject of internal improvements, had not yet been received respecting the Chesapeake and Delaware Canal, moved that the Committee of the Whole, to whom the bill had been referred, be discharged therefrom, and that it be referred to the Committee on Internal Improvement; which motion prevailed, and the bill was accordingly so referred.

The bill for the relief of Samuel F. Hooker; the bill for the relief of Harold Smith; and the bill for the relief of Sampson S. King, severally passed through Committees of the Whole; and were ordered to be engrossed for a third reading.

On motion of Mr. PINDALL, the select committee to whom was recommitted the bill to ex-



tend to John James Dufour, and others, the time of payment for certain lands, were discharged from the further consideration thereof, and it was ordered to lie on the table. [The reason of this proceeding was, that a letter has been received, that the payment requested to be deferred has since actually been made, by a sacrifice of heavy discount.]

#### EBEN. STEVENS, AND OTHERS.

A motion was made by Mr. HENDRICKS, to reconsider the vote of yesterday, by which the bill for the relief of Ebenezer Stevens, and others, was rejected, on the ground of a desire to recommit it for an amendment, the object of which was to submit the justice of the claim to the decision of the Supreme Court, or of some other judicial tribunal.

On the motion of Mr. STROTHER, protesting against the reconsideration, the yeas and nays were required on the question.

Whereupon, there arose a debate of considerable interest, and of two hours and more in length, on the question of reconsidering the matter. The motion was supported by Messrs. HENDRICKS, STORRS, PITKIN, SMYTH, of Virginia, HOPKINSON, WHITMAN, MILLER, and SERGEANT, and opposed by Messrs. STROTHER, RHEA, W. P. MACLAY, and WILLIAMS, of North Carolina.

The question on reconsidering the vote of yesterday, was finally decided in the affirmative, by yeas and nays—yeas 75, nays 67.

The bill being again before the House, the question recurred whether it should be engrossed, and read a third time; when, on motion of Mr. STORRS, it was committed to a select committee.

#### WEDNESDAY, December 30.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was committed the bill from the Senate, entitled "An act to authorize the settlement of the account of James Wilde," reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of John B. Regnier; which was read; when Mr. R. reported a bill for the relief of the said John B. Regnier; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. LITTLE, from the joint committee on the subject of the printing ordered by the two Houses of Congress, respectively, to which was recommended their report of the 17th instant, reported the same without amendment; which was then ordered to lie on the table.

On motion of Mr. NEWTON,

*Resolved*, That for supplying the deficiency in the appropriation for the subscription for the Statistical Annals of Adam Seybert, and the purchase of Pitkin's Commercial Statistics, the further sum of four hundred dollars be paid, out of the contingent fund of the House of Representatives.

Mr. NEWTON submitted a joint resolution for the distribution of Seybert's Statistical Annals, and directing Pitkin's Commercial Statistics to be deposited in the Library; which was read twice, and,

Mr. LIVERMORE moved to amend the said resolution authorizing the distribution of the Statistics, among the members of the next, instead of the present Congress; which was rejected.

The resolution was then amended, and ordered to be engrossed and read a third time, to-morrow.

On motion of Mr. McLEAN, of Illinois, the Committee on the Public Lands were instructed to inquire into the expediency of establishing additional land offices, for the sale of public lands, in the State of Illinois; and also, into the expediency of appointing a surveyor of the lands of the United States, in the said State.

The House took up and proceeded to consider the report of the Committee of Pensions and Revolutionary Claims, made at the last session (30th March, 1818,) on the petition of Benjamin Wells; whereupon, it was

*Ordered*, That the petition of the said Benjamin Wells be referred to the Secretary of the Treasury, and that the said report lie on the table.

Engrossed bills of the following titles, to wit: An act for the relief of Harold Smyth, An act for the relief of Samuel F. Hooker; and, An act for the relief of Sampson S. King; were severally read a third time, and passed.

The bill to incorporate the Medical Society of the District of Columbia, and the bill to incorporate the Provident Association of Clerks for the District of Columbia, passed through a Committee of the Whole, and were, (the former with some amendments,) ordered to be engrossed for a third reading.

The bill for the relief of Samuel Burr also passed through a Committee of the Whole.

The same Committee took up, also, the bill for the relief of John Delafield, (to allow him to fund forty-three loan office certificates, of four hundred dollars each, with the balance of interest.)

The documents were read, connected with the bill last mentioned, and Mr. RUGGLES spoke some time in favor of the claim; after which the Committee rose, reported progress on the latter bill, and the House adjourned.

#### THURSDAY, December 31.

##### DEATH OF MR. MUMFORD.

Mr. SMITH, of North Carolina, announced the death of GEORGE MUMFORD, a member of this House, from the State of North Carolina; whereupon,

*Resolved unanimously*, That a committee be appointed to take order for superintending the funeral of GEORGE MUMFORD, deceased, late a Representative from the State of North Carolina.

Messrs. SMITH, of North Carolina, WILLIAMS, of North Carolina, OWEN, STEWART, of North Carolina, SETTLE, EDWARDS, and SLOCUMB, were appointed the said committee.

*Resolved unanimously*, That the members of this House will testify their respect to the memory of GEORGE MUMFORD, late one of their body, by wearing crape on their left arm, for one month.

*Resolved unanimously*, That the members of this House will attend the funeral of the late GEORGE MUMFORD, to-morrow morning, at 10 o'clock.

*Ordered*, That a message be sent to the Senate, to notify them of the death of GEORGE MUMFORD, late a member of this House, and that his funeral will take place to-morrow, at 10 o'clock.

The House then adjourned to Monday.

#### MONDAY, January 4, 1819.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the petition of Thomas Shields, for stores lost and private property destroyed by the British; which report was read; when, Mr. P. reported a bill authorizing the payment of a sum of money to Thomas Shields; which was read twice, and committed to a Committee of the Whole.

Mr. PLEASANTS, from the same committee, also reported a bill authorizing the purchase of live oak timber, for building small vessels of war; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of Jasper Bennett, on behalf of his son Malcolm Bennett; which was read; when, Mr. J. reported a bill for the relief of the said Malcolm Bennett; which was read twice, and committed to a Committee of the Whole.

The Committee of the Whole, to which is committed the bill explanatory of the act authorizing the sale of certain grounds, belonging to the United States, in the City of Washington, were discharged, and the bill referred to a select committee; and Messrs. COBB and CULBRETH were appointed the committee.

On motion of Mr. SCOTT, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of providing by law for the payment of a loan office certificate, for two hundred dollars, issued to Thomas Stiner by S. Hillegas, on the 23d day of December, 1777, with the interest thereon, according to the tenor of said certificate.

On motion of Mr. JOHNSON, of Kentucky, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post route, by water, from Louisville, in Kentucky, to St. Louis, on the Mississippi.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*  
In compliance with a resolution of the House of Representatives of the 7th instant, requesting me to lay before it the proceedings which have been had under the act entitled "An act for the gradual increase of the Navy of the United States," specifying the number of ships that have been put on the stocks, and of what

class, and the quantity and kind of materials which have been procured, in compliance with the provisions of said act, and also the sums of money which have been paid out of the funds created by the said act, and for what objects; and likewise the contracts which have been entered into, in execution of the said act, on which moneys may not yet have been advanced; I transmit a report from the acting Secretary of the Navy, together with a communication from the Board of Navy Commissioners, which, with the documents accompanying it, comprehends all the information required by the House of Representatives.

JAMES MONROE.

DECEMBER 31, 1818.

The Message, with its enclosures, was ordered to be printed.

On motion of Mr. BUTLER, of New Hampshire, the Secretary of War was directed to lay before the House any information in his possession respecting the adjustment and payment of the claim of the friendly Creek Indians, made in consideration of their treaty with the United States, of August 9, 1814.

The engrossed bill, authorizing the corporation of the City of Washington to cut streets through certain public reservations; the engrossed bill to incorporate the Provident Association of Clerks in the public offices in the City of Washington; the engrossed resolution authorizing a distribution of the number of Seybert's Statistics, subscribed for by Congress; and the engrossed bill to incorporate the Medical Society of the District of Columbia, were severally read a third time, and passed. [The House divided on the latter, which passed by a vote of 58 to 48.]

The SPEAKER laid before the House a letter from the Secretary of War, accompanied with a list of the names, &c. of persons placed on the pension list, to the 16th of November last, under the act of the 18th of March, 1818, rendered in compliance with the resolutions of this House, of the 20th of April and 28th of November, 1818; which was ordered to lie on the table.

#### EXPORTS.

The SPEAKER laid before the House the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, Jan. 1, 1819.

SIR: I have the honor to transmit a statement of the exports of the United States, during the year ending the 30th September, 1818, amounting in value, in articles of

Domestic produce and manufacture, to \$73,854,437  
Foreign do do do do 19,426,696

\$93,281,133

Which articles appear to have been exported to the following countries, viz:

	Domestic.	Foreign.
To the northern countries of		
Europe - - - - -	1,554,259	1,081,424
To the dominions of the		
Netherlands - - - - -	4,192,776	3,022,711
Of Great Britain - - - - -	44,425,552	2,292,280
Of France - - - - -	10,666,798	3,283,791
Of Spain - - - - -	4,589,661	2,967,252
Of Portugal - - - - -	2,650,019	248,158



The Hansé Towns and ports		
of Germany - - -	2,260,002	1,073,491
All others - - -	3,515,355	4,915,589
	\$73,854,437	\$19,426,696

I have the honor to be, &c.

WM. H. CRAWFORD.

The SPEAKER of the House of Reps.

The letter, with its enclosures, was ordered to be printed.

#### EXECUTIVE MESSAGE, &c.

A Message, in writing, was received from the PRESIDENT OF THE UNITED STATES, as follows:  
*To the House of Representatives of the United States:*

In compliance with a resolution of the House of Representatives, of the 24th instant, requesting me to lay before it "copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June, of the present year, communicated to the House on the 12th instant, and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date 7th May, 1818, also communicated to the House, on the 12th instant," I transmit a report from the Secretary of War, with a copy of an extract of a letter from Major Van Deventer, Chief Clerk in the Department of War, in reply to General Jackson's letter of the 7th of May, 1818.

JAMES MONROE.

DECEMBER 31, 1818.

#### DEPARTMENT OF WAR, Dec. 30, 1818.

The Secretary of War, to whom was referred the resolution of the House of Representatives of the 24th instant, "requesting the President of the United States to cause to be laid before this House, if, in his opinion the same should not be inconsistent with the public interest, copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June of the present year, communicated to this House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date of the 7th of May, 1818, also communicated to this House on the 12th instant," has the honor to transmit an extract of a letter written by Major Vandeventer, Chief Clerk, Department of War, in reply to General Jackson's letter of the 7th of May, 1818, and to state that no letter was written by this Department to the Governor of Georgia, in answer to his letter of the 1st of June, 1818.

J. C. CALHOUN.

Extract of a letter from Major C. Vandeventer, Chief Clerk, to Major General Andrew Jackson, dated

"DEPARTMENT OF WAR, June 2, 1818.

"Your letters of the 7th of April, one without date, and of the 26th of April, are received.

"The President of the United States and the Secretary of War are out of town. The former will return about the 15th instant, the latter not before the middle of next month. So soon as the President re-

turns, your despatches, together with your orders to Major Davis, commanding the arrest of Captain Wright, and a copy of your letter to the Governor of Georgia, in relation to the horrid and atrocious destruction of the Choctaw village, will be laid before him. In the meantime I am advised to communicate the "opinion" that the trial of Captain Wright, by court martial, is decidedly preferable to a civil prosecution in the Federal court."

Ordered to lie on the table, and to be printed.

#### IMPORTS FROM CANADA.

Mr. PALMER, of New York, offered for consideration the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to inquire whether any, and if any, what provisions are necessary to be made more effectually to enforce the payment of duties on goods, &c. imported by land, from the British provinces in America, into the United States: also, that the same committee be instructed to inquire into the expediency of so amending the 4th section of a law of Congress, passed the 3d day of March, 1817, that the provisions therein contained shall apply only to steamboats on Lake Champlain that are employed wholly in the transportation of passengers and their baggage, and that the said section shall not extend to authorize the entry of any goods, &c., except passengers' baggage, in any district other than the one into which they are to be landed; with leave to report by bill or otherwise.

Mr. P. said that he had, a few days previously, moved the reference of similar resolutions to the Committee of Commerce and Manufactures; that they were not then adopted, because, as he understood, the subject was thought most properly to refer itself to the Committee of Ways and Means. He now hastened, he said, to renew them with this alteration, lest it should be thought the House was unwilling to consider a subject that was of much importance to the section of country which he represented; which, he was persuaded, was not the case.

Mr. P. said, it had been his fortune, as residing nearer the frontier alluded to than most other members, to have witnessed the deplorable inadequacy of our revenue laws, as they are at present constituted, to meet the kind of importations by land from Canada which prevails on our Northern frontier; that the collectors of the district of Vermont and Champlain had both stated to him, in personal conversation, their full conviction that some improvements to the revenue laws applicable to our Northern frontier are absolutely necessary. It would be further recollected, Mr. P. said, that the Secretary of the Treasury, who is charged with the execution of our revenue laws, had, at the last session, recommended similar provisions to those now contemplated; but that those provisions had not yet been passed into law.

Mr. P. said, if it was necessary now to state in what the difficulties existing in the system of our revenue laws, as applicable to this frontier, consisted, he would say—that the revenue laws all contemplated goods, &c., to be entered at the office of the collector of the customs only, and not at the offices of the deputy collectors resi-

ding on the different roads, distant from the collector's office, by which goods are introduced. We had, Mr. P. said, provided for the appointment of deputy collectors, to be stationed on the principal roads by which goods are introduced, in order to guard them; but there were no provisions, Mr. P. said, obliging importers to report or enter their goods at those custom-house offices. Mr. P. said his object was to make it obligatory on the importers, under penalty of a forfeiture of their goods, and the other usual penalties, "to report and enter their goods at the office of the deputy collector nearest the road by which they are first imported." At present, goods were smuggled past the custom-house officers stationed on these several avenues; and, if pursued and overtaken, no penalty or forfeiture accrued; and it was sufficient for the smuggler to allege that he intended to enter his goods at the office of the collector of the district, where alone he is required, by law, to report and enter them; and the inspector must accept this declaration as sufficient, and receive the duties; hence a maxim has grown into use, "to import goods as secretly as possible, and, if detected, it is always soon enough to enter them and pay duties." One difficulty, out of many thus occasioned, was, that the officers of the customs, instead of receiving the duties and entries at the place where they are first imported, are compelled to pursue the goods, thus secretly introduced, all over the interior of these districts, in order to collect the duties on them; whereas, if the importers were required, by proper penalties and forfeitures, to enter them "at the office of the collector of the customs nearest the road by which they are first imported," the principal difficulties complained of would be removed. Mr. P. said that the other branch of the resolution applied to steamboats on Lake Champlain; and their object is to take, from such as may be used for the ordinary purposes of trade, the privilege of importing goods subject to duty, without observing the same rules which are exacted in other cases, in order to prevent imposition upon the revenue.

Mr. P. said he believed the privileges granted to steamboats to enter goods, other than passengers' baggage, in any other district than the one in which they were to be landed, had already proved injurious to its operations. But, Mr. P. said, he had a further and more powerful reason which induced him to wish for an alteration of the law, alluded to in this branch of the resolution. Mr. P. said it was now understood, that an additional steamboat would be employed on that lake the next season, which was intended to be solely employed for the purposes of commerce. And if this section is permitted to remain, a provision, which was only intended to afford a facility to the transportation of passengers and their baggage, will become applicable to the great body of our importations by that lake, and will supersede one of the principal guards to our revenue laws; that is, the necessity of entering goods, which are subject to duties, in the district in which they are landed. Mr. P. said that he

should not have troubled the House with the observations he had made, but that the subject was somewhat local, and he had thought it due to the House to express some of the principal reasons which had induced him to offer the resolution to the House.

The resolution was agreed to.

#### THE SLAVE TRADE.

Mr. MERCER introduced the resolution which follows by a few remarks, importing that the law of the United States prohibiting the citizens of the United States from engaging in the slave trade, was evaded in a manner which demanded the interposition of Congress. He referred to the law which authorizes the President of the United States to employ our armed vessels in executing its provisions, and also authorizes those vessels to seize and bring into the ports of the United States all ships and vessels engaged in the violation of it. In a publication which Mr. M. said he had seen, and to which he referred, the names were given of at least twenty vessels fitted out in the ports of the United States for the obvious purpose of carrying on the slave trade. Appeals had been taken from the decisions which had been made by the inferior tribunals in some of these cases, and the names of American houses and American citizens engaged in this detestable traffic, were to be found on the records of the British court. To obtain information having a direct bearing on this subject, Mr. M. submitted this resolution:

*Resolved*, That the Secretary of the Navy be directed to report to this House a copy of such instructions, if any, as may have been issued by this Department, in pursuance of the act of Congress of 1817, prohibiting the importation of slaves, to the commanders of the armed vessels of the United States, for the purpose of intercepting, on the coast of Africa, or elsewhere, such vessels as have been engaged in the slave trade.

The motion was agreed to.

Mr. MERCER then said, he had another resolution to offer, in relation to another branch of the same subject. We have all been informed, he said, in the course of the last few months, that individuals brought into the United States, in violation of the law before referred to, had, in execution of the provisions of the law, been condemned to hereditary slavery; and, on examining the acts of Congress, he found that the authority under which this iniquity (he would so call it) had been practised, was derived from one of those acts. To obtain such information as might assist the House in arriving at a proper remedy for this fault, he moved the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to report to this House the number and names of the slave ships, if any, which have been seized and condemned within the United States for violation of the laws thereof against the importation of slaves, and if any negroes, mulattoes, or persons of color, have been found on board such vessels, their number, and the disposition which have been made of them by the several State governments under whose jurisdiction they have fallen.



H. OF R.

Proceedings.

JANUARY, 1819.

Mr. STROTHER moved to amend the resolution to as to direct a report to be made also of the number and names of the slave ships, if any, and the ports from which they had sailed, if they could be ascertained. Mr. S. said he wished that the ignominy of this trade, if any, should attach where it belonged, and not be imputed, on the authority of general rumor, to the whole country. He wished at least that the country of which he was a Representative should be absolved from any charge of participation in it.

Mr. FLOYD wished, also, that the names of the places where the vessels are owned should be added to that of the place whence they sailed.

Mr. COBB desired to amend this resolve further, so as to require information by whom, as well as where, the vessels were owned.

These amendments were not objected to by Mr. MERCER, and were, as well as the original motion, all agreed to.

The House then again resolved itself into a Committee of the Whole, on the bill for the relief of John Delafield.

Mr. RHEA, of Tennessee, occupied the floor, in opposition to the claim, until after three o'clock; when the Committee rose and reported progress.

TUESDAY, January 5.

The SPEAKER laid before the House a letter addressed to him by Benjamin H. Latrobe, late Surveyor of the Public Buildings and of the Capitol, at the City of Washington, in relation to his conduct while in the capacity aforesaid; which was referred to the Committee on Public Buildings.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report on the petition of John Gooding and James Williams; which was read; when Mr. S. reported a bill for the relief of the said John Gooding and James Williams; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. POINDEXTER, from the Committee on the Public Lands, to whom was referred the bill from the Senate, entitled "An act for the relief of John Rice Jones," reported the same without amendment, and it was committed to a Committee of the Whole.

Mr. PLEASANTS, from the Committee on Naval Affairs, who were directed to inquire into the expediency of increasing the amount of the security to be required from navy agents, made a report; which was read; when Mr. P. reported a bill concerning navy agents; which was read twice, and committed to a Committee of the Whole.

Mr. PINDALL, from the select committee appointed at the last session, on the subject, reported a bill to authorize the prosecution of suits, in the nature of petitions of right and informalities of intrusion, in cases in which the United States are concerned; which was read twice, and committed to a Committee of the Whole.

Mr. COBB, from the select committee to which was committed, yesterday, the bill explanatory of

the act, authorizing the sale of certain grounds, belonging to the United States, in the City of Washington, reported the same with an amendment; which was read, and the said bill was ordered to lie on the table.

On motion of Mr. CAMPBELL, the Committee on the Public Lands were instructed to inquire into the expediency of passing a law to vest, in the Legislature of the State of Ohio, power to sell the remaining thirty-five sections of land in the reservation at the Sciota Salt Works, and to apply the proceeds of the sale to such purposes, for the use of the State, as the said Legislature may deem most proper.

On motion of Mr. SOUTHARD, the Committee on the subject of the Militia were instructed to inquire whether any, and, if any, what alteration or amendment to the laws of the United States are necessary to insure an equitable enrolment, and annual returns of the militia of the respective States.

On motion by Mr. SAMPSON, the Committee of Ways and Means were instructed to inquire into the expediency of amending the fifth section of the act, entitled "An act laying a duty on imported salt; granting a bounty on pickled fish exported; and allowances to certain vessels employed in the fisheries," so that the owner of every vessel above twenty tons, employed in the fisheries, shall receive an allowance of four dollars, for each and every ton of such vessel's burden: *Provided*, That the allowance aforesaid on any one vessel, for one season, shall not exceed three hundred and sixty dollars.

On motion of Mr. ALEXANDER SMYTH, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of fixing the standard of weights and measures.

The SPEAKER laid before the House a letter from the First Comptroller of the Treasury, transmitting a list, made out by the Register of the Treasury, of those persons who have not rendered accounts for settlement within the year; which was ordered to lie on the table.

The Committee of the Whole having been discharged, on motion of Mr. RICH, from the further consideration of the bill to authorize the Rockville and Washington Turnpike Company to make the road as far as the city boundary, the same was ordered to be engrossed for a third reading.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*To the House of Representatives of the United States:*  
I transmit to Congress a proclamation, dated the 22d of last month, of the convention made and concluded at Madrid, between the Plenipotentiaries of the United States and His Catholic Majesty, on the 11th of August, 1802, the ratifications of which were not exchanged till the 21st ultimo, together with the translation of a letter from the Minister of Spain, to the Secretary of State.

JAMES MONROE.

WASHINGTON, January 4, 1819.

The Message was read, and, with its accompanying documents, ordered to lie on the table.

JANUARY, 1819.

Military Appropriation Bill.

H. OF R.

## BILLS REJECTED.

The House then again resolved itself into a Committee of the Whole on the bill for the relief of John Delafield.

Mr. RHEA concluded, in about half an hour, the speech he yesterday commenced against the bill. He was followed by Mr. BALDWIN and Mr. CUSHMAN, each at some length, in support of the bill.

Mr. CLAIBORNE moved to strike out the first section of the bill, which motion was carried by a large majority; and,

On motion of Mr. LIVERMORE, the first section of the bill for the relief of Samuel Burr, referred to the same Committee of the Whole, was also stricken out.

The Committee then rose, and reported the bills as amended to the House.

The question on concurring with the Committee of the Whole on striking out the first section of the bill for the relief of John Delafield, was decided in the affirmative, by yeas and nays—90 to 64, and the bill of course rejected.

The amendment reported to the bill for the relief of Samuel Burr, was also concurred in by the House, and the bill of course rejected.

Then the House adjourned.

WEDNESDAY, January 6.

Mr. CROWELL, from the select committee appointed on the petition of the Legislative Council and House of Representatives of the Territory of Alabama, on behalf of Tandy Walker, reported a bill to place the said Tandy Walker on the pension list; which was read twice, and ordered to lie on the table.

On motion of Mr. CROWELL, the Committee on the Public Lands were instructed to inquire into the expediency of authorizing by law the sale of such townships of land, in the Alabama Territory, that have been returned by the surveyors, as not, in their opinion, worth two dollars per acre, and consequently not surveyed or offered for sale.

An engrossed bill, entitled "An act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, in the State of Maryland, to extend and make a turnpike road to or from the boundary of the City of Washington, in the District of Columbia, through the said District, to the line thereof," was read the third time and passed.

On motion of Mr. MERCER, the Secretary of War was directed to report to this House, the present strength and distribution of the Army of the United States; and to subjoin to such report the number and value of the extra days' labor performed by the several detachments thereof, respectively, in the year ending on the 30th day of October last, upon roads or other objects of fatigue duty; together with a statement of such objects, if any there are, of a similar nature, to which it is contemplated to direct the labor of the troops, in the current year, distinguishing the sums expended on roads.

## MILITARY APPROPRIATION BILL.

The orders of the day being then announced, a motion was made by Mr. SMITH of Maryland, to take up, out of its turn, the bill making appropriations for the support of the Military Establishment for 1819. This departure from the usual course of business requires the unanimous consent of the House. Mr. MERCER of Virginia, objected, and the question was therefore not put.

Mr. SMITH then moved to postpone all the orders of the day which preceded that bill, in order to take it up.

Mr. WILLIAMS, of North Carolina, opposed the motion, considering it, in the present state of the business before the House, to be premature. There were several propositions before the House, yet to be decided on, by which the provisions of the bill might be affected; amongst which was a proposition to reduce the Army, the decision of which ought certainly to precede that on this bill.

Mr. MERCER, of Virginia, also opposed the motion. There was no part of our institutions, he said, in regard to which there ought to be less precipitation, or more deliberation, than in what regarded the Army of the United States. That, he said, was the doctrine of the Constitution. The illustrious framers of that instrument were men who looked back on the pages of history, and forward into futurity; and amongst other provisions of the Constitution, they had inserted one which provides that no appropriation to the use of the Army shall be for a longer term than two years. Mr. M. was opposed to going into the consideration of the bill at the present time, for reasons which he proceeded to state. He had waited, he said, and the nation had anxiously waited until the two committees appointed to inquire into the subject of the Seminole war should make their reports. The House was aware that some difference of opinion had existed between those two committees, as to the scope of their respective duties; but, he had this morning understood with pleasure, from the chairman of the Military Committee, that a report on this important subject might be expected from that committee in a few days. Now, Mr. M. said, he would exercise the candor here to declare, that his own opinion on the subject was made up; but the courtesy due to those differently situated and to the usual course of debate in the House forbade him from proceeding, at this time, to intimate the grounds of his opinion; which was, that, if there was no other mode of expressing the sense of this House, in relation to the transactions of that war, the number of Major Generals in the Army should be reduced to one. If no other gentleman should make a motion to that effect, Mr. M. said he should, very reluctantly, take upon himself the burden of proposing an expression of the opinion of the House in some shape or other. He should at present invite no discussion on this subject, unless other gentlemen sought it; but, he said—for he had not for many nights been able to sleep in quiet on his pillow from his painful reflections on the trans-



actions of that war—it was a duty he owed to himself, to his constituents, and to his country, and which he should therefore feel himself bound to perform, to express his sentiments on the subject of the incidents and character of the Seminole war.

Mr. SMITH, of Maryland said, that, for his part, his plumbers had not been at all disturbed by the circumstance the gentleman had referred to; nor did he see what connexion the question arising out of the Seminole war had with the annual appropriation bill for the support of the Army. His object was to pass the bill, that the officers of the Government might not be obliged to make use of the public money without appropriations by law, or the Army to remain unpaid. Was it not proper, he asked, that appropriations should be made before the commencement of the year? Or was the House to wait till the end of the session, and till all the discussions on the subject of the Seminole war had been gone through? Suppose the proposition to reduce the Army should succeed, the appropriation bill would not interfere with it, because, if the expenditure should be diminished, the surplus would remain in the Treasury. In the early history of our Government, it had been usual to pass the annual appropriation bills soon in the session; and such, Mr. S. thought, was the obviously proper course. The Quartermaster General's department and provision department must go on; and the appropriations for them ought not to be withheld longer than was absolutely necessary.

Mr. MERCER said, the argument of the gentleman, that the appropriation bill ought to pass before the commencement of the year, proved too much; for this was not the first day of the month, but the sixth, nor the first of the session, said he, for we have been here almost two months. The framers of the Constitution, he said, looked to this mode of checking abuses in the military authority; and, countenanced by their authority and by their wisdom, he should persevere in his opposition to going into Committee of the Whole at this time on the appropriation bill.

Mr. STORRS, of New York, said, if the gentleman supposed that, by going into Committee of the Whole now, the appropriation bill would be immediately despatched, he was very much mistaken. The first inquiry, on proceeding to the consideration of the bill, would be, whether the House approved of the purposes in which the Army had been employed. This would bring before the House not only the conduct of any particular part of the Army, but the whole Military Establishment. Mr. S. was, therefore, opposed to going into Committee of the Whole, until he saw the report of the Committee of Military Affairs on the subject, as it was understood that the whole subject would thus soon be properly before them.

Mr. JOHNSON, of Kentucky, said, if there was not reason to expect that discussion would take place on direct propositions, respecting the Seminole war and the execution of Arbuthnot and Ambriester, as well as for the reduction of the Army.

he should not have been surprised at this incidental discussion. This morning, he said, had been the first time the Military Committee had been able to take up the subject referred to them, and no disposition to procrastinate could be attributed to them, when it was known that in the next week the Military Committee would make some kind of a report. So far from any abuse in the administration of the War Department, calling for legislation out of the ordinary course, without going into particulars—he would no more than the gentleman from Virginia provoke a discussion at this time—the same establishment called for a less appropriation this year, by \$500,000, than last year, in consequence of the changes made in the arrangements of the War Department by late modifications of its details. As a general principle, unless in times of great public calamity, the courtesy never had been denied to the chairman of the Committee of Ways and Means, to take up the appropriation bills when called for by him. It was proper that this bill should now be early passed upon, to prevent, on the one hand, that kind of interregnum in the establishment which must be produced by stopping the expenditure for provisions, pay, &c., or, on the other, the alternative of paying money from the Treasury without previous appropriation by law. He hoped, therefore, the bill would be permitted to go on.

Mr. TUCKER, of Virginia, said, he was very well satisfied, that, with respect to the greater part of the military appropriations, it was practicable for the House to act on them, and to go on and make appropriations, without committing themselves on any principle likely to be brought into discussion. But there was at least one subject embraced in the bill, to which this remark did not apply; and it was proper to inquire whether, on that subject, the chairman of the Committee of Ways and Means could impart to the House the information necessary to enable it to act understandingly. Mr. T. said, he had seen, in the National Intelligencer of this morning, notice that thirteen miles of the military road on the northern frontier of New York had been completed. He did not allude to this work because he disapproved of it, for it had his hearty approbation—but, he asked, by what authority had this road been made, and by what means? By the authority, undoubtedly, of an appropriation made by Congress, in the last appropriation bill. By what authority would that work, now in progress, continue to be prosecuted? That these thirteen miles of excellent northern road were made for nothing, when the House very well knew that the Cumberland road cost at least something, was not to be believed. By what authority, then, was the road to be continued? By the authority, unquestionably, of an appropriation contained in this bill. Agreed, sir, said Mr. T.—give me internal improvement, under the authority of Congress, and I care little what department has charge of it. But I think it but fair, and perfectly right, that this House should distinctly express its opinion on the subject.

When we come to that part of the appropriation for the Quartermaster's department, or for the Pay department, I think it would be better to separate from them so much as is required by the expenditure for making roads, and that it be either appropriated in a separate bill, or under a separate head of expenditure in the same bill, that we may all see and understand what it is we vote. Before he sat down, Mr. T. said, that, hoping to get the necessary information from the gentleman, he should not be averse to taking up the appropriation bill.

Mr. SMITH, of Maryland, after stating that the House was in possession of most of the information the Committee of Ways and Means had received, said that the committee had no information going directly to the object of the gentleman last up; there was an estimate for the cost of lime, timber, &c., including extra pay to the soldiers for work, but the smallness of the sum, only \$30,000, induced him to believe that this appropriation applied only to work to be done on barracks, &c. But, if the gentleman desired to make a separate article of the amount of extra pay to soldiers for work on roads, there would be no difficulty in doing it. Mr. S. took occasion to signify his approbation of this mode of employing the troops.

Mr. TUCKER said he could scarcely have supposed that so much road had been made, and that no information on the subject had been communicated to the Committee of Ways and Means. He should therefore move a resolution calling for information on this subject; for he did think, when they were obliged to leave the lead in getting through this House appropriations for the unfinished road in the West, making under the authority of the United States, under the obligation of a compact with one of the States; when on this subject every inch of ground had to be fought for, it was proper that the House should have some information respecting the roads making under the direction of the Executive. Mr. T. said he was happy to perceive that the Secretary of War, who had been one of the most able advocates of the system of internal improvement in this House, had not, in his transit to another office, dropt his principles by the way, but continued the friend and the agent of internal improvement in his present station. Mr. T. said he was glad to see the work in question going on; for he had, on coming into this House, parted with local partialities and prejudices, and was desirous to see anything in progress which was to benefit any part of the country. If the bill should be taken up, he said he should move to amend it, so to separate the expense of making roads from the other items in the bill, as that it should be rendered impossible for any man to read without understanding it.

Mr. WILLIAMS, of North Carolina, said, in addition to the subject of the road, the ground on which he particularly opposed going into Committee was, that there is a proposition on the table to reduce the Military Peace Establishment, and that, until that proposition was finally acted on,

he did not feel himself at liberty to vote a single cent for the support of the establishment.

Mr. FLOYD, of Virginia, was in favor of taking up the bill. As to the extra pay to soldiers, for work done on roads, fatigue duty done by them had always been paid for, from the earliest date of the Government to the present day, and the appropriation for it now involved no new principle. As to the question of the Seminole war, that, he said, ought to stand by itself, and not to interfere with the current and ordinary business of the session.

Mr. REED, of Maryland, said that the discussion had already proceeded far enough to show the propriety of the observations of the gentleman from North Carolina. It proved that larger appropriations had been made than were necessary for the payment of the Army, and that a part of the money appropriated under the head of military expenditure, had been applied to the purpose of making roads. It appeared clearly to him, that the question on the proposition to reduce the Army ought to be first settled.

The question was then taken on going into Committee of the Whole on the Military Appropriation bill, and decided in the affirmative by a small majority.

The bill in question embraces the following items of appropriation:

- For subsistence (in addition to \$200,000 already appropriated,) \$506,600.
- For forage for officers, \$26,496.
- For clothing, \$400,000.
- For bounties and premiums, \$62,500.
- For the medical and hospital department, \$50,000.
- For the quartermaster's department, \$550,000.
- For contingencies of the Army, \$60,000.
- For arrearages, arising from a deficiency in the appropriation to pay outstanding claims, \$100,000.
- For fortifications, \$500,000.
- For making a survey of the water-courses tributary to, and west of, the Mississippi; also, those tributary to the same river, and northwest of the Ohio, \$6,500.
- For the current expenses of the ordnance department, \$100,000.
- For the armories at Springfield and Harper's Ferry, \$375,000.
- For arming and equipping the militia, \$200,000.
- For the erection and completion of arsenals, to wit: for completing the arsenal at Augusta, in Georgia, \$50,000; for erecting a powder magazine at Frankford, near Philadelphia, \$15,000; for completing the arsenal and other works at Watertown, near Boston, \$20,000; for completing the arsenal and other works at Pittsburg, Pennsylvania, \$5,000; for a levee round the arsenal at Watervleit, New York, \$6,000; for building a powder magazine at Baton Rouge, \$20,000.
- For cannon, powder, and shot, to fulfil existing contracts; for mounting cannon, and for purchase of lead, \$191,200.
- To provide for the payment of the retained bounty, and the per diem travelling allowance of pay and subsistence to soldiers discharged from the Army in the year 1819, \$92,500.
- For the purchase of maps, plans, books, and instruments for the War Department, \$1,500.
- For fuel, maps, plans, books, erection of quarters



and other buildings, and for contingent expenses for the Academy at West Point, \$35,640.

For marking and running the boundary line of the several cessions of land made by the Indians, \$15,000.

For the payment of half-pay pensions to widows and orphans, \$200,000.

For the annual allowance to invalid pensioners of the United States, \$368,039.

For the annual allowance to the Revolutionary pensioners, under the law of March 18, 1818, \$1,708,500.

For arrearages arising from a deficiency in the appropriation for paying the Revolutionary pensions in the year 1818, \$139,400 85.

For the Indian department, including arrearages incurred by holding Indian treaties, \$213,000.

For annuity to the Creek nation, under the treaty of 1802, \$3,000.

The House then resolved itself into a Committee of the Whole on the bill making appropriations for the support of the Military Establishment for the year 1819; to which Committee had also been referred a bill for modifying, in some respects, the Staff department of the Army.

Mr. COLERON, of Virginia, said he hoped that gentlemen would take up the appropriation bill first; and that they would not at this time urge upon the Committee the consideration of a bill of so much importance as the other bill referred to that Committee, which so short a time had been allowed to examine.

The appropriation bill was taken up; and, having been read through—

Mr. CLAY (Speaker) said that, although he approved entirely of the course the House had pursued of taking up the public business of the session, in preference to the tedious sittings they had lately held for the adjudication of private claims, he must confess he was somewhat surprised at the scantiness of the information which he had heard, whilst in the chair, the chairman of the Committee of Ways and Means was able to afford to the House on the subjects embraced in the bill. He had given notice, he said, yesterday to the gentleman, that he should make the inquiry of him, when this bill came up, as to the amount of money Congress had parted with, and the amount it was now called upon to appropriate for the purpose of making roads. It was with surprise, Mr. C. said, he had heard from the gentleman, after this notice, that he had no information on the subject. He hoped, he said, the gentleman would refresh his memory, and find under what item of the bill the appropriation was made for extra pay to the Army for the purpose of constructing military roads. It was very important that the House should have this information. It would be recollected that at the last session this great Constitutional question of the power of Congress to make internal improvements had been discussed in this House. It would be recollected that whilst the power of the Executive branch of the Government to employ the labor and money of the nation on objects of internal improvement had been strenuously maintained, the same power was as strenuously denied to Congress. Mr. C. said he had understood that, in addition to the Northern road to which the

gentleman had alluded, other roads, bearing the denomination of military roads, were making—for example, a great and magnificent road from the Tennessee river to Lake Ponchartrain; and that over this military road it was proposed very soon to march a detachment of stage coaches, proposals having been already made to the Post Office Department to avail itself of the services of this description of military corps. If it be the pleasure of this House, said Mr. C., to fold its arms, and see, one by one, every power of Government taken from it—the power to lay taxes, to make war, to apply the sword and purse of the nation—be it so. But for his part, Mr. C. said, he desired information; as that which the House now had was extremely unsatisfactory. He begged the attention of gentlemen to it. Mr. C. then read the few first lines of the letter of the Secretary of War to the Committee of Ways and Means, until he came to that part of the letter, speaking of the documents being so voluminous as to make it necessary, to save the time required for copying them, to send the originals. Documents so voluminous, Mr. C. said, that notwithstanding the number—How many clerks were there in the War Department? he really could not count them—they could not be copied. These documents, so voluminous that they could not be copied, because there were so few clerks in the War Department, considering that they related to the expenditure of some millions of dollars, afforded yet very scanty information. Sir, said Mr. C., upon my unfortunate friends, the Patriots of South America, we can have whole volumes, nay, whole libraries, copied and printed; but on this very important affair, of appropriating six or seven millions of dollars, some few fragments of paper are thrown into the House, and then we are told the affairs of the country cannot go on, the wheels of the Government must stop, unless we forthwith pass the bill. Mr. C. said he hoped the honorable chairman would look again at his notes, and see in what part of the bill the appropriation for this fatigue money, as the expense of making the road is called, is contained. Mr. C. said he did not so much want the information for himself, as for the benefit of his honorable friend who now sat in the chair, (Mr. H. NELSON,) who at the last session so pathetically deplored that Congress should attempt to appropriate money for making roads; or for his eloquent colleague, (Mr. BARBOUR,) who had advocated the same side of the question. He hoped one of those gentlemen would move to strike out that part of the bill when it was discovered where it was, that the Committee might see what it was doing, and that a clear expression might be obtained of the opinion of the House, whether the Executive was to go on, at its own will and pleasure, to make roads, without Congress having any other concern in the matter than to pass the appropriation bill, whenever the chairman of the Committee of Ways and Means chose to call it up.

Mr. P. P. BARBOUR, of Virginia, rose for the purpose, he said, of thanking the Speaker for the

very polite and friendly manner in which he had expressed an inclination to furnish him (Mr. B.) with information whereon to bottom his vote. That information, Mr. B. said, he did not want; for he did not mean, as long as he was a member of this House, to submit either to Legislative or Executive assumption of power. When the subject was before the House at the last session, he had freely expressed the opinion he had ever entertained, that neither this, nor any department of the Government had the power to make roads in the several States. The gentleman's kindness, therefore, ought to have been directed to some other quarter of the House. Mr. B. repeated, and he wished it to be distinctly understood, that, as on the one hand he believed no two departments together possessed the power to make roads, so neither did any one of them. He did not mean, knowingly, to vote for any item of appropriation intended to cover that object. But, at the same time, he said, he did not feel that he was now in want of any information on the subject; for he found the first item now particularly under consideration, in language respecting the import of which he could not possibly doubt, and which he could not hesitate to vote for. It was this: "For the pay of the Army, one million of dollars." What was the "pay of the Army?" An act of Congress has fixed the number of the Army of the United States, including officers of every grade. The same authority has attached to every private certain proportions of pay; so much per month to the major generals, and down through the whole graduated scale to the private. When, then, he was called upon to give his vote on this item, what was he to understand? He was about to vote for that only which the constituted authorities had declared should be paid; if he was to vote for more, he should then be indebted to the honorable Speaker for any information going to establish that point. If language be not one thing, and intention another, he should feel himself, on every principle of propriety, warranted in giving his vote in favor of an item, which, until otherwise informed, he should take to mean what it purported. We are already advanced into the year 1819, and the appropriation for the last year being presumed to be expended, it was proper that this bill should pass without unnecessary delay, as no money can constitutionally be drawn from the Treasury without appropriation by law.

Mr. SMITH, of Maryland, said he was very glad that anything had served to relieve the House from the state of apathy into which it had fallen for some weeks past. So desirous were gentlemen now to take the floor, that they had gone beyond the usual course of proceedings, which had been, to allow to the chairman of the committee who reported a bill, at least the privilege of having the first word. He should not, however, permit himself to be drawn off from the subject of the bill into an argument, on a subject which had been sufficiently discussed in this House at the last session, and which was, besides, rather irrelevant to the question before the

House. Mr. S. then went into a detailed statement, founded on information which the Committee of Ways and Means had sought and obtained from the War Department, of the component parts of the several items of appropriation, and of the reason why the appropriations recommended by the committee were less than the first estimates furnished to the House proposed—this reduction of the amount being justified by the surplus of appropriation under the item of pay remaining unexpended, and by the diminution of expenditure under the item of subsistence, occasioned by the change from the contract to the Commissariat system of supply. Mr. S. thus went on, and separately explained the occasion for the several appropriations. In the course of his remarks he stated that, among the contracts made by the Ordnance department, was one for cannon suitable for the militia service, which he was very glad to hear of, considering it as of much importance.

Mr. TRIMBLE, of Kentucky, as a member of the Committee of Ways and Means, rose to notice what had fallen from the honorable Speaker. The appropriation for extra pay to the soldiers for working on military roads, &c., was certainly contained in the bill, or the expenditure made under the order of the Executive was not merely under color of an appropriation by law, but was absolutely without any appropriation. The amount expended for extra pay for fatigue duty, might, no doubt, readily be ascertained by a motion for that purpose; but it was not in the power of the committee to afford it. There was, in the annual military appropriation bill, an item of contingent expenses of considerable amount, but the precise application of which could not, from its very nature, be anticipated. It is an item in all appropriation bills, the expenditure of which must be trusted to the discretion of the Heads of Departments and of the President. If he understood that item correctly, out of it the President or the Secretary of War might pay the soldiers for extra duty, working on the roads, or other necessary military works. How could the Speaker attain his object but by lessening the appropriation? And how was it to be ascertained how much, for this purpose, the appropriation for contingencies ought to be curtailed? Mr. T. said, for himself, he thought the application of money to the making of roads to be illegal, unless it was specifically appropriated. He hoped some mode would be found of checking it by law, or of conveying to the Executive an intimation, that no part of the sums appropriated under other heads of expenditure should be applied to the purpose of making roads. But, at present, unless the whole item of contingent expenses were struck out, which would hardly be advisable, he did not see how the gentleman, his colleague, could come at his object.

Mr. CLAY said, he really must profess it was with surprise, as well as regret, he found that the House could have, from the Committee of Ways and Means, no sufficient information on the subject on which he had asked for it. I have re-



questioned the gentleman to tell me, said Mr. C., which of the items in this bill comprehends the appropriation for the expense of making roads, under the authority of the Executive; instead of answering my inquiry, the gentleman from Maryland has gone into a general exposé of the bill. Is it possible, that an appropriation bill is brought into this House, accompanied by all the estimates and statements from the proper department, containing, among others, an important appropriation; because involving a great Constitutional question, on which the Legislature and the Executive are divided in opinion, and yet the chairman of the committee cannot tell us in which of the several items of the bill this appropriation is contained? It was true that another honorable gentleman, his colleague, has given the House information on the subject, but, said Mr. C., in a way not bearing the stamp of certainty. He says the appropriation is certainly in the bill. Yes, sir, we have found the covert in which the game lies; and I wish we could start it. My colleague thinks it is quite likely it is in the item of contingencies. I wish we could be sure of it. Mr. C. said, he had yesterday given the honorable chairman (Mr. SMITH) notice that he should call on him this day for information on this subject, and he was surprised not to receive it. He should like to know from the honorable chairman, he said, whether the public interest was likely to suffer by one or two days' delay of this bill; it was due to Congress, to the interests which the members of this House represented, not to proceed hastily on it. Unless some reason why the bill should immediately pass could be shown, he should hope the Committee would rise; and if there were not already clerks enough in the War Department to copy the papers required for the information of Congress, he was willing to vote for more. He submitted, he said, to the gentleman from Virginia, (Mr. BARBOUR,) since he conceded the point that he would not vote for money to be applied to what in his (Mr. B.'s) judgment was an unconstitutional purpose, whether the same consideration ought not to restrain that honorable gentleman from voting to pay for men who are thus to be unconstitutionally employed. If you would not give the money of the nation for a particular purpose, would you give the labor of the nation? For, Mr. C. said, he took it, that the army of the nation, from which the labor on roads was derived, afforded as much the labor of the nation, as the amount paid the soldiers for extra duty in the same vocation was the money of the nation. He was aware it might be said the responsibility for misapplication of money appropriated by Congress belonged to the respective departments, &c. But what, he asked, was the reason of the Constitutional limits to appropriations of money; and what particularly of that clause which provides that no appropriation for the pay of the Army shall be for more than two years? Certainly, that this House might hold a control over this sometimes unmanageable machine, a standing army; that it might control it by withholding, in extreme cases, the

appropriations necessary to keep it in existence. Was it not known that, year after year, whilst the Executive too sends a message to Congress expressing the opinion that they had no power to make roads or canals, the Executive employs the Army in the very object over which he denied the power to Congress? Was this not one of the cases contemplated by the Constitution? At least, for those who held the doctrine of a defect of power in the General Government to employ the resources of the nation on objects of internal improvement, here was a case in which they ought to say, we will no longer continue to appropriate money to be thus misapplied. In answer to the difficulty started by his colleague, as to the mode of preventing this misapplication of public money, Mr. C. said it would be easy to effect that object, if it could be once ascertained under what head was included the appropriation in question. He had heard, he said, an anecdote of a former member of this House, which might furnish the honorable chairman of the Committee of Ways and Means with a clue to find the proper item. Some years ago it had been the custom, now abolished, to use in this House a beverage in lieu of water for those members who preferred it. A member of the House said he was not in the habit of using this sort of substitute for one of nature's greatest and purest bounties, but would prefer something stronger. The officers of the House said they should be glad to gratify him, but did not know how they could with propriety pay for it out of the contingent fund. Why, said the member, under what head of appropriation do you pay for this syrup for the use of the members? Under the head of stationery, the officer said. Well, replied the member, put down a little grog under the head of fuel, and let me have it. Mr. C. said that, seriously, he did not think the honorable chairman ought to have been so much at a loss. I have asked for bread, said he, and he has given me a stone; I have asked for information on a particular point, and he has given us information on every point but that. Is there or is there not in the bill an appropriation for the expense of making roads by the War Department? One member said he thought it was under one head, but was not certain. If not there, where was it? He hoped the House would delay acting on the bill until they could obtain this information.

Mr. BARBOUR again rose, observing that he had never more unexpectedly than now found himself brought into a discussion by what he would call the *argumentum ad hominem* of the honorable Speaker, which he felt himself bound again to notice. The gentleman had said, if you are indisposed to vote the money, will you not withhold the labor of the people of the United States from a particular object? If the question propounded to me, said Mr. B., were whether I would refuse to put the labor of the nation at the disposition of the Government for an unconstitutional purpose, I answer in the affirmative—unquestionably I would. But what is the proposition actually before the House? Shall we keep and main-

tain an army? I am, said he, in favor of a standing army to a certain extent; and I take this occasion to state that, as I am at present informed, I do not consider the present army as too large—leaving myself, however, on this head, open to conviction. Whilst thus in favor of it, shall I vote for its disbandment because, peradventure, in the progress of time its labor may be applied to a purpose which I do not wish? Mr. B. said he was, indeed, disposed to withhold any appropriation, specific or contingent, which should authorize the Executive to employ the soldiery in the construction of roads. But, whilst he would do this, he would not withhold the pay of the army, as fixed by law, the maintenance of which army he considered consistent with the well-being of the country, because, by possibility, the labor of that army might be applied to a purpose he should not consider correct.

Mr. TUCKER, of Virginia, was of opinion that the House ought not to proceed to act upon this subject without further information. There were in this House various classes of opinion on the subject of the power of the Government to execute internal improvements. Of one class, opposed to the construction of roads in any manner by any branch of the Government, was his friend from Virginia, who had just sat down. It appeared to Mr. T. that information on the subject must be necessary for him; for he was a member of this House when the two last annual appropriation bills passed, under the authority of appropriations, in some part or other of which three or four roads had been making; and those bills received the gentleman's vote. Since the gentleman thought all appropriations for such objects unconstitutional, did he not desire some information on this head? There was another class in the House anxious to see improvements going on in any shape. Was it not desirable to them to have information on the subject? Mr. T. wished to proceed on tangible ground; if they were to fight for one road in this House, he wished all roads to pass the same ordeal. The Speaker appeared to think that the Secretary of War ought to have furnished the House with information on this subject. Mr. T. said he knew not, and perhaps he doubted because of his very favorable opinion of the gentleman who filled that office, whether he ought to have volunteered this information. The Secretary had before him the fact, that no such information had heretofore been thought necessary to be communicated, respecting roads known to have been constructed under the orders of that Department. If the information had been asked from the War Department, Mr. T. said he had no doubt it would have been afforded with the utmost promptitude. It is our business to call for information on the subject, said he; and my object in rising was to express the hope that the Committee will rise, and I will submit a motion having that object in view. [Mr. T. here read a motion to that effect, which he proposed to move should the Committee rise.]

Mr. MENCER, of Virginia, said, he had before attempted to catch the eye of the gentleman who

was in the Chair, but had with pleasure given way to the honorable Speaker, whose object was to obtain information, which he was surprised the chairman had not in his power to furnish. The Committee, Mr. M. said, could not have forgotten that, at the last session, a certain part of the House having a desire to express, in some sort, a censure on the practice of allowing brevet pay, the Committee of Ways and Means had instructed their chairman to insert a provision in the general appropriation bill, and then to move to strike it out. Of such a specification, if inserted in the present bill, in regard to the appropriation for extra pay for the labor of the troops, on roads, Mr. M. said, he presumed the honorable gentleman from Kentucky would take the same view as himself, and would rather increase than diminish it. What difficulty could there be in making a discriminating and specific appropriation in this case, since, at the last session, it was so readily made, where the object was to deprive our gallant officers, who had shed their blood in their country's service, of the poor reward allowed them by the brevet pay attached to the rank their bravery had won, in the defence of the dearest rights and interests of the country? That discrimination was then made; and it appeared to him impossible but this mode of reaching the object now in view must have occurred to some member of the Committee of Ways and Means. It must now be apparent, Mr. M. thought, that the very respectable minority, whom he had counted in their seats, on the question of going into Committee of the Whole, were right in supposing gentlemen were not ready for the discussion. There was another subject, he said, of a painful nature, which ought to undergo the examination of the House before the bill passed. If he were to introduce the debate by a motion to amend this bill, he should find a precedent in the motion, at the last session, having for its object the acknowledgment of the independence of the South American colonies; and, with the object he had in view, had he regarded the course pursued at the last session as correct, he might resort to a motion to reduce the appropriation for the support of the army. The course, Mr. M. said, which he expected the House would be invited to pursue, by those who concurred with him in opinion with respect to the events of the Seminole war, was one in which he could not concur, and imposed on him the necessity of expressing his opinion in a different way. If the course which he proposed were not pursued, some other would be proposed, which, if receiving the assent of the House, would amount to a censure on the Chief Magistrate, or some other officer of the army. For this he was not prepared; he would not vote a censure on the Chief Magistrate, because he thought the occasion would not warrant it, and because, moreover, he doubted the Constitutional power of this House to pronounce censure on the President, in any other mode than that prescribed by the Constitution. Still less, in his opinion, had this House the Constitutional authority to pass a vote of censure on the com-



H. or R.

Military Appropriation Bill.

JANUARY, 1819.

mander of the army. The proper mode of trying a military officer was by a court martial, convened at the instance of an informer; and it was not the office of this House to become an informer, to bring any officer before a court martial. Mr. M. said, he therefore wished to come at his object by a course analogous to the practice of the country from which we have borrowed most of our institutions; a course pointed out, indeed, by the Constitution itself. He wished to institute an inquiry, whether the army was such a one as we ought to sustain; whether the establishment was such that, in some branch or other of it, it could not be properly reduced. For this purpose, he desired that this bill should be postponed; and, so far from a necessity for expedition for passing it, the contrary was demonstrated by the fact, stated by the chairman of the Committee of Ways and Means, of surpluses existing of the last year's appropriation. Why, then, hasten a decision on it? Are all our proceedings, said Mr. M., to be conducted in this way? Are we to listen from day to day—listen—nay, are we to look on with listless indifference, whilst, day after day, the Speaker and Clerk adjudicate private claims, and then, unexpectedly, to be precipitated into Committee of the Whole on important questions, which, but for a sort of legislative legerdemain, that of postponing the orders of the day, would not have presented themselves in the order of business for many days to come? This, he said, was the second time he had witnessed, in this House, this mode of arriving at a particular bill; and the first time he had seen it, at the last session, was also to bring up the army bill. If the military year so ended as to require the appropriation bill to pass before the first day of January, or the operations and pay of the army to be suspended, this was another difficulty that required attention, and the military year should be so arranged by law as not to begin on the first of January, but the fourth of March in each year, that the amount of appropriation might be duly adapted to the measures of the session affecting the army expenditure. The questions presented, and to be presented to the House, were worth deliberation. At this moment, when not a whisper of party spirit was heard; when all parties united in singing hosannas to the present Administration, should he not be allowed, though he should stand alone in the course he proposed to pursue, an opportunity of expressing his views? If gentlemen were prepared to pronounce their opinion; if they were willing to receive, as satisfactory to their minds, the State paper recently transmitted to the House, which had been pronounced to contain a complete justification of the proceedings in Florida—a State paper covered with flowers, but with flowers that scented of blood—he hoped he should be allowed the opportunity of showing the reasons why he did not subscribe to that opinion. He was not prepared, he desired it to be understood, to reduce the army—not a man of them. He had for many days had a resolution in his pocket, which he had not pressed on the House, because he thought the proper time for it had not

arrived—the object of which was to show that the army could be so employed as to aid in the very object of internal improvement which had been this morning the subject of discussion. [The object of this resolution, Mr. M. stated: it was the same motion which he introduced, after the close of the debate this day, and which was agreed to.] He said we had not in the army a man too many; and the proposition he had announced his intention to make, to reduce the number of Major Generals, sprung exclusively from the view which he took of recent occurrences on the southern border.

Mr. WILLIAMS, of North Carolina, after showing that the army would not be disbanded, nor even deranged in any manner by a few days' delay of the annual appropriation for its support, demanded of gentlemen where was the urgent, the imperious necessity which they seemed to suppose existed for passing this bill at the present moment? He trusted that the assembled wisdom of this nation would proceed with greater caution, that the House should know distinctly for what purposes it appropriated the public money. The gentleman from Virginia was entirely satisfied as to the vote he should give on this bill. If he is, said Mr. W., I am not. I had the honor of voting with the gentleman on the question of internal improvement at the last session, on which association with him I congratulate myself. I had doubts of the constitutionality of the power we were called upon to exercise, and, when I have doubts on any such question, I had rather err on the safe side of it. I would at all times abstain from any act, of the correctness of which I was not clearly satisfied. Is the gentleman fully convinced that, in voting for "the pay of the army," he votes for nothing more? Has he not reason to believe that he votes for something else? Unquestionably he has. Shall Congress vote money in the contingent fund for an unconstitutional purpose? For such purpose there is no more right to take money from the contingent fund, than from the appropriation for subsistence or for forage. The gentleman from Kentucky (Mr. TRIMBLE) had said, that the contingent fund was placed at the discretion of the head of the Government. But if, said Mr. W., from the contingent fund the head of a department pays money improperly or unconstitutionally, we must hold our hands. Mr. W. did not subscribe to this doctrine of discretion and irresponsibility on the part of the Executive officers. He cared not from what fund the expenditure for constructing roads was made, it was equally repugnant to the principles of the Constitution, as announced to Congress by the President himself in his Message at the commencement of the last session. He believed the Constitutional corrective of every abuse to be in this House, and hoped they would not shrink from the exercise of it. Mr. W. made some further remarks, to show that there was no reason for hurrying this bill through the House.

Mr. LOWMEYER, of South Carolina, said he should not have risen, but for the suggestion made by one gentleman, and repeated by another, that the

JANUARY, 1819.

Military Appropriation Bill.

H. or R.

expenditure of money appropriated under the head of contingent expenses of the Army, in paying the soldiers for extra labor in making roads, was illegal. On the contrary, he said, this question had been fairly before the House, and the appropriation made with the express understanding, and previous declaration of the War Department, that a part of it was to be applied to the purpose of paying soldiers for extra duty, for work done on roads. Among the documents presented to the House, when the appropriation was first proposed, a year or two ago, was the Quartermaster's estimate for extra pay for fatigue duty of those soldiers engaged in making military roads. With respect to the expenditure, then, which had taken place under Executive authority, it had been authorized by appropriations made for that purpose, or with the distinct understanding that they were to be so applied. If any member would compare the present estimate with the former appropriation for contingencies, he would find a very considerable diminution. Appropriations for contingencies, however, were only intended to cover expenditures not precisely authorized by law, and which could not be foreseen so as to be provided for; but, where an expenditure, like that on roads, for example, can be anticipated, the object should be distinctly stated in the appropriation. When, however, a sum has been appropriated, under an estimate that one branch of it is made necessary by the extra expenses of the detachments of the Army employed in making roads, Mr. L. said he could not conceive that any censure could attach to the Executive for applying the money so appropriated to that object. It was an usual practice for committees, particularly for those which had an undue portion of labor to perform, to include under one head, or in one bill, provisions which ought to be divided into several; this course, too, frequently was proper, as conducing to brevity and convenience. Whilst he thought the committee not censurable for not having introduced a separate appropriation in the former laws for this object, it was fair to say that he should consider it perfectly proper now to make it a distinct item, because the principle was important, and because there is a very great difference of opinion with respect to the constitutionality of the power. He did not see that there was any particular urgency requiring the House to act upon the bill forthwith; and he therefore hoped time would be given to obtain the requisite information on that subject.

Mr. JOHNSON, of Virginia, said, as reasons had been offered why the Committee should not now act on this subject, he desired leave to submit to the House some of the reasons which would influence his vote. He was in favor of inquiring, by a distinct call on the proper Department, whether the Executive continues to do that which he has denied that the Congress of the United States has the power to do. If he had no other reason, he would vote for the Committee's rising, to get at this fact. Mr. J. was disposed to protest, too, against other doctrines he had heard to-day. We are told, said he, that we have a right to im-

peach, but that we have no right to censure the President. For one, I claim the right. This is the grand inquest of the nation; and this House has the right to censure any and every officer, from the President of the United States down to the most subordinate in public employ. He claimed the right, he repeated; he represented a portion of the people of this country—and whenever, in his judgment, any officer of this Government should do wrong, if the wrong amounted not to an act for which he would be liable to legal prosecution, if he (Mr. J.) believed him to be wrong, he claimed the right, and would exercise the right, of censuring him. It is important, said he, that we should exercise it; we represent the people; we speak their voice; their voice shall be heard; that voice shall and will be obeyed. Mr. J. went on to show other reasons why the Committee should rise, founded on the defect of information before the House, particularly as to the expenditures for making roads. What did these roads cost last year? What have they cost since you begun them? These were questions to which answers were required before he gave his consent, &c. He was surprised that such information, as well as of the amount expected to be applied to that object during the ensuing year, was not in possession of the Committee of Ways and Means. He laid it down as a sound axiom, in government, never to render that contingent, which can be made certain. If, he said, we could foresee all the expenses of the Government, and provide specifically for each, it would be best. Some objects of expenditure were so uncertain as not to admit of that course. But it was seen at a glance that there was no reason why the appropriation for making roads should be included in the contingent fund. His honorable colleague was in favor of increasing the appropriation when made specific. Mr. J., on the contrary, desired it to be specific, that he might vote to strike it out altogether. There should not be appropriated to that object, by his vote, one dollar, nor a fraction of a dollar. He had, at the last session, performed a very humble part in endeavoring to assign the reasons why he thought the Constitution had not given the power to Congress to make roads. Having given that vote, he could not now give a vote to sanction an appropriation which he believed would be a violation of that instrument which gave to Congress their being, and conferred on them their powers.

Mr. SMITH said he was much bound to the politeness of the honorable Speaker, for the notice yesterday given him, as the gentleman had today informed the House, that he should call for certain information respecting one of the items of appropriation in the bill. In consequence of that intimation, Mr. S. said, he had addressed a letter to the Secretary of War, to which he had just received an answer,\* which he would com-

\* The following is so much of the document as relates to the question in debate:

"The sum estimated for extra pay to soldiers, was intended to be applied to the pay of soldiers engaged



municate to the House. Mr. S. then stated substantially the information contained in the documents which he had received.

Mr. JOHNSON, of Ky., spoke against the Committee's rising. He made some remarks, also, on the power exercised by the Executive, of employing the Army, or any part of it, in the construction of military roads. None, he said, would deny the right to make a bridge by the army, for its own safety in retreat, or for the purpose of crossing a river in pursuit of an enemy; nor the right of making a causeway over a ditch, or over a swamp—and he could see no difference in principle, if the causeway became a paved road on dry ground. The real question for the House to decide now, was whether they would pay the poor soldier, who receives five dollars a month only for his services, an extra ration or allowance for laboring on public works, or whether he should be deprived of this pay, by depriving the Government of the means of paying him. The power to make a bridge, a causeway, or a road, by employing the soldiery on it, would in no manner be affected by this decision. At the last session of Congress, however, what was the decision of this House on the subject of the power of Congress to cause roads to be constructed? Was it not in favor of the power to make military roads as well as commercial roads? Mr. J. said he could not see this lurking harm, this poison to the liberties of the country, in the appropriation referred to; for, if censure or thanks were supposed due to the act of employing the soldiers on the public roads, Mr. J. said he would vote heartily for thanks to the Ad-

ministration for having done what he considered an acceptable duty. It was obvious why the subject had now presented itself. The late war with Great Britain was not many years past—he hoped it was not forgotten—it had brought to our knowledge the fatal consequences of not having military roads in several parts of our country. The Government, availing itself of this experience, had directed the Army, otherwise reposing in sloth, and contracting the vices of the camp, to be employed to a greater extent in a species of duty in which they had frequently been employed before, but on a smaller scale. There never had been an army, he said, but the contingent fund of its Quartermaster's department had been applied to pay for the extra work of the soldier. Mr. J. was not only ready to vote the required appropriation, but to applaud the Government for having engaged in an undertaking which required it.

After some further remarks, principally explanatory, from Mr. TRIMBLE, and Mr. CLAY, the Committee rose, the usual hour of adjournment having arrived, and obtained leave to sit again.

#### THURSDAY, JANUARY 7.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, reported a bill to increase the salaries of the Assistants Postmaster General; which was read twice and committed to a Committee of the Whole.

Mr. BELLINGER, from the Committee on the Public Buildings, made a report, which was read; when Mr. B. reported a bill making appropriations for the public buildings; for the purchase of a lot of land, and for furnishing a supply of water, for the use of certain public buildings; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. HERBERT, the Secretary of the Treasury was instructed to report to this House, a statement of the debts, credits and funds of the incorporated banks of the District of Columbia, required by the 19th section of the act of Congress, entitled "An act to incorporate the subscribers to certain banks, in the District of Columbia, and to prevent the circulation of the notes of unincorporated associations within the District."

On motion of Mr. FLOYD, the Committee on the Judiciary were instructed to inquire into the expediency of enacting a law, to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations.

The SPEAKER laid before the House a letter from the Secretary of State, transmitting a list of the names of persons to whom patents have been granted, for any useful invention, during the year ending the 31st day of December, 1818; which was read and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Frederick Brown," with amendments, in which they ask the concurrence of the House.

The amendments were read and concurred in by the House.

#### EXTRACT FROM REGULATIONS.

"The non-commissioned officers and privates, who may be drawn, as artificers, to work constantly on fortifications, bridges, barracks, roads, or other public works, for a term of not less than ten days, Sundays excepted, shall be allowed, for each day's actual labor, fourteen cents, and one gill of spirits each, in addition to their pay and rations."

"Other non-commissioned officers and privates, not artificers, who shall be drawn for constant labor on fortifications, roads, bridges, barracks, or other public works, for a term of not less than ten days, Sundays excepted, shall be allowed, for each day's actual labor, ten cents, and one gill of spirits each, in addition to their pay and rations."

The above regulation established in 1808.

"Non-commissioned officers and privates, employed at work on fortifications, in surveys, in cutting roads, and other constant labor, will be allowed fifteen cents, and an extra gill of whiskey, per day, while so employed, which will be paid by the officer or agent disbursing the contingent expenses of the work or expedition."

The above regulation established in 1816.

The bill for the relief of Thomas Hall Jervey passed through a Committee of the Whole, received an amendment, and was ordered to a third reading.

Mr. MERCER submitted the following resolution; which was ordered to lie on the table:

*Resolved*, That the Committee on Military Affairs be instructed to report to this House a bill to reduce, to one, the number of Major Generals of the Army of the United States.

On motion of Mr. MERCER, the Secretary of War was directed to include in the report of the strength of the army, called for by the resolution of yesterday, the amount, in value, if any, of the extra compensation in the subsistence, clothing, or pay, allowed the troops, for extra labor during the year, ending the 30th of October last, on fatigue duties, distinguishing that which has been bestowed in compensation for labor on roads.

#### MILITARY APPROPRIATION BILL.

The House resolved itself into a Committee of the Whole on the Military Appropriation bill—

Mr. SMITH, of Maryland, said, that the debate had taken a course yesterday wholly unusual. The bill had scarcely been read through, when the honorable Speaker took the floor, and, after a few remarks, diverged into a subject which had been fully discussed at the last session, to wit: that of internal improvements. This called up other gentlemen to justify their votes on that subject; and thus the bill before the Committee had been left out of view. The custom had ever been, Mr. S. said, for the chairman of a committee who reports a bill to present a view of its objects, and to explain such parts of it as, in his opinion, might require explanation. He would now perform that duty, and would not permit himself to be drawn into a discussion of the Seminole war—the conduct of General Jackson—internal improvements, or any other extraneous subject.

The bill before the Committee of the Whole, Mr. S. proceeded to say, is a bill making appropriations for the military service of the current year. The estimates on which the bill was founded were presented on the 2d of December, and printed on the 15th. The Committee of Ways and Means, anxious to pass the appropriation bill, entered immediately on the subject, and directed letters to be addressed to the Secretary of War for information on certain points; to which they received the Secretary's answer (now in print) on the 19th of December, accompanied by the original documents on which his estimates had been formed. The bill was reported on the 22d of December—the holidays then intervened—and this, Mr. S. said, would be an answer to the gentleman from Virginia, (Mr. MERCER,) and would convince him that proper industry had been used by the committee. One of the original papers had been printed, by which that gentleman might be informed that great and expensive fortifications had been commenced, and others about to be commenced. Those, said Mr. S., for New Orleans and its vicinity, will cost \$1,800,-

000; those for the Chesapeake, \$3,000,000; for the Delaware, \$300,000; for New York, \$275,000; for Rouse's point, (Lake Champlain,) \$200,000. This last, said Mr. S., will not be executed until it is ascertained whether that point will fall within the boundary of the United States. Here Mr. S. took a view of the security which those fortifications would give to the United States—passed a handsome compliment to the abilities and industry of the engineer, (General Bernard,) and called on gentlemen to remember that, by voting the supply, they were approbating those fortifications—the aggregate cost of which would amount at least to five and a half millions. Mr. S. observed, that the Committee of Ways and Means had not conceived it necessary to print any other of the documents; they were such as had been annually laid before the House, and could be seen by any gentleman; and that he, or some of the Committee of Ways and Means, would explain them with pleasure at the request of any member.

The first item in the bill, Mr. S. continued, was for the pay of the Army; in that no extra pay was introduced; it was simply for the pay, as authorized by the existing laws. The sum estimated to be necessary was \$1,299,000. It was found, however, that there was an unexpended balance of \$300,000; and the bill was filled in consequence with one million. The second item, Mr. S. said, was for subsistence. An error had been made in filling up the blank, which would be corrected; the sum ought to have been \$789,213, which, with \$200,000 appropriated by a special law during the present session, and a presumed gain by the new mode of supply by commissariat, instead of by contract, of \$146,524, would make the sum stated in the estimate. The Secretary of War, Mr. S. said, had informed the committee that \$400,000 would be sufficient for the purchase of clothing. This was a deduction from the estimate of \$49,530, and the blank had accordingly been filled up with \$400,000. The estimate required \$92,500 for bounties and premiums. On inquiry, however, it was found that there was an unexpended balance of the last year of \$30,000, and the sum proposed for that item in the bill was, accordingly, \$62,500. The Quartermaster's department, Mr. S. continued, is always an expensive one. The present Quartermaster General has lately come into the office; he appeared to be a man of system, and no doubt was entertained that, when he had attained a complete knowledge of the department, he would economize as far as possible. At present, however, that officer was obliged to rely for his statements on those of the last year, which amounted to \$460,000. He required an addition of \$49,000 for the transportation of provisions; that expenditure arose from its being the duty of this Quartermaster to transport the provisions from the place of purchase to that of consumption, and was properly a charge upon the new system of supply; it was formerly paid by the contractors. He also requires \$50,000 for the construction of barracks and storehouses, to wit:



H. or R.

Military Appropriation Bill.

JANUARY, 1819.

At Indian frontier posts	- - -	\$10,000
At Detroit	- - -	5,000
At St. Louis	- - -	5,000
At Baton Rouge	- - -	25,000
At Sackett's Harbor, completing	- - -	5,000
		<hr/> 50,000

The arrearages arising from a deficiency in certain appropriations of the last year, Mr. S. said, would be found in the estimate; but, from two letters from the Secretary, (which were read,) the sum required was \$126,207, and the estimate would be so filled. The estimate, Mr. S. said, required \$838,000 for fortifications. It would be found that \$200,000, intended for Rouse's point, would not be wanted, as before observed, until it was decided whether that point be within the boundary of the United States. The Secretary's letter (before the Committee) shows an unexpended balance of \$600,000. The Committee of Ways and Means conceived that \$1,100,000 was as much as could be expended during the year; they have, therefore, reduced that item to the sum in the bill of \$500,000, being a deduction of \$338,000. The estimate for arsenals, Mr. S. said, had been reduced by the Committee of Ways and Means \$55,000, which would be explained when the specific item came under consideration. The reductions proposed by the Committee of Ways and Means, from the estimates, amounted to \$918,524. The other items in the bill were conformable, Mr. S. said, to the estimates, and would be explained when under consideration. Mr. S. said he hoped, from this view of the subject, it would appear that the Committee of Ways and Means had not been inattentive to their duty. The business of a public nature was sufficient for any one committee; but that of private claims, also referred to them, was very great; and if, with such a mass pressing upon them, any subject should escape them, a fair apology for the committee would offer itself to every mind.

The honorable Speaker, Mr. S. said, had informed the chairman of the Committee of Ways and Means that he meant to make a point in the extra pay allowance to soldiers employed on military roads. No such item being among the papers submitted to the committee, Mr. S. said, he had written to the Secretary of War for information; his answer was received late yesterday; had been read, and was now before every member. There was, however, Mr. S. observed, among the papers of the Quartermaster, an estimate for repairs of barracks, quarters, and storehouses, at fifty-nine posts, including extra pay to soldiers—the purchase of tools, plank, nails, bricks, lime, timber, and other articles, of \$30,000. The articles were so many, Mr. S. said, and the sum so small, that it did not occur to the committee that any part of it was intended for extra pay for working on military roads. The subject, Mr. S. continued, was treated as if it were entirely novel; but the bill was precisely such as had been passed for many years. Was it now, for the first time, known to the honorable Speaker,

Mr. S. asked, that extra pay had been allowed to soldiers employed on military roads? Did he not recollect that the same subject was before Congress for the three last years? In 1816, a resolution of the House called for the rules and regulations of the Army; among these was an allowance of extra pay and liquor to soldiers when employed on barracks, fortifications, and roads; and a law passed on the 24th of April, legalizing these regulations. Mr. S. here read the following from the 9th section of the act: "That the regulations in force before the reduction of the Army, be recognised as far as the same shall be found applicable to the service—subject, however, to such alterations as the Secretary of War may adopt, with the approbation of the President." Here, then, said Mr. S., the statute vests the President with the power to employ the soldiers, and to allow them extra pay when at work on military roads, and completely absolves him from all censure for so doing. But suppose, said Mr. S., there had been no law, the President would have been justified by the usage of all armies. It may be called the common law of armies to employ the soldiers on fortifications and military roads, and to allow them extra pay. During the Revolutionary war, extra liquor was allowed, under an order of the commanding General; and, as early as 1808, it was made a regulation of the War Department to allow extra pay and liquor; and, although well known, had never before been questioned.

Mr. S. said that he had a right to complain of the novel proceeding on this occasion. The chairman of the Committee of Ways and Means was charged by the honorable Speaker with failing to give the necessary information to the House; that he had asked for bread, and the committee gave him a stone. In reply to this, Mr. S. said it would be recollected that the Speaker rose immediately after the bill had been read by the Clerk, and thus wholly precluded him, or any other member of the Committee of Ways and Means, from furnishing the information they possessed to the Committee of the Whole; but he hoped the view now given would be satisfactory. If, however, any further information was required by any member, it would be given, with pleasure, by him or some other member of the Committee of Ways and Means.

Mr. JOHNSON, of Virginia, rose to request information on a question of practice. How long, asked Mr. J., has it been the custom of the Committee of Ways and Means to report bills of appropriation with the blanks filled up? Was this, he continued, not a dangerous practice? Ought the sums of an appropriation bill to be inserted by any authority but that of the House of Representatives itself? By this practice, Mr. J. said, the Committee of Ways and Means, taking the estimates from the Executive departments, proceeds to make the appropriations, without consulting the House. If, said he, this House were merely a recording synod for the heads of departments, the practice would be a very good one; but, as the representatives of the people, who

JANUARY, 1819.

Military Appropriation Bill.

H. or R.

alone have the right to appropriate the people's money, every bill should be reported to us in blank; it would then devolve on the chairman of the Committee of Ways and Means to show to the House that such sums as he asked for were necessary for the public service. But, reported as the bills now were, he said, filled up with the sums deemed proper by the committee, it threw the burden of proof on those who might oppose any appropriation, that it was improper, or that the proposed amount was unnecessary, and a different one preferable. In this Government, Mr. J. said, where there was the freest interchange between all the officers of the Government, and every facility to the communication of information, ought the House to shrink from its duty of investigating appropriations, and say that the want of facts rendered such investigation impossible? Or do we, said he, come down here to vote for any bill which shall be reported to us, filled up with round numbers? No; first satisfy my judgment, said he, that these sums are necessary, before I vote for them; and to do this it is the duty of the chairman of the Committee of Finance. The practice, Mr. J. said, to which he objected, was of modern date; it was, he believed, not more than two or three years since the innovation was made; but he hoped to see no more of it. He hoped that all bills would hereafter be reported in blank, and the chairman of the committee be prepared to show to the House how those blanks ought to be filled. It seemed that if an opportunity had offered yesterday, the gentleman (Mr. SMITH) would have been able to shed on it that ray of light which had to-day illumined the House; to have dispelled all the darkness which rested on this subject, and enabled the House to march steadily to its object. But, even now, Mr. J. said, he was not satisfied, after all the gentleman's explanations, and after his being assisted by the letter which had been received from the Secretary of War, of the propriety of this appropriation. And this letter—what was it? It informs us, said Mr. J., that for the construction of roads about \$10,000 are wanted; and that if this appropriation be deemed inexpedient, this amount may be stricken out. How many miles of turnpike road, Mr. J. asked, was this sum expected to make? What did the superintendent of the Cumberland road state at the last session? That it cost about \$16,000 to make a mile of that road. And are we, said Mr. J., to be amused with a mile of turnpike road? Is this the mighty object which, as the National Intelligencer informs us, raised a breeze in the House yesterday, and disturbed the calm which nothing before had the power to interrupt? Could gentlemen be serious, he asked, on this occasion, or look at this object without a smile? He should like to know if it was intended, with these \$10,000, to make half a mile, three quarters, or a whole mile of road? For himself, Mr. J. said, he would not allow them to make even a single mile. And though the sum required might be as dust in the balance, he would give not a dollar for this purpose, because he believed the

House had no right to make the appropriation. We have, said Mr. J., the opinion of the Chief Magistrate that we have not the right; and can the attribute attach to the Executive officer of denying to the Legislature the power to do a thing, and yet do that himself which he has said the Constitution gives us no power to do? Considering the millions upon millions annually expended in this country, the amount of this appropriation was as nothing; yet, he repeated, were it but a single dollar, he would not sacrifice principle by voting it for such an object.

Mr. LOWMEAS spoke briefly as to the practice of the House respecting appropriation bills. The estimates of appropriations necessary for defraying the expenses of each year were furnished, he said, by the proper departments, and laid before the House. The Committee of Ways and Means, taking the estimates into consideration, either concurred in them, or agreed to diminish, to add to, or to reject them. In all these cases, Mr. L. asked, was it not fairer, as well as more convenient, that, by reporting the bill with the sums specifically stated, the House should have notice of any proposed variation from the estimate, than that they should be taken by surprise when the House was called upon to fill blanks in the bill? Such, at least, was his impression, and such precisely the effect of the innovation of which the gentlemen complained. At the same time that the advantage was afforded of an opportunity for examination, it was perfectly competent to any gentleman to take exception to any item of the bill, and require a question to be taken on it.

Mr. JOHNSON, of Virginia, thanked the gentleman from South Carolina for the view he had taken of the practice of the House, but was free to say that his opinion of the subject was yet not at all changed. Were any facts, he asked, presented to the Committee of Ways and Means which were not also imparted to the House? He presumed not. It was the duty of every member to examine for himself this information, to investigate the estimates of the departments, and make himself acquainted with all the information communicated; and he would reflect upon no gentleman of the House so far as to believe that he had not performed this duty. How, then, could the House be taken by surprise? How were men of common intelligence, capable of forming conclusions from plain facts, to be found unprepared, with all the necessary information before them? According to the old mode of proceeding, and he still thought it the proper one, Mr. J. said it would be necessary for the chairman of the committee to show the necessity of an appropriation before he could call on the House to vote it. When he demanded a sum for any object, he ought to be able to show that it is necessary; and by a clear reasoning to prove that his result is right. There were indeed some propositions so clear as to need no elucidation. No man doubted that the whole is equal to its parts, or that two and two make four. I see the honorable gentleman smile, said Mr. J. A man may smile and smile—[Mr. SMITH, of Maryland, said that if Mr.



J. referred to him, he assured him that his smile was excited by an expression of a gentleman on his left, and not by anything which had fallen from Mr. J.—I thank the gentleman, said Mr. J.; it is a matter of perfect indifference to me, said he, whether I am attended to by the gentleman or not; I am addressing the House, and not the chairman of the Committee of Ways and Means. He was, he said, indifferent to the opinions of any man whilst doing his duty, nor should he be driven from his object. He stood here the humble Representative of a portion of the people of this country, and, whilst he stood here, should represent faithfully, at least as far as he was capable, their interests; he would speak their choice; he would act up to their will and judgment, whatever should be the consequences. Wherever any puny efforts should be made to impede him in the performance of this duty, he should treat them with scorn and derision.

Mr. TAYLOR took a short view of the practice which had, at different times, prevailed in the House in acting on appropriation bills. Originally they were reported in blank, and the sums to fill the blanks were separately moved by the Chairman of the Committee of Ways and Means. Subsequently it was the practice to place before the Chairman of the Committee of the Whole the different sums called for, and which he considered as having been separately moved to fill the blanks in the bill. The next step was, to print the sums in the bill itself, but the bill was still considered as in blank, and the Chair continued to put the question on each particular appropriation, as if motions were made for them individually. This practice, Mr. T. hoped, would continue in preference to the present custom of considering the sum with which a blank was filled, as acquiesced in, without putting the question, unless objected to.

The CHAIRMAN stated that, unless objected to, he should consider this as the sense of the Committee, and resume the practice, suggested by Mr. TAYLOR, of putting the question separately on every item of the bill. He accordingly announced the question on the appropriation now under consideration, viz: one million dollars for the pay of the Army; and after some brief conversation, which showed that it was the established pay only of the army that was intended in this appropriation, the question being put thereon, it was decided in the affirmative.

The appropriation of \$550,000 for the Quartermaster's department being next stated from the Chair—

Mr. TRIMBLE moved to deduct therefrom ten thousand dollars, the amount stated by the Secretary of War to be necessary for extra pay to soldiers employed in fatigue labor on roads, &c. This motion, Mr. T. said, he made with the view, if it prevailed, of moving this sum as a separate and distinct appropriation in the bill, expressing its object, &c.

This motion was agreed to, and

Mr. TRIMBLE accordingly moved to amend the bill, by inserting, after the appropriation for the

Quartermaster's department, the following: "For extra pay to non-commissioned officers and soldiers employed in constructing and repairing military roads, ten thousand dollars." Having submitted his motion, Mr. T. proceeded to show, by referring to the letter of the Secretary of War, that this appropriation was in conformity to existing laws. He referred to the regulations of 1808 and of 1816, of the War Department, fixing this extra allowance by an act of Congress, as conclusive with regard to its legality; but understanding, he said, that an appropriation for making roads, made in any shape, equally involved the power to make roads, he offered this motion in order to bring the question fairly before the Committee.

Mr. BUTLER, of Louisiana, moved to amend the proposition by inserting, after "roads," the words on "barracks and other public works."

Mr. CLAY hoped that this motion would not be insisted on, and, if insisted on, would not prevail. The object in view was, to present the simple, un-mixed proposition whether the Executive has the power to employ the money of the country in constructing roads; if associated with the company proposed, (the amendment,) it would make the sense of the committee equivocal on the important question presented by the motion of Mr. TRIMBLE. For that motion, Mr. C. said, he meant to vote. It would declare by a formal act that it was competent, by the grants of power, for Congress to authorize such works. Mr. C. said he thought Congress had been wanting in its duty in delaying so long to legislate on this subject. It was proper to pass a bill and present it to the President, and if he refused to sanction it, then, Mr. C. declared, he had no hesitation in avowing he should be ready to proceed to hostilities with the President on this point, and withhold every appropriation until he conceded the point. But, Mr. C. said, he should not deem it proper to proceed to extremities with the Chief Magistrate on this score until he had first fairly presented to him a bill appropriating money for the purpose, and saying to him, here it is—sign it or not sign it. He differed from those who believed the President would refuse to sign such a bill. He regarded the opinion announced by the President in the Message to Congress, at the last session, as an opinion extra-judicial. The judge had no right to decide in the matter. Let us make the case, said Mr. C., and present it fairly before him; then, if he says we have not the power, I am ready to reply to him—neither have you. But, Mr. C. repeated, there was little reason to presume, from the opinion he had expressed, that the President would refuse to sanction such a bill, as his conduct had been in direct opposition to that opinion. On the contrary he had acted in exact conformity to the opinion declared by this House in relation to the powers of the General Government to construct roads, &c. It was too much to anticipate, that, after this House had exerted its utmost faculties in maturing a bill, the President would refuse to sign it. Mr. C. hoped that a bill making appropriations for internal im-

provements would be reported. He was willing to take one in the same shape of that which had already once passed this House, and try whether the President would refuse to it his assent, and deny to Congress the power of enacting it. Let us not, said Mr. C., apply to our fears for counsel, but put the question at once fairly and properly to the President.

Mr. C. had yet a stronger reason, he said, for approving the proposition to insert a specific appropriation for this object in the present bill. He thought the mode of making compensation for this extra labor, by the President or Heads of Department, at their discretion, however much he respected those men, to be a dangerous mode, an unconstitutional mode, and one, under every view, improper. It taught the army to direct their views elsewhere, instead of to this House, for compensation and reward. This he thought an important consideration. The gentleman from Maryland (Mr. SMITH) must excuse him for differing from him on this subject. The gentleman talks, said Mr. C., of the common law of the army. The common law of the army! This common law, sir, is always resorted to in extremities: in dangerous times it is resorted to to justify the abuse of power. When a sedition law was to be passed, this common law was the argument for it; now, when it is to justify an allowance of extra pay to the army, the common law is brought up. What common law is it? Is it European—is it English, French, or what is it? Mr. C. said, he knew it not. He had always understood it was proper and legitimate for all armies to make military roads, and it was under that impression he wished the compensation for such labor to be appropriated by law. Allow the President or the head of a Department to make this compensation, to apply the public money to this purpose at their discretion, and they may go on to other objects also. There was, indeed, no limit to which they might not go. Mr. C. said he meant no disrespect to the head of the War Department; on the contrary, he entertained for him the profoundest respect. He was, he said, no flatterer; he had not yet learned the practice of Courts: the expression of his respect for that gentleman was forced from him by the feelings of his heart, and he was proud to acknowledge them. This extra compensation, it seemed, was according to the regulations adopted; but he hoped this would not be contended for as a sufficient authority for it. Extra allowance, Mr. C. said, might be proper, but it ought to be for Congress to make it; and the maximum, at least, if not the object of it, ought to be fixed by Congress. Although the act of 1816 might, in express terms, recognise these regulations, there was no member, he imagined, who voted for it, who thought its exercise was to be unconstitutional transferred from the Legislature to the Executive. It was far from his intention, Mr. C. said, to enter into the interesting question (the transactions of the Seminole war) touched on yesterday. A proper occasion he hoped would present itself for considering that subject; as he

should consider the Legislature wanting in its duty if it permitted the session to pass without the expression of an opinion on it. But when it comes before us in the shape of a direct proposition, let us meet it as men, and pronounce on it properly. He had no idea of concurring with the honorable gentleman from Virginia, (Mr. MERCER,) as to indicating the opinion of this House, respecting the conduct of a military officer, by withholding his pay. This course would be inexpedient also, because it would leave their opinion in doubt, and the Executive might be at a loss, if the pay of one of the Major Generals were withheld, to know which to retain. Mr. C. thought it was proper at least for Congress to express an opinion on this subject, if not to legislate on it. He would, he admitted, not pass a censure upon the Chief Magistrate, but he would have the House to express the opinion, and say, there it is, operate on whom it may. Would not the course suggested yesterday, he asked, express an indirect censure on the Executive by withholding the pay of the officer, and thus compelling the Executive to dismiss him? It certainly would. But, Mr. C. repeated, this was not the occasion for going into that question.

Mr. SMITH, of Maryland, in reply to Mr. CLAY's question of what was the common law of the army, observed that what he alluded to was this, that a certain practice had prevailed in the army, from the Revolutionary war down to this time. In the war of the Revolution it was common for the commander to allow extra pay to the soldiers for labor performed on permanent works, fortifications, &c. It was usual, also, when the soldiers were ordered on extra duty, on any hard service, for the commander to order them double rations of drink, &c. This was still the case: the regulations of the War Department, respecting extra pay, rations, &c. had been formerly printed and laid on the tables of the members, and the law of 1816 was intended to embrace these regulations. As to the common law, Mr. S. said there was once a common law in Congress: it was common law to allow the members something to drink with their water. It was true, that was done away; but now, said he, by the same kind of common law we are supplied with pen-knives, &c., and whatever thus became general usage was common law.

Mr. MERCER made a few remarks on the motion of Mr. BUTLER, which he disapproved. Having concluded these observations, he said that, whilst up, he had to thank the honorable Speaker for the opportunity of now making an explanation, which he had intended to give in a subsequent stage of the proceedings. And, first, he assured the Speaker that whatever opinion he should express on the conduct of the army in the Seminole war, he should travel directly to his object. I mean not, said he, to mince anything I shall say; and shall in that respect differ probably from the Speaker, so far only as that honorable member always has it more in his power than I to do justice to his subject and to his abilities. Mr. M. said he was misunderstood yesterday. He did



not intend to say that it was proper to reduce the appropriation for the pay of the army with the view to express an opinion of the conduct of the commander of the army: he had meant only to suggest the propriety of the bill's being allowed to rest on the table until the whole subject of the army to be sustained by the appropriations contained in it should be decided. A period might occur—he did not say that this was such a one—when the abuses in the military department should be such as to justify the House in withholding all appropriations. But it must be a great and dire necessity. It would have been inconsistent indeed in him, he said, to sustain, by the proposition it had been supposed he meant to make, a doctrine which he had opposed at the last session. He thought the House had no right to censure an officer by withholding appropriations for his pay. He should, he said, have the same hesitation in withholding payment from a military officer, by way of censuring him, as from a judge, and from a judge as from a major general. No; his object was to let the subject rest until the military committee should have made their report; until, too, he could have tried the sense of the House on a proposition he had in his pocket these ten days, and the existence of which he had before intimated. He now read it, (being the same he laid on the table subsequently, to reduce the number of major generals in the army to one.) If this was not a direct march to his object he would thank the honorable Speaker to point the way, and he would trail a pike after him with all his heart. He had thus disclosed his object, not certainly to introduce a discussion of the subject, but to show why this bill ought not now to have been pressed on the House, particularly when, from the surpluses of last year's appropriations, there was no urgent occasion for it, &c. He was in favor of laying the bill on the table until an opportunity was given for the inquiry whether the conduct of the army had not been such as to require the interposition of this House.

Mr. SYROTHER said, it was with reluctance he offered himself to the attention of the House, at this time; and he should not have done it, if it had not been that remarks had been made, bearing on a delicate subject, and that silence might be considered as an acquiescence in the course and bearing of those observations. In noticing them, he should not attempt to reply to them in detail; he deemed it unnecessary to do so; but, without being the champion of the Administration, or of General Jackson, he must express the surprise with which he had heard the remarks of the Speaker, and of his honorable colleague. In the first place, he could not conceive what impropriety there could be in the Executive having given extra pay to soldiers for labor on public works, when such an allowance had been expressly authorized by law, as had been shown. And, in regard to the question presented by the proposition now before the House, was there not, Mr. S. asked, a wide distinction between roads for common purposes, and a military road for fa-

cilitating the march of armies and the transportation of munitions of war? Was there not a wide difference between the bill which passed a few sessions ago, for establishing a fund for the purposes of internal improvement, and the acts of the Executive in regard to the Cumberland road? Congress claimed no sovereign power over the Cumberland road; but the rejected bill did contemplate the giving to the Government a sovereign power over the roads to be constructed under it, and thus to infringe on the rights of the States. This, he said, was a principle which the Executive had not recognised, in giving its sanction to the bill for continuing the Cumberland road. So far from it, it was said, that the objection made to the road passing through his land, by a person living near Wheeling, had proved an insuperable obstacle to the prosecution of a part of that road; and, unless this individual should yield to the general good and to his own interest, that the work must be at an end. That the military power should be subservient to the civil, was an axiom so unquestionable, a principle so vital, that every child in the land knew and acknowledged it. He did not, however, intend to go into an argument respecting the powers of the Government in regard to internal improvement; the time might arrive in this session for an argument on that subject. But, there was not a man who had read the Constitution of the United States, who would hesitate as to the right of the Government to make military roads, where necessary to facilitate the march of armies.

Now, said Mr. S. for my honorable colleague, who yesterday remarked, that he had passed sleepless nights in consequence of his horror of the Seminole war—that he had been so miserable, in consequence of Mr. Secretary Adams's letter, as to have sought in vain this solace of the unhappy, Mr. S. said he should like to know whether the sympathies of his colleague on this occasion had been excited by the groans of the widow and the cries of the orphan; by the bleeding scalps of the infant murdered in the cradle, and of its mother butchered by its side—were these the considerations which had harrowed his soul with horror? Or, was it the infliction of exemplary punishment on those who had instigated the savages to these barbarous deeds? Mr. S. flattered himself that it was the sufferings and injuries of our frontier inhabitants, and not the punishment of the authors of them, that was the source of his painful sensations. He had, he said, anticipated the discussion, which must take place during the session on the subject of the Seminole war, thus far, because it seemed proper to him, whilst invective appeared to be bursting forth in defiance of every effort to restrain it, against the hero who had crowned his country with glory, and prevented an important part of the Union from being severed from the Government, that the nation ought to know that there were numbers in this House prepared to step forth to defend him. The time would arrive, as had been remarked by the honorable Speaker; and, humble as he was, he felt himself able to enter the lists, on this occasion,

with an Ajax or a Samson, and trust to the justice of the cause for the palm of victory. He should not now open a discussion on this subject; but, come when it may, said he, I shall not hesitate, careless of the consequences, to do what I believe to be my duty. The patriotism which animates the bosom of General Jackson will be an ample shield for the hero, who has achieved immortality for himself, and shed the brightest lustre on the arms of his country.

Mr. S. then adverted to other topics introduced into the debate, most of which he considered irrelevant, and, if entered into here, inexhaustible. No man doubted, he said, the power of the Executive to cause to be made roads necessary for military operations; and no intimation had been given to this House of an opinion that this power had been improperly exercised. He, therefore, did not see that the proposition embraced any difficulty, or called for the discussion which had grown out of it. Acting in co-operation with the valuable officer at the head of the War Department, who, in the great crisis of our affairs, had gone hand in hand with the honorable Speaker, Mr. S. had no doubt the Executive would so apply the money appropriated as to justify the expenditure.

Mr. BUTLER, of Louisiana, thought the amendment he had proposed to Mr. TRIMBLE's motion was preferable; it was more consistent with the suggestion in the letter of the Secretary of War, which embraced all the objects of extra pay, as well that for working on roads as others, &c.

Mr. TRIMBLE thought the amendment offered by Mr. BUTLER would subject the appropriation to the same objections as when it was made in the former mode, under the general head of contingencies; and he advocated at some length the propriety of making distinct and specific appropriations in all cases in which it could be done; more especially in this case. Mr. T. said he would not touch upon the subject of the Seminole war, which had been introduced into the present discussion, or give an opinion whether the President had acted right or wrong in applying the public money in making or repairing roads by the soldiers. As, however, the House had appropriated, by the act of 1816, money for this object, he would say, that the power had been, in his opinion, justifiably exercised. In this case he would apply to the Executive a line of Goldsmith, and say that—

"His conduct was right, though his argument wrong;"

and that the country would have great cause to congratulate itself on its good fortune, if, in all time to come, it only found the Executive head using bad reasons for wise measures. He was opposed to controlling the Executive, or any other officer of the Government, by withholding a proper approbation from the Government. That was a proceeding which might be proper in monarchies, or despotisms, where the will of the sovereign could not be otherwise resisted, but it did not comport with the nature or the dignity of republican government, or with the responsibility

which belonged to its several branches. He would, he repeated, never withhold, for any such purpose as that alluded to, an appropriation, when required for proper objects.

Mr. MILLER, of South Carolina, thought the principle involved in this discussion was, whether an appropriation should be made for extra pay to the army, for labor on public works. The Secretary of War had distinctly told the House that this amount was wanted for extra pay for labor on barracks, &c., as well as roads; but the committee had not informed the House how much would be wanted for each particular object, and therefore the appropriations could not well be separated. As the \$10,000 were not considered necessary for roads alone, he would vote for Mr. BUTLER's amendment, so as to include all the objects of extra pay in one appropriation.

Mr. REED, of Maryland, was favorable to Mr. BUTLER's amendment, because if \$10,000 be appropriated for roads alone, the Secretary of War would take as much more as he thought necessary for barracks, &c., if not incorporated in this appropriation, because he is already authorized by law to employ the public money on those objects. Mr. R. thought it very proper for the soldiers to be employed in constructing and repairing barracks, &c., but he did not think it right to expend the money in paying them extra pay for such labor; an extra ration might be given, but soldiers thus employed, on what was called extra labor, were exempted from all other duty at the time, and he did not think they ought to receive extra pay for it—it was the proper duty of the army to construct bridges or roads for itself to pass over.

Mr. CAMPBELL, of Ohio, said, he should like to know where these roads were, about which so much had been said. He was not more partial to one part of the country than another; but the House was as competent to decide where roads ought to be made, as the War Department, or any one else. He repeated, he should be glad to know where the roads were which had been commenced, how far they were towards completion, and whether \$10,000 was enough for the object.

Mr. SMITH, of Maryland, without attempting to afford full information on this point of inquiry, referred, in reply, to the road now making by the soldiers from Sackett's Harbor; that authorized at the last session through the Cherokee country; and, if he was not mistaken, there was one in the gentleman's own State (Ohio.)

After some further conversation on Mr. BUTLER's motion, the question was taken thereon, and decided in the negative without a division.

Mr. RHEA then rose to offer an amendment. It was well known, he said, that the sum of \$10,000 could be employed, in some parts of the country, to very great advantage in making roads. He, therefore, moved to amend the proposition, by inserting, "in any one of the Territories of the United States." Mr. R. would not now touch the great question of internal improvements, but he argued for some time, and referred to many facts and the experience of the late wars in the South



H. OF R.

Military Appropriation Bill.

JANUARY, 1819.

to show how necessary some roads were in that section, how much they would have saved to the country. By applying the appropriation in making roads in the Territories, the Constitutional difficulty would be avoided by those who doubted the power, though he did not propose this course to avoid the main question; for which he was prepared whenever it should properly come up. As to General Jackson and the Seminole war, it would be time enough to talk about that when the subject properly came before the House.

Mr. SMITH, of Maryland, said, this amendment would defeat the whole object of the appropriation, because it would confine the military roads entirely to the Territories.

Mr. RHEA's motion was lost without a division.

Mr. STORRS then moved to strike out of the proposition the word "military," and thus bring the question before the Committee in its broadest shape. He knew not what this term "military" meant. Did it mean a road exclusively military? There was in New York a road which the soldiers had been employed to repair; but the word "military" here was without meaning. If there were any roads made by the army for its exclusive use, they would properly be military roads, but there were none such. By putting the question on the broad ground he proposed, Mr. S. said, it would leave it out of the power of the President to draw a line of distinction between military and other roads, and he would thus be obliged to express his opinion decisively and unequivocally.

Mr. SMITH, of Maryland, asked the gentleman to reflect for a moment on the effect of his motion. It would go to appropriate \$10,000 for roads for the whole country, and to employ the soldiers of the army on all the roads of the United States. He thought that such an amendment would be obviously improper.

Mr. STORR's motion was lost—ayes 50; and.

The question being taken on Mr. TRIMBLE's motion, it was decided in the affirmative by a large majority.

The Committee, after some further progress in the bill, rose, and had leave to sit again.

FRIDAY, January 8.

Mr. ROBERTSON, from the Committee on Public Land Claims, reported a bill for the relief of Daniel Moss; which was read twice, and ordered to be engrossed and read a third time.

Mr. TUCKER, of Virginia, from the Committee on Roads and Canals, reported a bill to appropriate a fund for internal improvements; which was read twice, and committed to a Committee of the Whole.

An engrossed bill, entitled "An act for the relief of Thomas Hall Jervey," was read the third time and passed.

On motion of Mr. WILKIN, the Committee on Pensions and Revolutionary Claims were directed to inquire into the expediency of making provision by law, for the payment to Joseph Merrill, assignee of John Carman, certificate, No. 12,171, dated 1st January, 1782, signed Timothy Pick-

ering, Quartermaster General, to secure to the said John Carman, or his order, the payment in specie, of 209 dollars, with interest at six per centum per annum, until paid.

#### MILITARY APPROPRIATION BILL.

The House having again gone into Committee of the Whole, proceeded in filling up the remaining blanks of the military appropriation bill; and, having gone through it, they took up the bill "respecting the Military Establishment." The Committee subsequently rose and reported the appropriation bill, as amended, to the House.

Mr. WILLIAMS, of North Carolina, conceiving there was no necessity for acting on this bill immediately, as the unexpended surplus of last year's appropriation would be sufficient for present purposes, moved to lay the bill on the table. There were propositions before the House, not yet decided, which materially affected the provisions of this bill. He hoped to see the Military Establishment reduced; and, until that question was decided, he wished this bill to lie on the table, as some of its appropriations might become unnecessary. At any rate, the bill could be taken up at any time, as it had now passed through the Committee of the Whole.

Mr. SMITH, of Maryland, made some remarks in reply, to show the improbability of a reduction of the Army at present; and, even if there were any chance of effecting that object, that there would be no impropriety in at once passing this bill. If the bill were not now passed, it would produce much trouble and inconvenience in transferring the surplus from one object to others for which it might be wanted, &c. It would be useless to lay the bill over from day to day, and give rise to fresh discussion, when every mind was made up on the subject.

The motion to lay the bill on the table was rejected, by a large majority; and

After some further conversation, rather than debate, between Mr. COLSTON and Mr. SMITH, of Maryland, on the anticipated superiority of the commissariat over the contract system of subsistence, in point of economy, which Mr. C. could not find demonstrated by the estimates, and was therefore somewhat incredulous about—

All the amendments of the Committee of the Whole were agreed to by the House, with the exception of that which made a distinct appropriation of ten thousand dollars for extra pay to soldiers for repairing and constructing military roads. The question being stated on concurring with the Committee of the Whole to this amendment—

Mr. PITKIN wished to know what military roads were—where any of them were to be found, and by whom their construction had been authorized. The principle by which the House had been governed, Mr. P. said, was, when they appropriated money, it was always for objects authorized distinctly by law, and to be employed on these objects alone. If for fortifications, for instance, it was found that they were explicitly ordered, and the particular plans of their

JANUARY, 1819.

Military Appropriation Bill.

H. OF R.

erection generally pointed out. If this course, in any case, was departed from, the estimates were always previously furnished by the proper department, and the House authorized the expenditure or not; the Executive could only apply the money to the objects which had been mentioned and sanctioned by the House; and so with arsenals at particular points—there was no discretion left with the Executive. As to military roads, there was no such thing known in this country; but, if this appropriation passed, Mr. P. asked if it would not be granting to the Executive, by implication, if not in express terms, the power of making military roads where he pleased, independently of the approbation of this House? And if this right of making military roads were surrendered, he asked if it did not follow that they had a right also to make any other roads and canals? No, Mr. P. said; if there was any such power, it was in Congress, and not in the Executive. He would not venture into the question whether this power resided in Congress; but, whatever powers Congress possessed, he was not for giving them by implication to the President of the United States. In time of war, Mr. P. said, the President might do many things which, in time of peace, he would not be justifiable in doing. The declaration of war conferred on him this extraordinary power. For the purposes of protection, of defence, or for annoying the common enemy, he might destroy a man's house, his garden, &c., without the owner's consent. This power was conveyed by Congress to the President, by the proclamation of war. The right of constructing a military road might be exercised by the President in time of war, but this right did not follow in time of peace. It was said, on this subject, with some plausibility, that in peace we ought to prepare for war—that we should have good roads prepared for the Army to move on, &c.; but did it follow that, if this was proper, the power belonged to the President; that he, in effect, had the power to decide where it was proper to strike a blow, and what Power ought to be attacked? whether it should be Canada, or Florida, or Mexico, which it was proper to assail? For, Mr. P. argued, this discretion would virtually follow the power to select the points for military roads, and would certainly give the President the privilege of declaring where an attack ought to be made, if not the power of declaring war. This, Mr. P. said, was a great and important question. If the appropriation was to be made, ought not the House, he asked, also to say where the road should be made? If this practice was departed from, it would, he said, be a most important departure. In the case of the Cumberland road, the law designated its route, and required the consent of the States through which it passed. So also with the road through the Cherokee country—its route was fixed by law. Ought this discretion, Mr. P. asked, now to be given up to the President? He would give it to no man; for, he repeated, if the President was allowed to lay out and make a military road where he pleased,

15th CON. 2d SESS.—16

he might, with the same propriety, make military canals. In truth, Mr. P. said, there was no such thing in this country as military roads, and he hoped we should never have any, strictly so. We know, said he, what military roads were with the Romans—they were a military nation, and made roads in every direction for their legions to pass over. Mr. P. wished also to know what was meant by "constructing?" Had any road been marked out and designated, and nothing was wanted now but money to complete it? No such thing. It gave the complete power to the President to make a road wherever he pleased, without obtaining the consent of the State, or of the proprietor of the soil. It was said, Mr. P. continued, that application of money, in this way, had been sanctioned in some side-way manner by this House; but he did not recollect that it had been sanctioned, or that the subject had even been discussed in this House. Sure he was, that, when he voted for the act of 1816, referred to, he had no idea that he was giving any such power to the President of the United States. To employ the soldiers to repair barracks and other public works, was right and proper, because those objects were previously designated and erected by law. He would not leave it with the President to give what he pleased to the soldiers, but whatever should be given should flow distinctly from the Legislature. In this he agreed with the Speaker. The sum of \$10,000 had been asked for a sufficient extra pay for all the objects mentioned; but now it was proposed to give this sum for roads alone, and leave the other objects without any. Mr. P. said, he would rather reverse the proposition, and should probably move such an amendment. He concluded by protesting against the surrender of so important a power to the Executive—a power, which, if it vested anywhere, belonged to this House, and which he wished to retain.

Mr. STORRS said, that he was absent from his seat, at the last session, when the question of internal improvement was discussed. Having been one of the committee who reported to the House the resolution which gave rise to that discussion, his opinion was well known. It was not his intention, however, now to enter into any particular examination of the general question in relation to the powers of Congress on that point, as the subject now under consideration did not, in his judgment, necessarily involve that question. The effect of adopting the amendment of the Committee of the Whole was merely to render that specific which, last year, was included in a general appropriation for the Quartermaster's department. The Committee of Ways and Means, of which the honorable gentleman from Connecticut (Mr. PITKIN) was a member, then reported to the House a general appropriation similar to this. No objection was made, on the passage of that bill, to the item, although perhaps it might have escaped his observation in the mass of estimates on which it was founded. Mr. S. entertained no doubt of the power of the President to employ the Army in the construction of roads, in time of



peace as well as in war. He could never assent to the doctrine, that in time of war the President was clothed with any new or extraordinary powers over private property or the jurisdiction of the States. A declaration of war conferred on him no authority whatever, except to execute it, like any other statute. The Constitution had defined his powers: to that only could he look for his authority. The Congress, by changing the state of our relations with a foreign Power, can confer nothing on the Executive which the Constitution has not granted. The doctrine in itself was fraught with dangerous consequences, and he protested against it as subversive of those salutary limits which were provided against the exercise of unlimited power. The question before the House is, whether the Congress shall prescribe the gross amount of the pay of the Army, or leave the appropriation to the distribution of the Executive, as has heretofore been done; whether he shall be suffered to determine the disposition of so much of this general appropriation as the amendment includes, and at his pleasure thus indirectly to fix the amount of the pay of the Army. It is otherwise, in substance, to authorize him to put his hand into the public Treasury and disburse the favor of the Government, unrestrained by any limits affixed by Congress. By passing the amendment, this limit would be definitively fixed. He had other objections to the expenditure of a general appropriation in this way by the President. The remark of the honorable Speaker, in the Committee of the Whole, had great force with him. It taught the Army to look to the President, and not to the House of Representatives, for support. Mr. S. said, that the tendency of this to alienate the affections of the Army from the House, and to confer them elsewhere, would lead to evils which it was now peculiarly proper to guard against. So long as, under the Constitution, this House was the only legitimate source of appropriation, it ought to be known that the dispensing of the public funds was at its disposition alone; that they should prescribe the amount, as far as practicable, which should be applied distinctly to every object; that they should determine the subjects of their favors and the extent of their rewards. This course ought not to offend those who approve of the exercise of the powers of the President in the construction of military roads. The adoption of the amendment is a sanction of the course he has hitherto pursued, and the appropriation is professedly in aid of those laudable efforts which he is now making to put the nation in a state of complete defence. There is nothing, therefore, in this course, on the part of the House, which indicates hostility to his views, or which should alarm his friends. It is rather an approval of his conduct in this respect, and as such he should be willing it should be construed. He hoped, for these reasons, that the House would concur in the amendment.

Mr. MERCER said, that Mr. PITKIN's arguments furnished a full reply to all his exceptions. He denied that any road made by the Roman people was a military road. He had heard of the Ap-

pian way, and other public highways of that gallant nation, but never of any military road. They might have been called so, as some of those in France were, because constructed by the army, to distinguish them from any others not made by the army. Mr. M. did not think the appropriation was improper as regarded the kind of roads to be made; it was not correct either that, in all past time, the appropriation for barracks, &c., pointed out where those were to be constructed; nor in all cases of fortification, because these, he argued, were something of a temporary nature, which could not be designated—barracks which surrounded troops, or a simple mound of earth, were properly fortifications. Mr. M. did not believe the War Department had committed any violation of the Constitution in the duties which it had prescribed to the Quartermaster, in constructing barracks, in repairing roads, encampments, &c., and how were these duties to be compensated if not by some appropriation? Mr. M. expressed great confidence in the capacity of the Secretary of War; although young in the duties of his office, he had discharged them with great ability; and he had done nothing in the subject under consideration which was not recognised and regulated by law. In exercising, however, the spirit of criticism on this or any other subject, Mr. M. did not mean to array himself in opposition to the Government; parties, he said, were broken up—were gone. Mr. M. proceeded to argue that the sum asked for by the Secretary of War for this purpose, so far from being extravagant, was, in his opinion, not enough—it ought to have been more. The public force ought to be kept constantly employed. In the mode of constructing fortifications, also, Mr. M. doubted the expediency of erecting them by contract, and adduced some examples to show that the former system was preferable in economy and faithfulness of execution. The order respecting the cultivation of vegetables, &c., for the use of the Army in garrison, Mr. M. highly approved. Returning to the immediate question, Mr. M. said, the object of the appropriation was perfectly legitimate; there was no army in the world which was not occasionally employed in making roads for their passage through the country. Was it proper to call out the people of a Territory to make roads where necessary for the passage of the troops? Some feeling had been excited, he said—something like triumph that the Executive had been acting improperly. He wanted no share of this triumph. He hoped the Executive would continue so to use the public force. Mr. M. added some further remarks illustrating the opinions he had now and before expressed on the subject; and, for reasons he had previously offered, wishing further time for a decision on this bill, he concluded by moving to lay it on the table.

This motion was negatived.

Mr. MILLS did not think that Mr. PITKIN's arguments had been answered. His chief argument was, that if this power resides in the General Government at all, it does not reside in the Executive alone. He asked if it was contended

that the Army could be employed in making a road from post to post, where there was none? If not, where was the difficulty of meeting the views submitted by Mr. PITKIN? If the power was given to the President to make a road where he pleased, through a Territory or elsewhere, look, Mr. M. said, to the consequences of a difference of opinion on the subject between the Executive and the Legislature. Suppose the Legislature should deem it necessary to prepare for war with a foreign Power, Great Britain for instance, and that all their preparations should be directed to that point; then, suppose the Executive should be of a different opinion, and think such a course unwise. Having the power of designating where these public works are proper, and using the public force for them, he might take a very different point, and go in a direction towards a different nation, and thus defeat the object of the Legislature. This idea Mr. M. illustrated in various ways, and adduced several arguments against the propriety of stripping the Legislature of this important power, and conferring it on the Executive. It was giving him powers as Commander-in-Chief of the Army which he did not rightfully possess. Mr. M. in reply to Mr. STORRS, denied that the Commander-in-Chief had the same powers in peace as he had in war, and enumerated many acts that, in one state of affairs, would be legitimate, and in the other, would be highly improper and injurious. In war he might destroy private property, or even blow up a town, in carrying on hostilities against the enemy, but these and many other acts would not be tolerated in time of peace. It had been urged that this appropriation would test the opinion of the President, as to the power of constructing roads, &c. Whether, Mr. M. said, he wished to come in conflict with the President or not, on the question of internal improvements, he did not think it proper here, or that it would at all decide the great question whether the General Government have the power to construct roads and canals; and Mr. M. argued that a vote on this question would not commit any member on the other. The President himself, in his Message, had denied the general power, yet had he considered himself authorized to use the public funds in making particular roads by the Army. The vote, therefore, on inserting a small item in a military appropriation bill, could not be considered conclusive on the broad question.

Mr. LOWNDES submitted a few more remarks explanatory of the practice in reporting appropriation bills; and then observed that he thought Mr. PITKIN's principal objections had been answered by Mr. MERCER. He thought there was no inconsistency in denying the general power of constructing internal improvements, and yet voting an appropriation for making any little road where there should be a temporary encampment, &c. There was, Mr. L. conceived, no inconsistency between the expressed opinion of the Executive respecting the general power, and the conduct of the Executive on this subject. The propriety of making specific appropriations for

all objects, where it could well be done, he did not deny; but he was also apprehensive that it might be pushed to an improper extent. All appropriations could not be specific; but, after making them as minute as possible, and limiting the Executive to a certain extent, there would be always some discretion left him. It was proper, also, Mr. L. admitted, where it could be done, to designate and fix the place where the public money is to be applied; but this could not in all cases be done, and he mentioned instances in which this was left by law to the discretion of the Executive; and the present was one of those cases in which this must necessarily be done. Mr. L. concluded by admitting the necessity of strict vigilance in this branch of the Government towards the Executive; but the principle, as advocated by Mr. PITKIN, he thought, had the appearance of unreasonable jealousy, &c.

Mr. SMITH, of Maryland, replied to Mr. PITKIN at some length, principally in explanation and justification of the course pursued by the Committee of Ways and Means, and to establish the opinion that the President had the power legally to construct military roads, inasmuch as the regulations on the subject had been recognised by law.

Mr. PITKIN spoke briefly in reply to the gentlemen who had controverted his arguments.

Mr. TUCKER, of Virginia, made a few remarks to remove any imputation of inconsistency between the vote in favor of this appropriation, and the vote at the last session, on the general powers of the Government to make internal improvements. Ninety members had decided that the General Government had a right to apply the revenue to the purposes of internal improvement, upon the principle that, where you have revenue, you have a right to use it for the general benefit. The power of constructing military roads was equally indubitable: but it was a power in the exercise of which Congress ought to have a voice, and this appropriation placed it on its proper footing.

Mr. POINDEXTER rose for the purpose of referring the House to the vote of the last session, on the several resolutions reported by the Committee on Internal Improvement, and to apply the principle sustained on that occasion to the amendment under consideration. The only resolution touching this subject, which received the sanction of a majority of the House, at that time, is in the following words: "Resolved, That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and for the improvement of water courses." In giving an affirmative vote on this proposition, he was not governed by the opinion that the power to construct these improvements within the limits of an independent State of the Union, resided in the National Legislature. The power to appropriate money to any object which may be deemed important to the general welfare, is, and must of necessity, remain purely discretionary. Neither the convention who formed the Constitution,



nor any other body of men, could possess sufficient forecast to enumerate all the cases to which it would be proper and necessary, from time to time, to appropriate the revenues of the nation. The only safeguard placed around the Treasury is, that no money shall be drawn from it without the authority of law; and the concurrence of both Houses of Congress, and the President, in the propriety of a public expenditure, is a sufficient guarantee against an abuse of this discretion; for the prudent exercise of which they are responsible to their constituents. It was on this ground that he had given his assent to the Constitutional power of Congress to "construct post roads and military roads: provided that private property be not taken for public use, without just compensation." This resolution was negatived, as also that which relates to military canals, and roads necessary for commerce between the States. It is now proposed to vest the President alone with unlimited authority to construct military roads, without regard to State rights, or security of private property! A power which this House has solemnly decided, after much investigation, is not given by the Constitution to Congress. It will, if the amendment proposed by the honorable member from Kentucky prevails, be vested in the Executive, who is only a co-ordinate branch of the Legislature.

Sir, it has been asserted in the course of this discussion, that the present Chief Magistrate has assumed and exercised the power to construct and open military roads, notwithstanding the Constitutional objections communicated by him to the House, at the opening of the last session of Congress. This declaration is totally unsupported by any fact, to which reference has been had. With regard to the labor performed by the troops, in the neighborhood of Plattsburg and Sackett's Harbour, it was bestowed on a public highway, long since constructed and opened, under State authority. The fatigue duty done by it by the soldiers, was in obedience to a general law on that subject, and for the accommodation of the Army. No right was claimed or exercised, to construct the road, or alter its location, in any respect whatever. The other cases mentioned, are the roads leading from Georgia to St. Stephen, in the Alabama Territory, and from Columbia, in Tennessee, to Lake Ponchartrain: and those have been authorized by several acts of Congress, making appropriations for their completion. Mr. P. contended that there was not the smallest foundation for the charge which had been made against the President, of a usurpation of power, deemed by him to be constitutionally vested in the legislative department of Government. He considered the proposed appropriation, although small in amount, as involving a very important principle, the establishment of which might lead to very dangerous consequences: and he therefore expressed a hope, that the House would disagree to the report of the Committee of the Whole, and leave the question to be decided on a distinct proposition.

After a few additional remarks from Mr.

TUCKER, explanatory of the votes of last session, &c. a motion prevailed to lay the bill on the table. And the House adjourned to Monday.

MONDAY, January 11.

Mr. SERGEANT, from the Committee on Roads and Canals, reported a bill, authorizing the subscription of stock in the Delaware and Chesapeake Canal Company; which was read twice and committed to a Committee of the Whole, tomorrow.

The SPEAKER laid before the House, a letter from William Lambert, accompanied with two hundred copies of Abstracts of Calculations, to ascertain the longitude of the Capitol in the City of Washington, from Greenwich Observatory, in England; which letter was ordered to lie on the table.

An engrossed bill, entitled "An act for the relief of Daniel Moss," was read the third time and passed.

#### MILITARY APPROPRIATION BILL.

The House having resumed the consideration of the bill to make appropriations for the support of the Military Establishment for 1819, and the amendment thereto reported by the Committee of the Whole, for making a distinct appropriation of \$10,000 for extra pay to non-commissioned officers and soldiers employed in the construction and repairs of military roads, was immediately under consideration.

Mr. LINCOLN, of Massachusetts, said, that the darkness by which the subject under consideration was overshadowed, seemed to him to result from the want of a correct definition of the term "military roads." It is important, said he, to have one. Without it we cannot ascertain to what specific use the appropriation in the amendment of the bill may be applied, or whether it is or is not proper to make it.

An honorable gentleman from Virginia has informed us that a road becomes "military" by being constructed by military men. It is difficult to conceive how the nature of the object is affected by the capacity of the agent who acts upon it. If a work becomes military as resulting from the military power which produces it, then, had this Hall been erected by a corps of the artificers of the Army, it would have been a military work, the honorable Speaker the commandant of a fortress, and the maxim, now so apropos, "*cedant arma togæ, cedant laurea linguæ*," would cease to apply. How happens it, if the definition given is correct, that the Roman roads, which extended from the heart to the extremities of the empire, were not designated by the title of "military roads," although many of them were constructed by the imperial legions, although they were those by which the armies marched to the distant provinces, and through which the barbarians of the North passed to the gates of Rome, and made the queen of nations subsidiary to savages and the victim of robbers? That those roads were not so designated, we are informed by the gentle-

man before referred to, and I seek no higher authority.

Others have avowed the opinion that all roads are alike, and one as appropriate to the use of an army as another. To assert that there is no difference between a road constructed, if you please, by a military corps, applied only to the facilitating the transport of munitions of war, the passing of troops, and subserving their wants and necessities, and a road used only for the interchange of trade and the social concerns of the community in time of peace, is to advance a proposition, to the truth of which my mind refuses its assent; it is to deny the word "military," used to express the quality of the object with which it agrees, any force or meaning.

That the right of constructing a military road exists in the President of the United States, in time of war, is admitted. It must be a right absolute and independent, or it would be inadequate to answer the occasion, the imperious urgency of which alone can justify its exercise. It cannot, therefore, be derived from the Constitution, as it would be in derogation of those rights reserved to the States, respectively; neither, if it exists in time of war only, as is alleged, can it be traced to that source; for the Constitution is not calculated for any particular meridian or point of time; it is not now active and the next moment a mere dead letter, but is in force at all times, immutable, and, like truth, eternal.

Whence, then, is the right in the President to construct military roads derived? From the paramount law of human nature, the law of self-preservation; a law which justifies acts not only not authorized by the Constitution, but directly contravening its provisions. It exists as well in peace as in war, and would authorize the President to blow up the dwelling of the gentleman from Massachusetts, who adverted to that incident, as fully at the present moment as amidst the rage of battle, did the "common defence" and "general welfare" now require the sacrifice. It is a right not belonging peculiarly to him, but is common to all, and gives to the humblest subaltern the same privileges as to the commander-in-chief.

Having described the source and character of the power to be employed, let us endeavor to ascertain the nature of the effect produced. That the right of way through a country, to defend which is the object of the existence of an army, belongs to that army, cannot be denied without asserting that it must be considered as a motionless and inert mass. Having the right of way, it has also, as incident to it, that of furnishing to itself a military road as the means of executing it. This right results from the supreme law of necessity, and, of consequence, ceases when the exigency which required its exercise has passed away. The sovereignty of the local authority, and the ownership of the individual proprietor of the soil, for a time dormant, immediately revive.

To consider the right to be permanent, is to give the commander of an army the power to acquire territory at pleasure, and to constitute a

military despotism, in principle as great, and in its exercise as fatal, as that of the Praetorian guards of Rome or the Janissaries of Turkey. It gives to the President a power in the highest degree dangerous. As the people have delegated to us only that portion of power which it was necessary for them to part with for the purposes of social order and civil society, so ought we not to sanction, in the other departments of the Government, the exercise of any more than is indispensably requisite for those purposes; for, if you grant power you will in vain legislate against its abuse; if you furnish temptations to avarice and ambition, they will pursue their objects to the heights of danger and the depths of perdition. In the present case, by authorizing the President to construct permanent military roads at his discretion, you put into his hand the means of corruption, the bribe by which he may seduce the States into a subserviency to his views, to enable him to establish himself as a first consul, a perpetual dictator, and a tyrant. Even should his favors not be accepted as the wages of corruption, is it not inconsistent with human nature that one, who perceives the eye of kindness beaming upon him, and benefactions showered upon his head by some superior being, should be able to suppress the emotions of gratitude and the disposition to be devoted to the interests of his benefactor?

The claim of authority, thus sanctioned, is also throwing the apple of discord among the States. Each member of our political family will consider its necessities and its rights equal. When one shall perceive that favors, in which it does not participate, are bestowed upon another, the harmony of the Union will be disturbed by jealousies, which, combining with other elements of discontent, may terminate in storms which may sweep the country with fatal fury.

Under the belief that exigencies may happen, which may require an expenditure of public money upon military roads such as I have described, I shall vote for the contemplated appropriation; but I protest against any of it being applied to defraying the expense of roads like that from Plattsburg to the St. Lawrence, which I do not consider to be any more a military road than this House is a barrack. I do not say this, however, out of disrespect to the President, by whose orders it was constructed; for, as on the one hand I am not disposed to join in the anthem, glory to the President in the highest, which will always be chanted by a full choir, on the other I hope I shall not be wanting in that respect, confidence, affection, and esteem, which belongs to the man who has devoted his life to the service of his country, and been one of its ablest statesmen and brightest ornaments; so long as he shall continue to be actuated by those patriotic feelings which I believe now to influence him, and those enlightened views which have for the most part characterized his Administration.

Mr. L. concluded by making some remarks to prove that the allowance of extra pay to soldiers on fatigue duty is sanctioned by law.

Mr. BEECHER, of Ohio, moved to amend the



resolution by striking out the words in *italic*, and inserting the words "*working on*" in lieu thereof. He explained the object of his amendment, by a number of observations, the substance of which was, that he did not believe it was ever intended that the President of the United States, in the exercise of powers granted to him by the Constitution, should be authorized to enter upon the property of individuals for the purpose of making roads, except where, in time of war, it became necessary to facilitate the movements of the Army. That the Government had a right of way for certain purposes over the property of individuals, he had no doubt; and that the best appropriation of the labor of soldiers, in time of peace, was to employ them in making or repairing roads, was agreed on all hands. He did not wish that the Executive should have unlimited authority in the allowance of extra pay for such services; at the same time he could see no objection to giving the authority to the Executive to employ the spare labor of the Army in making roads not interfering with individual right, &c.

Mr. M'DALL, of Virginia, opposed the motion to amend the appropriation clause. [The clause reported by the Committee of the Whole made an appropriation of \$10,000 for the construction and repair of military roads, but the proposed amendment was a substitute, omitting the word military, and consequently looking to a discretion in the Executive to apply the money to roads other than military.] Mr. P. expressed the reluctance with which he must oppose any modification suggested by the gentleman from Ohio, as he was sensible that gentleman was and would continue to be a decided friend to the faculty of this Government for internal improvement, and even at that moment, Mr. P. said, he found himself pursuing the same object with the honorable mover of the amendment, for both wished the bill to assume a form which would unite the votes of all who affirmed the power of the General Government to construct roads and canals. It was indeed difficult to present the great question of internal improvement in a shape which would unite its friends. When particular objects of improvement are designated and proposed, many honorable members, who expressly declare that the Government has power to construct roads, will, however, vote against the measure, on the ground of the inexpediency of appropriating money to those particular objects. But when resolutions are proposed merely declaring in general terms that Congress has the power to make roads, other gentlemen who admit the truth of the declaration, vote against the resolutions, alleging the impropriety of legislating on what are called abstract propositions. Again, other gentlemen who conscientiously believe that the assent of the State governments was essential to the exercise of these powers of Congress, found themselves constrained to negative resolutions comprehending no salvo in relation to that topic. Thus it was that some awkward circumstance continually intervened to baffle every attempt to consolidate the strength of the majority in the

House. He was convinced there was no risk of error in declaring that, whenever our good fortune should enable us to devise a measure, the expediency of which would be admitted by those who believed in the Constitutional power, it would be found that at least two thirds of the House were the friends of internal improvement, on which event the Presidential opposition would of necessity yield to the power of Congress.

Some gentlemen, the decided advocates of internal improvement, were now heard to object to the appropriation for military roads, because it was a mere appropriation, or setting aside a sum of money for a particular object, and asserted that, although Congress may make a law to authorize the President to open a road, no such law existed, and that no such authority could be implied from an appropriation bill, which only sought to make an arrangement to govern the accounts and moneys of the Treasury. Would not the objections of these gentlemen be strengthened instead of being dissipated by the amendment of the gentleman from Ohio? For if they affirmed that the President could make or repair no military road without an act of Congress, (exclusive of the appropriation bill,) they would of course be more hostile to the gentleman's amendment, which was founded on the supposition of the President's power to make not only military, but all other roads; hence it was evident that the proposed amendment would, in repugnance to the wish of its author, only serve to perplex or divide the friends of internal improvement. Mr. P. had no doubt of the power of the President to construct or repair military roads, without the previous sanction of an act of Congress, which would have become necessary, not to authorize the construction of the road, but to warrant the Treasury Department to disburse the money necessary for that object. Nor did this assertion of Executive power militate in the least against the power possessed by Congress to construct roads. On the contrary, the Presidential power, as Commander-in-Chief of the Army, to construct military roads, might admit of control by Congress, which could restrain or embarrass the exercise of the President's power by the exertion of its own Constitutional rights, of censuring or impeaching for abuse of power; or, by withholding supplies, or even by its right to pass laws for the government of the Army and the departments. The President wanted no law to enable him to make military roads; he could only want money to enable him to exercise powers purely Executive, which resulted from the Constitution and existing institutions, and which would remain until abrogated by Congressional discretion. Mr. P. lamented when he heard members with whom he had the honor to vote on the question of internal improvement at the last session, give notice of their intention to vote for striking out the item for military roads. The ground they now assumed was untenable. He had observed that the gentlemen who had taken part in the present discussion had expressed their wish to avoid debate on the question of the power

of the Government (Congress and the President) to construct roads; and yet the subjects were so connected that those who addressed the Chair found themselves in the incidental discussion of that great question. He would not discuss the topic so ably handled by others at the last session, except in reference to the relative powers of the President and Congress, in doing which he would address an argument exclusively to the friends of internal improvement, by reminding them of certain premises in which they all concurred at the last session, and showing that those premises, which conducted them all to the conclusion that the whole Government possessed power to construct roads, canals, &c., would now necessarily lead to the conclusion that the President without any new law had the power to construct and repair military roads.

Our friends, said he, had then insisted that the Government of the Union was vested, by the Constitution of the United States, with the control and direction of the armies and military force, with the power of removing that force from the interior to the frontier, and from one point to other places of destination on the frontier; that armies, military supplies, and munitions of war, could only pass or be removed by means of roads; which devolved on Government the necessity of opening roads when none were found, or of repairing such as were impassable. Mr. P. asked whether any gentleman denied to the President, as Commander-in-Chief of the Army, the right (continually practised) of removing detachments of the military force, with its ordnance, &c., from one place or garrison to others on the western or southern frontier, even where no roads are found? If such right existed in the President, the power to construct or repair military roads, by the same officer, would result of necessity, as, without it, the admitted right and duty of the President could not be exercised. He believed this subject was frequently obscured by the indiscriminate use of the term *power*, that carried with it an idea not easily distinguishable from property or right, and which rendered it desirable, to any one in quest of truth, to dismiss this equivocal word, and review the subject (if possible) as ranked under no particular denomination, or express its relations by other terms. True, he said, the Constitution did not express that the President should have power to open military roads; but was it not equally true, that some powers, in relation to some subjects, were vested by that instrument in the President? If gentlemen would select any one of those legitimate powers, which it was both the right and duty of the President to carry into execution, and, at the same time, imagine the utter impossibility of executing the power without incurring expenditures of labor or money, they must agree that the President may incur such expenditure, although not found expressed in the list of Constitutional powers. When the mind had found this result, it would seem idle to dispute of terms. Let it be called the power, or the necessity, or exigency of the President or Army, no miscon-

ception of terms should enhance or detract from the faculties of the Executive. Although the faculty of constructing military roads was made to result from a principle of necessity, it would constitute no ground of objection to its existence, for the President alone could judge of the necessity; nor was danger to be apprehended from any abuse of the power whilst this House retained its integrity and vigor. The military detachments, so frequently marched in the western wilderness since the foundation of the Government, in almost every expedition found it necessary to have roads made by the expenditures of the labor and money of the nation; yet, gentlemen could furnish no instance of laws being required to authorize these roads; they were opened or repaired by the mere authority of the President or of his officers; Congress had no concern with them until after the expense was incurred, when called on for appropriations. Nor could any instance be shown of refusal to make those appropriations. It seemed that the expenses of repairing roads had been defrayed from the appropriation of the Quartermaster's department; and that this course was justifiable would be manifest from an examination of the law, as the Quartermaster General was, when thereto required by the Secretary of War, to procure and provide means of transport for the Army, its stores, artillery, and camp equipage. Yet, the method now proposed of appropriating a certain sum expressly for the construction and repair of military roads, was preferable to the former practice, as a detail of each item of expense conveyed more information, and was consequently more satisfactory to the public than a complication of particulars under a head not so easily understood by our constituents.

Gentleman had complained that the Executive, by color of the extra pay and ration afforded to the soldiers while on fatigue in repairing military roads, had undertaken to raise the wages of soldiers without a law to warrant the measure. This complaint was, however, easily vanquished, while the argument in support of the Executive power to repair roads remained unanswered; for the Executive might employ artificers and laborers, who did not belong to the army, to repair these roads. The ordinary pay insured to the soldier by the contract of enlistment does not purport to be a compensation for labor on roads with the mattock; he would receive the pay appertaining to his character as a soldier, although he performed no labor in the construction or repair of roads. As the Executive, therefore, saves the expense of employing other artificers and laborers, by availing itself of the (otherwise idle) time of the soldier, and as the soldier thereby performs a service not compensated for by his wages as a soldier, it would accord with law and justice to make him a proper remuneration.

Mr. ALEXANDER SMYTH said, that he hoped the amendment offered by the gentleman from Ohio (Mr. BEECHER) would be rejected. He said that, should it be rejected, he would offer an amendment making an appropriation "for the



extra pay of non-commissioned officers and soldiers employed in opening and repairing roads, and constructing and repairing bridges necessary for the movement of the army, or any detachment thereof." Such an appropriation was now proper; as the House had struck \$10,000 out of the appropriation for the Quartermaster's department; that the appropriation thus made would be in conformity to existing laws; the regulations of the War Department containing a clause in these words, which regulations have been adopted by law. By this means, said Mr. S., we shall avoid passing any new law, and we shall make the bill what an appropriation bill ought to be—a simple grant of money for carrying into execution existing laws. To insert in this bill a clause involving a great Constitutional question, seemed to him not to be a correct course of legislation.

The allowance of extra pay, said Mr. S., to soldiers engaged in necessary labor, has long been sanctioned by usage, and for some years past has been sanctioned by law. The allegation that the President has given extra pay to the soldiers, without authority by law, whereby the attachment of the soldiers to Congress, to whom they ought to look for their pay, may be transferred to the President, is without foundation.

An honorable member (Mr. CLAY) who spoke some days since on this subject, seemed to suppose that the House and the President disagreed, and were at issue on the question respecting the power of Congress to make internal improvements. The honorable member was mistaken.

On referring to the Journal of the House at its last session, it will appear that there is a perfect and entire agreement in opinion between the President and the House.

At the last session, said Mr. S., a resolution was offered, declaring "that Congress has power, under the Constitution, to construct roads and canals necessary for commerce between the States." It was rejected—ayes 46, noes 120. Another resolution was offered, declaring that "Congress has power under the Constitution to construct post roads and military roads." It was rejected—ayes 82, noes 84. Another resolution was offered declaring that "Congress has power under the Constitution to construct canals for military purposes." It was rejected—ayes 81, noes 83. The only resolution adopted by the House, declared, "That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and for the improvement of water courses."

The House has explicitly declared that Congress have not power to construct roads of any kind, but that it has power to make appropriations for such a purpose. The President has coincided with the House in both of those opinions. He has said, as this House have said, that Congress have not power to make internal improvements; while he has sanctioned appropriations of money made by Congress for such improvements.

The President's Message to Congress, at the last session, has been alluded to, and his communication of his opinion that Congress had not power to make internal improvements, has been spoken of with disapprobation. The House well know, said Mr. S., that it is the duty of the President, made so by the Constitution, "to recommend to the consideration of Congress such measures as he shall judge necessary and expedient."

The President's Message contained the following clause: "When we consider the vast extent of territory within the United States; the great amount and value of its productions; the connexion of its parts, and other circumstances on which their prosperity and happiness depend; we cannot fail to entertain a high sense of the advantage to be derived from the facility which may be afforded in the intercourse between them, by means of good roads and canals.—Never did a country of such vast extent offer equal inducements to improvements of this kind, nor ever were consequences of such magnitude involved in them." Does not this passage show the President to be a most ardent advocate for internal improvement? What language could he have used more conclusively proving his friendliness to a system of internal improvement? The President then expressed with candor his opinion that Congress do not possess the right to establish a system of internal improvement; and then recommends a measure to the consideration of Congress. That measure is, that they should recommend to the States the adoption of an amendment to the Constitution, granting to Congress the right to establish a system of internal improvement. He then says: "In cases of doubtful construction, especially of such vital interest, it comports with the nature and origin of our institutions, and will contribute much to preserve them, to apply to our constituents for an explicit grant of power."

I can find nothing, said Mr. S., in this Message, calculated to provoke this House to enter, as has been proposed, into hostilities with the President of the United States, concerning a system of internal improvement, or any other subject whatever. Yet an honorable member (Mr. CLAY) has proposed, that Congress shall pass the bill rejected by Mr. Madison, a bill deemed unconstitutional by the President, and which this House, by its vote of last session, has also explicitly declared to be unconstitutional. That this unconstitutional bill, so to be passed, shall be sent to the President, and if he will not approve of it, that then we shall withhold a part of the supplies which we deem necessary and proper for the public service, and enter into hostilities with the President upon this subject. Sir, said Mr. S., I would call the particular attention of the House to this proposition. Let the House place themselves in the situation of the President, and consider how they would feel should another branch of the Government adopt a similar course towards them.

Suppose, sir, that the Senate should send you a sedition bill, and you should reject it as being

unconstitutional; suppose the Senate were then to lay your bills upon their table, and give you to understand that they would obstruct the wheels of Government until you passed the bill which you had declared to be unconstitutional. I ask in what terms you would speak of the Senate?

The President of the United States, in the presence of Heaven and of this nation, has sworn that he will preserve, protect, and defend the Constitution of the United States. And it is proposed that, unless he will violate this solemn promise, by approving a bill which in his conscience he believes to be unconstitutional, that the House of Representatives shall withhold a part of the necessary supplies. Sir, I will say no more on this subject.

Some gentlemen seem to be of opinion that whatever the President or any officer of the Government has a right to do, Congress may do the same thing by law, and that as the President, Commander-in-Chief of the army, by the labor of soldiers may open roads, therefore Congress may by law make roads. But, this conclusion by no means follows the premises. The President is, by the Constitution, Commander-in-Chief of the army; but Congress cannot by law command the army. The President may appoint ambassadors, and make treaties; but Congress cannot by law appoint ambassadors and make treaties. You have a right to raise an army; the President has by the Constitution a right to command it; this army must move from place to place, and occupy camps and cantonments. The Quartermaster General is charged to provide for those marches and encampments. Every one has a right to the means of performing his duties. Consequently the Quartermaster General may open and repair roads for the march of the army. But this furnishes no pretence for the claim on the part of Congress to make roads by law.

Those who have formerly contended for the self-evident propositions that the President might by the labor of the army make the road necessary for its movement, have been denominated "friends of Executive power." But none of them contended that permanent roads could be made and protected by the President. A right to make temporary roads, to facilitate its movements and its supplies, is all that was contended for on the part of the army.

By way of recommending permanent military roads, to be constructed by the army under the orders of the President, we are told by an honorable member (Mr. S. SMITH) whose opinions I respect, of the great advantages of such roads in time of war. I admit, that, to an ambitious conquering nation, military roads offer facilities in the invasion of their neighbors; but, to a peaceful nation, which wages only defensive war, they are pernicious. The Romans in their prosperity, while they were conquerors, constructed permanent military roads; and on those roads, in the decline of the Roman Empire, the Suevi, the Goths, and the Allemanni, marched to invade Rome. France in her prosperity, while engaged

under the great Napoleon in the conquest of the neighboring nations, made military roads; and on those roads the Russians and Austrians marched to the conquest of France. For what purpose do we require military roads? To make war against the Seminoles, or the Chippewas? I presume not. Or, is it to make war against Spain? Are we to make a military road to Mexico? I presume not. I do not know of any direction in which a military road can be wanting, except towards Canada; and I do not perceive the expediency of making demonstrations towards the conquest of Canada at this time. Sir, said Mr. S., should Great Britain at any time hereafter force us into a war, I would advise that the first step to be taken for the conquest of Canada shall be the passage of an act of Congress declaring, that the Canadas shall be admitted into the Union so soon as they shall have formed Republican constitutions. Should that measure be adopted, Canada will be conquered without a military road. The Government never seriously resolved on the conquest of Canada during the late war. That intention has been disavowed.

Sir, the amendment proposed by the Committee of the Whole, seems to me to mean something more than meets the eye. I apprehend it is a plan to commence a general system of internal improvement, by the means of soldiers. The honorable chairman of the Committee of Internal Improvement, (Mr. TUCKER,) my esteemed colleague and friend, has said that, provided he can have internal improvement, he is not particularly solicitous by what means it is obtained. I cannot agree with him. I deem it of great importance by what means this internal improvement shall be effected. The system, to be equal, must be general; it must pervade every part of the country; and I confess that I should greatly regret to see any part of the country filled with soldiers, engaged in making roads.

The first effect of such a system would be, to disgrace your army, by transforming the soldiers into laboring slaves, and the officers into overseers, armed with whips. While the army is employed in making roads necessary for its own movement, or in providing itself with necessities, it will feel no degradation; but set them to work in making highways for the use of the farmers and the planters, and they will soon feel themselves dishonored. Then, indeed, you may dismiss from your service General Jackson, and every other gallant officer.

The second effect of such a system would be, to endanger the liberties of the people. Your little army of five thousand men will prove inadequate to the task of effecting a system of general internal improvement; the number must be greatly increased. The people, seeing the soldiers employed in making roads and canals, and finding great convenience and advantage from such works, the aversion to a standing army will be abated. You may presently have fifty thousand of those military laborers, who, finding themselves without liberty and without honor, will be fit instruments to effect the designs of ambition.



H. of R.

Military Appropriation Bill.

JANUARY, 1819.

Suppose that only ten thousand such men had been employed in Maryland and Virginia, in making roads at the time of the contest whether Mr. Jefferson or Burr should be President, I ask you what would have been the consequence?

Let us adopt no measure, the effect of which must be to embarrass the President of the United States. Let us preserve the harmony of the different branches of the Government. And if we are to have a system of internal improvement executed under the authority of the United States, whether by powers already vested in the Government, or to be obtained by an amendment of the Constitution, let the system be carried into execution, not by military, but by civil power.

Mr. FULLER, of Massachusetts, said, that he had listened to the debate of the last session in relation to the several resolutions on the subject of internal improvements with the utmost attention, and that he, at the time, regretted to have been prevented by circumstances from expressing his sentiments on questions so interesting to the community. He had regretted it the more, because he differed considerably, on most of those questions, from those who admitted the Constitutional powers of Congress to make internal improvements generally, as well as from those who denied the existence of such powers altogether. He would, therefore, by leave of the Chair, advert to the interpretation of the Constitution which appeared to him to be the most natural and reasonable; and whatever powers were intended to be conferred on Congress he would be very far from narrowing by construction, while he was equally adverse to that "liberality" which, in a general expression, liable perhaps to ambiguity, could discern the delegation of almost unlimited powers.

In the 8th section of the 1st article of the Constitution, it is made the duty of Congress "to provide for the common defence." This power is clearly intended to be exercised, not only in time of war, but, from the very import of the word *provide*, is also intended to include *prospective* preparation in time of peace. It is therefore the duty of Congress, even when the nation is in profound quiet, to erect armories, arsenals, and forts, and to establish and fortify all such points, on our seacoast and frontier, as are most exposed to an enemy, or most advantageous to repel invasion. This power, said Mr. F., has never been questioned, and has been uniformly exercised; and the necessity of marching troops, and transporting provisions and munitions of war from the populous parts of the country, where alone they can be obtained, requires also the construction of suitable roads. Wherever these roads have already been constructed by the States or other local authorities, Congress can have no occasion to provide them; but on our extended frontier, in the North, West, and South, the case is far different. The mere purposes of civil intercourse will not probably, for half a century, induce or enable the scattered population of those vast tracts of country to make such roads, or other means of communication, as are indispensable in the mere preparation for a common defence. Yet a war with

Great Britain, Spain, or the western tribes of Indians, instantly exposes our frontier in some or all of those points; and it would be a most unworthy dereliction of their duty, if Congress should neglect the obvious and early means of waging such wars successfully. Such wars are inevitable, and the country has, at this moment, its eyes upon us, approving the application of the revenue to extensive and substantial military defence. When war impends, or is actually raging, it will be vain to begin to provide against it; the revenues are speedily engrossed by more immediate objects, or reduced by the derangement of commerce, and the checks to national industry. "In peace provide for war," is the dictate of common prudence—it is also the dictate of our Constitution.

The construction of post roads, though not of superior or of equal necessity, is, perhaps, more clearly given by a subsequent clause of the same article of the Constitution; wherever they do not already exist, and the public convenience shall require the establishment of a regular, certain, and frequent intelligence, such roads may be constructed by the National Legislature.

But the sovereignty and exclusive jurisdiction of the States is considered by some gentlemen as an insuperable obstacle to the construction of roads by Congress, while they assent to the right to appropriate the public revenues for that purpose. Hence the first resolution, at the last session, declaring the right to appropriate for the construction of "military and other roads," passed by a considerable majority; while the second, asserting the right to construct "military," not including "other" roads, was negatived. Mr. F. said, if it is the right and duty of Congress to "provide" roads, whether in peace or war, then the States have no right to interpose in its exercise, any more than to arrest the march of national troops, or the collection of revenue, or any other usual and well recognised exercise of Constitutional power. In all these particulars the States, by agreeing to the National compact, conceded so much of their original sovereignty as the "common defence and general welfare" required to be intrusted to the National Government. If the first resolution, therefore, was established, the second was still clearer, for the mere right to appropriate money, without the right to secure the object, is preposterous and nugatory. Do gentlemen believe that the States, into whose treasuries it is presumed the money appropriated is intended to be paid, will be disposed to listen to the wishes or request of the National Government, and, very obligingly, make the roads, which may be thus humbly submitted to their discretion? Gentlemen need not travel back so far as to the records of Congress, and of the States, before the existence of the present Constitution, to learn whether the individual sovereign States will comply with the recommendation of Congress; or whether local and other considerations will not often lead to measures quite different. Surely, then, the appropriation of money for military defence must include the power to complete

JANUARY, 1819.

Military Appropriation Bill.

H. of R.

that defence in all its parts, and the construction of military roads is not the least considerable.

The gentleman from Connecticut (Mr. PITKIN) has remarked, that a military road is an unintelligible phrase; that it is impossible to distinguish a military road from any other; from which he probably infers that, if Congress may construct military roads, they may also construct others of a different description. I cannot see the difficulty of discrimination, said Mr. F., in the same light with that gentleman. A military road appears to me as distinct and definite in its character as any expression whatever. The purpose for which a road is made, and its adaptation to the object, being entirely military, the epithet is properly attached to it; and its correctness is not diminished because the road may be conducive to civil and commercial intercourse. The Constitutional object of making such roads must be national preservation; but it must, indeed, be gratifying to consider how much the interests and social enjoyments of our fellow-citizens may be improved by thus facilitating their intercourse with each other.

There can be no doubt that, in time of peace, it is of great consequence to preserve in the army a system of discipline and temperate habits, which are indispensable to health and vigor. We are told, by military gentlemen, that the established usage in all armies exempts the soldiery from labor on roads and other public works, and that such employment is not even stipulated in the contract of enlistment. Perhaps it might be good policy to enjoin on recruiting officers to make such a stipulation in future; but in the present case we must provide for the existing state of things. The trifling gratuity of fifteen cents per diem, in addition to the wages, is sufficient, it appears, from the experience of past years, to induce the soldier willingly to engage in such labors. The labor thus obtained costs less than one-fifth the sum for which it could be purchased by any other means. The army is thus occupied usefully to the public, and the health and vigor of the soldier is rescued from being a prey to idleness and vice.

The gentleman from Virginia near me, (Mr. SMYTH,) thinks the occupation of the army, in opening and improving roads, is degrading, and likely to debase its spirit and character. Sir, in what pursuits have our soldiers been engaged previous to their enlistment, more worthy or dignified than in husbandry? In what more honorable pursuits can they now engage? Such employment, sir, will elevate, not degrade, their character. The hoe and the spade are merely transferred from the tillage of the earth to the improvement of its surface in the adjacent roads. The same gentleman, too, apprehends that, when the people have felt the benefit of the roads thus acquired, they will become reconciled to standing armies; and that we shall soon augment their number so much, for the sake of the public works, that they may endanger our liberties. If the argument requires an answer, I will merely remind the gentleman of the unconquerable aversion to

a standing army, which is so universal, that at this moment a proposition is before the House to reduce the little remnant still retained of those who lately fought our battles. Nor am I, said Mr. F., by any means prepared to pledge myself against its reduction, though I am not aware of any point where a reduction can take place without injury to the service, however desirous gentlemen may be to reduce the public expenditure. No, sir, a standing army can never be popular in any country; its increase will be watched in ours with jealousy, and the benefit of its labors on military roads, on our frontier, must always be limited to small portions of our countrymen, whose voice can never drown that of the whole community.

The objection, that too much is left to the discretion of the Executive in locating the roads has been well obviated by the gentleman from South Carolina, (Mr. LOWMEDES.) Whenever Congress may think proper to interfere, and to designate an important road, overlooked by the Executive, they can do so; or, when dissatisfied with roads designated by the Executive, the appropriation can be discontinued. Although, sir, I should have voted for the appropriation as it stood in the original bill, I am better satisfied with the amendment; not only because it designates clearly the amount and the purposes for which the money is to be expended, but also because the act of 1816, on the application of which to the regulations of the army it is stated that the expenditure has hitherto been made, is, to my mind at least, less unequivocal than could be wished.

Before closing my remarks, I cannot forbear asking the attention of gentlemen, who deny the power of Congress to construct any roads whatever, or to appropriate money for the purpose, to a prominent object of the proposed expenditure, the *discipline and health* of the army. Can the same object be attained in any less exceptionable manner? The tillage of gardens or other public lands in the vicinity of their several stations would be quite insufficient. The practice, in some countries, of employing the soldiery in labor for the neighboring cultivators, would be difficult, and perhaps endanger desertion. The improvement and construction of military roads is liable to none of these objections, and is therefore to be preferred, even for the well-being of the army. Is it not, then, consistent with the principles of these gentlemen to make the appropriation as the best and most economical system of preserving the army from the wasting effects of idleness, intemperance, and vice?

I hope, sir, the friends of the proposed amendment will find themselves supported by those who at first may have doubted, and that so salutary a measure may be found compatible with the principles of those who, on the general question, have held opinions quite opposite.

Mr. H. NELSON, of Virginia, next took the floor. In rising, he stated that he did not mean long to trespass on the time of the House on this occasion. But the vigilance of his honorable



colleague having so presented it as to afford an opportunity of discussing the subject, he asked permission to lay before the House a few remarks on it.

He did not mean, he said, to vote for the amendment of the honorable gentleman from Ohio, nor for the original proposition of the Committee of the Whole House. A strong argument against these propositions was derivable from the embarrassment in which the subject was placed: the floodgates of discussion were broken up, and the question which had agitated the House, and he might say the nation, at the last session, was brought into discussion on this paltry appropriation of ten thousand dollars, and the House was called upon to decide upon the constitutional powers of the House and the President of the United States. Mr. N. said he had no objection, if it became necessary, to decide on the constitutional powers of this House, if a case should be presented, and should be within the legitimate scope of inquiry. But he did object to this manner of throwing upon the President of the United States, prematurely and indirectly, a question involving his constitutional powers. It might be said that he objected, on this occasion, to a specification of the appropriations in the bill. But, Mr. N. said, he did not. Where they could be made, according to the established usage of the country, and in the exercise of the power of the Government to guard the Treasury, it was proper to make specific appropriations. As far, however, as he understood the usage of the country, it had never been the practice of the Government to make appropriations, except for objects defined by law. The combination of the two acts, legislation and appropriation, in the same bill, was a novel usage, and one which he hoped the House would not countenance. When a general appropriation embraced several known objects, no inconvenience resulted from the practice, nor any necessity for specification. He trusted this would be considered the case with regard to the appropriation for the Quartermaster General's department in the present bill, and that the ten thousand dollars, proposed to be excepted, would be permitted to remain within it. Pursuing the figure used by the Speaker, said Mr. N., we have hunted with success, and, having run down the game, I hope it may be permitted to retire to its covert. If we are so vigilant as to strain at this small item, what becomes of the watchfulness of the guardians of the public purse in regard to the remaining five hundred and forty thousand dollars for the same department, without a single specification of its objects? We have swallowed this bolus, said he, and now we strain at a gnat. He did not mean to censure the House for thus voting the appropriation in gross for the Quartermaster General's department; because he presumed every gentleman had had an opportunity of examining the estimates, and satisfying himself of the propriety of the appropriation. But he did consider it extraordinary that, after swallowing the larger items, this draught should nauseate. It was not, he said, the magnitude of this

appropriation, nor the importance of any principle involved, that was at the bottom of this debate. It surely could not be to save ten thousand dollars, nor yet to make that specific which was already as much so as the remaining five hundred and forty thousand dollars of that item of expenditure. No, sir, said Mr. N.; it has been avowed that the object is to restrain the President in the exercise of a power as Executive Magistrate which he has denied to exist in the Congress of the United States, of which he forms a part. Where was the evidence that any such power had been exercised? The gentleman from Virginia (Mr. TUCKER) had said that a paragraph he had seen in a newspaper announced that thirteen miles of the road had been finished. If the gentleman was disposed to rely on newspaper authority for facts, as to the President, Mr. N. said he could have recommended him to a certain editor of a paper in Philadelphia, whose declarations, if viewed as evidence, would prove the President to have been anything but an honest man. Such authority, however, had no weight with him, and ought to have none with the House.

Mr. N. said he had no disposition to unite with gentlemen in throwing the responsibility of this decision respecting the question of internal improvement on the President of the United States. To do that, the bill reported by the chairman of the Committee of Internal Improvement would afford a fair opportunity; and he was not, therefore, disposed, in the incidental manner proposed, to say to the President, if you do not pass this bill with the enormous weight of the question of internal improvement upon it, you shall have no appropriation whatever for the support of the Army. Mr. N. said he wished to excite no unpleasant feelings, but he wished to rouse the attention of the majority of this House, who had decided, at the last session, that neither Congress nor the President had the power to make roads. He wished to persuade the House to examine this subject, and not indirectly to reverse that which at the last session they had pledged themselves to support. It was enough to say that it had been formally decided, by a majority of voices in this House, that no power does belong to Congress or to the Executive to construct roads and canals. On this question he was ready again to meet gentlemen, but he begged that he might not be challenged to meet them on this arena—it is too narrow, said he; let us have a fair field, such as the bill reported by the Committee on Internal Improvement.

Without intending to countenance the doctrine of Executive influence, Mr. N. asked whether it was liberal or candid towards the Chief Magistrate to embarrass him by presenting to him this question. The President had said, and the House had said with him, that Congress had not the power to make roads or canals; and it was now attempted, by the amendment of this bill, to present to him the dilemma of approving the bill and sanctioning the principle, or of stopping the whole appropriation bill. For what object? To

arrest the operations of the Army, and disband or dissolve it? If that is the object, said Mr. N., let it be done openly. Or, if the President has assumed improper powers, meet him manfully, and stop him in his career. The sum involved in this question being so small as to be no object, we are to presume that some other object is in view, and that is, as avowed, to check the Executive. What was the power which he had ever used to which exception was taken? If proper information was before the House, he believed gentlemen would be satisfied there had been no abuse of power in the cases referred to. For, although, said Mr. N., I deny most positively, and with all my strength, that the Government can make roads, commercial, agricultural, or of any other description, yet I have no doubt that, on an existing road, leading from one garrison to another, Congress may appropriate money to make those roads practicable for the transportation of munitions of war, and that the Executive may direct the application of the labor of the Army to the same purpose. It was a courtesy to the United States which he was willing to yield, as a mere courtesy, that they make roads for the transportation of public property, for the purpose of economizing the expenditure. It would be found, on proper examination, that this chimera of the exercise of power not belonging to the Executive, and by him denied to Congress, had no existence in fact. There was some apology, Mr. N. added, for warmth on this subject; for the charge now preferred against the Executive was also to be found on record in the report of the Committee of Internal Improvement, made at the last session, where it was said, in express terms that the same power had been exercised by the Executive which the Executive had denied to Congress. Before this charge was made, some better evidence ought to be produced than the mere report of a newspaper.

I have already said, observed Mr. N., that I would not, on this occasion, enter into a discussion of the general question of internal improvement. But, in this debate, we have had, also, in some measure, introduced the conduct of General Jackson and the Executive in relation to the Seminole war. As there seems to be some excitement on this subject, and some gentlemen have already given their opinion respecting it, I too, will give mine. My opinion is, that General Jackson ought to be sustained by the Government and people of the country; and, instead of voting a censure on that illustrious officer, he has, for his conduct, the thanks of my heart sincerely. With respect to this sickly humanity which rouses every feeling of sympathy, and even of indignation, to appease the manes of the executed miscreants, who, without mercy, and without feeling, buried their tomahawks in the brains and bowels of the helpless families on our frontier, it was not by such goblins as had been conjured up here that the man who rescued the soil of his country from pollution on the plains of Orleans was to be beaten down. The people of this country will never forsake him, from a mockery of

humanity, for having obeyed the dictates of justice. I will not, said Mr. N., anticipate the possibility of a decision of the country against General Jackson, however the newspapers may speak, and the friends of editors scribble to excite a morbid feeling against him, by which, I trust, the generous and manly feeling of this country will never be subdued or misled. If forced to a discussion of the conduct of General Jackson, Mr. N. concluded by saying, instead of censuring that man, he should have his approbation and thanks for the energy and ability he had displayed in the conduct of the Seminole war.

Mr. TUCKER, of Virginia, said that he threw himself upon the courtesy of the House for a few moments of their attention, while he tendered to the gentleman from Virginia, (Mr. NELSON,) his profound acknowledgments for the favors he had received at his hands.

The gentleman, sir, said Mr. T., has, on the present, as on almost every other occasion, brought more of passion than of argument into the debate. He has addressed himself rather to the feelings than to the understanding; and, waiving the discussion of the matter of right, has met us by the overwhelming imputation of hostility to the Government. To me he has liberally imputed the design of hurling anathemas, and aiming the shafts of obloquy against the Executive for the violation of the Constitution—to all of us the desire of “embarrassing” that department, “by thrusting upon it” propositions which reduce the President to the necessity of deciding upon his Constitutional powers.

Sir, it has been somewhere said, with just severity upon the ill-directed efforts of misjudging zeal, “Oh! that mine enemy had a friend!” Surely, the indiscretion of friendship, which it implies, was never more forcibly manifested than in the conduct of that gentleman. If, as he has gratuitously and most erroneously supposed, the shafts of hostility have been aimed from any quarter at the distinguished gentleman who now fills the chair of the Executive, I submit to the House to determine whether it has not been the hand of that gentleman which has pointed the dart. Whenever a proposition has been produced, for exercising the power which we deem Constitutional—and when we have supported it by an appeal to the Executive acts, in our conception within the pale of its powers, the gentleman has never failed to assail us, by attacking those Executive opinions on which we relied for support. It is from him that we hear intimations of Executive “embarrassment” in the consideration of great Constitutional questions, on which that magistrate has already pronounced his opinions. The honorable member, is indeed, most singularly unhappy in the defence of the Executive. Is it true, as the gentleman has intimated, that on a bill containing an appropriation for making military roads, the President is likely to be “embarrassed” by this Constitutional question? Does the gentleman mean to be understood, that the Executive opinion has not been sufficiently weighed and deliberated, to enable



that department to decide with promptness and consistency on the questions submitted to it? If he does, while it furnishes, on the one hand, reason to lament that those who defend, should think proper to attribute "embarrassment" to the Chief Magistrate, it affords, on the other, ample grounds for the prosecution of a measure which will present him with a fair and Constitutional opportunity of explaining, in extenso, the doctrines of the Constitution.

Sir, it is in the same spirit that the gentleman has pronounced that we are now reiterating, on the subject of military roads, a charge of violation of the Constitution by the Executive, which was advanced in the report on "roads and canals," of the last year, of which I was—perhaps unfortunately—the author. There was no such charge in that report; on the contrary, in support of a power in Congress to provide good roads for necessary military operations, as necessary to the war-declaring power, the committee relied on the acknowledged exercise, by the President, of the right to make military roads, as necessary to the power of commanding the Army, or of carrying on a war. Affirming the right of the Executive, (at least to a certain extent,) they inferred the power in the Congress of the United States, to provide, in time of peace, for the means of conducting a war to a happy and prosperous issue. They denied that the Constitution of the United States could have intended that this nation should ever be plunged in the trying scenes of war, without every necessary power for waging it with effect.

And we are now, it is said, pressing this charge once more upon the Executive. Who are engaged in this meritorious enterprise? If the gentleman is desirous of expelling me from the fold, by a frequent and entirely gratuitous imputation of views inimical to the Executive, will he place in the same hostile array the distinguished gentlemen with whom, on this, as on former occasions, I have had the honor to act? Will he include a large majority of this House, who a few days past, in committee, have united with me in voting for this proposition? Is it, indeed, contended, that the President has but a minority in this House, and that a large majority are engaged in thwarting his views, and "thrusting upon him" propositions, with a desire of embarrassing him in the discharge of his official functions? No, sir; such are not my objects; such, I feel authorized to say, are not the objects of those with whom I act. Their objects are legitimate and fair, as I shall be able to establish before I shall conclude.

But I am told that, before I venture to charge upon a high officer of the Government an act which violates the Constitution, it behooves me to come here better prepared than with newspaper evidence of the fact; and the gentleman has obligingly recommended to me a newspaper in Philadelphia, from which to draw my future anathemas. I have as little knowledge of its editor as that gentleman. The gentleman has been pleased to style me his friend. [Here Mr.

N. said Mr. T. might disclaim the title.] Mr. T. said, he had not disclaimed it; but I leave it to the gentleman's reflections to determine by what sentiments of friendship such remarks have been urged upon me. Sir, they have been improperly introduced into the debate; they have nothing to do with the question, and could have been suggested by no friendly disposition.

But we are told that we had other objects in view besides those which appear on the face of the proposition; we have the Cumberland road bill in view. True, we are not inattentive to it. We wish to present this appropriation in such a shape, that, if it meets support, that may also find it. The object in the variety of propositions which have been and will continue to be submitted on the subject of roads, is fair and legitimate. The subject is one on which a deep and growing interest is felt; and though it may be delayed or impeded by casual interruptions, the plan of national improvement must and will go on. Prompted by a desire to promote them, a majority of the House have manifested by the passage of former bills a wish to present the subject fairly before the President, that, if he approves those which we pass, it may be discovered how far he believes we can properly go; and if he rejects, he will, according to the directions of the Constitution, furnish his reasons in detail; thus clearly exhibiting his view of our Constitutional powers, and enabling us to proceed in their exercise as far as may consist with his opinion. Is this not desirable, both to us and to him? Is it not calculated to put an end to this never ending discussion as to our powers? Is it not fair and liberal to the Chief Magistrate to afford him an opportunity of distinctly defining his views of the Constitution, and of terminating these speculations as to the character of his opinions? I have heard it hinted, indeed, that the Cumberland road bill of the last session was intended to "entrap the President into an inconsistency." It is a poor compliment to the Executive Magistrate to suppose he was to be entrapped by a bill which contained but a single section, and the object of which was so distinct and definite. It was not framed, sir, with any such view. The public service required it. The Treasury Department suggested its necessity to provide for the fulfilment of contracts theretofore made by the Executive. It was moreover hoped, that, if rejected, we should have the reasons of the President; if approved, we might infer a more favorable opinion than the generality of the expressions in his first Message to Congress permitted us to hope for.

But, sir, I not only referred to the newspaper evidence of the National Intelligencer to prove that roads had been made, but I produced other evidence, from the Executive department, if the gentleman had deigned to attend to it. It was the report of the Secretary of War made at the last session upon a call of the House for further information as to the roads constructed under the direction of the President. By this document, it appears that several important roads had been

constructed under the authority of the President, (without any specific appropriation by Congress,) and by the labor of the soldiery, to whom an extra compensation was allowed by law. Here then is evidence of the highest authority that roads have been constructed by the Executive department, the expense of which have been paid out of sums appropriated to general objects, without specifying roads. Sir, I have in this attributed no breach of the Constitution to the Military Department. On the contrary, in reply to the honorable Speaker, some days past, I remarked, that "the fault was in ourselves;" that we had voted for large appropriations without specification, though with an understanding that part of the sums appropriated were for the use of roads—under which understanding the War Department had acted. I am now anxious to put a stop to a procedure which seems to me not perfectly consistent with the provisions of the Constitution in relation to appropriations.

Sir, if we were again to pass this appropriation bill, with a lumping sum, out of which the War Department may make roads without any specific appropriation, there might then, indeed, be some plausibility in the imputation of an attempt to entrap the Chief Magistrate. By dividing the appropriation as we propose, he cannot but perceive that there is a sum set apart for military roads; a fact that might well escape attention, if in what the gentleman calls "the bolus" of \$550,000 was covertly included this "contemptible sum," this "gnat" which he so much despises.

But, after all, what does this contested clause propose? Nothing more than that we should appropriate specifically, for work on military roads, the sum of \$10,000, instead of leaving the work to be done, as heretofore, without a specific appropriation. We now authorize the work to be done. Before, it was done without any specific authority. We now appropriate the money specifically. Before, it was drawn from the Treasury under a general appropriation. In this consists all the difference between the state of things heretofore and that which we desire to introduce. Thus the attack upon the President consists in supporting a proposition in consonance with his acts, which the gentleman who supports him most zealously opposes!

I understand the gentleman as alleging that a vote in favor of this proposition would be inconsistent with the vote of a majority of this House at the last session of Congress. In this, sir, he is clearly mistaken. The first resolution on which the vote was taken at that time was in these words: "That Congress has power under the Constitution to appropriate money for the construction of post roads, military, and other roads; and for the improvement of water-courses." This passed by a vote of 90 to 75.

And what is the proposition now under consideration? It is a clause in the appropriation bill to appropriate \$10,000 to the construction of such roads for military purposes as may be deemed important.

The proposition now is in direct correspond-

ence with the right affirmed then; and it will be extraordinary indeed, if, after an affirmation of the right by so large a vote, the appropriation should be rejected when none can deny its necessity.

Sir, I shall not undertake to examine the course of the gentleman himself. I am willing to extend the courtesy which I expect from others; and though I should find it vain to attempt to reconcile what seems to be the conflicting character of his opinions, I am willing to believe that he has some mode of explaining their apparent inconsistencies which is at least satisfactory to himself.

Mr. MILLER, of South Carolina, said, he did not think it important in any point of view that the amendment proposed by the gentleman from Ohio should be adopted. The amendment would not change the principle reported by the Committee of the Whole, which was nothing more than making an appropriation, to enable the Executive to use the soldiers of the United States in working on roads. All the gentlemen who have spoken on this subject (said he) seem to think no substantive power or law should be created by the appropriation bill. I answer, this clause in the appropriation bill does not give any additional power in relation to working on roads, but merely is a grant of money to enable the Executive to do that which the Constitution authorizes him to do; namely, to employ the soldiers of the Army of the United States as the commander of any army may, as commander of an army, employ the same. It seems to be established, by evidence of unquestionable character, that the soldiers of the Army have been employed in working on roads. This the honorable gentleman from Virginia (Mr. NELSON) has denied. The report and letter of the Secretary of War seem to me to be conclusive as to the fact, that the soldiers are thus employed. The only question that remains for determination is, will Congress, who, by the Constitution, is the only authority by which the army can be raised and paid, allow an additional compensation to the soldiers, while thus employed, under Executive direction, in working on roads? This involves two questions: first, the power of Congress to make this appropriation; and, secondly, the expediency of exercising it. The Constitution gives to the President a right to command the Army of the United States. Congress has the right to raise and support an army. It follows, that after an army is raised, the President is to command it, according to the existing laws in force, and according to the universally acknowledged rights of a commander. Now, I take it to be universally acknowledged, that the commander of an army may employ the labor of the army in working on roads, barracks, or fortifications, either with or without their consent. This arises out of the nature of his command; the soldiers are to submit to such regulations as the President shall adopt for the government of the Army. He can direct their movements, and has a qualified right to employ their labor in whatever way



H. or R.

Military Appropriation Bill.

JANUARY, 1819.

the benefit of the Army, or the interest of the nation, may require. There can be but little doubt, but what the President may employ the Army of the United States, constitutionally, in working on roads. If he can do so, the next question is, would it be expedient to encourage their employment in this way, by giving a premium of fifteen cents per day to the soldiers thus employed? The sum, thus to be employed, is too small for much evil to grow out of it, were we to suppose it improperly applied. This we have no right to suppose will be the case. We are daily compelled to submit greater and more important funds to the discretion of the President; and yet no fears upon the subject. We must presume he will use those powers which the Constitution has clothed him with, for the benefit of the country.

Look at many items of this bill, and you will see appropriations made upon various subjects, which imply a discreet application by the President. Thus the sum for the survey of the waters, &c., west of the Mississippi—where is the power in the Constitution for the President to effect this object, except he derives it from his character as commander of the Army? And yet nothing is apprehended as to the misapplication of this fund. I would ask if the President can, constitutionally, employ the Army in working on military roads? Can there be a more economical plan than to pay the soldier fifteen cents, when the same labor would cost one dollar by contract with private individuals in most places? The gentleman from Virginia (Mr. NELSON) seems to think that the President will find it difficult to remove his objections against the powers of Congress to apply its funds to internal improvement, but it is now too late for such a supposition. Without any other than a general appropriation for the Quartermaster's department, under which head this item was embraced, the Executive has thus employed the soldiers; and surely now, because the same money is given in the same manner, except specially instead of generally, he will not refuse to sign the general appropriation bill, which contains nothing more than it did last year. If the President had not by his own acts shown his construction of the Constitution in relation to his own power as commander of the Army, there might be some ground to suppose, from his Message of the last Congress, that part of the appropriation would be exceptionable to him—but when he has availed himself of the appropriation made last year, thus to employ the Army, he will not be likely to refuse to sign a bill making an appropriation for the pay of the Army, when constitutionally employed by himself, for that purpose. Upon this part of the subject, the only difficulty seems to be in this, that the President, in his communication to Congress at the last session, intimates his opinion, that Congress have not the right by virtue of their powers of taxation to employ their own money, as any legislative body may employ their money, when, in the application of the money put at the disposal of the President, he has as-

sumed, as a correct construction of the Constitution, that, by virtue of his rights as Commander-in-Chief, he can employ his army as any other commander may. But, this is no reason for our not legislating upon a specific proposition, in which, as far as there has been any expression of opinion, the executive and legislative branches of the Government all concur.

Before I conclude, I will notice a distinction taken by the gentleman from Connecticut, (Mr. PITKIN,) who supposes the President may, during war, as Commander-in-Chief, use his army in making roads, but not during peace. This distinction does not exist in the Constitution. That instrument declares that the President shall be Commander-in-Chief of the Army, &c.; there is nothing said about peace or war—he is, therefore, commander during peace as well as during war; and whatever any commander may do as commander, he may do in time of peace. By a declaration of war, new duties are imposed, but his character as Commander-in-Chief is still the same. Being, therefore, of opinion, that we can, constitutionally, make the appropriation, and that it will be expedient to do so, I shall vote for a concurrence in the amendment made in the Committee of the Whole.

Mr. BARBOUR, of Virginia, rose to state to the House some reasons which seemed to him to be conclusive against concurring in the amendment of the Committee of the Whole, then under consideration.

He said that the amendment went to appropriate ten thousand dollars for extra pay to soldiers while engaged in working on, and repairing, military roads. The question, as to the power of Congress upon this subject, had been so much discussed at the last session, that he believed the subject, and the patience of the House, had been alike exhausted. He should not, therefore, at this time, make a single remark in relation to it, except to state the fact, which was sufficient for the purposes of his present argument, that there was great diversity of opinion among the members of this House how far that power extended. Some gentlemen, said he, are of opinion, that Congress can construct roads; others that they cannot construct, but may appropriate money for their construction; while others think that they can do neither. Some think that the power belongs to Congress; others that it appertains to the President, as Commander-in-chief of the armies of the United States, to make the necessary military roads for the passage of the troops, and the transportation of munitions of war. Some think there ought to be a specific appropriation, while others contend that it had better remain as a part of the item for the Quartermaster's department; in short, said he, there is so much diversity of opinion among us, that it might be said, without a figure, that we agreed in nothing but to disagree. This is the character of the amendment. Let us now, for a moment, examine the kind of bill to which it is proposed to be added; it is, sir, the military appropriation bill, containing provision for the pay, subsistence,

JANUARY, 1819.

Military Appropriation Bill.

H. or R.

and all the incidental expenses of the Military Establishment for the present year; about not one item of which is there the least difficulty or question, as to principle, except in relation to the one now under consideration. No, sir. As to all the other provisions of the bill, the only question which has arisen has been one of quantity—a question of more or less—how many dollars shall we appropriate to this or that object of expenditure? He would ask the House, then, whether it could be correct to complicate with a bill, as to which we all agreed, or, if we disagreed, our opinions might be easily compromised, and thus terminate in an act of legislation, one single principle, so much contested, as the subject of the proposed amendment? He would ask the House to look at the consequences to which it would lead. It would coerce a very large minority of the House finally to vote against a bill, which, in all its provisions but one, they not only approved, but which might be considered an act of legislation of course; inasmuch as, if we kept up an army, it must be paid and subsisted.

As it respects the President, he would ask whether it was not in effect introducing into Congress the system which at one time prevailed in the British House of Commons, and which had been technically called *tacking*? When that House wished a redress of grievances, it attached a provision therefor to the supply bill for the year; then tendered the alternative to take both or neither. Sir, said Mr. B., if the President should, as some suppose, reject this bill upon the ground of this appropriation, what then would follow? He believed, and he referred to the vote of the last session, when we were almost identically the same members, in support of his opinion, that there would not be found a Constitutional majority to pass the bill. Let us, then, refuse to concur in the proposed amendment; let us pass this necessary bill, and there is yet a plain and obvious mode by which gentlemen can attain the object which they have in view. It has been said that it is desirable that the opinion of the President should be expressed directly upon this question. I am desirous, too, that both the President and Congress should express a direct opinion on the question; and this, sir, is the mode which I propose.

Let the subject-matter of this amendment be introduced into a substantial and independent bill, or incorporated, as an amendment, into a bill upon the subject of internal improvement, just reported by the chairman of the Committee on Roads and Canals; then the question will be discussed and decided upon its own merits; and this affords an answer to an objection which was urged in argument. It was said that the money used to pay for work on military roads had hitherto been drawn from the item for the Quartermaster's department, and, if we struck out this specific appropriation, it would be left in a doubtful state. Mr. B. said he thought there could not be a possible difficulty. When this bill was first reported, the item for the Quartermaster's department did contain \$10,000, intended for

working on roads. We have, however, by a vote in the Committee of the Whole, diminished that item precisely by the amount of \$10,000, and avowedly with a view to present it in the shape of a specific appropriation; now let us strike this specific item from this bill, and then present it in either of the ways which have been pointed out; the result will be, that both departments of the Government will have decided directly upon the question, and the opinion of Congress cannot be mistaken. Under this view of the subject, he earnestly hoped that the proposed amendment would not be concurred in.

After some further remarks from Mr. RHEA against the amendment, the motion of Mr. BEECHER to amend, and several other motions to amend were successively negatived, and the main amendment reported by the Committee of the Whole (to insert a specific appropriation for defraying the expense caused by soldiers working on roads) was concurred in—yeas 90, nays 75, as follows:

YEAS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Bateman, Bayley, Beecher, Butler of Louisiana, Campbell, Colston, Crawford, Cushman, Davidson, Ellicott, Ervin of South Carolina, Fuller, Gilbert, Hall of Delaware, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky Jones, Kinsey, Lawyer, Lincoln, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, W. P. Mac-lay, Marchand, Marr, Mercer, Middleton, Miller, Robert Moore, Samuel Moore, Morton, Murray, Nesbitt, Newton, Ogden, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Robertson, Rogers, Savage, Schuyler, Sergeant, Seybert, Silsbee, Simkins, S. Smith, Ballard Smith, Speed, Storrs, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Massachusetts, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bellinger, Bennett, Bloomfield, Blount, Boden, Boss, Burwell, Claiborne, Cobb, Cook, Crafts, Cruger, Darlington, Desha, Drake, Earle, Edwards, Floyd, Folger, Gage, Garnett, Hale, Hall of North Carolina, Hunter, Huntington, Johnson of Virginia, Kirtland, Lewis, W. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Jeremiah Nelson, H. Nelson, T. M. Nelson, Ogle, Orr, Owen, Pegram, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Ruggles, Sampson, Scudder, Settle, Shaw, Sherwood, Slacumb, Alexander Smyth, J. S. Smith, Southard, Stewart of North Carolina, Strong, Townsend, Tucker of South Carolina, Upham, Walker of North Carolina, Whitman, Williams of Connecticut, and Williams of New York.

The bill was then ordered to be engrossed and read a third time to-morrow.

TUESDAY, January 12.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to enable the people of the Alabama Territory, to form a constitution and State government, and for the admission of such State into the



Union, on an equal footing with the original States," in which they ask the concurrence of this House.

Mr. WILKIN, from the Committee on Pensions and Revolutionary Claims, to which was committed the bill from the Senate, entitled "An act for the relief of Aquilla Giles," reported the same without amendment, and it was committed to a Committee of the Whole.

*Ordered.* That the several orders of the day, which precede the bill for the relief of Adam Kinsley and Thomas French, be postponed until to-morrow.

The House resumed the regular order of the day, and went into a Committee of the Whole on the bill for the relief of Kinsey and French.

Some discussion took place on the merits of their case, as well as on that of Charles S. Leonard, for whose relief it was proposed, by Mr. RICH, to add a section to this bill, comprehending the said Leonard in its provisions. This was finally agreed to in Committee, and subsequently by the House, and the bill ordered to be engrossed.

The SPEAKER communicated to the House a letter from the Secretary of the Treasury, transmitting a statement of the debts, credits and funds of the banks of the District of Columbia, rendered in obedience to a resolution of this House of the 7th instant.

On motion of Mr. TAYLOR, the Committee on the Public Lands were instructed to inquire into the expediency of extending the time for issuing and locating military land warrants for services rendered during the war of the Revolution.

On motion of Mr. HERBERT, the Secretary of the Treasury was instructed to report to the House a statement of the debts, credits, and funds of all the banks in the District of Columbia, not embraced in the terms of the resolution of the House a few days ago.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting the annual report of the Commissioners, with sundry statements in relation to the Navy Pension Fund, which was ordered to lie on the table.

The SPEAKER laid before the House another letter from the Secretary of the Navy, transmitting sundry papers, being copies of letters and extracts of letters to the commanding naval officers, which contain all the instructions which have issued from the Navy Department in pursuance of the act of Congress prohibiting the importation of slaves, passed on the 2d day of March, 1807, in obedience to a resolution of the House on the 4th instant.

#### SEMINOLE WAR.

Mr. T. M. NELSON, from the Committee on Military Affairs, delivered in the following report:

The Committee on Military Affairs, to whom was referred that part of the President's Message, of the 17th November, 1818, which relates to the proceeding of the court martial, in the trial of Arbuthnot and Ambrister, and to the conduct of the war against the Seminole Indians, report:

That after a perusal of the various documents submitted to Congress, on the subject of the Seminole war, they find much difficulty in separating the responsibility of the commanding officer to his Government, from the obligations of the United States to Spain. But, as the occupation and capture of Pensacola and St. Marks are subjects of negotiation and correspondence at this time, between the two Governments, and as the Committee on Foreign Relations will probably consider this part of the President's Message more immediately connected with their branch of the subject, your committee will confine themselves, in this report, to the trial and execution of Alexander Arbuthnot and Robert C. Ambrister.

On the 26th April, 1818, a general order issued at headquarters, Fort St. Marks, by Major General Jackson, signed by Colonel Robert Butler, Adjutant General, detailing "a special court martial, to meet at 12 o'clock, A. M., for the purpose of investigating charges exhibited against A. Arbuthnot, R. C. Ambrister, and such others, who are similarly situated, as may be brought before it."

Your committee do not deem it necessary to attach to their report the proceedings of that court, as every member of the House has been furnished with several copies, to which reference can be made.

Your committee can find no law of the United States, authorizing a trial, before a military court, for such offences as are alleged against Arbuthnot and Ambrister, (except so much of the second charge as charges Arbuthnot with "acting as a spy," of which part of the charge the court found him "not guilty;" nor, in the opinion of your committee, does any usage authorize, or exigency appear from the documents accompanying the report of the trial, which can justify the assumption and exercise of power by the court martial, and the commanding General, on this occasion. It is admitted, as a maxim of the law of nations, that, where the war is with a savage nation which observes no rules, and never gives quarter, we may punish them in the person of any of their people, whom we may take, (belonging to the number of the guilty,) and endeavor by this rigorous proceeding to force them to respect the laws of humanity. Wherever severity is not absolutely necessary, mercy becomes a duty. In vain has your committee sought, among the documents on the subject of the Seminole war, for a shadow of necessity for the death of the prisoners arraigned before the court. The war was at an end, to all intents and purposes—the enemy's strongholds had been destroyed—many of them killed or taken prisoners, and the remainder, a feeble band, dispersed and scattered in every direction. The Spanish fort of St. Marks, which it was supposed, (and no doubt justly,) had protected them, was also in our possession, and so entirely was the war considered to be terminated, that the Georgia militia, under General Glasscock, had returned to their homes. Then where was the absolute necessity which alone could warrant a departure from the exercise of that clemency, of which the United States has heretofore so justly boasted?

Your committee find, in the general order of the 29th April, in which General Jackson orders the execution of Arbuthnot and Ambrister, this remarkable reason, intended as a justification of the executions, principally of Ambrister, but applying to both Arbuthnot and Ambrister: "It is an established principle of the law of nations, that any individual of a nation, making war against the citizens of another nation, they

being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." It may be asked by what system of interpretation the offences charged could be considered as piracies, which imply, in common acceptance, offences upon the high seas, of which the court could not assume cognizance; and it is equally difficult to understand the propriety of the application of the term "outlaw," to the offenders—a term, which applies only to the relations of individuals with their own governments. It will not be pretended, that Lafayette, who volunteered his services in the cause of America, in the war which established our independence, forfeited his allegiance, became an outlaw, and subjected himself to an ignominious death, had he fallen into the hands of the English. Or can it be believed that one voice would be heard in justification of Spain, if she were to execute such of our countrymen as she may make prisoners, while fighting in the armies of the South American Patriots? And if these cases should not be considered of such a nature, as to warrant a resort to so severe a measure, while they occurred with a people in a state of revolution, and considered by the parent countries to be in a state of rebellion, much less could these men (Arbuthnot and Ambrister) be considered liable to it, who were acting with a Power, acknowledged and treated as sovereign and independent by us.

Your committee beg leave to call your attention particularly to the case of R. C. Ambrister, who, after having been subjected to a trial before a court which had no cognizance or jurisdiction over the offences charged against him, was shot by order of the commanding General, contrary to the forms and usages of the army, and without regard to the finding of that court, which had been instituted as a guide for himself.

Your committee must here, in justice to their own feelings, express their extreme regret, that it has become their duty to disapprove the conduct of one who has, on a former occasion, so eminently contributed to the honor and defence of the nation, as has Major General Jackson; but the more elevated the station, the more exalted the character of the individual, the more necessary is it, by a reasonable, yet temperate expression of public opinion, through the Constitutional organ, to prevent the recurrence of incidents at variance with the principles of our Government and laws.

Nor can your committee forbear including in their strictures the court martial who sat on the trial of Arbuthnot and Ambrister. A court martial is a tribunal invested with limited jurisdiction, having for its guidance the same rules of evidence which govern courts of law; and yet Arbuthnot is refused by the court martial, before whom he was on trial for his life, the benefit of the testimony of Ambrister, who had not been put upon his trial at that time, and whose evidence would have been received by any court of law as legal, if not credible. Many other exceptions might be made to the evidence recorded in these proceedings: particularly to the question put to the witness Hambley, viz: "Do you believe the Seminoles would have commenced the business of murder and depredation on the white settlements, had it not been at the instigation of the prisoner, (Arbuthnot,) and a promise, on his part, of British protection?" Answer: "I do not believe they would, without they had been assured of British protection." A leading question is expressly forbidden to be used by a court martial, by Macomb on Martial Law, and of which the court must have been apprized, as it is a work common in the army, and usually referred

to by every court martial when in session; and the question was calculated to elicit an expression of opinion and belief from the witness, rather than a statement of facts, upon which alone could the court act. Hearsay evidence, in a case of life and death, your committee will venture to assert, was never before received against the accused in any court of this country, and yet, on the face of the record of the proceedings of the court martial, hearsay testimony is admitted, which had been received from an Indian, who, if present, would not have been allowed to give evidence himself.

After mature deliberation, your committee beg leave to submit the following resolution:

*Resolved,* That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister.

Mr. JOHNSON, of Kentucky, also of the Military Committee, submitted a paper drawn up in the shape of a report by that committee, which, by a majority of one vote, that committee had refused to accept, and the said paper was read as follows:

"The committee to whom was referred so much of the President's Message as relates to the Seminole war, and the proceedings in the trial of Alexander Arbuthnot and Robert C. Ambrister, report:

That General Jackson, in a short, though sanguinary war, with the Creek nation of Indians, brought them to terms of peace; and in the Summer of 1814, a treaty was concluded with them, wherein they ceded to the United States a territory embracing several millions of acres of land; the effect of this cession was, the cutting off the Indian establishments between the settlements of the United States in Georgia and Alabama, and the Spanish territory. This object being obtained, future peace and safety to our citizens, in that quarter, were confidently anticipated; but, contrary to these just expectations, it was discovered that a hostile disposition was still entertained by the Seminole tribe of that nation, aided by fugitive negroes, and incited by foreign incendiaries. It having been represented to the Government, that murders had been committed on our defenceless citizens, General Gaines was ordered, in the Summer of 1817, with a considerable force, to take a station in that section, for their protection. General Gaines was directed to keep within the territorial limits of the United States, and abstain from every attempt to cross the Florida line; but to demand of the Indians the perpetrators of the crimes thus committed, in order that punishment might be inflicted upon the guilty, without involving the innocent, and without a general rupture with these deluded savages. The fact of such murders having been ascertained, attended with aggravating circumstances of rapine and cruelty, General Gaines, in conformity with his orders, made the demand. The savages, through the deceptive representations of foreign incendiaries, were led to believe that the strength of the United States was not sufficient to subdue them; or, if their own forces were incompetent to sustain the conflict, they would receive assistance from the British. These promises, made by these unauthorized agents, were predicated upon a pretence, that the United States had bound themselves, by the Treaty of Ghent, to restore the lands which the Indians had ceded, previously to that Treaty, at Fort Jackson; and that the British Government would enforce its observance. Under this influence, they not only refused to deliver the murderers, but repeated



their massacres whenever opportunity offered; and, to evade the arm of justice, took refuge across the line, in Florida. In this state of affairs, in November, 1817, Lieutenant Scott, of the United States Army, under General Gaines, with forty-seven persons, men, women, and children, in a boat on the Apalachicola river, about a mile below the junction of the Flint and the Chachooche, was surprised by an ambuscade of Indians, fired upon, and the whole detachment killed and taken by the Indians, except six men, who escaped by flight, (one of whom was wounded.) Those who were taken alive on this occasion, were wantonly murdered by the ferocious savages, who took the little children and dashed out their brains against the side of the boat, and butchered all the helpless females, except one, who was afterwards retaken. General Gaines was not yet authorized to cross into Florida, to enforce a compliance with his demand for the delivery of the murderers, while the Indians were collecting in large numbers upon the line, which they seemed to think a perfect safeguard, and from which they continued their predatory incursions, as opportunity permitted. A letter from the Secretary of War, of the 9th December, 1817, authorized General Gaines, in case the state of things should continue, and it should become impossible, by any other means, to prevent their depredations, to exercise a sound discretion as to crossing the Florida line, to break up their establishment; and, on the 16th of the same month, the Secretary of War, by letter, directed to General Gaines, fully authorized him to cross the line, and attack the Indians within the Spanish territory, should they still refuse to make reparation for depredations already committed—unless they should shelter themselves under a Spanish fort, in which case he was directed to notify the Department.

Intelligence being received by the War Department of the massacre of Lieutenant Scott and his companions, General Jackson was directed, by letter of the 26th December, 1817, to repair to Fort Scott, and take command of the forces in that quarter; with authority, in case he should deem it necessary, to call upon the Executives of the adjacent States for such additional force as he should deem requisite; in which he was referred to the previous orders given to General Gaines, and directed to concentrate his forces, and adopt the measures necessary to terminate a conflict, which had been avoided from considerations of humanity, but which had now become indispensable, from the settled hostility of the savage enemy. In January following, the Secretary of War, in a letter to General Gaines, says, "The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." Under these orders, and in this critical state of affairs, General Jackson, with that zeal and promptness which have ever marked his career, repaired to the post assigned, and assumed the command. The necessity of crossing the line into Florida was no longer a subject of doubt. A large force of Indians and negroes was making that territory their refuge, and the Spanish authority was either too weak or too indifferent to restrain them; and to comply with orders given him from the Department of War, he penetrated immediately into the Seminole towns, driving the enemy before him, and reduced them to ashes. In the council-house of the King of the Mickasukians, more than fifty fresh scalps, and in an adjacent house upwards of three-hundred old scalps, of

all ages and sexes, were found; and in the centre of the public square a red pole was erected, crowned with scalps, known by the hair to have belonged to the companions of Lieutenant Scott.

To inflict merited punishment upon these barbarians and to prevent a repetition of these massacres, by bringing the war to a speedy and successful termination, he pursued his march to St. Marks, when he found, in corroboration of previous information, that the Indians and negroes had demanded the surrender of that post to them; and that the Spanish garrison, according to the commandant's own concessions, was too weak to support it. Here he ascertained that the enemy had been supplied with the means of carrying on the war, from the commandant of the post; that foreign incendiaries, instigating the savages, had free communication with the fort for carrying on their intrigues; councils of war were permitted by the commandant to be held by the chiefs and warriors within his own quarters; the Spanish store-houses were appropriated to the use of the hostile party, and actually filled with goods belonging to them; munitions of war were furnished them, and property, known to have been plundered from our citizens, purchased from them by the commandant, while he still professed friendship to the United States. General Jackson, therefore, had no hesitation to demand of the commandant of St. Marks the surrender of that post, that it might be garrisoned with an American force; and, when the Spanish officer hesitated to deliver it, he entered the fort by force, though without bloodshed, the enemy having fled, and the garrison being too weak to make opposition. Convinced of the necessity of rapid movements, in order to the ultimate success of the expedition he immediately marched his forces to Suwaney, seized upon the stores of the enemy, and burnt their villages.

Having thus far effected his object, General Jackson considered the war at an end. St. Marks being garrisoned by an American force; the Indian towns at Mickasuky and Suwaney destroyed; the two Indian chiefs, who had been the prime movers and leaders of the savages, one of whom had commanded the party that murdered Lieutenant Scott and his companions, and the two principal foreign instigators, Arbuthnot and Ambrister, being taken and executed, General Jackson ordered the Georgia militia to be discharged, and was preparing himself to return to Tennessee. But he soon learned that the Indians and negroes were collecting in companies west of the Apalachicola, which would render it necessary for him to send a detachment to scour the country in that quarter. While preparing for this object, he learned that the Indians were admitted by the Governor into Pensacola, and enjoyed free access to that town; that they were collecting in large numbers, 500 being in Pensacola on the 15th of April, many of whom were known to be hostile, and had just escaped from the pursuit of our troops; that the enemy were furnished with ammunition and supplies, and received intelligence of the movements of our forces from that place; that a number of them sallied out, and murdered eighteen of our citizens, settlers upon the Alabama, and were immediately received by the Governor, and by him transported across the bay, that they might evade the pursuit.

These facts being ascertained by General Jackson from unquestionable authority, he immediately took up his line of march towards Pensacola, at the head of a detachment of about 1,200 men, for the purpose

of counteracting the views of the enemy, and to execute his orders from the War Department, by terminating the war speedily, and with exemplary punishment for hostilities so unprovoked. On the 10th of May he crossed the Apalachicola at the Ocheese village, with the view of scouring the country west of that river; and, on the 23d of the same month, he received a communication from the Governor of West Florida, protesting against his entrance into that province, commanding him to retire from it, and declaring that he would repel force by force, provided he should not obey. This communication, together with the evident indications of hostility in the Governor, who had been well advised of the object of General Jackson's operations, determined the measures which he pursued. Accordingly, he marched directly to Pensacola, and with but the shadow of opposition took possession of that place the following day, the Governor having fled to Fort Carlos de Barancas, which post, after a feeble resistance, was also surrendered to General Jackson on the 29th; by which the Indians and fugitive negroes were effectually deprived of all possible means of continuing their depredations, or screening themselves from the arm of justice. Thus gloriously terminated the Seminole war, a war reluctantly entered into, but urged by dire necessity, to protect from the tomahawk and scalping-knife of the most ruthless savages our peaceful frontier settlers, who, from decrepit age to helpless infancy, for more than two years had been exposed to their cruelties—a war in which our citizens and soldiers, with their usual fortitude and valor under their persevering and determined commander, endured long and difficult marches, submitted to painful privations, subdued a brave and merciless enemy, without suffering one defeat, or betraying a solitary mark of dismay to tarnish the lustre of their country's glory. A variety of circumstances convinced General Jackson that the savages had commenced this war and persisted in their barbarities under the influence of some foreign incendiaries, more criminal than the uncivilized natives. Alexander Arbuthnot, who avowed himself a British subject and resided among the savages as an Indian trader, was taken at St. Marks, to which place he had withdrawn as danger approached, and was living as an inmate in the family of the commandant. It appearing that he had been a zealous advocate for the pretended rights of the savages, and in this respect the successor of the notorious Colonel Nichols, of the British colonial marines, in the late war with Great Britain; that he had repeatedly written in their behalf to the Spanish Governor of St. Augustine, the Governor of the Bahamas, the British Minister in the United States, and to Colonel Nichols, endeavoring to procure aid from both those Governments against the United States; that he had repeatedly advised the Indians not to comply with the Treaty of Fort Jackson, assuring them that the lands ceded to the United States by them in 1814 were to be restored by virtue of the treaty of peace with Great Britain; General Jackson ordered him to be tried by a court martial, consisting of thirteen respectable officers, with Major General Gaines president. The court was directed to decide upon the fact of his guilt or innocence; and, if guilty, what punishment should be inflicted. Upon satisfactory testimony he was convicted of inciting and stirring up the hostile Creeks to war against the United States and her citizens, and of aiding, abetting, and comforting the enemy, supplying them with the means of war, and by

the court sentenced to be hung. Robert C. Ambrister, late a Lieutenant of the British marine corps, and with the hostile Indians and fugitive negroes, the successor of Woodbine, of notorious memory, was taken near the mouth of Suwaney river. It being well known that he had been a leader and commander of the hostile Indians and fugitive slaves, General Jackson also directed him to be tried by the same court martial. Upon satisfactory evidence, he was convicted of having aided and comforted the enemy, supplying them with the means of war, by giving them intelligence of the movements and operations of the Army of the United States, and by sending the Indians and negroes to meet and fight against them; and upon his own confession, as well as the clearest evidence of having led and commanded the Lower Creeks in carrying on the war against the United States, was by the court sentenced to be shot. One of the members requesting a reconsideration of the sentence, it was agreed to; and, on a revision, the court sentenced him to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months. General Jackson approved the sentence in the case of Arbuthnot, and in the case of Ambrister he disapproved the reconsideration, and confirmed the first sentence. They were both executed accordingly. In relation to these transactions, questions of the first magnitude present themselves, which the committee have deemed it their duty to investigate. Was General Jackson justifiable, after marching his army across the line, into the territory of Spain, in taking possession, by force of arms, of the Spanish posts, St. Marks and Pensacola? Had he the right to punish Alexander Arbuthnot and Robert C. Ambrister?

From the facts submitted, it is perfectly evident that the Spanish authorities in Florida did not retain that neutral character which was necessary to render its territory sacred; but, by their own acts, either of hostility or imbecility, they made that territory the seat of war. Independent of the solemn obligations of treaty, whereby Spain engaged to keep the Indians within her territory at peace with the United States, no principle is more firmly established by the laws of nations than this, that a nation at war has the right to pursue the hostile army into the territory of a neutral nation, and to make that territory the seat of war, when either the weakness or partiality of the neutral nation shall suffer the belligerent army, retreating into its territory, there to rally, collect strength, and provide supplies, to enable them to renew the conflict, and especially when munitions of war have been supplied, either by the citizens or authorities of the neutral nation.

But, in the consideration of this subject, it should never be forgotten that Spain was bound, by the solemn stipulations of treaty with the United States, herself to have fought these battles; or, if too weak to have done so, at least to have made common cause with the United States against these lawless tribes of savages. The United States have never recognised the Indians, within her territorial limits, as nations absolutely independent; hence it has ever been considered the duty of the Executive, when they have been guilty of murders and depredations upon our citizens, either in plundering parties or in the more formidable aspect of Indian armies, to order against them the military force of the country, or call into service the militia, as the case may require, to check their barbarities and to punish their crimes.



In accordance with this principle, the Executive has ever acted since the commencement of the present Government. Repeated and bloody depredations upon our southern frontier, in which peaceful husbandmen, defenceless women, and innocent children, were made the victims of savage ferocity, not only rendered it necessary to put into operation the military force of the nation, but the sheltering of the Indians beyond the limits of the United States gave occasion for the orders to General Jackson to pursue them beyond these limits. If Spain regards the Indians in the same light, it was a duty no less incumbent upon her by the laws of nations than by treaty, to have repressed their lawless depredations; and, in her agents' failing to do so, if, through neglect, they made themselves parties in the war; or, if through weakness, they forfeited the right of sovereignty in that territory where they failed to maintain it. But, if Spain regards the Indians as communities absolutely independent, then the territory, by right of occupancy, belonged to the Indians, and not to Spain, and the invasion was of the enemy's territory. Had the commandant of the Spanish post, at St. Marks, done his duty in withholding from the enemy supplies, and in denying them a refuge within the reach of his own fort, the necessity of interrupting his garrison would not have existed; nor is it presumed that any attempt would have been made by General Jackson to possess himself of that post. And it is also presumed that his orders to respect the Spanish posts were predicated upon this supposed state of things. But as the object of the entrance into Florida was the reduction of the Indian force—to bring the Seminole war to a speedy and successful termination, which was exhausting the blood and the treasure of the nation, it was a duty which he owed to his country to effect that object. Any result short of this would have only increased the evils which it was his duty to correct; and this could not be effected while Spanish fortifications were appropriated to their defence, and yet regarded as sacred by him. To have retired with his forces under such a combination of circumstances, which would have confirmed the erroneous impression entertained by the Indians and by the Spanish authorities, of the sacred character of their places of refuge and of succor to our ferocious enemy, would have perpetuated the war, and given it the character of permanency, which the honor of the United States required should be speedily concluded, and with the most exemplary punishment. The commandant at St. Marks himself acknowledged that his command was at the mercy of the Indians and negroes; he ought, therefore, to have hailed the approach of General Jackson, with his American forces, as a deliverer, and to have co-operated with him in the common cause, when he was assured that the object was a military occupation, for the express purpose of putting an end to the Seminole war, and not for conquest. But the facts present this subject yet in a much stronger light to the committee. The Indians received not only shelter, but comforts and munitions, and all the facilities for carrying on the war which a Spanish army could have received from that post. Did this conduct, on the part of the Spanish commandant, result from a hostile disposition? If so, he became a party in the war. Or was it the effect of imbecility, as his professions of great friendship would imply? If so, the act of garrisoning St. Marks with an American force, bears no character of hostility to Spain, but was warranted by the law of

nations—by the treaty with Spain, and by the first law of nature—self-protection. Had the Governor of West Florida maintained the neutral character which was confidently expected, and which it was his duty to have done, the Seminole war had here ended, and our flag would not have been unfurled in that territory. The Indian establishments at Mickasuky and Suwaney broken up—their villages burnt—their supplies cut off—St. Marks occupied by our troops—their power in East Florida was entirely annihilated.

In the firm conviction that the war was ended, General Jackson had ordered the Georgia militia to be disbanded, and was upon the point of returning himself with the Tennessee and Kentucky volunteers, when he learned that the object of the campaign was not yet entirely accomplished.

The vanquished enemy, crossing into West Florida, where the authorities of Spain proved as imbecile as in the eastern province, renewed their depredations, by their incursions into the adjoining territory of the United States, and committing murders upon our frontier settlers. Every circumstance, which not only justified the act, but which rendered it an imperative duty for him to enter the Spanish territory of East Florida, was equally applicable to the act of his crossing the Appalachicola, to break down the power of the enemy in West Florida. But the conduct of the Governor, taken in connexion with the circumstances which induced the entrance into Pensacola, rendered its occupancy by General Jackson, if possible, yet more palpably necessary than that of St. Marks. Well apprized of General Jackson's object, that he had not entered the Floridas in hostility to Spain, but to do that which Spain was bound to do, both by treaty and by the laws of nations, to give security to our own citizens, within our own territory, by destroying the power of the savage foes, the Governor of Pensacola, in equal violation of the laws of neutrality and of humanity, succored those enemies, supplied them with munitions of war, sheltered and conveyed from the hand of justice those of them who were returning from the bloody fray: and when General Jackson was executing the righteous mandates of an injured and indignant nation upon them, the Governor commanded him to depart from the territory, threatening to oppose force by force, should he not comply. Thus circumstanced, what should General Jackson have done? Should he have been induced, by the unprovoked and gasconading menaces of a foreign Governor, to retrace his steps? Or, should he have remained stationary, until he could have despatched a messenger to the Executive for instructions how to act? This would have ill become an American General, whose movements were sanctioned by the sacred laws of nature and of nations, and by the solemn stipulations of the foreign Prince, as well as by the authority of his own Government.

Should he have left it in quiet possession of a savage foe? This would have defeated the whole object of the war. There was but one course, in the opinion of the committee, which he could pursue, consistently with the honor of the nation and the safety of its frontier citizens. The Governor of West Florida, by his own act, had become a party with the savages in this war; or had, at least, by his imbecility, forfeited the right of sovereignty within the territory; and the occupancy of the Spanish posts in that province, by General Jackson, was, in the opinion of the committee, a sacred duty which he owed to himself, to his

army, to the Government, and to his country. While this nation scrupulously regards the dictates of justice in her intercourse with all nations, civilized and savage, it is a duty which she owes to her own character and to the safety of her citizens, to assert her rights and avenge her wrongs. In relation to these movements, it appears to your committee that the Executive has sanctioned the act of General Jackson, in the occupancy of those posts, by requiring that condition which the laws of nations and the treaty with Spain justify, in order to the restoration of St. Marks; and if Pensacola is not held subject to the same condition, this does not imply a relinquishment of the right, but should be regarded as the evidence of an amicable disposition towards Spain.

The committee now enter upon the other point; that of the trial and execution of the foreign instigators—Arbuthnot and Ambrister—a subject of more delicacy and tenderness, as it involves the lives and liberties of individuals; yet of equal magnitude, and, in the opinion of the committee, of equal clearness. In ancient times, when barbarism more generally prevailed, and even polished nations seemed unconscious of the ties of humanity, which ought ever to bind the whole family of mankind in tenderness and affection, the practice obtained of putting to death the soldiers and even the citizens of a vanquished enemy, by the sword, and even by the public execution, or of holding prisoners of war in slavery for life, and entailing bondage upon their posterity. But the progress of civilization, aided by the benign influence of Christianity, has, in modern days, produced a radical change, highly honorable to the civilized world.

In consequence of this principle, it follows, that although, when one nation enters into war with another nation, all the citizens of those nations may be considered, in some respects, as enemies to all the citizens of the other; yet they have not a right, in all cases, when they meet, to act in hostility to each other; because women, children, and all others who are exempted from bearing arms, and those employed in rural and other peaceful occupations, are not the proper objects of hostility; nor is it admissible to take the lives of those who fall into the power of their enemies, after they have surrendered; because such act is now unauthorized by the laws of nations, and ever has been a violation of the laws of humanity. So, when armies meet in the field of battle, the soldier who lays down his arms and asks for quarter, is entitled to his life; and the same with garrisons and whole armies; if they offer to capitulate, in cases of great extremity, it is an established principle of the laws of nations, universally acknowledged where civilization prevails, that their lives cannot be justly taken, unless their gross violation of the rules of civilized warfare render it necessary to inflict death as a punishment for their crimes. But death, in such cases, is never the righteous fate of unsuccessful war; much less are peaceable citizens, unarmed, pursuing their lawful avocations, subject to death, or any other acts of hostility calculated to injure them, either in their persons or effects; because such citizens do not offer injury. But, from this general principle and universal practice among Christian nations, another principle arises, as universally acknowledged and equally consonant to the laws of nature and nations, that when a nation, either savage or civilized, departs from these rules, and grossly violates the laws of nations and of humanity, retaliation, or reprisals, are always

justifiable, often useful, and sometimes essentially necessary, to teach the offenders to respect the laws of humanity, and to save the effusion of blood.

In such cases, where the guilty persons can be taken and identified, the punishment ought to fall exclusively upon them. Yet reprisals are not, necessarily, even confined to the persons of the guilty; but the laws of war justify the punishment of the offending nation, in any of the persons of the enemy. This nation, ever regarding mercy as her delight, has heretofore abstained from the exercise of this power, though the principle was recognised in the case of Captain Aegill, in the Revolutionary war, and by President Madison, in which it received the sanction of the Legislature, in the late war. When at war with savages, who respect no rule, and are governed by no laws, whose known mode of warfare is indiscriminate murder of all ages, sexes, and conditions, it is a well established principle that their crimes may be lawfully punished in the persons of any of their people; and the citizens or subjects of any civilized nation, by engaging in their warfare, either in personal hostility or by instigating, aiding, and abetting them, thereby identifying themselves with the savages, belong to their nation during the continuance of such engagements, and are, by the true and acknowledged principles of the laws of nations, subject to the same treatment. When reprisals shall be made by inflicting retaliatory punishment upon foreigners thus identified with savages, it is justifiable upon the principle of reprisals alone, and not because they become outlaws and pirates; for the laws of nations justify the citizens or subjects of one nation in entering the service of another nation; and, during such service, they are considered as parts of the nation which they serve, subject to the same treatment, in all respects, as if they were its natural citizens or subjects.

It was upon this principle that the Marquis de Lafayette, Barons Steuben and De Kalb, and General Kosciusko, entered the American service in the Revolutionary war, which was never considered as a just occasion for war, by Great Britain, against France, Prussia, or Poland; nor yet as a cause for regarding them in the character of outlaws and pirates. But, had these distinguished men fallen into the hands of Great Britain, the laws of war would have entitled them to the same tenderness, and subjected them to the same conditions, as native Americans. The same principle is equally applicable to those who enter into the service of the savages.

The universal principle of savage warfare, elicited by their general practice, is that of the most cruel and aggravated murder; not only of their enemies taken in arms, but also of peaceful unarmed citizens, helpless females, and tender infants. If instances have been known wherein they spared the lives of persons falling into their power, these instances have been too few in number, compared with the massacres which they have committed, desolating whole settlements, and murdering whole garrisons, to give an opposite character to their general practice.

The desolation and ruin of the Wyoming settlement, in the Revolutionary war, and the recent massacres at Fort Mimms on the river Raisin, in perfect accordance with their general history, from the commencement of our national existence, furnish sufficient demonstration of this fact.

Alexander Arbuthnot was taken as a resident among the savages, with whom he had identified himself, by acting as their agent, exciting them to the war, aid-



ing, abetting, and supplying them with the means of carrying it on. Robert C. Ambrister was taken in their actual service, as a leader and commander of their forces; by which, as well as by aiding, abetting, comforting, and supplying them, he was also identified with the savages. Agreeably to these principles of the laws of nations, the committee are fully of opinion that General Jackson, as commander of the army, had the right to exercise upon them the law of retaliation, without the intervention of a court martial. However cautiously this rule should be exercised, and desirable as mercy always is, whenever it can be exercised with safety, this godlike virtue has its bounds, beyond which its exercise would be a perversion of justice; and it is presumed that the repeated murders which had been committed upon our citizens, the many bloody trophies of their cruelties found at Micasuky, and their persisting in hostility against the repeated warnings and threats which had been held out to them, bore conviction to the mind of General Jackson, that the exercise of the law of retaliation had become necessary to the future safety of his fellow-citizens.

But he chose to submit the case to the investigation and decision of a court martial, composed of distinguished officers, by whom Alexander Arbuthnot was condemned to be hung, which sentence was confirmed and executed. By the same tribunal Robert C. Ambrister was, in the first instance, condemned to be shot; but, upon reconsideration, they changed the sentence to that of corporal punishment and confinement to hard labor. The reconsideration was disapproved by Gen Jackson, and the first sentence confirmed and executed. On this last point the committee are of opinion, that it would have been more correct for General Jackson, after submitting the case to a court martial, not only to examine the facts as to his guilt, but to determine the punishment to be inflicted, to have acquiesced in their final and only legal decision as a court. But in this the committee are satisfied that General Jackson did not transcend the power warranted by the laws of retaliation—the prisoner's own confession, and the evidence produced, going to establish the facts which justified its application. And though the principles of national law, involved in this war, would have authorized a more extensive sacrifice, even on the persons of the innocent, yet the committee deem it a matter of great felicitation that punishment fell upon the guilty alone; and that the object is effected with so limited an example of justice. Under this view of the whole subject, the committee can discover much which merits applause, and little that deserves censure; and, from the incalculable benefits resulting to the nation, from the faithful and distinguished services of General Jackson, and the officers and men who served under his command, in terminating finally the Seminole war, are of opinion that they are entitled to the thanks of their country.

The report having been read—

Mr. COBB, of Georgia, rose to make a motion, the object of which was to give to the report of the Military Committee, as well as to the substitute presented by a member of that committee, a direction which should insure to it a discussion, as full as was desired, at the present session. For this purpose, he moved to refer them to a Committee of the Whole on the state of the Union. These papers, he said, involved principles of great consequence, on which in some measure depend-

ed, as he believed, the character of the nation; they also necessarily involved important questions as to the laws of nations, and as to the Constitution of our own country, and ought to have a deliberate consideration.

Mr. FLOYD, of Virginia, was as desirous as the gentleman from Georgia of a deliberate discussion of the subject of these reports; but, if they were referred to a Committee of the Whole on the state of the Union, a motion to go into which was always in order, the House might be taken by surprise, or brought into the discussion entirely without notice, at the motion of any gentleman who wished it. He therefore wished the papers should be referred, as in ordinary cases, to a Committee of the Whole.

Mr. STROTHER, of Virginia, agreed, with the gentlemen who had preceded him, that the report should be so disposed of as to insure a full examination of its merits. The subject, he said, was one of considerable interest and excitement, though he was not under the impression that it was one of great magnitude, nor that it carried in its bosom the fate of the nation, as the gentleman from Georgia seemed to suppose, which depended on far other considerations. The best course to pursue in regard to these papers, Mr. S. thought, would be to lay them on the table. Though not of momentous consequence, he said, yet the decision on them was calculated to implicate the character, and perhaps the happiness, of the illustrious individual whose proceedings it was proposed to censure. He would, in regard to any proposition involving the happiness or reputation of any individual, conspicuous or obscure, act with great deliberation. He was therefore opposed to referring this matter to a Committee of the Whole on the state of the Union, thus putting it in the power of any individual to call it up when he pleased, and to precipitate the House into a discussion unadvisedly and unprepared. He was for not hastily acting on a proposition to censure a man who had given celebrity to the arms of his country, and thrown a brighter lustre on the national character.

Mr. POINDEXTER, of Mississippi, said he hoped that the House would never agree to a report, in affirming which the House would be required to forget the wrongs inflicted on us by foreign nations, to overlook the inhuman deeds committed on the frontier of Georgia, and to turn its attention to the laudable object of destroying the reputation of one of its most distinguished citizens. It was not in the point of view in which the gentleman from Georgia had regarded the question; it was not from any regard to the savages of Florida, and their allies, British refugees and Spanish agents, or from a wish to crush that man by the strong arm of power—that man who had so much merited the thanks of his country, that he wished a full and early discussion of the subject. He did not wish it, he said, to be referred to a Committee of the Whole, or to lie on the table and be forgotten. He was not willing that any such report as that from the Military Committee, calculated to ruin the reputation of a man

who had rendered so signal services to his country, should be considered as representing the opinion of this House. He was not willing, therefore, that it should remain for a moment on the table, but should undergo a full discussion as early as practicable; which would be insured by referring it to a Committee of the Whole on the state of the Union.

Mr. MERCER, of Virginia, while he congratulated the House on the dignified report which the Military Committee had presented to them, was disposed, in the proceedings on this subject, to act with all necessary deliberation. The only objection he had heard to the proposition to refer the subject to a Committee of the Whole on the state of the Union, was, that it might be called up at any time; this objection, he said, might be entirely obviated by naming a day when it should be called up; and, if a day were not named, the House would always have it in its power, if it chose, to refuse to go into Committee if moved for at too early a day. He should deplore, Mr. M. said, perhaps more than any member of the House, that this should be referred to an ordinary Committee of the Whole, and that the whole session should pass off without an expression, on the part of the House, of its opinion on this subject. With respect to the character of General Jackson, though he would not unnecessarily arraign it, Mr. M. said, he looked, in the view which he took of the importance of this question, to higher objects—to the character of this House and of this nation.

Mr. SMYTH, of Virginia, hoped that the motion of the gentleman from Georgia would prevail. He presumed that the gentlemen adverse to General Jackson were none of them desirous of precipitating the discussion, or taking any advantage, by surprise, of those who approved of his conduct. He supposed that by Monday next every gentleman who desired to take a part in the discussion would be prepared, and that that day would be agreed on. He said he should, when the discussion came on, attempt to show that all the proceedings of General Jackson were justifiable by the law of nations.

Mr. DESHA, of Kentucky, wished the papers to lie on the table, that the members of the House might have an opportunity of examining them; but, if referred to any committee of the House, he wished the substitute as well as the report to be referred—and that, in their publication, they might go together, that the world should see and understand the views of both sides of the House.

Mr. JOHNSON, of Kentucky, suggested the propriety of a concurrence, on all sides of the House, in the commitment of the report and the amendment to a committee, as proposed. If for no other reason than that the Speaker might wish to participate in the debate, he should approve of that course. The subject had excited considerable sensation, and he hoped every opportunity would be given to members, on all sides of the House, to express their opinions. To debate it now was to take up the time of the House to no useful purpose whatever.

After some further remarks from Messrs. FLOYD, COBB, and STROTHER, in support of their respective opinions, and some conversation on a point of order, the question on referring the report of the Military Committee to a Committee of the Whole on the state of the Union was carried without a division.

On motion of Mr. DESHA, the paper offered by Mr. JOHNSON, of Kentucky, as a substitute, was then referred to the same committee; and

Mr. TALLMADGE gave notice that, if no one else did, he should, on Monday next, move to go into a Committee of the Whole on this subject.

#### MILITARY APPROPRIATION BILL.

The bill making appropriations for the support of the Military Establishment for the year 1819, was read the third time; and the question on its passage was decided, by yeas and nays, in the affirmative, by a vote of 107 to 57, as follows:

YEAS—Messrs. Abbot, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Batesman, Bayley, Beecher, Bloomfield, Boss, Butler of New Hampshire, Butler of Louisiana, Campbell, Claggett, Crawford, Cushman, Darlington, Davidson, Elliott, Ervin of South Carolina, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hall of North Carolina, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lincoln, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, W. P. Maclay, Marchand, Marr, Mason of Massachusetts, Mercer, Middleton, Miller, Robert Moore, Samuel Moore, Morton, Murray, Nesbitt, Newton, Ogden, Ogle, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Porter, Quarles, Rich, Robertson, Rogers, Ruggles, Savage, Sawyer, Schuyler, Sergeant, Settle, Seybert, Silsbee, S. Smith, B. Smith, Speed, Spencer, Storrs, Strother, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Walker of Kentucky, Wallace, Westerlo, Whiteside, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Massachusetts, Ball, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Burwell, Cobb, Cook, Crafts, Cruger, Culbreth, Desha, Floyd, Folger, Garnett, Hogg, Huntington, Johnson of Virginia, Lewis, W. Maclay, McCoy, Mason of Rhode Island, Merrill, Mills, J. Nelson, H. Nelson, T. M. Nelson, Pegram, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Richards, Ringgold, Sampson, Scudder, Shaw, Sherwood, Slocumb, J. S. Smith, Southard, Stewart of North Carolina, Strong, Tompkins, Townsend, Tucker of South Carolina, Walker of North Carolina, Whitman, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

[The ground of the opposition to this bill is the clause it contains, specifically appropriating ten thousand dollars for extra pay for the soldiers' work in the repairs and construction of roads; this provision being considered to involve the principle of the Constitutional power of the General Government to make roads within the several States. Had this clause been excepted, it is supposed the bill would have passed *nem. con.*]



## MILITARY ESTABLISHMENT.

The House then resolved itself into a Committee of the Whole on the bill "respecting the Military Establishment."

[The first section proposes to add to the corps of engineers one Brigadier General, one Lieutenant-Colonel, two Majors, two Captains, four First and four Second Lieutenants; and to give the same pay and emoluments to that corps as to those of the corps of ordnance. The second section provides that the corps of heavy artillery shall consist of four regiments, and of four additional Colonels, and that promotion in that corps shall be governed by the same rule as in the infantry. The third section provides that the Quartermaster's department shall, besides the chief of that department, consist of six Majors and two Captains. The fourth section provides that, in case of allowance by law to officers for servants and forage, certificates of the servants having been employed, and the forage used, shall not be required. The fifth section provides the pay of the Commissary General, and authorizes the addition, to the officers under him, of two Deputy Commissaries, taken from the line, with the rank and pay of Majors of Ordnance. The sixth section proposes to allow the Surgeon General the same pay as the late physician and surgeon general, and in a small degree raises the compensation of regimental and post surgeons. Section seven provides for the privilege of franking to the heads of the Staff departments, and allows two clerks to each of the offices of Chief of Engineers and of Ordnance, of the Commissary of Subsistence, and of the Medical Department.]

Mr. WILLIAMS, of North Carolina, with a wish to try the principle of the bill, to which he was wholly opposed, moved to strike out the first section of the bill.

On the suggestion of Mr. JOHNSON, of Kentucky, a letter from the Secretary of War to the Military Committee was read, recommending the adoption of the provisions of the bill, as necessary to equalize the standing of different corps, and for the purpose of enforcing economy in the public expenditure.

Mr. DESHA supported the motion of Mr. WILLIAMS, and went into an examination, section by section, of the provisions of the bill, which he disapproved as generally unnecessary, but some parts of them more so than others. He particularly denied that economy would be promoted by a bill which proposed so great an increase of expenditure.

Mr. JOHNSON, of Kentucky, observed that he was always anxious to satisfy the inquiries of any gentleman on every subject which had been investigated by the military committee, and by them reported in the form of a bill. In the proposition before the Committee, the sole object was to perfect the most rigid system of economy in every branch of military expenditure. No new system, said Mr. J., is now proposed. But a small modification in the staff department of

the army, in perfect harmony with the general system already established, it is believed, will prove highly beneficial in effecting the object contemplated, by producing the highest degree of responsibility. Heretofore the laws of the United States, in relation to the Military Establishment, have effectually imposed responsibility upon agents employed for the disbursement of money, while they have in a great measure failed to carry that responsibility to the articles purchased. The bill regulating the staff, passed at the last session, introduced the principle upon the present system. The experience of one year has proved its utility, but disclosed imperfections in its detail, which the present bill is designed to correct. The various branches of the staff department are placed under the direction of men highly distinguished for honor, honesty, industry, economy, capacity, and experience. The present bill goes to effect the object of imposing upon them that rigid responsibility for property intrusted to them, which will not only secure the proper application of the more costly articles of military equipment, such as cannon and small arms, but to render them accountable for every cartridge, flint, and screw; and if the perfecting of this system will incur a direct expense to the country of a few thousand dollars, it is reduced to an absolute certainty that it will prove ultimately of a great saving, probably in a more than tenfold ratio to the expense. In vain, said Mr. J., shall large sums of money be expended in the purchase of ordnance stores, quartermasters' stores, commissary stores, and medical stores, unless this property shall be preserved uninjured, and applied exclusively to the public service. Many thousands of dollars, during the late war, and even before that period, were lost, forever lost to the nation, for want of this system.

The gentleman from New York, said Mr. J., has expressed an anxiety to know why we retain in service such a large proportion of officers, for the military peace establishment, compared with the rank and file of the army? In reducing the war to the peace establishment, it will be recollected that we retained only the usual number of officers to each company, battalion, and regiment, and it is not known that any supernumeraries are retained. Experience has pointed out a certain organization, in which no radical change has been introduced; no increase of officers of the rank and file of the army has taken place. The staff is independent of the rank and file, and should always be so organized as that a war would effect no derangement or embarrassment in the system. The experience and extensive knowledge of that gentleman, upon a moment's reflection, will suggest to him that the staff of the army must be more extensive in its arrangement than the mere rank and file. It must embrace the vast extent of our maritime and territorial limits, which now extend from Maine to Orleans, from Orleans to St. Peters, on the river Mississippi, near the falls of St. Anthony, Mackinac, and Green Bay, in the North, and from Boston to the Yellow Stone, nearly two thousand miles up the Missouri. This

vast frontier is necessarily embraced by the military department of the Government; and such posts have been and are about to be established as will not only secure us from invasion and predatory incursions, but which give practical demonstration of the power and utility of the War Department, under judicious and faithful management. It was upon this principle that the United States retained ten thousand men, rank and file, independent of the staff of the army, the general staff, the ordnance department, the engineers, the national armories, and the military academy. The duties of the staff embrace also the preparations made in time of peace, for defence, in permanent works, fortifications, arsenals, magazines, and military stores of all descriptions, in every part of this vast and growing Republic, and a sudden increase of our military force to fifty or a hundred thousand men would require no other increase of the staff of the army than such officers as would be attached to each corps for the duties of the camp and the field. Without this general and permanent staff, we should experience great disorder, even in time of peace; and in the event of war, complete derangement and confusion.

The first section of the bill provides, said Mr. J., for an increase of the number of officers of the engineer corps, and places them upon an equality with those of the ordnance department. The utility of this measure will appear obvious to the Committee, if gentlemen will take into consideration the vast importance of that corps, their laborious services, and the benefit derived to the country from the faithful discharge of their duties. It must always be composed of scientific officers. Their duty embraces a military survey of the whole United States. No nation should be destitute of the most intimate knowledge of its own territory, its vulnerable points, its strongholds, and everything necessary to prepare it for defence in every quarter; and no nation can possess this knowledge in such a degree as to be able at all times to make the most advantageous arrangements, without an able and well organized engineer corps. They have been advantageously employed for some time past in surveying the seaboard, and are now extending their views to the rivers and lakes; and it is contemplated to employ them upon the waters of our Western frontier, where their services are highly important at the present time. But the present number is found quite inadequate to the duties required. The prospect of the benefit to be derived to the country from their services is truly flattering, if this provision of this bill shall meet the sanction of the Legislature. In addition to the military advantages which constitute the leading object of the measure, they will furnish information to the civil department, for roads, canals, bridges, and such other improvements as shall become objects of public attention, either to the General Government or to State authorities. Their discoveries will tend to disclose the hidden treasures of the New World. Their researches will advance the knowledge of the natural history of the

United States; give us a more extensive acquaintance with the geography of our own country, which is yet in its infancy, and continue to extend this useful and necessary branch of knowledge, till we become familiarly acquainted with the regions of the Rocky Mountains, in the wilderness of the West. While thus enriching the nation with the knowledge of its own territories, their services will prove essentially beneficial, in pointing out from time to time the most suitable points for military establishments, to secure us from the influence of foreign emissaries upon the Indian tribes within our limits, to protect from depredation our frontier settlements, so rapidly extending by clouds of emigrants from the overflowing States of New England, who seek in the Western wilderness comfortable abodes for themselves and their posterity.

The modification proposed by the bill in the Quartermaster's department, is to increase the number of deputy quartermasters general, from two to six, with the rank and emolument of majors of infantry; and to reduce the assistants from sixteen to twelve, whose rank and pay are equal to that of captains in the infantry. This will cause a small increase of direct expense to what is now incurred under the present system, but will still fall very far below the expense incurred under the former system. Before the present arrangement, the annual expense of this corps was 27,096 dollars; under the present system, it is only 13,068 dollars, and with the proposed modification it will not exceed 17,000 dollars. Experience has suggested the necessity of this modification. In the important branch of public expenditure confided to this department, the interest of the nation requires that men of capacity and experience in business should be employed; and it is found that the mere pay and emoluments of a captain are not sufficient inducements to command the services of such men as ought to be employed at the most important points, on whom such high responsibility devolves, and on whose ability so much depends.

The bill, said Mr. J., goes to provide a direct increase of pay to the medical staff; the necessity of which is also founded upon experience. It is scarcely necessary to touch upon the importance to the whole army of this branch, and the utility of its commanding the service of scientific and skilful practitioners. Unless some further inducements shall be held forth, to retain in the service such men of the medical profession as are calculated for real usefulness, the army will be continually suffering from resignations and changes of the most injurious kind. The present system is calculated to prevent untaught, pretended physicians from obtaining appointments; but the compensation allowed is not sufficient to invite their continuance, after a sufficient experience to enable them to pursue a private practice to advantage. It is well known that the most learned of that highly respectable profession require a series of practice to render them highly useful, either in the army or to the community; and, owing to the inadequacy of the compensa-



tion, resignations are become so frequent that it seems as if the army were only designed for the first school of experience, and with no other benefit than to supply the country with a sufficient number of experienced practitioners in medicine and surgery. The health of the army is vitally important to all its objects; and it is but just to the soldier, as well as beneficial to the country, that the medical department should be well arranged and well supplied. To induce a continuance in the service, after qualified by experience for greater usefulness, it is now proposed to allow a small increase of pay after a certain period of faithful service; which increase will be of no considerable account to the United States, but will probably prove an eventual saving of many thousands of dollars beyond the direct amount of expense. The frequent resignations which have taken place in the medical staff have rendered it necessary often to employ citizen physicians, involving an expense considerably beyond the amount of the additional pay now proposed; so that it is confidently believed the proposed modification unites the most perfect economy with the best service to the country. Other parts of the bill, Mr. J. said, would scarcely need explanation, and he would not detain the Committee by going over them; but, if any gentleman should desire it, when they were taken up by sections he would willingly give any information within his power. The leading object of the bill, said Mr. J., is to combine economy with utility, to the greatest possible extent, so that one shall not overpower the other; but that both may harmonize in the advancement of the interest and safety of the nation.

Mr. COLSTON, of Virginia, was in favor of the recommitment of the bill to the Military Committee with a view to examine into the practicability of effecting some reduction in the Staff of the Army. He acknowledged that an increase might be necessary in some of the departments of the Army, but he was of opinion that a corresponding reduction in others could and ought to be made.

Mr. HARRISON, of Ohio, supported the views which Mr. JOHNSON had taken of the bill, and elucidated, by various facts and arguments, the expediency of the provisions of the bill.

Mr. DESHA acknowledged that he had been rather inattentive to the principles of the bill, but when he heard his colleague (Mr. JOHNSON) say that it was calculated to economize, the expression roused him—believing that that gentleman, in consequence of his extreme liberality in relation to the military, (arising from the natural goodness of his heart,) had measurably laid aside the word economy. He therefore had requested time to examine the provisions of the bill more particularly, and he now, without hesitation, pronounced the substance of every section of the bill to be the reverse of economy. Mr. D. said he would go through the bill section by section, examine its provisions, and attend to their bearings; and he had no doubt but he could convince the House that it ought not to pass. The first sec-

tion related to the corps of engineers; the corps as it now stands consisted, he believed, of twenty-two officers, that is, one colonel, one lieutenant-colonel, two majors, six captains, six first and six second lieutenants. The duty of the engineers is to fix on eligible sites for erecting batteries, or fortifications, direct their construction, and to direct the artillery; he knew it was important to have skilful engineers, and it is acknowledged the present engineers were of that character, and he believed the number amply sufficient. He contended that batteries or fortifications was not the defence we rely on; you must rely for defence on the yeomanry of the country, it is their activity and zeal in the cause of liberty, that will deter foreign despots from attacking you, or encroaching on your rights; yet a few fortifications may be necessary, and how many will you want to erect in a season, certainly not more than five or six; one skilful engineer will only be wanting to fix on the site of a fortification, and superintend its construction. You will want, perhaps, three or four topographical engineers to be engaged in surveying and examining your coasts and waters; then you still may have about one half on furlough, independent of the number necessary to superintend the Military Academy. You contemplate by this bill, adding fourteen to the present number; that is, one brigadier general, one lieutenant-colonel, two majors, two captains, four first and four second lieutenants. And what do you want with a brigadier general to command thirty-five men dispersed over the country, as they must be, if they are employed in the line of their duty? In addition to this, the bill contemplates giving to the corps the same pay and emoluments that you give the corps of ordnance, which is raising the pay nearly one-fourth. This is economizing with a vengeance to it!

The second section contemplates organizing the corps of heavy artillery into regiments, instead of battalions, as it now stands. He recollected the arguments in favor of forming the artillery into battalions were, that in consequence of their being dispersed over the country, so that there would not be even a major's command at any one point, there was no necessity of forming them into regiments; will not the same reason hold good now; are they not more dispersed now, than they were at the time of their organization into battalions? They certainly are; because your posts have been increased, you scarcely will have at any one post more than a captain's command: then, he asked, where is the necessity of reorganizing them into regiments, unless it is to make room for more officers, and that of a higher grade? The bill contemplates adding four colonels to the corps. You have now in the corps of heavy artillery, agreeable to the last Army Register, four lieutenant colonels, four majors, thirty captains, thirty-two first lieutenants, sixty-four second lieutenants, and fifteen third lieutenants, making one hundred and forty-nine officers. Is not this number amply sufficient? He thought more than sufficient: but now you are about to add more officers of a higher grade, and we are

told this is economizing. He said, by this kind of economy the people would soon have empty pockets.

The third section relates to the Quartermaster's department, and perhaps is as little objectionable as any part of the bill; but this is so far from going on the principles of economy, that it raises the pay of all the officers attached to the department nearly one-fourth higher than it is at present—by making the pay and emoluments of the officers of the corps the same as the officers of the corps of ordnance of equal grade. As the law now stands, officers of the army are bound to make it appear that they actually kept the servants they are allowed in service, before they could receive pay for them; but, by the fourth section of this bill, they are not bound to give a certificate, consequently it is now considered as an emolument attached to office. According to existing regulations, a major general is entitled to four servants, and a brigadier to three; if this bill passes, one servant will probably be kept by each; then you add twenty-four dollars to the pay of the major general and sixteen to the brigadier. Agreeable to the existing law, officers who exercise their functions on horseback, are entitled to a certain number of horses, according to grade, and are allowed eight dollars per month for forage for each horse, but gets pay for none only those he actually keeps in service, and is bound to certify to the number kept. Agreeable to this section, the officer is not to certify to the number of horses actually kept in service, which is also to be considered as an emolument attached to office. Agreeable to existing regulations, a major general is allowed seven horses, a brigadier general five, a colonel four, and other officers according to grade; neither of those officers will require more than two horses in time of peace—then there is thirty dollars more added to the pay of the major general; this, with the twenty-four in the case of the servants, makes fifty-four dollars per month; add this to the two hundred dollars, his monthly pay, and it makes two hundred and fifty-four dollars per month—and so on to other officers, according to grade, and still my colleague says this bill is economizing.

The fifth section relates to the Commissary's department. I was opposed to the adoption of this measure last session, not that I was pleased with the contract system, as I knew it had defects, but I believed it might have been so amended as to have been a cheaper mode of supplying the Army, and equally safe as to certainty of supplies in time of peace, than the one adopted; which, it appears, as I anticipated, will not answer well without bolstering, but as it is shortly to go into operation, I am willing that it should have the necessary props, if they are not too expensive a character, agreeable to the law as it stands, exclusive of the head of the department. The President of the United States has the power of appointing as many assistant commissaries as he may think proper who are to be taken from the subalterns of the line, with twenty dollars per month addition to their pay in the

line. This bill contemplates appointing, in addition to the officers now authorized, two deputy commissaries, with the brevet rank, and the pay and emoluments of majors of ordnance, and allowing the numerous assistants that will necessarily be wanting, to be taken from the citizens, with the pay of fifty dollars per month, and two rations per day which makes the pay equal to sixty-two dollars per month. He believed the system at first to be an expensive and improvident one, and he had yet seen no cause to change his opinion. If this is adopted, it will be abundantly more expensive; yet we are told that the whole bill goes on the principles of economy; and in addition to the officers he had mentioned, the head of the department is to be a brigadier instead of a colonel.

The sixth section relates to the surgeons of the Army. A regimental surgeon is now allowed forty-five dollars per month, and three rations per day, equal to sixty-three dollars per month. By this bill they are to have fifty dollars per month, and four rations per day, equal to seventy-four dollars per month. A regimental surgeon's mate is now allowed thirty dollars per month and two rations per day, equal to forty-two dollars per month. Agreeable to this bill they are to have forty dollars per month and three rations per day, equal to fifty-eight dollars per month. A post surgeon is now allowed forty dollars per month and two rations per day, equal to fifty-two dollars per month. And agreeable to this bill they are to be allowed forty-five dollars per month and three rations per day, equal to sixty-three dollars per month. If the pay of the surgeons is too low, let it be raised openly, and not in this indirect way. If we act correctly, praise will be our reward instead of censure. The people, who are virtually the governors in this country, ought to know what we are about. If the pay is too low, let us say so, and raise it openly; but indeed gentlemen, who were favorable to raising their own pay, cannot, in justice, refuse to raise the officers' pay, because the same difficulty attaches to them that did to us—the depreciation of paper money; but whatever is done, ought to be done openly, and not by way of side-wing. We now come to a part of the section that looks a little singular indeed. We are afraid to trust this subject with subsequent Congresses, but undertake to provide for this class of officers as long as they live. Does it not show a great degree of vanity or arrogance in us to pass a provision of this kind? That each regimental surgeon and surgeon's mate, &c., shall have an additional allowance of five dollars per month and one ration per day at the expiration of the period of every three years, which is an addition of eleven dollars per month; but lest it should be thought we were running wild, a proviso is added, that in no case shall the pay and emoluments of an assistant surgeon general exceed those of a colonel of ordnance, which is about one hundred and sixty-two dollars per month; those of a regimental surgeon, of a colonel of infantry, which is about one hundred and forty-seven dol-



lars per month; those of a post surgeon, of a lieutenant colonel of infantry, which is about one hundred and fourteen dollars per month; and those of a surgeon's mate, of a major of infantry, which is about ninety-eight dollars per month. Here is economy with a vengeance! Are we to empty the people's pockets, and bankrupt the nation, in bolstering up the military? Is everything in this Government to bend to the military?

The seventh section gives the liberty of franking to the engineer, quartermaster, ordnance, commissary of subsistence, and medical departments, and gives each of the heads of them two clerks with the same salaries that are allowed to the two clerks in the adjutant and inspector general's office. Here you have a number of separate departments to which you attach high pay and privileges, as well as clerks to do all the labor, leaving only the responsibility to the heads, and yet we are told this is all for the purpose of economizing.

Although the eighth and last section has rather an innocent appearance, it is extremely mischievous in its operation. It assigns one of the subalterns as a conductor to each regiment of infantry, with an addition of ten dollars per month to his pay in the line. The additional pay is no object; but his duty is to receipt and account for all ammunition, implements, and all military stores furnished the regiment. By this regulation you take the responsibility from the colonel of the regiment, and place it on a subaltern officer. It is now the colonel's duty to attend to this business; he is also responsible for the whole; you by this regulation not only relieve him from the labor, but from the responsibility. Can this conduce to the welfare of the service? He apprehended not. Mr. D. said he had gone through the bill; in doing which, his object was to show its different bearings; gentlemen would judge whether it is calculated to economize or not; for his part, he thought it an extravagant and expensive measure. It is calculated to raise indirectly the pay of officers considerably, which, if necessary, let it be done openly, that the people can understand it. It is calculated to increase your staff considerably, which is unnecessary, as we have already the largest staff in the world, according to the number of the Army. Our Peace Establishment is but ten thousand men, and we have a staff sufficiently numerous for one hundred thousand men. It removes responsibility from high officers, where it ought to rest, and places it on subordinate officers, which cannot conduce to the welfare of any corps, and, instead of its being calculated to economize, it will prove extravagant throughout. We have now the most expensive army in the world according to its size. To think of ten thousand men costing annually about six millions of dollars; is it not alarming? and by the adoption of this bill you increase the expense considerably. The Secretary of the Treasury has told you that we will shortly have to resort to loans or internal taxes to meet the demands. This would not be a desirable state of things; had we not better

retrench our expenses, in order to ward off this difficulty, than to adopt a bill calculated to increase expenses?

The question was then taken on striking out the first section of the bill, and decided in the affirmative—73 to 52.

The Committee then rose.

Mr. MERCER, of Virginia, expressed his desire that the further consideration of this subject should be delayed until the House should have received the information it had called for, of the strength, &c. of the Army; and,

On motion of Mr. JOHNSON, of Kentucky, the bill was ordered to lie on the table.

#### WEDNESDAY, January 13.

Mr. RHEA reported a bill to provide for the payment of the pensions of persons under guardianship to their guardians, which was read twice, and ordered to lie on the table.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of Nicholas Jarrott, which was read; when Mr. R. reported a bill for the relief of the said Nicholas Jarrott, which was read twice, and committed to the Committee of the Whole, to which is committed the bill confirming certain claims to land in the Territory of Illinois.

Mr. MIDDLETON, from the committee on that part of the President's Message which relates to the illicit introduction of slaves into the United States, reported a bill, in addition to the acts, prohibiting the slave trade; which was read twice, and committed to the Committee of the Whole to which is committed the report made at the last session upon the subject of the colonization of the free people of color.

The Committee last mentioned were discharged from the further consideration of the petition of "The New York Society for promoting the Manumission of Slaves, and protecting such of them as have been or may be liberated," and the petition was referred to the Committee on Foreign Affairs.

On motion of Mr. PINDALL, the Committee on Military Affairs were instructed to inquire into the expediency of allowing a further time to the guardians of the minor children of deceased soldiers, to relinquish their claims to bounty lands for five years' half pay, as provided by the second section of the act, entitled "An act making further provision for military services during the late war, and for other purposes," approved the 16th of April, 1816.

On motion of Mr. CROWELL, the Committee on Public Lands were instructed to inquire into the expediency of authorizing by law the friendly chiefs and warriors of the Creek Indians to sell to the United States all their right and claim to such lands as have or may be reserved and located for them in the Alabama Territory, in obedience to the first article of the treaty of the 9th of August, 1814, making the reservation, and the law of Congress authorizing the location.

On motion of Mr. HERRICK, the Committee on Roads and Canals were instructed to inquire

into the expediency of providing by law for the appointment of commissioners to survey, lay out, and mark a road from the west bank of the Ohio river, opposite the point where the Cumberland road strikes the same, through St. Clairsville to Columbus; from thence to the western line of the State of Ohio, in a direction to St. Louis, in the Territory of Missouri.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Doctor Mattrom Ball," with an amendment. They have also passed a bill, entitled "An act further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon;" in which amendment and bill they ask the concurrence of this House.

The amendment of the Senate to the bill for the relief of Doctor Mattrom Ball was read, and concurred in by the House.

The bill from the Senate, entitled "An act further to amend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon," was read the first and second time, and referred to the Committee on the Public Lands.

The bill from the Senate to enable the people of the Alabama Territory to form a State government, was twice read and committed.

The engrossed bill for the relief of Adam Kinsley, Thomas French, and Charles L. Leonard, was read the third time, passed, and sent to the Senate for concurrence.

The bill for the relief of Benjamin Poole; the bill for the relief of the heirs of Thomas Turner, deceased; and the bill for the relief of Henry Davis, severally passed through Committees of the Whole, and were ordered to be engrossed for a third reading.

The bill authorizing the payment of a sum of money to the officers and crews of gunboats 149 and 154, was taken up in Committee; the blank filled with \$5,482, and the bill ordered by the House to be engrossed.

The House then went into Committee of the Whole on the bill for the relief of Kenzie and Forsyth. The bill provides payment for a number of horses and mules which had been employed by the garrison at Fort Dearborn, to remove their baggage and supplies at the time of the evacuation.

Mr. SCOTT moved an amendment to provide payment for a quantity of whiskey and powder, belonging to individuals, destroyed with the fort. This amendment was opposed by Messrs. RICH and STORRS, and advocated by Mr. SCOTT. The amendment was rejected, and the original bill ordered to be engrossed for a third reading.

The Committee proceeded to take up the bill for the relief of John B. C. Lucas and Clement B. Penrose (allowing them additional compensation as land commissioners in Louisiana.)

This bill created also considerable discussion; after which the Committee rose and reported the bills to the House; the former of which was ordered to be engrossed for a third reading; and

the latter, after much additional discussion of its merits, was indefinitely postponed.

Mr. SERGEANT presented a petition of Isaac W. Norris, administrator of Joseph Summerl, late of the city of Philadelphia, praying to be allowed and paid the drawback on a quantity of merchandise, exported in the year 1816, by the late firm of Summerl and Brown, which is withheld, in consequence of their not taking the necessary oaths within the time prescribed by law, owing to a mistake on the part of a clerk in the custom-house.—Referred.

#### SALE OF PUBLIC LOTS IN WASHINGTON.

The House, on motion of Mr. COBB, proceeded to the consideration of the bill reported at the last session, explanatory of the act for the sale of certain public lots in the City of Washington, [authorizing the sale of the open space between the square and the Pennsylvania avenue, so as to extend the lots sold to the line of the avenue.]

The question before the House was, on concurring in certain amendments reported by the select committee, not affecting the object of the bill, and which were concurred in.

Mr. COBB, then, succinctly explained the object and the operation of the bill, dwelling briefly on the utility of the change proposed, in enhancing the value of the ground to be sold, without producing any inconvenience or injury to individuals; the great convenience which would result from bringing the improvements up to the line of the Pennsylvania avenue, instead of diverging therefrom, as would be the case without this alteration. He read the contract with the original proprietors, and argued to show that the contemplated sale would not contravene that contract; that the question involved in the sale, for private purposes, of the public reservations of ground in the city, was settled by the act which heretofore passed, directing the sale, &c.

Mr. SMITH, of Maryland, opposed the bill with much earnestness, arguing that it would be a violation of the contract with the original proprietors; that it would be highly inexpedient to cut up and sell these public reservations, they being necessary to the health, comfort, and convenience of the citizens, as well as the beauty of the city, and were intended to be kept open for these purposes. He viewed the plan as originally adopted, in the nature of a compact between the Government and the purchasers of lots in the city, which could not rightfully be departed from. He cautioned the House against the effects of intrigues, which were frequently carried on by individuals, merely to improve the value of their own property, or injure that of others; remarking, that if any change were once made in the plan of the city, that half the time of the House would hereafter be taken up in attending to similar subjects, and illustrated his opinions by reference to proceedings of a like nature in Baltimore. He himself was among the first purchasers of lots in this city, and was deeply interested in it. His purchases were predicated on the belief that the plan of the city would never



H. OF R.

Proceedings.

JANUARY, 1819.

be altered. The plan he thought the most admirable one that was ever laid—one great excellence of which was the open spaces left by the public reservations, one of which it was now proposed to sell, which were so much wanted in all large and compact cities, and the great benefit of which, Mr. S. believed, would be hereafter felt here, as he had no doubt it would, in time, become a great city, and a place of great business. The original proprietors, Mr. S. believed, had entered their protest against these sales, and had got the court to stop the sale under the former act; and a court of justice, he hoped, would never permit Congress, or any other power, to deprive individuals of their right.

Mr. HERBERT went into a minute investigation of the subject to prove (as well as he could be heard) that the bill, as amended, was inconsistent with the original contract with the proprietors of the soil; and he read many documents to establish his arguments. He was in favor of such a course as would leave the original proprietors at liberty to seek a remedy in a court of justice.

Mr. BARBOUR wished the bill to be laid on the table, as some questions appeared to be involved in it which ought not to be decided hastily. He wished to give these questions more reflection; though, from the hasty view he had taken of these reservations, it appeared to him that they were intended for public uses; and, though he believed the plan ought not to be changed, yet if it were, and these reservations were applied to private purposes, it would present a question of some difficulty; but in its decision, he did not think the interest of the purchasers of lots entered into the question at all, as they bought under the ordinary chances and contingencies. Mr. B. moved that the bill be laid on the table.

Mr. COBB replied, that the House had had time enough to make up its opinion on the subject, as the bill had laid on the table a part of the last session and the whole of the present, and hoped it would not again be laid by.

The question was carried, to lay the bill on the table, by a large majority.

THURSDAY, January 14.

Mr. SMITH, from the Committee of Ways and Means, reported a bill supplementary to, and to amend the act, entitled "An act to continue in force an act further to provide for the collection of duties on imports and tonnage, and for other purposes," passed the 3d day of March, 1817; which was read, and committed to the Committee of the Whole, to which is committed the bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages.

The Committee of Commerce and Manufactures were discharged from the further consideration of the resolution instructing them to inquire into the expediency of fixing a standard of weights and measures.

Mr. BLOOMFIELD made a report on the petition

of Lieutenant Bartlett Hinds, which was read; when Mr. B. reported a bill for the relief of the said Lieutenant Bartlett Hinds, which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a report of the Secretary of War, made in obedience to a resolution of this House, of the 18th of April last, instructing him to report a plan for the application of such means as are within the power of Congress to the purpose of opening and constructing such roads and canals as may deserve and require the aid of Government, with a view to military operations in time of war; and, also, a statement of the works of the nature above-mentioned which have been commenced, the progress which has been made, and the means and prospect of their completion; which was ordered to lie on the table.

On motion of Mr. JOHNSON, of Virginia,

*Resolved*, That the President of the United States be requested to inform this House, (unless the communication of the information be, in his opinion, incompatible with the public interest,) whether any application has been made by any of the independent Governments in South America to have a Minister or Consul General accredited by the Government of the United States, and what was the answer given to such application.

Mr. JOHNSON, of Virginia, and Mr. SETTLE were appointed a committee to present the said resolution to the President.

Mr. RHEA, from the Committee on Pensions, made a report unfavorable to the petition of Benjamin Simmons; but, on motion of Mr. HUBBARD, and after debate, the report was reversed, and the committee instructed to report a bill for the relief of the petitioner.

The engrossed bill for the relief of Benjamin Poole was read a third time.

[This bill proposes to indemnify Benjamin Poole, an assistant assessor in one of the collection districts of New Hampshire, for the amount of a judgment given against him in the Supreme Court of the State of New Hampshire, in consequence of his having levied a tax on the property of a clergyman, under sanction of the opinion of the attorney of the United States, of the district court, and of the Attorney General, that the real property of clergymen was liable to the direct tax.]

Considerable debate took place on this bill, principally on the nature of the judgment, which, it was contended by Mr. MILLS and others, had been rendered on a case made up without a trial of the facts by the jury, in such a manner as to authorize Congress to interfere. This objection was answered by Messrs. CLAGETT, LIVERMORE, and others; and the bill passed without a division.

The SPEAKER laid before the House, a letter from the Secretary of the Navy, transmitting sundry papers and statements, showing the different places in which provision is made for the accommodation of seamen, under the several laws relating to navy and marine hospitals, the number of persons, as near as can be ascertained, annually

JANUARY, 1819.

New York Circuit Courts.

H. OF R.

accommodated at each, and the expense attending the same; transmitted in obedience to a resolution of the House, of the 17th of April last; which was ordered to lie on the table.

The engrossed bills for the relief of Henry Davis; for the relief of Kenzie and Forsyth; authorizing the payment of a sum of money to the officers and crews of gunboats numbered 149 and 154, were severally read a third time, and passed.

The bill for the relief of the Marquis de Vienne, and that for the relief of M. Poirey, both aids de camp of the Marquis Lafayette during the Revolutionary war, passed through a Committee of the Whole, and, after a few remarks from Mr. HARRISON, in their favor, were ordered to be engrossed for a third reading.

## ORGANIZATION OF THE MILITIA.

The House then resolved itself into a Committee of the Whole, on the bill, reported at the last session, for the organization and discipline of the militia of the United States.

The bill was read through, when the Committee rose, reported progress, and obtained leave to sit again.

## NEW YORK CIRCUIT COURTS.

The House then, in prosecution of the orders of the day, resolved itself into a Committee of the Whole, on the bill to alter the time of holding the circuit courts in the southern district of New York, and for other purposes.

This bill passed this House at the last session, was sent to the Senate, and passed by that body with amendments; and, in this state, presented to the House a new question, under the rule which continues the business of the last session over to this.

It was contended by Mr. CLAY, that it was for the House to proceed to act on the bill, without reference to what might in this respect be the rule of the Senate; and by Messrs. LOWNDES, NELSON, TAYLOR, and PIRKIN, that this bill, having actually passed both Houses, except in regard to an amendment, could not be considered as comprehended within the rule.

The discussion resulted in the Committee's rising, leave to sit again being refused, and the bill being indefinitely postponed, by a vote of 55 to 51.

FRIDAY, January 15.

Mr. BARBER, of Ohio, presented a petition of Phoebe Champe, widow of the late John Champe, a sergeant major, in Lee's legion of horse, in the Revolutionary war, and who was employed by General WASHINGTON, in a highly important and secret service, and which is particularly detailed, in the 30th chapter of "Lee's Memoirs of the War, in the Southern Department of the United States," praying for a pension and for a grant of land.—*Referred*.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill for the

relief of Samuel B. Beall; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Samuel Gibbs.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of John D. Carter; which was read twice, and committed to the Committee of the Whole to which is committed the bill for the relief of John Wilmot.

Mr. COLSTON, from the Committee for the District of Columbia, reported a bill supplementary to the act, entitled "An act to authorize and empower the President and Managers of the Washington Turnpike Company, of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, to the line thereof;" which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. POINDEXTER, from the committee to which was referred the bill from the Senate, entitled "An act further to suspend, for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon," reported the same without amendment, and the bill was ordered to lie on the table.

Mr. SOUTHARD, from the Committee on Indian Affairs, made a report, which was read; when, Mr. S. reported a bill providing for the abolition of the Indian trading establishments of the United States, and providing for the opening of the trade with the Indians, to individuals; which was read twice, and committed to the Committee of the Whole to which is committed the bill to prohibit the Choctaw tribe of Indians from settling or hunting on the lands of the United States west of the Mississippi.

Mr. SOUTHARD also reported a bill to authorize the President of the United States to select such tribes of Indians as he may think best prepared for the change, and to adopt such means as he may judge expedient in order to civilize the same; which was read the first and second time, and committed to the Committee of the Whole last mentioned.

On motion of Mr. PINDALL, a committee was appointed to inquire into the expediency of providing, by law, for delivering up persons held to labor or service, in any of the States or Territories, who shall escape into any other State or Territory; and that the said committee have leave to report by bill; and, Messrs. PINDALL, ANDERSON, of Kentucky, and BEECHER, were appointed the said committee.

On motion of Mr. NEWTON, the committee appointed to inquire whether it be expedient to make any amendment in the laws which regulate the coins of the United States, and foreign coins, were instructed to inquire, also, into the expediency of fixing the standard of weights and measures.

On motion of Mr. WHITMAN, the Committee on Military Affairs were instructed to inquire into the expediency of authorizing the sale of such military sites, owned by the United States,



H. OF R.

Indian Hostilities—Organization of the Militia.

JANUARY, 1819.

as have become, or have been found to be useless for military purposes.

The Committee of the Whole, to which is committed the bill, explanatory of the act, entitled "An act for the final adjustment of land titles, in the State of Louisiana and Territory of Missouri," were discharged; and the bill was ordered to be engrossed and read a third time.

Engrossed bills of the following titles, to wit: An act making provision for the claim of M. de Poiré, and An act making provision for the claim of M. de Vienne, were severally read a third time and passed.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a statement of moneys paid to the army for extra labor upon roads and other objects of fatigue duty, for the year ending the 1st October, 1818, so far as the accounts have been received including the extra issues of whiskey, rendered in pursuance of the resolutions of this House, of the 6th and 7th instant; which was ordered to lie on the table.

#### TERRITORIAL ORDINANCE.

Mr. SERGEANT offered for consideration the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of enacting a general ordinance, whereby the fundamental principles of civil and religious liberty shall be guaranteed to the inhabitants of the Territories exterior to the original limits of the United States, and made the basis of all Governments hereafter to be established therein.

Mr. LOWMEDE said, that the resolution was rather obscure in its terms, so that its scope was not easily understood. He thought, however, he could perceive what the object of it was. He wished, however, that it might be permitted to lie on the table for the present, to give an opportunity to examine it.

Mr. SERGEANT said he had no objection to the resolution's lying on the table for the present, if any gentleman desired it. With respect to the allusion of the gentleman to the object of it, Mr. S. said the gentleman was right. He had a particular object in view, which he did not mean to have concealed from the House, but which he did not think it necessary to express more distinctly than he had done in the resolution.

The resolution was ordered to lie upon the table.

#### INSTIGATING INDIAN HOSTILITIES.

Mr. CAMPBELL, of Ohio, submitted for consideration the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of punishing as spies white men who may be found instigating the Indians to hostilities, or fighting with them, against the United States.

Mr. STORRS objected to this resolution, that it presented a question, to be settled by the law of nations, and not by Congress. It would be a proper question to be settled in a Congress where all the nations of the earth were represented, but it was one not to be taken into consideration here.

Our rules and articles of war prescribed the mode of trial of spies, and that was the only way in which Congress could legislate on the subject.

Mr. CAMPBELL said, his object was to institute an inquiry into the propriety of the punishment of white men found fighting with the Indians. It was well known that two men—he knew not what countrymen to call them—Arbuthnot and Ambrister by name, had been considered as outlaws, being found in that situation. On this subject he would not express an opinion; but it was necessary, even if he were an Indian, that every person accused of crime should have some sort of a trial. His sole object was to institute an inquiry into the subject.

Mr. MILLS said, it was very seldom that he should desire to arrest the progress of any proposition for inquiry into any matter; but this motion embraced a question, respecting which no inquiry could be necessary. In addition to the remarks of the gentleman from New York, he stated another objection: if we pass it, said he, we could not object to other Governments, the British, Spanish, &c., legislating on the subject. It was well known that, in our wars with Great Britain, we had employed Indians on our side. This legislation would, to use a vulgar adage, be a game that two can play at, and we might, by passing laws on this matter, subject ourselves to a species of retaliation which would not be at all agreeable.

Mr. NELSON said, he considered this question as already before the House; as, on hearing it stated, the case of General Jackson occurs to every man. Under that question, the power of the Government and the law of nations on this subject, would be fully discussed. To adopt the proposition now before the House, would be, in fact, to pronounce an opinion without inquiry. He was, therefore, opposed to the resolution, because its adoption would be to pre-judge a case prepared and set apart for discussion.

On the question being taken, the resolution was negatived by a large majority.

#### ORGANIZATION OF THE MILITIA.

The House then resolved itself into a Committee of the Whole on Mr. HARRISON's bill to provide for the organization and discipline of the militia.

Mr. BASSETT moved an amendment, as a substitute to the bill, which consisted of upwards of twenty sections, embracing a system different from that of the bill.

Mr. HARRISON delivered a speech of considerable length, in support of the bill, and on the importance of Congress acting on the subject.

Mr. SIMKINS said that the present thinness of the House admonished him that this, although a most important, was not a favorite subject, with this body. He agreed with the gentleman from Ohio, (Mr. HARRISON,) that whenever banks were brought up, or even private claims, in some instances, the undivided attention of the House was given, and when General Jackson and the Seminole war were broached, there was a silence as profound as if the very breaths of members

JANUARY, 1819.

Organization of the Militia.

H. OF R.

were suspended; while upon this one, the most important of all subjects, there could be but little attention attracted. This might arise from a constant effort, for a series of years, without any success, in framing an efficient system for the due organization of those who must be relied upon to fight the battles of the country. But, Mr. Chairman, I appeal to the House, said Mr. S., whether the difficulty of the subject is any reason why it should not be at last effected, provided it is of that immense and indispensable importance for which I contend.

Will the House think it amiss, said he, if I call back their attention to the situation of the country at the commencement of the last war? After the Revolutionary war, our citizens had got so completely immersed in commerce, agriculture, and everything else, except a due organization of the militia, and keeping alive that spirit so essential in a republic, that this military spirit and military knowledge were nearly extinct. What were the consequences? They were written in characters of blood in every encounter with the enemy in the fight of the late war, and the innocent blood then spilt, and treasure wasted, would be, it would seem, sufficient to impress upon this, and all future Congresses, a solemn admonitory lesson as to the necessity of an efficient militia.

The Secretary of War was required, by a resolution of this House, at its last session, to report the number, state, and strength of the militia of the several States—and what was the result? Why, that several of the States could not give an account of even their numbers! So great is the lethargy, and fatal, I fear, will be the consequences of this indifference.

Many honorable members of this House seem to be so much opposed to, and jealous of standing armies, that they will hardly vote money for the due organization and efficient regulation of our small one. Yes, this jealousy seemed to exist, to our small though brave army, nominally of 10,000, though not more than 6 or 7,000 men, stationed at the numerous forts, and scattered over a territory of two or three thousand miles of seacoast, and from two to three thousand miles in breadth. How then can it be reconciled that those members, so jealous of a standing army, are not among the first to give us an efficient militia? They are not the first in the ranks to give us that well regulated, armed, and organized militia, which not only renders a standing army unnecessary, but, I hesitate not to say, which must be the strength and defence of this great and rising Republic—the basis upon which the liberties of this happy people must rest. A due cultivation, Mr. Chairman, of this military spirit and knowledge diffused among the people will, as the gentleman from Ohio has said, oppose, more strongly than anything else, that influx of riches and luxury which more than anything else threatens to enervate us, and overwhelm and overthrow the fair fabric of our liberties.

Can we, then, Mr. Chairman said Mr. S.,

justly feel disinclined to the great work contemplated in the present bill, seeing that the common defence of the country is emphatically made our duty by that Constitution which we have all sworn to support? In vain has this sacred instrument not only given us the liberty, but made it our solemn duty to provide for the common defence, for calling out, arming, and disciplining the militia, if it is never to be attended to. Although I do not like the bill of the gentleman from Virginia (Mr. BASSETT) so well as that now before the House, and introduced by the gentleman from Ohio, because it seems to me to possess more difficult complication in its classification; yet, there are features in both of which I am extremely fond. They, in the first place, provide an uniform system, a matter of great importance; they next provide for calling out the militia by the President of the United States, when public exigency may require. In the third place, they enable the President, by the militia, effectually to repel invasion, not by halting at the precise line of the United States, as they most injuriously and fatally did during the last war, upon the borders of Canada, but repelling it, by compelling them, under exemplary fines and forfeitures, to follow the enemy into other countries, until a due and disabling chastisement was inflicted. Another and a fourth great object, contemplated by both bills, is to put arms, under due regulations, into the hands of such class of the militia as from youth and other circumstances may be best calculated to defend our country.

There is one feature in the bill, introduced by the gentleman from Virginia, which I would wish to see introduced, if it can be constitutionally done, into the bill now before the House. It is that part which contemplates the encampment, disciplining, and training of a certain class of the militia, for a certain number of days in each year, and at the expense of the United States. It is denied by some that the Constitution gives this power. Although I am unskilled in construing this instrument, yet, I can hardly believe that the Constitution which gives us the power of organizing, arming, and disciplining the militia, and governing them while in the United States service, could have been intended to deprive us of the power, a concurrent power with the States, so to discipline or train them as to make them fit for duty. However, without entering minutely into the Constitutional question, I conjure Congress to go as far towards the great object proposed, as may be clearly consistent with the Constitution. If we cannot make a system, even approaching to perfection, let us do all we can. Let us not legislate upon many other things, and leave untouched our greatest duty. Let us not follow the shadow, utterly disregarding of the substance.

Mr. Chairman, said Mr. S., I am no military man, and sorry I am that I cannot afford assistance on the details of the bill. I rose principally to draw the attention of Congress, if I could, to this hackneyed but interesting duty. I am not



H. OF R.

Bank of the United States.

JANUARY, 1819.

vain enough to believe I have fully, if at all, succeeded. I cannot, however, take my seat without bringing again to the attention of the members of this Congress, that if it is intended to preserve to future ages our liberties, commit the defence of our country to a class of young men inspired by the spirit of liberty and trained to military duty. Dispersed over the whole Union, they will be identified with its habits and interests, will be free from all the vicious habits and corruptions of a standing army, and will forever remain the sure basis of your freedom. In speaking freely of the indifference which seemed to me to pervade this House on this subject, I attack the motives of no member. My views may be the dictate of a mistaken zeal or enthusiasm, essaying to do what may be impracticable. If so, I shall at least have the great consolation of having done, as far as I could, my duty, not only to my immediate constituents, but to the nation at large.

Mr. BASSETT then spoke at some length in support of his amendment.

Mr. HARRISON and Mr. BASSETT spoke alternately twice or thrice, in support of their respective opinions.

The question was at length taken on Mr. BASSETT's proposed amendment, and decided in the negative.

Mr. HARRISON then suggesting that he had several amendments to offer to the bill, the Committee rose, and obtained leave to sit again.

SATURDAY, JANUARY 16.

The Committee on Foreign Relations was discharged from the further consideration of the petition of the New York Society, for promoting the manumission of slaves, and protecting such of them as have been, or may be, liberated; and it was referred to the Committee of the Whole, to which is committed the bill in addition to the acts prohibiting the slave trade.

Mr. FENDALL, from the committee appointed yesterday, reported a bill to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory; which was read twice, and committed to the Committee of the Whole, to which is committed the bill in addition to the acts prohibiting the slave trade.

Engrossed bills of the following titles, to wit: An act explanatory of the act, entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri;" and An act supplementary to the act, entitled "An act to authorize and empower the President and Managers of the Washington Turnpike Company, of the State of Maryland, when organized, to extend and make their turnpike road to or from Georgetown, in the District of Columbia, through the said District to the line thereof;" were severally read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the resolution "for the distribution of Seybert's Statistical Annals,

and directing Pitkin's Commercial Statistics to be deposited in the Library," with an amendment, in which they ask the concurrence of this House. The said amendment was read and concurred in by the House.

#### BANK OF THE UNITED STATES.

Mr. SPENCER, from the committee appointed on the 30th of November last, to inspect the books and examine into the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not, made a detailed report thereon; which was read and committed to the Committee of the Whole on the state of the Union. The report is as follows:

The committee appointed to inspect the books, and to examine into the proceedings of the Bank of the United States, with directions to report thereon, and to report whether the provisions of its charter have been violated or not, respectfully report—

That, under the leave granted by the House, the committee repaired to Philadelphia, and there personally inspected the books of the bank; and, as a further means of examining its proceedings, they interrogated, on oath, the president, the cashier, all the directors of the bank whose attendance could be obtained, and several of its clerks and officers. Examinations also have been made at the offices at Baltimore, at Richmond, and at the City of Washington, in order to obtain specific information upon certain subjects on which the books of the parent bank were necessarily deficient. From these inquiries, conducted with great labor, and the committee trust with great care, they have collected a mass of information which they now submit to the House, and which will be referred to in the course of this report. This information consists of tables, statements, and extracts made by the committee from the books of the bank, or by them compared with those books and verified; and of the testimony of witnesses, and of letters from the president of the institution.

The committee are aware that, from these sources of information, various important inferences may be drawn, and upon them the most interesting opinions may be predicated; it has been their intention, however, to go no further than was required by the resolution of the House; to avoid speculative opinions on general subjects; and to confine themselves to what they deemed practical objects of inquiry, which they settled among themselves previous to entering upon the investigation. These objects seemed to divide themselves into two classes: those which related to the general management of the bank, and the conduct of its officers, and those which were connected with the question of a violation of its charter. As to the general management of the concerns of the institution, among the points of inquiry which appeared to be most immediately interesting, were those which related to the refusal of the bank and its offices to pay its notes in specie at any other place than that where they were made payable, and to the practice of selling drafts on each other.

It appears that the directors of the bank, on its first institution, and up to the 28th of August, 1818, strenuously endeavored to redeem its notes at all its offices, indiscriminately, north of the city of Charleston. On the 7th day of January, 1817, it commenced operations by discounting notes on pledged stock, and to stock-

JANUARY, 1819.

Bank of the United States.

H. OF R.

holders only, and by the issue of its bills. The officer then at the head of the Treasury Department had repeatedly urged the commencement of operations, with the laudable view, as it appears, of hastening the redemption, by the State banks, of their notes in specie. Vide letters from the Secretary of the Treasury to the president of the Bank of the United States, 15th August and 29th November, 1816, marked I. II.

Efforts on the part of the Treasury to induce the local banks to that measure, appear to have been abortive, until the Bank of the United States made certain propositions which induced negotiations between it and the State institutions, which finally resulted in a compact contained in the resolutions of the board of directors of the 31st January, 1817, herewith submitted, and marked III.; and in order to exhibit how far the bank complied with its compact, a statement of the loans made and of notes issued up to the 20th February, 1817, is submitted, marked IV. It can be necessary only to refer to the state of the paper currency of the country at this period. The notes of the State banks were variously depreciated—some as much as twenty per cent, while others were at a premium. The excessive issue of paper by the local banks had caused an unnatural and artificial depreciation of such paper, which required only time, and moderate but steady reductions to restore, not to a uniform par, but to its true value. Under these circumstances the Bank of the United States had, on the last of February, 1817, (vide statement marked V.), \$8,848,000 due to it from the State banks at Philadelphia, New York, and Baltimore. With such a credit constantly accumulating by the transfer of the Treasury funds, and by the payment of the second instalment in the notes of the State banks, it was in the power of the United States Bank to have coerced the local institutions into a moderate and reasonable reduction of their circulating notes. An attempt to do so was made by the compact, III.; and, although the Bank of the United States appears to have been anxious to effect the object, it did not persevere in this design. By its subsequent acts it improvidently afforded a temptation, to the Western banks particularly, to extend their circulation of notes, by insisting on its branches paying out their own notes in preference to those of the State banks; and on their delivering drafts on the eastern cities, whenever it could be done, to prevent the remittance of their own notes. The branch notes, and the drafts issued in consequence of these instructions, were swept away by the facility of remittance thus unwarily given, as well as by the ordinary balance of trade. A vacuum in the circulation was thus produced, which could be supplied only by the local notes, which were readily received by the offices of the Bank of the United States, and were retained by them as a fund upon which interest was charged to the State banks. The letter of the president, marked VI., exhibits the course pursued by the bank in this respect.

The Bank of the United States received from the Treasury the notes of the local institutions, in many cases as special deposits, to be paid out in similar bills. From April, 1817, to this time, the amount so received appears, from statement VII., to be \$2,752,750, of which \$87,331 continues on hand, leaving \$2,665,409 as the amount voluntarily assumed by the Bank of the United States. The committee have not found any evidence of the bank having attempted to oppress the State banks, either by wanton demands of specie, or by the rejection of their notes. Much com-

plaint has indeed existed, but in the instances which have come to the knowledge of the committee, the State banks have been in the wrong, and some of them at the westward have refused the most equitable propositions of the bank, and have met its demands for its just dues with complaints and reproaches. It was not intended to trouble the House with any of the various letters which have passed on that subject, but as the president of the bank transmitted a letter from the office at Charleston, exhibiting the conduct of the local banks in that place, it is presented to the House, marked VIII.

The committee are of opinion that, instead of conducting with the alleged rigor towards the State banks, the Bank of the United States is liable to the more serious charge of having increased the amount of notes in circulation, by its acceptance of them in those places where it was known they would not be redeemed in specie, and by making them, in the manner before-mentioned, the only circulating medium in that part of the country. The forbearance of the bank towards the State banks is vindicated on the ground of its being the only means to induce the resumption of specie payments. This effect, if really owing to that cause, has been proved to be but temporary, and experience has shown that at the same time, or soon after the refusal of the Bank of the United States to receive the notes of its offices, many of the State banks began to suspend and evade their specie payments.

So long as the notes of each office were payable at all the others, and the office issuing them was not exclusively liable for their redemption, the discounts at those places, against which there was a balance of trade, became larger in proportion to their indemnity against demands. As the notes of the offices were rapidly carried off, the payment of these discounts were necessarily made in the notes of the local institutions; and thus it was one inevitable effect of the old system to increase the debts of the State banks to the offices of the Bank of the United States at these places. The demands of the bank were suffered to accumulate improperly, instead of being gradually reduced as specie was required at other offices, and in small quantities that would not have been felt. Their reduction was not insisted upon sufficiently early; and, when the bank began to call for specie, its demands were so considerable as not only to expose the local banks, but the citizens in their vicinity, generally, to very severe pressure.

By substituting the credit of individuals for the payment of the second instalment, which will be presently stated, instead of coin or notes of State banks, the Bank of the United States in a great measure deprived itself of the early and prompt check which the possession of those notes would have afforded, to the more extensive increase of local paper. In July, 1817, the debts due from the State banks were reduced to \$3,972,000, while the notes of the Bank of the United States, in circulation, amounted to \$4,754,000; by which it might have been subjected to embarrassments arising from the calls of the local institutions. The committee think it evident, from this result, that the bank did not exercise, with sufficient energy, the power which it possessed, and might have retained, but rather afforded inducements to the State banks to extend the amount of their circulating notes, and thus increased one of the evils it was intended to correct.

In answer to an inquiry addressed by the committee on this subject to the president of the bank, they were



furnished with his views, and a letter from the office at Boston, marked LX, and were referred to a report of the committee of directors on the 28th of August, 1818, marked X. These documents exhibit the reasons of the bank for adopting the resolutions of that date, by which the notes of the offices were refused acceptance. In the letter of the Boston office much stress is placed upon the large accumulation of paper and drafts at Boston, issued by the Southern and Western offices. And this became an important object of inquiry. The books of the parent bank do not furnish information respecting the drafts made by, and upon, the offices, excepting those which were made on it. And the committee have not ascertained their amount, except at the offices in Baltimore and this city. From the local situation of Baltimore, the statements obtained at that office, marked XI, XII, may be considered as furnishing sufficient proof of the correctness of the opinion expressed by the Boston office. To the office at Boston, its debt fluctuated between \$34,000 and \$215,000, until May last, since which it has been indebted to Baltimore \$500 to \$57,000. Its debt to the office at New York has varied from \$100,000 to \$1,947,000, and, until October last, it has generally owed that office more than \$1,500,000. At that time the New York office was brought in debt to Baltimore \$47,278; its debt in November last was \$10,948. The explanation of these extraordinary reductions of the Baltimore debts is given from the circumstances: Treasury drafts on the North being delivered directly to the Baltimore office, or sent to it through the office at this city; and by a check on New York for more than a million, given by the parent bank in payment of foreign bills of exchange, hereinafter mentioned. The Baltimore debt to the parent bank has varied from \$1,500,000 to \$9,000,000, and has generally exceeded \$6,000,000. Notwithstanding their heavy debts to New York, Boston, and Philadelphia, the drafts of the Baltimore office on those places continued uninterrupted, and excessive in amount; that office was originally supplied with notes to the amount of \$872,000, and had returned to it from Philadelphia \$1,697,000, in its notes, and yet it is stated by the teller, that it never had a sufficient quantity of notes to meet its demands; that they did not remain twenty-four hours in the office, but were constantly remitted to the North with the drafts which it issued. And there can be no doubt, on a comparison of the statements referred to, connected with these facts, that the drafts from Baltimore, given for the proceeds of notes discounted, were unwarrantably large, and much more than the balance of trade required.

In a letter of the president, dated June 27, 1817, he observes, "the directors considering (among other things) the low state of the specie and individual deposits at your office, and the magnitude of your discounts and those at this bank, as well for Baltimore as this place, and the very inadequate and disproportioned amount of discounts to which the office at New York has been restricted in consequence of the daily and excessive drafts from your office and this bank, which has become the subject of just animadversion," direct that the then amount of discounts should not be exceeded. The same language is held in other letters, (XIII, XIV,) but it terminated in unavailing remonstrances; the Baltimore office continued its drafts and its discounts, and drained the specie from the Northern offices. And such was the want of firmness

or of foresight in the parent board, that, after finding its repeated remonstrances disregarded, it never removed one of the offending directors, and took no effectual step to control them, until the adoption of the general resolutions of August 28, 1818, forbidding the offices to draw on each other. The effect of these excessive drafts on the Northern offices was to compel the constant remittance of specie there to cripple them in all their operations, to limit their discounts to a trifling amount, to cause the revenue paid there, and which would itself have been a capital for business, to be drawn Southward, thus compelling them to deny to the debtors of the Government any indulgence or accommodation in their payments; to bring those offices into debt with the State banks, to produce a general depression of credit, and a severe pressure for money. Those places were, in fact, made tributary to Baltimore; and all their means and energies were required to supply its extravagant issues.

A sudden reduction of the Baltimore debt to the Northern offices appears to have taken place in March and April last, and within a few months past those offices have been brought in debt to it. This is accounted for by the cashier of that office, by saying that it arose principally from Treasury drafts, and by the sale of foreign bills of exchange. Drafts were given in some instances, and to considerable amounts, directly to Baltimore on the Northern offices, and, in other instances, such drafts went through the office in this city. It is not to be presumed that these drafts were given by the Treasury with a knowledge of all the circumstances, or with a view to draw the revenue collected at the North to Baltimore, merely to aid that office in paying its debts. Yet such was the effect, and, although it enabled Baltimore to continue its large discounts, it impoverished the Northern offices, and the cities where they were established were made to feel the pressure. The Baltimore debt to the parent bank will be found to have regularly increased with the reduction of its debts to the other offices, until it remitted \$1,007,000 in bills of exchange on London; which remittance is connected, by the testimony of J. W. McCulloch, Esq., with the negotiation explained in the letter of the president, XV. The loan which resulted from that negotiation was on pledge of stock that had been pledged at Baltimore; the bank assumed it and received the bills of exchange, and paid for them, by giving a check on the New York office for the amount, at the time the Baltimore office was indebted to the parent bank more than \$6,000,000.

It might have been supposed that the pressure of the Baltimore office upon those more north, was owing to its being pressed by the Southern and Western offices. The fact will however appear from the table XI, that until September last it was indebted to the office at Lexington, that the debts of Cincinnati, Chillicothe, and Louisville to it were small in amount, and that the only office which has constantly owed it is New Orleans, and that office not to a large amount until lately.

From these facts it would seem to result that the embarrassments of the Bank of the United States, in receiving the notes of all its offices, did not arise so much from the fair and ordinary balance of trade, which might have been calculated and provided for, as from the excessive discounts granted at some of the offices, particularly Baltimore and Philadelphia, and the drafts consequent upon those discounts which were made upon the other offices. From the corres-

pondence of the bank with its offices, it is obvious that this was the opinion of the directors and the officers; it is distinctly assigned as one of the grounds for refusing the notes of the offices in the report of the committee, X, and it is more strongly urged in the letter of the Boston office, submitted and adopted by the president, IX, and is eloquently enforced in several of his letters.

This committee is not prepared to say that an uniformly equal currency could have been maintained under the most auspicious circumstances; they are inclined to the opinion that such an attempt would be hopeless, but they consider its abandonment at the time as having been produced by the causes before stated. The efforts of the bank to meet the payment of its notes at all its offices north of Charleston, were certainly great, and particularly at New York and Boston, as will appear from the resolutions marked XVI, and the account of specie remitted XVII. The relinquishment of the attempt was involuntary and reluctant.

From the testimony of the cashier and tellers of the bank, the teller of the Bank of North America, and of the cashier and teller of the office at Baltimore, it will appear, very satisfactorily, that the conduct of the bank and that office in adopting the new system of refusing the notes of the branches, was perfectly fair and equitable; that the bank and the Baltimore office promptly paid and received all the notes of the other offices which had paid out previous to the change of the system, whenever application was made for the purpose, and that in no instance have they refused to do so. Injury probably was suffered by those who had received the depreciated notes in the usual course of business, but the committee cannot perceive how the bank could have changed its system in any manner less injurious to itself and less inconvenient to the public than that which was adopted.

From this change of system, which placed the notes of the offices on the same footing with those of the local banks in their vicinity, resulted a greater difference in the exchange between the different parts of the Union. The offices at New Orleans, Savannah, and Charleston, had never been included in the plan of equalizing the currency. They had always been left to their own discretion in receiving or refusing the notes of the other offices. In May, 1817, the offices at Charleston and Savannah were authorized to draw on those at the North at a premium. In April, those at Lexington and Cincinnati were authorized to purchase bills on the Eastern and Northern cities. In December, 1817, the Southern offices were authorized to draw at a premium on those at the North. In October and November, 1817, the Western offices were authorized to draw at a premium on Philadelphia and the offices south of it; and it appears that the offices at Lexington and Cincinnati, before February, 1818, were in the practice of drawing on the Eastern cities. These facts show that the bank, and most of the offices, sold drafts upon each other long before the adoption of the resolution of the 28th of August, 1818, refusing the notes of the offices; and establish that, while the bank was attempting to equalize the currency, by the payment of its notes at all its offices north of Charleston, it was at the same time selling drafts between those offices at a premium. A system of domestic exchange was adopted by the bank on the 18th of July, 1817, marked XVIII. It contains some provisions which appear exceptionable; but as the

plan never was acted upon, it is not deemed necessary to notice them. It has been impracticable for the committee to ascertain the amount, or the rates of the drafts, sold by and upon the offices. On examination of the books of the parent bank, it appears that drafts were sold by it on Charleston, New Orleans, and Savannah, within a few days of each other, at very different rates; on one day at one per cent., and on another day at five per cent. on the same office. It would be in vain to attempt to account for these fluctuations.

However dangerous to the community may be the power of selling drafts, in the hands of an institution whose resources may be adequate to the control of domestic exchange, according to its interest or caprice, yet the committee cannot entertain a doubt that the bank possesses the power. Excepting the fluctuations before noticed, the rate of premium has not hitherto been extortionate, in any instance which came to the knowledge of the committee. The proceedings of the bank and its officers, and the reasons and views entertained by them, are exhibited in the report XVIII, in the letter of the president XIX, and in the extracts from the correspondence XX.

Various opinions are entertained on the expediency of the bank's selling drafts. While many suppose that it would consult its own dignity and interest, in refraining from the practice, and would receive an equivalent for the loss of premium in the confidence and support of the commercial community, by delivering its drafts gratuitously, when it was convenient to draw at all; others contend that the system of gratuitous drafts would open an avenue to favoritism, and, at all events, would expose the bank to the charge in a greater degree than if it sold its drafts. Without expressing any opinion upon these subjects, upon which the community is much divided, and to which the attention of the committee has not been particularly directed, they content themselves with observing, that if drafts are sold, they ought to be at fixed, known, and permanent prices, not exceeding the expense of transportation of specie, on the fair *agio* of business: the want of these fixed prices in the bank and its offices, appears to your committee censurable.

Connected with the subject of exchange, is that of dealing in the notes of the State banks. In a letter of the President to the Charleston office, which had received the sanction of the board of directors, marked XXI, an opinion in favor of the legality and propriety of such purchases is expressed. No evidence, however, has been obtained, that they have actually been made. The practice, in the opinion of the committee, would be highly improper and dangerous, and contrary to the spirit, if not the words of the 9th fundamental article.

Among the resolutions of the directors, are two on the subject of discounts, on a pledge of stock, marked XXII and XXIII, passed the 18th and 27th December, 1816. These resolutions obviously contemplate only discounts to the stockholders, and one avowed object was to facilitate the payment of the specie part of the second instalment, which was ten dollars on a share, and to be paid by the 23d, January, 1817. The loans were to be confined to the proportions of the coin part of the second instalment, on the shares which had been subscribed at the places where offices were then in operation—New York, Boston, and Baltimore. The total amount of these loans to pay the specie part of the said instalment on the 20th of February, 1817, at Phil-



H. OF R.

Bank of the United States.

JANUARY, 1819.

Philadelphia, was \$199,921 37, and at Baltimore, at that date, was \$138,320 00.

The committee have not obtained information of the amount at New York and Boston, but they are informed by the officers of the bank, that the discounts at those places were to a very trifling amount, if any. The committee can see no reason to justify these premature efforts, to aid the payment of the second instalment, before it fell due, and before the experiment was made to ascertain how much could be paid in specie. Those efforts do not appear to have been very successful; for \$839,085 only were paid during the month of January, 1817, while \$1,078,319 was paid after that period, the greatest proportion in May and June, as will appear from an abstract prepared by the committee, and now submitted, marked XXIV.

The amount paid by checks, also, appears from that abstract, the most, if not the whole, of which were to draw the proceeds of notes discounted for the purpose. And it appears, that in many instances, particularly in one related in Mr. McEuen's testimony, hereinafter referred to, and in another referred to in the President's letter of May 27th, 1817, marked XXV, that the directors did not confine themselves to the amount prescribed in the resolution of the 27th December, that is to the proportion of the coin part of the second instalment, but discounted to the full value of the stock, which was paid for by the proceeds of the same discounts; and the discount, the payment of the second instalment, the payment of the price to the owner, the transfer and the pledge of the stock, were, as it is termed, simultaneous acts. All the discounts on stock, after the 20th February, 1817, were made at the par value of the shares, which enabled the discounters not only to pay the whole of his instalments, including the specie part, and the funded debt part, but also to draw out of the bank the amount which might have been paid in on his shares. It is alleged, in justification of those discounts, that specie bore a very high premium, and that the bank could not have commenced business, unless that mode of obtaining the specie payment had been adopted. With respect to the price of specie, it appears to have been six per cent. at Philadelphia, on the 6th January 1817, and about the same price at Baltimore; and that it had been much higher. Admitting, however, that the price would have been much enhanced, in consequence of its being understood that the coin payment on the second instalment would be rigidly exacted, yet the committee cannot perceive the justice of enabling some of the stockholders to evade that payment, and the consequent loss of the premium on specie, while the majority had been compelled to incur the same loss, in order, strictly, to comply with the law and their engagements; particularly unjust was it to those who resided at such a distance from the bank that they could not avail themselves of the privilege granted. And the injustice appears the greater, when it is known, that the expense of the specie afterwards imported by the bank, in order to supply the deficiency produced by the evasion it had authorized, was assessed equally upon those stockholders who had neglected to pay, upon those who had already, at considerable loss, furnished their quota of coin, and upon the Government. Seven millions was the whole sum required to be paid in coin—the specie part of the first instalment, amounting to \$1,400,000 was paid; of the \$2,800,000, which was to have been paid at the second instalment, it is impossible to say what amount was actually paid in coin.

The statement before referred to, marked XXIV,

will show the payments in coin at Philadelphia; and abstract marked XXVI, will exhibit the nominal payments on all the instalments, of which \$13,872,610 was paid by the stockholders in funded debt, (exclusive of the \$7,000,000 subscribed by the Government,) instead of \$21,000,000 which were required by the law; and \$14,100,167 was paid, as stated in the abstract, in coin. But, in that abstract, a check on the bank, or on other banks supposed to pay specie, is deemed a payment in coin; and as the payments on the second instalment continued to be made and received for six months and more, after it was due, and as, during that time, large discounts on stocks were constantly made, it is obvious that the abstract cannot be relied on as exhibiting an actual amount paid in specie. Nor, on the other hand, could the whole amount of the discounts on stock be considered as having been applied to the payment of the second instalment. By statement marked (B) referred to in the cashier's answer, and by this committee marked XXVII, it appears that the discounts on the 30th July, 1817, on pledged stock, amounted to \$8,046,932: of this amount, a part was applied to the payment of the third instalment, and a part was drawn out of the bank by the discounters. A large portion of it, is believed, however, to have been used to pay the second instalment. Of the \$2,800,000, which was to have been paid at the third instalment, it is believed that a very trifling amount was paid in coin, and as little of the funded debt, but that nearly the whole of both was paid by the proceeds of notes discounted on the pledge of stock. The total amount of specie imported from Europe by the bank, since its institution to this time, appears, by statement marked XXVIII, to be \$7,311,750 53, the expense of which, including interest, premium, and \$20,000 paid to the agent for going to London, amounts to \$525,297 38. The contract made for a part of that specie, and the authority to Mr. Sergeant, the agent, are submitted, marked XXIX, XXX. To the reasons urged by the officers of the bank, that such was the scarcity of specie, that it could not have been obtained, and that, without facilitating the payments by making discounts, the bank could not have gone into operation—the committee observe that they are at a loss to perceive how the simple act of discounting could make the specie more plenty; that, if it was not actually in the bank at the time of making those discounts, the checks of the discounters could not be considered as equivalent to specie.

The amount of specie in the Bank of the United States, in January, 1817, was \$1,724,109—\$324,000 more than the coin part of the first instalment, and which may fairly be presumed to have been received for the second instalment. If then the checks of stockholders founded upon discounts were equivalent to specie, they were by them authorized to draw out of the bank the very coin which had been paid in by other stockholders, in order to pay it into the bank again, for their own benefit, and to complete the payment of the specie part of the second instalment—an operation of more potency in creating specie than was ever ascribed to the fabled finger of Midas. The general statement in February, 1817, shows that the total amount of bills discounted was \$2,930,067—making an excess of \$1,205,958 of discounts over the specie in the bank. From which it would result, that the checks for the proceeds of those discounts were not in all cases equivalent to specie. As to the difficulty of the bank going into operation without those discounts being made, to facilitate the payment of the second

JANUARY, 1819.

Bank of the United States.

H. OF R.

instalment, it is not perceived how that measure removed the difficulty; for it is obvious that it did not add a single cent to the specie in the vaults of the institution. What other difficulty than the want of specie the bank had to encounter is not known, as all other obstructions seem to have yielded almost without an effort.

The effect of these discounts was, very obviously, to enable those who had made large purchases to retain their stock without paying for it, and to derive a benefit from its probable advancement in price. Had the bank rigidly required the payment of the instalment, the large stockholders must have sold that portion of their shares which their real means did not enable them to hold; or, if the bank had not exacted the instalments, and had not afforded the means of substituting credit for payment, the stock would not have advanced materially in price, and the large holders of it would have had no inducement to retain it. In either event, a more equal diffusion of the shares would have been the consequence, and it would have reached the hands of solid capitalists, who would have held only what they could pay for. It is believed that the loss of the dividends, and the liability to pay interest on the instalments due, would have been sufficient to compel even the stockjobber to sell. Although if those discounts had not been made the immediate profits of the bank would not have been so large, yet it would not have had an unwieldy capital to manage: it could have proceeded gradually, growing with the growth and strengthening with the strength of the nation, as it emerged from the evils of the flood of paper issued by the local institutions. The bank could have felt its way, and increased its means with the increasing demands of the country. Such a cautious proceeding would have enabled it to render invaluable service in checking the issues of State banks, and bringing them to the alternative of avowed bankruptcy, or to the permanent resumption of specie payments. The evil of the country was the immense amount of bank notes and credits. The Bank of the United States increased it by its credits to stockholders. That course did indeed enable the directors to declare a large dividend, but that the apparent prosperity was temporary and fallacious, is demonstrated by the recent dividend of two and a half per cent.

It might have been supposed, as it has been urged, that the discounting on stock was the only means in the power of the bank to enforce the payment of the second instalment. It is believed that the engagement on the part of the stockholders could have been enforced without difficulty by the courts of law. Decisions to that effect have been made in the States of Pennsylvania, Massachusetts, and New York. And when the stockholder's note was taken without an endorser or any other collateral security but the pledge of the stock, it is not perceived how his legal liability was increased. In the sale of the stock pledged there was indeed a prospect of indemnity, which depended however wholly on the price of shares in the market. The same circumstances that prevented the actual payment of the instalment would have interposed, it is presumed, to obstruct the liquidation of the note in lieu of it. And in the emergency which would have compelled the bank to reduce its discounts, it would most probably require a good price for the stock; and the very necessity of the times which would force an unusual quantity of it into the market, would probably defeat the object of security. In fact, a large part

of the amount thus discounted was not paid at the maturity of the notes, (vide statement XXVII,) but was renewed. Of the still larger proportion which appears from that statement to have been paid, it is wholly impossible to determine what part was converted into notes, on personal security, or what part resumed the new shape which was given to notes discounted on pledged stock after the 20th February, 1817. It ought to be remarked that many persons, after finding the disposition of the board, obtained discounts, who were perfectly prepared to pay, and would have paid their instalments, if the inducements to credit had not been offered to them.

Had the bank resorted to its remedy through the courts to obtain the payment of the second instalment, it would probably have obtained something from the stockholders—it could have lost nothing—and at all events would have saved the dividends upon the delinquent stock. But by taking the note of the owner it admitted that the instalment was paid, and abandoned the means of coercion given by the charter in withholding the dividends, and obtained nothing. It did not increase the responsibility of the stockholder, while it exposed the bank to the certain loss of the dividends, and to the chance of loss if the stock should be forced into the market in large quantities.

The committee are of opinion that the resolutions, and the practice of discounting beforementioned, were incorrect; that they were particularly objectionable, from their partial operation in affording facilities to some stockholders, which could not be enjoyed by those at a distance. Even at Richmond, the stockholders made their payments for the second instalment in funded debt and in coin, which was probably purchased at a premium. The committee find it difficult to reconcile those resolutions with the views professed in their adoption, and are satisfied that they were connected intimately with other measures calculated to affect the price of stock, and particularly with discounts of a similar character, soon after made.

One of the acts, obviously intended to give the bank stock a high price in the European market, was the establishment of an agency there, to pay the dividends. On the 28th November, 1816, a resolution was passed, by the casting vote of the president, and against the report of a committee who had been appointed to consider the subject, authorizing John Sergeant, Esq, to make arrangements in Europe for the payment of the bank dividends, at the par of exchange, and at the risk and expense of the bank. Such an arrangement was made, by which it was stipulated to make the payments six months after the dividends were declared; the papers on this subject are marked XXXIX, XL, XLI. How far it was objectionable thus to offer inducements to foreigners to become interested in our stock, and semi-annually to withdraw from the country the amount of their dividends, the committee do not undertake to decide, as they consider it one of those general and abstract subjects to which the resolution of the House does not direct their attention. But, thus to compel American stockholders, and the Government, to contribute to the possible loss of paying the dividends to those abroad, appears unjust. The nearly equal division of the directors on this important subject, and the able reasons assigned in the report of the committee against the measure, ought at least to have prevented the precipitate adoption of the resolution. And when the committee find among the eleven who voted in the affirmative the names of directors



H. or R.

Bank of the United States.

JANUARY, 1819.

who have been constantly and largely engaged in the purchase and sale of stock, and that of the ten who voted in the negative, not one has been ascertained to have dealt in those transactions, they are almost irresistibly impelled to the conclusion, that the measure was adopted more with a view to enhance the price of shares than for the permanent benefit of the institution.

The practice of discounting on stock, to the full amount paid upon the shares, appears to have commenced early at the parent bank, under the 4th by law, which is similar to the 15th regulation for the government of the offices, both of which were adopted at the commencement of the institution.

They authorize discounts without an endorser, on the stock of the bank, or the funded debt of the United States, or such other property as shall be approved when pledged to an amount sufficient to secure the payment of the notes. By a statement referred to in the cashier's examination, XXVII, it appears that the total amount of discounts on pledged stock, up to 30th July, 1817, was \$8,046,932 64, of which there had been paid, at that time, \$2,815,665 04; those loans, it is presumed, were made chiefly at Philadelphia, as the Baltimore loans on stock had not commenced to a large extent at that time. On the 25th July, 1817, a resolution, marked XXXI, was adopted, authorizing the officers to discount notes, secured by a pledge of bank stock or funded debt, with a recital, that it might be desirable to many persons to obtain temporary loans on such pledges, and a form of the pledge was directed to be transmitted; it is marked XXXII. These notes had no endorsers, and the discount was in fact made upon the credit of the stock. For by a resolution of the 30th September, 1817, marked XXXIII, the president and cashier were authorized, in all cases to renew these notes when they fell due between discount days, and by the resolution of November 6th, 1818, marked XXXIV, the president and cashier were authorized, in all cases, when required by the party, to substitute the note and hypothecation of the person to whom stock might be by transferred, and on which loans at par had been made.

By the resolution of 25th August, 1817, marked XXXV, discounts to stockholders were authorized, at one hundred and twenty-five dollars per share, upon presenting collateral security for the twenty-five dollars. The provision requiring an endorser, or collateral security for the excess, above the par value, was in many instances, and to very considerable amounts, effectually evaded, by some of the largest borrowers becoming endorsers for each other. The alleged reasons for the resolution are, that bank shares had been discounted upon, at one hundred and twenty dollars, by the local institutions in New York, and that it was necessary, in order to employ the capital which had been increased beyond the ordinary means of using it advantageously, by the redemption of eleven millions of the public debt. The practice of other banks would not, in the opinion of your committee, afford any justification of the measure; and, when that practice was to be urged as a reason, the directors ought at least to have been correctly informed of the fact. The committee addressed inquiries to the several banks in the city of New York, and, from their answers, it appears, that in two or three instances only, discounts have been made on the bank shares; that those notes never were renewed; and that in no instance has any bank there discounted on the shares of the Bank of the United States above their par value. And, although pains

have been taken to ascertain the fact, no evidence has been discovered of any other bank having made discounts on stock above its par value.

The redemption of the eleven millions of public debt, was effected by the application of that amount of deposits to the credit of the Government, then in the vaults of the bank.

Much unfounded and unnecessary complaint appears to have been made by the officers of the bank against this very prudent measure. That it disappointed the expectations of those who calculated on receiving interest from the Government while they discounted on its money is very probable and very natural. And it is not surprising that some expedient should have been resorted to, in order to supply another equivalent source of profit. But there were other resources besides the stock of the bank. The Government stock was better security, and, although it was uniformly above par, the directors seem never to have thought of discounting upon it above its par value. They began by rating it at ninety dollars for every one hundred, while they were discounting on their own shares at par. By a resolution passed 20th May, 1817, marked XXXVII, the Government stock was rated at par; and soon after, bank shares were discounted upon at one hundred and twenty-five for every one hundred, with an endorser for the excess.

The committee are surprised to find so little good paper business done at the bank and its offices, where it was to have been reasonably expected that the merchants would have preferred transacting their business. The directors themselves avow that they uniformly gave a preference to stock notes over business paper; their reasons are contained in their examinations. But, when the complaint is, that the bank had more capital than it could employ, it is singular that any business paper should have been rejected. In July, 1817, that kind of paper, to the amount of about \$940,000, and, in August, to the amount of about \$493,500, was rejected at Philadelphia; and, at Baltimore, in July, about \$407,000, and in August about \$183,000, were rejected. These sums are not precisely accurate, but are sufficiently so for general views. Whether this paper was such as ought to have been rejected, the committee have no means of determining. The amounts rejected are probably not more than might be expected from a bank, doing business on such an extensive scale, at any other time than when it was anxious to employ its capital. Not an instance has occurred of a note secured by a pledge of stock being rejected.

On the 9th of January, 1817, the board resolved, (paper marked XXXVI,) from and after the 20th February then next, and to the 1st of July, to discount notes to those who should have revenue bonds to pay during that period. The amount done under that resolution was small, and it does not appear that such notes have, at any time, been discounted extensively.

The principal business of the bank certainly has been to discount on notes secured by a pledge of stock, under the various resolutions before recited. Their effect was to abandon all personal security, and to rely entirely on the stock pledged—a system which, your committee think, need only to be stated to insure unqualified reprehension. Besides the objection which arises from these loans being in their nature perpetual, after all personal security was abandoned, it appears to have been an act of self-

JANUARY, 1819.

Bank of the United States.

H. or R.

immolation, thus to place beyond the reach of the institution, in the event of an emergency, to which it and all others are liable, so large a portion of its loans. On the 20th October last, a statement was made, exhibiting the amounts discounted on notes secured by a pledge of the bank stock, and then remaining unpaid, at the following places: at Philadelphia, \$4,680,800, of which \$173,450 was above the par value; at Baltimore, \$2,402,435, of which it cannot be ascertained what proportion was above the par value, but it is believed to have exceeded \$500,000; at Charleston, \$897,429, of which \$2,000 was above par; at Washington, \$298,570, of which but a small amount was above par; at Richmond, \$209,840, and none above par. There are no accounts from the other offices, the directors having required statements only from those whose discounts on stock exceeded \$100,000. A statement has been furnished by the bank of the amount discounted at the above places, and remaining unpaid at this time, marked XLII, which differs somewhat, but not materially, from the statement in October last; by that statement, the total amount of discounts at the bank and at those offices, on pledged stock, is \$8,022,954; and, by the general statement on the 1st December last, the total amount of such discounts, at the bank and all its offices, is \$8,934,712; the difference between which sums is the amount discounted at all the other offices not above enumerated. The committee have compiled a statement (XLIII,) which exhibits, among other things, the total amount of discounts at the bank and all its offices, at different periods, on personal security and on pledged stock, from which it will appear that the largest amount discounted on bank stock was in January and February, 1818, when it was \$11,244,514.

From this recital it will be apparent how large a portion of the capital of the bank was thus placed beyond its control. Although there have been some fluctuations in the amounts of those discounts at different periods, yet the greatest part of them, indeed the whole, with but few exceptions, have been constantly renewed from time to time, as the notes fell due, in many cases at four and six months. Indeed every subsequent act of the bank has been wholly at war with the profession of these loans being temporary, held out in the recital of the resolution of the 25th July, marked XXXI, and, in order to insure the greatest amount of such loans, and at the same time afford facilities to the prompt purchase and sale of stock, the directors, on the 8th August, 1817, passed a general resolution, authorizing the president and cashier to discount all stock notes that should be offered between discount days, to a certain amount; and, by various resolutions, adopted at different meetings until 7th September, appropriated \$2,000,000 to their disposal for that purpose. The papers referred to are marked XLIV. And on the 30th September, 1817, the resolution already referred to, marked XXXIII, passed, authorizing those officers, in all cases, to renew the stock notes as they fell due between discount days.

Another, and probably much more censurable effect of these various resolutions and proceedings was, to keep the price of the stock constantly advancing, until it reached a point where it exploded and fell. From various sources of information, the committee have compiled a table of the prices of stock, at the different periods, which these resolutions were adopted, marked XLV, from which their effect in enhancing the price

of shares is very clearly exhibited. It will appear, from that table, that the price of shares at Philadelphia on the 20th of August, 1817, was, according to the public reports, \$147 50; according to the testimony of Mr. McEuen, a broker, it was \$144; at the same place on the 30th of the same month, the price was \$156 50. The resolution, authorizing discounts on stock, at \$125, was passed on the 25th of the same month, vide XXXV. These facts would, in the opinion of your committee, be sufficient to condemn a system, which thus enabled a stockjobber to sport with the property of others. Stockjobbing, to an immense extent, and wagers on the price of shares, were its inevitable consequences. It gave equal facilities to the bankrupt, who had not credit enough to obtain an endorser, and to the capitalist. Stock could be, and was purchased, without the advance of a cent, by the purchaser, who had only to apply to the directors, or to the president and cashier, between discount days, for a loan on the shares about to be bought, and, by what is termed a simultaneous operation, he obtained his discount, and with it paid for his stock. A rise in the market would enable him to sell his shares, pocket the difference, and commence operations anew. And the committee are compelled to state, that, in fact, the largest loans on pledged stock were made to brokers, and to individuals, who appear to have been constantly in market. Loans on stock, at a rate below its par value, may, unquestionably, be useful to the merchant, who would avoid the obligation imposed by requiring an endorser, and would be highly beneficial to the bank, when restrained within moderate limits, and not made permanent.

But the loans actually made were most of them unreasonable and excessive in their amount; they were not made to the merchant and trader, but to a few persons consisting of directors, brokers, and speculators; and have been renewed and continued, almost invariably, at the option of the borrower. And when, in July last, the board decided a curtailment of its discounts, it fell in almost all cases upon the business paper, while the immense amounts loaned on stock pledges were but little affected, excepting at the offices at Richmond and Washington, where the curtailment appear to have fallen equally on all notes.

But the discounts at those places on stock were very small, particularly when compared with Baltimore, where the loans were such and so long continued as to receive the animadversions of the parent board. An unwillingness to injure the private credit of those engaged in the abovementioned transactions, where no public good is perceived to be probable from the disclosure, induces the committee to withhold the mention of their names.

But in respect to the directors, the committee consider their conduct intimately connected with the general management of the concerns of the bank; and, under a sense of the duty devolved upon them, they state that many of the directors, as well those appointed by the Government as those elected by the stockholders, appear to have been the most forward and the most active in trafficking in stock. The mere purchasing shares with an intention to return them, would not be improper, even in a director, if made without any view to intended future proceedings of the board of which he was a member. But the practice of purchasing at one time, when the stock was low, and selling at another, after its price had been enhanced by the measures adopted by the directors, is



certainly unfair and censurable. It is the perversion of a public and honorable trust to the purposes of self-aggrandizement, and places the directors in a situation where their own interests afford a strong temptation to the abuse of that trust. Still more reprehensible is the conduct of those directors who made contracts for the purchase of stock deliverable and payable, at a future period, at a low rate, and during the intermediate time, by their own official acts, raised the price of the stock to its highest point. The committee do not deem it necessary to repeat the details, which will be found in the examinations of the directors and officers, herewith submitted, marked LII, LIII.

By comparing those examinations with the prices of stock hereinbefore referred to, the House will be enabled to perceive which of the directors have participated in this business. With respect to the public directors, considering them as public officers, responsible to the Government, and subject to the Constitutional power of this House, the committee deem it their duty to state that the president, William Jones, Esq., and George Williams, Esq., appear, from their own declarations, and from the testimony of a number of witnesses, to have been deeply concerned in those speculations. Mr. Jones appears to have purchased 1,555 shares at a high rate, and to have sold a large part of them at a loss. He states that, in the Summer of 1817, he purchased a contract of 1,000 shares, at \$132 per share, deliverable 2d January, 1818, and soon after another contract for 1,000 shares, deliverable in November following, at \$135 per share; both of which, he says, were sold at \$150 per share; from which two contracts, it would appear, he realized \$33,000. There is much ambiguity resting on these transactions, arising from the incompatible statements of Mr. Jones, Mr. George Williams, Mr. D. A. Smith, and Mr. James W. McCulloch. The three latter gentlemen appear to speak of the same contracts and purchases, but give accounts of them somewhat variant from that of Mr. Jones; particularly, Dennis A. Smith and James W. McCulloch speak of one of those contracts, or of some other, as having been presented to Mr. Jones gratuitously, after the stock had risen, and it was obvious that a profit would be realized, of which Mr. Jones makes no mention. Mr. Jones states that he sold both those contracts to D. A. Smith; Mr. Smith says he was one of the persons who made one of these contracts present to Mr. Jones; that the stock never was transferred; and that the profit, amounting to \$15,000, was paid to Mr. Jones in money. Although the precise time is not specified by Mr. Jones, yet it is obvious, from the rate at which the contracts were purchased, that it must have been some time anterior to the 25th of August, 1817; for, at no time after that period, during the year 1817, was stock so low as 135. That the resolution of that date, authorizing discount on stock at 25 per cent. above its par value, had an immediate effect on its price, will have been seen from a former part of this report. The committee do not hesitate to say, that although his motives may have been strictly correct, and his vote given without any reference to his private interest, yet his situation forbade his acting on a question whose result was so important to him; or rather that he ought never to have placed himself in that situation. The high trust reposed in the president of a National Bank by the Government, and by the representatives of the stockholders, required that he should abstain from all concerns in which the price of stock was material. Mr. Jones

appears to consider them as lawful private concerns; the committee deem them intimately connected with the public management of the institution; of their lawfulness and propriety, it is for the House to judge.

Mr. George Williams, another public director, appears to have been deeply concerned in the purchase of stock, and in the making and purchase of contracts for the delivery of stock to a large amount. Every witness that has been examined speaks of Mr. Williams's transactions in that respect. Mr. Williams himself declined stating the amounts and prices at which he purchased, and the committee did not think proper to insist upon his answers, as they had already obtained satisfactory information respecting his conduct; and examined him chiefly to give him the opportunity of making such explanations as he thought proper, of which he was advised at the time. With respect to the other public directors, Messrs. Pierce Butler and John Connelly, it satisfactorily appears that they were not in the least concerned in these stockjobbing transactions; and, with respect to Walter Bowne, although his residence in New York did not give the committee the same means of information, yet no evidence has been discovered to implicate him. Jonathan Smith, Esq., the cashier of the bank, has had considerable dealings in the purchase and sale of stock, and in making and purchasing contracts for its delivery at future periods. The remark is applicable to J. W. McCulloch, Esq., the cashier of the office at Baltimore, to a much greater extent. Although these gentlemen might have no direct agency in the measures which were to affect the price of stock, yet the influence of their stations ought to be great; and it is to be lamented that they should have placed themselves in a situation where the exercise of that influence might be ascribed to improper causes. With respect to the other directors, their examinations will enable the House to determine how far they have mingled in these transactions.

Besides the objection which has already been urged to the resolution of the 8th August, 1817, authorizing the president and cashier to discount notes, as being connected with a series of proceedings evidently calculated to enhance the price of stock, by affording facilities to the making of prompt purchases, it is still more objectionable as being a delegation of power which, in the opinion of your committee, the directors had no right to grant; and when, connected with the power also given to them, of indefinite and unlimited renewal of the stock notes, it was placing the great bulk of the capital of the bank entirely within their control. The same practice appears to have been almost universal at the office in Baltimore, where the president and cashier, as appears by their examinations, have, under the authority of the board of directors at that place, always discounted notes without an endorser, secured by a pledge of stock. As they were not restricted by the board, they appear accordingly to have exercised the power to a very considerable extent. Still more objectionable, in the opinion of your committee, is the practice at that office of allowing the president and cashier to purchase or discount drafts and bills, payable from sight to sixty days; because, in those discounts, the personal security is the most important circumstance. It has been done to very large amounts, though no loss appears yet to have accrued. At Richmond, an equally improper delegation of power to the cashier appears to have been granted, in authorizing him to discount notes on pledged stock at sixty

days; and afterwards, a similar authority to discount at four months. After an experiment of three weeks, the directors of that office had the wisdom to abandon it—vide papers of Richmond office, XLVI. At the office in this city, the power has been discreetly limited and as discreetly exercised. Two by-laws of the bank seem to your committee to deserve notice—one of them, that no discounts shall be made without the consent of three-fourths of the directors present; and another, that no director, without special authority, shall be permitted to inspect the cash account of any person with the bank. Those by-laws appear to render nugatory the provisions of the charter, authorizing the appointment, by the Government, of one-fifth of the whole number of directors; and are different from the provisions in that respect by the former Bank of the United States, although most of the local banks in Philadelphia have similar regulations. Should a state of things exist, in which the stockholders should deem their interest hostile to that of the nation, such provisions as those stated would render the Government directors mere spectators of the proceedings of the board. The committee endeavored to obtain a statement of the shares, upon which the instalments had not been paid, and of the persons owing them. The officers of the bank satisfied them that, from the irregular manner in which the accounts of the payments had been made, it was impossible to obtain an accurate statement. But the fact is admitted, that the dividends have been paid to some delinquent stockholders, who are few, and to whom but a small amount of stock belongs. The dividends have been uniformly paid to those stockholders whose notes were discounted to the full par value of the stock, with the proceeds of which they paid their instalments, including the funded part as well as the specie part. The injustice of this proceeding towards those who had really paid their instalments according to their engagements, and who received no more benefit from those payments than those stockholders who substituted their stock in place of specie and funded debt, is most obvious. The stock that had really never been paid for, but which remained pledged for the very credit given it, was entitled to draw, and did draw, as much dividend as that which had been fairly and punctually paid.

The root and source of all these instances of misconduct, was the illegal and reprehensible division of stock. By the first fundamental article of the charter, no person, copartnership, or body politic, shall be entitled to more than thirty votes; and yet, in violation of this provision, it will appear, from the examination of Thomas Leiper, George Williams, Dennis A. Smith, and James W. McCulloch, it was a common and general practice, well known to the judges of the election and to the directors, to divide shares into small parcels, varying from one to twenty shares to a name, held in the names of persons who had no interest in them, and to vote upon the shares thus held, as attorneys, for the pretended proprietors. By some of the witnesses, it is avowed that the object was to influence the election. Mr. Leiper, one of the judges of the first election, states that he did so himself. The effect was, that Baltimore, which had about one-seventh of the shares owned by individuals, gave more than one-fourth of all the votes that could be given.

In that place there were 1,172 shares taken in 1,172 names, by George Williams, as attorney, the whole of which, on examination, he owned. At Philadelphia nearly one-third of the shares were owned, and the

votes given at that place were about two-ninths of the whole authorized. For a more particular knowledge of these divisions of shares, the committee refer to the statement herewith submitted, marked XLVII. They are not aware that any remarks which could be made by them could present the subject in a stronger light than the above statement of facts. The same persons who thus held the power of appointing directors, are found to have the greatest loans on stock. It is alleged that they have now consolidated the shares; but, when occasion shall require their division, former practice will facilitate the operation. In the opinion of the committee it is the greatest evil in the whole system, and is the origin of all others. So long as the large stockholders can control the choice of directors, so long can they hold and acquire immense amounts of stock, by the proceeds of notes discounted on their shares, and, so long as they can obtain such discounts, they can control the election of directors. The system places the property of the other stockholders, and of the Government, the credit of the bank, and of individuals, and, in a measure, that of the nation, at the mercy of a few large stockholders, who, without having really contributed to the wealth or value of the institution, have the control of its concerns. It requires a corrective; and the committee are of opinion, that it is in the power of Congress to pass a supplementary law, not contrary to, but in support of the provisions of the charter, and to give it the true and real effect originally contemplated. And they have instructed their chairman to ask leave to report a bill prepared for that purpose.

The committee deem it their duty also to submit to the House a resolution marked LXVIII, authorizing a discount of a note of \$20,000, at 60 days, and directing that it should be paid by a post note drawn at 60 days after date. It is stated by the cashier, in his examination, that that post note was made payable in Philadelphia. They find a resolution of the 30th of January, 1817, XLIX, expressly authorizing the office in Baltimore to grant discounts to the amount of \$100,000, to be paid in post notes at 60 days after date. There is no doubt entertained that this was done in Baltimore from its subsequently asking permission to do more, although, from the manner in which the books of that office are kept, it would be difficult to ascertain the fact. The only circumstance which throws any doubt upon the transaction being deemed usurious is, that instead of exacting more than lawful interest, the bank has charged and received interest on money that it never loaned. Not being a draft on another office, it cannot be considered as an exchange operation. As the parties have a remedy in the courts of justice for any injury they may have sustained, the committee do not deem it necessary to recommend any provision on the subject.

Under the resolutions authorizing discounts on pledged stock, a form of pledge was adopted, marked XXIII. A, and under the resolution of 25th July another form was adopted, XXXII, both of which were used by those obtaining loans. Although the latter form is in the shape of a mortgage or hypothecation, yet the equitable interest in the stock was in the bank. It might be questioned whether a stockholder could vote upon his shares which had been actually transferred to the cashier in that form. It does not appear that any objections have been made to such votes, but that they have been received without scruple. It will be found difficult to reconcile with the ninth funda-



ments: article of the charter a resolution of the 24th June, 1817, by which the board resolved to purchase \$2,000,000 of the public debt, as the agent of the Commissioners of the Sinking Fund, and to deliver it to them at par. That resolution, with the letter of the president of the bank, announcing its purchase, and a statement of its cost, are herewith submitted, marked L. a. b. c. From these it will appear that the bank had sold \$2,000,000 of its debt, in England, with which to purchase specie. The Secretary of the Treasury claimed the right to redeem it, under the provisions of the charter; and, after some negotiation, a compromise was effected, by the bank undertaking to purchase two other millions in lieu of that sold, and to deliver it at par. The idea of its purchasing, as the agent of the Commissioners of the Sinking Fund, is exploded, when it is discovered that the stock cost it \$2,054,264 26, which it was bound to deliver at par, by which a loss was produced of \$54,264 26. It would be a novel idea, that a mere agent was to do the business of his principal solely at the expense of the agent. And it is obvious, from the whole transaction, that the purchase was really on account, and for the benefit of the bank, to enable it to maintain its faith with the purchasers of the debt sold in England. The apology for the bank is, that it was done under the sanction of a high officer of the Government, and although the committee feel bound to say that it was a violation of the article before quoted, yet, under all the circumstances, considering that it was done in good faith, they do not themselves think it such a violation as requires the interposition of Congress.

On the subject of the facilities furnished by the bank to the Government, in the transmission and collection of the public revenue, and its fulfilment of its engagements in discharging the duties of commissioners of loans, and agents for military pensions, the accompanying letter of the Secretary of the Treasury, marked LL, shows its conduct has been satisfactory.

There appear to have been some contentions between the parent board and some of its officers, but the committee have not deemed them sufficiently connected with any practical objects of inquiry, to justify their going into the merits of these controversies, which would be a work of much time and labor, and would not repay the trouble. And it would be unjust to make any statement, without making it in detail.

In order to give the House full information of the state of the bank since its institution, a statement exhibiting its condition at different periods, marked XLIII, and various tables and statements, compiled by the committee, or by them verified, are submitted: among them will be found statements of notes issued payable at each office, and of notes returned to the offices respectively; reports of the committee of directors previous to each dividend; a complete list of the stockholders of the bank; No. 1, exhibiting the names of those who were such at the first dividend, with their places of residence, and the number of shares held by them respectively, at that time, and at each subsequent dividend; No. 2, exhibiting the names of those who became stockholders after the first dividend; and No. 3, exhibiting those who became stockholders after the second dividend, together with a list of those who held shares as attorneys for others. Other letters and miscellaneous documents, not specially referred to in the preceding part of this report, but elucidating the facts stated, will also be found. Statements, obtained from the offices at Richmond and this city, are

also submitted, which will show that the affairs of those offices have generally been conducted with prudence and ability, and that every effort was made by them to execute the directions of the parent board in a manner the least inconvenient to their customers.

In considering the question, whether the charter of the bank has been violated or not, the committee have thought the expressions used mean, whether, in any instance, the provisions of the charter have not been complied with? There may be many violations of a charter which could not be considered, by a court of law, as producing a forfeiture. The principle on that subject the committee believe to be this: those acts of usurpation of powers not granted, of *misuser* and of *nonuser* of those granted, which defeat the very objects of the institution, as expressed in the charter itself, would produce a forfeiture; and that all other instances of abuse of the powers granted, or of usurpation of powers, must be punished and restrained either by the ordinary process of *mandamus* and *quo warranto*, or by other means than a dissolution of the corporation. The committee think they are required by the resolution to report all instances of a violation of the provisions of the charter, which have come to their knowledge, but they do not consider themselves called upon to state which of them would, in their opinion, produce a forfeiture, or any other legal consequences; and one inducement to this construction of the resolution arises from the consideration that, if they were to confine themselves only to those violations which would produce a forfeiture, and should give a mistaken or incorrect opinion, that the charter had not been violated so as to produce a forfeiture, the House might, under a strict construction of the act, be precluded from expressing any other opinion, and from directing the proceedings contemplated by it; whereas, by reporting all instances of violation that have occurred, without reference to their technical character, the House is left free to pursue any course it may judge proper. In speaking, therefore, of the violations of the provisions of the charter, the committee wish to be understood as not expressing any opinion whether such violations would enure a forfeiture or not. They present the facts, and the House will determine whether, under those facts, it be or be not expedient to direct the issuing a *scire facias*, to ascertain whether the violations are such as to cause a dissolution of the corporation.

The committee, then, are of the opinion that the provisions of the charter of the Bank of the United States have been violated in the following instances:

I. In purchasing two millions of public debt, in order to substitute them for two other millions of similar debt, which it had contracted to sell, or had sold in Europe, and which the Secretary of the Treasury claimed the right of redeeming. The facts on this subject, and the views of the transaction entertained by the committee, have been already given.

II. In not requiring the fulfilment of the engagement made by the stockholders on subscribing, to pay the second and third instalments on the stock, in coin and funded debt. The facts on this point are fully before the House, and they establish, beyond all doubt, 1st, that the directors of the bank agreed to receive, and did receive, what they deemed an *equivalent* for coin, in checks upon, and the notes of the bank and other banks to pay specie. This substitution of any equivalent whatever, for the specific things required by the charter, was in itself a departure from its provisions; but, 2d, the notes and checks thus received

were not, in all cases, equivalent to coin, because there was not specie to meet them in the bank; 3d, that notes of individuals were discounted and taken in lieu of the coin part of the second instalment, by virtue of a resolution for that purpose, passed before that instalment became due; 4th, that the notes of individuals were taken in many instances, and to large amounts, in lieu of the whole of the second and third instalments, which notes are yet unpaid.

III. In paying dividends to stockholders who had not completed their instalments, the provisions of the charter in that respect were violated.

IV. By the judges of the first and second election allowing many persons to give more than thirty votes each, under the pretence of their being attorneys for persons in whose names shares then stood, when those judges, the directors, and officers of the bank, perfectly well knew that those shares really belonged to the persons offering to vote upon them as attorneys. The facts in relation to this violation are in possession of the House, and establish it beyond the reach of doubt.

The committee are of opinion that no other instance of a violation of the charter has been established. In closing this report of a most laborious investigation, the committee observe, that whatever difference of opinion can exist among them as to the results and inferences to be drawn from the facts stated, they unanimously concur in giving, to the preceding statements of facts and abstracts of documents, their sanction. They have not recommended the adoption of any measures to correct the many evils and mischiefs they have depicted, excepting that of the bill before mentioned, because, by the provisions of the charter, the Secretary of the Treasury has full power to apply a prompt and adequate remedy, whenever the situation of the bank shall require it. And if, after the stockholders have become acquainted with the mismanagement of the institution, they shall adopt no means to prevent its continuance, or the directors themselves shall persist in a course of conduct requiring correction, the committee cannot entertain a doubt that the salutary power lodged in the Treasury Department will be exerted, as occasion may require, and with reference to the best interests of the United States.

It is due to the officers of the bank at Philadelphia to state, that every facility in their power was rendered in explaining the books, and assisting the researches of the committee.

I.—Letter from the Secretary of the Treasury to Messrs. Jones, Girard, Willing, Leiper, and Evans, Commissioners.

TREASURY DEPARTMENT, Aug. 15, 1816.

GENTLEMEN: The information communicated to this Department renders it probable that, in the course of a few days, the sum of \$8,400,000 in gold and silver coin, and in public debt, will have been actually received on account of the subscriptions to the capital of the Bank of the United States, exclusively of the public subscription; and it will then be your duty to notify a time and place, within the city of Philadelphia, for the election of directors, who are to be chosen by the stockholders. As an incident in the performance of this duty, it is presumed that you will deem it proper to provide a suitable building for commencing the business of the bank, at the place designated for holding the election; and, conforming to the general nature of your trust, you will no doubt be disposed to make such other preparatory arrangements as will

facilitate and accelerate the operations of the institution.

It is indeed of high importance to the people, as well as to the Government, that the Bank of the United States should be in an organized and active state before the 20th of February next, when the paper of the State banks which have not returned to metallic payments must be rejected in the collection of the duties and taxes, and when such banks will unavoidably cease to be the depositories of the public revenue.

In this view of the subject I am authorized by the President to recommend that you cause to be prepared such books, engravings, and paper, as you shall deem necessary for the commencement of the business of the bank, as soon as the directors shall be chosen by the stockholders. If however an opportunity occurs, it will be proper to consult the directors who have been appointed by the Government, although not members of your board, upon the measures pursued in consequence of the present recommendation.

With the advantages of the proposed anticipation, it is believed that the Bank of the United States may be in operation before the 1st of January next; and a hope is still indulged that the State banks will either conform to that event, or adopt the period contemplated by the Legislature (the 20th of February next) for a general resumption of specie payments.

I have the honor to be, &c.

A. J. DALLAS.

MESSRS. JONES, GIRARD, WILLING, LEIPER, and EVANS, Commissioners.

II.—Letter from the Secretary of the Treasury to W. Jones, Esq., President of the Bank of the United States.

TREASURY DEPARTMENT, Nov. 29, 1816.

SIR: Your letter of the 21st instant, communicating the preparatory measures which have been adopted by the Board of Directors of the Bank of the United States, and their disposition to make every exertion in their power, consistent with the interest and security of the bank, to enable this Department to execute the intentions of the Legislature, in the collection of the public revenue, after the 20th of February next, has been received by due course of mail.

You observe that the operations of the bank must necessarily be very limited until the second instalment shall be received, and the principal local banks evince a sincere disposition to co-operate in the important and indispensable work of invigorating public confidence, by resuming specie payments. With that co-operation, the board is of opinion that the attainment of this great object is neither difficult nor incompatible with the safety and real interests of all the solid banks.

From this view of the subject, as well as from a general knowledge of the means with which the Bank of the United States will have to commence its operations, and of the difficulties which it will have to surmount if the State banks do not make a simultaneous effort, it is manifest that, without their co-operation, a national currency equal to the indispensable demands of the community cannot be obtained by the 20th of February next, from the efforts of the bank and Treasury, under the existing legal provisions.

As the principal banks in the Middle States, in the month of August last, explicitly stated to this Department their determination not to resume specie payments before the 1st July, 1817, there is no reason to expect their co-operation before that period, unless a change has in the mean time been effected in their situation,



or unless inducements more powerful than those presented in the Treasury proposition of the 22d of July last can now be presented to them.

Although the precious metals have, in the interval between that declaration and the present period, continued to flow into the country from abroad, in quantities sufficient to reduce the premium on specie, by exceeding the demands for exportation and for subscriptions to the Bank of the United States, it is not believed that the State banks have replenished their vaults from that source. The influx of specie, however, cannot but be considered highly favorable to the resumption of specie payments. By satisfying the current demands for specie, the inducement to run on the banks has been generally diminished. But admitting (what is not clearly established) that the disproportion between the specie in their vaults and their circulating paper shall render it unsafe to discharge their notes in specie, on demand, simultaneously with the Bank of the United States, it does not follow that an augmentation of their stock of the precious metals is indispensable to that operation. If this disproportion can be reduced within its proper limit by other means, the great object of the Government will be secured.

The requisite reduction of the circulating paper may be effected by the State banks, either by curtailing their discounts, or by the sale of the public debt, of which they are known to be the holders.

If this reduction is effected in the latter mode, no inconvenience will be suffered by the community, and no positive pecuniary loss will be sustained by the banks. If it is effected in the former mode, great individual suffering must necessarily be produced. At a moment when excessive importations of foreign merchandise had involved the mercantile and manufacturing classes in the greatest distress, and menaced them with impending bankruptcy, reason, humanity, and sound policy, all united against the curtailment of bank discounts. Yet, so far as the knowledge of the Treasury extends, the reduction of the circulating paper has in no instance been attempted by the sale of public debt held by the banks.

Curtailment of discounts has been the only process resorted to by them, where any effort has been made to prepare for the resumption of specie payments.

The disregard to individual suffering manifested by this procedure of the State banks has been the result of a conviction, that, when the national currency shall be restored by the efforts of the Government and of the Bank of the United States, the public debt which they hold will be greatly increased in value. This is demonstrable from the consideration that the curtailment of discounts, in good paper, produces a loss of about seven per cent. per annum, whilst the sale of an equal amount of public debt would produce the same effect upon the relative proportion between their specie and circulating paper, and could reduce their profits but six per cent. In calling upon them to sell the public debt which they hold, as the proper and effectual mode of preparing to resume specie payments, no sacrifice is required of them. The public debt everywhere bears a considerable premium upon the price at which they obtained it. The determination therefore which they have formed not to resume specie payments before the 1st day of July, 1817, is an explicit declaration that they not only will not bear any part of the sacrifice required to restore the disordered state of the currency, but that they will not forego any of the advantages to be derived from that event.

If the view here presented be substantially correct, although changes in the situation of the banks may have taken place favorable to the early resumption of specie payments, yet there does not appear to be any well-founded reason to expect any change in the determination which they have formed on that subject.

When the friendly character of the proposition made by the Treasury to the banks on the 22d July last, and the extraordinary manner in which it was received, are well considered, it does not appear probable that any inducement can be offered by the Government sufficiently strong to divert them from the policy of making the highest possible profit upon the public debt which they hold. In directly addressing their love of acquisition, we can offer them nothing equivalent to the gain which they expect from an adherence to their previous determination. To appeal to their fears, by refusing to receive their bills in payments to the Government, if that appeal should be ineffectual, would be to visit the sins of the banks upon the great mass of unoffending citizens, unless the Government was prepared to furnish a sufficient legal currency to meet the indispensable demands of the community. It is important therefore at this time to ascertain the extent to which the operations of the bank will be able to supply a national currency by the 20th of February next, unaided by the State banks. Is it possible for the bank to supply the demand in the commercial cities which the collection of the revenue arising from imports and tonnage will create in the interval between that period and the 1st of July next? If the emission of bills by the Bank of the United States, during the period that the State banks refuse to discount their bills in specie, must necessarily be so extremely limited as that a national currency to that extent could not be expected from that source within the first months of its operation, the Government must either furnish a national currency or it must suspend the collection of its revenue, at least partially, until the operations of the Bank of the United States shall have thrown into circulation a sufficient quantity of its bills to furnish the necessary facilities for that purpose. The period within which the Bank of the United States will, consistently with its security, be able to put into circulation bills equal to the demands of the community, will in a great measure depend upon the facility and cheapness with which specie can be obtained from foreign countries. If the importations of foreign merchandise shall continue to exceed the value of our exportations, as they have done since the peace, the balance must be paid in specie, or by the transfer to foreign hands of the bank stock or funded debt of the nation. The former mode of settling the balance will impose upon the bank the constant necessity of supplying the vacuum produced by the exportation of specie, and the latter will tend to procrastinate the duration of that balance. The suspension by law of the collection of the revenue, under existing circumstances, would be an apparent admission of the dependence of the Government upon the State banks, in its fiscal transaction, which could not fail to give them a direct influence over the national currency. The public interest requires that an admission of that nature should be expressly rejected, and that that control should not be exercised.

It appears probable that the deficiency in the circulating medium which must be produced by the rejection of the bills of the State banks in all payments to the Government, on the 20th of February next, must for some time be principally supplied by Government

paper of some description. Justice and sound policy forbid the continuance of the present system of Treasury notes. With a large surplus revenue in the Treasury, the Government cannot continue in circulation a paper which subjects them to the payment of interest, or which may be funded at even six per cent., as the period is approaching when it is probable that that stock must rise above its nominal value.

If the Government takes upon itself the principal burden of restoring the circulating medium to specie value, it is improper that all the advantage resulting from that operation should be exclusively enjoyed by the Bank of the United States. As the credit of the nation is to be exerted in producing this revolution in the state of the currency, it is but reasonable and just that a part of the profit resulting from that exertion should enure to the benefit of the national Treasury.

The more readily to effect this object, Government paper not bearing interest, receivable in all payments to the Government, and which shall not be funded at a higher rate of interest than five per cent. per annum, may be placed at the disposition of the Bank of the United States, to be put in circulation, for which the bank shall pay a stipulated interest; or it may be issued by the bank, for the benefit of the Government, upon receiving funded debt at the rates fixed in the act incorporating the bank, or bank stock of any incorporated bank, to the amount issued to any individual, for which service the bank shall receive a reasonable compensation; or a board of directors may be appointed, for the purpose of putting this paper in circulation for the benefit of the Government, confining their operations always to applications where interest-bearing securities shall be pledged by the borrower. It is probable that this system will not interfere with the operations of the bank, as long as that institution shall not be able to put in circulation a sufficient amount of their bills to furnish a circulating medium equal to the indispensable demands of the community. Whenever this shall be effected, the issue and reissue of Government bills to cease.

Should the balance of trade continue to be unfavorable, or should the price of specie rise in foreign countries, the bank would find it extremely difficult, during the first year of its operations, to sustain the continual run upon it, which such a state of things could not fail to produce. In an emergency of this nature, the Government paper could not fail to be a powerful auxiliary to the bank, and a great advantage to the community. The sums drawn from its vaults for exportation would necessarily withdraw from circulation an equal amount of its bills, and leave a void which could not safely be filled but by the issue of Government paper. Whatever portion of this paper should come into the hands of the bank might be reissued, without exposing their remaining specie stock to further diminution. By limiting the amount of Government paper to be put in circulation to the probable surplus revenue during the year 1817, its credit and value would everywhere be equal to gold and silver.

It is, however, most ardently desired by the Government that the necessity of resorting to the issue of Government paper may be avoided, by the resumption of specie payments by the State banks on or before the 20th of February next. As an inducement to this measure, the Government can only aid their operations by withholding from circulation as much of their paper now in the Treasury, or which may hereafter be received, as the demands upon the Treasury during the

ensuing year will permit. As the sum which it will be in the power of the Government to retain in the Treasury will be considerable, it may present a sufficient inducement to change their determination not to resume specie payments before the 1st day of July next.

How far the discrediting of their paper, by refusing to receive it in discharge of duties and taxes, will influence their conduct, can only be ascertained by the experiment.

It may be proper, in closing this long letter, to inform you that no decision has been made upon any of the points presented in it. It must be considered, therefore, as merely sounding this delicate and important subject, with a view to obtain all the information which may be necessary to enlighten the understandings of those who must ultimately decide upon it.

A communication of your views upon the whole question will be received with much pleasure, and will receive the respectful consideration to which they are so highly entitled.

With sentiments of the highest respect, &c.

WM. H. CRAWFORD.

WILLIAM JONES, Esq.,

President of the Bank of the U. S.

### III.—Resolution and arrangement with the State banks for the resumption of specie payment.

JANUARY 31, 1817.—At a meeting of the President and Directors of the Bank of the United States:

The board took into consideration the proposition of the convention of banks, made through a committee from that body, to a committee from this board, and reported by the latter at the last meeting; and, after some time spent in considering the same, certain modifications were made, and the committee on the part of this bank authorized to agree to the propositions as modified, as follows, viz:

"The committee of the Bank of the United States respectfully submit the following modifications of the propositions received from the committee of the State banks, viz:

"1st. That the incorporated banks of New York, Philadelphia, Baltimore, Richmond, and Norfolk, engage, on the 20th of the ensuing month, to commence, and thenceforth to continue, specie payments for all demands upon them, and reciprocally to support the credit of each other in their several districts, upon any emergency, until the balances existing between them shall be finally paid off.

"2d. That the whole of the public balances in the receiving banks of New York, Philadelphia, Baltimore, Richmond, and Norfolk, be immediately transferred to the Bank of the United States, and retained in its vaults, (except so much thereof as may be required by the Secretary of the Treasury to meet the current expenditure,) until the 1st of July next, when the same shall be paid off, together with the interest thereon.

"3d. That payment of the balances which may accumulate against the aforesaid banks, subsequently to the transfer of the balances first mentioned, shall not be demanded by the Bank of the United States until the said bank and its branches shall have discounted for individuals (other than those having duties to pay) the following sums, viz:

"For those in New York, two millions.

"For those in Philadelphia, two millions.

"For those in Baltimore, one and a half million.

"For those in Virginia, five hundred thousand dol-



are: *Provided*, That if the said bank shall be willing to discount, and shall not have the required amount of good paper offered within the term of sixty days, from the 20th of the ensuing month, at New York, Philadelphia, and Baltimore, and within the same term after the operations of the offices of the said bank in Virginia shall have commenced, the aforesaid banks shall, at the expiration of that time, at the aforesaid places, respectively, pay to the Bank of the United States the balances due by them respectively, together with the interest thereon.

"4th. That the Bank of the United States will engage to discount the required amount, at the respective places, and within the time mentioned in the preceding articles, provided good paper to that amount be offered.

"5th. That in the event of the Bank of the United States and its branches not having a sufficient amount of good paper offered at the respective places mentioned in the third article, within the period therein stipulated, then the Bank of the United States will engage to discount, for the said banks the amount of the deficiency, at the respective places, according to the amount of the capitals of the said banks, respectively.

"6th. That the banks aforesaid shall engage, respectively, and in the proportion which their loans may bear to their capitals, to reduce the amount of the said loans, in the ratio of the discounts required of the Bank of the United States and its branches, and that the said reduction shall take place by the 1st of July next.

"7th. That the Bank of the United States will interchange pledges of good faith and friendly offices with the respective banks, and, upon any emergency which may menace the credit of any of the aforesaid banks, will cheerfully contribute its resources, to any reasonable extent, in support thereof, confiding in the justice and discretion of the banks, respectively, to circumscribe their affairs within the just limits indicated by their respective capitals, as soon as the interest and convenience of the community will admit.

"8th. That, upon the mutual agreement of the parties to these stipulations, the same shall be submitted to the Secretary of the Treasury, for his decision upon those points which involve the public balances; and, when approved by him, shall be obligatory on all the contracting parties."

[The tabular statements, &c., being very voluminous, are necessarily omitted.]

*Ordered*, That the Clerk be directed to procure as speedily as practicable, for the use of the members of this House, 2,500 copies of the said report, in addition to the usual number of 600 copies.

Mr. SPENCER, from the same committee, by leave of the House, reported a bill to enforce the provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors; which bill was read twice, and also committed to the Committee of the Whole on the state of the Union. The bill is as follows:

*Be it enacted, &c.*, That, in all elections of directors of the Bank of the United States, hereafter to be held, under and by virtue of the "act to incorporate the subscribers to the Bank of the United States," whenever any person shall offer to the judges of such election more than thirty votes in the whole, including those offered in his own right, and those offered by

him, as attorney, proxy, or agent for any others, the said judges of the elections, or any one of them, are hereby authorized and required to administer to the said person, so offering to vote, the following oath or affirmation, viz:

I —, do solemnly swear, (or affirm, as the case may be,) that I have no interest, directly or indirectly, in the shares upon which I shall vote at this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly and in good faith, owned by the persons in whose names they now stand, and that, in voting at this election, I shall not in any manner violate the first fundamental article of the "act to incorporate the subscribers to the Bank of the United States." And the said judges of elections, or any one of them, shall be authorized and empowered, in their discretion, or at the instance of any stockholder of the bank, to administer the said oath or affirmation, to any person offering to vote at any such election. And if any person shall wilfully and absolutely swear or affirm falsely, in taking the said oath or affirmation, such person, so offending, shall, upon due conviction thereof, be subject to the pains and penalties which are by law prescribed for the punishment of wilful and corrupt perjury.

Sec. 2. *And be it further enacted*, That if the judges of any election of directors, to be held as aforesaid, shall permit any person to give more than thirty votes in the whole, at any such election, without the said person's having taken the aforesaid oath or affirmation, such of the said judges as shall consent thereto shall severally be deemed guilty of a misdemeanor, and, on due conviction thereof, shall be subject to a fine, not exceeding —, or to imprisonment not exceeding —, at the discretion of the Court before which such conviction shall be had.

MONDAY, JANUARY 18.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of William McDonald, brother and administrator of the late Captain James McDonald; which was read, when Mr. W. reported a bill authorizing an equitable settlement of the accounts of the late Captain James McDonald, of the fourteenth regiment of United States infantry; which was read twice, and committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill relative to the direct tax and internal duties; which was read twice, and committed to the Committee of the Whole.

Mr. SMITH also reported a bill supplementary to the act, entitled "An act to provide for the prompt settlement of public accounts;" which was read twice, and ordered to be engrossed and read a third time on Thursday next.

Mr. ROBERTSON, from the Committee on Private Land Claims, to which was referred the report of the recorder of land titles in the Territory of Missouri, made in obedience to the act of the 20th of April, 1818, entitled "An act for the relief of James Mackay, of the Territory of Missouri," made a detailed report thereon, which was read; when Mr. R. reported a bill for the relief of the said James Mackay; which was read twice, and

committed to the Committee of the Whole, to which is committed the bill for the relief of Philip C. S. Barbour.

Mr. POINDEXTER, from the Committee on the Public Lands, who were instructed by a resolution of the 7th ultimo to inquire into the expediency of granting to each State one hundred thousand acres of land for the endowment of a university in each State, made a report unfavorable to the granting of said land; which was read and ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting information in relation to the adjustment and payment of the claims of the friendly Creek Indians, rendered in obedience to the resolution of this House of the 4th instant; which was read, and ordered to lie on the table.

On motion of Mr. STORRS, a select committee was appointed to consider and report to this House whether any amendments may be expedient to the several laws now in force, providing for compensation to individuals for losses of property sustained during the late war with Great Britain, either by the public enemy or in consequence of impressments into the service of the United States, or by order of the officers of the United States or otherwise. Messrs. STORRS, WILLIAMS of North Carolina, SPENCER, QUARLES, and BALL, were appointed the said committee.

#### GOVERNMENT OF FLORIDA.

Mr. EDWARDS rose to offer a resolution calling for information in relation to the posts, without the limits of the United States, now in the possession of the United States. The object of his motion was in itself so plain as to need no elucidation. It would be recollected that the law of 1811 authorized the taking possession, on certain contingencies, of that part of Florida east of the Perdido, and to establish a government therein. One object of the resolution was to ascertain how far, if at all, that law had been carried into effect, &c. The resolution was in the following words:

*Resolved*, That the President of the United States be requested to cause any information, not already communicated, to be laid before this House, whether Amelia Island, St. Marks, and Pensacola, yet remain in the possession of the United States, and, if so, by what laws the inhabitants thereof are governed; whether articles imported therein from foreign countries are subject to any and what duties, and by what laws; and whether the said duties are collected and how; whether vessels arriving in the United States from Pensacola and Amelia Island, and in Pensacola and Amelia Island from the United States, respectively, are considered and treated as vessels arriving from foreign countries.

Mr. HOLMES said that the resolution embraced some objects which the Committee of Foreign Relations had had under consideration, that concerning Amelia Island, for example; respecting which they had directed him to make of the Secretary of State all the inquiries embraced in the resolution, and more. That information might be expected to be soon received, and laid

before the House. He therefore wished the gentleman to waive his motion for the present.

Mr. EDWARDS said he had no objection, if the committee had asked for the information, (though he still thought it would have been better had the information been specially called for by the House,) to waive his motion for the present, with the reservation of the right to renew it, if the expected information was not laid before the House.

Mr. HOPKINSON suggested that the information which had been required by the Committee of Foreign Relations was limited to Amelia Island; and therefore did not embrace the principal part of the information required by the resolution.

Mr. EDWARDS said, if that were the case, he should certainly not waive his motion. If we are correctly informed by the newspapers, there had been something like a government established at St. Marks and at Pensacola, by the military authority, as well as at Amelia Island; and he wished to ascertain how far the arrangements of the military authority had been sanctioned by the Executive. Vessels had cleared out and entered at Pensacola; he wished to know whether it had been regarded in this respect as a foreign or domestic port. If civil officers, collectors, &c. had been appointed, he wished to obtain information by what tenure they held their offices, and also the nature of their accountability. If ultimate measures should be found necessary, information would be wanted, without which the House was groping in the dark. He had no other object than to ascertain, officially, the facts on these subjects.

Mr. STROTHER said, he never should oppose a resolution calling for information to instruct this House in the discharge of its duty, or that was necessary to enable them to ascertain the manner in which the Executive department had discharged the duties assigned it by the Constitution and laws of the country. The stability and integrity of the Government depended upon the right to call for and obtain information; but he objected to this resolution, introduced by his friend from North Carolina, because the information called for had been furnished this House, in that voluminous document laid upon our table upon the subject of the Seminole war. Mr. S. said, if his honorable friend would examine the correspondence between General Jackson and the Secretary of War, he would ascertain that a government has been established at Pensacola, and functionaries appointed to administer the government; a temporary government, confined to the necessary and legitimate purpose of protection to the persons and property of the people inhabiting that region; a proceeding springing from necessity, and to terminate with it. Upon this ground he was opposed to the resolution.

Mr. STORRS said, he hoped the House would agree to the resolution. He wished to know whether the posts of Pensacola were governed by the laws of the United States, or by those applicable to a conquered colony; whether they were now ruled by the same laws as previously



existed, or by whatever other laws. As it appeared, by what had fallen from the chairman of the Committee of Foreign Relations (Mr. Holmes) that that subject was likely to come before Congress, it was not enough that that committee should have the information, but this House ought to have it for its guidance. In regard to the custom-house, he asked the gentleman from Massachusetts to point out that part of the documents which instructed this House whether any duties were collected by the officers of the United States at Pensacola or not; or to any part of the documents which indicated who was the law officer, &c. There had not, he said, been communicated a single paper which threw the least light upon the subject. He hoped, therefore, the resolution would be adopted.

After some further observations from Mr. STURGEON, and the words "not already communicated" being inserted, on suggestion of Mr. PORTER, as they stand in the resolution, it was agreed to without a division.

#### THE SEMINOLE WAR.

The order of the day, on the report of the Committee on Military Affairs respecting the Seminole war, being announced—

The House then went into Committee of the Whole on the state of the Union, to whom that report was committed, Mr. PIRKIN in the Chair.

There was some conversation previously about postponing the subject for a day or two; but the House, by a majority of ten or fifteen votes, resolved to take it up.

The report of the Military Committee was read through, concluding with the following resolution:

"Resolved, That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister."

Mr. COBB, of Georgia, commenced the debate, by observing, that although he concurred in opinion with the Military Committee, as expressed in their report under consideration, yet he thought they had not gone far enough. There were other matters, arising out of the late Seminole war, which he thought of infinitely greater importance, and in comparison with which, indeed the trials of Arbuthnot and Ambrister were objects of but secondary consideration. As highly, therefore, as he disapproved the proceedings in the trial of these men, yet as, by the report, the matters to which he had allusion were not presented for consideration, he held in his hand certain resolutions, which it was his intention to propose, by way of amendment to the report of the Military Committee. [Mr. COBB here read the amendments, which he subsequently moved.] From these resolutions, the Committee of the Whole would observe that it was his intention to open the whole field of debate, and to present for discussion, not only the trials of these men, but the capture of the Spanish posts of St. Marks, Pensacola, and Barancas, in which, he believed, there had been a most flagrant breach of the Constitu-

tion of the United States. But as, notwithstanding the amendment he was about to propose, the resolution of the Military Committee would stand first in order, he would proceed to make a few remarks as to the subject-matter of that resolution. He thought he could promise that the Committee should not be long detained by the observations which he might have the honor to make either upon this resolution or those which he would lay upon the table, as, at that early period of the discussion, it was not necessary to present to the Committee anything more than what he considered the leading points, reserving to himself the right of speaking, as to particulars, at some future period, if he should find it necessary.

In attending to the trials by court martial of those two Englishmen, the first objects for consideration which presented themselves, were the charges exhibited against them. Reasoning upon the supposition that they were true, he was perfectly at a loss to know what law, martial, municipal, or national, was violated. Against what law had they offended? He was not certain that he perfectly understood what was martial law in this country. Were he to view it in the light that it had been explained and enforced by some, he must be compelled to consider it as of paramount authority indeed; so high in its nature as that it could be made to suspend the Constitution itself. He had not yet obtained his consent to give it this omnipotent effect, and he hoped he never should. He had thought, and yet believed, until he could have some proofs to the contrary, that it was contained in that body of laws established by the Congress of the United States for the government of the Army, commonly called the "Rules and Articles of War." If he was correct in this opinion, (and he presumed no gentleman would controvert it,) he had searched in vain, (and he had used no little industry to discover) for that clause against which Arbuthnot and Ambrister had offended, in the commission of the acts charged against them, and for which they were convicted. It was true, there was a clause subjecting to death those who should be convicted of being "spies." But, although these men, or one of them, was charged with this, yet he was acquitted of that charge, and for that reason it would be unnecessary to take farther notice of it. The offence for which they were convicted and suffered death, was that of "exciting and stirring up the Creek Indians to war against the United States and her citizens, they being subjects of Great Britain, with whom the United States are at peace;" "of aiding, abetting, and comforting the enemy, and supplying them with the means of war;" "and leading and commanding the Lower Creeks in carrying on war against the United States." Admit the truth of the facts contained in these charges, are they declared penal in any part of the rules and articles of war? Or are they therein declared to be proper subject matters for trial before a court martial? If they were not, it followed, as a consequence, that the commanding General had transcended his powers in ordering the court, and that the court itself had

stretched its powers to an unwarrantable length, in acting upon matters not cognizable before them. It would be arguing to little purpose to prove, that the crimes contained in these charges were not embraced in the rules and articles of war. It would be sufficient, at present, simply to deny that they were, until those who differed from him in opinion attempted to prove the affirmative of the question.

Mr. C. thought it would be an attempt equally fruitless to prove that the matters charged against these individuals constituted an offence against national law, for which they were answerable before a court martial. He did not profess to be deeply read in the law of nations. He had, however, searched, in the hope that he could find some justification for this most novel proceeding, all the writers on that subject, upon whose works he had been able to lay his hands. He had commenced and prosecuted this search under the most anxious wish for success. It had been an object of great solicitude with him to rescue both the court and the General who ordered it, from the imputation of injustice. He had been compelled to desist, chagrined and disappointed. If any other gentleman had been fortunate, he should rejoice to learn it. He certainly could have no wish to remain in error.

The next point occupied by Mr. COBB was as to the evidence under which both, or one of these men, were convicted. He should not say much upon it, for he did not intend to analyze it. He had understood, and no doubt correctly, that the rules of evidence, in courts martial, differed very little, in principle, from those established in the courts of common law. It was so declared, he believed, by the only American authority, (Macomb on Martial Law,) that he knew anything of, on that subject. He presumed it would not be denied. But, sir, said he, if we test the evidence produced in those trials by these rules, we shall blush at the shameful perversion of justice therein displayed. The evidence of papers, not produced or accounted for, the belief of persons whose testimony of facts ought to have been doubted, hearsay, and that of Indians, negroes, or others, who, had they been present, could not have been sworn, were all indiscriminately admitted and acted upon. Miserable, indeed, will be the precedents established by this court martial for others which may hereafter be formed! More need not be said on this subject.

Mr. C. next called the attention of the Committee to the sentence under which Ambrister was executed. He had strong doubts whether, upon giving a fair construction to the Rules and Articles of War, the proceedings of the court martial ought not to have been laid before the President of the United States before the sentence was carried into effect. But he waived the examination of this question. It seems that the court first sentenced Ambrister to be shot; but one of the members having asked a reconsideration of the sentence, before the proceedings were submitted to the commanding General, it was allowed, and another punishment awarded,

as ignominious in its nature as imagination could well conceive, but which yet spared life. Now, will it be contended that this reconsideration and change of sentence did not, to all intents and purposes, render null and void the first sentence? Can it be said, with any truth, that there was any other sentence than the one last passed in the case? But, unfortunately, the first sentence was not erased from the proceedings of the court. It is there found by the General, when they were submitted to him, and, by a high stretch of power, he avails himself of it—"approves the finding and first sentence—disapproves of the reconsideration and last sentence," and directs the man to be executed! To me, sir, said Mr. C., this proceeding has upon its face a cruelty that excites my greatest disapprobation. The last thing to which Mr. C. would call the attention of the Committee was the principle by which the commanding General professes to have been governed in ordering the execution of Ambrister, and which, in its extent, as contended by the report of the committee under consideration, applied with equal force to the case of Arbuthnot. It is in these words: "It is an established principle of the law of nations, that any individual of a nation making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." The Military Committee, in their report, have very properly denied the establishment of any such principle in the law of nations. Sir, said Mr. C., I boldly challenge any man of common sense to prove the existence of such a principle to the extent it is here laid down. Reason, propriety, justice, and humanity, all cry aloud against such a principle! So far as my researches have gone, it is absolutely denied by the writers on national law; and, I sincerely hope, will be absolutely denied by every member of this Committee. If this principle was true, then La Fayette, De Kalb, Pulaski, and a large host of foreigners, who joined the standard of our fathers in the Revolution, and, by their blood, and at the expense of their lives, aided in the establishment of the independence of this nation, were "outlaws and pirates;" and, had they been captured, were subject to have been tried and sentenced to an ignominious death by a court martial. For, when they entered our service, they were "individuals of a nation at peace" with England, and they, after they joined our arms, "made war upon England and her citizens, and thereby forfeited their allegiance." Sir, is this Committee prepared to brand these men with the titles of "outlaws and pirates," by their sanction to this principle? I will not yet believe it.

But, it may be said, that these Englishmen, having "joined a savage nation, who observe no rules, and give no quarter," we have a right to treat them precisely as we might treat the savages whom they have joined, and that we would have a right to put the savages to death, upon a principle of retaliation. Let this position for a moment be admitted, and yet it will be evident



that the principle under which we should proceed would be a very different one—to wit, that of retaliation. For even savages cannot regularly be put to death, until they refuse “to observe rules or give quarter.” In order that the principle established by General Jackson may be applied, it must undergo a material amendment. Instead of the words in which it is couched, it should read thus—“It is an established principle of the law of nations, that any individual of a nation, joining savages and barbarians who observe no rules and give no quarter, and making war against the citizens of another nation, they being at peace, becomes himself a savage and barbarian, and may be treated as such.” Under such a principle, there would have been more justice (humanity being out of the question) in putting Ambrister and Arbuthnot to death.

Mr. C. then proceeded to inquire, whether the commanding General of the American army possessed the power to exercise the right of retaliation? If in its exercise there is any responsibility, he contended it was placed upon the nation. They were accountable to all other nations for the manner in which they conducted their wars. To the nation, therefore, it belonged, to establish the rules of war, by which it would be governed; and the authority by which they were to be established, was that in whose hands was vested the right of declaring war. In their establishment, the character of the nation for justice, for humanity, &c., was deeply involved. Who, he asked, were the legitimate guardians of the character of this nation, but Congress—the war declaring power? Mr. C. thought he was not singular in this opinion. He believed that the late President of the United States, the virtuous James Madison, was of the same opinion. For when, during the late war, it was thought necessary to apply the retaliatory principle, did he believe himself clothed with power to do it, although Commander-in-Chief? No—he believed it was in Congress alone. To Congress he applied for the power, and, by a special act, they conferred it on him. Mr. C. thought this case should be considered as conclusive authority.

But he would inquire how long this retaliating principle, even upon savages, had been in operation in this country? So far as his memory served him, the Seminole war afforded the first instance in which it had been exercised, from the time of the establishment of the provincial governments, up to this day. In the Indian wars in the South, and in the Northwest, in the years 1793-4-5, he recollected to have heard of no instance of it. During the late war with England, white men were captured after the massacre at the river Raisin, while fighting by the side of the savages, and were not put to death. Nay, General Jackson himself had in his hands the very leaders of the merciless band, who butchered the hundreds of his countrymen, whose bones are now mouldering under the ruins of Fort Mims, and did not put them to death? Where then was his avenging arm? Why did he not then brandish the sword of retaliating justice? No!

He had not then clothed himself with such mighty powers. But now, when the United States have no other enemies to contend with than the small tribes of the Seminole Indians, aided by a few negroes and Upper Creeks, it has become, all at once, necessary, after they have been defeated and dispersed, and their towns destroyed, to exercise retaliation! In one day has the fair character of this nation been blasted! That character for justice and mercy in which we thought ourselves pre-eminent, and of which we had so proudly boasted to the other nations of the earth, is now prostrated as low as theirs. They can now say to us, boast no more—you are not less cruel than other nations. But, sir, said Mr. C., I have done with this disagreeable subject—I turn with disgust from this nauseous scene.

Mr. Cobb then submitted the resolutions he had before read in his place, relative to the capture of the Spanish posts in East Florida, as an amendment to the report of the Military Committee, in the following words:

*Resolved*, That the Committee on Military Affairs be instructed to prepare and report a bill to this House, prohibiting, in time of peace, or in time of war with any Indian tribe or tribes only, the execution of any captive, taken by the Army of the United States, without the approbation of such execution by the President.

*Resolved*, That this House disapproves of the seizure of the posts of St. Marks and Pensacola, and the fortress of Barancas, contrary to orders, and in violation of the Constitution.

*Resolved*, That the same committee be also instructed to prepare and report a bill, prohibiting the march of the Army of the United States, or any corps thereof, into any foreign territory, without the previous authorization of Congress, except it be in the case of fresh pursuit of a defeated enemy of the United States, taking refuge within such foreign territory.

Upon these resolutions he presumed the door for a discussion, as wide as could be, was opened. The first resolution pointed to an act of legislation, growing out of the adoption of the resolution submitted by the Military Committee. The second disapproved the capture of the Spanish posts, as unconstitutional, and contrary to orders; and the third pointed to a legislative act arising out of such disapproval.

A subject involving a breach of the Constitution, said Mr. C., must at all times be an interesting one to the nation and to Congress. Such he considered the one now presented to the Committee of the Whole. It ought to be discussed with calm deliberation, but with firmness. He hoped he had not yet travelled out of this rule. If, contrary to his intention, he had done so, and thereby done injury to the feelings of any, he regretted it, and would repair the injury by any means in his power. Towards General Jackson, Mr. C. said, I hope I have not used language unnecessarily severe, or unsuited to the dignity of this House. Such was not my intention. If I have betrayed a want of caution or calmness, I hope the Committee will believe it proceeded

more from the unreflecting warmth of hurried debate, than from a wanton desire unnecessarily to assail feelings. To me General Jackson is personally a stranger. It is impossible, therefore, that I can entertain for him any personal enmity. I know him only as a public man—and it is only in his public character that I have censured his conduct. In doing so I have no personal wishes to gratify, no disappointed hopes to revenge, and no interests to promote, but those of the people. Sir, I love my country—I love her character—I love her Constitution. As the Representative of the people of Georgia upon this floor, I should feel myself criminal were I to permit unnoticed the exercise of a power, which, in its operation, has a tendency to sap the fair fabric of this sacred instrument, established at the expense of so much blood and treasure. Against the usurpation of such a power, by any individual, I feel it my duty to raise both my hand and my voice. No man can more highly appreciate the distinguished services of General Jackson than I do. So far as those services have been virtuous and legal, I have joined my countrymen in crying “well done, good and faithful servant;” and in bestowing upon him my plaudits and warmest thanks. For such services I am still willing to join in crowding laurels upon his head, until it bends under the weight of them. But, if they are to be acquired by trampling upon the Constitution, and the best interests of this country, then shall I wish to see each leaf of these laurels fade, and fall in ruin to the ground. Nay, the very brow which they encircle sink

“To the vile dust from whence it sprung,  
“Unwept, unhonored, and unsung.”

Sir, upon the preservation of this instrument in its purity, depends the freedom and the happiness of not only the present generation, but, as I would fondly believe, of myriads of our posterity yet unborn!

But to the point. That part of the Constitution which I believe to have been violated by the capture of the Spanish posts, is the one vesting in Congress solely the power of declaring war. Is it necessary to enter upon a course of reasoning to prove the policy of vesting this power in Congress, or, in other words, in the people? I would fondly hope that there is no man upon this floor who wishes to see it changed; and I should feel that I was doing them an injustice did I even suspect them of such a wish. So clear, so self-evident is the policy of placing it where the Constitution has left it, that, if I am not mistaken, the immortal authors of the letters of Publius, would not condescend to consume one moment of time, or waste one solitary argument in the proof of it. But such a discussion is now too late. It is vested in Congress—in the people; and the true question is, will you preserve it to them inviolate? Sir, so long as it is preserved to the people, we have the best security against the ambition of individuals—we need fear no tyrants. If it is once lost, ruin is the consequence.

And permit me here to observe, that from no

portion of the people have we so much cause to fear the loss of this great prerogative of peace and war, as from the military. If it should ever be usurped, depend upon it, it will be by a military man. It is natural to the public mind to admire warlike deeds. In the splendor of military achievements our eyes are blinded, and our reason is obscured. We become so infatuated with the man that we lose sight of principle, and we are offering him our worship, before we are aware that we have made him a god. Sir, I much fear that this spirit of adulation has already pervaded the minds of the people of this country to a most injurious extent.

But to the proof of a violation of the Constitution. This question might at once be put to rest, by showing that a war has been commenced and prosecuted to a conclusion, and calling upon those who conducted it for their authority in doing so. Sir, no such authority can be found in your statute book. Will it be denied that war has been prosecuted against the Spanish authorities in Florida? What is war but the exercise “of force, of violence between nations, in the prosecution of their rights,” whether real or imaginary? Such gentlemen will find to be its definition, whether their own reason or the best writers upon this subject be consulted. Such it is defined to be in the work which I hold in my hand, (Vattel.) That the Spanish posts were captured by the exercise of this force by the Army of the United States, is most evident, from the communications of General Jackson with the War Department. In his letter of 5th May 1818, speaking of the capture of St. Marks, he says he entered it by “violence.” In his letter of 2d June following, detailing his operations against Pensacola, he says, “he demanded the surrender of that place, and entered it only with a show of resistance.” Barancas he regularly invested; “mounted batteries against it;” “commenced offensive operations;” forced the Spanish garrison to “capitulate,” and granted them “more favorable terms than a conquered enemy would have merited.” Here, then, is furnished most abundant evidence of that very circumstance, of force, necessary to constitute war. Of the capture of the Spanish posts by war, then, there is no doubt. But this is not all—it was an offensive war. To give it the character of a defensive war, it must appear that our country had been invaded, or was in imminent danger of invasion by the Spanish forces in East Florida, or elsewhere. Or, if this was not the case, it ought, at least, to be made to appear that our army, which had been marched into East Florida, in pursuit of an Indian enemy, had been attacked by the Spaniards; or that they had arrayed themselves against us, for the purpose of preventing that pursuit of our enemy. None of these cases appear to have happened. The Spanish authorities spoke the language of peace. The Minister of Spain was here. We had a Minister at Madrid; peace prevailed between the two nations, and negotiations of a friendly kind were going on. Not a Spanish soldier had raised his hand, or pointed his musket



against us, until the American army sat down before St. Marks and Pensacola, for the purpose of capturing them. To call it a defensive war, therefore, is idle. It is an outrage upon common sense.

It was an offensive war, to all intents and purposes. We had no territory in East Florida to claim from Spain. It must, therefore, have been prosecuted to punish some wrong or prevent some threatened danger. These are the legitimate objects of offensive wars. They are so declared to be by the writers on the subject of war. That such precisely were our objects in the attack upon the Spanish posts, is evident from the documents on our table. Not that we had much threatened danger to fear from them, for they threatened none—what could we fear from such a handful of soldiers as Spain there had—but because they had done us great wrongs, which it was our intention to punish. The President's Message, and General Jackson's letters, are filled with the details of these wrongs. Such of them as are urged as affording reasons for the attack of St. Marks and Pensacola, are as follows: "That Spain had broken her treaty, by which she was bound to restrain the Indians within her territory from attacking us," that, so far from doing this, she departed from a "neutral conduct" and supplied the savages with arms, ammunition, &c., "encouraged them to make war on us," "gave them refuge and protection," "protested against the invasion of East Florida, and threatened to resist force by force," sent "menacing letters to General Jackson," and finally, because it was feared "the Spanish posts might fall into the hands of Indians." These reasons are some of them ridiculous in themselves, and such as, to say the most of them, but causes of war. They contain wrongs which demand punishment.

But who, Mr. Chairman, authorized or directed this war? That Congress, the Constitutional power, declared it, will not be pretended. The Executive had no power had he been disposed. The President in his Message disclaims any such power—"it belongs to Congress alone," says he, to change the relations existing between Spain and the United States. But this is not all. If all the orders issued to the general commanding are laid before us, it is evident to me that the Executive did not authorize this war upon the Spanish authorities expressly, or by implication. Far be it from me to entertain the slightest wish to charge the Executive with duplicity. I will not say that all the orders and correspondence between the Executive and General Jackson have not been laid before us. But candor compels me to say, that there is something a little mysterious to me upon the face of the documents before us. I will proceed to state the grounds of this mystery. In the first place I cannot account for the perfect confidence which General Jackson shows, throughout his correspondence, in the correctness of his proceedings, in which he had clearly violated his orders, as I will hereafter show. He never expresses a doubt that his conduct will be approved. Acting as he did, manifestly contrary

to orders, he never even attempts to excuse himself. He does not seem to think he has overleaped his orders. He has no apprehensions, no fears, as to the opinion the Executive might form of his proceedings. And yet, if the orders on our table are all that he received, it appears to me he must have known that he had violated them. But I am somewhat staggered at another fact, if I have made no mistake. In his letter of the 5th of May, 1818, which is the only one in which he condescends to notice his instructions, he says, that his measures have been adopted in pursuance of instructions from the War Department, and under a firm conviction that they alone were calculated to insure "peace and security to the southern frontier of Georgia." These last words are given to us as a quotation, and, one would believe, from the General's orders. I have not seen any order, either to General Gaines or General Jackson, containing these expressions; but yet I may be mistaken.

Again, taken in connexion with these, may be the letter from the Secretary of War to Governor Bibb. In that the Secretary says, that "General Jackson is vested with full powers to conduct the war in the manner he may judge best." This letter is dated more than a month after the capture of St. Marks. Certainly no "full powers" as against the Spanish authorities are laid before us; and yet no intimation is given that General Jackson had exceeded his authority until orders were given to General Gaines to restore Pensacola and Barancas in the August following—and then it is not noticed, otherwise than by directing restoration.

The last circumstance which I shall notice as inexplicable to me, is the fact that General Jackson has never been called to account for his transcending his orders. All those circumstances do stagger me. But I shall be glad if they can be explained by gentlemen differing from me in opinion, and who have taken a better view of the documents. I have no wish to believe that there is any mystery in these proceedings.

Reasoning upon the presumption that all the orders ever issued in relation to this war have been communicated to us, there is abundant cause to say not only that General Jackson was not ordered to attack the Spanish posts, but was expressly forbidden to do so. It is fairly to be inferred from the Message that he acted without orders. And, if we can be permitted to refer to the unofficial *expose* issued last Summer, which everybody knows contained the views of the Administration on this subject, and therefore ought to be viewed almost as an official paper, he is there expressly said to have acted "on his own responsibility." The orders themselves afford ample proof that he did: I presume no one will attempt to argue that the orders laid before Congress were not obligatory upon General Jackson, because they were directed to General Gaines. The President, in his Messages of the 25th March and at the opening of this session, has settled that question, and I see from the intimations given me by some gentlemen, who I know differ

in opinion with me upon this interesting subject, that they will not deny it. It would be useless to do so. Let us see what those orders were. There were several of them. But the most efficient one was that of 16th December, 1817. In this, he is authorized to "cross the Florida line and attack the Indians within its limits, unless they should shelter themselves under a Spanish fort. In the last event, you will immediately notify this department." Now, so far from this order's giving authority to attack the Spanish forts, it must be considered as containing an express prohibition. And why was this prohibition laid upon him? For the best possible reasons—1st. Because the President knew he could not give such an order, leading directly to war, without the authority of Congress—and, secondly, to put Spain in the wrong. Had the Indians been protected by a Spanish fort, there would have been immediate cause afforded; and upon which, when added to the long list of other wrongs, Congress might, if they chose, declare war.

Sir, let us next examine the grounds on which General Jackson excuses or justifies himself, and on which the Executive have refused "to censure him," and may therefore be said to justify him. They have been already enumerated. They are, that Spain did not observe her treaty, aided and abetted the Indians in war, excited them to war, furnished them with the means of war, gave some of them protection in their forts, bought the fruits of their depredations, and a general departure from a strict "neutral course of their conduct;" or, in the words of the paper of the minority of the Military Committee, 1st. That Spain neglected to keep her treaty, and thereby became a party in the war; or, secondly, was too weak to do so, and, therefore, forfeited her right of sovereignty." How this forfeiture should accrue to the United States, in preference to any other nation, remains yet to be explained.

I examine first the breach of treaty by Spain. I beg leave first to premise, that we are not now considering what is cause of war with Spain. The question is not between the United States and Spain. Whenever that question is presented, I shall be ready to deliver my sentiments. Were it necessary to decide upon that question, I should say that there was ample cause of war. I hope, therefore, no gentleman will suppose me to be the apologist of Spanish wrongs. Spain has done us many and grievous wrongs. Even when I have satisfied myself upon this point, it is still, however, a question of great moment to determine whether the United States shall make war for those wrongs. Upon that point also I shall be ready to deliver my opinion. But the true question before us is between the United States and its own officer. Has he exceeded his authority? Has he, by an exercise of usurped powers, involved, or attempted to involve the people of this nation in a war without their consent, declared through their Representatives? Sir, it is my painful duty to say that General Jackson has, in the cases under consideration, snatched from

the people this most important right of making war only by their own consent, and that I cannot approve of the conduct of the Executive, whose duty it was to have called him to a severe account, in tolerating this high-handed act.

I have yet to learn that the breach of treaty simply, and not followed by the immediate commencement of open hostilities, is itself war. It is only cause of war? Suppose Spain to have wilfully broken her treaty, can the General of the United States Army proceed to commence hostilities? Can the President himself do it? No, sir, it is only cause of war, upon which the war-declaring power, which is Congress, may proceed to deliberate, and then declare war, as the interests of the nation may dictate. A nation may excuse a breach of treaty, especially when it proceeds from weakness—(Vattel, 230, 328.) This exercise of judgment, and discretion in exercising it, belongs of course to the war-making power in each Government. Unless, therefore, General Jackson possesses this power, he cannot be justified or excused.

Of the same character are "almost all the other grounds upon which the capture of the Spanish posts is excused, such as exciting the Indians to war, supplying them with arms, giving information and advice, and, in general, a departure from neutral conduct, by which, as is contended, Spain became a party in the war with the Indians. Sir, they were none of them direct and open acts of war. They were only causes of war. I will not deny that if there had been what the writers on national law call a warlike association—(Vattel, 324, 328,) and resulting in the formation of common cause; for instance, if the Spanish authorities in East Florida had, by agreement, united their interests and forces together, and either attacked us, or, thus united, repelled our attack upon the Indians; in that event, we should be compelled to make war upon them by a regard to our own safety. No declaration of war would be necessary. But, will it be contended that any such association was formed? Where is the evidence of the alliance or association? Where did the Spanish troops attack or array themselves against us, until we attacked them? And even then, did they act in conjunction with the Indians? I appeal to the candor of those who defend General Jackson's conduct upon this subject? I ask them to lay their finger upon the document which is to establish the existence of such a warlike association between the Spaniards and Indians as will identify them as equally our enemies, according to the definition given of this compact by the law of nations. If, then, no such association is proved, the conduct of the Spanish authorities in East Florida furnished no more than ground of complaint, or, in other words, cause of war, upon which this nation might have proceeded to deliberate. Every cause of war is not war, otherwise nations could use no discretion. Yet, every person knows that it is the duty of nations to deliberate when a wrong is done them. It is their duty to complain of the injury, and, if redress is re-



fused, then to calculate the chances of a war; to examine her own means, the strength and resources of her enemy, the probability of success in the contest, and finally to determine upon declaring war or not, as their honor and their interest may dictate. In the case under consideration, we might have chosen to overlook the injury done us. I do not say that we would have done it, although I have some doubt whether this House, or the Executive, entertain any serious ideas of going to war with Spain. But the circumstances of the nation, in a similar situation with another enemy, might have rendered it necessary to count the cost. Suppose it had been Great Britain instead of Spain. Think you that we should have proceeded in the same headlong manner? I venture to say not. What opportunity has the nation had to express its willingness to encounter a war with Spain? Are the wrongs which were done us such as that we must fight? Are they such as that they cannot be overlooked? I contend that they are such as a prudent nation may overlook if she chooses. It cannot be contended that they are stronger grounds of complaint than "furnishing a determined succor, allowing troops to be raised, or advancing money." Although not precisely the same, yet they are of similar character. They are the evidences of a hostile disposition; they are evidences of a greater regard for our enemy than ourselves. Now, the cases I have quoted, *Vattel* expressly declares to be such "as may be overlooked," if in other respects the accustomed relations of peace are preserved—(*Vattel*, p. 328.) True, we may call them to account for it. We may demand redress. It was "new ground of quarrel," of which we had a right to complain. We might expostulate with them, and, not receiving satisfaction, we might prosecute our right and make war on them. But, in this case, there must be a declaration—(*Vattel*, 331.) But, sir, this nation have had no opportunity to complain of Spain, and in case redress were refused, to consult their interest in declaring war or not. Whether willing or not, it has been declared to their hand, and those who have done it are not even to be censured. That we are not now at war is attributable only to the imbecility of our enemy. Sir, I think that even those who differ with me in opinion upon this subject, will admit that had it been England, and not Spain, whose forts were captured, we had now been at blows in a war commenced without consulting the people. I go further. I venture to ask them, had it been England from whom we had seized these posts, and General Macomb (I mention his name only because I know he commands on the Northern frontier,) the officer who had made the war, would he not have been called to a severe account?

But, sir, the policy of the nation is changed; the law is changed; the Constitution is changed; the right of deliberation upon this great exercise of power, in declaring war, and with which the interest, honor, and prosperity of the people are more intimately connected than with any other

act of sovereignty, is taken from them; it belongs to General Jackson; he has involved us in war, as far as his act could do it, and we must support him in it.

Some other reasons for the seizure of these posts deserve to be noticed. One is, because "St. Marks was necessary as a depot for the success of his future operations." And will it be said that this affords a justification of his conduct? So Gibraltar may be necessary in our future operations against the Barbary Powers, and why not take that, or some other place in the Mediterranean? But, again: it seems that the Governor of Pensacola sent a very insulting letter to the General, threatening to repel force by force. It was this letter, he declares, that finally determined his mind to capture the place. From his letter, it would seem that all the other reasons would not have been sufficient. Upon the receipt of this letter "he hesitated no longer." And so, sir, because his feelings and his dignity were insulted, this nation must run the risk of war to revenge it. Sir, in my opinion, it was the duty of the Spanish officer to protest when he discovered that General Jackson was on his march for Pensacola; he was near to it—for he received the protest on the 23d of May, and on the next day entered the town. The duty of the Spanish officer to his own Government required that he should protest. In saying this, I again repeat, that I do not intend to palliate Spanish wrongs; they are sufficiently great. But it belongs to the people, and not the officers of the Army, to determine on punishing them.

There is one other circumstance which the General gives as a cause for his movements, to which I beg leave to advert. It is this—that he "had understood the Indians were collecting, to the amount of four or five thousand,\* in the neighborhood of Pensacola." This is really too laughable to be seriously noticed. At no time during this war, was there ever as many as one thousand seen together. The Indians had been beaten and dispersed, and driven to the east, into the peninsula of Florida. From whence, then, were these four or five thousand to come? Sir, all the Seminoles, Red Sticks, and Negroes together, did not amount to that number; and I have too good an opinion of his judgment to think he believed the information, though I have no doubt he received it.

I had, sir, various other circumstances to which I wished to call the attention of the Committee.

\* Mr. Cobb feels it but justice to state, that, since the delivery of his argument, he has been informed by a gentleman that this is a *typographical* error, and that it should be *four or five hundred*. Mr. C. has not examined the document from which the letter laid on his table was printed. He, however, takes it for granted, there was a mistake, and, had he known it before he rose to speak, he should not have adverted to the circumstance in the terms he did. The circumstance to which he alluded may be found in the letter of General Jackson to the War Department, of the date of 5th May, 1818, at page 58 of the printed documents.

But I feel myself nearly exhausted, and I am sensible I have already taken up too much of their time. For the patience and attention with which they have listened to me, I return them my thanks; they have been greater, perhaps, than I deserved. But I cannot take my seat without calling their attention to the precedent which will be made in this case. This body is the child almost of precedents. Not a case presents itself but what precedents are sought—even every little claim is governed by precedent. I hope they will be aware of the important one to be afforded by the decision of this question, and that it shall not be such as that, at some future period, if some ambitious General should spring up, and, panting to acquire the same glory, without possessing the talents of General Jackson, should, by some mad act, hurry this nation into war, he shall not have it in his power to point to this case, and shield himself from responsibility.

Mr. COLE was followed, on the opposite side, by Mr. HOLMES of Massachusetts, who had only concluded one branch of this subject; when, having given way at the request of a member—

The Committee agreed to rise; and leave being given to sit again, the amendment moved in Committee was ordered to be printed.

TUESDAY, JANUARY 19.

Mr. BLOOMFIELD, from the Committee on Revolutionary Pensions, made a report on the petition of Samuel Bennett; which was read, when Mr. B. reported a bill directing the Secretary of War to place Samuel Bennett, a private of the Revolutionary army, on the pension list; which was read twice, and committed to a Committee of the Whole.

Mr. TAYLOR, from the Committee of Revision and Unfinished Business, reported a bill allowing further time to complete the issuing and locating of military land warrants; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. MIDDLETON laid before the House sundry documents transmitted to him as chairman of the committee on that part of the President's Message which relates to the illicit introduction of slaves into the United States; which were referred to the Committee of the Whole, to which is committed the bill supplementary to the act prohibiting the importation of slaves into the United States.

Mr. H. NELSON submitted the following resolution, viz:

*Resolved*, That the Speaker be authorized to admit to seats within the House of Representatives such persons as he may think proper, having regard to the convenience of the members in transacting the public business.

The question was taken, will the House now proceed to consider the said resolution? and determined in the negative.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to provide for the more convenient organiza-

tion of the Courts of the United States, and the appointment of circuit judges," in which they ask the concurrence of this House. The bill was read twice, and referred to the Committee on the Judiciary.

#### BANK OF THE UNITED STATES.

Mr. TRIMBLE offered for consideration the following resolution:

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Attorney General of the United States, in conjunction with the district attorney of Pennsylvania, shall immediately cause a *scire facias* to be issued, according to the 23d section of the act "to incorporate the subscribers to the Bank of the United States," calling on the corporation created by the said act to show cause wherefore the charter thereby granted shall not be declared forfeited; and that it shall be the duty of the said officers to cause such proceedings to be had in the premises as shall be necessary to obtain a final judgment thereon; for the expenses of which Congress will hereafter provide.

Mr. T. then said that he would briefly state the reasons which induced him to offer the resolution which he had submitted. He ought first, however, to make an apology to the committee who had made the able, and, he hoped, useful report upon this subject. From that report, he had inferred that the committee did not intend to offer any proposition leading to an inquiry into the question of forfeiture. It was possible that the committee might, from motives of delicacy, decline the submission of any measure involving the inquiry. That he might commit no mistake in that respect, he said he had thought it his duty to wait on the honorable chairman of that committee, by whom he was authorized to state that the committee did not intend to report a proposition to that effect, and that any proposition of that tendency would come with equal propriety from any other member of the House.

It is manifest, said he, that public confidence in the bank is shaken to its foundation, and that it has become the imperious duty of this House to act carefully and promptly on the subject; that, when the bank was established, it was expected it would coerce the resumption of specie payments; that it would curtail the emanation of paper issuing from fugitive country banks, and, by every means in its power, assist in restoring the par of exchange between the States; that the Treasury of the United States was to have had all the aid which the bank could render, by affording facilities in the transmission of the public funds. How far the expectations of the public or of the Treasury had been realized, he would not stop to inquire. It was not his intention to sum up the advantages which had grown out of the establishment, but to avoid the mischief which might follow the disclosures made in the report.

He had no fears, he said, that the operations of the Treasury would be greatly embarrassed, and he was sure that a depreciation of the bank notes would produce much confusion and distress, and perhaps terminate in a serious loss to



H. OF R.

Seminole War.

JANUARY, 1819.

the stockholders. That the bank did not possess the power or the means of restoring the confidence of the nation; and that, without a restoration of confidence, its operations would be feeble and languid for years to come; that every view of the subject is fraught with unpleasant considerations and evil forebodings, and that, in fact, nothing is left us but a choice of evils.

He had been taught by experience, he said, that a bad remedy, promptly applied, was better than a good one delayed too long. We see, at a single glance, that public opinion applies itself to two objects—the charter of the bank and the conduct of the directors. The first question which a plain man would ask himself is this—Has the charter of the bank a legal existence? This question ought to be answered by a legislative opinion or a solemn legal adjudication; and, in his opinion, the inquiry ought to be immediately instituted, so that public opinion might not be suspended, and its confidence left in abeyance, upon a subject involving so many and such important considerations. Wisdom and prudence would both advise us to remove, as speedily as possible, all uncertainty and doubt upon the question of forfeiture. And he was confident that the interest of the stockholders, the Treasury, and the nation, would be equally promoted by a speedy investigation. Suppose a judicial decree should be rendered, announcing that the charter is not forfeited, that, of itself, would remove all doubts as to the legal existence of the corporation. Or, suppose that this House shall ultimately be of opinion that the reported violations of the charter are not such as should require the bank to be put upon its trial, would not a vote to that effect restore confidence in the charter? The argument would be this: The Congress of the United States have maturely considered this subject, and are of opinion that the reported violations of the charter are so far from working a forfeiture of the charter, that they are not sufficient to authorize a *scire facias*, or call the bank before a judicial tribunal. Mr. T. said, that if a proposition should be made in the House to revoke the charter, he was ready to give his opinion; but that, if the question shall be referred to the judicial tribunals, he would not forestall the decision by a premature declaration of his impression on the subject. His primary object at present, he said, was to give a clear intimation that the question of forfeiture would be urged when the report is called up; so that gentlemen may have time for reflection, and an opportunity of foreseeing and avoiding the consequences that may follow.

If, upon inquiry, said Mr. T., it shall be found that the charter is not forfeited, it will be the duty of Congress to adopt some measure which will restore confidence in the directors, and by some timely and well digested regulations, to interdict malpractices for the future. He would conclude by saying that it was the imperious duty of Congress to revoke and suppress the charter, or sustain its reputation by giving it every assistance which legislation can afford.

Mr. TAYLOR thought that any distinct propositions, as to the course most proper to be adopted toward the bank, had better be deferred until the report of the committee on that subject should be taken up in Committee of the Whole, as then the subject would be fully under consideration, and could be acted on to more advantage.

The question was then taken, will the House now proceed to consider the said resolution? And it was decided in the negative, 71 to 53.

## THE SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, Mr. PITKIN in the Chair, on this subject.

Mr. HOLMES resumed the thread of the speech which he yesterday commenced, in support of the proceedings of General Jackson, which is given entire as follows:

Mr. HOLMES, of Massachusetts, said the gentleman from Georgia (Mr. COBB) having appealed to the common sense of the Committee, he felt himself obliged, having some claim to that very common and vulgar commodity, to attempt to answer the gentleman's call.

This is not, said Mr. H., the only inducement. The very handsome, able, and gentlemanly manner in which that gentleman has supported his resolutions entitles him to the particular consideration of every member who differs from him, and demands our utmost efforts to combat his arguments and resist the force of his eloquence.

It is not, sir, because General Jackson has acquired so much glory in defence of his country's rights that I defend him—it is not for the splendor of his achievements or the brilliancy of his character. I would not compromise the rights and liberties of my country to screen any man, however respectable. If General Jackson has been ambitious, I would restrain him; if cruel, I would correct him; if he is proud, I would humble him; if he is tyrannical, I would disarm him. And yet, I confess, it would require pretty strong proof to produce conviction that he has intentionally done wrong. At his age of life, crowned with the honors, and loaded with the gratitude of his country, what adequate motive could induce him to tarnish his glory by acts of cruelty and revenge?

Nor am I disposed to become the advocate of Executive usurpation. If the President of the United States has encroached upon the rights of the people, or usurped a power not granted by the Constitution, it is our duty, as the guardians of those rights, to correct the mischief and preserve the Republic. And yet, it would be difficult to imagine an adequate motive to induce the President to trample upon the Constitutional liberties of the people. His life has been constantly devoted to the liberties, prosperity, and honor of his country. He receives his reward in the gratitude and confidence of the people. The chief of the only free people on earth, I could scarcely imagine that he has an inducement to do wrong, much less to prostrate the fabric of freedom which his own hands have contributed to erect.

JANUARY, 1819.

Seminole War.

H. OF R.

I assure the gentleman from Georgia that, in endeavoring to anticipate the arguments of the friends of General Jackson and the President, he has not anticipated me. I admit, in the outset, that the President has no right to commence a war, even against Indians. And I further admit, that, if a treaty between this and another nation be violated by the other party, and the violation is not itself an act of war, but such as would justify hostilities on our part, the President has no right to commence these hostilities without the consent of Congress. If, with these admissions, the President and General Jackson cannot be defended, they cannot, in my opinion, be defended at all.

It is, then, incumbent on me to show that the Indians commenced the war. I shall not detain the Committee long on this point at present, as I shall be obliged to examine it more particularly in discussing another part of the subject. It cannot, however, sir, have escaped the recollection of the members of this House that the aggressions of those Seminoles were loudly complained of by the people of Georgia. Scarcely a newspaper from the South but was filled with dismal accounts of Indian massacres; scarcely a breeze but wafted to our ears the dangers, distresses, and murders of the people on the frontiers of Georgia. Were these all groundless rumors and false alarms? Were the Georgians, in fact, the aggressors? The gentleman from Georgia can answer the question.

On the 9th of August, 1814, a treaty was signed at Fort Jackson between the United States and most of the chiefs and warriors of the Creek Nation. By this treaty certain lands were ceded to the United States, and the inhabitants of the frontiers understood that the war was ended. But it was soon found that several of the hostile Creeks, and the Seminoles, had, within the limits of Florida, associated for the purpose of commencing hostilities against the United States. By the instigation and aid of a certain Colonel Nichols, a fort was erected on the Appalachicola, and within the province of East Florida, to facilitate their hostile designs. At this place were assembled a motley banditti of negroes, Indians, and fugitives from all nations, and trained and instructed in the arts of robbery and murder. The people of the United States soon felt the effects of their vengeance. Several families, including women and children, were barbarously murdered. In 1816 a boat's crew were cruelly butchered, one of whom was tarred, set on fire, and burnt to death. On the 30th of November last, Lieutenant Scott and his party, consisting of about fifty men, women, and children, were murdered in a manner too shocking to describe. In this exigency what was to be done?

The Constitution of the United States makes the President the Commander-in-chief of the Army and of the militia, when called into the service of the United States. It vests in Congress the power to provide for calling out the militia to suppress insurrections and repel invasions. The act of Congress of the 28th of Feb-

ruary, 1795, provides that, whenever the United States shall be invaded, or in imminent danger of invasion, the President may call out any portion of the militia to repel the meditated attack, and, to this end, may direct his orders to any officer of the militia, without a requisition upon the Governors of the States. The framers of the Constitution, by authorizing the President to repel invasion, did not intend that he should wait until it should have taken place. Should invasion impend, it was essential that the President should have the power to prevent it. The preposterous doctrine that the invasion must take place before the militia can be called for, is, I trust, long since exploded. This act is an exposition of this clause in the Constitution, acquiesced in ever since the year 1795. The President, then, may employ the militia without a special authority from Congress, when there is invasion, or danger of it; and he can use the army as well as the militia. He is their Commander-in-chief, and though the act to which I have just referred does not specially authorize him to employ the standing army for these purposes, yet it is manifest that our regular troops would never have been placed on our frontiers in time of peace, if they could not be employed by the President, to repel invasion, without an act of Congress. If the army of the United States, during invasion, were to remain inactive until Congress could be convened to authorize them to act, they would be worse than useless. Though I am not in the habit of placing much reliance on the admissions of my opponents, I trust it will not be insisted that the President has not the power to employ the army for the same purposes as the militia.

The war having been commenced by the Seminoles and their associates, and the President of the United States having the power, by the Constitution and laws of the United States to meet and repel the enemy, the inquiry is important, on what ground he may meet them. I differ from many gentlemen in regard to the political rights of the Indians. Whatsoever may be their rights in peace, either by natural or conventional law, in war I deem them as sovereign. Their residence within the limits of the United States, limits to which they have never assented, neither brings them within our protection nor entitles us to their allegiance. The laws of the United States have no operation upon them, and if they levy war they are not punishable as traitors. A tribe of Indians, whose territory is exclusively within our limits, may wage war and make peace with us; pursue, capture, and destroy us; send and receive flags; grant and receive capitulations, and are entitled to a reciprocation of every act of civilized warfare, and subject to the same rules of severity and retaliation as other nations. To invade their territory and cross their line is, as to them, passing out of the limits of the United States. And, if General Jackson had no right, in this war, to cross the Florida line, neither had he a right to cross the Indian line within our limits. If there is any force in the argument so often urged on other occasions, that every war of inva-



sion is an offensive war, and one, consequently, which the President could not wage without the authority of Congress; then, it follows, that Congress must declare war before the President can march the militia across the Indian line, even within the limits of the United States. But such a construction of the Constitution is totally inadmissible. When war is commenced by savages, it becomes the duty of the President to repel and punish them. To follow them to the line affords us no security. The invasion cannot be effectually repelled but by pursuing them into their own territory, and retaliating on them there. Such has been the uniform construction of the power of the President, ever since the adoption of the Constitution. In no instance that I recollect has Congress declared war against an Indian tribe. The defeat of St. Clair, and subsequent victory of Wayne were on Indian territory. The battle at Tippecanoe (fought by my friend from Ohio with so much honor to himself and satisfaction to his country) was within the limits of the Indian nation. In neither of these instances was a declaration of war deemed necessary by Congress.

If, then, it be true that this war was commenced by these savages, we have brought General Jackson and his army up to the Florida line, and, I trust, without any material violation of the Constitution or laws of the United States. Let us now stop and examine the ground on the other side before we attempt to pass it.

The territory of Florida, which the General and his troops are about to enter, from St. Marks to Pensacola in length, and from the United States to the Gulf in breadth, comprehends, probably, not less than 10,000 square miles. Spain claims a jurisdiction over this tract, as comprehended within the two provinces; and it includes, I am told, about 3,000 Spaniards in all—2,500 of whom are in and about Pensacola, and the residue scattered on the Choctaw river, and a few trading families on the Appalachicola. The number of Indians there cannot be well ascertained, but far exceeds the white population. The possessions of the Spaniards are exceedingly limited, and their jurisdiction is merely nominal. The Indians have, in fact, the possession and the control.

But suppose we admit that the Spaniards and Indians have a concurrent jurisdiction. This is the most that can be pretended. And upon this hypothesis, what are the rights of the United States? The territory of these Indians is on both sides, the Florida line. Their possessions and residence are transient and ambulatory, without regard to this line. The nation, if such they may be called, is at war with us, and in this war they can occupy their territory in Florida in spite of Spain. Singular, indeed, would it be, if we should be engaged in war with an enemy who had a perfect right to be, where we had no right to meet him. Spain claims a jurisdiction to a territory occupied by our enemy; she has no power nor inclination to expel him, and yet it is gravely said this enemy cannot be pursued to

this territory without an act of hostility against Spain. Unfortunate, indeed, would be the condition of the United States, if a horde of unprincipled banditti, holding a residence on our borders, could prosecute a cruel and exterminating war upon our citizens, and then take refuge across an ideal line, where the laws of nations forbid us to approach them. Sir, let gentlemen tell me of another instance where your enemy has a right to perfect security against your approach. It would be a war of a peculiar character, where one side only gives the blows.

Why, then, should not General Jackson and his army cross? Will any gentleman point to me the clause in the Constitution or laws of the United States that forbids him? Nay, more, can any one offer a reason why he should not pass into Florida, which would not equally forbid his crossing the Indian line within the limits of the United States? It would be preposterous and absurd to pretend that you could not pursue your enemy to any refuge to which he is entitled. The Seminoles, then, being enemies, and having a right in Florida beyond the control of Spain, the inference is irresistible that you have a right to pursue and fight them there in your own defence.

General Jackson having crossed into Florida, for the purpose of meeting and fighting the Seminoles, what are his duties towards those who profess an allegiance to Spain? The case is peculiar, and, perhaps, stands on its own foundation. It is difficult to illustrate it by analogy. While we are on enemy's, we are, in some sense, on neutral ground. The ocean being the highway of nations, all having concurrent jurisdiction, it is possible a case may there be found affording an illustration. You discover your enemy's fleet at a distance. On approaching it you perceive neutrals intermixed. Some are of a doubtful character, wearing the neutral flag, but exhibiting other symptoms of a belligerent character. Some seem engaged in affording facilities to the enemy to defend themselves or to escape. In such a case you are bound to exercise your discretion, and to capture all those of a suspicious character. Should you mistake, it is not your fault, but the misfortune or folly of the neutral in being found in company with your enemy, in a situation to excite suspicion. A discretion, therefore, must rest with a commander to discriminate. In the ordinary case of invading the country of a civilized nation, the commanding General is obliged to distinguish between the public and private property, and between combatants and non-combatants. There are situations in which it is extremely difficult to determine, and it not unusually happens that this power of discrimination necessarily devolves on the subordinate officer, and even soldiers, whereby many of the innocent and unoffending are made to suffer.

When General Jackson marched his army into a country where he must necessarily find neutrals, as well as enemies, the right of discrimination devolved on him. If a Spaniard was found in the ranks of the enemy, aiding and assisting in hos-

tilities, he was bound to consider him as an enemy. If the guns of a fort were turned against him, or the fort used by the Indians as a post of annoyance, he had a right to consider the soldiers there as associated and identified with the enemy, and to wrest from their hands the means of hostility. Even should he mistake, he is not subject to censure, but it is the misfortune of the neutral in being associated with our enemy, and placed in a situation where suspicion might attach. But, sir, I by no means admit that General Jackson needs such an apology in this case. I will prove that the Spaniards in Florida were identified with the Indians, and the posts taken by Jackson were under Indian control. I will prove that the Spanish officers and inhabitants in Florida have conducted most treacherously, pretending to a neutrality which they have constantly violated. I will show to the Committee, by proofs incontestable, that the local authorities were the exciters, promoters, and prosecutors of the war, and furnished the means of carrying it on.

I lay Spain out of the question. Poor, miserable, degraded Spain, too weak and palsied to act or think! She has but the shadow of authority there, and, so far from being able to control the Indians, or even her own subjects, the country, as to her, is a perfect derelict. I will ask this Committee to go back with me to the year 1813, and from that period to the capture of Pensacola, to witness the Spanish officers exciting the Indians to vengeance, furnishing them with the arms and munitions of war, tamely acquiescing in the most flagrant violations of their pretended neutrality, and suffering the territory to be prostituted to every banditti who might be disposed to annoy or distress the people of the United States.

Sir, before I proceed to an account of these transactions, allow me to subjoin a few remarks in reply to what has been said relative to the conduct of the Executive in engaging in this war. The gentleman from Georgia apprehends that the President has violated the Constitution. During the last session of Congress, it was known that this war could not be terminated without marching the troops into Florida. The President of the United States, in his Message of 25th March, and four weeks before the session closed, informed this House that he had issued orders to General Gaines to cross into Florida, to pursue and chastise the enemy, but to respect the Spanish authority where it was maintained. We acquiesced; we appropriated the money to pay the militia, and without a whisper of disapprobation.

Connected with this part of the subject, I regret to be obliged to notice an intimation from the gentleman from Georgia, that General Jackson might possibly have orders from the President different from those communicated to this House. Sir, though the gentleman did not state that he believed this, yet, when a member of this House will intimate that it is even possible that the President of the United States has practised such duplicity, and will endeavor to show evi-

dence of the grounds of such intimation, it becomes our imperious duty to inquire. If the President has given to General Jackson one set of orders, and imposed upon us a different set, he has practised a hypocrisy utterly unpardonable, and he ought to be exposed to the indignation of the American people. What then, I repeat, can be the ground of this suggestion? The gentleman quotes the letter of the Secretary of War to Governor Bibb, of the 13th May, stating that General Jackson had full powers to prosecute the war at his discretion, and, as we have seen no such full power to General Jackson, he leaves us to infer that the document is withheld. A brief statement of the facts will, I trust, explain this mystery, even to the satisfaction of the gentleman from Georgia. The Secretary's letter of 16th December last authorizes Gaines to cross into Florida, under the restriction as to Spanish fortresses. His letter to Jackson, of the 26th of the same month, directs him, to whom the command was now transferred, to concentrate his forces and adopt the necessary measures to bring the war to a speedy conclusion. Governor Bibb, not knowing of the orders to Gaines, on the 15th April, 1818, writes to the Secretary, that he has no authority to pass the Florida line, and wishing for orders. The Secretary, on the 13th May, replied, that the orders to Gaines to cross were sufficient for him, and then adds, that General Jackson had full powers to conduct the war. Taking all these letters together, can there be a doubt of their meaning? The authority to cross was that given to Gaines and transferred to Jackson on his assuming the command; and the full power, mentioned in the letter to Bibb, was that vested in Jackson by the letter of the 26th December, and meant and intended nothing more than that Jackson was Commander-in-chief in that quarter, and that his powers were sufficiently extensive to accomplish the object of his appointment. Can gentlemen find in all this sufficient ground to suspect the President of fraudulently suppressing a document? Were the gentleman a judge or juror, could he find in this sufficient to convict, or even to cast a well grounded suspicion upon the meanest wretch who crawls in the filth of society? And yet this is offered as ground of inquiry against your President! Sir, is it liberal, is it candid, is it charitable, is it magnanimous?

Sir, who are we? Are we the people, or, like the President, the servants of the people? And, should we suggest such suspicions on such evidence, may not these same people call us to an account for a malicious prosecution without probable cause against their President and friend? I do not profess to predict what would be their decision, but I confess I should be unwilling to submit to them such a question on such evidence.

I will now proceed to the detail of the acts of hostility of the Spanish officers. Lest I should be tiresome to the Committee, I shall only state the facts, and, if gentlemen wish, will, from my minutes, refer them to the book and page.

It is in proof that, in 1813, William Hamblay



saw a letter from the Governor of Pensacola advising the Indians to take up arms against the United States. Early in the Spring of 1824, the British frigate *Orpheus* landed arms, ammunition, and officers, on the Appalachicola, in East Florida, and engaged the Indians against the United States. These acts were public and notorious, and, being in the vicinity of St. Marks, must have been known to the Spanish Governor. About the same time, the fact was notorious at Pensacola, that about two hundred Indians received provisions and ammunition out of the public stores. On the 4th of August, of the same year, a certain Colonel Nicholls, an Irish adventurer, arrived at the Havana, with an expedition, for the avowed purpose of proceeding to Florida, and taking possession of Pensacola. The Governor General, to be sure, forbade him, and warned him not to violate the neutrality of Spain, with as much gravity as if he expected to be obeyed. Notwithstanding this, however, Nicholls obtained refreshments, and proceeded to his destination, publicly and notoriously, without being in the least hindered or molested by the Governor General. He arrived at Pensacola, captured the Barancas and the city, without resistance or complaint. This scandalous surrender of the capital of West Florida to the British, with whom we were at war, for the well known purpose of organizing a desperate, unprincipled, and ferocious banditti against the people of these States, was conclusive evidence of the treachery and hostility of the Governor. On the 29th of August, Nicholls issues his proclamation, at his headquarters, Pensacola, stating that he has Indians commanded by British officers; that he is aided by a numerous British and Spanish fleet, and calling upon all fugitives and vagrants to join his standard to inflict vengeance on our frontiers.

He sends a minister to the choice spirits of Barrataria, invites and receives the aid of the Indians, promises to let loose the slaves for the humane purpose of cutting the throats of their masters, and compliments the Louisianians and Kentuckians with an invitation to join this honorable coalition.

It begins thus: "Natives of Louisiana! on you the first call is made to assist in liberating, from a faithless, imbecile Government, your paternal soil: Spaniards, Frenchmen, Italians, and British, whether settled or residing for a time in Louisiana, on you also I call to aid me in this just cause: the American usurpation in this country must be abolished, and the lawful owners of the soil put in possession!"

Again: "Men of Kentucky! let me call to your view, (and, I trust, to your abhorrence,) the conduct of those factions which hurried you into this civil, unjust, and unnatural war, at a time when Great Britain was straining every nerve in defence of her own and the liberties of the world."

Captain Lockyer, of the *Sophia*, and the honorable Captain Percy, of the *Hermes*, used all their exertions to induce Lafitte, the chief of the pirates of Barrataria, to unite with these British

and Spaniards, and Indians, and Negroes, in this work of indiscriminate massacre.

From this capital of His Most Catholic Majesty's province of West Florida, at the residence, under the eye and with the consent and aid of this Spanish Governor, boasting of his impartiality and jealous of his neutral rights, an expedition was fitted out against Fort Bowyer, an American post at Mobile point. On the memorable 15th of September, 1814, the fort was attacked, but was so well defended, by the brave Lawrence and his companions, that the assailants were defeated, and returned with loss and disgrace. All this was done in the name of neutrality; but it was a neutrality not to be endured. General Jackson, with that energy and promptitude which mark his character, marched to Pensacola, and captured the place. Nicholls and his banditti ingloriously fled, after blowing up the fort of Barancas, which he had received from the hands of his friend, the Spanish Governor. Nicholls's confederacy now began to decline. The Louisianians were true to the core. The Kentuckians could not be seduced from their allegiance. Even the pirates of Barrataria hesitated, suspecting that their reputation might suffer, and at last declined the honor of such a confederacy, and united in defence of the United States. The glorious and unparalleled victory of the 8th of January, and the peace which immediately ensued, broke up this confederation of the Mississippi. Nicholls, with his ruffians, retired to the Appalachicola. There let us leave him a while, breathing revenge and meditating murder, and glance at the conduct of the Spanish officers in the east of the peninsula. Here we find the same style of affected neutrality, connected with the most abject and scandalous submission to the mandates of the British, and the most wanton and unjustifiable excitement of the Indians against the people of these States.

In December, 1814, the notorious Woodbine was recruiting negroes and others at St. Augustine. The people became alarmed, not that their neutrality would be violated, but lest their slaves should be seduced from their masters. Governor Kinderlan issued his order to Woodbine, affecting to caution him against violating the neutrality of Spain, but intending, in reality, to prevent his seducing the negroes from their masters. Woodbine understood him, promised to relieve the alarm of the inhabitants, and to remove his negro and Indian escort so far off as the inhabitants should be in no danger. The Governor was pacified, and nothing further was heard of neutral rights, and the recruiting, probably, proceeded as before.

In the same Winter, several American vessels were taken by the British in the St. Marys, and within the territories of Spain. Complaint was made in behalf of the owners, and Admiral Cockburn, with characteristic impudence, told the Spanish Governor that these vessels were taken, for breach of blockade, in a small river far in the interior, and that they were only transferred to the British admiralty courts in the West Indies, where the most speedy and impartial justice

might always be expected. But, says this modest and consistent Admiral, why do you insist upon neutrality in favor of a people who do not respect it towards you? General Jackson has, in a hostile manner, entered Pensacola, and captured and blown up the Barancas. When, in fact, this Pensacola had been a British rendezvous, was taken from the Spaniards by a British force, and Nicholls himself blew up the fort. All this tantalizing, all this debasement, was endured by this hypocrite with great philosophy.

The documents from whence these facts are derived, were presented by the Spanish Minister as evidence of the fairness and correctness of His Majesty's officers in Florida—evidence furnished and prepared for the occasion, by the party accused. When it was ascertained that the President of the United States well understood the course the Spaniards in Florida had pursued, the Spanish Minister here set about procuring from them the evidence of their own innocence; and he triumphantly communicated to the Secretary of State the papers to which I have alluded, and others of a similar character, selected or created, for the special purpose, by the culprits themselves. In one of these, however, the Spanish Minister seems to have defeated himself. In answer to a letter from an Indian chief, I think by the name of Bowlegs, inquiring what he should do to the Americans, who he pretends are stealing his cattle, the Governor advises the Indian to "resolutely drive them off." Bowlegs well knew that this advice meant cutting throats and scalping, and with much prudence replied, "my people did drive off some Americans settled at Luchua, and I fear the United States will consider this an act of war." These cases principally occurred during our war with Great Britain; and I should suppose that these, of themselves, furnished strong, if not irresistible, proof of the fact, that the Spaniards in Florida were engaged in active warfare against the United States. But this is not all; the peace with Great Britain did not even suspend these hostilities.

Nicholls, after this peace, remained at and fortified his post at Prospect Bluff, within the limits of East Florida, and in the vicinity of St. Marks. It was made an asylum for the base and desperate of every people and nation; all vagrant Indians, fugitive negroes, Spanish renegades, British malefactors, outlaws, and pirates, were associated here, to ferment and breed plots of blood, and torture, and murder, and treason.

Under a grand bandit like Nicholls, what might not such an assemblage achieve? This bloodthirsty, ferocious miscreant, endeavored to tempt the cupidity as well as the ferocity of the savages, by pretending that, by the 9th article of the British treaty, they were to be restored to the condition they enjoyed in 1811. He encouraged them to disclaim the treaty of Fort Jackson, and to drive the Americans from the lands acquired by that treaty.

Nicholls, thus countenanced and encouraged by the Spaniards, becomes more daring and insolent. In his letter of the 12th May, 1815, to Colonel

onel Hawkins—a letter that would disgrace a vandal—he exults in the security of his position, prescribes limits to the people of the United States, and threatens with instant death every one who shall venture to transgress them.

I will read to you, sir, a few paragraphs from this letter: "I have ordered them, (the Indians,) however, to stand on the defensive, and have sent them a large supply of arms and ammunition, and told them to put to death, without mercy, any one molesting them. They have consented to wait your answer before they take revenge. But, sir, they are impatient for it, and well armed, as the whole nation now is, and stored with ammunition and provisions, having a strong hold to retire to in case of a superior force appearing."

"I am also desired to say to you, by the chiefs, that they do not find that your citizens are evacuating their lands, according to the 9th article of the Treaty of Peace, but that they were fresh provisioning the forts. They also request me to inform you, that they have signed a treaty of offensive and defensive alliance with Great Britain, as well as one of commerce and navigation, which, as soon as ratified at home, you shall be made more fully acquainted with."

Nicholls, having established his government, begins to think of foreign alliances. He assumes the diplomatist; is converted into a Minister Plenipotentiary; makes, in behalf of his subjects, a treaty offensive and defensive, and a treaty of navigation and commerce with Great Britain, and proceeds to England to obtain their ratification. His "bluff people" were left to themselves; who commanded or governed them is not distinctly known, until the unfortunate Ambrister and Arbuthnot succeeded to the government.

It is, however, sir, well known that these desperadoes were not inactive; that the unfortunate inhabitants of our frontiers felt the full weight of the vengeance threatened by Nicholls, and that the Spanish officers looked with perfect composure at these atrocities, committed within their own jurisdiction. Nay, more: the Governor of Pensacola endeavors to preserve the establishment. In a letter of the 26th May, 1816, in answer to one from General Jackson, complaining of this nuisance, the Governor pretends to deprecate the existence of it, and to regret his want of authority and means to break it up; promises to write for orders, but hopes that the United States will not violate the neutrality of Spain, by attempting to suppress it themselves. After waiting two months, and no symptom of a disposition to suppress the establishment, on the part of the Spanish authorities, a vessel of the United States ascended the river, to break up this nest of outlaws. After a boat's crew of this vessel had been murdered, except one who was made prisoner, carried into the fort, tortured, and burnt to death, the magazine was set on fire by a shot from the vessel, and two hundred and seventy men, the choice troops of Nicholls's command, and Britain's allies, were blown into the skies.

Sir, if there could remain a doubt whether the



H. OF R.

Seminole War.

JANUARY, 1819.

commandant of St. Marks was in league with these people, this doubt must be removed by a mass of testimony contained in the documents on your table. The moment the Negro Indian fort was destroyed, St. Marks became the deposite and storehouse of the savages. Here their councils were held; here they sold their bloody trophies, torn from our murdered citizens, and here they received the instruments and means of future murders. Luengo was the adviser, aider, and protector of the savages, and the friend and coadjutor of Arbuthnot. Witness the depravity of this double-tongued hypocrite. Policy induced his acquiescence! When Jackson arrives, from an associate of the Indians, he becomes our friend, and discovers a baseness which a brave man would despise. "May God preserve your Excellency, is my prayer. I kiss your Excellency's hand, and am your most faithful and obedient servant."

If St. Marks was used for purposes of Indian hostility, much more so was Pensacola. Suffice it to say, that there is a mass of evidence, which proves most positively that, from the Spring of 1817 to the capture of Barancas by Jackson, the Spaniards of that place constantly sold to the Indians arms and munitions of war, and purchased their plunder; that the Spanish Governor privately furnished them with arms and provisions from the public stores, and the Indians were commanded by Spanish officers, and were actually protected and aided in their escape by the Spanish Governor.

Sir, is it not demonstrated, then, that the Spanish officers and inhabitants of Florida were identified with our enemy; and that the posts of St. Marks and Pensacola were converted to the use of the savages? Even then, upon the strongest hypothesis in favor of these people of Florida, upon the supposition that the jurisdiction of Spain was concurrent with that of the Indians, and that the Indians are independent in war, we had a right to enter this territory, to meet and conquer our enemy, and to take the posts thus become hostile.

In speaking of the case of Ambrister and Arbuthnot, it becomes necessary to notice a remark in the report of the Military Committee. They state that, at the time of the capture of these men, the war was, to all intents and purposes, at an end; and they very appropriately distinguish this sentence with three notes of admiration. And, sir, it is to me matter of the profoundest astonishment how these gentlemen discovered that the war was at an end. Do they find it in General Jackson's letters of the 20th and 26th of April? In these, although he expresses the intention of returning to Nashville, he expressly states the necessity of scouring the country on the west of the Appalachicola. He had not yet crossed that river, and between this and Pensacola there was a distance of near two hundred miles, with scarcely an inhabitant except Indians. Do the committee infer it from his discharging the Georgia militia? Sir, there is a better reason why they were discharged—the best reason in

the world—they were not wanted. It would be marching them near two hundred miles further from their homes, making an additional march of near four hundred miles, while the Tennessee troops would be about as near home at Pensacola as at St. Marks. His force was strong enough without them; they would have been an actual encumbrance, and could have afforded him no manner of aid, but that of eating up his provisions; an aid, by the bye, which at that time General Jackson did not need. Sir, if the war was, to all intents and purposes, at an end, the committee have not gone far enough. General Jackson should have been charged with high crimes and misdemeanors, indeed. Every step which he afterwards took, was in violation of his express orders, and every death he occasioned was an act of deliberate and malicious murder. He has wantonly wasted the troops and treasure of the nation, and stained his hands with innocent blood.

But how, sir, was this war to all intents and purposes at an end? Had the enemy been conquered? had he submitted? had he offered terms of peace? Does not every one know, that, to disperse Indians, is not to conquer them? Was it not extremely probable that the enemy had retired to his covert and fortresses, there to wait for a favorable opportunity to issue forth to retrieve his disasters, and take ample revenge? And is it not a fact, that, near a month after this war was to all intents and purposes at an end, Major Young engaged, fought and defeated a large body of the enemy, on the Escambia, in the neighborhood of Pensacola? How, then, is it, that we hear that the war was to all intents and purposes at an end?

I am willing to admit, for argument, sir, that if Ambrister and Arbuthnot were acting under orders or authority from the British Government, and Jackson knew it, he should have retained, and treated them as British prisoners of war. But, is it fair to presume this? With Great Britain we were at peace; and though Nicholls had made a treaty, offensive and defensive, with His Britannic Majesty, there is no evidence that it ever was ratified. When Nicholls went to England, with his prophet and his treaty, the American Minister there protested to Earl Bathurst against the proceedings of this incendiary. Earl Bathurst disavowed the whole transaction, and stated that the treaty would not be ratified, nor Nicholls admitted to an audience. The same disavowal was repeated by Lord Castlereagh, on his return from the Continent. I regret, however, that circumstances exist, to authorize a suspicion of the insincerity of the British Government. Although our Minister in London pressed both of the above gentlemen repeatedly, by several official notes, yet he never was able to extort a disavowal in writing. The same caution, it is understood, has been manifested by the agents of His Majesty's Government here.

There are other circumstances which go to throw a mystery over the conduct of the British Court in regard to these Indians. Papers were

JANUARY, 1819.

Seminole War.

H. OF R.

found with Arbuthnot, which might tend to increase the suspicion. His letter to Nicholls of the 26th August, 1817, informing him that Governor Cameron of New Providence had shown him a letter from Bathurst, stating that the British Minister at Washington had orders to watch over the interests of these Indians—the conduct of Cameron in the affair—his unsigned answer, referred to at the close of this letter—and the respectful notice taken of the prophet Francis while in England; all go to create a suspicion, that the hand of the Government is in this thing. But, as the British Government have verbally disavowed all concern in the affair, surely General Jackson could not presume anything in favor of these men, by suspecting the integrity of their Government.

The justice of their execution cannot, in my mind, admit of a doubt. They were volunteers in the service of a lawless tribe of savages, whose mode of warfare is indiscriminate massacre of all ages and sexes. It is right, it is merciful to inflict on these savages those cruelties which they practise and inculcate. In this, however, it is proper to select the most atrocious and vindictive. To spare the effusion of the blood even of savages, and to effect that security which arises from eminent examples, it is prudent and wise to select those men as objects of retaliation and punishment, who are the most active and successful in practising and inflicting cruelties. Who, then, could have been selected as examples, with more justice and policy, than these two foreigners, who had been taught in the school of humanity, and understood the distresses which their conduct would inflict? The General had a right to execute them without trial. This right is an executive right, and rests in the commanding General. A trial by court martial, strictly speaking, in my mind, was illegal. As the General had power to execute them without trial, there could be no good reason to try these men, which would not apply to the chiefs who were hung without trial, except the necessity of ascertaining whether there were in fact concerned in provoking and prosecuting hostilities. All that Jackson could have legally done, would have been to appoint a board of officers to ascertain this fact. All the authority which he delegated to them, therefore, beyond that, was illegal; and it was his duty to annul it, and pass the judgment and sentence which the facts justify. The most, then, that can be contended, is, that this was a wrong mode of doing a right act. And though I am not an advocate for the principle, that the end justifies the means, yet, in this case, I see nothing so erroneous in the means, as to impeach the character of the end. The truth was found by the court martial, and upon this it was his duty to decide. He did decide, and I trust correctly. I will not tire the patience of this Committee by a particular statement of the evidence against these men. Ambrister was taken in arms, and the proofs against him are abundant, that he was actively engaged in provoking and prosecuting this war: and that he enforced the precept of his master,

Nicholls, to regard the affections and antipathies of the Indians. Arbuthnot was not only the exciter, but supporter of the war. Knowing of the treaty of Fort Jackson, of 9th August, 1814, he keeps up the pretence, that these Indians were not bound by it, but were relieved by the 9th article of the British Treaty. He is the successor of Nicholls. He calls for succors from the British Government. He is the associate and confidant of the commandant of St. Marks. He furnishes the Indians with the weapons of destruction.

Sir, an awful responsibility rests upon this House. Upon their decision rests the safety of thousands. I hope and trust that the period has arrived, when the United States shall have adopted a rule of policy, to punish every foreigner who shall instigate the savages to war. Let it from henceforth be promulgated, that no citizen of a civilized nation, who excites the savages to war, is to be spared. That, wherever he may be found, he is to be deemed the enemy of mankind, and to suffer instant death. Had this rule been adopted forty years ago, and rigidly observed, how many disconsolate mothers would now be happy in the embraces of their children! How many bereaved parents, and children, and husbands, and wives, would now be surrounded by their respective friends, and enjoying the endearing charities of domestic life!

Sir, it is not a matter of trifling importance for a man to quit the sweets of society, and to become an inhabitant of the wilderness, surrounded by savage beasts and savage men. The privations and dangers he is to endure, demand the protection and solicitude of the nation. Gentlemen in this House can well describe the dangers and hardships through which the frontier settler has to pass; and I appeal to the gentlemen from the West, particularly, if it is not well understood, and fully believed, that most of the Indian wars were instigated by foreigners? I ask gentlemen to look back awhile, and examine facts. Let them recollect the letter of Mr. Jefferson to Mr. Hammond, on this subject, in 1792. Let them examine the facts in proof of foreign instigation, which occurred before and after the defeat of St. Clair, and the victory of Wayne. I could call to your recollection the address of Lord Dorchester, advising the Indians to take up the hatchet. The numerous cases of British traders urging and provoking hostilities, and of British subjects found fighting with, and painted like Indians. But these are familiar to gentlemen who witnessed the events of those times. A mass of evidence on this subject was collected by a committee, who made to this House, on the 13th of June, 1812, a very able report, on the subject of Indian hostilities, and their causes.

I will, however, read you a paragraph from a late document of very high authority, and which presents the facts in a very forcible and emphatic manner. It is thus expressed:

"The undersigned very sincerely regret to be obliged to say, that an irresistible mass of evidence, consisting principally of the correspondence of British officers and agents, part only of which has already



been published in America, establishes, beyond all rational doubt, the fact, that a constant system of excitement to those hostilities, was pursued by the British traders and agents, who had access to the Indians; not only without being discountenanced, but with frequent encouragement by the British authorities. And if they ever dissuaded the Indians from commencing hostilities, it was only by urging them, as in prudence, to suspend their attacks, until Great Britain could recognise them as her allies in the war."

Sir, do you ask me for the authority which I read? I answer, it is a communication made to the British Commissioners at Ghent; and it is signed by John Q. Adams, J. A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin; names which this country, I trust, will long delight to honor. Sir, is further proof needed? Let the disconsolate widow, and helpless orphan, whose cause I am advocating, be my witness.

I confess, sir, that I am excited, and my sensibility is awakened. My imagination transports me into some distant wilderness, in some sequestered spot. A female form stands before me, and seems to say, "Once I enjoyed the conveniences and pleasures of life. Excluded, in some measure, from the enjoyment and allurements of the world, I was happy in the society of my husband; and the embraces of my children. The bounty of Providence was poured in, in copious effusion; the sun of prosperity had risen, was shedding its beams upon us, and hastening to its meridian. But, it was at once obscured by a cloud. Some foreign incendiary, prompted by avarice or revenge, excited the savage, and provoked him to vengeance. The midnight yell was heard—our habitation was assailed—the doors were forced—the horrors of despair thickened around us. My husband met and fell under the fatal stroke; my children clung to my neck, and fastened on my bosom; they were torn from my embrace, and mangled and murdered in my presence! I was doomed to a more lingering fate—to endure the torch and the fagot, and wait the tardy approach of the fatal messenger, in most excruciating torment. Our spirits have taken their flight—our mangled bodies are cast out, a prey to the vultures and wolves of the desert—our bones are scattered and bleaching on the mountains. Go tell the advocates of false humanity—go tell your countrymen, who revel and wanton in the luxuries of freedom, that there is an avenging God; that justice and mercy demand a prompt and severe retribution; that duty and policy demand that you should punish, with instant death, every instigator of Indian barbarity, wherever he may be, and whenever he may be found. Then will your country become the protectors of the unfortunate, and the defenders of the defenceless. Then will you have tranquillity on your borders—prosperity in your dwellings. Then will your peace be indeed as a river, and your righteousness as the waves of the sea." There is a pause—and I seem to hear the responsive amen, descending from the throne of infinite mercy.

Mr. T. M. NELSON, of Virginia, said, it had been his intention, when the Committee of the

Whole on the state of the Union first took up the report which was now the subject of deliberation, to have stated briefly the view taken by the majority of the Military Committee who concurred in the report; but, not having been so fortunate as to get the floor, he had been obliged to delay doing so until now. I should not, said he, have obtruded any remarks upon you now, sir, had the report the aid of the chairman, who has so faithfully presided over the Military Committee ever since he has occupied that station; but, I regret to say, we differed in opinion on this occasion.

I believe I am correct in stating that that part of the subject to which the report is confined, is the only one on which a majority of the committee could be united; and, as the other branch of it might fairly be considered to be in the hands of another committee of this House, a reason was found for passing it over in silence. I moreover acknowledge that, although I did, previous to the decision of the committee, disapprove the proceedings against Pensacola and Barancas, as unauthorized and unnecessary. I felt a doubt whether the capture of St. Marks might not be justified, upon the plea of necessity; but that is dispelled by a more minute examination of the documents. A reference to the letter from the commanding officer at St. Marks, to General Jackson, bearing date April 7, 1818, to be found page 67 of the documents on the Seminole war, and which had escaped my recollection, shows that there was no necessity for the capture of that post, to preserve it from falling into the hands of the Indians; the apprehension of which seems to be the original cause of General Jackson's design to take it. And, sir, if for the peace of the United States, it was important that St. Marks should not fall into the hands of the enemy, the proposition made to General Jackson, in the letter I have alluded to, to leave a force in its vicinity, with which the Spanish troops would co-operate, to effect that object, appears to me amply sufficient for every purpose of security and defence. General Jackson thought differently; he thought "St. Marks was necessary, as a depot, to insure success, and he occupied it with an American force."

The gentleman (Mr. HOLMES) who preceded me in this debate, has gone into a long train of reasoning to show that Spain has given us just cause of war, and thence infers that General Jackson had a right to take possession of the Spanish garrisons in West Florida. Sir, I am not the apologist of Spain; I wish to be distinctly understood to say, that to Spain we are under no obligations for General Jackson's conduct while in her territory. When the gentleman, who is chairman of the Committee on Foreign Relations, shall offer a proposition to go to war with Spain, it will be time enough to inquire whether we have just cause of war against her; but there would be many other points of discussion, besides the mere justification or cause of war. Would it be politic, would it be magnanimous, to make war upon a degraded, enfee-

bled enemy? These are questions which I am not called upon at this time to decide. Sir, the question now before us is, whether a war has existed between the United States and Spain, and by whose authority. That a war has been prosecuted by General Jackson, against the Spanish authority in West Florida, can be established by his own representation. I refer you to the capitulation entered into by General Jackson and the Governor of Pensacola "which, with the exception of one article, amounts to a complete cession of the country to the United States," to use the General's own language. How, sir, was this effected? By the American army, commanded by General Jackson. Was it in compliance with the wish and desire of the Spanish commander? No, sir; it was in direct opposition to his warning, that he would repel force by force; which General Jackson says "was so open an indication of hostile feeling" on the part of the Governor, that he no longer hesitated on the means to be adopted. "I marched for and entered Pensacola, with only the show of resistance." In his letter of the 2d of June, to the Secretary of War, he details all the minutia of investing the fortress of Barancas; of making a lodgement under the fire of the garrison; of mounting nine-pounder and howitzer batteries; and such other incidents as are attendant on most battles between civilized nations. Mr. Chairman, if this be not war, I have always misunderstood the term, although three years a soldier during what was then called war.

General Jackson, speaking of the captured garrison, says, "the terms were more favorable than a conquered enemy would have merited." He goes on, in the same letter, to state the kind of government he had established, appointing revenue and other officers, putting the revenue laws of the United States in force! By what authority has all this been done, Mr. Chairman? Has it been the effect of any act of Congress, where the power alone is vested by the Constitution? It is not necessary to refer to that instrument to show, that to Congress alone belongs the war-making power; every gentleman who hears me knows it to be so; nor will I consent to partition it. The inevitable result of every gentleman's unbiassed inquiry will be, that a war has been waged against a foreign Power by the United States without the sanction of Congress, where alone the right and the power constitutionally exists. And, in this act of war, I witness, to regret and deplore, the most unqualified infraction of the Constitution that has ever occurred since its adoption. Shall we, sir, who represent the sovereignty of the nation, tamely fold our arms and acquiesce in the violation of that sacred instrument, which, by our oaths and our interests, we are bound to support and maintain? I trust not. Let us apply the only remedy in our power, censure the proceedings, and enact other laws which cannot be misconstrued. I fear even this remedy will prove inefficient; the Constitution, to my mind, is so plain and explicit on this point, that he who runs may read.

The gentleman from Massachusetts, referring to the President's Message of the 25th of March last, says Congress was apprized of the course about to be taken in the prosecution of the Seminole war, and that we had ample opportunity to interpose and prevent that course, if it had been thought necessary, and argues that, as the opportunity was neglected, it is now improper to take any steps in relation to it. How does the case stand, in point of fact, sir? The order given to General Gaines, which it was supposed would and ought to have governed General Jackson when he assumed the command, and which was communicated to Congress with that Message, is explicit in requiring that "the Spanish authority should be respected, wherever it is maintained." Sir, need I go into a minute examination of the documents to prove that the Spanish authority was maintained both in Pensacola and Barancas? I think not. Gentlemen will find, by examining the evidence furnished by General Jackson himself, to justify the capture of those places, very far short of any definite proof; and the greatest number of Indians said to have been in the neighborhood does not exceed two hundred; except upon the hearsay evidence of William Hambly, who certifies that he had understood that five hundred had been seen at Pensacola some time in the early part of the year; these, however, all dwindled down to one, an almost superannuated chief, who was found there at the capture of Barancas. I cannot conceive, then, how Congress could anticipate so extraordinary a departure from orders, in the prosecution of the war.

I must now beg leave, sir, to call your attention to the other branch of this subject—I mean the report from the Military Committee. You have understood that the chairman differed from a majority of the committee, which accounts for my feeble effort to sustain it. The first proposition of the report is, that there exists no law of the United States authorizing the punishment of Arbuthnot and Ambrister, by a military tribunal, for the charges of which they were found guilty and suffered death. The Rules and Articles of War alone contain the law which shall govern courts martial in their proceedings; and I deny that any authority can there be shown for the proceedings, in these cases, of the court or commanding General. The fifty-sixth and seventh articles cannot be construed to extend to foreigners, but are evidently intended to operate on our own citizens only, who shall be found guilty of aiding, abetting, comforting, or corresponding with the enemy. But the law of nations, say gentlemen, authorizes retaliation on our enemy; and the same law says, "where severity is not absolutely necessary, clemency becomes a duty." Let me, however, here protest, as I ever will, against the assumption of this right by a military officer; nay, by the Executive itself. Sir, it belongs to Congress, and to Congress alone. Else why, on a former occasion, was it thought necessary to delegate the power, by special act, to Mr. Madison during the late war with Great



Britain? Gentlemen are not aware to what extent this doctrine leads. Under their construction, the most ignorant, besotted corporal, in your service, if in command, may assume the exercise of it.

And now, sir, to the necessity of the case. General Jackson, in his letter to the Secretary of War, dated 20th April, page 52 of the documents, says "the war is ended for the present." In his letter of the 26th of the same month, (the very day on which the order issued for the court martial) after detailing some plans for securing the conquered country, this "valuable acquisition to the Republic," he says "I shall proceed direct to Nashville—my presence is no longer necessary in this country." Why was it not, Mr. Chairman? The war was at an end, and no necessity existed for retaliation. If he possessed the power, clemency became a duty. Colonel Butler, adjutant general, in his report to the War Department, informs us, that, on the 20th April, General Glascock was ordered to march his brigade to Hartford, Georgia, and muster them out of service. On the 24th, General McIntosh, commanding the friendly Indians, was ordered to Fort Scott, to muster them out of service. How then, Mr. Chairman, can these executions be justified upon the plea of necessity? The war was at an end, to all intents and purposes, notwithstanding General Jackson choose afterwards to renew it against Pensacola and the fortress Carlos de Barancas.

I will endeavor to show that Arbuthnot was pardonable in the view he took of Indian rights, in relation to the land obtained by the United States, by the treaty of Fort Jackson; as many, less ignorant than he is presumed to be, construed the 9th Article of the Treaty of Ghent to mean what it expresses—to oblige both parties "to restore to each tribes or nations of Indians, respectively, all the possessions, rights, and privileges, which they may have enjoyed or been entitled to in one thousand eight hundred and eleven." It will be recollected that the treaty of Fort Jackson was made in 1814. Sir, will it not admit of a doubt in your mind whether the land obtained under that treaty is justly held? Particularly when it is remembered that the treaty was notoriously made with the friendly chiefs only, who constituted about one third of the nation. This circumstance, although not susceptible of proof at this time, is strengthened by the face of the treaty itself. It is there to be found, that the individual property of the friendly chiefs within the ceded territory is expressly reserved, establishing most clearly that the friendly chiefs ceded to us that which did not belong to them, and which, in my humble opinion, we are bound to restore.

In further extenuation of Arbuthnot, it will be recollected, that he was residing, as he had a right to do, among these people; he enjoyed protection in his person and property; he shared their hospitalities and kindness; he was in fact an Indian. He, no doubt, prompted by one of the noblest principles of our nature, espoused their cause—became their friend and adviser. He had a right

to do so. And shall it be said, in the Hall of an American Congress, that he who obeys the dictate of gratitude to an Indian deserves to die? I hope not.

I will now pass on to the evidence upon which Arbuthnot was convicted. In addition to the objections made in the report to that part of the proceedings of the court martial, I must be allowed to say, that I should be extremely cautious, at any time, how I found a man guilty of the forfeiture of his life, upon the testimony of his personal enemies; and it will be recollected by the Committee that two of the principal witnesses were proved to be such in the examination before the court. The fact was acknowledged by one, and a correspondence with the other, exhibited in the trial, established it as to the other.

I will now take a short view of Ambrister's case. Some of the arguments which I have offered to the Committee, which extenuate the offences charged against Arbuthnot, are applicable also to him. He was living with the Indians—enjoying their protection and kindness. He, too, from that principle of gratitude inherent in man, was called upon to aid and succor them in time of distress and emergency. I will not say anything of the quotation from the law of nations, under which General Jackson justifies the executions; that is put to rest by the report. But the advocates of General Jackson again meet us with the law of retaliation. Let us suppose, for argument sake, and for argument sake only, that he possessed the right; was not that right waived by his submitting the case to a court martial, who sentenced the prisoner to one punishment, and the commanding General inflicted another and a greater—death? In doing so, he violated every principle of law and justice, in my opinion. Even suppose that Ambrister was legally tried, and legally convicted, he cannot be considered legally punished, when the punishment exceeded, far exceeded the sentence of the court. Sir, I feel that the detail of circumstances to which I have confined myself, and which must be familiar to every gentleman of the Committee, must be uninteresting; I will leave the subject in better hands than mine to comment on.

Mr. JOHNSON, of Virginia, said it was with sensations very different from those which are pleasurable, that he entered on the investigation of the subject which claimed the attention and deliberation of the Committee. To be compelled, said he, to investigate the conduct of the high and distinguished officers of the Government, when warned and admonished by every fact which meets my eye, that I shall be compelled to disapprove that conduct, can never be to me a pleasurable duty. As an American citizen, as the Representative of a portion of the people of the United States, it would be the pride and pleasure of my heart to be enabled always to prove the officers of my Government right, and to prove the enemies of my country and the enemies of liberty wrong. Before I proceed, sir, I must notice a remark made by the honorable gentleman from Massachusetts, (Mr.

HOLMES.) I am sorry that I do not see the honorable gentleman in his seat. [Mr. HOLMES rose.] He remarked that a malicious prosecution had been commenced against the President of the United States. I do not precisely understand the gentleman. By whom has this malicious prosecution been commenced? [Here Mr. HOLMES rose and explained. He said the remark was intended as a reply to an observation made on yesterday by an honorable gentleman from Georgia, (Mr. CORB.) who seemed to insinuate that some instruction given to General Jackson had been suppressed.] Mr. Chairman, I hold it to be a fundamental principle, that every officer of this Government, from the highest to the lowest, is responsible to the people for the manner in which he has discharged the duties of his office. It is on this principle that the Government depends for its perpetuity—for its capacity to secure to the people of the United States peace, prosperity, liberty, and happiness. Is there any gentleman who hears me that will question the truth of this political maxim? Is there any officer, however distinguished by station, or the splendor of his public services, who is unwilling to submit the investigation of his public acts to a candid, deliberate, and decorous investigation by the Representatives of the people? If there be any such officer, I pronounce him a stranger, an alien to the affections of the people, and that it is time to get rid of him. The moment that any officer of this Government denies that he is responsible for the faithful and correct discharge of his public duties, from that moment he becomes dangerous. Sir, I am arguing this question on abstract principles. I have no reference to individuals; I have no feelings to gratify. I presume that a high-minded honorable man, so far from evading an investigation of his public conduct, the moment he discovered the slightest shade of suspicion hovering over the pure, faithful, and legal discharge of his public duties, would court investigation; that he would present himself at the bar of the public, and demand an investigation of his conduct.

Sir, I will proceed to answer the arguments of the gentleman from Massachusetts, (Mr. HOLMES)—the arguments submitted on this day, not those offered on yesterday. The gentleman took great pains on yesterday to conduct us to the line which separates Florida from the United States—to prove that an American General, when authorized by the President of the United States, had the right to march an American army through the United States to this line; and, after managing the argument with great skill and adroitness, he took them over the line, where he left us. Sir, I shall not waste the time of the Committee, by contesting principles about which nobody entertains a doubt, but proceed at once to Pensacola and combat doctrines which have been boldly advanced, but which have been sustained neither by precedent, reason, nor law.

Had General Jackson the right to capture Pensacola and the Barancas? Sir, I wish to treat this question with the most perfect candor and

fairness. To save the trouble of frequent references to books, I have transcribed from Vattel's Law of Nations the strongest principles in favor of the course pursued by the Commander-in-Chief. I have no question that there are copies of Vattel's Law of Nations in the House. If any gentleman doubts the correctness of the quotations, I hope he will compare the text with the original. It is laid down by Vattel, page 410, that "extreme necessity may even authorize the temporary seizure of a place (in a neutral country) and the putting a garrison therein for defending itself against an enemy, or preventing him in his designs of seizing this place when the sovereign is not able to defend it. But when the danger is over, it must be immediately surrendered." Did this necessity exist? Was the existing state of affairs such as would have authorized a commander, possessed of plenary power, to have captured Pensacola and the Barancas? In order to ascertain the facts necessary to a correct decision of this important question, I beg permission to refer the honorable Committee to the correspondence of General Jackson with the Governor of Pensacola and the Secretary of War. In the letter of General Jackson, of the 2d June, 1818, to the Secretary of War, will be found the following statement: "The terms are more than a conquered enemy would have merited, but, under the peculiar circumstances of the case, my object obtained, there was no motive for wounding the feelings of those whose military pride or honor had prompted to the resistance made. The articles, with but one condition, amount to a complete cession to the United States of that portion of the Floridas hitherto under the Government of Don Jose Massot." Though the Seminole Indians have been scattered, and, literally so, driven and reduced, and no longer to be viewed as a formidable enemy, yet, as there are many small marauding parties, supposed to be concealed in the swamps of Perdido, Choctawhatchy, and Chapouly, who might make occasional and sudden inroads on our frontier settlers, massacring women and children, I have deemed it advisable to call into service for six months, if not sooner discharged, two companies of volunteer rangers, under Captains McGirt and Boyles, with instructions to scour the country between the Mobile and Apalachicola rivers, exterminating every hostile party who dare resist, and will not surrender, and remove with their families, above the 31st degree of latitude." In the letter of the 25th of May, 1818, from General Jackson to Don Jose Massot, commanding the Barancas, will be found the following important statement of facts: "I have only to repeat that the Barancas must be occupied by an American garrison; and, again, to tender you the terms offered, if amicably surrendered. Resistance would be a wanton sacrifice of blood, for which you and your garrison will have to atone. You cannot expect to defend yourself successfully, and the first shot from your fort must draw down upon you the vengeance of an irritated soldiery. I am well



advised of your strength, and cannot but remark on the inconsistency of presuming yourself capable of resisting an army which has conquered the Indian tribes, too strong, agreeably to your own acknowledgment, to be controlled by you."

Mr. Chairman, after this statement of facts by the commanding General, permit me to inquire whether any member of this Committee can believe that this extreme necessity existed, which would authorize a General, in a neutral country, temporarily to seize a place and put a garrison there, for defending himself against the enemy, or preventing him in his designs of seizing this place. What, sir! after the Indian tribes had been conquered, with whom was the General waging war? Not with Spain. Not with the Indian tribes, because these tribes he had subdued and conquered. Where, then, was the necessity, the urgent and extreme necessity, which would have justified an absolute sovereign, on whose fiat depended war and peace, in thus forcibly possessing himself of these places and posts in a neutral country?

We are told by the honorable gentleman from Massachusetts, (Mr. HOLMES,) that Spain had not maintained her neutral relations—that she had violated her treaty. And pray, sir, who constituted General Jackson the judge to decide whether Spain had so violated her treaty, and her neutral relations with the United States, as to furnish to this Government justifiable causes of war against her? Not the President of the United States, because he has no power, no authority, to decide the question himself. The people of the United States had too many melancholy evidences of the abuses of this power, when confided to a single Executive Magistrate, ever to trust their tranquillity, repose, and happiness, to individual discretion and prudence. By their Constitution they carefully and cautiously confided this great, this important power of declaring war, to their Representatives—to the Congress of the United States. Has General Jackson himself justified the occupation of Pensacola and the Barancas under that extreme necessity, which, according to the law of nations, dispenses with the rights of property, and justifies the temporary seizure of a post in a neutral country? No, sir; the General had far different views when he entered Pensacola and captured the Barancas. The terms of capitulation prove it; his letter, already referred to, of the 2d of June, to the Secretary of War, proves it. Permit me again to refer to that letter, in order to ascertain the views and the objects of the General. He certainly understood his own motives—his principles of policy—at least as well as those who have attempted to defend his conduct. In the letter of June the 2d, the General remarks: "The Seminole war may now be considered at a close, tranquillity again restored to the southern frontier of the United States, and as long as a cordon of military posts is maintained along the Gulf of Mexico, America has nothing to apprehend from either foreign or Indian hostilities. Captain Gadsden is instructed to prepare a report on the necessary de-

fences of the country, as far as the military reconnoissances will permit, accompanied with plans of the existing works; what additions or improvements are necessary; and what new works should, in his opinion, be erected, to give permanent security to this important territorial addition to our Republic." I appeal to the candor of gentlemen to say, with what view Pensacola and Barancas were forcibly occupied. Was it to prevent the enemy (the Seminole Indians, the Red Sticks, and the negro brigands) in his design of seizing these places; or of enabling the General to defend himself against the enemy? The Indian tribes were conquered. The General himself exultingly speaks of his conquest—of the important territorial addition to our Republic—and points out to the Secretary of War the future policy of the Government of the United States; treats as visionary the idea of fortifying an imaginary line on the 31st degree of latitude, in a wilderness; and proposes to maintain a cordon of military posts along the Gulf of Mexico. Was this war, sir? Was it war against Spain? It was; it must be considered as war. It was the application of military force, for the purpose of making conquests of towns and military posts of the Spanish Government in Florida. Has the Government of the United States the Constitutional authority to wage war with the view to conquest? I must be permitted to doubt. I presume it will not be pretended, that either General Jackson or the President of the United States has the Constitutional right to wage war, for the purpose of making territorial additions to our Republic. The President of the United States has furnished the most conclusive evidence of the opinion which he entertains on the subject of his powers to place the United States in a belligerent attitude with foreign nations. We find, in all the orders from the War Department, the most cautious circumspection; the most apparent reluctance to authorize the march of the American forces into Florida; the most positive injunctions to respect the Spanish authorities. This use of the military forces of the United States, for the purpose of conquest—of making important territorial additions to our Republic—must be viewed as an act of war against Spain, and, in that view, must be considered as an usurpation of the powers of the Congress of the United States—as a violation of the Constitution of the United States.

We are informed by the honorable gentleman from Mass., (Mr. HOLMES,) that the trial and execution of Arbuthnot and Ambrister is the great subject of dispute. I differ from the honorable gentleman; I consider the execution of these miscreants, as they have been called, as but the fragment of the great subject in dispute. It is the usurpation of power, the violation of the Constitution of the United States, the waging of war against a nation with which we were at peace, that I consider as presenting the question most interesting to the people of the United States. What, sir, was the cautious and deliberate course pursued by the Executive Magistrate of the United States, at a former period of our history, on a subject

which might involve the exercise of rights properly belonging to the Congress of the United States? In the year 1793, the Government of the United States was engaged in an Indian war. The British Government had retained, contrary to the Treaty of 1783, the posts of Detroit and Mackinac. The Governor of Canada erected a military post forty-five miles within our acknowledged limits, at the Miami of the Lakes. From these several posts the Indians were regularly supplied with provisions, and the munitions of war. The question whether our commander, General Wayne, should possess and hold—not the two former posts, which were solemnly recognised as the property of the United States, but the latter, on the Miami of the Lakes, which had been tortuously erected, and in violation of the principles of justice and of law, was by the Cabinet unanimously decided in the negative, unless the taking of this post became indispensable to the operations of the army. General Washington and Mr. Jefferson were members of the Cabinet. I have in my eye an honorable friend from Ohio, from whom I obtained this statement. He will correct me if I am inaccurate. This, perhaps, may be considered as a case of extreme delicacy. Perhaps I should myself have decided differently. It, however, shows with what care and circumspection the patriots and statesmen of former times avoided the exercise of doubtful rights—how determined they were not to usurp powers which, by the Constitution, had been vested in the Congress of the United States. We are admonished of the delicacy of our situation in making this investigation, in reference to our existing negotiations and differences with the Spanish Government. Spain, poor, imbecile, miserable, and degraded, as she has been represented—she has nothing to do with investigations between the Government of the United States and our officers. It is not in accordance with her policy, nor in acquiescence to her views or demands that this inquiry is made. Spain has given to us the most abundant and justifiable causes of war. For one, whenever the question of war with Spain shall be constitutionally submitted to me, I shall be prepared to act efficiently on the subject. But, sir, what has been the situation of the Government of the United States? At the very moment that a negotiation was going on at this place, under the sanction of the President of the United States, with Don Onis, General Jackson, at the head of an American army, was forcibly possessing himself of the country, capturing St. Marks and Pensacola, entering, at the head of his victorious and conquering army, the Barancas; making the "important territorial addition to our Republic." I ask if this conduct on the part of the commanding General, in violation of his orders, was not calculated to produce some embarrassment to the President of the United States? If it was not calculated to produce some slight effect in the pending negotiation? And how, sir, is this violation—this prostration of the Spanish authorities in Florida, justified? By that ex-

treme necessity laid down by Vattel—by the writers on national law? No, sir, it is justified by the same principles, the same reasoning resorted to by the British Government to justify the capture of the Danish fleet. The British Government proclaimed to the world, that it was not from hostility to Denmark, but merely to prevent the fleet from falling into the hands of Bonaparte, of the enemy of Great Britain, that she had taken possession of this fleet. It was with the view to secure America, by establishing and maintaining a cordon of military posts, along the Gulf of Mexico, from foreign or Indian hostilities, to make an "important territorial addition to our Republic," that General Jackson made his conquests in Florida. The capture of St. Marks is as unjustifiable as the conquest already referred to. The commandant of that post made every submission, tendered everything which it was in his power to offer, short of committing treason against his Government. To General Jackson he gave a solemn pledge that he would avail himself of the earliest opportunity to obtain permission from the competent authority to surrender the post; in the mean time, he proposed to the General to station a corps of his troops in the vicinity of the post, to co-operate, if necessary, in its defence against the Indians and negroes. This proposition was spurned. St. Marks furnished a convenient depot. Another principle of the law of nations has been relied on to furnish the apology or justification for these conquests. Vattel, page 413, speaking of neutral nations lays it down that they are "not to afford retreat to troops, that they may again attack their enemies." This doctrine certainly does not apply to a flying, scattered, broken, beaten enemy—flying from death and destruction, but, to an enemy retreating with the view to recommence the attack. Let gentlemen beware that they do not push this doctrine too far. How many unfortunate Frenchmen have been compelled to fly from the certain destruction which awaited them in Europe, and to seek an asylum on our peaceful shores, under our mild, free, and happy form of Government? Would the allies have the right to pursue them here, and, on refusal to surrender them, to make war upon us? I should humbly conceive not.

I proceed to examine into the propriety of the course pursued on the trial and execution of Arbuthnot and Ambrister. It is laid down by Vattel, p. 416: "An enemy not to be killed after ceasing to resist." In the same page: "A particular case excepted. Yet, as a prince or his general has a right of sacrificing the life of his enemies to his safety, and that of his men, if he is engaged with an inhuman enemy, who frequently commits enormities, he appears to have a right of refusing life to some of the prisoners he may take, and of treating them as his were treated; but Scipio's generosity is rather to be imitated." Did Arbuthnot and Ambrister come within the particular exception? I beg attention to the careful and particular manner in which this distinguished writer lays down this important principle. The prince, for his own safety, appears to



have the right to take the life of his prisoner. The general, for his own safety, and that of his men, appears to have the right to take the life of his prisoner. This humane author seems disposed to guard this dangerous principle as effectually as possible. It presents two distinct propositions. The general, when in the field, at a distance from his Government, when his safety and that of his men require it, appears (in the words of the author) to have the right to take the life of his prisoner. To justify the general in exercising this high and important power of denying to an unfortunate captive life, the safety of the general and his men must really require the sacrifice. I can scarcely believe that it will be pretended that the safety of the General or his men required the execution of these prisoners. Did then the safety of the Prince (that is, in this country, the people) require the execution of these men? Was it necessary to offer them up on the altar of public safety—to hold them up as a terrible example to future instigators and abettors of Indian wars? If so, their fate should have been referred to the people; that is, to their representatives—to the Congress of the United States. The commanding General had no right, no authority, to decide the question whether the safety of the people required the sacrifice of these captives. We are told—and very seriously told—that this execution of prisoners may be justified on the principles of retaliation. What, retaliate the cruelties and shocking barbarities of savages! Not precisely that sort of retaliation. You execute individuals, not under the authority of the law of nations, during the continuance of war, having given notice to the enemy of the particular acts of inhumanity which you mean to retaliate; not for the purpose of punishing, through these individuals, the nation with which they are identified and fighting, but to punish them, as individuals, for their crimes—the crimes of aiding and abetting and instigating Indian tribes to war upon us; not as an example to operate on nations, but on individuals. And we are seriously and gravely informed, by honorable gentlemen, that an American General has authority to execute individuals for individual offences, as a warning to other individuals, without the form of trial, and even contrary to the sentence of the court, detailed by the General himself, for the purpose of trying the offenders. It is a doctrine unsupported by precedent and law, and is shocking to the principles of humanity. It may be said, as it was remarked the other day by a gentleman from Virginia, (Mr. NELSON,) that this is a sympathy for miscreants—a sympathy resulting from morbid sensibility—a sympathy for British subjects. It is not so, Mr. Chairman. I have no sympathy for British subjects. When I look at yon ruin, (pointing to the Capitol;) when I recollect the massacre at the river Raisin, Frenchtown, and many other places in the United States, during the late war, I recognise in the late British forces an enemy not less cruel and savage than the Seminole Indians—the outlawed Red Sticks. Acts of wanton and shocking cru-

elty occur to me, at which my soul sickens, and which I should have rejoiced to see retaliated on the most distinguished officer in the British army. What has been the opinion, as deliberately expressed by this Government, on the subject of retaliation? Did the highest officer in this Government, during the late war—the Commander-in-Chief of your Army—the President of the United States—consider himself vested with authority to retaliate the acts of cruelty perpetrated by the enemy, or those threatened? The answer will be furnished by referring to the act of Congress, passed during that war, for the express purpose of authorizing the President to retaliate. What has been, since the period of our independence, the uniform and unvarying policy pursued by this Government towards the Indian tribes? Has it been a policy tempered by mercy, brightened by generosity, and ameliorated by Christianity? Have we been constantly engaged in the humane work of civilizing them—of sending emissaries among them to preach the gospel—to distribute the copies of the Bible collected by different societies? Is this policy to be suddenly changed, under the auspices of General Jackson? Shall we, at the close of a war of extermination, go through the ceremony of appointing committees to meet members from the Society of Friends, to devise the means of civilizing this unfortunate, misguided, and deluded race of beings? Such committees have been appointed during the present session. I have seen members of the Society of Friends giving their willing attendance. But Arbuthnot and Ambrister were Christian savages; they were worse than the Indians; they were the excitors and instigators of the war; they deserved death. In a moral point of view, I admit that the instigator to acts of wickedness, and of dark, malignant, and criminal character, is worse than the actor. The question recurs, Had the General, on his own authority, without trial, and against the sentence of the court, the right to take the life of his prisoner—a prisoner completely in his power—from whose hands the weapons of death—the tomahawk and the scalping knife—had been stricken? Were these men, according to any known principle of the law of nations, subject to any other or different treatment than the subjects or citizens of the nation with which they had identified themselves, and by whose sides they were fighting? Most certainly not. The gentleman from Massachusetts (Mr. HOLMES) has made a strong appeal to our feelings. He has painted, in glowing colors, the murders and cruelties which have been perpetrated on our innocent and unoffending citizens, on our Southern frontier. No man can listen to the descriptions of the murders perpetrated on infantine weakness—on innocent and unprotected females—without feeling his blood curdle, and return with chilling horror to his heart. May not the honorable gentleman be mistaken in the effects produced by his picture?

"Affection bound it to his heart;  
Ambition tore the links apart."

Why this effort to excite our compassion? Why this appeal to our feelings? Would any honorable, highminded man—who felt himself justified—who had the law on one hand, and justice on the other, stoop to solicit your pity? No, sir, pity is too nearly allied to another passion to be grateful to the gallant and the highminded. When gentlemen point me to the bleeding scalps of my countrymen—their mangled and still bleeding wounds—and talk to me about the law of retaliation, and represent it as mercy to resort to it, I tell them they are mistaken; that they appeal to stronger feelings; that it is revenge, which they have mistaken for what they term humane and merciful retaliation. Permit me to invite the attention of the Committee to that highly finished specimen of diplomacy, which has called forth so many eulogiums, and so justly, too, from the editors of newspapers—Secretary Adams's letter to our Minister at Madrid; which has been published long since the commencement of the present session of Congress; if my memory does not deceive me, about the 28th of November. Does that letter amount to a complete justification of the whole course pursued by General Jackson in the prosecution of the war against the Seminole Indians? I will not attempt to draw the conclusion; because this honorable Committee is infinitely more capable of arriving at a correct conclusion than I am. But, sir, there is one part of that letter which excites my most serious attention. It is the threat contained in that letter, that, unless the Spanish Government maintains more completely her neutral relations, and observes with better faith her treaty, that those posts in Florida will be retaken and held; that they will not again be surrendered. The letter is published for the benefit of the people of the United States. The declaration or threat is not that this Government will declare war against Spain, and seize upon these posts by way of indemnity, but that they will be retaken and held. The honorable Secretary has not consulted Congress on the subject. The act is to be performed upon his own responsibility, or upon the responsibility of the Executive branch of the Government. I pass on to the correspondence between General Jackson and the Governor of Georgia. This correspondence presents to my mind a most melancholy picture. On the 7th of May, 1818, General Jackson addressed a letter to Governor Rabun, in which will be found the singular and bold declaration, that "You, sir, as Governor of a State, have no right to give a military order while I am in the field." Have the State authorities thus early dwindled into insignificance? I recollect, when we first went into Committee of the whole House, on the subject now before us, some difficulty arose as to the proper mode of bringing into full and free discussion all the questions connected with the Seminole war. An honorable member from Virginia (Mr. SMYTH) offered a resolution of thanks to General Jackson, by way of substitute for the resolution reported by the Military Committee. I would ask whether it be

for the treatment of the Governor of Georgia that this honorable member proposes to obtain from this House a vote of thanks? Have we arrived at that singular period of our history when the division of the United States into military districts, composed of two or more States, and the placing of these divisions under the command of Major Generals of the Army of the United States, *ipso facto* repeals the constitutions of the several States and their laws: That the moment the Major General takes the field, even in a war against Indians and Negro brigands, the lips of the several Governors, and the people of the States composing the division, are to be sealed, and all their powers, even of self-defence, to be suspended? If so, for one, I am disposed to get rid immediately of your standing Army. Sir, the doctrine is fraught with the most dangerous consequences.

Mr. Chairman, I have thus (I fear, in a disjointed manner,) presented to the Committee my views on the interesting questions under consideration. I have attempted, by fair and dispassionate argument, to prove the propriety and the policy of adopting the several resolutions on your table. How far I have succeeded will be for the Committee to decide. When the public feeling shall be sobered by the passing wings of time; when the calm, slow ivy shall have leisure to wreath the soft green of its melancholy over the tombs of the present actors on the busy theatre of public life, these acts, these precedents, will, by posterity, be regarded in a light very different from that in which we view them. That the calamities likely to flow from these bold invasions of the Constitution and laws of the country may be averted from future generations, I most fervently pray to God.

Mr. HARRISON entered into some explanations touching the proceedings of General Wayne, in the war of 1792, against the Northwestern Indians, which had been referred to in debate.

The Committee then, on motion of Mr. CLAY, (who intimated his wish to express his views of the subject,) rose, and reported progress.

WEDNESDAY, January 20.

Mr. BASSETT submitted the following resolution, which was read and ordered to lie on the table:

*Resolved*, That the rules for the admission of persons within the hall of this House be suspended during the present debate, so that the Speaker may admit within the hall others than those included within the same.

An engrossed bill, entitled "An act allowing further time to complete the issuing and locating of military land warrants," was read the third time and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the debts, credits, and funds of the banks within the District of Columbia, not returned in the statement laid before this House



on the 14th instant; which was read and ordered to lie on the table.

#### THE SEMINOLE WAR.

The House again resolved itself into a Committee of the Whole on the state of the Union, (Mr. PITKIN in the Chair,) on the report of the Military Committee, disapproving the trial and execution of Arbuthnot and Ambrister, with the amendments proposed thereto.

Mr. CLAY (Speaker) rose. In rising to address you, sir, said he, on the very interesting subject which now engages the attention of Congress, I must be allowed to say, that all inferences, drawn from the course which it will be my painful duty to take in this discussion, of unfriendliness to either the Chief Magistrate of the country, or to the illustrious military chieftain, whose operations are under investigation, will be wholly unfounded. Towards that distinguished Captain, who has shed so much glory on our country, whose renown constitutes so great a portion of its moral property, I never had, I never can have, any other feelings than those of the most profound respect, and of the utmost kindness. With him my acquaintance is very limited, but, so far as it has extended, it has been of the most amicable kind. I know, said Mr. C., the motives which have been, and which will again be, attributed to me, in regard to the other exalted personage alluded to. They have been, and will be, unfounded. I have no interest, other than that of seeing the concerns of my country well and happily administered. It is infinitely more gratifying to behold the prosperity of my country advancing, by the wisdom of the measures adopted to promote it, than it would be to expose the errors which may be committed, if there be any, in the conduct of its affairs. Mr. C. said, little as had been his experience in public life, it had been sufficient to teach him, that the most humble station is surrounded by difficulties and embarrassments. Rather than throw obstructions in the way of the President, he would precede him, and pick out those, if he could, which might jostle him in his progress—he would sympathize with him in his embarrassments, and commiserate with him in his misfortunes. It was true, that it had been his mortification to differ with that gentleman on several occasions. He might be again reluctantly compelled to differ with him; but he would, with the utmost sincerity, assure the Committee, that he had formed no resolution, come under no engagements, and that he never would form any resolution, or contract any engagement, for systematic opposition to his Administration, or to that of any other Chief Magistrate.

Mr. C. begged leave further to premise, that the subject under consideration presented two distinct aspects, susceptible, in his judgment, of the most clear and precise discrimination. The one he would call its foreign, the other its domestic, aspect. In regard to the first, he would say, that he approved entirely of the conduct of his Government, and that Spain had no cause of complaint. Having violated an important stipulation

of the treaty of 1795, that Power had justly subjected herself to all the consequences which ensued upon the entry into her dominions, and it belonged not to her to complain of those measures which resulted from her breach of contract; still less had she a right to examine into the considerations connected with the domestic aspect of the subject.

What were the propositions before the Committee? The first in order was that reported by the Military Committee, which asserts the disapprobation of this House of the proceedings in the trial and execution of Arbuthnot and Ambrister. The second, being the first contained in the proposed amendment, was the consequence of that disapprobation, and contemplates the passage of a law to prohibit the execution hereafter of any captive, taken by the army, without the approbation of the President. The third proposition was, that the House disapproves of the forcible seizure of the Spanish posts, as contrary to orders, and in violation of the Constitution. The fourth proposition, as the result of the last, is, that a law should pass to prohibit the march of the army of the United States, or any corps of it, into any foreign territory, without the previous authorization of Congress, except it be in fresh pursuit of a defeated enemy. The first and third were general propositions, declaring the sense of the House in regard to the evils pointed out; and the second and fourth proposed the Legislative remedies against the recurrence of those evils.

It would be at once perceived, Mr. C. said, by this simple statement of the propositions, that no other censure was proposed against General Jackson himself, than what was merely consequential. His name even did not appear in any one of the resolutions. The Legislature of the country, in reviewing the state of the Union, and considering the events which have transpired since its last meeting, finds that particular occurrences, of the greatest moment, in many respects, had taken place near our Southern border. He would add, that the House had not sought, by any officious interference with the duties of the Executive, to gain jurisdiction over this matter. The President, in his message at the opening of the session, communicated the very information on which it is proposed to act. He would ask, for what purpose? That we should fold our arms, and yield a tacit acquiescence, even if we supposed that information disclosed alarming events, not merely as it regards the peace of the country, but in respect to its constitution and character? Impossible. In communicating these papers, and voluntarily calling the attention of Congress to the subject, the President must himself have intended that we should apply any remedy that we might be able to devise. Having the subject thus regularly and fairly before us, and proposing merely to collect the sense of the House upon certain important transactions which it discloses, with the view to the passage of such laws as may be demanded by the public interest, he repeated, that there was no censure anywhere, except such as was strictly consequential upon our legislative ac-

tion. The supposition of every new law, having for its object to prevent the recurrence of evil, is, that something has happened which ought not to have taken place, and no other than this indirect sort of censure would flow from the resolutions before the Committee.

Having thus given his view of the nature and character of the propositions under consideration, Mr. C. said he was far from intimating, that it was not his purpose to go into a full, and free, and a thorough investigation of the facts and of the principles of law, public, municipal, and Constitutional, involved in them. And, whilst he trusted he should speak with the decorum due to the distinguished officers of the Government, whose proceedings were to be examined, he should exercise the independence which belonged to him as a representative of the people, in freely and fully submitting his sentiments.

In noticing the painful incidents of this war, it was impossible not to inquire into its origin. He feared that would be found to be the famous treaty of Fort Jackson, concluded in August, 1814; and he asked the indulgence of the Chairman that the Clerk might read certain parts of that treaty. [The Clerk of the House having accordingly read as requested, Mr. C. proceeded.\*] He

\* The passages read by the Clerk were as follows:

"Whereas an unprovoked, inhuman, and sanguinary war, waged by the hostile Creeks against the United States, hath been repelled, prosecuted, and determined, successfully on the part of the said States, in conformity with principles of national justice and honorable warfare; and whereas consideration is due to the rectitude of proceeding dictated by instructions relating to the re-establishment of peace; be it remembered, that, prior to the conquest of that part of the Creek nation, hostile to the United States, numberless aggressions had been committed against the peace, the property, and the lives, of citizens of the United States and those of the Creek nation in amity with her, at the mouth of Duck river, Fort Mimms, and elsewhere, contrary to national faith, and the regard due to an article of the treaty concluded at New York in the year 1790, between the two nations; that the United States, previous to the perpetration of such outrages, did, in order to insure future amity and concord between the Creek nation and the said States, in conformity with the stipulations of former treaties, fulfil, with punctuality and good faith, her engagements to the said nation; that more than two-thirds of the whole number of chiefs and warriors of the Creek nation, disregarding the genuine spirit of existing treaties, suffered themselves to be instigated to violations of their national honor, and the respect due to a part of their own nation, faithful to the United States, and the principles of humanity, by impostors denominating themselves prophets, and by the duplicity and misrepresentation of foreign emissaries, whose governments are at war, open or understood, with the United States.

Art. 2. The United States will guarantee to the Creek nation the integrity of all their territory eastwardly and northwardly of the said line, [described in the first article] to be run and described as mentioned in the first article.

Art. 3. The United States demand that the Creek nation abandon all communication, and cease to hold

any intercourse, with any British or Spanish post, garrison, or town; and that they shall not admit among them any agent or trader, who shall not derive authority to hold commercial, or other intercourse with them, by license from the President, or authorized agent of the United States.

Art. 4. The United States demand an acknowledgment of the right to establish military posts and trading-houses, and to open roads within the territory guarantied to the Creek nation by the second article, and a right to the free navigation of its waters.

Art. 5. The United States demand that a surrender be immediately made, of all the persons and property taken from the citizens of the United States, the friendly part of the Creek nation, the Cherokee, Chickasaw, and Choctaw nations, to the respective owners; and the United States will cause to be immediately restored to the formerly hostile Creeks all the property taken from them since their submission, either by the United States or by any Indian nation in amity with the United States, together with all the prisoners taken from them during the war.

Art. 6. The United States demand the caption and surrender of all the prophets and instigators of the war, whether foreigners or natives, who have not submitted to the arms of the United States, and become parties to these articles of capitulation, if ever they shall be found within the territory guarantied to the Creek nation by the second article.

Art. 7. The Creek nation, being reduced to extreme want, and not at present having the means of subsistence, the United States, from motives of humanity, will continue to furnish, gratuitously, the necessaries of life, until the crops of corn can be considered competent to yield the nation a supply, and will establish trading-houses in the nation, at the discretion of the President of the United States, and at such places as he shall direct, to enable the nation, by industry and economy, to procure clothing.



hem. It does not belong to the holy character of the religion which we profess, to carry its precepts, by force of the bayonet, into the bosoms of other people. Mild and gentle persuasion was the great instrument employed by the meek founder of our religion. We leave to the humane and benevolent efforts of the reverend professors of Christianity to convert from barbarism those unhappy nations yet immersed in its gloom. But sir, spare them their prophets! Spare their delusions! Spare their prejudices and superstitions! Spare them even their religion, such as it is, from open and cruel violence. When, sir, was that treaty concluded? On the very day, after the protocol was signed, of the first conference between the American and British Commissioners, treating of peace, at Ghent. In the course of that negotiation, pretensions so enormous were set up, by the other party, that, when they were promulgated in this country, there was one general burst of indignation throughout the continent. Faction itself was silenced, and the firm and unanimous determination of all parties was, to fight until the last man fell in the ditch rather than submit to such ignominious terms.

What a contrast is exhibited between the contemporaneous scenes of Ghent and Fort Jackson! What a powerful argument would the British Commissioners have been furnished with, if they could have got hold of that treaty! The United States demand!—the United States demand!—is repeated five or six times. And what did the preamble itself disclose? That two-thirds of the Creek nation had been hostile, and one-third only friendly to us. Now, he had heard (he could not vouch for the truth of the statement) that not one hostile chief signed the treaty. He had also heard that perhaps one or two of them had. If the treaty really were made by a minority of the nation, it was not obligatory upon the whole nation. It was void, considered in the light of a national compact. And, if void, the Indians were entitled to the benefit of the provision of the ninth article of the Treaty of Ghent, by which we bound ourselves to make peace with any tribes with whom we might be at war on the ratification of the treaty, and restore to them their lands as they held them in 1811. Mr. C. said he did not know how the honorable Senate, that body for which he had so high a respect, could have given their sanction to the Treaty of Fort Jackson, so utterly irreconcilable as it is with those noble principles of generosity and magnanimity which he hoped to see his country always exhibit, and particularly towards the miserable remnant of the aborigines. It would have comported better with those principles to have imitated the benevolent policy of the founder of Pennsylvania, and to have given to the Creeks, conquered as they were, even if they had made an unjust war upon us, the trifling consideration, to them an adequate compensation, which he paid for their lands. That treaty, Mr. C. said, he feared, had been the main cause of the recent war. And if it had been, it only added another melancholy proof to those with which history already abounds,

that hard and unconscionable terms, extorted by the power of the sword and the right of conquest, served but to whet and stimulate revenge, and to give to old hostilities, smothered, not extinguished, by the pretended peace, greater expansion and more ferocity. A truce thus patched up with an unfortunate people, without the means of existence—without bread—is no real peace. The instant there is the slightest prospect of relief from such harsh and severe conditions, the conquered party will fly to arms, and spend the last drop of blood rather than live in such degraded bondage. Even if you again reduce him to submission, the expenses incurred by this second war, to say nothing of the human lives that are sacrificed, will be greater than what it would have cost you to have granted him liberal conditions in the first instance. This treaty, he repeated it, was, he apprehended, the cause of the war. It led to those excesses on our southern borders which began it. Who first commenced them it was, perhaps, difficult to ascertain. There was, however, a paper on this subject, communicated at the last session by the President, that told, in language so pathetic and feeling, an artless tale—a paper that carried such internal evidence, at least, of the belief of the authors of it that they were writing the truth, that he would ask the favor of the Committee to allow him to read it.\* I should be

\* The following is the letter from ten of the Seminole towns that Mr. C. read:

To the commanding officer at Fort Hawkins.

DEAR SIR: Since the last war, after you sent me word that we must quit the war, we the red people have come over on this side. The white people have carried all the red people's cattle off. After the war, I sent to all my people to let white people alone, and stay on this side of the river; and they did so, but the white people still continue to carry off their cattle. Barnard's son was here, and I inquired of him what was to be done—and he said we must go to the head man of the white people and complain. I did so, and there was no white head man, and there was no law in this case. The whites first begun, and there is nothing said about that; but great complaint made about what the Indians do. This is now three years since the white people killed three Indians; since that they have killed three other Indians, and taken their horses, and what they had; and this Summer they killed three more, and very lately they killed one more. We sent word to the white people that these murders were done, and the answer was, that they were people that were outlaws, and we ought to go and kill them. The white people killed our people first—the Indians then took satisfaction. There are yet three men that the red people have never taken satisfaction for. You have wrote that there were houses burnt, but we know of no such thing being done; the truth in such cases ought to be told, but this appears otherwise. On that side of the river the white people have killed five Indians, but there is nothing said about that; and all that the Indians have done is brought up. All the mischief the white people have done, ought to be told to their head man. When there is anything done you write to us, but never write to your head man what the white people do. When the red people send talks, or write, they always send the truth. You have

very unwilling, Mr. C. said, to assert, in regard to this war, that the fault was on our side—but he feared it was. He had heard that that very respectable man, now no more, who once filled the executive chair of Georgia, and who, having been agent of Indian affairs in that quarter, had the best opportunity of judging of the origin of this war, deliberately pronounced it as his opinion that the Indians were not in fault. Mr. C. said that he was far from attributing to General Jackson any other than the very slight degree of blame which attached to him as the negotiator of the Treaty of Fort Jackson, and which would be shared by those who subsequently ratified and sanctioned that treaty. But if there were even a doubt as to the origin of the war, whether we were censurable or the Indians, that doubt would serve to increase our regret at any distressing incidents which may have occurred, and to mitigate, in some degree, the crimes which we impute to the other side. He knew, he said, that, when General Jackson was summoned to the field, it was too late to hesitate—the fatal blow had been struck in the destruction of Fowl Town, and the dreadful massacre of Lieutenant Scott and his detachment; and the only duty which remained to him was to terminate this unhappy contest.

The first circumstance which, in the course of his performing that duty, fixed our attention, had, Mr. C. said, filled him with regret. It was the execution of the Indian chiefs. How, he asked, did they come into our possession? Was it in the course of fair and open and honorable war?

sent to us for your horses, and we sent all that we could find; but there were some dead. It appears that all the mischief is laid on this town; but all the mischief that has been done by this town is two horses; one of them is dead, and the other was sent back. The cattle that we were accused of taking, were cattle that the white people took from us. Our young men went and brought them back, with the same marks and brands. There were some of our young men out hunting, and they were killed; others went to take satisfaction, and the kettle of one of the men that was killed was found in the house where the woman and two children were killed; and they supposed it had been her husband who had killed the Indians, and took their satisfaction there. We are accused of killing up Americans, and so on; but since the word was sent to us that peace was made, we stay steady at home, and meddle with no person. You have sent to us respecting the black people on the Suwanee river; we have nothing to do with them: they were put there by the English, and to them you ought to apply for anything about them. We do not wish our country desolated by an army passing through it, for the concern of other people. The Indians have slaves there also—a great many of them. When we have an opportunity we shall apply to the English for them, but we cannot get them now. This is what we have to say at present.

Sir, I conclude, by subscribing myself your humble servant, &c. September, the 11th day, 1817.

N. B. There are ten towns have read this letter, and this is the answer.

A true copy from the original.

WM BELL, *Aid-de-Camp.*

No; but by means of deception—by hoisting foreign colors on the staff from which the stars and stripes should alone have floated. Thus ensnared, the Indians were taken on shore, and without ceremony, and without delay, were hung. Hang an Indian! We, sir, who are civilized, and can comprehend and feel the effect of moral causes and considerations, attach ignominy to that mode of death. And the gallant, and refined, and highminded man, seeks by all possible means to avoid it. But what cares an Indian whether you hang or shoot him? The moment he is captured he is considered by his tribe as disgraced, if not lost. They, too, are indifferent about the manner in which he is despatched. But, Mr. C. said, he regarded the occurrence with grief, for other and higher considerations. It was the first instance that he knew of, in the annals of our country, in which retaliation, by executing Indian captives, had ever been deliberately practised. There may have been exceptions, but, if there were, they met with contemporaneous condemnation, and have been reprehended by the just pen of impartial history. The gentleman from Massachusetts may tell me, if he pleases, what he pleases about the tomahawk and scalping knife; about Indian enormities, and foreign miscreants and incendiaries. I, too, hate them; from my very soul I abominate them. But I love my country and its Constitution; I love liberty and safety, and fear military despotism more even than I hate these monsters. The gentleman, in the course of his remarks, alluded to the State from which I have the honor to come. Little, sir, does he know of the high and magnanimous sentiments of the people of that State, if he supposes they will approve of the transaction to which he referred. Brave and generous, humanity and clemency towards a fallen foe constitute one of their noblest characteristics. Amidst all the struggles for that fair land between the natives and the present inhabitants, Mr. C. said he defied the gentleman to point out one instance in which a Kentuckian had stained his hand by—nothing but his high sense of the distinguished services and exalted merits of General Jackson prevented his using a different term—the execution of an unarmed and prostrate captive. Yes, said Mr. C., there was one solitary exception, in which a man, enraged at beholding an Indian prisoner, who had been celebrated for his enormities, and who had destroyed some of his kindred, plunged his sword into his bosom. The wicked deed was considered as an abominable outrage when it occurred, and the name of the man had been handed down to the execration of posterity. I deny your right thus to retaliate on the aboriginal proprietors of the country; and unless I am utterly deceived, it may be shown that it does not exist. But, before I attempt this, said Mr. C., allow me to make the gentleman from Massachusetts a little better acquainted with those people, to whose feelings and sympathies he had appealed through their representative. During the late war with Great Britain, Colonel Campbell, under the command of my honorable friend from Ohio, (Gen. HARRISON),



H. OF R.

Seminole War.

JANUARY, 1819.

was placed at the head of a detachment consisting chiefly, he believed, of Kentucky volunteers, in order to destroy the Mississinaway towns. They proceeded and performed the duty, and took some prisoners. And here is evidence of the manner in which they treated them. [Here Mr. C. read the general orders issued on the return of the detachment.\*] I hope, sir, the honorable gentleman will be now able better to appreciate the character and conduct of my gallant countrymen than he appears hitherto to have done.

But, sir, I have said that you have no right to practise, under color of retaliation, enormities on the Indians. I will advance, in support of this position, as applicable to the origin of all law, the principle, that, whatever has been the custom, from the commencement of a subject, whatever has been the uniform usage, coeval and coexistent with the subject to which it relates, becomes its fixed law. Such was the foundation of all common law; and such, he believed, was the principal foundation of all public or international law. If, then, it could be shown that from the first settlement of the colonies, on this part of the American continent, to the present time, we have constantly abstained from retaliating upon the Indians the excesses practised by them towards us, we were morally bound by this invariable usage, and could not lawfully change it without the most cogent reasons. So far as his knowledge extended, he said that, from the first settlement at Plymouth or at Jamestown, it had not been our practice to destroy Indian captives, combatants or noncombatants. He knew of but one deviation from the code which regulated the warfare between civilized communities, and that was the destruction of Indian towns, which was supposed to be authorized upon the ground that we could not bring the war to a termination but by destroying the means which nourished it. With this single exception, the other principles of the laws of civilized nations are extended to them, and are thus made law in regard to them. When did this humane custom, by which, in consideration of their ignorance and our enlightened condition the rigors of war were mitigated, begin? At a time when we were weak, and they were compa-

\* The following is the extract which Mr. C. read.

"But the character of this gallant detachment, exhibiting, as it did, perseverance, fortitude, and bravery, would, however, be incomplete, if, in the midst of victory, they had forgotten the feelings of humanity. It is with the sincerest pleasure that the General has heard that the most punctual obedience was paid to his orders, in not only saving all the women and children, but in sparing all the warriors who ceased to resist; and that, even when vigorously attacked by the enemy, the claims of mercy prevailed over every sense of their own danger, and this heroic band respected the lives of their prisoners. Let an account of murdered innocence be opened in the records of Heaven against our enemies alone. The American soldier will follow the example of his Government, and the sword of the one will not be raised against the fallen and the helpless, nor the gold of the other be paid for scalps of a massacred enemy."

ratively strong; when they were the lords of the soil, and we were seeking, from the vices, from the corruptions, from the religious intolerance, and from the oppressions of Europe, to gain an asylum among them. And when is it proposed to change this custom, to substitute for it the bloody maxims of barbarous ages, and to interpolate the Indian public law with revolting cruelties? At a time when the situation of the two parties is totally changed—when we are powerful and they are weak: at a time when, to use a figure drawn from their own sublime eloquence, the poor children of the forest have been driven by the great wave which has flowed in from the Atlantic ocean to almost the base of the Rocky Mountains, and, overwhelming them in its terrible progress, has left no other remains of hundreds of tribes, now extinct, than those which indicate the remote existence of their former companions, the mammoth of the New World! Yes, sir, it is at this auspicious period of our country, when we hold a proud and lofty station, among the first nations of the world, that we are called upon to sanction a departure from the established laws and usages which have regulated our Indian hostilities. And does the honorable gentleman from Massachusetts expect, in this august body, this enlightened assembly of Christians and Americans, by glowing appeals to our passions, to make us forget our principles, our religion, our clemency, and our humanity?

Why was it, Mr. C. asked, that we had not practised towards the Indian tribes the right of retaliation, now for the first time asserted in regard to them? It was because it is a principle, proclaimed by reason and enforced by every respectable writer on the law of nations, that retaliation is only justifiable as calculated to produce effect in the war. Vengeance was a new motive for resorting to it. If retaliation will produce no effect on the enemy, we are bound to abstain from it by every consideration of humanity and of justice. Will it, then, produce effect on the Indian tribes? No; they care not about the execution of these of their warriors who are taken captive. They are considered as disgraced by the very circumstance of their captivity, and it is often mercy to the unhappy captive to deprive him of his existence. The poet evinced a profound knowledge of the Indian character, when he put into the mouth of the son of a distinguished chief, about to be led to the stake and tortured by his victorious enemy, the words—

"Begin, ye tormentors! your threats are in vain:  
The son of Alknomok will never complain."

Retaliation of Indian excesses, not producing then any effect in preventing their repetition, was condemned by both reason and the principles upon which alone, in any case, it can be justified. On this branch of the subject much more might be said; but, as he should possibly again allude to it, he would pass from it, for the present, to another topic.

It was not necessary, Mr. C. said, for the purpose of his argument in regard to the trial and

JANUARY, 1819.

Seminole War.

H. OF R.

execution of Arbuthnot and Ambrister, to insist on the innocence of either of them. He would yield, for the sake of that argument, without inquiry, that both of them were guilty; that both had instigated the war; and that one of them had led the enemy to battle. It was possible, indeed, that a critical examination of the evidence would show, particularly in the case of Arbuthnot, that the whole amount of his crime consisted in his trading, without the limits of the United States, with the Seminole Indians, in the accustomed commodities which form the subject of Indian trade; and that he sought to ingratiate himself with his customers by espousing their interests, in regard to the provision of the Treaty of Ghent, which he may have honestly believed entitled them to the restoration of their lands. And if, indeed, the treaty of Fort Jackson, for the reasons already assigned, were not binding upon the Creeks, there would be but too much cause to lament his unhappy if not unjust fate. The first impression made, on the examination of the proceedings in the trial and execution of those two men, is, that on the part of Ambrister there was the most guilt, but at the same time the most irregularity. Conceding the point of the guilt of both, with the qualification which he had stated, he would proceed to inquire, first, if their execution could be justified upon the principles assumed by General Jackson himself. If they did not afford a justification, he would next inquire if there were any other principles authorizing their execution; and he would, in the third place, make some observations upon the mode of proceeding.

The principle assumed by General Jackson, which may be found in his general orders commanding the execution of these men, is, "that it is an established principle of the law of nations, that any individual of a nation, making war against the citizens of any other nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate." Whatever may be the character of individuals waging private war, the principle assumed is totally erroneous when applied to such individuals associated with a Power, whether Indian or civilized, capable of maintaining the relations of peace and war. Suppose, however, the principle were true, as asserted, what disposition should he have made of these men? What jurisdiction, and how acquired, has the military over pirates, robbers, and outlaws? If they were in the character imputed, they were alone amenable, and should have been turned over to the civil authority. But the principle, he repeated, was totally incorrect, when applied to men in their situation. A foreigner, connecting himself with a belligerent, becomes an enemy of the party to whom that belligerent is opposed, subject to whatever he may be subject, entitled to whatever he is entitled. Arbuthnot and Ambrister, by associating themselves, became identified with the Indians; they became our enemies, and we had a right to treat them as we could lawfully treat the Indians. These positions were so obviously correct, that he should consider it an

15th CON. 2d SESS.—21

abuse of the patience of the Committee to consume time in their proof. They were supported by the practice of all nations, and of our own. Every page of history, in all times, and the recollection of every member, furnish evidence of their truth. Let us look for a moment into some of the consequences of this principle, if it were to go to Europe, sanctioned by the approbation, express or implied, of this House. We have now in our armies probably the subjects of almost every European Power. Some of the nations of Europe maintain the doctrine of perpetual allegiance. Suppose Britain and America in peace, and America and France at war. The former subjects of England, naturalized or unnaturalized, are captured by the navy or the army of France. What is their condition? According to the principle of General Jackson, they would be outlaws and pirates, and liable to immediate execution. Were gentlemen prepared to return to their respective districts with this doctrine in their mouths, and to say to their Irish, English, Scotch, and other foreign constituents, that you are liable, on the contingency supposed, to be treated as outlaws and pirates?

Was there any other principle which justified the proceeding? On this subject, he said, if he admired the wonderful ingenuity with which gentlemen sought a colorable pretext for those executions, he was at the same time shocked at some of the principles advanced. What said the honorable gentleman from Massachusetts, (Mr. HOLMES,) in a cold address to the Committee? Why, that these executions were only a wrong mode of doing a right thing. A wrong mode of doing a right thing! In what code of public law; in what system of ethics; nay, in what respectable novel; where, if the gentleman were to take the range of the whole literature of the world, will he find any sanction for a principle so monstrous? He would illustrate its enormity by a single case. Suppose a man, being guilty of robbery, is tried, condemned, and executed for murder, upon an indictment for that robbery merely. The judge is arraigned for having executed, contrary to law, a human being, innocent at heart of the crime for which he was sentenced. The judge has nothing to do, to insure his own acquittal, but to urge the gentleman's plea, that he had done a right thing in a wrong way!

The principles which attached to the cases of Arbuthnot and Ambrister, constituting them merely *participes* in the war, supposing them to have been combatants, which the former was not, he having been taken in a Spanish fortress, without arms in his hands, all that we could possibly have a right to do was to apply to them the rules which we had a right to enforce against the Indians. Their English character was only merged in their Indian character. Now, if the law regulating Indian hostilities be established by long and immemorial usage, that we have no moral right to retaliate upon them, we consequently had no right to retaliate upon Arbuthnot and Ambrister. Even if it were admitted that, in regard to future wars, and to other foreigners, their



H. OF R.

Seminole War.

JANUARY, 1819.

execution may have a good effect, it would not therefore follow that you had a right to execute them. It is not always just to do what may be advantageous. And retaliation, during a war, must have relation to the events of that war, and must be just, have an operation upon that war, and upon the individuals only who compose the belligerent party. It became gentlemen, then, on the other side, to show, by some known, certain, and recognised rule of public or municipal law, that the execution of these men was justified. Where is it? He should be glad to see it. We are told in a paper, emanating from the Department of State, recently laid before this House, distinguished for the fervor of its eloquence, and of which the honorable gentleman from Massachusetts has supplied us in part with a second edition, in one respect agreeing with the prototype, that they both ought to be inscribed to the American public—we are justly told in that paper, that this is the first instance of the execution of persons for the crime of instigating Indians to war. Sir, there are two topics which, in Europe, are constantly employed by the friends and minions of legitimacy against our country. The one is an inordinate spirit of aggrandizement—of coveting other people's goods. The other is the treatment which we extend to the Indians.—Against both these charges, the public servants, who conducted at Ghent the negotiations with the British Commissioners, endeavored to vindicate our country, and he hoped with some degree of success. What will be the condition of future American negotiators, when pressed upon this head, he knew not, after the unhappy executions on our Southern border. The gentleman from Massachusetts seemed on yesterday to read, with a sort of triumph, the names of the Commissioners employed in the negotiation at Ghent. Will he excuse me for saying, that I thought he pronounced, even with more complacency and with a more gracious smile, the first name in the commission, than he emphasized that of the humble individual who addresses you. [Mr. HOLMES desired to explain.] Mr. C. said there was no occasion for explanation; he was perfectly satisfied. [Mr. H. however proceeded to say that his intention was, in pronouncing the gentleman's name, to add to the respect due to the negotiator that which was due to the Speaker of this House.] Will the principle of these men, having been instigators of the war, justify their execution? It was a new one; there were no landmarks to guide us in its adoption, or to prescribe limits in its application. If William Pitt had been taken by the French army, during the late European war, could France have justifiably executed him, on the ground of his having notoriously instigated the continental Powers to war against France? Would France, if she had stained her character by executing him, have obtained the sanction of the world to the act, by appeals to the passions and prejudices, by pointing to the cities sacked, the countries laid waste, the human lives sacrificed in the wars which he had kindled, and by exclaiming to the unfortunate captive, you mis-

creant, you monster, have occasioned all these scenes of devastation and blood? What had been the conduct even of England towards the greatest instigator of all the wars of the present age? The condemnation of that illustrious man to the rock of St. Helena, was a great blot on the English name. And Mr. C. repeated, what he had once before said, that if Chatham or Fox, or even William Pitt himself, had been Prime Minister, in England, Bonaparte never had been so condemned. On that transaction history will one day pass its severe but just censure. Yes, although Napoleon had desolated half Europe; although there was scarcely a Power, however humble, that escaped the mighty grasp of his ambition; although in the course of his splendid career he is charged with having committed the greatest atrocities, disgraceful to himself and to human nature, yet even his life has been spared. The allies would not, England would not, execute him, upon the ground of his being an instigator of wars.

The mode of the trial and sentencing these men, Mr. C. said, was equally objectionable with the principles on which it had been attempted to show a forfeiture of their lives. He knew, he said, the laudable spirit which prompted the ingenuity displayed in finding out a justification for these proceedings. He wished most sincerely that he could reconcile them to his conscience. It had been attempted to vindicate the General upon grounds which he was persuaded he would himself disown. It had been asserted that he was guilty of a mistake in calling upon the court to try them, and that he might have at once ordered their execution without that formality. He denied that there was any such absolute right in the commander of any portion of our Army. The right of retaliation is an attribute of sovereignty. It is comprehended in the war-making power that Congress possesses. It belongs to this body not only to declare war, but to raise armies, and to make rules and regulations for their Government. It was in vain for gentlemen to look to the law of nations for instances in which retaliation is lawful. The laws of nations merely laid down the principle or rule, and it belongs to the Government to constitute the tribunal for applying that principle or rule. There was, for example, no instance in which the death of a captive was more certainly declared by the law of nations to be justifiable than in the case of spies. Congress has accordingly provided, in the rules and articles of war, a tribunal for the trial of spies, and consequently for the application of the principle of the national law. The Legislature had not left the power over spies undefined, to the mere discretion of the commander-in-chief, or of any subaltern officer in the Army. For, if the doctrines now contended for were true, they would apply to the commander of any corps, however small, acting as a detachment. Suppose Congress had not legislated in the case of spies, what would have been their condition? It would have been a *casus omissus*, and although the public law pro-

JANUARY, 1819.

Seminole War.

H. OF R.

nounced their doom, it could not be executed because Congress had assigned no tribunal for enforcing that public law. No man could be executed in this free country without two things being shown; 1st. That the law condemns him to death; and, 2dly. That his death is pronounced by that tribunal which is authorized by the law to try him. These principles would reach every man's case, native or foreigner, citizen or alien. The instant quarters are granted to a prisoner, the majesty of the law surrounds and sustains him, and he cannot lawfully be punished with death, without the concurrence of the two circumstances just insisted upon. He denied that any commander-in-chief, in this country, had this absolute power of life and death, at his sole discretion. It was contrary to the genius of all our laws and institutions. To concentrate in the person of one individual the powers to make the rule, to judge, and to execute the rule, or to judge and execute the rule only, was utterly irreconcilable with every principle of free Government, and was the very definition of tyranny itself; and he trusted that this House would never give even a tacit assent to such a principle. Suppose the commander had made reprisals on property, would that property have belonged to the nation, or could he have disposed of it as he pleased? Had he more power, would gentlemen tell him, over the lives of human beings than over property? The assertion of such a power to the commander-in-chief was contrary to the practice of the Government. By an act of Congress which passed in 1799, "vesting the power of retaliation, in certain cases, in the President of the United States"—an act which passed during the *quasi* war with France, the President is authorized to retaliate upon any citizens of the French Republic, the enormities which may be practised, in certain cases, upon our citizens. Under what Administration was this act passed? It was under that which has been justly charged with stretching the Constitution to enlarge the Executive powers. Even during the mad career of Mr. Adams, when every means was resorted to for the purpose of infusing vigor into the Executive arm, no one thought of claiming for him the inherent right of retaliation. He would not trouble the House with reading another law, which passed thirteen or fourteen years after, during the late war with Great Britain, under the Administration of that great Constitutional President, the father of the instrument itself, by which Mr. Madison was empowered to retaliate on the British, in certain instances. It was not only contrary to the genius of our institutions and to the uniform practice of the Government, but it was contrary to the obvious principles on which the General himself had proceeded; for, in forming the court, he had evidently intended to proceed under the rules and articles of war. The extreme number which they provide for is thirteen, precisely that which is detailed in the present instance. The court proceeded, not by a bare plurality, but by a majority of two-thirds. In the general orders issued from the Adjutant

General's office, at headquarters, it is described as a court martial. The prisoners are said in those orders to have been tried, "on the following charges and specifications." The court understood itself to be acting as a court martial. It was so organized; it so proceeded, having a judge advocate, hearing witnesses, the written defence of the miserable trembling prisoners, who seemed to have a presentiment of their doom. And the court was finally dissolved. The whole proceeding manifestly shows that all parties considered it as a court martial, convened and acting under the rules and articles of war. In his letter to the Secretary of War, noticing the transaction, the General says: "These individuals were tried under my orders, legally convicted as excitors of this savage and negro war, legally condemned, and most justly punished for their iniquities." The Lord deliver us from such legal convictions and such legal condemnations! The General himself considered the laws of his country to have justified his proceedings. It was in vain, then, to talk of a power in him beyond the law, and above the law, when he himself does not assert it. Let it be conceded that he was clothed with absolute authority over the lives of these individuals, and that, upon his own fiat, without trial, without defence, he might have commanded their execution. Now if an absolute Sovereign, in any particular respect, promulgates a rule which he pledges himself to observe, if he subsequently deviates from that rule, he subjects himself to the imputation of odious tyranny. If General Jackson had the power, without a court, to condemn these men, he had also the power to appoint a tribunal. He did appoint a tribunal, and he became, therefore, morally bound to observe and execute the sentence of that tribunal. In regard to Ambrister, it was with grief and pain he was compelled to say, that he was executed in defiance of all law; in defiance of the law to which General Jackson had voluntarily, if you please, submitted himself, and given, by his appeal to the court, his implied pledge to observe. He knew but little of military law, and he had not a taste, by what had happened, created in him for acquiring a knowledge of more; but he believed there was no example on record where the sentence of the court has been erased, and a sentence not pronounced by it carried into execution. It had been suggested that the court had pronounced two sentences, and that the General had a right to select either. Two sentences! Two verdicts! It was not so. The first, by being revoked, was as though it had never been pronounced. And there remained only one sentence, which was put aside upon the sole authority of the commander, and the execution of the prisoner ordered. He either had or had not a right to decide upon the fate of that man without the intervention of a court. If he had the right, he waived it, and having violated the sentence of the court, there was brought upon the judicial administration of the Army a reproach, which must occasion the most lasting regret.



However guilty these men were, they should not have been condemned or executed without the authority of the law. He would not dwell, at this time, on the effect of these precedents in foreign countries, but he would not pass unnoticed their dangerous influence in our own country. Bad examples are generally set in the cases of bad men, and often remote from the central Government. It was in the provinces were laid the abuses and the seeds of the ambitious projects which overturned the liberties of Rome. He beseeched the Committee not to be taken captive by the charms of eloquence and the appeals made to our passions and our sympathies, so as to forget the fundamental principles of our government. The influence of a bad example would often be felt when its authors and all the circumstances connected with it were no longer remembered. He knew of but one analogous instance of the execution of a prisoner, and that had brought more odium than almost any other incident on the unhappy Emperor of France. He alluded to the instance of the execution of the unfortunate member of the Bourbon house. He had sought an asylum in the territories of Baden. Bonaparte despatched a corps of *gen d'armes* to the place of his retreat, seized him and brought him to the dungeons of Vincennes. He was there tried by a court martial, condemned, and shot. There, as here, was a violation of neutral territory; there the neutral ground was not stained with the blood of him whom it should have protected. And there was another most unfortunate difference, for the American example. The Duc D'Enghien was executed according to his sentence. It is said by the defenders of Napoleon that the Duke had been machinating not merely to overturn the French Government, but against the life of its chief. If that were true, he might, if taken in France, have been legally executed. Such was the odium brought upon the instruments of this transaction, that those persons who have been even suspected of participation in it have sought to vindicate themselves, from what they appear to have considered as an aspersion, before foreign Courts. In conclusion of this part of the subject, Mr. C. said that he most cheerfully and entirely acquitted General Jackson of any intention to violate the laws of the country, or the obligations of humanity. He was persuaded, from all that he had heard, that he thought himself equally respecting and observing both. With respect to the purity of his intentions, therefore, he was disposed to allow it in the most extensive degree. Of his acts, said Mr. C., it is my duty to speak with the freedom which belongs to my station. And I shall now proceed to consider some of them, of the most momentous character, as it regards the distribution of the powers of Government.

Of all the powers conferred by the Constitution of the United States, not one is more expressly and exclusively granted than that is to Congress of declaring war. The immortal convention who framed that instrument had abundant reason for confiding this tremendous power

to the deliberate judgment of the Representatives of the people, drawn from every page of history. It was there seen that nations are often precipitated into ruinous war from folly, from pride, from ambition, and from the desire of military fame. It was believed, no doubt, in committing this great subject to the Legislature of the Union, we should be safe from the mad wars that have afflicted and desolated and ruined other countries. It was supposed that before any war was declared the nature of the injury complained of would be carefully examined, the power and resources of the enemy estimated, and the power and the resources of our own country, as well as the probable issue and consequences of the war. It was to guard our country against precisely that species of rashness, which has been manifested in Florida, that the constitution was so framed. If then this power, thus cautiously and clearly bestowed upon Congress, has been assumed and exercised by any other functionary of the Government, it is cause of serious alarm, and it became that body to vindicate and maintain its authority by all the means in its power, and yet there are some gentlemen who would have us not merely to yield a tame and silent acquiescence in the encroachment, but to pass even a vote of thanks to the author.

On the 25th of March, 1818, Mr. C. continued, the President of the United States communicated a Message to Congress in relation to the Seminole war, in which he declared that, although in the prosecution of it, orders had been given to pass into the Spanish territory, they were so guarded as that the local authorities of Spain should be respected. How respected? The President, by the documents accompanying the Message, the orders themselves which issued from the Department of War to the commanding General, had assured the Legislature that, even if the enemy should take shelter under a Spanish fortress, the fortress was not to be attacked, but the fact to be reported to that department for further orders. Congress saw, therefore, that there was no danger of violating the existing peace. And yet, on the same 25th day of March, (a most singular concurrence of dates,) when the Representatives of the people receive this solemn Message, announced in the presence of the nation and in the face of the world, and in the midst of a friendly negotiation with Spain, does General Jackson write from his headquarters that he shall take St. Marks as a necessary depot for his military operations! The General states, in his letter, what he had heard about the threat on the part of the Indians and negroes, to occupy the fort, and declares his purpose to possess himself of it in either of the two contingencies of its being in their hands or in the hands of the Spaniards. He assumed a right to judge what Spain was bound to do by her treaty, and judged very correctly; but then he also assumed the power, belonging to Congress alone, of determining what should be the effect and consequence of her breach of engagement. General Jackson generally performs what he intimates his intention to

do. Accordingly, finding St. Marks yet in the hands of the Spaniards, he seized and occupied it. Was ever, he asked, the just confidence of the legislative body, in the assurances of the Chief Magistrate, more abused? The Spanish commander intimated his willingness that the American army should take post near him, until he could have instructions from his superior officer, and promised to maintain, in the mean time, the most friendly relations. No! St. Marks was a convenient post for the American army, and delay was inadmissible. He had always understood that the Indians but rarely take or defend fortresses, because they are unskilled in the modes of attack and defence. The threat, therefore, on their part, to seize on St. Marks, must have been empty, and would probably have been impracticable. At all events, when General Jackson arrived there, no danger any longer threatened the Spaniard from the miserable fugitive Indians, who fled on all sides upon his approach.

And, sir, upon what plea is this violation of orders, and this act of war upon a foreign Power, attempted to be justified? Upon the ground of convenience of the depot and the Indian threat. The first he would not seriously examine and expose. If the Spanish character of the fort had been totally merged in the Indian character, it might have been justifiable to seize it. But that was not the fact; and the bare possibility of its being forcibly taken by the Indians, could not justify our anticipating their blow. Of all the odious transactions which occurred during the late war between France and England, none was more condemned in Europe and in this country than the seizure of the fleet of Denmark at Copenhagen. And he lamented to be obliged to notice the analogy which existed in the defences made of the two cases. If his recollection did not deceive him, Bonaparte had crossed the Rhine and the Alps—had conquered Italy, the Netherlands, Holland, Hanover, Lubec, and Hamburg—and extended his empire as far as Altona, on the side of Denmark. A few days' march would have carried him through Holstein, over the two Belts, through Funen, and into the island of Zealand. What then was the conduct of England? It was my lot, Mr. C. said, to fall into conversation with an intelligent Englishman on this subject. "We knew (said he) that we were fighting for our existence. It was absolutely necessary that we should preserve the command of the seas. If the fleet of Denmark fell into the enemy's hands, combined with his other fleets, that command might be rendered doubtful. Denmark had only a nominal independence. She was in truth subject to his sway. We said to her, give us your fleet; it will otherwise be taken possession of by your secret and our open enemy. We will preserve it, and restore it to you whenever the danger shall be over. Denmark refused. Copenhagen was bombarded, gallantly defended, but the fleet was seized." Everywhere the conduct of England was censured; and the name even of the negotiator who was employed by her, and who was subsequently

the Minister near this Government, was scarcely ever pronounced here without coupling with it an epithet indicating his participation in the disgraceful transaction. And yet we are going to sanction acts of violence, committed by ourselves, which but too much resemble it! What an important difference, too, between the relative condition of England and of this country! She perhaps was struggling for her existence. She was combating, single-handed, the most enormous military Power that the world has ever known. Who were we contending with? With a few half-starved, half-clothed, wretched Indians and fugitive slaves. And, whilst carrying on this inglorious war—inglorious as it regards the laurels or renown won in it—we violate neutral rights, which the Government had solemnly pledged itself to respect, upon the principle of convenience, or upon the light presumption that, by possibility, a post might be taken by this miserable combination of Indians and slaves.

On the 8th of April the General writes from St. Marks that he shall march for the Suwaney river; the destroying of the establishments on which will, in his opinion, bring the war to a close. Accordingly, having effected that object, he writes on the 20th of April that he believes he may say the war is at an end for the present. He repeats the same opinion in his letter to the Secretary of War, written six days after. The war being thus ended, it might have been hoped that no further hostilities would have been committed. But, on the 23d of May, on his way home, he receives a letter from the commandant of Pensacola, intimating his surprise at the invasion of the Spanish territory, and the acts of hostility performed by the American army, and his determination, if persisted in, to employ force to repel them. Let us pause and examine this proceeding of the Governor, so very hostile and affrontive in the view of General Jackson. Recollect that he was Governor of Florida; that he had received no orders from his superiors to allow a passage to the American army; that he had heard of the reduction of St. Marks; and that General Jackson, at the head of his army, was approaching in the direction of Pensacola. He had seen the President's Message of the 25th of March, and reminded General Jackson of it, to satisfy him that the American Government could not have authorized all those measures. Mr. C. said he could not read the allusion made by the Governor to that Message, without feeling that the charge of insincerity which it implied had at least but too much the appearance of truth in it. Could the Governor have done less than write some such letter? We have only to reverse situations, and to suppose him to have been an American Governor. General Jackson says, that when he received that letter, he no longer hesitated. No, sir, he did no longer hesitate. He received it on the 23d; he was in Pensacola on the 24th, and immediately after set himself before the fortress San Carlos de Baranca, which he shortly reduced. *Veni, vidi, vici.* Wonderful energy! Admirable promptitude! Alas! that it



H. OF R.

Seminole War.

JANUARY, 1819.

had not been an energy and a promptitude within the pale of the Constitution, and according to the orders of the Chief Magistrate! It was impossible to give any definition of war that would not comprehend these acts. It was open, undisguised, and unauthorized hostility.

The honorable gentleman from Massachusetts had endeavored to derive some authority to General Jackson from the Message of the President, and the letter of the Secretary of War to Governor Bibb. The message declares that the Spanish authorities are to be respected wherever maintained. What the President means by their being maintained, is explained in the orders themselves, by the extreme case being put of the enemy seeking shelter under a Spanish fort. If even in that case he was not to attack, certainly he was not to attack in any case of less strength. The letter to Governor Bibb admits of a similar explanation. When the Secretary says, in that letter, that General Jackson is fully empowered to bring the Seminole war to a conclusion, he means that he is so empowered by his orders, which, being now before us, must speak for themselves. It does not appear that General Jackson ever saw that letter, which was dated at this place after the capture of St. Marks. He would take a momentary glance at the orders. On the 2d of December, 1817, General Gaines was forbidden to cross the Florida line. Seven days after, the Secretary of War having arrived here, and infused a little more energy into our councils, he was authorized to use a sound discretion in crossing it or not. On the 16th, he was instructed again to consider himself at liberty to cross the line, and pursue the enemy; but, if he took refuge under a Spanish fortress, the fact was to be reported to the Department of War. These orders were transmitted to General Jackson, and constituted, or ought to have constituted, his guide. There was then no justification for the occupation of Pensacola, and the attack on the Barancas, in the Message of the President, the letter to Governor Bibb, or in the orders themselves. The gentleman from Massachusetts would pardon him for saying that he had undertaken what even his talents were not competent to—the maintenance of directly contradictory propositions, that it was right in General Jackson to take Pensacola, and wrong in the President to keep it. The gentleman has made a greater mistake than he supposes General Jackson to have done in attacking Pensacola for an Indian town, by attempting the defence both of the President and General Jackson. If it were right in him to seize the place, it is impossible that it should have been right in the President immediately to surrender it. We, sir, are the supporters of the President. We regret that we cannot support General Jackson also. The gentleman's liberality is more comprehensive than ours. I approved, with all my heart, of the restoration of Pensacola. I think St. Marks ought, perhaps, to have been also restored; but I say this with doubt and diffidence. That the President thought the seizure of the Spanish posts was an act of war, is manifest from his opening Message,

in which he says, that to have retained them, would have changed our relations with Spain, to do which the power of the Executive was incompetent, Congress alone possessing it. The President has, in this instance, deserved well of his country. He has taken the only course which he could have pursued, consistent with the Constitution of the land. And he defied the gentleman to make good both his positions, that the General was right in taking, and the President right in giving up the posts. [Mr. HOLMES explained. We took these posts, he said, to keep them from the hands of the enemy, and, in restoring them, made it a condition that Spain should not let our enemy have them. We said to her, here is your dagger; we found it in the hands of our enemy, and having wrested it from him, we restore it to you in the hope that you will take better care of it for the future.] Mr. C. proceeded. The gentleman from Massachusetts was truly unfortunate; fact or principle was always against him. The Spanish posts were not in the possession of the enemy. One old Indian only was found in the Barancas, none in Pensacola, none in St. Marks. There was not even the color of a threat of Indian occupation as it regards Pensacola and the Barancas. Pensacola was to be restored unconditionally, and might, therefore, immediately have come into the possession of the Indians, if they had the power and the will to take it. The gentleman was in a dilemma, from which there was no escape. He gave up General Jackson when he supported the President; and gave up the President when he supported General Jackson. Mr. C. said he rejoiced to have seen the President manifesting, by the restoration of Pensacola, his devotedness to the Constitution. When the whole country was ringing with plaudits for its capture, he said and he said alone, in the limited circle in which he moved, that the President must surrender it; that he could not hold it. It was not his intention, he said, to inquire whether the army was or was not constitutionally marched into Florida. It was not a clear question, and he was inclined to think that the express authority of Congress ought to have been asked. The gentleman from Massachusetts would allow him to refer to a part of the correspondence at Ghent different from that which he had quoted. He would find the condition of the Indians there accurately defined. And it was widely variant from the gentleman's ideas on this subject. The Indians, according to the statements of the American Commissioners at Ghent, inhabiting the United States, have a qualified sovereignty only, the supreme sovereignty residing in the Government of the United States. They live under their own laws and customs, may inhabit and hunt their lands; but acknowledge the protection of the United States, and have no right to sell their lands but to the Government of the United States. Foreign Powers or foreign subjects have no right to maintain any intercourse with them, without our permission. They are not, therefore, independent nations, as the gentleman supposed. Maintaining the relation described with them,

JANUARY, 1819.

Seminole War.

H. OF R.

we must allow a similar relation to exist between Spain and the Indians residing within her dominions. She must be, therefore, regarded as the sovereign of Florida, and we are accordingly treating with her for the purchase of it. In strictness, then, we ought first to have demanded of her to restrain the Indians, and, that failing, we should have demanded a right of passage for our army. But, if the President had the power to march an army into Florida without consulting Spain, and without the authority of Congress, he had no power to authorize any act of hostility against her. If the gentleman had even succeeded in showing that an authority was conveyed by the Executive to General Jackson to take the Spanish posts, he would only have established that unconstitutional orders had been given, and thereby transferred the disapprobation from the military officer to the Executive. But no such orders were, in truth, given. The President had acted in conformity to the Constitution, when he forbade the attack of a Spanish fort, and when, in the same spirit, he surrendered the posts themselves.

He would not trespass much longer upon the time of the Committee; but he trusted he should be indulged with some few reflections upon the danger of permitting the conduct, on which it had been his painful duty to advert, to pass, without a solemn expression of this House. Recall to your recollection, said he, the free nations which have gone before us. Where are they now, and how have they lost their liberties? If we could transport ourselves back to the ages when Greece and Rome flourished in their greatest prosperity, and, mingling in the throng ask a Grecian if he did not fear some daring military chieftain, covered with glory, some Philip or Alexander, would one day overthrow his liberties? No! no! the confident and indignant Grecian would exclaim, we have nothing to fear from our heroes; our liberties will be eternal. If a Roman citizen had been asked, if he did not fear the conqueror of Gaul might establish a throne upon the ruins of the public liberty, he would have instantly repelled the unjust insinuation. Yet Greece had fallen, Cæsar had passed the Rubicon, and the patriotic arm even of Brutus could not preserve the liberties of his country! The celebrated Madame de Stael, in her last and perhaps best work, has said, that in the very year, almost the very month, when the President of the Directory declared that monarchy would never more show its frightful head in France, Bonaparte, with his grenadiers, entered the palace of Saint Cloud, and, dispersing with the bayonet the deputies of the people, deliberating on the affairs of the State, laid the foundations of that vast fabric of despotism which overshadowed all Europe. He hoped not to be misunderstood; he was far from intimating that General Jackson cherished any designs inimical to the liberties of the country. He believed his intentions pure and patriotic. He thanked God that he would not, but he thanked him still more that he could

not, if he would, overturn the liberties of the Republic. But precedents, if bad, were fraught with the most dangerous consequences. Man has been described, by some of those who have treated of his nature, as a bundle of habits. The definition was much truer when applied to Governments. Precedents were their habits. There was one important difference between the formation of habits by an individual and by Governments. He contracts it only after frequent repetition. A single instance fixes the habit and determines the direction of Governments. Against the alarming doctrine of unlimited discretion in our military commanders, when applied even to prisoners of war, he must enter his protest. It began upon them; it would end on us. He hoped that our happy form of Government was destined to be perpetual. But if it were to be preserved, it must be by the practice of virtue, by justice, by moderation, by magnanimity, by greatness of soul, by keeping a watchful and steady eye on the Executive; and, above all, by holding to a strict accountability the military branch of the public force.

We are fighting, said Mr. C., a great moral battle for the benefit, not only of our country, but of all mankind. The eyes of the whole world are in fixed attention upon us. One, and the largest portion of it, is gazing with contempt, with jealousy, and with envy; the other portion, with hope, with confidence, and with affection. Everywhere the black cloud of legitimacy is suspended over the world, save only one bright spot, which breaks out from the political hemisphere of the West, to brighten, and animate, and gladden the human heart. Obscure that, by the downfall of liberty here, and all mankind are enshrouded in one universal darkness. To you, Mr. Chairman, belongs the high privilege of transmitting unimpaired, to posterity, the fair character and the liberty of our country. Do you expect to execute this high trust by trampling, or suffering to be trampled, down law, justice, the Constitution, and the rights of other people? By exhibiting examples of inhumanity, and cruelty, and ambition? When the minions of despotism heard in Europe of the seizure of Pensacola, how did they chuckle, and chide the admirers of our institutions, tauntingly pointing to the demonstration of a spirit of injustice and aggrandizement made by our country, in the midst of amicable negotiation. Behold, said they, the conduct of those who are constantly reproaching Kings. You saw how those admirers were astounded and hung their heads. You saw, too, when that illustrious man, who presides over us, adopted his pacific, moderate, and just course, how they once more lifted up their heads, with exultation and delight beaming in their countenances. And you saw how those minions themselves were finally compelled to unite in the general praises bestowed upon our Government. Beware how you forfeit this exalted character. Beware how you give a fatal sanction, in this infant period of our Republic, scarcely yet two score years old,



to military insubordination. Remember that Greece had her Alexander, Rome had her Cæsar, England her Cromwell, France her Bonaparte, and, that, if we would escape the rock on which they split, we must avoid their errors.

How different has been the treatment of General Jackson, and that modest, but heroic young man, a native of one of the smallest States in the Union, who achieved for his country, on Lake Erie, one of the most glorious victories of the late war. In a moment of passion he forgot himself, and offered an act of violence, which was repented as soon as perpetrated. He was tried, and suffered the judgment pronounced by his peers. Public justice was thought not even then to be satisfied. The press and Congress took up the subject. My honorable friend from Virginia, (Mr. JOHNSON,) the faithful and consistent sentinel of the law and of the Constitution, disapproved, in that instance, as he does in this, and moved an inquiry. The public mind remained agitated and unappeased until the recent atonement, so honorably made by the gallant Commodore. And was there to be a distinction between the officers of the two branches of the public service? Are former services, however eminent, to protect from even inquiring into recent misconduct? Is there to be no limit, no prudential bounds to the national gratitude? He was not disposed to censure the President for not ordering a court of inquiry or a general court martial. Perhaps, impelled by a sense of that gratitude, he determined, by anticipation, to extend to the General that pardon which he had the undoubted right to grant after sentence. Let us, said Mr. C., not shrink from our duty. Let us assert our Constitutional powers, and vindicate the instrument from military violation.

He hoped gentlemen would deliberately survey the awful position on which we stand. They may bear down all opposition; they may even vote the General the public thanks; they may carry him triumphantly through this House. But, if they do, in my humble judgment, it will be a triumph of the principle of insubordination—a triumph of the military over the civil authority—a triumph over the powers of this House—a triumph over the Constitution of the land. And he prayed most devoutly to Heaven, that it might not prove, in its ultimate effects and consequences, a triumph over the liberties of the people.

Mr. JOHNSON, of Kentucky, rose immediately after Mr. CLAY. He felt himself called on, having been a member of the committee which had had this subject under consideration, and as one of the minority on the report made by it, to express his views of the questions involved in the report, and in the propositions moved by way of amendment to it. Without further preface, he proceeded to state that the conduct of General Jackson, in regard to the trial and execution of Arbuthnot and Ambrister, had been the subject of censure, from a *misconception* of the law and of the facts connected with it; and, particularly, by confounding two principles of the laws of

nations, which were in themselves separate and distinct. The general order directing the execution of these men asserted, that the subject of any nation, making war upon a nation at peace with that to which he belongs, is an outlaw and a pirate; and, Mr. J. said, it was correctly asserted. And the very same page of *Vattel*, on which gentlemen relied for the support of their doctrine, would bear him out in that for which he contended, and with which gentlemen had confounded one entirely different. That, where persons have joined the standard of a belligerent, they may claim the character and privileges of the belligerent party, was a principle of public law, was not to be denied; but, if an individual takes upon himself to create and carry on a war, without authority from any Government, it was a principle equally undeniable that he is an outlaw and a pirate—not that he is either technically, but that, in fact and by analogy, he is so to be regarded. It is an established principle of public law, that the crew of any vessel, engaging in war without the authority of any commission, may be treated as pirates, and put to the sword. If, on the land, the like course be pursued, he who is guilty of it is an outlaw and a bandit, and may be put to the sword. This was one principle of public law, and that which gentlemen had triumphantly asserted, (and which nobody denied,) was a wholly different one; both not only clearly supported by the authority of *Vattel*, but in the same page of that respected and excellent writer.

Mr. J. said he would venture to say, that every ground taken by that man whose valor and conduct on the memorable eighth day of January, in the darkest period of the late war, had caused joy to beam from every face, would be found tenable on principles which have prevailed from the commencement of civilization to the present day. He pledged himself to produce chapter and verse to support his conduct in every incident of that war. He considered the essential interests of justice and of mercy to have been served in the execution of the foreign incendiaries who stimulated the Indians to barbarities on our frontier settlers; and that the military occupation of Florida by General Jackson was justifiable on the broad basis of national law, and of sacred duty to his country. When gentlemen undertook to say, that General Jackson had not the right of retaliation, let them recollect the case of proposed retaliation, during the Revolutionary war, for the barbarous murder of Captain Huddie. And on whom of the prisoners in our power did the lot fall? Not on a miserable interloper, but on Captain Asgill, an amiable and accomplished officer. What then said the Congress of the United States—that venerable and enlightened body which carried us through the Revolutionary conflict? What did they say? Why, sir, not only that the Commander-in-chief, but that every officer on separate command, possessed the right of retaliation, and that they would support him in the exercise of it. It was true, that Asgill was released, for reasons of policy; but

the right of retaliation was fully sustained.—Four months, Mr. J. said, after the first blood was spilt in the Revolution, at the battle of Lexington, and two months after the memorable battle of Bunker Hill, which shed such a lustre upon our arms, and nearly a year before the Declaration of Independence, this question of the right of retaliation was solemnly discussed and settled in the correspondence between General Washington and General Gage; in which the former broadly asserted the right of retaliation, and declared that he should be governed by it. In order to take from our commanding General this right at the present day, Mr. J. said, gentlemen had again blended and confounded principles of the laws of nations, which in themselves were entirely distinct. In case of individuals in an army violating the laws of nations, and the known rules of war, it is a clear principle that they may be punished with death; and it was a principle equally clear, that in contending with a savage foe, you are at liberty to retaliate on them their own usages. But gentlemen had blended these powers and rights with the right of reprisal; and had confounded the power of putting to instant death a captive—a right inherent in the military power with which we have clothed the commander, and the exercise of which is a question between himself and his God.

I rejoice, said Mr. J., that the honorable gentleman who last addressed you, has expressed his opinion that the intentions of General Jackson, in what he has done, were good. I rejoice in it, sir, from my respect for that gentleman, whose opinion has with me more weight than that of any other individual; but this is a case in which the obstinacy of nature will not permit me to surrender my opinion to any individual whatever.

It had been denied, that any example could be produced of military execution, at the fiat of the commanding General, in our country. Mr. J. said, he would give an instance, in which two individuals were put to death by General Washington. Being given up by the revolted State line of Pennsylvania, as emissaries, sent by General Carlton, these men were instantly executed. For this fact, Mr. J. referred gentlemen to the Annual Register, which now lay before him.

It had been stated, that the crimes for which these men were executed, were offences not recognised by the laws of the United States. Mr. J. denied the fact, and in doing so meant offence to no one. These miscreants, who had imbrued their hands in the blood of our countrymen—the instigators of the murders, the fruits of which were three hundred scalps in one place, and in another, although, according to the documents read by the Speaker, it would appear that the Indians were three murders in arrears of us—these individuals had been condemned and executed in conformity to the letter, if not to the spirit, of the laws of the United States. According to our rules and articles of war, whoever should relieve the enemy with money, victuals, or ammunition, or should knowingly harbor or

protect them, or hold correspondence with the enemy, were subjected to death. So far the rule as to our army, which, by subsequent articles, was made so broad as to apply to the whole human family. But, if there was, in this point, any defect of power, here came in the law of nations to supply the deficiency; for that which subjects to death one of our own citizens, shall much more subject to death the foreign incendiary. Examples, in illustration of this doctrine, were plentifully scattered on the page of history. What was the fact, said he, as to the trial of the distinguished officer who was Adjutant General of the British forces, during the Revolution? He was convicted on his own confession, and by a court composed of six major generals and eight brigadier generals. General Jackson, Mr. J. said, was only following in the steps of those who had gone before. He was not here, he said, about to maintain that General Jackson was faultless; if he had no faults, he would not be human—but he stood here to maintain his devotion to his country; and that, in the course he had pursued in the trial and execution of Arbuthnot and Ambrister, he had only trodden in the footsteps of the immortal Washington.

As to the execution of the two Indian warriors, by the exercise of a summary jurisdiction over them, and the distinction made between their case and that of the white men, the reason was obvious to every man who had ears and would hear, or who had eyes and would see. In relation to the Indian chiefs, their color was sufficient evidence of their subjection to his right of disposing of them as justice required. The law of nations clothed him with the power to put an end to their existence. As to the stratagem of which gentlemen had complained, no one was less disposed than himself to look with a favorable eye on such stratagems as were contrary to morality. But there was no immorality in hoisting the flag of a foreign Power, nor in capturing the person of your enemy when he unwarily puts himself in your power. Nor, in what had been done in relation to these Indians, was there any violation of humanity or of public law. Do they meet us in honorable combat? said Mr. J. In the case of the unfortunate Mrs. Garret, did they meet us in honorable conflict there? When they burnt the seaman alive, whom they had previously tarred and feathered, did they meet us in open combat? Was the war one in which Greek met Greek, or an American met the citizen or subject of any civilized nation? If it were, the course of General Jackson, so far from receiving approbation, would deserve execration. But, considering the treacherous enemy he had to cope with, and the object of his measures, which was to give security to the frontier, and to save the wasteful expenditure of the blood, and even of the treasure of the nation; when I think on this, said Mr. J., I do not censure General Jackson, but, as before my God, I give him my thanks. But for his energy, what would have been the consequence? The frontier of Georgia would have been deluged with blood, as it has been once before, and the



gentleman from Georgia (Mr. Cobb) would again have called upon us, with a voice of patriotism, and a voice of thunder, too, to pay the gallant Georgians for going against the Seminoles.

With regard to the treaty of Fort Jackson, Mr. J. said, he should enter into no long argument, but he differed exceedingly from his honorable colleague. Have we not a right, said he, to dictate terms to a conquered enemy? Was not the war which was terminated by that treaty an unprovoked war? Was it not instigated against us, and without cause, on the part of the Indians? On whose head should the blood fall, if you cannot control the Indians with the bible? I wish to God you could, said Mr. J., and towards that object I will do, and have done, as much in my sphere as any one. There is at this moment, in the heart of my country, a school for the education of the Indians in the arts of civil life. But when you come into contact with them—when they flourish their tomahawk over your head—are you to meet them with the bible in your hands, and invoke their obedience of that holy religion of which the Speaker tells us? I should be the last to raise the sword against them, if the employment of such means would appease their fury. Experience had shown it would not; and it became necessary to meet and chastise them. And would any man say that, having put down their hostility by force, we had not a right to dictate to them the terms of peace? We had the right, and we made the treaty. That treaty received the sanction of every part of the Government—this House among them—(by the appropriation to carry it into effect,) and it was too late now to disturb it.

But, in regard to the Indian tribes, an extraordinary doctrine had been advanced—that they are to be considered, in every respect, in negotiating with them, as independent nations. What, then, Mr. J. asked, should we say of the Treaty of Greenville, depriving those tribes with whom it was made of all the superior rights of sovereignty? What was to become of the declarations of our Commissioners at Ghent, where the British Government demanded, as a *sine qua non*, that we should not only acknowledge the independence of the Indians, but should establish certain boundaries, within which the lands belonging to the Indians should never be sold to us? With what indignation had that proposition been met! The Indians, Mr. J. said, were in fact mere tenants at sufferance; not that he would treat them with harshness—for he never would. That the principle that we have a right to occupy the country, independently of the qualified right of the Indians, was recognised, not only by the Treaty of Greenville, but by the treaty with Spain herself, who, in the Treaty of 1795, stipulated to keep the Indians within her boundaries from disturbing our frontiers. And yet, after all this, it was contended that we had been fighting with a sovereign and independent Power.

As to the war, the constitutionality of which had been doubted, Mr. J. said, the President of the United States was not only authorized, but it

was his bounden duty, to make war on the Seminole Indians. Admit, for the sake of argument, that, beyond our boundary, they were to be considered as exercising a sovereign and independent authority, what would gentlemen gain by that admission? If it were true, had we not a right to trace them to their strong holds, even in a neutral country? On that point the expositors of the laws of nations were not silent. It was there laid down, that you may pursue a retreating enemy into a neutral country, if the Government of that country, either from partiality to him, or from inability to prevent it, shall not stop the progress of the retreating army.

Now, as to another point which, perhaps, considering it as too delicate, the Military Committee had not thought proper to approach. Mr. J. said he should be deterred by no such motive, from examining the question of the power of the President to prosecute this Indian war, and from censuring him, if, in doing so, he usurped power or exceeded his duty. As early as the year 1787, the Congress had authorized the stationing of troops on the frontier, to protect it from the Indians, and the calling out of the militia for the same purpose. And this power had been acted on, from year to year, until the law of 1795 settled the point conclusively that, without a declaration of war by Congress, the President had the right to make war upon the savages; or, in the words of the law, on the Indian tribes. Let us, said Mr. J., look at our own powers—and how have we discharged them—instead of attempting to divest other branches of the Government of their powers. What was our duty? To provide for calling out the militia—for what? To execute the laws, to suppress insurrection, and to repel invasion. It was on that principle that the power was granted to the Executive of this country to chastise the ruthless savages for individual murders, or for murders committed with their combined force. Has the President, then, said Mr. J., violated his authority? Certainly not. And if you take from him this authority, which he has so rightfully exercised, what is to become of our citizens on the frontiers? The heart of our country might be penetrated, and the savages besiege our very doors, whilst we are making long speeches about the policy and humanity of repressing their hostilities. Had such been the case in the recent instance, either from a defect in the law or in the execution of the law, the people would have said, our Government is a rope of sand, and the blood and treasure spent in its establishment have been lavished in vain. According to the first word of military command, a little varied, it is made the duty of the Executive to take care that the laws of the Union are executed, and that invasion is repelled; and for this purpose he may use the regular or militia force of the country. Would it not be an invasion to have our helpless women, and the infant descendants of those who have fought our battles, butchered by the indiscriminate tomahawk and scalping knife? And would it not be a violation of the laws of the country to permit the hands

of the Indian to be imbrued in the blood of our citizens?

It had been represented, in palliation of Indian hostility, and in derogation from the justice of the war, that individuals of the whites had stolen cattle belonging to the Indians. If such were the fact, Mr. J. said, was it not known that these offenders might be individually punished? But was it not known that the character of Indian war, unless where the Indians had in some degree received the light of civilization, was indiscriminate murder? Did not President Washington make war on them for eleven years, from 1783 to 1794, without an express authority by law for doing so? When the gallant Scott, of Kentucky, led his Kentucky brethren against the Indian enemy, was it in consequence of a formal authority to make war, or under an appropriation for the expense, merely, of the expedition? And if we were not at liberty to pursue this course, in what condition would be placed the unfortunate settler on the frontier of Georgia, in Alabama, in Mississippi, and in Michigan?

If he was justified in right, and in the strictest interpretation of law, in what he had done, as Mr. J. contended General Jackson was, he could not see on what principle so great a hostility was raised against one of the most distinguished officers of the country, who had borne the helmet in the front of battle in fighting its cause; whose every object was the good of his country; and who enjoyed the affection of the country in a degree not to be taken from him but by treason or the imputation of improper motives. Do we not, said Mr. J., stand in need of military fame? Do we not want it to secure us respect in Europe? Do we not want it at home?

Mr. J. then proceeded to touch upon the opinion of his honorable friend and colleague—for whom he felt not only friendship, but affection—that these incendiaries were put to death without necessity. He argued that, though after destroying Micksaky and burning the Suwaney towns, General Jackson thought the war was at an end, he was afterwards convinced he had been mistaken; so much so, that he had found it necessary afterwards to go to Pensacola, and to leave two companies to scour the country around it, who were now fighting gallantly against the savages, who would have deluged the country in blood but for these measures. It was kind, if not just, to General Jackson, to take the reasons which he himself assigned as the ground of his measures. He stood before this House not only as a great captain, but as a man of sound sense and discretion. Gentlemen had said the war was at an end. But how many of the enemy had been killed? Look to the fact, in relation to the power of the enemy. They yet existed, when the sentence of death was carried into effect against Arbuthnot and Ambrister, in a force of greater amount than that which General Jackson had with him. Look at the communication of Arbuthnot, stating their force to be three thousand five hundred men; suppose these instigators of the war had been suffered to remain and go at large; suppose the be-

nign influence of mercy, in the breast of this honorable and respectable court martial, had weighed down the scale of justice, and these men had been discharged, what would have been the situation of the frontier of Georgia? Would it not have been the same as during the British war? These ignorant savages were deluded by their abettors into a belief that they were competent to cope with the forces of the United States. Of the twelve chiefs who signed the power of attorney to Arbuthnot, though two had been hung, there yet remained ten, and three thousand men who formed their command, to make battle against our forces under the instigation of the miscreants who had before stimulated them to war against us, and to their own ultimate ruin. Mr. J. was proceeding to show that these men deserved the name of miscreants, when, on suggestion of a gentleman near him, he gave way for a moment, and the Committee rose.

THURSDAY, January 21.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, reported a bill authorizing the Postmaster General to contract, as in other cases, for carrying the mail, in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky; which was read twice, and ordered to be engrossed and read a third time.

Mr. BLOOMFIELD made a report on the petition of Lewis Joseph de Beaulieu; which was read, when Mr. B. reported a bill for the relief of the said Lewis Joseph de Beaulieu; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Hannah Ring and Luther Frink.

On motion of Mr. PLEASANTS, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of authorizing the sale of a lot of land with the house thereon, situated at Bermuda Hundred on James river, in Virginia, belonging to the United States, and formerly used as a custom-house.

An engrossed bill, entitled "An act supplementary to the act entitled an act to provide for the prompt settlement of public accounts," was read the third time and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the information called for by the resolution of this House of the 4th instant in relation to ships engaged in the slave trade, which have been seized and condemned; and of the disposition which has been made of the negroes by the several State governments under whose jurisdiction they have fallen; which was read and committed to the Committee of the Whole, to which is committed the bill supplementary to the several acts prohibiting the importation of slaves.

Mr. HARRISON, from the committee upon the improvement in the organization and discipline of the militia, made a report; which was read, and ordered to lie on the table.



## THE SEMINOLE WAR.

The Committee having again up the the subject of the Seminole war—

Mr. JOHNSON resumed the speech which was interrupted by yesterday's adjournment. He congratulated himself, he said, that the difference of opinion on this occasion was not a factious difference. When he glanced at the characters of those who had already spoken on opposite sides of the question, he saw with pleasure that this was no mere party squabble. He took this opportunity to disclaim, in the most direct and positive manner, any intention to wound the feelings of any of his valued friends who were opposed to him on this question; and, though the interest and welfare of the community required a free and unreserved discussion, he declared he should feel the same warmth of friendship to-day towards gentlemen, as friends and politicians, which he did before the commencement of this debate.

He had already stated, he said, that General Jackson displayed more knowledge in the wilds of Florida, on this subject, than any member who had taken part in this discussion; and that gentlemen had blended two principles in the laws of nations together, the distinction between which General Jackson had seen and observed. The one was the case of volunteers entering a foreign service, for the purpose of improving themselves in the use of arms and the knowledge of the art of war—which case is thus stated in Vattel, p. 401, sec. 230: "The noble view of gaining instruction in the art of war, and thus acquiring a greater degree of ability to render useful services to their country, has introduced the custom of serving as volunteers even in foreign armies; and the practice is undoubtedly justified by the sublimity of the motive. At present, volunteers, when taken by the enemy, are treated as if they belonged to the army in which they fight. Nothing can be more reasonable; they, in fact, join that army, and unite with it in supporting the same cause; and it makes little difference in the case whether they do this in compliance with any obligation, or at the spontaneous impulse of their own free choice." Such was the case of Kosciusko, of Lafayette, and the other illustrious foreigners who entered our armies during the Revolution, who were volunteers in the best of causes, but whose rights would not have been lessened had the cause been that of despotism and tyranny, instead of that of freedom and independence. But this case was widely different from that of interlopers, excitors of wars, and enemies of the human race, who might be hung up, and ought to be, by military law, as so many robbers and pirates. In the course pursued by General Jackson, then, and in his doctrine to which exception has been taken, he is even more than borne out by writers on the laws of nations, as Mr. J. showed by the following references: Vattel, p. 400, sec. 226. "Even after a declaration of war between two nations, if the peasants of themselves commit any hostilities, the enemy shows them no mercy, but hangs them up as he would so many robbers or banditti. The crews

of private ships of war stand in the same predicament: a commission from the Sovereign or Admiral can alone, in case they are captured, insure them such treatment as is given to prisoners taken in regular warfare." Martens, p. 272, b. 8. "The violences committed by the subjects of one nation against those of another, without authority from their Sovereign, are now looked upon as robberies, and the perpetrators are excluded from the rights of lawful enemies." Page 280. "Those, not authorized from their Sovereign, who take upon themselves to attack the enemy, are treated by him as banditti." Page 284. "Those who, unauthorized by the order of their Sovereign, exercise violences against an enemy, and fall into that enemy's hands, have no right to expect the treatment due to prisoners of war: the enemy is justifiable in putting them to death as banditti." The evidence before the court sufficiently established the facts on which, under the above passages of the law of nations, General Jackson was authorized, if not bound to proceed.

Was it supposed by gentlemen, Mr. J. asked, that General Jackson was so ignorant of the language of his country that he did not understand the meaning of the words "pirate and outlaw?" An outlaw the convict certainly was, as out of the protection of the sovereignty of Great Britain or of any other nation. In relation to the term "pirate," it had other meanings than its technical one: there were pirates on land as well as on the ocean. We are not here, said Mr. J., to inquire whether General Jackson used technical terms, but whether he did substantially and legally right. While we are searching our law books and libraries for our definitions, I hope we shall not lose sight of the difference between our situation and that of the General while in the field; while our heads repose on downy pillows, and we can rise up and lie down when we please, he had an object to accomplish, at every hazard, and at every cost, which he could not have attained if he had not acted as he did. Would you rather, said Mr. J., that these men were living and the country deluged in blood, or that those men should have suffered according to their deserts? These men had been guilty of that for which one of our own citizens would have been put to death; and they were properly as well as legally put to death, in pursuance of General Jackson's object, which was, according to his instructions, to put a speedy and effectual end to hostilities so unprovoked. These men living, said Mr. J., the tomahawk and scalping knife would have been sharpened anew, and other emissaries would have derived encouragement from their impunity. Answer me this, Mr. Chair—

\* Articles of War.—56. "Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death, &c.

57. "Whosoever shall be convicted of holding correspondence with, or giving intelligence to the enemy, either directly or indirectly, shall suffer death," &c

man—had you rather that the Mississippi and its various waters, the country to the Lakes, and beyond them to the North Pole, should have been jeopardized, that New Orleans should have passed from your power into the hands of the British during the late war, or that martial law should have been there established for a short time? For even that is now brought into view, which contributed so much to the glory as well as safety and honor of the country. If a man did not present himself in the attitude of suspicion, martial law did not affect him. I presume, sir, at least I hope, had I been there, I should have had no reason to dislike it. I have no particular respect for that desire of locomotion which could not bear to be restrained within certain bounds when the veterans of Wellington were to be met by the raw men of Kentucky and of Tennessee: I do not like that delicate fastidiousness of martial law, when the enemy is knocking at the gate. All men worthy of their country would make the sacrifice required of them on such occasions. If, for want of proper energy on the part of the commanding General, New Orleans had fallen into the possession of our enemy, what would have befallen the inhabitants, independently of the sacrifice of property and life? Beauty and booty was the watchword of the enemy. Had you rather, sir, that the enemy had succeeded in his object, or that this patriot should have put military law in force? As to the General, whose conduct I am proud to vindicate, said Mr. J., I consider him in the grave as to ambition—if he ever had any—which I never saw in him, except the ambition to serve his country. I do not speak of him because he is living, and that I ever expect to see again those eyes that never winked at danger when he was called upon to meet it. He has added to the military glory of his country more, perhaps, than any other living citizen; and, in the view of all statesmen and all writers on national law, the glory of a nation constitutes one of its greatest bulwarks of strength.

I now come, said he, to the consideration of the right of the President to make war on the savages; and on that point I contend that we have on the statute book a perpetual declaration of war against them. I hope gentlemen will take down the expression, and attend to my explanation—I say we have a permanent and everlasting declaration of war—and why? The reason is very obvious. I shall not differ from gentlemen as to the policy and justice of observing the duties of humanity towards that unfortunate people. God forbid that a drop of Indian blood should be spilt except on the principles of civilized man. But the President would be wanting in his duty to his country and to his God, if he did not use the strong arm of power in putting down the savages by the force he is authorized to employ, if they cannot be put down by the precepts of our holy religion; and Congress, had they not passed such a statute, would be wanting in duty to their country. Do the Indians ever declare war against their enemy? Do they embody themselves and engage in open conflict with their adversary, or

do they come, like a thief in the night, and carry death to the unfortunate women, to the aged and infirm men, and the children whom they meet in their incursions? Is or is not that the universal practice? Let history answer the question. Should we, under these circumstances, have acted rightly, to take no precaution, but fold our arms in listless apathy, until roused by the Indian yell? Our predecessors too well knew their duty to do that. As early as 1787, and farther back if it were necessary to trace, provisions of the same nature as those now existing were enacted by the venerable Congress of the Confederation. By various statutes the same provisions had been continued to the present day. The statute gave to the President a discretionary power to employ the forces of the United States and to call forth the militia to repress Indian hostility; and gave it to him properly, on the principles of the Constitution. By the Constitution, the President is made Commander-in-Chief of the Army; and it is made his duty to take care that the laws are executed, to suppress insurrections and repel invasions; and, by the same instrument, it is made our duty to provide for calling forth the militia to be employed in these objects. That power has been exercised in the manner which will be shown by the law of the United States. [Mr. J. here requested the Clerk to read the statute to which he alluded,\* and it was read accordingly.] Now, Mr. J. said, he thought this was a declaration of war of at least equal dignity to the manner in which the savages make war against us, and to the light in which we view them. We treat them, it is true, and we ought to treat them, with humanity; we have given them privileges beyond all other nations; but we reserve the right to repel their invasions, and to put to death murderers and violators of our peace, whether Indians or white men.

Having attempted to prove that General Jackson was correct in his principle of public law, and that, both by law and the Constitution, it was the right and bounden duty of the Executive to carry on war against the savage tribes when they took up arms against us, Mr. J. said, he would pass on to the power of General Jackson as commanding General, to do what he did in relation to these two incendiaries.

And, first, he referred to the resolutions of the Revolutionary Congress, in the case of Captain Huddie, which he read as follows:

"Be it declared, and it is hereby declared, That the Commander-in-Chief, or the commander of a separate army, is, in virtue of the power vested in them, re-

\* The following was the part of the act passed February 28, 1795, which was read:

SEC. 1. That, whenever the United States shall be invaded, or be in imminent danger of invasion, from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, &c.



spectively, fully authorized and empowered, whenever the enemy shall commit an act of cruelty or violence contrary to the laws or usage of war, to demand adequate satisfaction for the same, and, in case such satisfaction shall not be given in a reasonable or limited time, or shall be refused or evaded under any pretence whatever, to cause suitable retaliation forthwith to be made, and the United States, in Congress assembled, will support them in such measures."

Thus it appears to have been solemnly established, at that early date of our history, not only that the commanding General, but every commander of a separate army, was vested with the power of retaliation. Mr. J. next quoted from Lendrum's History of the Revolution (page 226) the correspondence, in the commencement of the war, between General Washington and the British General Gage, and read the following passage of General Washington's letter to General Gage at Cambridge, August 11, 1775:

"The obligations arising from the right of humanity, are universally binding, except in the case of retaliation."

"My duty now makes it necessary to apprise you, that, for the future, I shall regulate my conduct towards those gentlemen of your army, who are or may be in our possession, exactly by the rule you may observe towards those of ours, who may be in your custody."

"If severity and hardship mark the line of your conduct, (painful as it may be to me,) your prisoners will feel its effects; but if kindness and humanity are shown to ours, I shall, with pleasure, consider those in our hands only as unfortunate, and they shall receive from me that treatment to which the unfortunate are ever entitled."

Here, said Mr. J., the Revolution was commenced with the assertion of the principle, and terminated with its recognition. It was solemnly confirmed by the illustrious Revolutionary Congress, who were afraid that the act of mercy in regard to Captain Asgill might be presumed to disarm their commanding Generals of the power of retaliation. On this subject, having shown that the power had never before been questioned, but from the earliest date invariably asserted, it was scarcely necessary to say more.

Are you afraid, said Mr. J., of your military commanders? Let us cease to appoint and maintain them—let us fold our arms, and see who will fight our battles. But if we must continue to use our muskets, rifles, and cannon, to defend ourselves from violence, the power of directing their management must be trusted somewhere. If General Jackson be unworthy of his station, it is in our power to displace him. Have we not almost omnipotent power? And if we were not men of honor and integrity, loving wisdom, virtue, and our country, might we not abuse power and prostrate liberty? Take from the General the power of immediately heading our army in the field, and it must be reposed somewhere else. When at war, will you attempt in person to lead your armies to battle? Or, when armies are contending and blood is flowing, are our Generals to send to Congress to know whether they shall exercise the power of retaliation, or whether

they shall give or refuse quarter? The power must be committed to the commanders of your armies, and if you are afraid to confide it to them, you can have no army; for it is not expected that we are to march to Mickasuky or to Suwaney, to fight the battles of our country. Other duties are assigned to us; and if we assume those which belong to other departments, the separation of powers in our Government is a mere nullity.

Gentlemen dwelt on the danger of acting on the principle of necessity. Mr. J. admitted it. But was necessity alone the tyrant's plea? or was it the plea of the good man as well as the tyrant? And is the good man to fold his arms and say necessity is the tyrant's plea, and I will therefore surrender this right and this power which commenced with the foundation of the earth and is as old as time itself? Mr. J. said he was the advocate of mercy, not of cruelty; but it was of a mercy compatible with justice, and not that mistaken clemency which is in itself cruelty. Justice ought not to be lost sight of in the pursuit of mercy. If it is, the foundations of our Government may be overturned, and our weakness and imbecility will invite that fate which has overtaken the nations that have passed away. Is it, said he, of the Cæsars, the Philips, and the Cromwells alone we have reason to be afraid? Let us rather avoid the treatment of an ungrateful country to Belisarius—let us avoid the example of the banishment of Aristides—let us rather fear to take from our aged warrior the only recompense he asks or can receive for his services—the gratitude of his country. Is there no danger of this? Has not the time arrived in which we have reason to apprehend it? Joab, notwithstanding his fidelity to David, was slain at the horns of the altar; and Saul could not bear to hear the praises of the gallant Captain who had slain Goliath. I am equally afraid, with the Speaker, of the ambition of a Cæsar, or a Napoleon, should such arise, but I am more afraid of that sickness of feeling towards convicted incendiaries which would show itself in ingratitude towards him who has risked his all in the service of his country, and has done for it so much. What reward does this gallant Captain ask of his country? Does he desire wealth? No; he fought for glory, for liberty, for his country; he expected at least her gratitude; and now it was proposed to hold him up, as an example to all mankind, of the danger of incurring responsibility in the service of the nation.

Mr. J. then proceeded to remark on the case of Major Andre, which was a strong example of military execution in the face of great difficulties; Major Andre having come in with a flag, &c., and the treason of Arnold only involving him in guilt. What was the fate of that gallant and distinguished young man? And who was the individual who brought him to the bar of justice, and rigorously executed on him the sentence of a court martial? What was the foundation of the proceedings of the board of fourteen general officers who condemned him to death?

It was upon the law of nations, and upon the magnanimous, open, and honorable confession of the prisoner himself that he was condemned. It was no reason why we should divest ourselves of this right, that it was not recognised by statute. What was admitted public law, what was, indeed, the common law of the world, could gain no strength by being embodied in the technical phrases of statute law. The principle is universal, that, in fighting against savages, you may meet them with their own weapons, and put any individual of them to death. On the ground of reprisal the same right exists. On this point Mr. J. quoted the following passages from Vattel, page 34, sec. 14:

"There is, however, one case in which we may refuse to spare the life of an enemy who has surrendered. It is when the enemy has been guilty of some enormous breach of the laws of nations, and particularly when he has violated the laws of war."

"When we are at war with a savage nation who observe no rules, and never give quarter, we may punish them in the persons of any of their people whom we take, (these belonging to the number of the guilty,) and, by this rigorous proceeding, endeavor to force them to respect the laws of humanity."

"If the hostile General has, without any just reason, caused some prisoners to be hanged, we hang an equal number of his people."—*Idem*, sec. 142.

"In time of war, a prisoner of war may sometimes be put to death in order to punish a nation that has violated the laws of war."—*Martens*, page 268, sec. 3.

"It is lawful for a General to put prisoners to death: 1st. When sparing their lives would be inconsistent with his own safety; 2d. In cases where he has the right to exercise the *talio*, or to make reprisals; 3d. When the crime committed by those who fall into his hands justifies the taking of their lives."—*Idem*, page 283, sec. 4.

Notwithstanding the great difference of opinion which was here entertained, Mr. J. said, it was fortunate for General Jackson—the evening of whose life would be cheered by the recollection of the plaudits of a grateful people, and a consciousness of his own services—that he did not violate, in this case, the rights of captives nor inflict punishment on innocent men, but on the most guilty of the guilty. Wherever severity is not absolutely necessary clemency becomes a duty; but here clemency had no claim to interpose. There could be no harshness or severity in putting to death two incendiaries, when the rest of their confederates and deluded followers were suffered to roam at large. Instead of bestowing our commiseration on the guilty, who suffered death for their crimes, said Mr. J., we should open our bosoms to the bleeding wounds of our own country, and thank Heaven they have been staunchly by the vigorous arm of an energetic commander.

As to the necessity of putting these men to death, Mr. J. said, he thought when we said there was not a show of necessity for it, we ought to hear what General Jackson himself had to say on that subject. It would be seen that he had connected the capture of these two men with his ability to return home; that it was this circum-

stance which he considered as putting a period to the war, they being the promoters of it, &c. Mr. J. then read the following passages from General Jackson's letters:

"These individuals (Arbuthnot and Ambrister) were tried under my orders by a special court of select officers; legally convicted as excitors of this savage and negro war; legally condemned, and most justly punished for their iniquities. The proceedings of the court martial in the case, with the volume of testimony justifying their condemnation, present scenes of wickedness, corruption, and barbarity, at which the heart sickens."

"I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain, if slow, retribution awaits those unchristian wretches, who, by false promises, delude and incite an Indian tribe to all the horrid deeds of savage war."

"So long as the Indians within the territory of Spain are exposed to the delusions of false prophets, and the poison of foreign intrigue; so long as they can receive ammunition and munitions of war, &c., from pretended traders and Spanish commandants, it will be impossible to restrain their outrages."

Mr. J. asked whether this reasoning was false or correct; whether it was founded on matter of fact, or on what was not fact? If it was true he should like to hear gentlemen answer it. Nineteenth of the Indians were left in their own country, and, if proper precaution was not taken, the same scenes as had already been exhibited would be acted over again. General Jackson, at one time, thought the war was at an end, and that he might go home. But he found he was mistaken, and that it was necessary to scour the country west of Appalachicola; and, after he got into it, he was obliged to take Pensacola before he could conclude the war.

In regard to the origin of this war, was it, indeed, as has been said, a contest for a hunting ground and a few cattle? It was for about ten or fifteen millions of acres of land. It was not a common Indian war, in which we could have dispensed with rigorous proceedings. One of two alternatives we were obliged to take: either to admit that we had made a treaty with the savages which was a disgrace to the country, and cede back to the Creek nation of Indians from ten to fifteen millions of acres of land which the people of Georgia are now prepared to occupy and cultivate; or to hold on to it, and put down the Indian war by force. This was not a common petty larceny war, in which a few individuals were murdered, but it was a solemn declaration of war on the part of the Indians, and Mr. Arbuthnot was the author of it. Mr. J. here quoted Arbuthnot's letter to General Mitchell, Indian agent, in which he says:

"Sir: King Hatchy, the head chief of the Lower Creek nation, has called on me, to request that I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, &c. But, far from any stop being put to their inroads and encroachments, they are pouring in



by hundreds at a time. Thus the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders, &c. In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me, I have no wish but to see an end put to a war, which, if persisted in, I foresee must eventually be their ruin; and, as they were not the aggressors, if, in the height of their rage, they committed any excesses, that you will overlook them, as the just ebullitions of an indignant spirit against an invading foe."

Sir, when this letter was written, Lieutenant Scott and his detachment had been destroyed, the women butchered, and the children's brains dashed out against the side of the boat. These were what he calls the just ebullitions of an indignant spirit! Who would pronounce innocent the man who made this declaration on the part of the enemy? Did Arbuthnot supply the Indians with intelligence? Was he at Fort St. Marks, identified with the Spanish commander? Did not the commandant of St. Marks make contracts with the Indians to go and steal cattle from the Georgians? Let documents answer these questions. Did the twelve chiefs say, in their letter to the Governor of the Bahamas, that they had consulted the commandant at St. Marks; and did not the commandant himself, approving that letter, sanction the call upon the British for aid to fight against the Government of the United States? Under the circumstances of the case, were we prepared to recede fifteen millions of acres of country conquered from a foe who had, without provocation, assailed our frontier, and deluged our country with blood, at a moment when we were engaged with a powerful foreign enemy? Surely not. Mr. J. said he defied any gentleman to prove a single instance, except by the asseverations of the Indians themselves, in which our people had plundered or murdered any of the Indians, without our having endeavored to detect and punish them. He defied them to prove any act of aggression on them, except those alleged to have been committed in our territory, which we conquered, and which was ceded to the United States, and over which, therefore, the Indians had no jurisdiction. If, by the Treaty of Ghent, we had been compelled to recede the land to them, there would have been some sort of apology for their murdering our citizens, as trespassers, &c.; but, as it was, no such plea could be set up, and gentlemen knew it, and the Indians knew it too.

With respect to the taking of Pensacola, the last point in order, Mr. J. said he had been gratified to find that, whilst General Jackson was said to have violated his duty, (though previous or subsequent orders sanctioned all he had done,) there was a free admission, on all hands, that we owed nothing to Spain, notwithstanding this very violent aggression and hostility committed on her territory. Why this, Mr. J. said, was giving up the question; that being the ground on which he acted, and on which justification was plead by the Administration and by himself. Was there no possible case, Mr. J. asked, in which a Gene-

ral ought to act for himself? If he had returned home without having visited Pensacola, after what had passed, he would have made a cowardly retreat; which is not his habit, for victory never failed to follow his arms. What had been the conduct of the Governor of Pensacola? He had refused a passage up the Escambia of the vessels carrying provisions for the support of our troops on the territory of Spain, where they were found, because Spain either had not the power, or had not the will, to maintain for her territory the character of neutrality—and where they were, further, under the positive orders to go. Was this all, said Mr. J., that the Governor of Pensacola did? No; he threatens to drive our forces at the point of the bayonet from—where? Where the pursuit of the Seminole Indians, and the orders of the Executive, had carried them. Of the orders to go there we were apprized at the last session, and no exception was taken to them. What was the basis of the permission to our commander to enter the Spanish territory? Had he not demanded the murderers? Was an ideal line of the 31st degree of latitude to arrest our progress in pursuit of them? General Jackson was in the performance of his duty when the challenge was given to him by the commandant of Pensacola, and the enemy in free and constant ingress and egress to and from the fort, as the documents establish. Some had called Hamblay a miscreant; but, Mr. J. said, the testimony contained in the papers before the House was favorable to him. It appeared that he had been for two years endeavoring to bring the Indians into friendship with the United States, as they themselves said; but they preferred to "stick close to their old friends, the British." The Indians had undoubtedly free intercourse with Pensacola. How often, said Mr. J., has it been proclaimed on this floor that Spain has forfeited her neutral character and prostrated her sovereignty! The principle of self-defence, as a rule of conduct for nations, came from the tomb—it sprung from the ashes of those who had written on public law centuries ago. The savages being constantly nursed and supplied at Pensacola, during their hostility with us, it would, after the threat of the commandant, have been a disgrace for General Jackson to have waited for orders from his Government. He did not wait; it was true, as my colleague says, "he came, he saw, he conquered." I thank my God he did, and that the Executive has not censured him for so doing. The nation will not, and I hope this Committee will not condemn him for it. If we go to war, we must exercise the rights of belligerents, and the powers of sovereignty. If we are never to go to war, but suffer inroads to be made on our borders; if we are to invite the Goths and Vandals to come and take our country by the weakness and imbecility with which our Government is administered; then, sir, and then only, let us pronounce censure on General Jackson and on the Executive.

What, Mr. J. asked, would be the consequence of an admission, by this House, of the truth of the imputations which had been cast on General

Jackson? There will be an obligation incurred to Spain, to indemnify her for injury sustained; on our refusal to do which she would be authorized, if able, to take compensation from us. The post is surrendered, it is true, by the Executive, but it is with the condition of a force being put there adequate to maintain the authority of Spain. If General Jackson be pronounced an aggressor, said Mr. J., you must agree to punish him and indemnify Spain. And what punishment will you inflict, to gratify the nice feelings of Old Spain? Are you prepared, when you find the Spanish authorities identified with your savage enemy, and your General is ordered by these authorities to march from where the orders of his Government had placed him—will you, under such circumstances, bring censure and sorrow for his punishing this contempt, on the gray hairs of him whose hand never faltered in the discharge of duty to the country? You knew his character, sir, when you sent him there, and knew he would finish what he begun. Suppose he had disbanded his men at St. Marks, and a handful of Spaniards had put him to flight—what then should we have heard, in a voice of thunder, reverberating from all sides of the House? Sir, such denunciation would have ensued from every part of the nation, that Jackson must have sunk under it. But victory he has achieved; he has put a speedy end to an unprovoked war. Did I say he put an end to it? Yes, as far as any human could. But at this moment I have received information from a friend at St. Marks, that, the moment the Indians understood that Florida was to return to the possession of Spain, they ceased to come in, and were rallying their forces again, King Haigo at their head. I am not willing to give up the land ceded to us by the Treaty of Fort Jackson, because it secures the settlement of our frontier. And if you offer me the alternative of war, I will take it in preference. I feel, sir, as little warlike as any individual on earth; I feel as if I never again wished to hear the drum or trumpet's sound; I wish that the halcyon days of peace could last until the consummation of all things; but when the bayonet is at our breast, and we are called on to arrest the ravages of a savage foe, I will take up the batchet and wield it against them. I will meet the foe, and let no false feeling of mercy in my bosom extinguish the obligations of duty to my country. This is the situation of General Jackson, and what punishment will you inflict on him? Do you think you will ever stand in need of the arm of such a man again? A man, sir, little understood—violent, perhaps, in his enmities, and equally ardent in his friendships—but who, as an officer, is vested with all the energies of a Cæsar, or a Napoleon, making allowance for the difference of his materials; who meets with equal courage and conduct the Indians or the invincibles of Wellington. Though he is thought a desperate character, said Mr. J., look at the deliberation with which he has acted, and see whether he has not, in the discharge of his military duties, maintained his character as a great man and as an officer.

15th CON. 2d SESS.—22

With regard to the case of Copenhagen, if the fact had been true, instead of being supposed, that the question had been presented, Shall France or England have the Danish navy? would infamy have attached, as it has done, to that transaction? Certainly not. In the case of St. Marks, Mr. J. said, that post was virtually in possession of the enemy. In regard to Pensacola, every evidence had been given of hostility to us, and co-operation with our enemy. There was, in both cases, sufficient justification.

As to the case of the Kentuckian, referred to by his colleague, as having been generally execrated for killing an Indian in cold blood, it had no reference whatever to the present question. It was the case of an unauthorized individual killing a captive. The act proved him a coward; and it would be a monstrous doctrine that would make every individual an arbiter on the subject of retaliation. If the commanding officer had done the same act which was done by the individual, although a proper policy might not have been pursued, public execration would not have followed the act.

Mr. J. here concluded his observations, by returning his thanks to the Committee for the attention which had been paid to his remarks, and expressing his regret at having been obliged to trespass on their time so long.

Mr. SMYTH, of Virginia, addressed the Chair. I promised, said he, when the House received the report of the Military Committee, that I would, when the time for discussing it arrived, attempt to show, that all the proceedings of Gen. Jackson, in prosecuting the Seminole war, were justified by the law of nations. I will proceed to fulfil that promise.

In examining the proceedings of the armed force of the United States in Florida, I propose to make these inquiries; 1. Have the rights of the United States been transcended? 2. Have the Constitutional powers of the President been exceeded? 3. Has General Jackson transcended his powers, or violated the laws of nations?

I proceed with the first inquiry: Have the rights of the United States been transcended?

The law of nations, like the common law of the land, is founded on reason and usage. To prove that it is reasonable that a nation should possess a certain right, is to prove that it does possess that right; unless it is shown that the custom and usage of nations is otherwise. We find those customs and usages in treatises compiled by writers on the law of nations.

The right of security, or of self-preservation, is one of the most important, and most unquestionable rights of nations. A nation has a right not to suffer any other to obstruct its preservation. This is one of those rights called perfect rights. The definition of a perfect right is, that it may be asserted by force. It is, therefore, the duty of the Government to preserve the people. "The safety of the people is the first law." And we have a right to do whatever is necessary to the discharge of our duties.

We have a right, by the law of nations, to de-



stroy hostile savages residing within the territorial limits of a neighboring Power, but not amenable to the civil laws. A neighboring territory is not to become a safe asylum for banditti, who carry on against us predatory and murderous hostilities. You may not pursue a fugitive from justice in the territory of a neighboring nation: there is no necessity to authorize you to do so. But, if you cannot otherwise deliver yourself from an imminent danger, you may enter the territory of a neighboring Power—(Vattel, page 167.) In short, the Government, being bound to preserve the people, has a right to all the means necessary to preserve the people, whatever they may be. Nothing can dispense with the obligation, and nothing can destroy the right to the means.

The right of necessity, and the right of self-defence, are paramount to all other rights claimed under the law of nations. The inviolability of Ambassadors, and even the inviolability of crowned heads, must yield to the security of nations.

Thus, a conspiracy having been formed in 1717, in England, contrived by the Swedish Ambassador, to invade the country and dethrone the King, the Ambassador was arrested and his papers seized, (Ward, vol. 2, p. 330;) the other foreign Ministers expressed their satisfaction, except the Ambassador from Spain, who observed that he was sorry no other way could be fallen on for preserving the peace of the kingdom. He then assigned a satisfactory reason for adopting the measure; there was no other way of preserving the peace of the kingdom; therefore, the measure was necessary for self-preservation, and consequently lawful.

The Speaker (Mr. CLAY) has questioned the right of the United States to enter the country of the Seminoles in Florida, to suppress them, and put an end to their hostile incursions. It is a strange doctrine that there is no way to put an end to the hostilities of a subject savage community, whose country lies within the territorial limits of a Power with which we are at peace, but by declaring war against that Power. The law of nations allows you to enter the territory of a neutral Power in quest of an enemy, (Vattel, p. 313.) It is even still more reasonable that you should possess the right, when the territory claimed by the neutral Power is, in fact, the country, the residence, of your savage enemy, where alone effectual hostilities can be carried on against him.

The right of a sovereign Power to exclusive jurisdiction within a territory, is founded on the engagement to govern the inhabitants, and restrain them from injuring other nations. When the Government is no longer able to restrain the inhabitants from injuring other nations, they have an undoubted right to attack such inhabitants, and suppress them, without going to war with that Power which has become too feeble to restrain them. Should Buenos Ayres, or the Banda Oriental, having shaken off the authority of Spain, make war on the Brazilians, the latter would seem to have an undoubted right to in-

vade them without going to war with Spain. Should Mexico set at naught the Spanish Government, and make war against the United States, the latter would have a right to invade Mexico without declaring war against Spain. So, in the case under consideration, Spain being unable to restrain the savages of Florida, has no right to complain that the United States have entered that country to restrain them.

The law of nations may be illustrated by cases in municipal law. I may pursue and destroy on my land a noxious animal which I have started on my own. If your house adjacent to mine is on fire, I may enter on your premises, and pull it down, for the preservation of mine. Where the reason is the same, the law is the same.

Such being the right of the United States, by the law of nations, it is proper to inquire, what effect on those rights has been produced by the treaty between the United States and Spain. By that treaty both parties bind themselves "expressly to restrain by force all hostilities on the part of the Indian nations within their boundary; so that Spain will not suffer her Indians to attack the United States"—(Lave, v. 2, p. 266.) Spain, then, is bound to restrain her savage subjects, and is liable to pay all damages that may be sustained by her failure; and should she fail, from inability to suppress them, she is still bound to use all the means in her power, and to furnish all the aid in her power for that purpose. The engagements of a treaty impose a perfect obligation, and give a perfect right; a right which may, if necessary, be asserted by force—(Vattel, p. 182.) Spain then agrees, and is bound, that the Indians shall be suppressed, and the United States have a right that the Indians shall be suppressed. It is preposterous to contend, that because Spain is unable to restrain the hostilities of her Indians, that therefore they are to remain unrestrained, when Spain has agreed that they shall be restrained, and the United States have a right that they shall be restrained. The consequence of the inability of Spain is, that the United States may use force in restraining the Indians of Spain; and have a right to all the means of effecting that object that Spain can furnish. When the performance of the duties of Spain devolves on the United States, they have a right to the means of performing those duties. Therefore, if the possession of the forts in Florida is necessary to the suppression and restraint of those savages, the United States have a right to the possession of them.

The law of nations also recognises the right, arising from necessity, of seizing a place of strength belonging to a neutral Power, and putting a garrison into it, either for defending itself against an enemy, or for the purpose of preventing him in his designs of seizing this place, when the neutral Government is not able to defend it—(Vattel, p. 315.) The treaty with Spain certainly neither diminishes nor weakens the rights of the United States. It increases and strengthens them. The object of the article under consideration is the suppression of the hostile sav-

ages. This object is to be, and must be, effected. The two nations have agreed and bound themselves that it shall be effected; and that agreement is as to them a written law of nations.

Our right being established, and the incapacity of Spain to fulfil her obligation notorious, the law of nations allowed the United States, when they could not obtain due satisfaction by amicable means, or foresaw that it would be useless to try such means, to have recourse to forcible means in pursuit of their rights—(Martens, pp. 265, 268.) Indeed, the right claimed by the United States was of such a nature that a specific performance of the agreement to suppress the hostilities of the savages was indispensable. If that could not be performed by Spain, it must be performed by the United States, who would then be entitled to demand of Spain satisfaction for her failure to perform her engagements.

It therefore seems to me that there can be no doubt that the United States had a right to enter Florida in pursuit of the Seminole savages; to possess the means necessary to restrain them—and to restrain them.

The next inquiry that I propose to make is, Have the Constitutional powers of the President been exceeded?

An honorable gentleman from Georgia was of opinion that there should have been a declaration of war against the Seminoles. He says, "the war-declaring power has been snatched from Congress." Let me here remark, that I think this objection would have come better from any other quarter than from the State of Georgia, for the safety of whose people this war has been commenced and prosecuted. I would also remark, that this objection would have come better from any other gentleman than him who made it; yet no doubt he made it in obedience to what he now deems his duty.

On examining the journals of the last session, I find, on the third of April, this entry: "On motion of Mr. Cobb, resolved, that the Committee on Military Affairs be instructed to inquire into the expediency of increasing the pay of the militia now in service, or which may hereafter be called into the service of the United States, in the war now prosecuting against the Seminole tribe of Indians." This was ten days after the President had informed the House that the army was authorized to enter Florida. An acknowledgment that war exists, is a declaration of war.\* It then appears, that at least the gentleman and this House have declared the war. Another proof that the war was authorized by Congress, is found in the appropriation for the pay of militia employed therein. A third piece of evidence, which will prove satisfactory to the gentleman, is an act passed in pursuance of his resolution, which recognises "the war against the Seminole tribe of Indians," and is a complete declaration of war by Congress.†

But all this was unnecessary to enable the

President to make war against the Seminoles; for a defensive war need not be declared; the state of war being sufficiently determined by the open hostilities of the enemy.\* Our war against the Indians is decisive, although carried on in their country, because we suffered the first act of violence.† Should Spain commence war against us after the rising of Congress, no doubt the President, with his fleets and armies, would be authorized to fight, before the meeting of Congress, and to continue fighting, whether the war was ever declared or not. And we have given to the President a continuing authority to repel invasions by the Indian tribes.‡ The act of Congress under which the President Washington ordered the Generals St. Clair and Wayne to invade the Indian country, merely authorized him to call out the militia to aid in protecting the frontiers from the hostile invasions of the Indians.§ The attack by the Indians of Florida being an invasion, the President was authorized to repel it, and in repelling to pursue and effectually to suppress the invaders.

It by no means follows, as some seem to suppose, that because the President cannot declare war, that he can do nothing for the protection of the nation, and the assertion of its rights. The power to declare war, is a power to announce regular war, or war in form, against another Power. But it never was intended, by reserving this power to Congress, to take from the President the power to do any act necessary to preserve the nation's rights, and which does not put the nation into a state of war with another Power. If Congress, in addition to the power of declaring war, assume to themselves the power of directing every movement of the public force that may touch a neutral; or that may be made for preserving the national rights; or executing the laws and treaties; they will assume powers given to the President by the Constitution. A declaration of war against savages is not only unnecessary, but would be highly impolitic. It would be an acknowledgment of their independence; an acknowledgment that they may engage in war in form; that the usages of such a war apply to hostilities with them; and that they are entitled to the treatment of lawful enemies. I contend that there can no such thing as a war in form between this nation and a tribe of American savages. A war waged by Indians against the United States can have no lawful object. The only object of such a war must be plunder, massacre, destruction, and revenge—and incursions committed without lawful authority, or apparent cause, and only for havoc and pillage, can be productive of no lawful effect. A nation attacked by such enemies is under no obligation to treat them as lawful enemies. They may be hanged as robbers,|| or banditti.

If the President has a right to repel an Indian invasion without a declaration of war, as I have

\* 4th vol. Laws, 835.

† Acts first session, Fifteenth Congress, page 94.

\* Vattel, 293.

† 2d vol. laws, 479.

‡ Vattel, 296, 397.

§ Martens, 273.

|| Same, 74, 102.



contended, then he may lawfully enter even a neutral territory in pursuit of the enemy without making war against that neutral Power; and consequently without war having been declared against such Power. If the United States have a right to enter the territory of Spain, there to suppress the Seminoles, as I have contended, then the President may assert that right; for the act being no act of war against Spain, a declaration of war is not necessary to precede or authorize its performance. The exercise of a right is neither war nor cause of war; nor does the violence which opposition may render necessary, make it war. We may enter a neutral territory to attack an enemy; we may seize a neutral place to anticipate an enemy; we may pass by force, when necessary, through neutral territory; yet the place or territory is still considered neutral, and therefore the act is not war.

This right of the nation is to be exercised by those intrusted with its protection. The President is charged with the duty of asserting the rights of the nation, and he is furnished with the means. He is Commander-in-Chief of the Army and Fleet; and it is his duty to see that the laws (which include treaties) be faithfully executed.\* He may therefore possess, on behalf of the United States, whatever another Power by treaty authorizes the United States to possess. He may do beyond the jurisdiction of the United States whatever the law of nations or treaties authorize the United States there to do. He cannot seek satisfaction by war. He cannot make reprisals. But he may assert a specific right; or take possession of a specific thing, claimed by the United States. Thus, President Madison took possession of West Florida, claimed by the United States, and also by Spain. By his order, Wilkinson took the fort of Mobile from a Spanish officer. Force was to have been used, but the place was obtained by capitulation. I doubt not those proceedings had the entire approbation of the Speaker, (Mr. CLAY,) who very ably advocated the claim of the United States to that province.†

\* "I will also admit that the President is bound to see the laws and treaties faithfully executed; and, so far as his powers extend, to cause them to be executed."—From a speech of Mr. Gallatin, in 1800.

† "He (the President) possesses the whole Executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation, is to be performed through him. He is charged to execute the laws. A treaty is a law. He must then execute a treaty, where he and he alone possesses the means of executing it."—From a speech of Mr. E. Livingston, in 1800.

‡ "I have no hesitation in saying, that if a parent country will not or cannot maintain its authority in the colony adjacent to us, and there exists in it a state of insurrection and disorder menacing our peace; and if, moreover, such colony, by passing into the hands of any other Power, would become dangerous to the integrity of the Union, and manifestly tend to the subversion of our laws, we have a right, upon

I therefore conclude that all the right which the United States had to do the acts which have been done in Florida, is vested in the President, the Executive branch of the Government.

The next inquiry which I propose to make is, *Has General Jackson transcended his orders, or violated the law of nations?*

In examining this question, it is necessary to see, in the first place, what were his orders. On examining the orders under which General Jackson acted, I find them to be as follows:

"26th Dec. 1817. To adopt the necessary measures to terminate a conflict which it has ever been the desire of the President, from considerations of humanity, to avoid; but which is now made necessary by their settled hostilities."

"16th Jan. 1818. To terminate speedily the war with the Seminoles; and with EXEMPLARY PUNISHMENT for hostilities so unprovoked; the honor of the United States requires it."

"29th Jan. 1818. To put a speedy and successful termination to the Indian war."

"6th Feb. 1818. To terminate the rupture with the Indians as speedily as practicable; to restore peace on such conditions as will make it honorable and permanent. The honor of our army, and the interest of our country require it."

In an order issued previous to all those which I have quoted, to wit, on the 16th of December, 1817, and addressed to General Gaines, he is allowed to march across the Florida line, and attack the Indians within its limits, should it be found necessary, "unless they should shelter themselves under a Spanish fort." In the last event, you will immediately notify this Department." This event never did happen; the Indians did not shelter themselves under a Spanish fort. And the event never having happened, the orders are to be understood as if no such clause was contained therein. This clause cannot be construed into a prohibition to possess himself of the forts of Florida, if necessity, or hostilities, justified the commanding officer in doing so, according to the law of nations or from treaties.

I will consider the objections that have been made to the proceedings of General Jackson: 1. In occupying St. Marks. 2. In occupying Pensacola. 3. In executing Arbuthnot and Ambrister. But here let me remark, that the President has refused to censure or punish General Jackson for his proceedings in Florida, and thus takes upon himself the responsibility for them. It is the President that is responsible to Congress, and we shall not turn aside from him to

eternal principles of self-preservation, to lay hold of it."—From Mr. Clay's speech on the occupation of West Florida."

"The immutable principles of self-defence, justified, therefore, the occupancy of the Floridas; and the same principles will warrant the American Government in holding it until such time as Spain can guarantee, by an adequate military force, the maintaining her authority within the colony."—From Gen. Jackson's despatch June 2, 1818.

censure a subordinate officer. It is against the President that we should direct our measures, if we take any. He has applauded General Jackson's motives, and excused his actions, and it is not for us to condemn them. This House may impeach, and the Senate may try the President; but General Jackson is not responsible to either.

Let us see if General Jackson was not justifiable in occupying St. Marks. I have attempted to show that, as the United States had been compelled, by the delinquency of Spain, to do the duties of Spain, they were entitled to the possession of the means, and so entitled to the possession of the fort of St. Marks, as a means of restraining the Indians. I have also shown that, by the law of nations, necessity authorizes the temporary seizure of a place, for preventing the enemy from seizing this place, when the neutral sovereign is unable to defend it.\* To require that the exercise of this right should be preceded by a declaration of war, is to deny the right altogether, which is to take possession of the fortress of a neutral Power. The Indians and negroes had threatened to occupy St. Marks,† and premeditated seizing that post.‡ Five hundred of them had approached it, to the alarm of the commander.§ The case in which it is justifiable to seize a neutral post, existed. The General therefore stands fully justified in the seizure of St. Marks. Thus, the Great Frederick, having ascertained the intended invasion and partition of his dominions, by Russia and Austria, took Dresden in depot, that he might be beforehand with his enemies.

I will pass from St. Marks to the occupation of Pensacola. The orders of General Jackson were to "adopt the necessary measures" to procure a speedy and effectual termination of the war, and a peace on such terms as would be permanent, and honorable to the army and the United States. But the war could not be speedily terminated, if the Spanish Governor of Pensacola abetted, encouraged, and supplied the savages, and obstructed the arrival of supplies for the American army. The possession of Pensacola was necessary to the execution of his orders.

Provisions may be seized by force when necessary.¶ Then a post may be occupied which obstructs their arrival. The Spanish commandant of Pensacola having endangered the existence of the American army, by detaining their supplies of provisions, it was necessary that he should be deprived of the power of doing the same again, during the continuance of the war.

General Jackson was reminded, in his orders, of the honor of the United States, and the honor of the army. His duty to preserve both inviolate was thus particularly impressed upon him. While engaged in suppressing the Seminoles, and thus performing what it was the duty of Spain to have done, he was ordered by the Gov-

\* Vattel, 315.

† Documents, 56, 68, 81, Luengo's letter.

‡ Documents, 80.

§ Documents, 91.

¶ Documents, 166.

ernor of Pensacola to retire with his forces from West Florida, with a threat to use force to compel him, if he did not comply.\* Will any member say, that, on receiving this order, Jackson should have fled? Ought he to have forgotten the honor of the United States, the honor of the American army, so lately and particularly recommended to his safekeeping, and fled from West Florida, before the Spanish Cross, to avoid the arms of Don José Mazot? I presume no one would say he should have fled. Whatever doubt there might be as to the necessity or legality of taking possession of Pensacola before the Governor issued this menace, there was none afterwards. General Jackson at once saw that if he retired, he retired in disgrace, the honor of the United States and of the army tarnished, and his orders shamefully violated. It became necessary that he should deprive Mazot of the means of carrying his threat into execution. A threat which, if he should not attempt to execute against General Jackson himself, while his army remained in full force, it now became extremely probable that he would carry into execution, with the aid of the savage and negro enemy, against the diminished force which General Jackson might leave in Florida. The immediate occupation by General Jackson of the fort of Barancas, was the necessary and proper result of the hostile declaration of Governor Mazot.

Such a threat is a declaration of hostilities. If it is made by one Sovereign to another, it is the commencement of war. Such a declaration, made by the King of Prussia to the Emperor of France, commenced the war in which was fought the battle of Jena, which brought the Prussian monarchy to the brink of ruin. The French battalions could not fly out of Germany before the Prussian eagle. Sir, such a threat is not merely a declaration of hostilities; it is even regarded as an attack, and gives to him who is threatened the defensive, although he should strike the first blow.† The possession of Pensacola became indispensable, by the threat of Governor Mazot, to the execution of General Jackson's orders, to the preservation of the honor of the army, and to its security.

But it is said that General Jackson made war against Spain; and it is said that all violence is war. This is a mistake. We know that the United States are not at war with Spain, although General Jackson has exerted some force against the Governor of Pensacola, on the declaration of hostilities made by the latter. Public war exists between nations. The right of making such a war belongs only to the sovereign power. But it sometimes happens that the commander of a portion of the armed force, finds, or supposes he finds, the exercise of violence necessary against some portion of the public force of another Power, although no war exists between the two nations. Such acts of force may indeed have a tendency to produce public war between the na-

\* Documents, p. 116.

† Martens, 273.



tions; they become subjects of discussion; they may be justified or they may be disavowed. Thus, in 1754, Major Washington, with four hundred men, erected a fort on the Ohio, where he was attacked by De Villier, a French commander, with nine hundred men, and obliged to capitulate. Yet war, public war, did not commence between the two nations until 1755. In 1750, events took place between the forces of England and France, in Nova Scotia, bearing some resemblance to those which lately occurred in Florida. Major Lawrence, with a small force, advanced to reduce some insurgents called French neutrals, who were in the habit of instigating the Indians to attack the English inhabitants; those insurgents fled and took protection with the French commander, Monsieur La Corne, who commanded fifteen hundred men. Lawrence forbore to attack him, because he was unable; but inquired on what principle he protected the insurgents? La Corne answered, that he was ordered to defend that post, and would obey his orders. The historian adds, that "during the years 1751 and 1752 the Indians and their coadjutors continued to disturb, plunder, and butcher, the new colonists; in their expeditions they were countenanced and supported by the French commanders, who always supplied them with boats, arms, and ammunition." If no direct hostilities took place here between the English and French commanders, we are informed what the reason was. The historian tells us that the English commander knew "that he was unable to cope with such a force in the open field."†

In 1794 Governor Simcoe built a fort at the Rapids of Maumee. This fort we know General Wayne was allowed by President Washington to take, if it impeded his operations, although there was no war between the two nations. Wayne, in his despatches, said he would have stormed it had a gun been fired. He no doubt would have stormed it had Major Campbell threatened to drive him out of the country, as Mazot threatened to drive General Jackson. An action took place between the Leopard and the Chesapeake; but that did not produce public war between the two countries. Another action took place between an American frigate and the Little Belt; yet the nations remained at peace. These events show that acts of violence occurring between commanders of portions of the armed force of different countries, each asserting the rights or maintaining the pretensions of their respective Governments, are not such acts of war as must be preceded by a declaration of war. Such acts will happen, in whatsoever hands the war-declaring power may be vested. They are not effects of war; they may be subjects for reparation. You are about to establish a post at the Yellow Stone river; perhaps another at Galveston; and

\* President Madison ordered the naval commanders to take no insult, either as it regarded the matter or the manner.

† Bismar's George 3d, vol. 1, page 118.

‡ Vattel, 293.

possibly at the mouth of the Columbia river. The commanders may be brought into collision with the commanders of the forces of other nations; they may fight long before you can hear of such collision, and yet the nations may remain at peace.

But it has been said by the Speaker, (Mr. CLAY,) on another occasion, that the right of levying taxes has been wrested from Congress. I suppose that the allusion was to the establishment of a custom-house at Pensacola, and that that constitutes one of the objections to be urged against the proceedings of General Jackson. Whatever may be said of the authority of the General to establish a custom-house at Pensacola, the act is no usurpation on the power of Congress, unless it can be shown that Congress possessed the right to establish a custom-house at Pensacola. I do not perceive that Congress possess the right. The power of Congress to legislate is confined to the American territories, and the objects enumerated in the Constitution. I conceive that Congress can exercise no power over a territory acknowledged by them to belong to a foreign Power. If treaties or the law of nations give the United States a right to act within the territory of a foreign Power, in peace or in war, it is the Executive that must so act. The British commander at Castine established a custom-house there during the late war; it was not established by the British Parliament. Where one nation by its arms occupies any part of the territory of another, it is usual to collect the duties, and let the magistrates administer the laws. The right results from the temporary possession. If that possession is wrong, all its consequences are so; but if the possession is right, its necessary consequences are also right. Whatever facts and arguments will maintain the right to take possession of a place, will support the right of the possessors to maintain in operation the usual or necessary laws. And therefore, whether the American military force in possession of Pensacola might collect the usual customs or not, depends on the former question, whether they had a right to take possession or not.

I will next consider the objections made to the conduct of General Jackson, in the execution of Arbuthnot and Ambrister.

Some of my arguments on this branch of the subject, have been anticipated by the honorable member who has preceded me, the chairman of the Military Committee, (Mr. JOHNSON, of Kentucky,) and it gives me satisfaction to find that my opinion agrees with that of a gentleman who is as much distinguished by his humanity as by his valor.

My observations will chiefly relate to the case of Ambrister, as the proceedings against him have been the most censured; and what is said of his case will in the general apply to that of Arbuthnot.

I will attempt to maintain that Ambrister was an outlaw, making war without authority, instigating savages to an unlawful war, a leader of banditti, and liable, by the law of nations and the usages of war, to suffer death.

It was found by the special court martial, that Ambrister had led and commanded Indians in carrying on war against the United States, being a British subject. Peace exists between all the citizens of the United States and all the subjects of Great Britain; and the Englishman who counsels, aids, or abets savages to massacre the people of the United States, is a murderer.

It is the laws of war, a branch of the law of nations, that gives to the commanding General a right to put prisoners to death, either for a violation of the usages of war, or by way of retaliation. In the one case, they die for their own crime, and their punishment is just; in the other, they are put to death for the crimes of their party, and their punishment is justified by policy.

Among the crimes against the laws of war, for which a prisoner may justly die, are—1. Making war without authority, the war being lawful; 2. Making war, if the war is unlawful; 3. Using means contrary to the laws of war.

That article of the laws of war that provides that he who fights without authority is liable to suffer death, seems not to have been rightly understood by either branch of the Military Committee: but it is a rule well established, and very beneficial to humanity. General Jackson seems to me to have entertained a correct idea of the rule, but not to have taken time, when giving his order for the execution of Ambrister, to express himself with sufficient clearness. I should interpolate the rule as laid down by him, and make it read thus: "It is an established principle of the law of nations, that any individual of a nation making war against the citizens (or soldiers) of another nation, the nations being at peace, (and having no authority by being in the service of a Power making a lawful war,) forfeits the protection of his Government; and becomes an outlaw (or robber, if he makes war by land) or a pirate, (if he makes war by sea.)" The rule thus amended is equally applicable to the case of Ambrister, as in the form expressed by General Jackson. And it is fully established by the writers on the law of nations.

Ambrister, being the subject of a Power at peace with the United States, of his own free will, without any authority from any Government, has dared to make war upon the United States. Let us hear what the writers on the law of nations say on this case. National war is a conflict between nation and nation. It never can be undertaken or carried on but by the authority of the sovereign.\* Therefore subjects cannot act herein of themselves, and without the sovereign's order they are not to commit any hostility.† The necessity of a particular order is so thoroughly established, that even after a declaration of war between two nations, if the peasants of themselves commit any hostilities, the enemy, instead of sparing them, hangs them up, as so many robbers or banditti.‡ The violence committed by the subjects of one nation against those of another, without authority from their sovereign, are now

looked upon as robberies; and the perpetrators are excluded from the rights of lawful prisoners.\*

It appears therefore that, had war actually existed between the United States and Great Britain, and Ambrister had, without authority from his Government, committed hostilities against the United States, he would have been justly considered as a robber, and liable to be hanged by order of the commanding officer into whose hands he had fallen.

This rule of the law of war, that no one is to fight without authority, was asserted by the enemy in the war of our Revolution, in the case of Colonel Ethan Allen. He advanced against Montreal, with a few volunteers; his party was routed, and he himself made prisoner; and, under pretext of his having acted without authority, he was thrown into irons, and sent to England as a traitor.†

Those who kill an enemy in war are excused in consideration of their acting in the performance of their duty. But those who fight contrary to their duty, or without its being their duty, the laws of war equally condemn as the deserter, him who has broke his parole, or him who fights without authority.

War being a great calamity, they well deserve to die who violate those laws which have been agreed upon by civilized nations for the purpose of diminishing its horrors. War is sufficiently destructive when its operations are confined to those who are authorized to prosecute it by the Government; but how horrible would it be, if every person belonging to one Power, had a right to attack and kill any person belonging to the other! And if that man may be lawfully and justly put to death, who, without authority, attacks the soldiers of the enemy, how much more does that man deserve to die, whose country being at peace, instigates savages to the horrid acts of undistinguishing massacre.

The law of nations is, that the subject of a neutral Power who wages war by land, is punishable with death, unless he is in the service of a Power carrying on a regular war. And nations have gone further as to war carried on by sea, and agreed, generally, that not even a commission shall exempt from the punishment of death him who, being the subject of a neutral, exercises hostilities by sea. But the committee say, Arbuthnot and Ambrister were "acting with a Power acknowledged independent by us." I can by no means agree with the committee. Look at the Constitution; Indians are spoken of as a part of our population. Look at our treaty with Spain; each party engages to restrain the Indians within their territory; and those in Florida are spoken of as the Indians of Spain. Look at our treaties with the Indians; they acknowledge themselves to be under our protection; and consequently they owe us allegiance; for protection and allegiance are reciprocal. Refer to the notes of our

\* Martens, 272. † Vattel, 365. ‡ Vattel, 366.

\* Martens, 272, 280, 284.

† Marshall's History, 3d vol. 22.



H. OF R.

Seminole War.

JANUARY, 1819.

Commissioners at Ghent, which are among the ablest State papers that have appeared; you will find the following passages: "If the United States had now asserted that the Indians within their boundaries, who have acknowledged the United States as their only protectors, were their subjects, living only at sufferance on their lands, far from being the first in making that assertion, they would only have followed the example of the principles uniformly and invariably asserted in substance, and frequently avowed, in express terms, by the British Government itself. The United States claim, of right, with respect to all European nations, and particularly with respect to Great Britain, the entire sovereignty over the whole territory, and all the persons embraced within the boundaries of their dominions." All this tends to prove that the Indians are subjects, or subject communities, owing allegiance to the United States. The proposition affirmed by the minority of the Military Committee that white men may enter into the service of Indians, and that they thereby become entitled to the same treatment in all respects as the Indians, I do not admit. I contend that a treaty of peace with Indians would not shield from a prosecution a white man, the subject of a neutral Power, who had associated himself with the Indians, and killed a citizen within the jurisdiction of a State.

Volunteers are allowed to serve foreign Powers. Let us see why this custom has become a part of the law of nations. "The noble view of acquiring instruction in the art of war, and becoming more capable of serving our country, has introduced a method of serving as volunteers even in foreign armies; and the custom is doubtless justified by the sublimity of the motive." But this sublime motive will not justify a civilized man in entering into the service of the ferocious and murdering savage, to learn the use of the hatchet and the scalping knife.

Ambrister did not, by coming to Florida, owe allegiance to Bowlegs or to Hillishajo. He continued the subject of Great Britain; and he owed temporary allegiance to the King of Spain. By aiding savages to carry on war against the United States, he violated the British treaty, the Spanish treaty, the law of nature, the law of nations, and the laws of war, and justly suffered death.

It is only in lawful wars that those who are taken are entitled to the treatment of prisoners of war. A war, to be lawful, must be undertaken by the sovereign Power.† There must be lawful authority for making it, and apparent just cause. It must not be merely an incursion for havoc and pillage. An individual cannot wage lawful war against a nation; he is a robber. A family cannot; they will be robbers. A tribe of savages cannot; they may be treated as enemies of the human race. "Nations which are always ready to take arms on any prospect of advantage, are lawless robbers; but they who seem to delight

\* Vattel, 367. † Vattel, 296; Martens, 272.

in the ravages of war, who spread it on all sides without any other motives than their ferocity, are monsters unworthy the name of men. All nations have a right to join in punishing, suppressing, and even exterminating such savages."\* This is the language of the law of nations. Then, as the Seminole savages could not themselves make a lawful war against the United States, their chiefs, Bowlegs and Hillishajo, could not communicate such a right to Ambrister.

If Great Britain had been at war with the United States, and Ambrister, her subject, had exercised hostilities against them, without authority from his Government, the laws of war condemn him to die, as has been clearly shown.† Surely the circumstance of his nation being at peace with us, does not increase his rights; it only increases his guilt.

I would go still farther, sir, but for this I have no express written authority in point; I would rely on reason and analogy. I say if Nicholls had been taken during the late war, with his Britannic Majesty's commission in his pocket, when engaged in exciting savages to massacre the peaceful citizens of our frontiers, he would have deserved to have been hanged for using means contrary to the laws of war. The principle I contend for seems to have been acted on in the case of Colonel Hamilton, the British commander of Vincennes, in the war of the Revolution. That officer having excited the Indians to war against the frontiersettlers, was attacked by Colonel Clark, and surrendered himself and his garrison prisoners of war. The historian tells us that "with a few of his immediate agents and counsellors, who had been instrumental in the savage barbarities he had encouraged, he was, by order of the Executive of Virginia, put in irons, and confined in jail."‡ There are certain means, the use of which is contrary to the laws of war; as poisoning, assassination, entering the camp of an enemy in disguise, as spies, or with intent to poison, assassinate, or corrupt; soldiers guilty of any of these offences are liable to suffer death; and, I would add, to the list of unlawful means, exciting savages to war. Our Commissioners at Ghent declared that "the employment of savages, whose known rule of warfare is the indiscriminate torture and butchery of women, children, and prisoners, is, itself, a departure from the principles of humanity observed between all civilized Christian nations, even in war." Then let this practice be terminated. That is to be effected by the exemplary punishment of every instigator of Indian hostilities.

I cannot perceive any ground for the comparison made between the cases of Lafayette, Kosciuszko, Pulaski, and De Kalb, with those of Arbuthnot and Ambrister. Do those who make this comparison find any likeness between the United States and the Seminole tribe of savages? The war of the Revolution was carried on as a

\* Vattel, 282, 151, 152. † Martens, 280. ‡ Marshall's History, 3d vol., 516.

JANUARY, 1819.

Seminole War.

H. OF R.

civil war, in which the treatment of prisoners is the same as in a regular war between two nations.\* And as foreigners are allowed to enter into the service of either party in such a war, they were consequently entitled to treatment similar to that which other prisoners of their party received.

Having considered the liability of Ambrister to suffer death, for a violation of the laws of war, in exercising unlawful hostilities, I will next consider his liability to be put to death by way of retaliation, as a person incorporated with the enemy.

I lay down, with regard to the savages, this rule of warfare. Whatever degree of force, whatever destruction, whatever punishment for violating the usages of war or by way of retaliation, is found necessary to deter them from robbing our citizens, and massacring our women and children; that force, destruction, and punishment, they should be made to feel, and no more. So much we have an undoubted right to inflict on the principle of self-preservation. And if we do not inflict so much, we fail in our sacred duty to preserve the people.

I find this opinion fully supported by the authority and example of the greatest man that this or any other country has produced. General Washington, who knew when to silence pity, if its exercise was injurious to his country, did not consider the usages of war, or the principles of humanity, as applicable to a war carried on for the punishment of the unprovoked and atrocious hostilities of savages.† In his order to General Sullivan, directing his operations in the Indian country, I find the following clauses:

"The expedition you are appointed to command is to be directed against the hostile tribes of the Six Nations of Indians, with their associates and adherents. The immediate objects are the total destruction and devastation of their settlements, and the capture of as many prisoners of every age and sex as possible."

"I would recommend that some post in the centre of the Indian country be occupied with all expedition, with a sufficient quantity of provision, whence parties should be detached to lay waste all the settlements around, with injunctions to do it in the most effectual manner, that the country may not merely be overrun, but destroyed."

"After you have very thoroughly completed the destruction of their settlements, if the Indians should show a disposition for peace, I would have you to encourage it, on condition that they will give some decisive evidence of their sincerity, by delivering up some of the principal instigators of their past hostilities, into our hands—Butler, Brandt, the most mischievous of the Tories that have joined them, or any other they may have in their power, that we are interested to get into ours."

"But you will not, by any means, listen to overtures of peace, before the total ruin of their settlements is effected."

"Our future security will be in their inability to injure us—the distance to which they are driven, and the terror with which the severity of the chastisement

\* Vattel, 398. † Vattel, 340.

they receive, will inspire them—peace without this would be fallacious and temporary."

"When we have effectually chastised them, we may then listen to peace; and endeavor to draw further advantage from their fears."

Such were the orders given by General Washington for inflicting exemplary punishment on the savages. Let us see how they were executed. "Every lake, river, and creek, in the country of the Six Nations was traced for villages, and no vestige of human industry was permitted to remain. Houses, corn-fields, gardens, and fruit trees, shared one common fate. Eighteen villages, a number of detached buildings, one hundred and sixty thousand bushels of corn, and all those fruits and vegetables which conduce to the comfort and subsistence of men, were utterly destroyed.\* On receiving the communications of General Sullivan, Congress passed a vote of approbation of his conduct, and of that of the army."

Had Brandt and Butler fallen into the hands of General Washington, they would, no doubt, have met the fate of Arbuthnot and Ambrister. So resolved was General Washington that a severe example should be made, that he would not even listen to proposals of peace until it had been done. In the present case, also, the punishment was inflicted for example; to preserve the peace of the frontier; to preserve from the hatchet and scalping-knife women and children. Many will be saved by the example; but, should only one be saved, Arbuthnot and Ambrister have not died in vain.

Retaliation may be exercised even on the innocent, where the enemy have been guilty of a violation of the usages of war.† A prisoner of war may sometimes be put to death to punish a nation that has violated the laws of war.‡ Whenever the enemy sets us the example of departing from the laws of war we are at liberty to follow it.§ General Washington, in devastating the Indian country, and in the case of Sir Charles Asgill, who was marked for death by lot, as a retaliation for a crime committed by an English captain, acknowledged the force and expediency of the law of retaliation. The Congress of the Revolution,¶ the Congress during the administration of Mr. Adams,|| and the Congress during the administration of Mr. Madison,\*\* all acknowledged the expediency of retaliating, even on the innocent, the outrages and ill-usage committed on prisoners by the enemy.

It is denied that the right to retaliate is vested in the commanding General; and the acts of Congress authorizing retaliation by the President, are cited to prove that the right is not in the General. But it is the commanding General that is declared by the law of nations to possess this right;†† and the proceedings of General Wash-

\* Marshall's History, 100.

† Vattel, 321; Martens, 283. ‡ Martens, 238.

§ Martens, 279. || Marshall's History, vol. 3; p. 391.

¶ 3d vol. Laws, 264. \*\* 4th vol. Laws, 536.

†† Vattel, 321; Martens, 283.



ington with respect to Sir Charles Asgill, prove that he considered himself as possessed of the right. In such a case as that, the writers on the laws of nations recommend clemency.\* Such clemency did save Sir Charles Asgill. General Jackson had no occasion for its exercise. He never marked the innocent for retaliation. He made examples only of the guilty.

The acts of Congress passed during our two last wars were expedient to remove all doubts of the right of the President to retaliate on French and British prisoners; and it was necessary that the retaliation in those cases should be by his order, as there was no commander who could claim the authority in those cases. And in both those cases the cruelties intended to be retaliated were perpetrated by the authority of the foreign Governments. But, usually, this right to retaliate should be left to the commanding General; for it is inexpedient to introduce into the Cabinet, which should be composed of men of peace, the work of blood.

The committee come to the conclusion that General Jackson acted unlawfully by supposing that the special court or board of officers appointed to investigate the fact in the cases of Arbuthnot and Ambrister were a general court martial, appointed to try and determine offences under the articles of war. If that were so, the second sentence of the court in Ambrister's case, that he should receive fifty stripes, and be confined with a ball and chain to hard labor for twelve calendar months, is contrary to law, and, therefore, void; for, an act of Congress has repealed so much of the articles of war as authorizes the infliction of corporal punishment by stripes.† But the court was not appointed under the articles of war. It was neither a general nor a regimental court martial. Its authority was derived from the order of the commanding General, and was to investigate charges, and record their opinion as to the guilt of innocence of the prisoners, and what punishment, if any, should be inflicted. The law under which Ambrister was punished was the laws of war. Those laws do not authorize infliction of torture. Therefore, the second sentence, to inflict stripes and labor at a ball and chain, is illegal and void. Whatever law the court was appointed and acted under, the second sentence is unlawful and void; consequently, the first sentence, that Ambrister should suffer death by being shot, was the only legal sentence, and properly carried into execution.

But should you allow to the second sentence the effect of setting aside the first, then the facts will have been found, and there will be no sentence; and the order of the General for the execution of Ambrister will rest on, and stand justified by, the laws and usages of war.‡

There is a very remarkable resemblance between the proceedings of General Washington in the case of Andre, and the proceedings of General Jackson in the cases of Arbuthnot and Am-

\* Vattel, 321, 322.

† Acts of May, 1812.

‡ Vattel, 297, 391, 325, 365; Martens 269, 280, 285.

brister. General Washington, in his order to the court, says to them, "After a careful examination, you will be pleased, as speedily as possible, to report a precise state of his case, together with your opinion on the light in which he ought to be considered, and the punishment that ought to be inflicted." General Jackson appointed the special court "for the purpose of investigating the charges" against the prisoners, directing them "to record their opinion as to the guilt or innocence of the prisoners, and what punishment, if any, should be inflicted." The substantial agreement is very remarkable; nor is it easy to distinguish between the cases so as to censure the one of these Generals without censuring the other. One of the criminals was a spy, and in manners, a polished gentleman; the other was a brigand, carrying on hostilities at the head of Indians and negroes. They were equally offenders against the usages of war, and with equal justice suffered death.

Andre died by the sole authority of the commanding General, according to the usages of war. No court martial had authority to try him, as appears from the order which was given, not to try and determine, but to report a state of his case and an opinion. Now, indeed, the trial of spies by a court martial is expressly authorized by an act of Congress.

Ambrister died by the sole authority of General Jackson. No court martial had power to try him by any law of the United States. But the committee say, that, "wherever severity is not absolutely necessary, mercy becomes a duty." A similar expression has been used by the writers on the laws of nations in regard to retaliating on the innocent for the guilt of others; but that is not this case. What mean the committee by "absolute necessity?" The nation indeed was not in danger: nor was it in danger when Andre died; and according to the reasoning of the committee, General Washington should have pardoned Andre; but Andre suffered, because the case required that the example should have its full effect; and so it was required in the case of Ambrister. Where pardon will have a pernicious effect on the interests of society, mercy becomes weakness and folly.

As General Jackson is censured for the execution of Ambrister by some, so there were some who censured General Washington for the execution of Andre. Let us hear the British historians mourn over the fate of their favorite. "Andre, finding his doom unavoidable, wrote a most pathetic letter, praying that he might not die the death of a common malefactor, but by a mode more befitting a soldier. Even this small boon was refused to a generous enemy, by the inexorable rigor of stern republicanism. On the 22d of October the ill-fated hero met his death, with a composure, serenity, and fortitude, worthy of conscious innocence, suffering unmerited punishment."\* Who could suppose on reading this that Andre was carrying on a most infamous

\* Bisset.

negotiation, disguised as a spy, under a false name, with the disclosures of a traitor concealed in his boot? And who that should hear the regret expressed for the fate of Arbuthnot could suppose that he was the author and prime mover of the Seminole war, in which some hundreds of our men, women, and children, have been massacred in the most cruel manner?

It is alleged that these incidents, the execution of Arbuthnot and Ambrister, are at variance with the principles of our Constitution and laws. Our Constitution and laws were formed for the people of the United States. They have no force in Florida. Ambrister and Hillishajo never came under the shade of the umbrella of the Constitution. "They should," says the honorable Speaker, (Mr. CLAY,) "have been turned over to the civil authority. So soon as the stranger treads the American soil, he is encircled by the laws." I answer, there was no civil authority having jurisdiction of their cases, to which they could have been turned over. They never did tread on that portion of American ground where they could claim the benefit of our laws. Nor do those laws protect enemies in time of war. They did not protect Sir Charles Asgill; they did not protect Andre, or the emissaries who sought to corrupt the soldiers of the Pennsylvania line.

Our Constitution and laws have not changed the laws of war. Let me advise you to make no attempts to change those laws. A single nation, however great, cannot change the law of nations. You may trammel your defenders, and prevent them from using their rights for your protection, according to the usages of war; but you will at the same time leave the enemy at full liberty to exercise their acknowledged rights. You cannot increase your rights under the law of nations; you can only diminish your rights by legislating respecting them; and that would be improvident. If any change is to be made in the laws of nations, let it be done by treaty.

Sir, you must allow your army to act against the enemy as other armies act, when engaged in war. You put the same arms in their hands; they must be allowed to use them in the same manner. Nor do the principles of our laws require that the worst of criminals, the instigators of a thousand incendiaries, robbers, and assassins, should go unpunished, merely because, as the lenient committee say, there is no "absolute necessity" that the offenders should die. We might pardon all the murderers whom we hang, and the thieves whom we confine; yet the nation would exist. There is no absolute necessity for punishing them. But the principles of our laws require, that, for the good of society, and the safety of the people, no crime shall go unpunished: that punishment shall certainly follow crime.

It has been said that there is no instance to be found in our history, previous to the Seminole war, of retaliation upon Indians. The assertion is not correct in point of fact. I have lately seen published an account of the hanging, in one of our Northern States, many years ago, of some Indians. The people have often discovered a dis-

position to retaliate on the Indians; and some examples of that kind have been set, unworthy of imitation; as the massacre of the Indians at Lancaster by a body of men called the Paxton boys.\* Let me here again remark, that the white men and Indians punished by General Jackson, were punished for their own crimes. So, in the war of the Revolution, Walter Butler, a leader of Indians, was denied quarter, and put to death.† At King's Mountain, ten of the Tories taken in that battle, who had violated the usages of war, were immediately hanged for their crimes. There are other instances of very prompt punishment having followed violations of the usages of war; as the immediate punishment of the emissaries sent by Sir Henry Clinton to corrupt the soldiers of the Pennsylvania line, and of the ringleaders of the mutiny of the Jersey troops, who were, by order of General Washington, shot without the formality of a trial.‡

I will now, sir, say a few words in reply to some of the observations of gentlemen who have preceded me on the opposite side of the question.

My honorable colleague, who made the report, (Mr. T. M. NELSON,) protests against the power of retaliation being vested in a commanding general; and the honorable Speaker (Mr. CLAY) says the power of retaliation is in those who raise armies, and make rules for their Government. Congress has repeatedly acknowledged the usages of war;§ and the usages of war expressly vest the power in the commanding General.¶ The Congress of the Revolution declared the power to be in the commanding General. The nature of the power, which is not to make a rule, but to apply it, requires that it should be vested in the commanding General, or in the President, as Commander-in-Chief. What is to be done? It is to be determined that retaliation is necessary; the object for retaliation is to be designated, and executed. This requires no legislative power; for the rule exists by the laws of war. It requires no judicial power; for the retaliation we now speak of, is supposed not to fall on particular guilt. The whole is properly an exercise of Executive power, especially belonging to the General, for the safety of whose army it is executed; and who has the best means of knowing its necessity. There is no foundation for the claim which the honorable Speaker (Mr. CLAY) makes on the part

\* The massacre of the Shawanoe Chief, Cornstalk, on the Ohio; of the Cherokee Chief Hangingmaw, on the Tennessee; and of Logan's relations, on the Ohio.

† Judge Marshall, in his history says, "His entreaties for quarter were disregarded, and he fell a victim to that vengeance his own savage temper had directed against himself." 4th vol. Appendix, 13.

‡ This, so far as relates to the emissaries, is perhaps incorrect. Judge Marshall says they were tried, condemned, and immediately executed as spies. General Washington ordered General Howe, as soon as the Jersey mutineers should surrender, to seize a few of the most active leaders, and to execute them on the spot. These orders were promptly and implicitly obeyed. 4th Marshall, 368.

§ 4th vol. laws, 536. ¶ Vattel, 321.



H. of R.

Seminole War.

JANUARY, 1819.

of Congress to the power of retaliation. It is true, Congress can make laws for the Government of the army in all places; but the laws thus made will be prospective; and should Congress make a rule on the subject of retaliation, the application of that rule (in which consists the power of retaliation) must still be left to others. But Congress have not legislated on the subject in the present case; the laws of war furnish the rule, and leave its application to the commanding General.

It is urged by the Speaker, that it has been the uniform usage of the country not to retaliate on Indians. I answer, that if this were so, as it is not, and the Government or the people, from beneficence, have refrained from retaliation on the savages, desiring to gain them by kindness, and that is now found impracticable; it is the more necessary, as well as justifiable, now to use the means allowed by the law of nations. It is for the punishment of an inhuman people, such as the Seminoles, that this law is provided. The writers say, "As the prince or general has a right of sacrificing the life of his enemies to his safety, and that of his men; if he is engaged with an inhuman enemy, who frequently commit such enormities, he appears to have a right of refusing life to some of the prisoners he may take, and of treating them as his were treated."\* This law is obviously intended for the punishment of savages; and the more incorrigible the Indians are, and the greater the forbearance of the United States, the more necessary now is the exercise of the power in question.

We ought not to confound the right of retaliation with the right of punishing an enemy who has, in his own person, committed crimes against the law of nations, and the usages of war; and whose punishment is, therefore, strictly just. All the persons punished by the order of Jackson, deserved to die for their own proper crimes, and were not put to death by way of retaliation, merely for the crimes of others.

Let me again call the attention of the Committee to the order given on the 16th of January, under which General Jackson acted "The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." We have seen that General Jackson, when acting at his own discretion, has spared the vanquished savages; even those concerned in the atrocious massacre at Fort Mimms: But his orders now directed him to inflict "exemplary punishment." He could not misunderstand them. Would you have the Secretary of War to be more explicit? Would you have him to use the language of Galienus, or to write his orders with blood?

It is said that the Indian chiefs who were hanged were not taken in battle, but by stratagem. The gentleman (Mr. CLAY) who urges this circumstance against the propriety of their execution, would doubtless, with more reason, have urged the impropriety of executing an ene-

\* Vattel 321.

my, who had laid down his arms, when vanquished in fair combat, had that been the case. Was Andre taken in battle, or was he not taken by stratagem? Were the emissaries of Clinton to the mutineers of the Pennsylvania line taken in battle, or were they not delivered up by those to whom they came? Will the gentleman apply to Washington the epithet which he insinuates is due to General Jackson? Does it make any difference in what manner villains are taken, who are proper subjects for punishment? I think not.

One of my honorable colleagues (Mr. JOHNSON) has introduced the correspondence between General Jackson and Governor Rabun. On that correspondence I did not expect to say anything in this debate, as it is before the Committee; but I am desirous of removing every prejudice against the General, and will briefly notice it.

The Constitution provides that the President shall be the Commander-in-Chief of the Army and of the militia when called into the service of the United States; that no State shall engage in war unless actually invaded, or in such imminent danger as will not admit of delay. Suppose a State to be invaded, in which case the State has a right to make war, and that the President and Governor both take the field—will they be regarded as allies, or will the United States be regarded as the principal, and the State as an auxiliary? Allies act in common—concur in the appointment of a commander-in-chief, and divide the conquests. The auxiliary has no share in the conquests, and the principal has the sole right to make peace.\* I think the State would clearly be regarded as an auxiliary only. Then the President being in the field by his Lieutenant, to whom is committed power to command in the Southern division of the United States, will not alter the right of the principal and the auxiliary. Perhaps General Jackson was correct in his view of the authority of the Governor. This is a question of a delicate nature, important, and not free from difficulty. I cannot say that I have made up my mind conclusively upon it, and desire to be considered as not committed. A divided command must prove most pernicious to the public interests.

A claim of right constitutes no ground of objection to an officer. It is a military principle that no officer can waive the rights of his rank and command. The chief objection to the correspondence between General Jackson and Governor Rabun arises from its temper, which does not exactly comport with the high standing of the parties. An apology for the manner in which General Jackson wrote, will be found in the feelings excited by hearing that, in consequence of (although not obedience to) an order, perhaps illegal, given by Governor Rabun, the wives, fathers, and mothers, of the faithful warriors who were fighting by General Jackson's side, had been massacred.

My colleague (Mr. JOHNSON) seemed dissatis-

\* Martens, 366, 307.

JANUARY, 1819.

Seminole War.

H. of R.

fied with the Secretary of State, and asks if the Secretary of State has a right to threaten to take posts. I reply, that the Secretary has not done so. He has only said, that, if the necessities of self-defence should again compel the United States to take possession of the Spanish forts, an unconditional restoration of them will not be made. The Secretary of State has a right to negotiate. It is through him that this nation holds conversation with other nations. He may point out the probable future consequences of certain proceedings. Thus, at Ghent, our Commissioners pointed out to those of England the future consequences of concluding a treaty that should impose on the United States injurious and degrading conditions. "It is impossible," say they, "that America should not, at the first favorable opportunity, recur to arms for the recovery of her territory, of her rights, of her honor."

The conduct of General Jackson at New Orleans, during the invasion, when he declared martial law in force, has been mentioned as indicating an inclination to exert unnecessarily arbitrary power. An excuse for the General will be found in the imminent danger of the loss of the country, whose inhabitants had not then given any decisive evidence of attachment to the United States, and which was invaded by a powerful army. If martial law may be declared in force on any occasion, a more fit occasion can seldom arise.

Some youth who has been writing for the public prints has said, that martial law never was declared in force in this country in the war of the Revolution. The senior members of this House know that, in some of the States, the courts of justice were shut; that everywhere the Tories were whipped and hanged by martial law; that is, by the law of force: and even in the neighborhood of Philadelphia, under the observation of the Commander-in-chief, General Potter, as the historian tells us,\* was in the habit of whipping severely those citizens who supplied the British with provisions. When the nation is in danger, whatever obstructs its preservation must yield for a time. "Amidst arms the laws are silent."

The honorable Speaker (Mr. CLAY) has caused to be read the Treaty of Fort Jackson—a treaty which, he says, has imposed hard conditions on the Creek Indians; and to this he attributes the Seminole war. The war terminated by the Treaty of Fort Jackson was one of the most ungrateful, unprovoked, treacherous, and cruel wars that ever was waged by barbarians against their benefactors, who were gently leading them, by the hand of friendship, to civilization and happiness. Are we alone denied an indemnity for the expenses of unprovoked wars? Are we alone, of all the nations of the world, forbidden to deprive a cruel and perfidious enemy of the means of injuring us in future? The gentleman would have no acquisition made from the Indians except by purchase. I would ask the gentleman in what

\* Marshall, 3d vol. 406.

manner was that beautiful country acquired of which he is one of the Representatives? Look to the State of Ohio—see there a country equal in extent and fertility with that acquired by the Treaty of Fort Jackson, conquered from the Indians by General Wayne, in a victory in which he killed twenty men. But the gentleman asks, what would be said to our unreasonable demands were the Treaty of Fort Jackson to be seen by the Powers of Europe? And, I ask, who would presume to find fault with them? Would it be France, who has so lately demanded Spain, Portugal, Italy, Holland, and Germany? Would it be Russia, who so lately demanded Poland and Finland, and, within a century past, has demanded forty provinces? Or would it be Great Britain, who so lately demanded Trinidad and Ceylon, and is now demanding the residue of the East Indies? No, sir, those Powers are otherwise engaged than to notice our demands of a just indemnity, by which we shall change a wilderness, through which barbarians roamed, to a cultivated and populous region, the abode of civilization and happiness.

But the gentleman exclaims, spare them their prophets! spare them their religion! I hope the gentleman does not mean to bring religion into disgrace by prostituting her sacred and honored name in conferring it on the practices of those vile deceivers who have brought their tribe to ruin by instigating their warriors to massacre our women and children—those wretches whose frauds and falsehood had been sufficiently proved by the failure of their pretended prophecies.

Another objection to the Treaty of Fort Jackson is, that it was signed by friendly chiefs, and only by a few of those who were hostile. I answer, that the power of the hostile chiefs was broken; they were killed or dispersed. A treaty with any nation or tribe must be entered into with the actual chiefs; and it can be no objection to a treaty of peace that those who signed it are friendly. I presume the treaty between France and the combined Powers is valid, although entered into with the reigning monarch, whose throne those Powers re-established.

I will now offer some objections to the resolutions proposed, as being in spirit contrary to the principles of the Constitution. One of the most important safeguards of liberty to be found in our Constitution consists in the separation of powers. Nor will any measure have a greater tendency to endanger the rights of the people than uniting the different powers in one of the branches of Government. You are called upon to pass something in the nature of an *ex post facto* law, or bill of attainder—measures abhorred and prohibited by the Constitution. You interfere with the Constitutional power of the President to select his officers, retain those with whom he is satisfied, and dismiss those with whom he is dissatisfied.\* You thus take away his responsibility.

\* This is a most dangerous attempt to transfer the responsibility of the military from the President to the House of Representatives.



You take upon you to act as military judges; to censure, and consequently to punish an officer who has had neither hearing or trial. You violate the principles of *magna charta*—principles deemed sacred wherever rational liberty exists—and condemn a citizen without the judgment of his peers or the law of the land. You may applaud without a trial; for there is no rule that requires that trial shall precede applause; and in applauding you do but swell the voice of fame. But, if you censure without a trial, as censure is a military punishment, you violate that most important and well established rule of justice, which requires that none shall be condemned unheard. The law provides a mode in which officers may be censured and removed from office; but it is proposed to you to do, not what belongs to the power of legislation, but what belongs to the administration of the laws.

Will you, in the controversy between the United States and Spain, throw your whole weight into the scale of Spain, and make that of your own country kick the beam? It is my choice to take the side of this nation, to support her rights, and the acts of her officers; and I find it equally agreeable to my conscience as my inclination to do so on this occasion. It is the union of the various parts of the Government that constitutes its strength. Let us leave the Executive to act with all its energy against foreign Powers, while we strongly restrain that branch from acting against the people. Shall we, at the very moment when a negotiation is depending with a foreign Power, take the part of that foreign Power? Be such conduct far from us!

But what have been the motives of General Jackson? Have they been laudable? Has he been actuated by a desire to serve his country, to defend her honor, to extend her glory, to preserve her peace, happiness, and safety? Yes; even the Speaker admits that he intended to subserve the best interests of his country. I am deeply impressed with the justice of the rule, that "the act maketh not a man guilty unless his mind is also guilty," and I will not condemn him. He deserves well of his country.

Even those acts, the propriety of which is doubted by some, have been and will be most beneficial to our country. We shall have no more Butlers, or Brandts, or Girties, or Ambristors, to stir up the savages to cruel and vengeful hostilities against us. The decision of Jackson has put an end to such practices forever. His name will contribute more to preserve the peace of the country, and to defend it, than ten thousand men.

Let me now ask, may not a man even commit some errors which it would be very inexpedient

\* Extract from the speech of Mr. Clay on the occupation of West Florida.

"Allow me, sir, to express my admiration at the more than Aristidean justice which, in a question of territorial title between the United States and a foreign nation, induces certain gentlemen to espouse the pretensions of a foreign nation."

for those for whose welfare and safety he acts to censure? This course of censuring officers, by the legislative body, is rather a novel proceeding. It was quite otherwise in ancient times. The Roman General who, by his errors, lost the battle of Cannæ, and brought his country to the brink of ruin, was not censured by the Senate; they knew his holy zeal for the interest and the honor of his country, and he received their thanks.

Let us come to a more recent case, and one more nearly in point. Was Berkley censured for his attack on the Chesapeake, and dishonoring the American flag? No; the proud Government whom he served never censured him, and considered it an insult to demand that he should be censured. They knew that he acted for the honor of the British fleet and nation; and that was his sure protection.

The Speaker referred, by way of precedent, to the case of the hero of Lake Erie, which was before the House at the last session. I regard the wreath obtained by him as one of the brightest worn by any of our commanders. The victories obtained on the ocean acquired renown for the American Navy; in that respect only were they valuable. In defending the nation, or obtaining peace, they were without effect. The victory of Perry was highly useful; it opened to our invasion the enemy's country. The victory of McDonough was much more so; it preserved our country from the invasion of the enemy. I rejoice that the hero has, in a manner so honorable to himself, removed the stain which tyrannical conduct towards an American officer and citizen had impressed on his reputation. Let us examine the cited precedent, and see what was done in the case. There was no censure, nor was there any act of legislation, as you, Mr. Chairman, (Mr. PLEASANTS,) well know, because you showed how improper legislating in the case would be.

A nation should preserve its glory; and, as the glory of a nation is composed of the aggregate of the fame of individuals, to tarnish the character of the most distinguished hero of the United States, of the present age, is to tarnish the glory of the nation.

The supporters of the report also profess, that to preserve the glory of the nation is with them a favorite object. Can the report and resolutions proposed have any such effect? It might as well be said, that the enemy who burned the President's house embellished this city. If we have built up the house with additional ornaments, the city is, indeed, thereby embellished. So, if we shall sustain General Jackson, and present him to the world in a brighter light than he has heretofore appeared, we shall have increased our country's glory.

Are you ready to sacrifice the foremost, far the foremost of your heroes, to propitiate Spain or Great Britain? Carthage, conquered and degenerate Carthage, was willing to sacrifice Hannibal to the hatred of Rome. I hope we are not disposed to follow that example. Should we do so, our conduct will resemble that of the sheep in the fable, who, at the request of the ambassa-

dor of the wolves, gave up their dogs. O! what an acceptable thing it would be to England to hear that the hero of New Orleans, the conqueror of Pakenham, had been sacrificed by the jealousy of his country!

When a measure is proposed, we should carefully look to the consequences of its adoption. It is therefore worthy of particular observation, that the militia are the chief defence of this nation, and that the utility of that kind of troops, in a great measure, depends on their confidence in their commander. That confidence can only be obtained by experience. They deserted in battalions from WASHINGTON himself, before he had established his great character. No man ever possessed the confidence of the militia in so high a degree as General Jackson, and under his command they will prove invincible.

Let me now say a word of the services of the man whom it is proposed to disgrace. Those services ought to be set forth in a style to which I have no pretensions. It is not for me to speak, in adequate terms, of the first of heroes—of an officer whose achievements are unparalleled in ancient or in modern times. I do not magnify his actions. I call on the man deep read in history to show me the page where victories such as those of Jackson have been recorded: I speak of his victory over the Creeks, and his victory at New Orleans.

Let us compare his victory over the Creeks with other victories obtained over a similar enemy, and recorded in our history. When Sullivan advanced to avenge the massacres of Wyoming, excited by British agents, and perpetrated by Indians and traitors, he commanded five thousand men, and found eight hundred Indians posted behind a breastwork, with a river in their rear. A battle ensued. The Indians were beaten, and left eleven of their warriors dead on the field of battle. At Point Pleasant, where the Indians were defeated in 1774, where a Lewis commanded, and a Lewis fell, they left eighteen of their warriors dead on the field of battle. When Wayne, after years of preparation, gained his victory over the Indians of the Northwest, they left twenty of their number dead on the field of battle. At Tippecanoe the Indians were defeated, and their loss so considerable, that they left more than thirty warriors on the field of battle.

Jackson marched against the Creeks; he found them in considerable force, and defended by works; those works he stormed, defeated them, and killed eight hundred of their bravest warriors in a single battle. Thus he gained a victory unparalleled in Indian warfare, and acquired for the United States the extensive, beautiful, and valuable country, of which you see a map suspended near you; a small part of which country you have sold, in the last year, for ten millions of dollars.

Let us follow the General to New Orleans. There we find him with a motley force of three thousand six hundred men, meeting twelve thousand of the best troops that ever appeared on our

shores—may I not say, of the best troops that ever appeared in any age or nation? Yes; and they were as unprincipled as fearless. They had driven the warriors of France—those conquerors of continental Europe—from the pillars of Hercules to the Pyrenees. A part of them had sacked this city, and burned the Capitol; a part of them had visited Hampton. They had left the fathers in anguish unutterable; they had left the matrons and virgins in tears. Yes; they had committed against us wrongs which are never to be forgotten; and for those wrongs they had obtained for the descendants of their commander a right to wear in their coat of arms, in all time to come, as a badge of our country's disgrace, the American flag, with the standard broken.

Surely, sir, there must be an overruling Providence, who directs the destinies of men and nations. Those troops who had violated the rights of war—who had committed against us every atrocity, and heaped upon our country every disgrace, sailed to New Orleans; and there they met the dire avenger—the man appointed by Heaven to tread the winepress of Almighty wrath. With a handful of men he defeated them. With the loss of thirteen men he defeated twelve thousand! The incendiaries and ravishers were punished, and the wounds inflicted on our country's honor were healed.

So disgraceful was the defeat of the enemy, that the British Government at first denied a monument to their brave General who had been slain. They were desirous to hide in the shades of oblivion the disgrace of their arms. But fame has proclaimed the renown of the victor; history has recorded it; and his name will descend to future times in a stream of light. Such is the man whom it is proposed to dishonor.

It should not be forgotten that his decision, his energy, saved New Orleans—his acknowledgment of the truth of the great and fundamental principle, that "The safety of the people is the supreme law." A man less decisive, less devoted to the cause of his country, would have hesitated, and talked of civil rights; the Legislature might have capitulated; and New Orleans would have been lost. The British negotiators at Ghent had denied our title to Louisiana; and had the possession been lost, it is doubtful whether, according to the Treaty of Peace, it would have been restored.

Let me assure you, sir, that the American people will not be pleased to see their great defender, their great avenger, sacrificed, even although it should not be to Spanish hatred or British revenge.

I call on the members from Pennsylvania to remember Brandt and Butler; to remember Wyoming. I call on the members from Georgia to remember the outrages committed on their frontier; that it was to preserve the lives of their people that the Seminole war was prosecuted; and that the energy and decision of General Jackson has obtained for them a lasting peace. I call on the members from the West to remember that the unhesitating decision and vigorous measures of this officer saved New Orleans the emporium



H. OF R.

Seminole War.

JANUARY, 1819.

of their commerce. I need not tell the members from Tennessee that it is this officer who has exalted so high the character of their warlike State. I call on all to remember that the proposed measure, if adopted, must give joy to our late enemy, and consolation to that Power which perhaps is soon to be our enemy; and that it will diminish the glory of their country, by tarnishing the splendor of the fame of her most distinguished hero.

The heirs of Ross, by order of the Prince Regent, wear in their coat of arms the American banner broken and dishonored. That insult can have no consequences injurious to us, but take care how you break and dishonor our standard yourselves.

Had this man lived before Hesiod wrote and Homer sung, temples would have risen to his honor, altars would have blazed, and he would have taken his stand with Hercules and Theseus, among the immortals, as the preserver of a nation; the vindicator of the rights of suffering humanity; the avenger of our matrons, our virgins, and our little ones.

And shall we see him depart from this city in disgrace; censured and dismissed from office by Congress; and, like Camillus, imploring Heaven so to direct human affairs, that his country may never have occasion to regret her treatment of him? No; it cannot be. Forbid it, every power that guards the protectors of innocence! Forbid it, policy! Forbid it, gratitude! Forbid it, peace!

When Mr. SMYTH had concluded, the Committee rose.

FRIDAY, January 22.

The SPEAKER presented a petition of the Legislative Council and House of Representatives of the Territory of Missouri, praying that such measures may be promptly adopted, as will give full and complete effect to the laws heretofore passed, granting pre-emption rights in the purchase of public lands, to certain inhabitants of said Territory; which petition was ordered to lie on the table.

The SPEAKER also presented another petition of the Legislative Council and House of Representatives of the Territory of Missouri, praying that an act may be passed, directing the judge, appointed in virtue of the act of the 27th of January, 1814, entitled "An act for the appointment of an additional judge for the Missouri Territory, and for other purposes," to exercise his judicial authority, and to hold courts in the new counties lately established, called Clarke, Pulaski, and Hemstead.—Referred.

On motion of Mr. HENDRICKS, the Committee on Public Lands were instructed to inquire into the expediency of making provision for the disposal of those lands in the State of Indiana and Ohio, to which the Indian title has lately been extinguished.

Mr. NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to provide for the more

convenient organization of the courts of the United States, and for the appointment of circuit judges," reported the same without amendment, and the bill was committed to the Committee of the Whole, to which is committed the bill of this House, reported at the last session, of the same title.

On motion of Mr. McLEAN, of Illinois, the Committee on the Public Lands were instructed to inquire into the expediency of granting the right of pre-emption of their settlement, to those persons settled upon lands of the United States, in the State of Illinois.

An engrossed bill, entitled "An act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky;" was read the third time, and passed.

## THE SEMINOLE WAR.

The Committee again took up the subject of the Seminole war.

Mr. JONES, of Tennessee, next addressed the House. He said he had really felt some degree of astonishment when this resolution was introduced by the Committee on Military Affairs; not because this House ought not to examine, and strictly to examine, the conduct of any of the officers of this Government—a right which he hoped it would ever claim, and prayed God it might never fear to exercise. But, said Mr. J., when we are informed that, during this war, not only Arbuthnot and Ambrister, two British gentlemen, have been executed, but that two Indian chiefs have also suffered death, by order of the commanding General, it indeed seems somewhat strange that not a breath should be uttered as to the latter. Why, sir, is this discrimination? Is it because they were Britons? Is it because they were subjects of a civilized nation? Is it because they understood, but would not obey, the precepts of morality, of mercy, and of justice? This, sir, I have no doubt, the committee would be unwilling to admit. These Indians, Mr. Chairman, were also human beings; and, sir, I am free to declare that, on this subject, I partially agree with the honorable Speaker. If those chiefs had been mere Indians, or Indian chiefs, fighting the battles of their country, as they had a right to do, rude, ignorant, and superstitious, as they may have been, I should, to say the least of it, have deeply regretted their execution. Poor, wretched, miserable beings! Absolute necessity alone should demand their lives. Rather than shed their blood; rather than drive them from the face of the earth; rather than hunt them down, (as we have been compelled to do,) like the wild beast of the forest, I would, if possible, show them the light of science—point out to them the manner by which they may know something themselves, and be acknowledged men by the nations of the earth. But, sir, we are informed, as to these chiefs, that they were not mere Indians, fighting the battles of their country, but, on the contrary, when our

JANUARY, 1819.

Seminole War.

H. OF R.

army was lying on the confines of Florida; when General Gaines was ordered merely to demand the perpetrators of murders which had been committed on our defenceless citizens; when we were declaring to them that we were desirous of nothing more than peace, these were the men who commanded the party that murdered Lieutenant Scott and his company—scalped and tomahawked the women of his party; and, to close the scene, when the men had fallen, and the women were murdered, against the boat that bore them the heads of the babes were dashed in pieces. But, if the honorable Speaker could convince us that these chiefs should not have suffered, would we, therefore, be convinced that we should adopt the resolution now under consideration, which relates only to the execution of Arbuthnot and Ambrister? In examining this subject, I beg leave explicitly to state, that I claim not of this House its sympathy or its pity for General Jackson: if he cannot be justified by the law of nations, let him fall. I am rejoiced to learn, Mr. Chairman, that all who have yet expressed an opinion either way on this subject, have willingly admitted that his motives for his actions were of the purest character. I may also be permitted to state, that I have had the honor of a personal acquaintance with General Jackson—have served under him, and fought with him; and, although it was my misfortune to differ with him as to the correctness of some of the measures which were adopted during the short period of my service, still, sir, since the commencement of his military career, in 1812, till the present period, I have had but one uniform opinion as to the main object which he has kept steadily in view, that is, that it was nothing else than the glory and honor of his country. Now, sir, let us examine what were the charges against these men; they were these: exciting and stirring up the Indians to war, and, as to Ambrister, leading them to battle; these were the charges of which they were found guilty, and for which they were executed. It was established, beyond a doubt, that these men had crossed the Atlantic for no other purpose than to carry into complete execution the hellish views of the famous Colonel Nicholls and Captain Woodbine, their predecessors; that these men, the subjects of a civilized nation, well understood the manner in which these savages carry on war; that they regard neither age, female, or infantine innocence, whose almost only rule is indiscriminate murder; that, in fact, they were the prime movers of the war; that they in fact were really the murderers of our women and children. Are these men, I may here be permitted to ask, less guilty of the murders which they indirectly perpetrated than the wretched savage by whose hand they did the deed? Ask the soldier whose wife has been murdered by savage hands, upon whom he would take vengeance; or the mother, whose children have been butchered, upon whom she will be avenged. Ask common sense itself, who are the real actors in these bloody scenes. But we are told by the honorable gentleman

15th CON. 2d SESS.—23

from Georgia, with some degree of triumph, that General Jackson has established a new rule of the law of nations; says the gentleman, he declares that it is an established rule of the law of nations, that any individual of a nation, making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and a pirate. It is not General Jackson, sir, who is mistaken, but the gentleman himself; he has confounded two distinct and separate rules of the law of nations. The first of which is this, that I, a citizen of the United States, have a right, by the law of nations, to advise the Government of France to war with Great Britain, or any other Power; and if she choose to take my advice; if she declare war; if, (which is essential to this rule,) the act of declaring war be a national act; or if, without my advice, she be at war, I may of right enlist under her banners; I may lead or fight with her troops; under these circumstances, I am identified with the French troops, and, if taken prisoner, am entitled to the same treatment as a French prisoner of war. The other rule of the law of nations will be found to be nearly in the words of the General, that is, if, as in the case above stated, I advise a nation to go to war, but she does not choose to take my advice, finding that the nation cannot be engaged; or, if, without consulting anybody, I set about making war myself, I engage a set of desperate characters, or whoever else you please, and proceed to acts of hostility against the nation I would injure. This, sir, in the words of the General, would be an individual of one nation making war against the citizens of another nation, and this band, by the law of nations, are declared outlaws and pirates. Which of these rules, then, sir, will apply to the case of Arbuthnot and Ambrister? Are these vagrant savages a nation of people, within the meaning of the rule first mentioned; and, if so, has that nation declared war? and might these men have enlisted under their banner, and so have been entitled to the rights of prisoners of war? Whoever will take the trouble to examine the history of this war will be satisfied that it never can be viewed as having been a national act, within the rule abovementioned; and, to prove this, in the first place, I ask, if the fugitive Red Sticks, having formed a desperate band, partly of the relics of their own nation, and partly of Seminoles, could be considered as a nation, having a right to make war or peace? Or were they a banditti? Or what would you call the civilized wretch who would lead them? If these had not the right, I ask if the Indian and negro party of Colonel Nicholls had a right to make war? Will any one pretend to say that this tri-colored party were a nation? No, sir, they were the refuse of villany itself; and yet, sir, it is an important fact, that these parties were perhaps the most prominent in the war; they did not enlist under the banners of the nation, but, sir, many of the citizens of the nation, (if it may be so called,) rallied round their standard. It is also a fact, worthy of consideration, that a considerable part of the



nation were averse to the proceedings of their brethren, and fought with us against them. Under these circumstances, General Jackson might well view them in the character of individuals making war upon us, or as leaders of a lawless banditti. But, sir, suppose he was incorrect in this view of their case; suppose they were not outlaws and pirates, still their punishment was just; for, sir, the charges against them were not that they were outlaws and pirates, but that they had excited and led the Indians to war against us, and for this they were executed. Whether the crimes for which they suffered constituted them outlaws and pirates, is a question different from the establishment of the crime itself. I said, sir, that, admitting they were not outlaws and pirates, that still they suffered justly. If they were not the excitors and leaders of a banditti, and, of course, according to the rule before stated, outlaws and pirates, they were officers or soldiers, fighting under the banners of a nation which had the right to declare, and which had declared war, and were identified with the citizens of that nation, and were subject to all the laws of war and of nations, as applied to that nation. They had, in fact, become savages. What then, sir, is the rule of the law of nations which will apply to them in this situation? It is this, that when we are at war with a savage nation, which regards no rules, we may retaliate upon its citizens the cruelties committed on our own, ere being taken to punish alone the guilt. Then, sir, I ask if ever there were fit subjects for punishment, under this rule, if these were not they? men around whom the light of science had shone in its most refulgent splendor—who were not ignorant of the precepts of mercy, of moderation, and of justice, to become worse than savages, to stimulate, to lead those wild, those untutored, those miserable men of the forest, to imbrue their hands in the blood of unsuspecting innocence.

But, it is said, there was no necessity for their execution, because, say gentlemen, the war was nearly over, we had no danger to apprehend. Sir, the necessity for executing such lawless miscreants exists now as much as then. What, sir, was the object of their punishment? Not merely that they should atone for the crimes which they had committed, but, sir, it was to teach an important lesson to the unprincipled subjects of Great Britain and Spain; it proclaimed to them, sir, in language which could not be misunderstood, what they might expect for like offences; and, sir, I have no doubt but that if, at the commencement of this Government, a determination had been fixed and avowed to the world, to punish with instant death all such offences, the effect would have been the salvation of the lives of many of our citizens.

The honorable committee who reported this resolution, have told us that the court martial had no jurisdiction of the offence. In reply to which, I will observe, that if I have shown that, by the law of nations, these men could be punished with death by a Prince or by his General,

I may be permitted to ask that honorable committee how the commanding General is to ascertain the fact of their guilt? Is he to sit as judge and juror? Is he to execute them on the mere suggestion of any one who chooses to charge them, or are the facts to be ascertained by respectable and honorable officers detailed for the purpose? Sir, if without the investigation of this respectable court these men had been executed, well, indeed, might we censure the General. The honorable gentleman from Georgia inquires, why General Jackson did not execute Weatherford? and answers the interrogatory himself, unhesitatingly, by stating that General Jackson did not then know the plenitude of his powers. Sir, I am happy to know that I have it in my power to give to this honorable Committee the true reason why that gallant chieftain was not executed. Some time, sir, before the Treaty of Fort Jackson, this chief was informed that General Jackson intended, if he could take him, to put him to death. He was advised by his friends, as his warriors were almost all slain, as his country was ruined, and as his escape was almost impossible, to surrender himself to General Jackson; that it was useless to attempt further resistance, and this was the only means by which his life could be saved; he determined to do so, and presented himself to the General, at his headquarters. We are informed that it was demanded of him who he was, and how he came there. He replied, "my name is Weatherford, one of the chiefs of the Red Sticks. I have fought you till my warriors are all slain. If I had warriors I would fight you still, but I have none; my country is overrun, and my soldiers are fallen. Here I am in your power—do with me as you please—only recollect that I am a soldier." This, sir, was the reason why the life of that brave chief was saved. If, under these circumstances, our General could have executed so distinguished a savage, the most verdant laurel would have faded on his brow.

We are also called upon, Mr. Chairman, to censure the conduct of General Jackson in taking possession of the fort St. Marks, of Pensacola, and the fortress Barancas. And, to prove to us that we ought, the argument seems to be intended to prove, first, that the war against the Seminoles was unconstitutional; secondly, that General Jackson made war upon Spain in taking, unnecessarily, forcible possession of those places. As to the constitutionality of the war, if the Constitution and the law were silent on this subject, I am disposed to think that the uniform practice of the Government would go far in justifying the measures which the Executive has adopted; but, in the first article of the Constitution of the United States, the power is vested in Congress to provide for calling forth the militia to suppress insurrection and repel invasion. This, sir, the Congress of the United States have done, in the year 1795, by authorizing the Executive, whenever the United States shall be invaded, or in imminent danger of invasion from any foreign nation or Indian tribe, to call forth such number

of the militia of the State or States most convenient to the place of danger as he may think necessary for the purpose. It will not here be necessary to inquire whether the President of the United States has the power to use the regular army for the same purpose; this, I presume, will at once be admitted. It will also be unnecessary for me to attempt to prove, that the necessity existed for the exercise of this power when General Gaines was ordered to our southern frontier, in that quarter. It will be recollected that, at the commencement of the first session of the present Congress, we were informed by the present Chief Magistrate of his proceedings in relation to the Indians in that quarter. We were informed, sir, that he had an army, under the command of General Gaines, on the borders of the Floridas; that orders had been issued from the War Department to General Gaines to demand satisfaction for murders and depredations which the Indians had committed, but that he was instructed not to tread upon Spanish territory. Where then, sir, were our Constitutional scruples? As to the power of the Executive to cross the line, not a word escaped our lips—no provision was made in case it should become necessary to pursue them into Florida. Thus rested the matter until some time after the commencement of the session of Congress, when we were informed of the massacre of Lieutenant Scott and party; and still we were silent—not a voice was heard in favor of the enlargement of the powers of the Executive; no one seemed to doubt his power—all seemed willing to trust it with him. Here, sir, a fair opportunity was given to them, who doubt the power of the Executive to pursue an Indian on Spanish soil, to legislate on the subject. What, then, was the Executive to do? Was he to command his General to stand close on this artificial boundary, and if the enemy, after he had murdered all our citizens within the Spanish territory, could be taken on this side the line to chastise him? This, it seems to me, would be a new way of repelling invasion. No, sir, a measure more effectual, more energetic, was adopted. Orders were given to cross the line, and to adopt such measures as would be calculated to bring the war to a speedy termination. The only case in which General Jackson was restricted, was on the Indians taking protection under a Spanish fort, in which case he was ordered to advise the War Department of the fact. But, sir, the conduct of the Governors of St. Marks and Pensacola, which rendered it necessary for General Jackson to possess himself of those fortresses, was not, by our Government, to be anticipated. It would here be unnecessary, and, indeed, tiresome, to refer to all the documentary testimony showing what their conduct was; this testimony has been carefully examined by gentlemen who have preceded me. It is hardly a fair manner of argument, sir, for gentlemen to state that war has been made upon Spain; and, to prove this, point out to us the acts of hostility of General Jackson towards her, in taking those fortresses; and ask us if this be not war? Sir, I admit that,

abstractly considered, this would have been making an unauthorized war upon a Spanish colony. But, sir, this is not the question; the fact is, that General Jackson, according to directions from the War Department, had carried the war into Florida against the Seminoles; and the question here is, what might he, or what might he not do to Spain, a neutral Power, as incident to carrying on the war against the savages? This would depend very much on the conduct of the neutral herself. It seems to be conceded that the conduct of the Spanish commandant of St. Marks was such as to authorize the General to occupy that fortress; but the taking of Pensacola and the Barancas is thought to be more difficult of justification. Here, sir, I ask the Committee to recollect the orders of General Jackson; these were, that he should bring the war to a speedy termination, the honor of our country requiring it, and that this should be effected with exemplary punishment on the savages. Now, sir, recollect the conduct of the Governor of Pensacola. Did he not tolerate the assemblage of the savages at Pensacola, to the number of five hundred? Were not Spanish officers seen intermingling with the savages as brothers and associates? Were not these savages furnished by Spanish officers with those things that constitute the very sinews of a war? And, sir, while these things were doing, in open day, what was this Spanish Governor's language to General Jackson? "Depart from the territory of my master, or I will repel force by force." Let us now, sir, for a moment suppose General Jackson had marched according to the order which he received from the officer of His Catholic Majesty, would the war have been terminated? I shall dismiss this subject by observing, that General Jackson, of necessity, was to judge whether, under all the circumstances, he would be warranted in doing what he had done. He must judge as to what acts of a neutral will make her an associate in the war; or, at least, as to the character of her actions. And I will now take the liberty to ask gentlemen, who are disposed to censure, what they would have done under like circumstances; would they have marched their army home according to orders from the Catholic Governor, and would they thus have speedily ended the war? Sir, it is an easy matter to censure the conduct of others, without attempting to show how they should have acted otherwise.

Mr. TALLMADGE, of New York. In rising to address the House at so late an hour of the day, when the attention of the House was necessarily fatigued by those who had preceded him, and its patience somewhat exhausted, Mr. T. said, he was aware of the dangers that awaited him; he was aware of the perils that he must encounter in attempting to proceed. But, Mr. T. said, the resolutions under consideration were so important in their nature, and so replete with consequences of such magnitude, involving the interest and the honor of our country, that a sense of duty impelled him to go on.

Sir, said Mr. T. a question of war discussed in the highest deliberative assembly known, to a free



people, can never fail to become a question of great individual excitement—of great public interest. Its cause, and its consequences, to the public happiness, present it in an aspect almost appalling. But, said he, when the friends of the proposed resolutions tell this House, and tell this nation, that, in addition to the question of the Seminole war and its natural consequences, which we are called upon to discuss, in its progress, the Constitution of our country has been violated by military power, and the honor of our nation stained by base and inhuman cruelties—it is then, sir, that the question assumes an aspect of ten-fold more importance, and calculated to excite the feelings of this House and to arouse the spirit of the nation. Such, said Mr. T. is the question now presented for discussion. It was due to himself to confess to this House that his feelings were excited upon the occasion, and that he entered upon the discussion with a determination to meet it in all its bearings. But, he said, while he thus frankly avowed his feelings, he begged the indulgence to add, that, while he intended his course in debate should be marked with zeal and decision, yet he also intended to observe the decorum in debate due to the dignity of this House. He said it was his pride to say that, since he had the honor of a seat on this floor, he never had used against any member a harsh expression or severe abuse; and that he never would. He tendered his acknowledgments to the gentleman from Georgia (Mr. Cobb) for the example he had set in the opening—ardent in debate, but temperate in expression. Mr. T. said it should be his course; he hoped others would also observe the example. His own opinion was decisively formed upon full examination of all the documents—and, while he did not doubt of the proper result, and which he should endeavor to prevail on this House to adopt; yet, he was free to declare, there was ample room for difference of opinion, and, therefore, he was not inclined to cast any imputations upon those from whom he might differ. He was disposed to proffer to them the most charitable indulgence, and he was the more desirous they should accept from him the proffer, because he solicited it for himself from them in return.

Mr. T. said a doubt had already been expressed whether this House had the power to discuss and express its opinion upon the present subject, and a hope had been intimated that those who opposed the resolutions would not put that opposition upon the want of right and power in the House, and thus prevent the inquiry. He said, as for himself, he would not. It was a point upon which he had doubts. A great national question had arisen, connected with a recent war, and which had justly excited public feeling—it was in his opinion fit and proper that the Representatives of the people should investigate the subject and express their opinion. Mr. T. said, it was asserted that the Major General, who had conducted the war in its progress, had violated his orders—had broken the Constitution, and had, by cruelties, dishonored our national character. Yet, said he, the President, from whom those orders emanated, has

not arrested him, but has approved of his proceedings, and, consequently, stands responsible for the result. Whatever doubts might have been entertained as to our powers in the question between this House and the Major General, approved and adopted as the transactions had been by the President, it was now a question between him and the public; and no doubt of our powers could be reasonably entertained. Mr. T. said, he hoped the power of the House would ever be sparingly exercised, and be reserved for great occasions. But, I hold, said he, that we have the power, and that it becomes a duty to investigate and express our opinions on great public occasions, producing public excitement. It is here, on this floor, and through their Representatives, that the people can only speak. Your Administration may become corrupt—your Executive officers may violate the laws; break the Constitution; and, by violent outrages, even involve the country in war. In such an event, here, on this floor, and in this power for which I am now contending, will ever be found the only sure corrective. It is one of the dearest privileges of this House; one the most essential to the liberties of the country to be preserved and maintained; and he hoped it would be the last prerogative ever surrendered. So far, then, from wishing to avoid the present discussion, I hold, said Mr. T. that the charges made are of so deep a dye, and have produced such excitement, that it has become our duty, as the Representatives of the people, to inquire, and to advise; nay, even to instruct public opinion upon the subject now under discussion. And, Mr. T. said, it afforded him a proud consolation to believe that the State which he had the honor in part to represent, would be willing to adopt as correct the opinion which this House should announce. Such, said Mr. T., has been the sensation produced by the manner and character of the accusations which have been thrown out, that he had no hesitation to say, if this House should terminate their session, and omit to inquire into, and avow their opinion upon the present subject, it would disappoint the nation, and fix upon this House an eternal stigma, as wanting spirit to pronounce between the country and the Administration; or, if gentlemen would rather have it so, between the proposed resolution and General Jackson. He said he had no unwillingness on his part. And, he hoped the House would hold fast upon the present resolutions, and insist upon a direct vote upon the accusing propositions. If the Constitution has been violated; if the honor of the nation is stained by cruelties, this House should declare it to the country. If, on the contrary, the accusations are found to be incorrect, it was due to the Administration; it was due to the character of General Jackson, that we should so declare, and thus wipe away the unjust imputations. A vote of thanks has been talked of. Mr. T. said he should oppose any substitute for the present resolutions. The thanks of this House constitute the best wealth of this nation; too precious to be used, unless on extraordinary occasions. Such was the affair of Orleans. But, it is sufficient that

on investigation of the Seminole war, there shall be found no cause for blame. A decided rejection of the proposed resolutions of censure, was all that the present occasion required.

But, said Mr. T., in addition to the proposed censure contained in the resolutions, they also contain subjects on which legislation is proposed. He said, he was not prepared to say but legislation on those points might be proper, at a proper time, and under proper circumstances; but he was prepared to say that, on this occasion, under the present public excitement, and coupled with the proposed resolutions for censure, he, for one, would not consent to legislate. The act of legislation, under existing circumstances, would necessarily imply in itself a disapprobation of this House to the proceedings approved and adopted by the President, and would include a direct censure upon General Jackson. Let us, said Mr. T., reject the whole of the resolutions. If any gentleman thinks that legislation on any of these subjects is requisite for the public good; if he would bring it forward as distinct and disconnected propositions, it would undoubtedly receive the deliberate consideration of this House, and under no other circumstances ought it to be entertained. He said he was opposed to any act of this House which, by any inference, would look like censure on General Jackson; a man whose name and whose fame was identified with the history and the glory of our country; he would not say the first military captain of any country, but he thought he might say the first in ours.

In addition to the important questions involved in the present discussion, Mr. T. said the honorable Speaker (Mr. CLAY) has also introduced the treaty signed between our country and the Creek Indians, in August, 1814; and he has expressed his indignation at the manner in which that treaty was made, and at its haughty and dictatorial terms. He has intimated that the harsh and severe exactions of that treaty were the probable causes of the present Seminole war. Mr. T. said he differed in opinion with the honorable Speaker in regard to that treaty. He did not discover in it that haughty temper, that spirit of exaction on the part of our country, which had so much offended the Speaker. The honorable Speaker has repeated, with great emphasis, "The United States demand," "The United States demand," seven times. Yes, sir, said Mr. T. the United States, by that treaty, did demand; they had melancholy cause to demand. Theirs were the wrongs; theirs were the sufferings; they were the injured party; they had, for years, endured every misery incident to Indian hostilities; the friendly tribes and the frontier settlements had been plundered of their property, and those tribes and our frontier had bled from Indian warfare, until the nation had been compelled to sustain the expense and the sacrifices for their complete subjugation. It was under such circumstances that the treaty of Fort Jackson was made. Sir, said Mr. T., the United States did demand; it was their duty to demand; and, after seven times demanding, indemnity was not obtained for a tithe

of our sufferings. Mr. T. said he found nothing in the treaty that placed our country in the wrong. It recites that the war was "unprovoked" on our part; that it was "inhuman and sanguinary"—waged by the hostile Creeks—instigated by impostors, denominating themselves prophets, and by foreign emissaries."

Sir, said Mr. T., the honorable Speaker has also represented that, by the Treaty of Fort Jackson, the United States had demanded of the Indians the surrender of their prophets; hence he has exclaimed, with a voice that overcame me, "Spare them their religion! spare them their prophets! spare them their superstition!"

Mr. T. said, the representation given by the honorable Speaker, of the sixth article of that treaty, was so unlike the view which he had taken of that article, that he was compelled to conclude that, in the hurry of debate, the honorable Speaker had entirely overlooked the concluding clause of the article, and thus had totally mistaken its meaning. Mr. T. said he would read it. "The United States demand the capture and surrender of all the prophets and instigators of the war, whether foreigners or natives, who have not submitted to the arms of the United States, and become parties to these articles of capitulation, if ever they shall be found within the territory granted to the Creek nation by the second article." Sir, said Mr. T., a treaty was formed between our country and the Creek nation in 1790. This treaty had been observed on our part, but had been broken on the part of the Creek nation, by repeated, and almost continued acts of hostility. During the late war between our country and Great Britain, one-third of the Creek nation had continued to observe the treaty, and hence were denominated the *friendly Creeks*; the other two-thirds, instigated by their impostors, called prophets and foreign emissaries, had joined Great Britain in the war, and desolated our frontier; they were known as the *hostile Creeks*. An expedition into their country, and the destruction of their towns, induced them to make the Treaty of Fort Jackson. A part of these two thirds which had been hostile, refused to come into the treaty. They declared their intention to continue the war. They abandoned the limits of their tribe because they would not submit to the peace. They joined the Seminole Indians on the Florida line. They have since been known as the *outlawed Red Sticks*. It was the prophets and emissaries, the instigators of war; of these outlawed Creeks, which the sixth article of the treaty demanded to be surrendered; provided they would not become parties to the Treaty of Peace, but, persisting in hostilities, should be found in the territories of the friendly Creeks. Such, said Mr. T., was the evident intention of the sixth article of the treaty. It was a just and necessary precaution for the safety of the country, and to render the peace permanent. The event has abundantly justified the wisdom and the justice of the measure. It is these prophets and these emissaries, and those outlawed Creeks, who have subse-



quently instigated and produced the Seminole war, bringing, in its consequences upon our people, distress and disaster; upon our country expense and difficulties, and upon the miserable Seminole tribe ruin, perhaps even extermination. And yet is our country to be upbraided; to be covered with contumely, because, in a treaty of peace, she demanded the surrender of those prophets and emissaries? Not the prophets and emissaries of their religion, or of their superstition, but the hostile prophets and emissaries of the outlawed Creeks, preaching on our frontier, among the miserable natives, war, havoc, and desolation. Sir, my country has not invaded the religion or the superstition of the Indians; it has not carried the precepts of our religion among them with the sword or the bayonet. But self-defence and self-preservation required us to resist the efforts of their prophets, breathing war, and kindly aided by the influence and the resources of that Government with whom the honorable Speaker has pointed out the remarkable coincidence, that the very day after the Treaty of Fort Jackson, we had signed a protocol of peace. Sir, the mild precepts of our gospel did not require our country to submit to such wrongs. He would maintain that its conduct had been correct; it was not marked by that haughty and dictatorial spirit which had been ascribed to it. But, sir, if I am wrong, and the honorable Speaker is correct, upon whom is the censure to rest? The constituted authorities of your country had adopted the treaty; the Senate had ratified and approved it, and this House, said Mr. T., have carried it into effect, by appropriation for that purpose. Sir, our mouths are closed in expressive silence: it ill becomes us to cast back imputations upon the Executive of our Government, for faithfully defending a bleeding frontier and carrying into effect a treaty sanctioned by every department of legislative power. Much less, then, are we to cast a censure upon the Major General whose valor and whose skill had promptly terminated a war threatening in its ravages to desolate a sister State.

But, said Mr. T., to what conclusion does the argument tend, that this Seminole war was the offspring of the severe and dictatorial demands exacted by our country in the Treaty of Fort Jackson? Would gentlemen have the President sit with folded arms, and answer to the supplications of a bleeding frontier, "the arm of the Union shall not be extended for your relief," because our country was in the wrong—because we had excited the war by our unjust exactions in the Treaty of Fort Jackson? Would gentlemen on this ground censure General Jackson, because he too did not pause to inquire into the justice of the war; but, when ordered by the Executive, he flew to the frontier settlements, carrying to them succor and safety?

But, said Mr. T., we have been told that this war was, on the part of our country, an offensive war; and, therefore, it did not come within the powers of the Executive to carry it on; and, therefore the powers of this House, and its right

to pronounce on peace and war, had been invaded, and our Constitution had thus been violated. I am extremely embarrassed to determine how to answer this objection; an objection presenting an aspect so tremendous. The prerogatives of this House, on peace and war, are invaded—the Constitution of our country violated. The Executive of our Government, upon his own responsibility, has waged an offensive war: or he has sanctioned, and subsequently approved of General Jackson's making offensive war upon a defenceless Indian tribe! Is the Seminole war offensive on our part? At the last session of this House we specially appropriated money for the support of this war. But my excited feelings, said Mr. T., forbid me to discuss this point.

Sir, you are an American! Go, count the bleeding scalps of your murdered countrymen, of all ages and sexes, found by General Jackson; and then return, and tell to this House if this Seminole war was, on the part of your country, an offensive war! Tell this House, also, if you advise a vote of censure to be passed on the conduct of either the Executive, for his just orders, or upon General Jackson, for discovering upwards of three hundred dried and fifty fresh scalps, with a red pole erected as the beacon of Indian war, and crowned with the scalp of an American citizen!

Sir, said Mr. T., if am correct that the Seminole Indians had waged an inhuman and destructive war upon the frontiers of Georgia, it became obligatory upon the Executive of the Union, both in the spirit and letter of his duty, to extend the arm of Government for their protection: no matter from what causes the war was produced; no matter from whence its origin. It was sufficient that a sister State was assailed, and called upon the Union for defence. Its omission by the Executive would justly have incurred the censure of this House. Sir, the President did not omit, in this respect, his duty. He called General Jackson into the field, and vested him with discretionary powers, "to concentrate his force, and to adopt the necessary measures to terminate the conflict." General Jackson promptly performed his duty; he did adopt the necessary measures; he has terminated the conflict; he has reported his proceedings; they have been adopted and approved by the President. Here, then, said Mr. T., the affair with General Jackson is at an end. He stands justified and discharged; whatever may have been the incidents in the progress and the conduct of that war, committed to his charge, he is exonerated from all responsibility. Good intentions and a faithful exercise of his discretion, under the circumstances as they transpired, were all that could ever be required of General Jackson. This is not doubted. The responsibilities of the transaction are therefore cast upon the Executive. It is an affair between the country and the President. Mr. T. said he rejoiced that it was; for he had no idea of Executive irresponsibility. He never would consent that a military officer should be charged with discretionary powers, and then be held responsible for anything more than

good intentions, and good faith in the performance of his duties.

But, he said, let me not be misunderstood. He disclaimed any wish to prevent inquiry. He had no desire to claim for General Jackson the protection of Executive responsibility. It would be doing injustice to the high character of that man. And he believed the whole tenor of his conduct would bear the strictest scrutiny. With this view, and although he thought General Jackson was sufficiently acquitted and discharged by Executive approbation, yet he should now proceed to examine the progress of the war; and he invited the fullest investigation.

Sir, said Mr. T., I hold that General Jackson was vested with full and ample powers for the conduct of the Seminole war. The orders to him were discretionary; vesting in him adequate authority for every emergency that might be incident to the campaign. Under the circumstances, such discretionary orders were correct. He was about to be immersed in the wilderness, from whence he could neither communicate or receive information from the War Department. It was, therefore, necessary to confide to him the whole conduct of the war; and the orders from the War Department, collectively considered, clearly vested in him ample powers for every exigency that the campaign might require. The functions of the War Department were expended in the amplitude of his orders. No additional powers could have been given, under any state of circumstances, had the War Office accompanied him into the wilderness. His ample and discretionary powers embraced every case, and covered and justified his whole conduct. Not, said Mr. T., that the orders to General Jackson could justify him in doing any wrong—in making an offensive war, or in violating a neutral territory; but whatever act was required to be done, whatever the events of the war justified to be done, and which the War Office might have ordered, so far the orders to General Jackson extended. If I am correct in this position, there is an end to all question about violation of orders; General Jackson is justified; and the question only remains between the Executive and the country.

Sir, said Mr. T., with a view to a full understanding of the orders to General Jackson, it will be necessary for the House to look back to the state of things, and the orders that had been issued from the War Department, before General Jackson took command. The State of Georgia had suffered by serious depredations on the property of her frontier settlements, and in the massacre of her citizens; she had called for the aid of the Union; General Gaines had been assigned to the command of that district; and the General Government had demanded reparation from the Indians for past aggressions. In a letter from the War Office to General Gaines, 30th October, 1817, speaking on this subject, it says, "Should the Indians, however, persevere in their refusal to make such reparation, it is the wish of the President that you should not, on that account, pass

the line and make an attack upon them within the limits of Florida, until you shall have received further instructions from this Department." In a letter to General Gaines, 2d December, 1817, it is said, "The state of our negotiations with Spain and the temper manifested by the principal European Powers, make it impolitic, in the opinion of the President, to move a force at this time into the Spanish possessions, for the mere purpose of chastising the Seminoles for the depredations which have heretofore been committed by them." On the 9th of December, 1817, the War Department wrote to General Gaines, after speaking of hostile acts, "Should the Indians, however, assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, you will, in that event, exercise a sound discretion as to the propriety of crossing the line for the purpose of attacking them and breaking up their towns." On the 16th December, 1817, another letter says, "Should the Seminole Indians still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President that you consider yourself at liberty to march across the Florida line, and to attack them within its limits, should it be found necessary: unless they should shelter themselves under a Spanish fort. In the last event, you will notify this Department." In this situation of the orders, Mr. T. said, General Gaines was directed to go to Amelia Island, and perform certain duties at that place. Shortly after his departure, such further intelligence was received of increasing hostilities on the part of the Indians, that the War Department, on the 26th December, 1817, wrote to General Gaines at Amelia Island, informing him that the Seminole war had "assumed so serious an aspect" "that they could not be brought to their reason without the actual use of force;" that General Jackson had been ordered to take command—they regretted the absence of General Gaines, and "that the service should be deprived of his well known skill and vigilance," and directed him, "if his force was sufficient, to penetrate through Florida, and co-operate in the attack on the Seminoles." On the same 26th December, 1817, orders were issued to General Jackson to take command. This was the first order issued to him: and it recited "the increasing display of hostile intentions by the Seminole Indians;" it informed him that the regular force under his command was eight hundred; that there was supposed to be twenty-seven hundred Indians; and empowered him to call on the Executives of the adjacent States to detach such additional military force as he might deem requisite to beat the enemy. This order also informed him that General Gaines was directed "to penetrate from Amelia Island, through Florida, to the Seminole towns, if his force would justify his engaging in offensive operations. With this view, you may be prepared to concentrate your force, and to adopt the necessary measures to terminate a conflict which it has



ever been the desire of the President, from considerations of humanity, to avoid, but which is now made necessary by their settled hostilities."

Sir, said Mr. T., on thus reviewing the orders which have been issued from the War Department, the House cannot fail to observe the cautious policy and progressive steps which have influenced and marked the conduct of the Cabinet. Critically situated in regard to our foreign relations, the President was justly anxious to defend the frontier of Georgia, and yet so cautiously to measure out the means of that defence, as not to involve our country in an European war. Hence the restrictive and hesitating character of the orders issued to General Gaines; gradually relaxing and acquiring progressive energy in proportion to the aspect of Indian hostilities. At first forbidding General Gaines to cross the Florida line—then permitting him to cross, if necessary, to resist new aggressions—and finally leaving it to the exercise of his sound discretion, and only requiring him to notify the department in case the enemy took shelter under a Spanish fort.

Under affairs thus situated, the Government received information which forbade all further hesitation—which denied all further caution. The war had now assumed too deep a dye to be longer tampered with; it must now be met, regardless of consequences. Sir, said Mr. T., it is a fact, recited in one of the letters, but not generally observed or known to this House, that the murder of Lieutenant Scott, and his detachment of about thirty persons, which had been perpetrated on the Chatahoochie river, in October, did not come to the knowledge of the President until the morning of the 26th of December. Sir, it was on that day that General Jackson was ordered to take command. It was this new information—it was the serious aspect which the war had now assumed, which called General Jackson to the field—which induced the Cabinet to change its cautious policy, into measures of offensive war. Sir, said Mr. T., this circumstance also gives explanation and meaning to the language of General Jackson's orders. In all the orders previously issued to General Gaines, some limitation had been contained; but when General Jackson was ordered to command, no restriction was suggested. The Cabinet had determined upon carrying the war into the Seminole country, and hence the orders to General Jackson speak of a force "to justify his engaging in offensive operations." "With this view." "With what view?" said Mr. T. "With this view of offensive operations, you are to adopt the necessary measures to terminate the conflict." Sir, said Mr. T., can language be more explicit? Can discretionary power and general authority to an officer to conduct a war be more clearly delegated? But, said Mr. T., if gentlemen yet doubt the fair meaning and the true extent of General Jackson's orders, let me ask them to look at the letter from the War Department to Governor Bibb; not, said Mr. T., as giving additional

powers to General Jackson, but, where doubt is entertained, as giving from the War Department a construction of its own orders. And what does this letter to Governor Bibb say? "General Jackson is vested with full powers to conduct the war in the manner which he may judge best."

Sir, said Mr. T., if honorable gentlemen are not yet satisfied, I will ask their attention to the message of the President, made to this House on the 25th of March last. "The enclosed documents show that the hostilities of this tribe were unprovoked—the offspring of a spirit long cherished, and often manifested towards the United States; and that in the present instance it was extending itself to the other tribes, and daily assuming a more serious aspect. As soon as the nature and object of this combination were perceived, the Major General commanding the Southern division was ordered to the theatre of action, charged with the management of the war, and vested with the powers necessary to give it effect." Will gentlemen ask for more?

But, sir, there is still another and a different aspect in which the orders to General Jackson ought to be viewed. He was not only by those orders charged with the management of the war, and vested with the powers necessary to give it effect, but, sir, it will be found, on reference to the documents, that he was also commissioned to inflict speedy and merited chastisement on the deluded Seminoles." In the order from the War Department of 16th January, 1818, he was told: "The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." In a letter from the War Department, of February 2, 1818, he is told, "the confidence reposed in your skill and promptitude assures us that peace will be restored on such conditions as will make it honorable and permanent."

Sir, said Mr. T., in addition to the discretionary power and general authority vested in General Jackson, for the management of the war, he was also required, in the progress of that war, to inflict merited chastisement upon the deluded Indians, with such exemplary punishment for their unprovoked hostilities as would be calculated to deter them from future wars, and render the peace "permanent." This is the frank and fair construction to be given to the orders of General Jackson. Whatever has been done in the progress of the war, comes not only within the spirit, but within the letter of his instructions. Will gentlemen yet talk of violated orders, and propose a vote of censure for cruelties inflicted by him? No, sir, General Jackson stands justified by his instructions, which he has promptly and faithfully obeyed. If there is any censure to arise from the transaction, it must rest upon the fountain from which his instructions emanated. But, said Mr. T., there is no cause for censure. The crisis called for decisive measures. It was a high and important trust. The President wisely confided its execution to the discretion, the wisdom, and the valor of the commanding General, who, thank

God, had failed to meet the just expectations of his country in no single instance.

[When Mr. T. had proceeded thus far in his speech, the Committee, on motion of Mr. POINDEXTER, rose, and the House adjourned.]

SATURDAY, January 23.

The SPEAKER presented to the House a letter addressed to him, signed by Elias B. Caldwell, Walter Jones, and Francis S. Key, a committee of the American Colonization Society, accompanied with an account of the measures pursued by the society for accomplishing the great object of its institution, and of the result of their inquiries and researches; as also, of documents showing the unlawful participation of the citizens of the United States in the African slave trade; which letter, and its accompanying documents, was referred to a select committee; and Messrs. MERCER, MILLS, and CAMPBELL, were appointed the said committee.

On motion of Mr. HENDRICKS, the Committee on the Public Lands were instructed to inquire into the expediency of establishing additional land offices in the State of Indiana.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Thomas B. Farish," with an amendment, in which they ask the concurrence of this House.

The amendment was concurred in by the House.

#### MONUMENT TO DE KALB.

Mr. REED submitted the following preamble and resolution:

Whereas a resolution was passed by the Congress of the United States, on the 14th day of October, in the following words, to wit:

"Resolved, That a monument be erected to the memory of the late Major General the Baron de Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

"Sacred to the memory of the Baron de Kalb, Knight of the Royal Order of Military Merit, Brigadier of the armies of France, and Major General in the service of the United States of America; having served with honor and reputation for three years, he gave a last and glorious proof of his attachment to the liberties of mankind, and the cause of America, in the action near Camden, in the State of South Carolina, on the 16th of August, 1780, when, leading on the troops of the Maryland and Delaware lines, against superior numbers, and animating by his example to deeds of valor, he was pierced with many wounds, and, on the 19th following, expired, in the 40th year of his age. The Congress of the United States of America, in gratitude to his zeal, services, and merit, have erected this monument."

Resolved, therefore, That the foregoing resolution be referred to a select committee, with instructions to report a bill now to carry the same into effect.

Mr. MERCER advocated the adoption of this resolution at some length, and with much ardor; urging in its support the valuable services of the Baron de Kalb, his gallant character, and illus-

trious death in defence of the liberty and independence of the United States, &c.

Mr. ANDERSON, of Kentucky, in reply, said he would never give his vote for a monument, or any other memorial to any subordinate, or any foreign officer, no matter how meritorious their services, so long as the remains of WASHINGTON lay neglected. He referred to the resolution now before the Senate, proposing an equestrian statue to WASHINGTON; and said, when that had been adopted, it would be then, and not till then, fair, and proper to propose similar honors for other Revolutionary worthies. Mr. A. moved that the resolution be laid on the table.

Mr. REED said it was true that a proposition was now before the Senate to carry into effect the resolution of the Old Congress which voted an equestrian statue for General WASHINGTON, but whether that should pass or not ought not to interfere with the present motion, and the fate of that proposition would not prevent him, Mr. R. said, from calling on this House to carry into effect a law passed nearly forty years ago, and to which the faith and honor of the nation were pledged. If Congress erected no monument to WASHINGTON, it would be no fault of his; he would go as far as any gentleman in obtaining it. There was, Mr. R. said, a law of the Old Congress directing a monument to Montgomery in the city of New York; it had been neglected by the nation; but the State of New York, to its lasting credit, has performed that duty itself, and, in the course of last year, removed the bones of the immortal Montgomery from the spot where he fell, to the land which he had so gloriously defended. Propositions had been frequently brought forward in this House, Mr. R. said, to erect a memorial of some kind to WASHINGTON, but, for some reason or other, they were never carried. It had been said, the page of history perpetuated the glory of WASHINGTON; but was not a monument also a history, in which every one might read not only the virtues of the man, but, also, the gratitude of his country? Certainly it was.

The question to lay Mr. REED's motion on the table was carried—yeas 76, nays 42.

#### SEMINOLE WAR.

The House then proceeded again to the consideration, in Committee of the Whole, (Mr. TERRY in the Chair,) of the report of the Military Committee, and the amendments offered thereto by Mr. COBB.

Mr. TALLMADGE resumed the floor. He recapitulated the points which he had endeavored to establish in his remarks of yesterday. He urged some additional reasons in support of his construction of the orders and the powers to General Jackson.

But, said Mr. T., before we progress with General Jackson in his conduct of the war, it is proper for this House to notice some collateral circumstances which greatly tend to elucidate the motives connected with this transaction. Sir, it was the State of Georgia which called upon the Union for defence. This State has often suffered



the cruelties of Indian warfare. In 1793 and 4, under the Administration of Washington, a bloody Indian war was waged upon Georgia. She then called upon the Union for defence, and General Washington assigned for her protection what he considered a competent military force. The State of Georgia was dissatisfied, and complained of the inadequacy of the defence. That State ordered out, upon her own responsibility, an additional military force of about one thousand five hundred men. The expenses incurred for this force were nearly one hundred and forty thousand dollars, and which sum, the State of Georgia has contended, ought in justice to be assumed and refunded by the General Government. Sir, they have often petitioned for the payment of this claim. Seventeen different times, and in different shapes, applications for these expenses have been before this House. Sir, it was only at the last session of this Congress, that the subject of the Georgia militia claims was discussed on this floor. It was then that the honorable gentleman from Georgia, (Mr. Cobb,) spoke so ardently in their behalf, and in the course of his remarks he took occasion to give this House a minute and feeling description of an Indian massacre, and the dangers and sufferings of a frontier settlement. I wish, said Mr. T., I was blessed with the eloquent powers of that gentleman, (Mr. Cobb,) I would rehearse to this House the appeal he then made. It would enable gentlemen the better to appreciate the public services of General Jackson, in bringing to a speedy termination the recent war, and under such "chastisement" and merited "punishment" for unprovoked hostilities, as had rendered the peace "permanent," and, he hoped, had freed our sister State from future dangers. Sir, said Mr. T., it was my fortune, on that occasion, to oppose the Georgia claims. I opposed them on the ground that I never would permit a State to act not only independently of, but in opposition to, the determination of the General Government. Sir, said Mr. T., the honorable gentleman, (Mr. Cobb,) has told us that "he loved his country—that he loved the Constitution." Mr. T. said he reciprocated this sentiment, with some addition. I too love my country—I too love the Constitution; and, in addition, said Mr. T., I love the Union. And whenever, and as often as the case may occur, that a State shall attempt to act separate and independent of the General Government, whether such case shall occur either at the South or at the East, he, for one, would never consent to pay the expenses of their separate transactions. If such a principle be once adopted, said Mr. T., farewell to the Constitution which gentlemen so much love! farewell to that Union which alone secures the only rational hope of future happiness to our country! But, said Mr. T., while it was so important never to permit a State to act separate and independent from the General Government, or in any manner to disregard the determination of the constituted authorities of the Union, it followed, as a consequence equally important and necessary, that the Union should promptly

and effectually perform its duties to the States. The State of Georgia had before suffered under Indian hostilities, and she had complained of injustice from the Union, by an insufficient defence.

Sir, said Mr. T., it was only last Winter that I heard it said upon this floor, that gentlemen who resided on the Atlantic coast, and contiguous to the large cities, did not properly appreciate the horrors of Indian hostilities, nor sufficiently sympathize in the sufferings of a frontier war. When the Georgia claims were rejected, it was more than intimated that, under such circumstances of supposed injustice, the Union was an injury rather than a blessing. The Representatives of Georgia said that the Seminole war was then raging on their frontier, and the Union had not provided them any adequate defence. Sir, said Mr. T., General Gaines who then commanded on that frontier, was, in private conversation on this floor, and he believed he might say even in public opinion, severely censured for his indolent and inefficient management of the war. It was then asked of me, said Mr. T., how General Gaines, who had acquitted himself so well in the Northern campaign during the late war, and had shown himself such a perfect Hotspur in battle, could so supinely waste his time on the Southern frontier? Sir, said Mr. T., so much did the character of General Gaines suffer in public opinion, one year from this time, from his inaction on the Florida line, that it was often asked if his wounds and his years had not impaired his military talents? Georgia did not hesitate to express her dissatisfaction. The honorable gentleman (Mr. Cobb) was heard upon this floor, and her complaints, through the medium of the public prints, were sent forth to the country. Sir, the orders from the War Department to General Gaines, have subsequently been published. Mr. T. said he rejoiced they were: it was but an act of justice to General Gaines that those orders should be known to the public; and he hoped the public would cast back their recollection, and do justice to his character. Sir, those orders now show that the inaction of the campaign was not the fault of General Gaines; he was limited and restricted. It was the cautious policy of the Cabinet, and not the supineness of the General, which made the war so long linger on the Florida line. But when the murder of Scott's detachment, and of Mr. Garret's family, with various other aggressions, were made known, accompanied with the recollection of the past circumstances of complaint on the part of Georgia, and with the knowledge of her dissatisfaction of the ineffectual defence afforded to her by the Union, the President could no longer hesitate. Here then, said Mr. T., you see the combined causes that called General Jackson into the field. Here you observe the motives that induced the President to delegate to him discretionary power and ample authority to adopt the necessary measures to terminate the conflict with such chastisement—with such merited punishment—as would secure a speedy and permanent peace. Here too, sir, you discover the causes which, in addition to General Jackson's

known promptitude of character, induced him to a firm and energetic performance of his orders. But, sir, we are now told there has been too much promptitude and too much energy used by General Jackson in his management of this war. We are even told that he has usurped the power of this House, and violated the Constitution, in making offensive war on the Seminoles; and that, under his instructions to chastise and punish, he has committed cruelties which have stained the honor of our country. Sir, from what source do we hear these accusations? It is from the Representatives of Georgia. It was only last Winter the honorable mover of the resolutions for censure, asked and obtained from this House a law, providing for extra pay and rations to the Georgia militia, which had been detached in the Seminole war. Little did I then expect to hear from that gentleman that this war was offensive on our part. Little could the President have anticipated when he gave orders to cross the Florida line, and penetrate the wilderness, in the necessary defence of Georgia, that the Representatives of Georgia would be the first to complain. Little could General Jackson have anticipated, when he encountered the fatigues and the perils of the campaign, when he put his character and life on its event, that the Representatives of Georgia would be the first to cast censure upon him for too much energy in their defence; rather did he expect that they, in common with their country, would look with a benignant eye upon the performance of his high and critical duties; and that, instead of a jealous scrutiny of his conduct, where good intentions were evident, they would rather applaud than censure, and that where they could not justify, they would at least forgive. But, said Mr. T., if the right of this House to pronounce on peace and war, has been invaded; if the Constitution has been violated, it ought to be proclaimed to the country. He rejoiced there were gentlemen who possessed sufficient spirit and firmness to announce it; and that it was announced by the honorable gentleman from Georgia, (Mr. Cobb,) he did not mention as matter of accusation, but as cause for commendation. He pointed it out as a rare instance of political integrity—of an excess in political virtue, which would not suffer our power to be invaded—which could not even wink at a violation of the Constitution, although the cause of the invasion, and the subject of the violation, should be the defence of the constituents of that honorable gentleman, his home, his family.

Sir, said Mr. T., General Jackson received his orders, requiring him to take command, at Nashville, on the 12th of January, 1818. This great military Captain immediately commenced his operations; and such, said Mr. T., has been the rapidity of his measures, and the velocity of his movements, that the tongue of the narrator can scarcely keep pace with his march. He immediately announced an appeal to the patriotism of the Tennessee volunteers, to accompany him in his expedition; and he made a requisition for a detachment of Georgia militia. The first came forth at his call, and the second were, in process

of time, detached and prepared to join him. This force, united with his regular troops and some friendly Indians, were concentrated at Fort Scott. Without the means or the possibility of transportation, General Jackson, on the 26th of March, and with only eight days' provision, having bravely determined "to subsist on the enemy," took up his line of march from Fort Scott. He entered the unexplored wilderness; he crossed the Florida line; he sought and found the Indian enemy in their fastness; he vanquished them, and destroyed their towns. In his pursuit of the imbedded fugitives, he found St. Marks was the source of their supplies, and that its possession was threatened by his enemy. He occupied that place, and from thence directed his march to Pensacola, from whence he drove out the Indians who had fled there for shelter, and for new supplies. He also occupied that place, with the fortress of Barancas; and on the 29th of May terminated a war which had, for more than eighteen months, ravaged your frontier, and was fast spreading to other Indian tribes. Sir, said Mr. T., it is the incidents of this campaign, so rapid in its progress—so brilliant in its execution, and, in his opinion, so replete with important and beneficial results, that gives rise to the present discussion. In its progress, sir, a neutral territory has been entered; the posts of St. Marks and Pensacola have been taken; two Indian chiefs, and two British subjects, Arbuthnot and Ambrister, have been executed; and, said Mr. T., I rejoice at these events. I honor rather than blame the General who had the firmness to determine and give effect to such measures. In avowing this opinion, said he, I am confident I do but speak the opinion of our nation.

We have been called upon, said Mr. T., to produce the laws of nations, which will justify these proceedings. I maintain, said he, that the principles upon which the laws of nations between the free Governments of Europe are founded, when rightly understood, do embrace and justify all the proceedings. But, said Mr. T., I shall not undertake the labor of the argument in this point of view. It is sufficient for my purpose to say, that that system of national laws, established by common consent of mankind, as a rule of action between free, separate, and independent Governments, has no application to the present case. The history of Europe affords no parallel to the present circumstances, and could not be expected to have provided a rule for the present case. There is not an instance in Europe, where one nation, acting upon its own usages, and claiming to have, as a nation, the power of making peace and war, resided within the limits and boundaries of any other sovereign and independent nation. Sir, the Floridas were not a neutral territory—it was the territory of your enemy. There he resided—from there he issued from his fastnesses, crossed the boundary line, and depredated your property, and murdered your citizens; and when you pursued him, it was there he fled for safety. Sir, I repeat, Florida was not a neutral territory. It



H. OF R.

Seminole War.

JANUARY, 1819.

was the country of your enemy, used and occupied by him; and, as such, you had a right, and it became your duty to enter it, in the pursuit, and for the subjugation of that enemy. But if gentlemen will insist on calling this a neutral territory, I ask, what are its consequences? In every page of those national laws, upon which so much reliance has been placed, the Government of a neutral country is made responsible for the conduct of persons within its limits. If such Government authorizes any acts of hostile aggression, it becomes just cause of war. If unauthorized and disavowed hostile incursions are made from its territories, it is no cause of war, but is considered as sudden irruptions bursting forth upon an adjoining nation, who, from the circumstances and necessity of the case, is vested with full right and ample authority to use the requisite means and force to prevent such irruptions, and provide for their own safety and defence. As a neutral territory, therefore, we had a right to enter it in self-defence, and for our own safety. Gentlemen may not agree on what ground it was entered. It is sufficient for my purposes to say, that on either or both these grounds we did enter this territory, and my heart approves of the result. Sir, mark the coincidence of discordant circumstances. Arbuthnot and Ambrister, two English emissaries, in a neutral Spanish territory, instigating a savage war upon a peaceful American State! When our Government complain, the British Minister answers they have not jurisdiction out of their own country, and cannot prevent the evil. The Spanish Governor says he has not the power to control Indians and English subjects, and worthy gentlemen on this floor tell us it is a neutral country, and, therefore, we cannot help ourselves. Were ever doctrines advanced so preposterous? Had General Jackson listened to such reasoning—had he returned with such arguments as the only result of his campaign—what would have been the language of our bleeding frontier? And, because he did not, a vote of censure is solemnly proposed.

But, sir, St. Marks, a Spanish post, has been taken. Advert to the documents on this point, and it will clearly appear that this place was in use, and, in fact, a mere depot for Indian supplies, and was, in addition, so weak and ineffectually garrisoned, that there was just cause to apprehend the Indian enemy would take possession of it. A belligerent is clearly entitled "to seize, and, temporarily, to occupy and even garrison a post of a neutral country, in order to prevent the designs of his enemy in seizing the place, whenever the sovereign of the country is not able to defend it." This principle alone, said Mr. T., would justify the occupation of St. Marks. But the case is much strengthened when we consider it as a post of a neutral country, between whose sovereign and ourselves is a treaty, in which Spain had solemnly pledged herself to keep in subjection the Indians within its limits, and to prevent any hostilities from them, upon our frontier. Every obligation of national law, as well as the faith of treaty stipulation, bound

her to the performance of this duty. If her imbecility prevented the observance of her obligations, or the unauthorized conduct of its Governor allowed hostilities to be carried on against us from the territory, every principle of self-defence would justify the occupation of this post, and even the whole country, as far as it contributed to the supplies of our enemy and his warlike occupation.

Connected with the occupation of St. Marks, was the capture of the two Indian chiefs. One of our gunboats came into the Apalachicola river, and, while there, kept up the British flag. This circumstance is said to have decoyed them on board the boat. Sir, this deception is now matter of great offence. We are told by the honorable Speaker (Mr. CLAY) that your stars and your stripes should have floated there. Sir, I freely admit that the waving of the British flag may have operated to deceive the Indian chiefs. The British flag was familiar to their observation, although in the neutral territory of friendly Spain. It was this British flag which had waved at the Negro Fort, and at the foot of whose staff one of your American seamen was tarred and burnt alive. Its friendly aspect and well known co-operation in this neutral country, may have readily tended to deceive these Indian chiefs on board an American gunboat. Mr. T. said they were the chiefs of our enemy—they fled to that flag for shelter and supplies, and, for his part, he had no disposition to find fault with their mistake. It might, at least, teach their tribe that a British flag in a Spanish territory might not always be a sure cover for hostilities upon the American people.

But, sir, these two Indian chiefs were taken on shore and executed. The honorable Speaker (Mr. CLAY) tells us that it fills him with the deepest regret. I, too, said Mr. T., am not without regret. But, sir, my regret is at the causes which rendered their execution necessary and proper, and not that General Jackson had firmness to perform his duty, and make an example useful to us and salutary to the Indian nation. Sir, in the person and character of Homathlemico was found the Indian chief who presided at the inhuman murder of Lieutenant Scott and his party. A deed more brutal and savage cannot be found in the annals of Indian warfare. Sir, he was not executed as an enemy only, but as a base murderer, marked with every cruelty and stained with the blood of your countrymen.

Hillishajo, the other chief, was also hung. The honorable Speaker (Mr. CLAY) said he regarded the occurrence with grief, and with great indignation he exclaimed, "Hang an Indian! hang an Indian!" No, sir, said Mr. T., General Jackson did not hang an Indian. Higher destinies awaited this chief. He had ceased to be an Indian; he had recently been home to old England; he had approached "the throne of his royal highness;" and while there was commissioned *Brigadier General*. Yes, sir, he was a *British Brigadier General*; he wore a red coat; and by way of special favor and pre-eminence over all others of

JANUARY, 1819.

Seminole War.

H. OF R.

the same rank, he was furnished with three epaulettes. Therefore, General Jackson did not hang an Indian. He hung a British Brigadier General. I honor him for it, said Mr. T.; and who is offended? It was in the territory of Spain; but as she was a neutral Power, she has no cause for complaint. And, does England complain? Disgrace upon her, if she does not. She is bound by every tie of honor to come forward and own her favorite General, Hillishajo. I hope she will, said Mr. T. And whenever England does complain, if my voice can control, her complaint shall be handed over for adjustment to our naval heroes; those gallant sons who have borne your cannon upon the deep; who have held their steady march upon the mountain wave, and triumphantly displayed to an admiring world the banners of your country; they would gladly adjust the account.

But, sir, in the person of this same Hillishajo, when his name is translated, we find Francis the Prophet, a man commissioned by Great Britain; tricked off in all the trappings of military dress; furnished, as a present from the Prince Regent, with a tomahawk, scalping knife, and a rifle, and sent back to his tribe, to inculcate, of course, that religion and that superstition which we have been so loudly called upon to "spare," because it was their religion and their superstition. Sir, this is one of the order of those pious prophets whose surrender our country demanded in the Treaty of Fort Jackson. A prophet, the crucifix of whose religion is the tomahawk and the scalping knife; the libations to whose worship is the blood of the white man. Ask the mothers of your country if they consent to be surrendered with their children as the willing sacrifices to the ceremonies of such a superstition? And, yet, our country is blamed, because, in a treaty of peace, she demanded the surrender of such prophets. Not those who would consent, in peace, to enjoy their delusions, but those only who persisted in hostilities and war upon our people.

Sir, said Mr. T., Arbuthnot and Ambrister have also been executed. Who were these men? Two British subjects in a Spanish neutral territory; two incendiaries instigating an Indian war upon our frontier. The one found in battle and taken with arms in his hands; the other united and commingling with your enemies, acting as their agent, even by express commission, as a power of attorney executed before the neutral commandant of St. Marks, importing for their use gunpowder and lead; and when the resources of the neutral posts of St. Marks and Pensacola were exhausted, writing letters and making application for military aid in this Indian war to Governor Cameron, and even to the Prince Regent, who Francis the Prophet said "told him, when in England, that whenever he wanted ammunition that your excellency would supply him with as much as he wanted." Sir, I forbear to enter into the examination of the documents on your table. It is sufficient that I state, and I state without the fear of contradiction, that Arbuthnot and Ambrister, by their acts, had identified themselves with your

Indian enemy; had become allies and parties against you in this cruel Indian war. Sir, what are the just consequences of the relation which these men had voluntarily assumed? I advance it, said Mr. T., as a proposition not to be controverted, that whatever right war gives against my principal enemy, the like it gives me against all his associates. Connected with this principle, I also maintain that, whatever measures your enemy adopts against you, whatever cruelties he exercises towards you, he gives you the right to adopt those measures and to exercise those cruelties upon him in return. Sir, if gentlemen cannot find this rule in their books, it is sufficient for my purpose that its principles are engraven on the heart of man; that its practice is adopted by every nation on the habitable globe. It is the only means by which one belligerent nation can compel another to regard the rules and usages of civilized warfare. It has been adopted by our country, and its practice is recorded in every page of its military history. In all your wars with Great Britain, you have rigidly maintained this doctrine; witness the retaliatory measures resorted to in the late war. But, when the dark and benighted savages of the wilderness have warred upon you, while your right was complete to exercise upon them all the cruelties they inflicted upon you, being an humane, an enlightened, and a religious people, you wisely withheld the exercise of that right which the practices of the war had given to you. Sir, you also withheld the exercise of this right upon another principle, because the character, the prejudices, the delusion, and, if gentlemen please, the wild superstition of your ferocious foe, rendered all example upon him as ineffectual as all precept was unavailing. The conclusion for which I contend is, that your right to resort to retaliatory cruelties upon your savage enemy was complete. Its exercise was alone to be regulated by a sound discretion, and by circumstances, with regard only to your own character, influenced by just principles of humanity. I also insist, not "that the white man found fighting by the side of an Indian shall be put to death," but that the white man who unites with Indians, and becomes a party in their wars, justly becomes liable to all the vicissitudes of those wars; is identified with the Indians, and subject to all the rights you have against them as your principal enemy. Such is the well known relation of all allies in war; such was the situation of De Kalb, Lafayette, and all those worthy foreigners who took part with us in our Revolutionary struggle. With such principles in view, and with the murderer of Lieutenant Scott's party in your possession, with the General and Prophet Francis your prisoner of war; with Arbuthnot and Ambrister, those civilized savages, instigators and procurers of this war, all in your power, who can doubt that the exercise of a sound discretion for the peace and safety of our country would doom them to death? Held by no treaty, bound by no ties, regardless of all faith, and influenced by no mercy, who would advise that such men should be turned loose to



H. or R.

Seminole War.

JANUARY, 1819.

remingle with the misguided savages, exhibiting themselves at once as the pledge of your weakness and your fears; and, with their trappings, as the sample of British munificence? Your documents remind you that your Indian enemies read no books or papers—have no sources of information, but from such chiefs and such agents, by whom they have been told of your weakness till they really believed you dared not to brave the power of their warriors, countenanced by British and Spanish officers. I regret, said Mr. T., the necessity of a retaliatory example. But, sir, General Jackson wisely considered the circumstances called aloud for example. Indians, Spaniards, and Britons, all needed a lesson. And never did man select four more fit subjects to hang on high as an example to savage credulity, and as a warning to all adventurers to beware of combining against us in Indian wars. I hope, said Mr. T., this House will justify the measure. It will give effect to the example, and proclaim to the world the policy of our country in all future Indian wars.

Sir, it is now denied that the power of retaliation belongs to the commanding General. The honorable Speaker (Mr. CLAY) has declared it to be an attribute of sovereignty, and that it belongs to this House, as one of its war-making powers; and he denies this right to the commander of any portion of our army. In support of his argument, that the right of retaliation was a Legislative power, he had read at length, the act of Congress in 1799, giving to the President the power of retaliation upon French citizens for enormities practised upon our citizens by the French Republic. Sir, it was with some surprise, I heard this act brought into the argument; recollect its cause and its history, and this act proves the opposite conclusion. In 1778 our country made a treaty with France, in which we agreed that she should ever be considered the most favored nation, and whatever privileges we gave to any other nation should be extended to her. In 1794 we made a treaty with Great Britain, in which it was mutually agreed, that the citizens of either country, found in time of war on board an enemy's vessel, our countries being at peace, might be treated as pirates. In 1798, when the French Republic, in its mad career, endeavored to involve us in their wars, they insisted that we should at that time, resist, by war, the impressment of our seamen, or that they would, under construction of the treaty, execute as pirates any of our impressed seamen which they found on board a British vessel. A spirit to resist such pretensions, gave rise to the act of 1799, cited and relied upon by the Speaker, (Mr. CLAY.) There was then no war between our two countries; the case came not within the power of any military commander; and the act of 1799, only proves the just retaliatory policy which has ever governed our country.

But, sir, let me ask gentlemen to cast back their recollection to the events of our Revolutionary war; what was the conduct and practice of our enemy? Did not the commanding General on

this station ever claim and exercise during that war the power of retaliation? Did gentlemen ever hear that as often as a case occurred he sent home for new powers? If this is legislative power, as the Speaker (Mr. CLAY) has contended, I wish they would show acts of Parliament for the retaliation measures during that war. Who has not, said Mr. T. heard of the cruelties perpetrated in our Revolution by Delancy's corps; all, all under pretence of retaliation for acts on our part? Did not the loyalists in New York confine American officers with the common soldiery, and threaten to compel them to work and dig a prison under ground as a retaliation for confining some British prisoners in the Simbury mines? I wish, said Mr. T., gentlemen would show acts of legislative authority for all this class of transactions.

But, sir, what was the course and the conduct on the part of our own country, when Captain Huddy was hung by the murderous Lippencott? Was not the unfortunate Asgill set apart by order of General Washington, and doomed to expiate by his death the cruelties of his nation? Congress upon that occasion did not legislate; but they did "Resolve, That the commander-in-chief, or the commander of a separate army, is, in virtue of the power vested in them, respectively, fully authorized and empowered, whenever the enemy shall commit any act of cruelty or violence contrary to the laws or usages of war, to demand adequate satisfaction for the same; and in case such satisfaction shall not be given in a reasonable or limited time, or shall be refused or evaded under any pretence whatever, to cause suitable retaliation forthwith to be made, and the United States, in Congress assembled, will support them in such measures."

When Colonel Hayne was executed at Charleston, did not General Greene order retaliation? Look at Lee's Memoirs of the Southern Campaign, and there read of retaliation exercised upon prisoners, to atone for the death of his trumpeter. Sir, it is my fortune to reside in New York, near the lines which divided the American and British armies. If gentlemen will go with me into the district which I have the honor to represent, every man, woman, and child of that day will recount to them some deed committed upon the pretence of retaliation. Sir, our fathers at this day point to the trees upon which your citizens have been executed, in order to impart to their children the feelings which in those days animated their breasts.

Before I leave this subject, said Mr. T., I must beg the indulgence of this Committee to permit me to cite one more case, from Gordon's History of the American Revolution, evincing both retaliation and the power to which military commanders are sometimes required to resort for the preservation of their country. Sir, I also beg leave to ask the attention of my worthy friend from Maryland (General REED) to the statement which I shall make. The historian states, that an American officer in an advanced station near Stony Point, detected a soldier in the act of deser-

JANUARY, 1819.

Seminole War.

H. or R.

tion; that he took him, cut off his head without ceremony, and sent it to the camp of Gen. Washington, by whom he was severely censured for his cruelty, and for which he afterwards atoned by his bravery in storming that place. Sir, with this aspect, the story proves much; but I reside near that place, and from the tradition of the country I am enabled to say the historian is not correct. I turn, said Mr. T., with pleasure to my honorable friend from Maryland, (General REED,) and I rejoice that I am able to say, thou art the man! Yes, sir, it is you of whom the historian speaks! Thou art the man! who, without ceremony, cut off the head of an American soldier, and sent it to the camp of your General. If I am wrong, said Mr. T., I hope the honorable gentleman will correct me. Sir, it was at a dark and eventful period of the history of your country; our enemy had possession of New York and the Hudson; an army was on the march from the North, and the plan of its campaign was to form a junction and sever this Union, which now so happily binds us together. The Father of your Country, with his little band, was before Stony Point, but your resources could not supply him with the means for its reduction. Our enemy had announced the intention to consider us as rebels, and refuse an exchange of prisoners. The groans from the Jersey prison ship echoed through your land, and a regiment then recently surprised at Paoli, on the Delaware, was refused quarter. The terror and the impulse was great; the little army before Stony Point was fast dissolving by desertion, and the fate of your country was suspended on a thread. The great soul of WASHINGTON fearlessly met the occasion; he resolved on example, and issued orders that every deserter should suffer instant death. You, sir, (General REED,) had this order in your pocket. The night of your advanced command, three men, taken in the act of desertion, were brought to you. Then that heart which danger could not appal, for once trembled; you faltered between mercy and your duty; you compromised with your generous feelings; you spared two and executed one; and, sir, your immediate superior officer told you it was mistaken mercy. This, and this only, was the censure to which the historian alludes, as being pronounced upon your conduct. Sir, even this censure you shortly wiped away. Your General foresaw that the crisis of the country required the reduction of Stony Point; its neck of land was strongly occupied, and he had not the means to approach it. It was determined to carry it by storm. A brave band of American youth undertook the exploit, and you, the bravest of the brave, marched at their head. It was at low tide, and at the midnight hour. You entered into the river; under the auspices of darkness and silence you went round the sentinels, and gained the point; you scaled the rampart, and there the bayonet was made to perform its duty. Retaliation! Nay, Revenge! that night drank her fill; and to stimulate your followers to give to it its keenest edge, "Remember Paoli" was the watchword of the night. Sir, you was a member of the committee

who made the report now under consideration; and do you yet think that General Jackson should be loaded with his country's censure? Sir, when General WASHINGTON issued that order which you executed, and without trial, without ceremony, put to death, not one of your enemies, but an American citizen soldier, did you then think that he and you had served your country? Did your country sanction his act, applaud your exploit, and blazon both in a manner best calculated to affect her enemy? Was the public mind poisoned against your General? Was Congress called upon at that day for a vote of censure? Or did any man with prophetic spirit caution against military despotism, and forewarn against the coming Cæsars? No, all was then joy and applause; and blistered be the tongue that would pronounce a censure on the acts of that day. Mute be that voice which will not join in loud applause to your valor, and to the glory of your chief.

Sir, it seemed necessary to meet gentlemen in the discussion of the subject of retaliation; but I contend the present is not a subject of that kind only. This retaliation is where the innocent person is made to suffer for the guilty; such was the case of the unfortunate Asgill, who was about to suffer for the cruelties perpetrated by Lippencott. The case now before us has no such features—the innocent are not made to suffer for the guilty. Arbuthnot and Ambrister had become parties in an Indian war; they were captured in its progress; and suffered for their own conduct—for atrocious deeds produced and perpetrated by their procurement. The villain and the victim were here combined. The "chastisement" and "merited punishment" which General Jackson was ordered to "inflict for hostilities so unprovoked," justly fell upon those Christian savages.

Sir, the trial of Arbuthnot and Ambrister by a court, and the rejection of its sentence as to Ambrister by General Jackson, is the subject of much objection, and probably the great cause of the public discontent. It is due to myself, said Mr. T., to confess, that the manner of the publication of the proceedings of the court martial, with the newspaper comments, before the publication of the whole documents, was not without its effect on my mind. My first impression on this point was that of disapprobation. But, Mr. T. said, since he had examined the subject, he had no remaining doubts connected with the proceedings of that court martial. A proper discrimination, said Mr. T., between the different courts or tribunals usually incident to military proceedings, will tend to correct erroneous impressions on this subject. A court martial, said Mr. T., is a court specially created by the rules and articles of war, and limited in its jurisdiction to officer and soldier, with the single excepted case of the power conferred by statute over the case of a spy. It is a municipal regulation, confined to the discipline of your army, and limited to the police of your camp. These are its limits, and the boundary of its jurisdiction. Thus far it is a valid court, and its decisions are obligatory; and although the



H. OF R.

Seminole War.

JANUARY, 1819.

commanding General may disapprove, he must then order a second court. But, without its sentence, he cannot punish either officer or soldier under his command. And this, said Mr. T., is the only military tribunal having jurisdiction that is known to our law. It has no power or jurisdiction over a citizen, an enemy, or prisoner. A citizen is only accountable to the civil tribunal; an enemy or prisoner is not liable to the jurisdiction of any court, but subject to the power commissioned to carry on the war in which his country is engaged. The commanding General has the right, and is made responsible for all proceedings against the enemy. In the progress of military events, when the right to direct is complete in the General, but attended with circumstances of doubt or difficulty, he often directs his officers to inquire and express their opinions, in order to be advised by them in the exercise of his rights. When the subject of the inquiry is concerning any circumstances connected with the movement of the army, it is usually denominated a "board of officers;" but when it regards your enemy, or any prisoner, it is called a "a special court, or court of inquiry." These latter courts have no jurisdiction—can pronounce no sentence—and confer no right or power upon the commanding General. They are merely advisory to the General, in the exercise of the rights and powers previously vested in him. A court martial is bound to legal testimony, and strict rules of evidence, while those other special courts, or boards of officers, having no jurisdiction, and being only advisory, profess only to obtain information, without regard to legal proof.

Sir, said Mr. T., when the unfortunate Major Andre was taken, General WASHINGTON directed a special court to answer to him two questions: 1st. In what light shall the prisoner be viewed? 2d. What is its consequence? The court returned for answer that he should be viewed as a spy; and the consequence, by the laws of nations, was death. General WASHINGTON then issued an order for his execution.

In the case of Colonel Hayne, of Charleston, Lord Rawdon directed a like court to answer to him, "whether the prisoner, Colonel Hayne, should be considered as an English subject or an American citizen?" The court were not sworn—the witnesses produced were not sworn—hearsay evidence was admitted—and the court returned for answer that the prisoner should be viewed as a British subject. Lord Rawdon ordered his execution. The objection at that day, on the part of this country, was not as to the form of his trial and execution, but the unjust principles assumed in considering him a British subject, after he had removed from their limits, and had raised a regiment, and joined our cause.

These cases, said Mr. T., sufficiently show the distinction in regard to the different military courts, while they demonstrate the principle, that when a country in war has resolved on a campaign, either offensive or defensive, the commanding General is charged with its detail, and bound to adopt such measures as tend to give ef-

fect to the campaign, and induce to a termination of the war. The right is complete in the General to make such orders, and to carry into effect such measures, as, in his opinion, would accomplish the object of the campaign. For the due exercise of this right he is justly holden responsible to his country. The right and the duty to act being in him, in cases of difficulty or importance he directs his officers to inquire and report facts and opinions, not to confer upon him additional powers, but to support his responsibilities, and to advise him in the exercise of his discretion.

Sir, the order of General Jackson, detailing the court in the case of Arbuthnot and Ambrister, calls it "a special court;" and, in addition to the names of the members, it details Lieutenant McGlassel as "recorder." This, said Mr. T., is, in the opinion of military men, a distinguishing feature in the character of a court. Military writers often give no other distinction between these courts than as having either a "recorder" or a "judge advocate;" which latter officer is said to be an essential ingredient in the constitution of a court martial, and without whom no proceedings can be had, and no sentence can be pronounced. Although the court in the present case, by mistake, assumed the forms of a court martial, yet it could not thereby acquire any power over persons not within its jurisdiction, nor impair the original right in General Jackson to act without its assistance, and independently of its sentence. He did, in the case of Ambrister, so act, and it only remains to examine into the circumstances of the case, and the motives of public policy by which he was influenced, in order to determine whether he shall stand justified, or whether he shall be censured by a vote of this House, as having, by unnecessary cruelties, stained the honor of our country.

Mr. T. said he would ask gentlemen to review the character and the progress of Indian wars; to cast back their recollections into the history of our country, and tell him if Englishmen and Indians have not always been united in war against the prosperity and the safety of our country. When Burgoyne entered your country on the north, he was preceded by a dark and murky cloud of savage barbarians, like noxious vapors hanging round and moving with his camp. The lamented fate of Miss McCree, tells the course and the conduct of this union between our savage foes and the "bulwark of our religion." [Mr. T. proceeded at some length to recount events in Indian wars, and said their rule was to practise every cruelty, give no quarter, and refuse all exchange of prisoners. Our rule had been to burn and break up their towns.] But, said he, if gentlemen who feel for the sufferings and fate of Arbuthnot and Ambrister have any sympathies to spare, let them offer consolation—let them pour them into the afflicted bosom of the unfortunate Mr. Garret—a wife murdered and scalped! A child, murdered and scalped! An helpless infant, murdered, and the cradle stained with innocent blood! And then, to consummate the yet unfinished scene, his house was set on fire, and the

JANUARY, 1819.

Seminole War.

H. OF R.

flames of his home were made to announce to the absent husband and father the extent of his calamities.

With the history of such wars, of such scenes, and such events, before you, instigated by British subjects, carried on and supported by Spanish and British resources, who can doubt the wisdom and the necessity of hanging on high some signal examples? Cast your eye westward, over your newly acquired territory, extending to the Pacific ocean, and inhabited by savage hordes; bounded on the north, by British territory, and on the south by Spanish possessions; can you longer doubt but the era has arrived, when you must avow and maintain the policy of your country, to prohibit the intercourse between Indians and foreign incendiaries? When I reflect that the example before us was upon British subjects, in a Spanish territory, it obtains the approbation of my judgment; it commands the joy of my heart. With such views, for the future good of this country, the gallant spirit of General Jackson did not pause. He ordered Arbuthnot and Ambrister to execution—justice approved the deed—mercy withheld the tear—and even humanity rejoiced. Yet, these men fell not unlamented. Theft, rapine, and murder, bewailed their loss. Superstition and cruelty; the one wrapped in the Spanish cloak, and inquisition's cowl, the other clad in bleeding scalps, the trophies of their friends' exploits, walked as the mourners to their tomb.

Sir, said Mr. T., I think gentlemen do not fairly understand the purport of General Jackson's correspondence, when they describe him, after the occupation of St. Marks, and before the execution of Arbuthnot and Ambrister, as representing that the war had terminated, and from which, it is inferred, the execution of these men was an unnecessary cruelty. The evident meaning of his letters is, that the enemy were so broken and dispersed, the command of a Major General was no longer required. Sir, the war was not terminated. There is no treaty of peace to this hour. Your enemy, cut off from all sources of supplies by the energetic proceedings of General Jackson, cannot any longer make war, in numbers, or except by marauding parties, and are now held in subjection by a cordon of posts, established by his orders. The necessity for the example was, therefore, rather increased than diminished, from the new and predatory character which the war was expected to assume.

Sir: Pensacola and the Fort Barancas have been taken. General Jackson, on the 20th of April, reduced his force, by dismissing the Georgia militia, and with the residue he crossed the Apalachicola river, in pursuit of his dispersed and flying enemy. He soon learned that his enemy had free access to Pensacola, and was there openly supplied and armed from the public stores, and that thus reinvigorated, he issued forth in marauding parties, upon the Alabama frontier. Eighteen of her citizens recently had fallen a sacrifice to one of these Indian parties, coming directly from Pensacola, and again returning to that place. [Mr. T. went into an examination of the docu-

15th Con. 2d Sess.—24

ments in relation to Pensacola, tending to show its support of the Indians; the free use they had of the place; its unfriendly conduct towards us, and its departure from all neutral conduct.] When General Jackson approached the place, said Mr. T., it was filled with Indians. They were sent out of the place across the bay, in Government boats, and at its final surrender, and in its capitulation, one of the hostile Alabama chiefs was included. Perhaps it ought not to be said that this place was in danger of being taken possession of by the Indians. But, in every other respect, all that has been said of the first entry across the Florida line, and the possession of St. Marks, is also applicable to this place. But, Mr. T. said, there was yet another point of view in which it ought to be considered. It should be remembered that this was the country of your enemy, and from which he issued to make irruptions upon you; and into which you had pursued him, in order for his subjugation.

In the progress of this pursuit, he not only derives shelter from a place calling itself neutral, but is there permitted to refit, and again to sally forth upon you. Consider also the character of this enemy—a savage foe, covered in the wilderness, deriving all his supplies from this neutral place, and, as often as circumstances will permit, issuing forth in marauding incursions, carrying devastation and ruin into your settlements. When a belligerent invests a place of his enemy, he is allowed to interdict all intercourse with neutrals, for the lawful purpose of carrying into effect the object of his investment. Besiegers do not hesitate to treat as prisoners, and even to punish with death, all persons attempting to supply a city besieged. The principle upon which these acts are justifiable, is the lawful object of the belligerent against his enemy, and the effect the intercourse with neutrals would have in defeating these objects. Apply these principles to an army in the field: a belligerent will cut off its resources, and prevent its supplies. Who will say a neutral should be permitted to furnish them, and give them shelter when pressed by your pursuit? And if the neutral will thus expose himself, he justifies you to resort to the means necessary to deprive your enemy of this resource, and to prevent the failure of your own object. But Pensacola was not a neutral place; it was the fountain of supplies to your enemy. The entire use of the place was lent to him. Your enemy occupied it, and fled from it on your approach. If this permission was extended to him, either from partiality or from weakness to resist, you were equally entitled to enter into it temporarily, and hold it from your enemy. Its possession was essential to the success of your pursuit and the defeat of your foe: without it, he would forthwith here refit, and again assail you. In the language of General Jackson, "the immutable laws of self-defence" justifies you. Its subsequent surrender by the President is not inconsistent with its just occupation by General Jackson. The cause which required its occupation—to complete the defeat of a flying enemy—was removed, and



the place was correctly restored. It is upon these principles that St. Marks has been retained, and a condition required that the Spanish Government should occupy it by an adequate force, to secure safety to the adjoining country.

Sir, there are other principles involved in this case, which it was my intention to discuss; but my feeble health and exhausted strength admonish me to close. In this close, permit me to urge upon you the importance of the decision you may pronounce—a decision affecting the reputation of a faithful General—important to the character of our country, and of great influence on our pending negotiations.

Sir, in casting a view over the circumstances of the transaction now under consideration, you cannot but consider as established the principal points which lead to the necessary conclusion. A war, savage and offensive, has been waged on your frontier: the constituted authorities of your nation have adopted and contributed to the defence in that war. The Executive of the Government assumed the control. He directed the war to be carried across the Florida line, and commissioned one of your Major Generals with full power to "adopt the necessary measures to give the war effect, and bring it to a speedy termination," under such circumstances of merited punishment as would secure a permanent peace. In the progress of this war, your General has occupied the posts of a Power professing neutrality. He had overcome in battle your enemy, and had destroyed his towns. The foe, broken and dispersed, could no longer be found in open fight, but, divided into marauding parties, he made his irruptions upon you from the wilderness, less visible, but more destructive. It was found and ascertained that the resources and the supplies for all these hostile incursions were furnished from Spanish neutrality and English friendship; that they were stimulated by Spanish influence, and guided by British skill. How then could your General execute his commission, and yet stop short of the occupation of those neutral posts and that friendly influence which would so soon refit your enemy, and invigorate his hostilities? How could he say he had secured a permanent peace, without exhibiting some instances of punishment, to remain as a warning to incendiaries for its future infraction? The right to complete these acts was strictly vested in your General. The wisdom and the policy of their execution can no longer be doubted. Miserable and misguided Indians! my heart sympathizes in your misfortunes. But Spain—my indignation for the cold treachery of her character is lost in my contempt for the duplicity and baseness of her conduct. But thou, England, whom from my mother's breast I have been taught to hate, I never before could fully despise. A people justly famed for their philanthropy; conspicuous for their moral and religious institutions; their Bible and missionary societies teaching alike to the savages of Asia and America the arts of civil society and the precepts of our gospel! A Government professing to us peace, and embodying these profes-

sions into a formal treaty, in which is contained an anathema against the traffic in human flesh, and a clause of mutual pledge to prohibit the slave trade! And yet this Government uses its influence, advances its resources, and commissions the savages of the wilderness to war upon your frontier!

In the progress of this debate, some of the public services of General Jackson have been recounted. I am no eulogist. I have neither the will nor the power to recount the exploits of the man on whose conduct you are to pronounce. Small must be that man's pretensions to immortality in fame; meagre must be that man's glories, whose friends in debate can enumerate his acts and detail the account of his services. The public services of General Jackson are reduced to no legered account; they are not of this class; they are of an order which break upon the imagination, and dazzle by their brightness. Sir, the congregated world have compared those achievements, which form the fund of their national glories. Among those of modern days, by universal consent, the names of Agincourt and Poitiers stand pre-eminent in brightness. But it is the fortune of our day—nay, it is the fortune of our country—to behold those bright names serve but as the back-ground upon which are emblazoned the yet more brilliant names of Orleans and of Jackson.

Sir, you may pass the proposed resolution: with the pestiferous breath of censure you may wither the laurels which his nation has entwined about his brow. In the language of the gentleman from Georgia, (Mr. Cobb,) "you may even bring that brow itself to the vile dust from whence it sprung," but yet my heart is cheered with the confiding hope that history, in justice to his valor, his fidelity, and his public services, will record in her brightest page the name of Jackson; while the tears of a grateful country will moisten those laurels which were entwined around his brow, and reanimate them to bloom an evergreen upon his grave.

Mr. STORRS said, that, when he took his seat in the House, at the commencement of the session, he looked with much anxiety to the Message which should disclose the true character of the transactions during the past year, on our Southern frontier. We had, indeed, been informed, by the Message of the 25th of March last, that war existed between the United States and the Seminole tribe of Indians—that orders had been issued for the advance of the army into Florida, but that the commanding officer was strictly enjoined against any attack on the Spanish fortresses, without the sanction of the Government. During the recess, he had heard of the entry of our troops into the territory of Spain, the seizure of St. Marks, the capture of Pensacola and the Barancas, the military trials of Arbuthnot and Ambrister, and the execution of the Seminole chiefs. Notwithstanding no evidence of disapprobation of any of these measures had transpired, except the offer to restore Pensacola unconditionally, and St. Marks, on terms pre-

scribed by us, he was unwilling to believe that they had received the sanction of the Executive. The documents transmitted to the House had shown how vain was this expectation. He had carefully and attentively examined them, and formed an opinion upon them, he hoped with that deliberation which was due to questions of so great and vital importance to the Constitution and character of the country. That opinion he had not found reason to change, nor was he ashamed or afraid to avow it, and should discharge his duty with frankness and fearlessness, let the censure, which, in his judgment, these transactions merited, fall where it might.

When, said he, the trials of Arbuthnot and Ambrister were laid upon our tables, and it was first developed, that one of them had suffered death in consequence of the reversal of the sentence of the court martial, by General Jackson, an universal burst of indignation seemed to have electrified the House. Have these manly and generous feelings, so honorable to our nature, fled from our bosoms, or have they chilled into insensibility during the long interval which has elapsed? He had waited in painful suspense for the report of the Military Committee, and acknowledged his gratitude to them, for the firm stand which they had made against these encroachments of military power. He saw among them some of those, who in other times—in the darkest days of our adversity, when the yoke of parliamentary and military despotism was riveting on our necks, had stepped forth as the protectors of their country, and with unconquerable spirit persisted in the contest which delivered us from the tyranny of Britain. He was happy to find that, during his life, this spirit has not left us—that, in his day, those were to be found among us, who yet cherished the principles of that glorious conflict, and knew how to appreciate the value of those liberties which were earned at the expense of so much blood and treasure.

I am gratified, said he, to find that, to this period of the debate, excepting by the honorable gentleman from Virginia, (Mr. SMYTH,) the power of this House to interpose has not been questioned. We are the peculiar guardians of the Constitution. Our liberties are safe in the same proportion that we execute our duty with firmness, vigilance, and fidelity. Offences short of impeachment, but which threaten the public safety, it is the right of this House to present to the nation; against evils of this sort, it is the most effectual remedy. However the direct interposition of our Constitutional power of impeachment may be evaded, there is a tribunal—*public opinion*—to whose judgments no man is indifferent, whose decision none can successfully withstand or defy, and which causes the stoutest heart to tremble. The genius of our institutions, the experience of other Governments, the records of all history, and the sad and melancholy fate of a long train of fallen republics, admonish us that liberty is only safe when faithfully guarded by the immediate representatives of an enlightened people.

The services of General Jackson have been eminently great. He has justly received from a grateful country its high rewards and honors. I am not disposed to detract from his well merited fame. The victory of New Orleans was, indeed, a proud triumph—and, though I do not unite with some gentlemen in pronouncing it, in reference to its consequences, the greatest which this country has achieved, I cheerfully accord to the sentiments which have been expressed in praise of that great exploit. Though, with the rest of my countrymen, I felt and gratefully acknowledged that to him we owed much of our national character, and the security of a valuable portion of our territory, yet, I do not forget that even on that occasion he overstepped his power. I was disposed to forgive it. The evils which he averted and the blessings which he conferred upon us, were some atonement for the violated majesty of the Constitution. But, great as his services have been, they afford no sanctuary against our inquiry—much less do they furnish any exculpation for the violation of the Constitution. An example of impunity on such grounds, for these assumptions of power, will produce the most pernicious consequences among the subordinate officers of the army. Day after day have petitions been presented to this House, from the army, for indemnity against judgments awarded for the violation of the personal liberty of our citizens. The disposition to encroach upon the civil authorities of the Government should receive no encouragement from our hands. For some time past, the people of this country have indulged a dangerous predilection for the army. In the civil departments one may attain to the highest eminence, and scarcely attract attention beyond the immediate sphere in which he moves; but, clothe him with the glare of military renown, and the eyes of the people are dazzled—his fame has no limits, and every one is ambitious and eager to honor him. It is time that we were roused from this fatal delusion. The affections of the country have been too bountifully devoted to the army, and the time may yet come when the people will find it too late to retrieve this error of their hearts.

If, sir, we consult the past history of other countries, and turn our eye back through ages which have gone before us; or, if we look only to the events of our own times, we find much to warn us against receiving the services of public men as an apology for their usurpations. Every tyrant who has succeeded in overturning the liberties of his country, first stole away the affections of his countrymen by the services which he had rendered to the State. On this occasion it is well worthy of remark that these have, with few exceptions, been military services. Caesar and Bonaparte only commenced their bloody career of tyranny after they had risen to power on the misguided affections of the people. In forming my judgment on the specific propositions before us, I lay altogether aside the motives of General Jackson. Laudable as they may have been, or faithfully as he may have believed him-



H. or R.

Seminole War.

JANUARY, 1819.

self to be acting in the discharge of his duty to his country, these form no part of the inquiry before us. To me it is immaterial with what views or what motives he has infringed upon the Constitution. Our object should be, to prevent the force of the precedent which these measures establish. If the powers of Congress have been encroached upon, let us declare it, unless we are prepared to surrender our prerogatives to a military chieftain, or to give up the Constitution to mere matter of delicacy. This is not an inquiry with a view to the censure of General Jackson. It is required from us by the duty of self-preservation. The indirect censure which some of these resolutions imply, is no fault of ours. The enemy whom he triumphantly vanquished at New Orleans can derive no self-gratification from our proceedings. Would they boast, I would tell them to meet him in the field. The measures of this House will afford but a miserable consolation to those who there felt the energy of his arm, and whose pride was there humbled in the dust before his skill and valor.

The subject of these resolutions divides itself into several inquiries: the capture of Pensacola, the seizure of St. Marks, the crossing of the Florida line, and the execution of the captives. Whatever may be the justification for the seizure of Pensacola, the Barancas, and St. Marks, which the Executive has urged as between us and Spain, it is plainly admitted by him that the occupation of these posts was not justified by any orders which were issued. Such is the fair import of the Message communicated at the commencement of the session.

If any doubt can exist on this point, it must be removed by recurring to the letter of Mr. Adams to the Spanish Minister at this place, of the 30th of November last. In that letter, which is written on the same day with the letter of Mr. Adams to Mr. Erving, he says: "But it is proper, in the first instance, in reference to the first of the propositions made by you on the 24th of last month, to correct an erroneous impression which you entertain, and which is certainly not warranted by any communications which you have received from this Government. You have been informed that the contingencies upon which General Jackson adopted those measures which you represent as hostilities and outrages, not having been anticipated, had not been provided for in his instructions; that they were unforeseen emergencies, upon which, judging measures of energy necessary, he had resorted to them on his own responsibility," &c. Again: in the letter to Mr. Erving, of the same date, it is said that "the Spanish Government must likewise have been satisfied that the occupation of these places in Spanish Florida, by the commander of the American forces, was not by virtue of any orders received by him from this Government to that effect." I was much surprised when my honorable colleague (Mr. TALLMAGE) told us that he considered him as completely justified, by his orders, even in the capture of Pensacola, and when, for proof of this, he

called our attention to a paragraph in the letter of the Secretary of War to Governor Bibb of the 13th of May last, in which the Secretary says "General Jackson is vested with full powers to conduct the war in the manner in which he may judge best." These general orders, whatever they may have been, must be construed in reference to the orders which had provided for the particular state of things which actually occurred, and must be restricted by them. The observance of the neutral rights of Spain had been expressly enjoined; and the Message of the 25th of March last also informed us that orders had been given to the General in command not to enter Florida unless in the pursuit of the enemy, and in that case to respect the Spanish authority wherever it was maintained." The Secretary of War had no power whatever to issue a *carte blanche* of the kind which my honorable colleague has construed to include a right to attack the forts of a Power in amity with us. From my acquaintance with that officer, we differ very much in our estimation of his knowledge of the duties of his station, if my colleague believes that such an unauthorized license was ever imagined by him. Nor has the Executive any such powers. From the orders actually issued, it seems that he too well understood the distribution of powers, and too highly respected the cardinal principles of our Government, to believe that, in this case, such a power could have been conferred on the commander of an army. Not possessing it himself, he could delegate it to no one; and my colleague must have been mistaken in the construction which he gave to these orders.

The immediate restoration of Pensacola is unequivocal evidence that the post was not captured in conformity to the views or instructions of the Executive, and virtually amounts to a disavowal of its seizure, on the part of our Government. Although, as between us and Spain, the Executive has not, and perhaps ought not, to have yielded to the demand of that Government to inflict punishment on General Jackson, it is not certain how far they have intended to adopt his acts as Constitutional. From a careful examination of the letter from the Secretary of State to Mr. Erving, I have been led to doubt whether they have, in unqualified terms, sanctioned the occupation of St. Marks and Pensacola. In that letter, it is said that "it became, therefore, in the opinion of General Jackson, indispensably necessary to take from the Governor of Pensacola the means of carrying his threat into execution." Again: "It was, in his judgment, not sufficient that they (the Indians) should be suffered to rally their numbers under the protection of Spanish forts," &c. The cautious phraseology of these and many other passages of this letter, leaves it somewhat equivocal whether even the Government has, as between General Jackson and us, assumed to their whole extent the doctrines on which General Jackson founded the justification of his proceedings. If, however, such sanction was intended on the part

JANUARY, 1819.

Seminole War.

H. or R.

of the Executive, the powers of Congress are doubly jeopardized.

Sir, I have read this letter of the Secretary of State with grief, and, I will add, with no little humiliation for my country. Instead of that calm, manly, and dignified character which formerly marked our diplomacy, it seems to have been penned under the influence of temper and petulance. It is a production rather addressed to the passions than a temperate and candid appeal to the reason and good sense of mankind. Some parts of it are, in my judgment, offensive to that diplomatic courtesy which should characterize the intercourse of nations. Referring to Ambrister's letters to Colonel Nicholls, "informing him that he is with 300 negroes," a few of our Bluff people, "who had stuck to the cause, and were relying on the faith of Nicholls's promises," the paragraph is thus continued: "Our Bluff people were the people of the Negro Fort collected by Nicholls and Woodbine, and 'the cause' to which they stuck was the savage, servile, exterminating war against the United States." Really, sir, if sarcasm must have been resorted to on the occasion, it surely need not have been sought for in the vulgarities of Ambrister's letters.

On the subject of the trials of Arbuthnot and Ambrister, it is said that "the defence of the one consisted solely and exclusively of technical cavils at the nature of part of the evidence against him, and the other confessed his guilt." It is here gravely asserted, that, on a trial for life or death, an objection to the hearsay declarations of an Indian is a technical cavil!—that this country recognises an institution for trial of capital offences, on which an objection to the proof of the hearsay declaration of an Indian, who, if himself present, could not have been a competent witness, is a technical cavil! To be condemned to an ignominious death on testimony of this sort is what the honorable Secretary has termed "the benefit of a trial by court martial." The threat contained in the conclusion of this letter deserves, at least, to be remarked by this House: "if the necessities of self-defence should again compel the United States to take possession of the Spanish forts and places in Florida, declare, with the frankness and candor that becomes us, that another unconditional restoration of them must not be expected." Before a war of conquest is carried into the dominions of Spain; before the armies of this nation are sent to enforce the conditions which we prescribe to other nations as the tenure by which they shall enjoy the sovereignty of their own territories, I trust that this House will at least be consulted; that the discretion of Congress alone will determine the question of war or peace. I do not relish the fulmination of these threats by a Secretary of Foreign Affairs. We have, indeed, heard of imperial edicts in another quarter of the globe. At one time it is decreed, that the Bourbon dynasty no longer exists in Spain, at another, the Queen of Etruria no longer reigns, and a band of soldiery is forthwith sent to enforce the mandate, and overturn the

Governments of other nations. These imperial examples are hardly worthy of our imitation; and I pray that, if this letter is to be hereafter the model of our diplomatic correspondence, some means may be devised to remedy its effect upon our national character. It would hardly be imagined, from perusing that letter, by one unversed in our institutions, that our form of Government was republican. And against whom is this threat issued? "Poor, miserable, and degraded Spain?" Indeed she is too weak to repel or scarcely to resent the encroachments of any; but, fallen as she is, it affords but a sorry triumph to insult her weakness. I fear that the wrongs of which she has been guilty towards us have induced less regard for her rights, and that we have not, therefore, been scrupulous to respect them.

For what reasons was Pensacola occupied? Not because it might have fallen into the hands of the Indians, nor has it been asserted that it was necessary to the preservation of our army. The war was finished before General Jackson crossed into West Florida. Mr. Adams says, that "before the forces under his command, the savage enemies of his country had disappeared." General Jackson had, on the 26th of April, said that they had "not the power, if the will remained, of again annoying our frontier." The cause which immediately determined him to "hesitate no longer" on the course he should pursue, was the delivery to him, on the 23d May, of the protest of the Governor of Pensacola. This officer had, in defence of the province intrusted to his protection, determined to discharge his duty to his sovereign. He was bound to defend the territory. Had he not reason to believe the views of General Jackson to be hostile? Had he not the best means of judging? General Jackson had previously informed the Secretary of War, in his letter of the 5th of May, that the statements which had been made to him of the supplies furnished from Pensacola to the Indians, compelled him "to make a movement to the west of the Appalachicola, and, should they prove correct," that "Pensacola must be occupied by an American force, the Governor treated according to his deserts, or as policy may dictate." At this time, this protest had not been received. Was Pensacola at last occupied as a temporary means of defence against the Indians? In the despatch of the 2d of June, General Jackson says, that "the articles, with but one condition, amount to a complete cession to the United States of that portion of the Floridas hitherto under the government of Don Jose Mazot." A civil government was established, officers appointed; and in the same despatch the Secretary was informed, that "Captain Gadsden was, among other things, instructed to report 'what new works should, in his opinion, be erected to give permanent security to this important territorial acquisition to our Republic.'" Is this the manner, or are these the measures and the principles of the law of nations which gentlemen recognise as justifying the occupation of neutral forts by a belligerent in self-defence? Are neutrals, when thus dispos-



H. OF R.

Seminole War.

JANUARY, 1819.

nessed of sovereignty for this purpose, to be treated as a conquered enemy? I have not come here with Vattel, or volumes of public law, to determine whether some principles may not be deduced by nice and subtle investigation, on which we may justify these acts. It is enough that these documents satisfy me that General Jackson occupied Pensacola with the views which he has himself declared. If these acts do not amount to war, I am at a loss to know what more we could have authorized to be done to change our relations with Spain.

The capture of St. Marks was equally unauthorized by orders, and was equally in derogation of the rights of Spain. It appears to have been seized as a convenient "depot" to facilitate the operations of our army. I shall not detain you by again repeating what has already been so ably and satisfactorily illustrated by those who have already addressed the Committee on this point. The terms, however, on which St. Marks was offered to be restored, are worthy of notice. They tend to show how greatly the importance of this war with the Seminoles, and that necessity which is resorted to as a justification of the capture of this fort, has been magnified. St. Marks is in the heart of the territory occupied by these tribes—and yet it appears, from the letter of the 30th of November, that two hundred and fifty men would be accepted as "a Spanish force adequate to its protection against the Indians." Yes, sir—two hundred and fifty "poor, miserable, and degraded" Spaniards, as the honorable gentleman from Massachusetts (Mr. HOLMES) was pleased to call that nation, were considered as competent effectually to restrain these tribes from its forcible occupation "for purposes of hostility against the United States."

It has been thus that war has been waged without the authority of Congress. My honorable colleague, (Mr. TALLMADGE,) in reviewing the effects of this campaign in Florida, expressed his satisfaction that permanent peace had been restored along the Southern frontier. Peace! I cannot partake of this gratification. It is the peace of a great charnel house—the peace which presides over the sepulchres of the dead—the peace which reigned along the Andes when the remorseless Pizarro had spread desolation over South America—the peace which pervaded Holland when the merciless Duke of Alva had deluged her fruitful fields and drenched the streets of her cities with the blood of her citizens—the peace which rested on the vast plains of the peninsula of Hindostan, when the ferocious Hyder Aly had extirpated from those fertile regions every vestige of civilization. There is one difference, sir, between these cases. The one swept the remnant of his miserable victims into captivity—the other sent them to the Christian's God.

From every view which I have been able to take of this invasion of the Spanish territory, I am constrained to believe that, from the first entry of our army into Florida, the rights of Spain were violated. The honorable gentleman from Massachusetts (Mr. HOLMES) assumed that the

Indian tribes were independent nations, and then argued, that, as the United States were at war with the Seminoles, who held concurrent sovereignty with Spain over the invaded territory, the neutral rights of Spain must yield to ours as a belligerent. I shall only reply to this by saying that I know of no joint-tenancy of supreme power of this sort—that I do not comprehend with much precision how among nations these various sovereignties can exist over the same subject and for the same purposes; all of which are independent; and, yet, all concurrent—neither of which recognises supremacy in the other—whose separate authority is entirely distinct, and at the same time absolute—and wherein one, by changing its own foreign relations, can completely prostrate all the rights of the other. The tribes of Indians which inhabit our territory are not considered as independent nations for any purposes, as between us and other Powers. Even towards ourselves, we do not acknowledge them to be absolutely so. It is too late now to inquire whether the right of European nations to this country has been derived from discovery or conquest, or what their rights would be as deduced from either. The original charters of the colonies, the grant of monopolies for Indian trade, and the repeated and unqualified transfer, by treaty, of all their territories, are unanswerable proofs that all rights over the countries which they occupy are subordinate to the sovereignties of those governments within whose jurisdictions they reside. The common consent and universal convention of European Powers has settled this question—our own Constitution has recognised and established the adoption of this principle into the code of public law. The power even to regulate the trade of our own citizens and foreigners with the Indians, and all their exterior commercial connexions, is vested in Congress. We do not recognise as lawful the interference of any foreign Power in their concerns. The making of treaties with them is denied. We claim them to be exclusively under our own protection. Had the honorable gentleman from Massachusetts but read a little further in the correspondence of our Commissioners at Ghent, he would have found all these principles asserted and enforced. "Without the admission of this principle, there would be no intelligible meaning attached to stipulations establishing boundaries between the dominions in America of civilized nations possessing territories inhabited by Indian tribes. Whatever may be the relations of Indians to the nation in whose territory they are thus acknowledged to reside, they cannot be considered as an independent Power by the nation which has made such acknowledgment."

As between the Indians and us, we have left to them but a few limited attributes of sovereignty. The right to dispose of the lands they occupy is not absolute. Their possessions can be only transferred to the United States. From policy our laws have not been extended to them; nor, indeed, would it be practicable for any useful purpose. Their attacks upon our inhabitants are repelled by the Executive as cases of domestic

JANUARY, 1819.

Seminole War.

H. OF R.

insurrection, without the formality of a declaration of war. From these principles, and this relation, it results that they are so far our subjects, in reference to other Powers, that we are bound to restrain their hostilities on foreign nations. The same duty we claim of others. We have the right to require them to restrain their depredations on ourselves. Will it be tolerated that an army from Canada, in hostility with the Indian tribes residing in the State of New York, could lawfully exercise the power of marching across that State—prostrating her sovereignty, and subjecting her citizens to all the horrors of war in pursuit of those tribes? Before a foreign Power can claim any right of this sort, a demand at least on our own Government should be made. We were bound, on every principle which should be maintained in relation to the Indian tribes, to have made this demand on Spain before we invaded her territory. Has this demand been made? I have examined the correspondence, and have not found it. Since the destruction of the negro fort, in 1816, I do not find that, in all the communications between our Government and the Spanish Minister, the hostility of the Seminoles had been alluded to. Complaint was before made of the existence of that fort, but that has been long destroyed by our own forces. If any remonstrance has been preferred since that time, I hope that some gentleman who justifies these proceedings will point to it. In the letter of the Spanish Minister to our Government, of the 17th of June last, it is asserted that, "under the pretext of making war against the Indians, on complaints or motives which have neither been communicated to the Governor of those provinces, nor to the Captain General of the island of Cuba, who is also Governor of them, nor to any other Spanish officer or public functionary, the dominions of East Florida have been invaded, and the Spanish territory entered as if it had been an enemy's country." This declaration was afterwards reiterated in a subsequent letter; and how has it been answered? Two other letters were sent from the Spanish Minister to our Government on this subject, when, on the 23d of July, Mr. Adams replied in these words: "It cannot be unknown to you that, for a considerable time before the Government of the United States issued orders for military operations in that quarter, the inhabitants of that frontier had been exposed to depredations," &c. It would not even have been sufficient that we had made a formal demand on the Governor of Pensacola; he was but a subordinate officer; we were at least bound to have remonstrated to the Minister of Spain at this Government. I have thus far considered this point without reference to the treaty, and perfect, as I believe, without it; our right was to require Spain to restrain the hostilities of the Indians residing within her territory, yet, as a treaty stipulation existed, it was more clearly our duty to have made that demand before her sovereignty was violated. The justification of the Executive, which has been alleged in this debate, as arising from the neglect of Spain to fulfil the

treaty, is fallacious. If the treaty had been violated, the Executive possessed no authority to enforce our rights by arms. It is the exertion of national force for the redress of wrong or the preservation of right, which constitutes the precise definition of war, and the Congress alone was vested with the authority to declare it. This treaty has heretofore received a practical construction from ourselves, which should have been observed. When the right of deposit at New Orleans, which was secured by the 23d article, was withheld, under the Presidency of Mr. Jefferson, it was proposed that Congress should immediately authorize the President to restore the right by force. The resolutions introduced into the Senate by Mr. Ross created much agitation and debate. One of those resolutions was, "that the President be authorized to take immediate possession of such place or places in the said island, or the adjacent territories, as he may deem fit and convenient for the purposes aforesaid; and to adopt such other measures for obtaining that complete security, as to him, in his wisdom, shall seem meet." Although this was merely a proposition to authorize the President to restore this right by force, yet it was objected that the act of the Intendant might be disavowed; that, before war was thus waged, application should be made to the Government of Spain. This was the course pursued by the Republican party at that time, and which was adopted by Mr. Jefferson. When the Chesapeake frigate was attacked; when John Pierce was murdered, and our neutrality violated, did we fly to arms? I am not the apologist of Spain. The injuries which we have received from that Power have been good cause of war. When that question is presented, I am ready to decide on the expediency of it. I shall support my country in all her rightful claims; but, in this case, before I approve of the measures which have been adopted, I must be satisfied that we have first done that which was necessary to place the Spanish Government in the wrong.

Gentlemen have defended these proceedings as a case in which a belligerent is justified in seizing neutral forts or territory, in self-defence, arising out of extreme necessity. I admit that cases may exist of that sort; they are rather exceptions to the doctrines which I maintain. I can easily imagine that, even under the treaty with Spain, an attack by the Seminoles might be so sudden and unanticipated, that we might be justified in pursuing them even into Florida. But this necessity must not originate from the fault of the belligerent. If, as in the case before us, our neglect for so long a period to require of Spain the fulfilment of the treaty, or to represent to that Government, or even to its Minister here, the hostile intentions of the Indians, has brought this necessity upon ourselves, the fault is on our side. These Indian tribes, and their associates, have been represented as mere banditti, outlaws, renegades. If so, then Spain was answerable to us, on well settled principles, for their acts. But I ask, in what code of the law of nations is an au-



H. OF R.

Seminole War.

JANUARY, 1819.

thority asserted for one Government, at its own pleasure, to pursue banditti, outlaws, renegades, or even its own felons, into the territories of another, in any case, without first demanding that they should be delivered up? Sir, I will detain the Committee no longer on this part of these proceedings. When the order was issued for the advance of our army into Florida, Congress was in session. Subsequent events have shown how greatly it is to be lamented that an appeal had not been made to that body which could only change our relations with Spain, and which was then in the full exercise of its constitutional functions. I have been somewhat surprised at hearing the encomiums which have been bestowed on General Jackson for this incursion into Florida. A vote of thanks has been talked of. He has been called by the imposing names of conqueror, hero, benefactor. Conqueror! If the rout and dispersion of a race of barbarians, degraded and defenceless as the Seminoles, can confer this title, high, indeed, is his elevation. When Tigranes, with two hundred thousand men, had been defeated by Lucullus, with only twenty thousand, the Roman soldiers, after pursuing the enemy for some distance, suddenly stopped, and burst into loud laughter, to think that they had used their swords on such a set of cowardly slaves. Hero! If the blaze of burning towns, the extermination of their wretched inhabitants, the death of captives, and the extirpation of the human race, can confer renown and elevate our nature, glorious and ennobling, indeed, are these achievements. Benefactor! If the honor of our country, the dignity of its character, the justice of its institutions, and the purity of our religion, are sanctified by deeds like these, pour out your full libations of praise, and offer the unaffected homage of a nation's gratitude. How keenly does it wound the sensibility, how low should it sink the pride, of an American, to compare the laurels won upon the plains of Orleans with this sickening nightshade, plucked from the morasses of Florida!

As to the execution of Arbuthnot and Ambrister, I acquiesce in the moral justice of their sentence. Without expressing that opinion from the evidence on their trials, they probably deserved their fate. But I can never admit the legality of the trials, or the punishment which was inflicted. Had they been put to death in the heat of battle, considering the course which they have pursued, I should not have censured it, how much soever I should have regretted such an exercise of power. But they were tried by a court martial. Such it was originally called in the despatches of General Jackson, and such it is recognised to have been, in the letter to Mr. Erving.

The honorable Speaker alluded to the case of the Duke D'Enghein, as in many respects similar to these. The history of the recent events in Europe furnishes another, which in my judgment is more nearly parallel. When the armies of France were devastating Europe, John Palm, a citizen of Nuremburgh, was seized by order of the Emperor, torn from his family, and brought

before a military tribunal. He was a printer. His crime was, that he had instructed his countrymen in their rights, and taught them their duty; that he had exhorted them to defend their country against its invaders. For this he was charged with having excited the enemies of France to hostility against the Emperor. On this charge he was condemned and executed. How striking and palpable is the resemblance between this accusation and those on which Arbuthnot and Ambrister were tried! All Europe and America indignantly reprobated the exercise of such a power by a military tribunal, even in a country at war with France. And what were the mighty effects produced by the French Emperor by this barbarous act? He widowed a wife, orphaned her helpless offspring, and broke the heart of a woman! Sanction the death of Arbuthnot and Ambrister, and with what grace shall we hereafter condemn the execution of John Palm?

I shall vote my disapprobation of the trials of Arbuthnot and Ambrister, because they were executed under the forms of law, and because I am not prepared to avow to the world, that we, who boast so much of our justice, recognise an institution of this nature. I am anxious to blot out this stain upon our national character. Their case was not within the jurisdiction of a court martial. Courts martial, among us, are but the mere creatures of positive law. All their authority is derived from the statute which creates them; without that they are nothing. They can take cognizance of no offences whatever, except those specifically named in the statute. Their jurisdiction over persons is strictly confined to the army and those attached to it, and, without that express authority which has been conferred, I should doubt whether they, as courts martial, had any jurisdiction even in the case of a spy. They are tribunals of special and limited jurisdiction; their powers cannot be extended by implication, and they are strictly confined to the powers expressly granted to them. What, sir, is the nature of these tribunals? The accuser prefers the charges; the accuser, in the first instance, selects the judges from his own subordinate officers; the accuser appoints the public advocate; the accuser approves or disapproves the sentence; and the accuser executes it. Lamentable would be our situation if courts martial should be suffered to transgress a single letter of the law which creates them. Their proceedings are contrary to all those safeguards which the municipal law has provided for the security of personal liberty. The charges are not even sanctioned by an oath; the arrest is not founded on oath; the trial is without jury; the decision is in secret, and the correction of their errors depends on the pleasure of him to whom the sentence is submitted. It is now asserted that he may even alter it. By the municipal law of England and of this country, a judge who should venture to pronounce a sentence of death, contrary to the punishment which the law has prescribed; or an officer who should execute even a sentence of death in a different manner from the judgment,

JANUARY, 1819.

Seminole War.

H. OF R.

would suffer the punishment of death. Is there anything, then, in the nature or proceedings of a military tribunal, which should induce us to view them with a more partial and indulgent eye? The sword is almost the only emblem of justice which guides them. Shall we now say to Europe that an American army, on entering a foreign country, carries with it these dreadful engines of human misery and oppression? With my consent these transactions shall never be recorded by history as the acts of the nation. Mr. S. here entered into an examination of the charges on which Arbuthnot and Ambrister were tried, and concluded that none of them, (except that of being a spy, on which they were acquitted,) were cognizable by a court martial; that they were inconsistent and absurd; and that, as to Arbuthnot, he doubted whether sufficient evidence was produced to establish them.

But, said he, of infinite consequence will the effect of our vote be on the national character. We profess to be the only free Government on earth; that our intercourse with foreign nations is characterized by moderation and justice; that our institutions are pure and unspotted; that our national character is beyond reproach. Above all, we profess to be Christians. Go, follow the track of this Christian army through the Floridas. It can easily be traced. Every footstep is trodden in blood. The path is strewn with the unbleached bones and livid carcasses of its slaughtered inhabitants. Survey this frightful waste of human life; the awful calamities which have been inflicted on our own species, and say if our posterity will not blush for their ancestors. An incident which occurred during this campaign carries with it the keenest rebuke to our professions of christianity. Duncan McRimmon, one of the Georgia militia, was captured by the Indians in the early part of the war; he was condemned by Hillishadjo to death; the victim was bound in his presence and the instruments of torture were prepared. The daughter of this chief, an artless and uneducated child of the forest, who had never heard of the precepts of our religion, whose only instruction had been received from that father, at the awful moment when he was about to suffer the excruciating death to be inflicted by savage ferocity, this Indian girl rushing between him and his murderers, implored his life. On her intercession it was granted—the life of our fellow-countryman was spared. That father, who thus listened and yielded to the supplication of mercy was the Prophet Francis, whom General Jackson afterwards executed. His orphaned child, in return for the disinterested benefaction which she bestowed upon us, is left to heap up the fallen earth around his grave.\* Sir, is this the era of the

\* Colonel Arbuckle, commandant of Fort Gadsden, on the Appalachicola, observes in a letter to the editors of the Georgia Journal of the first of November, that, "but few of the hostile Indians have surrendered of late, owing, as I believe, in a great measure, to their having received information that the Spanish Govern-

ment will again have possession of the Floridas." He adds—  
"Duncan McRimmon is here; Milly, the Prophet Francis's daughter, says she saved his life, or used such influence as she possessed to that effect, from feelings of humanity alone, and that she would have rendered the same service to any other white man similarly circumstanced; she is, therefore, not disposed to accept of his offer of matrimony, which had been made, as an acknowledgment of gratitude. The donation, presented through me by the citizens of Milledgeville, to Milly, has been delivered, and she manifested a considerable degree of thankfulness for their kindness."

The Committee rose, reported progress, and obtained leave to sit again.

MONDAY, January 25.

Mr. JONES, from the committee appointed on the petition of Phœbe Stuart, made a report, which was read; when Mr. J. reported a bill for the relief of said Phœbe Stuart; which was read twice, and ordered to be engrossed, and read a third time.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Robert McCalla and Matthew H. Jouett; which was read twice, and ordered to be engrossed, and read a third time.

Mr. THOMAS M. NELSON, from the same committee, to which was recommitted the engrossed bill, entitled "An act regulating the payments to invalid pensioners," reported the same with an

ment will again have possession of the Floridas." He adds—

"Duncan McRimmon is here; Milly, the Prophet Francis's daughter, says she saved his life, or used such influence as she possessed to that effect, from feelings of humanity alone, and that she would have rendered the same service to any other white man similarly circumstanced; she is, therefore, not disposed to accept of his offer of matrimony, which had been made, as an acknowledgment of gratitude. The donation, presented through me by the citizens of Milledgeville, to Milly, has been delivered, and she manifested a considerable degree of thankfulness for their kindness."



H. OF R.

Weights and Measures.

JANUARY, 1819.

amendment; which being read, Mr. H. NELSON moved to lay the bill and amendment on the table; which was rejected.

The amendment was then agreed to, and the bill was ordered to be re-engrossed, and read a third time to-morrow.

## WEIGHTS AND MEASURES.

Mr. LOWNDES, from the select committee, appointed on the 27th of November last, to inquire whether it be expedient to make any amendment in the laws which regulate the coins of the United States and foreign coins, having been instructed also to inquire into the expediency of fixing the standard of weights and measures, made a detailed report upon the latter subject; which was read and ordered to lie on the table. The report is as follows:

The weights and measures in use in all the States of the Union have been derived from England. In Louisiana they were until lately French, but a recent law has established such as conform to those of the other States. The laws of the colonies, before the Revolution, evidence some attention to their regulation; but, since that event, there have been very few legislative provisions upon the subject in any of the States. But the highly commercial character of the people, their frequent changes of residence, and the absence of feudal institutions, have prevented the establishment of those local usages which are so embarrassing to the internal trade of most of the States of Europe. Although in some of the United States there are no laws for the regulation of weights and measures, and very defective laws in the others, yet is there more uniformity in the composition and division both of weights and measures in the United States than there was in France before the adoption of her new metrical system, or than there is in England now. Indeed, he must be a negligent observer of the manners, the legislation, and even the language, of the country, who does not remark the strong tendency to uniformity which prevails everywhere throughout it. This circumstance facilitates the establishment of a national standard of weights and measures, without superceding its necessity. Where standards are established by the laws of the States, they are in general such as exist in a foreign country, and are inconsistent with each other. The difference which subsists between the weights and measures of the different States is certainly less than might have been expected under such circumstances, but it is not inconsiderable.

The documents which accompany this report show a difference of fifty-one grains between the pound weights at Baltimore and Philadelphia; and one of them affords evidence that some banks have used weights for money which are considerably lighter than those of the Mint. Our information on the discordance of measures is less precise and authentic; but (although the committee have been disappointed in the hope of obtaining a satisfactory comparison between those of different States) yet the greater difficulties in the comparison of measures of capacity than of weights, and the known inequality between the English models, from which our measures were originally taken, do not allow us to doubt that the difference of measure in the United States is still greater than that of weights.

The measures used in surveying the lands of the United States are all compared, as the committee have understood, with a brass chain, made under the direc-

tion of Mr. Rittenhouse; but in general the officers of the United States employ the weights and measures which are established, or rather used, in the districts in which they live. The changes which have been made by custom in the weights and measures of the United States are such as add to their simplicity. We have discontinued the use of many English weights and measures, and have introduced no new ones.

Of weights, we use the pound and ounce avoirdupois, and the troy grain, with the pennyweight; and for medicine the scruple and drachm. The troy pound and ounce have been discontinued.

Of lineal measures, we use generally the inch, foot, yard, fathom, perch or pole, furlong, mile and league. We have discontinued the barleycorn, palm, link, nail, span, cubit, and pace.

For dry measures of capacity, we use the pint, quart, gallon, peck, and bushel.

We have discontinued the pottle, loom, quarter, wey, and last.

Of liquid measures, we have discontinued the ale and beer measure, and apply to all liquids the English wine measure.

We use the gill, pint, quart, and gallon. We have discontinued the rundlet.

In superficial measure, we use the inch, foot, yard, pole, rood, and acre, and have discontinued the pace.

For the measurement of firewood, we use the English cord; and for coal, the common bushel, heaped. We have discontinued the chaldron.

The committee are unanimous in the opinion that this subject ought not to be left to uncertain usages, or to the various laws of particular States. They will not enlarge upon its importance. Commercial credit is well secured in every part of this country, by enforcing the punctual performance of contracts. But commerce itself could hardly subsist, unless some security were given (beside the judgment of the purchaser) that the article which he buys is of the quantity which the seller describes; that the weight or measure which is employed is fair. The duty of providing this security has been devolved by the Constitution upon Congress; and the committee express, with great respect, their opinion that it should not be neglected any longer.

It has been frequently proposed in foreign countries "to employ, as the fundamental unit of all measures, a type which should be taken from nature," and be exempt from the alterations to which arbitrary standards are exposed. In execution of this plan, the Government of France has employed, as the base of its system of measures, that arc of the terrestrial meridian passing through Paris which is contained between the equator and the North pole. It has adopted the ten millionth part of this arc as the unit of measures of length, calling it the metre, and deducing from it all its other measures and weights. It has taken as the unit of superficial measures the arc or square of ten metres; as the unit of measures of capacity, both for liquids and dry goods, the litre, or cube of the tenth part of the metre; as the unit of measures particularly intended for firewood, the stère, or cubic metre; and as the unit of weight, the gramme, or absolute weight of a volume of pure water in its state of greatest density, equal to the cube of the hundredth part of the metre.

The standard metre is placed on a rod of platina, and a kilogramme of platina (equal to a thousand grammes) has been declared by a law of 1800 to be the standard of weight.

JANUARY, 1819.

Weights and Measures.

H. OF R.

The Government of the Netherlands has lately adopted the French system, without material modification.

The establishment of a standard of weights and measures, which should be deduced from an invariable type in nature, has been more than once discussed in the English Parliament, but nothing definitive has yet been done in it.

In the United States, although the matter has been recommended to Congress by successive Presidents, no progress has been made in determining upon a standard of weights and measures beyond that of receiving a report from the first Secretary of State, Mr. Jefferson; who considers matter, by its mere extension, as furnishing nothing invariable, and its motion as the only remaining resource. He proposes the length of a metallic rod which shall vibrate seconds of mean time at the level of the ocean, in the forty-fifth parallel of north latitude, as the foundation of a system of measures for the United States. The committee abstain from the free quotations which they would otherwise make from this report, on the presumption that its principal views are in the memory of the House.

They do not know that any attempt at a general reform of weights and measures has of late been made in any other country.

The efforts to establish natural standards sufficiently prove the sense entertained of their advantages. These are strongly stated in the report of a commission of the French Institute, to which the subject had been referred by their Government "on the measurement of degrees of the meridian in France, and on the results which have been deduced from it for the determination of the basis of the new system of measures."

"It is the essential advantage," they say, "of this system, that even if all the standards should be destroyed or annihilated, leaving no other trace but the knowledge that one of them was the ten-millionth part of the quarter of the terrestrial meridian, and the other the quantity of water taken in its state of greatest density, and contained in the cube of the tenth part of the first unity, the primitive value of both might be yet recovered."

Of the particular system adopted by France, they observe "that its parts are all intimately connected with each other, all dependent upon the primitive type; and its multiples and subdivisions follow a progression which is natural, simple, easily understood, and always uniform." These advantages were held to justify the expectation that the standard established in France would become the universal standard among civilized nations.

But the plan of obtaining an invariable standard from nature is of no easy execution. The type of such a standard should be equally accessible to all nations. This, indeed, the system is admitted to require. But the figure of the earth is irregular to observation. We do not know that gravitation is uniform in different longitudes, though in the same latitude; nor that the two hemispheres on each side of the equator are equal. If the establishment of the same meridian be proposed, or for the pendulum the same longitude and latitude, it will follow that every country but one must verify its standard in a foreign State. If the figure of the earth be irregular, the extent of that part of the meridional arc which is obtained by computation must be uncertain; and even in ascertaining the part which is submitted to actual measurement, the most perfect instruments and the highest experience

have left the accuracy of such a process in some doubt. The improvement which has lately been proposed in the use of the pendulum seems likely to make it more sensible, but not more uniform; and it is singular that respectable authorities differ by more than half an inch (59-100) as to the length of the pendulum which will vibrate seconds at the same level, and at the very latitude (that of forty-five) which has been proposed for the regulating pendulum. If, however, on either plan, a fixed proportion be established by law between the standard and a natural type, the standard itself, whose name and office imply immutability, must change with every corrected estimate of the type which is its base. The first standard of the French measures was accordingly declared to be provisional.

Whether standards derived from the natural types which have been proposed have all the advantages which have been attributed to them, seems, therefore, to be questionable; and the inconveniences of change are not small. If a difference between the measures of two neighboring towns afford opportunities for fraud, how much greater must these be when entirely new measures are first introduced through a whole country? We have reason, from the experience of France, to think that these will be adopted slowly and imperfectly; partially in some places, and in all with the confusion which results from retaining both the old names and the old divisions, and giving them a new and a double meaning. It is obvious, in such a case, whatever benefits uniformity and system may give to posterity, that the present age must pay no scanty price for them. The difference between the weights and measures of the several provinces of France was so great, that uniformity could not have been obtained without violent innovations. But such is not their condition in the United States.

The principal advantage of deducing a standard of measure from an invariable type in nature is represented to be, that, in the event of its loss or destruction, it may be restored without variation; but the proportion which either natural or arbitrary standards bear to any object of invariable magnitude, which nature may be thought to furnish, may be ascertained with equal accuracy; the restoration of either, therefore, must be equally practicable. The old toise, although not an aliquot part of the terrestrial meridian, may be as well obtained as the metre, which is supposed to be so, by the measurement of a meridional arc.

On the whole the committee believe it best, at least in the circumstances of this country, to adopt absolute standards, conformed to the weights and measures which are in most general use among us. If it be thought necessary to provide by law for the loss of these standards, the provision may be formed on the basis of the best experiment, and the exactest science which the country can now command, and without change of standard. This provision may be varied whenever the advancement of science shall furnish a better process.

The committee will therefore confine the proposals which they shall submit to the House to the object of the first plan proposed by Mr. Jefferson, "to render uniform and stable the measures and weights which we already possess."

In pursuance of this view they propose that models of the yard, bushel, wine gallon, and pound, supposed to conform to those in most common use in the United States, shall be made under the direction of a commis-



H. OF R.

Weights and Measures.

JANUARY, 1819.

sion of — persons, to be selected by the President of the United States, and, if satisfactory to Congress, that they shall be declared the standard yard, bushel, liquid gallon, and pound of the United States.

If these standards shall be adopted for our measures, the law which will establish them will determine how greater or less measures shall be formed from them. There is no variety in the composition of these in the different States, and, in the opinion of the committee, no adequate motive for proposing a change; there will, consequently, be no difficulty in this regulation.

As to weights, there seems to be no strong objection to confirming the change which general usage has made by giving up, as is recommended by Mr. Jefferson, the pound and ounce troy, and the quarter and drachm avoirdupois. The pound troy has been long disused; there is no coin as heavy as a troy ounce, and no coin of the United States as heavy as an ounce avoirdupois. The silver or gold contained in the largest coins is stated generally in grains, without the use of any higher denomination. In the sale of drugs or bullion, indeed, large weights are necessary; but drugs are now sold by avoirdupois weight, and the suppression of the pound and ounce troy will produce no change in the weights used for bullion in the United States, as these are now multiples of the pennyweight as far as five thousand. But if it were not so, neither the mint, the banks, nor the merchants who deal with them, can be embarrassed by employing in their large transactions, not a mere weight, but the common pound and ounce of the country.

If we suppose the proportion between the common pound of the United States and the grain used in money and medicine to be as 1 to 7,000, we shall probably not be materially wrong. It is the difference ascertained between those weights in England, from which our weights were derived originally, and observations made, as the committee believe, with great care, at the Bank of the United States, the result of which gives 7,000 grains of the weights of that bank as equal to the pound used in the most commercial city of the United States, (New York.) Assuming this proportion, it will follow that, of weights that are in use below a pound avoirdupois, (if we omit the drachm and quarter pound avoirdupois, and the pound and ounce troy, the ounce, the scruple, and the grain, are aliquot parts of the pound; the pennyweight and drachm are not so; nor are the drachm, pennyweight, scruple, or grain, aliquot parts of the ounce. The want of a series in which all the weights should be multiples of those which are below them, and aliquot parts of those above them, may be inconvenient, and is certainly not systematic; but the inconvenience is not great. There is the same defect in the coins in common use. The quarters of a dollar are not multiples of a dime, nor the eighths multiples of a cent. The eighths of a dollar, indeed, are foreign coins, but the irregularity is found to be of little consequence.

The committee think that the defect in the series of weights can produce no real embarrassment if we have a uniform pound, with subdivisions descending regularly to the sixty-fourth part of the pound, or quarter ounce; if we have a uniform grain, which is an aliquot part of the pound, (7,000th), and of the eighth of the pound, or double ounce, and which bears to the ounce a proportion which, though expressed by a fraction, is represented and may be ascertained by weights in common use, (18 dwts.  $5\frac{1}{2}$  grs., or 7 drms.  $2\frac{1}{2}$  grs., or  $437\frac{1}{2}$  grs.) Small, however, as the defect is, if it

can be removed without inconvenience, it ought not to be overlooked. They know no better plan for removing it than that suggested by Mr. Jefferson.

This is substantially to divide the pound into 6,912 instead of 7,000 grains, and the ounce into 18, instead of 20 pennyweights. The grain would be increased by this plan by about  $1\frac{1}{2}$  per cent; the pennyweight by somewhat less. The eagle would contain three less of the new than of our present grains; or, if it were thought important that it should contain the same number of grains, its value would be about twelve cents greater. In medicine, it may be feared that the knowledge that there was a change might produce some uneasiness in those who could not exactly estimate its extent; nor would it much improve the system of apothecaries' weights, since, though it would make the grain an aliquot part of the ounce, neither the scruple nor the drachm would be so.

The committee think it best that the pound and the grain, which may be considered, for different purposes, as both units of weight, should neither be changed nor be suspected of being so. They propose, therefore, that the commission should ascertain the proportion between the grain and pound, and that the proportion should be maintained unalterably.

In respect to the composition of large weights, it seems proper that the discordance between the use of the hundred and the long hundred, (or 100 and 112 pounds,) and their divisions, should be removed; and of the two sets of weights, that of the hundred pounds, and its divisions, is the simpler and better. As to weights above the hundred, except the ton of shipping, they are properly but the names of vessels of capacity, of no very determinate contents, and ought not to be recognised as weights.

The modes of measurement and the allowances and tares which are used in the different States require correction as well as the measures themselves. The subject was brought to the view of the House by a report of the Secretary of the Treasury, in January last; but in that laborious session there was not time to undertake it. It will still be better to defer the provisions which it may require until they can be included in the law which shall establish the standards.

In fixing standards of weights and measures, it will be proper that Congress shall determine the means which shall be employed for their preservation, and, perhaps, as connected with this object, for their restoration, if they shall be lost; for the distribution of models with which the weights and measures employed in commerce may be compared, and for enforcing the use of such as correspond with these models.

The committee propose that the standards shall be deposited in the office of the Secretary of State. These will be employed but rarely to verify the models which may be issued under the authority of Government. The law which establishes the standard will determine the temperature at which it is to be used.

The means which may be employed for the restoration of the standards, if they should be lost or impaired, are sufficiently analogous to some of those which may be used for securing the accurate execution of the models, as well as the weights and measures in common use, to make it convenient to consider the two subjects together. Indeed, it must be an extravagant fondness for system which would lead us to deny that the models, if proper precautions be taken to secure their fidelity, will probably furnish a suffi-

JANUARY, 1819.

Weights and Measures.

H. OF R.

ciently correct as well as an easy mean for the restoration of the standards, if they should be lost.

The careful observation of the proportions which the standards of measure bear to each other, and that of the relations which each of these holds to the dimensions of a quantity of pure water, of a given temperature, which is equal to the weight of a standard pound, will sufficiently provide for the contingency of the loss of any number of these standards less than the whole. The committee propose that these relations shall be ascertained and reported by the commission whose appointment had been already suggested.

If it be thought prudent to provide for the contingency of the loss, at the same time, of all the standards and all the models on which a just reliance may be placed, it may be done by ascertaining the relation between the standard measure of length and the second pendulum and an arc of the meridian. Which of these relations can be most safely relied upon for the restoration of the standard, can be best determined when its loss shall occur. The designation of these relations by a commission may also facilitate a comparison with the measures of foreign countries. The committee do not, however, recommend the difficult and costly expedient of measuring a large arc of the meridian in this country, but the commission may ascertain the proportion between our standard and the great arc which has been measured by the French mathematicians, or the quarter of a meridional circle inferred from it. They can do this, indeed, only by a comparison with the French measures in which the result of that operation has been stated. The length of a pendulum or rod which shall vibrate seconds of mean time is an object of more convenient comparison; and the commission may probably think it necessary to ascertain the relation between this and our standard of length by their own observation.

The most accurate designation of the relation between the standard of length and the pendulum on an arc of the meridian, cannot be expected to be of any direct service in promoting the accuracy of measures in common use. Considerable variation is less to be apprehended in the models of lineal measure than in the other; and the determination of the proportions between lineal measures and measures of capacity, and between both of these and weights, may have some effect in enabling us to detect, without too difficult a process, the defects of measures of capacity, and possibly of weights, in common use. For this purpose it would, perhaps, be convenient to establish, not merely the cubical contents of the common measures of capacity, but to fix determinate forms for all these, and dimensions, the correctness of which might be ascertained by the common measures of length. What these forms should be it would be proper to leave to the decision of the commission, although the strength of the cylinder, its general use, and, according to the commission of the French Institute, the greater exactness which may, in practice, be given to that figure, are strong reasons for employing it.

The designation of measures of capacity, the contents of which, if of rain water of a convenient temperature, would be equal in weight to a pound, or any part or multiple of it, would furnish a test which might sometimes be applied to common weights. But it will be easier to avoid considerable variation in the models of weight than of cubic measure; and the determination of the weight of rain water of a convenient temperature, which ought to be contained in the sev-

eral measures of capacity, furnishes a security of easy employment for the fairness of such measures.

It will be necessary that models of weights and measures, exactly compared with their several standards, shall be deposited in the different States. To prevent unnecessary delay, it may be proper to allow the commission intrusted with the charge of preparing the models which are to be proposed as standards to cause to be prepared also a number of models for distribution. The committee think that there should be sent to each State, to be distributed as may be directed by its Legislature, a number of each of these models equal to the number of members to which the State is entitled in the House of Representatives of the United States, and that models of each standard should be deposited with the marshal of each State, and with every collector of customs throughout the United States. To enable the Government to make this distribution, and to reserve the number of models which it may be proper that it should have at its disposition, the committee propose that — of each model should be provided.

The committee are not unaware of the difficulty in the accurate execution of models of measure. There are too many memorials of this to allow them to doubt that it is in the province of the artist that the great impediment to uniform measures will be found. They believe, however, that all the practical advantages of uniformity may be obtained by a degree of skill and attention which it is not unreasonable to expect.

The committee do not deem it necessary to propose any penal provisions for enforcing the use of the standards which may be established by Congress. The constant interference which such provisions would imply with the minutest and most frequent transactions of society might be justified by the words, but, unless they shall be found indispensable, would ill comport with the general spirit and character of the Constitution. It was right that there should be a provision for uniform standards of measures and weights as of coins throughout the United States. The only authority capable of establishing these was the General Government. But the power of enforcing the use of measures and weights which shall conform to these standards may be most conveniently and effectually exercised by the State authorities. The laws of many, and perhaps most of the States, are adequate to this purpose without much amendment. But, to admit of amendments where they may be necessary, it may be well, if Congress shall approve the standards proposed, that it should determine on a more distant day than would otherwise be proper, after which no other weights and measures than such as conform to these standards should be esteemed legal. For the execution of contracts made before that day in States whose legal weights and measures have been different from those which shall be prescribed by Congress, a table of equivalents between the new and old weights and measures must be formed; or, in this class of cases, comparatively few, and which will every day become fewer, the old ones may continue to be used without inconvenience.

There does not, however, appear to the committee to be any objection to the employment of the models of weight and measure (as soon as the standards shall have been established) in all the cases in which the Government is a party, either in sales or purchases, or the collection of duties. In old contracts, the same provision must apply to the Government, and to any other party.



H. OF R.

Seminole War.

JANUARY, 1819.

The committee are sensible how large a part of their report consists rather in objections to the plans of others than in the recommendation and development of their own. They propose, indeed, that little should be done; that standards conformed to those in most common use among us should be accurately made, and carefully preserved at the Seat of Government; that correct models should be placed in the different districts of the country; and that the proportions and relations between these should be ascertained.

The committee have directed their chairman to move the resolutions which will be necessary to carry into effect the proposals contained in their report.

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President shall be authorized to appoint a commission of — persons, for the purpose of carrying into effect the following resolutions:

*Resolved,* That the commission so appointed shall cause to be traced on a rod (of whatever metal they shall deem best adapted to the purpose) the yard measure, which is in most common use throughout the United States.

*Resolved,* That the commission shall cause to be made (of whatever material and shape they shall deem best adapted to the purpose) a vessel, whose capacity shall be the same as that of the bushel in most common use throughout the United States.

*Resolved,* That the commission shall cause to be made (of whatever material and form they shall deem best adapted to the purpose) a vessel, whose capacity shall be the same as that of the wine gallon in most common use in the United States.

*Resolved,* That the commission shall cause to be made (of whatever metal they shall deem most advisable) a pound avoirdupois, of the weight of that which is in most common use throughout the United States.

*Resolved,* That the commission shall cause experiments to be made, under their direction, to ascertain with the utmost exactness which the state of science permits, the proportion which the yard measure of the United States bears to the length of a pendulum, vibrating seconds of mean time, at the level of the sea, and at the place and temperature at which they shall deem it most advisable that the experiment shall be made.

*Resolved,* That the commission shall ascertain the proportion which this yard bears to an arc of the terrestrial meridian, intercepted between the equator and the North pole, according to the most accurate measurements which have been made of degrees of a meridian circle, and the best established computations of such arc.

*Resolved,* That the commission shall cause to be ascertained the number of cubical inches contained in the bushel of the United States, and the dimensions and forms of vessels of equal capacity to such bushel, and to the half, fourth, eighth, thirty-second, and sixty-fourth parts thereof, to which the common measures of length may be conveniently applied, to ascertain such capacity.

*Resolved,* That the commission shall cause to be ascertained the weight of rain water, at any temperature which they may deem it most advisable to use, which would be contained in the bushel of the United States.

*Resolved,* That the commission shall cause to be ascertained the number of cubical inches contained in

the wine gallon of the United States, and the dimensions and forms of vessels of equal capacity to such gallon, and to the fourth, eighth, and sixteenth parts thereof, to which the common measures of length may be conveniently applied, to ascertain such capacity.

*Resolved,* That the commission shall cause to be ascertained the weight of rain water, at any temperature they may deem it expedient to employ, which would be contained in the wine gallon of the United States.

*Resolved,* That the commission shall cause to be ascertained the number of cubical inches of distilled water, at any temperature they may deem it most advisable to use, the weight of which shall be equal to the pound of the United States.

*Resolved,* That the commission shall cause to be ascertained the proportion between the pound of the United States and the grain employed for weighing medicines and the precious metals.

*Resolved,* That the commission shall cause to be prepared a number of the models of the yard, bushel, wine gallon, and pound, not exceeding — of each, of the form and material which may be most convenient for distribution and comparison among the States.

## SEMINOLE WAR.

The House then proceeded to the order of the day, and again took up, in Committee of the Whole, the report of the Military Committee, on the subject of the Seminole war.

Mr. BARBOUR, of Virginia, rose, and addressed the Committee, as follows:

Mr. Chairman, it was my wish to have addressed the Committee at an earlier period of the debate, but I have not been so fortunate as to get the floor. The subject under consideration is one which has excited much interest in this House, as well as in the nation. I have bestowed upon it all that reflection which was due to its importance: I feel a disposition to state the conclusions to which I have arrived, and the course of reasoning which has conducted me to them. I feel that I labor under great disadvantages in following gentlemen, whose eloquent and pathetic appeals have affected the feelings and commanded the attention of the Committee; whilst, on my part, I have nothing to offer them but the plainest kind of argument, consisting of a statement of the case, and the principles of public and Constitutional law which apply to it. I feel another disadvantage: Gentlemen who have gone before me have necessarily anticipated some of the points which I had intended to discuss. In presenting my view, then, in continuity, I must unavoidably recur to some topics which have been already touched upon; but I will promise, as far as I am able, when this shall be the case, to avoid the tedium of mere reiteration, and to endeavor to present them in some new point of light, and with some variety of illustration. I will, however, without further preface or apology, proceed at once to the argument.

This subject seems to me to present three distinct questions to our consideration: 1st, the propriety of marching the Army of the United States across the Florida line; 2dly, the propriety of the occupation of the Spanish posts of St. Marks and Pensacola, and the Barancas; and, 3dly, the

JANUARY, 1819.

Seminole War.

H. OF R.

trial and execution of Arbuthnot and Ambrister. These are the questions which, it seems to me, we are called upon to decide, and this the natural and consecutive order in which they present themselves. Each of these questions, too, as had been justly remarked by the Speaker in an early part of the debate, presents itself in a two-fold aspect—1st, as between our own and a foreign Government; and, 2dly, as between our Government and its officers. First, then, as between the Government of the United States and Spain, had we a right to march our armies across the Florida line? I shall endeavor to prove that we had. There would be no sort of difficulty in this question, if it were the case of a nation confessedly sovereign and independent. That one nation when at war with another, has a right to pursue that other into its own territory, I am persuaded no member of the Committee would question; and I shall, therefore, take it for granted, as one of those principles which, in public law, have become axioms; but the difficulty arises from the anomalous character of the Indian tribes. Gentlemen have gone much into the discussion upon the question, whether they are or are not sovereign. I shall not enter into a controversy about words; I care not whether they are called sovereign, demi-sovereign, or by what other name they are designated. I shall attempt to define their character by some of the attributes of sovereignty which belong to them, or which at least they have been in the habitual practice of exercising. One of the criteria of sovereignty which has been adopted by *Martens*, a writer of some celebrity on public law, is this:

"That a nation is governed by its own laws, and acknowledges no legislative superior on earth; though there are certain limitations or restrictions on its sovereignty, by treaty or otherwise, if it possess this attribute, it is sovereign; and examples are given of States, which, though under treaties of alliance, of protection, and even of vassalage, are nevertheless considered sovereign."

If the character of the Indian tribes be tried by this standard, I believe they will be able to sustain their claim to sovereignty. True, it is, they have no regular legislative body and no code of written laws, but they have customs and maxims, which may be considered as a sort of common law among them—which have been adopted either by express consent or tacit acquiescence—which have been consecrated by time, and handed down from one generation to another by traditional history; by these maxims and customs are they governed, without any legislative superior, though we claim a right of regulating their trade, and a kind of pre-emptive right of purchasing their lands; yet I have never heard that we pretended to any right of legislating for them, or interfering in their interior concerns, in the administration of justice or otherwise. But there is another distinguishing and characteristic attribute of sovereignty which belongs to them, and which from the earliest settlement of this country they have exercised—I mean that of making war. This bears directly upon the present question.

If they have a right of making war, they have a right to make it against whom they please, and they have chosen to make it against us. Have we not a right to defend ourselves against them? Yes, sir, and I will point you to the source from which we derive it. The principle of self-defence is a part of the instinct of our nature; "not written on the heart by precept, but engraven by destiny; not instilled by education, but infused at our nativity;" it belongs to us, as individuals, in a state of nature; we carry it with us when we form societies, which are only aggregations of individuals. We then have a right to defend ourselves against the Seminole Indians. But they reside within the limits of Florida, on lands to which they have at least the title of occupancy, but within the jurisdictional limits of Spain; from thence they make their incursions against us, and, having committed their devastations and murders repass the Florida line. Shall we cease to pursue them when we reach that line? Is there any principle of national law which tells us that, in our pursuit, thus far we shall go and no farther? If these questions must be answered in the affirmative, then is the right of self-defence a mere mockery; then, indeed, are we in the situation of a man against whom a ferocious wild beast is let loose, and who, bound hand and foot, is cut off from the means of destroying him.

If it should be said that Spain is bound by treaty to restrain them, let it be remembered that there was a time when there was no treaty. At that time it will not be pretended that Spain was responsible for their acts of hostility; they are not her subjects, but a community, as has been shown, sovereign in its character, though subject to some limitations. At the time, then, which I have spoken of, anterior to the date of the treaty, if the Seminole Indians had invaded the United States, and we had no right to pursue them into the territory which they occupied, we should have presented the singular situation of a people invaded, whilst the invaders themselves, by reason of their situation within the territorial limits of another Power, were beyond the reach of our arms, and yet that other Power not responsible for their acts. Before the treaty, then, we should have had a right to have crossed the line; if so, it cannot require argument to prove that a treaty, made with a view to increase our security, to make another nation a guarantee to that security, cannot have the effect of abrogating the great inherent rights, which we before possessed, of defending ourselves.

I think, sir, I have now sufficiently shown that, as it respects Spain, we had a right to cross the line; but, as there is another and a distinct principle upon which it may be justified, I will briefly call the attention of the Committee to it. Without meaning to make a literal quotation, I refer them to Vattel, b. 3, c. 7, s. 133, for the principle which I now advance: "That, if a neighboring nation afford to a defeated enemy a retreat—allow him time to recover, and watch a favorable opportunity to make a second attack upon the territory of one of the belligerents—it is not only



a breach of neutrality, but it gives the belligerent a right to enter his territory in quest of his enemy, and thus to make it the scene of war." Now, sir, I think that the evidence before us abundantly makes out the case which has just been stated. If this be so, then there is a clear justification, even supposing that the Indians did not occupy the territory, and that they had no sort of claim to it. Upon this point, then, I tender to gentlemen this dilemma, from which it seems to me there is no escape. If it be considered the territory of Indians, then we rightfully passed into it upon the principles which I first advanced. If, on the contrary, it be regarded as the territory of Spain, then we rightfully passed into it, upon the ground of the breach of her neutrality, in the countenance and aid given to our defeated enemy, and the consequent right which belonged to us, as a belligerent, to pursue that defeated enemy into the territory of a Power giving that countenance and aid.

I have finished my view of the question, as between the Government of the United States and Spain, and will now take up the other aspect of the same question, as between our Government and its officers. I will attempt to show, that there is as little doubt upon the subject in this point of view as in the one which I have just closed. The Seminole Indians had passed the line; had plundered the property, and shed the blood of our citizens; they had invaded us; the war upon our part, then, was a defensive one. The whole evidence upon the subject being before the Committee, I shall not detain them with the tedious process of referring to it in detail; those facts which I think are proven, I shall refer to them as such, and shall assume them as the basis of my argument. As to the crimination on the part of the Indians, that our citizens committed the first outrages, I am satisfied that such is not the fact, and that the war was as just as it was defensive on our part. I shall forbear, however, to trouble the Committee with any remarks upon that subject, because, whatever may have led to it, it was a defensive war in fact, inasmuch as we took up arms to repel an attack which had been made upon us.

Considering the question in this point of view, the Committee will even anticipate me, in assigning the reason why no declaration of war by Congress was necessary; it is of the nature of defensive wars not to require a declaration, though nations sometimes publish a counter-manifesto, setting forth the justice of their cause, with a view to interest other Powers in their favor; yet, the moment war is made against them, that moment they prepare to repel it, and, in so doing, they are warranted by all the writers on public law, and the eternal principle of self-defence. Accordingly, Congress, by an act passed in 1795, have empowered the President, whenever the United States are invaded, or even in imminent danger of invasion, to call out the militia for the purpose of repelling it. The gentleman from Kentucky (Mr. JOHNSON) had called this a perpetual declaration of war—with a slight varia-

tion of terms, he was correct—it was a perpetual declaration of a readiness for self-defence, and a perpetual authority to the President, in the event either of actual invasion, or imminent danger of it, to call the physical force of the country to the field, to repel it. This law is the result of this obvious truth, that, if it had been necessary, in case of invasion, to assemble Congress, the United States might be ravaged and desolated before that could be done, and the proper preparations for defence be made. The army, then, was constitutionally and legally called into the field to repel an Indian invasion; having driven the enemy to the line, must it stop there? I have anticipated the answer to this question in a former part of my argument. I will enforce the idea which I have already maintained, by one or two additional remarks. If we retire from the line, if the Indians perceive that that constitutes an insuperable barrier to our pursuit, the result will be, that either we must keep a force perpetually on the line, or, whenever we retire from the pursuit, they will renew their incursions into our country; we may pursue them again to the line, again they will retreat across it; thus will they be invited to a continual repetition of their daring outrages, and thus, upon every new retirement of our army, will the tide of invasion again be rolled upon our territory, and our frontier be converted into a desert by the devastation of our property, and the indiscriminate massacre of our citizens.

I come now, in the order of my argument, to the second question; that is, the propriety of the occupation of the Spanish posts of St. Marks and Pensacola, and the fortress of Barancas; and, first, its propriety as between Spain and the United States; and here, sir, at the threshold, I will lay down a principle, the correctness of which, I presume, will not be questioned—it is this: That, as it regards Spain, if any act shall have been committed which amounts to war, it is to be considered a public war; regularly carried on by the sovereign power of the United States. The different powers which constitute the whole mass of sovereignty, originally resident in a nation, may be separated or limited according to its will; in conformity with this idea, in the distribution of power, the Constitution of the United States has assigned to Congress that of making war. If the President shall ever encroach upon this Constitutional power of Congress, either by engaging, without a previous declaration in an offensive war, or in the prosecution of a defensive one, by committing any act of hostility which may amount to war against a neutral nation, any question which may arise out of such a violation of the Constitution, will be between himself and Congress. But, surely, it cannot be competent for a foreign Power to open our Constitution, construe it for us, define the distribution of the powers of sovereignty among the respective departments of our Government, and object that the President has impinged upon the sphere of Congressional jurisdiction. No, sir; as between us and Spain, admitting, for the present, that what has been

done amounts to war, it is to be considered and treated as a public war duly declared by the proper authority, and therefore to be followed by all the consequences which flow from one of that character. Assuming this, then, as a principle, the United States, as a Government, will stand justified, if we had just cause of war against Spain. Now, without recurring to ancient grievances, which have long been the subject of negotiation between the two nations, I think, sir, there are two palpable causes of war of recent date; the first is, the violation of her neutrality during and immediately after the late war with Great Britain, in suffering her territory, as well as forts erected on it, to be made use of by our enemies, to our great annoyance; the second is a violation of a positive treaty stipulation, in not only not restraining Indian hostilities, but, on the contrary, in giving them countenance and aid. It does not require a reference to books to prove that a violation of neutrality is cause of war; equally plain is the proposition, that the violation of a treaty stipulation is so too. It rests upon this obvious principle, that a positive stipulation in a treaty imposes a perfect obligation on one party, and consequently vests a perfect right in the other; for right and obligation are always correlative. Now, the violation of a perfect right is on all hands considered as legitimate cause of war.

But it will perhaps be said, that before we proceeded, we ought at least to have made a demand upon Spain, and not to have resorted to force until she had either refused or failed to comply with that demand. If gentlemen will look into the books on public law, they will find many preliminary steps recommended, on ordinary occasions, before a resort to the *ultima ratio*. First, it is said there are even cases in which, for the sake of peace, we may renounce our right, and prudence consists in knowing them: it needed not the authority of Vattel to give us this information. Then it is advised to have recourse, first, to negotiation, next to mediation, and then to arbitration. But the same author tells us—I mean to give the sense, though it is not far from a literal quotation—that it is not always necessary, in order to authorize the having recourse to arms, that all the methods of reconciliation have been rejected. It is sufficient that there is the utmost reason to believe that the enemy will not enter into these measures with sincerity; that the issue of them would not be happy, &c. (See Vattel, p. 348.) Does any member of the Committee doubt that this would have been the case with Spain? If there be one who does, I refer him to our long-continued negotiation with Spain, in which she has evaded doing us justice; to the fact, that, during the late war with Great Britain, the Spanish authorities in Florida committed open violations of neutrality; that, after the termination of that war, they permitted a fort to continue, garrisoned by negroes and Indians, to our great annoyance; that they have, in the Seminole war, given countenance and aid, as I shall hereafter particularly show, to the very Indians,

whom they were bound, by treaty to restrain. These circumstances prove, incontestably, to my mind, that it would have been utterly in vain to make any attempt at negotiation, and, indeed, make out the very case stated in Vattel, in which we would have a right to strike at once; and, if we had chosen, would have justified us in following the example of the King of Prussia, who, in 1741, published his manifesto in Silesia, at the head of sixty thousand men; for this, says Vattel, as he might have had good reasons, he was not accountable, according to the voluntary law of nations. For what we have done—I will add, and even if we had gone much further—as we not only might have had, but *actually had* the very best reasons, we are not accountable, either according to the *voluntary* law of nations, which regulates our external rights and obligations with other nations, or according to the *necessary* law of nations, which binds our conscience only.

But now the question presents itself, whether the occupation of these posts is justifiable, as between the officer and the Government of his country? The answer to this question requires that we take a closer view of the character of the war, and the circumstances attending its prosecution. The facts in relation to St. Marks are substantially these: That the commandant of that post had supplied the Indians with munitions of war; that Spanish storehouses were appropriated to their use, and filled with goods belonging to them; that the commandant permitted councils of war to be held by the chiefs in his own quarters; and, finally, that the commanding General had been informed that the Indians and negroes had demanded a surrender of the post, and it was apprehended that the garrison was too weak to maintain it. In relation to Pensacola, these are substantially the facts: That Indians were admitted into that place by the Governor; that many Indians who were known to be hostile, and had just escaped from the pursuit of our army, were in Pensacola on the 15th of April; that the Indians were furnished with ammunition and supplies, and received intelligence of our movements from that place; that eighteen of our citizens, who lived upon the Alabama, were murdered by a party of Indians, who were received by the Governor, and by him transported across the bay, that they might evade our pursuit; and, finally, the commanding General received a protest from the Governor, ordering him to quit the territory of Florida, or that he would repel force by force. Now, sir, whether the occupation of these posts be justified or not, between the officer and his Government, depends upon the light in which we view the transaction. If, under the circumstances which have been mentioned, the act be not incompatible with the rights of neutral nations, or, if the conduct of the Spanish authorities be such as to make them associates in the war, and thus to identify them with the Indians—in either of these points of view the occupation would be justifiable; in the first, because it would not be an act of hostility; in the second, because, though an act of hostility, it required no



H. OF R.

Seminole War.

JANUARY, 1819.

declaration of war; "for every associate of my enemy is, indeed, himself my enemy;" and whatever rights war gives me against my principal enemy, the like it gives me against all his associates." (See *Vattel*, b. 3, ch. 6, s. 95.) If, on the contrary, it fall not within either of these descriptions, but amount to offensive hostility against Spain, then the act is not strictly justifiable; because the Constitution provides that Congress shall declare war, which, in this instance, was not done.

Let us, then, first inquire whether the occupation of St. Marks, under the circumstances, be compatible with the rights of neutral nations. The rule is laid down in *Vattel*, b. 3, c. 7, s. 122, thus: "Extreme necessity may even authorize the temporary seizure of a place, and the putting a garrison therein, for defending itself against the enemy, or preventing him in his designs of seizing this place, when the sovereign is not able to defend it." There is strong reason to believe that the Indians did design to seize St. Marks, and that the Spanish garrison was not able to defend it. And, so far, the facts bring this case within the rule just quoted from *Vattel*. But the case seems to me to be deficient in the other requisite—that is, of extreme necessity. In a previous part of the same section, it is said that urgent and absolute necessity suspend all the rights of property; and the author seems to intend to give an exemplification of his doctrine in a case which he immediately states: that where an army must perish, or never return to its own country, without passing through neutral territory, it has a right to force a passage by the sword. If the case under discussion be measured by this standard, the occasion, though strong, does not seem to come up to the required point, of extreme necessity; the same remarks apply to Pensacola; the necessity for the occupation of which, is, indeed, not so strong as that of St. Marks.

The next inquiry is, whether the conduct of the Spanish authorities be such as to make them associates in the war; if it were, they were, as I have already remarked, equally our enemies with the Indians, and liable to be treated as such, without any necessity for a declaration of war. *Vattel*, in b. 3, ch. 6, s. 97, says, "I account associates of my enemy, those who assist him, in his war, without being obliged to it, by any treaty." If, sir, we had been left to this definition alone, it might have been fairly contended that the Spanish authorities were associates, because they assisted the Indians in the war, in various ways, which I have already enumerated. But the author goes on, afterwards, in the same section, to explain, more particularly, this general proposition; and from a case which he puts, and the reasoning which follows, I acknowledge it to be my own opinion that the assistance afforded was not of that character which he requires, to make them associates, so as to authorize the occupation of those posts, without a declaration of war. Considering the subject in this point of view, it results, that this part of the proceedings of the commanding General is not strictly defensible;

and yet, sir, I cannot concur in a vote of censure upon his conduct; because, in relation to each of the points, to which I have just called the attention of the Committee, the correctness of his course depends upon the decision of a question of degree only. Thus there is a degree of necessity which would justify the seizing and garrisoning a neutral fort, without violating the rights of the neutral to whom it belonged. And there is a degree of co-operation with the enemy, on the part of the Spanish authorities, which would have made them associates; and which would, consequently, have authorized the commanding General to have treated them as his enemies, without the necessity of a declaration of war against them. If, for example, our army had been in imminent danger of being cut off by the enemy, that would have justified their occupation, without making it an act of hostility. If the garrison of St. Marks, or Pensacola, had actually fought with the Indians, or if the Governor of Pensacola had executed his threat, by actually using force, either of these things would have made them completely associates. Here, then, was a graduated scale, before the commanding General, on which there was a degree, both of necessity and military co-operation, which would have strictly justified him. The question for him to decide was, which was that degree? Is there no difficulty in deciding this question? Yes, sir. The nation is divided upon it; the members of this House, after much investigation, after much debate, and quotations from public law, are greatly and variously divided in opinion. Some justify the whole proceedings, some justify a part and disapprove a part. Thus, some think the occupation of St. Marks correct, but not that of Pensacola; some justify the occupation of Pensacola; some approve both, whilst others disapprove both. What one gentleman thinks correct, another altogether reprobates; and even those who agree in the same conclusions arrive at them by different modes of reasoning.

Whenever, sir, a case shall be presented to me, of a man who, led on by inordinate ambition, shall dare to trample under foot the Constitution, for purposes of self-aggrandizement or military fame, I shall be ready to go so far as he who goes farthest, not only in censure, but in punishment, in every Constitutional mode; for I, too, love my country, I, too, love its Constitution; I shall cling to it as the last plank in the shipwreck; I shall flee to it for refuge as to the ark of our political salvation, when the nations of the earth shall be deluged with tyranny and oppression. But when a case is presented to me like the present, in which there is difficulty enough to divide the House, after all its research, in which the officer concerned was called upon to decide, in the wilds of Florida, upon a state of things not anticipated, and without the aid of Bynkershoek or Martens, in which that officer whose distinguished services have identified his name with the character of his country, had, as I believe, and, as has been feelingly said by the member from Kentucky (Mr. Johnson) no ambition, but

JANUARY, 1819.

Seminole War.

H. OF R.

one, to serve his country; in which I believe he was influenced by an ardent desire to promote the honor and interest of that country; in such a case as this, I repeat it, I will not vote for censure, for I weigh the acts of every moral agent by the intention; I know not how else to weigh them in the scale of moral estimation. It is that which imparts to them their character, which constitutes their essence; if that be good, the act to which it leads is not the subject of censure; if it be bad, it can lay no claim to commendation. *Humanum est errare*, should be our motto. Happy the man who commits the fewest faults! Happier still is he, whose errors even are ingrafted on the noble stock of a patriotic devotion to his country's cause! Before I quit this part of the subject, I will say a few words as to the disobedience of orders. If that subject belonged to our present inquiry, I would say that whatever might have been the orders, which I do not mean to discuss, the subsequent refusal on the part of the President, either to punish or censure the commanding General, is a full answer to every objection urged upon the ground of disobedience to orders. But, sir, with that subject I think we have nothing to do. Our inquiry is not whether the commanding General obeyed the orders of the Commander-in-Chief—that question is between themselves. As well might we descend lower down the scale of rank, and inquire whether the general of brigade obeyed the commanding General. Our inquiry is into the character of the acts which have been done; and whether they do, or do not, under the circumstances, call for our animadversion.

I come now, sir, in the order of my argument, to the trial and execution of Arbuthnot and Ambrister. I beg leave, in the first place, to call the attention of the Committee to the facts, in relation to these two men. Arbuthnot was guilty of exciting and stirring up the Creek Indians to war against the United States, and of aiding and abetting them, by supporting them with the means of war. Ambrister led and commanded the Lower Creeks, in carrying on the war. These are the facts. And now, sir, for the principles which apply to them, which designate the character of their crimes, and the punishment which belongs to them. Before I do this, however, I will say something in reply to what the Speaker said, in mitigation of Arbuthnot's offence. He told us that the Treaty of Fort Jackson, of which Arbuthnot had complained, had imposed hard and severe terms on the part of the Indians. He stated that, in that treaty, the United States demanded, in six successive articles, and in a tone of the most imperious dictation, sacrifices and surrenders on the part of the Indians, beyond any example in history. Mr. Chairman, I do not mention it to reproach my country; but let us cast back our recollection, and see if there be not more cause for regret, in relation to this subject on other occasions, than there is in the Treaty of Fort Jackson. The Indians were the aborigines of this land: they were its proprietors. If we go upon principles of strict justice, we had no right

to take from them an acre, but what was necessary for our comfortable existence. When we bought of them, upon the same principle, we ought to have given them a fair equivalent. Have we done so? No, sir, we have gotten from them millions of acres of the fairest land that the sun ever shone upon, for almost nothing when compared with its value. Can gentlemen reconcile this to their feelings in a time of peace? And yet, shall all their sympathies be reserved for an occasion when we had just terminated a sanguinary war? A war, which, on our part had been unprovoked, and on the part of the enemy, marked by the extremest degree of even Indian barbarity. This would, indeed, be, to keek at pap and digest steel.

For, sir, it is one of the legitimate rights which appertain to war, that when we come to adjust the terms of peace, we may repair, at the expense of the enemy, all the losses and dangers which we may have incurred in the prosecution of it. But, sir, with the justice or the moderation of the terms of the Treaty of Fort Jackson, we have now nothing to do. Still less had General Jackson; a military officer, whose duty it was to fight the battles of his country, not to decide the justice of the war. The treaty was duly negotiated, and duly ratified; it received the assent, directly, of the President and Senate, and, indirectly, ours also, by means of an appropriation, made to carry its stipulations into effect. I have been led, for a moment, into a digression. I will return to the subject, and will attempt to show the character of the crimes of Arbuthnot and Ambrister.

Since the institution of Government, if the citizen or subject of one country commit an ordinary outrage against the sovereignty of another, the mode of punishment is a plain and simple one, and is, I believe, almost universally acquiesced in throughout the civilized world. If the guilty person be within the jurisdiction of the offended sovereign, he, without difficulty, punishes him; if he escape, and return into his own country, his own sovereign will either inflict exemplary punishment upon him, or, sometimes, deliver him up to the offended State, there to receive justice. But, sir, if, instead of its being an ordinary crime, it have a hostile character; if it be an act of war, in alliance with, or under the auspices of the enemies of the country against which the hostility is committed, then it assumes a different aspect; it is either sanctioned by the nation of the person committing it, or it is not: if it be sanctioned, then it is cause of war against that nation; if it be not, then the person, by thus committing an act of hostility, imparts to himself the character of the people with whom he unites himself. If they be civilized, he, in common with them, is entitled to the laws of civilized war. If they be savage, in like manner he must be content, having embarked himself upon the same bottom, to share the same fate. What that fate may rightfully be, will now be the subject of my inquiry; and here, sir, it will be necessary to ascend to first principles, in order to un-



derstand the rights of war, in the various circumstances in which nations may be placed.

"War," says Bynkershoek, page 2, "is a contest by force." The author goes on to remark, that every force is lawful in war; that it is lawful to destroy an enemy, though he be unarmed and defenceless; it is lawful to make use of poison, of missile weapons, &c.; in short, he adds, that everything is lawful against an enemy. This, then, is the original and fundamental principle of the rights of war. In the progress of time, as civilization advanced, and moderation and philanthropy obtained a great prevalence, the nations of the earth have ingrafted upon this principle many modifications, the whole of which combined constitute what are called the usages of civilized warfare. Though, therefore, by the original principle the mere existence of war made every individual, and every description of property belonging to each country, mutually and reciprocally hostile, and subject to destruction in every possible mode, yet, since the usages of civilized warfare were introduced, certain instruments of war are altogether reprobated, and persons as well as property of certain descriptions, and under particular circumstances, are spared. Sir, at the moment of expressing this sentiment I behold one memorable exception to this mitigated rule, in an act perpetrated by a nation conspicuous for its civilization. I see the Capitol of my country just rearing its head from a heap of ruin and desolation; in its destruction a lasting monument of British outrage; in its re-edification a magnificent emblem of the recuperative energy of my country! But I will let the pall of oblivion fall upon any painful recollections—I will return to my subject. Those usages of civilized warfare which I mentioned a moment since to the Committee are the subject, though not of express yet of tacit compact; they are founded upon the idea of an equivalent, and based upon the principle of reciprocal obligation. Thus the language of one nation to another is, spare my monuments of art, and I will not ravage your country—spare my people engaged in the peaceable pursuits of agriculture, and I will spare your women and children. Am I asked for the proof of this? It is found at once in the doctrine of retaliation, universally recognised as a sound principle of public law. If, contrary to the rules of modern war, you put my soldiers, when made prisoners, to death, in return I may inflict the same severity upon yours; if, by the fortune of war, they shall chance to fall into my power; because, in this instance, as you have violated your part of the compact in relation to mitigated war, I am consequently absolved from mine, and restored to my original rights. What is an exception merely in civilized States, is the general rule in relation to savages; because, as they never acknowledge the obligation of the rules of modern war, they are without the pale of the compact, and can, therefore, claim no benefit from it. But as against them we have a right, if we choose, to exercise, in its fullest extent, the original rule which I have just laid down. True it is, sir, that we do extend to them

many of the benefits of this compact, but it is a gratuitous act on our part, and what, therefore, they have no right to demand; for, in the language of Bynkershoek, though justice may be insisted on in war, yet generosity cannot.

These, then, are the principles which fix the fate of the two men who were executed; first, when you make common cause with my enemy, without the authorization of your Government, you must share a common fate with them. Second, that enemy being, in the present instance, a savage one, you are subject to the original rule of war, which makes it lawful to put you to death. As to Ambrister there is scarcely a difficulty—he was in the ranks of the enemy, and led them on to battle. Now, according to Vattel, b. 3, ch. 15, s. 230, volunteers taken by the enemy are treated as if part of the army in which they fight; and why, sir? I will give you the author's reasons in his own words: "Nothing can be more reasonable; they, in fact, unite themselves to this army; they support the same cause—no matter whether it be from obligation or free will." The case of Ambrister is so fully up to this, that argument cannot make it plainer. As to Arbuthnot, if the file do not afford a precedent in point, yet we shall be able to decide it by principle. Perhaps, sir, the particular case may not be found, because there was no people standing in the same relation to the States in Europe as the Indians do to us. But, sir, upon principle, if the individual in the ranks be subject to this fate, is not the reason stronger against him who is the exciter—the instigator of the war? If that man be liable to the punishment of death, who lends to the enemy only the aid of his individual physical force, how much more does he deserve it, who, by the moral force of his delusive promises and persuasions, puts into action against us the physical force of a whole tribe of Indians? Would not a contrary doctrine, in effect, amount to this, that, whilst you may punish the arm, you must suffer the head to escape with impunity?

Sir, it was Arbuthnot who poured the secret poison of discontent into the minds of the Indians; it was he who awakened the sleeping tiger and let him loose against us, with all his native ferocity whetted by exasperation; it was he who sharpened with new keenness the edge of the tomahawk; it was he who used the deluded savages as the instrument of his wicked purpose, as the man who stabs you to the heart makes use of the poniard. But, said the Speaker, we have never, in a long series of wars, practised retaliation for Indian barbarity. Sir, this is not retaliation. That consists in a literal execution of the great precept of "an eye for an eye, and a tooth for a tooth"—that "measures blood by drops, and bates not one in the repay." It is never appeased until it sacrifice just as many victims as the enemy has, and those, too, of the same grade, if within its reach. Thus, if the Indians had killed three hundred of our men, women, and children, we should, upon this principle, put to death an equal number of theirs. Retaliation

then not only may, but frequently does, fall upon the innocent. The execution of these two men is, in the most prominent points of view, the reverse of this. Instead of the innocent, we have punished the guilty; instead of counting the victims, and sacrificing an equal number, though we have lost *hundreds*, we have only executed *units*. It is said, however, that we have never departed from the rules of modern war, but in burning their habitations and destroying their food. Is this departure, indeed, allowable; and will gentlemen yet say, that it is not a measure of more rigorous severity than the death of the two men, who are the subject of this discussion?

When we destroy their habitations, we turn out, not only their warriors, but the old and the young, without respect to age or sex, without a roof to shelter them from the pelting of the pitiless storm. The miserable pittance of property which they own, is all consumed by the same devouring flame which destroys their dwellings and makes them houseless wanderers. When we destroy their food, we expose them to the danger of all the horrors of famine which may involve in indiscriminate death the guilty and the innocent; whilst, in the execution of these men, the guilty only have suffered. Gentlemen have, indeed, in the most glowing colors of pathetic eloquence portrayed to us the sufferings of Arbuthnot and Ambrister. If I could dip my pencil in as vivid colors as they have used, and if I had occasion to use them, I, too, could present a picture which, I am persuaded, would excite the keenest sympathies of the human heart. I would present to you, not two guilty men, suffering death according to the sentence of the law, but a scene of slaughtered innocence—not one or two suffering victims only, but a group, a family group. That is but a miniature painting. To make it as large as life, I would present you almost a national group. The figures represented on it would be, old men bending beneath a weight of years, inhumanly butchered; multitudes of women and children gored with wounds and weltering in their own blood; and others, sleeping in the arms of death, with here and there a solitary survivor to deplore their fate. But, sir, I will not attempt to harrow up the feelings of the Committee by even a further description of such scenes—it is not necessary; for I cannot but believe that the execution of these men stands justified by the laws of nature and of nations.

But, it has been objected, that whatever our rights may have been, it was not competent to the commanding General to execute them. Do gentlemen mean to say, that their offences were cognizable before any court having criminal jurisdiction? I answer, that they could not have been tried in the United States; because the acts were not committed within our jurisdictional limits. They could not have been tried in England, for the same reason. And, indeed, though the offences were committed within the territorial limits of Spain, yet the authors of them were on the lands owned, or at least occupied by the Indians. I do not believe that they could have

been tried there—for, I will ask, whether we should claim jurisdiction to punish an offence against a foreign Government, committed by an Indian on the lands occupied by his tribe within our boundary? This, however, is an objection to jurisdiction founded upon locality only. I assume a much higher ground. I object to it upon the ground of the nature and character of the act committed. My principle is this—that it is a right directly derived from, and appertaining to war, and, therefore, the civil power has no jurisdiction over it.

I will not undertake to say that Congress might not have made some legislative provision as one of the rules and regulations by which our army should be governed in relation to this subject—but, however that may be, as to which I now shall say nothing, I think I shall be able to show that, in the case under discussion, the commanding General acted within the sphere of his legitimate power in the course which he pursued. These two men were taken prisoners, and the question was, what should be their fate—how should they be disposed of? This question must be settled according to the laws of war, as they relate either to a civilized or savage enemy. It is one of the questions which arise as to the mode of carrying on the war. The conduct of the war belongs to the President as Commander-in-chief, and under him to his commanding General, who is supposed to represent him. Is there any member of this Committee who denies that the mode of treating prisoners belongs to him who commands your armies? Suppose, for example, it was a mere exchange of prisoners, then there would be no difficulty, because it is the habitual practice of the commanding General to regulate that, and conceded to him by all. Now, sir, I will show that this is but one of the modes of treating prisoners, and, with a view to throw some light upon the subject, I will beg leave to take a short retrospect of former times. Originally all prisoners were put to death. The next mode of treating them was, to reduce them to slavery; then was established the system of ransom; and, finally, the present mode of exchange—see Vattel, b. 3, ch. 8, p. 151, 2, 3, in relation to this subject. During the existence of each of these modes of treatment, from the most severe down to the most lenient, the whole power and authority upon the subject, in the nature of things, belonged to the commanding General. When, then, a case occurs like the present, in which the original treatment of prisoners is justifiable, the same power must have authority over it. This idea is strongly supported by the doctrine of retaliation, and particularly by the mode of its execution; for if the enemy causes prisoners to be put to death, the prince whose people are thus treated, or his general, has a right to refuse life to some of the prisoners he may take. Again, sir, it was long the principle, and is now even contended for by some, that a governor of a place who makes a desperate defence, and causes a great effusion of blood thereby, may be put to death. By whom? of course by the commanding



general of the enemy. One case more, sir, and I have done with quotations upon this point. When, says Vattel, b. 3, ch. 8, s. 151, "our safety is incompatible with that of the enemy, though subdued, it is out of all question but that in cool blood a great number of prisoners should be put to death." By whom? It must be by the commanding general. This principle is precisely recognised by the resolve of the Old Congress, read by the member from Kentucky, for they resolve, expressly, that not only the Commander-in-chief, but the commander of a separate army, had the right of retaliation. Two examples have been referred to which have been supposed to prove the contrary. One during the quasi war with France—the other during the late war with Great Britain; in which legislative provision was made upon the subject. In relation to the first, I will observe that there really was no actual war, and consequently none of the rights of war could strictly be exercised. As to the example during the late war with Great Britain, the law contains two distinct sections: the first authorizes the President to retaliate on Great Britain any violation of the rules of civilized war; and the second authorizes him to retaliate on British subjects for outrages committed by Indians in alliance with them. The last contains an entirely new principle, because it authorizes retaliation upon the soldiers of the principal, for cruelties committed by the allies. It, therefore, has no application at all to this case. And, as it respects both the provisions, they are subject to this remark, that they relate to retaliation, as to which, though the President had the power, he might not choose to exercise it without the sanction of Congress, inasmuch as it would fall upon the innocent exclusively. I have already endeavored to show that in this case it falls on the guilty only.

In regard to the court martial, gentlemen say it had no jurisdiction. This is conceded to be correct; and I have attempted to show, that the power belonged to the commanding General. Although, however, the court had no jurisdiction to decide the fate of the two men, it was not improper through them to get at the facts; and though they had no jurisdiction, it would have been desirable that the General, after submitting the case to them, should have followed the sentence which they pronounced, but for an unanswerable reason, which, I believe, has already been urged, that the punishment which they pronounced in the case in which their sentence was not followed was unknown to the national law, and therefore could not properly be inflicted. I have thus, sir, shown, as I think, that the power of putting these men to death, belonged to us as one of the rights of war, and that it was legitimately exercised by the commanding General; and yet, sir, I acknowledge that I feel a regret at their execution—but what kind of regret? Just such as I would feel for the execution of a man who had been sentenced to death under the municipal law of the country, and in whose favor, under certain circumstances, I might join in a petition for a pardon, which petition was

rejected. I could not, however, in the case which I have stated, concur in a vote of censure against the executive officer for refusing this pardon, because he has only executed the sentence of the law; because he has carried into effect the public justice of the country; and, because an act, conformably to law, and in accordance with the principles of justice, even if you call it stern justice, cannot be *morally wrong*.

It is true, sir, that mercy is a godlike virtue, and that "earthly power shows liest to divine, when mercy seasons justice;" but there is a point, when even her pleading voice should not prevail; but the sword of justice should execute its office. How long we should listen to her entreaties, and when we should become deaf, even to them, it is impossible, certainly, to say. One thing, however, is certain—that, whilst the propriety of the interposition of mercy depends on circumstances, the principles of justice are immutable; the same yesterday, to-day, and forever. Though, therefore, I should have been pleased if they had been spared, yet, when I recollect that we have labored in vain to extend to the Indians the mild precepts of religion, and to excite in their bosoms feelings of philanthropy; when I see them, upon the breaking out of every new war, again exercising all their native ferocity; when I recollect that the punishment which has been inflicted, is justified by the principles of public law; and, that an example like the present, by the monitory lesson which it affords, may contribute to the future peace and safety of our citizens, and spare the effusion of much blood, as well of our own people as of the Indians themselves; when I recollect these things, I am brought to the conclusion, that whatever may be my feelings of regret, mercy to those men might have been cruelty to a whole community; and I cannot, therefore, concur in a vote of censure for their execution.

I have finished my view of this whole subject. I shall vote against all the resolutions. I thank the Committee for their polite attention, and will not trespass longer upon their patience.

Mr. SAWYER, of North Carolina, rose and said—

Mr. Chairman: As it is not my intention to go over the same grounds that other gentlemen have, my observations will be necessarily few. And I am sorry to be obliged to differ with my friend from New York, in the outset, with respect to the powers of this House over the present question.

I think the principle a new one; that Congress has no power to pass any resolution of condemnation or removal, nor of censure, of any military officer. If such a power exists, let it be pointed out. I have examined the Constitution, clause by clause, for such a power, but I have searched in vain. The Legislative and Executive powers are distinctly marked and independently delegated, and we cannot pursue this course without infringing upon the rights of the Executive. He is, by the Constitution, the Commander-in-chief of all our forces, and to him alone are our officers responsible. Besides, a resolution of this

kind implies a censure on our Executive, by intimating that he had been so negligent in his duty or partial in his affections, as to permit a fault in one of his officers to pass unnoticed, which this House might think worthy of animadversion. I have too much confidence in the Executive to believe he would fail to do his duty, upon the commission of any criminal act on the part of General Jackson. But I am yet to learn whether such has been the case on the part of the General. What is the true state of the case? Arbuthnot and Ambrister were apprehended in the Indian country, under such circumstances as would have justified their immediate execution. But General Jackson, wishing to afford proofs to the world of their guilt, ordered a special court of inquiry to convene at St. Marks, the 26th of April last, for the purpose of investigating the charges, and embodying the evidence against them. [Here, Mr. S. read the order, &c.] This court, as a court of inquiry, had no right to pass judgment. They were sitting merely as jurors, and were to find a verdict of guilty or not guilty. They did find the prisoners guilty of such charges as subjected them to the punishment of death. They found Arbuthnot guilty of both charges; exciting the Creek Indians to war against the United States, and of comforting and supporting the enemy, by furnishing him with the means to carry it on. This was, in fact, treason against the United States; for these Creek Indians were quasi citizens, enjoying the protection, and were under the jurisdiction of the United States, and, notwithstanding Arbuthnot was a foreigner, he could commit treason against the United States as well as a citizen, and would be either punished for it civilly, by being turned over to the civil authority, or by martial law, for such other offences as came under the cognizance of that tribunal. As to Ambrister, it was proved that he gave intelligence to the enemy, and he plead guilty to the second charge, that of being a party and even a leader in the war; of course, they brought on themselves and justly deserved that punishment, which the right of retaliation entitled us, and the orders of General Jackson commanded him, to inflict upon the savage foe. The prisoners being found guilty on such charges as subjected them to capital punishment, there was an end of the authority of the court, and it remained with General Jackson to apply the law of the military code, and see it executed. The opinion which the court thought proper afterwards to express, that the offence of Ambrister did not deserve capital punishment, could only be viewed by General Jackson as a recommendation to mercy by several respectable individuals; but which, in obedience to the laws of the army, he could not observe. But it was inconsistent with the sentence which they had already pronounced against Arbuthnot; for they had ordered him to be hung, although he was only an accessory in the war, and how could they condemn Ambrister to a less severe punishment, who was a principal in it! General Jackson was merely reconciling their own decisions, when he, at the same

time, conformed to the laws of his country, which forbid the infliction of torture, and was the minister of even-handed justice, that "returned the poisoned chalice to their lips who prepared it."

Although I am hurt at the zeal with which I see this prosecution carried on, and the joy manifested at it from a certain quarter of the House, yet I cannot be so uncharitable as to impute their motives to the conduct of General Jackson prior to this event. Surely no gentleman within these walls can harbor a prejudice against him for his victories over any of our enemies. I must believe their motives are pure, but I cannot but think their views are erroneous. What would they have, even admitting, for argument's sake, that the conduct of General Jackson was not strictly legal? Would they wish to see that man, at his time of life, grown gray in his country's service, dragged before a military tribunal to answer for it? Can his age—can his services—can his victories—plead nothing? Must they all be buried at the shrine of two demi-devils, whose conduct has drawn tuns of blood from an unoffending country's breast? I trust not. The blaze of Jackson's glory is too bright, in my eyes, to be obscured by the transaction. But the course proposed is very extraordinary. Are we a self-constituted tribunal, to whom General Jackson is responsible? What purpose can it serve to pass a resolution criminalizing the commanding General? Have we any authority, and can we claim the privilege of attacking the characters of the best and greatest men among us, and of depriving them of the most "precious jewels of their souls?" This is a new species of legislative domination, dangerous to the liberties of the people. If you claim the use of it, what man can be safe? There is no man of elevated rank but what may be obnoxious to some member of this House; and would it be right for him to use his privilege of a member to assail his character? Will the people endure to be dragged before this council of anatomists, to undergo the worst of all dissections? I for one will not, by any act of mine, sanction the extension of this censorial power over my constituents. The age of proscription, I trust, is over, never to be revived. There is a proper tribunal, clearly marked out by the Constitution, for the punishment and censure of every grievance; to that tribunal General Jackson is answerable, and no other. If the President has omitted to do his duty, let the gentleman impeach him; but this criminalizing course, in this House, is mere *brutum fulmen*, without any corresponding power, but fraught with great mischief, by fixing a sting in the bosom of a person who is not permitted to be present to make his defence. What effect can the passage of this resolution have? Can it deprive General Jackson of his commission? If the President approves his conduct, will he be driven to act the ungrateful task of dismissing from his service the man whom he may think deserves well of his country, by any officious intermeddling on our part? Sir, I trust the President has too high a sense of his



own rights and dignity. The Government—the people—have too high a sense of Jackson's merit, ever to give him up as a victim to the manes of such creatures as Arbuthnot and Ambrister. So far from censure, he deserves the grateful thanks of this House, and I trust he will receive them. I consider we are bound to tender him a vote of thanks, as a balm to his wounded spirit—as an antidote to the worst of all poisons—that which is inflicted with the tooth of ingratitude?

If you pass this resolution, what must be the feelings of General Jackson? Methinks I can hear him exclaim, "Farewell—farewell to the neighing steed, the shrill trumpet, the ear-piercing fife, the spirit-stirring drum, the 'star-spangled banner,' and all the quality, pride, pomp, and circumstance of glorious war"—Jackson's occupation's gone.

Sir, when I saw the gentleman from Georgia (Mr. Cobb) the first to commence this attack, I felt emotions that I cannot undertake to express. It was the last quarter of this House that I expected it from. That gentleman, in common with the people of Georgia, are under obligations to General Jackson that are not easily cancelled. Sir, General Jackson watched while they might sleep. He presented himself between them and the ruthless savage, exposed his own life that their wives and children might slumber undisturbed by their midnight yells. Is this the return? Is such be the sentiments of the people of Georgia? I am sorry for it, but I trust my countrymen have very different. Sir, the gentleman has talked about law, and called on us to mention any law that Arbuthnot and Ambrister had violated! Sir, I can answer him by asking him to tell us what laws they had not violated? Then does he conceive that the court of inquiry, composed of such respectable names, with General Gaines at their head, disregarded their oaths by condemning them without law? Sir, they violated the ninth rule of the articles of war, by furnishing the enemy with aid and assistance, and committed more offences than I have language to clothe them in. With murder, rape, rapine, robbery, burning, in their train; like furies they issued from their dens, "cried havoc, and let slip the dogs of war." But does the gentlemen expect us to apply the same laws to savages that are observed among civilized nations? Let him, with his code of laws, undertake to enforce their obligations to a savage, armed with a tomahawk, and see which will make the greatest impression. Pray, sir, what laws, human or divine, do they observe? Indians! demons! But the gentleman says we never exercised the right of retaliation before. If we had not, that is no reason we never should. I believe many instances of retaliation have been enumerated; if they had not, it would be paying a compliment to our humanity, which, I hope, will never be deserved again. Mercy, Mr. Chairman, is my delight; but when that mercy degenerates into weakness, it sometimes produces cruelty to ourselves. This was the case in the present instance, and made it necessary to change our policy.

Sir, as to the resolutions of the gentleman from Georgia I shall not consider them, particularly at this time, for I do not think they come fairly before me. I think, for myself, I have a right to complain at our treatment. After a subject has been regularly referred to a committee, and by it reported to the House, and a special charge against General Jackson, grounded on the trial and execution of Arbuthnot and Ambrister, and made the order of a given day; when the subject is taken up what is the course pursued? An attempt is made to lead us from the ground we occupied, by forcing us to consider several abstract propositions, without their ever having been agreed to be considered by the House. Why they should be entitled to a preference over other resolutions I cannot conceive. But what are we to infer from this course? Is this marching up to the subject boldly, manfully, and directly, or is it not retiring from the field and laying an ambushade?

The gentleman has asked us to justify General Jackson's conduct by any law, in occupying the Spanish posts of St. Marks and Pensacola. Sir, he was justified in occupying them by one law at least, the force of which all are ready to admit—self-preservation. He had a right, under that law, to deprive them of one post, and to cut them off and intercept their supplies by the capture of the other.

And here I beg leave to quote the General's own words, for, as ably as he has been defended on this floor, I believe his own defence, considering all circumstances, is nearly as good as any that can be made for him. I will take the liberty of reading an extract from his letter of the 5th of May last, dated at Fort Gadsden, to the Secretary of War. This letter affords another proof that he had the heart to conceive, the hand to execute, and the talents to defend, the best measures which the urgency of the occasion required.

"I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain, if slow, retribution awaits those unchristian wretches, who, by false promises, delude and excite an Indian tribe to all the horrid deeds of savage war. Previous to my leaving Fort Gadsden, I had occasion to address a communication to the Governor of Pensacola, on the subject of permitting supplies to pass up the Escambia river to Fort Crawford. This letter, with another from St. Marks, on the subject of some United States' clothing, shipped in a vessel in the employ of the Spanish Government to that post, I now enclose, with his reply. The Governor of Pensacola's refusal to my demand, cannot but be viewed as an hostile feeling on his part, particularly in connexion with some circumstances reported to me from the most unquestionable authority. It has been stated that the Indians at war with the United States have free access into Pensacola, that they are kept advised, from that quarter, of all our movements; that they are supplied from thence with ammunition and munitions of war; and that they are now collecting in a body, to the amount of four or five hundred warriors in that town; that inroads from thence have been lately made on the Alabama, in one

of which eighteen settlers fell by the tomahawk. These statements compel me to make a movement to the west of the Appalachicola, and, should they prove correct, Pensacola must be occupied with an American force, the Governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in Forts St. Marks, Gadsden, and Scott, and in Pensacola, should it be necessary to possess it. It becomes my duty to state it as my confirmed opinion, that so long as Spain has not the power or will to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier, without occupying a cordon of posts along the shore. The moment the American army retires from Florida the war hatchet will be again raised, and the same scenes of indiscriminate massacre, with which our frontier settlers have been visited, will be repeated, so long as the Indians within the territory of Spain are exposed to the delusion of false prophets and poison of foreign intrigue; so long as they can receive ammunition, munitions of war, from pretended traders and Spanish commandants, it will be impossible to restrain their outrages. The burning their towns, destroying their stock and provisions, will produce but temporary embarrassments. Resupplied by Spanish authorities, they may concentrate and disperse at will, and keep up a lasting and predatory warfare against the United States, as expensive to our Government as harassing to our troops. The savages, therefore, must be made dependant on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence. I trust, therefore, that the measures which have been pursued will meet with the approbation of the President of the United States; they have been adopted in pursuance of your instructions, and under a firm conviction that they alone were calculated to insure peace and security to the Georgian frontier."

There would have been no end to the war, if he had permitted the enemy to retreat to those strong-holds, the Spanish forts, without pursuing them with fiery expedition. The trial was made, and as soon as our forces retraced their steps, the Indians recommenced their system of robbing and murder. Does the gentleman require that we should be at the expense of keeping up a regular standing force throughout the whole extent of the Georgia frontier; to make it an armed barrier against the savages? Ought he not to be satisfied that the war has terminated in the manner it has, in the complete dispersion and conquest of the enemy, by the only mode in which it could be done promptly and completely? Ought he not to be thankful that his constituents can now pursue their peaceful avocations, without hourly apprehensions of murder and conflagration? If any irregularities have happened in the course of this war, leave it to be settled between us and Spain; let us not be guilty of such monstrous ingratitude to our worthy commander as to forget all his services, his midnight vigils, and his uniform success, by passing a string of resolutions which many of us do not comprehend, and which he never could have intended to violate. For, I believe it is not usual to censure a general for his success; he could have expected

no worse had he been beaten. This is but poor encouragement to our officers.

But, sir, I consider these resolutions of the gentleman from Georgia as a complete acquittal of General Jackson. Because they imply that the prohibitions they impose did heretofore exist. For, if they do exist, where is the use of their being now enacted? And if they do not, of course General Jackson could not violate them.

As to the power of General Jackson, he had the most plenary. I will not occupy your time by reading the many letters from the War Department on this head, but will content myself by calling your attention to the concluding paragraph of a letter from the Secretary of War to Governor Bibb, of the 17th of May last: "General Jackson is vested with full power to conduct the war in a manner he may think best." Comment on this sentence would be an insult to the understanding of this House. General Jackson, then, had the fullest power to conduct the war in his own way. The Government divested itself of all authority over it: nothing could be added to the one—nothing could be taken from the other. Sir, I shall now come to a close. I believe that we have not the right to pass this resolution by the Constitution; and I know it would be unmerited. Sir, the honorable Speaker closed his speech by an impressive caution to us not to set a precedent which might destroy the liberties of our country. While we are guarding the Constitution against invasion from other quarters, let us take care that we do not violate it ourselves. Sir, we are treading upon sacred ground. If we proceed, instead of being the palladium, we may become the grave of our liberties. If we pass these resolutions, we aim a death-blow at the independence of the Executive.

Mr. MERCER (after an unsuccessful motion for the Committee to rise) proceeded to unfold his views in support of the resolutions; and had spoken a short time, when, a motion for the Committee to rise being made, the Committee rose, reported progress, and obtained leave to sit again.

Mr. MERCER then, agreeably to an intimation which he had given in Committee of the Whole, offered the following resolution:

*Resolved*, That the Secretaries of War and the Navy be directed to lay before this House a copy of the military orders in virtue of which the Negro Fort, within the Territory of East Florida, was destroyed in the month of July, 1816, together with the correspondence of Colonel Clinch and Commodore Patterson, in relation to that event.

On suggestion of Mr. STROTHER, the following was received by the mover as a part of the resolution:

"And any other information which may be in their power, in relation to the movement of the Indians in the Seminole country."

Some conversation took place on this resolution, in which Mr. MERCER stated his object to be to show, by the papers called for, &c., that the United States were the aggressors in the war which ensued with the Seminole Indians.



On putting the question on Mr. MERCER's resolution, it was discovered that there was not a quorum of the members present; and the House adjourned.

TUESDAY, January 26.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1819; which was read, and committed to a Committee of the Whole to-morrow.

Mr. BASSETT addressed the Chair, and said that he rose to perform a pleasing task, because it was connected with humanity. It was to give praise and honor where praise and honor were due. It was, continued Mr. B., said last night, from that chair, that sensible objects most forcibly attracted us. My heart responds to its truth. Most sensibly did I feel, on beholding in that chair a man whose life has been devoted to the amelioration of the state of man; one who, without influence of kindred or country, and without any aid save that of a common tongue, has passed the vast Atlantic, to make known the hidden powers and blessings of knowledge. Thousands, said Mr. B., are now enjoying the happy fruits of his exertions, and millions to come will reap their profits, and drink again and again of the never-failing spring. I should do injustice to the feelings of the House, to dwell on this subject, Mr. B. then submitted the following resolution, which was read and agreed to:

*Resolved*, That Joseph Lancaster, the friend of learning and of man, be admitted to a seat within the hall of the House of Representatives.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the military service of the United States, for the year 1819," with amendments, in which they ask the concurrence of this House.

The amendments were read, and referred to the Committee of Ways and Means.

On motion of Mr. SPENCER,

*Resolved*, That the Senate of the United States be requested to permit the attendance of the honorable David Daggett, and the honorable William Hunter, members of their body, before the committee of the House of Representatives, appointed to inquire into the official conduct of William P. Van Ness and Matthias B. Tallmadge, to be examined touching the subject of the said inquiry.

On motion of Mr. MERCER, the House took up and proceeded to consider the resolution submitted by him yesterday, near the hour of adjournment, calling for copies of certain documents from the War and Navy Departments, illustrative of the inquiry now pending before the House—and agreed to the same.

The engrossed bill regulating the payment to invalid pensioners; the engrossed bill for the relief of Robert McCalla and Matthew H. Jouett; and the engrossed bill for the relief of Phoebe Stuart, were severally passed and sent to the Senate for concurrence.

The bill for the relief of Hannah Ring and Luther Frink, was ordered to a third reading; and the bill for the relief of Lewis Joseph Beaulieu, was taken up, and ordered to lie on the table.

#### REGULATION OF COINS.

Mr. LOWNDES, from the committee appointed to inquire whether it be expedient to make any amendment in the laws which regulate the coins of the United States, and foreign coins, made the following report:

That the laws of the United States make all gold and silver coins issued from their Mint, and Spanish dollars, and the parts of such dollars, a legal tender for the payment of debts. The gold coins of Great Britain, Portugal, France, Spain, and the dominions of Spain, and the crowns and five franc pieces of France, are also declared to be a tender, by an act passed on the 29th of April, 1818. These coins, excepting the five franc pieces, had been made legal by two earlier acts, which had been allowed to expire, and their renewal, with slight modification, must be attributed, not to a disregard of the inconveniences which the use of coins so various and unequal in their purity must produce, but to the exigencies of a country endeavoring suddenly to recover a specie circulation. The act of 1818 was accordingly passed but for three years, and will expire on the 29th of April, 1819, after which, no foreign coin but the Spanish dollar will, under our present laws, pass current as money within the United States. The act for establishing a Mint was passed in April, 1792, and it was then expected that foreign coins, including the Spanish dollar, might be disused after three years. But, neither an examination of the laws which regulate the currency of American and foreign coins, nor the observations of the effects which they have as yet produced, will justify us in expecting that a continued reliance upon them will enable us to dispense at any time with foreign coins.

The gold or silver bullion carried to the Mint by individuals is coined, if it be of standard fineness, without charge or seignorage, and if it be below the standard, the expense of refining it only is paid by them. All foreign gold and silver coins received by the Treasury, must be "coined anew, previous to their being issued in circulation." These are the only provisions which the law has made for supplying the Mint with gold and silver; and the last provision is without effect, since banks have become the only depositories of public money.

The silver which is most frequently brought into the United States, in the common course of commercial business, is the Spanish dollar. But individuals have no inducement of interest to send this coin to the Mint. Within the United States it has an equal value with the American dollar, and in many foreign countries a much higher value. The Mint, however, has been employed in converting Spanish into American dollars; but it has been employed by banks, not individuals. The American dollar and half dollar, however, have been found not unfit for exportation, and the Bank of the United States has made large importations of the five franc pieces of France, which it prefers, because it supposes them less likely to be exported than other coins.

The legal value of the American and foreign coins which are current in the United States, is so nearly proportioned in each to the pure metal which it con-

tains, that, where a remittance is to be made in specie, the foreign and national coin will be sent to many countries almost indifferently, except that coin of the nation to which the remittance is to be made, will be preferred, whenever it can be procured. On the other hand, if a remittance in specie is to be made to the United States, the coins of half of Europe serve the purposes of money here as well as our own. This variety of current coin, results indeed from a temporary law; but, while the dollar of Spain, and that of the United States, are of exactly the same value within the United States, and of nearly the same value in many of the foreign countries to which our remittances of specie take place, it would be unreasonable to expect that the merchant should not often make them indifferently the subjects of exportation.

It is, however, true, that in Canton, and many parts of the East Indies, the Spanish dollar is valued much higher than that of the United States, or than any other coin, in proportion to the quantity of pure silver which it contains. In many parts of the East Indies, indeed, no other coin is current. But, in such as have mints of their own, as in the British possessions, our coins are estimated at their real value, or nearly so. The annual exportation of silver from Canton to British India, is known to be very large, and this circumstance can hardly fail to raise the price of American silver, even in Canton, slowly as customs and opinions change there; at any rate they cannot calculate on the preference of Spanish dollars leading exclusively to their exportation; while of the articles which we import from the East Indies, including China, nearly one-half is drawn from countries in which our coins are all valued nearly in the just proportion to their purity and weight; and such was the proportion in our importations, at least during the year 1817.

The equal proportion between the legal and intrinsic value of American and foreign coins, which tends to produce their indiscriminate exportation, has also an unfavorable effect upon their use in manufactures. The difference between the quantity of pure silver in the American and Spanish dollar, is not such as to form any obstacle to the employment of the former, by the manufacturer of plate. Fortunately, however, an objection to it is frequently found in the quality of the alloy, which makes it more difficult to be worked. As to our gold coins, they are employed with as much advantage by the manufacturer as any foreign coins, and with more advantage than some of those which are made current by law. Nor is the quantity of gold and silver annually employed in the manufactures of the United States, now an inconsiderable one.

To preserve the coins which are issued from the Mint from being melted and exported, the laws must give them some advantages in internal commerce over foreign coins of equal purity and weight. In respect to the gold coinage of the United States, the Mint depends for its supply of bullion upon banks or individuals, as it does in the coinage of silver. But there is a difficulty in the operations of the Mint, which is peculiar to the coinage of the gold. The relative value of gold to silver is fixed by our law at one to fifteen, which is much below the relative value which is assigned to it in all those countries from which we might have expected to procure it. In Spain and Portugal, the legal value of gold is to that of silver as one to sixteen; and in the colony of Spain with which our intercourse is most frequent and valuable, (Cuba) its price in commerce is at least seventeen for one. Hence, we are

not only precluded in the common course of trade from obtaining gold from these rich sources of supply, but the little which finds its way into the country from other quarters, is drawn from us by the higher estimate which is there placed upon it. In France, the legal value of gold is to that of silver nearly as 1 to 15 1-2. In most parts of Italy, it is somewhat higher. In England, silver coin is only current in small sums; but if a specie circulation shall be restored in that country on the basis of its present mint regulations, the relative value of gold to silver will be about 1 for 15 1-5. The exaction of a seignorage on its silver coins makes the comparison less easy; but the merchant who shall carry bullion to the British mint, will obtain very nearly the same amount of current money for one ounce of pure gold, or 15 1-5 of pure silver. In Holland, the relative value of gold to silver is estimated (if there have been no recent changes in respect to it) at 1 to about 14 3-4. In Germany, and the north of Europe, the value may be stated as rather below an average of 1 to 15. The West Indies, which are probably our most considerable bullion market, estimate gold in proportion to silver very little, if at all, below an average of 1 to 16. And this is done, although some of the most considerable colonies belong to Powers whose laws assign to gold a lower relative value in their European dominions. This estimate, which was forced upon many of the colonies by the necessity of giving for gold the price which it commanded in their neighborhood, and particularly in the countries which formed the great sources of their supply, seems to indicate the fair proportion between the metals in the West Indies, since it is believed to have been in most instances, confirmed by the colonial laws, rather than introduced by them. The difference established by custom in the United States, between coined gold and silver, before the establishment of the present Government, seems to have been nearly as 1 to 15 6-10. The difference proposed by Congress, in their resolution of the 8th of August, 1786, was nearly 1 to 15 1-4; and the reduction in the valuation of gold by the act of April 12th, 1792, to the proportion of 1 to 15, may be attributed to the belief, which was expressed in the report on which that act was founded, "that the highest actual proportion in any part of Europe, very little, if at all, exceeds 1 to 15; and that the average proportion was probably not more than 1 to 14 8-10." The difficulty of obtaining correct information upon points of this kind, makes it not improbable, that there may have been some error as to the state of the Mint regulations of Europe at the period of the report. But, be this as it may, the principle which seems to be assumed in it, that the valuation of gold in this country should be higher than in Europe, would lead to the conclusion, that the present valuation of 1 to 15 is too low.

This conclusion is confirmed by the circumstance of the contract made not long since, between the Bank of the United States and Messrs. Baring and Reed, for the supply of specie. Under this contract, gold and silver were to be furnished, if it were practicable, in equal amounts, according to the American relative valuation of 1 to 15. Upwards of two millions of dollars of silver have been accordingly supplied, but not an ounce of gold.

As the committee entertain no doubt that gold is estimated below its fair relative value, in comparison to silver, by the present regulations of the Mint; and as it can scarcely be considered as having formed a material part of our money circulation for the last



H. OF R.

Regulation of Coins.

JANUARY, 1819.

twenty-six years, they have no hesitation in recommending that its valuation shall be raised, so as to make it bear a juster proportion to its price in the commercial world. But the smallest change which is likely to secure this object (a just proportion of gold coins in our circulation) is that which the committee prefer, and they believe it sufficient to restore gold to its original valuation in this country, of 1 to 15 6-10.

But, although the Mint regulations may affect the proportion of American and foreign, or of gold and silver coin, in the country, it seems difficult to suppose that they can reduce the general amount of specie below the quantity which our business really requires. And yet, there is no complaint more generally made, than that of a want of specie, in any shape.

What, then, are the circumstances which produce this acknowledged difficulty of retaining gold and silver coin in this country? We are told of the immense amount of our foreign importations, and it is plain enough, that if we did not import from other countries, we should not export silver or anything else. But we retain, and employ in our service, among all the articles which we produce, and all we traffic in, whatever suits our wants, convenience, or taste. Warehouses enlarge, and shops multiply, to the measure of the augmented demand; and even gold and silver, in every shape but that of money, are imported from abroad, or manufactured at home, and lose their migratory character whenever they become plate, and cannot be exported without loss. The want of gold and silver coin cannot, therefore, proceed from an inability on our part to buy, or in other countries to supply our wants.

There is, however, one branch of commerce which seems obviously connected with the disappearance of specie, and which must be admitted to exert a strong disturbing power on the whole system of our currency. The trade of the East Indies, has, in all ages, carried to those countries the silver of every part of the world which consumed their produce, and the United States have a very large share of this trade. The whole amount of our current coin is not probably more than double that which has been exported in a single year to India, including China in the general term. Will not an exportation as great as this, go far to account for the deficiency of silver in our circulation? And yet, a direct trade with India, if it encourage a lower consumption of her produce, gives us that produce at a much lower rate, if it carry from the country a great amount of specie, probably adds by an equal sum to our sales in foreign markets. The annual exports in American vessels from the United States, and all other places, to China and the East Indies, can hardly be estimated at more than twelve millions of dollars, and it cannot be doubted that our sales of East Indian articles in Europe, exceed that amount. The value of merchandise from China and India, annually consumed in the United States, is probably equal to five millions of dollars; and if this be so, the consumption of East Indian articles by the United States, is paid for by the mere profits of the trade. A branch of industry in which three thousand men (for this is about the number of seamen in the India trade) add \$5,000,000 to the annual produce of the country, would be worthy of protection even if it were not connected with considerations of naval defence. These views may make us doubt whether the India trade tends to diminish the average quantity of silver in the United States. Its effect on the nations which have engaged in it before ourselves, has been, generally, to increase their

specie circulation as well as their naval strength. And it seems reasonable that it should have done so. No man supposes that Holland, by supplying the rest of Europe with spices, left her own wants unsupplied. Nobody apprehends that our market must be destitute of teas, because we export millions of pounds annually, and why should the dealers in silver, rather than in spices or teas, make no provision for the home demand? When Genoa, Venice, Portugal, Holland, carried on an extensive trade in East Indian articles, and had no paper circulation, they were the depositories of the silver of Europe. When the States of America had no trade to the East Indies, but a full paper circulation, they were destitute of silver. Whenever the trade has existed without the paper, specie has been abundant, and scarce always where the paper has existed, either with or without the trade. We must conclude that when precious metals become scarce, while the price of foreign and domestic productions continues high, their scarcity results not from the country being unable to procure or retain them, but from its choosing to employ a substitute for their use.

While, however, the India trade has probably no tendency in itself to lessen the average amount of specie employed in the country, it produces, under the present mint and bank system of the United States, the most inconvenient effect on the currency. The general demand of the commercial world for the material of which we make our money, is useful by giving stability to its value. But if a state of things be supposed in which one country has a constant demand for this money, taking from us nothing else, while we are obliged to keep up our quantity of importations from other States, it is obvious that a demand and supply like this, instead of making our circulation equable, or proportioned to our wants, must produce that very instability in the value of money which the precious metals are employed to remove. Undoubtedly a nation, like an individual, if it owe a debt must pay it; and if it have no other means of payment, must even export its coin for the purpose. But, although this exportation cannot be prevented, when a general balance exists against the nation, it is still true, that the coin or money of the country should not be the object of regular remittance in any foreign trade. Nor is it so with any commercial nation but the United States.

But the inconvenience of making the coin or money of the State the object of regular remittance in a foreign trade, is greatly enhanced in a country which, like the United States, has a mixed circulation of specie and of the paper of banks of discount.

While these banks remove a large portion of coin, whose place they supply by their notes and credits, they give a new character to that which remains. Their obligation to pay specie upon demand, makes it the most important office of the precious metals to regulate and restrain the issue, and to support the credit of bank paper.

A prosperous condition of trade, an abundance of native products, and a foreign demand for them, which requires a large circulation, produce an increased issue of paper on the part of the banks. This very prosperity is the incentive to a trade to India, which not only abstracts very largely from the silver coin of the country, but obliges the banks to withdraw a still larger amount of their paper. Under this system, indeed, the importation of what the laws make current coin, is encouraged, as well as its exportation; but the quantity of our money, and its value fluctuates with the seasons and

JANUARY, 1819.

Regulation of Coins.

H. OF R.

the winds. The banks are obliged to contract their discounts, not only by a general or durable state of exchange, but from temporary causes, and from the condition of a particular trade.

But the India trade, under the present system of our coins, produces another and, ultimately perhaps, a worse effect upon the operations of the banks. We have spoken of the inconveniences which that trade must cause, if the banks which issue paper redeem it by specie whenever it is presented. On this supposition the merchant will make no effort to prepare the bullion or the Spanish dollars which he wants for the India market; the bank collects them without charge; he will draw from that reservoir, and avoid the risk and trouble of the double operation. But the banks do not always pay specie promptly and willingly when it is required for the India trade. Their resistance indeed must be often ineffectual, although it costs something to the merchant and gives some profit to the broker. But if a combination of banks can close their vaults whenever the public interest may seem to require it, the best limitation upon the issue of paper is destroyed, and the stability of our currency, and the execution of contracts, have no higher security than the public spirit and disinterestedness of their directors. While our coins are such as it is the interest of the merchant habitually to remit to India, the apology for evading their engagements will be sometimes made by the banks and encouraged by the people.

Whether we are to have banks or not, however, the principles which would proscribe the India trade, are incompatible with fair and wise legislation; but it is desirable that the regulations of the Mint should be such as may prevent that trade from alternately filling and draining the circulation of the country; such as shall not encourage the merchant to make its coins the regular subjects of foreign exportation.

The inconveniences which have been attributed to our present system of coins, would in a great measure be removed, if gold should be made the only legal tender for all debts above a moderate amount. In favor of such a provision, it may justly be said that there has been less variation for some centuries in the value of gold than of silver, and that it would avoid the embarrassments which are inseparable from a mixed circulation of both metals. The balances of payments between different States would be settled with more ease than if our coins were principally silver, and the traveller would be relieved from the loss and imposition which he frequently suffers when he carries with him bank notes, the value of which must vary with the course of trade, because their transmission cannot extinguish a debt, though it may change its form and its parties. But, whatever may be the advantages of a circulation, consisting principally of gold, we have been too long accustomed to consider silver as the principal measure of value to make it prudent, or indeed, practicable, to supersede its office. To attempt by law to prevent the currency, or to decri the value of a metal which the public consider as the standard of value, would be much more futile than the enterprise of giving legal value to a substance intrinsically destitute of it. There have, indeed, been countries in which the use of silver, in large payments, has been abolished, and gold substituted, but it is believed that in those instances law has only confirmed the change which had been made by custom.

We may conclude that, in any amendment which may be made to the laws respecting the coins of the

United States, those of silver must continue to be a tender in payment of all debts.

An advantage may be afforded to American silver coins in internal commerce, over foreign coins of equal purity and weight, either by assigning a diminished value to foreign coin, and particularly to Spanish dollars, or by reducing the weight of the American dollar.

The first is impracticable. The Spanish dollar, whatever our laws may be, will be received by the banks and the people.

In all civilized countries, (except China, in which there is no mint,) it has been considered as the office of the Government to ascertain, by its stamp, the weight and fineness of the metals which are used as money. In some countries, and these the most enlightened and liberal, the State exacts no duty upon this stamp or coinage, so that the individual receives from the Mint, in coin, the exact quantity of pure metal which he has deposited in bullion. This is the case in France, in Britain, in respect to her gold coins, and it was so until recently in respect to her silver, and in the United States. In France and Great Britain, however, no foreign coin is allowed to be current. Under this system, the merchant is encouraged to carry to the Mint whatever bullion he receives; the circulation of the country is increased or diminished without artificial impediments, as the state of its trade may require, and the value of the coin is made to depend upon the general value of the metal in the commercial world. It is believed that, both in France and England, however, it is made penal to export or melt the coin.

Upon the first establishment of a Mint in the United States, the question of a seignorage upon the coin was necessarily presented to the Legislature. The Secretary of the Treasury, in his report on the establishment of a Mint, urges the propriety of commencing our coinage without a seignorage, or with a small one. "It will be better to increase it hereafter," he says, "if this shall be found expedient, than to recede from too considerable a difference."

A seignorage in the United States will produce the effect which results in other countries, from foreign coins not being allowed to be current. It will cause the national coin to be more valuable at home than abroad. It will prevent its being melted or exported while other coin can be procured, and may thus effect, in some degree, by an application to the interests of the citizen, an object which the penal provisions of other States have been very unsuccessful in attaining. It will indirectly exclude foreign coin from circulation, and thus make the quantity and value of coin which we employ more uniform. It must be considered, however, as principally recommended by the character and amount of our trade to India, and it will be remembered that this trade had been scarcely opened at the period of Mr. Hamilton's report.

If a small seignorage be imposed upon the silver coin of the United States, and no other foreign coin but the Spanish dollar be allowed to be current, it is probable that silver, from the same countries and to the same amount, would be sent to the Mint as if there were no seignorage. Without a seignorage, it would be sent only when it was wanted for the circulation of the country; and it would be as valuable to the individual for this purpose, after the duty was deducted, as if there were none. The Mint would not, in this case, receive Spanish dollars, and it does not



H. OF R.

Regulation of Coins.

JANUARY, 1819.

now. The banks would have an obvious interest in converting all their coin into that which would be least liable to exportation. The India merchant, unable, after a short time, to collect his cargo to advantage from the circulating money of the country, would prepare his silver for India, as he does his muslins for Europe. Neither this regulation, however, or any other, will retain in the country a quantity of coin disproportionate to the amount of property which it is employed in exchanging. It will not prevent the perpetual banishment of the precious metals, if a paper not convertible into specie is supported by law or public opinion. It may, indeed, well be questioned whether a sound circulation can be obtained with an amount of bank paper as large as we have had, even at period subsequent to the late war, and whether the amount can be permanently diminished unless the present bank capital of the country be reduced. But these questions do not fall within the province of the committee appointed to report on the laws "which regulate the coins of the United States and foreign coins."

In a fair exposition of the effects of a seignorage upon coins, it must be admitted that, where it is exacted, coin will be generally, but not always, more valuable than its weight in bullion. While, then, it is believed that, in the United States, it would tend to make the value of our money more uniform, it is not denied that an opposite result may sometimes, and where the seignorage is high enough to make it a resource of Government, may often be produced by it.

A nation which employs both gold and silver as its legal money has an additional inducement to those which have been mentioned for establishing a seignorage on one or both metals. The relative value of these continually changes; and a small change which, without a seignorage, would make it the interest of the merchant to export the one and import the other, will not produce that effect if there be a seignorage upon the undervalued metal.

The reasons which may be urged in favor of a seignorage upon silver have not the same force in respect to our gold coins. There is no country to which gold is the regular object of remittance from the United States; and a difference of valuation is not necessary in order to give to the gold coin of the United States an advantage, in internal commerce, over other coin, because it is not impracticable to exclude foreign gold directly from general circulation.

The committee submit to the House the following provisions:

1. That 14 85-100 grains of pure silver shall be deducted of a seignorage out of every amount of 371 25-100 grains of such silver deposited for coinage at the Mint, so as to make the dollar of the United States contain 356 40-100 of pure silver, or 399 36-100 of standard silver; and that the smaller coins shall contain proportional quantities of such silver.
2. That the eagle shall contain 237 98-100 grains of pure gold, and 259 61-100 of standard gold, and the smaller coins proportional quantities.
3. That the provision of the present law, making parts of dollars less than halves a tender in payment of debts, shall be limited so as to apply only to debts below five dollars.
4. That an appropriation shall be made for enabling the Mint to coin a greater number of pieces than it now can.
5. That the act making certain foreign gold and

silver coins a tender shall be continued for eighteen months, so far as relates to the silver coins.

Any plan which may be proposed for supplying the United States with coins of their own would probably be liable to considerable difficulties; but the inconveniences of the present system are not slight. An annual exportation of the current money of the country, to an amount much greater than our own Mint can supply, perhaps half as great as our circulation employs; an irregular importation from other countries to repair the loss; the use of foreign money so various that our current coins are now of at least seven different standards; a provision for a national Mint, which was expected, after three years, to dispense with foreign coins, and which, after twenty-six years, has left the great mass of our coins still foreign; these circumstances seem to show that some change is necessary. The wisdom of the Legislature must determine what that change shall be.

Mr. LOWNDES, from the committee appointed on the 27th of November last, to inquire whether it be expedient to make any amendment in the laws which relate to the coins of the United States and foreign coins, reported the following bill:

*Be it enacted, &c.,* That the Treasurer of the Mint shall be, and he is hereby, directed to retain fourteen grains and 85-100th of a grain of pure silver from every amount of 371 grains and 25-100th of a grain of such silver deposited for coinage at the Mint, after the passage of this act, so as to make the dollar of the United States contain 356 grains, 40-100th of a grain of pure silver, and 399 grains, 36-100th of standard silver, and smaller coins proportional quantities of such silver; and the sum so retained shall be accounted for by the said Treasurer with the Treasury of the United States.

*Sec. 2. And be it further enacted,* That the gold bullion deposited for coinage at the Mint after the passage of this act, shall be coined as is now provided by law into eagles, half eagles, and quarter eagles. But the eagle shall contain 237 98-100 grains of pure gold, and 259 61-100 grains of standard gold, and the smaller coins proportional quantities of such gold respectively. And the person or persons by whom the said gold bullion shall have been deposited shall receive in lieu thereof gold coins containing an equal quantity of pure gold with that contained in the bullion. *Provided, always,* That when gold or silver bullion shall be deposited for coinage at the Mint, which bullion shall be below the standard of the United States, a sum equivalent to the expense of refining the same shall be charged, in the manner provided by the act respecting the Mint, passed on the 24th of April, 1800.

*Sec. 3. And be it enacted,* That nothing in this act shall be construed to affect the regulations of the Mint now provided by law, in respect to assays, alloy, remedy, or in respect to the duties and liabilities of the officers of the Mint, so far as such regulations are compatible with the provisions of the preceding section.

*Sec. 4. And be it enacted,* That the parts of Spanish dollars, and coins less than half dollars, issued at the Mint of the United States, shall not be deemed to be a legal tender to an amount exceeding five dollars on any one debt.

Mr. LOWNDES, from the same committee, also reported a bill continuing the currency, for a limited time, of the crowns and five franc pieces of France; which bills were severally twice read and committed.

JANUARY, 1819.

Seminole War.

H. OF R.

## SEMINOLE WAR.

The House then again proceeded, in Committee of the Whole, (Mr. PITKIN in the chair,) to the consideration of the report of the Military Committee, and the amendments moved thereto by Mr. COBB, touching the transactions of the Seminole war.

After Mr. SAWYER had closed his remarks yesterday—

Mr. MERCER addressed the Chair, and, advertising to the late hour of the day, moved that the Committee should rise, in order that he might have it in his power to call upon the Departments of War and of the Navy, by a resolution which he read in his place, for information on a subject intimately connected with the present topic of debate. He had been informed, Mr. M. said, that the combined attack of a military and naval force of the United States, upon the Negro and Indian Fort, situated on the Appalachicola river, in East Florida, in the Summer of 1816, was made without the authority of the President of the United States. Regarding this as the commencement of the late Seminole war, he deemed it proper to obtain the information which he sought, in as early a stage of the debate as practicable. The Committee having, however, refused to rise, Mr. MERCER proceeded, in substance, as follows:

The report of the Military Committee, Mr. Chairman, coupled with the resolutions submitted by the honorable member from Georgia, (Mr. COBB,) have relieved me from much inquietude. Having, before the report of the select committee was received, denied the authority of Congress to punish a military officer, I rejoice that a course has been adopted, which, while it falls strictly within the province of this House, is calculated to heal the recent wounds inflicted on the Constitution, and to vindicate the insulted character of the nation.

I would watch, said Mr. M., with equal jealousy, the encroachments of Legislative as of Executive power. And, aware that the former is least capable of precise definition, and, therefore, most easily enlarged, could I behold, in the resolutions on your table, an attempt to invade the rights of any of the other departments of the Government, they would meet my most decided opposition.

Punishment implies responsibility. The responsibility of every military officer is to the President of the United States; his responsibility to Congress, through the Constitutional medium of impeachment, and through that alone.

But the resolutions before us have for their object neither a censure of General Jackson nor of the Executive. Pursuing the natural course of legislation, they ascertain the existence of a public abuse, and recommend the application of a Constitutional corrective. They spring from an inquiry into the conduct of the Seminole war, to which the President's Message at the opening of the present session, called the attention of the House. It cannot be forgotten, that, during the two first administrations of the Federal Government, the President, at the commencement of

every session of Congress, met in person the two Houses, convened together, and pronounced the address which his Secretary now conveys to us in the form of a Message. In relation to every part of the address, the two Houses separately exercised the unquestioned right of responding. These responses brought into brief review the whole course of administration. All the political acts and the actors of the past year were held open to the scrutiny and opinion of either House.

Such was the operation given to this Government by the framers of the Constitution, who filled the first Congress which assembled after its ratification. Such continued to be its operation for the first twelve years of its existence.

During the last eighteen years, this practice has been disused, but it would be difficult to prove that the powers of this House have been abridged by the substitution of the President's Message for his speech. Like the latter, the former yet undergoes, at the opening of each session, a political analysis, which terminates in the reference of every important member of it to some committee, charged with the duty of reporting an opinion upon the subject which it embraces, and of recommending, if necessary, some correspondent act of legislation. Hence the origin of the report which has given rise to the present debate.

Is it not absurd to imagine, even, said Mr. M., that the President of the United States can appropriate this House that its highest powers have been usurped? That the Constitution has been violated, and yet no complaint can be made of the usurpation, nor any exertion to prevent its recurrence?

The history of our Government, Mr. Chairman, is replete with inquiries analogous to the present. Need I remind you of that into the conduct of the first Secretary of the Treasury? Of the subsequent inquiry into the failure of St. Clair's expedition against the northwestern Indians? Or of the more recent investigation of the causes which led to the destruction of the Capitol?

Were it necessary, these authorities could be corroborated by a reference to the long established practice of that legislative assembly after which our own has been modelled.

The existence of a power of legislation implies the auxiliary authority to inquire into all those abuses or defects of the laws which may, by any possibility, call for its exercise.

If, indeed, in the progress of our present inquiry, the character of General Jackson, or of the Executive, shall suffer in the public estimation, such, although it should prove an unavoidable consequence, will not have constituted the motives of our investigation.

Remembering, as I do, Mr. Chairman, with feelings common to us all, the triumph of the American arms on the plains of New Orleans, I need scarcely say that I entertain no personal hostility to the commander of our Southern army. I frankly acknowledge, too, sir, that I cannot, in this inquiry, wholly separate the President of the United States from the military



H. OF R.

Seminole War.

JANUARY, 1819.

officer whose conduct he has approved. And yet, it can hardly be required of me to say that I entertain no personal hostility to our present Chief Magistrate. Sir, I behold in him the friend of my early youth; a yet more sacred feeling swells my heart—he was, sir, my father's friend.

Nor do I entertain any settled hostility to the administration over which he presides. I expressed, beyond these walls, a different sentiment, at a time and under circumstances which prevented its public avowal from advancing either my personal interest or my political consideration.

Still, less, sir, have I been an enemy of the army, whose conduct I am about to investigate. I appeal to the recollection of the House, if I did not zealously, though, indeed, most unsuccessfully, endeavor to preserve to those gallant men, who had merited and received the thanks of their country, the pecuniary reward of their valor, which had been granted to them by the justice, and confirmed to them, as I vainly thought, by the faith of the nation. I, too, Mr. Chairman, in a humble path, ardently sought to follow their bright example; and the party in Virginia, whose political denomination I bear, never yielded to their more fortunate opponents, in devotion to the Commonwealth.

Sir, the friends of these resolutions are the best friends of the army. Let the army gain an ascendancy over the Government, and it will become an object of jealousy with the people. They will esteem it a smaller evil to disband the army than to surrender their Constitution. The adoption of the resolution is, therefore, essential to the preservation of our present Military Establishment. If the resolutions fail, the army ought to be, and will be reduced.

About to enter upon a wide field of debate, to consult numerous authorities and documents, I cannot hope, at this late hour, to command the attention of the Committee, and respect for their comfort, sir, induces me again to make way for a motion that the Committee rise.

The ensuing morning Mr. MERCER proceeded.

Having sought, Mr. Chairman, to remove some of the prejudices which obstructed my way, and established the Constitutional power of the House to pass the resolutions on your table, I shall proceed to inquire into the origin and conduct of the Seminole war. In the prosecution of this inquiry, I mean to establish the following propositions:

That the Constitution of the United States has been violated, by an unauthorized war against the Indians of East Florida.

That it has been farther violated by the unauthorized capture of the Spanish fortresses of St. Marks of Pensacola, and the Barancas, during a period of peace between Spain and the United States.

That the rules of judicial proceeding, established by the laws and usages of the United States in the trial of military offences by courts martial, have been disregarded in the trial and execution of Arbuthnot and Ambrister.

That the accustomed clemency of the United

States, in all former wars, has been outraged by the unnecessary execution, in cold blood, of unresisting captives, brought within the power of our arms by the chance of war.

And, lastly, that these accumulated abuses of power call not only for the expression of the opinion of this House, but for the interposition of its authority to prevent their repetition.

I find myself arrested, Mr. Chairman, on the very threshold of my first proposition, by the assertion of one of my colleagues, (Mr. SMYTH,) that the Indians cannot wage war; because, he added, they do not make prisoners of war; while another honorable member, (Mr. JOHNSON,) who preceded him on the same side of the question, maintained that our statute book contains a declaration of perpetual war against all the Indian tribes within our limits. Let the statute book answer these extraordinary doctrines. The aborigines of this country have been our associates, or our neighbors, for more than two centuries; and we have maintained towards them, during that period, relations of commerce and amity, as well as of war, by the same means by which we have regulated our intercourse with other States. Instead of recurring to the treaty and correspondence of Ghent, allow me to consult the volume which I hold in my hand, and to ascertain, from our own intercourse with this unfortunate race of men, in what light we have hitherto regarded them. To ascend no further back than to the formation of our Union, the first volume of the laws of the United States will afford us Indian treaties, embracing every variety of stipulation known in the diplomatic intercourse of the most polished nations; from the articles of agreement and confederation with the Delaware nation, a treaty of alliance and commerce, concluded at Fort Pitt in 1793, down to the articles of agreement and capitulation, a treaty of conquest, but of peace also, concluded at Fort Jackson in 1814. In direct contradiction of the assertion of my colleague, we find among the intermediate conventions stipulations for the mutual exchange of prisoners of war; and, in hostility with the doctrine contended for by the honorable member from Kentucky, the far greater number of them are treaties of peace, promising the oblivion of past injuries, and the establishment of perpetual friendship. Nor will a recurrence to the history of the United States authorize an unfavorable comparison of the good faith of these untutored savages with that of our more polished European allies. With the Chickasaw and Choctaw nations, we have made several treaties of boundary, but have had occasion to make no treaty of peace since that of Hopewell, concluded two and thirty years ago, under the old confederation. The treaty of Greenville, with the Northwestern Indians, endured from 1795 till the battle of Tippecanoe, in 1813. The first treaty with the Creeks and Seminoles, concluded with the White Chief, McGillvray, in New York, in 1790, was, with the exception of some border hostilities with Georgia, of questionable origin, and terminated by the treaty of Colerain, in June, 1796, preserved inviolate till 1815. Compare these dates, sir, with those of our treaties with England, France, and Spain. Call to mind the repeated violations of these treaties, and then ask your conscience if it will permit you to cast an imputation of bad faith on your savage neighbors?

JANUARY, 1819.

Seminole War.

H. OF R.

In all these treaties, Mr. Chairman, the Indians are denominated tribes or nations; they are all negotiated and signed with the usual solemnity of national compacts, and were ratified under the old Confederation, as they have been under our present constitution of Government, by the same authority and in the same manner as our other foreign alliances. In none of them will the least foundation be discovered for the claim now set up, to regard the Indians as the lawful subjects of our Government. No, sir, the God who gave them being gave them freedom too, and, while we have voluntarily promised them protection, they have never sworn to us allegiance.

The treaty of New York, with the Creeks and Seminoles, like that of Greenville, and almost every other original treaty with the Indian nations in our territory, carries the recognition of their independence so far as "to declare that every American citizen who shall attempt to settle within their territory, shall forfeit the protection of the United States, and may be punished at their pleasure." The guarantees of their reserved territory, which distinguish their numerous treaties of peaceful cession, are not more inconsistent with their independence than the celebrated guarantee of our liberty by France was inconsistent with our acknowledged sovereignty; or our guarantee of her West India Islands with their dependence upon the mother country.

Sir, it is a maxim of experience that as a man acquires power he forgets right. The first of the numerous treaties to which I have adverted, if compared with the last which we have concluded with the friendly Creeks, or with the doctrines lately maintained on this floor, will furnish a striking illustration of this melancholy but ancient truth. The former treaty, throughout all its numerous provisions for the passage of troops, for the trial of fugitives from justice, and for commercial intercourse, not only regards the Delaware nation as a sovereign and independent people, but, after repelling the insinuation that the United States design to exterminate them, and possess their country, guarantees to them their whole territory, and tenders to them an admission into the American Union as a co-ordinate member of the confederacy.

There is a doctrine of national law inserted in two of our earliest treaties, which is worthy of being held in perpetual remembrance. In each of our separate treaties with the Choctaw and Chickasaw Indians, concluded at Hopewell, in 1786, there is this stipulation, which not only recognises the Indian right of war, but seeks to regulate its exercise, in conformity with the maxims of humanity, from which, to the honor of our country, it has but recently departed. "It is understood," say we to these Indians, and they to us, "that the punishment of the innocent, under the idea of retaliation, is unjust, and shall not be practised on either side, except where there is a manifest violation of this treaty, and then it shall be preceded first by a demand of justice, and, if refused, then by a declaration of hostilities." What is this but that law of nations so often misquoted or misapplied in the course of this debate?

Sir, who are the Indians of East Florida? Those very Seminoles with whom we treated at New York, by their white chief, McGillvray, and the wretched Creeks, who, refusing to ratify the Treaty of Fort Jackson, fled from the bloody field of Talapoosa, to the only asylum left open to their retreat. Man has a natural right to live somewhere on the earth. A civil war had raged among the Creeks; we united our arms with the weaker party, and when victory declared in our favor, we made a bargain with our friends, articles of capitulation for the territory of our enemies, and demanded of the former to deliver up all the prophets and instigators of the recent war, whether foreigners or natives, who had not submitted to the arms of the United States, if ever they shall be found in the Creek territory. They fled, sir, and with reason, to Florida. Did they afterwards return to make war on us? No, sir; the President's message at the opening of the last session of Congress informed us that we were then at peace with all the world. These wretched Seminoles and their miserable allies, the fugitive Creeks and negroes, had not then invaded our frontier. They were beyond the limits of the United States, occupying towards us the relation of an independent people—the relation under which we had treated with them for peace, at New York and Colerain—and under which, even in our Spanish treaty of 1795, we had expressly reserved the right to treat again with them for the same object. They were at peace when detachments of our army and our fleet invaded their territory, without the authority, I yet hope, of the American Government; blew up their only fortress, and scattered over the surrounding plain the burnt and mangled bodies of two hundred and seventy unoffending Negroes and Indians. Sir, this massacre occurred in East Florida, two hundred miles from the Georgia settlements, and fifteen months before it is even pretended that these unhappy people had renewed their outrages within our territory. Nay, after those outrages did occur, the message of the President, as we have seen, announced that we were at peace. The seizure of Amelia Island, sir, was justified on the ground that, if the brigands who landed there were a foreign Power, a secret law of the United States, then first published to the world, in order to warrant that act, authorized the President to occupy the territory in question. But the Indians of East Florida were not a foreign Power, and they were not brigands, as our former treaty with them sufficiently evinces. Their right to wage war against Spain herself was as perfect as the recognised right of our Indians to wage war on us.



Nor had we a right, either as regarded them or Spain, who claimed the sovereignty of their territory, to force a passage through it, as we did, even had our object been peaceable. Is it required of me to establish this principle of public law? I shall adduce, for that purpose, but a single authority. It is that of a writer who, himself the subject of a small principality allied to the five cantons of Switzerland, and claiming the protection of a sovereign who had often to contend for his own independence, has applied the maxims of natural reason to the maintenance of political truth and justice. "When some petty officers," says Vattel, "violated the territory of Savoy, in order to carry off from thence a noted smuggling chief, the King of Sardinia caused his complaints to be laid before the Court of France, and Louis XV. thought it no derogation to his greatness to send an ambassador extraordinary to Turin, to give satisfaction for that violence."

"Since," says the same writer, "the passage of troops, and especially that of a whole army, is by no means a matter of indifference, he who desires to march his troops through a neutral country must apply for the sovereign's permission. To enter his territory without his consent, is a violation of his rights of sovereignty and supreme dominion." "If the neutral sovereign has good reason for refusing a passage, he is not obliged to grant it." "In all doubtful cases, we must submit to the judgment of the proprietor respecting the innocence of the use we desire to make of things belonging to another, and must acquiesce in his refusal, even though we think it unjust. When the passage is not of absolute necessity, the bare danger which attends the admission of a powerful army into our territory may authorize us to refuse them permission to enter." "Let it not be said with Grogus, that he who requires the passage is not to be deprived of his right on account of unjust fears. A probable fear, founded on good reasons, give us a right to avoid whatever may realize it; and the conduct of nations affords but too just grounds for the fear in question." "The Swiss, in their alliances with France, have promised not to grant a passage to her enemies; they ever refuse it to all sovereigns at war, in order to secure their frontiers from that calamity; and they take care that their territory shall be respected." To this doctrine the only exception admitted, is in favor of *urgent and absolute necessity*. "As where an army find themselves exposed to imminent destruction, or unable to return to their own country unless they pass through neutral territories, they have a right to pass in spite of the sovereign, and to force their way, sword in hand. But they ought first to request a passage, to offer security, and pay for whatever damage they may occasion. Such was the mode pursued by the Greeks, on their return from Asia, under the conduct of Agésilas."

The author here supposes the passage to be for an innocent purpose; to have been asked of the

sovereign, and to be forced, after a refusal, only in a case of extreme necessity.

It has not, and I presume will not be pretended, that the destruction of the negro and Indian fort near the mouth of the Appalachicola, was required by any absolute necessity. The Governor of Pensacola, so far from authorizing the act, expresses his expectation "that, until he receives the decision of his Captain General, no steps will be taken by the Government of the United States, or by General Jackson, prejudicial to the sovereignty of the King of Spain, or the district of Appalachicola, a dependency of his Government." It cannot be pretended that this hostile measure was taken with the consent of the Seminole Indians; and if, as I hope, it was done without the order of the President of the United States, it was certainly without any legitimate sanction—the authority of Congress.

If the alleged reason for this wanton injustice were deemed sufficient to warrant it, "that the fort had become a refuge for runaway negroes and disaffected Indians," where would it carry us? With what neighboring nation, civilized or savage, could we preserve relations of amity? Will it be pretended that we have a right to punish disaffection in those who owe us no allegiance; or to recover by violence the persons of our fugitives, whether bond or free? The attempt to gloss over this cruelty by the suggestion that the force of the miserable negroes was "daily increasing, and that the fertile banks of the Appalachicola were about to yield them every article of subsistence," is calculated to shed additional horror over a transaction wanton in its motive, and savage in its execution. A war upon the peaceful negro settlements on the Wabash would be equally politic, and, in principle, alike justifiable.

I have thus traced the Seminole war, Mr. Chairman, to the unauthorized invasion of East Florida in 1816; but, from thence to the month of October of the ensuing year, the terror inspired by this act seems not to have produced the usual retaliation of savages—the indulgence of private revenge. Along a line of four hundred and seventy miles, from the mouth of the St. Marys to the intersection of the Perdido, by the thirty-first degree of latitude, we hear, in fact, of scarcely an Indian aggression. The destruction of their fort, and the murder in cold blood of two of their chiefs, must have inspired the sentiment of hostility, but they wanted the means of indulging it. Even at the moment when the friendly Indians of Fowltown, who had preserved their neutrality during the whole Creek war, were assailed by order of the American General, there had been no invasion of our territory by any Indian force. Stories, indeed, sir, have been told us of Indian massacres, at the recital of which my very soul sickened; and, were it not for the documents on our table, I should believe that the tomahawk and scalping-knife had deluged our Southern frontier with blood. But, in addition to the President's declaration on the 16th of November, 1817, that we were at peace with the In-

dian tribes, I discover that, with but two exceptions, the murder of a family on St. Marys river, and of some travellers five hundred miles off in the Alabama Territory—transactions which I deplore as much as any man—we were ourselves the aggressors. The unfortunate detachment of Scott, (the attack upon which is said to have given a new character to the Seminole war, and to have justified the invasion of Florida,) fell a victim to savage revenge, upon the river Appalachicola, without the territory of the United States. After the destruction of the Indian fort in the preceding year, was it too much to expect that the Seminole Indians would resist the progress of another armed force through the bosom of their territory? Had they to consult authorities for the right of self-defence? They recurred to that which nature has stamped upon the hearts of all men. Sir, these Indians are represented to have been sufficiently powerful to be the objects of our fears. They must be regarded as independent of us from our own express acknowledgment. Spain asserted that they had subverted her sovereignty; and, under our Constitution, war could not be waged upon an independent neighboring Power without the authority of Congress. At one moment, indeed, we hear the Indians of East Florida styled wretched savages, outlawed Creeks, fugitive slaves. At another they are represented to be capable of bringing a force of thirty-five hundred men into the field, a force equivalent to half our military establishment, and the most alarming necessity is plead to justify the infraction of the neutrality of Spain in our hostilities against them.

This necessity brings me to the second infraction of the Constitution by the entrance of Florida, and the seizure of the Spanish fortresses of St. Marks, Pensacola, and the Barancas. In regard to the much questioned passage of the line, I have only to add that, with the exception of the right reserved by our treaty of 1795, to make peace with the Florida Indians, we have ever regarded the sovereignty of Spain to be complete over the Indian territory within her limits. And the hostile invasion of that territory is as much an act of war against Spain as against the Indians themselves. Being equally unauthorized by any act of Congress, it involves a similar violation of the Constitution. Our attention, however, is borne along from the Florida line to less questionable infractions of the neutrality of Spain. That the forcible seizure of the Spanish fortresses would be an act of war against Spain, unless accompanied by some extraordinary justification, is not denied. But it is defended on the ground of necessity, as regards St. Marks; and, as respects Pensacola and the Barancas, for the additional reasons, that the Spanish Governor refused to allow the passage of provisions up the Escambia; and by a public threat, rendered the seizure of those fortresses essential to the maintenance of the honor of the American arms. This reasoning is further attempted to be sustained by reference to the obligations of Spain, to restrain by force the Indians within her territory from

committing, it is said, hostilities against the United States.

Allow me, Mr. Chairman, briefly to consider the nature of this Spanish obligation, which appears to me to have been altogether misunderstood. The fifth article of the Spanish Treaty of 1795 stipulates "that Spain and the United States shall restrain by force all hostilities on the part of the Indian nations living within their boundary," an obligation which is afterwards thus explained: "So that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit those last-mentioned Indians to commence hostilities against the subjects of His Catholic Majesty, or his Indians, in any manner whatever." The residue of the clause prohibits either party from making with the Indians, within the territorial limits of the other, any future alliance whatever, except treaties of peace. This stipulation not only supposes the possibility of future wars between the Indians and the contracting parties, but, as the employment of force by either party to suppress Indian hostilities against the other is evidently founded on a perfect reciprocity of duty and interest, the interposition of force by either, for the purpose of restraining the Indians, is expressly limited to the commencement of hostilities. Spain will not permit her Indians to attack, that is, to commence hostilities against the citizens of the United States. But the treaty does not impose upon her the unnatural and unreasonable obligation to aid the United States in attacking the Indians who inhabit her territory, and whom she considers under her protection. Spain must be regarded as the natural ally of her own Indians, but did this treaty bind her to an offensive and defensive alliance with us against them, either of two conditions would release her from the obligation which it imposes: her inability to fulfil it, or her incapacity to do so, without exposing herself to evident and imminent danger, to say nothing of her right to inquire into the origin of our war. When the United States were called upon to fulfil their guarantee to France, of her West India islands, we replied that France began the war in which she was engaged with Great Britain. But the relation of Spain to the Indians within her acknowledged limits cannot be regarded as less intimate than a defensive alliance; and, so considered, the conduct of the Spanish Governors of St. Marks and Pensacola falls far short of making them associates in the war; but, if it did make them associates, their acts were then acts of war against the United States, which it was the province of Congress, and of Congress alone, to resent by war. My honorable colleague, (Mr. BARBOUR,) though he does not concur in this conclusion, has candidly admitted that the Spanish Governors were not associates in the Seminole war. Regarded as the allies of the Indians, if they went no farther than to maintain with them their accustomed intercourse of commerce and friendship, still this would not constitute them the associates of our



H. OF R.

Seminole War.

JANUARY, 1819.

enemy. "The contrary principles," says Vattel, "would tend to multiply wars, and spread them beyond all bounds, to the common ruin of nations. It is happy for Europe," he adds, "that, in this instance, the established custom is in accord with the true principles. Switzerland, in virtue of her alliance with France, furnishes that Crown with numerous bodies of troops, and, nevertheless, lives in peace with all Europe." "The real associates of my enemy being my enemies, I have against them the same rights as against the principal enemy. But it is not thus with those nations which assist my enemy in a defensive war; I cannot consider them as his associates. If I am entitled to complain of their furnishing him with succors, this is a new ground of quarrel between me and them. I may expostulate with them, and, on not receiving satisfaction, prosecute my right, and make war on them. But, in this case, there must be a previous declaration." "Grotius," says Vattel, "appositely quotes the example of Ulysses, and his followers, blaming them for having, without any declaration of war, attacked the Ciconians, who had sent succors to Priam during the siege of Troy."

And if a previous declaration of war is required, where the powers of declaring and waging war are trusted to the same discretion, how much more necessary is such a declaration, where the constitution of a nation vests the power of making the declaration in one department, and of conducting its operations in another branch of its Government.

To have constituted the Governors of St. Marks and Pensacola associates in the war, they should have lent their whole aid to its prosecution, which is not even charged upon them.

I will now proceed to consider the alleged necessity of seizing those fortresses. And, first, that of St. Marks. General Jackson, as early as the 25th day of March, soon after crossing the Florida line, announced his intention of taking St. Marks "as a depot for his supplies, should he find it in the possession of the Spaniards, they having supplied the Indians." That he derived no right to take it from the latter use of it, I have already demonstrated, and that he derived none from the use which he meant to make of it himself, an attention to the local position of St. Marks will readily evince. St. Marks is situated one hundred and four miles to the northwest of the Suwanee towns, the main object of General Jackson's campaign. It stands on the bank of the river to which it has given or owes its name, and nine miles above its mouth. The fort is surrounded by an open prairie, about two miles across, and below it extends an open forest of pine. As a military depot, a position below St. Marks, on the same river, would have been more accessible to the vessels, which were to furnish supplies from New Orleans; and the labor of a fatigue party, for a few days, would have constructed, of the adjacent forest, a protection sufficiently strong to resist the attack of any savage force which could have threatened

the safety of the position. Such is the necessity, on which this infraction of neutral right is grounded. The Spanish fort deriving its supplies, also, from the water, would have been dependent on the American, and the danger of an Indian attack, which threatened St. Marks, before the arrival of the American army, had ended with its approach. Nor is it the least extenuation of this unauthorized act of war, that discoveries were made, after the capture of the fort, which evinced that its commander was unfriendly to the American arms. The antecedent act should be tried by its own evidence. The subsequent discoveries, if they amounted to anything, constituted, as I have remarked, a cause of war against Spain, which General Jackson had no right to declare, or to wage, without a declaration.

St. Marks was more than a hundred miles from the Suwanee towns. To reach Pensacola, it was necessary to march across West Florida one hundred and fifty miles further from the principal theatre of the war. The necessity, however, which urged the occupation of the capital of West Florida is, if possible, less apparent than that which was plead for the seizure and occupation of St. Marks. The defeated Indians had retired down the peninsula of Florida, or crossed over it towards St. Augustine. Fort Gadsden and the Apalachicola river, to say nothing of St. Marks, then in our possession, cut off their retreat upon Pensacola. Above Pensacola itself, on the Canuco, a branch of the Escambia, Fort Crawford served as a check upon the Indians in that vicinity, and fifty miles from this last position stood the American fort Montgomery, on the Alabama. The desert country between the Apalachicola and the Bay of Pensacola, contained neither Spaniards nor Indians; yet, on the 5th of May, after having discharged a part of his force, and proclaimed the war to be at an end, General Jackson announces to his Government his intention to occupy Pensacola, if certain reports, which he had heard, should prove true, while the whole tenor of his letter of that date evinces a determination to occupy it at all events. He expresses it to be his confirmed opinion, "that, so long as Spain has not the power or will to enforce the treaty, by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our Southern frontier, without occupying a cordon of posts along the sea shore." After the seizure of Pensacola, he enforces the same reasoning, in an argument in favor of its restoration.

In his preceding letter to the Secretary of War, of the 25th of March, he informs him, "that, finding it very difficult to supply Fort Crawford, on the Canuco, by land, he had ordered the supplies for that garrison by water" up the Escambia, that is, by Pensacola, and through the Spanish territory: and that he had "written to the Governor of Pensacola, that if he interrupts them during the present Indian war, he shall view it as aiding the enemy, and treat it as an act of hostility." In his letter to the Governor, written on the 23d of May, the day before he en-

JANUARY, 1819.

Seminole War.

H. OF R.

tered Pensacola, he tells him "that, by a reference to my communications of the 25th of March, you will see how far I have been the aggressor in the measure protested against. You are there, (he adds) distinctly advised of the objects of my operations; and that every attempt, on your part, to succor the Indians, or prevent the passage of my provisions in the Escambia, would be viewed as hostile acts on your part." Rejecting the vague reports, mentioned in his letter to the Secretary of War, of the assemblage of the Indians, in force, in the vicinity of Pensacola, General Jackson here evidently rests his authority to seize Pensacola on the ground which he had assumed on entering Florida, of the necessity of supplying Fort Crawford with provisions, by a passage through the territory of Spain, and the right to consider the refusal of that passage as an act of hostility. In his letter to the same officer, of the 27th of April, he, in fact, assumes the prerogative of declaring war: "America," he writes, "just to her treaties, and anxious to maintain peace with the world, cannot, and will not, permit such a savage war to be carried on in disguise any longer. Asylums have been granted to the persons and property of an Indian foe, fugitives from the territory of the United States. Facilities, deemed by me necessary to terminate a war, which, under existing treaties, should have been maintained by Spain, for feeding my troops, and liberating the subjects of Spain, imprisoned by the Indians, have all been denied by the officers of His Catholic Majesty. All these facts prove the unjust conduct of the Spanish agents in Florida. It cannot longer be tolerated; and, although a republic, fond of peace, the United States know her rights, and, at the expense of war, will maintain them."

In deciding upon the necessity of supplying Fort Crawford with provisions, by the bay of Pensacola and the Escambia, the Committee must be already struck with the language in which General Jackson himself describes it. Finding it very difficult to supply Fort Crawford, on the Canuco, by land, he resolved to supply it by water. Here is no necessity—none that could justify the consideration of a refusal to permit the passage of provisions through a neutral country, as an act of hostility. Most truly does General Jackson speak of the difficulty only of obtaining the supplies by land; and in his letter to the Governor of Pensacola, in which he apprizes him that he has ordered a supply of provisions to be sent from New Orleans, by way of Pensacola, to Fort Crawford, on the Canuco, he adds, that this route has been adopted, as the most speedy one of provisioning one of his garrisons.

Sir, when you cast your eyes on the map near you, and recollect that part of the supplies of Fort Scott, on Flint river, were obtained from Fort Montgomery, at the distance of many hundred miles; and when you perceive that the river Alabama connects the latter with the port of Mobile; that from Fort Montgomery to Fort Crawford there is a public road, of fifty miles only in extent; you will readily comprehend the nature of that

necessity urged, not by General Jackson, but by his friends in this House, and especially by one of my honorable colleagues, (Mr. SMYTH,) as a justification of the seizure of Pensacola. But, if the land carriage of fifty miles, for the provisions required to supply a garrison, consisting of one hundred men, was a serious impediment to the military operations of General Jackson, allow me to point out another channel, which would reduce this transportation, by land, to half that distance. The Perdido river, I am warranted, by an honorable delegate in this House, in representing to be navigable to the Florida boundary, in boats drawing less than eighteen inches water, and from a point on that river, opposite Fort Crawford, the distance over land is but twenty-five miles.

But, let the difficulty of obtaining supplies for Fort Crawford by any other channel than the Escambia be magnified to any extent, did the Governor of Pensacola refuse to grant the request of General Jackson? No, sir, the complaint of such refusal is reduced, at last, to the narrow ground, that exorbitant duties are charged on the entry of the provisions at Pensacola. The whole necessity, therefore, is resolved into the expense of paying those duties. Sir, the resources of the United States do not require, that, to save the duties, however exorbitant, (and their amount is nowhere stated,) upon the provisions necessary for the supply of one hundred men, the sovereignty of an independent nation should be trampled under foot. But even this plea for occupying Pensacola is finally removed by a letter of the Governor to General Jackson, dated six days before its seizure, in which he says, "that, with respect to the passage of provisions up the Escambia, I have not hitherto prevented it. And," he proceeds, "now that the free commerce of this people with that of the interior is declared admissible, by higher authority, there will in future be no difficulty in allowing the merchants to transfer from hence to Fort Crawford, and other forts on the frontier, as well by water as by land, whatever provisions and effects they may need or desire, by which means these posts will readily be provisioned, and your excellency will be satisfied." Not so, however; General Jackson had advanced too near his object to be thus diverted from it; and as the necessity of occupying Pensacola, in order to insure the safe transportation of his supplies, had ceased altogether, a new reason occurs to sanction the measure. "On my march, on the 23d of May," says the General, in a letter to the Secretary of War of the 2d of June, "a protest from the Governor of Pensacola was delivered to me by a Spanish officer, remonstrating, in warm terms, against my proceedings, and ordering me and my forces instantly to quit the territory of His Catholic Majesty, with a threat to apply force, in the event of a non-compliance." "This," adds the General, "was so open an indication of a hostile feeling on his part, after having been early and well advised of the object of my operations, that I hesitated no longer on the



H. OF R.

Seminole War.

JANUARY, 1819.

measures to be adopted. I marched for, and entered Pensacola, with only the show of resistance, on the 24th of May." Sir, let us examine the language in which this threat was couched, and ascertain whether it was of the character described by General Jackson, or of such a character that the honor of the army required it to be resisted by the seizure and occupation of Pensacola and the Barancas. "It having come to my knowledge," writes Governor Mazot, "that you have passed the frontiers with the troops under your command, and that you are within the province of West Florida, which is subject to my Government, I solemnly protest against this procedure as an offence towards my Sovereign, exhorting you, and requiring of you, in his name, to retire from it, and if you do not, and continue your aggressions, I shall repel force by force." To which he adds, as the repeller of an insult has never been deemed the aggressor, you will be responsible both to God and man for all the fatal consequences which may result." Is this an order to General Jackson and his force "instantly to quit the territory of Spain, with a threat to apply force in the event of a noncompliance?" If you do not, and continue your aggressions, I shall, said the Governor, repel force by force. What force? The entry into Florida. That occurred very early in March; and this protest is dated on the 24th of May, though doubtless written on the 23d, for the Aid of General Jackson certifies that it was received on that day from a Spanish officer, who met the American army on its march shortly after it had crossed the Escambia river; and, consequently, when General Jackson was within a few miles of Pensacola.

Neither the object of the American commander, nor the nature of this threat, could then be mistaken. It was that, if General Jackson continued his aggressions, by attacking Pensacola, force would be repelled by force. In the Governor's letter from the Barancas, of the following day, you have his explanation of this threat. "Your excellency," he writes, "lays to my charge the blood which may be shed by my refusal to deliver up the province, as your excellency requests, which I shall never do; nor can I, without covering myself with dishonor at the close of my life and of my long military career. I am firmly persuaded your excellency would, in my case, do the same, as you would not venture to stain the honorable laurels with which you are adorned. I expect, from the generosity of your excellency, first, that you will let the officers and troops that garrisoned Pensacola at liberty, and that, after supplying your army with provisions, you will shortly evacuate the territory of this province, and not carry on a partial war against West Florida at a time when our nations are in profound peace. Finally," he adds to this conciliatory letter, "if, contrary to my hopes, your excellency should persist in your intention to occupy this fortress, which I am resolved to defend to the last extremity, I shall repel force by force; and he

who resists aggression can never be considered an aggressor."

In the subsequent proceedings of General Jackson, a more striking illustration is offered of the extent to which his conduct was influenced by this threat. Not satisfied with the seizure of Pensacola, without resistance, he proceeded fourteen miles below it, invested, and, after a heavy cannonade of many hours, took the fortress of the Barancas and the Governor, by capitulation. Nor did he stop here; but, regarding the Spanish troops as prisoners of war, and all West Florida as a conquered country, he shipped the former to the Havana, and usurped over the latter the civil, as well as military, administration. One of my honorable colleagues has, with singular felicity, offered the same apology for these defensive measures of the American commander which he allows to the Emperor of France for subverting the Prussian monarchy. The honor of the French arms required that a threat should be repelled! Sir, the force of the argument will appear very nearly the same, in both cases, when reference is had to the relative strength of the combatants; but there is this remarkable difference between the Emperor of France and General Jackson, that the former was the acknowledged sovereign of France, and the latter had merely usurped the authority of Congress to make war upon a foreign State. Whether General Jackson's conduct was in obedience to his orders, as my honorable colleague (Mr. SMYTH) has so earnestly and ingeniously maintained, is a question between him and the authority from which he derived them, except so far as regards the pernicious example of military insubordination, which is afforded by the impunity of this act. But my honorable colleague will be sensible, on mature reflection, of the embarrassment to which he exposes himself when he seeks to get rid of the express limitation contained in the order of the 16th of December, not to attack the Seminole Indians should they shelter themselves under a Spanish fort, but to notify the Executive of the fact. My colleague has contended that, as the Indians never did seek shelter under the walls of a Spanish fort, this order should be construed as if the limitation which it contains had constituted no part of it. In other words, although General Jackson had no authority to attack a Spanish fortress, which protected the entire army of our enemy, he had a right to attack such fortress without any such provocation or necessity. Sir, in relation to these orders, it is proper to remark, that, departing from military usage, the Government assigns to the officer charged with their execution, reasons for the restraints which they impose on his authority. "The state of our negotiations with Spain, and the temper manifested by the principal European Powers, make it impolitic, in the opinion of the President, to move a force at this time," fourteen days only before the order which I have quoted, "into the Spanish possessions, for the mere purpose of chastising the Seminoles for the depredations which they have heretofore committed." And if policy re-

JANUARY, 1819.

Seminole War.

H. OF R.

quired this abstinence, what shall be said of the seizure of the capital of West Florida when these Indians had been chastised, and all the professed objects of the invasion of their territory attained? Such, sir, was the exposition given of his orders by the President himself, in announcing to Congress that he had authorized the American army to cross the Florida line; and, notwithstanding his refusal to censure General Jackson for disobeying them, such must have been the construction given to them by the President, when, on the 14th of August last he ordered the restoration of the conquered posts and territory to Spain.

Much, Mr. Chairman, has been said, in the course of this debate, of the motives which induced the American commander to depart from his orders. An honorable colleague of mine, (Mr. BARBOUR,) while he has asserted that necessity would have justified General Jackson, has admitted, although he means to vote against the resolutions on your table, that there existed no such necessity for seizing either St. Marks or Pensacola. He has told us that there are degrees of the necessity which would warrant the seizure of a neutral fortress by a military commander. Sir, necessity, which is without law, can know no degrees: and my honorable colleague might as well attempt to resolve duration into time, or infinity into space, as such necessity into degrees. With the motives of General Jackson, except as they illustrate his acts, this House have nothing to do. The conformity of those acts to the Constitution of the United States, is the subject of our present inquiry. We are in the hall of the Representatives of the people, asserting their rights, to have the Constitution administered according to its true spirit. The course of argument of my colleague would be strictly pertinent on an indictment for murder. He might reduce the offence to manslaughter, or to excusable homicide. Our present purpose is not the trial of a public offender, but the maintenance of our own Constitutional powers. Sir, the very worst acts have been done with the very best motives. Political and religious enthusiasm have at times subverted the fairest constitutions of Government, and shrouded Religion herself in blood. I repeat it, sir, I look, in this inquiry, to higher objects than the character and motives of General Jackson—to our Constitution and laws—to the character and genius of the American people.

The doctrines of our opponents, on this question, are more alarming, if possible, than the acts which they seek to justify or to excuse. If, as my honorable colleague contended, who addressed the Committee some days ago, (Mr. SMYTH,) a declaration of war is nothing more than "a recognition that war exists," what becomes of the Constitutional authority of Congress—of all the restraints which the Constitution has sought to impose on ambition, improvidence, and corruption, by vesting the power of declaring war in the Representatives of the nation? The examples derived from the practice of other nations, among whom declarations of war, it is remarked

by Vattel, have fallen into disuse, are inapplicable to us, because they are inconsistent with the genius of our free Constitution.

Alike extraordinary is the conclusion of my colleague, that, because the President is charged with the execution of our laws, and treaties are the supreme law of the land, he may execute within the territories of Spain the provisions of a Spanish treaty; or the yet more extraordinary doctrine, that all the powers of this Government, which may at any time be exercised beyond the limits of the United States, are concentrated in the hands of the President. This Committee will pause before it sanctions doctrines, alike subversive of the independence and laws of other nations, and of the theory and maxims of our own Constitution.

There is one objection urged to the adoption of the resolutions, which I deem it proper to notice before I quit this branch of my inquiry. It has been said by our opponents that, without intending it, we are throwing the weight of our opinions in the scale of a foreign nation, between whom and our Government a negotiation is depending, which involves questions of great importance to the public prosperity.

On the other hand, several honorable gentlemen, on the same side of this question with myself, seem to have regarded it, as a duty to themselves, to disavow the direction thus given to their arguments, and to express sentiments bordering, at least, on hostility to Spain.

Allow me, also, Mr. Chairman, to say, that, although Spain, in my opinion, has given us ample cause of war, I am decidedly opposed to a declaration of hostilities against her. We claim, I understand, as our western boundary, the territory west of the Mississippi, as far as the Rio del Norte. If by treaty it is ours, let it be occupied by our arms; and, having taken possession of that which belongs to us, let us tender to Spain the exchange of that part of it adjacent to her Mexican possessions, for Florida, which she does not want, and which would be to us of great value. If she shall now reject this proposition, the time must speedily arrive when she will perceive it to be her interest to accede to it. So far would I go, and no farther. Not from any apprehension of the power of Spain, but for reasons of policy, too obvious to require to be enforced. A war, even with Spain, would cripple that commerce, on the prosperity of which materially depends the future growth of our yet infant navy. In such a war we would have to contend, not with Spain alone, but to encounter, under the disguise of a Spanish flag, the enterprise and resources of France, of England, and I greatly fear of some of the most abandoned of our own citizens.

Having, Mr. Chairman, consumed so much of the time of the Committee on the first propositions which I proposed to sustain, I shall pass, with more brevity, over the last, which involves the character rather than the Constitution of our Government. In the inquiry, whether the rules of judicial proceeding in the trial of military officers have been wantonly disregarded in the trial and execution



H. OF R.

Seminole War.

JANUARY, 1819.

of Arbuthnot and Ambrister, an unexpected difficulty is started by our opponents, who question whether the special court which tried them was a court martial, or a mere board of officers. It was not sufficient, it seems, that General Jackson informed the Secretary of War "that Arbuthnot and Ambrister were tried under his orders by a special court of select officers; legally convicted; legally condemned; and most justly punished;" or, that he calls the court a court martial wherever he speaks of it, whether in his letters or his general orders. His friends, acknowledging their utter incapacity to defend him, on his own grounds, persist in denominating the court a mere board of officers. Its proceedings they regard as subject to no legal restraint; its judgment as mere counsel or advice, submitted to the discretion of the General, to be altered or extended at his mere pleasure. Is their view then, sir, correct? Were Arbuthnot and Ambrister tried by a court martial, or merely examined by a board of officers? A court martial is either a general court for the trial of all offences whatever, or a regimental or garrison court, for the trial of offences not capital. The former must consist of five, and may consist of thirteen officers. The latter cannot exceed three. A prisoner was here sentenced to death, and the assemblage of officers who sentenced him to that punishment consisted of thirteen; it was, therefore, either a general court martial or no court at all. A general court martial is required, by the rules and articles of war, to consist of "any number of commissioned officers from five to thirteen; but it shall not consist of less than thirteen, where that number can be convened without manifest injury to the service." The court which tried Arbuthnot and Ambrister consisted of thirteen officers, with a supernumerary appointed to act, in case of unforeseen absence or incapacity of any one of that number. A general court martial is required to have a judge advocate, whose duty it is to administer to the officers the oath prescribed by the sixty-ninth article of war, and to act as counsel for the accused as well as the court. The court which tried Arbuthnot and Ambrister had a judge advocate, who administered the oath required by law, and interrogated the witnesses. The prisoner may challenge any member of a general court martial appointed to try him. Arbuthnot and Ambrister were called upon to exercise this privilege. The prisoner before a court martial is regularly arraigned upon charges and specifications filed against him. So were Arbuthnot and Ambrister. He is entitled to counsel if he requires it. Arbuthnot made application for counsel, and counsel was allowed him. A court martial sits with open doors, except when it decides a question, and then the doors are closed. So proceeded the court which tried these prisoners. A court martial has only a limited jurisdiction, both as to offences and persons. So this court decided, for, of the third charge and specification against Arbuthnot, the court decided, "upon the suggestion of a member, after mature deliberation, that it had no jurisdiction." A court

martial can sit, unless by express permission from the officer creating it, only between certain hours of the day. This court was, by order, allowed to sit without regard to hours. In the organization of a general court martial the members are seated alternately, according to rank, on each side of the President. So was this court arranged. A court martial records, along with a minute of its proceedings, all the testimony laid before it. So did this court. It is its special province to decide on the guilt or innocence of the accused, and on the punishment, if any, which shall be inflicted upon them. So was this court required to do, and so it did. A general court martial is required to pronounce upon every charge and specification exhibited against a prisoner. This court obeyed this requisition by acquitting the prisoner, Arbuthnot, of being a spy, and responding to all the charges and specifications against him except that, of which they disclaimed any jurisdiction. A general court martial cannot sentence a prisoner to death, without the concurrence of two-thirds of its members. A concurrence of two-thirds of the court is here certified.

It was a general court martial, convened in virtue of a general order, "for the purpose of investigating the charges exhibited against Arbuthnot and Ambrister, and such others, similarly situated, as might be brought before it." It is, therefore, denominated, by General Jackson, "a special court." All its proceedings were approved by General Jackson; and his approval showed that his order had not been disobeyed. And yet, had this been a board of officers, they would not have presumed to make exception to their own jurisdiction, over any matter upon which their opinion was asked by the commanding General; nor would they have invited the prisoner to challenge any one of their number. A supernumerary officer would not have been appointed; their proceedings would not have been with open doors; a concurrence of two-thirds would not have been required to be certified; nor would an extension of their hours of sitting, by a general order, have been at all necessary. Conforming in so many particulars to the articles and usages of war, it is to be greatly deplored that this court martial, and the General who convened it, departed from both in the most important essentials of justice. For neither the articles of war, nor the treatises on courts martial, authorized the trial of Arbuthnot or Ambrister by the court which tried them. "For the persons," says Macomb, "who are subject to the military laws of the United States, and amenable to be tried by courts martial, are all persons who are commissioned, or on pay, as officers, or who are enlisted, or on pay, as non-commissioned officers or soldiers. All sutlers and retainers to the camp, and all persons whatsoever, serving with the armies of the United States in the field, though not enlisted soldiers, all military storekeepers, commissaries, military agents, surgeons, surgeons' mates, paymasters, quartermasters, chaplains; all officers, conductors, gunners, matrosses, drivers, or other persons, whatsoever, receiving pay or hire in the service

JANUARY, 1819.

Seminole War.

H. OF R.

of the artillery or corps of engineers of the United States, and all officers and soldiers of any other troops, whether militia or others, being mustered and in pay of the United States, when acting in conjunction with the regular forces," and by a special act of Congress, "all spies."

In this enumeration of persons subject to the cognizance of an American court martial, a search will be made in vain for a description corresponding with Arbuthnot and Ambrister, after the former had been acquitted of being a spy. Even where a particular offence is cognizable by a court martial, the character "of the person determines whether it may be tried by a civil or military tribunal. The harboring or concealing of deserters is a civil or military offence, according to the state or quality of the person who commits it." If by a soldier, it may be tried by a court martial; if by a citizen, a law of the United States expressly provides that it shall be tried by a civil court. The same doctrine is established by the Constitution, which provides, "that no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger."

But the mode of trial was not less exceptionable than the jurisdiction of the court. The proceedings of the court are marked alike by the exclusion of competent testimony offered by one of the accused, and by the admission of incompetent testimony against him. The following rules of evidence are laid down by the best American author on this subject—an author to whom the Committee has referred us, as in common use—and who is known to this House, from having received its thanks for his distinguished gallantry. "The evidence," says Macomb, "on trials by court martial, is the same that is required in civil prosecutions."

"In all cases where a party would avail himself of the incompetency of a witness, on account of his conviction of a crime, it is necessary that he should produce to the court the record of conviction, or a sufficient proof of it." Yet, before any trial, the testimony of Ambrister was rejected as incompetent, when offered by Arbuthnot, in his defence.

"Letters of correspondence and all familiar writings must be proved, upon oath, to be written by the person of whose handwriting they are alleged to be." Yet, the letters ascribed to Arbuthnot are received as evidence, without a shadow of proof. For the author, from whom this evidence is quoted, also adds, that, "even the comparison of handwritings, though it may be usefully employed in the detection of forgery, is no evidence to authenticate any writing whatever, as evidence, in a criminal prosecution."

"An attestation of a witness must be only to what he actually knows, from his own observation of the facts in issue. He is not to be examined as to what he has heard, or been informed of by others; for his testimony being in that

case a reference to the information of another, who is not upon oath, is no evidence at all." Yet, in the case of Arbuthnot, the hearsay evidence of Indians, who, as the report of the select committee justly remarks, would not have been competent witnesses, if present, was received by the court.

"Facts are the subjects of evidence, not opinions." It is therefore "to the truth of facts that evidence is regularly brought, and to form opinions of these is the province, not of the witness, but of the judge or juror who is to decide them. No party therefore in a trial is entitled to obtrude the opinions of a witness upon the court, or to call upon a witness to answer questions of opinion." Yet a witness, Hambly, a Spanish renegade, the personal and open enemy of the prisoner, is expressly and repeatedly invited by the court, on the trial of Arbuthnot, to give his opinion of the prisoner's guilt or innocence.

But, admitting the prisoners to have been legally tried by a court of competent jurisdiction, and legally condemned, the execution of Ambrister was in defiance of the sentence of the court, and a mockery of its authority. An honorable colleague of mine (Mr. SMYTH) has contended that there were two sentences in the latter case, and justifies the approval of the first, which condemned the prisoner to death, because the last was illegal. "The judgment of a court martial is always under its own control," says Macomb, "until it is communicated to the officer by whom it is convened." In this case, the first judgment was reconsidered. The reconsideration restored the court and the prisoner to the same situation in which they had stood before any sentence whatever was pronounced; and the final judgment was, therefore, the only judgment of the court. This judgment sentenced the prisoner to be whipped and to hard labor.

General Jackson "disapproved the reconsideration, approved the finding and first sentence of the court, and ordered Ambrister to be shot." Had he authority to do so? "With the appointment or constitution of the court martial," says the high authority I have already quoted, "the power of the officer over the prisoner ceases until that court shall have pronounced judgment. The President of the United States, or General, can no more interfere in the procedure at courts martial, in the execution of their duty, than they can with any of the fixed courts of justice; nor, even after the court martial has pronounced its sentence, is it in the power of the President, General, or other officer ordering the court, to add to or alter that sentence in any one particular, unless a recommendation to that effect shall be therein contained. The President, or Commander-in-chief, in virtue of his prerogative of mercy, may entirely remit the punishment which the court has awarded, or, by disapproving the sentence, he may order the court to sit again, and to review their proceedings and judgment: but he can no more decree any particular alteration of their sentence than he can alter the judgment of a civil court, or



'the verdict of a jury.' Arbutnot and Ambrister were, therefore, tried by a court of incompetent jurisdiction. The former was condemned upon illegal evidence, and the latter executed by order of the commanding General, in defiance of the judgment of a court of his own appointment; all of whose proceedings he approved, except their single act of mercy—the reconsideration of their sentence against Ambrister.

The general order of the 29th of April, commanding the immediate execution of Arbutnot and Ambrister, uncondemned even to this day, nay, more than tacitly approved, is, Mr. Chairman, a stain on the records of the judicial proceedings of this nation, to the insecurity of the honor and life of every officer and soldier of the armies of the United States, and of every citizen of America, who may be legally, or otherwise, subjected to the judgment of a court martial; a proceeding which imperiously calls for the interposition of the authority of Congress, in order that, instead of being converted into a precedent for future imitation, it may be shunned as an object of abhorrence. Sir, it is no little cause of alarm to behold the highest military court of criminal justice, which should be the shield of innocence, converted into a rod of oppression. While I listened with equal attention and delight to the eloquent and able argument of my honorable friend from New York, I thought that even he underrated the security which a military court is designed to afford to an innocent prisoner. I thought he supposed that a military judge was not sworn to discharge the duties of his office with fidelity and impartiality. [Mr. STORRS arose to explain. He had remarked, he said, that the charges were not sworn to on which a prisoner was arrested.] I misunderstood my honorable friend, said Mr. MERCER; but even here the charge must be sanctioned by the honor of an officer. A general court martial derives its appointment from the sound discretion of the highest military authority in an army; its sentence is inoperative until it receives his approbation; and any officer who should seek, by the instrumentality of such a court, to gratify secret resentment or malignity, would render himself odious to his whole corps.

The ingenuity of my honorable colleague (Mr. SMYTH) will in vain attempt to discover an analogy between this trial and any event in the judicial history of this nation. The board of officers who reported Major Andre to be a spy were not constituted a court martial, but if they had been, their sentence was not disregarded. The gentleman will turn in vain to the annals of the Revolution for a precedent to extenuate the enormity of this whole proceeding. We have been asked, "whence this sympathy for two British prisoners?" Sir, my sympathy is not with them, but with our violated laws. The people have seated us by the fountain of justice, and charged us to preserve its purity from contamination. Extraordinary and alarming as are the doctrines of martial law maintained in this debate, there is yet some consolation in perceiving that our op-

ponents have deemed it necessary to take a double ground; and, lest the judgment of the court martial should not sustain the execution of the prisoners, they have resorted to the broad right of retaliation—which brings me to the last proposition that I undertook to maintain—that the accustomed clemency of this nation, manifested in all former wars, has been disregarded in the late Seminole campaign, by the execution in cold blood of unresisting captives, subjected to our arms by the chance of war. Without inquiring into the manner in which the two Suwanee chiefs were decoyed into our grasp by the use of the British flag, or Arbutnot was dragged from beneath the protection of the neutral flag of Spain—acts which, coupled with the succeeding tragedy, imbue its closing scene with deeper horror—I utterly protest against the application which has been made of the exploded usages of war to justify these barbarities. Nor will I distinguish between the treatment of our Indian and white prisoners—a distinction which, until this debate, was never heard within the councils, nor known until the late Seminole war, in the practice of this nation, or of any of the numerous States of which it is composed. The doctrine that Ambrister was not entitled to be regarded as a prisoner of war, because he had no commission from his own Sovereign, would have equally applied, as the select committee have remarked, to the most distinguished officers of our Revolution; men to whom the venerable Congress of that day voted statues and monuments, and whom our enemy, in all the pride of his power, dared not but respect. The other doctrine of my honorable colleague, (Mr. SMYTH,) that Ambrister had no commission from the Indian nation, to which he united his arms, is disproved by an authority which he himself will admit—by the charge to which the prisoner plead guilty, and upon which he was condemned to be shot by his prosecutor; the charge of leading and commanding the Lower Creek Indians in carrying on a war against the United States—unless, indeed, it be contended that he commanded and led his forces without their consent. The crime of aiding, abetting, and comforting them, on which the remaining charge was founded is evidently merged in the heavier accusation to which he plead guilty, and which he sought at least to justify. And if, sir, the war was defensive on the part of those unhappy Indians, a justification more complete in all its parts could not be well imagined. The benefit of that justification would alike extend to Arbutnot, a mere trader in the usual subjects of Indian commerce, since they have laid down the bow and arrow, and resorted for subsistence as well as security to the musket and rifle, if he had not in fact discountenanced their resistance of a force that he saw must overwhelm them.

Who, sir, were the other captives condemned to death? It has been said of some of the Suwanee chiefs, that he was the author of the massacre of Scott's detachment, destroyed, as I have proved, in that Indian territory which our army was not only preparing to invade, but had,

in fact, invaded; and the participation of this chief in the bloody massacre which closed this scene, is unsustained by any proof whatever.

As to his unfortunate comrade, the Indian Prophet, what are his imputed crimes? That he was, himself, the victim of superstition; that he deluded his wretched followers. Such was the guilt, sir, of all the augurs and soothsayers of the ancient republics, sometimes Prætors, Consuls, and Dictators, not to Rome alone, but to a conquered world. A guilt, in which lies still involved three-fourths of the human race; many of whom yet groan, in cities, in palaces, and temples, beneath a superstition, compared with which, the religion of the wandering inhabitants of our western wilds is simple, peaceful, and consolatory. Or did his guilt consist, in returning home with a foreign commission, after having crossed the Atlantic in quest of aid, to sustain the sinking fortune of his tribe? Has it, then, become a crime, in our day, to love our country; to plead her wrongs; to maintain her rights; or to die in her defence? Sir, had not the God I worship, a God of mercy as well as truth, taught me to forgive mine enemies, did he, as the Great Spirit whom the Seminole adores, allow me to indulge revenge; were I an Indian, I would swear eternal hatred to your race. What crimes have they committed against us, that we have not, with superior skill, practised upon them? Whither are they gone? How many of them have been sent to untimely graves! How many driven from their lawful possessions? Their tribes and their very names are almost extinct. My honorable colleague, (Mr. BARBOUR,) who differs from us on this question—my honorable friend I will call him, for he inspired that sentiment, while he eloquently described the wrongs and sufferings of this unhappy race—will not condemn in a poor Seminole Indian that love of country, of which, if it be indeed a crime, no man is more guilty than himself. But it seems he was an Indian. The Suwanee chief, his comrade, was so too. Arbutnot and Ambrister, who inspired their counsels and led them to combat, are to be regarded as themselves, and, under the law of retaliation, they were all liable to suffer death, at the pleasure of General Jackson. And thus, Mr. Chairman, the clemency which has been observed, for two centuries, in all our conflicts with the aborigines of America, is at length discovered to have been an impolitic abandonment of the rights which we derive from the laws and usages of war. Nay, sir, the victories of all our former commanders, in all other Indian wars, are cast into the shade, in order to magnify the effect of this new policy. In the hard-fought battle of Point Pleasant, in which I have heard that three hundred Virginians fell, my colleague (Mr. SMYTH) tells us, that only eighteen Indian warriors were found dead on the field. Before the impetuous charge of the gallant Wayne, but twenty fell. At Tippecanoe, but thirty. On the banks of the Tallapoosa, General Jackson left eight hundred Indians dead. Sir, it is consolatory to humanity

to look beyond these fields of slaughter, to the peace which followed them, the only object of a just war. From the battle of Point Pleasant to the present day, Indian hostilities have ceased in Virginia. The victories of Wayne led to the treaty of Greenville, and was followed by a peace of eighteen years. The treaties of Hopewell, of New York, and of Colerain, preceded by no battles, were succeeded by a peace, which, with the Creeks and Seminoles, it required, after the lapse of nineteen years, another British war to disturb; and which, with the Choctaw and Chickasaw Indians, endures to this moment. While the splendid victory of Talapoosa, and the treaty of Fort Jackson, have not yet, it is said, secured to us peace, although aided by our new code of retaliation, and its practical commentary, the execution, in cold blood, of four Indian captives.

Mr. Chairman, it has been justly remarked, that the only lawful end of retaliation is lost on an Indian foe. Death has no terrors for a North American savage. Hunting and war are his delight. He hates labor. You may punish him by requiring him to construct another wigwam, by laying waste his cornfields, or destroying the fruits of his harvest. So far our retaliation has hitherto gone. And the peace which it has purchased has evinced its efficacy. The Indian is as generous as he is brave. In our past intercourse we have sometimes conciliated his friendship by presents; and, by kindness, softened his ferocity. Why not persevere? With him revenge is lawful. By departing from the maxims observed in all former wars, we shall rival our savage foe in cruelty, without his apology to plead in its extenuation.

I admit the power of a military commander to put his prisoners to death, but I deny his right. No man has a right, derived from God or nature, to practise cruelty or injustice; and all needless severity is both unjust and cruel.

The law of nations sanctions no such pretensions. Two of our Indian treaties furnish a more correct exposition of this law, than our adversaries have done. "It is understood (said the old Congress and their Indian allies) that the punishment of the innocent, under the idea of retaliation, is unjust." "A nation (says Vattel) may punish another, which has done her an injury, if the latter refuses to give her a just satisfaction; but she has not a right to extend the penalty beyond what her safety requires. Retaliation, which is unjust between private persons, would be more so between nations; because it would, in the latter case, be difficult to make the punishment fall on those who had done the injury."

Wherever this humane writer seems to contradict this doctrine, as when he sanctions the departure from the usages of civilized warfare, to retaliate on nations who disregard them, it is to bring those nations back to reason and conscience. If this be impossible, the retaliation is unjustifiable.

Would you make slaves of Algerine captives because the Turks enslave their christian prison-



H. OF R.

Seminole War.

JANUARY, 1819.

ers? Europe has never thus retaliated on the States of Barbary. How speedily would the practice of this doctrine replunge the world in barbarism. In refusing to wage war for revenge, and blending martial courtesy with valor, a nation advances her true glory. That enemy is most to be dreaded, who conquers by his clemency as well as his sword. "Who, though the lion in combat, the battle once ended, has the heart of a lamb." Such has ever been the character of an American soldier, and such, I trust, Mr. Chairman, will continue to be the boast of our arms.

How gratifying will it hereafter be to the feelings of this nation, in looking back on the course of this debate, when all its irritation shall have subsided, to perceive that the most laborious research into the past history of our country, from the first period at which our fathers landed on this continent, down to the late Seminole war, has not been able to furnish a solitary example of the execution of an Indian captive, in cold blood. Usage is the best expositor of national law, and the usage of two centuries excludes this new law of retaliation from the humane code of America.

It has been urged by one of my honorable colleagues, (Mr. SMYTH,) to whose argument I have often had occasion to advert, in the course of this debate, that the glory of a nation consists of the fame of its great men. I had thought it more comprehensive. That it embraced all the blessings, moral and physical, with which the munificence of Heaven has crowned the lot of any people. The extent of their territory, the salubrity of their climate, the fertility of their soil, the multitude and variety of its productions, the scenery of their country, its capacious bays, its noble rivers, its lofty mountains; their commerce, their arts of peace as well as of war, their manners, their customs, their institutions, their laws, their morality and piety, and the wide diffusion of their happiness. With us, sir, the security of all these blessings, that which stamps on them their durable value, is our excellent constitution of Government. This is the cement of our Union, the spring of our commerce, the shield of our security, the pledge of our peace, the guardian of our freedom. Whatever other sources of distinction we may possess, they will be found to be contained, at last, in our liberty. From this source, distinguished men have doubtless sprung, and will be multiplied in all future time. But let us not mistake the fruit for the tree; and, attracted by the lustre of the one, leave the other to perish by neglect.

In the progress of my argument, I perceive, Mr. Chairman, that I have anticipated my last proposition, and have removed, I trust, the necessity of offering any further reasons in support of the resolutions on your table. Of those which are immediately practical, one will, I hope, furnish an additional sanction to the acknowledged law of nations, which forbids a belligerent to enter a neutral territory, without permission, except in fresh pursuit of a flying enemy; and the other, which requires the assent of the President of the United States to sanction the execution of

a prisoner of war, on the supposition that he may be tried by a court martial, extends the security for human life very little farther than the present articles of war. Following the American army everywhere, they now require that no judgment of a court martial, in time of peace, inflicting capital punishment, shall be executed, until it has received the approbation of the President.

Mr. COLSTON said that he rose at that late period of the debate, trusting that the Committee would excuse his trespassing, for a short time, upon their attention, whilst he discharged his duty to himself, his constituents, and his country, by expressing his sentiments on this important question, involving, as it did, the Constitution and laws of the country. In the investigation of it, he would not be deterred from expressing his opinion freely, either by the declarations of those high in authority, that General Jackson's conduct must be defended, or by the character of the individual who was the subject of this investigation, or by any of those means which had been used to prevent the expression of disapprobation by those who thought his conduct censurable.

He would not deny that, in the defence of New Orleans, General Jackson had rendered important military services, and had thus acquired a high reputation with his countrymen; but this rendered it the more necessary strictly to scrutinize his conduct, for the history of the world would show, that wherever the liberties of a nation had been subverted, it was always done by those the splendor of whose actions had screened from censure their first violations of the laws and constitution of their country. He should, therefore, proceed to the investigation of General Jackson's conduct in the Seminole war; and if, in the course of it, he found that he had violated the Constitution, infringed the laws, disregarded his orders, and adopted, as a rule of nations, principles at variance with those laws, and to all the received opinions of this people, he should not hesitate to express his most decided disapprobation.

Sir, had an ordinary man said that the Governor of an independent State had no right to issue a military order to the militia of that State, under his command, whilst an officer of the United States was in service, we should have smiled at his ignorance of our peculiar form of Government; but the same doctrine, coming from General Jackson, becomes dangerous. Had one individual indulged in the same style of correspondence with another individual, which is used in the letters to the Governor of Georgia, we should have considered it rude; but, coming from a General in the service of the United States, and that officer General Jackson, it has an awful squinting towards the degradation of State authorities—the prostration of State sovereignties, with the preservation of which is connected the best interests of this nation. And, finally, had a man unknown to fame executed two individuals, without any law of this nation to justify it, we should have found no difficulty in giving to the deed a name; but, when it is done under claim

JANUARY, 1819.

Seminole War.

H. OF R.

of military authority, it constitutes a political offence of a much higher and more dangerous nature. Such acts, he must confess, roused all his jealousy of military power and military usurpations.

Mr. C. said he would have occupied the floor at an earlier period of the debate, had it been practicable; but the very able views which had been taken of the general subject, particularly by the honorable Speaker, the gentleman from New York, (Mr. STORRS,) and his friend who had preceded him, whilst it left him little to say, gave him reason to rejoice that his wishes had not been gratified. He would not fatigue the Committee by going over the ground that had been so ably occupied, but would principally confine himself to such views as had, from the hurry of debate, escaped those gentlemen who had preceded him, or not been sufficiently urged by them, from a want of time.

The power of declaring war had, for the wisest reasons, been confided, by the framers of the Constitution, to Congress; and yet we have seen the province of a nation, with whom we were at peace, invaded; her fortresses besieged and stormed; her towns taken; the blood of her citizens shed; her Government subverted; her laws abrogated; the civil power usurped, and those soldiers who had been placed there to preserve her authority and enforce her laws, sent off from the province they were intended to defend, and all this without any act of Congress to warrant it.

If these were not acts of war, he knew not what were; and yet, as he before observed, Congress had not been consulted. He had no hesitation in saying, that this was the most flagrant and palpable violation of the Constitution—the most violent encroachment upon the rights of that House, which had ever occurred in this country; an encroachment, too, not depending upon a literal construction of the Constitution, but was the assumption of a power expressly withheld from any other branch of the Government than Congress; as such, he entered his protest against it, and expressed for it his most entire disapprobation. The Constitution then, sir, has been violated; let us see whether this violation has proceeded immediately from the Executive or from General Jackson.

With regard to entering Florida, much national law had been quoted to justify the measure; but all those principles apply to sovereign Powers, and only serve to show that this nation, in its high sovereign capacity, would have had a right to order its armies into that province, without giving just cause of offence to Spain. But where is this sovereign power lodged by the Constitution of this country? In Congress, unquestionably, and not in the Executive. I am not prepared, however, to say that, being once involved in war with the Seminoles, the Executive had no right, even under our form of Government, to order the troops into Florida, without the consent of Congress, as an incident to that war. But here another question will arise as to the power of the Executive to enter into that war, without

a law. The wars which have heretofore been waged against Indian nations have always been against those within our acknowledged territorial limits. The use of the army against them has resembled more the case of suppressing an internal enemy, than waging a foreign war. The President, therefore, has, under the authority of a general law, exercised the power of calling out the militia, and sending against them the military force of the United States, without a particular law to authorize it; but surely the case is very different in relation to Indian nations without our territorial limits, and, as far as regards us, to all intents and purposes independent. With regard to these, he had no doubt the assent of Congress to the war was as necessary by the Constitution as in any other war whatever, although he had no doubt the omission to obtain that assent arose from the former practice of the Government, and their not having reflected upon the change in circumstances, which, in the present instance, required a change of that practice. He was never disposed to blame, upon slight grounds, the Executive Magistrate of the Government. But these two last questions were entirely of a domestic nature, and were only differences of opinion as to the mode of exercising a right unquestionably belonging to the nation; and, as he before observed, that Spain had no right to complain of the entrance into Florida, so also she has no right to inquire into the legality of this war against the Seminoles. But, with regard to other acts in the progress of this war, of which Spain had just reason to complain, which might have involved this nation in a foreign war, and which did, in effect, amount to a war on her part against Spain, let us again recur to the original question, whether they proceed from the Executive, or were the acts of General Jackson, upon his own responsibility.

To ascertain this, let us examine his orders. They were given to General Gaines on the 16th of December, 1817, and are referred to in the order directing General Jackson to take the command of the army. In those orders the Executive strictly conforms to the established laws of nations; they permit the army to cross the Florida line, if necessary, but expressly direct that, if the Indians should even take shelter under a Spanish fort, and be protected by them, not to attack the place, but to report it to the War Department, and wait for further orders. Did General Jackson obey these orders? Let St. Marks, Pensacola, and the Barancas answer. But I am not disposed to censure General Jackson unjustly; there may have been some reason for his taking St. Marks, notwithstanding his orders. As far as the laws of nations are concerned, it might certainly be justified by a milder code than that from which he has drawn his definition of a pirate. But where was the necessity of taking Pensacola and the Barancas? General Jackson himself shows that there was none; for, in his letter of the 20th of April, he states that the war may be considered at an end—that only a few Red Sticks, &c., remained, who were not a for-



midable enemy, and that even if the war were renewed, the posts they then had, with only a small military force, would be sufficient to restrain the Indians. If this be the case, where the necessity of taking Pensacola? General Jackson himself does not put it upon the ground of necessity, nor entirely upon the ground of their hostility, manifested by affording comfort and supplies to the Indians; for that could not have justified him, inasmuch as his orders had forbidden him to attack a Spanish fort, even under circumstances of much greater hostility, viz., the Indians taking shelter under it, and being protected by it. What, then, is the immediate cause assigned for the capture of that place? He states that on the 23d of May, being then in full march towards Pensacola, he received a protest from the Governor of that place, which protest Mr. C. was surprised to hear some gentlemen call a threat. Now, what was this protest? Only that he disapproved of General Jackson's conduct in approaching his command with a large military force, in a time of profound peace between the two nations, without having given those explanations and security against aggressions which the neutral has always a right to demand; and a declaration, that, if the aggression was continued, that is, his post attacked, he should repel force by force. And this General Jackson construes into such a manifestation of hostility, that he no longer hesitated upon the course to be pursued, but marched the next day to take possession of the place. A manifestation of hostility, sir! What could the Spanish officer have done less? He did his duty merely, and less would have been inconsistent with his own honor, or that of his nation. In this transaction, sir, General Jackson seems to have yielded to the impressions of anger, that any one should have dared to oppose the slightest obstacle to his wishes. He took the place in violation of his orders; and, in violating them, he violated the Constitution of his country, and for this the Congress of the United States should express their decided disapprobation. And yet some gentlemen speak of voting thanks. Thanks, sir, for what? Mr. C. confessed that, for his part, in the conduct of the Seminole war, he saw but little to approve, and much, very much, to censure.

But, said Mr. C., my honorable colleague (Mr. BARNOUR) tells us that, although he disapproves this conduct, he will not express anything that looks like censure, because he believes the motives of General Jackson were good in these transactions. Sir, if the question were, whether the General should be in any manner punished for these things, my colleague's principle would be correct. I do not myself intend to impeach his motives; but, when the question is, whether the Congress of the United States shall or shall not express their opinion as to a violation of the Constitution, in order to preserve that Constitution in its purity—to prevent encroachments upon their own powers, and to prevent these acts from being hereafter drawn into precedent, and again repeated, I cannot see that we have anything to do with

motives. It is sufficient for us that the Constitution has been violated and our powers disregarded.

My honorable colleague has also said, that he was unwilling to censure the conduct of the General, because, although the case did not justify the act, yet a higher degree of the same necessity would have justified the capture of Pensacola. If he means that a case might have existed in which it would have been justifiable, we agree; but that would be to suppose a case different from that which the documents presented. The principle of the laws of nations is, that a case of *extreme* necessity will justify the seizure of a neutral post. The argument of the gentleman supposes degrees in cases of *extreme* necessity, which cannot exist.

Mr. C. said, he would now proceed to examine the trial and execution of Arbuthnot and Ambrister. The ground which General Jackson assumed to justify his conduct had been pretty generally abandoned upon that floor. He had heard but one gentleman (Mr. JOHNSON, of Kentucky,) attempt to defend it, by a quotation from Vattel, to prove, that an individual who made war upon a nation was to be considered an outlaw and a robber. The gentleman would find, he believed, upon almost the same page in Vattel, (he spoke and quoted from memory,) that even an officer holding a commission, who attacked another nation without an express order from his Government, did it upon his own responsibility; his commission did not protect him; he is to be considered as an individual. He would leave it to that gentleman to reconcile the passages, and apply them to the case under discussion. But, sir, as gentlemen have found it necessary to abandon the ground assumed by General Jackson, and to place his defence upon another, let us examine the ground they have taken, and see if it is more defensible. That ground is the right of retaliation. Mr. C. would not encumber the question with another, viz., whether the testimony were sufficient to identify Arbuthnot with the Indians, but would meet it fairly and openly. Before he did so, however, he would beg leave to suggest one difficulty in the case. It was a principle in the laws of nations that, under certain circumstances, a belligerent might enter a neutral territory. It was equally well established that, in doing so, they were bound to abstain from all acts of hostility by which the neutral could be compromised with the other belligerent. This being the case, although he did not know what the practice of nations was in that respect, he should suppose, that, although, if an armed and embodied enemy were found in the territory, he might be attacked, yet, if the belligerent so entering a neutral territory should find there an individual enemy, (and particularly if unarmed,) reposing under the protection, and relying upon the hospitality of the neutral, they would have no right to capture him, because his capture would be an act of hostility committed in the country of the neutral, not to be justified by the same necessity which authorized the entrance into his country, and by which his peace might be compromised with

your enemy. Apply the same principles to a fort which you are under the necessity of occupying, and, if they are correct, Arbuthnot ought never to have been considered a prisoner of war. But, to the doctrine of retaliation. He called the attention of the Committee to the difference between the right of a nation, and the right of a general, to retaliate. The foundation of this right was the protection and preservation from injury, by inflicting upon another those injuries he has committed on you. Inasmuch, then, as the injuries which may be inflicted upon a nation are so much more numerous, and of such different characters from those which may be inflicted upon an army, their right is much more extensive in this respect than that of a general. The right is only co-extensive with the object, and can never exceed it. It is a sort of extension of the general law, for a particular object, and must be limited by the occasion. The nation has the right to retaliate all outrages committed against the nation, but the general only possessing this right for the preservation of himself and his army against outrage, Mr. C. would maintain, without fear of contradiction, that he has only a right to retaliate for offences against the practices of war, committed in relation to him or them. The cases of Asgill and others, which have been cited from our own history to support this doctrine of retaliation, all go to prove the same fact. They are all instances of retaliating upon the enemy some offence against the laws of war, in the persons of those attached to the army. But what are the charges against Arbuthnot? Is he charged with any violation of the practices of war, or with any outrage against the General or his army? No, sir, he is charged with an offence against the Government of the United States. And has this Government fallen so low that it cannot protect itself from injury without the strong arm of military power to shield it from the attacks of individuals? The doctrine of retaliation, then, will not bear the gentlemen out in the execution of Arbuthnot, because he is charged with no offence for which the General had a right to retaliate. Again—not to mention the ground which has been taken by the honorable Speaker, of the total inapplicability of the principles of retaliation to Indian warfare, and which I have not yet heard successfully controverted—in order to justify retaliation, it should be declared to the enemy to be so, and the particular offence for which it is a retaliation should be announced. Had this been done? The charges themselves are a sufficient answer to this question. Sir, of human blood we should always be tender; and, although gentlemen may say that much benefit may result from this exemplary punishment of an individual whom they conceive to have been mischievous, this Committee cannot with safety sanction that doctrine in morals—that evil may be done that good may come of it.

But, if gentlemen have recourse to the laws of nations to support this doctrine of retaliation, let them take the whole law in relation to the subject. Now, it is a principle fairly deducible from that law, that in those cases in which

a nation is compelled to resort to extraordinary remedies to protect herself from harm, she is also bound to resort to the mildest remedy that will effect the object. If, then, a course can be pointed out which would have been milder than that pursued, and answered every purpose equally well, that takes away of itself all justification for the harsher course. Now, we had Arbuthnot and Ambrister in our power; they might have been confined until the war was at an end; and, if they had violated the laws of nations with regard to the United States, we might either have required of Spain their punishment, or, if they could not have been punished, we might have required their perpetual banishment from the province, as persons inimical to us, fomenters of war, and dangerous to our peace. This would have answered every national purpose of protection to us; and, by the principles of the laws of nations, this is the course we were bound to pursue.

But again, sir, General Jackson has undertaken to execute this man for a supposed offence against the laws of nations, in taking part against us in a war, whilst his country and ours were in a state of peace. Now, not to mention that his "well established principle" is not the law of nations at all, and cannot be supported by any acknowledged authority on that subject, nor the hostility of this principle to all the heretofore received opinions of this nation, I contend that, in this country, no violation of the laws of nations can be punished without an act of Congress prescribing that punishment. The framers of our Constitution, for the wisest reasons, determined that the persons and property of their citizens should not be subjected to condemnation, under a system of laws not to be found in their own statute book, but for which they would have to wade through the pages of Vattel, Grotius, and Puffendorf; and which would be as entirely inaccessible to most of them as were the laws of the Roman tyrant, who had them placed upon high poles, written in small characters, that he might have an opportunity of satiating his thirst for blood by their ignorance of his edicts. They have therefore declared, in that Constitution, that Congress alone shall have the power to prescribe the punishment for violations of the laws of nations; thus abrogating at once all that code, as far as it operates upon the persons and property of individuals. Before any man, then, can be punished for a breach of those laws, an act of Congress must prescribe it; and will gentlemen inform us where the statute is to be found in which the penalty for the offence charged upon Arbuthnot is to be found? Mr. C. would apply this remark also to those cases of retaliation or severity which had been cited from our own history, to justify this deed. They all occurred before the adoption of this Constitution, before the abrogation of the national law operating upon individuals, and had that law for their justification, but surely cannot be considered as authority since the great change which the Constitution has made in our situation.

General Jackson, then, has in this instance, as well as in others which have been alluded to, vio-



H. OF R.

Seminole War.

JANUARY, 1819.

lated the Constitution, which we have sworn to obey and support; and, for my own part, said Mr. C., I feel myself bound, by the sacred obligation of that oath, to express my disapprobation of it.

As for Ambrister, many of the observations which have been made will equally apply to his case; but it may be sufficient to say, that he was not condemned to death by the court, and that his execution was without any warrant or justification whatever.

But Mr. C. had promised not to trespass long upon the time of the Committee, or to pass over ground that had been already sufficiently examined. He would not, therefore, go into a particular examination of those trials, or of the testimony upon which they were convicted. He agreed entirely with the report of the Military Committee, as to the injustice which had been done by the court in the trial of Arbuthnot, by the admission of testimony which should never have been received; in the manner of examining the witnesses, in rejecting testimony on the part of the prisoner which he was entitled to have examined; and, indeed, in the whole course of this proceeding. But he would go further, and say, that the testimony, even as taken by the court, was totally insufficient to support the charges, the charges totally insufficient to warrant his execution, and his blood had been shed contrary to the laws of God and man.

Mr. STROTHER, of Virginia, rose in opposition to the resolutions, and had proceeded for some time in his argument; when, on motion, the Committee rose, reported progress, and obtained leave to sit again.

WEDNESDAY, January 27.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the amendments proposed by the Senate, to the bill, entitled "An act making appropriations for the military service of the United States, for the year 1819," reported their agreement thereto, and the amendment was committed to a Committee of the Whole, to-day.

Mr. MARCHAND, from the select committee, to whom was referred the petition of Benjamin Wells, made a report thereon, which was read; when, Mr. M. reported a bill, supplementary to the act, entitled "An act for the relief of Benjamin Wells;" which was read twice and committed to the Committee of the Whole, to which is committed the bill for the relief of John Wells.

A message from the Senate informed the House that the Senate have passed bills of this House, of the following titles, to wit: "An act for the relief of Sampson S. King;" "An act for the relief of Daniel Renner and Nathaniel H. Heath;" and "An act making appropriations for the support of the Navy of the United States, for the year 1819;" with amendments. They have also passed bills of the following titles, to wit: "An act further to extend the judicial system of the United States;" and "An act further to extend

the jurisdiction of the circuit courts of the United States, to cases arising under the law, relating to patents;" in which amendments and bills, they ask the concurrence of this House.

The bill from the Senate, entitled "An act further to extend the judicial system of the United States," was read twice, and referred to the Committee on the Judiciary.

The bill from the Senate, entitled "An act to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to patents," was read twice and also referred to the Committee on the Judiciary.

The amendment proposed by the Senate, to the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," was read and referred to the Committee of Claims.

The amendment proposed by the Senate, to the bill, entitled "An act for the relief of Sampson S. King," was read and concurred in by the House.

The amendments proposed by the Senate, to the bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1819," were read and referred to the Committee of Ways and Means.

An engrossed bill, entitled "An act for the relief of Hannah Ring and Luther Frink," was read the third time and passed.

The House then took up, in Committee of the Whole, the amendments of the Senate to the military appropriation bill, which, being agreed to by the Committee of the Whole, were reported to the House, and, with the bill, laid on the table.

#### SEMINOLE WAR.

The House then proceeded to the orders of the day, and resumed, in Committee of the Whole, (Mr. H. NELSON in the chair,) the report of the Military Committee on the subject of the Seminole war.

Mr. STROTHER concluded the speech which he yesterday commenced in opposition to the report, &c., in which he occupied nearly three hours. It is given here entire, as follows:

Mr. STROTHER said, that at that late hour of the day, when the subject had been so much exhausted, and the attention of the Committee so much wearied, he with reluctance engaged in the debate; but his excuse would be found in the artificial importance the subject had assumed by the wide excursions in which gentlemen had indulged, embracing, in the scope of their arguments, not only the illustrious chief against whom the attack is directly aimed, but mounting up to the Executive, and charging him with a violation of the Constitution.

He said, the advocates of these resolutions claimed to be the exclusive guardians of the Constitution: a portion of them, he admitted, held the title by prescription; they had sounded the tocsin when the midnight judiciary disappeared; they had raised a warning voice against the embargo, and the whole restrictive system, as infractions of that sacred charter; and they protested against rejoicing for the brilliant victories

JANUARY, 1819.

Seminole War.

H. OF R.

achieved by our heroic armies and gallant navy, as unbecoming a moral and religious people: when now called upon, as formerly, to put the finger upon the principle which is wounded in that instrument, they cannot agree upon the point where it is to be found; it was an intangible, fleeting principle, which eludes the grasp of examination. He claimed no participation in the vision, but he claimed a conscientious discharge of duty, and the credit of the humble endeavor to vindicate the honor of the nation, and to preserve the Constitution inviolate.

He objected to the mode of proceeding; he denied Congress had power to proceed in this manner; the bright page that records the immortal deeds of our ancestors, and the happiness of this favored people, is shaded by the paroxysms of party heat. The Congress of the United States once stepped down from the elevated duties of legislation, to censure the self-created democratic societies; it was then the eloquent Ames sung the syren song that spell-bound the people: the delusion was but for a season; the enchantment dissolved; the nation awakened from its trance, and, gifted with the energy that freedom bestows, sprung upon that basis of correct principle upon which the present Administration stands; then the democratic party contended, in vain, that the right to the proceeding was not vested in this House. On another occasion, when the army, commanded by St. Clair, sustained a bloody and disastrous defeat, a democratic member proposed a resolution, requesting the then President, General WASHINGTON, to set on foot an inquiry into the causes of that inglorious affair; the Federal majority rejected the proposition as unconstitutional and improperly interfering with the powers of the Executive department.

Each party was correct when contending for the negative, as will appear from an examination of the question. This is a Government of departments, shedding light, emitting heat and promoting political health. When each revolves in its peculiar orbit, the limits and extent of each are distinctly marked out in the Constitution. Congress can speak an army into existence; by repealing the law that gave it being, you annihilate it; or, by refusing to appropriate the means of subsistence, it languishes and expires. The management of this army is placed in the hands of the Executive; speak it into existence, it bounds into another sphere beyond your control. This division of power is wisely ordained—guarding against this dangerous machine by legislative jealousy, and giving it energy and promptitude of movement by the Executive. This army, existing by your will, is only responsible to the Executive and the Judiciary. Personal wrong, and the invasion of private rights, give the courts jurisdiction. If the peace of the nation is compromised, and its honor tarnished, the Executive holds the corrective; and, if this high Constitutional officer sleeps at his post; if he shield the delinquent, and hesitates to redeem the sullied justice of his country, he becomes accessory—is implicated in the guilt, and subjects himself to

15th CON. 2d SESS.—27

punishment, by impeachment. The inconvenience and impracticability of exercising this power, prove it is not granted to this department of the Government. If it is your right and your duty to stoop beneath the Commander-in-chief, to lay hold of a Major General, it is equally incumbent upon you to descend into the ranks; place a private soldier into legislative inquisition, and gravely discuss, and sagely decide, upon his demerits. The doctrine contended for lays hold of both ends of the Military Establishment. He said, amidst the awful convulsions of the French revolution, the Convention wasted an entire night in examining a sergeant; descending from "riding in the whirlwind, and directing the storm," to the examination of a soldier. Some claim the right to censure, as the correlative of the practice of giving thanks. He denied that this practice was predicated upon right. This is no novel idea, intended for the present moment. In a proposition to return thanks to General Wayne, for the brilliant victory of the Miami, Mr. Tracy and others denied that Congress possessed this power. The practice has grown out of usurpation. It can only be claimed upon the pre-supposition that Congress represent the entire sovereignty of the people, and reflect their feelings. On the contrary, the members of this House are only special agents, for limited and defined purposes. This power is not delegated to you by any affirmative grant, nor is it incidental to any express grant. When Congress, warmed by the gratitude which glowed in the bosom of this nation, poured out the rich libation of its thanks, and entwined the laurel around the brow of the hero, no one paused to inquire if, beneath the leaf, the asp was hid, whose poison would wither that laurel, and sting the wearer to death.

No, sir, this people have not constituted you the agents to confer her thanks, or to select objects of benevolence, and distribute her gratuities. More arduous employments are assigned—more important duties imposed. You have been tolerated in weaving eulogies, and braiding and festooning them with all the art of taste and criticism to decorate the favorite of the day. It was an innocent waste of time; it did not render a heroic deed more brilliant, nor did it sully the bright chastity of a well-earned renown. But when you censure you desert legislation; you exercise high judicial power; you inflict punishments upon ex parte examination; you deprive a man of that property which he holds in a cherished reputation; that property which he hugs nearest to his heart, and which is the richest and most precious patrimony of his descendants; your censure "rives and blasts like the lightning of Heaven," leaving its victim exposed to scorn and contumely, and brings him to trial, if a military court shall be ordered, with presumed guilt, and anticipated conviction. By practice you are the grand almoners of the nation. In the spirit of beneficence, you made a magnificent donation to a South American province; Charity cast her mantle over the act, and the nation would not rend the veil. Sir, this nation has a heart



to feel, and magnanimity to forgive, when the error is on the side of generosity and humanity. Build upon this acquiescence a right to punish; touch but a vested right in the humblest citizen, and its justice will lead you back to the Constitution; the instrument of your power and their protection.

But, admitting that this House possess the power, the transactions of the Seminole war do not justify its exercise. The advocates of the resolutions, by different routes, arrive at one common conclusion: one contends that the President made war, and usurped the powers of this House; others take post at the thirty-first degree of south latitude, and some few push on to Pensacola, and contend that there the original sin was committed—there the forbidden fruit was eaten that stains the whole Government with the guilt of violating the Constitution and insulting the majesty of the King of Spain. Many, to be sure, Mr. Chairman, drop by the way, and fill up the intermediate chasms. Did the President make war, and usurp the powers of Congress, the just exposition of our Constitution is best seen, and most clearly understood, in the uninterrupted practice of this Government. The Administration of Washington, to which we all look with pride, and many with regret, as the good old Constitutional times, presents the first link in that chain of precedent which reaches down to the present transaction. This Government found several of the States engaged in hostilities with the Indians. The President communicated this circumstance to the first Congress, who immediately appropriated money; and a bloody contest ensued, distinguished only by appropriations and defeat. Harmer's army sprung from an appropriation bill; that commanded by the unfortunate St. Clair stood upon the same basis, and when its disastrous defeat roused the Government to the miserable condition of the frontier, the military establishment was considerably increased, and placed under the command of the gallant Wayne, who infused his martial spirit into that army, and achieved the victory which gave peace and tranquillity to the harassed and bleeding frontier. As early as 1792 Congress vested power in the President to call out the militia to suppress insurrections, or repel invasion from any foreign Power or Indian tribe. The power transferred by that act being insufficient to the purpose contemplated, in 1795 another law was enacted, clothing him with further power—authorizing him to take advantage of the indications of hostility—to anticipate the approach of the storm, and to strike before the elements of havoc and desolation were collected together, and poured upon the frontier in fire and indiscriminate massacre.

Those who then filled the Government were fresh from the Revolution, and were animated by the spirit which is embodied in your Constitution. No passion then existed in which could flourish party spirit; it could germinate, but to ex-pire, in the then pure state of our political atmosphere; in the calm light of mild philosophy

they examined their duties and transferred this power; these were the men who worshipped Liberty in her favorite temple, in sincerity and in truth; these were the men whose blood and suffering elevated you to the rank of a nation, and whose wisdom gave you a Constitution which breaks upon the view of enslaved and benighted Europe, like the star in the East, happy harbinger of hope, proclaiming there is power sufficient to redeem from thralldom and misery.

Upon examining the documents, it will satisfactorily appear that the Seminole war was conducted upon principles strictly consistent with this practice and the laws of the land. But, Mr. S. said before he went into this inquiry, he would advert to an argument of his colleague, (Mr. MEACEN,) who called for information to put his country in the wrong; and the hint, he said, was had from the father of a gallant young midshipman, represented to have fallen a victim to a stratagem employed to provoke Indian hostility at Negro Fort. The appearance of a small detachment of American troops, to procure water, could not have produced an attack, unless the hostile temper pre-existed. Negro Fort, occupied by outlaw Indians and runaway negroes, and infuriated with Woodbine's hatred, needed no incentive to hostility. The moment the detachment made its appearance, murder was determined upon, and slaughter ensued. He fell a sacrifice to English perfidy and Indian ferocity; he regretted that the tears this parent shed had not sprinkled his heart, and extinguished his sectarian animosity. The gallant young soldier now sleeps upon the bed of honor, mourned by his country. Would you disturb his hallowed ashes to rake from thence evidence to tarnish the character of his companions in arms, whose deeds he emulated when living, and to stain the fame of that country he died to serve? Mr. S. said, with the same object, the Speaker had attributed the war to the treaty of Fort Jackson, and with peculiar emphasis told us, that the word "demand" was employed five times in that paper. He said the conditions of that treaty did not affect the question; if it did contain the germs of dissatisfaction, and hostilities were commenced by the Indians, it is no less a defensive war on the part of this Government; this treaty was negotiated by all the warriors belonging to the tribe within the United States, and was ratified by the Senate, and this House made appropriations to carry it into execution; but, he would ask gentlemen under what circumstances that treaty was negotiated? When engaged in war with England, her incendiaries penetrated the Indian tribes through the Spanish territory, and, aided by Spanish treachery, excited that unfortunate race to war. The war whoop echoed from your northern to your southern limit, and your frontier was encircled with blood and fire. It was the plan of that campaign to cut the United States in twain, by introducing a large military force to co-operate with the negroes, invited to insurrection, and the Indians. Recollect, sir, the proclamation of Nicholls, and imagine, if you can, the horrors of a war con-

ducted by the passions which strip man of his distinguishing attributes, and convert him into a demon. No heart can conceive, no tongue can adequately describe, the calamities with which that region was threatened. The blackening mass of deadly hostility hung, like a thunder cloud, over your heads. The impatience of Indian hostility, and the rare qualities constituting the character of Jackson, saved you from its destructive explosion.

We were literally between two fires; Cockburn conflagrated and robbed on your Eastern frontier; Weatherford on the Western, connected by Spanish facilities. Jackson conquered the Indians, and cut the chain of hostile operations: he demanded indemnification for the past and guarantees for future security—he demanded a grant of country intervening between the Spaniards and these deluded people, which, when populated, will protect them from the machinations of foreign incendiaries, who stimulated the unhappy race to destruction, as sacrifices made by European hatred to American freedom and prosperity. He said the gentleman's philanthropy seemed disposed to reverse the order of things. The history of man did not furnish an instance of the vanquished imposing conditions upon the conqueror. When the Legitimists, the Christian Powers, from pure love to France, overrun that country with mighty armies and bent her neck to the Bourbon yoke, they rifled Paris of those masterpieces of the arts—those proud trophies that attested the victories of her sons. They planted those myriads of mercenaries who drew from her exhausted bosom their support; they did more; crippled and desolated, she was required to reimburse the money expended on her conquest. Yet songs were sung and eulogies composed for Alexander and the whole choir of deliverers.

This treaty is said to have violated the religion of the Indians by demanding their prophets; and they appeal to modern Europe and ancient Rome to suffuse the American cheek with the blush of guilt. Those prophets were not the ministers of religion—they were political agitators; instigators to war, they were not the messengers of peace and good will towards man, that stilled the tempest of the savage soul, and called the chaos into light and order; they were the fit and supple instruments of Woodbine; they breathed confusion and havoc—humanity to these Indians, and the interest of this country, demanded their surrender. Rome never lost sight of policy; she transplanted the idols of the subdued provinces, and incorporated them with her gods; and by the strong tie of superstition chained the province to the foot of the Capitol. Yet the Druids were extirpated, and the forests of Germany tell a bloody tale. These forests still echo the expiring groans of those priests who smoothed the brow of the rugged warrior in peace and nerved his arm in the hour of battle. England extracts a revenue from the idolatrous worshippers of the bloody Jugernaut whilst the Irish Catholic, who believes in the same God and relies upon the same Redeemer, is

torn from the horns of the altar, a victim to ecclesiastical pride, and the jealousy of despotism. The genius of these polished and religious Courts passed from those seats of science and the arts into the wilds of Africa; it dealt in slavery and blood, and sundered every tie that connects man to his species. It spread its wings over the East Indies—fifty millions of human beings have there for years been hunted as lawful prey, in the indiscriminate chase of death. The timid Hindoo has been swept from the plains and is now pursued to the mountain top, where he sought refuge amidst the clouds. This Government need not hang its head upon an appeal to Europe, unless the mere glitter of a diadem shall dazzle and confuse.

Sir, he said, the Western frontier is that portion of the world where civilization is making the most rapid and extensive conquest on the wilderness, carrying in its train the Christian religion, and all the social virtues. It is the point where the race of man is most progressive; establish but the principle, that the God of nature has limited your march in that direction—that the Indian is lord paramount of that wide domain, around which justice and religion have drawn a circle which you dare not pass—the progress of mankind is arrested, and you condemn one of the most beautiful and fertile tracts of the earth to perpetual sterility, as the hunting ground of a few savages. The most celebrated philosophers have spoken a different language, and the ermine of the judiciary has interposed against these theories, and, without a stain, given this country to civilization and christianity.

Having reluctantly been compelled to endeavor (and he flattered himself successfully) to vindicate this Government, and rescue General Jackson from the imputation of cruelty, in the transaction at Fort Jackson, he would ask the Committee to turn from the amusing speculations of gentlemen who are striving to put this nation in the wrong, and look to the facts. As early as the 21st December, General Gaines writes to the Department of War, in these words: "I am now convinced that the hostility of these Indians is now, and has long been, of so deep a die, as to leave no ground of calculation of tranquillity, until the towns southwest and east of this shall receive a signal proof of your ability to retaliate for every outrage. A party of Seminole Indians, on the 20th ultimo, formed an ambuscade upon the Appalachicola, attacked one of our boats ascending near the shore, and killed, wounded, and took the greater part of the detachment." The honorable Speaker reposes upon the letter of an Indian chief to establish the opposite position, and he emphasized it with a pathetic tone. The Indian chief, yet red with the blood of these women and children that belonged to the detachment—with eyes still glaring with the ferocity which burned in his countenance when the blaze slowly enveloped and consumed an American sailor, is weighed against this hero without fear and without reproach? From what system of ethics did this savage draw his morality? Whence



did he derive his notions of honor? Had his heart been chastened, his conscience quickened, and chained to the throne of Heaven by the Christian religion? No, his mind had been disciplined, and his morals fashioned in the school of incendiaries. But, in July, 1816, before this Indian's letter was written, at the fort inhabited by Indians and negroes, and commanded by an Englishman, hostilities were waged against the United States. This mass of hostility, this motley group of insurrection and murder, amply supplied with ammunition and arms, depredated your frontier. They had murdered a gallant midshipman; they had stuck a sailor full of splinters and burnt him to death. This outrage against humanity, this cruel deed, had been perpetrated upon a sailor, one who had borne the "star-spangled banner in triumph over the wave." He looked upon the land of his fathers; in the hour of torture, he saw the flag of liberty wave in the air, and the arms of his companions gleam in the sun: his bursting heart invoked the vengeance of his country. Gallant spirit, you called not in vain! This horde of brigands was given to the winds!

Mr. Chairman, it cannot now be denied, that, this being a defensive war, resulting from the necessity of repelling invasion, military movement was the bounden duty of the Executive, not only upon the principle of self-preservation,—a law written by the finger of nature upon all animated creation—but under the practice of the Government and the laws of the country; and it will be found that the rights of war, extended to the management of the war by the international law, were exercised with extraordinary forbearance—never transcended. It would require no prophetic spirit to predict, that, so long as you confined your military operations to chasing the Indian from your territory, the war would rage, and the citizens would continue to fall under the tomahawk and scalping knife. This Government has ever exercised its rights with forbearance: in the love of peace, it has relinquished many. This nation has bent under the weight of insult, and seldom appealed to the exercise of her rights, in full latitude, until compelled to it by principles identified with the paramount duty of all Governments. How long were your citizens torn from their families, scourged by a British captain, and compelled in some instances to point the cannon against their countrymen? The bitter cup of humiliation was emptied to the dregs: in scorn it was said this Government could not be kicked into a war. The nation rose in the majesty of its strength, and hurled destruction upon the foe! Experience at length satisfied the Administration that these vexatious and cruel incursions could only be terminated by pursuing the erratic Indian. At length the ghost of the departed sovereignty of Spain in Florida no longer alarmed. It fled before the demands of Georgia and Alabama for protection; and the extent of the orders given to the troops was communicated to you by the President, in his Message of the 25th March, 1818. He told you that "Orders had been given to the General in com-

mand not to enter Florida unless it be in pursuit of the enemy, and in that case to respect the Spanish authority wherever it is maintained; and he will be instructed to withdraw his forces from this province as soon as he shall have reduced that tribe to order, and secured our fellow-citizens in that quarter, by satisfactory arrangements against its unprovoked and savage hostilities in future." How did you proceed upon the receipt of this Message? It was the basis of legislative acts, legitimatizing what had been done; countenancing the doctrine the Message contained; and embracing its views, you directed a brigade of militia to be called into service; you increased the pay of the Georgia militia engaged in the Seminole war. He said he recollected the proposition was made by his friend from that State, (Mr. Cobb.) He felt a repugnance to it, but his objections melted away under the fervid zeal and eloquence of that gentleman; and a large appropriation was made to meet the expenses of the war. Here is a shield broad enough and thick enough to protect the Executive from attack, the work of your own hands.

But, considering the subject unaccompanied with this *quasi* declaration of war and the auxiliary measures, the step was strictly justifiable. If Spain had been a neutral Power and the Indians belligerent, not inhabiting her territory and being within her sovereignty, but merely retreating, then the Americans would have had an indisputable right to pursue them by the usages of nations. We will find this doctrine in Vattel, 515. It is certain that on my enemy's being defeated and too much weakened to escape me, even if my neighbor affords him a retreat, his conduct, so pernicious to my safety and interests, would be incompatible with neutrality. If therefore my enemy on a defeat retires into a neutral country, he is to cause the troops as soon as possible to continue their march, and not permit them to watch an opportunity to attack me, because otherwise he gives me a right to enter his territory in pursuit of my enemy—a misfortune that often attends nations unable to command respect. The enemy not only retreated into the Spanish territory and watched an opportunity to attack our citizens, but were the inhabitants of the country, and kept the Spanish authorities in subjection. It was said by a member from New York, (Mr. Storrs,) that the line should not have been crossed, until application had been made to the Spanish Court. For months had your soil been polluted by the foot of savage invasion; for months had this land, sacred to liberty, to justice, and to humanity, been crimsoned by the blood of its inhabitants; yet there should have been a pause in our movements until a messenger had crossed the Atlantic to call the attention of Ferdinand to the condition of his subjects—to awaken him to a sense of duty, and to ask him to reassume the sovereignty of the Floridas, which he had carelessly lost. Your messenger would have found him tampering a petticoat for the Virgin, surrounded by lazy monks, dreaming of schemes to establish the Inquisition, under whose

tortures hypocrisy flourishes and religion expires. The Indian is only vulnerable in his town. An Indian war can only be terminated by destroying his means of subsistence, and penetrating his fastnesses, where he flies for shelter, until, like the tiger, in the still darkness of the night, he can spring upon his prey. It was said, the present Secretary of War gave vigor to the operations; that he boldly ordered the commander of our forces to terminate the war. It was the patriotic vigor that meets the exigency. Let that distinguished statesman pursue the course he has commenced, and ere long the hand of gratitude will crown him with the proudest honors of the Republic.

But Spain was not a neutral Power; she did not occupy that relation to the belligerents which constitutes neutrality by the law of nations. She was a party or an associate; it was immaterial which. Spain claims sovereignty over the territory inhabited by the Seminoles. The nature and extent of the jurisdiction depends upon herself; it is only limited by policy, and the power to compel obedience. All the Governments admit the absolute sovereignty of Spain over the Indians within her territorial boundary. They are not recognised as a nation by that implied compact called international law. Upon this principle our Government has extended its criminal jurisdiction into the wilderness, and pushed its commercial arrangements among the savages. The Spaniards exterminated the Mexicans, and stretched Montezuma upon the coals; and now, with funeral procession, drags the Indian to the mines, where he meets a certain but protracted death. It has been complained of as cruel and despotic, but admitted an act of sovereignty, a municipal regulation, with which no Power had a right to interfere. The crusade against tyrants was once preached by a victorious republic. Thrones shook at the sound, and all monarchies trembled before it; but the soundest position is, that every nation has a right to manage its own internal affairs in its own way. Spain, then, refusing you the right of making treaties with the Indians, and considering an invasion of the country these Indians occupy an infraction of her sovereignty, impliedly admits them to be her subjects. She had done more. In her treaty with the United States this stipulation is contained: "Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory;" expressly recognising these Indians to be her Indians, and assuming all the duties which depend upon the connexion between sovereign and subject, in relation to foreign Governments. If they were not the subjects of Spain, making war upon the United States, the facts furnished the Committee strip the Spanish authorities of all semblance of neutrality, and place them in the plight of associates in the war; giving the army of the United States the same right to operate against the Spanish authorities as the belligerent Indians. In Vattel, 97, the doctrine is thus laid down: "Those who assist my enemy, are his associates;" and in page 102, "the real associ-

ates of my enemy being my enemies, I have against them the same rights as against the principal enemy." "To furnish a belligerent with money, munitions of war, or provisions, to enable it to prosecute the war, is a forfeiture of neutrality, and makes the nation an associate in the war; and I make war upon them without a declaration." (Vattel, 486, and 498.) The Spanish authorities in Florida furnished the Indians with munitions of war, and provisions drawn from the public stores.

Sir, before we advance to St. Marks, permit me to remark that I attribute no hostile act to the Court of Madrid. In the changes of that unfortunate monarchy Florida had become a derelict sovereignty. It was the local authorities that he considered associates. Spain was incompetent to perform the obligations she had undertaken; she could not restrain either her Indians or Spanish subjects from depredating. He should not say much upon the occupation of St. Marks, because the ablest advocates for censure had here attributed no wrong. St. Marks, considered as a fort, occupied by a neutral or an associate, was equally subject to be captured by the United States army. "Extreme necessity may even authorize the temporary seizure of a place, and the putting a garrison therein for defending itself against the enemy, or preventing him in his designs of seizing this place when the sovereign is not able to defend it." (Vattel, 511.) Ambrister, at the head of his brigands, commenced his march to occupy this place. The Governor had acknowledged that his garrison was not sufficient to repel an attack from the combined Indian and negro forces. Upon this ground, considering the garrison strictly neutral, General Jackson was justified in taking possession; but, he said, no man, even in the fervor of his zeal, could contend that it was a neutral post. Here it was that Hillis Hajo and other hostile chiefs held their war councils, in the commandant's quarters; here the commandant emboldened the Indians to robbery and murder, by telling them that Spain had declared war against this country. This Governor made contracts for your cattle before they were stolen; this Governor was the jailer of Hambly, whose crime was humanity and attachment to the United States; this Governor sold, as his private property, to your General, the cattle stolen from your citizens; and here was seen a black man and Spanish soldier dressed in American uniform, recognised to be a part of the clothing belonging to the detachment commanded by Lieutenant Scott. Therefore, it was not only necessary, but, the Governor being an associate of the Indians, it was justifiable to take possession of St. Marks. The honorable Speaker, to disprove the necessity, said that Indians did not occupy or attack forts. Bitter experience proves the contrary. Negro Fort was manned by Indians and negroes; the Horse Shoe was protected by military works; and Fort Mimms, that scene of horror and massacre, upon which the cruel and bloody Weatherford turned his back and fled, speaks in a language that must be felt



H. OF R.

Seminole War.

JANUARY, 1819.

and understood, that Indians capture forts. Sir, said Mr. S., it has been endeavored to place Pensacola upon a different footing from St. Marks; but facts have connected them, and placed them upon common principles, as regards our belligerent rights and their relations to the Indians. This nation had an absolute right to security from depredation on her frontier; this right was guaranteed by the Spanish Government. Having been involved in a cruel and vexatious war, in consequence of the imbecility of that Court, this Government had a right to all the means which were necessary for obtaining this security. See *Vattel*, p. 518. Pensacola was the crater of that volcano of hostility whose eruptions were so calamitous to the frontiers. Its Governor had violated all the duties imposed upon him by the treaty engagements of his master; he had trampled under foot all neutral obligations. In your war with England, the British flag was entwined with the Spanish colors floating upon this fortress; here the Indians were trained by a British officer; and from this place the expedition against Mobile was fitted out; and to this place the British and their red allies returned when covered with defeat and disgrace. It produced the war with the Seminoles. Hambly certifies, that this Governor wrote to Perryman, a Seminole chief, advising him to collect his forces and join his upper brethren, who had determined to shake off the American yoke, and that he would furnish him with arms and ammunition, and that, in less than a month, their father and protector, his master, would have a sufficient army in the field to aid and protect them; that, not long after this, he saw a large party of Indians at Pensacola, where they received a large quantity of arms and ammunition! Nay, he robbed his master's cannon to supply the Indians with lead. And here was vended, in open market, the bloody clothes torn from the backs of your slaughtered citizens. But it is said General Jackson had announced the termination of war, immediately after the occupation of St. Marks, and that the necessity did not exist; that, the war being at an end, the occupation of Pensacola was not necessary to effect the restoration of peace, or furnish permanent protection to the frontiers. The documents show, that at the moment this letter was written General Jackson was mistaken. Immediately after, he received information that seventeen persons had been killed and scalped in the Alabama; and a threatening letter from this Governor, ordering him out of Florida. This Governor was then surrounded by hostile Indians, with whom his officers associated, as friends and companions. On the 5th and 6th of May, 1818, there were about five hundred Indians at Pensacola; and, on the 22d, Holmes, a noted hostile chief, left that place, having been there several preceding days. It is unnecessary to refer to the exhibits to establish these facts—the evidence lies upon every member's table. The war still raged; the occupation of St. Marks had not shielded the frontier from the murderous incursions of the Indians, nor had it brought back the

Governor of Pensacola to a sense and observance of his neutral obligations; if then, as Mr. S. contended, the measure was all-important to the accomplishment of the security of our citizens, it was legitimized by the law of nations, and was clearly within the power which this House contemplated to be exercised by the Executive; for he told you, in his Message, that the General in command had been ordered to enter Florida, in pursuit of the enemy, to respect the Spanish authority wherever maintained, and to withdraw when he had secured our fellow-citizens, by satisfactory arrangements against unprovoked and savage hostilities in future. He did not attribute their foul deed to Ferdinand; his sceptre did not reach across the ocean; his sovereignty was ideal, his authority was not maintained at Pensacola; his high obligations to this country were disregarded there. For fourteen years, this Governor, and his marauding garrison, had received no pay. They had subsisted upon the blood-stained spoil, torn from your unprotected frontier, by their Indian confederates.

This step does not rest solely upon your measures at the last session, and international law, for vindication. The movement is sustained by the high authority of two Presidents, Washington and Madison, and by the several Congresses of these two periods. When Wayne obtained his signal victory he burnt and destroyed Colonel McGee's house and store, he being the British agent, and everything that was combustible, under the guns of the British fort; and would have captured the fort, if his force had been sufficiently strong, upon the principle that the garrison co-operated with the Indians. With a full knowledge of all the circumstances, Congress voted him thanks; and, during the recent contest with England, Pensacola being always the depot of the elements of war, and the rallying point of the enemy, whether Nicholls or Bowlegs, and negro Nero, General Armstrong addressed the following note to General Jackson: "If they, the Spaniards, admit, feed, arm, and co-operate with the British and hostile Indians, you must strike, upon the broad principles of self-preservation." This doctrine was held by that great civilian, Madison. The facts had existed; the blow had been struck; Pensacola had been captured. The transactions are perfectly analogous: human ingenuity cannot draw a distinction between them. Then, sir, there were no Constitutional scruples; no call upon this people to arouse from the slumber of Executive confidence, and guard this sacred instrument from infraction. Then this illustrious man, who can emphatically say, *Veni, vidi, vici!* was hailed as the champion of his country's rights, and the avenger of his country's wrongs. Now, all he asked was a slight boon from the opposite side; the indulgent extension of that exposition of the Constitution and the law of nations which prevailed in the last Presidency. He would not call them to look upon the proceedings of the last session. In Madison's Administration, the occupation of Pensacola was no infringement of Spanish sover-

JANUARY, 1819.

Seminole War.

H. OF R.

eighty; no cause of war; no usurpation; no violation of the Constitution. When the present Administration treads in the footsteps of their predecessors, let them have the benefit of your former construction of the Constitution, and your former reading of the law of nations. Do not contract and widen the provisions of that instrument, which should be a light to the feet, and a lamp to the path of public functionaries; steady and uniform; not an *ignis fatuus*, beaming here and there, to entrap and mislead, and serve the purposes of the moment. The capture of Pensacola had been compared to the bombardment of Copenhagen and the seizure of the Danish fleet. He said, the fast-anchored isle had often received eulogies at the expense of this country, even in this House, the sanctuary of her fame and her liberty; but in no instance had a case been made out which sunk her to a level with British Machiavellism and depravity. Denmark was a neutral Power, strictly observing her neutral relations. Pensacola was commanded by a Governor who had committed frequent acts of war, by stirring up the restless spirit of the Indian, and furnishing him with provisions, arms, and munitions of war. In fact, he was a party in a war which could only be terminated by removing him from the command.

The execution of Ambrister and Arbuthnot is said to be unconstitutional; but ingenious gentlemen have not condescended to point out the provision which is invaded, unless, as his colleague (Mr. Colston) had contended, the Constitution had repealed the law of nations, making this a transaction *casus omissus*, and carrying back the right of punishment to the old ground of natural law, where authority sufficient would be found for the measure. On the contrary this people, when they assumed a stand amongst the Powers of the earth, became entitled to the benefit of all the law of nations. The Constitution only distributes the exercise of these rights amongst a variety of departments, defining what portion of sovereignty shall be exercised by the one and the other—all the sovereign power that attaches to an independent Government in its foreign relations, and intercourse existing in, and to be performed by one of these departments, or by the co-operation of all. This Government claims all the rights of war and peace permitted to be exercised by the law of nations. This law, and the practice and usage of all Governments, vest the right of punishing incendiaries like those in the commanders of armies. Your Constitution does not interdict the exercise of this power in this ordinary mode, nor is it confined, by that instrument, to any particular department, nor has it been the subject of legislation. The honorable Speaker had given a reference to a law, but having examined, he found a short statute authorizing retaliation upon the citizens of the French Republic, with which this country never was at war. The crime of which these men were guilty is defined, and its punishment provided for by international law. The spirit of your institutions cannot pass into a foreign territory, and give your

civil tribunals criminal jurisdiction. In *Vattel*, p. 52, you find this proposition: "He who is injured by foreign subjects does himself justice, by his own power, when he meets with the offenders in his own country, or in a free place; and, to avoid all misunderstanding, it is agreed, that every private person committing hostilities without a commission from their sovereign, should meet with the same treatment." And again, in *Martens*, p. 280, "but those who, not being authorized by commission from their sovereign, take upon them to attack the enemy, are treated by him as banditti." It will not be contended that the Prince Regent commissioned these miscreants—yet they both certainly committed hostilities. Ambrister commanded, and Arbuthnot supplied arms and ammunition. He said, the history of our Revolution furnished many illustrations of this doctrine, demonstrating that this power had always been exercised by the commanders of armies. It was unnecessary to particularize each case—they had been remarked upon by those who preceded him.

Mr. S. said, that, although this was ample vindication, he placed the justification of these executions upon different ground. He did not consider these men British subjects. The doctrine of perpetual allegiance—once a subject always a subject—was not to be found in his political creed. The right of expatriation was admitted by this Government—the tide of emigration flowed into this country upon that principle; and its preservation is the shield of a large portion of your population, who have sought refuge here from tyranny and persecution. The evidence of the exercise of this right is, residence or acceptance of office. When an effort was made in this House, by an able and zealous friend to the rights of man, to prescribe a mode for the exercise of this right, it was rejected, for the simple reason that the right then stood upon the surest basis. These men had become members of the Indian tribe—they had incorporated themselves with the savages. Ambrister commanded a detachment, and marched at the head of an army, composed of negroes and Indians, to meet the American troops. Arbuthnot was admitted into the council of the nation, as a chief; he was the minister of foreign relations of the Seminole tribes and their dependencies, St. Marks and Pensacola. Appointed and commissioned to his high office by special power of attorney, he corresponded, officially, with British Governors and Spanish commandants; he communicated with the British Minister near the American Government, until the interesting correspondence was interrupted by the weight of postage. Sir, he said, it would have been an interesting spectacle to have seen the arrival, in this circle of etiquette, of this representative of Hillis Hajo, Bowlegs, Nero, and the Spanish commandants; he would have been a little smoked with monarchy, and great commotion would have resulted from the difficulty of fixing his rank in the scale of fashion. These men having incorporated themselves with the Indians—having voluntarily stepped down from



civilized society and christian warfare, made common cause with the savages, and contributed to their indiscriminate massacre, they were subject to the same treatment that the usages of the country and the laws of war permitted to be inflicted upon the savage. Hillis Hajo was hung; his memory is not embalmed, nor his fame perpetuated, by a single plaintive strain. Yet Hillis Hajo was a king and a prophet; he had swept your frontier with a besom of desolation; no feeling of his heart protected the infant or the timid female; indiscriminate murder marked his operations. Ambrister and Arbuthnot, enlightened by the Christian dispensation, which breathes peace and good will towards man, whetted his appetite for blood; stimulated him, by false and deceptive promises, to tear the scalp from the infant's head, and plunge the tomahawk in the aged matron's breast, and drove him inevitably to the fate he deservedly met. They were apprehended in the fact, and condign punishment inflicted.

This execution, sanctioned by the law of nations, was demanded as well by sound policy as enlightened humanity. All the Indian wars had been traced to English instigation. At the battle of Miami, British troops were seen in the ranks of the Indians. The fate of the gallant Kentuckians, at the river Raisin, and the massacre at Fort Mifflin, was fixed by incendiaries. The blood of Allen and Simpson was upon their heads. Why this sympathy, this deep interest in the fate of these incendiaries? They have not higher claims than the unfortunate Americans who, animated with the soul-stirring motive of giving liberty to a nation, mixed in the revolutionary conflict of South America. These are your brothers, sustaining the dignity of man; they now drag their chains in Spanish thralldom, hunting mushrooms, their only food; yet no voice is lifted up, in this House, deploring their unhappy fate, and calling upon the energies of this Government to rescue them from this miserable imprisonment and the melancholy fate that awaits. The magnanimity of Europe is appealed to. Why are we compelled by the friends of these resolutions in vindicating General Jackson and the country, to violate that courtesy which is due to foreign Powers? Ney, the pride of France, and the ornament of her army, was shot, in defiance of a guarantee of safety. England has realized the extravagant tale of Prometheus. She has chained that highly gifted man, Bonaparte, to a rock, and the vultures are literally devouring his liver. The execution was necessary, to cut off that description of men who fed and nurtured Indian war.

This execution has been compared, by one gentleman, to the death of the Duke d'Enghien. If he had not been a member of the Bourbon family, his veins had not been enriched with royal blood, his fate would not have excited a sensation strong enough to have reached these shores. Why had he not heard of Emmet, whose mind reached the heavens, and whose soul embraced the universe? He was a revolutionary spirit, thirsting and aspiring to benefit mankind. In

Europe, the lordling basks in the sunshine of the Court; drinks in the rays of power; flutters in gay plumage. His circle is the world. Touch but a wing of this butterfly—let one of these idle pageants suffer, no matter whether under one of those great principles that preserve nations, or by the caprices of a monarch, it produces an agitation which vibrates to this country, and excites a warm sympathy. The hardy yeoman, although standing between the handles of his plough, or felling the forest with his nervous arm, is adorned by virtue and by valor, and dignified by the enjoyment of freedom. He looks abroad upon the bounty of nature, and the smiling plenty by which he is surrounded, the work of his own hands, and his heart expands and melts in pious gratitude to Heaven—cheered by hope, animated by ambition, he is cut off in his career, confidently relying upon the protection of his Government, by savage barbarity. No sensation is excited; no sympathy is felt. Is he less gifted with rare and noble qualities than Ambrister and Arbuthnot, or the Duke? He had no Bourbon blood in his veins; he did not owe allegiance to his Britannic Majesty; he was one of the sons of freedom, and one of the sovereigns of this land; the partner of his bosom and the children of his love are butchered before his eyes; he is spared to behold the torturing scene, and is slain. No sympathy moans his fate; no indignation animates the councils of his nation! A whole race of such men, the pioneers who were leading civilization and religion into the wilderness, attended with its train of blessings, have fallen by the machinations of Ambrister and Arbuthnot, and this House is now employed in deliberating upon a proposition to censure the man who revenged their fate. Here charity begins from home, and the justice which should encircle our paths, and protect our citizens when living, and revenge them when dead, is reserved for foreigners.

Sir, we have had an alarming representation of military despotism; we are told that Cæsar, Alexander, and Cromwell, subverted the liberties of their country. Cæsar commanded an army composed of barbarian mercenaries. He found Rome emasculated by corruption; the Government worn out, and the passions and the vices of the people administering the laws. They had no regenerating principle, no fountain of political youth in which the Government could lave itself, and acquire renewed health and vigor—this is the happy invention of the American people. Cæsar died, and Brutus lived; his virtues were wasted upon his degenerate countrymen. Alexander was born to despotic power; he was animated with the hatred that tyrants feel for liberty; gifted with military talents, he conquered the Grecian republics, which he found paralyzed by internal factions. Cromwell was carried into the protectorship upon the bigotry of the nation, not the arms of the soldiery. But admitting that armies have crushed liberty, when did a people overturn tyranny, and establish freedom upon its ruins, without employing arms and force? No instance is recorded where despotism fell before

a philosophical lecture. Talent must be connected with virtue, both in a statesman and general, to contribute to the establishment or preservation of liberty. Factionous perfidy and treachery have as frequently deprived the people of their liberty, and involved nations in ruin, as the mad ambition of military men. A Carthaginian Senator, discoloring every measure with green-eyed jealousy, induced the Senate to refuse supplies to the patriotic and invincible Hannibal, saved Rome and destroyed Carthage. America had other traitors than Arnold; and at the commencement of the revolutionary movement in France, which soon swelled into a mighty tempest that made every throne in Europe tremble, Mirabeau boasted that he carried the French revolution upon his shoulders; he was the master spirit that rode in the storm, and directed its lightning. The proud ambition of deserving the confidence, and achieving liberty for his country, sunk under the blandishments of aristocracy; he sold himself to the Court, and expired in the conflict between his ambition and his avarice; his treachery dissolved the elements of association; confidence in professions vanished; suspicion infused itself into the mass of revolutionary material, which was working for the emancipation of man, and produced those throes and convulsions that desolated Europe, and left France exhausted and enslaved.

The Constitution not demanding the adoption of the resolutions, justice and policy both forbid it. You are now engaged in a protracted negotiation with Spain; the tone of whose Minister rises with every denunciation against the Administration. He considers the interest of his master taken into your goodly keeping. Your bankrupt merchant has died, in the vain expectation of indemnification for Spanish spoliation upon your commerce. He has left the distant glimmering hope as a legacy to his impoverished family, who in vain look to this Government for justice. Spanish diplomacy spins out negotiation, and delays still longer retribution. The high destiny of this growing empire demands the acquirement of Florida; the peace and tranquillity of a large extent of population depends upon its possession; and, instead of accelerating her march, you are employed in mooted Constitutional points, invisible to an ordinary mind, and escaping technical inquisition. The Constitution is the palladium of your liberties, so plainly written that he who runs may read—a sacred bequest to be transmitted unimpaired to posterity not an instrument to be perverted to the purposes of oppression. General Jackson is to be stricken into dust by these resolutions. You recollect, sir, when this House was covered with gloom and despondency, that edifice, now rising into splendor from ruins, presented the sad spectacle of national disgrace, inflicted by the vandal spirit of British hatred; your resources exhausted; the nation paralyzed; a powerful party in this House crippling all your efforts; the fall of Orleans had been loudly proclaimed. Awful apprehension and aching solicitude filled every patriotic bosom

and the birds of ill omen had begun to croak the downfall of this Republic! You recollect the bright morning that succeeded that dark night. You recollect the day when the news of the 8th of January arrived—joy lighted up the countenance, and pride elevated the crest of the friends of liberty. You then acknowledged Jackson your deliverer. Be not tired with hearing his deeds recounted; his glory is the property of the nation, and has surrounded your country with a wall of fire. Give not to America a Bellisarius, nor permit the historian, with his immortal pen, to inscribe the name of another Aristides upon his page.

Sir, upon every view of this subject, I shall vote against the resolutions.

Mr. WALKER, of North Carolina. Mr. Chairman, it is with considerable difficulty I approach this subject, which has been discussed with so much interest and ability by those who have preceded me in this debate, as almost to preclude any further inquiry; like a body completely anatomized, leaves little room for the most skilful artist to improve upon the plan; much less one who does not profess to be very learned in the Constitution or laws of nations, and has no pretensions to literary or legal acquirements. The ground which I shall attempt to take will be founded in plain facts and common sense. I do not calculate on giving any illustration on the subject in a legal point of view, as every point has been brought to the law and to the testimony by gentlemen whose talents and abilities have proved them adequate to the task. But I shall briefly state the principles and reasons that shall govern my vote on this important and interesting question. Important, sir, as it will stamp a character on this nation, that will last for ages, and may be a precedent for future legislators, when we who are about to give this vote will be sleeping in the dust; important, as it respects the feelings of the nation, as we are accountable to them who sent us here, and the people are competent judges of our political opinions, and we must return and submit to the tribunal of public opinion. But, sir, it is materially important, as it will take into view the character and conduct of one of our most illustrious citizens, and one of the greatest captains the world ever saw, whose achievements and military fame have not been surpassed by any who has gone before him. Sir, from the high consideration I have for the honor and dignity of my country, and the esteem and veneration I entertain for the character of that brave and meritorious officer, I approach this vote with a due solemnity.

Sir, the Seminole war, which has made such an earthquake in this House, and on which so much eloquence has been displayed, and against which the Constitution, the laws of our own country, and the laws of nations, have all been arrayed, so inconsiderable in the beginning, has become as magnified as to end in this House. Sir, I have paid a due attention to the debates on both sides of this question, and with much satisfaction have heard it clearly proved that the war



H. OF R.

Seminole War.

JANUARY, 1819.

was authorized consistently with the Constitution and laws of our country, and that it was promptly and correctly carried on with energy and decision, and terminated in the event to the honor and interest of the United States; and all the lucid explanations delivered in support of that war have, to my mind, been like so many candles lighted to the sun. Truth may be embellished, but cannot be changed. The necessity and expediency of that expedition always appeared clear as the light, duly authorized by the President, the proper organ of Executive power; and in the prosecution of that war I have seen nothing done, but what ought to be done, and nothing else could be done to effect the purpose. The nature and effects of savage warfare have been ably depicted by gentlemen who preceded me; but, as truth may sometimes be twice told, I will proceed to exemplify some of its horrors, which I not only know by the hearing of the ear, but mine eye hath seen it. Savages do not war as civilized nations, by formal declaration. No, sir, they come as a thief in the night; when peace and safety cover our dwellings, then cometh their dreadful, secret and horrible depredations, when least expected; the instruments of death are in their hands, destruction attends their footsteps, no kind messenger to give us the watchword, no intimation of their approach; the blow is struck before it is known, and darkness, the pavilion that covers their deep design, and ambush secures them from the eye of the traveller, where neither age nor sex is spared; the hoary head, the sprightly youth, the suckling infant, and the tender and trembling mother, all indiscriminately fall victims to their savage fury; and those who are so unfortunate as to come within their grasp, and made prisoners, are often reserved for a death more horrible than death itself—for the burning stake or bloody hatchet, the savage yell sounding through the forests, and desolation and destruction on every side. Hear the words of a great man on the subject of savage warfare: "The darkness of midnight shall glitter with the blaze of your dwellings, and the war-whoop shall wake the deep of the cradle." Such a war was commenced by the Seminoles on the frontiers of Georgia, unprovoked and unknown to us. When application was made by the Executive of that State for a defensive force to repel the enemy, did they then request the President to consult the Constitution or the Sibyl books to inquire into his Executive powers, whether he could send an army to their relief? No such reserve in any of their messages; they must have an army, they must have a general; it was then Constitutional, highly approved, and graciously received; but now, Mr. Chairman, when their battles are fought and victory gained, peace concluded and order and tranquillity restored—oh, it is now unconstitutional, and their voice is against the hand that saved them. But reverse the subject; sometimes things appear most true and best proved by their opposites. Suppose the President had hesitated, and adopted the policy gentlemen so strongly urge on this floor, and told the people of Georgia

that he doubted his Executive powers, and that the Constitution did not authorize him to send an army over the Spanish line, and so passed by on the one side; and that General Jackson, at the head of his army, advanced to the Spanish line, had also hesitated, and said, hitherto I go, and no farther, and passed by on the other side; what good Samaritan would they have found to come that way and heal the wounds of their bleeding country? I fear they would have found none. What would have been then, and what now, the situation of the people of Georgia? For aught we know, the blood of the defenceless inhabitants might be yet streaming, and the Seminoles encamped in battle array on the banks of the Oconee. But the President chose the better part, and acted as he ought to have done; sent our army under the command of a General whose character and abilities were adapted to the enterprise—ever active, ever fortunate—and whatsoever his hand found to do, did it with his might.

I now come to notice that important part of the inquiry, the execution of Arbuthnot and Ambrister. In attempting to try and decide on the nature of that transaction by general rules of national law, it seems to be forgotten that it does not admit of those applications. A rule, therefore, cannot apply to the subject that is not in existence. These men had abandoned their own Government, and had attached themselves to the tribes of hostile Indians, and become one with them by adoption, and renounced their allegiance to any other Power. On this ground the law of nations cannot reach them, nor embrace their case; they were emissaries and spies in civil dress, giving counsel, supplies, and directions, to an enemy against a people with whom they themselves professed peace; and when taken in arms, and within the limits of the enemy's country, were subject to the rules of Indian warfare, which was to suffer death at discretion; and as they earned their death, so they got their reward, as wages of their iniquity. I trust, Mr. Chairman, I put as high a value on the life of a man as any gentleman who has spoken on this subject, and believe there are but few crimes for which death ought to be inflicted; but, to spare all indiscriminately would be no government, and compassion might then become a crime. We might spare when we ought to punish. Rewards and punishments are founded on both divine and moral precepts. If a man can forfeit his life by any overt act, and place himself beyond the reach of human commiseration, it is by apostatizing from civil government, and uniting with savages against a civilized people, which is evidently the situation in which these men were found. It must be believed that General Jackson had a better and more competent knowledge of their offence, and enormity of their crime, and the mode of trial for their punishment, than any in this House, being both a legal as well as a military character.

Sir, I regret I am necessarily bound to vote on this question; I do it very unwillingly, under a conviction that this House is not the proper tri-

JANUARY, 1819.

Seminole War.

H. OF R.

bunal to inquire into these facts, and that we have no legitimate power to legislate on the conduct of General Jackson, and that we are treading on Executive ground; and let us beware that, while we are meditating a blow at the General's heel, it may not recoil on our own heads, by acting on this question in our legislative capacity. If he has transcended his powers, and violated the Constitution, which is so vehemently urged on this floor, he is amenable to the President, and the President responsible to this House for any violation of the Constitution, done under his authority, and to try and punish his officer by court martial. We cannot make the servant greater than his lord, by trying General Jackson, and leaving the President out of the question. This ground has been taken, and ably sustained, by my honorable friend and colleague, (Mr. SAWYER,) and the gentleman from Virginia, (Mr. STROTHER,) who preceded me.

I now proceed to notice some of the remarks of gentlemen in the opposition. The honorable Speaker, in his able and eloquent address to the House the other day, although he spoke on a military subject, so happily combined his style as to lead us through a delightful scenery—through stately groves, flowery fields, dewy lawns, and verdant meads—throughout the regions of France, Italy, Greece, and Rome—and has given us a specific view of the rise and fall of empires and kingdoms, and of all the usurpations both in the old and new world, from the days of Julius Cæsar down to Bonaparte of modern times, and seemed to warn us of the least approach of military power; but, as the sun may sometimes pass under a cloud, for once in his life he may have mistaken his way. He has not been so happy and fortunate in his reference to Cæsar's crossing the Rubicon, in allusion to General Jackson's crossing the Spanish line, so far as I recollect the history of that event. Cæsar was Generalissimo of the Roman army in Cisalpine Gaul, the first citizen and highest military character in the Republic; the Rubicon, a river on the confines of Italy, where, on the side next to Rome, none was permitted to appear in arms. When Cæsar meditated the usurpation of the Empire, he advanced with his army to the banks of that river. He arranged his troops, made a solemn pause, and expressed language to this effect: that, if justice was to be violated, and the rights of man sacrificed, it ought to be for the love of glory, and the sake of reigning, and so passed over the Rubicon, and led his army towards Rome; and did, in the event, effect the downfall of the Republic, usurped the Empire, and could not be restrained by the hand of Brutus. If the honorable Speaker made this allusion to General Jackson's crossing the Spanish line, it will not bear him out. General Jackson crossed the Spanish line, and marched his army into Florida, not to subvert, not to destroy, but to preserve and secure the interests and liberties of his country; he did not enter as a military adventurer for glory and conquest; he did not declare himself Generalissimo of the Spanish

provinces, and erect his standard, as a trophy of victory, (as did the conqueror of Italy.) No, sir, he took possession of these posts as a pledge for their good behaviour, and to search into the causes of the war, and to bring peace and tranquillity, as a consequence, to the enfeebled citizens of Georgia and Alabama, which he did in effect, and to teach the world that abandoned characters of any nation should find no asylum among our Indian tribes, and then submitted his military operations to the legitimate authorities of his country.

An honorable gentleman from New York, (Mr. STORRS,) in the conclusion of his speech, gravely washed his hands from the blood of Arbuthnot and Ambrister; but had these men been spared, could he, with the same solemnity, have washed his hands free from the blood of those three hundred innocents that were massacred by the hostile Indians, excited and under the influence of these miscreants; or could he, with those pure hands, restore the scalps, and place them upon the heads of those from whom they were taken? He cannot. Gentlemen, with high feeling, seem to exercise great sympathy and benevolence toward the tribes of the forest, and consider them as children of our care, and that we are morally to treat them, and such foreigners as reside among them, as civilized people, and to respect their prejudices and their religion. This is a theory not practicable. We cannot, with safety, adopt that policy, and extend charity so as to embrace misguided Indians—much less to those who are so abandoned as to come and incorporate themselves in their nation, and reside among them. Sir, charity is the radical virtue of the human character, but must or ought to begin at home. Let us respect ourselves, and provide for our own household; secure and preserve the rights and liberties that belong to us as a nation; and, by a firm and judicious policy, instruct foreign nations to respect us, and then extend our charity to others.

I have always entertained a high sense of the merit of military men who have given their aid to rescue their country from oppression, and to secure the rights and liberties of mankind; their reputation is dearly earned; they have to encounter the extremes of every climate, the inclemency of every season, and all the conflicts of a military life, and deaths and dangers await them at every post; while we, who are here, are gaining the plaudits of our country, on a political eminence, as legislators, with good accommodations, and faring sumptuously every day; they would be cheered by a crumb from our tables while suffering and fighting the battles of our country. Sir, I am not among those who pay an unlimited devotion to any man's rank or character, abstractly, or because he is so; but it is my pride, and I ever feel it a grateful and pleasant duty to pay my tribute of respect to every faithful servant of his country, whether in the cabinet or the field, or in any condition of life. General Jackson to me is personally unknown, but I cannot be mistaken in giving my support



to a man who has rendered such eminent services to his country; who has fought our battles, gained our victories, and restored peace and tranquillity to our Southern frontier. I trust, on this question, we will pay a due regard to public feeling, and do justice to him who has done so much for us, and declare to this nation, and to the world, that General Jackson well deserves the gratitude of his country.

Mr. RHEA, of Tennessee, addressed the House as follows:

The United States of America and Great Britain terminated the war of the Revolution by the definitive Treaty of Peace made at Paris. The nations and tribes of Indians, over whom British influence prevailed, were allies of Great Britain in that war, and perpetrated barbarous cruelties. Desolation, burning, and murder, attended their movements—their paths were stained with blood—the tomahawk and scalping knife spared neither age nor sex—a price was paid for scalps, from the mangled heads of men, women, and children, and triumphed over by the enemies of the people contending for liberty.

The United States of America, in the year one thousand seven hundred and seventy-eight, made articles of agreement and confederation with the Delaware nation of Indians—that treaty provided for perpetual peace and friendship through all generations—the territorial rights of that nation were amply provided for. The Delawares were the first with whom the United States treated, and were pre-eminently honored; and it seems, by the sixth article of the treaty, that, in that year, it was contemplated to institute an Indian State, with the Delawares at its head, with a right to a representation in Congress. The wandering life and habits of the Indians frustrated that benevolent plan. The experience of Indian disposition manifests the impracticability of a confederacy of that nature. It appears, by a separate article of the treaty made with the Wyandot, Delaware, Chippewa, and Ottawa nations, that the Delawares were not able to resist British influences—they fell off. Three chiefs, Kehlamond, Hengue Pashees, and Wycocalind, only, with their families, continued to hold the chain of friendship with the United States.

The war of the Revolution ended; the territorial limits of the United States were defined; the nations of Indians, allies of Great Britain in the war, were not protected or covered by the Treaty of Peace; they were left to the humanity and mercy of the United States. Hence it is inferred, that all right whatever to lands claimed by Indian nations, who were allies of Great Britain in time of the war, and residing within the limits of the United States, were void and ceased to be.

The United States, in the year 1784, by treaty, gave peace and protection to the Senecas, Mohawks, Onondagas, and Cayugas. The Oneidas and Tuscaroras were secured in possession of the lands they lived on, and the boundaries of the Six Nations were fixed.

The United States, by treaties made in the year

1785, gave peace and protection to the Wyandot, Delaware, Chippewa, and Ottawa nations of Indians, and to the Cherokee nation—and these nations acknowledged themselves under the protection of the United States of America, and of no other sovereign whatever. Lands were allotted to them, respectively, to live and hunt on.

The United States, in the year 1786, by treaties, gave peace and protection to the Choctaw, Chickasaw and Shawanee nations of Indians, respectively, and they acknowledged themselves to be under the protection of the United States, and of no other sovereign whatever. Lands were allotted to them to live and hunt on.

The United States of America, in the year 1790, made a treaty with the Creek nation of Indians. The first article provides, that there shall be perpetual peace and friendship between all the citizens of the United States of America, and all the individuals, towns, and tribes, of the upper, middle, and lower Creeks, and Seminoles, composing the Creek nation. By the second article, the kings, chiefs, and warriors, for themselves and all parts of the Creek nation within the limits of the United States, acknowledged themselves, and all parts of the Creek nation, to be under the protection of the United States, and of no other sovereign whatever. A boundary line was designated, and the lands allotted were guaranteed to them to live and hunt on. The second article of the treaty manifests that the Creek nation had been hostile to the United States. Two other treaties were made with the Creek nation; one in 1802, the other in 1806, whereby ample provision was made for their comfort and to promote their civilization. Great Britain, by the Treaty of Peace, acknowledged the United States to be free, sovereign, and independent; that he treated with them as such, and for himself, his heirs and successors, relinquished all claims to the government, proprietary, and territorial rights of the same, and every part thereof. The United States of America, by that treaty, became the acknowledged sovereign of, and over, all the territories within the boundaries designated by that treaty, agreeably to the principles of the confederation. The nations and tribes of Indians, allies of Great Britain, and enemies to the United States, in the Revolutionary war, not covered and protected by the Treaty of Peace, no longer retained any right or claim to lands within the limits of the United States; all their rights and claim to land therein became void, and ceased to be, the Delaware nation not excepted.

The United States, said Mr. R., proceeding on this principle, made, after the Treaty of Peace with Great Britain, treaties with the several nations and tribes of Indians within their territorial limits; and gave peace to, and received them into their protection, and these nations and tribes acknowledged themselves under the protection of the United States of America, and of no other sovereign whatever. The United States allotted lands to them to live and hunt on.

The treaty of Holston was made with the Cherokee nation of Indians, in the year 1791, and

that nation again acknowledged themselves to be under the protection of the United States, and of no other sovereign whatever.

The Creek nation, soon after the treaty of 1790, began to manifest a disposition hostile to the people of the United States living on the southwestern frontier. That disposition was known to have been excited by foreign emissaries inducing the Indians to believe that the United States had wrongfully taken land from them. In the year 1792, the Creeks began their ravages on the frontier, and murdered several persons. A large body of them, aided by a considerable reinforcement of Cherokees, crossed Tennessee river, marched to the Cumberland settlements, attacked Buchanan's fort there, and, being repulsed with great loss, returned, after having committed depredations and murders, conformably to their usual manner. The Indians continued the war on the frontier of the Southwestern territory, until another treaty was made with the Cherokees, at Philadelphia, in the year 1794. The articles of which were stipulated to be considered as permanent additions to the treaty of Holston.

In the year 1795, a treaty of amity, friendship, limits, and navigation, was made between the United States of America and Spain; and afterwards, in the year 1796, another treaty was made at Colerain, in Georgia, with the Creek nation, and by it, the treaty of 1790 is declared to be obligatory on the contracting parties, except as provided for by the treaty of Colerain. So ended that war with the Creek Indians and Cherokees.

A variety of circumstances manifested that, in the time of the Revolutionary war, frequent communications had been, between the northern and southern nations of Indians; and that their hostilities, by certain excitements, against the people of the United States, operated to the same object, namely: the depression of the people of this nation. That, also, said Mr. R., appears to have operated in the time of the war, I have been speaking of; during that war a powerful confederacy of Indian nations carried on a destructive war against the United States on the Northwestern frontier. The British Government retained the Northwestern posts, and erected and garrisoned another within the limits of the United States. The Indians carried on the war in their usual savage manner; murdering, scalping, and destroying. General Harmer was sent with a body of forces against them, but did not prevail. General St. Clair, with a larger body of troops, was ordered against them; he was defeated with great loss. General Wayne was ultimately sent against them with a more numerous army; and he defeated the Indians. The treaty of amity, commerce, and navigation, between the United States and Great Britain, was made in November, 1794, by which Great Britain stipulated to surrender the Northwestern posts. In August, 1795, a treaty of peace was made at Greenville, between the United States and the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Pawatimies, Miamis, Eel Rivers, Weas, Kickapoo, Piankeshaws, and Kaskaskias—and so ended

that Indian war; but not until a treaty had been made with Great Britain. I take notice of these past events first, said Mr. R., that the connexion of the Indian war operations of the several Indian nations, and the influence of foreign agency, may be observed, that the exciting causes be considered, in order to illustrate the subject under consideration, and that the Indian character may be understood.

The northern and southern nations of Indians engaged in the wars on the northwest and southwest frontiers, which, said Mr. R., I have been speaking of, had, in and by the first treaties made with them, respectively, after the Revolutionary war, acknowledged themselves to be under the protection of the United States of America, and of no other sovereign whatever. In making and carrying on war against the people of the United States, they renounced and abandoned that protection; they violated the treaties they had made with the United States, and put themselves out of their protection; the forfeiture might have been taken against them; but humanity, the consideration of their ignorance of the obligations of social compact and morality, and compassion for their miserable condition, prevailed; and, in pursuance thereof, the several treaties alluded to were made with them, and various other treaties, previous to the year 1811.

The Indian—rude, wild, and savage—ignorant of the principles of morality, of the doctrines of christianity, and of the knowledge of the true God—is prone to superstition, to fanaticism, and to a vain desire of knowing future events, not within the view of man. In the year 1807 an Indian chief of the Shawanee nation, who has been named the Prophet, excited by foreign corruption, is said to have begun to propagate his delusions among the northern Indian nations; and, of them, to form a strong confederacy against the United States. The influence of that Indian chief increased in that and succeeding years. Large quantities of goods were delivered to the Indians by British agents; and British emissaries excited them to war, insinuating that they would now be aided by their great father in driving back the Americans and recovering the lands the Americans had taken from them. The United States were paying large annual subsidies to the Indian nations; but the influence of British corrupt agents, the distribution of goods, arms, and ammunition, and the declarations of the Indian fanatical prophets, prevailed against the peace of the Indians. In the year 1811, a confederacy of Indian nations was formed; and, in the month of November of that year, the battle of Tippecanoe was fought, in which the American army defeated the deluded, hostile Indians.

In the month of June, 1812, the Congress of the United States passed an act declaring that war be, and did exist, between the United Kingdoms of Great Britain and Ireland and the United States of America. The promulgation of that act excited more strenuous efforts of British agents and emissaries to instigate the Indians to continue the war.



H. or R.

Seminole War.

JANUARY, 1819.

In the month of August, 1811, the Shawanee chief, Tecumseh, brother to the fanatic prophet, passed down the Wabash river with a party of about six Shawanees, six Kickapoos, and six of some tribe far to the northwest, as they said, the name of which they refused to tell, on his way to the Creek nation. The object of his visit could not be mistaken—to excite the Creek and other southern nations of Indians to war against the United States, was his object. Indian fanatic prophecies increased in the northern Indian nations. The Creek Indians had, soon after the visit of Tecumseh, their fanatic prophets also, inciting them to war, of whom Hillis Hajo, or Francis, appears to have been one. Strong suspicion is attached to six of the persons accompanying Tecumseh on his visit to the Creeks; they would not tell to what tribe they belonged. Who they were has not been perfectly ascertained. The effects of the visit of Tecumseh to the Creek nation soon became apparent. An infuriated fanaticism was propagated among them; they were taught to believe themselves invincible. The greatest part of them were hostile: they prepared for war, and soon after began their ravages on the frontier. They attacked Fort Mimms, took it, and massacred almost all the people who were in it. War with the Creek nation was inevitable.

The Executive of the United States had ordered fifteen hundred men from Georgia, and as many from Tennessee, to be called out in defence of the frontier. The fifteen hundred men from Tennessee were not raised previous to the meeting of the General Assembly of that State. That General Assembly convened at Nashville in September, 1813. The destruction at Fort Mimms and other ravages of the savages were known; and it was understood that a large force of them was preparing to attack the frontier settlements. The time was precious, the danger was imminent, and did not admit of delay. The Southern frontier of Tennessee, including Madison county, is about four hundred miles long, without any fort or place of strength, and liable to the incursion of the savage. A partial success of the hostile Indians would have added to their force a large number of warriors from the neighboring nations of Indians. The General Assembly of Tennessee, sanctioned by the Constitution of the United States of America, immediately enacted a law to raise and complete, with the fifteen hundred men previously ordered, an effective force of five thousand men; and also a law to raise and appropriate \$300,000, to pay and support the troops while in service. That army was raised with all possible despatch. General Jackson, who was Major General of militia in Tennessee, took the command. To prevent the ravages of the Indians on the frontiers, the troops poured out from Tennessee; and, expecting soon to meet the enemy and finish the war, they crossed Tennessee river, and commenced operations on the frontiers of the Creek nation. The war was carried on with various success—several battles were fought. The General with his intrepid troops approached the strong fortifica-

tions of the enemy at the Horse Shoe. He ordered an assault; the fortification was stormed; the battle raged, hand to hand, within the fort; and ceased with the destruction of nearly all the Indian warriors in the fort. General Jackson afterwards marched, with part of his troops, to the Hickory Ground; and there, meeting with a large body of troops from Georgia, he left the country in their possession, and returned with his army to Tennessee. The proceedings of General Jackson with the army under his command, against the hostile Creeks, were approved, and the State of Tennessee was relieved, by the General Government, from payment of the expense. The hostile Creek Indians were beaten, but the war was not finished. In this war the Cherokee Indians aided against the Creeks, and did good service. Soon after his return from the Creek nation, General Jackson was appointed a Brigadier General, with brevet of Major General; that was soon followed by being appointed a Major General in the armies of the United States. The Creek Indians wished for peace; General Jackson was appointed commissioner to treat with them; and, in the month of August, 1814, he concluded a treaty with the Creek nation. Hillis Hajo, or Francis, the fanatic prophet, and some more chiefs of that nation, did not attend the making of that treaty; they, with others of the hostile Creeks, retired towards Florida, from whence to carry on the war against the people of the United States.

The Seminoles, a part of the Creek nation, were party to the treaty of 1790; and David Francis, alias Meemagechee, appears to have signed it. The Seminoles had acknowledged themselves under the protection of the United States, and of no other sovereign whatever. Lands, in common with other tribes of the Creek nation, were allotted to them. Other treaties, as has been observed, were made with the Creek nation; one as late as November, 1805, and ratified in June following. Of the benefits stipulated for in these treaties, the Seminoles participated. In all disputes or wars between the United States and foreign Powers, the Indian nations who had acknowledged themselves under the protection of the United States ought to have continued neutral. They suffered themselves to be made the willing instruments of war against the United States, by the persuasion of emissaries of foreign nations, who trafficked in blood, whose goods were poison, whose friendship was destruction. In a letter from Governor Mitchell to Mr. Monroe, of September, 1812, he informs that the Governor of Augustine has had sufficient influence with the Indians residing in Florida, called the Seminoles, to induce them to fall upon the defenceless settlers on the St. Johns and St. Marys. On the St. Johns they had killed and scalped eight or ten persons; and on the Georgia side of St. Marys, they had killed and scalped one and wounded two more. Colonel Smith, in a letter dated September 22, 1812, informs Governor Mitchell that, on the 12th of that month, the escort with the provision wagons, under com-

JANUARY, 1819.

Seminole War.

H. or R.

mand of Captain Williams, was attacked by a party of Indians and negroes, to the number of fifty or sixty, from St. Augustine. Captain Williams's command consisted of a non-commissioned officer and nineteen privates, besides drivers. The wagons were lost; both the officers and six privates wounded, Captain Williams mortally, the non-commissioned officer killed. Colonel Williams, in December, in that year, marched with a volunteer corps from Tennessee to aid in defending the frontiers of Georgia from the incursions of the Seminole Indians. About that time, the movement of the Creek Indians, incited to war by their fanatics, was extensive. They would have war, and war came upon them; they put themselves out of the protection of the United States, by making war against them; and, by so doing, all the hostile Creeks and Seminoles who refused to agree to the treaty of August, 1814, made themselves outlaws; Hillis Hajo and Hemathlemico, chiefs of the Creek nation, being of that number.

In August, 1814, a British force took possession of Pensacola and the Fort of Barancas. A Colonel Nicholls commanded the land force, part of which was a corps of colonial marines, in which George Woodbine was a Captain and Robert C. Ambrister a Lieutenant. On the 29th of August, in that year, and about twenty days after the date of the treaty made with the Creek nation at Fort Jackson, Colonel Nicholls, who, it is presumed, had a knowledge of that treaty, issued his proclamation from Pensacola, inviting persons of every description to join and aid him to abolish (as he said) American usurpation in the country, and to put the lawful owners in possession; stating that he was at the head of a large body of Indians, well armed, disciplined, and commanded by British officers. On the 31st of that month he addressed a letter to Mr. Lafitte, informing him that he had arrived in the Florida for the purpose of annoying the only enemy Great Britain had in the world. He continued not long at Pensacola and Barancas. General Jackson, having, on the 9th of that month, concluded the treaty with the Creeks, and approached Pensacola with an American force, compelled the invading British to evacuate Pensacola, and to abandon the Barancas, after having blown up the fortifications. After that, General Jackson retired with the army under his command from Pensacola, and hastened to New Orleans to resist the British at that place. Colonel Nicholls, after having been driven from Pensacola and Barancas, moved to Appalachicola, and erected his fort for the reception of hostile Indians and negroes, from whence he might sally out, with his motley crew of black, white, and red combatants, and annoy the defenceless frontiers of the United States.

Colonel Nicholls retained his post at Appalachicola several months after the ratification of the Treaty of Ghent. His correspondence with Colonel Hawkins, commencing on the 28th of April, 1815, shows that he did not consider that the peace made between the United States and Great

Britain had put an end to his operations at his fort, or to his negotiation with the Indians against the United States; that he enclosed a copy of part of the ninth article of the Treaty of Ghent, stating that the Indians had accepted and signed it, and requested Colonel Hawkins to understand their territories to be as they stood in 1811; that they had signed a treaty of offensive and defensive alliance with Great Britain, as also one of commerce and navigation; that he was desired by the Indian chiefs to say, to Colonel Hawkins, that they do not find that his citizens were evacuating their lands, according to the 9th article of the Treaty of Peace, but that they were fresh provisioning the forts. By a letter from General Gaines, of the 22d May, 1815, it appears that Colonel Nicholls was then at Appalachicola, with about 900 Indians and 450 negroes, under arms. Hillis Hajo, or Francis, and other chiefs of the Creek nation, with others who did not attend at the Treaty of Fort Jackson, who continued hostile, are presumed to be of that party, and, with Colonel Nicholls, exciting to continue the war.

After having instigated the Indians to continue the war, by inducing them to believe that, by the ninth article of the Treaty of Ghent, they were entitled to repossess the territory, as in 1811; and having furnished them with a large quantity of arms and ammunition to carry on the war, Colonel Nicholls departed for Great Britain, taking with him Hillis Hajo, the fanatic, and an address from hostile chiefs to the King of England. It appears by a letter of Colonel Hawkins, of the 28th of May, 1815, and by the letters of General Gaines, of the month of December, 1817, and of January, 1818, that hostilities were continued by the Indians; in the course of which, it appears that Edward Daniels, taken prisoner, was tarred and burnt alive; that Mrs. Garret and her two children were murdered—she and the eldest scalped; Lieutenant Scott and his party, in a boat, fired on—six men of thirty, and one woman of seven, escaped—four little children taken by the legs and their brains dashed out against the boat, with other murders, and ravages, and barbarities. The time had arrived when it was absolutely necessary for the United States to exert their power to put an end to the war. The *salus populi*, or, in other words, the safety of the people, the supreme, irrevocable law of all nations, demanded that this savage war, carried on by Indians out of the protection of the United States, and negroes, and continued to be excited by foreign emissaries, who had identified themselves with the savages, be terminated.

On the 26th of December, 1817, the Department of War addressed a letter to Major General Andrew Jackson, then at Nashville, Tennessee, ordering him to repair, with as little delay as practicable, to Fort Scott, and assume the immediate command of the forces in that quarter of the southern division; advising him of the strength of the forces there—that General Gaines estimated the strength of the Indians at 2,700; and to call on the Executives of the adjacent States, if,



in his opinion, the troops of the United States were too few in number to beat the enemy; and to adopt the necessary measures to terminate a conflict which it has ever been the desire of the President, from considerations of humanity, to avoid, but which is now made necessary by their settled hostilities. On the 16th of January, 1818, the Secretary at War wrote to General Gaines, informing him that the honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked; and that orders were issued, directing the war to be carried on within the limits of Florida, should it be necessary to its speedy and effectual termination. These orders, I presume, have been received. That, as soon as it was known that he had repaired to Amelia Island, in obedience to orders, and it being uncertain how long he might be detained there, the state of things at Fort Scott made it necessary to order General Jackson to take command there. From his known promptitude, it is presumable his arrival may be soon expected. A letter from the Secretary at War, of the 29th January, 1818, to General Jackson, acknowledges the receipt of letters from him of the 12th and 13th of that month; and that the measures he had taken to bring an efficient force into the field were approved; and expressing a confident hope that a speedy and successful termination of the Indian war will follow his exertions.

On the 20th of January, 1818, General Jackson wrote to the Secretary of War further information respecting the measures by him adopted to carry on the war, and that he would leave Nashville on the 22d of that month for Fort Scott, via Fort Hawkins. On the 6th of February, 1818, the Secretary of War wrote to General Jackson, (Fort Scott, Georgia,) acknowledging the receipt of his letter of the 20th ultimo, and acquainting him of the entire approbation of the President of all the measures he had adopted to terminate the war; that the honor of our army, as well as the interest of the country, requires that it should be terminated as soon as practicable. It appears that General Jackson was at Fort Hawkins on the 10th of February, 1818; at Hartford, in Georgia, on the 14th; at Fort Early on the 26th; and on the 28th of March, 1818, at Fort Gadsden, east bank of Appalachicola, where formerly Negro Fort stood. Having reached Fort Scott on the 9th, with the brigade of Georgia militia, 900 bayonets strong, and some friendly Creeks, when, on the morning of the 10th, he assumed the command—ordered the live stock to be slaughtered, and issued to the troops, with one quart of corn to each man, and the line of march to be taken up at twelve, meridian. Near St. Marks, on the 8th April, 1818, the General writes to the Secretary of War that he had defeated a negro and Indian force—pursued them through the Mickasukian towns; that the towns were consumed, and the greatest abundance of corn, cattle, &c., brought in; that Captain McKeever had secured Francis,

lemico, an old Red Stick chief, and that Arbuthnot, a Scotchman, and suspected as an instigator of the war, was found in St. Marks; that there were found in the council-house of Kenhagu's town, the King of the Mickasukians, more than fifty fresh scalps, and in the centre of the square the old Red Stick's standard (a red pole) was erected, crowned with scalps, recognised, by the hair, as torn from the heads of the unfortunate companions of Scott; that Indians and negroes combined had demanded the surrender of St. Marks; that the Spanish garrison was too weak to defend it; that he had occupied it with an American garrison, and the commandant and garrison furnished with transportation to Pensacola. On the 9th of April, from camp sixteen miles from St. Marks, on march to Suwanee, the General wrote to the Secretary of War, "there is little room to doubt but what one of the chiefs found slain on the field in advance of the Mickasukian villages, was Kenhaje. Francis, or Hillis Hajo, and Hemathlemico, the prime instigators of this war, have been hung. The latter commanded the party who so inhumanly sacrificed Scott and his companions."

On the 20th of April he wrote to the Secretary of War, from Bowlegs town, Suwanee river, that he had marched from St. Marks on the 9th; on the 10th was joined by the rear of the volunteers from Tennessee, also by the Indians under General McIntosh; that the troops under his command (then composed of the regular, the Tennessee, and Kentucky volunteers, and Georgia militia) had defeated several parties of the enemy; that Ambrister had been taken; that he had ordered the Georgia troops to Hartford, to be paid and discharged. On the 26th April General Jackson wrote to the Secretary of War, from St. Marks, that he had arrived at that place, having performed a march of 107 miles in less than five days; that he would leave that place in two or three days for Fort Gadsden; that the Indian forces were divided and scattered; that his presence in the country can be no longer necessary; that, after having made all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Appalachicola, he would proceed directly to Nashville. In his letter of the 5th of May, dated at Fort Gadsden, he gives a detailed account of his operations in the war, and also informs of the execution of Arbuthnot and Ambrister; refers to his correspondence with the Governor of Pensacola, and certain matters which had been stated, to wit: that the Indians at war with the United States have free access into Pensacola; that they are kept advised from that quarter of the movements of the American army; that they are supplied from thence with ammunition and munitions of war; that a large body of them were there collecting; that inroads from thence had lately been made on the Alabama, in one of which eighteen settlers fell by the tomahawk; that these statements compelled him to make a movement to the west of the Appalachicola, and, should they prove correct, that Pensacola must be occu-

pied by an American force; that the army would move from Fort Gadsden on the 7th, crossing the Appalachicola river at Ochegee Bluff, about forty miles above Fort Gadsden.

In his letter of the 2d of June, 1818, dated at Fort Montgomery, he writes to the Secretary of War. After stating that he had left strong garrisons of regulars in Forts Scott and Gadsden; that he had resumed his march with a small detachment of the 4th regiment of infantry, one company of artillery, and the effectives of the Tennessee volunteers, the whole not exceeding 1,200 men; that he approached Pensacola, and occupied it and the fortress of Barancas; that it was deemed most advisable to retain the government the people were accustomed to, but that it was advisable to establish the revenue laws of the United States, to check smuggling, and to admit the American merchant to a participation of the trade; states the reasons of his movements, and bottoms all his operations in that country on the immutable principle of self-defence, authorized by the laws of nature and of nations. In this letter the General refers to several documents accompanying it—all of which, together with the articles made between him and the Governor of Pensacola, relative to the surrender of that place and the Fort of Barancas, in which provision is made for the restoration thereof to Spain, and various other documents relative to the Seminole war, have been communicated to the House of Representatives by the President of the United States, and are now before the American people for their consideration.

Spain, by the 5th article of the Treaty of 1795, was obliged expressly to restrain, by force, all hostilities on the part of the Indian nations living within her boundaries, (that is, of Florida,) so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory. Spain did not perform that stipulation of that treaty. The Indian tribes within her territory had visited the frontier people of the United States with all the horrors of savage war. Negro brigands were establishing themselves when and where they pleased. Foreign agents were openly and knowingly practising their intrigues in that neutral territory. The Indians hostile to the United States were uncontrolled by the Spanish authorities. That territory, by the neutral character of Spain, had become a place of safety to hostile Creeks, Seminoles, negroes, and foreign emissaries, from whence they issued when they pleased, to murder and destroy the people of the United States. Indians, who had murdered citizens, were demanded, and refused. Defensive operations had, by the United States, for several years, been carried on without effect. The hostile Indians began to believe they were invincible; they threatened to take possession of St. Marks. It was then time to put an end to such a state of things. For that purpose General Jackson was ordered to Fort Scott, to assume the command, and to terminate the war. He, therefore, with the army under his command, passed, in pursuit of the enemy, the

Florida line, attacked, and defeated the Indians and negroes; destroyed their towns; erected and garrisoned Fort Gadsden, on the place where Nicholls's negro fort had been; took and garrisoned St. Marks; ordered the prophet Hillis Hajo and Hemathlemico, who had been foreign instigators in the war, to be hanged; ordered Arbuthnot and Ambrister, found guilty of certain charges, to be executed. Afterwards, proceeded with his troops and took possession of Pensacola and Barancas, and established a government there; and, by doing these things, the Constitution of the United States is said to have been violated.

The Congress of the United States by the Constitution has the power of declaring war. It is urged that the Seminole war is a violation of the Constitution because Congress did not declare it. In answer to this it is observed, that Congress did not heretofore declare war against any Indian nation. War was not declared against the hostile Indians northwest of the river Ohio when General Harmar with an army was sent to reduce them; war was not declared against them when General St. Clair with an army was sent against them; war was not declared against them when General Wayne with an army was sent against them and defeated them. The carrying on of that war without a formal declaration of war against them by Congress, was not, in those times, considered a violation of the Constitution. No more can the carrying on the war named the Seminole war, be a violation of the Constitution. Foreign agents and emissaries, and Indian fanatics, in the years 1812 and 1813, instigated the Creek nation, of which the Seminoles are a part, to war against the United States; the United States being then at war with Great Britain. The State of Tennessee, in self-defence, sanctioned by the Constitution, commenced defensive operations against the Creek Indians; the war was carried into the Creek country, and the Creeks were subdued, and afterwards a treaty of peace was made. The war named the Seminole war is a continuation of the Creek war, and is also a continuation of the war which the Seminoles and other Creek Indians carried on against the frontiers of Georgia in the year 1812, and afterwards. Declare war by a solemn act of Congress against an Indian nation! An Indian cares not for a declaration of war, he knows not what the words signify. The Indian declares war by a stroke of his tomahawk, by matter of fact in blood and murder does he declare war, not by words. Great Britain did not declare war against Indian nations during the time these United States were colonies of Great Britain. It does not appear that Great Britain declared war against any of the powerful potentates of Asia, who have been overthrown and put down by Great Britain. Hence, it is evident that that objection to the Seminole war is not of any force. It is urged that the treaty made in August 1814, with the Creek nation, is the cause of the Seminole war. How that can be, is not easy to illustrate. Colonel Nicholls induced the hostile Indians to believe that, by the 9th article of the Treaty of Ghent,



they were entitled to be placed, in respect to territory, in the same state they were in in the year 1811. The 9th article of the Treaty of Ghent has not any bearing on the treaty made with the Creek Indians in August, 1814; that treaty was concluded more than four months before the Treaty of Ghent was signed. Colonel Nicholls, without doubt, had his own reasons for so telling the ignorant Indians. The Senate of the Congress of the United States constitutionally performed their duty when they consented to and revised the ratification of that treaty. The majority of the Creek nation had put themselves out of the protection of the United States by warring against them, and thereby forfeited what right soever they had to lands allotted to them by the United States to live and hunt on; it was therefore just to take a large part of the country and to sell it, to defray the expense of that war. That extensive country is now covered by a dense population of citizens, in numbers sufficient to be a State of this Union.

General Jackson was authorized by the supreme law of nature and nations, the law of self-defence, corresponding with the great national maxim, namely, the safety of the people is the supreme law, to enter the Spanish territory of Florida in pursuit of, and to destroy, hostile, murdering savages, not bound by any obligation, who were without the practice of any moral principle reciprocally obligatory on nations.

Spain was unable to, or did not, restrain, by force, the hostile Indians from issuing forth from Florida and destroying the people of the United States. It, therefore, became necessary that the United States, by General Jackson and his army, should do what Spain could not do, that is, by main force, to subject the hostile Indians to order, and due respect to the safety of the people of the United States. The hostile Indians had become superior in the Spanish territory of Florida. It, therefore, was necessary that the United States, in amity with Spain, should, not only in their own defence, but, in respect to Spain, put down that superiority. The hostile Indians and negroes had been understood to have been about to have occupied the Spanish fortress of St. Marks, which the Spanish garrison was unable to defend against them. It, therefore, was necessary to occupy that fortress with an American garrison to prevent it from falling into the hands of the Indians and negroes, enemies of the United States, who, uncontrolled by Spain, might from there issue at any time and murder the people of the United States. Arbuthnot and Ambrister had withdrawn themselves from the customs and laws of civil life, and associated and identified themselves with savages at war with the United States. Subjects of Great Britain, at peace with the United States by the solemn sanction of a treaty, Arbuthnot and Ambrister, by identifying themselves with Indians at war with the United States, and by aiding and abetting the Indians in that war, deprived themselves of their neutral character, violated the treaty of peace existing between the United States of America and Great Britain, and

by doing so, put themselves out of the protection of the Government to which they had belonged; and, if, said Mr. R., I may use the word, denationalized themselves. They were apprehended in the fact of aiding and abetting, of their own free will and accord, without the consent or order of the Government to which they belonged, the enemies of the United States, in levying and carrying on a war, an Indian, savage, barbarous war, against them.

The town of Pensacola and Fort of Barancas had been places of asylum, refuge, and resort for Nicholls, for Indians, for negroes, for Woodbine, and for the dregs of mankind, collected together to perpetrate violence in the extreme. Hostile Indians and negroes were there supplied; the Spanish Governor did not, or dared not, refuse. The Governor of Pensacola did not prevent Nicholls, with his troops, to occupy it and Barancas; he refrained not to admit Indians, at war with the United States, to enter Pensacola and Barancas, and to furnish them with munitions of war; but when he was informed by General Jackson, that American vessels, loaded with provisions to supply the American army, were about to pass up the Escambia river, he refused to let them pass, without paying large duties. General Jackson notified the Governor of Pensacola of his approach to that place, the Governor ordered the General to retire from Florida, and, if he did not, that he would use force to repel him. The Governor of Pensacola did not apply force to prevent Nicholls from occupying Pensacola; he did not use force to prevent Indians and negroes, hostile to the United States, from entering Pensacola.

The United States of America, in good faith, made with Spain the Treaty of 1795. The first article of that treaty provides and declares that there shall be a firm and inviolable peace and friendship between His Catholic Majesty, his successors, and subjects, and the United States and their citizens, without exception of persons or places. By the fifth article of that treaty, Spain did expressly oblige herself to restrain, by force, all hostilities on the part of the Indian nations living within her boundary; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territories. That article is reciprocal. The faithful execution of a treaty depends, in the first instance, on the officers of the Governments parties thereto. The articles of that treaty were obligatory on the Governor of St. Marks, and on the Governor of Pensacola. Their allegiance to their Sovereign compelled them to hold sacred that treaty, at the hazard of their lives. The Governors of St. Marks and Pensacola did not perform their obligations to their Government, pursuant to that treaty. Hillis Hajo, Hematthlemico, Arbuthnot, Ambrister, and other enemies of the United States, they admitted into their respective fortresses. They associated themselves with Indians and other enemies of the United States, and by so doing became enemies of the United States. Knowing that the United States and Spain were at peace, they violated the Treaty

of Peace between the United States and Spain, and thereby put themselves out of the protection of their own Government. The Indians living within the territory of Spain were under the protection of Spain, being included within the provision of the fifth article of the treaty. They, by their hostilities against the United States, put themselves out of the protection of Spain. Hillis Hajo, the fanatic, Hematthlemico, and other chiefs and warriors of the hostile Creek Red Sticks, who did not abide by and perform the stipulations of the Treaty of 1790, and of subsequent treaties made by the United States with the Creek nation, were out of the protection of the United States of America. Arbuthnot, the Scotchman, Ambrister, an officer of colonial marines, under the instigator Nicholls, did know that a Treaty of Peace was in full force between the United States of America and Great Britain, and that that treaty was obligatory on them as British subjects. They in defiance of that treaty did of their own free will and accord associate and identify themselves with the Indians and negroes, enemies of the United States, and aided, abetted, and comforted the said Indians and negroes in their hostilities; and by so doing, violated the said Treaty of Peace, and put themselves out of the protection of the Government to which they had belonged.

There then was in the Spanish territory of Florida, a motley band of white, red, and black, composed of Hillis Hajo, the fanatic, Hematthlemico, the chief of the savages, (who massacred Scott and his party, who spared not women, who spared not tender infants,) and other chiefs and warriors of the hostile Red Sticks, Seminoles, vagabonds, runaway negroes, Arbuthnot and Ambrister, all out of the protection of the Governments to which they had belonged, and within whose limits they had resided; a collection of outlaws, out of the protection of all laws and institutions of civilized man, engaged in levying and carrying on war against the people of the United States, and aided and abetted by the Governors of St. Marks and Pensacola, and endangering the existence of the peace between the United States and Spain. These were the enemies General Jackson and the army under his command had to contend with. He was authorized by the laws of nature, and by the supreme, irrevocable law of self-defence, to free our country from the present and future hostilities of such enemies. His obligations to the United States compelled him to do so. Spain was expressly obliged to restrain by force the Indians within her territory from committing hostilities against the United States. The Spanish officers commanding in Florida did not restrain the Indians from war, but aided and abetted them in it. It then became the duty of Spain to have displaced and superseded the said officers, and to have confided to other officers the command of Florida, who would have preserved the neutral character of that territory. Spain did not displace or supersede them. In order then to prevent the perpetration of future hostile atrocities by the Indians

and negroes and foreign emissaries and impostors, it was necessary to occupy St. Marks and Pensacola and Barancas with garrisons of troops of the United States, who would defend the said fortresses, not from the lawful authority of Spain, but from being possessed and occupied by hostile Indians, negroes, and foreign emissaries—enemies—from whence they might, as from places of safety, annoy and murder the people of the United States.

The proceedings of General Jackson in the Seminole war are approved. The President of the United States has demanded of Spain the punishment of those officers for their misconduct; and he has further demanded of Spain a just and reasonable indemnity to the United States for the heavy and necessary expenses which they have been compelled to incur by the failure of Spain to perform her engagements to restrain the Indians. These demands, which the President of the United States has made of Spain, I, said Mr. R., believe to be just, and such as he, on behalf of the United States, had and has a right to make, consistently with the honor and safety of the nation.

Mr. R. then observed that he would vote against the adoption of each of the proposed resolutions; and, after expressing his gratitude for the attention given to him, said he would forbear to speak further on this subject, on which he had delivered his opinions, bottomed on the supreme paramount law of nature and the treaties made by and between the United States and the other parties thereto.

THURSDAY, January 28.

Mr. HERBERT, from the select committee, to whom was referred the Code of Jurisprudence for the District of Columbia, prepared and transmitted to Congress, by William Cranch, Chief Justice of the said District, made a report thereon; which was read, and the resolution therein contained, was concurred in by the House, as follows:

*Resolved*, That the Code of Jurisprudence for the District of Columbia, prepared and transmitted to this House, by William Cranch, Chief Justice of the said District, be referred to the consideration of the Judges of the Circuit Court, and the Attorney for the said District, who are authorized and requested to examine the said Code and report to Congress, at their next session, such amendments thereto, as to them may seem necessary.

Mr. HERBERT, from the same committee, also reported a bill for the benefit of William Cranch, Chief Justice of the District of Columbia; which was read twice and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill extending the allowance of pensions to cadets; which was read twice and ordered to be engrossed and read a third time to-morrow.

A message from the Senate informed the House that the Senate accord to this House, permission



the honorable David Daggett and the honorable William Hunter, to attend the committee appointed by this House, to inquire into the conduct of William P. Van Ness and Matthias B. Tallmadge and to be examined touching the subject of said inquiry. They have passed bills of this House, of the following titles, to wit: "An act to establish a judicial district in Virginia, west of the Alleghany mountain;" and "An act to authorize the payment, in certain cases, on account of Treasury notes, which have been lost or destroyed;" with amendments to each, in which they ask the concurrence of this House.

The House took up for consideration the amendments of the Senate to the bill to establish a separate judicial district in the western part of Virginia. [The principal amendments were, to direct the holding of six sessions in each year, instead of four, (two at Clarksburg, two at Lewisburg, and two at Wythe Court House;) and authorizing but one clerk for the district, instead of two.]

Mr. McCoy moved that the bill and amendments be indefinitely postponed, which was negatived; and

The amendments were then concurred in by the House; as were also those of the Senate to the bill providing for the payment of lost Treasury notes in certain cases.

#### SEMINOLE WAR.

The House again took up, in Committee of the Whole, (Mr. HERBERT in the Chair,) the report of the Military Committee on the Seminole war, and the amendments proposed thereto by Mr. COBB.

Mr. RHEA concluded the remarks which he commenced yesterday in opposition to the report, &c. as given entire in the preceding pages.

The Committee, then, on motion of Mr. HOPKINSON, rose and reported progress; and the House adjourned.

FRIDAY, January 29.

Mr. HOPKINSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to extend the jurisdiction of circuit courts of the United States to cases arising under the law relating to patents," reported the same without amendment, and it was ordered to be read a third time to-morrow.

Mr. McCoy, from the Committee of Claims, to which was referred the amendment, proposed by the Senate, to the bill, entitled "An act for the relief of Daniel Renner and Nathaniel H. Heath," reported their agreement thereto, and the amendment was then concurred in by the House.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of William Scott and others, heirs of William Scott, deceased; which was read; when Mr. R. reported a bill for the relief of William Scott, Gabriel Scott, Thomas Scott, and Elizabeth Bowles, of the State of Mississippi, heirs of William Scott, deceased; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, submitted the following resolutions; which were read, and ordered to lie on the table:

1. *Resolved*, That it is expedient to establish a Military Academy, on the western waters, upon the principles of the Academy at West Point.

2. *Resolved*, That it is expedient to establish a school of practice for the artillery, in the vicinity of the City of Washington.

Mr. JOHNSON also submitted to the House a communication made to him as chairman of the Committee on Military Affairs, by the Secretary of War, in relation to the subjects embraced in the above resolutions; which was ordered to lie on the table.

On motion of Mr. BALDWIN, the Committee on the Judiciary were instructed to inquire into the expediency of making provision for the more convenient execution of the laws within the Territory of Michigan.

Mr. LOWNDES submitted the following proposition or amendment to the rules and orders of the House; which was read, and ordered to lie on the table, viz:

"It shall be the duty of the Committee of Ways and Means, in preparing bills of appropriation, not to include appropriations for carrying into effect treaties made by the United States, in a bill containing appropriations intended for other objects; and where an appropriation bill shall be referred to that committee for their consideration, containing appropriations for carrying a treaty into effect, and, also, appropriations for other objects, it shall be the duty of the committee to propose such amendments as shall prevent appropriations for carrying a treaty into effect, from being included in the same bill which contains appropriations for other objects."

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom were committed the amendments of the Senate to the bill making appropriations for the support of the Navy for the current year, reported their agreement thereto; and the said amendments subsequently passed through a Committee of the Whole, and were concurred in by the House.

An engrossed bill, entitled "An act extending the allowance of pensions to cadets," was read the third time; and on the question, Shall the said bill pass? it was determined in the negative.

#### SEMINOLE WAR.

The House resumed, in Committee of the Whole, (Mr. BASSETT in the Chair,) the consideration of the report of the Military Committee, on the transactions of the Seminole war.

Mr. HOPKINSON, of Pennsylvania, addressed the House as follows:

Mr. Chairman, if, after the discussion this subject has undergone, I were to promise the Committee to present it with entire novelty, I should promise that which it is not in my power to perform, and which would betray a presumption, of which, I trust, I am incapable. I have the hope, however, that I may be able to offer some principles in relation to it which have not yet been presented, and are entitled to some influence on

the decision of the Committee, and to make some new applications of principles already established.

The matters in controversy seem to me to obtain infinite importance, from the connexion they have with the character of our country. We stand in a most peculiar and responsible situation in this respect. The nations of Europe, from their contiguity, may be said to form a family or an association of nations, controlled by, and accountable to each other. They have alliances which all respect, ties which all must feel, balances and checks which all are interested to preserve, and rules of conduct in their mutual intercourse which all are made to obey. The American people, removed far from the rest of the civilized world, and placed beyond the control of the policy or force of Europe, have none of these means to keep them to the path of justice. They acknowledge no guide authorized to direct them but their own consciences; and feel no responsibility but to their God. This, sir, is a trying and a tempting situation, placing us on the highest ground of virtue, if we do not abuse it; but exposing us to infinite danger from the suggestions of pride, interest, and self-love. But, sir, let us not forget that we belong to the family of civilized nations, and be most forward to prove our devotion to those rules of conduct which the experience and wisdom of ages have established, as necessary for the peace and usefulness of all. Let us cherish those laws which increase the blessings of peace, and mitigate the calamities of war.

The dangers which our country may apprehend from the encouragement of a military spirit in our people, have been eloquently portrayed on this occasion. It is undoubtedly true that a strong disposition of this sort has been manifested, and was rapidly rising, in the people of the United States; and a greater evil could hardly befall us than the consummation of its ascendancy. There is something so infatuating in the pomp and triumphs of war, that a young and brave people who have known but little of its destructive miseries may require to be guarded against falling into the snare, and led to direct their energies to other and better objects. It is worthy of remark that, in the various ways in which the genius and powers of men display themselves, the military course is the only one eminently dangerous to his species. Genius in every other department, however dazzling and powerful, is never hurtful, is generally a blessing to the world. The stupendous genius of Newton elevated the dignity of man, and brought him nearer to his God; it gave him a path to walk in the firmament, and knowledge to hold converse with the stars. The erratic comet cannot elude his vigilance, nor the powerful sun disappoint his calculations. Yet, this genius, so mighty in the production of good, was harmless of the evil as a child. It never inflicted injury or pain on anything that lives or feels. Shakspeare prepared an inexhaustible feast of instruction and delight for his own age and the ages to come; but he

brought no tears into the world but those of fictitious woe, which the other end of his wand was always ready to cure. It is military genius alone that must be nourished with blood, and can find employment only in inflicting misery and death upon man.

The character and services of General Jackson have called forth eloquent eulogiums from various parts of the House. I have no disposition to depreciate them, although I think some of the praise bestowed upon them has been somewhat extravagant. I cannot think him the greatest commander this country has produced; much less is he the greatest general of the age; an age so productive of military wonders. He is unquestionably a man of undaunted courage, of indefatigable perseverance, of striking decision and celerity, and of great resources. If his private virtues, of which I know nothing, are equal to his public services, he is, assuredly, a man worthy of all estimation. These things will not influence my opinion or my vote, in the discussion and decision of questions of national law and public importance, which have no other connexion with the character or services of General Jackson, than that they have arisen out of transactions in which he has been engaged.

We have seen, in this debate, a very laborious examination of books, for principles applicable to the questions in discussion; and authorities have been quoted, without end, on the several points. In truth, however, this is not the difficulty of the case; the principles of the laws of nations, which have relation to it, are very clear and unquestionable; and the inquiry should be into the facts and circumstances of this campaign. These being distinctly ascertained, the decision of the law upon them will be found at once. Indeed, it is the excellence of that system which is called the laws of nations, that there is little in it that is technical or arbitrary; the rule is, generally, that which the sound understanding and common sense of every man would suggest to him, if he had never read a line on the subject. My object will be to draw the attention of the Committee to the prominent points of inquiry; to fix with precision the facts in relation to each, and show the principles of national law which ought to govern us in deciding upon them. General Jackson has been arraigned; first, for crossing the line separating the United States from Florida; second, for taking the fortress of St. Marks from the Spanish authorities; third, for taking Pensacola and Barancas; fourth, for the execution of Ambrister and Arbuthnot. I beg leave to premise that, in discussing a transaction in which so many distinct questions arise, it will necessarily happen that different gentlemen of the Committee will agree upon some, and disagree upon others; and even when they come to the same result of approbation or disapprobation, it may be for reasons wholly different. This renders a particular explanation of the ground of opinion more necessary than in ordinary cases. In crossing the Florida line and entering upon the Spanish territory, General Jackson certainly



violated the neutral and national rights of Spain, unless he can show it was done for reasons, and under circumstances, which, by the agreement of nations, or, in other words, by the laws of nations, justify it, and remove its offensive character. Several grounds of defence have been taken for this act, both by General Jackson and on this floor. And here I may remark, in relation to this part of the case, as well as some of the others, that it is unfortunate for a man, when he has done that which is really right and defensible, to stumble upon a bad reason for it. His reason will be successfully attacked, and he will appear to stand condemned, when, in truth, his injudicious defence only has been overthrown. So it has happened to the General. It has been said for him, that he was justified in crossing the Spanish line to attack the Indians, because Spain had, by her treaty, stipulated that she would restrain the Indians within her territory from hostilities against the United States; and that, not having done this, we had a right to pass into the territory to do that for her and ourselves which she was bound, but had failed to do. It is obvious, on the least reflection, that this defence can avail nothing. If Spain had failed to perform her treaties with the United States, it was a matter to be adjusted by the two Governments, and not by a Commander-in-chief, at the head of his army. Spain might give reasons for the failure satisfactory to this Government, and had a right to an opportunity to do so. But the conclusive view of this point is this: If the territory of Spain was violated or attacked, to compel her to perform her treaty stipulation, or to punish her for not doing so, or because she had not done so, the act connected with the object was undoubtedly an act of war, it placed us in a state of war, and changed our relations with Spain.

Now, it is necessary only to look at our Constitution, to learn that neither General Jackson, nor those under whose orders he acted, possess the right to make war, under any pretence, or for any cause whatever. To change the relations of this country, from those of peace to those of war, is a change so infinitely interesting to the people, nay, to every individual of the country, and to be determined by so many considerations of policy, as well as right, that it must be the combined act of all the powers of the Government, representing all the people of the United States. It has not been intrusted to the rashness or caprice of a military commander, nor to the will of the Executive Magistrates. Congress alone may declare war. At the foundation, then, of all the argument I shall submit to the Committee, and which, I beg may be kept in mind through the whole, I place this principle: that General Jackson must be defended in what he has done, consistently with our neutral relations with Spain, or he cannot be defended at all. Everything beyond this is *war with Spain*; and the power of making war is not with General Jackson. My inquiry then will be, what circumstances will justify a belligerent in invading or entering the territory of a neutral,

consistently with neutral relations; so that the neutral will not be justified in considering and repelling it as an act of hostility. The right to enter neutral territory stands upon the same principle as the right of passage through it. I shall so consider the case before us; and cannot admit it to be the case of a fresh pursuit after a defeated enemy, who, flying from the field of battle, cross an imaginary line, and are, on the instant, pursued over it. This is not the state of the fact; the Spanish line was passed for the purposes of relieving our army from a critical situation; of terminating a war which otherwise might be endless; and of breaking up and destroying the enemy in their own villages. There is nothing of the nature of fresh pursuit in any of this. The right of passage over a neutral soil is justified by the law of nations, when taken, 1st, by consent; 2d, when unquestionably innocent, and unjustly denied; 3d, in case of urgent and real necessity. I agree, that in every case the permission of the neutral should first be asked, if practicable; because, it is only by asking you can obtain consent; it is only by asking and hearing the objections, it can be decided whether the passage is innocent, and the refusal unjust; and, in the third case, it is only in this way you can judge whether your necessity for passing, or the necessity of the neutral for refusing, is the stronger; for it is abundantly clear, that, if a superior or equal necessity obliges the proprietor of the soil to deny you passage, he may justly do so, and his right must prevail over yours. But, where your necessity is such, as to render it impossible to ask the permission of the neutral to enter his territory, that the very delay of such a proceeding would bring upon you all the calamity apprehended, I hold it to be right of the belligerent to proceed without permission asked, leaving his justification to future explanation and adjustment. The necessity which justifies the act, must also justify the manner, if equally within the urgency of the necessity.

As to an innocent passage—so unquestionably innocent, that a refusal would be deemed unjust, and, of itself, authorize an entry—I agree it can rarely happen; because the passage of troops through a country can rarely be had without some injury, more or less immediate or consequential to the neutral. But, such an instance does occur in the very case before us, which may serve to exemplify the doctrine. At the commencement of these Indian hostilities, the troops of the United States in Fort Scott became exceedingly straitened for provisions, and the enemy, unable to attack the place with direct force, conceived the plan of reducing them by famine and cutting off all supplies. These supplies could only be furnished by passing up the Appalachian river, through the Spanish territory. In like manner, to supply the garrison of Fort Crawford, it was necessary to use the Escambia river. Now, it is obvious, that while it was all-important to the United States to use these passages for these purposes, it is equally obvious, that such passage was entirely and un-

questionably innocent in relation to Spain, and no possible injury or inconvenience could accrue to her in consequence of it. A refusal, in such case, would, by the law of nations, be deemed unjust; and if force were resorted to under such circumstances, the refusing nation would be considered as having indiscreetly drawn the violence on itself. I mean not to say, that any such refusal was made in the case mentioned. A demand of duties was made, which, if reasonable customary, cannot be complained of; otherwise, if used as a mere pretext for embarrassment and delay. In considering this right of passage, or of crossing into the neutral territory, it is always necessary to make a full and just estimate of the reasons on the one side and the other, to make comparison of the necessity which presses upon the belligerent to insist with the reasons the neutral may urge for refusing. I cannot, therefore, agree with the honorable gentleman from Virginia, (Mr. MERCER,) that there are no degrees of necessity; that it is a point precise and absolute. On the contrary, it is, in these cases, always a question of degree; and the necessity which will justify the invasion of neutral territory, will be, more or less, according to the weight of the counter necessity opposed by the neutral to prevent it. A degree of necessity will authorize a mere passage, which will not authorize the occupation of a fort; in which case, what is called *extreme necessity* is required. From these principles it follows, that, in order to decide upon the propriety of General Jackson's crossing into Florida, we must examine, with some minuteness, his actual situation at the time; the nature and urgency of the circumstances that determined him to the measure; and fairly compare them with the reasons which may be urged against it on the part of Spain. We must compare his necessities with the inconveniences or injuries that might result to the neutral nation, by his relieving himself in this way.

The United States are at war with certain tribes of Indians inhabiting the Spanish territory. I do not inquire, as some gentlemen have done, into the origin of this war, or decide who was the immediate aggressor. The commanding General, whose conduct we are now investigating, has nothing to do with this question. It is his duty to fight the battles of his country, and carry on the war according to the laws of his country. Those who send him into the field must answer for the war. I may say, however, that I presume the origin of this war is the same with all our Indian wars. It lies deep beyond the power of eradication, in the mighty wrongs we have heaped upon the miserable nations of these lands. I cannot refuse them my heart-felt sympathy. Reflect upon what they were; and look at them as they are. Great nations dwindled down into wandering tribes; and powerful kings degraded to beggarly chiefs. Once the sole possessors of immeasurable wilds, it could not have entered into their imagination that there was a force on earth to disturb their possessions, and overthrow their power. It entered not into

their imagination, that from beyond that great water, which to them was an impassable limit, there would come a race of beings to despoil them of their inheritance, and sweep them from the earth. Three hundred years have rolled into the bosom of eternity since the white man put his foot on these silent shores; and every day, every hour, and every moment, has been marked with some act of cruelty and oppression. Imposing on the credulity or the ignorance of the aborigines, and overawing their fears by the use of instruments of death of inconceivable terror. The strangers gradually established themselves, increasing the work of destruction with the increase of their strength. The tide of civilization, for so we call it, fed from its inexhaustible sources in Europe, as well as by its own means of augmentation, swells rapidly and presses on the savage. He retreats from forest to forest, from mountain to mountain, hoping, at every remove, he has left enough for his invaders, and may enjoy in peace his new abode. But in vain; it is only in the grave, the last retreat of man, that he will find repose. He recedes before the swelling waters; the cry of his complaint becomes more distant and feeble, and soon will be heard no more. I hear, sir, of beneficent plans for civilizing the Indians, and securing their possessions to them. The great men who make these efforts will have the approbation of God and their own conscience; but this will be all their success. I consider the fate of the Indian as inevitably fixed. He must perish. The decree of extermination has long since gone forth; and the execution of it is in rapid progress. Avarice, sir, has counted their acres, and power their force; and avarice and power march on together to their destruction. You talk of the scalping knife; what is it to the liquid poison you pour down the throats of these wretched beings? You declaim against the murderous tomahawk; what is it, in comparison with your arms, your discipline, your numbers? The contest is in vain; and equally vain are the efforts of a handful of benevolent men against such a combination of force, stimulated by avarice and the temptations of wealth. When, in the documents on your table, I see that, in this triumphant march of General Jackson, he meets, from time to time, (the only enemy he saw,) groups of old men and women, and children, gathering on the edge of a morass, their villages destroyed, their corn and provisions carried off, houseless in the depth of winter, looking for death alternately to famine and the sword, my heart sickens at a scene so charged with wretchedness. To rouse us from a sympathy so deep, so irresistible, we are told of the scalping knife and the tomahawk; of our slaughtered women and children. We speak of these things, as if women and children were unknown to the Indians—as if they have no such beings amongst them; no such near and dear relations; as if they belong only to us. It is not so. The poor Indian mother, crouching in her miserable wigwam, or resting under the broad canopy of heaven, presses her naked infant to



her bosom with as true and fond emotion as the fairest in our land; and her heart is torn with as keen anguish if it perish in her sight. A few nights since a lecture was delivered in this House upon the power of knowledge. Among other extraordinary productions of human genius, the mariner's compass was mentioned as one of the most useful. My mind, dwelling perhaps on this debate, immediately asked, Is it so? What says the Indian to that? Go to the Southern part of this continent, from the Pacific to the Atlantic, once inhabited by great and powerful nations, enjoying all the happiness life could give; because it was all they could know or enjoy. How do you find it now? Sadness, and misery, and despair, in man; waste and desolation over the plains. What has made this change, and sunk millions of happy beings into hordes of degraded slaves? The mariner's compass. Turn your eyes to Northern America, the scene is not more cheering, and the cause the same. Lift your prospect to the regions of India, once the unrivalled seat of costly magnificence and earthly power, but now groaning, expiring under the exactions of commercial avarice and the oppressions of military despotism. What did all this? The mariner's compass.

I pray the pardon of the Committee for this digression; it was truly my intention to hold myself closely to the subject of discussion, and to treat that only as a question of national law, although I was conscious that this dull course of argument would want those attractions of eloquence which have enriched the addresses of other gentlemen.

In the Fall of 1817, hostilities had broken out between the United States and the Seminole Indians, residing in Florida, and assumed appearances of danger and ferocity, requiring immediate and effectual suppression. On the 30th of November of that year, a boat, commanded by Lieutenant Scott, containing forty men, some women, and I believe some children, when ascending the Apalachicola river, was fired upon by a party of ambuscaded Indians, and the whole party killed, wounded, or taken prisoners. Previous to this occurrence, other murders and robberies had been perpetrated. It is said by General Gaines, in one of his talks, that the murderers and robbers had been demanded of the Indians, and refused; and that a council had been held by them at Micksuky, at which war with the United States was determined upon. On the 15th December, 1817, our transports, passing up the river to reach our forts, were attacked from both shores, and placed in imminent danger. On the 9th of January, 1818, bodies of Indians, in the whole from eight to twelve hundred, were collecting on the Apalachicola, for the purpose of cutting off our supplies. From these facts it is obvious that war existed with as much formality and more activity than is usual with Indian hostilities. Such was the state of things in December, 1817, and the beginning of '18. In order to show that our Government was truly desirous to respect, even to an imaginary line, the sover-

eignty and neutrality of Spain, and ceased to do so only when circumstances made it necessary, and of course justifiable, it may be proper to look to the orders issued by the War Department on the 30th of October, 1817. In a letter of that date to General Gaines, he is told that the President approves of the march of the troops from Fort Montgomery to Fort Scott; that he flatters himself the appearance of this force will restrain the Indians, and induce them to make reparation for the murders they had committed. Should they, however, refuse to make reparation, "it is the wish of the President," says the Secretary, "that you should not, on that account, pass the line, and make an attack upon them within the limits of Florida, until you shall have received further instructions from this department." We see in these orders a scrupulous attention to the neutral rights of Spain, and a very discriminating observance of the laws of nations. The two objects to be attained, were the restraint of the hostilities and depredations of the Indians, and to induce them to make reparation for those committed. For the attainment of them the President relies on the appearance of the force of our troops; but, should he be disappointed in this hope, he directs that the line shall not be passed, because reparation is refused, without further orders from the department. Now, whether we might pass the line for the purpose of restraining hostilities, would depend upon the nature and necessity of the case; but it is most clear that we have no such right merely to obtain reparation for past injuries, or to chastise the enemy for refusing it. The line is, therefore, accurately drawn by the President, according to the rules of national law. He forbids the passage peremptorily for a cause not justified by that law; and, as to the other object, directs that he shall be consulted before so important a step is taken. On the 26th December, when the order issued to General Jackson, to take command of the army, our situation was no longer so secure as in October preceding. The enemy had greatly increased in number; they had taken positions fatal to our garrisons, by cutting off all supplies from them; they had destroyed a considerable party of men going to those forts; they had attacked our transports, and manifested a determination to press the war with all their power and all their cruelty. The change of circumstances required a corresponding change in the measures of defence. On the 9th of December, a letter is addressed from the Executive to General Gaines, for his government. Fowltown had now been attacked and destroyed by General Gaines. The President again expresses the hope that this correction will induce the Indians to abstain from further depredations, and sue for peace. He refers the General to the letters of 30th October and 2d December, as manifesting his views, and directs that he should conform to them. At the same time he says, "should the Indians assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, you will, in that event, ex-

ercise a sound discretion as to the propriety of crossing the line, for the purpose of attacking them and breaking up their towns." This order, if carefully attended to, will evince the same desire in our Executive, not to tread on Spanish ground, but under circumstances justified by law. It is not to be done because the Indians assemble in force on the Spanish side, unless, in addition to this, they persevere in committing hostilities within the limits of the United States. That is, if the Spanish side of the line is used as a position from which they make their attacks, and a refuge in which they shelter themselves from our attacks, from pursuit and defeat, then you, exercising a sound discretion, may pass the line. Under such circumstances, it, in fact, becomes a necessary measure of preservation, and may, indeed, be considered rather as a defensive than an offensive operation. So far it is clear, to my understanding, that all the orders issued from the War Department are strictly warranted by national law, and exhibit a proper and scrupulous regard for the rights of Spain. I find, however, in a letter to General Gaines, of the 16th December, that which, in my opinion, cannot be thus justified; and I am at loss to discover why the department abandoned the sure ground on which it stood, for that which seems to me to be absolutely indefensible. In this letter the General is instructed, "should the Seminole Indians still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President that you consider yourself at liberty to march across the Florida line, and to attack them within its limits, should it be found necessary, unless they should shelter themselves under a Spanish fort. In the last event you will immediately notify this department." I have already shown, and it is unquestionable, that the necessity which justifies the violent invasion of a neutral country, must be to prevent, to avoid, to be relieved from, an injury or danger of high moment, and not to revenge a wrong, however atrocious, or obtain redress for depredations, however destructive. This distinction, so obvious and so just, has been carefully marked by the President in all his previous orders. Why it was disregarded in this letter, I cannot say. On or about the 11th of March, 1818, General Jackson crossed the river, passed down on the east side, and arrived on the 16th at Fort Gadsden, which is within the Spanish line of Florida. Let us then shortly sum up the circumstances by which he must defend this measure, and compare them with the reasons Spain may justly urge against it; and, by a fair comparison between them, we shall be able to decide whether, by the law of nations, we stand justified or condemned for this intrusion upon neutral territory. We defend on these uncontradicted facts: that our enemy, in very considerable force, had assembled on or near the line separating the two countries, part of which line was a navigable river, the free passage of which was essential to our safety, as, without it, neither supplies, or provisions, or munitions of war, nor

reinforcements of men, could be transported to our garrisons within our own territory, beset by the Indians, and in danger of falling into their hands, if deprived of this assistance. We defend on the obvious facility with which the enemy might make his destructive incursions into our country, and the impossibility of restraining him, if he is to find a shelter from pursuit and punishment the moment he repasses the line. We defend, in the third place, on the interminable nature of a war thus carried on with such an enemy; the enormous expense to the United States in this protracted hostility; the daily loss of valuable lives by disease and the sword; and the infinite loss and inconvenience of keeping our militia in the field, from their homes and business, when the means of terminating the conflict were so directly in their view, and so entirely in their power. Such is the necessity under which we claim the right to enter the Spanish territory, without thereby changing our pacific relations with that Power. What can Spain oppose to this to warrant her in refusing this passage to our troops, or in complaining of it as an hostile invasion of her rights? Positively nothing. No injury, no inconvenience did result, or could have resulted, to her from the act. Look at the situation of the country we entered; it was not a populous city, whose peace might be endangered and disturbed by the presence of an army; it was not through flourishing villages and cultivated farms we passed, where the property of the inhabitants might be pillaged or destroyed by the disorders of a large military force; but a mere waste and wilderness, on which the foot of civilized man had scarcely trod, in which the interest of the Spanish monarchy is but nominal, and of the existence of which the greater part of the Spanish people are utterly ignorant. Above all, and which perhaps is the first consideration in these cases, the permission of this passage, nor the taking of it, would not expose Spain to any danger from our enemy, or expose her to the danger of being brought into the war on account of it. I leave the crossing of the Spanish line on this justification, being well satisfied it is entirely consistent with the most rigid observance of neutral rights, as recognised and guarded by the laws of nations. I agree that permission should have been asked, if circumstances would have allowed; but the same necessity which justifies the measure, in this instance justifies the adoption of it without such request.

The occupation of St. Marks by the American troops followed the entrance into Florida, and is the next proceeding to be considered. It is admitted by our Government that stronger reasons must be found for taking possession of this fortress than for the mere entrance upon Spanish territory; that is, the necessity must be more urgent and powerful; still, however, it is but a stronger case under the same principle. The seizure of a post or fortress belonging to a neutral Power is so high and hazardous an interference with the rights of property as well as sovereignty, that it calls for a corresponding justification.



This is found in what Vattel calls *extreme necessity*; it must be indispensable for preservation from immediate destruction; this again is but the dictate of the common sense of mankind. The right of an individual in his house, is as perfect and inviolable as that of a nation in its forts; a man's house is emphatically called his castle, and as such protected by the law. But assuredly it would be no illegal violation of this sanctuary, if, pursued by an assassin, I should take refuge in my neighbor's dwelling; and forcibly too, if, under such circumstances he would refuse or prevent me. The necessity here required must be immediate and extreme. It is not enough that the position taken will be a convenient means of annoyance to the enemy; a prevention of future danger; or an effective instrument for offensive or defensive operations in the war. No prospective advantage or danger will satisfy the law. Self-preservation; a deliverance from immediate, direct, and extreme peril, must be the end to be obtained by means so extreme. This is the principle; how does it apply to the occupation of St. Marks? Before I examine the facts in relation to this transaction, I beg leave to dispose of a justification set up for General Jackson, which I hold to be altogether untenable. It is said that Spain had by her treaty stipulated to restrain the Indians within her territory from hostile incursions into the United States; and that, not having done this, whether from inability or design, the right devolves upon us to enter the Spanish territory and do that for ourselves which she was bound, but has failed to do for us; and to take her forts in execution of this design. To this, I answer briefly, that, whatever cause of complaint this omission may have given to the United States against Spain; and whatever cause of war it might have afforded, if the complaint was not attended to and a satisfactory explanation given, yet it can give no authority to a military commander to commit an act of hostility, and involve his country in a war without its concurrence. It is for a higher and a safer power in our Government to judge when treaties have been broken, and what measures of redress should be resorted to against the delinquent. To invade the country of another, because a treaty has not been observed, is to punish for the delinquency; and, among nations, punishment can be inflicted only by war. Such an attempt cannot be made consistent with neutral relations; and we must always keep in mind, that, whatever the General has done, which is not consistent with these relations, which he had no right to change, he has done without authority. I may however use this failure on their part in support of the plea of necessity. It may be considered, in a degree, as both the cause and the evidence of the necessity. It is the cause, inasmuch as if Spain had performed her treaty stipulation and restrained her Indians, we should have no desire or necessity of entering her territory to prevent their hostile attacks upon us. It is the evidence, inasmuch as if the Indian force was really so formidable as to overpower the force of Spain, so that she was unable

to restrain it on performance of her stipulation, it is not for her to say that the danger to us from this force was so inconsiderable and trifling as not to justify any strong measures on our part to guard against it. I come now to turn your attention to the facts and allegations relied upon for the capture of St. Marks. In General Jackson's letter of the 8th April, 1818, he tells us he left Fort Gadsden on the 26th March; that on the 1st April he was joined by McIntosh; and on the same day discovered a small party of Indians, which he dispersed; he continued the pursuit of them through the Mickasukee village, where he burnt three hundred houses. He then says, "as I had reason to believe a portion of the hostile Indians had fled to St Marks, I directed my march to that fortress." He afterwards found the Indians and negroes had demanded the surrender of that fort; and that the Spanish garrison was too weak to defend it; and adds, that there were circumstances reported, producing a strong conviction on his mind, that, if not instigated by the Spanish authority, the Indians had received the means of carrying on the war from that quarter; and that St. Marks was necessary as a depot to insure success to his operations. These considerations determined General Jackson to occupy the fort. We here see several reasons urged in justification of this measure, some of which are good and some bad. While, therefore, I admit the justification, I desire to state the ground on which I rest it, lest I might be supposed to adopt all the reasons given for it. In this case the principle on which we approve or disapprove is everything; as it is the principle, assumed and sanctioned by the House, which will govern future cases.

Three grounds are taken by the General; 1st, that the Spanish authorities in this quarter had instigated and supplied the enemy. If this fact were made out even stronger than it is by the evidence, I should not hold it to be a justification for the measure taken by the army, and, for the reason so often mentioned, that a capture on account would be a hostile capture; an act of war against Spain; would be inconsistent with our neutral relations with that Power. It was, doubtless, a just cause of the most serious and determined complaint by our Government against Spain; it would be a just cause of war if Spain refused all reasonable satisfaction for the outrage; but both the cause and the expediency of such a war was to be decided, not by a military commander of our army, but by the Representatives of the people, with whom alone this high and vital power is intrusted. Still less, if possible, is the General justified by the second consideration suggested by him in his defence; that St. Marks was a necessary depot to insure success in his operations against our enemy. I will not abuse the patience of the Committee by showing them that by no known law of nations, by no principle of common justice or common sense, can I take forcible possession of the property of another; can I violate his most sacred and essential rights, merely for my convenience, or to insure success

in a contest to which he is not a party, and in which he has no concern. Such a doctrine is monstrous, and subversive of the very foundations of public and private rights. What, then, remains for his justification? It is this—that a surrender of this fortress had been demanded by our enemy; that the neutral Power was confessedly too weak to resist the demand or prevent the execution of the menace with which it was accompanied, of taking forcible possession if refused. For the proof of this fact, I look not to dubious circumstances, or witnesses of doubtful credit. We have it in the unequivocal declarations of the Governor of Pensacola and the commandant of St. Marks. We have these declarations proved, not only by unexceptionable witnesses, but under the hand of the commandant in his letter of the 7th of April. When these officers of the Spanish authority were charged with giving aid and countenance and protection to our enemy, in violation both of the general and the treaty duties of Spain, they defend or excuse themselves by displaying the force and ferocity of the Indians; by their menaces to take possession of the fort, and the inability to prevent it. If these assertions are to make the apology, they must be taken to be true, and, if true, they may be used by both parties, they may serve to justify such proceedings on our part, as are fairly justified by them. This, then, being the case, what is the principle of national law that should govern it? I hold it to be entirely clear, that, when a fort, or any other means of warfare, will, with reasonable certainty, fall into the hands of one of the belligerents, and be by him used against the other, the party thus endangered may prevent the evil, on the rights of self-defence, by taking even forcibly, the instrument from the neutral; and that this is, in point of law, no hostile attack upon the neutral, nor right to be considered by him as an act of war, or a breach of his neutral relation. If arms, artillery, munitions of war, belonging to a neutral, were about to be taken by our enemy, can anybody doubt we might prevent this evil (if the neutral could not) by seizing them ourselves; making afterwards proper satisfaction to the neutral. I know, sir, that I here come directly upon a transaction which made much clamor in the world, particularly in this part of it, when it occurred—I mean the seizure of the Danish fleet, lying at Copenhagen, by the British. Taking the state of the fact to be as I have represented, I cannot doubt of the justification of the act. It is the common sense of mankind. Let me put a familiar case. Two men are engaged in one of these avenues in mutual strife; it is the contest of death. One of them perceives a stranger passing by who has no concern whatever in the quarrel; who is a neutral. But, this stranger has in his hand a drawn sword, which the combatant certainly knows will be taken and used against him by his antagonist, unless he prevents it by seizing the sword himself. He knows the neutral cannot prevent it, if he will. Will any man say, that, in this situation, he would not be justified in disregarding, for a moment, and in a point

comparatively insignificant, the rights of the stranger and taking from him the weapon which he cannot retain and which in the hands of his adversary might be fatal to him? I agree, sir, that the belligerent using this violence takes a high responsibility upon himself, and is bound to make out his justification in the manner I have stated, with great certainty and by unequivocal evidence. On what principle but this can our Government justify itself for taking and still holding Amelia Island? It had fallen into the possession, not, indeed, of a regular force, and civilized enemy, but of a gang of brigands, pirates, and fugitives from justice. From its local situation our country was exceedingly exposed to the lawless depredations of these robbers. Spain, the rightful owner of the soil, was unable to break up the nest and expel the murderers from it, or prevent the injuries which they were able to inflict upon us by the use of the Spanish territory. Assuredly, then, the most obvious principles of self-defence authorized us to deprive the enemy of this means of annoying us; to take from them, not from Spain, a position of which she has been unjustly deprived, and which was so dangerous to us. It was no violation of the neutral rights of Spain; there was nothing in it of which she could reasonably complain. The occupation of St. Marks by General Jackson stands on the same principles; the admission and declarations of the Spanish authorities commanding in the fort. One part of this transaction I confess, is not sufficiently explained. It appears that the commandant and garrison were transported to Pensacola; but it does not clearly appear whether this was done by the orders of the General, or in compliance with their own wishes. It needs not a word to satisfy the Committee, that, when a belligerent does find himself under a necessity to appropriate to himself the rights and property of another, he must do it with all possible respect to those rights, and with as little inconvenience and injury as practicable to the neutral. He may not, therefore, in a case like the present, expel the neutral from his possession; he should hold out a joint occupation of the place, and hold it as inoffensively as the nature of his situation will allow. Upon this point, I do not find sufficient light in the testimony to justify or condemn the General. I shall trouble the Committee no longer with the seizure of St. Marks, having explained the grounds on which alone it appears to me it can be defended consistently with our neutral relations with Spain.

I propose next to consider the case of Pensacola. The capture of this place, with the fort of Barancas, must be tried and tested by the principles I have already submitted to the Committee. It must be defended either by showing it was necessary to preserve our army from some immediate, unjust, and extreme peril, or that there was such reasonable certainty as existed in the case of St. Marks, that, if not occupied by our troops, it would fall into the hands of our enemy, and by them be used as a means of annoyance against us. This brings us to a question of fact



to be decided by the evidence. On the 7th of April General Jackson took possession of St. Marks. On the 20th of April he writes that the destruction of Bowlegstown, with the possession of St. Marks, will end the Indian war for the present; and, should it be renewed, the position taken will enable a small party to put it down. He states he is informed a few Red Sticks at Pensacola point were fed and supplied by the Governor of Pensacola; that he will reconnoitre there, and then return home for his health. On the 26th of April, he writes that he will proceed directly to Nashville. "My presence in this country can be no longer necessary." He expressly declares, that the Indians are scattered; cut off; and that "they no longer have the power, if they had the will, of again annoying our frontier." In another letter, written on the 5th of May, he says, the resistance of the enemy had been feeble; that it had been a war of movements and partial rencontres; that the Red Sticks had been severely convinced; and the Seminoles were too weak in numbers to believe they could maintain a war against the United States. In this same letter of the 5th of May, he gives the first intimation of an intention to occupy Pensacola. It has been stated, he says, the Indians have free access into Pensacola; are kept advised of our movements; supplied with munitions of war, and are collecting in that city to the amount of four or five hundred; that inroads from thence are made into Alabama, and eighteen settlers had been killed. If this is correct, says the General, Pensacola must be occupied by the American troops; the Governor treated according to his deserts, or as policy may dictate. The General then gives his "confirmed opinion" that, as long as Spain has not the power or the will to enforce the treaties by which she is bound to restrain the Indians, our frontier can have no security without occupying a cordon of posts along the seashore. Such are the facts and reasons by which the General defends the violent and hostile seizure of Pensacola and Barancas, and his subsequent proceedings respecting them. In these facts and reasons we must find that necessity which alone, by the law of nations, can justify measures so extraordinary. It would be a waste of time to make a particular analysis of the evidence to show how utterly insufficient it is to the purpose.

The war at an end; the enemy dispersed, exterminated, and broken down; having no longer the power, if he should have the will, to annoy us; the commanding General returning home, because his presence can no longer be necessary; the position taken being fully adequate to put down the war, should the foe have the temerity to renew it; and yet, with all this mass of facts testified by the General himself, and this confidence of opinion expressed by himself, we are to be told of necessities; of dangers; of inroads and murders, which shall justify us in one of the most high-handed measures that one nation can take against another. No, sir, these were not the motives; it was not because a few miserable, defeated, starving Red Sticks were fed by the Gov-

ernor of Pensacola; it could not be because the enemy was kept advised from them of the movements of our army, after the war was over and all movement but towards their homes had ceased; it was not because the Indians had, as they always had, a free access into Pensacola, that our General chose to wrest by military force this place from the hands of its owner, in violation of the laws of civilized nations; and, being an act of war, in violation of the Constitution of his country. It is not because Spain is not in a condition to insist upon her rights, or resent the violation of them, that the act is the more justified. The General did that which, in other circumstances, would have, rightfully on the part of the offended nation, involved us in a war; and it will hardly be said such a power, under our Constitution, is vested in any military commander. But, sir, the true motive of this bold step is exposed. The General has a confirmed opinion that, unless Spain performs her treaty with the United States, a cordon of posts along the seashore will be necessary; and he accordingly proceeds, without further consultation with his own Government, to occupy these posts. Here, then, we have a military officer undertaking to judge whether a treaty with a foreign Power has been broken, and without inquiring what reason or excuse that Power may have in explanation; without inquiring whether his own Government has been reasonably satisfied on the subject; without examining what course the policy and interests of his own country may dictate in such a case, he proceeds to apply, of his own will and authority, the remedy he deems most proper; that is, to wage immediate war on the other party; he takes into his hands the highest power the people can exercise themselves or grant to others—the power of putting the nation in jeopardy; of expending its blood and treasure, and involving it in the countless calamities of war. The people of the United States have intrusted this power only to their immediate representatives, and General Jackson has walked over our heads and the heads of the people in assuming it to himself. This must not be.

I ought not to pass by another circumstance that has been vehemently urged in defence of the General. I mean the letter, or protest, of the Governor of Pensacola, on the approach of the General to that place. It has been called insolent, and menacing, and hostile; fully justifying any violence that might be resorted to, to resent it. Upon the receipt of this, the General says he hesitated no longer; as if he would really have us understand he had not ceased to hesitate long before, and firmly determined on his course. This protest, which the General introduces as determining him to take Pensacola, is dated on the 23d of May; and we must not forget that, on the 5th of May, the General had explicitly declared, that "Pensacola must be occupied by an American force, and the Governor treated according to his deserts, or as policy may dictate," and that he had actually marched for Pensacola to execute this purpose. But, what is this offensive, men-

acing, hostile protest, which excited so much indignation, and produced a resolution of such extreme delicacy, both in relation to the Spanish authority and our own? General Jackson had, with his troops, passed the frontier of Florida, then under the government of this Governor of Pensacola, who had been placed there by his Sovereign to guard and protect it; a trust for which he was responsible to his master. The Governor protests against the procedure, as an offence towards his Sovereign. He exhorts and requires the General to return, and says, if he does not, and continues his aggressions, he will repel force by force. The continuance of aggressions alluded to, was doubtless the seizure of the posts under the command of the Governor, which the General had resolved to take, and did take on the next day. What is there in this protest but that etiquette which every soldier is bound to follow before he surrenders a military post intrusted to him? It is a formula perfectly understood by everybody. It is the mere saving the honor of a soldier. If fifty thousand men were to sit down before a redoubt, defended by a sergeant's guard, the same thing would probably be done. If a schooner, with ten guns, were to meet an enemy's frigate, the commander would feel bound to fire his gun before he struck his flag. Did General Jackson not understand this protest exactly in this way? Did he really believe the Governor of Pensacola was about to attack him, and repel force by force, and drive him out of Florida? Not one word of it. How is this pretended apprehension consistent with another part of his narrative? He takes St. Marks because the whole Spanish authority in Florida cannot keep it from a few naked savages; and yet he affects to take Pensacola from a dread of the Spanish force, of being driven by it out of Florida.

The weakness of Spain is the pretext for the seizure of one of her fortresses, and her menaces for the other. Indeed, the General expressly declares that he entered Pensacola with only the "show of resistance;" alluding certainly to this protest, as we hear of no other show of resistance. The victorious General is now in full possession of Pensacola and the Fort of Barancas; and puts it beyond the power of cavil or doubt to question the motives or views which led him to the act. They are no longer equivocal; and to call it any longer anything but a hostile capture—a decided and violent act of war against the Spanish authority—or pretend that it can consist with neutral relations, or was resorted to as a means of self-defence only, would be an abuse of language, and a disregard of the most unequivocal evidence. We have all the circumstance and parade of conquest; terms of capitulation are in full form proposed, modified, and acceded to; a suspension of hostilities allowed, until the articles of surrender could be agreed on; the Spanish prisoners marched out and transported to Havana; the rights of religion guaranteed to the inhabitants; and, in short, a more complete and formal surrender of an enemy's fort never had been, and never can

be, made in any case. If any man can yet be disposed to believe that General Jackson took possession of these places merely on the principles of self-defence and temporary security, let him account, on these principles, for the regular organization of a government; for suggesting and setting on foot plans for the defence of the country; additions and improvements for those already existing; and exercising every act of ownership and right that the President of the United States could in our acknowledged territory. Or let him look at the General's letter to the Secretary of War, dated on the 2d June, 1818; he there speaks of the terms he has given the garrison as "more favorable than a conquered enemy would have merited." He says that "the articles, with but one condition, amount to a complete cession to the United States, of the portion of Florida hitherto under the government of Don Jose Mazot." In another part of his letter he recommends the erection of certain works, as necessary "to give permanent security to this important territorial acquisition to our Republic." We hear no more of a mere cordon of posts along the seashore, for the purposes of defence and protection against the savages; but the presumption of power, and the schemes of ambition develop themselves at large. The question, then, of the General's justification for the capture of these posts, resolves itself into the question of his right to make war of his own power and authority, which never can be a question here, while we regard our Constitution as the rule of conduct for ourselves and for General Jackson. It is not like the case of a fort actually firing upon an army in time of battle; it is not like the case of a neutral ship mingled with the fleet of our enemy, and combatting with them against us; no one would require that, in this situation, she should be distinguished from the enemy. The conduct and situation of these fortresses have no analogy to such instances. They are more like the case of capturing a neutral armed ship a month or two after an engagement, on information that she had, some time before, held some intercourse with, or given some sort of aid to the enemy.

The cases of Arbuthnot and Ambrister only remain for consideration. Although these men suffered one common fate, they were under very different circumstances, and must be considered separately. Ambrister was taken in the field, associated with the enemy in a manner to preclude all possibility of distinguishing him from the enemy, either during the battle, such as it was, or in his claim upon humanity after he became a prisoner. He plead guilty to the second charge preferred against him, which is, "Leading and commanding the Lower Creeks in carrying on war against the United States." If, therefore, General Jackson might have exercised the severity of death upon an Indian in the like situation, and if the same right extends to every man found in the Indian ranks, it is clear Ambrister had forfeited his life, and had no claim but upon the humanity of the General. As to Arbuthnot, he was not taken with the Indians, and



was not charged with having joined them in battle. He was taken in the fortress of St. Marks, then commanded by a Spanish officer, and under a Spanish flag. The first inquiry that presents itself is, whether this flag ought to have been any protection to him. I incline to think not. The privilege of the flag is the privilege of the nation to which it belongs; and, if it be violated in any way, the right of complaint belongs to that nation. It does not necessarily attach any rights or privileges to any person who may place himself under it, perhaps of his own motion, without the promise of protection. If Spain, therefore, did not, and has not considered herself offended, by executing a man not of her country, taken under her flag, it is not for a party she chooses to abandon, and who had no claim upon her to do otherwise, to set her rights up in his defence. He acquired no personal rights—none belonging to himself—by retreating to the Spanish fort; and if Spain refuses, as she might rightfully do, to afford the use and protection of her rights, he cannot complain. The charges against Arbuthnot were, generally, stirring up and exciting the Indians to war against the United States. Before I examine the proceedings and issue upon these charges, I would premise, as a governing principle under which I shall judge them, that General Jackson has a right to the full benefit of his own conclusions from the testimony; and we may not condemn him because we should have drawn different conclusions. If he would be justified in what he has done, provided the evidence prove the charges, or, in other words, provided his inferences from the evidence were sound and rational, then is he, at least judicially, justified, although we should not think so of the evidence. We do not sit to pass on the correctness of his reasoning, but on the extent of his rights. A judge in a civil court cannot be impeached for an erroneous judgment on the evidence adduced to him, but he may if he has transcended his powers, in violation of the Constitution and the law, granting his conclusions from the evidence of the case to have been just.

Much has been said, in the course of this debate, about the nature of the court convened for the trial of these men. It has been called a court of inquiry, to ascertain facts, and denied to be a court-martial. I pretend to no knowledge myself of these military tribunals, but I presume I may safely rely on the knowledge of General Jackson on this subject. It seems to be clear—beyond question—that it was a court martial, and was so considered by the General who ordered it, and the officers who sat upon it. It is called a court martial again and again; the powers it possessed and exercised, and the whole course of proceeding, distinctly show it to be such. The general order by which it is convened, declares it to be for the purpose of investigating the charges exhibited. "The court is directed to record the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoner, and what punishment, if any, should be inflicted." Here are the full powers of a

court to try, acquit, or condemn, and punish. What is a court martial if this is not? How can it be called a mere board to collect and report evidence to the commanding General, that he might decide whether these white men had identified themselves with the savage enemy; that the General might thereupon treat them as savages? No such discretion is given to the court; no such limitation put to their powers. Further, the General approves of the sentence of the court in the case of Arbuthnot, and of the finding and first sentence in the case of Ambrister, and disapproves of the reconsideration of the sentence of the court in this case. Now, whoever heard of a sentence, and a sentence of death, too, by a court of inquiry, not authorized to try the prisoner, but merely to report the evidence of his case? If such was the understanding of the General, why did he thus formally disapprove of an invalid sentence? Why did he not at once say to the court, gentlemen, you have mistaken your powers altogether; I did not appoint you to try this man, or prescribe his sentence, but merely to collect testimony for my consideration and decision? It is idle to treat this as anything but a court martial, with all the powers and forms of proceeding of such a court. If it were not so, under what sentence did Arbuthnot suffer; for, to this hour, no sentence but that of this court has ever been passed upon? Before I leave this court martial I must be permitted to say, that its whole course of proceeding was the most solemn mockery of all the principles of justice; the most daring outrage upon all the guards of liberty and life, that have ever come to my knowledge. Two lives have been sacrificed, on evidence that would not have been listened to in the most petty court of our country, trying the veriest wretch in our community, on the most petty accusation; and yet we are told the rules of evidence are the same in courts martial as in other courts. God deliver us from the learning and justice of military judges!

Assuming, for the argument, that the charges against Arbuthnot were clearly proved, as those against Ambrister were unequivocally confessed, the question arises, on what principle of recognised law did General Jackson take upon himself to put them to death? I believe it to be an undoubted principle of national law, that when we war with a people who disregard the rules and restrictions of civilized warfare, we are not bound to extend to them the benefits of these restrictions. I am not altogether satisfied that this stands on the principles of retaliation. This is more confined in its operation, and would justify only a pretty precise balance of cruelties, to be retaliated in kind and degree. "An eye for an eye, and a tooth for a tooth," says the law of retaliation. I am rather inclined to consider it thus: If men, in a state of nature, should war with each other, I presume there would be no other restriction upon the violence and suffering they might inflict upon each other, than the will and pleasure of the most powerful.

When man became civilized, and nations began

to hold intercourse with each other, it became beneficial to all; it became at once necessary to enter into certain compacts, both for their friendly and their hostile relations. Hence the rules of war, binding upon all alike, and which no nation, valuing its character or its safety, will dare to disregard. But they are, of course, binding only on those who are parties to the compact, and submit to be bound by these restraints. A savage people, therefore, who refuse to submit themselves to such restrictions, who are not, and will not be parties to this compact, can have no right to claim its benefits and immunities; but must consent to stand at the mercy of the conqueror, while they continue to hold the vanquished enemy at theirs. On this principle, I consider that General Jackson, as the commander of our army, in whose discretion the exercise of this right of war must necessarily be vested, had the lawful power to deal such severity to our Indian enemy as he should deem expedient. It is equally clear that any person found with the enemy, and in their service against us, cannot, in this respect, be distinguished from his associates, but, embarking in their fortunes, must submit to share their fate. He cannot be an Indian in the enemy's camp, and a civilized man in ours; a savage in the battle, and not so when a prisoner. Has Arbuthnot any defence on the ground that he never was in battle; that he never did take arms against the United States? I think not. He has forfeited his civilized rights by associating with the barbarous enemy; by his identifying himself with them, and becoming a part of them. The manner in which he connects himself with their hostile operations must be immaterial; whether by taking the tomahawk himself, or exciting others to do it—whether by counsel in the cabinet or arms in the field—he is equally a party, an efficient party, in the war. Suppose an Indian were to say, I have not been in battle, although it is true, I have urged and excited my countrymen to the war, could he then claim to be distinguished from his countrymen? Assuredly not. With these views and opinions, I am bound to say, with no pleasure in the result, that I consider General Jackson, as commander of our armies, had the right to put these prisoners to death. Am I, however, asked, whether I approve of the exercise of this right under all the circumstances of the case? I say no, no. It was unnecessary. It has left a stain on the humanity of General Jackson, which "all the waters of the sweet Heaven cannot wash out." It was unnecessary; it was sanguinary; it was vindictive. When, sir, the fever of resentment shall have subsided in the breast of the General, and the exultation of conquest passed away, as in a short time it will, and he shall look back upon this transaction with the feelings of a man, stripped of the pride of a conqueror, this deed of bloody justice will weigh heavy on his heart, and embitter his days. I would not endure the remorse that is in store for him for all his laurels and all his eulogiums.

I should not pass over two objections that have given us much difficulty on this part of the case.

The honorable Speaker has urged with great force that, whatever may be the rule found in books on national law, respecting the severity with which you may treat a barbarous enemy yet that, in relation to our wars with our Indians, a long custom and usage has established a law for ourselves, from which General Jackson had no right to depart; that we have never executed this law of retaliation upon them, or considered our commanders at liberty to put their prisoners to death. There is much strength in the argument, and it produced a pause in my mind. I gave it much consideration, and relieved myself from it in this way: In the first place, I am not sure the honorable Speaker is correct in the fact. It rather seems to me that a recurrence to the early contests between our countrymen and the Indians will show that much cruelty was exercised on both sides, and with pretty equal ferocity. Villages were sacked and burnt; the inhabitants, of whatever age or sex, sometimes massacred, and no attention paid on either side to the restraints of civilized war. The settlers in New England had no small share of this sort of conflict, and the first colonists in the South made their way by fire and the sword. Again, if there has been a suspension of their cruelties, and an endeavor by milder means to induce this untamed foe to subdue his ferocity, it does not seem to me that we have thereby relinquished the right to meet him in his own way, when we shall find it necessary. The other difficulty alluded to is this: Supposing the General to have had the right, by his authority as commander of our army, actually engaged in war, to put these prisoners to death; did he not, by the appointment of this court to try them and prescribe their punishment, part with his paramount authority, and transfer it irrevocably to the court? Upon the best reflection I have been able to give this serious question, I think he did not. I do not see that he could divest himself of this authority, or transfer it to another; he could not bind himself not to resume and exercise it. Especially, if it be true, that this court, really, as a court martial, had no jurisdiction over the offences charged against the prisoners. It is, therefore, of course, that as this tribunal could not receive this power from the General, it could not deprive him of it. I will not, however, conceal the opinion that this parade of a court, whose opinion he did not mean to regard, unless it coincided with his own, is a high aggravation of the cruel spirit which seems to have governed him throughout the whole proceedings. I have now, Mr. Chairman, laid before the Committee my views of this complicated and interesting affair. I beg to call their attention, for a few minutes, to the resolutions offered to the House in relation to it, and will then trouble them no further.

We must not, it is said, pass any resolution which may imply a censure on the conduct of this campaign, because it will be throwing our weight on the side of Spain in the negotiation now pending with her, which has arisen out of it. Why, sir, I know of no such negotiation;



I presume there is none such. It is true we have seen a letter from the Spanish Minister, Pizarro, in which he complains loudly of our invasions of the rights of his master, and declares that all negotiations between us must be suspended until proper reparation is made. But, as I have good reasons to believe, and gentlemen who doubt may easily satisfy themselves, that our negotiations with the Spanish Minister are resumed, I conclude that the orders and explanation given by our Executive in relation to the captured posts have been received as satisfactory, and, of course, we need not be apprehensive of throwing this preponderating weight into the scale of our opponent. Permit me, sir, to express my regret and decided disapprobation of the terms of reproach and contempt in which this nation has been spoken of on this floor; "poor, degraded Spain" has resounded from various parts of the House. Is it becoming, sir, the dignity of a representative of the American people to utter from his high station invectives against a nation with whom we cultivate and maintain the most friendly relations? Is it discreet, sir, in any individual, however enlightened, to venture upon a denunciation of a whole people? In this poor, degraded Spain, it must be remembered, there is a vast mass of learning, and genius, and virtue too; and a gentleman who passes it all under his condemnation and contempt, hardly considers what a task he has undertaken. No people has suffered more than ourselves by these exterminating, sweeping judgments. Let us not be guilty of the same injustice to others. When I see one of these scribbling travellers, an insignificant atom, gravely take upon himself to put down the character of my own country, I turn from him with disgust and derision. Let us be equally just to others. This, at least, is not the place for the indulgence of national prejudices or resentments. A regard for ourselves forbids it. May I add, sir, that, in reference to the weakness of Spain, we should characterize her, perhaps more justly, certainly more liberally, by saying *exhausted*, rather than *degraded*, Spain. Yes, sir, exhausted in a contest for existence, with a tremendous Power, under which every other nation of Europe, save one, sunk and fell. She bore herself through with inflexible perseverance; and, if she come out of the conflict enfeebled and exhausted, it is no cause of reproach or contempt. We talk of a war with Spain as a matter of amusement. I do not desire to partake of it. It will not be found a very comfortable war, not from her power to do us much harm, but from the impossibility of gaining anything by it, or of wearing out her patience or subduing her fortitude. The history of every Spanish war is a history of immoveable obstinacy, that seems to be confirmed and hardened by misfortune and trial. In her frequent contests with England, the latter, after all her victories, has been the first to desire peace. Let gentlemen not deceive themselves about the pleasantness of a Spanish war. May they not, sir, have some respect for the past character of this nation? The time

has been when a Spanish knight was the type of everything that was chivalrous in valor, generous in honor, and pure in patriotism. A century has hardly gone by since the Spanish infantry was the terror of Europe and the pride of soldiers. But those days of her glory are past. Where, now, is that invincible courage; that noble devotion to honor; that exalted love of country? Let me tell you, in a voice of warning. They are buried in the mines of Mexico, and the mountains of Peru. Beware, my countrymen! look not with so eager an eye to these fatal possessions, which will also be the grave of your strength and virtue, should you be so unfortunate as to obtain them.

To return to the resolutions. We have been told, in the most impassioned manner, of the dreadful effect they will have upon the fame, the feelings, and the life of General Jackson. We are asked, with all the vehemence of despair, will you cover this hero, the pride and glory of his country, with infamy, and bring his gray hairs down to the grave. For myself, I answer, I have no such intention or desire; nor can I imagine how such consequences can be found in a set of resolutions which do not mention the name of General Jackson. Let the laurel with which his country has crowned him, flourish in immortal youth; I would not wither a leaf of it; but if I should see a serpent entwined in its branches, I would pluck it out and cast it in the fire. The first resolution proposes that a bill shall be reported prohibiting, in time of peace or war with the Indians, the execution of any captive without the approbation of the President of the United States. Does any gentleman doubt that this ought to be the law of the land? Why should this point, so important to the character and humanity of the country, be left unsettled any longer? This debate has shown a diversity of opinion upon it. For the future let it not exist; but let the rule be certain and authoritative, that future commanders may have some better guide for their conduct than their own discretion, caprice, or passions. If General Jackson had had such a guide, he would not have erred; if the will of his country had been declared by an act of its Legislature, he would not have disobeyed it. The second resolution disapproves of the seizure of St. Marks, Pensacola, and Barancas. I have expressed my opinion upon these points; and if St. Marks is expunged shall, of course, vote for the resolution. I have also declared my approbation of the principle contained in the third resolution, prohibiting the march of an army into a foreign territory, without the authorization of Congress, unless in the case excepted. As to the resolution reported by the Military Committee, if it related merely to the trial of Arbuthnot and Ambrister, I should heartily concur with it, but, as it condemns their execution also, I cannot give it my vote while it goes thus far.

I owe the Committee my sincere thanks for their patience and attention, through this long, and often tedious, discussion. My desire has

been only to contribute my mite to elucidate the important inquiries submitted to us; and I hope the endeavor has not been altogether in vain.

Mr. ANDERSON, of Kentucky, said that he concurred with those gentlemen who considered the questions involved in the resolutions as intrinsically of the first magnitude, and fully meriting the free discussion which they had received; but, he said, it was true that the House of Representatives could give importance to any question. Such was the character and station which this House, under the Constitution, must always hold before the people, that every subject which excites interest and feeling here, will command the attention of the nation. In giving his opinions on the questions, he should only be anxious to give expression to those sentiments which he held, without stopping a moment to inquire whether they were consistent with those of gentlemen who voted with him. In examining the military transactions which gave rise to the debate, he acknowledged that he had felt an anxiety to find that the American officer was in the right; but the first consideration with him was, that in giving his opinions and his vote, he himself should be exactly right. On great political questions, it has been sometimes thought admissible to act from partisan feelings,—to express only those opinions which were sanctioned by party, and would conduce to success in the great end desired—but, in a case where the character of a high officer was involved, where our conduct should partake of judicial sacredness, it would disgrace a statesman to withhold any opinion because it differed from that of those with whom he voted.

Mr. A. said that he should discard from his consideration two questions which had been introduced and discussed with great feeling—the justice and the constitutionality of the war. He would not unqualifiedly say that no circumstances should ever induce him to discuss in this House the justice of a war in which his country was once engaged, but he would distinctly say that nothing in this case should impel him to do it. That question was not presented by the resolutions; nor was the Constitutional right of the President to order the American army to pass into Florida now before us. This last was certainly a fair subject of debate in Congress, but the resolutions do not present the point; they presuppose the existence of the war, and select for consideration transactions which occurred in the course of its prosecution. The gentleman who introduced them either assented to the proposition that the war was constitutionally made, or intentionally avoided presenting that point. The careful manner in which some prominent points are selected for crimination, authorize the inference that a debate was not solicited on the other subjects.

Mr. A. said he should now proceed to the examination of the resolutions, and condense his observations, as far as it was consistent with a clear statement of his opinion. The order which he should pursue was not the strict order of chro-

15th CON. 2d SESS.—29

nology, but was the one in which the subject had first struck his attention, and the one in which gentlemen who preceded him had considered it. The execution of the two Indian chiefs, by order of the American officer, should be first considered, as it was the simplest case. In its examination, he would only apply those doctrines of the laws of nations which were acknowledged by all, and not drag to his aid any principle of law which should of itself require any argument to support it. He justified their execution on the ground of *retaliation*. The principle of the public law which is here applicable declares that "we may refuse to spare the life of an enemy who has surrendered, when the enemy has been guilty of some enormous breach of the laws of nations, and particularly when he has violated the laws of war." This, too, is a rule of national law necessary for self-defence. The most flagrant breach of the laws of civilized warfare, and the one which comes the most completely within the scope of this principle, is the refusal of life to a prisoner. And if the Seminole Indians, in the course of the war, have disregarded humanity so far as to refuse quarter to the captured, this fact, connected with the undisputed law on the subject, seems to settle the question. He wished it distinctly understood, that he did not consider the usual massacre of prisoners by the savages, or North American Indians generally, as affording ground for the justification, not even if committed by the Seminoles themselves in former wars. He admitted, that, to furnish a foundation for the application of this principle, this disregard of the rights of humanity must be shown by the present enemy in the present war. This precision was necessary to dissipate some of the confusion which had been thrown over the subject by the indefiniteness of terms, and to show distinctly the true ground. The only fact then necessary to bring this case within the operation of the law was the existence of these massacres or refusals to give quarter on the part of the enemy. This fact is unfortunately too plain; no gentleman has denied it. He would not read the proofs—not even mention the cases by name—as the documents were in the hands of all. They show that the ferocious cruelties of the enemy were not restricted to men; that women and children were also the victims of their savage natures. So far then as it regards the Indian chiefs who were hanged, the case on the law and the facts is plain, unless there exist reasons for considering the American savages as released from the operation of those laws of war which embrace all other nations. This position has been laid down and eloquently urged by my colleague, (the Speaker;) and if he has succeeded, then indeed my ground of justification falls. He says that we, by uniformly abstaining since the first settlement of the colonies from exercising the right of retaliation on the aborigines of the country, have created a law for our own government which we cannot now annul; that by our own conduct we have created an usage which is now our law of war with Indian



H. OF R.

Seminole War.

JANUARY, 1819.

enemies. A gentleman from Pennsylvania (Mr. HOPKINSON) has endeavored to evade the force of this doctrine by a denial of the facts, and has gone into a consideration of the occurrences of former wars, to show that we had not so invariably obtained as to have formed an obligatory usage. Mr. A. said he would not consider the facts; they were perfectly immaterial. He hoped they did not exist, as he utterly denied the position of the Speaker, and believed that it was wholly wrong. The mistake has resulted from the idea that the right of one nation to retaliate on the prisoners of its enemy, for a refusal by that enemy to spare the lives of those captured by them, arises from the law of nations. Although the laws of nations recognise it, still this right existed prior to all those laws or compacts which bear that name. It is a right which every nation has to coerce its enemy to humanity—a right partaking strongly of the right of self-defence. It existed in the first war which was ever waged. It surely requires no compact among nations to give to one the right to enforce an observance of the claims of humanity upon its enemy by retaliation. The laws of civilized warfare declare that you shall not deprive a prisoner of life, when a corresponding humanity is shown by your adversaries. Then the Seminoles in this war not having regarded this law, they present a case in which the law of nations does not interpose—they claim no shelter from it—and of course its injunction in this respect does not operate on us. But the fallacy of the position contended for may be shown by apt illustrations. If from humanity or negligence you have failed to inflict on a robber the punishment which the law awards for any succession of times, is your right lost to inflict the punishment for a new offence? If death is awarded for an offence where our feelings tell us that it is too severe, and the offender is acquitted by the jury of his country, or is pardoned by the Supreme Executive, have we then lost the power, when forbearance has failed of its design, in a new case to execute the law? But under the doctrine which has been urged we would by our own acquiescence have deprived ourselves of all power to punish such offenders; we would have abrogated the law which secured us against robbery and plunder, because our negligence or fine feelings had induced us to abstain from its execution. The municipal laws of most countries declare that the power of legal punishment in an individual case is lost after a limited number of years, but it never was contended, until in this debate, that the refusal of our ancestors and ourselves to retaliate for Indian barbarities for any number of years annulled the right in the case of a new injury. It cannot be that when humanity has failed of its effect—when civilization and Christianity can disarm the enemy of none of his ferocity—that we have lost the right, which we might in every case have exercised, of coercing him to spare the life of his captive, by showing to him the perils of his own. In our wars with the Indians, every mode of infusing into them a regard for human life has been tried in vain. He

acknowledged that retaliation was terrible, but it was this only which made it availing: it would avail against an Indian only because it was terrible.

But a farther examination of the consequences of this doctrine shows that it is too mischievous to be true. If it be true, then, in every future war with these enemies, we enter into it, under the certainty that they will exercise the practice of destroying their prisoners, and with the distressing knowledge that we have no longer the power of preventing it; that the only mode of prevention, which could strike the senses or the fears of an Indian, is lost. Is it possible that any nation can live, surrounded by others, with whom this inequality exists? An inequality produced by the practice of humanity on our side, and ferocity on theirs; an inequality which declares that, in the field of battle only, can you deprive your foe of life, while the enemy can wage extermination on the captive, on women and children. But, if we have created by usage this law for ourselves, then, the result must be, that our acquiescence has made law for them; that these massacres, once thought so lawless, are now sanctioned by usage and impunity. But it is indifferent to the savage, what character you give these acts, if you have deprived yourself of all power of compelling him to abstain from them. To this part of the subject he should not have given so much attention, if the opinion which he had here combatted had not been urged by the Speaker, with a confidence which demanded an answer.

An uncontested and well-known rule of the laws of nations, Mr. A. said, placed Ambrister in the same situation with the Indians. The words admit of no ambiguity. "It is true, that every associate of my enemy, is himself my enemy. It is of little consequence whether any one makes war on me directly, and in his own name, or under the auspices of another; whatever rights war gives me against my principal enemy, it gives me against all his associates." This man, having been found in the ranks of the enemy, and having, indeed, fully admitted his association, comes completely within the rule, and partakes of all the liabilities of his principals. No reasoning could make this case plainer, and he would not detain the Committee, but leave it where the law, combined with the fact, so clearly placed it.

The situation of Arbuthnot is different in one point; he was not found in the ranks of the enemy, but in a neutral fort. Most of the gentlemen who have supported the resolutions, admit that he had been previously an associate in the war, but contend that, as at the time of his capture he was a non-combatant, the analogy between his case and that of the Englishman is destroyed. The reason of the case certainly will not bear them out, and they have not produced any authority on the subject. It cannot be contended that if the General of the enemy was taken in a farm-house, either on his route from one wing of the army to the other, or on a journey to his family, that he

JANUARY, 1819.

Seminole War.

H. OF R.

would not be a prisoner of war, although he might be entirely alone, and even destitute of arms. If Tecumseh, in the latter part of the war, had been captured in Canada, engaged in the work of a country laborer, would that fact alone have deprived him of his war character, and released him from its penalties? The true distinction is this: when an officer has resigned, or a soldier has been discharged, or either has in so effectual a way seceded, as to be no longer a member of the enemy's armament, then the military character ceases, and not before. No temporary absence will produce the end contended for; it must be an absence attended with circumstances clearly showing a permanent secession. Frequently the most effectual aid is given, by a partisan, who is absent, and who is physically a non-combatant, by advice and other modes of co-operation. In this case, where the previous association must be conceded, there are no circumstances which indicate a separation from the enemy. As far as any evidence arises from his situation in the fort, to which the enemy had constant access, it is altogether against him. There is a fact connected with this subject, which deserves consideration. Among civilized nations, only a small portion of the community is attached to the army, and of course the rules of war apply only to those who constitute it; the peasantry of the country is not subject to any of the penalties of the soldier; but among the Indians, there is no such distinction; among them none exists, except that which is produced by age and sex. Every man is a warrior. Every one, whom you take, is a prisoner, whether he be in arms or at rest. There is no military enrolment among them; if he belongs to the nation, he belongs to the army. This is certainly true, and is founded on habits invariably preserved by the Indians. Among us, and all European nations, that portion of the community engaged in husbandry, or in raising food for the army, is secured from the rules of war; but among the Indians, all the men fight, and the food is raised by the women, and, of course, this security from war is confined to them. If an Indian chief, found in the situation of Arbuthnot, would have been a prisoner of war, surely he was.

It has been contended that, if the execution of these men was justifiable, on the principles of retaliation, as General Jackson had not assigned that as the ground of his conduct, it could not avail him; but, surely, if any reason exists, he is entitled to the benefit of it. We form the tribunal which are about to pass sentence on his official conduct, and would it not partake of extreme harshness, if, while we justified the act, we still denied to him the benefit of those reasons which we admit are amply sufficient? The sole question is, not whether we concur with the officer in his reasons, but whether he had authority for his act. If we concede the authority, he is beyond our reach. If he possessed it, he might fail or refuse to exercise it, but he could neither destroy or impair it by any reasons, however false or frivolous. It would be extraordinary, indeed, if those who justify the act should pass a vote of

censure on the officer, because they differed with him in the reasons, by which they arrived at the same conclusion. This would, indeed, make form supersede substance.

If a reference to judicial proceedings, in civil cases, was admissible, it would be recollected that the correct decision of an inferior court is always affirmed; the appellate tribunal leaves a legal judgment untouched, however improper or illegal may have been the reasons on which it was founded. Would you, Mr. Chairman, refuse the thanks of this nation to an officer who had won a brilliant victory, by a right movement on unmilitary reasons? Would you reverse the vote which passed at a former session, giving the thanks of Congress to the victors at New Orleans, if it were now ascertained that the battle was won upon grounds which would be wholly disapproved by Steuben or Marshal Saxe? Can you, then, in this case, censure General Jackson for doing that, for which he had authority and law, but for finding his reasons on the left instead of the right hand page of Vattel?

It has been farther urged by the Speaker, that retaliation is not justifiable where the end cannot be gained; that it is unavailing towards an Indian, because captivity so far degrades him in his own estimation, that death has ceased to have its terrors. But this opinion was entirely speculative, and experience does not support it. Life may not have equal attractions for all; and it is probable that all prisoners, whether white or savage, have, from their forlorn and friendless situation, fewer inducements to adhere to life, than when they were cheered by freedom and their friends: but it cannot be true that an Indian captive has lost all inclination for life. Does he not make every exertion to release himself from captivity, which the civilized man does? Will he not, unremittingly, seek his safety, by craft or by flight? It is believed that he would not only value his life in the same way, and fly from captivity, but, with all his former courage, fight again the battles of his country. Weatherford, the Creek chief, gives an illustrious evidence that a captured Indian is not so degraded as to lose all love for life. He was once the prisoner of Jackson: he was voluntarily released by Jackson; he is now the prince of his nation, possessed of all the influence which his high talents ever gave him, and all the feelings and ferocity which belong to an Indian chief. Imprisonment did not so abase him as to deprive retaliation of its end, if policy had declared the leader of the massacre of Fort Mimms a fit victim. He is in full possession of all the qualities for which he has ever been distinguished; and, if report be true, he has acquired some others, which have been thought peculiar to civilized man; it is said that he thirsts for lucre, as well as for blood and fame. A resolution is now before us, which will probably grow into a law, for the purchase of his land in Alabama, at a sum not less than fifty thousand dollars.

There is still one part of this subject which requires consideration. It is that which involves the power of the General to carry retaliation into



H. OF R.

Seminole War.

JANUARY, 1819.

effect without referring the case to the President or to Congress. No question arising out of the perplexing series of transactions which have occurred in this war, has been less susceptible of a solution perfectly satisfactory than this. Mr. A. said that the conclusion, to which his mind had come, was rather the result of the preponderance of reason and conveniences, than a clear conviction of the truth. In Europe this power is exercised universally by the commanders of every army; there, the present difficulty could not arise. Mr. A. said he frankly admitted that the spirit of our institutions was so different, the subjection of the military to the civil authority was so fondly cherished, that European practice could not constitute law here. An examination of the journals of the Old Congress, however, clearly show, that they considered this power as vested in the commanding officer. On the 8th of November, 1782, Congress came to this resolution:

"To prevent any misconstruction which may arise from the resolution directing Captain Huddy to be set at liberty, it is hereby declared, that the commander-in-chief, or the commander of a separate army, is, in virtue of the powers vested in him, fully authorized and empowered, whenever the enemy shall commit any act of cruelty or violence contrary to the laws of war, to demand adequate satisfaction for the same; and, in case such satisfaction shall not be given in a reasonable or limited time, or shall be refused, or evaded under any pretence whatever, to cause suitable retaliation to be forthwith made."

In a war with the Indians, who receive no heralds, and respect no flags, and with whom the massacre of prisoners is not an exception from their usual conduct, but the general practice itself, it cannot be required of General Jackson that he should have been guilty of the folly of sending to the Indians any individual of his army to demand satisfaction for that which was the common custom of the nation. The idea expressed in this resolution is contained in one passed in relation to the execution of Colonel Hayne an American officer, although it is not conveyed in language so distinct: *Resolved*, That "the conduct of Major General Greene, in taking necessary measures of retaliation, be, and hereby is, approved." These resolutions clearly convey the opinion of the Old Congress, that the commanding officers of separate armies possessed this contested power by virtue of their commissions. Circumstances may be easily supposed, in which the utility of retaliation would be entirely lost, if this power must in every case be granted by the Legislature; in every war, which is to be concluded in a single campaign, (and this may be the character of many of the Indian wars,) if the officer did not possess it until he could refer the case to Congress, and procure the authority, the time would have passed at which it could avail him; the effect he would desire to produce, on the conduct of the enemy, would be lost, and the reference useless. This would always be the case where the seat of war was at a great distance from headquarters. This view of the subject is strongly supported by the situation of

an officer in a besieged town. Here all communication with his superiors is cut off, and if we deny to him this power of coercing his enemy to humanity, his situation is miserable indeed; his countrymen have failed to give him authority, and his enemies have deprived him of the means of acquiring it. If this power was lodged in the President, then there can be no difficulty, as General Jackson has received the subsequent sanction of his superior. But there is a letter of instruction, under which General Jackson might, if he were disposed, cover almost anything, certainly everything which he did. In the letter of the 16th January, from the War Department, there are these remarkable and extraordinary words: "The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." It is very difficult to ascertain the precise instructions which the Secretary meant that these words should convey. They cannot mean that the American officer should march rapidly, fight gallantly, and slay all who resisted in battle; all this required no order. It is certain that no authority has been exercised, which these words are not broad enough to convey. Mr. A. said, he did not contend that the Secretary thought of such a case as had occurred, or that General Jackson wished to deduce his justification from it, but he would most confidently assert, that, if the officer were in the course of a trial driven to extremity, these words give him an ample patent.

Mr. A. said, that it was now manifest to the Committee that he derived no part of General Jackson's authority from the sentence of the court martial; his power was possessed without their interference, and might be exercised in direct opposition to it. It may then be demanded, why was it convened? This still produces no difficulty. It might be convenient to the General to have its opinion and advice; or to have its aid in ascertaining the facts. But you might go still farther, Mr. Chairman, and admit, that to convene the court was useless, and that General Jackson's conduct to it was indecorous and insulting, and still the question before us is not affected; his lawful authority was still the same. Any individual in private life may ask, and then reject, the advice of his friends; this indeed is very rude, but his right is undisputed. The commander of an army frequently convenes his officers to hear their opinions on the propriety of fighting or retreating, but no one ever doubted his authority to reject their advice. The order for convening the officers in this case, and the circumstances of their having proceeded under all the forms of a court, cannot change their character. If the General possesses the power without them, their sentence can be no more than advice.

Mr. A. said, that he would make but one other remark on this part of the subject. It must never be forgotten, that the question here is not that which has been so often and so emphatically propounded—would you have executed these

JANUARY, 1819.

Seminole War.

H. OF R.

men? It is not a question of superior humanity between General Jackson and ourselves. We may think that we should have done otherwise; may wish that he had, but, if he possessed the authority, he may set us at defiance.

Before he proceeded to an examination of the case of St. Marks, he would state to the Committee that the orders which had been issued to General Gaines to respect a neutral fort, would not in his mind at all enter into the consideration of the question. If the President has subsequently sanctioned the proceeding, it placed the case, so far as it regards Jackson, on the ground on which it would be if a discretionary order had been previously given him. To a military officer it is perfectly immaterial whether he had his orders in his pocket at the commission of the act, or subsequently receives the approbation of his commander. This House cannot proceed against the individual who does the act, but the superior who recognises it. The fair question, then, for consideration is, on the power of the President, through his officers, to capture the fort; although he had not previously given orders for it, he has approved the conduct of the officer, and still retains the post. The reasoning, he said, on which he justified the occupation of St. Marks, was somewhat of the same character with that by which he would authorize an army to go into a neutral territory in pursuit of a flying enemy; it would be useless to exercise this right if its advantages could be cut off by the enemy's retiring into a neutral fort. But, to state his opinion with precision, he laid down this position as the one on which he should bottom the justification: that the Indians had both the inclination and the ability to take the fort, and to make use of its advantages; that we had a right to anticipate them, and to turn its advantages to our own use. He admitted that both facts of ability and inclination in the enemy must exist to give to us the right of seizing neutral property; the evidence on that point should be presently attended to. If, in the course of a general action in Florida, a design was manifested by the enemy to seize a vacant hillock or eminence, and use the advantages of its situation, it will not be contended that we could not have anticipated them; and if, in the course of a battle, it became manifest to the American officer that a Spanish fort, which ought to be held sacred by both the contending parties, was about to be seized by the enemy, that it could not resist, that all the advantages of the fortified place would be turned against him, his right is certainly the same. As soon as the fort has lost its power to resist, it is within the reason of the rule which applies to a vacant place. The neutral place is bound to oppose all attempts from either party to convert it to a hostile purpose, but so soon as by its physical incapacities it has become within the power of the enemy, its neutral character is lost, and it must be considered as his post. If these laws and rights exist in the state of actual battle, there can be no reason for not applying them to the situation of two hostile

armies in a neutral country. Then, as soon as it was made known to the American General that St. Marks no longer possessed the capacity of making adequate resistance, and would become a fortress of his enemy, the protection of its neutrality ceased to exist. The consequence of a different doctrine would be destructive to the army; it would suppose a case in which the power and intention of seizing a place might exist in the enemy, while we had the power, but no right, to prevent it: it supposes that a place may be in a country which one party would capture and the other could not. Spain has no ground of complaint against us who seized the town. Her cause of complaint is against those who imposed on us the necessity. As his position rested entirely on the fact that the Indians had the ability and the design of taking the garrison, he would now turn to the evidence before the House, which was very full on this point. The opinion of the Governor of Pensacola is plain. He informed Captain Call that "the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Marks, and that he presumed possession would be given from inability to defend it." The letters of General Jackson show his conviction on the subject. The one written to the Secretary of War states, that "he found that the Indians and negroes combined had demanded the surrender of that work. The Spanish garrison was too weak to defend it." In his letter to the commandant himself, after its capture, he says, that "they are now concentrating with the intention of taking possession of St. Marks the moment my army moves from its vicinity." Mr. A. said that he would not read all these letters, as it may be urged that Jackson ought not to be introduced as a witness in this case, although he thought that his opinions and statements deserved very high credit. General Jackson did not voluntarily place himself at the head of the army—a situation which incurred such high responsibility, and imposed on him the obligation of judging from the facts before him. His statements are not gratuitous; they are the result of his official situation. But, Mr. A. said, that he would read an extract of the letter of Luengo of the same date with the one last mentioned. In this letter the Spaniard, referring to the partial dispersion of the Indians by our army, says: "This being realized, and there being now no motive to fear any insult to the fort from these barbarians and negroes, I beg permission of your excellency to call your attention to the difficulty I should involve myself in, with my Government, if I were presently to assent to what your excellency proposes to me, to garrison this fort with the troops of the United States without first receiving its orders. Such I will solicit immediately, when an opportunity offers; and I do not for a moment doubt that they will be given to me, so zealous is my Government to comply with the stipulations between her and the United States. In the interim I hope your excellency will desist from your intention, and be firmly



H. OF R.

Seminole War.

JANUARY, 1819.

"persuaded of the good faith and harmony which will reign between this garrison and whatever troops you may think fit to leave in this vicinity, who may assist me in the defence of this fort on any unforeseen event." In the latter part of this extract, the true state of the fort is seen. He first declares that there is now no danger of insult; but then expresses a certain expectation that he will receive orders to surrender it, and refers to troops which the General may think fit to leave to assist him in the defence. In the letter of this same officer to Mazot, Governor of Pensacola, he says: "I shall not deny that I have observed towards these barbarians a policy which had the appearance of a warm friendship, and by which I have incurred considerable expenses. If, however, all the circumstances attendant on my situation be duly weighed, it will be seen that all this was necessary to restrain them from doing what they had at one time premeditated." But, the true situation of this fortress, at the very time at which its state is interesting for the present question, appears from the evidence of Captain Gadsden. His words are: "In conversation with the commandant of Fort St. Marks, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort that the hostile party had received, as reported, from him, &c. In reply, he stated, that his conduct had been governed by policy; the defenceless state of his work, and the weakness of the garrison, compelled him to conciliate the friendship of the Indians; to supply their wants; to grant what he had not power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence." From the evidence contained in these letters and declarations, it was obvious that St. Marks was not capable of resisting an attack from the enemy, and that the Indians had the intention of seizing it: it was, then, completely within the operation of the principle which he had laid down. If, indeed, the fortress had the capacity of making resistance, then the conduct of the Spaniards is presented in another point of view, their participation with the enemy was voluntary; they became so far associated in the war as to have abandoned their neutral character, and to have made themselves subject to the treatment of enemies.

Mr. A. said that, from the same course of reasoning, by which he justified the occupation of the place, he was opposed to an unconstitutional surrender. It was taken because Spain could not keep it from the possession of the enemy, and it should be retained until she placed there the necessary force.

It is evident, said Mr. A., from the reasons which I have assigned, that my ground of justification does not cover Pensacola. As the occupation of both posts is presented in the resolution for censure, he could not, in any event, vote for the general resolution; but he would not rest his vote on that ground; he would as promptly oppose the one as the other. Before he could give

his assent to this proposition, it must be established that every difference of opinion authorized a vote of disapprobation. Before he proceeded to examine the case, he would make a reply to an observation which had been repeatedly made in the debate. It had been said that the passage of these resolutions would convey no censure directly on the officer; that his name is not mentioned. Gentlemen say that the first and third resolutions are merely preambles, or recitals of the mischief, which show the necessity of adopting the others, and founding a law on them. But, Mr. Chairman, every vote which passes this House receives a part of its character from the debate which precedes it; and, after the manner of this debate, and the spirit which has marked it, it is in vain to say that the passage of these resolutions would not convey the highest censure.

Why have the former transactions of General Jackson's life been referred to? Why was the origin of the war mentioned? These things were not necessary for the question before us. But the face of the resolutions themselves declares their character. The prominent points of a military campaign are carefully selected and presented to us for condemnation. Every act of importance sufficient to strike the public attention, is seized for crimination; no part is approved; silence or disapprobation covers the whole, and still we are told no censure is intended. An avowal which came from a gentleman from Virginia, (Mr. MERCER,) marks the true spirit, and shows the effect which these resolutions are expected to have on the public sentiment. He says that, such are his feelings and opinions, he would vote to reduce the army to the command of one major general; if he failed in effecting his object, then to destroy the other; if he still failed, then to put down the army. When this language is held, it is useless to declare that no censure is intended. But the principle here avowed, and the spirit, are alike unjustifiable. If an American officer has so far forgotten the duties of his commission as to render it proper for the public interests that he should be discharged from the service, it is the duty of the President to order a court martial for his trial, or to strike him from the rolls; and, if he should refuse, there is a plain, Constitutional mode of operating on him by impeachment. I never, said Mr. A., would shelter the President from his responsibility, by reducing the army, to exclude a man whom he had not independence enough to dismiss. So strong was his disapprobation of such a course, that, even if he held every opinion of General Jackson's conduct which that gentleman had expressed, and also knew that the President wished it, he would consider it dishonorable in the House to pursue it. It has been said that this is a case not sufficiently important to impeach the President, even under a refusal to dismiss the officer. Then mark the inconsistency of a vote to reduce the army, to effect the same end. To abandon the plain course on such an occasion, and to vote down an army of ten thousand men, which the public interests require, merely to

JANUARY, 1819.

Seminole War.

H. OF R.

reach one obnoxious officer, would cover us with contempt.

The evidence relating to the situation of Pensacola does not make it a case so strong as that of St. Marks. To express accurately his idea of the difference, he would borrow a distinction, well known to professional gentlemen, which exists between the facts that justify, and those that extenuate. The facts are such, that, if presented in the course of a judicial prosecution, in the form of a plea, the judge would declare they did not constitute a justification; but, if they could be brought out in evidence, the jury of his country would acquit the prisoner. In the debate, this House has been called the Grand Inquest of the Nation. I seize the idea, said Mr. A., and let us then examine what is the evidence which might be adduced in vindication of the officer before this national jury. Before any tribunal which can mingle liberality with the coldest law, the result is known. The first fact, then, which is presented, is that which, alone, before the tribunal above, insures an unqualified acquittal—the absence of all bad or corrupt intentions; this is conceded by every gentleman in the debate. In ordinary cases, here the accused might rest, strong in the universal concession that his motives were good; but the breach of the Constitution is charged upon him, and it is demanded of him to continue his defence. Then zeal, and fidelity, and patriotism, offer themselves to extenuate the offence, and declare that they alone governed the mind and guided the hand which has offended. If zeal in a good cause can even so far direct itself to our feelings and judgment as to deprive error of its harshness, it must be here, where the officer was in the midst of a hostile country, surrounded by enemies to whom submission is no safety, and against whom power is the only shield. This situation was rendered more embarrassing and perilous by the doubtful character of the Spaniards; reliance on them was destruction; their imbecility gave license to the fury of the Indians, if, indeed, their perfidy did not invite aggression. But there are other facts which give a character to his situation. Spain was not only under the obligation of those ties which bind all civilized nations to restrain their savage subjects from attacking friendly neighbors, but was bound by solemn treaty to restrain the Indians within her territory. This obligation has never been denied nor fulfilled. This was known to our officer, and every event around him impressed the conviction that the Spanish supineness partook as much of unwillingness as of weakness; that no exertion was made, and but little inclination was felt, to fulfil it. All the acts of the Spanish authorities seem to accumulate evidences in his vindication; each act seems as if fated to urge him to his course. A haughty protest is sent to him by the Governor of Pensacola, demanding his retirement from the territories of West Florida, and menacing his repulse by force; and every difficulty presented to the transportation of his provisions necessary for the existence of his army. They have urged him by their perfidy, goaded

him by their menaces, tortured him by an apprehension of famine among his troops, and now, they demand that he be punished for capturing that garrison, which, if used according to the stipulation of the treaty, had prevented all occasion for war. If all these facts were still insufficient, a skilful advocate would urge what would essentially change the nature of the defence, and place General Jackson on the high ground of justification. If he could succeed in showing that these circumstances combined gave evidence that the Spaniards so far acted in concert with the enemy as to become associates in the war, the question would be closed; but, Mr. A. said, that was not his own opinion, nor was it necessary for the present vote. If the Committee can think that the ambiguous conduct of the Spaniards was such as to create a reasonable doubt of their character—as to produce a case in which it was very difficult for the officer to decide whether their equivocal attitude resulted from imbecility or actual concert—this House certainly will not censure him for differing with it in opinion. An admission made by a gentleman from Pennsylvania amply supports him. He says, if laws such as these resolutions propose to pass had been in force, that Jackson would have acted differently; his course would have been plainly pointed out to him. This concession, surely, declares that we cannot censure him, and that his error has been in some degree owing to our negligence. But if this officer shall be censured by this House, then a most extraordinary spectacle will be presented. Here is a case in which the wisest men of the country differ; which has been debated in the House of Representatives for two weeks; in which half the books in the library have been used to tell us the right from the wrong way; and, at last, we censure the officer for not knowing that, in the wilderness of Florida, about which the nation differs, and Congress cannot yet make up an opinion. But the speeches of the different gentlemen who support the resolutions show that their reasons are inconsistent with each other. Their conclusion is the same, but, in many cases, the existence of one reason destroys the other. Some gentlemen, too, think the execution of the two foreigners as of no importance in the question; some even approve them, while they declare that the capture of Pensacola is the only occurrence worthy of our notice; and others, as totally differing with them as with us, consider the death of the Englishmen as the heinous part of the offence. This state of sentiment certainly goes to the extenuation of the officer's conduct; it shows that, while many approve, those who do not, differ in their reasons, and disapprove different parts of his conduct.

SATURDAY, January 30.

Mr. SMITH, of Maryland, presented a petition of James Wilkinson, late a Major General in the service of the United States, praying to be indemnified against the effects of a judgment for two thousand five hundred dollars, recovered



H. OF R.

Seminole War.

JANUARY, 1819.

against him by General John Adair, in consequence of his having arrested the said Adair, in the city of New Orleans, in the year 1806, on a charge of his being concerned in the alleged conspiracy of Aaron Burr.—Referred to the Committee on Military Affairs.

Mr. SCOTT presented a petition of sundry inhabitants of the Arkansas country, praying that a separate territorial government may be established for the said country, and that Commissioners may be appointed to fix a site for the seat thereof.—Referred.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill to increase the duties on certain manufactured articles [shovels, spades, plain flint glass, copperas, shot, and oil cloths,] imported into the United States; which was twice read, and committed.

The House took up and proceeded to consider the proposition, submitted yesterday by Mr. LOWNDES, to amend the rules and orders of the House; and the same being again read, was agreed to.

The bill from the Senate, entitled "An act to extend the jurisdiction of the circuit courts of the United States to cases arising under the law relating to patents;" was read the third time, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

In compliance with a resolution of the House of Representatives of the 18th instant, requesting me to cause any information, not already communicated, to be laid before the House, whether Amelia Island, St. Marks, and Pensacola, yet remain in the possession of the United States; and, if so, by what laws the inhabitants are governed; whether articles imported therein, from foreign countries, are subject to any, and what duties, and by what laws, and whether the said duties are collected, and how; whether vessels arriving in the United States, from Pensacola and Amelia Island, and in Pensacola and Amelia Island, from the United States respectively, are considered and treated as vessels arriving from foreign countries; I transmit a report from the Secretary of the Treasury, and likewise one from the Secretary of War, which will afford all the information requested by the House of Representatives.

JAMES MONROE.

JANUARY 30, 1819.

The Message and documents were read, and referred to the Committee on Foreign Relations.

Another Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

To the House of Representatives of the United States:

I transmit to the House of Representatives, in compliance with their resolution of the 4th of this month, a report from the Secretary of State, concerning the applications which have been made by any of the independent Governments of South America, to have a Minister or Consul General accredited by the Government of the United States, with the answers of this Government to the applications addressed to it.

JAMES MONROE.

JANUARY 29, 1819.

The Message was read, and, with the accompanying documents, ordered to lie on the table.

## MILITARY PUNISHMENTS.

Mr. HARRISON offered the following resolution:

Resolved, That the Judiciary Committee inquire into the expediency of providing by law for the punishment of crimes committed by persons employed in the armies of the United States, without the limits thereof, and which are not provided for by existing laws.

Mr. H. observed, in explanation of his motion, that, during the discussion which had for some days occupied the House, the question had occurred to him, whether there was any provision in our laws for the punishment of crimes committed by men in the Army beyond the limits of the United States, and which were not provided for by the military code. In other words, whether the jurisdiction of our civil courts extended to crimes committed in that situation. He had himself no doubt of the right of jurisdiction being in the nation over its own citizens, employed in the Army, in any country where, by the laws of nations, our army had a right to go; but he had understood that the courts of the United States had declined taking cognizance of offences committed anywhere, unless jurisdiction had been expressly given by a statute. If this was correct, crimes of the highest class might be committed by individuals of our army in Florida for which there was no legal punishment. The articles of war, Mr. H. observed, provided for the punishment of no crimes, but those of a military character. They did not provide for the case of murder. An inferior killing his superior might indeed be punished, and punished with death, under the article which prohibits the striking superiors; but there was no adequate punishment for an officer who should murder a soldier, or an officer his inferior. Within the limits of the United States all offences of this description were punished by the civil courts of the States. If the view he had taken of the subject was correct, Mr. H. said the propriety of passing a law as speedily as possible must be apparent. He, therefore, moved the resolution which he had submitted.

The resolution was agreed to.

## SEMINOLE WAR.

The House then proceeded to the order of the day, and again took up, in Committee of the Whole, the report of the Military Committee, on the subject of the Seminole war.

Mr. ANDERSON, of Kentucky, concluded the speech which he yesterday commenced, against the report and resolutions of censure, as given entire in preceding pages.

Mr. LOWNDES, of South Carolina, said, that before he entered into the consideration of the arguments on which he supposed that the determination of the resolutions before the Committee should principally depend, he would advert, for a moment, to some observations made by the

JANUARY, 1819.

Seminole War.

H. OF R.

Speaker, in relation to the treaty of Fort Jackson. His absence from this country at the period of the treaty, and for some time after it, sufficiently accounted for his information being incorrect upon this topic. He had said, that it would have been worthy the generosity of the Government to have given some consideration to the Indians, for the cessions of land which it obtained. The records of the country would show that this was the course actually pursued. After the ratification of the treaty of Fort Jackson, the journal of the commissioners who made it was laid before the House of Representatives. It contained a declaration of the chiefs who signed the treaty, that they were not satisfied with its terms, although they would not withhold the signature which was insisted on. The same paper furnished the proof that the cessions in the treaty were not made with the free consent of the chiefs, and an exposition of the terms on which that consent would have been given. The House of Representatives, he believed, by an unanimous vote, passed a bill, which gave to the Indians the terms, with which, at the conferences at Fort Jackson, they had declared that they would be fully satisfied. This bill had become a law, and, if the conditions of the treaty had been such as it was harsh to exact, the Government, which gave a sum exceeding one hundred thousand dollars, as an equivalent for a cession which, by treaty, was to have been made without any equivalent, had pursued precisely the conduct which the Speaker had declared he could have wished.

Mr. L. would not say that the act was liberal and magnanimous. Such praise should be reserved for greater occasions. But it was just. Nor had he ever heard, nor did he believe, that the conduct of the United States, after the treaty of Fort Jackson, had given ground of complaint to the Creek nation, inhabiting within their boundaries. Fugitives, indeed, from the nation, unwilling or afraid to trust themselves among their countrymen, had sought refuge in Florida, but their flight did not divest the nation of the rights of negotiation and government. Nor did they pretend it. They sought only for personal safety, and, at the date of the Treaty of Ghent, there was no war between the United States and any part of the Creek nation.

Mr. L. said, that he considered himself fortunate in having an opportunity of addressing the Chair, immediately after the gentleman from Kentucky (Mr. ANDERSON) who had just taken his seat. He did not concur, in general, in the conclusions which that gentleman had formed, but he should gladly follow his example, in abstaining from the discussions of questions which were not necessary to the decision of the resolutions before the Committee. And upon questions of this sort more than half of the debate appeared to him to have turned.

There was no resolution before the Committee declaring that the President was not authorized to direct the march of our troops into those parts of the Seminole country which lay beyond the boundary of the United States. He should not

discuss the question. He unequivocally admitted the right.

There was no resolution before the Committee declaring that the Government of the United States was not authorized, by the unfriendly conduct of Spain, to occupy Florida, or to resort to general hostilities. He would not discuss this question. He agreed with every member who had spoken, that Congress had the right to declare war against Spain, if it thought it expedient so to do.

But had General Jackson the right to take possession of St. Marks and Pensacola? Had the President of the United States the right? The rights of his subordinate officer were not greater than his own.

Gentlemen must recollect the deliberations upon this subject during the last session; the notice of a proposal by a member from Georgia for the seizure of Florida—the decision of the Committee of Foreign Relations against the expediency of seizing it—the acquiescence of the House in the opinion of their committee. If any man had suggested, during the last session, that Congress, by avoiding the determination of the question of occupying Florida, would have left it open to the decision of the President, or the General, the suggestion would have been heard with utter incredulity. If Congress could have believed that by their omission to act, the power of changing the pacific relations of the country would have been devolved upon any executive officer, he did not doubt that they would have directed, explicitly, what those relations should be. But who could have foreseen that the very circumstances which in March last were insufficient to give the sanction, even of political expediency, to the occupation of Florida, were soon after to be the principal constituents of a military necessity, which would justify a General in taking what the Congress of the United States had determined not to take?

The power of declaring war is given only to Congress. To employ the army of the nation for the purpose of taking possession by force of the territory, the towns, and even the forts, of a foreign State, seems to fulfil every condition which can be necessary to constitute an act of war. If such an act be done by an officer who has authority to do it, it is war. It was war, then, if General Jackson was authorized by his office, or by the legal orders of the President, to take possession of Pensacola; and to say that he was authorized by neither, is at once to admit the truth of the position taken in the resolution. A necessity, indeed, which would make the act involuntary, would change its character of hostility; but he must reserve this topic of necessity for another part of his argument. It was not alone, however, the power of declaring war which was given to Congress; the power of employing force against the property or possessions of a foreign nation, under circumstances which do not amount to war, is also confided to the same authority.

The framers of the Constitution did not repose



H. OF R.

Seminole War.

JANUARY, 1819.

that happy confidence in Executive or military officers, which might have induced them to give to Congress only the right of proclaiming a solemn and general war, and to leave to the Executive or the military the right of engaging in partial hostilities. If the people of Pensacola, encouraged by the local government, had employed their ships in directly plundering our property, the principles of national law would justify the United States in giving to their citizens the indemnity which the capture of Spanish ships would afford. But by whom must this capture be authorized; by whom must letters of marque be issued—in other words, by whom must the employment of force against the property of a foreign nation, under circumstances which do not amount to war, be directed? By the Congress of the United States. And is there, then, plausibility in the argument which supposes that the President or the General may take, by force, the acknowledged territory of a foreign Power, or even besiege and assault his forts, and this, under a Constitution which, by the plainest words, reserves to the legislature the exclusive power of authorizing the capture even of a schooner on the high seas?

Mr. L. considered it clear that the President had no right to authorize the capture of St. Marks and Pensacola. And the documents upon the table sufficiently proved that such was the view he had taken of his own powers. To have retained Pensacola, even until the meeting of Congress, would have been, he says, to have changed the relations between the two countries. To such a change (he adds) the power of the Executive is incompetent. To have retained Pensacola for a month or two, against the will of Spain, would have been war; the order for its restoration was therefore given, promptly and without the slightest intimation of any change in the condition of the Indian enemy, or of our own army, which would make its retention less necessary or less justifiable than its original capture. Are we, then, to believe that, to have retained possession of Pensacola for a few months, against the will of Spain, would have been war, and that to have taken it by force, to have entered it by military capitulation, was not an act of war; that it did not even imply any change in the state of our foreign relations, to which the power of the Executive was incompetent?

Mr. L. had referred to the President's conviction of a want of authority on his part, to retain or to take Pensacola, with no view of substituting authority for argument: but, by an ingenious construction of vague and general phrases, an attempt had been made to show that powers sufficiently large had been given to General Jackson to authorize the occupation of Pensacola. He did not wish to engage in this verbal criticism. A sufficient proof that the President did not design to give any power for occupying Pensacola, was found in this, that he did not consider himself authorized to give any. Argument, however, upon this subject, was as unnecessary as criticism. The gentleman from New York

(Mr. STORRE) had proved, by the extracts which he had read from the President's message and from Mr. Adams's letter, that the occupation of St. Marks and Pensacola was without the authority of the Government, and on the responsibility of the commanding General.

The President, then, had no right to give an order for the occupation of the places in question, and he had given none. But he had given orders, the fair and obvious import of which forbade the occupation of St. Marks and Pensacola. If the Indians took shelter under a Spanish fort, the General was not to attack them, but to notify the Department of the fact. Now, he would ask the Committee for a moment to suppose that the Indians, beaten and pursued through their swamps, had actually taken refuge under the guns of Pensacola. What would have been the situation of General Jackson? What his powers and duties? The very exigency foreseen, and provided for by the instructions of the War Department, would have occurred. He could not have attacked the Indians or the fort, because it sheltered them; could he have attacked both for other reasons? What would have been his letter of justification to the Secretary of War if he had done so? Sir, the very contingency has occurred which your letter has anticipated. The Indians have taken shelter under a Spanish fort. Not authorized on this account to have attacked them, I should have merely notified the Department of the fact. But other circumstances justified a different conduct. I found not merely that the Indians had taken shelter under a Spanish fort, but that when there the Spaniards gave them aid and comfort, and access and information, and ammunition and provision. On these grounds they became associates in the war. Must not the answer of the Executive Government to a letter of this sort have been that, in ordering no attack to be made upon Indians sheltered under a Spanish fort, the President had ordered that upon no evidence of association or connexion between Indians and Spaniards should the General undertake to attack the fort of a nation with which we were at peace; that the President well understood that Indians do not move with magazines and provisions, and all the equipage of war; that when he anticipated the event of their taking shelter under a Spanish fort, all those acts of communication, aid, and supply, were supplied, without which their shelter would have been decoy and destruction? If all the circumstances on which General Jackson rests his defence for occupying Pensacola had been enforced by the much stronger circumstance of an embodied Indian force lying at the time under its walls, he would have disobeyed his instructions in attacking either the Indians or the fort. Does it come to this, that General Jackson was authorized to attack the fort because the Indians had not taken shelter under it?

Can it appear to the Committee of trifling importance, that military officers should feel the restraining hand of the civil government, even under circumstances of great difficulty and strong

JANUARY, 1819.

Seminole War.

H. OF R.

provocation? Does it seem favorable to the peace of the country, or even compatible with it, that a General, on a distant frontier, with his eye intently fixed upon a valuable province, which his arms can overrun, shall decide for himself and his Government what acts shall be sufficient to make a foreign Power an associate in a war against us?

These acts may furnish a strong reason for visiting with war the nation, professing neutrality, which is guilty of them. But how far even this association will induce you to engage in war, is a question for the war-making power. Unless it take the shape of invasion, actual or imminent, even the sovereignty of a State, under our Constitution, cannot punish it. Who does not know that considerable and continued aids, both in men and money, have often been given by Powers who have been allowed to continue at peace to the end of the contest? The Government of the injured nation has, in these instances, chosen the policy of peace, not the right of war, and their Generals have followed the orders of their Government.

But the violation of the orders of the Executive Government by General Jackson would not, in his opinion, Mr. L. said, form a case which would require the interposition of the House, if it had not been combined with the assumption of powers belonging neither to the President nor the General. It seemed, indeed, to be thought by the opposers of the resolutions, that, independently of the orders or powers of the President, the commanding General, as an attribute of his station, had the right to attack the Spanish fort under the circumstances in which he acted. The argument would not avail, unless he had a right not only to do it without orders but against them. Let this objection be waived, and those which had been used to show that the President had no power to authorize, proved equally that General Jackson had none to make the capture. The right of a General to occupy the territory of a nation at peace, must be such as is calculated to prevent injury, not to punish it—must be exercised, not in resentment of the conduct which had been pursued, but with a view to security against that which the offending party was at the time pursuing. General Jackson could derive no right to the occupation of the Spanish forts, because they had been converted into instruments of hostility, unless they were so employed at the time of his occupation, or with the strongest evidence that they would be so employed. He had rested his justification upon the principle of self-defence, and if by this he meant that the occupation of the Spanish forts was necessary to the safety of his army, it was equally impossible to deny the principle or to admit the fact. He agreed with the gentleman from Virginia, (Mr. BARBOUR,) that it might be necessary to the safety of an army that a position should be occupied in a neutral State, and that the General would, in this case, be justified in seizing it, nor would the act be war. That gentleman had himself admitted that there was no such necessity for the

occupation of Pensacola. If we must allow, upon his authority, that necessity has degrees, at least the range of the scale must be a small one; and a slight convenience can hardly be construed into any necessity. The quotation which his friend from Virginia had made from Vattel, sufficiently explained the character of that necessity which would justify an army in taking the territory, as it would individuals in taking the property which did not belong to them, "lest they perish." But, in the recital of the different motives which induced General Jackson to occupy the Spanish forts, we find them all of two classes—past injuries and future convenience. Gentlemen might say that it was difficult precisely to determine how strong must be the urgency of the occasion which would justify the seizure of a neutral fort. The capture of Copenhagen by England had been frequently adverted to in the debate. He was sure that we should not adopt a system of morality more loose than that which was avowed by the ministry who planned that expedition. Necessity was their alleged justification, but, to constitute this necessity, they admitted three conditions to be essential—that the enemy meant to attack, that the neutral could not or would defend his territory, and that its occupation would be (not injurious to the prosperity, but) dangerous to the very existence of the country. The war-making power belonged in England to that branch of the Government which had directed the expedition. The civil jurisdiction of the town, after it was taken, was left with the officers of the Danish Government. He did not mean to extenuate the act. Wise men condemned, and good men reprobated it. Infinitely better would it have been for England, before whose naval power that of Spain, France, and Holland, had been dissipated, to have taken the Danish fleet from an enemy rather than a friend. But the grounds on which the act was defended, contain the admission of a ministry as little scrupulous as any which England has ever had, as to the principles which ought to have regulated their conduct, whether they did so or not. It cannot be a false and fastidious delicacy which exacts that the necessity must be as strong to justify the occupation of neutral territory by an American General as by the British Crown. Would the Committee inquire whether the three conditions combined to justify the capture of Pensacola? Did General Jackson know that the Indians intended to take it? Beaten, dispersed, desperate, they had no plan beyond that of personal escape. Did he know that the Spaniards could not or would not defend it? There was no proof of this, even in the case of St. Marks, at the time of its capture, except it were the letter of the Governor, who speaks of an attack by Indians "as an unforeseen event," an improbable, therefore, if a possible one. There was no probability that the Indians would have taken these forts if we had not; but if they had, will the Committee say that the safety of the army or the nation would have been endangered by it? If they had been the Gibaltars of the new world,



H. OF R.

Seminole War.

JANUARY, 1819.

would they have been impregnable when defended by Indian engineers? These Indians might have been formidable in their fastnesses and woods; to have crowded them into a fort, would have been to have prepared the way to their certain and easy destruction. They would not have been so entrapped. But the gentleman from Kentucky (Mr. ANDERSON) supposes it is reason enough to take a neutral territory, (a hillock or a town,) that the enemy will do it if you do not. Mr. L. heard such opinions with much regret. Our natural attitude was that of a neutral Power—our consistent and persevering policy had hitherto been to support the rights of neutral Powers. How strong have been the denunciations against the Governments of Europe who have affected to consider themselves as justified in invading the rights of neutrals, because they had been invaded by their enemy? But the present doctrine is that, not of retaliating an invasion of neutral right, but of anticipating it; it subjects to capture a ship or a fort, not because an enemy had taken it, but because perhaps he may take it. There was a reason assigned for the occupation of Pensacola, of which he should have said nothing, if it had appeared only in the communications of the General. But the threat of the Spanish Governor had been considered by the opposers of the resolution, and particularly by a gentleman from Virginia (Mr. SMYTH,) as rendering the attack which followed absolutely unavoidable. He could not believe that General Jackson himself, in the moment of irritation, would have represented this threat as affording a justification for the attack of Pensacola, if he had not supposed that he had other and better reasons for the act. But there was some ground for alarm to those who loved peace, and wished the Government to be the master of its own policy, in the deliberate expression of an opinion by a national representative, that an insulting letter from a foreign to an American officer must be resented by invasion and war. It was with the resources of the country that this game of chivalry was to be played. They were not placed at the disposition of the Government with such a view. On the whole, Mr. L. said, he considered it very clear that there was no military necessity for the occupation of St. Marks or Pensacola. Reasons of political expediency and military convenience there certainly were, and the correspondence of General Jackson showed that he had been attentive to both of these. They were reasons which, by the Constitution, could produce their proper effect only upon the Legislature of the Union. But, if the attack upon Pensacola was the assumption of an unconstitutional power, ought the House to declare its disapprobation of the act? Some gentlemen even doubted its right to do so, as if the right to a free expression of its opinion on matters connected with its powers and duties, were not necessary in every department of a free Government. This conservatory power could not be denied to the Executive or the judges, and it was equally necessary to the Legislature.

But what occasion, it has been said, is there to

do anything on the subject? None; if General Jackson did not exceed the powers with which he was intrusted; but if he exerted one of the highest prerogatives of Government which is confined to no less authority than the entire Legislature of the country, are we willing to employ our own powers when we think it right, and when we do not to let anybody else assume them? The character of General Jackson is said to be implicated in the vote which is proposed. The opinion of the world and of posterity will not be affected by that vote. There is nothing in the fact or the resolution to impeach his military glory or his patriotism. But the character of the country does not depend alone upon its military exploits. Its civil institutions, its liberty and laws, are elements of the national reputation quite as valuable. To suppress our disapprobation, if it were merited, would not raise the character of General Jackson, but would impair our own.

He could, indeed, suppose cases where power not given by the Constitution might be assumed by an Executive officer rightly and necessarily; but he could suppose none in which this assumption should be passed over in silent acquiescence. Indemnity might be extended to the officer and justification to the act, but the absolute necessity, which could alone furnish that justification, should be recorded by the vigilant guardians of the Constitution.

He should therefore vote without hesitation for the resolution disapproving the occupation of St. Marks and Pensacola. But, upon the subjects of the other resolutions, his views differed from those of the gentlemen with whom he fully concurred in that of which he had been speaking hitherto.

As to the condemnation of Ambrister, he believed, that the power of military execution was inseparably connected with that of directing the military force of the State against an enemy. That enemy must be attacked. Who has the power of receiving their capitulation or surrender? of admitting them into the peace of the country? Not only the usages of war, but the principles of humanity and virtue, require that the unresisting enemy should be spared in general; but this obligation of mercy is not universal. It is not held to extend to those who have broken their parole; nor, by a much stronger reason, to those who make of war an indiscriminate massacre. The right of military execution was, indeed, at least as easily to be deduced from first principles, as that of execution for civil crimes. In neither case was wanton severity to be justified. The Executive Magistrate must decide whether mercy can be safely extended to the obdurate offender against municipal law, and the commanding General, whether quarter can be prudently given to the savage, who himself does not give it. He did not mean, however, to engage in the argument upon this topic, which had been very fully discussed, but merely to state the opinion that, in ordering the execution of Ambrister, against the advice of a council which he

FEBRUARY, 1819.

Bank of the United States.

H. OF R.

had summoned, General Jackson had not exceeded his military authority, although he had indeed assumed a high responsibility.

The case of Arbuthnot appeared to him different in its principles. He did not see how the right of military execution could be applied to any man, who was found under the protection of a nation with which we were at peace. He supposed it restricted to enemies taken in war, and limited both in time and place. Whether our occupation of St. Marks were friendly or hostile, he did not understand how its inhabitants, whether combatants or not, had become subject to military execution. Nor, though it were true, that an atrocious crime would otherwise have gone unpunished, did he admit that a military tribunal should be called in whenever it may be feared that justice would otherwise be disappointed of its victim. Mr. L. said, that he had been struck with the indifference which had been displayed throughout the argument to what he deemed most important principles of national law; that the jurisdiction of crimes shall be confined to the nation in which they are committed, and that the Government which is injured must obtain its redress from the nation which permits them to pass unpunished. He knew no State more interested in the maintenance of these principles than the United States. They were, indeed, necessary to the independence of all nations.

He had intended to have given to this subject the fullest examination which he was able. He considered the assumption of jurisdiction in the case of Arbuthnot as erroneous and dangerous; but, while he believed that the court had no jurisdiction to try the crime, nor the General authority to punish without a trial, his reflections had led him to the conclusion, that the mistake of the court and General, as to their powers, ought not to be mixed with the more important subject of complaint, which was afforded by the assumption of one of the highest powers of the Congress of the United States—with the right of making war. He had therefore determined to confine his argument to the resolution respecting Pensacola and St. Marks, and he should be glad if the vote of the House could be limited to the same object.

Mr. L. said that he should not vote for either of the bills which it was proposed to bring in. For the bill, which required the sanction of the President, in time of Indian war, to the execution of a captive, he objected, because, if this power should be lodged in an Executive officer at all, in what officer it should be lodged must depend upon considerations only of expediency; and it was necessary to its prompt and useful exercise, that the decision of the General should not wait upon that of the President.

Where the troops of the United States cannot be marched beyond our boundary without committing an act of war against a nation with which we are at peace, he believed that the Constitution now prohibits their march, unless by the authority of Congress. Mr. L. had no faith in the benefits of the supplementary law which was

proposed. But there might be many cases in which troops might be properly marched beyond the United States without commencing war; either where war had been made against us by another nation, or where a territory, in our neighborhood, was abandoned by its Government. He could not willingly add to the evils of an act which he deeply regretted, by making it the occasion of an improvident law.

Mr. H. NELSON, of Virginia, followed in opposition to the report and resolutions; and had spoke but a short time, when, having given way for a motion to that effect, the Committee rose, reported progress, and obtained leave to sit again.

MONDAY, February 1.

On motion of Mr. MARR, a committee was appointed to inquire into the expediency of amending an act passed the 4th day of April, 1818, entitled "An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same,'" passed the 18th of April, 1806, with leave to report by bill or otherwise; and Messrs. MARR, WILLIAMS of North Carolina, JONES, SETTLE, and TAYLOR, were appointed the said committee.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting sundry papers having relation to the subject of the resolution adopted by this House on the 26th ultimo, respecting the destruction of the Negro Fort in East Florida, in the month of July, 1816; which was ordered to lie on the table.

Mr. RHEA, in pursuance of instructions from the House, reported, from the Committee of Pensions and Revolutionary Claims, a bill for the relief of Benjamin Simmons, (a case which the committee heretofore reported against, but which was reversed by the House, and is a claim under an alleged contract, for services rendered as wagon master in the Revolutionary war.)

The bill having been read, Mr. RHEA moved that the bill be rejected, on the ground that the claim was in itself unjust, and, if just, the amount allowed was more than the claim justified.

This motion was opposed by Mr. HUBBARD; and, after some discussion on the merits of the claim, the motion to reject it was negatived, and the bill was again read and committed.

Mr. P. P. BARBOUR then made an attempt to have the claim of — Porter committed to the same committee, as being an analogous case; but that claim having been already definitively decided by the House, in concurring with the committee who reported against it, the motion of Mr. B. was decided to be not in order.

BANK OF THE UNITED STATES.

Mr. SPENCER submitted the following resolution:

*Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled,*



H. OF R.

Bank of the United States.

FEBRUARY, 1819.

bled, That the Secretary of the Treasury shall cause all the public deposits in the Bank of the United States, and its several offices of discount and deposit, to be withdrawn on the first day of July next; that after the said day, the bills or notes of the said corporation shall no longer be receivable in any payments to the United States; and the Attorney General of the United States shall, on that day, or as soon thereafter as may be, cause a *scire facias* to be sued out in conformity to the provisions of the "Act to incorporate the subscribers to the Bank of the United States," calling upon the said corporation to show cause why its charter should not be declared forfeited; unless the said corporation shall, by a legal act to be delivered to and approved by the Attorney General, and to be by him transmitted to Congress, at the next session thereof, declare its assent to the following propositions, on or before the said first day of July next, viz:

1st. That Congress may by law provide such means as may be necessary to enforce the first fundamental article of the said charter, respecting the right of voting for directors, and particularly to provide that transfers of stock, shall always be made to the real owners thereof, or to some person or persons in trust for the owners, who shall always be named in such transfer, that stock shall always be deemed to belong to the person or persons in whose name it may stand, or for whose use it may be declared in the certificate to be held, and that no evidence whatever shall be received in any court to contradict or explain the certificates of ownership.

2d. That Congress may provide for the reduction of the capital stock of the bank, in a just and equal proportion by the stockholders thereof, when convened in a general meeting.

3d. That the power of removing any director for misconduct, may be vested in the President of the United States.

4th. That the bank may purchase not exceeding five millions of dollars of the funded debt of the United States, and may hold the same without being subject to redemption, unless consented to by it, until the time or times specified in the certificates thereof.

5th. That no by-law of the corporation shall exclude the directors appointed by the Government from a full knowledge of all the concerns of the bank, and of the accounts of every person dealing with it, and that the assent of at least one public director shall be necessary to allow any discount, and to render valid every act of the board of directors.

6th. That the provision in the second fundamental article, prohibiting any director from holding his office more than three years, out of four in succession, may be modified or repealed by Congress.

7th. No discount shall in any case be made by the bank at Philadelphia, or by any office, without the consent of at least four directors of the bank or of the office, as the case may be.

8th. Congress may authorize the bank to deal and trade in other things than those enumerated in the ninth fundamental article, so far as to receive pledges of its own stock and of the funded debt of the United States in security for loans, and to sell such pledges on a forfeiture thereof.

9th. That persons holding stock upon which any instalment shall have been paid by the proceeds of notes discounted, shall be compelled gradually, and as soon as circumstances will admit, to pay the full amount of such instalment in coin, or in coin and

funded debt, according to the provisions of the charter, and no dividend of profits shall be allowed to such stock, until the said payment is completed.

10th. That the Secretary of the Treasury shall be permitted at any time, either in person or by an agent, to be appointed by him, to inspect all the books, papers, correspondence, minutes, and proceedings of the board of directors of the bank, and of all its offices and of all their officers.

11th. That Congress may extend the time for the payment of the whole, or any part of the sum of \$1,500,000, required to be paid by the 20th section of the charter.

12th. That a *scire facias* may be issued out of any circuit court in the United States in the cases stated in the charter; and whenever it shall be issued out of any court than the circuit court of Pennsylvania, sworn copies of the books and papers of the bank shall be received as evidence instead of the originals.

The foregoing provisions, or any of them, may, at any time, be enacted into a law or laws by Congress, and shall thereupon become a part of the charter of the bank.

The resolution having been read, and the question stated whether the House would now consider it—

Mr. SPENCER, with the view of removing any objection which might be felt to the consideration of the motion, stated that it was not now his wish to go into a discussion of it, but only to be enabled to have it referred to the Committee of the Whole House, to which had been committed the report concerning the management of the bank.

Mr. TYLER asked leave to make one remark. He hoped the House would agree to consider the resolution, that it might take the course suggested by the mover, and have a full and fair discussion. He wished that every member might have an opportunity of exhibiting his views, and that the House might make its final decision with all the lights to be derived from deliberate discussion and mature reflection; but he would here say, that, whenever the question on the adoption of this motion should be presented to him, he should be obliged to vote for its rejection, under the hope that the House would, in preference, direct a *scire facias* to be forthwith issued.

The House having agreed to consider the resolution—

Mr. SPENCER moved that it be committed to the Committee of the Whole House on the state of the Union, to which was referred the report of the committee appointed to investigate the management of the Bank of the United States.

Mr. JOHNSON, of Virginia, hoped the resolution would not be committed, but that it would be laid on the table. He hoped the question would be fully met; and it had been his intention, if no other member should do so, to move to instruct the Committee on the Judiciary to report a bill to repeal the charter of the bank. The patient, Mr. J. said, was too far gone to be recovered; expedients were useless, as dissolution was inevitable, and it was better to meet the question at once. He, therefore, moved to lay this resolution on the table.

FEBRUARY, 1819.

Seminole War.

H. OF R.

Mr. SPENCER was as willing as any one to meet the question fully, and to give the subject a fair and ample discussion; and he thought the course he proposed to give the resolution was the best way to afford it a full consideration, because the report was already committed, and, by referring his resolution to the same committee, the whole subject would be presented for discussion, &c. He would, however, give way to the course moved by Mr. JOHNSON, and consent to laying the resolution for the present on the table. Mr. S. then withdrew his motion to commit the resolution, and it was laid on the table.

## SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole on this subject, Mr. BASSETT in the Chair.

Mr. H. NELSON resumed the remarks which he commenced on Saturday, and spoke about two hours in opposition to the resolutions of censure.

Mr. TYLER, of Virginia, said, that he owed an apology to the Committee for rising at so late a period of the debate to address it. He proposed to present a very brief sketch of the views he had taken on this interesting subject. At the onset, I close in, Mr. Chairman, with the position laid down by the gentleman who has just addressed you, (Mr. NELSON) and say, that, however great may have been the services of General Jackson, I cannot consent to weigh those services against the Constitution of the land. Other gentlemen will, no doubt, yield me the correctness of this position. Your liberties cannot be preserved by the fame of any man. The triumph of the hero may swell the pride of your country—elevate you in the estimation of foreign nations—give to you a character for chivalry and valor; but recollect, I beseech you, that the sheet anchor of our safety is to be found in the Constitution of our country. Say that you ornament these walls with the trophies of victory—that the flags of conquered nations wave over your head, what avails these symbols of your glory if your Constitution be destroyed? To this pillar then will I cling. *Measures, not men*—and I beg gentlemen to recollect it, has ever been our favorite motto. Shall we abandon it now? Why do gentlemen point to the services of the hero in former wars? For his conduct there he has received a nation's plaudits, and won our gratitude. We come to other acts. If our motto be just, we must look alone to the act, not the actor. It is only then that we shall judge correctly. A Republic, sir, should substitute the Roman Manlius, and disapprove the conduct of her dearest son, if that son has erred. From what quarter do you expect your liberties to be successfully invaded? Not from the man whom you despise; against him you are always prepared to act—his example will not be dangerous. But, sir, you have more to fear from a nation's favorite; from him whose path has been a path of glory; who has won your gratitude and confidence—against his errors you have to guard, lest they should grow into precedents and be-

come in the end the law of the land. It is the precedent growing out of the proceeding in this case that I wish to guard against. It is this consideration, and this only, which will induce me to disapprove the conduct of General Jackson.

Our sympathies have been appealed to in his behalf. There exists no cause for the appeal. Are we about, by this vote, to wither the laurels which bloom on his brow—to deprive him of character, of standing? No, sir, we arraign not his motives. On all hands it is conceded to his supporters that his motives were correct. Did we insist that he had intently violated the Constitution and the law, then should we make a charge, which, if supported, would properly degrade him in the estimation of all good men. But we make no such charge—we disapprove only his acts. Is this a vote of censure of the odious character which it has been represented to be? Censure implies bad motives and bad acts. Say, if you please, that I have shot my arrow over the house and wounded my brother. He complains of my act, not my intentions, because he is aware they were innocent; but, although he neither upbraids nor censures me, the wound still festers in his side. Is there not even a wide distinction between a vote of censure, in the obvious acceptance of the term, and a vote of disapproval? Is there anything more common than for an officer ordering a court martial to disapprove the sentence of the court, and direct it to reconsider its opinion—and yet, was ever such disapproval esteemed a censure on the court? An inferior court gives an erroneous opinion; an appeal is taken to a superior tribunal; the opinion of the inferior court is reversed—was such reversal ever construed to imply a censure on the judge? You differ from me in opinion. You disapprove my premises and the deductions therefrom. Sir, was it ever heard of before, that, this difference of opinion required us to regard each other as such objects of censure, as to interrupt our harmony or mutual respect and confidence? We do nothing here but combat the opinions and actions of the General, and if gentlemen will have it so, of the Executive. Shall we be denied the liberty of boldly and manfully expressing this difference of sentiment? Sir, I protest against this slavery of the mind. The body may be enchained and bowed to earth, but that ethereal essence resists your power and scoffs all efforts to inthral it.

What are the points of difference arising out of this case? Gentlemen justify the capture of St. Marks on the plea of necessity; we contend that no such necessity existed; and, believing so, we disapprove the capture. We agree, in our premises, that the General would only have been authorized to seize a neutral post, in order either to save his army, or to guard the post against the imminent hazard of falling into the hands of his enemy. We call upon gentlemen for the proof of the existence of such necessity, or of such danger. The letter of the Governor of Pensacola, informing General Jackson that the garrison of St. Marks was too weak to defend itself against



H. OF R.

Seminole War.

FEBRUARY, 1819.

in hostile attack, and that the enemy had made demonstrations of an intention to seize it, will not justify him in having taken possession at the time he did. Before he approached, the danger had retired; no force was before it, nor within a great distance of it; nor had he any enemy in his rear, and his army was easily thrown between the fort and the foe. Sir, every document on your table goes to prove that the Indians were defeated, their forces broken, and that they had sought shelter and protection from the ruin and destruction which pursued them, in their swamps and hiding places. An attack on St. Marks was, therefore, rendered improbable. But admit, for the sake of argument, that this was not the case; nay, Mr. Chairman, to give to our opponents the strongest of all possible cases, let us imagine the Indians in possession of the fort—would your army have been in danger? Can any gentleman believe it? Sir, did you ever hear of an Indian's using cannon in action? Their situation would, indeed, have been ludicrous. I submit it, in the spirit of candor, to gentlemen to say, if the General could more ardently have wished for any event than that the enemy should have concentrated the whole of his forces at St. Marks, with the settled determination of holding the post. He would have been saved the fatigue of marching further; one action would have terminated the suffering of his army; the defence would have been weak and unavailing, and a new spark of glory would have illumined the crest of the hero. But even this imaginary state of things would have presented a case contemplated in his orders, and, as a military man, he would have been bound to have reported to the President before he could have struck a blow. But we are told triumphantly by honorable gentlemen, that the Governor of St. Marks had violated his neutrality; that he aided and assisted the Indians—furnished them with munitions of war—nursed their wounded, and suffered them to hold their councils under his very nose. Be it so; I will admit all this. I give to gentlemen all they can ask. Nay, I will go further, and yield to them that he was destitute of principle, and was a deadly, but secret enemy of the United States; what inference can be drawn from these admissions? Why, sir, that he furnished you with abundant cause of war against Spain. But I demand to know who was authorized, under the Constitution, to have declared the war, Congress or the General? To this point we must come at last. Great Britain gave you innumerable causes of war; she searched your vessels—confiscated your property—disregarded your flag—impressed your seamen—and made an attack on one of your frigates in sight of your coast. France also committed aggressions on you, of a serious and afflicting character; yet, was it ever dreamed of that your Commodore had a right to strike a blow before Congress gave him authority. I put you a case parallel to the one I have supposed to exist: You had, during Mr. Adams's Administration, a quasi war with France. Did not Spain then violate every obligation of neutrality towards you? She suffered

French consuls, residing in her seaports, to grant commissions to privateers, to prey on your commerce. She transferred to these consuls a portion of her sovereignty, and permitted them to adjudicate prizes. Would you have excused your naval officer if he had entered a Spanish port, captured their shipping, and destroyed their town? And yet is not that case as strong as the present; I implore you then, Mr. Chairman—I supplicate this Committee, in the name of liberty—in the name of the Constitution, to beware how they countenance a precedent of this sort. This nation, if this precedent receive your sanction, may be involved in war without the question ever having been submitted to the Representatives of the people. Do you wish any further illustration of this position? Suppose a war to exist between us and a northern tribe of Indians; your arms are victorious—your enemy flies, for protection, to a fort in Canada; they receive succor and protection at the hands of the officer commanding such fort; your General demands a surrender of the fort; his demand is refused; he carries it by storm, and retains possession—would the Governor of Canada submit in silence? No, sir—he would send an army to attack you; the pride of your officer would not permit him to treat; we have then hostile armies in the field; the war rages between us and England, without the approbation of the constituted authorities. You, however, must soon become parties in the war; for, if you admit the right to exist with the General to involve you in it, you owe a corresponding duty, and must furnish him the means of waging it to a successful termination. Taxes must be levied to carry it on; your resources must be developed; you will not abandon the standard of your country. And, sir, what prevented these consequences in the instance under consideration? Nothing but the imbecility of Spain. And shall we adopt a different rule of conduct when a weak nation is concerned, from that we would put in practice against a strong, a formidable nation? Manhood forbid it! Patriotism forbid it! Valor avert the deed! Mr. Chairman, the principles of justice—the principles of your Constitution, are inflexible, immutable; they yield not to time or circumstance. I appeal to the honor of this Committee—to the oath which each member has taken, to support the Constitution of this land—to guard and protect, not only that Constitution, that honor, but the character of this nation for justice and impartiality.

The remarks which I have made, relative to the seizure of St. Marks, are now strongly applicable to that of Pensacola. It is in vain you tell me that the Governor was destitute of principle—had violated his neutrality—had given shelter to a poor, miserable, broken and defeated foe—a foe, who, like the hunted beast of the forest, had held you but a moment at bay, and was then flying to his secret places, far from the haunts of civilized man, to hide himself from the desolating vengeance which pursued him. Sir, I carry you back to my first position. Congress, and not the General, was alone authorized to make war upon

FEBRUARY, 1819.

Seminole War.

H. OF R.

him. Will it be said, that necessity, which justifies all things, authorized its capture? Where is it to be found. Indians retreated to the town—were in possession of it, if gentlemen will ask the admission. We require that the General shall look to his orders. It is the very case they contemplate—he must report to the Executive. But a threat is made—you are braved to your teeth. The gauntlet of defiance is thrown—you are threatened with an attack—let it come on. The storm has no terror for the brave, nor can the frown of the Spaniard shake the soul of the hero. But there was no danger to be apprehended. The Governor had no force with which to make the attack. My honorable friend from Virginia (Mr. BARBOUR) in graduating the necessity of this case, states, that if the attack had been made, Jackson would have been justified in seizing Pensacola. True, his right to seize might have existed, but he could have held it only for a moment. The assailant vanquished, the General would have been compelled to have returned to him his armor. Need I call to the recollection of the Committee the case of the Tripolitan brig? Before you declared war against Tripoli, one of her armed vessels attacked one of yours—the valor of our seamen triumphed—the brig surrendered. But, the battle ended, she was immediately restored. This proceeding was approved by that friend of liberty and man, Mr. Jefferson, and, in a Message to Congress, he represented the war as being altogether on one side, and demanded that our condition should be changed. This was the course of proceeding in older times. Would that the principles of those times could exist forever! But, sir, what was General Jackson's course of proceeding? He did not wait for, but made the attack. He seizes the post, enters into terms of capitulation with the garrison, and sends it off to a Spanish island; appoints officers of police—introduces our own laws, and makes what he calls a valuable addition to our territory. Sir, I appeal to my honorable colleague (Mr. H. NELSON) who has advised us to read the documents, and who professes a most intimate knowledge of these transactions, to say, if I have stated anything but facts. Mr. Chairman, I cannot imagine a more formidable inroad on the powers of this House. The military commissions the officers of police; the American law prevails; the Spanish customs are disregarded. Who has done all this? Not the Congress of the United States, but the commander of its armies. I am no apologist for Spain; our wrongs are numerous and great. But, I will never cease to protest against this violation of the Constitution. But the gentleman who has just addressed you (Mr. H. NELSON) urged that, in order to protect your frontier, it was necessary you should have these posts. That, but for their occupation, that frontier would, even now, in all probability be visited by massacre and blood. And are we prepared to justify this proceeding upon the plea of convenience; to what conclusions will this lead us? In prosecuting a war with the Turks, would not this same plea justify you, if you possess the

15th CON. 2d SESS.—30

power, in seizing on Gibraltar? This would enable you, with little difficulty, to bring them to terms, and to overawe any subsequent rupture. In the event of a war with England, you could not do better than wrest Cuba from the hands of Spain; for, by doing so, the commerce of the West Indies would be placed at your mercy, and their prosperity depend upon your will. And yet, sir, will the gentleman say, that one of your commodores, without your authority, should possess himself of Cuba? I again call upon this Committee to guard against the evils of this precedent. I have pointed out some few of its consequences; I have argued this as an abstract question; I have attempted to meet it fairly; I argue from the principles of common sense, and base myself upon the Constitution of my country. My colleague (Mr. H. NELSON) has asked you, if you were disposed to acquit yourself from the responsibility of these measures, after making an appropriation to carry on the war against the Seminoles. Sir, I will, with all due deference, propose a question to honorable gentlemen. Did not the chairman of the Committee of Foreign Relations distinctly announce, on this floor, at the last session, his intention of submitting to that committee a proposition to authorize the President of the United States to take possession of Florida? I understood it was submitted to that committee, and rejected by an unanimous vote. [Here Mr. HOLMES, from Massachusetts, rose to explain; he said that the proposition had been submitted to the Committee of Foreign Relations, at the last session, but that it had not been authorized by the President or the House.] Mr. TYLER continued. It came from the chairman—he had the right to submit the proposition. But I care not from whence it came. The proposition was submitted, and was distinctly negatived. Would not this House have done the same thing? I heard no second to the proposition. You would not even authorize the President to seize on these posts, and yet, when a military officer does it, we calmly fold our arms and approve the act. Has our course of policy so suddenly changed? What has produced this change? A Summer campaign? Have we more lights now than we had last Winter? Did you not know then, as well as you do now, the feelings of the Governor of Pensacola towards this nation? He had suffered, in our late conflict with England, an English army to possess itself of Pensacola, and from thence to carry on hostilities against us. General Jackson, in the year 1814, was compelled to dispossess that enemy. Sir, we had every light then which we possess now, on this subject, and we distinctly disapproved of the occupation of these posts.

The gentleman from Virginia (Mr. H. NELSON) has referred us to the seizure of Pensacola in 1814, and of Amelia Island, by way of justifying these proceedings. Then, you fought against the enemy, who had possession of the town. That enemy was beaten and driven off, and our victorious army returned to our own territory. The Spanish authorities were not interfered with. As to



H. or R.

Seminole War.

FEBRUARY, 1819.

Amelia Island, I shall not stop to inquire whether its occupation was right or wrong. If it stands on the same footing with the present case I do not hesitate to pronounce it wrong. And, sir, the circumstances of its being referred to, to justify this proceeding, proves the necessity of guarding against will precedents. In the estimation of that gentleman, that precedent has already grown into law. Will you suffer this also to become the law of the land; and, by so doing, deliver yourselves up, bound hand and foot, to the arbitrary caprices of the officers of your army? I most devoutly pray that such may not be the result. I have every confidence in the patriotism of that army; but I cannot, will not, consent to invest them with powers conferred on Congress by the Constitution.

As to the remaining points of inquiry, I shall be very brief. Sir, my only object is to present you what I esteem the strong points of these questions. I do not wish, even if I had the power, to perplex you with subtle and ingenious reasoning. My object is to meet the questions fairly—to encounter the arguments of honorable gentlemen with such force as I can, and to contribute, as far as my humble talents will permit me, in elucidating this interesting subject. If, Mr. Chairman, the capture of St. Marks was unauthorized, the execution of Arbuthnot must of necessity have been so. Spain was a neutral in the war. Her flag, therefore, for he was in St. Marks, protected Arbuthnot from your power. This is the principle for which we have never ceased to contend. The same principle prevails on the land and on the ocean. If this man had been on board a Spanish vessel, according to this rule, one of your naval officers would have had no authority to have dragged him from on board that vessel and punished him with death. Against the British practice of search and impressment, our Government has never ceased to protest. It was the most prominent cause of the late war. Will you protest against this practice when observed by foreign nations, and shall we adopt the same practice in our armies and on the high seas? Is this to do justice? Our magnanimity, our honor, our consistency, are all at stake. If we cannot look to this House to preserve them, in the name of Heaven to whom shall we look? Even against the seizure of property protected by a neutral flag, we have constantly, unceasingly contended. Shall the rights of persons be less respected? I beg of gentlemen to recollect Valparaiso. The Essex frigate was under the guns of a Spanish battery: two English vessels attacked and captured her. Have we forgotten the clamor which this pusillanimity excited against Spain? Sir, she was represented either as hostile towards us, or so poor and degraded in spirit as to suffer her sovereignty to be invaded without resisting it. We have never ceased to remonstrate against this infraction of her neutrality, and, when we enumerate the causes of war against her, this is never omitted. I demand again to know if we shall adopt a different rule when we ourselves are the aggressors? No, sir,

I insist that justice is the same everywhere, and under all circumstances. Let her fiat be done, as well for us as against us.

The execution of Ambrister and the two Indian chiefs I consider equally indefensible. Although the reasoning applicable to the case of Arbuthnot is not applicable to that of Ambrister, yet all the reasons which go to show the impropriety of the execution of the latter, apply also to the former, I shall not stop to inquire whether the court martial was properly organized or proceeded with due solemnity and form. This has already been sufficiently canvassed, and in my estimation constitutes only a secondary branch of inquiry. I reason from great principles recognised by the law of nations. That law recognises but one reason cogent enough to authorize a General to put to death his prisoners. And that is, "where the safety of his men requires it." Was that safety implicated by suffering a wretch to live? Was the existence of his men or his army endangered in the life of a miserable vampire who had crawled from the sinks of European corruption, and had visited this western shore, either to exist in the commission of crime himself or on the enormities of others? Or did the continuance of the lives of his Indian captives threaten discomfiture and overthrow? It cannot be pretended. The first was too insignificant to have excited such fears—the power of the last was broken, and all their efforts defeated. The rifle and tomahawk had been struck from their hands, and they were prisoners, defenceless and disarmed. Sir, would it not have better comported with your national character, if, instead of executing these captives, the General had said to them, "go, I give you your liberty: go to your few surviving warriors, and tell them that that nation against whose defenceless frontiers you have raised the murderous scalping knife, with whom you have ever been at war, whose blood you have delighted to drink—that nation, so abused, so insulted, has no law to punish you: it restores you to your native forests, and has only to ask that you will abandon your enemies, and instruct your warriors how to respect her rights." I cannot but think that this would better have accorded with the principles of humanity and the laws of nations. But, sir, we are told by my honorable friend from Virginia, (Mr. BARBOUR,) that the ancient law of nations permitted the conqueror to put to death his prisoners, and that that code applies still to savage nations. He admitted, however, that a new code had been adopted by civilized nations; and, sir, this new code provides the mode of conducting war even against barbarians. Does not the gentleman, then, see that his position and admission are at variance with each other? If the new code has abrogated the other, are you not bound by the first, and can you resort to the last? Can you break your contract at pleasure? [Here Mr. BARBOUR rose to explain. He said that it was true we did extend to savages many of the benefits of the new code, but that it was a gratuitous act on our part, and what they had no right to

FEBRUARY, 1819.

Seminole War.

H. or R.

demand; for, in the language of Bynkershoek, though justice may be insisted on in war, yet generosity cannot.] Mr. T. said that he regretted much if he had misunderstood the gentleman. His wish was fairly to meet the argument. But, sir, I contend that the rights which a civilized nation may exercise over its prisoners when warring against barbarians, are distinctly pointed out in the new code of national law. The very rule which I have laid down is there to be found, and is actually applicable to a war of the sort I have alluded to. This, then, is your contract with the civilized world. If we do not respect the stipulations of that contract, we throw ourselves out of the pale of the law. The gentleman from South Carolina, (Mr. LOWNDES,) with whom I have the satisfaction to agree, except in relation to this point, admits the propriety of the execution of Ambrister. He derives the power of the General from his right to refuse quarter in battle, and his right to punish for a breach of parole. These are cases constituting exceptions to the rule for which I contend, and are expressly enumerated. But does he find, in all the enumerated exceptions, a right appertaining to the commanding officer, to execute his prisoners, except where the safety of his army requires it? I defy gentlemen to produce such an instance. If his enemy gives no quarter, he has a right to refuse him quarter. But if you strike his weapons from his hand and make him your prisoner, that instant is his life placed beyond your reach, unless it be taken to preserve the lives of your men. The case of a man violating his parole is founded on the principles of humanity, and his punishment is properly left to the discretion of the officer.

This practice of paroling prisoners owes its origin to the rigorous confinement which each captive would necessarily be compelled to undergo but for its existence. The whole civilized world is, for these and other reasons, concerned in its preservation; the individual, too, accepts his parole under the express agreement that if he breaks it his life will be the forfeit. The gentleman from Kentucky (Mr. ANDERSON) contends that the right of retaliation must, from the nature of things, be vested in the commanding officer. I admit the truth of the position to a certain extent. Sir, the safety of his men may be involved in the exercise of this right. This is the controlling principle; under its influence everything which is done may be proper; but the very instant you pass beyond the limits it prescribes, that moment do you hurry headlong into error, and subvert the established order of things. Sir, take the case which he has put. He imagined your General with his army in Pensacola, besieged by a powerful enemy, and so surrounded as to be cut off from all intercourse with the Government; all the prisoners made by your enemy are put to death, and the gentleman triumphantly asks will you deny to your officer the right of retaliation when so circumstanced. No, sir, I will not deny it to him; I give it to him under the rule which I have laid down. By putting to death his captives, his enemy would be

induced to abstain from his fell practices. The safety of his men, the preservation of their lives, would call upon him to retaliate, and the necessity of the case would justify him in doing so. I am, then, Mr. Chairman, forced to disapprove the execution of these men. When gentlemen point me to the bleeding scalps of my countrymen—when they read to me the long catalogue of ills which we have sustained—when they portray the sufferings of a mother bereaved of her only child—when they represent to me that child inhumanly butchered—when they show me the picture of desolation and despair which these wretches have realized—I am not wanting in sensibility, nor is the effect of the representation lost upon me. I can do justice to the feelings of General Jackson with these dread objects of savage barbarity around him; but, when I recollect that this gallant hero had routed these cannibals; had visited their land with the sword; had desolated their dwellings and crushed their power; and that, not satisfied with this, he had executed his vengeance on those who had fallen into his hands—sir, I am permitted to breathe, and inquire under what law have these prisoners been bereaved of existence? We live in a land where the only rule of our conduct is the law. The power of promulgating those laws is invested in Congress. They are not the arbitrary edicts of any one man, nor is any so high as to be above their influence. It is, then, because these proceedings have taken place in the absence of all law, that I cannot yield to them my approbation. It is because the precedent which may grow out of them is dangerous to the liberties of this country—because they militate against the powers of this House, the repository of the people's rights, and trench upon the Constitution of this land—that I must disapprove them.

One word more by way of conclusion. Mr. Chairman, we are denounced as the enemies of General Jackson and the President of the United States. Enemies of General Jackson! Of him who has shed a blaze of renown upon our country, bright as a beam of light, and lasting as history! Of him whose life has been dedicated to the service of his country, and who has by his valor entwined a wreath around her brow, lasting and as imperishable as his own fame! Oh no, sir; I, for one, feel no enmity towards him; I am the enemy of no man, but I trust I am a friend to the Constitution and the law. The enemies of the President! Where did he come from? What land gave him birth? Sir, he comes from the land in which we dwell; he is the friend and neighbor of many of us; in his long life of arduous service, we recognise the greatest devotion to the public weal; the most unshaken patriotism. But if he countenances what we deem erroneous proceedings, shall we not advise him of his error? Is this tame acquiescence to be expected of us? Suffer me to say, sir, and I say it with all proper decorum, that Virginia will not hesitate to disapprove the conduct of her dearest son, if she believes that son to have erred. Let me tell you, that if that man who carried you successfully



H. OF R.

Seminole War.

FEBRUARY, 1819.

through the storms of the Revolution; who conducted you to victory and independence; he who was "first in war, first in peace, first in the hearts of his countrymen;" if that man had erred, dear as he was to her affections, Virginia would have stood forth to oppose his errors. The enemies of Mr. Monroe, sir? In what does friendship consist? Is it to be the faithless helmsman who, when the danger approaches, when the storm howls, when the rocks are in sight, still folds his arms and cries out all's well? Or does it consist in advising of the danger, in giving the alarm, in pointing to the rocks which threaten us with shipwreck? Sir, we are all mariners on board one vessel, and that vessel is the Constitution of our country. Our destinies, our hopes, the hopes and prospects of our latest generation, are all committed to our charge; and he who will not aid to reach the harbor in safety, is an enemy to his country, and deserves to perish.

Mr. POINDEXTER succeeded Mr. TYLER, taking the opposite side of the question, and opposing, in toto, the report of the Military Committee, and the amendments proposed thereto, by Mr. COBB. He had not proceeded far in his argument, when, at near four o'clock, the Committee rose, reported progress, and obtained leave to sit again.

## TUESDAY, February 2.

Mr. PLEASANTS presented to the House a letter to him as chairman of the Committee on Naval Affairs, by the Secretary of the Navy, transmitting a list of the names of such navy agents, not now in service, as have discharged the balances standing against them on the books of the Navy; which letter was ordered to lie on the table.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill for the relief of Robert Kid, of Philadelphia; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of James Orr.

Mr. NEWTON, from the same committee, also reported a bill to authorize the Secretary of the Treasury to sell a lot of land at Bermuda Hundred, in the State of Virginia; which was read twice, and committed to the Committee of the Whole, to which is committed the bill to authorize the sale of a part of the glebe of Rock Creek church, in the county of Washington and District of Columbia.

Mr. McCoy, from the Committee of Claims, made a report on the petition of John McCausland; which was read, when Mr. McC. reported a bill for the relief of the said John McCausland, which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of James Orr.

Mr. NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act further to extend the judicial system of the United States," reported the said bill without amendment, and the bill was committed to the Committee of the Whole,

to which is committed the bill from the Senate, entitled "An act to provide for the more convenient organization of the courts of the United States and the appointment of circuit judges."

On motion of Mr. LIVERMORE, Ordered, That there be printed for the use of the Representatives and Delegates in Congress, eleven hundred and twenty copies of the President's Message of the 15th of December, 1818, and of the documents therewith transmitted, being the remainder of the documents referred to in the Message of the 17th November, 1818, and containing the report of Theodorick Bland, on South America; and the correspondence between the Secretary of State and J. R. Poinsett; also, forty copies, to be presented to Theodorick Bland and forty to J. R. Poinsett.

On motion of Mr. RHEA, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of providing, by law, for the payment of all pensions belonging to persons residing in East Tennessee, at the State bank of Knoxville.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a copy of the order from the War Department, in virtue of which, the Negro Fort within the territory of East Florida was destroyed in July, 1816; and copies of letters from Generals Jackson and Gaines, in relation to the destruction of said fort; which comprise all the information in the War Department in relation to the subject of the resolution adopted by this House on the 26th instant; which letter was ordered to lie on the table.

## THE SEMINOLE WAR.

The House then again went into Committee of the Whole, Mr. SMITH of Maryland in the Chair, on this subject.

Mr. POINDEXTER resumed his speech against the report and resolutions of censure, and spoke near three hours in support of his opinions, and in reply to gentlemen on the other side of the question.—His speech follows, entire.

Mr. POINDEXTER addressed the Chair as follows:

I rise, Mr. Chairman, under the influence of peculiar sensibility, to offer my sentiments on the subject before the Committee. We are called upon to disrobe a veteran soldier of the well-earned laurels which encircle his brow, to tarnish his fame by severe reproaches, and hand down his name to posterity as the violator of the sacred instrument which constitutes the charter of our liberties, and of the benevolent dictates of humanity, by which this nation has ever been characterized and distinguished. Were the sacrifice of this highly meritorious citizen the only evil with which the proposed resolutions are fraught, I should derive some consolation from the reflection, that there is a redeeming spirit in the intelligence and patriotism of the great body of the people, capable of shielding him against the deleterious consequences meditated by the propositions on your table. But there is another, and more serious aspect, in which the adoption of these reso-

FEBRUARY, 1819.

Seminole War.

H. OF R.

lutions must be viewed; the direct and infallible tendency which they involve, of enfeebling the arm of this Government, in our pending negotiation with Spain; of putting ourselves in the wrong, and the Spanish Monarch in the right, on the interesting and delicate points which have so long agitated and endangered the peace of the two countries. I wish not to be understood as attributing to honorable gentlemen, who advocate the measure, such motives; they are, doubtless, actuated alone by a sense of duty. I speak of the effects which our proceedings are calculated to produce, without intending to cast the slightest imputation on those who entertain different opinions. Sir, do we not know with what delight and satisfaction the Minister of Spain looks on the efforts which are made on this floor to inculcate the Executive of the United States, for having committed against his immaculate master an act of hostility, in the entrance into Florida, and the temporary occupation of St. Marks and Pensacola? With what avidity and pleasure he peruses the able and eloquent arguments delivered in the popular branch of the Government, in support of the weighty allegations which he has already exhibited of the hostile and unwarrantable conduct of the commander of our army, during the late campaign against the Seminole Indians? And, sir, whatever may be the purity of intention, which I shall not presume to question, on the part of gentlemen who censure the course pursued by the commanding General, this debate will afford a valuable fund, on which Spain will not fail to draw, on all future occasions, to show that the pacific relations which she has endeavored to maintain have been violated, without an adequate cause, by the United States. Shall we put it in her power to make this declaration to the civilized world, and establish the fact by a reference to the Journal of the House of Representatives? I hope and believe we shall not. Sir, the nature of our free institutions imperiously requires that, on all questions touching controversies with foreign Powers, every Department of this Government should act in concert, and present to the opposite party one undivided, impenetrable front. The observance of this rule accords with every dictate of patriotism; and is the basis on which alone we can preserve a proper respect for our rights among the great family of nations. Internal divisions are often fatal to the liberties of the people; they never fail to inflict a deep wound on the national character; the lustre and purity of which it is our primary duty to preserve unsullied, to the latest posterity. Can it be necessary to call to the recollection of the Committee the peculiar and delicate posture of our relations with Spain? A protracted and difficult negotiation, on the subject of boundary and spoiliations, is still progressing between the Secretary of State and their accredited Minister, at this place; the result is yet extremely doubtful; it may, and I trust will, eventuate in a treaty satisfactory to the parties, on all the points in contest; but, if Spain should continue to reject the moderate and reasonable

demands of this Government, the indisputable rights of this nation must and will be asserted and vindicated by a solemn appeal to arms. I ask if, in such a crisis, it is either wise or prudent to pronounce, in the face of the world, that we have been the aggressors, and that war in its most offensive and exceptionable sense has been already commenced by General Jackson, under the sanction of the President of the United States? I hazard nothing in affirming that such a departure from the established usages of nations is without a parallel in the history of any country, ancient or modern. Under whatever circumstances danger may threaten us from abroad, it is from this House that the energies of the people are to be aroused and put in motion; it is our province to sound the alarm, and give the impulse which stimulates every portion of the Union to a simultaneous and manly exertion of its physical strength, to avenge the insulted honor and violated interests of our country. We are the legitimate organ of public sentiment; and it is incumbent on us to animate and cherish a spirit of resistance to foreign encroachments among our constituents, by urging the justice of our cause, and the necessity of their vigorous cooperation in support of the constituted authorities, who are responsible to them, for the faithful execution of the high and important duties with which they are intrusted. These are the means by which we shall perpetuate our Republican form of Government, and transmit its blessings to future generations. But we are required on the present occasion to forget the wrongs of which we have so long and so justly complained; to abandon, for a while, the lofty attitude of patriotism, and to tell the American people, in anticipation of a rupture with Spain, that it is a war of aggression on the part of their chief Executive Magistrate, commenced in Florida without proper authority; that the Spanish Government can consider it in no other light than premeditated, offensive war, made on them with a view of extending the territorial limits of the United States. The expression of these opinions, by this body, must cast a shade over the American name, which no lapse of time can obliterate; and, while we nerve the arm of the enemy, we shall approach the contest with an open denunciation against the President, who is charged with its prosecution to a speedy and favorable termination. He is denied the cheering consolation of Union, in the Government over which he has been called to preside, at a period of national peril, when every man ought to be invited to rally around the standard of his country. Sir, how is this most novel and extraordinary aberration from the legislative functions of the House attempted to be explained and justified? By gloomy pictures of a violated Constitution; pathetic appeals to humanity, in favor of a barbarous and unrelenting foe; and lamentations over the blighted honor and magnanimity of the nation. I, too, am a conservator of the Constitution; I venerate that stupendous fabric of human wisdom; I love my country, and will endeavor to rescue it from the



odious imputations which have been so freely cast on it in the progress of this discussion. I admonish gentlemen, who manifest such ardent zeal to fortify the powers of this House against military usurpations, that they do not suffer that zeal to precipitate them into an error equally repugnant to a sound construction of the Constitution. The report of the Committee on Military Affairs, taken in connexion with the amendments proposed by the honorable member from Georgia, (Mr. CORN,) may be classed under two general divisions. 1st. Resolutions of censure, on the conduct of General Jackson, in Florida, for a violation of the orders of the President, and of the Constitution; and for the unlawful execution of the incendiaries, Arbuthnot and Ambrister. 2d. Instructions to the Committee to prepare and report two several bills, the object of which is to divest this nation of some of the most essential attributes of sovereignty. I shall pass over the latter branch of this subject without observation; believing, as I do, notwithstanding the high respect which I entertain for the mover, that it is not seriously the intention of honorable gentlemen, by an act of legislation, to abrogate the rights of this nation, founded on the universal law of nature and of nations. Self-denial, though sometimes an amiable quality in an individual member of society, when applied to the whole community, renders it obnoxious to insult and oppression, and is a voluntary degradation, below the rank of other sovereignties, to which no American ought ever to submit. Neutral rights, and the usages of war, are already well established and understood by all civilized Powers; and it is not to be presumed that the interpolations which are proposed would be reciprocated, and constitute the basis of new principles of public law; we may prostrate our own dignity, and paralyze the energies of our country, but we shall find no nation so pusillanimous as to follow our disinterested example.

Considering, therefore, these propositions as merely nominal, intended only to enlarge the group, and give diversity to the picture, I shall leave them without further animadversion, and proceed to investigate the resolutions levelled at the fame, the honor, and reputation, of General Andrew Jackson; and, through him, at the President, under whose orders he acted, and by whom he has been sustained and vindicated. Sir, I hold it to be the indispensable duty of every tribunal, whether legislative or judicial, to examine with caution and circumspection into its jurisdiction and powers, on every question brought before it for adjudication; and this rule ought more particularly to be observed in cases involving personal rights and interests, where the party to be affected by the decision is not permitted to answer in his own defence. I ask, then, sir, has the House of Representatives, as a distinct and separate branch of Congress, the Constitutional power to institute an inquiry into the conduct of a military officer, and to sentence him to be cashiered, suspended, or censured? I demand a satisfactory and explicit response to this interrog-

atory, founded on a reference to the Constitution itself, and not on the undefined notions of expediency, in which gentlemen may indulge; and if it be not given, as I am very sure it cannot, we shall become the violators of that fair fabric of liberty, and erect a precedent more dangerous in its tendency, than the multiplied infractions which have been so vehemently alleged against General Jackson, admitting them all the force and latitude which the most enthusiastic censor could desire. Sir, it is high time to bring back this debate to first principles, and to test our jurisdiction over this case, by a recurrence to the structure of the Government of which we are a component part. Let us pluck the beam from our own eyes, before we seek to expel the mote which gentlemen seem to have discovered in the vision of General Jackson. The sages and patriots who established the foundation of this Republic have, with a wisdom and forecast bordering on inspiration, carefully marked and distributed the powers delegated in the Constitution to the Federal Government among the several departments, Legislative, Executive, and Judiciary. No principle is better settled, or more generally conceded, than that the powers properly belonging to one of these departments ought not to be directly administered by either of the others. The violation of this maxim leads, by inevitable results, to the downfall of our Republican institutions, and the consolidation of all power in that branch which shall possess the strongest influence over the public mind. Upon the independent exercise of the powers confided to each department, uncontrolled, directly or indirectly, by the encroachments of either, depends the security of life, liberty, and property, and the stability of that Constitution which is the pride of our country and the admiration of mankind. The honorable gentleman from Georgia has adverted to the opinions of the immortal author of the letters of Publius, the late Chief Magistrate of the United States; and the honorable Speaker has also invited our attention to that great Constitutional lawyer. They triumphantly ask, what he would say on the present question, were he a member of this House? I will not follow the example of these gentlemen, by substituting declamation for historical truth, or vague surmises, and assumed premises, for record evidence; but, while I accord to the distinguished statesman and patriot, whose exertions so eminently contributed to the establishment of this Government, and whose exposition of its fundamental principles cannot be too highly appreciated, all the merit of a useful life, devoted to the public service, guided by wisdom, virtue, and integrity; I appeal with pleasure and confidence to his able pen in support of the position which I have advanced, and which I deem an important point in the case under consideration. In the view taken by Mr. Madison, of the "meaning of the maxim which requires a separation of the departments of power," he repels the arguments of the opponents to the adoption of the Constitution, founded on the apprehension of Executive supremacy over the

Legislative and Judiciary, which, it was contended, would ultimately render that branch the sole depository of power, and subject the people of this country to the despotic will of a single individual. Comparing the powers delegated to the Executive, with those granted to the Legislature, and the probable danger of an assumption by either of the functions appertaining to the other, he says:

"In a Government where numerous and extensive prerogatives are placed in the hands of a hereditary monarch, the Executive department is very justly regarded as the source of danger, and watched with all the jealousy which a zeal for liberty ought to inspire. In a democracy, where a multitude of people exercise in person the legislative functions, and are continually exposed, by their incapacity for regular deliberation and concerted measures, to the ambitious intrigues of their Executive Magistrates, tyranny may well be apprehended, on some favorable emergency, to start up in the same quarter. But, in a representative Republic, where the Executive Magistracy is carefully limited, both in the extent and duration of its power, and where the legislative power is exercised by an assembly, which is inspired, by a supposed influence over the people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy, and exhaust all their precautions. The legislative department derives a superiority in our Government from other circumstances. Its Constitutional powers being at once more extensive, and less susceptible of precise limits, it can, with the greater facility, mask, under complicated and indirect measures, the encroachments which it makes on the co-ordinate departments."

The correctness of the reasoning and predictions of this great and good man, who is called by the honorable Speaker the father of the Constitution, has been often demonstrated in the practical operations of this body, and never more forcibly than on the present occasion. Scarcely a session of Congress passes without some effort to enlarge the scope of our powers by construction or analogy; and unless these systematic advances in this House to crush the co-ordinate departments, by an unlimited exercise of authority over all subjects involving the general welfare, be resisted with firmness and perseverance, they will, at no distant period, eventuate in the destruction of those salutary checks and balances so essential to the duration of our happy form of Government and to the security of civil and political liberty. I deprecate every measure calculated to establish a precedent, which, in its effects, may lead to such dangerous consequences. An enlightened statesman has said that the concentrating all the powers of Government in the legislative body is of the very essence of despotism; and it is no alleviation that these powers will be exercised by a plurality of hands, and not by a single one. "An elective despotism was not the Government we fought for; but one which should not only be founded on free principles,

"but in which the powers of Government should be so divided and balanced among the several bodies of magistracy, as that no one could transcend their legal limits without being effectually checked and restrained by the others."

Sir, whenever these principles shall cease to be respected by the councils of this country, I shall consider the grand experiment which we have made in the administration of a Government of limited powers, founded on a written instrument, in which they are specified and defined, as altogether abortive, and as affording strong proof of the regal maxim, that man is incapable of self-government. If honorable gentlemen mean anything by the reverence which they profess to feel for the Constitution, I conjure them to look to its provisions, and forbear to adopt a measure in direct violation both of its letter and spirit. By article 2d, section 2, it is provided that "the President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into actual service;" and by the 8th section of the 1st article, Congress is vested with power to "make rules for the government and regulation of the land and naval forces." Congress has long since fulfilled this duty; rules and articles of war have been sanctioned, and have continued to govern the Army from its organization up to the present time; in these the great principles of subordination and responsibility are graduated and established, from the Commander-in-Chief down to the most petty officer and common soldier. The President is placed by his country at the head of its physical force "to execute the laws of the Union, suppress insurrection, and repel invasion;" he is the ultimate tribunal to decide all questions touching the operations of the Army, and the conduct of the officers who compose it. If there be any power, clearly and exclusively belonging to the Executive, it is that which appertains to the government of the Army and Navy of the United States. Our whole system of laws recognises it; and until this extraordinary attempt to erect the House of Representatives into a court martial, with a view to cast an indelible stain on the character of General Jackson, without a fair and impartial trial, in which he might confront his accusers and be heard in his defence, no instance can be shown, since the foundation of the Government, where the President has been interrupted in the full exercise of his legitimate authority over the military officers under his command. The abuse of this power, or the improper direction and application of the public force, by the Chief Magistrate, or by any subordinate officer, with his privity and assent, in a manner, or for the accomplishment of objects dangerous to the liberties of the people, or subversive of the laws and Constitution of the Union, will find a ready and suitable corrective in this House, by an application of its power to originate impeachment against the President, Vice President, and all civil officers, for treason, bribery, or other high crimes and misdemeanors. In this sense



only can we be regarded as the grand inquest of the nation, and not to the unlimited extent for which gentlemen have contended. The power to impeach the President is expressly delegated; all other civil officers are liable to the same scrutiny, and the total omission, in the article of the military department, is, to my mind, conclusive evidence that they were never intended to be subject to the control of Congress, except in the usual course of legislation, under the power to raise and support armies. And this opinion is strengthened by the clause of the Constitution to which I have referred, directing Congress to provide for the government and regulation of the land and naval forces. The principle of official responsibility is to be found in every page of the Constitution; not a vague, uncertain responsibility, but that which is unequivocal, certain, and definite. We are answerable, at stated periods, to the people by whom we have respectively been chosen. The President is accountable to the nation at large at the expiration of his term of service; and, in the meantime, we hold a salutary check over his ambition, if he evince such a disposition, by means of impeachment. In like manner the whole civil department may be punished for a wanton prostitution of their official functions. The military and naval officers who command our army and navy are responsible directly to the Executive, who is their chief, and, through him, indirectly, to the Representatives of the people. Every link in the chain is essential to the beauty and symmetry of the whole; and, if preserved unbroken, affords the most ample security against any usurpation of power without a prompt and efficient remedy to detect and restrain it. It is now proposed to make this House the focus of every power granted to the Federal Government; to mount the ramparts which separate the departments, and compel every man who holds a commission to bow with submission to the gigantic strength of this numerous assembly. Those whom we cannot impeach we will censure, and record their names as fit objects for the scorn and detestation of posterity. Already we hold the purse and the sword of the nation. All legislation must receive our concurrence, in connexion with the President and Senate, before it has the force and effect of law. The treaty-making power may be controlled by us where an appropriation is required to fulfil the contract—the judiciary is at our feet, both in respect to the extent of its jurisdiction and the liability of its members to the summary process of impeachment—the President and heads of department, foreign Ministers, and the whole catalogue of civil officers, stand in awe of our frowns, and may be crushed by the weight of our authority. I ask, then, sir, if the officers of the Army and Navy are rendered subservient to us as a censorial, inquisitorial body, whether it will not amount to the very definition of despotism. Yes, sir, we shall, if these resolutions pass, bear testimony of the soundness of the political axiom, that it is against this department that the people ought to indulge all their jealousy, and exhaust all their

precautions." But the Constitution, in this respect, has received a construction almost contemporaneously with its adoption. As early as the year 1792, a resolution was submitted, by a distinguished member from Virginia, in the House of Representatives, requesting the President to institute an inquiry into the causes of the defeat of the army under the command of Major General St. Clair. The agitation produced by that momentous disaster seemed to demand an investigation of the conduct of the commanding General. A great public calamity is always calculated to awaken feelings which, for a moment, usurp the empire of reason, and lead to excesses which sober reflection would condemn. It was not, therefore, wonderful, that a man of the soundest intellect, and most enlightened understanding, should have felt it his duty to call the attention of the President to a subject so deeply interesting to the country, and to request an inquiry into the causes of that signal and unfortunate defeat. The proposition was fully discussed, and finally rejected by a large majority, on the ground that it was an unwarrantable interference with the Constitutional functions of the Chief Magistrate. The substance of the debate may be found in the newspapers of that day; and among those who objected to the measure are the names of Madison, Ames, Baldwin, and many others who participated in the formation of the Constitution, and who were, consequently, better qualified to give to it a sound interpretation. A committee was subsequently appointed to inquire into the expenditure of the public money in that campaign, and other subjects of a general nature, connected with the legislative duties of Congress. Again: in the year 1810, a committee was raised to inquire into the conduct of General James Wilkinson, in relation to a variety of charges which had been publicly made against him; they were authorized to send for persons and papers. The General was notified of their sittings, allowed to attend in person before them, to cross-examine the witnesses, to confront his accusers, to exhibit evidence in his defence, and make such explanations as he might think necessary to a vindication of his conduct. The committee, after a very laborious investigation, simply reported the facts to the House, who resolved that the same be transmitted to the President of the United States. No opinion was expressed or intimated, as to the guilt or innocence of the General; no request was made of the President to institute a court martial, but he was left to the exercise of his own discretion, unbiassed by the slightest indication of the impression which the development had made on the House of Representatives. The result, we all know, was, that a general court martial was immediately convened, and General Wilkinson was honorably acquitted: both principle and precedent, therefore, combine in recommending a rejection of these resolutions, which claim for this House a power, not merely to request another department to perform a particular duty, but assume the right to adjudicate the case, and sentence an officer to irretrievable

infamy, without a hearing, and without appeal, save only to his God and the purity of his own conscience.

Permit me, sir, to present to the view of the Committee some of the unavoidable consequences which will flow from this premature and unauthorized proceeding. We announce to the President, and to the nation, that General Jackson, in the prosecution of the Seminole war, has violated his orders and broken the Constitution of his country, and that, in the trial and execution of Arbuthnot and Ambrister, he has been guilty of the horrid crime of official murder. We, on the part of the whole people, become the informers, and thereby impose on the President, as commander-in-chief of the army, the indispensable obligation to adopt one of two alternatives—either to dismiss from the service that officer, under our denunciations, or to assemble a regular court martial to investigate these charges, according to the forms prescribed in the laws enacted for the government of the army of the United States. The latter course, being the one best adapted to the attainment of justice, would, in all probability, be pursued. He details a court martial, composed of high-minded military men; charges and specifications are exhibited; and the General, for the first time, is allowed to answer to them—guilty or not guilty. He is put on his trial, and at the very threshold he is informed that he has already been found guilty by the highest tribunal in the Union—the Representatives of the American people. He, nevertheless, proceeds in his defence, and is ultimately convicted, and cashiered. Would not history record such a conviction as the result of our prejudication of the case? Would not the whole world attribute the downfall of this man to the monstrous persecution and flagrant injustice of that ungrateful country which he had so nobly defended? Yes, sir, to the latest posterity we should be regarded as having passed an *ex parte* decree of condemnation, which the court martial were bound to register, to secure themselves from similar animadversion. But let us suppose that, unawed by the imposing *dictum* which we shall have pronounced, the court martial acquit the General of the several charges and specifications on which he has been arrested. We should then have the military of the country arrayed against this body: we, acting under the solemn obligation of our oaths, declare, that General Jackson has been guilty of high crimes and misdemeanors; we are unable to tear from him his epaulettes; and, when tried by his peers, our opinions are scouted, and he is maintained in the high rank from which we would have degraded him. In such a controversy, the only arbiter is force. Sir, take either horn of the dilemma, and we have abundant reason to shun the consequences which must follow the adoption of the proposed resolutions.

Our total inability to enforce the will of the majority, demonstrates most clearly the absence of the right to express that will; for, whatever any branch of the Government can constitution-

ally decide, the means necessary to carry its decision into execution can never be withheld or questioned. Sir, I have been not a little amused at the evasive contortions of honorable gentlemen, who, to avoid the perplexing difficulties by which they are enveloped, gravely affirm, that neither the report of the Military Committee, nor the resolutions respecting the seizure of the posts of St. Marks and Pensacola, and fortress of Barrancas, contain a censure of General Jackson; that they are harmless, inoffensive expressions of opinion, upon the passing events relating to the state of the Union. I put it to those gentlemen—for the argument has been resorted to by all who have spoken—whether, if I were to address either of them in conversation, and say, in the language of the propositions before the Committee, "Sir, you have violated the Constitution of the United States, and of course you are perjured. You have sentenced to death, and executed, two of your fellow men, without a fair trial, and contrary to all law, human and divine; consequently, your hands are stained with their blood," would they calmly reply, that my expressions conveyed no censure on them, and were not repugnant to their feelings or character, nor inconsistent with contemporaneous assurances of my high respect and consideration? Common sense revolts at conclusions so ridiculous, drawn from such premises. Add to this the express charge of a violation of orders, which the President, it seems, is not competent to determine for himself, and I may venture to defy any gentleman to cover a military officer with more odious epithets, or more vindictive censure. No man, however elevated his station, can withstand the overwhelming force of such an assault on his reputation, coming from this august body, after mature and solemn deliberation. The exalted mind of General Jackson would prefer even death to this fatal blow, aimed at that which is more dear to him than life—his well-earned fame and irreproachable honor. Sir, the immortal Washington was charged with a violation of the Constitution, in drawing money from the Treasury to pay the militia who served in the campaign against the insurgents in 1794, without an appropriation made by law; but at that day the secret of our power to censure had not been discovered, and the transaction passed without animadversion. It has remained for us to put in motion this new engine of inquisitorial criminality, and to wield it against a man whose arm was never extended but in defending the liberty and safety of his country against the complicated enemies by whom it has been assailed, and whose pure and unblemished patriotism, combined with his invincible valor, fortitude, and perseverance, have shed over his brow a resplendent ray of glory which neither clouds nor tempests can obscure, so long as virtue shall predominate over the envious and malignant passions of the human heart. Yes, sir! we are importuned to execrate the bloody deeds of the Seminole war, to chant requiems over the tombs of Arbuthnot and Ambrister, and to mourn over the wreck of our fall-



en Constitution; and, in an instant, as if by enchantment, the horrid picture vanishes from our affrighted imaginations, and eludes even the grasp of keen-eyed malice; and we hear the moral integrity and innocence of all these transactions announced from the same lips which utter their condemnation. The motives and intentions of General Jackson are eulogized and applauded by his most inveterate accusers. All the errors ascribed to him, and for which honorable gentlemen are prepared to immolate his character, and render his name, hitherto so dear to his countrymen, odious and detestable, are attributed to the impetuous ardor of his zeal to promote the general good, and give peace and security to our defenceless frontier.

He fills a space in the public eye, and commands a portion of the affection and confidence of his fellow-citizens, too copious and extensive to be tolerated by the sharp-sighted politician, whose splendid eloquence fades and evaporates before the sunshine of renown, lighted up by the unparalleled achievements of the conqueror of the veterans of Wellington. These modern casuists endeavor to magnify an unintentional violation of the Constitution into a crime of the blackest enormity, which can neither be extenuated nor forgiven. Are they willing to make this system of political ethics applicable to themselves, and to have their names specified on the Journal as culprits at the bar of an offended people, stamped with infamy and disgrace, if at any time they have, with the best intentions, given a vote, which, on a review of the subject, was found to conflict with some provision of the Constitution? What member of this House can say, with certainty, that he has, on all occasions, construed the Constitution correctly? And who among us would be satisfied to stake all his hopes and prospects on the issue of an investigation, which, disregarding all respect for the purity of the motive, should seek only to discover an inadvertent error, resulting from a defect of judgment in the attainment of objects identified with the best interests of the nation? Sir, if I mistake not, the honorable Speaker, and several other gentlemen, who have manifested great solicitude, and displayed a torrent of eloquence, to urge the expediency of passing the proposed censure on the conduct of General Jackson, and who unhesitatingly admit the innocence of his intentions, would be placed in an unpleasant situation by the operation of the rule which they are anxious to prescribe in this case. A few short years past, these honorable gentlemen were the champions who resisted the renewal of the charter of the old bank of the United States. At that day they held the original act of incorporation to be a usurpation of power, not delegated to Congress by the Constitution, and to their exertions we were indebted for the downfall of that institution. The same distinguished members, at a subsequent period, acting under the high obligations of duty, and the solemnity of their oaths to support the Constitution of the United States, aided and assisted in establishing the mammoth bank, which now threatens to sweep with the besom of de-

struction every other moneyed institution in the nation into the gulf of ruin and bankruptcy. It will not be pretended that both these opposite opinions were correct; and yet I should be very sorry either to impugn the motives which actuated those gentlemen in the instances referred to, or to pass a censure on their conduct for an unintentional violation of the Constitution, calculated to withdraw from them the confidence of their constituents. There was a time, Mr. Chairman, when the Republican phalanx in every quarter of the Union regarded the specification of powers in the Constitution as the limitation of the grant, within which every department ought to be strictly confined. But at this day we are told, that this literal construction of the instrument is too narrow for the expanded views of an American statesman—mere "water gruel," insipid to the palate, and requiring the addition of a little fuel to give it energy and action to conduct this nation to the high destinies which await it. No power can be called for by an existing exigency, or a favorite system of policy, which, according to the doctrines now advanced, may not be found necessary and proper to carry into effect some one of the specified powers in the Constitution. The flexible character of man, and the frailty of human nature, afford an ample apology for these oscillations, and wretched indeed would be our situation if crime consisted in error, unaccompanied by the pre-existing will to perpetuate it. No man who respects his feelings or his character would accept a public trust on such conditions. As well might we censure the Supreme Court for having given a decision which we deemed contrary to the Constitution, and where no corruption could be alleged against the judges who pronounced it; which is an essential ingredient to constitute an offence for which a judicial officer is liable to impeachment. In such a case our censure might be retorted by an attachment for contempt, and the honorable Speaker, representing the majesty of this House, would be compelled to answer the charge by purgation, or otherwise, as the wisdom of the House should direct. I mention this to show the absurdity and inefficiency of every attempt to transcend the powers secured to us by the Constitution. Sir, I am sick to loathing of this incongruous, novel, and impotent effort to wound the sensibility of a hero, who has sacrificed whatever of health or fortune he possessed, and staked his life in common with the soldier by whose side he fought, that our exposed and unprotected frontier might once more repose in peace and tranquillity, undisturbed by the midnight yell of the merciless savage.

The hero of New Orleans wanted not a petty Indian war, to satiate his ambition, or add fresh laurels to the wreath already bequeathed to him by his country. It was a war of hardships, fatigues, and privations, in which for himself he had nothing to hope but the consolation of having accomplished the object for which he took the field, and of receiving the approbation of the President, to whom alone he was responsible for all the incidents of the campaign in which he

participated. Of this reward, so well merited, and so freely bestowed, we now seek to rob him, by fulminating resolutions and vindictive eloquence, against what honorable gentlemen are pleased to call a patriotic unintentional violation of the Constitution.

[The Committee then rose, reported progress, and asked leave to sit again; and the House adjourned. On the following day.]

Mr. POINDEXTER resumed his argument. Mr. Chairman, I wish it to be distinctly understood, that the view which I had the honor to take of this subject on yesterday, was not intended to shield the conduct of General Jackson from the strictest scrutiny. Even before this unconstitutional court, unheard and undefended, he fears not the penetrating touch of the most rigid investigation. He asks no palliatives, no exemption from responsibility. He needs only that protection which justice, sternly administered, affords to every virtuous man in the community. The argument was directed to the judgment of the House, in reference to its own legitimate powers, as a separate branch of the National Legislature. These consist of the right to judge of the elections and returns of our own members; to determine the rules of our own proceedings; to punish members for disorderly behaviour; and, with the concurrence of two-thirds, to expel a member; and they are all the ultimate powers of the House of Representatives. Allow me, sir, in closing my remarks on this point, to call the attention of the Committee to an opinion which fell from the venerable George Clinton, a short time before he took a final leave of this world and was deposited among the tombs of the fallen heroes and patriots, who, with him, had achieved the independence of their country. Placed in the chair of the Senate of the United States, he was required, by an equal division of that body, to give a casting vote on the question touching the power of Congress to incorporate a National Bank. It will be recollected that he negatived that proposition, and in support of his vote advanced the reasoning by which he was influenced, which he concluded with the following judicious and pertinent admonition: "In the course of a long life, I have found that Government is not to be strengthened by an assumption of doubtful powers, but by a wise and energetic execution of those which are incontestable; the former never fails to produce suspicion and distrust, whilst the latter inspires respect and confidence." The sentiment is worthy of the head and the heart which dictated it, and if properly improved will constitute a rich legacy from that inflexible patriot to those who may follow in the path of legislation. I earnestly recommend it to the favorable consideration of this body.

Mr. P. continued. I now, sir, said he, proceed to the topics already discussed with such distinguished ability. Perhaps I shall be guilty of a useless trespass on the patience of the Committee in attempting to give them a further examination. The causes and origin of the Seminole war, its prosecution, and final termination, have

resounded in our ears until every feeling is paralyzed, and all the avenues to conviction are closed, by the frost of cold indifference, or the fatal spell of unconquerable prejudice. Under such discouraging circumstances, I enter with diffidence on the task of exploring the ground over which so many have trodden before me. Urged on, however, by a sense of duty and of the important results which may flow from the decision to be pronounced on these interesting subjects, I claim the indulgence of the Committee while I submit my opinions in relation to the principles and facts involved in them. The causes of this war stand first in the order of the discussion: upon a clear understanding of these materially depends the justification of the conduct observed in the prosecution of the war. Many of the rights which appertain to a belligerent in a defensive, cannot be claimed in an offensive war, and this is more particularly the case in respect to that which is now the subject of consideration. The honorable Speaker, aware of the necessity of affixing the guilt of the contest on the United States to sustain his conclusions, has labored to excite our commiseration for the poor, degraded, half-starved, persecuted Seminoles, while he charges the people of Georgia with robberies and murders on their innocent, unoffending neighbors; who, in their own defence, were compelled to take up arms and retaliate the injustice which had been practised against them. To these outrages, and the acquisition of Indian lands by the Treaty of Fort Jackson, combined with the dictatorial terms of that treaty, I understood the honorable gentleman to attribute the war which has produced so much excitement in this House. Sir, I apprehend that no gentleman on this floor is better acquainted with the origin of this war than the honorable member from Georgia who opened this debate; and if he is willing to admit the charge of robbery and murder made on his constituents—be it so. For one, I can only say, that no satisfactory evidence has been adduced of the fact, and I am therefore bound to controvert it.

[The SPEAKER explained: He meant only to express his fears that such was the fact, without intending to use the strong language which Mr. P. had ascribed to him.]

Mr. P. proceeded: Sir, I have the speech of the honorable gentleman before me; it contains not only the substance of this charge on the people of Georgia, but it refers, in extenso, to a paper signed by the chiefs of ten towns, addressed to the commanding officer at Fort Hawkins, specifying their grievances and the wrongs committed on them by the Georgians, for which they demanded an atonement. This paper the honorable gentleman has characterized as an artless tale, told in language pathetic and feeling, which carried internal evidence of, at least, the belief of the authors of it that they were writing the truth. It complains, that the "white people carried off all the red people's cattle, and still continued to do so; that the whites first begun; that, three years since, the whites killed three



"Indians, and, since that, three others; that the whites stole their horses, and all they had, and killed three more Indians; to which they have since added six more." Satisfaction is said to have been taken for all except three of the Indians alleged to have been murdered by the whites. From this summary of the paper referred to in support of the argument of the honorable Speaker, and the weight which he has attached to it, I think it must be manifest that I have not misconceived or misstated his premises. And I repeat that it is not for me to interfere between the honorable gentleman from Georgia, whose constituents have been thus implicated, and his honorable friend, who imputes to them such disgraceful conduct. But, sir, I cannot forbear to notice this "artless tale of truth," which is the sole evidence of the outrages complained of, and on which so high an eulogium has been pronounced. Whence came this manifesto?—Sir, it emanated from the pen of that infamous forger, Arbuthnot; it is one of the multitude of crimes which he expiated on the gallows, and is second only in impudence and falsehood to the famous proclamation of his predecessor, Colonel Nicholls. Its style is artful and insinuating; its import pregnant with all the horrid deeds excited and consummated by the mischief-meditating hand of that monster whose fate is so deeply deplored within these walls. And is the testimony of this man, the avowed enemy of the United States; the instigator of Indian hostilities, by means of intrigue and seduction; whose occupation was misrepresentation and deception, to draw the unlettered savage into the vortex of impending ruin; whose mind was the dark abode of vice, in all its hideous deformity, worthy of the panegyric which it has received, and of the confidence reposed in it by the honorable Speaker? Shall we dishonor the American name upon his authority, masked by the nominal signature of ten towns, the dupes of his insidious policy, who knew no more of this "pathetic and feeling narrative—this simple tale of truth," than he thought proper to communicate to them? No, sir, I trust we shall not. We must look to other and more respectable sources, for the concatenation of events which resulted in the Seminole war: to these I shall presently call the attention of the Committee. But the treaty of Fort Jackson falls under the severe denunciation of the honorable Speaker, and the war is said to have had its origin in the imperious, haughty, and dictatorial spirit of that instrument.

Let us advert, for a moment, to the history of this transaction, and bottom our reasoning on facts, and we shall be less liable to the errors inseparable from a superficial view of any subject. The Creek Indians, towards whom the United States had, for more than twenty years, observed the most pacific policy, stimulating them to industry and agricultural pursuits, and inculcating on their minds the benefits of civilization, seized on the first favorable opportunity which offered, when we were contending for our existence as a sovereign and independent nation against the

undivided strength of Great Britain, to take up arms against us, and make a common cause with the enemy; actuated to this measure, no doubt, by British and Spanish counsellors, and supplied, as we know, with the means of carrying on the war at Pensacola. While they were in our power, weak and unprotected, we cherished and fed them; we introduced among them implements of industry, taught them to cultivate the soil, and the use of the wheel and loom. We respected their territory, and prohibited all intrusions upon it. When they found us hard pressed, by the most powerful nation in Europe, we asked not their assistance, but advised them to stay at home and remain in peace; we told them not to fight on either side. But the demon of foreign seduction came among them; false hopes were infused into their minds; promises of British aid were made to them; the prophetic delusion of invincibility nerved the warrior's arm, and the tomahawk and scalping knife were raised against their benefactors, wielded with all the fury of savage barbarity, rendered still more ferocious by the influence of superstition and fanaticism. Such was their ingratitude, and such the return for our magnanimity! The bloody contest ensued. The massacre at Duck river, at Fort Mimms, and the butchery of our frontier inhabitants, without regard to age, sex, or condition, will long be remembered by the afflicted friends and relatives who survived the unfortunate victims, whose innocent blood stained the guilty hand of the inexorable savage. The melancholy story of their wrongs will be handed down to the latest generations. I hope they will not be forgotten by their country. At this momentous crisis Jackson sprung from the retirement in which his vigorous mind had been permitted to slumber, and contemplate, not without emotions of painful regret, the disasters which marked the progress of our armies. He took the field, at the head of the hardy and intrepid sons of Tennessee—his faithful companions in arms. They penetrated the swamps and the forests, enduring, with manly fortitude, every hardship and privation which the most vivid imagination can conceive or human language portray. The god of battles was on their side; victory attended their steps; they conquered. The vanquished enemy dispersed—a part of them fled into Florida, to throw themselves under British protection, and the residue surrendered to the mercy of the conquering General. And the articles of capitulation, signed on the 9th of August, 1814, have been called a treaty—a *chef d'œuvre*—in diplomacy, cruel and insulting in its terms, to a miserable fallen foe; derogatory to the national character, and the main cause of the recent war of the Seminoles. I have yet to learn that the subjugation of one tribe of Indians, and the terms of their submission, is justifiable cause of war on the part of another and a distinct tribe. But, independent of this objection to the ground assumed by the honorable Speaker, I contend there is nothing in these articles of capitulation, either unreasonable or incompatible with the sound morality which, it seems, so emi-

nently distinguished the Commissioners at Ghent. Let it be remembered that a conquering General, in the field, asks nothing of the enemy as a matter of courtesy. His business is to demand justice, and enforce a compliance at the point of the bayonet. And what are the conditions on which General Jackson agreed to receive the submissions of an enemy who had made on the United States an unprovoked war, in aid of a contemplated blow to be struck by Great Britain, on the great emporium of our western commerce? He demands "an equivalent for all expenses incurred in prosecuting the war to its final termination; that the Creek nation abandon all intercourse with the British and Spanish posts, those infernal fiends who had excited them to war; that they acknowledge the right of the United States to establish military posts and trading-houses, and open roads within their territory, and to the free navigation of their waters; that they surrender the property taken from citizens of the United States and friendly Indians, in return for which the property of those who submitted was to be restored; and that the instigators of the war, whether foreigners or prophets, if found within their territory, should be captured and surrendered. The United States voluntarily undertake to maintain those deluded, infatuated people, until they shall be enabled to support themselves by their own labor." Sir, I will thank any gentleman to designate which of these stipulations he would have omitted. Are they not all essential to a permanent peace, and a just indemnification for the injuries we had sustained from these red allies of Great Britain? Yes, sir; nor could General Jackson have done less in the faithful performance of his duty; and less could not have been expected by a conquered tribe of Indians under similar circumstances.

The frequent use of the word "demand," which has given so much offence, corresponds precisely with the nature of the transaction, which was purely military, purporting on its face to be "articles of agreement and capitulation," bearing no resemblance to a formal treaty entered into by the mutual consent of two independent sovereignties. I can perceive nothing on the face of this capitulation, either in form or substance, which is inconsistent with a proper respect for our own safety, or incompatible with national honor. The right to make roads, and establish trading-houses and military posts on the lands reserved to the Creeks, to which exception has been taken, as a high-handed, arbitrary measure, is universal among all the Indian tribes within our limits. I do not believe it was ever before questioned or complained of. But we are told that this compact was not entered into by a majority of the Creek nation; that it is not binding on them; and the territory acquired under it reverts, under the stipulation contained in the ninth article of the Treaty of Ghent. So said Colonel Nicholls and Arbuthnot; and so said Lord Castlereagh, until our vigilant and enlightened Minister, then resident in London, satisfied him that the treaty did not embrace the case. England, the only Power

in Europe interested in the question, has abandoned her objections to our title, but they are renewed on this floor, doubtless for the sole object of promoting the interests of the United States! Sir, all that we gained during the late arduous struggle with Great Britain, except the glory of our land and naval victories, was this little indemnity from a domestic enemy, who made war on us without the slightest apology. And I ask, if it accords with the "expanded views of an American statesman," to throw the weight of his reasoning and opinions against the fair claim of the United States to a tract of country so dearly purchased with the best blood of the nation, and thereby revive doubts of our title already answered to the entire satisfaction of the British Cabinet, to whom alone we are bound to answer questions arising under the treaty of peace? The memorable visit of Nicholls, and his red companion Hillis Hajo, to England, was made for the express purpose of obtaining the aid of that Government in the war, which was then contemplated to dispossess the United States of the lands ceded by the Creek nation on the 9th of August, 1814. Had this debate taken place prior to their departure, they would have been furnished with an interpretation of the Treaty of Ghent favorable to their cause, given, too, by one of the American Commissioners who negotiated it, in this deliberative assembly. With such a paper, coming from such high authority, although not strictly official, they might, indeed, have assumed an imposing attitude with the British ministry. Our difficulties would have thickened around us, and the peace of the Union might have been endangered, without a relinquishment on our part of the lands so necessary to the growing strength and population of our Southern States and Territories, for the possession of which we were indebted to the valor and patriotism of that man who, for having done too much for his country, is arraigned as a criminal at the bar of this House. The Treaty of 1790, made at New York, with McGillivray, was objected to on the same pretexts now urged to defeat the agreement made at Fort Jackson in 1814. The Baron De Carondelet, in behalf of the Creek Indians, protested against it as absolutely null and void, because it had not been sanctioned by a majority of the nation. On the recent occasion Spain is silent, and we are favored with the humane and benevolent interposition of Nicholls and Woodbine, Arbuthnot and Ambrister! I confess, sir, I have no ambition to be found in the ranks of either of these sage and beneficent counsellors; it is enough for me to vindicate the rights of my own country against the attacks of all foreign emissaries, whatever guise they may assume to accomplish their detestable purposes. An honorable gentleman from Pennsylvania (Mr. HOPKINSON) has said, that every step we have taken, in reference to the unfortunate aborigines, whom we found in possession of the soil over which we have spread our population, has been marked with cruelty and blood; and the honorable Speaker has informed us, that the friends of legitimacy in Europe make



two serious and important charges against this country: the one is an inordinate spirit of aggrandizement, and the other the treatment which we extend to the Indians. Now, sir, with all the respect which I entertain for those gentlemen, and for the political morality of the friends of legitimacy in Europe, I deny, in their whole extent, the accuracy of these charges; they are unsupported either by history or the experience of any man living. When did the United States make an offensive war on an Indian tribe? When did they extend their settlements within the boundary of Indian territory, without a full equivalent agreed on by treaty, fairly concluded and executed? I challenge any gentleman to put his finger on that page of history which affords evidence of these facts. And can England or Spain make the same declarations, supported by a retrospect on their past conduct towards the Indian tribes, within their territorial limits? No, sir! they grant lands for military services, and push their settlements without the smallest respect for Indian boundary. The law of force is the only rule which they recognise as applicable to these people; and if presents, favors, or privileges, have been occasionally granted to them, they were based in avarice, or intended to stimulate them to the numerous wars which have proved so fatal to them, and which have drenched our extensive frontier in the blood of our citizens. I appeal to every Western man whether, in the long catalogue of Indian hostilities, from the period of the Revolution up to the present moment, one instance can be designated in which the war could not be traced to the influence of British agents and traders? Whether we have not constantly endeavored to withdraw their attention from the art of war; to cultivate with them the relations of peace and amity; to civilize them, and ameliorate their condition? These facts are notorious and indisputable; they demonstrate, most clearly, the mildness and justice of our policy towards the savage tribes, and leave no foundation for the charges made on this Government, either by the legates of Europe or the citizens of our own country.

I aver, without the fear of contradiction, that the United States have, on all occasions, without a single exception to the contrary, acted on the defensive in the commencement of every war with our Indian neighbors; that they have never turned a deaf ear to the voice of conciliation; and we have abundant evidence that the late Seminole war was of a character similar in all respects to those which preceded it. The finger of British intrigue, and of Spanish duplicity and connivance, are visible from the very inception of these hostilities to their final termination. I will not detain the Committee by entering into a methodical and critical examination of the documents, in the hands of every gentleman; showing the means employed to excite this war, the preparations made for its prosecution, and the guarantee of ultimate aid from the British Government to recover the lands for which the outlawed Creeks contended. They are voluminous and

multifarious; many of them official, and all leading to the unavoidable conclusion, that nothing short of a restoration of these lands, upon the most humiliating terms, could avert the impending blow. I will endeavor to present a summary of the prominent occurrences, on which I may safely rest the vindication of this Government against the charge of aggression. The occupation of a strong military post on the Appalachicola, the asylum of fugitive slaves, of vagabonds, and banditti, of hostile Indians, and of all who would enlist under the English jack, or the bloody flag, is the first certain indication of the approaching rupture. It was the nucleus from which all the subsequent proceedings generated and matured. The Government of Spain tacitly acquiesced in this open violation of its neutral territory. Not even the redoubtable Don Jose Masot was heard to complain, except for the seduction and employment of negroes belonging to Spanish subjects, in this tri-colored collection of outlaws and murderers. The demands made on the United States, as the sole condition on which peace could be preserved, and the objects contemplated in the erection of this Negro fort, are specifically announced by that prince of scoundrels, Colonel Edward Nicholls, in his several letters to Colonel Hawkins, then the Creek agent. This fellow sometimes styles himself "commander of the British forces in the Floridas," and at others "commander of His Britannic Majesty's forces in the Creek nation." And on one of his communications is endorsed "on His Britannic Majesty's service!" What forces had Great Britain in the Floridas, or in the Creek nation? At peace with Spain and the United States, by what authority could that Government station a military force within the territories of either? These extraordinary transactions, it is true, have been verbally disavowed, but they have never been explained in the manner called for by their mischievous tendency, and necessary to exempt the British Ministry from the well-grounded suspicion of a participation in them. On the 28th of April, 1815, Nicholls informed Colonel Hawkins that the chiefs had come to a determination "not to permit the least intercourse between their people and those of the United States. They have, in consequence, (said he,) ordered them to cease all communication, either directly or indirectly, with the territory or citizens of the United States." They further warned the citizens of the United States from entering the territory or communicating, directly or indirectly, with the Creek people; and they describe their territory to be as it stood in the year 1811. They add their adhesion to the Treaty of Ghent, as an independent ally of His Britannic Majesty. If a doubt exists as to the intent and meaning of this insolent letter, which was itself sufficient cause for hostile operations on our part, it is fully removed by a subsequent letter from the same individual, "commanding His Britannic Majesty's forces in the Creek nation," dated at the British post on the Appalachicola river, May 12th, 1815. He says, "I have ordered them (the Indians) to

stand on the defensive, and have sent them a large supply of arms and ammunition, and told them to put to death without mercy any one molesting them." Again: "They have given their consent to await your answer before they take revenge; but, sir, they are impatient for it, and well armed, as the whole nation now is, and stored with ammunition and provisions, having a stronghold to retire upon in case of a superior force appearing." He likewise threatens the "good and innocent citizens on the frontier," and admonishes our agent "that they do not find that our citizens are evacuating their lands according to the ninth article of the Treaty of Ghent." After this undisguised exposition of their *sine qua non*, their means of annoyance, their security from attack by a superior force in the "stronghold" which the sagacity of their leader had provided, and their impudent threat of war and vengeance against "the good and innocent citizens on the frontier," what man, whose mind is free from the despotic sway of prejudice, can hesitate as to the settled determination of these Indians to commence hostilities on the United States, whenever they should be ordered to strike by their good friend Colonel Nicholls? To ascertain with certainty how far they might depend on British protection, Nicholls and Hillis Hajo proceeded to London, with the famous address of all the chiefs to their good father, King George. This paper, of which Colonel Nicholls is both the hero and the author, breathes the same spirit of enmity to this country which runs through the whole of his letters and correspondence. In order to recommend themselves to the favor of the King, they assure him that they "have fought and bled for him against the Americans; that they will truly keep the talks which his chief has given them, if he will be graciously pleased to continue his protection; that they are determined to cease having any communication with the Americans, and warn them to keep out of their nation." These talks, which they gave a pledge truly to keep, were to "put to death, without mercy, every American who should be found on the lands ceded by the Treaty of Fort Jackson." The deputation was received with every mark of politeness and attention. Hillis Hajo was honored by the Prince Regent with the rank of Brigadier General in His Majesty's service, and presented with a splendid suit of British uniform, together with a rifle, tomahawk, and scalping knife, of British manufacture, with the royal arms engraved upon each of them. These circumstances attracted the attention of Mr. Adams, our Minister there, and several notes were addressed by him to Earl Bathurst and Lord Castlereagh, on the subject of the unwarrantable proceedings of Nicholls, in Florida, and of the address before noticed, which was called a treaty offensive and defensive. To these notes no written reply was furnished; they carefully avoided a correspondence, in writing, relative to these transactions; and Lord Bathurst, when pressed by our Minister in a conversation, observed, "to tell you the truth, Colonel Nicholls is, I believe,

a man of activity and spirit, but a very wild fellow." He sent him word that he had no authority to make a treaty offensive and defensive with these Indians, and that the Government would not make any such treaty. He declined seeing him on that project, but expressed his intention of having an interview with him on the affairs of Florida generally. This guarded course of conduct, combined with subsequent events, go far to strengthen the belief that the proceedings of Nicholls on all the other points were not disapproved, although they could not receive the open approbation of the British Cabinet. That war was to be made on the United States by the Indians in Florida, and their white and black allies, is a fact established by such a crowd of testimony, that it would be difficult to select that which would be deemed most conclusive and satisfactory. I will select only one deposition, which is so well supported, and affords such precise information, that I beg leave to read it to the Committee.

"The deposition of Samuel Jervais.

"Samuel Jervais being duly sworn, states, that he has been a sergeant of marines in the British service for thirteen years past; that, about a month ago, he left Appalachicola, where he had been stationed for several months; that the English Colonel, Nicholls, had promised the hostile Indians at that place a supply of arms and ammunition, a large quantity of which had been delivered to them a few days before his departure, and after the news of a peace between England and the United States being confirmed, had reached Appalachicola; that, among the articles delivered, were, of cannon four 12-pounders, one howitzer, and two cohorns, about three thousand stand of small arms, and near three thousand barrels of powder and ball; that the British left with the Indians between three and four hundred negroes, taken from the United States, principally from Louisiana; that the arms and ammunition were for the use of the Indians and negroes, for the purposes, as it was understood, of war with the United States; that the Indians were assured by the British commander that, according to the Treaty of Ghent, all the lands ceded by the Creeks in treaty with General Jackson were to be restored; otherwise the Indians must fight for those lands, and that the British would in a short time assist them.

his  
"SAML. J. JERVAIS.  
mark.

"Sworn and subscribed to before me, this 9th May, 1815, at the town of Mobile.

"L. JUDSON, J. P."

The evidence of this man is substantially sustained by Lieutenant Loomis, who so gallantly commanded the expedition which blew up the Negro Fort, and with it all the miserable miscreants who had sought refuge within its walls. Besides the letter of Lieutenant Loomis to Commodore Patterson, I am authorized by a naval officer of high respectability to state, that, at the time this fort was destroyed, there were in it eight hundred barrels of powder; three thousand stand of British muskets, packed in cases; equipments complete for five hundred dragoons; pistols, cut-



H. OF R.

Seminole War.

FEBRUARY, 1819.

lasses, and carbines; four twenty-four pounders, taken from the British frigate *Cydus*, with the name of that ship on them: one field piece, mounted; and two five-and-a-half inch brass howitzers. Such were the preparations made for the war, which was suspended only for the arrival of the red chief Hillis Hajo, and his companion Colonel Nicholls. The destruction of this "strong hold" on which the Indians might retire in case of defeat, and of the arms and ammunition which had been deposited there, induced Nicholls to procrastinate his return to Florida, and to appoint as his successor in the good work which he had begun Alexander Arbuthnot, of the island of New Providence. This man made his appearance in Florida in the character of an English trader in the year 1817, and simultaneously the warwhoop resounded through the forests, and the blood of our citizens began to flow on the borders of Georgia and the Alabama territory. I shall presently take a closer view of the means resorted to by this infernal missionary to kindle the flame of war and vengeance among the deluded Seminoles and Red Sticks. It is enough on this part of the argument to show that they were successful, and that actual violence was committed on the "good and peaceable inhabitants of the frontier," in conformity with the menace of his predecessor, Nicholls; and that the United States were compelled to take up arms and chastise the savages, in their own defence, after repeated efforts to bring them to a sense of justice and of their own interests, by friendly talks and pacific remonstrances.

Need I ransack the documents on our files to collect the evidence of the murders and robberies which preceded the determination of this Government to commence offensive operations against the Indians in Florida? They must be fresh in the recollection of every gentleman. They have been so often repeated by my honorable friends, that I will forbear the painful task of recounting them. The cruel massacre of aged mothers and helpless infancy were spread along the whole line of our Southern frontier in that quarter. The threatened war soon ripened into full maturity. The murders committed on our unoffending citizens were openly avowed, and justified under the hollow and unfounded pretence of retaliation for similar outrages alleged to have been practised by the Georgians on their people. As early as the 5th of February, 1817, the Governor of Georgia made a solemn appeal to the General Government for the protection of the exposed settlements within the limits of the State over which he presided. He details circumstances calculated to leave no doubt of the hostile spirit of the savages, and of the active preparations which were making by Woodbine and Nicholls to carry their hellish designs into execution. Scenes of cruelty, at the recital of which humanity huddles, followed in succession; and still the Executive paused, and demanded the punishment only of the offenders. On the 24th of February, 1817, fifteen Indian warriors entered the peaceful dwelling of the unfortunate Garret, a

citizen of Wayne county, in Georgia; finding in it only Mrs. Garret and her two infant children, the eldest of whom was three years old, and the other in its mother's arms, on whom she had bestowed her tender smiles and caresses for the short period of two months. The helpless condition of this family, their natural protector being absent, innocent and unoffending, alike incapable of inflicting or repelling injury and insult, surrounded by a band of armed ruffians, exhibited a picture of human misery and heart-rending distress, which might well have tamed the ferocity of the most bloody monster who ever trod the face of the habitable globe. But their cries and entreaties were unavailing: the unhappy mother was twice shot through the body, stabbed, and scalped; her two babes murdered; her house robbed of all the valuables which it contained; and, to complete the melancholy catastrophe, the lighted torch was applied to the building, where once they enjoyed the sweets of domestic comforts, and where now their mangled and lifeless forms lay prostrate, covered with the warm blood yet streaming from their hearts; and the flames which ascended to heaven wafted their spirits into the presence of a just God, while, amidst the devouring element, their ashes mingled in one common grave! The mind which can contemplate with calm composure deeds of cruelty and barbarity like these, must be destitute of that refined sensibility which ennobles and dignifies our nature in all the social relations of life.

This act alone, independent of the black list which both preceded and followed it, was open, unqualified war on the United States, unless the criminal perpetrators of these crimes, whose enormity resembles more the tales of fiction and romance than the narrative of real unsophisticated truths, should receive the prompt and condign punishment which they so justly merited. General Gaines, in obedience to instructions, demanded the murderers, and admonished the chiefs and warriors of the consequences which would result from a refusal to comply with his demand. It was not only refused, but fresh outrages of a similar character were repeated, until the seizure and indiscriminate massacre of a boat's crew, under the command of Lieutenant Scott, put an end to all hope of conciliation, and the Secretary of War, by the direction of the President, ordered the commanding General to cross the Florida line, and terminate speedily this war, "with exemplary punishment for hostilities so unprovoked." The honor of the United States required that every drop of innocent blood which had been so wantonly shed should be washed out by the most ample atonement; and, to effect this object, General Jackson was directed to assume the immediate command of the forces in that quarter of the Southern division.

I trust, sir, I have said enough to satisfy the Committee that, on our part, the war was strictly defensive, entered into reluctantly, after every reasonable expedient to avert it had been resorted to in vain.

As to the propriety of a formal and legislative

FEBRUARY, 1819.

Seminole War.

H. OF R.

declaration of war against an Indian tribe, the idea never before entered the imagination of any man during all the contests with the aborigines, through which we have waded. Like many other subtleties which have diversified this discussion, it is of modern origin, and may be classed among the numerous discoveries of the present day, which are not exclusively confined to mechanism, but frequently enlarge the scope, and enlighten the path of political science. The answer to this objection, if, indeed, it deserved one, has been given by several honorable gentlemen, and particularly by my honorable friend from Kentucky, (Mr. JOHNSON.) I shall not attempt to enforce the argument on a point so little entitled to serious consideration, and more especially in this case, where several acts of legislation have recognised the existence of the war, made with a full knowledge of the orders which had been given by the President for its prosecution in a foreign territory. At the last session, no exceptions were taken to these orders, but every man approved them, as properly adapted to the exigency by which they were dictated.

I shall now, sir, consider the questions connected with the prosecution of the war to its final conclusion; and the occupation of St. Marks and Pensacola, and of the fortress of the Barancas, by the American army. If I am asked why General Jackson entered the territory of Florida? I answer, he was ordered to do so by the President of the United States. And, with respect to all the subsequent proceedings, it is sufficient for his vindication, that they met the approbation of the same Chief Magistrate, who thereby incurred the responsibility which otherwise would have rested on the General alone. The President, in his Message at the opening of the present session of Congress, justifies the occupation of the posts of St. Marks and Pensacola, and explains the grounds on which they were ordered to be restored to the possession of Spain. He states, "that the commanding General was convinced that he should fail in his object, that he should in effect accomplish nothing, if he did not deprive those savages of the resource on which they had calculated, and of the protection on which they had relied, in making the war." And further, he adds that "in entering Florida, to suppress this combination, no idea was entertained of hostility to Spain, and, however justifiable the commanding General was, in consequence of the misconduct of the Spanish officers, in entering St. Marks and Pensacola, to terminate it, by proving to the savages and their associates that they should not be protected even there; yet the amicable relations existing between the United States and Spain could not be altered by that act alone." In addition to these views of the Executive, the Secretary of State, in his able letter to Mr. Erving, our Minister at Madrid, instructed him to acquaint the Spanish Government that the "President will neither inflict punishment nor pass a censure upon General Jackson for that conduct, the motives for which were founded in the purest patriotism: of the

15th CON. 2d Sess.—31

necessity for which he had the most immediate and effectual means of forming a judgment, and the vindication of which is written in every page of the law of nations, as well as in the first law of nature, self-defence." I have referred to these papers, coming from the Commander-in-chief of our army, addressed to the Congress of the United States, and, through the accredited Minister at Madrid, to the Spanish Government, to counteract the impressions attempted to be made by an unfounded discrimination between the President and General Jackson, in relation to the military operations of the late Seminole war.

I am very sure the President would disdain to shelter himself from the impending storm by seeking refuge under the masked battery which honorable gentlemen have, with so much ingenuity, erected for his safety and defence. The most scrupulous sense of military honor could not desire a more unequivocal approbation than is given by the President, of the conduct of General Jackson in Florida; they must stand or fall together; and I consider the feigned effort to separate them deceptive and illusory. If censure falls on the head of one, it lights with equal violence upon that of the other.

The act of crossing the Florida line, to subdue the hostile Indians in that province, appertaining to the dominions of the Spanish monarchy, was a measure, in the execution of which the commanding General did no more than obey the call of his country, and the imperious obligations of duty. If this step was justifiable on principles of public law and the usages of war, the same justification runs through all the operations of the army under the command of General Jackson. Self-defence, that primary law of nature, either covers the whole of these transactions, or it does not afford a vindication of the Executive, in ordering the troops to march into Florida and put a speedy termination to the war. The entry of a belligerent army into a neutral territory, without the consent of the Sovereign, is *prima facie* a violation of his perfect rights, and amounts to the definition of war *de facto*. Such an entry, even against the will of the neutral Power, may, nevertheless, be made under particular circumstances, and furnish no ground of offence, or cause of war, to the neutral Sovereign; and precisely the same circumstances will justify the temporary seizure of a neutral town or military post. The conduct of the neutral towards the two belligerents must be impartial; no privilege can be granted to the one, which may not be taken by the other, in the same extent; and, if refused, force may be resorted to, without affording any just cause of complaint to the neutral who is guilty of such a departure from the rules prescribed to her by the settled law of nations, which require her to give no assistance to either party, where there is no obligation to give it, nor voluntarily to furnish troops, arms, ammunition, or anything of direct use in war. "For, should she favor one of the parties to the prejudice of the other, she cannot complain of being treated



by him as an adherent and confederate of his enemy."—*Vattel*, 332.

The obligations incurred by treaty constitute the only restriction upon the operation of these rules; and I shall presently show, that, in the late war with the Indians in Florida, Spain was bound in a defensive alliance, *quo ad hoc*, with the United States, and that, she not only violated her neutral duties, but the most solemn stipulation, by which she was bound to become a party to the war as an ally of the United States. But, let it be admitted, that the colony of Spain on our Southern border was in all respects entitled to the immunities of an independent neutral State, and bound only to observe that impartiality which was essential to preserve her pacific relations with this country; and I contend, that she was guilty of such gross partiality, in supplying the enemy with the means of prosecuting the war, with the privilege of sheltering themselves within her fortified places, and with a ready market for all the property which they robbed and plundered from our citizens, as to have forfeited all claim to the respect due to fair and honorable neutrality, and to have become identified with the enemy, so far as she could, with safety to herself and utility to them, extend her aid and assistance in promoting their hostile operations against the United States. I have already shown, from evidence which cannot be controverted, that this war was, on our part, purely defensive, and consequently just; that it was instigated by British emissaries, with the assent and connivance of the local authorities of Spain. Florida was the theatre of the war; there the enemy concentrated all his forces, and sought the most favorable opportunities of making incursions into our territory; and, after striking an unexpected blow, again they retired into this asylum, where they were promised security and protection. From one thousand to one thousand two hundred men, under the command of Hillis Hajo, or the Prophet Francis, were collected and stationed at Spanish Bluff, the former residence of Doyle and Hambly; these men, we are told by Arbuthnot, were principally Red Sticks, who had fled from the limits of the United States and identified themselves in the war with the Seminoles; other bodies of men were scattered over the nation, amounting in the whole to more than two thousand warriors. Spain was a passive spectator of the scene, and quietly permitted these fugitives to elude the vigilance of our army, by remaining within her neutral territory. The safety of the United States, therefore, required, that, in our own defence, we should carry our arms into the country which was thrown open to our enemy, and from which predatory parties issued to rob and murder our defenceless citizens. In doing so, we were justified by a proper regard for our own interests, and by every principle of public law.—*Vattel*, 345, says:

"It is certain, that if my neighbor affords a retreat to my enemies when defeated and too much weakened to escape me, and allows them time to recover and watch a favorable opportunity of making a second at-

tack on my territories; this conduct, so prejudicial to my safety and interest, would be incompatible with neutrality. If, therefore, my enemy, on suffering a discomfiture, retreat into his country, although charity will not allow him to refuse them permission to pass in security, he is bound to make them continue their march beyond his frontiers as soon as possible, and not suffer them to remain in his territories, on the watch for a convenient opportunity to attack me anew; otherwise, he gives me a right to enter his country in pursuit of them. Such treatment is often experienced by nations that are unable to command respect. Their territories soon become the theatre of war—armies march, encamp, and fight in it, as in a country open to all comers."

Yes, sir, the territory of Florida is emphatically a country "open to all comers." The British found a hearty welcome there during the late war. The outlawed Creeks received the right hand of fellowship from Governor Masot, and his retinue of official dignitaries; fugitive negroes and banditti are welcome guests, when associated in arms against the United States; and I am persuaded the devil himself would have received *holy orders*, had he made his appearance at Pensacola in the character of a foe to this country. We alone were excluded from the high privilege of meeting our enemies on that soil which was prostituted to every purpose which could in any manner subserve their views, and contribute to our annoyance. The fortress of Barancas was peaceably put into the possession of a British and Indian force, in our recent conflict with Great Britain. The negro fort was erected on the Appalachicola, with the avowed intention of war with the United States. The vilest reptiles in creation were collected to carry the nefarious projects of the incendiary Nicholls into execution, and not a murmur was heard, either from Pizarro or Masot, or the Governor General of Havana. But the moment we send a force to suppress these hostile combinations, Spanish sensibility breaks through the cloud by which it had been concealed. Protests and manifestoes proclaim to the world the wrongs committed by this Government, in the violation of the territorial sovereignty of the adored Ferdinand. With a full knowledge of this fraudulent neutrality on the part of Spain, and of our rights as a nation, to the means of self-preservation, the President would have been unmindful of the high trust and confidence reposed in him, had he not ordered the army into Florida, to terminate the war, with "exemplary punishment for hostilities so unprovoked." The occupation of the posts of St. Marks and Pensacola, and the fortress of Barancas, was a necessary means of accomplishing the end for which General Jackson entered the Spanish territory. They rest on the same general principles, and, if a distinction is taken which would justify the one and condemn the other, it must be founded on a diversity of facts, in reference to the facilities and privileges granted by the authorities of Spain to the other belligerent. For there is an universal rule, to which there is no exception, that whatever a neutral Power grants or refuses to one

of the parties at war, she must in like manner grant or refuse to the other; and, if she departs from this strict line of impartiality, by favoring either to the injury of the other, the injured nation may do herself justice, and take by force what is unjustly denied to her.

Such is the law by which the conduct of all civilized nations is regulated and governed. It remains only for me to glance at the most prominent points in the evidence to show its application, and thereby rescue General Jackson from the imputation of having snatched from Congress the power delegated in the Constitution to "declare war." I ask then, sir, did the Governors of St. Marks and Pensacola allow the Indians and negroes free access into their fortifications, and supply them with arms and ammunition to carry on the war in which they were engaged with the United States. To establish these facts, with regard to the former, I am perplexed with the difficulty of selecting that part of the testimony which might be deemed least susceptible of doubt or equivocation. The whole volume is full of details showing the abominable duplicity and perfidy of the treacherous Luengo. St. Marks was the council-house of the Indians, in which all their plans of operation were discussed, in concert with the commandant and his friend, Arbuthnot, between whom there existed the most perfect cordiality. St. Marks was, in all respects, substituted for the negro fort, which had been destroyed by the gunboats under the command of Lieutenant Loomis. To that place they retreated, immediately after this disaster befell them, and ever since they have made it the depot of plundered property, known to be so by Luengo himself, who even made contracts with the depredators for the beef, cattle, and other property which they might capture from the people of Georgia. Having been charged, by General Jackson, with conduct so contrary to the pacific relations existing between Spain and the United States, Luengo, in his defence, written at Pensacola, on the 18th of May, 1818, more than one month after the occupation of the post by the American troops, when all his powers of prevarication were taxed to exculpate himself from these charges, in reply to the information which had been communicated to the commanding General, that he had supplied the Indians and negroes with munitions of war, states: "I thought that I had convinced him of the contrary in my answer, in which I represented to him, that no one could better remove from his mind any unfavorable impression on this point than Mr. William Hambly, who, during his stay here, repeatedly interpreted to me the anxiety of the chiefs to obtain such supplies, and that he could also inform him that I uniformly counselled them to avoid the destruction which has overtaken them, and which I foresaw from the first." Now, sir, what is the evidence of Mr. Hambly, whose credibility is admitted by the Spanish commandant, and whose situation enabled him to give a full and precise statement of facts? The letter addressed by him, together with Edward Doyle, to

General Jackson, exposes the transactions of St. Marks in so clear a light, that I beg leave to read it to the Committee.

"William Hambly and E. Doyle to General Jackson.

"FORT GADSDEN, May 2, 1818.

"SIR: We beg leave to submit to you the following facts. On the 13th December, 1817, we were violently torn from our settlement, on the Appalachicola river, by a number of Indians, headed by Chenubby, a chief of the Fowl-Town tribe, carried to Mickasuky, and delivered to Kenagee, King of the Mickasukians. Kenagee carried us to the Negro Towns, on the Suwannee, and thence to the Spanish fort St. Marks; to the commandant of which he delivered us as prisoners of war, captured under the orders of a Mr. Arbuthnot, reported to us as a British agent. At St. Marks we were treated as prisoners, and not permitted to wander beyond the walls of the garrison. While at that post, the ingress and egress of Indians hostile to the United States was unrestrained; and several councils were held; at one of which Kenagee, king of the Mickasukians; Francis, or Hillis Hajo; Hemathlemico, the chief of the Autosses; and the chief of Kolemies, all of the old Red Stick party; and Jack Mealy, chief of the Ochewas, were present. When it was reported that these chiefs, and their warriors, were entering Fort St. Marks for the purpose of holding a council, Hambly represented to the commandant the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve and enforce the treaties existing between the King of Spain and the United States; he replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request we were confined. The council was held in the commandant's quarters. He, the commandant, was present, but strictly forbade the intrusion of any of the officers of the garrison. The Indians were in the habit of driving to Fort St. Marks, and disposing of, cattle to the commandant and other Spanish officers. While at that post, three or four droves were brought in, acknowledged by the Indians to have been stolen from the citizens of the United States, and purchased by the Spanish officers. We were present at most of these contracts, and Hambly often referred to as an interpreter between the purchaser and seller. Chenubby, a Fowl-Town Indian, once applied to Hambly to mention to the commandant that he was about visiting the frontiers of Georgia, on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in, and disposed of, eleven head of cattle to the Spanish commandant of Fort St. Marks. These same cattle were those purchased by you, from the commandant, as his private property.

"WILLIAM HAMBLY.  
"EDWARD DOYLE."

In support of the statement made by these men, I might refer to many others in the volume of documents, which have been printed, on this subject. I will, however, dispense with a detailed view of them, and barely add an extract from a letter of Lieutenant Gadsden, whose reputation as a soldier and man of honor and veracity, places him above the reach of suspicion.



H. OF R.

Seminole War.

FEBRUARY, 1819.

"J. Gadsden to General Jackson.

"FORT GADSDEN, May 3, 1818.

"SIR: In conversation with the commandant of Fort St. Marks, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort that the hostile party of Indians had received, as reported, from him; that they had free access within the walls of his fort, and that it was well known no small supplies of ammunition had been received from that quarter. In reply, he stated that his conduct had been governed by policy; the defenceless state of his work, and the weakness of his garrison, compelled him to conciliate the friendship of the Indians, to supply their wants, and to grant what he had not the power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence; that he had been repeatedly threatened by Indians and negroes, and that his security depended upon exhibiting an external friendship. Respectfully, yours, &c.

"JAMES GADSDEN, Aid-de-Camp."

From the testimony of these respectable witnesses, and many others to whom I think it unnecessary to refer, it is evident that the enemy had the unlimited use of this fort for all the purposes of war; that their stolen property was received, and contracted for by the commandant, knowing it to be such; and that they were supplied with arms and ammunition, and every other material, to enable them to continue their aggressions on the unprotected inhabitants of Georgia and the Alabama Territory. The only apology offered by the commandant for his unfriendly and unwarrantable conduct was, that he had been repeatedly threatened by the Indians and negroes, and that his security depended upon exhibiting an external friendship. It is immaterial whether we take the facts or the excuse, for either, unconnected with the other, will amount to a justification of General Jackson in taking forcible possession of that post. "To conduct prisoners, or convey stores, to a place of safety, are acts of war, consequently not to be done in a neutral country, and whoever would permit them would depart from the line of neutrality by favoring one of the parties." Again, "necessity may even authorize the temporary seizure of a neutral town, and putting a garrison therein with a view to cover ourselves from the enemy, or to prevent the execution of his designs against that town."—*Vattel*, 342-4. The truth is, that our enemy was denied nothing which he asked, and we were refused the humble privilege of putting the place in a state of defence against an enemy who ought to have been considered common to Spain and the United States. In such a case, to have hesitated would have been pusillanimous and disgraceful in the commanding General. Passing from St. Marks to Pensacola, there is no substantial change either of principle or fact. General Jackson, it is true, at the date of his letter to the Secretary of War, from St. Marks, though the war at an end. His health having been much impaired by the hardships and fatigues of the service in which he was engaged, he had determined to return to Nashville; but subse-

quent information, of which we have the most authentic proof, satisfied him that he had not yet effected the object of the campaign. The Indians, deprived of their accustomed resort at St. Marks, flew to Pensacola, where they had always been received with open arms by the Governor. Expeditions were fitted out, and massacres committed, by parties of hostile Indians, going directly from that place to the Escambia and Alabama.

I will not detain the Committee by a reference to the correspondence and depositions at large, furnishing, as they do, indubitable evidence of the hostile disposition of the Governor of Pensacola, and of the aid given by him to the savages, for the express purpose of committing murders on the people of the United States. Thirty or forty witnesses, many of them subjects of His Catholic Majesty in Florida, and long resident there, testify to these facts. Provisions, arms, and munitions of war, were regularly issued to the Creeks and Seminoles, from the King's storehouse, during both wars in which we have been engaged with these tribes of Indians. Numerous bodies, of from two to five hundred Indians, driven from other parts of Florida, were seen in and near to Pensacola, but a few days after the approach of our army; they were armed and equipped for war by Governor Masot. The leaden aprons were taken from the ordnance at the Barancas, and run into bullets, to obtain the necessary supply of that article. The massacre of Stokes's family, of travellers from Georgia to the Alabama, and of our frontier settlers in that quarter, may all be attributed to the free admission of the hostile Indians into Pensacola, and the assistance afforded them by the Spanish Governor. General Jackson was well informed of these circumstances, and saw in them certain indications that all his previous operations were worse than useless, if he returned without leaving an American garrison at Pensacola. He accordingly moved towards that town, after having discharged the Georgia militia, whose services were no longer necessary. He made Governor Masot distinctly acquainted with his views, and the basis on which his conduct was founded; that he entered the territory of His Catholic Majesty, not as the enemy but as the friend of Spain, to inflict merited punishment on the common disturber of the peace of both countries; that he meant nothing more than to place an American force in Pensacola and the Barancas, which should be sufficient to guaranty the security of the United States from a protracted savage war. He never intimated an intention of disturbing either the civil or military authorities of Spain. In return, Governor Masot protested against the entrance of the American commander into his territory, for any purpose; ordered him, in the name of the King, to depart forthwith, and threatened to repel force by force, if he persisted in his intentions. The well known valor and intrepidity of General Jackson took fire at his insulting menace; he would have preferred an honorable grave, under the walls of the Spanish fort, to a cowardly, disgraceful retrograde, under

FEBRUARY, 1819.

Seminole War.

H. OF R.

the gasconading threat of this impotent instrument of a monarch, whose very name excites the smile of contempt throughout the civilized world. He moved directly to the town of Pensacola, and mark, I beseech you, sir, the conduct of Governor Masot. The Indian warriors who were with him, and their families, were shipped in public vessels across the bay to the island of Santa Rosa. He retired before the American army, who really intended to do him no violence, into the fortress of San Carlos de Barancas, where he permitted himself to tremble and equivocate for a day or two, and then, by his own request, the fort was delivered into the hands of General Jackson, and the Spanish troops, with this magnanimous Governor at their head, were transported to the Island of Cuba. We are told by honorable gentlemen that this last measure gave to the transaction all the pomp and circumstance of war. That the Spanish troops were made prisoners of war, and forced to quit the country in which they were stationed under the protection of their sovereign. There would indeed be some plausibility in the conclusion, if the premises assumed were not destitute of foundation. Every proposal relating to the surrender of the fort came from Governor Masot; it was by his own desire that vessels were provided for the transportation of the garrison, and the officers attached to the civil administration, and of the Alabama Chief Hopayhoal, and family,\* to the Havana. It was his own puerile resistance which gave to this affair the aspect of a capitulation. General Jackson never contemplated an act of hostility against Spain; his sole object was to give peace and security to his own country, and to guard against the renewal of hostilities by prohibiting the customary supplies which the Seminoles and Red Sticks received from this faithless unprincipled Governor. In proof of this, I refer to his whole correspondence, and the general order issued after the surrender of the Barancas. In a letter dated at Pensacola, the 25th of May, 1818, General Jackson tells Governor Masot, "if the force which you are now disposed wantonly to sacrifice had been wielded against the Seminoles, the American troops had never entered Florida." And the following extract from his general order, issued on the occasion, fully explains the motive by which he was governed, and excludes the supposition that he intended to commit an act of war against Spain:

"Major General Andrew Jackson has found it necessary to take possession of Pensacola. He has not

\* It is worthy of particular notice, that this Indian chief was one of the principal instigators of the war, and had but a short time before sent out a party of outlawed Creeks, who massacred Stokes's family, and brought in the bloody clothes of the women and children, which were sold publicly in the streets of Pensacola. Why is Governor Masot so much interested for his safety, as to make it one of the specific conditions on which he would surrender the fort? And also to bind himself, in "the name of his Government, that the said chief shall never return to the Floridas?"

been prompted to this measure from a wish to extend the territorial limits of the United States, or from any unfriendly feeling on the part of the American Republic towards the Spanish Government. The Seminole Indians, inhabiting the territories of Spain, have, for more than two years past, visited our frontier settlements with all the horrors of savage massacre; helpless women have been butchered, and the cradle stained with the blood of innocence; these atrocities, it was expected, would have early attracted the attention of the Spanish Government, and, faithful to existing treaties, speedy measures adopted for their suppression. That, so far from being able to control, the Spanish authorities were often compelled, from policy or necessity, to issue munitions of war to these savages, thus enabling, if not exciting, them, to raise the tomahawk against us.

"The immutable laws of self-defence, therefore, compelled the American Government to take possession of such parts of the Floridas, in which the Spanish authority could not be maintained. Pensacola was found in that situation, and will be held until Spain can furnish military strength sufficient to enforce existing treaties."

And what, sir, was the existing treaty to which the General alludes? I have said that it is a treaty of defensive alliance, *quo ad* Indian hostilities, between Spain and the United States. The 5th article is in the following words:

"The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which, by the preceding articles, form the boundaries of the two Floridas. And, the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundary; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor shall the United States permit these last mentioned Indians to commence hostilities against the subjects of His Catholic Majesty or his Indians, in any manner whatever."

*Vattel*, 323, thus defines a defensive alliance: "Some alliances are both offensive and defensive; and there seldom is an offensive alliance which is not also a defensive one. But it is very usual for alliances to be purely defensive; and these are, in general, the most natural and lawful. It would be a tedious, and even useless task, to enumerate in detail all the varieties incident to such alliances. Some are made without restriction, against all opponents; in others, certain States are excepted; others, again, are formed against such or such a nation, expressly mentioned by name." Of the latter class, is the alliance entered into by Spain in the article of the treaty of the 27th of October, 1795, with the United States. This article was inserted to prevent the recurrence of difficulties which had arisen between the two Governments, as early as the year 1791, respecting the Creek tribe of Indians. A spirited and acrimonious correspondence took place, at that period, between Gardoqui, the Spanish Minister, and Mr. Jefferson, then Secretary of State. Spain alleged that it was



H. OF R.

Seminole War.

FEBRUARY, 1819.

the intention of this Government to exterminate the Creek nation, and to seize on their lands; and we charged the hostilities of the Indians to Spanish and British agency and influence, originating in motives unfriendly to the peace of the United States. The controversy was maintained with increased violence until articles of the treaty of 1793 were agreed on, in which the parties agree to make a common cause in the suppression of Indian wars, on their respective borders.

But it is said that this does not fall within the definition of an alliance, because the duties to be performed by each nation are confined to their own territorial limits. The case now under consideration exposes the fallacy of this objection. The Seminole tribe of Indians have made an unprovoked war on the United States; we, in our own defence, under the sanction of the public law of nations, enter the territory of Florida, to put a speedy termination to this war. Spain, by treaty stipulation, is *ipso facto* bound to become a party to the war, on our side; and I ask if the armies of both Powers would not, on meeting, regard each other as friends, fighting for a common object, specified in the existing treaty between the two Governments? They could be considered in no other light than as allied forces, against a common enemy, rendered so by the solemn engagement of Spain "expressly to restrain, by force, all hostilities on the part of the Indian nations living within her boundary." The violation of this treaty, while it fixes an indelible stain on the Spanish nation, does not abrogate the rights which we may lawfully claim and exercise under it. As an ally, we had the right, without giving cause of offence to Spain, to enter her territory in pursuit of the enemy; to claim the hospitality of her authorities there; to occupy the strong positions which might be necessary to the safety of our army, and the discomfiture of the enemy; and to claim admission into her fortifications, doing no injury to public or private property. And yet all these privileges were freely granted to the hostile Indians, and sternly denied to us, contrary to the principles of fair and honest neutrality and in direct violation of the obligations imposed on Spain, by virtue of her treaty with the United States. "The sovereign who violates his engagements on pretences that are evidently frivolous, or who does not even think it worth his while to allege any pretence whatever to give a colorable gloss to his conduct, and cast a veil over his want of faith—it is such a sovereign who deserves to be treated as an enemy of the human race."—*Vattel*, 230. If the definition be not literally applicable to Spain in the conduct of her officers at St. Marks and Pensacola, during the late Seminole war, I confess I do not understand the use of words, or the meaning of the English language. We admit the plea of imbecility in its fullest extent; we know that this province has been almost abandoned by the parent country; but that will not excuse the aid and comfort bestowed on our enemy; nor the order of General Jackson to leave the territory; nor the threat of compulsion in case of his refusal

to obey the order of His Catholic Majesty's representative. Sir, every gentleman must be satisfied, that if, instead of the inhospitable treatment which our army experienced, and the empty menace with which it was insulted, the hand of friendship had been held out to us, and a cordial reception given to our troops, so long as they adhered to the legitimate object for which they entered Florida, neither St. Marks nor Pensacola would have been occupied longer than the most urgent necessity required. The honor of the Spanish monarch might have been preserved, and the authority of his officers have remained undisturbed. "To refuse an ally the succors due to him, without having any just cause to allege for such refusal, is doing him an injury, since it is a violation of the perfect right which we gave him by a formal engagement." And further: "As it is an obligation naturally incumbent on us to repair any damage caused by our fault, and especially by our injustice, we are bound to indemnify an ally for all the losses he may have sustained in consequence of our unjust refusal."—*Vattel*, 327. Whether we consider the question as resting on the great and universal principles which regulate belligerent rights, and neutral duties, or the sacred and inviolable obligations of treaties, General Jackson stands erect, and the people of this nation will accord to him their hearty thanks for his manly independence in asserting and maintaining their rights.

Mr. Chairman, I will readily concede to honorable gentlemen, that, if war was made on Spain, either by the orders of the President, or by General Jackson, without the authority of Congress, it amounts to a violation of the Constitution, and the most severe punishment, and not mere censure, ought to await the guilty hand which aims a blow at the tree of liberty, on the soil where alone it is permitted to grow and flourish. But I deny that an act of war either has been, or was designed to have been, committed by General Jackson, in any part of his proceedings in Florida. By war, I wish to be understood to mean that state of things which puts one nation in collision with another; which arrays the people of one sovereignty against the people of another sovereignty; and not such acts as may or may not eventuate in a rupture between Powers in amity with each other. The *maximum* must be reached, or the Constitutional power of Congress to declare war remains inviolate. Suffer me to illustrate this postulatam, by showing its analogy to another and a more familiar subject. Suppose a bill suspending the *habeas corpus* is proposed in this House, at a time of profound peace, both at home and abroad; every gentleman will admit that the passage of such a bill would violate an express provision of the Constitution. I ask, if it should pass the first and second readings, and be ordered to be engrossed and read a third time, if, on the question, shall the bill pass, it is rejected—whether any of the incipient proceedings amounted to a breach of the Constitution? I presume it will not be contended that they did. The violation of the instrument begins with the operation of

FEBRUARY, 1819.

Seminole War.

H. OF R.

the measure which it prohibits. So neither is an incipient step taken by a subordinate authority under the Government, which bears the semblance of hostility to a foreign nation, war, until it passes the ordeal of the ultimate power of both countries, and is deemed by them not susceptible of amicable and honorable explanation and amends. Let us test the conduct of General Jackson by these plain and simple rules, and it will be found that he has neither violated the Constitution nor compromised the peace of the nation.

I have already attempted to prove to the Committee that the conduct of Spain, in relation to our savage enemy, justified the entrance of our army into her territory, and the occupation of the posts of St. Marks, Pensacola, and the fortress of Barancas. But I will admit, for argument sake, that these latter acts were not strictly justifiable, and that Spain had a right to complain of them; and yet, I say, they did not amount to the definition of war, and, consequently, that General Jackson is not chargeable with having usurped the powers of Congress. To sustain this position, I rely on the practice of the most enlightened European Governments in cases similar in their character; and on the effect of these measures—upon the subsisting relations between Spain and the United States. The European precedents to which I shall refer may be found in the celebrated letter of Mr. Madison to Mr. Rose, on the subject of the attack on the American frigate *Chesapeake* by the British ship *Leopard*; I beg leave to read them in the order given to them in that correspondence.\* In these instances force was resorted to;

\* In the year 1764, Bermudians, and other British subjects, who had, according to annual custom, taken possession of Turk's Island for the season of making salt, having been forcibly removed, with their vessels and effects, by a French detachment from the island of St. Domingo, to which Turk's Island was alleged to be an appurtenance, the British Ambassador at Paris, in pursuance of instruction from his Government, demanded, as a satisfaction for the violence committed, that the proceedings should be disavowed; the intention of acquiring Turk's Island disclaimed; orders given for the immediate abandonment of it on the part of the French; everything restored to the condition in which it was at the time of the aggression; and reparation made of the damages which any British subjects should be found to have sustained, according to an estimation, to be settled between the Governors of St. Domingo and Jamaica. A compliance with the whole of this demand was the result.

Again, in the year 1789, certain English merchants, having opened a trade at Nootka Sound, on the Northwest coast of America, and attempted a settlement at that place, the Spaniards, who had long claimed that part of the world as their exclusive property, detached a frigate from Mexico, which captured the two English vessels engaged in the trade, and broke up the settlement on the coast. The Spanish Government was the first to complain, in this case, of the intrusions committed by the British merchants. The British Government, however, demanded that the vessels taken by the Spanish frigate should be restored, and

actual violence used, blood spilt, vessels captured, whole settlements broken up and destroyed, and yet the proud and haughty monarchs of England, France, and, I may add, of Spain, at that day, did not consider either of them as actual war, but occurrences open to fair and candid explanation and honorable amends; which, being demanded, resulted in the preservation of peace between the parties concerned.

adequate satisfaction granted previous to any other discussion. This demand prevailed; the Spanish Government agreeing to make full restoration of the captured vessels, and to indemnify the parties interested in them for the losses sustained. They restored, also, the buildings and tracts of land, of which the British subjects had been dispossessed. The British, however, soon gave proof of the little value they set on the possession, by a voluntary dereliction, under which it has since remained.

The case which will be noted last, though of a date prior to the case of Nootka Sound, is that of Falkland Islands. These islands lie about one hundred leagues westward of the Straits of Magellan. The title to them had been a subject of controversy among several of the maritime nations of Europe. From the position of the islands, and several other circumstances, the pretensions of Spain bore an advantageous comparison with those of her competitors. In the year 1770, the British took possession of Port Egmont, in one of the islands, the Spaniards being at the time in possession of another part, and protesting against a settlement by the British. The protest being without effect, ships and troops were sent from Buenos Ayres, by the Governor of that place, which forcibly dispossessed and drove off the British settlers. The British Government, looking entirely to the dispossession by force, demanded, as a specific condition of preserving harmony between the two Courts, not only the disavowal of the Spanish proceedings, but that the affairs of that settlement should be immediately restored to the precise state in which they were previous to the act of dispossession. The Spanish Government made some difficulties—requiring particularly a disavowal, on the part of Great Britain, of the conduct of her officer at Falkland Islands, which it was alleged gave occasion to the steps taken by the Spanish Governor, and proposing an adjustment by mutual stipulations, in the ordinary form.

The reply was, that the moderation of His Britannic Majesty having limited his demand to the smallest reparation he could accept for the injury done, nothing was left for discussion but the mode of carrying the disavowal and restitution into execution—reparation losing its value if it be conditional, and to be obtained by any stipulation whatever from the party injured. The Spanish Government yielded; the violent proceedings of its officers were disavowed; the fort, the port, and everything else, were agreed to be immediately restored to the precise situation which had been disturbed; and duplicates of orders issued for the purpose to the Spanish officers, were delivered into the hands of one of the British principal Secretaries of State. Here, again, it is to be remarked, that satisfaction having been made for the forcible dispossession, the islands lost their importance in the eyes of the British Government—were, in a short time, finally evacuated, and Port Egmont remains, with every other part of them, in the hands of Spain.



These were direct acts of hostility, committed by the military of one Power against the subjects of the other, without a previous declaration of war, and therefore more offensive to the dignity and honor of the Sovereign than the temporary occupation of a town or fortress, in the prosecution of a war with another nation, to whom the same privilege had been granted. According to the practice of nations, therefore, the proceedings at St. Marks and Pensacola cannot be regarded as deciding the question of peace and war between Spain and the United States, waiving all the circumstances which so fully justify the commanding General. Neither Government understood them as amounting to a change of the amicable relations which existed prior to these occurrences, and which it was their mutual desire to preserve. Spain demanded a restitution of the posts in the possession of the American troops; they were ordered to be restored; Pensacola unconditionally, and St. Marks on the appearance of an adequate force to protect it from the savages. The Spanish Minister, in the name of his master, also demanded the punishment of General Jackson. He was told that the President would "neither inflict punishment, nor pass a censure" on the General, for conduct which found its justification in the perfidy and duplicity of Governor Masot, and the officers of His Catholic Majesty, in Florida. We, on our part, demanded the punishment of these Spanish officers; they have neither been punished, nor their conduct formally investigated. Thus the affair was terminated, to the satisfaction of both parties, so far as it is essential to the preservation of peace between the two countries. It did not originate in a disposition to produce a rupture with Spain, either on the part of the President or of General Jackson. Pizarro blustered for a while; published his protest; interdicted all further communications with this Government until proper explanations were made, and submitted the matter to the Congress of Aix la Chapelle; hoping to excite the sympathy of the allied Sovereigns, and to obtain their interposition in behalf of Spain. He, however, in a few days, so far subdued his resentment as to resume his usual correspondence and intercourse with Mr. Erving, our Minister at Madrid. The Congress of Aix la Chapelle expressed no opinion on the subject, and Don Onis, the Minister of Ferdinand at this place, has never for a moment ceased to fulfil his functions, without the smallest interruption; and so little was the respect which he paid to the letter of Pizarro, suspending further communications with the American Government, that he did not think it worthy of being officially made known to the Secretary of State. He places the vindication of his master on ground totally different from that assumed in this House by those who defend his cause, in attempting to censure the conduct of General Jackson. He says, in a letter to Mr. Adams, of the 8th of July, 1818: "It cannot be supposed that the Indians, against whom the American commander directed his operations, received protection in

Florida. They never received either favor or protection from the Spanish authorities, either within or without the territory under their jurisdiction."

Speaking of the Governor of Pensacola, he alleges, that "he took every necessary precaution to prevent the Indians being supplied with arms and ammunition within His Majesty's territory. These facts being of public notoriety, and impossible to refute, there can be no excuse, pre-  
text, or subterfuge, offered for a series of such unheard of outrages." And, sir, this is the true and only basis on which to rest the slightest charge against the proceedings of General Jackson. It is a question of fact; and if Don Onis speaks the truth, in saying that the Indians received neither favor or protection from Luengo or Masot, and that everything was done in their power to prevent their being supplied with arms or ammunition, and that it is impossible to refute these facts—then I say with him, that the American commander was censurable, and ought to be brought before a general court martial. But, unfortunately for the Don, the evidence is all on the other side; and these facts, which he says "it is impossible to refute," are contradicted even by the officers themselves, whom he thus boldly defends. I contend, therefore, on the authority of the Spanish Minister himself, that, the proof being against him, the conclusion fails, and General Jackson stands acquitted by Spain of all blame or censure for his occupation of St. Marks and Pensacola. The Chevalier Onis will not stoop so low, as to put the issue of controversy on the wire-drawn theories, and ingenious sophistry, with which he has been so generously supplied by honorable gentlemen who have participated in this debate. He takes the high and imposing attitude of facts, from which he deduces the innocence of the colonial authorities in Florida, and the consequent guilt of the American commander; and surely he ought to be allowed to shape the defence of his own immaculate master. On that ground I am content to submit the case to the decision of an impartial world. Sir, if the United States have been precipitated into hostilities with Spain, by General Jackson, and the Constitutional powers of Congress, in that respect, have been usurped, by whom has the war been recognised, and where are its effects to be seen or felt? Spain has given no evidence of a belief on her part that she is at war with us, or that she contemplates becoming so. We have disavowed all hostile intentions towards her. She has a Minister resident at Washington, who is treated with every respect due to his rank, and who is now employed in the interesting duty of forming a treaty on the subjects which have so long remained unsettled between his Sovereign and this country. We also have a Minister of equal rank and dignity at Madrid, who receives there the most polite attention. No armies are in the field; no fleets on the ocean; no appropriations required to carry on the war—but it is nevertheless the foundation upon which the whole argument of the advocates

of these resolutions is built, and all the dreams of our violated Constitution, with which we have been amused for the last three weeks, are predicated on this visionary war, which honorable gentlemen imagine to exist, for the sake of the argument, but which neither of the feigned belligerents acknowledge, and which is carried on without men, money, or ships, while both nations are under the singular delusion that they are in a state of profound peace! I have heard, sir, of wars in the moon, and I presume this must be one of that description.

Mr. Chairman, I think it must be manifest to every candid mind, disposed to look at these events with an impartial eye, that no act of war has been committed against Spain: that none was ever intended; that our relations of amity with that nation have undergone no change; and that General Jackson has been most unjustly charged with a violation of the Constitution of his country. The total neglect of Spain for the last ten years to maintain her authority in Florida, and the facilities which it affords to our enemies, has compelled the Government of the United States to consider that territory open to our arms whenever the public safety required that they should be sent there; and the Spanish Government has no just right to complain of treatment which her own negligence and imbecility has imposed on us as a duty, in self-defence.

Permit me, sir, to call the attention of the Committee to a measure which was adopted during the Administration of President Madison, relating to that part of Florida which lies west of the Perdido, and which we claimed under the cession of Louisiana. Spain was in possession of the country, and contested our claim; a special mission had been sent to Madrid to negotiate a treaty of limits with that Government, and the effort to effect that object was unsuccessful. Pending this question of the title between the two Governments, in the year 1810, Mr. Madison issued a proclamation annexing the disputed territory to the present State of Louisiana, then the Territory of Orleans. That proclamation is in the following words:

"Now be it known, that I, James Madison, President of the United States of America, in pursuance of these weighty and urgent considerations, have deemed it right and requisite that possession should be taken of the said territory, in the name and behalf of the said United States. William C. C. Claiborne, Governor of the Orleans Territory, of which the said territory is to be taken as part, will accordingly proceed to execute the same, and to exercise over the said territories the authorities and functions legally appertaining to his office; and the good people inhabiting the same are invited and enjoined to pay due respect to him in that character; to be obedient to the laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens, under full assurance that they will be protected in the enjoyment of their liberty, property, and religion."

To carry the power vested in him into effect, Governor Claiborne was authorized to call in to

his aid the regular troops of the United States on the Mississippi; and, if these should be deemed insufficient, to call out the militia of the Orleans and Mississippi Territories, and to take forcible possession of the territory, if resistance should be made. The order was executed. The laws of the United States were extended to the country, by virtue of this proclamation, and at that time, and for more than one year afterwards, a Spanish garrison remained at Mobile. This step was taken but a few weeks before the meeting of Congress, and communicated to both Houses at the opening of the session. An interesting and animated debate arose in the Senate on that part of the President's Message. Parties were then marshalled; the opposition to Administration was systematic and uniform; and its friends were equally so. The proceeding was denounced, as an unauthorized act of war on Spain; as a usurpation, by the Executive, of the power vested alone in Congress, to declare war. The Constitution was said to be violated: the country menaced with all the horrors of war, both by England and Spain. The arguments used on that occasion, by the old Federal party, bear a strong resemblance to those which we have heard on the present occasion, from the friends of these resolutions. I listened, sir, with great pleasure, to a very able and eloquent speech delivered by the honorable Speaker, then a member of the Senate, in defence of this Executive measure. He received my thanks, and I have no doubt, the thanks of the nation, for the unanswerable and lucid views which he took of that subject. I hope the honorable gentleman will pardon me for the liberty which I take in reading a few sentences from that speech, to the Committee. Their application to the recent occurrences in Florida will be readily perceived, conveyed in language much superior to any which falls within the compass of my humble capacity. "I have (said he) no hesitation in saying, that, if a parent country either cannot, or will not, maintain her authority over a colony adjacent to us; and if misrule and disorder prevails there, dangerous to the Union; or menacing the peace of our frontier; or unfavorable to the execution of our laws; we have a right, on the eternal principles of self-preservation, to lay hold of it. This principle, alone, independent of any title, would justify the occupation of Florida." Sir, if the eternal principle of self-preservation alone would justify the occupation of that part of Florida, without any title, to guard against a contingent danger, will it not apply with more than equal weight, to a case of actual existing danger, when the frontier is deluged in the blood of helpless age and infancy? If misrule and disorder prevailed in that portion of the province, at the time we took possession of it, the same remark was applicable to Pensacola and its dependencies when that place was surrendered to the American forces. We were then at war with no Indian tribe who gained admission into the territory. We apprehended no immediate invasion from any quarter; and I ask the honorable gentleman, if that measure was justifiable on



H. or R.

Seminole War.

FEBRUARY, 1819.

the reasonable probability of approaching hostilities, can he condemn General Jackson for a similar precaution, surrounded as he was by a combination of Indians and negroes, prepared to renew their deeds of cruelty and blood whenever the army under his command should retire within the limits of the United States?

Let me not be told, that we had a fair title to the country under the purchase of Louisiana; for, so far as it related to the national feelings of Spain, and to the commitment of our own peace, it was sufficient that Spain was in the actual possession of the soil, and claimed a paramount right to the sovereignty over it. We forcibly wrested it out of her possession, and extended our laws, both general and local, to its inhabitants, by proclamation; and I am at a loss to distinguish that act from the military occupation of another district in Florida, on the same great principle of self-preservation. I accord my approbation to both measures, alike in their character and in their effects, and leave the honorable Speaker to show, if he can, in what consist the shades of difference which will authorize us to justify the one, and censure the other. On various other occasions we have marched troops into Florida, and fought battles there, without exciting the smallest sensation in this House, on the score of a usurpation of its powers by the Executive. In 1812, Colonel Smith, at the head of a rifle regiment, was posted before St. Augustine; a detachment from his command was attacked and defeated by the Indians and negroes from the Spanish fort; he declared his intention of storming the place, but his troops were enfeebled by disease, and he retreated to the State of Georgia. A regiment of volunteers, commanded by Colonel Williams, of Tennessee, likewise carried their military operations into that country. The Georgia militia have frequently been ordered there, in pursuit of hostile Indians. In 1814, General Jackson fought a battle in Pensacola, and dislodged the British force in the Barantas, who blew up the fortress on retiring into their vessels. Since that period, the negro fort, so often mentioned on the Appalachicola, was attacked and destroyed by a combined land and naval force. All these events have passed in review before us, and never until now were they considered either war on Spain, or a violation of the Constitution. But, sir, everything heretofore held sacred, both in principle and practice, must bend to this unprecedented scheme of passing censure on General Jackson, who has been modestly compared to Alvear, Cortes, Pizarro, and Hyder Aly, by an honorable gentleman from New York (Mr. STORRS,) and at the same time the gentleman assured us of the very high respect in which he held the character and services of that distinguished hero! Sir, there are some men too high in the estimation of their fellow-citizens, to be permitted quietly to enjoy the distinction conferred on them by a grateful country. Had General Jackson been less useful to the nation, he might have escaped the mortification of the denunciations uttered against him on this floor.

Mr. P. continued. Sir, said he, I have been mortified and disgusted at the sickly agonies and sympathetic effusions which have been so often repeated by honorable members on the subject of the trial and execution of the instigators of the Seminole war, Arbuthnot and Ambrister. Inflated appeals to our humanity and magnanimity have rung through this hall to excite our commiseration for these guilty men. They have failed to reach either my judgment or the feelings of my heart. My sympathies, thank God, are reserved for the bleeding and suffering citizens of my own country; and objects of that description, in abundance, are exhibited to our view in the narrative of events connected with the short but bloody career of these foreign incendiaries in Florida. The punishment inflicted on them was more than merited by the enormity of their crimes; the example, I trust, will be a salutary warning to British agents on the whole extent of our Indian frontier; and, if future outrages of the same kind should be practised, we owe it to the safety and honor of our country to retaliate on the offenders with the utmost rigor and severity, until the subjects of foreign nations shall be taught to dread our vengeance, if they do not respect our rights. Sir, it is not my intention to enter into a detailed argument on the various technical objections which have been resorted to by gentlemen skilled in the nicety of special pleading, to show that a count or an inuendo is wanting in the declaration, or that judgment has not been pronounced according to the forms in such case made and provided. Such trash may serve to supply the vacuum of empty declamation, but I can never consent to convert this great political theatre into a court of errors and appeals, sitting to scan the record and regulate the proceedings of inferior tribunals. My views are directed to measures in reference to their operation on the general welfare of my country, and, whenever that effect is produced, I would not retrace the step, unless the honor of the nation imperiously demanded the sacrifice. The proceedings of the special court convened by General Jackson on this occasion, have been fully and ably defended by honorable gentlemen whose profound knowledge of military science and the practical usages of war gives to their opinions and arguments the weight of authority, and supersedes the necessity of further investigation. If, indeed, errors in point of form were committed by the court, or if they misunderstood the powers vested in them by the order of the commanding General, it does not become the dignity of this House to ascribe these irregularities to General Jackson; it is to the general order we must look for a definition of the duties which the court were required to perform. They were instructed to "record the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoners, and what punishment, if any, should be inflicted." Call it, therefore, a court martial, or by whatever other name you please, these were the powers conveyed to it, and no assumed title could enlarge

FEBRUARY, 1819.

Seminole War.

H. or R.

the grant or substantially change its character. The opinion of the court was given in the form of a sentence and carried into execution, but the same result would have followed if there had been no departure from the literal import of the order. To cavil at such petty inaccuracies, where substantial justice has been done, is, I repeat it, unbecoming the dignity of the House of Representatives. That these perfidious miscreants met the fate which their conduct merited cannot be seriously doubted by any one. On the principle of reprisals it was lawful to execute them, and, as criminals of the highest grade, whose guilty hands involved a whole country in scenes of massacre and robbery, they fell just victims to the offended laws of nature and of nations. "Those who, without authority from their sovereign, exercise violence against an enemy and fall into that enemy's hands, have no right to expect the treatment due to prisoners of war; the enemy is justifiable in putting them to death as banditti." Again, "the violences committed by the subjects of one nation against those of another, without authority, are looked upon as robberies, and the perpetrators are excluded from the rights of lawful enemies;" and, also, "whosoever offends the State, injures its rights, disturbs its tranquillity, or does it a prejudice, in any manner whatever, declares himself its enemy, and exposes himself to be justly punished for it." (Vattel, 162.) Sir, can any gentleman compare these principles of national law with the evidence in the trials of Arbuthnot and Ambrister, and seriously contend that they have suffered unjustly, and contrary to law; that they have been doomed to perish under the rod of military despotism? I frankly confess it would require a stubborn determination to persevere in error, which I do not possess, to draw conclusions so inconsistent with such premises. Some gentlemen have attempted to make a distinction between the guilt of these men. Ambrister, say they, was taken in arms; he commanded the negroes and Indians; led them into battle; was identified with them, and, therefore, deserved death. Arbuthnot, we are told, was a mere merchant, a dealer in the articles which the Indians were accustomed to purchase.

I have, in the preceding part of my remarks, had occasion to advert to the objects for which this man entered Florida, and the part which he took in exciting the Indians to war. If Nicholls was an innocent dealer in "the articles which the Indians were accustomed to purchase," so was Arbuthnot; their views were the same; they held the same language to the savages, and each gave a pledge of British aid, in case war should be waged for the recovery of the lands ceded by the Treaty of Fort Jackson. He frequently assured the chiefs that he had authority to correspond with His Majesty's Minister at Washington, with Governor Cameron, of New Providence, and the Governor General of Havana, on the subject of the necessary supplies for carrying on the war; and that he was in possession of a letter from Earl Bathurst, which in-

formed him that Mr. Bagot was instructed on that subject. On the back of a letter addressed by him to that Minister, he states the aggregate force embodied among the Indians and the positions at which they were posted, and requests a supply of arms and ammunition, specified in the following memorandum:

"A quantity of gunpowder, lead, muskets, and flints, sufficient to arm 1,000 to 2,000 men.

Muskets, 1,000; more smaller pieces, if possible.

10,000 flints; a proportion for rifle, put up separate.

50 casks gunpowder; a proportion for rifle.

2,000 knives, six to nine inch blade, good quality.

1,000 tomahawks; 100 lbs. vermilion.

2,000 lbs. lead, independent of ball for musket."

This paper speaks for itself; it cannot be misunderstood; and shows, most clearly, the participation of Arbuthnot in providing the means necessary to the prosecution of the Seminole war. He was the prime minister of the hostile Indians; had a full power of attorney to make talks, and act for them in all cases whatsoever; and if Ambrister, who was but a subordinate agent, was justly sentenced to suffer death, what excuse can be offered for the man who put the whole machinery of war, massacre, and robbery, in motion? Can it be said that he had not disturbed the tranquillity of the United States? I presume it cannot, and, of course, according to the maxims of public law, to which I have referred, "he had declared himself our enemy, and exposed himself to be justly punished." It is unnecessary for me to enlarge the discussion on the right of the commanding General to retaliate on the enemy for the acts of cruelty and barbarity which were practised in the progress of this war. Honorable gentlemen, who controvert the right, have shown no instance in which it was denied, either in Europe or America; and, in support of it, we have the examples of Washington, and many other general officers, who fought in the war of the Revolution. Yes, sir, General Jackson had the right to inflict punishment on these outlaws. I rejoice that he exercised that right; and, if we do not paralyze and destroy the good effects of the act, it will contribute, in no small degree, to the future peace and security of our frontier. But the honorable Speaker has said that we have no right to practise retaliation on the Indians; that we have forbore to do so from the earliest settlement of the country, and that it has become the common law of the land, which we are bound not to violate. Sir, from what source does the gentleman derive the principle that a right, inherent in the nature of man, which he inhales with his first breath—which "grows with his growth and strengthens with his strength"—which has the fiat of God for its sanction, and is incorporated in the code of all the nations of the earth, becomes extinct with regard to those who may forbear to exercise it, from motives of policy or humanity, for any number of years? That a common law is thereby entailed on the American people, to the latest generations, by which they are required to bend beneath the tomahawk and scalping knife of the savage, and submit to every



cruelty and enormity, without the privilege of retaliating on the enemy the wrongs and injuries we have suffered by his wanton transgression of the rules of civilized warfare? We have, it is true, tolerated much of the inhuman conduct of the aborigines towards our frontier inhabitants. We have endeavored to teach them, by examples of humanity and magnanimity, the blessings and advantages of civilization; but instances are not wanting of the most severe retaliation on these monsters for their deeds of barbarity. If, however, there was not a solitary case on record, of the exercise of the right, it remains inviolate and inviolable. No community has the power to relinquish it and bind posterity in the chains of slavish non-resistance. The gentleman's common law will not do for the freemen of the United States; it is unique and absurd. Sir, if the Committee will pardon the digression, this novel idea of common law reminds me of an occurrence which is said to have happened in the early period of the settlement of the present polite and flourishing State of Kentucky: A man, in personal combat, deprived his antagonist of the sight of an eye by a practice familiar at that day, called *gouging*; the offender was prosecuted and indicted for the outrage; he employed counsel to defend him, to whom he confessed the fact. Well, sir, said the lawyer, what shall I say in your defence? Why, sir, said he, tell them it is the custom of the country! And I presume if the honorable Speaker had presided on the trial, he would have said, "Gentlemen of the jury, it is the common law of Kentucky, and you will find a verdict for the defendant." But, sir, to be serious, let me bring the case home to the honorable Speaker himself. Suppose a band of these barbarians, stimulated and excited by some British incendiary, should, at the hour of midnight, when all nature is wrapt in darkness and repose, pound the infernal yell, and enter the dwelling of that honorable gentleman, and in his presence pierce to the heart the wife of his bosom and the beloved and tender infant in her arms—objects so dear to a husband and a father—would he calmly fold his arms and say, well, 'tis hard! but it is the common law of the country, and I must submit! No, sir; his manly spirit would burn with indignant rage, and never slumber till the hand of retributive justice had avenged his wrongs.

† Mercy to him who shows it, is the rule,  
And righteous limitation of the act,  
By which Heaven moves in pardoning guilty man;  
And he that shows none, being ripe in years,  
And conscious of the outrage he commits,  
Shall seek it, and not find it, in his turn."

I have no compassion for such monsters as Arbuthnot and Ambrister; their own country is shamed to complain of their fate; the British Minister here has disavowed their conduct and abandoned their cause; and we, sir, are the residuary legatees of all the grief and sorrow felt on the face of the globe, for these two fallen murderers and robbers! For I call him a murderer who incites to murder.

Mr. Chairman, I am not the eulogist of any man; I shall not attempt the panegyric of General Jackson; but if a grateful country might be allowed to speak of his merits—

*Louisiana* would say, "You have defended our capital against the veteran troops of the enemy, by whom it would have been sacked, and our dwellings enveloped in flames over the heads of our beloved families."

*Georgia*: "You have given peace to our defenceless frontier, and chastised our ferocious savage foe, and the perfidious incendiaries and felons by whom they were excited and counselled to the perpetration of their cruel deeds. You have opened additional territory to our rich and growing population, which they may now enjoy in peace and tranquillity."

*Alabama and Mississippi*: "You have protected us in the time of our infancy, and in the moment of great national peril, against the inexorable Red Sticks and their allies; you have compelled them to relinquish the possession of our lands, and ere long we shall strengthen into full manhood, under the smiles of a beneficent Providence."

*The whole Western Country*: "You have preserved the great emporium of our vast commerce from the grasp of a powerful enemy; you have maintained for our use the free navigation of the Mississippi, at the hazard of your life, health, and fortune."

*The Nation at large*: "You have given glory and renown to the arms of your country throughout the civilized world, and have taught the tyrants of the earth the salutary lesson, that, in the defence of their soil and independence, freemen are invincible."

History will transmit these truths to generations yet unborn, and, should the propositions on your table be adopted, we, the Representatives of the people, subjoin: "Yes, most noble and valorous Captain, you have achieved all this for your country; we bow down under the weight of the obligations which we owe you, and as some small testimonial of your claim to the confidence and consideration of your fellow-citizens, we, in their name, present you the following resolutions:

"Resolved, That you, Major General Andrew Jackson, have violated the Constitution which you have sworn to support, and disobeyed the orders of your superior, the Commander-in-Chief of the Army and Navy of the United States.

"Resolved, That you, Major General Andrew Jackson, have violated the laws of your country and the sacred principles of humanity, and thereby prostrated the national character, in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister, for the trifling and unimportant crime of exciting the savages to murder the defenceless citizens of the United States.

"Accept, we pray you, sir, of these resolves; go down to your grave in sorrow, and congratulate yourself that you have not served this great Republic in vain."

Greece had her Miltiades, Rome her Bellisa-

rius, Carthage her Hannibal, and "may we, Mr. Chairman, profit by the example!" Sir, if honorable gentlemen are so extremely solicitous to record their opinions of this distinguished General, let us erect a tablet in the centre of our Capitol square: let his bust designate the purpose: thither let each man repair, and engrave the feelings of his heart. And, sir, whatever may be the opinions of others, for one I should not hesitate to say, in the language of the sage of Monticello, "*Honor and gratitude to him who has filled the measure of his country's glory!*"

Mr. FULLER, of Massachusetts, next addressed the Chair. Many members of this House, as well as others, have expressed their regret that so much time should be employed in a discussion which is not likely to produce any practical result. For my part, said Mr. F., I am well convinced that a practical result will be produced; not, perhaps, a legislative act, nor even a vote of censure or of approbation of the late campaign in Florida, but another more general and more important result will unquestionably be attained, in which the enemies of the resolutions before us, as well as their friends, will have reason to rejoice. Much light will certainly be thrown on some of the hitherto unsettled powers of our military commanders. Since the adoption of our national Constitution, various points have been settled in relation to the exercise of its civil powers; many of them are now so well defined and established as to be acquiesced in by all parties; but the military power, intrusted in part to the Executive, and to officers of his appointment, has not till recently had the same opportunity of being tested by experience, and fixed by the public voice, after being duly weighed and considered. It is our duty, therefore, to watch with vigilance the assumptions of military power, and never to acquiesce in its exercise when of a doubtful nature. All doubts should be removed by a decision in the proper form.

The gentleman from Mississippi, who has just sat down, (Mr. POINDEXTER,) denies the right of Congress to decide on the question comprehended in the several resolutions before us. He insists that we have no right to censure a military officer, because he is not appointed, and cannot be removed by us; that he is responsible to the President alone, from whom his commission emanated. He has read to us several resolutions, of which General Jackson is the subject, and the House is represented as voting a censure upon him. If the resolutions read by that gentleman were now under discussion, it would indeed be necessary to determine whether this House possesses the power to examine the conduct of the military officers of the nation, and to censure or approve as they may appear to merit. That it does possess this power, many of the advocates of General Jackson have admitted in the present debate. The power of approving has been often exercised, and the instance of General St. Clair, cited by the gentleman to prove the contrary, has no tendency to that effect. The illustrious men who are named by him as voting in the negative

on a call for papers from the Executive, did not deny the power of the House, but objected to the imperative terms of the resolution as improper.

But, sir, this is not the present question. The resolutions under discussion do not necessarily imply a censure of the commanding General. His friends contend that his conduct was warranted by his orders from the War Department; and consequently that Department, or the Executive, is alone chargeable with the acts complained of. On that subject my views differ, it is true, from those gentlemen, but it is not my intention at this moment to consider the fair construction of the orders. Much broader considerations ought here to guide us. The resolutions propose several legislative provisions; the necessity for these can only be inferred from perceiving that our army in Florida, and its commander, did several acts, which might have involved this nation in war. A legal prohibition of similar acts may hereafter prevent a war, when the weakness of our antagonist may not, as in the present instance, avert the calamity. Whether the seizure of the Spanish fortresses, therefore, originated with the Executive or with the General, the legality of the act, or the necessity of its prohibition, ought to be determined here. It is, besides, very manifest that the President, by whom the voluminous documents on the Seminole war were voluntarily communicated, as accompanying his message at the commencement of the session, believed that some use was to be made of them. He did not surely send them to be read for our amusement, by our firesides. If the use now proposed is not the object of the communication of such information, gentlemen will be so good as to mention any other, that comports with our legislative character.

In examining the mass of papers on the Seminole campaign, it is impossible not to recur to the origin of the war, and to inquire whether the inconsiderable and scattered tribes of Seminole and Creek Indians, most of them within the limits of the Floridas, were in fact the aggressors: whether our territory was actually invaded, and our troops ordered to pursue the assailants beyond our territorial boundary. In the late war with Great Britain, the Creeks, within our acknowledged limits, were excited by Nicholls, and other British emissaries, to take arms against us. General Jackson in one decisive battle put an end to this war. Eight hundred Indians are said to have fallen in this sanguinary battle. The gentleman from Virginia (Mr. SMYTH) calls our attention, with great exultation, to this exploit of his favorite chieftain. Only twenty Indians, he says, were slain in the decisive battle of General Wayne, on the Miami, and only thirty in that of Tippecanoe, in 1811. How much, then, is the military prowess of General Jackson to be admired, who killed *eight hundred!* Let gentlemen applaud this monstrous sacrifice of human life; but let me be allowed to estimate the glory of a battle by its results. General Wayne achieved for his country a lasting peace, on equitable and safe terms—a peace which has been generally observ-



H. OF R.

Seminole War.

FEBRUARY, 1819.

ed on both sides to the present hour. Has the great Creek victory been equally beneficial to our country? On the 9th of August, 1814, General Jackson dictated to the surviving Creeks, or at least as many as would submit to his terms, "articles of capitulation," by which he demands of the prostrate warriors, as an indemnity for the expenses of the war, fifteen millions of acres of land, worth at least, at the present legal price, thirty millions of dollars, but in fact worth double that sum.

One gentleman, no doubt to shew us the value of General Jackson's services, says, that this territory was the only acquisition made by us in the war with Great Britain, except renown. I am glad to hear the exception, and shall ever deem the high reputation of our military and naval heroes of far more actual value to the nation, than any quantity of territory extorted from the Indian natives. But was it right, sir, under the name of indemnity, to compel the cession of a quantity of land, amounting to ten times or twenty times the expense for which it was demanded? The land would not only pay for the Creek war, but, at a moderate estimate, would pay half the expense of the war with Great Britain. With potent England we make peace without any indemnity but "renown," but we compel the ignorant fugitives of the forest, who were enticed into the war by her, and who have nothing but their wilds and their huts, to cede us fifteen millions of acres. From these wide domains, those tribes which had before traversed them for a livelihood were compelled to retire. Destitute of homes, and of the hunting grounds where before they had gained a subsistence, the Red Sticks and other Creeks, not parties to the "capitulation" of Fort Jackson, are driven into exile, and branded as outlaws, and are only saved from total destruction by their neighbors in Florida, the Seminoles. The cession of land contained in this capitulation, since dignified by the name of treaty, was obtained by duress—by military coercion. The Executive and Senate evidently had great doubts concerning it. Congress convened on the 19th September, 1814, and no doubt this instrument was laid before the Senate, as was the duty of the President, without delay; yet almost five months elapsed without any ratification. We are left to infer the cause of the delay, and, for the honor of the treaty-making power, I will not doubt that the exorbitant terms of the instrument itself, so unjustly dictated to a feeble and prostrate enemy, were considered as incompatible with the honor and equity of a great and just nation. On the 15th of February, 1815, the Treaty of Ghent was received at Washington. By the ninth article of that treaty, all the Indians who should remain at war with either party, at the time of the ratification, were to receive all the lands which belonged to them in 1811. The Creek Treaty then came once more under consideration. If they ratified it, they seemed to sanction the unjust acquisition of territory; if they rejected it, the lands must be unconditionally restored, and a popular clamor might

be raised by speculators and others, who considered the land as their prey. They determined to ratify the Treaty of Fort Jackson, which was done on the 16th February, and on the next day the Treaty of Ghent was ratified. Considering the responsibility of the Government, and the delicacy of their situation at that time, the ratification cannot be censured, because the Creeks could still look to Congress for redress, and to that source it would have been most prudent for them to have resorted. If they had, I cannot doubt that they would have had an impartial hearing, and that justice would have been done. It appears, however, that those who had fled into Florida, and were still supplied and encouraged by Nicholls, were only taught to expect redress from the Treaty of Ghent. Perhaps there is reason to believe that the British Commissioners at Ghent intended and expected to include the Creeks in the provision of the ninth article; as Jackson's capitulation, if known at all in Europe, must also have been considered of no validity, being unratified. If so, can the exiled Red Sticks, or even their British advisers, be severely censured for persisting in claiming a restoration of their lands under this treaty? Hence we trace one great cause of the Seminole war.

Another train of facts demands our attention. Nicholls, during the war with Great Britain, had erected a fort on the Appalachicola river, within the limits of Florida. After the peace he supplied the exiled Red Sticks and other Creeks, together with the fugitive negroes, with a liberal amount of ammunition and cannon. He delivered this fort, thus supplied, into their possession, and taught them to consider it as their refuge and protection. Whatever right the Spanish authorities might have to dismantle or destroy this fort, it is manifest that we had no such right. We remonstrated; indeed, with the Governor of Pensacola, and he declared it was erected without his consent, and in violation of the jurisdiction of His Catholic Majesty. This remonstrance, however, could only have related to its erection during the war with Great Britain, and after the termination of that war it was no more a subject of just complaint on our part, than Pensacola itself, or any other fortress in the Spanish territory. Our military commander in that quarter, however, as early as April or May, 1816, seems to have meditated its destruction. Fort Scott is hastily erected, at the junction of the Chatahochee and Flint rivers, just within our own boundary; and a naval force from New Orleans ordered to ascend the Appalachicola river, to pass by the Indian fort beforementioned, and to meet a military detachment under Colonel Clinch, which was to march to Fort Scott, and to destroy the Indian fort if it opposed the passage of the river. The gunboats from New Orleans, under Sailing-master Loomis, accordingly ascended the Appalachicola without asking permission from Spain or from the Indian fort, or giving any notice whatever of their designs, whether pacific or hostile. Nothing is more clear than that we had no right to ascend or navigate the Appalachicola

FEBRUARY, 1819.

Seminole War.

H. OF R.

river, where the territory on both sides belongs to another nation, without its consent. The right to navigate all rivers, bays, and inland seas, belongs only to the nation whose territories encompass them. Some gentlemen have taken great pains to reconcile the conflicting sovereignties of the Indian tribes, and that of the nations within whose nominal jurisdiction they are situated. In the present case it is immaterial whether the sovereignty of the river belonged to Spain, or to the Seminoles who inhabited its borders. It did not belong to the United States. If a mere unarmed or American boat or vessel had passed up the river, it could have been no cause of war on the part of the Indians, even though no leave had been asked. It would in that case have been a mere trespass. But no one can pretend that the garrison in the fort, and the Indian towns, and the exiles depending on it for protection, had not good reason to consider the simultaneous approach of these two armaments as hostile to themselves. They did so consider it, and one of the watering parties from the gunboats was fired on, three men were killed, and one was taken prisoner, and most cruelly put to death, according to the savage mode of warfare. Shortly after, the detachment by land and the gunboats approached the Indian fort, with the evident intention to attack it. They are fired on, and in return they attack and blow up the fort. Of three hundred persons, including women and children, two hundred and seventy perished in this terrible explosion, and most of the others are mortally wounded. Terrible revenge! If we had been the aggrieved party instead of being manifestly the aggressors, surely this awful sacrifice would have been sufficient to atone for our four seamen slain. Not so thought the man who commanded the expedition. Of the three wretches who had miraculously escaped the explosion, he delivered two over to instant butchery. Who can read this deed of cruelty without shame and horror? The savages themselves would scarce have done the savage deed. The most hardened chief of them all would have relented. This was in July, 1816.

Notwithstanding this invasion of the Indian territory, and destruction of their only strong hold, we hear of no considerable Indian irruption into our territory for more than a year. Several predatory incursions, and one or two murders, were committed within our frontiers; and, on the other hand, the Indians complained that a party of Americans had murdered several Indians, and driven off many of their cattle. Our worthy Indian agent, Governor Mitchell, was diligently exerting himself to give and obtain satisfaction, and had actually convened the chiefs of the Indian towns, with a fair prospect of having peace and harmony restored by mutual justice; when, on the 20th of November, 1817, a party, under Major Twiggs, surprised the Indian village of Fowltown, killed four or five men and one woman, drove all the inhabitants from their houses, and destroyed the village. The atrocity of this deed deserves our utmost indignation, especially when we are informed by Governor Mitchell

himself, in his letter of the 14th December, communicated with the President's Message of the 25th of March last, that the Indians of Fowltown were inclined to be friendly, and had offered to unite with the other friendly tribes. Ten days after this most infamous transaction, on the 30th of November, 1817, the boat sent by Major Muhlenburg, under Lieutenant Scott, with forty persons, including sick, and women, and children, was attacked, and all on board were killed but six. The fate of these hapless and innocent persons is truly lamentable—it was the inevitable consequence of the recent massacre and pillage of Fowltown.

Let us pause a moment, and retrace the facts. Is it not manifest that we have been the aggressors in this war—very much the aggressors? That the Indians have been assailed, and, even when assailed, have fallen short of their invaders in acts of savage cruelty? That all the petty depredations and murders, except these which have now been more particularly detailed, would easily but for these, have been adjusted by our agent, and reciprocal justice rendered?

Another consideration of no small moment here presents itself. We have called loudly on Spain for the fulfilment of her treaty stipulation, to restrain the Indians within her limits from engaging in hostilities against us. This however can only mean *offensive* hostilities. It can never be pretended that Spain is bound by treaty to disarm the Indians in Florida, and preclude them from the common privilege of all nations and all beings—the right of defending themselves when attacked—much less can Spain in such a war be obliged to join the assailants in the sanguinary work of Indian extermination.

The attack and destruction of Scott's party, and the perilous situation of Major Muhlenburg, excited universal apprehension for the safety of the latter. Few were informed of the origin of the Indian hostility; few made inquiry, or, if they did, could obtain any satisfactory answer. It is but candid to presume, that the Government was very imperfectly apprized of the true state of the late most wanton destruction of the Indian village, or of the friendly or neutral disposition of its suffering inhabitants. Unconnected with this previous provocation, the destruction of Scott's party must have been deemed the signal for decisive measures. Accordingly, General Jackson, commanding the division of the South, was summoned to the field, and invested with the supreme command. The letter from the Department of War, dated the 25th December, 1817, is cited by the advocates of his subsequent measures, as containing unlimited power to manage the war at his discretion. He accordingly ordered out the militia of Tennessee, to meet those of Georgia and the regular forces; repaired himself to the theatre of action; took the necessary measures to provide supplies; and by the latter part of March he was prepared, with a powerful force, to enter Florida. Nothing could resist his march. The Indians fled before him; their villages, the Mickasukian towns, were



H. OF R.

Seminole War.

FEBRUARY, 1819.

ravaged and destroyed, and their population dispersed through the swamps and morasses to perish with hunger, unless they were so fortunate as to find a speedier death under the tomahawk of General McIntosh and his friendly Indians.

From these scenes of devastation our army marched rapidly on St. Marks, a Spanish fortress; and General Jackson was informed that the Indians had frequently resorted there; had been protected; furnished with ammunition; and their consultations held with the knowledge of the commandant, who had confessed his fears that the Indians would take advantage of his weakness, and occupy the post in defiance of his authority. He therefore demanded the surrender of the post to himself. The commander denied most of the allegations against him, and utterly refused to surrender. Our General therefore with very little delay, entered the fort "by violence," lowered the Spanish ensign, and erected ours in its place. Previous to this however Suwanee, another Indian village on the river of that name, had been plundered and burnt in the same manner with those of Mickasuky, and their fields desolated. Arbuthnot, an English trader, was captured in the family and under the protection of the Spanish commandant; and Ambrister, an English lieutenant of marines in or near Suwanee, where he had led a body of negroes and Indians. The General now appeared to think the war at an end, and professed to intend shortly to return to Nashville. Early in May however he was informed that from four to five hundred Indians were in Pensacola or its neighborhood. He immediately despatched a detachment under Major Young, to whom after some explanations eighty-seven Indians, including women and children, were surrendered to be escorted to a safe distance. Not satisfied with this humiliating concession, and the assurances of the Governor of Pensacola that no Indians were or had been harbored there, except such as had long been and then were employed in furnishing wood and other supplies to the garrison and inhabitants, General Jackson resolutely demands the surrender of the town and the fortress of St. Carlos de Barancas. This demand was peremptorily refused by the Governor, who protested against the occupation of Florida by our army, and threatened, if General Jackson persisted, to repel force by force. This threat was disregarded; our army shortly after entered the city, and prepared to attack the fort, which was at last surrendered by capitulation, and the Governor and garrison sent out of the province. The execution of the two Indian chiefs who had been decoyed into our power, and the trial by court martial and execution of Arbuthnot and Ambrister, had taken place several weeks previous to the seizure of Pensacola.

This concise narrative of the prominent events of the campaign was necessary, before considering the points in controversy. Let us now advance from the origin of the war to its progress and conduct under General Jackson. It is proper to remark here, that he was not authorized by a

strict adherence to his orders, including those previously given to General Gaines, to enter the Spanish or Indian territory. By the letter of the Secretary of War of the 9th of December, 1817, General Gaines was ordered to enter Florida, only if the Indians persevered in committing hostilities "within the limits of the United States." No such hostilities were committed. Even the attack on Scott's party, provoked, as has been stated, by the previous destruction of Fowltown, was within the boundary of Florida. By the letter of the Secretary, dated the 16th December, General Gaines is authorized to march across the Florida line, should the Indians still refuse reparation for depredations "on our citizens; and to attack them, unless sheltered under a Spanish fort," and in the last event to notify the War Department. The documents sent us give us no information what depredations are intended by this expression in the letter, nor does it appear that any reparation was demanded of the Indians or refused by them; unless the efforts of our Indian agent for mutual reparation is referred to, which we have already mentioned, and which were in a fair train, till the wanton attack on their town put an end to pacific overtures. Where, then, is found the authority of General Jackson to march into Florida? His advocates find it in the unlimited power, conferred on him by the letter of the Secretary of the 26th of December, before mentioned. Suppose, then, the order was broad enough to warrant him in marching to Florida, and attacking the Indians, without regarding the conditions to which General Jackson had been restricted; in other words, without the necessity of pursuing invaders or punishing depredation. This is conceding much to a liberal construction of the General's military powers.

But it now becomes necessary to inquire into the validity of the ground assumed for the seizure of the Spanish posts. The gentleman from Pennsylvania (Mr. HOPKINSON) has drawn a very nice and attenuated distinction between the capture of St. Marks and that of Pensacola. He thinks the former may be justified on the ground of necessity, while he admits that no sufficient justification is shown for the occupation of the latter. It requires great confidence in the rectitude of my principles to encourage me in differing from that gentleman. In the present case, I hope such a disagreement will be pardoned. He denies the validity of all General Jackson's reasons for seizing St. Marks, except the imminent danger of its falling into the hands of the Indians, and of its guns and bulwarks being thus employed against our army. Suppose, says he, two combatants see a man approaching them with a drawn sword—either of them has a right to seize it by force, if he perceives that his antagonist is about to do so. The trespass on this stranger by forcibly taking the sword, is justified by extreme necessity, as his life must be sacrificed if his antagonist should obtain possession of it. This example shows that only extreme necessity ought to be alleged to excuse the trespass; but, when it is compared with the case of St. Marks, the

FEBRUARY, 1819.

Seminole War.

H. OF R.

analogy wholly fails. Two circumstances must concur to justify the seizure, on the ground of necessity—a moral certainty that the enemy would seize the fort, in case we did not; and an equal certainty, that in the enemy's possession it would be fatal or extremely injurious to us. In both these points, the gentleman's case is a fair illustration of his argument; but in neither of them does the occupation of St. Marks coincide. The Indians were, indeed, admitted freely into the place, and even supplied with ammunition occasionally, in the same manner, for aught which appears, and as is alleged by the commandant, as had been customary in time of peace; but there is no indication of any intention on their part to seize the guns and turn out the garrison, notwithstanding the commandant had expressed some fears of that sort long before. But, on the other hand, will it be asserted that such a seizure by such an enemy could have been fatal, or even a serious annoyance to our army? In the possession of a Spanish garrison, who well understood the management of its defences, it was taken, and taken "by violence," almost as soon as summoned. If, therefore, the untamed savages had actually obtained exclusive possession, it would not have delayed the march of our army a single day, scarcely an hour, in its reduction. Where, then, is the extreme necessity, on which the gentleman has thought proper to justify the unwarrantable aggression on a neutral nation?

The capture of Pensacola and the Barancas, and the expulsion of the Governor and His Catholic Majesty's garrison, are placed on a basis still more tottering and untenable. The harboring, and even supplying the Indians, cannot, with any shadow of sound argument, be alleged as a pretext for immediate attack on our part. If all which was asserted by our commander, and much more, were admitted to be true, for the sake of the argument, though it is in a great measure denied or explained by Don Masot, it ought to have been reported by the General to the War Department, agreeably to the tenor of General Gaines's orders. The Executive could then have decided what course comporting with the alleged necessity of seizure, as well as with our relations with Spain, and, above all, with its own Constitutional powers. Since necessity and self-defence are the alleged ground of seizure, let us see how far "defence," or any other useful purpose, has been effected by it. No Indians were captured in Pensacola or the Barancas, the aged Alabama chief only excepted; none were killed or destroyed in consequence of the occupation of those places. The four or five hundred, mentioned in the General's letter, made their escape, and cannot be the less hostile, by seeing Pensacola in possession of the American forces. Their expulsion from the place had been completely effected by Major Young, to whom all that remained had been surrendered. What advantage, then, was gained in the war by capturing the place? None, certainly. To say that a measure was dictated by the necessity of self-defence, when so far from being necessary, it was not even useful, or in any re-

spect conducive to the end, is palpably absurd. So sensible are the advocates of the measure of this, that a gentleman from Virginia (Mr. H. NELSON) had declared, that if he would withhold his thanks from General Jackson, it should be, because he had not also occupied St. Augustine! And this, sir, on the principles assumed by the General and his friends, is a just view of his conduct; if the seizure of St. Marks and Pensacola were necessary, that of St. Augustine was at least equally so. By leaving the strongest Spanish fortress untouched, all advantage was lost, which would have resulted from taking the other posts. The Indians escaped, and, if protected by the Spanish authorities, they still have shelter under a strong post occupied by their friends. All this reasoning, however, goes to prove merely that no advantage was gained, and that anything like necessity was altogether out of the question. But the gentleman last mentioned has found in his learned researches in the pages of Grotius and Puffendorf, a very ingenious escape from the difficulty under which his hero labors, in a definition of the term, necessity. Besides the ordinary meaning of the word, he finds that there is also mentioned a necessity of safety and a necessity of convenience. There was, indeed, an "extreme necessity" for the advocates of the General to make this most convenient discovery. In this sense the "necessity," so often resorted to as an excuse for outrage and injustice, will always be the most convenient talisman imaginable. No possible violation of the Constitution, no violence, no crime, will ever want a justification. To state the gentleman's argument fairly, however, he thinks the "necessity of safety" is the ground to be assumed in General Jackson's vindication in the present case. It is easy to show that this phrase is as flexible in its application as the necessity of convenience. What is safety? While Indians exist, while Spain holds fortresses on this continent, we can never be properly safe. Spain must be dispossessed, the savages exterminated from the Atlantic to the Mississippi, to the Stony Mountains, to Columbia river, from the Isthmus of Darien to the Yellow Stone river, and the northern extreme of the polar region. The necessity of safety, therefore, will vie the necessity of convenience in affording a broad canopy for the shelter of every assailant of liberty, or of the rights of peaceful nations on our frontiers.

Let us examine, however, the grounds on which the General himself has thought proper to justify the captures. "The immutable principle of self-defence" is again and again resorted to; in his letters to the Governor and commander of the fortresses; in his official letters to the Department of War; in the general orders to the army. The immutable principle of self-defence! A powerful army pursuing a fugitive race of half armed and unresisting savages; not once encountered by those timid foes, whose half-starved families were unable even to escape by the most precipitate flight. Such an army seizes the posts and garrisons of a nation with whom we are at peace, to enable itself to make a "defence"



H. OF R.

Seminole War.

FEBRUARY, 1819.

against such an enemy or phantom of an enemy. Oh, strange perversion of language! Never let us listen to such a subterfuge. Far better is it to speak out and exhibit to the world the true reasons, which in those same documents sufficiently appear. Whilst the miserable subterfuge of self-defence is so often repeated, we see by its side the real motives, by which the commander was evidently actuated in the whole campaign. In his letter to the Secretary of the 5th of May, 1818, the General states, that while Spain has not the power or will to preserve her Indians at peace with us, "no security can be given to our southern frontier without occupying a cordon of posts along the seashore." This must mean Pensacola, St. Marks, St. Augustine, and any other convenient places for forts. In his letter of the 8th of April preceding, besides the other reasons, he says, "St. Marks was necessary as a depot to insure success to my operations; these considerations determined me to occupy it with an American force." After the occupation of Pensacola and the expulsion of the Spanish garrison, he seems much gratified with the acquisitions he has made, and speaks of them as conquered territory. In his letter to the Secretary of the 2d of June, 1818, he says, "the articles," between himself and the Spanish Governor, "with but one condition, amount to a complete cession to the United States of that portion of the Floridas hitherto under the government of Don Jose Masot." Afterwards, in the same letter, he states that Captain Gadsden is instructed to report, among other things, "what new works should be erected to give permanent security to this important territorial addition to our Republic." Such open avowals lead us unavoidably to the conclusion, that the object of the General was conquest, and conquest alone; that he merely sought pretexts for acts of hostility in allegations of unfriendly acts or weakness on the part of the Spanish commanders.

Sir, I have perfect confidence in the integrity and magnanimous principles of the Executive and his Constitutional counsellors. I do not believe that any orders were given to the General, except those which are disclosed to Congress and to the world—no others are mentioned or hinted at by himself, or by those who undertake his defence. To my mind this is perfectly satisfactory. But, sir, let us remember that the eyes of European nations are upon all our measures. Republican America must expect a strict scrutiny of her policy and her principles; she ought to be prepared for such a scrutiny; she ought to invite it. To pass this ordeal with honor to our Republican character, for the sake of general freedom, and to disappoint the calumniators of Republics, should be pre-eminently the object of our enlightened Government. In this view I cannot but think the Seminole campaign, and especially the seizure of the Spanish posts, as peculiarly unfortunate. Acquitting, as I do, our Government from all participation in the occupation of those posts, I cannot expect foreign nations will view it with the same eye. They are well apprized

of our constant efforts for years past to acquire the Floridas. We have not attempted to conceal them. Our negotiations with Spain have been made public from time to time, and our construction of the treaty, by which Louisiana was ceded, our consequent occupation of a great part of West Florida, our recent seizure of Amelia Island, on its coast, and many other circumstances connected with this territory, have all been attentively watched by European sovereigns. They have seen in them, or have affected to see, no faint imitation of the ambitious and unprincipled cupidity, which characterizes the policy of monarchical Governments. They have scarcely abstained from reproach, though our diplomatists have most ably vindicated our principles in those measures. But now, when we have seized the remainder of West and East Florida, with the single exception of St. Augustine, with no other justification than such miserable pretexts as have been adverted to, what diplomatic skill, what eloquence, can interpose its brazen shield, and repel the bitter taunts and indignant reproaches of all the civilized world? Under such a load of contumely the proudest Republican must have sunk with shame. Mr. Chairman, I rejoice to say that our Executive was not insensible to the situation of our country's honor, to the imperative claim of principle, and the insignificance of any acquisition of territory, compared with national character. The places were ordered to be restored, and the restoration is a disavowal of the acts of the General in their seizure. As far as our national character is concerned, let us hope that the disavowal and restoration will be deemed a sufficient ablution from the stain of injustice. I am well aware, that it has been attempted to involve the Executive in the odium, and it is not without great satisfaction I am able to declare that I think the attempt has been unsuccessful. If it were otherwise, however, I trust I should not shrink from my duty, or labor to palliate a series of aggression on a neighboring nation, which the impartial world could not but condemn.

Those who would identify the Executive with General Jackson, in the censurable acts of the campaign, in their anxiety to prove their case are scarcely discreet in some of their arguments. They begin with the letter of the Secretary of War of the 26th December, 1817, to the General, in which he is first ordered to take the field. They find unlimited power conveyed to him in the closing sentence—"With this view, you may be prepared to concentrate your force, and to adopt the necessary measures to terminate a conflict which it has ever been the desire of the President, from considerations of humanity to avoid." &c. "The necessary measures," are, by these reasoners, interpreted to mean all or any measures, at the General's discretion, which might have a tendency to terminate the war. An honorable gentleman from New York (Mr. TALLMADGE) attributed the broad terms of this order to the news then recently received at Washington, of the destruction of Lieutenant Scott's party by the Indians; but could an attack by

FEBRUARY, 1819.

Seminole War.

H. OF R.

the Indians be any reason for issuing an order to the General, which could authorize him to attack a Spanish fort? Nothing can be more groundless. From the whole letter it is evident that the Secretary has in view a war with the Indians only; they alone are mentioned, and the orders to General Gaines to penetrate to the Seminole towns, through Florida, immediately precedes the expression above cited. The war with the Indians being, then, the subject matter, it must be straining a point very hard indeed to wrest the expression to any other meaning, than to take such warlike measures against the Indians themselves, as would most effectually subdue them. But, in truth, the Secretary never intended by this expression, after having given General Jackson particular orders, by referring to those already given to General Gaines, and which were copied for his use, to give any additional power whatever. It was merely saying—"You have your particular orders, march into Florida, attack the Indians; if they take shelter under a Spanish fortress abstain from attack, and inform the Executive—concentrate your force, and with these limitations finish the war as speedily as possible." This interpretation conclusively appears to be that of the Executive himself, in his Message to Congress of the 25th of March last. The President there assures Congress that orders "were issued to the General in command not to enter Florida unless it be in pursuit of an enemy, and in that case to respect the Spanish authority, wherever it is maintained." This being three months subsequent to the unlimited order so much relied on, of the 26th of December, sufficiently shows that the unbounded sense contended for was never once suspected by him to be couched under the expression in the letter, and it shows, further, that it was not intended to authorize our army to enter Florida, except in "pursuit of the enemy;" a contingency that never happened.

But, say the gentlemen, whatever may have been the orders to General Jackson, the Executive has assumed that responsibility, by approving his conduct. To prove their position, they direct our attention to the President's Message, at the commencement of the present session, and with still more exultation to the letter of the Secretary of State to our Minister at Madrid, dated the 28th of November last, which has appeared in the newspapers. From the former, however, I apprehend it would be difficult to glean anything like approbation of the acts in question. The language of the President is very guarded, when he touches on the subject, and the most favorable expression to the General's occupation of the posts is merely hypothetical, and seems rather intended to prevent a premature impression against him: that Congress might consider and determine the important question between unauthorized military assumption on the one hand, and the Constitution and laws of the country on the other, with minds unbiassed by Executive influence. The great services of the individual concerned, in the former war, en-

titled him to the utmost indulgence on the part of the Government; and there is no appearance that the same consideration will not have its full weight in the decision of this House. The Secretary's letter would seem, indeed, at first sight, to intend not only a justification of the hostile acts committed against Spain, but an eulogy on the General no less than on the Government, for their magnanimity in forbearing so long. It is indeed an eloquent appeal to the Spanish Government and to the world, on the subjects of difference between the two nations. But it ought to be considered, that it is addressed to the Spanish Government, not to our own country; and it was proper, as an advocate representing this country, to enumerate the catalogue of grievances and provocations on the part of Spain, which led to the occupation of their provinces, and to place them in their strongest light. Though these might not, on a cool examination, amount to a complete justification for us as a nation, they may approach so near it as to authorize the rhetorical license of the vindicator of his country, in considering them as such. In adjusting a long train of mutual grievances, it is right to show that Spain can be entitled, after the prompt restoration of the posts, to only nominal damages for their seizure. If Spain insists that the seizure is not justified, and requires indemnity for her wounded dignity, as well as actual damage, the reply is, that the prompt disavowal and restitution sufficiently heals the former, and the latter ought fairly to be set off against the irregularities of the Spanish governors and commandants, which led to the aggression. But, sir, this leaves the charge against General Jackson for his violation of his orders and of the Constitution of his country, by assuming the war-making power, altogether untouched. With this controversy Spain has no concern, and the Secretary can by no means be understood to have expressed any opinion respecting it, in this letter. It would have been altogether irrelevant and extra-judicial. Not a word or syllable in the letter has any bearing on these points. These, however, are the points exclusively submitted by the resolutions before us; and these are to be decided between General Jackson and his country. Our differences with Spain, the proper and only object of the letter for the instruction of our Minister, are not, and cannot, be submitted to Congress, until the Executive shall have laid the subject before us in the form of a ratified treaty, or to enable us to determine on hostile measures, for the purpose of redress. Let it not be attempted, therefor, to screen the military officer under the cloak of the Executive. As his hostile aggressions against Spain were not authorized by his orders, so they have never been adopted and assumed by the Executive; and if they had been so assumed, it would merely transfer a portion of the responsibility, without diminishing the injury and affront to our violated Constitution.

The Military Committee have only disapproved the trial and execution of Arbuthnot and Ambrister, and have not animadverted on the



H. OF R.

Seminole War.

FEBRUARY, 1819.

execution without trial, without necessity, and almost without pretext, of the unfortunate Indian chiefs Hemathlemico and Francis, or Hillis Hajo. It is my intention, before the question is taken, to move an amendment of the resolution, by the insertion of a disapprobation of their execution likewise. I am here constrained to dissent from the opinion of the gentleman from Pennsylvania, (Mr. Hopkinson,) and from one or two others, who have endeavored to show that the strict right, by the laws of war, existed in the commander, to put those savages to death, although they reprehend the exercise of the right, in the most pointed language. Sir, I deny the right altogether, and I think it susceptible of demonstration, that it does not exist in the circumstance supposed.

The "unmodified law of war," says the gentleman, authorizes the destruction of all enemies, and the relaxation in favor of prisoners is merely by compact among civilized nations. But, he inquires, have the Indian tribes in any way become entitled to the benefit of this compact, which they have never adopted? And he concludes they have not become so, either by adoption on their part, or by general usage of civilized nations in their favor, when at war with them. (But these premises, Mr. Chairman, are inadmissible in themselves, and the inference must, therefore, be equally so. Admitting the right of an injured nation, whether civilized or savage, to seek redress by war, the injury and suffering to be inflicted on the enemy cannot be lawfully extended further than is conducive to the object of the war. The object is to conquer the enemy, and compel him to do justice. The usages of savage nations, to murder all prisoners, even women and children, seem to have led to the erroneous opinion that indiscriminate slaughter is the unmodified state of war, by right. But the rightful laws of war are immutable; they are the same between the most ferocious as between the most humane nations. In all cases the evils of war must be limited to a reasonable probability of effecting the purpose for which war was commenced. The lawfulness of war itself, in the nature of self-defence, for redress of injuries, cannot well be doubted; but that its desolation and carnage ought not to be strictly limited to the attainment of the objects, is a doctrine which would legalize wanton cruelty and useless bloodshed. The murder of women and children—of decrepit old men—of unarmed peasantry, and of prisoners who surrender their arms, and can be prevented from further opposition by imprisonment, is evidently unnecessary, as in no degree tending to overcome the enemy; and is, therefore, exploded by civilized nations as an intolerable barbarity. To prove, therefore, that the Indian chiefs ought not to have suffered death, it is immaterial whether the savage tribes have become parties to any compact relaxing the severity of war, or not; a nation at war with them is bound, by the paramount laws of immutable right, to inflict no useless cruelty. It is easy to show that no advantage could be obtained by

cruelty in the present case. The Indians fear not death: when taken prisoners they are armed against its terrors. Their friends and countrymen never attempt to save them by exchange, but consider them as already dead. To kill them can have no tendency to intimidate or restrain their countrymen from barbarity to those who fall into their hands. It is more like to exasperate, and to increase the torments of their victims. For this reason even retaliation on savages is wanton cruelty—for retaliation in war falls not on the offender, but on those who had no participation in the wrong. The innocent man in our power must suffer to deter our enemy from the repetition of his enormities. If the principle advanced by the gentleman is correct; if unmodified war authorizes the unlimited destruction of the enemy, General Jackson would have been within the pale of strict right even if he had put to death all the women and children who fell into his hands, amounting to several hundred. It is not to be admitted, for a moment, that such useless slaughter can be sanctioned by the broadest construction of any code of warfare; nor will I believe that gentlemen would have contended, in behalf of the General, even for the strict right, had he committed such a barbarity. They would have shrunk with horror from such atrocity; and I will do the General himself the justice to believe that he would have repelled the suggestion with indignation. On this ground, then, the execution of the chiefs cannot be supported. No other reason can be offered, of a sounder character; and, when it is remembered that one of them, at the entreaty of his daughter, spared from death the Georgian soldier, and restored him to his friends, it is impossible to restrain our pity for his unmerited fate, and our strong reprehension of the doom awarded him. Hitherto, however, we have proceeded on the ground that the Indians never spare their prisoners; but it is universally known that they take many captives, who are kindly treated, and who afterwards return to their homes in safety. The wars between the early settlers and the natives in the Eastern States, are, in many cases, detailed with great minuteness by the writers of those times; and it appears that the savages often surprised considerable settlements, and, after the violence of the first assault had ceased, whole families of women and children were taken into captivity, and, after the termination of the war, were restored to their friends. Nor was it usual to execute savages taken by the colonists, as the gentleman from Pennsylvania supposes, except for imputed treachery, and sometimes for extreme barbarity. No plausible inducement for this act of severity can therefore be found in any view which can be suggested. Retaliation, punishment, and strict right, are equally untenable.

Permit me here, Mr. Chairman, to express the strong sensations of regret and sorrow, with which every American bosom must be penetrated, when it is seen that our commanders incline to exercise the extreme rights of war, instead of leaning to the side of mercy. We all remember the mode-

FEBRUARY, 1819.

Seminole War.

H. OF R.

ration and clemency exhibited by our heroic naval officers and seamen, in the late conflict with Great Britain. Our enemy was justly chargeable, in very many instances, with extreme severity and wanton cruelty. The brave tars captured in our private armed ships, and sometimes in our national vessels, were purposely exposed, to perish by hunger and cold, in the rigors of Winter, on board their captors. It seemed to be a part of the naval system of that nation, which boasts so loudly of her empire on the ocean, to break the spirits of our seamen, and to crush our rising prowess by unheard of barbarity to their prisoners. The hundreds or thousands who perished under this horrid treatment can never be fully exhibited to their country's eye; but the names of the sufferers, and the fiend-like enormities of their murderers, are registered in heaven. Retaliation might have been resorted to by the laws of war; but the sufferings of the innocent, who would perish for the guilty, and the doubtful benefits of the retaliatory system, where particular acts of atrocity could not easily have been substantiated, prevented the adoption of such a course. Our naval character was beginning to attract the attention of Europe, and it would have been unfortunate to have drawn in question the humanity more than the prowess of our arms. The moderation in victory; the humanity to the conquered; the sympathy for the victims of the conflict, displayed in every situation by our commanders and seamen, are, in my judgment, a prouder pledge of our national glory than all their victories. These are beheld and pointed out by foreign nations as tokens of future triumph—as emblems of republican virtue—infallible omens of speedy ascendancy over the naval tyranny of our enemy. It well becomes our great Republic, and should be cultivated as a precious germ of our national character, to mitigate the horrors of war. Though yet in her infancy, America has exerted her influence among the nations, in behalf of insulted and oppressed humanity, in several prominent instances. She has powerfully resisted the assumption, by European sovereigns, of perpetual allegiance; she has contended for the inviolability of neutral rights against belligerent search and paper blockades. Let her never shrink from her great duty of asserting the rights of humanity. Many barbarous practices are still allowed in war, which are not conducive to effect its objects, and are, therefore, mere abuses of military power. A garrison taken by assault may be put to the sword; a city taken by storm may be pillaged, and its inhabitants consigned to the fury of an unbridled soldiery. Nothing can be more abominable in the sight of God and man—nothing more completely wanton and unnecessary. It is not yet settled, that a commander of a fortress, who bravely defends it to the last extremity, may not be put to death by his conquerors, for his courage and fidelity. The execution of spies is universally admitted in the code of civilized war. The case of Andre is in point; none have ventured to censure his execution, who have admitted that he was a spy. Our great and humane

commander gave him over to execution, no doubt, with great reluctance, in consideration of his uncommonly interesting character; but he seemed to consider the sacrifice of the victim as necessary for the preservation of the army. I must be permitted to say, Mr. Chairman, that I deeply regret the execution of Andre. If he had been an ordinary man, I should still have regretted it. The preservation of any army cannot in any degree depend on the punishment of spies; for the danger of this fate will never deter officers and soldiers, and even those of the most established courage and honor, from engaging in this service. It is not considered immoral or dishonorable, and therefore the extreme danger incurred increases the merit, and the honor, and the reward of success. Hence, it is demonstrable that, to treat captured spies like ordinary prisoners of war would not increase their number, nor the danger of an army from their enterprises. Let us then examine, without fear, any existing practice which militates against the rights of humanity, and, whenever it shall be found substantially unnecessary, let us boldly explode it, and not doubt that our example will be approved and adopted by other nations.

If, then, in waging war with civilized nations, it is the part of America, in fulfilling the high duties of a nation pre-eminently free, and who aims at the distinction of being pre-eminently virtuous and enlightened, to meliorate the evils of war, how much more, in her wars with the hapless aborigines, should she adopt, and strictly enforce, a system of mildness and forbearance? Their rapid decline and approaching extinction have excited the commiseration of all nations. Our treatment of them in acquiring their lands—in the relations of peace, and especially in our frequent wars, is narrowly scrutinized. With an overwhelming population, and irresistible force, it ill-becomes us to allege the necessity of retaliation, or self-defence, in vindication of acts of severity and cruelty—of the desolation of towns, and the slaughter of prisoners. Such reasons will be heard with indignation by the impartial, and repelled with horror by the humane. While we send our missionaries to carry the sacred scriptures, and establish schools of piety and morality among them, as the gentleman from Kentucky (Mr. Johnson) has mentioned, let us not frustrate these efforts by our example—by the practical exhibition of the effects of religion on its professors. With that holy and peaceful religion ill accord the grasping of their territory, and the ravage and extermination which they have lately witnessed, and so fatally felt, on our southern frontier. The execution of the two Englishmen, Arbuthnot and Ambrister, remains to be considered. The former had been, for several years, among them, employed in a gainful traffic. To increase his influence and his profits, he appears to have endeavored to acquire political consequence, by becoming the organ of their complaints and of their wishes, to the British Government. The expulsion of the Creeks from their lands, by General Jackson's treaty, or "ca-



pitulation," and the application of the Treaty of Ghent to the land ceded by that capitulation, were subjects about which they consulted him. He advised them "not to go to war with the United States," foreseeing it must eventually be their ruin; but at the same time he was active in making a representation of their case to Governor Cameron of the Bahamas, and to the British Minister at Washington. This was the proper advice to give them, to obtain redress of their grievance, by negotiation, if any existed. England was a party to the treaty, and had a right to be informed of its execution or violation. British subjects, or even American citizens, ought in duty to refer the Indians to that mode of seeking a remedy. Instead of instigating a war, this conduct of Arbuthnot tended to prevent it. Not a word can be found in the printed documents, containing his private papers, seized by our army, that has any tendency to excite a war, or exasperate the Indians, but all show a spirit of moderation; sometimes applying, in the most amicable spirit, to our Indian agent, Governor Mitchell; sometimes to the British, and sometimes to the Spanish authorities. If these attempts at peaceful adjustment had been duly attended to, and had the pacific measures of our Indian agent been pursued, this disastrous war upon the injured natives, upon a nation with whom we are at peace, and upon our own Constitution, swayed by a popular commander, and apparently prosecuted on the strength of his popularity, would never have happened. In the whole evidence against Arbuthnot, I can discern little to censure—nothing to merit the punishment awarded. Ambrister came to Florida to assist the patriot armament, under McGregor, to conquer that province from Spain. He appears to have had no view hostile to the United States, till he found that the Indians and negroes, whom he expected to enlist under his banner against the Spaniards, were invaded and driven from their homes by our arms. He evidently considered them as acting on the defensive, and, in the moment of surprise, on being informed of the approach of our army, he imprudently put himself at the head of a body of Indians and negroes, for the purpose of resistance. It does not appear that he actually encountered our troops, or led his forces to combat; this, however, is immaterial, for in either case he could only be treated, not as a "pirate and outlaw," but as a common prisoner of war. It is conceding too much to say, that this momentary union with the Indians divested him of his right to be treated as the prisoners of civilized nations are treated. It does not appear that he participated in any act of savage ferocity; if he had acted longer with the Indians, he might even have restrained their ferocity. His knowledge of their comparative weakness, in contending with us, would have made such forbearance the most manifest policy on their part, which would have been more obvious to him than to the unenlightened savages.

\* Documents (65) page 156—157. Arbuthnot's letter to Governor Mitchell.

But with respect to both Arbuthnot and Ambrister, if the former had been the sole instigator of the war, and if both had led the savages to battle, and had fought and been taken by their side, no part of which is true in fact, they could not have been justly put to death on any principles assumed by the General, nor on any which have been discovered by the ability and ingenuity of his advocates in this House. That Indians themselves cannot justly be put to death when taken prisoners of war, has been already most fully demonstrated. It is no less evident, that officers and soldiers of civilized nations, who fight by the side of savages, engaged in the same cause, but not themselves adopting or abetting the savage cruelties, cannot be justly put to death. The utmost extent to which this right has been asserted in the present debate, assumes, that Indian prisoners may be put to death, and, therefore, their civilized associates may be treated in the same manner. The premises being disproved, the inference follows of course. Suppose, however, officers or soldiers of civilized nations may be put to death, when taken prisoners, by the laws of war, what would have been the fate of the American armies, and their British antagonists, in the last war, on our northern frontier? Large bodies of Indians engaged with both parties, and made common cause with them. The barbarities of the Indians were sometimes committed in the presence of British officers, without being restrained. However inhuman such connivance might be, it was never contended that we had a right to put British prisoners to death because the savages were in their ranks, nor to avenge their cruelties; nor did the British assume such a right against us. Even in the Seminole war a corps of Indians co-operated with our army, and actually engaged in the work of desolation and carnage. With what color, then, can the advocates of these executions pretend that these victims deserved their fate by the laws of war, because they were identified with the savages; when the same argument would prove, that the General and all his officers and soldiers were justly liable to the same fate? When this consequence is perceived, the argument, I trust, will be abandoned.

Indian alliance and Indian hostility is almost equally to be deprecated. In our Revolutionary war, Great Britain was severely censured by some of her greatest men and best patriots for exciting the savages against us. Would to Heaven our country had never tarnished her history by arming the savages against her adversaries! All the convenience and advantage can never justify the unhallowed consequences. To our enemies alone belongs the first example, to them should have forever been left the guilt of such alliances, and of the innocent blood it has caused to flow.

I agree with several gentlemen, who have clearly shown that the court which tried Arbuthnot and Ambrister was considered by the General, and was in fact a general court martial. Nor shall I attempt to make the point clearer than it

has been made by them. But I will take the liberty to propose a dilemma, from which the advocates of the commander are desired to extricate themselves, whether they deny or admit the court to have been such a court martial as our laws provide. If it was a court martial, legally organized, the General by whom it was ordered had no alternative but to execute its sentence, or to remit it. To change or increase the punishment fixed by the sentence was arbitrary and despotic. On the other hand, if it was not a court martial, clothed with legal powers, then it was the duty of the General himself to have examined the evidence, to have questioned the witnesses, and to have heard the accused in their own defence. This was not done; but the prisoners ordered to execution on grounds which neither the facts alleged, nor the law applicable in the case, would warrant. In either case the defence of the General is wholly deficient. Though his advocates have generally chosen to put his defence on the ground that he possessed the right to inflict death on the prisoners without trial, yet it is evident that he did so intend to act; but that he founded all his own proceedings, including the final order for execution, on the validity and power of the court martial. "These individuals," (Arbuthnot and Ambrister,) he says, in his letter to the Secretary of War, "were tried, legally convicted, legally condemned, and justly punished." Yet this military chief, whom the gentleman from Kentucky (Mr. Johnson) affirms to be equal or superior to any in this legislative body, in his knowledge of law, has presumed to change the sentence of Ambrister, which subjected him to stripes and labor, and to order him to suffer death. It has not been attempted by any one in this debate to justify this act, under the pretext of the former intention of the court, which the General calls the "first sentence;" the mere novice in legal proceedings well knows that the final sentence supersedes all others, and, in fact, is the only sentence of the court; totally annulling any previous intentions or opinions, which, therefore, cannot with any propriety be called sentences, any more than the opinion of any member of the court martial, expressed in discussing the subject, could be called his vote, though his final vote might have been the reverse of the opinion first entertained and expressed by him.

The great services of General Jackson in defence of New Orleans have entitled him to the respect and gratitude of the American people. As a member of the community, I exulted at the signal victory which our arms there achieved. The glory and renown of the 8th of January, 1815, were shared by a grateful people, and the illustrious commander and his brave compatriots were hailed with admiration. But, sir, the danger of the various acts of which we now complain, is the greater in proportion to the high character of him who is the author of them. Had they been the acts of almost any other officer, they would have been received with almost universal disapprobation and severe censure. This House would have been early called, with unanimous

accord, to have sanctioned the expression of the public voice in defence of our laws and Constitution. Let me earnestly entreat gentlemen to discard from their bosoms such considerations—to forget that the "hero of New Orleans" is the officer concerned. If we hope to see clearly and judge rightly, we must banish all partiality and "the fear" and love "of man, which bringeth a snare." I will do myself the justice to aver that, in the part I have taken in this debate, I have no personal feelings or party views to gratify. The seizure of the Spanish fortresses I at first thought defensible. A more rigid investigation has changed my opinion, against my wishes. My duty shall ever be paramount to my feelings. And I trust that, in the decision of these great questions, we shall witness many magnanimous sacrifices of personal and local partiality on the altar of our country. It is only by such sacrifices that we can hope to establish our Constitution and perpetuate our liberty.

WEDNESDAY, February 3.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill providing additional penalties for false entries for the benefit of drawback or bounty on exportation; also a bill for the relief of Ambrose Vasse.

Mr. ROBERTSON, from the Committee on Private Land Claims, made a report on the petition of James Hughes, accompanied by a bill for his relief; all of which bills were severally twice read, and committed.

On motion of Mr. ROBERTSON, the Committee on Private Land Claims were discharged from the further consideration of the petition of Michael McElroy.

#### SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Seminole war.

Mr. FULLER, of Massachusetts, occupied the floor nearly two hours, in conclusion of the speech which he yesterday commenced in support of the resolutions of censure, as given entire in preceding pages.

Mr. WALKER, of Kentucky, rose and said: Mr. Chairman, I do not rise to enter into a discussion upon a subject that has called forth the wisdom, learning, and eloquence of this Committee; I only wish to express my reasons for the vote which I am about to give upon this question, and to show that I have no fears for any future consequences which may arise from that vote to my country.

If it were possible for me to be persuaded that the friends to the mode of prosecuting and terminating the Seminole war were less solicitous for the honor and dignity of our country, or less anxious for its future prosperity and happiness, than those gentlemen who disapprove of our General's conduct in that war, from the solemn dignity of the manner, from the deservedly high standing of the man, and the immense impor-



H. OF R.

Seminole War.

FEBRUARY, 1819.

tance Mr. Speaker has attached to the matter, I might be persuaded that I was in error, and might give a different vote on the subject; I might be convinced that I was as far beneath him in common sense and mere love of country, as he is above me in elevation of station, or in the omnipotent powers of eloquence. But, sir, there are some subjects on which good common sense, years of experience and observation, may shed as clear a light as all the pages of ancient or modern history, and may so anchor the judgment that learning, eloquence, and acknowledged merit, all combined, cannot weigh the anchor, or drag it from its moorings; and this, sir, in my poor opinion, is one of those deep-rooted subjects. I will not attempt to speak of Grotius, Puffendorf, Vattel, Martens, or any other writers on the law of nations, or of our own Constitution, nor yet will I attempt to lead this Committee to believe that I have a correct knowledge of the ancient Republics of Greece or Rome; but, from the little light I have received upon the history of those republics, I will endeavor to show that we have no cause of fear from some future Philip, Cæsar, Cromwell, or Bonaparte; we, to be sure, resemble them in some leading characteristics, and in name, but not in everything; they knew nothing of a fair representative council, such as ours, which is certainly the chain cable of our political ship; a fair representative Government they never had an idea of, or if they had, like some of my unfortunate friends, too, in South America, they were afraid to try the experiment.\* Their laws, I am told, were enacted by universal suffrage, or, more properly speaking, by that portion of the people that casualty or design might have convened at the time they were under consideration; it is, therefore, reasonable to suppose that the citizens who lived remote from the metropolitan cities had but little share in their legislation; hence one great cause of their decline. In populous countries and large cities, where the greater portion of the people are wretchedly poor, profoundly ignorant, and darkly superstitious, where the sum of their knowledge was acquired from the mouths of their public speakers, it is perfectly rational to believe that an ingenious, eloquent orator could catch them by the ears, and a successful splendid hero could lead them to the sacrifice of all that should be held most dear to man; nor is it matter of astonishment to the reflecting mind, that our late republican sister, now poor bleeding France, should have followed the fate of the old republics; emerging, as she did, from the darkness of chaos, suddenly into the bright blaze of heaven-born liberty, her eyes were dazzled with the brilliance, her brain was intoxicated with the multiplicity of novel ideas that burst upon it, and before she could recover her sober senses, before her legislators could establish the plan for the permanent security of her rights, the demon of discord erected his crest and diffused his poison among her counsellors, who had

\* Mr. Clay, upon this subject, took occasion to mention his "poor friends in South America."

also to conquer the habits of ages before her people were capable of enjoying rational liberty; the lands of the country, too, from which true independence always sprouts, were in the hands of the aristocratic few, to whom the great body of the people had, for centuries, been bound by the iron hand of necessity or of power. Thus situated, it is not wonderful that the successful hero, the ambitious, artful statesman, should have prostrated all their rights. Quite the reverse from this situation was our happy Republic at the commencement of her existence; the soil of the country was apportioned among her numerous hardy sons, whose arms were able to defend it. Religious and civil liberty was the contemplation of our European fathers when they first came to America; it was the darling theme of their sons until the day they unfurled the banner, and proclaimed to the astonished world that they were free. Free we are, and free we will be, until land monopolies shall have swallowed up the soil as the banks are about to swallow our portable treasure; we must be ground down to extreme poverty, ignorance, its concomitant, and to cap the climax superstition, too, must give her detested aid, before we can lose our liberties. In fact, Mr. Chairman, we must be reduced to the miserable, abject state of the poor subjects of monarchs, before we can lose our liberties. If ever our rights are lost, moneyed aristocracies and land monopolies will be the corner stones on which the edifice will be erected that will sweep them all. My fears from them are, in truth, much greater than from the sound discretion in our commander in the execution of an order given him by our beloved Chief Magistrate, and which order, if not executed in the manner it was, the objects of the campaign would have been infallibly lost. Certainly it was our President's intentions, when he gave the orders, to put our women and children at rest from the apprehension of being scalped and burnt. If General Jackson had returned from the Florida line, is there a woman in Georgia, or a child in Alabama, that does not know that Arbuthnot and Ambrister would have excited their myrmidons to the repetition of those deeds, at thought of which the blood curdles and runs cold with horror. Much has been said, many dreadful apprehensions have been suggested, from the consequence of our full approbation of our General's conduct; for my poor part, I hope I shall never be afraid of giving to merit its due meed. From my own reading of our Constitution, as well as the sound arguments I have heard, I am most perfectly convinced that the President's orders were strictly Constitutional, and that their execution was perfectly reconcilable with the laws of nations, as was shown by the gentleman from Virginia, and by my friend and colleague,\* and produced the most desirable effects to our distressed frontier settlers.

If General Wayne, in 1794, had had force suf-

\* Colonel Johnson, from Kentucky, by all beloved for his humane attention to our soldiers' claims and their widows' applications for pensions.

FEBRUARY, 1819.

Seminole War.

H. OF R.

ficient when he defeated the Indians on the Miami of the Lakes, and had have exercised his sound discretion, as General Jackson has done, our Owens and Daviess, our Allen and Simpson, my friend Captain Lewis, and the gallant, generous Hart, might this day have been living monuments of their country's genius, greatness, and goodness, and thousands of our dear disconsolate widowed sisters would now be pressing their newborn babes to their breasts, and receiving the benign smiles of their affectionate husbands, instead of making humble application here, through their benevolent friend, my soldier colleague, (Colonel Johnson,) for some poor pittance wherewith to raise their fatherless children; for we should have had no war; no soldiers would have fallen. Yes, sir, if General Wayne had caught the British incendiaries that were with the Indian army, (which he could have done with the assistance of cannon,) and given them to the tree; demolished Major Campbell's fort, and in the ruins buried every British officer and soldier, he would have done a praiseworthy deed, without an infraction of the laws of nations;\* the blood-stained British lion would roar, but he would not fight; the conscious murderers of our wives and dear smiling babes would have shrunk appalled when they saw their husbands, sons, and brothers, determined on just revenge.

No war would we have had; our honest, generous, and brave sailors would never have been impressed and ignominiously whipped to try to make them fight against their country's friends; nor would our merchants have been despoiled of their pelf; we would have had no war, no apprehensions of the necessity of an armed force to guard against the efforts of British intrigue, no blue lights or Hartford conventions; the table of your Committee of Claims would never have groaned under the weight of petitions for relief of officers from the pressure of heavy judgments given against them, by what is called courts of justice, too, for the faithful execution of a legal military order; and, what is more to be deplored than all, the shameful capitulation of Alexandria we never should have heard of, nor the conflagration of our Capitol in this city, which bears the name of the illustrious WASHINGTON. Oh, Genius of History, if from thy chaste page thou would'st wipe those foul blots from our character, the laurels of the late British war, like those of the Seminole war, would forever bloom upon thy records without an adverse shade!

Mr. Chairman, until I am convinced that sound sense, some little reading, and close attention to the sound, learned, and eloquent arguments I have heard, will not qualify me to give a just opinion upon the subject, I shall be most decidedly opposed to the resolutions under discussion, and make free to say that the Military Committee has made a most unmilitary report.

Sir, until I am persuaded that I should be re-

\* Colonel Johnson's construction of Vattel, upon the laws of nations, is in perfect accordance with the laws of nature and of nature's God.

prehensible in hot pursuit to follow the murderers of wife and children to the house of their accessories, on whosesoever ground it might stand, and drag them forth to instant punishment, I shall continue to thank and praise the man who has saved their lives or revenged their deaths.

Mr. Chairman, I felicitate myself, I congratulate my country, that our people better understand their rights than those of the old Republics, and have a more equal distribution of property than they had; that this honorable House is composed of, if not brighter, at least stronger materials than the legislative councils of Greece and Rome; if it was not, this day we might be led to record a vote at which the crowned heads in Europe indeed might chuckle; more cause would they have to chuckle than when they heard of Jackson's Creek treaty.\* Much greater cause would our friends in Europe have of wo and bitter lamentation, to fold their desponding arms, and droop the melancholy head, than when they heard of our extinguishing the Indian title to a little slip of land.

To see us sacrifice our General, who shamefully defeated old England's chosen glorious bands, would make the Prince Regent's Ministers rejoice: To sacrifice our General would quiet the manes of the execrable Ambrister, and no doubt please Arbuthnot's honorable correspondent in this city;† to dismiss our General, who pursued the nurtured robbers of our people and murderers of our innocent children into Pensacola, would no doubt excite a grin from His Catholic Majesty's Minister near this metropolis. The sacrifice that we should make to a mistaken idea of patriotism and humanity, would be by him attributed to our fears of foreign force, for the poor soul knows nothing about the milk of human kindness that so abundantly flows in every freeman's breast. Deprived of our General, (for he thinks we have got but one,) he will again renew the Spanish claim to all the lands from the head to the mouth of the Mississippi; and if we did not forthwith surrender them, he would threaten us with the vengeance dire of his potent royal master. These, sir, will be the valuable results of our agreement with the honorable committee on military matters; this sacrifice, the honorable committee shows, will be made upon very slight presumption, that the General had, in the execution of a military order, a little exceeded a strictly literal construction. I think it conceded by all the honorable speakers upon this question, that, in their various opinions of necessity consists alone their discordant opinions upon this subject. Then, let us ask, who is the better judge of an important military movement? The gentleman at home, in peace and safety, feasting on all the luxuries of every clime, his children,

\* Mr. Clay said, the crowned heads of Europe chuckled when they heard of Jackson's Treaty with the Creeks; and our friends folded their melancholy arms, hung the dejected head, when they found that we had acquired Indian land.

† The British Minister in Washington.



like blessed seraphs, playing about him, his wife, too, sweet, soft, intelligent, all-accomplished, and beautiful too, as much as his fond wishes could have, whose humane ear was never pierced with the distant sound of the dreadful savage yell; whose charitable heart never had occasion to extend her munificent hand to the relief of woes inflicted by a barbarian band of ruthless sons of the wood, or the hardy weather-beaten General in the field, combating all the difficulties necessarily accompanying savage warfare; is that all, sir? No—subsisting himself and all his army on kind nature's spontaneous gifts, an all-important object to his country before his eye, which must be effected by a given day, or himself and army starves. Who is the best judge in such a case, the brave, aged, experienced General, at the head of the army, or the young, sweet-smelling, powdered beau of a drawing room? No doubt here. Then why not, in the name of propriety, leave to your General's own discretion the exercise of open orders, and not attempt to find fault where we cannot, from our situations, form a correct judgment of the necessities that lead to certain acts?

A word to my dear, good old mother, Virginia, and then I am done. With heart-felt pleasure did I see one of her favored sons, (Mr. TYLER,) of the younger brood, exhibit upon this occasion the true patriot soul; from his firm, expressive countenance and bright, intelligent eye, I read the triumph of his soul, I saw that his devotion to his country had obtained a conquest over his filial affections. I thought I saw his heart weep blood, when his eye said, behold my country, here is your Brutus; like the elder Brutus, I would condemn my own son for breach of public law—like the younger, I would stab my father to save my country. I envy such feelings; they are almost too exalted for mortal man; yet I am sure he had them. But I implore my friend to recollect, that if there had been a hook on which to hang a doubt of the guilt of the son of the elder Brutus, that his act would have been thought most heinous. That if it was not well known that Caesar was indeed ambitious, the younger Brutus would have committed a most detested crime. I hope his reflections on the subject will guard him against passing sentence against his brother, without the most incontestable proofs, that his country is thereby to be relieved from most imminent danger. Let not this ardent zeal for the preservation of our Constitution impel him to leap over its sacred walls, and horribly trespass upon its most valuable provisions. Is not the security of our reputation among the greatest objects of the Constitution? If we condemn our General's conduct because indeed we cannot exactly think like him, will we not severely trespass on his feelings. You all do know what Shakspeare says about the value of a good name: "Reputation dear, my lord, is the immediate jewel of the soul," &c. Every member of this House, every lady in the gallery, and gentleman too, I hope, have read and highly approve his sentiments.

If reputation be so dear to every one among us,

how high indeed must it be rated by him, whose bread, whose meat, whose life itself, hangs upon his fair won fame. I am happy, sir, to tell my friend, the honorable member from Philadelphia, that I shall never fear that the keen prying sense of squint-eyed suspicion will ever find a spider's egg among the leaves, much less a serpent, entwined about the branches of the full-grown wreath of laurels that adorns my General's brow. No, sir; Jackson's laurels can never scatter the seed that may hatch some future Tarquin, to wound the tender breast of some chaste Lucretia.

Mr. HARRISON, of Ohio, said, that no question had been brought before the House since he had the honor of a seat in it, where his feelings and his sense of duty were so much opposed, as that which was now before the Committee. He had for some time determined to take no part in the discussion; and, indeed, would gladly have been excused from voting, at least upon two of the resolutions, had there been any honorable mode of avoiding it. But, as the rules of the House obliged him to vote, justice to himself required that he should explain the reasons upon which the opinions he entertained on the resolutions were founded. But, before he proceeded to discuss the two resolutions which had principally engaged the attention of the gentlemen who had preceded him in the debate, he asked to be permitted to make a few observations in reply to those who had denied the right of the House to pass these resolutions.

Several gentlemen, said Mr. H., have distinctly declared that the House could pass no resolution which either directly or indirectly would censure the conduct of a military officer. It is not necessary to give an opinion as to the power of direct censure; no one has, I believe, thought of such a thing in the present case. But I must confess, Mr. Chairman, that I did not expect to hear the other opinion maintained on this floor. What, sir! the immediate representatives of the people, to whom the army and the revenue belong, have no right to enter into an investigation to ascertain whether they have or have not been employed in a manner warranted by law! Whether the public force has been directed, and the public money expended in the manner which they have authorized! Yes, say gentlemen; investigate if you choose; but express no opinion which may imply censure upon the agents of the Government. That is, if I understand the doctrine, that you are to investigate until you are at the point of arriving at the only object for which investigation would be useful, and then you are to stop. Are gentlemen aware of the length to which this doctrine would carry them? That you might appropriate money and authorize an army to be raised for the conquest of Florida, and the Executive or a commanding General may use them in an enterprise against Canada? And, that, in such an event, your inquiry must go no farther than to ascertain that something has been done, but you are not to say when or where, lest it should imply a censure on some one. The Constitution has been read, and we are asked to point out the clause which gives the right to censure, di-

rect or consequential. I can show no such clause, but I can show the section and the article which gives to Congress the sole power of raising armies, of raising a revenue, and declaring the object in which those armies and that revenue shall be employed; and does it not follow, as a necessary consequence, that they have a right to satisfy themselves whether they have or have not been so employed, and, if they find they have not, to say so? An individual places his money and his servants at the disposal of an agent, to accomplish some specified object. Has he not a right at all times to oblige the agent to give an account of his conduct, and, if he finds that he has misapplied the means that have been put in his hands, to declare that he has done so? It is, sir, a self-evident proposition.

But, sir, we are told that we have the right to impeach the President. Granted: But could we with the least propriety, even if it were our object, pursue that course, until we had ascertained that he had either committed a wrong himself, or permitted a wrong to be done by another? In the present case no one has dreamed of such a step; the only object is to express an opinion upon the Constitutional powers of Congress, and the right of this House to guard those powers from being innovated upon by the other branches of the Government. Sir, it is a sacred right, and it should be maintained with firmness, as one of the great republican features of the Constitution, necessary, not only for the preservation of liberty, but for ordinary correct legislation. How, without this power to investigate, and to pursue the investigation, until the blame shall rest upon the person who deserves it, shall the Legislature be ever able to ascertain the cause of any misconduct in our military and naval operations, which may produce an event requiring legislative provision? The case of General St. Clair, alluded to by the honorable gentleman from Mississippi, (Mr. POINDEXTER,) is one in point. In the Fall of 1791 a great national calamity was announced by the President to Congress—the loss of an army. This disaster might have arisen from three causes; from a combination of the three, or any two of them. It might have arisen from incompetent provision of men and money, in which case Congress would have been to blame; from the improper management of the Executive, or from the misconduct of the General. If, upon the investigation, it should appear that the means put in the hands of the Executive were entirely inadequate to the object, it followed that a more ample provision was to be made; but if it appeared that the supply of men and money were sufficient, then the disaster was to be attributed to the misconduct of the Executive or of the General. It followed that a repetition of the same appropriations was all that was required. Now, to come at these results, a thorough investigation was necessary; but, according to the doctrine now contended for, this could not be done lest it should imply censure upon the General. This right of investigation has always been claimed by, and never denied to, the British

House of Commons, at least since the expulsion of the Stuarts. They not only investigate, but they point out the individuals who have in their opinion been guilty of misconduct, and require of the King that they should be brought to punishment. [Here Mr. H. read, from McArthur's "Principles and Practice of Naval and Military Courts Martial," the case of Admiral Matthews, who, in the year 1745, was, in pursuance of a resolution of the House of Commons, brought to trial by order of the King, and dismissed from the service.] The case of Admiral Matthews is one of a hundred that might be produced of naval and military officers being brought to trial in consequence of an investigation into their conduct, commenced by the House of Commons. And yet, sir, the House of Commons have not, as we have, any agency in declaring war. That is the exclusive prerogative of the Crown. But, holding the purse-strings of the nation, they claim and exercise the power upon all occasions to satisfy themselves that the public revenue has been expended, and the public force directed, in the manner best calculated to secure the honor and interest of the nation. But, sir, the power of investigation, and of deciding upon the conduct of a general officer, is not only important as a republican principle and for correct legislation, but important also for the protection of the officers themselves. How often may it happen, in time of war, that a Minister or even a President himself, may attempt to shield their own misconduct by imputing undeserved blame to a commanding General, and where is he to look for protection for his fame and his character? To a court of inquiry, designated by the very persons who are interested to convict him? No, sir; but in this House, the immediate representatives of his fellow citizens, and the representatives, I trust, of their virtue and their justice, as well as their political opinions. A reference to your journals will show an instance in which intimations, not only against the military conduct of a commanding General, but against his moral character, were completely removed by an inquiry, prosecuted under the direction of this House. Nor can I see, sir, the least objection that a military commander could have to such an investigation. I must confess that I was much surprised that the personal friends of General Jackson should have made any objection to having the inquiry into his conduct put upon as broad a basis as possible. I have constantly advised the contrary course. Perhaps some of them may say to me, "*timeo Danaos et dona ferentes*." I hope not, sir; for if General Jackson's friends are Trojans, it will I believe be manifest, before I conclude, that I am not altogether Greek.

I shall now, sir, proceed to consider the two resolutions upon which the discussion has principally turned. In examining that which relates to the trial and execution of Ambrister and Arbuthnot, I shall inquire—

1st. As to the right of the nation to punish them.

2dly. If the right to punish them existed in the



nation, did it appertain, under existing laws, to the military authority? and,

3dly. If it did appertain to the military authority, was it properly exercised, both as to form and principle?

There is, I think, no question more clearly established than the right of a nation, in time of war, to punish upon its antagonist any violation of those rules which have been adopted by common consent, and which form the code of international law. I can see no reason why these rules should not apply to a war with savages. Indeed, the writers upon this subject seem to allow something beyond the ordinary course of retaliation, in a war of this kind. A rule particularly applicable to this case has been read from Vattel, by an honorable gentleman from Virginia, (Mr. BARRON.) If it applies to the savages themselves, it will apply with equal force to those unprincipled white men who identify themselves with the savages, and stimulate them to their barbarous warfare. And if, sir, any additional force can be given to the right, by the great benefits which will result from its exercise, there never was a case where it could be used with more propriety than in the punishment of Arbutnot and Ambrister.

Upon recurring to the events upon the Northwestern frontier, since the war of the Revolution, and examining the documents which I have furnished to the Executive, I do not hesitate to say that all the wars, and almost all the difficulties which we have experienced on that frontier, have been produced by the agency of British emissaries. Pending the long negotiations with Great Britain before the late war, although placed upon the Wabash, I was enabled to tell the state of the British feeling towards us—the ebbings and flowings of their hostile sentiments—as correctly as those who conducted the negotiation. The increased or suspended activity of their agents afforded an infallible index to point out the reigning politics of their Court as it regarded peace or war with America.

I was fortunate enough, in the year 1813, to take the correspondence of the British Indian Department with the Governor and Lieutenant Governor of Canada. A part of it has been published, and the original is either in my own possession, or in the Department of War. From these, it will unequivocally appear that, when the United States and Great Britain were at peace, their agents were constantly stimulating the Indians to war, and supplying them with the means of carrying it on, and that they acted even as allies to them in the field.

In the defeat of General St. Clair's army, in 1791, a British officer assisted the savages with his counsel, if not with his arms. In the action between a detachment of General Wayne's army and the Indians, fought at Fort Recovery, on the 30th of June, 1794, not only the British Indian agents were present, but a captain in their army, and six matrosses. In the general action which was fought on the 20th August following, two full companies of white men, the greater part

British subjects, assisted the Indians. The peace which was concluded the following Summer at Greenville, was opposed by every exertion of British influence. Nor did it end here. It was still exerted to keep alive the spirit of hostility against the United States; and the establishment at Tippecanoe, and the plan of the celebrated confederacy which was to have been headed by Tecumseh and the Prophet, had their origin in British councils. And here, sir, permit me to observe, that the conduct of the Government of the United States towards the Indians has been universally humane, liberal, and just; and in this remark I mean to include, also, the negotiations for the extinguishment of their title to lands. I have no doubt but the gentleman from Pennsylvania, (Mr. HOPKINSON,) has received some information which induced him to make the observation which fell from him on this subject; but, as far as it applies to the treaties which I negotiated, (and I was the sole commissioner on that frontier for thirteen years, and extinguished the title to upwards of sixty millions of acres,) it is totally without foundation. I claim no merit for this conduct; had I acted otherwise, it would have been in direct opposition to the orders of the Executive. In the handwriting of Mr. Jefferson himself, I received an order never, in my conduct toward the Indians, to suffer the dictates of policy to subvert the principles of justice. There can be no more sublime spectacle than a course of conduct like this, from a great nation towards petty bands of savages. If it be asked why this conduct was not successful in producing a correspondent sentiment of friendship from the Indians to us, and why they took part with our enemies in the late war, I can answer, because the United States disdained to employ them until the enemy set the example, and they had then been seduced by the hundreds of Ambristers and Arbutnots which were to be found upon that frontier. But, sir, it may be said that these events are all past; that there is now no war with the Indians, nor any probability of one. True, we have no war at present; but, permit me to ask if our relative situation, as it regards the Indian tribes, or of those tribes in relation to the British, is changed for the better? I think not, sir. Let gentlemen who have taken up this opinion, cast their eyes upon a map of the Northwestern part of our country, and see the vast tract which is inhabited by Indians, with a line of British trading posts immediately in their rear, from whence they can be supplied with everything necessary to annoy us. I do most sincerely believe, that a war is hanging over us from that quarter, of more difficulty and danger than we have ever yet waged with Indians. Between the Lakes and the Mississippi, and the Mississippi and Missouri, we have come in contact with tribes formidable for their numbers, for their valor, and still more so for the character of the country they inhabit. It is the Scythia of America, and, depend upon it, we shall, before long, receive the symbols of defiance—if not the bird, the mouse, the frog, and the arrows, some that are equally significant.

These warriors do not, indeed, compared with the tribes we have formerly engaged,

"With tougher sinew bend the bow;  
Nor flies the tomahawk swifter to its mark,  
Launch'd from the vigor of a Puant's arm."

But the warriors of these tribes are proverbially brave. Flight is admitted as a principle of their tactics, never as the effect of fear. Their prejudices and feelings are not in our favor. In short, the materials are all provided—the train is laid—it requires only the touch of that master Power which has wielded, with so much address, the torch of discord both in Europe and America to produce the explosion.

With this impression, whatever may be my opinion with regard to the circumstances under which one of the individuals was executed, I am persuaded that their punishment will do much good: it will make others of their character more cautious, and may prevent the British traders from involving us in a war before the policy of their nation shall authorize it. Shall I be told, sir, that we shall derive future security from Indian wars, from the altered character of the British councils? Where is the evidence of this alteration? Is it to be found in the treatment of that great but unfortunate man whom they have made the object of their vengeance, when he can be no longer the object of their fears? They have chained him to a rock! No vulture indeed feasts upon the liver of their victim; that perhaps would have been mercy. Their efforts are directed to wound and lacerate his feelings—to humble and debase that lofty spirit whose "awe did bend the" European world, and caused the monstrous system of legitimacy to totter to its foundation.

I come now, sir, to consider my second proposition, viz: Did the right to punish Ambrister and Arbutnot appertain to the military authority, under existing laws?

I have no doubt it did. To determine this question, it will be necessary to inquire what is the military code of this country. The few pages which I hold in my hand, and which are called the Articles of War, cannot be supposed to contain this code, or to provide for those numerous contingencies which are forever happening in an army, growing out of the relations which the soldier bears to the officer—the officers to each other—the commanding General to his Government, to his army, and to those whom the fortune of war places in his power.

The deficiencies in our statute laws are provided for by an unwritten common law, as extensive perhaps as the civil common law, and founded upon the same principle of reason. This unwritten code is recognised by our statute, under the denomination of "custom of war;" "rules and discipline of war." To this unwritten code military men are obliged so constantly to refer, that an army could not exist a day without it. This must be evident from the single fact that the rank or command attached to each grade of commission is nowhere to be found in

the statute law, but is only ascertained by reference to the custom of war. The legality of an order, for the disobedience of which the life and honor of an officer may be endangered, is to be tested only by a similar reference. A general officer sees a platoon officer, with a command of men, in a situation which he deems ineligible, and directs him to change it. The officer refuses, alleging that he commands a camp guard. At a little distance further the same General meets with another platoon officer at the head of a detachment, to whom also he gives an order, which is likewise disobeyed, upon the ground that the detachment was acting under an order coming immediately from the Commander-in-chief. Both these officers are arrested, and brought to trial. There is nothing in the written law to distinguish the two cases; but under the custom of war the first will be acquitted with honor, upon the principle that an officer on guard receives orders only from the officer of the day; whilst the latter may be cashiered or shot for not obeying an order which even countermanded one coming from the Commander-in-chief, upon the principle that the last order, coming from a superior on the spot, countermands or repeals those which may have been previously received. The case of the officer on guard is an exception to this general rule. The custom of war then being established as the law by which our armies are governed, except where it is not controlled by statute, it remains only to show what that custom is, in relation to persons situated as Ambrister and Arbutnot, and that there is no statute law which puts their case out of the military jurisdiction. It may however be necessary to say a few words as to the manner of ascertaining what is the custom of war. It is ascertained by the precedents which are to be found in our own army and other civilized nations, and the military principles which are to be found in military authors, and those which are kept alive in our own army, by being daily acted upon. If an objection is made to precedents, drawn from other nations, whose forms of Government are so different from ours, and where the sovereign authority and that of commanders-in-chief are frequently found in the same person; I answer that the military common law, like the civil common law, is to be tested by reason, and that those principles which are incompatible with our form of Government are of course rejected.

The precedents which justify the punishment of the two individuals to whom the resolution refers, by the military authority, are so numerous as to put the matter beyond dispute, and have been so often referred to as to make it unnecessary to repeat them. An additional evidence, however, of the light in which the subject was viewed by our Revolutionary Army, will be found in an address to General Greene, by the officers of the Southern army, of the 20th August, 1781, published in the appendix to Ramsay's History of the Revolution in South Carolina.

But, sir, a law, passed under the Administra-



tration of Mr. Adams, and another in the Spring of 1813, have been brought forward to show that, in the opinion of Congress, a law was necessary to authorize retaliation; but a stricter examination of these laws will show that they contain no evidence of such an opinion, as the first law provides for retaliation before a declaration of war, and the latter for one case in which the military had certainly no power to act, and for another case where the authority was very equivocal. The first was intended to give authority to the Executive to retaliate for the punishment, by the civil courts of Great Britain, of persons taken in arms against them, and who were born in that country, upon their principle of perpetual allegiance; and the second section of the bill authorizes retaliation upon the subjects of Great Britain, for depredations committed by Indians in their employment.

There can be no question, then, but the right of retaliation, in time of war, is vested in the military authority; and there can, I should suppose, be a little doubt of the propriety of its being so vested. Retaliation, to answer any beneficial purpose, should be prompt and decisive. Indeed, in all the instances that I have heard of, where it was delayed, it was given up; and, if two armies were acting in opposition to each other, the one possessing within itself the right of retaliation for injuries not sanctioned by the laws of war, and the other obliged to recur to a distant Power for authority to retaliate, the first would have great advantages over the other; for, in some cases, a threat of immediate retaliation is of itself sufficient to suspend an unjust execution, and to save a victim over whom the arm of power has already been extended. To complete my examination of the first resolution, it remains for me to consider,

3dly. Whether the punishment of Arbuthnot and Ambrister was right, both as to principle and form.

I have a peculiar opinion upon this subject. My friend from South Carolina thinks that the punishment of Arbuthnot was illegal—that of Ambrister not so. My conclusions are directly the reverse. But, before I proceed to mark the circumstances which discriminate the two cases, I will answer the arguments of those who contend that the punishment of both were legal, upon the ground that the decision of their case depended upon the will of the General alone, or upon that of the President, as Commander-in-chief; that the court which tried them had no power to give an opinion which the General or President might not annul or alter, at their pleasure. Sir, this is not the martial law of this country. The commander of an American army possesses no such power over the lives of his prisoners.

In the preceding argument I have, I think, established that the military code of this country consists of the articles of war and the custom and discipline of war established by the practice of our own armies and those of other civilized nations. But, in searching for precedents from

the practice of European armies, regard must be had to a circumstance which gave to some commanders there a power which a General of the United States could never have. It is the case when the Sovereign personally commands his own army, and which gives him, of course, the power to alter the martial law whenever he chooses; a power which, in the United States, can only be exercised by Congress. But in the present case, we have no occasion to travel out of our own country; many precedents having established the mode of punishing persons in the situation of Ambrister and Arbuthnot, to be precisely that which General Jackson used; that is, by trial before a special court or board of officers ordered for the purpose. The gentlemen who have contended for the right of the General to punish these men, of his own authority, have been led into the error by referring for the powers of the General to the law of nations, as explained by *Vattel*, or the law of war, as treated of by *Bynkershoek*. They might as well have examined those authors to discover to which of our courts belong the jurisdiction over pirates. The international law does not, it cannot, define the mode by which a nation may exercise a right which it gives. It is satisfied with giving the right to punish certain crimes, leaving to the nation itself the mode of punishment. Hence, in all the countries of Europe, England excepted, piracy is punished in a court composed of one or more judges, without a jury; but in the United States a jury is necessary. No single nation can change the international law, but every nation is competent to change the mode of punishing any particular offence against that law. The United States have, for instance, changed the mode of ascertaining the guilt of a spy. Contrary to former practice, a statute law has directed that persons charged with being spies shall be tried by a court martial. With respect, therefore, to the two individuals to whom the resolution refers, you are to look first into authors on the laws of nations, to determine whether you can punish them, and then to our own laws to ascertain how to punish them. Our statute law being silent, we are obliged to refer to the mode of punishment which custom has established, and which I have already proved to be the law of this country. An examination of the principles which have been established by this custom will show that the martial law of this country is not such as gentlemen have supposed. If it is severe, it is in cases where severity is necessary; if it is apparently harsh, it is yet discriminating—it leaves as little as possible to the passions of individuals, and it decides that imputed guilt is to be ascertained by careful investigation. In the hour of battle, however, everything bends to the exigency of the moment. The power of a commander over the lives of his prisoners, and even of his own men, has no limit but his opinion of the necessity of sacrificing them. My gallant friend, General Jesup, at the battle of Niagara, then a Major, and acting with a single battalion upon the flank of Scott's brigade, had made

prisoners equal in number to his own command: they were leaving him each moment, and probably returning again to the conflict; in such a case the laws of war would have authorized his destroying them; but, generous as brave, he declined to exercise his right. To prevent the contagion which a single example frequently spreads to a dangerous extent, the recreant who turns from the bayonet of his foe, is arrested by the ball of his comrade. Nay, a regiment, even a whole line, may be directed by a commander to fire upon another who hesitates to advance upon the enemy, or by a shameful flight, to destroy the hopes of victory. But the battle once over, the indiscriminate and furious Mars is banished from the camp; its councils are directed by the more interesting attribute of his warrior sister. No blood is shed but upon the altar of justice, and not until her discriminating and equal eye has passed over the circumstances of the imputed guilt, and she has deliberately pronounced the sentence; punishment is only to follow conviction, and conviction after a thorough examination before a competent tribunal. I will not say, sir, that there is no exception to this rule; but the exceptions are such as most strongly confirm the general principle.

The principle for which I contend is not, that I know of, to be found in any author, but it is as well ascertained by reference to the precedents; and all those warrant me in giving the opinion that, in all cases where the punishment is intended to be inflicted for some crime committed by a man in his individual capacity, that then a trial is necessary, by a special court or board of officers appointed for the purpose. But where the punishment is to be inflicted upon an individual who is himself innocent of any crime, as in the case of Captain Asgill, but who suffers in retaliation for the act of another, no trial is necessary, for no guilt is to be ascertained; no mode or degree of punishment is to be determined upon; because it is already fixed by the act for which he is to atone. In such a case, a selection by lot, in pursuance of an order from the commanding General, is the proper course. In every other case where the punishment of a prisoner is a deliberate act, I challenge gentlemen to show a single precedent occurring in our own army to contradict the opinion I have given. That which appears to be most opposed to it, is the case of false guides, who are instantaneously punished for leading an army in a wrong direction, and very often when they do not deserve it. A remarkable instance of this kind is to be met with as far back as the days of Hannibal. That General directed an Italian to conduct his army to a place called Cassalinum. Pronouncing it with his foreign tongue, the guide misunderstood him, and conducted him to Cossinum, a place surrounded by mountains. His ever watchful antagonist, Fabius, immediately occupied all the passes of the mountains and garnished their summits with his legions. The Carthaginian relieved himself from this *cul de sac*, by the well known stratagem of lighted fagots tied upon

the horns of a large number of oxen. But the unfortunate guide was crucified. If the case of Colonel Hayne, who was executed at Charleston, in the Revolutionary war, is quoted against me, I answer, that the Commander-in-chief, Lord Cornwallis, had previously issued an order directing persons taken under the circumstances in which Colonel Hayne was supposed to be in, should be punished with death, and a court of inquiry was held for the purpose of ascertaining the fact. But this precedent will not be relied upon, when it is known how much and how severe censure has been cast upon the perpetrators of that bloody deed, in England as well as in America. Indeed, all the circumstances which attended the case serve to show that a complete trial upon all such occasions is essentially necessary to prevent the shedding of innocent blood. Colonel Hayne was charged with having borne arms against the British, after having taken a protection as a British subject. This is an offence of a similar character to that of breaking a parole, or one's fighting against the nation to whom he is a prisoner of war. The court satisfied themselves of the two facts of his having received a protection, and afterwards being taken in arms. Those facts were, I believe, not denied by the Colonel; but, in an address to Lord Rawdon, after he was sentenced, the Colonel declared that, if he had had a fair trial and allowed to send for witnesses, he would have been able to justify his conduct. This, the historian, Ramsay, admits he might have done, and considers him a victim to British vengeance. In a note to the history of South Carolina, the opinion of a British lawyer upon Colonel Hayne's case is given [Mr. H. here read the following passage: "No enemy can be sentenced to death in consequence of any military article or any other martial process that I know of, without a previous trial, except spies, who, by the articles of war, are expressly debarred from that right."] I have already shown that the case of Captain Asgill, which was introduced by the gentleman from Kentucky, (Mr. JOHNSON,) and much relied upon by a gentleman from Virginia, (Mr. SMYTH,) does not controvert the principle which I maintain.

In all the cases which have been mentioned in the course of the debate, where an individual enemy was punished, one excepted, which occurred at New Orleans, and which I shall hereafter refer to, it was sanctioned by the opinion of a military court. My friends from Kentucky and Virginia (Messrs. JOHNSON and STROTHER) have very triumphantly introduced two cases in support of their opinion of the omnipotency of a commander. The first is the case of the two British sergeants who, in the Revolutionary war, attempted to seduce the Pennsylvania line; and the latter, of a British officer, who was shot in South Carolina, for a somewhat similar offence. Now, it happens, unfortunately for their argument, that the Drumhead court which tried these men, is to all intents and purposes a court martial; ordered in the same way, and constituted in the same way as



every other court martial. The only difference is, that the process is conducted with more celerity. It is called a Drum-head court, because, being generally in the field where there is no table, the judge advocate writes upon two drums, one placed upon the other; around which the president and members of the court assemble. I have seen two such courts ordered by General Wayne; one for the trial of an American soldier, who was sentenced by it to be shot for cowardice, and the other for the trial of Antoine Lassalle, a Frenchman, who was taken within the lines of our army, after the action of the 20th of August, 1794, and who had fought with the Indians on that day. The better to understand this subject, it may be necessary briefly to name the several tribunals that are acknowledged by our military code. They are, first, the ordinary courts martial of offences committed by our own officers and soldiers, and which are either general courts martial for the trial of capital or other high crimes, or regimental, detachment, or garrison courts, for the trial of inferior offences. Second, courts of inquiry, which report facts only, unless required to give an opinion, but which pronounce no sentence, and is therefore only an intermediate court. Third, boards of war, or special courts martial. And, fourth, councils of war.

The powers and duties of the two first are pointed out in the articles of war. The authority to order the two last, is a prerogative of every commanding General, given to him by the custom of war. Distinctly marked as the powers and duties of the two last are, I was astonished to hear them confounded, not only by other gentlemen, but by the gentleman from Virginia, (Mr. SAWYER) himself a military man, who has given to his country a very valuable compendium of field tactics. The first is a criminal tribunal, the latter exclusively confined to the purpose of advising the General as to the course he is to pursue, with regard to the operations of his army.

It is, as the gentleman has said, in the power of the General to adopt or reject their opinion, either on the whole, or in part, as he chooses. His power over the criminal military tribunals is much more limited. By the articles of war, the sentence of a court martial cannot be carried into effect without the approbation of the General who has ordered the court, and he may disapprove the sentence and direct the prisoner to be discharged, or approve it, and then pardon the criminal. Custom has also given him the power to send back the proceedings and direct the court to re-examine the case, and he may recommend a different sentence—one more severe, if he thinks it a case requiring severity, and point out any error that he conceives they may have committed. But the court are not bound by his recommendation—but are always at liberty to pass the sentence in conformity with their own views of propriety. This sentence he may either execute or not, as he pleases, or he may execute a part and remit the balance, but he cannot change the sentence for one more severe, or even inflict a

lighter punishment than that which the sentence of the court directs, if it is a punishment of a different kind. He cannot, for instance, substitute whipping for death, nor cashiering for death; nor can there be any possible reason why he should have any greater power over the special criminal tribunals, ordered by him, than over the ordinary courts. But whether there can be any reason given for it or not, the martial law gives him no other powers, and I defy gentlemen to show a single precedent for their opinion. Adye on Courts Martial, page 38: "Courts martial are at present held by the same authority as the other courts of judicature of the kingdom, and the King and his Generals, (when empowered to appoint them,) has the same prerogative of moderating the rigor of the law, and pardoning and remitting punishment, but he can no more add to, nor alter the sentence of a court martial than he can a judgment given in the courts of law. The King has an undoubted right to dismiss an officer or soldier from his service, without a trial, but this power cannot bias a court martial, in a matter left to their decision, if men most solemnly sworn to be guided by their consciences, and to administer justice without partiality, favor, or affection, can be trusted."

It is, I understand, a prerogative of the Crown of Great Britain, to order a special court of oyer and terminer. But the King has no authority over the sentence that such courts may pass, which he has not over the sentences of other courts. I anticipate the objection which may be made, that this commission is directed to persons who are already judges. Sir, this is precisely the case with the military tribunals; all the officers of an army are, by law, military judges, and when the ordinary courts are constituted, they are taken indiscriminately by regular detail. In the cases of special courts, the practice is, I believe, to designate, as it is in the civil courts, and as the term *quorum* seems to imply. A reference to the origin of courts martial, as well as the practice, will show that I am correct. All the duties of courts martial were originally performed in England by the court of chivalry, composed of two judges; this continued until the civil wars between the Parliament and Charles I., when a designation of a particular number of officers, by name, was made by act of Parliament, from whom twelve were to be taken to form courts martial. By the subsequent act, called the mutiny bill, passed in 1689, after the Revolution, all the officers were made liable to sit on courts martial, and the practice has been continued in England, and adopted by us, to the present day. From the whole of these premises, I am authorized to draw the following conclusions:

1st. That prisoners of war, in this country, are not at the arbitrary disposal of the commanding General, or the President of the United States, but that they are under the protection of laws, or of customs having the authority of laws. In addition to the precedents to which I have referred, I find in Adye, p. 5, that the rights of pris-

oners were under the protection of the court of chivalry.

2d. That when a charge is made upon a prisoner, for a crime committed by himself, he is to be allowed a fair trial by a board of officers, constituting a special court.

3d. That over the proceedings of this court, the General has no greater or other authority than he has over the proceedings of ordinary courts martial.

By applying these principles to the trials and execution of Arbuthnot and Ambrister, I am led to the conclusion that the trial of both was correct, but that the execution of Ambrister was wrong, because it was not in accordance to the sentence of the court. It is the first instance, I believe, where any man was punished by death in opposition to the sentence; nor is there, that I know of, but a single instance, where the recommendation of the court did not save the life of the accused. The one to which I allude, is the case of Admiral Byng, who was shot in the year 1745, although the court unanimously recommended him to the mercy of the King. It was a recommendation, too, under circumstances which gave it a claim to more than ordinary attention; indeed, it might almost be considered as a second sentence, as they declared that they did not think he merited death. I justify the execution of Arbuthnot upon the ground that he was sentenced by a legal tribunal. It has been objected to by my friend from South Carolina (Mr. LOWMEES) because he was a non-combatant, taken out of a neutral fort; and by other gentlemen, from defect in the testimony. His being a non-combatant, should not have saved him, if it was ascertained, upon his trial, that he stimulated the Indians to their barbarous warfare, which pays no respect to non-combatants; nor should I imagine that his being found in a neutral fort should have prevented his punishment, if the taking the fort could have been justified on other grounds. The court, at least, could know nothing of General Jackson's orders, and must have supposed that he was properly authorized to take it. With regard to the supposed defect in the testimony, as I am no lawyer, I, perhaps, may be likely to form an erroneous opinion, but it does appear to me to be the best that the nature of the case would admit of. I will further add, that, although it appears to be laid down as a general rule, by the writers on the martial law, that the rules of evidence used in civil courts, are applicable to military courts also, yet, from the proceedings of courts martial, which I have either seen or read, it is evident that greater latitude is allowed to obtain the opinions of witnesses than in civil courts. As evidence of this, I beg leave to refer to McArthur's Treatise on Courts Martial, and to his report of the trials of Admiral Keppel, Lord George Sackville, and General Whitelock, in all of which the court sustained the propriety of witnesses giving opinions to an extent unknown, I believe, in civil courts. I am aware, sir, of the objection which may be made to the opinion I have given of the necessity of

15th CON. 2d SESS.—33

trying these men, viz., that, as they had identified themselves with the Indians, they were subject to the same summary punishment that was used with the savages themselves. I admit the right to punish these white men to the fullest extent, but, I believe there is no case in which an investigation is more necessary than a charge of this kind; for, should we adopt it as a rule to hang every white man whom, in time of war, we find in the Indian country, or even in arms against us, we shall punish not only innocent, but often very meritorious men. Such are found among the Indians of the northwest, either made prisoners at an early age, or induced, for the sake of traffic, to serve among them. In the long war which was terminated by the peace of Greenville, many of their traders are known to have impoverished themselves by redeeming our captives, some of them from the flames. It is known, too, that many of them were forced to fight in the Indian ranks at the battle of the Rapids. It is not a little remarkable that the gentlemen who have advocated the omnipotency of the commanding General over the lives of his prisoners, should have paid so little respect to the opinion of General Jackson.

It is impossible, after an examination of the documents upon the subject of the trial of Ambrister and Arbuthnot, not to believe that his opinion, as to the necessity of a trial, precisely corresponds with that which I have given. In his despatches to the Secretary of War, he says, that these men were legally tried, legally sentenced, and legally executed. Now, what is a legal trial, but by a court constituted according to law? Nor would the court have suffered itself to be made use of as an illegal instrument to effect any purpose. It was composed of some of the most intelligent officers of the army. They would not have organized themselves as a court, unless they knew that the order under which they assembled was one sanctioned by the martial law. The gentleman from North Carolina (Mr. SAWYER) said (and I believe he only repeated what had been said by several others) that the court could only have been ordered as a court of inquiry. At the time that gentlemen are paying the highest compliments to General Jackson, for his knowledge of the laws of nations, they will not allow to him, and a select number of his officers, a knowledge of the most common principles of their profession. Sir, I have heard opinions given by gentlemen on this floor, with regard to the powers of a General over his prisoners of war, which, I am persuaded, neither General Jackson, nor any of the officers of our army, would sanction. That there are bounds to the law of obedience in the execution of prisoners, gentlemen will find, by referring to the refusal of a division of the French army, in Egypt, to execute a bloody order of General Bonaparte; an order and execution which may have been denied, but, unfortunately for the fame of the General, has never been disproved.

Sir, I am sure General Jackson would never have issued such an order. It gives me pleasure



to state, upon the authority of an honorable gentleman of this House, who was an eye-witness, that no man could have acted with more humanity than the General did to the prisoners, after the battle of the Horse Shoe; that not only every warrior was spared who surrendered himself, but that several of our own men lost their lives in attempting to save some obstinate individuals who refused to surrender; and that, although his own troops were suffering, he would not permit the corn of the Indians to be taken from them, and that the wounded Indians were dressed and taken care of as his own men. But, should any future commander undertake to execute the powers over his prisoners, which gentlemen are disposed to allow him, I am persuaded that instruments for his purpose could not be found in an American army, and he would be answered by a tyrannical French King was answered by a magnanimous officer—"I am the soldier of my country, but not its executioner; you must seek elsewhere for such instruments."

A gentleman from New York (Mr. TALLMADGE) in the course of this debate, alluded to an event of the Revolutionary war (for what purpose I did not well understand, as I was not fortunate enough to hear the whole of the gentleman's remarks) in a manner calculated not only to cast a shade over the character of one of our greatest military heroes, but upon that of the country itself. I extremely regret, sir, the absence of the gentleman, as well as the cause of it. If he were in his seat, I am persuaded that his candor would induce him to retract an error into which he has been led by a partial and prejudiced historian of our Revolutionary contest. In speaking of the storming of the fortress of Stony Point, by a detachment of the American army under the command of General Wayne, the gentleman, upon the authority of Gordon, a British historian, said that "on that night retaliation, nay, revenge, drank its fill, that the troops were stimulated to this feeling by the watchword, *Remember the Paoli*." Sir, I take upon myself to assert that the historian Gordon has totally misrepresented the whole of that transaction; and I would refer the honorable gentleman to the American work written by the Chief Justice of the United States from the most authentic documents, to show that he has done so. It is expressly stated in that history, that no blood was shed after the enemy ceased to resist, and, of course, that revenge had no part in the affair; nor was the watchword such as the gentleman has supposed. "*The fort is our own*," was the watchword, and was first given by the then Lieutenant Colonel Posey as he mounted the parapet. More fortunate in that particular than the honorable gentleman from New York, I knew General Wayne personally and intimately. The foul passion of revenge never had a place in his noble and generous bosom. It was for his country alone that he fought, and the blood of her enemies was never shed by his order but in lawful and open warfare, or as just and necessary retaliation, in which personal feeling could have no

influence. Yes, sir, I well recollect his fine blue eye, as easy to be melted at the soft voice of pity as it was prompt to kindle with martial ardor at the sound of the trumpet.

Understanding, Mr. Chairman, that a gentleman, who is to follow me in the debate, intends to call the attention of the Committee to a correspondence of mine with a British commander during the late war, in which the doctrine of retaliation is placed upon very strong ground, to prevent the necessity of again troubling the Committee, I must request the Clerk to read a letter to General Vincent, in the Fall of 1813.\* There is nothing in this letter

\*"But, sir, there is another subject upon which I wish an explicit declaration: Will the Indians who still adhere to the cause of His Britannic Majesty be suffered to continue that horrible species of warfare which they have, as heretofore, practised against our troops—and those still more horrible depredations upon the peaceable inhabitants of our frontiers? I have sufficient evidence to show that even the latter has not always been perpetrated by small parties of vagrant Indians, acting at a distance from the British army. Some of the most atrocious instances have occurred under the eyes of the British commander and the head of the Indian department. I shall pass by the tragedy of the river Raisin, and that equally well known scene which was enacted on the Miami, after the defeat of Colonel Dudley, and select three other instances of savage barbarity, committed under the auspices of General Proctor. In the beginning of June a small party of Indians, conducted by an Ottawa chief, who I believe is now with the British army under your command, left Malden, in bark canoes, in which they coasted Lake Erie, to the mouth of Portage river; the canoes were taken across the Portage, to the Sandusky bay, over which the party proceeded to the Cold creek, and from thence, by land, to the settlements upon that river, where they captured three families, consisting of one man and twelve women and children. After taking the prisoners some distance, one of the women was discovered to be unable to keep up with them, in consequence of her advanced state of pregnancy. She was immediately tomahawked, stripped naked, her womb ripped open, and the child taken out. Three or four of the children were successively butchered, as they discovered their inability to keep up with the party. Upon the arrival of the Indians at Malden, two or three of the prisoners were ransomed by Colonel Elliott, and the others by the citizens of Detroit, where they remained until they were taken off by their friends, upon the recovery of that place by our army. I understand that the savage chief received from Colonel Elliott a reprimand for his cruelty.

On the 29th and 30th of the same month, a large party of Indians were sent from Malden, on a war expedition, to Lower Sandusky. At a farm-house near that place, they murdered a whole family, consisting of a man, his wife, son, and daughter.

During the last attack upon Fort Meigs, by General Proctor, a party, headed by a Seneca, and intimate friend of Tecumseh, was sent to endeavor to detach from our interest the Shawanese of Wapochanata. In their way thither they murdered several men, and one woman who was working in a cornfield.

I have selected, sir, the above from a long list of similar instances of barbarity, which the history of the

inconsistent with the principles which I have advanced. If it were otherwise, I could shelter myself under an act of Congress, passed at the session before the letter was written, expressly giving the power which it claims. But, as I had much rather that the Committee should have reason to censure my judgment than conceal any part of the transaction, I confess that I did not know, when the letter was written, that any such act had passed. It was my construction of the laws of nations that we had a right to use the Indians who were on our side in the same way that our enemies did with theirs. I knew no other way of putting a stop to the massacre of our citizens, convinced that retaliating upon the Indians would be useless—and that, if the British commanders were insensible to the claims of humanity, the cries of their own subjects would reach the British Throne, and by that means effectual measures would be adopted to restrain their barbarous allies. But, sir, I found it easier to threaten retaliation than to execute it. When the shocking scene acted upon Cold creek was first communicated to me, I not only promised to retaliate by letting loose our Indians upon their settlements, but I made a solemn vow that I would do it. It is needless to say, that, when I entered Canada and saw helpless women collected in a huddle as a sort of protection against the possibility of outrage, and innocent children playing before the

last fifteen months could furnish, because they were perpetrated, if not in the view of the British commander, by parties who came immediately from his camp and returned to it—who even received their daily support from the King's stores—and who, in fact, (as the documents in my possession will show,) form a part of his army.

To retaliate, then, upon the subjects of the King, would have been justified by the laws of war and the usages of the most civilized nations. To do so has most amply been in my power. The tide of fortune has changed in our favor, and an extensive and flourishing province opened to our arms. Nor have the instruments of vengeance been wanting. The savages, who sued to us for mercy, would gladly have shown their claims to it by re-acting upon the Thames the bloody scenes of Sandusky and Cold creek. A single sign of approbation would have been sufficient to pour upon the subjects of the King their whole fury. The future conduct of the British officers will determine the correctness of mine in withholding it. If the savages should be again let loose upon our settlements, I shall, with justness, be accused of having sacrificed the interests and honor of my country, and the lives of our fellow-citizens, to feelings of mistaken humanity. You are a soldier, sir, and, as I sincerely believe, possess all the honorable sentiments which ought always to be found in men who follow the profession of arms. Use, then, I pray you, your authority and influence to stop that dreadful effusion of innocent blood which proceeds from the employment of those savage monsters, whose aid, (as must now be discovered,) is so little to be depended on when most wanted, and which can have so trifling an effect upon the issue of the war. The effect of their barbarities will not be confined to the present generation: ages yet to come will feel the deep-rooted hatred and enmity which they

doors of their cottages, that I not only forbore to execute the promise to retaliate, but I informed the Indians that, if they offered the least violence to the persons of the inhabitants, I would hang the perpetrator to the first tree; and the order was faithfully obeyed. My vow, sir, remains recorded against me in Heaven, unless, indeed, the angel of mercy shall have dropped upon it a tear and blotted it out forever.

I am now, sir, to consider the resolution in relation to the occupation of the Spanish posts. I agree entirely with those gentlemen who disapprove of it, as the exercise of a power exclusively vested in the National Legislature. The arguments in support of this opinion have been so ably and so recently brought to the view of the Committee, by my friends who have preceded me in the debate, as to leave me little to add upon this part of the subject. I admit the right of General Jackson to follow the Indians into Florida, but I have not been able to discover that military necessity by which alone the seizing of Pensacola and Barancas could be justified under the laws of nations. I beg leave to read to the Committee the opinion of an author of high standing, who has not hitherto been referred to in the course of this debate. Bynkershoek, *Laws of War*, page 58: "But he who commits hostilities upon the territories of a friend to both parties, makes war upon the sovereign who governs them, and who, by his laws, coerces every violence by whomsoever it may be committed." In page 63 he proceeds: "I do not pretend that the conqueror may not justly pursue the conquered fleet, even though he should be driven to the territory of a neutral.

must produce between the two nations. I deprecate most sincerely the dreadful alternative which will be offered to me, should they be continued; but I solemnly declare, that if the Indians that remain under the influence of the British Government are suffered to commit any depredations upon the citizens within the district that is committed to my protection, I will remove the restrictions which have hitherto been imposed upon those who have offered their services to the United States, and direct them to carry on the war in their own way. I have never heard a single excuse for the employment of the savages by your Government, unless we can credit the story of some British officer having dared to assert that, "as we employed the Kentuckians, you had a right to make use of the Indians."

If such injurious sentiments have really prevailed, to the prejudice of a brave, well informed, virtuous people, it will be removed by the representations of your officers who were lately taken upon the river Thames. They will inform you, sir, that so far from offering any violence to the persons of their prisoners, these savages would not permit a word to escape them which was calculated to wound or insult their feelings, and this, too, with the sufferings of their friends and relatives, at the river Raisin and Miami, fresh upon their recollection. I have the honor to be, &c.

WILLIAM HENRY HARRISON.

P. S. I pledge myself for the truth of the above statement in relation to the murders committed by the Indians.

W. H. H."



But, I approve the direction of the States General in their decree of the 10th October, 1652, to abstain from violence in the port itself, because violence could not be done there without danger to the neutral. On this principle, it is not lawful to begin an attack on sea near the land within shot of the cannon from the fortresses, but it is lawful to continue an attack already commenced, and pursue the enemy into a jurisdictional sea, even close to the land, or into a river, bay, or creek, provided we spare the fortresses, though they should assist the enemy, and provided there be no kind of danger to our friends."

In the following page, the same author says: "The law is the same on the land as on the sea." This authority then is conclusive that the taking possession of Pensacola and Barancas by General Jackson was an act of war, which could only be authorized by a declaration of war, and that declaration the Constitution of this country vests in Congress alone. The gentleman from Mississippi has referred to some instances of unauthorized hostilities by a subordinate officer, not being considered by the nation against whom they were directed as cause of war. Wherever this did happen, sir, it is very certain that the aggressing party had thrown the gauntlet, and had put the peace beyond their control if the other had been disposed to war. A few days ago I had the honor to state to the House the circumstances which attended the appearance of the American army before the British posts at the rapids of the Miami, in the year 1794. So perfectly convinced, sir, were the British nation that the attack of that post would have produced war between the two nations, that the merchants of London presented Major Campbell, the commandant of the post, with their thanks, and a service of plate for his forbearance in declining the challenge which General Wayne seemed to have offered.

That the conduct of General Jackson, in relation to the Spanish posts, was unauthorized by the President; that he considered it as an unconstitutional act, is evident from his having agreed to restore them to Spain without the authority of a law of Congress. If these posts were a legal acquisition to the arms of the United States, the President could no more surrender them by his own authority, than he could restore to Great Britain the frigate *Macedonian*, or any other capture made during the late war. The territory acquired by the arms of the nation in legal warfare is the property of the nation, and cannot be disposed of by the Executive authority alone. But, sir, however strongly confirmed I may be in the opinion, that, in taking the Spanish posts, the General not only exceeded his orders, and that too without the necessity for doing so, which has been made the ground of his defence, I am unwilling to cast any censure upon him but what may be the consequence of the assertion of the rights of this House, the sacred depository of the liberties of the people. Nor can I possibly conceive that the passage of the resolution will do the least injury to General Jackson as a man or as a commander; that there would be less inclination in

this House or the nation to intrust an army to his command, than there would have been before this investigation had taken place. The decision of one man or any body of men against the decision of another, when the motives are considered correct, is not supposed to inflict any injury. A superior court pronounces the sentence of an inferior wrong, unconstitutional. Indeed, the Supreme Court of the United States have that power as it regards a law passed by Congress. So has the President, and it has been exercised without, as I am persuaded, a single individual member feeling himself insulted or aggrieved by the decision.

Mr. Chairman, it is always a matter of delicacy to examine the motives of the conduct of an individual. I think however that in the present case such an examination is not only proper for a thorough understanding of the case, but it is so as a matter of justice to General Jackson, and particularly as it relates to the charge of disobedience of orders.

A military officer is frequently in situations of great delicacy and danger, arising from the severity of the general principles of duty, and the undefined nature of those which are sometimes permitted to control them. In the articles of war he finds one which claims from him, in matters of duty, unlimited obedience to his superiors, and he looks in vain for an exception to shelter him from the death or disgrace which is the consequence of his neglect. Exceptions are however admitted to exist, in which disobedience may not only meet with impunity, but become an imperious duty, and from the consequences attending it obtain for him the highest rewards from his country. Singular as it may appear, no man can serve long in an army without being called upon to decide between a plain, written, positive law, denouncing the severest punishment for disobedience, and the unwritten undefined exceptions which he is left to discover by his own sagacity. It is a case full of difficulty and danger. The prudent cautious man pursues the broad track of ordinary rules, adhering to the letter of his instructions, avoiding responsibility, and making his personal safety his principal object. The more generous and enthusiastic spirit will frequently do that which the common principles of duty will not authorize, and rest his justification upon the purity of his motives. These however he is fully aware will not always save him; and indeed such is the necessary rigor of martial law, that his justification must rest almost exclusively upon the result of the course he pursues. It will be in vain for a General who commands the wing of an army, and loses a battle by a disobedience of orders, to shelter himself under the correctness of his intentions. He must show that the thing he did was right, and the best evidence of its being right is the success that attends it. Under this awful responsibility, with the rigor of the law hanging over his head, every military man may not only disobey an order, but in particular situations he may do things which in common cases he would shudder but to think of.

If for instance the second in command at West Point, when Arnold designed to have surrendered it to the enemy, had satisfied himself from the circumstances before him that treachery was meditated by his commander, he should have seized his person and taken the command. But the consequences flowing from such an example are so awful that I do not see, under any circumstances, how a court martial could do otherwise than sentence him to suffer death, to sustain the rigor of discipline. I would do so; and pardon, honor, and promote him, afterwards. It may be said that no person would, under such circumstances, run so great a hazard. I answer that every good officer would do it, as it is the first principle of his profession never to regard personal consequences of any description in the performance of his duty.

Sir, I have no information as to the train of reasoning that led General Jackson to take possession of the Spanish posts, but what is communicated to every member of the Committee; but I have a clue to unravel them, in a knowledge of the principles which governed him in putting New Orleans under martial law in 1814. He well knew that he was violating the laws of his country, and that his justification would depend upon his success; and that success he could not command, although he might deserve it. But he knew that the unfavorable consequences of the act he was about to commit would be personal to himself, and, like a true soldier, he determined to disregard them. Now, sir, I am perfectly confident that under the guidance of the same principles his conduct in relation to Pensacola is to be explained. He knew that we had ample cause of war against Spain; that the nation were not averse to it, if it could be undertaken upon proper principles. Fresh injuries had been received, with which the National Legislature could not be acquainted. He was in the country, in the legal pursuit of an enemy, evidently countenanced and assisted by the Spaniards. If the Legislature were in possession of these facts, would they not immediately authorize him to take possession of those posts? Ought he not to anticipate their wishes? What would be the consequence of his doing it? If the measure should be approved, all would be right; if it should be disapproved, the remedy would be in the power of the Government, by restoring the posts. The consequences at any rate could only be a censure to himself, which he would disregard, if his motives were appreciated.

I cannot but regret, Mr. Chairman, the frequent appeals which have been made, in this discussion, to the distinguished services of General Jackson, by those who entirely approbate his conduct. A proper reference to these might, I suppose, have been safely trusted to their opponents upon this question. If his conduct upon other occasions has been brought to our view, for the purpose of indicating the motives which governed him, in relation to the objects of our inquiry, it was certainly unnecessary, as the purity of his motives has never been questioned. Nor was it, I think,

necessary to remind us of the gratitude we owe him. If the important services of General Jackson are already forgotten by the Representatives of the nation, it will, I acknowledge, be a worse indication of the state of the times than some of the doctrines which have been advanced in the course of this discussion. Has my friend from South Carolina (Mr. LOWMEYER) forgotten the sentiments with which he introduced the resolution of thanks in an address to this House, which caused all to acknowledge that the orator was worthy of the theme, as the theme was of the orator? And, sir, how short a time has elapsed since the members of this House were perfectly electrified by a burst of eloquence on the same subject from a different source, (Mr. CLAY,) which could never have been produced if the sentiments of the heart had not corresponded with the terms in which they were delivered! And, if, sir, (what I cannot believe,) the services of General Jackson were intended as a set-off against any subsequent misconduct, the motive would be, in my opinion, still more improper. A Republic can commit no greater error than the admission of such a principle. The danger of such a government is always in proportion to the confidence it reposes in individuals.

Fidelity to a nation in a foreign war is not always followed by fidelity to the principles of its government. History furnishes a thousand examples to show that a brilliant career of public service may in the same man be terminated by schemes of unbounded ambition and the perpetration of the most atrocious crimes. Rome, rocked in the cradle of Mars, making war her trade, deprecated, by her prayers and her sacrifices, and provided for by a deposite of treasure sacred to that object alone, one only war. An invasion of northern barbarians had already suspended her fate by a thread, and seemed to mock the prophecy of universal dominion. In the period of her greatest glory, when her fortitude, her perseverance, and her valor, had triumphed over the wealth of Carthage and the genius of Hannibal; when the firmness of the Grecian phalanx had yielded to the pliancy and promptitude of her legions; when her triumphant eagles had already been planted on the shores of Asia, and the successors of Alexander anticipated their fate as the result of a valor of which they knew not the source, and of tactics which they could not understand—at this period of her greatness, a mighty swarm of ferocious barbarians hung upon the summit of the highest Alps. Desolation had marked its progress from the shores of the Baltic. The legions which had ventured to oppose its progress had been swept away as the dew-drops of the morn before the feet of the passenger. Dismay and terror pervaded the provinces of Italy. The Roman people trembled—the Senate itself was confounded. In this moment of extreme distress, every eye was turned—not upon a hero—not upon a WASHINGTON. Marius wanted that elevation of mind, those honorable sentiments, which distinguish the true hero. His talents were equal to the occasion; he saved his country,



H. OF R.

Seminole War.

FEBRUARY, 1819.

but he saved it to prey upon it himself. If the highest services could claim indemnity for crime, then might the conqueror of Plataea have been suffered to continue his usurpations until he had erected a throne upon the ruins of Grecian liberty. Sir, it will not be understood that I mean to compare General Jackson with these men. No; I believe that the principles of the patriot are as firmly fixed in his bosom as those of the soldier.

But a Republican Government should make no distinctions between men, and should never relax its maxims of security for any individual, however distinguished. No man should be allowed to say that he could do that with impunity which another could not do. If the Father of his Country were alive and in the administration of the Government, and had authorized the taking of the Spanish posts, I would declare my disapprobation of it as readily as I do now. Nay, more—because the more distinguished the individual, the more salutary the example. No one can tell how soon such an example would be beneficial. General Jackson will be faithful to his country; but I recollect that the virtues and patriotism of Fabius and Scipio were soon followed by the crimes of Marius and the usurpation of Sylla. I am sure, that it is not the intention of any gentleman upon this floor to rob General Jackson of a single ray of glory, much less to wound his feelings or injure his reputation. And, whilst I thank my friend from Mississippi, (Mr. POINDEXTER,) in the name of those who agree with me that General Jackson has done wrong, I must be permitted to decline the use of the address which he has so obligingly prepared for us, and substitute the following, as more consonant to our views and opinions. If the resolutions pass, I would address him thus: "In the performance of a sacred duty imposed by their construction of the Constitution, the Representatives of the people have found it necessary to disapprove a single act of your brilliant career; they have done it in the full conviction that the hero who has guarded her rights in the field, will bow with reverence to the civil institutions of his country—that he has admitted as his creed, that the character of the soldier can never be complete without eternal reference to the character of the citizen. Your country has done for you all that a Republic can do for the most favored of her sons. The age of deification is past; it was an age of tyranny and barbarism; the adoration of man should be addressed to his Creator alone. You have been feasted in the Prætorian of the city. Your statue shall be placed in the Capitol, and your name be found in the songs of the virgins. Go, gallant chief, and bear with you the gratitude of your country. Go, under the full conviction that as her glory is identified with yours, she has nothing more dear to her but her laws—nothing more sacred, but her Constitution. Even an unintentional error shall be sanctified to her service. It will teach posterity that the Government which could disapprove the conduct of a Marcellus,

will have the fortitude to crush the vices of a Marius."

These sentiments, sir, lead to results in which all must unite. General Jackson will still live in the hearts of his fellow-citizens, and the Constitution of our country will be immortal.

THURSDAY, February 4.

The House met under closed doors, and continued in private session until near four o'clock, when the doors were opened, and the injunction of secrecy having been in part removed from the secret proceedings, it appeared that the amendments proposed by the Senate to the Military Appropriation bill, to carry into effect certain stipulations of the late treaty with the Chickasaw Indians, had been the subject of the private deliberations of the House, which resulted in concurrence with the Senate's amendments.

FRIDAY, February 5.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, who were instructed to inquire into the expediency of authorizing the appointment of an agent, in each of the counties of the several States, to receive the tax due to the General Government on lands, which are or may be sold for the non-payment of the taxes, made a report thereon; which was read, and the resolution therein contained was concurred in by the House, as follows:

*Resolved*, That it is, in their opinion, inexpedient to authorize the appointment of such agent.

Mr. SMITH, of Maryland, laid before the House a letter addressed to him by the Secretary of the Treasury, transmitting statements of the gross amount of duties upon merchandise and tonnage, which accrued during the two first quarters of the year 1817 and 1818.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill concerning invalid pensioners; which was read twice, and committed to a Committee of the Whole.

Mr. R., from the same committee, also reported a bill for the relief of James Price; which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of Elbert Herring.

Mr. R. also reported a bill to authorize the Secretary of War to appoint an additional agent, for paying pensioners of the United States, in the State of Tennessee; which was read twice, and ordered to be engrossed and read a third time tomorrow.

The Committee on Military Affairs were discharged from a further consideration of the petition of General James Wilkinson, and it was referred to the Committee on the Judiciary.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill further to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other purposes; which was read the first and second time, and committed to

FEBRUARY, 1819.

Seminole War.

H. OF R.

the Committee of the Whole, to which is committed the bill in addition to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, 1799.

The SPEAKER laid before the House a letter from Joseph Lancaster, containing an expression of the gratitude with which he is penetrated for the honor conferred upon him in admitting him to a seat within the Hall; which letter was read, and ordered to lie on the table.

The House took up and proceeded to consider the report of the Committee of Ways and Means, made at the last session, on the petition of Lawrence Muse; whereupon, it was ordered that the said report and petition be recommitted to the Committee of Ways and Means.

On motion of Mr. GARNETT, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of extending the privilege of franking to agricultural societies, which are or may hereafter be incorporated in any of the United States, through their presidents or secretaries, as may be most expedient, and of limiting the privilege to the correspondence of such societies with each other.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to regulate passenger ships and vessels;" "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," with amendments. They have also passed bills of the following titles, to wit: "An act for the relief of James H. Clark;" "An act for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans;" and "An act to continue in force an act regulating the currency within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five franc pieces;" also, "A resolution proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States;" in which amendments, bills, and resolution they ask the concurrence of this House.

The amendments proposed by the Senate to the bill, entitled "An act to regulate passenger ships and vessels," were read, and referred to the Committee of Commerce and Manufactures.

The amendments proposed by the Senate to the bill, entitled "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," were read, and concurred in by the House.

The bill from the Senate, entitled "An act for the relief of James H. Clark," was read twice, and referred to the Committee of Claims.

The bill from the Senate, entitled "An act for adjusting the claims to land and establishing land offices in the district east of the island of New

Orleans," was read twice, and referred to the Committee on the Public Lands.

The bill from the Senate, entitled "An act to continue in force an act regulating the currency, within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France, and five franc pieces," was read twice, and committed to the Committee of the Whole, to which is committed the bill of this House continuing for a limited time the currency of the crowns and five franc pieces of France.

The resolution from the Senate, "proposing an amendment to the Constitution of the United States, as it respects the choice of Electors of President and Vice President of the United States, and the election of Representatives in the Congress of the United States," was read twice, and committed to the Committee of the Whole on the state of the Union.

An engrossed bill, entitled "An act providing additional penalties for false entries, for the benefit of drawback or bounty on exportation," was read the third time, and passed.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*To the House of Representatives of the United States:*

I communicate to Congress copies of applications received from the Minister of Great Britain, in behalf of certain British subjects, who have suffered in their property by proceedings to which the United States, by their military and judicial officers, have been parties. These inquiries have been sustained under circumstances which appear to recommend strongly, to the attention of Congress, the claim to indemnity for the losses occasioned by them, which the Legislative authority is alone competent to provide.

JAMES MONROE.

WASHINGTON, Feb. 3, 1819.

The Message was read, and, together with the documents accompanying the same, referred to the Committee of Claims.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a statement of moneys transferred, during the recess of Congress, from one branch of expenditure to another branch of expenditure, in the same Department; which was read, and ordered to lie on the table.

SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Seminole war.

Mr. HARRISON concluded the speech which he commenced on Thursday, as given entire in preceding pages.

Mr. BALDWIN, of Penn., observed, that, in entering into the investigation of this subject, he should not inquire whether motives of feeling and compassion should induce us to palliate and excuse the conduct of General Jackson and the President, and whether it were right or wrong. If innocent blood had been shed, or the laws and Constitution of the country grossly violated, neither the exalted character or eminent services of the persons implicated ought to exempt them from the cen-



H. or R.

Seminole War.

FEBRUARY, 1819.

sure of this House. But, on a careful examination of all the evidence and documents submitted to us, he was fully of the opinion expressed by his friend from Kentucky, the chairman of the Military Committee, (Mr. JOHNSON,) that General Jackson, in the wilds of Florida, better understood the laws of nations, and the constitution of his country, than gentlemen in this House, who had been so long discussing the propriety of his conduct.

To come to a correct conclusion on the trial and execution of Arbuthnot and Ambrister it would be well to inquire who they were, and their business and employment in Florida. Arbuthnot was the agent of Nicholls and Woodbine, to excite dissensions among the Indians, to make them dissatisfied with the treaty of Fort Jackson, induce them by force to reclaim the lands ceded to us by that treaty, and the British and Spanish Governments to become parties. By a special power of attorney he became the general agent of all the Indians hostile to us, and was the instigator of all their incursions upon our Southern border. He pretended to be there for trade, but this was a mere pretence. Examine his letter to Governor Cameron: "I beg leave to represent to your excellency the necessity of my again returning to the Indian nation, with the deputies from the chiefs, and as my trouble and expense can only be defrayed by permission to take goods to dispose among them, I pray your excellency will be pleased to grant such a letter or license as prevents me being captured in case of meeting any Spanish cruiser on the coast of Florida." He was not the advocate for peaceful measures; his letter to General Mitchell justifies the murders of the frontier inhabitants. Speaking of the Indians, he says, "In the height of their rage, they committed any excesses, you will overlook them, as the just ebullitions of an indignant spirit against an invading foe." To further ascertain his true character, and that of his agent and trade, I beg the Committee to examine his letter to Mr. Bagot. The bill of goods that this humane trader and innocent and injured man ordered to be sent to him, was "2,000 knives, blades from six to nine inches in length, of a good quality—1,000 tomahawks." This was Arbuthnot; and these facts appear from letters in his own handwriting.

Ambrister was a pretended patriot; the agent of McGregor and Woodbine. He came to Florida to command the runaway negroes of Georgia, slaves who had absconded from their masters, and were organized by him to return to our country, and visit it with all the horrors of a savage negro war. He came to Florida on their business, and to see them righted. According to the testimony of John J. Arbuthnot, "about the 3d of March the prisoner Ambrister came with a body of negroes, partly armed, to his father's store on Suwanee river, and told the witness that he had come to do justice to the country, by taking the goods, and distributing them among the negroes and Indians, which the witness saw the prisoner do; and that the prisoner said to him, that he had come to the country on Woodbine's business, to

see the negroes righted. The witness has further known the prisoner to give orders to the negroes; and that, at his suggestion, a party was sent from Suwanee to meet the Americans, to give them battle." Peter B. Cook testified, that, "some time in March, the prisoner Ambrister took Arbuthnot's schooner, and with an armed party of negroes, twenty-four in number, set out to take Arbuthnot's goods, &c. The prisoner was sent by Woodbine to Tampa, to see about those negroes he had left there." Ambrister, in a letter to Nicholls, says, "There is about three hundred blacks at this place, a few of our Bluff people, (alluding to the negro fort on Prospect Bluff;) they beg me to say they depend on your promises, and expect you all on the way out. They have stuck to the cause, and will always depend on the faith of you," &c. The prisoner, Ambrister, according to the testimony of Jacob Hannon, "took possession of the schooner Chance, with an armed party of negroes, and stated his intention of taking St. Marks. While the prisoner was on board, he had complete command of the negroes, who considered him as their captain."

He boasts that three hundred negroes have stuck to the cause—the cause of Indians attacking the defenceless inhabitants of our frontiers; negroes fighting against their masters; and all joining in horrid butchery and murder; Ambrister leading them in the field, Arbuthnot their agent, adviser, commissary, quartermaster, storekeeper—secure in a Spanish post, concerting all their plans, and directing all their operations.

Gentlemen may differ as to the manner in which we consider Indians, whether as a nation, or as occupants of the soil, with a qualified right of ownership; but, as to negroes, there can be but one opinion. In Georgia they are slaves, property not merely personal but political, property of the highest description, which we are bound by the Constitution to protect, and to restore to their owners. These negroes could acquire no new right by absconding into Florida, and, however numerous their assemblage may be, we cannot acknowledge them as thus acquiring any national character. As between them and us they were still slaves; and their owners, the Georgia militia, who were with General Jackson, had a right to consider and treat them not as a nation entitled to the protection of the rules of civilized warfare. They were, in fact suppressing an insurrection of slaves, aided by an Indian force, all assembled and armed for purposes hostile to the country. One white man is found at their head, fighting and leading them on; another exciting, and supplying them with the means of destruction. These men cannot complain if they are put on a footing with those with whom they thus associate. They cannot expect to raise this compound mass to their own level, but must be satisfied to sink to theirs. Arbuthnot's own opinion of himself is entitled to some weight. In his letter of 3d March, 1817, he says: "The Lower Creeks seem to wish to live peaceably, and quietly and in good friendship with the others,

FEBRUARY, 1819.

Seminole War.

H. or R.

"but there are some designing and ill-minded persons, self-interested, who are endeavoring to create quarrels between the Upper and Lower Creek Indians, contrary to their interests, their happiness, and welfare. Such people belong to no nation, and ought not to be countenanced by any government." He did excite this war, and thus, by his own account, belongs to no nation. What then is he, but an outlaw and a pirate, placed beyond the protection of civilized society? Thus we find General Jackson and Arbuthnot agree as to him, and, as to Ambrister, I will willingly leave it to be decided whether he was less an outlaw than the runaway brigands whom he commanded.

The greater part of the hostile Indians were the Creeks, who had been outlawed by their own people. To call a gregarious collection of this kind, composed of outlawed Indians and runaway negroes a nation, and give them national attributes, is idle. Neither mass was so by themselves, and their union for a common object could not change the character of the constituent parts. A better or more appropriate name could not be given to them as a mass, or as individuals, than outlaws and pirates. They were so in fact, and, whatever rights we had against any, we had against all, whether black, white or red.

Arbuthnot was near the scene of operations, aiding and abetting, an accessory before the fact. An attempt is made to distinguish his case from Ambrister's, because he was a non-combatant. But to me it seems, that the man who, as the agent, commissary, and quartermaster, directed and planned the operations of this assemblage, and directly supplied them with the means, is as much a combatant as one who actually bore arms in the field. Thus were these men completely identified with the Indians and negroes, and, being found in this situation by General Jackson, he practised towards them not the right of retaliation, which is punishing the innocent for the guilty, but applied to them what is admitted and conceded to be the established law of nations: to treat those with whom we are at war as they treat us. Indians put their prisoners to death, and in this war they did not spare women and children; the brains of the latter were dashed out on the sides of the boat, after the massacre of Lieutenant Scott and party, and I think it can hardly be contended that we were bound to extend to these savages, to runaway slaves, or white incendiaries, the humane rules of modern civilized warfare. Their execution was only the exercise of an acknowledged right in us.

In distinguishing between the moral depravity of the ignorant Indian, who, in roasting his prisoner and murdering the mother and the infant, follows the customs of his fathers, and as he thinks, the dictates of his religion; and the white man, who, forgetting the mild customs of his nation, and deaf to the benignant dictates of the Christian religion, instigates, aids, and abets the Indian and negro to the horrid butchery of innocence, I think all must agree that the one who sins against light and knowledge is infinitely more criminal.

The guilt is in the heart that plots and not the hand that executes, as was most forcibly expressed by a gentleman from Virginia. Not in the musket, but in him who directs it. If —, who was present and assisted at the burning of the unfortunate Colonel Crawford, had been taken by our troops, and executed; if, on that day, so proud and yet so fatal for Kentucky, when, after the battle of the river Raisin, there was a barbarous massacre of her captive soldiers, it had been true, as was alleged, that a British officer, high in command, abetted and connived at the murders, and he had been taken and executed, would his fate have been more lamented than that of the poor savage, whom they encouraged? In executing Arbuthnot and Ambrister, it is not charged against General Jackson that he has shed innocent blood. The facts were admitted; their guilt was established; one threw himself on the mercy of the court, the other rested his defence on the rules of evidence. The charge is, that the guilty have not been punished according to the forms of law, and that the Constitution and laws of the country have been violated in their trial and execution. I think that neither have any bearing on the case of these men. They were found and executed out of the territorial limits of the United States, where our laws or Constitution have no operation, except as between us and our own citizens, and where none other could claim their benefit and protection. If the rights of an American citizen had been violated by an American officer, he must answer to our laws for an abuse of an authority which he derived under them. These men were not our citizens, not bound by our laws; they owed us no allegiance, and were entitled to no protection. The General claimed no power to punish them under our laws. He knew that legislation was necessarily confined to the boundary of the Sovereign; that, on the ocean, where each nation has concurrent jurisdiction, or in the territory of any other where it is exclusive, our laws could not give us any power over the citizens of other Governments or within their boundaries. All that we could claim or exercise, in either case, is by the laws and usages of nations. Our legislation cannot extend or annul this code. We may, indeed, prescribe the mode in which our officers shall execute the powers which the laws of nations give us over the persons, territory, or property of others, but cannot extend our jurisdiction over either or give it in cases where those laws are silent. In advocating the resolution which requires some legislative rule on this subject, gentlemen seem to forget these principles—we have no power—we should encroach on the rights of other nations. As we cannot, therefore, give ourselves any new powers by any act of legislation, I trust gentlemen will see the bad policy and the injustice we should do ourselves by adopting any rule not to be found in national law. If we take from our officers the powers which that law gives them, we go to war on unequal terms, with our hands tied, so that we shall not be at liberty to treat our enemy as they treat us. Our officers could neither retal-



H. OF R.

Seminole War.

FEBRUARY, 1819.

iate nor punish for the most atrocious outrages on humanity. Innocent blood would forever flow. Indian wars would never cease. Foreign emissaries would always hang on our borders, and escape with impunity. The law of nations and of war gives the General power over his prisoners. The old practice was to put them to death; and that still exists, when the consent of the belligerents has not adopted a different rule. Civilized nations govern themselves by the laws of humanity; but our savages have not yet learned them. War, with them, has lost none of its horrors or cruelties. It surely cannot be pretended that we are bound by a rule which they do not respect; that we cannot, by retaliation or by just punishment, revenge for past or prevent future murders; or that where we take white men who have served in civilized armies and know their usages, and yet aid and instigate the most dreadful savage war, we may not treat them as we might the savages or negroes whom they command and lead on. By the laws and uniform practice of civilized nations, this power is in the commanding General. In the case of Captain Asgill, the old Congress resolved that it was in every commander of a detachment. This was a strong case. He was about to be executed for the crimes of another. We have never, by any law, prohibited to a commanding officer the exercise of this power, and it therefore remains with him.

The honorable Speaker relies on our uniform usage in all our Indian wars, which is said to have been not to put an Indian prisoner to death; and insists on this use as conclusive evidence that our officers do not possess this power. This argument, if true in fact, might lead to correct conclusions: provided the power exercised in this case by General Jackson had not been one clearly vested in him by national law. There is a great difference between the assumption of a power growing merely out of usage and justifiable only on the ground of precedent, and one which has been from time immemorial a part of the code of nations. In the latter case, it is matter of discretion and policy, and not right, whether the power shall be used. I presume gentlemen would hardly think that this argument, drawn from usage, would be a safe one by which to test the powers of this Government. We have had insurrections which have endangered its existence. Traitors have been tried and condemned to death, but no one has ever been executed; it has been the uniform practice to pardon. Would gentlemen now say, that the President who would sign a death warrant for the execution of a traitor would be guilty of murder or other crime?—Though I may be disposed to admit, for argument sake, that in our Indian wars we had abstained from the exercise of acknowledged rights, yet I think that fatal experience must convince us that the safety of our frontiers imperiously demanded that this policy should be changed. Foreign incendiaries have for years caused our new settlements to be desolated by the sacrifice of innocence. Past impunity has emboldened to future crimes. Mercy to such miscreants is cru-

elty to ourselves. And, when the chance of war places in our power those who excite and direct these ravages, and not content with ordering one thousand tomahawks and two thousand scalping knives for the murder of the helpless, must prescribe their quality and length, to make the butchery more inhuman, I trust the nation will think it is time to hang them up as an example to others, and to insure peace on our borders. In ordering their execution, General Jackson was fully authorized by national law, by humanity to our own citizens, and the orders of the War Department. "The honor of the United States," says the Secretary of War in his letter of the 16th January, 1818, "requires, that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked." Exemplary punishment means to make an example of force, and the order would be otherwise disobeyed. In inflicting this exemplary punishment, he has violated no Constitutional provision. It was not made to protect such men; they are no parties to it; owe it no obedience, and can claim no protection from it. The fate of war placed them in his hands; the laws of nations gave him power over their lives, and they had justly forfeited them by their crimes. The General was to decide between their punishment by that law, or their absolute impunity. They were never in our territory; our laws could not reach them; our civil courts could not try; but, on application, must discharge and leave them at liberty to foment new wars and commit new murders. He could not hesitate; he pursued the only course which the safety of our country could justify; he assumed no power, violated no rights, and punished the guilty only.

I think this nation ought not to be agitated by an inquiry whether their execution was according to the strict and technical forms of law, when the proceedings are justifiable by the only laws and usage which would apply to the case. The General had the undoubted power over them; he might execute it on his own responsibility or refer it to the opinion of a board of officers or a special court for their advice and opinion. This reference did not take away his inherent power, as the commanding officer, or make their opinion binding on him. If the court misapprehended or exceeded their powers, it could not affect his, and if, in their proceedings, they committed any other errors, it could not purge the fault of the prisoners. Many gentlemen seem to think that the General ought to have executed them on his own authority, without convening any court or giving them any trial. I think that the course which this investigation has taken clearly shows his prudence in adopting this mode of proceeding. He knew the execution would excite much feeling; that he was taking on himself a high responsibility. To justify himself to the nation, it was necessary that the evidence should be taken under the sanction of an oath, and recorded to us, to be in authentic form, that all might judge of their guilt and the propriety of his pro-

FEBRUARY, 1819.

Seminole War.

H. OF R.

ceedings. It was due to the prisoners that they should be confronted with the witnesses, and have an opportunity of cross examination; that they should see the letters and papers produced against them, that they were genuine; to tell their own story and make their defence. Had the General first executed these men, and then taken the evidence, what would not have been said? That papers had been forged, and witnesses suborned for the purpose, and that the unfortunate men had had no opportunity of defence, but had lost their lives without trial. His prudence has left no ground for reflections of this kind; he allowed them counsel, and they had a fair hearing. It is not to be credited that those who make this a ground of accusation would have withheld their strong censure if they had been put to death without a hearing.

The proceedings of the court had been commented on in terms of strong reprobation. My colleague says, the evidence was inconceivably slight, and the whole proceedings a mockery of justice; that the hearsay evidence of negroes and Indians, who were not legal witnesses, if present, were admitted, and legal evidence excluded. On this point, no gentleman, in this long debate, has undertaken to justify the court, and all seem to admit the correctness of these charges. Here I must repeat that the rules of law and evidence were better understood in the wilds of Florida than in this House. The evidence alluded to was admissible, according to the strict rules of the common law, and would be received in any criminal court on a trial of life and death. I beg the Committee to examine the charges. They were for exciting, stirring up, and encouraging the Indians and negroes to war and murder; aiding, abetting, counselling, advising, and supplying them with arms and ammunition. Though there is no formal and technical indictment, and the words "combine, confederate, and conspire," are not inserted, yet, it was, in substance, a charge of a treasonable and murderous conspiracy to wage war against the United States, and commit murders on our frontiers. Arbuthnot was the promoter of the Indians and negroes, the instrument to effect the objects of the confederacy. It was clearly proved, by the letters of Arbuthnot, by several witnesses, and the power of attorney produced at the trial, before any questions were put to Hambly, that Arbuthnot was not only the confederate, but the agent of all the Indians, by a special power which he accepted and acted under; that they were all acting in concert to further the objects of the confederacy, of which he and the negroes and Indians were parties. Now, there is no rule of law better established than that, where a confederacy is once proved, the acts and declarations of one confederate, in relation to the objects of the confederacy, is good evidence against another. This was a stronger case, because there was here the further relation between them of principal and agent. It is immaterial whether the confederate would be a competent witness if offered in court—he may be a convicted felon, yet, as a confederate, his declara-

tions are evidence against his associates, on account of the connexion between them. This is not a place to produce authorities, and examine from the books a rule of evidence, but I will refer gentlemen to the trials of Hardy, Tooke, &c., in which the rules of evidence, in criminal cases, were discussed by the most eminent counsel, and settled by the ablest judges in England. In those trials, it was conceded by Mr. Erskine as settled law, that the declarations of one conspirator were good evidence against another. In the trial of Jackson and Stone, for a treasonable conspiracy, the rule was extended still further. On the trial of Jackson, a paper had been proved against him; it related to the object of the conspiracy, which was proved, and that Stone was a party. The same paper was admitted in evidence against him: without further proof it was held to be sufficient that it was proved against his confederate.

The contents of the letter to the Little Prince were properly admitted to be proved by a person who had seen it in his possession and read it. It was proved to have been in the handwriting of Arbuthnot, and sent by him to the Prince. It related to the charges, was penned by him, and was in his possession at the time of the trial. He was not within the jurisdiction of the court; was an open enemy, then actually in arms against us. Evidence of the contents—was this not only the best, but the only evidence in the power of the court—as the original was in possession of one of the parties to the conspiracy? The sending it was an overt act, and unless evidence of this kind was admissible, it would be impossible ever to convict a conspirator. If gentlemen will take the trouble to look into McNally, and search, they will find these principles clearly settled by adjudged cases; and by applying them to the case now under consideration, they will find them fully supporting the proceedings of the special court, in the reception of the evidence complained of. I do admit the court erred in rejecting Ambrister: he was a competent though not a credible witness, and, in strict right, the prisoner was entitled to his testimony; yet, under the circumstances in which he appeared before the court, his evidence could not have benefited the prisoner, for no court or jury would believe him. There is no subject on which lawyers and judges differ more, than whether objections to a witness shall apply to his competency or credibility; the general rules are well settled, but their application to particular cases, as they occur, are attended with great difficulty. Surely on such a subject some allowance ought to be made for the situation of this court, not composed of professional men—sitting in a wilderness, without an opportunity of referring to authorities.

No evidence which Ambrister could have given could have disproved the facts proved against Arbuthnot. Though he was defended by counsel, he did not question the authenticity of the papers produced, or deny the facts in evidence. His counsel rested his defence on objections to the evidence, and yet did not complain of the rejection of Ambrister. I think, then, this error



H. OF R.

Seminole War.

FEBRUARY, 1819.

may pass without our censure, since it did not excite the notice of the prisoner or his counsel.

In the case of Ambrister, the strong objection is, that he was executed contrary to the sentence of the court. It has been urged with much force by the gentleman from Ohio, whose military talents and experience give great weight to his opinions on a question of military law. It may be presumptuous in me to differ from him on such a subject; and I should not venture to do so, if a careful examination had not led me to a strong conviction that he was mistaken in thinking that the special court had any legal jurisdiction of this case by the rules and articles of war, or any power to give an opinion or sentence by which the General was bound. On this I rest his defence, and freely admit that the execution of Ambrister is not justifiable if the court had a legal jurisdiction of his case, or power to acquit, or to pass a sentence inflicting a capital or other punishment. The only law to which Ambrister was amenable, which subjected him to punishment, was the law of nations; the only power to punish or retaliate, known to that law, is in the commanding General. It recognises no court martial, or other military court, as having the power to punish or try offences against it. Such courts are the creatures of the municipal laws of each nation, and derive all their powers from positive statutes. They cannot exercise any jurisdiction over cases not prescribed by persons not subject to the laws which create them—it is in all cases accurately defined in the jurisdiction of civil courts. The one is to the Army what the others are to the nation.

The act of Congress enacting the rules and articles of war creates two kinds of courts; one a court of inquiry, to examine and report facts and opinions; merely; the other, a court martial, to try and punish. The cases where either court may sit are accurately defined, and their jurisdiction given only in those specified. These are the only military courts known to our laws; and the first among the rules and articles of war which create these courts confines them to the Army, with the solitary exception of the case of a spy, and their jurisdiction in breaches of these rules. In a treatise on the law of courts martial, compiled by one of the most distinguished military officers in our service, and approved by the most eminent officers then in the Army, (*Macomb on Courts Martial*), the persons subject to military law and to trial by courts martial are declared to be the officers and soldiers of the Army, or directly connected with it, as defined in the sixtieth, ninety-sixth, and ninety-seventh articles of war; and the jurisdiction of these courts is thus stated: "Although no crimes or offences are cognizable by a court martial, unless what are either specially declared to be such by the rules and articles of war, or fall under the general description of disorder and neglect, to the prejudice of military discipline." If their jurisdiction could be extended beyond this class of offences, no limits could be assigned to it; it might extend to all persons, and the powers of the civil courts be

completely usurped. There would be no rule by which to test their respective jurisdiction, and every litigant would be liable to be tried by a civil or military court, or both, as they might choose to claim or exercise the power. Gentlemen who are so alive to the fears of military usurpation will hardly contend for this doctrine.

The case of Ambrister is not mentioned in any of the rules and articles of war; and no military court whose jurisdiction is derived from, and confined to branches of them, could legally exercise any over him. This conclusion irresistibly follows from the act of Congress. It defines who shall be considered as a spy, and directs that he shall be tried by a court martial. This would have been unnecessary if the court had jurisdiction over a spy before this act passed. It surely will not be contended that a commanding officer had not, by the laws and usages of nations, full power to execute a spy without the intervention of a court martial, and that he would not have the power still, if the act of Congress had not directed one. Had Congress intended that a court martial should have jurisdiction of any other offences against the laws of nations, they would have provided for it, as they have done in the case of a spy; not having done so, the conclusion is inevitable that they intended the power to punish, in all other cases, should remain where national law had placed it, in the commanding General. It requires express legislation to give this power to any other tribunal. Having, then, no legal cognizance of this case, an acquittal of the prisoner by this special court would not save him from punishment, much less would a sentence by them of a lesser punishment supersede the power of the General to punish according to the law of nations. Even admitting, then, that the General considered this as a court martial, and that they considered themselves as having full power to mitigate the punishment of the prisoner; yet, when it appears that they were all mistaken, that the court had no jurisdiction, and the General had full power, we ought not to censure him when he has, in fact, violated no law, and not exceeded his authority. If there was a case when it was necessary, for the justification of the General, that it should appear that this court had legal jurisdiction, I think gentlemen opposed to him would have clearly convinced this House that the power to punish was expressly in him, and must be exercised on his own responsibility. It cannot be contended that both had jurisdiction. If the General had it, the court had not; and if the court had it, it was not optional in him to act without submitting it to them.

It was certainly the opinion of the General, that this special court was not a court martial, and had no legal power to try and punish the prisoners. This clearly appears from his order for convening the court: "The following detail will compose a special court, to convene at this post, at the hour of 12 o'clock A. M., for the purpose of investigating the charges against A. Arbuthnot, Robert Christie Ambrister, and such others similarly situated as may be brought

FEBRUARY, 1819.

Seminole War.

H. OF R.

before it. The court will record all the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoners, and what punishment ought to be inflicted." When it is intended to organize a court martial, it is called so in the order, as in the case of General Hull, "A general court martial, for the trial of Brigadier General Hull, will convene," &c. And this form is invariably pursued. In this case the order was not for a general court martial to try, but for a special court to investigate the charges and record the evidence; not to pass a sentence or to punish, but to report an opinion as to guilt or innocence, and what punishment, if any, should be inflicted. It was, in fact, and so intended, a court merely advisory to the General—a board or council of officers—such as are convened for advice and an opinion about any military operations, but whose proceedings are not binding on him. If he concurs with them, it relieves and perhaps may exonerate him from responsibility: if he differs from them, increases it. But it is a tribunal unknown to any law; it cannot take from him any power which was inherent in him. His infliction of a punishment different from that fixed by the court only increases his responsibility; and we must judge of the case as if there had been no court. If he had power to do what he did without a court, it is conclusive that they had none to control him. He had good reasons for differing in opinion with them: Ambrister had confessed the charges, and threw himself on the mercy of the court. The only punishment known to the law of nations for his offence was death; the court had no right to inflict any other. The ball and chain is one unknown to that code; and there was no good reason to discriminate between him and Arbuthnot. It is, indeed, admitted by all, that the case of the former was one of the greatest atrocity.

The proceedings of these trials bear a striking analogy to those on the trial of Major Andre. He was taken as a spy. There was then no act of Congress directing a court martial for his trial; it was an offence known only to the laws of nations; and that it was so considered by General Washington, appears from his letter to General Clinton, September 30, 1780. "I am to inform you that Major Andre was taken under such circumstances as would have justified the most summary proceedings against him. I determined, however, to refer his case to the examination and decision of a board of general officers." Such, too, was the opinion of the board of general officers. "The board report that Major Andre ought to be considered a spy from the enemy, and that, agreeably to the law and the usage of nations, it is their opinion he ought to suffer death." They were not a court martial. The order for convening them was in substance the same as in the present case. "Gentlemen, Major Andre, adjutant general of the British army, will be brought before you for your examination. After a careful examination, you will be pleased, as speedily as possible, to report a precise state of his case, together with your opi-

nion of the light in which he ought to be considered, and the punishment that ought to be inflicted. They passed no sentence, but merely gave an opinion. The General expressly claimed the power to be in himself, but referred it to the opinion of a board of officers. Yet, in his letter to Congress announcing the execution of Major Andre, he says it was in pursuance of the sentence of the board. "I have the honor," says he, "to enclose to Congress a copy of the proceedings of a board of general officers, in the case of Major Andre, adjutant general of the British army. The officer was executed in pursuance of the sentence of the board." If we are disposed to investigate the proceedings of the board as critically as we do those on the trial of Arbuthnot, we shall find that the rules of evidence were stretched quite as far. The board interrogated Andre, and a letter from General Arnold to General Washington was read in evidence against him.

Great stress has been laid on General Jackson calling this a court martial, and speaking of their proceedings as a sentence. It is not to be expected that, in drawing up proceedings of this kind, some errors would not have crept in. We are not to expect a record to be so drawn up as to stand the test of a legal and technical examination in a court of error. And the General could not have expected that this great national tribunal would lose sight of the great principles of Constitutional law, and deem it worthy of themselves to examine technically every word he uses, and to condemn him for defects of form, and because some expressions had been used which might afford ground for criticism.

The opinion of the General and the character of the court can be best understood by examining the order for their convening. The court had no other authority than what was given to them by the order of the General—when their proceedings exceed it, they are void. Had they conformed themselves to the order, and given no sentence, but an opinion merely, and the word sentence not been introduced into the proceedings, there would have been no room even for cavil. The using these words cannot give power to the court or the General, nor their omission take it away. That is to be tested by a reference to the act of Congress and the law of nations, and not by the expressions which the court or General introduces into their proceedings. It would, indeed, be a new way of ascertaining the jurisdiction of courts, not by the laws creating them, but a critical and technical construction of the words they use. If the defence of the General rested on this being a general court martial, I think gentlemen would hardly be contented to permit us to consider it so because he had inadvertently called it one. I think it hard that we should be forced so to consider it, when it must be admitted that our laws do not make it so. The gentleman from Ohio deduces the jurisdiction of this court from the common law, and usage of the army, and of courts martial. I admit there is such common law and usage; but,



H. OF R.

Seminole War.

FEBRUARY, 1819.

like the usages of the civil common law, it only extends to the practice, forms, and mode of proceedings; but not to give them jurisdiction. Courts are created by positive laws, and the boundaries of their jurisdiction always defined. It is not left to them to assume and extend it at pleasure.

Thus considering this court as having neither by the order of the General, nor the laws of the country, any other than advisory powers, he was not bound by their opinion; has violated no law, and is fully justified in the execution of these men. The errors which have crept into the consideration of this case have arisen from considering this as a regular court martial, having full and complete jurisdiction. This being clearly otherwise, leaves nothing substantially wrong; and the only errors those of form, in drawing up and referring to the proceedings of the court—errors which might possibly be available to make a flaw in an indictment, but are certainly unworthy of the interference of this House, whose power of censure should be reserved for great occasions, when our liberties are in danger.

We have heard much of military usurpation; and military genius has been said to be dangerous to our liberties. For myself, I am free to say, that such are among the least of my fears, and least of all others from the General whose conduct we are now investigating. I will not dwell on his military achievements; but, for a moment, call the attention of the House to his greatest and brightest triumph—over himself. When intrusted with the defence of Orleans—the safety of the nation demanded it—he proclaimed martial law, and disobeyed the writ of Habeas Corpus. When the danger had ceased, he was called upon by judicial process to answer for the offence. Though surrounded by a victorious army, and a people whom he had saved, who followed him to the court-house, rending the air with acclamations of praise, the enthusiasm of the people could not be restrained even in the presence of the judge, who, alarmed, declared he was not safe in the execution of his duty. The General declared he would protect the court. He silenced the crowd, received his sentence, and paid the penalty. From such a man I have no fears; and I am sure the nation was not alarmed, because, in the hour of danger, and, for the common safety, he dared to violate the laws, when they found him, after danger had ceased, voluntarily submitting to their sentence. Far from thinking military genius dangerous to the country, I think it has saved it. The last war presented to the world a brilliant display, which afforded safety and tranquillity; but, I believe, excited no fears. Twice have our armies, flushed with victory, and commanded by the first talents of the age, been disbanded without a murmur. And, though led and inspired by military genius, it was a genius excited to save, protect, and bless our country. Last year you took from the most gallant officers of the army their brevet pay; they made no complaint. Experience like this should convince us that we are in no danger

from this power. And, at this moment, when such fears are entertained from the army, they are anxiously waiting for an appropriation for their food and raiment. It seems, indeed, that such fears are chimerical. We have ten thousand men scattered almost over infinite space. How contemptible would be their efforts to enslave a nation which has fifteen hundred thousand militia freemen, able and willing to maintain their rights.

In the history of ancient Republics, gentlemen have dwelt on one instance of a military usurpation, though that Republic had been so distracted by mobs, factions, and seditions, that even a military despotism was a blessing. But, in dwelling on the danger from military chiefs, they do not mention the men who, by their genius and talents, have saved their country, and, so far from repressing their liberties, could not protect themselves, and were sacrificed by their countrymen to that spirit of ostracism which gratified the passions and jealousy of those who were tired of bearing them called the great, the good, and the just. Modern history teaches us that the reign of princes, of military genius, has been the one when the arts and sciences have flourished and been protected. In the long list of French Kings, the one most illustrious for his military talents (Henry IV) was no less so for his devotion to the happiness of his people; and the English nation can tell whether their liberties were more secure under William III or Charles II. If there is at this moment a nation in Europe, debased by superstition and enslaved by tyranny, it is the one whose sovereign has never seen a battle. This House has not, on other occasions, and in relation to the conduct of other officers, evinced the same fears of military usurpation. Less alarm has, indeed, been excited when the rights of our own citizens have been violated, than for these foreign incendiaries. In the cases of General Brown and Major Austin, against whom damages had been recovered, by jury trials, for violating the rights of American citizens during the late war, Congress, so far from censuring these officers, indemnified them, and paid the damages. No one thought the Constitution in danger; but all agreed that, inasmuch as they acted from correct motives, and from a sense of duty, the Government was bound to indemnify them.

It is, perhaps, not asking too much in favor of General Jackson, to apply the same principles to his conduct, and not to censure him for conduct similar to that which we approve in others.

In considering whether the conduct of General Jackson in crossing the Florida line, and taking St. Marks and Pensacola, be right or wrong, gentlemen on neither side seem to agree in their reasons. Those disposed to censure, have taken much pains to invent or give such reasons for his conduct, as will give them the pleasure of exposing their futility; others have labored to justify him on some minor subjects, on grounds which leave him defenceless on his important operations. I shall not take up the time of the

FEBRUARY, 1819.

Seminole War.

H. OF R.

House in examining whether he can be defended on any of the grounds assumed; but think it but common justice to the General to inquire whether he can be defended on his own. In his own words, I rest his defence "on the immutable principles of self-defence, authorized by the law of nature and of nations;" "on this principle he bottoms all his operations;" "on the fact that the Spanish officers had aided and abetted the Indian enemy, and therefore became a party in hostilities against us, does he justify his occupying the Spanish fortresses. Spain had disregarded the treaties existing with the American Government, or had not power to enforce them. The Indian tribes within her territory, and which she was bound to keep at peace, had visited our citizens with all the horrors of savage war. Negro brigands were establishing themselves when and where they pleased, and foreign agents were openly and knowingly practising their intrigues in this neutral territory. The immutable principles of self-defence justified, therefore, the occupancy of the Floridas, and the same principles will warrant the American Government in holding it until such time as Spain can guarantee, by an adequate military force, the maintaining of her authority within the colony."—(Letter to the Secretary of War, June 2d.)

It must be recollected that all the Indians opposed to us resided on the Florida side of the line, and, with the exception of isolated spots, Pensacola and St. Marks, the whole country was in their exclusive possession. They had the sovereignty in fact; Spain only nominally; its authority was not respected or even maintained in appearance. It was Indian territory in their occupation, and all the rights of sovereignty which were seen or felt were theirs. Although there may be some difference of opinion as to how we consider the Indians, there is none as to Spain: she does not recognise them as having any attributes of a national character, or acknowledge them as having any rights in the soil. She holds no treaties with them, and only permits them to occupy the lands till her convenience requires them. Then, her uniform policy has been extermination. If she thus considers the Indians, and permits them and our runaway negroes to usurp and exercise the rights of sovereignty within her nominal jurisdiction; if the possession and power of the country be thus in our enemy, and they be suffered to use it for our annoyance; if, within the line, they prepare and organize their attacks, and pass it for ravage and murder, we, in self-defence, may cross it, and pursue our enemy to his own ground, his residence, depots, and fortresses. The General would not have done his duty, and would have received the censure of this Government, if, in repelling an incursion, he should consider a mathematical line as a barrier beyond which he would not pass, and suffer the enemy to protect themselves behind it, and gain time to rally, organize, and prepare for a new one. The war would be endless if he was bound to respect an authority that did not exist—a sov-

ereignty that was not asserted or exercised—and rights that were suffered to be usurped for the purposes of the most cruel hostilities on our frontiers. We have not so considered it; but a few days since, this House, if not unanimously, at least without a dissenting voice, awarded to Sailinmaster Loomis \$5,000 for blowing up the Negro Fort, containing three hundred negroes, on the Appalachicola, within the Spanish line. In Mr. Loomis this conduct has thus met our approbation, and receives our reward; yet, he deserved our censure and punishment, if General Jackson was wrong in crossing the line in pursuit of our enemies, a remnant of the same negroes and their Indian allies.

In inquiring into the occupation of St. Marks and Pensacola, I have not referred to any writers on national law. In the history of civilized nations, we find nothing analogous to the situation of the Indians inhabiting this country, and cannot expect to find, in their usages or intercourse with each other, any principles adopted, which will apply to this case, which is strictly one *sui generis*, and to be governed by its own rules. I consider it as a question of fact and evidence. If, from the documents before us, it shall clearly appear that the officers commanding the forts did suffer them to be used as depots for our enemies; if they were there supplied with arms and ammunition; if the Indians had free egress and ingress, and in all respects were suffered to use them for purposes hostile to us; if the Spanish flag were used only as a cover for enemy's property, and her officers became auxiliaries and allies to the Indians and negroes, I think it cannot well be doubted that General Jackson was authorized to consider them as they were in fact, and was not bound to respect them, as they were only in name. Had these facts been in the exclusive possession of our enemies, they could not have been more benefitted, nor we more injured. I consider them as, in substance and in fact, Indian forts, attempted to be protected by the Spanish flag, and that the evidence is such as cannot afford a reasonable doubt. From the nature of the case it cannot be expected to be perfectly positive and definite. Let it be recollected that most of it is to be drawn from persons over whom we have no control—our open enemies, or their allies. Examine the letter of the Governor of St. Marks to Arbuthnot:

"Affairs having assumed a serious aspect between the savages and Americans, and not doubting that the storm will pass this way, I entertain apprehensions for the safety of your little objects, and believe it to be for your interest not to lose a moment in removing them from hence. I shall be happy to see you, that I may have the pleasure of embracing you, and an opportunity of conversing with you on the politics of the day, which, under existent circumstances, it is improper to commit to paper. In the expectation of this pleasure, I am, with my little family,

"Sir, your most affectionate servant and friend.  
"FRANCISCO C. LUENGO."

When such caution is observed, we ought to be surprised, not that the testimony is so weak,



but that it is so strong. From one of the documents it appears that in this fort this war was devised; the power of attorney from the Indians to Arbuthnot, was not only executed there, and in the presence of the commandant, but it is countersigned, "approved, F. C. Luengo, commandant St. Marks." In this post the Indian supplies were deposited, and, when they failed, the Government stores were at their disposal, and sold by them. This place was a mere dependency. In Pensacola the commandant was under the orders of the Governor of the latter place, and he was of course responsible for his conduct. In this place the Indians not only received shelter, but succor. Three parties, who had been supplied there with means, were escorted by the Spanish officers in an expedition into our territory; and, from the testimony of numerous witnesses, it is clearly proved that all the resources and stores of that post were at their command, and the Governor giving them, privately, every aid in his power. It would be tedious to read them to the House; but gentlemen who will take the trouble to examine must feel that these various depositions present a mass of evidence conclusive of the fact.

In applying these facts to the laws of nations, I apprehend we shall find that Spain has no cause of complaint. We are bound to respect her rights if she is neutral: but, if her officers assume a belligerent attitude; if they give positive and affirmative assistance to the Indians and negroes, they are no longer neutral: there is, in fact, no neutrality to respect. General Jackson not only had a right, but was bound, to decide who was his enemy. If, in marching to meet the Indians, he had faced them flanked by a Spanish company, regiment, fort, or ship, and all was excited as one mass, and its force brought to bear hostilely on him, and in aid of the Indians, no one would say that he was bound to write to the Department of War for orders. He would not have done his duty, and would have defied the censure of this House and nation, if he had waited for orders or come away and have left an enemy in fact, in the field or in garrison. Wherever, therefore, he found Spanish soil, Spanish soldiers, or Spanish posts, in the possession of the enemy, and brought to operate on us, he was bound to attack it. It is not for Spain to say we violated her neutral rights—she had none. The case put by my colleague fully illustrates this position. He says, my house is my castle, but another may enter it in self-defence, and from necessity. This is true—but this rule applies to another case. My house is my castle, and shall protect me and mine, but not my neighbors. In it I am safe from process; but if I suffer another to enter it, he shall have no protection, and the lowest officer of the peace may break open the doors to arrest him or seize his property. None can doubt this rule of the common law—it is also a rule of national law. A neutral fort or neutral ship shall protect neutrals and neutral property. If a neutral ship forfeits its neutrality or does an act of a belligerent character, its flag

does not protect it. If private property, it is forfeited; if a public ship, it may be taken. An American frigate is engaged with an English one, and a Spanish frigate comes and supplies the latter with arms, ammunition, and men—can any one doubt that the American would be justified in taking her? She is not neutral. She assumes an hostile attitude and gives our enemy the actual use and benefit of her whole power. It would be indeed strange, if a ship could be protected while in actual hostilities, merely because she bore a neutral flag. If a company or regiment of Spanish soldiers were found fighting by the side of the Indians, it could not be said that the General was bound to consider and respect them as neutrals: he is bound to decide from the evidence before him; he acts on his responsibility, and rests himself for his defence on the fact of their direct participation in the war, and on this I rest his defence. Spain herself has not contradicted this principle, and we are all in this singular situation, that, in this House, those opposed to General Jackson deny the principle, while Spain only denies the fact; conscious that the one results from the other. Though there has been much correspondence on this subject, and conducted by the Spanish Minister with much spirit, yet we do not find him once complain of the execution of Arbuthnot or Ambrister; neither is it mentioned in any letter of Mr. Pizarro to Mr. Erving. The former, indeed, in his manifesto, published at Hamburg, does advert to it, but we may fairly presume that this was done to meet the views and perhaps the dictation of another Power. In such a paper as this, it is indeed to be expected, that, according to the rules of diplomatic etiquette, he would complain of anything, and in strong language; but it was evidently not intended for our Government. No such complaint was ever made to us. My colleague says, that military etiquette required Don Mazot to write a threatening letter to General Jackson, that he would drive him out of Florida. Let the same rule be applied to the manifesto of Mr. Pizarro. If Spain, therefore, does not complain of the execution of these men, surely we need not.

It is said that no notice was given to the Spanish Government of the hostile acts of the governors of the forts. The reverse appears from the documents. And here again gentlemen make an excuse for Spain, which she disclaims. In his letter to Mr. Pizarro, of the 12th of July, Mr. Erving says, he renews his reclamations on the subject of the conduct of the Spanish authorities in Florida, and Mr. Pizarro does not, in his reply, deny the fact of notice. Governor Coppinger, in his letter of December, 1817, speaks of the complaints of the American Government. When the negro fort was built, and a direct notice given to the Governor of Pensacola of the fact, and a demand for its destruction, he admits the fact, says he will write to the Governor of the Havana, that when he considers of it, and makes up his mind, and sends him a sufficient force to do it, he will, at a convenient time, drive the negroes from the fort.

Will gentlemen seriously contend that Government, or General Jackson, were bound to permit our frontiers to be suffering under all the horrors of an Indian and negro war, until it should suit the leisure and convenience of one Spanish officer to consult another, and he a third, and to take their own time to do us what ought to be done at once, and which we were bound in common justice to arm our own citizens to do, if Spain did not? We were not bound to give notice to the Spanish Court. The danger was imminent; we had given notice to the local authorities; they did not act; the emergency required immediate action. The Spanish officers not only did not check, but encouraged the depredations. They were parties in the war, and it is idle to talk of notice to our actual enemies, to respect our rights, and cause them to be respected by those with whom they were acting. Spain knows and feels this: she does not pretend to respect her neutrality. To appease a great Power she protests, but she does nothing more. She refused to resume possession of the country, though offered unconditionally, conscious of her inability to retain it, and pursue a neutral course; thus admitting that the occupation of these posts was justified by our situation, and the conduct of her commanders. In truth, we have invaded no rights of hers; they had been usurped by the Indians and negroes, who had the benefit of all the resources of the country. We were justified and bound, in the assertion of the principles of self-defence, to take it from their possession, and thus deprive them of the means of annoyance. These are the grounds on which the General has placed it, and on which all his conduct is clearly defensible, as it respects Spain.

The last subject of inquiry is, whether our Constitution has been violated, by an assumption by the General or the President of the war-directing power, which all admit to be in Congress, and not in the Executive. So far as this is an ordinary Indian war, there can be no doubt that the uniform practice of our Government, since its organization, has been to conduct it without any declaration of war by Congress. It is certain the President does not consider it a war with Spain. In his Message to us at the opening of this session, he expressly says, that our operations were not intended as acts of hostility to Spain, but were perfectly consistent with our neutral relations, which he declares himself incompetent to change. Spain does not consider our conduct as war. Neither Don Onis nor Mr. Pizarro complain of it as such. They remonstrate and protest, but there they stop. Don Onis does not even suspend his diplomatic intercourse with our Government, and it is at this moment actively continued. The Spanish Minister is still here; we see him in company with the President and Heads of Department, and anxiously attending on this debate. Our commercial intercourse is uninterrupted, and this singular aspect is presented: Both Governments say they are at peace, and, in fact, all our intercourse, on both sides, is most peaceful; and yet, in this House, gentlemen are endeavoring to

convince us and the nation that we are, and have been, actually at war with Spain. For, if there has been war, it still continues; there has been no peace, treaty, or compact.

I think it hard that thus, in despite of the solemnasseverations and the conduct of both parties, we should insist they are at war, while the President and Spanish Court declare they are at peace; and when we learnt that a negotiation for the cession of the country that we are said to have taken in war is now actually on foot in this place. If we are really at war, gentlemen do not go far enough; they ought to arraign the President for giving up Florida without a treaty, ratified by the Senate; for its acquisition by conquest makes it a part of the national domain, which can only be alienated by treaty. But I think it hard that the complaint should come from this House; if the President has transcended his Constitutional powers, the fault is ours. On the 25th of March last, he, by a special Message, transmitted to us a candid and full statement of all the information in his possession in relation to the Seminole war; and stated, most explicitly, that our troops had orders to enter Florida in pursuit of the enemy, and plainly intimated that the Spanish authority would not be respected where it was not maintained. We knew the war would be carried on in the Spanish territory; that collisions would arise with the Spanish authorities, and yet we did not interfere. We did not declare war; did not attempt to say that he had done wrong; on the contrary, made large and liberal appropriations to conduct the war with the Seminoles, and in fact made it his duty to proceed. What could he do otherwise? He had stated the case to the Legislative branch of the Government; it did not think its powers usurped or in danger. Had he stopped, would he not have been justly liable to censure? We had, by giving money, put a practical construction on the case. He had no alternative left. I beg gentlemen to examine this Message carefully, and say whether the Executive has not conducted with great deference and respect to us and our powers. If we thought them in danger, then was the time to have interposed the proper guards; as we did not think this necessary, he was bound to consider our silence as an acquiescence in the measures, which we could not but foresee would inevitably follow the entrance of an army in Florida.

The capture of St. Marks and Pensacola were, as is said, in themselves acts of war, and thus violations of the Constitution. War is the collision of nation with nation. An act of war is when the force of a nation is employed to repel an injury, or act done by another nation. If force is applied to the unauthorized act of an officer of another Government, it is not war. His nation is not responsible for his conduct, unless it was done in pursuance of previous orders, or has been subsequently approved. It would, indeed, be hard that, when the Government disavows the act of its officer, it should be called the act of the nation. An act may be war or not, accordingly as it is approved or disapproved of by the Government



As in the case of the Leopard and Chesapeake. If the attack on our frigate was authorized by the British Government, it was war; but it was disavowed; and we agreed it was not war. So as to the Spanish Governors; their conduct was direct war, if done under orders. But the Spanish Minister and Government solemnly disavowed it; they deny the fact, and we do not attempt to say it was authorized. And, on that principle, both Governments still observe their neutral relations. Would this House declare war against Spain for an act which she had never authorized and plainly disavowed? This is the test by which the correctness of the principle must be tried. If the unauthorized act of the Spanish officers was not an act of war by Spain, it was not an act of war in General Jackson to repel those acts of aggression. He did not war against Spain, but repelled the wanton and disavowed hostilities of her officers. He opposed them as the auxiliaries of our enemy, and took forts intrusted to their command, because they had ceased to be neutral, and were, in fact, and as to all purposes to us, Indian forts. To again recur to the case of the Chesapeake. If she had returned to port, and the President ordered her commander, if again attacked, to take the Leopard and bring her in, and had done so, it would have been no act of war against England, unless the British Government should say it was by her orders, or she approved the act.

These principles it seems to me cannot be controverted, and most clearly show that there has been no act of war, and no violation of our Constitution. A General in conducting a campaign would have but limited powers if he could not repel hostilities wherever he met them. He must judge who, what, and where, his enemy is. He wars not against the nation, but the force, the the country, and the forts, which assume an attitude and are suffered to be used for purposes hostile to his Government. If used by authority of the Government to which he belongs, it is war; but it is not only without, but contrary to orders, it is no war, but only the application of the principle of self-defence against an unauthorized aggression, and the hostile acts of the officers, who would be punished by their own Government. So was the occupation of these forts considered, and, acting on that principle, the President ordered their restoration. And so the General considered it; for in the capitulation he expressly agreed to surrender Pensacola, whenever the Spanish Government had the ability or manifested a disposition to respect its neutrality.

And thus it seems to me that General Jackson, the President, this House, and the Spanish Government, all agree in considering the operations in Florida as neither war nor acts of war, and that the principles of the Constitution remain untouched.

It has been objected to the conduct of the General that he violated his orders; that the order to General Gaines to report to the Department of War, in case he found the Indians sheltered under the guns of a Spanish fort, was binding on him. Admit it to be so; still, that case never occurred.

The Indians were not sheltered under the guns of the fort, but within it. The forts were the depots for their stores. The Indians were supplied with ammunition from the public stores. The war was devised in the forts. The Governors were parties. Spanish officers escorted Indians to our frontier. There was no order from the War Department to meet this state of things. It was never supposed that such acts could have been committed; had it been, it is certain there would have been orders to take these posts. For we find that, when the facts became known, the President has most fully approved of all that the General has done. On this subject his Message is clear and explicit.

Some say the President has disapproved the General's conduct by ordering the restoration of these posts. They seem to forget that the General had promised to do so by an express stipulation in the capitulation. He is charged with having established a civil government, and excluded the Spanish authorities. This was provided for in the capitulation. The Spanish commander required that all the officers of Government—civil and military—and all the papers and archives, should be sent to the Havana; and these terms were not demanded by General Jackson, but agreed to on the demand of the Governor.

But the war is said to have been over, and the letter of the General is referred to as evidence of it. I presume that no one here will be disposed to censure Governor Bibb. By his letter of the 19th of May, 1818, it seems it was not over; that murders were still committed.

An Indian war is like no other. It is not a war on the nation, but individuals. Their object is murder and plunder. In guarding against the attacks of a civilized force, you watch the movements of their armies; but in terminating an Indian war, the incursions of individuals must be stopped. If Arbuthnot was to be believed, the Indian force was three thousand five hundred, and there were one thousand in arms. Their force was unbroken. They would not meet our army in battle, and thus end the war. They were scattered through the whole country in small parties. They were on the frontiers of the Alabama, committing new murders, and were supplied in Pensacola. The war was not ended in fact, and never could be while this continued their depot, and they were furnished with supplies by the Governor. There was therefore no alternative but to occupy it or have a protracted, if not an endless war.

I shall not examine any minor points in this case. I am abundantly satisfied it is not one of those great cases alone worthy the interference of this House; that the conduct of the General is not only undeserving of censure, but has been correct and proper; that his conduct is no violation of the laws or Constitution of the country, but consistent with and justified by their plain principles. I have not defended him by any appeal to your sympathy, and will rest the case, not on his distinguished character and eminent services—I lay these out of mind, and test his con-

duct by the principles of national and Constitutional law. I have defended him on his own reasons, and thought that it was due, in justice to him, that one member of this House should examine his own principles. I think they place him on the strong ground of the law and Constitution, and, thinking so, I am not willing to see him a supplicant for your charity.

Mr. REED, of Maryland, addressed the Chair as follows:

Mr. Chairman, it is with no small degree of difficulty that I have been able to prevail on myself to rise for the purpose of addressing you at this late hour, when I am persuaded the patience of this honorable Committee must be very much exhausted by the discussion that we have already heard to-day; and my unwillingness is not a little increased by some personal indisposition; nor do I know that I should have troubled the Committee with any remarks, were it not that, being a member of the Military Committee, it might be expected that I should assign the reasons that influenced my mind in concurring in the report presented to the House.

Before I proceed to remark on the subject under consideration, permit me, sir, to ask the indulgence of the Committee for a few moments, while I explain a transaction in which I was concerned during the war of the Revolution, near forty years ago, and which, I trust, I shall be able to do to the satisfaction of this honorable Committee, to the satisfaction of the nation, and the world. I will be as brief as possible, but must beg leave to run a little into detail. The affair to which I refer is to the execution of a deserter from our army to the enemy. It has been drawn into the discussion of this question by my honorable friend from New York, who is not now in his seat, and whose absence I regret the more on account of the very afflicting circumstance that has occasioned it.\* I am perfectly convinced that, in noticing the transaction, my honorable friend was governed alone by his known regard for truth and justice. He believed, no doubt, it would have a favorable bearing on the side of the question which he thinks it his duty to support. The honorable gentleman, indeed, intimated his intention to me before he spoke. I believe, sir, I shall be able to show, in proper time, that the execution of the deserter by the detachment under my command, bears no analogy to the execution of Arbuthnot and Ambrister, by order of General Jackson. With these remarks, I will proceed to state the transaction as it occurred.

At the opening of the campaign of 1792, Sir Henry Clinton passed up the North river, with the British army, and landed upon either side of the river, at Stony and Verplanck's Points. General Washington broke up his Winter quarters, concentrated and marched an army towards the same destination. At this time a detachment was ordered from the Maryland line, to join Major Lee's cavalry; I had the honor to be a

\*Mr. TALLMADGE had been suddenly called home by the death of his son.

lieutenant in that detachment. It was the more immediate duty of this corps to hover upon the lines of the enemy, to watch and report his motions, to restrain his foraging parties, and to cut off all communication with the country, &c. The main army had during this time reached the bank of the river, and lay with his right upon Sandy Beach, the left extending towards New Windsor. It was about this period that discontent began to manifest itself in the ranks, desertion followed, and soon increased to such an extent, as to make use of the words of General Washington, to threaten a dissolution of the army; active and vigorous measures were resorted to, to arrest the disgraceful and ruinous practice; flying parties were instantly sent out in pursuit of soldiers who were missing at roll-calling; all the country hereabouts, as well as that intervening between our main army and the enemy, is so mountainous, and at that time so inaccessible, that when deserters had gotten some start, they were seldom, perhaps never overtaken. It was under these distressing and alarming circumstances, that General Washington gave orders "that examples should be instantly made upon the spot, of a deserter who might be apprehended in the act of going to the enemy." I had my orders in my pocket. I was instructed to place myself at the head of a detachment, and to march at such an hour of the following night as to enable me to reach the enemy's pickets or out-posts, by the dawn of day of the ensuing morning, so to arrange my command as to cut off the possibility of escape of any deserters from our army. I must here remark, that although we heard daily from our friends at headquarters, of desertions, yet, as every exertion had been made that a sense of duty could suggest, or a knowledge of the country permit, we began to entertain doubts that the reported desertions were greatly magnified, since none had yet fallen into the hands of the troops on the lines. As the morning broke, my cordon of sentinels were formed outside of those of the enemy, and so pushed up to their very teeth as to close, as I believed, every avenue of approach. In this situation things remained until a late hour of the day, when a soldier found means to escape from the enemy and come directly over to me: from this man I learned that ten or twelve deserters had gone in to the enemy in the course of that day, and that many went in every day. Surprised at, and doubting the information, I desired him to show me the route by which they passed; he pointed me to the high bank above Stony Point, and said, "on the shore under that bank, the deserters passed in that day and every day." I immediately removed my detachment to this point, and placed two sentinels on the shore under the bank; in a short time, three deserters from our army presented themselves. Seeing my soldiers so near in with the enemy, (for we seemed amalgamated,) they at once fell into the error that we were of the enemy; and this delusion was the more natural, as my soldiers had thrown off their regimental coats, (the weather being very hot)—the deserters at once made a full disclosure; and



H. OF R.

Seminole War.

FEBRUARY, 1819.

said that they were going to make their fortunes by joining the British. My soldiers kept up the delusion, there being three of the deserters with their arms, ammunition, and equipments, and only two of my soldiers. The deserters were informed that they could not pass in to Stony Point until they should be examined by the officer commanding the detachment. They were accordingly conducted to me. Here, the same cause that produced the delusion on the shore, served to keep it up; I had thrown off my coat as well as had the soldiers. I now questioned the deserters; they again made a full and complete disclosure of desertion, alleging, as a reason, that they were badly fed, badly clothed, and badly paid; that there were many desertions, and would be more, if they (the soldiers) could get off; they again said that they were going to the British at Stony Point, to make their fortunes. The confession of guilt being full and complete, they were informed of their mistake, disarmed, and told to prepare for death; for that in an hour I would, in pursuance of my orders, which I then read in presence of the detachment and deserters, execute them all. I most earnestly pressed upon their minds the necessity of employing in the best manner they could, the little time they had left, in supplication to God to forgive them their sins: that this last one, of deserting to join the enemies of their country, was of itself a most heinous offence in the sight of God.

Mr. Chairman, the summary execution of these men, though indispensable, was a duty not to be desired. Reflecting, therefore, on the subject, and knowing that it was intended only as an example, I determined to take upon myself the high and dangerous responsibility of executing one only. To this end, I proposed to them to draw lots. This they most firmly resisted, declaring up to the last, that, as they were all alike guilty, so they were willing to abide the same fate. Finding them thus determined, I referred the case to my three non-commissioned officers. Two of the deserters were Irishmen, and one an American. Two of the non-commissioned officers were Americans and one an Irishman—each voting for his countryman to suffer, the lot fell on the American—a most just decision. He was accordingly ordered for instant execution. He was shot. After which, conformably to orders, his head was stricken off and sent to the headquarters of the army, (the surviving deserters went, under guard, to the same place,) where it was publicly exposed, and thus a stop was put to desertion, which had before prevailed to an extent unknown in the annals of the war, and which, according to the language of the Commander-in-chief, "threatened a dissolution of the army."

Mr. Chairman, the mere fact of this execution was published in M. Cary's "Museum," I think, a few years after the war, unaccompanied by the particular circumstances upon which it took place. My attention was some years afterwards called to the transaction by a friend, who had seen the statement in the Museum, and who had also seen the same transaction spoken of by Gor-

don, the historian, without, indeed, mentioning the name of the officer concerned in the particular circumstances connected with the offence. The historian is entirely mistaken in relation to the sentiments of the Commander-in-chief, doubtless for the want of correct information. It is most manifest that no subaltern officer, of any grade, would have taken on himself, in the very face of the Commander-in-chief, a measure of such high responsibility. I did, indeed, take upon myself a measure of high responsibility; but, let it be remembered, that it was a responsibility on the side of benevolence and of mercy; motives that always have, and I trust, ever will, influence my conduct. I knew that I subjected myself to the possibility of a court martial, with all its consequences. I knew, too, that this severe measure of the execution was intended as an example, and I trusted that one execution might produce the desired effect.

I have explained the affair of the deserter, Mr. Chairman, as it happened, whether satisfactorily to this honorable Committee, to the nation, or to the world, is not for me to decide. My own conscience is satisfied. I am glad, indeed, that the transaction has been brought into view at this time by my honorable friend, (Mr. TALLMADGE,) as it has afforded me an opportunity, perhaps the last in my life, of explaining it. Sir, the execution of the deserter near Stony Point does not stand alone. It is not the only instance in which Washington was compelled to resort to strong measures. I beg leave to refer gentlemen to *Marshall's Life of Washington*, vol. 4, pp. 404 and 405: "A part of the Jersey brigade had mutinied, and rose in arms on the night of the 20th January, 1781. General Washington was determined to bring them to order, and, in pursuance of this determination, he immediately ordered a detachment to march against the mutineers, and to bring them to unconditional submission. General Howe, who commanded this detachment, was instructed to make no terms with the insurgents, while they had arms in their hands, or were in a state of resistance; and, as soon as they should surrender, to seize a few of the most active leaders, and execute them on the spot. These orders being promptly and implicitly obeyed, the Jersey mutineers were compelled to return to their duty." Here then, sir, is recorded another instance, in the very same language, in which General Washington was compelled to resort to the very same rigorous measures for the army, the orders in both instances being of the same tenor, and growing out of the same emergency at distant periods. These executions, however, bear no analogy whatever to the cases of Arbuthnot and Ambrister: these men were not of our army; they were not subject to our law martial; we had no right over their lives after they were prisoners.

Having disposed of the affair of the deserter, and I trust satisfactorily, I come now, sir, to apply some observations to the subject under consideration. It is matter of no small degree of satisfaction to me to know that, although a differ-

FEBRUARY, 1819.

Seminole War.

H. OF R.

ence of opinion existed among the members of the Military Committee, in relation to the subject referred to them, yet it was not a factitious difference; it was an honest difference, growing out of different views of the same question—a thing common to all men. It has been urged, Mr. Chairman, by honorable gentlemen opposed to the report of the committee, that this House possesses no jurisdiction nor power to examine into the conduct of a military officer. I shall endeavor, sir, to prove, by your own acts, by your own law, (I mean the law of the House,) that you possess this power. Did you not, at the commencement of this session, recognise this very power to inquire, by referring the case of Arbuthnot and Ambrister specially to the Military Committee? How, sir, did the committee get in possession of the subject? Surely, sir, by your own doings; surely it will not be denied that the committee derived their whole authority from the resolution—from the law of the House. Without such an authority the committee could not have acted on the subject at all. Let us see the resolution referred to:

"Resolved, That so much of the President's Message as relates to military affairs; so much as relates to the proceedings of the court martial in the trial of Arbuthnot and Ambrister, and to the conduct of the war against the Seminole Indians, be referred to a select committee."

If then, sir, I have been able to show (and I trust I have) that this subject was referred to the Military Committee by a rule or law of this honorable House, then it follows that the committee were to exercise their own opinion over the case; this they have done, and you have been presented with the result. If the House possesses not the power to inquire into the conduct of a military officer, why pass the resolution? Why refer the case at all to the committee?—Why not at once arrest the resolution, the law of the House, in its most incipient stage? Why, I ask again, suffer it to go out to the committee? But it happens that this case does not stand alone; and, as precedents are considered of some value in this honorable House, and I am willing to admit that they should have their due weight, especially when settled in sober times—I beg leave to call the attention of the Committee to the proceedings of the House of Representatives in the case of General St. Clair. The House, on that occasion, believed it possessed, and did exercise jurisdiction, by instituting and carrying on an inquiry into the causes of the failure of the expedition against the Indians. Gentlemen now contend that the President alone is competent to cause an inquiry to be made into the conduct of a military commander, and that it is passing a censure on the President for this House to interfere with what are said to be his Constitutional duties in relation to this subject.

Sir, I have no intention, nor do I think I am passing a censure on the President, by examining into the conduct of General Jackson in relation to the transactions connected with the Seminole war. In the case of General St. Clair, to which I have

referred, the House of Representatives did not think that they passed a vote of censure on President Washington, and yet the House did, on that occasion negative, by a strong vote, a motion to call on the President to "cause inquiry to be made into the causes of the failure of the expedition," appointed a select committee, and proceeded, themselves, with the inquiry to a final termination. I beg leave to refer honorable gentlemen to the journals of the first session second Congress, pages 131, 152, 153; 154, 177, 219; reports, vol. 1, pages 141, 173. Sir, there exists not one solitary doubt on my mind of the power of the House in relation to the question under consideration. It has, I think, been shown by your own act at the commencement of the session, and by the proceedings in the case of General St. Clair, at an early period of the Government, that the House possesses the right contended for.

I will now endeavor to show that if General Jackson possessed the right, which I am not at all disposed to admit, and which I think may be demonstrated he did not possess, to execute Arbuthnot and Ambrister, or either of them, he waived that right, by referring their cases to a military tribunal; a tribunal, to be sure, that possessed competent jurisdiction, and, therefore, these men should have been discharged. The General having made the appeal, he was concluded by it. It was his own act. He put these men upon their trial before an incompetent tribunal; and by that tribunal the case should have been dismissed. But, supposing for a moment that the court had competent jurisdiction to hear and determine the case, the General in that event was bound by the judgment of the court, so far as that he could not alter or change the sentence, so as to order a punishment different from that awarded by the court. He could diminish indeed, but could add not one stripe—not one tittle beyond the sentence of the tribunal.

By what law, or by what authority, let me ask, can a Judge or General add to the punishment, other than what has been decreed by the court? By what law of the land, sir, can you put the life of any man in jeopardy twice for the same charge or offence? You cannot do it. In the case of Ambrister the court had passed a sentence, and, although it possessed no jurisdiction, the General was bound by his own act. He made the appeal, and could not increase the punishment; and yet he did, of his own will, increase and inflict the highest degree of punishment; a punishment not authorized even by an incompetent tribunal; for, surely it cannot be seriously contended that a court martial has no right to reconsider its own proceedings, so long as they remain in their hands. This is the constant practice. But, again, the charges upon which these men were put upon their trial, did not, in my opinion, subject them to our law even before a competent tribunal, except for the charge of being a spy against Arbuthnot, and of that he was acquitted.

I agree with the honorable gentleman from Ohio (Mr. HARRISON) in the view that he pre-



H. OF R.

Seminole War.

FEBRUARY, 1819.

sented of courts martial, &c. That gentleman has correctly stated, that the army too has its common law. The common law of the army, like other common law, is applicable in the rule only to courts, to tribunals properly and legally constituted. The common law of the army gives no such an increased power or application in its principles. This common law applies also to the common routine of military duty. Councils of war, spoken of by an honorable gentleman from Virginia, (Mr. SMYTH,) have no reference whatever to the trial of offences or courts martial. Councils of war are called by the General for the purpose of advising him in relation to the general operations of the campaign, or in relation to any particular object of the war. The General may, or he may not, be concluded by the advice of this council. It is very different in relation to the opinion of a court martial.

The whole system of common law of the army, so far, at least, as it relates to the rules of evidence, is the same as in criminal courts, as has already been correctly stated by an honorable gentleman from Virginia, (Mr. T. M. NELSON.) If a witness, in a criminal prosecution, was to attempt to give in evidence his opinion, or what he had heard others say in relation to a particular fact, he would be instantly stopped by the court. It is the practice of every day, known to every man: and yet, this was the kind of evidence given in the case of Arbuthnot—the hearsay of Indians, who could not have been witnesses had they been present. I think it has been shown, that, if the evidence had been legal, yet, as the court possessed no jurisdiction, no cognizance of the charges, these men should have been discharged. It has been said, that this was not a court martial. Gentlemen do not seem to agree among themselves. Some, indeed, have called it a court martial, some have denominated it a court of inquiry, a council, &c. Now, sir, there is not, in my opinion, much weight in these objections. There are only two denominations of courts recognised in the army, courts martial and courts of inquiry. This has been called a special court. But that does not alter the character of the tribunal; it was still, to all intents and purposes, a general court martial. I know that general courts martial are sometimes called special, perhaps from a want of attention in the phraseology of the order making them. I have sometimes heard them called special when ordered to try a particular case; but all this does not alter or change the character of the court; the President has denominated this a court martial; the Secretary of State has called it a court martial; General Jackson himself calls it a court martial. There is, sir, another objection to the execution of these men which, in my opinion, is entitled to much weight, and which has been noticed in the report of the committee. The Seminole war was, indeed, to all intents and purposes, at an end. It is the practice among all civilized nations, when a war is drawing to an end—when no longer any great national object is to be obtained, for the commanders of the adverse armies to restrain their predatory war-

fare, thereby to spare the effusion and waste of blood.

Permit me, sir, to notice an observation that fell from an honorable gentleman from Massachusetts, (Mr. HOLMES.) That gentleman has expressed the "profoundest astonishment, that the Military Committee should have found out that the war was at an end," and then asks, "whether they (the committee) find it in General Jackson's letters of the 20th and 26th of April?" Yes, sir, the committee find it in these letters, and in the facts. The Georgia militia were discharged, the General was about to return home, and two companies were deemed by him a force sufficient to scour the country in search of any Indians that might lay concealed in their coverts. I think, sir, if the honorable gentleman had exercised his usual perspicuity, that he too would have discovered that the "war was to all intents and purposes at an end."

There is another light in which this subject presents itself to my mind. You, sir, claim the right of expatriation—the principle is contended for on the floor of this House. If it be a natural right, as asserted, that the citizens of the United States, or the subjects of any other nation, do possess this right, and a right to associate themselves with any other society or nation—can the nation from whom they have separated themselves prescribe to these people the society or nation to whom they shall attach themselves? I believe not. What right have you to control their will—to tell them whether they shall become the members of civilized or savage society? This would be destroying the very right that you contend for. If an American, an Englishman, or a Frenchman, possesses the right of expatriation, all other necessary rights go along with this. Among these rights will be found the right to elect for themselves the society to which they may choose to attach themselves, and you have no control over their choice. These Englishmen, then, according to your own principles, possessed these rights, and did exercise them. They attached themselves to a savage society; but it will not be denied that the Indians are independent nations; they are recognised as such by the treaties constantly made with them, many of which have been ratified during the present session. Nor will it be pretended that the President can go to war with the Indians without the authority of Congress, unless indeed the Indians had commenced the war. I will not pretend to say who are the aggressors in these wars generally; nor is it necessary in relation to the present inquiry. I think it probable that the frontier inhabitants on both sides are often to blame; aggressions are committed, and the Government is called on for protection, and must carry on the war. Hence it is, that our wars with the Indians have been made without any declaration of war by Congress. An honorable gentleman from Pennsylvania (Mr. BALDWIN) has, in my opinion, entirely mistaken the law, when he spoke of "confederacies, conspiracies, and combinations," as applied to the case of Arbuthnot

FEBRUARY, 1819.

Seminole War.

H. OF R.

and Ambrister. These offences can only apply, I believe, to our own citizens or others within the limits or the territories of the United States, who may engage in these or other unlawful acts against the public authority. The law provides for offences of this sort, but it cannot apply to persons out of the limits of the United States, owing no obligations or allegiance to the United States.

Gentlemen seem to rely much on the character of the orders given by the War Department to General Jackson; that, by these orders, he was instructed to bring the war to a speedy conclusion. Now, sir, what do these orders mean? Why, only that General Jackson was to employ the military force intrusted to his command, in such a manner as to bring the war to as prompt and speedy a conclusion as possible, regarding, substantially, the usual method of conducting war against Indian tribes. I appeal to every military gentleman who hears me, if this is not the obvious import and meaning of the orders to General Jackson. In the course of the discussion, honorable gentlemen have adverted to the orders given by General Washington to General Sullivan, on his Indian campaign in the war of the Revolution, and to the orders given by President Washington to General Wayne, on his expedition against the Northwestern Indians: and what do we find in these orders? They are in the usual military style, made use of on such occasions. Not one word about retaliation—no instruction for military execution; and yet, gentlemen will not pretend that upon those occasions there existed less cause for retaliation than there did in the late Seminole war. In the war upon the Susquehanna, whole districts were laid waste and depopulated; men, women, and children, indiscriminately, fell under the savage tomahawk. Every vestige of human improvement was destroyed; yet, not one word is to be found in the orders of General Washington about retaliation. It is true that General Sullivan had orders, if practicable, to take the famous Butler and Brandt. If they had been intended as objects of retaliation, orders would have been given to execute them on the spot. This was not intended—nor were the savage cruelties less extensive on the Northwestern frontier than those wantonly committed on the Southern border. In the war of Wayne, the ferocious savages hesitated not to violate the sanctity of a flag, by killing my friend, the gallant Major Trueman, and his escort; and, yet, sir, we hear of no orders by President Washington, or General Wayne, for retaliation in military execution, even for that monstrous outrage.

Mr. Chairman, the Military Committee did not conceive that the special authority under which they acted extended their jurisdiction to the important operations in Florida. They believed that that part of the subject more properly belonged to the Committee of Foreign Relations; the Military Committee confined their inquiry to the object to which their attention had been particularly pointed by the order of the House. But an honorable gentleman from Georgia (Mr.

COBB) having introduced several resolutions amendatory of the report of the committee in relation to the conduct of General Jackson in Florida, these resolutions have formed a part of the subject of discussion. The documents laid on the table of every gentleman, render it unnecessary for me to refer to dates. It will be seen that the orders first given to General Gaines, and those orders afterwards applied to General Jackson, prohibited his entrance into Florida. Afterwards, indeed, when the war had assumed a more hostile and savage aspect, the General had permission to enter Florida, if it became necessary, in his judgment, for the purpose of pursuing and chastising the Indians. The orders enjoined it as a duty on the General, that if the Indians should take shelter under the guns of a Spanish fortress, he was to wait and report the fact to the President. If these orders prohibited General Jackson from attacking the Indians, under the guns of a Spanish fortress, how much more forcibly did they apply, that he should not attack the fortress itself? Sir, the President was not content with barely giving orders that the Spanish fortress should not be attacked, but he went on further, and assigned the reason for these orders, which, in my humble opinion, should have been conclusive with General Jackson, if the orders themselves were not; although this order, in which the principal reason is assigned, is of an earlier date than the order in which permission is given to enter Florida, yet the cause that induced the prohibition still existed in full force. Let us see what the reasons are: "The state of our negotiations with Spain, and the temper manifested by the principal European Powers, make it impolitic, in the opinion of the President, to move a force, at this time, into the Spanish possessions, for the mere purpose of chastising the Seminoles for the depredations committed by them." Here, then, we have the order, and the reasons for that order. The President, aware of the "temper manifested by the principal European Powers," was unwilling to afford to them even what they might have deemed cause of complaint; and in my opinion he thought correctly and acted wisely. For, whatever an honorable gentleman from Massachusetts (Mr. HOLMES) may think of "poor, humble, and miserably degraded Spain," yet, my word for it, sir, "the principal European Powers" will not stand by and see you trample her under your feet. "Poor, miserably degraded Spain" is yet one of the great family of European States; nor do I think it prudent to presume too far on the poverty or humiliated condition of any nation. Nations, too, have their pride, and are, indeed, seldom completely overthrown until that pride becomes extinguished. No doubt, sir, in the gloomy periods of our Revolution, that Great Britain thought, and spoke, too, of the United States as "poor and degraded" America; yet, "poor and degraded" as she thought us, we beat and compelled her to give up the contest.

It has been said, if you pass the resolution, you throw a censure on the President. I regret that



H. OF R.

Seminole War.

FEBRUARY, 1819.

the President has been so frequently brought into view during the discussion. I have not been able to perceive any use in it; but, as intimations seem to have been made that those who support the resolutions are unfriendly to the Administration, I will barely state in my place that I can feel no possible hostility to the Administration of the present Chief Magistrate. I know that when he came into power, he found much to do, and he has done much good. It is seen and felt all around us; it is seen and felt in the universal peace and tranquillity that so happily pervades every part of our country. The House, sir, I consider in the exercise of a Constitutional prerogative; the resolutions amount to an expression of this right—of its sense in relation to the conduct of a military commander. But it is said that the President has approved the conduct of General Jackson, and that therefore this House has no right to inquire; and yet the House itself directed the inquiry, by a reference to the very question now the subject of discussion. It is true, sir, that the President refused, at the instance of the Spanish Government, to punish General Jackson for the capture of the Spanish posts, and yet the President ordered the posts of Pensacola and the Barancas to be given up to Spain. I do not conclude that because the President refused to punish General Jackson, that therefore he approved his conduct, in direct violation of his orders. I suppose, sir, that the President refused for a very different reason. Spain had committed many sins against this country that are yet unadjusted; the President did not, therefore, think proper to punish, though he disapproved his conduct; manifested by giving up the posts. In the case of the Leopard and Chesapeake, while the British Government disavowed the act, they refused to punish the officer; and so, I think, in another instance, perhaps at Rhode Island, where the commander of a British ship-of-war had been guilty of some improper conduct, his Government, disavowing the act, refused to punish the offending officer.

It has been repeatedly urged, during this discussion, that General Jackson was compelled, from considerations of necessity, of "self preservation," to take possession of Pensacola and the Barancas. Has the necessity yet been shown? Is it to be sought for in the extension and improvement of the fortifications? Or, in the establishment of a civil government, and the appointment of officers of the revenue?

Gentlemen have said if the House pass the resolutions it will be disgracing General Jackson. I do not think so. I admit, and no one admires more, the distinguished military services of the General during the late war; but these services should not prevent this House from inquiring into the transactions now the subject of consideration. I have nothing to do with the General's motives in the discussion of these transactions. It has been said that he is not ambitious; that he has no wish to overturn the Government of this country. I attribute to him no such motives, no such views. If he possessed the will, I know he has

not the power. There are two ways by which a Government may be overthrown; one by too much *tone*, the other by too much debility—too much *depletion*. We are told, however, that this country has nothing to fear from our military commanders. This, sir, is the language that has been repeated in all countries. If, when Cæsar was carrying on his wars against Britain, the question had been asked at Rome whether Cæsar would overturn the liberties of his country, the answer would have been, (with the exception of Cato,) No; Cæsar is the friend of his country! Had it been asked of an Englishman whether Cromwell would turn the Parliament out of doors, and trample under foot the liberties of his country, the answer, no doubt, would have been, Cromwell is the friend of liberty! Had a Frenchman been asked whether the *saint* who now sits upon the rock of St. Helena, would turn the French Deputies out of doors at the point of the bayonet, the answer would have been, No; Bonaparte is the friend of liberty! But why go abroad for examples? Does our own history, short as it is, furnish no materials? Have we already forgotten the gloomy period at the close of our own Revolution? Have we forgotten the famous Newburgh letters? Have we forgotten that, with all the influence and weight of character of General Washington, it was with infinite difficulty that he could prevent a dreadful explosion in the army under his immediate command? Have we forgotten, sir, that about eighty miserable recruits, "who had seen no service," marched from Lancaster, through the most populous part of Pennsylvania, to the city of Philadelphia, where, joined by some others, about three hundred in all, they marched with fixed bayonets to, and surrounded the Hall of Congress, and the Executive of Pennsylvania, and, after placing sentinels at the doors, a written message was sent in, threatening to let loose an enraged soldiery upon them, if their demands were not gratified in twenty minutes? I refer honorable gentlemen to *Marshall's Life of Washington*, vol. 4, p. 615. And thus, sir, was the sovereign authority of this nation insulted and trodden under foot, and the members of the Government threatened with military execution by a handful of recruits—the soldiers of a day—headed by two ensigns, who had hardly yet learned how to wear their epaulets. And yet, sir, with this important piece of history staring you in the face, you fold your arms, and content yourself with the notion that there is no danger to be apprehended from the military of our country. It will be in the recollection of honorable gentlemen that it was just before the transaction of which I have been speaking, that General Washington had, by his influence, happily quieted and tranquillized the uneasiness in his main army. Suppose, sir, that the General had been capable of participating in the spirit so recently manifested by the army; had provisioned it, and had been seconded by the principal officers; had marched the army to Philadelphia, and had there been met by the veterans from the South, sore with what they, at the time, believed to be

FEBRUARY, 1819.

Proceedings.

H. OF R.

the injustice of their country—the resources of the nation exhausted and prostrate by the effects of a long and calamitous war. Are you, sir, prepared to say, with certainty, what would have been the result, seeing that a handful of the "soldiers of a day" had already prostrated the Government, and that Governor Reed, with all his popularity, could not call out a force sufficient to disperse these insurgents, and protect the Government. Upon General Washington receiving information of these outrages, he ordered a detachment of fifteen hundred men to march against the mutineers under General Howe. Before they reached Philadelphia order was restored, it is believed, by Governor Reed making some stipulations with the rioters. But Congress ordered General Howe to continue his march to Pennsylvania, with a view to punish these disorderly soldiers.

An honorable gentleman from Virginia, (Mr. H. NELSON,) has asked whether General Jackson be a modern Cæsar? That, sir, is not now the question, nor have I imputed it to him. The same honorable gentleman has asked, "Where was the vigilance of these Constitutionalists in 1814, at the period of the victory of New Orleans, when the members of this House were *appalled*—when all hearts were *appalled*?" Sir, I had not, at that period, the honor of a seat in this House. I trust the hearts of honorable members were not "appalled;" nay, sir, I would rather believe that the better feelings of the honorable gentleman himself have carried him a little too far on the present occasion than to believe that his heart was "appalled." I do know, sir, that there were hearts in this nation that were not appalled.

One word, sir, in explanation of an observation which fell from my honorable friend from New York, (Mr. TALLMADGE,) in relation to the transaction at Stony Point. The traditionary account has led that honorable gentleman into an error respecting one part of the transaction. It was the Lieutenants Gibbons and Knox that marched at the head of the two columns. This command was decided by lot among the subaltern officers. I was in the supporting column of Colonel Butler, with whom and Fleury I had been that morning reconnoitering the works of the enemy. Content with having performed my duty, I would not, for a moment, wear the laurel earned by another. The traditionary mistake is natural enough, and may be accounted for from the circumstance that I was constantly on duty off the lines in that neighborhood, until nearly to the close of the campaign, and known to every one about the neighborhood.

Having occupied much more of your time than I intended when I rose, permit me, sir, to return to you and this honorable Committee my thanks for your indulgence.

When Mr. REED had concluded, the Committee rose, reported progress, and had leave to sit again; and the House adjourned till to-morrow morning.

SATURDAY, February 6.

Mr. SPENCER presented a petition of John Silsbee, praying for an increase of his pension, and that such increase may commence from the date of the original pension.

Mr. OGDEN presented a petition of Abraham Commissary, an Onondago Indian, son and only child of an Onondago warrior, who was killed in the battle of Chippewa, in the late war with Great Britain, while fighting on the side of the United States, stating that he has embraced the Christian religion, and is desirous of qualifying himself for the ministry of the Gospel; and, as he has no means of support, he prays that provision may be made for his maintenance and education for five years.—Referred to the Committee on Pensions and Revolutionary Claims.

Mr. BLOOMFIELD, from the Committee on Revolutionary Pensions, made a report on the petitions of Sarah Sheppard, Phoebe Champe, and Lois Haskell, widows of deceased officers of the Revolutionary army; which was read, and the resolution therein contained was concurred in by the House, as follows:

*Resolved*, That it is inexpedient to grant pensions to widows of deceased Revolutionary officers, who were not killed in battle.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to incorporate the Provident Association of Clerks, in the Civil Department of the Government of the United States, in the District of Columbia," with amendments. They have also passed bills of the following titles, to wit: "An act to provide relief for sick and disabled seamen," and "An act authorizing a subscription for the eleventh and twelfth volumes of State Papers," in which amendments and bills they ask the concurrence of this House.

The amendments proposed by the Senate to the bill, entitled "An act to incorporate the Provident Association of Clerks, in the Civil Department of the Government of the United States, in the District of Columbia," were read, and referred to the Committee for the District of Columbia.

The bill from the Senate, entitled "An act to provide relief for sick and disabled seamen," was read twice, and referred to the Committee on Naval Affairs.

The bill from the Senate, entitled "An act authorizing a subscription for the eleventh and twelfth volumes of State Papers," was read twice, and committed to a Committee of the Whole.

An engrossed bill, entitled "An act to authorize the Secretary of War to appoint an additional agent for paying pensioners of the United States, in the State of Tennessee," was read the third time, and passed.

Mr. ROBERT MOORE offered for consideration the following resolution:

*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of authorizing the Secretary of the Treasury to subscribe —



H. OF R.

Letter from Governor Bibb.

FEBRUARY, 1819.

shares in the stock of the road laid out from Pittsburg, in the county of Alleghany, to Waterford, in the county of Erie, in the State of Pennsylvania.

In offering this resolution, Mr. MOORE said, that the Legislature of Pennsylvania had incorporated companies to construct an artificial or turnpike road from Pittsburg to Waterford. That if gentlemen would refer to the map of the country, they would at once see the necessity, in a national point of view, of connecting the waters of the Ohio and Lake Erie by a turnpike road, for the use of the United States and the public generally. That if they would recur to the events of the late war, a doubt could not exist as to its utility, and almost absolute necessity; Erie being a naval station, and the harbor of Presque Isle being one of the safest on the lake, and most advantageously situated for military and naval purposes. The Secretary of War, in his report recently made, had reported in favor of the water communication between Pittsburg and Erie, in which, Mr. M. said, he concurred; but it would be recollected that the navigation of the Alleghany river and French creek was impeded by ice during the Winter months; and frequently, in the latter part of the Summer and Fall, the water was too low for navigation, and hence the obvious necessity of connecting the two important points of Pittsburg and Erie by a good road. He hoped, therefore, the resolution would be adopted, and the object proposed meet the approbation of Congress.

The motion was agreed to.

## LETTER FROM GOVERNOR BIBB.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the House of Representatives of the United States:

I transmit to Congress a copy of a letter from Governor Bibb to Major General Jackson, connected with the late military operations in Florida. This letter had been mislaid, or it would have been communicated with the other documents at the commencement of the session.

JAMES MONROE.

FEBRUARY 6, 1819.

FORT CRAWFORD, May 9, 1818.

DEAR SIR: Proceeding to Georgia for the purpose of bringing my family to this territory, and desirous to provide for the safety of the inhabitants on the frontiers during my absence, I have sought an interview with the officer in command at this place. At Camp Montgomery, I learned that you would probably reach this place in a few days, and indulged the hope of seeing you. An interview with you would have been to me a source of much pleasure, and I regret that my arrangements will not permit me to await your arrival.

The Indians commenced their murderous incursions on the frontier settlements in January last, when two men were killed in this neighborhood. No events occurred afterwards to excite apprehension until the 14th of March, when a house on the Federal road, near the Poplar Spring, was attacked, and eight persons killed. This intelligence reached me at Claiborne, from whence a detachment of mounted riflemen was immediately ordered to the place for one month's service. A few

days afterwards, five men, while travelling the road, were fired at, and three killed, from whom fifteen hundred or two thousand dollars were taken. The people, for the most part, were flying for safety in every direction, and all communication, by mail or otherwise, with Georgia, wholly suspended. The Indians were known to be still in that quarter. In this state of things, three posts were established by my order, at which there are, in the whole, about an hundred men, who have instructions to scour the woods from day to day. A fortnight since, they found a camp, but on their approach the enemy fled to a contiguous swamp, from which they fired and killed one man. The commanding officer informs me that he thinks the number of Indians in the neighborhood considerable. I should have mentioned that, in April, a house within fifteen or twenty miles of Claiborne was attacked, the husband killed, and wife and two daughters wounded. Thirty dollars, a quantity of bacon, and every article which could be conveyed away, were taken and carried to Pensacola, where I believe the murderers might still be found.

I yesterday learned that one Indian was killed, and another wounded, near the Poplar Spring.

This detail of events, however, was probably unnecessary, as you will receive from Major Youngs every intelligence upon the subject. My principal object is to state that, in my efforts to protect the people over whom I preside, the territorial treasury, being destitute of funds, has afforded me no supplies whatever; nor has it been in the power of the commanding officer here to render the aid which he has uniformly manifested the best disposition to afford. I am desirous that the troops should be considered as in the service of the United States, and the accounts adjusted when their term of service expires. One company rendezvoused at Poplar Spring, for three months' service, on the 10th of April, and a detachment of twenty-five at Sepulga, lately, for the same term of service. The expenditures incurred have been necessarily considerable, and altogether beyond my means of paying. You will readily perceive how unpleasant has been my situation, without the means of affording the protection necessary to keep the inhabitants at their homes. The regular force in this quarter has been insufficient for the defence of the country; the militia I have not had time to organize; and, above all, not a dollar in the treasury. My views of the necessity of forwarding men and money to this section of the country, have been repeatedly stated to Colonel Trimble, but I apprehend it has not been in his power to meet them. Having endeavored in vain, with my limited resources, to arrest the enemy, after their successive murders, and being satisfied that they sought refuge in Florida, I determined to raise a volunteer force, and order them to attack the hostile Indians, without regard to our boundary. A part of the force is now under the command of Major Youngs, and Captain Stull is in possession of my order. Had I been furnished with funds, the enemy would have been driven from that retreat long before this time; persuaded as I am that it is the only effectual method of affording security to this territory.

I have this moment received intelligence which leaves no doubt of your approach to this quarter, and I shall now leave the territory perfectly satisfied that the people will not suffer by my absence. Mr. Henry Hitchcock is appointed territorial secretary, and will act as Governor after I set out from Fort Jackson

FEBRUARY, 1819.

Seminole War.

H. OF R.

which will be the 26th or 27th of the month. I may, however, be detained a few days longer in arranging with the Big Warrior the reception of a party of Indians who have sued for peace, and delivered themselves to Major Youngs. This they did so soon as the Major convinced them, by a well timed and well executed expedition, that they would no longer be permitted to murder our citizens, and find refuge in the Spanish territory.

There are at this place forty volunteers, and the same number of militia at Camp Montgomery. Should you need any additional aid from the territory, it would be promptly furnished, should you notify me at Fort Jackson before my departure.

I enclose to you a letter I have received from the commanding officer of the militia near the Poplar Spring, which will present to you the state of things in that quarter. Excuse this hasty scrawl, and accept the assurances of my regard and esteem.

WM. W. BIBB.

Maj. Gen. ANDREW JACKSON.

## SEMINOLE WAR.

The House then again resolved itself into a Committee of the Whole, (Mr. BASSETT in the chair,) on the report of the Military Committee, on the subject of the Seminole war.

Mr. REED, of Maryland, in a speech of two hours, concluded his observations in favor of the report, as given entire in preceding pages.

Mr. WILLIAMS, of Connecticut, addressed the Chair as follows:

Mr. Chairman, it is with reluctance that, in this stage of the debate, I rise to address you, after the talents and the patience of the Committee have both been almost exhausted upon this subject. But, sir, apologies may be necessary for me, but they must be useless to you. I shall, therefore, proceed immediately to the consideration of the subject before us. And I too can with gentlemen say, that I have no private objects to attain, and no passions to gratify, by the decision of this question. The Constitution and laws of my country only do I wish to preserve. It is not my intention, at this stage of the debate, to inquire into the origin of this war; but it ought not to be forgotten that, on the 2d day of December, 1817, the President of the United States, in his Message to Congress, declared to us that "with the Barbary States and the Indian tribes our pacific relations had been preserved." And on the 25th of August, 1817, General Gaines wrote to the Secretary of War, relative to certain complaints against the Indians for killing cattle, stealing, &c.; but says he has not heard of anything like an assemblage of force among the Indians. And yet the murders of which, upon this occasion, we have heard so much, particularly that of Mrs. Garret and her children, happened before this time—Mrs. G.'s on the 24th of February, 1817—and, as the Indians claimed, in retaliation for their murdered friends. They appear at least to have arisen from private, not national quarrels. But, on the 21st of November, General Gaines sent an officer, with two hundred and fifty men, to Fowltown, (the residence of a part of a nation who, in the last Indian war,

had been neutral,) "to bring the chief and warriors to him;" and, "in case of resistance, to treat them as enemies." This party, as was probably expected, was fired upon by the Indians. The Indians were put to flight; five warriors, with one woman, said to be not distinguished from the warriors, killed, several wounded, and the remainder driven into a swamp. Nine days after this act of war, Lieutenant Scott and his party, ascending Appalachicola river, were all cut off by the savages. General Jackson was soon after called to the command, and ordered to put an end to the war thus begun. His conduct, while in this command, is now before us; we are called to judge respecting it. But we are told that we have no right to judge, or even make an inquiry on the subject. That the right of declaring war, including the right of judging of its causes, is the peculiar province of Congress, can scarcely be doubted. On this subject we have an authority which will be respected in this House—that of the late President; and, as I may have occasion to advert to it again, I will ask the attention of the Committee while it is read:

"Every just view that can be taken of this subject admonishes the public of the necessity of a rigid adherence to the simple, the received, and the fundamental doctrine of the Constitution; that the power to declare war, including the power of judging of the causes of war, is fully and exclusively vested in the Legislature; that the Executive has no right, in any case, to decide the question whether there is or is not cause for declaring war; that the right of convening and informing Congress whenever such a question seems to call for a decision, is all the right which the Constitution has deemed requisite or proper; and for such, more than any other contingency, this right was specially given to the Executive.

"In no part of the Constitution is more wisdom to be found than in the clause which confides the question of war or peace to the Legislature, and not to the Executive department. Besides the objections to such a mixture of heterogeneous powers, the trust and temptations would be too great for any one man—not such as nature may offer as the prodigy of many centuries, but such as may be expected in the ordinary successions of magistracy. War is, in fact, the true nurse of Executive aggrandizement. In war a physical force is to be created, and it is the Executive will which is to direct it; in war the public treasures are to be unlocked, and it is the Executive hand which is to dispense them; in war the honors and emoluments of office are to be multiplied, and it is the Executive patronage under which they are to be enjoyed; it is in war, finally, that laurels are to be gathered, and it is the Executive brow they are to encircle. The strongest passions and the most dangerous weaknesses of the human breast, ambition, avarice, vanity, the honorable or venal love of fame, are all in conspiracy against the desire and duty of peace. Hence it has grown into an axiom, that the Executive is the department of power most distinguished by its propensity to war; hence it is the practice of all States, in proportion as they are free, to disarm this propensity of its influence.

"As the best praise that can be pronounced on an Executive Magistrate is, that he is the friend of peace—



H. OF R.

Seminole War.

FEBRUARY, 1819.

a praise that rises in its value as there may be a known capacity to shine in war, so it must be one of the first duties of a people to mark the first omen in the society, of principles, that may stimulate the hopes of other magistrates of another propensity, to intrude into questions on which its gratification depends. If a free people be a wise people, they will not forget that the danger of surprise can never be so great as when the advocates for the prerogative of war can sheathe it in a symbol of peace. — *Letters of Helvidius, by Mr. Madison—New edition of Federalist—626, 627.*

If, then, according to the Constitution, Congress only has the power to declare war, and judge of its causes, they must necessarily have the power to secure themselves in the enjoyment of this their exclusive right. At least they must have the privilege of declaring that others have usurped the powers, and thus preserve the advantage of not having acquiesced in it. They surely are not to depend, for the determination of a great Constitutional question, upon the decision of a court martial, selected from officers subordinate to the person accused, upon a question in which their own privileges are deeply involved. Besides, the decision of a court martial might, and perhaps ought, in a great measure, to depend upon the motives which actuated the party on trial. Their decisions, therefore, would not necessarily affect at all the question before us; for here the question is not a question of intention, but the inquiry is, has the Constitution been violated? not what were the views which led to such violation.

Besides, the question as to the right to inquire has been repeatedly decided by the House.

In the case of General St. Clair, alluded to by the gentleman who preceded me (Mr. REED) in the case of General Wilkinson, I am informed the question was distinctly made, and decided by this House, although no resolution passed in consequence of that inquiry, except to transmit the testimony to the President. So an inquiry was had relative to the destruction of the Capitol during the last war. And in the various instances of thanks which have been passed by Congress, and one in favor of General Jackson himself, the question must necessarily have been decided.

It having then been settled that Congress have the right to inquire, the question to be considered is, had you, commanding officer a right, not only to enter the territory of a neutral nation, but to capture the forts of that nation, and treat their garrisons as prisoners of war, without the consent of the Legislature? And here I beg leave to remark, that it has been our policy, and I hope it will ever continue to be the policy of this nation, to remain a pacific nation. It cannot, therefore, be for our interest to extend the rights of belligerents.

Had, then, our officers a right, by the law of nations, to capture the Spanish fortresses of St. Marks, Pensacola, and Barancas, consistently with the neutral relation we were in towards Spain? If they had, it must have been either on the ground of extreme necessity, or because the commanders of those places had given aid and comfort to our enemies.

As to the first—in what cases, consistent with neutral relations, may we capture the fortresses of a Power with whom we are at peace? Puffendorf cites from Grotius the following as the rule: "It is lawful for him who wages a just war to possess himself of a place seated in a country that is at peace with him, if there be certain (not only imaginary) danger that the enemy will otherwise surprise it, and from thence annoy him, with irreparable mischief; provided he take nothing but what is necessary for his own security, as the bare custody of the place, leaving both the jurisdiction and the profits to the right owner."<sup>\*</sup>

These are the writers who are considered almost as oracles of the law of nations. Is, then, this case within the rule here laid down? Was there certain, not merely imaginary danger, that the Indians would capture these fortresses? It is for the friends of this measure to show, that the danger was certain—for an act having been done, not justifiable by the general laws, the party who claims, by virtue of an exception founded upon necessity, is bound to show the existence of that necessity; as, in the case of homicide, it may be justifiable, or excusable; but the party bound must show that it is justifiable or excusable. In the case before us, what is the evidence of this? It is said the Governor of Pensacola himself acknowledged the danger as to St. Marks, and apprehended that it had actually fallen into the hands of the Indians. If this were actually so, perhaps it might furnish an excuse for our Government to justify themselves in a controversy with the Spanish Government; but, is it, therefore an excuse for an officer of ours, who has acted without orders, and contrary to the Constitution? The fact, as it respects such officer, when examined at the bar of his country, still remains to be proved, and the evidence of the Governor of Pensacola certainly does not prove it. The Governor, according to General Jackson, informed Captain Call "that the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Marks, and, he presumed, possession had been given, from his inability to maintain it."<sup>†</sup> Again, in his letter to the Governor of St. Marks, he says, the Governor of Pensacola stated "that the Indians and negroes had demanded of you large supplies of munitions of war, with a threat, in case of refusal, of taking possession of your fortress."<sup>‡</sup> The same idea is expressed in a letter of the 5th of May. The admission, therefore, of the Governor of Pensacola was nothing more than an attempt to justify the supplies which might be afforded to the Indians, on account of a supposed inability on the part of the commander of St. Marks, if he should furnish them, or a presumption that that officer would surrender his fort to their threats, rather than grant their demand of succors. But, for us to judge of the probability of the Indians

<sup>\*</sup> Puffendorf, book II. chap. VI.

<sup>†</sup> General Jackson's letter of 26th March.

<sup>‡</sup> General Jackson's letter of 6th April.

FEBRUARY, 1819.

Seminole War.

H. OF R.

capturing that fort, we want to know the number of men in the fort, the number of guns, the state of the works, and the means of defence; we also want to know what number of men the Indians had embodied, whether they had any artillery, or any means of capturing a fortified place. On these subjects we have no information; we have, therefore, a fair right to presume that these savages who wanted to procure from the Spaniards arms and ammunition to defend themselves against our force, had at their command no means of capturing Spanish fortresses. But, again: It appears from General Jackson's own letters, that, before he arrived at St. Marks, a demand had been made by the Indians, of the Governor, to surrender St. Marks, but that St. Marks was not surrendered. "I found (says Gen. J.) that the Indians and negroes combined had demanded a surrender of that work." Now, if the commander had refused to surrender the fort upon a demand made, and that demand was followed by no attack upon the part of the Indians, had not General Jackson every right to believe that the fears of the Governor of Pensacola were fictitious, that the Indians were entirely unable to make any attempt, and that the danger was only imaginary?

The same remarks will apply (though in a much stronger degree) to Pensacola: there, however, General Jackson had no intimation from the Governor, that it could not be defended; on the contrary, General Jackson himself tells us that he wrote to the Governor, "that if the force you are now disposed wantonly to sacrifice, had been ordered against the Seminoles, the enemy's troops had never entered the Floridas."<sup>†</sup> If, then, the force of the Governor was great enough to have prevented the war entirely, surely it was great enough to defend his own fort. In addition to this, Pensacola was captured after General Jackson had declared the war at an end, had dismissed the Georgia militia, and asked leave himself to retire. So far, then, from being certain that this place would fall into the hands of the enemy, there was no probability of it. But, was it otherwise, could they have annoyed us with irreparable mischief? Will it be said, that a company of Indians and negroes, uninstructed in the use of artillery, could have gained to themselves any advantage from being confined in the walls of St. Marks? Or that the strength of this place was such, that they could have defended it against our artillery, when the Spaniards could not defend it even against Indians? How many of these savages were there, and what force could we oppose to them? General Gaines in one of his letters speaks of its being reported that 2,700 were embodied; but he says further, he does not believe it. And in looking over the history of his campaign, it does not appear that General Jackson's army ever found more than 500 Indians embodied. And, to meet this force, General Jackson had under his com-

mand about 900 Kentucky and Tennessee volunteers, about 1,000 Georgia militia, about 360 regular troops, and, as is supposed, (for no estimate is given,) about 1,500 Indian auxiliaries, under the command of General McIntosh. Of this force, only one, it is believed, was killed by the Indians, and four wounded, and of the enemy, 49 warriors were killed and 79 captured, besides 280 women and children.

From these facts it appears that the great difficulty on our part was to find the enemy; we should then suppose that it would have been the wish of our commander that their force should have been concentrated in St. Marks. And when we recollect that at the battle of the Horse Shoe, 450 men drove from their entrenchment and killed more than 1,000 Indians; and when we compare our force with theirs, we cannot believe that the injury they would have done to us, had they captured the Spanish fort, would have been irreparable.

But, even if it were otherwise, General Jackson "ought to have left the jurisdiction and the profits to the right owner." Instead of this, he takes possession, establishes a temporary government, speaks of the garrison as prisoners of war, sends them to Pensacola, and thence to Havana, and treats it as a conquered country.

But, it is said, as the commanding officer would have the right to take the fort of a neutral in case of extreme necessity, he must be the judge of the necessity; and being so, we have no right to censure him, even if he has judged wrong. But in this case he had no right to judge; he had his orders—if he departed from them he assumed the responsibility, and, like all other ministerial officers, is accountable for the consequences. It has, indeed, been denied by one gentleman from Virginia, that he had any such orders. It is admitted that General Gaines had orders, if the Indians took shelter under a Spanish fort, not to attack them, but to notify the War Department. But it is said, there is no evidence that these orders were communicated to General Jackson, and, if they were, they were not binding upon him, because a superior officer cannot be bound by orders given to a petty subaltern. These orders were given to an officer of equal rank with General Jackson himself, and not to a petty subaltern, and were communicated to him for the regulation of his conduct. The Secretary of War, in his letter to General Jackson, of the 26th December, 1817, speaking generally of the orders to General Gaines, says "copies will be furnished to you," and surely they would be furnished for no other purpose than as rules of conduct for the commanding officer; and, lest it should be said that the Secretary did not allude to these orders, but only to the last order, I refer to the letters of the Secretary of State, in his correspondence with the Spanish Minister and Mr. Erving. To the first, after reciting the above order to General Gaines, he says, "You have seen that no instructions or authority inconsistent with the declaration of the President on the 25th of March last to Congress, were ever issued to the commander

<sup>\*</sup> Letter to the Secretary of War, 8th April.

<sup>†</sup> Letter to Governor of Pensacola, 25th May.



H. OF R.

Seminole War.

FEBRUARY, 1819.

"of the American forces. The possession which he took of the fort of St. Marks, and subsequently of Pensacola, was upon motives which he himself has explained, and upon his own responsibility."\* To Mr. Erving the Secretary writes, "The officer in command immediately before General Jackson, was therefore specially instructed to respect, as far as possible, the Spanish authority, wherever it was maintained, and copies of this order were also forwarded to General Jackson, upon his taking command."† General Jackson, therefore, was not to judge as to the danger; and, if he did, he must incur the responsibility.

But it is said by the gentleman from Pennsylvania, (Mr. BALDWIN,) that General Jackson's defence ought not to be placed upon this ground; that we should hear his own defence, and decide upon that. In other words, that he is justified in capturing the Spanish forts because their commanders had given aid and succor to our enemies. That the General has assumed this ground of defence, I agree with the gentleman from Pennsylvania. Not supposing, however, that it would have been admitted, I had endeavored to collect from the letters of General Jackson evidence of the fact. In a letter of the 25th of March, he writes "I shall take possession of the garrison of St. Marks as a depot for my provisions, if in the hands of the Spaniards, they having supplied the Indians." In his letter of the 5th of May, "in the conversation between my Aid-de-camp, Lieutenant Gadsden, and the Spanish commandant, circumstances transpired convicting him of a disposition to favor the Indians, and of taking an active part in aiding and abetting them in this war; I hesitated, therefore, no longer; as I could not be received in friendship, I entered the fort by violence." In his letter of the 2d of June, he says "on the fact that the Spanish officers had aided and abetted the Indian enemy, and thereby became a party in hostilities against us, do I justify my occupancy of the Spanish fortresses." It was not, then, from his own account, on the ground of a future danger, but because they actually had, or were supposed to have, aided and abetted the enemy. The question then arises, can this be a justification for General Jackson? The conduct of the Spanish commanders, though wholly unjustified as it respects our country, was not war. Those who contend that entering a neutral country, capturing neutral forts, and seizing the garrisons, do not amount to war, will not contend that the act of supplying an enemy is in itself an act of war. This may be a cause of war, but if, as Mr. Madison has told us, the power of declaring war, including the power of judging of the causes of war, is fully and exclusively vested in the Legislature, and that the Executive has no right to decide the question, surely a commanding officer can have no right to settle this question, or to judge how far we shall overlook or excuse the conduct of these Spanish officers. If

\* Letter to Don Onis, 23d July. † Letter 28th Nov.

aiding and supplying the enemy is an act of war, what is the consequence? Spain claims that privateers are fitted out from our ports, and that arms and ammunition are furnished to their rebellious subjects in South America. Suppose that such is the fact, has a Spanish officer a right to go to the city from whence these supplies are sent, or the privateers were fitted out, and take possession of it, to prevent future supplies? Surely not, because these are not acts of war, though, under certain circumstances, they may be sufficient causes of war. And, after the authorities which were read in the early part of this debate, by the gentleman from Georgia and others, it cannot now be necessary to prove that, admitting the facts stated by General Jackson as to the supplies, it formed no justification, and the ground upon which he chose to stand must fall. The commanding officer may assail and take possession of a neutral fort, not to revenge a past injury, but to prevent a future one; not because an enemy may have been supplied or a treaty broken, but lest his own army should be cut off, or his country be overrun. But when he attempts to redress past injuries, he sets himself in the place of Congress, and assumes that power, which is vested in the Legislative branch of the Government only.

But, it is said, that the capture of fortresses by force does not necessarily imply war; and instances are given where some petty places, such as Turk's Island, have been captured, and no war followed. It is admitted that the injury arising from such acts may be waived by the party injured. But the act itself is an act of war, of open force and violence. The President of the United States has no right to make war, but he may repel it: suppose the Spanish should attack the town of Baltimore, might not the President order our army to attack them? Why? Because the attack is an act of war, without inquiry into the cause. It is open violence which he has the right to repel, and it would not be asked by the President or Congress, whether it was authorized by the Spanish Government or not. No, it would be treated as an act of war.

Again, it is said, we have a standing declaration of war against the Indians. What is it more than that the President has a right to repel invasion, and, when an attack is made upon our towns or forts, he has a right to resist it?

Again, if this is not war within the meaning of the Constitution, then the Executive officer has at all times a right to do those acts which may involve us in war, without the consent of Congress; he may order an officer to attack a neutral town, and, as he has no right to give the order, it will not be war; Congress only having the right to declare war.

The act, then, was an act of war on our part, not justified as it respects the officer, on account of past injuries, and not necessary to prevent future injury. The danger not being certain, only imaginary; the loss not being irreparable, and the jurisdiction and the profits being taken, as well as the fortress.

FEBRUARY, 1819.

Seminole War.

H. OF R.

I shall now examine the proceedings in the trial and execution of Arbuthnot and Ambrister; and, when inquiring into the legality of their trials and executions, we have nothing to do with the moral character of the men; because, if guilty, they ought to be legally punished. With respect to the guilt of Arbuthnot, I would only remark, that I find no testimony whatever that the memorandums on the back of a letter to Mr. Bagot, respecting muskets, ammunition, knives, and tomahawks, about which so much has been said, was in the handwriting of Arbuthnot; and it would, certainly, be very extraordinary that such a writing, if it really import what is represented, should be on the back of a letter to be sent by mail, especially when it could not be covered, consistently with the saving of postage, which seems to have been proposed. The proceedings of the court, in admitting and rejecting evidence, were so entirely contrary to the principles of law, that they have been generally reprobated. But the gentleman from Pennsylvania (Mr. BALDWIN) contended that at common law, in a prosecution for conspiracy, the confession of one of the conspirators might be admitted against the other; and, therefore, hearsay from the Indians might be admitted before the court martial. It is true that, under certain circumstances, this may be done. But when were the confessions of a person, not charged as a conspirator, ever admitted against another, to prove the conspiracy? When certain persons combine to execute an illegal act, having proved the combination, the acts of one may be considered as the acts of all, and perhaps the declarations of one as the declaration of all. But when did we ever before hear that the confessions of persons who were not, who could not be, charged with a crime, should be admitted to prove that another instigated the act? Besides, it cannot be pretended that a court martial has cognizance of the crime of conspiracy, or that this was a prosecution of that sort. And the gentleman from Pennsylvania admitted that it could not, technically, be so considered. He also admitted that the court martial was not justifiable in refusing to allow the evidence of Ambrister, but says it is of little consequence, because he could not have been credited. Surely we cannot determine, without a hearing, whether this man was worthy of credit or not; and when it appears, from a letter of the Secretary of State, that, although these two men might have been embarked in the same cause, yet they were personal enemies, we have as good a right to suppose the testimony of Ambrister in favor of his personal enemy would be true, as to believe that of Hambley, against him, he being the personal enemy of Arbuthnot. Perhaps, however, these questions are of minor importance, for, if this court had jurisdiction of the offences charged, we are not here to review their judgment, although it might have been erroneous. But what jurisdiction had this court? Whence did they derive it? It was, say the defenders of the proceedings, an offence against the laws of nations, not punishable, however, by the civil

tribunals of our country. The Constitution says that Congress may define and punish piracies and felonies on the high seas, and offences against the laws of nations. It is, then, for Congress to give courts martial this power, if they possess it. If this has been done, it is to be found only in the articles of war. Look over that code, you find no power given to courts martial to punish any offence with which these men were charged, except, only, that of a spy; and of this they were not found guilty. But, says the gentleman from Ohio, (Mr. HARRISON,) to be sure the power is not expressly given by the articles of war, but the power must necessarily reside in these courts. Your code, says he, is a very short one, and cannot be supposed to embrace or provide for every case. It is true this code is a short code, but it is a bloody one, (perhaps this may be necessary;) but are laws of this description to be extended by implication? Your Supreme Court have decided that they have no power to punish offences, but what is given them by the laws of the United States, and have no common law jurisdiction; and, if your Supreme Court have not the power to extend their jurisdiction, surely your military courts cannot possess any such power.

Besides, is it to be believed that the Congress of the United States, if they supposed that there dwelt in courts martial under our Government a power to punish all offences which it might be proper to punish by military authority, would have expressly provided for the punishment of a spy? If, in any case, a court martial had the general power contended for, it must have embraced the case of spies, for they are the most obnoxious of all criminals; and if a law of the United States were necessary to provide for their case, how much more necessary is it in a case where the laws and usages of war are much more doubtful? Aware of the difficulty attending this assumption of power, it has been seriously contended that this was not a court martial; and it has been called an advisory council. That the General would have the right to advise with his officers, in cases where he has the right to act upon his own responsibility without advice, cannot be denied. But, in such case, who ever heard that these officers were sworn, that they had a judge advocate, that two-thirds must concur in the sentence, and that a party implicated in their opinion should have the right to object to or challenge the officers thus designated? And yet, in this case, these, with many other incidents of a court martial, are found. Besides, we have the authority of the Secretary of State to prove this. "He gave them," says he, "the benefit of a court martial."\* Nay, more; we have it from General Jackson himself, who speaks of "the proceedings of the court martial."†

A court martial, then, did assume the power to try and condemn to death men over whom they had no jurisdiction. These men were not, therefore, legally tried and condemned.

\* Letter to Mr. Erving, 28th November, 1818.

† Letter to the Secretary of War, 5th May, 1818.



H. OF R.

Seminole War.

FEBRUARY, 1819.

But we next told that the commanding officer had a right to put them to death without the intervention of a court martial. If he has, it must either depend upon a general power in an officer to put to death his prisoners, or upon the right of retaliation. As to the first, it will hardly be contended, that, in the present state of society, in modern warfare, a commanding officer has a right to kill or enslave his prisoners. If he has, the right must reside in a subordinate officer, when in command, as well as in the General. That such a power may, under certain circumstances, be exercised, is not denied; but it is only in cases of necessity, when all ordinary laws must yield to that of self-protection. A General therefore can have no more right to kill than to enslave his prisoners, unless the safety of his army is directly concerned, or makes it necessary.

As to the right of retaliation, this, it ought to be recollected, involves not merely the right of punishing the guilty, but also of destroying the innocent for the guilty: not only the right of putting to death the men captured in battle, but that of killing women and children. It therefore involves the most important powers of sovereignty. It seems therefore contrary to the whole spirit of our laws to suppose that those guilty of crimes as spies shall have the benefit of a trial by a court, but that the commanding officer, of his own will and pleasure, may visit the sins of one man upon another, and may in his discretion punish the innocent for the guilty.

These are acts of policy, fit only to be trusted in the supreme power of the country; and it has been already shown by gentlemen who have preceded me that Congress at several times have given this power to the commander and to the President. But if this power existed in them, why did Congress delegate it to them, or legislate upon the subject; and if it did not, how did General Jackson acquire this power?

The act passed in the late war is precisely analogous to the present case. There the British and the Indians were parties on one side; and Congress enacted, that, for violations of the laws and usages of war among civilized nations, by those acting under British authority, or those in alliance with the British, the President might retaliate upon the British or Indians.\* That law was confined to the then existing war; and is it not absurd to suppose that Congress, when delegating this power to the President, would limit it to the then existing war, if they thought the commanding officer of your armies at all times possessed it? The claim here is, that, as the Indians had committed barbarities, contrary to the laws of war, those who were in alliance with them may be killed in cold blood by the Commander-in-chief, and that without an act of Congress he has the same power that by a special law was delegated to the President.

But it is said, when the commander of an army is at a distance, he may find it necessary to ex-

ercise such a power. If Congress think so, they may revive the late law, or modify it. Until they do so, the Commander-in-chief cannot assume to act as if it existed. Besides, General Jackson does not pretend these men were put to death upon this principle, but because they had violated the laws of nations. They were therefore tried by a court having no jurisdiction, by evidence unknown to our law.

The court therefore could have no authority to order their execution, much less had the Commander-in-chief. It is due then to our laws and Constitution, and to the humanity which we profess, to declare our disapprobation of their fate.

The former reputation of the commanding officer ought upon this subject to have no weight. No attempt is made to deprive him of what he thus earned. He is in the enjoyment of a salary second probably only to one in the Government, and has received the thanks of the nation. But, unless past services are to raise a man above the laws of his country, they ought not on this occasion to be introduced, much less to have an influence on the decision of the question.

Mr. DESHA, of Kentucky, said, in rising to address the Committee, he had but little expectation that anything he could say would be calculated to shed any new light on the question under consideration. His object in addressing the Committee was simply to give the reasons that influenced him in the vote he should shortly be called on to give. He could not say, as some gentlemen had said, that he rejoiced that the subject had been brought before the House for discussion; but, on the contrary, he could say that he regretted extremely that the subject had been introduced; and why did he regret it? Because it was a subject of all others the best calculated to place the House in the way of temptation. Mr. D. said he believed in the nature of things that all men were born with a certain portion of despotism in their breasts, which frequently required the greatest stretch of reasoning faculties to keep that despotic feeling within proper bounds. Man is naturally fond of power, and is very apt to try to increase it when opportunity offers. The best way for man to keep from error is to frequently recur to a sentence in the good old prayer—lead me not into temptation. We have the power to legislate, but not the power to pass a vote of censure on an officer attached to another department of Government. Agreeably to the Constitution, the powers of Government are divided into three separate and distinct departments. No one of those departments has a right to encroach on prerogatives properly belonging to another department. General Jackson is properly attached to the Executive Department. Have we a right to pass a vote of censure on him? Mr. D. said he had examined the Constitution attentively, and he could find no such power, and he did think it was time to pause, lest we should be treading on hallowed ground. When men are called on to transact business, particularly of a legal character, they are always bound to show the authority

FEBRUARY, 1819.

Seminole War.

H. OF R.

under which they act. Gentlemen have been called on to show their authority, but have not been able to do it, and he defied them to place their finger on a single article, section, clause, or sentence of the Constitution, that justified the course we are pursuing. They cannot even show a sentence that justifies it by implication. Gentlemen ought to take care, in their zeal to prevent others from infracting that instrument, that they do not overleap the legitimate bounds themselves. He did verily believe that we were about to transcend the powers delegated to us by that instrument we had solemnly sworn to support. What would be the consequence that would inevitably result from one department of Government encroaching on the prerogatives properly belonging to another? Political chaos, the precursor of anarchy. The member from Ohio (Mr. HARRISON) says we ought to have the power, that we cannot get on well without it; but says he cannot put his finger on any clause of the Constitution that gives us the power, and therefore has applied to Britain and the customs and practices of the British Parliament, to justify us in this assumption of power. Monstrous doctrine! What! import from England the arbitrary practices and precedents of Parliament, and ingraft them on our free Constitution? by which to obtain the power to pass a vote of censure on General Jackson, who is properly attached to another department of Government, because he directed those two Englishmen to be executed for instigating the barbarous Seminole tribe of Indians to murder our citizens, furnishing them with implements and munitions of war, and leading those brigands to massacre. We want neither their precedents nor principles imported into this country. We had such a stock of the latter pending the late war, that it had like to have engulfed this Government in the vortex of ruin. If General Jackson's conduct has been so reprehensible while carrying on this Seminole war, as some gentlemen represent it to be; if he has violated both law and Constitution, why not proceed in the Constitutional and usual way, by appointing a committee to investigate it, and report the facts, as in the case of Generals St. Clair and Wilkinson? Which facts, when reported, lay before the President of the United States, and permit him to exercise his Constitutional prerogative. We have no power to punish, and destroying reputation is the greatest punishment. If the President should fail to do his duty, or should wink at violations of the law and Constitution on the part of General Jackson, you have your Constitutional remedy by impeachment. The President has the power to call a court martial for his trial. He has also the power to strike him from the list of officers. Gentlemen might turn and twist this subject as they pleased, but whatever censure they attach to General Jackson, must ultimately rest on the shoulders of the President; they were virtually whipping the President over the shoulders of the General. Gentlemen will not attempt an impeachment, and why? It is not because they have too much love for the

15th Con. 2d Sess.—35

President, but because they know they could not succeed; they are fearful that they might come out like a gentleman from Boston did, when he introduced a resolution in the House of Representatives to impeach Mr. Jefferson, the then President. After discussing the subject a considerable time, he made out to get his own vote, notwithstanding it was a time when party not only ran high, but was well marshalled; his political friends were obliged to abandon him. Mr. D. said he did not stand here as an apologist of any man, but as the advocate of justice; in which capacity he trusted he should always appear, while he had the honor of a seat in this House, and he had no hesitation in saying, that neither the President nor General Jackson had violated law or Constitution, but had done their duty in this Seminole war, and deserved well of their country. He returned them his sincere thanks for putting down this cruel war in so speedy and exemplary a manner, carried on by the red and black savages, and instigated by more than white savages.

Gentlemen say they are not inimical to General Jackson; that they appreciate his services and merits; but, at the same time, they are advocates for passing this vote of censure on him, which is calculated to tarnish his reputation, to prostrate his character in the eye of posterity. Mr. D. said he could not understand this business; it looked to him like holding out the right hand of fellowship, and, at the same time, with the left, thrusting a dagger under the fifth rib. Character is everything to an honorable, high-minded man. The General would rather you would send an executioner to stab him to the heart, than to stab his reputation. The Censors of Rome had the power of degrading a man by removing him from the class he properly belonged to, and placing him in a lower class. Was not this considered the greatest degradation? What could have been more mortifying? Will not the British be gratified at the prostration of the hero who defeated their purposes, and laid their myrmidons low at New Orleans? Will not they and their friends rejoice that the man who thwarted these machinations, and has been such a terror to them, should be paid for his services (and he has rendered more service to this Government than any man since the days of Washington) with ingratitude? Will they not raise their crest-fallen heads, and conclude that a Government that can treat its heroic sons so ungratefully cannot be lasting?

Mr. D. said, he had felt some surprise that a gentleman from the State of Georgia (Mr. Cobb) should be the foremost advocate for this vote of censure, from a State for whose benefit particularly the war had been carried on. While the gentleman wasolling at his ease on his couch, or resting contentedly on his pillow, this persecuted man was exerting himself in the wilderness or swamps in Florida, warding off the tomahawk of the ruthless savage from the heads of the inhabitants of Georgia. In relation to the dispute that has taken place between Governor

\* Laws of the United States, vol. 4, p. 506.



H. OF R.

Seminole War.

FEBRUARY, 1819.

Rabun, of Georgia, and General Jackson, that has been jugged into this debate, he presumed the gentleman would think with him on the subject, that we ought to permit them to settle their quarrels in their own way. This, he was sure, could not operate on the gentleman's mind. But, if he was surprised at the course pursued by the gentleman from Georgia, he was more astonished that a single member from the West could enter the lists as an advocate for this vote of censure against the man to whom the West are under such incalculable obligations, for his ability and exertions in preventing the emporium of the whole Western country from falling into the hands of that tyrannical Power, Great Britain. What man was so well calculated to unite the discordant materials collected for the defence of New Orleans, composed of Kentucky volunteers, Tennessee volunteers, Louisiana and Mississippi militia, Frenchmen, Spaniards, and even Barratarian pirates? This man, whose character is about to be tarnished, had the address to unite those materials, and make a successful defence, played havoc among Wellington's invincibles, and laid some of their ablest generals low—prevented their infamous watchword (*Booby and Beauty*) from being carried into operation—by which he saved the city of New Orleans, the emporium of the West, from being pillaged by these freebooters, and the female character from violation. Yet, this man, who has rendered such important services to his Government, and particularly the Western country, and who, I venture to pronounce, is the greatest military character this country has produced since the days of Washington, is to fall a victim to cruel prejudice; his character to be tarnished, his reputation destroyed, by this vote of censure. And for what? Upon mere imaginary grounds, produced by a kind of fastidiousness, or technical nicety; and we find men from the West favorable to this vote of censure.

Mr. D. said, we are told, that both law and Constitution have been violated in this Seminole war—in having war without its being declared by a solemn vote of Congress; in entering neutral territory without permission of Congress; in taking possession of neutral posts, and in the execution of Arbuthnot and Ambrister. In relation to war having been carried on without a formal declaration by Congress, he contended that the Seminole war was a mere continuation of the war declared in 1812; and he trusted he should be able to make it appear. In 1812 we declared war against Great Britain and her dependencies; the Creek nation of Indians, by the instigation of Great Britain, through her emissaries, joined her, and became a party in the war. General Jackson, from the purest patriotism, at the head of the Tennessee volunteers, took the field against the Creek Indians; after encountering and surmounting almost incalculable difficulties, and having a number of sanguinary conflicts with them, in which a great number of their best warriors were destroyed, he succeeded in breaking the force of the nation. The Indians

sued for peace; General Jackson formed a treaty with them, as he was authorized to do, which was signed by a majority of the nation, through their principal chiefs; but the Seminole tribe, a part of whom lived within the limits of the United States, and some others of the nation, refused to accede to the terms held out, and broke off from the nation, went over into Florida with a determination to prosecute the war as soon as they could be supplied with the means of carrying on hostilities by the Spaniards at St. Marks and Pensacola, or the emissaries among them, Woodbine and Nicholls, or their successors, Arbuthnot and Ambrister; and also obtain provisions to sustain their squaws while they were making their hostile incursions into this country. They continued their hostilities whenever opportunity offered.

By the 9th article of the Treaty of Ghent, this Government obligates itself to put a stop to hostilities with all the Indian tribes with whom we were at war at the time of ratification, with the proviso that such tribes shall agree to desist from all hostilities against the United States and their citizens, upon the ratification of the treaty being notified to such tribes, and they shall desist accordingly. Did the Seminole tribe desist? No; they did not. Then was he not correct in saying that this Seminole war is a mere continuation of the war we declared in 1812? You passed a law last session of Congress, making provision for carrying on the Seminole war, which was a tacit acknowledgment that war did exist, and had been constitutionally declared; and also gave tacit permission to the President to send the army into Florida, as the Seminoles resided there, and we could not calculate on their coming here to meet our army. Mr. D. said he thought he had conveyed our army safe, and landed them on neutral territory, without violating either law or Constitution. But, lest gentlemen should not like to follow the route he had marked out, he would show them another way, without running foul of Constitution or law. By the second section of the second article of the Constitution, the President of the United States is Commander-in-Chief of the Army of the United States, consequently is entitled to all the prerogatives and privileges necessarily attached to so high a command. You have had a law in operation, he believed, ever since 1795, authorizing the President, in case of invasion, or imminent danger of invasion, to call out the forces of the country to repel invasion. The question is, was there an invasion? No gentleman will deny but what our territory was invaded, and our citizens murdered: there, then, was not only an invasion, but war was actually declared against this Government by the Seminoles; for we have it in proof among the documents on your table, that the Indians met at Micksaky, and in general council solemnly resolved on war against the United States. It is a prominent part of the duty of the President of the United States to see that the laws are executed; consequently, he ordered out the forces of the country, and put them under the

FEBRUARY, 1819.

Seminole War.

H. OF R.

command of a subordinate officer, (General Jackson,) with orders of a discretionary character, to conduct matters in such a manner as would be the best calculated to bring the war to a speedy and successful termination, and with exemplary vengeance. Would you have had the General to have marched to the Florida line, with the Constitution in one hand and the sword in the other, looked over the line, turned about, and marched back? Would not these very gentlemen who are so anxious to pass this vote of censure against the General have been louder in their clamor against him if the line had checked his progress? They would, and he confessed that he should have joined them; there would, then, have been some grounds for censure; but there was no danger to be apprehended that a nominal line would check the progress of the army, with General Jackson at their head, particularly when he was in possession of discretionary powers. Jackson don't war for fun; he is generally in earnest, and the enemy feels it. But admitting, for a moment, that it was wrong to pursue the invaders over the line, he would refer back to the law passed last session, making provision for carrying on the Seminole war, in which you tacitly gave the power of sending the army into neutral territory, as the Seminoles live in Florida. Mr. D. said he had marked out two ways that the army could occupy neutral territory, without violating either law or Constitution; that they were both plain and open to him; but if gentlemen liked neither, they might take their own route. He had landed the army safely in Florida, out of your territory, and on foreign territory; that he should now lay down both the laws and Constitution, except so far as related to the organization, regulation, and management of the army, and pick up the usages of civilized warfare, as laid down by the writers on national law, and apply it to the cases of taking possession of the neutral posts, St. Marks and Pensacola, as well as the execution of Arbuthnot and Ambrister, on the principles of retaliation—contending that when you are in foreign territory, with your armies, you must rely, in relation to the last mentioned points, entirely on the usages of civilized warfare. The writers on public law acknowledge the right not only of entering neutral territory in case of necessity, but the occupying neutral posts in the case of extreme necessity. Then, did extreme necessity exist, by which to justify General Jackson in taking St. Marks and Pensacola? He thought it did. He had not the ingenuity of some gentlemen to discriminate between these two posts; consequently was compelled, for want of those discriminating powers, to place them precisely on the same footing. The danger of a neutral post falling into the hands of an enemy, agreeably to national law, amounts to extreme necessity. In relation to St. Marks little need be said, as you have it in proof, as specified in the documents, that the commandant acknowledged, in his correspondence with General Jackson, that it was more than probable that the enemy would attempt taking the place,

and that he was not in a situation to defend it. But this point has been ingeniously handled by the gentleman from Pennsylvania, (Mr. Hopkinson,) which precludes the necessity of my saying any more on it. If the gentleman had spent, with his usual ingenuity, the twenty minutes in justifying General Jackson for taking Pensacola, that he devoted in speaking of Spanish affairs and the Spanish Government, a considerable part of which was by way of eulogy, (which he could discover from the countenance of the Spanish Minister, who sat near his elbow, that it was extremely pleasing to him,) he could have made out the case of Pensacola as clearly justifiable as St. Marks; but when the gentleman hove in sight of Pensacola, he made a full stop. In relation to Pensacola, there was as great a probability of the enemy taking it as there was of St. Marks; the enemy had it in their power at any time by stratagem, if not by open force. The place was not strong, and the Spaniards had quite an inconsiderable force for its defence. We have in proof that there were generally from fifty to one hundred and fifty Indians in the place. Is it not, then, presumable that an attempt to get possession of it would have been made simultaneously with the one contemplated to be made on St. Marks? The enemy was artful, and good at stratagem; and of what consequence would St. Marks have been to the army, without the possession also of Pensacola, as a few guns sent round from the latter would soon have dislodged them from the former. Agreeably to the writers on public law, the neutral was bound to treat us in the same manner he did our enemy. Was this done? Certainly not. When our troops were at a considerable distance from the place, the Governor sent word for them to retire, or he would make use of force. The treatment of our enemy by the Spaniard was of a very different character; they were furnished with means of carrying on hostilities against us—powder, lead, &c.; and also provisions to sustain them while they were engaged in war against us. The Governor permitted them to hold war councils in his house; and a short time before our troops appeared in sight, he had the Indians ferried across the bay of Pensacola. This kind of conduct was calculated to convince the General that those posts were virtually lent to the enemy to aid and assist them in carrying on their hellish purposes of massacre. Independent of this the General had received positive orders from the War Department to bring the war to a speedy and successful termination. He knew, by leaving those posts in the hands of the Spaniards, that the war would not have been half finished, and that, on his returning with the army, the usual massacres would have been commenced; but, independent of all other circumstances, the occupancy of St. Marks and Pensacola was essentially necessary under the immutable law of nature, self-defence, which is paramount to all other law.

Mr. D. said, in relation to the execution of Arbuthnot and Ambrister, he would ask who those men were that had excited so much sympathy in



H. OF R.

Seminole War.

FEBRUARY, 1819.

the breasts of gentlemen? A couple of Englishmen, who had either been sent over by the British, or had come over themselves to light up the torch of war and destruction. To say that they had been sent over by the British as emissaries, would, perhaps, be speaking too positive, but really he thought it had a strong squinting that way. If gentlemen would permit themselves to retrospect, to look forty-five years back from the commencement, of the Revolutionary war, and reflect on the course of conduct pursued by the British, keeping emissaries among the Indians for the purpose of instigating them to murder our citizens, in order to prevent the extension of our settlements even in times of peace with that Government, when treaties of amity existed between the two Governments, would he be wrong in saying, that fifteen or twenty thousand during this period had been massacred? Premiums have been held out for scalps. Beginning with the incendiaries Brandt and Butler, and noticing the number that have been employed, till you come down to the two whom justice has overtaken, have I not strong grounds for saying that it looks like those two, successors to the famous Nicholls and Woodbine, were sent over as emissaries? In addition to this, you will find a letter among the documents from this Arbuthnot to the British Minister residing in this place, which, after giving an account of the progress of things, &c., demands, in a memorandum, (after stating the force of the hostile Indians to be three thousand five hundred,) one thousand muskets, a greater number of smaller pieces, two thousand flints, fifty casks of powder, two thousand knives, with blades from nine to ten inches long, one thousand tomakawks, two thousand pounds of lead, besides musket balls, vermilion, &c. We do not know whether these articles were furnished or not, but we know that this Government was not notified of what was going on. All this taken in connexion has, saying the best of it, an unfavorable appearance; but if they came even of their own accord to instigate the savages to massacre our inhabitants, they richly deserved the punishment they met with. It is positively proven that they instigated the Seminoles and runaway negroes to war, that they furnished them the means of carrying on the war, that Arbuthnot was the acknowledged agent of the Seminoles, and that Ambrister led on these brigands to war and murder. Mr. D. considered them as the head of banditti, and deserving death. They associated with the enemy, consequently, agreeably to the law of nations, were liable to be punished as the enemy. He considered that court martial, special court, or court of inquiry, or whatever it may be called, merely as a council for the commanding General: agreeably to the law of nations, as laid down by Vattel, when your armies are out of your territory, the right of retaliation is in the General of your army, and he wished it to remain there: he never wished to see it come into the Cabinet. A General has the right to call a council on any occasion, and will take the advice of the council when it coincides with his own opinion. He has the

responsibility, and ought to have the liberty of acting in the manner that in his opinion is conducive to the welfare of the service. He could not discriminate between the guilt of Arbuthnot and Ambrister; the former was the agent of the Seminoles, and the latter led on their brigands, composed of negroes and Indians, to war. They both instigated the Indians to commit hostilities, and aided in furnishing them with the means of carrying on the war. They both suffered death, and, in his opinion, both deserved death. The General is completely justified by the law of nations for ordering their execution; and he had no doubt but that he would be justified by the country. Vattel says, as a General has the right of sacrificing the lives of his enemies to his own safety, or that of his people, if he has to contend with an inhuman enemy, often guilty of such excesses, he may take the lives of some of his prisoners, and treat them as his own people have been treated. Mr. D. said he justified the General in directing the execution of these Englishmen, and he sincerely wished that all who are engaged in similar practices might meet with a like fate. Independent of this, the right of a General to retaliate is sanctioned by the usage of this Government. If gentlemen will turn their attention to the Journals, they will find, in the time of the Revolution, that Congress passed a resolution, giving the power of retaliation to not only the commander-in-chief of your army, but to the commanders of separate armies, and pledged themselves to support the generals in the exercise of the principle.

He said, he had gone through the four points that he had proposed treating on, at least to his own satisfaction, and he justified General Jackson for his conduct throughout the Seminole war, and thanked the President of the United States for supporting him.

Mr. D. said he should now notice a few remarks that had fallen from gentlemen. The honorable Speaker (Mr. CLAY) said that humanity shuddered at the thought of the execution of the two Indian chiefs. If that gentleman had witnessed the scenes that I have witnessed, I think his sympathies would be turned into a different channel. Whole families lying murdered by the relentless savages; father, mother, and innocent children, lying mangled and scalped. Such sights were sufficient to make the heart bleed, and calculated to make impressions that could not easily be obliterated. But, the gentleman tells you, that retaliation has no effect. How does the gentleman know it? He tells you that it has never been resorted to since the first settlement of America. Then, from the gentleman's own statement, as no experiments have been made, it must be simply a guess; and, as guessing is fashionable in some places, I guess that the gentleman has guessed wrong. Mr. D. said that an Indian was of such a nature that he must be operated on by fear. If you wish him to be peaceable, you must make him fear you. That he had no doubt if the principle of retaliation were sometimes resorted to, that if it did not

FEBRUARY, 1819.

Seminole War.

H. OF R.

bring them to a sense of humanity, it would at least convince them of the necessity of acting less barbarously, for their own safety. The gentleman, no doubt, had heard of such cruelties being committed by those savages as he had mentioned; but he supposed it was while he was poring over his books, in his closet, preparing to make a figure in forensic eloquence, in which he has often distinguished himself—consequently, left no lasting impressions. The gentleman denies the right of retaliation on the aborigines, and, in support of this position, he says the principle of retaliation has never been applied to the Indians. Then, agreeably to this doctrine, because the Government has been lenient, and has failed to exercise the principles of retaliation on the aborigines, it has lost the right. Mr. D. contended that we had the right of retaliation; that the writers on public law supported this position. Vattel, a popular writer on national law, says: "When at war with a ferocious nation, which observes no rules, and grants no quarters, they may be chastised in the persons of those of them who may be taken; they are of the number of the guilty—and by this rigor the attempt may be made of bringing them to a sense of the laws of humanity." This writer not only gives the right of retaliation on the aborigines, but completely covers the case of the execution of the two Indian chiefs, that the gentleman says makes humanity shudder to think of, when at war with a ferocious nation, which observes no rules and grants no quarters. It appears that the writer must have had his eye upon the Seminole tribe; for, of all the ferocious tribes in North America, (and they are all of that character,) the Seminoles stand foremost in ferocity and cruelty. They may be chastised in the persons of those of them who may be taken; they are of the number of the guilty.

Those two chiefs were not only of the guilty, but were the very guilty; they headed the party that inhumanly murdered Lieutenant Scott and his party, amounting to nearly forty persons, men, women, and children. Those two chiefs who cause so much sympathy, were the very ones that took the four infants by the heels and dashed out their brains against the side of the boat. The gentleman, in order to make his remarks more pathetic, says, what! hang an Indian? Yes, Mr. D. said, he would hang an Indian, or even a Briton, who would commit such barbarous acts as to take infants by the heels and dash their brains out against the side of a boat, or the instigator of such cruelties, for he considered the instigator worse than the perpetrator. But the gentleman objects to the treaty made by General Jackson, with the Creek Indians, and considers it rather disgraceful to the Government. He says a more dictatorial spirit cannot be expressed, than is manifested throughout the treaty.

Mr. D. said the Creeks were a conquered nation, we had a right to dictate the terms of the treaty. The law of nations gives us a right to remuneration for the expenses of the war carried on against them, and he would ask the gentleman

if all we acquired by the treaty was more than sufficient to defray the expense of the war against them? But if the treaty is examined, it will be found that humanity had an agency in it; it will be found that, as their situation was rather a desperate one, owing to the exhaustion of the nation, in consequence of the war, that we agreed to furnish, and actually did furnish, them provisions for a season. He had the greatest confidence in the gentleman's treaty-making powers. He was pleased with his conduct while at Ghent, but he rejoiced that the gentleman was not in place of General Jackson, in making the Creek treaty, for, if he had been, judging from his own declarations, he suspected that the boundary of the Creek nation would be the same that it was previous to the war, and that we would have nothing for the toil, difficulty, and loss of blood, but the privilege of paying the expense of the war.

The gentleman from Georgia (Mr. Cobb) asks if General Wayne retaliated, in his campaign of 1790? Mr. D. said the gentleman from Ohio, in consequence of his situation, had an opportunity of superior information in relation to the expedition, and had tendered himself to answer questions when asked by either side. Mr. D. was there himself, and knew something of the transactions. He would answer no. General Wayne had it not in his power to retaliate, except in the case of a Frenchman, who was taken within our lines at the time of the battle, and who was condemned to die, but was released, as he understood, in consequence of giving the General important information, and agreeing to exercise his influence with the Indians, to induce them to come in and form a treaty. They did come, in the ensuing season, and the Treaty of Greenville was made. But, from the personal knowledge which he had of General Wayne, together with a knowledge of his character for firmness, he had no hesitation in believing, that if the General had got hold of the principal instigator of the war, (Simon Gerty) that he would have strung him up on the first convenient tree; in which he believed the General would have been justified by his God and his country. The gentleman asks you, in rather an exulting manner, if General Macomb were to act against the British in the same way General Jackson has against the Spaniards, would you not disavow the act, recall the General, and punish him? To which I answer, no, if the cases were similar. But, why ask this question? There is no analogy in the cases; they are entirely irrelevant. He would ask that gentleman, if we had a treaty existing with Britain similar to the one we had with Spain? Are the British bound by treaty to keep a sufficient force to restrain their Indians from committing hostilities on the United States? Certainly not. Then, why ask this question? It could not, he presumed, be by way of insinuation that we were afraid to treat the British in the way we would another nation. Justice is the basis of this Government. We are as ready to do justice to others as we are to compel others to do justice to us.



H. OF R.

Seminole War.

FEBRUARY, 1819.

We recently declared war against Britain, and drubbed her decently both by land and sea, till we brought her to a sense of justice. He voted for that war, and he would not hesitate to do it again under similar circumstances, and to participate in it, when circumstances would permit, as he had done on a former occasion. Mr. D. contended that we had given Spain no legal cause for war, and he was not apprehensive that they would consider the conduct of our army in Florida a cause of war, unless they were led to it by the speeches delivered in this House, in which gentlemen have taken great pains to throw this Government in all instances in the wrong. Indeed, the gentleman from Massachusetts (Mr. FULLER) has, after saying everything he could to put this Government in the wrong, undertaken the justification of those incendiaries Nicholls and Woodbine, and their immediate successors Arbuthnot and Ambrister. If Spain should think proper to make it a cause of war, perhaps it would be the speediest way that we could obtain restitution for the three millions and a half of dollars she owes us, for spoliations committed on our commerce; for the obtaining of which, negotiation has been carried on for fourteen years, till patience is nearly exhausted. East Florida would compensate us, and would speedily fall into our hands, if they were simple enough to make the proceedings in Florida a cause of war.

One word by way of noticing some remarks that fell from the gentleman from New York, (Mr. STORAN,) whose manner and expressions put me in mind of high party times a short time previous to and during the late war with Great Britain. They went far in contradicting declarations of some of his political friends that there was nothing like party in this House. The gentleman stated that a universal glow of indignation was manifested when the documents in relation to the trial and execution of Arbuthnot and Ambrister were read. Mr. D. appealed to the Chairman, to say if this was the fact; he appealed to the whole House, to say if they discovered anything like a glow of indignation. He said he was compelled to pronounce it not the fact; that his eyes were wide open, and he made no such discovery; and he was astonished that any member could stand up and make such a statement in the face of the House. He had felt it his duty to notice and contradict the statement, lest improper impressions might be made on the public. So far from its being the fact, he believed that an overwhelming majority of the House justified the General in ordering the execution of those incendiaries.

The gentleman says that General Jackson made peace by destroying the people and devastating the Creek country. The gentleman has let out the secret—General Jackson has done too much; he has destroyed too many of our enemies, and therefore he must go down; his reputation must be tarnished, his character prostrated. The man who has been our shield and buckler throughout two wars, and has rendered for the Government incalculable services, must be paid

with ingratitude. Yes, General Jackson has been a dangerous man among our enemies, both white and red; and he hoped that he might live long to be a terror to them. The gentleman rejoices that the Military Committee had the independence to report censure against the General. No doubt but he rejoices; and he would rejoice still more, if he could by his argument persuade the House to sustain the report. But in this he will miss a figure; for, notwithstanding the formidable stand gentlemen have made against General Jackson, on mere imaginary grounds, produced by a kind of technical nicety, they will not be able to ruffle a single laurel on his brow. Mr. D. said that he rejoiced, too, that the minority of the Military Committee (three out of seven) had the independence to enter up their protest against the report of the four that censured a man who had been the protector of his country's rights, and the avenger of its wrongs; which protest was of a character calculated to meet the approbation of a grateful people, who are not disposed to pay a man with ingratitude for rendering important services. Mr. D. said, the General's reasons in support of his acts had been objected to. What had we to do with his reasons? We have to look to his acts. Acts speak louder than words: by his acts he has put down a ferocious enemy, closed a cruel and vindictive war, and given peace to our frontiers. His reasons were his own; and although he was not disposed to be governed by them, always taking the privilege of reasoning for himself, yet he had no doubt, if the General were permitted to be present, that he could support them. Mr. D. said he was acquainted with his talents, and had often been not only edified by his eloquence, but sometimes electrified. He believed this mode of proceeding to be unfair, unjust, and unconstitutional. Unfair, because delicacy prevented the General from hearing the debates; unjust, because he is not allowed the privilege of defending himself; unconstitutional, because no section nor clause of the Constitution can be found to justify the proceedings.

Mr. D. said that General Washington was blamed by many for ordering the execution of Major Andre. But who were they that blamed him? Not the friends of liberty; not the supporters of the Revolution; not the Whigs. No; they rejoiced that the General had the firmness to direct the execution, as an example at that time was all-important. But it was the enemies of liberty and the friends of Britain, the Tories, who blamed General Washington. General Jackson is now censured by many for directing the execution of two incendiaries, Arbuthnot and Ambrister, who caused, by their hellish machinations, numbers of innocent inhabitants to fall by the tomahawk of cruel savages. But who censures him? Not, he trusted, a majority of this House. No, thank God, the Representatives of a free and enlightened people are not yet prepared to verify, what has always been said by the enemies of liberty, that it is characteristic with republics to be ungrateful.

Mr. CLAY then took the floor in defence of the

FEBRUARY, 1819.

Bank of the United States.

H. OF R.

ground he had already occupied; and had spoken but a short time, when, at a late hour, a motion to adjourn the debate was made, and carried by a small majority; and the House adjourned.

MONDAY, February 8.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill in addition to, and in alteration of, an act, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" which was read the first and second time, and committed to the Committee of the Whole, to which is committed the bill in addition to an act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second day of March, 1799.

Mr. MARR, from the select committee appointed on the 1st instant on the subject, reported a bill to amend the act, entitled "An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,' passed the 18th of April, 1806;" which was read twice, and ordered to be engrossed and read a third time to-morrow.

A Message was received on Saturday last from the President of the United States, transmitting applications which have been received from the Minister Resident of Prussia, and from the Senates of the free and Hanseatic cities of Hamburg and Bremen, the object of which is, that the advantages secured by the act of Congress of the 20th of April last, to the vessels and merchandise of the Netherlands, should be extended to those of Prussia, Hamburg, and Bremen.—Referred to the Committee of Ways and Means.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting sundry documents containing the information (as far as it can now be furnished) required by the resolution of the 16th ultimo, in relation to the tracts of lands reserved for the establishment of towns in the Alabama Territory; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting information required by the resolution of the 20th of April last requiring him to report what further improvement it may be practicable to make in the tariff duties on imported goods, &c., by charging specific duties instead of ad valorem duties.

#### BANK OF THE UNITED STATES.

The SPEAKER laid before the House a memorial of William Jones, late President of the Bank of the United States, containing an exposition of the views and motives which have regulated his official conduct, and submitting his case to the wisdom and justice of Congress, in the full confidence that his reputation will not be subjected to obloquy, by inferences alike repugnant to his

principles and to the whole tenor of his private and public life; which was read and ordered to lie on the table. The memorial is as follows:

To the honorable the House of Representatives of the United States, the Memorial of William Jones, late President of the Bank of the United States, respectfully sheweth:

That your memorialist has, for some time past, been afflicted with a severe disease, which, until the present moment, has precluded the preparation of the papers which he has now the honor to submit, in explanation of the testimony, touching his private concerns, which was delivered to the committee appointed by your honorable House to investigate the proceedings of the Bank of the United States; that your memorialist, solicitous to exhibit these transactions in their true light, and to submit his public conduct to the candid scrutiny of your honorable body, begs leave to refer to the statement of his private transactions in the stock of the bank, which he delivered to your committee, and to the statement of facts, and the documents thereto annexed, herewith submitted, which he trusts will establish the lawfulness and innocence of these transactions; that the only stock which your memorialist sold to profit, was the two contracts mentioned in his statement to your committee, which contracts were sold to a director of the bank, who was not likely to become the dupe of artificial measures, to enhance the value of the stock; that the shares which your memorialist subsequently disposed of, in order to meet his engagements, were sold at great loss; that the whole amount of stock which he now actually holds, as stated to your committee, cost him \$156 per share, and, if valued at the reduced prices, the result of his entire stock transactions will exhibit a very heavy loss; that in this amount are included 1,070 shares, now pledged in London, (the sale of which is to this day restricted to £34 sterling per share,) for the payment of a loan which he negotiated, in order to avoid borrowing of the Bank of the United States, of which he has no loan whatever; nor is he indebted or responsible to that institution, either on his own account or for any other person, directly or indirectly, for a cent; that he has held the stock which he now holds, during the progressive decline in the price, while he has been earnestly engaged, in his official capacity, in promoting all those measures of precaution and of expense incurred by the importation of specie, which were indispensable to the safety of the institution, but which it was clearly foreseen would diminish the profits and dividends of the bank, and greatly depress, at least for a time, the price of its stock. Your memorialist further declares, that his dealings in the stock of the bank were founded upon his confidence in the prosperity and productiveness of the institution, in the many important advantages which, if fairly enjoyed, he believed it to possess over many other institutions, the market value of whose stock approximated to the highest rates which that of the Bank of the United States had attained; and in the recollection of the fact, that, towards the close of the charter of the old bank, the Government of the United States sold to Mr. Baring the whole of the public shares, at the rate of \$580 per share; that in regard to his public conduct, as a director of the Bank of the United States, your memorialist does most solemnly assure your honorable House, that he has been actuated by the purest motives, and with perfect fidelity, diligence, and zeal, has employed his best faculties and judgment in promo-



ting such measures as he believed, at the time, were best calculated to advance the interest of the public, and of the institution; that the private transactions which have attracted the animadversions of your committee, have in no wise influenced his judgment or decision upon the important measures in which, as a director, he has participated; and that the reasons and motives assigned in his written answers to the questions put to him by your committee, touching the proceedings of the bank, and those which are recorded in the minutes and correspondence of the board of directors, are the true and only motives by which he has been governed in his official conduct; that, in advocating the loans on the pledge of stock, he was influenced by the additional consideration that the original constitution of the capital stock of the bank comprehended twenty-eight millions funded debt, and seven millions in money, whereas, by the rise of funded debt to and above its par value, so large an amount of the latter was substituted for the former, by the subscribers to the bank, and so large a sum redeemed by the Government, and sold by the bank to procure specie, as to create an aggregate of upwards of twenty millions of dollars in money, substituted for so much of the funded debt part of the capital; hence your memorialist, considering the extreme facility which bank accommodation had given to over-trading, and its consequent effect upon mercantile credit, believed that at least ten millions of dollars, loaned on the pledge of stocks, would best fulfil the original design of the institution, and leave as large an amount of moneyed capital as could be safely loaned on personal security; and this belief has not been impaired by the result of his observation in regard to the existing loans of the bank, which, according to the documents before your honorable House, are in the proportion of about twenty-seven millions in bills and notes resting upon personal security alone, to nine millions on notes of hand, secured by a pledge of stock.

With this brief exposition of the views and motives which have regulated his official conduct, your memorialist, with profound respect, submits his case to your wisdom and justice, in full confidence that his reputation will not be subjected to obloquy, by inferences alike repugnant to his principles and to the whole tenor of his private and public life—a life, the first perils and privations of which are identified with those of his country in the darkest period of her Revolutionary struggle, as his late faithful services in a highly responsible trust are, with her recent and not less momentous contest. Your memorialist moreover reposes, with conscious rectitude and tranquillity, in the belief, that, when truth shall have penetrated through the mist of prejudice which has obscured the services and merits of the institution in which he had the honor to preside, public sentiment will award to those who have managed its critical concerns that justice which is now withheld.

W. JONES.

PHILADELPHIA, Feb. 5, 1819.

[The documents accompanying the above letter consist of a statement by Mr. Jones, and copies of his contracts for stock and transfer of the same.]

#### SEMINOLE WAR.

The House again resolved itself into a Committee of the Whole. Mr. BASSETT in the chair, on this subject.

Mr. CLAY resumed the floor, and concluded the reply which he commenced on Saturday to gentlemen who had defended the transactions in question. In the course of his remarks, Mr. C. suggested to the mover of the amendatory resolutions (Mr. COBB) the propriety of such a modification thereof as would, he hoped, unite the conflicting opinions of members, and enable the House to agree in its vote.

Mr. FLOYD, of Virginia, rose and said, that he saw the impatience of the House, and knew they were anxious to dispose of the resolutions which had been so many days the subject of discussion; consequently, he would not detain them—though, having failed in several attempts to get the floor at an earlier period of the debate, he had entirely declined making any remarks whatever—that he then rose more with a view of expressing an opinion, and of presenting a few facts, which had escaped the observation of other gentlemen, than any desire or intention of entering upon the subject at large.

I have, said he, considered the resolutions, with all the attention I was capable of giving them; and, if I had believed the measures pursued unconstitutional in themselves, or barbarous, or unjust in their execution, I should have revisited them upon the perpetrators with a heavy vengeance; but, so far from this, my inquiry has led me to believe, they are, and can be, maintained, upon every principle of justice, and the long established usages of this Government. And, sir, said Mr. F., it is with not a little surprise I hear the advocates of these resolutions disagreeing among themselves—scarce any two holding the same opinion.

The honorable Committee on Military Affairs have had all the documents relative to the Seminole war before them for weeks, and at last seized upon the objectionable point, and reported a resolution disapproving the trial and execution of Alexander Arbuthnot and Robert C. Ambrister. There was an end to answer, and this not being broad enough, other resolutions are offered, as amendments, to enlarge the chance of obtaining some success. One gentleman takes strong ground, and insists that the war was produced by us; that it was an aggression on our part, and all the proceedings resulting from it were unjust and unconstitutional. One other gentleman does not quite believe the war was waged by us, but believes the whole of the resolutions ought to obtain—that General Jackson is censurable throughout. One other admits the justice of the sentence of Arbuthnot and Ambrister, but vehemently condemns the capture of St. Marks and Pensacola. Again—it is admitted that the execution of these men were just and proper, and so with the capture of St. Marks; yet, there is no justification in the affair of Pensacola. One other honorable gentleman finds nothing to excuse but the execution of Ambrister. Last of all, the gentleman from Massachusetts (Mr. FULLEN) calls the war an aggression on our part; that it was unconstitutional; that its prosecution was unjust; the capture of St. Marks, Pensacola,

and the Barancas, an infraction of the Constitution—a war with Spain; the execution of these incendiaries, a violation of the law of nations; and has even gone so far as to justify the erection of the negro fort, for the reason that Spain was too weak to prevent it.

Now, sir, if the honorable committee, in their calm retirement, a thousand miles from the scene of action, and months after it happened, could have discovered, from the documents, any "absolute necessity" for the execution of these wretched men, we have a right to infer that such a report would not have been framed by them; but the General, who was there encompassed by enemies, death, and devastation, judged wrong, and deserves the heavy censures of his country. There has been so much said upon this subject, such various and conflicting opinion among the advocates of the propositions, all diverging from the long established maxims and usages of this Government, that I am unwilling to pursue them, without first inquiring what has been the course pursued by preceding administrations, under similar circumstances.

In reverting to the transactions of this Government, it will be found, that, so long ago as the year 1789, difficulties and war with the Indian tribes took place; and the then President, WASHINGTON, felt himself authorized in taking measures to defend the people of the South and West from their hostile incursions, and advised Congress, at their next session, of the steps he had taken. That Congress thought the measures highly commendable and proper.

In the year 1790, we find the same Washington complaining grievously of hostile irruptions of certain banditti of Indians northwest of the Ohio, aided by some on the Wabash; that the country was no longer in safety on that whole frontier. He ordered one of the generals to march an army against them, which army was composed of the troops of the United States, combined with such draughts of the militia as were deemed sufficient. When this communication was made, no murmur was heard.

In 1791 difficulties and war with the Indians beyond the Ohio again commenced; troops were ordered to march against them, and Congress was informed that some of the expeditions had been crowned with success; that in other instances the troops were then in the field, the issue at that time not known. Congress again approved. Another proof of this sanctioned method of conducting this species of war, is given us in the transactions of the year 1792, when the Indians beyond the Ohio were in arms; the Chickamagas to the South had come to an open rupture. Troops were assembled, and put in training for a vigorous campaign; this, too, with a perfect knowledge of Congress, who complained not of any violation of right, or usurpation of power.

Were I to mention that the President of the United States, in the year 1793, used every possible means in his power to avoid war with the Indians, but, finding them fruitless and unavailing, ordered an army to march and act offensively, I

should say no more than is known to every gentleman in this House; and I presume I should likewise say no more than is known to them, were I to say, when the communication was made to Congress they approved the procedure. Whence, sir, I may be authorized in asserting, that no other opinions have ever been entertained of the correctness of the mode of conducting Indian hostilities, from the origin of the Constitution to the present time, than those which directed in the late contest; which ought at least to be some apology with those who think the Constitution has been disregarded, in the commencement of hostilities. And how a different opinion came now to be entertained, though we have passed through some years of sorrowful experience, is more than conjecture.

That a doubt on this subject existed for a short time, with one member of the Government, is admitted; but that doubt was dissipated, when the true situation of the Indians came to be considered. The United States, feeling liberty, and actuated by principles of benevolence alone, extended to these people every privilege, and all the rights of an independent nation, which could be done consistent with their own safety, and the condition in which themselves were left by the long course of European policy under which they had suffered. And I presume it is not doubted that, in the war of the Revolution, when these United States took up arms against Great Britain, and conquered the country from her, comprised within the limits assigned to us by the Treaty of Peace in 1783, they likewise conquered those Indians who were the allies of England, bloody and revengeful then, as upon a more recent occasion; full as much so as the most sanguinary Briton could desire. I am much surprised to hear gentlemen now talk of concessions—their rights and independence. Were these concessions complete? Was it ever supposed by any to be so, or ever intended to be so? We are now told, as a proof of their independence, that we make treaties with them. This is the first time I have heard the doctrine, though, without doubt, many weighty reasons have led to that conclusion. The United States have always observed that ceremony, and permitted treaties to be made with different tribes, as one of the best means of conciliating their favor, and maintaining our peaceful relations undisturbed; as they have never been permitted to treat with any but the United States, or some Indian tribe. But, say gentlemen, they declare war, and are not guilty of treason in doing so. Was it not rather because they were totally incapable of appreciating the restraints of civilized men, that they were, in this respect, permitted to fangle their own destinies? Have not the United States ever claimed jurisdiction over their country, as contained within the limits of the Union? And when a proposition was made at Ghent to place it on a different footing, some gentlemen then felt great indignation at the idea. None will doubt, I imagine, the laws of the United States having always been in force throughout their



country; the laws of the Indians only extending to Indians within their assigned territory. If we go back, with the gentleman from New York, to the discovery of this Continent by Europeans, when it was chartered away by the monarchs of that country, down to the present time, we find they neither are, nor ever have been, independent.

But, sir, granting the question in as full and as broad an extent as gentlemen might desire, can it be presumed the forces of the Republic are to remain idle spectators—see hostile incursions take place—men, women, and children, put to death, without marching to defend them, until Congress shall authorize them to protect the helpless, and secure themselves? Suppose that Power, with which we are doomed, at no very distant day, again to contend with, in the bloody field of death, should unexpectedly, as it will be when it does come, declare war against us: is the President to permit the ships of war and the forces to be idle, until Congress can be convened from all parts of this Union to declare war in turn? Yet this is the effect of that doctrine. This Constitution is not of such leaden materials; it never was intended; it cannot abridge the first great clause of the constitution of man himself, written upon his heart by the hand of Omnipotence—"preserve yourself." The wisdom of this instrument is acknowledged; the feelings of the hoary sages of the Revolution, blanching in the field, amid embattled legions, is appreciated; and the doctrines of liberty, moulded into form, in this instrument, will be preserved; and to pursue, at this day, a course which themselves pursued, ought to screen us from the charge of dangerous innovation, or usurpation of power. I would ask, who there is among us that does not recollect the disasters of General St. Clair, and the anxiety of every individual for the success of General Wayne? And who is there that does not recollect the joyous enthusiasm at the news of his victory, which ran, like an electric stream, from one end of this continent to the other? This, I believe, was about the year 1794; and, too, at the instance of the Executive. I believe, likewise, that it was about this time that troubles harassed us at the South—an Indian war having been excited by De Carondelet, who was at that time Governor of Louisiana. At all events, there was strong grounds to suspect him for those hostilities. And for their expenses in the prosecution of this war, I believe it is, that the State of Georgia yet claims a debt due her from the United States of perhaps \$129,000. And, could I recollect the arguments of the honorable gentleman from Georgia, (Mr. Cobb,) at the last session of Congress, when he advocated the Georgia claim, with so much ability and zeal, I would use them on the present occasion, with perfect confidence of success, at all events of gaining at least one proselyte. All was Constitutional then—Executive power was all.

But, Mr. Chairman, I demand if Congress have not, or, rather, I ought to say, have not we, ourselves, sanctioned this war, to as great and full

an extent as ever Congress sanctioned an Indian war? And why is that an evil now, which, at the last session, was encouraged, and might have been prevented? Was not the President harassed the whole of last session with continual calls from this House? Did they not call on him to know what General Jackson was about? What measures he had taken to put an end to the Seminole war? Did they not require the orders which had been given to General Jackson to be communicated to them? And were they not communicated? Surely all this must have apprized them of the nature of the military operations on the Florida frontier. Nay, more—did they not require information relative to the manner in which that army was supplied? And the feelings created by the disclosure of the contractor's conduct on that occasion will not, in a long time, be forgotten. To say nothing of the pay of the Georgia militia in that army having been increased from five to eight dollars, at the instance and management of the gentleman from Georgia (Mr. Cobb.) At all events, I recollect his pressing through this House a resolution to that effect in April last.

Now, sir, after these numerous acts of approval; after granting money, providing men, increasing their pay; inspecting the orders of the President to your Generals—with time to act, and a knowledge of all, a measure of this kind, and a report of that nature, was not to be expected from this House as the reward of fidelity and zeal.

If there is censure anywhere, it is due to Congress for not having performed their duty; as the gentleman from Pennsylvania (Mr. Hopkinson) admits, that, if there had been in existence such a law as the one contemplated by these resolutions, he unquestionably believes General Jackson had never executed Arbuthnot and Ambrister, or captured the Spanish fortresses; and yet that gentleman would censure this General for doing an act which he would not have done had such a law been in existence, and that such a law has never been enacted, cannot be any part of General Jackson's concern. Let Congress themselves account for this deficiency, which has, in the opinion of gentlemen, caused such violence to the Constitution.

Mr. Chairman, was it right to pass the Florida line? At the last session I do not recollect to have heard a dissenting voice; though it was manifest then that the Executive paused and reflected, and reflected much, before the Secretary of War issued the order requiring Gen. Gaines to march his army into the Spanish territory; and then only upon the recurrence of new outrages. These orders were as well known then as at this time; these outrages did occur; and, sir, I must think, then was the time for this House to act; then was the time to interpose, to have preserved the Constitution. But, at that time, all these measures were pursued, as the only efficient mode of putting an end to the war. All were then energetically disposed to put an end to those hostilities which harassed Georgia and Alabama with murder and desolation. All

were then disposed to do themselves that justice which, by the law of nations and nature, they had a right to do. As the well known impotence of Spain almost precluded the hope of her maintaining her authority in that country, much less fulfilling her treaty obligations, which was manifest from her not having herself undertaken to subdue her Indians making this war upon us, some gentlemen thought the order to General Gaines slow and inefficient, which required him to halt his army, and not to attack the enemy under the fort of St. Marks until he reported to the Department of War, and received orders how to proceed; believing, from the nature of the Treaty of 1795, Spain to be, in that respect, an ally of the United States.

I will not insist, as has been done by gentlemen who advocate the same side with myself, that the orders of General Gaines were not binding upon General Jackson, believing, as I do, that an order issued to an officer is binding upon the next who takes command, though of a higher rank, provided that order had been issued by their common superior. But it appears, from the documents, that General Jackson received an order of subsequent date, from the War Department, to conduct the war in Florida "in the manner he might think best." Certainly the Secretary could not have meant anything more than that he was to conduct the war in the manner he should think most conformable to the law of nations. Considering the peculiar condition of all the parties, they could not mean anything else. Then the inquiry is, has he done so?

On assuming the command at Fort Scott, this General soon fixed on a plan for his future operations; and, in the course of his march, penetrating into Florida to find the enemy's town, he encamped at Prospect Bluff, on the old site of Negro Fort. Finding it so entirely convenient as a place of deposit, he erects Fort Gadsden, contrary to every principle of justice, in the opinion of some gentlemen, who justify the erection of Negro Fort, because Spain was not able to prevent it, and call that an outrage which destroyed it, though there were many hundred stand of arms, much powder, cannon, &c., there, manifestly destined to be used against the United States; and the burning alive of a prisoner, and the massacre of a boat's crew, might be thought by some a confirmation of that belief.

It was from this place General Jackson wrote to Governor Masot, with all that frank and open manner to be expected from an American officer, who was executing the orders of his Government, in prosecuting a war which we had been engaged in through the inability of Spain to wage, and in the termination of which both countries were equally concerned, informing him, in the most explicit terms, of his friendly intentions, and only asks that provisions might be permitted to ascend the Escambia to Fort Crawford. Was it the part of a neutral nation to refuse that passage, when perhaps the lives of part of his troops depended upon those supplies? Was that the course Spain ought to have taken to fulfil her stipula-

tions? Under such circumstances, the law of nations will justify force.

Hearing that the hostile Indians were embodied at a town called Mickasuky, his march was directed that way, where a battle ensued—the issue, success. And notwithstanding my honorable colleague (Mr. Mercer) thinks the accounts of those terrible massacres all vanish to nothing upon examining into the subject, there was found in this village a war pole, decorated with fresh scalps, recognised by the hair as torn from the heads of Lieutenant Scott and his party; and in the house of Kenhajo, the chief of that town, were found more than fifty others!

After this battle, it is ascertained that the enemy had departed, whilst one party directed their march to Suwanee, the other to the fort of St. Marks. It was then Captain Call, a gentleman I am not acquainted with, but on inquiry I learn from every source that he is esteemed a man of honor, and a brave and excellent officer—it was then he informed General Jackson of the message of the Governor of Pensacola. That the fort of St. Marks was weak; that demands had been made upon it for munitions of war by the negroes and Indians; that he entertained strong fears for the safety of the fort, as they had threatened to seize it in case of refusal. Moreover, it appears from the documents—proof, I think, sufficient of itself to justify the capture of that post—that the Indians did obtain ammunition and arms at that place; that councils of war were held in it by the enemy, and in the quarters of the Spanish commander; that the property plundered from the citizens of Georgia was sold there; that Lugo did permit the clothes taken from Scott's party to be sold to the Spanish soldiery; and even contracts were made for the purchase of property that was to be plundered from Georgia. Now, I ask, if prudence, justice, self-defence, did not demand the capture of St. Marks? Surely, the Governor of Pensacola's message, if it means anything, was an invitation to take possession of it, even perhaps to prevent a development of their nefarious conduct.

But, says the gentleman from South Carolina, (Mr. Lowndes,) General Jackson was not justified in capturing St. Marks, as his safety did not depend upon occupying it, nor was it necessary to his future operations, as the enemy were dispersed and scattered, and no one ever heard of the Indians managing cannon. I hope I have not misconceived that gentleman; I should be sorry to do so. But I would ask if Ambrister and his negroes could not have managed artillery; and was it not those who intended to do so, and were only prevented from having been anticipated? That the commander of that fort should show an unwillingness to surrender, was to be expected, even if he had wished its occupancy, as he would be called on to account for his conduct to his superior officer. Yet it was war on Spain, and a violation of the Constitution. Had not that post become a party in the war? Were not these numerous acts sufficient to determine its character? Surely, the Secretary of War, when he



H. OF R.

Seminole War.

FEBRUARY, 1819.

gave the order to suspend farther operations, and report the facts to the Department, should the Indians take shelter under the guns of the fort, could never have imagined that fort, or any other in Florida, to become the magazines of the enemy; a resort for arms; the quarters of a Spanish officer the chamber for councils of war, and a mart to obtain a price for the property plundered from American citizens. The superior authorities of Spain herself would have applied the remedy, had time allowed to make the application. Thus we have a right to infer, as we see, upon inquiry, that Power professes itself satisfied, and has resumed their negotiations. Sir, the law of nations is the right of every nation; to enforce it is justice, and cannot be an act of war.

Furthermore, the honorable Speaker, in reply to the gentleman from Mississippi, (Mr. POINDEXTER,) has furnished me with a good argument, as all his arguments are good. That in his speech in the year 1811, he justified himself by saying, "we" had a right to take a part of Florida by proclamation—meaning, thereby, the whole Government—that is, both Houses of Congress and the Executive. That Mr. Madison, in his proclamation taking and annexing a part of Florida to the United States, did not commit an act of war, because he only executed thereby a law which Congress had passed, which he had signed, and which he then enforced. Now, sir, if the act of the whole Government, justified by necessity, was not, in the opinion of gentlemen, an act of war, surely a General could not, under similar circumstances, commit an act of war.

After these operations, General Jackson determined to put an end to the war, by giving battle to the negro and Indian forces concentrated at the Suwannee towns, and, after innumerable difficulties, arrived at that place, and defeated those who had not availed themselves of the philanthropic disinterestedness of Mr. Arbuthnot, who, it seems, had advised his friend Bowlegs, by express from St. Marks, of the number and movements of Jackson's army; and, too, with a knowledge of the Spanish officer. This duty performed, he returned to St. Marks, through the wilderness, in five days, a distance of more than one hundred miles, with a firm persuasion that the war was at an end, and in a few days returned to Fort Gadsden, on his way home. Why did he not return home? Here he was informed that Fort Crawford was in great distress for the want of provisions, which the Governor of Pensacola had prevented from going to them, by enormous exactions; that the negroes and Indians had possession of that place; that a party had been pursued within sight of it by a detachment from Fort Crawford, and defeated, the fugitives taking refuge in that town; that the place was no longer under the control of the Spanish power; that many murders had been committed in Alabama by bands who went from that post, and returned to it, with their booty and scalps. Can it be supposed, under these circumstances, any place is to be regarded as neutral? It is of little consequence to the sufferers, whether it proceeds from

inability to maintain its authority, or an unwillingness to do so. The effect is the same. To take possession of a post from which he has been annoyed by his enemy, is justice, and is conformable to the law of nations. Surely, if his enemy is sheltered by a fortress, and from it munitions of war obtained, inroads and murders planned and executed, and a return to that place safe, to commence anew these scenes; it is difficult to conceive why the opposite party is not entitled to the same indulgence. The Governor of Pensacola does not deny this feebleness, though he refuses positively to surrender the post; in which he is right, as he, too, has to account to a superior officer for his conduct. The inquiry then is, why did General Jackson take it? The same answer may be given which was given for the capture of St. Marks. Are these things true? The Spanish superior authorities think so; the Spanish King himself thinks so. Then it was no war on the part of General Jackson, but the assertion of a right, resulting to us from the law of nations. So it has been considered by all but our own Constitution; which, whilst it secures our liberty within, it would seem takes away our rights from without.

One gentleman has said, "if General Jackson had a right to take those posts, he had a right to keep them; and no one would contend that we had a right to keep them, because we were able to take them." To answer this, it is only necessary to say, that the right to take results from the law of nations, as applied to the then circumstances of the parties, and the right to keep remains as long as those circumstances continue, and no longer. I cannot, for my own part, otherwise than think that the doctrines urged in support of these resolutions, by perhaps a wise construction of our Constitution, is, in effect, to deprive ourselves of many of those rights which other nations claim to themselves from the law of nations, and which they are willing to allow to us, were we willing to accept them. It has been remarked by a gentleman from South Carolina, (Mr. LOWMEYER,) that, whatever justification there may have been for the seizure of St. Marks and Pensacola, there could not be any necessity for the seizure of the revenue of the country, nor to establish a Government. This idea, with me, had some weight; but the necessity of maintaining the peace and good order of the country made it necessary, as the Spanish authorities had gone to Cuba, at their own request. General Jackson was not acquainted with Spanish laws, or perhaps even the language; of course those of his own country were only those he could enforce.

Much has been said of the trial of Arbuthnot and Ambrister; and, as I have already said, after weeks of consideration, the Committee on Military Affairs could not find anything to censure but the execution of these two British agents and incendiaries. The one, bold and hardened in guilt, plead guilty to the charges; the other expects escape from his diplomatic skill. We are perfectly astonished, on examining the doc-

FEBRUARY, 1819.

Seminole War.

H. OF R.

uments, to find them persevering for a long time in maturing their schemes of murder, and making arrangements to effect their plans, in procuring arms and placing them in the hands of the merciless savages, in stimulating them to commence this war, in all its horrors, and fall like a flood of fire on our whole frontier, sweeping away all, both innocence and age. More arms, of every description, are sought for; knives, flints, and tomahawks, in alarming quantities. To crush the lawless banditti of Indians and rebellious slaves, who observe no law, human or divine, urged to murder, indiscriminately, men women, and children, burn, plunder, and destroy, without distinction, without remorse, by these relentless fiends, General Jackson is ordered into the field. Yet, for the destruction of these unhappy men, are the Representatives of the people of this great Republic called on, by that extraordinary report of the committee, to censure their General; and that, too, for not showing mercy to those who knew no mercy, and whose hands were smoking with the blood of hundreds of their countrymen! This General who, in the day of adversity, stood like a rock of adamant, and breasted the tempestuous waves of a doubtful war; a war which had shook from their base the massy columns of the Hall where it was declared, and razed the Capitol to its foundation stone, whilst frenzied fear bewildered all it met, and red-eyed hate rolled with Satanic smile upon the Administration of your country; he it was who raised a reputation to your arms and to your country, bright and more bright as the storm lulled away.

I agree, sir, most cordially with the committee, in the sentiment that no officer, however great or distinguished his services, ought to be suffered to escape merited punishment. At the same time, it ought to be remembered that no officer, however subordinate or obscure his station, ought to be censured without ample cause; and not a difference of opinion as to the "absolute necessity" between the committee and the General. They had peace and a quiet room to deliberate in, a thousand miles from the scene of action, and the library of the nation to consult about the necessity. He was in a wilderness, upon the scene of action, surrounded with enemies and war; and if, under these circumstances, he erred in his judgment, it ought to be some excuse, when it is remembered that the ablest judges in courts of justice, after days of reflection, decisions to consult, and able lawyers to advise, sometimes determine wrong.

But it is said the proof is defective. I had supposed the acknowledgment of Ambrister, upon his trial, was too unequivocal to be mistaken, to say nothing of the testimony of Phenix and John J. Arbuthnot, witnesses on behalf of the prosecution; and a reference to the testimony of Wislet, Hamby, and Cook, upon the table of every gentleman, does most clearly display the savage and unalterable purposes of Arbuthnot. For my own part, I confess my surprise is not that it is less, but that it is so clear. Were they incapable of involving great designs in mist, obscurity, and doubt,

they were unfit instruments for purposes like these, useless to the British Cabinet.

I will not detain the Committee with any remarks as to the numerous objections made to the court martial, the jurisdiction, the law, and authority. It must be obvious to every one, that, by the law of nations and the usages of war, the lives of these men were at the disposal of General Jackson the instant they fell into his hands. If, then, he instituted a special court to inquire into the matter, to collate testimony, and give an opinion as to guilt, or what punishment they ought to suffer, it was to satisfy others, not himself. And let what construction be put upon the court you choose; let whatever inference you will be drawn from the opinions of that court and its decisions, the General, at last, did no more than exercise the power which he possessed under the law of nations. And if he derived his power from the law of nations, surely his calling a court, even granting it all the formalities gentlemen might wish, could not divest him of that power.

On a former day of this debate, Mr. Chairman, we were told by an honorable gentleman from Kentucky, (Mr. CLAY,) and I thought, too, with a considerable air of triumph, that the Kentuckians were a brave, independent, magnanimous people; that they never retaliated upon the unlettered savage, even in the most gloomy days of adversity, in the first settlement of that country, when the cloud of war never disappeared for a day. When the best blood of the country was poured out to maintain themselves, they scorned such an act. But yet, said he, there was one, and he felt the execrations of all when living, and infamy has stamped his name since dead. Then, sir, I will add, there was not even that one. Certainly the unhappy man he alludes to was branded with infamy, but not for retaliation; but the deliberate murder of a friendly chief. This Indian, known to be friendly, had remained in their town for several days after the hostile party had fled, and having been recognised by this man as a combatant in some particular battle some years before, whilst he was talking to an officer, this execrable wretch drew an axe he had concealed behind him, and clove his head. It was that which covered his name with infamy, and not retaliation.

Even now again, almost upon the instant, that gentleman defies all, and challenges history to produce one single example, and then adds, there was none. I will not, Mr. Chairman, question the prowess of the Kentuckians; I believe they are brave, independent, hospitable, and magnanimous, and all things that gentlemen could wish them. I am proud at all times to hear of their deeds of valor. Yet this thing called bravery, I believe, is pretty equally diffused through the great mass of men, and, under similar circumstances, there would be found but little difference; brave officers will always make brave men. Though what is said of this conspicuous State cannot be doubted, as all who have conversed with them know they are independent; all who



have travelled in that State doubtless have partaken of their hospitality. And that they behaved well at the battle of Tippecanoe, I do not doubt; that they behaved bravely at the battle of the River Raisin I will not doubt; that they behaved gallantly at the battle of the Thames I cannot doubt. But, sir, there was retaliation, and most conspicuous, in that State. In one instance, well known, when a party of Indians had committed depredations and murders, were followed by Colonel Lyne, known to be a brave and active officer, by some chance of war one of the warriors fell into his hands, and was hanged upon the next tree. The most striking instance, however, is one which my friend from Ohio (Mr. HARRISON) has just brought to my recollection—that, when that great General and best of men, George Rogers Clark, was on that celebrated campaign in which he stormed a whole chain of British posts on the Wabash and Kaskaskias, he captured the town of St. Vincennes; whilst in the town, the well-known noise was heard in the neighborhood which informed the inhabitants that a war party was then returned with scalps. Clark immediately despatched some of his soldiers and took them prisoners. When the mischief they had done was ascertained, he ordered them to be taken in view of the British fort, and told to ask protection from their good father, George the Third, and in that place were all instantly put to death. In those days there were numerous instances of individuals, who had lost a relation by the Indians, taking their rifles, and going in search of the enemy, even in their own country, and killing one. At that time they called it "taking satisfaction;" of course it might not be retaliation.

If I were to declare an opinion as to the horrors and cruelty of all our Indian wars, I would unhesitatingly say, to British agents all is attributable; nor can I now feel this sickly sorrow for them. But, in those gloomy days the honorable gentleman from Kentucky speaks of, the machinations of these agents wrung with agony and pain the bosom of many a gallant man in that country with apprehensions for the consequences. Children at school, in the hours of play, were butchered, at the instigation of those agents; murder on every road, and death in every path; all went armed to their daily avocations. Sir, the friend of my boyhood, the honorable chairman of the Committee on Military Affairs, ought to tell of early times there, and of Indian wars and British agents, though at that time he was only of such an age as to know the danger, and rejoice when the sun went down without seeing the mangled corpse of a murdered friend brought into the fort. The melancholy transactions of the Seminole war are but faint rehearsals of thousands and thousands of such acts in the West. And, even at this day, the name of British agent or trader, or they are synonymous, will create a sudden start of horror in the widowed mother of a family, as it tears open all the sluices of her grief, which time had soothed, but could not destroy. The children were hushed to silence by

the terrible names of Simon Girty and McKee. Could those incendiaries have been taken in those days, every voice would have pronounced their doom. Not only individuals in that country, but whole families, were swept away: many who had rendered brilliant services to their country, are now only known to those who feel a kindred sorrow; and if a gallant deed has faintly pierced the terrible night which overhangs their fame, should cause a stranger to ask where they are now, or where their children, echo mocks the inquiry, and retorts the question.

Unquestionably, sir, there are many rights incident to a state of war; that, when hostilities have commenced, and an enemy every hour in view, it is difficult for a deliberative body like this to seize upon an abstract principle, and apply it, at that particular place or moment, and say what was or was not necessary for their General to do. He knows the obligation he owes to the Constitution of his country and the authorities of the State, and knows what, by the law of nations, he may do when surrounded by war and desolation, his enemy near at hand, and retiring into a neutral country. He has a right to follow, that neutral Power not prohibiting the entry of his enemy; his country, to say the least, rightfully becomes the theatre of war. Nor is it easy to conceive this feverish discontent at the death of men who rightfully died; and, whatever may be thought of it here, in the sunshine of peace, and the whirl of gay delight, the people there consider it a blessing, and no doubt has already saved the lives of many hundreds of our citizens. Nor can it be well understood why these executions should be deemed cruel, when with them are associated the deeds for which they suffered. Whilst recollection paints the horrors of death in all its terrible forms—the scalps, fresh bleeding, torn from our countrymen, placed upon a pole, becoming the subject of hellish mirth; the helpless female butchered whilst kneeling and suing for mercy; the toothless little infant snatched from its mother's bosom, and its brains dashed out against a tree—its body thrown on the ground, there lies quivering in death. Sir, amid scenes like these, and the enemy at hand, to talk of delays is to deride the mandates of nature and of nature's God.

It has been further remarked by an honorable gentleman from Pennsylvania, (Mr. HOPKINSON,) that of all the genius in the world there is none dangerous to the community but a military one. Newton's genius was so great that it seemed to hold converse with the stars; the erratic comet in its course could not escape him, and, I believe, even threw light upon the sun—yet this was harmless. Shakspeare, the great source of pleasure and instruction to ages, past, present, and to come, was perfectly innocent in all its operations. The honorable Speaker says, too, should we not cling to the Constitution, and preserve it by passing these resolutions, that the day is close at hand when some daring chieftain, after another splendid victory, will strut in his gaudy costume, casting a look of approbation as he walks be-

tween obedient rows of admiring vassals, and seize upon your liberties; and then, the hills rising round your Capitol will be covered with the gorgeous palaces of a pampered noblesse; and then tells us, in words which sound very much like Patrick Henry's, that Rome had her Cæsar, Britain her Cromwell, France her Napoleon, and may we profit by the example. *Napoleon!* If I were to express myself with an enthusiasm not my own, I would say when nature made the world, she next made the spirit of that great man, and then she rested. I saw, or thought I saw, the impression those dangers of military men seemed to make upon the House, and believe I am about to hazard an opinion, new in a degree, and very opposite to that of both these honorable gentlemen, which is, that no Government has ever yet been destroyed by a successful military chieftain. I appeal to history to support me, if my construction be right. If I recollect the words of the historian, "Cæsar, having less reputation, like a wise champion, retired to a distance, for exercise, whilst the two great factions preyed upon the liberties of Rome; when every contest for place or power, was decided in the forum by the sword, and stained the Capitol with blood." Then, not till then, did Cæsar return to Rome, which, ever since the wars of Marius and Sylla, had known no liberty. Nor is the overthrow of the British Government attributable to Cromwell; the speeches of Parliament produced the revolution, and the treachery of members. When all was in commotion, by canting and preaching, Cromwell secured the stronger party and became the Protector. Nor can the French revolution be attributed to anything but to the insincerity of the orators in the States General, and to none in a higher degree than that greatest of orators, and worst of men, Mirabeau. If, in after times, as in all other revolutions, Napoleon secured the stronger party, and awayed the Government, it cannot be said he overturned it. Did not every distinguished man in France rule as long as he was popular with the stronger party; and did he not cease to rule as soon as he lost his popularity? This was no reproach to professedly politicians, though in a military man, possessing power by the same means, it subjects him to the charge of using his military power to overthrow the Government of his country; and by none more than disappointed orators, who had contributed to the downfall of many successive administrations, with a hope of one day possessing it themselves. If I recollect the history right, the only instance of the overthrow of a regular Government was by an ambitious statesman, one of the Dukes of Venice, who boldly seized upon the powers, declared the then Senators Senators for life, and their children after them. This, I am inclined to believe, is the source of their nobility, the only patent they have for rank. Moreover, I believe it would be correct to say these men, the most conspicuous military destroyers of their country, were all created by the times. No, Mr. Chairman, our liberties are not to be endangered by a successful chieftain, returning to us with his

gaudy costume, even after an hundred victories of New Orleans. It is here, in this Capitol, on this floor, that our liberty is to be sacrificed, and that by the hollow, treacherous eloquence of some ambitious, proud, aspiring demagogue. And if, in times to come, we should hear a favorite officer, who has exhausted his constitution in defence of his country—throwing wreaths of victory at her feet—charged with violations of her liberty, let us inquire whether the sternness of his virtues is not his greatest blemish. If history gives an account of a military chief's returning to his country, and overthrowing its settled institutions, it has, at this time, escaped my recollection.

Mr. ERVIN addressed the Chair as follows:

Mr. Chairman:—I am sorry it has fallen to my lot to be so late in debate on this question. From my own feelings, I am persuaded the Committee is exhausted and unwilling to bestow its attention, anticipating a want of capacity in any member to throw any new light upon this interesting subject. A sense of duty, however, has determined me to express to you the opinion which I entertain in relation to it, in doing which, I anticipate the same indulgent attention which you have accorded to other gentlemen. Before entering upon its discussion, I feel it a duty which I owe to the people and myself, to express my extreme regret, that so much of our time has been appropriated to its discussion, whilst other subjects of practical utility, and great public importance, have awaited our attention. Experience, sir, has long since taught me the inutility of the expression of legislative opinion upon abstract questions; because, whatever may be the result of their deliberations, and the opinion expressed, it can have no binding efficacy in determining the discretion of subsequent legislatures. At the last session of Congress, much sensibility was felt because the President of the United States expressed his opinion and determination on a subject which he anticipated would engage the attention of Congress. Although the correctness of the motive, in that case, was known and appreciated, fears were entertained, lest, if indulged and continued on the part of the Executive, and acquiesced in by Congress, a precedent would be formed which might tend to limit legislative discretion. If the informal expression of this opinion, on a subject of which he had concurrent jurisdiction, was deemed incorrect, what opinion will be formed of the character of the expression of an opinion in relation to a military officer, not by the Congress of the United States, but by the House of Representatives, over whom, even in their capacity as the impeaching power, they have no jurisdiction? For, as the House of Representatives, the only power given to it by the Constitution (and without which it has no power) is a power to judge of the elections, returns, and qualifications of its own members, and to punish or expel a member. In giving a construction to the Constitution, which I am sworn to support, I cannot, and will not, suffer my mind to be deluded by the imposing idea of the House of Representatives being "the grand inquest of



the nation." I have just enumerated its powers in its separate capacity, and contend, that the exercise of any power beyond that enumeration is assumed, but not delegated. Courts of inquiry and courts martial are the proper and legal correctives of error or criminality in the military, which, if neglected to be applied by the President, in cases requiring it, he is responsible.

Again, sir, the sovereign authority ought never to speak, but when it can command; and ought never to command, but when it can compel obedience. In this case, the officer may lie securely intrenched behind Executive protection, your resolves to the contrary notwithstanding; and a departure from this principle ought never to be indulged, unless in approbation of splendid achievements, by land or by water, which will have the happy effect of increasing the moral power or force of the nation.

The treaty of Fort Jackson, in August 1814, which is said to have been the cause of the late Indian war, has been adverted to in terms of disapprobation and severe animadversion. "The United States demand—the United States demand"—expressions used in that treaty, are thought too dictatorial.

Mr. Chairman, what age or country ever saw it otherwise than that the conqueror should dictate terms of peace; and, in this case, circumstances imperiously required it. For, in the midst of peace, whilst we were endeavoring to extend to the Indians the advantages of civilization, supplying them with implements of husbandry, and paying them an annual tribute for their friendship, and just at the time when we had engaged in war with a powerful and warlike nation, forgetful of those acts of kindness, they joined our enemy, and commenced a war of extermination against our helpless women and children. Pity still drops a tear at the remembrance of the conflagration of upwards of three hundred men, women, and children in Fort Mimms in 1813, and the winds still sigh over the fields and repeat the dying groans of our brave countrymen, who were inhumanly butchered in cold blood by the Indians after they had capitulated at the river Raisin. The whole frontier of Tennessee and Georgia was threatened with ruin and desolation from savage barbarity until the hero of New Orleans appeared upon the theatre of action, and, by triumphing at Talladega, Tullushatcha, Emuckfaw, and Pohopeka, taught that unhappy deluded people, that, although we were engaged in a foreign war, we were still able to avenge savage insults, and repel savage injuries. And will any one, after these facts and atrocities being presented to him, pretend to say, that it was unjust or unwise for the conqueror to cause them to be removed from the proximity of a neighboring nation, from whence they were continually goaded on to acts of violence and deeds of murder; or to dictate such terms of peace as were best calculated to prevent the repetition of similar scenes, and give security to our southern frontier? I hope not. Your General, as one of the commissioners on the part of the United States to make

that treaty, acted correctly. The laws of nations declare, "that an equitable conqueror, deaf to the suggestions of ambition and avarice, will make a just estimate of what is due to him, and will retain no more of the enemies' property, than what is precisely sufficient to furnish the equivalent. But, if he has to do with a perfidious, restless, and dangerous enemy, he will, by way of punishment, deprive him of some of his towns or provinces, and keep them to serve as a barrier to his own dominions." Notwithstanding the treaty of August, 1814, which was depended on as effecting peace between us and those savages; notwithstanding the treaty of peace between this country and Great Britain, which also was expected to have produced the same happy effect, they remained still hostile; notwithstanding all your triumphs over them, they were beaten, but not conquered; they were scattered, but not annihilated; they rallied again, and were afforded shelter and protection in East and West Florida, Spanish neutral—neutral, did I say?—Spanish hostile territory.

Mr. Chairman: I care not for professions of neutrality; they shall not impose upon my credulity; give me the evidence of facts which are not to be biassed by fear, or influenced by hope; and, if we are to be determined, or to judge by them, Spain was not neutral. I said, sir, that the Indians were suffered to settle in the Spanish territory, in the neighborhood of Pensacola, in West Florida, and on the river Appalachicola, and on a creek called Yellow Water, in East Florida, and there in silence brooded over imaginary evils, and meditated bloody vengeance. Two civilized barbarians, Ambrister and Arbuthnot, foreign emissaries, once more lighted up the torch of war, and let loose upon us those infuriated barbarians. In 1816, a boat's crew was murdered, and an American citizen was tarred, feathered, and burnt to death. On the thirtieth of November, 1817, Lieutenant Scott and fifty persons, consisting of men, women, and children, were inhumanly murdered, except a very few who were wounded, but effected their escape. On the 13th or 14th of March, 1818, two whole families on the Federal road, in the Alabama Territory, were put to death. The next day, five men, riding along a road, were fired upon, three killed and two wounded. Terror and dismay pervaded the whole country.

Mr. Chairman: War in its mildest form is dreadful; but what force of eloquence—what power of description, can give an adequate idea of Indian warfare? It is a war of extermination: Like the lava of Etna, fear marches before it. Like the storm of the desert, ruin and desolation lead up its dreadful rear. Did you ever, sir, meet a man returning alone from your southern frontier, who had moved there with a large family? With sorrow in his face, and tears in his eyes, he begins the mournful tale, but is unable to proceed—his feelings deny him utterance. Mr. Chairman: Have you not a family? Do you not love them? Is it not for them that you wish to live? Is it not for them that you would

dare to die? The glad day, sir, will soon arrive, when you will return home, and behold again the wife of your youth, and your children, the objects of your affection. He too once had a family, but now they are gone; he will never see them more. The night was gloomy; her husband, her protector, was far away; the pale moon hid her face behind the clouds; the winds blew; the tempest howled; trembling she pressed to her bosom the tender objects of their mutual love. At length destruction came: the yell of the savage awoke the sleep of the cradle; fire and the tomahawk without, horror and dismay within; the tender infant lifts up its arms for protection, and receives the stroke of death, and the shrieks of the distracted mother are hushed in everlasting silence. O! sir, suspect no deception; it is not the pencilling of fancy; it is history, faithful history, written in characters of blood along your whole southern frontier.

President WASHINGTON expended a million of money, and marched fifteen thousand men to put down a partial insurrection, and collect a petty tax, in the western counties of Pennsylvania. And shall we be told, that it is unconstitutional, or, that it is wrong, to march our legions to protect our citizens from the tomahawk and Indian scalping knife? But, gentlemen say the President has acted unconstitutionally in marching our troops into Spanish neutral territory, without the authority of Congress. Did he do so clandestinely? Did he not, in his Message, sent to this House the 25th of last March, expressly tell you he had given orders to that effect? Where were then these sentinels of the people's rights—these guardians of the Constitution? Were they at their posts? Yes, sir, and wisely legislating for the public good. All then was right; not a word said against it. What, sir! sworn to support the Constitution; told that it was about to be violated, and remain silent! Yes, sir, silent—silent as the grave. And, as if fearful that the sincerity of their approbation might be questioned, voted away large sums of the people's money to carry on the very war which is now the subject of blame. And this session, sir, as if gentlemen had come in contact with Elisha's bones, there is a general resuscitation; the tocsin of alarm has been sounded; our power has been usurped; the President has acted unconstitutionally, and gloomy predictions are indulged in about future Cæsars and Cromwells, and the overthrow of liberty and constitution, in other days and times yet to come.

Mr. Chairman, having presented to the attention of the Committee these preliminary observations, permit me, before entering into the investigation of the principles which would authorize the marching troops into neutral territory, and what branch of the Government is charged with that power, to inquire into the character of the Indians with whom we have been lately in conflict; which character, if correctly ascertained, will serve to elucidate, in some measure, the subject of discussion now before us.

An honorable gentleman from Massachusetts  
15th Con. 2d Sess.—36

has said they possess a plenitude of sovereignty in war, and a qualified sovereignty in peace. The honorable Speaker allows them only a qualified sovereignty in every condition. It is alone the proud prerogative of genius and talents to determine between the opinions of honorable gentlemen standing so deservedly high in the estimation of their country. I shall content myself with observing, and in doing of which, I cherish the hope I shall be pardoned, that those honorable gentlemen err in attaching ideas of sovereignty to Indians in foreign countries, which are only correct when applied to those within our own jurisdiction. Over the latter, we exercise partial sovereignty; we have prescribed the mode, and to whom alone they can sell their lands, and have denied to them the right of trading with any other people than ourselves. Over the former, we have no control, and being without our jurisdiction, are, in relation to us, as free and independent as any other nation whomsoever; and we are not authorized to deny them sovereignty because they are few in number, or inhabit a small territory, no more than we would be to say a dwarf, when arrived at the age of maturity, is not a man because he is not as big as a giant; and if they are a foreign and sovereign people, in relation to us, how can gentlemen deny us the right, when they make war upon us, to march into their possessions and attack them? But, sir, I am willing to admit, that, in relation to Spain, so far from being sovereign, they are her subjects *sub modo*. I will go farther, and say, considering the Spanish Government despotic, under which her subjects have no rights, and, according to the laws of nations, the Indians are her very slaves. It is their character and condition under the laws of nations, that I wish to consider. In the latter end of the fourteenth, and in the fifteenth century, the Popes of Rome assumed to themselves paramount authority, not only in spiritual, but temporal things. They declared, that the whole earth was the patrimony of St. Peter, and that they were his successors and heirs. And Ward, in his inquiry into the foundation and history of the laws of nations, in Europe, says: "The right was assumed by the christian nations of reducing to their obedience, for the sake of converting them, all people who professed a faith different from their own; the tyranny and injustice of the Spaniards, towards the American nations, were defended upon this ground, and every investigator of the affairs of Europe has been struck with those remarkable grants made by the Holy See to Portugal and Spain of all the countries they should discover; the one to the East and the other to the West. Other States, if they did not follow the Spaniards in the extremes of cruelties, at least proceeded, in the discoveries they made in the new world, upon the same principles." The grant made by Henry the Seventh to John Cabot and his sons was upon the same principle. "In like manner, a patent was granted by Elizabeth to the celebrated Sir Humphrey Gilbert, authorizing him to discover, find, search out, and view, such remote, heathen and



H. OF R.

Seminole War.

FEBRUARY, 1819.

"barbarous lands, countries and territories, not actually possessed of any christian prince or people; and he, his heirs and assigns, are to have, hold, occupy, and enjoy the same, with all their commodities, jurisdictions and royalties."

Gentlemen, Mr. Chairman, may regard the doctrine as they please, but they would sacrifice thousands of lives, and vote millions of money, to defend rights for which they can show no other authority than the laws of nations established in the fourteenth century by the authority of the Popes. You say, sir, in common parlance, that the ocean is the highway of nations. From whence then do you derive exclusive jurisdiction to a marine league from your shores? Did you inherit it by descent, or did you conquer it from the wind and the waves? Again, sir, it is said, that, in a state of nature, use and occupation give a right to soil, and, in a state of society, purchase and conquest. In what era of your history did the star-spangled banner float in proud triumph over those vast regions to the west? Or in what disastrous battle were the liberties of those numerous tribes of Indians beyond the Mississippi cloven down, and they acknowledged you paramount lord? Where, sir, is the treaty which has recorded your purchase? Or the evidence which can tell of your occupation? So far from there being any conquest, purchase, occupation, or even visitation, that our Commissioners, who made the late treaty with Great Britain, although wise men, could not tell us whether the forty-ninth degree of north latitude, which is therein said to be our northern boundary, is north or south of the most northwest point of the Lake of the Woods. We deny the authority, yet willingly partake of all the benefits resulting from the law. And, sir, shall it be a matter of surprise if those nations who acknowledge the supremacy of the Pope, should act agreeable to, and claim the benefits of, this law. And I contend, sir, that in the spirit of this law Spain made and ratified the treaty of 1795,\* acting under the influence of the opinion that the Indians within her jurisdiction were not only under her moral but physical coercion. In this point of view their acts are the acts of Spain, and ought to be repelled as such. This character of identity is rendered complete when, with the principle I have been endeavoring to bring to the attention of the Committee, we combine the fact that Spain supplied

\* "ART. 5. The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers, which, by the preceding articles, forms the boundaries of the two Floridas. And the better to obtain this effect, both parties oblige themselves expressly to restrain, by force, all hostilities on the part of the Indian nations living within their boundary: so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit the last mentioned Indians to commence hostilities against the subjects of his Catholic Majesty, or his Indians, in any manner whatever."

those hostile Indians with provisions and munitions of war. The existence of such a principle being established, the application of it to Spain is correct; for Ward, in his second volume, page 66, says, "it is still a received doctrine among those who submit to the establishment of the inquisition." Having endeavored to prove that we had a right to enter the Floridas in self-defence, from the consideration of the relation of the Indians to us as a foreign Power, and their relation to Spain as subjects or slaves, I proceed now to deduce the same right from our relations with Spain. The laws of nations speak of obligations imperfect and perfect; and corresponding resulting rights which are, as the case may be, imperfect or perfect. Every nation, by the laws of nations, is under an imperfect obligation to prevent her neutral territory from being occupied by a third Power, for the purpose of annoyance of a neighboring nation. But if this neutral nation will enter into a solemn contract by treaty, with a neighboring nation, to prevent a nation occupying her neutral territory from using it as a convenient place for annoying the neighboring nation, she incurs a perfect obligation to save harmless from annoyance or injury the neighboring nation; and a corresponding perfect right results to the neighboring nation, by such obligation, to be saved harmless. Spain has, by the treaty of 1795, incurred a perfect obligation to save us harmless from the depredations of the Indians within her territory; from which a corresponding perfect right has resulted to us of security. And I contend that if Spain fails in the performance of her perfect obligation, that failure does not involve a forfeiture of our right of security as a nation. And I further contend, that some one of the branches of our Government is vested with the power to pursue and obtain (within the limits prescribed by law and the Constitution) all the rights and benefits of security as a nation to which we are, or may be entitled by the laws of nations, international or municipal law. To which branch of the Government such power belongs I shall presently inquire; but it is not now the subject of my inquiry. For I have been inquiring, and still wish to be understood as confining my inquiries to those principles which give one nation the right of entering the territory of another nation. But, Mr. Chairman, before I proceed further, I wish to deduce an argument from the principle which I last presented to the attention of this Committee, for the purpose of obviating an objection made by an honorable gentleman from New York. He said we ought to have given notice to, and required Spain to have performed her treaty stipulations and saved us harmless from Indian depredations, before we should have undertaken to have righted ourselves.

That honorable gentleman will pardon me in thinking him incorrect. The United States were under no obligation, by the laws of nations, to give notice to Spain, and require of her the performance of the treaty of 1795. The laws of nations, Mr. Chairman, recognise principles em-

FEBRUARY, 1819.

Seminole War.

H. OF R.

bracing imperfect and perfect obligations, and corresponding rights. Each nation is under an obligation, by the laws of nations, not to suffer another nation to occupy her territory for the purpose of annoying a third nation. This obligation, however, is an imperfect one, because each nation has still the volition as it relates to any particular State or nation, to permit the occupation or not, as best suits her interest. Notice in such a case is requisite to ascertain whether the nation permitting the occupation intends to permit its further continuance. But when one nation has entered into a solemn treaty to prevent such occupation, or to prevent any injury to a third nation from such occupation, she thereby incurs what is called, by the laws of nations, a perfect obligation; that is, her discretion is determined, and she cannot be supposed to entertain any other volition in relation to the provisions of the treaty, than that expressed in the treaty. To give her notice, then, thus circumstanced, and require her to perform an act which she had, by solemn treaty, told you she would perform, would seem to me to be superfluous. Vattel says: "The perfect obligation is that which gives to the opposite party the right of compulsion; the imperfect obligation gives him only a right to ask."

The same principle is recognised by the municipal law. A contracts with B to pay B a certain sum of money at a particular day. A thereby incurs a perfect obligation, and a perfect corresponding right results to B for its performance. If A fails to perform his contract, B has a perfect right to compulsory process to enforce its performance. And no judge would ever entertain a motion for a nonsuit because B had not notified A, and required him to perform his contract. I have never understood, sir, that Spain has complained of the want of notice; and I should be sorry to hear it; for there is something extremely ungracious in the idea for Spain to require the United States to spend several months in begging her to perform a solemn treaty, and, in the meantime, to leave her citizens exposed to the bloody vengeance of infuriated barbarians.

I now again proceed in the investigation of those principles which authorize one nation to enter the territory of another nation. In pursuance of which, I lay it down as an established principle, that the laws of nations and municipal laws, which are *mala prohibita*, are deduced from the eternal rules of right and wrong; and argue, that, by the laws of nation, one nation bears the same relation to another nation as, by municipal law, a sovereign State does to an individual of that State; and if a sovereign State, in the pursuit of an individual who has committed a crime, can, by its officers, enter the private possessions of an individual and apprehend the offender, so, by the laws of nations, is it right for one nation to enter the territory of another nation in the pursuit of a third offending nation, who is afforded shelter and aid in a neutral territory. Again: a fort bears the same relation to a nation as a house does to an individual; and they are regarded as

citadels, or places of safety, to the former as well as to the latter; but, let it be remembered, that they are sacred only so long as they are used for places of defence; and, if it is right for a sovereign State, in the pursuit of a criminal who is afforded shelter in a dwelling-house, not only to enter the premises, but to break down even outer doors, and drag him from thence, so it is right for one sovereign State, not only to enter the territory, but the forts, of another sovereign State, in pursuit of a hostile offending nation that is afforded shelter, aid, or protection, in the neutral territory or forts. For the law of nations declares: "That if my neighbor affords a retreat to my enemies, when defended and too much weakened to escape me, and allows time to recover and watch a favorable opportunity of making a second attack on my territory, this conduct, so prejudicial to my safety and interest, would be incompatible with neutrality. If, therefore, my enemy, on suffering a discomfiture, retreat into his country, although charity will not allow me to refuse him permission to pass in security, he is bound to make them continue their march beyond his frontiers as soon as possible, and not suffer them to remain in his territory on the watch for a convenient opportunity to attack me anew; otherwise he gives me a right to enter his country in pursuit of them." And I contend, upon the same principle, that similar conduct would give a right to enter a fort. Do gentlemen require the production of the facts which begat the necessity for our marching into neutral territory and taking possession of forts belonging to another nation, and which only can operate our justification?

Mr. Chairman, I have only to regret that they are so numerous. Without adverting to those in the late war between Great Britain and this country, is it not notorious, sir, that the Indians were almost in the continual habit of stealing property from our citizens, and, when pursued, would retire into this neutral territory, and there sell it, in the face of open day, at Pensacola and at the fort of St. Marks? Is it not a notorious fact, that they murdered Lieutenant Scott and the most of his party, consisting of men, women, and children; that they murdered the whole crew of a boat except one, and him they tarred, feathered, and burnt to death? Did not the Indians cruelly murder whole families, and then would retire into this said neutral territory with impunity? Is it not a notorious fact, that, in this same territory, called neutral, were found fifty fresh scalps in one place, and three hundred more were suspended on a pole at another? Is it not a notorious fact, that the Indians, associated with Ambrister, held councils of war in Fort St. Marks, a Spanish neutral fort? Did not Governor Masot inform General Jackson that the Indians intended occupying it? Is it not a notorious fact, that large hordes of Indians lay at and near Pensacola and the Fort St. Carlos Barrancas; that they were fed by the Spaniards, and supplied with munitions of war from the King's store? After the defeat of the Indians by Major



Youngs, near Pensacola, were the Indians not ferried in Government vessels across the bay, to secure them from injury? Did not the Spanish Governor, in the capitulation for the surrender of the Fort St. Carlos Barancas, treat for the safety and impunity of a noted Indian chief, then secured in the fort; and, after its surrender, was not a wounded Indian carried out of it? Are we Americans, and are these facts not enough? Or do gentlemen require our whole Southern frontier to be laid waste with fire and sword before the necessity would be sufficient to justify our marching into neutral territory to put down savages there sheltered, and who have murdered our citizens? If we, Mr. Chairman, who are at a distance, feel for our injured country, what must have been the feelings of General Jackson, who was an eye-witness to those transactions?

I proceed now, sir, to inquire what branch of the Government possesses the power of executing the laws and repelling invasion. By the fourteenth specification in the 8th section of the 1st article of the Constitution of the United States, Congress has power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions." What power has Congress by this provision? I answer, no other power than to provide for calling forth the militia for the purposes expressed in the specification. The militia is the efficient power to execute the laws, &c. Who commands them when in the service of the United States? Not Congress, but the President of the United States; he commands, directs, and controls them. It is the President, then, that is authorized to execute the laws, suppress insurrection, and repel invasions. Again, sir, the Constitution of the United States charges the President to "take care that the laws be faithfully executed." Laws do not merely mean law international or municipal, but also national law; for the ninth specification of the 8th section of the 1st article of the Constitution of the United States speaks of "offences against the laws of nations," thereby recognising the existence of the laws of nations as part of the laws of the land. The President of the United States is executor of all laws under the Constitution; he is therefore authorized, under certain circumstances involving self-defence, and in that case only, to enter neutral territory. Lamentable, indeed, Mr. Chairman, would be our situation, if the President had not the power, in self-defence, of pursuing an enemy into neutral territory. A mere bargain might issue from foreign territory, commit murder and depredations upon your citizens, and retire back with impunity. These depredations must be endured, or Congress must interfere. It might not be expedient to go to war; but I contend, that if Congress, which is the war-making power, should authorize by law any act of violence in a foreign territory, modify the phraseology as you please, it would be a declaration of public war. Under such doctrines, the only alternative left us is public war, prepared or not prepared, or to suffer our citizens to be murdered with impunity. But I contend, sir,

that the President was authorized, by your own authority, which is the war-making power, to do what he did do. The act "entitled an act to provide for calling forth the militia to repel invasion," &c., passed the 28th February, 1795, is, in my estimation, a standing declaration of defensive war against the Indians; and the President is as much bound to obey it as he was the act declaring war against Great Britain. That act declares, "that whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary, to repel such invasion." By this act, the President is authorized not only to repel actual invasion, but also the capacity or power of invasion; for the word imminent cannot mean actual invasion, but does mean, if it means anything, the power or capacity to invade. To strengthen and confirm the correctness of this construction, let us for a moment advert to first principles. The first duty imposed upon man, in every stage of his existence, is preservation. In a state of nature, he is under no necessity to wait until he is shot down before he would be justified in making resistance; neither is he, in a state of society; for if his antagonist assumes an attitude of defence, speaks the language of menace, and is in striking distance, he is authorized to strike first, and is under no obligation to wait until he receives the blow which might incapacitate him from resistance. The same duty is also of primary obligation to nations; and, in principle, it matters not whether the existence of an individual or that of a nation is in danger; for society is under as solemn obligation to guaranty existence to one as to the other. I contend, then, that, by the provisions of this law, nay, by the provisions of all laws, both human and divine, the President was authorized to put down, not only actual invasion, but the power of invasion, let it happen or exist when and where it might; and, considering the mode of Indian warfare, not merely nation against nation or army against army, but individual against individual, that the principle would extend to embrace the capacity of invasion upon any scale, small or extensive. But I beg not to be misunderstood; for I wish to be considered as allowing this power to the President only in case of self-defence; one step beyond that would make him the aggressor, and would be an assumption of the war-making power, which belongs only to Congress. The President of the United States being thus proven to possess the power to execute the laws, a portion of this power was imparted to General Jackson in relation to the Seminole war. The Secretary of War, in a letter written to Governor Bibb, says that General Jackson was vested with discretionary powers in relation to the Seminole war; and we all know, from the high and distinguished character of that officer, that he would never condescend to state a fact in the least de-

gree different from what it was. This supposition of power is corroborated from the consideration, that General Jackson, in a letter to the Secretary of War after the capture of the Fort of St. Marks, informs him, that he had acted agreeable to the orders of the President; which assertion we cannot suppose the General would have made, unless he was warranted in doing so by his instructions.

The taking of the Danish fleet by the British has been adverted to, and we have been triumphantly told, that the features of the capture of the posts of St. Marks, Pensacola, and St. Carlos Barancas, correspond with those of the capture of the Danish fleet at Copenhagen, and that we cannot consistently approve of the conduct of General Jackson and condemn that of the British. The facts of the two cases, Mr. Chairman, are very dissimilar. Let gentlemen advert to the history of the capture of the Danish fleet by the British. Were the French fed by the Danes, or furnished with munitions of war from the King's store? Did they commit depredations on the English coast, and were they afforded shelter and protection in Danish neutral territory? Or was any evidence ever furnished to the world that they intended to seize the Danish fleet? It is true, they had overrun Italy and conquered the Netherlands. Hamburg had submitted to their authority, and the city of Lubeck was in their possession. But we must not forget their danger. The empire of Germany lay on their rear, and the battle of Jena had not yet prostrated the power of Prussia. In front, the lake of Lubeck and East sea presented physical obstructions to their obtaining their object. If they turned to the left, they had to encounter the passage of the Little and Great Belt; and, could they have marched upon Copenhagen, the fleet might have sailed up the Sound and escaped into the Cattegat. Under such circumstances, it was possible, but not probable, that the French could have seized the Danish fleet, and, without which probability, where was the necessity for the British to make the seizure? The necessity was not real but fictitious; it was not predicated upon facts, but existed only in conjecture. In relation to the capture of St. Marks, Pensacola, and St. Carlos Barancas, by General Jackson, it is unnecessary again to repeat the facts which begat the necessity to make it; they were not merely conjectural, but had actually occurred and produced a necessity highly imperative. The case of the capture of the Danish fleet fails in the comparison, and furnishes no ground of illustration.

But, sir, it is said that General Jackson, in causing Arbuthnot and Ambrister to be executed, acted incorrectly, and even his reasoning has been considered wrong. I disclaim, Mr. Chairman, having anything to do with his reasoning, and if, upon investigation, I find his conduct correct, I shall be satisfied. I would do great injustice to my feelings, sir, notwithstanding the criminality of the conduct of those men, did I not express my extreme regret that they were executed. Thinking, however, as I do, that General Jackson had

the power, as commander, to put them to death, and having exerted that power, no doubt as he thought for the good of his country, I acquiesce. There is no evidence that they were spies, in which case they ought to have been tried by a court martial, furnished with the grounds of their accusation, and confronted with the witnesses. They were foreigners, without our territory, owed this Government no allegiance, either local or general, and could therefore not be put to death for high treason. And our courts for the punishment of crimes on land could not take cognizance of their acts, however criminal, because they were perpetrated in a foreign country and out of their jurisdiction. Nor were they put to death to satiate cruelty or gratify a malignant spirit of revenge, but as subjects of retaliation, and, in terrorem, to prevent other foreigners from identifying themselves with the Indians and exciting them to murder and rapine. This power, in every age, has belonged and appertained to the commanding General; he commands the commencement of destruction, and, in modern warfare, stays the carnage at the cessation of resistance; but in ancient times, if he pleased, not until there was no one left to resist. When war became less sanguinary, the vanquished were made prisoners and led into slavery:—chained, they followed in the train, to swell the pomp and triumph of the victor; and their lives, although spared, were always supposed to be forfeited, and at the mercy of the commanding officer, under circumstances of imperious necessity. Upon this principle was the bloody massacre of the prisoners justified, who, upon the false alarm after the battle of Agincourt were ordered to be executed by the Black Prince, the pink of courtesy and delight of chivalry; and from this principle, disguise it as you may, is derived the power to put an innocent prisoner to death by way of retaliation. The law of nations considers your enemies in your power, not merely as prisoners, but as hostages for the correct treatment of your countrymen in the power of your enemies. By the laws of civilized modern warfare, women and children are exempt from destruction, which, if denied to them, you are perfectly justifiable to retaliate upon the Indians, or those who identify themselves with them, so as to prevent its repetition. This power of retaliation was assumed by General Washington, in the Revolutionary war, in the case of Captain Asgill; and when the same power was assumed by General Greene, to the south, on account of the execution of the gallant Hayne, the then Congress acquiesced in the assumption of such power, by each of those great men. But the honorable Speaker says, "the right of retaliation is an attribute of sovereignty, and comprehended in the war-making power," and that because Congress has, in the rules and articles of war, provided a tribunal for the trial of spies, they have the power to prescribe the rule or mode of trial in cases of retaliation. Again, that no man could be executed in this free country, without two things being shown: first, that the law condemns him to death; secondly, that his death is pronounced



H. or R.

Seminole War.

FEBRUARY, 1819.

by that tribunal which is authorized by law to try him.

Provide rules or mode of trial—and for what purpose? The death of a subject of retaliation is not determined on by trial, but by lot. He is condemned, not because he is guilty, but because he is unfortunate. And will you insult a dying man with forms of law and constitution, and deny him the substance? He is not a victim given up to the demands of insulted justice, but an unfortunate sacrifice, reluctantly yielded up by justice herself to the tears of mercy and humanity, to stop the improper effusion of human blood, and to protect your unfortunate countrymen in the power of your enemy.

But, sir, the policy of retaliation on an Indian is questioned, and the words

"Begin ye tormentors, your threats are in vain,  
For the son of Alknomok will never complain,"

ascribed by the poet to the Indian, are regarded as conclusive evidence of its inefficacy. Admitting those expressions to be historical facts, are we to conclude that an Indian is above the weakness of humanity, and insensible to the impulse of fear? No, sir; for, although by custom barbarous, by nature he is a man—not only subject to his passions and his appetites, but forever under the predominant influence of the two great incentives to action, *hope and fear*. And whether he frowns in the gloom of the forest, or adorns the circles of polished life, he is physically every where the same; and it is education alone which gives variety to his character, which improves his mental capacity, brightens the radiance of moral grandeur, and develops the divinity of his nature; and whatever firmness of character may be attributed to an Indian by a poet, whilst agonizing at the stake, all experience testifies that when death thunders at the mouth of the cannon, or bristles at the point of the bayonet, in wild dismay he flies to the covert of the woods and the swamp, for shelter and for safety. But, sir, it is farther said, that General Jackson is ambitious: if criminally, produce the evidence, and it shall be the signal of his destruction. Instead of a few such as conspired against Cæsar, a whole people will conspire against him; and instead of having occasion only to exclaim, *et tu Brute*—thousands upon thousands of indignant freemen "would break through the thick array of his thronged legions and reach his heart, to free their country." But where is the evidence of his ambition? Has he, like Cæsar, passed the Rubicon, to enslave his country? No: but has on foot forded your rivers, penetrated your swamps, and encompassed your morasses, to preserve your wives and your children from ruin and destruction. Has he, like Philip, by bribes and corruption, entered the Amphictyonic council? No, sir; but is now unarmed and defenceless within your city. And although your Speaker, the modern Demosthenes, unlike his great prototype in the day of contest, stands firm to his post, and, with impassioned eloquence, maintains the contest against him; and although his hard-earned reputation, which is dearer to

him than life, is at stake, and he without an opportunity of defending it, he bows in silence, and respectfully withholds himself from the hall of your deliberations. Has he, like Philip, seized upon Elateæ? or terminated the liberties of his country at the battle of Chæroneæ? No, sir; but he took possession of New Orleans, at the command of his superiors, and quenched the flames of the late war, not in the tears of his country, but in the blood of your enemies.

Most unfortunate of unfortunate men! If he does not march into Florida, he disobeys the orders of his superiors, and his commission or his life may be the forfeit. If he does, and encounters difficulties, dangers, and almost starvation itself, in an honest endeavor to promote the interest and glory of his country, he meets the frowns of the representatives of the very people whom he has been endeavoring to benefit.

Mr. Chairman, let us not forget his achievements. His country may yet want his services. And although, whilst fighting the battles of his country, he could look death and look danger in the face, and knew no fear—now he does fear. Yes, sir, he fears the disgrace of his country. Alas! sir, if he should incur the disgrace of his country, whither will he go? Will he return back to his family and friends, whom he so lately left with joy? Or will he, mournful and dejected, direct his course to New Orleans, the scene of his toils and his triumph? No, sir, he will wish for an early grave, to hide himself from the contempt of his country, under that very soil which he has so often gloriously defended!

Here the debate terminated, the whole of which is contained in the preceding pages, except the speech of Mr. H. NELSON, and the second speech of Mr. Speaker CLAY, of which the editors have not been able to obtain satisfactory reports for publication. The final proceedings on this interesting subject are thus stated in the National Intelligencer of February 10th:

After Mr. Ervin had concluded his speech, the House yet being in Committee of the Whole—

The question was taken on the adoption of the following resolution, reported by the Committee on Military Affairs:

"Resolved, That the House of Representatives of the United States disapproves the proceedings in the trial and execution of Alexander Arbuthnot and Robert C. Ambrister."

And decided in the negative—ayes 54, noes 90.

The question was then put on agreeing to the first resolution proposed by Mr. Cobb, as follows:

"Resolved, That the Committee on Military Affairs be instructed to prepare and report a bill to this House, prohibiting, in time of peace, or in time of war, with any Indian tribe or tribes only, the execution of any captive, taken by the Army of the United States, without the approbation of such execution by the President."

And decided in the negative—ayes 57 noes 98.

The question was then taken on the second resolution offered by Mr. Cobb, which he modified to read as follows:

"Resolved, That the late seizure of the Spanish

FEBRUARY, 1819.

Seminole War.

H. or R.

posts of Pensacola and St. Carlos de Barancas, in West Florida, by the Army of the United States, was contrary to the Constitution of the United States."

And decided in the negative, also—ayes 65, noes 91.

The question was then taken on the third and last resolution proposed by Mr. Cobb, as follows:

"Resolved, That the same committee be also instructed to prepare and report a bill prohibiting the march of the Army of the United States, or any corps thereof, into any foreign territory, without the previous authorization of Congress, except it be in the case of fresh pursuit of a defeated enemy of the United States, taking refuge within such foreign territory."

And decided in the negative—ayes 42.

The Committee of the Whole then rose and reported their proceedings to the House, and the question being stated on concurring with the Committee of the Whole in their disagreement to the resolution reported by the Military Committee—

Mr. POINDEXTER moved that the whole subject be indefinitely postponed. It was enough that a direct question had been taken on the resolutions in the Committee of the Whole, and he wished the House to pronounce no opinion in a case which he believed to be not within its jurisdiction. Mr. P. recapitulated briefly one or two arguments which he had used in the debate; contending, that the officers of the army were responsible to the Executive alone—not to Congress, and much less to one branch only of Congress;—the only power delegated to this House, singly, was to judge of the election of its members. He wished to avoid a course that he considered so improper, and which would operate as a precedent in future; and therefore hoped the matter would be indefinitely postponed.

Mr. LOWMEDE offered a few remarks to show that Mr. POINDEXTER was mistaken in the effect which he apprehended from a vote on the resolution. Mr. L. believed there was no authority vested in the House more unquestionable or real than that which entitled it to express an opinion on the case now before it. It was strictly within the powers of the House, as the agents of the people, appointed to investigate all public matters. He should vote for the indefinite postponement, but it was not because he believed the House incompetent to express its opinion of the matter in question; and he wished that no such construction might be given to the vote.

After some conversation on the propriety of the course proposed, Mr. POINDEXTER said, as gentlemen appeared disposed to vote on the resolution directly, he would withdraw his motion for postponement.

Mr. SPENCER renewed the motion. He did not think this subject properly within the jurisdiction of this House, nor was it one of those great occasions on which it ought to transcend its powers. It was not a proceeding which was to lead to impeachment, nor to any practical legislation, and he hoped the House would not pronounce an opinion in the case. If the members wish to express their opinions as individuals, said Mr. S., let us

adjourn to Davis's hotel, and there, as citizens, give our opinions, but not here, in our legislative capacity, pronounce a decision to which we are not competent—out of which no act of legislation is to grow.

Mr. HOLMES thought the postponement of the resolution might operate as an indirect censure on General Jackson. The subject had been much discussed—the matter at issue had been the conduct of General Jackson, and it was due to him, and to members on both sides, that the question should be now met and fairly decided.

Mr. TAYLOR said he should vote against the postponement. He wished to meet the resolution directly, and expressed his dissent from the doctrine advanced by his colleague, (Mr. SPENCER.) It might become necessary often for the House to express its opinion on the conduct of the military officers, and he hoped gentlemen would agree to vote in the spirit of the proposition reported by the Military Committee, reject the motion for postponement, and give its opinion directly on the resolution.

Mr. COBB opposed the postponement, and asked it as a favor of the House to be allowed to record his vote on the resolution which he had submitted in Committee, for which there would be no opportunity if this motion prevailed. Mr. C. then made some remarks on the opinion advanced, that it was not competent for the House to express its opinion in this case, which he controverted, and contended that it was a power unquestionably vested in the House, and one which he hoped it would never resign.

Mr. QUARLES was in favor of the indefinite postponement, because it accorded with his opinion of the incompetency of the House to act on the subject. He had thought, throughout the debate, that it was acting against the Constitution of the country. Whenever a proposition was presented to him, which he approved, he would give his opinion, regardless of the frowns of any man; but it was strongly impressed on his mind that this course was trenching on the Constitution and laws of the country, which it would be a dereliction of duty to sanction. Whence did the House derive its power to proceed in this *ex parte* manner to pronounce on the conduct of an officer? Congress could make rules and regulations for the government of the army, but this was a case not within the jurisdiction of the House, and an encroachment on the prerogatives of the Executive. If General Jackson had acted improperly, he could be tried any time within two years after the commission of the offence; but, as the Constitution had not given to this House the power of trying him, but had pointed out the mode, to that mode it was proper to leave him. A vote of this House would have a powerful effect on a court of inquiry, if such a court were to be convened, and it would for that reason be improper to express an opinion. Mr. Q. was averse to interfering with the powers of other departments of the Government, and this was a case under the exclusive jurisdiction of the Executive, &c.



Mr. Rhea was not now, after this case had been argued eighteen days, for giving it the go-by. The question ought now to be met directly, and let the precedent be fixed, whether the House would sustain the course proposed by the resolution. He hoped every member would have an opportunity of recording his vote on it.

Mr. POINDEXTER, with the view, and with that view alone, of obtaining a vote directly on concurrence with the Committee of the Whole in their report, called for the previous question.

The House agreed to take the previous question—yeas 95; and,

The question being pronounced from the Chair, "Shall the main question be now put?"

Mr. SPENCER, upon this question, called for the yeas and nays, which were refused; and

The House having agreed to take the main question, of concurring with the Committee of the Whole in their disagreement to the resolution reported by the Military Committee,

Mr. HARRISON called for a division of the question—conceiving the cases of Arbuthnot and Ambrister, to be very distinct, and marked by circumstances so different, as to permit the approval of one and censure of the other.

The trial, sentence, and execution, of Arbuthnot were, he said, in his opinion, perfectly correct; and, although he would not agree to censure any one concerned, when their motives were as pure as he was certain they were on this occasion, especially when he had no doubt but both men deserved death; yet, being called upon to say whether the execution of Ambrister was right or wrong, as he differed in opinion from General Jackson as to his powers over the court, he was obliged to say that it was wrong. It was an honest difference of opinion, he said, and was not intended to convey any censure upon that officer.

The question was then taken on concurring with the Committee of the Whole in their disagreement to the first branch of the resolution, viz: "That this House disapproves of the trial and execution of Alexander Arbuthnot," and decided in the affirmative, by yeas and nays, as follows:

YEAS—Messrs. Abbot, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Blount, Boden, Bryan, Burwell, Butler of Louisiana, Campbell, Clagett, Comstock, Crafts, Cruger, Davidson, Desha, Drake, Ellicott, Ervin of South Carolina, Floyd, Folger, Gage, Garnett, Hall of Delaware, Hall of North Carolina, Harrison, Hasbrouck, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McLane of Del., McLean of Illinois, McCoy, Marchand, Marr, Mason of Massachusetts, Merrill, Middleton, Robert Moore, Samuel Moore, Morton, Murray, H. Nelson, New, Newton, Orr, Owen, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, Silsbee, Simkins, S. Smith, Ballard

Smith, Alex. Smyth, Southard, Spencer, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, Williams of New York, and Wilson of Pennsylvania—108.

NAYS—Messrs. Allen of Massachusetts, Austin, Ball, Bayley, Beecher, Bloomfield, Cobb, Colston, Cook, Crawford, Culbreth, Cushman, Edwards, Fuller, Gilbert, Huntington, Irving of New York, Johnson of Virginia, Lewis, Lincoln, Lowndes, W. Maclay, W. P. Maclay, Mason of Rhode Island, Mercer, Mills, Moseley, Jeremiah Nelson, T. M. Nelson, Ogden, Pawling, Pegram, Pindall, Pitkin, Pleasants, Reed, Rice, Robertson, Ruggles, Schuyler, Sherwood, Slocum, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Westerlo, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts—62.

The question was then taken on concurring with the Committee of the Whole, in its disagreement to the second part of the resolution, viz: "That this House disapproves of the trial and execution of Robert C. Ambrister," and decided also in the affirmative, by yeas and nays, as follows:

YEAS—Messrs. Abbot, Anderson of Kentucky, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Blount, Boden, Bryan, Burwell, Butler of Louisiana, Campbell, Clagett, Comstock, Crafts, Cruger, Davidson, Desha, Drake, Ellicott, Ervin of South Carolina, Floyd, Folger, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes, Hopkinson, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marchand, Marr, Mason of Massachusetts, Merrill, Middleton, Robert Moore, Samuel Moore, Morton, H. Nelson, Nesbitt, New, Newton, Ogden, Orr, Owen, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Seybert, Shaw, Silsbee, Simpkins, S. Smith, Bal. Smith, Alex. Smyth, Southard, Spencer, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, Williams of New York, and Wilson of Pennsylvania—107.

NAYS—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Bayley, Beecher, Bloomfield, Cobb, Colston, Cook, Crawford, Culbreth, Cushman, Edwards, Fuller, Gage, Gilbert, Hale, Harrison, Hendricks, Herbert, Huntington, Irving of New York, Johnson of Virginia, Lewis, Lincoln, W. Maclay, W. P. Maclay, Mason of Rhode Island, Mercer, Mills, Moseley, Murray, Jeremiah Nelson, T. M. Nelson, Pawling, Pegram, Pindall, Pitkin, Pleasants, Reed, Rice, Robertson, Ruggles, Schuyler, Sherwood, Slocumb, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Westerlo, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts—63.

So the House concurred with the Committee of the Whole in rejecting the resolution of censure reported by the Military Committee.

Mr. COBB then moved the adoption of the second resolution, offered by him in Committee of the Whole, as modified, in the following words:

*Resolved*, That the late seizure of the Spanish posts of Pensacola and St. Carlos de Barancas, in West Florida, by the army of the United States, was contrary to the Constitution of the United States."

Mr. MILLS moved to amend the resolution by substituting the following after the word "resolved":

That this House disapproves of the capture and occupation of Pensacola and the fortress of Barancas by the army of the United States, and the establishment of a civil government there without the authority of Congress.

[This modification was accepted by Mr. COBB, but, subsequently, after the objections which were made to it, he declined receiving it as his motion.]

Mr. POINDEXTER objected to the shape in which the amendment of Mr. MILLS placed the motion, because it brought up a point for decision which had not been discussed, on which the House had made no inquiry, and had no information. He did not know the nature of the civil government established at Pensacola, or anything about it, and was unwilling, thus called on *instantly*, to give a vote on it, and if the proposition were insisted on he should feel it his duty to call for information on the subject. Mr. P. presumed it was absolutely necessary to establish a government of some kind there to enforce the revenue laws, and prevent smuggling, and other illicit practices; and he stated a case in which the clandestine introduction of a cargo of slaves into the United States was prevented by the authority placed there by General Jackson, and other cases, &c.

Mr. MILLS's amendment was withdrawn; and Mr. FLOYD then moved the indefinite postponement of the resolution; but, having afterwards withdrawn his motion,

Mr. BARBOUR renewed it; and spoke a short time, explanatory of his reasons for preferring that course. The House had already signified its sense of the subject; the act in question, though not strictly defensible, was not such a one as he was ready to pronounce a vote of censure on, and it would be avoided by the postponement.

After some further conversation on the propriety of the different propositions, the question was taken on the motion for indefinite postponement, and decided in the negative, by yeas and nays, as follows:

YEAS—Messrs. Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Boden, Bryan, Butler of Louisiana, Campbell, Clagett, Crafts, Cruger, Davidson, Desha, Drake, Floyd, Folger, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Holmes, Hostetter, Hunter, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McLane of Delaware, McLean of Illinois, McCoy, Marchand, Marr, Merrill, Middleton, Samuel Moore, Morton, Murray, H. Nelson, Nesbitt, New, Newton, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, S. Smith, Bal. Smith, Alexander Smyth, Southard, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Williams of New York—100.

And then the House adjourned.

terson, Poindexter, Porter, Quarles, Rice, Richards, Ringgold, Rogers, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, S. Smith, Ballard Smith, Alexander Smyth, Strother, Tarr, Tompkins, Tucker of South Carolina, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Williams of New York—83.

NAYS—Messrs. Abbott, Adams, Allen, Anderson of Kentucky, Austin, Ball, Bayley, Beecher, Bloomfield, Blount, Burwell, Cobb, Colston, Comstock, Cook, Crawford, Culbreth, Cushman, Edwards, Ellicott, Ervin of South Carolina, Fuller, Gilbert, Harrison, Herbert, Herkimer, Hogg, Hopkinson, Hubbard, Huntington, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Lincoln, Lowndes, W. Maclay, W. P. Maclay, Mason of Massachusetts, Mason of Rhode Island, Mercer, Mills, Robert Moore, Moseley, Jeremiah Nelson, H. Nelson, T. M. Nelson, Palmer, Parrott, Pawling, Pegram, Peter, Pindall, Pitkin, Pleasants, Reed, Rhea, Rice, Robertson, Ruggles, Schuyler, Sherwood, Silsbee, Simkins, Slocumb, J. S. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Walker of North Carolina, Westerlo, Whitman, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania—87.

The question was then taken on the resolution proposed by Mr. COBB, and decided in the negative, as follows:

YEAS—Messrs. Abbot, Adams, Allen, Austin, Ball, Bayley, Beecher, Bloomfield, Burwell, Cobb, Colston, Cook, Crawford, Culbreth, Cushman, Edwards, Ellicott, Fuller, Gilbert, Harrison, Herbert, Hopkinson, Huntington, Irving of N. Y., Johnson of Va., Lewis, Lincoln, Lowndes, W. Maclay, W. P. Maclay, Mason of Rhode Island, Mercer, Mills, Robert Moore, Moseley, J. Nelson, T. M. Nelson, Ogden, Pawling, Pegram, Pindall, Pitkin, Pleasants, Reed, Rice, Robertson, Ruggles, Schuyler, Sherwood, Silsbee, Simkins, Slocumb, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Strong, Stuart of Maryland, Terrell, Terry, Trimble, Tucker of Virginia, Tyler, Westerlo, Whitman, Williams of Connecticut, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania—70.

NAYS—Messrs. Anderson of Kentucky, Baldwin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bennett, Blount, Boden, Bryan, Butler of Louisiana, Campbell, Clagett, Comstock, Crafts, Cruger, Davidson, Desha, Drake, Ervin of South Carolina, Floyd, Folger, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, McLane of Delaware, McLean of Illinois, McCoy, Marchand, Marr, Mason of Massachusetts, Merrill, Middleton, Samuel Moore, Morton, Murray, H. Nelson, Nesbitt, New, Newton, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Peter, Poindexter, Porter, Quarles, Rhea, Rich, Richards, Ringgold, Rogers, Sampson, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, S. Smith, Bal. Smith, Alexander Smyth, Southard, Strother, Tarr, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Williams of New York—100.



TUESDAY, February 9.

Mr. HERBERT presented the memorial of the President and Directors of the Columbian Institute, praying that the President of the United States may be authorized to invest the said Institute with as much of the public reservations within the City of Washington, not exceeding five acres, as by him shall be deemed proper, for the purpose of erecting thereon a hall and other buildings and improvements, necessary for their accommodation.—Referred to the Committee for the District of Columbia.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill for the relief of Bartlett Still; which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to authorize the Secretary of War to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, in the State of Virginia; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Isaac Minis, and others; which was read twice, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. HUGH NELSON,

*Resolved*, That the Committee on the Judiciary inquire into the expediency of providing, by law, for vesting in the President of the United States a power to demand, from the Executives of the respective States, fugitives, who having committed offences against society, within the District of Columbia, or other territory subject to the jurisdiction of the United States, may have sought an asylum in any of the States of this Union; as also, power and authority to comply with the demand made by any of the Executives of the United States, for the delivery of fugitives, who, having committed offences against the laws of such State, may have sought an asylum in the said District of Columbia, or in any other territory over which the jurisdiction of the United States may extend.

A message from the Senate informed the House that the Senate have passed a bill of this House, entitled "An act to incorporate the Medical Society of the District of Columbia," with amendments. They have also passed bills of the following titles, to wit: "An act for the relief of Samuel Ward;" "An act, supplementary to an act, entitled an act further to amend the charter of the City of Washington;" "An act for the relief of John B. Timberlake;" and "An act for the relief of John A. Dix;" in which amendments and bills they ask the concurrence of this House.

Bills from the Senate of the following titles, to wit: An act for the relief of Samuel Ward; An act supplementary to the act, entitled an act further to amend the charter of the City of Washington; An act for the relief of John Clark; An act for the relief of John A. Dix; and, An

act for the relief of John B. Timberlake, were severally read the first and second time, and referred: the first to the Committee of Claims; the second to the Committee for the District of Columbia; the third to the Committee on the Public Lands; the fourth to the Committee on Military Affairs; and the fifth to the Committee on Naval Affairs.

On motion of Mr. WILLIAMS, of North Carolina, the House took up and proceeded to consider the resolution submitted by him on the 11th December, 1818, instructing the Committee on Military Affairs, to inquire into the expediency of reducing the army; and the said resolution being read was agreed to by the House.

An engrossed bill, entitled "An act to amend the act, entitled 'An act supplementary to the act, entitled an act to authorize the State of Tennessee to issue grants and perfect titles, to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,' passed the 18th of April, 1806," was read the third time and passed.

The amendments proposed by the Senate to the bill, entitled "An act to incorporate the Medical Society of the District of Columbia," were read and referred to the Committee on the District of Columbia.

## BANK OF THE UNITED STATES.

Mr. JOHNSON, of Virginia, submitted the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed April 10th, 1816.

Mr. JOHNSON said he had not submitted a proposition of so much importance, without considering all the consequences which were likely to result from it. He had looked at the state of the country; he knew the deep and great interests involved in the question; was aware that some embarrassments in the financial operations of Government would result; and that something would be said of the pledge of the public faith. But, after taking into view all these considerations, he thought it imposed on him, as a solemn duty, to make this proposition. What was public faith, Mr. J. asked, and what its best security? Whenever any person or body, either moral or political, shall presume to violate the laws of the country, let the corrective, exemplary punishment, be applied. This was its best security. The great banking corporation, which was to promote the great interests of the country, has, by its misconduct, completely defeated the objects of the community; and would not the public faith be best preserved by putting down this corporation, which has thus abused its powers, and committed such frauds as had been developed? Have we the power to put it down? This, said Mr. J., is the only question which could create a single doubt. Have we, who have created this charter a right to repeal it? Mr. J. said he had paid some attention to this subject, and the manner of proceeding in such cases in England. There

their corporations were somewhat differently constructed: there the King himself granted charters, and, when they were violated, he annulled them. Here the Legislature creates the charter, and it had as much right as any other tribunal to decide on a revocation of it. We, said Mr. J., have no more interest in this corporation than the Supreme Court, which it is said ought to decide the question between the bank and the nation. The House, he said, could meet it as free from prejudice, or any improper bias, as the Supreme Court. It appeared to him there was no choice for those members who believed the Constitution had been violated by this corporation, but to avail themselves of the earliest opportunity to free themselves from it and relieve the Constitution. Mr. J. concluded by saying his present object was to have his resolution referred to the Committee of the Whole to which the bank report had been referred.

Mr. SPENCER suggested the propriety of referring to the same Committee the resolution which he had laid on the table on Monday week, and the proposition made by Mr. TRIMBLE on the 19th ultimo to issue a *scire facias*. Mr. S. noticed briefly the remarks of Mr. JOHNSON. They were strong, he said, and impressive; but there were other considerations to be remembered. The immediate destruction of this bank, Mr. S. said, would bring in its consequences ruin to thousands upon thousands who had become its debtors; it would inflict a wound upon the public credit, and go far to tarnish the national faith abroad. The bank had loaned out the sum of thirty-eight millions of dollars. Could this sum be called in immediately, when there was, as it was stated, but seventeen millions of dollars in the whole Union? If called in, the State banks must pay all they owe, and must necessarily curtail their discounts, which were deemed, at a low estimate, to amount to one hundred and sixty millions. This, Mr. S. said, would operate on the borrowers from the United States Bank, and through them on those from the State banks. The great importance of this subject, Mr. S. said, and the great interest at stake, ought to make the House proceed with much circumspection. If the corporation conflicted with the Constitution, he was willing to go with gentlemen against it; but he hoped it would be seen that the Constitution might be preserved, without creating the scene of distress and ruin he had adverted to.

Mr. RICH was unwilling to sustain the proposition in any shape; because it was only creating useless alarm through the community, by holding out the idea that the bank was to be destroyed. For his part, Mr. R. said, he would never consent to proceed against the United States Bank in any manner until he could see the State banks conduct their affairs correctly, which he had yet to learn. He hoped the House would not consider the resolution.

Mr. LOWMEYER made a few remarks in favor of referring the resolution to the Committee of the Whole; for, whether the House was disposed to destroy an institution which, properly managed,

would be highly beneficial to the interests of the country, and had been productive of much good to the public, or whether it meant to sustain that institution, the question could be better deliberated on in a Committee of the whole House.

The resolution was then referred to the Committee of the Whole on the Bank report, as were also those of Mr. SPENCER and Mr. TRIMBLE, on their respective motions.

## GENERAL APPROPRIATION BILL.

The House then resolved into a Committee of the Whole on the bill making appropriations for the support of Government for the year 1819.

The Committee occupied some time in going through the provisions of this bill.

Amongst the motions in the course of the proceeding, the appropriation of fifty thousand dollars, for defraying the expenses of intercourse with foreign nations, was objected to by Mr. JOHNSON of Virginia, who moved to substitute twenty thousand for that object.

The motion was negatived, and the Committee proceeded with the remaining provisions of the bill, the whole of which were agreed to, with the exception of the appropriation for the Cumberland road, which was passed by for the present, to afford an opportunity for further consideration.

The item appropriating six thousand dollars to pay Colonel Trumbull for a painting of the Declaration of Independence, executed for the United States, under contract, in pursuance of an act of Congress, being under consideration—

An inquiry was made, by Mr. SPENCER, of the chairman of the Committee of Ways and Means, respecting the particulars of the contract with Colonel Trumbull, and the sums which had been paid him.

He was answered by Mr. SMITH, of Maryland, that eight hundred dollars had been paid to Colonel Trumbull at the time of executing the contract with the Secretary of State, and that the further sum of six thousand dollars was to be paid to him for each of the four paintings authorized by the act, on their delivery, respectively. The present appropriation was to pay for the first picture, the Declaration of Independence, which it was understood was now ready for delivery.

Mr. SPENCER proceeded then to inquire by what authority Colonel Trumbull had been perambulating the country with this painting, which he had executed for Congress, and exhibiting it for the trifling sum of twenty-five cents a head? This proceeding on the part of Colonel Trumbull Mr. S. highly disapproved; it was apeing the indecent custom of the English, who, in an avaricious spirit, exhibited the celebrated Swift in his idiocy for one shilling a head, and exposed the body of Nelson for the same sordid object. Mr. S. lamented that the representation of the Declaration of Independence, a subject so dignified, so sacred to American feelings, should have been thus hawked about the country, and treated so unworthily. If Colonel Trumbull was not



H. OF R.

General Appropriation Bill.

FEBRUARY, 1819.

allowed enough for his labor, give him more, said Mr. S., and do not leave him a pretext for seeking remuneration in this improper manner. To indicate his feelings on this subject, Mr. S. moved to strike out of the bill the proposed appropriation.

Mr. PITKIN said, in explanation, that he understood that when this painting was nearly completed, as it was known to contain many likenesses of the venerated Congress which declared Independence, there was a very great desire in different parts of the country to view the painting; and application had, in consequence, been made to the President for permission to carry it to some of the large cities to gratify public curiosity, and his consent had been obtained. Colonel Trumbull would not trust the painting in any other hands than his own, and he had therefore carried it himself and exhibited it under his own superintendence. In this Mr. P. thought Colonel Trumbull had done nothing improper. Colonel Trumbull had, Mr. P. further remarked, appropriated a part of the proceeds of the exhibition to public charities of the cities which he had visited.

Mr. SPENCER replied, that he had understood the President gave his permission that the picture should be shown for the purpose of ascertaining whether the likenesses were deemed correct; but not that it should be carried about and exposed for money. The exhibition, Mr. S. said, he had heard, had produced five thousand dollars in Boston, and he supposed more than six thousand in Philadelphia, and a proportionable sum in Baltimore, where it was now exhibiting. At any rate, as the payment for the painting was not to be made before the delivery, he should oppose the appropriation at this time. It would, in his opinion, be perfectly proper for the House to express its feelings by deferring the appropriation until the next year.

Mr. SMITH, of Maryland, observed that the picture reached Baltimore some days ago, on its way here; and he knew that Colonel Trumbull had been making preparations for transporting it hither—it might indeed have already arrived, and, if not paid for on delivery, it would be a violation of the contract. It was certainly proper to provide the means of paying for it now, though payment would not be made before delivery.

Mr. LOWNDES confessed that he concurred very much in opinion with Mr. SPENCER, as to the exhibition of the painting. He regretted extremely that it should have been thus used by Colonel Trumbull. But, Mr. L. said, if the other party had acted incorrectly, it was no reason that the Government should not comply with its contract. Whether Colonel Trumbull had done wrong or not, the painting, it was stipulated, should be paid for when delivered, and this could not be done unless the money should be previously appropriated. While the obligation existed, the House must comply with it, and whatever his feelings might be respecting the

proceeding adverted to, he could not consent to withhold the appropriation.

Mr. HARRISON said, he approved of the course pursued by Colonel Trumbull, in gratifying, as far as he was able, the public curiosity; and regretted that the painting could not be exhibited in every part of the country, that all might view it. It was, he thought, a very proper use for the painting. At any rate, it was no reason for withholding the appropriation, that it had been exhibited for public inspection. The President certainly would not have sanctioned an improper exhibition of the painting, and it was reasonable to conclude, as it was with his consent, that it had been exhibited in an unobjectionable manner.

Mr. MILLS concurred in opinion with Mr. HARRISON. The object of the painting was to commemorate one of the greatest events in all history—an event, above all, dear to the people of this country. And was this representation of it executed for the benefit or gratification of this House, or of Congress, alone? Had the public no right to be gratified with a view of what the National Legislature had thought it worthy to expend the public money for? If so, could it be expected that the people could all come here to see it? It was a subject in which all were interested, and in which all had an equal right. In giving, as far he could, an opportunity to distant citizens to view this interesting work, Colonel Trumbull could not undertake to do so at his own expense, he was obliged to resort to some mode of defraying the expense. Mr. M. denied that any harm would ensue from what Colonel Trumbull had done—the painting was not injured—none of its beauties impaired; and, indeed, what he had done was in itself laudable. Mr. M. said, he was not so selfish as to regret the exhibition, or to consider the painting of less value, because it had been looked at by his fellow-citizens in other parts of the country. The appropriation was necessary now, even if the picture should not be delivered in six months; and, therefore, in any view, should not be withheld.

Mr. LIVERMORE said, the House was called on to fulfil a contract entered into by the United States, and there was no discretion in the case, even though the contract was an extraordinary one, and certainly that was an extraordinary contract which bargained for a picture by the yard or by the acre. Mr. L. said, if this were not a matter of contract, he should be very slow in making such an appropriation. It had been said that the President had given his permission for the exhibition of the painting, but that appeared to be mere hearsay. What he found fault with, Mr. L. said, was this—that the contract was made by the public for this picture, and that the people should afterwards be required to pay for seeing it. If it had been shown for nothing, he would have had no objection to it—but it was not right that the people should pay for the work collectively, and then be made to pay individually for seeing it. In what he said, Mr. L. disclaimed

FEBRUARY, 1819.

Proceedings.

H. OF R.

any disrespect towards Colonel Trumbull, which was far from his feeling and from his intention.

Mr. TERRY vindicated the conduct of Colonel Trumbull, and said he had it from Colonel Trumbull himself, that the President gave the permission, and therefore it could not be doubted. Colonel Trumbull had, Mr. T. remarked, spent many years of his life in England, where it was the custom thus to exhibit great paintings, whether executed for the Government or others, before they were delivered; an instance of which might be mentioned in the great painting of the destruction of the Spanish flotilla, executed by our countryman Copley, for the Government, which was exhibited in London by permission. Colonel Trumbull had not conceived there could be any impropriety in showing his work to his countrymen, and, had he foreseen the objections which were now made to it, he would not have done it; though it was, no doubt, as much to gratify the public curiosity, as from any other motive. If the House chose to deny to him this privilege in future, they could say so, but what had been done was no reason for refusing to fulfil the contract with Colonel Trumbull.

Mr. SPENCER had not denied that the permission of the President had been given for the exhibition of the painting; but, if he had authorized it to be exposed for money, then, Mr. S. said, the remarks which he had applied to Colonel Trumbull on this occasion, he should have to transfer to another person. As to the charity which had been mentioned, the fact, Mr. S. said, was this: After the picture had been exhibited in New York until the public curiosity was satiated, it was shown, on the last day of exhibition, for the benefit of the charitable institutions.

Mr. TAYLOR, of New York, said, the sum required for these paintings was certainly far greater than was supposed at the time of passing the law. He believed it was then considered that what was authorized, would give to Colonel Trumbull about two thousand dollars a year while engaged in executing the paintings, and that eight thousand dollars would defray the whole expense; but it now appeared that the paintings would cost in all thirty-two thousand dollars. As to the exhibition, the painting did not belong to Congress until it was delivered; and in the mean time, Colonel Trumbull could use it as he pleased. But Mr. T. denied that the President had any right to give permission for its exhibition. It was the property of Congress, not of the Executive, and the permission, if given, was improper. While he considered it proper to express the opinion that the cost was much more than was originally contemplated, yet the appropriation ought not to be withheld now the contract was made.

Mr. STORRS spoke of the merits of the painting, and said, the very fact that he had received five thousand dollars in one town alone, for its exhibition, proved that it was worth more to Colonel Trumbull than Congress were to pay him for it; and, if the House chose to disavow the contract, Colonel Trumbull would, he had no

doubt, be glad of it, as he could derive double the emolument from the painting by keeping it, or even by selling it elsewhere. Respecting Mr. SPENCER's motion, Mr. S. said, it could do no harm to make the appropriation, as Colonel Trumbull would not get the money until the painting was delivered.

The question was then taken on striking out the appropriation, and decided in the negative—ayes 22.

The Committee having risen, and reported progress, the House adjourned.

WEDNESDAY, February 10.

Mr. HERBERT, from the Committee on the District of Columbia, to which was referred the bill from the Senate, entitled "An act further to amend the charter of the City of Washington," reported the same without amendment, and the bill was ordered to be read a third time to-morrow.

Mr. HERBERT, from the same committee, to which was referred the amendments proposed by the Senate to bills of this House, of the following titles, to wit: "An act to incorporate the Provident Association of Clerks, in the Civil Department of the Government of the United States, in the District of Columbia;" and "An act to incorporate the Medical Society of the District of Columbia," reported their agreement thereto. The said amendments were then severally read and concurred in by the House.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, reported a bill to alter and establish certain post roads; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. HOLMES submitted a joint resolution, to authorize the transmission of the documents accompanying the report of the committee to examine into the proceedings of the Bank of the United States, free of postage; which was read twice and ordered to be engrossed and read a third time to-day. The resolution was then read a third time, and passed.

Mr. HUBBARD submitted the following resolution, accompanied with documents:

*Resolved*, That the Committee on Pensions and Revolutionary Claims be instructed to inquire into the expediency of placing Isaac Stebbins on the roll of invalid pensioners.

The resolution was read and referred to the Committee of the Whole, to which is committed the bill concerning invalid pensioners.

The Committee of the Whole, to which is committed the bill for the relief of Joseph Wheaton, were discharged from the consideration thereof, and it was ordered to be engrossed and read a third time to-morrow.

The Committee of the Whole, to which is committed the bill from the Senate, entitled "An act to increase the salaries of certain officers of Government," were discharged, and it was committed to the Committee of the Whole to which



H. OF R.

General Appropriation Bill.

FEBRUARY, 1819.

is committed the bill making appropriations for the support of Government for the year 1819.

The Committee on Roads and Canals were discharged from the further consideration of the resolution submitted by Mr. PINDALL, on the 24th December last, instructing them to inquire into the expediency of completing the road from Cumberland to Wheeling, and the resolution was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act providing for a grant of land, for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State;" "An act confirming Anthony Cavalier and Peter Petit, in their claim to a tract of land;" and "An act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation;" in which bills they ask the concurrence of this House.

An act providing for a grant of land, for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; an act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation; an act confirming Anthony Cavalier and Peter Petit, in their claim to a tract of land, were severally read twice, and referred, the first and second to the Committee on the Public Lands, and the third to the Committee on Private Land Claims.

Engrossed bills of the following titles, to wit: An act to authorize the Secretary of War, to convey a lot or parcel of land belonging to the United States, lying in Jefferson county, Virginia; and, an act for the relief of Isaac Minis and others, were severally read the third time and passed.

## GENERAL APPROPRIATION BILL.

The House then resolved itself into a Committee of the Whole, on the general appropriation bill for 1819.

The appropriation contained in the bill of \$250,000 for the payment of moneys due and becoming due on existing contracts for completing the road from Cumberland, in Maryland, to the State of Ohio, with the amendment of Mr. CLAY to add an appropriation of \$285,000 for the completion of said road, gave rise to much debate.

Mr. SMITH of Maryland, Mr. CLAY, Mr. PINDALL, Mr. BECHER, and Mr. PITKIN, spoke in favor of the appropriation; Mr. JOHNSON, of Virginia, against any appropriation for this object; Mr. BALDWIN against the latter appropriation; and Mr. TALLMADGE against the appropriation—on the ground of imputed misapplication of the money.

Mr. JOHNSON, of Virginia, moved to strike out of the bill the clause appropriating \$250,000 for present contracts; which motion was negatived.

Mr. CLAY moved to insert an additional appro-

priation of \$285,000 for the completion of the road; which was agreed to by the following vote: For the additional appropriation 66, against it 61.

The Committee then proceeded to the consideration of the bill from the Senate, referred to the same Committee, to increase the salaries of certain officers of the Government—(to give the Heads of Departments salaries of \$6,000 each, the Postmaster \$4,000, and the Attorney General \$3,500.)

Mr. HOPKINSON moved to amend this bill so as to give to the Chief Justice of the United States \$5,000 per annum, and to the circuit judges \$4,500 per annum.

After debate, this motion was agreed to—69 to 57.

Mr. WHITMAN moved an amendment to increase the salaries of the two Assistant Postmasters General, from \$1,800 to \$2,500 per annum; which was negatived.

Mr. RICH moved to reduce the proposed salaries of the Heads of Departments from \$6,000 to \$5,500; which motion was negatived by a considerable majority.

When the Committee was about to rise—

Mr. CLAY rose, and said, that it had been his settled intention to renew, pending this bill, the proposition which he had had the honor of submitting at the last session, having for its object the recognition of the independence of the United Provinces of South America. He was restrained from executing that intention by two considerations: one was his personal indisposition, but another and a more important one was the small portion of the session yet remaining to transact the public business. Whilst he was up, he would say, that so far from his opinions expressed on the former occasion having undergone any change, they had been strengthened and confirmed by all the occurrences which had subsequently taken place. He had been anxious, if time had permitted, to examine what appeared to him very exceptionable reasons assigned for declining to recognise our sister Republic, in a paper entitled to the most profound respect—the Message of the President at the opening of the Congress. He was desirous also of noticing the still more exceptionable grounds taken in a paper recently transmitted to the House from the Department of State. (It ought to be laid upon our table; why it was not, he did not know. He hoped our worthy Clerk would, in his future contract for the public printing, guard against the delay to which we have been so often subjected.) From that paper it appeared that even a Consul could not be received from the Southern Republic, because the grant of an exequatur implied recognition. We receive her flag, we admit her commerce, and yet refuse the Consular protection which that flag and commerce necessarily drew with them! But to submit his proposition would be to occasion perhaps a protracted debate. And considering the few days yet left us; the pressing and urgent though not more important business yet to be done; he should hold himself inexcusable to the House and to the country, after

having himself so greatly contributed to the consumption of time in debate, if he were even the unintentional instrument of preventing the passage of what might be thought essential laws. He would like exceedingly to contrast the objections urged against the reception of the Venezuelan Minister with the more forcible and stronger ones that lay to the reception of the present Spanish Minister. But, deep as was the interest which he heretofore had felt, and still felt, in the success of the great struggle to the South, he must, for the reasons assigned, forbear to press any proposition upon the House at present.—Should it be necessary at another session, and should he have the honor of a seat on this floor then, he pledged himself to bring up the subject, unless adverse causes should render it highly inexpedient.

FEBRUARY, 1819.

General Appropriation Bill.

H. OF R.

The engrossed bill for the relief of Joseph Wheaton was read a third time, and passed.

GENERAL APPROPRIATION BILL.

The House took up and proceeded to consider the amendments reported by the Committee of the Whole, to the bill making appropriations for the support of Government for the year 1819.

The first question was, on concurring in the amendment which proposed to insert the following item: "For completing the United States road from Cumberland, in Maryland, to the Ohio river, \$285,000."

Mr. BASSETT spoke at some length against this appropriation.

Mr. TAYLOR, after supporting his motion by several arguments, proposed to add the following amendment:

"To be repaid out of the fund reserved for laying out and making roads to the State of Ohio, by virtue of the act, entitled 'An act to enable the people of the eastern division of the Territory Northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes.'"

THURSDAY, February 11.

A new member, to wit: from North Carolina, CHARLES FISHER, elected to supply the vacancy occasioned by the death of George Mumford, appeared, produced his credentials, was qualified, and took his seat.

Mr. POINDEXTER presented a petition of the Legislature of the State of Mississippi, praying that a port of entry may be established on Pearl river, as near as may be to the mouth of the same.—Referred to the Committee of Commerce and Manufactures.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, to which was referred the bill from the Senate, entitled "An act for the relief of John A. Dix," reported the same without amendment, and it was ordered to be committed to a Committee of the Whole to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act more effectually to provide for the punishment of certain crimes, and for other purposes," in which they ask the concurrence of this House.

The bill was read twice, and referred to the Committee on the Judiciary.

On motion of Mr. WILLIAMS, of North Carolina, the Committee on Military Affairs were discharged from the further consideration of the resolution submitted by him some days ago, directing an inquiry into the expediency of reducing the Army of the United States.

Mr. W. stated that he made this proposition with the view of moving to-morrow to instruct the Military Committee to bring in a bill to reduce the Army, on which motion the sense of the House could be ascertained; and while the House was engaged on the Bank subject, the committee could be preparing the bill, if they should be so instructed.

The bill from the Senate supplemental to the act further to amend the charter of the City of Washington, was read the third time, and passed.

The engrossed bill for the relief of Joseph Wheaton was read a third time, and passed.

## GENERAL APPROPRIATION BILL.

The House took up and proceeded to consider the amendments reported by the Committee of the Whole, to the bill making appropriations for the support of Government for the year 1819.

The first question was, on concurring in the amendment which proposed to insert the following item: "For completing the United States road from Cumberland, in Maryland, to the Ohio river, \$285,000."

Mr. BASSETT spoke at some length against this appropriation.

Mr. TAYLOR, after supporting his motion by several arguments, proposed to add the following amendment:

"To be repaid out of the fund reserved for laying out and making roads to the State of Ohio, by virtue of the act, entitled 'An act to enable the people of the eastern division of the Territory Northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes.'"

The amendment was opposed by Messrs. TUCKER, of Pennsylvania, STORRS, and SPENCER, and supported by the mover and by Mr. ANDERSON; all of whom went incidentally somewhat into the general question of the appropriation.

The amendment was finally agreed to; and the question was then taken on agreeing to the amendment reported by the Committee of the Whole, as amended, and decided in the affirmative—yeas 82, nays 71, as follows:

YEAS—Messrs. Abbot, Anderson of Kentucky, Barber of Ohio, Bayley, Beecher, Bloomfield, Campbell, Colston, Crawford, Cruger, Cushman, Davidson, Desha, Drake, Fuller, Gilbert, Hall of Delaware, Harrison, Hendricks, Herbert, Herrick, Hitchcock, Holmes, Hostetter, Hubbard, Hunter, Johnson of Kentucky, Jones, Kinsey, Lincoln, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, Mason of Massachusetts, Mercer, Middleton, Mills, Samuel Moore, Moseley, Murray, Jeremiah Nelson, Nesbitt, New, Newton, Ogden, Parrott, Patterson, Pindall, Poindexter, Porter, Quarles, Reed, Rice, Rich, Ringgold, Robertson, Ruggles, Schuyler, Seybert, Sherwood, Silsbee, Simkins, S. Smith, B. Smith, Speed, Storrs, Strother, Stuart of Maryland, Tarr, Taylor, Terrell, Terry, Trimble, Tucker of Virginia, Upham, Walker of Kentucky, Wallace, Westerlo, and Whitman.

NAYS—Messrs. Adams, Anderson of Pennsylvania, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bennett, Blount, Boden, Burwell, Clagett, Comstock, Cook, Crafts, Darlington, Edwards, Ellicott, Fisher, Floyd, Garnett, Hale, Hall of North Carolina, Harbrouck, Herkimer, Heister, Hogg, Hopkinson, Huntington, Irving of New York, Johnson of Virginia, Kirtland, Lawyer, W. Maclay, McCoy, Marchand, Mason of Rhode Island, Merrill, Robert Moore, Morton, H. Nelson, Orr, Palmer, Pawling, Pogram, Pitkin, Rhea, Richards, Rogers, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Slocumb, J. S. Smith, Southard, Spencer, Stewart of North Carolina, Tallmadge,



H. OF R.

Proceedings.

FEBRUARY, 1819.

Tompkins, Townsend, Tucker of South Carolina, Tyler, Wendover, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

Mr. TAYLOR then moved the same amendment, to come in after the appropriation of \$250,000, for discharging claims due and becoming due under existing contracts for making said road; which was agreed to *nem. con.*

Mr. JOHNSON, of Virginia, then offered an amendment, which, after some discussion, in which Mr. J. supported, and Messrs. SMITH, of Maryland, and LOWNDES, made some remarks, principally explanatory, was agreed to, as follows:

"For a deficiency in the appropriations of former years for the payment of expenses on foreign intercourse, including losses on drafts and the difference of exchange, \$25,000."

This item, as it originally stood in the bill, read—"For a deficiency in the appropriation for the year 1818, for contingent expenses of said missions, (Rio Janeiro, Madrid, London, Hague, and Stockholm,) \$25,000."

Mr. TERRELL moved to amend the bill so as to increase the appropriation for the clerks in the office of the Surgeon General from \$1,150 to \$2,150.

This motion gave rise also to some debate, and was finally negatived, without a division.

Mr. JOHNSON, of Virginia, moved to reduce the contingent appropriation for defraying the expenses attending intercourse with foreign nations (generally called the secret service fund) from \$50,000 to \$30,000; which motion Mr. J. supported at some length, and was replied to by Messrs. SMITH, of Maryland, and LOWNDES, and was finally agreed to—ayes 70, noes 54.

After some inquiry by Mr. STROTHER into the appropriation for defraying the expenses of commissioners, &c., for running the boundary under the Treaty of Ghent, the probable duration of this service, &c., and reply by Mr. SMITH, of Maryland, the bill was ordered to be engrossed for a third reading; and

The House proceeded to the consideration of the amendment reported by the Committee of the Whole of the bill to increase the salaries of certain officers of the Government, viz., to increase also the compensation of the Chief Justice and Judges of the Supreme Court.

Considerable debate again took place on this amendment, in which Messrs. HOLMES, HOPKINSON, LIVERMORE, and MILLS, participated.

The amendment was finally concurred in by a large majority.

Mr. STROTHER then moved the indefinite postponement of the bill; which motion he supported in a speech of considerable length against the bill, and was replied to briefly by Mr. JOHNSON, of Kentucky; when

The question was taken on postponing the bill indefinitely, and decided in the negative—ayes 59, noes 93, as follows:

YEAS—Messrs. Austin, Ball, Barbour of Virginia,

Bateman, Bayley, Bennett, Burwell, Campbell, Cook, Crafts, Culbreth, Davidson, Desha, Edwards, Folger, Garnett, Hall of North Carolina, Hasbrouck, Herkimer, Herrick, Hogg, Hunter, Huntington, Johnson of Virginia, Linn, McLean of Illinois, W. Maclay, W. P. Maclay, McCoy, Merrill, Robert Moore, Morton, Murray, H. Nelson, Patterson, Pegram, Richards, Rogers, Sampson, Savage, Sawyer, Scudder, Settle, Shaw, Slocumb, Ballard Smith, J. S. Smith, Southard, Speed, Stewart of North Carolina, Strother, Tarr, Tompkins, Townsend, Tucker of South Carolina, Tyler, Walker of Kentucky, Williams of New York, and Williams of North Carolina.

NAYS—Messrs. Abbot, Adams, Allen, Baldwin, Barber of Ohio, Bassett, Beecher, Bloomfield, Butler of Louisiana, Clagett, Cobb, Colston, Comstock, Crawford, Cruger, Cushman, Darlington, Earle, Ellicott, Ervin of South Carolina, Fisher, Floyd, Fuller, Gage, Hale, Hall of Delaware, Harrison, Herbert, Hitchcock, Holmes, Hopkinson, Hostetter, Hubbard, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lincoln, Little, Livermore, Lowndes, McLane of Delaware, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Samuel Moore, Moseley, Jeremiah Nelson, Nesbitt, Ogden, Orr, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Porter, Reed, Rhea, Rice, Rich, Ringgold, Robertson, Ruggles, Schuyler, Sergeant, Seybert, Sherwood, Silsbee, Simkins, S. Smith, Spencer, Storrs, Tallmadge, Taylor, Terrell, Terry, Tucker of Virginia, Upham, Wallace, Wendover, Westerlo, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

Mr. WHITMAN then renewed the motion which he had made in Committee of the Whole, to increase the salaries of the Assistant Postmasters General to \$2,500, and supported his motion by reference to sundry facts to prove its necessity. The motion was agreed to; and,

After an unsuccessful motion by Mr. J. S. SMITH to recommit the bill, for the purpose of increasing the salaries of the district judges, the bill was ordered to be engrossed, and the House adjourned.

FRIDAY, February 12.

Mr. TAYLOR, from the Committee of Revision and Unfinished Business, reported a bill concerning the allowance of pensions upon a relinquishment of bounty lands; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. POINDEXTER, from the Committee on the Public Lands, reported a bill for the relief of Henry Batman; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. P., from the same committee, to which was referred bills from the Senate of the following titles, to wit: "An act providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State;" "An act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of

FEBRUARY, 1819.

Banks—District of Columbia.

H. OF R.

March, 1817, to certain chiefs, warriors, or other Indians of the Creek nation;" "An act for the relief of John Clark;" and "An act for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans," reported the said bills without amendment.

The three first mentioned of the said bills were ordered to be read a third time to-morrow, and the latter to lie on the table.

The Committee of Claims were discharged from the further consideration of the bill from the Senate, entitled "An act for the relief of Samuel Ward;" and it was referred to the Committee on Pensions and Revolutionary Claims.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, reported a bill freeing from postage, letters, and packets to and from certain officers of Agricultural Societies; which was read twice, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act for the relief of Daniel Pettibone;" and "An act making appropriations to carry into effect, treaties concluded with several Indian tribes therein mentioned;" in which bills they ask the concurrence of this House.

The bill from the Senate, entitled "An act for the relief of Daniel Pettibone," was read twice, and referred to Messrs. FOLGER, SERGEANT, and SEYBERT.

The bill from the Senate, entitled "An act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned," was read twice, and referred to the Committee of Ways and Means.

The House took up for consideration the report made by the Committee of Ways and Means during the last session, on the expediency of authorizing the President of the United States to distribute an additional sum among the assessors of the United States. Whereupon,

On motion of Mr. BARBOUR, of Virginia, the report was recommitted to the Committee of Ways and Means, with instructions to inquire into the expediency of preparing and reporting a bill allowing compensation to those Assessors who, under the act of August 2, 1813, commenced the duties prescribed therein, and were prevented from proceeding by reason of the State to which their assessment district belonged assuming its quota of the direct tax.

On motion of Mr. POINDEXTER, a committee was appointed, jointly, with such committee as may be appointed by the Senate, to inquire what subjects before the two Houses it will be proper to act on during the present session of Congress; and Messrs. POINDEXTER, BASSETT, PITKIN, TAYLOR, and HOLMES, were appointed on the part of this House.

An engrossed bill, entitled "An act making appropriations for the support of Government, for the year 1819," was read the third time, and passed.

The bill from the Senate, entitled "An act to increase the salaries of certain officers of Government," was read the third time, and passed.

15th CON. 2d SESS.—37

ment," was read the third time as amended; and on the question, Shall it pass? it was determined in the affirmative—ayes 76, noes 56, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Anderson of Kentucky, Barber of Ohio, Bassett, Beecher, Blount, Butler of Louisiana, Clagett, Cobb, Colston, Comstock, Cruger, Cushman, Darlington, Davidson, Ellicott, Fisher, Floyd, Fuller, Hale, Hall of Delaware, Herbert, Hitchcock, Holmes, Hopkinson, Hubbard, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Lincoln, Little, Livermore, McLean of Delaware, Mason of Massachusetts, Mercer, Middleton, Mills, Moseley, Jeremiah Nelson, Nesbitt, Newton, Ogden, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Quarles, Rhea, Rice, Rich, Ringgold, Robertson, Ruggles, Schuyler, Seybert, Sherwood, Silsbee, Simkins, S. Smith, Alexander Smyth, Spencer, Storrs, Stewart of Maryland, Taylor, Terry, Wendover, Westerlo, Whitman, Wilkin, Williams of Connecticut, and Wilson of Massachusetts.

NAYS—Messrs. Austin, Ball, Barbour of Virginia, Bateman, Bayley, Bennett, Boden, Burwell, Campbell, Cook, Crafts, Culbreth, Desha, Edwards, Garnett, Gilbert, Hall of North Carolina, Hendricks, Herkimer, Herrick, Huntington, Johnson of Virginia, Linn, McLean of Illinois, W. Maclay, W. P. Maclay, McCoy, Marchand, Merrill, Robert Moore, Samuel Moore, Morton, H. Nelson, Patterson, Pegram, Richards, Rogers, Sampson, Savage, Scudder, Settle, Shaw, Bal. Smith, Southard, Stewart of North Carolina, Strother, Tarr, Tompkins, Tucker of South Carolina, Tyler, Walker of North Carolina, Wallace, Whiteside, Williams of New York, Williams of N. Carolina, and Wilson of Pennsylvania.

## BANKS—DISTRICT OF COLUMBIA.

Mr. HERBERT, from the Committee on the District of Columbia, reported a bill concerning the banks of the District of Columbia. [Providing for the consolidation of the several banks of the District into two in each town, viz: in the City of Washington, under the denomination of the Bank of Washington and the Bank of the Metropolis; in Georgetown, under the denomination of the Bank of Columbia and the Bank of Georgetown; and in Alexandria, under the denomination of the Bank of Alexandria and the Bank of Potomac—each with a capital of one million of dollars; the remaining present banks to be merged in those above named, if they shall think proper, as follows: The Patriotic Bank, to subscribe its capital in the Bank of Washington; the Union Bank, the Farmers and Mechanics' Bank, and the Central Bank of Georgetown, to subscribe their capitals in the new Bank of Georgetown; the Bank of Alexandria, the Mechanics' Bank, and the Union Bank of Alexandria, to subscribe their capitals in the new Bank of Alexandria; and the Franklin Bank to subscribe its capital to the Bank of Potomac; the said subscriptions to be made on or before the first Monday in July, in the books to be opened for that purpose. The banks created by this act, to subscribe, on their organization, six per cent. on the capitals paid in for constructing turnpike roads connected with the District.]

The bill was twice read, and laid on the table.



H. OF R.

Reduction of the Army.

FEBRUARY, 1819.

## REDUCTION OF THE ARMY.

Mr. WILLIAMS, of North Carolina, agreeably to the intimation which he gave yesterday, submitted the following resolution:

*Resolved*, That the Military Peace Establishment of the United States shall consist of such proportions of artillery, infantry, and riflemen, not exceeding, in the whole, six thousand men, as the President of the United States shall judge proper; and that the Committee on Military Affairs be instructed to report a bill for that purpose.

Mr. WILLIAMS supported his proposition in a speech of nearly two hours in length.

Mr. HARRISON, of Ohio, replied, and spoke also at considerable length against the proposition to reduce the Army. When he had concluded,

Mr. SIMKINS, of South Carolina, intimating a wish to offer his opinions on the question, which the lateness of the hour opposed to-day, moved an adjournment; which motion was agreed to; and the House adjourned.

SATURDAY, February 13.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act supplementary to the acts concerning the coasting trade;" and "An act to erect an equestrian statue of General Washington in the Capitol square;" in which they ask the concurrence of this House.

Engrossed bills of the following titles, to wit: An act concerning the allowance of pensions upon a relinquishment of bounty lands, and An act for the relief of Henry Batman, were severally read the third time, and passed.

Bills from the Senate, of the following titles, to wit: An act for the relief of John Clark; An act providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State; and An act authorizing the President of the United States to purchase the lands reserved by the act of the 3d of March, 1817, to certain chiefs and warriors or other Indians of the Creek nation, were severally read the third time, and passed.

The bill from the Senate entitled "An act supplementary to the acts concerning the coasting trade," was read twice, and referred to the Committee of Ways and Means.

The bill from the Senate, entitled "An act to erect an equestrian statue of General Washington in the Capitol square," was read twice, and committed to a Committee of the Whole on Monday next.

On motion of Mr. JOHNSON, of Virginia, the Secretary of the Treasury was requested to communicate to this House a statement of the moneys, and the amount transferred by the Bank of the United States, for the use or accommodation of the Government or its agents, to any place or places where an equal amount of public money had not been previously received by the said bank or its branches.

## REDUCTION OF THE ARMY.

The House then proceeded again to the consideration of the resolution offered by Mr. WILLIAMS, of North Carolina, to reduce the Army of the United States.

Mr. J. S. SMITH, of North Carolina, moved to amend the resolution by adding thereto the following:

*Resolved*, That the act or acts of Congress authorizing the appointment of two Major Generals be repealed, and that the office of Major General, in the military peace establishment of the United States, be dispensed with.

*Resolved*, That the residue of the staff of the Army of the United States be reduced to one half of the present number of officers, or as nearly so as the nature of the case will admit of.

The amendment was accepted by Mr. WILLIAMS as a part of his motion.

Mr. SIMKINS spoke as follows:

Mr. Speaker, I am not insensible of the obligation I owe this House, in adjourning yesterday for the purpose of giving myself, as well as others, an opportunity of deliberating and delivering our sentiments, on the very important resolutions before the House; and I am equally sensible, that, in moving the adjournment, I assumed a responsibility always disagreeable to a young member, and which I cannot discharge either by the ability I possess, or the information I shall have to communicate on the subject.

If a man, acquainted with the defenceless state of this country, some ten or fifteen years ago, and with its consequences at the beginning of the late war, should have been ushered into this House at the time these resolutions, to reduce the Army from ten to six thousand men, were submitted by the gentleman from North Carolina. (Mr. WILLIAMS,) he would very naturally presume that our frontier, both inland and maritime, had been much lessened; that the number of military posts established for the public defence had been greatly diminished; and, above all, he would take it for granted, that Congress, whose duty it is to provide for the common defence, had, by the wisest, and most salutary laws, so armed, disciplined, organized, and equipped the whole body of the militia, as to have made them prompt, efficient, and energetic. But, what utter astonishment must he have felt, when he should be informed, that, so far from our territory being reduced, it had been greatly extended; that, so far from the number of military garrisons, fortifications, and posts being lessened, it had been found indispensably necessary to have them greatly increased; and that, so far from there being a well-armed, organized, and disciplined militia, that many of the States, upon a requisition made upon them by the Secretary of War, in conformity with a resolution of Congress, could not render even a vague account of the number of men fit for duty; that, so far from a uniform and efficient militia, fit for war, there was a relaxation so great, that scarcely a single branch of military duty was attended to! It would be still more astonishing, to

FEBRUARY, 1819.

Reduction of the Army.

H. OF R.

find that all the lessons of preparation and defence, so powerfully and awfully impressed upon us at the beginning of the last war, which caused so many millions to be wasted, and our blood so freely to flow, had been nearly lost to the nation, and about to be forgotten by Congress! Yes, I repeat it, forgotten by that Congress whose great and responsible duty it is "to provide for the common defence, and promote the general welfare" of the country.

From this view, Mr. Speaker, it does seem most evident to me, that this period, of all others, is the most adverse, the most unfortunate, and the most unwise, to move for a reduction of our army.

But the gentleman from North Carolina (Mr. WILLIAMS) insists upon it, that nations, like individuals, should not be prodigal in expenditure; and he intimates that there has been, and is now, a most ruinous, extravagant, and abusive disbursement of the public money, on our army. If this is true, if, indeed, there is this abuse, of which I have as yet heard no proofs, I, for one, would institute an inquiry, so full and prompt as to exact the most rigid accountability, and enforce the most efficient and complete system of economy. No one more thoroughly condemns a waste of public money than myself. Indeed, nothing can be more true than that a waste of money is a waste of the morality of the country; and, upon a due and proper accountability of your officers, greatly depends, not only the correct and pure administration of the Government, but even the existence of liberty itself. I would, therefore, never consent to tax the people to indulge the extravagance or pamper the pride of any set of men.

But, is the gentleman from North Carolina quite sure that he is pursuing the direct road to economy? It is much to be doubted whether his plan will not be by far the most expensive in the end. It is true he speaks very handsomely of the economy of Mr. Jefferson's administration; which he says is now going out of fashion, and almost forgotten, so much so, that the word economy is rarely used in this House. He also tells us, that, in the true spirit of economy, Mr. Jefferson disbanded, or greatly reduced, the Army. Yes, Mr. Speaker, he did; I acknowledge it; but has this turned out to be real economy? No, not so. I am, and always have been, an enthusiastic admirer of many traits in the character of that statesman, philosopher, and benefactor; but, permit me to say, that some measures of his administration have proved the most expensive to the nation. Subsequent experience has evinced it, and candor constrains me to confess and declare it. Let us for a single moment advert to that crisis. This distinguished friend to man came into the Government under the auspices of that great and mighty Republican party which had opposed the measures of Mr. Adams with the most perfect integrity, but with great feeling and violence. It was most natural that a thorough and sincere hatred for, and prejudice against, all Mr. Adams's principal acts, should be felt by those in power. It so happens, that parties, strongly

opposed to each other, rarely stop at the proper point; and it followed, that a standing army, a navy, and other measures, were exceedingly unpopular, principally because Mr. Adams and his friends had vindicated, and had wished to swell them, as we thought, to an improper size, with improper views, and for improper purposes. Hence, there was so great an antipathy to anything like a standing army, among other things, that it was reduced below the proper standard, and a general relaxation in organization and discipline ensued. This, Mr. Speaker, was not the true policy of the country; but so ardent an admirer was I, with the great body of the people, of Mr. Jefferson's measures, that I vindicated, not only the reduction of the Army, to the lowest point, but I followed him most devotedly in his gunboat system, his plan for reducing an unjust nation to terms, by embargoes and restrictions. Indeed, his idea of obtaining and securing our rights, by an appeal to the justice and moral feeling of foreign nations, was also adopted. But what enlightened American, at this day, thinks that an improper reduction of the Army, the gunboat, or embargo systems, were prudent or economical? The effects of the late war have proved, beyond all possible question, that a lofty, dignified, national character, impressed and won by the unprecedented valor of your Army, and the thunder of your naval cannon, is of more real importance to us, in preserving peace and advancing our prosperity, than all the embargoes and restrictions; than all the appeals to national justice, and all the treaties and paper stipulations which the world could produce.

Will it be supposed, by any honorable member of this House, that I would depreciate the fair fame, or dim the steady lustre, which irradiates the brow of the distinguished Jefferson? I hope not. The main scope of his administration is approved; but that there were some errors into which he, and the most of us, fell with him, it would be uncandid and unjust to deny. These should not now have been mentioned but to warn the House against them, to show that they are closely connected with the subject now before us, and to demonstrate that the honorable gentleman from North Carolina, under the specious name of economy, would plunge the nation, in this view, into the same unwise policy.\*

\* The true and rational grounds of the opposition to Mr. Adams's administration, were the following, viz: The obvious predilection of the party who supported him, for Great Britain. The great desire that was entertained to assimilate our Government as nearly as possible to her's; and the abuse of France and praise of Great Britain, whenever they came in contact. The Republicans did not so much oppose a navy, or a standing army of a reasonable size, in themselves considered, but because they were to be swelled to an improper size, all at once, not alone for national defence, but for war, against a Power which had given us no sufficient cause of war. As connected with this unnatural animosity to France, the Republicans opposed an unconstitutional sedition law, and an alien



The gentleman says, that those were the halcyon days of economy, peace, and prosperity. Let him remember that the calm was in some measure deepitful—that a storm was then gathering, and which, in spite of all the soothing palliatives which could be applied, did contrive to gather, and lower, and threaten, till it burst upon us, with all its awful fury, in 1812. It is unnecessary to recapitulate, in detail, the events of this war. They are so recent, and were so strongly marked, that they must present a vivid picture to the mind of every man who will look back. I call the attention of this House, however, to the opinions of the ablest friends of the country at the conclusion of the late war, when the dearly bought lessons of experience were in full view. The Senate of the United States, a body of men equal at least in age and experience, did solemnly pronounce an opinion that the Army should consist of twenty, or at the least fifteen thousand men, and so strong was their conviction of the necessity of this, that they refused, for a long time, to reduce it to the present establishment of ten thousand. Indeed there was a very large minority in this House, who thought this number too small.

The report of the Secretary of War, which has been the subject of such severe criticism by the honorable gentleman, states that, in 1802, a time of profound peace, and, I will add, of general relaxation, the Army consisted of 3,322; in 1808, of 9,996, and in 1818, of 12,656, including all descriptions of staff and officers attached to it. This report further states, that, since 1802, our population has nearly doubled, and our wealth more than doubled. Here the gentleman from North Carolina begins his scrutiny, and most unfairly endeavors to prove that, as our establishment in 1802 was only 3,322, and as our population and wealth are only doubled, the Army ought to be also only doubled, and triumphantly asserts that the premises taken by the Secretary do not justify his conclusions, but prove him to be unacquainted with even the elementary principles of arithmetic. This he does without adverting, which common justice both to this House and the Secretary required him to do, to what is explicitly stated in the report, that, since 1802, we have acquired the immense country of Louisiana, including the growing, yet defenceless city of New Orleans—that great commercial depot for the inexhaustible riches of the western world

law, giving the President almost unlimited powers, as it regarded those unhappy strangers who had sought a home on our shores, all brought to bear on the people at a particular time, "to save them from their worst enemies, themselves," and to create, in fact, "a reign of terror" in which the people should not be allowed to canvass freely the measures of their own Government. These are a few of the grounds upon which the "Federalists," so called, were opposed by the Republicans, which even now have lost none of their force, but of which, subsequent events have disclosed, Mr. Adams was not so great an advocate as a party which surrounded him, and which wished and endeavored to drive him much further than he did go.

—that we have to defend a line of frontier, both maritime and inland, of about 8,000 miles, not including its indentations and windings. With equal unfairness, the gentleman does not bring to view what is also stated, and what could not have escaped the most careless observer, that, in 1802, we had but twenty-seven military posts, and that now we have seventy-three, with a number more indispensably necessary to be established, extending on the Lakes, the Missouri, Red River, Green Bay, St. Peters, the Yellowstone river, Belle Point, and Natchitoches. After this specimen of the correctness of the gentleman's arithmetic and reasons, I leave this House to judge between him and the Secretary, which is entitled to the palm either for arithmetical or reasoning talents, and which of the two may be said "to use bad arguments in a bad cause."

But, the honorable member asserts, and endeavors to prove, that the increase of the size and wealth of your commercial cities does not require any increase of soldiers to defend them; that at any rate the militia will answer this purpose. Is it possible that an assertion of this kind deserves to be refuted by serious argument? Will any member of this House compare such a city as New York, containing more than one hundred thousand inhabitants—the great emporium of your commercial prosperity, in which nearly one third of the revenue that supports your Government is collected—with any small town on your coast, and say that the former requires for its defence no greater number of soldiers than the latter? Do not large depots or large towns, generally speaking, require proportionably large and extensive fortifications; and are not a proportionable number of soldiery required to man these fortifications, to keep the guns in order, to acquire skill and discipline in their duty?

What purpose would militia answer, even if they could be called there quick enough, on any sudden emergency, unacquainted, as they would be, with the whole routine of duty? But it would be deemed a reflection on the sagacity and good sense of this House to dwell longer on an argument rejected alike by reason and experience.

Mr. Speaker, it seems somewhat like adding darkness to light to endeavor to enforce more strongly or give more weight to some of the topics discussed in this report, but I cannot forbear dwelling for a few moments on the indispensable importance of a well organized Army, which can only be obtained by a well organized staff. They form the most efficient defence of the country against sudden onsets. In time of peace they keep alive military science, skill, and that spirit of ardor, patriotism, and national glory, which form the very basis for an increased efficient force at the commencement of a war. They furnish the only certain materials for making the militia useful, energetic, and overwhelming, when drawn out into the service of the country. They save, thereby, in the language of the gentleman from Ohio, (Mr. HARRISON,) "thousands of lives and millions of money." This will be the road to real economy.

But the gentleman from North Carolina opposes this idea, and endeavors to make the Secretary of War contradict himself in one short sentence, by representing him to admit the staff to be unnecessary in time of peace, yet necessary to be kept up. Will the patience of the House last whilst I read the whole paragraph of the report which is alluded to? It is too important to be omitted:

"In fact, no part of our military organization requires more attention in peace than the general staff. It is, in every service, invariably the last in attaining perfection, and, if neglected in peace, when there is leisure, it will be impossible, in the midst of the hurry and bustle of war, to bring it to perfection. It is in peace that it should receive a perfect organization, and that the officers should be trained to method and punctuality, so that, at the commencement of a war, instead of creating anew, nothing more should be necessary than to give to it the necessary enlargement. In this country particularly, the staff cannot be neglected with impunity. As difficult as its operations are in actual service everywhere, it has here to encounter great and peculiar impediments, from the extent of the country, the badness, and frequently the want of roads, and the sudden and unexpected calls which are often made on the militia. If it could be shown that the staff, in its present extent, was not necessary in peace, it would, with the view taken, be unwise to lop off any of its branches which would be necessary in an actual service. With a defective staff, we must carry on our military operations under great disadvantages, and be exposed, particularly at the commencement of a war, to great losses, embarrassments, and disasters."

Now, is it not obvious that it is nowhere admitted in this document that the staff is unnecessary in time of peace? It is, on the contrary, essential, even then, for the due organization of the Army; but it is admitted that, in time of war, its importance is incalculably increased, so much so, that, even if it could be proved to be unnecessary in time of peace, yet it is so absolutely indispensable in time of war that it would be rash to lop off any of its branches; because, in time of war, it could not be perfected. Time could not be given for such a purpose.

The member from North Carolina, in his zeal to reduce the Army, or, in other words, to show that, in time of peace, we should make no preparation for a time of war, has asserted that the officers of the standing army which existed before the last war, rendered but little service during that eventful period; that but few victories were obtained by them; and plainly infers that the keeping of officers in pay in time of peace is unnecessary. Is the gentleman aware how much he risks, and what injustice he has done by such an assertion? An assertion which, although made, no doubt, with the purest motives, is contradicted by almost every event that occurred. The truth really is that the officers of the old army were the principal actors in the last war, and were the true sources from whence the skill, discipline, and intrepidity which were imparted to the Army originally sprang, and which eventually gave such signal and glorious success to its exertions. In what a situation would your country have

been placed without Scott, Gaines, Pike, Covington, Gibson, Hamilton, and many more, together with persons in this House, the mention of whose names delicacy now forbids? How unfortunate for the argument used has been the reference to the officers of the Army previous to the late war! A constellation of military talent, mingled with the purest patriotism, which imparts glory to our arms and honor to the American name! Without derogating from the talents and exertions of others, permit me to observe that these are the men who had a principal agency in saving your country; and the reasons why their exploits did not appear conspicuous in the commencement of the war, were because those soldiers, under their discipline previously to that period, were too few in number, and, because it was impossible to impart their discipline and ardor, in a single day, to troops newly raised and added to the Army.

An attack on the candor and official character of the Secretary of War is made by directly charging him with giving a statement and arguments, in his report, to keep the Army at what it now is, rather than a full development of facts or information. I understood the gentleman to say so, and he does not disavow the charge. But, has he pointed out in detail the facts which have been suppressed or kept back? He has not done it; he cannot do so. Will the members of this House who have not read the report read it, and examine the volume of information given in a tabular form, and then judge whether full information is not given? Mr. Speaker, it does not become me to stand here, the eulogist of this officer, nor, neither shall I do it. It is unnecessary, because his acts, reports, and documents, speak for themselves. Let them be examined, and then let him stand or fall by the opinion entertained of them by the impartial of all parties.

But what information has he withheld? He has given the number of men nominally, the number of men actually, composing the army. He has given the staff, the engineer, and ordnance departments; the officers, the pay of all; an account of the transportation, forage, and even fuel. He has given the garrisons, forts, posts, &c., with the number of men at each. He has shown you the expense which must necessarily be incurred by the immense space over which your little army must be stationed. He has shown you, from the great number of desertions which do and must always take place in a country like ours, that the army is but little more than half filled; and that, although it is so small, yet he has demonstrated the necessity, from the great number of posts to be occupied, that the number of officers cannot be diminished with safety to the army. And yet, after all this, a charge is brought forward that full information is not afforded! The gentleman has long had this subject under consideration; if he wanted further information, he well knew the course to be pursued to obtain it. Why has he not done so? It seems to me that he has overlooked the cardinal points in the report, which make against him, and has viewed it with the eye of a special



H. or R.

Reduction of the Army.

FEBRUARY, 1819.

pleader, to find defects which he can hardly avail himself of by a special demurrer. In short, without derogating from his talents or candor, I may be permitted to say that he reminds me of what has been said by one of our own poets:

"That any man, with half an eye,  
What stands before him may espy;  
But optics sharp it needs, I ween,  
To see what is not to be seen."

At all events, I am willing to submit the report itself, with the gentleman's speech, which he has spent so much time and perseverance to enable him to make, to his own constituents, however strongly they may be opposed to a standing army, and I should not fear the result.

Much has been said about the abusive and extravagant expenditure of public money in the army; and, although I have seen no documentary or well-established proof of this, yet it is highly probable there may have been abuses existing in some of its departments. If so, I for one would correct them; but, let it be remembered, that the War Department seems not, for many years back, to have been a favorite station; but few persons of distinguished talents could be got to accept it, and those of that class who did, have, in a short time, abandoned it. Under these circumstances, is it wonderful that confusion, and even abuses, should have found their way into it? If they do exist, they have been or will be shortly seen, and have been or will be speedily remedied. It is already seen that the strictest accountability and most rigid economy can be enforced, by making the head of each responsible for the abuses and defalcations in his own department, and by making him who presides over all responsible to this body and this nation for the whole.

It has already been seen, too, that the establishment and organization of your commissariat has saved much of the public treasure in a single year; that great improvements can, and are about to be introduced, which will add to the health and comfort of the soldier; and that industry, in improving and making important military roads, begins to be the order of the day. It need hardly be mentioned that this system of industry, expended on this object, will strengthen the defence and promote the commercial and political prosperity of the Union, and that by it the soldier will establish and secure good health and good habits, and also advance his private interests.

A want of military knowledge prevents me from entering into the detail of duty and of pay in the different departments; but, as the gentleman who offered these resolutions has made many charges against the officers of the army, from information obtained from private, and, in my opinion, vague sources, it is but common justice that I should correct two of them. The first relates to alleged impositions said to have been committed in the article of fuel, in New York, and perhaps other places; and that is, that an officer charges against the Government the high-

est prices that occur during the season, although the article may not have cost him half the sum. Now, if any abuse ever did exist in this way, it has not been often; for I am authorized to state that the contract for fuel is made by the Quartermaster's department, at a stipulated price, which is generally reasonable, bring about six dollars a cord, instead of fifteen or twenty. In the city of New York, as stated by the gentleman, this contract continues for the season, and does not admit of the imposition stated.

It is also stated that the Inspector General of the Northern division is receiving a salary or pay, and absolutely fulfils little or no duty. Now, so far from this being the case, that valuable officer, since March last, has inspected the men, military improvements, arms, ammunition, &c., at perhaps thirty or forty posts; in doing which, he has been compelled to travel about seven thousand miles, and has made his report of the same to the proper department, to which the gentleman may resort for further information. If the various other charges made are equally incorrect, it is obvious that the honorable member must have been egregiously imposed upon.

Still, however, it is insisted, that the army must be reduced, for all now is peace; that there is no danger from Great Britain; and that Spain cannot injure us. Has it not been proved, that, in proportion as you abandon defence and reduce your army, you invite danger, you invite war? All gentlemen know that nations are governed by interest, and that they strike where and when you are weakest. By such a conduct you offer a premium to nations to cut up your trade, assail your country, and depress your growing greatness. Have you not a great rival in commerce and in everything connected with the prosperity of the nation, and yet do you make bare your breast and invite the vital attacks?

Besides, will gentlemen cast their eyes to the North, to the West, and to the South, and behold what an almost boundless extent of frontier they have exposed to the attacks of the murderous man-killing savage, even now but slightly defended, and relying for protection greatly on the supposed pacific disposition of these unrelenting people! Can you attentively consider this state of things, and diminish an army now greatly reduced by desertion and other causes? Will the gentleman from North Carolina be answerable for the innocent blood which must flow, if your army is reduced? I think he would shrink from so dreadful a responsibility.

But danger to the liberties of the country is augured from our small yet valorous standing army! Nothing but respect for the gentleman would allow me to treat the idea seriously. Danger from a standing army of five or six thousand men stationed at seventy-three posts, scattered over an extent of country of from two to four thousand miles, and peopled by ten millions of enlightened freemen! I dismiss the subject, as I will the further trespass upon your patience, by observing that, diminish your army to so pitiful a size, that officers of talents will not serve in it.

FEBRUARY, 1819.

New States.

H. or R.

Dismiss from its rolls Jackson, Brown, Scott, Gaines, Macomb, and others, who now give it reputation, and who irradiate the land where they fought by the success of their battles and the splendor of their fame, and your army will languish, your military skill and ardor will die, the home of freedom will be assailed, and your liberties will be endangered!

Mr. SAWYER spoke a short time in favor of the resolutions.

Mr. STORRS opposed the resolutions, and replied at some length to the advocates of the proposition.

Mr. LIVERMORE spoke briefly in favor of reducing the army.

Mr. JOHNSON, of Kentucky, opposed it, and spoke a short time in answer to those who advocated the reduction.

Mr. HOLMES, after stating that there were but fifteen days remaining of the session, in which the House could not, with due attention to the necessary measures now before it, investigate and act on this subject with the deliberation and understanding which its importance demanded, and that it would be better to defer the decision of the question to the next session of Congress, when it could be maturely acted on, with the view of bringing the discussion now to a close, moved that the resolutions be laid on the table.

Mr. DESHA made one or two remarks against the motion of Mr. H., observing, incidentally, that he was opposed to reducing the army, except so far as regarded the staff.

The question was then taken on laying the resolutions on the table, and decided in the affirmative, yeas 71, nays 66, as follows:

YEAS—Messrs. Abbot, Anderson of Kentucky, Baldwin, Barbour of Virginia, Bassett, Bennett, Butler of Louisiana, Claggett, Claiborne, Comstock, Crawford, Cruger, Culbreth, Davidson, Folger, Harrison, Hasbrouck, Herrick, Hitchcock, Holmes, Hopkinson, Hunter, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lawyer, Lewis, Lincoln, Linn, Little, McLane of Delaware, McLean of Illinois, McCoy, Merrill, Middleton, Samuel Moore, H. Nelson, New, Newton, Ogden, Parrot, Pawling, Pegram, Pleasants, Poindexter, Porter, Rhea, Rich, Ringgold, Robertson, Sergeant, Seybert, Simkins, S. Smith, Bal. Smith, Southard, Speed, Storrs, Strong, Tallmadge, Terrell, Tompkins, Trimble, Tucker of Virginia, Tyler, Upham, Walker of Kentucky, Wendover, and Wilkin.

NAYS—Messrs. Adams, Allen of Massachusetts, Ball, Bayley, Beecher, Bellingier, Boden, Burwell, Campbell, Cobb, Colston, Cook, Darlington, Desha, Earle, Edwards, Fisher, Gage, Garnett, Gilbert, Hale, Hall of Delaware, Hall of North Carolina, Hendricks, Herbert, Herkimer, Heister, Hogg, Hostetter, Huntington, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Mercer, Mills, Robert Moore, Murray, Jer. Nelson, Orr, Patterson, Rice, Richards, Sampson, Savage, Sawyer, Scudder, Settle, Shaw, Sherwood, Slocumb, J. S. Smith, Stewart of North Carolina, Stuart of Maryland, Taylor, Terry, Tucker of South Carolina, Walker of North Carolina, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Williams of

North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

## NEW STATES.

The House then, on motion of Mr. SCOTT, resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the bills to enable the people of the Territories of Missouri and Alabama to form State governments.

The bill relating to the Missouri Territory was the first in order, and the first taken up.

The Committee were busily occupied until half past 4 o'clock, in maturing the details of this bill, and discussing propositions for its amendment; in which Messrs. SCOTT, ROBERTSON, MILLS, HARRISON, ANDERSON, of Kentucky, DESHA, TALLMADGE, CLAY, and BARBOUR, participated.

In the course of the consideration, Mr. TALLMADGE moved an amendment, substantially to limit the existence of slavery in the new State, by declaring all free who should be born in the Territory after its admission into the Union, and providing for the gradual emancipation of those now held in bondage.

This motion gave rise to an interesting and pretty wide debate, in which the proposition was supported by the mover, and by Messrs. LIVERMORE and MILLS, and was opposed by Messrs. CLAY, (Speaker,) BARBOUR, and PINDALL; but before any question was taken, the Committee rose, and the House adjourned.

MONDAY, February 15.

Mr. WENDOVER presented a petition of sundry stockholders in the Bank of the United States, residing in the city of New York, owning stock in said bank, exceeding in the aggregate two millions of dollars, praying that no measures may be adopted calculated to put down, or to destroy the credit of the said bank, but that such course may be adopted as will protect private rights, and restore to the bank the confidence of the community; which petition was referred to the Committee of the Whole on the state of the Union.

Mr. SERGEANT presented a petition of sundry merchants of Philadelphia, stating that late in the year 1806 they made large shipments in American and colonial produce, from ports of the United States to the port of Antwerp, in France; that the vessels in which their shipments were made were carried into England under the Orders in Council of Great Britain, and after being subjected to illegal duties, were released; that upon their arrival in the port of Antwerp the ships with their cargoes were seized under the decrees of France, commonly called "the Berlin and Milan Decrees," and were sold, and the proceeds paid into the treasury of France; that all their efforts to obtain redress have been unavailing, and praying that such measures may be adopted by the Government of the United States as will induce that of France to grant



them compensation for their property, as well as for its detention.—Referred to the Secretary of State.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill making an appropriation for carrying into effect the provisions of an act, passed on the 1st day of March, 1817, entitled "An act making reservation of certain public lands to supply timber for naval purposes;" which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for establishing an additional military academy and a military school of application; which was read twice, and committed to the Committee of the Whole, to which is committed the bill to establish a national armory.

The House took up and proceeded to consider the bill for the relief of Patrick Callan; whereupon, it was ordered that the said bill be engrossed and read a third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled "An act for the relief of Kenzie and Forsyth," with an amendment. And they have also passed bills of the following titles, to wit: "An act for confirming the claim of Alexander Maccomb to a tract of land in the Territory of Michigan;" "An act for the relief of B. and P. Jordan, brothers;" "An act for the relief of Michael Hogan," and "An act for the relief of the heirs of Edward McCarty;"—in which amendment and last-mentioned bills, they ask the concurrence of this House.

#### MEMORIAL OF GEORGE WILLIAMS.

The SPEAKER presented a memorial of George Williams, explanatory of his conduct as a director, on the part of the Government, of the Bank of the United States; which was ordered to lie on the table. The memorial is as follows:

To the House of Representatives of the United States: The memorial of George Williams respectfully sets forth, that having this day obtained a copy of the documents reported by the committee of your House, appointed to examine into the proceedings of the Bank of the United States, he deems it proper to submit to the House of Representatives some explanations relative to his conduct as a Government director, which has been the subject of animadversion in the report of the committee. The imputations charged against your memorialist are threefold: 1st. That he subscribed eleven hundred and seventy-two shares of stock in as many names, as their attorney, for the purpose of unduly influencing the election of directors. 2dly. That he was concerned in the purchase of one thousand shares for the account of Mr. Jones, on which a considerable profit was realized by that gentleman, in which the committee seem to suppose there was some unfairness:—and, 3dly. That your memorialist, while a Government director, had been deeply concerned in the purchase of stock, and in the making and purchase of contracts for the delivery of stock. With regard to the first allegation, he obtained names and subscribed one share each on them, for the sole object of securing a considerable amount of this stock,

entertaining a very favorable opinion of the institution; but in so doing he had not the remotest view to influence the election, not being even a candidate for the office of director himself. He procured, also, eight hundred shares to be subscribed for him in different names, in ten and twenty shares each, in Lexington and Cincinnati, with the same object. The whole of the eleven hundred and seventy-two shares were voted singly at the first election, the transfer books not being at that time opened, and every share taken in single names as then voted, whether held by the real proprietor or by proxy. The shares above referred to were subsequently consolidated, and were never, after the first election, voted as if held in single names. They were voted, not by the memorialist, but by the agents of the Baltimore stockholders, in common with other shares held there; and, although these stockholders held one-fourth of the votes, while those of New York held only one-twelfth thereof, it is decisive evidence that no undue influence was attempted to be exercised, in behalf of the Baltimore interest, since only two directors were elected into the first board from Baltimore, and a like number from New York. In noticing the second charge, your memorialist avers that there is not the slightest foundation for imputing, either to himself or to Mr. Jones, the late President, any unfair or improper motives in that transaction. But he forbears to go into a statement of its particular circumstances, inasmuch as that gentleman has presented documents in his justification to your House, establishing, as he trusts, conclusively, its innocent and honorable character.

In reference to the third allegation, your memorialist acknowledges that, having believed that the Bank of the United States, being chartered by Congress, would receive the countenance and be invigorated by the fostering protection of the Government; that it possessed great advantages, which in its progress would be continually developing, and becoming daily more evident; and that it would be prosperous and productive beyond any other moneyed institution in the country, he early made large investments in its stock, both by original subscription and by purchase; that almost all he ever obtained he continues now to hold; that, in so doing, he had not the most distant idea he was acting inconsistently with his duty as a public director, or that he transgressed the bounds which his obligations in that situation imposed upon his conduct. Nor did he imagine that, in proportion as he increased his interest in the institution, he thereby diminished his fidelity to it, or became the less qualified to act as a director of its concerns. He did not understand that his appointment applied any restraint on his accustomed commercial dealings, or that, in clothing himself with the office of a director, he thereby abandoned his profession, or lost the character of a merchant. His purchases were made openly in the market, and his engagements relative to them fairly entered into, and honorably fulfilled.

Your committee have appeared to suppose that sundry measures were adopted by the board of directors, which, having had the effect to raise the price of the stock, were entered into for the purpose of giving an artificial and temporary enhancement to those prices. The measures alluded to are principally the resolutions to pay dividends in England; to loan to subscribers to enable them to pay the second instalment; to loan on stock at par; and, subsequently, to loan on stock at one hundred and twenty-five dollars per

share, with requiring an additional name. Your memorialist was not a director at the time the two first of these resolutions were passed, and not residing at Philadelphia, and consequently seldom being present at the sittings of the board, he was absent when the two last of those measures were adopted, so that he had no individual participation in any of those proceedings. Nor does he recollect ever to have advised or assented to the payment of the dividends on delinquent stock. He will, however, take this occasion to observe, that he entertains a thorough conviction that all those measures were entered into in perfect good faith, and with no sinister or interested views on the part of the board of directors; and he does not doubt, that, if he had had a vote on all, or any of those resolutions, they would have received his full approbation, whatever may now be thought of their wisdom or policy.

In conclusion, your memorialist begs leave briefly to notice the remarks made by the committee upon his examination before them. He stated to the committee his perfect readiness to answer all inquiries which regarded his conduct as a public director, and even to disclose to them the particulars of all his contracts and concerns of every nature, relative to his purchase of stock, for their satisfaction; but, understanding that the statements furnished, and the results obtained in their inquiries, would be printed and published, he declined exhibiting for public inspection his private transactions, they having not the least connexion with his proceedings or character as a director of the bank. And your memorialist acknowledges that he made no explanations before the committee in extenuation or vindication of his conduct, as it appears by the report he had the opportunity given him to do, both because he did not then understand, to the best of his present recollection, that he was expected or invited to make explanations for such an object; and, moreover, because he did not conceive, nor does he now conceive that his conduct required either apology, extenuation, or vindication. During the two years that he served his Government as a director, he endeavored to fulfil the duties of his honorable appointment to the best of his judgment and abilities. He arrogates in his behalf no praise for manifesting either; but he claims confidently the merit of having, at all times and on all occasions, discharged those duties with perfect integrity and uprightness.

Your memorialist, forbearing to invoke in his favor that share of reputation which his fellow-citizens have heretofore accorded to him, and which has been hitherto unimpeached, relies with entire confidence on the justice and impartiality of your honorable House to acquit him in his character of a public director, (in which character alone he has any right to ask to be heard,) of all unworthy or dishonorable imputations, where no evidence appears to condemn him, and to believe his motives to be correct and pure, where his actions cannot be shown to be either criminal or even blameable.

GEORGE WILLIAMS.

BALTIMORE, February 10, 1819.

#### ADMISSION OF MISSOURI.

The House having again resolved itself into a Committee of the Whole, (Mr. SMITH of Maryland in the chair,) on the bill to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of the same into the Union—

The question being on the proposition of Mr. TALLMADGE to amend the bill by adding to it the following proviso:

"And provided, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

The debate which commenced on Saturday was to-day resumed on this proposition; which was supported by Mr. TAYLOR, Mr. MILLS, Mr. LIVERMORE, and Mr. FULLER; and opposed by Mr. BARBOUR, Mr. PINDALL, Mr. CLAY, and Mr. HOLMES.

This debate (which was quite interesting) involved two questions; one of right, the other of expediency. Both were supported by the advocates of the amendment, and generally opposed by its opponents. On the one hand, it was contended that Congress had no right to prescribe to any State the details of its government, any further than that it should be republican in its form; that such a power would be nugatory, if exercised, since, once admitted into the Union, the people of any State have the unquestioned right to amend their constitution of government, &c.

On the other hand, it was as strongly contended that Congress had the right to annex conditions to the admission of any new State into the Union; that slavery was incompatible with our Republican institutions, &c.

Besides the above gentlemen, Mr. HARRISON and Mr. HENDRICKS spoke on points incidentally introduced into the debate.

Mr. TAYLOR, of New York, spoke as follows: Mr. Chairman, if the few citizens who now inhabit the Territory of Missouri were alone interested in the decision of this question, I should content myself with voting in favor of the amendment, without occupying for a moment the attention of the Committee. But the fact is far otherwise: those whom we shall authorize to set in motion the machine of free government beyond the Mississippi, will, in many respects, decide the destiny of millions. Cast your eye on that majestic river which gives name to the Territory, for the admission of which into the Union we are about to provide; trace its meanderings through fertile regions for more than two thousand miles; cross the stony mountains, and descend the navigable waters which empty into the Western ocean; contemplate the States hereafter to unfurl their banners over this fair portion of America, the successive generations of free-men who there shall adorn the arts, enlarge the circle of science, and improve the condition of our species. Having taken this survey, you will be able, in some measure, to appreciate the importance of the subject before us. Our votes this day will determine whether the high destinies of this region, and of these generations, shall be fulfilled, or whether we shall defeat them by permitting slavery, with all its baleful consequences, to inherit the land. Let the magnitude



of this question plead my apology, while I briefly address a few considerations to the sober judgment of patriots and statesmen.

I will not now stop to examine the policy of extending our settlements into the wilderness, with the astonishing rapidity which has marked their progress, leaving within our ancient borders an extensive country, unsubdued by the hand of man. This inquiry, although intimately connected with the subject, would too much extend the range of discussion at this late period of the session; I, however, cannot forbear reminding gentlemen that but few years have elapsed since the opinion was often expressed, and earnestly inculcated by our wisest and best men, that no locations ought to be made beyond the Mississippi, until the original States and their Territories should acquire a population of considerable compactness and strength; and that our military posts should not be pushed forward faster than was necessary to protect the frontier settlements. A policy embracing more enlarged ideas, and more magnificent projects, appears to have succeeded. We now talk of forts at the mouth of the Yellow Stone, and military establishments some fifteen or twenty hundred miles in the Indian country, as objects of reasonable and easy achievement. An honorable member from Virginia has this morning presented a petition from sundry inhabitants of that State, praying of Congress permission to settle on Columbia river, between the Rocky Mountains and the Pacific ocean, probably intending to introduce slavery into the remotest verge of Republican territory. I pass over these subjects, however momentous, and well-deserving the attention of Congress, and come directly to the points in issue.

First, Has Congress power to require of Missouri a Constitutional prohibition against the further introduction of slavery, as a condition of her admission into the Union?

Second. If the power exist, is it wise to exercise it?

Congress has no power unless it be expressly granted by the Constitution, or necessary to the execution of some power clearly delegated. What, then, are the grants made to Congress in relation to the Territories? The third section of the fourth article declares, that "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property, belonging to the United States." It would be difficult to devise a more comprehensive grant of power. The whole subject is put at the disposal of Congress, as well the right of judging what regulations are proper to be made, as the power of making them, is clearly granted. Until admitted into the Union, this political society is a territory; all the preliminary steps relating to its admission are territorial regulations. Hence, in all such cases, Congress has exercised the power of determining by whom the constitution should be made, how its framers should be elected, when and where they should meet, and what propositions should be submitted to their decision. After its formation, the Con-

gress examine its provisions, and, if approved, admit the State into the Union, in pursuance of a power delegated by the same section of the Constitution, in the following words: "New States may be admitted by the Congress into the Union." This grant of power is evidently alternative; its exercise is committed to the sound discretion of Congress; no injustice is done by declining it. But if Congress has the power of altogether refusing to admit new States, much more has it the power of prescribing such conditions of admission as may be judged reasonable. The exercise of this power, until now, has never been questioned. The act of 1802, under which Ohio was admitted into the Union, prescribed the condition that its constitution should not be repugnant to the ordinance of 1787. The sixth article of that ordinance declares, "there shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted." The same condition was imposed by Congress on the people of Indiana and Illinois. These States have all complied with it, and framed constitutions excluding slavery. Missouri lies in the same latitude. Its soil, productions, and climate are the same, and the same principles of government should be applied to it.

But it is said that, by the treaty of 1803, with the French Republic, Congress is restrained from imposing this condition. The third article is quoted as containing the prohibition. It is in the following words: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States, and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." The inhabitants of the ceded territory, when transferred from the protection of the French Republic, in regard to the United States, would have stood in the relation of aliens. The object of the article doubtless was to provide for their admission to the rights of citizens, and their incorporation into the American family. The treaty made no provision for the erection of new States in the ceded territory. That was a question of national policy, properly reserved for the decision of those to whom the Constitution had committed the power. The framers of the treaty well knew that the President and Senate could not bind Congress to admit new States into the Union. The unconstitutional doctrine had not then been broached, that the President and Senate could not only purchase a West India island or an African principality, but also impose upon Congress an obligation to make it an independent State, and admit it into the Union. If the President and Senate can, by treaty, change the Constitution of the United States, and rob Congress of a power clearly delegated, the doctrine may be true, but otherwise, it is false. The treaty, therefore, has no operation on

the question in debate. Its requirements, however, have been faithfully fulfilled. In 1804, the laws of the United States were extended to that territory. The protection afforded by the Federal Constitution was guaranteed to its inhabitants. They were thus "incorporated in the Union," and secured in the enjoyment of their rights. The treaty stipulation being thus executed, "as soon as possible," it remained a question for the future determination of Congress, whether the Government should remain territorial or become that of an independent State. In 1811, this question was decided in relation to that part of the territory which then embraced nearly all the population, and to acquire which, alone, the treaty had been made. A law was passed to enable the people of the Territory of Orleans to form a constitution and State government, and to provide for its admission into the Union. Did Congress then doubt its power to annex conditions to such admission? No, sir, far from it. The government of Orleans had always been administered according to the principles of the civil law. The common law, so highly valued in other parts of our country, was not recognised there. Trial by jury was unknown to the inhabitants. Instead of a privilege, they considered its introduction an odious departure from their ancient administration of justice. Left to themselves, they never would have introduced it. Congress, however, knowing these things, made it a condition of their admission into the Union, that trial by jury should be secured to the citizen by a Constitutional provision.

Even the language of the Territory was required to be changed, as a condition of its admission. The inhabitants were wholly French and Spanish. Theirs were the only languages generally spoken, or even understood. But Congress required from them a Constitutional provision, that their legislative and judicial proceedings should be conducted in the English language. They were not left at liberty to determine this point for themselves. From these facts, it appears that Congress, at that day, acted from a conviction that it possessed the power of prescribing the conditions of their admission into the Union.

Gentlemen have said the amendment is in violation of the treaty, because it impairs the property of a master in his slave. Is it then pretended, that, notwithstanding the declaration in our bill of rights, "that all men are created equal," one individual can have a vested property not only in the flesh and blood of his fellow man, but also in generations not yet called into existence? Can it be believed that the supreme Legislature has no power to provide rules and regulations for ameliorating the condition of future ages? And this, too, when the Constitution itself has vested in Congress full sovereignty, by authorizing the enactment of whatever law it may deem conducive to the welfare of the country. The sovereignty of Congress in relation to the States, is limited by specific grants—but, in regard to the Territories, it is unlimited. Missouri was pur-

chased with our money, and, until incorporated into the family of States, it may be sold for money. Can it then be maintained, that, although we have the power to dispose of the whole Territory, we have no right to provide against the further increase of slavery within its limits? That, although we may change the political relations of its free citizens by transferring their country to a foreign Power, we cannot provide for the gradual abolition of slavery within its limits, nor establish those civil regulations which naturally flow from self-evident truth? No, sir, it cannot; the practice of nations and the common sense of mankind have long since decided these questions.

Having proved, as I apprehend, our right to legislate in the manner proposed, I proceed to illustrate the propriety of exercising it. And here I might rest satisfied with reminding my opponents of their own declarations on the subject of slavery. How often, and how eloquently, have they deplored its existence among them? What willingness, nay, what solicitude have they not manifested to be relieved from this burden? How have they wept over the unfortunate policy that first introduced slaves into this country! How have they disclaimed the guilt and shame of that original sin, and thrown it back upon their ancestors! I have with pleasure heard these avowals of regret and confided in their sincerity; I have hoped to see its effects in the advancement of the cause of humanity. Gentlemen have now an opportunity of putting their principles into practice; if they have tried slavery and found it a curse; if they desire to dissipate the gloom with which it covers their land; I call upon them to exclude it from the Territory in question; plant not its seeds in this uncorrupt soil; let not our children, looking back to the proceedings of this day, say of them, as they have been constrained to speak of their fathers, "we wish their decision had been different; we regret the existence of this unfortunate population among us; but we found them here: we know not what to do with them; it is our misfortune, we must bear it with patience."

History will record the decision of this day as exerting its influence for centuries to come over the population of half our continent. If we reject the amendment and suffer this evil, now easily eradicated, to strike its roots so deep in the soil that it can never be removed, shall we not furnish some apology for doubting our sincerity, when we deplore its existence—shall we not expose ourselves to the same kind of censure which was pronounced by the Saviour of Mankind upon the Scribes and Pharisees, who builded the tombs of the prophets and garnished the sepulchres of the righteous, and said, if they had lived in the days of their fathers, they would not have been partakers with them in the blood of the prophets, while they manifested a spirit which clearly proved them the legitimate descendants of those who killed the prophets, and thus filled up the measure of their fathers' iniquity?

Mr. Chairman, one of the gentlemen from Ken-



H. OF R.

Admission of Missouri.

FEBRUARY, 1819.

tucky (Mr. CLAY) has pressed into his service the cause of humanity. He has pathetically urged us to withdraw our amendment and suffer this unfortunate population to be dispersed over the country. He says they will be better fed, clothed and sheltered, and their whole condition will be greatly improved. Sir, true humanity disowns his invocation. The humanity to which he appeals is base coin; it is counterfeit, it is that humanity which seeks to palliate disease by the application of nostrums, which scatter its seeds through the whole system—which saves a finger to-day, but amputates the arm to-morrow. Sir, my heart responds to the call of humanity; I will zealously unite in any practicable means of bettering the condition of this oppressed people. I am ready to appropriate a territory to their use, and to aid them in settling it—but I am not willing, I never will consent to declare the whole country west of the Mississippi a market overt for human flesh. In vain will you enact severe laws against the importation of slaves, if you create for them an additional demand, by opening the western world to their employment. While a negro man is bought in Africa for a few gewgaws or a bottle of whiskey, and sold at New Orleans for twelve or fifteen hundred dollars, avarice will stimulate to the violation of your laws. Notwithstanding the penalties and confiscations denounced in your statutes and actually enforced on all detected offenders, the slave trade continues—a vigilant execution of the laws may diminish it, but, while you increase the demand and offer so great temptation to the cupidity of unprincipled men, they will encounter every peril in the prosecution of this unhallowed traffic. The gentleman from Kentucky has intimated his willingness, in addition to the existing penalties upon transgression, to discourage this inhuman commerce by declaring the imported slave to be free. This provision, if established, would in theory provide some remedy for the evil, but in practice it would be found altogether inoperative. A slave is smuggled into the country and by law becomes free; but the fact of importation must be established by witnesses in a court of justice. In non-slaveholding States, all men are presumed free, until the contrary be proved; but, where slavery is established, all black men are presumed slaves, until they are proved free. This presumption alone would generally present to the slave an insuperable obstacle to the successful prosecution of his claim—he moreover would be poor, unfriended, ignorant of our language, and under the watchful eye of those whose interest it would be to allow no communication of his wrongs where redress could be obtained. The right of freedom might exist, but he would find it impracticable to enforce it, and he probably would have occasion to feel that every effort to break his chains only increase their weight and render his condition the more intolerable.

To the objection that this amendment will, if adopted, diminish the value of a species of property in one portion of the Union, and thereby operate unequally, I reply, that if, by depriving

slaveholders of the Missouri market, the business of raising slaves should become less profitable, it would be an effect incidentally produced, but is not the object of the measure. The law prohibiting the importation of foreign slaves was not passed for the purpose of enhancing the value of those then in the country, but that effect has been incidentally produced in a very great degree. So now the exclusion of slavery from Missouri may operate, in some measure, to retard a further advance of prices; but, surely, when gentlemen consider the present demand for their labor, and the extent of country in Louisiana, Mississippi, and Alabama, requiring a supply, they ought not to oppose their exclusion from the territory in question. It is further objected, that the amendment is calculated to disfranchise our brethren of the South, by discouraging their emigration to the country west of the Mississippi. If it were proposed to discriminate between citizens of the different sections of our Union, and allow a Pennsylvanian to hold slaves there while the power was denied to a Virginian, the objection might very properly be made; but, when we place all on an equal footing, denying to all what we deny to one, I am unable to discover the injustice or inequality of which honorable gentlemen have thought proper to complain. The description of emigrants may be affected, in some measure, by the amendment in question. If slavery shall be tolerated, the country will be settled by rich planters, with their slaves; if it shall be rejected, the emigrants will chiefly consist of the poorer and more laborious classes of society. If it be true that the prosperity and happiness of a country ought to constitute the grand object of its legislators, I cannot hesitate for a moment which species of population deserves most to be encouraged by the laws we may pass. Gentlemen, in their zeal to oppose the amendment, appear to have considered but one side of the case. If the rejection of slavery will tend to discourage emigration from the South, will not its admission have the same effect in relation to the North and East. Whence came the people who, with a rapidity never before witnessed have changed the wilderness between the Ohio and Mississippi into fruitful fields; who have erected there, in a period almost too short for the credibility of future ages, three of the freest and most flourishing States in our Union? They came from the eastern hive; from that source of population which, in the same time, has added more than one hundred thousand inhabitants to my native State, and furnished seamen for a large portion of the navigation of the world; seamen who have unfurled your banner in every port to which the enterprise of man has gained admittance, and who, though poor themselves, have drawn rich treasures for the nation from the bosom of the deep. Do you believe that these people will settle in a country where they must take rank with negro slaves? Having neither the ability nor will to hold slaves themselves, they labor cheerfully while labor is honorable; make it disgraceful, they will despise it. You cannot degrade it more effectually than

FEBRUARY, 1819.

Admission of Missouri.

H. OF R.

by establishing a system whereby it shall be performed principally by slaves. The business in which they are generally engaged, be it what it may, soon becomes debased in public estimation. It is considered low, and unfit for freemen. I cannot better illustrate this truth than by referring to a remark of the honorable gentleman from Kentucky (Mr. CLAY.) I have often admired the liberality of his sentiments. He is governed by no vulgar prejudices; yet with what abhorrence did he speak of the performance, by your wives and daughters, of those domestic offices which he was pleased to call servile! What comparison did he make between the "black slaves" of Kentucky and the "white slaves" of the North; and how instantly did he strike a balance in favor of the condition of the former! If such opinions and expressions, even in the ardor of debate, can fall from that honorable gentleman, what ideas do you suppose are entertained of laboring men by the majority of slaveholders? A gentleman from Virginia (Mr. BARBOUR) replies, they are treated with confidence and esteem, and their rights are respected. Sir, I did not imagine they were put out of the protection of law. Their persons and property are doubtless secure from violence, or, if injured, the courts of justice are open for their redress. But, in a country like this, where the people are sovereign, and every citizen is entitled to equal rights, the mere exemption from flagrant wrong is no great privilege. In this country, no class of freemen should be excluded, either by law, or by the ostracism of public opinion, more powerful than law, from competing for offices and political distinctions. Sir, a humane master will respect the rights of his slave, and, if worthy, will honor him with confidence and esteem. And this same measure, I apprehend, is dealt out, in slaveholding States, to the laboring class of their white population. But whom of that class have they ever called to fill stations of any considerable responsibility? When have we seen a Representative on this floor, from that section of our Union, who was not a slaveholder? Who but slaveholders are elected to their State Legislatures? Who but they are appointed to fill their executive and judicial offices? I appeal to gentlemen, whether the selection of a laboring man, however well educated, would not be considered an extraordinary event? For this I do not reproach my brethren of the South. They doubtless choose those to represent them in whom they most confide; and far be it from me to intimate that their confidence is ever misplaced. But my objection is to the introduction of a system which cannot but produce the effect of rendering labor disgraceful.

An argument has been urged by a gentleman from Virginia (Mr. BARBOUR) against the proposed amendment, connected with our revenues. He said, that by prohibiting the further introduction of slaves into the proposed State, we should reduce the price and diminish the sales of our public lands. In my opinion, the effect would be precisely the reverse. True, it is, that lands

for cultivation have sold higher in Alabama than in Illinois, but this is owing not to the rejection of slavery in the one and its admission into the other, but to the different staples they are capable of producing. The advanced price of cotton has created in market a demand for lands suited to its cultivation, and enhanced their value far beyond any former precedent. But, to test the truth of the position, we must ascertain the relative value of land in adjoining States, the one allowing and the other rejecting slavery, where the climate, soil, productions, and advantages of market are similar. Pennsylvania and Maryland furnish fair specimens of comparison in all these respects. But here the result is in direct opposition to the conjecture of the gentleman from Virginia. Land on the Pennsylvania side of the line, where the power of holding slaves does not exist, uniformly sells at a higher price than lands of equal quality on the Maryland side, where the power is in full exercise. It therefore is probable that the further introduction of slavery into Missouri, far from increasing, would actually diminish the value of our public lands. But, should the fact be otherwise, I entreat gentlemen to consider whether it become the high character of an American Congress to barter the present happiness and future safety of unborn millions for a few pieces of pelf, for a few cents on an acre of land. For myself, I would no sooner contaminate the national Treasury with such ill-gotten gold, than I would tarnish the fame of our national ships by directing their employment in the African slave trade. But, whatever may be the influence of the subject in controversy upon the original price of land, it must be evident to all men of observation that its ultimate and permanent effects are very prejudicial to agricultural improvement. Farms in Maryland, notwithstanding the mildness of its climate compared with New York, I am informed, may be purchased at five or six dollars an acre, while lands, by nature not more fertile nor more advantageously situated, in the last mentioned State, sell at a rate ten times higher. Had not slavery been introduced into Maryland, her numerous and extensive old fields, which now appear to be worse than useless, would long since have supported a dense population of industrious freemen, and contributed largely to the strength and resources of the State. Who has travelled along the line which divides that State from Pennsylvania, and has not observed that no monuments are necessary to mark the boundary; that it is easily traced by following the dividing lines between farms highly cultivated and plantations laying open to the common and overrun with weeds; between stone barns and stone bridges on one side, and stalk cribs and no bridges on the other; between a neat, blooming, animated, rosy-cheeked peasantry on the one side, and a squalid, slow-motioned, black population on the other? Our vote this day will determine which of these descriptions will hereafter best suit the inhabitants of the new world beyond the Mississippi. I entreat gentlemen to pause and solemnly consider



H. OF R.

Admission of Missouri.

FEBRUARY, 1819.

how deeply are involved the destinies of future generations in the decision now to be made. If I agreed in opinion with the gentleman from Georgia, (Mr. Cobb,) that this amendment does not present an insurmountable barrier against the further introduction of slavery; that Missouri, after becoming a State, may call a convention and change this feature of her constitution—even then I should consider the amendment scarcely less important than if it were a fundamental and unalterable compact. On this subject we have experience, and the result has justified the best hopes of our country; while under the government of Congress, slavery was excluded from the Territories, now the States, north of the Ohio. Our power over their municipal regulations has since been withdrawn; they have taken the government into their own hands. But who has not seen the moral effect produced on the inhabitants by the ordinance of 1787? It is as permanent as the soil over which it was established. The exclusion of slavery from all these States is now more effectually insured by public sentiment than by their Constitutional prohibitions. Require the government of Missouri to commence right, and the same moral effect will then be produced. No convention of the people will ever permit the future introduction of slaves. Let their political institutions be established in wisdom, and I shall confidently trust in the good sense of the people to direct them thereafter. But, be the event as it may, I at least shall have the satisfaction of reflecting that, if the misfortune of slavery shall be entailed upon this country, everything in my power will have been done to prevent it.

Mr. Chairman, it was my intention to say something of the moral and political interests involved in this question. But, having already occupied more of your time than was my purpose when I rose to address you, and being admonished, by the multiplicity of important bills which, during the few remaining days of the session, demand our attention, I forbear to discuss or even touch upon those parts of the subject. It moreover is the less necessary, because those views have often been presented to the public, and have doubtless been seriously considered by every member of this Committee. The facts and arguments to which I have drawn your attention, more particularly relate to our condition as a Federal Republic, and our duties to Missouri, arising from the relation in which she stands to the Union. While regretting that it has not been in my power to do more ample justice to this important subject, owing in part to the unexpected manner in which it was taken up, I cannot sit down without expressing an earnest hope that our present decision may be such as will promote the permanent union, stability, and security of our country.

Mr. FULLER, of Massachusetts, said, that, in the admission of new States into the Union, he considered that Congress had a discretionary power. By the 4th article and 3d section of the Constitution, Congress are authorized to admit

them; but nothing in that section, or in any part of the Constitution, enjoins the admission as imperative, under any circumstances. If it were otherwise, he would request gentlemen to point out what were the circumstances or conditions precedent, which being found to exist, Congress must admit the new State. All discretion would in such case be taken from Congress, Mr. F. said, and deliberation would be useless. The honorable Speaker (Mr. CLAY) has said, that Congress has no right to prescribe any condition whatever to the newly organized States, but must admit them by a simple act, leaving their sovereignty unrestricted. [Here the SPEAKER explained—he did not intend to be understood in so broad a sense as Mr. F. stated.] With the explanation of the honorable gentleman, Mr. F. said, I still think his ground as untenable as before. We certainly have a right, and our duty to the nation requires, that we should examine the actual state of things in the proposed State; and, above all, the Constitution expressly makes a republican form of government in the several States a fundamental principle, to be preserved under the sacred guarantee of the National Legislature. [Art. 4, sec. 4.] It clearly, therefore, is the duty of Congress, before admitting a new sister into the Union, to ascertain that her constitution or form of government is republican. Now, sir, the amendment proposed by the gentleman from New York, Mr. TALLMADGE, merely requires that slavery shall be prohibited in Missouri. Does this imply anything more than that its constitution shall be republican? The existence of slavery in any State is so far a departure from republican principles. The Declaration of Independence, penned by the illustrious statesman then and at this time a citizen of a State which admits slavery, defines the principle on which our National and State Constitutions are all professedly founded. The second paragraph of that instrument begins thus: "We hold these truths to be self-evident—that all men are created equal—that they are endowed by their Creator with certain inalienable rights—that among these are life, liberty, and the pursuit of happiness." Since, then, it cannot be denied that slaves are men, it follows that they are in a purely republican government born free, and are entitled to liberty and the pursuit of happiness. [Mr. F. was here interrupted by several gentlemen, who thought it improper to question in debate the republican character of the slaveholding States, which had also a tendency, as one gentleman (Mr. COLSTON, of Virginia,) said, to deprive those States of the right to hold slaves as property, and he adverted to the probability that there might be slaves in the gallery listening to the debate.] Mr. F. assured the gentleman that nothing was further from his thoughts than to question on that floor the right of Virginia and other States, which held slaves when the Constitution was established, to continue to hold them. With that subject the National Legislature could not interfere, and ought not to attempt it. But, Mr. F. continued, if gentlemen will be

FEBRUARY, 1819.

Admission of Missouri.

H. OF R.

patient, they will see that my remarks will neither derogate from the Constitutional rights of the States, nor from a due respect to their several forms of government. Sir, it is my wish to allay, not to excite local animosities; but I shall never refrain from advancing such arguments in debate as my duty requires, nor do I believe that the reading of our Declaration of Independence, or a discussion of republican principles on any occasion, can endanger the rights, or merit the disapprobation of any portion of the Union.

My reason, Mr. Chairman, for recurring to the Declaration of our Independence, was to draw from an authority admitted in all parts of the Union a definition of the basis of republican government. If, then, all men have equal rights, it can no more comport with the principles of a free Government to exclude men of a certain color from the enjoyment of "liberty and the pursuit of happiness," than to exclude those who have not attained a certain portion of wealth, or a certain stature of body; or to found the exclusion on any other capricious or accidental circumstance. Suppose Missouri, before her admission as a State, were to submit to us her constitution, by which no person could elect, or be elected to any office, unless he possessed a clear annual income of twenty thousand dollars; and suppose we had ascertained that only five, or a very small number of persons had such an estate; would this be anything more or less than a real aristocracy, under a form nominally republican? Election and representation, which some contend are the only essential principles of republics, would exist only in name—a shadow without substance, a body without a soul. But if all the other inhabitants were to be made slaves, and mere property of the favored few, the outrage on principle would be still more palpable. Yet, sir, it is demonstrable that the exclusion of the black population from all political freedom, and making them the property of the whites, is an equally palpable invasion of right and abandonment of principle. If we do this in the admission of new States, we violate the Constitution, and we have not now the excuse which existed when our National Constitution was established. Then, to effect a concert of interests, it was proper to make concessions. The States where slavery existed not only claimed the right to continue it, but it was manifest that a general emancipation of slaves could not be asked of them. Their political existence would have been in jeopardy; both masters and slaves must have been involved in the most fatal consequences.

To guard against such intolerable evils, it is provided in the Constitution "that the migration or importation of such persons, as any of the existing States think proper to admit, shall not be prohibited till 1808." Art. 1, sec. 9. And it is provided elsewhere, that persons held to service by the laws of any State, shall be given up by other States to which they may have escaped, &c. Art. 4, sec. 2.

These provisions effectually recognised the right in the States, which, at the time of fram-

ing the Constitution, held the blacks in slavery, to continue so to hold them, until they should think proper to meliorate their condition. The Constitution is a compact among all the States then existing, by which certain principles of government are established for the whole and for each individual State. The predominant principle, in both respects, is, that all men are free, and have an equal right to liberty, and all other privileges; or, in other words, the predominant principle is republicanism, in its largest sense. But, then, the same compact contains certain exceptions. The States then holding slaves are permitted, from the necessity of the case, and for the sake of union, to exclude the republican principle so far, and only so far, as to retain their slaves in servitude, and also their progeny, as had been the usage, until they should think it proper or safe to conform to the pure principle by abolishing slavery. The compact contains on its face the general principle and the exceptions. But the attempt to extend slavery to the new States is in direct violation of the clause which guarantees a republican form of government to all the States. This clause, indeed, must be construed in connexion with the exceptions before mentioned; but it cannot, without violence, be applied to any other States than those in which slavery was allowed at the formation of the Constitution.

The honorable Speaker cites the first clause in the second section of the fourth article: "The citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States," which he thinks would be violated by the condition proposed in the Constitution of Missouri. To keep slaves—to make one portion of the population the property of another, hardly deserves to be called a privilege, since what is gained by the masters must be lost by the slaves. But, independently of this consideration, I think the observations already offered to the Committee, showing that holding the black population in servitude is an exception to the general principles of the Constitution, and cannot be allowed to extend beyond the fair import of the terms by which that exception is provided, are a sufficient answer to the objection. The gentleman proceeds in the same train of reasoning, and asks, if Congress can require one condition, how many more can be required, and where these conditions will end? With regard to a republican constitution, Congress are obliged to require that condition, and that is enough for the present question; but I contend, further, that Congress has a right, at their discretion, to require any other reasonable condition. Several others were required of Ohio, Indiana, Illinois, and Mississippi. The State of Louisiana, which was a part of the territory ceded to us at the same time with Missouri, was required to provide in her constitution for trials by jury, the writ of habeas corpus, the principles of civil and religious liberty, with several others peculiar to that State. These certainly are, none of them, more indispensable ingredients in a republican form of government, than the equality



of privileges of all the population; yet these have not been denied to be reasonable, and warranted by the national Constitution in the admission of new States. Nor need gentlemen apprehend that Congress will set no reasonable limits to the conditions of admission. In the exercise of their Constitutional discretion on this subject, they are, as in all other cases, responsible to the people. Their power to levy direct taxes is not limited by the Constitution. They may lay a tax of one million of dollars, or of a hundred millions, without violating the letter of the Constitution; but if the latter enormous and unreasonable sum were levied, or even the former, without evident necessity, the people have the power in their own hands—a speedy corrective is found in the return of the elections. This remedy is so certain, that the representatives of the people can never lose sight of it; and consequently an abuse of their powers, to any considerable extent, can never be apprehended. The same reasoning applies to the exercise of all the powers intrusted to Congress, and the admission of new States into the Union is in no respect an exception.

One gentleman, however, has contended against the amendment, because it abridges the rights of the slaveholding States to transport their slaves to the new States for sale or otherwise. This argument is attempted to be enforced in various ways, and particularly by the clause in the Constitution last cited. It admits, however, of a very clear answer, by recurring to the ninth section of article first, which provides, that "the migration or importation of such persons as any of the States then existing shall admit, shall not be prohibited by Congress till 1808." This clearly implies that the migration and importation may be prohibited after that year. The importation has been prohibited, but the migration has not hitherto been restrained; Congress, however, may restrain it when it may be judged expedient. It is, indeed, contended by some gentlemen, that migration is either synonymous with importation, or that it means something different from the transportation of slaves from one State to another. It certainly is not synonymous with importation, and would not have been used if it had been so. It cannot mean exportation, which is also a definite and precise term. It cannot mean the reception of free blacks from foreign countries, as is alleged by some, because no possible reason existed for regulating their admission by the Constitution; no free blacks ever came from Africa, or any other country, to this; and to introduce the provision by the side of that for the importation of slaves would have been absurd in the highest degree. What alternative remains but to apply the term "migration" to the transportation of slaves from those States where they are admitted to be held, to other States? Such a provision might have in view a very natural object. The price of slaves might be affected so far by a sudden prohibition to transport slaves from State to State, that it was as reasonable to guard against that inconvenience, as against the

sudden interdiction of the importation. Hitherto it has not been found necessary for Congress to prohibit migration or transportation from State to State. But now it becomes the right and duty of Congress to guard against the further extension of the intolerable evil and the crying enormity of slavery.

The expediency of this measure is very apparent. The opening of an extensive slave market will tempt the cupidity of those who otherwise perhaps might gradually emancipate their slaves. We have heard much, Mr. Chairman, of the Colonization Society; an institution which is the favorite of the humane gentlemen in the slaveholding States. They have long been lamenting the miseries of slavery, and earnestly seeking for a remedy compatible with their own safety and the happiness of their slaves. At last the great desideratum is found—a colony in Africa for the emancipated blacks. How will the generous intentions of these humane persons be frustrated, if the price of slaves is to be doubled by a new and boundless market! Instead of emancipation of the slaves, it is much to be feared that unprincipled wretches will be found kidnapping those who are already free, and transporting and selling the hapless victims into hopeless bondage. Sir, I really hope that Congress will not contribute to discountenance and render abortive the generous and philanthropic views of this most worthy and laudable society. Rather let us hope that the time is not very remote when the shores of Africa, which have so long been a scene of barbarous rapacity and savage cruelty, shall exhibit a race of free and enlightened people, the offspring indeed of cannibals or of slaves, but displaying the virtues of civilization and the energies of independent freemen. America may then hope to see the development of a germ, now scarcely visible, cherished and matured under the genial warmth of our country's protection, till the fruit shall appear in the regeneration and happiness of a boundless continent.

One argument still remains to be noticed. It is said, that we are bound by the treaty of cession with France to admit the ceded territory into the Union, "as soon as possible." It is obvious that the President and Senate, the treaty-making power, cannot make a stipulation with any foreign nation in derogation of the Constitutional powers and duties of this House, by making it imperative on us to admit the new territory according to the literal tenor of the phrase; but the additional words in the treaty, "according to the principles of the Constitution," put it beyond all doubt that no such compulsory admission was intended, and that the republican principles of our Constitution are to govern us in the admission of this, as well as all the new States, in the national family.

Mr. P. P. BARBOUR, of Virginia, said that, as he was decidedly opposed to the amendment which had been offered, he asked the indulgence of the House whilst he made some remarks in addition to those which had fallen from the

Speaker, for the purpose of showing the impropriety of its adoption.

The effect of the proposed amendment is to prohibit the further introduction of slaves into the new State of Missouri, and to emancipate, at the age of twenty-five years, the children of all those slaves who are now within its limits. The first objection, said he, which meets us at the very threshold of the discussion, is this, that we have no Constitutional right to enact the proposed provision. Our power, in relation to this subject, is derived from the first clause of the third section of the fourth article of the Constitution, which is in these words: "New States may be admitted, by the Congress, into this Union." Now, sir, although, by the next succeeding clause of the same section, "Congress has the power to make all needful rules and regulations respecting the territory of the United States;" and although, therefore, whilst the proposed State continued a part of our territory, upon the footing of a Territorial government, it would have been competent for us, under the power expressly given, to make needful rules and regulations—to have established the principle now proposed; yet, the question assumes a totally different aspect when that principle is intended to apply to a State. This term State has a fixed and determinate meaning; in itself, it imports the existence of a political community, free and independent, and entitled to exercise all the rights of sovereignty, of every description whatever. As it stands in the Constitution, it is to be defined with some limitation upon that principle of construction which has reference to the subject-matter. The extent of the limitation, according to this rule, is obviously this, that it shall enjoy all those rights of sovereignty which belong to the original States which composed the Federal family, and into an union with which it is to be admitted. Now, sir, although the original States are shorn of many of their beams of sovereignty—such, for example, as that of declaring war, of regulating commerce, &c.; yet we know that, even by an express amendment to the Constitution, all powers not expressly delegated are reserved to the States respectively; and of course the power in question, of deciding whether slavery shall or shall not exist. Gentlemen had said that slavery was prohibited in many of the original States. Does not the House, said Mr. B., at the first glance, perceive the answer to this remark? It is an argument from fact to principle, and in this its utter fallacy consists. It is true that slavery does not exist in many of the original States; but why does it not? Because they themselves, in the exercise of their legislative power, have willed that it shall be so. But, though it does not now exist, it is competent for them, by a law of their own enactment, to authorize it—to call it into existence whenever they shall think fit. Sir, how different would be the situation of Missouri, if the proposed amendment be adopted. We undertake to say that slavery never shall be introduced into that State. The State of Missouri,

then, would obviously labor under this disadvantage in relation to the other States: that, though for the time being the fact might be the same in it as in them—that is to say, slavery might be alike prohibited, and not at all exist, yet, as the prohibition of it in other States was repealable at their own will, it might be altered whensoever they chose; whereas, if this prohibition were enacted by Congress, and were required as a *sine qua non* to their admission into the Union, that State could not repeal it, unless, indeed, another opinion was correct, which had been advanced, that, though we did require this provision in their constitution, as indispensable to their admission, yet they might forthwith change their constitution, and get rid of the difficulty. If that be the case, sir, as has been justly remarked, we were doing worse than nothing to legislate upon the subject. But, sir, this provision would be in violation of another principle of the Constitution, to be found in the first clause of the second section of the fourth article; by which it is declared that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." Now, he would ask, whether a citizen of the State of Missouri, who (if this amendment prevail) cannot hold a slave, could, in the language of the section which he had just quoted, be said to enjoy the same privileges with a citizen of Virginia who now may hold a slave, or even with a citizen of Pennsylvania, who, though he cannot now hold one, yet may be permitted by the Legislature of his own State? Sir, it would be a solecism in language, a contradiction in terms. This part of the Constitution, then, also forbids the adoption of the amendment under discussion.

But, said he, if we pursue this reasoning still further, and follow it up to all the consequences to which it will lead, we shall be more forcibly struck with its impropriety. If we have a right to go one step in relation to a new State, beyond the footing upon which the original States stand; if we have a right to shear them of one beam more of sovereignty, we have the same right to take from them any other attribute of sovereign power. Thus, sir, we should equally possess the power to require as an indispensable condition of their admission, that the departments of their Government should be organized in a particular way; for example, that their Chief Executive Magistrate should or should not have either a complete or a qualified veto upon the acts of their Legislature; that their Legislature should consist either of one or two chambers, as in our discretion we thought right. Would gentlemen advocate this doctrine? If they did not, they must abandon this amendment. Again, if we had the power to say that their constitution should provide that there should not be slavery, we had the same power over the converse of the proposition, and to require them to provide that there should be slavery; he believed this latter principle would not be contended for.

Gentlemen had, on this occasion, as many others, quoted precedents of former Congresses



upon this subject. He would enter his most solemn protest now, and at all times, against the force of legislative precedent. But let us examine them. It is said that the like prohibition has been enacted as it respects Ohio and the other States northwest of the river Ohio. In the first place, the House would recollect that an ordinance was passed by the old Congress, at a period anterior to the present Constitution, ordaining that as a fundamental article in relation to all the northwest territory, and therefore the precedent, if it would otherwise have any weight, failed in its application. But, he said, he did not hesitate to express it as his decided opinion, that the ordinance which he had just mentioned was utterly void, and, consequently, that those States might introduce slavery amongst them, if they so willed, because the territory which composes them, originally belonged to Virginia. She had conquered it by her arms; she ceded it to the United States upon the express condition that it should be formed into States, as free, sovereign, and independent as the other States. The prohibition of slavery was ordained by the Continental Congress, after the cession had been made, which would unquestionably render those States less sovereign than the original States of the Federal Union. But it has been said that we imposed conditions on the admission of the State of Louisiana into the Union. What were those conditions? That civil and religious liberty should be established, and the trial by jury secured. It cannot be necessary to remind the House, that these several provisions attached also to the original States, by the most explicit declaration to that effect, in the first, fifth, and seventh amendments to the Constitution of the United States. These requisitions, then, were in perfect consistency with his principle. All that he contended for was, that we could impose no condition upon the new States, which the Constitution had not imposed upon the old ones; as those which were imposed upon Louisiana were clearly of that description, they were within our power; but, as the prohibition of slavery was not of that description, he thought it was as clearly beyond our power. The gentleman from Massachusetts had said that it was competent to the State Legislatures to declare that the progeny of all slaves should be free when they attained a given age; and hence he inferred that Congress might do the same, in relation to the proposed State. Sir, said Mr. B., there is no sort of analogy between the cases; the State Legislatures can do it, because to them appertains the whole business of municipal legislation, and this regulation would be embraced within it; and Congress could do the same, in relation to its Territorial governments, because over them we possess the whole power of municipal legislation; not so in the present case; for the question now before us, is not what regulation we shall prescribe for a territory which is to continue as such, but upon what forms and conditions we will admit a State into the Union. Our business is, then, to create a political community of a particular

character, as prescribed by the Constitution; to itself it will belong to regulate its interior concerns, and, amongst others, to decide whether it will or will not admit involuntary servitude.

Mr. B. said he had endeavored to show that we had no power to require the condition embraced in this amendment; he would now beg leave to present to the House some other views of the subject, for the purpose of showing that, if it were within our power, we were forbidden from exercising it, by every consideration of humanity, of justice, and sound policy. Upon the subject of humanity, he had scarcely anything to add to what had been said by the Speaker; he had shown, in the most satisfactory manner, that the condition of the slaves would be greatly improved by their being spread over a greater surface, and by being carried to a country whose fertility was such as to furnish food and everything necessary for their maintenance, in a much more abundant, and, consequently, cheaper degree, than could be produced in the Atlantic States.

But, as it respected the justice of the measure, he would beg leave to submit some remarks to the House. Throughout all the Southern States, it was well known a very large portion of the population consisted of slaves, who, at the same time, stood towards the white population of the same States in the relation of property; although they were held as property, yet they were considered and treated as the most valuable, as the most favored property; their masters remembered that they were men, and although certainly degraded in the scale of society, by reason of their servitude, we felt for them those sympathies which bind one man to another, though that other may be our inferior. We were attached to them, too, by our prejudices, by our education and habits; in short, such were the feelings of the Southern people towards their slaves, that nothing scarcely but the necessity of the master, or the crime of the slave, would induce him to sell his slave. If the master emigrated, he would carry his slaves with him, not only for the various reasons which he had already stated, but because, going into a wilderness, where much labor was necessary to clear the country, they were, on that account, peculiarly necessary. Under these circumstances, a prohibition of the importation of slaves would, in almost every instance, be tantamount to a prohibition of the emigration of the Southern people to the State of Missouri. He asked whether it could be just to adopt such a regulation as would open an illimitable tract of the most fertile land to the Northern part of the United States, and, in effect, entirely shut out the whole Southern people? If it were correct in relation to Missouri, it would be equally so as to the whole tract of country lying west of the Mississippi. He hoped, from this view of the subject, the House would be struck with its monstrous injustice.

But he came now to the question of policy, and he thought he should be able to show that, in this respect, the amendment would meet as

decided reprobation as in any other aspect in which he had presented it.

Let it be remembered that we are not now called upon to decide, whether slavery shall be introduced into this country; it existed at the formation of the Constitution, and was recognised by that instrument, in reference both to representation and taxation. Nor, sir, are we called upon to decide whether there shall be an increase of the number of our slaves by importation from abroad. The Constitution authorized Congress to prohibit the importation of them after the year 1808, and Congress, accordingly, have actually passed a law to that effect. But the real question is, what disposition shall we make of those slaves who are already in the country? Shall they be perpetually confined on this side of the Mississippi, or shall we spread them over a much larger surface by permitting them to be carried beyond that river? The consequences which would flow from the different systems would furnish a satisfactory answer to these inquiries. The slaves, in the Southern States, bear a very considerable proportion to the whole population. He believed that by the last census, they were, in Virginia, as about three hundred and ninety thousand to about five hundred thousand. He did not mean to be arithmetically correct, but he was sufficiently so, for the conclusion which he meant to draw. Now, sir, in relation to the physical force of the country, if ever the time shall come when we shall be engaged in war, and they should be excited to insurrection, it is obvious that there must be an immense subduction from the efficiency of the slaveholding section of our country; its actual efficiency would consist only, or nearly so, in the excess of the white beyond the black population; by spreading them over a more extended surface, you secure these advantages; first, by diminishing the proportion which the slaves bear in point of numbers to the whites, you diminish their motives to insurrection. Secondly, that if that event ever should occur, it would obviously be much more easily and certainly suppressed, because, upon the supposition which he had made, they would have a much smaller relative proportion of physical force. He thanked God, he felt no alarm upon that subject at present; and that he slept quietly in his bed, notwithstanding the apprehension which some gentlemen seemed to entertain. But, in making the remarks which he did, he looked along the line of time, and wished that our measures should be adapted to the future circumstances of our country. Again, he would ask if it can be good policy to perpetuate fixed boundaries, either natural or artificial, between the slaveholding and non-slaveholding States? He had thought that the great object of our Federal compact was union. The surest possible mode of securing our political union, next to promoting the common defence and general warfare, is to give, as far as possible, every facility to the intercourse between the different sections of this extensive Republic; that, by the attrition which will be the result of that inter-

course, the asperities of our mutual prejudices and jealousies may be rubbed off; that the face of our society may present the smooth surface of harmony and good will; and, in short, that we may be knit together by a sympathy of feelings, by a community of habits and manners which ought to bind us together as brothers of the same great political family. Already is the northern part of our country, together with that northwest of the river Ohio, divided from us by those distinguishing names of slaveholding and non-slaveholding. Let us not make the Mississippi another great natural boundary, for the purpose of perpetuating the same distinctions, and dividing our country into castes. Gentlemen mistake when they suppose that, if slaves be permitted to be carried to Missouri, the Northern people will not emigrate to that State; look at the fact in the Southern States; the Northern hive is continually pouring forth its swarms of emigrants, and many of them, especially of the mercantile class, alight and settle amongst us; they soon become familiar with our habits and modes of life, prosper in an eminent degree, far beyond our own people, and, indeed, he hesitated not to say, were entirely satisfied and happy, although they were in a slaveholding State. Gentlemen equally mistake, when they suppose that their countrymen of the North, who are obliged to labor, would be degraded to a level with the slaves. Sir, our experience proves the contrary; we, too, have some of our citizens who are unable to purchase slaves, and who, therefore, till the ground with their own hands. But, sir, notwithstanding this, they have all that erectness of character which belongs to them as freemen, conscious of their political and civil rights; and he who should dare to treat them with disrespect, because fortune had not poured as much wealth into their laps as into his, would draw down upon him the execration of all good men.

Another effect of this amendment would be, in an essential degree to affect the value of the countless millions of public lands beyond the Mississippi. He said he had already endeavored to show, that it would obstruct the emigration from the Southern States. Precisely in proportion as it produced this effect, it would, of course, lessen the number of purchasers, and diminish the competition. Now, if the quantity of land in the market be the same, and the number of purchasers be diminished, the consequence must certainly be, a reduction of the price of the public lands below what would otherwise be their natural level; and to place this in a more striking point of view, he would further remark, that the loss which the whole people of the United States would sustain by the reduction in the price of the public lands, would be *profit* to that portion of the people who should emigrate there, and who, by the operation of the proposed amendment, if it should prevail, would have monopoly in the purchase. A gentleman from Massachusetts had objected, that, if slaves were permitted to be carried into this country, there would be a



H. OF R.

Admission of Missouri.

FEBRUARY, 1819.

much greater increase, than if they were retained in the States in which they now are. Does the gentleman, said Mr. B., perceive to what point this objection will carry him? The only reason why they will multiply more on the western than on the eastern side of the Mississippi is, that food is more abundant. Surely it cannot be the object of the gentleman, who is one of the most zealous advocates of humanity towards this unhappy class of people, to prevent their increase, even by shutting them out from food. If this cannot be the gentleman's intention, and he was sure it could not, then he must abandon his objection. Mr. B. said there was one other objection which he would urge against the proposed amendment—either it would be an act of supererogation or of downright injustice, to the people of Missouri; if they were themselves opposed to slavery, then it would be an act of supererogation, because they would prohibit it by their own legislation; if they were disposed to establish slavery, then it would be an act of injustice, because we should be legislating directly against the wishes of a people who were competent to legislate for themselves; and who must better understand their own happiness and welfare, than we can possibly do. Upon the whole, said Mr. B., I believe that we have no power to enact the proposed amendment; and that, if we had, it would be highly impolitic and unjust. I am, therefore, decidedly opposed to its adoption.

Mr. LIVERMORE spoke as follows: Mr. Chairman, I am in favor of the proposed amendment. The object of it is to prevent the extension of slavery over the territory ceded to the United States by France. It accords with the dictates of reason and the best feelings of the human heart; and is not calculated to interrupt any legitimate right arising either from the Constitution or any other compact. I propose to show what slavery is, and to mention a few of the many evils which follow in its train; and I hope to evince that we are not bound to tolerate the existence of so disgraceful a state of things beyond its present extent, and that it would be impolitic, and very unjust, to let it spread over the whole face of our Western territory. Slavery in the United States is the condition of man subjected to the will of a master, who can make any disposition of him short of taking away his life. In those States where it is tolerated, laws are enacted, making it penal to instruct slaves in the art of reading, and they are not permitted to attend public worship, or to hear the Gospel preached. Thus the light of science and of religion is utterly excluded from the mind, that the body may be more easily bowed down to servitude. The bodies of slaves may, with impunity, be prostituted to any purpose, and deformed in any manner by their owners. The sympathies of nature in slaves are disregarded; mothers and children are sold and separated; the children wring their little hands and expire in agonies of grief, while the bereft mothers commit suicide in despair. How long will the desire of wealth render us blind to the sin of holding both the bodies and

souls of our fellow men in chains! But, sir, I am admonished of the Constitution, and told that we cannot emancipate slaves. I know we may not infringe that instrument, and therefore do not propose to emancipate slaves. The proposition before us goes only to prevent our citizens from making slaves of such as have a right to freedom. In the present slaveholding States let slavery continue, for our boasted Constitution connives at it; but do not, for the sake of cotton and tobacco, let it be told to future ages that, while pretending to love liberty, we have purchased an extensive country to disgrace it with the foulest reproach of nations. Our Constitution requires no such thing of us. The ends for which that supreme law was made are succinctly stated in its preface. They are, first, to form a more perfect union, and insure domestic tranquillity. Will slavery effect this? Can we, sir, by mingling bond with free, black spirits with white, like Shakspeare's witches in Macbeth, form a more perfect union, and insure domestic tranquillity? Secondly, to establish justice. Is justice to be established by subjecting half mankind to the will of the other half? Justice, sir, is blind to colors, and weighs in equal scales the rights of all men, whether white or black. Thirdly, to provide for the common defence, and secure the blessings of liberty. Does slavery add anything to the common defence? Sir, the strength of a Republic is in the arm of freedom. But, above all things, do the blessings of liberty consist in slavery? If there is any sincerity in our profession, that slavery is an ill, tolerated only from necessity, let us not, while we feel that ill, shun the cure which consists only in an honest avowal that liberty and equal rights are the end and aim of all our institutions, and that to tolerate slavery beyond the narrowest limits prescribed for it by the Constitution, is a perversion of them all.

Slavery, sir, I repeat, is not established by our Constitution; but a part of the States are indulged in the commission of a sin from which they could not at once be restrained, and which they would not consent to abandon. But, sir, if we could, by any process of reasoning, be brought to believe it justifiable to hold others to involuntary servitude, policy forbids that we should increase it. Even the present slaveholding States have an interest, I think, in limiting the extent of involuntary servitude; for, should slaves become much more numerous, and, conscious of their strength, draw the sword against their masters, it will be to the free States that the masters must resort for an efficient power to suppress servile insurrection. But we have made a treaty with France, which, we are told can only be preserved by the charms of slavery.

Sir, said Mr. L., until the ceded territory shall have been made into States, and the new States admitted into the Union, we can do what we will with it. We can govern it as a province, or sell it to any other nation. A part of it is probably at this time sold to Spain, and the inhabitants of it may soon not only enjoy the comforts of slavery,

FEBRUARY, 1819.

Admission of Missouri.

H. OF R.

but the blessings of the holy inquisition along with them. The question is on the admission of Missouri as a State into the Union. Surely it will not be contended that we are bound by the treaty to admit it. The treaty-making power does not extend so far. Can the President and Senate, by a treaty with Great Britain, make the province of Lower Canada a State of this Union? To be received as a State into this Union, is a privilege which no country can claim as a right. It is a favor to be granted or not, as the United States may choose. When the United States think proper to grant a favor, they may annex just and reasonable terms: and what can be more reasonable than for these States to insist that a new territory, wishing to have the benefits of freedom extended to it, should renounce a principle that militates with justice, morality, religion, and every essential right of mankind? Louisiana was admitted into the Union on terms. The conditions, I admit, were not very important; but still they recognise the principles for which I contend.

An opportunity is now presented, if not to diminish, at least to prevent, the growth of a sin which sits heavy on the soul of every one of us. By embracing this opportunity, we may retrieve the national character, and, in some degree, our own. But if we suffer it to pass unimproved, let us at least be consistent, and declare that our Constitution was made to impose slavery, and not to establish liberty. Let us no longer tell idle tales about the gradual abolition of slavery; away with colonization societies, if their design is only to rid us of free blacks and turbulent slaves; have done also with bible societies, whose views are extended to Africa and the East Indies, while they overlook the deplorable condition of their sable brethren within our own borders; make no more laws to prohibit the importation of slaves, for the world must see that the object of such laws is alone to prevent the glutting of a prodigious market for the flesh and blood of man, which we are about to establish in the West, and to enhance the price of sturdy wretches, reared like black cattle and horses for sale on our own plantations.

The question being put on the motion of Mr. TALLMADGE to amend the bill, the vote was—for the amendment 79, against it 67.

So the amendment was agreed to.

The House then proceeded in the further consideration and maturing the provisions of the bill, which occupied the House until the usual hour of adjournment.

TUESDAY, February 16.

Mr. LIVERMORE presented a petition of the postmasters in the cities of Boston, Albany, New York, Philadelphia, Baltimore, and Washington, praying for a repeal of the fortieth section of the act passed on the 30th April, 1810, entitled "An act regulating the Post Office Establishment," or that their compensations may be increased, so as to be adequate to the services required of them.—

Referred to the Committee on the Post Office and Post Roads.

The SPEAKER presented a petition of George Hadfield, late architect of the Capitol in the City of Washington, praying compensation for a plan of the public offices in said city, which he made by direction of the Commissioners of said city, in the year 1797.—Referred to the Committee of Claims.

Ordered, That the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act more effectually to provide for the punishment of certain crimes, and for other purposes," be discharged from the further consideration thereof, and that it lie on the table.

The said committee were also discharged from the further consideration of the petition of General James Wilkinson, and it was referred to the Committee of Claims. They were also discharged from the consideration of all such matters and things to them referred, at the present session, upon which they have not acted.

The amendment proposed by the Senate to the bill, entitled "An act for the relief of Kenzie and Forsyth" was read, and referred to the Committee of Claims.

Bills from the Senate, of the following titles, to wit: "An act for the relief of B. and P. Jourdan, brothers;" "An act for the relief of Edward McCarty;" "An act for the relief of Michael Hogan;" and "An act confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan"—were severally read the first and second time, and referred—the first to the Committee of the Whole, to which is referred the report of the Committee of Claims, made at the last session, on the petition of Samuel Hughes; the second and third to the Committee of Claims; and the fourth to the Committee on Private Land Claims.

An engrossed bill, entitled "An act for the relief of Patrick Callan," was read the third time, and passed.

A motion was made by Mr. WILLIAMS, of North Carolina, to proceed to the further consideration of the resolution submitted by him to reduce the Army of the United States; which was rejected, by a majority of about forty votes.

#### ADMISSION OF MISSOURI.

The House then proceeded to the consideration of the amendments reported by the Committee of the Whole to the bill authorizing the people of the Territory of Missouri to form a constitution and State government, and for the admission of the same into the Union.

The whole of the amendments made in Committee of the Whole were agreed to, with the exception of that which prohibits slavery or involuntary servitude in the proposed State.

On this question the debate which commenced yesterday was renewed, and prosecuted with considerable spirit—Mr. SCOTT, Mr. COLSTON, Mr. TALLMADGE, Mr. STORRS, Mr. TAYLOR, Mr. SIMPKINS, Mr. MILLS, Mr. SPENCER, Mr. HOLMES,



Mr. BARBOUR, Mr. CAMPBELL of Ohio, Mr. BUTLER of Louisiana, Mr. TERRY, and Mr. BEECHER, taking part in it.

Mr. SCOTT, of Missouri, said, he trusted that his conduct, during the whole of the time in which he had the honor of a seat in the House had convinced gentlemen of his disposition not to obtrude his sentiments on any other subjects than those in which the interest of his constituents, and of the Territory he represented, were immediately concerned. But when a question, such as the amendments proposed by the gentlemen from New York, (Messrs. TALLMADGE and TAYLOR,) was presented for consideration, involving Constitutional principles to a vast amount, pregnant with the future fate of the Territory, fortending destruction to the liberties of that people, directly bearing on their rights of property, their State rights, their all, he should consider it as a dereliction of his duty, as a retreating from his post, nay, double criminality, did he not raise his voice against their adoption. After the many able and luminous views that had been taken of this subject, by the Speaker of the House and other honorable gentlemen, he had not the vanity to suppose that any additional views which he could offer, or any new dress in which he could clothe those already advanced, would have the happy tendency of inducing any gentleman to change his vote. But, if he stood single on the question, and there was no man to help him, yet, while the laws of the land and the rules of the House guaranteed to him the privilege of speech, he would redeem his conscience from the imputation of having silently witnessed a violation of the Constitution of his country, and an infringement on the liberties of the people who had intrusted to his feeble abilities the advocacy of their rights. He desired, at this early stage of his remarks, in the name of the citizens of Missouri Territory, whose rights on other subjects had been too long neglected and shamefully disregarded, to enter his solemn protest against the introduction, under the insidious form of amendment, of any principle in this bill, the obvious tendency of which would be to sow the seeds of discord in, and perhaps eventually endanger, the Union.

Mr. S. entertained the opinion that, under the Constitution, Congress had not the power to impose this or any other restriction, or to require of the people of Missouri their assent to this condition, as a prerequisite to their admission into the Union. He contended this from the language of the Constitution itself; from the practice in the admission of new States under that instrument; and from the express terms of the treaty of cession. The short view he intended to take of those points would, he trusted, be satisfactory to all those who were not so anxious to usurp power as to sacrifice to its attainment the principles of our Government, or who were not desirous of prostrating the rights and independence of a State on chimerical views of policy or expediency. The authority to admit new States into the Union was granted in the third section of the fourth article of the Constitution, which declared that

"new States may be admitted by the Congress into the Union." The only power given to the Congress by this section, appeared to him to be that of passing a law for the admission of the new State, leaving it in possession of all the rights, privileges, and immunities enjoyed by the other States; the most valuable and prominent of which was that of forming and modifying their own State constitution, and over which Congress had no superintending control, other than that expressly given in the fourth section of the same article, which read, "the United States shall guaranty to every State in this Union a republican form of government." This end accomplished, the guardianship of the several States over the constitutions of the several States was fulfilled; and all restrictions, limitations, and conditions beyond this, was so much power unwarrantably assumed. In illustration of this position, he would read an extract from one of the essays written, by the late President Madison, contemporaneously with the Constitution of the United States, and from a very celebrated work:

"In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such an union may be, the greater interest have the members in the political institutions of each other, and the greater right to insist that the forms of government, under which the compact was entered into, should be substantially maintained. But this authority extends no farther than to a guarantee of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is, that they shall not exchange republican for anti-republican constitutions; a restriction which, it is presumed, will hardly be considered as a grievance."

Mr. S. thought that those two clauses, when supported by such high authority, had they been the only ones in the Constitution which related to the powers of the General Government over the States, and particularly at their formation and adoption into the Union, could not but be deemed satisfactory to a reasonable extent; but there were other provisions in the Constitution, to which he would refer, that beyond all doubt, to his mind, settled the question. One of those was the tenth article in the amendments, which said that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." He believed that, by common law and common usage, all grants giving certain defined and specific privileges or powers, were to be so construed as that no others should be intended to be given but such as were particularly enumerated in the instruments themselves, or indispensably necessary to carry into effect those designated. In no part of the Con-

stitution was the power proposed to be exercised, of imposing conditions on a new State, given, either in so many words, or by any justifiable or fair inference; nor in any portion of the Constitution was the right prohibited to the respective States, to regulate their own internal police, of admitting such citizens as they pleased, or of introducing any description of property, that they should consider as essential or necessary to their prosperity; and the framers of that instrument seem to have been zealous lest, by implication or by inference, powers might be assumed by the General Government over the States and people, other than those expressly given; hence they reserve, in so many terms, to the States and the people, all powers not delegated to the Federal Government. The ninth article of the amendments to the Constitution still further illustrated the position he had taken; it read, that "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." Mr. S. believed it to be a just rule of interpretation, that the enumeration of powers delegated to Congress weakened their authority in all cases not enumerated; and that beyond those powers enumerated they had none, except they were essentially necessary to carry into effect those that were given. The second section of the fourth article of the Constitution, which declared that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States," was satisfactory, to his judgment, that it was intended the citizens of each State, forming a part of one harmonious whole, should have, in all things, equal privileges; the necessary consequence of which was, that every man, in his own State, should have the same rights, privileges, and powers, that any other citizen of the United States had in his own State; otherwise, discontent and murmurings would prevail against the General Government, who had deprived him of this equality.

For example, if the citizens of Pennsylvania or Virginia enjoyed the right, in their own State, to decide the question whether they would have slavery or not, the citizens of Missouri, to give them the same privileges, must have the same right to decide whether they would or would not tolerate slavery in their State; if it were otherwise, then the citizens of Pennsylvania and Virginia would have more rights, privileges, and powers, in their respective States, than the citizens of Missouri would have in theirs. Mr. S. said he would make another quotation from the same work he had before been indebted to, which he believed had considerable bearing on this question. "The powers delegated by the proposed constitution to the Federal Government are few and defined; those which are to remain in the State governments are numerous and indefinite; the former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce—with which last the powers of taxation will, for the most part, be connected. The powers reserved to the seve-

ral States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State." The applicability of this doctrine to the question under consideration was so obvious that he would not detain the House to give examples, but leave it for gentlemen to make the application. He would, however, make one other reference to the Constitution before he proceeded to speak of the practice under it; in the second section of that instrument it was provided that "representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." This provision was not restricted to the States then formed, and about to adopt the Constitution, but to all those States which might be included within this Union, clearly contemplating the admission of new States thereafter, and providing that to them also should this principle of representation and taxation equally apply. Nor could he subscribe to the construction, that, as this part of the Constitution was matter of compromise, it was to be limited in its application to the original States only, and not to be extended to all those States that might after its adoption become members of the Federal Union; and a practical exposition had been made by Congress of this part of the Constitution, in the admission of Kentucky, Louisiana, and Mississippi, as States, all of whom were slaveholding States, and to each of them this principle had been extended.

Mr. S. believed that the practice under the Constitution had been different from that now contended for by gentlemen; he was unapprized of any similar provision having ever been made, or attempted to be made, in relation to any other new State heretofore admitted. The argument drawn from the States formed out of the territory northwest of the Ohio river he did not consider as analogous; that restriction, if any, was imposed in pursuance of a compact, and only, so far as Congress could do, carried into effect the disposition of Virginia in reference to a part of her own original territory, and was in every respect more just, because that provision was made and published to the world at a time when but few, if any, settlements were formed within that tract of country; and the children of those people of color belonging to the inhabitants then there have been, and still were, held in bondage, and were not free at a given age, as was contemplated by the amendment under consideration; nor did he doubt but that it was competent for any of those States, admitted in pursuance of the ordinance of 1787, to call a convention, and so alter their constitution as to allow of the introduction of slaves, if they thought proper to do so. To those gentlemen who had in their argument, in support of the amendments, adverted to the



instance where Congress had, by the law authorizing the people of Louisiana to form a constitution and State government, exercised the power of imposing the terms and conditions on which they should be permitted to do so, he would recommend the careful examination and comparison of those terms with the Constitution of the United States, when, he doubted not, they would be convinced that these restrictions were only such as were in express and positive language defined in the latter instrument, and would have been equally binding on the people of Louisiana had they not have been enumerated in the law giving them authority to form a constitution for themselves.

Mr. S. said he considered the contemplated conditions and restrictions, contained in the proposed amendments, to be unconstitutional and unwarrantable, from the provisions of the treaty of cession, by the third article of which it was stipulated, that "the inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities, of citizens of the United States, and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

This treaty having been made by the competent authority of Government, ratified by the Senate, and emphatically sanctioned by Congress in the acts making appropriations to carry it into effect, became a part of the supreme law of the land, and its bearings on the rights of the people had received a practical exposition by the admission of the State of Louisiana, part of the same territory, and acquired by the same treaty of cession, into the Union. It was in vain for gentlemen to tell him that, by the terms of the treaty of cession, the United States were not bound to admit any part of the ceded territory into the Union as a State; the evidence of the obligation Congress considered they were under, to adopt States formed out of that territory, is clearly delucible from the fact, that they had done so in the instance of Louisiana. But had no State been admitted, formed of a part of the territory acquired by that treaty, the obligation of the Government to do so would not be the less apparent to him. "The inhabitants of the ceded territory shall be incorporated in the Union of the United States." The people were not left to the wayward discretion of this, or any other Government, by saying that they may be incorporated in the Union. The language was different and imperative: "they shall be incorporated." Mr. S. understood by the term incorporated, that they were to form a constituent part of this Republic; that they were to become joint partners in the character and councils of the country, and in the national losses and national gains; as a territory they were not an essential part of the Government; they were a mere province, subject to the acts and regulations of the General Government

in all cases whatsoever. As a territory they had not all the rights, advantages, and immunities, of citizens of the United States. Mr. S. himself furnished an example, that, in their present condition, they had not all the rights of the other citizens of the Union. Had he a vote in this House? and yet these people were, during the war, subject to certain taxes imposed by Congress. Had those people any voice to give in the imposition of taxes to which they were subject, or in the disposition of the funds of the nation, and particularly those arising from the sales of the public lands to which they already had, and still would largely contribute? Had they a voice to give in selecting the officers of this Government, or many of their own? In short, in what had they equal rights, advantages, and immunities with the other citizens of the United States, but in the privilege to submit to a procrastination of their rights, and in the advantage to subscribe to your laws, your rules, your taxes, and your powers, even without a hearing? Those people were also "to be admitted into the Union as soon as possible."

Mr. S. would infer from this expression, that it was the understanding of the parties, that so soon as any portion of the territory, of sufficient extent to form a State, should contain the number of inhabitants required by law to entitle them to a Representative on the floor of this House, that they then had the right to make the call for admission, and this admission, when made, was to be, not on conditions that gentlemen might deem expedient, not on conditions referable to future political views, not on conditions that the constitution, the people should form, should contain a clause that would particularly open the door for emigration from the North or from the South, not on condition that the future population of the State should come from a slaveholding or non-slaveholding State, but "but according to the principles of the Federal Constitution," and none other. The people of Missouri were, by solemn treaty stipulation, when admitted, to enjoy all the rights, advantages, and immunities of citizens of the United States. Can any gentleman contend, that, laboring under the proposed restriction, the citizens of Missouri would have all the rights, advantages, and immunities of other citizens of the Union? Have not other new States, in their admission, and have not all the States in the Union, now, privileges and rights beyond what was contemplated to be allowed to the citizens of Missouri? Have not all other States in this Government the right to alter, modify, amend, and change their State constitution, having regard alone to a republican form? And was there any existing law, or any clause in the Federal Constitution, that prohibited a total change from a slaveholding to a non-slaveholding State, or from a non-slaveholding to a slaveholding State? Mr. S. thought, that if this provision was proper, or within the powers of Congress, they also had the correlative right to say, that the people of Missouri should not be admitted as a State, unless they provided, in the formation of their State

constitution, that slavery should be tolerated. Would not those conscientious gentlemen startle at this, and exclaim, *What*, impose on those people slaves, when they do not want them! This would be said to be a direct attack on the State independence. Was it in the power of Congress to annex the present condition, Mr. S. deemed it equally within the scope of their authority to say, what color the inhabitants of the proposed State should be, what description of property, other than slaves, those people should or should not possess, and the quantity of property each man should retain, going upon the Agrarian principle. He would even go further, and say, that Congress had an equal power to enact to what religion the people should subscribe; that none other should be professed, and to provide for the excommunication of all those who did not submit.

The people of Missouri were, if admitted into the Union, to come in on an equal footing with the original States. That the people of the other States had the right to regulate their own internal police, to prescribe the rules of their own conduct, and, in the formation of their constitutions, to say whether slavery was or was not admissible, he believed was a point conceded by all. How, then were the citizens of Missouri placed on an equal footing with the other members of the Union? Equal in some respects—a shameful discrimination in others. A discrimination not warranted by the Constitution, or justified by the treaty of cession, but founded on mistaken zeal, or erroneous policy. They were to be bound down by onerous conditions, limitations, and restrictions, to which he knew they would not submit. That people were brave and independent in spirit, they were intelligent, and knew their own rights; they were competent to self government, and willing to risk their own happiness and future prosperity on the legitimate exercise of their own judgment and free will. Mr. S. protested against such a guardianship as was contemplated now to be assumed over his constituents. The spirit of freedom burned in the bosoms of the freemen of Missouri, and if admitted into the national family, they would be equal, or not come in at all. With what an anxious eye have they looked to the East, since the commencement of this session of Congress, for the good tidings, that on them you had conferred the glorious privilege of self-government and independence. What seeds of discord will you sow, when they read this suspicious, shameful, unconstitutional inhibition in their charter? Will they not compare it with the terms of the treaty of cession—that bill of their rights, emphatically their *magna charta*? And will not the result of that comparison be a stigma on the faith of this Government? It had been admitted by some gentlemen in debate, that, were the people of Missouri to form a constitution conforming to this provision, so soon as they were adopted into the Union it would be competent for them to call a convention and alter their constitution on this subject. Why, then, he would ask gentlemen, would they legislate, when they could

produce no permanent practical effect? Why expose the imbecility of the General Government, to tie up the hands of the State, and induce the people to an act of chicanery, which he knew from principle they abhorred, to get clear of an odious restriction on their rights? Mr. S. had trusted that gentlemen who professed to be actuated by motives of humanity and principle would not encourage a course of dissimulation, or, by any vote of theirs, render it necessary for the citizens of Missouri to act equivocally to obtain their right. He was unwilling to believe, that political views alone led gentlemen on this or any other occasion; but, from the language of the member from New York, (Mr. TAYLOR,) he was compelled to suspect that they had their influence upon him. That gentleman has told us, that if ever he left his present residence, it would be for Illinois or Missouri; at all events, he wished to send out his brothers and his sons. Mr. S. begged that gentleman to relieve him from the awful apprehension excited by the prospect of this accession of population. He hoped the House would excuse him while he stated, that he did not desire that gentleman, his sons, or his brothers, in that land of brave, noble, and independent freemen. The member says that the latitude is too far North to admit of slavery there. Would the gentleman cast his eye on the map before him, he would there see, that a part of Kentucky, Virginia, and Maryland, were as far North as the northern boundary of the proposed State of Missouri. Mr. S. would thank the gentleman if he would condescend to tell him what precise line of latitude suited his conscience, his humanity, or his political views, on this subject. Could that member be serious when he made the parallel of latitude the measure of his good will to those unfortunate blacks? Or was he trying how far he could go in fallacious argument and absurdity without creating one blush, even on his own cheek, for inconsistency? What, starve the negroes, pen them up in the swamps and morasses, confine them to Southern latitudes, to long scorching days of labor and fatigue, until the race becomes extinct, that the fair land of Missouri may be tenanted by that gentleman, his brothers, and his sons? He expected from a majority of the House a more liberal policy, and better evidence that they really were actuated by humane motives.

Mr. S. said, he would trouble the House no longer; he thanked them for the attention and indulgence already bestowed; but he desired to apprise gentlemen, before he sat down, that they were sowing the seeds of discord in this Union, by attempting to admit States with unequal privileges and unequal rights; that they were signing, sealing, and delivering their own death warrant; that the weapon they were so unjustly wielding against the people of Missouri, was a two-edged sword. From the cumulative nature of power, the day might come when the General Government might, in turn, undertake to dictate to them on questions of internal policy; Missouri, now weak and feeble, whose fate and murmurs would excite but little alarm or sensibility, might



H. OF R.

Admission of Missouri

FEBRUARY, 1819.

become an easy victim to motives of policy, party zeal, or mistaken ideas of power; but other times and other men would succeed; a future Congress might come, who, under the sanctified forms of Constitutional power, would dictate to them odious conditions; nay, inflict on their internal independence a wound more deep and dreadful than even this to Missouri. The House had seen the force of the precedent, in the mistaken application of the conditions imposed on the people of Louisiana anterior to their admission into the Union. And, whatever might be the ultimate determination of the House, Mr. S. considered this question big with the fate of Cæsar and of Rome.

Mr. TALLMADGE, of New York, rose.—Sir, said he, it has been my desire and my intention to avoid any debate on the present painful and unpleasant subject. When I had the honor to submit to this House the amendment now under consideration, I accompanied it with a declaration, that it was intended to confine its operation to the newly acquired territory across the Mississippi; and I then expressly declared that I would in no manner intermeddle with the slaveholding States, nor attempt manumission in any one of the original States in the Union. Sir, I even went further, and stated that I was aware of the delicacy of the subject, and that I had learned from Southern gentlemen the difficulties and the dangers of having free blacks intermingling with slaves; and, on that account, and with a view to the safety of the white population of the adjoining States, I would not even advocate the prohibition of slavery in the Alabama Territory; because, surrounded as it was by slaveholding States, and with only imaginary lines of division, the intercourse between slaves and free blacks could not be prevented, and a servile war might be the result. While we deprecate and mourn over the evil of slavery, humanity and good morals require us to wish its abolition, under circumstances consistent with the safety of the white population. Willingly, therefore, will I submit to an evil which we cannot safely remedy. I admitted all that had been said of the danger of having free blacks visible to slaves, and therefore did not hesitate to pledge myself that I would neither advise nor attempt coercive manumission. But, sir, all these reasons cease when we cross the banks of the Mississippi, a newly acquired territory, never contemplated in the formation of our Government, not included within the compromise or mutual pledge in the adoption of our Constitution, a new territory acquired by our common fund, and ought justly to be subject to our common legislation.

Sir, when I submitted the amendment now under consideration, accompanied with these explanations, and with these avowals of my intentions and of my motives, I did expect that gentlemen who might differ from me in opinion would appreciate the liberality of my views, and would meet me with moderation, as upon a fair subject for general legislation. Sir, I did expect at least that the frank declaration of my views

would protect me from harsh expressions, and from the unfriendly imputations which have been cast out on this occasion. But, sir, such has been the character and the violence of this debate, and expressions of so much intemperance, and of an aspect so threatening have been used, that continued silence on my part would ill become me, who had submitted to this House the original proposition. While this subject was under debate before the Committee of the Whole, I did not take the floor, and I avail myself of this occasion to acknowledge my obligations to my friends, (Messrs. TAYLOR and MILLS,) for the manner in which they supported my amendment, at a time when I was unable to partake in the debate. I had only on that day returned from a journey long in its extent, and painful in its occasion; and, from an affection of my breast, I could not then speak; I cannot yet hope to do justice to the subject, but I do hope to say enough to assure my friends that I have not left them in the controversy, and to convince the opponents of the measure, that their violence has not driven me from the debate.

Sir, the honorable gentleman from Missouri, (Mr. SCOTT,) who has just resumed his seat, has told us of the *ides of March*, and has cautioned us to "*beware of the fate of Cæsar and of Rome.*" Another gentleman, (Mr. COBB,) from Georgia, in addition to other expressions of great warmth, has said, "that, if we persist, the Union will be dissolved;" and, with a look fixed on me, has told us, "we have kindled a fire which all the waters of the ocean cannot put out, which seas of blood can only extinguish."

Sir, language of this sort has no effect on me; my purpose is fixed, it is interwoven with my existence, its durability is limited with my life, it is a great and glorious cause, setting bounds to a slavery the most cruel and debasing the world ever witnessed; it is the freedom of man; it is the cause of unredeemed and unregenerated human beings.

Sir, if a dissolution of the Union must take place, let it be so! If civil war, which gentlemen so much threaten, must come, I can only say, let it come! My hold on life is probably as frail as that of any man who now hears me; but, while that hold lasts, it shall be devoted to the service of my country—to the freedom of man. If blood is necessary to extinguish any fire which I have assisted to kindle, I can assure gentlemen, while I regret the necessity, I shall not forbear to contribute my mite. Sir, the violence to which gentlemen have resorted on this subject will not move my purpose, nor drive me from my place. I have the fortune and the honor to stand here as the representative of freemen, who possess intelligence to know their rights, who have the spirit to maintain them. Whatever might be my own private sentiments on this subject, standing here as the representative of others, no choice is left me. I know the will of my constituents, and, regardless of consequences, I will avow it; as their representative, I will proclaim their hatred to slavery in every shape; as

FEBRUARY, 1819.

Admission of Missouri.

H. OF R.

their representative, here will I hold my stand, until this floor, with the Constitution of my country which supports it, shall sink beneath me. If I am doomed to fall, I shall at least have the painful consolation to believe that I fall, as a fragment, in the ruins of my country.

Sir, the gentleman from Virginia (Mr. COLSTON) has accused my honorable friend, from New Hampshire, (Mr. LIVERMORE) of "speaking to the galleries, and, by his language, endeavoring to excite a servile war;" and has ended by saying, "he is no better than Arbuthnot or Ambrister; and deserves no better fate." Sir, when I hear such language uttered upon this floor, and within this House, I am constrained to consider it as hasty and unintended language, resulting from the vehemence of debate, and not really intending the personal indecorum the expressions would seem to indicate. [Mr. COLSTON asked to explain, and said he had not distinctly understood Mr. T. Mr. LIVERMORE called on Mr. C. to state the expressions he had used. Mr. C. then said he had no explanation to give.] Mr. TALLMADGE said he had none to ask; he continued to say, he would not believe any gentleman on this floor would commit so great an indecorum against any member, or against the dignity of the House, as to use such expressions, really intending the meaning which the words seem to import, and which had been uttered against the gentleman from New Hampshire. [Mr. NELSON, of Virginia, in the chair, called to order, and said no personal remarks would be allowed.] Mr. T. said, he rejoiced the Chair was at length aroused to a sense of its duties. The debate had, for several days, progressed with unequalled violence, and all was in order; but now, when at length this violence on one side is to be resisted, the Chair discovered it is out of order. I rejoice, said Mr. T., at the discovery, approve of the admonition, while I am proud to say, it has no relevancy to me. It is my boast that I never uttered an unfriendly personal remark on this floor, but I wish it distinctly understood that the immutable laws of self-defence will justify going to great lengths, and that, in the future progress of this debate, the rights of defence would be regarded.

Sir, has it already come to this; that in the Congress of the United States—that, in the legislative councils of republican America, the subject of slavery has become a subject of so much feeling—of such delicacy—of such danger, that it cannot safely be discussed? Are members who venture to express their sentiments on this subject to be accused of talking to the galleries, with intent to excite a servile war; and of meriting the fate of Arbuthnot and Ambrister? Are we to be told of the dissolution of the Union; of civil war, and of seas of blood? And yet, with such awful threatenings before us, do gentlemen, in the same breath, insist upon the encouragement of this evil; upon the extension of this monstrous scourge of the human race? An evil so fraught with such dire calamities to us as individuals, and to our nation, and threatening, in its progress, to overwhelm the civil and religious institutions of

the country, with the liberties of the nation, ought at once to be met, and to be controlled. If its power, its influence, and its impending dangers have already arrived at such a point that it is not safe to discuss it on this floor, and it cannot now pass under consideration as a proper subject for general legislation, what will be the result when it is spread through your widely extended domain? Its present threatening aspect, and the violence of its supporters, so far from inducing me to yield to its progress, prompts me to resist its march. Now is the time. It must now be met, and the extension of the evil must now be prevented, or the occasion is irrecoverably lost, and the evil can never be contracted.

Sir, extend your view across the Mississippi, over your newly acquired territory; a territory so far surpassing in extent the limits of your present country, that that country which gave birth to your nation, which achieved your Revolution, consolidated your Union, formed your Constitution, and has subsequently acquired so much glory, hangs but as an appendage to the extended empire over which your republican Government is now called to bear sway. Look down the long vista of futurity. See your empire, in extent unequalled; in advantageous situation without a parallel; and occupying all the valuable part of our continent. Behold this extended empire, inhabited by the hardy sons of American freemen—knowing their rights, and inheriting the will to protect them—owners of the soil on which they live, and interested in the institutions which they labor to defend—with two oceans lavishing your shores, and tributary to your purposes bearing on their bosoms the commerce of your people. Compared to yours, the Governments of Europe dwindle into insignificance, and the whole world is without a parallel. But, sir, reverse this scene; people this fair dominion with the slaves of your planters; extend slavery—this bane of man, this abomination of heaven—over your extended empire, and you prepare its dissolution; you turn its accumulated strength into positive weakness; you cherish a canker in your breast; you put poison in your bosom; you place a vulture on your heart—nay, you whet the dagger and place it in the hands of a portion of your population, stimulated to use it, by every tie, human and divine. The envious contrast between your happiness and their misery, between your liberty and their slavery, must constantly prompt them to accomplish your destruction. Your enemies will learn the source and the cause of your weakness. As often as internal dangers shall threaten, or internal commotions await you, you will then realize, that, by your own procurement, you have placed amidst your families, and in the bosom of your country, a population producing at once the greatest cause of individual danger and of national weakness. With this defect, your Government must crumble to pieces, and your people become the scoff of the world.

Sir, we have been told, with apparent confidence, that we have no right to annex conditions to a State on its admission into the Union; and



H. OF R.

Admission of Missouri.

FEBRUARY, 1819.

it has been urged that the proposed amendment, prohibiting the further introduction of slavery is unconstitutional. This position, asserted with so much confidence, remains unsupported by any argument, or by any authority derived from the Constitution itself. The Constitution strongly indicates an opposite conclusion, and seems to contemplate a difference between the old and the new States. The practice of the Government has sanctioned this difference in many respects.

The third section of the fourth article of the Constitution says, "new States may be admitted by the Congress into this Union," and it is silent as to the terms and conditions upon which the new States may be so admitted. The fair inference from this silence is, that the Congress which might admit, should prescribe the time and the terms of such admission. The tenth section of the first article of the Constitution says, "the migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808." The words "now existing" clearly show the distinction for which we contend. The word *slave* is nowhere mentioned in the Constitution, but this section has always been considered as applicable to them, and unquestionably reserved the right to prohibit their importation into any new State before the year 1808.

Congress, therefore, have power over the subject, probably as a matter of legislation, but more certainly as a right, to prescribe the time and the condition upon which any new State may be admitted into the family of the Union. Sir, the bill now before us proves the correctness of my argument. It is filled with conditions and limitations. The territory is required to take a census, and is to be admitted only on condition that it have forty thousand inhabitants. I have already submitted amendments preventing the State from taxing the lands of the United States, and declaring all navigable waters shall remain open to the other States, and be exempt from any tolls or duties. And my friend (Mr. TAYLOR) has submitted amendments prohibiting the State from taxing soldiers' lands for the period of five years. And to all these amendments we have heard no objection; they have passed unanimously. But now, when an amendment prohibiting the further introduction of slavery is proposed, the whole House is put in agitation, and we are confidently told that it is unconstitutional to annex conditions on the admission of a new State into the Union. The result of all this is, that all amendments and conditions are proper, which suit a certain class of gentlemen, but whatever amendment is proposed, which does not comport with their interests or their views, is unconstitutional, and a flagrant violation of this sacred charter of our rights. In order to be consistent, gentlemen must go back and strike out the various amendments to which they have already agreed. The Constitution applies equally to all, or to none.

Sir, we have been told that this is a new prin-

ciple for which we contend, never before adopted, or thought of. So far from this being correct, it is due to the memory of our ancestors to say, it is an old principle, adopted by them, as the policy of our country. Whenever the United States have had the right and the power, they have heretofore prevented the extension of slavery. The States of Kentucky and Tennessee were taken off from other States, and were admitted into the Union without condition, because their lands were never owned by the United States. The Territory Northwest of the Ohio is all the land which ever belonged to them. Shortly after the cession of those lands to the Union, Congress passed, in 1787, a compact which was declared to be unalterable, the sixth article of which provides that "there shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment for crimes, whereof the party shall have been duly convicted." In pursuance of this compact, all the States formed from that territory have been admitted into the Union upon various considerations, and among which the sixth article of this compact is included as one.

Let gentlemen also advert to the law for the admission of the State of Louisiana into the Union: they will find it filled with conditions. It was required not only to form a constitution upon the principles of a republican government, but it was required to contain the "fundamental principles of civil and religious liberty." It was even required, as a condition of its admission, to keep its records and its judicial and legislative proceedings in the English language; and also to secure the trial by jury, and to surrender all claim to unappropriated lands in the territory, with the prohibition to tax any of the United States lands.

After this long practice and constant usage to annex conditions to the admission of a State into the Union, will gentlemen yet tell us it is unconstitutional, and talk of our principles being novel and extraordinary? It has been said that, if this amendment prevails, we shall have an union of States possessing unequal rights. And we have been asked, whether we wished to see such a "chequered union?" Sir, we have already such an Union. If the prohibition of slavery is the denial of a right, and constitutes a chequered union, gladly would I behold such rights denied, and such a chequer spread over every State in the Union. It is now spread over the States northwest of the Ohio, and forms the glory and the strength of those States. I hope it will be extended from the Mississippi river to the Pacific ocean.

Sir, we have been told that the proposed amendment cannot be received, because it is contrary to the treaty and cession of Louisiana. "Article 3. The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the

FEBRUARY, 1819.

Admission of Missouri.

H. OF R.

United States; and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess." I find nothing, said Mr. T., in this article of the treaty, incompatible with the proposed amendment. The rights, advantages, and immunities of citizens of the United States are guaranteed to the inhabitants of Louisiana. If one of them should choose to remove into Virginia, he could take his slaves with him; but if he removes to Indiana, or any of the States northwest of the Ohio, he cannot take his slaves with him. If the proposed amendment prevails, the inhabitants of Louisiana or the citizens of the United States can neither of them take slaves into the State of Missouri. All, therefore, may enjoy equal privileges. It is a disability, or what I call a blessing, annexed to the particular district of country, and in no manner attached to the individual. But, said Mr. T., while I have no doubt that the treaty contains no solid objection against the proposed amendment, yet if it did, it would not alter my determination on the subject. The Senate, or the treaty-making power of our Government, have neither the right nor the power to stipulate, by a treaty, the terms upon which a people shall be admitted into the Union. This House have a right to be heard on the subject. The admission of a State into the Union is a legislative act, which requires the concurrence of all the departments of legislative power. It is an important prerogative of this House, which I hope will never be surrendered. The zeal and the ardor of gentlemen, in the course of this debate, has induced them to announce to this House, that, if we persist and force the State of Missouri to accede to the proposed amendment, as the condition of her admission into the Union, she will disregard it, and, as soon as admitted, will alter her Constitution, and introduce slavery into her territory. Sir, I am not now prepared, nor is it necessary to determine what would be the consequence of such a violation of faith—of such a departure from the fundamental condition of her admission into the Union. I would not cast upon a people so foul an imputation as to believe they would be guilty of such fraudulent duplicity. The States northwest of the Ohio have all regarded the faith and the condition of their admission; and there is no reason to believe the people of Missouri will not also regard theirs. But, sir, whenever a State, admitted into the Union shall disregard and set at naught the fundamental condition of its admission, and shall, in violation of all faith, undertake to levy a tax upon the lands of the United States, or a toll upon their navigable waters, or introduce slavery, where Congress have prohibited it, then it will be in time to determine the consequence. But, sir, if the threatened consequences were known to be the certain result, yet would I insist upon the proposed amendment. The declaration of this House, the declared will of the nation, to prohibit slavery, would produce its moral effect, and stand as one of the brightest ornaments of our country. Sir, it has been urged,

with great plausibility, that we should spread the slaves now in our country, and thus spread the evil, rather than confine it to its present districts. It has been said, we should thereby diminish the dangers from them, while we increase the means of their living, and augment their comforts. But, sir, you may rest assured that this reasoning is fallacious, and that, while slavery is admitted, the market will be supplied. Our coast, and its contiguity to the West Indies and the Spanish possessions, render easy the introduction of slaves into our country. Our laws are already highly penal against their introduction, and yet it is a well known fact, that about fourteen thousand slaves have been brought into our country this last year.

Sir, since we have been engaged in this debate, we have witnessed an elucidation of this argument, of bettering the condition of slaves, by spreading them over the country. A slave driver, a trafficker in human flesh, as if sent by Providence, has passed the door of your Capitol, on his way to the West, driving before him about fifteen of these wretched victims of his power. The males, who might raise the arm of vengeance, and retaliate for their wrongs, were handcuffed, and chained to each other, while the females and children were marched in their rear, under the guidance of the driver's whip! Yes, sir, such has been the scene witnessed from the windows of Congress Hall, and viewed by members who compose the legislative councils of Republican America!

Sir, in the course of the debate on this subject, we have been told that, from the long habit of the Southern and Western people, the possession of slaves has become necessary to them, and an essential requisite in their living. It has been urged, from the nature of the climate and soil of the Southern countries, that the lands cannot be occupied or cultivated without slaves. It has been said that the slaves prosper in those places, and that they are much better off there than in their own native country. We have even been told that, if we succeed, and prevent slavery across the Mississippi, we shall greatly lessen the value of property there, and shall retard, for a long series of years, the settlement of that country.

Sir, said Mr. T., if the Western country cannot be settled without slaves, gladly would I prevent its settlement till time shall be no more. If this class of arguments is to prevail, it sets all morals at defiance, and we are called to legislate on the subject, as a matter of mere personal interest. If this is to be the case, repeal all your laws prohibiting the slave trade; throw open this traffic to the commercial States of the East; and, if it better the condition of these wretched beings, invite the dark population of benighted Africa to be translated to the shores of Republican America. But, sir, I will not cast upon this or upon that gentleman an imputation so ungracious as the conclusion to which their arguments would necessarily tend. I do not believe any gentleman on this floor could here advocate the



H. OF R.

Admission of Missouri.

FEBRUARY, 1819.

slave trade, or maintain, in the abstract, the principles of slavery. I will not outrage the decorum, nor insult the dignity of this House, by attempting to argue in this place, as an abstract proposition, the moral right of slavery. How gladly would the "legitimates of Europe chuckle" to find an American Congress in debate on such a question!

As an evil brought upon us without our own fault, before the formation of our Government, and as one of the sins of that nation from which we have revolted, we must of necessity legislate upon this subject. It is our business so to legislate, as never to encourage, but always to control this evil; and, while we strive to eradicate it, we ought to fix its limits, and render it subordinate to the safety of the white population, and the good order of civil society.

Sir, on this subject the eyes of Europe are turned upon you. You boast of the freedom of your Constitution and your laws; you have proclaimed, in the Declaration of Independence, "That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that amongst these are life, liberty, and the pursuit of happiness;" and yet you have slaves in your country. The enemies of your Government, and the legitimates of Europe, point to your inconsistencies, and blazon your supposed defects. If you allow slavery to pass into Territories where you have the lawful power to exclude it, you will justly take upon yourself all the charges of inconsistency; but, confine it to the original slaveholding States, where you found it at the formation of your Government, and you stand acquitted of all imputation.

Sir, this is a subject upon which I have great feeling for the honor of my country. In a former debate upon the Illinois constitution, I mentioned that our enemies had drawn a picture of our country, as holding in one hand the Declaration of Independence, and with the other brandishing a whip over our affrighted slaves. I then made it my boast that we could cast back upon England the accusation, and that she had committed the original sin of bringing slaves into our country. Sir, I have since received, through the post office, a letter, post marked in South Carolina, and signed, "*A native of England*," desiring that, when I again had occasion to repeat my boast against England, I would also state that she had atoned for her original sin, by establishing in her slave colonies a system of humane laws, ameliorating their condition, and providing for their safety, while America had committed the secondary sin of disregarding their condition, and had even provided laws by which it was not murder to kill a slave. Sir, I felt the severity of the reproach; I felt for my country. I have inquired on the subject, and I find such were formerly the laws in some of the slaveholding States; and that even now, in the State of South Carolina, by law, the penalty of death is provided for stealing a slave, while the murder of a slave is punished by a trivial fine. Such, sir, is the contrast and the relative value which is placed, in the

opinion of a slaveholding State, between the property of the master and the life of a slave.

Sir, gentlemen have undertaken to criminate and to draw odious contrasts between different sections of our country; I shall not combat such arguments; I have made no pretence to exclusive morality on this subject, either for myself or my constituents; nor have I cast any imputations on others. On the contrary, I hold, that mankind under like circumstances are alike, the world over. The vicious and the unprincipled are confined to no district of country; and it is for this portion of the community we are bound to legislate. When honorable gentlemen inform us we overrate the cruelty and the dangers of slavery, and tell us that their slaves are happy and contented, and would even contribute to their safety, they tell us but very little; they do not tell us, that while their slaves are happy, the slaves of some depraved and cruel wretch, in their neighborhood, may not be stimulated to revenge, and thus involve the country in ruin. If we had to legislate only for such gentlemen as are now embraced within my view, a law against robbing the mail would be a disgrace upon the nation; and, as useless, I would tear it from the pages of your statute book; yet sad experience has taught us the necessity of such laws; and honor, justice, and policy, teach us the wisdom of legislating to limit the extension of slavery.

Sir, in the zeal to draw sectional contrasts, we have been told by one gentleman, that gentlemen from one district of country talk of their religion and their morality, while those of another practise it. And the superior liberality has been asserted of Southern gentlemen over those of the North, in all contributions to moral institutions, for Bible and missionary societies. Sir, I understand too well the pursuit of my purpose to be decoyed and drawn off into the discussion of a collateral subject. I have no inclination to controvert these assertions of comparative liberality. Although I have no idea they are founded in fact, yet, because it better suits the object of my present argument, I will, on this occasion, admit them to the fullest extent. And what is the result? Southern gentlemen, by their superior liberality in contributions to moral institutions, justly stand in the first rank, and hold the first place in the brightest page of the history of the country. But, turn over this page, and what do you behold? You behold them contributing to teach the doctrines of Christianity in every quarter of the globe. You behold them legislating to secure the ignorance and stupidity of their own slaves! You behold them prescribing, by law, penalties against the man that dares teach a negro to read. Such, sir, is the statute law of the State of Virginia. [Mr. BASSETT and Mr. TYLER said that there was no such law in Virginia.] No, sir, said Mr. T., I have mis-spoken myself; I ought to have said, such is the statute law of the State of Georgia. Yes, sir, while we hear of a liberality which civilizes the savages of all countries, and carries the Gospel alike to the Hottentot and

FEBRUARY, 1819.

Admission of Missouri.

H. OF R.

the Hindoo, it has been reserved for the Republican State of Georgia, not content with the care of its overseers, to legislate to secure the oppression and the ignorance of their slaves. The man who there teaches a negro to read is liable to a criminal prosecution. The dark benighted beings of all creation profit by our liberality—save those on our own plantations. Where is the missionary who possesses sufficient hardihood to venture a residence to teach the slaves of a plantation? Here is the stain! Here is the stigma! Which fastens upon the character of our country; and which, in the appropriate language of the gentleman from Georgia, (Mr. CONN.) all the waters of the ocean cannot wash out; which seas of blood can only take away.

Sir, there is yet another, and an important point of view in which this subject ought to be considered. We have been told by those who advocate the extension of slavery into the Missouri, that any attempt to control this subject by legislation is a violation of that faith and mutual confidence upon which our Union was formed and our Constitution adopted. This argument might be considered plausible, if the restriction was attempted to be enforced against any of the slaveholding States, which had been a party in the adoption of the Constitution. But it can have no reference or application to a new district of country recently acquired, and never contemplated in the formation of the Government, and not embraced in the mutual concessions and declared faith upon which the Constitution was adopted. The Constitution provides that the Representatives of the several States to this House shall be according to their numbers, including three-fifths of the slaves in the respective States. This is an important benefit yielded to the slaveholding States, as one of the mutual sacrifices for the Union. On this subject, I consider the faith of the Union pledged, and I never would attempt coercive manumission in a slaveholding State.

But none of the causes which induced the sacrifice of this principle, and which now produce such an unequal representation of the free population of the country, exist as between us and the newly acquired territory across the Mississippi. That portion of country has no claims to such an unequal representation, unjust in its results upon the other States. Are the numerous slaves in extensive countries, which we may acquire by purchase, and admit as States into the Union, at once to be represented on this floor, under a clause of the Constitution, granted as a compromise and a benefit to the Southern States which had borne part in the Revolution? Such an extension of that clause in the Constitution would be unjust in its operations, unequal in its results, and a violation of its original intention. Abstract from the moral effects of slavery, its political consequences in the representation under this clause of the Constitution demonstrate the importance of the proposed amendment.

Sir, I shall bow in silence to the will of the majority, on which ever side it shall be expressed;

yet I confidently hope that majority will be found on the side of an amendment, so replete with moral consequences, so pregnant with important politic results.

After a long debate on the subject, the question was taken on agreeing to the first member of the proposed amendment, in the following words:

"That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted."

Which question was determined in the affirmative—yeas 87, nays 76, as follows:

YEAS—Messrs. Adams, Allen, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Campbell, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of R. Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania—87.

NAYS—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Cruger, Culbreth, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Garnett, Hall of North Carolina, Harrison, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Sinkins, Slocumb, S. Smith, Bal. Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of N. Carolina, Stewart of Maryland, Storrs, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina—76.

The question was then taken on agreeing to the second member of the said amendment, which is in the following words:

"And that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

On which question the vote was, by yeas and nays—for the second part 82, against it 78, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington,



Irving of New York, Kinsey, Kirtland, Lawyer, Lincoln, Livermore, W. Maclay, W. P. Maclay, Marchand, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Scudder, Sergeant, Sherwood, Silsbee, S. Smith, Southard, Spencer, Tallmadge, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania—82.

**YAYS**—Messrs. Abbot, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Cruger, Culbreth, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Garnett, Hall of North Carolina, Harrison, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Little, McCoy, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mason of Rhode Island, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, Ballard Smith, Alexander Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina—78.

So the whole of the amendments, as proposed by Mr. TALLMADGE, were agreed to.

Some other amendments having been made to the bill—

Mr. STORRS moved to strike out so much of the bill as says that the new State shall be admitted into the Union "on an equal footing with the original States." After the vote just taken, Mr. S. said, there was a manifest inconsistency in retaining this provision.

The motion was negatived.

Some remarks were made by Mr. DESHA, Mr. COBB, and Mr. RHEA, to show why they should now vote against the bill; and by Mr. PITKIN, on the other side.

Mr. SCOTT, and Mr. ANDERSON of Kentucky, greatly as they had been opposed to the insertion of the provision which had been so much debated, yet preferred taking the bill as it stood, to rejecting it.

The question on ordering the bill to be engrossed for a third reading was then decided in the affirmative—yeas 97, nays 56, as follows:

**YAYS**—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Campbell, Clagett, Colston, Comstock, Crafts, Cruger, Cushman, Darlington, Drake, Ellicott, Fisher, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Lincoln, Linn, Livermore, Lowndes, McLane of Delaware, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Robert Moore, Sam'l Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogden, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin,

Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Sherwood, Silsbee, S. Smith, Alexander Smith, Southard, Spencer, Tallmadge, Taylor, Terry, Tompkins, Townsend Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania—97.

**NAYS**—Messrs. Abbot, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Crawford, Culbreth, Davidson, Desha, Edwards, Garnett, Hall of North Carolina, Harrison, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Little, McCoy, Marr, T. M. Nelson, New, Newton, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed, Rhea, Ringgold, Robertson, Settle, Shaw, Simkins, Slocumb, Ballard Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of Kentucky, and Williams of North Carolina—56.

The bill was then ordered to be read a third time to-morrow.

### WEDNESDAY, February 17.

Mr. RICH, from the Committee of Claims, to which was referred the amendment proposed by the Senate to the bill, entitled "An act for the relief of Kenzie and Forsyth," reported their agreement to the said amendment; which was ordered to be concurred in by the House.

Mr. WILLIAMS, from the same committee, to which was also referred the bill from the Senate, entitled "An act for the relief of the heirs of Edward McCarty," reported the same without amendment; and the bill was committed to the Committee of the Whole, to which is committed the report of the Committee of Claims, on the cases of Mary Sears and William B. Stokes.

Mr. ROBERTSON, from the Committee on Private Land Claims, to which was referred the bill from the Senate, entitled "An act confirming the claim of Alexander Macomb to a tract of land in the Territory of Michigan," reported the same without amendment; and the bill was ordered to be read a third time to-morrow.

A message from the Senate informed the House that the Senate have passed a bill of this House entitled "An act to incorporate a company to build a bridge over the Eastern Branch of Potomac, between the termination of Eleventh and Twelfth streets, east, in the City of Washington," with amendments. They have also passed a bill, entitled "An act respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana," in which amendments and last mentioned bill they ask the concurrence of this House.

The amendments proposed by the Senate to the bill of the House last mentioned, were read, and concurred in by the House.

The bill from the Senate, entitled "An act respecting the location of certain sections of lands to be granted for the seat of government in the State of Indiana," was read twice and referred to the Committee on the Public Lands.

## INDEX

### TO THE PROCEEDINGS AND DEBATES OF THE SECOND SESSION OF THE FIFTEENTH CONGRESS.

#### SENATE.

A.	Page.		Page.
Abbott, Samuel, Mr. Edwards presented the petition of	281	American Manufactures, the memorial of the Delaware Society for the promotion of, was presented, read, and referred	231
Abolition of Slavery, Mr. Roberts presented the memorial of the American Convention for the promotion of the, referred	85	Armory, National, Mr. Johnson presented the petition of, referred	29
Aborn, Joseph, Mr. Burrill presented the petition of, referred	21	committee discharged, and leave granted to withdraw the papers	82
Accounts, appointment of the Committee of	12	Anderson, John, Mr. Ruggles presented the petition of, referred	169
Adjournment, the usual resolutions preparatory to	288	a favorable report thereon	205
Agent for paying Pensioners, a bill from the House of Representatives to authorize the Secretary of War to appoint an additional, in the State of Tennessee, read	213	concurrent in, and a bill ordered	209
read a second time, and referred	214	a bill for relief of, read	211
reported without amendment	223	read a second time	214
ordered to a third reading	275	ordered to a third reading	269
read the third time, and passed	279	read the third time, and passed	272
Alabama Territory, Mr. Tait presented the memorial of the Legislature of, praying admission into the Union as a State, &c., referred to a select committee	66	Arbuthnot and Ambrister. (See Seminole War.)	
a bill to enable the people of, to form a State government, &c., read	75	Armstrong, John, a bill from the House of Representatives directing payment of certain bills drawn by, in favor of William Morgan, read	80
read a second time	79	read a second time, and referred	81
ordered to a third reading	114	reported without amendment	167
read the third time, and passed	121	ordered to a third reading	224
returned from the House of Representatives with amendments	252	read the third time, and passed	227
read, and concurred in	253	Army Register, a letter from the Secretary of War transmitting a copy of the, for each member	97
Alburch and Champlain, Mr. Tichenor submitted a resolution instructing the Committee of Commerce and Manufactures to inquire into the expediency of erecting the two districts of, into one	211	Arnold, Thomas, Mr. Hunter presented the petition of, referred	66
considered, and agreed to	214	adverse report thereon	78
Allbin, John, Mr. Otis presented the petition of, referred	255	considered and concurred in	198
the committee discharged therefrom	276	Attorney General, Mr. Roberts submitted a resolution to inquire into the expediency of placing all criminal and other prosecutions, in which the United States shall be a party, under the direction of the	176
Alleghany Mountains, a bill from the House of Representatives to establish a judicial district in Virginia, west of the, read	26	agreed to, and referred	190
read a second time, and referred	29	Austin, Caleb, adverse report on the petition of	161
reported without amendment	37	indefinitely postponed	214
referred to the Judiciary Committee	79	Axson, Samuel J., Mr. Forsyth presented the petition of, referred	85
reported with amendments	102	a bill for the relief of, read	273
ordered to a third reading	186	read a second time	281
read the third time, and passed as amended	188	indefinitely postponed	287
Amelung, Ferdinand L., Mr. Johnson presented the petition of, referred	186		
		B.	
		Ball, Mottram, a bill from the House of Representatives for relief of, read the first and second time, and referred	80
		reported with an amendment	97
		ordered to a third reading	123
		read the third time, and passed as amended	137



Senate Proceedings and Debates.

	Page.		Page.
Bank of the United States, a report from the Secretary of the Treasury, with sundry statements respecting the, made in obedience to a resolution of the last session	42	Bombardiers, &c., Mr. Fromentin submitted a resolution respecting a grant of bounty lands to	70
Mr. King presented a memorial of certain stockholders of the, which was read	234, 276	agreed to, and referred to the Committee of Public Lands	71
a bill from the House of Representatives respecting the, read	270	Bonds for Duties, Mr. Williams, of Mississippi, submitted a resolution calling for an abstract of all	215
read a second time, and referred	271	agreed to, and referred to the Secretary of the Treasury	229
reported without amendment	276	Bougard, Antoine. (See Dozet, Joseph.)	
read the third time, and passed	285	Boundaries of Districts, bill to designate the, read	191
Bannon, Michael, on motion of Mr. Lacock, the Committee of Pensions, &c., were discharged from the consideration of the petition of	97	read a second time	198
Barbour, James, of Virginia, took his seat	11	ordered to a third reading	241
remarks of, on the bill to increase the salaries of certain officers	27	read the third time, and passed	246
speech of, on the case of Matthew Lyon	49	returned from the House of Representatives with an amendment	270
speech of, on the bill for the organization of the courts	91	considered and disagreed to	272
speech of, on a proposed amendment to the Constitution	151	Brady, James, Mr. Lacock presented the petition of, referred	179
election of, as President of Senate <i>pro tem.</i>	232	Brewster, John, and others, Mr. Dickerson presented the petition of, referred	211
thanks of the Senate voted to	287	British Claims to Lands in Mississippi, Mr. Leake presented the memorial of the Legislature of said State, respecting, read	245
address of, in reply	288	British Parliament, Mr. Macon communicated to the Senate three acts of the, read	187
Barrow, Matthew, Mr. Eaton presented the petition of, referred	30	British Subjects, a Message from the President of the United States with copies of applications received from the British Minister in behalf of certain, &c., read and referred to the Committee of Claims	205
a bill for the relief of, read	37	Brook, George M., and Edmund P. Kennedy, a bill from the House of Representatives for the relief of, read	255
read a second time	41	read a second time, and referred	268
ordered to a third reading	59	ordered to a third reading	271
read the third time, and passed	68	read the third time, and passed	275
Barton, William, a bill from the House of Representatives for the relief of, read	58	Brown, John, Mr. Roberts presented the petition of, referred	20
read a second time, and referred	64	adverse report thereon	35
reported without amendment	66	considered, and concurred in	38
ordered to a third reading	68	Brown, Nicholas, and Thomas P. Ives, Mr. Burrill presented the memorial of, referred	22
read the third time, and passed	70	adverse report thereon	89
Batman, Henry, a bill from the House of Representatives for relief of, read	233	considered, and concurred in	177
read a second time, and referred	235	Brown, John G., Mr. Mellen presented the petition of, referred	29
reported with amendments	281	adverse report thereon	37
read the third time, and passed as amended	284	considered, and concurred in	40
Bay, Elisha Halls, Mr. Smith presented the petition of, referred	110	Mr. Mellen presented another petition of, referred to the same committee, and included in the above report	37
Bayly, Mountjoy, Doorkeeper and Sergeant-at-Arms, Mr. Morrill submitted a resolution authorizing, to appoint an assistant, &c., read twice	11	Brown, Frederick, a bill from the House of Representatives for relief of	59
read the third time, and passed	19	read a first time	64
Beck, Paul, jr., and Thomas Sparks, Mr. Tichenor presented the petition of	88	read a second time, and referred	66
Ball, George, Mr. Sanford submitted a resolution instructing the Committee of Pensions, &c., to inquire into the expediency of granting a pension to	33	reported without an amendment	78
resolution agreed to	33	ordered to a third reading	99
adverse report thereon concurred in	65	amended, read the third time, and passed as amended	101
Bell, William, Mr. Ruggles presented the petition of, referred	81	Brown, Noah, and others, Mr. King presented the memorial of, referred	204
adverse report thereon	179	a bill for the relief of, read	225
considered and concurred in	191	indefinitely postponed	277
Bernard, Hyacinth, Mr. Johnson presented the memorial of, referred	225		
Biggar, James. (See Rangers.)			
Birdseye, Nathan G., and Daniel Booth, Mr. Daggett presented the petition of, referred	197		
a bill for the relief of, read	200		

Senate Proceedings and Debates.

	Page.		Page.
Buchanan, John, and Hugh Milling, Mr. Smith presented the petition of, referred	97	Certain crimes—continued.	
adverse reports thereon	111	read a second time	41
considered and concurred in	113	referred to the Judiciary Committee	65
Burghart, Adolphus, a bill from the House of Representatives for relief of, read	58	reported without amendment	100
read a second time, and referred	64	ordered to a third reading	191
reported without amendment	78	read a third time	200
indefinitely postponed	86	recommitted to the Judiciary Committee	209
Burnett, Mark. (See Perry, Wm. N.)		reported with amendments	211
Burrill, James, jr., from Rhode Island, attended remarks of, on the bill to increase certain salaries	9	ordered to be engrossed as amended	214
speech of, on the case of Matthew Lyon	27	read the third time, and passed	224
remarks of, on the bill concerning controversies between States	48	Chaplains, on motion of Mr. Wilson, a joint resolution for the appointment of two, was adopted	10
on the bill to provide for sick seamen	195	Chapman, Thomas, Mr. Smith presented the petition of, referred	21
Business, a joint resolution from the House of Representatives for a committee to inquire concerning the, necessary to be transacted, &c., read three times by consent, agreed to, and a joint committee appointed	202	adverse report thereon	41
report of said joint committee, read	233	considered, and concurred in	58
Butler, Robert, Adjutant General, &c., a communication from, in relation to his testimony before the Seminole committee, read, and ordered to be printed	251	Chickasaw and Choctaw Agencies, Mr. Williams, of Mississippi, submitted a resolution respecting extra allowances to the postmasters at the	268
Callan, Patrick, a bill from the House of Representatives for relief of, read	238	agreed to, and referred to the proper committee	270
read a second time, and referred	240	Chivois, William, the memorial of, was read, and referred	30
reported without amendment	254	Circuit Courts, a bill to extend the jurisdiction of the, read	100
read the third time, and passed	284	read a second time	102
C.		ordered to a third reading	178
Capitol Square, Mr. Mellen submitted a resolution instructing the Committee on the District of Columbia to inquire into the expediency of providing for surrounding the, with a stone footway	284	read the third time, and passed	185
considered, and agreed to	90	Claims, appointment of the standing committee of	20
Carrere, John and Henry Messonier, Mr. Johnson presented the petition of	98	Clark, Rev. John, election of, as Chaplain	19
Cassin, Mary, Mr. Smith presented the petition of, referred	29	Clark, James H., Mr. Stone presented the petition of, referred	28
committee discharged, and petition referred to the Secretary of War	35	committee discharged, and the Committee of Claims substituted	31
report of said officer referred to a committee the committee discharged	191	adverse report from said committee	65
Cast-Iron Pipes, Mr. Roberts presented the memorial of the City Councils of Philadelphia, praying remission of duty on, referred	228	the petition recommitted	68
adverse report thereon concurred in	271	adverse report repeated	69
Causes depending in the Courts, Mr. Sanford submitted a resolution directing the Attorney General to procure and report, at next session, a list of, &c.	113	the report reversed, and a bill ordered	98
modified, and agreed to	165	a bill for the relief of, read	101
Cavalier, Anthony, and Peter Pettit, on motion of Mr. Fromentin the petition of, presented at last session, was referred to the Committee on Public Lands	26	read a second time	111
a bill confirming certain lands to, read	160	ordered to a third reading	201
read a second time	164	read the third time, and passed	203
ordered to a third reading	213	Clark, John, Mr. Roberts presented the petition of, referred	81
read the third time, and passed	214	a bill for the relief of, read	121
Certain crimes against the United States, a bill more effectually to provide for the punishment of, read	34	read a second time	137
		ordered to a third reading	210
		read the third time, and passed	212
		Clerks, a bill from the House of Representatives to increase the number of, in the War Department, read twice, and referred	29
		reported without amendment	30
		ordered to a third reading	32
		read the third time, and passed	34
		report from the Navy Department in relation to its	111
		report from the Treasury Department	163
		Clothing the Army, Mr. Ruggles submitted a resolution instructing the Military Committee to inquire into the expediency of, in domestic manufactures	33
		considered, and agreed to	37
		said committee reported it inexpedient	102
		a motion to recommit the report was made and withdrawn	168



## Senate Proceedings and Debates.

	Page.		Page.
Coasting Trade, Mr. King submitted a resolution concerning the	68	Cooper, Jacob, Mr. Morrow presented the petition of, referred	174
agreed to, and subject referred	69	Cottineau, Lucy, Mr. Roberts presented the petition of, referred	20
a bill, supplemental to the act concerning the, read	111	adverse report thereon	35
read a second time	122	considered and concurred in	113
ordered to a third reading	228	Crawford, William, Mr. Noble presented the petition of, referred	26
read the third time, and passed	230	committee discharged	269
returned from the House of Representatives with amendments	252	Credit on Lands, Mr. King submitted a resolution to abolish the	77
considered, and concurred in	253	agreed to, and referred to the Committee of Public Lands	79
Cole, Mehitable, a bill from the House of Representatives granting the lands therein mentioned to, read	35	Crittenden, J. J., of Kentucky, attended	19
read a third time, and referred	39	remarks of, in the case of Matthew Lyon	48
reported without amendment	66	speech of, in reply to Mr. Morrill and others on the bill relative to controversies, &c.	192, 193, 196
ordered to a third reading	68	eulogy pronounced by, on Mr. Morrow	245
read the third time, and passed	70	Crook, William and James, a bill for relief of, twice read	225
Collectors of Customs, Mr. Storer submitted a resolution relative to the compensation of agreed to, and referred to a committee	168	referred to the Finance Committee	238
the committee discharged	192	Customs, report from the Secretary of the Treasury of the offices of, that may be suppressed	35
a report from the Secretary of the Treasury exhibiting the emoluments of the	256	referred to the Committee on Finance	197
Columbian Institute, Mr. Goldsborough presented the petition of, referred	200	Cutting, Nathaniel, Mr. Hunter presented the memorial of, referred	225
the committee discharged	278	committee discharged	277
Columbian United Abolition Society, Mr. Noble presented the petition of the	161		
Commerce and Manufactures, appointment of the standing committee of	19	D.	
Conant, Shybael, Mr. Ruggles presented the petition of, referred	67	Daggett, David, of Connecticut, attended	11
Congress, a bill to fix the time for the next meeting of, read	270	remarks of, on the bill to extend the judicial system	40
read a second time	275	on the resolution to amend the Constitution	207
read the third time, and passed	282	Dana, Samuel W., of Connecticut, attended	251
Constitution, Mr. Sanford offered certain proceedings and instructions of the Legislature of New York, proposing an amendment to the	23	Davis, John, and others, Mr. Goldsborough presented the petition of, referred	80
Mr. Storer the same, from the Legislature of New Hampshire	24	Davis, Henry, a bill from the House of Representatives for relief of, read	161
Mr. Dickerson submitted a resolution to amend the, read	33	read a second time, and referred	164
read a second time, and referred	39	reported without amendment	174
reported without amendment	70	ordered to a third reading	230
ordered to a third reading	159	read the third time, and passed	232
vote reconsidered, and resolution referred to a select committee	162	Davis, William, a letter from, offering himself as a candidate for the printing	282
reported with amendments	174	Deaf and Dumb, a bill from the House of Representatives in behalf of the Connecticut Asylum for the, read	279
ordered to a third reading as amended	190	read a second time, and ordered to a third reading	280
recommitted to same	197	read the third time, and passed	282
reported with amendments, and ordered to a third reading	203	Dearborn, Benjamin, Mr. Otis presented the petition of, referred	230
read the third time, and passed	207	committee discharged	286
Mr. Daggett communicated resolutions of the Legislature of Connecticut relating to a amendment of the	42	De Kraft, Edward, a letter from, offering for the printing	278
Contracts, report of, made by Commissioners of the Navy	111	Dequindre, Louis, and Antoine, a bill for the relief of, read	71
report of, by the War Department	268	read a second time	74
Controversies between States, a bill prescribing the mode of deciding, &c., read	74	ordered to a third reading	77
read a second time	82	read the third time, and passed	79
referred to the Judiciary Committee	113	Derangement of the Currency, Mr. Goldsborough presented the memorial of sundry citizens of Maryland, relating to a, &c., referred	245
reported with amendments	120	Deslonde, Rosalie P., Mr. Johnson presented the petition of, referred	29
indefinitely postponed	200	a bill for the relief of, read	197

## Senate Proceedings and Debates.

	Page.		Page.
Deslonde, Rosalie P.—continued.		Duties on Tonnage, a bill further supplementary to the act to regulate the collection of, read	231
bill read a second time	201	read a second time	237
ordered to a third reading	256	read the third time, and passed	283
read the third time, and passed	269	Duverge, Barthelemy, Mr. Johnson presented the petition of, referred	29
Destrahan, Noel, Mr. Johnson presented the petition of, referred	40	a bill for the relief of, read	212
Detroit, a bill to revive the powers of the Commissioners for ascertaining and deciding claims to lands in the District of, read	225	read a second time	214
read a second time	232	ordered to a third reading	269
ordered to a third reading	274	read the third time, and passed	283
read the third time, and passed	279		
Dickerson, Mahlon, of New Jersey, attended	9	E.	
speech of, on his resolution to amend the Constitution	137	Eastern Branch Bridge Company, a bill from the House of Representatives (to incorporate the, read	74
Direct Tax, Mr. Mellen submitted a resolution relative to amending the law laying a	178	read a second time, and referred	76
agreed to, and referred	190	reported without amendment	173
District of Columbia, appointment of the standing committee on the	20	ordered to a third reading	233
Dix, John A., Mr. Storrs presented the petition of, referred	120	read the third time, and passed	236
a bill for the relief of, read	159	East Florida, Mr. Johnson submitted a resolution, authorizing the President of the United States to take provisional possession of	40
read a second time	164	the resolution withdrawn	59
ordered to a third reading	211	(See <i>Florida</i> .)	
read the third time, and passed	212	Eaton, John Henry, appointed a Senator by the Executive of Tennessee, in place of G. W. Campbell, resigned, was qualified, &c.	11
Documents, Mr. Burrill submitted a resolution requesting the President of the United States to lay before the Senate copies of the several papers and, referred to in his Message	26	remarks of, on the bill concerning controversies between the States	195
agreed to, and a committee appointed to present the resolution	31	on Mr. Lacock's motion to appoint, a member of the Seminole committee, in place of Mr. Forsyth resigned	238
a Message from the President, in reply	35	Edgar, William, and Alexander Macomb, Mr. Sandford presented the petition of, referred	184
ditto, with additional papers, and	85	committee discharged	223
a resolution from the House of Representatives, authorizing the transmission of certain, free of postage, read twice	26	Edwards, Ninian, appointed a Senator by the Legislature of Illinois, produced his credentials, &c.	38
referred to the Committee on Post Offices and Post Roads	30	drew the lot for his term to expire March 3, 1819	38
reported, without amendments	31	Edwards, Abraham, on motion of Mr. Tichenor, the Committee of Pensions, &c., were instructed to inquire into the expediency of authorizing the Secretary of War to place, on the pension list	208
ordered to a third reading	32	report of said committee, read	223
read the third time, and passed	34	Electors of President and Vice President. (See <i>Constitution</i> , Mr. Dickerson's amendment.)	
Domestic Manufactures, on motion of Mr. Ruggles, a committee was appointed to wait on the President of the United States, and request him to lay before the Senate, at its next session, a report of facts, as to the expediency of clothing the army in	168	Elliot, Jonathan, letter from, offering for the printing	281
Douglas, Hannah, Mr. Daggett presented the petition of, referred	21	Engrossed Bills, appointment of the Committee on	12
Dozet, Joseph, and Antoine Bougard, a bill for the relief of, read	203	Entries of Lands, a bill to provide for the correction of errors in, read	223
read a second time	306	read a second time	226
ordered to a third reading	256	ordered to a third reading	276
read the third time, and passed	269	read the third time, and passed	279
Duel, Mr. Morrill submitted a resolution, requesting the President of the United States to strike from the rolls of the Army and Navy all those officers who aided or counselled the, between A. T. Mason and John M. McCarty	212	Eppes, John W., of Virginia, attended	11
Duelling, Mr. Morrill also submitted a resolution, instructing the Judiciary Committee to inquire into the expediency of providing, by law, for the punishment of all persons concerned in, within the District of Columbia	222	remarks of, on the bill concerning controversies	193, 194, 196
		Estimates of moneys required for the War Department	175
		Executive Session, proceedings of the Senate in, on the colonial trade	249



	Page.		Page.
Expenditure and application of Moneys, report of the Secretary of the Navy, on -	111	Florida, East and West—continued.	
report of the Secretary of War on -	166	bill read the third time, and passed -	282
Exportation of United States Coins, Mr. Forsyth submitted a resolution concerning -	32	House of Representatives concurred in all the amendments except one, from which the Senate receded -	286
agreed to, and referred to the Finance Committee -	34	Floridas, Mr. Johnson submitted a resolution requesting of the President of the United States copies of any correspondence with the Government of Spain, in relation to the cession of the -	59
the report in full of said committee -	179	the resolution withdrawn -	110
letter from the Secretary of the Treasury on the subject of the -	181	Ford, Nathan, Mr. King presented the petition of, referred -	120
the Senate resolve that it is not expedient to legislate on the subject -	198	a bill for the relief of, read -	191
Exports and Imports, Mr. Sanford submitted a resolution respecting the -	70	read a second time -	192
agreed to, and referred to the Committee of Commerce and Manufactures -	74	ordered to a third reading -	237
Extra Compensation, Mr. Lacock submitted a resolution for allowance of, to messengers and servants of the Senate, read -	276	read the third time, and passed -	238
read a second time, and passed -	281	Foreign Coins, Mr. Sanford submitted a resolution concerning the currency of -	30
F.		agreed to, and referred to the Finance Committee -	32
False Entries for Drawback, a bill from the House of Representatives, providing additional penalties for, read -	213	a bill to regulate the currency of, read -	177
read a second time, and referred -	214	read a second time -	185
reported without amendment, and ordered to a third reading -	228	ordered to a third reading -	201
read the third time, and passed -	252	read the third time, and passed -	203
Farish, Thomas B., a bill from the House of Representatives for relief of, read -	75	returned from the House of Representatives with amendments, and concurred in -	280
read a second time, and referred -	76	Foreign Relations, appointment of the standing committee of -	19
reported with amendments -	97	Forfeiture of Lands, Mr. Noble submitted a resolution instructing the Committee of Public Lands to inquire into the expediency of continuing in force the act to suspend for a limited time the sale or, for non-payment -	22
ordered to a third reading as amended -	170	considered and agreed to -	23
read the third time, and passed with amendments -	174	a bill in relation to, read -	37
Fatigue Duty, a bill to regulate the pay of the Army when employed on, read -	187	read a second time -	40
read a second time -	188	on motion of Mr. Noble, the Secretary of the Treasury was directed to furnish certain information on the subject -	84
ordered to a third reading -	236	report of the Secretary in obedience -	100
read the third time, and passed -	238	the bill ordered to a third reading -	122
Felonies on the high seas, on motion of Mr. Floyd, the Judiciary Committee were instructed to inquire into the expediency of a law to define piracies, and -	464	read the third time, and passed -	137
Felts, Archibald, Mr. Crittenden presented the petition of, referred -	230	Forrest, Joseph, Mr. Goldsborough presented the petition of, referred -	32
an adverse report concurred in -	235	a bill for the relief of, read -	85
Finance, appointment of the standing committee of -	19	read the second time -	87
Fires in the City of Washington, Mr. Morrill submitted a resolution respecting the extinguishment of -	76	the third reading negatived -	204
agreed to, and referred to the District Committee -	78	Forsyth, John, appointed a Senator by the Legislature of Georgia, in place of George M. Troup, resigned, was qualified, &c. -	20
a bill authorizing the purchase of fire engines, &c., read -	210	remarks of, on the resolution to amend the Constitution -	207
read a second time -	212	a letter from, giving notice of his resignation -	237
ordered to a third reading -	269	Forsyth, M. B., and others, Mr. Tait presented the memorial of, referred -	67
read the third time, and passed -	272	Forsyth, Elizabeth B. H., Mr. Williams of Tennessee presented the petition of, referred -	101
Fish, Exports, Mr. Palmer presented the petition of, referred -	173	adverse report thereon -	246
committee discharged -	269	considered and concurred in -	251
Florida, East and West, a bill from the House of Representatives to authorize the President of the United States to take possession of, read -	279	Fowler, Christopher, Mr. Hunter presented the memorial of, referred -	77
read a second time, and ordered to a third reading -	280	adverse report thereon -	203
		the report reversed, and a bill ordered -	208
		a bill for the relief of, read -	211
		read a second time -	214
		ordered to a third reading -	269
		read the third time, and passed -	272

	Page.		Page.
Francisco, Peter, on motion of Mr. Eppes, the Committee of Pensions, &c., were instructed to inquire into the expediency of granting a pension to -	170	Government—continued.	
adverse report thereon -	191	bill read a second time, and referred -	232
French, Thomas. (See Kinsley, Adams.)		ordered to a third reading -	255
Friends, Mr. Otis presented the memorial of the Society of, in New England, referred -	64	read a third time, passed with amendments the House of Representatives agree to all the amendments except one, from which the Senate receded -	275
Mr. King do. of, in N. York, referred to same -	71	Grant, Vincent, Mr. Sanford presented the petition of, referred -	110
Mr. Morrill do. of, in Baltimore, referred to same -	73	a bill for relief of, read -	232
Mr. Ruggles do. of, in Ohio, Indiana, and Illinois -	87	read a second time -	235
Mr. Roberts do. of, in Pennsylvania, Delaware, and Maryland -	120	ordered to a third reading -	277
Frink, Luther. (See King, Hannah.)		read the third time, and passed -	279
Fromentin, Elogius, of Louisiana, attended -	9	Green, James, & Company, Mr. Wilson presented the petition of, referred -	169
remarks of, on the bill for the relief of General Stark -	72	Green Bay, Mr. Morrow presented the memorial of sundry inhabitants of, concerning titles to land, &c., referred -	200
on the bill relating to State controversies -	192	Greenleaf, Abner, Mr. Storer presented the petition of, referred -	77
Fuller, Stephen, Mr. Morrill presented the petition of, referred -	26	adverse report thereon -	85
adverse report thereon -	37	considered, and concurred in -	91
considered, and concurred in -	41	Guerlin, Lewis H., Mr. Johnson presented the petition of, referred -	29
G.		a bill for the relief of, read -	197
Gaillard, John, of South Carolina, attended -	11	read a second time -	201
the President of the Senate communicated the credentials of, read, &c. -	268	ordered to a third reading -	256
vote of thanks to, as President <i>pro tem.</i> -	287	read the third time, and passed -	269
address of thereon -	288	Gunboats No. 149 and No. 154, a bill from the House of Representatives authorizing the payment of a sum of money to the officers and crews of, read -	161
Gales & Seaton, letter from, offering for the printing -	282	read a second time, and referred -	164
the election of, as printers to the Senate -	286	reported without amendment -	167
Gardiner, John, a letter from, presenting maps of Alabama and the bounty lands of Missouri -	39	the third reading negatived -	213
Georgetown, Delaware, on motion of Mr. Van Dyke, the Committee on Post Offices, &c., were instructed to inquire into the expediency of making an additional allowance to the postmasters, &c. -	187	H.	
Gibson, George, Commissary General, a communication from, relative to his testimony before the Seminole committee, which was ordered to be printed -	284	Half-pay Pensions, a bill from the House of Representatives extending the term of, to the widows and children of certain officers, seamen, &c., read -	274
Giles, Aquilla, Mr. King presented the petition of, referred -	69	read a second time, and referred -	275
a bill for the relief of, read -	78	reported without amendment -	277
read a second time -	80	read the third time, and passed -	284
ordered to a third reading -	83	Hanseatic Cities, a Message from the President of the United States, transmitting applications from the Minister resident of Prussia and the, read and referred to the Committee of Foreign Relations -	226
read the third time, and passed -	84	Hanson, Alexander C., attended -	12
Gill, George, Mr. Morrow presented the memorial of, referred -	111	Harbaugh, William, and E. Potter, Mr. Ruggles presented the petition of, referred -	210
Goddard, Nathaniel and others, Mr. Otis presented the petition of, referred -	21	adverse report thereon -	213
adverse report thereon -	73	considered, and concurred in -	226
considered, and concurred in -	188	Hardinsville, Kentucky, Mr. Talbot presented the petition of sundry inhabitants of, praying the establishment of a post office at, referred -	200
leave granted to withdraw the papers -	213	Harper, Samuel H., a bill from the House of Representatives for relief of, read -	75
Godfrey, Gabriel, Mr. Ruggles presented the petition of, referred -	35	read a second time, and referred -	76
a bill for the relief of, read -	189	reported without amendment -	97
read a second time -	192	ordered to a third reading -	166
ordered to a third reading -	237	read the third time, and passed -	168
read a third time, and passed -	238	Hart, Eli, Mr. Sanford presented the petition of, referred -	110
Goldsborough, Robert H., of Maryland, attended -	11	a favorable report thereon -	189
Government, a bill from the House of Representatives making appropriations for the support of, read -	231	ordered that a bill be reported -	198
		a bill for the relief of, read -	200
		read a second time -	203



## INDEX.

xvi

*Senate Proceedings and Debates.*

Page.	Page.
1151, Eli—continued.	Illinois—continued.
bill ordered to a third reading - - - 256	agreed to, and the committee so instructed 69
read the third time, and passed - - - 269	a bill for the due execution of the laws of the United States within the State of, read - - - 74
Hackett, John, Mr. Roberts presented the petition of, referred - - - 120	read a second time, and ordered to a third reading - - - 76
adverse report thereon - - - 163	read the third time, and passed - - - 79
Hartley, &c., Mr. Macon submitted a resolution, instructing the Naval Committee to inquire into the expediency of authorizing the President of the United States to cause a survey to be made of the shoals of Cape	a bill granting certain land to the State of, for the seat of government, &c., read twice, and referred - - - 268
agreed to, and committee so instructed - - - 27	reported without amendments - - - 266
(See <i>North Carolina</i> .)	amended, and ordered to a third reading - 270
Hartley, John, and others, Mr. Edwards presented the petition of, referred - - - 174	read the third time, and passed - - - 273
Hartley, Mr. Otis submitted a resolution of inquiry concerning seizures, &c., of American vessels by the Government of - - - 113	a bill to establish a new land office in, read - 272
agreed to, and committee appointed - - - 121	read a second time, and referred - - - 275
Hartley, Nathaniel H. (See <i>Renner, Daniel</i> .)	reported with amendments - - - 281
Hartley, David, Mr. Roberts presented the petition of, referred - - - 160	read the third time, and passed - - - 286
a bill for the relief of, read - - - 191	a bill from the House of Representatives confirming certain claims to land in the State of, read twice, and referred - - - 274
read a second time - - - 192	indefinitely postponed - - - 286
ordered to a third reading - - - 237	Importation of Slaves, Mr. Eaton submitted a resolution concerning the - - - 68
read the third time, and passed - - - 238	agreed to, and a committee appointed - - - 69
Hartley, Charles, Mr. Lacock presented the petition of, referred - - - 77	Mr. Lacock presented a petition of a number of citizens of New York and Pennsylvania, praying a revision of the act relating to the, referred - - - 77
adverse report thereon - - - 101	Mr. Lacock also presented a similar petition from Carlisle, referred - - - 88
considered, and concurred in - - - 164	Mr. Lacock presented another petition on the same subject, referred - - - 90
Hartley, Rees, Mr. Lacock presented the petition of, referred - - - 89	Mr. Hunter, the same from inhabitants of Newport, referred - - - 97
a bill for the relief of, read - - - 184	Mr. Daggett, the same from Connecticut, referred - - - 113, 197
read a second time - - - 188	Mr. Burrill, the same from Massachusetts, referred - - - 162
ordered to a third reading - - - 236	Mr. Dickerson, the same from New Jersey, referred - - - 167
read the third time, and passed - - - 238	Mr. Roberts also presented a similar petition, referred - - - 173, 189
Hartley, Rebecca, Mr. Roberts presented the petition of, referred - - - 226	Mr. Wilson, the same from New Jersey, referred - - - 176
committee discharged - - - 278	a bill supplemental to the act to prohibit the, read - - - 213
Hartley, Michael, Mr. Goldsborough presented the petition of, referred - - - 81	read a second time - - - 224
a bill for the relief of, read - - - 173	the bill amended - - - 269
read a second time - - - 176	Imported Salt, a bill from the House of Representatives in addition to the act laying duties on, &c., read three times, and passed - - - 286
ordered to a third reading - - - 231	Imports and Tonnage, the bill from the House of Representatives further supplementary to the act to regulate the collection of duties on, read twice and indefinitely postponed - - - 287
read the third time, and passed - - - 232	Indian Tribes, appointment of a select committee on the - - - 24
returned from the House of Representatives amended, and concurred in - - - 284	a bill making appropriations to carry into effect treaties with the, read twice - 205
Hartley, Samuel F., Mr. Daggett presented the petition of, referred - - - 20	ordered to a third reading - - - 224
report thereon read - - - 32	read the third time, and passed - - - 227
a bill for the relief of, read - - - 88	a bill making provision for the civilization of the, adjoining the frontier settlements, read - - - 246
read a second time, and referred - - - 98	read a second time - - - 251
reported without amendment - - - 160	ordered to a third reading - - - 270
ordered to a third reading - - - 210	read the third time, and passed - - - 270
read the third time, and passed - - - 212	
Hartley, Outerbridge, of Delaware, attended - 22	
Hartley, William, of Rhode Island, attended - 36	
I.	
Imports, a resolution from the House of Representatives declaring the admission of the State of, into the Union, twice read, and referred - - - 23	
reported without amendment - - - 26	
ordered to a third reading - - - 31	
read the third time, and passed - - - 32	
on motion of Mr. Sanford, the Judiciary Committee were instructed to inquire concerning the operation of the laws of the United States within - - - 67	

## xvii

## INDEX

xviii

## Senate Proceedings and Debates

	Page.		Page.
Indiana, Mr. Noble submitted a resolution instructing the Committee of Public Lands to inquire into the expediency of amending the act for enabling the people of, to form a State government, &c.	78	Jervy, Thomas Hall, a bill from the House of Representatives for relief of, read	122
agreed to	80	read a second time, and referred	137
Mr. Noble presented the memorial of the Legislature of, praying for the appointment of an additional Surveyor General	167	reported without amendment	189
a bill relating to the location of certain sections of land granted to, for the seat of government, &c., read	179	read the third time, and passed	237
read a second time	185	Johnson, Henry, of Louisiana, attended	9
ordered to a third reading	233	Jones, William, President of the Bank of the United States, letters from, to the Secretary of the Treasury, on affairs of the bank	43, 46
read the third time, and passed	236	Jones, John Rice, Mr. Edwards presented the petition of, referred	70
Indians, Mr. Sanford presented the memorial of various religious societies in New York, praying the adoption of such measures as may best secure the protection of the, referred	165	a bill for the relief of, read	82
Mr. Morrow presented several petitions from Ohio of the same tenor, referred	170	read a second time	84
Ingraham, Kinay, Mr. Gaillard presented the petition of, referred	176	ordered to a third reading	86
adverse report thereon	197	read the third time, and passed	87
considered and concurred in	203	Jones, Richard J., Mr. Goldsborough presented the petition of, referred	84
Internal Duties and Direct Tax, report from the Secretary of the Treasury on the subject of, in obedience to law	78	committee discharged	228
Invalid Pensions, a bill from the House of Representatives concerning, read	28	Jouett, Matthew H. (See <i>McCulla, Robert.</i> )	
read a second time, and referred	31	Jourdan, B. and P., Mr. Johnson presented the petition of, referred	29
reported with amendments	84	a bill for the relief of, read	168
read the third time, and passed amended	279	read a second time	173
Invalid Pensioners, a bill from the House of Representatives regulating payments to, read	186	ordered to a third reading	231
read a second time, and referred	187	read the third time, and passed	232
reported with an amendment	205	Judicial System, Mr. Tichenor submitted a resolution concerning the	30
ordered to a third reading	268	the resolution withdrawn	34
read the third time, and passed as amended	275	a bill to extend the, read	31
a bill from the House of Representatives concerning, read, and indefinitely postponed	236	read a second time	38
Invalids, a bill from the House of Representatives respecting	59	referred to the Judiciary Committee	40
read	64	reported without amendment	100
read a second time, and referred	66	ordered to a third reading	178
reported without amendment	163	read the third time, and passed	186
indefinitely postponed	2Pl	Judiciary, appointment of the standing committee on the	20
Island of New Orleans, a bill for adjusting claims to land in the district east of the, read	110	Jurisdiction of Military and Naval Sites, on motion of Mr. Storer, the President of the United States was requested to procure the cession of the, to the United States	229
read a second time	121		
ordered to a third reading	204	K.	
read the third time, and passed	206	Kennebunk, Maine, Mr. Mellen submitted a resolution instructing the Committee on Post Offices, &c., to inquire into the expediency of increasing the compensation of the postmaster at	65
Ives, Thomas P. (See <i>Brown, Nicholas.</i> )		agreed to, and referred	68
J.		adverse report of said committee	83
Jackson, Andrew, and others, Mr. Tait presented the memorial of, referred	67	considered, and concurred in	85
Jamison, John, Mr. Barbour presented the petition of, referred	25	Kenzie and Forsyth, a bill from the House of Representatives for the relief of, read	161
Jefferson county, Virginia, a bill from the House of Representatives authorizing the Secretary of War to convey a parcel of land belonging to the United States in, read	224	read a second time, and referred	164
read a second time, and referred	225	reported with an amendment	169
read the third time, and passed	287	ordered to a third reading	230
		read the third time, and passed	232
		Kermion, Labedoyere de, Mr. Fromentin presented the petition of, referred	227
		a bill for the relief of, read	229
		read a second time	232
		ordered to a third reading	277
		read the third time, and passed	279
		Kidd, Robert, and others, a bill from the House of Representatives for relief of, read	274
		read a second time, and referred	275
		reported without amendment	280
		read the third time, and passed	283



	Page.		Page.
Ang, Rufus, of New York, attended	9	Langston, William, Mr. Eaton presented the petition of, referred	136
remarks of, on the bill for relief of Major General Stark	72	committee discharged	234
on the bill making provision for sick seamen	202	Languille, Francis B., Mr. Johnson presented the petition of, referred	29
Ang, William, a bill from the House of Representatives for relief of, read	58	a bill for the relief of, read	197
read a second time, and referred	64	read a second time	201
reported without amendment	78	ordered to a third reading	256
further consideration postponed	82	read a third time, and passed	268
bill indefinitely postponed	86	Latitude of 36° 30' north, Mr. Barbour offered a joint resolution requesting the President of the United States to employ a skilful artist to ascertain the, on the west bank of Tennessee river, read	197
Ant, Sampson B., a bill from the House of Representatives for relief of, read	89	read a second time	201
read a second time, and referred	98	read the third time, and passed	254
reported with an amendment	111	Latrobe, Benjamin H., the memorial of, referred to the Committee on the District of Columbia,	97
ordered to a third reading	178	Leake, Walter, of Mississippi attended	9
read the third time, and passed as amended	185	Le Baron, Francis, Mr. Goldsborough presented the petition of, referred	167
Aspley, Adam, Thomas French and Charles Leonard, a bill from the House of Representatives for relief of, read	161	Lee, Richard Bland, on motion of Mr. Barbour, the memorial of, presented at last session, was referred to the Committee of Claims	112
read the second time, and referred	164	adverse report thereon	136
reported without amendment	170	considered, and concurred in	159
ordered to a third reading	230	Lefevre, Joseph, Mr. Johnson presented the petition of, referred	29
read the third time, and passed	232	adverse report thereon	212
Atman, Joseph, the memorial of, was referred to the Committee of Claims	225	the report reversed, and a bill ordered	229
said committee discharged, and papers referred to the Committee on Foreign Relations	229	a bill for the relief of read	234
that committee also discharged, and the claims referred to the Secretary of State	234	read a second time	235
L.		ordered to a third reading	277
Abner, of Pennsylvania, attended	9	read a third time, and passed	279
speech of, on the bill for organization of the courts	130	Leonard, Charles S. (See Kinsley, Adam.)	
remarks of, on the bill relating to State controversies	196	Lewis, Wm. B., a bill from the House of Representatives for the relief of	59
Coste, Peter, Mr. Johnson presented the petition of, referred	40	read	64
adverse report thereon	81	read a second time, and referred	66
considered and concurred in	177	reported without amendment	78
indefinitely postponed	253	ordered to a third reading	86
Robert, William, Mr. Dickerson presented the memorial of, referred	21	read a third time and passed, with an amendment	87
a letter from, transmitting fifty copies of his abstracts, &c., relating to the longitude of the Capitol	111	Library, Mr. Morrill submitted a resolution to appoint a joint committee on the, read twice	10
and Laws, the Committee on the Public Lands were instructed to inquire into the expediency of amending the, in respect to the disposal of the public land	38	read a third time, and passed	11
(See <i>Sales of Public Lands</i> .)		a bill to provide for the removal of the, to the north wing of the Capitol, read twice	22
and Warrants, a bill from the House of Representatives allowing further time for issuing and locating, read	169	ordered to a third reading	23
read a second time, and referred	173	read the third time, and passed	26
reported without amendment	185	Mr. Fromentin submitted a resolution further extending the privilege of using the books in the	232
ordered to a third reading	234	agreed to and referred to the Library Committee	236
read a third time, and passed	236	committee discharged from its further consideration	276
ands reserved, a bill authorizing the President of the United States to purchase certain, read,	189	Lieutenants of Marines, acting under warrant, Mr. Daggett submitted a resolution allowing to, the benefit of the provision made for those of the Navy acting under commission	79
read a second time	192	Lighthouses, beacons, &c., a bill from the House of Representatives authorizing certain, read	274
ordered to a third reading	211	read a second time, and referred	275
read a third time, and passed	214	reported without amendment, and ordered to a third reading	278
andon, Joseph, Mr. Sanford presented the memorial of, referred	110		
committee discharged	269		

	Page.		Page.
Light-houses, &c.—continued.		Macon, Nathaniel, of North Carolina, attended	9
amended, read the third time, and passed,	282	speech of, on the memorial of Matthew Lyon	56
amended		on the colonial trade	249
Limitation of official term, on motion of Mr. Dickerson, the Committee of Finance were instructed to inquire into the expediency of altering the laws in respect to appointing certain officers	212	Manumission of Slaves, Mr. Sanford presented the memorial of New York Society for the, referred	82
Linton, John, Mr. Williams, of Mississippi, presented the petition of, read	234	Mark and Conant, Mr. Ruggles presented the petition of, referred	88
Litt, Absalom, Mr. Ruggles presented the petition of, referred	136	adverse report thereon	191
Live oak timber, Mr. Tait submitted a resolution instructing the Naval Committee to inquire into the expediency of authorizing the purchase of, for building sloop-of-war, &c.	88	considered and concurred in	200
a bill authorizing the purchase of, read	187	Marquand, Joseph, Mr. Otis presented the petition of, referred	64
read a second time	188	report of the Secretary of the Treasury on the claim of, read	70
ordered to a third reading	237	referred to the Committee of Commerce and Manufactures	77
read the third time, and passed	239	Mason, John, and others, Mr. Goldsborough presented the memorial of, referred	110
Longitude of the Capitol, a resolution from the House of Representatives authorizing the President of the United States to cause to be ascertained the, read	270	committee discharged from the further consideration	278
read a second time, and referred	272	Mayhew, Thaddeus, Mr. Johnson presented the petition of, referred	29
reported with an amendment	275	Medical Society, District of Columbia, a bill from the House of Representatives, to incorporate the, read	101
indefinitely postponed	285	read a second time, and referred	102
Lord, Archibald B., and others, Mr. Gaillard presented the memorial of, referred	162	reported with amendment	112
adverse report thereon	187	ordered to a third reading	209
Louisiana, Mr. Johnson presented a memorial of a number of inhabitants of, praying confirmation of land titles, referred	159	read a third time, and passed as amended	212
a bill from the House of Representatives explanatory of the acts for the final adjustment of land titles in, and Missouri Territory	75	Mellen, Prentiss, appointed a Senator by the Legislature of Massachusetts in the place of Eli P. Ashmun resigned, was qualified, &c.	9
read	169	remarks of, on the bill relating to State controversies	195
read a second time, and referred	175	Merchandise and Tonnage, report from the Secretary of the Treasury, showing the gross amount of duties on, for a specified time	205
reported with amendments	210	Merril, Daniel, Mr. Morrill presented the petition of, referred	83
ordered to a third reading	268	adverse report thereon	164
read a third time, and passed as amended	271	considered and concurred in	165
Lowrie, Walter, the credentials of, appointed a Senator by the Legislature of Pennsylvania, were read, and ordered to be filed	190	Message, the President's annual	11
Lucas, Thomas, on motion of Mr. Daggett, the Committee of Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the list of pensioners	206	two thousand copies of the, ordered to be printed	18
report thereon read	223	Messonier, Henry, Mr. Johnson presented the petition of, referred	29
Lyon, Matthew, the memorial of, was referred to the Judiciary Committee	22	Michigan Territory, Mr. Talbot presented the memorial of sundry inhabitants of, praying that a delegate from said Territory may be authorized, referred	81
an adverse report thereon	30	a bill from the House of Representatives authorizing a delegate from, read	89
concurred in	64	read a third time, and referred	98
M.		reported with amendments	103
Macarty, L. B., Mr. Johnson presented the petition of	29	ordered to a third reading	202
Macomb, Alexander, Mr. Ruggles presented the petition of, referred	70	read a third time, and passed as amended	203
a favorable report thereon	161	Mr. Ruggles submitted a resolution respecting a district court in	176
concurred in, and a bill ordered	165	agreed to, and referred to the Judiciary Committee	189
a bill confirming the claim of, to a certain tract of land, read	170	Military Academy, a bill for the better organization of the, read	169
read a second time	173	read a second time	176
ordered to a third reading	230	indefinitely postponed	251
read a third time, and passed	232		



## Senate Proceedings and Debates.

	Page.		Page.
Military Academy—continued.		Mississippi—continued.	
on motion of Mr. Williams of Tennessee, the President of the United States was requested to cause to be laid before the Senate a copy of the rules, &c., for the government of the	175	Mr. Williams submitted a resolution, instructing the Committee on Public Lands to inquire into the expediency of granting certain portions of land to the State of, for the seat of government, &c.	82
a Message from the President transmitting a report in reply	209	resolution agreed to	84
Military Affairs, appointment of the standing Committee on	20	a bill according to instructions, read	121
said committee were instructed to prepare and report a bill to regulate the compensation of the army	179	read a second time	164
Military Establishment, Mr. Tichenor submitted a resolution directing the Secretary of War to lay before the Senate a statement of the effective force of the, &c.	90	ordered to a third reading	213
amended and agreed to	98	read the third time, and passed	214
the statement asked for, agreed to	121	Missouri, a bill from the House of Representatives to enable the people of, to form a State government, &c., read twice, and referred	238
Military Service, a bill from the House of Representatives making partial appropriations for the, &c., read	59	reported with amendments	251
read a second time, and referred	64	the restriction on slavery struck out	273
reported without amendment, read the third time, and passed	66	ordered to a third reading	275
a bill from the House of Representatives, making appropriations for the, for the year 1819, read	122	read the third time, and passed as amended	279
read a second time, and referred	137	the House of Representatives agreed to all the amendments except one, to which the Senate adhered; a message that the House of Representatives also adhered	282
reported with amendments	164	a bill from the House of Representatives, to establish a separate territorial government in the southern part of, read twice, and referred	252
ordered to a third reading, as amended	175	reported without amendment	253
read the third time, and passed with amendments	177	ordered to a third reading	270
Military Sites, a bill from the House of Representatives, authorizing the sale of certain, read	279	read the third time	272
read a second time	280	and passed	274
read the third time, and passed	287	Montgomery, Alexander, a bill from the House of Representatives for relief of legal representatives of, read	80
Militia, appointment of the standing committee on	20	read a second time, and referred	80
report from the Secretary of War, showing the organization and strength of the, in the several States	25	reported without amendment	83
on motion of Mr. Wilson, a resolution was adopted providing for accurate annual returns of the, referred to a committee	208	ordered to a third reading	86
the committee discharged	276	read the third time, and passed	87
Milling, Hugh. (See Buchanan, John.)		Morgan, William. (See Armstrong, John.)	
Milne, Alexander, Mr. Johnson presented the petition of, referred	29	Morril, Daniel L., of New Hampshire, attended	9
a bill for the relief of, read	212	speech of, on the case of Matthew Lyon	60
read a second time	214	on the bill for the relief of General Stark	73
ordered to a third reading	269	on his resolution concerning duelling	218
read the third time, and passed	272	Morrow, Jeremiah, of Ohio, attended	10
Minis, Isaac, and others, a bill from the House of Representatives for relief of, read	224	Mr. Crittenden's eulogy upon	245
read a second time, and referred	225	Moss, Daniel, a bill from the House of Representatives for relief of, read	122
reported without amendment	278	read a second time, and referred	137
read the third time, and passed	283	reported without amendment	246
Mint, report of the Director of the, referred to the Finance Committee	58	read the third time, and passed	283
Mississippi, Mr. Leake presented a memorial of the convention of, praying an extension of limits	67	Mumford, George, a message from the House of Representatives, announcing the death of	80
Mr. L. also presented a memorial of the Legislature of Alabama, remonstrating against the extension prayed for, both of which were referred	67	McCalla, Robert, and M. H. Jouett, a bill from the House of Representatives for relief of, read	186
		read a second time, and referred	187
		reported with an amendment	214
		ordered to a third reading	269
		read the third time, and passed with amendment	272
		McCarty, Edward, a bill for the relief of the heirs of, read	177
		read a second time	185
		ordered to a third reading	231
		read the third time, and passed	237
		McCausland, John, a bill from the House of Representatives for relief of, read	274
		read a second time, and referred	275
		reported without amendment	278
		read the third time, and passed	286

## Senate Proceedings and Debates.

	Page.		Page.
McCormick, Alexander, Mr. Roberts presented the petition of, referred	120	O'Connor, John, Mr. Johnson presented the petition of the heirs and executors of, referred	110
adverse report thereon	168	Ogden, Thomas Ludlow, Mr. King presented the petition of, referred	68
considered and concurred in	174	adverse report thereon	173
McFarland, William, Mr. Dickerson presented the petition of	167	considered and concurred in	177
adverse report thereon concurred in	198	Organization of the Courts, a bill for the more convenient, read	31
McNeil, Joseph, Mr. Johnson presented the petition of, referred	29	read a second time	35
a bill for the relief of, read	197	ordered to a third reading	160
read a second time	201	read the third time, and passed	164
ordered to a third reading	256	Orr, James, a bill from the House of Representatives for relief of, read twice, and referred	274
read the third time, and passed	269	reported without amendment	277
		read the third time, and passed	286
N.		Otis, Harrison Gray, of Massachusetts, attended	18
Naming of Vessels of War, a resolution from the House of Representatives declaring what shall be the mode of, read twice and referred	252	speech of, on the case of Matthew Lyon	52
reported without amendment	255	in reply to Mr. Crittenden	63
read the third time, and passed	278	remarks of, on the bill relating to State controversies	194
National Bank, Mr. Lacock submitted a resolution directing the Secretary to procure, and cause to be printed, copies of the documents accompanying the report to the House of Representatives on the	174		
amended and agreed to	178	P.	
a bill from the House of Representatives authorizing the transmission of the documents in relation to the, free of postage, read three times and passed	224	Page, Thomas. (See Kidd, Robert.)	
Mr. Wilson submitted a resolution directing the Secretary to procure, for the use of the Senate, copies of the memorial of William Jones late President of the, to the House of Representatives	227	Palmer, William A., appointed a Senator by the Legislature of Vermont, in place of James Fisk, resigned, produced his credentials, &c.	9
the resolution negatived	229	other credentials, for a new term, presented and filed	281
Naval Affairs, appointment of the standing committee of	20	Parker, John, and others, Mr. Noble presented the memorial of, referred	64
Naval Register, a letter from the Secretary of the Navy, transmitting a copy of the, for each member	99	Parrot, John F., the credentials of, as Senator appointed by the Legislature of New Hampshire, were read and filed	277
Navy, a bill from the House of Representatives making appropriations for the support of the, for the year 1819, read	81	Pascagoula River, Mr. Williams of Mississippi presented a petition praying that a port of entry may be established at, read	253
read a second time, and referred	83	Passenger Ships, &c., a bill from the House of Representatives, regulating, read	80
reported with amendments	171	read a second time, and referred	80
ordered to a third reading	177	reported with amendments	113
read the third time, and passed as amended	185	ordered to a third reading	205
Navy Pension Fund, report of the Commissioners of the	122	read the third time, and passed as amended	206
New York Hospital, Mr. King presented the memorial of the governors of the, in relation to sick seamen, referred to the Secretary of the Treasury	34	House of Representatives agreed to the amendments with an amendment which was concurred in	255
report of said officers, referred to the Committee of Commerce and Manufactures	65	Patapasco River and Chesapeake Bay, Mr. Goldsborough presented the petition of the Marine Insurance Company of Baltimore, praying the improvement of the navigation of the, referred	97
Noble, James, of Indiana, attended	11	Patuxet, Rhode Island, a bill to increase the compensation of the surveyor of the port of, read	47
North Carolina, a bill to authorize the survey of certain parts of the coast of, along Cape Hatteras, &c., read	33	read a second time	64
read a second time	38	ordered to a third reading	66
ordered to a third reading	45	read the third time, and passed	68
read the third time, and passed	59	Pay of the Army, Mr. Williams of Tennessee submitted a resolution instructing the Military Committee to inquire into the expediency of increasing the	23
Mr. Macon presented certain acts of the Legislature of, to which the assent of Congress was asked	63	considered and agreed to	26
		Pearl River, a report from the Secretary of the Treasury relative to land claims east and west of, referred	47
		the report ordered to be printed	67



## Senate Proceedings and Debates.

	Page.		Page.
Pearl River—continued.		Post Office Establishment, a bill to repeal part	
Mr. Leake presented the memorial of the		of the act establishing the, read	173
Legislature of Mississippi, praying the		read a second time	177
establishment of a port of entry at or near	245	ordered to a third reading	231
Pennsylvania, a bill from the House of Repre-		read the third time, and passed	254
sentatives concerning the western district		Post Offices and Post Roads, appointment of the	
of, read	28	standing committee on	20
read a second time, and referred	29	Post Roads, a bill from the House of Represent-	
reported without amendment	40	atives to alter and establish certain, read	272
read the third time, and passed	65	read a second time, and referred	275
Pensions, appointment of the standing commit-		reported with amendments, and ordered to	
tee on	20	a third reading	281
the said committee were instructed to in-		read the third time, and passed as amended	282
quire into the expediency of amending		Post Route, the Committee on Post Offices and	
the act providing for certain persons, &c.	80	Post Roads were instructed to inquire into	
Perkins, Nicholas, Mr. Eaton presented the pe-		the expediency of establishing a certain	190
tition of, referred	67	Potter, Elderkin, Mr. Ruggles presented the pe-	
Perry, Wm. N., and Mark Burnett, Mr. Taylor		tition of, referred	209
presented the petition of, referred	112	committee discharged	278
adverse report thereon	179	Preble, Com. Edward, a bill from the House of	
considered and concurred in	191	Representatives authorizing the distribu-	
Perth Amboy, the committee were discharged		tion of a sum of money among the repre-	
from the petition of the inhabitants for a		sentatives of, and the officers and crew of	
session of the district court at	276	the Syren, read	69
Pettibone, Daniel, Mr. Tichenor presented the		read a second time, and referred	71
petition of, referred	87	reported without amendment	83
a bill for the relief of, read	163	ordered to a third reading	178
read a second time	165	read the third time, and passed	186
ordered to a third reading	224	Pre-emption Claims, Mr. Morrow presented the	
read the third time, and passed	227	memorial of the Legislature of Missouri	
Pettit, John, Mr. Johnson presented the petition		Territory in relation to, referred	111
of, referred	29	Mr. Thomas presented a petition from Illi-	
a bill for the relief of, read	212	nois of the same tenor, read	281
read a second time	214	President of the United States, a joint committee	
ordered to a third reading	269	appointed to wait on the	10
read the third time, and passed	272	Mr. Sanford submitted a resolution respect-	
Pike, James, Mr. Morrill presented the petition		ing the signature of the, to land patents	19
of, referred	26	agreed to, and referred to the Committee on	
Piracy, a bill to protect the commerce of the		Public Lands	21
United States and for the punishment of,		Prevost, Solomon, Mr. Johnson presented the	
read twice, and referred	246	petition of, referred	40
reported with amendments, and ordered to a		a bill for the relief of, read	212
third reading	253	read a second time	214
read the third time, and passed	256	ordered to a third reading	269
Pitkin's Commercial Statistics, a resolution from		read the third time, and passed	272
the House of Representatives directing,		Printing, Mr. Wilson submitted a resolution	
to be deposited in the Library, read	101	concerning the, ordered by the two Houses,	
read a second time	102	read twice	37
amended and ordered to a third reading	137	read the third time, and passed	40
read the third time, and passed as amended	162	returned from the House of Representatives	
Poiray, M., a bill from the House of Representa-		with an amendment, and agreed to	50
tives making provision for the claim of,		Mr. Lacock also submitted a resolution re-	
read	169	lating to the	37
read a second time, and referred	173	which was agreed to	40
reported without amendment	189	a message from the House of Representa-	
ordered to a third reading	237	tives that they have appointed a joint com-	
read the third time, and passed	238	mittee on the, concurred in, and commit-	
Pool, Benjamin, a bill from the House of Repre-		tee appointed	69
sentatives for relief of, read	161	report of the joint committee, read and	
read a second time	164	agreed to	75
reported without amendment	173	Mr. Fromentin submitted a resolution to re-	
ordered to a third reading	230	scind	166
read the third time, and passed	232	considered and disagreed to	170
Portland, Maine, Mr. Mellen submitted a reso-		Protection of the Mails, on motion of Mr. Tal-	
lution instructing the Committee on the		bot, the Committee on Post Offices, &c.,	
Judiciary to inquire into the expediency		were instructed to inquire into the expedi-	
of establishing a circuit court to be held at	22	ency of authorizing the Postmaster Gen-	
considered and agreed to	23	eral to employ an armed guard for the	206

## Senate Proceedings and Debates.

	Page.		Page.
Protection of the Mails—continued.		R.	
inexpediency of doing so reported	235	Rabun, Governor, a Message from the President	
considered and concurred in	251	of the United States, transmitting the	
Prout, William, Mr. Daggett, presented the pe-		copy of a letter from	89
tition of, referred	101	Rangers, Mr. Noble presented the petition of a	
a bill to authorize, to institute a suit in equity		company of, commanded by James Big-	
against the Commissioner of Public		gar, referred	198
Buildings, &c., read	190	adverse report thereon	246
read a second time	192	considered, and concurred in	253
ordered to a third reading	237	Rapine, Daniel, a letter from, offering for the	
read the third time, and passed	238	printing	281
Provident Association of Clerks, a bill from the		Receivers and Registers, Mr. Eaton presented a	
House of Representatives to incorporate		memorial praying a revision of the act	
the, read	101	changing the compensation of, referred	74
read a second time, and referred	103	a bill to fix the compensation of, read	402
reported with an amendment	112	read a second time, and ordered to a third	
ordered to a third reading	207	reading	259
read the third time, and passed as amended	210	read the third time, and passed	269
Public Accounts, a bill from the House of Rep-		Relinquishment of Bounty Lands, a bill from the	
resentatives supplementary to the act for		House of Representatives concerning pen-	
prompt settlement of, read	174	sions upon a, read	232
read a second time, and referred	176	read a second time, and referred	234
reported without amendment	192	reported without amendment	246
ordered to a third reading	241	read the third time, and passed	283
read the third time, and passed	246	Renner, Daniel, and Nathaniel H. Heath, a bill	
Public Buildings, a Message from the President		from the House of Representatives for the	
of the United States transmitting the an-		relief of, read	81
annual report of the Commissioner of the	28	read a second time, and referred	83
a bill from the House of Representatives		reported with an amendment	101
making appropriations for repairs, &c., of		ordered to a third reading	178
the, read	270	read the third time, and passed as amended	185
read a second time, and referred	271	Restitution of Slaves, Mr. Fromentin submitted	
reported without amendment	276	a resolution requesting information of the	
read the third time, and passed	283	President of the United States, touching	
Public Lands, appointment of the standing Com-		the execution of the first article of the treaty	
mittee on	20	with Great Britain, in relation to the	21
Mr. Ruggles presented the petition of sun-		agreed to, and committee appointed to wait	
dry inhabitants of Ohio, praying an ex-		on the President	23
extension of time for completing payments		a Message from the President in reply	36
on, which was read	100	Revolutionary War, on motion of Mr. Ruggles,	
Mr. Noble presented a similar petition, from		the Committee on Pensions were instruct-	
Indiana	120	ed to inquire into the expediency of amend-	
Public Printing, report of the joint committee		ing the act to provide for certain persons	
on the subject of the	247	engaged in the, &c.	100
considered and agreed to	254	said committee ask to be discharged	161
a resolution directing the manner of, read		and are accordingly discharged	165
three times, and passed	281	Rice, Henry, Mr. Otis presented the petition of,	
Purkhill, Jacob, Mr. Crittenden presented the		referred	255
petition of, referred	120	committee discharged	276
adverse report thereon	168	Ring, Hannah, and Luther Frink, a bill from the	
the report reversed, and bill ordered	175	House of Representatives for the relief of,	
a bill for the benefit of, read	177	read a first and second time, and referred	198
read a second time	185	reported with amendments	223
ordered to a third reading	246	ordered to a third reading	276
read the third time and passed	254	read the third time, and passed with amend-	
Putney, Benjamin, Mr. Macon presented the pe-		ments	279
tition of, referred	170	Roberts, Jonathan, of Pennsylvania, attended	11
adverse report thereon	201	remarks of, on the bill for the relief of Gen-	
considered, and concurred in	210	eral Stark	72
Pyle, Edward, Mr. Taylor presented the peti-		speech of, on the bill for the more convenient	
tion of	163	organization of the courts	103
Q.		Robertson, William, Mr. Wilson presented the	
Quarter Sections, Mr. Leake submitted a resolu-		petition of, referred	65
tion relating to fractions of	23	committee discharged, and the petition re-	
Quartering Soldiers in time of War, Mr. Forsyth		ferred to the Naval Committee	84
submitted a resolution on the subject of	159	adverse report thereon	90
Quorum, a message sent to the House of Repre-		considered, and concurred in	98
sentatives announcing the formation of a	12		



## Senate Proceedings and Debates.

	Page.		Page.
Rockville and Washington Turnpike Company, a bill from the House of Representatives authorizing the, to extend their road through the District of Columbia, read	101	Seminole War, Mr. Lacock submitted a resolution that the Message and documents relating to the, be referred to a select committee	37
read a second time, and referred	102	amended and agreed to, and a committee appointed	76
reported without amendment	112	Mr. L. submitted another resolution asking of the President copies of the correspondence with Spain in relation to the modified and agreed to	70
ordered to a third reading	202	a Message from the President transmitting a copy of a letter from Governor Bibb to General Jackson	227
read the third time, and passed	204	report of the committee in full	256
Rodriguez, John, Mr. Johnson presented the petition of, referred	29	Senate, opening of the second session of the, (fifteenth Congress)	9
a bill for the relief of, read	201	adjournment of the	288
read a second time	203	Sewall, Robert, Mr. Hanson presented the petition of, referred	90
ordered to a third reading	256	adverse report thereon	176
read the third time, and passed	269	considered, and concurred in	189
Ronde, Pierre D. de la, Mr. Johnson presented the petition of, referred	29	Seybert's Statistical Annals, a resolution from the House of Representatives for the distribution of, read	101
a bill for the relief of, read	186	read a second time	102
read a second time	188	amended, and ordered to a third reading	137
ordered to a third reading	236	read the third time, and passed as amended	162
read the third time, and passed	238	Shawneetown, Mr. Thomas presented the memorial of the Register and Receiver at, praying an increase of compensation, referred	209
Ruggles, Benjamin, of Ohio, attended	11	Sick and disabled Seamen, a bill to provide for, read	97
speech of, on his resolution to clothe the Army in domestic manufactures	114	read a second time	101
Rules and Regulations for the Navy, the report of the Secretary of the Navy, made at the last session, on the, was referred to the Naval Committee	39	considered	111
Mr. Roberts submitted a resolution instructing said committee to inquire whether said, are in conformity with military laws, &c. considered, and agreed to	87	ordered to a third reading	203
the committee reported a resolution requiring the Secretary of the Navy, under the direction of the President, to report at the next session, a reply to the inquiry	208	read the third time, and passed	210
considered, and agreed to	212	Simpson, James, Mr. Daggett presented the petition of, referred	161
Runaways, on motion of Mr. Forsyth, the Committee on the District of Columbia were instructed to inquire into the expediency of annulling the laws regulating the seizure of persons of color suspected to be said committee discharged	208	committee discharged	246
	278	Sinking Fund, annual report on the state of the Slave Trade, a bill from the House of Representatives in addition to the act to prohibit the, read	279
S.		read a second time, and referred	280
Sackett, Augustus, Mr. King presented the petition of, referred	89	reported without amendment; read the third time, and passed	280
adverse report thereon	205	Slaves impressed into the Public Service, Mr. Macon submitted a resolution concerning	174
considered, and concurred in	209	agreed to, and referred to a committee	177
Salaries of certain Officers, a bill to increase the, read twice	22	the committee discharged	278
read the third time, and passed	29	Slocum, John, Mr. Burrill presented the petition of, referred	22
returned from the House of Representatives with amendments	231	Smith, William, of South Carolina, attended	9
considered, and concurred in	236	speech of, on the case of Matthew Lyon	54
Sales of Public Lands, letter from the Secretary of the Treasury with a statement of the report of the Committee on Public Lands of the	215	in explanation	37, 63
a bill making further provision for the, read	215	on the bill for the relief of General Stark	72
read a second time; ordered to a third reading	244	on the bill for more convenient organization of the courts	123
read the third time, and passed	246	Smith, James, Mr. Roberts presented the petition of, referred	234
Sanford, Nathan, of New York, attended	9	Smyth, Harold, a bill from the House of Representatives for relief of, read	88
remarks of, on the bill providing for sick seamen	202	read a second time, and referred	98
Schoonmaker, Cornelia, and P. M. Greene, the petition of, referred	169	reported without amendment	228
adverse report thereon	190	ordered to a third reading	277
Indefinitely postponed	226	read the third time, and passed	278

## Senate Proceedings and Debates.

	Page.		Page.
Smyth, Richard, Mr. Dickerson presented the memorial of, referred	200	St. Andrew's Society of Charleston, the petition of, praying a remission of duties, referred to the Finance Committee	75
Spain, a Message from the President, transmitting a copy of his proclamation of the convention with	99	adverse report thereon	163
Sparks, Thomas. (See Beck, Paul.)		considered and concurred in	177
Standing Committees, appointment of the several	19	St. Stephen's, Mr. Williams, of Mississippi, presented the petition of the inhabitants of, praying that a port of entry may be established at	39
Standing Rules, Mr. Sanford offered an amendment to the	159	T.	
considered, and agreed to	162	Tait, Charles, of Georgia, attended	65
Stark, Major General John, a bill from the House of Representatives for the relief of, read	35	remarks of, on the bill providing for sick seamen	202
read a second time, and referred	39	Talbot, Isham, of Kentucky, attended	30
reported without amendment	40	remarks of, on the bill for deciding State controversies	192, 195, 196
ordered to a third reading	73	Taylor, Waller, of Indiana, attended	11
read the third time, and passed	76	the credentials of, for a new term, presented and filed	253
Steamboats, on motion of Mr. Talbot the Committee on Post Offices and Post Roads were instructed to inquire into the expediency of authorizing the Postmaster General to transmit the mail in	89	Tennessee, a bill from the House of Representatives to amend the act supplementary to the act authorizing the State of, to issue grants, &c., read	223
a bill from the House authorizing the Postmaster General to contract for carrying the mail in, &c., read	174	read a second time, and referred	225
read a second time, and referred	176	reported without amendment	272
reported with amendments	185	indefinitely postponed	285
ordered to a third reading	251	Thomas, Jesse B., appointed a Senator by the Legislature of Illinois, produced his credentials, &c.	38
read the third time, and passed	254	Thorn, Joseph, Mr. Forsyth presented the petition of, referred	88
Stephens, David, Mr. Morrill presented the petition of, referred	29	a bill for the relief of, read	163
Stephens, Otho, Mr. Palmer presented the petition of, referred	173	read a second time	165
adverse report thereon	185	the third reading negatived	213
considered and concurred in	198	Thornton, William, Mr. Eppes presented the memorial of, referred	209
Sterrett, Samuel, Mr. Noble presented the petition of, referred	246	a bill concerning the Patent Office, and to increase the salary of, the superintendent thereof, read	223
adverse report thereon	254	read a second time	226
considered and concurred in	255	ordered to a third reading	277
Stokes, Mountford, of North Carolina, attended	33	read the third time, and passed	279
Stone, George, Mr. Morrill presented the petition of, referred	22	Tichenor, Isaac, of Vermont, attended	11
adverse report thereon, read	34	Timberlake, John B., Mr. Williams, of Mississippi, presented the petition of, referred	86
and concurred in	38	a bill for the relief of, read	160
Storer, Clement, of New Hampshire, attended	19	read a second time	164
Streets, a bill from the House of Representatives authorizing the corporation of Washington to extend certain, through public reservations, read	101	ordered to a third reading	211
read a second time, and referred	102	read the third time, and passed	212
reported without amendment	136	Tompkins, Daniel D., Vice President, took the chair	99
indefinitely postponed	210	sketch of his remarks on giving the casting vote on the appropriation for a military road	171
Stuart, Phoebe, a bill from the House of Representatives for relief of, read	186	retirement of, from the chair	232
read a second time, and referred	187	Tonnage and Discriminating Duties, a bill in addition to the act concerning, read	234
reported without amendment	251	read a second time	237
read the third time, and passed	283	ordered to a third reading	254
Sturges, Rachel, Mr. Dickerson presented the petition of, referred	167	read the third time, and passed	255
adverse report thereon	185	Trading-houses with the Indian Tribes, a bill to continue in force for a further time the act concerning, read	241
considered and concurred in	198	read a second time	246
Supervisors and Collectors of the old Direct Tax, Mr. Tichenor submitted a resolution of inquiry relating to balances due from agreed to, and committee appointed to present it to the President	136	ordered to a third reading	254
a Message from the President transmitting statement in reply	204	read the third time, and passed	255
		Transportation of persons of color, &c., a bill respecting the, read	58



## Senate Proceedings and Debates.

	Page.	Wait's State Papers—continued.	Page.
Transportation—continued.		bill read a second time, and ordered to a	
bill read a second time	68	third reading	206
referred to the committee on the importation		read the third time, and passed	210
of slaves	69	Ward, Samuel, a bill for the relief of, read	87
Mr. Wilson submitted a resolution instruct-		read a second time, and referred	88
ing said committee	76	reported without amendment	160
considered and agreed to	78	ordered to a third reading	211
a bill respecting the, read	192	read the third time, and passed	212
read a second time	198	Warnack, Frederick C., Mr. Williams, of Ten-	
ordered to a third reading	252	nessee, presented the petition of, referred	90
read the third time, and passed	254	Washington, Mr. Goldsborough submitted a re-	
Treasurer, the general account of the, presented	231	solution to erect a monument over the re-	
Treasury Department, report of the Secretary in		mains of General, read	23
obedience to the act establishing the	21	read a second time	26
another report, according to law	163	referred to a select committee	31
a bill for the better organization of the, read	192	reported with amendments	33
read a second time, and referred	192	recommitted with instructions	112
reported without amendment	200	a bill to erect an equestrian statue of, in	
ordered to a third reading	254	the Capitol square, read	162
read the third time, and passed	256	read a second time	164
Treasury Notes lost or destroyed, a bill from the		ordered to a third reading	228
House of Representatives to authorize		read the third time, and passed	229
payment in certain cases on account of,		Mr. Iacock presented the petition of the	
read	89	Mayor, &c., of the City of, praying a re-	
read a second time, and referred	98	newal of their charter, referred	30
reported with an amendment	163	a bill supplementary to the act further to	
ordered to a third reading	185	amend the charter of the City of, read	112
read the third time, and passed as amended	188	read a second time	122
Troop, John, Mr. Sanford presented the petition		ordered to a third reading	210
of, referred	77	read the third time, and passed	212
adverse report thereon	88	Washington Turnpike Company, a bill from the	
on motion of Mr. Goldsborough, the said re-		House of Representatives to empower the,	
port was withdrawn	89	to extend their road through the District	
a resolution reported that the petitioner have		of Columbia, read	169
leave to withdraw his papers	97	read a second time, and referred	173
considered and concurred in	100	reported without amendment	277
Turner, Thomas, a bill from the House of Rep-		read the third time, and passed	284
resentatives concerning the heirs and le-		Way, Andrew, jr., letter from, offering for the	
gateses of, read	161	printing	282
read a second time, and referred	164	Webber, Seth. (See Kidd, Robert.)	
reported without amendment	176	Wells, Benjamin, a bill from the House of Rep-	
ordered to a third reading	233	resentatives supplementary to the act for	
read the third time, and passed	236	the relief of, read	255
V.		read a second time, and referred	268
Van Dyke, Nicholas, from Delaware, attended	20	indefinitely postponed	285
Vienne, M. de, a bill from the House of Repre-		Wetzell, Jacob, Mr. Noble presented the petition	
sentatives making provision for the claim		of, referred	85
of, read	169	adverse report thereon	100
read a second time, and referred	173	considered and concurred in	102
reported without amendment	189	Wheaton, Joseph, a bill from the House of Rep-	
ordered to a third reading	237	resentatives for relief of, read	231
read the third time, and passed	238	read a second time, and referred	232
Villere, Jacques, Mr. Johnson presented the pe-		reported without amendment	246
tition of, referred	29	read the third time, and passed	283
Vincennes University, Mr. Taylor presented the		Whitmore, Martha, an adverse report on the	
memorial of, referred	169	petition of, concurred in	84
Vreeland, Ann, and others, Mr. Dickerson pre-		Widows and Orphans of Soldiers, &c., a bill	
sented the petition of, referred	167	from the House of Representatives to ex-	
a bill for relief of the heirs and representa-		tend, for a further term, the pensions to	
tives of Nicholas Vreeland, read	185	the, read	74
read a second time	188	read a second time, and referred	76
ordered to a third reading	236	reported without amendment	78
read the third time, and passed	238	indefinitely postponed	214
W.		Widows of Militia, a bill from the House of Rep-	
Wait's State Papers, a bill authorizing subscrip-		resentatives concerning the, read	69
tion for the 11th and 12th volumes of,		read a second time, and referred	71
read	200	reported without amendment	78
		indefinitely postponed	223

## House Proceedings and Debates.

	Page.	Yeas and Nays—continued.	Page.
Wilde, Richard H., Mr. Forsyth presented the		on amending the bill concerning forfeiture	
petition of, referred	22	of lands, &c.	122
a bill to authorize the settlement of the ac-		on recommitting the bill for organization of	
counts of James Wilde, read	33	the courts	160
read a second time	38	on ordering the same to a third reading	160
recommitted to the committee that report-		on Mr. Barbour's amendment to the resolu-	
ed it	40	tion to amend the Constitution	162
reported with an amendment	47	on the final passage of the bill for the organ-	
ordered to a third reading	65	ization of the courts	164
read the third time, and passed	67	on amending the bill making appropriations	
Williams, John, of Tennessee, attended	11	for the military service	171
remarks of, on the bill relating to State con-		on a motion to reverse the report on peti-	
troversies	192, 196	tion of Jacob Perkhill	175
Williams, Thomas K., of Mississippi, attended	11	on concurring in the adverse report in case	
Wilson, James J., of New Jersey, attended	11	of Nathaniel Goddard	188
remarks of, on a resolution to instruct the		on indefinite postponement of the bill rela-	
committee on the slave trade	75	ting to State controversies	196, 200
on introducing his resolution concerning the		on the final passage of the resolution to	
militia	207	amend the Constitution	207
Wilson, Thomas, a bill from the House of Repre-		on indefinite postponement of the widows	
sentatives in addition to the act supple-		and orphans' bill	214
mentary to the act for relief of, read	252	on indefinite postponement of the bill to	
read a second time, and referred	252	erect an equestrian statue of Washing-	
reported without amendment	255	ton	224, 228, 229
read the third time, and passed	284	on the third reading of the same	228
Wines, a bill from the House of Representatives		on concurring in the Senate's amendment	
to regulate the duties on certain, read	270	to the bill concerning the salaries of cer-	
read a second time, and referred	271	tain officers	235, 236
reported without amendment	276	on appointing a member to supply the	
read the third time, and passed	282	place of Mr. Forsyth on the Seminole	
Witnesses, a resolution from the House of Repre-		committee	239
sentatives requesting the Senate to per-		on amending the bill concerning sales of	
mit two of its members to attend a select		public lands	242, 243, 244
committee of the House as, read	186	on indefinite postponement of the bill re-	
read a second time, and agreed to	188	specting the transportation of persons of	
Y.		color	252
Yeas and Nays, on Mr. Crittenden's resolution,		on striking out a section in the Missouri	
in the case of Matthew Lyon	62	bill	273
on the third reading of the bill for relief of		on the third reading of the bill to revise the	
General Stark	73	powers of the commissioners, &c., in the	
on Mr. Barbour's amendment to the bill for		district of Detroit	274
organization of the courts	96	on recommitting the bill for a separate ter-	
on Mr. Roberts's motion to recommit said		ritorial government in the southern part	
bill	109	of Missouri	274
on recommitting with instructions the bill		on amending the bill fixing the time for the	
for a monument to Washington	112	next meeting of Congress	282
on amending the bill to enable the people		Z.	
of Alabama to form a State govern-		Zorger, Michael, Mr. Roberts presented the pe-	
ment, &c.	114	tition of, referred	253

## HOUSE OF REPRESENTATIVES AND APPENDIX.

	Page.	Adams, J. Q.—continued.	Page.
A.		correspondence of, with Albert Gallatin	1503
Abbott, Joel, of Georgia, attended	323	instructions of, to Messrs. Gallatin and	
Abolition of Slavery, Mr. Sergeant presented the		Rush	1514
memorial of the American convention for		correspondence of, with the Chevalier Don	
the, referred	430	Luis de Onis	1941
Accounts, appointment of the standing commit-		correspondence of, with Mr. Ewing, Minister	
tee of	292	at Madrid	1924
Adams, John Q., correspondence of, with the		Additional Military Academy, a bill to establish	
Secretary of State	1447, 1491, 1965	an, read twice	1167
correspondence of, with Earl Bathurst	1454	a letter from the Secretary of War, on the	
with Lord Castlereagh	1480, 1495	subject of an, &c.	2428
with Mr. Rush, Envoy at London	1500		



## House Proceedings and Debates.

	Pages.		Page.
Agent for Pensions, a bill to authorize the Secretary of War to appoint an additional, in Tennessee, read twice -	1036	Arbuthnot, A.—continued.	
read the third time, and passed -	1074	his defence before the court-martial -	2051
Alabama Territory, on motion of Mr. Poindexter, the Secretary of the Treasury was directed to lay before the House a statement of the sales of public lands in -	341	letter from, to W. Hamblly -	2084
letter from the Secretary with the statement asked for -	411	letter from, to the Hon. Charles Bagot -	2087
the Speaker presented the petition of the Legislature of, accompanied by a census of the inhabitants, praying admission into the Union as a State, referred -	344	letter from, to a person of rank in England -	2088
the Speaker also presented a petition of the same, praying an alteration in their judicial system, referred to the Judiciary Committee -	370	copy of a sheet of his journal, found among his papers -	2092
a letter from the Secretary of the Treasury in relation to the lands reserved in -	1101	letter from, to the commanding officers at Fort Gaines -	2096
a bill from the Senate to enable the people of, to form a State government, &c. -	514	a letter from A. Culloh to, found among his papers -	2098
twice read, and referred -	541	a letter from, to General Mitchell, agent of Indian affairs -	2099
reported with amendments -	1236	Arbuthnot and Ambrister, so much of the Message as relates to, referred to the Military Committee -	293
ordered to a third reading -	1240	Mr. Colston submitted a resolution requesting of the President copies of any correspondence which may have been held with Great Britain on the subject of -	398
read the third time, and passed as amended -	1272	Arkansas, Mr. Scott presented the petition of sundry inhabitants of, praying a separate territorial government, referred -	911
Alleghany Mountains, the bill reported at last session for erecting a separate judicial district in Virginia west of the, was ordered to a third reading -	314	a bill to provide a separate territorial government for the southern part of Missouri, by the name of, read twice -	1119
read the third time, and passed -	315	debated and referred -	1222
returned from the Senate with amendment, and concurred in -	871	reported with amendments -	1236
Allen, Samuel C., of Massachusetts, attended -	311	recommitted to a select committee -	1273
Allen, Heman, the Speaker presented a letter from, stating that he had resigned his seat in the House -	415	reported and ordered to a third reading -	1282
Allison, Rev. Burgess, election of, as Chaplain -	294	read the third time, and passed -	1283
Ambrister, Robert C., copy of charges and specifications against, and trial of -	2054	Armory, on the Western waters, a bill authorizing the establishment of a national, read twice, and referred -	339
letter from, to Governor Cameron -	2058	Mr. Johnson submitted a letter from the Secretary of War on the subject of an, referred to the same committee -	345
letter from, to Major Nicholls -	2059	Armstrong, John, the bill of last session authorizing the payment of certain drafts drawn by, in favor of Wm. Morgan, was taken up, and ordered to a third reading -	412
letter from, to Peter B. Cook -	2060	read the third time, and passed -	416
defence of, before the court-martial -	2061	Army, report from the Secretary of War, with a statement of the officers of the, their grade, station, &c. -	295
sentence pronounced upon, and general order thereon -	2061	on motion of Mr. Mercer, the Secretary of War was directed to report the present strength and distribution of the -	445
memorial of, to the Duke of York -	2082	Mr. Williams, of North Carolina, submitted a resolution instructing the Military Committee to report a bill to reduce the -	1155
Amelung, Captain V. Z., report of, to General Jackson -	1972	the resolution laid on the table -	1156
Amendment to the Constitution, a resolution from the Senate proposing an, read twice -	1038	Assessors, a bill providing compensation to, in certain cases, read twice -	1167
debate on the resolution -	1419	Assistants Postmaster General, on motion of Mr. Johnson, of Kentucky, the Committee on Post Offices, &c., were instructed to inquire into the expediency of increasing the salaries of the -	295
laid on the table -	1420	a bill to increase the salaries of the, read twice -	464
American Colonization Society, the Speaker presented a letter from a committee of the, referred -	721	Attorney General, on motion of Mr. Holmes, the Secretary of the Treasury was requested to inform the House what sums had been paid to the, for extra services -	1421
Anderson, Richard C., of Kentucky, attended -	295	a letter from the Secretary of the Treasury in reply -	1442
speech of, on the resolution to admit Illinois into the Union -	309		
remarks of, on the resolution for a monument to De Kalb -	722		
speech of, on the Seminole report -	897		
Anderson, John, a bill from the Senate for the relief of, read twice -	1422		
Arbuthnot, A., letter from, to Lieutenant Colonel Nicholls -	2022		
copy of the charges against -	2026		
letter from, to his son -	2034		

## House Proceedings and Debates.

	Pages.		Page.
B. Bagot, Sir Charles, correspondence of, with the Secretary of State -	1486	Barbour, Mr., remarks of—continued.	
Baker, Anthony St. John, correspondence of, with the Secretary of State -	1445	on the sale of lots in the city of Washington -	543
extract of a letter from the Secretary of State to -	1964	on the Seminole report -	764
Balamy, Aaron, the Committee of Claims was instructed to inquire into, and report on, the claim of -	386	on the Missouri bill -	1184
Balances transferred, a letter from the Secretary of the Treasury in reply to the inquiry as to what part of the, from the Treasury to the Bank of the United States had been drawn from the latter, by any department of the Government, &c. -	1409	Barbour, Philip, of South Carolina, a bill for the relief of, twice read, &c. -	343
Baldwin, Henry, from Pennsylvania, attended -	289	Baron, Carlos, affidavit of -	2008
speech of, on the Seminole report -	1035	Barrow, Matthew, a bill from the Senate for relief of, twice read, and referred -	392
Ball, William Lee, from Virginia, attended -	321	reported without amendment -	411
Ball, Dr. Mattrom, the bill reported at last session for relief of, was ordered to a third reading -	412	Barton, William, a bill for the relief of, read twice -	346
read the third time, and passed -	416	read the third time, and passed -	367
returned from the Senate with an amendment, and concurred in -	540	Bassett, Burwell, of Virginia, attended -	292
Bank of the United States, Mr. Spencer submitted a resolution for the appointment of a committee to inspect the books and proceedings of the -	317	remarks of, on the Beaumarchais claim -	321
amended and agreed to, and committee appointed -	335	on his motion to admit Joseph Lancaster to a seat within the bar of the House -	787
report in full of said committee -	552	Bathurst, Earl, correspondence of, with Mr. Adams -	1460
two thousand five hundred copies of the report ordered to be printed -	579	Batman, Henry, a bill for the relief of, read twice -	1152
a bill to enforce the provisions of the act to incorporate the, read twice -	579	read the third time, and passed -	1155
ordered to a third reading -	1415	returned from the Senate with an amendment, and concurred in -	1440
read the third time, and passed -	1419	Beall, Samuel B., a bill for the relief of, read twice -	546
Mr. Trimble submitted a resolution directing a scire facias to be issued against the the consideration of the resolution negatived -	598	Beaulieu, J. S., a bill for the relief of, read twice -	662
called up, and debated -	1407	Beaumarchais, the bill of the last session for relief of the heirs of, was taken up and discussed -	321, 343
the adoption of the resolution rejected -	1409	the third reading of the bill negatived -	344
Mr. Spencer submitted another resolution relating to the -	922	Beecher, Philemon, of Ohio, attended -	291
ordered to lie on the table -	1416	remarks of, on his amendment to the Appropriation bill -	490
memorial of the President of the, read -	1102	Bellinger, Mr., reported a bill making appropriations for the public buildings, &c. -	464
Mr. Wendover presented sundry petitions, praying the continuance of the -	1166	Bennett, Malcolm, a bill for the relief of, read twice -	437
Mr. Johnson, of Virginia, presented a resolution to repeal the charter of the -	1140	Bennett, Samuel, a bill directing the name of, to be placed on the pension list, read twice -	597
the resolution negatived -	1406	Berlin and Milan Decrees, Mr. Sergeant presented the petition of sundry merchants, praying indemnity for seizures under the, referred to the Secretary of State -	1166
Bankruptcy. (See Uniform system of.)		Bermuda Hundred, of Virginia, a bill to authorize the sale of a lot of ground, the property of the United States, at, read twice -	935
Banks of the District of Columbia, on motion of Mr. Herbert, the Secretary of the Treasury was directed to report the state of the -	464	Bibb, W. W., Governor of Georgia, copy of a letter from, to General Andrew Jackson -	1075
letter from the Secretary of the Treasury in reply -	515	Bickley, Daniel, and Catharine Clark, a bill for relief of, read twice -	418
another letter from the same, on the subject of the -	630	Birdseye, Nathaniel G., and Daniel Booth, a bill from the Senate for relief of -	1411
Barber, Levi, of Ohio, attended -	291	read twice -	1417
Barbour, Mr. of Virginia, remarks of, on the proposed inquiry into the affairs of the Bank of the United States -	333	ordered to a third reading -	1431
speech of, on the Military Appropriation bill -	452, 456	read the third time, and passed -	1432
on the appropriation for military roads -	512	Bland, Theodorick, the report of, on the condition of South America, was ordered to be printed -	936
15th Con. 2d Sess.—c		Blount, William G., of Tennessee, attended -	292
		Booth, Daniel. (See Birdseye, &c.)	
		Boundaries of Land Districts, a bill from the Senate designating the, twice read, and referred -	1272
		reported with amendments, and ordered to a third reading -	1402
		read the third time, and passed as amended -	1410
		the Senate disagreed to the amendments -	1423
		and the House of Representatives receded -	1423



## House Proceedings and Debates.

	Page.		Page.
County Land, a bill extending the allowance of, read twice -	411	Census, on motion of Mr. Campbell, a select committee was appointed to prepare a bill for taking the fourth -	385
Bourgoud, Argoine. (See Dozet, Joseph.)		a bill to provide, &c., accordingly, read twice -	422
Bowie and Hartz, and others, adverse report on the petition of -	391	Certain Crimes against the United States, a bill from the Senate, more effectually to provide for the punishment of, read twice -	1149
Bremen, letter from the Burgomaster and Senators of the President of the United States, relating to commercial reciprocities	1628	Chambers, Samuel, commander of the British ship-of-war Dee, a letter from, to Rear Admiral Sir David Milne, on the subject of the Newfoundland fisheries -	1499
British Subjects, a Message from the President of the United States, transmitting copies of applications made by the British Minister in behalf of certain -	1038	Champe, Phebe, Mr. Barber, of Ohio, presented the petition of, referred -	545
Bronaugh, J. C., United States Army, affidavit of -	2343	adverse report thereon concurred in -	1074
Brook, George M., and Edmund P. Kennedy, a bill for relief of, read twice -	1139	Chaplain, election of a, for the House of Representatives -	294
read the third time, and passed -	1403	Chesapeake and Delaware Canal Company, the bill of last session, authorizing a subscription to the stock of the, was referred -	434
Brown, Frederick, a bill for the relief of, read twice -	366	Child, Ezra, a bill for the relief of, twice read -	430
read the third time, and passed -	370	Choctaw Tribe, on motion of Mr. Poindexter, the Committee on Public Lands were instructed to inquire concerning the statement of the -	297
returned from the Senate, with an amendment, and agreed to -	464	Circuit Courts of the United States, a bill from the Senate further to extend the jurisdiction of the, read twice -	832
Bryan, Mr., of North Carolina, was, on his own motion, excused from serving on the Bank Committee, on the ground of being a stockholder -	340	ordered to a third reading -	871
Buenos Ayres Gazette, sundry extracts from the	1920	read the third time, and passed -	911
Bunch, Samuel, letter from, to General Jackson	2349	Claims, appointment of the standing committee of	291
Burghart, Adolphus, the bill of the last session for relief of, ordered to a third reading -	346	Clark, John, Mr. Allen presented the petition of a bill from the Senate for the relief of, read twice -	1139
read the third time, and passed -	367	ordered to a third reading -	1153
Burr, Samuel, a bill for the relief of, read twice on the third reading rejected -	346	read the third time, and passed -	1155
445		Clark, Isaac, a bill for the relief of, twice read -	389
Butler, Thomas, of Louisiana, elected a member in the place of Mr. Robertson, resigned, was qualified, &c. -	290	Clark, Catharine. (See Bickley, Daniel.)	
remarks of, on the bill granting a pension to General Stark -	339	Clark, James H., a bill from the Senate for relief of, read twice, and referred -	1037
on the military appropriations -	477	reported without amendment -	1271
C.		Clay, Henry, Speaker, took his seat -	289
Cadets, the bill of last session concerning the admission of, into the Military Academy, was taken up in Committee of the Whole reported to the House, and laid on the table a bill extending the allowance of pensions to, twice read -	870	speech of, on the bill providing for seamen in reply to Mr. Whitman -	364
the third reading negatived -	872	remarks of, on the bill concerning cadets on the Massachusetts claim -	419
Caldwell, Elias B. (See American Colonization Society.)		speech of, on the military appropriations	451, 454, 477
Callan, Patrick, a bill for the relief of, twice read ordered to a third reading -	1167	on the Seminole report -	631
read the third time, and passed -	1194	on acknowledging the South American independence -	1148
Campbell, Mr., of Ohio, remarks of, on the Massachusetts claim -	420	on the bill for the occupation of Florida -	1429
on the Military Appropriation bill -	478	thanks of the House to, and address of, on adjournment -	1442
on the resolution concerning the instigation of Indian hostilities -	548	Clerks, on motion of Mr. Harrison, a committee was appointed to inquire into the expediency of authorizing the employment of an additional number, in the War Department -	299
Caro, Jose Estevan, affidavit of -	1007	a bill to increase the number of, &c., read twice -	312
Carr, Thomas, and others, a bill for the benefit of, twice read, &c. -	392	ordered to a third reading -	316
Carter, John D., a bill for the relief of, read twice	546	read the third time, and passed -	320
Castlereagh, Lord, correspondence of, with Mr. Adams -	1485	on motion of Mr. Tallmadge, the Committee on the Judiciary were instructed to inquire into the expediency of providing by law for the appointment of, of the district courts, by the President -	431
Catlett, Dr. Hanson, Mr. Johnson presented the petition of, referred -	422		
Cavalier, Anthony, and Peter Pettit, a bill from the Senate confirming the claim of, &c., read twice, and referred -	1147		

## House Proceedings and Debates.

	Page.		Page.
Coasting Trade, a bill from the Senate supplementary to the act concerning the, read twice, and referred -	1155	Copy-Rights, a bill concerning suits brought on, read twice -	434
reported without amendment -	1217	Cowan, John, an adverse report in the case of, reversed, and a bill ordered -	386
ordered to a third reading, -	1283	a bill for the relief of, read twice, &c. -	391
read the third time, and passed -	1328	Cranch, William, a bill for the benefit of, read twice, &c. -	870
Cobb, Thomas W., of Georgia, attended -	291	Creek Nation, a bill from the Senate authorizing the purchase of certain lands reserved to the chiefs of the, read twice -	1147
remarks of, on the bill granting a pension to General Stark -	337, 338	ordered to a third reading -	1153
on referring certain documents from one committee to another -	369, 371	read the third time, and passed -	1155
speech of, on the motion to postpone the subject indefinitely -	373	Cross, T., Captain United States Army, a statement made upon honor, by -	2336
on his motion to refer the two reports of the Seminole committee to a Committee of the Whole -	527	Crowell, John, Delegate from Alabama Territory, attended -	290
remarks of, on the bill concerning the sale of lots in Washington -	542	Couger, Daniel, of New York, attended -	298
speech of, on the Seminole resolutions -	589	Cumberland Road, a notice to insert an appropriation for the, in the general appropriation bill, carried -	1148
on the motion for indefinite postponement	1134	Currituck Sound, on motion of Mr. Sawyer the Committee of Commerce and Manufactures were instructed to inquire into the expediency of staking the channel of	295
on adhering to the rejection of the Senate's amendment to the bill to admit Missouri into the Union -	1436	D.	
Coffin, William, and others, on motion of Mr. Folger, the Committee of Ways and Means were instructed to inquire into the expediency of allowing the benefit of drawback to -	336	Davidson, William, a new member from North Carolina, in place of Daniel M. Forney, was qualified, &c. -	339
a bill for the relief of, read twice -	425	Davis, Henry, the bill of last session for the relief of, ordered to a third reading -	541
Coins, United States and foreign, on motion of Mr. Lowndes, a committee was appointed to inquire into the expediency of regulating -	322	read the third time, and passed -	545
detailed report of said committee -	788	Deaf and Dumb, a bill in behalf of the Connecticut Asylum for the, read twice -	1329
a bill to regulate, &c., read twice -	796	ordered to a third reading -	1427
(See Foreign Coins.)		read a third time, and passed -	1431
Colburn, Reuben, on motion of Mr. Gage, the Committee on Pensions, &c., were directed to inquire into the expediency of making compensation to -	428	De Forest, David C., correspondence of, with the Secretary of State -	1614
Cole, Mehitabel, the bill of last session for the relief of, was ordered to a third reading -	321	De Kalb, Baron, Mr. Reed, of Maryland, submitted a resolution respecting the monument to the late Major General -	721
read the third time, and passed -	324	laid on the table -	722
Colston, Edward, of Virginia, attended -	291	De Kraft, Edward, the Speaker presented a letter from, remonstrating against an alleged violation of his contract for printing -	340
remarks of, on Mr. Linn's resolutions concerning the migration of slaves -	337	Delafield, John, a bill for the relief of, twice read a third reading rejected -	436
on the bill relating to the military establishment -	535	De la Ronde, Pierre Dennis, a bill from the Senate for the relief of -	1217
speech of, on the Seminole resolutions -	824	twice read, and referred -	1237
Columbian Institute, Mr. Herbert presented the petition of, referred -	1139	reported with amendments -	1328
Commerce and Manufactures, appointment of the standing committee on -	291	Delaware and Chesapeake Canal Company, a bill authorizing subscription to the stock of the, read twice -	488
Commissary, Abraham, an Onondaga Indian, Mr. Ogden presented the petition of -	1074	Denton, Little & Co., and Harmon Kendricks, a bill for relief of, twice read -	324
Congress, a bill from the Senate fixing the time for the next meeting of, read twice, and indefinitely postponed -	1440	Dequindre, Louis and Antoine, a bill from the Senate for the relief of, read twice, and referred -	423
usual resolutions preparatory to the close of the session -	1441	reported without amendment -	1424
adjournment of, sine die -	1444	Desha, Mr., remarks of, on Mr. Holmes's resolution -	372
Constitution, a resolution from the Senate, proposing an amendment of the, read twice debated in Committee of the Whole -	1419	on the motion to refer the Seminole reports	529
laid on the table -	1420	speech of, on the bill concerning the military establishment -	535
Convention, copy of the, with Great Britain -	1592	on the Seminole resolutions -	1038
Coppersmiths, of Boston, adverse report on the petition of, agreed to -	324	Deslande, Rosalie P., a bill from the Senate for the relief of -	1411



## House Proceedings and Debates.

	Page.		Page.
Delande, Rosalie P.—continued.		E.	
bill twice read, and referred	1417	Earle, Elias, of South Carolina, attended	298
reported without amendment	1431	Easter, Richard J., letter from, to Gen. Jackson	2344
Detroit, a bill from the Senate to revive the powers of the commissioners for deciding claims to land in the district of, read twice	1433	Eastern Branch Bridge Company, the bill of last session to incorporate the, was ordered to a third reading	410
Direct Tax and Internal Duties, a bill concerning the, read twice, &c.	580	read the third time, and passed	412
Discontinuance of Suits, on motion of Mr. Baldwin, the Judiciary Committee were instructed to inquire into the expediency of making provision for the	299	returned from the Senate with amendments and agreed to	1216
a bill to prevent the, twice read, and ordered to a third reading	315	Edwards, Mr., remarks of, on the motion to postpone indefinitely Mr. Holmes' resolution	375
District of Columbia, appointment of the standing committee on the	291	on his resolution of inquiry relative to Florida	581, 582
the Speaker presented a letter from Judge Cranch, transmitting a code of jurisprudence for the, prepared by him in obedience to a resolution of Congress	299	Elections, appointment of the standing Committee of	291
on motion of Mr. Herbert the Clerk was directed to contract for the printing of two hundred and fifty copies of said code	324	Electors of President, &c. (See Constitution, Mr. Dickerson's amendment.)	
referred to the judges of the circuit court and district attorney	870	Ellicott, Benjamin, of New York, attended	291
bill concerning the Banks of the, twice read	1154	Entries of Land, a bill from the Senate providing for the correction of errors in making, read twice	1432
Mr. John A., a bill from the Senate for relief of, read twice, and referred	1139	read the third time, and passed	1433
reported without amendment	1149	Equestrian Statue of Washington, a bill from the Senate to erect an, in the Capitol square, read twice	1155
Documents, Mr. Taylor submitted a joint resolution authorizing the franking of certain, read a third time, and passed	312	Ervin, James, of South Carolina, attended	298
returned from the Senate with an amendment, agreed to	340	speech of, on the Seminole resolutions	1118
Mr. Holmes submitted a similar resolution in relation to the documents on the subject of the Bank of the United States, read twice	380	Erving, George W., correspondence of, with the Secretary of State	1657, 1853
read a third time, and passed	1146	correspondence of, with Don Pedro Cevallos	1659
Laugherty, Thomas, Clerk of the House, took his seat	289	correspondence of, with Don Jose Pizarro	1679, 1857
Leix, Jacob, letter from, referred to the Committee of Claims	312	Expenditures for captures at sea, a letter from the Secretary of the Navy with statements of the, in obedience to a resolution of the last session	415
a bill for the relief of, twice read &c.	344	Export Entry and Oath, on motion of Mr. Silabee, the Committee of Ways and Means were instructed to inquire respecting the time allowed for completing the	314
Lezet, Joseph, and Antoine Bourgoud, a bill from the Senate for relief of	1411	(See Revenue.)	
twice read, and referred	1417	Exports, a letter from the Secretary of the Treasury with a statement of	438
reported with amendments	1421	Extension of Streets, a bill authorizing the, in certain cases, by the Corporation of Washington, read twice	434
Lorake, John R., of New York, attended	292	read the third time, and passed	438
Dufour, John James, and his associates, Mr. Hendricks presented the petition of, referred	424	Extra Allowances, on motion of Mr. H. Nelson, the Committee of Accounts were authorized to make to the servants, &c., of the House the same as were made at the last session	1417
a bill for the benefit of, read twice, and ordered to a third reading	427	Extra labor of Soldiers, a report from the Secretary of War relative to	547
read a third time, and rejected	429	F.	
on motion of Mr. Pindall the vote of rejection was reconsidered and the bill referred to a select committee	433	False Entries for benefit of Drawback, a bill providing additional penalties for, twice read	1006
committee discharged, and the bill laid on the table	435	read the third time, and passed	1038
Donlap, Richard G., letter from, to General Jackson	2344	Farish, Thomas B., the bill of last session for relief of, was ordered to a third reading	410
Dunn, Thomas, Sergeant-at-Arms, the Speaker was authorized and requested to employ counsel to defend, in the suit brought against him by John Anderson	433	read the third time, and passed	412
Duverge, Bartholomew, a bill from the Senate for relief of, read twice	1422	returned from the Senate amended, and agreed to	721
Dyer, R. H., late Colonel of Tennessee volunteers, letter from, to General Jackson	2348	Fatigue Duty, a bill from the Senate to regulate the pay of the Army when employed on	1217
		twice read, and ordered to a third reading	1237
		read the third time, and passed	1272

## House Proceedings and Debates.

	Page.		Page.
Finances, annual Treasury report of the state of the	300	France, a bill continuing the currency of the crowns and 5-franc pieces of, read twice	796
Fire Engines, a bill from the Senate authorizing the purchase of, twice read	1422	See (Foreign Coins.)	
read the third time, and passed	1440	Franking Privilege, on motion of Mr. Garnett, the Committee on Post Offices, &c., were instructed to inquire into the expediency of extending the, to agricultural societies in their correspondence with each other	1037
First Comptroller, a letter from the, with a list of persons who have not rendered their accounts for settlement	444	a bill in conformity thereto, was twice read	1153
Fisher, Charles, a new member from South Carolina, in place of George Mumford, deceased, was qualified, &c.	1149	a third reading negatived	1394
Florida, Mr. Hopkinson submitted a motion requesting of the President of the United States copies of the correspondence of our Minister at Madrid in relation to the proceedings of the army in	392	French, Thomas. (See Kinsley, Adam.)	
amended and agreed to, and a committee appointed	408	Friendly Creek Indians, a letter from the Secretary of War in relation to the claims of the	581
Mr. Edwards submitted a resolution of inquiry in relation to the military posts of, in possession of the United States	581	Frink, Luther. (See Ring, Hannah.)	
amended and agreed to	583	Fugitive Slaves, on motion of Mr. Pindall, a committee was appointed to inquire into the expediency of providing, by law, for the delivering up of, &c.	546
a Message from the President of the United States in reply	911	a bill to that effect read twice	551
Mr. Poindexter submitted a resolution concerning a provisional government for	1419	Fugitives, on motion of Mr. H. Nelson, the Committee on the Judiciary were instructed to inquire into the expediency of authorizing the President of the United States to demand, &c.	1139
a bill authorizing the President to take possession of, twice read	1423	Fuller, Timothy, of Massachusetts, attended	342
read the third time, and passed	1430	speech of, on the military appropriations	499
returned from the Senate with amendments, and concurred in with an exception	1440	on the Seminole resolutions	985
Floyd, Mr., remarks of, on Mr. Holmes's resolution	371, 376	on the Missouri bill	1179
remarks of, on taking up the military appropriations	450	G.	
remarks of, on Mr. Cobb's motion to refer the Seminole reports to the Committee of the Whole	528	Gadsden, J., Aid-de-camp, letter from, to General Jackson	2020
speech of, on the resolutions	1104	affidavit made by	2329
Folger, Walter, of Massachusetts, attended	291	Gaines, General E. P., letter from, to the Secretary of War	1957, 2066
Ford, Nathan, a bill from the Senate for relief of, twice read, and referred	1237	letter from, to Colonel Clinch	1975
reported with amendments	1416	to Commodore Patterson	1976
Foreign Affairs, appointment of a select committee of	293	to General Jackson	2065
Foreign Coins, a bill from the Senate to continue in force the act to regulate the currency of, read twice	1038	Gales and Seaton, election of, as printers to the House	1441
amended, read the third time, and passed	1426	a message from the Senate, that they have elected, also as printers	1441
Foreign Merchandise, the bill of last session relating to the duties on, was indefinitely postponed	418	Gallatin and Rush, Messrs., the President's commission investing, with plenary powers, to form a commercial treaty with Great Britain	1505
Foreign Seamen, the bill of last session authorizing the apprehension of, deserting, was read	359	instructions from the Secretary of State to	1514
Forfeiture of Land, &c., Mr. Harrison submitted a resolution instructing the Committee of Public Lands to inquire into the expediency of continuing the act to suspend the, read twice, and referred	541	copy of a letter from, to the Secretary of State	1525
reported without amendment	546	protocols of their conferences with the British Plenipotentiaries	1533
read the third time, and passed	1424	further instructions to, from the Secretary of State	1573
Forsyth, John, of Georgia, the Speaker communicated a letter from, containing notice that he has resigned his seat in the House	299	Galloo Island, a bill for erecting a lighthouse on, read twice	1423
Fowler, Christopher, a bill from the Senate for relief of, read twice	1422	read the third time, and passed	1425
		returned from the Senate with amendments, and agreed to	1440
		Gardiner, John, the Speaker presented a letter from, transmitting a map of Alabama Territory, and of the military bounty lands	346
		a proposition to furnish soldiers with copies of the latter at a reasonable price, was rejected	370



House Proceedings and Debates.

	Page.		Page.
Georgia, on motion of Mr. Cobb, a committee was appointed to request of the President copies of the correspondence between the Department of War and the Governor of a Message, transmitting the correspondence asked for -	428	Hall, William, of Delaware, attended -	391
another Message, with copies of a letter from the Governor of, to General Jackson -	439	Hambly, W., certificates of -	2018
Gibbs, Samuel, a bill for the relief of, twice read -	391	Hamburgh, application to the President from the Burgomaster and Senate of, in relation to commercial reciprocities -	1624
Gilbert, Sylvester, a new member from Connecticut, in place of Mr. Holmes, resigned, attended, and was qualified, &c. -	270	Hamilton, A. W., leave to withdraw his papers granted to -	390
Giles, Aquilla, a bill from the Senate for the relief of, read twice -	429	Hanseatic Towns, a Message from the President in relation to the, referred to the Committee of Ways and Means -	1101
reported without amendment -	515	Harper, Samuel H., the bill of last session for relief of, ordered to a third reading -	410
read the third time, and passed -	1440	read the third time, and passed -	412
Glasscock, General Thomas, commanding the Georgia militia, letter from, to General Jackson -	2385	Harrison, William H., of Ohio, attended -	289
Godfrey, Gabriel, a bill from the Senate for relief of -	1217	remarks of, on the admission of the Representative from Illinois -	296
read twice, and referred -	1237	speech of, on the resolution to admit Illinois into the Union -	310
rejection of the bill recommended by the committee -	1416	remarks of, on the bill for additional clerks in the War Department -	316
Gooding, John, and James Williams, a bill for relief of, read twice -	443	on the bill granting a pension to General Stark -	337
Government, a bill making appropriations for the support of, for the year 1819, read twice -	787	on his motion relating to forfeiture and sale of lands -	340
ordered to a third reading -	1151	on a resolution concerning the trial of Arbuthnot and Ambrister -	369
read the third time, and passed -	1153	speech of, on the Half-pay Pension bill -	377
returned from the Senate with amendments -	1403	remarks of, on the bill concerning Cadets -	388
read, and referred -	1410	speech of, on the bill to extend the term of pensions, &c. -	394
agreement reported, with one exception -	1416	remarks of, on the military establishment introductory of a resolution respecting military punishment -	912
the House concurred with the committee in the exception -	1424	speech of, on the Seminole resolutions -	1012
Grand River, on motion of Mr. Hitchcock, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry at the mouth of -	398	remarks of, on the motion to divide the question -	1135
Grant, Vincent, a bill from the Senate for relief of, read twice -	1432	in defence of Colonel Trumbull -	1194
Great Britain, papers relating to the convention of the 30th October, 1818, between the United States and -	1445	on the bill relating to forfeiture of lands, &c. -	1424
Guerlain, Lewis H., a bill from the Senate for the relief of -	1411	Hart, Eli, a bill from the Senate for relief of -	1411
read twice, and referred -	1417	read twice, and referred -	1417
Gunboats Nos. 149 and 154, the bill of last session, authorizing the payment of money to the officers and crews of, ordered to a third reading -	541	the committee recommend rejection of the bill -	1421
read the third time, and passed -	545	Haskell, Lois, an adverse report on the petition of, agreed to -	1074
Gunpowder, a bill to prohibit the allowance of drawback on the exportation of. (See Imported Cotton, in which bill it is included.)		Hawkins, Colonel Benjamin, letters from, to Colonel Nicholls -	1953
		Heister, Joseph, of Pennsylvania, attended -	339
		Henley, David, a bill from the Senate for relief of -	1217
		read twice, and referred -	1237
		reported without amendment -	1271
		Herbert, John C., of Maryland, attended -	289
		remarks of, on the bill concerning the sale of reserved lots in the City of Washington -	316, 543
		Herrick, Samuel, of Ohio, attended -	319
		Hill, Rees, a bill from the Senate for relief of -	1217
		read twice, and referred -	1237
		reported without amendment -	1282
		read the third time, and passed -	1440
		Hinds, Bartlett, a bill for the relief of, read twice -	544
		Hitchcock, Peter, of Ohio, attended -	344
		Hogan, Michael, a bill from the Senate for relief of -	1167
		read twice, and referred -	1194
		reported with an amendment -	1328
		read the third time, and passed as amended -	1439

H.

Hadfield, George, the Speaker presented the petition of, referred -	1194
Haile, John, the report of the Committee of Claims at the last session, adverse to the petition of, was concurred in -	346
Half-pay Pensions, a bill extending the time of, to the widows and children of certain officers, seamen, and marines, twice read -	319
ordered to a third reading -	384
read the third time, and passed -	1426

House Proceedings and Debates.

	Page.		Page.
Hogg, Samuel, of Tennessee, attended -	291	Imported Salt, the Committee of Ways and Means were instructed to inquire into the expediency of abolishing the duty on -	297
Holmes, Mr., remarks of, introducing a resolution respecting the Seminole war -	367, 371	a report against the expediency -	339
on the resolution of inquiry in relation to Florida -	581	on motion of Mr. Sampson, the same committee were instructed to inquire into the expediency of amending the act relating to a bill in addition to the act laying a duty on, read twice -	1101
speech of, on the Seminole report -	600	read the third time, and passed -	1439
remarks of, on the motion for indefinite postponement of the same -	1134	Imports from Canada, Mr. Palmer, of New York, submitted a resolution instructing the Committee of Ways and Means to inquire concerning -	440
on the bill authorizing the occupation of Florida -	1429	resolution agreed to -	442
Hooker, Samuel F., the bill of last session for relief of, ordered to a third reading -	434	Imports and Tonnage, a bill supplementary to the act to continue in force the act to provide for the collection of duties on, read twice -	543
read the third time, and passed -	436	a bill further to establish the compensation of officers employed in the collection of duties on, read twice, and referred -	1036
Hopkinson, Mr., remarks of, introducing a bill to establish a uniform system of bankruptcy on Mr. Holmes's resolution -	312	Independent Governments of South America, a report from the Secretary of State showing the applications made by, to have a Minister or Consul General accredited by the United States -	1600
speech of, on the Seminole report -	872	Indian Trading Establishments, a report from the Secretary of War of a system providing for the abolition of the existing, referred -	366
on the bill for the occupation of Florida -	1428	a bill concerning the abolition of, read twice -	546
Hostetter, Jacob, of Pennsylvania, a new member, in place of Mr. Spangler, resigned, was qualified, and took his seat -	290	Indian Tribes, appointment of a select committee on the -	293
House of Representatives, list of members who attended the opening of the -	289	Mr. Herrick presented a memorial praying that provision may be made for establishing schools among the, referred -	426
Hughes, James, a bill for the relief of, twice read -	1006	on motion of Mr. Lincoln the select committee were instructed to obtain and report annual information concerning the -	428
Hutchins, Alpheus, Mr. Livermore presented the petition of, referred -	427	a bill to authorize the President to select such, as he may think best prepared for the change, and to adopt such measures as he may deem best to civilize the same, read twice -	546
		a bill from the Senate of similar character, read twice, and referred -	1427
		reported without amendment -	1432
		read the third time, and passed -	1435
		a bill from the Senate making appropriations to carry into effect treaties with, read twice, and referred -	1153
		reported without amendment -	1431
		read the third time, and passed -	1435
		Indiana, a bill supplemental to the act admitting the State of, into the Union, read twice -	428
		a bill from the Senate respecting the location of certain lands granted to, for a seat of government, read twice -	1216
		ordered to a third reading -	1402
		read the third time, and passed -	1410
		Instigating Indians to hostilities, Mr. Campbell submitted a resolution instructing the Judiciary Committee to inquire into the expediency of punishing as spies white men who may be found -	547
		considered, and negated -	548

I.

Illinois, the Speaker presented a copy of the constitution of -	290
referred to a select committee for examination, and report -	296
report of a resolution to admit, read twice debated, and ordered to a third reading -	305
read the third time, and passed -	311
Mr. McLean presented a petition of the Legislature of, concerning persons settled on reserved lands, referred -	344
adverse report thereon concurred in -	389
Mr. McLean also presented a petition of the same, praying a donation of land for a seat of government, referred -	389
a bill granting land for the purpose prayed for, read twice -	411
ordered to a third reading -	422
read the third time, and passed -	1426
a bill from the Senate to provide for the due execution of the laws of the United States within the State of, read twice, and referred -	423
reported without amendment -	424
read the third time, and passed -	1436
a bill confirming certain claims to land in, read three times, and passed -	1426
a bill from the Senate to establish a new land office in -	1440
on proceeding to read the bill, it was found that there was not a quorum present -	1441
Importation of Slaves, on motion of Mr. Middleton, the bill of last session supplementary to the act to prohibit the, was referred -	320
Mr. Hostetter, of Pennsylvania, presented a petition, on the subject of the, referred to the same committee -	426
(See Slave Trade.)	
Imported Cotton, a bill to increase the duties on, read twice, and referred -	426



## House Proceedings and Debates.

	Page.		Page.
Instructions to Boards of Land Commissioners, a letter from the Secretary of the Treasury, transmitting copies of his	431	Jervais, Samuel, the deposition of, enclosed in a letter from General Gaines to the Secretary of War	1958
Internal Duties and Direct Tax, a letter from the same, transmitting sundry statements in relation to	418	Jervay, Thomas Hall, the bill of last session for relief of, was taken up and ordered to a third reading	465
Internal Improvement, appointment of a select committee on	294	read the third time, and passed	479
a bill to appropriate a fund for, read twice	474	Johnson, Richard M., of Kentucky, Chairman of Military Committee	293
Invalid Pensions, a bill concerning read three times, and passed	319	remarks of, on the resolution concerning Arbuthnot and Ambrister	368, 369
Invalid Pensioners, a bill concerning, read twice	1036	on the bill concerning widows, &c.	395
read the third time, and passed	1439	on the motion to take up the military appropriation bill	447
a bill regulating payments to, read twice	755	speech of, on the said bill	463
read the third time, and passed	787	on the motion to refer the Seminole reports	529
returned from the Senate with amendments	1422	on striking out the first section of the bill relative to the Military Establishment	531
considered, and concurred in	1423	on the Seminole resolutions	655, 663
Invalids of the Revolution, the bill of last session concerning, was taken up, and ordered to a third reading	367	remarks of, on the motion to refer Mr. Spencer's Bank resolution	924
read the third time, and passed	370	Johnson, James, of Virginia, attended	314
Irish Settlers in Illinois, Mr. Clagett submitted a resolution concerning	412	speech of, on the military appropriation bill	461
consideration negatived	413	in reply to Mr. Smith of Maryland	468
Island of New Orleans, a bill from the Senate for adjusting claims to land, &c., in the district east of, read twice	1037	on the Seminole reports	620
reported without amendment	1153	on his resolution to repeal the Bank charter	1146, 1241
read the third time, and passed	1435	on the bill for the occupation of Florida	1430
J.		Jones, John Rice, a bill for the relief of, twice read	391
Jackson, Major General Andrew, on motion of Mr. Rhea, the Message of the President in 1816, recommending a confirmation of the grant of land made by the Creek Indians to, was referred to the Committee on Public Lands	297	a bill from the Senate of the same tenor, twice read, and referred	434
on motion of Mr. Cobb a committee was appointed to request of the President copies of any correspondence that may have passed between the Secretary of War and, as well as of any letters between the Governor of Georgia and the same	428	reported without amendment	443
a Message transmitting the report of the Secretary of War in reply	439	read the third time, and passed	1439
correspondence of, with the Governor of Pensacola	1828, 1968	Jones, Mr. of Tennessee, speech of, on the Seminole reports	704
letter from, to the Secretary of War	1973, 2008, 2069	Jones, Walter. (See <i>American Colonization Society</i> .)	
letter from, to Governor Mazot	1984	Jones, William, President of the United States Bank, the memorial of	1103
to the Commandant of St. Mark's	2014	Jouett, Matthew H. (See <i>McCalla, Robert</i> .)	
the memorial of, to the Senate, presented by Mr. Rufus King	2308	Jourdan, B., and P., a bill from the Senate for relief of,	1167
Jackson, William, Mr. Johnson, of Kentucky, presented the petition of, on behalf of the Revolutionary survivors, referred	298	read twice, and referred	1194
report thereon in full	347	reported without amendment	1423
another petition from the same, praying that the report may be acted on	1421	read the third time, and passed	1423
indefinitely postponed	1427	Judiciary, appointment of the standing Committee on the	292
Jarrett, Nicholas, a bill for the relief of, read twice &c.	540	Judicial System of the United States, a bill from the Senate further to extend the, twice read, and referred	932
Jefferson County, Virginia, a bill to authorize the Secretary of War to convey a lot of land, the property of the United States, lying in, read twice	1139	reported without amendment	935
read the third time, and passed	1147	K.	
		Kellogg, Giles, the unfavorable report, of last session, on the petition of, was concurred in	417
		Kendricks, Harman. (See <i>Denton, Little, &amp; Co.</i> )	
		Kennedy, Edmund P. (See <i>Brook, George M.</i> )	
		Kenzie and Forsyth, the bill of last session for the relief of, ordered to a third reading	541
		read the third time, and passed	545
		returned from the Senate with an amendment	1167
		read and referred	1194
		agreement reported and concurred in	1216
		Kermion, Labadoyere, a bill from the Senate for relief of, read twice, &c.	1232
		Key, F. S. (See <i>American Colonization Society</i> .)	

## House Proceedings and Debates.

	Page.		Page.
Kidd, Robert, a bill for the relief of, twice read	935	Leonard, Charles S. (See <i>Kinsley, Adam</i> .)	
ordered to a third reading	1423	Lewis, William B., the bill of last session for the relief of, ordered to a third reading	367
read the third time, and passed	1426	read the third time, and passed	370
Kindelan, Governor Sob., a letter from, to his Excellency George Cockburn	1983	returned from the Senate with amendment, and agreed to	434
King, William, the bill of last session for the relief of, ordered to a third reading	346	Library, a resolution from the Senate for a joint committee on, agreed to, and the same appointed	294
read the third time, and passed	367	a bill from the Senate to provide for the removal of the, to the north wing of the Capitol, read twice, and referred	320
King, Sampson S., the bill of last session for relief of, ordered to a third reading	434	reported without amendment, read a third time, and passed	321
read the third time, and passed	436	Lincoln, Enoch, of Massachusetts, elected in place of Mr. Parris, resigned, was qualified, &c.	290
returned from the Senate with an amendment, and concurred in	832	speech of, on the motion to reconsider the vote rejecting the bill for the relief of Du-four and others	432
Kinsley, Adam, and Thomas French, the bill of last session for relief of, was taken up, amended by adding the name of C. S. Leonard, and ordered to third reading	515	on the military appropriation bill	488
read the third time, and passed	541	Linn, John, of New Jersey, attended	289
L.		remarks of, on his resolution concerning the migration of slaves	336
Lacock, Mr., strictures on the report by, on the Seminole war	2350	Little Prince, Tustanuggee, a talk from, to the American commander in the Indian nation	1974
reply of, to the same	2369	Live Oak Timber, a bill authorizing the purchase of, read twice	437
Lafitte, commandant at Barrataria, letter from Colonel Nicholls, to	1948	a bill from the Senate of the same tenor	1217
Lambert, William, Mr. H. Nelson presented the memorial of, referred	298	read twice, and referred	1237
report of the committee thereon	1403	reported without amendment	1402
(See <i>Longitude of the Capitol</i> .)		Livermore, Arthur, of New Hampshire, attended	289
Lancaster, Joseph, on motion of Mr. Bassett, was admitted to a seat within the bar of the House	787	remarks of, on the bill granting a pension to General Stark	338
the Speaker presented a letter from, expressing gratitude, &c.	1037	on the resolution to repeal the act to establish the districts of Memphremagog, Oswegatchie, &c.	345
Land Laws, on motion of Mr. Poindexter, the Clerk was directed to furnish to each of the standing committees, a copy of the	320	on the appropriation for Trumbull's paintings	1144
Land and Naval Service, a bill to provide for certain persons engaged in the, read twice, and referred	1236	speech of, on the Seminole reports	1191
Lands Sold, northwest of Ohio river, a letter from the Secretary of the Treasury transmitting statements of, &c.	418	Longitude of the Capitol, the Speaker presented a letter from Mr. Lambert, accompanied with two hundred copies of abstracts of calculations to ascertain the	1188
Languille, Francis B., a bill from the Senate for relief of	1411	a joint resolution authorizing the President to cause astronomical observations to be made to ascertain the, read twice	1403
twice read, and referred	1417	read the third time, and passed	1410
reported with an amendment	1431	Loomis, Jarius, correspondence of, with Commodore Patterson	1978
Latitude of 36° 30' N., a resolution from the Senate requesting the President of the United States to employ an artist to ascertain the, on the west bank of Tennessee river	1403	Louisiana, a bill for the final adjustment of certain land claims in Missouri Territory and State of, read twice	343
read twice, and referred	1410	report from the Secretary of the Treasury, with a draft of a bill, referred	366
reported with amendments; laid on the table	1431	a bill explanatory of the act for the final adjustment of land titles in Missouri Territory and, read twice	389
Latrobe, Benjamin H., the Speaker presented a letter from, referred	443	ordered to a third reading	547
Lawrence, William, the report on the petition of, made at last session, was referred to the Secretary of War	341	read the third time, and passed	551
Lawyer, Mr., of New York, attended	289	returned with amendments	1421
remarks of, on the report in the case of Giles Kellogg	417	considered, and concurred in	1422
Lee, Richard Bland, the Speaker presented a letter from, enclosing the claim of Jacob Dox, referred to the Committee of Claims	312	Lovell, J., Surgeon General, report of, on the Army rations	2391
Lefevre, Joseph, a bill from the Senate for the relief of, read twice	1432	Lower Creek Nation, petition of the, to Governor Cameron	2049
Leftwich, Adjutant General, copy of a letter from, to General Gaines	2142	Lowndes, William, of South Carolina, attended	314



## House Proceedings and Debates.

	Page.		Page.
Lowndes, William—continued.		Medical Society of the District of Columbia, the	
speech of, on Mr. Spencer's bank resolu-	328, 334	bill of last session to incorporate the, was	
tions		taken up, and ordered to a third reading	436
on the military appropriation bill	470, 485	read the third time, and passed	438
on the Seminole reports	912	returned from the Senate with amendments	1140
remarks of, on the motion to postpone the		considered, and concurred in	1146
same indefinitely	1133	Mercer, Charles F., of Virginia, attended	289
on an item in the appropriation bill	1143	remarks of, on his resolution relative to the	
speech of, on the resolution to repeal the bank		slave trade	442
charter	1283	on taking up the military appropriation bill	446
Lucas, John B. C., and Clement B. Penrose, a		speech of, on the said bill	457
bill for the relief of, read twice	398	remarks of, on a proposed amendment	474
ordered to a third reading	541	speech of, on the construction of military	
Luengo, F. Gaso Y., Commandant of St. Mark's,		roads	483
the defence of	1993	remarks of, on the motion to refer the Sem-	
letter from, to General Jackson	2200	inole reports	529
Lyon, Matthew, the Speaker presented the me-		on the resolution respecting a monument	
morial of, referred	297	to De Kalb	721
adverse report thereon	312	speech of, on the Seminole resolutions	797
M.		Merchandise and Tonnage, a letter from the Sec-	
Mackay, James, a letter from the Secretary of		retary of the Treasury to the chairman of	
the Treasury in reference to	429	the Committee of Ways and Means, with	
a bill for the relief of, read twice	580	statements of the gross amount of duties	
Macay, William P., of Pennsylvania, attended	289	on, for a specified period	1036
remarks of, on the bill granting a pension to		Merrill, Orsamus C., of Vermont, attended	289
General Stark	337	Merrill, Joseph, on motion of Mr. Wilkin, the	
on a resolution concerning the documents		claim of, as assignee of John Cameron,	
relating to Arbutnot and Ambrister	368	was referred to the Committee on Pen-	
Macay, William, of Pennsylvania, attended	295	sions, &c.	479
Macomb, Alexander, a bill from the Senate con-		Message, the President's annual (in Senate pro-	
firmed the claim of	1167	ceedings)	11
read twice	1194	on motion of Mr. Taylor, the, was referred	
ordered to a third reading	1216	to appropriate committees	292
read the third time, and passed	1237	Michigan Territory, on motion of Mr. Johnson,	
Madrid, a Message from the President, transmit-		of Kentucky, a committee was appointed	
ting a copy of his proclamation of the		to inquire into the expediency of allowing	
convention concluded at	444	a delegate in Congress to	295
Major General, Mr. Mercer submitted a resolu-		a bill to authorize the election of a delegate	
tion instructing the Military Committee		from, read twice	312
to prepare a report to reduce the number		ordered to a third reading	425
of, to one	465	read the third time, and passed	429
Manly, Daniel, and Aaron Walker, the adverse		returned from the Senate with amendments,	
report, at last session, on the petition of,		and concurred in	1037
was considered and concurred in	313	Middleton, Henry, of South Carolina, attended	290
Manufactured Articles, a bill to increase the du-		Milford and Oswego Turnpike Company, Mr.	
ties on certain, imported, read twice, and		Wilson, of Pennsylvania, presented the	
referred	911	petition of the	314
Manumission of Slaves, Mr. Irving presented the		Military Academy, on motion of Mr. Rich, the	
memorial of the New York Society for		Secretary of War was instructed to report	
prompting the, referred	430	at next session a copy of the rules and	
referred to the Committee of Foreign Affairs	540	regulations for the	1418
that committee discharged, and subject re-		Military Affairs, appointment of a select commit-	
ferred to Committee of the Whole	551	tee on	293
Marr, George W. L., of Tennessee, attended	427	Military Establishment, report from the Secre-	
Mason, Jonathan, of Massachusetts, attended	289	tary of War on the subject of the	399
remarks of, on the Massachusetts claim	419	a bill concerning the, read twice	422
Mason, James B., of Rhode Island, attended	323	first section struck out, and bill laid on the	
Massachusetts Claim, discussion of the	419	table	540
Mayhew, Thaddeus, the bill of last session for		Military Land Warrants, a bill allowing further	
relief of, was taken up, amended, and or-		time for issuing and locating, read twice	597
dered to a third reading	422	read the third time, and passed	630
read a third time, and recommitted	422	Military Punishments, on motion of Mr. Harri-	
report thereon	430	son, the Judiciary Committee were in-	
Mazot, Jose, Governor of West Florida, copy of		structed to inquire into the expediency	
a note from	1846	of providing by law for	912
letter from, to Major White Youngs	1848	Military Service, a bill making a partial appro-	
correspondence of, with General Jackson 1848,		priation for the, and to make good a defi-	
1984, 2203, 2210		cit in former appropriations, read twice	342

## House Proceedings and Debates.

	Page.		Page.
Military Service—continued.		Missouri, Legislature of—continued.	
bill ordered to a third reading	346	the Speaker presented the memorial of the	
read the third time, and passed	367	Legislature of, praying to be admitted	
a bill making appropriations for the, for the		into the Union, &c. referred	418
year 1819, twice read	425	a bill to enable the people of the, to form a	
ordered to a third reading	514	State government, &c., read twice	1166
read the third time, and passed	530	debate on the bill	1170
returned from the Senate with amendments	787	ordered to a third reading	1216
considered, and concurred in	831	read a third time, and passed	1217
Military Services during the late War, on motion		returned from the Senate with amendments,	
of Mr. Sawyer, the Military Committee		which were all concurred in except one	1435
were instructed to inquire whether any		both Houses adhere, and the bill lost	1438
alterations or amendments are necessa-		a bill to establish a separate Territorial gov-	
ry in the act making provision for	336	ernment for the southern part of, read	
Military Sites, on motion of Mr. Whitman, the		twice, &c.	422
Military Committee were instructed to		Mitchell, David B., copy of a letter to, from A.	
inquire into the expediency of authorizing		Arbutnot	2050
the sale of certain	546	extract of a letter from, to the Secretary of	
a bill to authorize the sale of certain, read		War	2064, 2140, 2289
twice	1426	extract of a letter from, to George Graham,	
read the third time, and passed	1433	acting Secretary of War	2154
Militia, appointment of a select committee on the		extract of a letter from, to General Gaines	2290
organization and discipline of the	293	answer in writing of, to certain interroga-	
a bill for the organization of the, read	545	tories put by the Senate committee on the	
Mr. Harrison's report on the organization		Seminole campaign	2291
and discipline of the	2401	Mobile, adverse report on the petition of sundry	
Miller, Stephen D., of South Carolina, attended	415	inhabitants of, concurred in	319
speech of, on the military appropriation bill	510	Montgomery, Alexander, on motion of Mr. Poin-	
Miller, P. M., letter from, to General Jackson	2350	dexter, the Committee on Public Lands	
Mills, Elijah K., of Massachusetts, attended	366	were instructed to inquire into the expe-	
speech of, on the appropriation for military		diency of authorizing the land officers	
roads	484	west of Pearl river to receive additional	
remarks of, on the resolution relating to the		evidence in the case of the claim of the	
instigating the Indians, &c.	548	legal representatives of	345
on the appropriation for Trumbull's paintings	1144	a bill for the relief of the legal representa-	
Milne, Alexander, a bill from the Senate for the		tives of, read twice, and referred	391
relief of, read twice	1482	reported without amendment	418
Milne, Sir David, rear admiral, &c., correspond-		read the third time, and passed	422
ence of, with Captain Chambers, of His		Moore, Samuel, of Pennsylvania, elected in place	
Britannic Majesty's ship Dee, in relation		of Mr. Ingham, resigned, was qualified,	
to the fisheries	1499	and took his seat	290
Minis, Isaac, and others, a bill for the relief of,		Moore, Robert, of Pennsylvania, attended	289
read twice	1139	remarks of, on his motion respecting the	
read the third time, and passed	1147	Pittsburg and Waterford road	1075
Minors, enlisted, on motion of Mr. Walker, the		Morgan, William. (See Armstrong, John.)	
Military Committee were instructed to in-		Morton, Marcus, of Massachusetts, attended	289
quire into the expediency of providing for		Moseley, Jonathan O., of Connecticut, attended	289
granting the land bounty to	542	Moss, Daniel, a bill for the relief of, read twice	479
Mint, report of the Director of the	370	read the third time, and passed	488
Mississippi, on motion of Mr. Poindexter, the		Muhlenberg, Major, copy of a letter to, from	
Committee of Commerce and Manufac-		General Gaines	2068
tures were instructed to inquire into the		Mumford, George, of North Carolina, attended	290
expediency of giving effect to a law of the		the death of, announced to the House, &c.	436
State of	312	Mumphremagog, &c., on motion of Mr. Liver-	
the memorial of the Legislature of, praying		more, the Committee of Ways and Means	
an extension of limits, was, on motion of		were instructed to inquire into the expe-	
the same, referred to the committee on		diency of repealing the act establishing	
the admission of Alabama Territory	370	the districts of	345
a bill from the Senate granting land to, for		Murder Creek, reply of General Gaines to the	
certain purposes, was read twice	1147	inhabitants of	2144
ordered to a third reading	1153	Muscle Shoals, Mr. Blount presented the petition	
read the third time, and passed	1155	of sundry inhabitants of East Tennessee,	
Missouri, Mr. Robertson, of Kentucky, submit-		praying an appropriation to defray the	
ted a resolution for a committee to inquire		expense of removing obstructions to the	
into the expediency of creating a separate		navigation in the, referred	398
territorial government on that part of,		Muscogee Nation, address of the chiefs of the, to	
called the Arkansas country	413	the King of England	1961
agreed to, and a committee appointed	414	Muse, Lawrence, the petition of, referred to the	
(See Arkansas Territory.)		Committee of Ways and Means	1037



## House Proceedings and Debates.

	Page.		Page.
McCalla, Robert, and Matthew H. Jouett, a bill for the relief of, read twice - - -	754	bill read the third time, and passed - - -	425
read the third time, and passed - - -	787	returned from the Senate with amendments considered and concurred in - - -	832
returned from the Senate with an amendment - - -	1422		872
considered and concurred in - - -	1423	Navy Agents, on motion of Mr. Tallmadge, the Naval Committee were instructed to inquire into the expediency of increasing the amount of security required from - - -	340
McCarty, Edward, a bill from the Senate for relief of - - -	1167	a bill concerning, read twice - - -	443
read twice, and referred - - -	1194	a letter from the Secretary of the Navy, with a list of, who have discharged the balances against them - - -	935
reported without amendment - - -	1216	Navy Pension Fund, sundry statements from the Secretary of the Navy, showing the condition of the - - -	299
McCauley, Matthew, adverse report on the petition of - - -	430	additional papers from the same on the subject of the - - -	385
McCausland, John, a bill for the relief of, read twice - - -	935	a letter from the same, with the annual report of the Commissioners of the - - -	515
ordered to a third reading - - -	1423	report of the Naval Committee thereon - - -	1432
read the third time, and passed - - -	1426	Negro Port, East Florida, a letter from the Secretary of the Navy, with sundry papers relating to the destruction of the - - -	922
McCoy, William, of Virginia, attended - - -	289	Nelson, Thomas M., of Virginia, attended - - -	291
McDonald, Captain James, a bill authorizing the equitable settlement of the accounts of the late, twice read, &c. - - -	580	remarks of, on the bill extending the time of pensions to widows, &c. - - -	394
McGregor, Sir Gregor, translation of the commission of, as Brigadier General in the service of the united provinces of New Granada and Venezuela - - -	1612	on the bill regulating pensions - - -	415
McIntosh, Buchanan, and others, Mr. Cobb presented the petition of the Legislature of Georgia, praying that the lands granted to, as commissioners appointed by said State, for surveying certain lands, &c., may be confirmed, referred - - -	341	speech of, on the Seminole reports - - -	615
McIntosh, John N., letter from, to the Hon. A. Lacy - - -	2288	Nelson, Hugh, of Virginia, attended - - -	289
McKeever, Lieutenant J., affidavit of - - -	2336	presented the memorial of William Lambert - - -	298
McLane, Lewis, of Delaware, attended - - -	291	speech of, on the military appropriations - - -	502
remarks of, on the motion to inspect the books of the United States Bank, &c. - - -	319	Nelson, Jeremiah, of Massachusetts, attended - - -	295
speech of, on his amendment of the same - - -	325	Nesbit, Wilson, of South Carolina, attended - - -	370
speech of, on the bill for erecting a Territorial government in Arkansas - - -	1227	Neuville, Baron Hyde de, a paper received from, by the Secretary of State - - -	2123
speech of, on the motion to repeal the Bank charter - - -	1330	a letter from, to the same - - -	2127
McLean, John, of Illinois, was qualified, &c. - - -	342	Newspapers, on motion of Mr. Newton, the Clerk was directed to furnish the usual number of, to members - - -	291
report of the Committee of Elections, confirming the election of - - -	349	Newton, Thomas, of Virginia, attended - - -	289
McMinn, Joseph, extract of a letter from Governor to General Jackson - - -	2346	named chairman of the Committee of Commerce and Manufactures - - -	292
McNeil, Joseph, a bill from the Senate for relief of - - -	1411	remarks of, in explanation of the bill concerning foreign seamen - - -	359, 362
read twice, and referred - - -	1417	on the bill to regulate passenger ships - - -	414
		on the Massachusetts claim - - -	421
N.		New York, the bill of last session to alter the time for holding the circuit court of, which had been returned from the Senate with amendments, was indefinitely postponed - - -	545
Naming the Vessels of the Navy, a joint resolution prescribing the manner of, twice read - - -	1282	Nicholls, Colonel Edward, commanding the British forces at Pensacola, copy of the proclamation of - - -	1918
read the third time, and passed - - -	1328	copy of a letter from, to Colonel Hawkins - - -	1950
National Bank. (See Bank of the United States.)		copy of a letter from A. Arbuthnot, to 2022, - - -	2251
Navy, appointment of a select committee on affairs of the - - -	293	copy of a letter from Robert C. Ambrister to, - - -	2273
on motion of Mr. Pleasants, the President of the United States was requested to cause to be laid before the House a statement of what had been done under the act for the gradual increase of the - - -	345	Nimmo, William T., a bill for relief of, read twice, &c. - - -	314
a Message from the President, transmitting a report in reply - - -	437	Norris, Isaac W., Mr. Sergeant presented the petition of - - -	542
a bill making appropriations for the support of the, for the year 1819, twice read, and ordered to a third reading - - -	423	North Carolina, a joint resolution from the Senate directing a survey of certain parts of the coast of, read twice, and referred - - -	386
		reported without amendment, and ordered to a third reading - - -	428
		read the third time, and passed - - -	429

## House Proceedings and Debates.

	Page.		Page.
Officers of the Customs, on motion of Mr. Holmes, the report of the Secretary of the Treasury on the emoluments of, communicated at the last session, was referred to the Committee of Ways and Means -	324	Pegram, John, of Virginia, elected a Representative in place of Mr. Goodwyn, deceased, was qualified, and took his seat -	290
that committee discharged, and subject referred to the Committee of Commerce and Manufactures -	366	Pennsylvania, a bill concerning western district court of, twice read -	311
Ogden, David A., of New York, attended -	291	read the third time, and passed -	320
Ogle, Alexander, of Pennsylvania, attended -	289	a bill concerning the marshal, attorney, and clerk, of the same, read twice -	415
remarks of, on the bill concerning widows -	397	Penrose, Clement, a bill for the relief of, twice read -	398
Ohio, Mr. Harrison submitted a resolution concerning the sessions of the circuit court of, referred to the Judiciary Committee -	345	indefinitely postponed -	543
unfavorable report thereon -	398	Pension List, report from the War Department of persons placed on the -	322, 438
Onis, the Chevalier Don Luis, &c., correspondence of, with the Secretary of State -	1629, 1889, 2101	Pensions, the bill of last session regulating, ordered to a third reading -	415
Order, detailing the general court-martial for the trial of Arbuthnot and Ambrister -	2242	read the third time, and recommitted -	416
Ordinance, territorial, Mr. Sergeant submitted a resolution instructing the Judiciary Committee to inquire into the expediency of enacting a general, &c. -	547	Pensions and Revolutionary Claims, appointment of the standing committee of -	291
Organization of the Courts, a bill from the Senate for the more convenient, read twice, and referred -	598	Pensions of persons under guardianship, a bill to provide for payment of, read twice -	540
reported without amendment -	704	Perryman, George, extract of a letter from, to Lieutenant Sands -	2063
Orr, Benjamin, of Massachusetts, attended -	289	Pettibone, Daniel, the bill from the Senate for relief of, read twice -	1153
remarks of, on the Massachusetts claim -	421	laid on the table -	1433
Orr, James, a bill for the relief of, read twice -	1423	Pettit, Peter. (See <i>Cavalier, Anthony.</i> )	
read the third time, and passed -	1426	Pettit, John, a bill from the Senate for relief of, read twice -	1422
Owen, James, of North Carolina, attended -	291	Phenix, John Lewis, examination of, before the general court martial -	2270
P.		Pindall, James, of Virginia, attended -	290
Palmer, John, of New York, attended -	289	remarks of, introductory of a resolution to reconsider the rejection of the bill for the benefit of Dufour, &c. -	431
speech of, introductory of a resolution concerning imports from Canada -	440	speech of, on the military appropriations -	411
Parephin, Santiago, examination taken before -	2233	on the resolution to repeal the bank charter -	1251
Parkhill, Jacob, a bill from the Senate for relief of -	1393	in reply to Messrs. Sergeant and Lowndes -	1394
read twice, and referred -	1402	Piracy, a bill from the Senate, to protect commerce, and to punish -	1403
indefinite postponement recommended -	1421	twice read, and referred -	1410
Parrot, John T., of New Hampshire, attended -	289	reported without amendment, and ordered to a third reading -	1415
Passenger Ships, the bill of last session to regulate, was taken up, and ordered to a third reading -	415	read the third time, and passed -	1417
read the third time, and passed -	416	Pitkin, Timothy, of Connecticut, attended -	289
returned from the Senate with amendments agreed to, with an amendment -	1037, 1393	remarks of, on Mr. Taylor's motion for certain committees -	294
Patent Office, a bill from the Senate relative to the, read twice -	1432	on the propriety of admitting the Representative from Illinois -	296
Patterson, Thomas, of Pennsylvania, attended -	289	on the Beaumarchais claim -	321, 323
Patterson, Daniel T., a letter to, from General Gaines -	1976	on the bill extending the term of pensions to widows -	395
a letter from, to Lieutenant Crawley -	1977	on the Massachusetts claim -	431
correspondence of, with Sailingmaster Loomis -	1978	speech of, on the military appropriations -	480
letter from, to the Secretary of the Navy -	1981	in defence of Colonel Trumbull -	1143
Patuxent, a bill from the Senate, to increase the compensation of the surveyor of the port of, read twice, and referred -	392	Pittsburg and Waterford Road, on motion of Mr. R. Moore, the Committee on Roads and Canals were instructed to inquire into the expediency of authorizing a subscription to the stock of the -	1074
reported without amendment, and ordered to lie on the table -	1402	Plan, report of a, for the organization and discipline of the militia -	2414
Pawling, Levi, of Pennsylvania, attended -	341	Pleasants, James, of Virginia, attended -	289
Pearl River, Mr. Poindexter presented a petition of the Legislature of Mississippi, praying that a port of entry may be established at the mouth of -	1149	Poindexter, George, of Mississippi, attended -	290
		remarks of, on admitting the Representative from Illinois -	296
		speech of, on the resolution to admit the same -	308



House Proceedings and Debates.

	Page.		Page.
Poinexter, George—continued.		President of the United States, Messrs. Taylor and Baldwin were appointed a committee to wait on the, and inform him of the readiness of the House to receive any communication he may have to make to them	290
remarks of, on the resolution concerning the migration of slaves	336	report that they have performed the duty	290
on the reference of certain documents from one committee to another	371	Presque Isle, on motion of Mr. Moore, the Secretary of the Navy was instructed to report at the next session touching the bar at the mouth of the harbor of	1417
on the military appropriations	486	Prevost, Solomon, a bill from the Senate for the relief of, read twice,	1422
on Mr. Cobb's resolution to refer the Seminole reports	528	Price, James, a bill for the relief of, read twice, and referred	1036
speech of, on the resolutions in that case	936	Printing for the two Houses, a joint resolution from the Senate for appointing a joint committee to consider the subject of, read three times, and passed	367
remarks of, on his motion for indefinite postponement	1133	committee appointed on the part of the House	366
on the occupation of Florida	1428	report of the joint committee concurred in	416
Poinsett, J. W., the correspondence of, with the Secretary of State, on the South American States, ordered to be printed	936	the vote of concurrence reconsidered, and the report recommitted	418
Poirer, M., the bill of last session for the relief of, was taken up, and ordered to a third reading	545	same report again handed in	435
read the third time, and passed	547	a joint resolution from the Senate directing the manner of, &c., was read three times, and passed	1436
Polerezy, John L., Mr. Gage presented the petition of, referred	323	Private Land Claims, appointment of the standing committee on	291
Poole, Benjamin, the bill of last session, for the relief of, was taken up, and ordered to a third reading	541	Property Lost and Destroyed, on motion of Mr. Jones, the Military Committee were instructed to inquire into the expediency of providing for the payment for	295
read the third time, and passed	544	a bill in pursuance thereof read twice, and committed	411
Porter, James, of New York, attended	292	Proposals made to General Jackson by the civil and military Governor of West Florida	2237
Porter, John, the unfavorable report on the petition of, at the last session, was considered, and concurred in	390	Prosecution of Suits, &c., a bill to authorize the, &c.	443
Ports of Entry and Delivery, on motion of Mr. Newton, the Committee of Commerce and Manufactures were instructed to inquire into the several acts establishing	389	Prout, William, a bill from the Senate authorizing, to bring suit against the Commissioner of the Public Buildings	1217
Postage, the British Minister rebukes one of his correspondents for the heavy expense for, imposed on him	2050	read twice	1237
Postmasters, on motion of Mr. Simkins, the Committee, on the Post Office, &c., were instructed to inquire into the expediency of increasing the allowance to, on the main route, &c.	340	ordered to a third reading	1393
Mr. Livermore presented the petition of certainty	1193	read the third time, and passed	1393
Post Office Establishment, a bill to amend the act regulating the, read twice	1282	Provident Association of Clerks, a bill to incorporate the, read twice	425
a bill from the Senate to repeal part of the act in addition to the act to regulate the	1393	ordered to a third reading	436
read twice	1402	read the third time, and passed	438
ordered to a third reading	1410	returned from the Senate with an amendment	1074
read the third time, and passed	1417	considered and concurred in	1146
Post Office and Post Roads, appointment of the standing committee on	291	Prussia, Hamburg, and Bremen, applications received from the Governments of, in relation to commercial reciprocities	1622
Post Roads, a bill to alter and establish certain, read twice	1146	Public Accounts, a bill to provide for the prompt settlement of, read twice	583
ordered to a third reading	1416	read the third time, and passed	662
read the third time, and passed	1422	Public Buildings, appointment of a select committee on the	294
returned from the Senate with amendments and concurred in	1440	a message, transmitting the report of the Commissioner of the	320
Preble, Commodore Edward, officers, and crew, the bill of last session authorizing the distribution of a sum of money among, was ordered to a third reading	391	a bill making appropriations for the, &c., read twice	464
read the third time, and passed	392	ordered to a third reading	1411
Pre-emption Rights, the Speaker presented a petition of the Legislature of Missouri relative to	703	read the third time, and passed	1418
he also presented another, relating to their additional judge	703	Public Expenditures, appointment of the standing committee on	291

House Proceedings and Debates.

	Page.		Page.
Public Lands, appointment of the standing committee on	291	Revisal and Unfinished Business, appointment of the standing committee on	292
Public Printing, the report of the joint committee on, considered and concurred in, and a committee appointed to carry the same into effect	1418	Revolutionary Survivors, a select committee appointed to consider and report on the laws concerning	293
Q.		Mr. Storrs presented the petition of the Governor of New York, and others, in behalf of, referred to same committee	391
Quarles, Tunstall, of Kentucky, attended	290	Rhea, John, of Tennessee, attended	290
remarks of, on the indefinite postponement of the Seminole report	1134	remarks of, on Mr. Holmes's resolution	372
R.		on his motion to amend the military appropriation bill	478
Rabun, William, Governor of Georgia, a letter from, to the Secretary of War on the subject of Captain Obed Wright's attack on an Indian village	2381	speech of, on the Seminole report	855
letter from General Jackson on the same subject	2382	remarks of, on the motion to postpone the same indefinitely	1135
Rations, report of the Surgeon General on the army	2391	Rich, Charles, of Vermont, attended	289
Receipts and Expenditures, annual statement of the, from the Secretary of the Treasury	292	remarks of, on the bill extending the pension term to widows, &c.	395
Receivers and Registers, on motion of Mr. Herrick, the Committee on Public Lands were instructed to inquire into the expediency of amending the act changing the compensation of	390	on the resolution to repeal the Bank charter	1141
a bill from the Senate to fix the salaries of	1411	Richards, Mark, of Vermont, attended	289
read twice, and referred	1417	Ring, Hannah, and Luther Frink, a bill for relief of, read twice	428
indefinitely postponed	1431	ordered to a third reading	788
Reduction of the Army, Mr. Williams, of North Carolina, submitted a motion that the Military Committee be instructed to inquire into the expediency of a	390	read the third time, and passed	832
considered and agreed to	1140	returned from the Senate with amendments, and concurred in	1433
committee discharged from its further consideration	1149	Ringgold, Samuel, of Maryland, attended	344
Reed, Philip, of Maryland, attended	289	Roads and Canals, a report from the Secretary of War, concerning	544
remarks of, on taking up the military appropriations	450, 478	a letter from the same on the subject of constructing	2443
on his resolution respecting the memorial to De Kalb	722	Robertson, George, of Kentucky, attended	290
speech of, on the Seminole report	1061	remarks of, introductory of a resolution relative to the creation of a separate territorial government for a part of Missouri	413
Reed, Robert Raymond, of Georgia, elected to supply the place of J. Forsyth, resigned, was qualified, &c.	1236	Rockville and Washington Turnpike Company, Mr. Herbert presented the petition of, referred	424
Reed, William, a bill for relief of the heirs of, read twice	1282	a bill to authorize the Company to extend their road through the District of Columbia read twice, and committed	434
read a third time, and rejected	1328	ordered to a third reading	444
vote reconsidered, and bill laid on the table	1393	read the third time, and passed	445
Regnier, John B., a bill for the relief of, read twice, &c.	435	Rodriguez, John, a bill from the Senate for relief of, read twice, &c.	1417
Relinquishment of Bounty Lands, a bill concerning the allowance of pensions upon a, read twice	1152	Rogers, Thomas J., of Pennsylvania, attended	289
read the third time, and passed	1155	Ruggles, Nathaniel, of Massachusetts, attended	289
Renner and Heath, the bill of last session, for the relief of, was taken up and ordered to a third reading	424	Rush, Richard, acting Secretary of State, correspondence of, with Mr. Bagot	1496
read the third time, and passed	425	letters from, as Minister at London, to the Secretary of State, 1507, 1572, 1578, 1587	
returned from the Senate with an amendment, and concurred in	832	S.	
Reply, Mr. Lacock's, to the strictures on his report, copied from the National Intelligencer	2369	Salaries of certain officers, a bill from the Senate to increase the	325
Revenue, a bill in addition to the act to regulate the collection of, read twice, and committed	324	read twice, and committed	336
		blanks filled and reported to the House	1149
		ordered to a third reading	1152
		read a third time, and passed	1154
		Sale of Public Lands, Mr. Simkins offered a resolution concerning the	347
		agreed to, and referred to the Secretary of the Treasury	386
		a bill from the Senate making further provision for the, twice read and referred	1272
		reported with an amendment	1409
		ordered to lie on the table	1439



## House Proceedings and Debates.

	Page.		Page.
Manda, Lieutenant, extract of a letter to, from George Perryman	2137	Simmonds, Benjamin, adverse report on the petition of, reversed, and a bill ordered	544
copy of a letter from, to Col. Wm. King	2140	bill for the relief of, read twice and referred	922
Savage John, of New York, attended	289	Simkins, Eldred, of South Carolina, attended	298
Sawyer, Samuel, of North Carolina, attended	290	remarks of, on Mr. Holmes's resolution	372
speech of on the Seminole report	780	on the bill extending the term of pensions to certain widows, &c.	393, 396
Schuyler, Philip J., of New York, attended	289	speech of, on bill for organizing the militia	548
Scott, John, Delegate from Missouri, attended	290	on the resolution to reduce the army	1156
remarks of, on the resolution relating to a separate Territorial government	413	Sinking Fund, report from the Commissioners, on the state of the	2465
speech of, on the bill to admit Missouri	1195	Skeate, George, affidavit of	2233
Scott, Lieutenant R. W., letter from to General Gaines	2069	Slaves, appointment of a select committee, on the unlawful introduction of	293
Scott, William, and others, a bill for the relief of read twice	871	Slave Trade, two resolutions by Mr. Mercer relative to the, agreed to	442
Scudder, Tridwell, of New York, attended	289	a letter from the Secretary of the Navy transmitting copies of all instructions to commanders, on the subject of the	515
Seamen, report from the Secretary of the Navy of the provision made for the accommodation of	544	ditto from the Secretary of the Treasury, with a statement of vessels seized and condemned under the laws prohibiting the	662
Seminole Campaign, so much of the message as relates thereto, was referred to the Committee on Military Affairs	293	a bill in addition to the act to prohibit the, read twice	540
a message transmitting documents in relation to the	342	ordered to a third reading	1431
on motion of Mr. Storrs two thousand five hundred additional copies of said message and documents were ordered to be printed	345	read the third time, and passed	1433
incidental discussion on the	367, 370	returned from the Senate with amendments, and concurred in	1435
report of the committee on the	515	Slocumb, Jesse, of North Carolina, attended	290
Mr. Johnson, of Kentucky, submitted a minority report	518	Smith, Samuel, of Maryland, attended	289
both reports referred to a Committee of the Whole	530	remarks of, on the bill concerning the sale of reserved lots	316
Mr. Mercer submitted a resolution asking for copies of the instructions from the Secretaries of War and Navy to their respective officers relative to the destruction of a fort	786	on the bill relating to foreign seamen	359
the resolution agreed to	787	on the bill concerning Cadets	387
the resolutions recommended in the first report negatived	1132, 1133	on taking up the military appropriations	446, 449, 453
memorial of General Jackson on the subject of the	2338	on the bill itself	462
Senac, Pierre, affidavit of	2006, 2334	speech of, on an item of appropriation	465
Sergeant, John, of Pennsylvania, attended	289	in reply to Mr. Clay	474
speech of on the Bank of the United States	1352	in reply to Mr. Williams	486
Settle, Thomas, of North Carolina, attended	290	remarks of, on the bill for the sale of lots in Washington	542
Seybert, Adam, of Pennsylvania, attended	289	on an item in the general appropriation bill	1143
Seybert's Statistical Annals, &c., on motion of Mr. Newton, a deficiency in the appropriation for the purchase of, was ordered to be paid out of the contingent fund	435	on the tonnage bill	1425
Mr. Newton also submitted a resolution relating to, twice read	436	Smith, James S., of North Carolina, attended	290
read the third time, and passed	438	Smith, Ballard, of Virginia, attended	291
returned from the Senate with an amendment, and concurred in	552	Smith, John, on motion of Mr. Poindexter, the Military Committee were instructed to inquire into the expediency of authorizing the proper accounting officers to settle the accounts of, &c.	343
Sheppard, Sarah, an adverse report on the petition of, concurred in	1074	Smyth, Alexander, of Virginia, attended	289
Shields, Thomas, and others, a bill concerning twice read, &c.	434	speech of, on the military appropriations	494
Sholer, Captain Stanton, a bill for the relief of, read twice, &c.	411	remarks of, on the motion to refer the Seminole reports	529
Sick and disabled seamen, a bill from the Senate providing relief for, read twice	1074	speech of, on the bill to admit Missouri	674
indefinitely postponed	1432	Smyth, Harold, the bill of last session for relief of, was taken up, and ordered to a third reading	434
Silsbee, Nathaniel, of Massachusetts, attended	289	read the third time, and passed	436
Silsbee, John, Mr. Spencer presented the petition of	1074	South America, on motion of Mr. Johnson, of Virginia, a committee was appointed to request of the President whether application had been made by any of the Governments of, to have a Minister or Consul General accredited by the United States	544
		a Message from the President, transmitting a report in reply	911

## House Proceedings and Debates.

	Page.		Page.
Southard, Henry, of New Jersey, attended	289	Stebbins, Isaac, Mr. Hubbard submitted a resolution instructing the Committee of Pensions, &c., to inquire into the expediency of placing the name of, on the pension roll	1146
remarks of, on the bill concerning cadets	388	Stephens, William, Judge, the committee appointed to inquire into the conduct of, were discharged, the said judge having resigned	313
Spain, a Message transmitting copies of the treaty with	1422	Stevens, Ebenezer, and others, the documents in the case of, read	425
ratification of the Convention of 1802 between the United States and	1594	a bill for the relief of, twice read, and a third reading negatived	433
the President's proclamation of the same	1594	the vote reconsidered, and bill referred to a select committee	433
copy of the convention with	1595	Stewart, James, of North Carolina, attended	290
papers relating to the treaty of amity, settlement, and limits, with	1629	Still, Bartlett, a bill for the relief of, read twice	1139
Spanish Colonies. (See South America.)		Stiner, Thomas, on motion of Mr. Scott, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of providing for the payment of a War office certificate issued to	437
Spanish Vessels, a list of, captured by pirates and brought into the United States	1913	Storrs, Henry R., of New York, attended	289
summary statement of moneys taken out of, and brought into the United States	1915	remarks of, on taking up the military appropriations	447
Special Deposites, a letter from the Secretary of the Treasury concerning the balances due from State banks to the Bank of the United States, and held as	1409	speech of, on the appropriation for military roads	482
Speed, Thomas, of Kentucky, attended	290	remarks of, on the resolution relating to investigating Indian hostilities	547
Spencer, John C., of New York, attended	292	on the resolution respecting Florida	582
speech of, on his motion for a committee to inspect the proceedings of the United States Bank	317	speech of, on the Seminole reports	740
in reply to Mr. McLane, of Delaware	326	remarks of, on the appropriation for Trumbull's picture	1145
in reply to Mr. Lowndes	331, 334	Strictures, on Mr. Lacock's Seminole report	2360
remarks of, on his resolution to remove the deposits	924, 925	Strong, Solomon, of Massachusetts, attended	422
on the indefinite postponement of the Seminole resolutions	1133	Strother, George F., of Virginia, attended	314
on Mr. Johnson's resolution to repeal the Bank charter	1141	remarks of, on the bill concerning cadets	387
on the appropriation to pay for Trumbull's painting	1142, 1145	speech of, on the military appropriation bill	475
speech of, on the Bank resolutions	1240	remarks of, on Mr. Cobb's motion to refer the Seminole reports	528
Staff of the Army, on motion of Mr. T. M. Nelson, the Military Committee were instructed to inquire into the laws regulating the	322	remarks on the resolution respecting Florida	582
Standing Committees, appointment of the	291	speech of, on the Seminole reports	832
Standing Rules, Mr. Campbell submitted a resolution to rescind the 15th of the	30	Stuart, Philip, of Maryland, attended	289
Mr. Lowndes moved an addition to the	872	Stuart, Phoebe, a bill for the relief of, read twice	754
considered, and agreed to	911	read the third time, and passed	787
Stark, Major General, on motion of Mr. Butler, of New Hampshire, a committee was appointed to prepare and report a bill for the benefit of	320	Suits in the United States Courts, between citizens of the same State; on motion of Mr. Ervin, of South Carolina, the Judiciary Committee were instructed to inquire concerning	386
a bill granting a pension to, twice read	324	Swartwout, Robert, a bill for the relief of, twice read	430
read the third time, and passed	339	Swift, General Joseph G., correspondence of, with the Secretary of War, on the course of instruction pursued at the West Point Military Academy	2440
returned from the Senate with amendments, and concurred in	423		
State Universities, on motion of Mr. Floyd, the Committee of Public Lands were instructed to inquire into the expediency of granting a tract of land to each State for the endowment of	346	T.	
the committee reported inexpediency	581	Talleyrand, Charles Maurice, copy of a letter from, to the Spanish Ambassador	1732
Steamboats, on motion of Mr. Johnson the Committee on Post Offices, &c., were instructed to inquire into the expediency of authorizing the Postmaster General to transport the mail by	431	Tallmadge, James, of New York, attended	289
a bill authorizing the officer mentioned to contract for so carrying the mail, read twice	662	speech of, on the resolution to admit Illinois	306
read the third time, and passed	704	in reply to Mr. Anderson	339
		remarks of, on the Massachusetts claim	420
		speech of, on the Seminole report	710, 722
		on the admission of Missouri	1203
		Tallmadge, Matthias B., Judge, report in the case of	1221



## House Proceedings and Debates.

	Page.		Page.
Tarr, Christian, of Pennsylvania, attended	289	Transfer of Moneys, a letter from the Secretary of War giving a statement of the	1038
Tax Agents, the committee to whom was referred at the last session a resolution concerning the appointment of, for the several counties in each State, reported that such a measure was inexpedient	1036	Transportation of Goods coastwise, on motion of Mr. Silsbee, of Massachusetts, the Committee of Ways and Means were instructed to inquire into the expediency of allowing the, without loss of debenture	416
Taylor, John W., of New York, attended	289	report thereon	426
remarks of, introducing his motion to appoint standing committees	294	Transportation of Persons of Color, a bill from the Senate respecting the	1393
on the motion to postpone Mr. Holmead's resolution	375	read twice, and referred	1402
on the bill concerning cadets	388	reported without amendment	1415
on the Military Appropriation bill	471	Transportation of Slaves, Mr. Linn, of New Jersey, submitted a resolution relative to	336
on the indefinite postponement of the Seminole reports	1134	considered and negatived	337
on the appropriation for Trumbull's painting	1145	Treasury Department, a bill from the Senate providing for the better organization of the	1403
speech of on the admission of Missouri	1170	twice read, and referred	1410
on the Arkansas bill	1222	reported without amendment	1416
Tennessee, a bill to amend the act supplementary to the act to authorize the State of, to issue grants, &c., read twice	1101	Treasury Notes lost, &c., on motion of Mr. Johnson, of Kentucky, the Committee of Ways and Means were instructed to inquire into the expediency of providing for the payment of	416
read the third time, and passed	1140	a bill to authorize payment of, in certain cases, read twice	426
extracts of two letters from the Governor of, to General Jackson	2347	read the third time, and passed	429
Terrel, William, of Georgia, attended	290	returned from the Senate with amendments, and concurred in	871
Terry, Nathaniel, of Connecticut, attended	289	Treaty, Projet of a, delivered by Don Luis de Onis, the Minister of Spain, to the Secretary of State	2113
remarks of, on the Bank resolutions	333	a counter projet, by Mr. Adams	2119
in vindication of Colonel Trumbull	1145	copy of the, of amity, settlement, &c.	2129
on the bill in behalf of the Connecticut Asylum	1427	the ratification of the same	2135
Testimony, on the trial of Arbutnot and Ambriester	2245	Trimble, David, of Kentucky, attended	290
Thomas, Colonel James, report of the Attorney General on the accounts of	431	on motion of, the Committee of Public Lands were instructed to inquire into the expediency of making provision for patents to soldiers on furlough, &c.	342
Timber, on motion of Mr. Pleasants, the Naval Committee were instructed to inquire into the expediency of authorizing the purchase of, for building twenty sloop-of-war	428	remarks of, on the military appropriation bill	454, 477
a bill making appropriations to carry into effect the act making reservation of certain public lands to supply, read twice	1167	speech of, on his motion for a <i>scire facias</i> against the bank	598
Timberlake, John B., a bill from the Senate for the relief of	1139	on the question of considering the same	1407
read twice	1140	Tucker, Henry St. George, of Virginia, attended	290
ordered to a third reading	1230	remarks of, on referring the Chesapeake and Delaware canal bill	434
read the third time, and passed	1272	on taking up the military appropriations	448, 449, 467, 486
Tohondoché, a Seneca warrior, on motion of Mr. Harrison, the Committee on Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the pension rolls	424	speech of, in reply to Mr. H. Nelson	506
Tompkins, Caleb, of New York, attended	298	Tucker, Sterling, of South Carolina, attended	290
Tonnage and Discriminating Duties, a bill from the Senate in addition to act concerning	1403	Turner, Thomas, the bill of last session for relief of the heirs of, was taken up, and ordered to a third reading	541
read twice, and referred	1410	Turnpike from Pittsburg to Waterford, a motion by Mr. Moore, concerning subscription to the stock of the, negatived	1417
reported without amendment	1416	Tustonaky Thlucco, the Big Warrior, talk of the Creek chiefs to	2086
read the third time, and passed	1425	Twigg, Major, letter from, to General Jackson	2021
Townsend, George, of New York, attended	289	letter from, to General Gaines	2145
Trade, report from the War Department on the subject of Indian	2455	letter from, to Governor Mitchell	2296
Trading-Houses, &c., the bill of last session establishing, among the Indian tribes, was referred to the Committee on Indian Affairs	392	Tyler, John, of Virginia, attended	314
a bill from the Senate to enforce for a further time the act establishing, read twice, and ordered to a third reading	1416	remarks of, on the resolution to remove the public deposits	924
read the third time, and passed	1417	speech of, on the Seminole reports	925
		on the bank resolutions	1309

## House Proceedings and Debates.

	Page.		Page.
U.		Wayne, Thomas, a purser in the United States Navy, extract of a letter from	2080
Uniform System of Bankruptcy, a bill to establish an, read, &c.	312	Ways and Means, appointment of the standing committee of	291
United States and foreign coins, detailed report on	788	Weights and Measures, on motion of Mr. Smyth, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of fixing a standard of	444
Upham, Nathaniel, of New Hampshire, attended	289	said committee discharged	543
Useful Inventions, a report from the Secretary of State, with a list of the names of persons to whom patents have been issued for	464	subject referred to the committee on coins	546
V.		detailed report from said committee on	755
Vandeventer, Major, chief clerk of War Department, extract of a letter from, to General Jackson	2391	Wells, John, a bill for the relief of, read twice, &c.	422
Van Ness, William P., report in the case of Judge Vase, Ambrose, a letter for relief of, twice read	1218	Wells, Benjamin, the petition of referred to the Secretary of the Treasury	436
Vienne, the Marquis de, a colonel in the Revolutionary army, Mr. Middleton presented the petition of, referred	1006	a bill supplemental to the act for relief of, read twice	831
a bill making provision for the claim of, read twice	335	ordered to a third reading	1328
ordered to a third reading	389	read the third time, and passed	1393
read the third time, and passed	545	Wendover, Peter H. of New York, attended	289
report of the Secretary in reply	547	West India Trade, acts of the British Parliament relating to the	1597
Vine and Olive, on motion of Mr. J. S. Smith, the Secretary of the Treasury was directed to report a statement of the progress made under the act for encouraging the cultivation of the	392	West Point, a Message from the President, with sundry papers relating to the military academy at	2438
Vreeland, Nicholas, a bill from the Senate for relief of the heirs of	1217	Westerlo, Rensselaer, of New York, attended	289
twice read, and referred	1237	Western Boundary, projet of an article by the Secretary of State, describing the	2113
reported without amendment	1410	Wheaton, Joseph, a bill for relief of, read twice	339
W.		ordered to a third reading	1146
Wait's State Papers, a bill from the Senate authorizing subscription for, read twice	1074	read the third time, and passed	1150
Wakefield, Harvey, a bill for the relief of, read twice	411	White, —, a prisoner at Buenos Ayres, on motion of Mr. Trimble, a committee was appointed to request of the President such information as it may be in his power to furnish, at next session, respecting	1402
Walker, Felix, of North Carolina, attended	290	Whiteside, John, of Pennsylvania, attended	289
speech of, on the Seminole reports	850	Whitman, Ezekiel, of Massachusetts, attended	289
on the Arkansas bill	1226	resolution offered by, concerning Revolutionary pensions	324
Walker, David, of Kentucky, attended	290	speech of, on the bill relating to foreign seamen	362
speech of, on the Seminole reports	1006	speech of, on the bill to admit Missouri	1274
on the Bank resolutions	1404	Widows and Children of Officers, Seamen, and Marines, on motion of Mr. Irving, the Naval Committee were instructed to inquire into the expediency of extending for a further term the pensions to	295
Walker, Samuel, a bill for the relief of, read twice, and committed	319	Widows and Orphans of Militia, a bill concerning, read twice	345
Walker, Tandy, a bill authorizing the name of, to be placed on the pension rolls, read twice, &c.	445	ordered to a third reading	397
Wallace, J. M., of Pennsylvania, attended	289	read the third time, and passed	410
Ward, Samuel, a bill from the Senate for relief of	1139	Widows of Militia, the bill of last session concerning, was taken up, read the third time, and passed	387
read twice, and referred	1153	Wilde, James, a bill from the Senate to authorize the settlement of the accounts of, twice read, and referred	390
reported without amendment	1410	reported without amendment	435
Warren, James, adverse report on the petition of Washington, the bill of last session to amend the act to authorize the sale of certain reserved lots in the city of, was considered in Committee of the Whole	1410	Wilkin, J. W., of New York, attended	289
a bill from the Senate supplementary to the act further to amend the charter of the city of, read twice and referred	316	Wilkinson, James, Mr. Smith, of Maryland, presented the petition of, referred	910
reported without amendment, and ordered to a third reading	444	said committee discharged, and referred to the Judiciary Committee	1036
read the third time, and passed	1149	the latter also discharged	1194
Washington Turnpike Company, of Maryland, a bill supplemental to the act to authorize the, to construct their road through the District of Columbia, read twice	546	Williams, Isaac, of New York, attended	289
read the third time, and passed	551	Williams, Lewis, of North Carolina, attended	290
		remarks of, on his motion to refer the petition of Matthew Lyon	297



House Proceedings and Debates.

Williams, Lewis—continued.	Page.	Yeas and Nays—continued.	Page.
remarks of, introductory of his motion re-		on the third reading of the bill to extend for	
specting a reduction of the Army -	390	a further term certain pensions -	397
remarks of, on the report in case of Kellogg	417	on indefinite postponement of the same -	408
remarks of, on taking up the military appro-		on recommitting the same with instructions	409
priations -	446, 449	on the final passage of the same -	410
speech of, on the bill making the same	460, 480	on the third reading of the bill for the bene-	
Williams, James. (See Gooding, John.)		fit of Dufour and associates -	427
Williams, Thomas S., of Connecticut, attended	289	on the question of its passage -	429
speech of, on the Seminole reports -	1077	on the third reading of the bill for relief of	
Williams, George, a director in the Bank of the		E. Stevens and others -	433
United States, the Speaker presented the		on the appropriation for military roads -	514
memorial of -	1167	on the final passage of the Military Appro-	
Wilson, John, of Massachusetts, attended	291	priation bill -	530
Wilson, William, of Pennsylvania, attended	289	on concurring with the Committee of the	
Wilson, Thomas, a bill in addition to the act for		Whole in the resolution concerning the	
relief of, twice read -	1282	execution of Arbuthnot -	1136
read the third time, and passed -	1328	on concurring with the Committee of the	
Windmill Point, on motion of Mr. Newton, the		Whole in the case of Ambrister -	1136
Committee of Commerce and Manufactures		on indefinite postponement of the question	1137
were instructed to inquire into the		on Mr. Cobb's resolution -	1138
expediency of erecting a lighthouse on -	398	on amending the item of appropriation for	
Wines, &c., a bill to reduce the duty on certain,		the Cumberland road -	1150
read twice -	366	on indefinite postponement of the bill to in-	
laid on the table -	1402	crease certain salaries -	1151
taken up, and ordered to a third reading -	1411	on the final passage of the same -	1154
read the third time, and passed -	1417	on laying on the table Mr. Williams's reso-	
Winness, on motion of Mr. Spencer, a message		lution to reduce the Army -	1165
was sent to the Senate to request of that		on Mr. Tullmudge's motion to amend the	
body to permit two of its members to at-		Missouri bill -	1214
tend a committee of the House, as -	787	on the third reading of said bill -	1215
a message from the Senate according per-		on amending the Arkansas bill 1237, 1238, 1239	
mission -	871	on recommitting the same -	1272
Worthington, Gad, a bill for the relief of, twice		on amending the Missouri bill -	1273, 1280
read -	322	on concurring in the rejection of the resolu-	
Wright, Obed, on motion of Mr. Storrs, a com-		tion to repeal the Bank charter -	1411
mittee was appointed to request of the		on concurring in the rejection of Mr. Trim-	
President's copies of any correspondence		ble's motion for a <i>scire facias</i> -	1412
which may have passed between the Gov-		on Mr. Johnson's motion to add a new sec-	
ernor of Georgia and General Jackson		tion to the Bank bill -	1414
relative to the arrest of -	385	on the third reading of the said bill -	1415
a message transmitting the correspondence		on the Senate resolution to amend the Con-	
asked for -	392	stitution -	1420
copies of the documents on the subject of -	2383	on indefinite postponement of the Missouri	
Wright, Major Clinton, letter from, to General		bill -	1433
Gaines -	2167	on concurring in the Senate's amendment	
Y.		to the same -	1434
Yeas and Nays, on the final passage of the reso-		on adhering to the rejection of the Senate's	
lution to admit Illinois -	311	amendment -	1438
on amending the resolution concerning the		on the second reading of the Senate bill to	
Bank -	335	establish a new land office in Illinois -	1441
on the third reading of the half-pay Pen-		Young, Major W., copy of a note to, from Gov-	
sion bill -	384	ernor Mazot -	2205
on recommitting the bill concerning widows		Z.	
of militia -	387	Zuniga, Mauricio de, copy of a letter from, to	
		General Jackson -	1829, 2225

Public Acts and Resolutions.

PUBLIC ACTS AND RESOLUTIONS.

A.	Page.	G.	Page.
Additional Agent for paying Pensions, an act to		Government, an act making appropriations for	
authorize the Secretary of War to appoint		the support of, for the year 1819 -	2505
an, in the State of Tennessee -	2531	H.	
Alabama Territory, an act to enable the people		Half-pay Pensions, an act extending the term of,	
of, to form a constitution and State gov-		in certain cases -	2513
ernment -	2498	I.	
Alleghany Mountains, a bill to establish a judi-		Illinois, an act to provide for the due execution	
cial district in Virginia, west of the -	2475	of the laws of the United States within	
Arkansas, an act to establish the Territory of -	2502	the State of -	2514
Armstrong, General, an act directing payment of		an act granting a donation of land to the	
certain bills drawn by, in favor of Wil-		State of, for the seat of government of said	
liam Morgan -	2488	State -	2535
B.		a joint resolution declaring the admission of	
Bank of the United States, an act to enforce the		the State of, into the Union -	2548
provisions of the act to incorporate the		Imported Salt, an act in addition to and altera-	
subscribers to the -	2521	tion of an act laying a duty on, granting	
a joint resolution authorizing the transmis-		a bounty on pickled fish, &c. -	2531
sion of the documents accompanying the		Indiana, an act respecting the location of certain	
report of the committee to examine into		sections of land to be granted for the seat	
the proceedings of the, free of postage -	2550	of government in the State of -	2526
Boundaries of Districts, &c., an act to designate		Indian Tribes, an act making provision for the	
the, in the States of Ohio and Indiana -	2532	civilization of certain -	2527
C.		Invalid Pensioners, an act regulating payments	
Clerks, an act to increase the number of, in the		to -	2524
Department of War -	2473	Invalid Pensions, an act concerning -	2537
(See <i>Provident Association of</i> .)		J.	
Coasting Trade, an act supplementary to the act		Jefferson County, Virginia, an act to authorize	
concerning the -	2501	the Secretary of War to convey a lot of	
Coins of Great Britain, France, Portugal, and		land in -	2532
Spain, an act to continue in force an act		Jervy, Thomas Hall, an act for the relief of -	2490
regulating the currency within the United		K.	
States of the gold, &c. -	2536	Kenzie and Forsyth, an act for the relief of -	2490
Creek Nation, an act authorizing the sale of cer-		Kinsley, Adam, Thomas French, and Charles S.	
tain lands reserved to certain chiefs, war-		Leonard, an act for the relief of -	2487
riors, &c., of the -	2486	L.	
D.		Library of Congress, an act to provide for the	
Deaf and Dumb, an act for the benefit of the		removal of the, to the north wing of the	
Connecticut Asylum for the -	2513	Capitol -	2473
Documents, a joint resolution authorizing the		Lighthouses, Beacons, and Buoys, an act to au-	
transmission of certain, free of postage -	2549	thorize the building, erecting, and placing,	
E.		&c. -	2546
Eastern Branch Bridge Company, an act to in-		Louisiana, an act explanatory of the act for the	
corporate the -	2492	final adjustment of land titles in the State	
Errors in making entries of land at the Land		of, and Territory of Missouri -	2527
Offices, an act providing for the correc-		M.	
tion of -	2536	Medical Society of the District of Columbia, an	
F.		act to incorporate the -	2480
False Entries for the benefit of Drawback, an act		Michigan Territory, an act authorizing the elec-	
to provide additional penalties for -	2490	tion of a Delegate to Congress from -	2479
Fatigue Duty, an act to regulate the pay of the		Military Land Warrants, an act allowing further	
Army when employed in -	2496	time to complete the issuing and locating	
Fire Engines, &c., an act authorizing the pur-		of -	2491
chase of -	2536	Military Service, an act making partial appropri-	
Florida, East and West, an act to authorize the		ations for the, &c. -	2473
President to take possession of, and to		an act making appropriations for the year	
establish a temporary government therein	2534	1819 for the -	2476
Forfeiture of Lands, an act to suspend for a lim-		Military Sites, an act authorizing the sale of	
ited time the sale of, for failure to complete		certain -	2531
payments, &c. -	2520		



*Public Acts and Resolutions.*

N.	Page.		Page.
Naming Vessels in the Navy, a joint resolution declaring the manner of	2552	Ring, Hannah, and others, an act for the relief of	2513
Navy, an act making appropriations for the support of the, for the year 1819	2482	Rockville and Washington Turnpike Company, an act to authorize the, to extend their road through the District of Columbia	2478
New Orleans, an act for adjusting claims to land, &c., in the districts east of the Island of	2539	S.	
North Carolina, a joint resolution directing a survey of certain parts of the coast of	2549	Salaries of certain Officers of the Government, an act to increase the	2486
P.		Seybert's Statistical Annals, and Pitkin's Commercial Statistics, a joint resolution for the distribution of the former, and directing the latter to be deposited in the Library	2549
Passenger Ships and Vessels, an act regulating	2496	Slave Trade, an act in addition to the acts prohibiting the	2544
Patents, an act to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to	2478	Steamboats, an act authorizing the Postmaster General to contract for carrying the mail, between New Orleans and Louisville, in	2505
Pennsylvania, an act concerning the Western District court of	2474	Stuart, Phoebe, an act for the relief of	2512
Piracy, an act to protect commerce and to punish the crime of	2524	T.	
Poiray, M., an act making provision for the claim of	2490	Tonnage and Discriminating Duties, an act in addition to the act concerning	2522
Post Office Establishment, an act to repeal part of an act, in addition to an act regulating the	2548	Trading-Houses with the Indian Tribes, an act to continue in force for a further time the act establishing	2524
Post Roads, an act to alter and establish certain	2515	Treasury Notes lost or destroyed, an act to authorize payment in certain cases on account of	2475
Preble, Commodore Edward, an act to authorize the distribution of a sum of money among the representatives of, and officers and crew of the Syren	2476	Turner, Thomas, an act concerning the heirs and legatees of	2490
Printing of Congress, joint resolutions directing the manner in which the, shall be executed, &c.	2550	V.	
Provident Association of Clerks, &c., an act to incorporate the	2482	Vienne, M. de, an act making provision for the claim of	2491
Public Accounts, an act supplementary to the act to provide for the prompt settlement of	2491	W.	
Public Buildings, an act making appropriations for the, &c.	2526	Washington, an act supplemental to the act to amend the charter of the City of	2488
R.		Washington Turnpike Company, of Maryland, an act supplemental to the act to authorize the, to extend their road, &c.	2515
Relinquishment of Bounty Lands, an act concerning the allowance of pensions upon a	2535	Wines, an act to regulate the duties on certain	2525



---

ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

---

FIFTEENTH CONGRESS—SECOND SESSION.

---



THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

---

FIFTEENTH CONGRESS—SECOND SESSION:  
COMPRISING THE PERIOD FROM NOVEMBER 16, 1818, TO MARCH 3, 1819,  
INCLUSIVE.

---

COMPILED FROM AUTHENTIC MATERIALS.

---

WASHINGTON:  
PRINTED AND PUBLISHED BY GALES AND SEATON.  
1855.



FEBRUARY, 1819.

District Judges.

H. OF R.

The engrossed bill to authorize the people of the Territory of Missouri to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act for the relief of Pierre Dennis de la Ronde; an act for the relief of Rees Hill; an act for the relief of Gabriel Godfroy; an act for the relief of Nathan Ford; an act for the relief of David Henley; an act for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; an act to authorize William Prout to institute a bill in equity before the circuit court for the District of Columbia, against the Commissioner of the Public Buildings, and to direct a defence therein; an act authorizing the purchase of live oak timber for naval purposes; and an act to regulate the pay of the army when employed on fatigue duty; in which bills they ask the concurrence of the House.

## COASTING TRADE.

The bill from the Senate, "supplementary to the acts concerning the coasting trade," which had been referred to the Committee of Ways and Means, was reported by Mr. SMITH, of Maryland, without amendment. [This bill proposes to divide the seacoast and rivers therein into four districts, as heretofore stated in detail.]

Mr. SILSBEE moved an amendment to the bill, which proposed, in effect, to divide the seacoast of the United States into two districts, instead of four, as contemplated by the bill; the first district to extend from the eastern limits of the United States to the southern limits of the State of Georgia; the second district from the river Perdido to the western limits of the United States.

This motion gave rise to a discussion of the merits of the bill, as well as of the particular proposition; in which Messrs. SILSBEE, SMITH, of Maryland, ORR, LIVERMORE, and WHITMAN, took part; and the debate had proceeded for some time, when

Mr. TRIMBLE, to give further time for considering a proposition so important in its character, moved to lay the bill on the table; which motion prevailed, and the bill was laid on the table.

## DISTRICT JUDGES.

Mr. SPENCER, from the committee appointed on the tenth day of April last, to inquire into the official conduct of William P. Van Ness, judge of the southern district of New York, of Matthias B. Tallmadge, judge of the northern district of New York, and of William Stephens, judge of the district of Georgia, made a report on the case of Judge Van Ness; which was read, and ordered to lie on the table.

Mr. S., from the same committee, also made a report, in part, on the case of Judge Tallmadge; which was read, and ordered to lie on the table.

The reports are as follows:

15th CON. 2d SESS.—39

That, in reference to the conduct of William P. Van Ness, Esq., judge of the southern district of New York, the committee have endeavored, by the examination of voluminous documents and of a number of witnesses, to arrive at a knowledge of the transactions to which their attention was necessarily directed by the report of the Judiciary Committee made to this House on the 5th day of March last. That report stated that \$117,307 01 of the funds of the district court of the southern district of New York was unaccounted for by Theron Rudd, the late clerk thereof, and that it has been most grossly and nefariously purloined. As the resolution under which this committee was appointed emanated from the Judiciary Committee, it became the first object of inquiry to ascertain how far Judge Van Ness was implicated in the misconduct of the clerk. After a diligent examination, no evidence has been discovered to establish any participation by Judge Van Ness in the embezzlement of the funds of the court; nor does it appear that he has received any of those funds, or derived any benefit from them. That there was, however, a remissness on the part of Judge Van Ness, a want of constant vigilance of the money of the court, and of rigor in enforcing the provisions of the law and the rules of court, will, in the opinion of your committee, appear from a statement of the facts. Rules had existed in the court from the 1st day of November, 1811, requiring the clerk to keep a distinct account in the bank where the court moneys were deposited, as clerk of the court, subject to the inspection of the judge and the district attorney, and forbidding the withdrawing any such money from the bank without an order signed by the clerk and countersigned by the judge, stating the title of the cause, and the party to whom the same was to be paid. Soon after Judge Van Ness took his seat on the bench, he repealed that part of the rule requiring his signature; the reasons for which, as assigned by Judge Van Ness on a former occasion, were, that the clerk was the responsible and accountable officer, in whose custody the law placed the funds of the court; and that the check contemplated by the rule would give great and unnecessary trouble to the judge in adjusting the claims of individuals, and to the suitors who might apply to him during the vacations, at his residence, one hundred and thirty miles from New York. The committee, however, think that, in most cases, the claims of suitors must have been ascertained in the judgment of the court; and to them it appears that, although the rule may have been originally adopted on a special occasion, yet the object of security to the funds was so great as to supersede all considerations of inconvenience, and to require its continuance. The rule subjecting the clerk's account to the inspection of the judge and the district attorney was also so modified by Judge Van Ness as to confine the right to the judges only.

It had been one of the rules of the court, and was adopted by Judge Van Ness, that the clerk should exhibit to the court on the first day of each August and February term a full account of all the moneys in his hands, or standing to his credit as clerk, to be examined by the court or a judge, and to be filed in the office of the clerk of the northern district. From the certificate of the clerk of the southern district, it appears that no such account has ever been rendered. His certificate embraces a portion of time in which Judge Tallmadge presided in the southern dis-



H. OF R.

District Judges.

FEBRUARY, 1819.

strict, and the whole time when Theron Rudd was clerk.

An old act of Congress requires the clerks of district courts to give bonds in the sum of \$2,000 for the faithful discharge of their duties. Although this sum is altogether inadequate to the security of such large amounts as were paid into the district court of New York during the time Theron Rudd was clerk, yet the hazard of losing even that amount would induce some watchfulness on the part of the clerk's sureties. Theron Rudd had been clerk of the district of New York some time previous to the act dividing the State into two districts, which passed 9th April, 1814, and, pursuant to that division, on the 11th April, 1814, he was appointed clerk of the southern district. From the certificates of the clerk of that district, and of the northern district, it appears that there has not been filed, in either of their offices, any bond by Theron Rudd for the faithful discharge of his duties as clerk of the southern district. The omission is the more remarkable as Mr. Rudd had previously given several bonds as clerk, under various reappointments, after having been removed.

It appears from the statements of the honorable Mr. Daggett and the honorable Mr. Hunter, of the Senate, that so late as the last of February, 1817, Judge Van Ness appeared to be ignorant of the perilous condition of the funds of the court, at a time when apprehensions were entertained by several gentlemen of the city of New York, who had communicated them to their friends in Congress. Judge Van Ness appeared before the Judiciary Committee of the Senate on the 1st March, 1817, and stated his objections to the passage of a bill then pending before that committee, and which afterwards became a law, by which moneys in the courts of the United States were directed to be deposited within sixty days from the 3d of March, 1817, in the office of the Bank of the United States, when there should be one within the district, and requiring the signature of the judge to an order for the payment of such moneys. The objections were substantially the same as the reasons urged for the repeal of the rule before mentioned, viz: that it would be unnecessary, and would give much trouble. He assured the committee of the Senate that the money was perfectly safe; that it was in the Middle District Bank, north of the highlands, where it had been carried from apprehensions of danger during the war; that the bank was respectable, and the clerk was responsible under his bond; and that it became his duty to see to the security of the money. The law passed, making it the duty of the judges of the different courts to cause the payment of the money, as before stated, and directing that any officer refusing or neglecting to make such payment should be proceeded against by attachment for contempt. On the 30th April, 1817, a rule was entered by Judge Van Ness, directing the clerk to pay over the moneys of the court, according to the provisions of the law, within sixty days from the 3d day of March then last. On the 16th day of June, 1817, an order was entered for an attachment against Theron Rudd for not complying with the rule of the 30th April. A copy of an attachment is furnished the committee, dated the 30th day of June. It appears from a rule of the court, entered on the 23d day of June, that the clerk had then absconded. On the 8th January, 1818, Thomas Morris, the marshal of the district, returned that, by virtue of several writs of attachment, he had arrested Theron Rudd, but found

him in the custody of a sheriff by virtue of an execution issued out of one of the State courts of the State of New York, and had therefore committed him to the common jail of the county where he had found him. Further proceedings on the attachment were discontinued by direction of the Secretary of the Treasury, who instructed the district attorney to proceed by action against the clerk. The great delay in these proceedings is apparent, and it cannot be ascribed wholly to the district attorney, as the law seems to have made it the special duty of the judge to cause the money to be deposited according to its provisions.

According to the fair import, if not to the letter of the act of April 18, 1814, it became the duty of every court of the United States to designate a bank where its money should be deposited, if there should be any incorporated bank within the judicial district. On the 3d August, 1814, Judge Van Ness made a rule that all moneys which should thereafter be paid into his court should be paid to the clerk, who should deposit the same to his credit in some bank or banks to the north of the highlands, in the State of New York, until the further order of the court. The reason given for this rule was, the apprehension of danger from invasion by the enemy. Your committee do not perceive how that reason could operate to prevent the designation of some certain bank or banks. The report of the Judiciary Committee, made at the last session, states the inability of that committee to prosecute its inquiries, from a want of knowing the particular bank where the money was deposited. It is obvious that the omission of such a designation removed a considerable check upon the improper disposition of the funds by the clerk. The committee cannot discover any satisfactory reason to account for the money being suffered to remain in that situation for two years after the peace was known in this country, or for its not being deposited in some bank in the city of New York.

The report which this committee have already made respecting the official conduct of Judge Tallmadge will exhibit the courts held by Judge Van Ness, in the northern district, during the time he received an additional allowance for his services in that district. Those services do not appear to have been so great as Congress expected. With regard to the southern district, Judge Van Ness appears to have given great attention to its business. He has held all the stated terms of that district, excepting two, which have occurred since his appointment, and he has also held many long and arduous special terms.

There have been complaints against some decisions and orders of Judge Van Ness. But the respect which this committee entertain for the Constitutional rights of a judge, and for the laws, which provide adequate remedies for any errors he may commit, forbids their questioning any judicial opinions.

One instance, however, appears, from the papers they have examined, to partake more of the ministerial than judicial character. It was the case of a cargo which was a prize to the privateer *Tickler*, which had been sold, and the money brought into court. The judge authorized the clerk to draw out the money, exceeding \$145,000, and to pay it over to the claimants, instead of directing the payment to be made to the claimants immediately; and he ordered the duties and the two per centum belonging to the navy pension fund, exceeding \$15,000, to be paid to the clerk, who was to pay it over to the collector, whenever the court

FEBRUARY, 1819.

Arkansas Territory.

H. OF R.

determined the amount due to that officer. It is not perceived why the money was not as secure in the bank as in the hands of the clerk. It appears to have been entirely lost; and, from the papers before the committee, it cannot be discovered that the court has yet determined what amount should be paid to the collector.

Under a sense of the duty imposed upon them, the committee submit these facts and observations, although, in their opinion, they do not furnish any ground for the Constitutional interposition of the House.

Respecting the official conduct of Matthias B. Tallmadge. The committee have not been apprized of any other charge against the official conduct of Judge Tallmadge than his having omitted to hold the terms of the district court for which he was appointed, according to law. It appears that Judge Tallmadge took his seat on the bench as judge of the district of New York on the 16th day of July, 1805. From that time until May, 1810, he held all the stated and regular terms of the court, (excepting that the August term in 1809 was postponed two days,) and held thirty-five special sessions. The May and August terms, 1810, were not held; the November term was held, and he presided at a special court in December of that year. In 1811, the stated terms of February, August, and November, were adjourned without being opened; the May term was held, and special courts also were held in June, October, and November, of that year. The February and May terms of 1812 were not opened, but two special courts were held in May. On the 29th of April, 1812, the act passed authorizing the appointment of an additional judge of the district, and on the 3d of July, 1812, Judge Van Ness, who had been appointed under that act, took his seat on the bench. After that period, Judge Tallmadge held eight stated terms and special courts at New York; two of the special courts with Judge Van Ness. Special courts were held in August, September, October, and December, of that year, and also the stated November term, by Judge Van Ness, who held a special court also in January, 1813. The February and November terms of that year were adjourned, the latter by Judge Tallmadge, the former by Judge Van Ness, who held special courts in March, April, May, June, July, September, and November, and the stated terms in May and August.

On the 9th April, 1814, the district was divided, and Judge Tallmadge was assigned to the northern district. Three stated terms and one special court had been held in the northern part of the State previous to the division in September and October, 1812, by Judge Van Ness. The May, one of the September, and the October terms, in 1813, had been adjourned; a special court was held in June, and one of the September terms in that year was held by Judge Van Ness. No courts appear to have been held in that district after that period, until September, 1814, when Judge Van Ness held the stated term in that month, and also the stated terms in October, 1815, and April, 1817, and a special court in November, 1817. One of the September terms, and the October term of 1814, were adjourned, and also the September term, 1815, and the September and October terms, 1816, and the January and Utica May terms, in 1818. The May terms in 1814 and 1815, the September term, 1815, and the May and September terms, 1816, in that district, entirely failed.

On the 7th September, 1815, and the 21st October 1816, Judge Tallmadge held special courts, and the stated term in October, 1816, at Salem. He held the stated terms in July and October, 1817, a special court in May, 1818, and the stated terms in May, June, and November, 1818.

It appears satisfactorily, from the testimony of several physicians, and of the honorable Nathan Sanford, given on a former inquiry into the conduct of Judge Tallmadge, that in 1810 his health became extremely delicate, and that very great exertion of body, or any unusual agitation of mind, invariably produced severe sickness, so as to disqualify him for any official duties; and that his life was prolonged by visiting a more genial climate in the Winter season.

On entering upon the duties of his office in 1805, Judge Tallmadge encountered a mass of business which had accumulated from the ill health and the death of his predecessor, and from the want of any judge in the court for the time immediately preceding his appointment. The sickness of Judge Patterson, who should have presided in the circuit court, materially increased the labors of the district judge.

The committee are of opinion that there is nothing established in the official conduct of Judge Tallmadge to justify the Constitutional interposition of the House. They have deemed it their duty, however, to present the facts, to enable the House to form an opinion on the merits of the case.

#### ARKANSAS TERRITORY.

The House then resolved itself into a Committee of the Whole, on the bill to provide a Territorial government for the southern part (the Arkansas country) of the Missouri Territory.

Mr. TAYLOR, of New York, moved to amend the bill by inserting a clause (similar to that incorporated, on the motion of Mr. TALLMADGE, in the Missouri bill) to prohibit the existence of slavery in the new Territory.

This motion gave rise to a wide and long-continued debate, covering part of the ground previously occupied on this subject, but differing in part, as the present proposition was to impose a condition on a Territorial government, instead of, as in the former case, to enjoin the adoption of the principle in the constitution of a State, and as it applied to a more southern Territory.

Mr. TAYLOR, of New York, in rising, said he regretted being obliged to vote on this bill with so scanty information. The select committee which reported it, had laid on our table no statement of facts—no census showing the different kinds of population in the territory, nor even the aggregate of all descriptions. The situation and condition of existing settlements are as little known. It, however, is generally understood that the climate and soil are suited to the culture of wheat, corn, cotton, and tobacco. The delegate from Missouri now informs me that the number of inhabitants, exclusive of Indians, may be estimated at 20,000, of which one-tenth are probably slaves. Mr. T. said he was unwilling to allow the introduction of any more slaves: it could not be necessary for agricultural purposes. All the productions before mentioned, could be brought to perfection, and raised in abundance, by freemen. Cotton, and tobacco, for exportation, had



H. OF R.

Arkansas Territory.

FEBRUARY, 1819.

been chiefly produced by the slaveholding States. But is it not reasonable, asked Mr. T., that at least one small portion of our country, capable of growing these staples, should be left open to the enterprise and industry of the North and East. He saw no good reason why that portion of the Union which he had the honor, in part, to represent, should be excluded from participating in this valuable species of agriculture. That such would be the effect of allowing a free introduction of slaves, he had fully demonstrated to the Committee when the bill for the admission of Missouri into the Union was under consideration. Mr. T. said it must be evident from the present ratio of population, as stated by the delegate from Missouri, that the labor of the territory was now performed chiefly by freemen. He hoped this state of things might not only continue, but improve. He therefore, could not consent to render labor disgraceful—to connect it, in public sentiment, with servility, and thereby degrade the condition of laboring men.

The gentleman from Kentucky, (Mr. CLAY,) has asked, said Mr. T., what the people of the South have done, that they are to be proscribed, and had expressed his deep regret at the introduction of this amendment. We, sir, said Mr. T. do not proscribe them; we leave them in the full enjoyment of all their rights; we only forbid them to practise wrongs: we invite them to the territory in question, but we forbid their bringing into it a population which cannot but prove its misfortune and curse; a population which, if once introduced, will fasten like an incubus upon all its energies, and from which it can never be relieved.

I regret, said Mr. T., the pertinacity with which gentlemen maintain their opposition. To my mind the amendment is both reasonable and necessary; and, if the welfare of the territory were alone consulted, I should entertain no doubt of its adoption by an almost universal vote. But other interests are to be protected; and it is said that, as the country was purchased with our common fund, it ought to inure to the common benefit. This, said Mr. T., may be considered a truism; but, unfortunately for the argument of the gentleman who adduced it, it has no application to the case before us. If it were proposed that the proceeds of the public lands in Arkansas should be appropriated to the use of the commonwealth of Massachusetts, the objection would have weight. But, said Mr. T., nothing like it is contemplated. The money to arise from the sale of lands in that territory, as in all others, will go into the National Treasury, and be expended on national objects.

The gentleman from Kentucky, (Mr. CLAY,) has charged us, said Mr. T., with being under the influence of negrophobia. Sir, he mistook his mark. I thank God that the disease mentioned by that gentleman, is unknown to my constituents; and it is because I wish to exclude it from Arkansas, that I have moved this amendment. But, sir, the excitement which this motion has produced, too clearly shows that the negrophobia

does unhappily prevail in another section of this country; that it haunts its subjects in their dreams, and disturbs their waking hours. You, sir, have lately seen its influence on one honorable gentleman, (Mr. COLSTON,) who considered the appearance of a black face in the gallery, pending yesterday's discussion, of sufficient importance to justify a grave address to the Committee, and an animated philippic upon the impropriety of this debate. To such gentlemen it may be "a delicate subject;" but to me I confess it is not. In my estimation, said Mr. T., the delicacy of the subject is lost, and ought to be forgotten in its immense importance. "A delicate subject!" in which is involved the security and happiness of unborn millions; a subject too delicate for discussion!—because our debate may be overheard by a negro in the gallery. Sir, it is a subject vastly important to my children, and the children of my constituents, who shall hereafter emigrate to Arkansas; and, while I have the honor of a seat on this floor, I will discuss it freely whenever public duty, in my judgment, requires it.

The honorable Speaker, said Mr. TAYLOR, has asked, if we wish to coop up our brethren of the slaveholding States, and prevent the extension of their population and wealth. Mr. Chairman, cast your eye on that map; survey the immense and fertile regions which stretch from the Sabine to Georgia; count, if you can, the millions of rich acres in Louisiana, Mississippi, and Alabama, lying uncultivated and waste. If gentlemen wish to disperse their slaves, here is an abundant opening. In all these States, new as they are, slavery has already planted its roots too deep, I fear, to be ever eradicated. With this opening I hope gentlemen will be content. Let them not carry the pestilence beyond the Mississippi, into a country where its existence, as yet, is but little known. Let them agree to the amendment, and every vestige of slavery will soon disappear from the territory in question.

A gentleman from Virginia (Mr. TYLER) has added his lamentations on the existence of slavery in this country to those of his colleagues who preceded him. He informed us, too, that the Legislature of that State had passed resolutions, now in this House, requesting the aid of Congress to mitigate its evils. He nevertheless took care to give notice that he too should vote against the exclusion of slavery from Arkansas. It is not my province, said Mr. T., to question the consistency of any honorable member of this Committee, but certainly, Mr. Chairman, I should not have anticipated such a conclusion, from the evidence before him. If Virginia has found slavery an intolerable burden; if she seek the aid of Congress to alleviate its evils, confessedly too great, and too inveterate for cure; if she deplore the policy by which it was introduced, I should not have expected to find a representative from Virginia legislating for the prosperity of Arkansas, and unwilling to exclude it from that territory.

Another gentleman from Virginia (Mr. HUGH NELSON) has charged us with fighting behind a masked battery. He considers this amendment

FEBRUARY, 1819.

Arkansas Territory.

H. OF R.

as an entering wedge to prepare the way for an attack by Congress on the property of masters in their slaves, in the several States. The charge is unfounded. We know too well the Constitutional powers of this House, and the Constitutional rights of the States, to entertain an idea of such flagrant usurpation. Nay, sir, said Mr. T., we do not propose, even in this territory, over which we have full and undisputed sovereignty, to take from the master his property in a slave—so far from it, that if it be fact that the labor of slaves is there in demand, by prohibiting their further introduction into the territory, that demand will be increased, and the value of such property now there, will be greatly enhanced. The same gentleman, said Mr. T., has expressed an opinion that if our ancestors had maintained the doctrine embraced in the amendment, the Federal Constitution would never have been formed, and he has thought proper to warn us that, if it be persisted in, the confederation will be dissolved. Has it then come to this? Is the preservation of our Union made to depend on the admission of slavery into a territory not belonging to the States when the Constitution was adopted? A territory purchased by Congress, and for which Congress are bound to legislate, with a faithful regard to the public welfare. Are we to be terrified from doing our duty, by threats of disunion and dismemberment? If the day ever arrive when the Representatives of one section of the country shall legislate in this hall under the influence of threats from another, it will be high time for a dissolution of the Union. No, sir, said Mr. T., that honorable gentleman greatly mistakes the people of this country, if he supposes this Union—cemented by so strong interests, necessary to all, and especially to the slaveholding States—sanctified by so much glorious achievement—sanctified by the blood of so many heroes—endeared by victories won with the exertions and treasures of all—that this Union, the preservation of which is the first lesson of hisping infancy, and the last prayer of expiring age—that this Union can ever be destroyed or in the least impaired by promoting the cause of humanity and freedom in America.

But, sir, said Mr. T., the honorable gentleman has mentioned a fact which shows how Virginia herself felt and acted on the subject of slavery, in the Convention of 1787. It was, he informs us, a Representative from Virginia who drew the ordinance excluding slavery from the Northwest Territory. This, said Mr. T., was a noble act—worthy to immortalize the name of Grayson. But alas! His zeal for the rights of man, his love for future generations, his active philanthropy and manly eloquence no longer animate this assembly. Would to God his mantle had fallen on some one of his successors. Then that successor, and not the humble individual who now addresses you, would have introduced this amendment to the consideration of the Committee. He would have supported it by eloquence so powerful, by argument so unanswerable, by pathos so irresistible, that instead of the meagre

majority for which I hope, it would be carried by the united voice of every member.

Mr. Chairman, said Mr. T., I too sensibly feel the value of your time, to proceed in this discussion. I have touched, but with the utmost brevity, the most prominent objections which have been urged against the amendment: less I could not say in justice to myself—much more I ought to say in justice to the subject. The general considerations which I had the honor to suggest, when in committee on the Missouri bill, are equally applicable on the present occasion. I will not repeat them—they are fresh in your recollection. May the future inhabitants of Arkansas approve the decision we now shall make—I ask no more. Let their interests be our guide, and the further introduction of slavery will not contaminate their borders.

Mr. WALKER, of North Carolina, spoke as follows: Mr. Chairman, in taking a view of this subject, let it not be forgotten, that we are legislating in a free country, and for a free people; the importance of the principle now contested, demands our utmost attention and vigilance to the great principles of the Constitution, and particularly to that friendly compromise entered into by the worthy framers of that instrument. It was then conceded that the slaveholding States were to hold an equal portion of policy, and to be entitled to the same advantages as other States in the Union. But it appears by the prohibition and restriction attempted to be made as a condition of admitting new States into the Union, a direct violation of that sacred compact is attempted. The amendment proposed by the gentleman from New York, (Mr. TAYLOR) which prohibits slaves from being taken into the territory of the Arkansas, completely deprives the citizens of the Southern section of the Union from any advantages arising in the Government, or from having either part or lot, or any inheritance, on the west side of the Mississippi. Sir, was it not purchased by the whole United States? Did not the Southern States contribute their full share for that purchase? And are they not morally and politically entitled to equal advantages of the soil? It is to be presumed that a great portion of the population of that territory will be emigrants from the Southern States; they will be disposed to remove to that climate suited to their constitution and habits, or the culture of rice and cotton. Shall they be proscribed, and prohibited from taking their slaves? Sir, if so, your land will be an uncultivated waste—a fruitless soil; it is further south than the 35th degree of latitude, a low and warm country, that will not support a laboring white population.

But, sir, I contend that we have no legitimate power to legislate on the property of the citizens, only to levy taxes. We might, with the same right, prohibit other species of property from crossing the Mississippi. Have not the Southern States yielded to the Eastern States so much of their favorite system of free white population, as to give up and relinquish the new States of Ohio, Indiana, Illinois, and all the vast territory



north of the river Ohio? and shall the slaveholding States be withheld from a small share of the prospective advantages arising in the settlement of this new territory? Gentlemen seem to think that they are serving the cause of humanity effectively, in prohibiting slaves to cross the Mississippi. In this they are mistaken; they are withholding from them the means of all the comfort and happiness their condition affords; that is, food and raiment. It is well known that in the frontier country the servant feeds as his master, and is sufficiently clothed; while in the interior of the old States the means of subsistence is scanty and improvident.

But, sir, the great and radical objection to the amendment proposed, is taking away from the people of this territory the natural and Constitutional right of legislating for themselves, and imposing on them a condition which they may not willingly accept. In organizing a territorial government, and forming a constitution, they and they alone, have the right, and are the proper judges of that policy best adapted to their genius and interest, and it ought to be exclusively left to them. If they wish to exclude slaves from being taken into their territory, they can prohibit them by their own act. If they think proper to admit the emigration of slaves, they can say so. Let them be their own judges, and not force upon them a yoke they may not be willing to bear. The people of the Arkansas and of the West are competent judges of their Constitutional rights, and well know how to appreciate their privileges as freemen; and be assured, the further from your metropolis, the greater the enthusiasm for liberty. Slavery is an evil we have long deplored but cannot cure; it was entailed upon us by our ancestors; it was not our original sin, and we cannot, in our present situation, release ourselves from the embarrassment; and, as it is an evil, the more diffusive, the lighter it will be felt, and the wider it is extended the more equal the proportion of inconvenience. We know, we felt yesterday on the Missouri bill, you have the power; you are the majority; but do not bear us down on this question. I trust that gentlemen will exercise on this vote a spirit of conciliation, and give the Southern States an inheritance among their brethren, by suffering such of us as are disposed to become citizens of the Arkansas to take our slave property with us. Then your lands will be sold; your soil will be cultivated; and your country will flourish.

Mr. McLANE, of Delaware, said he regretted very much the discussion of this subject in its present form, with regard to these territories, calculated as it was to arouse feelings which had long slumbered, and which could never be resuscitated without great danger to that humane object we all had in view. He regretted it the more, because it never was without pain that he found himself compelled to assume even the appearance of opposition to the most enthusiastic notion for the abolition of slavery. With such impressions, he should not have taken any part in the discussion, if the question had not been treated by the

gentleman who has just resumed his seat, (Mr. CUSHMAN) as one of liberty and slavery, an idea he utterly disclaimed; and, with a view of preventing any misconception of the course he felt it his duty to take, he would detain the Committee a short time while he explained the reasons by which he was influenced. Mr. McL. said, he would yield to no gentleman in the House, in his love of freedom, or in his abhorrence of slavery in its mildest form. His earliest education, and the habits of his life, were opposed to the holding of slaves, and the encouragement of slavery. At the same time, he would yield to no gentleman in the House in his regard for the Constitution of his country, and for the peace, safety, and preservation of the Union of these States. To these great objects all minor considerations should give way. He would unite with gentlemen in any course within the pale of the Constitution, for the gradual abolition of slavery in the United States. Beyond this, the oath he had taken as a member of the House, forbade him to go. The fixing of a line on the west of the Mississippi, north of which slavery should not be tolerated, had always been with him a favorite policy, and he hoped the day was not distant when upon principles of fair compromise it might constitutionally be effected. He was apprehensive, however, that the present premature attempt, and the feelings it had elicited, would interpose new and almost insuperable obstacles to the attainment of the end.

Mr. McL. said, that gentlemen had lost sight of the real questions under consideration. They had treated the subject as if we were now deliberating upon the expediency of increasing the slavery in the United States from abroad; or, as if we were to decide whether there should or should not be slavery among us. Sir, if this were the question, there is no gentleman on this floor from the North or South who would hesitate in his opinion. He believed there was no quarter of the country in which slavery is more seriously deplored than in the South. But, it was an evil which existed—it had been unfortunately entailed upon us, and it required the united and dispassionate wisdom of the nation to mitigate its horrors and soften its calamities. The farther increase of slavery from abroad had been prohibited by very severe laws, and we were at this session about to pass others, enforcing their provisions, and repairing their defects. The present question regarded merely the disposition of the slaves among us, and that only in a limited extent. Sir, said Mr. McL., what is the question now before the Committee?

France, by the treaty of April, 1803, ceded to the United States the territory of Louisiana—by certain limits, within which are contained the territories of Missouri and Arkansas, and upon the terms therein specified. At the time of this session there were a number of slaves in both places, belonging to the people inhabiting those territories, and from that time, until now, there has been no inhibition of the transportation of slaves to these territories from those States whose municipal regulations permitted their exportation. From these causes, the number has been increas-

ing daily to the present time, and it is admitted that there is at present a very considerable slave population.

The restrictions which are now proposed, amount, in fact, first, to the emancipation of the present slaves and their issue; and, secondly, to a condition precedent to the admission of these Territories into the Union, as States, that they shall prohibit the introduction of slavery in future from any part of the United States. Under these provisions, persons removing thither with their families, and with the bona fide intention of residing permanently therein, are prohibited from carrying with them this species of property, should they be the owners of any.

I have no doubt that these propositions proceed from the most humane philanthropic motives, and nothing can more gladden the heart than the contemplation of a portion of territory consecrated to freedom, whose soil should never be moistened by the tear of the slave, or degraded by the step of the oppressor or the oppressed. It is a theory which we should be very apt to reduce to practice without even consulting the condition of the present miserable race of slaves in many parts of the United States, if we had the power to do so. But, although Mr. McL. desired the result as sincerely as any man, he was bound to say, that, after a deliberate investigation of the subject, he did not believe that Congress possessed the power to impose the restriction. As it regarded the unfortunate beings now held in slavery in those Territories, he said, he had no more right to provide for their liberation than he had to invade any other species of property whatsoever. Their owners had acquired the legal title to their labor and services, it had become a vested right, and we had no power to disturb it. We had no greater power to take from them their property in these slaves than we had to deprive them of any chattel or other object of ownership. He did not mean to consider the slave as a mere chattel; he viewed him as an ill-fated member of the human race, doomed by a hard and cruel fortune to devote his labor and services to another; he was the subject of the protecting arm of the law, and his life and person were sacred from those outrages which might be committed with impunity upon other articles of property. But, after all, his services and his person belonged to his owner; he was the property of his owner. The man who steals a slave is guilty of felony—this shows him to be property. But, the constitutions of the States in which slavery is tolerated, and the Constitution of the United States, recognise the interest of the owner in his slave as property. The Union of the States is founded upon this principle; and the owner is authorized to reclaim his slave on the ground of property, when he shall have absconded from his service. In many of the States they are liable to be taken in execution and sold for debt, considering them as property. This is the law in the State which I have the honor in part to represent. If we treat them, therefore, as property, and if we even consider it in a limited

sense, that the owner has property in, or right to, the service merely, it is, nevertheless, a right, and we cannot interfere with that right by a mere act of legislation.

What would be said of the Legislature of the State of Delaware, or Maryland, if, by law, they were to declare all the slaves within their territory to be free? Could it be pretended for a moment that they would have any right to do so? The utmost any State has done, has been to say, that, after a certain day, sometime in prospective, the issue of all persons held to slavery shall be free. He would not now discuss this right, though he could not discern how the right to the usufruct of this property could be at all impaired, and, at any rate, in the case alluded to, the owner would be allowed the privilege of removing his slave before the day arrived when the law was to take effect. As it regarded the slaves, at present existing, therefore, we certainly had no power to interfere; and the question was of consequence narrowed down to the simple propositions to prohibit the introduction of slaves in future, and to denying to the inhabitants of those Territories about to become States the right and privilege of deciding for themselves in this particular. It by no means follows that they will not decide to exclude slavery in future; it is quite probable they will find it their interest to do so; but have we the right of taking from them the privilege of judging of their own interest and policy in this respect? To our power to do this, either as regarded the State now to be admitted, or the territory hereafter to become a State, he conscientiously believed the Constitution, and the national compact, to which he would hereafter refer more particularly, opposed an insuperable barrier.

Mr. McL. said he denied that Congress had power to impose any condition upon the admission of a State into the Union impairing its sovereignty. We had a right to require the form and spirit of its Constitution to be Republican, and we had the right to say that we would or would not admit, but we could go no further. We could impose no terms in abridgment of its rights of sovereignty whatsoever, and he protested against the opposite doctrine as leading to the most pernicious consequences. "New States may be admitted by the Congress into this Union." When so admitted they become members of the Union, as the others who have been admitted before them; it is but an addition of another link to the old chain; incurring the same obligations to contribute to the common defence and general welfare, and therefore entitled to the same rights and privileges with the other Confederates. The term "State" imports sovereignty, and the term "State," in relation to the federative system of the United States, imports the same degree of sovereignty as is enjoyed by the States of that Union. It is of the very essence of our Government, that all the States composing the Union should have equal sovereignty. It is the great principle on which the Union reposes—the germ of its duration. How long would this empire



be held together, composed as it is of many parts united together for a common interest, if all those parts were unequal in their privileges, unequal in their rights, but compelled to make an equal contribution to the support of the others? It would be a motley tribe of sovereign and demi-sovereign States—a congregated mass of incoherent particles—disorder and dismemberment would be the inevitable consequence. Besides, sir, a constitution is the charter containing the principles by which men are to be governed in their persons and property—it is the charter of rights of a free people—in its formation, deliberation and freedom of deliberation are necessary ingredients; but, if we are to make their constitution, or prescribe the terms of it, what becomes of the right of deliberation? We dictate the terms ourselves to suit our views, without regard to their interests or condition. In effect, we agree to admit them to be a State if they will consent to be less than a State—to constitute them a member of the Union, if they will agree to give up the rights of judging of the form of government best adapted to their condition. But, sir, what are the limits of this power? If we have the right to impose this condition, what condition have we not a right to impose? The power must be general, or it does not exist. If we have the right to insist upon a stipulation on the part of the new State, not to admit slaves, because it is humane and politic to do so, we would have an equal right to insist upon a stipulation of another kind, if it should also appear to us to be wise and politic; we might prescribe, as a condition, that their right of suffrage should be regulated as we should direct; that their representation should not be as large, in proportion to their population, as other States; that they should not have the benefit of the equality of taxation; that they should surrender to the General Government greater powers, and retain fewer rights, than the other States of the Union had done; or that they should encourage this or that religion, or no religion at all. And, sir, at some future day, when the slaveholding interest, as it has been called, predominates in this body, it might be made a condition, upon the admission of a new State, that slavery should not only be tolerated, but that it should never afterwards be interdicted. Let gentlemen remember, too, that the predominance of this interest is by no means improbable, and that there yet remains a vast, unsettled region, which the future growth of this mighty empire is destined to people and improve. Sir, it is the undoubted right of every people, when admitted to be a State, to become free, sovereign, and independent—free to make their own constitution and laws—to be the judges of their own policy, and free to alter or amend them at pleasure. The moment they are constituted a State, they would have these rights, notwithstanding the condition imposed; and, if they were to present you with a constitution, containing this provision, it would be matter of form only; they could change it immediately afterwards, and abolish the very feature you would desire to retain. The condi-

tion, therefore, would not only be unconstitutional, but useless. We do not possess the political power to enforce it; an attempt to do so would, no doubt, prove abortive as to its object; but it might leave behind it a deep and lasting wound, ranking in the bosom of the State, and finally alienate all their respect for your authority.

But, Mr. Chairman, said Mr. McL., besides the general principles already adverted to, we are not at liberty, as respects this Territory, to consult our power, if we possessed it. We are bound to these people by a compact which forbids us to impose the condition, and we cannot, without a breach of faith, violate that compact. The third article of the treaty of cession provides, that, "The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States—and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess."

This article applies both to Missouri and Arkansas; and, in fact, so do all the arguments already used; for, though the law now to be passed refers to Arkansas as a Territory, yet it will shortly become a State, and the principles derivable from its sovereignty would then apply with equal force. By this treaty, then, we have stipulated to protect the inhabitants of this Territory in the enjoyment of their property, of which their slaves unquestionably formed a part, until they can be incorporated in the union of the United States, that is, until their population shall amount to the number always required to authorize the admission of a State, or until Congress shall pass a law authorizing them to form a constitution. As soon as this is the case, they are to be "incorporated in the union of the United States," and admitted, "according to the principles of the Federal Constitution," to the enjoyment of all the rights, advantages, and immunities of "citizens of the United States." What are these "rights, advantages, and immunities," "according to the principles of the Federal Constitution?" That they shall have the right of holding slaves if they please to do so; that they shall form State governments, with the same rights and immunities of all other State governments; that they shall have the same power to make their municipal laws as any other States, and the same advantages as citizens of the United States. As such, as citizens of the United States, the right to possess slaves is unquestionable. It cannot be doubted that all the States possess this right of admitting or excluding slavery within their jurisdiction, as they may think fit. Pennsylvania and New York possess this right; and, though it is their present policy to exclude slavery, no one can doubt that they would have the right to-morrow, if they thought proper to do so, to alter their policy, and permit the introduction of slavery. The right to hold slaves, and, which is more important as it respects their freedom and sovereignty, the right

to decide whether they will or will not hold them, is as much an immunity and advantage, under our Constitution, as the right to be represented in Congress, or the right to a freedom of religious opinion, or the right to have the slaves accounted a part of their population, in the manner prescribed by the Constitution. We have no more power to impair one than another of these rights.

Sir, we cannot attach too much importance to this treaty, and the rights secured by it. It was the condition of the transfer of the original inhabitants of this Territory, and their possessions, from their former Government to ours. They enjoyed these rights under their old Government, and in the exchange of allegiance they were assured that it should not be lost; that the United States would guaranty them these rights, and protect them in their enjoyment. Strangers as these people were to us and to our institutions, the solemn obligations of the treaty should, on this account, be sacredly observed. We are to win their affections for our Government and Constitution, which can only be done by a sacred regard for their rights and our own obligations. The inhabitants who have since emigrated to this Territory, have gone under the faith of this treaty, relying upon the known good faith of the American Government, for the strict fulfilment of its stipulations. Sir, the prosperity and union of the United States depend upon the honest performance of all the engagements on the part of the Government. The protection to all its members—of the people, of the country—in the enjoyment of their rights, of every description, is the object of the Union. When the disposition to do this effectually ceases, the great chain by which we are connected will cease to bind us. And, sir, if any one or more of the States have a deeper interest in the faithful execution of the principles of our compact, it is the small States, who should be the last to relax the most rigid enforcement of their true spirit and intention.

It does therefore appear to me, Mr. Chairman, said Mr. McL., that we are prevented, both by the principles of our Constitution and the terms of our solemn compact, from imposing this restriction; that, without considering the expediency of the measure, it becomes a conscientious duty (though to some, and to me among others, a painful one) to resist it. And yet, sir, a view of the question of expediency would go very far to mitigate the pain which we might otherwise feel at being unable to gratify our wishes. We have now in the United States a large slave population. It is certain that it cannot be increased by importations from abroad. Their sudden emancipation is utterly impracticable. In their present situation, even a gradual one is almost hopeless. To meliorate their sufferings, and soften the rigors of their servitude, is the most that can be done in many parts of the country. But while they are confined exclusively to the Southern States, owned in large numbers by a single individual, and limited to a single farm, even this change is scarcely to be expected. If, however, they were permitted to be carried by the children

of the Southern planter, when emigrating to the Western country in pursuit of the riches which that fruitful territory holds out to an industrious enterprise—and I would not permit them to be sold by traders, or become the objects of profit—they would by this means become dispersed over a wider field; their condition would necessarily be improved, (for they always thrive and do better when held in small numbers;) and the chances of emancipation would certainly be multiplied in both countries; the number would be less in the South and the West; they would be less formidable to the white population; and in the course of time gradually acquire ease and freedom. In the State from which I have the honor to come, the work of emancipation is rapidly progressing, and, I believe, principally owing to the sparseness of this description of population. Their condition is also better than those further South, from the same cause. There is, however, one view of this part of the subject so nearly allied to the right of Congress to impose the contemplated restriction, that I cannot avoid advert- ing to it. It is said by the gentlemen from the South that this Territory was purchased with the common fund of the nation, to whose benefits all have an equal right; and that, by preventing the Southern planter from carrying his slaves with him when he goes to settle in this Territory, you interdict the emigration from that quarter altogether. Although it is clear that any one State might frame its municipal regulations so as to exclude the introduction of slaves, even by persons removing into it, yet it can scarcely be doubted that the exercise of this right ought to be left to the sound discretion of each State; and we know the policy of different States varies in this particular. In Delaware, persons removing from or into the State are permitted to carry their slaves with them: their introduction and exportation is prohibited only for the purposes of sale. In Pennsylvania it is otherwise. Congress would certainly have no power to interdict the emigration from one State to another; and it is worthy of consideration how far they can do the same by indirect means. I cannot admit the construction of the honorable gentleman from New York (Mr. SPENCER) of the clause of the Constitution which provides that the emigration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited prior to the year 1808. This clause was designed to embrace all classes of people—freemen as well as slaves—coming from abroad. It could not mean to authorize Congress to prohibit the migration from one State to another, because it would conflict with another provision, that citizens of one State shall be entitled to all the privileges of free citizens in another, which secures the right of emigration; and because, if it were designed to vest the power in Congress, it would of necessity, to be available at all, be an exclusive power; but we all see the States constantly exercising it, and they have been in the habit of exercising it ever since the adoption of the Constitution.



On the whole, Mr. Chairman, said Mr. McL., it seems to me that we have no right to impose this restriction; and that, if we had, it would be useless, impracticable, and unavailing. At the same time, I do not mean to abandon the policy to which I alluded in the commencement of my remarks. I think it but fair that both sections of the Union should be accommodated on this subject, with regard to which so much feeling has been manifested. The same great motives of policy which reconciled and harmonized the jarring and discordant elements of our system, originally, and which enabled the framers of our happy Constitution to compromise the different interests, which then prevailed upon this and other subjects, if properly cherished by us, will enable us to achieve similar objects. If we meet upon principles of reciprocity, we cannot fail to do justice to all. It has already been avowed by gentlemen on this floor, from the South and the West, that they will agree upon a line which shall divide the slaveholding from the non-slaveholding States. It is this proposition I am anxious to effect; but I wish to effect it by some compact which shall be binding upon all parties, and all subsequent Legislatures; which cannot be changed, and will not fluctuate with the diversity of feeling and of sentiment to which this Empire in its march must be destined. There is a vast and immense tract of country west of the Mississippi yet to be settled, and intimately connected with the northern section of the Union, upon which this compromise can be effected. Believing as I do that the Constitution and the compact before mentioned will not permit us to extend our policy over the whole, I will be very willing to take as great a part as I can obtain; and in so doing—though I may lament that the humane policy of those who are so anxious to effect this end cannot be more widely diffused—I shall at least enjoy the consciousness of having conformed to the Constitution of the country, and executed the national compacts in good faith.

The motion was advocated by Messrs. TALLMADGE, RIVERMORE, SPENCER, and CUSHMAN; and was opposed by Messrs. CLAY, ROBERTSON, TYLER, HUGH NELSON, STORRS, JOHNSON, of Virginia, BARBOUR, of Virginia, and KINSEY. Several of the gentlemen spoke more than once, and the debate was maintained, with much animation, until near 4 o'clock.

The question was finally taken on the first part of the motion (it having been divided) in the following words:

"That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, of which the party shall have been convicted."

And it was decided in the negative: For the motion 68; against it 80.

The remaining part of the proposition, to declare all the children free after twenty-five years of age, who shall be hereafter born in the Territory, was negatived without a division.

The Committee then proceeded with the bill, and having gone through it, next took up the

## ALABAMA BILL,

For enabling the people of that Territory to form a constitution and State government, and for the admission of the same into the Union on an equal footing with the original States.

Much time was busily employed by the Committee in receiving and disposing of various amendments proposed to the details of this bill, and in considering and deciding on its provisions. Messrs. CROWELL, POINDEXTER, COBB, and others entered into the discussion. The Committee negatived one or two motions to rise, and persevered through the bill; when the Committee rose, and reported both bills to the House, with the amendments made thereto; and at near five o'clock the House adjourned.

THURSDAY, February 18.

A new member, to wit: ROBERT RAYMOND REED, from Georgia, elected to supply the vacancy occasioned by the resignation of John Forsyth, appeared, produced his credentials, was qualified, and took his seat.

Mr. BLOOMFIELD, from the Committee on Revolutionary Pensions, reported a bill, supplementary to "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war;" which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. PLEASANTS, from the Committee on Naval Affairs, to which was referred the bill from the Senate, entitled "An act for the relief of John B. Timberlake," reported the same without amendment, and it was ordered to be read a third time to-morrow.

Mr. REED, of Maryland, moved the House to take into consideration the resolution submitted by him on the 23d ultimo, for the erection of a monument to the memory of the late Major General the Baron de Kalb; which motion was negatived.

Mr. HOLMES submitted the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of providing for the first meeting of the next Congress, at an earlier period than the first Monday of December, and that the committee have leave to report by bill.

The resolution was read, and the question being taken to agree thereto, it was determined in the negative.

On motion of Mr. STORRS, the Committee of Claims were directed to inquire into the propriety of so amending the act for the relief of Major Loring Austin and George R. Wells, as that the Secretary of War shall settle the claim of the said Austin, for eight hundred and twenty-seven dollars and ninety-five cents, instead of the sum of six hundred and seven dollars and twenty-six cents, for his expenses incurred in the defence of the suits therein named; and that the amount to be settled as the like claim for expenses by said Wells, be reduced from the sum of six hundred and eighty-seven dollars and four cents to the

sum of one hundred and seventy-seven dollars and thirty cents.

The bill from the Senate, entitled "An act to regulate the pay of the army when employed on fatigue duty," was read twice, and ordered to be read a third time to-morrow.

Bills from the Senate of the following titles, to wit: An act for the relief of Rees Hill; An act for the relief of Pierre Dennis de la Ronde; An act for the relief of Gabriel Godfroy; An act for the relief of Nathan Ford; An act for the relief of David Henly; An act for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased; An act authorizing the purchase of live oak timber for naval purposes; and, An act to authorize William Prout to institute a bill in equity, before the circuit court for the District of Columbia, against the Commissioner of the Public Buildings, and to direct a defence therein; were severally read the first and second time, and referred, the first, second, third, fourth, and fifth, to the Committee of Claims; the sixth, to the Committee on Pensions and Revolutionary Claims; the seventh, to the Committee on Naval Affairs, and the eighth, to the Committee on the Judiciary.

The bill from the Senate, entitled "An act confirming the claim of Alexander Macomb, to a tract of land in the Territory of Michigan," was read the third time, and passed.

## ARKANSAS TERRITORY.

The House then proceeded to the consideration of the report of the committee on the bill to establish a separate Territorial government in the southern part of the present Missouri Territory.

Mr. TAYLOR moved to amend the same by inserting the following proviso in the bill:

"That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted."

"And that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

The question on this motion being divided, was first taken on agreeing to the first clause thereof, in the following words:

"That the further introduction of slavery, or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted."

And decided in the negative—yeas 70, nays 71, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Folger, Fuller, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Scudder, Seybert, Sher-

wood, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Wallace, Wendover, Whiteside, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Cook, Crawford, Culbreth, Desha, Earl, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Porter, Quarles, Reed of Georgia, Rhea, Robertson, Sawyer, Settle, Shaw, Simpkins, Slocumb, S. Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, and Williams of North Carolina.

So that part of Mr. TAYLOR's motion was decided in the negative.

The question was then taken on the remaining clause of said proposed amendment, in the following words:

"And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years."

And decided in the affirmative—yeas 75, nays 73, as follows:

YEAS—Messrs. Adams, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Elliott, Folger, Fuller, Gilbert, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, J. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Seybert, Sherwood, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Wallace, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of North Carolina, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Abbot, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Cook, Crawford, Cruger, Culbreth, Desha, Earl, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, and Walker of North Carolina.

So that part of Mr. TAYLOR's motion was agreed to.

Mr. WILLIAMS, of North Carolina, then moved



to reconsider the vote just taken. He had voted with the majority, for the purpose of obtaining for himself the privilege of moving a reconsideration, wishing for a full expression of the opinion of the House on this important question, which could not now be obtained, as many members were out of the House.

The question was taken on reconsidering the vote, and decided in the negative—yeas 77, nays 79, as follows:

**YEAS.**—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Desha, Earle, Edwards, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina.

**NAYS.**—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Drake, Folger, Fuller, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herrick, Heister, Hitchcock, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Johnson of Virginia, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteide, Williams of Connecticut, Williams, of New York, and Wilson of Pennsylvania.

The question being then stated on ordering the bill to be engrossed for a third reading—

Mr. BASSETT, deeming every effort called for on the part of the minority on this subject, to sustain their Constitutional rights, which he considered to be assailed in the amendment just adopted, moved that the bill be recommitted to a select committee.

Some conversation took place between Messrs. PINDALL, COLSTON, EDWARDS, SCOTT, LOWNDES, and MILLS, as to the course now most expedient to give the bill; in the course of which,

Mr. LOWNDES moved that the bill be laid on the table, stating at the same time that, to prevent its being called up, and decided by surprise, he should, at 12 o'clock to-morrow, move for a call of the House, and take up the bill for a decision. This motion prevailed, and

The bill was laid on the table.  
The House next took up the amendments reported by the Committee of the Whole to the

bill from the Senate, to authorize a State government in the Territory of Alabama, and for its admission into the Union.

The amendments were concurred in by the House, and, after an ineffectual attempt by Mr. CROWELL further to amend one of the sections, were ordered to be engrossed, and, with the bill, read a third time.

#### BANK OF THE UNITED STATES.

The House then resolved itself into a Committee of the Whole, (Mr. H. NELSON in the chair,) on the state of the Union, to whom had been referred the report of the committee appointed to investigate the affairs of the bank, the conditional restrictions subsequently submitted by Mr. SPENCER, the resolution absolutely to repeal the charter, submitted by Mr. JOHNSON, of Virginia, and that offered by Mr. TRIMBLE, to issue a scire facias.

The particular subject first in order was the bill reported by the bank committee to enforce the provisions of the act incorporating the bank, and it was accordingly announced by the Chairman.

Mr. JOHNSON, of Virginia, observed that, as there were two other propositions before the Committee, the adoption of either of which would supersede the necessity of acting on the bill, he thought it would be the preferable course first to take up for consideration one of those propositions; and he moved that the Committee proceed to consider the resolution moved on the 9th instant by himself, in the following words:

*Resolved*, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled 'An act to incorporate the subscribers to the Bank of the United States, passed April 10, 1816.'

The Committee agreed to take up this resolution, which was read.

Mr. SPENCER rose, and stated that he owed it to the civility of Mr. JOHNSON, that, in violating the usual custom on such occasions, which allowed the mover of a proposition to commence its discussion, he was sanctioned by the assent of Mr. JOHNSON. Mr. S. begged leave to remind the Committee that there were three distinct propositions before it: the first was the resolution of the gentleman from Virginia, (Mr. JOHNSON,) the second was that he had the honor of submitting some days since, directing the issuing a scire facias, if the bank did not, on a certain day, express its assent to a modification of its charter; and the third was the resolution of his friend from Kentucky, (Mr. TRIMBLE,) directing a scire facias absolutely and unconditionally. Mr. S. observed that he should prefer a modification of the charter, even if it should, by some, be esteemed a new compact, to the total destruction of the bank, with the views and apprehensions he entertained at present of the consequences of such a measure. If the Committee should reach the resolution he had submitted, it was his intention to modify it, in some respects, particularly to omit the third proposition, which proposed giving the President the power of removing any

director, and he should in other respects amend his propositions, as time and reflection had enabled him, he thought, to improve them. And, if the Committee should reach the bill reported by the select committee, Mr. S. observed, he should, with the approbation of the gentlemen composing that committee, submit an amendment which would require the stockholders, constituting an attorney to vote for them, to swear to their ownership of the stock. Mr. S. thought it proper to apprise the Committee of these intentions, that the subject might be fairly considered. For the reason before stated, Mr. S. said, he should at present vote against the resolution for the repeal of the charter, and against that directing the issuing of a scire facias; but, if he should not succeed in at least the plan of the propositions he had submitted, although he should not be tenacious of each particular one, he should feel it his duty to vote for a scire facias unconditionally.

Mr. S. proceeded to make explanations of some expressions in the report. The remark, that "the principal business of the bank certainly has been to discount on notes secured by a pledge of stock," was liable to misconception. The expression used does not convey the meaning of the committee; it was either an inadvertence in the draught, or an error in copying; he believed the expression originally was, "a principal part of the business," &c., and it was intended to confine the remark to the business of the bank at Philadelphia, which was sometimes loosely designated as *the bank*. With respect to the bank and all its offices, it would appear that about one-fourth had uniformly been discounted on pledged stock; while at Philadelphia the discounts on stock had frequently very nearly equalled those on personal security. With regard to the expression, in the close of the report, that, "whatever differences of opinion can exist among them (the committee) as to the result and inferences to be drawn from the facts stated, they unanimously concur in giving to the preceding statements of facts, and abstracts of documents their sanction," Mr. S. observed that he thought the expression sufficiently precise, but he understood it was liable to a misconception. When inferences were mingled with facts, the unanimous sanction did not extend to these inferences; but that, in all cases wherever a fact was definitely stated, the committee meant to sanction it. Mr. S. remarked, that the report had been prepared at a time of severe indisposition, and when the committee had been fatigued and almost exhausted with labor, and he should not be surprised if many erroneous expressions were found in it.

Mr. JOHNSON, of Virginia, rose in support of his motion. The circumstances, said he, by which we are now surrounded, are different, very different, indeed, from those by which we were cheered at the commencement of the present session of Congress. All then was peace, tranquillity, harmony, and prosperity. The President of the United States gave to this House, and to the nation, a picture of our national felicity, truly interesting and flattering. The people of the

United States were represented as more prosperous and happy than at any former period of their existence; as infinitely more prosperous and happy, than any other people on the face of the globe. What, now, is our condition? Surrounded by one universal gloom. We are met by the tears of the widow and the orphan. Pictures of highly wrought suffering, of misery, and of distress, are crowded upon us. Our sympathies are assailed. We are pointed to the Bank of the United States, and gravely told, that destroy but this corporation, and you dissolve the charm which secures to the people of this nation prosperity and happiness. And is it possible, said Mr. J., that the ten millions of people in this country depend for their prosperity, their happiness, and their repose, on the conduct of the directors of this bank? This corporation, which by its very first act put our authority at defiance, by the first step which it took, violated the charter which created it. Sir, I should consider this country in the most deplorable, the most melancholy condition, if the proposition be true, that by the act to incorporate the subscribers to this bank, which gives them exclusive privileges for twenty years, we enable them to direct the destinies of this nation, and make it happy or miserable as they shall choose. And what, he asked, had been the course of conduct pursued by a majority of the directors? Had they pursued that course which the public interests pointed out, or had they been engaged in practising fraud and corruption; in the prostration of all those principles which he considered as most interesting and most valuable to this country? I will not presume, said Mr. J., that any member of this House has taken less pains than I have done, in the examination of the facts disclosed by the report of the select committee appointed to investigate the conduct of the directors of the Bank of the United States. Has any gentleman, he continued, read the affidavits of Dennis A. Smith and James W. McCulloh, who entertains a doubt as to the facts established by their testimony? What does their evidence establish? Not that the public interest, or that the public good has been the object of a majority of the directors of this institution, but that the interest of a few large favored stockholders has been the constant and steady object of their pursuit. What were the means used to obtain the complete control of this bank? The charter was violated; shares were split up and taken in the names of individuals not interested in them, to enable the persons really owning them to give as proxies a much larger number of votes than, according to the fundamental rules of the charter, they were authorized to give, on the choice of directors, in order to obtain an undue preponderance at the board. This was known to the judges of the election. What was the next course adopted to secure completely the interest of this favored class? I know not, said Mr. J., how to speak of it, or of individuals who are not present to respond to me. In what terms shall I describe the conduct of the president of the bank? There was a transfer to him of \$15,000, not in stock;



both witnesses concur in stating that the stock was not transferred to him; that he paid nothing for it; that it was a transfer of money, of profit made on stock purchased and held by a few interested individuals, large stockholders, who sold 1,000 shares of the stock held by them for a profit of \$15,000, and paid to Mr. Jones, in money, the amount of this speculation. Shall we call this a *douceur*, a present, or shall we give it a harsher name? These moneyed speculators, said Mr. J., who have an eagle eye to their interest, and pursue it with an appetite as keen as death, are not in the habit of making presents to this amount without some adequate and interested view. Having pursued the course necessary to secure to them a convenient weight and influence in the direction, it became necessary to approach the president, to touch his pulse, to soften his heart, and fix him securely in their interest. In what light shall these honorable stockholders be viewed? Shall I be permitted to apply to them the doctrine held on a late interesting and important subject—that the instigator to bad actions is worse than the actor; that he who places in the hands of the assassin the dagger, to be plunged into the bosom of innocence, is worse than the murderer? And what has been the consequence of all this art, this management? A few individuals have been enriched at the expense of the innocent and the honest. This shaving institution—has it really, said Mr. J., any claim on the justice or the liberality of this House, or of this nation? No; justice hides her face; she wishes not to look at the black catalogue of iniquities which this institution presents; humanity would gladly drop the tear of oblivion on the sickening scene. Mr. J. said he could not speak of this subject in the way it deserved, but would proceed as well as he was able.

Has this corporation, said Mr. J., by all the acts of which it has been guilty, by the division of votes, by the evasion of the second specie instalment, by the judges of the first and second elections allowing many persons to give more than thirty votes each, under the pretence of their being attorneys for others, in whose names shares then stood—when those judges, the directors, and officers of the bank perfectly well knew that the shares really belonged to the persons offering to vote upon them as attorneys—forfeited its charter? If the charter was forfeited, what, he asked, was the remedy which it was proper to apply? What the course proper for this House to pursue? Here a difficulty presented itself. The Congress of the United States, as he contended, without authority, and contrary to the Constitution, had created this corporation, which could not be tested by the application of the principle of any known system of laws in the world. Shall we, said Mr. J., refer this charter to the standard of the civil or the common law? The Roman law is represented to be the source of incorporation—according to which law, a voluntary association of individuals, at any time, or for any purpose, was capable of producing it. In England, whence our notions of it are immediately

borrowed, it seems part of the Executive authority. The King, by his letters patent, creates corporations. Shall we, then, decide this question by the Roman or by the common law? I ask, said Mr. J., if either of these codes be in force in the United States? If he were not deceived by his memory, the Supreme Court had solemnly decided that the common law of England was not in force in the United States. He understood the Supreme Court as having settled that question; but, if not settled, Mr. J. said he should still contend, and felt himself prepared to prove, that the common law of England was not the law of the United States. The first settlers of this country, Mr. J. said, fled from the civil and religious persecutions of England, of Europe; they sought here that independence and happiness which had been denied them in the countries which gave them birth. In this new world, on this expanded continent, they found themselves as free from the shackles and despotic systems of Europe, as the winds and the waves which wafted them hither. They were capable of adopting any system of laws which they thought proper to select. With regret, he had heard it said in this House, that our ancestors brought with them the principles of the common law; that it was their birthright and inheritance—a sort of heirloom. This he denied, and contended that they came here free from all municipal laws but such as they chose to adopt. True, many principles of the common law were adopted by the first settlers, from choice, because they were best known to them. This was natural. But what was the course adopted after the Revolution, which surely dissolved all the charms of this boasted system of British jurisprudence, and left the people of the United States, as a nation, free to choose such system of law as they pleased? Look at all the legislation of the States after the Revolution, and after their respective constitutions went into operation; they adopted for their own municipal regulations such portions of the common law as were applicable to their situation, not contrary to their bills of rights and constitutions, and not local to the kingdom of Great Britain. Many years after the State governments had been in successful operation, when the principles of liberty and free government were well known and clearly and distinctly understood by the people of this country, the present Constitution of the United States was adopted. The people of the United States, by this instrument, which is an original, social, written compact, freely and voluntarily entered into by the contracting parties, in which all the powers of the Government are expressly enumerated and clearly defined, which had for its object the union and harmony of the States, their security against domestic disquiet and foreign aggression and danger, to regulate the intercourse of the States with each other, and with foreign nations, adopted for national and general objects, and not with a view to local and municipal regulations. Have the United States or the legislative power of the United States, Mr. J. asked, by any act, declared the principles of

the common law to be in force in the United States? They are certainly not recognised by the Constitution of the United States. The principles of that law, he said, were not suited to such a Government as ours. They were generally of a character strictly municipal; they had never been adopted by legislative enactment; they had never been adopted by the only branch of the Government capable of giving law to the people of this country, as a nation—the Congress of the United States. We therefore, said Mr. J., have neither the common law nor the civil law, by which to test this charter.

But, sir, said Mr. J., we have the charter before us. Let us apply the fundamental rules of the charter, under the guidance of reason and common sense, to the conduct of this corporation. Those rules which, at its creation, were imposed on it, to govern and direct its course, without a due observance and obedience to which rules it must cease to exist. This charter has been violated; and the question now occurs, has Congress the power, the moral power, to repeal the charter, or must the question be submitted to the judiciary? Is the provision in the act of incorporation which provides the remedy by *scire facias* for breaches of the charter obligatory on the Congress of the United States? Cannot the power which created this corporation dissolve it? Can the faith of this nation be pledged by an act which is contrary to the Constitution of the country? Can this corporation surrender its charter? To whom would the surrender be made? Would it be to a member of the judiciary, or to a court, in session? If so, to which member, or to which of the Federal courts? Or would the surrender be made to the Congress of the United States? He humbly conceived that the corporation had the right to surrender its charter; that the surrender, if made, must be to the power by which it was created. He presumed that it would be conceded to him, that the individual members composing the corporation had the power and the right to dissolve it. Put the case, that they failed or refused to elect directors, by what process could they be coerced or compelled to perform this duty? Some member had suggested that a mandamus might be awarded. What, resort to a mandamus against an individual? Who would sue out the process? Such a process was sometimes resorted to by a superior court to compel an inferior court to discharge its duty. But it was the first time that he had heard of suing out a mandamus against an individual. If the members of this corporation neglected or refused to appoint directors, it would, as a necessary consequence, be dissolved. Mr. J. asked if this institution—if its members—had power over its duration and legal existence which Congress had not? Had they created a power greater than the creator? Had not the power which spoke this charter into existence also the power to destroy it? Mr. J. denied that a precedent Legislature could, by any act, bind its successors; contended that it was at all times competent for a legislative body to repeal the

acts of its predecessors. That this Congress, that this House, would always be actuated by the strictest regard to propriety—to the immutable principles of justice—was fair, was proper to presume. But that it ought never to be restrained from repealing any of its own acts, or those of its predecessors, when the welfare and happiness of the people required such repeal; or from dissolving any corporation, or supposed corporation, which claimed to exist by some law of the United States, when that very law had been grossly and palpably violated. He considered the right clear and indisputable. Is it expedient, under existing circumstances, to exercise this right? He considered the policy equally clear and indisputable. He understood the bank was now able to pay all its debts, and to meet all its engagements. The claims of innocent stockholders can now be secured; they can now be protected from injury, if the corporation be immediately dissolved. Permit it to go on, judging from its past conduct, no man can tell what will be the result. If, in the three first years of its existence, it be convicted of such misuse and abuse of its powers; if, during that period, the whole tenor of its conduct be marked with acts of the most glaring impropriety; and if it be permitted to escape with impunity, who can estimate the consequences? Will it not hereafter put the power of this House at defiance? What reliance could be placed on the directors of the Government? From the report of the committee of investigation, it would be found that they, or a portion of them, had been guilty of as many violations of their duty as the private directors, and characterized by the same culpable regard for their individual interests, at the expense of the institution, and of the small and innocent stockholders. A due regard for the interests of the small and innocent stockholders would induce him to give his vote for the repeal of the charter. Let the corporation continue, and the interests of this class will still be sacrificed to the interests and views of the large and influential stockholders. He would, then, secure the innocent by dissolving the charter; and they would, moreover, Mr. J. contended, have another security; for he held it a clear principle, that the president and directors were responsible, in their private fortunes, for all their iniquitous and fraudulent acts, to those who had sustained injury; that the injured party had a clear remedy. These directors had undertaken to negotiate for specie in Europe. The necessity to resort to this mode of procuring the specie part of the capital, was the result of mismanagement—of abuse of their powers—of a violation of their charter—of an inordinate thirst for wealth—of an ill-judged desire to put their machine into motion. By evading the payment on the part of the favored stockholders of the second specie instalment, this negotiation was rendered necessary. How was this business conducted? On principles of equity and justice? No, sir. An agent was sent to Europe to purchase specie; the contract was negotiated, and the specie delivered in this country, at an expense



H. OF R.

*Bank of the United States.*

FEBRUARY, 1819.

to the bank of \$525,297 38; an expense which resulted from mismanagement, and a fraudulent and culpable system of favoritism, extended to the large stockholders. Mr. J. said, as the large stockholders received indulgences and benefits, which made the expenditure of this sum necessary; it ought to have fallen exclusively on them, and not equally on the innocent stockholders, and the Government, which appears to have been the fact. And this act rendered necessary by a total disregard of the fundamental articles of the charter, and for the purposes of individual speculation, was one for which the directors claimed credit from the nation. Those humane gentlemen, said Mr. J., who have such claims on our justice; those artful gentlemen who can divide thirty shares so ingeniously as to enable them to give almost as many thousand votes; who can now weep for the widow and the orphan, who will be ruined by the dissolution of this charter; who had hearts as hard as stone when in pursuit of their favorite object, their idol, and their god—money; who, to obtain that desired and loved object, wealth, and its concomitants, power and influence, would have feasted on the blood, and battered on the bones of those for whom they now affect so much sympathy and sorrow; those disinterested, compassionate, highminded, honorable gentlemen, who could soften their president by a douceur of \$15,000; those gentlemen, who, we are told, have strong claims on the forbearance of this House. Mr. J. regretted that this picture, this horrid picture, would be seen not only in this country, but would necessarily be presented, in all its deformity, to the gaze of the world. It would attract the eyes of all nations to the United States. That country which heretofore had claimed, and received, so much credit for the purity of its character; that country which we have been told is still so prosperous and so happy, in the forty-third year of its age, to have produced a monster of fraud and corruption without parallel. Even England, bad as he believed her, could not furnish an institution more distinguished for adroitness in swindling and fraud than this corporation. Sir, all Europe will point the steady finger of scorn at this grand shaving shop.

Mr. J. called the attention of the Committee to the struggle which was made to recharter the old Bank of the United States, and the arguments which were used on that occasion. He adverted to the feelings which were imparted to the General Assembly of Virginia, when a letter was received from Mr. Giles, a Senator from that State, on the subject of his instructions to vote against the renewal of the charter of the bank. Mr. J. said he opposed the reading of that letter; but curiosity prevailed—it was read. It seemed to him, Mr. J. said, that all acts were referred to the standard of motive. All actions appeared to be traced to some motive of interest or design. Instead of looking to the one single and grand motive which ought to be presumed to animate all in this House, the ardent and pure desire to promote the public interest and happiness,

there appeared to be an effort to attribute motives much less noble, honorable, and disinterested. He could not but believe that those who sought with so much solicitude to establish impure motives, were beguiled and led astray, by glancing at the mirror which reflected the motives of their own bosoms.

Mr. J. said, he disliked to speak of himself: he would, however, to avoid the imputation of any interested or undue influence, take this occasion to remark, that he had, on all occasions, voted against the incorporation of banks; that he voted against the charter of the Farmers' Bank of Virginia—the extension of the charter of the Old Bank of Virginia; that he was not a stockholder, nor ever had been a stockholder, in any; that he had never applied for, nor received, any species of accommodation from any bank whatever.

During the late war, at a period when the Treasury was empty; when the energy of the nation appeared to be paralyzed; when ruin seemed to stare us in the face, we were told, he said, that we must have a National Bank; that without it the war could not be prosecuted—the soldiers could not be fed, or clothed, or paid, to fight the battles of the country. Great efforts were made; a bank charter was successfully carried through both Houses of Congress, and presented to the President of the United States, for his signature. Surrounded, as he was, by all the gloomy circumstances of the day, Mr. Madison returned the charter, on the express ground that it did not provide sufficiently for the interest of the Government. The Constitutional difficulties were removed from his mind; the subject had been adjudicated, and put to rest. What was the consequence? Some Republican gentlemen, Mr. J. said, now within the sound of his voice, must recollect the course pursued. A meeting was had by the Republican members of Congress, in order to agree upon principles, to determine upon a charter which would be acceptable to the then President of the United States. Before this compromise of opinion could take place; before a new and unexceptionable charter could be manufactured, the messenger of peace came, with healing in his wings. Nothing more was done at that session of Congress, on the subject. The nation's joy was testified, at the seat of Government, by illuminations and bonfires. The solemn farce performed, of illuminating the monuments of our disgrace, the evidences of the vandalism and barbarism of our enemy. Every window in the city was gaily illuminated, and the ruin and desolation of the Capitol and other public buildings and edifices rendered more strikingly conspicuous by this extravagant evidence of joy at the return of a peace which the prowess of the nation had achieved.

But, Mr. Madison's objections produced at the succeeding Congress another experiment, which proved more fortunate, not for the nation, but for the interests of speculators. The charter to the existing bank was obtained. Nothing, Mr. J. said, did he more sincerely regret than that Mr. Madison should have put his signature to

FEBRUARY, 1819.

*Bank of the United States.*

H. OF R.

such an act. That honest, that respectable, enlightened, and patriotic statesman, who had so long and so faithfully served his country, had, in this single instance, cast a shade on the hitherto bright and unclouded orbit, in which he had moved. Mr. J. said, it was extremely painful to him to refer to any act of that distinguished statesman, who had retired to private life, in any other terms than those of respect and approbation. Nor would he on this occasion have done so, except from a sense of duty; and with a view to the history of the banks of the United States, which he felt himself bound to give.

When the question first arose in this country, continued Mr. J., as to the powers of Congress to incorporate a National Bank, the wisest men in the nation differed in opinion on the Constitutional powers of the Government to create such corporation. General Washington himself, as appeared from the history of that day, labored under great difficulty—he called for the opinions of his secretaries, and doubted, and doubted, until the time had almost elapsed, which would have made the act of incorporation a law, without his signature. The difficulties and doubts which at that time surrounded the mind of the Chief Magistrate, produced a most elaborate and able investigation into the Constitutional powers of Congress to create corporations. We have not only the opinions, but the testimony of two of the most enlightened men of any age or country, Mr. Jefferson and Mr. Madison, on the Constitutional question, whether Congress has the power to incorporate a National Bank? Mr. Jefferson's opinion and testimony will be found in the written opinion given by him to General Washington on the question. In the year 1791, Mr. Madison, in a very eloquent speech delivered in Congress, stated the following important fact, speaking of the power to incorporate a bank. "This power was proposed to be vested in Congress, in the original plan reported by the committee of the convention, among the enumeration of powers which now form the 8th section of the 1st article, but that, after three days ardent debate, on the special subject, in that body, the power was rejected and stricken out, upon the principle that it was a power improper to be vested in the General Government." Mr. J. said, that he was aware that an instrument of writing might convey more or less power than was intended by the contracting parties—that this result might be produced from the want of sufficient accuracy and precision in the terms used.

Such a charge, he presumed, could scarcely exist in reference to the Constitution of the United States. He denied that by a fair and clear deduction; that by any rational construction, this power could be derived from the Constitution. It did not belong to any of the enumerated powers. Nor was it fairly referable to any of the implied or resulting powers of the Government. He did not mean to enter on the discussion of the Constitutional powers of the Congress of the United States to create corporations, or to

15th CON. 2d Sess.—40

charter a National Bank. But, he demanded of those who held the affirmative proposition to establish, by clear and indisputable reasoning, that the bank had been constitutionally established—or, that the faith of the Government could be pledged by an act not sanctioned by the Constitution. The act of incorporation, he said, was a dead letter; it was worse—it was an act of usurpation. It was idle to talk of the faith of the Government being pledged to sustain it.

How, then, Mr. J. asked, did the question present itself? The Supreme Court, as he had before remarked, had declared the common law not to be the law of the United States; and, consequently, in making the inquiry, whether forfeiture had been incurred by this corporation of its charter, the question could not be tested or settled by the application of the principles of this system of law. According to the settled and well established principles of the common law, settled by frequent adjudications, no doubt can exist that the charter of the Bank of the United States is forfeited. In support of this doctrine, he begged leave to refer to the case of the King against the city of London, and the cases there cited. And, said Mr. J., after the disclosures which have been made, will the House permit this violated act to remain on the Statute Book a disgrace to the nation? Are we, said he, not to support the Constitution; and can the immaculate and patriotic gamblers in this bank induce us, for a single moment, to prolong an act which violates this instrument?

Mr. J. said, if this proposition to repeal the charter should be negatived, he could not vote for the bill reported by the bank committee, as he should, by so doing, recognise the legal existence of the bank. This, according to his most solemn convictions, would amount to a violation of his oath. He trusted there would be neither difficulty nor hesitation in putting down this corporation. He hoped in God his country would not present the melancholy, the degraded picture, sketched by the masterhand of Byron, when surrounded by the gloom resulting from a view of the glorious decay and splendid ruins of Rome.

"There is the moral of all human tales,

"Tis but the same rehearsal of the past;

First freedom, and then glory—when that fails,  
Wealth, vice, corruption—barbarism at last."

We had enjoyed the blessings of freedom. We had had a reasonable share of glory. Our arms had been triumphant on the land and on the ocean. All seemed animated, now, by the desire to accumulate wealth. He hoped the nation would still pause, and reflect, seriously reflect, on the consequences of changing the pursuit of a national character, distinguished by liberality, magnanimity, and honor, for the sordid pursuit of wealth, at the expense of vice and corruption. Mr. J. said, he had hoped much from the fair destinies of this nation, but those would be marred and destroyed, if a miserable corporation could hold the Government in check, influence its operations, plunge it into corruption, or cover it with vice and shame whenever it should please.



Mr. PINDALL, of Virginia, took the floor. He was confident, he said, that the House, as well as himself, was willing to acknowledge its gratitude to the honorable members of the select committee, who, by a laborious and deep investigation of the affairs of the National Bank, had been enabled to present to our view an elaborate statement of facts, not less interesting to the nation than important with regard to their consequences. But, whilst he remained sensible of the exalted merit of the committee, he would claim the privilege of judging for himself, by deducing his own conclusions from the facts contained in the report, and, in so doing, he would frankly acknowledge that the report sought to inculcate a principle to which he was unable to subscribe. The committee had asserted, that there might be many violations of the bank charter, which should not be considered as producing a forfeiture. Against the assumption of such principle, Mr. P. would take leave to enter his decided protest. The Legislature had enacted certain fundamental rules, to which this bank corporation was bound to conform, and, by infracting those fundamental canons, the corporation violated its charter, and thereby incurred a forfeiture of that charter. He was not prepared to say, that this House would always feel itself disposed to enforce a forfeiture for every violation of the charter, as a departure from the terms of the law might possibly be imagined, under circumstances which would induce the Legislature to commiserate the institution, or excuse the error, but he would contend, that every palpable violation of the fundamental principles of the institution would subject it to the discretion and mercy of the National Legislature (the author of its existence) which would decide on the justice and policy of enforcing the forfeiture, or excusing this offence. The select committee had supposed that some violations of the charter would induce its forfeiture, whilst other violations would not produce that effect, and, among the former, the committee had classed those violations which defeated the very objects of the institution, as expressed in the charter itself. But, it was evident, this sort of indefinite classification could afford no aid to our investigation. There was no preamble to the act of incorporation expressive of the objects of the institution. One gentleman would see, in one given violation of charter, a prostration of the objects of the institution, whilst other gentlemen, attaching less magnitude to the same crime, would look in a different avenue to find what are called the objects of the institution, and, in that predicament of vexation and perplexity, it would be seen that neither the Legislature nor the honorable select committee had been kind enough to furnish a thermometer for the true admeasurement of the objects of the incorporation. In relation, however, to one circumstance, there could arise no difficulty of opinion. Certain principles were prescribed for the control and government of the corporation, which had been dignified by the Legislature as fundamental rules and articles, and it would be equally manifest that, whensoever the corporation transcended those

fundamentals, it departed from the orbit within which Congress had confined its operations.

I will now, (said Mr. P.) pray the House to accompany me, in the review of another part of the report, where will be found a feature, which cannot fail to excite in the House a degree of regret and disappointment. The report manifests that the honorable committee have deemed themselves clothed with authority to pass an unqualified censure upon the conduct of the State banks. Gentlemen are now invited to show the power of the committee to investigate the concerns or proceedings of State banks, with which it would seem the violation or non-violation of the charter of the United States Bank had no connexion. With the most profound respect for the motives and talents of the committee, I must assume the liberty of declaring that I consider this public and official condemnation of the respectable banks, which pervade the respective States, as ill-timed and unjust—as produced by the statements, and probably partial complaints of their formidable rival, who was fully heard by the committee, whilst the many respectable State institutions have incurred a heavy and cruel censure, without being summoned, or having any opportunity, to be heard in their defence. This subject, however, has been presented to us by the report, and must, therefore, demand the attention which seems due to its importance. I am sensible that the House would not, at this late day, relish a discussion of the remote and complicated causes which led the way to a suspension of specie payments by the State banks, during the late war; topics that have given birth to arguments, or rather disputes, by which public patience has been long since exhausted. Yet, there were some circumstances connected with the suspension of bank payments, with regard to which there could exist no difference of opinion. It is deemed proper to remind the House of these circumstances, the uncertainty of which will beguile us into no disputation, although their remembrance may enable us to account, in some measure, for our present embarrassment. It is certain, that, previous to the close of the late war, the disorder of the currency distressed the community, and imposed an evil not only on every quarter of the country, but afflicted almost every operation of trade. It is equally certain that the superabundant issue of bills by the moneyed corporations of the States, coeval with, and after the suspension of specie payments, produced the disorder in the state of the currency. If it be charged, that the State banks, in their over issues of paper, were prompted by an unwarrantable thirst of gain, I would not feel myself authorized to make a total denial of the charge, nor find it necessary to contend, that those banks were exempt from the prevalent appetite which has since so remarkably characterized the Bank of the United States, and which seems more or less to guide the deliberations of all corporations of trade. In truth, it may be affirmed that the spirit which instigated or enticed the commercial classes of our community to overtrade their means, insinuated itself into the coun-

ing rooms of the banks, and prompted them, also, to exertions scarcely compatible with the maxims of prudence. But, sir, can this House, as a branch of the national Government, criticise the transgressions of the banks without a melancholy pang, in reflecting that this Government has also participated in those transgressions, or at least promoted them, by the extraordinary credit which is solicited and almost demanded, from those institutions. The eighty millions of dollars, which the Government found itself under the necessity of borrowing, from the year 1812 to 1815, inclusive, were drawn from these corporations, in bank notes and bank credits. The Government, engaged in the prosecution of a just war, found it absolutely necessary to raise, for its current service, enormous sums of money, and, at the same time, saw the utter impossibility of acquiring the funds, without the aid of the State banks. It, therefore, resorted to means of temptation adapted to conquer the most stubborn prudence on the part of the banks. Not only ordinary interest and premiums of bargain were offered, but acts were passed authorizing the disbursement of bounties or bribes to brokers and agents, who would, on the part of Government, persuade the banks to advance their paper and credit. Even the wholesome restraints in the charters of the banks of the District of Columbia, those prudent limitations of their discretion, previously imposed by the National Government itself, (their legitimate guardian,) were loosened, and they too were authorized, invited and enticed, to issue paper for Government loans. The ardent solicitude of Government, that the banks should stretch their credit to its utmost extension; the appointment of several of those banks, as the receivers and depositories of the public revenue; an invitation to nearly all the local banks, to open their vaults to receive the public taxes, and proceeds of the sales of public lands most contiguous to them, (which seemed to imply a confidence on the part of Government, indicating its disposition to support these banks with its powers and vast resources)—all these considerations, I say, had their due weight in influencing the liberality of the banks, who already perceived the promotion of their own interests in accepting the contracts for the heavy loans, so essential to the operations of the country.

Our Government, then, as well as the speculating merchant, contributed to produce the evil of a disordered and depreciated currency. But, in April, 1816, when the act to incorporate the United States Bank, passed, this disease in the national currency had begun to work its own cure; in proof of which, I must take leave to remind gentlemen of some of the events of that epoch. It will not be forgotten, that, at and previous to April, 1816, several of the banks had ceased to discount for new customers, and could with great difficulty be prevailed on to renew the outstanding loans then existing, whilst other banks had commenced a gradual curtailment of their loans, with a view to meet the period of a resumption of specie payments. The circumstance of the

great depreciation of some bank bills, and the inconsiderable depreciation, or par value, of others, mentioned in the report of the select committee, indicated the decline of credulity with respect to the paper system, as well as a public relish of discrimination between banks of solid and spurious capitals. The State Legislatures, also, the authors and guardians of the local banks, had entered upon an exertion of their proper and visitatorial powers over these institutions, and were hastening the return of specie payments, by compelling the banks immediately, or at fixed periods, to redeem their paper in specie. At this juncture of convalescence of the paper currency, when the danger and dread of war was gone, and when our Government found it unnecessary to importune the State banks for further loans, the projectors of the United States Bank urged the National Government to call into existence a mighty corporation, to overawe and correct the local institutions, that had dealt themselves almost out of breath in supporting the Government in times of peril and adversity. It was in April, 1816, when these local banks were contemplating, and the public anticipating, the restoration of the age of hard money, and only hesitated on the deficiency of the quantity of specie in the country, that the General Government determined to cure a disordered currency by the establishment of a national bank; or, in other words, to create an artificial demand in the market for seven millions of dollars, specie, which, although done with the ostensible view of inducing the local banks to resume specie payments, would of necessity protract that event, by increasing the danger of opening their vaults to the prodigious demand for dollars to fill the coffers of the new bank. It is almost unnecessary to remark, that the policy thus adopted by the General Government produced an alarm which discouraged the payment of specie by the State banks. Indeed, some of the State Legislatures, that had been laudably engaged in the correction of their own banks, that had shut their ears against all excuses, and marked the time for the redemption of paper by gold and silver, now relaxed their rules of severity, so as to permit their home banks to escape as they could from the speculators and brokers of the new project.

Charity, and every amiable sentiment, predispose us to the impression, that this was only a mistaken policy of the General Government, whose object might have been to assist the local banks to resume specie payments, and hence reform the currency; but the dissimilar or rather opposite policy proposed by the Executive Government when the great bank was not exempt from apprehensions of being placed somewhat in the condition of the local institutions, removes the idea of friendship to them. For this, I refer gentlemen to the letter of the Secretary of the Treasury to the United States Bank, of the 29th November, 1816, at a time when the institution feared to discount for those who were indebted to the Treasury for duties, lest it might, in consequence of the scarcity of specie, be placed in the perilous situation of other banks. The Sec-



retary proposed to obviate the difficulty by the issue of Treasury notes, to be loaned by the bank, and to be made receivable in the payment of duties. Hence it would seem that State banks were to be cured of their inability, and compelled to pay specie, by placing the speculators, in quest of seven millions of cash, at their counters, ready to grab every dollar that found its way from their vaults; whilst the United States Bank, the great favorite of Government, must be aided, through its debility, by flooding the country with such an abundance of paper money from the Treasury, as would render the disbursement of its gold or silver unnecessary. Here it should be remarked, that although the stock-mongers, who beset this Government, continually sung of the inequalities of exchange, of the depreciation of local bank notes, and the incurable avarice of State banks, yet the bills of many of the banks retained such a credit and public confidence, as to devolve the necessity on the Executive, in seeking to frighten them into certain measures, to threaten the open opposition of the Government, with all its revenue resources, to impair, if possible, the public confidence of their stability. Let gentlemen who desire proof of this attentively read the Treasury letter, of the 29th November, 1816.

The act to incorporate the United States Bank passed on the 10th of April, 1816, and, only seventeen days thereafter, Congress adopted the resolution requiring, that, from the 20th of the ensuing February, the revenue of the United States should be paid in coin, or in United States Bank notes, (a bank which it was then not certain would ever exist,) or in the paper of such banks as redeemed their bills in specie. The avowed object of this resolution was, not only to coerce the payment of specie by the State banks, but to limit the very day and hour of that event; and this, too, at a time when the State banks and the State governments were pursuing a course to reform the currency, by the only gradual and sure means which were compatible as well with the interests of the public as the security of the banks. This resolution seems to have been wanted by the Executive, as an instrument of hostility against State banks, to be used or not, as future convenience might require, and the day of cash payments was placed subsequent to the ensuing session of Congress, that it might be modified or repealed if the capital of the United States Bank should not be subscribed, or in case any mishap should befall that institution: hence we have seen that (on the subject of the resolution) a dead silence reigned in the Treasury, until after the following midsummer. The books of subscription to the stock of the great bank were opened on the first Monday of July; and about the time that intelligence reached the seat of Government that the stock of the National Bank was all subscribed, and when the Executive believed itself no longer in need of the assistance of the local banks, about this time, I say, (22d July, 1816,) the Treasury made its official communication to the banks—a communication carrying to every auditor a distinct and well understood meaning, in addition

to everything expressed on its face. Yes; we find the communication consisting of propositions, &c., but all men could read the sense, not expressed, thus: that it would be in vain to petition Congress to postpone the day of promptitude beyond the 20th of February, in order to stay the drain of dollars from the State banks, to fill the vaults of their formidable rival; for that the Executive power, which had theretofore been irresistible, would be hostile to every such attempt.

The State banks had in view to postpone their specie payments until after all the specie instalments of the capital of the National Bank should be paid in; and the public, as well as the banks, entertained the suspicion, of the subscribers of the United States Bank lying in wait for their specie. But, in the Fall of 1816, the men of the National Bank, who daily became more familiar with the dexterous speculations so common in corporations of trade and exclusive rights, found themselves destitute of the power or disposition to pay either the funded debt or a specie part of the second instalment; on which they, by intrigue among themselves, prompt the Executive to adopt such measures as would impel the local banks to bring their public debt suddenly into market, so as to enable the stockjobbers to acquire it at a reduced price. Let gentlemen again examine the Treasury letter of 29th November, 1816, and acknowledge my conjecture correct, or account for the conduct of the Executive.

That letter, in speaking of the ability of the banks to return to specie payment, by a reduction of their circulating paper, remarks, that "the requisite reduction of the circulating paper may be effected by the State banks, either by curtailing their discounts or by the sale of the public debt, of which they are known to be the holders." And that "curtailment of discounts has been the only process resorted to by them, where any effort has been made to prepare for the resumption of specie payments." The letter enters upon arguments to show that the banks would sustain no loss by selling their public debt instead of curtailing their discounts, and expresses indignation against the conduct of the banks and the practice of curtailing discounts, as productive of great individual suffering, which the banks disregarded, and pronouncing, at the same time, that reason, humanity, and sound policy, all united against the curtailment of bank discounts. I ask, whether such a letter, and from such a source, has ever before been witnessed? I ask, in the name of all that is just and sacred, from whence arose the difference, to the Executive, between a return to specie payments by curtailment of discounts and the sale of public debt; and I demand the reason of this unhallowed and rude Executive interference in the interior policy of our State institutions, that, by the acknowledgment of the Treasury, were honestly preparing to meet their specie engagements, by gradually calling in the debts justly due them? I will not for a moment harbor the evil thought, of a wish by the Executive to render the local banks unpopular by these loud complaints of individual

hardship; but, to show the inconsistency attending such complaints, when coming from the Treasury, it is only necessary to appeal to the same letter, where the advice, that the State banks should sell their public debt, is enforced from the consideration that the precious metals had, in a certain late interval, continued to flow into the country from abroad, in quantities sufficient to reduce the premium on specie, &c. If, then, the stock of precious metals of the country was so replenished that many millions of public debt might suddenly and safely be thrown into the market, and sold for hard cash without risking loss, let me ask, whether the same abundant supply of specie would not have enabled the bank debtors to make payments, by which their debts might be gradually diminished?

The Treasury and National Bank, in the Fall and Winter of 1816-17, exhibited by their relations, each to the other, a singular spectacle. The Treasury acknowledging itself at once the protector and dependant of the new institution, makes a voluntary tender of a profusion of Government favors, which the bank declines, but finds itself dumb to every inquiry for the motives of its refusal. The Treasury having in vain urged the local banks to resume specie payments on the 20th February, instead of the 1st July, determined, after the 20th February, to refuse the paper of the non-paying banks, and make the National Bank the exclusive receptacle of the revenue, which would draw to it, in addition to its business paper, and ordinary loans, the whole occupation of discounting for the accommodation of the debtors to the Treasury for duties, and thus enable it to employ advantageously the \$4,200,000 specie, which should be in its vaults in January, 1817, and the \$7,000,000 of specie which it would hold in July of the same year. But the National Bank, knowing its own secrets, and that a collusion subsisted between itself and its stockholders, by which the second specie payment would not be made as required by the charter, and that, if the Treasury refused the State bank notes, it would devolve on the great bank the necessity of making such numerous loans, as would, within a few weeks, or indeed a few days, draw from its vaults every dollar of the specie received on the first instalment, without even the possibility of extending to the speculating stockholders the enormous accommodations they had in view—it had, therefore, no resort, but to wrestle with the Treasury in support of the credit of the State banks; and, although by this deceptive conduct, it was saved from the ruin of its own delinquency, in failing to comply with the instalments required by its charter, it has encountered the hardship of appearing before our select committee, with a claim to merit for its pretended magnanimity in relation to the local banks. The Treasury still persevered in its courtly offers to the new bank, and to relieve it from the peril of ruin by the loss of specie, on the contemplated refusal of State bank paper, addressed it with a proposal to aid its operations by the issue of Treasury paper, receivable in payment of duties, and to be loaned

by the bank, for Government, under circumstances by which the specie might not be endangered. This offer also was declined, from the intimate knowledge which the bank had of its own secrets. It knew that the small compensation it would be entitled to for loaning the Government's paper would scarcely increase the stock dividends, and that without a larger dividend the price of stock must diminish, which would be ruinous, or at least injurious, to the speculators who controlled its operations. It moreover knew that the loans which the fifth of specie, paid by the first instalment, could afford, would not furnish a dividend to increase the price of stock. Its policy, therefore, was to have the Treasury balances against the old banks transferred to it; to indulge the old banks, on their agreement to pay an interest, which would swell the dividends without the risk of danger, in case Government would continue to receive the State bank paper in the collection of the revenue. Hence, the new bank turned from the Treasury offers, and sought a correspondence with the State banks; proposing that they should humor the Executive by agreeing to pay specie on the 20th February, and that it would draw from the Treasury all the balances against them, and indulge them until the 1st July, (their own time,) on receiving interest in the interval.

The times of the payment of the instalments to the Bank of the United States were fixed by the charter; the books were opened the first Monday of July, 1816, at which time it is believed a great portion of the stock was subscribed. One instalment was then payable, and the two others on the corresponding days of January and July, 1817. Yet, by some calculation which I have never been able to understand, the instalments were not considered as due until the 23d January, 1817, and the 23d July. It is well known that the State banks, from a view of the charter, fixed on the first day of July for the resumption of specie payments, on a supposition that it was the time at which the last instalment would be received by the National Bank. Whether the bank thus past dated the instalments to overreach the period fixed by the State banks, and to give its subscribers three weeks' play on the vaults of the local banks to raise the specie of the last instalment, or whether such feats of ingenuity are customary in the intercourse among these moneyed companies, I am unable to say. I am, however, willing to say, that I should not condemn the bank, were this its only transgression.

I will now, sir, pray your attention to the agreement of the 31st January, 1817, between the Bank of the United States and the incorporated banks of New York, Philadelphia, Baltimore, Richmond, and Norfolk, by which the latter banks yield to the proposal to pay specie on the 20th February instead of the 1st July. The second proposition of that agreement, by which the balances against those banks were transferred from the Treasury to the United States Bank, was duly performed by it, being altogether to its advantage, and to the prejudice of the State banks,



by the amount of interest received by the one and paid by the other. By the third proposition, the Bank of the United States was not to demand those balances until it should discount for individuals (*other than those having duties to pay*) six millions, as prescribed by the terms of the contract. There is no express stipulation binding the United States Bank to discount for those having duties to pay, but every one who reads will be convinced that all parties expected it was to afford those discounts; yet the United States Bank so contrived, by encouraging the receipt of floating State bank notes at the Treasury, as to make it unnecessary to afford accommodations to the importers, although, from the circumstance of the revenue bonds being payable at the United States Bank and its branches, it was expected that many applications would have been made for loans as they fell due.

Our Executive Government was a party to this arrangement; one feature of which carries with it an idea irreconcilable with justice or good report. I mean the second proposition—which bestows on this new corporation a claim of interest against the State banks, on the balances due the Government, without any compensation to the Treasury—against all previous practice, in behalf of speculators, and to the prejudice of the public. It is not denied that the United States Bank ought to have received interest, if the balances had been received as a general deposit, on which the Government could have been at liberty to draw at pleasure, either for specie or the paper of the National Bank; but this was not the case, for, by the exception contained in the second proposition, the United States was to draw from the State banks such parts of said balances as might be wanted by the Treasury, and consequently had no right, in any event, to draw on the National Bank for any part of the balance for which it received interest. The transaction remained precisely as if the State bank paper had been in the Treasury, to be used or not, at the pleasure of Government, during all the time the banks were paying interest on it to the new bank. It amounted, in truth, to the gift of an unwarrantable speculation by the Executive to the bank.

When viewed in another light, the agreement of the 31st January, 1817, was a palpable fraud by the United States Bank on the State banks. By the terms of the charter of the former, its second specie instalment was payable in January, and all parties well knew that the State banks the more readily assented to the contract in consequence of the understanding that the four million two hundred thousand dollars, the specie part of the first and second instalments, had been paid into the vaults of the United States Bank, and consequently was not to be drawn from the mutual resources of the other institutions; whereas the directors and stockholders of the United States Bank, with a full knowledge of the existence of this expectation on the other side, and at the very time whilst negotiating the agreement, were making a collusive arrangement

to accredit the subscribers at least sixty days for the specie of the second instalment, which would authorize its payment after the 20th of February, when it might be taken from the State banks.

I now proceed to examine whether the charter of the National Bank has been violated by the omission to pay the second and third instalments of the capital, as prescribed by the act of incorporation. The third section of the act declares that the sums subscribed shall be payable and paid in the manner following—that is to say, seven millions of dollars thereof in gold or silver coin of the United States, or in gold coin of Spain or the dominions of Spain, and twenty-one millions of dollars thereof in like gold or silver coin, or in the funded debt of the United States. And further, that “the payments of the said subscriptions shall be made and completed by the subscribers respectively, at the times and in the manner following—that is to say, at the time of subscribing, there shall be paid five dollars on each share, in gold or silver coin as aforesaid, and twenty-five dollars more, in coin or funded debt; at the expiration of six calendar months from the time of subscribing, there shall be paid the further sum of ten dollars on each share, in gold or silver coin, and twenty-five dollars more, in coin or funded debt; at the expiration of twelve calendar months from the time of subscribing, there shall be paid the further sum of ten dollars on each share, in gold or silver coin, and twenty-five dollars more, in coin or funded debt.”

The terms of the law to which I have thus adverted, prescribe not only the amount of funds to be advanced as capital, but the time of payment and the quality or sort of funds; and, judging both from the letter and spirit of the law, we are bound to pronounce that the time and quality of the funds were as material and important in the view of the Legislature, as the quantity. It was certainly essential that the whole one hundred dollars of each share should be paid; and equally necessary that twenty dollars of the second and third instalments should be paid in gold or silver coin, and that the residue should be paid in coin or public debt. But all sides admit that neither the specie nor public debt proportion of the second or third instalments were paid. I therefore insist that a violation and consequent forfeiture of charter has been incurred by that delinquency.

Some gentlemen allege, that the mere negative offence of non-payment of instalments by individual stockholders, or any number of stockholders, should not be deemed a violation of the charter on the part of the bank. But, let it be remembered, that the charge is not rested on the mere delinquency of stockholders, incurred against the will of the bank; for the corporation itself participated in the offence, having, by its corporate and official act, interfered, and dispensed the stockholders from a compliance with the law, by usurping the power of inviting and accepting an arrangement, not only different from, but mani-

festly contradictory to, the terms of the act of Congress.

An attempt is made to satisfy the public, that the signing and delivery of promissory notes by the stockholders is verily a payment of gold and silver coin, and of public debt, as required by the law; an attempt, supported by an appearance of argument, well suited to the ingenuity of one who would avow his ability to prove that the law might be evaded with impunity. The ingenuity of the bank officers has led them to state the question, with its result, thus: “The charter enabled the bank to commence operations, and, consequently, to make discounts on the receipt of the amount of the first instalment; subscribers as well as others, then, had a right to obtain loans of the bank before the payment of the second instalment. A subscriber having obtained a loan, had a consequent right to draw its amount from the bank in specie, and might immediately return the same specie to the bank in payment of his second instalment. The draft of specie from, and its return to, the bank, being circumstances of mere form, might be dispensed with, and the mere note of the subscriber accepted in lieu of coin, as he could, by turning round, convert the proceeds into coin.”

In answer to these turns and twists of ingenuity, I would remind gentlemen that this charter (as every other law) must be so construed, as that no part of it shall be void or insignificant; and that, whilst one part of the third section requires that a certain proportion of each instalment shall be paid in specie, another part of the same section expressly requires that the aggregate amount of the specie part of the capital shall be seven millions of dollars, in gold or silver coin. Now, the arguments by which I am opposed, although unsound, would sustain a better color if the clauses, requiring the payment of ten dollars specie of the first and ten dollars specie of the second instalment, stood unconnected from every other part of the law; but, taking the whole third section in view, we find not only an obligation to pay a certain proportion of successive instalments in specie, but to pay them in such manner as will produce an aggregate of seven millions of dollars in gold and silver coin; a result at which we could never arrive by paying, and redrawing and repaying the same or identical pieces of coin. The argument on the other side is inadmissible; as, by seeking to show the discharge of an instalment without the actual advance of specie, it would necessarily make nugatory the provision which calls for specie. This false notion of successive payments, by paying, and shifting, and repaying the same dollar, so as to pay a debt of three dollars in full, and yet remain indebted two dollars, acquires its chiefest force from the dash of presumption of the speculator, in disconcerting his opponent by hardihood of assertion; for, assuming the act of Congress requiring the actual payment of specie as a text or early principle of argument, the speculator openly apprizes us that he means from hence to carry you to the conclusion that the law does not

require the actual payment of specie, and thus to contradict the first principle he had assumed or acknowledged.

Permit me now to place the argument before noticed in its true light. The speculator then acknowledges his obligation to pay \$7,000,000 in gold or silver to the bank, but he claims a distinct, separate, unconnected right—a right to obtain a loan; by the exercise of which, he virtually exempts himself from the force of his obligation. I then accept his acknowledgment of obligation to pay the \$7,000,000 in specie, and yield to him the right to obtain loans, in consequence of which he shall take all the benefit he asks; the sum of all which is, that his offence or delinquency of non-payment of specie is so intermingled or amalgamated with the exercise of a right, with which he is invested, that it may be difficult or impossible to distinguish the offence or wrong of his delinquency in one case, from the exercise of his right on the other occasion.

But, although the imagination may be puzzled by hypothetical cases, wherein it may be difficult to distinguish the commission of crime from the exercise of right, there is fortunately no such ambiguity as regards the conduct of the United States Bank. It has, in intercourse with its stockholders, separated very distinctly the offence of delinquency from any supposed general exercise of right. It has informed the stockholder that he had no perfect or absolute right to obtain loans, inasmuch as no one could claim a right to borrow without the consent of the lender; that, without its assent, his pretended right was a nullity; that it would only yield its consent on the condition of his agreeing that he would not pay the second specie instalment, or redeem his faith, pledged to itself, the Treasury, the Government, or American people, as prescribed by the inconvenient stipulations of the charter. To prove this, I demand your attention to the resolutions of the board of directors, of the 18th and 27th of December, 1816, by which the corporation agrees to discount “for the accommodation of the stockholders exclusively, and to the amount of their respective proportions of the payments, in coin, of the second instalment of the capital of the bank.” And, again, “that the loans should be made only to stockholders paying in full the second instalment.” I also refer to the form of hypothecation of stock, prescribed by the corporation, by which the stockholder was made to acknowledge “that he had obtained a loan of the said bank for the specie proportion of the second instalment of the capital thereof, due by him on that day.” Again, the cashier of the mother bank sends this form of mortgage to the branch bank at Baltimore, with this notice: “Enclosed you have the form used at this bank, of an engagement to be entered into by those who obtain an accommodation for the specie part of the second instalment.” I appeal also to the evidence accompanying the report of the select committee, from which it is manifest that the bank was not, in consequence of any ordinary operations of banking, placed in the unfortunate



situation of being forced to receive from the left hand of the stockholder the dollars he had withdrawn from the vault by his right; but, on the contrary, the avowed purpose of the institution was to dispense with the law—dispense with the specie required by the charter, and receive the note or bond of the party, in lieu of cash. In truth, the remission of the specie instalments was a criminal and detestable collusion between the bank and the stockjobbing portion of its subscribers, in fraud and prejudice of the Government, the public, and the widows and orphans—those orphans of whom we now hear so much—who are made to weep and plead for this combination of speculators, that they may again incur the risk of being cheated by partners that have not capital to risk, or are unwilling to risk it.

A gentleman from South Carolina, in speaking with reference to the defalcation of the second instalment, in the desultory debate which occurred in originating the select committee, reminded us that the non-payment of the second instalment had been agitated in the fourteenth Congress, and seemed to consider that circumstance as affording a bar to prevent us from passing judgment on it. It does appear that, in 1817, the committee on the national currency was directed to inquire into this affair, and actually proceeded the length of inquiring of one of the directors, by a polite note, how the thing was, and afterwards made a lengthy report, consisting of a letter from this director, (Mr. Lloyd,) which, in substance, assured the committee that the directors were all honest men, and had committed the crime charged against them with an only eye to the public good; and, being thus convinced, from the mouth of one of the directors, that no harm was intended, the committee asked the House to discharge it from further inquiry into such a delicate subject. But this House made no decision on the propriety or wrong of the conduct of the bank: on the contrary, it suffered the business to lie on the table, so as not to bind it from acting as future circumstances might dictate.

I will now remind the House of another topic of the report of the select committee, which manifests, in my humble judgment, a violation of the bank charter. The president and cashier, as well of the mother bank as of some of the branches, have, under pretence of authority from the board of directors, exercised the power, first, of making discounts on pledges of stock; secondly, of renewing loans on pledges of stock; and, thirdly, of purchasing bills of exchange. These three powers are of the same nature and altitude, although the latter, involving the necessity of judging of the solvency and sufficiency of the parties to the bills, would generally be more susceptible of alarm than the powers to loan and renew loans at a given rate on pledges of stock. But neither of these three powers could be exercised on behalf of the corporation, except by the board of directors. The fourth fundamental article of the charter speaks in language incapable of misconstruction, declaring that no less than seven di-

rectors shall constitute a board for the transaction of business, of whom the president shall be one, &c. How, then, can it be pretended, that the President, without the other directors, is to exercise powers which Congress has vested in a number of directors, not less than seven?

The president of the bank has informed the select committee that he considered these operations by himself and the clerk as mere ministerial acts, which might as well have been done by the discount clerk. While I admit that the board had as much pretence to transfer the power of making loans to the clerk, who is not even a director, as to the president and clerk; and hence infer the absurdity of the notion of the board alienating to a stranger the important trusts confided to them by the Government, the stockholders, and the public law, which gave birth to the institution. I also insist that this absurdity is not removed, or softened, by ranking the faculty as a ministerial power. No one who had read and attentively considered the act of incorporation, and who was not a wag, would seek to caricature the corporation by bringing it in comparison with our political Government, and assigning to it departments, legislative, executive, and judicial, or judicial and ministerial. Gentlemen, however, are at liberty to call the powers usurped by the president and cashier *ministerial*, or by such other denomination as may strike the fancy or square with their judgment; it will, after all names are spent, or under every classification of heads, remain what it was at and after the 8th of August, 1817, (when conferred by the board,) a power to make and renew loans, and discount bills on personal security, which is of the ordinary business of the board of bank directors, and consequently embraced by the letter and spirit of the fourth article of the charter; and, whenever it can be shown that these acts are ministerial, it will follow that the ordinary acts of the directors are also ministerial. The dangerous precedent furnished by this aberration from the constitution of the bank cannot be too strongly deprecated; for, with equal plausibility, might the directors chaffer with or alienate every other important power conferred by the charter. The order of the board defining the description of loans which was put under the control of the president and cashier, was nothing more or less than a by-law of the corporation; in which view the question again only recurs, whether the directors can, through the instrumentality of a by-law, vest in one man, or a stranger, the power of lending the money of the corporation, which the charter has virtually declared shall not be loaned by less than seven directors.

The select committee has reproached, in strong terms, two practices of the corporation, that of the subdivision of shares and the consequent increase of votes for directors, by the overgrown stockholders, and the speculations in public stock by the directors, whose official stations subjected their characters and motives to the lash of censure. With the honorable committee I follow suit, in its moral disrelish of the intrigue of

increasing votes by colorable transfers of stock, and its abhorrence of inordinate speculations by officers who had control of the institution; yet my distaste in this respect confines itself to moral censure, for there is no law to prohibit the wealthy stockholder from using his utmost influence in elections, by so arranging his shares as to count the greatest number of votes; nor have the president or directors been prohibited from buying and selling stock, as other members of the community; and I had thought that history, if not experience, had taught our Government, that corporations of trade, with their hosts of officers and servants, were at all times prepared to commit every offence which avarice could instigate, except when restrained by the force of a wholesome police. The fault, then, rests on the head of this Government, which has created and sent forth this mighty corporation of avarice, with all the exclusive privileges which could render it odious and dangerous, and without those checks which a due regard to public security imperiously required.

The 14th page of the report of the committee discloses a transaction of usury on the part of the bank, which, if imputed to any private man, would assuredly consign his character to infamy. The bank, in this instance, affects to make a loan, by discounting a note of \$20,000, payable in sixty days, and receives the whole interest thereon, as if it had actually loaned the money in hand, whereas it only advanced a post note, payable also at sixty days, by which the bank was not to advance a dollar before the note it discounted would become payable, and, as the discounted note and post note became payable on the same day, the nominal borrower might have claimed interest of the bank, with as much grace and justice as the bank claimed and actually received it of him; and, this, it seems, is only a single instance of what the bank frequently practised. Indeed the directors on the 30th January, 1817, adopted advisedly a resolution to enter extensively into the practice. The report hesitated to pronounce the transaction usurious; the hesitation, sir, of a moment, a fitting instant; for I am satisfied that the superior intelligence and forensic acquisitions of the members of that committee would, with less than five minutes reflection, have dissipated all doubt of the true character of this affair. Without embarking in legal or technical disquisition (which must always be irksome on this floor) I will venture the assertion, that no member who has turned his attention to the subject will deny that the transaction was usurious, not merely in taking more than legal interest, but in taking any interest whatever. The committee has recommended no provision in relation to this scandalous depravity, from a supposition that the parties have their remedy in the courts of justice. Here, with all deference, I must venture to believe the committee is mistaken, and to hazard an opinion that we have here found a mischief that will haunt our country until this mighty institution shall be no more. How shall the injured party acquire redress? This Govern-

ment has neither inserted anything in the charter nor passed any other law to afford him redress, and probably is unable to do so, for the affair having transpired in the interior of a State, between citizens of the same State, neither the Constitution of the United States, nor any law we could constitutionally pass, could give the Federal courts jurisdiction; and I understand that the friends of the bank contend that the State Legislatures have no authority to tax or control the conduct of the United States Bank. But if the State courts had what may be taken as a right of jurisdiction over this bank, it would of necessity be an abstract sort of power, to which the bank would not be tangible. The State punishes the natural persons of its territory for crimes, by fine, imprisonment, or death—it punishes or restrains State corporations by stipulations of charter, and its visitatorial power as the founder of such institutions. If you yield an authority to the State courts to punish the United States Bank, then inform me how the power shall be exercised, or admit its impracticability. The State cannot certainly revoke the charter of the United States Bank, nor can it imprison it. In truth, the laws of the States only recognise and adapt themselves to ideal personages, existing by the enactment of the same public authority which spake those laws into force, and has no more application to this corporation, than to ghosts of the dead.

I differ in opinion with my honorable colleague (Mr. Johnson) who would repeal the bank charter, because he believes that Congress had no Constitutional power to establish a bank. I entertain (as I always did) the conviction that Congress has power to pass a law chartering a bank, and moreover believe that it possesses the power to repeal the act of incorporation, or any other law which it has previously enacted. Gentlemen who believe with me that the charter is Constitutional, and yet contend that Congress has no power to repeal it, must chalk a new course of reasoning, different from that usually pursued by those who have hitherto opposed the extension of Federal power. The customary allegation has been, that this or that power is not of the subject-matter conferred by the Federal Constitution; but the passage of the act of incorporation, in 1816, admits a national bank may be a subject of Federal legislation, and, if so, we may make or repeal laws applicable to that subject. Even those who deny us the power to legislate on banks, will vote for our power to repeal; for, if an unconstitutional law has been passed, it would become our duty, by a declaratory act, to annihilate the illicit force of such a measure. Exclusive of the rules for the government of the bank, the act of incorporation furnishes certain conditions which affect the existence of the institution. The Government agreed to enter into partnership with the other stockholders, and to form a trading company, to deal in exchange, &c., the capital to consist of \$35,000,000. One condition not only stipulated the advance of twenty-eight millions of dollars, (the capital of the concern,) by the subscribers, but required that the funds should consist of a certain quality—



so much in specie, and the residue in specie or public securities—which condition was not less essential, in calling for quality, than with regard to quantity. Another important feature of this condition was, that those funds should be collected into an aggregate capital within a limited time—six and twelve months. But the essential conditions, thus affecting the nature and existence of the institution, have failed, by the non-compliance of the subscribers, or, more properly speaking, by the default of the corporation, or its controlling officers, who were the legitimate representatives of the collective subscribers. It is true, the corporation was authorized to commence operations on the payment of the first instalment of eight millions four hundred thousand dollars of specie and stock. This sum, however, was considered as only a fraction of the capital; and the legislative expectation dwelt as strongly on the second and third as the first instalment, and considered its advance and quality as conditions which must have been material, as the amount and sort of capital is always material in the formation of companies of limited partnership. The advance of the first instalment, in the language of municipal lawyers, would be a condition precedent, whilst the payment of the second and third instalments were properly conditions subsequent; and it will not be denied that conditions subsequent are as material to defeat an estate, or right, as conditions precedent. If there has been a non-performance of the conditions affecting the very existence of the corporation, nothing more can be necessary, on our part, than a declaratory act of legislation, apprizing society that, the conditions being unperformed, the company of subscribers are not entitled to exercise or continue the corporate powers, which could not be claimed except on a supposition of a performance of conditions. In illustration of this idea, let us imagine a non-payment of the first instalment required by the charter, and that the subscribers, after paying but a tenth of that instalment, had usurped the powers of a corporation, under pretence of the charter: would any gentleman doubt the power or propriety of enacting a law declaring the non-performance, and announcing the invalidity of the charter? Congress has the same right to announce, by a declaratory law, to the community over which it presides, the non-performance of the conditions of the two last instalments, and to make such provisions as will insure a just distribution of the funds which would revert to its individual owners. Gentlemen may talk of the unconstitutional strides of convicting the corporation or its members of offences without judicial investigation or jury trial. In the view I have this moment presented, neither the corporation nor its members are convicted of crimes, as the mere non-performance of a condition is no crime; for if you give or promise me an estate, on my performance of a certain act, and I omit the performance, no one imagines that I am to be charged with crime, or dragged to court, or tried by a jury, for my neglect: the issue of the affair is, that I cannot claim the estate without showing a perform-

ance. A visitatorial power is found to exist somewhere over all corporations—a power competent to correct its abuses, or revoke its charter when violated and forfeited. In England, corporations are frequently created by the mere grant of the Executive magistrate; and of such corporations, the Court of King's Bench (which in that country is, or originally was, an arm of the Executive department) is the visitor, and, by *mandamus* or *quo warranto*, corrects or destroys the corporation; and the Parliament may exercise the same power without the aid of the King's Bench. The act of incorporation here, as regards its nature and incidents, must be interpreted by a reference to the common law, from whence, and not from the civil law, we have borrowed our notions on this subject. At common law, every corporation is subject to the visitatorial power of its founder. But Congress is the founder of this corporation, and therefore possessed of that visitatorial power which, for sufficient cause, may correct or destroy the institution.

I submit another view. This mighty institution had its inception in an act of sovereignty; and, having derived its existence from legislation, it seems peculiarly fit, or probably absolutely necessary, that its fate should be sealed by a like act of legislation, if it be worthy of death. The courts of England, by judgment, will oust corporations of their privileges, where those privileges are merely derived from the Executive Magistrate, or for good cause repeal or revoke other Executive grants; but the courts have never revoked acts of Parliament, or grants contained in them. So if Congress, by a general law, authorizes the President to grant lands to soldiers, and he grants land to one who was not a soldier, the courts would repeal the grant, as having issued without authority. But if Congress by a particular law grants land to an individual, the courts would not revoke the grant for any cause; for this would be to repeal a law, and consequently the exercise of legislative power. If it be said that Congress has conferred the power on the court by the act of incorporation to repeal the charter, I reply that this charter is nevertheless an act of Congress; that its repeal must be an act of legislation; and that Congress cannot confer on the courts the power of legislation.

The corporations of England and of every State of the Union are subject in some shape to visitatorial powers, by which they are restrained or destroyed, when they pervert the ends for which they were called into being. But this bank, if not subject to the legislative authority of Congress, is incapable of subjection by any power on earth, and may with impunity extend its ravages of injustice on the people and States of this continent, from Maine to Mexico, and laugh into insignificance the Federal compact which has hitherto afforded protection to the people, and to which the Federal family has sworn obedience. If then this great corporation has thus become too powerful for the Government, and acknowledges itself subject to no law, and yet retains all its capacity to sin, I would aim a blow at its ex-

istence, even at the risk of wrenching out of joint the Constitution of the Union, which we all revere.

The advocates of this bank and of the old Bank of the United States deduce the authority of this Government to establish a bank from its powers over the Treasury and fiscal concerns of the Union. Admitting, as I do, the correctness of their deduction, permit me to ask whether the authors of American polity could have anticipated that Congress would ever find itself disabled to make, repeal, alter or modify, any of the laws in relation to the Treasury.

Conceiving that the bank has forfeited its charter, not only by a non-compliance with the conditions, but by the commission of crime, and that Congress has power to repeal the act of incorporation, I have never had a moment's hesitation of the expediency of the repeal. It has been said that we ought not to repeal, because the good faith of the Government is pledged to this institution. What is the import or force of this pledge of good faith? These expressions are resorted to on such variety of occasions, of late, as might warrant a suspicion that they were susceptible of application to all cases; and, if so, ought not to be used in any case. Is it that moral obligation, perfect or imperfect, imposed on Government in consequence of a promise or promises? Be it so, unless you afford me another definition. But, if the Bank has failed to comply with the express condition on which the promise of the Government depended, and has, by the enormity of repeated crimes, violated those wholesome conditions implied in all charters, how can it speak of that good faith which vanished whenever the bank ceased to dwell under its protection? The charter being forfeited, we are remitted, if we think proper to enforce the forfeiture, to the free condition of the Congress that granted the charter, with the additional advantage of two years' experience of the harm evinced by the bank in its infancy, and the ability to anticipate our fate from its growing strength. When viewing the alleged violations of charter, I hold myself bound to yield to every fair claim or expectation of the corporation, respecting its connexion with Government, without bias from popular feeling. But having found a violated and forfeited charter, and a corporation begging reprieve from the fatal evils of its own wrong, then it is I find the hand of my constituents on me; nor will I be so deaf to the wishes of the people or the dictates of justice as to raise the monster from the dead, or relieve it by renewing its capacity to visit the public with its complicated mischiefs.

I have acknowledged my utter dislike to corporations of traffic, by which a few favored personages are admitted to privileges from which the people are excluded; by which a few are permitted to trade to an indefinite extent on a definite fund without subjecting their estates to liability for their debts, whilst the rest of the people are liable, in their persons and whole fortunes, on every of their contracts. I dislike these corporations, because, the rights of all men being equal,

every grant of exclusive rights to patent combinations or companies, being carved out of the previous claim of others, operates as a proportionate alienation of the liberty of all other persons in the community. But, above all, I abhor the thing we call a bank *bonus*, it being the price at which a legislative body sells to a combination of speculators peculiar political, civil, or commercial privileges from which the people are prohibited. The price offered and accepted at the creation of this corporation was \$1,500,000. The old Bank of the United States never insulted the Government by the offer of a bonus or bribe. Say nothing of the pious or useful objects to which such money may be appropriated, (for it can never be just to obtain money by injustice,) let the disbursement of such money be such as it may. If corporations are absolutely necessary, the public good would justify their creation without the immorality of selling political rights at auction. But, the plea of necessity never holds in these bargains, for, however proper corporations may be, the bonus is never offered for a mere charter, but always in consideration of some peculiar and exclusive privileges which may be dispensed with. This notion of a bonus, lately so familiar as to startle nobody, has found its precedent in Europe, the institutions from whence are annually gaining popularity with the mercantile class of this country. The Bank of England is bound to renew its charter each twenty years, by the advance of pecuniary advantages to that Government; but it is due to the character of our English ancestors to remember that their early resort to this degrading practice was the consequence of misfortune and evils, which gives them, at least, the show of an excuse, to which our Government has no pretension. I remember the circumstances attending one renewal of the English bank charter, which are not materially different from those accompanying all the earlier renovations of charter. In 1708, Parliament, by its vote, granted to the Queen upwards of £2,000,000 for maintaining the forces in her pay in Spain and Portugal, for subsidies payable to her allies, *et cetera*. Whilst this measure was depending, the Ministers, having exhausted their ingenuity, found it impossible to raise even a moiety of the sum, although the whole was indispensable. At that critical juncture the Bank appeared before Parliament, as a saving angel, with propositions for a renewal of charter, and an offer to advance the sums wanted. It is scarcely necessary to observe that the offer was accepted. We have no such palliative to cover our departure from principle in respect to this bank. We copy the vices of Europeans, without the trimmings to make them passable; or, in truth, endeavor, in our day of national prosperity, to imitate the traits of evil deformity which circumstances, and not choice, have imposed on European nations.

It is no cause of surprise that the State banks in every quarter of the continent are terrified by the threatening aspect of this institution of thirty-five millions. The Government of the Union has also entered into partnership with the specu-



H. or R.

Arkansas Territory.

FEBRUARY, 1819.

lators of this great bank, and not only become the proprietor of one-fifth of the stock, but has presented the company with the whole national revenue, as a capital to trade with, in exchange. In short, the strong box of the nation has been delivered and locked in the bank vaults. No rival institution can compete with one which finds itself in partnership with the national Government, and in possession of its revenues. Not only the State banks, but the State governments, must be inspired with apprehensions of insecurity from such a combination of influential force, and gentlemen who have, on other occasions, displayed so much ingenuity and eloquence on this floor in defence of State sovereignties and State rights, will, I hope, see in the question now on hand an object worthy of their exertions; they will not, I am convinced, after having rescued the States from open attacks, tamely suffer the General Government to organize and strengthen a moneyed aristocracy which would devour the State banks, intimidate the State governments, and swallow the annual revenues of the country. For my own part, I shall, with a cheerful conscience, vote for the resolution of my honorable colleague, (Mr. JOHNSON,) to repeal the bank charter.

Mr. LOWNDES then intimated a wish to make some remarks on the subject, which, late as it was, he would proceed to do, at once, if the Committee were disposed now to hear him; but, if they were desirous of rising, he would give way.

A motion being made to that effect, the Committee rose, and the House adjourned.

FRIDAY, February 19.

Mr. POINDEXTER presented a petition of the General Assembly of the State of Mississippi, praying that provision may be made for quieting the claims to land in that part of said State, formerly comprised within the province of West Florida, derived from the British Government, so far as the said grants interfere with those derived from the Spanish Government; which said petition was ordered to lie on the table.

Mr. LITTLE, from the joint committee upon the subject of the public printing, made a report; which was read, and ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to which was referred bills of the Senate, of the following titles to wit: "An act for the relief of David Henley;" and "An act for the relief of James H. Clarke," reported the said bills without amendment; and they were respectively committed to a Committee of the Whole to-morrow.

The House having resumed the consideration of the bill to divide the United States into four districts for the regulation of the coasting trade, and of the amendment thereto proposed, by Mr. SILSBEE, for reducing the number of districts from four to two—

Mr. MILLS moved to postpone the bill indefinitely; in which motion he was supported by Mr. ORR; and opposed by Messrs. SILSBEE, WHIT-

MAN, HOLMES, and LINCOLN. This debate was confined to the representation from Massachusetts, and turned principally on considerations connected with the relative interests of the District of Maine and of Massachusetts proper. The motion to postpone was negatived, but not before an effort had been made, in order to end the debate, to lay the bill on the table, which was negatived.

The question was then taken on the amendment moved by Mr. SILSBEE, as above, and decided in the affirmative.

The motion was then renewed to lay the bill on the table, and carried.

The bill making further provision for the sale of the public lands; and the bill for designating boundaries of land districts, and establishing offices for the sale of lands remaining unsold in Indiana and Ohio, were received from the Senate, severally twice read, and referred.

Bills from the Senate, of the following titles, to wit: An act to regulate the pay of the Army, when employed on fatigue duty; An act for the relief of John B. Timberlake; and, An act to enable the people of the Territory of Alabama, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, were severally read a third time, the last as amended, and passed.

## ARKANSAS TERRITORY.

The House then proceeded to the consideration of the bill to establish a separate Territorial government in the southern part of the Missouri Territory.

A motion was made by Mr. ROBERTSON, of Kentucky, with the view of obtaining the erasure of the amendment yesterday adopted, to recommit the bill to a select committee, with instructions to strike out these words: "And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years."

And the question being taken thereon, was decided as follows: For the recommitment 88, against it 88.

YEAS—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Del., McLane of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Ballard Smith, Alex. Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of

FEBRUARY, 1819.

Arkansas Territory.

H. or R.

Kentucky, Whitman, and Williams of North Carolina.

NAYS—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. P. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

There being an equal division, the SPEAKER declared himself in the affirmative; and so the said motion was carried; and Messrs. ROBERTSON, SILSBEE, BURWELL, MILLS, and LOWNDES, were appointed the said committee.

Mr. ROBERTSON, from the committee to whom was this day referred the bill establishing a separate Territorial government for the southern part of the Territory of Missouri, with instructions to amend the same, by striking out these words: "And all children born of slaves within the said Territory, shall be free, but may be held to service until the age of twenty-five years," reported the same, amended agreeably to the said instructions.

Mr. MERCER expressed his views of this question in a short speech.

The question was then taken, to concur with the select committee, in striking out the said words, and passed in the affirmative—yeas 89, nays 87, as follows:

YEAS—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLane of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, and Williams of North Carolina.

NAYS—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage,

Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. P. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Porter, Rice, Rich, Richards, Rogers, Ruggles, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, Wilson of Massachusetts, and Wilson of Pennsylvania.

So the House determined, by a majority of two votes, to strike out the clause imposing a restriction on slavery in the proposed new Territory of Arkansas.

Mr. TAYLOR then moved to amend the bill by inserting a provision "that, during the existence of the Territorial government of Arkansas, no slaves shall be brought into the said Territory, to remain therein for a longer time than nine months from the date of their arrival."

Mr. PITKIN supported, at some length, the amendment.

Mr. WHITMAN, of Massachusetts, addressed the Chair as follows:

Mr. Speaker, I am impelled, by a sense of duty to myself, as well as by a hope to be able to throw some light on this subject, to endeavor to exhibit the view which I have taken of it. At this stage of the debate, the House having become weary, I cannot expect to gain much attention; and, had any other gentleman exhibited the view which influences my mind, I should have been silent. Without some explanation, the vote which I am about to give might seem inconsistent with that which I gave in Committee of the Whole, and should have given in the House, on a similar amendment proposed, in the case of the admission of Missouri as a State. I voted in that case against the admission of slavery into that State. I did not so vote, however, in expectation that it would diminish slavery in the United States. I do not view the subject as necessarily involving that question; and, if it be involved in it, I think it can be made manifest that the reasons are in favor of its admission, rather than its rejection, if we would promote emancipation, and provide for the amelioration of the condition of the slaves. No man would abhor more a contrary tendency than I should. I should shudder at the idea of adopting a measure tending to the increase of such misery and wretchedness.

The slaves already in the United States, as the laws now are, can only be increased by procreation. The penalties against further importation, and the measures adopted to enforce them, are such that we cannot reasonably fear that many, if any more, will be smuggled into the Union. The permission of slavery in the Territory of Arkansas will afford no additional facilities to the introduction of this unfortunate race from abroad. The State of Louisiana, already estab-



H. OF R.

Arkansas Territory.

FEBRUARY, 1819.

lished, lying principally west of the Mississippi, and on the banks of it, and adjoining the Gulf of Mexico, without being under any restriction in this particular, will be the place in which slaves will be smuggled in, if smuggled at all. They could not be smuggled into Arkansas till they had been conveyed three hundred miles through Louisiana.

The natural increase will be the same, whether in one part of the Union or the other; or, if it would be greater in the Western country, it would be the consequence of an ameliorated condition, and therefore not to be regretted, as the cause of humanity would thereby be promoted. This will be obvious to those who have had an opportunity of comparing the slavery on the Atlantic seaboard with that of the Western country. On the seaboard, for from fifty to eighty miles into the country, through the whole of the Southern States, the soil is sterile—and there it is that there is the greatest proportion of slaves, subjected to the most lamentable state of degradation and misery. The produce is trifling and scanty; the market at the same time high. The slave is pinched and stinted, and allowed, in many instances, but his peck of corn per week for his whole subsistence. In the Western country the produce is abundant, and the market poor; the slave is there well fed and happy. The greatest kindness you can do a slave, is to tempt his master to remove with him to the Western country. The master will be bettered in his own condition at the same time, and this also will increase his liberality to his slaves. All travellers, from the Atlantic to the West, are struck with the increased amelioration in their condition, as they progress.

But, sir, there is another point of view in which I would beg my friends to look at this subject. In the degree in which you increase the proportion of the free beyond that of the slave population, in the same ratio you increase the chance for emancipation, final and total. To prove this, we need only to look at some of our sister States. The majority, consisting of non-slaveholding individuals, in those States, has compelled the minority gradually to let go their hold upon this species of property. New York, New Jersey, Pennsylvania, and Delaware, in this way, have nearly rid themselves of this reproach upon humanity. The best mode, therefore, to promote the cause of a final emancipation, would be to suffer the slaves to be scattered thinly over the Western States. These States will be peopled, in much the largest proportion, by those who do not, and who are too poor to hold slaves. It is the laboring class of the community, and the industrious yeomanry of our country, who will emigrate thither. The men of wealth, and those are principal slaveholders, will not remove. Hence, the case in the Western country, as it respects the slaves, will be perfectly similar to that which brought about emancipation in the States before mentioned.

In Missouri it is said that about one-fifth of the population are slaves. These were held, it is

said, principally by the French and Spanish people, at the time of its cession to the United States. The population now pouring in there, consists of the hardy yeomanry of the North. It will soon be the case there, that the proportion of slaves and of slaveholders will be comparatively trifling. Can any man believe that in such case they will not there do as has been done in the other States? The majority having the power, will they not compel the minority gradually to rid themselves of this species of property? I believe, sir, it is not in the nature of man to do otherwise. Were no restriction to be imposed on Missouri, even there it is as fixed as fate that slavery must, ere long, be abolished. If, then, it were proper to consult the cause of humanity only, in disregard of every other consideration, we should encourage the dispersion of the slaves now in the Union to the utmost of our power.

What, sir, would be the inevitable consequence of cooping them up within certain limits? In such case the poorer whites would emigrate; the slaves and slaveholders would remain. While the free population would remain stationary, or diminish, the slaves would increase. The result of which would be, as it ever has been, that the slave must be treated with more rigor; he must be kept ignorant, be humbled, and debased; for, sir, people must and will consult their own safety. If the slaves should become sufficiently numerous to render it possible to regain their freedom, if they are not degraded to the character of brutes, they will be tempted to combine and destroy their oppressors. In such cases the white people dare not admit of the emancipation of slaves, lest it should afford an opportunity to the emancipated, by means of obstruction and observation, to become capable of heading and exciting the slaves against their masters. Hence, in some States, emancipation has been prohibited by law. The condition of a slave in such cases is wretched, indeed.

This, then, sir, is not a question which ought to be decided under the apprehension that it will increase the horrors of slavery. If it affects the question, it is wholly the other way.

As to the question, which has been agitated with so much zeal, relative to the power of the United States, on the admission of a new State, to cause a stipulation to be agreed to, preventing slavery or requiring its gradual abolition, I can entertain no doubt. We certainly have this power. The Territories are under the absolute control of the United States. We have the power to admit them into the Union as States or not. Before admitting them, we may require any stipulation relative to their internal police or municipal regulations that we please, as a condition on which we will agree to their admission. We could not require anything, I admit, repugnant to the fundamental articles of the Federal Government—such as that they should not be represented in the Senate and House of Representatives of the United States, and have Electors of President, &c., the same as the other States. Whatever any other State would be entitled to by the

FEBRUARY, 1819.

Arkansas Territory.

H. OF R.

express provisions of the Federal Constitution, we could not deny to a newly admitted State. Nothing will now prevent an agreement with any of the individual States in the Union as to any municipal regulation, deemed proper or necessary for the use of any portion of the citizens of the Union—and certainly the same may be stipulated for on the admission of a new State, as a condition of its admission. Gentlemen have said that, although we might compel them to stipulate in their constitutions that slavery should not be tolerated, yet, nothing would prevent their altering their constitution after such admission; and that we should have no means of enforcing the regulation—and that we cannot make stipulations that we cannot enforce. In this I believe there is a mistake. It is true, perhaps, that the United States could not, by any act of legislation, enforce the observance of the regulation. But, sir, suppose it should be attempted to hold an individual as a slave, in contravention of such a stipulation, would he not, and could he not, apply to the courts of the United States, by habeas corpus, or otherwise, and obtain his liberation?

These regulations are no novelty. They have heretofore been adopted on the admission of new States. Ohio, Indiana, and Illinois, have been subjected to them. Besides the regulations prohibiting slavery, we have been in the constant habit of requiring other stipulations of the newly admitted States. We have required that they should not tax the lands of the United States, and the lands sold by the United States, for five years after the sale. Now, sir, the right to levy and collect taxes is an attribute of sovereignty which could no more be abridged, on the admission of a new State, than the power to admit slavery. If we can require stipulations for the one, we can for the other—and our right heretofore has never been doubted to do either. Should a State, after its admission, in contravention of the compact, as it may be called, proceed to tax United States lands, or lands sold by the United States, before the expiration of the five years, the United States could do nothing by way of enforcing it otherwise than by a resort to the tribunals of law for relief.

This, then, is the power which we have, and can exercise whenever we deem it proper. In some cases we have exercised it in relation to the inhibition of slavery; and in others not. We have, I trust, exercised the power in cases which have properly required it; and again have omitted it in cases in which it should have been omitted. It is, then, on the admission of a new State, a question, solely, of expediency and policy. We are now to determine whether we shall exercise this power in this case.

We should consider that we have, by our common and joint funds, acquired a large tract of vacant territory west of the Mississippi; that it is valuable to our country as furnishing a fertile region for the citizens of our country to resort to for the purpose of bettering their conditions, acquiring property, and providing for their children. The two great sections of the Union, to

wit, the slaveholding and the non-slaveholding sections, have an equal right to its enjoyment. By permitting slavery in every part of it, the non-slaveholding portion will be deprived of it; if not entirely, certainly in a very great degree. On the other hand, if the people of the South cannot carry their slaves with them when they emigrate, the benefit will be equally lost to them.

We must, then, go on as we have begun; admitting some States with, and some without, any restriction. We have already admitted Louisiana, lying principally west of the Mississippi, without any restriction, for the benefit of our Southern brethren. We have now decided to admit Missouri, with the restriction, with a view, in some measure, I trust, to the benefit of our Northern brethren. Why may we not continue in the same way, admitting States off against the non-slaveholding States, westerly, with the restriction, and off against the slaveholding States, without it.

Gentlemen have said, that people of the North emigrate to the South, and readily assimilate, and become slaveholders; and that the existence of slavery forms no objection. This may be the case, and undoubtedly is, with certain individuals, and particularly such as are able to hold slaves. But it is far from being the case generally. The people from the North, who emigrate, are the industrious yeomanry, who till the earth with their own hands, and are seldom, if ever, able to purchase slaves; and whose spirit of freedom would revolt at the idea of being compelled to work side by side with slaves. For proof of this, look at the States of Ohio and Kentucky. The fertility of soil and congeniality of climate, for agricultural purposes, is in favor of Kentucky; yet you can scarcely find a Northern man in that State; while Ohio is almost exclusively peopled from the North, and has increased in population much faster than Kentucky. There cannot possibly be any other reason for this, unless it is that Kentucky is a slaveholding, and Ohio a non-slaveholding State.

Gentlemen abhor sectional lines of demarcation between the different descriptions of population in the Union, and so do I. When they can be avoided, I would avoid them. But we have them in relation to this subject already. The line is distinctly marked. It is, I confess, one of our misfortunes. But, sir, it is unavoidable. We have heretofore found it necessary and proper to observe it in forming States north of the Ohio, without admitting, and south of the Ohio with, the admission of slaves. Having so begun, we must continue on. And in doing so, we must, as in the case of every other legislative act, exercise a sound discretion, and do that which shall best comport with the demands of the different and varying interests of the different portions of the Union.

I am, therefore, in favor of no restriction in relation to Arkansas, although I was, and still am, in favor of adopting it in relation to Missouri. The settled part of Arkansas will be south of the southerly line of Kentucky. In my opinion, to



H. or R.

Arkansas Territory.

FEBRUARY, 1819.

do justice to our Southern brethren, they ought to have permission to carry with them their slaves, even further north. But as Missouri extends south to this line, and we could not admit slavery in any part, and not in the whole, there seemed to be no alternative but to confine the admission of slavery to the south of that line.

The gentlemen of the North need have no fears, I believe, that the slaveholding States will become predominant, and prevent our doing all that it may be proper for us to do to prevent this growing evil. We now have the numerical force; we have a majority of ten or fifteen in the representation on this floor as a guarantee against it. This majority will increase upon the taking of every census. By recurring to the census of 1800 and 1810, it will be seen that the increase is from 25 to 30 per cent. against the slaveholding section. Add to this, that the slave portion of the increase gives but three-fifths of the increase to the weight in this House.

Neither have gentlemen any cause of alarm for fear that the gentlemen of the South will be for the repeal of the law prohibiting the importation of slaves. They have hitherto manifested as much of a disposition to put a final stop to that nefarious practice as could have been wished—and no doubt can be entertained of the steadiness of that disposition.

We have no right to interfere in opposition to the determination of the slaveholding States further than the Constitution has authorized. These States were sovereign, and could make what regulations they would as to slavery. They have delegated to us no other authority than that of prohibiting further importation, after a certain period. It is then an evil which we have not created, nor does it even exist and continue by our permission. We are, in fact, by the most solemn obligation, precluded from the right to molest those States in the exercise of this power. Not having the power to prevent it, the iniquity cannot lie at our doors. There is no ground on which we can demand to be their conscience-keepers. They must answer for the wrong, and not we.

Under this view of the subject, I shall deem it my duty not to vote in favor of the restriction in relation to Arkansas—at the same time I shall go any reasonable length with those who would insist upon the restriction in relation to Missouri.

Mr. TAYLOR, then, for reasons which he stated, modified the amendment, to read as follows:

That neither slavery nor involuntary servitude shall hereafter be introduced into the said Territory, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted."

Mr. MERCER, after earnestly, and at some length, supporting his views on this subject, moved to amend the proposed amendment, by adding thereto the following proviso:

Provided, That nothing herein shall divest the inhabitants of Arkansas of their rights of property in the slaves which they now hold, or the natural increase thereof; nor to entitle to his freedom any slave carried

therein, and held there for a period not exceeding nine months."

This motion was negatived without a division; and,

The question being then taken on Mr. TAYLOR's amendment, was determined in the negative—yeas 86, nays 90, as follows:

YEAS—Messrs. Adams, Allen, Anderson, of Pa., Barber of Ohio, Bateman, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Cushman, Darlington, Drake, Elliott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kirtland, Lawyer, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Marchand, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Morton, Moseley, Murray, Jer. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Rugles, Sampson, Savage, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Southard, Spencer, Tallmadge, Parr, Taylor, Terry, Tompkins, Townsend, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

NAYS—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bayley, Beecher, Bloomfield, Blount, Byran, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, Hugh Nelson, Thomas M. Nelson, Nesbitt, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Porter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Sawyer, Settle, Shaw, Simkins, Slocumb, Samuel Smith, Bal. Smith, Alexander Smith, J. S. Smith, Speed, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, and Williams of North Carolina.

Mr. TAYLOR then, after stating that he thought it important that some line should be designated beyond which slavery should not be permitted, &c., moved the following amendment as an additional section to the bill:

"That neither slavery nor involuntary servitude shall hereafter be introduced into any part of the Territories of the United States, lying north of 36 degrees and 30 minutes of north latitude."

Mr. LIVERMORE conceived this proposition to be made in the true spirit of compromise, which ought to be met, but suggested a different line.

Mr. RHEA opposed this amendment, and spoke against any amendment or restriction of the sort, as unconstitutional, and inconsistent with the treaty with France, which transferred to us the territory west of the Mississippi.

Mr. OGLE was against the amendment, because opposed to any compromise by which slavery in

FEBRUARY, 1819.

Proceedings.

H. or R.

any of the Territories should be recognised or sanctioned by Congress.

Mr. STROTHER thought it would be better to withdraw the amendment, and bring forward the principle in a separate bill, and argued in support of his view of the question.

Mr. HARRISON assented to the expediency of establishing some such line of discrimination; but, for reasons which he explained at large, proposed a different one, by way of amendment to the amendment, as follows:

"That all that part of the present Territory of Missouri, lying north of a line to be run due west from the mouth of the river Des Moines to the territorial boundary of the United States, shall form a part of the Territory of Michigan; and the laws now in force in the said Territory as well as the ordinance of Congress prohibiting slavery or involuntary servitude in said Territory of Michigan, shall be in force in that part of the Missouri Territory lying north of the said east and west line."

Mr. BARBOUR, of Virginia, was opposed to Mr. TAYLOR's amendment, and to all others of a similar character; and spoke with much earnestness against the proposition at some length, as partial and inexpedient; arguing that, if the principle was wrong in itself, (and the question had been discussed on principle alone,) it ought not to be withheld from one part of the Territory and applied to another; that it was legislating partially, by applying a rule to one portion and a different rule to another portion of citizens having equal rights and placed under similar circumstances. If the rule was wrong at the 25th degree of latitude, it was equally so at the 40th. He argued that it was as impolitic as it was unjust to draw this line; it was proper to let a future Congress act on it, as should then appear expedient; and this opinion, as well as others which he advanced, he maintained at some length.

Mr. ANDERSON, of Kentucky, gave the amendment his unqualified disapprobation. It was no compromise—its friends asked everything and gave nothing—what they got now was insured to them, and what they conceded now would not be binding on a future Congress, and the same principle might be extended by hereafter inserting it in the constitution of Arkansas when it should become a State. Furthermore, the principle was contrary to the Treaty of Cession with France, and he could not agree to any compromise, even if it were fairly proposed; all of which views he strenuously enforced.

Mr. LIVERMORE replied, and argued at length to show that the compromise was fair and liberal; also that the Treaty of Cession could not bind Congress in this case, as it was out of the power of the Government to admit States into the Union by treaty; that the Territory was purchased, and it was now competent for the Government to dispose of it in any manner whatsoever, either to sell it, recede, &c.

Mr. BEECHER followed in a speech of near an hour in length, entering into an inquiry into the whole subject presented by the various propositions brought forward.

15th CON. 2d Sess.—41

Mr. COBB rose to put an end at once to a debate, which he said was disagreeable to one part of the House, however agreeable it might be to the other; and the end of which, if unchecked, could not be seen, as it was impossible to foretell what number of amendments might be presented. He therefore called for the *previous question*, to obtain at once a decision on the engrossment of the bill.

The previous question was refused by the House—ayes 67, noes 74; when

Mr. TAYLOR, having stated that he perceived from the debate, as well as from conversation, that it was not probable any line would be agreed on by the House, or any compromise of opinion be effected, withdrew his amendment.

The bill was then ordered to be engrossed, and read a third time.

SATURDAY, February 20.

Mr. RICH, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Rees Hill," reported the same without amendment, and the bill was committed to a Committee of the Whole, to which is committed the report of the Committee of Claims, made at the last session, on the case of Mary Sears and William B. Stokes.

Mr. HUBBARD, from the Committee on so much of the Public Accounts and Expenditures as relate to the Post Office Department, made a detailed report, accompanied with sundry documents and statements, which were received; when Mr. H. reported a bill, to amend an act, entitled "An act regulating the Post Office Establishment," passed the 30th of April, 1810; which was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to which was referred the amendments proposed by the Senate to the bill, entitled "An act regulating passenger ships and vessels," made a report on the said amendments; which was read, and ordered to lie on the table.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of Ruth Reed; which was read; when Mr. J. reported a bill for the relief of the heirs of William Reed, deceased; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. JOHNSON, from the same committee, also reported a bill in addition to an act, supplementary to an act, entitled "An act for the relief of Thomas Wilson;" which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. PLEASANTS submitted a joint resolution prescribing the manner in which the vessels of the Navy of the United States shall hereafter be named; [directing that all public vessels now building or to be built, shall be named by the Secretary of the Navy, under the direction of the President, according to the following rule, viz:



Ships of the first class to be called after the States of the Union; those of the second class, after the Rivers of the United States, and those of the third class, after the principal Cities and Towns; taking care that no two vessels in the Navy bear the same name.]

The resolution was twice read, and ordered to be engrossed for a third reading to-day.

The House resumed the consideration of the bill from the Senate supplementary to the acts concerning the coasting trade; and the amendments to which were ordered to be engrossed, and, with the bill, to be read a third time.

The bill establishing a separate Territorial government in the Arkansas Territory was read the third time, and passed.

#### BANK OF THE UNITED STATES.

The House then again resolved itself into a Committee of the Whole, on the subject of the Bank of the United States, the motion to repeal the charter of the bank being still under consideration.

Mr. LOWDES, of South Carolina, said, that the gentleman from Virginia, (Mr. PINDALL,) who had just addressed the Committee, had discussed the policy of the law which chartered the bank, the motives of Congress in passing it, and those of the Executive Government in the measures which had been adopted for carrying it into effect. He would not enter into these topics. The subject was large enough, without digression, to occupy their whole attention for the time which it would be reasonable to appropriate to this debate. If the reputation of the fourteenth Congress, or of the late Administration, could be impaired by observations or circumstances like those which had been adduced, he would say of both, that they were not worth defending. In the course of his remarks, indeed, it was not improbable that he might advert to facts which would repel the conclusions of the gentleman from Virginia, but he would not deviate from the strict line of his argument, to engage in so useless a controversy.

The committee, of which he had had the honor to be a member, had expressed an opinion, in respect to the first operations of the bank, correct enough, perhaps, in its general principle, but erroneous, as it seemed to him, in its application. They say, "that the bank could have proceeded gradually, growing with the growth, and strengthening with the strength of the nation, as it emerged from the evils of the flood of paper issued from the local institutions. The bank could have felt its way, and increased its means with the increasing demands of the country. Such a cautious proceeding would have enabled it to render invaluable service in checking the issue of State banks, and bringing them to the alternative of avowed bankruptcy or to the permanent resumption of specie payments." He was not disposed to deny, that, while a discredited currency was circulated through the country, while the excessive issues of bank paper (of which the war had been the cause or the apology) con-

tinued to resist the introduction of real money, the committee were right in supposing that it was the interest of the National Bank to commence its operations slowly, or to postpone them. It was its interest to leave it to the Government to fight the battles against depreciation, and to come in afterwards as a partaker of the victory. Even after the 20th February, 1817, the bank might have pursued the cautious policy of withholding its accommodations from the Government and the people, until the reduction of other paper had made its issues necessary and safe. It might have preferred its interest to its duty. The State banks, unable to comply with the requisitions of Congress, which demanded from them the resumption of specie payments, must have lost their credit with the community. The Government, indeed, might have been embarrassed, the public debtors distressed, and the State institutions have been brought "to the alternative of avowed bankruptcy," but these competitors for public favor and employment would have been removed, and the National Bank would have entered into the full enjoyment of the monopoly which the ruin of every other institution would have prepared. This might have been its interest. But there were other interests to be consulted—those of the Government and the people. The bank had not been established for the purpose of giving to its stockholders the harvest which such a policy might provide. It was the instrument by whose use he hoped to secure the resumption of specie payments—constructed, not for its own sake, but for ours. The act of the Legislature and the proceedings of the Treasury Department would show how incompatible with the objects of its institution would have been that postponement of its operations, or that gradual commencement of them, which was recommended now, when the difficulties of the time were forgotten. The fourteenth Congress was aware that a narrow view of its exclusive interest might induce the National Bank to adopt the policy which the committee had described. The act which they passed provided that, as soon as the amount of the first subscription (\$3,400,000) should be received, the bank should thenceforth commence and continue its operations. The twenty-second section reserved to Congress the power, if it should not go into operation before the first Monday in April, (at which time the third instalment was not due,) to declare its charter void. This was the measure of the Legislature to secure the early operation of the bank. Those of the Treasury Department were in entire consonance with its principle.

He must ask the indulgence of the House while he read some extracts from two letters of the Secretary of the Treasury. In a letter to the commissioners for receiving subscriptions, (dated August 15, 1816,) the Secretary says, "It is, indeed, of high importance to the people, as well as to the Government, that the Bank of the United States should be in an organized and active state before the 20th of February next, when the paper of the State banks which have

'not returned to metallic payments must be rejected.' Again:—"It is believed that the Bank of the United States may be in operation before the first day of January next," (before the receipt of the second instalment.)

Mr. Crawford (who, after the date of the last letter, had succeeded to the office of Secretary of the Treasury) writes, on the 29th of November, 1816, to the president of the bank, that "if the State banks do not make a simultaneous effort, it is manifest that, without their co-operation, a national currency, equal to the indispensable demands of the community, cannot be obtained by the 20th of February next." He asks whether "it is possible for the bank to supply the demand of the commercial cities which the collection of the revenue arising from imports and tonnage will create in the interval between the 20th of February and the 1st of July." He suggests that it may be necessary to employ "a Government paper of some description" in that interval, but adds, that "it is most ardently desired by the Government, that the necessity of resorting to the issue of Government paper may be avoided by the resumption of specie payments by the State banks, on or before the 20th of February."

The first object which the Government expected to be attained by the National Bank, was that of throwing into general circulation, by the 20th of February, an amount of notes sufficient to enable the public debtors to comply with their engagements. When it appeared impracticable that the amount or dispersion of these notes should provide for the object, the next resource was to give to those of the State banks a credit which should enable the Treasury to receive them under the resolution of Congress. These banks had refused every proposal for the resumption of specie payments. He would not say they were unwilling, but they were afraid to adopt them. The remonstrances and encouragement of the Government were unavailing. It was then that the National Bank, certainly not in the spirit of narrow jealousy, entered into that compact with the State banks which had been referred to by the gentleman from Virginia. It was impossible to do justice to the conduct of the National Bank, at least for the first year of its operations, without attending to the new obligations in which this compact involved them. Proposed by the Executive Government, and sanctioned by it—required by the interests of the people, and necessary to the credit of the local institutions, there could be no other objection to the act than that it accorded better with the public interest than with that of the stockholders. Under this compact, the bank became bound to discount six millions (exclusive of revenue bonds) before the 20th April, and to sustain, with its unbroken credit and its whole capital, every bank which joined in the arrangement. The effect of this compact was not only to force the bank into earlier operation than a selfish policy might have recommended, but to oblige it to renounce the resource which the State banks might have afforded for

the supply of specie. South of New England there was no specie in circulation. The National Bank had engaged to support the credit of the State banks, and, if it produced a demand of their specie, it was bound to aid them by the loan of its own. He made these observations very much with a view to the conduct of the bank in affording facilities for the payment of the instalments upon its stock. But he did not mean yet to engage upon that topic. A necessary consequence of this compact, the committee would see to have been, that, if a large amount of specie was necessary to the operations of the bank, it could be obtained only from foreign countries. Its importation might have been trusted to the gradual contributions of trade, and he believed it would have been better to have been so. But the error of judgment, if it was one, which consisted in the bank's importing specie from abroad, had no character of bad faith. Perhaps it was unnecessary. If it were necessary, it resulted exclusively from a compact which interdicted all reliance upon the specie of the State banks.

If the committee, then, should determine that the early operation of the bank, and its importations of silver, were both of them injudicious—at least they would say that neither was criminal. Perhaps the effect of both was injurious to the stockholder; the country had no right to complain of them. But the second article of the compact had drawn down the severe animadversions of the gentleman from Virginia, (Mr. PINDALL.) He had considered it as obliging the State banks to pay interest for public balances transferred from them to the National Bank, although the National Bank had not undertaken to pay these balances to the Government in its own notes or specie. In other words, he had supposed that the National Bank received interest from the State banks on what had been called the special deposits of the Government. He had admitted it to be fair and right that the bank should receive interest on all balances transferred to it, for which it gave a general credit, and which might at any moment be drawn from it in coin. Now, Mr. L. said he did not hesitate to affirm that these were the only balances on which interest had been received or claimed. There was in the sentence which had been read a little ambiguity, (which would have been avoided by introducing the parenthesis before the five words which now preceded it,) but this error in style was no serious crime; and the meaning of a compact, which had been carried into effect without objection by either party, was best ascertained by its execution.

Among the errors of the bank, in its first operations, one of the greatest, as it appeared to him, had not been censured by the committee. He alluded to the attempt to pay the notes of the bank and its branches at any office at which they should be presented. The committee had said that "the relinquishment of this attempt was involuntary and reluctant;" but the attempt itself, though directed to the promotion of the public convenience, and urged by the public wish, had produced so much embarrassment and injury, that any



exposition of the conduct of the bank must be very defective in which the effects of this injudicious scheme were omitted. He hoped not to be suspected of enlarging upon this subject for the purpose of supporting a favorite theory. Its examination was necessary, because it had produced much of the mischief which had been attributed to other causes. He should not have to argue that the bank was not bound to pay its notes indiscriminately at all its offices. He believed that nobody now contended that it was. He should not inquire how far it could be practicable so to pay them. His proposition was, that the attempt, while the situation of the country made it practicable, would even then be embarrassing and injurious.

In every system of bank circulation, the regulation of the amount of discounts and issues is a point of the utmost importance. In banks which redeem their paper by specie, the restraint upon excessive issues consists in this, that the superfluous paper is thrown back upon the bank and its specie withdrawn. The directors of a bank, with very little knowledge of the principles of circulation, and little information as to the currency of other States, are in this way controlled in all their operations, by a principle which proportions the circulating money of the country to its real business. He did not mean to inquire whether other or better regulations of the amount of paper in circulation might be adopted. We had no other. But how were the discounts of a branch bank restrained, under the system which provided that the notes which it issued should be redeemed at every office throughout the United States? If the balance of exchange was unfavorable, (and a profuse discount might at any time make it so,) it would be the interest of every man who got possession of a branch note to send it to a State where the exchange was high. A bank note is an order for the payment of money; and if the holder has the option of drawing this money at different places, he will draw it there where money is most valuable. If the discounts of Lexington were larger than the business of the place required, and the notes which were issued there were redeemable nowhere else, the bank at that place would immediately discover its error by the drafts upon its specie, and its discounts would be accordingly contracted. But if the notes of the Lexington branch are payable at New York, however profuse may be its discounts, the directors themselves discover, within the limits of their observation, no inconvenience from their liberality. They have lent only to those whose possessions are sufficient to secure the payment of their debts, the specie in their vaults remains untouched, and the income of the institution is increased by the large amount of their loans. In New York, indeed, if we suppose the exchange to be in favor of that place, the operation of the system is quite different. There, however prudent may be the bank in limiting the amount of its discounts, the increasing demands of the holders of Lexington paper exhaust its resources, and force a still further reduction of

its discounts. Wherever the state of exchange is unfavorable, wherever the just principles of banking require a reduction of discounts, there, under this system of indiscriminate payment of its notes, the bank has nothing to fear from a draft of specie, and is encouraged to lend to every applicant. Wherever the state of exchange is favorable, and on the sound principles of banking an enlarged accommodation might be given to the community, there the flow of notes, from every State whose exchange is unfavorable, contracts or suspends all the operations of the bank. Thus, wherever discounts should be enlarged, the tendency of this system is to reduce them, and to enlarge them wherever they should be reduced.

It may indeed be said, that the directors of a branch bank, where the exchange is unfavorable, may contract their discounts, although no specie is drawn from them, because they well know that they might otherwise produce a pressure upon distant banks. This is to suppose that calculation of inconveniences to a distant branch will produce the same result which the sense of them, in their own bank, would produce. It may be said that the parent board, at least, will discover and correct the error, and that when the excessive issues of one branch have forced those of other States to redeem their notes, the controlling board will direct a transmission of specie from the debtor bank which will restore the balance. And all this the parent board will attempt to do. They will endeavor to remedy the irregularities which a better system would have avoided; they will direct, as the directors at Philadelphia have continually done, what the amount of discounts for their distant branches shall be—their orders will often be injudicious, and oftener ineffectual. It was no unfair account of the practical operation of the system of which he was speaking, to say, that it gave to the branches, where the exchange was unfavorable, the entire disposition of the specie of those branches where the exchange was favorable. Upwards of six millions of specie have been sent to the branch of New York, besides the amount which has been paid by the subscribers of the bank there; but, in issuing notes, which the bank of New York has been obliged to redeem, every branch throughout the country has drawn upon a fund, with whose condition, at the time, it could not be acquainted.

Such a system might be expected to produce inconvenient changes in the distribution of bank capital, an extreme facility in obtaining loans at one time, and unexpected contractions of discount at another. But it had been eighteen months in operation, and if his views were at all correct, the experience of the bank must exemplify and prove them.

The embarrassing effect of the system was developed in Boston, as early as March 17th, and in less than three months after, in New York; but he had not time to trace its history. An extract from the letter of the president of the Boston branch (March 19, 1818) to the president, Mr. Jones) would confirm some of the observa-

tions which he had made: "When the State banks were discounting here, though not largely, this bank called in, from its debtors, but thirty per cent. regularly; this placed them in a better state; by reducing their sums discounted, considerably, they acquired a balance against the other banks; but this only induced a call from the State banks on their debtors; the result is that, as they operate upon their whole system, they have a remedy. But this branch has the mass of paper thrown out at an opposite extreme to provide for, which it cannot, in any case, have the wished for information. On Monday last the bank made no discount to be mentioned, nor had they so done for many weeks previous. They had a balance of \$93,000 against the other banks in town, and in specie about \$23,000. Tuesday took from them about \$30,000 and Wednesday about \$50,000, and it followed that, as a great proportion of this is in Southern bills, produced by the scarcity of money here, this must produce a demand which the specie of the bank, and its balance against all the other banks in the town would not half discharge."

The effect of the system of paying the notes of the branches everywhere; in reducing discounts where the exchange is favorable, and enlarging them where it is adverse, is exemplified by a comparison between the discounts of New York, and those of Kentucky and Ohio. In November, 1818, the discounts in New York were \$1,685,874; those in Kentucky, \$3,221,450; and those in Ohio, \$3,383,790; including, in the two last States, the debts which were due from banks which paid interest for them. Thus, the two agricultural States of Kentucky and Ohio have discounts from the National Bank to the amount of more than six millions and a half, or excluding stock notes from the calculation, about one-fourth of all the discounts made by the bank throughout the United States.

It could not be necessary to enlarge upon the objections to this unequal distribution of the capital of the National Bank. But a notion has prevailed, that, in respect to the Western States, the capital employed there has been only that which has been furnished by the deposits of the Government. He regretted that the directors of the National Bank, who had had it fully in their power to remove this prejudice, had hitherto neglected to do so. Mr. L. read many extracts from the report of a committee, lately made to the House of Representatives of the State of Ohio, in all of which, the assertion was made that the National Bank had carried no capital to the State, but had been supported principally, and almost entirely, by the deposits of the Government. Very different was the fact. He had on his table a calculation (deduced from statements contained among the documents which had been published) by which he endeavored to infer the amount of drafts and notes from the offices of Kentucky and Ohio, which had been paid in the Atlantic cities, beyond the amount which those offices had paid on Atlantic drafts.

This amount, he was confident, exceeded five millions and a half. He would be glad if any gentleman disposed to inquire into the subject would examine the paper. But no specie, it is said, was carried to Ohio and Kentucky. If the branches in those States had wagoned five and a half millions of dollars across the mountains, and then lent them to individuals, who had sent them out of the State for the purpose of merchandise, or the payment of debts, it would be admitted that a capital to that amount could have been transferred to the Western country. The bank did not do this. Instead of carrying the specie to Ohio and there lending it, the specie remained in the Atlantic States, and the citizens of Ohio obtained, not indeed silver in the first instance, but drafts and notes, which were sent to the Atlantic cities, and there drew out silver. If it had been proposed to the directors at Philadelphia, at the establishment of the bank, to employ this enormous capital in the Western States, they would not have consented that a fourth of it should be so engaged. But the unfortunate system which he had endeavored to explain had led gradually, and almost without observation, to a distribution of capital which otherwise could not have been granted, nor even asked. The directors of the western branches had not incurred the imputation of speculation or of collusion with speculators; the amount of stock pledged, and even owned there, was not large, and yet it was there that the amount of discounts was most excessive. The discounts of Kentucky and Ohio he had stated as amounting, in November, to more than six and a half millions; those of Baltimore, at the same time, were less than nine and a half millions, a much less amount than the other, comparing the business of the two. These western discounts were the greatest impediment to the successful administration of the bank. One of the most important duties which it behooved the directors to fulfil was that of making a better distribution of their capital. But many years must elapse before the discounts of the two States which he had mentioned could be reduced within their proper limits.

He had just received a copy of the memorial of delegates from the banks of Ohio to the Legislature of that State, and was glad to find that they began to understand the mischiefs which the indiscriminate payment of the National Bank notes was calculated to produce in the States whose exchange was unfavorable. [Mr. L. read a paragraph from the memorial which explains the injury which that practice occasioned, as it supposes, to the State of Ohio.] If the bank had refused payment of the notes of its branches, from the commencement of its operations, the memorialists insist that more of its paper would have circulated in the country. He hoped that the Committee would excuse him for having so long dwelt upon a topic hardly noticed in the report, but he had thought it important to show how large a part of the complaints against the banks resulted from a practice which must be considered as an error, not a fault, which had



been entirely abandoned and which it was extremely improbable that any future board of directors would renew.

Mr. L. next adverted to that part of the report of the select committee which condemns the arrangements which were made for the payment of the dividends upon bank stock in England. The committee "do not undertake to decide how far it was objectionable to afford inducements to foreigners to become interested in our stock." "But, thus to compel American stockholders, and the Government, to contribute to the possible loss of paying the dividends to those abroad appears (they say) to be unjust." He thought that a very short inquiry would lead the Committee whom he addressed to a different conclusion.

The arrangement in question involved two considerations. Ought the National Bank to deal in exchange, and were the terms on which it sold bills to "the stockholder abroad" fair and advantageous? It was very plain, that, to make an arrangement with the foreign stockholder, by which it was stipulated to make the payment in England at par, six months after the dividend was declared, was substantially to sell at par bills payable six months after date. Ought then the bank to deal in exchange? It is the business for which the charter specifically provides; it is perhaps for the country one of the most useful operations, in which a National Bank can be engaged—its appropriate duty. It would do very well, the committee seem to think, if it were not for "the possible loss" in the transaction. And in exchange operations there is certainly some risk. In the case of the bank, the sale of bills implies the purchase of them, and bills may be protested. But the risk of the transaction was as good a reason against discounting notes as purchasing bills. He could not think, then, with the committee, "that it was unjust to oblige the American stockholder to contribute to the possible loss," while he was to share in the probable gain "of paying dividends to those abroad."

But were the terms unreasonable? If the bank deals in exchange, is the sale at par of its bills, where they are payable six months after date, or four months after sight, a sale for too low a price? Let an examination of the usual state of exchange decide the question. An examination of exchange, since the bank had gone into operation, might be objected to as furnishing no fair criterion of the prudence of the measure. Its state might have been accidentally favorable. But he held in his hand two statements of the annual gain and loss by exchange in the payment of our debt in Europe; by the one of which it appeared that the whole gain, after deducting occasional losses in remittances for the Dutch loans, from 1791 to 1809, inclusive, was upwards of two hundred and sixty thousand dollars; and by the other, that the gain, after the same deductions, under the operations of the Commissioners of the Sinking Fund, from 1802 to 1817, inclusive, was upwards of three hundred and fifty thousand dollars. The average price, then, which the Government had paid for its bills, in a period

of twenty-six years, had been considerably below par. If the bank then had engaged to sell bills at par, it would have had reason, from the experience of twenty-six years, to think that the arrangement would be a prudent one; but, upon a fair estimate of the time which it gained, its price must be considered as being about one per cent. above par.

But the committee suppose "that the *able reasons*" assigned in the report of the committee (of the bank) against the measure "should have prevented its precipitate adoption." Mr. L. said that there were but two sentences in the report which referred at all to this subject. He read them, and asked whether the intimation that the existing unfavorable balance of trade alone influenced the "committee to decline the unqualified recommendation of such an agency" was considered as furnishing the "*able reasons*" in condemnation of the measure? In truth there was no reasoning in the report. But the authority of the committee was decidedly favorable to the general propriety of the measure which had been adopted.

Among the objections urged by the committee (of which he had had the honor to be a member) against the conduct of the bank, some of the most serious were those which regarded the amount and character of its discounts. He concurred with some of the views of the committee upon this subject. He did not now mean to speak of discounts given to enable the discounteer to pay his instalments upon stock. But, without reference to the object for which they were employed, the discounts, with a pledge of stock, were, many of them, as the committee had stated, "excessive in amount." While a pledge of stock is fairly employed as a mere substitute for personal security, he would not say that, even when valued at twenty-five per cent. advance, it might not be safe to the bank, as well as convenient to the merchant. As a mere substitute for personal security, it would imply that no discount would be made on it to an amount which would be refused to the same drawer with a common endorser. But many of the stock loans were so large that the pledge of stock lost its character of mere collateral security. When a loan for a million of dollars is secured by a pledge of stock, it was obvious that the stock was not considered only as a fund to supply any deficiency which the possible insolvency of the drawer might produce, but was the principal and almost the only foundation of the loan. The same loan would indeed be much more objectionable with the security only of an endorser.

There were expressions in the report which might be construed to imply a partiality in the distribution of these loans, which perhaps it was not designed to convey, and which, as it seemed to him, the evidence would not support. It was said that the loans "were not made"—he understood that the committee meant to say that most of them were not made—to the merchants and traders," but to a few persons, consisting of directors, brokers, and speculators. It was diffi-

cult for him—a stranger at Philadelphia—to pronounce sentence on the character of those who had borrowed money on a pledge of stock. Of the whole number, he knew personally but two or three, and neither of these were speculators or brokers. The committee had selected the names of fourteen, and had obtained evidence of their employments in life—seven were merchants, five were brokers, and two could not be classed in either list. Mr. McEuen's testimony, which has been published by the committee, contains his "opinion that a considerable proportion of discounts on pledged stock, was for the benefit of merchants, and not of speculators." Major Butler says, that "he has never known any good paper refused on account of the amount of stock notes offered."

It is said in the tenth page of the report that "not an instance has occurred of a note secured by the pledge of stock being rejected." If the merchant and trader then had not their share of the loans, it was only because they did not apply for them. The partiality in their distribution was not to individuals, professions, or parties: merchants, farmers, and artisans, obtained those discounts whenever they wished them. The partiality was to the whole body of holders of bank and funded stock throughout the United States. He believed there was not an instance of a note secured by a pledge of funded stock being rejected.

While his judgment led him to the conclusion that many of the stock loans were highly objectionable, from their amount, he thought it fair to add the view which had satisfied his mind, that a considerable proportion of those loans was necessary. He should have occasion, in another part of his remarks, to examine the state of exchange between the United States and other countries since the establishment of the National Bank, for the purpose of showing that the whole amount of its discounts was not excessive, although their distribution was unequal. But he wished now only to apply the test which the rate of exchange, as he thought, furnished, in an inquiry into the propriety of the discount operations of the bank in Philadelphia, in the months of July and August, 1817, when the amount of stock loans first became considerable. From the statement which he held in his hand, it appeared that the exchange with the principal countries of Europe continued, with very little variation, nearly at par during the time. This fact was incompatible with the supposition of an excessive circulation. The whole amount of notes, with a pledge of stock, discounted in Philadelphia in July and August, 1817, was about six millions and a half. The committee think it "singular" that at this time "any business paper should have been rejected." The whole amount rejected, was less than one million and a half. Supposing this sum to have been discounted, whether the parties were insolvent or not, and the stock notes rejected, the amount of discounts in Philadelphia, in two months, would have been less by five millions than it actually was. Of

these five millions, a part (he did not know what part) was employed for the payment of subscriptions to the bank, and did not add to the amount of money in circulation. Suppose half to have been so employed, and a reduction of two and a half millions in the circulation of Philadelphia, below the amount which kept its exchange at par, would have suspended mercantile business, and spread embarrassment and distress through every town in the State. He appealed to gentlemen whose business or curiosity had led them to observe the effects—which even an inconsiderable change in the quantity of money produces in a commercial community, to say whether there was anything visionary or extravagant in this view.

It had been alleged as an excuse for the magnitude and permanence of the loans which were made about this time by the bank, that the redemption of its stock by the Government had made it necessary that it should invest the State bank paper, which it was paid in, in some other securities. He must, however, observe, that the embarrassment of the bank, from the accumulation of the paper of State banks in some parts of the Union, did not originate in the measure to which it had been exclusively attributed. Its own errors were a principal cause. As early as March, 1817, it suffered, from a deficiency of resources, at Boston; and three months afterwards, in New York; while a large amount of balances against the banks to the South and West of those places had accumulated, even at that early period of its operations.

The observations of the report on the subject of post notes, Mr. L. thought liable to misconception. After referring to several transactions in which post notes were received by those who had obtained discounts, it is observed, "that not being drafts on other offices, they cannot be considered as exchange operations." Now, every post note but one, to which reference was made in the report, was "a draft upon another office." The resolution under which they were given, would be found among the documents, (page 92.) They were post notes of the bank at Philadelphia. They were obtained by those who got discounts at Baltimore. This appeared to him, therefore, to be a simple case of exchange.

The case of the post notes mentioned in the first part of the paragraph, was different. The post note was payable in the same place in which the discounted note was payable. There was, too, some ambiguity in the resolution for granting the discount, and it might possibly be inferred, if we had no other evidence, that it was a condition of the loan, that a post note, payable sixty days after date, should be received by the discounteer. But had we no other evidence? Mr. Smith swears (documents, p. 114) that "post notes at sixty days date, have frequently been issued on the application of persons who have had notes discounted, but it has never been the condition of the discount." To every man who knows what post notes are, their convenience to mercantile men, and indeed to society generally,



can require no explanation. A post note of the Philadelphia bank is better than a bill of exchange upon Philadelphia. If the exchange with New Orleans is in favor of Philadelphia, a merchant who wishes to make purchases at Orleans will find a post note of Philadelphia, or a power to draw upon it, among the best means of accomplishing his object. Bank notes, indeed, might answer the same purpose; but, as they are payable to bearer, the risk in their transmission is greater. In the instance referred to in the report, the bank had no possible interest in preferring the issue of post notes to bank notes, because the distance of the place to which the notes were to be sent, was an effectual security that bank notes would not have returned upon it within sixty days.

Mr. L. said that he had detained the Committee very long on topics which he did not consider likely to affect the decision of any of the resolutions. But he had feared that, if the opinions of the select committee, on some of these points, had passed without objection, they would be considered as having received the sanction of the House.

He came now to the question which he supposed should chiefly engage the attention of the Committee: How far has the bank answered the great object of its institution? If, as a measure of policy, the dissolution of the charter would be unwise, Congress would not dissolve it, even though such a penalty were just, and such a proceeding legal.

The great object of Government in chartering the bank, was to provide a currency which should have that degree of stability and uniformity in its value, which is required by the interests both of our commerce and revenue. A currency equally valuable at every place and every time, cannot be provided by human wisdom. The nearest approach to this object has been generally supposed to be afforded by the employment of gold and silver as the measures of value. The 14th Congress did not aim at ideal perfection; they wished to combine with the conveniences of bank circulation an uniformity of value equal to that which was possessed by the precious metals; and the means which they employed to secure this uniformity were simple and effectual, by enjoining, under a heavy penalty, the payment of all its notes in coin, upon demand. In the report, indeed, the notes of the National Bank are said to be now "on the same footing with those of local banks." Of the footing on which local bank notes stood, he should speak hereafter; but the price current upon his table informed him that the greatest discount on branch notes of the United States, was  $\frac{1}{2}$  of 1 per cent. This was a value much more uniform than that which coin could be expected to have in so extensive a country. He had been lately looking into a book on political economy, which had been published here with high, and, in respect to its clearness and precision, with just commendations—the work of Mr. Tracy. He inferred from one of his chapters, that the difference of exchange be-

tween Marseilles and Paris, was often from 2 to 3 per cent. If, with all the facilities afforded by the internal improvements in which France is so rich—with a currency consisting almost exclusively of gold and silver, the variation in the value of money is three times greater in her territory than on our continent, can it be said that, in this respect, the bank has not fulfilled the objects of its institution? Before its establishment, the value of bank notes, even in the commercial States, had varied 20 per cent. from each other, and, as none of them bore a fixed proportion to the precious metals, or to any natural standard, it was impossible to assign any limit to their depreciation. You have required that the currency furnished by the National Bank should be everywhere convertible into silver, and it is so. You have expected that it should be as uniform as coin, and it is more so. He would not detain the Committee by reading a paper which he had prepared with that intention, containing the state of exchange, since the establishment of the bank, with England, France, and Holland; for he found himself occupying much more of their time than he had expected. But he believed that any member who should turn his attention to the subject, would remark its steadiness during that period. He thought himself justified in drawing from this fact a conclusion highly favorable to the bank—that the whole amount of its discounts had generally been nearly right. The distribution of those discounts he had admitted to be wrong. It was the total amount of discounts which a spirit of eager and intemperate speculation would be most apt to enlarge. It was the total amount of discounts which a just regard to the stability of our money made it most important to restrain.

The correspondence of the bank with the western branches had been adverted to in the report of the committee. Mr. L. thought that it illustrated the general views which he had submitted of the subject. He read the 5th and 6th rules prescribed for the government of a western office, (documents, p. 29,) to show that the orders of the parent board were sufficiently energetic. The method of securing their execution by orders directly issued to their cashier, showed no want of decision. But the system which encouraged the board to extend its discounts by paying its bills in the Atlantic cities, and then aimed at reducing them by orders from the mother bank, was radically wrong.

To do justice to the conduct of the bank, and fairly to estimate its services in maintaining specie payments, it was proper to consider the peculiar difficulties of the time. He would not enter into the inquiry how far the payment of a large public debt must add, in every country, to the difficulties of banks of circulation; but, confining himself to the payment of about five millions of the Louisiana debt in one year, he would ask whether a remittance of this amount to foreign creditors must not press heavily upon the resources of a National Bank? Its arrangements, indeed, had been such as to relieve the country from much of the embarrassment which might

have been anticipated—such as to illustrate very strikingly the advantage which a National Bank may produce in the management of exchanges. By becoming the agent for the remittance of the principal part of the debt, it has been able to conduct, without much inconvenience, an operation which might otherwise have produced a pressure upon the whole banking interest of the country. Among the difficulties of maintaining specie payments, the extraordinary extension of our trade to the East Indies could not be overlooked; and the demand for the precious metals in Europe, which resulted from the attempt by so many nations which, during their late wars, had used only paper, to recover specie circulation, was felt on this side of the Atlantic. Among the effects of paper money, that of its making the value of the metals more variable, even in countries which do not use it, must be obvious to the Committee. The employment of paper in any country causes its specie to be exported, and, adding to the supply of that article in foreign States, reduces its value there. The restoration of specie currency, by opening a new demand for the article from other countries, enhances its value there. Such is the process which is now going on in many parts of Europe. The diminution in the supply from the South American mines will be considered as exerting a less questionable influence on our stock of the precious metals. It was in opposition to all these difficulties—in defiance of the discontent which contracted discounts must have been expected to produce among its debtors, and a reduced dividend among its stockholders, that the Bank of the United States performed its great duty—that of maintaining specie payments throughout the whole extent of this country.

The safekeeping of the public deposits, which implies their prompt payment in specie upon demand, must appear particularly important to a Government whose losses have hitherto been so heavy as ours from the want of this provision. Even now, after the immense amount of paper which had been assumed by the National Bank, there remained, he believed, more than \$500,000 of bank paper belonging to the Government, of which it had lost the use from the war to this time; of some of which he was very certain that it would lose even the principal.

The bank is admitted to have fulfilled the duty of transmitting the public money, without charge, wherever it might be required. He believed that the answer to the resolution of his friend from Virginia (directing an account of the money so transmitted) had not been received, and he was sure that, when received, it must be imperfect and unsatisfactory. The account must represent each office as receiving the amount lodged there, whether in its own bills or any other; and, in practice, a large proportion of the bills which are paid where exchange is most favorable, will be those of the States whose exchange is most unfavorable. For example, a large proportion of the revenue accruing in Boston will be paid in the notes of Ohio. That the transmission of money on account of the Government must be

very considerable, even in time of peace, must be true, unless the expenditure of the country in each little district be supposed to be nearly equal to the revenue collected there. But the revenue and expenditure may be exactly equal—let us suppose that to be the case in Boston—and yet the bank may have to transmit for the Government the whole amount of such expenditure—that is, it may receive, upon the supposition which has been made, the money of Ohio, and pay to the Government Boston money. But, although the advantage was very considerable in peace, it was, by considering its effect in war, only that we could estimate its real magnitude.

If the direct duties which the bank owes to the Government have been fulfilled, he would inquire how far the institution had furnished those accommodations to public debtors, which had probably been expected from it? These accommodations were of two kinds—by its loans, and by the general circulation of its paper.

There are two sentences in the report, which seem to intimate that the loans to public debtors, by the Bank of the United States, have been inadequate to their just expectations. The report represents the Northern offices as compelled "to deny to the debtors of the Government any indulgence or accommodation in their payments;" and in another page it states that "it does not appear that the notes of those who had revenue bonds to pay have at any time been discounted extensively." He considered this quite as a minor subject of attention; but he would state the evidence as it had appeared to his investigation.

In the very commencement of the operation of the bank, (on the 3d of January, 1817,) the board resolved that notes for those who had revenue bonds to pay should be discounted, and might be paid in the paper of other banks, while of the small amount of the notes discounted the whole were to be paid exclusively in specie. On the 9th of January a resolution authorized the offices to discount notes for revenue bonds, at a time when they had not commenced any other business. On the 4th April, 1817, when the board was obliged to limit its discounts everywhere, it directed a preference to be given to custom-house bonds. Thus we had proof that in the first business of the bank, a preference had been given to the notes of Government debtors, that the preference continued when circumstances required a general limitation of discounts; and if this was the case when the bank was straitened, it would be extraordinary indeed that it should be less liberal at other times. Nor did he know anything to countenance the opinion that it was so.

Perhaps we might infer something as to the disposition of the bank to extend its accommodations to the public from the order in which its first loans had been made. It was then that it must have been most penurious and reluctant in its discounts. Its first loan made before January, 1817, was one of \$500,000 to the Government. In Philadelphia it loaned in January, 1817, \$182,642 to stockholders, and its next loans were \$293,502 to those who were indebted on custom-



H. or R.

*Bank of the United States.*

FEBRUARY, 1819.

house bonds. Indeed he remembered no evidence of a discount being at any time refused on the notes of custom house debtors. And Major Butler's testimony, of which he had already spoken, had not been impugned by that of any other witness. The Committee would recollect the statement, "that he had never known any good paper refused on account of the amount of stock notes offered."

The Committee probably remembered a sentence in the letter from the Secretary of the Treasury, which he would read before he dismissed the subject. "The bank has promptly transmitted the public money wherever and whenever it has been required to perform that service. It is presumed that the facilities expected from it in the collection of duties have been furnished, as no information has been received at this Department, stating that such facilities have been withheld."

Such was the evidence "as to the indulgence or accommodation to the debtors of the Government" by the bank, or such it appeared to him to be, of evidence which might lead to a different conclusion, he knew none.

But the more important accommodation to public debtors, which was expected from the National Bank, consisted certainly rather in its supplying a currency which the Government engaged everywhere to receive, than in loans to which, under common circumstances, the State banks were quite adequate. How had this duty of supplying a national currency been performed? Of the inequality in the value of the National Bank notes, he had already spoken, and he hoped that he had satisfied the Committee that it had been less than had been expected at its institution. He had not heard the entire amount of notes thrown into circulation represented as deficient. Their distribution he had admitted to be bad, and had endeavored to explain the principal cause of its being so. But the loudest complaints against the bank on account of deficiency of its notes were from the States in which the most disproportionate and excessive issues had been made. He read a paragraph from the report of a committee of the House of Representatives of Ohio, in which they characterize the proceedings of the bank in requiring that payments should be made in its own notes, as little better "than insulting mockery." It might seem that, wherever bank notes which the Government engaged to receive in taxes might be issued, they would be carried to any part of the country in which they were necessary for the payment of public debts. The foreign merchandise, which is landed in New York or New Orleans, is conveyed wherever there is a demand for it. And the credit or produce which enabled any section of the country to obtain foreign merchandise would be quite as effectual to procure bank notes or specie. But it was not necessary that Ohio, which perhaps complained most of the want of National Bank notes in its circulation, should have imported them from other States. In Kentucky and Ohio individuals had discounts

to an amount exceeding five millions of dollars; they had received this amount in bank notes or in credits equivalent to notes, and for which notes might have been obtained; but they had them no longer. The complaint, then, was this: not that the bank had not furnished a sufficient circulating medium to Kentucky and Ohio, but that it had not retained it there. Could the bank have prevented its remittance to other States? The States to which its discounts had been largest, had chosen to employ them in the payment of former debts or the purchase of merchandise. He believed that there was a fund of justice in the people of this country, which would not allow them to consider the bank as responsible for the mischiefs which an improvident use of its discounts may have produced.

Of other advantages furnished to the Government by the bank, he would not speak; some of them were great, and he supposed undisputed. Of these, the bonus of a million and a half, was not the most considerable, and yet the representatives of the people might be expected to hesitate before they threw away even a million and a half. The obligation to transact all the business of the Loan office without charge, and the facilities which the bank must afford in all future loans, he considered as yet greater advantages.

We have seen how far the great duties of the bank have been fulfilled, and its expected advantages realized. But every question like that before the Committee, so far as it was a question of policy, not of justice or law, was in a great measure a comparative one. We had seen and knew what was the condition of the currency, and what the security for the operations of the Treasury with the Bank of the United States. What would be its condition without the bank, was a fair subject of inquiry and comparison; and a prudent man would consider even the doubt which must prevail as to the currency which would be established, as in itself a very strong objection to the destruction of the bank. What would our currency be? Would it be exclusively specie? Would it be State bank notes or Government paper?

He did not think (although perhaps the highest authority on matters of this kind was in favor of the opinion) that the employment of paper rather than coin, was sufficiently recommended by its economy, as the substitution of a cheap instrument of trade for an expensive one. If there were no other inducement for the use of paper, it would resemble the economy which should substitute wooden warehouses for stone ones. Without entering into an inquiry into the advantages or defects of a specie circulation, he would confess that his apprehensions would be much less than they were, if he could suppose that the metals would form the only currency of the country; that the Government could and would exact gold and silver in the payment of all its debts. But he would not waste the time of the Committee in speaking of an expectation, which every man who heard him, believed to be visionary.

In destroying the Bank of the United States,

FEBRUARY, 1819.

*Bank of the United States.*

H. or R.

then, we must do it, because we prefer the currency which will be afforded either by the notes of local banks or by Government paper. It was not fair, indeed, to address this argument to gentlemen who believed that they were bound by the Constitution to destroy this institution. His friend from Virginia had properly abstained from the discussion of the Constitutional question, although he seemed to expect it from the opposers of the resolution. Mr. L. would follow in this instance his example, not his advice.

What were the inducements to prefer, in the receipt of taxes, the notes of local banks? A gentleman from Virginia (Mr. PINDALL) had supposed that without a National Bank, the State institutions, in their own time and manner, would all have returned to specie payments; that the Legislature of every separate State would at some time or another have made them do so. Mr. L. had no faith in this security, and he was sure that it would be vain to inquire for evidence of it. What they would have done under circumstances of great difficulty he would not say; but he would show what one of them was doing or was likely to do now. He meant again to refer to the report of a committee of the House of Representatives of Ohio; he did so with all proper deference, and without objection or complaint. Nothing was more fair than that the State of Ohio should receive in payment of its taxes and debts whatever money it preferred; but when it was argued that the United States might safely trust the regulation of their currency (the framers of the Constitution, by the by, had not thought so) to the regulation of the State Legislatures, it became necessary to inquire what was the currency with which those Legislatures would be satisfied. The report to which he had alluded, noticed, without disapprobation, the suspension of specie payments by the banks of the State; reprobated the conduct of the National Bank in refusing to receive their bills in payments; and declared that they formed "a solid currency" "for all the purposes of internal commerce." No proposal could be expected, and he believed none was made for a change in the solid currency which was so satisfactory to the State. But, did the interests or duty of the Government of the United States permit that this currency should be received by it? Some dissatisfaction was expressed, because the branch notes of the United States Bank were at a discount of three-quarters of one per cent. He read from a price current the state of the market for bank notes; by which it appeared that notes which were insisted to be in very good credit, varied from a discount of 2½, to one of 7, 15, 25, and even 30 per cent. Was our revenue to be received in these notes? How were they to be employed? They might be expended in the district in which they were issued. But was the expenditure of every district to be exactly limited to its revenue? What became of the Union if it were so? He spoke of the thing, and not of the name. Our Union might dissolve in imbecility, as well as be destroyed by violence. Did not Union imply,

that the resources of one State, its money as well as its men, might be employed for the defence of another? To authorize the General Government to levy a revenue from every part of the country, and to expend it only where it was levied, would be as wise a provision as that of empowering the President to call out the militia, with a condition that each man should fight only upon his own farm. The Committee were aware that the money which the Government received in the Western States, was principally the produce of its sales of public land. It was the fund which had been assigned to the Government, and pledged for the payment of the public debt. This debt was due almost exclusively in the Atlantic States and in Europe. Our creditors would not certainly receive Western paper. To say that it should be received by the Government, was to say that the fund should be diverted from the great object for which it had been established. But, if the Government were willing to bear the loss of a depreciated and unequal currency, it must neglect the plainest principle of the Constitution in doing so—equality of taxation. The Committee must well remember that, before the establishment of the National Bank, such was the unequal value of money in the different States, that the merchants paid duties varying fifteen per cent. from each other, on the same articles. The merchant on one side of the Chesapeake bay, was forced either to submit to heavy loss or to enter his goods on the other side, where he did not expect them to be consumed. Thus was a constant encouragement held out to depreciation by the Government itself. The worse the paper in which the Government debt was paid, the stronger the temptation to the business of importation in the place in which the duties were thus reduced.

Was the issue of Government paper a measure to which we ought willingly to resort? Mr. L. would not indiscriminately reprobate all issues of this kind. Other nations, as well as our own, had resorted to them, and the emergency had justified the act. He might acquiesce in paper money from necessity; he would not adopt it from choice. That the destruction of the bank would be followed by the establishment of paper money, he firmly believed—he might almost say he knew. It was an extremity from which the House would recoil, if it were now proposed; but if the resolution upon the table were passed, it would very soon be proposed. The subject was too large for an incidental discussion. Gentlemen thought that the amount of Government paper might be limited, and depreciation prevented by the rate of interest which should be exacted. Inadequate everywhere, the security was particularly ineffectual in the United States. Both the natural and legal rate of interest were different in the different States. The State in which the actual rate of interest was highest, would borrow the largest amount of Government paper, in proportion to its business. From it, this paper must flow upon the other States, and, adding to their quantity of an article for which there



M. OF R.

Bank of the United States.

FEBRUARY, 1819.

was no foreign use, its depreciation must be infallible. He had not time further to develop the argument, but he trusted it to the reflections of every man who would turn his attention to the subject.

Mr. L. would dismiss this topic with one more remark. The inequalities and inconveniences of bank paper would not be removed by Government paper. The local banks would discount on specie; and the proportion between the Government paper and the bank notes which would be considered as representing it, might be as unequal as it now is between those notes and specie.

Such were some of the permanent evils which the destruction of the bank might be expected to produce. Upon temporary evils and individual losses, although he could not look upon them with indifference, he would not enlarge. Let not gentlemen delude themselves with the hope that if the institution were destroyed, its affairs would be gradually wound up; that the convenience of the debtor, and not the interest of the stockholder, would determine the extent of the indulgence that should be granted to him. In the scarcity of money which would follow the destruction of the bank, property might be expected to fall 15 or 20 per cent.; or in other words, money to rise in the same proportion. In whatever proportion the capitalist who was turned out of the National Bank should choose to invest his money, to consent to a delay in its collection and investment, would be to add a new and certain loss to those with which he had been before afflicted. Indulgence would be given where it was necessary to secure the debt, not where it was necessary to save the debtor.

He confessed that he did not understand the views of those who were anxious that the branches of the United States Bank should be immediately withdrawn from Kentucky and Ohio. Was it meant that they should not continue to lend? If these States owed five or six millions to the bank, there was but one mode by which their justice would allow them to wish that such loans should be discontinued—by their payment. But when could five millions be paid by them? He would answer for it, that the directors would be willing to reduce their discounts, and withdraw their funds from the Western States, much more quickly than it would be possible for their debtors to enable them to adopt that process.

Mr. L. said that he deceived himself, if he had not proved that the great objects proposed in the establishment of the National Bank had been fulfilled. But if he were wrong, if it had disappointed the just expectations of the country, an enlightened legislature would inquire whether there were no remedy short of its destruction. The charter had given to the Government powerful means for restraining the errors and controlling the conduct of the bank. The appointment of five directors, the withholding public deposits, the refusal to receive its notes in payment of taxes, an examination into the whole

conduct and real condition of the institution—these gave us a command which, while it was fairly and moderately employed, could not be disregarded or resisted. Would it be wise to destroy a constitution because you disapproved of its first administration? Would you even break up a machine, because in its first experiment there had been some mismanagement? On this part of the subject, he had the rare advantage of supporting his opinions by those of the select committee. The committee say, that "to correct the many evils and mischiefs they have depicted," "the Secretary of the Treasury has full power to apply a prompt and adequate remedy whenever the situation of the bank shall require it." They had before observed, that "the root and source of all the instances of misconduct was the illegal, reprehensible division of the stock." "In the opinion of the committee, it is the greatest evil in all the system, and is the origin of all the others." "It requires a corrective." And the committee have proposed a bill which they consider as adequate to its correction. Can it be, when "the greatest evil and the origin of all the others," is one which it is not only so practicable but so easy to correct, that we shall destroy where we might cure?

He should say but a few words as to the present condition of the bank, and the character and safety of its debts. The views which could be taken of such a subject, must certainly be very general ones. He did not mean to speak of the safety of the holders of bank notes. That would be perfect, if half the debts of the institution were bad. But he did not believe that any of the errors imputed to the bank had impaired or endangered its capital. The notes secured by a pledge of stock had been most objected to. So far as the stock was pledged at par, it was evident that the security was perfect—if not in all cases for prompt, yet in all for the eventual payment of the notes. For information on the subject of those notes and their security, he referred to table 42, among the documents which had been published.

The whole value of the stock, as the security, estimated at par, exceeded the whole amount of the loans which it was pledged to secure by upwards of \$1,898,000. But there were particular loans which exceeded the value of the stock pledged to secure them (if that stock were estimated at par) by \$450,273. This, then, was the whole amount of stock loans which exposed the capital of the bank to any hazard. (The stockholder who owed the par value of his stock was equally debtor and creditor of the institution—the opposite quantities neutralized each other.) It was to these \$450,000, that the inquiry applied; was the personal security given for that amount sufficient? The report stated "that the provision requiring an endorser for the excess above the par value, was in many instances effectually evaded by some of the largest borrowers becoming endorsers for each other." How far the endorsers were responsible men, he did not know. This mutual endorsement was one of the evils

FEBRUARY, 1819.

Bank of the United States.

H. OF R.

which the practice of lending upon stock tended to remove. But when it was considered that the whole amount of stock loans, for the safety of which personal security could be at all necessary, was in Philadelphia \$173,450, and in Baltimore \$276,823, it must be admitted that there might be a very free exchange of names in those cities, and these inconsiderable amounts be yet effectually secured. He thought it not unlikely that the committee had fallen into the error of comparing the personal security not with the moderate sum to which it was applicable, (the excess of the loan above the par value of the stock,) but with the large sum, for which there was another and an adequate security, (that of the stock.)

If the loans on stock were considered safe, the only class of debts which the committee, from any information before them, had reason to suppose exposed to risk, (and they had that reason only from their magnitude,) was that of the debts due in the Western States. He had admitted that some years must pass before the greater part of these could be paid. But, although the circumstances of those States made it likely that they could not be promptly paid, he saw no reason to believe that they might not be paid eventually. In the meantime, they might be considered as diminishing the active capital of the bank. It is, however, by no means true, (where the condition of the country or the charter of a bank prevents it from owning funded stock,) that long loans to individuals may not properly be made—but he was afraid to engage in this digression.

He had as yet said nothing as to the violation of the charter. It was, indeed, in his view of the matter, a subject of no great importance to determine whether a legal and technical violation had been committed. If the public interest required that the institution should be preserved, the Legislature would preserve for the same reasons for which they had established it. The question of law would be much better discussed by those who were acquainted with its intricacies, and he had detained the Committee so long upon the other branches of the argument, that he would comment very briefly upon this. He differed, he believed, upon this subject, from all the members of the committee. He thought that none of the acts alleged amounted to a violation of the charter.

The first violation of the charter, as alleged in the report, was that of purchasing two millions of public debt. The bank, when engaged in importing specie from Europe, had sold two millions of its funded stock in England. This stock, in the hands of the bank, was redeemable at the pleasure of the Government. Before it had been subscribed to the bank, it had been, by the condition of the loan, irredeemable until the year 1825. The bank supposed that it was restored to this irredeemable character when it again became private property. He confessed that he thought so; and he believed it to be a common, and even the general opinion. The Secretary of the Treasury thought otherwise, and insisted upon the

right to redeem the stock which had been sold in England. The loss which the purchasers would in this way have sustained would have impeached the credit of the bank. To maintain it, the Secretary of the Treasury proposed that the bank should purchase, on account of the Government, the same amount of stock which it had sold; and it did so.

The charter provides that the bank shall not purchase any public stock. The merest verbal construction of the sentence—the interpretation to be obtained from a dictionary—would be, that that the bank should not "acquire by buying," it should not become the owner, by purchase, of the public stock. And it did not. There was not a moment during which the bank was the owner of the stock, which was at once transferred from the individuals who sold it to the Commissioners of the Sinking Fund. But he would willingly waive the verbal question. What was the intention of the provision? That the bank should not become the owner of funded stock, so as to enhance the price when the Government wanted to buy, or to reduce it when it wanted to borrow. And how could either of these evils result from its buying at the instance of the Government, and for the benefit of the Government, any amount of stock whatever? But it did not act, the report says, as an agent in the purchase of the stock, because it contributed out of its own funds a part of the price. The committee appeared to him to have confounded two acts which were very distinct. The bank, if the Secretary was right, was clearly bound to pay the difference between the par value of stock and its actual price to those to whom they had sold it as irredeemable, but in whose hands the Secretary determined to redeem it. It was as well to pay it to the Government. Suppose it to have done so, (and it substantially did,) where was the law which forbade it, although it had contributed a part of the funds, to act in its usual and convenient character of the agent of the Government.

If the purchase in question be one which is prohibited by the charter, the directors who sanctioned it are liable by law to a very heavy fine. Would any member propose that they should be prosecuted for this act of defence and benefaction to the Government? Could it be that this purchase was not such a "dealing in stock" as could subject the individuals who made it to personal responsibility, and yet, that it should subject the institution itself to the penalty of dissolution?

The second alleged violation of charter consisted in not requiring the payment of the second or third instalments in coin and funded debt. What are the powers of the directors as to the debts due to the institution generally? They may change the security, they may prolong their credit, they may vary both the time and place of payment. Mr. L. did not see, when the bank was once in operation, that the power of the directors, in respect to instalments, was not precisely the same as in every other debt. The committee say that the bank should have insisted upon



H. or R.

Bank of the United States.

FEBRUARY, 1819.

"the specific thing." When a bank is once in operation, it must consider its own notes as specie; and, under the compact with the State banks, the National Bank was, in fact, obliged to consider their notes as specie. The question, indeed, resolves itself into two: 1. Ought notes of the National or State banks to have been admitted in payment of the instalments? 2. Ought any discounts to have been made to subscribers to the bank?

Can it be seriously contended that the bank ought not to have received its own notes as specie? You appear at the counter with \$1,000 in its paper. It refuses to receive it, and insists that you should go through the process of causing the specie to be brought from its vaults, paid to you by the teller, and then to the teller by you, and everything would be formal and right. The silver might then be restored to its former place. So even with the State bank notes. The National Bank, it is said, ought not to have received them. You must then have drawn specie out of the State bank, paid it into the National Bank—the National Bank, under its compact, must have lent it immediately to the State bank from which it had been drawn; and, after the whole manœuvre was over, the specie must have resumed the position which it had left in the morning. There was but one possible mode by which the payment of the instalment "in the specific thing" could have been secured, (if it could have been at all secured,) by delaying the commencement of operations until they were paid. The attempt would have been very injurious to the country, it was incompatible with the proposals of the Government, and was interdicted by the law. He had enlarged enough upon this subject in the commencement of his observations. The large amount of notes which the bank threw into circulation, if not a single note had been discounted for a subscriber, would have had the effect of causing the instalments to be paid in notes, not in coin. They would be paid in whichever of these articles could be most easily obtained, and if the issue of it was large, the article most easily obtained must be paper.

It was hardly important, then, if they discounted at all, whether they discounted to subscribers or not. But why should they not? The very business for which the directors were appointed was to lend money. If a subscriber paid one moment, the directors might properly lend to him the next. If specie were drawn from a State bank in one hour, they would properly lend it to the bank the hour after. Did not this imply that they might prolong the credit of the subscriber, and receive the note of the bank?

The observations which he had made applied to the discounts for instalments generally. There were peculiar reasons in favor of those which were made between the 3d and 23d of January, 1817, under the resolution of December 18, which made the conduct of the bank in relation to them not only allowable, but wise. He had neither strength nor time to enter into the inquiry, but he had on his table the names of all the discounters; and an ex-

amination would show that they were not, in general, large stockholders, and that the great proportion of their notes was paid at maturity.

But the report says that the directors abandoned the means of coercion given by the charter, and gained nothing. It was true that, in discounting a note for a subscriber, to enable him to pay his instalment, they gave up the means of coercion which the withholding the dividends might furnish. But did they gain nothing? Was it not notorious that, under the common construction of the charter, it was considered fair, and not discreditable, to postpone payment of the instalment and abandon the dividend? No man's credit has been hurt by this delay in paying the instalment. The first gain of the bank, then, was that of pledging the personal credit of the subscriber to his punctuality. The second advantage which the bank gained, it might have been expected, could not have been overlooked or disputed—the actual payment of one-fourth part of each share in funded stock. The third advantage was the pledge of stock, with the power immediately to sell it upon the failure of the subscriber to pay his note. He would venture to say that there was not one of these notes, the payment of which, at maturity, might not have been enforced by this provision. The statement given by the committee of the price of stocks during the year 1817, would establish this proposition.

He must here suggest the argument which had been anticipated by the gentleman from Virginia. In January, 1817, if the transaction of which he was speaking was wrong and mischievous, Congress knew it—knew it in time to prevent it. A committee was instructed to inquire into the subject. This committee reported that there was no occasion for the interposition of Congress, and Congress did not interfere. A friend of his from Georgia, proposed a resolution that the public deposits should be withheld, while the plan which the committee disapproved was persevered in. The resolution was adequate to its object. The House did not take it up. Since that time how many purchasers have become interested in the stock, who have never suspected that Congress would punish vindictively an act which it would not interpose to prevent!

The third instance of violation of charter, is said to consist in the payments of dividends to delinquent stockholders. These dividends were paid when their subscriptions were received, and they ceased to be delinquent. If he understood the documents, the whole amount of dividends so paid, of which he had any evidence, was \$1,460; but from this the interest which they paid must be deducted, and they possibly received \$360 more than they were entitled to. The precise amount, indeed, is not important. And by whom were these dividends paid? Did the directors order—did they know it? He really did not think that the payment of three or four hundred dollars, however erroneously, by a subordinate officer, could be justly punished by the loss of the charter of the bank, or, to take

FEBRUARY, 1819.

Bank of the United States.

H. or R.

the test proposed by the committee, "that it defeated the very objects of its institution."

The fourth alleged violation consisted in allowing bad votes to be given at elections. Without reference to the number of these votes, or to their effect upon the election, he was willing to leave the charge, without argument, to the Committee.

He had attempted to show that the dissolution of the bank charter, as a measure of policy, was not wise—as a penalty, that it was not legal. But what is just? You allege that the institution has been mismanaged. You admit that the stockholders have been the principal sufferers, and, in resentment of their wrongs, you ruin them. You censure the conduct of a direction of which you appointed the most active members and the head, and you mulct, perhaps to the ruin of their fortunes, the men whose error consists in supporting your appointments, and confiding in your superintendence.

On the whole, he should vote against all the resolutions before the Committee. His friend from Virginia had said that a Legislature may repeal any of its acts. Can a Legislature make a contract? To assume the power of annulling contracts, is to lose the privilege of making them.

The proposal for issuing a scire facias had certainly the recommendation of being within the Constitutional powers of Congress. He had endeavored to show that it had no other.

Mr. L. said he was too much fatigued to discuss the resolutions proposed by the chairman of the select committee. He was, however, glad that he had withdrawn the most objectionable. Of those which remained, some might do a little good, and some a little harm; some appeared to him to be absolutely nugatory, and nearly all of them unimportant. He could not understand how the maintenance of a great institution, powerful as all men allowed it to be, for good or mischief, should be made to depend upon such conditions.

Mr. TYLER said, that he was aware of the embarrassments under which he rose to address the Committee. The late hour of the day would be enough, in itself, to advise him of its exhausted patience. But a regard to the economy of time, a recollection that but few days remained for legislation, induced him to proceed. From the moment that the Speaker thought proper to confer on me the honor of an appointment on the committee whose report is now under consideration, up to this time, I have felt the responsibility of my situation. It is known to you, Mr. Chairman, that I represent a district deeply interested in the decision of the questions now depending. It is known to this Committee, that it became my duty to present a petition, signed by many of my most respectable constituents, the other day, to the House, adverse to the course which I shall pursue. I can, however, sir, neither look to the right nor the left—my own personal popularity can have no influence over me, when the dictates of my best judgment, and the obli-

gations of an oath, require of me a particular course. Under such circumstances, whether I sink or swim on the tide of popular favor, is to me a matter of inferior consideration. It is my misfortune, also, to follow, in this debate, the gentleman from South Carolina, (Mr. LOWNDSE,) whose views are, in the general, most luminous and correct. Upon this question, however, I am forced to differ from him. Sir, the gentleman has dwelt upon the benefits arising from the bank. He has presented you, alone, the fair side of the picture. In many of his views I concur with him, but it becomes us to examine both sides of the painting. He has represented this institution as vitally connected with the prosperity of the country. Its destruction is to be attended with the most fatal consequences. And are we come to this? Shall we be forced to countenance speculation and fraud from the fear of encountering the evils of putting down this system? Is it so completely interwoven with our best interests as to endanger those interests by putting it down? Does this Government, indeed, rest on this corporation for stability and support? I cannot believe it. We are not yet reduced to such a state of degradation. Sir, if the gentleman from South Carolina had exerted his talents for the purpose of devising a scheme by which we could have successfully extricated ourselves from our present embarrassing situation, I cannot, but think, with all respect to that gentleman, but that he would much more beneficially have employed those talents than by the course he has thought proper to pursue. If the evils of this system, as disclosed in the report and testimony, be not sufficient to induce us to direct a scire facias, in the name of Heaven, I demand to know what would be considered a sufficient inducement?

Sir, in many of the views which the gentleman has taken, I concur with him entirely. That the bank has acted correctly, in some instances, no one can doubt. That the effects of some of its measures have been beneficial, I am willing to admit. It has facilitated the operations of the Treasury; it may have gone far to introduce an uniform currency among us. I am not disposed to canvass these propositions. But, sir, the gentleman has alluded to some expressions, in the report of the committee, which, I think, are susceptible of defence. I allude to the remarks he has made on the subject of the establishment of an agency in England to pay over the dividends to foreign stockholders. The report barely glances at the propriety or impropriety of the bank undertaking to deal in bills of exchange. It was a question which the committee did not feel a disposition to decide. But the establishment of an agency in England was esteemed as reprehensible because of its being viewed as a part of the system which was adopted to inflate the price of stock. The theatre was enlarged, and the demand increased. I cannot conceive how the domestic stockholder was to be benefited by the adoption of the measure. It certainly did not add one cent to the profits of the bank. It



did not inspire it with increased ability to enlarge its discounts, and I, like the committee, feel that it can only have been intended for the purposes I have before stated.

Another expression has also been excepted to by the gentleman from South Carolina, viz: "that the loans actually made were most of them unreasonable and excessive in their amount; they were not made to the merchant and trader, but to a few persons, consisting of directors, brokers, and speculators." Loans, on a pledge of stock, were certainly made indiscriminately to all who applied, but that most of the large and excessive loans were made to the persons described, from my recollection of facts, admits of no doubt. True, sir, of the names of fourteen persons, which were selected, not from any information previously in the possession of the committee, but merely in consequence of the amount of the loans, we were informed that seven were merchants, five brokers, and two not falling under either description of character. Yet I wish to inquire of the gentleman, if the seven merchants were not actually dealers in stock; and whether the loans thus made were not owing to the fact, of the discounters having received a transfer of the stock, under the resolution of the board of directors, authorizing such transfer? I do not, therefore, esteem the expression in the report liable to the exception which has been taken to it. I repeat, the most of those who obtained large loans, on a pledge of stock, were actually speculators and brokers.

Having now, Mr. Chairman, disposed of the exceptions taken by the honorable member to some of the expressions of the report, I proceed to an investigation of the subject more immediately under consideration. The question whether it be proper to direct a *scire facias* against the bank divides itself into two heads of inquiry. First, whether the charter has been so violated as to incur a forfeiture? And if so, is it expedient to exact the forfeiture? The decision of the first would preclude me from an inquiry into the second. For, sir, inasmuch as I believe the creation of this corporation to be unconstitutional, I cannot, without a violation of my oath, hesitate to repair the breach thus made in the Constitution, when an opportunity presents itself of doing so, without violating the public faith. But, believing also, that it is expedient to put it down, and other gentlemen feeling themselves at liberty to follow up that inquiry, I propose to express to you my views on that subject.

I contend, then, Mr. Chairman, that this charter has been violated, and that, if subjected to investigation before a court of justice, it will be declared null and void. I would only have you look to the long catalogue of crime detailed in the report—to those practices calculated only to pamper a few, at the expense of the many—to the corruption which, by its illicit gains, almost laughs at your power. Shall we be told, with these facts staring us in the face, that this charter has not been violated? Say that no particular clause has been violated—that the votes were ta-

ken according to the first fundamental article in the charter—that the \$7,000,000 in specie required has all been paid in—yet, I demand to know, if the great objects of the institution have not been defeated? You create a thing for good, and not for evil. Yet the good, in a great measure, vanishes, and evil alone exists. You incorporate a company for the purpose of advancing the interests of all concerned, and the machine thus created is managed, exclusively, for the aggrandizement of a few, and not for the good of all. Is not this, to adopt the rule laid down by the committee, so to misuse the powers granted, as to defeat the objects of the charter? The most reprehensible proceeding takes place—almost every object expressed in the charter is disappointed, and can it still be insisted that the corporation has not forfeited its franchises? It is a broad and great principle for which I contend. It is for the doctrine of responsibility due from the creature to the creator—the principle on which our Government is founded. The President is invested with certain powers; yet, if he abuses or misuses those powers, he forfeits his seat—the object of his election is disappointed—so, in regard to every other officer of the Government. Shall a corporation alone be irresponsible? There is nothing in reason or in law, to justify the idea. But, Mr. Chairman, if the position I have assumed, that a misuse of a franchise is a forfeiture thereof, is not sufficiently supported by reference to the principles of our Government, whither shall we look for still further argument?

The common law has been pronounced inoperative, in the courts of the Union, by many honorable gentlemen. But, sir, without stopping to inquire into the correctness of that position, I am willing to yield to those who hold a different doctrine all the benefits of the rules flowing from that source; and, under the principles of that law, I shall be able to demonstrate the correctness of the proposition for which I am contending. Nothing was more easily effected than the forfeiture of a franchise at common law. The statute of 18 Edward II. was an act to restore franchises to those who had lost them. Sandwich lost its privileges, immunities, and franchises, for a very slight cause. It had entered into a covenant with the abbot of St. Austin, in Canterbury, to deliver annually to the abbot a certain quantity of wine. It did not complete its engagement, but remained indebted on account thereof some twenty or thirty marks. For this sum, a suit was instituted, judgment obtained, and an execution issued, and levied on the property of the corporation; and because some of the inhabitants made a rescue of the property, it was judged by the court, and afterwards sanctioned by Parliament, that the town had forfeited its charter.

My honorable friend from Virginia, (Mr. Johnson) referred you also to the case of the King vs. the city of London. I will refer gentlemen to the reasoning adopted by the Attorney General in that case, to corroborate and strengthen my position. These two cities, the one for the commission of a trespass, and the other for having

exceeded its powers in imposing a market toll, were declared to have lost the privileges and immunities secured to them by successive acts of Parliament, and by *magna charta* itself. Compare those cases with the present case. What is this case? Sir, I forbear to represent it. I will only refer you to the mass of testimony, all which goes to show that the charter has been most shamefully perverted to the purposes of stockjobbing and speculation. I do not mean to insist that these cases are obligatory on us—far from it. I am, on the contrary, disposed to think, that it would comport better with our permanent good, if our courts would carve out for themselves a course of decision in consonance with the principles of our Government. But, if we are to refer to arguments arising under common law, I repeat again, that the argument delivered by the Attorney General, in the case of the King vs. the city of London, is well deserving of attention. That case has always been quoted as an evidence of acquiescence on the part of the English judiciary, to the arbitrary will of the monarch. But the reasoning in the case is not affected by that accusation against the court. But, in truth, we require no foreign precedents to govern us in deciding on this question of forfeiture. The charter contains a provision which will silence further inquiry. It expressly declares that, if a *scire facias* be directed, and the court believe that any violation of the charter has taken place, it shall pronounce it forfeited and null. Before we direct a *scire facias*, we have to satisfy ourselves of the same fact, and the question recurs, has any such violation taken place? That it has I have no doubt. Your great object in creating this corporation, was to reclaim the country from a flood of paper, irredeemable in specie. You wished a bank with a sufficient specie basis to cause its notes to pass currently for gold and silver. As a great means for accomplishing this object, certain fundamental articles were laid down. The first article limited the number of votes to be given by each stockholder. It was intended to deny to the large stockholders the power of defeating your intentions; and yet what it done? Evasion is resorted to, and in the outset the stipulations of the contract were violated, and instead of giving but thirty votes, one individual gives eleven hundred, on eleven hundred shares. The stockholder has accepted a covenant on certain positive conditions; he has agreed to carry it into execution in good faith, and yet, the moment after, he violates a fundamental article. He has also expressly agreed that it shall be fulfilled or forfeited; and still, when the fact of nonfulfilment is fully established, it is contended that no forfeiture ensues. I should rely strongly on the ground, that a violation of a fundamental article produced a forfeiture. That which is fundamental cannot be altered—cannot be changed. Can you remove the pillars of this charter, and yet expect it to stand? Can you remove the foundation, and yet expect the fabric to remain? It is only necessary to state the proposition, in order to receive the answer. The gentleman

from South Carolina has contended, that this violation was the consequence of the acts of particular individuals, and not of the corporate body, and that therefore no forfeiture ensues. How many persons were concerned in the violation of this article, is at least problematical. Let it be recollected that Mr. Leiper states, in his deposition, and he was not only a director, but a judge of the election, that he divided his shares, and that it was generally done for the purpose of effecting the election. But, in addition to this, it never was discountenanced by the directors. They suffered the violation to take place under their very noses; many of them were individually concerned in it, and not a syllable of reprehension is uttered. But the position of the gentleman from South Carolina, is not based on legal principles. What is the definition of a corporation aggregate? A corporation aggregate is described to be "an artificial body, composed of divers constituent members, *ad instar corporis humani*; the ligaments of which artificial body are the franchises and liberties thereof, which bind and unite all its members together, and in which the whole frame and essence of the corporation consist." It is compared to a national body. Sir, if any one member of my body offend, the whole body bears the punishment. If my finger violates the law, my body pays the penalty. If my hand executes murder, that hand is not lopped off, but the ligaments and arteries of my system are cut asunder. With equal propriety might the natural body complain that it was made to suffer for the misdeeds of its members, as that a corporation aggregate should complain that it was made to bear the same relation to its members. If this were not the correct rule, I demand to know in what manner you would reach the guilty person?

But, Mr. Chairman, the effect of this violation does not stop here; if it did, it might be overlooked. I consider it the root and foundation of every evil. Shall I be considered as expressing myself too harshly when I say to you, that I ascribe the non-payment of the second instalment, to this very violation. I am not conscious of being wanting in charity; I am not aware of having too much gall or bitterness in my nature, nay, I would sooner, if I could, frame an apology for the errors of my fellow men, than expose them naked to the sight. But, does not the fact stare us palpably in the face, that the resolution of December, 1816, authorizing discounts to enable stockholders to pay up the second instalment, was intended, and actually applied, to the benefit of the stockholders residing in the vicinity of Philadelphia and Baltimore, whose influence had become overwhelming, in consequence of the violation of which I complain? The man who resided at a distance derived no benefit, no facility, under the resolution. He had not been among the knowing ones; he had not heard a whisper that such a resolution would be adopted, before its actual promulgation; he had prepared the specie and stock to meet his engagements, and did meet them. Was not this measure then not only calculated to defeat the payment of specie, but to



disappoint the very inducement you held out for punctuality? The dividends of delinquent stockholders were declared to be forfeited, and yet this overweening influence had the effect to do away this salutary regulation, and to cause the benefits of punctuality to be distributed to all alike. Nor did the evil stop here. This same influence produced the resolution of the 25th August, 1817, authorizing the loans on stock at \$125 per share, and the stockjobbing which followed. But I go further, and I feel myself authorized to make the declaration, that the present situation of this country—the distress in the mercantile world—the bankruptcies in your cities—are in a great measure ascribable to this very violation. What has produced the great drain of specie from the North? I will not repeat the reasoning contained in the reports; I will only remind you of the excessive drafts from Baltimore. The directors at Philadelphia saw the ruin which threatened them; they protested against the practice. What more could they do? They dare not act decisively; they could only supplicate, and entreat. And why not? George Williams answers the question—names could be obtained in Baltimore at eleven pence a piece. These excessive issues had the effect of producing a curtailment on the part of the United States Bank, and the State banks were driven to the adoption of the same system, as a measure of self-defence. Ruin and bankruptcy have been the inevitable effects. Sir, eighteen months ago we were prosperous and happy. What now is our situation? Gloom and despondence in our cities—usury stalking at large, and boasting of its illicit gains, while honesty and industry are covered with rags, the melancholy image of our changed condition. Does it not follow, then, that this was such a violation as was calculated to defeat the objects expressed in the charter? We are disappointed as to the mode of voting—as to the payment of specie—as to the dividends; and every measure calculated to produce evil has grown out of this; and yet my friend from South Carolina gravely contends that this charter is not forfeited!

I know it will be said that the course pursued in subscribing for the stock of other banks was similar to that pursued in regard to this, and that the charter in itself was not sufficiently guarded. For myself, I can listen to no such excuse. Was this stipulation entered into merely to gull and deceive? Did Congress, at the time of creating this charter, introduce this article that it might be violated? Did the stockholder, when he accepted it, accept it with a knowledge of this condition—and shall he be permitted to say, "true, I contracted with you on certain conditions, which I never intended to fulfil?" Did he sign it with good faith or with bad? That he has executed it in bad faith, there is no doubt; but I ask of honorable gentlemen to say, if they really do think that this stipulation was made out of mere sport, and to afford to the stockholder an opportunity of evincing his cunning and ingenuity? I have the authority of the charter to contradict such a conclusion. But, give the argument all

the force you please, what will it avail? True, other banks may have suffered such violations of their charters, (I am, however, not cognizant of the fact,) and have been still suffered to exist. But, is the bare circumstance of their having escaped with impunity, any evidence of the legality of their conduct? Has the question ever been presented to a court of justice? In order that it should be urged as a justification of this violation, it must be shown to have received a legal sanction. You cannot justify illegal acts by illegal acts, or the violation of a contract by the violation of a previous contract. But the charter was not sufficiently guarded.

Can this position be relied on? What reply shall I make to it? Sir, I present the contract to your view. The stockholder had expressly stipulated to observe its provisions, and a faithful compliance on his part is guaranteed by the last clause, which declares, that, unless he fulfils his undertaking, the compact shall be forfeited and null.

[Here Mr. TUCKER, of Virginia, it being at a late hour, and Mr. TYLER having given way, moved that the Committee should rise, which it accordingly did.]

On Monday morning Mr. TYLER resumed his argument of Saturday. He recapitulated the grounds he had taken, and begged leave to explain a remark which he then made in reply to Mr. LOWMEDES, as to the expression that most of the large and excessive loans were made to speculators. I feel myself authorized, he said, to repeat the assertion upon more mature reflection, aided by reference to a document in my possession. Let me not be misunderstood—when I speak of large loans, I do not mean loans of ten, twenty, or even forty thousand dollars. For, although these elsewhere would be considered large and excessive, yet, at Philadelphia, in looking over the books, the eye being attracted by greater objects, would scarcely rest on them for a moment. Sir, I will give you the amount of such loans as I allude to. One loan of \$97,000 to one individual; two of \$123,000 each; one of \$140,000; another of \$166,900; others of \$277,000, \$365,000, \$400,000, and another of \$1,800,000. Each of these is an individual loan, or, what amounts to the same thing, a loan to individuals and mercantile firms. I am not permitted to disclose the names of these discounters unless the House should demand the disclosure, which I should hope it would not do, as it would only have the effect of injuring private credit, and lead to no practical result. I have given you instances of the loans made to ten discounters, forming the enormous aggregate of \$3,692,150. Can any one pretend to justify such a state of things? Is it to be countenanced by any correct banking principle? The bank has, in fact, committed an act of suicide against itself. Can it control the funds thus disposed of? If it adopts a system of curtailment, must not cases such as I have mentioned form exceptions to that system? If it imposes an equal share of curtailments on such persons with the other debtors of

the bank, bankruptcy would be the inevitable consequence. Sir, the mother bank itself has, by its conduct, justified me in entertaining these opinions. It has resorted to a curtailment of its debts, and has never touched the discounts on pledged stock. From eight to ten millions of its debts have thus escaped reduction, and, of course, an increased pressure has fallen on our cities. I do not esteem it necessary to press any further this opinion. It must be obvious to all. What does this statement still further prove? Does it not prove the influence of the large stockholders over the institution, in consequence of the division of votes? Let not gentlemen deceive themselves in another point of view. The petition I presented you the other day, Mr. Chairman, brings to the bar of this House, with dejected countenance and eyes swimming with tears, the widow and the orphan, whose funds have been vested in this institution. They are made to utter curses against us if we take any step to put down this corporation. The picture is improperly filled up. It is the speculator, the stockjobber, who should have been presented, kneeling before us. He alone is now to be affected. The curses of the widow and the orphan will be uttered against them, not against us, for we are doing the innocent stockholder an act of justice, by relieving him from the company into which he has fallen, and returning him his money. I shall presently show that it is to his interest to have this bank put down. I hasten to a prominent instance of violation of this charter, and the last which I shall consider. I mean a failure to pay the instalments in specie and in funded debt, which, although a consequence of the preceding violation, deserves to be distinctly considered.

Will it be urged that the stockholders were authorized to pay in the notes of the bank? Upon what principle will this be justified? Will the course pursued by other banks furnish any justification? Why was this bank created? Was it to imitate the example of other banks, or to avoid their errors? The country was flooded with paper money. Our statesmen had sketched out blessings without number in the creation of a multiplicity of institutions. When the scheme first came up, wealth was promised to all. This land was to be converted into a garden. On paper wings we were to have soared to the height of our wishes. One dollar was to be manufactured into three. The manufactory of paper went on. The beggar's rags were even coveted, and the alleys of our streets ransacked for materials to convert into money. For a time all went on swimmingly. The dreams of wealth visited our pillows. The vision was brilliant—was enchanting. We fancied we held in our embraces youth, and beauty, and unspotted purity. But the sun rose, and the cup of our joy was dashed from our lips. Instead of holding in our arms the form of loveliness and virtue, we found ourselves in the embraces of an old and haggard witch, deformed in her features, corrupting by her example, and breathing around her ruin and misery. It was in truth the real image of bank-

ruptcy. We had forgotten the fable of the dog and his shadow; for we had let go the substance and grasped nothing but empty air. We discovered, when it was too late, that we had exchanged gold and silver for worthless trash. The banks could not redeem their notes—they had to stop payment. At this moment the National Bank was thought of. The great object was to secure to it a specie payment, for which purpose seven millions of dollars was directed to be paid "in the gold or silver coin of Spain or of the United States." Has it been paid? It is admitted that it has not. Has not the charter, then, if it means anything, been violated? I reason on the principles of common sense. Can you manufacture gold and silver coin into paper? And, if this process cannot be performed at your mint, has the bank the possession of the secret? Yes, sir, it possesses the secret. Ask if the gold and silver has been paid; you are answered in the affirmative. Ask an explanation as to the manner, and you are told by the wise heads, "why, our paper is equivalent to specie, and the payment has been made in that." By the same process, too, is Government stock manufactured at the bank. But, it is urged that the bank was bound to redeem its notes in specie, and that, therefore, its notes were as good as specie. This presents another enigma. I should like to know how it was to be called on to redeem its notes before it had any in circulation? This secret was not discovered before the 18th December, 1816, and the second instalment fell due directly thereafter. And, if the bank had not gone into operation before the first of February, I should like to know where its notes were to be obtained? As to the second instalment, the position must fail. It is, however, said, that the charter did not contain provisions strong enough to compel a compliance. The forfeiture of the dividends was not sufficient. And yet, at the very moment that the inefficiency of this provision is complained of, the directors render it still more feeble and inefficient by throwing open the doors of the bank. The resolution confines the discounts to stockholders, thus enabling those who would otherwise have been delinquent to pay up the instalment, not in specie and funded debt, but by a bank accommodation. But, Mr. Chairman, I contend that the directors had full power to compel a compliance with the stipulations contained in the charter. They might have instituted suits in the courts of justice against those who might have been delinquent; by which means, I venture nothing when I say they could have recovered the amount of the instalment in specie and in Government stock, with interest from the time it should have been paid. But, if this course was doubtful, they might have resorted to a more efficient exercise of power. Suppose that the resolution of December, 1816, had been a resolution announcing to all, that, until the second instalment was paid, no delinquent stockholder should receive an accommodation at the bank. I verily believe that such a course would have produced the most beneficial effects. It would have either produced a



H. OF R.

Bank of the United States.

FEBRUARY, 1819.

payment of the instalment or a more equal distribution of the stock—the one subserving the objects of the charter, the other grappling with the spirit of speculation and overthrowing it in its infancy. It would have made it the decided interest of the large stockholder to have paid up. The men holding the largest quantity of stock are merchants. They, most of all others, require bank accommodation. The pressure of the times would have forced them to look to the bank for aid. I think, therefore, that the effect described would have flowed from the measure. And, if they could not have paid up on all their shares, they would only have retained so many as they could have paid for. No, sir, nothing of this sort could be done. The directors dare not have encountered the dislike of the large stockholders with their innumerable votes. I think it would have been manly, honorable in them, to have pursued such a course. They might have met complaints with the charter in their hand. They might have said to the stockholder, you have made a solemn compact with the Government. You are bound by every principle of honesty to effectuate your undertaking. When you have done so, and not before, can you expect any benefit from the institution.

As to the third instalment, I am ready to admit that the directors are not culpable for the manner of the payment. I do not require impossibilities to be performed. It was perhaps impracticable, by any regulation of the board, to have prevented an invasion of the charter. But yet the stockholder violated the covenant. He had no impossibility to perform; he was bound to pay in specie and in funded debt. Is it an excuse for him to say, it was easy for me to evade my contract, and I did evade it? Are we to submit to such mockery of justice? Do we sit here to countenance such evasions? What a farce, then, is your legislation! The gentleman from South Carolina contends that the bank had entered into a contract with the State banks, and that the proceedings, as to the second instalment, arose out of a desire, on the part of the bank, to fulfil that engagement. It is only necessary to say, that this, instead of diminishing, increases the error of the bank. It had no right to enter into a contract which should force upon it a violation of the charter; and, to carry into execution such contract, was doubly to violate the charter. But, if I am wrong here, I would inquire of the gentlemen, what is the date of the contract with the State banks? Sir, it is dated the last of January, 1817. When was the resolution to discount to stockholders adopted? One month before. So that it is perfectly obvious, that the bank was untrammelled by any engagement at the time of its having adopted the resolution to which I have alluded. But, sir, there was gross injustice, I will not say fraud, practised on the Government, and on those who had paid up the second instalment, by admitting those, who had availed themselves of the resolution, to come in for a share of the dividends. The first had paid up, according to contract; the other only cancelled one obliga-

tion, by entering into another. They discharged one bond by giving another. They added not one cent to the ability of the bank to discount; they contributed nothing to its capital, and added not a dollar to the specie in its vaults. If, then, the profits of the bank had been divided among those only who had paid up in specie and public stock, the dividend would have been greater to each. The bank traded on the specie and stock which my constituents and others paid in on the first and second instalments and divided the profits of trade with those who had not advanced a cent on the second instalment. It may be said that it was the loan to the stockholders, that caused the dividend to be as great. The position is not tenable. The bank obtained on the loan no more than six per cent., and this, without the loan, each delinquent would have been bound to pay; for the amount due for the instalment would have borne interest from the time it fell due. Shall we not only, then, suffer the charter to be violated, but submit to be deprived of our rightful gains? For one, I protest against it.

We have been told by the gentleman from South Carolina, (Mr. Lowndes,) that the subject of this violation has once heretofore been before us, and that, not having acted then, we should not act now. What was the fact? The House, soon after the adoption of the resolution of December, 1816, had it intimated to it that such a resolution had been adopted. The subject was referred to a committee, who made a report, founded on a letter from a director casually in this city, (Mr. Lloyd,) and which report was neither adopted nor rejected, but ordered to lie on the table. We had then only a partial view of the measure; we knew not in what spirit it had originated; we knew nothing of the violation of the first fundamental article of the charter; we saw not that it was but the bolt which opened the door to speculation and individual aggrandizement. These things were then concealed from our view. But, I ask the honorable gentleman to say, what measure we should then have adopted? Should we have taken upon ourselves the management of the bank? Did it belong to us to say to the directors, your resolution is a bad one, and in violation of the charter, therefore rescind it? Or, if we were not to pursue that course, does it make any difference whether we had then rescinded the charter, or do it now? Or yes, sir, there would have been some difference; a great difference in the cases. We should have been saved the pain of beholding the picture presented by the report and testimony; we should have been saved the sight of this cold and unfeeling speculation which has grown up among us. Nay, our reliance on the virtue and integrity of men standing high in our confidence, would have remained unshaken. And shall we now be referred to our former omissions, to justify still further omissions? Shall we now be told that, because we did not punish impropriety in its birth, we must not approach it when it has gained full size? Shall it be said that, because we did not punish the infant, we shall not extend retributive

FEBRUARY, 1819.

Bank of the United States.

H. OF R.

justice to the adult? No, sir, now is the time for us to interpose. Will not that overwhelming influence which heretofore has ruled, still rule? Will a change of directors be followed by a change of measures? Where is the security which you have against a continuance of the present course? Will the bill reported by the committee produce a change? I question your right to pass it. You can annex no new penalties. The contract has been accepted, on certain conditions, and I know not where your power is to be found to alter or enlarge them.

Mr. Chairman, it seems that we owe something like gratitude to this bank for having brought about specie payments. It is with difficulty I bring myself to differ with the gentleman from South Carolina, upon any question connected with mercantile or banking operations; but I cannot admit the correctness of this position to the extent that he would carry it. I think that the incorporation of the United States Bank was calculated to delay the resumption of specie payments on the part of the State banks. If I am not mistaken, the State banks had made preparatory arrangements towards the resumption of specie payments; they had curtailed their discounts; but the creation of this bank forced upon them, as a measure of self-preservation, a continuance of the course they had adopted. Specie being required on the part of the stockholders of this institution, they would, if the State banks had opened their vaults, have collected their notes, and drained their specie, to the amount of said instalments. I think, therefore, that the State institutions were left but one course, and that was the very course they did persist in until the 20th of February, 1817. But, sir, what is the nature of the contract entered into between the United States Bank and State banks? What great sacrifice did this corporation make on the altar of public good? The State banks owed to the Government balances on account of deposits; and this bank gives them until the 1st July, 1817, a period of upwards of five months, to pay up those balances. They are, however, in the meantime, liquidated, and made to carry an interest of six per cent. Is this the distinguished and patriotic act which is to restrain further proceedings against this body corporate? It adds to its profits by the contract—liquidates a debt—receives an interest, not on its own funds, but on those of the Government—specifies a day for the payment, and this is to cover all its sins and follies. It could not better have subserved its own interests. It swelled its profits, without advancing a cent. True it agreed to throw into circulation, a given quantity of notes by the 1st of July; but, I ask, if the amount of the discounts contracted to be made are greater than, without the contract, it would have made? I cannot then discover any cause of gratitude, growing out of this proceeding? Mr. Chairman, I look to a more efficient cause for the resumption of specie payments. I look to the resolutions of the State Legislatures; to the resolution of Congress, requiring the payment of all dues to the Government to be made in

specie, or the notes of banks paying specie, after the 20th February, 1817, as the great cause of this resumption. I am disposed to ascribe more energy to the arm of this Government than to any moneyed institution.

Under every view, then, which I have been able to take, I think that the bank has forfeited its charter; or at least that it becomes us to direct the *scire facias*. If we differ on the subject of violation and forfeiture, submit it to the court to settle the question. It is the mode pointed out in the charter, and against it the stockholders can have no good objection.

There remains now but one branch of inquiry with those who do not think the creation of this corporation an unconstitutional act, viz: Is it expedient to direct a *scire facias*, or, in other words, to put down this corporation? I contend that it is. For one, I enter my protest against the banking system; a system not to be supported by any correct principles of political economy. A gross delusion—the dream of a visionary—a system which has done more to corrupt the morals of society than anything else—which has introduced a struggle for wealth, instead of that honorable struggle which governs the actions of a patriot, and makes ambition virtue; which has made the husbandman spurn his cottage, and introduced a spirit of luxury at variance with the simplicity of our institutions. I call upon the warm advocates of banking now to surrender their errors. Shall I take them by the hand, and lead them through our cities? Bankruptcy meets us at every step; ruin stares us everywhere in the face. Shall I be told of the benefits arising to commerce from the concentration of capital? Away with the delusion; experience has exposed its fallacy. True, for a moment it has operated as a stimulus; but, like ardent spirit, it has produced activity and energy but for a moment; relaxation has followed, and the torpor of death has ensued. When you first open your bank, much bustle ensues; a fictitious goddess, pretending to be Wealth, stands at the door, inviting all to enter and receive accommodation. Splendid palaces arise; the ocean is covered with sails; but some alteration in the state of the country takes place; and, when the thoughtless adventurer, seated in the midst of his family, in the imaginary enjoyment of permanent security, sketches out to himself long and halcyon days, his prospects are overshadowed, and misery, ruin, and bankruptcy make their appearance, in the form of bank curtailments. If this be true, and I appeal to the knowledge of all men for its truth, I demand to know if you can put down the system too soon? Can we too soon escape the dangers by which we are surrounded? I know I shall be told that, even if we put down this bank, the State banks will still exist. Even if true, the position is not a justifiable one. If the State Legislatures do not follow the example which we set them, we shall have acquitted ourselves of our duty. It is all that can be asked of us. But, sir, we actually possess the lever of Archimedes, and have a foot of ground on which to rest it. Our revenue



H. OF R.

Bank of the United States.

FEBRUARY, 1819.

amounts to upwards of twenty million dollars annually. Require but a fourth, or even a sixth, to be paid in gold or silver, what would be the effect? The merchants would collect the notes of banks and demand specie for them; and thus a test would be adopted, by means of which to ascertain the solvency of each institution. The demand for specie thus produced would have the beneficial effect of introducing more of it into the country; for money is like every other article, and will find its way to the market where it is most wanting. The system might be enlarged gradually, until your wishes should be consummated. I know the ground which I occupy, when I urge these considerations upon you. A man, regardless alone of the fleeting and ephemeral popularity of the hour, would hesitate in pressing them upon you. But I should not hold myself entitled to your countenance, Mr. Chairman, to the countenance of honest men, or, what is still more important, the approbation of my conscience, if I could be operated on by such motives or fears. Pardon me for still further extending this inquiry. There are three parties interested in the question which we are called on to decide—the stockholder, the debtor, and the Government. I contend that it is to the interest of the honest stockholder to put down this bank.

The interest of the stockholder consists in the amount of dividends which he receives. At this time he receives but two and a half per cent. semi-annually. Will the dividend increase or diminish? Sir, it has constantly been diminishing, and must continue to diminish. The bank has now but two million seven hundred thousand dollars of specie in its vaults, and that sum is daily and hourly diminishing. Experience is the best guide, and that of the last three years proves, beyond doubt, the rapid and incessant drain of specie from the vaults. Let the direction be changed; let an entire new system be adopted; the East India trade will still continue, and the demand for gold and silver will remain unchanged. From what quarter, then, will the bank supply deficiencies? It originally had fifteen million dollars of United States stock paid in by individuals; all of which has been redeemed or sold, with the exception of between three and four hundred thousand dollars. This, then, would constitute but a slender reliance. To what other source will it look? It has a balance due it from State banks. Can it rely on that? A great proportion thereof is due from the Western banks; and the very instant that the Bank of the United States made a demand for specie, they have closed their doors, or stopped specie payments. Are the other banks of the Union in a better situation? Many, no doubt, are; but look to the report of the condition of the banks of this District. One has a large amount of notes in circulation, and thirty thousand dollars in its vaults *and on the road*. Whether it has more than a dollar in its vaults or not, the amount may still be true; others are in no better a situation; while some few are solvent and able to pay. This, too, is a litter of Congressional creation. Look to Pennsylvania:

a report of the condition of its banks has been made, if I am not misinformed, by order of the Legislature. They have immense sums in circulation, and scarcely paper enough to carry on their daily operations. Nay, sir, one bank, if I am not deceived, with a large amount of notes out, has not one cent of gold or silver in its vaults. A bank in Philadelphia, its title I forget, and some other of the banks, appear to have been judiciously conducted. From the other States I have seen no return which can positively be relied on. But I think the two references I have made go far to show that the United States Bank cannot rely for a supply of specie on the balances due from State banks. If it looks to the stock subscribed by Government, the commissioners of the sinking fund will be bound in duty to redeem it, if it should be brought into market, and sold either at or under par. And the payment would be made by a transfer of Government deposits, by which operation not a cent of specie might be added to the bank. But say that it is sold for gold and silver; a diminution of the dividend will still take place. The stock is an active capital, and yields five per cent. annually; convert it into money, and the bank will have made an exchange of an active for an inactive and unproductive capital. The same thing takes place if it curtails its discounts. And at this moment that is the course which it is driven to pursue. I venture nothing, then, when I predict that, for several years to come, if ever, it will not divide a greater profit than one and a half or two per cent. semi-annually. Return, then, to the stockholder his money; suffer him to use it in his own way; he will, whatever he may do in the first moment of disappointment, in the end have cause to thank you. At this moment the institution is solvent; and although I would not expressly say that it would be able to return one hundred dollars on each share, (for I have not the data on which to make up an opinion,) yet I am certain its ability would not fall far short of that point. Let not gentlemen, then, deceive themselves. The widow will not curse, but bless you; the orphan will not meet us with tears, but with smiles; the land will no longer labor under a flattering delusion; and the speculator alone, who has reduced us to our present condition, will be punished for his misdeeds.

What effect will it produce on the debtor of the bank? Let us not conjure up fancies to alarm us. It is the part of children to tremble at the appearance of danger, however unreal; it is the part of men, by facing, to overcome difficulties. My friend from South Carolina has presented you a gloomy picture of distress. I regard it as the production of a vivid imagination. Let us test it by reference to facts. The old United States Bank had a large sum due it; I believe eighteen or twenty million dollars. At the time of its dissolution, the same terrible fancies possessed men's minds. Yet the result proved them to be visionary; and the impression made by its dissolution has long since disappeared. What is the amount due to this bank? Only

FEBRUARY, 1819.

Bank of the United States.

H. OF R.

\$27,000,000, from which is properly to be deducted \$3,000,000, for individual deposits, leaving \$24,000,000, a sum scarcely equal to the revenue annually paid to the Government, without difficulty or embarrassment. But the payment would be gradual. Issue a *scire facias*, and, presuming that it would require two years to bring it to trial, the bank might thus draw in its debts imperceptibly and without any greater pressure than arises from an ordinary curtailment. This is one reason which operates on me to prefer a *scire facias* to any other remedy. But, after the charter should be pronounced null and void, this House would not hesitate to extend to it a protracted existence, to enable it to wind up its affairs. The gentleman from South Carolina thinks that it would press forth with for payment. It would pursue its true interest, and that would induce it to prefer the mode I suggest, to the one he supposes would take place. It would not hazard the loss of debt by an imprudent haste in collecting it. In stating the amount due to the bank, I have omitted the amount on pledged stock; on a final settlement, it would balance itself.

There remains then to be considered but one other point: How would the Government be affected by a dissolution of the charter? I protest against the idea, that the Government cannot get on without this bank. We are not dependent on this corporation. Wretched indeed would be our situation if such was the case. Sir, I have every confidence in the ability and talent of the Secretary of the Treasury to devise some scheme as a substitute for the present. We shall pay too much for the facilities which are afforded the Treasury by this institution. If my previous reasoning be correct, a reduction of dividend will take place. How then does the Government stand affected? It pays annually, on the \$7,000,000 which it subscribed, an interest of five per cent. amounting to \$350,000. What will it receive? Estimating the dividend at two per cent. semi-annually, it receives but \$280,000, and thereby it will lose \$70,000 annually. Will not this be to pay too dearly for our whistle? Your old loan office system cost you not so much. But, sir, the gentleman from South Carolina tells us of the losses we sustained during the war, in the absence of this his favorite system. We did sustain losses, but what was the cause? They arose entirely from the indiscriminate reception of bank notes. If the Treasury had discriminated properly among the banks, refusing to receive the notes of any but such as were known to be solvent, the loss would not have been felt. But, even under the reprehensible procedure which then existed, we are told that the Government only sustained a loss of \$500,000. Are we blind to inconveniences of the present system? What is the fact in regard to the West? Sir, the Western people owe you many millions for the purchases of your public lands, and are unable to pay you. It is the very quarter, too, from which you expect to be able to extinguish the public debt. Those people can-

not pay. A large stream of revenue, then, here dammed up, and can no longer flow into the Treasury. Whatever inconveniences may result from it, you cannot press the collection without ruining thousands.

I do not mean to censure the bank for this state of things; but, when gentlemen take this institution to their arms, and represent it as a garment covering our errors, and an angel ministering to our wants, I demand that they shall retract their opinions. Will the country be in a better situation, should we be involved in another war, than we were during the late war? I think not. Each branch is forced to redeem its own notes. In this respect they are placed on the footing of State banks. Our internal commerce being cut off, the ordinary channels of intercourse being blocked up between the States, the current of trade will pour again from the South to the North, and a similar depreciation of the southern branch notes will take place. We shall find ourselves surrounded by as great embarrassments then, as we have lately experienced. I know the enlarged and comprehensive views of my friend from South Carolina. He surely will not consent to legislate alone for the passing hour. He would not cherish and foster a system which can alone exist under the smile of peace, and would wither and perish under the frown of war. And yet, sir, I feel that the present system is one of that description.

Would it be a task of any great difficulty to substitute another system for this? I submit it to honorable gentlemen to say whether, in the event of Government's selecting a bank in each State, notoriously solvent, in lieu of the present, we should not be precisely situated as we now are? You take a bank in Baltimore, New York, Philadelphia, Boston, Richmond, &c., known to be solvent, and bestow upon it the same countenance you bestow on the branches of this bank, limiting the reception of the revenue entirely to their notes, or specie, and giving them the public deposits. Will gentlemen assign any good reasons for supposing that the notes of such banks would not circulate as currently and uniformly as those of this institution? The note of the Richmond bank, for example, being received everywhere in payment of Government dues, would be as readily caught up by the merchant as a note of this bank, payable alone at Richmond. When you estimate the amount of specie in the vaults of such State banks as I have alluded to, it will be found greatly to exceed the amount in the vaults of this bank and its branches. There is no difficulty in devising a substitute; and, I repeat, that if the gentleman from South Carolina had united with me in devising a perfect scheme, the country would have had cause to have thanked him for his exertions. Nor is there any necessity for alarm for the safety of Government deposits. The State banks, thus selected, would most readily consent to exhibit to the Secretary of the Treasury monthly and quarterly accounts of their actual condition. There existed no difficulty on that head when the



H. or R.

Proceedings.

FEBRUARY, 1819.

old charter expired. Thus then the Government would render as secure its funds under such a system as under the present.

Mr. Chairman, all the reasons now urged were urged in favor of a renewal of a charter of the old bank, and yet they did not prevail. The members of the then Congress went fearlessly and boldly to work. Difficulties did not appal them; fears did not unnerve them. Shall we be less resolute? Sir, when this bank was created, the then Secretary of the Treasury represented it as an indispensable measure to support our credit. He represented the purses of our citizens to have been emptied by the excessive loans they had made to the Government. He could go no further: a loan was contemplated to be obtained from this bank. I confess I regard it with fear and trembling in this respect. It would be an act of political suicide to borrow a large sum from this bank; and yet, fancy yourselves surrounded with difficulties and embarrassments similar to those we have lately escaped from—the expedient of the moment would be resorted to; a large issue of paper would thus take place, and an irredeemable character be stamped upon it. Then, indeed, might we bid adieu to all our happiness and all our wealth. Public confidence would wither like the blighted plantain; that noble spirit of enterprise, which has characterized our citizens, would perish and decay; the merchant would bid adieu to his counting house; the farmer would sigh over the waste of his fields. Why should the one encounter the storm of the deep, or the other witness the sweat of his brow, when, for their hardships and labor, they would be paid in a worthless currency, of no intrinsic value in itself, and constantly undergoing a depreciation in value? I entreat gentlemen to arrest the evil now that they can. Sir, I was astonished at the argument of the honorable gentleman from South Carolina. He contended that the great object of the charter had been answered; that every facility had been afforded to the operations of the Treasury, and, therefore, that no forfeiture had ensued. What is this but to say to the bank, take care only to be the glove to the hand of the Treasury; obey its wishes; facilitate its schemes and operations, and do whatever else you please—you shall not be arrested; swindle, and cheat, and deceive the unthinking people of this country, without mercy and without end; only take care to secure the smiles of the Treasury, and all shall be smooth and well? Is it not actually granting to the bank a patent to offend? It is only necessary that it should apply at the Patent Office, and receive its license under the sign-manual of Doctor Thornton. I cannot listen to such a position. I call upon the warmest advocates of this system, although I am satisfied that that call is in vain, to unite with me in this measure. You have been disappointed in your wishes, in your expectations. Instead of a system abounding in blessings, it has been converted into an instrument of corruption. Cold unfeeling speculation has usurped the place of honest dealing. Are we not

too young to encourage such a state of things? Our Republic can only be preserved by a strict adherence to virtue. It is our duty, if we consult our eternal good, to put down this first instance of detected corruption, and thereby to preserve ourselves from its contamination. The bank is already interwoven with the affections of many; its influence will become every day more and more extensive, and, if we suffer this opportunity to escape, we may sigh over our unhappy condition, but that will be the only privilege which will be left us. Let my fate be what it may, I have discharged my duty, and I am regardless of the consequences.

MONDAY, February 22.

Mr. RICH, from the Committee of Claims, to which was referred bills from the Senate of the following titles, to wit: "An act for the relief of Michael Hogan," and "An act for the relief of Pierre Dennis de la Ronde;" reported the said bills with an amendment to each; when it was ordered that the said bills be committed to the same Committee of the Whole to-morrow.

Mr. POINDEXTER, from the joint committee appointed to inquire and report what business it will be necessary to act upon during the present session, made a report; which was read, and ordered to lie on the table.

On motion of Mr. WHITMAN,

*Resolved*, That the judges of the courts of the several districts of the United States be requested to prepare and transmit to the Speaker of the House of Representatives, as early as may be, at the next session of Congress, a schedule of fees of office, proper to be allowed and taxed for the officers of their courts respectively; and that the Clerk of this House cause each of said judges to be furnished with a copy of this resolution.

The bill supplementary to the act for the relief of Benjamin Wells was taken up and ordered to a third reading.

The bill from the Senate supplementary to the several acts concerning the coasting trade was read the third time, as amended, and passed.

The engrossed bill in addition to the act supplementary to the act for the relief of Thomas Wilson; and the engrossed resolution prescribing the mode of naming the vessels of the United States, were severally read the third time, and passed.

The engrossed bill for the relief of the heirs of William Reed, was read the third time, and, on the question of its passage, was rejected.

On motion of Mr. LOWNDES,

*Resolved*, That the Secretary of the Treasury be instructed to inform this House whether any, and, if any, what part of the balances transferred from the State banks to the Bank of the United States, under the second article of the compact between them, for which balances the Bank of the United States was to receive interest, were retained by the Bank of the United States as special deposits, for which it was not obliged to pay specie upon demand.

FEBRUARY, 1819.

Bank of the United States.

H. or R.

On motion of Mr. PINDALL,

*Resolved*, That the Secretary of the Treasury be instructed to inform this House whether any, and, if any, what part of the balances transferred from the Treasury to the United States Bank, under the second proposition of its agreement with the receiving banks, of the 31st January, 1817, were drawn from the Bank of the United States by any department of Government, between the 31st January and 1st of July, 1817, exclusive of the sums required by the Treasury, under the exception contained in the second proposition.

DEAF AND DUMB ASYLUM.

Mr. TERRY, from the committee to which was referred the petition of the Connecticut Asylum, for the education and instruction of deaf and dumb persons, made a report, which was read; when Mr. T. reported a bill in behalf of the Connecticut Asylum for teaching the deaf and dumb; which was twice read, and ordered to lie on the table. The report is as follows:

That an association of a number of citizens of the State of Connecticut was formed in the year 1815, for the purpose of establishing a school for the instruction of the deaf and dumb. Finding great numbers of this unfortunate description of persons in our country without education, and without any attempts being made to give them the education which they are capable of receiving, and actuated by a benevolent desire to rescue them, as far as was practicable, from their state of ignorance and degradation, and to fit them for social intercourse and happiness, the associates, by voluntary contribution, raised a sum of money sufficient to defray the expense of sending the reverend Thomas H. Gallaudet to Europe, for the purpose of learning the modes of instruction practised there. Mr. Gallaudet went to England, to Scotland, and to France. In London, he did not find a disposition in the teachers to communicate instruction so readily as the benevolence of his mission seemed to entitle him to expect; but he had the good fortune to meet there the Abbe Sicard, the principal of the institution for the instruction of the deaf and dumb at Paris, a gentleman distinguished for talents, benevolence, and devotion to the interests of these unfortunate persons. The Abbe assured him that, if he would go to Paris, every facility should be afforded him of acquiring a knowledge of their modes of instruction; which assurances he found fully realized upon going there. The Abbe kindly took him into the school, and explained to him everything relating to their modes of instruction and management; but Mr. Gallaudet found that the time which his arrangements would permit him to spend in Paris would be much too short to enable him to acquire the knowledge necessary for an accomplished instructor; and having become acquainted with Laurent Clerc, a pupil of the Abbe, and for eight years an assistant instructor, he engaged him to come to this country as an instructor in the school about to be established in Connecticut. They arrived here in August, 1816, and Mr. Clerc is still an assistant to Mr. Gallaudet in the Connecticut Asylum. The Legislature of Connecticut, in May, 1816, incorporated the said associates by their aforesaid name. There are at present in the school more than fifty pupils, from the States of New Hampshire, Massachusetts, Vermont, Rhode Island, Connecticut, New York, Pennsylvania,

Maryland, Virginia, and Kentucky, who are taught by five instructors, and who pay \$200 per annum, each, for tuition, board, washing, and lodging. The institution is open for the reception of pupils from every part of the Union; but its funds (which have arisen almost entirely from voluntary contribution) are too small to admit of its becoming extensively useful; they are not sufficient even to erect the buildings necessary for the accommodation of the present number of pupils.

Considering that this institution is calculated not only to afford instruction to the deaf and dumb, who are to be found in all parts of our country, but also to qualify teachers for other schools which may be established in other parts of the Union, and considering that it is the first attempt of the kind in the United States, and that it has been raised to its present condition by the care and at the expense of charitable individuals, most of whom had no particular interest in its success, the committee are of opinion that it is worthy of the patronage of Congress, and that the prayer of the petition ought to be granted; and for that purpose they report a bill.

BANK OF THE UNITED STATES.

The House again went into a Committee of the Whole, (Mr. BASSETT in the chair,) on the subject of the Bank of the United States—Mr. JOHNSON's motion to repeal the charter still under consideration.

Mr. TYLER concluded the argument which he commenced on Saturday in favor of the motion, and in reply to Mr. LOWNDES, occupying nearly two hours to-day—as given entire in preceding pages.

Mr. McLANE of Delaware, said that the late period of the session, the mass of important business yet remaining to be transacted, and the impatience manifested by the Committee in the course of this debate, though upon a subject of such magnitude, admonished him of the impropriety of tasking their attention for any great length of time. He would not have participated in the debate at all, if he had not had the honor to be a member of the committee whose investigation and report had given rise to the present discussion, and if it had not been his lot to differ in opinion with a majority of his colleagues on many of the most important matters in the report. On this account, he believed it a duty he owed to himself and to the House, to state the views he entertained, and the reasons upon which his opinion had been formed.

The able and detailed remarks of the gentleman from South Carolina (Mr. LOWNDES) would save him much trouble, and justify him in abridging the observations which he otherwise should have felt it his duty to make.

Mr. McLANE said, he entirely concurred in most of the views and opinions which had been expressed by the gentleman from South Carolina, unless, indeed, he was to be understood as denying the existence of any abuses whatsoever, in the conduct of any of those to whom the management of the Bank of the United States had been confided. [Mr. LOWNDES here stated that it was certainly not his intention to make



any such denial.] Mr. McL. said, he was sure it could not be denied that many abuses had been committed by some of the individual directors, though, perhaps, in many instances, in their unofficial character. He said, he had entered upon the arduous and responsible duties assigned to him, with no unfavorable impressions towards the institution; and though he had heard numerous charges made against it, from various quarters, they had been unaccompanied by such proof as would be calculated to make a serious impression. [In patiently investigating the circumstances under which the institution commenced its operations, and continued its progress, and in tracing its management, and the transactions of its officers—he had seen much to admire—something too to condemn, and in the conduct of some of the directors and other officers, something to reprobate. But he had nowhere discovered abuses of so enormous a character as to be remedied by milder correctives than total extinction of the incorporation—a measure carrying in its train the most disastrous consequences to all parts of the community. He would not now detain the Committee in a particular consideration of the different acts which in his opinion were or were not abuses; or of the degree of censure which they merited. He did not consider himself here as the accuser or defender of the bank and its officers; but, as a Representative of the American people, called to decide upon the propriety of certain important measures, intimately connected with their interests and prosperity. Of these, he should not be unmindful, because of the mismanagement in the Bank of the United States, and so far as he deemed it material, to adjust the decision upon these measures, to express his opinion in regard to the condition of the bank and the conduct of its officers, he should take occasion to do so in the course of the observations he should have the honor to make.]

Mr. McL. said there were three propositions before the Committee. The first proposes to pass a law repealing the charter heretofore granted, incorporating the bank; the second, to direct a *scire facias* to compel a forfeiture of the charter; and the third, to direct a *scire facias* to be hereafter waived, if the corporation will consent to certain modifications of their charter. He said he was opposed to all of them.

He denied the Constitutional power of Congress to pass a law repealing or dissolving the charter, and he said the arguments of its advocates proceeded upon mistaken principles, even in regard to the common law, whence some of them had drawn their deductions.

The honorable mover of this proposition (Mr. JOHNSON of Virginia) contends, that the law granting the charter is wholly unconstitutional, that common and civil law are both inoperative in the United States, and therefore, that, as we cannot resort to the remedies afforded by either of these, we have nothing left but to repeal the charter by an act of Congress. But, Mr. McL. said, if the honorable gentleman were correct in his premises, he would be left without any law

at all, excepting the mere arbitrary exercise of power. The charter, however, had relieved us from these embarrassments, by prescribing a remedy whenever a forfeiture should be incurred, the only event in which, as he should contend, Congress could interfere. Another honorable gentleman who followed the mover, in support of the proposition to repeal (Mr. PINDALL, from Virginia) insists, that the common law is operative in the United States, and contends for the right to repeal, in virtue of the power exercised by Parliament, and the visitatorial power, which he says is, in this instance, in Congress, as the founder of the incorporation. If the gentleman were right, in supposing the visitatorial power to be in Congress, and susceptible of use as extensive as in England, it would not support his position. For, said Mr. McL., the visitatorial power is not a destroying, but a correcting, remedial power. The visitor has no power to destroy the being of a corporation. His office and authority are founded, in the language of the best writers, "upon the supposition that corporations, being composed of individuals subject to human frailties, are liable, as well as private persons, to deviate from the end of their institution; and for that reason, the law provides proper persons to visit, inquire into, and correct all irregularities that arise in such corporations." Although in England, this visitatorial power has a very extensive operation, I never heard of an instance, I believe none can be furnished, in which it attempted to dissolve the corporation. Nor is the power necessarily in the founder; it may be in any other person designated by the charter, and though in England the King is considered as the general founder, and the visitor, if no other be named, he never exercises his power in his own person, but always in his courts of justice; before whom the corporations are brought by proper process; are heard in their defence, and the abuses or irregularities, if any are found to exist, are corrected. The King himself cannot dissolve a corporation of which he was the founder, and which he may have created by letters patent; it can only be done by the interference of Parliament; than which, a more conclusive argument could not be afforded, that the visitatorial office does not possess the power of dissolution. It is unnecessary, at present, to institute any inquiry into the nature of this power, in this country, or in what department of the Government it may be vested, since, wherever it may be vested, it would give no authority to repeal the charter. The powers of Congress are clearly defined in the charter; the means of enforcing a forfeiture are distinctly provided; and the control of the Secretary of the Treasury over the public deposits is sufficient for ordinary cases. It may well be questioned, however, whether any greater power than this exists in any department of the Government.

But gentlemen say, that one Legislature has the same power that another had, and that therefore we may repeal any law that a preceding Congress passed. This principle cannot be con-

troverted, as it respects general legislation, affecting public rights and general police; but if an act be done under any law, a succeeding Legislature cannot undo it. Where a law is in its nature a contract, as all grants are, and absolute rights have vested under the contract, a repeal of the law cannot divest those rights. This is the nature of the law in question. Congress, in giving this charter creating the corporation, granted to the individuals who should become members of it, certain privileges and franchises, and stipulated, upon the faith of the Government, that they should enjoy it for a definite period; it granted them the right of becoming a corporation and carrying on the business of banking, or owning property in the stock of the institution, and of exercising all the privileges of ownership for the same period of time. Under this grant, these rights have become vested interests, as much so as a right to take toll for twenty years, or a right to a fee simple interest in land, where, by an act of Congress, the title has been granted to an individual. As such they are considered in all countries, under our own laws, and by the decisions of our own courts. They are so treated in England; though there a charter may be dissolved by an act of Parliament, because of the attribute of omnipotence with which it is invested, and by which it rides over public and private rights with the same supremacy. Happily for our country, no branch of our Government is clothed with this attribute. Here, every department of our Government is controlled by precisely defined principles impressed upon their first institution. In England the legislature makes and controls the Constitution. Here, the Constitution limits and controls the legislature. Here the legislative power can make no "ex post facto law, or law impairing the obligation of contracts," and "no person shall be deprived of life, liberty, or property, without due process of law." The provision applies equally to contracts in which the public are the party, and where individuals only are concerned. If possible, it applies with greater force, since the public faith ought, at all times, to be sacred and inviolable. In the formation of our Government, its different powers are apportioned among the respective branches, each acting in its appropriate sphere: the legislature makes the law, or authorizes the grant; the judiciary expounds them, and hears and decides all matters of litigation, and the executive superintends their execution. If individuals in the community have conflicting claims, arising under the laws of the United States, either in contract or otherwise, the judiciary is the tribunal to which their rights are referred.

The public authorities, as it regards their contracts, cannot claim, nor should they desire to claim, any other exemption. The Legislature should carefully abstain from the exercise of mere arbitrary power. As they value the stability of our institutions, they "must in all cases submit their pretensions to those tribunals established for the security of property, and to decide

human rights." We cannot therefore repeal this charter, nor can we claim to be released from the performance of our stipulations in good faith, unless the condition upon which the grant was made, and the individual rights vested, have been broken. But this can only be ascertained by due process of law. If we allege that it has been broken, we are bound to prove it; we must resort to the Judiciary; we must afford the party whose interests and property are to be taken away, an opportunity of being heard. The Bank of the United States has not yet been heard. The proceedings, so far, have been *ex parte*. He did not mean to say that the investigation had not been conducted impartially, and with good faith. He was sure it had been so conducted, but still it was *ex parte*. The report of the committee is, at most, but the finding of a grand jury; it concludes nothing. To pass a law repealing the charter, therefore, would not only be an assumption of judicial powers, which do not belong to us, but it would be deciding in our own cause, in our own favor, and without hearing the opposite party.

But gentlemen say that the law incorporating the bank was unconstitutional, and that therefore we are not bound by it, and may of course repeal it. Mr. McL. said that, although he entertained no doubt that the law was Constitutional, and that it could easily be demonstrated to be so, he should not discuss that question, since he insisted that we now had no right to discuss the validity of the charter. He held it to be an essential principle of our Government, that any law once passed by the regular authorities was to be taken to be Constitutional, until the judicial tribunals should decide otherwise. The safety of our institutions, and the faith of individual transactions, depended upon this principle. The Congress of the United States is a party to the grant of this charter—to the contract under which private rights have become vested—and for a party to decide his own deed to be invalid, whatever cause may be assigned for its invalidity, would manifestly be an act of bad faith; it would be a mere act of power, without the shadow of right. The Congress who granted the charter would have had no right to say so, and it will not be pretended that we have greater powers than they had.

But, Mr. Chairman, said Mr. McL., this repealing law, if passed, would be nugatory, and of no effect. Gentlemen have not yet claimed for Congress that omnipotence which would authorize us to revoke our own grants, and annul our own contracts, as a mere matter of power and caprice. They have admitted that either the original law must be unconstitutional, or a breach of the condition on which it was granted must be committed, before Congress can interfere. Now, if the charter were unconstitutional, it would be absolutely null and void without the repealing law: the repealing law could not make it more so. It could only add one more question to the matters in dispute, and it would immediately be contended (and he thought with much



greater propriety) that the repealing law was unconstitutional and void, and that the charter was good. If we proceed upon the ground of a breach of the condition, the effect of our law, even in the contemplation of its advocates, would depend upon the fact; and, in both instances, the Judiciary would have to decide the controversy. For even in England, where the power of dissolving an incorporation is in Parliament, the act passed for that purpose is always enforced in the Court of King's Bench; and, until the court pronounces the judgment, the corporation continues the exercise of its franchises. In this instance gentlemen may be assured that the stockholders of the Bank of the United States would not voluntarily acquiesce in the law. We should be compelled to resort to the Judiciary for some process to enforce it, (if indeed gentlemen would be able to devise any, in the absence of all common law, and under a void charter,) and at last a hearing would take place, and the Judiciary would decide between us.

But, Mr. Chairman, said Mr. McL., it clearly results from all that has been said, that, after granting this charter, under which there now exist vested rights, we are bound by our own act, unless a forfeiture has been incurred. In such an event the Government, as a party to the contract, have stipulated the remedy, and the mode in which the question is to be tried, and the forfeiture enforced. We have stipulated that if, after a committee of either House of Congress shall have reported that the charter has been violated, we deem it expedient to vacate the charter, we will direct a *scire facias* to issue; and we have secured to the corporation the right of trial by jury, and the judgment of the court, before their rights can be affected. This is a solemn stipulation, made for the mutual benefit of both parties; we cannot depart from it, without an utter disregard of the national faith.

Before we resort to this remedy, Mr. Chairman, we should be satisfied, in the first place, that the charter has been forfeited; and, secondly, that it is expedient to enforce a forfeiture. For, although the act vests you with the power to direct a *scire facias* after your committee have reported a violation, it does not make it obligatory upon you to do so, even should you concur in opinion with the committee. It leaves you with the important option and privilege, possessed by every individual, of taking advantage of a breach of contract by the opposite party, or of waiving it, at your pleasure; with this material difference, that in the case of the individual, he considers only his personal feelings and interest; in the instance of the Government, it is to consult, not its feelings, but the interests and welfare of the whole nation. In the exercise of this privilege, therefore, national safety and individual happiness, private rights, as well as public policy and public good, are all-important considerations. There is also every reason why it should be clear that the violations reported would be sufficient to incur a forfeiture; not only because such could be the only legitimate objects of the proceed-

ing, but, if the question were doubtful, it would be inconsistent with the duty we owe to that part of the community whose interests are involved in the institution to direct a *scire facias*. The inception of such a proceeding would be very apt to be fatal to the bank. It is an institution subsisting upon a sound credit, and the confidence the community entertain in its existence and permanence. If these are once shaken, there is an end of its utility—of its entire capacity. Imputations of impurity are not more fatal to the fair and just superiority and loveliness of the female character, than would be those of instability and weakness against the credit and confidence of this institution. They would leave it exposed to the assaults of every petty hostility. A *scire facias* would be invested with the expression of the deliberate opinion that Congress—an opinion always entitled to great weight with the American people—that a forfeiture had been incurred, and public calculations would be made accordingly. A loss of public confidence would ensue; a general pressure by its creditors from all quarters; a depreciation of its paper; the withdrawal of private deposits, and, of necessity, those of the public;—would be the inevitable consequences. And when it is considered that this state of things would continue, and gradually become worse, during the time that would necessarily elapse before the question could be decided, it appears to me impossible that the bank could survive the shock, although the charter should be ultimately sustained.

Is it clear, then, said Mr. McL., that the acts of violation reported by the committee will incur a forfeiture? He believed not; he was persuaded that the courts of the United States would not decree a forfeiture on the ground of any or all of these acts. He would not deny, that, in these cases, some of the provisions of the charter had not been literally complied with; though in none of them had the spirit or intention been evaded, or the great and leading ends and objects of the institution been defeated. He observed, that the doctrine of a forfeiture of charter, and especially in regard to the acts which would or would not produce it, was a novel one in this country, and obscured in some difficulty. The annals of our own history afford us no precedents, there never having been, to his knowledge, an attempt to forfeit a charter in the United States. The cases which have occurred in England, whence we so often draw our legal authorities, are extremely vague and unsatisfactory. They were proceedings in times of great trouble and confusion, when the law was unsettled or little understood, and when the justice of the case, or the rights of the parties, were as little regarded. In most instances they originated in the ambition of the Crown, or in its hostility to the particular corporation whose dissolution was desired; and were mostly made by judges either corrupted or overawed by the power and influence of the Crown. The principles upon which a charter would be decreed forfeited on one day, in a short time afterwards would be reprobated by Parliament, and

the franchise restored, as the political temper of the times happened to predominate. They do not, therefore, partake of the stability of other decisions; and, valuing as we do the freedom of our institutions, and the certainty of our laws, are entitled to no credit in our country. The honorable gentleman from Virginia (Mr. TYLER) has referred us to the famous case of the city of London, in the reign of Charles II, as the source whence he draws his learning and his principles upon this subject. But his friend must have forgotten the character of that case, and the circumstances under which the decision was made. It is a case from which little purity of doctrine can be extracted. It occurred in the time of a prince of a very unsettled character, and of a lawless ambition; of whom it has been observed, "that he never said a foolish thing, or did a wise one;" and in the path of whose tyranny and ambition the laws interposed no barrier. The proceedings against the city of London were the result of the political ambition of the Crown; and "the head and front of the offending" was a libel on the King. In that case, too, even in England, it was then made a question whether a charter could be forfeited, no decision having previously been made, and though it was decided affirmatively, and the forfeiture actually decreed, yet, afterwards, when the feeling in which the persecution originated had subsided, Parliament restored the charter, because it had been unjustly forfeited. The historians of those events, associating the judges of that day with this transaction, and who, holding their commissions at the pleasure of the Crown, were generally the instruments of its tyranny, stamp them with a corrupt devotion to the views of the Court, regardless alike of the rights of property, and of human life. If, however, this case of the city of London could be referred to, it would prove nothing for the argument; since it is uncertain whether the being of the corporation ever was absolutely forfeited. On the contrary, it may be inferred, from the records of those proceedings, that it still subsisted, and that the seizure was a seizure only of the Mayoralty, notwithstanding which the citizens exercised all their corporate rights, except that of choosing their own Mayor. It may be observed also, that in this, as in all the other cases in England, that they were generally cases of incorporated towns; and the acts complained of as working a forfeiture, were acts of oppression upon third persons, not members of the corporation, and in violation of the positive laws of the land; rather the assumption of new powers, than the irregular exercise of powers clearly granted by their charters.

Under all these circumstances, Mr. McLANE said, the only safety and sound principles were to be drawn from the charter of our own institutions, from the nature of the grant, from the nature of these artificial persons as created by the acts of Congress, and the great ends which the aggregate of their component parts was designed to accomplish. Admitting, therefore, said he, that the charter of a corporation may be forfeited, by acts

of mis-user or non-user; he contended that they must be corporate acts, and amount to a breach of the condition upon which the corporation was created, by rendering the corporation incapable of acting in its corporate capacity, and of performing the objects of its incorporation. All acts of mis-user or of non-user, less than such as he here referred to, were to be corrected by the visitatorial power, where it exists, or by milder means than the destruction of the being of the incorporation. If a corporation neglect or refuse to appoint officers, through whom only it can act, and where no provision is made for such an event, it might thus be rendered incapable of performing its functions, though in England this is now declared to be no cause of forfeiture; but, if after it elects its officers they misbehave, though in a degree not subversive of the great ends of the incorporation, their misconduct may be corrected, but there can be no forfeiture, for this reason, of the charter. As in the natural, so in the legal or artificial person, the entire annihilation of its being is considered a desperate remedy, never to be resorted to until all efforts to reform, by milder means, have proved abortive. The corporation must be wholly unable, either by utter incapacity, or by a total subversion of all its faculties, from complying with the condition of its existence, or from performing its functions in the community; and the objects of its institution must be altogether unattainable, before its complete dissolution can be decreed. The acts of mis-user should lead to the same result, and be productive of the same incapacity, as those of non-user, in order to furnish a ground of forfeiture, and before its being can be destroyed.

Mr. McL. said there was a wide distinction between the condition of the charter and the numerous provisions generally contained in it, designed to enable the corporation the better to comply with the condition. These latter are often made for the benefit of the corporators, and to furnish them with the means of their own government; and though it would always be proper to conform to them, yet for a departure from some of them, if in doing so the great ends of the institution are not defeated, and its capacity to comply with its condition not impaired, there cannot, in the nature of the case, be a forfeiture. They are to be corrected by the visitatorial power. The very existence of a visitatorial power evinces the truth of this doctrine. There would be no occasion for this power if every violation of any provision in a charter incurred a forfeiture of its being. If such a violation would incur a forfeiture there would be no safety or stability in any corporation. Different men may take different views of the same provision. There may be many acts of the officers of the institution of which the corporators could have no knowledge, and equally opposed to their interests and those of the public. They may refuse to a man an office to which he is entitled by the provisions of the charter. He may apply to be restored, but it would be a singular remedy to annihilate the charter, and, with it, the office. The directors



H. or R.

Bank of the United States.

FEBRUARY, 1819.

may lend money to a man professedly insolvent, and should be liable for the debt, and corrected for the misconduct; but it would be a fatal specific to destroy the whole being of the corporation, and involve the stockholders in greater ruin for this irregularity. In all such cases, the visitatorial power in England, by means of a mandamus from the Court of King's Bench, applies the remedy; and where this remedy is effectual the work of destruction is never resorted to.

The act of violation, said Mr. McL., must not only amount to a breach of the condition, but it must be the act of the corporation; and, if practised by the officers, must be an official corporate act. Innocent stockholders should not be answerable for the misconduct of their officers, unless within the limit of their authority. If an individual director improperly avails himself of his public condition to promote his private speculations, it is not such an act of official abuse for which the corporators would be liable, or for which the charter would be forfeited; and therefore, all the improper conduct of some of the individuals who have been directors in this institution; and which has fallen under the severe animadversion of the honorable gentleman from Virginia, (Mr. TYLER,) are not such acts as would work a forfeiture. They are acts which I do not mean to justify or excuse—which I will unite with the other members of the committee in visiting with the severest reprehension. But they are the acts of these individuals alone, in which the rest of the committee had no share—of which they had no knowledge until the committee exposed them, and for which, they are, therefore, in no degree culpable. Punish the individuals concerned in them, if you please, but do not involve in indiscriminate destruction the innocent and the guilty.

Mr. McL. said, if these principles were correct, a more particular examination of the acts of violation reported by the committee would show that no forfeiture had been incurred. The first act of violation was the purchase of two millions of the public debt for the Government of the United States. Mr. McL. had never believed that this act afforded the slightest ground for a forfeiture, if it could be supposed any violation at all. The provision in the charter could have designed nothing more than to prevent the bank from purchasing stock with a view to become the owner of it. It was intended, as had already been remarked by the gentleman from South Carolina, to prevent the bank from going into market in competition with the Government. In purchasing this stock they did not mean to hold it; they bought for the Government of the United States, under an arrangement made with the Secretary of the Treasury. The Secretary of the Treasury insisted upon the right to redeem this amount of stock, which the bank legally sold. Mr. McL. believed the Secretary was wrong; but, be this as it may, the bank, to avoid difficulty, purchased so much stock for the use of the Government. They were, at no period, the absolute owners of the stock. They were the trustees of the United

States, under the arrangement, from the moment of the purchase; and, by a transfer to the Government completed the transaction. It was a losing bargain for the bank, and the Government was censurable on this account. But, Mr. McL. inquired with what face he could now insist upon a forfeiture for this act, committed for the interest of the Government, and forced upon the corporation by Government? He could not suppose it necessary to expend more time upon this part of the subject.

The second act of violation was that of discounting for the coin part of the second and third instalments. Mr. McL. said he would not consume the time of the Committee in an inquiry into the policy or impropriety of the measure. He would content himself with remarking that, in his opinion, it was unnecessary. He believed it would have been better for the institution if it had gone into operation upon the amount of the subscriptions. Its progress, perhaps, would have been slower, but, he believed, surer, in the end; and it would have prevented those speculations in the stock of which so much complaint had been made. Those who had the management of the institution, however, and who understood all its springs, thought differently, and their opinion was certainly entitled to some weight; and whether it were wise or unwise, if they possessed the right to do so, and if in doing so they did not defeat the great ends of the institution, and break the condition of the charter, it is no forfeiture.

Gentlemen are in an error in supposing that this provision was the great condition of the charter; it is only a provision, and an important one truly, to promote the performance of the condition. The subscribers to the bank are incorporated, and invested with the right to carry on the operations of banking; to lend money and issue notes; and the fundamental condition of this grant is, that they shall at all times pay specie for the notes thus issued, upon demand; that they shall pay a certain sum to the Government, and make loans to a certain amount, and furnish other facilities enumerated in the charter, and not violate any of the laws of the country. The motives of policy which recommended the charter, form no part of the condition. The particular provision alluded to, therefore, was not designed so much to constitute a condition of the charter as to create an obligation in the stockholders to pay up the amount of their subscriptions, and to designate the time at which the corporation would have the right to make the demand. This is evident from the penalty being imposed on the delinquent stockholder for non-payment. There is no penalty imposed upon the corporation for not enforcing payment in case of delinquencies. If any individual stockholder had neglected or refused to pay his instalment at the time it became due, it will scarcely be contended that he would have forfeited his corporate rights, and have been liable to be removed, as a corporator. The corporation might have brought suit, and withheld the dividends until payment was made; but the individual would still have con-

FEBRUARY, 1819.

Bank of the United States.

H. or R.

tinued a member of the corporation. If, then, the neglecting to pay by the stockholder would not have forfeited his membership under this charter, the neglect on the part of a majority would not have had a greater effect; much less would the forbearance, on the part of the directors, to sue in case of a delinquency, or even their aiding the payment, work a forfeiture of the charter, and dissolve the being of the corporation. It is by such a course of reasoning that the right of forfeiture is inferred: for it was said, in the case of the prosecution against the city of London, before adverted to, "that, as every member may forfeit that which any member may, the same acts which will forfeit the right of every member, separately considered, if done jointly by all the members, will have the same effect, or, in other words, will be a forfeiture of the existence of the whole corporation."

If, then, this charter did not mean to forfeit the right of any one member, for the non-payment of his instalment, as I contend it did not, neither did it design to forfeit the existence of the whole corporation, if all the members neglected. But, sir, said Mr. McL., the bank was authorized to go into operation after the subscriptions should be completed, and before the second instalment became due; and the second instalment could not, therefore, have been considered as necessary to its operations. In giving this authority, the charter must have authorized all its consequences. The bank did go into operation in the manner and at the time prescribed by the charter. Being legally in operation, it had the legal right to discount and lend money to whomsoever it pleased, and to any amount, taking the risk of the penalties imposed by the charter. If the directors exercised this right indiscreetly, they violated their trust to the stockholders, but the incorporation incurred no forfeiture. Suppose, sir, that, without passing any of the resolutions referred to in the report, they had gone on to discount, no one would censure them for discounting to stockholders, on a pledge of stock. For my own part, I am free to declare, that I think loans on stock, if not disproportionate in relation to the wants and business of the rest of the community, are the safest and best; nor would they have deserved censure if they had given a preference to the stockholders, which, in fact, would be the necessary consequence of giving preference to stock loans, as the discounting to stockholders was the necessary effect of lending on stock security at all; neither could it have been incumbent upon the directors, or proper for them, to inquire into the application of the proceeds of the discounts. If, then, they had discounted to stockholders, which would have been both legal and proper, the persons obtaining the loans would have drawn out the notes of the bank; with these notes they would also have drawn the specie, and then returned it back in payment of the instalments. Such an operation would have been payment; by such an operation the individual stockholder would have complied with his engagement, aided, it is true, by the bank; but, in the exercise of a

legal right—the right of lending money, and discounting in the regular course of banking operations—no other effect is produced by the discounts under the resolution. If it were not illegal to discount to a stockholder, and suffer the application of the proceeds to be made in payment of the instalment, which could not have been prevented without a resolution, he was at a loss to conceive how a resolution to discount could create the illegality. One distinction is, that, instead of resolving to discount at the time the paper is offered, the resolution is made before any application for discount is preferred, and the object honestly avowed. Another distinction is, that the discounter, instead of drawing the specie, merely for form sake, leaves it in the bank to his credit; in effect, he has deposited so much specie, and his bank book is the certificate of the fact; but these are rather distinctions without a difference. The honorable gentleman from Virginia (Mr. TYLER) has admitted the correctness of this operation, in regard to the third instalment; and I cannot perceive any discrimination, in point of principle, between the third and the second. Mr. McL. said, it should here be remembered that this exercise of the legal right did not, in any degree, incapacitate the bank from performing all the great objects of its incorporation, whether as matters of condition or policy. It has at all times performed them in good faith; it is yet daily performing them. It has, in no instance, ever refused to pay its notes in specie, on demand; it has essentially contributed to the wants and enterprise of the community; it was enabled sooner to extend its operations, and diffuse its influence more widely, and to act with greater promptitude and more efficiently; it enabled the State banks to resume specie payments earlier than they otherwise would have done; it has never failed in any of its stipulations with the Government; but, on the contrary, has always furnished it with great and continued facilities. It was not certain, nor even probable, at the price specie then bore, that the withholding of the dividends from the delinquents would have compelled the prompt payment of the second instalment, and the right of suing afforded no greater means for this purpose. By the mode adopted, the operations of the bank were considerably quickened, the interest of the stockholders advanced, the public good promoted, and the means acquired of certainly compelling payment in the space of sixty days, by a mere sale of the stock. In point of fact, the arrangement was executed in good faith; and the investigation I have made, authorizes me to say that, with very few exceptions, and these to a small amount, payment was punctually made as the notes became due. My honorable friend from Virginia (Mr. TYLER) has insisted that the bank was bound to bring suit, and ought to have done so. But, sir, I deny that there was any such obligation; it would have been strange, indeed, if there had been, since the right to sue, and the propriety of exercising such right, involves considerations of great moment, which could not



have been foreseen, and generally depend upon the state of things existing at the time the right accrues. If the penalty prescribed by the charter failed in its effects, there was no obligation to go farther; it became a matter of sound discretion with the directors, to adopt the course most consistent with the character of the bank and the state of the community; and if it appeared probable that the penalty would be ineffectual, it was the part of a wise and prudent foresight to anticipate and provide against the evils which might ensue. Suppose the bank, however, to have sued, and to have refused to discount to a stockholder, merely because he was such, (which is indeed a presumption at variance with the best notions on the subject,) would a different effect have been produced, or would the condition of the bank have been improved by the proceeding? The suits must have been commenced in various parts of the United States, wherever the delinquent stockholder happened to reside; in some a longer, in others perhaps a shorter time, but in none less than eighteen months would have been required to obtain judgment. The diversity of tribunals to which the bank would thus have been compelled to resort, would have increased the delay and expense, and multiplied difficulties without number; and, after all, there could have been no security in the uncertain and embarrassed state of things at that time, that, at the end of the race, the stockholder would have been solvent. In the meantime, it would have been the duty of the bank, with a faithful regard to the interests of the punctual stockholders, and the Government, and to the welfare of the community, to have made discounts and carried on its operations: by this means its notes must have gone into circulation, and judgment being obtained in the cases in which suits may be supposed to have been brought, the defendants would either have gone into court with the notes of the bank, and paid the judgment, or first drawn the specie, and then paid it, in discharge of the suit. The moment the bank went legally into operation, this result was inevitable; and I cannot perceive how the mode of exercising a legal right can be construed to work a forfeiture of the incorporation.

The third act of violation consists in paying dividends to stockholders who had not completed their instalments. The facts upon this point being correctly ascertained, there will be no occasion for little, if any argument in regard to it. It is in proof that, according to the regular course of business, "when a stockholder came to pay his instalment after the regular period, but before any dividend was declared, interest, at the rate of six per cent. per annum, was paid by him, on the amount of his second instalment from the 1st January, 1817, to the time of his paying up. If he came to pay his second instalment after the dividend was declared, viz., 7th July, 1817, the first dividend was considered as forfeited, and interest on his instalments was paid from the 1st July, 1817, to the time of his paying up." The general rule of business on this point, was, therefore, in strict conformity with the words of

the charter, and the exceptions which have been pointed out, were rather in obedience to the sound spirit and intention of the provision, than a departure from the words. There were but four instances in which the rate was not strictly adhered to, and enforced: the shares of all the four amounted to three hundred and sixty-five; one was the case of a widow, holding but a few shares, and the others had been prevented from making punctual payment to some accidental circumstances, entitling them to a relaxation of the rule. The object of this provision in the charter, was clearly to compel the payment of the instalments, and, like all other human laws, designed to impose the penalty upon a wilful or corrupt negligence; so far as this was its object, it was executed strictly, and in good faith; but it could never have been intended to punish a failure upon the part of the unwary, or which was occasioned by accidents, over which the ordinary human exertion had no control; for such instances, in the very nature of the case, a discretion must have been vested in the great body of the stockholders. The provision was introduced, also, for the benefit of the punctual stockholders, and if they think proper to waive its benefit, and relax the rigor of the words in the case in which there existed no design to evade its provision, it cannot be a ground of complaint with any one else. They have waived it by their own act, and they do not desire any proceeding on this account. If, indeed, in point of strict law, this act could be considered as a violation of the provision, it could scarcely be deemed of sufficient magnitude to justify the widespread ruin which would ensue a forfeiture of the whole incorporation. The interest having been charged upon the shares until the payment of the instalments, the difference would be of little or no importance. It fully evinces that there could have been no evil design to violate the charter; and surely gentlemen will not contend that it in any degree embarrassed the operations of the bank in the attainment of the great and fundamental ends of the institution.

The fourth act of violation is said to consist in "the judges of the first and second elections allowing many persons to give more than thirty votes each, under the pretence of their being attorneys for others, in whose names the shares then stood."

Mr. McL. said he concurred with the unanimous sentiment of the committee in disapproving this act. It could not be disguised, that its effect was to enable the large speculator in stock to control the influence in the management and direction of the bank, to the exclusion of the small and *bona fide* stockholder. Yet he could not imagine that it would be deemed, under all the circumstances, a ground of forfeiture. He also begged leave here to remark, that the custom of subscribing for stock in the name of another, and voting as the attorney for that other, had been practised at all times and at all places, in this country, since the first organization of similar institutions, and that what had been universal custom and immemorial usage might almost be

taken to be the common law of the case. It was a right, also, in which every subscriber might have participated. It does not appear very satisfactorily, from the proof, whether the practice was generally known or adopted, though it is certain that it was adopted by many of the large stockholders; but whether it was certainly known to others, or to what number, or to all the judges, or whether they were in possession of sufficient proof of the fact, does not appear. Mr. McL. asked, if, under these circumstances, it was clear that the persons in whose name the stock was so held had not the legal right to vote, or that the judges could have rejected the votes, or compelled a consolidation? He believed not. By the charter, the number of votes to which the stockholders shall be entitled, shall be according to the number of shares which he, she, or they, respectively, shall "hold;" the act of holding is adopted as the evidence of ownership, or, at least, as giving the right to vote. The person in whose name the stock stands is the holder; with him are all the legal rights and all the responsibilities. No other than the holder could vote upon the shares, and neither the commissioners nor the corporation possessed the power of compelling the transfer of the shares. Even if they had suspected the contrivance, they had no means of defeating it; they were bound to receive the best evidence, and the books of the commissioners were conclusive of the fact of holding. It could not, therefore, have been the misconduct of the judges of the election, since they were unauthorized to act otherwise, and since it would have been impracticable for them to detect the collusion which was supposed to have been practised between the "holder" and the attorney. For this reason, it therefore follows, that the manner of voting complained of was not a corporate act; it was not an abuse by the corporation, but the mere misbehaviour of a few of the individual stockholders, for their own private purposes—misbehaviour, either unknown to the great body of the stockholders, or over which they had no control. It surely will not be contended, that the misconduct of one or more of the stockholders, unauthorized and unofficial, is to destroy the rights of all the others, who are innocent men, and alone injured by the misbehaviour. If it were a violation of the charter, it was a violation by those individuals by whom it was practised; it might be proper to punish them, but it would be worse than injustice to involve others in a common fate! Perhaps, too, if the votes thus given were necessary to the election of the successful candidates, their election might have been declared void; but this would have been the extent of the operation upon the being of the incorporation. Mr. McL. also contended, that this provision in the charter was introduced for the benefit of the individual stockholders, and principally for the small stockholders: these were chiefly, if not solely, interested in its faithful performance; and we have not heard that they would desire a remedy, if it could be so called, which would annihilate at a blow the whole of their interests. The Government

have no interest in the election; their stock is represented by their own directors, appointed by their own authority, without the consent or knowledge of the other stockholders; and it is worthy of constant remembrance, in considering this subject, that those by whom this particular violation was principally practised, and to whom the most of the evils and abuses which grow out of it have been attributed, were the directors appointed by the Government, and, with the power of removal in their hands, retained by the Government, from time to time, until the recent exposition in the report of the committee.

In short, then, Mr. Chairman, said Mr. McL., all the acts complained of as violations of the charter consist, at most, in either an unwise or improper exercise of a legal right, or in the acts or misconduct of individuals, for which the incorporation cannot be officially responsible: they have in no degree defeated the great ends of the institution, or impaired its capacity to perform and discharge all its principal functions. It is yet in full life and vigor; shaken a little, perhaps, by our treatment to it, by our jealousies and suspicions, and reproaches, but, containing a sound constitution and abundant means of usefulness, would be capable, with a few wholesome corrections, of answering all our reasonable expectations. Under such circumstances, it would be difficult to find a motive sufficient to justify its unnatural and premature dissolution.

Mr. McL. said that he had intended, when he rose, to have entered into a consideration of the different acts of abuse and misconduct to which the report of the committee had alluded, though not amounting to a violation of the charter; but he felt, if he did so, he should exhaust himself and the Committee before he could submit all the remarks which the course he had prescribed to himself rendered necessary. Upon this part of the subject, he would, therefore, briefly remark, that, besides the improper speculations in stock, of which he had already spoken, the abuses which had fallen under the animadversion of the report might be comprehended under six general heads: 1. The conduct of the Bank of the United States towards the State institutions. 2. The practice of selling drafts on its offices. 3. Discounting on a pledge of stock. 4. The arrangement for paying the dividends in Europe. 5. The improper rejection of business paper; and, 6. Allowing discounts to be made by the president and cashier. As to the second and fourth of these acts, which had been the most condemned, Mr. McL. said no doubt could be entertained that the bank had the right to do both; and he did not think we should interfere with its exercise, unless some manifest and serious injury was likely to result to the public; even then we could do little more than withdraw the public deposits. He had yet seen no such evil flowing from these measures. The selling drafts upon its offices was a mere exchange operation, of great public convenience and accommodation, contributing essential facilities to the commercial enterprise of the country and the financial concerns of the



nation. There had been no instance, within his knowledge, in which it had been exercised oppressively or improperly; in the nature of things, it could not be, since it was optional with the individual to make his own bargain. The arrangement for paying the dividends in Europe could never be used to the prejudice of the stockholder or the public. He saw no impropriety in giving to the stock its highest credit in the European market; and it was a matter involving so many considerations, connected with all our commercial and political relations abroad, that he felt entirely satisfied to rest it with the discretion of gentlemen who were daily and intimately conversant with all their details. He was sure that the arrangement would be continued no longer than was consistent with the interest and profit of the institution. Of the third head, he not only believed the bank had the perfect right to discount on a pledge of stock, but he was inclined to think it was the safest and best mode of doing business, if it were not practised to the injury of the commercial activity and general enterprise of the country. Of this, he believed the directors, from their local knowledge, would always have the best means of judging; and the investigation he had made afforded him no reason to believe that either of these effects had yet been produced. He would not refrain, however, from condemning the practice of discounting upon a pledge of stock above its par value, and of dispensing with the personal security, under the power of substitution. Equally reprehensible, in his opinion, was the practice of permitting the president and cashier to make loans without the approbation of the directors, in each particular case. He believed it was calculated to lead to serious abuses; and he trusted to the good sense of the stockholders to correct it. As it regarded the conduct of the Bank of the United States towards State institutions, he could not imagine that it would afford any ground of complaint. It had undoubtedly been mild, generous, and conciliatory; and it was with surprise he had heard his honorable friend from Virginia (Mr. TYLER) maintain that it had not facilitated their resumption of specie payments. Sir, this was among the first and great benefits which this institution diffused throughout the community, and the documents show that its desire to accomplish this end led to the adoption of some of those very acts upon which censure has since fallen, and created difficulties with which it would otherwise not have struggled. It accomplished this desirable end in your cities, by large and liberal loans to the State banks, and by giving currency to their paper, thus shielding the individual debtors from an undue and fatal pressure, and enabling the banks, without their aid, to meet all their engagements. It enabled all the country banks, and especially those in the interior and to the westward, to do so, by receiving from the Government an immense amount of the country bank notes, which could not have been redeemed as early as the public necessities required, and gave to the banks a liberal time for their re-

demption; thus throwing into circulation a large amount of good paper, supplying the wants of the Treasury, and relieving the State banks from the pressure from which they had everything to apprehend.

But, sir, said Mr. McL., it is inconsistent with my present design to pursue this part of the subject further. I have already said, that I do not stand here as the indiscriminate defender of the bank. The inquiry which I deem material to pursue is, whether the abuses which have been practised and really do exist, will not admit of a perfect correction without the destruction of the being of the incorporation? If they will, I will never consent to be among its destroyers. It would be unbecoming in us to wield our power vindictively, when a chastening arm would answer every good purpose. That all these acts of misconduct will admit of correction by mild means, and will, in fact, be corrected without much interference on our part, is to me perfectly clear. The most serious acts of abuse, those in which it is alleged are involved the violations of charter, are already corrected—they exist no longer. There is no apprehension that the bank will ever repeat the purchase of any part of the public debt; it has suffered too sorely in the past instance, to yield so ready an acquiescence in the instructions of the Treasury in future. The loans on account of the instalments have principally been paid, and cannot, in the nature of things, ever recur. And the same remark may be made in relation to the payment of the dividends to the delinquent stockholders. As it regards the division of the votes, the documents furnished by the committee show that all the stock has long since been consolidated; but, if it should be otherwise, the bill reported by the committee will compel it to be done, and effectually prevent a recurrence of the evil. Those scenes of speculation also, of which so much has been said, must very soon cease, if they have not ceased already. They are more or less incident to the inception of all such institutions, and cannot be prevented. Men will subscribe for and purchase stock on speculation; the only remedy is to be found in the regular march of the institution. Under a sound management and a prudent disposition of its means, the large speculator will soon lose his power of controlling the market; the affairs of the institution will acquire stability; its stock will reach a regular sound value, liable only to the inevitable fluctuations of ordinary property, and finally become vested in the hands of the solid capitalist. For the correction of all these abuses, we also have a pledge in the interest of the stockholders. A safer one could not be provided. They are well acquainted with their interests, and, if they perceive a course of conduct calculated to prejudice them, they will not fail to check it, and promptly apply the remedy. If this has not been the case heretofore, it is because the great body of stockholders, in common with us, were ignorant of the nature or existence of the abuses. Besides, if this were a cause of complaint, the Government would come in

for a large share. Their directors were the principal actors in the drama, and they possessed the power of removal at any time. We cannot doubt that the stockholders, with a due regard to their private interests, will confide their management to men no longer than they prove themselves to be worthy of the trust. There is also, in the very nature of the exposure which the report has made, an ample remedy for all the evils; the scrutinizing power of Congress has already been felt; that it will be exercised, is no longer a matter of speculation; and these facts, together with the nature of the report arising out of the recent investigation, will necessarily inculcate and preserve a due circumspection of conduct in future. Of all this, we need no better proof than is to be found in the effects already produced by the late inquiry. We have already seen the unfortunate man who presided over this institution, surrendering a lucrative post the moment it was intimated that he had abused the trust confided to him. I call this gentleman unfortunate, because I believe his misfortunes are attributable to the influence of others, much more than to any immoral propensity in his own breast. And we have further seen his example followed by another, against whom the animadversions of the report have been principally directed. The same spirit, in obedience to which these sacrifices have been made, will not falter in its course until an entire reform has been effected.

But, Mr. McL. said, there were other reasons why these abuses would not continue. They were not the result of any general unsoundness in the management of the institution. My honorable colleagues, said Mr. McL., will, I am sure, justify me in saying, that there were men in the direction, the example of whose general conduct individually and officially any one might proudly imitate. Men of highminded honorable feelings and sound intelligence, capable of conducting the institution with credit to themselves and benefit to the public, and to whom no sinister motive or unfair conduct could be imputed—who had, on all occasions, been the advocates of an enlightened, disinterested policy, and had resigned considerable emolument, which they might honorably have made, rather than incur the suspicion of participating in the smallest degree in those stock speculations which have been so much reprobated. In the number of these men, besides those named in the report, Mr. McL. said it afforded him great pleasure to enumerate Mr. T. Willing and Mr. Fisher, of Philadelphia, and his honorable friend in this House, from Pennsylvania, (Mr. SERGEANT,) as conspicuous for the qualifications he had mentioned. On the whole, he concluded that there was every reason to calculate upon a safe and discreet management of the affairs of the bank in future, superintended, as it would be, by the inquisitorial power of Congress, and the control of the Treasury over the public deposits.

In regard to the question of the expediency of abrogating their charter, Mr. McL. said, if his construction of the acts of violation were correct,

it would be very unnecessary to enter into a consideration of it, since, if there were no forfeiture, the charter would be beyond our power. Nor would he go so much into detail upon this part of the subject, because of the length of time he had already occupied, and the danger of encroaching upon the views taken by the gentleman from South Carolina. Without detaining the Committee, therefore, said Mr. McL., in particularly considering the importance of this institution, in providing a circulating medium, in averting the evils of a depreciated paper currency, in equalizing the exchange in the different parts of this extensive country in the eminent degree it has done, in facilitating the financial operations of the Government, in providing a ready medium for their revenue, and safety for their deposits, and in inspiring life and activity into the commercial enterprise of the community, I will remark merely, that all the reasons that so powerfully recommended the creation of the bank yet exist, in all their vigor, to recommend its preservation. Among these, the most important, in my view, is the necessity of a national currency, beyond the reach of local interests and commercial fluctuations; and the inexpediency of relying upon State banks, for the national wants and the operations of our public finances. Not merely as it respects the supplying of the Government and its debtors with a sound unvarying medium, considerations suggested by the gentleman from South Carolina, but as it regards the stability of the Government and the efficiency of all its measures in war and in peace. I ask, sir, if it is wise to place the pecuniary resources of the National Government at the control of State banks? If we consider for a moment the vast extent of our continent, from all quarters whereof our revenue is to be drawn, and over all parts of which the supreme arm of the General Government is to be extended, in the regulation of commerce and providing for the common defence and general welfare; if we consider also the augmenting concerns which are daily multiplying with the growth of this mighty empire, and the almost absolute necessity of banking facilities for the effectual exercise of all the powers intrusted to the Federal Government, the folly of placing our reliance on State institutions will be manifest. Their charters might expire, and their existence cease at the very moment their aid would be the most necessary. I invite gentlemen to reflect also upon their power and influence over the moneyed affairs of the community. It is in their power to render worthless any medium which the Government may be compelled to create, excepting the metals, of which we all know the scarcity is greatest in times of the most pressing necessity. Such a power, in the hands of that diversity of interests, which might prevail in the different States of this Union, might paralyze the national arm and have a fatal influence upon our prosperity. I ask gentlemen to recur to the experience of the late war. Then all these calamities were seriously felt. We must all remember the embarrassments of the Government at that



time. Then the State banks, in most instances, refused their aid, and the very necessities of the Government forfeited individual confidence.—Treasury notes were resorted to, and every effort was made to give them currency—the faith of the nation was pledged for their redemption, and they were made receivable for public debts, but the State banks refused to receive them in deposits; and by this single act depressed them to ten, and in some instances to fifteen per cent. below par. The consequence was unavoidable; the national arm was weakened, its resources crippled, and its credit annihilated. To prevent a recurrence of similar calamities, the present bank was incorporated, and I admonish gentlemen to beware how they leave us exposed once more to evils of the same character.

But, Mr. Chairman, said Mr. McL., there are additional reasons now, which recommend the protection of the bank, that did not exist at the time it was incorporated. By giving this institution a being and existence, you have created innumerable rights which did not before exist. There are the debtors and creditors of the bank who have connected their interests with it on the faith of the nation, and would be ruined by its sudden destruction. There are, also, the innocent stockholders, here and abroad, who have invested their fortunes in the institution upon the same national faith, and upon the reasonable presumption, that no harsher measures would be adopted towards it than what experience had justified in regard to others. Of the foreign stockholder, this national faith is the chief reliance, for, in effect, not being allowed to vote by proxy, his interest can scarcely be said to be represented. It is the interest of the Government to preserve its own and the credit of the stock in Europe, and this cannot be done without giving it security and stability in their estimation. If it be once discerned that the existence of such an institution is dependent upon legislative caprice or local interests your stocks will soon be looked upon with distrust and jealousy. If anything could add strength to these considerations, it is, that the act of violation, upon which a forfeiture is mainly supported, has already received an amnesty at your hands. Two years ago it was officially announced to you—an investigation of the matter was made—the subject was brought before Congress, and it was finally resolved to be inexpedient to take any further notice of it. By this vote, others than those who at that time held stock were encouraged to become purchasers. It was an announcement to the world, that Congress would sustain the bank, notwithstanding this act of violation; hundreds of our citizens, upon this principle, purchased the stock at extravagant prices, and, after all this, to recall this act from its grave and seize upon it for the purpose of immolating the institution, would be an act of which, for the glory of the nation, I trust it will never be guilty.

But the honorable gentleman from Virginia (Mr. Tyler) had said, and he thought with more beauty than force, that this act was committed

when the child was in its infancy, and if we then overlooked it, as the folly of the infant, it is the more necessary now to punish the aberrations of its manhood. Mr. McL. said, it was a new system of discipline to visit on the head of the man the follies of the boy, and was unreasonable as well in the artificial as in the natural person. Sir, said Mr. McL., I have no sort of objection that you shall consider this institution as your child; in fact it is so, and, if properly cherished, one that will not dishonor its parent. I only desire that you shall exercise towards him a parental solicitude and authority; if he prove refractory, admonish him; if it be necessary to prevent him from doing an injury to you and himself, administer wholesome correction; but do not act the part of an unnatural parent, and not only torture, but sacrifice him for faults which you have once overlooked, or for future acts of misconduct, which may in some degree be ascribed to your own improper indulgence.

Mr. McL. said, that he had already consumed so much time that he would conclude with an apology to the Committee for trespassing so long upon their patience, and with thanking them for their attention.

Mr. SERGEANT addressed the Chair, as follows: Mr. Chairman, I beg the permission of the Committee, to offer to them some observations upon the several propositions that are now submitted for their consideration and decision.

The inquiry in which we are engaged is attended with some intrinsic difficulties, of no inconsiderable magnitude, and calculated very much to embarrass our deliberations, as they must have been to embarrass the deliberations of the select committee, to whom the examination of this subject was more particularly confided. In the first place, it is retrospective, and I admit it is necessarily so. We are called upon to take a review of the management and conduct of the bank during all the period of its existence, and we expect to find that the best has been done in every instance, which, with the full light derived from a knowledge of all that has since happened, appears to us to have been possible. In this manner it is, that battles are fought over again in discussion; and, whether they have been lost, or whether they have been won, it seldom happens that those who thus sit in judgment upon them cannot detect some errors that have been committed—point out advantages that have been lost, and opportunities that have been suffered to pass unimproved. The just rule of judgment in such cases, if, indeed, its application were practicable, would be to place ourselves in the situation of those upon whose conduct we are called to pass, in the midst of the difficulties by which they were surrounded, and with no better view of the future than what their own judgment could afford them.

It is in the nature, too, of this inquiry, conducted as it has been, to group and connect together all the exceptionable acts that have been done by those to whom the management of the institution has been confided; while, to use a bank phrase,

it gives no credit for those things which were right, and even entitled to some commendation. I wish, sir, to be distinctly understood: I am not using the language either of complaint or censure. I only say, that, as the inquiry, from its nature, was in a great measure confined to exceptionable acts, it must necessarily present them in a body, without relief from their association with the mass of good deeds with which, in their order, they stood connected. This is a sort of judgment which none of us would be willing to submit to, or could expect to endure. Let the life of any man, the most honest and honorable, be exposed to the same kind of examination. Begin with his infancy, (to use the language of the gentleman from Virginia,) and follow him through the different periods of his progress, put together, as constituting his history, whatever, from the severest scrutiny, you can find, that has deserved reproach or censure. What a dark exhibition would it be!

Besides, sir, what is at last the test we apply? We set opinion against opinion, upon a subject of a very comprehensive and of a very complicated nature, involving much detail, and every detail involving more or less of speculative inquiry.

There are extrinsic difficulties, of no less magnitude. It cannot be denied that there has been a vast deal of prejudice in the public mind, against this institution, which, whatever may be our resolutions to the contrary, affects us insensibly, and, when we neither know nor suspect it. The sources of this prejudice are sufficiently apparent.

The State institutions have many of them been induced to regard the National Bank as an enemy, and the spirit of hostility which they have felt has had a most powerful influence throughout the community, with which they are so extensively and intimately connected. It is in the ordinary course, too, of the operations of the bank, to give frequent offence to individuals. Every man who is refused a discount thinks himself aggrieved, and indulges a feeling of resentment, not at all mitigated by any consideration of the circumstances that may have rendered it prudent, or even necessary, to reject his application. The same remark might be made, with equal truth, of every sort of accommodation which the bank is supposed to have the capacity to afford, but which events, beyond its power to control, do frequently oblige it to withhold. When the directors, not very long ago, exercising a right that no one denies to have belonged to them, and exercising it under the compulsion of circumstances so imperious, that every one now confesses they could not have refrained without a plain violation of their duty; when, I say, they determined that branch notes should thenceforth be paid only where, upon their face, they were made payable, there was an almost universal clamor. Sir, there is still another source of prejudice. The bank has had the day of its beginning. It is now in the day of its humiliation. But, it has had the day of its prosperity, too—when success, even beyond the expectations of its most sanguine friends, seemed to crown its operations. In that day—I

appeal to many who are within hearing what I state, and are able to confirm its truth, as a mere matter of fact; I appeal to every one acquainted with our nature, to say whether it is not what would generally happen—those who had themselves refused to subscribe, and discouraged the subscription of others; those who had thus neglected to avail themselves of what then appeared to have been the golden opportunity, suffered all the mortification of seeing their predictions continually falsified, and could scarcely avoid the influence of a certain deeply implanted kindred feeling, which is never more sharply exerted than when we see others profit by what we have permitted to escape from ourselves. They did not avoid it.

There are, besides, many who think that a National Bank, however organized, is impolitic and unwise; and there are some who think it not within the Constitutional power of Congress to establish a bank.

Under the combined operation of such a mass of causes, the committee had no doubt a difficult task to perform, even if they had taken much more time for its performance than seems to have been allotted. If they have fallen into errors, it is not surprising; but it ought to secure from them some indulgence for errors in others. It will at least entitle us to differ from them in opinion, and freely and fully to canvass the grounds of the report.

Before, however, I proceed to examine the report, I beg leave to call the attention of the Committee to the authority under which we have been acting, as it is to be found in the law for incorporating the subscribers to the bank. The provisions of the charter, designed to secure the faithful administration of the bank, contain in them a distribution of powers, just in itself, and perfectly well adapted to attain the object. The power given to this House, (sec. 23,) is confined to a single point of inquiry, whether or not the charter has been violated, in order that we may be enabled to judge whether or not it is expedient to institute legal proceedings for its repeal. The examination we are authorized to make, is subordinate to this object; and, to my mind, it is quite clear that we have no right to pursue it further. The care of the remaining interests of the Government in the institution is confided to the Executive. The President appoints the Government directors. The Secretary of the Treasury has an almost unlimited power of examining the proceedings of the bank. Weekly statements are to be made to him, (sec. 11, art. 15,) and he has the right to inspect everything except the accounts of individuals. The purpose is manifest: it is, in the first place, to enable him to judge of the conduct of the directors appointed by the Government. It is, in the next place, to enable him to decide whether the public interest in the bank, consisting of the stock belonging to the Government, and the deposits of public money, are faithfully guarded. The necessary sanction for enforcing the exercise of this power, is also confided to the Executive. The President has



authority to appoint, and to him is given the authority to remove, the directors on the part of the Government, (sec. 8.) A much more important sanction is the power given to the Secretary of the Treasury, by section sixteen, to withdraw the public deposits, laying before Congress his reasons for so doing. The interests of the stockholders, which form the remaining branch of this great national concern, were intended to be left to the care of the stockholders themselves, as their best and safest guardians—their natural guardians; and it is the right of the stockholders to delegate the authority to such directors as they may think proper. This right is enforced and secured by the power of election. Their servants are accountable to them, precisely as we are to our constituents. If, upon a review of our conduct here, they are not satisfied with our efforts to serve them, they elect us no more, but devolve the honorable trust of representing them in the councils of the nation, upon others, whom they think more worthy of their confidence.

These provisions, thus arranged and distributed, are of sufficient efficacy for all the purposes that were designed to be accomplished. Thus arranged and distributed, they are in harmony with each other; and, while every interest is guarded by its appropriate sanction, they all co-operate to secure the common result—a faithful administration of the bank.

If this be a correct exposition of the terms of the charter, our inquiry ought, properly, only to be, what alone it can be effectually, whether the charter has been violated. Any other course will inevitably lead us into difficulty. If we undertake to examine the general administration of the affairs of the bank, or to investigate the conduct of particular directors, we are involved at once in the danger of an interference with the Executive. To that department it belongs to decide whether the public duty has been performed. The officer at the head of the Treasury must always be well qualified to decide. None but a citizen of distinguished talents will be placed in that high and responsible station; and, when there, his official occupations, the habitual tenor of his studies and reflections—his daily acquaintance with the management of the bank, in all its relations to the fiscal concerns of the nation, as well as his repeated inspection of the statements exhibited, will enable him, better than any other person, to judge how far its concerns are faithfully administered towards the public. Are we not in danger, too, of involving ourselves in collision with the Judiciary? We are here entertaining a mixed inquiry, partly of expediency and partly of charter right, mingled in such a way that, in deciding whether the charter has been violated, we make no distinction between errors, or, if you please, misconduct, in the management, and such offences of the corporation as would work a forfeiture of the charter. Indeed, the distinction, obvious as it is, seems scarcely to have been noticed, either in the report of the committee, or in the debate that has taken place. The great stress of objection has rested, not so much upon

the specific violations of the charter, alleged to have been committed, as upon the more comprehensive ground of mismanagement in the exercise of indisputable charter-rights. Suppose, then, that, under the impression of considerations like these, you send this corporation to the Judiciary, there to receive its trial; you may send it there with all the weight of prejudice arising from a vote of Congress; you may, and you will, in some degree, pre-occupy the public mind, always deeply affected by the judgments of their representatives; and you may, and probably will, more or less impair the chance of a fair and impartial trial. But, when this trial shall come; when the corporation shall appear at the bar of a judicial tribunal, there will be an end to every question except the naked question of forfeiture; there will be an end to every consideration that is foreign to that precise inquiry, and then the consequence will be, that, following a different rule of judgment, the judicial tribunal will probably arrive at a different result. You are thus in direct collision. Different departments of the Government are placed in a state of hostility towards each other, the public mind is irritated, and that harmony which we all know to be of so much importance in the structure of our Government, is uselessly endangered.

Sir, we interfere, to a most alarming extent, with the just power of the stockholders. They are the exclusive judges of whom they will have for directors. They are the best judges. That sure instinct, "that keen, steady, and, as it were, magnetic sense of their own interest," which every man feels and obeys, in his own concerns, is the best security to be relied upon for a careful and prudent selection. It is the right of the stockholders, by the charter, and it is almost the only right they have reserved. To the Government they have conceded much; for themselves they have retained only the power in question, to be exercised under such modifications and restrictions as Congress thought fit to prescribe. Upon the faith of an undisturbed and free enjoyment of this republican right of choosing their own representatives, they have embarked their property in the institution; and would you, can you, without doing unjust violence to the compact you have made with them, impair or disturb the exercise of the power that belongs to them of judging for themselves whom they will have for directors? Sir, I will put to you what may, at this moment, perhaps, be deemed the strongest case. Suppose they choose to elect a broker, or a speculator—can you say they shall not? Have you the power to tell them what shall be the occupation, what the character of the men whom they are to employ? You may think their selection unwise or imprudent, but they will answer you that they know their own interests, and are able to take care of them. That, in the very instances you object to, though the individuals may be obnoxious to the imputation of being speculators or brokers, and you, on that general ground, may think them exceptionable, yet they, the stockholders, have the means of knowing their

individual characters, from various sources inaccessible to you, and feel the fullest confidence in their intelligence and fidelity to the institution. I do not now touch the question of elections; it belongs to a different part of the inquiry.

I will make but one observation more upon this branch of the subject. It is essential to the interests of the stockholders, and it is no more than just to the directors that the latter should be free while they are performing the duties that are assigned to them; that they should be free, not only from all restraints except those to which the law subjects them, but that they should be free from the apprehension of an unlimited and undefined accountability. Many things are exclusively confided to them, and must be so confided. Their own judgment, fairly applied, their own discretion, is what must guide them. Who will undertake an office like this, if he is to act under the terror of an investigation that may put the worst construction upon well meant efforts; that may even expose his best acts to censure, and which, governed by no known rule in its course, and limited by no measure in its result, is calculated to confound all distinction between the officer and the individual, between error and misconduct, and, by a hasty sentence, to inflict the keenest punishment that an honorable man can endure? And this, too, upon what a member of the select committee has termed, and properly termed, an *ex parte* inquiry, where the accused has not an opportunity either of explanation or defence, and where the first notice he receives is in the heavy condemnation going forth against him, under the respected authority of a committee of this honorable House.

Sir, other objections will readily present themselves to such an inquiry. We have no rule or principle to direct us, no more than one man would have in judging whether another managed his estate to the greatest advantage. If the inquiry were simply whether the charter had been violated, we should have a comparatively easy duty. There might, and from what has occurred, I think it probable there would, be difference of opinion. Still, we should differ only about the application of established rules, and should be relieved from the most unpleasant part of the present inquiry.

But I know well that every public body, however constituted, listens with reluctance and with some displeasure to any argument or suggestion that tends to bring in question its own power. I do not mean, for it is no longer material, to question the power of this House in its immediate application to the business in hand. It is too late. Still less do I mean to avoid the full examination of all the grounds of complaint and censure that are displayed in the report of the committee. But I have thought it right to submit, with candor and freedom, such observations as occurred to me, upon the general nature of the authority possessed by this House, chiefly with a view to expose the mischiefs that might result from transcending it. Every member will allow to them weight as he thinks they deserve, and no more.

I will now proceed to consider the subject, under the two aspects in which it is presented by the committee.

I. As regards the general management of the institution.

II. As regards the alleged violations of the charter.

1. We all of us remember distinctly the state of things that existed when the law passed for incorporating the subscribers to the Bank of the United States. We had a currency, or rather, to speak more accurately, we had currencies, local in their circulation, and variously depreciated in different parts of the Union; in some quarters of the country as much as twenty per cent. We had no general currency—none that would circulate freely everywhere. The evil effects were already very manifest, and threatened to increase. To say nothing of the obstructions and difficulties that were thrown in the way of domestic commerce and exchange, nor of the continual irritation that was occasioned by the changes in value that took place at every step, taken by what was called money in its progress, either with travellers or traders, through different parts of the Union—to say nothing of the effect upon the credit of the country—but passing these by as evils that were familiarly known and felt, there still remained one great source of grievance and public mischief which it peculiarly became the duty of the Government of the United States to endeavor to remove. The revenue of the Government was received in the paper of the State banks—its debts were paid in the same paper. What was the consequence? Its funds were not transferable from place to place, according to its wants, but confined in their use to the local limits which bounded the circulation of the paper in which they happened to be paid. There was nothing like uniformity in the payments made to the Government. A merchant in Boston, owing precisely the same nominal amount, paid twenty per cent. more than a merchant in Baltimore. There was the same inequality in the disbursement as in the receipt of the revenue. The public creditor, who had the good fortune to receive his money at Boston, received twenty per cent. more than the creditor who was obliged to receive it at Baltimore or Washington. In addition to all the inevitable evils that belong to such a state of things, (sufficient surely, if allowed to continue, to have endangered the well-being of the Union,) there was one, perhaps, also inseparably incident, that began to manifest itself. I allude, sir, to the power it gave to those who were intrusted with the collection and disbursement of the public moneys. They had the opportunity of benefiting themselves, and of favoring their friends, at the expense of the Treasury and at the expense of the public creditor. The very possibility of such an abuse was a sufficient ground of suspicion. At the period we are speaking of, an officer of the Government found it necessary to ask of this House an investigation of his conduct, in order that he might vindicate himself from certain injurious rumors circulated against him, upon no



better foundation than that I have mentioned. The investigation took place; the result was satisfactory; and I refer to it only to bring into view one of the many kinds of mischief that grew out of the disordered condition of the currency. Whether the State institutions would of themselves have corrected the evil I do not think it necessary to inquire. The Government of the United States had no direct controlling power over them; and if they had so far sacrificed their own interests, in deference to the public good, as to restrict their business, and, of course, their profits, it must have been from a voluntary submission to motives of a higher character than ordinarily govern the conduct of individuals or bodies. But this I will say, that, if they were to be brought back by anything deserving the name of coercion, it could not have been by a gentler coercion than that which has been employed by the Bank of the United States. Sir, when this subject was before Congress, at the time of passing the act of incorporation, it was thought by many that the destruction of the State institutions would rapidly follow the establishment of a National Bank. I confess myself to have been one of those who were influenced by this apprehension. I thought the new institution would press heavily upon the old, and through them would press severely upon the community. I did not then see how the great public views were to be realized, without departing from that course of lenity towards the State banks which the interests of the community seemed most imperiously to require.

The objects to be attained were thus immense: the interests to be conciliated were of the highest importance, and at the same time apparently irreconcilable. The task was a fearful one, and the manner in which it has been executed, when it comes to be fairly developed, will seem little short of marvellous. If proof were necessary of what was generally thought at the time, of the burden the bank had assumed, and of its capacity to bear that burden, we might refer to the history of the subscription at the opening of the books. Great doubts were entertained whether it would be filled; in fact it was not filled during the twenty days prescribed by the law. There remained unsubscribed above three millions of dollars, nearly the whole of which was taken by one individual at Philadelphia.

I will now proceed to show what the bank has done; considering, first in order, the *National objects* it was designed to accomplish.

Among these—the most interesting, and in every point of view the most important—that which chiefly induced the passage of the law, was the introduction of an uniform currency, in sufficient quantity, to answer the purposes of circulation, so far, at least, as to enable the Government to collect and disburse its revenue. I mean a currency as nearly uniform as the nature of things did admit. It cannot be supposed to be within the power of any government, or of any bank, to make a dollar at New Orleans worth as much to a merchant in Boston, as a dollar in Boston; un-

less, indeed, he has employment for his dollar at New Orleans, in which case it may be worth more or less to him, according to circumstances. We might as well pretend to make a bag of cotton worth as much upon the plantation where it is produced, as in the warehouse at New York, or in the manufactory at Philadelphia. But this part of the subject has already been fully and ably handled by the gentleman from South Carolina, (Mr. LOWMEYER,) who has shown conclusively that the currency afforded by the Bank of the United States approaches nearer to uniformity throughout the whole extent of this great country, than has been attained by nations possessing at least equal advantages, and operating within much narrower limits.

Neither was it understood or expected that the bank would be able to place, and to keep in circulation, everywhere, as much as in each particular quarter of the Union might be wished or wanted. This is impracticable in regard to States and districts of country, as it is with respect to individuals. A parent may give to a child a fortune adequate to his support, and suited to his circumstances, but he cannot prevent him from wasting or parting with it, unless he imposes restrictions upon its use. The very phrase, a uniform currency, implies a currency that will pass everywhere—that will flow everywhere—without any obstruction but what arises from the expense of conveyance; of equal value everywhere, and, for that very reason, in unequal quantities. It is the precise distinction between the paper of the Bank of the United States, and the paper of the State banks; which, having no currency beyond certain local limits, remains within them in greater abundance than is necessary. It is the same distinction which exists between either kind of paper, when not redeemable, and gold and silver. We may illustrate it more clearly by an instance: A merchant in the State of Ohio makes a sale in Ohio, in order that he may be able to buy in Baltimore, or he sells in Baltimore that he may buy in New York. He wishes, in either case, to receive what will pay for his purchase in Baltimore or New York, and he carries from the place of sale to the place of purchase the amount that he has received. It has happened to most of us to have some experience of the nature of this distinction. Formerly, there was great complaint by travellers in some parts of New England, that the money, or rather the paper, they received in one town would not pass in another. There, I believe, the grievance has ceased. But in other parts of the country we experience it every day, being obliged continually to inquire whether the paper put into our hands in one place will be taken in payment in another, and feeling instantly the inconvenience, if, by mistake, we carry it beyond the limited bounds of its circulation.

Where the currency has the quality I have mentioned, that is, of uniform value, or nearly uniform, the quantity that will remain at any given place depends upon the course of trade; the quality depends upon its solidity; it is only

to be obtained by buying or borrowing. The memorial to the Ohio Legislature, or the report of a committee of that body. (I do not know which, for I was not in the House when it was quoted by the gentleman from South Carolina.) complains, in substance, that such a currency was furnished to them. That is the amount of the complaint, for they say they were tempted to employ it in purchasing from the cities to the eastward beyond what they ought to have purchased. A very singular complaint, indeed, which charges upon others the consequences of their own imprudence. The complaint should be, that they did not keep what was given to them, or at least a portion of it, and use it, as they might have done, in the payment of their dues to the Government. There is no doubt, however, that they have approached, if they have not reached, the true cause of their present embarrassments. This currency would not have wandered away, and left them destitute of the means of paying their debts, if their local circulation had not been overcharged with State bank paper, depreciated from its abundance—too easily obtained—supplying the purposes of local exchange, and failing, when it was wanted, for the more extensive exchange, to which the United States Bank paper, from its uniform value, was exactly adapted. The paper and credits afforded by the Bank of the United States were thus banished by the local paper; they were sent off to perform the distant service of buying in the cities at the eastward, and the people of Ohio kept nothing to pay their debts but the paper of the State banks. This was their own fault, imputable to themselves alone. Time, economy, and the industry of the State, employed in producing what will buy money, or, in other words, what may be exchanged with those parts of the Union where the money has gone, will bring all right.

One of the charges made by the committee against the management of the Bank of the United States, (and which this is the most fit place to notice,) is on account of the supposed excessiveness of its loans in those States and cities against which there was a balance of trade—those which, to simplify the idea, were debtors, particularly in Kentucky, Ohio, in Baltimore, and Philadelphia. The argument they employ to sustain this charge, namely, that injustice was done to the States and cities which had the balance in their favor, or were creditors, has already been amply and conclusively refuted. It has been shown, indeed it appears from the statement of the report itself, that these loans were in the highest degree beneficial to the creditor States and cities, the money obtained by the borrowers going directly thither, and enabling them to obtain specie from the branches, to be employed in the manner most advantageous to themselves, either by their banks or by individuals. "The effect of these draughts upon the Northern offices, was, to compel the constant remittance of specie there," &c. (Report, p. 4.) How, then, it can be said "that those places were made tributary

to Baltimore," I am altogether at a loss to understand.

But, considering the diffusion of an uniform currency throughout the United States, in sufficient quantities for public purposes, to have been an important public object, it will be easy to show that the imputed error is far from being censurable. To put in circulation such an uniform currency as has been described, in the manner most advantageous to the Union, it was necessary, when the bank was organized, to give a preference to those States against whom there existed an unfavorable balance. It would flow from them in payment of their debts, (retaining, if they were prudent, what was required for local purposes,) where it ought to go—that is, into the creditor States—and thus the creditor States be supplied. But what was thrown by the bank into the creditor States would never find its way to the debtor States, unless it were in the shape of loans by them, which was not to be expected. If an individual, having a sum of money to lend, was disposed to lend it to one of two persons, each of whom he was equally inclined to serve, and in both of whom he had confidence as to their ultimate ability to repay, if in that case he could lend it only to one, and it so happened that one of them was indebted to the other, would he be most likely to benefit both by lending it to the debtor, or by lending it to the creditor? The answer is obvious: if lent to the debtor, he would be enabled to apply it towards payment of his debt, retaining what might be necessary for more urgent wants, the creditor would receive his money, and both would derive some advantage; if lent to the creditor, none of it would find its way to the debtor. A different course would, perhaps, have been more for the interest of the institution, as it is always better to lead to the rich than to the poor—I mean better for the lender. But, if the object was to distribute an uniform currency throughout the United States, there was no error. That such a currency has been introduced, in sufficient quantities to answer all the purposes of the Government, cannot be controverted. It is undeniably proved by the fact, that the receipts and payments of the Treasury are ever made in a currency of uniform value. Neither can it be controverted that such a currency has been introduced into every quarter of the Union in sufficient quantity. If it has not remained in the places where it was introduced, that cannot be chargeable to the bank, for the bank had no power to prevent its migration or transfer. So far, therefore, as respects this great object—an uniform currency—the duty of the bank towards the public has been faithfully and fully performed.

Nearly connected with this subject, was the effort to make the branch notes payable everywhere, without regard to the place of payment indicated upon the face of them. It would undoubtedly have been a great public convenience, but it was more than the public had stipulated for, and more than the public had a right to expect. I think it easily demonstrable that the



system could not be acted upon without great inconvenience and loss, and serious danger to the institution. It must be remembered, however, that the practice of the late Bank of the United States, whose notes were only payable or receivable at the place where they were made payable on their face, had been strongly (though I agree unreasonably) reprobated. It must be remembered, too, that many well-informed men believed in the practicability of the plan first adopted by the present bank; and probably nothing but experience (the most authoritative of all teachers) would have convinced them of their error. Under these circumstances the experiment was perhaps necessary to be made, in order that the public might be fully satisfied. It was certainly well meant and innocent. "The wants of the country and the interest of the bank (says the president in his letter of the 4th October, 1817, documents, page 28) require an extensive circulation of its paper; and it is the policy of the parent board to encourage the indiscriminate use of the notes of the bank, reserving for imperious circumstances and inevitable occasions the exercise of the legal right which it possesses of declining to receive or pay, except at the respective places where payment is promised on the face of the notes." The experiment has been made; experience has condemned the attempt. "Imperious circumstances" have compelled the bank to exercise the right it possesses; and I am glad to find that the report of the committee approves the change, and admits that it was made in the manner least exceptionable and inconvenient. There must be an end now to the complaint which has been made about this act of the bank.

I will now ask the attention of the Committee to another branch of the public management of the bank—that which regards its duties towards the Government. Of the manner in which these duties have been fulfilled, no one can be better qualified to judge than the Secretary of the Treasury; no one would more promptly feel the inconvenience of the smallest failure, as they are all intimately connected with the fiscal arrangements confided to his care. His testimony therefore ought to be of the greatest weight with the Committee, if indeed it be not quite conclusive. For distrust and suspicion must have acquired a most unreasonable and excessive influence in our deliberations, if they can incline us for a moment to question or doubt the statements of that high and distinguished officer. In a letter of the Secretary, during the last session of Congress, (the words of which I cannot quote, but to which every member may refer on the files of the House,) he expresses, according to my recollection, a general approbation of the conduct of the bank—as having exceeded his expectations. In his letter of the 4th December, 1818, the select committee of this House, (documents, page 95,) he states in detail how the specific duties of the bank towards the Government have been performed. I appeal to that letter to show that they have always been faithfully performed.

But the manner in which the bank has performed its duties towards the Government, the services it has rendered to the Government and nation, cannot be more plainly evinced than by a statement extracted from the documents furnished by the select committee. The bank commenced its operations about the 1st January, 1817, excepting a loan to the Government, of \$500,000, made in December, 1816. The public deposits, on the 31st January, 1817, amounted to \$1,147,772 97; in the following March they had risen to \$11,615,017 62; the 30th April they were \$11,345,796 75; and on the 29th July, \$24,746,641 26. This, sir, was when the bank had been in operation but six months. That this immense amount of \$24,746,641 26, was the saving of the revenue received during that time, no one will pretend. It was the accumulation of revenue previously collected, distributed throughout the United States, in credits of State banks, variously depreciated, and of which the Government could not be said to have the command because they were local, and of course applicable only where they happened to be, and where the public service did not require their expenditure. By this single operation, twenty-four millions were thus converted by the bank from depreciated, local currency, into specie, or, what was equivalent to specie, of universal circulation, and which the Government, through the agency of the bank, might apply, without expense, whenever, and wherever, its wants or its service required.

Another convention took place immediately after, highly advantageous to the Government, and, I must be allowed to add, extremely unfavorable to the bank. With \$13,398,438 02, part of the \$24,746,641 26, which had thus been appreciated, and rendered available to the Government, by the assumption of the bank, the Government, on the 31st July, 1817, redeemed, at par, \$13,398,438 02 of the public debt, belonging to the bank, which had been paid in by the subscribers. The report speaks, in terms of censure, of what it styles the "unfounded and unnecessary complaint, by the officers of the bank, against this very prudent measure;" meaning the redemption of the debt. That it was the right of the Government to redeem, I do not deny. That the officer at the head of the Treasury, whose first duty is to the Government, was justified in the measure by a proper regard to the interests of the Government, I shall not at all question. I will admit, too, that, as the Government clearly had the right, and chose to exercise it, complaint by the officers of the bank was altogether useless. But, that the operation was prejudicial to the interests of the bank, and might reasonably cause some dissatisfaction in those to whom the interests of the bank was confided, I deem most perfectly evident, and altogether consistent with the zeal for the real welfare of the institution, in which some other parts of the report seem to suppose them to have been wanting. By the original plan, a large proportion of the capital was to consist of public debt, bearing an interest, with liberty to sell in small successive portions. The

value of such a possession, to a new institution, which the report supposes ought to have "proceeded gradually, growing with the growth, and strengthening with the strength of the nation," (page 7) it requires no great financial skill to estimate. It was a sure resource for obtaining the means of extending their business, when that should become expedient, and in the mean time was productive. It was redeemed at par, when the market price was considerably higher. But, passing by this loss on the redemption, the mere circumstance of withdrawing at once thirteen millions of stock, and throwing suddenly upon the bank thirteen millions of money, for which they were to find immediate employment, must have materially, and most injuriously, interfered with their arrangements. There can be no doubt that it led directly to some of those measures (the extension of loans on stock, for instance) which the report most strongly disapproves. But, be that as it may, none can question the advantage of it to the Government.

By the redemption of the public debt, and payments of the Government, the public deposits in October, 1817, were reduced to \$7,743,899 74. In October last (1818) the Government redeemed a moiety of the Louisiana debt, exceeding five millions of dollars, and this, too, was done through the agency of the bank.

Looking back to the period when the bank was established, considering the state of things at the moment when it came into existence, considering how short a time it had been in operation, and the difficulties it had to surmount, the effect is wonderful, and, to all unprejudiced minds, would seem to indicate a steady and faithful attention to all its public duties. Sir, that institution has been a servant, I had almost said a slave, to the public; a faithful servant, always forward, even at some expense to itself, and zealous to promote the public interests, in all their various and complicated relations. This is the spirit in which its affairs have been administered. It still continues to perform all its public duties, without affording just cause, in this respect, either of complaint or of reproach. I might add to this list of benefits, received by the Government and nation, the decided improvement that rapidly followed in the public credit of the country, both at home and abroad. If gentlemen doubt, let them consult the price current of stock here and in England.

The only allegation, indeed, of anything even approaching to a default in the public duty of the bank, is that contained in page ten of the report, where it is stated "that the amount done under that resolution (to discount notes for those who had revenue bonds to pay) was small," &c. This is certainly a mistake, as has been already shown from the letter of the Secretary of the Treasury, from the evidence of Major Butler, and from the fact that there has been no complaint. Such has been the inclination to censure, that you may rely upon it no well founded cause for it would have been suffered to escape. It is a mistake that arose from the circumstance, acknowledged by a member of the committee, (Mr. Mo-

LANE,) that the inquiry was *ex parte*. If they had asked for information, they would have learned, that at every discount day the directors had before them a list of the bonds that were coming due, and that they uniformly gave a preference to those who were to pay them, as far as they could do so consistently with the interests of the bank, of which I beg leave still to say they were the exclusive judges.

The next object of inquiry is, how the management of the bank has been conducted in regard to the interests of the stockholders. This is altogether independent of the question of violation of charter, which shall be considered separately hereafter.

In the progress of an institution like the bank, founded and established with a view to certain great public objects, perplexing questions might, and would, occasionally present themselves.—The interests of the public might, in some instances, be at variance with those of the stockholders. Which were to yield? If, upon every such occasion, the directors had allowed a paramount influence to the interests of the stockholders, and had sacrificed the public objects to the profits of the institution, the public would then have had some right to complain. But, if every public duty has been faithfully and fully performed, even beyond any reasonable expectation that could have been entertained, it is certainly a very singular inquiry to be made by Congress, whether the utmost has been done for the interest and profit of the stockholders. That is an investigation that belongs to the stockholders themselves, which they are competent to conduct, with the means in their hands of correcting errors, and removing grievances, by changing their officers. And what is to be the consequence if Congress should be of opinion that the institution has not been well managed for the interests of the stockholders? To alter the charter—to take away the charter—or subject it to the wasting and destructive process of a protracted judicial examination by *scire facias*? Have the stockholders made any complaint? Have they asked from us any relief? Not at all; on the contrary they implore us to abstain. You have upon your table a memorial to that effect from Boston, a memorial from New York, and an exceedingly well-reasoned memorial from Richmond, which deserves the attentive perusal of every member of the House. If their interests have been injuriously affected, they have, on that account, a stronger claim upon us. After we had gained so many objects of great national importance at their expense, would it not be iniquitous, yes sir, a national iniquity, now to deprive them, by a wanton exercise of unjust power, of all the hopes of an equivalent, founded upon the public faith, pledged to induce them to embark their property in this concern? Can you restore them to the state in which you found them? Will you return that part of the bonus which has by this time become due, and I presume been paid? Will you restore to them their stock and coin? Will you, finally, indemnify the subscribers, and



the purchasers, who have bought upon the assurance of the charter, for the losses they will sustain? A gentleman from Virginia, a member of the committee, (Mr. TYLER,) seems to have intended to anticipate some of those inquiries, by saying that the bank, after paying all its debts, could now return to every stockholder "dollar for dollar." A most honorable concession, undoubtedly, as it respects the management of the bank, and one that goes far to answer every complaint against it. For, if the public service has been punctually performed, and the bank (after dividing eighteen per cent. in two years and a half) could now wind up its concerns, and pay every stockholder "dollar for dollar," no man who has the slightest acquaintance with the matter can deny that it must have been well managed. But how long would it require to gather the funds that have been scattered over the United States, so as to be able to restore them to the stockholders? Seven years have elapsed since the charter of the late bank expired; its concerns were much less extensive in amount, as well as in the space through which they were spread; it expired, too, under circumstances highly propitious for drawing in its resources; and the management of its affairs has been uncommonly able and faithful. I believe they are not yet closed. How long, then, I repeat, would it be, before this "dollar for dollar" would be restored to the stockholders? It is matter of conjecture—but still, with so much of certainty belonging to it, that no prudent man would give a stockholder anything like "dollar for dollar" for his share of the proceeds. Sir, I cannot reflect upon the mighty wreck, without astonishment at the coolness with which even the possibility of it seems to be contemplated. The organization destroyed, the fragments scattered over the whole United States, no longer obedient to any power but the power of time and chance, which, like the winds and the waves, may drive them to the shore, or may drive them where they can never be reached or collected.

The first topic of complaint is the too great liberality towards the State banks. As a charge of error, it may not be wholly without foundation. But it answers, fully and authoritatively, and I hope that the sequel will show, satisfactorily, one of the heaviest charges that has commonly been made throughout the country against the bank—the charge, I mean, of having acted with oppressive rigor towards the State institutions. I am glad the committee have cleared away this ground of accusation. At most, however, it proves only a mistake; a mistake on the right side, and a mistake that was almost inevitable. To bring about the payment of specie, within any reasonable period, and at the same time to avoid a severe pressure upon the State banks, and through them upon the community, it was indispensably necessary to treat those banks with the most indulgent liberality, where ever they manifested a sincere intention to return to the payment of specie. This was the inducement to the compact of the 31st January,

1817. Without such indulgence, the paper of the United States Bank, and that of the State banks, could not have circulated together. A good and a bad currency, or, if you please, a good and a better currency, can never associate in circulation. They must associate upon terms of equality, or approaching to equality, or they cannot associate at all. The Continental money banished gold and silver. When assignats were used in France, specie disappeared. When, by excessive issues, or from whatever other cause, the State bank paper was depreciated, coin was no longer used. Where it is now, from the same cause depreciated, (as in some parts of the Western country,) gold and silver, or notes of the Bank of the United States, equivalent to gold and silver, are not to be found. They will not be found there until either the better currency shall obtain the entire ascendancy, by banishing the State bank paper from circulation, or, by a removal of the causes that have occasioned depreciation, the latter shall be restored to an equality in value with the former, which is on every account most to be desired.

The next subject of complaint and censure is the resolution of the 28th November, 1816, for paying the dividends of foreign stockholders in London, at the par of exchange. I shall assume, for the purpose of treating this subject, a single maxim of justice, which every man will assent to as the only fair and reasonable rule of human judgment. It is, that, where an act is right in itself, the motives or reasons are not to be inquired into as a ground of crimination. They may strip the act of its claim to merit, but they can never expose it to criminal imputation. Charity, indeed, common charity, between man and man, that which the infirmity of our nature demands to be continually exercised towards each other, adopts and applies a much more comprehensive and benevolent rule—that, even where the act is wrong, yet it may be exempt from censure, if the motives were just and good. Sir, without deciding whether that resolution was right or wrong in itself, and admitting that it was one of those "general and abstract subjects to which the resolution of the House did not direct their attention," the report condemns it as a measure adopted with a view to speculation, that is, upon what they suppose to be bad motives. It is true, they take, also, another ground, which I will examine presently, namely, the possible loss to the American stockholders and Government. But they do not deny, and I think they most clearly admit, that the directors had a right to make the arrangement.

If it had been the policy of Congress to prevent foreigners from becoming stockholders in the bank, they would have expressed it by a prohibition in the charter. The matter was not overlooked; it was considered and discussed in this House, when the law was passed. If it was the policy of Congress to permit foreigners to become proprietors of the stock—and certainly the refusal to prohibit amounted to an invitation—would the directors have been justified in adopt-

ing measures to thwart and counteract that policy? It was their duty to execute the law in its spirit—to effectuate its intentions—to subserve, and not defeat, the policy of the Government. If, substituting their own conceptions of what was politic, for the rule given to them by the law, they had pursued a different system, they would have made themselves justly obnoxious to censure and reproach. Now, sir, the resolution in question had two objects—1. The payment, in London, of the dividends to foreign stockholders—2. The payment at the par of exchange. The first of these the report does not much object to. It was done by the late Bank of the United States, as to its own dividends. That bank also remitted to foreigners their interest upon the public debt of the United States, I believe, free of charge. This is powerful evidence that it was advantageous to the institution, for now that the whole history of the bank is before us, its life and its death, I suppose no one will deny that it was very fairly and skilfully managed. We have the example, too, of the Government, in the instances of the French and Dutch loans. Why was the interest stipulated to be paid abroad? Because it was favorable to the credit of the country; it enabled the Government to obtain loans which it could not otherwise have had, or to obtain them upon better terms. The mere inconvenience to the stockholder, the freedom from charges of receipt and remittance, when he has his interest sent to him, instead of being obliged to send after it, is a consideration of great moment—the same consideration which induces an individual to invest his money near to where he lives, though he might take a greater profit by investing it further off. Such an operation, however, was inconvenient to the Government, because it was not within the ordinary range of fiscal management; and, therefore, the Government proposed to exchange the foreign debt for a debt bearing interest, payable to the United States. As an inducement, they offered to increase the annual interest one-half of one per cent. France accepted the offer; the Dutch refused it, estimating the inconvenience of receiving their interest at home at more than the annual one-half of one per cent. Such an operation, though inconvenient and burdensome to the Government, is precisely adapted to the transactions of a bank, authorized by its charter to deal in exchange, and having established arrangements and credits for that purpose. It can remit and pay abroad with as much facility as it can pay at home. To my mind, therefore, it seems that the measure, so far as it regards the payment abroad, was not only justified by experience, by example, and by sound calculation, but that the neglect of it would have betrayed ignorance and want of foresight. I might instance, also, the Louisiana debt, which was taken by a single individual, or a single house, and sold at a profit, by stipulating to pay the interest abroad. The second part of the resolution regards the rate at which the bank would engage to remit, and at which the stockholder

would stipulate to receive the remittance of his dividends. For, we must recollect that it was a mutual contract, binding upon both parties. The bank would pay abroad upon no other terms but those that were prescribed. It cannot be denied that the directors had a right to arrange the terms. Dealing in exchange is one of their legitimate powers, expressly given by the charter; and, as there is nothing which restricts them to successive unconnected instances, there can be no valid objection to such an exercise of the authority as is now the subject of discussion. There can be no doubt, therefore, of their right to "compel the American stockholders to contribute to the public loss" (Report, page 8,) upon exchange operations; and there can be none of its expediency and propriety, provided there was a well-grounded probability of profit instead of loss. The directors had before them the experience of the past. From two tables before me, I can say that, from the year 1791 to the year 1817, inclusive, the average of exchange has been greatly in favor of this country. The first of these is a statement from the Treasury, of the annual gain and loss upon remittances for payment of the Dutch loan, from 1791 to 1809. The gain is \$409,197 20; the loss is \$103,377 06. The clear gain upon the whole of the remittances, is \$305,820 14. The other is a statement of the annual gain and loss by exchange, under the operations of the Commissioners of the Sinking Fund. There is an uninterrupted annual gain, amounting, altogether, to \$482,361 20, with only an apparent exception in the years 1815 and 1816. The exception is only apparent, for it was owing, not to the state of exchange, but to the depreciation of the currency with which the bills were bought. At the very time, (and it is a convincing proof,) exchange in Boston, where a sound currency was maintained, was at or about par. Deduct those two years, (\$129,640 66,) there is still a total gain of \$352,720 54. As far as the past can afford us any light to look into the future, this exhibition might be relied upon. It was not of a year or years, but an unbroken series of six and twenty years in succession. It was not of a period of uniform character, either favorable or unfavorable. It embraced the infancy of our Government, the arrangement of our finances, years of prosperous commerce, and years when commerce was oppressed by formidable restrictions and impositions abroad, and by prohibitions and embargoes at home. It embraced a long period of peace, and a short period of war, (a proportion which I hope our history may always present;) it embraced, in short, exactly such a variety of circumstances as, in the ordinary course of events, may be expected to happen, and, for that very reason, exactly such a period as a prudent man would select for the basis of his calculation. Experience since, I am informed, has given its sanction to the measure. I do not know the fact, but I am told there has been a gain upon exchange. The committee of directors, who reported against the measure—who are complimented, and deservedly, too, for their able rea-



squ—were, upon general grounds, in favor of it, as the report will show; and gave "able reasons," the same which finally decided the board to adopt it, namely, "the effect which it would have in reducing the rate of exchange, by inducing capitalists to invest their funds in the stock, and thereby facilitating the resumption of specie payments." They were deterred by then existing circumstances, which are now proved to have been temporary; and probably, among others, by the doubt whether a sound currency could or would be very speedily restored. The remittance of the dividends they recommended, without qualification. We are to recollect, also, that one of the terms was a delay of six months. The January dividend was to be paid in the following July, and the July dividend in January. Supposing three months necessary for making the remittance, there would remain three months, during which the bank might have the use of the money, equal at least to one-and-a-half per cent; and during which, too, the bank would have the range for selecting the most favorable moment to buy exchange. Its range for selection would, indeed, be much more extensive—it would be almost unlimited; for, as it was authorized to deal in exchanges, it would always have funds or credit abroad, to be supplied or drawn upon, according to the state of the market for bills.

If this measure was right to be adopted at all, it was right to be adopted at that time, and precisely for the reason assigned in the letter of Mr. Donnell. If foreigners were to become the owners of stock, it was for the interest of the American stockholder, as well as for the interest of the nation, that the rise should take place before they became purchasers, rather than afterwards. This is a proposition that no one will be inclined to dispute, and of course it cannot, with any color of reason, be denied, that if measures were in the contemplation of the directors, which would have a tendency to enhance the value of the stock, they were bound in duty to adopt them, in the early part of the institution, so that the American stockholder might have the benefit of the rise, and not the foreigner; and the nation have the advantage of the increase of the exchangeable or market value of the stock. The prospect of the enhancement of price was itself an equivalent to the American stockholder for any possible loss on exchange. But, while I agree that paying the dividends in England (which is not objected to) was calculated to raise the price of the stock, for the reasons before stated, I am not satisfied that paying at the par of exchange would necessarily have that effect. If it was likely to be advantageous to the bank, as I believe it was, it was for the same reason likely to be disadvantageous to the foreign stockholder. What the one gained on exchange, the other would lose. The materials for calculation were as open to the one as to the other. The report seems to suppose that it would raise the market in England, and that the rise there would operate upon the market here. The reasoning is incorrect, because it

looks only at one side of the question. We may affirm, with equal truth, that, if it was disadvantageous to the American stockholder, it would depress the market here, and that the depression would affect the market in England. The market abroad for our stocks is regulated by our own, rather than our own by the foreign; though, doubtless, they do somewhat affect each other. The only question, however, at last, is the one which I have before stated, and I hope satisfactorily answered: Was there a reasonable prospect of gain from this arrangement? But the gentleman from Virginia, who was one of the select committee, (Mr. TYLER,) has advanced an opinion, not the less extraordinary and unexpected for the explanation of it given by the chairman. He thinks that even if there was a gain, it would not increase the dividends of the American stockholder, because, if I understand him correctly, the remittances would not be made till after the dividend, and the loss or gain would not till then be ascertained. What does he suppose would become of the gain? Would it not go into the general profits of the bank? He did not recollect that, though the remittance would follow one dividend, it would precede another, through the whole term of the charter. It might with equal correctness be affirmed, and for the same reason, that the dividend could not be diminished by a loss on exchange, and then, I suppose, we should arrive at a result exactly right, that the dividends would neither be increased nor diminished. A moment's reflection will convince him of his error. And now, sir, I may be allowed to ask, whether this arrangement is not what every man would have made in his own case? Is it not what every merchant does habitually, and every planter too? Why, then, should we impute it to unworthy motives?

Another, and a heavier charge, in the estimation of the report, is that which relates to loans on the deposit or pledge of stock of the bank. It is not disputed, and it cannot be disputed, that the directors had a right to lend on any sort of personal security not prohibited by the charter. It is equally beyond dispute that the stock was a good security. The gentleman from South Carolina has stated, and the gentleman from Virginia has agreed, that, in the event of a dissolution, the stock loans at par would settle themselves. If that be so, the security is unexceptionable. It is demonstrable, further, that, under the circumstances, the loans on stock were judicious, and for the interest of the institution. These loans did not originate in occasional resolutions; they had their origin in the fourth of the by-laws, adopted before the bank went into operation, in the month of December, 1816. The by-law is referred to in the report. There were vices in the banking system, as it was then commonly conducted, which the directors of the Bank of the United States were anxious, as far as possible, to correct. Among them, was the use of accommodation, or "credit the drawer" paper. Another, and a very serious one, was the extensive practice of mutual endorsements. A man

who wished to get a discount was obliged to borrow the name of a friend, and, by borrowing, came under a well understood obligation to lend his own name in return. A connexion was thus formed that involved both in the fate of either. If one failed, he dragged the other after him; and indeed it often happened that, by multiplied entanglements of this sort, the ruin of one man injured, perhaps destroyed, the credit of many. The fourth by-law was intended, and honestly and prudently intended, to diminish these evils. It provided that accommodation paper should not be discounted; and, to limit as much as practicable the evil of mutual endorsements, it invited persons applying for discounts to deposit personal security instead of endorsers. The subsequent resolutions of the board, (excepting that of the 25th August, 1817, which shall be distinctly considered,) were evidently adopted only to carry the fundamental by-law into execution, by extending it to the branches, and by declaring the rates and other terms upon which the several kinds of stock should be received in pledge or deposit. They were thus, by a very obvious reference to the original source, freed from the suspicion of having been produced by occasional motives of speculation, and placed upon their true foundation; which no one, I think, will deny, is solid enough to sustain them. Such was the character of the resolutions of the 18th December, 1816—(Documents, page 65,) and of the 25th July, 1817.

The resolution of the 25th August, 1817, authorized the loan of \$125 upon stock, with two approved endorsers, who, as the report explains it, were only to be security for the 25 per cent. excess beyond the par value of the stock deposited. This resolution, I have no hesitation to say, I do not approve, for reasons, however, very different from those stated in the report. Sir, the directors themselves did not long approve it. The resolution was acted upon but a very short time, not more than a week or ten days, and the amount loaned under it appears, from the documents, to have been small. Let us now for a moment examine the operation of these measures. The amount of discounts on stock remaining unpaid on the 30th July, 1817, was \$5,221,267 60—(Documents, page 60.) The total amount of discounts, then, was \$25,770,120 59. So that there were loaned on personal security about \$20,000,000, and on stock about \$5,000,000, which no one can affirm to have been an undue proportion. If the original by-law, and the resolutions made in pursuance of it, were right, there was now additional motive for desiring to extend their operation—that is, to increase the loans on stock. It was originally designed, as I have already stated, that the capital of the bank should be composed in part of public debt, bearing interest, and to be gradually converted into active capital. The whole of it, exceeding thirteen millions, and including two millions which the bank had endeavored to convert into specie, for the benefit of the country, was redeemed at par on the 31st July, 1817, and in place of it thirteen millions of money

were thrown into the bank, for which the directors were to find employment. If they were desirous to place a part of it upon stock, upon a good security, bearing some resemblance to that which had thus been taken from them, rather than hazard it all at once upon personal security, it was a natural, a prudent, and a commendable desire, and it was in precise conformity with the original plan of the bank, as well as with the "gradual extension" which the report, in one part, thinks was expedient. It was a desire, nevertheless, however prudent, not likely to be gratified. The stock was then rising, and reached somewhere about \$140, as appears from the table of prices exhibited by the committee. They were not to expect stock to be deposited at par, when its market price was \$140. On the contrary, with a rising market, there would be a constant tendency to escape from the deposit, and to disappoint the wish of the directors, which was to increase and not to diminish this kind of security. It was under the influence of views like these, I should suppose, (as stated by the late President, in his examination, among the documents) that the resolution of the 26th of August was adopted, combining the two kinds of loan—on personal security, and on stock, in order to increase the quality of the latter. I repeat that I do not approve of this resolution, and for this simple reason, that, as, in the discounts upon stock, they regarded only the security, and not the person, or the amount, I do not see how the two kinds of loan could thus be combined, without the temptation to lend more to individuals upon the personal security, than was either prudent or proper; inasmuch as the loan upon the personal security was always to bear a fixed proportion to what was considered as lent upon the stock. But the question is, whether it was sincerely adopted, for the reasons given, and not to promote a scheme of stockjobbing. The board soon put an end to its active existence, which must be regarded as some evidence at least of sincerity.

What are the objections made to this kind of discount? Not that they were insecure or imprudent, or unprofitable. No. To the whole of the loans on stock it is objected, that they inflated the price of the stock; in the language of the report, "kept it constantly advancing, until it reached a point where it exploded and fell," (page 11.) The first point to be established, in order to support this position, is, that the stock ever has been inflated beyond its real value. What is its real value? Sir, it is (within certain limits) matter of opinion, matter of conjecture, depending upon a thousand considerations, and, among the rest at the present moment, depending upon the decision of the House. What will it rise to hereafter? No one can tell. It is an institution of great resources, calculated, I believe, if supported by the public confidence, to be a blessing to this nation, in peace a bond of union, a sinew of strength in war. But what, at any given time, will be the price of its stock, I will not venture to predict. Have purchasers been injured? That depends upon what the price



will come to hereafter. But, though I will not undertake to answer either of these questions, nor hazard any opinion upon the value of the stock, yet, in justice to the bank, I will venture to say, that, as far as my knowledge extends, there never was any great moneyed institution established, there never was any great moneyed operation commenced, that produced so little speculation. I do not advance this hastily, and I do not wish it be assented to without full reflection. Speculation, stockjobbing, these are the substance of all the charges, or the coloring spread over them all. Where is the instance of a new institution, in which there was so much steadiness, so little extravagant speculation? The maximum of the price of its stock (see table among the documents) was in the latter part of August, 1817, when it had gradually reached 56 per cent. advance. Do gentlemen recollect, or have they heard what happened when the public debt was funded? One would suppose that nothing could have been less fit to occasion speculation. The amount was fixed, and could not be exceeded; the rate of interest was fixed at the current rate of the country; the period and manner of redemption were also fixed; everything, in short, was reduced to the greatest possible certainty—yet the six per cent. stock rose to twenty-six shillings and three pence. It afterwards fell considerably below par, and did not recover till, I think, after the year 1803. We have another, and a much more striking, instance in the establishment of the late Bank of the United States. The scrip, for which ten dollars had been paid, and no more, rose to two hundred and seventy dollars. Fortunes were made and lost. The roads between the commercial cities are represented to have been covered with expresses, conveying intelligence of the fluctuations of the market, in order that they might be advantageously seized. The stock of that bank, I have been informed, but do not speak positively, afterwards fell below par. Sir, I have seen many moneyed institutions established, and though I have had little to do with them, I have nevertheless had occasion to observe their usual progress. Their history is nearly the same. At first, their stock has an extravagant rise, then succeeds an equally extravagant depression, and afterwards it finds what may be termed its just or natural level, that is, the level at or nearly to which it rests, unless disturbed by some extraordinary occurrence, or moderately advanced by a gradual improvement. The stock of the late Bank of the United States may be considered as having settled at about fifty advance, after all speculation had ceased. In the year 1802, the United States sold 2,220 shares at forty-five advance, and they sold to a person who bought to sell again, and, of course, to sell at a profit. I have always understood that he did sell at a profit. Individuals sold as high as fifty advance. (Seybert's Stat. An.) The permanent advance, therefore, was very little short of what has been deemed the inflated or speculative price of the present bank. I am aware that it may be said, and truly said, that the late

bank had some advantages which the present does not possess. But, the existing bank has also some which were not possessed by the former. At the period we are speaking of, when its stock rose to fifty-six, it had this most striking advantage, that not a year of its charter had expired, and there were above nineteen years remaining, whereas, when the stock of the late bank was at fifty, eleven years had run out and only nine remained. This inflated price, therefore, was very little higher than the level stationary price of the stock of the late Bank of the United States.

It is not correct to say, that it "exploded and fell." (Report, page 11.) Allowing all reasonable indulgence to the figure, it means, if I understand it, that the price was suddenly precipitated, when the artificial means used for its elevation had ceased to operate, or ceased to produce any effect. It is not correct. The table of prices annexed to the report of the committee shows that its decline was gradual, and that decline can be traced to other causes, which I will advert to presently. The price was highest in August, 1817; it began to fall, but not materially, in September, 1817—and it had not arrived at the lowest point of depression, (110) what in the table is called "the lowest price," till November and December, 1818, more than a year after the depression began. The table does not give us the intermediate prices, but we know, from other sources, that the decline was not considerable during the first part of that period. It may be dated, chiefly, from the Summer of 1818, and may be traced to causes which not only had no connexion with artificial means, but are wholly inconsistent with their use.

Again, sir, let us examine, in another point of view, these charges against the loans upon stock.

The price, on the 20th August, 1817, was from 144 to 147, to which it had gradually attained. How could successive repeated advancements of price be owing to a resolution adopted before the organization of the bank, permanent in its nature, and operating uniformly from the first adoption? There is some confusion in the treatment of this part of the subject. One would be led, by the language of the report, to suppose that there were successive measures brought forward from time to time, and calculated continually to stimulate the market, which was stimulated accordingly. The fact is not so; it was a system—the foundation was laid in the 4th by-law, and the subsequent resolutions, all conformable to that by-law, were merely executive or ministerial, to carry it into effect. The committee have themselves furnished the most conclusive evidence that the supposed facilities for obtaining money were not so eagerly seized upon, and for that very reason not calculated to produce the effect imputed. The amount loaned upon stock, prior to the 30th of July, 1817, had been \$8,046,932 64. It was at that time only \$5,221,267 60. (Documents, page 70.) Of course, \$2,815,665 04 had then been redeemed and withdrawn voluntarily, as respects the borrowers, and against the policy and the true interests of the bank. The bank could not lend

in this way as much as it might prudently desire. This statement is what I alluded to, when I said some time ago that there was a continual tendency in the desposite to escape. That the resolution of the 20th of August (for advancing \$135) had no influence in raising the price, is most evident. On that day it was at \$150, nearly the maximum; it rose but very little in the next three or four days, and then, instead of rising, began to decline.

But this resolution is supposed by the report, (page 11,) "to have given equal facilities to the bankrupt, who had not credit enough to obtain an endorser, and to the capitalist. Stock could be and was purchased without the advance of a cent by the purchaser, who had only to apply to the directors, or to the president and cashier, between discount days, for a loan on the shares about to be bought, and, by what is termed a simultaneous operation, he obtained his discount, and with it paid for his stock. A rise in the market would enable him to sell his shares, pocket the difference, and commence operations anew." Nothing can be more inaccurate, more strikingly inaccurate, than the whole of this reasoning; and nothing more destitute of solid support than the hasty condemnation founded upon it. It fails entirely in point of fact. For, in the first place, the price of stock, on the 26th of August, 1817, was \$150. A loan could be obtained upon it of only \$125. There remained, therefore, \$25 a share to be supplied from the resources of the purchaser. Again: for the \$25 excess beyond the par value of the share, "two approved names" were required. (Documents 79.) Thus the borrower was to find an "approved" endorser, and was to furnish \$25 a share in addition to what the bank would lend him. How, then, can it be affirmed that this resolution "gave facilities to the bankrupt, who had not credit enough to obtain an endorser?" How can it be said that, by means of it, stock could "be purchased without the advance of a cent?" Or that, with the money obtained from the bank, the purchaser "could pay for his stock?" [Here Mr. SPENCER rose to explain, and stated, that the reasoning quoted from the report was not meant to apply to the resolution of the 26th of August, but to the previous resolutions authorizing loans at par.] Sir, the reasoning immediately follows the statement of the resolution of the 26th of August, and seems to me most especially, if not exclusively, applied to that resolution. But I accept the chairman's explanation—and will the reasoning be any better? Rather worse, I think. Under the resolution of the 26th of August, the purchaser was to furnish \$25 a share, in money, and an endorser for \$25 more. Under the resolutions for loaning at par, he would have to advance \$50 a share, which I suppose would be at least as difficult for "a bankrupt," and quite as inconsistent with the idea of buying "without the advance of a cent," as advancing \$25, and finding an endorser for \$25 more.

While I am upon this part of the subject, I would take the liberty of asking a question of the 15th CON. 2d SESS.—44

chairman of the select committee. The report (page 11) says, that "a rise in the market would enable him (the purchaser) to sell his shares, pocket the difference, and commence operations anew." I should be glad to be informed how many times a man must commence such operations anew, how many times he must buy and sell in a market "constantly advancing," before he will make a profit? If the market was "constantly advancing," as the report states it was, it would seem to me very difficult to understand how successive operations could benefit the speculator. I should suppose, from a plain calculation, that the oftener he bought and sold the less stock he would have, and, repeating the "operation" a sufficient number of times, and a slight depression supervening, he would inevitably lose his whole capital.

The report, sir, goes on to charge that the loans were "unreasonable and excessive," were not made "to merchants and traders," but "to a few persons, consisting of directors, brokers, and speculators," and that very little "good business paper was done." (Report 10, 11.) Upon what foundation of fact these charges rest, we are not precisely informed. The members of the committee have referred to a list of borrowers which has not been printed, and they have differed from each other as to the true purport of that list. The member from South Carolina, (Mr. LOWMEDE,) one of the committee, has stated that a large proportion of the borrowers were "merchants and traders." It is of no manner of consequence, for it is not denied, but it is agreed that these loans were offered indiscriminately to all who could give the required security, that they were made with impartiality, and without favoritism; and that, in making them, the directors did not regard the occupation of the borrower, provided he offered good security. Was not the security unexceptionably good—the best that could be offered? Suppose the same "speculators" had got discounts on funded debt, would there then be any complaint? Where, then, is the point of this accusation? Do gentlemen mean to establish a high moral standard, graduated not by the laws of the land, nor with any reference to the nature of the subject, by which the directors of the bank are to be governed in exercising a censorial authority over the lives and occupations of those who come to borrow, and by which they are themselves in turn to be tried and censured? We are all of us fond of power, and sufficiently inclined to abuse it. What power could be more dangerous; what more liable to abuse; what more inevitably tending to generate a tyrannical spirit in the heart of man, than such an authority—no matter by whom exercised—to become a censor and inquisitor of the thoughts, and occupations, and conduct of his fellow creatures; to judge them, not by the laws of the land, not by any defined or established rule, but by an arbitrary and fanciful theory of his own creation? Sir, is it not enough that these loans were not prejudicial to the interests of the institution—that the security was unexceptionable—that they were im-



H. OF R.

Bank of the United States.

FEBRUARY, 1819.

partial and general? Is it not enough that there were at least very plausible reasons, if not conclusive ones, for making them? Is it not enough that they were prohibited by no law, and that they were made by the directors under a discretion committed to them; that they are still safe and good; that they were made to persons exercising occupations not forbidden by law, who were not prohibited from borrowing, and to whom it was not unlawful to lend? If they were right in themselves, let us not engage in needless inquiries that can do no possible good, and may do much mischief.

But the report expresses surprise "at finding so little good business paper done at the bank and its offices." How, in the course of such an examination, (completed in three weeks,) it was ascertained what quantity of "business paper," usually so called, was done at the "bank and its offices," or what "good" business paper was done, or whether any was done that was *bad*, or whether any good or bad was refused, and for what reasons, I am at a loss to understand, especially as there was no opportunity for explanation. I take it for granted, from other parts of the report, that this phrase is meant to apply, though applied inaccurately, to loans on stock, as contradistinguished from loans on personal security. In that sense, without admitting our right to regulate the business of discounts, the surprise expressed appears to be unwarranted. When the loans on personal security were \$20,000,000, the loans on stock were \$5,000,000; when the loans on personal security were \$30,000,000, the loans on stock were \$11,000,000; and that proportion never was exceeded. (See documents page 70, and table 43.)

There is still another accusation, which I have heard here and elsewhere, and which, for that reason, I have been at some pains to examine. The "curtailment" (says the report, page 11) "fell, in almost all cases, upon the business paper;" by which is here meant the paper for loans on personal security. The table 43 furnishes a most conclusive answer to this allegation.

The greatest amount loaned on stock appears to have been in Jan. and Feb., 1818 \$11,244,514 19  
In Nov., 1818, it was reduced to 8,934,712 94

Reduction . . . . . 2,309,801 25

The greatest amount loaned on personal security was, in March and April, 1818 \$30,318,932 50  
In November it was reduced to 26,989,992 12

Reduction . . . . . 3,328,940 38

The reduction on stock is beyond all proportion greater than on the personal security paper.

Take another period—that given by the committee. In July, 1818, the loans on stock were—  
November, 1818 . . . . . \$10,657,125 85  
8,934,712 94

Reduction . . . . . 1,722,412 91

In July, 1818, loans on personal security were—

November, 1818 . . . . . \$28,836,670 28  
26,989,992 12

Reduction . . . . . 1,846,678 16

There is another period stated, (June and July,) which gives a result somewhat different, but still shows the stock loans to have been more than proportionably reduced. The first, however, is most fair, as it gives a reasonable range.

I have gone into these details, sir, not for the mere purpose of differing from the Committee, or pointing out inaccuracies in the report, but to avoid hasty results, from a superficial examination. The conclusion, so far as we have gone, is, that the inferences are not warranted. Every measure is fairly accounted for, provided you examine it upon its own merits, free from the prejudice of extrinsic considerations. I shall trouble you no more with particulars that must, necessarily, be tedious and uninteresting. There is one allegation of the report, however, which the chairman has voluntarily corrected, admitting that the language is broader than he meant it to be. It is the assertion, in page ten, that "the principal business of the bank certainly has been to discount on notes secured by a pledge of stock;" an assertion which, as it stands in the report, did certainly occasion some astonishment. It is now explained to be meant only of the operations at Philadelphia. We have no table that shows how much of each kind of paper was done at Philadelphia, and, therefore, cannot fix with any precision what is to be understood by this vague expression, "the principal business." But, is it not easy to account, and to account fairly, too, for the fact, supposing it to be as stated? The largest loans on stock would naturally be where the largest quantity of stock was held, and where there was most of that kind of security to offer. The largest loans were accordingly at Philadelphia and Baltimore. The list of subscriptions to the bank (No. 47) gives us the following: At Philadelphia, 88,529 shares; at Baltimore, 40,141; at New York, 20,012; at Boston, 24,023. It is worth remarking, though not directly applicable to the present purpose, that at Charleston there were 25,986 shares subscribed, more than either at New York or Boston. At Richmond, 16,987 shares; at Washington, 12,708; and at Lexington, Kentucky, 9,587—nearly half as many as at New York. I would remark, further, with regard to the loans on stock at Philadelphia, that they were not confined to stockholders in Philadelphia, but a considerable part of them was for persons residing in different parts of the Union, who, from some cause or other, found it most convenient to get their loans there. This is a fact well known to all the committee, from whom I have derived it.

But the heaviest charge of all, in the estimation of the report, that which pervades and gives a color to the whole, at the same time that it is of no manner of importance in the present inquiry, is the charge of speculation, made against

FEBRUARY, 1819.

Bank of the United States.

H. OF R.

individual directors and officers of the institution. How far it may be justifiable or proper thus to scrutinize the private transactions of men, in order to fasten upon them, by what is termed an *ex parte* inquiry, the imputation of an undefined and undefinable offence—to hold them up to public odium, under the authoritative sanction of a committee of this House—it would be useless now to inquire. Speculation and speculation, sir, are terms of very vague import, and of very extensive application. There are speculators of many kinds—there are speculators in lands—there are speculators in merchandise—there are speculators in manufactures—there are speculators in stocks; the variety is infinite, and in no country upon earth greater than in this. Everything about us invites to speculation. Such are the resources, such the youthful energy of our happy country, that a man can scarcely apply his labor or his money amiss; wherever he employs them he is sure of a liberal and rapid increase. Not an axe sounds in the forest, without adding to the sum of national wealth. I should like, then, to know, in what the discrimination consists, which makes one kind of speculation offensive, and another innocent, if both are permitted by law, and neither unfairly or fraudulently conducted. What is the difference between speculating in land, and speculating in merchandise, or the stocks? Sir, the charter does not prohibit dealing in the stocks, either to directors or to the officers of the institution; it is, therefore, not unlawful or criminal. The omission, with respect to the officers, cannot have been casual or accidental. If my recollection be accurate—I do not speak positively—it was prohibited, as well as every other kind of trading, to the officers of the late Bank of the United States. I know it is prohibited by law in most of the State institutions. It is impossible that it should have escaped the attention of Congress. But let us examine this matter, and not be carried away by general denunciation. That a man might subscribe, and yet be a director, is not to be questioned; none but a subscriber could be a director. Every subscription had a view to profit or advantage, and was so far a speculation. Every large subscription had a view to profit by selling, and the larger the subscription, the greater speculator was the subscriber, and the more was he interested in advancing the value and price of the stock. Was he, on that account, incapacitated to be a director? On the contrary, was it not thought, and with some appearance, at least, of reason, that the greater his stake in the institution, the more he would feel interested in its prosperity? Again: the committee, adopting a distinction I do not very well understand, find no fault with a director for buying or for selling. And yet, is it not most obvious, that the one operation would make it his interest to depress, and the other to raise, the price; that in the one case he might buy as cheap, and in the other sell as dear as possible? The whole censure of the report is directed against those who bought and sold—who dealt in the stock. It would be very

difficult to make out that one who thus dealt in buying and selling was more likely to be affected by it in his conduct as a director, than one who only bought, or one who only sold. On the contrary, as his interest would be sometimes on one side, and sometimes on the other, he would be less likely to be permanently influenced, or influenced at all. But this is, itself, mere matter of speculation, and speculation of the most dangerous sort; because it subjects the conduct of men to speculative examination, and to speculative conviction. It is a speculation upon character, where there ought to be, and where there is, a plain practical rule that will be sure to guide us to a safe result. Upon this part of the subject I wish to be clearly understood. The rule a man may think proper to lay down for the government of his own conduct, is one thing; the rule he will adopt in judging the conduct of others, is another. If he choose to fix a standard for his own government, no matter how high he may raise it, if he aim at all the perfections contained in the table of the illustrious Franklin, so much the better. If he should fail, as he assuredly will, of reaching the highest point, he will nevertheless be rewarded for his pains. He will promote his own happiness, and, from the difficulties he has to struggle with, he will learn a lesson of charity towards others, which increased contentment with himself, at every step of his progress, will every day more and more qualify him to practise. But when a man comes to judge the conduct of others, let him beware how he applies to it a severer rule than the law of the land and the law of their peculiar condition has laid down. Sir, I know nothing, by experience, of speculation. I have never dealt in the stock of this bank. I have never bought a share, nor sold a share, nor been interested in the purchase or sale of a share. I have never borrowed a dollar from the bank. But I claim no credit for forbearance. When I am not here, endeavoring to serve my constituents according to the humble measure of my abilities, I am engaged in the labors of a profession which do not consist with engagements in trade, or dealing, or speculating, or borrowing. These are no part of my business, and whether I abstain from them because I think it prudent, or because I think it right—from motives of policy, or from motives of a higher nature—is altogether indifferent. I choose to abstain from them, and no one has any right to inquire why I do so. I acknowledge that I should be wanting in consistency of character, and might be justly exposed to suspicion, if, upon becoming a bank director, I were to abandon my former habits and occupations, and become a dealer in money and in stock. But, if you make directors of men whose daily business and occupation it is to trade, to buy and to sell, to deal in stocks and in money, and such men are not proscribed, they are indeed the very men who are deemed best qualified to be directors—do you expect them thenceforth to give up their occupations, to purify themselves from the love and desire of gain, in order that they may be qualified for the



due performance of the trust, or escape the charge of being speculators and stockjobbers? It is idle to talk of it. Nobody expects it, nor do I know that it is to be wished. If there is any evil experienced, the stockholders have power to correct it by election or by law. But, there is a plain practical rule upon this subject, safe and sure in its application. Has all this imputed speculation affected prejudicially the interests and management of the bank? If the trust has been betrayed, if the bank has been mismanaged towards the public, and the property of the stockholders sacrificed to subserve the purposes of speculation, let condemnation fall with its heaviest weight upon those who have abused the confidence reposed in them. This is the question, if we are to discuss any question respecting the management of the bank. To this question I have endeavored to draw the attention of the House; and if the views I have presented be at all correct, I think it has been fully and satisfactorily answered.

Justice to those who have had the direction of the bank requires a few words more. You have, it seems to me, the strongest positive evidence of the sincerity of the directors, and of their confidence in the administration of the bank. Did they sell out before the fall of price took place? With one only exception, I believe—any member of the Committee can correct me, if I am in error—with one single exception, the directors, who are charged with speculation, held and continued to hold at that very time quite as large if not a larger quantity of stock than they had held at any antecedent period; thus resting their own hopes and fortunes upon the stability of their measures. Again: the fall of price itself was owing to their own acts of management—acts that were necessary and proper, but which they must have foreseen would unavoidably depress the market. We know full well that it is the rate of dividend that chiefly regulates the permanent price of every stock. Did they ever make an unjustifiable dividend? It is not pretended. The first serious impression made upon the market, was by the reduced dividend of three and a half per cent. in July last. I say reduced, in comparison with the former dividends, which had been four per cent. That affected the stock. Then came the change in the character of the branch notes, which occasioned some uneasiness, and much unfounded clamor. At the same time there was a rapid reduction of discounts, which had the double effect of lessening the prospect of dividends, and of diminishing the quantity of money in circulation; both calculated to lower the price of stock. These were measures necessary and proper for the security and safety of the institution, now approved by every one; but they were all measures most obviously unfavorable to the market. They were adopted, and persevered in by the directors, because they were necessary and proper, who thus gave to the public and the stockholders the surest pledge of their fidelity to the trust, and of their determination to give it a preference to any interests of their own.

Of the officers of the institution, it would be sufficient to say, that neither the law nor the stockholders restrained them from trading, and there is no reason to believe that they have in any instance neglected or betrayed their duty. In what I have heretofore submitted to the House, I have founded myself almost exclusively upon the documents furnished by the committee. Will the House permit me to say one word from my own personal knowledge? Sir, I have had full opportunity to observe the conduct of the late president, (Mr. Jones,) and I can assure the House that I believe no institution ever had a more honest, zealous, and devoted officer. He has sacrificed his health in its service, by incessant and laborious exertions to promote its prosperity, which seemed, indeed, to be the only object of his thoughts and cares. I know not who may be hereafter placed at the head of the bank, nor will I pretend to enter into any comparison of other qualifications; but I am sure that I wish no bad wish for the institution, when I express a hope that all its future presidents may be as faithful, as honest, as industrious, and devoted, as Mr. Jones.

It is time to come to a conclusion of what relates to the management of the bank. Can I ask more to sum up the evidence of its fidelity, than the statement of the gentleman from Virginia, (Mr. TYLER,) that if dissolved it is now able to pay dollar for dollar?

That there have been some errors cannot be doubted, but they have been mere errors, such as will happen, and they have always been on the right side. Among them, however, I do not consider the practice of selling drafts to be one. It is the right of the bank, admitted to be so in the report, (page 5.) It is perfectly fair, and one of the most legitimate sources of profit, inasmuch as it is expressly indicated in the charter. Upon what principle, then, is it, that what an individual may do without reproach, is not to be done by the bank? Why, having a fair marketable commodity to dispose of, shall it not sell at the fair market price? Why should it not in this respect be put upon an equal footing with individuals? Until these questions are answered, it is unnecessary to say anything further. A premium or advance is an indemnity for the remittance of funds, varying a little, according to circumstances. Ought the bank to remit the funds of individuals at its own expense? It would be unjust as respects the bank; it would be objectionable as regards the community; for it would open the door for favoritism and partiality. A fixed rate (which the report, page 5, thinks ought always to be observed) is plainly impracticable. But of this I need say no more. It is now settled upon its just foundation; it is the right of the bank, and does no wrong to any one, as no man is obliged to buy from the bank, or sell to the bank, but makes the bargain voluntarily and for his own convenience. I am confident, however, what the report says in page 5, of the fluctuation from one to five per cent. is incorrect. It must be a mistake.

I forbear to trespass further on the patience of the Committee upon this part of the subject, and proceed at once to the second general ground of inquiry.

Has the charter been violated so as to work a forfeiture? This single question would afford materials for a very copious discussion—much more copious than I am disposed to undertake, after having already taken up so much of your time. I would address myself first to those gentlemen who hold the opinion that Congress have no Constitutional power to charter a bank. Such an opinion, I know, admits of no compromise, but certainly there is a great difference between the question that arises when it is proposed to establish a bank, and that which presents itself when it is proposed to pull down and destroy an established institution. The very repeal of a law admits its Constitutional validity, for, if it is unconstitutional, it is void of itself; and, therefore, a vote for a repeal can scarcely be regarded as the expression of an opinion that the law is unconstitutional. I lay no stress at this time upon the repeated recognitions, which must now be considered as having definitely settled the construction of the Constitution. Every one can give it its due weight. But, I would ask gentlemen to remember that the charter of this bank received all the Constitutional sanctions, was promulgated to the country and to foreigners as a Constitutional law, and has now been two years in force. Great interests are connected with its existence, incalculable mischiefs, public and private, will follow its repeal, and among them not the least considerable will be the wound inflicted upon the character and credit of the nation. How shall we stand in the estimation of foreigners? I am afraid to follow out the inquiry. Let every one reflect for himself, and, as he values the national reputation, so let him decide. I cannot, however, at all understand the grounds upon which gentlemen who have Constitutional objections can vote for a *scire facias*. That proceeding distinctly admits the legal existence of the bank, and sends it to the judiciary to be tried for its life, to determine whether it has not forfeited its right to continue longer to exist—an admission wholly inconsistent with the opinion alluded to. But, of this, every member must judge for himself.

If Congress had a power to incorporate a bank, and have exercised that power according to the Constitution, no argument can be necessary to prove that we have no right to repeal the charter. This is a settled, established principle, founded in the nature of the power, and almost universally conceded. Chartered rights are sacred things; they are the rights of individuals, guaranteed to them by the public authority, and of which no lawful authority can deprive them but that which the charter itself prescribes, or which is implied from its nature to be exercised in the manner pointed out by the charter, and according to the law of the land. Any other mode of proceeding to deprive this legal being of existence would be an act of lawless, unjust violence, as much for-

bidden as to legislate away the life of a natural being. That we have a right to send this corporation to the judiciary, there to undergo its trial and receive its judgment, no one can deny, for so the charter has expressly provided. It is equally clear, I think, that we are to exercise a sound discretion. If we are satisfied that the charter has been so violated as to work a forfeiture, still the question of expediency is open. We may deem it for the public interest to continue its existence, without alteration, to organize, if its organization has been impaired, to propose changes in its structure, or to let it go down, and, if needful, raise up a new institution. We are not bound, even in that case, in the case of a clear and unequivocal forfeiture, to send it to trial and condemnation. Is it not equally plain, that we ought not to send it to trial, if we are satisfied that there has been no forfeiture? Why expose ourselves to the certain consequence of a failure? It will assuredly not increase the public respect for our conduct. We may lose somewhat in the public estimation. Why subject the bank to the destructive effect of a protracted criminal proceeding, when no offence known to the law has been committed? A gentleman from Virginia, (Mr. TYLER,) calculating that such a proceeding would not be terminated in less than eighteen months, says, it would give time to wind up the concerns of the corporation, which, he thinks, might be done most advantageously for the stockholders. He takes it for granted, then, that the corporation would be condemned; that a *scire facias* and conviction are the same thing. But the officers of the corporation will not so consider it; they are not at liberty so to consider it; they must go on and discharge their ordinary functions in the ordinary way, until its doom shall be finally pronounced; and then, and only then, would they be justified in commencing the arrangements that are to follow its dissolution. Till then it is a subsisting corporation, entitled to enjoy all its rights, and bound to perform all its duties. But, let us suppose a more favorable issue. Let us suppose it to be acquitted. Will it pass through the trial unhurt? This artificial being, though it has not precisely the same sort of susceptibility as the natural being, is nevertheless exquisitely susceptible; it may be wounded, dangerously wounded, in its credit. This is its living principle, the source of all its healthy action, upon the preservation of which the capacity to perform its functions mainly depends. There it will be wounded by the mere institution of a criminal proceeding.

It behooves us, then, carefully to examine the ground before we determine to proceed. What, I ask, then, is such a violation of the charter as will work a forfeiture? The report admits that there is a distinction in this respect, and that there may be violations or non-compliances which do not forfeit. It must be so. Every act that is forbidden by any law which it is bound to obey, every failure to do what any such law requires, no matter how minute, or to what cause owing, is a violation or non-compliance with the char-



H. OF R.

Bank of the United States.

FEBRUARY, 1819.

ter. It surely will not be pretended that every such violation or non-compliance amounts to a forfeiture, no more than that every such act or omission by an individual would merit the punishment of death. The act done may be void, because it is illegal; it may incur a particular penalty, because it is to a certain extent criminal, but it will not therefore amount to a forfeiture—the extreme punishment for extreme offence. What, then, I repeat, is such a violation? In the first place, it is obvious, from the charter itself, (section 7, 23,) that it must be an offence of the corporation. The acts or defaults of officers, servants, or agents, do not necessarily work a forfeiture. Neither is it to be supposed that error, mistake, or even every species of misconduct will cause a forfeiture. It can only be by such departure from, or neglect, or, if you please, violation of, the fundamental and vital laws of its organization, as incapacitates the corporation to perform its duty, or does of itself determine its existence. These offences, if they are so to be termed, can be reached or redressed by no other means. If, for instance, an election had not been held at the time appointed by the eighth section, without the saving provision of that section, there could have been no election at all, and, for want of an integral and vital part of its organization, the corporation would have ceased to exist. The charter itself has made the distinction. In the ninth article of the eleventh section, the corporation is expressly prohibited from dealing, except in certain enumerated articles, and among them is public debt. In the tenth article, it is prohibited from making loans to the United States, or to particular States, beyond a limited amount. It would violate the charter if it were to offend against either of these articles. What then? Is the charter forfeited? No. The twelfth and thirteenth sections establish the sanction for these prohibitions, by providing specific penalties to be inflicted, not upon the corporation, but upon the individual transgressors. In the seventeenth section, also, the penalties are denounced for refusing to pay specie.

To sustain the contrary doctrine, the gentleman from Virginia has quoted and relied upon the famous proceeding, by *quo warranto*, against the city of London, in the time of Charles II. It is a bad precedent from bad times. Sir, the administration of private justice, in England, between man and man, has for a long time flowed in a clear and steady current. You may generally appeal with safety to the precedents it affords. But, when you come to examine the proceedings in Crown causes, you will err most lamentably unless you are aided by the light of contemporaneous history. Is the gentleman from Virginia acquainted with the character of the precedent he has quoted for our imitation and adoption? I will take the liberty to refer him to the historian for an account of it. It occurred in the year 1683, at a time when the royal prerogative, already most alarmingly extended, was abusing the power it had derived from the circumstances that attended and followed the resto-

ration, to obtain an unlimited ascendancy. To break down and crush the spirit of the city of London, was a favorite and important part of this system. The charges against the city were two. The markets had been destroyed by the fire of 1666, and new ones rebuilt, with many conveniences. To defray the expense, a small tax had been assessed upon goods brought to market. This was the foundation of the first charge. The second and real ground was, that the city of London, always on the side of the liberties of the people, and opposed to the arbitrary extension of the prerogative of the Crown, had addressed the King against the prorogation of Parliament. "The office of judge was at that time held during pleasure, and it was impossible that any cause, where the court bent its force, could ever be carried against it." If the gentleman wishes to know how the pleasure of the Crown was signified in the instance referred to, he may find it in the book he has used, at page —, to the following effect: "Memorandum. That when the demurrer in this case was joined, viz., Mich. Term, 34 Car., 2, Mr. Sergeant Pemberton was Chief Justice of the King's Bench. But, before Hilary Term, that it came to be argued, he was removed, and made Chief Justice of the Common Bench, and Sir Edward Saunders, who had been counsel for the King in drawing and advising the pleadings, was made Chief Justice of the King's Bench." The bloody Jeffries was the next Chief Justice. Does any gentleman still think this a precedent to be offered to our imitation? I will then beg leave to tell him further, that this decision took place in the very year whose annals are stained with the blood of Russell and of Sidney. It is one of the dark and atrocious offences committed by a dependent and corrupted judiciary, under the forms of justice, at the instigation of the Crown, which history has long since consigned to distinguished infamy. It is one of a series of arbitrary and oppressive acts that, rousing the spirit of a brave and injured people, finally expelled the Stuarts from the throne of England, and caused the revolution of 1688. The corporation of London was of course condemned, and the King availed himself of the decision to grant a new charter, which he took care to adapt to his own views, of repressing the spirit of London, and curtailing its liberties. All the corporations of England—all, guilty or innocent, convinced that if the most powerful body of the kingdom had sunk under a contest with a corrupted judiciary, executing the arbitrary wishes of the Crown, resistance on their part would be vain—came in, surrendered their charters, the security of their rights and liberties, and accepted such new charters as the Crown would condescend to give, paying for the privilege of being robbed of their rights such sums of money as the Crown thought proper to exact. The revolution gave independence to the judges. One of the first acts of the Government that succeeded, was to declare this decision illegal and void, (2 W. & M., s. 1, c. 8.) By the judiciary it was never respected; but, in all questions afterwards

FEBRUARY, 1819.

Bank of the United States.

H. OF R.

arising, the old charter was considered as having always continued in force. What is the language of modern and sound authority in England? "A judgment of ouster against mayor and aldermen, does not dissolve a corporation. God forbid," says an English judge, that the rights of the innocent should be lost and destroyed by the offence of individuals. When a corporation exists, capable of discharging its functions, the Crown cannot obtrude a new charter upon them." Thus repudiated and reprobated in England—thus condemned by its history, as well as by its association, are we to adopt this precedent? The violation of charters has ever been deemed an enormous grievance. It was one of our complaints against England, and thought worthy to be introduced into the Declaration of Independence, where it stands enumerated among the solemn causes that led to the separation.

I would beg leave to add further, before I examine the particular offences imputed, that where a violation has taken place, I cannot conceive that it will work a forfeiture, if there be a specific remedy, redress, or penalty. A forfeiture in that case is unnecessary.

I shall touch very briefly upon the several imputed offences contained in the report, not only because I have already trespassed too long, but because the principles I have submitted go far to settle them, and also because they have already been fully and satisfactorily answered by a member of the Committee, (Mr. LOWMEES.)

The first of these charges relates to the two millions of public debt purchased by the bank for the Commissioners of the Sinking Fund. I think it clear that, in the question with the Treasury, the bank was in the right; and the obvious mode of correcting the error that has occurred, would be to pay to the bank the \$54,000 lost by passing the stock to the commissioners at par. But no one, I think, after a moment's reflection, can hesitate to say that there has been no violation of the charter, and every one will admit that, if there had been, the Government could not complain, having been a party, with full knowledge, to the transaction, and enjoyed all the benefit of it. The object of the charter was to prevent the bank from purchasing to keep or to sell—that is to say, purchasing for its own use. It purchased, in this instance, for the Treasury; it passed the stock immediately to the commissioners, and all the peculiarity of the case consists in the single circumstance that it received from the Government \$54,000 less than it paid. It is needless to spend time on this item; for, if there has been a violation, there is a remedy for it by the charter, to be enforced under the charter, and not by destroying the charter.

The second imputed violation is what relates to the non-payment of the coin part of the second instalment. There is some apparent confusion upon this subject in the report, and there is one plain mistake. It will be necessary to ascertain the facts accurately, before we attempt to reason upon them. In page 7 of the report it is stated, "that the amount of specie in the bank in Feb-

ruary, 1817, was \$1,724,109; 324,000 more than the coin part of the first instalment, and which may fairly be presumed to have been received for the second instalment." The inference is, that only \$324,000 in coin had been received for the second instalment. This seems to be contradicted by the statement in page 6. The committee there say, "the loans were to be confined to aid the payment of the coin part of the second instalment, on the shares which had been subscribed at the places where offices were then in operation—New York, Boston, and Baltimore." They then add, that the total amount of these loans, at Philadelphia and Baltimore, was \$338,250; that at New York and Boston they were "to a very trifling amount, if any;" and that, in other parts of the Union, the coin part of the instalment was paid in coin. The view of the committee would prove, that all the coin part of the second instalment had been paid in coin, excepting about \$338,250. We have, however, the clearest proof of the real state of the fact in table V, among the documents.

It appears from that table that, in February, 1817, there were in the vaults of the bank in Philadelphia, Boston, New York, and Baltimore, in specie, exactly what the committee state — — — — — \$1,724,109 06

But there were, at the same time, due from the commissioners for receiving subscriptions, \$8,559,764 95, the coin part of which must have been received in coin, and would be rather more than 2,000,000 00

Making together — — — 3,724,109 00  
The total amount in coin, required for the second and third instalment, was — — — 4,200,000 00

So that the total deficiency arising from discounts at Philadelphia, Boston, New York, and Baltimore, did not exceed — — — 475,991 00  
Of which there were in Philadelphia and Baltimore \$338,250.

It thus appears that the amount is much less than seems to have been supposed; that it could not have occasioned the necessity of importation "to supply the deficiency the evasion had occasioned;" that it could not have injured the punctual stockholders, nor materially affected the operations of the bank. On the contrary, it may, I think, be assumed as probable, that the mere knowledge of the fact that this accommodation might be obtained kept down the price of specie, and really benefited the stockholders, as well as contributed to bring about the resumption of specie payments.

But, small as it is, there is a much stronger ground of justification. I allude not now to the circumstance that an inquiry was instituted by Congress at the time of these transactions, and they not only escaped censure, but appeared to be approved. That would, and ought to be, an answer here—for Congress might then, by inter-



posing, have arrested the proceeding. But the necessity which then justified it in the sight of Congress still affords it a justification. The bank was bound to go into operation on or before the first Monday in April, 1817. It was the wish of the Government, founded upon the exigencies of the public, that it should commence much sooner; and, yielding to that wish, it did commence, before the second instalment was payable. What were its operations? Receiving deposits, discounting, issuing paper—each of which, to a certain extent, disabled it to enforce the precise literal terms of subscription. They could not refuse to discount for a stockholder, merely because he was a stockholder; they could not refuse to receive their own notes, or checks upon the bank, as equivalent to coin. That would have been absurd—as they were bound to pay coin for them; and would, besides, have been a substantive violation of charter. They might have refused the notes of State banks; yes, they might, but what would have been the consequence? They must have violated the compact that had been entered into, and thrown everything into confusion. I am discussing the matter as if it were established that they did receive the notes of State banks. It does not appear whether they did or not. And, after all, what harm has been done? Is the bank in a worse condition, or the public injured? It cannot be pretended.

The third item of complaint is too small, in itself, to merit much attention. It appears (Documents, page 114) that dividends to the amount of one thousand four hundred and sixty dollars were paid to four stockholders, who had been in default when the dividends were declared. There is an unintentional ambiguity in the mode of stating the charge, in the report, which might induce a belief that the instalment had not been paid at the time of paying the dividend. From the documents it will be seen that the instalment was paid, and that interest was charged upon it from the time when it became payable. The utmost loss that could have been incurred, would have been the difference between four per cent. and three per cent. for six months; equal to three hundred and sixty-five dollars. It was not, perhaps, so much; for the interest was probably charged up to the time of paying the dividend, which was more than six months. Whether these payments were made by mistake, or whether there were any peculiar circumstances to justify them, does not seem to have been inquired into, and cannot be ascertained. But every one must be satisfied, that, whether the payment was intentional, or whether it was by mistake—whether it was right, or whether it was wrong—the consequences cannot extend beyond those who were concerned in it. The money might, perhaps, be recovered back, or the officer be charged with it as a wrongful payment. It can never forfeit the charter.

The only remaining article is that which regards the elections—particularly the first. This charge is, in substance, neither more nor less than that votes were received which the com-

mittee believe to have been illegal, and that the judges of the election, and directors and officers of the bank, "perfectly well knew the facts," which, in the opinion of the committee, made them illegal. As there were no directors till after the first election, I do not see how they can be implicated in the charge, so far at least as relates to that election. But, waiving that, and waiving too the inquiry whether the judges had any right to refuse the votes, (a very doubtful matter, to say the least of it,) let us examine the matter a little more closely, with a view, not to its foundation in fact, but to its legal results. I have never understood, nor do I believe, that any number of illegal votes will make an election void. There are circumstances that will undoubtedly avoid an election. If an armed force, of soldiers or others, were to surround the polls, and by violence, or the menace of violence, prevent the electors from voting, or otherwise interfere with the free exercise of their franchise, the election ought to be held void. But the mere circumstance of illegal votes being received, is of no importance, unless the election is contested. And what is then the rule? The chairman of the Committee of Elections will answer that question. Where the election is by ballot, the illegal votes are all deducted from the majority. Suppose there is still a majority, is the election void? No. The highest on the return is the person elected. Suppose there was no opposing candidate, is the election questionable? I believe we have never heard of such a thing. Again, sir, suppose the election not to be tested—the returned member takes his seat, and holds it till his term of service has expired. Is his right afterwards questionable, or the validity of the acts he has done? I have never so understood it. These are the ordinary rules applicable to such cases. How do they apply here? Illegal votes, it is said, were received. Was there any opposition, or were all the votes, legal and illegal, given for the same ticket? Was the election contested? Has not the time for contesting it gone by? Supposing it still open to contest—can any one inform us how many legal and how many illegal votes were given, or what would be the state of the poll if the illegal votes were deducted from the majority? These are matters necessary to be ascertained in the first instance; and until they are ascertained, at all events, the election is good, and the acts done under it valid. Even where an election is contested, the returned candidate takes his seat, and holds it, with all its rights, voting and acting with others, until the contest is decided. But, again; was it ever heard that the mere fact of receiving illegal votes at the election of corporation officers, was a forfeiture of the charter? Every corporation in the United States might tremble if that were the law. No: You may invalidate the election before the proper tribunal—you may set it aside. The judiciary may inquire into it—may expel those who have been introduced by illegal means—may introduce those who have been by illegal means kept out. These are the appropri-

ate and all-sufficient remedies, which we have frequently seen employed, and employed with effect. They apply directly to the evil where it is found—correct that evil—but leave the innocent corporation, and the innocent corporators, in the enjoyment of their rights, which these remedies are intended to preserve, and not to destroy.

I had intended to have noticed the propositions brought forward by the chairman of the committee. It would be unpardonable to consume more of the time of the House. A single remark upon them and I have done. Among those propositions there are several that would be highly advantageous to the bank. If they were offered to its free acceptance, perhaps they would be accepted. But, under the threat of a *scire facias*, they ought not to receive a moment's consideration.

TUESDAY, February 23.

Mr. H. NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to authorize William Prout to institute a bill in equity before the Circuit Court for the District of Columbia, against the Commissioner of the Public Buildings, and to direct a defence therein," reported the same without amendment; and the bill was ordered to be read a third time to-day.

Mr. RICH, from the Committee of Claims, reported a bill for the relief of George M. Brook and Edmund P. Kennedy; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Ordered, That the Committee on Roads and Canals be discharged from the further consideration of all the petitions, memorials, and other matters, to them referred at the present session, upon which they have not acted, and that the same be laid on the table.

The House, on motion of Mr. RICH, reconsidered the vote of yesterday which rejected the bill for the relief of the heirs of William Reed; and the bill was laid on the table.

The engrossed bill supplementary to the act for the relief of Benjamin Wells was read the third time, and passed.

The bill from the Senate for the benefit of William Prout was read the third time, and passed.

The amendments of the Senate to the bill regulating passenger ships and vessels were taken up, and agreed to—one of them with an amendment.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to repeal part of an act passed on the 27th day of February, 1813, entitled 'An act in addition to an act regulating the Post Office Establishment,'" "An act for the benefit of Jacob Purkill;" and "An act respecting the transportation of persons of color, for sale, or to be held to labor"—in which bills they ask the concurrence of this House.

#### FRANKING PRIVILEGE.

The House took up the bill to extend the privilege of franking letters, &c., to the Secretary of the Senate and Clerk of the House during the recess of Congress.

The bill was amended, on motion of Mr. TALLMADGE, by including in its provisions the Speaker of the House.

Mr. GARNETT moved to amend the bill by adding thereto the provisions of the bill freeing from postage letters and packets to and from certain officers of agricultural societies. This motion was lost; and,

The question being taken on ordering the bill to be engrossed and read a third time, it was decided in the negative; and the bill of course rejected.

#### BANK OF THE UNITED STATES.

The House again resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the subject of the Bank of the United States—Mr. JOHNSON's resolution for repealing the charter being still under consideration.

Mr. SERGEANT concluded the argument which he commenced yesterday—occupying to-day more than two hours in defence of the bank—as given entire in the preceding pages.

Mr. PINDALL again rose. He was (he said) sensible of the attention with which the House had already indulged him in this debate. He would therefore consume but a little more of its time, in replying to some of the grounds which had been occupied with so much skill and address by gentlemen who opposed the resolution for the repeal of the bank charter. The gentlemen from South Carolina and Pennsylvania, (Mr. LOWMEDE and Mr. SERGEANT,) who had displayed so much ability on this occasion, had been unable to discover any fault, not even the most venial sin, in the bank; on the contrary, they find it covered with virtues and perfection, and occupying a station almost superhuman. The gentleman from South Carolina had yielded his applause to the bank, for its disinterested generosity in aiding the credit of the State banks; as an instance of which, the gentleman had quoted the agreement of the 31st January, 1817, with the receiving banks, when he imagines the interest of the institution would have dictated a refusal of that agreement, whereby the notes of the State banks would have been refused at the Treasury, and discredited by the public; so that the National Bank would have succeeded in obtaining the confidence and business of the country. Now, said Mr. P., let it not be forgotten, that, after the receipt of the first instalment, the bank found itself the owner of only \$1,800,000 in specie, and that a secret understanding subsisted between the directors and stockholders, whereby the subsequent specie instalments were to be evaded. Whilst I admit, that, if the credit of the State banks could have been totally destroyed, the country would have been forced to turn its confidence and address its business to the National Bank, I insist that the bank was not in a condition to re-



spond to the confidence or business of the country. It would, on the cessation of the currency of State paper, have been involved in the necessity of emanating its notes to supply the vacuum occasioned by the banishment of State paper; and to have ventured on that measure as suddenly as the crisis would have required, must have incurred certain ruin, as it could not have commended the specie to redeem such abundant issues, which would, however, have been speedily returned to it for specie, by the numerous State banks, that must and would have combined against their common enemy.

Had the bank divided and distributed all the specie it possessed, at an early period after its commencement, among its fifteen branches, and issued its paper in the quantities requisite to supply a currency, a few weeks, or indeed days, would have emptied the vault of its last dollar, or obliged it to withhold the payment of specie, and thereby reduced its credit to the level of the State banks. Why, then, is the bank applauded for its forbearance of a rigor to which it never dared to resort, or praised for a moderation to which it was confined by its own delinquency and weakness? To the charge that the bank had resorted to usurious practices, in loaning post notes payable at sixty days, at an interest, as though the money had been immediately advanced, when in fact it would never be advanced by the bank, as the borrower's notes would be payable as soon as the post notes, and that there was no authority to suppress such extortions, the gentleman from South Carolina replies, showing the great convenience of post notes for transmission by mail, in lieu of specie, and the security they afford against losses, as they were not payable to bearer. But I ask, whether this answer should be urged? The bank, on the loan of silver dollars, should only be entitled to the same interest to which others are entitled. Post notes are more convenient than dollars; and if, on account of that convenience, the bank may receive more than legal interest, it may also receive more than legal interest on loans of its own ordinary bank bills, for they, too, are more convenient for transmission than silver. [Here Mr. Lowndes explained, stating that his observations had been applicable to the resolution of the directors of the 30th January, 1817, which only seemed to authorize the advance of post notes at sixty days, when payable at a place other than that at which they were issued.] I am apprized, said Mr. P., of the distinction in this respect, between post notes payable where issued, or at a different place; and that on the latter an additional sum may be required by the bank, equal to the premium on exchange. But I do not concur with the gentleman from South Carolina, in his interpretation of the bank resolution of the 30th January, 1817, nor will I criticise that resolution to find its literal import, for the same bank that made the resolution had, or at least assumed, the right to interpret its own resolution, and, as it appears by the report, did issue post notes payable at the place where issued, and on these post notes did receive

an unjust and unlawful gain. The gentleman has not denied, that the post note of \$20,000, at sixty days, the loan of which is mentioned in the report, was payable at the place where issued. But, suffer me to yield to the gentleman's construction of the bank resolution of 30th January, 1817, that is to say, that it only warranted the issuing of post notes payable at different places than where issued, and mark the consequences. Then, as we know that such notes payable at the place of issuing, were loaned, there was either some other resolution to warrant these loans, or there was not. If there was another resolution to warrant these loans, that other resolution subjects the bank to every criminal imputation that it would have been subjected to in case the resolution of the 30th January, 1817, had authorized the same same unlawful loans. But if there was no other resolution to authorize such loans, yet, as we know the loans were made, the bank incurred a still greater turpitude by resorting to an illicit practice, and adroitly omitting to spread any resolution or distinct account of it, on the journal of its proceedings; hiding the transactions from the Government, which had reserved the right of examining all its transactions. It is possible I have not understood the object of the gentleman from South Carolina, when on this head he referred to the statement of the cashier. That officer deposes, that post notes were directed to be issued, on application, at sixty days, to be paid for out of the proceeds of discounts, if required. This certainly had a reference or at least was applicable to post notes payable at the same place; they were to be paid for out of the proceeds of discounts, which ought to have been ready money to the borrower, and would of course afford unjust gain to the bank, unless it had directed the borrower's note to bear date at the end of the sixty days, when the post note would be equal to cash, which direction the bank never gave.

The honorable member from South Carolina has shown us the 22d and 23d sections of the act of incorporation. By the 22d section, in case the bank did not commence operations by April, 1817, Congress were authorized, within twelve months, to declare the charter void. But this section certainly does not prove that Congress can under no other circumstances repeal the law. It was inserted as a restraint on the bank, and not as a limitation of legislative authority. It was a penalty denounced in *terrorem* to hurry the bank to its duties.

The 22d section designates the event on which Congress may annul the charter, and the 23d section, the circumstances under which the court may annul it by judgment. But if we have shown that, without either of these sections, Congress would have possessed power to repeal the act of incorporation, that power is not impaired by either section; for, if either Government or an individual having a right is entitled to a remedy or certain means of justice and thereafter a law be made conferring a new remedy without saying anything of his previous rights, the Government or individual will have his election to pur-

sue the old or new remedy, the latter being considered as cumulative. This proposition is sufficiently evident to all professional gentlemen. If, then, it were possible for the Fourteenth Congress to make a law to bind and govern the Fifteenth Congress, yet it has not attempted to do so by the 22d or 23d sections, which the Government may resort to as a cumulative remedy against abuses of charter, or assert the prior and unimpaired power of repealing the law. Ask me why the 22d section was inserted? I answer, to prompt the bank to an early operation. Ask me why the 23d section of the scire facias was enacted? I answer, to enable the courts to repeal the charter. But, do you ask, why then a power to repeal was not reserved to Congress? The answer is plain. It was unnecessary to give to Congress a power it already possessed. If this Congress does not possess the power under the Constitution, it cannot derive it from the gift or grant of the Fourteenth Congress. The gentleman from Delaware (Mr. McLane) opposes our power to repeal the act of incorporation by deductions from the principles of the common law, which he alleges are applicable in construing the charter. Having myself embraced a view of this question which places me in opposition to that gentleman, it is not my province to warn him of the strong force he must contend with here, in supporting his negative proposition on common law principles only. There are many gentlemen on the floor who think with my colleague (Mr. Johnson) that there is no common law appending to the Federal Government, on the ground that the common law, being different in different States, is not sufficiently uniform for adoption by the General Government, which, extending itself over all the States, finds no common law commensurate with its surface. Although I disapprove of this doctrine, I shall not discuss it, as it is believed that the gentleman from Delaware and myself entertain the same opinion of the application of the common law; but I cannot avoid the remark of the peculiar applicability of the reasons for negating the common law, to the interpretation of this charter, for, if the extension of any measure of the National Government into several States annuls the force of the common law as to that measure, because the common law being different in the respective States, would be productive of conflicting constructions of the same public measure, how can the common law have any application to this charter, which is made to exist in every State of the Union? If this be so, the gentleman will find himself opposed by all who deny the common law. But the gentleman is incorrect in his common law argument, and therefore ought not to have the support of those who subscribe to the force of that law. He admits that every corporation must be subject to some visitatorial authority, and that Congress is the visitor of this bank, as the King, through the King's Bench, or Parliament, is of civil corporations in England. [Mr. McLane explained. He had argued that, if Congress had the visitatorial power, it would not follow that it could not de-

stroy the corporation, but he had not admitted that Congress had the visitatorial power, and he doubted whether it could be said to possess it.] I had mistaken the gentleman, continued Mr. P., and accepting his meaning as now explained, his error remains: he contended that the visitatorial authority could only punish or correct abuses of corporations, and could not destroy them; and instanced the King's Bench, which was the visitor of lay corporations, and yet could not destroy them. The King's Bench, however, can, and frequently does, for sufficient cause, destroy as well as correct the corporate bodies. It corrects by *mandamus*, and destroys by *quo warranto*. If, then, Congress has the visitatorial power over the bank, it may, for sufficient cause, repeal the law of incorporation; and that Congress is the visitor, I am convinced, by considerations which I had the honor to submit on Thursday.

The Government of the United States sustains a two-fold capacity in its relations to the bank corporations: first, the Government is a co-partner in trade with the other subscribers, and the owner of 70,000 shares of the capital stock; and, if it stood only in the relation of partner, would be legally as well as morally subject to municipal law equally with the other stockholders. But, secondly, the Government, in its sovereign capacity, cannot be subjected against its will to municipal law; for municipal law is subject to it, and enacted, repealed, or modified, by it. The frequency of forensic debate on the constitutionality of State laws, prepares the minds of gentlemen for the admission of an erroneous principle as regards this Government; for, while the Constitution expressly prohibits any State from the passage of laws impairing the obligation of contracts, it imposes no such inhibition on Congress. Adam Smith, or some other popular writer, informs us that one of the petty sovereigns of Italy entered a partnership with a Jew to keep a wine cellar, and for a division of profits, &c. Had the sovereign refused, on closing the concern, to account according to municipal law, all would exclaim at the injustice, but no one would doubt his power or give the Jew a right to control him by municipal force, which would be in that instance to convert the Jew into the sovereign.

Now, sir, there is something oppressive, something painful, cruel, and almost horrid, in the very idea of a Government being a partner in trade, and at the same time legally exempt from the rules of municipal justice, which usually govern such concerns; nor can you be relieved from this disagreeable idea by seeking to subject sovereignty to the physical and legal force of a municipal law, because it would then cease to be sovereign. Even yet some oppressive wrong seems to haunt the question, or the subject in which the question originates; it is the last. It is wrong, radically wrong in the nature of things, that Government should combine in partnerships of trade with its subjects or citizens, inasmuch as the relations of such concern are controlled by laws, to which the sovereign is not subject. The



H. or R.

Bank of the United States.

FEBRUARY, 1819.

Government is a partner in trade, may look to distant and enormous speculations, and in its sovereign capacity enact laws to secure the result of such views, and proving too mighty for all competitors, and having enriched the trading company, finds no power on earth of sufficient ability to enforce justice against it, on a settlement of the partnership. My views on this part of the subject must not be misconstrued. I insist that the legislative power may repeal as well as make all laws, including laws of incorporation. And the objection that such a power is susceptible of abuse or perversion is untenable, for that would operate to show that there was no legal, civil, or political capacities, whether Legislative, Executive, or Judicial, as any of them may be perverted. But, having acquired or derived a legal and proper power or jurisdiction over the subject-matter, I then will meet gentlemen in a concurrence, that we are bound by the precepts of justice and morality in the exercise of our powers and jurisdiction. The imprudence of creating or subscribing to the corporation has no weight with me; for, in the exercise of our legitimate powers, we should not by compulsion, but of choice, be governed by the same rules of justice as individuals. The bank charter, if a contract, was entered into freely on the part of Government; and thereby imposed a moral obligation, to which Government will adhere, while that obligation remains. But, when the conditions of the incorporating law are forfeited, and its fundamentals violated, by the party now demanding a performance, as has been done with respect to this charter, I say the moral obligation has ceased to exist.

Gentlemen speak of our destitution of power to repeal the act, alleging that it is a contract; and yet they are willing to pass a law so to modify the charter as to prevent future abuses; but, if we are yet bound by it as a contract, it cannot be modified by Congress. How can Congress, (if these gentlemen reason correctly,) being but one party, modify its contract without the consent of the other party?

The gentlemen from Delaware and Pennsylvania, (Messrs. McLANE and SERGEANT,) who are both opposed to the resolution before us, seem to concur; and yet conflict most strangely with regard to the same source of argument. The gentleman from Pennsylvania, in answer to my colleague, (Mr. TYLER,) travelled into the history of the ancient English decisions concerning the violation and forfeiture of charters, for the purpose of showing that those decisions were made in evil times, and under the influence of corrupt motives. The gentleman from Delaware, speaking also in opposition to our resolution, produced and read a modern elementary law book, which he affirmed contained correct principles, and supported his position. Yet, sir, the doctrine, with regard to corporations, found in the modern book of my friend from Delaware, and so highly extolled by him, consists of the same identical principles of the old English decisions, condemned as wicked and corrupt by my friend from Pennsyl-

vania. Not only so, but the old reports which are so corrupt and detestable in the eyes of our opponents, are quoted by the modern writer whom they applaud, as the authority on which he advances the very doctrine of corporations on which they seem to rely.

The gentleman from Pennsylvania quotes a number of circumstances in support of his opinion, that the judgment of the King's bench, in the reign of Charles II., which virtually revoked the charter of incorporation of the city of London, was obtained by political intrigue, and to serve the King, who wanted money, and could get it for a new city charter, in case the old one was revoked. I am unwilling and vexed to find such imputations cast on the ancient common law tribunals of our ancestors. Such charges are not proved or probable. But let the decision, and the report of the case, which is now in this House, speak for themselves. The charter empowered the corporation of the city only to make by-laws, rules, &c., for the government of itself, its officers, and its citizens; but the corporation usurped and exercised the power of imposing taxes on all the subjects of England, and indeed on aliens, and all the inhabitants of the world who should visit the city; in truth, the corporation thereby usurped sovereign authority, claiming, and actually enforcing a power which could only be exercised by the King and Parliament. Yet the gentleman from Pennsylvania thinks this circumstance so trivial as to be almost innocent, and is so astonished at the decision of its being a violation of the charter, that he can only account for it by the imputation of intrigue and corruption to the English Government and judges. The gentleman has informed us that King Charles II. wanted and received money for a new charter of incorporation of the city. And did the King receive money for a charter? And was this an evidence of corruption? Let the question be answered. The King received money for a charter! and his conduct in this, it seems, we abominate. Now, sir, you may define, turn, examine, and re-examine this money—this price of the charter—as you please, and you will find it was nothing more or less than a *bonus*—the very thing of which I had the honor to speak when addressing you on Thursday—and only differs from the bonus the speculators of the United States Bank offered and paid to this Government, in this, that this Government agreed to receive a million and an half of dollars as the price of its charter, whereas the King was more moderate, and received a less sum for his charter. Then, the merit or demerit of selling chartered privileges, exists not in the thing itself, but in the personages concerned; thus, it was honorable in this Government to receive a bonus for a charter, but abominable in the English Government to do so.

The gentleman from Pennsylvania insists that no offence of the board of directors, in the management of the bank, can be imputed as a violation of charter, inasmuch as the directors are not the corporation, for the subscribers are the corporation, and that the offence must be by them.

FEBRUARY, 1819.

Bank of the United States.

H. or R.

But how is this? The board of directors are the authorized agents and representatives of the subscribers, and the subscribers, like all other men, are accountable, not only for their own conduct, but for the acts of their agents; hence, by the gentleman's own principles, the board may violate the charter. The board of directors has the sole and exclusive control of the corporation and all its concerns, and if the corporation is not accountable for their actions, there can be no such thing as a violation of charter; the constitution itself could in no shape be reached, and would consequently be superior to all law, and not subject to the Government of the country. Is it possible that the subscribers must receive all the advantages of the management of the board, and abide by none of the disadvantages of that management?

The gentleman from South Carolina apprehends that a dissolution of the bank will involve the Treasury in embarrassments. I acknowledge the Treasury has found its operations in some measure facilitated by the bank; but these aids are not of magnitude, and could be obtained from other sources—for instance, extend to the receiving banks of the States, (and some of them are certainly solvent,) the advantages that have been afforded to the United States Bank, by leaving the public moneys in their vaults, as a capital to deal with, until wanted by the Treasury, which would afford a continual deposit, and would be what is afforded to this bank, and those banks would doubtless agree to pay the moneys in any part of the country; and, as the receiving banks would be in different quarters of the Union, it would not be always necessary for each of them to pay money at the most remote points. Besides this advantage to the National Bank, Government pays it annually \$350,000, the interest on the \$7,000,000 subscribed to it. But this \$350,000 per annum, or part of it, is expected to be refunded in the shape of the Government Bank dividends; and this Government, discarding its own dignity and old-fashioned simplicity, enters the counting-house, and becomes a partner with a company of money changers and speculators, to save a penny to offset against the small wastage of transmitting moneys from place to place within its own limits. Gentlemen treat this important subject as an affair merely between the stockholders and the Treasury, and as if the public were not to complain whilst these other two parties were content. It should, however, be remembered that Congress, having acknowledged its own right to grant bank charters for the public good, granted this charter to a few individuals, with many exclusive privileges, and tied its own hands from granting, or shut the people's mouths from asking any other charter for twenty years, on the ground that this exclusive charter would enable its possessors to afford the country, as well as the Treasury, facilities and comforts to which they had before been strangers. And now, when the people find themselves disappointed, and inquire of their Representatives for the recompense they were to receive for the grant of these ex-

clusive privileges, at the expense of their common rights, they are to be informed that their importunities are idle; that they have no concern with the subject, and that none are to inquire of it but the Treasury Department, and the stockholders, bank directors, brokers, &c.

Mr. BARBOUR, of Virginia, succinctly stated the reasons which would induce him to vote for the resolution to repeal the charter.

Mr. STORRS, of New York, briefly replied to Mr. BARBOUR; when the Committee rose, and the House adjourned.

WEDNESDAY, February 24.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to which was referred the bill from the Senate, entitled "An act to increase the compensation of the surveyor of the port of Patuxent, in Rhode Island," reported the same without amendment; and the bill was ordered to lie on the table.

Mr. POINDEXTER, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act to designate the boundaries of districts, and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana," reported the same with an amendment; which was read, agreed to, and ordered to be engrossed, and the bill read a third time to-morrow.

Mr. POINDEXTER, from the same committee, to whom was also referred the bill from the Senate, entitled "An act respecting the location of certain sections of land to be granted for the seat of government in the State of Indiana," reported the same without amendment; and the bill was ordered to be read a third time to-morrow.

Mr. PLEASANTS, from the Committee on Naval Affairs, to which was referred the bill from the Senate, entitled "An act authorizing the purchase of live-oak timber for naval purposes," reported the same without amendment; and it was committed to the Committee of the Whole, to which is committed the bill authorizing the purchase of live-oak timber for building small vessels of war.

The Committee of the Whole, to which is committed the bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages, were discharged, and the bill was laid on the table.

On motion of Mr. TRIMBLE, the President of the United States was requested to cause to be laid before this House, at the next session of Congress, any information which may be in his power, touching the causes of the imprisonment of — White, an American citizen, at Buenos Ayres.

Bills from the Senate of the following titles, to wit: An act for the relief of Jacob Purkill; An act to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the Post Office Establishment;" and, An act respecting the transportation of persons of color, for sale or to be held



to labor, were severally read twice, and referred; the first, to the Committee of Claims; the second, to the Committee on the Post Office and Post Roads; and the third, to the Committee on the Judiciary.

An engrossed bill, entitled "An act for the relief of George M. Brook and Edmund P. Kennedy," was read the third time, and passed.

A message from the Senate informed the House that they have passed the bill of this House, entitled "An act making appropriations for the support of Government for the year 1819," with amendments. They have also passed bills and a resolution of the following titles, to wit: An act providing for the better organization of the Treasury Department; An act in addition to "An act concerning tonnage and discriminating duties in certain cases;" An act to protect the commerce of the United States, and to punish the crime of piracy; and, a resolution requesting the President of the United States to employ an artist to ascertain the latitude of 36 degrees 30 minutes north, on the west bank of Tennessee river; in which amendments, bills and resolution, they ask the concurrence of this House.

#### LONGITUDE OF THE CAPITOL.

Mr. H. NELSON, from the committee to whom was referred, on the 23d November last, the memorial of William Lambert, made a report, accompanied with a joint resolution authorizing the President of the United States to cause astronomical observations to be made, to ascertain the longitude of the Capitol, in the City of Washington, from some known meridian in Europe; which said resolution was read twice, and ordered to be engrossed and read a third time to-morrow. The report is as follows:

That the subject of a first meridian for the United States was presented by the memorialist to the consideration of Congress in the month of December, 1809, on which a select committee of this House made a report on the 28th of March, 1810. The memorial and other papers relating to it were afterwards referred to the Secretary of State, who also reported favorably thereon, but no decision of Congress had yet been had. In the present case, the committee have attentively examined the subject; and, to enable them more fully to satisfy themselves of the accuracy of the calculations, they have made application to, and received the opinions in writing of, scientific gentlemen, in different parts of the United States, which accompany this report. It rests with Congress to determine on the utility of establishing a first meridian, in conformity to the practice of most, if not all, of the commercial nations of Europe, which appear to have considered the object of sufficient importance not only to authorize observatories to be erected, and furnished with suitable instruments and other apparatus, at the Seats of Government, or some other convenient places within their respective dominions, but as an appendage of sovereignty, which they are not disposed to relinquish.

The committee believe that if a general meridian could be fixed, by the consent of all Powers materially interested in the pursuits of commerce and navigation, it would be attended with advantages which the establishment of many meridians would not afford.

But this desirable coincidence in opinion and practice is not within our control, and probably never will take place.

Your committee are therefore of opinion that it would tend to the promotion of science and national credit to fix a first meridian for the United States somewhere within their territories; and as the Capitol was originally contemplated by the plan of the City of Washington for that purpose, it may be proper to select it, or some convenient place in its vicinity.

The committee will not take upon themselves to recommend that an observatory be erected, but they deem it advisable to comply so far with the request of the memorialist as to submit to the House the following resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to cause such number of astronomical observations to be made, by methods which may in his judgment be best adapted to insure a correct determination of the longitude of the Capitol, in the City of Washington, from Greenwich or some other known meridian in Europe; and that the data, with accurate calculations, or statements founded thereon, be laid before Congress at their next session.*

#### BANK OF THE UNITED STATES.

The House having again resolved itself into a Committee of the Whole, on the subject of the Bank of the United States—

Mr. SPENCER rose and spoke more than four hours in defence of the report of the Bank Committee.

Mr. WALKER, of Kentucky, addressed the Chair as follows: Mr. Chairman, like my friend from Virginia, last up upon this question, I merely want to give briefly my reasons for my vote. I have heard much said about the correct and incorrect management of the bank, and of the expediency and inexpediency of its measures; but, sir, upon all occasions of this nature my inquiries are directed to the constitutionality or unconstitutionality of the institution—of its moral or immoral tendency. And, sir, I do think that the President and Directors of the United States Bank deserve my thanks, not for their correct management of the public funds; no, sir, but for their prompt and decisive manner of giving to their country, at one view, almost their tether's length of venality and corruption, to which their measures must inevitably tend, and thereby enabling me decisively to determine the side I ought to take upon the question now before us. I can no longer doubt that the United States Bank is an engine of favoritism—of stock-jobbing—of creating and attaching additional consequence to cash, already too powerful—of depressing merit, and giving to money virtue's true reward; and, what I hate, if possible, worse than that, of coupling the destiny of this fair Republic to a detested monarchy—of binding in adamant chains the blessed, innocent lambs of America to accursed, corrupt European tigers. Yes, sir, the president and directors of the Bank of the United States have convinced me that all banking systems have a direct tendency to de-

press the indigent and necessitous, and add to wealth affluence—to affluence, power and domination; and this tendency, being in direct hostility to the principles of equality, and in support of those principles we know that the bland bosom of the land of our fathers has been bathed in our fathers' blood. You know, sir, that our fathers—nay, some of us, have fought and bled to make our country free, and permanently establish the principles of impartial equality. With this view of the subject how can I hesitate?

Much, to be sure, has been said about commerce. Is commerce to be seriously affected by a revocation of the charter? If so, I am sorry for it. Fair and honorable commerce is useful to the nation. But, sir, shall we refrain from the curtailment of a commerce which is well known to press hard upon the sacred plant of liberty? What said our fathers, in our Revolutionary war, of the comparative value of wealth to equality? I remember to have heard the fathers of three honorable Virginia gentlemen, now of this House, when advised by what is called a prudent, cautious, mercantile man, not to lavish their ample fortunes on the American contest, unhesitatingly reply: If the expenditure of all my fortune will be instrumental to the liberty of my country, thankfully shall it go, and then I shall leave my children an inheritance more truly valuable than all the wealth of Chili, Mexico, and Peru; and such were the sentiments of the patriots of that day. Oh, Nelson! \* never will this poor old soldier forget thy benevolence: that very coat thy patriotic charity bestowed, he had on his knapsack-galled back when the good Marquis de Lafayette thus accosted him: "My little soldier, had you ever the small pox?" He said, "No." The Marquis said, "You are then unfit for the purpose I wanted you for." The soldier replied, "The small-pox cannot hurt me when executing the orders of my General." I will not tell what the Marquis said upon that occasion; but I will most positively assert that I would not take (old as I am, and as many children as I have) one hundred shares in the United States Bank for it. I hope this honorable Committee will not take my mention of this little matter as an evidence of my vanity; for I really intended it as an apology to the cool, dispassionate, calculating gentlemen on the other side of the question, for my unwillingness to exchange the sentiments of Henry for the feelings of Hook, † or even Jamy Cowan.

\* General Thomas Nelson, of Yorktown, Virginia, sacrificed a large fortune in furnishing soldiers with equipments necessary for their active service.

† The Marquis de Lafayette, when following the British army from Richmond, Virginia, to York, encamped some days in Massay's old field, with expectation that the enemy might give him battle. He there requested General Robert Lawson to send him an officer to execute a secret order. Upon that occasion the conversation passed between the young soldier and his General. The small-pox was in Richmond.

‡ See Wirt's Life of Patrick Henry. Hook, a tory, brought suit against Venable, for impressing beef. Cowan his attorney; Henry for defendant.

I never shall forget the feelings I had when a poor, unprotected orphan boy; and, therefore, hope the vote that we may give upon this occasion may keep the patriot soldier's son from wishing his gallant father had been a tape-seller, or a stock-jobber, instead of a meritorious soldier. We cannot stop this overwhelming influence of money. Captain Henry, who got \$50,000 for betraying his master's secrets, will stand as high in public estimation as Thomas Nelson, or old Benjamin Harrison, \* who spent, each of them, at least \$50,000 in their country's cause, without a hope of remuneration.

I will now say a little to my Virginia friends about State rights. It was but the other day that the whole country, from the extreme south line of Pennsylvania to the Ohio river, down that river to its mouth, up the Mississippi to its head, and all the country south and west of those boundaries, was in a blaze, about the destiny of negroes that may be hereafter born. And why? Because the South and West members thought, and I think rightfully, too—indeed I know it—that the East and North members were infringing on their State rights, and wished to legislate upon property exclusively belonging to the South and West. Where is now fled our flaming zeal for sacred State rights? It cannot be smothered in bank paper. Here is a proper occasion to bring it forth. What are we about to do this day? Can we say our State rights are not endangered by the United States Bank? Have we not got reasons to believe, from the known complexion of a majority of the members of the United States Supreme Court, that that court will determine that the United States Bank have a right to extend her branches over every individual State in the Union, and that the States have no right to prune them? This fact I do know, that, if an unwelcome guest was palmed upon me, I should think my individual rights a little trespassed upon if I could not at least charge him for his accommodation. When we were borrowing money from old England to put our mammoth bank in motion, strange to me that we did not think of the condition of the thousands of poor, miserable British slaves, who, long before this, would have broke their chains had they not have been riveted by the baneful influence of the banks. I wished to have said more upon this subject; but, knowing that in historical and bank knowledge I am far beneath those gentlemen who have gone before me, or may follow after, I shall submissively decline all further observations.

The question was then taken on the resolution offered by Mr. JOHNSON, of Virginia, as follows:

*Resolved, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' passed April 10, 1816."*

And decided in the negative—yeas 23.

After the proposition to repeal the charter had

\* Governor Harrison spent an ample fortune in the cause.



passed in the negative, the Chair announced the *scire facias* as the next subject in order before the Committee.

Mr. TRIMBLE said that he had only risen to ask the question to be taken. As he had offered this resolution directing a *scire facias* to issue, it was, perhaps, a duty which he owed to himself to explain his views and discuss the whole subject at large. He was prepared, he said, to do so, but at this late day of the session, and late hour of the day, it would be unpardonable in him to intrude himself upon their patience; more especially, too, when it is manifest that the House is anxious to get forward, and despatch business in relation to public service which could not be pre-terminated.

This, he said, was the first time it had become his duty to vote upon the banking power, and, as the constitutional question is involved in the propositions, he ought, in justice to himself, state distinctly the opinion which would govern his vote, and for that purpose only, he would crave from the Committee a momentary indulgence.

He had just voted, he said, to repeal the charter, because it was his fixed and settled opinion that there was no power in the Constitution under which Congress could create the corporation. The distinction between express and implied powers was well understood, and the principles used as auxiliaries to assist in expounding the instrument had been agreed on all sides. He had searched, he said, in vain for an express banking power in the Constitution. It was not to be found. Many explorers had preceded him in quest of that power, but no one had returned with the discovery. The express powers are well defined, and yet doubts had arisen as to the extent of some of them. For instance, it is declared in the Constitution that "Congress shall have power to establish post offices and post roads," and yet it is contended that Congress has no power to construct a post road. Now, if it was in like manner declared that Congress shall have power to establish banks and banking houses, no one would be hardy enough to contest the existence of the banking power; and conversely, if doubts may fairly arise upon the post road power, under the clause recited, the same principles and course of reasoning which start the doubt will lead to the inevitable conclusion that the banking power does not exist. In his opinion, the power to construct post roads was clearly and expressly given, and it was equally clear to him that the banking power is not expressly granted. Was it to be found among the implied powers—that is to say, implied powers, necessary and proper to carry express powers into full effect and operation? He had pondered, he said, upon this subject not a little. He had attempted again and again to locate this implied banking power upon some one of the express powers; he had put in requisition all the auxiliary principles usually employed in expounding the Constitution, and had passed a strict and rigid inquest upon all its sections, and had been totally unable to find any section, clause, or article, upon which he could anchor this banking power.

He had finally concluded that it was not to be found in the family of implied powers, and under that conclusion he had just voted to revoke the charter, and would now vote for the resolution to order a *scire facias*. Laboring, as he did, under those convictions, it was impossible for him to vote in favor of the bank; and therefore, it was unnecessary for him to make up or express any opinion upon the questions of forfeiture. He had no doubt of the power of Congress to repeal an unconstitutional law, and he believed this to be such a law. The object he had in view would be attained if the Supreme Court should decree a forfeiture and dissolve the corporation.

He did not intend, he said, to delay the Committee one moment to hear remarks from him upon the various points which had been debated. The States, the Union itself, might be considered a corporation, and it is manifest that the great interests of the community are paramount to all banking interests. Banks are a kind of labor-saving machines that should cease to exist the moment they cease to be useful. How far the United States Bank has performed the great objects and purposes which have been assigned to it, is known to all of us; how far it will be able to perform them in future, time will determine. If it shall fail in attaining its objects, and that failure shall be traced to the mismanagement of the directors, there will always exist a disposition to correct abuses and restore confidence; but if the bank itself has been incurably crippled and maimed, the sooner it is voted out of the country the better. It was created to assist the fiscal operations of the Treasury, and to restore specie payments. The gentleman from South Carolina says that it has effected these objects—and so it has. But it is under an engagement with the public to continue those services to the end of the charter; and a promise had been given that it would equalize exchange and check the issues of local paper. Can it do this? Has it retained the ability to meet the public expectation? If it has not, will its disability originate in its waiver of the second instalment? Will it languish for years as the Bank of England did, because it pre-empted the specie payment of the second quota of stock? Is it a salvo for all the evils of excessive banking, or will it only protract the crises to make the agony more painful? Here several questions cast up for discussion, and succeed each other, embracing a variety of facts and calculations, and opening a wide field of inquiry. If he had found a favorable moment to claim the floor, he would have made an effort to present the subject in new aspects and relations. He would have felt some pleasure in doing so, but he would not forfeit his claims to the indulgence of the Committee by surprising them into a renewal of the debate; and, therefore, would only intimate his conviction that, unless the directors of the bank shall make a radical change in the administration of its concerns, we shall meet here next session under a derangement and depreciation of the paper currency heretofore unknown in this Union. He hoped he might be mistaken, but his predic-

tion was founded on facts, and the results of long experience.

The question was then put on the resolution offered by Mr. TRIMBLE, to issue a *scire facias*, and decided in the negative—ayes 28.

The resolutions offered by Mr. SPENCER, and also referred to this Committee, were withdrawn by him; and

The Committee took up the bill reported by the bank committee, to enforce the act of incorporation by prohibiting the pretended distribution of shares for the purposes of undue influence in the elections of directors.

Mr. SPENCER proposed various amendments, intended to render the provisions of the bill more effectual; all of which were agreed to.

Mr. BASSETT then moved two amendments; the first, substantially, to compel the bank to redeem all its notes with specie, at whatever branch they might be presented for payment. The object of the second amendment was to prohibit any director of the bank, while acting as such, from dealing in the stock of the bank. Both propositions were negatived by very large majorities; and the Committee of the Whole then rose, and reported their proceedings to the House; and the House adjourned.

#### THURSDAY, February 25.

Mr. POINDEXTER, from the Committee on the Public Lands, to which was referred the bill from the Senate, entitled "An act making further provisions for the sale of the public lands," reported the same with an amendment, and the bill was laid on the table.

Ordered, That the Committee on the Public Lands be discharged from the further consideration of the petitions, memorials, and other subjects to them referred at the present session, upon which they have not acted, and that the same be laid on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of the House, of the 22d instant, requiring information whether any, and, if any, what part of the balances from the State banks, to the Bank of the United States, under the second article of the compact between them, for which balances the Bank of the United States was to receive interest, were retained by the Bank of the United States as special deposits; which letter was ordered to lie on the table.

The SPEAKER also laid before the House another letter from the Secretary of the Treasury, in answer to another resolution of the 22d instant, requiring information whether any, and, if any, what part of the balances transferred from the Treasury, to the Bank of the United States, under the second proposition of its agreement with the receiving banks, of the 31st of January, 1817, were drawn from the Bank of the United States, by any department of Government, between the 31st January and 1st July, 1817, exclusive of the sums required by the Treasury, under the exception contained in the second proposition; which

15th CON. 2d SESS.—45

letter was read, and also ordered to lie on the table.

Mr. LIVERMORE, from the Committee on the Post Office and Post Roads, to which was referred the bill from the Senate, entitled "An act to repeal part of an act passed on the 27th day of February, 1813, entitled 'An act in addition to an act regulating the Post Office Establishment,'" reported the same without amendment; and the bill was ordered to be read a third time tomorrow.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to which were referred bills from the Senate of the following titles, to wit: An act for the relief of Samuel Ward, and An act for the relief of the heirs and legal representatives of Nicholas Vreeland, deceased, reported the said bills without amendment, and they were respectively committed to a Committee of the Whole tomorrow.

The amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government, for the year 1819," were read and referred to the Committee of Ways and Means.

Bills from the Senate of the following titles, to wit: An act providing for the better organization of the Treasury Department; An act in addition to "An act concerning tonnage and discriminating duties in certain cases;" An act to protect the commerce of the United States, and punish the crime of piracy; and, An act to continue in force for a further term the act, entitled "An act for establishing trading-houses with the Indian tribes, and for other purposes," were severally read twice, and referred; the first and second, to the Committee of Ways and Means; the third, to the Committee on the Judiciary; and the fourth, to the Committee on Indian Affairs.

The resolution from the Senate, "requesting the President to employ an artist to ascertain the latitude of 36 degrees 30 minutes north, on the west bank of the Tennessee river," was read twice, and referred to the Committee on the Public Lands.

The bill from the Senate, entitled "An act to designate the boundaries of districts and establish land offices, for the disposal of the public lands, not heretofore offered for sale, in the States of Ohio and Indiana," was read a third time, as amended; and being on its passage, Mr. STROTHER moved that the said bill be laid upon the table; which motion was rejected; and the question being taken, Shall the said bill pass? it passed in the affirmative.

The bill from the Senate, entitled "An act respecting the location of certain lands to be granted for the seat of government in the State of Indiana," was also read the third time, and passed.

An engrossed "Resolution requesting the President of the United States to cause astronomical observations to be made to ascertain the longitude of the Capitol in the City of Washington, from some known meridian in Europe," was read the third time, and passed.

The bill to diminish the duty on certain wines,



and to declare free of duty books printed in foreign languages, was taken up, amended, and ordered to a third reading.

The House went into Committee, on the bill making appropriations for the Public Buildings. Various amendments were made to the bill; and it was finally reported to the House, filled up as follows:

For erecting the centre building of the Capitol, \$136,644.

For finishing the gates, the iron railing, and the enclosure north of the President's House, \$5,344.

For enlarging the offices west of the President's House, \$8,127.

For purchasing a lot of land, and for constructing pipes, for supplying the Executive Offices and President's House with water, \$9,125.

Thus amended, the bill was ordered to be engrossed and read a third time.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: An act for the relief of Francis B. Languille; an act for the relief of Lewis H. Guerlain; an act for the relief of Rosalie P. Deslande; an act for the relief of Joseph McNeil; an act for the relief of Eli Hart; an act for the relief of Nathan G. Birdseye and Daniel Booth; an act for the relief of John Rodriguez; an act for the relief of Joseph Dozet and Antoine Bourgoud; and an act to regulate and fix the salaries and compensation of the registers and receivers of public moneys in the land offices; in which bills they ask the concurrence of this House.

#### BANK OF THE UNITED STATES.

The House took up and proceeded to consider the report of the Committee of the Whole on the state of the Union, made yesterday, on several subjects referred to it in relation to the Bank of the United States; when,

Mr. SPENCER withdrew his motion to lay the said report upon the table.

The question was then taken to concur with the Committee of the Whole in their disagreement to the resolution submitted by Mr. JOHNSON, of Virginia, in the following words, to wit:

*Resolved*, That the Committee on the Judiciary be instructed to report a bill to repeal the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' approved April 10, 1816."

And passed in the affirmative—yeas 121, nays 30, as follows:

YEAS—Messrs. Abbott, Adams, Anderson of Kentucky, Bateman, Bayley, Beecher, Bennett, Bloomfield, Boss, Bryan, Butler of Louisiana, Campbell, Claggett, Cobb, Colston, Comstock, Crafts, Cruger, Cushman, Daffington, Davidson, Earle, Ervin of S. C., Fisher, Folger, Fuller, Gage, Gilbert, Hale, Herkimer, Hitchcock, Holmes, Hopkinson, Hubbard, Hunter, Huntington, Jones, Kinsey, Kirtland, Lawyer, Lewis, Linn, Little, Livermore, Lowndes, McLane of Delaware, W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Samuel Moore, Morton, Moseley, Murray, J. Nelson, H. Nelson, New, Newton, Orr, Owen, Parrott, Pawling, Peter, Pitkin, Pleasants, Poindexter, Porter,

Quarles, Reed of Maryland, Reed of Georgia, Rhea, Rice, Rich, Ringgold, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, B. Smith, Alexander Smyth, J. S. Smith, Southard, Speed, Spencer, Storrs, Strother, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrell, Terry, Tompkins, Townsend, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Wallace, Wendover, White-side, Whitman, Wilkin, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Allen of Massachusetts, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Blount, Boden, Burwell, Desha, Garnett, Hall of N. C., Harrison, Hendricks, Herrick, Hogg, Hostetter, Johnson of Virginia, McLean of Illinois, Marchand, Robert Moore, T. M. Nelson, Patterson, Pegram, Pindall, Seybert, Trimble, Walker of Kentucky, and Williams, of New York.

The question was then taken, also, to concur with the Committee of the Whole, in their disagreement to the resolution submitted by Mr. TRIMBLE, in the following words, to wit:

*Resolved, by the Senate and House of Representatives of the United States in Congress assembled*, That the Attorney General of the United States, in conjunction with the District Attorney of the State of Pennsylvania, shall immediately cause a *scire facias* to be issued, according to the 23d section of the 'Act to incorporate the subscribers to the Bank of the United States,' calling on the corporation created by the said act to show cause wherefore the charter thereby granted shall not be declared forfeited; and that it shall be the duty of the said officers to cause such proceedings to be had in the premises as shall be necessary to obtain a final judgment thereon; for the expenses of which Congress will hereafter provide."

And passed in the affirmative—yeas 116, nays 39, as follows:

YEAS—Messrs. Abbot, Adams, Allen, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Bateman, Bayley, Bennett, Bloomfield, Boss, Bryan, Claggett, Cobb, Colston, Comstock, Crafts, Cruger, Cushman, Daffington, Davidson, Earle, Edwards, Fisher, Folger, Fuller, Gage, Garnett, Gilbert, Hale, Herkimer, Holmes, Hopkinson, Hubbard, Hunter, Huntington, Jones, Kinsey, Kirtland, Lawyer, Lewis, Lincoln, Linn, Little, Lowndes, McLane of Del., W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Middleton, Mills, Samuel Moore, Morton, Moseley, Murray, Jeremiah Nelson, H. Nelson, Newton, Ogden, Orr, Owen, Parrott, Pawling, Peter, Pitkin, Pleasants, Poindexter, Porter, Quarles, Reed of Maryland, Reed of Georgia, Rice, Rich, Ringgold, Robertson, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, J. S. Smith, Southard, Storrs, Strother, Stuart of Maryland, Tallmadge, Taylor, Terrell, Terry, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Upham, Walker of North Carolina, Wallace, Wendover, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Blount, Boden, Burwell, Butler of Louisiana, Campbell, Desha, Ervin of South Carolina, Floyd, Hall of North Carolina, Harrison,

Hendricks, Herrick, Hitchcock, Hogg, Hostetter, Johnson of Virginia, McLean of Illinois, Marchand, Marr, Robert Moore, T. M. Nelson, Patterson, Pegram, Pindall, Rhea, Rogers, Speed, Spencer, Tarr, Trimble, Tyler, Walker of Kentucky, Williams of New York, and Williams of North Carolina.

So the House concurred with the Committee of the Whole in rejecting both resolutions.

The House then took up the amendments reported by the committee to the bill "to enforce those provisions of the act to incorporate the subscribers to the Bank of the United States, which relate to the right of voting for directors."

Mr. STORRS moved that the said bill and amendments lie on the table; which was rejected.

And a motion was made by Mr. PINDALL to refer the said bill to the Committee on the Judiciary, with instructions to amend the same by additional sections:

*First*, To prohibit the offence of usury, and to declare the punishment thereof, when committed by the Bank of the United States or its branches, or by the directors, officers, or agents thereof, whilst employed for, or on behalf of the bank, and to prescribe the mode of prosecution for such offence.

*Secondly*, To prohibit the establishment or continuance by the said bank, of any office of discount or deposit, in any State, after the first day of February, in the year 1820, unless by the consent of the Legislature of such State.

The question being stated to agree to the reference of the said bill with the instructions above, Mr. HARRISON moved that the bill be postponed indefinitely; which was rejected.

And the question was taken to agree to the motion submitted by Mr. PINDALL; and determined in the negative.

The question then recurred on the first amendment of the Committee of the Whole, to which Mr. SPENCER moved an amendment; when,

Mr. BALDWIN moved that the said bill be postponed indefinitely; which was again rejected; and the amendment moved by Mr. SPENCER was agreed to.

The first amendment to the said bill being further amended, was agreed to as amended; and the residue of the amendments reported by the Committee of the Whole were also agreed to with amendments.

A motion was made by Mr. STORRS further to amend the said bill, by striking out from the first section thereof these words: "and that, in voting at this election, I shall not in any manner violate the first fundamental article of the 'Act to incorporate the subscribers to the Bank of the United States.'" This motion was rejected; when,

Mr. TERRY moved to amend the first section by striking out these words: "that I have no interest, directly or indirectly, in the shares upon which I shall vote in this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly and in good faith, owned by the persons in whose names they now stand; and that in voting at this

election, I shall not in any manner violate the first fundamental article of the 'Act to incorporate the subscribers to the Bank of the United States,'" and in lieu thereof, to insert: "that I have not transferred, nor procured to be transferred, the shares upon which I shall vote at this election as attorney for others, to the persons in whose names such shares now stand, nor were the same subscribed in the name of such persons, for the purpose or with the intent to increase the number of votes which I am entitled by law to give; according to my best knowledge and belief, such persons are, *bona fide*, owners of such shares, or have an interest therein."

Mr. HARRISON again moved that the said bill be postponed indefinitely; which motion was again rejected.

And the question was then taken, to agree to the amendment proposed by Mr. TERRY; and determined in the negative.

A motion was then made by Mr. JOHNSON, of Virginia, further to amend the said bill, by adding thereto the following, as the fourth section thereof:

SEC. 4. *And be it further enacted*, That if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present, or reward, or any promise, contract, obligation, or security, for the payment or delivery of any money, present, or reward, or anything to obtain or procure the opinion, vote, or interest of the President of the Bank of the United States, or either of the Directors thereof, or the president or a director of either of the branches of the said bank, in any election, question, matter, or thing, which shall come before the said president and directors for decision, in relation to the interest and management of the said bank, and shall be thereof convicted, such person or persons, so giving, promising, contracting, or securing to be given, paid, or delivered, any sum or sums of money, present, reward, or other bribe, as aforesaid, and the president or director who shall in anywise accept or receive the same, on conviction thereof, shall be fined and imprisoned at the discretion of the court, and shall be forever disqualified to hold any office of trust or profit under the said corporation, and shall also forever be disqualified to hold any office of honor, trust, or profit, under the United States.

And the question being taken to agree to the said section, it passed in the affirmative—yeas 98, nays 26, as follows:

YEAS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Austin, Barbour of Virginia, Bassett, Bayley, Beecher, Bennett, Bloomfield, Blount, Boss, Bryan, Burwell, Butler of Louisiana, Campbell, Cobb, Crawford, Cruger, Davidson, Desha, Garnett, Gilbert, Hale, Hall of North Carolina, Harrison, Hendricks, Herrick, Hitchcock, Hogg, Hostetter, Irving of New York, Johnson of Virginia, Jones, Kinsey, Lawyer, Linn, Little, Livermore, Lowndes, McLane of Delaware, McLean of Illinois, W. P. Maclay, McCoy, Mercer, Merrill, Mills, Samuel Moore, Moseley, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, Newton, Orr, Patterson, Pegram, Peter, Pindall, Pitkin, Porter, Reed of Maryland, Reed of Georgia, Rhea, Rich, Richards, Ringgold, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Settle, Seybert, Shaw, Slocumb, S. Smith, Alexander Smyth, Speed, Spencer, Storrs, Strother, Stuart of Maryland, Tarr,



H. OF R.

Proceedings.

FEBRUARY, 1819.

Taylor, Terrell, Tompkins, Townsend, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wendover, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

**NAVS**—Messrs. Abbot, Adams, Baldwin, Clagett, Colston, Crafts, Darlington, Folger, Holmes, Hopkinson, Hubbard, Huntington, Kirtland, W. Maclay, Mason of Massachusetts, Morton, Ogden, Palmer, Pawling, Poindexter, Rice, Southard, Terry, Wallace, Whitman, and Wilkin.

A motion was made by Mr. POINDEXTER to add to the said bill the following, viz:

"That this act shall commence and be in force when the same shall have been assented to by a majority of the stockholders of the Bank of the United States."

Which motion was rejected.

And the question was then taken, Shall the said bill be engrossed and read a third time? and passed in the affirmative—yeas 98, nays 38, as follows:

**YEAS**—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Bateman, Bayley, Beecher, Bennett, Bloomfield, Blount, Bryan, Burwell, Campbell, Cobb, Colston, Crawford, Cruger, Davidson, Desha, Fisher, Floyd, Gilbert, Hale, Hall of North Carolina, Harrison, Hogg, Holmes, Hostetter, Hubbard, Irving of New York, Jones, Kinsey, Lawyer, Lewis, Little, Livermore, Lowndes, McLane of Del., McLean of Illinois, W. P. Maclay, McCoy, Middleton, Mills, Samuel Moore, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Newton, Orr, Owen, Palmer, Patterson, Pegram, Peter, Pindall, Pitkin, Reed of Md., Reed of Georgia, Rhea, Rich, Richards, Robertson, Rogers, Ruggles, Sampson, Savage, Sawyer, Scudder, Stille, Seybert, Shaw, Simkins, Slocumb, Alex. Smyth, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storey, Stuart of Maryland, Tallmadge, Tarr, Taylor, Tompkins, Townsend, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

**NAYS**—Messrs. Barbour of Virginia, Bassett, Boss, Butler of Louisiana, Clagett, Crafts, Darlington, Folger, Garnett, Hendricks, Hitchcock, Hopkinson, Huntington, Johnson of Virginia, Kirtland, W. Maclay, Mason of Massachusetts, Mason of Rhode Island, Mejer, Morton, Moseley, Ogden, Parrott, Pawling, Poindexter, Rice, Ringgold, Schuyler, Sergeant, Sherwell, Silsbee, S. Smith, Southard, Strother, Terrell, Terry, Westerlo, and Williams of Connecticut.

The bill was then ordered to be read a third time to-morrow.

FRIDAY, February 26.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was referred bills of the Senate, of the following titles, to wit: "An act to protect the commerce of the United States and punish the crime of piracy;" and "An act respecting the transportation of persons of color, for sale, or to be held to labor," reported the same without amendment. The former of the said bills, was ordered to be read a third time to-day, and the latter to lie on the table.

Mr. RICH, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Gabriel Godfroy," made a report recommending that the said bill be rejected. The bill was ordered to lie on the table.

Mr. RICH, from the same committee, to which was also referred the bill from the Senate, entitled "An act for the relief of Nathan Ford," reported the same with amendments, and the bill was committed to a Committee of the Whole to-morrow.

Mr. PLEASANTS, from the Committee on Naval Affairs, made an unfavorable report on the petition of James Warren, an officer in the naval service of the Revolutionary war; which was read and ordered to lie on the table.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to whom was referred the bill from the Senate, entitled "An act providing for the better organization of the Treasury Department," reported the same without amendment, and the bill was committed to a Committee of the Whole to-morrow.

Mr. SMITH, from the same committee, also reported the bill from the Senate, entitled "An act in addition to an act concerning tonnage and discriminating duties," without amendment, and the bill was laid on the table.

On motion of Mr. SPENCER, the Committee of the Whole on the state of the Union was discharged from the further consideration of the resolutions submitted by him on the subject of the Bank of the United States, and the resolutions were ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the amendments of the Senate to the general appropriation bill for 1819.

These amendments, with one exception, were concurred in, after a long discussion, and reported to the House.

The House went into Committee of the Whole, Mr. WILKIN in the chair, on the bill to alter and establish certain post roads, and spent much time in disposing of the numerous amendments offered, as is usually the case, to this bill.

Before the bill was gone through, Mr. HUGH NELSON took occasion to express his disapprobation of the unlimited and unrestricted admission of propositions for post roads, to an extent which the whole Treasury of the nation would be unable to pay the expenses of, &c.

The Committee having risen and reported the bill, all the amendments were agreed to, with the exception of that which authorized a post route from Fort Wayne to Chicago, which was disagreed to; and the bill was then ordered to be engrossed for a third reading.

Mr. SOUTHARD, from the Committee on Indian Affairs, to which was referred the bill from the Senate, entitled "An act to enforce for a further term the act, entitled 'An act for establishing trading-houses with the Indian tribes, and for other purposes,'" reported the same without amendment, and the bill was ordered to be read a third time to-day.

FEBRUARY, 1819.

Military Academy—Public Printing.

H. OF R.

Mr. POINDEXTER submitted the following resolution, which was read, and ordered to lie on the table:

*Resolved*, That a committee be appointed to inquire into the expediency of providing for the establishment of a provisional government in the Territory of Florida, ceded to the United States by the late treaty with Spain, and that the said committee have leave to report by bill or otherwise.

On motion of Mr. ROBERT MOORE,  
*Resolved*, That the Secretary of the Navy be instructed to inquire whether, in his opinion, the public service will require any, and what, aid from the United States, for removing the obstructions occasioned by the sand bar at the entrance of the harbor of Presque Isle, on Lake Erie, in the State of Pennsylvania, and make report at the next session of Congress.

On motion of Mr. HUGH NELSON,  
*Resolved*, That the Committee on Accounts be authorized and directed to make the same allowance for extra service to each person serving this House as was granted at the end of the last session.

Mr. ROBERT MOORE submitted the following resolution:

*Resolved*, That the Secretary of War be instructed to inquire whether the public interests of the United States will be promoted by subscribing for — shares of stock in the turnpike road leading from the city of Pittsburg to the town of Waterford, in the State of Pennsylvania, and make report thereon at the next session of Congress.

The said resolution was read, and the question being taken to agree thereto, it was determined in the negative.

Bills from the Senate of the following titles, to wit: An act for the relief of Francis B. Languille; an act for the relief of Lewis H. Guerlain; an act for the relief of Rosalie P. Deslandes; an act for the relief of Joseph McNeil; an act for the relief of Eli Hart; an act for the relief of John Rodriguez; an act for the relief of Joseph Dozet and Antoine Bourgoud; an act for the relief of Nathan G. Birdseye and Daniel Booth; and an act to regulate and fix the salaries and compensation of the registers and receivers of public moneys of the land offices, were severally read the first and second time, and referred—the first, second, third, fourth, fifth, sixth, and seventh to the Committee of Claims; the eighth to the Committee on the Judiciary, and the ninth to the Committee on the Public Lands.

Bills from the Senate of the following titles, to wit: An act to continue in force for a further term the act, entitled "An act for establishing trading-houses with the Indians, and for other purposes;" an act to protect the commerce of the United States, and punish the crime of piracy; and an act to repeal part of an act passed on the 27th day of February, 1813, entitled "An act in addition to an act regulating the post office establishment," were severally read the third time, and passed.

An engrossed bill to reduce the duties on certain wines, and to declare free of duty books printed in foreign languages, was read the third time, and passed.

*Ordered*, That the title be, "An act to reduce the duties on certain wines."

An engrossed bill, entitled "An act making appropriations for the public buildings, for the purchase of a lot of land, and for furnishing a supply of water for the use of certain public buildings," was read the third time, and passed.

#### MILITARY ACADEMY.

Mr. RICH, having obtained the floor, remarked that he rose for the purpose of submitting a motion, the object of which was to call upon the Secretary of War for information, to be communicated at the next session of Congress, in relation to the Military Academy. He said he had been induced to submit the motion from a belief that, either in the organization of the government of the Academy, or in the administration of it, there were some defects; and from a further belief that Congress were not possessed of the information necessary to enable it to judge whether the country received a fair equivalent for the large expenditures which were annually made upon that institution. He then submitted the following resolutions, which were adopted:

*Resolved*, That the Secretary of War be instructed to report to this House, at an early period of the next session of Congress, a copy of such rules and regulations as shall have been adopted for the government of the Military Academy; together with a list of the cadets which were attached to the academy on the first day of January, 1816, and of such as shall have been appointed between the said 1st of January and 30th September, 1819; exhibiting the date of their several appointments, with the States and Territories from whence they came; a list of such as shall have resigned or shall have been dismissed, and at what period; also, a list of such as shall have been commissioned in the army, with the date of their commissions, and of such as shall have resigned, with the date of their resignations.

*Resolved, also*, That the said Secretary be instructed to report as aforesaid, whether any, and, if any, what legislative provisions are necessary for the more convenient organization and government of the said academy, the better to insure a strict obedience to all proper orders, and a suitable respect for all the rights of those whose duty it may be to yield obedience.

#### PUBLIC PRINTING.

The House took up and proceeded to consider the report of the Joint Committee on the subject of the public printing. The said report was read, in which is contained the following proposition:

"III. Under all circumstances, the committee have deemed it their duty to recommend that a tariff of prices for every kind of printing required to be done for Congress, be fixed by a joint resolution of the two Houses, to continue in force for two years; and that before the close of the present session, each House make choice, by ballot, of a printer, to execute its own work during the next Congress. The prices should be adequate to the employment of sufficient capital and workmen to perform the work expeditiously, and to insure such care and attention as shall give it such a degree of accuracy and elegance as shall not dishonor the literature and typography of the country. With former contracts before us, and with the professional



H. OF R.

Amendment to the Constitution.

FEBRUARY, 1819.

knowledge which may be called in aid, no difficulty would occur in forming the tariff alluded to, on principles at once liberal to the printer and advantageous to Congress; and in the selection of its printer, each House would doubtless take especial care to choose a man of capacity, probity, and responsibility. In addition to the bond and security to be required of them for the faithful performance of their obligations, a provision might be added, that in case of any unreasonable delay, another person might be employed to do the work, at such prices as the Secretary or Clerk might be able to get it done for, and that the public printers should respectively be responsible for any difference between the sum allowed them and that which it might be necessary to give him. The committee therefore submit the following resolution:

The resolution submitted in the said report being also read, as follows:

*Resolved*, That the Joint Committee on Public Printing be instructed to report a resolution for carrying the foregoing proposition into effect.

The question was then taken to concur in the said resolution, and passed in the affirmative.

## BANK OF THE UNITED STATES.

The engrossed bill to enforce the provisions of the charter of the Bank of the United States, so far as relates to the election of directors, was read the third time.

Mr. STORRS moved to recommit the bill, with instructions to strike out the provision inserted yesterday on motion of Mr. JOHNSON, of Virginia, making equal the offer to or acceptance of a bribe by any officer of the bank or any of its branches.

Mr. JOHNSON, of Virginia, opposed this motion, and justified the clause in question, by referring to the act which provided a similar guard to the purity of the Chief Justice and Judges of the Supreme Court, the terms of which act he quoted, and had copied them in the amendment to the present bill. There was, he argued, at least as much necessity for providing against corruption in this institution as in the Judges of the Supreme Court, and he trusted the amendment would be retained.

The motion to recommit was withdrawn; and the bill was then passed and sent to the Senate for concurrence.

*Ordered*, That the title be amended by adding the words, "and for other purposes;" and that the Clerk carry the three last mentioned bills to the Senate, and ask their concurrence therein.

## AMENDMENT OF THE CONSTITUTION.

The House then, on motion of Mr. SIMKINS, resolved itself into a Committee of the Whole, (Mr. SMITH, of Maryland, in the chair,) on the resolution from the Senate proposing an amendment to the Constitution of the United States, so far as to make uniform the mode of electing Electors of President and Vice President of the United States, and Representatives to Congress.

Mr. SIMKINS offered a few remarks in favor of the resolution, and of acting on it definitively, as it had passed one branch of the Legislature, and

been so long before the public that every mind was made up, and could decide on it without a protracted debate.

Mr. TUCKER, of Virginia, prefacing his motion with a few remarks in its support, proposed to amend the resolution so as to apportion the number of Electors of each State to the number of Representatives alone, and not to the number of Senators and Representatives of each State.

Mr. COBB spoke against taking up a subject of such great importance at this late period of the session; and hoped the Committee would rise and lay the resolution by.

Mr. TALLMADGE offered a few remarks, chiefly against the amendment proposed by Mr. TUCKER.

Mr. BARBOUR, of Virginia, opposed acting on a proposition, at this late hour, which went to change, in a great degree, the frame of our Government; and entered into a brief view of the effects of the resolution. In the course of his remarks he referred to a further amendment which it was the intention of Mr. TUCKER to offer, providing that, in the event of the election of the President devolving on the House of Representatives, according to the provisions of the Constitution, the election shall be determined by plurality of votes, instead of plurality of States.

Mr. WILLIAMS, of North Carolina, replied to Mr. BARBOUR, speaking briefly in favor of the resolution, and of acting on it immediately.

Mr. TAYLOR, to get rid of a subject which there was not now time properly to consider, and to which he was also opposed, moved that the Committee rise. The motion was lost—yeas 66, nays 66—the Chairman voting in the negative.

Mr. HOLMES spoke a short time against the amendment, which meant to weaken the influence of the small States, in the event of the Presidential election having to be decided by the House, which he was opposed to, although from a large State himself.

Mr. TUCKER supported his amendment by a few observations; and concluded by renewing the motion for the Committee to rise; which motion was carried, and, after discharging the Committee from the further consideration of the subject—

Mr. TAYLOR moved to lay the amendment on the table; which motion was decided in the affirmative, by yeas and nays: Yeas 79, nays 73, as follows:

YEAS—Messrs. Abbot, Anderson, of Pa., Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Beecher, Bennett, Blount, Boden, Boss, Burwell, Butler of Louisiana, Cobb, Comstock, Cook, Crawford, Fuller, Garnett, Hasbrouck, Hendricks, Herrick, Hitchcock, Hogg, Hostetter, Hubbard, Hunter, Irving of New York, Johnson of Virginia, Jones, Livermore, McLane of Delaware, W. Maclay, W. P. Maclay, McCoy, Marchand, Samuel Moore, Murray, H. Nelson, Thomas M. Nelson, Nesbitt, Newton, Palmer, Patterson, Pegram, Pleasants, Poindexter, Porter, Reed of Georgia, Rhea, Rice, Ringgold, Rogers, Sampson, Savage, Scudder, Shaw, Bal. Smith, Alexander Smyth, Southard, Spencer, Tallmadge, Tarr, Taylor, Terrell,

FEBRUARY, 1819.

Proceedings.

H. OF R.

Tompkins, Townsend, Tucker of Virginia, Tyler, Walker of Kentucky, Wallace, Wendover, Whiteside, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Bayley, Bloomfield, Campbell, Colston, Crafts, Cruger, Cushman, Darlington, Davidson, Desha, Edwards, Ellicott, Fisher, Folger, Gilbert, Hale, Hall of Delaware, Hall of North Carolina, Harrison, Herkimer, Heister, Holmes, Hopkinson, Huntington, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, Mason of Massachusetts, Mason of Rhode Island, Mercer, Merrill, Middleton, Mills, Robert Moore, Moseley, Jer. Nelson, New, Ogden, Ogle, Orr, Owen, Parrott, Pawling, Peter, Pindall, Pitkin, Reed of Maryland, Rich, Richards, Robertson, Rugles, Seybert, Sherwood, Silabee, Simkins, Slocumb, Samuel Smith, J. S. Smith, Speed, Storrs, Terry, Tucker of South Carolina, Upham, Walker of North Carolina, Westerlo, Whitman, Williams of Connecticut, Williams of New York, and Williams of North Carolina.

SATURDAY, February 27.

The SPEAKER presented a petition of William Jackson, solicitor on behalf of the surviving officers of the Revolutionary army, praying that the report of the select committee, made at the present session, in behalf of his suffering constituents, may be called up and finally acted upon.—Laid on the table.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, reported a bill providing compensation to assessors in certain cases; which was read twice, and committed to a Committee of the Whole.

Mr. RICH, from the Committee of Claims, to which was referred the bill from the Senate, entitled "An act for the relief of Eli Hart," made a report recommending the rejection of the said bill. The bill was committed to a Committee of the Whole on Monday next.

Mr. RICH, from the same committee, to which was referred the bill from the Senate, entitled "An act for the relief of Joseph Dozet and Antoine Bourgoud," reported the same with an amendment, and the bill was committed to a Committee of the Whole last appointed.

Mr. RICH, from the same committee, to which was also referred the bill from the Senate, entitled "An act for the relief of Jacob Purkill," made a report recommending that the said bill be postponed indefinitely. This bill was also committed to the Committee of the Whole last appointed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri,' with amendments, in which they ask the concurrence of this House.

On motion of Mr. HOLMES, the Secretary of the Treasury was requested to inform this House, what sums of money have been paid to the Attorney General of the United States, for extra services, designating the services and the fund from which the money has been paid.

The Committee of the Whole, to which is

committed the bill confirming certain claims to land in the Territory of Illinois were discharged.

The House then proceeded to consider the said bill, and ordered the same to be engrossed and read a third time on Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

To the Senate and House of

Representatives of the United States:

The treaty of amity, settlement, and limits between the United States and His Catholic Majesty having been on the part of the United States ratified, by and with the advice and consent of the Senate, copies of it are now transmitted to Congress. As the ratification on the part of Spain may be expected to take place during the recess of Congress, I recommend to their consideration the adoption of such Legislative measures, contingent upon the event of the exchange of the ratifications, as may be necessary or expedient for carrying the treaty into effect, in the interval between the sessions, and until Congress at their next session may see fit to make further provision on that subject.

JAMES MONROE.

WASHINGTON, Feb. 26, 1819.

The Message was referred to the Committee on Foreign Relations, and permission given to the committee to sit during the sittings of the House.

The engrossed bill to alter and establish certain post roads was read the third time, and passed.

The amendments proposed by the Senate to the bill, entitled "An act explanatory of the act, entitled 'An act for the final adjustment of land titles in the State of Louisiana, and Territory of Missouri,'" were read and concurred in by the House.

The amendments proposed by the Senate to the bill, entitled "An act concerning invalid pensioners," were read, and referred to the Committee on Pensions and Revolutionary Claims.

A message from the Senate informed the House that the Senate have passed bills of this House of the following titles, to wit: "An act concerning invalid pensions," and "An act for the relief of Robert McCalla and Matthew H. Jouett," with amendments to each. They disagree to the amendment proposed by this House to the bill, entitled "An act to designate the boundaries of districts and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana;" and they have passed bills of the following titles, to wit: An act authorizing the purchase of fire engines and for building houses for the safekeeping of the same; an act for the relief of Solomon Prevost; an act for the relief of Bartholomew Duverge; an act for the relief of John Pettet; an act for the relief of John Anderson; an act for the relief of Alexander Milne; and an act for the relief of Christopher Fowler; in which amendments and bills they ask the concurrence of this House.

Bills from the Senate of the following titles, to wit: An act authorizing the purchase of fire engines, and for building houses for the safekeeping



H. OF R.

Appropriation Bill—Public Lands.

FEBRUARY, 1819.

of the same; an act for the relief of Solomon Prevost; an act for the relief of Bartholomew Duyerge; an act for the relief of John Pettet; an act for the relief of John Anderson; an act for the relief of Alexander Milne; and an act for the relief of Christopher Fowler; were severally read the first and second time, and referred, the first and fifth to Committees of the Whole on Monday next; the second, third, fourth, and sixth to the Committee of Claims, and the seventh to the Committee on Pensions and Revolutionary Claims.

The amendment proposed by the Senate to the bill, entitled "An act for the relief of Robert McCalla and Matthew H. Jouett," was read and concurred in by the House.

The House took up and proceeded to consider the message from the Senate, notifying their disagreement to the amendment of this House to their bill, entitled "An act to designate the boundaries of districts and establish land offices for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana;" and the said amendment being again read, whereupon it was resolved that this House recede from their said amendment.

The bill for erecting a light-house on Galloo island, &c., passed through a Committee of the Whole, (Mr. PITKIN in the chair,) received some amendments on the motion of Mr. NEWTON, and was ordered to be engrossed for a third reading.

The bills for the relief of James Orr and of Robert Kidd, and John McCausland, passed through a Committee of the Whole, (Mr. A. SMYTH in the chair;) and the bill extending the term of half pay pensions to the widows and children of certain officers, and seamen, and marines, who died in the public service; and the bill for the relief of B. and P. Jourdan, passed through Committees of the Whole, (Mr. TALLMADGE in the chair;) all of which bills were ordered to be engrossed for a third reading, and the last named was read the third time, passed, and returned to the Senate.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, to which were referred the amendments proposed by the Senate to the bill, entitled "An act concerning invalid pensioners," reported their agreement to the said amendments. The amendments were then read and concurred in by the House.

Mr. HOLMES, from that Committee on Foreign Relations, reported a bill, authorizing the President of the United States to take possession of West Florida, for the transportation thence of the East and Spanish authorities, and providing for the temporary government of the Territory, &c., which was twice read.

## GENERAL APPROPRIATION BILL.

The House resumed the consideration of the amendments of the Senate to the general appropriation bill, and concurred in all except that which was disagreed to by the Committee of the Whole yesterday, and so reported to the House. This amendment was an appropriation of four

thousand three hundred dollars, to be repaid to the owners of the British vessel Lord Nelson, which was captured on Lake Ontario, twelve days before the declaration of the late war, brought in and sold by agreement, and the moneys placed in the hands of the court; the capture was afterwards adjudged to be illegal, and the proceeds of the sale ordered to be refunded. In the mean time, the clerk of the court had absconded, with the moneys in his hands, and it was the purpose of this amendment to pay the amount out of the public Treasury.

Some debate took place on the amendment, in which it was opposed on the ground that the circumstances of the case had not been investigated by a committee of the House; that there were numerous claims of our own citizens which would be unsuccessful at this session, from the want of time to act on them; that this case ought not to have preference, &c. The amendment was supported on the merits and extreme hardship of the case, and the injustice of withholding payment, &c.

The disagreement to this amendment was concurred in by the House, and the bill was again sent to the Senate.

## PUBLIC LANDS.

The House took up the bill from the Senate, further to suspend, for a limited time, the sale or forfeiture of lands for failure to complete the payments thereon.

Mr. HENDRICKS moved to amend the bill inserting a clause to exempt from back interest all sums paid previous to the 31st of March, 1820; Mr. POINDEXTER and Mr. BARBOUR spoke against the amendment, and Mr. HARRISON in favor of it; the former upon the ground of its being a new principle, which ought not to be adopted without a greater necessity than now appeared to exist; that the bill to which the amendment was offered prevented a forfeiture of such lands as were not paid for one year longer; that this was going far enough—the purchasers had the advantage of the rise of the land, and it was no hardship to make them pay the back interest, which even a court of equity would have made them pay for not complying with their contracts.

To this Mr. HARRISON replied, that the amendment was a reasonable and just provision, both in relation to the public interests as well as that of individuals. The persons who would suffer by the present pecuniary embarrassments were the poorer class of people, who had no agency whatever in producing these embarrassments, and who were not able to bear the heavy penalty which the existing law imposed for suffering the day of payment to pass without making it. Many of them had settled in frontier situations, where the land had not appreciated more than the value of the improvements which had been made upon it. The provision for paying back interest was itself a very hard one, and such as a liberal individual ought not, nor would not, insist upon. The United States had heretofore rigidly exacted it; but the circumstances of the country, in rela-

MARCH, 1819.

Tonnage Duties.

H. OF R.

tion to money, were never before as embarrassing. If the amendment was adopted, it would stimulate all the public debtors to make every exertion to raise the money before the expiration of the term to which the bill was limited. That our Treasury would be more embarrassed in the present year than in any subsequent one, from the heavy instalments of the public debt which were to be paid this year. The public, therefore, would be gaining by any measure which would expedite the collection of their debts. It was true that the back interest would amount to a larger sum than the Government would be obliged to give if they were to borrow the money; but, as the back interest was intended to stimulate purchasers to punctuality, it would be in the highest degree unjust to exact it under circumstances like the present, when the want of punctuality was produced by events which those who were subject to pay it could not control.

Mr. HENDRICKS's motion was negatived, and the bill was ordered to a third reading; and, after an ineffectual attempt by Mr. MERON to lay it on the table, until the House should have acted on the bill requiring cash payments for public lands, the bill was read the third time, passed, and returned.

## TONNAGE DUTIES.

The House took up the bill from the Senate in addition to the act concerning tonnage and discriminating duties, [extending the provisions of that act to the vessels of Prussia, Hamburg, and Bremen.]

This bill was explained and supported in a short speech by Mr. PITKIN.

Mr. SMITH, of Maryland, was opposed to the bill in its present shape, and entered into some commercial statements to show that it was inexpedient, particularly as it was in the nature of a convention, and could not be altered for five years. Among his objections, Mr. S. said that a very heavy transit duty was laid by Prussia on our tobacco, passing through the Netherlands, up the Rhine, into her dominions, which had greatly affected the price of that staple in Holland; and he proposed an amendment, substantially, to require of Prussia to lay no higher duty on our tobacco, passing thither through the Netherlands, than was imposed on it if it entered in a Prussian port, as Dantzic, Stetten, Stralsund, &c.

Mr. TRIMBLE made a few remarks, observing, that if this extraordinary duty was laid by Prussia on our tobacco, we ought to impose a corresponding duty on her Silesia linens, &c., and thus beat her with her own weapons.

Mr. SMITH's proposition to amend was negatived by a large majority, and the bill was then read a third time, passed, and returned to the Senate.

MONDAY, March 1.

An engrossed bill for erecting a light-house upon Galloo island, near the outlet of Lake Ontario; for placing sundry spindels and buoys, and

for other purposes, was read the third time, and passed.

*Ordered*, That the title be, "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys on places designated in Boston, Buzzard, and Chesapeake bays, Lakes Ontario and Erie, and for other purposes."

An engrossed bill confirming certain claims to land in the Territory of Illinois was read the third time, and passed.

*Ordered*, That the title be, "An act confirming certain claims to land in the State of Illinois."

An engrossed bill for the relief of Robert Kidd, of Philadelphia, was read the third time, and passed.

*Ordered*, That the title be, "An act for the relief of Robert Kidd, Seth Webber, and Thomas Page."

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill authorizing the sale of certain military sites; which was read the first and second time, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. SPENCER,

*Resolved*, That the Secretary of the Treasury be requested to transmit to Congress, at an early period in the next session, a general statement of the condition of the Bank of the United States and its offices, similar to the returns made to him by the bank; and a statement exhibiting, as nearly as may be practicable, the amount of capital invested in the different chartered banks in the several States and in the District of Columbia; the amount of notes issued by those banks and in circulation; the public and private deposits in them; the amount of loans and discounts made by them and remaining unpaid; and the total quantity of specie they possess; and that he be requested also to report such measures as in his opinion may be expedient to procure and retain a sufficient quantity of gold and silver coin in the United States, or to supply a circulating medium in place of specie, adapted to the exigencies of the country, and within the power of the Government.

Engrossed bills of the following titles, viz: An act extending the term of half pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service; an act for the relief of John McCausland; and an act for the relief of James Orr, were severally read the third time, and passed.

The House, on motion, proceeded to the consideration of the bill from the Senate to continue in force an act regulating the currency within the United States of the gold and silver coins of Great Britain, France, Portugal, and Spain, and the crowns and five franc pieces of France.

On motion of Mr. LOWNDES, the bill was amended by an entire substitute, without, however, materially changing its provisions; which amendment was ordered to be engrossed, and was subsequently read the third time, passed, and sent to the Senate.

A message from the Senate informed the House that the Senate have passed bills of the following



H. OF R.

Connecticut Asylum—Occupation of Florida.

MARCH, 1819.

titles, to wit: "An act making provision for the civilization of the Indian tribes adjoining the frontier settlements;" and "An act granting a donation of land to the State of Illinois, for the seat of government of said State," in which two bills they ask the concurrence of this House.

The bill from the Senate granting a donation of land to the State of Illinois for the seat of government, was twice read, passed, and returned.

The bill from the Senate, entitled "An act making provision for the civilization of the Indian tribes adjoining the frontier settlements," was read twice, and referred to the Committee on Indian Affairs.

#### SURVIVING REVOLUTIONARY OFFICERS.

On motion of Mr. POINDEXTER, the Committee of the Whole, to which is committed the report of the select committee on the petition of William Jackson, solicitor on behalf of the surviving officers of the Revolutionary army, were discharged; and the House then took up and proceeded to consider the said report.

The report concludes with the following resolution:

"Resolved, That each officer of the Revolutionary army who was entitled to half pay for life under the several resolves of Congress upon that subject, and afterwards, in commutation thereof, received the amount of five years' full pay, in certificates or securities of the United States, shall now be paid, by the United States, the nominal amount of such certificates or securities, without interest, deducting therefrom one-eighth part of the said amount."

The report and resolution having been read, and the question having been stated on concurring with the Committee in the resolution—

Mr. McCoy moved that it be indefinitely postponed; which motion was decided in the affirmative, as follows: For postponement, 60; against it 48.

So the motion was rejected, and the subject dismissed for the present session.

#### CONNECTICUT ASYLUM.

The House next agreed, on motion of Mr. TERRY, by the casting vote of the Speaker, to take up the bill for the benefit of the Connecticut asylum for the deaf and dumb, [granting to it a donation of six sections of the public lands.]

Mr. TERRY briefly adverted to the humane object of this institution, its general and extensive utility, the number of unhappy objects who were already receiving the benefits of the asylum, &c. The bill was also supported by Mr. HARRISON, who agreed in opinion as to its general utility—there being numbers of the unfortunate beings for whose benefit it was intended, scattered through many of the States, if not all, &c.

The bill was opposed by Mr. BASSETT, who deemed the institution entirely a local one, not deserving more than any other local object, the expenditure of national funds on it. He sympathized with the subjects in the institution, but it was not a charitable one, as the rich alone, he understood, received the benefits of the asylum;

and he was unwilling to tax the poor for their support; and it was furthermore a precedent which might hereafter be regretted when too late. He moved the commitment of the bill.

Mr. TERRY replied that the institution was strictly charitable, as it was almost exclusively used for the benefit of the indigent.

Mr. POINDEXTER was unwilling to vote a donation of the public lands for this object; a similar donation had been refused to the individual States for the benefit of an university, &c.

Mr. PITKIN replied to the opponents of the bill at some length, and supported the humanity and extensive usefulness and benign effects of the institution.

The motion to commit the bill was lost; and the question being on a third reading, the debate became more extensive—it being supported by Messrs. ORR, TERRY, COLSTON, and MERCER; and opposed by Messrs. BASSETT and BARBOUR; the last named gentleman moving the indefinite postponement of the bill, which was negatived—ayes 43, noes 60, and the bill was then ordered to be engrossed for a third reading to-day.

#### OCCUPATION OF FLORIDA.

The House then, on motion of Mr. HOLMES, resolved itself into a Committee of the Whole on the state of the Union, to which was referred the bill authorizing the President of the United States to take possession, under the treaty with Spain, of East and West Florida, and providing for the temporary government of the territory.

Mr. HOLMES moved to amend the bill, by inserting a provision to authorize the appointment of commissioners for the adjustment of the claims and of the western boundary, in pursuance of the stipulations of the treaty, and providing the sum of — dollars to defray the expenses of the said commission.

Mr. H. in proposing this amendment, remarked, that it was made rather in pursuance of the suggestion of one of the Executive Departments, (the Secretary of State,) by whom it was considered necessary, than because it had been deemed essential by the committee. It remained for the House to decide whether it was now proper or not.

Mr. POINDEXTER thought that Congress would act more understandingly on this subject, if it waited for the ratification of the treaty. It was not now known what the duties of those commissioners would be; how extensive, what amount of spoliations they would have to adjust, &c. The bill constituting the commissioners ought to point out the place of their sitting, what kind of evidence they should receive, &c. All these points could be better settled and provided for after the treaty was ratified—until then, the provision would be premature.

Mr. HOPKINSON replied, in substance, that there was little doubt of the ratification of the treaty; and that by authorizing the appointment of commissioners now, much time would be saved; that many of the sufferers from these spoliations looked to this settlement for relief from their distress;

MARCH, 1819.

Slave Trade.

H. OF R.

that as the treaty would, in all probability, be ratified by July, five or six months of delay would be avoided; that, supposing the Government should allow the sufferers interest on their claims, a prompt settlement would be an important saving to the Government; that the proceedings on the Louisiana convention were similar to what was now proposed; and finally, that as some good might result from the amendment, and no inconvenience whatever, it had better be adopted.

Mr. CLAY expressed great confidence in all the committees of the House, but desired to make an inquiry of the chairman of the Committee of Foreign Relations, which was, whether the blank in the amendment for the compensation of the commissioners was also proposed in pursuance of the suggestion of the same Executive officer, who it seemed had suggested the amendment itself, and if so, what that sum was intended to be? Mr. C. proceeded to remark, in reply to Mr. HOPKINSON, that he might spare himself any trouble about interest on these claims; if the claimants should get the principal, they would, in his opinion, do very well, as the amount of the claims probably exceeded the five millions to be paid. But the truth was, Mr. C. said, legislation on this subject was premature, and not justified by the necessity of the case. There was no doubt the treaty would be ratified by the King of Spain, unless, on this as on some other subjects, he should be mad; and when the House had authorized the President merely to take possession of the territory, there legislation, at present, ought to stop. As, however, Ferdinand might think proper to withhold his assent from the treaty, this Government would cut rather a ridiculous figure, if it should now proceed in anticipation to execute its stipulations. Another objection Mr. C. observed was, that these commissioners required the confirmation of the Senate, and no time would be gained by this amendment, unless the commissioners were permitted to act before their appointment should be confirmed by the Senate. But, at any rate, very little time would be gained—a month or two at most, before the meeting of the next session of Congress, and he did not think, even if were proper, that it would be worth while now to act on it.

Mr. HOLMES replied that he was prepared to propose a sum for the blank, if the amendment should prevail. As to the suggestions of the Executive officer referred to, Mr. H. said, there were frequent occasions, on subjects like the present, where an Executive officer might be consulted advantageously to the public interests. A sum, it was true, had been suggested to the committee, which was considered requisite to provide for the service proposed by the amendment, but the House could decide if that sum was proper. The objection to this amendment derived from the necessary confirmation of the appointment of the commissioners by the Senate, Mr. H. said, had weight in it; and unless they could be appointed this session, they would be unable to act in the recess. Indeed he thought the bill, as it was, sufficient for the present purposes; but in offering the

amendment, it was believed it would expedite the settlement of the claims and be a saving to the United States.

Mr. POINDEXTER, among other remarks, said, the President could not make original appointments in the recess of the Senate; all he could do was to fill vacancies—therefore, he could not appoint the commissioners during the recess of Congress.

Mr. JOHNSON, of Virginia, remarked that every day discovered some improvement in legislation; every day brought forth some novelty in the proceedings of this House. Mr. J. then expressed his strong disapprobation of the practice of having salaries and appropriations pointed out to the House by Executive officers; and contended that the House could fix the salary of an officer, and know what was proper without any advice from that quarter.

The question was then taken on the proposed amendment, and decided in the negative without a division; and the bill was ordered to be engrossed, and was subsequently read a third time, passed, and sent to the Senate for concurrence.

#### THE SLAVE TRADE.

The House, on motion of Mr. MIDDLETON, went into Committee of the Whole Mr. PITKIN in the chair, on the bill in addition to the acts prohibiting the slave trade.

Mr. MIDDLETON took a succinct view of the provisions of this bill, the evils it was intended to remedy, the necessity for its enactment, &c.

Much debate arose on different features of this bill, as they came under consideration. The third and fourth sections, which provide bounties for the officers and crews of the public vessels which shall capture slaves importing into the United States, and to the informers who lead to the conviction of smugglers of slaves into the Union, were warmly opposed by Mr. STROTHER for various reasons of expediency, and not from unwillingness to destroy the traffic and kidnapping, &c., of slaves. Mr. NELSON, opposed these sections because the penalties were not heavy enough for the offence, which he thought ought to be punished with death.

Mr. MERCER supported the bill throughout, explaining and defending its provisions against all objections.

In the course of the discussion, Mr. BUTLER, of Louisiana, proposed the following as an additional section, which he prefaced by a few remarks to show that the clause he offered was called for by a due regard for the interests of the State which he represented. The amendment was in the following words, and was agreed to without opposition, viz:

"That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo for adjudication into some of the ports of the State or Territory to which such vessel so captured shall belong, if he can ascertain the same, if not, then to be sent into any convenient port of the United States."



H. or R.

Proceedings.

MARCH, 1819.

Mr. PINDALL, after some prefatory remarks, offered the following, as an additional section which was agreed to, viz:

"That every person who shall import into the United States, or knowingly aid or abet the importation into the United States, of any African negro, or other person, with intent to sell or use such negro, or other person, so to be imported, as a slave, or shall purchase any such slave, knowing him or her to be thus imported, shall, on conviction thereof, in any circuit court of the United States, be punished by death."

After unsuccessful attempts of Mr. STROTHER, to strike out the third and fourth sections, the Committee rose and reported the amendments to the House which were concurred in; and the bill was ordered to be engrossed for a third reading.

The engrossed bill for the benefit of the Connecticut Asylum, for the instruction of the deaf and dumb, was read the third time.

Mr. STROTHER spoke some time in opposition to the bill, and was replied to by Messrs. TERRY, PITKIN, and LIVERMORE; when the bill was passed, yeas 57, noes 45, and sent to the Senate for concurrence.

TUESDAY, March 2.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, to which was referred the bill from the Senate, entitled "An act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned," reported the same, without amendment; and the bill was committed to a Committee of the Whole to-day.

Mr. RICH, from the Committee of Claims, to which was referred bills from the Senate, of the following titles, to wit: "An act for the relief of Rosalie P. Deslande," and "An act for the relief of Francis B. Languille," reported the said bills, with an amendment to the latter, and the bills were committed to a Committee of the Whole to-day.

Mr. H. NELSON, from the Committee on the Judiciary, to which is referred the bill from the Senate, entitled "An act for the relief of Nathan G. Birdseye and Daniel Booth," reported the same without amendment, and the bill was ordered to be read a third time to-day.

Mr. POINDEXTER, from the Committee on the Public Lands, to whom was referred the resolution of the Senate, requesting the President of the United States to employ an artist to ascertain the latitude of 36 degrees 30 minutes north, reported the same without amendment; and, on motion, the resolution was laid on the table.

The House took up the bill from the Senate, to regulate and fix the salaries of the registers and receivers of public moneys.

Mr. TALLMADGE moved to amend the bill by striking out \$4,500, the amount of salary fixed by the Senate, and to insert \$3,000; which motion, after some discussion, was agreed to; and then,

On motion of Mr. TAYLOR, the bill was indefinitely postponed.

On motion of Mr. JOHNSON, of Kentucky, the

Military Committee were discharged from the further consideration of all such petitions referred to them at the present session, upon which they have not yet reported; and the said petitions were laid on the table.

Mr. PLEASANTS, from the Committee on Naval Affairs, to whom was referred a report of the Commissioners of the Navy Pension Fund, made to the House during the present session, made a report thereon; which was read, and the resolution therein contained, after some explanatory remarks by Mr. P., was concurred in, as follows:

"Resolved, That the Commissioners of the Navy Pension Fund be instructed to use all the means which the laws place within their power, to coerce payment of the balances due to the fund from all persons who may be found indebted to the same, and that they report to the House of Representatives at an early period of the next session of Congress, a particular statement of the means which have been used, and the success of those means in accomplishing the objects of this resolution: And also, that they report whether any, and what, additional legislative provisions may be necessary to compel a compliance with the different provisions of the laws on this subject."

Mr. PLEASANTS, from the same committee, reported, without amendment, the bill from the Senate to incorporate into one act the several acts concerning hospitals, and sick and disabled seamen; and then, on motion of Mr. P., made by the instruction of the Naval Committee, the bill was indefinitely postponed.

The Committee on Naval Affairs were discharged from the consideration of all such petitions, and other matters referred to them at the present session, upon which they have not reported.

Mr. SOUTHARD, from the Committee on Indian Affairs, to which was referred the bill from the Senate, entitled "An act making provision for the civilization of the Indian tribes, adjoining the frontier settlements," reported the same without amendment; and the bill was committed to the Committee of the Whole, to which is committed the bill from the Senate, entitled "An act making appropriations to carry into effect treaties concluded with the several Indian tribes therein mentioned."

A message from the Senate informed the House that the Senate have passed a bill of this House, entitled "An act regulating the payments to invalid pensioners," with amendments; and they have passed bills of the following titles, to wit: An act relative to the Patent Office, and to the salary of the superintendent thereof; an act for the relief of Vincent Grant; an act for the relief of Joseph Lefebvre; an act for the relief of Labedoyere de Kermion; and an act providing for the correction of errors in making entries of land at the land offices; in which amendments, and five last mentioned bills, they ask the concurrence of this House.

The bill from the Senate, entitled "An act for the relief of Nathan G. Birdseye and Daniel Booth," was read the third time, and passed.

Engrossed bills of the following titles, to wit:

MARCH, 1819.

Admission of Missouri.

H. or R.

An act authorizing the sale of certain military sites; and an act in addition to the acts prohibiting the slave trade; were severally read the third time, and passed.

Bills from the Senate of the following titles, to wit: An act for the relief of Joseph Lefebvre; an act for the relief of Labedoyere de Kermion; an act for the relief of Vincent Grant; and an act relative to the Patent Office, and to the salary of the superintendent thereof; were severally read twice, and referred; the first and second to the same Committee of the Whole, to-day; the third to the Committee of Claims, and the fourth to the Committee on the Judiciary.

The amendments proposed by the Senate to the bills of this House, of the following titles, to wit: An act regulating the payments to invalid pensioners; and an act for the relief of Hannah Ring and Luther Frink; were read, and severally concurred in by the House.

Mr. FOLGER, from a select committee, to whom was referred the bill from the Senate for the relief of Daniel Pettibone, (renewing his patent for welding steel to iron,) reported that it was inexpedient to pass the bill; and the bill was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to revive the powers of the Commissioners for ascertaining and deciding on claims to land in the district of Detroit, and for settling the claims to lands at Green Bay and Prairie du Chien, in the Territory of Michigan," in which bill they ask the concurrence of the House.

The said bill was read twice, and referred to the Committee on the Public Lands.

The bill from the Senate providing for the correction of errors in making entries of land at the land offices, was read the third time, passed, and returned to the Senate.

#### MISSOURI STATE.

The House took up the amendments of the Senate to the bill authorizing the formation of a State government for the Territory of Missouri, and concurred in all of them, except that which struck out the prohibitory clause concerning the admission and toleration of slavery.

Some debate arising again on the principle of this amendment, Mr. TALLMADGE moved the indefinite postponement of the bill.

This motion was discussed at some length; Messrs. MILLS, TAYLOR, and TALLMADGE, supporting the postponement, and Messrs. SCOTT, ANDERSON, of Kentucky, POINDEXTER, TUCKER, of Virginia, BARBOUR, of Virginia, and BEECHER, opposing it; and was decided in the negative—yeas 69, nays 74, as follows:

YEAS—Messrs. Adams, Anderson of Pennsylvania, Barber of Ohio, Bateman, Bennett, Boden, Boss, Comstock, Crafts, Cushman, Darlington, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hopkinson, Hostetter, Hubbard, Hunter, Irving of New York, Kinsey, Kirtland, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill,

Mills, Samuel Moore, Murray, Jeremiah Nelson, Ogle, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, and Wilson of Pennsylvania.

NAYS—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Va., Bayley, Beecher, Bloomfield, Blount, Burwell, Butler of Louisiana, Campbell, Cobb, Colston, Cook, Crawford, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Floyd, Hall of North Carolina, Harrison, Hogg, Holmes, Huntington, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed of Georgia, Rhea, Ringgold, Robertson, Settle, Seybert, S. Smith, Ballard Smith, Alexander Smyth, Speed, Stewart of North Carolina, Strother, Stuart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, and Williams of North Carolina.

All the said amendments were then concurred in, except that which proposes to strike out the following clause: "The further introduction of slavery or involuntary servitude, be prohibited, except for the punishment of crimes, whereof the party shall have been duly convicted. And that all children of slaves born within the said State, after the admission thereof into the Union, shall be free, but may be held to service until the age of twenty-five years;" and insert, "the Legislature of the said State shall never interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the titles in such soil, to the bona fide purchasers; and that no tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents."

Mr. ADAMS opposed the concurrence at some length.

The question was then taken to concur with the Senate in striking out the said clause, and determined in the negative—yeas 76, nays 78, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bayley, Bloomfield, Blount, Burwell, Butler of Louisiana, Cobb, Colston, Cook, Crawford, Cruger, Culbreth, Davidson, Desha, Earle, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Hall of North Carolina, Harrison, Hogg, Holmes, Johnson of Virginia, Johnson of Kentucky, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, New, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed of Maryland, Reed of Georgia, Rhea, Ringgold, Robertson, Settle, S. Smith, Bal. Smith, Alex. Smyth, Speed, Stewart of N. Carolina, Strother, Stewart of Maryland, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Caro-



lina, Walker of Kentucky, and Williams of North Carolina.

**YEAS**—Messrs. Adams, Allen, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Boss, Campbell, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Kirland, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of R. Island, Merrill, Mills, Robert Moore, Samuel Moore, Murray, Jeremiah Nelson, Ogles, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Seybert, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Wilkin, Williams of Connecticut, and Wilson of Pennsylvania.

So the House refused to agree with the Senate in striking out the clause, and the bill was returned to the Senate.

#### SENATE BILLS, &c.

The bill from the Senate making appropriations to carry into effect treaties concluded with the several Indian tribes therein mentioned, was read the third time and passed.

The House then resolved itself into a Committee of the Whole, on the bill from the Senate making provision for the civilization of the Indian tribes adjoining the frontier settlements.

This bill was opposed by Mr. BARBOUR, on various grounds of expediency, without being at all opposed to the object which the bill had in view, but which it was not calculated to effect, and moved to strike out the first section of the bill. The motion was opposed by Messrs. MILLS, MERCER, TALLMADGE, and HARRISON, and was finally negatived—ayes 25, noes 78; and the bill was then reported to the House, and ordered to a third reading, and was read a third time accordingly, passed, and returned.

The House proceeded to the consideration of the bill from the Senate for the adjustment of claims to land and establishing land offices in the district east of the island of Orleans.

Mr. LOWNDE, for reasons which he offered at large to the House, moved to postpone the bill indefinitely. The motion was earnestly opposed by Messrs. POINDEXTER and BUTLER of Louisiana, and was finally agreed to; but,

On motion of Mr. TERRY, this vote was subsequently reconsidered, and the bill was ordered to a third reading; and was read a third time, passed and returned.

A message from the Senate informed the House that the Senate have passed the bill of this House, entitled "An act in addition to the acts prohibiting the slave trade," with an amendment. They have also passed a "resolution directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and providing for the appointment of a printer or printers," in which amendment and resolution they ask the concurrence of this House.

The joint resolution from the Senate, directing the manner of executing, and fixing the prices to

be paid for the public printing, was thrice read, passed, and returned to the Senate.

The amendment to the bill, entitled "An act in addition to the acts prohibiting the slave trade," was read and concurred in by the House.

The bill from the Senate to provide for the due execution of the laws of the Union in the State of Illinois, passed through a Committee of the Whole, (Mr. HUGH NELSON in the chair,) and was subsequently read the third time, passed, and returned to the Senate.

#### MISSOURI STATE.

A message was received from the Senate, announcing that they adhere to their amendment, (striking out the restriction of slavery,) to the bill authorizing a State government for the Missouri Territory.

The said message was then taken up; when Mr. TAYLOR moved that this House adhere to its disagreement to said amendment; which motion brought on a renewal of the debate on the subject; in which the restriction was zealously supported by Messrs. TAYLOR, MILLS, and TALLMADGE, and as zealously opposed by Mr. COBB.

Mr. COBB observed that he did not rise for the purpose of detaining the attention of the House for any length of time. He was too sensible of the importance of each moment which yet remained of the session, to obtrude many remarks upon their patience. But, upon a measure involving the important consequences that this did, he felt it to be an imperious duty to express his sentiments, and to enter his most solemn protest against the principle proposed for adoption by the amendment. Were gentlemen aware of what they were about to do? Did they foresee no evil consequences likely to result out of the measure if adopted? Could they suppose that the Southern States would submit with patience to a measure, the effect of which would be to exclude them from all enjoyment of the vast region purchased by the United States beyond the Mississippi, and which belonged equally to them as to the Northern States? He ventured to assure them that they would not. The people of the slaveholding States, as they are called, know their rights, and will insist upon the enjoyment of them. He should not now attempt to go over ground already occupied by others, with much more ability, and attempt to show that, by the treaty with France, the people of that territory were secured in the enjoyment of the property which they held in their slaves. That the proposed amendment was an infraction of this treaty, had been most clearly shown. Nor would he attempt to rescue from slander the character of the people of the Southern States in their conduct towards, and treatment of, their black population. That had also been done, with a degree of force and eloquence to which he could pretend no claim, by the gentleman from Virginia, (Mr. BARBOUR,) and the honorable Speaker. He was, however, clearly of opinion that Congress possessed no power under the Constitution to adopt the principle proposed in the amendment. He called upon the advocates of it

to point out, and lay their finger upon, that clause of the Constitution of the United States which gives to this body the right to legislate upon the subject. Could they show in what clause or section this right was expressly given, or from which it could be inferred? Unless this authority could be shown, Congress would be assuming a power, if the amendment prevailed, not delegated to them, and most dangerous in its exercise. What is the end and tendency of the measure proposed? It is to impose upon the State of Missouri conditions not imposed upon any other State. It is to deprive her of one branch of sovereignty not surrendered by any other State in the Union, not even those beyond the Ohio; for all of them had legislated upon this subject: all of them had decided for themselves whether slavery should be tolerated at the time they framed their several constitutions. He would not now discuss the propriety of admitting slavery. It is not now a question whether it is politic or impolitic to tolerate slavery in the United States, or in a particular State. It was a discussion into which he would not permit himself to be dragged. Admit, however, its moral impropriety: yet there was a vast difference between moral impropriety and political sovereignty. The people of New York or Pennsylvania may deem it highly immoral and politically improper to permit slavery, but yet, they possess the sovereign right and power to permit it, if they choose. They can to-morrow so alter their constitutions and laws as to admit it, if they were so disposed. It is a branch of sovereignty which the old thirteen States never surrendered in the adoption of the Federal Constitution. Now the bill proposes that the new State shall be admitted upon an equal footing with the other States of the Union. It is in this way only that she can be admitted, under the Constitution. These words can have no other meaning than that she shall be required to surrender no more of her rights of sovereignty, than the other States, into a union with which she is about to be admitted, have surrendered. But if the proposed amendment is adopted, will not this new State be shorn of one branch of her sovereignty, one right, which the other States may and have exercised, (whether properly or not, is immaterial,) and do now exercise whenever they think fit?

Mr. C. observed that he did conceive the principle involved in the amendment pregnant with danger. It was one, he repeated, to which he believed the people of the region of country which he represented would not quietly submit. He might perhaps subject himself to ridicule for attempting the display of a spirit of prophecy which he did not possess, or of zeal and enthusiasm for which he was entitled to little credit. But he warned the advocates of this measure against the certain effects which it must produce. Effects destructive of the peace and harmony of the Union. He believed that they were kindling a fire which all the waters of the ocean could not extinguish. It could be extinguished only in blood!

The question was finally taken on adhering to the former decision of the House, and decided in the affirmative, by yeas and nays. For adhering 78, against it 66, as follows:

**YEAS**—Messrs. Adams, Allen of Massachusetts, Anderson of Pennsylvania, Barber of Ohio, Bateman, Beecher, Bennett, Boss, Campbell, Comstock, Crafts, Cushman, Darlington, Drake, Ellicott, Folger, Fuller, Gage, Gilbert, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Hopkinson, Hostetter, Hubbard, Hunter, Huntington, Irving of New York, Kinsey, Lincoln, Linn, Livermore, W. Maclay, W. P. Maclay, Mason of Rhode Island, Merrill, Mills, Robert Moore, Samuel Moore, Moseley, Murray, J. Nelson, Ogle, Orr, Palmer, Patterson, Pawling, Pitkin, Rice, Rich, Richards, Rogers, Ruggles, Sampson, Schuyler, Sergeant, Sherwood, Silsbee, Southard, Tallmadge, Tarr, Taylor, Terry, Tompkins, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, Williams of Connecticut, Wilson of Massachusetts, and Wilson of Pennsylvania.

**NAYS**—Messrs. Abbot, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bayley, Bloomfield, Blount, Burwell, Butler of Louisiana, Cobb, Colston, Crawford, Davidson, Desha, Edwards, Ervin of South Carolina, Fisher, Floyd, Garnett, Harrison, Herbert, Hogg, Holmes, Johnson of Virginia, Jones, Lewis, Little, Lowndes, McLane of Delaware, McLean of Illinois, McCoy, Marr, Mason of Massachusetts, Mercer, Middleton, H. Nelson, T. M. Nelson, Newton, Ogden, Owen, Parrott, Pegram, Peter, Pindall, Pleasants, Poindexter, Reed of Georgia, Rhea, Ringgold, Settle, S. Smith, Ballard Smith, Alexander Smyth, Speed, Stewart of North Carolina, Storrs, Strother, Terrell, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of Kentucky, and Williams of North Carolina.

The adherence of the two Houses to their respective opinions, precluding any further propositions or compromise on the subject, the bill was of course lost.

The House then resolved itself into a Committee of the Whole, on motion of Mr. HARRISON, (Mr. COBB in the chair,) on the bill concerning invalid pensioners, and made some progress therein; when, about sunset, the Committee rose, and the House adjourned.

#### WEDNESDAY, March 3.

The Committee of Ways and Means, the Committee of Claims, and the Committee on the Post Office and Post Roads, were discharged from the further consideration of such matters and things as may have been referred to them at the present session, and upon which they have not reported.

On motion of Mr. PLEASANTS, the Commissioners of the Marine and Navy Hospital Funds, were instructed to report to this House, at an early period of the next session of Congress, whether any alterations are necessary in the laws constituting and regulating these funds; and if they shall be of opinion that any changes are necessary, that they report the same, with a plan for establishing such a system as will, in their opinions, best promote the object of the institutions.

The House resolved itself into a Committee



H. OF R.

Closing Business.

MARCH, 1819.

of the Whole on the bill from the Senate, entitled "An act for the relief of John Rice Jones." The bill was reported without amendment, read a third time, and passed.

The House then resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act for the relief of Michael Hogan." The bill was reported with an amendment, which was concurred in by the House; and the bill read a third time, and passed.

The House again resolved itself into a Committee of the Whole on the bill, of the present session, concerning invalid pensioners. The bill was reported with an amendment, which was read and disagreed to by the House.

The bill was ordered to be engrossed and read a third time to-day, which was subsequently done, and the bill passed.

The House resolved itself into a Committee of the Whole, on the bill, in addition to, and alteration of, an act, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" as also, on the bill further to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other other purposes, and on the several subjects thereto committed; and after some time spent therein, the Committee reported the first mentioned bill without amendment, and asked leave to sit again on the residue of the order; which was granted by the House.

The first mentioned bill was ordered to be engrossed and read a third time, to-day, which was done, and the bill passed.

A message from the Senate informed the House that the Senate have passed bills of this House, of the following titles, to wit: "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard's and Chesapeake Bays, Lakes Ontario and Erie, and for other purposes;" "An act to alter and establish certain post roads;" "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein;" with amendments to each. The Senate have also passed a bill entitled "An act to fix the time for the next meeting of Congress;" in which amendments and bill they ask the concurrence of this House.

The House took up and proceeded to consider the bill from the Senate, entitled "An act making further provision for the sale of the public lands."

Mr. POINDEXTER moved that the bill be committed to a Committee of the Whole.

Mr. HOLMES moved that it lie on the table; both of which motions being rejected,

Mr. BALL moved that the bill be postponed indefinitely; when,

On motion of Mr. HOLMES, the bill was ordered to lie on the table.

The amendments proposed by the Senate to the bill, entitled "An act to authorize the President of the United States to take possession of

East and West Florida, and to establish a temporary government therein," were taken up and read; whereupon,

*Resolved*, That this House concur in all the said amendments, except that which proposes to add a new section as the fifth section of the said bill, with an amendment to the fifth and sixth of the said amendments.

*Resolved*, That this House do not agree to so much of the said amendments, as proposes to add a new section to the said bill.

The amendments proposed by the Senate to bills of this House of the following titles, to wit: An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard's and Chesapeake bays, Lakes Ontario and Erie, and for other purposes; and, An act to alter and establish certain post roads, were read, and severally concurred in by the House.

The bill from the Senate, entitled "An act to fix the time for the next meeting of Congress," was read twice; and, on motion of Mr. BARBOUR, of Virginia, was postponed indefinitely.

Mr. COLSTON moved the House again to resume the consideration of the bill from the Senate, making further provision for the sale of the public lands; which was rejected.

A message from the Senate informed the House that they have passed a bill of this House, entitled An act for the relief of Henry Batman, with an amendment; in which they ask the concurrence of the House.

The amendment was read, and concurred in. The House adjourned until 6 o'clock, P. M.

Six o'clock, P. M.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act for the relief of Rees Hill;" which was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act authorizing the purchase of fire engines, and for building houses for the safekeeping of the same." The bill was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

On motion of Mr. OGDEN, the several persons who have presented petitions to this House during the present session, and upon which the House have not acted, had leave to withdraw the same, and also the several papers which have been exhibited by them in support thereof.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act for the relief of Aquilla Giles." The bill was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to establish a new land office in the State of

MARCH, 1819.

Closing Business.

H. OF R.

Illinois;" in which bill they ask the concurrence of this House.

Mr. TAYLOR moved the House to come to the following order:

*Ordered*, That no printing directed by this House to be executed shall be received from the printer, by the officers thereof, after the first day of May next.

The bill from the Senate, entitled "An act to establish a new land office in the State of Illinois," was read the first time; and, on the question, Shall the said bill be read the second time? there appeared—yeas 70, nays 21, as follows:

YEAS—Messrs. Abbot, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bayley, Butler of Louisiana, Cobb, Comstock, Davidson, Drake, Elliott, Fisher, Floyd, Folger, Garnett, Gilbert, Hall of North Carolina, Harrison, Hendricks, Herrick, Holmes, Hubbard, Irving of New York, Johnson of Virginia, Jones, Lewis, Lincoln, Linn, Livermore, McLean of Illinois, Mason of Massachusetts, Mercer, Middleton, Samuel Moore, Moseley, Jeremiah Nelson, H. Nelson, Newton, Ogle, Owen, Palmer, Parrott, Pegram, Peter, Pitkin, Reed of Maryland, Reed of Georgia, Rhea, Rich, Ringgold, Rogers, Ruggles, Sampson, Settle, Seybert, Silabee, Speed, Storrs, Stuart of Maryland, Tarr, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Westerlo, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Bateman, Bennett, Darlington, Earle, Hopkinson, Little, McLane of Delaware, W. Maclay, W. P. Maclay, Murray, Ogden, Schuyler, Sergeant, S. Smith, Southard, Tallmadge, Terrell, Terry, Whitman, and Williams of Connecticut.

Thus it appeared that a quorum was not present.

The House proceeded, by ballot, to the election of a printer, to execute the printing ordered by the House of Representatives during the next Congress, in pursuance of the "Resolution directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and for the appointment of a printer or printers to Congress." And, upon an examination of the ballots, it appeared that JOSEPH GALES, Jr., and WILLIAM W. SEATON, under the firm of GALES and SEATON, were duly elected.

A message from the Senate informed the House that the Senate have elected Gales and Seaton printers, on their part, to execute the printing of the Senate during the next Congress, pursuant to the resolution on that subject. They have passed a resolution for the appointment of a joint committee to wait on the President of the United States, and inform him that the two Houses of Congress are about to adjourn, if he has no further communications to make to them, and have appointed a committee on their part.

The said resolution was read and concurred in by the House, and Messrs. PITKIN and HARRISON were appointed of the said committee on their part.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of this House of the 27th ult.,

15th CON. 2d Sess.—46

directing him to inform this House what sums of money have been paid to the Attorney General of the United States for extra services, designating the service, and the fund from which the money has been paid; which letter was read, and ordered to lie on the table.

The letter is as follows:

TREASURY DEPARTMENT, March 3, 1819.

SIR: In obedience to a resolution of the House of Representatives of the 27th ultimo, which has been this day received, directing the Secretary of the Treasury to inform the House what sums of money have been paid to the Attorney General of the United States for extra services, designating the services and the fund from which the money has been paid, I have the honor to state that, on the 18th of December, 1818, there was paid to the Attorney General the sum of \$950, and, on the 21st of the same month, the further sum of \$550. These two sums were paid on the requisition of the Secretary of State for services rendered by the Attorney General in the trials which took place in Baltimore for violations of the provisions of the "act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," passed on the 20th day of April, 1818.

The former of these sums was paid out of the appropriation of \$6,000 "for the discharge of such claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury;" and the latter out of the appropriation for the contingent expenses of foreign intercourse. The whole sum would have been paid out of the former appropriation if the amount unapplied to other objects had been sufficient to discharge it.

Copies of the requisitions from the State Department, upon which the money was paid, are enclosed.

No other payments have been made to the Attorney General from the Treasury for services rendered to the United States, except the sum of \$100, in the year 1814, for services rendered in the case of the United States against Brown and others, upon certain protested bills of exchange. This sum was paid out of the fund first above mentioned. The services for which compensation has been made to the Attorney General from the Treasury were not rendered in the Supreme Court of the United States.

I have the honor to be, &c.

WM. H. CRAWFORD.

Hon. H. CLAY, Speaker House of Reps.

THANKS TO THE SPEAKER.

On motion of Mr. HUGH NELSON, it was

*Resolved, unanimously*, That the thanks of this House be presented to the honorable Henry Clay, for the able, impartial, and dignified manner in which he has presided over its deliberations, and performed the arduous and important duties of the Chair.

Upon which Mr. CLAY rose, and addressed the House as follows:

I beg you to receive, gentlemen, my most respectful acknowledgments for the flattering vote you have done me the honor to pass. Always entertaining for this House the highest consideration, the expression of your approbation conveys a gratification as pure as it is indescribable. I owe it to truth, however, to say, gentlemen, that, but for the almost unlimited confidence with which you have constantly sustained the



H. OF R.

Closing Business.

MARCH, 1819.

of the Whole on the bill from the Senate, entitled "An act for the relief of John Rice Jones." The bill was reported without amendment, read a third time, and passed.

The House then resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act for the relief of Michael Hogan." The bill was reported with an amendment, which was concurred in by the House; and the bill read a third time, and passed.

The House again resolved itself into a Committee of the Whole on the bill, of the present session, concerning invalid pensioners. The bill was reported with an amendment, which was read and disagreed to by the House.

The bill was ordered to be engrossed and read a third time to-day, which was subsequently done, and the bill passed.

The House resolved itself into a Committee of the Whole, on the bill, in addition to, and alteration of, an act, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" as also, on the bill further to establish the compensation of the officers employed in the collection of the duties on imports and tonnage, and for other other purposes, and on the several subjects thereto committed; and after some time spent therein, the Committee reported the first mentioned bill without amendment, and asked leave to sit again on the residue of the order; which was granted by the House.

The first mentioned bill was ordered to be engrossed and read a third time, to-day, which was done, and the bill passed.

A message from the Senate informed the House that the Senate have passed bills of this House, of the following titles, to wit: "An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard's and Chesapeake Bays, Lakes Ontario and Erie, and for other purposes;" "An act to alter and establish certain post roads;" "An act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein;" with amendments to each. The Senate have also passed a bill entitled "An act to fix the time for the next meeting of Congress;" in which amendments and bill they ask the concurrence of this House.

The House took up and proceeded to consider the bill from the Senate, entitled "An act making further provision for the sale of the public lands."

Mr. POINDEXTER moved that the bill be committed to a Committee of the Whole.

Mr. HOLMES moved that it lie on the table; both of which motions being rejected,

Mr. BALL moved that the bill be postponed indefinitely; when,

On motion of Mr. HOLMES, the bill was ordered to lie on the table.

The amendments proposed by the Senate to the bill, entitled "An act to authorize the President of the United States to take possession of

East and West Florida, and to establish a temporary government therein," were taken up and read; whereupon,

*Resolved*, That this House concur in all the said amendments, except that which proposes to add a new section as the fifth section of the said bill, with an amendment to the fifth and sixth of the said amendments.

*Resolved*, That this House do not agree to so much of the said amendments, as proposes to add a new section to the said bill.

The amendments proposed by the Senate to bills of this House of the following titles, to wit: An act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard's and Chesapeake bays, Lakes Ontario and Erie, and for other purposes; and, An act to alter and establish certain post roads, were read, and severally concurred in by the House.

The bill from the Senate, entitled "An act to fix the time for the next meeting of Congress," was read twice; and, on motion of Mr. BARBOUR, of Virginia, was postponed indefinitely.

Mr. COLSTON moved the House again to resume the consideration of the bill from the Senate, making further provision for the sale of the public lands; which was rejected.

A message from the Senate informed the House that they have passed a bill of this House, entitled "An act for the relief of Henry Batman, with an amendment; in which they ask the concurrence of the House.

The amendment was read, and concurred in.

The House adjourned until 6 o'clock, P. M.

Six o'clock, P. M.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act for the relief of Rees Hill;" which was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act authorizing the purchase of fire engines, and for building houses for the safekeeping of the same." The bill was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

On motion of Mr. OGDEN, the several persons who have presented petitions to this House during the present session, and upon which the House have not acted, had leave to withdraw the same, and also the several papers which have been exhibited by them in support thereof.

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled "An act for the relief of Aquilla Giles." The bill was reported without amendment, and ordered to be read a third time to-day. It was accordingly read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to establish a new land office in the State of

MARCH, 1819.

Closing Business.

H. OF R.

Illinois;" in which bill they ask the concurrence of this House.

Mr. TAYLOR moved the House to come to the following order:

*Ordered*, That no printing directed by this House to be executed shall be received from the printer, by the officers thereof, after the first day of May next.

The bill from the Senate, entitled "An act to establish a new land office in the State of Illinois," was read the first time; and, on the question, Shall the said bill be read the second time? there appeared—yeas 70, nays 21, as follows:

YEAS—Messrs. Abbot, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bayley, Butler of Louisiana, Cobb, Comstock, Davidson, Drake, Elliott, Fisher, Floyd, Folger, Garnett, Gilbert, Hall of North Carolina, Harrison, Hendricks, Herrick, Holmes, Hubbard, Irving of New York, Johnson of Virginia, Jones, Lewis, Lincoln, Linn, Livermore, McLean of Illinois, Mason of Massachusetts, Mercer, Middleton, Samuel Moore, Moseley, Jeremiah Nelson, H. Nelson, Newton, Ogle, Owen, Palmer, Parrott, Pegram, Peter, Pitkin, Reed of Maryland, Reed of Georgia, Rhea, Rich, Ringgold, Rogers, Ruggles, Sampson, Settle, Seybert, Silsbee, Speed, Storrs, Stuart of Maryland, Tarr, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Westerlo, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Bateman, Bennett, Darlington, Earle, Hopkinson, Little, McLane of Delaware, W. Maclay, W. P. Maclay, Murray, Ogden, Schuyler, Sergeant, S. Smith, Southard, Tallmadge, Terrell, Terry, Whitman, and Williams of Connecticut.

Thus it appeared that a quorum was not present.

The House proceeded, by ballot, to the election of a printer, to execute the printing ordered by the House of Representatives during the next Congress, in pursuance of the "Resolution directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and for the appointment of a printer or printers to Congress." And, upon an examination of the ballots, it appeared that JOSEPH GALES, Jr., and WILLIAM W. SEATON, under the firm of GALES and SEATON, were duly elected.

A message from the Senate informed the House that the Senate have elected Gales and Seaton printers, on their part, to execute the printing of the Senate during the next Congress, pursuant to the resolution on that subject. They have passed a resolution for the appointment of a joint committee to wait on the President of the United States, and inform him that the two Houses of Congress are about to adjourn, if he has no further communications to make to them, and have appointed a committee on their part.

The said resolution was read and concurred in by the House, and Messrs. PITKIN and HARRISON were appointed of the said committee on their part.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of this House of the 27th ult.,

15th CON. 2d Sess.—46

directing him to inform this House what sums of money have been paid to the Attorney General of the United States for extra services, designating the service, and the fund from which the money has been paid; which letter was read, and ordered to lie on the table.

The letter is as follows:

TREASURY DEPARTMENT, March 3, 1819.

SIR: In obedience to a resolution of the House of Representatives of the 27th ultimo, which has been this day received, directing the Secretary of the Treasury to inform the House what sums of money have been paid to the Attorney General of the United States for extra services, designating the services and the fund from which the money has been paid, I have the honor to state that, on the 18th of December, 1818, there was paid to the Attorney General the sum of \$950, and, on the 21st of the same month, the further sum of \$550. These two sums were paid on the requisition of the Secretary of State for services rendered by the Attorney General in the trials which took place in Baltimore for violations of the provisions of the "act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," passed on the 20th day of April, 1818.

The former of these sums was paid out of the appropriation of \$6,000 "for the discharge of such claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury;" and the latter out of the appropriation for the contingent expenses of foreign intercourse. The whole sum would have been paid out of the former appropriation if the amount unapplied to other objects had been sufficient to discharge it.

Copies of the requisitions from the State Department, upon which the money was paid, are enclosed.

No other payments have been made to the Attorney General from the Treasury for services rendered to the United States, except the sum of \$100, in the year 1814, for services rendered in the case of the United States against Brown and others, upon certain protested bills of exchange. This sum was paid out of the fund first above mentioned. The services for which compensation has been made to the Attorney General from the Treasury were not rendered in the Supreme Court of the United States.

I have the honor to be, &c.

WM. H. CRAWFORD.

Hon. H. CLAY, Speaker House of Reps.

THANKS TO THE SPEAKER.

On motion of Mr. HUGH NELSON, it was

*Resolved, unanimously*, That the thanks of this House be presented to the honorable Henry Clay, for the able, impartial, and dignified manner in which he has presided over its deliberations, and performed the arduous and important duties of the Chair.

Upon which Mr. CLAY rose, and addressed the House as follows:

I beg you to receive, gentlemen, my most respectful acknowledgments for the flattering vote you have done me the honor to pass. Always entertaining for this House the highest consideration, the expression of your approbation conveys a gratification as pure as it is indescribable. I owe it to truth, however, to say, gentlemen, that, but for the almost unlimited confidence with which you have constantly sustained the



H. OF R.

Adjournment.

MARCH, 1819.

Chair, I should have been utterly incompetent to discharge its arduous duties.

If, gentlemen, in the course of our deliberations, momentary irritation has been at any time felt, or unkind expressions have ever, in the heat of debate, fallen from any of us, let these unpleasant incidents be consigned to oblivion, and let us recollect only the anxious desire which has uniformly animated every one to promote what appeared to him to be for the prosperity of our common country.

One painful circumstance fills me with the deepest regret. It is that, after having co-operated with many of you, with some for years, to advance the public good, we separate to meet perhaps no more. I here bear testimony to the fidelity with which you have all labored to fulfil the high and honorable trust committed to us by the nation. And every one of you

will carry with you my most ardent wishes for your individual welfare and happiness.

Mr. PITKIN, from the joint committee appointed to inform the President of the United States that the two Houses of Congress are about to adjourn, if he had no further communications to make to them, reported that the committee had waited on the President of the United States, and was informed by him that he had no further communications to make.

A message was then received from the Senate informing the House that the Senate, having completed the legislative business before them, are ready to adjourn; whereupon, the House adjourned *sine die*.

## APPENDIX

## TO THE HISTORY OF THE FIFTEENTH CONGRESS.

[SECOND SESSION.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT.

## GREAT BRITAIN—CONVENTION OF OCTOBER 20, 1818.

[Communicated to the Senate, December 29, 1818.]

To the Senate of the United States:

I lay before the Senate, for their consideration, a convention signed at London on the 20th of October last, between the United States and Great Britain, together with the documents showing the course and progress of the negotiation. I have to request that these documents, which are original, may be returned when the Senate shall have acted on the convention.

JAMES MONROE.

DECEMBER 29, 1818.

Mr. Monroe to Mr. Baker, Chargé des Affaires from England.

DEPARTMENT OF STATE, July 18, 1815.

SIR: I have the honor to communicate to you a copy of a letter from the collector of the customs at Barnstable to the Secretary of the Treasury, by which it appears that an American vessel engaged in the cod fishery, in longitude 65° 20', latitude 42° 41', was warned off by the commander of the British sloop-of-war Jaseur, and ordered not to approach within sixty miles of the coast; with which order the commander of the American vessel immediately complied. It appears, also, that a similar warning had been given by the commander of the Jaseur to all the other American vessels that were then in sight.

This extraordinary measure has excited no small degree of surprise. Being altogether incompatible with the rights of the United States, it is presumed that it has not been authorized by your Government. I invite your attention to it, in the hope that as you have been charged by your Government with the execution of the late treaty of peace, and are acquainted with its views on all questions connected with it, you will consider yourself authorized to interpose to prevent the progress of an evil which will be so exten-

sively and deeply felt by the citizens of the United States. I have the honor, &c.

JAMES MONROE.

A. ST. JOHN BAKER, Esq., &amp;c.

Collector of the Customs at Barnstable to the Secretary of the Treasury.

COLLECTOR'S OFFICE, BARNSTABLE,

July 3, 1815.

SIR: I think it my duty to inform you that the captain of a vessel regularly licensed for the cod fishery has just reported to this office that, on the 19th day of June last, being in longitude 65° 20', north latitude 42° 41', about forty-five miles distant from Cape Sable, he fell in with His Britannic Majesty's sloop-of-war Jaseur, N. Lock, commander, who warned him off, and endorsed his enrolment and license in the words following:

"JUNE 19, 1815.

"Warned off the coast by His Majesty's sloop Jaseur, not to come within sixty miles.

"N. LOCK, Captain."

In consequence of which, the fisherman immediately left the fishing ground, and returned home without completing his fare.

The captain of the fisherman further states, that all the fishing vessels then in sight were warned off in the same manner by the said Captain Lock. I am, sir, very respectfully, &c.

ISAIAH L. GREEN,

Collector.

Hon. A. J. DALLAS.

Mr. Baker to Mr. Monroe.

PHILADELPHIA, August 31, 1815.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th ultimo, together with its enclosure, relating to the warning off, to the distance of sixty miles from the coast of Nova Scotia, of some American fishing vessels by His Majesty's brig Jaseur.

This measure was, as you have justly presumed in your note, totally unauthorized by His Ma-



*Relations with Great Britain.*

asty's Government; and I have the satisfaction to acquaint you that orders have been given by the naval commanders-in-chief on the Halifax and Newfoundland stations, which will effectually prevent the recurrence of any similar interruption to the vessels belonging to the United States engaged in fishing on the high seas.

I have the honor to be, &c.

ANTHONY ST. J. BAKER.

Hon. JAMES MONROE, &c.

*Extract of a letter from Mr. Monroe, Secretary of State, to Mr. Adams, dated*

JULY 21, 1815.

Among the acts which we have to complain of with greatest earnestness is a late warning given by a commander of a British sloop-of-war to our fishermen near the coast of the British northern colonies to retire thence to the distance of twenty leagues. This, it is presumed, has been done under a construction of the late Treaty of Peace, which, by being silent on the subject, left that important interest to rest on the ground on which it was placed by the Treaty of 1783. The right of the fisheries required no new stipulation to support it: it was sufficiently secured by the Treaty of 1783. This important object will claim our early attention. The measure thus promptly taken by the British Government, without any communication with this Government, notwithstanding the declaration of our Ministers at Ghent that our right would not be affected by the silence of the treaty, indicates a spirit which excites equal surprise and regret—one which by no means corresponds with the amicable relations established between the two countries by that treaty, or with the spirit with which it has been executed by the United States.

As you are well acquainted with the solidity of our right to the fisheries in question, as well as to those on the Grand Bank and elsewhere on the main ocean, to the limit of a marine league only from the coast, (for the pretension to remove us twenty leagues is too absurd to be discussed,) I shall not dilate on it, especially at this time. It is sufficient to observe here, that the right of the United States to take fish on the coast of Newfoundland, and on the coasts, bays, and creeks, of all other of His Britannic Majesty's dominions in America, and to dry and cure fish in any of the unsettled bays, harbors, and creeks, of Nova Scotia, Magdalen islands, and Labrador—in short, that every right appertaining to the fisheries, which was secured by the Treaty of 1783, stands now as unshaken and perfect as it then did, constituting a vital part of our political existence, and resting on the same solid foundation as our independence itself. In the act of dismemberment and partition, the rights of each party were distinctly defined. So much of territory and incidental rights were allotted to one, so much to the other; and as well might it be said, because our boundary had not been retraced by the late treaty, in every part, that certain portions of our territory had reverted to England, as that our

right to fish, by whatever name secured, had experienced that fate. A liberty of unlimited duration, thus secured, is as much a right as if it had been stipulated by any other term. Being to be enjoyed by one, adjoining the territory allotted by the partition to the other party, it seemed to be the appropriate term. I have made these remarks to show the solid ground on which this right is deemed to rest by this Government, relying on your thorough knowledge of the subject to illustrate and support it in the most suitable manner.

It can scarcely be presumed that the British Government, after the result of the late experiment, in the present state of Europe, and under its other engagements, can seriously contemplate a renewal of hostilities. But it often happens with nations, as well as with individuals, that a just estimate of their interest and duties is not an infallible criterion of their conduct. We ought to be prepared at every point to guard against such an event. You will be attentive to circumstances, and give us timely notice of any danger which may be menaced.

*Extract of a letter from Mr. Adams to Mr. Monroe.*

LONDON, August 15, 1815.

I had mentioned the subject of the slaves in my first interview with him, [Lord Castlereagh,] and he had then expressed an intention to refer it to the Commissioners with whom we were then negotiating the commercial convention. But they received no instructions relative to it, and considered their powers as limited to the objects upon which my colleagues were authorized, conjointly with me, to treat. The day before Lord Castlereagh left town, I spoke to him again concerning it. He had just received despatches from Mr. Baker relating to it, but had not had time to read them, and merely told me that, during his absence, Lord Liverpool or Lord Bathurst would attend to the business of his department. After writing the note, of which the copy is enclosed, I requested an interview with Lord Liverpool, for which he appointed last Saturday; but an accident prevented me from then meeting him. I have renewed the request; but as he was not in town when my note was sent, it may be deferred until after Mr. Bagot's departure.

[NOTE.—The letter referred to in the above despatch is inserted among the papers relating to the deportation of slaves—Appendix, 2d session, 14th Congress.]

*Extract of a letter from Mr. Adams to Mr. Monroe.*

LONDON, September 5, 1815.

In compliance with your instructions of July 21, I have this day addressed Lord Castlereagh, claiming payment from the British Government for the slaves carried away from Cumberland island and the adjoining waters, after the ratification of the treaty of peace, and in contravention to one of the express stipulations of that treaty.

*Relations with Great Britain.*

My preceding despatches, Nos. 9 and 10, will have informed you of the steps I had taken, by an official letter to Lord Castlereagh, and by a personal interview with the Earl of Liverpool, in relation to this subject, previous to the receipt of your last instructions. The letter to Lord Castlereagh has hitherto remained unanswered; and Lord Liverpool made no attempt to answer either the reasoning of your letter on the subject to Mr. Baker, or the statement of the proof with regard to the meaning of the article, resulting from the manner in which it had been drawn up and agreed to. The substance of what he said was, that, in agreeing to the article as it stands, they had not been aware that it would bind them to restore the slaves whom their officers had enticed away by promises of freedom.

The case of these slaves carried away from Cumberland seems not even to admit of the distinction to which Mr. Baker and Lord Liverpool resorted. Yet the prospect of obtaining either restoration or indemnity appears to me not more favorable in this case than in any others of the same class. If there were any probability that this Government would admit the principle of making indemnity, it would become necessary for me to remark, that the list of slaves transmitted to me, and of which I have sent to Lord Castlereagh a copy, is not an authenticated document.

[For Mr. Adams's letter to Lord Castlereagh, of September 5, 1815, see Appendix to Annals, 2d session, 14th Congress, page 1114.]

*Extract of a letter from Mr. Adams to Mr. Monroe, stating the substance of a conversation with Lord Bathurst.*

LONDON, September 19, 1815.

The transactions to which your instructions of the 21st July have reference were of a character to excite in the highest degree the attention of the Government of the United States. So many simultaneous acts of British officers, at various stations and upon both elements, indicating a marked spirit of hostility, were calculated to inspire serious doubts with regard to the pacific—not to say the amicable—dispositions of the British Government; and the latter part of your despatch made it incumbent upon me, under certain contingencies, to take measures, of which nothing that had occurred here had induced me even to think, as precautions which the course of events might render expedient. The commercial convention had shown how excessively difficult it was for British and American Plenipotentiaries to agree upon any one point in which the mutual interests of the two countries were involved. It had shown how very few points there were upon which any agreement could be made; and it was evident, from everything excepting the personal courtesies of the Prince and his cabinet, that the animosities of the condition from which the two nations had lately emerged had very little subsided. I had, however, before the receipt of your despatch, not a suspicion that

an immediate renewal of hostilities was contemplated; and even now, although I perceive no reason for flattering myself that any satisfaction will be given us upon any one of our causes of complaint, yet I do not apprehend that any act of open and avowed hostility will be sanctioned by the British Government at the present moment. It must however be added that the most—perhaps the only—unequivocal pledge of pacific intentions is the reduction of the fleet, not only to a peace establishment, but to an unusually small one. Your despatch, and the several procedures to which it related, awakened an anxiety that nothing should be omitted which could be of any possible utility to our interests in this quarter.

Having formally renewed the claim of the restitution of the slaves carried away contrary to the engagements of the Treaty of Peace, or for payment of their value as the alternative, there were other objects which I deemed it necessary to present again to the consideration of this Government. In the first instance, it seemed advisable to open them by a verbal communication; and I requested of Lord Bathurst an interview, for which he appointed the 14th instant, when I called at his office in Downing street. I said that, having lately received despatches from you respecting several objects of some importance to the relations between the two countries, my first object in asking to see him had been to inquire whether he had received from Mr. Baker a communication of the correspondence between you and him relative to the surrender of Michilimackinac; to the proceedings of Colonel Nicholls in the southern part of the United States; and to the warning given by the captain of the British armed vessel Jaseur to certain American fishing vessels to withdraw from the fishing grounds to the distance of sixty miles from the coast. He answered, that he had received all these papers from Mr. Baker about four days ago; that an answer with regard to the warning of the fishing vessels had immediately been sent; but on the other subjects there had not been time to examine the papers and prepare the answers. I asked him if he could, without inconvenience, state the substance of the answer that had been sent. He said, certainly; it had been that as, on the one hand, Great Britain could not permit the vessels of the United States to fish within the creeks and close upon the shores of the British territories, so, on the other hand, it was by no means her intention to interrupt them fishing anywhere in the open sea, or without the territorial jurisdiction—a marine league from the shore; and, therefore, that the warning given at the place stated, in the case referred to, was altogether unauthorized. I replied, that the particular act of the British commander in this instance being disavowed, I trusted that the British Government, before adopting any final determination upon the subject, would estimate in candor, and in that spirit of amity which my own Government was anxiously desirous of maintaining in our relations with this country, the considerations which I was instructed to pre-



But in support of the right of the people of the United States to fish on the whole coast of North America, which they have uniformly enjoyed from the first settlement of the country; that was my intention to address, in the course of a few days, a letter to him on the subject. He said that they would give due attention to the letter, but I should send him, but that Great Britain had explicitly manifested her intention concerning it; that this subject, as I doubtless knew, had excited a great deal of feeling in this country, perhaps much more than its importance deserved; that their own fishermen considered it as an excessive hardship to be supplanted by American fishermen, even upon the very shores of the British dominions. I said that those whose sensibilities had been thus excited had probably not considered the question of right in the point of view in which it had been regarded by us; that they were the sensibilities of a partial and individual interest, stimulated by the passions of competition, and considering the right of the Americans as if it had been a privilege granted to them by the British Government. If this interest was to have weight in determining the policy of the Cabinet, there was another interest liable to be affected in the opposite manner, which would be entitled equally to consideration—the manufacturing interest. The question of right had not been discussed at the negotiation of Ghent. The British Plenipotentiaries had given a notice that the British Government did not intend hereafter to grant to the people of the United States the right to fish, and to cure and dry fish within the exclusive British jurisdiction in America, without an equivalent, as it had been granted by the Treaty of Peace, in 1783. The American Plenipotentiaries had given notice, in return, that the American Government considered all the rights and liberties in and to the fisheries on the whole coast of North America, as sufficiently secured by the possession of them, which had always been enjoyed previous to the Revolution, and by the recognition of them in the Treaty of Peace, in 1783; that they did not think any new stipulation necessary for a further confirmation of the right, no part of which did they consider as having been forfeited by the war. It was obvious that the Treaty of Peace of 1783 was not one of those ordinary treaties which, by the usages of nations, were held to be annulled by a subsequent war between the same parties: it was not simply a treaty of peace; it was a treaty of partition between two parts of one nation, agreeing thenceforth to be separated into two distinct Sovereignities. The conditions upon which this was done constituted, essentially, the independence of the United States, and the preservation of all the fishing rights, which they had constantly enjoyed over the whole coast of North America, was among the most important of them. This was no concession, no grant on the part of Great Britain, which could be annulled by a war. There had been, in the same Treaty of 1783, a right recognised in British subjects to navigate the Mississippi.

This right the British Plenipotentiaries at Ghent had considered as still a just claim on the part of Great Britain, notwithstanding the war that had intervened. The American Plenipotentiaries, to remove all future discussion upon both points, had offered to agree to an article expressly confirming both the rights. In declining this, an offer had been made on the part of Great Britain of an article stipulating to negotiate in future for the renewal of both the rights, for equivalents, which was declined by the American Plenipotentiaries, on the express ground that its effect would have been an implied admission that the rights had been annulled. There was, therefore, no article concerning them in the treaty, and the question as to the right was not discussed. I now stated the ground upon which the Government of the United States considered the right as subsisting and unimpaired. The Treaty of 1783 was, in its essential nature, not liable to be annulled by a subsequent war. It acknowledged the United States as a sovereign and independent Power. It would be an absurdity, inconsistent with the acknowledgment itself, to suppose it liable to be forfeited by a war. The whole Treaty of Ghent did constantly refer to it as existing and in full force, nor was an intimation given that any further confirmation of it was supposed to be necessary. It would be for the British Government ultimately to determine how far this reasoning was to be admitted as correct. There were, also, considerations of policy and expediency, to which I hoped they would give suitable attention, before they should come to a final decision upon this point. I thought it my duty to suggest them, that they might not be overlooked. The subject was viewed by my countrymen as highly important, and I was anxious to omit no effort which might possibly have an influence in promoting friendly sentiments between the two nations, or in guarding against the excitement of others. These fisheries afforded the means of subsistence to multitudes of people who were destitute of any other; they also afforded the means of remittance to Great Britain in payment for articles of her manufactures exported to America. It was well understood to be the policy of Great Britain that no unnecessary stimulus should be given to the manufactures in the United States, which would diminish the importance of those from Great Britain. But, by depriving the fishermen of the United States of this source of subsistence, the result must be to throw them back upon the country, and drive them to the resort of manufacturing for themselves; while, on the other hand, it would cut off the means of making remittances in payment for the manufactures of Great Britain.

I thought it best to urge every consideration which might influence a party having other views in that respect, to avoid coming to a collision upon it. I would even urge considerations of humanity. I would say that fisheries, the nature of which was to multiply the means of subsistence to mankind, were usually considered by

civilized nations under a sort of special sanction. It was a common practice to have them uninterrupted, even in time of war. He knew, for instance, that the Dutch had been, for centuries, in the practice of fishing upon the coasts of this island, and that they were not interrupted in this occupation even in ordinary times of war. It was to be inferred from this, that, to interdict a fishery, which has been enjoyed for ages, far from being a usual act in the peaceable relations between nations, was an indication of animosity, transcending even the ordinary course of hostility in war. He said that no such disposition was entertained by the British Government; that to show the liberality which they had determined to exercise in this case, he would assure me that the instructions which he had given to the officers on that station had been, not even to interrupt the American fishermen who might have proceeded to those coasts, within the British jurisdiction, for the present year; to allow them to complete their fares, but to give them notice that this privilege could no longer be allowed by Great Britain, and that they must not return the next year. It was not so much the fishing, as the drying and curing on the shores, that had been followed by bad consequences. It happened that our fishermen, by their proximity, could get to the fishing stations sooner in the season than the British, who were obliged to go from Europe, and who, upon arriving there, found all the best fishing places, and drying and curing places, pre-occupied. This had often given rise to disputes and quarrels between them, which in some instances had proceeded even to blows. It had disturbed the peace among the inhabitants on the shores; and, for several years before the war, the complaints to this Government had been so great and so frequent that it had been impossible not to pay regard to them. I said that I had not heard of any such complaints before, but that, as to the disputes arising from the competition of the fishermen, a remedy could, surely, with ease, be found for them, by suitable regulations of the Government; and with regard to the peace of the inhabitants, there could be little difficulty in securing it, as the liberty enjoyed by the American fishermen was limited to unsettled and uninhabited places, unless they could, in the others, obtain the consent and agreement of the inhabitants.

The answer which was so promptly sent to the complaint relative to the warning of the fishing vessels by the captain of the *Jaseur*, will probably be communicated to you before you will receive this letter. You will see whether it is so precise, as to the limits within which they are determined to adhere to the exclusion of our fishing vessels, as Lord Bathurst's verbal statement of it to me, namely, to the extent of one marine league from their shores. Indeed, it is to the curing and drying upon the shore that they appear to have the strongest objection. But that, perhaps, is because they know that the immediate curing and drying of the fish, as soon as they are taken, is essential to the value, if not to the very prosecution of the fishery. I have no expecta-

tion that the arguments used by me either in support of our right, or as to the policy of Great Britain, upon this question, will have any weight here. Though satisfied of their validity myself, I am persuaded it will be upon the determination of the American Government and people to maintain the right that the continuance of its enjoyment will alone depend.

*Extract of a letter from Mr. Adams to Mr. Monroe.*  
LONDON, September 26, 1815.

I have the honor to enclose a copy of a letter which I have addressed to Lord Bathurst on the subjects referred to in your instructions of 21st July, and concerning which I had, on the 14th instant, an interview with him, the account of which was reported in my last letter. I have not yet received any answer to either of those which I addressed to Lord Castlereagh in relation to the slaves carried away in violation of the first article of the Treaty of Ghent.

*Extract of a letter from Mr. Adams to Earl Bathurst.*  
CHARLES STREET, WESTMINSTER,  
September 25, 1815.

In the conference with your Lordship, with which I was honored on the 14th instant, I represented to you, conformably to the instructions which I had received from the Government of the United States, the proceedings of several British officers in America, and upon the American coast, marked with characters incompatible not only with those amicable relations which it is the earnest desire of the American Government to restore and to cultivate, but even with the condition of peace which had been restored between the two countries by the Treaty of Ghent.

It was highly satisfactory to be informed that the conduct of Captain Lock, commander of the sloop-of-war *Jaseur*, in warning American fishing vessels not to come within sixty miles of the coast of His Majesty's possessions in North America, was unauthorized, and that the instructions to the British officers on that station, far from warranting such a procedure, had directed them not even to molest the American fishing vessels which might be found pursuing that occupation during the present year. In offering a just tribute of acknowledgment to the fairness and liberality of these instructions issued from your Lordship's office, there only remained the regret that the execution had been so different from them in spirit, so opposite to them in effect. But, in disavowing the particular act of the officer who had presumed to forbid American fishing vessels from approaching within sixty miles of the American coast, and in assuring me that it had been the intention of this Government, and the instructions given by your Lordship, not even to deprive the American fishermen of any of their accustomed liberties during the present year, your Lordship did also express it as the intention of the British Government to ex-



clude the fishing vessels of the United States; hereafter, from the liberty of fishing within one marine league of the shores of all the British territories in North America, and from that of drying and curing their fish on the unsettled parts of those territories, and, with the consent of the inhabitants, on those parts which have become settled since the Peace of 1783.

I then expressed to your Lordship my earnest hope that this determination had not been irrevocably taken, and stated the instructions which I had received to present to the consideration of His Majesty's Government the grounds upon which the United States conceive those liberties to stand, and upon which they deem that such exclusion cannot be effected without an infringement of the rights of the American people.

In adverting to the origin of these liberties, it will be admitted, I presume, without question, that, from the time of the settlements in North America, which now constitute the United States, until their separation from Great Britain, and their establishment as distinct sovereignties, these liberties of fishing, and of drying and curing fish, had been enjoyed by them in common with the other subjects of the British empire. In point of principle, they were pre-eminently entitled to the enjoyment; and, in point of fact, they had enjoyed more of them than any other portion of the empire; their settlement of the neighboring country having naturally led to the discovery and improvement of these fisheries, and their proximity to the places where they are prosecuted; and the necessities of their condition having led them to the discovery of the most advantageous fishing grounds, and given them facilities in the pursuit of their occupation in those regions which the remoter parts of the empire could not possess. It might be added, that they had contributed their full share, and more than their share, in securing the conquest from France of the provinces on the coasts on which these fisheries were situated.

It was, doubtless, upon considerations such as these, that in the treaty of peace between His Majesty and the United States of 1783, an express stipulation was inserted, recognising the rights and liberties which had always been enjoyed by the people of the United States in these fisheries, and declaring that they should continue to enjoy the right of fishing on the Grand Bank, and other places of common jurisdiction, and have the liberty of fishing, and of drying and curing their fish within the exclusive British jurisdiction of the North American coasts, to which they had been accustomed whilst themselves formed a part of the British nation. This stipulation was a part of that treaty by which His Majesty acknowledged the United States as free, sovereign, and independent States, and that he treated with them as such.

It cannot be necessary for me to prove, my Lord, that that treaty is not, in its general provisions, one of those which, by the common understanding and usage of civilized nations, is, or can be, considered as annulled by a subsequent war between the same parties. To suppose that

it would imply the inconsistency and absurdity of a sovereign and independent State, liable to forfeit its right of sovereignty, by the act of exercising it on a declaration of war. But the very words of the treaty attest that the sovereignty and independence of the United States were not considered or understood as grants from His Majesty. They were taken and expressed as existing before the treaty was made, and as then only first formally recognised and acknowledged by Great Britain.

Precisely of the same nature were the rights and liberties in the fisheries to which I now refer. They were, in no respect, grants from the King of Great Britain to the United States; but the acknowledgment of them as rights and liberties enjoyed before the separation of the two countries, and which it was mutually agreed should continue to be enjoyed under the new relations which were to subsist between them, constituted the essence of the article concerning the fisheries. The very peculiarity of the stipulation is an evidence that it was not, on either side, understood or intended as a grant from one sovereign State to another. Had it been so understood, neither could the United States have claimed, nor would Great Britain have granted, gratuitously, any such concession. There was nothing, either in the state of things, or in the disposition of parties, which could have led to such a stipulation, as on the ground of a grant, without an equivalent, by Great Britain.

Yet such is the ground upon which it appears to have been contemplated as resting by the British Government, when their Plenipotentiaries at Ghent communicated to those of the United States their intentions as to the North American fisheries, viz: "That the British Government did not intend to grant to the United States, gratuitously, the privileges formerly granted by treaty to them, of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the British fisheries."

These are the words in which the notice, given by them, is recorded in the protocol of conference of the 8th of August, 1814. To this notice the American Plenipotentiaries first answered, on the 9th of August, that they had no instructions from their Government to negotiate upon the subject of the fisheries; and afterwards, in their note of 10th November, 1814, they expressed themselves in the following terms:

"In answer to the declaration made by the British Plenipotentiaries respecting the fisheries, the undersigned, referring to what passed in the conference of the 9th of August, can only state that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature, and from the peculiar character of the treaty of 1783, by which they were recognised, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of all of them."

If the stipulation of the treaty of 1783 was one of the conditions by which His Majesty acknowledged the sovereignty and independence of the United States; if it was the mere recognition of rights and liberties previously existing and enjoyed, it was neither a privilege gratuitously granted, nor liable to be forfeited by the mere existence of a subsequent war. If it was not forfeited by the war, neither could it be impaired by the declaration of Great Britain, that she did not intend to renew the grant. Where there had been no gratuitous concession, there could be none to renew; the rights and liberties of the United States could not be cancelled by the declaration of Great Britain's intentions. Nothing could abrogate them but the renunciation of them by the United States themselves.

Among the articles of that same treaty of 1783, there is one stipulating that the subjects and citizens of both nations shall enjoy, forever, the right of navigating the river Mississippi, from its sources to the ocean. And although, at the period of the negotiations of Ghent, Great Britain possessed no territory upon that river, yet the British Plenipotentiaries, in their first note, considered Great Britain as still entitled to claim the free navigation of it, without offering for it any equivalent. And, afterwards, when offering a boundary line, which would have abandoned every pretension even to any future possession on that river, they still claimed, not only its free navigation, but a right of access to it, from the British dominions in North America, through the territories of the United States. The American Plenipotentiaries, to foreclose the danger of any subsequent misunderstanding and discussion upon either of these points, proposed an article recognising anew the liberties on both sides. In declining to accept it, the British Plenipotentiaries proposed an article engaging to negotiate, in future, for the renewal of both, for equivalents to be mutually granted. This was refused by the American Plenipotentiaries, on the avowed principle that its acceptance would imply the admission on the part of the United States that their liberties in the fisheries, recognised by the treaty of 1783, had been annulled, which they declared themselves in no manner authorized to concede.

Let it be supposed, my Lord, that the notice given by the British Plenipotentiaries, in relation to the fisheries, had been in reference to another article of the same treaty; that Great Britain had declared she did not intend to grant again, gratuitously, the grant in a former treaty of peace, acknowledging the United States as free, sovereign, and independent States; or, that she did not intend to grant, gratuitously, the same boundary line which she had granted in the former treaty of peace: is it not obvious that the answer would have been that the United States needed no new acknowledgment of their independence, nor any new grant of a boundary line?—that, if their independence was to be forfeited, or their boundary line curtailed, it could only be by their own acts of renunciation, or of cession, and not by the declaration of the intentions of another

Government? And if this reasoning be just, with regard to the other articles of the treaty of 1783, upon what principle can Great Britain select one article, or a part of one article, and say, this particular stipulation is liable to forfeiture by war, or by the declaration of her will, while she admits the rest of the treaty to be permanent and irrevocable? In the negotiation of Ghent, Great Britain did propose several variations of the boundary line, but she never intimated that she considered the line of the treaty of 1783 as forfeited by the war, or that its variation could be effected by the mere declaration of her intentions. She perfectly understood that no alteration of that line could be effected but by the express assent of the United States; and, when she finally determined to abide by the same line, neither the British nor the American Plenipotentiaries conceived that any new confirmation of it was necessary. The Treaty of Ghent, in every one of its essential articles, refers to that of 1783 as being still in force. The object of all its articles, relative to the boundary, is to ascertain with more precision, and to carry into effect, the provisions of that prior compact. The treaty of 1783 is, by a tacit understanding between the parties, and without any positive stipulation, constantly referred to as the fundamental law of the relations between the two nations. Upon what ground, then, can Great Britain assume that one particular stipulation in that treaty is no longer binding upon her?

Upon this foundation, my Lord, the Government of the United States consider the people thereof as fully entitled, of right, to all the liberties in the North American fisheries which have always belonged to them; which, in the treaty of 1783, were, by Great Britain, recognised as belonging to them; and which they never have, by any act of theirs, consented to renounce. With these views, should Great Britain ultimately determine to deprive them of the enjoyment of these liberties by force, it is not for me to say whether, or for what length of time, they would submit to the bereavement of that which they would still hold to be their unquestionable right. It is my duty to hope that such measures will not be deemed necessary to be resorted to on the part of Great Britain; and to state that, if they should, they cannot impair the right of the people of the United States to the liberties in question, so long as no formal and express assent of theirs shall manifest their acquiescence in the privation.

In the interview with which your Lordship recently favored me, I suggested several other considerations, with the hope of convincing your Lordship that, independent of the question of rigorous right, it would conduce to the substantial interests of Great Britain herself, as well as to the observance of those principles of benevolence and humanity which it is the highest glory of a great and powerful nation to respect, to leave to the American fishermen the participation of those benefits which the bounty of nature has thus spread before them; which are so necessary



to their comfort and subsistence; which they have constantly enjoyed hitherto; and which, far from operating as an injury to Great Britain, had the ultimate result of pouring into her lap a great portion of the profits of their hardy and laborious industry; that these fisheries afforded the means of subsistence to a numerous class of people in the United States, whose habit of life had been fashioned to no other occupation, and whose fortunes had allotted them no other possession; that to another, and, perhaps, equally numerous class of our citizens, they afforded the means of remittance and payment for the productions of British industry and ingenuity, imported from the manufactures of this united kingdom; that, by the common and received usages among civilized nations, fishermen were among those classes of human society whose occupations, contributing to the general benefit and welfare of the species, were entitled to a more than ordinary share of protection; that it was usual to spare and exempt them even from the most exasperated conflicts of national hostility; that this nation had, for ages, permitted the fishermen of another country to frequent and fish upon the coasts of this island, without interrupting them, even in times of ordinary war; that the resort of American fishermen to the barren, uninhabited, and, for the great part, uninhabitable rocks on the coasts of Nova Scotia, the Gulf of St. Lawrence, and Labrador, to use them occasionally for the only purposes of utility of which they are susceptible, if it must, in its nature, subject British fishermen on the same coasts to the partial inconvenience of a fair competition, yet produces, in its result, advantages to other British interests equally entitled to the regard and fostering care of their sovereign. By attributing to motives derived from such sources as these the recognition of these liberties by His Majesty's Government in the treaty of 1783, it would be traced to an origin certainly more conformable to the fact, and surely more honorable to Great Britain, than by ascribing it to the improvident grant of an unrequited privilege, or to a concession extorted from the humiliating compliance of necessity.

In repeating with earnestness, all these suggestions, it is with the hope that from some, or all of them, His Majesty's Government will conclude the justice and expediency of leaving the North American fisheries in the state in which they have heretofore constantly existed, and the fishermen of the United States unmolested in the enjoyment of their liberties.

Mr. Adams to Mr. Monroe.

LONDON, October 31, 1815.

SIR: I have the honor to enclose copies of two papers I received from Lord Bathurst, relative to the taking and carrying away of slaves from the United States by the British naval commanders,

\* For these papers, viz: Lord Bathurst's letters of October 24, [25,] 1815, relating to the deported slaves, see Appendix to Annals, 2d Session 14th Congress.

in violation of the first article of the Treaty of Ghent, and also by an abuse of the privileges allowed to a flag of truce.

I have the honor to be, respectfully, &c.

JOHN Q. ADAMS.

Mr. Adams to Mr. Monroe.

LONDON, November 8, 1815.

SIR: Since I had the honor of writing you last, on the 31st ultimo, I have received from Lord Bathurst a note in answer to my letter to him relating to the fisheries; a copy of which is herewith enclosed. I hope shortly to reply to this note, and perceive nothing in it which can render the rights of the United States to the participation in the fisheries in any manner dubious.

It will be for the Government of the United States to determine whether the negotiation proposed by Lord Bathurst will be advisable; and I pray to be honored with the President's instructions on the subject as soon as possible.

I am, with great respect, sir, &c.

JOHN Q. ADAMS.

HON. JAMES MONROE, &c.

Lord Bathurst to Mr. Adams.

FOREIGN OFFICE, October 30, 1815.

The undersigned, one of His Majesty's principal Secretaries of State, had the honor of receiving the letter of the Minister of the United States, dated the 25th ultimo, containing the grounds upon which the United States conceive themselves, at the present time, entitled to prosecute their fisheries within the limits of the British sovereignty, and to use British territories for purposes connected with the fisheries.

A pretension of this kind was certainly intimated on a former occasion, but in a manner so obscure that His Majesty's Government were not enabled even to conjecture the grounds upon which it could be supported.

His Majesty's Government have not failed to give to the argument contained in the letter of the 25th ultimo a candid and deliberate consideration; and, although they are compelled to resist the claim of the United States, when thus brought forward as a question of right, they feel every disposition to afford to the citizens of those States all the liberties and privileges connected with the fisheries which can consist with the just rights and interests of Great Britain, and secure His Majesty's subjects from those undue molestations in their fisheries which they have formerly experienced from citizens of the United States. The Minister of the United States appears, by his letter, to be well aware that Great Britain has always considered the liberty formerly enjoyed by the United States of fishing within British limits, and using British territory, as derived from the third article of the treaty of 1783, and from that alone; and that the claim of an independent State to occupy and use at its discretion any portion of the territory of another, without compensation or corresponding indul-

gence, cannot rest on any other foundation than conventional stipulation. It is unnecessary to inquire into the motives which might have originally influenced Great Britain in conceding such liberties to the United States, or whether other articles of the treaty wherein these liberties are specified did, or did not, in fact, afford an equivalent for them, because all the stipulations profess to be founded on reciprocal advantages and mutual convenience. If the United States derived from that treaty privileges from which other independent nations not admitted by treaty were excluded, the duration of the privileges must depend on the duration of the instrument by which they were granted; and if the war abrogated the treaty, it determined the privileges. It has been urged, indeed, on the part of the United States, that the treaty of 1783 was of a peculiar character, and that, because it contained a recognition of American independence, it could not be abrogated by a subsequent war between the parties. To a position of this novel nature Great Britain cannot accede. She knows of no exception to the rule, that all treaties are put an end to by a subsequent war between the same parties: she cannot, therefore, consent to give to her diplomatic relations with one State a different degree of permanency from that on which her connexion with all other States depends. Nor can she consider any one State at liberty to assign to a treaty made with her such a peculiarity of character as shall make it, as to duration, an exception to all other treaties, in order to found, on a peculiarity thus assumed, an irrevocable title to all indulgences, which have all the features of temporary concessions.

The Treaty of Ghent has been brought forward by the American Minister as supporting, by its reference to the boundary line of the United States, as fixed by the treaty of 1783, the opinion that the treaty of 1783 was not abrogated by the war. The undersigned, however, cannot observe in any one of its articles any express or implied reference to the treaty of 1783 as still in force. It will not be denied that the main object of the Treaty of Ghent was the mutual restoration of all territory taken by either party from the other during the war. As a necessary consequence of such a stipulation, each party reverted to their boundaries as before the war, without reference to the title by which these possessions were acquired, or to the mode in which their boundaries had been previously fixed. In point of fact, the United States had before acquired possession of territories asserted to depend on other titles than those which Great Britain could confer. The Treaty of Ghent, indeed, adverted, as a fact of possession, to certain boundaries of the United States which were specified in the treaty of 1783; but surely it will not be contended that therefore the treaty of 1783 was not considered at an end.

It is justly stated by the American Minister that the United States did not need a new grant of the boundary line. The war did not arise out of a contested boundary; and Great Britain, therefore, by the act of treating with the United

States, recognised that nation in its former dimensions, excepting so far as the *jus belli* had interfered with them; and it was the object of the Treaty of Ghent to cede such rights to territory as the *jus belli* had conferred.

Still less does the free navigation of the Mississippi, as demanded by the British negotiators at Ghent, in any manner express or imply the non-abrogation of the treaty of 1783 by the subsequent war. It was brought forward by them as one of many advantages they were desirous of securing to Great Britain; and if in the first instance demanded without equivalent, it left it open to the negotiators of the United States to claim for their Government, in the course of their conferences, a corresponding benefit. The American Minister will recollect that propositions of this nature were at one time under discussion, and that they were only abandoned at the time that Great Britain relinquished her demand to the navigation of the Mississippi. If, then, the demand on the part of Great Britain can be supposed to have given any weight to the present argument of the United States, the abandonment of that demand must have effectually removed it.

It is by no means unusual for treaties containing recognitions and acknowledgments of title, in the nature of perpetual obligation, to contain, likewise, grants of privileges liable to revocation. The treaty of 1783, like many others, contained provisions of different characters—some in their own nature irrevocable, and others of a temporary nature. If it be thence inferred that, because some advantages specified in that treaty would not be put an end to by the war, therefore all the other advantages were intended to be equally permanent, it must first be shown that the advantages themselves are of the same, or at least of a similar character; for the character of one advantage recognised or conceded by treaty can have no connexion with the character of another, though conceded by the same instrument, unless it arises out of a strict and necessary connexion between the advantages themselves. But what necessary connexion can there be between a right to independence and a liberty to fish within British jurisdiction, or to use British territory? Liberties within British limits are as capable of being exercised by a dependent, as by an independent State, and cannot, therefore, be the necessary consequence of independence.

The independence of a State is that which cannot be correctly said to be granted by a treaty, but to be acknowledged by one. In the treaty of 1783, the independence of the United States was certainly acknowledged, not merely by the consent to make the treaty, but by the previous consent to enter into the provisional articles executed in November, 1782. The independence might have been acknowledged without either the treaty or the provisional articles; but, by whatever mode acknowledged, the acknowledgment is, in its own nature, irrevocable. A power of revoking, or even of modifying it, would be destructive of the thing itself; and, therefore, all such power is necessarily renounced when the



acknowledgment is made. The war could not put an end to it, for the reason justly assigned by the American Minister, because a nation could not forfeit its sovereignty by the act of exercising it; and for the further reason, that Great Britain, when she declared war on her part against the United States, gave them, by that very act, a new recognition of their independence.

The nature of the liberty to fish within British limits, or to use British territory, is essentially different from the right to independence, in all that may reasonably be supposed to regard its intended duration. The grant of this liberty has all the aspect of a policy temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences, in a military, naval, or commercial point of view, resulting from the access of an independent nation to such islands and places.

When, therefore, Great Britain, admitting the independence of the United States, denies their right to the liberties for which they now contend, it is not that she selects from the treaty, articles, or parts of articles, and says, at her own will, this stipulation is liable to forfeiture by war, and that it is irrevocable; but the principle of her reasoning is, that such distinctions arise out of the provisions themselves, and are founded on the very nature of the grants. But the rights acknowledged by the treaty of 1783 are not only distinguishable from the liberties conceded by the same treaty, in the foundation upon which they stand, but they are carefully distinguished in the treaty of 1783 itself. The undersigned begs to call the attention of the American Minister to the wording of the first and third articles, to which he has often referred, for the foundation of his arguments. In the first article, Great Britain acknowledges an independence already expressly recognised by the Powers of Europe and by herself, in her consent to enter into provisional articles, of November, 1782. In the third article, Great Britain acknowledges the right of the United States to take fish on the banks of Newfoundland and other places, from which Great Britain has no right to exclude an independent nation. But they are to have the liberty to cure and dry them in certain unsettled places within His Majesty's territory. If these liberties, thus granted, were to be as perpetual and indefeasible as the rights previously recognised, it is difficult to conceive that the Plenipotentiaries of the United States would have admitted a variation of language so adapted to produce a different impression; and, above all, that they should have admitted so strange a restriction of a perpetual and indefeasible right as that with which the article concludes, which leaves a right so practical and so beneficial as this is admitted to be, dependent on the will of British subjects, in their character of inhabitants, proprietors, or possessors of the soil, to prohibit its exercise altogether.

It is surely obvious that the word *right*, is, throughout the treaty, used as applicable to what

the United States were to enjoy, in virtue of a recognised independence; and the word *liberty* to what they were to enjoy, as concessions strictly dependent on the treaty itself.

The right of the United States has been asserted upon other arguments, which appear to the undersigned not altogether consistent with those that had been previously advanced. It has been argued by the Minister of the United States that the treaty of 1783 did not confer upon the United States the liberty of fishing within British jurisdiction, and using British territory, but merely recognised a right which they previously had; and it has been thence inferred that the recognition of this right renders it as perpetual as that of their independence.

If the treaty of 1783 did not confer the liberties in question, the undersigned cannot understand why, in their support, the point should have been so much pressed, that the treaty is in force notwithstanding the subsequent war. If, as stated by the American Minister, the time of the settlement of North America was the origin of the liberties of the United States in respect to the fisheries, and their independence, as recognised in 1783, was, as further argued by him, the mere recognition of rights and liberties previously existing, (which must have been in virtue of their independence,) it would seem to follow that their independence was recognised from the time of the settlement of North America—for no other period can be assigned. The undersigned is totally unable to collect when the American Minister considers the independence of his country to have commenced; yet this is a point of no small importance, if other rights are to be represented as coeval with it, or dependent on it.

As to the origin of these privileges, in point of fact, the undersigned is ready to admit that, so long as the United States constituted a part of the dominions of His Majesty, the inhabitants had the enjoyment of them, as they had of other political and commercial advantages, in common with his Majesty's subjects. But they had, at the same time, in common with His Majesty's other subjects, duties to perform; and when the United States, by their separation from Great Britain, became released from the duties, they became excluded also from the advantages of British subjects. They cannot, therefore, now claim, otherwise than by treaty, the exercise of privileges belonging to them as British subjects, unless they are prepared to admit, on the part of Great Britain, the exercise of the rights which she enjoyed previous to the separation.

If it be contended, on the part of the United States, that, in consequence of having been once a part of the British dominions, they are now entitled, as of right, to all the privileges which they enjoyed as British subjects, in addition to those which they have as an independent people, the undersigned cannot too strongly protest against such a doctrine; and it must become doubly necessary for Great Britain to hesitate in conceding the privileges which are now the subject of discussion, lest, by such a concession, she should be

supposed to countenance a principle not less novel than alarming.

But, though Great Britain can never admit the claim of the United States to enjoy those liberties, with respect to the fisheries, as matter of right, she is by no means insensible to some of those considerations with which the letter of the American Minister concludes.

Although His Majesty's Government cannot admit that the claim of the American fishermen to fish within British jurisdiction, and to use the British territory for purposes connected with their fishery, is analogous to the indulgence which has been granted to enemy's subjects engaged in fishing on the high seas, for the purpose of conveying fresh fish to market, yet they do feel that the enjoyment of the liberties, formerly used by the inhabitants of the United States, may be very conducive to their national and individual prosperity, though they should be placed under some modifications; and this feeling operates most forcibly in favor of concession. But Great Britain can only offer the concession in a way which shall effectually protect her own subjects from such obstructions to their lawful enterprises as they too frequently experienced immediately previous to the late war, and which are, from their very nature, calculated to produce collision and disunion between the two States.

It was not of fair competition that His Majesty's Government had reason to complain, but of the preoccupation of British harbors and creeks, in North America, by the fishing vessels of the United States, and the forcible exclusion of British vessels from places where the fishery might be most advantageously conducted. They had, likewise, reason to complain of the clandestine introduction of prohibited goods into the British colonies by American vessels ostensibly engaged in the fishing trade, to the great injury of the British revenue.

The undersigned has felt it incumbent on him thus generally to notice these obstructions, in the hope that the attention of the Government of the United States will be directed to the subject; and that they may be induced, amicably and cordially, to co-operate with His Majesty's Government in devising such regulations as shall prevent the recurrence of similar inconveniences.

His Majesty's Government are willing to enter into negotiations with the Government of the United States for the modified renewal of the liberties in question; and they doubt not that an arrangement may be made satisfactory to both countries, and tending to confirm the amity now so happily subsisting between them.

The undersigned avails himself of this opportunity of renewing to Mr. Adams the assurances of his high consideration. BATHURST.

*Extract of a letter from Mr. Adams, Envoy, &c., at London, to the Secretary of State, dated*

LONDON, January 22, 1816.

I have the honor to enclose my reply to Lord Bathurst's note concerning the fisheries. It has

been delayed by an illness which, for several weeks, disabled me from writing.

*Reply to the note of Lord Bathurst, of October 30, 1815.*

13 CRAVEN STREET, Jan. 22, 1816.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has received, and communicated to the Government of the United States, the answer of Lord Bathurst to a letter which he had the honor of addressing to his Lordship on the 25th of September last, representing the grounds upon which the American Government consider the people of the United States entitled to all the rights and liberties in, and connected with, the fisheries on the coasts of North America, which had been enjoyed by them previously to the American Revolution, and which, by the third article of the treaty of peace of 1783, were recognised by Great Britain as rights and liberties belonging to them. The reply to Lord Bathurst's note has been delayed by circumstances which it is unnecessary to detail. It is for the Government of the United States alone to decide upon the proposal of a negotiation upon the subject. That they will at all times be ready to agree upon arrangements which may obviate and prevent the recurrence of those inconveniences stated to have resulted from the exercise by the people of the United States of these rights and liberties, is not to be doubted; but as Lord Bathurst appears to have understood some of the observations in the letter of the undersigned as importing inferences not intended by him, and as some of his Lordship's remarks particularly require a reply, it is presumed that, since Lord Castlereagh's return, it will, with propriety, be addressed to him.

It had been stated, in the letter to Lord Bathurst, that the treaty of peace of 1783 between Great Britain and the United States was of a peculiar nature, and bore in that nature a character of permanency, not subject, like many of the ordinary contracts between independent nations, to abrogation by a subsequent war between the same parties. His Lordship not only considers this as a position of a novel nature, to which Great Britain cannot accede, but as claiming for the diplomatic relations of the United States with her a different degree of permanency from that on which her connexions with all other States depend. He denies the right of any one State to assign to a treaty made with her such a peculiarity of character as to make it in duration an exception to all other treaties, in order to found on a peculiarity thus assumed an irrevocable title to all indulgences which (he alleges) have all the features of temporary concessions; and he adds, in unqualified terms, that "Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the same parties."

The undersigned explicitly disavows every pretence of claiming, for the diplomatic relations between the United States and Great Britain, a degree of permanency different from that of the



same relations between either of the parties and all other Powers. He disclaims all pretence of assigning to any treaty between the two nations any peculiarity not founded in the nature of the treaty itself. But he submits to the candor of His Majesty's Government whether the treaty of 1783 was not, from the very nature of its subject-matter, and from the relations previously existing between the parties to it, peculiar? Whether it was a treaty which could have been made between Great Britain and any other nation? And, if not, whether the whole scope and objects of its stipulations were not expressly intended to constitute a new and permanent state of diplomatic relations between the two countries, which would not, and could not, be annulled by the mere fact of a subsequent war between them? And he makes this appeal with the more confidence, because another part of Lord Bathurst's note admits that treaties often contain recognitions and acknowledgments in the nature of perpetual obligation, and because it implicitly admits that the whole treaty of 1783 is of this character, with the exception of the article concerning the navigation of the Mississippi, and a small part of the article concerning the fisheries.

The position that "Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the same parties" appears to the undersigned not only novel, but unwarranted by any of the received authorities upon the laws of nations; unsanctioned by the practice and usages of sovereign States; quitted, in its tendency, to multiply the incitements to war, and to weaken the ties of peace between independent nations; and not easily reconciled with the admission that treaties not unusually contain, together with articles of a temporary character, liable to revocation, recognitions, and acknowledgments in the nature of perpetual obligation.

A recognition or acknowledgment of title, stipulated by convention, is as much a part of the treaty as any other article; and if all treaties are abrogated by war, the recognitions and acknowledgments contained in them must necessarily be null and void, as much as any other part of the treaty.

If there be no exception to the rule that war puts an end to all treaties between the parties to it, what can be the purpose or meaning of those articles which, in almost all treaties of commerce, are provided expressly for the contingency of war, and which, during the peace, are without operation? On this point, the undersigned would refer Lord Castlereagh to the tenth article of the treaty of 1794 between the United States and Great Britain, where it is thus stipulated: "Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor moneys, which they may have in the public funds, or in the public or private banks, shall ever, in any event of war, or national differences, be sequestered or confiscated." If war puts an end to all treaties, what could the parties to this engagement intend by making it formally an ar-

ticle of the treaty? According to the principle laid down, excluding all exception, by Lord Bathurst's note, the moment a war broke out between the two countries this stipulation became a dead letter, and either State might have sequestered or confiscated those specified properties, without any violation of compact between the nations.

The undersigned believes that there are many exceptions to the rule by which the treaties between nations are mutually considered as terminated by the intervention of a war; that these exceptions extend to all engagements contracted with the understanding that they are to operate equally in war and peace, or exclusively during war; to all engagements by which the parties superadd the sanction of a formal compact to principles dictated by the eternal laws of morality and humanity; and, finally, to all engagements which, according to the expressions of Lord Bathurst's note, are in the nature of perpetual obligation. To the first and second of these classes may be referred the tenth article of the treaty of 1794, and all treaties or articles of treaties stipulating the abolition of the slave trade. The treaty of peace of 1783 belongs to the third.

The reasoning of Lord Bathurst's note seems to confine this perpetuity of obligation to recognitions and acknowledgments of title, and to consider its perpetual nature as resulting from the subject-matter of the contract, and not from the engagement of the contractor. While Great Britain leaves the United States unmolested in the enjoyment of all the advantages, rights, and liberties stipulated in their behalf in the treaty of 1783, it is immaterial to them whether she founds her conduct upon the mere fact that the United States are in possession of such rights, or whether she is governed by good faith and respect for her own engagements. But if she contests any one of them, it is to her engagements only that the United States can appeal as the rule for settling the question of right. If this appeal be rejected, it ceases to be a discussion of right; and this observation applies as strongly to the recognition of independence, and to the boundary line in the treaty of 1783, as to the fisheries. It is truly observed by Lord Bathurst, that in that treaty the independence of the United States was not granted, but acknowledged. He adds, that it might have been acknowledged without any treaty, and that the acknowledgment, in whatever mode made, would have been irrevocable. But the independence of the United States was precisely the question upon which a previous war between them and Great Britain had been waged. Other nations might acknowledge their independence without a treaty, because they had no right, or claim of right, to contest it; but this acknowledgment, to be binding upon Great Britain, could have been made only by treaty, because it included the dissolution of one social compact between the parties, as well as the formation of another. Peace could exist between the two nations only by the mutual pledge of faith to the new social relations established be-

tween them; and hence it was that the stipulations of that treaty were in the nature of perpetual obligation, and not liable to be forfeited by a subsequent war, or by any declaration of the will of either party without the assent of the other.

In this view, it certainly was supposed by the undersigned that Great Britain considered her obligation to hold and treat with the United States as a sovereign and independent Power as derived only from the preliminary articles of 1782, as converted into the definitive treaty of 1783. The boundary line could obviously rest upon no other foundation. The boundaries were neither recognitions nor acknowledgments of title. They could have been fixed and settled only by treaty, and it is to the treaty alone that both parties have always referred in all discussions concerning them. Lord Bathurst's note denies that there is in any one of the articles of the Treaty of Ghent any express or implied reference to the treaty of 1783, as still in force. It says that, by the stipulation for a mutual restoration of territory, each party necessarily "reverted to their boundaries as before the war, without reference to the title by which their possessions were acquired, or to the mode in which their boundaries had been previously fixed."

There are four several articles of the Treaty of Ghent, in every one of which the treaty of 1783 is not only named, but its stipulations form the basis of the new engagements between the parties for carrying its provisions into execution. These articles are the fourth, fifth, sixth, and seventh. The undersigned refers particularly to the fourth article, where the boundaries described are not adverted to without reference to the title by which they were acquired; but where the stipulation of the treaty of 1783 is expressly assigned as the basis of the claims, both of the United States and of Great Britain, to the islands mentioned in the article.

The words with which the article begins are, "Whereas it was stipulated by the second article in the treaty of peace of one thousand seven hundred and eighty-three, between His Britannic Majesty and the United States of America, that the boundary of the United States should comprehend all islands," &c.

It proceeds to describe the boundaries as there stipulated; then alleges the claim of the United States to certain islands, as founded upon one part of the stipulation, and the claim of Great Britain as derived from another part of the stipulation; and agrees upon the appointment of two commissioners "to decide to which of the two contracting parties the islands belong, in conformity with the true intent of the said treaty of peace of 1783." The same expressions are repeated in the fifth, sixth, and seventh articles; and the undersigned is unable to conceive by what construction of language one of the parties to those articles can allege that, at the time when they were signed, the treaty of 1783 was, or could be, considered at an end.

When, in the letter of the undersigned to Lord

Bathurst, the treaty of 1783 was stated to be a compact of a peculiar character, importing in its own nature a permanence not liable to be annulled by the fact of a subsequent war between the parties, the recognition of the sovereignty of the United States and the boundary line were adduced as illustrations to support the principle; the language of the abovementioned articles in the Treaty of Ghent, and the claim brought forward by Great Britain, at the negotiation of it, for the free navigation of the Mississippi, were alleged as proofs that Great Britain herself so considered it, excepting with regard to a small part of the single article relative to the fisheries; and the right of Great Britain was denied thus to select one particular stipulation in such a treaty, and declare it to have been abrogated by the war. The answer of Lord Bathurst denies that Great Britain has made such a selection, and affirms that the whole treaty of 1783 was annulled by the late war. It admits, however, that the recognition of independence and the boundaries was in the nature of perpetual obligation; and that, with the single exception of the liberties in and connected with the fisheries within British jurisdiction on the coasts of North America, the United States are entitled to all the benefits of all the stipulations in their favor contained in the treaty of 1783, although the stipulations themselves are supposed to be annulled. The fishing liberties within British jurisdiction alone are considered as a temporary grant, liable not only to abrogation by war, but, as it would seem from the tenor of the argument, revocable at the pleasure of Great Britain, whenever she might consider the revocation suitable to her interest. The note affirms that "the liberty to fish within British limits, or to use British territory, is essentially different from the right to independence in all that can reasonably be supposed to regard its intended duration; that the grant of this liberty has all the aspect of a policy, temporary and experimental, depending on the use that might be made of it, on the condition of the islands and places where it was to be exercised, and the more general conveniences or inconveniences, in a military, naval, or commercial point of view, resulting from the access of an independent nation to such islands and places."

The undersigned is induced, on this occasion, to repeat his Lordship's own words, because, on a careful and deliberate review of the article in question, he is unable to discover in it a single expression indicating, even in the most distant manner, a policy, temporary or experimental, or having the remotest connexion with military, naval, or commercial conveniences or inconveniences to Great Britain. He has not been inattentive to the variation in the terms, by which the enjoyment of the fisheries on the main ocean, the common possession of both nations, and the same enjoyment within a small portion of the special jurisdiction of Great Britain, are stipulated in the article, and recognised as belonging to the people of the United States. He considers the term *right* as importing an advantage to be



enjoyed in a place of common jurisdiction, and the term *liberty* as referring to the same advantage, incidentally leading to the borders of a special jurisdiction. But, evidently, neither of them imports any limitation of time. Both were expressions no less familiar to the understandings than dear to the hearts of both the nations parties to the treaty. The undersigned is persuaded it will be readily admitted that, wherever the English language is the mother tongue, the term *liberty*, far from including in itself either limitation of time or precariousness of tenure, is essentially as permanent as that of *right*, and can, with justice, be understood only as a modification of the same thing; and as no limitation of time is implied in the term itself, so there is none expressed in any part of the article to which it belongs. The restriction at the close of the article is itself a confirmation of the permanency which the undersigned contends belongs to every part of the article. The intention was, that the people of the United States should continue to enjoy all the benefits of the fisheries which they had enjoyed theretofore, and, with the exception of drying and curing fish on the island of Newfoundland, all that British subjects should enjoy thereafter. Among them, was the liberty of drying and curing fish on the shores, then uninhabited, adjoining certain bays, harbors, and creeks. But, when those shores should become settled, and thereby become private and individual property, it was obvious that the liberty of drying and curing fish upon them must be conciliated with the proprietary rights of the owners of the soil. The same restriction would apply to British fishermen; and it was precisely because no grant of a new right was intended, but merely the continuance of what had been previously enjoyed, that the restriction must have been assented to on the part of the United States. But, upon the common and equitable rule of construction for treaties, the expression of one restriction implies the exclusion of all others not expressed; and thus the very limitation which looks forward to the time when the unsettled deserts should become inhabited, to modify the enjoyment of the same liberty conformably to the change of circumstances, corroborates the conclusion that the whole purport of the compact was permanent and not temporary—not experimental, but definitive.

That the term *right* was used as applicable to what the United States were to enjoy in virtue of a recognised independence, and the word *liberty* to what they were to enjoy as concessions strictly dependent on the treaty itself, the undersigned not only cannot admit, but considers as a construction altogether unfounded. If the United States would have been entitled, in virtue of a recognised independence, to enjoy the fisheries to which the word *rights* is applied, no article upon the subject would have been required in the treaty. Whatever their right might have been, Great Britain would not have felt herself bound, without a specific article to that effect, to acknowledge it as included among the append-

ages to their independence. Had she not acknowledged it, the United States must have been reduced to the alternative of resigning it, or of maintaining it by force; the result of which must have been war—the very state from which the treaty was to redeem the parties. That Great Britain would not have acknowledged these rights as belonging to the United States in virtue of their independence, is evident; for, in the cession of Nova Scotia by France to Great Britain, in the twelfth article of the Treaty of Utrecht, it was expressly stipulated that, as a consequence of that cession, French subjects should be thenceforth "excluded from all kind of fishing in the said seas, bays, and other places on the coasts of Nova Scotia; that is to say, on those which lie towards the east, within thirty leagues, beginning from the island commonly called Sable, inclusively, and thence stretching along towards the southwest." The same exclusion was repeated, with some slight variation, in the treaty of peace of 1763; and, in the eighteenth article of the same treaty, Spain explicitly renounced all pretensions to the right of fishing "in the neighborhood of the island of Newfoundland." It was not, therefore, as a necessary result of their independence that Great Britain recognised the right of the people of the United States to fish on the banks of Newfoundland, in the "Gulf of St. Lawrence," and at all other places in the sea where "the inhabitants of both countries used, at any time theretofore, to fish." She recognised it, by a special stipulation, as a right which they had theretofore enjoyed as a part of the British nation, and which, as an independent nation, they were to continue to enjoy unmolested; and it is well known that, so far from considering it as recognised by virtue of her acknowledgment of independence, her objections to admitting it at all formed one of the most prominent difficulties in the negotiation of the peace of 1763. It was not asserted by the undersigned, as Lord Bathurst's note appears to suppose, that either the right or the liberty of the people of the United States in these fisheries was indefeasible. It was maintained that, after the recognition of them by Great Britain, in the treaty of 1763, neither the right nor the liberty could be forfeited by the United States, but by their own consent; that no act or declaration of Great Britain alone could divest the United States of them; and that no exclusion of them from the enjoyment of either could be valid, unless expressly stipulated by themselves, as was done by France in the Treaty of Utrecht, and by France and Spain in the peace of 1763.

The undersigned is apprehensive, from the earnestness with which Lord Bathurst's note argues to refute inferences which he disclaims, from the principles asserted in his letter to his Lordship, that he has not expressed his meaning in terms sufficiently clear. He affirmed that, previous to the independence of the United States, their people, as British subjects, had enjoyed all the rights and liberties in the fisheries, which form the subject of the present discussion; and that, when the

separation of the two parts of the nation was consummated, by a mutual compact, the Treaty of Peace defined the rights and liberties which, by the stipulation of both parties, the United States in their new character were to enjoy. By the acknowledgment of the independence of the United States, Great Britain bound herself to treat them, thenceforward, as a nation possessed of all the prerogatives and attributes of sovereign power. The people of the United States were, thenceforward, neither bound in allegiance to the Sovereign of Great Britain, nor entitled to his protection, in the enjoyment of any of their rights, as his subjects. Their rights and their duties, as members of a State, were defined and regulated by their own constitutions and forms of government. But there were certain rights and liberties which had been enjoyed by both parts of the nation, while subjects of the same sovereign, which it was mutually agreed they should continue to enjoy unmolested; and, among them, were the rights and liberties in those fisheries. The fisheries on the banks of Newfoundland, as well in the open seas as in the neighboring bays, gulfs, and along the coasts of Nova Scotia and Labrador, were, by the dispensations and the laws of nature, in substance, only different parts of one fishery. Those of the open sea were enjoyed not as a common and universal right of all nations; since the exclusion from them of France and Spain, in whole or in part, had been expressly stipulated by those nations, and no other nation had, in fact, participated in them. It was, with some exceptions, an exclusive possession of the British nation; and in the Treaty of Separation it was agreed that the rights and liberties in them should continue to be enjoyed by that part of the nation which constituted the United States; that it should not be a several, but, as between Great Britain and the United States, a common fishery. It was necessary, for the enjoyment of this fishery, to exercise it in conformity to the habits of the species of game of which it consisted. The places frequented by the fish were those to which the fishermen were obliged to resort, and these occasionally brought them to the borders of the British territorial jurisdiction. It was also necessary, for the prosecution of a part of this fishery, that the fish, when caught, should be immediately cured and dried, which could only be done on the rocks or shores adjoining the places where they were caught; the access to these rocks and shores, for those purposes, was secured to the people of the United States, as incidental and necessary to the enjoyment of the fishery; it was little more than an access to naked rocks and desolate sands; but it was as permanently secured as the right to the fishery itself. No limitation was assigned of time. Provision was made for the proprietary rights which might at a distant and future period arise by the settlement of places then uninhabited; but no other limitation was expressed or indicated by the terms of the treaty, and no other can, either from the letter or spirit of the article, be inferred.

Far, then, from claiming the general rights and  
15th CON. 2d SESS.—47

privileges belonging to British subjects within the British dominions, as resulting from the Treaty of Peace of 1763, while at the same time asserting their exemption from the duties of a British allegiance, the article in question is itself a proof that the people of the United States have renounced all such claims. Could they have pretended generally to the privileges of British subjects, such an article as that relating to the fisheries would have been absurd. There was in the treaty of 1763 no express renunciation of their rights to the protection of a British Sovereign. This renunciation they had made by their declaration of independence on the 4th of July, 1776; and it was implied in their acceptance of the counter-renunciation of sovereignty in the treaty of 1763. It was precisely because they might have lost their portion of this joint national property, to the acquisition of which they had contributed more than their share, unless a formal article of the treaty should secure it to them, that the article was introduced. By the British municipal laws, which were the laws of both nations, the property of a fishery is not necessarily in the proprietor of the soil where it is situated. The soil may belong to one individual, and the fishery to another. The right to the soil may be exclusive, while the fishery may be free, or held in common. And thus, while in the partition of the national possessions in North America, stipulated by the treaty of 1763, the jurisdiction over the shores washed by the waters where this fishery was placed was reserved to Great Britain, the fisheries themselves, and the accommodations essential to their prosecution, were, by mutual compact, agreed to be continued in common.

In submitting these reflections to the consideration of His Majesty's Government, the undersigned is duly sensible to the amicable and conciliatory sentiments and dispositions towards the United States manifested at the conclusion of Lord Bathurst's note, which will be met by reciprocal and corresponding sentiments and dispositions on the part of the American Government. It will be highly satisfactory to them to be assured that the conduciveness of the object to the national and individual prosperity of the inhabitants of the United States operates with His Majesty's Government as a forcible motive to concession. Undoubtedly, the participation in the liberties of which their right is now maintained, is far more important to the interests of the people of the United States than the exclusive enjoyment of them can be to the interests of Great Britain. The real, general, and ultimate interests of both the nations on this object, he is fully convinced are the same. The collision of particular interests which heretofore may have produced altercations between the fishermen of the two nations, and the clandestine introduction of prohibited goods by means of American fishing vessels, may be obviated by arrangements duly concerted between the two Governments. That of the United States, he is persuaded, will readily co-operate in any measure to secure those ends compatible with the enjoyment by the people of



the United States of the liberties to which they consider their title as unimpaired, inasmuch as it has never been renounced by themselves.

The undersigned prays Lord Castlereagh to accept the renewed assurance of his high consideration.

JOHN Q. ADAMS.

LORD VISCOUNT CASTLEREAGH.

*Extracts of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, Jan. 31, 1816.

In my interview with Lord Castlereagh on the 25th instant we had much conversation, as well upon the topics which have formed the subjects of discussion with this Government during his absence, as upon those concerning which I have recently been honored with your instructions. As propositions for a formal negotiation had been made on both sides, I thought it necessary to ascertain whether this Government would consider the full power under which I had acted jointly with my late colleagues as yet sufficient for concluding with me any further conventional arrangements. At the time when we signed the commercial convention of the 3d July last, we had given notice that the objects upon which we had been instructed to treat under that full power, were much more extensive than those upon which we found it then practicable to come to an agreement; but as the British Plenipotentiaries informed us that their powers would terminate on the conclusion of that convention, I told them that I should make no further propositions, unless by virtue of subsequent instructions from my own Government; and, in that case, should address them in the ordinary channel of the Foreign Department. I now inquired of Lord Castlereagh whether this Government was now disposed to enter upon a further negotiation, and, if they were, whether they would expect me to produce a new full power? With regard to the latter point, Lord Castlereagh said, that if I should declare that the Government of the United States still considered the joint power under which I had treated heretofore as in force, to authorize me to treat separately, and that the proposals which I should make were by the instructions of my Government, he thought it would not be necessary for me to produce a new power. As this answer is not perfectly explicit, and as it requires of me a declaration of what I must rather infer than positively know, I would request, as the safest course, that a new full power may be transmitted to me.

Lord Castlereagh inquired what were the subjects upon which we should be desirous of treating. I mentioned, as the first and most important, that which relates to seamen; observing, the great anxiety which was felt in the United States on this subject, the principal source of the late contest between the two countries, and that from which the greatest danger of future dissensions was to be apprehended, unless some provision should be made during the peace to prevent the

recurrence of the same evils whenever a new war may take place.

I noticed the new recommendation in the President's Message to Congress, of a law for confining the navigation of American vessels to American seamen, and the solicitude manifested by the President that it may lead to the total discontinuance of the practice of impressment in our vessels. Lord Castlereagh expressed his satisfaction, at what he termed this change of policy on the part of the United States; but, far from appearing to think it a motive for Great Britain to stipulate by treaty to forbear the practice of impressment, he intimated the opinion that this measure of the United States, if fairly adopted, and properly carried into execution, would rather make any arrangement between the two nations unnecessary. He said that its consequences must be, that there would be no British seamen on board of American vessels to take, and, if so, that the practice of taking them would cease of course. He remarked that, as the inconvenience did not exist during peace, it might be doubted whether it was the most seasonable time for a discussion, upon which there was such a different and opposite view in point of principle entertained by the two Governments. And, although I urged that the time of peace, when there was no immediate interest of either party at stake, and when the feelings on both sides would be cool and composed, might be peculiarly adapted to a mutual effort for closing this fruitful source of dissensions, he was not inclined to that opinion. He intimated that there was still in England a very strong and highly irritable feeling on this subject; that the Government could not incur the responsibility of concession in relation to it; that it would be inexpedient to wait until the new policy of the United States for encouraging their own native seamen should fully have been developed, and, by its consequences, have proved that Great Britain would not need impressment to preserve herself from the loss of her own seamen. He added, nevertheless, that the British Government would always be ready to hear proposals on this subject, and to adopt arrangements which might guard against abuses in the exercise of their rights.

I shall give you, in my next, the sequel of this conference, the result of which has confirmed all the opinions, with regard to the policy of this Government, which I gave you in my last despatch. There appears to me no prospect that, under the present ministry, any conventional arrangement for renouncing the practice of impressment will be attainable; and you will observe the new argument which Lord Castlereagh derives against such a stipulation, from the measures recommended by the President for excluding foreign seamen from our service. There is no immediate prospect of any maritime war, nor, indeed, any remote discernible prospect of such a war, with the United States neutral to it. As the occurrence, however, is not impossible, and as the outrage of that practice can never be tolerated by a nation of the strength and resources to which the

United States are rising, it cannot too forcibly be urged upon their conviction, that the only means of protecting their seafaring citizens in the enjoyment of their rights, will consist in the energy with which they shall be asserted.

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, February 8, 1816.

In relation to the fisheries little was said. He told me that he had, the evening before, read my note to him concerning them; that the British Government would adhere to their principle respecting the treaty, and to the exclusive rights of their territorial jurisdiction; but that they had no wish to prevent us from fishing, and would readily enter into a negotiation for an arrangement on this subject.

[NOTE.—See ante, for Mr. Adams's letters of 17th February, 1816, to the Secretary of State and Lord Castlereagh.]

*Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, Feb. 27, 1816.

SIR: It being represented, by your letter of the 8th of November, that the British Government was disposed to regulate, in concert with the United States, the taking of fish on the coasts, bays, and creeks, of all His Britannic Majesty's dominions in America, and the curing and drying of fish by their citizens on the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen islands, and Labrador, in such manner as to promote the interest of both nations, you will consider this letter an authority and instruction to negotiate a convention for these purposes.

I have the honor to be, &c.

JAMES MONROE.

*Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, Feb. 27, 1816.

SIR: Since my last, of the 10th of December, I have had the honor to receive your letter of November 21, with those of the 12th, 19th, 26th and 30th of September, the 7th and 31st of October, and 8th of November. With the latter, a copy of Lord Bathurst's reply to your note of September 25, on the fisheries, was likewise received.

It appears by these communications that although the British Government denies our right of taking, curing, and drying fish within their jurisdiction, and on the coast of the British provinces in North America, it is willing to secure to our citizens the liberty stipulated by the Treaty of 1783, under such regulations as will secure the benefit to both parties, and will likewise prevent the smuggling of goods into the British provinces by our vessels engaged in the fisheries.

It is hoped that the reply which you intimate you intended giving to Lord Bathurst's note may have produced some change in the sentiments of the British Government on this interesting sub-

ject; it is, nevertheless, thought proper to enclose you an instruction, to be shown to the British Government, authorizing you to negotiate a convention providing for the objects contemplated.

It is very important that this trust should be executed in a manner not to weaken our right, which, it is presumed, may be done with the concurrence of the British Government, either by the reservation of mutual rights, or making the instrument a remedy for abuses.

As to the manner in which the injuries complained of by the British Government are to be remedied, you will be able, in aid of your own knowledge of the subject, to obtain better information than I can communicate.

The British project will show the nature and extent of these injuries, and it will be your object to make the remedy as harmless to our citizens and as safe to the public rights as possible.

I have the honor to be, &c.

JAMES MONROE.

*Extract of a letter from Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, May 24, 1816.

A hope is entertained that you will have arranged with the British Government the difference respecting the fisheries before this reaches you. Should you not have been able to do it, you will endeavor to comprise it in the general arrangement which you are authorized to make, on the principles stated in my letter of the 27th of February.

*Extract of a letter from Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, July 8, 1816.

Mr. Bagot has received a power to arrange the difference respecting the taking, and curing, and drying fish on the shores of the British colonies; but whether it authorizes such an arrangement as will be useful and satisfactory to us, I am as yet uninformed.

*Extract of a letter from Mr. Monroe to Mr. Adams.*

DEPARTMENT OF STATE, Aug. 13, 1816.

On the other subject [the fisheries] Mr. Bagot offered to secure to us the right in question on the Labrador shore, between Mount Joli and the Bay of Esquimaux, near the entrance of the strait of Belleisle. It was necessary for me to seek detailed information of the value of this accommodation from those possessing it at Marblehead and elsewhere, which I did; the result of which was, that it would be more for our advantage to commence at the last-mentioned point, and to extend the right, eastward, through the Strait of Belleisle, as far along the Labrador coast as possible. To this he objected; offering, then, an alternative on the shore of the island of Newfoundland, to commence at Cape Ray, and extend, east, to the Ramea islands. Of the value of this coast I am likewise ignorant. The negotiation must, therefore, be again suspended until I obtain the information requisite to enable me to act in it.



*Relations with Great Britain.*

It is probable that the arrangement of these two interests will again rest with you. The advantage of it, as you are already authorized to treat on other important subjects, is obvious.

At the commencement of our conferences, Mr. Bagot informed me of an order which had been issued by Admiral Griffith to the British cruisers, to remove our fishing vessels from the coasts of those provinces, which he would endeavor to have revoked pending the negotiation. His attempt succeeded. I shall endeavor to have this revocation extended, so as to afford the accommodation desired until the negotiation is concluded. All the information which has been, or may be, obtained on this subject shall be transmitted to you.

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, August 24, 1816.

On Wednesday last I had an interview with Lord Castlereagh, in which he informed me that this Government declined entering upon any negotiation relative to the commercial intercourse between the United States and the British colonies in the West Indies; that they were averse to any discussion relative to blockades, and the other conflicting pretensions of neutral and belligerent rights; and that they were willing to receive any proposals that we may wish to offer respecting the intercourse by land between the United States and the British continental colonies, and respecting seamen; but there was a manifest reluctance to negotiate even upon these points. With regard to the West Indies, he said it was understood by this Government that the United States would be perfectly free to adopt any countervailing regulations, either of prohibition or of additional duties, that they might think advisable; that Great Britain would have no right to complain of them; that the determination in this instance arose altogether from that of adhering to their colonial system, of the wisdom of which he spoke as being, in his own mind, not unquestionable, but from which it was not thought expedient now to depart.

*Extract of a letter from Mr. Adams to Mr. Monroe, Secretary of State, dated*

LONDON, September 18, 1816.

You will perceive, by all my late despatches, that there is no prospect of doing anything here in the way of a negotiation upon objects of commerce. I addressed yesterday to Lord Castlereagh a note, renewing the proposal to negotiate; the object of which is to have the refusal explicitly signified in writing. In my last interview with Lord Castlereagh he did unequivocally decline negotiation upon the trade between the United States and the British colonies in the West Indies, and upon all the questions relating to neutral rights in time of maritime war. He said they were willing to receive any proposition respecting seamen, and respecting the inland in-

tercourse between the United States and the British colonies in North America. I told him I should repeat the proposal for treating in a note. He expressed a wish that I would not mention in the note the neutral questions at all. I was somewhat surprised at the objection, but promised him I would give it full consideration before I sent in the note. I did accordingly take ample time for reflection, and have concluded that I ought not only to include them in the note, but to urge with earnestness the reasons which make it peculiarly desirable that the two Governments should come to an understanding upon those points before the recurrence of a maritime war.

*Extract of a letter from Mr. Adams to the Secretary of State, dated*

LONDON, September 27, 1816.

I have the honor of enclosing, herewith, a copy of the note which I have addressed to Lord Castlereagh, renewing the proposal for the negotiation of a treaty of commerce. From the determination of this Government, as communicated to me in my personal interview with him on the 21st of August, it is to be expected that they will decline treating upon the subject of our trade with the British colonies in the West Indies, and upon the questions relating to neutral interests during maritime war. They may profess to be willing to receive specific proposals relative to seamen, and to our inland intercourse with their colonies in North America, but it is not probable that upon either of those subjects they will agree to anything that can be satisfactory to you; nor shall I think it expedient to conclude any separate arrangement concerning them, excluding the others, without further instructions to that effect. In the conversations that I have had with Lord Castlereagh, he has given me very distinctly to understand that, with regard to seamen, if they should even agree to the proposed stipulation of excluding from the respective naval and merchant services the native citizens and subjects of each other, they will not understand it as implying or intending an engagement to renounce the practice of taking men from our vessels in the event of a future maritime war. In the instructions hitherto transmitted to me, it is not insisted that such a renunciation should be included in the article; yet I cannot but suppose it was expected that, if the article should be agreed to, it would be with at least a tacit understanding that the practice of impressment shall be abandoned.

*Mr. Adams to Lord Castlereagh.*

13 CRAVEN STREET, Sept. 17, 1816.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has the honor of renewing to Lord Castlereagh the proposal which he has been instructed to make, on the part of the Government of the United States, for the negotiation of a treaty of commerce, embracing all the principal

*Relations with Great Britain.*

objects most interesting to the friendly and commercial intercourse between the two nations. He has already exhibited to his Lordship the authority with which he has been furnished by the American Government for that purpose, and has fully stated to him the motives which induced this proposal. They are all founded in the anxious desire of the American Government to cultivate the harmony between the two nations, and to concert, by engagements of mutual accommodation, such arrangements of the points from which differences have unfortunately arisen heretofore, or which might have a tendency to produce them hereafter, as may be satisfactory to both parties, guard against future misunderstandings, and promote that amicable temper and disposition which can alone perpetuate the peace and friendship dictated by the clearest and highest interests both of Great Britain and of the United States.

It will be recollected by Lord Castlereagh that the commercial convention of 3d July, 1815, was not considered at the time of its conclusion as the ultimate or definitive arrangement of the commercial relations between the high contracting parties. Other objects, besides those upon which the agreement was completed, were discussed in the course of that negotiation. Others yet, including all or most of those upon which Great Britain is now again invited to treat, were presented to the attention of the British Plenipotentiaries, but postponed, in consideration of peculiar circumstances then operating, and which have happily since been done away. In bringing them again to the view of the British Cabinet, the undersigned has the honor of distinctly specifying the several objects upon which the American Government repeats the proposal to enter into further reciprocal commercial stipulations, of suggesting the urgent additional motives for desiring them which have arisen since that period, and of exposing the liberal principles upon which they propose that this supplementary treaty should be founded.

1. *The commerce between the United States and the British colonies in North America and in the West Indies.*

From the relative geographical position of those countries; from the nature of their respective productions; and from the wants on either side, which may be most advantageously, if not exclusively, supplied by the other, this commerce is not only of the greatest convenience to both parties, but, in some respects, and on many occasions, it is of the first necessity to the colonies. At the time when the commercial convention of 3d July, 1815, was negotiated, this commerce was open to vessels of the United States. The ports of the British colonies in the West Indies are still accessible, under certain restrictions, to French, Spanish, Dutch, Danish, and Swedish vessels; and while the ports of every nation in the West Indies (Great Britain alone excepted) are in like manner accessible to American vessels, they have been, and still are, by new regula-

tions, enforced since the conclusion of that convention, rigorously excluded from the British ports. This exclusion of all participation in the advantage of carrying between the two countries the articles of a commerce mutually beneficial to both parties, has not only the aspect of a policy peculiarly pointed against the United States, but it defeats, in a great degree, the principle of equalizing the advantages of the commerce between the two countries, by equalizing the duties and charges upon the vessels of both, in the direct intercourse between them; for while British vessels, after performing a direct voyage from Europe to the United States, are there received upon terms of equality with those of the United States, they now enjoy the exclusive benefit of resorting to an intermediate market in the West Indies, while the vessels of the United States are restricted to the direct interchange to and from Europe. The result of which is, that British vessels enjoy in the ports of the United States important advantages, even over the vessels of the United States themselves. It must be obvious that this cannot long be tolerated; that, if the commerce with those parts of the British dominions be not placed on a footing of reciprocity, similar restraints will become indispensable on the part of the United States. Such countervailing restraints were proposed at the last session of Congress, and postponed, in the hope that satisfactory arrangements might be made, before the next meeting, to prevent a recurrence to a system of commercial hostility, inconsistent with the interests of both nations, inauspicious to the amicable relations now existing between them, and repugnant to the most earnest wishes of the American Government. In the arrangements proposed, they do not contemplate any interference, on their part, with the colonial monopoly of Great Britain. It is not asked that she should renounce the right of prohibiting the importation into her colonies, from the United States, of whatever articles she may think fit; but that the commerce which, for their and her own advantage, Great Britain allows between them and the United States, should be placed on the same footing of reciprocity as the direct trade between Great Britain and the United States was intended to be placed by the convention of 3d July, 1815.

While on this subject, the undersigned cannot but remark the extraordinary measures relating to the commercial intercourse between the United States and the British colonies in North America and in the West Indies, adopted since the conclusion of the commercial convention of 3d July, 1815. In all of them, very heavy duties have been imposed upon the importation of American produce, even when carried in British ships. A heavy duty of exportation has been laid, in the province of Nova Scotia, upon plaster of Paris, an article for which there is no other market than the United States. And in the province of Upper Canada, an act of the Provincial Legislature having first vested in the Lieutenant Governor and Council the power of regulating the commercial intercourse between that pro-



vince and the United States, that body did, on the 18th of April last, issue an order, imposing heavy duties upon many articles of the growth or manufacture of the United States, with an addition of twelve per cent. on all those duties upon importation in American vessels, and a tonnage duty of twelve shillings and six pence per ton upon every vessel exceeding five tons burden entering any port or harbor of the province, and belonging to citizens of the United States. The inland commerce between the United States and Upper Canada is believed to be of paramount importance to the province; but, were it even equally important to the United States, measures like these can be viewed in no other light than as efforts to engross, exclusively, the whole of the trade on one side. It would be far more agreeable to the American Government to settle this intercourse by amicable concert, than to be left under the necessity of meeting a system of exclusion by countervailing regulations.

#### 2. Seamen.

It is proposed to stipulate that neither the United States nor Great Britain shall employ, in their naval or merchant service, native citizens or subjects of the other party, with the exception of those already naturalized, of whom the number is very small. From the well known fact that the wages of seamen, in time of peace, are invariably higher in the American service, of both descriptions, than in the British, it is apparent that the advantage of this stipulation will be almost entirely on the side of Great Britain. Although obviously proper that it should be reciprocal, it is offered, not as an engagement from which the United States expect to derive any advantage, in itself, but as the means to Great Britain of reserving to herself the services of all her own native seamen, and of removing forever the necessity of resorting to means of force, either by her naval officers, to take men from the vessels of the United States, or by the United States, to resist the renewal of that practice, in the event of any future maritime war to which they may be neutral. In adopting the principle proposed, the American Government are prepared to secure its faithful execution by any reciprocal regulation which may be deemed necessary, consistent with their constitution and the spirit of their laws.

#### 3. Neutral and belligerent rights.

It is equally desirable, in the view of the American Government, to arrange, at this time, every question relating to neutral rights, particularly those concerning blockade; contraband of war; visits at sea of merchant vessels by ships of war; the trade with the colonies of enemies, and between them and the parent country, and the trade from one port of an enemy to another. The tendency of discordant principles upon these points to embroil neutral and belligerent States with each other has been shown by the melancholy experience of ages. The frequent departures, during the most recent wars, from all ac-

knowledge principles founded on the general usages of nations, have still more unsettled whatever reliance might heretofore have been placed upon their authority. A time of peace, when the feelings of both parties are free from the excitement of any momentary interest, and when the operation of the principles to be sanctioned by mutual compact depends upon contingencies which may give either party the first claim to the stipulated rights of the belligerent or of the neutral, must be more favorable to the amicable adjustment of these questions than a time of actual war, under circumstances when the immediate interests of each party are engaged in opposition to those of the other. Whether Great Britain or the United States will be first engaged in a maritime war with any third party, cannot now be foreseen; but it is of the deepest interest to the permanency of peace and friendship between them that they should come to an explicit understanding with each other upon the points here referred to, before the occurrence of any such event on either side. It is not the desire of the American Government to propose, upon these subjects, any innovation upon principles often recognised by Great Britain herself, in her treaties with other Powers. They wish only, by a mutual compact now formed, to guard against the collisions, which the recollection of the past so forcibly admonishes the rulers of both nations to obviate, if possible, for the future.

#### 4. Slaves carried away from the United States, by British officers, after the peace.

As the construction given by His Majesty's Government to the first article in the Treaty of Ghent, in reference to the slaves carried away from the United States by British officers, after the ratification of the peace, is so directly at variance with the construction which the American Government think alone applicable to it, the undersigned has been further instructed to propose that this question should be submitted to the decision of some friendly sovereign. This reference is suggested by provisions in the Treaty of Ghent itself, applicable to the contingency of differences in other instances; and it is conceived that, when such differences exist, no better mode can be adopted for settling them in a satisfactory manner.

Should His Majesty's Government think proper to accept this proposal for a negotiation, upon the points with regard to which the general wishes of the Government of the United States have been here frankly exposed, the undersigned will be ready to enter into further communications with any person who may be authorized to confer with him for the purpose of such a negotiation. If the offer should not be deemed acceptable, he requests the honor of as early an answer as may be convenient.

The undersigned prays Lord Castlereagh to accept the assurance of his high consideration.

JOHN QUINCY ADAMS.

LORD CASTLEREAGH.

Extract of a letter from Mr. Adams to the Secretary of State, dated

LONDON, October 5, 1816.

Lord Castlereagh left London this week upon a visit to Ireland. Previous to his departure I received from him a letter, of which a copy is herewith enclosed. Although the absence of several of the Cabinet Ministers is alleged as the motive for postponing the answer to my note of the 17th September, and although his Lordship promises to lay the subject suggested in it before his colleagues immediately after his return, there is no reason to expect that any departure from the policy already determined upon will take place. It is probable that you will receive this despatch about the time of the meeting of Congress. Any measures in the spirit, and with the object of those proposed at the last session, and then postponed, may be now adopted without hesitation. My own entire conviction is, that the operation of such measures, will be the only possible means of convincing this Government of the expediency of relaxing from the rigor of their exclusive colonial system. It is, and uniformly has been, my opinion, that the result of the equalization of duties will be to the advantage of Great Britain, and to our disadvantage. But the principle was sanctioned by an act of Congress before the convention of 3d July, 1815 was negotiated. The benefit of the convention to us, if any, is in the India trade; but as its duration is to be so short, the only chance of having it renewed, at the end of its four years, with additional articles of more liberality, will be effective counteracting regulations in respect to the commerce with the British colonies in the West Indies.

Lord Castlereagh to Mr. Adams, dated

FOREIGN OFFICE, Sept. 28, 1816.

SIR: I very much regret that the absence from London at this season of the year of several of the Prince Regent's Ministers will preclude me from returning as early an answer to your note of the 17th as I should wish, under the sense I entertain of the great importance of the several objects to which it invites the attention of this Government.

I have myself obtained the permission of the Prince Regent to make a short excursion to Ireland on my private affairs, but I shall certainly return to London by the middle of November, and shall lose no time, as soon after that period as my colleagues shall be reassembled, to bring the various objects referred to in your note under their deliberation.

I request you will accept the assurances of the high consideration with which I have the honor to be, sir, your most obedient, humble servant.

Extract of a letter from Mr. Adams to the Secretary of State, dated

LONDON, December 24, 1816.

Yesterday morning I received a note from Lord Castlereagh requesting me to call upon him; and

he informed me that, as he was going out of town for a few days, he had sent for me to say that he had not forgotten his promise to me before his departure for Ireland; that the proposal in my note of 27th September for a commercial negotiation should be considered immediately after his return; that two cabinet councils had already been held on the subject, and, as soon as the objects could be sufficiently matured for the proper authority to be given to him to treat, I should hear from him again. It would seem from this, as if the proposal would be so far accepted as to enter upon a negotiation; but I beg leave to point your attention to an article in the Courier of last evening, stating the proceeding in the island of Dominica, after the late hurricane, including a letter from Earl Bathurst, dated the 28th of September last, and an advertisement from the Victualling Office, for a supply of flour, to be delivered at several of the West India islands, from the United States; both in the same paper.

Mr. Monroe to Mr. Adams.

DEPARTMENT OF STATE, Feb. 5, 1817.

SIR: I have the honor to forward to you, herewith, a copy of my correspondence with Mr. Bagot, in relation to the fisheries on the coast of Labrador, &c.; from which you will perceive that our negotiation on that interesting subject has not had the desired result.

Mr. Bagot professes, on the part of his Government, the most conciliatory disposition in regard to this affair, and it is yet to be hoped that it may be satisfactorily settled. With this view, the President intends to renew the negotiation as soon as he can obtain the information necessary to enable him to decide what arrangement would be best calculated to reconcile the interests of both parties, which he hopes to do in the course of a few months. In the mean time, he expects that no measures will be taken by the British Government to alter the existing state of things, and that it will be in your power to obtain the renewal of the order to the naval officer commanding on that station not to interrupt or disturb our fishermen during the approaching season.

You will see the importance of an early attention to this subject, as the fishing season is fast approaching. I have the honor to be, &c.

JAMES MONROE.

Mr. Bagot to Mr. Monroe.

WASHINGTON, November 27, 1816.

SIR: In the conversation which I had with you a few days ago, upon the subject of the negotiation into which the British Government is willing to enter, for the purpose of affording to the citizens of the United States such accommodation for their fishery, within the British jurisdiction, as may be consistent with the proper administration of His Majesty's dominions, you appeared to apprehend that neither of the propositions which I had the honor to make to you



upon this subject would be considered as affording in a sufficient degree the advantages which were deemed requisite.

In order that I may not fail to make the exact nature of these propositions clearly understood, and that I may fully explain the considerations by which they have been suggested, it may perhaps be desirable that I should bring under one view the substance of what I have already had the honor of stating to you in the several conferences which we have held upon this business.

It is not necessary for me to advert to the discussion which has taken place between Earl Bathurst and Mr. Adams. In the correspondence which has passed between them, you will have already seen, in the notes of the former, a full exposition of the grounds upon which the liberty of drying and fishing within the British limits, as granted to the citizens of the United States by the treaty of 1783, was considered to have ceased with the war, and not to have been revived by the late treaty of peace.

You will also have seen therein detailed the serious considerations affecting not only the prosperity of the British fishery, but the general interests of the British dominions, in matters of revenue as well as government, which made it incumbent upon His Majesty's Government to oppose the renewal of so extensive and injurious a concession, within the British sovereignty, to a foreign State, founded upon no principle of reciprocity or adequate compensation whatever. It has not been thought necessary to furnish me with additional argument upon this point. I therefore confine myself, upon the present occasion, to a brief repetition of what I have already, at different periods, had the honor to submit to your consideration upon the subject of an arrangement by which it is hoped practically to reconcile the different views of our respective Governments.

It will be in your recollection that, early in the month of July last, I had the honor to acquaint you that I had received instructions from my Government to assure you that, although it had been felt necessary to resist the claim which had been advanced by Mr. Adams, the determination had not been taken in any unfriendly feeling towards America, or with any illiberal wish to deprive her subjects of adequate means of engaging in the fisheries; but that, on the contrary, many of the considerations which had been urged by Mr. Adams, on behalf of the American citizens formerly engaged in this occupation, had operated so forcibly in favor of granting to them such a concession as might be consistent with the just rights and interests of Great Britain, that I had been furnished with full powers from His Royal Highness the Prince Regent to conclude an arrangement upon the subject, which it was hoped might at once offer to the United States a pledge of His Royal Highness's good will, and afford to them a reasonable participation of those benefits of which they had formerly the enjoyment.

It being the object of the American Govern-

ment, that, in addition to the right of fishery, as declared by the first branch of the fourth article of the treaty of 1783 permanently to belong to the citizens of the United States, they should also enjoy the privilege of having an adequate accommodation, both in point of harbors and drying ground, on the unsettled coasts within the British sovereignty, I had the honor to propose to you that that part of the southern coast of Labrador which extends from Mount Joli, opposite the eastern end of the island of Anticosti, in the Gulf of St. Lawrence, to the bay and isles Esquimaux, near the western entrance of the straits of Belleisle, should be allotted for this purpose; it being distinctly agreed that the fishermen should confine themselves to the unsettled parts of the coast, and that all pretensions to fish or dry within the maritime limits, or on any other of the coasts of British North America, should be abandoned.

Upon learning from you, some weeks afterwards, that, from the information which you had received upon the subject of this coast, you were apprehensive that it would not afford, in a sufficient degree, the advantages required, I did not delay to acquaint you that I was authorized to offer another portion of coast, which it was certainly not so convenient to the British Government to assign, but which they would nevertheless be willing to assign, and which, from its natural and local advantages, could not fail to afford every accommodation of which the American fishermen could stand in need. I had then the honor to propose to you as an alternative, that, under similar conditions, they should be admitted to that portion of the southern coast of Newfoundland which extends from Cape Ray eastward to the Ramea islands, or to about the longitude of 57° west of Greenwich.

The advantages of this portion of coast are accurately known to the British Government; and, in consenting to assign it to the uses of the American fishermen, it was certainly conceived that an accommodation was afforded as ample as it was possible to concede, without abandoning that control within the entire of His Majesty's own harbors and coasts which the essential interests of His Majesty's dominions required. That it should entirely satisfy the wishes of those who have for many years enjoyed, without restraint, the privilege of using for similar purposes all the unsettled coasts of Nova Scotia and Labrador, is not to be expected; but, in estimating the value of the proposal, the American Government will not fail to recollect that it is offered without any equivalent, and notwithstanding the footing upon which the navigation of the Mississippi has been left by the Treaty of Ghent, and the recent regulations by which the subjects of His Majesty have been deprived of the privileges, which they so long enjoyed, of trading with the Indian nations within the territory of the United States.

I have the honor to be, &c.

CHARLES BAGOT.

HON. JAMES MONROE,  
Secretary of State.

The Secretary of State to Mr. Bagot.

DEPARTMENT OF STATE, Dec. 30, 1816.

SIR: I have had the honor to receive your letter of the 27th of November and to submit it to the consideration of the President.

In providing for the accommodation of the citizens of the United States engaged in the fisheries on the coast of His Britannic Majesty's colonies, on conditions advantageous to both parties, I concur in the sentiment that it is desirable to avoid a discussion of their respective rights, and to proceed, in a spirit of conciliation, to examine what arrangement will be adequate to the object. The discussion which has already taken place between our Governments has, it is presumed, placed the claim of each party in a just light. I shall, therefore, make no remark on that part of your note which relates to the right of the parties, other than by stating that this Government entered into this negotiation on the equal ground of neither claiming nor making any concession in that respect.

You have made two propositions, the acceptance of either of which must be attended with the relinquishment of all other claims on the part of the United States, founded on the first branch of the fourth article of the treaty of 1783. In the first, you offer the use of the territory on the Labrador coast, lying between Mount Joli and the bay of Esquimaux, near the entrance of the strait of Belleisle; and, in the second, of such part of the southern coast of the island of Newfoundland as lies between Cape Ray and the Ramea islands.

I have made every inquiry that circumstances have permitted, respecting both these coasts, and find that neither would afford to the citizens of the United States the essential accommodation which is desired; neither having been much frequented by them heretofore, nor likely to be in future. I am compelled, therefore, to decline both propositions.

I regret that it has not been in my power to give an earlier answer to your note; you will, however, have the goodness to impute the delay to a reluctance to decline any proposition which you had made, by the order of your Government, for the arrangement of an interest of such high importance to both nations, and to the difficulty of obtaining all the information necessary to guide this Government in the decision.

I have the honor to be, &c.

JAMES MONROE.

HON. CHARLES BAGOT.

Mr. Bagot to Mr. Monroe.

WASHINGTON, December 31, 1816.

SIR: I have had the honor to receive your letter of yesterday's date, acquainting me that neither of the propositions which I had submitted to your consideration, upon the subject of providing for the citizens of the United States engaged in the fisheries some adequate accommodation for their pursuit upon the coast of His Majesty's territories, having been found to afford the essential

conveniences which are desired, you are compelled to decline them.

The object of His Majesty's Government, in framing these propositions, was to endeavor to assign to the American fishermen, in the prosecution of their employment, as large a participation of the conveniences afforded by the neighboring coasts of His Majesty's settlements as might be reconcilable with the just rights and interests of His Majesty's own subjects, and the due administration of His Majesty's dominions; and it was earnestly hoped that either one or the other of them would have been found to afford, in a sufficient degree, the accommodation which was required.

The wish of His Royal Highness the Prince Regent to extend to the citizens of the United States every advantage which, for the purposes in view, can be derived from the use of His Majesty's coasts, has no other limit than that which is necessarily prescribed by a regard to the important considerations to which I have adverted. His Royal Highness is willing to make the utmost concession which these considerations will admit; and, in proof of the sincerity of this disposition, I have received His Royal Highness's instructions to acquaint you that if, upon examination of the local circumstances of the coasts, which I have had the honor to propose, the American Government should be of opinion that neither of them, taken separately, would afford, in a satisfactory degree, the conveniences which are deemed requisite, His Royal Highness will be willing that the citizens of the United States should have the full benefit of both of them, and that, under the conditions already stated, they should be admitted to each of the shores which I have had the honor to point out.

In consenting to assign to their use so large a portion of His Majesty's coasts, His Royal Highness is persuaded that he affords an unquestionable testimony of his earnest endeavor to meet, as far as possible, the wishes of the American Government, and practically to accomplish, in the amplest manner, the objects which they have in view. The free access to each of these tracts cannot fail to offer every variety of convenience which the American fishermen can require in the different branches of their occupation; and it will be observed, that an objection which might possibly have been felt to the acceptance of either of the propositions, when separately taken, is wholly removed by the offer of them conjointly; as, from whatever quarter the wind may blow, the American vessels engaged in the fishery will always have the advantage of a safe port under their lee.

His Royal Highness conceives that it is not in His Royal Highness's power to make a larger concession than that which is now proposed, without injury to the essential rights of His Majesty's dominions, and some of the chief interests of His Majesty's own subjects. But it will be a source of sincere satisfaction to His Royal Highness if, in the arrangement which I have the honor to submit, the citizens of the United States shall



find, as His Royal Highness confidently believes that they will find, ample means of continuing to pursue their occupation with the convenience and advantage which they desire.

I have the honor to be, &c.

CHARLES BAGOT.

*The Secretary of State to Mr. Bagot.*

DEPARTMENT OF STATE, Jan. 7, 1817.

SIR: I have had the honor to receive your letter of the 31st of December, proposing an accommodation of the difference between our Governments relative to the fisheries, comprised in the first branch of the fourth article of the treaty of 1783, by the allotment of both the coasts comprised in your former propositions.

Having stated, in my letter of the 30th of December, that, according to the best information which I had been able to obtain, neither of those coasts had been much frequented by our fishermen, or was likely to be so in future, I am led to believe that they would not, when taken conjointly, as proposed in your last letter, afford the accommodation which is so important to them, and which it is very satisfactory to find it is the desire of your Government that they should possess. From the disposition manifested by your Government, which corresponds with that of the United States, a strong hope is entertained that further inquiry into the subject will enable His Royal Highness the Prince Regent to ascertain that an arrangement, on a scale more accommodating to the expectation of the United States, will not be inconsistent with the interest of Great Britain.

In the meantime, this Government will persevere in its measures for obtaining such further information as will enable it to meet yours in the conciliatory views which are cherished on both sides. I have the honor to be, &c.

JAMES MONROE.

HON. CHARLES BAGOT.

*Mr. Adams to the Secretary of State, dated*

LONDON, March 20, 1817.

SIR: The day before yesterday I had an interview with Lord Castlereagh, when he informed me that the British Government had come to a determination respecting the commercial part of the proposals for the negotiation of a further treaty, which I had made last September; that they were still not prepared to abandon their ancient colonial system, but they were willing to extend to the United States the benefits of the free port act to the same extent that they were now enjoyed by the vessels of European nations, and to give a partial admission of our vessels to the island of Bermuda and to Turk's Island. And, with regard to the intercourse between the United States and the adjoining British provinces, they would renew a proposal heretofore made, founded altogether upon the principle of reciprocity; which proposal he read to me from a paper

which he said was not quite finished, but which would be sent to me in the course of the next day. Last evening I received a note from Mr. Hamilton, the Under Secretary of State in the Foreign Department, with a draught of four articles, a copy of which, hastily made, I now enclose, as Mr. Everett leaves town this morning. The part read to me by Lord Castlereagh was the fourth article, excepting the last paragraph.

I do not think it possible to make anything out of these articles to which I can, under my present instructions, agree. I therefore enclose copies of them, with the request of immediate further instructions. Lord Castlereagh informed me that they had received information that the act of Congress prohibiting the clearance of foreign vessels for ports to which vessels of the United States are not admitted had passed; and he repeated the assurance that this Government considered it as perfectly proper, and as giving them no cause of complaint or dissatisfaction. It seems to me, however, that the very slight and partial concessions in the enclosed articles are intended to counteract its effects; and this opinion contributes to caution me against subscribing to them without your further orders. Lord Castlereagh's offer is to make them supplementary to the convention of July 3, 1815, and to be in force for the same time.

I am, with great respect, &c.

JOHN QUINCY ADAMS.

ART. 1. His Britannic Majesty consents to extend to the United States the provisions of the free port act, as established by the 45th George III, c. 57, (except as far as relates to negro slaves, which, under the abolition acts, can no longer be lawfully exported from any British possessions to any foreign country;) that is to say, that any sloop, schooner, or other vessel whatever, not having more than one deck, and being owned and navigated by subjects of the United States, may import into any of the free ports in His Majesty's possessions in the West Indies, from the United States, any of the articles enumerated in the above act, being of the growth or production of the United States, and any coin, bullion, diamonds, and precious stones; and the said articles being of the growth or production of the United States, and also all other articles imported into the said free ports, by virtue of this convention, from the United States, shall be subject, in all respects, to the same rules, regulations, and restrictions, and shall enjoy the same advantages as to re-exportation, as are now applied to similar articles when imported by authority of the said act from any other foreign country, and re-exported from the said possessions of His Majesty. His Britannic Majesty further consents, that any vessel of the United States, as above described, may export from any of the said ports to the United States, rum, of the produce of any British colony or possession, and also all manner of goods, wares, or merchandise, which shall have been legally imported into those possessions of His Majesty in which the said free ports are

established, except masts, yards, or bowsprits, pitch, tar, and turpentine, and also except such iron as shall have been brought from the British colonies or plantations in America.

And whereas, by an act passed in the 48th year of His Majesty's reign, cap. 125, rice, grain, and flour, are added to the articles previously allowed to be imported into the said free ports, it is agreed that those articles may be imported from the United States into the said free ports, in vessels of the United States, as above described; and it is agreed, on the part of the United States, that any facilities granted in consequence of this convention to American vessels, in His Majesty's said colonies and possessions, shall be reciprocally granted, in the ports of the United States, to British vessels of a similar description engaged in the intercourse so allowed to be carried on; and that if, at any future period, during the continuance of this convention, His Britannic Majesty should think fit to grant any further facilities to vessels of the United States in the said colonies and possessions, British vessels trading between the said colonies and possessions and the United States shall enjoy in the ports of the latter equal and reciprocal advantages.

It is further agreed, that articles imported into the said free ports of the United States, by virtue of this convention, shall pay the same duties as are or may be payable upon similar articles when imported into the said free ports from any foreign country. And the same rule shall be observed on the part of the United States, in regard to all duties chargeable upon all such articles as may, by virtue of this convention, be exported from the said free ports to the United States. But His Britannic Majesty reserves to himself the right to impose higher duties upon all articles so allowed to be imported into the said free ports from the United States, or from any other foreign country, than are or may be chargeable upon all similar articles when imported from any of His Majesty's possessions.

ART. 2. His Britannic Majesty engages to allow the vessels of the United States to import into the island of Bermuda the following articles, to wit: tobacco, pitch, tar, turpentine, hemp, flax, masts, yards, bowsprits, staves, heading boards, and plank, timber, shingles, and lumber of any sort; bread, biscuit, flour, peas, beans, potatoes, wheat, rice, oats, barley, and grain of any sort; such commodities being the growth or production of the territories belonging to the United States of America; and to export from the said island to the United States, in vessels of the said States, any goods or commodities whatsoever, which are now by law allowed to be exported from His Majesty's colonies and possessions in the West Indies to any foreign country or place in Europe; and also sugar, molasses, coffee, cocoanuts, ginger, and pimento; and also all goods, the growth, produce, or manufacture of the United Kingdom of Great Britain and Ireland, upon the same terms, and subject to the same duties only as would affect similar articles when imported

from the United States into Bermuda, or exported from Bermuda to the United States, in British ships. And it is agreed, on the part of the United States, that a similar equality shall prevail, in the ports of the said States, with regard to all British vessels trading in similar articles between the United States and the island of Bermuda.

ART. 3. It is agreed that vessels of the United States may resort to Turk's Island for the purpose of taking in cargoes of salt for the United States; and that the vessels so resorting to the said islands shall be allowed to import tobacco and cotton wool, the produce of the said United States, upon the same terms, and subject to the same duties, as British ships when engaged in a similar intercourse. It is agreed, on the part of the United States, that a similar equality shall prevail in the ports of the said States, with regard to all British vessels trading in the same articles between the United States and the said Turk's Island.

ART. 4. It is agreed that the navigation of all lakes, rivers, and water communications, the middle of which is, or may be, the boundary between His Britannic Majesty's territories on the continent of North America and the United States, shall, with the exception hereinafter mentioned, at all times be free to His Majesty's vessels and those of the citizens of the United States. The inhabitants of His Britannic Majesty's territories in North America, and the citizens and subjects of the United States, may freely carry on trade and commerce, by land or inland navigation, as aforesaid, in goods and merchandise the growth, produce, or manufacture, of the British territories in Europe or elsewhere, or of the United States, respectively, on the said continent, (the countries within the limits of the Hudson's Bay Company only excepted;) and no other or higher duties, or tolls, or rates of carriage or portage, than which are, or shall be, payable by natives, respectively, shall be taken or demanded on either side. All goods or merchandise, whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce above mentioned, be carried into the said United States, in the manner aforesaid, by His Britannic Majesty's subjects; and such goods or merchandise shall be subject to no other or higher duties than would be payable by citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the United States; and, in like manner, all goods and merchandise the growth, produce, or manufacture, of the United States, whose importation into His Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of the commerce above mentioned, be carried into the same by land, or by means of such lakes, rivers, and water communications, as above mentioned, by the citizens of the United States; and such goods and merchandise shall be subject to no other or higher duties than would be payable by His Majesty's subjects on the importation of the same from Europe into the said territories.

No duty shall be levied, by either party, on



peltries or furs which may be brought, in the manner aforesaid, by land or inland navigation, from the said territories of another; but tolls or rates of ferrage may be demanded and taken, in manner above mentioned, on such peltries or furs.

It is further agreed that nothing in this article contained, as to the navigation of rivers, lakes, or water communications, shall extend to give a right of navigation upon or within the same, in those ports where the middle is not the boundary between His Britannic Majesty's territories and the United States of America.

Extract of a letter from Mr. Adams to Lord Castlereagh, dated

13 CRAVEN STREET, April 21, 1817.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary from the United States of America, has received the four projected articles for a supplement to the commercial convention of 13d July, 1815, sent him by direction of Lord Castlereagh, and has transmitted them for the consideration of his Government.

By a letter of instruction from the Secretary of State of the United States of the 5th February last, the undersigned is informed that the negotiation between him and Mr. Bagot, in relation to the fisheries on the North American coast, had not been brought to the desired result; that it is yet to be hoped, however, that it may be satisfactorily settled; that, with this view, it was the President's intention to renew the negotiation as soon as he could obtain the information necessary to ascertain what arrangement would be best calculated to reconcile the interests of both parties, which he hoped to do in the course of a few months; that, in the meantime, he relied that no measures would be taken by His Majesty's Government to alter the existing state of things; and, particularly, that the order to the naval officer commanding on that station, not to interrupt or disturb the American fishermen during the approaching season, would be renewed.

The undersigned has the honor of renewing to Lord Castlereagh the assurance of his high consideration.

JOHN QUINCY ADAMS.

Extract of a letter from Lord Castlereagh to Mr. Adams, dated

FOREIGN OFFICE, May 7, 1817.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, in reply to Mr. Adams's note of the 21st ultimo, has the honor to acquaint him that, as soon as the proposition which Mr. Bagot was authorized, in July last, to make to the Government of the United States, for arranging the manner in which American citizens might be permitted to carry on the fisheries within the British limits, had been by them declined, viz: in the month of February, the same was immediately notified by His Majesty's Minister in America to the British Admiral commanding at Halifax;

the effect of which notification was to revive the orders which Mr. Bagot had taken upon himself to suspend, in the expectation that the discussions in which he was then employed with the American Government would have led to a satisfactory issue.

These discussions having failed of success, and the orders above alluded to being consequently now in full force, the British Government cannot but feel some reluctance again to suspend them, without being in possession of more precise grounds for expecting an adjustment. Persuaded, however, from the official communication received from Mr. Adams, that it is not only the sincere desire of the President of the United States to come to an amicable arrangement, but also that he, being already in possession of the views of Great Britain, is now led to entertain a strong expectation that a settlement which shall reconcile the interests of both parties may, without any material delay, be effectuated, the Prince Regent, under these impressions, is willing to give to the American Government this additional proof of his earnest wish that the negotiation should proceed, under circumstances the most favorable to a speedy and amicable conclusion, by acceding to the application of the Government of the United States, as brought forward by Mr. Adams. Instructions will accordingly be expedited to the naval commanders on the American station to suspend the execution of the said orders during the approaching season. Ample opportunity will thus be afforded for coming to an amicable arrangement, more particularly as it appears that the American Secretary, in February last, had it in contemplation to offer, for the consideration of the British Government, some specific proposition on the subject, which Mr. Bagot did not then feel himself authorized to take, *ad referendum*, but which he has since been instructed to receive, and transmit for the opinion of his Court.

Mr. Rush, acting as Secretary of State, to Mr. Bagot.

DEPARTMENT OF STATE, May 30, 1817.

SIR: I had the honor to receive, and have laid before the President, your note of the 27th of this month.

In answer to it, I have the honor to state that this Government is not yet prepared to make known, in any definite and final shape, the nature and extent of the accommodation desired by its citizens engaged in the fisheries along the coast of His Britannic Majesty's dominions, according to the invitation held out, by order of the Prince Regent, in your note. At the same time, I am directed by the President to inform you that he recognises, in the terms of this invitation, not less than in the general scope of your note, a spirit of friendly accommodation, which this Government, not foregoing rights which it feels itself bound to look to, will, nevertheless, be desirous, in the fullest extent, to reciprocate.

On the return of the President from a tour through part of the United States, which he is

now upon the eve of commencing, it is expected that this Department will be enabled to offer such propositions as, taking for their basis the principles stated in your note, it is confidently hoped may end in an adjustment of this important interest, upon terms reconcilable with the views of both nations, and serve to strengthen the harmony and good understanding which it is so desirable to cultivate and preserve between them.

I have the honor to be, &c.

RICHARD RUSH.

The Right Hon. CHARLES BAGOT.

Mr. Rush, Acting Secretary of State, to Mr. Bagot.

DEPARTMENT OF STATE, August 4, 1818.

SIR: It becomes my duty to address you upon a subject of deep interest to all those citizens of this country who are concerned in the fisheries.

By representations made to this Department, it appears that, at the commencement of the present fishing season, twenty sail of fishing vessels, of from twenty-five to forty-five tons burden, belonging to ports of the United States, were fitted out and sailed for the purpose of fishing on the western bank. That, while on their way, a number of them were compelled, by storm, to put into a harbor at Ragged Island, near Shelburne light-house. That, while here, they were boarded by an officer of the customs, who demanded and received light-money from them, notwithstanding the circumstances of compulsion and distress under which they had entered the port. That they afterwards proceeded to the bank, where, after remaining many weeks, they completed their fares of fish, and commenced their return to the United States. That, meeting with another severe storm upon their return, they were again forced to seek shelter in a British port, a few leagues to the westward of Halifax. That in this port they were captured by an armed barge, despatched from the British sloop of war *Dee*, Captain Chambers, and the next morning ordered for Halifax, where they all arrived on the 9th of June. That the unfortunate crews have been exposed to peculiar inconveniences and hardships; and that those who desired to return to their homes were refused passports towards facilitating that end, from the proper officers, to whom they made application.

For further particulars connected with the above facts, I have the honor to enclose you an extract of a letter to this Department from the collector of Boston, dated June the 30th. It will be seen that it is not a case involving unsettled questions between the two countries in relation to the fisheries, but which it is so confidently hoped are in a train of satisfactory and amicable arrangement. It is, on the other hand, distinctly said that the boats, far from taking a fish in any waters claimed as British waters, took them all at the distance of many leagues from the coast; while the other alleged facts would seem to forbid the imputation of their having entered a British harbor from any other than a lawful and necessary motive.

Should the facts as represented prove to be well founded, the President feels persuaded that your Government will not fail to take such measures, as well towards redressing the evil complained of, in the present instance, as towards preventing the recurrence of one of the like nature, as are due to justice and the harmony and good understanding which so happily subsist between the two nations.

I pray you, sir, to accept, &c.

Mr. Bagot to Mr. Rush.

WASHINGTON, August 8, 1817.

SIR: I had yesterday the honor to receive your letter of the 4th instant, acquainting me with the representations which had been made to the Department of State in relation to the seizure, by His Majesty's ship *Dee*, of certain American fishing vessels found in the harbors of Port Negro and Ragged Island, upon the coast of Nova Scotia, and transmitting to me the extract of a letter upon the subject from the collector of the customs at Boston.

Should the circumstances of this seizure, as they have been represented to the American Government, prove to be correct, I can have no hesitation in giving you every assurance that His Majesty's Government will willingly take measures for the prompt redress of the injuries to which it may have led, and for the prevention of their recurrence; but the representations which I have received upon the subject from the Commander-in-chief of His Majesty's squadron on the Halifax station differ so essentially in point of fact from those which have been made to the American Government, that I have every reason to hope that, upon a proper investigation of the transaction, it will not be found to involve any just cause of complaint.

I have the honor to transmit to you, enclosed, the copy of a letter from the captain of His Majesty's ship *Dee* to the commander of His Majesty's squadron on the coast of Nova Scotia, reporting the grounds upon which he had deemed it to be his duty to detain these vessels, together with a copy of the orders under which he has acted.

By these papers you will perceive that the vessels in question were in the habit of occupying, and were, at the time of their seizure, actually occupying, for the purposes of their fishery, the settled harbors of His Majesty's dominions, in violation of the orders at all times enforced against all foreign vessels detected in making similar encroachments, and of which it is not to be supposed that the masters of these vessels could have been ignorant.

The proceedings which have been instituted upon the captured vessels will necessarily lead to a complete investigation of all the circumstances under which they were detained; and there can be no doubt that the merits of the whole case, which appear to rest altogether upon questions of fact, will be then fully ascertained.

I have the honor to be, &c.



*Relations with Great Britain.*

By Sir DAVID MILNE, K. C. B. and K. W. N.,  
Rear Admiral of the Blue, and Commander-in-Chief of His Majesty's ships and vessels employed, and to be employed, in North America, and on the lakes of Canada, &c., &c.

You are hereby required and directed to proceed, in His Majesty's ship under your command, to Halifax; and, having received on board a pilot at that port, you will repair and cruise between Sambro light-house and Cape Sable, using every means in your power for the protection of the revenue, as also the fisheries on that coast, against the encroachment of foreigners.

On your meeting with any foreign vessel fishing or at anchor in any of the harbors or creeks in his Majesty's North American provinces, or within our maritime jurisdiction, you will seize and send such vessel so trespassing to Halifax for adjudication, unless it should clearly appear that they have been obliged to put in there in consequence of distress; acquainting me with the cause of such seizure, and every other particular, to enable me to give all information to the Lords Commissioners of the Admiralty.

You are to come within sight of signals from Sambro light-house every fourteen days, if the wind and weather will permit, and wait eight hours at that distance. You will continue on this service for six weeks from your sailing from Halifax, at the expiration of which time you will return to that port for further orders.

Given, on board His Majesty's ship *Leander*, Bermuda, the 12th day of May, 1817.

DAVID MILNE, Rear Admiral.

To Captain SAMUEL CHAMBERS,  
of His Majesty's ship *Dee*.

By command of the Rear Admiral:  
J. P. LAMEY.

Captain Samuel Chambers, of His Britannic Majesty's ship *Dee*, to Rear Admiral Sir David Milne, dated

HIS MAJESTY'S SHIP *DEE*,  
OFF SHELBURNE, June 8, 1817.

SIR: In compliance with your order of the 12th ultimo, I sailed from Halifax on the 30th ultimo; but did not meet or receive any intelligence of foreign fishing vessels being within our jurisdiction until the 3d instant; when, being off the Isle of Maten, I was informed that the whole of the banks to the westward (off Cape Sable and Shelburne) were fished by American schooners; and that they continually resorted to the creeks of this coast in order to catch their bait, clean their fish, wood, water, &c.; this, of course, is highly detrimental to the interest of the industrious fishermen on this coast. I was also informed that the intricate harbors of Cape Negro and Ragged Island were their resort most evenings, several going in; but more particularly on Saturdays, when they remain till Monday, to procure bait for the ensuing week. At the former place they had not been well received; at the

latter, I suspect, much encouragement had been given them by an individual. I intended having our boats into Ragged Island harbor before daylight on the 4th, but light winds prevented our getting that length. I, therefore, in the course of the day, put into Shelburne; and, in the evening, despatched the boats, under the charge of Lieutenant Hooper, into Ragged Island, with the order I enclose; the weather preventing any boats returning until the 7th, when I received information that nine American fishing vessels had been found at Ragged Island harbor, lying with their nets set. Lieutenant Hooper remained at this place, and despatched Lieutenant Lechere, with a gig and cutter, to Cape Negro, with the enclosed order. He found two American fishing vessels in the harbor, and seven others came in in the course of Saturday. The whole joined me this day with two others that came into Ragged Island. I have, therefore, in obedience to your directions, sent them into Halifax for adjudication; as any distress they may plead might, with more ease, be relieved at the regular harbor of Shelburne, which has been avoided for two intricate harbors in its immediate neighborhood.

I beg further to state that, without the use of our harbors, it appears impossible for any foreigners to carry on successful fishing on this coast, which fishing has much injured our fishermen; and I have every reason to believe that considerable smuggling of tobacco, shoes, &c., is carried on by their boats. I beg leave to enclose a list of the detained vessels, and also to inform you that, from some of the Americans attempting to tamper with some of our boats' crews, and the riotous conduct of others, I have been obliged to take precautionary measures to prevent any of the vessels being run away with.

I have the honor to be, &c.

SAM'L CHAMBERS, Captain.

Sir DAVID MILNE, K. C. B.,  
Commander-in-chief, &c.

Extract of a letter from Mr. Adams, Secretary of State, to Mr. Rush, Envoy, &c. at London, dated

DEPARTMENT OF STATE, Nov. 6, 1817.

A full power to conclude a commercial treaty is furnished you, together with your commission and credential letters; and in your earliest communications with the British Secretary of State for Foreign Affairs, you will give him notice that you have such a power. Should he, then or at any subsequent time, while the United States are at peace, manifest, on the part of his Government, a disposition to enter upon the negotiation, and be provided with similar powers, you will recur to the instructions given to the American Plenipotentiaries for the negotiation of the peace. In them all the views of this Government, in relation to the proper regulation of maritime neutrality, are developed at large; and the President, still convinced that the principles there recommended are the best adapted to promote the great

*Relations with Great Britain.*

and permanent welfare of all mankind, and the preservation of peace upon earth, is yet willing that the United States should be bound by them, when their occasional and temporary operation may be to their disadvantage, provided they can secure the benefit of them when they shall hereafter be under circumstances to operate in their favor.

With regard to the strictly commercial part of the treaty, the principles for regulating the trade between the two countries during peace, you will recur to the same instructions to the Plenipotentiaries for the peace, to the commercial convention of 3d July, 1815, and to the instructions given to your predecessor in reference to the negotiation of a commercial treaty, particularly with regard to the intercourse between the United States and the British colonies in the West Indies and upon this continent.

Extract of a letter from Mr. Adams to Mr. Rush, dated

DEPARTMENT OF STATE, May 21, 1818.

The other law to which I have called your attention is an act concerning navigation, passed on the 18th, and published in the National Intelligencer of the 21st April. It meets the British prohibitive colonial system by direct and countervailing prohibition, to commence from and after the 30th of September next. The vote upon its passage in the Senate, where it originated, was all but unanimous, and in the House of Representatives the opposition to it amounted only to fifteen or sixteen votes.

Although no formal communication of this law to the British Government will be necessary, it may naturally be expected that it will be noticed in your occasional conversations with Lord Castlereagh. He will doubtless remember, and may be reminded of, the repeated efforts made by this Government to render it unnecessary by an amicable arrangement, which should place on an equitable footing of reciprocity the intercourse between the United States and the British colonies; he will remember the repeated warnings given, that to this result it must come, unless some relaxation of the British prohibitions should take place; and his own equally repeated admissions, that the exercise of the prohibitive right on the part of the United States would be altogether just, and would give no dissatisfaction whatever to Great Britain. You are, nevertheless, authorized to assure him that the President assented to this measure with great reluctance, because, however just in itself it may be, its tendencies cannot but be of an irritating character to the interests which it will immediately affect, and because his earnest desire is to remove causes of irritation, and to multiply those of a conciliatory nature between the two countries. Such has manifestly been, on both sides, the effect of the equalizing and reciprocal provisions of the convention of July, 1815; and such, he has no doubt, would be the effect of the extension of its principles to the commercial intercourse between

the United States and the British colonies in the West Indies and on this continent; and you are authorized again to repeat the offer of treating for a fair and equitable arrangement of this interest. A further inducement for making this offer may be stated in the expediency of looking forward, without further delay, to the expiration of the convention of 1815, which has now little more than one year to remain in force. It is important that the commercial part of the community, both here and in Great Britain, should have timely notice of the state in which the relations between the two countries are to stand after the termination of that convention. And, as there are other objects of moment to be adjusted, the President desires you to propose an immediate general negotiation of a commercial treaty, to embrace the continuance, for a further term of years, of the convention; and also the other subjects in discussion between the two Governments—namely, the question concerning the slaves, that relating to the fisheries, the boundary line from the Lake of the Woods, and the Columbia river settlement. The President prefers taking this course to that of submitting to commissioners, at least immediately, questions upon which he thinks it probable the two Governments may thus, by a shorter process, come to a mutual understanding between themselves.

If, upon making this proposal, the British Government agree to this negotiation, the President proposes that Mr. Gallatin and you should be authorized, jointly, as plenipotentiaries, to conclude the treaty, which it is very desirable may be concluded in season to arrive here by the commencement of the next session of Congress, which is to be on the third Monday in November. Instructions will be transmitted immediately to Mr. Gallatin to hold himself in readiness to repair to London, upon receiving notice from you, should plenipotentiaries be appointed to treat with you; and, besides the instructions which formed the basis of the existing convention, and others already in your possession, further documents will be forwarded to you as soon as possible, which may assist you in the management of the negotiation.

We entertain hopes that this measure may result in a new treaty, which will remove most, if not all, of the causes of dissension between us and Great Britain. The satisfaction with which we have observed the avowal of the most liberal commercial principles by Lord Castlereagh in Parliament has already been noticed in my last letter. The opening, if not of all, at least of a great portion, of the ports of South America to the commerce of the world, which, under every possible course of events, must be now considered as irrevocable; and the bill which we perceive was before Parliament for establishing free ports in the British American colonies, all tend to convince us that Great Britain must see that a relaxation from her colonial restrictions has become the unequivocal dictate of her own interest.

J. Q. ADAMS.

Hon. RICHARD RUSH.



*Extracts of a letter from Mr. Adams, Secretary of State, to Mr. Gallatin, dated*

DEPARTMENT OF STATE,  
Washington, May 22, 1818.

The present state of the relations between the United States and Great Britain has suggested to the President the expediency of proposing to the British Government the negotiation of a treaty of amity and commerce, to embrace the continuance for eight years longer of the commercial convention of July 3, 1815, and to attempt the adjustment of other objects interesting to the two countries, and upon which the Governments have not yet been able to come to an agreement. It is desirable that this negotiation should take place in the course of the ensuing Summer, and that its result should be transmitted here for the commencement of the next session of Congress, fixed for the third Monday of November. For, as the convention, unless continued, will expire in July, 1819, and as it is due to the interests of the merchants on both sides affected by it that early notice should be given whether its provisions are to be continued or to cease, it appears that no time is to be lost in bringing the question of its renewal or cessation to an immediate issue. As the motives for taking up the subject thus early are operative alike upon both parties, and as, in the event of the expiration of the convention of July, 1815, legislative measures preparatory to that contingency will doubtless be necessary as well in Parliament as in Congress, it is expected that this proposal will be acceded to by the British Government, and that Plenipotentiaries on their part will be appointed to treat with you and Mr. Rush, to whom jointly the President proposes to commit the trust of this negotiation.

A copy of the instructions forwarded to Mr. Rush relating to this subject is herewith enclosed; and the President desires that you would hold yourself, accordingly, ready to repair to London immediately upon receiving the notice from Mr. Rush that the British Government agree to the proposal, and have appointed, or are ready to appoint, Plenipotentiaries to confer and conclude with you. Your long experience and great knowledge of the subjects to be treated on are the motives of the President for associating you in this commission. A full power for the negotiation is herewith enclosed, and further instructions and documents relating to it will be transmitted to Mr. Rush as soon as they can be prepared. Your necessary and reasonable expenses upon this special mission will be allowed in like manner with those of a similar mission upon which you were employed last Summer in the Netherlands.

The President is willing that the convention of July 3, 1815, should be continued for eight or even ten years as it stands. Its operation has indeed been in some respects disadvantageous to the United States, and favorable to Great Britain, owing to the revival of the interdiction of access to our vessels to the British West India

and North American colonies, while our intercourse with them has been exclusively confined to British vessels. Yet that the injury to our navigation and shipping interest has not been very essential, we have many indications.

The moral effect of the equalization of duties on both sides in softening national asperities has been unequivocal, and is an object of much importance, deserving to be cherished and improved by both Governments. The encouragement which the convention has given to our trade with the British possessions in the East Indies is more questionable, as that trade operates upon us as a continual and embarrassing drain of specie. But as it has been a trade of profitable returns, and as it would still to a great extent be carried on with the native States of India, if we should be excluded, or our intercourse should be burdened and restricted with the British territories, the President will be satisfied to leave it as it is, and subject to the increasing competition of the British private traders with India, which will be likely to affect the interests of the British company more than ours.

The other interests which the President hopes may be adjusted by this negotiation are—

1. The intercourse with the British colonies in the West Indies and North America. You are well acquainted with the failure of the attempt to extend the convention of 1815 to this intercourse at the negotiation of the convention, and at a subsequent period, when four additional articles were proposed on the part of Great Britain, a copy of which you have. There was reason to believe that Lord Castlereagh was personally well disposed to a more liberal expansion of the colonial intercourse, although the Cabinet was not entirely prepared for it. The manner in which he has recently avowed a liberal commercial principle in Parliament, and the approbation with which that avowal was received; the obvious, though not declared, bearing which those sentiments had both upon the South American contest and upon the relations between the United States and the British colonies; the free port acts which we understand have been introduced into Parliament, and are even said to have passed, strongly and concurrently indicate that a change has taken place in the policy of the Cabinet on this subject; and we hope that now is precisely the favorable time for taking advantage of it. Our own navigation act may, perhaps, contribute to the same effect; and even should it operate otherwise, and confirm them in their obstinate exclusion of our vessels from those ports, as it will make their exclusion from ours to the same extent reciprocal, it leaves us the more free to agree to the renewal of the convention of July, 1815, if nothing more can be obtained.

2. Indemnity to the owners of the slaves carried away from the United States by British officers, after the ratification of the peace of Ghent, and contrary to a stipulation in the first article of that treaty.

Copies of the correspondence between the two

Governments, on this subject, are in the possession of Mr. Rush. They disagreed in their construction of the stipulation alluded to; and, each party adhering to its own view of it, a proposal was made, nearly two years since, on our part, to refer it to the arbitration of some friendly sovereign. This proposal, which Mr. Rush, upon his arrival in England, renewed, has now been accepted by the British Government; but with a further proposal to refer it, and two other subjects, for arrangement in the first instance, to commissions like those under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent.

3. 4. These other subjects are, the boundary line from the northwest corner of the Lake of the Woods westward, which you remember was all but agreed upon, and went off upon a collateral incident at Ghent; and our title to the settlement at the mouth of the Columbia river.

The expediency of referring any of these questions to two commissioners, one belonging to each of the two countries, is very doubtful. With regard to the slaves, and to Columbia river, it can scarcely be expected that the commissioner of either party would ultimately entertain an opinion different from that already pronounced by his own Government; and, if concession upon one point is to be made the condition of corresponding concession upon the other, it may with more propriety be effected by compromise between the two Governments, than by judiciary powers given by them to individuals, under allegiance to the two countries themselves. As to the line from the Lake of the Woods, as some dissatisfaction has already been excited here by the expense occasioned by the two commissions already employed in settling the boundary, another commission, to draw a line through the depth of the deserts, and to an indefinite extent, would be still more liable to censure; besides the apprehension which it might raise, that the issue of the commission would be to bring the British territory again in contact with the Mississippi.

5. The fisheries.

The correspondence between the two Governments on this subject leaves it still in the unsettled state in which it was left at the peace. Two proposals have been made on the part of the British Government, neither of which proving acceptable, a counter-proposal from us has been promised, and will be contained in the further detailed instructions which will be prepared and forwarded to Mr. Rush, to assist in the conduct of the negotiation.

JAMES MONROE, President of the United States:  
To all whom these presents shall concern—  
Greeting:

Know ye, that, for the purpose of perpetuating between the United States and his Britannic Majesty the harmony and good correspondence happily subsisting between them, and of removing all grounds of dissatisfaction, and reposing special trust and confidence in the integrity, prudence, and abilities, of Albert Gallatin, our

15th CON. 2d SESS.—48

Envoy Extraordinary and Minister Plenipotentiary at the Court of France; and of Richard Rush, our Envoy Extraordinary and Minister Plenipotentiary at the Court of the United Kingdom of Great Britain and Ireland; I have invested them with full and all manner of power and authority, for and in the name of the United States, to meet and confer with any person or persons authorized by His Royal Highness the Prince Regent, acting in the name and behalf of His Majesty the King of the United Kingdom of Great Britain and Ireland, being furnished with like power and authority; and with him or them to agree, treat, consult, and negotiate, of and concerning the renewal of the convention concluded at London on the 3d of July, 1815, and concerning the general commerce between the United States and Great Britain and its dominions or dependencies, and such other matters and subjects interesting to the two nations as may be given to them in charge; and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of the Senate of the United States.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed.

Given under my hand, at the City of Washington, the 22d day of May, A. D. 1818, and of the independence of the United States the forty-second.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS,  
Secretary of State.

*Extract of a letter from Mr. Adams to Mr. Rush, dated*  
DEPARTMENT OF STATE, May 30, 1818.

It is not our desire to embarrass the proposed commercial negotiation with any of the questions of maritime regulations adapted to a state of warfare. We do not wish that blockade, contraband trade with enemies or their colonies, or even impressment, should be drawn into the discussion, unless such a wish should be manifested on the British side.

Mr. Bagot has been informed that this negotiation will be proposed, and that, in the event of its being agreed to, another Plenipotentiary will be joined with you, to confer and conclude with those who may be appointed on the part of Great Britain. He is not aware that there will be any objection to it; but, if there should be any, and the British Government should determine to keep the renewal of the commercial convention distinct from every other subject to be arranged between the two countries, you will, of course, not give the notice to Mr. Gallatin to repair to London, mentioned in my last despatch. If the British Cabinet agree to negotiate, it is hoped that the special instructions to be prepared and forwarded to you will reach you as soon as Mr. Gallatin will find it convenient to meet you in London. If the British Cabinet prefer, by a



single article, to renew the convention of July, 1815, for a term of eight, ten, or even twelve years, or any shorter period, your full power, heretofore given, will be still in force, and will enable you to conclude such an article, subject to the ratification here, by and with the advice and consent of the Senate.

*Extract of a letter from Mr. Rush to Mr. Adams.*

LONDON, June 26, 1818.

In my interview with Lord Castlereagh on the 11th of this month, other subjects were treated than those I have already communicated, of which it is proper that I should now give a particular account.

In the foremost rank stands impressment. A sufficient interval having elapsed, I asked his Lordship if any answer was made up on the proposal I had submitted on the 18th of April. He replied that he had brought it before the Cabinet, where it had been considered with all the care which it merited. He proceeded to touch upon some of the principles and arguments to which the subject always leads. He adverted first, as connected with naturalization, to the opposite opinion which the two Governments held upon the doctrine of allegiance. I said that I was aware of no opinions entertained by the Government of the United States upon that point, except such as were sanctioned by the ancient and predominant authorities of law, as well as the general usage of Europe. He next observed that we gave to our ships a character of sovereignty which Great Britain did not; that we considered them part of our territory, clothing them with corresponding immunities. I said it was true that we did consider our ships quite as inviolable as the soil, in the protection which they should afford to our seamen, whether native or naturalized; but never had we, as a neutral, claimed to shield them from entry under any of the just belligerent rights of search; that is, whether to look for persons in the land or naval service of a co-belligerent, articles contraband of war, or enemy's property. That these constituted the utmost limit to which the belligerent claim had ever been pushed. What we complained of was, that Great Britain, passing them all, should enter a new field, and set up a right to enforce in our vessels, while navigating the high seas, her own municipal laws. His Lordship did not view it in this light, but spoke of the claim as one being established and incontestable on the part of Great Britain. He said it became his duty to add, that, on a full consideration of the proposal, it had not been found practicable to forego, under any conventional agreement, the execution of which was to depend upon the legislative ordinances of another country, this right of looking for her subjects upon the ocean wherever she might be likely to find them.

From the broad ground of this decision, it became evident that there could no longer be any possible advantage in adhering to the course marked down in my despatch of the 20th of

April. This, it will be recollected, was not to disclose, in the first instance, all my powers. I therefore risked nothing in asking his Lordship what difference it would make if the United States would agree to exclude from service, on board both of their ships of war and merchant vessels, all native born British subjects.

He replied that this, indeed, would be going a step further, but it would still leave the proposal within the principle of their objection. That the objection, in short, went to the full length of an unwillingness to concede, by treaty, the right of entering the vessels of a foreign Power, to look for their subjects, whatever its terms.

I now remarked that I heard this determination with regret, as I was ready to accede to a stipulation, on the part of my Government, bottomed on the unqualified exclusion of all natives from both branches of the service; and I feared, also, that this would exhaust all the offers which it had to submit. I begged that he would, in fact, consider such an offer as distinctly made, and under full authority. He promised to do so.

Every proposal which it fell within the compass of the United States to put forward being gone through, I asked in turn, if it had occurred to his Lordship to hold out any overtures on the part of the British Government. I reiterated, in forcible terms, the assurance that there prevailed throughout the United States one universal wish, with Government and people, to see removed the sources of a dispute which concerned so seriously both nations. But I found that he was prepared with none which did not assume the right of previously entering our ships. For the judicious and safe exercise of this right, Great Britain, he said, was willing to enter into the most effective regulations, such as restricting the boarding officers to those of a rank not below lieutenants, giving responsible receipts for the men taken out, or any other safeguards which the American Government might propose as better adapted to the end; that she would always be ready to receive, and in the most friendly manner discuss, proposals of this description, under the hope of some practicable arrangement growing out of them.

I did not hesitate to say that the United States would never admit, by convention, a right to enter their vessels for such a purpose as impressment. It would be to surrender principles which they held too sacred; besides, that its exercise, however attempted to be softened, must necessarily be liable, from circumstances intrinsic and insurmountable between the two nations, to perpetual and the most fatal abuse. His Lordship, while repeating the inability of Great Britain to abandon by compact her ancient right, again frankly admitted the evils of which it had been the parent, and which he hoped never to see revived. He added that it would be her anxious desire in future, hoping that the day of necessity for its actual exercise was far distant, to free it as much as possible from abuse, and that, in particular, it would be much the more sparingly brought into activity, if the American Govern-

ment, by adopting, of its own accord, such legislative ordinances as I had proposed, would thus inspire a confidence that, at all events, but few of her subjects would find their way into American ships.

It will be supposed that I alluded to the unequal ground upon which such a course would place the United States. If they consented to pass laws of this nature, it might reasonably be expected that they must see their way to an equivalent in some stipulation, on the part of Great Britain, of ascertained and positive value, and that no other would be stamped with that character but an agreement not to enter their ships.

Although I explicitly made the proposal of a willingness not to employ in our service even her native subjects, I did not think it right that it should rest upon the footing of a verbal offer. The less did I think this would be prudent, from observing an inclination in his Lordship's mind, towards the close of our conversation, to consider what had passed as wearing an informal rather than any other character, inasmuch as it had been productive of no results. I removed this impression by new and unequivocal declarations that it was to be regarded differently. In conformity with them, I put into his hands, on the 20th of this month, the paper marked No. 2, which accompanies this despatch. In delivering it, I desired that he would consider it as altogether and strictly official. It was true, I said, the proposal which it embraced had already been rejected; but I knew so well the anxiety of the President upon this great point, as to feel sure that I should be more truly the organ of his will by putting it in a shape in which it might go among the archives of this Government, and would add, in the further hope that possibly other views might, in other times, be taken of it. On receiving the paper with this remark, his Lordship said he would lay it before the Cabinet on his return from Ireland, whither he was soon to go, and that, perhaps, it might be thought advisable to put in writing the objections and counter-opinions of Great Britain.

In this abortive manner has the attempt ended. I have endeavored to recount, with all possible accuracy, what has transpired, and trust that in no material point have I misunderstood the communications of this Government. It places upon record another and an earnest effort to settle this great and formidable controversy. The failure is the more to be deplored, as the attempt has been made during a season of profound peace, and when the two Governments seem well disposed towards each other. The United States have again done all that they could towards allaying it. They declare that they want not British seamen in their vessels. They engage to exclude them by all the means that human laws can devise. In a spirit of extreme conciliation, they go farther in their offer than the obligations of co-equal sovereignty, or the policy and habits of their internal system, might, in the judgment of all, be thought to dictate. Whilst they concede so much, Britain will yield nothing. She remains rigid

and inexorable. She will not meet half way. She will not turn a step from her course. To an alleged right, but which has often been demonstrated to be utterly without support, in any one principle that the society of nations has ever recognised—unless the dicta of English common lawyers make up the great and universal code of public law—does she continue to cling, in the mere ambitious and wilful reliance upon an unchecked career in her naval supremacy. It is upon such foundations that she virtually threatens the indefinite continuance of a practice more afflicting to humanity, as far as the scale extends, than was ever the African slave trade, and in the highest degree insulting to the rights and dignity of an independent and powerful nation.

The subject of impressment being, I fear, finally disposed of, as one of negotiation between the two Governments, Lord Castlereagh next reminded me that it was now but little more than a twelvemonth from the time fixed for the expiration of the commercial convention of 1815. He asked if I knew the views of my Government in regard to its renewal. I replied that at present I did not, with precision. He requested that I would consider his question as intended to draw my attention specially to the subject, and expressed some anxiety to have information at as early a day as convenient.

I anticipate the probability of the expression of some sentiments to me from the Department, in the course of the present Summer, in relation to this convention. How far our act, bearing upon their colonies, is to operate on the question of renewal, or, if objectionable in its existing provisions, in what respects modifications are to be insisted upon, are points on which I am not instructed. I am aware that it is already made my duty to obtain and transmit information upon which, perhaps, a final opinion on the merits of the convention was expected, in part, to rest. Of this duty I have not been unmindful. But it is proper I should state that my efforts, for reasons that will be explained in a future despatch, do not promise as much success as I had hoped. Besides inquiries among individual merchants, wherever it has come within my power to make them, I addressed, in March, a letter to each one of our Consuls within the European dominions of this country. Answers are, from time to time, dropping in; but neither from them, and still less from my personal inquiries, is it likely that I shall derive information, either so full or so accurate, on the effects of the cessation of all discriminating duties, as to be of any decisive or even great account in making up a judgment. In the next place, although I will take care that what I do obtain is transmitted in time for the session of Congress in November, the period which my instructions seem to contemplate, it would be desirable, I am sure, to this Government, to be furnished sooner, if possible, with an intimation of the intentions of ours in relation to this compact.

If it is to be suffered to run out without renewal, Great Britain having positively declined forming a treaty with us which shall include her colonies,



upon what footing are the commercial relations of the two countries to stand? Will each be left to its own regulations, as sometimes heretofore, or is any substitute to be proposed? These are points on which I should feel happy to receive information, whenever it may be thought fit to impart it.

*Extract of a letter from Mr. Rush to the Secretary of State, stating a conversation between himself and Lord Castlereagh, dated*

LONDON, July 25, 1818.

I entered next upon the subject of the commercial relations between the two countries. Remark upon the change produced in them by the prohibitory act of the last session of Congress, now soon to commence its operation, I observed that I had it in charge to say that the President had yielded his assent to that act with reluctance; for that, however just, its tendencies might be of an irritating nature to the individual interests that it would affect on both sides, whilst it was his constant desire to give efficacy to measures mutually more beneficial and conciliatory. It was, therefore, that I was once more authorized and instructed to propose to this Government the negotiation of a general treaty of commerce. That the President had, besides, agreed that there should be comprehended in the negotiation other matters heretofore desired to be treated of by this Government, as well as points in which the Government of the United States took a particular interest; being, in the whole, 1. The question respecting the slaves carried off from the United States, in contravention, as alleged, of the Treaty of Ghent. 2. The question of title to the settlement at the mouth of Columbia river. 3. The question of the Northwestern boundary line, from the Lake of the Woods; and 4. That of the fisheries. Upon these topics, the President, I added, preferred treating in a direct way in the first instance, in the hope that the two Governments might arrive at a just understanding, without resorting to commissioners; and that, if this Government was prepared to go into all of them, including, especially, a general treaty of commerce, another Plenipotentiary had been contingently appointed on the part of the United States, to meet with me any two that might be designated on the part of Great Britain.

His Lordship asked what he was to understand by a general treaty of commerce. I replied, a treaty that should lay open, not a temporary or precarious, but a permanent intercourse with their West India islands and North American colonies to the shipping of the United States, as often before proposed, but which, after the recent refusals, it might seem almost unnecessary again to bring into view, were it not that other objects of interest to both nations were now associated with it in a way to clothe the proposition with a new aspect.

He answered that the British Government would certainly be willing to enter upon a nego-

tiation on the commercial relations of the two countries, but that he had no authority to say that the colonial system could be essentially altered; broken down it could not be. I said, that if it was not to be departed from, or in no further degree than the four articles had imported, as those articles had already been rejected, it did not appear to me that any advantage would be likely to arise from going into the negotiation. He replied that he was not prepared to answer definitively upon all or any of the points, but would lay them before the Cabinet, and let me know the result. He professed earnestly, in the course of the conversation, the desire which this Government had to see the commerce of the two countries stand upon the best footing of intercourse, the stake to each being so great, and promising, with the growth of the United States, to be so much greater.

In the event of a negotiation, upon the grounds I had explained, not being opened, he asked if I could inform him what the intentions of my Government were relative to the commercial intercourse between the two countries, it being, for obvious reasons, desirable soon to know. Here I did not hesitate to announce that, in such an event, which I still hoped would not be the case, it was willing simply to renew the existing convention of 1815, thus keeping this instrument distinct from all other questions of a commercial nature, if the British Government preferred it. This communication, I thought, he received with evident satisfaction. He remarked that it would rescue the commercial relations from all danger of a chasm, and make known, in immediate reply, the readiness of his Government to acquiesce in such a course.

On the 22d I received a note from him requesting him to see me again at the Foreign Office on the 23d. I was there accordingly. Mr. Robinson, who is now a member of the Cabinet, as well as President of the Board of Trade, was present. It was the first occasion upon which any third person had been associated with Lord Castlereagh at any of our official interviews.

His Lordship commenced by saying that he had laid my proposals before the Cabinet, and that it had been agreed to enter upon the general negotiation; that is, one which should embrace all the points I had stated. In relation to the great commercial question, he begged I would understand that the British Government did not pledge itself beforehand to a departure from its colonial system in a degree beyond what it had already offered; but that it was sincerely desirous to make the attempt, and unequivocally wished to bring the whole commercial relations of the two countries into view; willing to hope, though abstaining from promises, that some modification of that system, mutually beneficial, might be the result of frank and full discussions renewed at the present juncture. I replied that I knew my Government would hear this determination with great satisfaction; that it would cordially join in the hope that the new effort might be productive of advantage to both countries, and strengthen

the ties of good intercourse that should unite them.

I now informed him that Mr. Gallatin, the present Minister from the United States at Paris, would take part in the negotiation, and come over to London as soon as it would be convenient to say that Plenipotentiaries would be appointed on the part of Great Britain. He said, the sooner the better; and that Mr. Robinson and Mr. Goulburn would be named to treat with us. His Lordship said that he himself would be obliged to set out for the Continent to attend the European Congress, by the 20th or 25th of next month, but that the negotiation could go on in his absence. He intimated a wish, however, that it might open, if practicable, before he went away. I answered that all the necessary powers and instructions from our Government had not yet reached us, but that we were in daily expectation of them.

He next asked whether, in order to guard against all possible delays that might be incident to the general negotiation, which was to embrace so many points, I was prepared to agree at once to a renewal of the convention of 1815, for a term of years to be agreed on, declaring that the British Government was ready, at any moment, to concur in such agreement.

I answered, without reserve, that I was already in possession of a full power to this effect, which, independently of other objects, might be carried into execution.

I wrote yesterday to Mr. Gallatin, to apprise him of the necessity of coming over, the contingency which was to bring him having happened. From the answer I have received to my letter to him of the 2d of this month, I think it probable that he will be here in three weeks, or sooner; so that, if our full powers arrive, the negotiation may be opened before Lord Castlereagh's departure. Should Mr. Gallatin concur, we will make the renewal of the convention for eight, ten, or twelve years, our first act. This I hope the President will approve. The reasons that operate with me, are, 1. It will not only provide against delays, but all uncertainties in the result, of the possibility of which we are forewarned simultaneously with the desire expressed to enter the field of negotiation. It is not only important that there should be no chasm in the commercial relations between the two countries, but equally so that our merchants should have timely notice that there will be none. 2. Every inquiry that I have made among merchants of the United States, with whom I have been able to confer in this city, has produced the most unequivocal opinions that this convention is working well for us, which entirely falls in with the communications I have received from the Department. 3. Taking this for the fact, it seems naturally to follow that it is our part to consent to the renewal the moment that Britain says she will, lest the day should go by. On this head I will just state that I have heard, through a respectable source, that there are already some British ship owners in Liverpool, who talk of petitioning their Government against its renewal. Lastly, my power

to renew seems to me, from your despatch of the 30th of May, to be complete; nor will its exercise thwart, in any degree, our prospects of a more enlarged treaty under the general negotiation.

*Extract of a letter from Mr. Adams to Messrs. Gallatin and Rush, dated*

DEPARTMENT OF STATE, July 28, 1818.

In the expectation that the Government of Great Britain have accepted the proposal which Mr. Rush was instructed to make, for negotiating a treaty of commerce, embracing the continuance of the convention of 3d July, 1815, for an additional term of years, and including other objects of interest to the two nations, I have now the honor of transmitting to you the President's instructions to you for the conduct of the negotiation.

With regard to the commercial convention of 3d July, 1815, you have already been informed that the President is willing that it should be continued without alteration for a further term of eight or ten years. We had flattered ourselves, from the liberal sentiments expressed by Lord Castlereagh in Parliament, and from various other indications, that the British Cabinet would have been now prepared to extend the principles of the convention to our commercial intercourse with their colonies in the West Indies and North America; but, from the report of two conferences between Mr. Rush and Lord Castlereagh, since received, it appears that our anticipations had been too sanguine, and that, with regard to our admission into their colonies, they still cling to the system of exclusive colonial monopoly.

Our navigation act, passed at the last session of Congress, is well calculated to bring this system to a test by which it has not hitherto been tried; and if the experiment must be made complete, so that the event shall prove to demonstration which of the two countries can best stand this opposition of counter-exclusions, the United States are prepared to abide by the result. Still, we should prefer to remove them at once, if for no other reason than that it would have a tendency to promote good humor between the two countries. We wish you to urge this argument upon the British Cabinet; to remind them of the principles avowed by Lord Castlereagh in Parliament, to which I have before referred, and of their precise bearing upon this question. It may also be proper to suggest that, while Great Britain is pressing upon Spain the abandonment of her commercial monopoly throughout the continent of South America, her recommendation must necessarily gain great additional weight by setting the example with her own colonies, while at the same time her own interest in her monopoly must be reduced to an object too trifling for national consideration, when the Spanish colonies shall be open to the commerce of the world. Finally, it may be observed that the free port act passed at the last session of Parliament, goes already so far as the abandonment of their system, that it can scarcely be perceived why they should



adhere to the remnant of it any longer. Other arguments may occur to your own reflections, and result from your thorough knowledge of the subject; you will urge them with earnestness, though giving it always to be understood that we shall acquiesce in their ultimate determination.

Whenever this subject has been presented to the British Cabinet, since the peace, their only objection to the proposals and arguments of the United States has been that their system has been long established. Lord Castlereagh has invariably acknowledged his own doubts whether it was wise, or really advantageous to Great Britain, but placed the determination to preserve it upon the single ground of its having long existed. Whatever weight there is in this reasoning, it would bear in favor of all those other exclusions which he congratulated Parliament and the country at having been abolished, as much as in support of this. It is the argument of all existing abuse against reformation—of mere facts against reason and justice. The commercial intercourse between the United States and the West Indies is founded upon mutual wants and upon mutual convenience; upon their relative geographical position; upon the nature of their respective productions; upon the necessities of the climate; and upon the convulsions of nature. When the British Ministry say, Against all this our ancestors established a system, and therefore we must maintain it; we may reply, If your ancestors established a system in defiance of the laws of nature, it is your interest and your duty to abolish it. But who can overlook or be blind to the changes of circumstances since the establishment of the system; to the irresistible consequences of the establishment and growth of the United States as an independent Power; to the expulsion of the French from St. Domingo; to the revolution in progress in the South American provinces? Every system established upon a condition of things essentially transient and temporary must be accommodated to the changes produced by time.

Besides the free port act, a printed copy of which has now been received from Mr. Rush, and which, we find, is limited to ports specially to be appointed by the Crown, in the provinces of Nova Scotia and New Brunswick, we have seen in the public journals a bill for permitting a certain trade between the British West Indies and any colony or possession in the West Indies, or on the continent of America, under the dominion of any foreign European Sovereign or State. This measure appears intended to counteract the effects of our late navigation act, and gives further manifestation of the adherence of the British Government to their colonial exclusions. It is the President's desire that nothing should be omitted which can have the tendency to convince them that a change would promote the best interests of both countries, as well as the harmony between them. Should your efforts prove ineffectual, we can only wait the result of the counteracting measures to which we have

resorted, or which may be found necessary hereafter.

In carrying the convention of 3d July, 1815, into execution, the British Government have sanctioned the practice, with regard to some of the foreign tonnage duties; first, to levy them as if the convention were not in force, and then, upon petition of the persons interested, to have them returned. If this practice cannot be given up altogether, it will be necessary that some regulation should be adopted, by which the extra duties shall be returned of course, and without putting the parties to the trouble, expense, and delay of obtaining it by petition. At present, unless the petition is presented, the duties are not returned. It happens sometimes that masters of vessels pay the duties, without knowing that they are entitled to have them returned; in which case they are lost to them or their owners. It will be proper, therefore, to require the adoption of some general regulation; in virtue of which it shall be made the duty of the officers of the customs to repay the extra duties, in all cases in which they shall have been levied, without exposing the individual to lose his right by his own ignorance, or by the negligence or infidelity of his consignee.

## 2. Slaves.

The British Government have accepted the proposal of referring to the decision of some friendly Sovereign or State, the question concerning the slaves carried away from the United States by British officers after the ratification of the peace. They propose, however, a previous reference of it to two commissioners, appointed like those under the fourth, fifth, sixth, and seventh articles of the Treaty of Ghent, and to proceed with similar powers; and committing to the same commissioners the power of fixing definitively the boundary between the United States and the possessions of Great Britain, westward, from the northwest corner of the Lake of the Woods; and of pronouncing upon the right of the United States to the settlement on the shores of the Pacific ocean, at the mouth of Columbia river. These objects are so entirely different from one another; the principles, the character of the evidence, and the reasoning which must lead to the result, are so disconnected and incongruous, that, if submitted at all to commissioners, it is obviously proper to refer them to different commissions. The question concerning the slaves is a question of construction upon the terms of the first article of the treaty, and the two Governments having already discussed it, each, after discussion, adhering to its own opinion, there is little prospect that either of the commissioners will come to a conclusion different from that of his own Government. The present offer of the British Government, connecting it with another question of boundary, bears the appearance of a disposition to make it an affair of compromise, and that they are willing to concede something to us on one of the points, upon condition of a concession from us upon another. If this be their object, these mutual concessions may be made with

more convenience by direct and immediate agreement between the two Governments, and by an article of the treaty, than by the means of commissioners, whose functions are rather of the judicial than the ministerial character, and whose duties are to decide, and not to compromise.

## 3. Boundary, from the Lake of the Woods, westward.

By the second article of the treaty of peace of 1783, the boundaries of the United States, after having been traced from the northwest angle of Nova Scotia to the most northwestern point of the Lake of the Woods, are pursued "from thence, on a due west course, to the river Mississippi; thence, by a line to be drawn along the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude."

By the fourth article of the treaty of 1794, it was declared to be uncertain whether the river Mississippi extended so far to the northward as to be intersected by a line due west from the Lake of the Woods; and a joint survey of the river, from one degree below the falls of St. Anthony to the principal sources of the said river, and of the parts adjacent thereto, was stipulated; and if, on the result of the survey, it appeared that the river would not be intersected by the line, the parties were to regulate the boundary line by amicable negotiation, according to justice and mutual convenience, and in conformity to the intent of the treaty. This joint survey never took effect.

By a convention signed on the 12th of May, 1803, by Mr. King and Lord Hawkesbury, but which was not ratified, it was agreed that the boundary should be by a line from the northwest corner of the Lake of the Woods, by the shortest line, until it touched the river Mississippi. Until then, the Mississippi river had been the western boundary of the United States. The cession of Louisiana gave them a new and extensive territory westward of that river.

In the negotiation of 1807, between Messrs. Monroe and W. Pinkney, and the Lords Holland and Auckland, there were three successive draughts of articles for the settlement of this boundary. The first, proposed on the British side, was a line due west from the Lake of the Woods, along the forty-ninth parallel of north latitude, as far as the territories of the United States extend in that quarter, and the line, to that extent, was to form the boundary; with a proviso that the article should not be construed to extend to the northwest coast of America, or to territories westward of the Stony mountains.

The second, proposed on the part of the United States, took a line due north or south, as the case might be, from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of north latitude, and then due west, along that parallel, for the boundary between the territories of the parties; with the proviso excluding the northwest coast and all territories westward of the Stony mountains.

The third was agreed to by both parties, and varied from the second only by an additional clause, purporting that this should be the boundary, as far as the respective territories of the parties extend in that quarter.

That convention was not ultimately concluded. At the negotiation of the Peace of Ghent, the eight article of the first project, presented by the American Plenipotentiaries, was a transcript from this article last above mentioned; and the article proposed by the British Plenipotentiaries on returning the project was the same as that which had been first proposed by Lords Holland and Auckland, with an additional paragraph, stipulating free access to British subjects through the territories of the United States to the Mississippi, and free navigation of that river. In the conferences that ensued, the substance of the article, so far as it regarded the boundary, was agreed to on both sides; but, as the American Plenipotentiaries could not accede to the additional paragraph, the article was finally altogether omitted.

From the earnestness with which the British Government now return to the object of fixing this boundary, there is reason to believe that they have some other purpose connected with it, which they do not avow, but which, in their estimation, gives it an importance not belonging to it, considered in itself. An attempt was at first made by them, at the negotiation of Ghent, to draw the boundary line from Lake Superior to the Mississippi. But, as they afterwards not only abandoned that pretension, but gave up even the pretension to an article renewing their right to the navigation of the Mississippi, it was to have been expected they would thenceforth have considered this western boundary of no importance to them. The new pretension, however, of disputing our title to the settlement at the mouth of Columbia river, either indicates a design on their part to encroach, by new establishments of their own, upon the forty-ninth parallel of latitude, south of which they can have no valid claim upon this continent; or it manifests a jealousy of the United States—a desire to check the progress of our settlements—of which it might have been supposed the experience would before this day have relieved them. Their projects for the line, both in the negotiation of Messrs. Monroe and Pinkney in 1806, and at Ghent in 1814, were to take the forty-ninth parallel of latitude, from the Lake of the Woods west, as far as the territories of the United States extend in that direction, with a caveat against its extension to the South sea, or beyond the Stony mountains. Upon which, two observations are to be made—first, that it is uncertain whether any part of the Lake of the Woods is in latitude forty-nine; and, secondly, that they always affected to apply the indefinite limit of extension "as far as the territories extend," to the territories of the United States, and not to those of Great Britain—leaving a nest-egg for future pretensions, on their part, south of latitude forty-nine. The counter-projects for the line on our part, therefore, at both those negotiations, were from the northwest corner of the Lake of



*Relations with Great Britain.*

the Woods, the point already fixed and undisputed, a line due north or south, as the case may be, to the forty-ninth parallel of latitude; and thence along that parallel, due west, as far as the territories of both parties extend in that direction, and adopting the caveat against extension to the Pacific, or beyond the Stony mountains.

4. *Settlement at the mouth of Columbia river.*

From the late correspondence with the Spanish Minister, (Onís,) it appears that the claim of Spain upon the shores of the South sea extends to the fifty-sixth degree of north latitude; but there is a Russian settlement in fifty-five, besides a temporary lodgment connected with it, as far South as forty-two. The pretensions of the British Government may on this occasion be disclosed. We know not precisely what they are, nor have they explained the grounds or the motives upon which they contest our right to the settlement called Astoria, formed before the late war, and broken up by the British sloop-of-war *Racoon* in the course of it. The papers enclosed, marked from A to I, contain all the information material to the subject possessed by this Department. It appears that, at the time when the American settlement was broken up during the war, the property was purchased by certain agents of the British Northwest Company. This, however, could in no manner divest the United States of their jurisdiction. As the British Government admit explicitly their obligation under the first article of the Treaty of Ghent to restore the post, there can be no question with regard to the right of the United States to resume it. We do not perceive how or why this question should be referred to two Commissioners of the respective nations. And as Russia herself has pretensions on that coast, it deserves the consideration of both parties whether the ultimate determination, in the almost unavoidable case of a difference between the Commissioners, could with propriety be referred to her Sovereign. Mr. Rush has been instructed, in the event of a final difference between the Commissioners, under the existing commissions, to propose the Emperor of Russia as the Sovereign to whose decision the reference stipulated on that contingency in the treaty should be made. It cannot be doubted that he was the Sovereign contemplated by both parties at the time when the treaty was concluded; and it might be difficult to designate any other in whom the confidence of both parties would be so strong and clear as to secure their cordial acquiescence in his decision.

The expedient itself of submitting questions of territorial rights and boundaries in discussion between two nations to the decision of a third was unusual, if not entirely new; and, should the contingency occur, will probably encounter difficulties of execution not foreseen at the time when the stipulation was made of resorting to it. The subjects in controversy are of a nature too intricate and complicated, requiring on the part of the arbitrator a patience of investigation and research—historical, political, legal, geographical, and

astronomical—for which it is impossible to conceive that the Sovereign of a great Empire could personally bestow the time.

These ideas are suggested with a view to recommend the attempt rather to come to an agreement between the parties themselves, upon all subjects which have not been thoroughly discussed between them, than to cast their difficulties upon Commissioners, who can scarcely be expected to agree concerning them, and then upon a foreign Sovereign, of whose personal integrity no doubt can be entertained, but who cannot have leisure to sift the subjects in dispute to the bottom.

On the whole, the President will be well satisfied if these three objects—of indemnity for the slaves carried away, of the western boundary from the Lake of the Woods, and of the settlement at the mouth of Columbia river—can be adjusted by this negotiation, rather than referred to commissioners, which must be expensive, and so constituted as to make it at least probable that they will decide nothing; and then to a friendly sovereign, still at great expense and other inconveniences to both parties. With regard to the slaves, the question which it was proposed should be submitted to the decision of an impartial arbitrator was merely on the construction of one paragraph in an article of the Treaty of Ghent. This was so simple, and requiring so little research or investigation of any kind, that it might have been decided immediately by the sovereign himself, upon an inspection of the article, and a short statement of the facts, to which both parties would have agreed. But the delineation of an unsettled boundary across the western deserts of this continent, the title to establishments on the Pacific ocean, where the arbitrator himself is not without his pretensions, and where, save pretensions, there is no object to any party worth contending for—to create burdensome commissions and make solemn references to a foreign sovereign for these, appears scarcely to be necessary, if altogether justifiable. As to the line from the Lake of the Woods, you are authorized to agree to that which was agreed upon by the Plenipotentiaries on both sides in 1807, but not to any line which would bring the British in contact with the Mississippi, nor to anything which would authorize the British to trade with Indians within the boundaries of the United States. Of the inconveniences of allowing such trade, even by licenses, a recent instance has occurred; copies of the papers relating to which are transmitted to you.

5. *Fisheries.*

The proceedings, deliberations, and communications upon this subject, which took place at the negotiation of Ghent, will be fresh in the remembrance of Mr. Gallatin. Mr. Rush possesses copies of the correspondence with the British Government relating to it after the conclusion of the peace, and of that which has passed here between Mr. Bagot and this Government. Copies of several letters received by members of Con-

*Relations with Great Britain.*

gress during the late session, from the parts of the country most deeply interested in the fisheries, are now transmitted.

The President authorizes you to agree to an article whereby the United States will desist from the liberty of fishing, and curing and drying fish, within the British jurisdiction generally, upon condition that it shall be secured as a permanent right, not liable to be impaired by any future war, from Cape Ray to the Ramea islands, and from Mount Joli, on the Labrador coast, through the Strait of Belleisle, indefinitely north, along the coast; the right to extend as well to, curing and drying the fish as to fishing.

By the decree of the judge of the vice-admiralty court at Halifax, on the 29th of August last, in the case of several American fishing vessels which had been captured and sent into that port, a copy of which is also now transmitted to you, it appears that all those captures have been illegal. An appeal from this decree was entered by the captors to the appellate court in England, and the owners of the captured vessels were obliged to give bonds to stand the issue of the appeal. Mr. Rush was instructed to employ suitable counsel for these cases, if the appeals should be entered and, as we have been informed by him, has accordingly done so. If you do not succeed in agreeing upon an article on this subject, it will be desirable that the question upon the right should be solemnly argued before the Lords of Appeals, and that counsel of the first eminence should be employed in it. Judge Wallace agreed with the Advocate General that the late war completely dissolved every right of the people of the United States acquired by the treaty of 1783. But it does not appear that this question had been argued before him, and the contrary opinion is not to be surrendered on the part of the United States upon the dictum of a vice-admiralty court. Besides this, we claim the rights in question not as acquired by the treaty of 1783, but as having always before enjoyed them, and as only recognised as belonging to us by that treaty, and therefore never to be divested from us, but by our own consent. Judge Wallace, however, explicitly says that he does not see how he can condemn these vessels without an act of Parliament; and whoever knows anything of the English constitution must see that on this point he is unquestionably right. He says indeed something about an Order in Council, but it is very clear that would not answer. It is a question of forfeiture for a violated territorial jurisdiction; which forfeiture can be incurred, not by the law of nations, but only by the law of the land. There is obviously no such law.

The argument which has been so long and so ably maintained by Mr. Reeves, that the rights of *antennati* Americans, as British subjects, even within the Kingdom of Great Britain, have never been divested from them, because there has been no act of Parliament to declare it, applies in its fullest force to this case; and, connected with the article in the treaty of 1783, by which this particular right was recognised, confirmed, and

placed out of the reach of an act of Parliament, corroborates the argument in our favor. How far it may be proper and advisable to use these suggestions in your negotiation, must be left to your sound discretion; but they are thrown out with the hope that you will pursue the investigation of the important questions of British law involved in this interest, and that every possible advantage may be taken of them, preparatory for the trial before the Lords of Appeals, if the case should ultimately come to their decision. The British Government may be well assured that not a particle of these rights will be finally yielded by the United States without a struggle, which will cost Great Britain more than the worth of the prize.

These are the subjects to which the President is willing that your negotiation should be confined. With regard to the others of a general nature, and relating to the respective rights of the two nations in times of maritime war, you are authorized to treat of them, and to conclude concerning them, conformably to the instructions already in possession of Mr. Rush; or, if the difficulty of agreeing upon the principles should continue as great as it has been hitherto, you may omit them altogether.

You will not fail to transmit, by duplicates, the result of your conferences, at as early a period as may be found practicable.

*Extract of a letter from Mr. Adams to Mr. Gallatin, dated*

DEPARTMENT OF STATE, July 29, 1818.

This letter is merely to request you, in case the British Government should have accepted the proposal for that negotiation, and if you should be still in Paris when you receive it, to repair without delay to London, for the purpose of entering upon the negotiation. It is hoped you will be able to finish it, and to transmit the result here for the meeting of Congress, on the third Monday in November.

*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, August 13, 1818.

On the day before yesterday I received a letter from Mr. Gallatin, dated the 6th of this month. He informs me that the full powers have got to hand, and that he expects to be here on the 16th.

The prospect of opening the negotiation before the departure of Lord Castlereagh seems, therefore, now to be good. I went yesterday to the Foreign Office to request that the proper orders may be expedited to Dover for the entrance of Mr. Gallatin, his family, and baggage, into the kingdom, without molestation or delay.

*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, August 15, 1818.

On the evening of the 13th I received a note from Lord Castlereagh, requesting me to call at



the Foreign Office yesterday at four o'clock. I went accordingly, when a conversation took place, which I proceed to relate.

The ostensible object of the interview was to say to me that some circumstances would prevent the Congress assembling at Aix-la-Chapelle earlier than the 20th of September, which would make it unnecessary for him to go away quite as soon as he had originally contemplated. He was glad of this, he added, as it would insure to him an opportunity of being present here when the negotiation, so soon to take place between the two countries, commenced. I informed him of our full powers having been received, and of the expectation I now had of Mr. Gallatin's arrival in a day or two. He subjoined a few words as to the formal manner in which it appeared to him best that the negotiation should move along, and also to apprise me that, although he expected to go into the country to-morrow, he would be in town again on the 25th. Here this part of the conversation closed.

He next surprised me agreeably by reviving the subject of impressment, which I thought had been blotted out from our conferences. He began by premising that what he was going to say was confidential, and, for the present, without the knowledge of his colleagues in the administration; that he had reflected much and anxiously upon my late proposals, which, it was true, had, as they now stood, been rejected. But, feeling anew the importance of this subject to the future harmony of the two countries, and willing, if possible, not to let it be shut out from the general negotiation upon the eve of opening, it had occurred to him to offer some suggestions in relation to it, barely to see how they struck my mind, and know if there would be a motive to pursue them. He went on to say that his own impression was, (protesting that, as yet, he was not authorized to say it was that of his Government,) that the proposals might be rendered acceptable by some modifications very important to Great Britain, and not at all so, as he supposed, to the primary object in view by the United States. The modifications were these:

1. That any treaty or convention, built up upon the proposals as I had submitted them, should be limited in duration, say to eight, ten, or twelve years, with liberty to each party to be absolved from its stipulations on a notice of three or six months, as in the late arrangement respecting the reciprocal dismantlement of naval armaments upon the lakes.

2. That the British boarding officer, entering American ships at sea for a purpose justified under the laws of nations, should have the liberty of calling for the list of the crew; and, if he saw a seaman known to him, or on good grounds suspected to be an Englishman, that he should have the further privilege of making a record or *proces verbal* of the fact, in such way as to have the case distinctly brought under the notice of our Government, though by no means withdrawing the man from the ship.

The latter regulation, his Lordship observed,

would operate as a further incentive to the faithful execution of our home prohibitions for excluding British subjects from our vessels; and the former guard against any irrevocable relinquishments by Great Britain, which the opinions, or even the prejudices, of the country might not, upon trial, be found to bear.

I naturally infer that this Government, reviewing its late decision, and seeing, at last, the unexceptionable and perfect fairness of the offers of the United States, has made up its mind to abandon, in effect, the great principle, or at least practice, to which, with an injustice so tenacious, it has long clung—that of forcing the man from under the sacred cover of our flag; and that ground has been broken, in the above interview, to the consummation of a change so auspicious in the councils of this nation. The first modification seems to me unobjectionable. The second is open to considerations which I do not at all like; yet it comes as a first suggestion, and we may, therefore, hope to get rid of it altogether. As Mr. Gallatin will be here so soon, I forbore to offer to his Lordship any opinion, not feeling myself now at liberty to speak upon the subject singly; but joining, nevertheless, in the renewed anxiety to see it brought within the pale of our approaching discussions, and stating that I thought fair ground was laid for its admission. I take leave of the subject, therefore, until my endeavors, jointly with those of Mr. Gallatin, shall be resumed upon it, having been first led to this communication for the President's early information on a question of so much interest. My despatch of the 26th of June will show that some intimation was thrown out, at that time, of an intention on the part of this Government to give, in writing, its objections to our propositions; instead of which, more just views of them would happily seem to have risen up.

Extract of a letter from Mr. Rush to the Secretary of State, dated

LONDON, August 28, 1818.

Mr. Gallatin got here on the 16th of this month. On the following day I addressed a note to Lord Castlereagh, announcing his arrival. His Lordship was at his country seat, thirteen miles from London, but invited us to an informal conference there on the 22d. We went accordingly, and remained all night. Nothing could have been more cordial than the reception given to us. Mr. Robinson and Mr. Goulburn were present. The several subjects of the negotiation were talked over in general terms, and in a spirit which, we think, promises well for the friendly manner in which, at all events, it will be conducted.

The full powers of Mr. Robinson and Mr. Goulburn having in the meantime been made out, our first official meeting took place yesterday at the office of the Board of Trade. Nothing of importance passed, beyond a recapitulation of the points which the two Governments desire to bring into discussion, and some attempts to settle the order in which the negotiation should proceed.

The points consist of all such as have been given in charge to us, and which have been heretofore mentioned in my despatches, including impressment, and other maritime questions incident to a state of war.

I content myself at present with stating thus generally, for the President's information, that the negotiation has opened. What relates to its progress will, I presume, no longer be expected from me singly, but in joint communications with Mr. Gallatin.

I ought not to omit to mention that the point of impressment was brought forward by Lord Castlereagh, at the first interview held at his house, on the 22d. The next meeting takes place to-morrow.

There are some of the points which must stand still until we are in possession of our further instructions.

Extract of a letter from Mr. Rush to the Secretary of State, dated

LONDON, October 12, 1818.

At the joint meeting which took place on the 9th, nothing decisive was determined upon. Premising that no opinion which I give at this stage of the negotiation must be taken as at all binding, I will barely say that I think the prospect of coming to any agreement on an article regulating our trade with the West Indies grows more and more faint. We are to have another conference to-morrow.

Extract of a letter from Mr. Rush to the Secretary of State, dated

LONDON, October 19, 1818.

I hasten to communicate to you, for the information of the President, that, at a conference we have this day had with the British Plenipotentiaries, from which I have just returned, it has been agreed to conclude a treaty, comprehending an arrangement of the following points:

1st. The fisheries; 2d. The northwestern boundary line; 3d. That about Columbia river; 4th. The question of slaves; and 5th. A renewal for ten years of the present commercial convention.

The treaty will probably be reduced to form, and signed to-morrow.

Extracts of a letter from Messrs. Gallatin and Rush to the Secretary of State, dated

LONDON, October 20, 1818.

We have the honor to transmit a convention which we concluded this day with the British Plenipotentiaries.

Lord Castlereagh having expressed a wish that the negotiations might be opened before his departure for Aix-la-Chapelle, Mr. Gallatin left Paris as soon as he had received our full powers, and arrived here on the 16th of August. Our joint instructions contained in your despatch of the 28th of July did not, however, reach us till the 3d of September. We had long conversations with Lord Castlereagh at his country seat,

on the 22d and 23d of August, but could not, owing to our instructions not having arrived, discuss with him the questions of the fisheries and of the West India intercourse. He left London on the 1st of September. The official conferences had begun on the 27th of August, and, for the progress of the negotiation, we beg leave to refer to the enclosed copies of the protocol, and documents annexed to it, and of two unofficial notes sent by us to the British Plenipotentiaries. We will add some observations on the several objects embraced by the convention.

#### 1. Fisheries.

We succeeded in securing, besides the right of taking and curing fish within the limits designated by our instructions as a *sine qua non*, the liberty of fishing on the coasts of the Magdalen islands, and on the western coast of Newfoundland, and the privilege of entering for shelter, wood, and water, in all the British harbors of North America. Both were suggested as important to our fishermen, in the communications on that subject which were transmitted to us with our instructions. To the exception of the exclusive rights of the Hudson's Bay Company we did not object, as it was virtually implied in the treaty of 1783, and we had never, any more than the British subjects, enjoyed any right there—the charter of that company having been granted in the year 1670. The exception applies only to the coasts and their harbors, and does not affect the right of fishing in Hudson's Bay beyond three miles from the shores, a right which could not exclusively belong to, or be granted by, any nation.

The most difficult part of the negotiation related to the permanence of the right. To obtain the insertion in the body of the convention of a provision declaring expressly that that right should not be abrogated by war, was impracticable. All that could be done was to express the article in such manner as would not render the right liable to be thus abrogated. The words "for ever" were inserted for that purpose, and we also made the declaration annexed to the protocol of the third conference, the principal object of which was to provide in any event for the revival of all our prior rights. The insertion of the words "for ever" was strenuously resisted. The British Plenipotentiaries urged that, in case of war, the only effect of those words being omitted, or of the article being considered as abrogated, would be the necessity of inserting in the treaty of peace a new article renewing the present one; and that, after all that had passed, it would certainly be deemed expedient to do it, in whatever manner the condition was now expressed. We declared that we would not agree to any article on the subject, unless the words were preserved, or in case they should enter on the protocol a declaration impairing their effect.

It will also be perceived that we insisted on the clause by which the United States renounce their right to the fisheries relinquished by the convention, that clause having been omitted in the first British counter-projet. We insisted on it with



the view, 1st. Of preventing any implication that the fisheries secured to us were a new grant, and of placing the permanence of the rights secured and of those renounced precisely on the same footing. 2d. Of its being expressly stated that our renunciation extended only to the distance of three miles from the coasts. This last point was the more important, as, with the exception of the fishery in open boats within certain harbors, it appeared, from the communications abovementioned, that the fishing ground, on the whole coast of Nova Scotia, is more than three miles from the shore; whilst, on the contrary, it is almost universally close to the shore on the coasts of Labrador. It is in that point of view that the privilege of entering the ports for shelter is useful, and it is hoped that, with that provision, a considerable portion of the actual fisheries on that coast (of Nova Scotia) will, notwithstanding the renunciation, be preserved.

#### 2. Boundary line.

This being definitively fixed at the forty-ninth degree of north latitude, from the Lake of the Woods to the Stony mountains, it is unnecessary to repeat the arguments which were urged on that subject. The attempt was again made to connect with it an article, securing to the British access to the Mississippi, and the right to its navigation. We declared, and entered the declaration in the protocol, that we could not agree to the article, nor to any that would bring the British in contact with that river. The British Plenipotentiaries having, by the protocol of the seventh conference, agreed to the omission of the article, that point is also definitively settled. And it may be observed, with reference to the treaty of 1783, that, if the United States have not secured to themselves the whole of the fisheries heretofore enjoyed within the jurisdiction of Great Britain, they have obtained the liberty of curing fish on a part of the southern coast of Newfoundland, and the abandonment of an inconvenient privilege within their own territory.

#### 3. Columbia River.

This subject was, during the whole negotiation, connected by the British Plenipotentiaries with that of the boundary line. They appeared altogether unwilling to agree to this in any shape, unless some arrangement was made with respect to the country westward of the Stony mountains. This induced us to propose an extension of the boundary line, due west, to the Pacific ocean. We did not assert that the United States had a perfect right to that country, but insisted that their claim was at least good against Great Britain. The forty-ninth degree of north latitude had, in pursuance of the Treaty of Utrecht, been fixed, indefinitely, as the line between the northern British possessions and those of France, including Louisiana, now a part of our territories. There was no reason why, if the two countries extended their claims westward, the same line should not be continued to the Pacific ocean. So far as discovery gave a claim, ours to the whole country on the waters of the Columbia river was

indisputable. It had derived its name from that of the American ship commanded by Captain Gray, who had first discovered and entered its mouth. It was first explored, from its sources to the ocean, by Lewis and Clark, and before the British traders from Canada had reached any of its waters; for it was now ascertained that the river Tacoutche Tesse, discovered by McKenzie, and which he had mistaken for the Columbia, was not a branch of this river, but fell into the sound called the "Gulf of Georgia." The settlement at the place called Astoria was also the first permanent establishment made in that quarter. The British Plenipotentiaries asserted that former voyages, and principally that of Captain Cook, gave to Great Britain the rights derived from discovery; and they alluded to purchases from the natives south of the river Columbia, which they alleged to have been made prior to the American Revolution. They did not make any formal proposition for a boundary, but intimated that the river itself was the most convenient that could be adopted, and that they would not agree to any that did not give them the harbor at the mouth of the river, in common with the United States. We stated that we could not agree to this, but expressed our readiness and our wish to insert, in the boundary article, a proviso similar to what had been proposed on former occasions, and which would leave that subject open for arrangement hereafter. To this they would not consent, and offered the article annexed to the protocol of the fifth conference. We declared that we preferred not signing any article for the boundary line eastward of the Stony mountains to acquiescing in that arrangement. We did not know with precision what value our Government set on the country to the westward of those mountains, but we were not authorized to enter into any agreement which would be tantamount to an abandonment of the claim to it. It was at last agreed, but, as we thought, with some reluctance on the part of the British Plenipotentiaries, that the country on the northwest coast, claimed by either party, should, without prejudice to the claims of either, and for a limited time, be opened, for the purpose of trade, to the inhabitants of both countries. The importance which seems to have been attached to that subject by Great Britain induces a belief that it will again be brought forward, at some future occasion, with a view to a definitive arrangement.

#### 4. Slaves.

After having referred to what had already passed on that subject, we insisted that Lord Castlereagh, having, in his letter to Mr. Adams, of April 10, 1816, declared that "the British Government would not resist the claim of the United States to indemnification for slaves, or private property belonging to their citizens, which could be proved to have been in places directed to be restored by the Treaty of Ghent at the date of the ratifications, and to have been afterwards removed;" and it being in proof, by the correspondence of Captain Clavelle and of Admiral

Cockburn, that slaves had been removed from Tangier Island and from Cumberland Island subsequent to the ratifications, the claim for indemnification, to that extent, had thus been already fully admitted by the British Government. With respect to slaves removed on ship-board previous to the ratifications, and for which Lord Castlereagh denied that our claim to indemnity could with justice extend, we urged that such of our harbors and waters as were in the possession of the British at the date of the ratifications were strictly within the meaning of places to be restored; that they were accordingly actually restored; and it necessarily followed that, according to Lord Castlereagh's construction, the British were bound not to have carried away any slaves who were then on board British vessels lying within any such harbors or waters.

The British Plenipotentiaries offered as a substitute to the article we had proposed one to refer the subject to a friendly sovereign. This we could not reject, as the proposal had originated with the United States, and was now unconnected with the questions respecting the boundary line and the Columbia river. We proposed that the Emperor of Russia should be designated in the article as the umpire. This was rejected, on the ground that, if he should refuse to act, the agreement would become null; and that it would be inexpedient, if at all practicable, to provide by the article for that contingency, so as to secure the object in view. It was added that the sovereign could be fixed upon at a future day by the two Governments, through Mr. Rush and Lord Castlereagh.

#### 5. Commercial Intercourse.

The subject of the intercourse with the West Indies was fully discussed, and, not thinking ourselves authorized to accede to the last proposals of the British Plenipotentiaries, which are annexed to the protocol of the eighth conference, an entry was made that we had taken them *ad referendum* to our Government. The negotiation being kept open, in that respect, we agreed, in conformity with our instructions, to an article, continuing in force for ten years the commercial convention of 1815. It was fully understood, on both sides, that if no agreement should be ultimately concluded with respect to the colonial intercourse, no ground of complaint would arise on account of any restrictive measures whatever that the United States might adopt on that subject; and we stated, expressly, that such measures would, in all probability, be extended to the intercourse with Bermuda and with the British northern colonies; that, if the direct trade with the West Indies was not allowed, the United States would not be disposed to suffer it to be carried on through any other intermediate British port.

It appeared evident to us, both from our instructions and from the act of Congress, that a perfect reciprocity and equality must be the basis, as well as a *sine qua non*, of any arrangement of the intercourse with the West Indies. And

we understood this basis to embrace the following objects:

1. British vessels to be permitted to import from the British West Indies into the United States, and to export from the United States to the British West Indies, only such articles of the produce of the said West Indies and of the United States, respectively, as American vessels should be permitted to export from and to import into the British West Indies.

2. The duties on the vessels and on the cargoes to be reciprocally the same, whether the vessels were American or British.

3. The duties on the importation of American produce into the British West Indies not to be higher when the produce was imported directly from the United States than when imported in a circuitous manner; with a reciprocal condition for the importation of West India produce into the United States.

4. The intercourse in British vessels to be allowed only with such West India ports as would be opened to the American vessels.

5. The British vessels allowed to carry on that trade to be only of the same description with the American vessels admitted in the British West Indies.

To that basis, as thus stated, the British Plenipotentiaries acceded. But when the further details of the proposed arrangement were taken into consideration, several important points occurred which had not been contemplated in our instructions, and on which we were not sufficiently acquainted with the intentions of our Government.

The basis of reciprocity once established, was it proper to agree to a direct intercourse, limited, on both sides, to certain articles of the produce either of the United States or of the West Indies? And if such limitation was admissible, to what extent? And what articles might we consent to except?

If the direct intercourse was thus limited to certain articles, would an indirect intercourse be admissible, between the United States and Bermuda, Nova Scotia, New Brunswick, embracing articles of West India produce, or of the produce of the United States, destined for the West Indies, other than were admitted to be imported or exported in a direct manner?

As the British Government would retain the power of laying duties on the produce of the United States imported into the West Indies, and would not lay any on similar articles imported therein from any part of the British dominions, ought we to assent, without any condition or exception, to the clause annexed to the first article, formerly proposed by that Government, and by which no higher duties should be laid respectively, on the produce of either country, than on similar articles imported from any other foreign country?

We thought it safer to err on our own side of the question, and to ask for more than perhaps under all circumstances we expected to obtain, rather than to limit our demands to less than might be intended by our Government. The articles which we proposed at the third conference



were drawn with that view; and the British Plenipotentiaries immediately stated that they were inadmissible, and amounted to a much greater departure from the colonial policy of Great Britain than she was prepared to allow. They did not enter into any abstract defence of that policy, but they strongly urged the impossibility of breaking down, at once, a system still favored by public opinion, and supported by various interests which could not be disregarded. The fish and lumber of the northern colonies, the salted provisions, and even the flour of Ireland, the shipping interest, and that of non-residing West India planters, were all alluded to. Having once admitted the basis of perfect reciprocity with respect to the direct intercourse, they thought that the United States ought, for the present, to be satisfied with an arrangement which would admit a considerable number of articles to be carried directly; that they should not insist on the exclusion, in the intercourse with Halifax, St. John's, and Bermuda, of those articles which might not be included in the list of those admitted in the direct intercourse with the West Indies; and that we ought not to object to the natural right of Great Britain to lay protecting duties in favor of the produce of her own possessions.

We admitted that the last principle, as an abstract proposition, was unexceptionable, but observed, that the practical effect of the condition on which they insisted was altogether partial. Since they persevered in making a distinction between the intercourse with England and that with her colonies, and even between that with her northern American colonies and that with the West Indies, the United States must, in a commercial view, consider them as so many distinct countries. As no other foreign country could supply the West Indies with the articles which were the produce of the United States, a condition which would prevent Great Britain from laying higher duties on that produce than on similar articles the produce of other foreign countries, was nugatory, and to us perfectly useless. There was, in that respect, no competition but with the produce of the British possessions. We found, in that condition, no compensation for the restriction which it would impose on the United States to lay no higher duties on the colonial produce of the British possessions than on that of other countries. The propriety of limiting the number of articles to be carried directly, would in a great measure depend on the list which might be proposed. To extend it to other articles, in the circuitous intercourse through Halifax and Bermuda, would give to the British the exclusive carriage of those articles from those ports to the West Indies, and *vice versa*, and be inconsistent with the avowed object of the United States—that of an equal participation in the navigation necessary for the transportation of the articles of which their trade with the West Indies, as allowed by Great Britain, actually consisted. Yet we were disposed to pay due regard to the various considerations which had been presented by Great Britain, and to listen to any

specific proposals she might be prepared to make. No part of the articles we had offered was, with the exception of the basis of perfect reciprocity, to be considered as an ultimatum. We would, however, say that we could not assent to any article which did not admit, on the one hand, naval stores and the whole of our lumber, and, on the other, salt, molasses, and, besides rum, a limited quantity of sugar and coffee, amongst the articles of the direct trade.

With respect to duties, after having suggested without success that a maximum of those intended for the protection of the produce of the British dominions might be agreed on, we stated that there were at least two provisions which could not be objected to, viz., that the United States should remain at liberty to lay higher duties on the colonial produce of the British possessions than on that of those countries where we were or might be received on better terms than in the British West Indies; and that the condition which would preclude generally such higher duties being laid should not apply to the West India articles not admitted to be exported directly therefrom in American vessels to the United States.

The result of several free conversations was, that, as it was altogether improbable that we could, at this time, come to a definitive arrangement, the British Plenipotentiaries should offer an article with the intention of its being referred to our Government.

It will be perceived by this, that they admit the principle of reciprocity; that they make no exception with respect to the description of vessels; that, giving up the article formerly proposed for Turk's Island, they also admit that vessels employed in the trade may touch from one port to another, and that to the list of articles formerly proposed are added naval stores, shingles, and staves, and a more general description of provisions. They continue to except altogether, on the one hand, sugar and coffee, and, on the other, salted fish and provisions, and every other species of lumber but shingles and staves. The only essential difference between this list of articles and that proposed for the intercourse with Bermuda and the northern colonies consists, as far as relates to the produce of the United States, in the lumber not admitted in the direct intercourse; for salted fish and provisions are equally excluded from both; but it is proposed that not only sugar and coffee, but also all articles of the produce or manufacture of any of the British dominions, should be admitted through that indirect channel into the United States. We stated, when we received the article, that it ought to embrace only American products, and that the proposal was certainly inadmissible so far as related to East India articles.

With respect to the ports they offer in the West Indies, they are the same with those proposed by us, with the exception of St. Christopher's, St. Lucia, Demarara, Esequibo, and Berbice. The three last had been at first intended to be included, but were ultimately omitted by

the British Plenipotentiaries, for reasons connected, as they said, with their engagements with Holland.

We cannot state what may be considered as an ultimatum in that proposal. We are, however, induced to believe that they will persevere in excluding sugar and some species of lumber from the direct, and salted fish and provisions from both the direct and indirect intercourse; that they will insist on having some articles admitted in that indirect, which shall be excluded from the direct intercourse; and that they will be tenacious on being placed on the footing of the most favored nation. They will also certainly insist that vessels from Great Britain may touch at any port in the United States, and take cargoes for the West Indies of such articles as may be admitted in the direct trade. Without such provision (which would be made reciprocal, although only nominally so,) it is supposed here, that, considering our proximity, to admit our vessels to a participation on an equal footing in the trade between the United States and the West Indies, would, in fact, give the latter the whole navigation connected with that trade. It must, at the same time, be observed, that the proposal being intended for reference, and not for immediate discussion, the British Plenipotentiaries may have been cautious not to go too far. Upon the whole, we hope that, if our negotiation does not pave the way for a definitive arrangement, it will at least have served to make our Government better acquainted with the dispositions of this, and may afford some assistance with respect to the further proceedings which may be thought expedient.

It having been ascertained that the British Government would not assent to any article on the subject of the intercourse by land and inland navigation with Canada, which would substantially differ from that already twice rejected, and that they would not even agree to a provision securing to us the right of taking our produce in our own boats or vessels down the St. Lawrence as far as Montreal, and down the river Chambly as far as the river St. Lawrence, we thought it altogether unnecessary to make any proposal on that subject, on which, indeed, we were not particularly instructed.

## No. 1.

*Protocol of the first conference between the American and British Plenipotentiaries, held at Whitehall, on the 27th of August, 1818.*

Present: Mr. Gallatin and Mr. Rush, American; and Mr. Robinson and Mr. Goulburn, British.

The Plenipotentiaries presented and exchanged their respective full powers.

It was agreed that the discussions should be carried on by conference and protocol, with the insertion in the protocol of such written documents as either party might deem necessary, for the purpose of recording their sentiments in detail.

The British Plenipotentiaries stated that they

were ready to proceed at once to the signature of a treaty, renewing the commercial convention of 1815 as it stands; or, that if the American Plenipotentiaries should prefer to delay the signature of such a treaty of renewal till more progress should have been made in the discussion of the other topics which it is the object of the two Governments to arrange, no objection would be made to the adoption of that course. But it was explicitly stated by the British Plenipotentiaries, that, with respect to all those other topics of discussion, whether purely commercial, or partaking more of a political character, they were instructed not to consent to any partial or separate consideration of them, nor to select any one in particular, as an appendage to a renewal of the existing commercial convention.

The American Plenipotentiaries acquiesced in the division of the subject, represented by the British Plenipotentiaries to be essential, but stated it to be their desire not to sign the treaty of renewal for the present. It was, however, agreed that the eventual signature of that instrument should not be made contingent upon a settlement of the other points, and both parties declined bringing forward any proposed modification of it.

It was agreed to meet again on Saturday at two o'clock.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK JOHN ROBINSON,  
HENRY GOULBURN.

## No. 2.

*Protocol of the second conference held between the American and British Plenipotentiaries, at Whitehall, on the 29th of August, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The Plenipotentiaries agreed upon and signed the protocol of the preceding conference. Some general conversation then ensued upon some of the different topics of discussion.

The American Plenipotentiaries stated that, whenever the British Plenipotentiaries were prepared to submit their project on the impressment question, they (the American Plenipotentiaries) would bring forward their proposition respecting the other maritime points; but that they did not intend to bring those topics before the conferences at all, unless the impressment of seamen was to be discussed on the part of Great Britain.

It was agreed that the next conference should take place on September 4th.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK JOHN ROBINSON,  
HENRY GOULBURN.

## No. 3.

*Protocol of the third conference held between the American and British Plenipotentiaries, at Whitehall, on the 17th day of September, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.



The conference fixed for the 4th instant having been adjourned by mutual consent, it was held this day.

The protocol of the preceding conference was agreed upon and signed.

The American Plenipotentiaries, after some previous explanation of the nature of the propositions which they were about to make, submitted the five annexed articles, (A, B, C, and D,) upon the fisheries, the boundary line, the West India intercourse, that of Nova Scotia and New Brunswick, and the captured slaves. The two first articles they stated to be drawn as permanent; and they accompanied that respecting the fisheries with the annexed explanatory memorandum. (E.)

The British Plenipotentiaries submitted the annexed projet of articles respecting the impressment of seamen, (F.); and they expressed their conviction that a consideration of these articles would, under all the circumstances of difficulty with which the question is involved, satisfy the American Plenipotentiaries of the sincere and earnest disposition of the British Government to go to every practicable length in a joint effort to remove all existing causes of difference, and to connect the two countries in the firmest ties of harmony and good understanding.

The American Plenipotentiaries declared that they received the proposition entirely in the same spirit; and then brought forward the annexed articles, (G,) relating to other maritime points, which, at the former conference, they had announced their intention of producing.

They also submitted three other articles, as annexed, respecting wrecks, &c. (H.)

It was agreed to meet on Friday, the 25th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FRED. J. ROBINSON,  
HENRY GOULBURN.

#### ARTICLE A.

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America: It is agreed between the high contracting parties that the inhabitants of the said United States shall continue to enjoy unmolested, forever, the liberty to take fish, of every kind, on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea islands, and the western and northern coast of Newfoundland, from the said Cape Ray to Quirpon Island, on the Magdalen islands; and also on the coasts, bays, harbors, and creeks from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence, northwardly, indefinitely, along the coast; and that the American fishermen shall also have liberty forever to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland here above described, of

the Magdalen islands, and of Labrador, as here above described; but so soon as the same, or either of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground; and the United States hereby renounce any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, and harbors of His Britannic Majesty's dominions in America not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays and harbors for the purpose only of obtaining shelter, wood, water, and bait, but under such restrictions as may be necessary to prevent their drying or curing fish therein, or in any other manner abusing the privilege hereby reserved to them.

#### ARTICLE B.

It is agreed that a line drawn due north or south, as the case may require, from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of north latitude, and from the point of such intersection, due west, and with the said parallel, shall be the line of demarcation between the territories of the United States and those of His Britannic Majesty to the westward of the said lake; and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of His Britannic Majesty's said territories, from the said lake to the Pacific ocean; it being, however, distinctly understood that, with respect to the territories situated on the northwest coast of America, or westward of the Stony mountains, the two high contracting parties intend hereby to define the extent of their respective claims so far only as relates to the two parties, and without reference to the claims of any other nation.

The inhabitants of the two countries, respectively, shall have liberty freely to come with their ships and cargoes to all such places, ports, and rivers, on the northwest coast of America, as belong to or may be in the possession of either of the two high contracting parties, and shall be admitted and treated, with respect to their said ships and cargoes, and to trade generally, on the same terms and in the same manner as the inhabitants, vessels, and cargoes of the country owning or having possession of such places, ports, or rivers. The navigation of the rivers that fall into the Pacific ocean, and which may be intersected by the line of demarcation aforesaid, shall, from the sources of such branches as may be thus intersected, to the ocean, remain free and open to the citizens of the United States and to the subjects of Great Britain. But both parties reserve to themselves the power of regulating, each within their respective territories, the right to the navigation of the rivers that fall into the Gulf of Mexico or into Hudson's Bay.

#### ARTICLE C.

It is agreed that vessels of the United States shall have liberty to import from any of the ports of the United States to which any foreign vessels are permitted to come, into any of the following ports of His Britannic Majesty's dominions in the West Indies, and on the continent of South America, viz: the ports of Kingston, Savannah La Mar, Montego bay, Santa Lucia, Antonio, Saint Anne, Falmouth, and Porto Maria, in the island of Jamaica; the port of San Joseph, in the island of Trinidad; the port of Scarborough, in the island of Tobago; the port of St. George, in the island of Granada; the port of Kingston, in the island of St. Vincent; the port of Bridgetown, in the island of Barbadoes; the principal port in the island of St. Lucia; the port of Roseau, in the island of Dominica; the port of St. John's, in the island of Antigua; the port of Basseterre, in the island of St. Christopher's; the port of Road Harbor, in the island of Tortola; the principal port of Turk's Island; the port of Nassau, in the island of New Providence; the port of Pittstown, in Crooked Island; the principal port of the island of Bermuda; the principal port in the colony of Demarara, and the principal port in the colony of Berbice, tobacco, naval stores, live stock, and every species of provisions and lumber, being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to import in the same manner every other article of the growth, produce, or manufacture of the United States, the importation of which into the above-mentioned British islands and colonies shall not be entirely prohibited from every other place whatever, if of the growth, produce, or manufacture of the United States, and from every other foreign country or place, if of the growth, produce, or manufacture of any other foreign country or place. The said vessels coming directly from any of the aforesaid ports of the United States shall likewise have liberty to export from any of the aforesaid ports of His Britannic Majesty's dominions to any of the aforesaid ports of the United States, sugar, coffee, molasses, and salt, being of the growth, produce, or manufacture of the above-mentioned British islands and colonies; and the said vessels shall also have liberty to export, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which from the said British islands and colonies to every other foreign country or place shall not be entirely prohibited: *Provided, however,* That the quantity of sugar and coffee which may be thus exported shall not, for each vessel, exceed the rate of five hundred weight of both together for each ton of the burden of such vessel.

British vessels shall in the same manner, have liberty to import from any of the aforesaid ports of His Britannic Majesty's dominions, into any of the aforesaid ports of the United States, sugar, coffee, molasses, and salt, being of the growth, produce, or manufacture of the above-mentioned British islands and colonies; and the said vessels

15th Con. 2d Sess.—49

shall also have liberty to import, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which from the said islands and colonies to the United States shall be allowed in vessels of the United States, and the importation of which into the said United States from every foreign country or place shall not be entirely prohibited: *Provided, however,* That the quantity of sugar and coffee which may be thus imported shall not exceed, for each vessel, the rate of five hundred weight of both together, for each ton of the burden of such vessel. The said vessels, coming directly from any of the aforesaid ports of His Britannic Majesty's dominions, shall likewise have liberty to export, from any of the aforesaid ports of the United States to any of the aforesaid ports of His Britannic Majesty's dominions, tobacco, naval stores, live stock, and every species of provisions and lumber, being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to export, in the same manner, every other article, the growth, produce, or manufacture of the United States, the importation of which into the said British ports from the said United States shall be allowed in vessels of the United States, and the exportation of which from the said United States to every foreign country or place shall not be entirely prohibited.

The vessels of either of the two parties employed in the trade provided for by this article shall be admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the ports above mentioned of the other party, for the purpose of disposing of their inward, or of taking on board their outward cargoes.

No other or higher duties shall be paid on the importation into the United States of any of the articles which may be imported therein by virtue of this article, when imported in British vessels, than when imported in vessels of the United States; nor when imported directly from the above-mentioned ports of His Britannic Majesty's dominions, than when imported in a circuitous manner. And no other or higher duties shall be paid on the importation into the above-mentioned ports of His Britannic Majesty's dominions, of any of the articles which may be imported therein by virtue of this article, when imported in vessels of the United States, than when imported in British vessels, nor when imported directly from the United States, than when imported in a circuitous manner.

The same duties shall be paid, and the same bounties shall be allowed on the exportation of any articles which may, by virtue of this article, be exported either from the above-mentioned British islands and colonies to the United States, or from the said United States to the said islands and colonies, whether such exportation shall be in vessels of the United States or in British ves-



sels. And the articles thus exported shall, in the dominions of both parties, respectively, pay the same duties, and be allowed the same bounties on the exportation thereof, as when exported to any other foreign country or place whatever.

ARTICLE. British vessels shall have liberty to export from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in His Britannic Majesty's province of Nova Scotia; to the port of St. John's, in His Britannic Majesty's province of New Brunswick; and to any other port within the said provinces of Nova Scotia or New Brunswick, to which vessels of any other foreign nation shall be admitted, any article of the growth, produce, or manufacture of the United States, the importation of which from the said United States into His Britannic Majesty's dominions in the West Indies and on the continent of South America shall be allowed in vessels of the United States, by virtue of the next preceding article of this treaty, and the exportation of which from the United States to every other foreign country or place shall not be entirely prohibited; and vessels of the United States shall, in like manner, have liberty to import from any of the aforesaid ports of the United States, into any of the aforesaid ports within the said provinces of Nova Scotia and New Brunswick, any of the articles of the growth, produce, or manufacture of the said United States, the exportation of which from the said United States to the said provinces shall be allowed in British vessels, and the importation of which into the said provinces from every other foreign country or place shall not be entirely prohibited.

British vessels shall also have liberty to import from any of the said ports within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones the produce or manufacture of the said provinces; and they shall likewise have liberty to import in the same manner any other article of the growth, produce, or manufacture of the said provinces, the exportation of which from the said provinces to the United States shall be allowed in vessels of the United States, and the importation of which into the said United States from every other foreign country shall not be altogether prohibited. And vessels of the United States shall have liberty to export from the said provinces to the said United States gypsum and grindstones, the produce or manufacture of the said provinces; and they shall likewise have liberty to export, in the same manner, any other article of the growth, produce, or manufacture of the said provinces, the exportation of which to every other foreign country shall not be entirely prohibited.

The vessels of either of the two parties employed in the trade provided for by this article shall be admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party. The same duties shall also be paid, respectively,

in the dominions of both parties on the importation and on the exportation of the articles which may be imported or exported by virtue of this article, and the same bounties shall also be allowed on the exportation thereof, whether such importation or exportation shall be in vessels of the United States or in British vessels.

## ARTICLE D.

Whereas complaints have been made by divers inhabitants of the United States, that several slaves, their private property, were carried away from the United States, contrary to the intentions of the first article of the treaty of peace and amity concluded at Ghent, between the two high contracting parties, on the twenty-fourth day of December, one thousand eight hundred and fourteen, it is agreed that full compensation shall be made by the British Government to the said complainants for all slaves, their private property, who, at the date of the exchange of the ratifications of the said treaty, were in any territories, places, or possessions, whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, and who were afterwards removed or carried away by the said forces, whether such slaves as aforesaid were, at the date aforesaid, on shore or on board any vessels lying in waters which, being within the territory or jurisdiction of the United States, were to be restored to them. And, for the purpose of truly ascertaining the number and value of the said slaves, three commissioners shall be appointed, and authorized to meet and act in manner following, that is to say: one shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, and one by His Britannic Majesty; and the said two commissioners shall agree on the choice of a third; or, if they cannot so agree, they shall each propose one person; and, of the two names so proposed, one shall be drawn by lot, in the presence of the two original commissioners. The three commissioners thus appointed shall first meet in the City of Washington, but shall have power to adjourn from place to place, as they shall see cause. They shall have power to appoint a secretary, and, before proceeding to act, shall, respectively, take the following oath or affirmation, in the presence of each other; which oath or affirmation, being duly taken and attested, shall be entered on the record of their proceedings; that is to say: "I, A. B., one of the commissioners appointed in pursuance of the — article of the treaty of —, between the United States and His Britannic Majesty, do solemnly swear [or affirm] that I will diligently, impartially, and carefully examine, and, to the best of my judgment, according to justice and equity, decide all such complaints or applications as, under the said article, shall be preferred to the said commissioners." Two of the said commissioners shall constitute a board, provided they be those named by the respective Governments; and vacancies, caused by death or otherwise, shall be filled up in the manner of the original appoint-

ments; and the new commissioners shall take the same oath or affirmation, and do the same duties. Twelve months, from the day on which the said commissioners shall form a board, are assigned for receiving complaints and applications; but they are, nevertheless, authorized, in any particular cases in which it shall appear to them reasonable and just, to extend the said term for any term not exceeding six months after the expiration thereof. In examining the complaints and applications preferred to them by the owners of slaves, or their lawful attorneys or representatives, the said commissioners are empowered and required, in pursuance of the true intent and meaning of this article, to examine, on oath or affirmation, all such persons as shall come before them, touching the real number and value of the slaves alleged to have been carried away as aforesaid; and also to receive in evidence, according as they may think consistent with equity and justice, written depositions, being duly authenticated, either according to existing legal forms, or in such other manner as the said commissioners shall see cause to require or allow.

The award of the said commissioners, or any two of them, shall, in all cases, be final and conclusive, whether as to the number, the value, or the ownership of the slaves carried away as aforesaid. And His Britannic Majesty undertakes to cause the sum awarded to each and every owner, in lieu of his slave or slaves, as above described, to be paid, without deduction, at such time or times, and at such place or places, as shall be awarded by the said commissioners, and on condition of such releases being given as they shall direct: *Provided*, That no such payments shall be fixed to take place sooner than twelve months from the day of the exchange of the ratifications of this treaty. It is further agreed that the said commissioners shall be respectively paid in such manner as shall be agreed between the two parties; such agreement to be settled at the time of the exchange of the ratifications of this treaty. And all other expenses attending the execution of the commission shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the commissioners.

## E.

## Explanatory Memorandum.

The American Plenipotentiaries presented for consideration an article on the subject of certain fisheries. They stated, at the same time, that, as the United States considered the liberty of taking, drying, and curing fish, secured to them by the treaty of peace of 1783, as being unimpaired, and still in force for the whole extent of the fisheries in question, whilst Great Britain considered that liberty as having been abrogated by war; and as, by the article now proposed, the United States offered to desist from their claim to a certain portion of the said fisheries, that offer was made with the understanding that the article now proposed, or any other on the same subject which might be agreed on, should be considered as perma-

nent, and, like one for fixing boundaries between the territories of the two parties, not to be abrogated by the mere fact of a war between them; or that, if vacated by any event whatever, the rights of both parties should revive and be in full force, as if such an article had not been agreed to.

## F.

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c., &c., and the President of the United States of America, being animated with an equal desire to remove, by amicable regulations, the inconveniences which have arisen from the difficulty of discriminating between the subjects of the two Powers, respectively, have determined to proceed, without prejudice to the rights of either Power, to frame such conventional arrangements as may obviate the evils which might hereafter again result from the circumstances above stated to the public service, the commerce, or subjects of either of the contracting parties. In pursuance of so desirable an object, his said Majesty and the President of the United States have nominated Plenipotentiaries to discuss and sign a treaty to this effect.

His Majesty the King of the United Kingdom of Great Britain and Ireland has nominated the Right Honorable Frederick John Robinson, &c., &c., and Henry Goulburn, Esq., &c., &c.; and the President of the United States has nominated Albert Gallatin, Esq., &c., &c., and Richard Rush, Esq., who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

ART. 1. The high contracting parties engage and bind themselves to adopt without delay, and in the manner that may best correspond with their respective laws, such measures as may be most effectual for excluding the natural born subjects of either party from serving in the public or private marine of the other: *Provided, always*, That nothing contained in this article shall be understood to apply to such natural born subjects of either Power as may have been naturalized by their respective laws previous to the signature of the present treaty; and such measures, when adopted, shall be immediately communicated to each party, respectively.

ART. 2. For the better ascertaining the number of persons on either side that may fall within the exception contained in the preceding article, the high contracting parties engage to deliver, each to the other, within twelve months from the ratification of the present treaty, a list of all persons falling within the said exception, specifying the places of their birth, with the date of their becoming naturalized. And it is further agreed that none other than the persons whose names shall be included in the said lists shall be deemed to fall within the said exception.

ART. 3. The high contracting parties, however, reserve to themselves the power to authorize and permit, by proclamation, their respective subjects or citizens to serve in the public or private marine of the other country. And it is hereby expressly understood that, so long as such permission shall



remain in force, it shall be competent for the Government of the other Power, notwithstanding the engagement set forth in the first article of this treaty, to admit the performance of the said service; *Provided, always*, That whenever the Power granting permission to the said subjects or citizens to serve in the marine of the other shall withdraw the same, notification thereof shall forthwith be made to the other contracting party; and, on receipt of such notification, the Power receiving the same shall forthwith notify it in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects of the other party from further serving in its public or private marine, and shall enforce the exclusion of the said subjects of the other Power as may then be in its service, as if no such permission had been promulgated.

ART. 5. In consideration of the stipulations contained in the preceding articles, it is agreed by the high contracting parties that, during the continuance of the present treaty, neither Power shall impress or forcibly withdraw, cause to be impressed, or forcibly withdrawn, any person or persons from the vessels of the other Power, when met upon the high seas, on any plea or pretext whatsoever; *Provided always*, That nothing contained in this article shall be construed to apply to the vessels of either Power which may be within the ports or within the maritime jurisdiction of the other: *And, also, provided*, That nothing herein contained shall be construed to impair or effect the established right of search as authorized in time of war by the law of nations.

ART. 6. The high contracting parties have agreed to extend the duration of the present treaty to ten years; and they reserve to themselves to concert as to its renewal at such convenient period, previous to its expiration, as may insure to their respective subjects the uninterrupted benefit which they expect from its provisions: *Provided, always*, That either Power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

ART. 6. It is agreed that nothing contained in the preceding articles shall be understood to affect the rights and principles on which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer, except so far as the same shall have been modified, restrained, or suspended by the said articles. And whenever the present treaty shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof by either of the contracting parties, as hereinbefore provided, or (which God forbid) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such treaty had ever been made.

G.

(a) Whenever one of the high contracting parties shall be at war, any vessel of the other

party sailing for a port or place belonging to an enemy of the first party, without knowing that the same is either besieged, blockaded, or invested, may be turned away from such port or place; but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless, after such notice, she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper. No vessel or cargo shall be condemned for breach of a blockade, unless captured by one of the blockading ships, or unless she shall attempt to enter after notice as aforesaid. Nor shall any vessel or goods of either party, that may have entered into such port or place before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof. And, in order to determine what characterizes a blockade, it is agreed that that denomination shall apply to a port where there is, by the disposition of the Power which blockades it, with ships stationary or sufficiently near, an evident danger in entering.

(b.) Whereas differences have heretofore arisen concerning the trading with the colonies of His Britannic Majesty's enemies, and the instructions given by His Majesty to his cruisers in regard thereto, it is agreed that, whenever His Britannic Majesty shall be at war, all articles, not being contraband of war, may be freely carried from the ports of the United States to the ports of any colony not blockaded belonging to His Majesty's enemies: *Provided*, Such goods as are not of the growth, produce, or manufacture of the United States, shall previously have been entered and landed in the United States, and the ordinary duties on such articles, so imported for home consumption, shall have been paid, or secured to be paid; and the said goods, on re-exportation, shall, after the drawback, remain subject to a duty equivalent to not less than one per cent. ad valorem; and that the said goods, and the vessels conveying the same, shall, from the time of their clearance from the port of the United States, be *bona fide* the sole property of citizens of the United States; and, in like manner, that all articles not being contraband of war, and being the growth or produce of the colonies of His Britannic Majesty's enemies, may be brought to the United States, and, after having been there landed, may be freely carried from thence to any foreign port not blockaded: *Provided*, Such goods shall previously have been entered and landed in the United States, and the ordinary duties on colonial articles, so imported for home consumption, shall have been paid or secured to be paid; and that the said goods, except only mahogany and fustic, shall, on re-exportation, after the drawback, remain subject to a duty equivalent to not less than two per cent. ad valorem: *And provided*, That the said goods, and the vessels conveying the same, be *bona fide* the sole property of citizens of the United States: *Provided always*, That this article, or anything contained therein, shall not affect any question now or hereafter judicially pending,

touching the legality or illegality of a direct trade from Europe, or other foreign countries, by citizens of the United States, with the colonies or possessions of His Britannic Majesty's enemies beyond the Cape of Good Hope, nor operate to the prejudice of any right belonging to either party; but that, after the expiration of the time limited for this treaty, the rights on both sides shall revive and be in full force.

(c.) In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea, such as cannon, mortars, muskets, pistols, and other fire arms, petards, bombs, grenades, carcasses, saucisses, rockets, carriages for cannon, firelocks, musket rests, bandoliers, gunpowder, saltpetre, sulphur, matches, balls, and bullets, helmets or head-pieces, cuirasses, swords, pikes, halberts, lances, javelins, saddles, bridles, and other horse furniture, holsters, pouches, belts, and generally all other implements of war, excepting, however, the quantity of the said articles which may be necessary for the defence of the ship, and of those who compose the crew; but all such articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy. But no vessel shall be detained on pretence of carrying contraband of war, unless some of the above-mentioned articles are found on board of the said vessel at the time it is searched.

(d.) In all cases where one of the high contracting parties shall be at war, the armed vessels belonging to such party shall not station themselves, nor rove or hover, nor stop, search, or disturb the vessels of the other party, or the unarmed vessels of other nations, within the chambers formed by head-lands, or within five marine miles from the shore belonging to the other party, or from a right line from one head-land to another.

(e.) Whenever one of the contracting parties shall be at war, and where vessels of the other party shall be captured or detained by the ships of war or privateers of the belligerent for any lawful cause, the said vessels shall be brought to the nearest or most convenient port, and such part only of the articles on board as are subject to condemnation by the law of nations shall be made prize; and the vessels, unless by that law also subject to condemnation, shall be at liberty to proceed with the remainder of the cargo without any impediment.

In all cases of unfounded detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo so detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial. All proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the owners of such ships or cargoes. And whenever sentence shall be pronounced against any vessel thus captured or detained, or against her

cargo, or part thereof, the sentence or decree shall mention the reasons or motives on which the same shall have been founded; and a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered, without the smallest delay, to the commander of the said vessel, or to the owner thereof, or to the agent of either, on the payment of all legal fees and demands for the same.

The commanders of ships of war and privateers of the belligerent party, shall, in searching of merchant ships of the other party, conduct themselves according to the acknowledged principles and rules of the law of nations, and as favorably, moreover, as towards the most friendly Power that may remain neuter. The said commanders, their officers and crews, shall forbear doing any damage to the subjects or citizens of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound, in their persons and estates, to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall be compelled to give, before a competent judge, sufficient security, by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of two thousand two hundred and fifty pounds sterling, or of ten thousand dollars; or, if such ship be provided with above one hundred and fifty seamen or soldiers, in the sum of four thousand five hundred pounds sterling, or of twenty thousand dollars, to satisfy all damages and injuries which the said privateers, or officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this treaty, or to the laws and instructions for regulating their conduct; and further, that, in all cases of unlawful aggressions, the said commissions shall be revoked and annulled.

(f.) The ships of war and privateers of the two nations, as well as their prizes, shall be treated, in their respective ports, as those of the most favored nation.

It shall not be lawful for any foreign privateers, who have commissions from any Power or State at war with either of the two nations, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Power or State from whom they obtained their commissions.

(g.) It is likewise agreed that the subjects of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions so to act from any foreign Power or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in the military service, any of the subjects or citizens of the other party.



## Relations with Great Britain.

The laws against all such offences and aggressions shall be punctually executed; and if any subject or citizen of the said parties, respectively, shall accept any foreign commission or letters of marque for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letter of marque as a pirate.

## H.

(A.) In the event of a shipwreck happening in a place belonging to either of the high contracting parties, not only every assistance shall be given to the unfortunate persons, and no violence done to them, but also the effects belonging to them, and which may be saved either from on board the ship, or in any other manner whatever, shall not be concealed, nor detained, under any pretext whatever. On the contrary, the above-mentioned effects and merchandise shall be preserved and restored to them, upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, or effects.

(i.) It is expressly stipulated that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries and damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, the same shall have been either refused or unreasonably delayed.

(k.) If at any time a rupture should take place (which God forbid) between the United States and His Britannic Majesty, neither the vessels and cargoes nor other property of any kind, belonging to the individuals of each of the two nations, which may at the time be in the harbors, or ports, or dominions of the other party, nor the debts due from individuals of one of the two nations to individuals of the other, nor shares or moneys which they may have in the public funds,

or in the public or private banks, shall be sequestered or confiscated. And the merchants and others of each of the two nations, residing in the dominions of the other, shall in no case be detained as prisoners of war, but they shall be permitted to remove, with their families, effects, and property; each Government having, nevertheless, the right, during their remaining in its dominions, to make such regulation and to take such precautions as it may deem necessary with respect to such persons.

## 4.

*Protocol of the fourth conference between the American and British Plenipotentiaries, held at Whitehall, on Friday, the 25th of September, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

Explanations were asked, and given respecting some of the articles presented by the American Plenipotentiaries at the last conference.

The American Plenipotentiaries, after observing that the measures already adopted, and the proposals formerly made, by the United States, could leave no doubt of their constant and anxious desire to arrange, by amicable regulations, the subject of impressment, declared their readiness to agree, with some amendments, which they submitted, (A.) to the projet proposed by the British Plenipotentiaries, under a full expectation that an arrangement, thus founded on mutual confidence, could not fail to have a happy effect, both as regarding its immediate object, and in confirming the amicable relations so happily subsisting between the two countries.

It was agreed to meet again on Tuesday, the 6th of October.

ALBERT GALLATIN,  
RICHARD RUSH,  
FRED. JOHN ROBINSON,  
HENRY GOULBURN.

## A.

## Amendments proposed.

All words between crotchets to be struck out.

<sup>1</sup>

<sup>2</sup> settle,

<sup>3</sup> differences

<sup>4</sup> employment by either of the two Powers of the subjects or citizens of the other, in their public or private marine, and from the practice of impressment,

<sup>5</sup> causes,

<sup>6</sup>

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c., &c., and [the President of] the United States of America, being animated with an equal desire to [remove,]<sup>1</sup> by amicable regulations, [inconveniences] which have arisen from the [difficulty of discriminating between the subjects of the two Powers, respectively,] have determined to proceed, without prejudice to the rights of either Power, to frame such conventional arrangements as may obviate the evils which might hereafter again result from the [circumstances]<sup>2</sup> above stated, [to the public service, the commerce, or the subjects of either of the contracting parties.]<sup>3</sup> In pursuance of so desirable an object, his said Majesty and the President of the United have nominated Plenipotentiaries to discuss and sign a treaty to this effect.

His Majesty the King of the United Kingdom of Great Britain and Ireland has nominated the Right Honorable Frederick John Robinson, &c., &c., and Henry Goulburn, Esquire, &c., &c.; and the President of the United States has nominated

## Relations with Great Britain.

Albert Gallatin, Esquire, &c., &c., and Richard Rush, Esquire, who, having exchanged their full powers, found in good and due form, have agreed upon the following articles:

## ARTICLE 1.

The high contracting parties engage and bind themselves to adopt, without delay, and in the manner that may best correspond with their respective laws, such measures as may be most effectual for excluding [the natural born subjects of either party from serving in the public or private marine of the other:] *Provided, always,* That nothing contained in this article shall be understood to apply to such natural born subjects<sup>2</sup> of either Power as [may]<sup>3</sup> have been naturalized<sup>4</sup> by [their] respective laws<sup>5</sup> previous to the [signature] of the present treaty. And such measures, when adopted, shall be immediately communicated to each party, respectively.

<sup>1</sup> respectively from serving in their public or private marine the natural born subjects or citizens of the other party

<sup>2</sup> or citizens

<sup>3</sup> shall

<sup>4</sup> with their own consent

<sup>5</sup> the

<sup>6</sup> of either Power

<sup>7</sup> exchange of ratifications

## ARTICLE 2.

For the better ascertaining the number of persons, on either side, that may fall within the exception contained in the preceding article, the high contracting parties engage to deliver, each to the other, within [twelve]<sup>1</sup> months from the ratification of the present treaty, a list [of all persons] falling within the said exception, specifying the places of their birth, with the date of their becoming naturalized. And it is further agreed that [none other than the person whose names shall] be included in the said lists, shall be deemed to fall within the said exception.<sup>4</sup>

<sup>1</sup> eighteen

<sup>2</sup> as far as it may be found practicable to obtain it, of the seamen

<sup>3</sup> no natural born subject or citizen of either Power, whose name shall not

<sup>4</sup> unless he shall produce proof of his having been duly naturalized prior to the exchange of ratifications of this treaty.

## ARTICLE 3.

The high contracting parties, however, reserve to themselves the power to authorize and permit,<sup>1</sup> by proclamation,<sup>2</sup> their respective subjects or citizens to serve in the public or private marine of the other country. And it is hereby expressly understood that, so long as such permission shall remain in force, it shall be competent for the Government of the other Power, notwithstanding the engagement set forth in the first article of this treaty, to admit the performance of the said service: *Provided, always,* That, whenever the Power so granting permission to the said subjects or citizens to serve in the marine of the other shall withdraw the same, notification thereof shall forthwith be made to the other contracting party; and, on receipt of such notification, the Power receiving the same shall forthwith notify it in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects<sup>3</sup> of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects<sup>4</sup> of the other Power as may then be in its service,<sup>5</sup> as if no such permission had been promulgated.

<sup>1</sup> by law,

<sup>2</sup> or otherwise, either generally, or in special cases,

<sup>3</sup> or citizens

<sup>4</sup> or citizens

<sup>5</sup> on their return to port, from the voyages or service in which they may be then engaged, or sooner, if practicable,

## ARTICLE 4.

[In consideration of the stipulations contained in the preceding articles,] it is agreed by the high contracting parties that, during the continuance of the present treaty, neither Power shall impress or forcibly withdraw, nor cause to be impressed or forcibly withdrawn, any person or persons from the vessels of the other Power, when met upon the high seas,<sup>2</sup> on any

<sup>1</sup> or anywhere without the ordinary jurisdiction of



plea or pretext whatsoever: *Provided, always*, That nothing contained in this article shall be construed to apply to the vessels of either Power which may be within the ports or within the maritime jurisdiction of the other;] *[And, also, provided*, That nothing herein contained shall be construed to impair or affect the established right of search, as authorized in time of war by the law of nations.]

## ARTICLE 5.

The high contracting parties have agreed to extend the duration of the present treaty to ten years; and they reserve to themselves to concert as to its renewal, at such convenient period, previous to its expiration, as may insure to their respective subjects the uninterrupted benefit which they expect from its provisions; *Provided, always*, That either Power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

## ARTICLE 6.

It is agreed that nothing contained in the preceding articles shall be understood to affect the rights and principles of which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer,<sup>1</sup> except so far as the same shall have been modified, restrained, or suspended, by the said articles. And whenever the present treaty shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof, by either of the contracting parties, as hereinbefore provided, or (which God forbid) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such treaty had ever been made.

## No. 5.

Protocol of the fifth conference held between the American and British Plenipotentiaries, at Whitehall, on the 6th of October, 1818.

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The protocol of the preceding conference was agreed upon and signed.

The British Plenipotentiaries gave in the five annexed articles on the fisheries, the boundary, the Mississippi, the intercourse between Nova Scotia and the United States, and the captured slaves. (A, B, C, D, E.)

It was agreed to meet again on the 9th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON,  
HENRY GOULBURN.

## ARTICLE A.

It is agreed that the inhabitants of the United States shall have liberty to take fish, of every kind, on that part of the western coast of Newfoundland which extends from Cape Ray to the Quirpon Islands, and on that part of the southern and eastern coasts of Labrador which extends

either of the two Powers, as acknowledged by the law of nations.

<sup>2</sup> impair or affect the right of either Power to withdraw its natural born subjects or citizens, not falling within the exception mentioned in the preceding articles, from any vessel lying within its ports or within its ordinary maritime jurisdiction, as acknowledged by the law of nations.

<sup>4</sup> (a.)

(a.) See 6th article, <sup>2</sup>.

<sup>1</sup> or citizens

<sup>1</sup> impair or

<sup>2</sup> nor any of the belligerent or neutral rights of either party, as acknowledged by the law of nations.

from Mount Joli to Huntingdon Island; and it is further agreed that the fishermen of the United States shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of the said south and east coasts of Labrador, so long as the same shall remain unsettled; but as soon as the same, or any part of them, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

And it is further agreed that nothing contained in this article shall be construed to give to the inhabitants of the United States any liberty to take fish within the rivers of His Britannic Majesty's territories, as above described; and it is agreed, on the part of the United States, that the fishermen of the United States resorting to the mouth of such rivers shall not obstruct the navigation thereof, nor wilfully injure nor destroy the fish within the same, either by setting nets across the mouths of such rivers, or by any other means whatever.

His Britannic Majesty further agrees that the vessels of the United States, *bona fide* engaged in such fishery, shall have liberty to enter the

bays and harbors of any of His Britannic Majesty's dominions in North America, for the purpose of shelter, or of repairing damages therein, and of purchasing wood and obtaining water, and for no other purpose; and all vessels so resorting to the said bays and harbors shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein.

It is further well understood that the liberty of taking, drying, and curing fish, granted in the preceding part of this article, shall not be construed to extend to any privilege of carrying on trade with any of His Britannic Majesty's subjects residing within the limits hereinbefore assigned for the use of the fishermen of the United States, for any of the purposes aforesaid.

And in order the more effectually to guard against smuggling, it shall not be lawful for the vessels of the United States, engaged in the said fishery, to have on board any goods, wares, or merchandise, whatever, except such as may be necessary for the prosecution of the fishery or the support of the fishermen whilst engaged therein, or in the prosecution of their voyages to and from the said fishing grounds. And any vessel of the United States which shall contravene this regulation may be seized, condemned, and confiscated, together with her cargo.

## ARTICLE B.

It is agreed that a line drawn from the most northwestern point of the Lake of the Woods along the forty-ninth parallel of latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn due north or south, as the case may be, until it shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of His Britannic Majesty and those of the United States; and that the said line shall form the southern boundary of the said territories of His Britannic Majesty, and the northern boundary of the territories of the United States, from the said Lake of the Woods to the Stony mountains; and, in order to prevent any disputes as to the territorial rights of either of the contracting parties on the northwest coast of America, or anywhere to the westward of the Stony mountains, it is agreed that so much of the said country as lies between the forty-fifth and forty-ninth parallels of latitude, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, shall be free and open to the subjects and citizens of the two States, respectively, for the purpose of trade and commerce; it being well understood that, although, by virtue of this arrangement, the two high contracting parties agree not to exercise as against each other any sovereign or territorial authority within the above-mentioned country lying between the forty-fifth and forty-ninth parallels of latitude, this agreement is not to be construed to the prejudice of any claim to which either of the two high contracting parties may have to any territorial authority in any part

of the country lying within the said limits; nor shall it be taken to affect the claim of any other Power or State to any part of the said country; the only object of the two high contracting parties being to prevent disputes and differences between themselves.

## ARTICLE C.

It is further agreed that the subjects of His Britannic Majesty shall have and enjoy the free navigation of the river Mississippi from its source to the ocean, and shall at all times have free access from such place as may be selected for that purpose, in His Britannic Majesty's territories, to the river Mississippi, with their goods, wares, and merchandise, the importation of which into the United States shall not be entirely prohibited, on the payment of the same duties as would be payable on the importation of the same article into the Atlantic ports of the United States.

## ARTICLE D.

British vessels shall have liberty to export, from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in His Britannic Majesty's province of Nova Scotia; to the port of St. John's, in His Britannic Majesty's province of New Brunswick, and to any other port within the said provinces of Nova Scotia or New Brunswick, to which vessels of any other foreign nation shall be admitted, the following articles, being of the growth, produce, or manufacture of the United States, viz: scantling, planks, staves, heading-boards, shingles, hoops, horses, neat cattle, sheep, hogs, poultry, or live stock of any sort, bread, biscuit, flour, peas, beans, potatoes, wheat, rice, oats, barley, or grain of any sort, pitch, tar, turpentine, fruits, seeds, and tobacco.

And vessels of the United States shall, in like manner, have liberty to import from any of the aforesaid ports of the United States into any of the aforesaid ports within the said provinces of Nova Scotia and New Brunswick, the above-mentioned articles, being of the growth, produce, or manufacture of the United States.

British vessels shall also have liberty to import from any of the aforesaid ports within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones, or any other articles, being of the growth, produce, or manufacture of the said provinces, and, also, any produce or manufacture of any of His Britannic Majesty's dominions, the importation of which into the United States shall not be entirely prohibited.

And vessels of the United States shall have liberty to import from the said provinces to the said United States, slates, gypsum, and grindstones, or any other article, being of the growth, produce, or manufacture of any part of His Britannic Majesty's dominions, the importation of which into the United States from any other place shall not be entirely prohibited.

The vessels of either of the two parties employed in the trade provided for by this article shall be



admitted in the ports of the other party, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party. The same duties shall also be paid, respectively, in the dominions of both parties, on the importation and on the exportation of the articles which may be imported or exported, by virtue of this article; and the same bounties shall also be allowed on the exportation thereof, whether such importation or exportation shall be in vessels of the United States or in British vessels.

## ARTICLE E.

Whereas it was agreed by the first article of the Treaty of Ghent, that "all territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property;" and whereas doubts have arisen whether certain slaves, originally captured in certain forts and places belonging to the United States, and removed therefrom, but remaining within the territories of the United States, or on board the ships of His Britannic Majesty, lying within the harbors of the United States at the time of the exchange of the ratifications of the said treaty, are to extend under the above-recited provisions of the said treaty, the high contracting parties do hereby agree to refer the said doubts to some friendly Sovereign or State, to be named for that purpose; and the high contracting parties engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters so referred.

## No. 6.

LONDON, October 7, 1818.

Mr. Gallatin and Mr. Rush present their compliments to Mr. Robinson and Mr. Goulburn, and beg leave to send them the enclosed paper, containing some remarks on the articles handed to them at the conference yesterday. They are to be considered as unofficial, according to the intimation given yesterday, when they were promised, and have been drawn up merely under the hope that, by possessing the British Plenipotentiaries of some of the views of the American Plenipotentiaries before the next meeting on the 9th, the progress of the negotiation may be accelerated.

## Fisheries.

The American Plenipotentiaries are not authorized by their instructions to assent to any article on that subject which shall not secure to the inhabitants of the United States the liberty of taking fish of every kind on the southern coast of Newfoundland, from Cape Ray to the Ramea

islands, and on the coasts, bays, harbors, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence northwardly, indefinitely, along the coast: and, also, the liberty of drying and curing fish in any of the unsettled bays, harbors, and creeks of Labrador and of the southern coast of Newfoundland, as above described; with the proviso respecting such of the said bays, harbors, and creeks as may be settled.

The liberty of taking fish within rivers is not asked. A positive clause to except them is unnecessary, unless it be intended to comprehend under that name waters which might otherwise be considered as bays or creeks. Whatever extent of fishing-ground may be secured to American fishermen, the American Plenipotentiaries are not prepared to accept it on a tenure or on conditions different from those on which the whole has heretofore been held. Their instructions did not anticipate that any new terms of restrictions would be annexed, as none were suggested in the proposals made by Mr. Bagot to the American Government. The clauses forbidding the spreading of nets, and making vessels liable to confiscation in case any articles not wanted for carrying on the fishery should be found on board, are of that description, and would expose the fishermen to endless vexations.

## Mississippi.

The American Plenipotentiaries are not authorized to agree to any condition that would bring the British in contact with the Mississippi. The right to the navigation of that river could only be derived from the treaty of 1783; and, if viewed as a matter of compromise, that right is much less valuable and important than the portion of the fisheries which the United States would lose by the agreement, even on the terms proposed by them.

## Boundary.

That portion of the article which relates to the country west of the Stony mountains cannot be agreed to in its present shape. The American Plenipotentiaries cannot consent to throw in a common stock that part only of the country to which the United States deny the claim of Great Britain, and which lies within the same latitudes as their own territories east of the Stony mountains; thus, also, implying the exclusion of their citizens from the trade on the northwest coast of America, (north of 49°,) which they have enjoyed without interruption for a number of years, and as early as the British.

Nor are they authorized to agree to expressions implying a renunciation of territorial sovereignty, although perfectly disposed not to insist on an extension of the line of demarcation to that country. They will propose either that the whole of the article relating to that subject, and immediately following the words "to the Stony mountains," should be omitted, inserting, in lieu thereof, a proviso similar to what had on former occasions been agreed to, viz: "But nothing in the present article shall be construed to extend to

the northwest coast of America, or to territories belonging to or claimed by either party on the continent of America westward of the Stony mountains;" or, that the proposed article should be amended in the manner stated in the enclosed copy.

## Slaves.

The American Plenipotentiaries had hoped that this subject might have been arranged without a reference to a friendly Power. If this cannot be done, they will agree to the reference; observing, however, that a change in the phraseology will be necessary, so as to bring the whole claim before the foreign sovereign. They are also authorized to agree that the Emperor of Russia should, by the article, be designated as the umpire.

## No. 7.

Protocol of the sixth conference between the American and British Plenipotentiaries, held at Whitehall, on the 9th of October, 1818.

Present: Mr. Gallatin, Mr. Rush, and Mr. Robinson.

## ARTICLE.

It is agreed that a line drawn from the most north-western point of the Lake of the Woods along the forty-ninth parallel of latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn<sup>1</sup> due north or south, as the case may be, until<sup>2</sup> [it] shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of His Britannic Majesty and those of the United States; and that the said line shall form the southern boundary of the said territories of His Britannic Majesty, and the northern boundary of the territories of the United States, from the said Lake of the Woods to the Stony mountains;\* and <sup>3</sup>in order to prevent any disputes as to the territorial rights of either of the contracting parties on the northwest coast of America, or anywhere to the westward of the Stony mountains, it is agreed that so much of the said country as lies between the forty-fifth and forty-ninth parallels of latitude, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, shall be free and open to the subjects and citizens of the two <sup>4</sup>[States] respectively, for the purpose of trade and commerce, it being well understood that <sup>5</sup>although, by virtue of this arrangement, the two high contracting parties agree not to exercise, as against each other, any other sovereign or territorial authority within the above-mentioned country, lying between the forty-fifth and forty-ninth parallels of latitude] this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any territorial authority in any part of the country, <sup>6</sup>[lying within the said limits,] nor shall it be taken to affect the claim of any other Power or State to any part of the said country; the only object of the two

The American Plenipotentiaries declared that they could not agree to the article upon the fisheries brought forward by the British Plenipotentiaries at the preceding conference, nor to that respecting the navigation of the Mississippi, nor to any article that would bring the British in contact with that river.

They also stated that they could not take into consideration the article respecting the intercourse with Nova Scotia and New Brunswick, unconnected with the subject of the British West Indies.

They presented several amendments (A, B) to the articles respecting the boundary line and slaves carried away, proposed at the last conference by the British Plenipotentiaries.

It was agreed to meet again on Tuesday, the 13th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON

## A.

<sup>1</sup> from the said point,  
<sup>2</sup> the said line

<sup>3</sup> it is further agreed that so much of the country on the Northwest coast of America, or anywhere to the westward of the Stony mountains, as may be claimed by, or be in the possession of, either of the two parties,

<sup>4</sup> Powers,  
<sup>5</sup> —.

<sup>6</sup> aforesaid,

\* Or all the words that follow to be omitted, and the following to be inserted in lieu thereof, viz:

"But nothing in the present article shall be construed to extend to the Northwest coast of America, or to territories belonging to, or claimed by, either party, on the continent of America, westward of the Stony mountains."



## Relations with Great Britain.

high contracting parties being to prevent disputes and differences between themselves.

## ARTICLE.

Whereas it was agreed, by the first article of the Treaty of Ghent, that "all territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery, or other public property, originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves, or other private property;" and whereas [doubts have arisen whether certain slaves, originally captured in certain forts and places belonging to the United States, and removed therefrom, but remaining within the territories of the United States, or on board the ships of His Britannic Majesty lying within the harbors of the United States, at the time of the exchange of the ratifications of the said treaty, are to be restored under the above-recited provisions of the above treaty,] the high contracting parties do hereby agree to refer the said [doubts to some friendly Sovereign or State, to be named for that purpose,] and the high contracting parties engage to consider the decision of [such friendly Sovereign or State to be] final and conclusive on all the matters referred.

## No. 8.

OCTOBER 12, 1818.

Mr. Gallatin and Mr. Rush present their compliments to Mr. Robinson and Mr. Goulburn, and beg leave to state that, on full consideration, since the meeting on Friday, they do not feel themselves authorized to consent to the condition annexed to the second article of the project on impressment, which declares that "none other than the persons whose names shall be included in the said lists shall be deemed to fall within the said exception." Their reasons are stated in the enclosed unofficial memorandum.

Mr. G. and Mr. R. give this notice of their disagreement previous to the meeting fixed for tomorrow, in the hope that, if the alteration which they have heretofore proposed should not, contrary to their expectations, be found acceptable, some other amendment or modification may suggest itself to the British Plenipotentiaries, rather than that the arrangement should fall through.

## MEMORANDUM.

## Lists of seamen naturalized.

It is required by the British Plenipotentiaries that persons whose names shall not appear on the lists of naturalized seamen, to be mutually furnished by the two Governments, shall not be considered as falling within the exception contemplated by the agreement; that is to say, that such persons, although naturalized, shall, re-

## B.

<sup>1</sup> under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves, who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, who were afterwards removed or carried away by the said forces, whether such slaves were, at the date aforesaid, on shore, or on board any British vessels lying in waters within the territory or jurisdiction of the United States: and whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the Treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all slaves as above described,

<sup>2</sup> differences to His Imperial Majesty the Emperor of all the Russias,

<sup>3</sup> his said Imperial Majesty

spectively, be excluded from the public or private marine of either party.

But it is impracticable for the Government of the United States to procure complete lists of naturalized seamen, for the following reasons:

Prior to the year 1790, aliens might be naturalized according to the laws of the several States; and it is known that, in some of them, (Pennsylvania for instance,) the naturalization took place before justices of the peace. In these cases, and also when the records of a court may have been destroyed, it would be found difficult, if not impossible, to obtain any other evidence of the naturalization than the certificate given at the time to the naturalized person.

Since the year 1790, although the term of previous residence has varied, the mode has been uniform. Aliens have been naturalized only in conformity with the laws of the United States, and before such courts of record as were designated by those laws. But that designation embraced not only the courts of the United States, properly so called, but also the courts of the several States, including even those of a subordinate jurisdiction, amounting, together, to several hundred. It is necessary to add, that minor children of naturalized persons, if dwelling in the United States, become, also, by virtue of their father's naturalization, *ipso facto*, naturalized themselves.

## Relations with Great Britain.

If an attempt is made to compile the lists required from the records of the several courts, a first and leading objection is, that the courts of the several States, not being bound to obey in that respect the orders of the General Government, it will be optional with them whether the clerks shall abstract from the records of thirty years those of the naturalization of aliens which are interspersed among them, and transmit those abstracts to the Government of the United States.

But, supposing that every one of those courts should comply with the order, the lists must contain the names of all the British natural born subjects, (and for the year 1790 to 1795, during which time no discrimination of birthplace was recorded, of all aliens,) who have been naturalized for a period of thirty years, without pointing out those who were seamen; no specification of the profession or calling of the parties ever having been required by law to be entered on the records. And those lists, although containing the names of many thousand persons, not seamen, would be defective, by the total omission of the names of the minor children above mentioned, their names not having been directed, by law, to make a part of the record, and the burden of the proof of their citizenship resting with themselves.

There is but one other source of information from which the lists required might be partially obtained.

The collectors of the customs have been required, by a law passed in 1796, to keep books, in which the names of seamen, citizens of the United States, should, on their application, be entered. It is known that this law was never fully complied with, and that the returns are defective. But, even in the cases where the collectors have complied with it, the registers must necessarily be incomplete, since no names were entered but on the application of the parties; besides which, the names of the native citizens were not, by the law, directed to be distinguished from those of naturalized persons.

From this statement of facts, it follows that, although partial lists may be compiled, which will contain the names of many naturalized British seamen, those lists will still be very imperfect. If the condition now urged was complied with, the consequence would be that aliens, naturalized prior to the treaty, who have become citizens of the United States on the faith of a public law, and are thereby entitled to every political and civil right enjoyed by native citizens, (that of becoming President or Vice President of the United States only excepted,) would, by a retrospective, and therefore unconstitutional act, be deprived not of a privilege merely political, but of the right of exercising the only profession they have for the support of themselves and their families. And minors, too, who have never known any other country but America, would be precluded from following the seas when they came to a proper age.

The American Plenipotentiaries cannot assent

to a condition involving such results. They are expressly bound by their instructions, whilst admitting, as a general principle, that neither Government shall employ, in its public or private marine, the natural born subjects or citizens of the other country, to except from its operation all those who shall have been naturalized prior to the treaty. That exception has been mutually assumed as one of the foundations of the agreement; and the effect of the condition alluded to would necessarily be that a portion only of the persons thus previously naturalized in the United States would be embraced by the exception.

The American Plenipotentiaries beg leave to add that the condition appears to them unnecessary. According to that which they propose, every British natural-born subject, not included in the lists, and claiming to be employed as a seaman on board an American vessel, must adduce proofs of his having been naturalized prior to the exchange of ratifications. He must produce either the original certificate of his naturalization, or an authentic copy, attested as such by the proper court. If claiming as a minor, by virtue of his father's naturalization, he must, in addition, produce legal proofs of the fact. In the cases for which the condition is intended to provide, proofs may always be given similar to those which, in every case, would be admitted as conclusive by the laws of Great Britain, as well as by those of the United States.

Finally, the right reserved to either party of annulling the agreement at will, affords security in this case as well as in all others. This reservation, which had not been contemplated by the Government of the United States, has been acceded to by their Plenipotentiaries, in order to remove every objection to the arrangement, and to avoid the necessity of entering into details respecting the measures necessary to carry it into effect. Great Britain being thereby effectually secured against every risk, and holding in her own hands a complete remedy against deviations from the terms of the compact in all cases, no necessity appears to exist for an additional security on this particular point.

## No. 9.

Protocol of the seventh conference between the American and British Plenipotentiaries, held at Whitehall, on the 13th of October, 1818.

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The British Plenipotentiaries acquiesced in the amendment proposed at the preceding conference by the American Plenipotentiaries, in the article respecting captured slaves, except as far as related to the insertion in the article of the name of any particular Power.

They brought forward new articles (A, B, C, D, E) respecting the fisheries, the boundary, impressment, and maritime points, and accompanied the articles D with the annexed memorandum E. They agreed to the omission of the article respecting the Mississippi.



It was agreed to meet again on Monday, the 19th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FRED. J. ROBINSON,  
HENRY GOULBURN.

#### ARTICLE A.

Whereas differences have arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America: It is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland, which extends from Cape Ray to the Ramea islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon islands, on the shores of the Magdalen islands, and also on the coasts, bays, harbors, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belleisle, and thence, northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company; and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish, on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter, and of repairing damages therein, of purchasing wood and obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

#### ARTICLE B.

It is agreed that a line drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then, that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and

with the said parallel, shall be the line of demarcation between the territories of His Britannic Majesty and those of the United States; and that the said line shall form the southern boundary of the said territories of His Britannic Majesty and the northern boundary of the territories of the United States, from the Lake of the Woods to the Stony mountains. But nothing in the preceding part of this article shall be construed to extend to the northwestern coast of America, or to territories belonging to, or claimed by, either party, on the continent of America westward of the Stony mountains; and any such country as may be claimed by either party westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open to the vessels, subjects, or citizens of the two Powers, respectively, for the purposes of trade and commerce. It being well understood that nothing contained in this article shall be taken to affect the claims of any other Power or State to any part of the said country; the only object of the two high contracting parties being to prevent disputes and differences between themselves.

#### ARTICLE C.

His Majesty the King of the United Kingdom of Great Britain, &c., and the United States of America, animated with an equal desire to prevent, by conventional regulations, the recurrence of inconveniences which have heretofore arisen from the employment of the natural born subjects of His Britannic Majesty in the public or private marine of the United States, and from the employment of the natural born citizens of the United States in the public or private marine of His Britannic Majesty, have nominated Plenipotentiaries to negotiate a convention for this desirable object.

His Majesty the King of the United Kingdom of Great Britain and Ireland, &c., has nominated the right honorable Frederick John Robinson, &c., and Henry Goulburn, Esq., &c., and the President of the United States has nominated Albert Gallatin, Esq., and Richard Rush, Esq., &c., who, having exchanged their full powers, found in good and due form, have agreed upon and signed the following articles:

1. The high contracting parties engage and bind themselves to adopt, respectively, without delay, the most effectual measures for excluding, respectively, from serving either in their public or private marine, the natural born subjects and the natural born citizens of the other party; that is to say: His Majesty the King of the United Kingdom of Great Britain and Ireland, for excluding the natural born citizens of the United States from serving either in the public or private marine of his dominions; and the United States, for excluding the natural born subjects of His Britannic Majesty from serving either in the public or private marine of the United States; and such measures, when adopted, shall be immediately communicated by each party to the

other: *Provided always,* That nothing contained in this article shall be understood to apply to any seamen, being natural born subjects of His Britannic Majesty, or natural born citizens of the United States, who have been naturalized by the respective laws of either Power previous to the signature of the present convention.

2. The high contracting parties engage to deliver, each to the other, within eighteen months from the ratification of the present convention, a list, as far as it may be found practicable to obtain it, containing the names and description of the seamen falling within the said exception, specifying the places of their birth, and the date of their becoming naturalized. And it is further agreed that no person, whose name shall not be included in the said lists, shall be deemed to fall within the said exceptions.

3. It is however agreed that, if one of the high contracting parties shall, at any time during the continuance of this convention, think fit to notify to the other that it does not insist upon the exclusion of its natural born subjects, or natural born citizens, from the public or private marine of the other party, it shall be competent to the said other party, notwithstanding the engagement set forth in the first article of this convention, no longer to exclude the said subjects or citizens: *Provided always,* That, whenever the Power which has made the said notification shall recall the same, its recall shall be immediately communicated to the other contracting party; and, on receipt of such communication, the Power receiving the same shall forthwith make it known, in the most public and official manner, and shall use its utmost endeavors to restrain the said subjects or citizens of the other party from further serving in its public or private marine, and shall enforce the exclusion of such of the said subjects or citizens of the other Power as may then be in its service, as if no such stipulations as are contained in the preceding part of this article had been agreed to.

4. It is agreed by the high contracting parties, that, during the continuance of the present convention, neither Power shall impress or forcibly withdraw, or cause to be impressed or forcibly withdrawn, any person or persons from the vessels of the other party, when met upon the high seas, or upon the narrow seas, on any plea or pretext whatsoever: *Provided always,* That nothing contained in this article shall be construed to impair or affect the rights of either Power to impress or forcibly withdraw, or cause to be impressed or forcibly withdrawn, its natural born subjects or natural born citizens, not falling within the exceptions mentioned in the preceding articles, from any vessel being within its ports, or within its ordinary maritime jurisdiction, as acknowledged by the law of nations: *And also provided,* That nothing herein contained shall be construed to impair or affect the established right of search, as authorized in time of war by the law of nations.

5. The high contracting parties have agreed to extend the duration of the present treaty to

ten years, and they reserve to themselves to concert as to its renewal, at such convenient period, previous to its expiration, as may insure to their respective subjects or citizens, as aforesaid, the uninterrupted benefit which they expect from its provisions: *Provided always,* That either Power may, if it deem it expedient, upon giving six months' previous notice to the other, wholly abrogate and annul the present treaty.

6. It is agreed that nothing contained in the preceding articles shall be understood to impair or affect the rights and principles on which the high contracting parties have heretofore acted in respect to any of the matters to which these stipulations refer, except so far as the same shall have been modified, restrained, or suspended by the said articles. And whenever the present convention shall cease to be in operation, either by the expiration of the term for which it is enacted, without any renewal of the same, or by the abrogation thereof by either of the contracting parties, as hereinbefore provided, or (which God forbid) by any war between the high contracting parties, each of the said high contracting parties shall stand, with respect to the other, as to its said rights and principles, as if no such convention had ever been made.

#### ARTICLE D.

(a.) Whenever one of the high contracting parties shall be at war, any vessel of the other party, sailing for a port or place belonging to an enemy of the party at war, without knowing that the same is blockaded, may be turned away from such port or place; but she shall not be detained on account of such blockade, unless, after such notice, she shall again attempt to enter. And, in order to determine what characterizes a blockade, it is agreed that that denomination shall apply only to a port where there is, by the disposition of the Power which blockades it with a naval force, stationary or sufficiently near, an evident danger in entering.

(b.) In order to regulate what is in future to be deemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea, such as cannon, mortars, muskets, pistols, and other fire-arms, petards, bombs, grenades, carcasses, saucisses, rockets, carriages for cannon, firelocks, musket-rests, bandoliers, gunpowder, saltpetre, match, balls and bullets, helmets or head-pieces, cuirasses, swords, pikes, halberds, lances, javelins, saddles, bridles, and other horse furniture, holsters, pouches, belts, and generally all other implements of war; as, also, timber for shipbuilding, tar, or rosin, copper in sheets, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels, unwrought iron and planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

(c.) In all cases of unfounded detention, or other contravention of the regulations stipulated



*Relations with Great Britain.*

by the present treaty, the owners of the vessel and cargo detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial. All proper measures shall be taken to prevent delays in deciding the cases of ships or cargoes so brought in for adjudication, and in payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships or cargoes. And whenever sentence shall be pronounced against any vessel thus captured or detained, or against her cargo, or any part thereof, a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered without delay, to the commanders of the said vessels, or to the owner thereof, or to the agent of either, on payment of all legal fees and demands for the same.

The commanders of ships-of-war and privateers of the belligerent party shall, in the searching of the merchant ships of the other party, conduct themselves according to the acknowledged principles and rules of the law of nations, and as favorably, moreover, as towards the most friendly Power that may remain neutral. The said commanders, their officers, and crews, shall forbear doing any damage to the subjects or citizens of the other party, or committing any outrage against them; and if they act to the contrary they shall be punished, and shall also make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damage may be.

(d.) The ships-of-war and privateers of the two nations, as well as their prizes, shall be treated in their respective ports as those of the most favored nation.

It shall not be lawful for any Power or State at war with either of the high contracting parties, or the subjects or citizens of such Power or State, to fit out or arm ships-of-war, or privateers, in the ports of the other of the high contracting parties, nor to sell what they may take as prize from the ships or vessels of the high contracting party with whom such Power or State may be at war, in the ports of the other, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Power or State to which they belong.

(e.) In the event of a shipwreck happening to any vessel or vessels belonging to either of the high contracting parties, or their subjects and citizens, on the coasts of the other, every assistance shall be given for the protection of the unfortunate persons, and for the preservation of the ship, cargo, and all effects which may be saved, either from on board the ship, or in any other manner whatever; and the same shall not be concealed, nor detained, nor damaged, under any pretext whatever. On the contrary, the same shall be preserved and restored to them, upon a suitable recompense being given to those who

shall have assisted in saving their persons, vessels, or effects.

(f.) If at any time a rupture should take place (which God forbid) between His Britannic Majesty and the United States, neither the debts due from individuals of one of the two nations to individuals of the other, nor shares or moneys which they may have in the public funds, or in the public or private banks, shall be sequestered or confiscated; and the merchants and others of each of the two nations residing in the dominions of the other shall in no case be detained as prisoners of war, but they shall be permitted to remove, with their families, effects, and property; each Government having, nevertheless, the right, during their remaining in its dominions, to make such regulations, and to take such precautions as it may deem necessary with respect to such persons.

**MEMORANDUM E.**

Upon the subject of these articles numbered from *a* to *k*, which were brought forward by the American Plenipotentiaries, and annexed to the protocol of the third conference, the British Plenipotentiaries stated that, although they were not instructed to bring any of these topics before the conferences on the part of Great Britain, and although they considered it by no means necessary that the two countries should now come to any conventional arrangement relating to them, they were, nevertheless, ready to agree to the annexed articles (*a*, *b*, *c*, *d*, *e*, *f*.) which embraced all the points upon which, in their judgment, it was expedient that the two countries should enter into positive stipulations.

**Slaves.**

**ARTICLE.** Whereas it was agreed by the first article of the Treaty of Ghent, that "all territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property, originally captured in the said forts or places, which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property:" And whereas, under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were, at the date aforesaid, on shore or on board any British vessels lying in waters within the territory or jurisdiction of the United States. And whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the Treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all or any slaves, as above described;

*Relations with Great Britain.*

the high contracting parties do hereby agree to refer the said difference to some friendly Sovereign or State, to be named for that purpose; and the high contracting parties further engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters referred.

**No. 10.**

*Amendment to boundary line, proposed by American Plenipotentiaries at the eighth conference.*

In lieu of the latter part of the article insert: "And it is agreed that any such country as may be claimed by either party on the Northwest coast of America, or on the continent of America westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of this treaty, to the vessels, citizens, and subjects of the two Powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the last-mentioned country; nor shall it be taken to affect the claims of any other Power or State to any part of the said country—the only object of the two high contracting parties, in that respect, being to prevent disputes and differences among themselves."

**No. 11.**

*Protocol of the eighth conference between the American and British Plenipotentiaries, held at Whitehall, on the 19th of October, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The protocols of the two preceding conferences were agreed to and signed.

The several articles upon the fisheries; the boundary; the territory westward of the Stony mountains; the captured slaves; and the renewal of the existing commercial convention, were agreed to.

The American Plenipotentiaries expressed their regret that the rejection of several of the amendments which they had offered to the project on impressment, and which they deemed essential, compelled them to decline acceding to that project.

The great alterations made by the British Plenipotentiaries to the articles proposed by the American Plenipotentiaries on maritime rights, also induced the latter to think that, although a season of peace appeared the most favorable time for arranging such subjects, it would be inexpedient to discuss them any further, more especially as it had never been the intention of the American Plenipotentiaries to adopt or propose any articles upon maritime subjects, without an adjustment of that on impressment.

The British Plenipotentiaries brought forward an article, as annexed, (F.) upon the subject of the direct intercourse between the West Indies and the United States of America; but they stated that they could not consent to sign any

article upon that subject, unless the American Plenipotentiaries were prepared at the same time to accede to articles which should put the intercourse between Bermuda and the United States, as well as between Nova Scotia and New Brunswick and the United States, upon the footing contemplated in the article originally offered by the British Government with respect to Bermuda, and in that respecting Nova Scotia and New Brunswick, brought forward at a former conference by the British Plenipotentiaries.

The American Plenipotentiaries declared that their instructions did not authorize them to sign the West India article as proposed by the British Plenipotentiaries, but agreed to take the whole question *ad referendum* to their Governments.

It was agreed to meet on Friday, the 20th instant.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON,  
HENRY GOULBURN.

**F.**

It is agreed that the vessels of the United States shall have liberty to import from\* [any of the ports of the United States to which any foreign vessels are permitted to come, to] any of the ports of His Britannic Majesty's dominions in the West Indies, which shall be open to the vessels of any other foreign Power or State, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, except salted provisions of any description, whether meat, fish, or butter, such articles being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to import, in the same manner, any other articles of the growth, produce, or manufacture of the United States, the importation of which into the above-mentioned ports shall not be entirely prohibited from every other foreign country or place.

The vessels of the United States shall likewise have liberty to export from any of the aforesaid ports of His Britannic Majesty's dominions in the West Indies, to any of the aforesaid ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture of any of His Britannic Majesty's above-mentioned dominions in the West Indies; and the said vessels shall also have liberty to export, in the same manner, any other articles of the said growth, produce, or manufacture, the exportation of which in foreign vessels from the said ports to any other foreign country or place shall not be entirely prohibited.

British vessels shall, in the same manner, have liberty to import from any of the aforesaid ports of His Britannic Majesty's dominions to any of the ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture

\* The words within the brackets were not inserted, as is supposed by an accidental omission in the copy handed in by the British Plenipotentiaries.



of His Britannic Majesty's above-mentioned dominions in the West Indies; and British vessels shall also have liberty to import, in the same manner, any other article of the said growth, produce, or manufacture, the exportation of which from the said dominions of His Britannic Majesty to the United States shall be allowed as aforesaid in vessels of the United States.

British vessels shall likewise have liberty to export from any of the aforesaid ports of the United States to any of the aforesaid ports of His Britannic Majesty's dominions in the West Indies, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, except salted provisions of any description, whether meat, fish, or butter, such articles being of the growth, produce, or manufacture of the United States; and the said vessels shall also have liberty to export, in the same manner, every other article, being the growth, produce, or manufacture of the United States, the importation of which into the British ports from the said United States shall be allowed in vessels of the United States.

The vessels of either of the two parties, employed in the trade provided for by this article, shall be admitted in the ports of the other, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the above-mentioned ports of the other party, for the purpose of disposing of their inward and of taking on board their outward cargoes.

No other or higher duties shall be paid on the importation into the United States of any of the articles which may be imported therein, by virtue of this article, when imported in British vessels, than when imported in vessels of the United States; nor when imported directly from the above-mentioned ports of His Britannic Majesty's dominions, than when imported in a circuitous manner. And no other or higher duties shall be paid on the importation into any of the above-mentioned ports of His Britannic Majesty's dominions of any of the articles which may be imported therein by virtue of this article, when imported in vessels of the United States, than when imported in British vessels; nor when imported directly from the United States, than when imported in a circuitous manner. It is agreed, moreover, that no other or higher duties shall be charged upon any of the above-mentioned articles, being of the growth, produce, or manufacture of the two countries, respectively, when imported by virtue of this article, on the one hand, into the said ports of His Britannic Majesty's dominions, or into the ports of the United States, on the other, than may be charged on similar articles when imported from any other foreign country; but His Britannic Majesty reserves to himself the right to impose higher duties upon all articles so allowed to be imported into the said British ports from the United States, than are, or may be, chargeable upon all similar articles, when import-

ed from any of His Majesty's dominions: *Provided*, That in such case such similar articles shall be of the growth, produce, or manufacture of His Majesty's possessions. The same duties shall be paid, and the same bounties shall be allowed on the exportation of any articles which may, by virtue of this article, be exported either from the said ports of His Britannic Majesty's dominions in the West Indies to the United States, as from the United States to the above-mentioned ports, whether such exportation shall be in vessels of the United States or in British vessels.

## No. 12.

*Protocol of the ninth conference between the American and British Plenipotentiaries, held at Whitehall, on the 20th of October, 1818.*

Present: Mr. Gallatin, Mr. Rush, Mr. Robinson, Mr. Goulburn.

The protocol of the preceding conference was agreed to and signed. The Plenipotentiaries then proceeded to sign the convention.

ALBERT GALLATIN,  
RICHARD RUSH,  
FREDERICK J. ROBINSON,  
HENRY GOULBURN.

*Mr. Rush to the Secretary of State.*

LONDON, October 27, 1818.

SIR: I had the honor to write you a few lines on the 19th instant, and immediately forwarded them in triplicate to the Consul at Liverpool, to be sent off by the earliest ships, to say that we had on that day agreed to sign a treaty with the British Plenipotentiaries on the points which I enumerated. It was signed on the 20th. The joint despatch from Mr. Gallatin and myself, bearing date on the same day, giving an account of the whole progress of the negotiation, was, together with the convention itself and all the accompanying documents, forwarded from hence to Liverpool on the 24th.

After consulting with Mr. Gallatin, I did not feel at liberty to employ a special messenger to be the bearer of the convention, trusting to the ordinary opportunities by our merchant vessels, which are so constant, and in general so safe. I accompanied the packet with a special letter to Mr. Maury, apprizing him of the importance of committing it to hands that were trustworthy, and with directions that it should be delivered to the postmaster at New York, or wherever else the ship may arrive, without any delay. It will thus, I hope, reach Washington with all expedition and safety. On the side of the British Plenipotentiaries a special secretary was employed for the business of this negotiation. On ours Mr. Smith has acted; a circumstance which is alluded to only that I may add how unremitting has been his attention, and how useful his services. Mr. Gallatin set out on his return to Paris on the morning of the 22d. Duplicates of the convention, the despatch, and all the other papers, will be transmitted at the earliest moment that they can be copied.

After what is said in your despatch of the 28th of July, to the joint mission, respecting Judge Wallace's decree, on the 29th of August, 1817, at Halifax, in the cases of the captured fishing vessels, it is proper I should state that I have been informed by Mr. Slade, in a note of the 14th of this month, that no appeal has been entered by the captors from the sentences of restitution; and that, the time having now gone by allowed by the practice of the admiralty for entering appeals, none can be entered. He adds, that as the owners of the vessels were obliged to give bail at Halifax to answer the appeals, it is possible that they may also have been made to place counter-security in the hands of the bail; in which case, the bail may refuse to part with such security, without a desertion from the appellate court here—that is, a decree that the appeals had not been prosecuted, and that the original sentence should be carried into effect. But as such a decree would be attended with expense, he does not advise it for the present. In the event of its becoming necessary to the owners, they should be informed that they cannot have the benefit of it until office copies of the decrees of restitution at Halifax are first forwarded. Mr. Slade is the proctor whom I employed contingently to give attention to these cases, as mentioned in my despatch of the 21st of March.

From the instructions of the 28th of July, I infer that Government contemplated becoming instrumental to the solemn argument of the great question of right under the treaty of 1783, only in the event of no article respecting the fisheries being agreed upon. As one has been signed, I design to take no further steps on this head, should the convention be ratified, without further instructions from the Department. I mention this, perceiving from the newspapers that there have been fresh captures of our fishing vessels during the last season, followed by sentences of condemnation, from which appeals on the part of the claimants may, I take it for granted, be anticipated. With very great respect, &c.

RICHARD RUSH.

*Mr. Adams to Messrs. Gallatin and Rush.*

DEPARTMENT OF STATE,

Washington, November 2, 1818.

GENTLEMEN: From the despatches which, since I last had the honor of writing to you, have been received at this Department, from Mr. Rush, dated the 24th and 26th of June and the 15th of August, it appears that there are two subjects likely to be brought under consideration in your conferences with the British Plenipotentiaries, which were not contemplated by the President at the time when your former instructions were prepared—impressment and the slave trade.

*Impressment.*

In the notes, Nos. 1 and 2, delivered by Mr. Rush to Lord Castlereagh, the first on the 18th of April, and the second on the 20th of June, both the offers had been made to the British Gov-

ernment, warranted by his former instructions of legislative measures for excluding British seamen from the naval and merchant service of the United States, on condition of a formal stipulation on the part of Great Britain that the impressment of men from the vessels of the United States shall henceforth cease.

Both these proposals, at the time when they were offered, or shortly afterwards, had been rejected, with an intimation from Lord Castlereagh to Mr. Rush, in the latter instance, that the objections of the British Cabinet against them would be presented in writing.

Afterwards, however, on the 14th of August, he expressed his willingness that the subject should be taken up in the proposed negotiation of a commercial treaty, and avowed, as an opinion of his own, upon which he had, indeed, not consulted with his colleagues in the Cabinet, that these proposals might, with certain modifications, which he thought very important to Great Britain, and of little moment to the essential object of the United States, be rendered acceptable. These were: 1. That the treaty containing the stipulation should be limited to a duration of ten or twelve years, with liberty to each party to be absolved from its stipulations on a notice of three or six months. 2. That the British boarding officer, entering American ships at sea for a purpose justified under the laws of nations, should have the liberty of calling for a list of the crew, and, if he saw a man whom he knew or suspected of being an Englishman, he should, without taking the man, have the privilege of making a record or *procès verbal* of the fact, to be presented to the consideration of the American Government.

These suggestions have received the fullest and most deliberate consideration of the President, with the earnest disposition on his part to view them in the most favorable light. He welcomes them, especially, as the first indications of a consciousness in the British Cabinet that the permanency of peace between the two countries is utterly incompatible with the resumption of the practice of impressing men from our vessels on the high seas—a conviction so profoundly impressed upon his own mind, that he scarcely thinks any discouragement could justify a remission of our efforts to remove this inevitable cause of future collisions, so long as the practice hitherto persevered in shall continue to exist.

It is readily agreed that the treaty to contain the stipulation shall be limited in duration to eight, ten, or twelve years; but that either party should have the liberty of putting an end to the whole treaty by a notice of three or six months, would seem to place the whole commercial relations between the two countries upon too precarious a foundation. Some of the stipulations proposed in your negotiation are, in their nature, intended to be permanent, even in the event of a war; others would require legislative regulations to protect interests which would be deeply affected by the sudden termination of the treaty. The President, nevertheless, authorizes you to



agree that, besides the general limitation of the temporary articles of the treaty to eight, ten, or twelve years, either party shall be at liberty to dissolve them after a notice of two years given to and received by the other; or, if preferable to the British Government, the article relative to impressment may be made a separate article, distinct from the rest of the treaty, and limited to a term of four years. This course would, indeed, be most convenient, as it would give us the opportunity of taking the sense of the Senate upon it, without implicating it with the other parts of the treaty. Our intention and expectation is, that the practice of taking men from our ships being once formally renounced by Great Britain, she will, in point of fact, never recur to it again.

If the intention of Lord Castlereagh was that this right of dissolving the compact by a notice of three or six months should apply only to the article against impressment, its acceptance is objectionable on other grounds. The engagement to exclude all British seamen from our sea service will operate, immediately from its commencement, with some inconvenience to our merchants. Since the peace and the dispersion of the vast number of seamen disbanded from the British navy, there are, no doubt, considerable numbers of them who have found employment on board of our vessels, and their exclusion from them will not be accomplished without some inconvenience. The effect of the stipulation of Great Britain to take no men from our vessels is remote, and contingent upon the event of her being engaged in a maritime war with other Powers: the onerous part of the engagement is, therefore, to us immediate and certain; the benefit to be derived from it distant and eventual. If to this apparent inequality should be added a power reserved by Great Britain to cancel the bargain by a simple notice of three or six months, we could scarcely consider it as a contract. It would be a positive concession and sacrifice, on our part, for the mere chance of a future equivalent for it, altogether dependent upon the will of the other party. The alternatives now proposed, it is hoped, will answer the purposes intended by the expedient suggested by Lord Castlereagh, without being equally liable to the difficulties which arrest our assent to it otherwise than as thus modified. It would also be desirable that the commencement of the engagement to exclude British seamen should be postponed for some time, (say to the 1st of October, 1820,) that a sufficient notice may be given to the merchants and mariners whose interests will be affected by it.

The second proposal (that British officers entering our merchant vessels for purposes warranted by the law of nations shall be authorized to call for the list of the crew, and, if they should find or suspect an Englishman to be on board, make a record of the fact for the purpose of remonstrance to the Government of the United States) is, in the view of the President, still more objectionable. In the first place, the distrust which it implies that the laws for excluding Bri-

tish seamen will, though stipulated, not be faithfully executed, is not warranted by any experience, nor can this Government give countenance to it by assenting to any stipulation which would be considered as resulting from it. If the United States bind themselves to this exclusion, they will sincerely and faithfully carry it into execution. It was not expressly asked by Lord Castlereagh in his proposal, as reported by Mr. Rush, that the officer, in calling for the shipping paper, should also have the power of mustering the crew, to examine them by comparison with the list; but as the mere view of the list would be useless unless coupled with that power, we consider it as having been intended to be included in the proposal; and this very inspection of the crews of our vessels by a foreign officer has been found among the most insulting and grievous aggravations of the practice of impressment. Besides this, the tendency of such an examination in every single instance would be, to produce altercation between the British officer and the commander of the American vessel. If the officer should be authorized to make a record of his suspicions, the master, on his side, and the suspected seamen, must of course have the privilege of making their counter-record; and as there would be no tribunal to judge between them, the probable ultimate result could be no other than that of exciting irritation between the two nations, and fractious discussions between the Governments.

If the engagement to exclude British seamen from our service should fail of being executed to an extent worthy of the slightest attention of the British Government, they could not avoid having notice of it, by proofs more effectual and more abundant than could be furnished by this sort of scrutiny. A failure of execution on our part to any such extent would give them not only the right of remonstrating to ours, but even of cancelling their obligation within a lapse of time, which must guard them against the danger of any material national injury. We have the fullest confidence that, if the engagement on both sides be once contracted, Great Britain will, thenceforward, have no lawful or even plausible motive either for wishing it cancelled, or for inspecting the crews of our vessels in search of men.

#### Slave Trade.

The President desires that you would make known to the British Government his sensibility to the friendly spirit of confidence with which the treaties lately contracted by Great Britain with Spain, Portugal, and the Netherlands, and the legislative measures of Parliament founded upon them, have been communicated to this Government, and the invitation to the United States to join in the same, or similar arrangements, has been given. He wishes you, also, to give the strongest assurances that the solicitude of the United States for the accomplishment of the common object—the total and final abolition of that odious traffic—continues with all the earnestness which has so long and so steadily distinguished

the course of their policy in relation to it. As an evidence of this earnestness, he requests you to communicate to them a copy of the act of Congress of the last session, in addition to the act of 1807, to prohibit the importation of slaves into the United States, (acts of the last session, chapter 86, page 81,) and to declare the readiness of this Government, within their Constitutional powers, to adopt any further measures which experience may prove to be necessary for the purpose of obtaining so desirable an end.

But you will observe that, in examining the provisions of the treaties communicated by Lord Castlereagh, all their essential articles appear to be of a character not adaptable to the institutions or to the circumstances of the United States.

The power agreed to be reciprocally given to officers of the ships of war of either party to enter, search, capture, and carry into port for adjudication, the merchant vessels of the other, however qualified and restricted, is most essentially connected with the institution, by each treaty, of two mixed Courts, one of which to reside in the external or colonial possessions of each of the two parties, respectively. This part of the system is indispensable to give it that character of reciprocity, without which the right granted to the armed ships of one nation to search the merchant vessels of another, would be rather a mark of vassalage than of independence. But to this part of the system the United States, having no colonies either on the coast of Africa or in the West Indies, cannot give effect.

You will add that, by the Constitution of the United States, it is provided that the judicial power of the United States shall be vested in a supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. It provides that the judges of these courts shall hold their offices during good behavior, and that they shall be removable by impeachment and conviction of crimes or misdemeanors. There may be some doubt whether the power of the Government of the United States is competent to institute a court for carrying into execution their penal statutes beyond the Territories of the United States—a court consisting partly of foreign judges, not amenable to impeachment for corruption, and deciding upon the statutes of the United States without appeal.

That the disposal of the negroes found on board the slave-trading vessels which might be condemned by the sentence of these mixed courts, cannot be carried into effect by the United States; for, if the slaves of a vessel condemned by the mixed court should be delivered over to the Government of the United States as free men, they could not, but by their own consent, be employed as servants or free laborers. The condition of the blacks being, in this Union, regulated by the municipal laws of the separate States, the Government of the United States can neither guaranty their liberty in the States where they could only be received as slaves, nor control them in the States where they would be recognised as free.

That the admission of a right in the officers of foreign ships of war to enter and search the vessels of the United States in time of peace, under any circumstances whatever, would meet with universal repugnance in the public opinion of this country. That there would be no prospect of a ratification, by advice and consent of the Senate, to any stipulation of that nature. That the search by foreign officers, even in time of war, is so obnoxious to the feelings and recollections of this country, that nothing could reconcile them to the extension of it, however qualified or restricted to a time of peace. And that it would be viewed in a still more aggravated light, if, as in the treaty with the Netherlands, connected with a formal admission that even vessels under convoy of ships of war of their own nation should be liable to search by the ships of war of another.

You will, therefore, express the regret of the President that the stipulations in the treaties communicated by Lord Castlereagh are of a character to which the peculiar situation and institutions of the United States do not permit them to accede. The Constitutional objection may be the more readily understood by the British Cabinet, if they are reminded that it was an obstacle proceeding from the same principle which prevented Great Britain from becoming, formally, a party to the Holy Alliance; neither can they be at a loss to perceive the embarrassment under which we should be placed, by receiving cargoes of African negroes, and be bound at once to guaranty their liberty, and to employ them as servants. Whether they will be as ready to enter into our feelings, with regard to the search, by foreign navy lieutenants, of vessels under convoy of our own naval commanders, is, perhaps, of no material importance. The other reasons are presumed to be amply sufficient to convince them that the motives for declining this overture are compatible with an earnest wish that the measures concerted by these treaties may prove successful in extirpating that root of numberless evils—the traffic in human blood; and with the determination to co-operate, to the utmost extent of our powers, in this great vindication of the sacred rights of humanity.

JOHN QUINCY ADAMS.

*Extract of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, Dec. 8, 1818.

The despatch of the 2d November, addressed to Mr. Gallatin and myself, arrived here on the 6th instant.

Of the subjects to which it relates, viz., impressment and the slave trade, the department will have been long since informed by our joint communications that only the former had a place in the late negotiation. As we came to no agreement on it, I am happy to think that none of the expectations of the President will have been departed from. It will also have been seen that, had this despatch reached us before the negotia-



## Relations with Great Britain.

tion closed, although it would have affected our conduct on one of the points, the result would have been the same. I design to transmit a copy of it to Paris for Mr. Gallatin's information.

*Extract of a letter from Mr. Adams to Mr. Rush, dated*

DEPARTMENT OF STATE,  
Washington, Dec. 1, 1818.

Your despatches to No. 36, inclusive, have been received at this office. Of the various subjects to which they relate, and which appear to require particular notice, I propose now to take a review, according to the successive order of their dates.

The first is No. 22, dated 19th June, and enclosing your correspondence with Lord Castlereagh relative to a passage in a printed report of a committee of the House of Representatives of the United States to that body, mentioning the rejection by the President of the four articles which had been proposed by the British Government as additions to the commercial convention of 3d July, 1815, and approving that rejection, upon an idea entertained by the committee that the fourth of those articles would have interfered with the settled policy of the United States in relation to the Indians within their limits. This remark of the committee appears to have affected the sensibility of the British Cabinet upon two grounds: first, as they considered that the rejection of those articles had not been previously communicated to them; and, secondly, because they thought the article in question did not bear the construction, and they explicitly disclaimed the intention that it should bear such a construction as the committee of Congress had thought applicable to it.

With regard to the first point, the explanation which ensued between you and Lord Castlereagh appears to have placed it in the proper point of view. The articles had been presented to your predecessor as embracing the utmost extent which the British Government would consent to give to our commercial intercourse with their colonial possessions in this hemisphere. Before your departure from this country, the President had made up his mind not to accept them, and your instructions had authorized you to make this determination known to the British Government in the manner which it was supposed would be most friendly and conciliatory. The articles had been delivered without any accompanying document, note, or commentary; and as it was not believed here that they could, under any modification, be made the basis of an arrangement between the two Governments, upon the subject to which they relate, and as it was given us explicitly to understand that Great Britain could concede nothing more of relaxations to her colonial and navigation system, it was thought useless to enter into discussion, of which there was no prospect that it would terminate in agreement, and which might tend to irritation, and that the most inoffensive manner of communicating the

non-acceptance of the articles would be verbally, in a personal interview between yourself and Lord Castlereagh. On reference to your report of your first conference with him, on the 3d of January, it appears that the part of your instructions to which I allude was then executed; and that, without using the unaccommodating term of *rejection*, you communicated to him the disposition of the President, with regard to the four articles, in a manner altogether congenial to the spirit of that formula of the British Constitution by which the dissent of the Crown is signified to an act which has passed both Houses of Parliament—*le Roy s'avisera*. There was, indeed, so little of ambiguity in the intimations given by you at that time, that when, before the receipt of your despatch No. 22, Mr. Bagot came to me with a copy of Lord Castlereagh's note to you of 29th May, which had been sent to him, I recurred immediately to the file of your despatches, and read to him that part of your report of what passed between you and Lord Castlereagh at your conference on the 3d of January; observing to him that I had little imagined, after that disclosure of the President's sentiments concerning the four articles, that the British Government would have expected any further reference to them on the part of the United States.

A copy of the four articles was furnished to the committee of the House of Representatives charged with the duty of reporting to the House upon the state of the commercial relations between the United States and the British West Indies. That committee drew their own conclusions upon the probable operation of the articles, and particularly of the fourth. They were communicated to them without comment on the part of the Executive. They knew the articles had not been accepted, but the reasons of the non-acceptance had not been stated to them. It is true that the article was the same which, at the negotiation of the commercial convention of July, 1815, had been offered by the British Plenipotentiaries; that the objection to it, now suggested by the committee, had, at that time, been avowed by those of the United States; that the British Plenipotentiaries did then disclaim the intention of giving it a construction which would import the admission of British traders to any intercourse with Indians within the territories of the United States, and did offer to introduce into the article any words which might be necessary to guard it against that construction; and that the article was then finally declined upon another ground. But the same reason for declining it still subsists, and is now as operative as it was in 1815; and, if it did not occur to the committee, it was because the other, being more obvious upon the face of the article as presented to them, doubtless struck them more forcibly, as of itself decisive, and needing no further notice of objections less important, though not less insuperable.

In the negotiation with which you are now occupied, for the renewal and extension of that compact, we have not altogether abandoned the hope that the British Cabinet will ultimately

## Relations with Great Britain.

concede something further of principle; and, if this article should be discussed in your conferences, that they will consent to remove the other feature of exclusion from it, which still renders it inadmissible. Your powers will enable you to agree to it with such modifications as may divest it both of the exceptionable construction disclaimed, and of the restrictive exclusion yet adhered to by Great Britain.

*The Secretary of State to Mr. Rush.*

DEPARTMENT OF STATE,  
Washington, May 7, 1819.

SIR: From the documents transmitted by Mr. Gallatin and you, relating to the negotiation of the commercial convention of 20th October last, it appears—

That, at the third conference, a draught of two articles was proposed by the American Plenipotentiaries for regulating the commercial intercourse between the United States, and, 1, the British islands in the West Indies, and, 2, the provinces of Nova Scotia and New Brunswick, in North America.

That, at the fifth conference, the British Plenipotentiaries offered the counter-projet of an article for the intercourse between the United States and Nova Scotia and New Brunswick; and, at the eighth conference, an article for that between the United States and the British West Indies.

That, in presenting this last article, they stated that they could not consent to sign an article upon that subject unless the American Plenipotentiaries would accede, in substance, to the article proposed at the fifth conference concerning Nova Scotia and New Brunswick, and to an article proposed by the British Government on the 19th of March, 1817, concerning the trade between the United States and the island of Bermuda.

And that the American Plenipotentiaries, not feeling themselves authorized by their instructions to sign the West India article as proposed by the British Plenipotentiaries, agreed to take the whole question *ad referendum* to their Government.

In comparing the West India article, proposed by the American Plenipotentiaries at the third conference, with that offered by the British Plenipotentiaries at the eighth, it appears—

1. That, in the American projet, the ports in the West Indies proposed to be opened to American shipping are specifically named; while, in the British projet, they are only designated as the ports which shall be open to the vessels of any other foreign Power or State. It is observed, in your joint letter of 20th October, that these ports are the same as those proposed by the American projet, with the exception of St. Christopher's, St. Lucia, Demarara, Essequibo, and Berbice; but the difference between the two draughts is otherwise material; for, if the ports were specifically named, the privilege of admission to them would be positive, and not revocable at the

pleasure of Great Britain; but if passing under the general description, it might at any time be revoked merely by prohibiting the admission to any other foreign vessels.

2. That, in the American projet, the articles of naval stores, provisions, and lumber, in general terms, are among those stipulated for admission; while, in the British counter-projet, the naval stores are restricted to pitch, tar, and turpentine; the lumber to staves, headings, and shingles; and from the article of provisions are excepted salted provisions of every description. The American article provides for the liberty of importing other articles of the growth, produce, or manufacture of the United States, and the importation of which shall not be entirely prohibited from every other place whatever. The British article narrows the limitation to articles not prohibited from every other foreign place, so that it would reject articles which might, at the same time, be imported from the British colonies in North America.

3. That the American projet provides for the liberty of exporting molasses and salt, (omitting rum,) and sugar and coffee, to the amount of one-fourth part of the tonnage of the vessel, and other articles, the exportation of which to other foreign countries is not entirely prohibited. The British projet, adding the article of rum, denies those of coffee and sugar, and allows only the exportation of other articles not prohibited to be exported to other foreign countries in foreign vessels; so that articles allowed to be exported to other foreign countries in British vessels would still be prohibited from exportation in vessels of the United States.

These differences, so important in themselves, became still further aggravated by a comparison between the two articles for regulating the intercourse between the United States and the British North American provinces of Nova Scotia and New Brunswick, respectively connected with the West India trade article. The American proposal is, that the vessels of both nations should be allowed to export from the United States into Nova Scotia and New Brunswick the same articles, the importation of which should be allowable by the West India article into the West Indies in American vessels, and any other articles, the importation of which from every other country should not be prohibited; and that the vessels of both nations should have liberty to import from Nova Scotia and New Brunswick into the United States, gypsum and grindstones, and any other article the growth, produce, or manufacture of those provinces, the importation of which into the United States from every other foreign country shall not be prohibited.

The British proposal is, that the vessels of both nations should be allowed to export from the United States into Nova Scotia and New Brunswick, not only the same articles to be admitted by the direct trade to the West Indies, but the additional articles of scantling, planks, hoops, fruits, and seeds, with a specific enumeration of grain and breadstuffs instead of provisions; and



*Relations with Great Britain.*

that the vessels of both nations should be allowed to import from Nova Scotia and New Brunswick into the United States, not only gypsum, grindstones, and any other articles, the growth, produce, or manufacture of the said provinces, but also any produce or manufacture of any part of His Britannic Majesty's dominions, the importation of which into the United States shall not be entirely prohibited.

To complete this review, we are to compare the proposals of the two parties in relation to the trade between the United States and the island of Bermuda.

The American proposal is to include it in the West India trade article, and thereby place it on precisely the same footing as the West India islands.

The British article of 19th March, 1817, proposed that the vessels of both nations should be allowed to import from the United States into the island of Bermuda, not only the articles proposed by the British West India article to be admissible in the West Indies, but hemp, flax, masts, yards, bowsprits, plank, timber, and lumber of any sort, breadstuffs enumerated, and grain of any sort, of the growth or production of the United States; and that they should be allowed to export from Bermuda to the United States any goods or commodities whatsoever, exportable by law from the British West Indies to any foreign country in Europe; and, also, sugar, molasses, coffee, cocoa-nuts, ginger, and pimento, and all goods of British growth, produce, or manufacture.

The views of the British Government, in these connected proposals, are elucidated by the right which, in the West India trade article, they insist upon reserving, to impose higher duties upon all articles so importable from the United States to the West Indies, than upon all similar articles when imported from any of His Majesty's dominions, and being of the growth, produce, or manufacture of His Majesty's possessions; and, by the statement of the British Plenipotentiaries, at the eighth conference, as entered upon the protocol, that they could not sign any article concerning the direct trade between the United States and the West Indies, unless with their proposed articles concerning the intercourse of the United States with Nova Scotia and New Brunswick, and with the island of Bermuda.

No objection will, on our part, be made to the exception of the articles proposed by the British project to be excluded entirely from the trade, namely, salted provisions of every description, although their probable value is equal to one-third of the whole mass of the exports to the West Indies; but it cannot be disguised that, if the three articles, taken together, would not, in their immediate operation, secure the carrying of the whole trade in British shipping, to the exclusion of that of the United States, they would at least leave the ultimate operation entirely at the discretion of the British Government, who, by proportioning the difference of duties upon the articles of our growth, produce, or manufacture, and upon the like articles of the produce, growth,

or manufacture of the British dominions, to the experience of their own interest, may annul entirely the direct importations, and secure the conveyance of the whole to their own ships. They agreed, indeed, to stipulate that the duties upon the direct shall not be other or higher than upon the indirect importations; but all the effect of this engagement is demolished by the right reserved of imposing higher duties on articles of our growth, produce, or manufacture, than upon like articles of their own; for, as the indirect importations would be exclusively in British vessels, it must be expected that all articles imported from British colonies would be received as British produce, without scrutiny with regard to their origin; and thus the produce or manufactures of the United States, imported indirectly through Halifax, St. John's, or Bermuda, would be received as of British produce or manufacture, and less imposed than the same articles imported directly from the United States. And the reserved right of aggravating the duty upon the direct importation being unlimited, might at any time, at the pleasure of the British Government, be made equivalent to a total prohibition; while, at the same time, our power of countervailing legislation would be locked up by the terms of the compact.

With the convention of 20th October, all the documents transmitted by you, relating to the negotiation, were submitted to the Senate. Those relating to the subject of this suspended article were referred to the Committee of Foreign Relations of that body, by whom, towards the close of the session, a confidential report was made; a copy of which is herewith enclosed. The shortness of the time not having admitted of a discussion of the report, it was referred to this Department; and as it is probable that, unless an amicable arrangement of the subject can be effected before the next winter by negotiation, the measures suggested at the close of the report, as essential for completing the experiment of our counteracting system, will be brought forward in Congress, the President, always preferring the principle of arrangement by amicable compromise to the conflict of adversary laws, wishes to make another effort to prevail upon the British Cabinet to adjust this concern by mutual concession, and upon terms of practical reciprocity.

You are, therefore, authorized to agree to two additional articles, as supplementary to the convention, accepting the restricted list of articles as proposed by the article which the British Plenipotentiaries offered at the eighth conference, and submitting to the exclusion of salted provisions, and to the confined list of naval stores and lumber, among the importable, and to the exclusion of sugar and coffee from the list of the exportable articles in American vessels, in the direct trade with the West Indies; but with the condition that the list of importable articles to the West Indies shall be the same as that to Bermuda and to the North American colonies; and that the exportable articles shall be confined to such as are of the growth, produce, or manufacture of

*Relations with Great Britain.*

the British West India and North American colonies; and that no other or higher duties shall be payable on importations from the United States, directly or indirectly, than on similar articles imported from any foreign country, or from any of the British colonies themselves.

A draught of two articles to this effect, and forming a compromise between the articles proposed by you at the third, and those offered by the British Plenipotentiaries at the fifth and eighth conferences, is herewith enclosed. We consent, by this proposal, to restrict the list of articles to be admitted in the trade, even as the British Cabinet itself desires; but we adhere to the principle that, of this traffic, thus limited, our shipping shall have the chance of carrying its fair proportion, and shall stand upon equal terms of competition with the British. It is not intended that you should be confined to the letter of this draught. It may be modified in regard to the expression, as you think proper; and, if desired by the British Government, the two passages included within brackets in the draught of the first article may be omitted. But you will candidly state to Lord Castlereagh, that our ultimate object of participating in the navigation of this necessary trade having been explicitly avowed, must be steadily pursued; that we may deem it more for our interest to leave it on the footing of reciprocal mutual regulation, than to bind ourselves by any compact, the result of which must be to disappoint us of that object; that we think the effect of the three articles declared to be inseparable by the British Plenipotentiaries, would be to deprive us even of the portion of the carrying trade which we have already secured by our existing laws, and which we believe we can further secure; and that it is far better for the harmony of the two nations to avoid any bargain in which either party, after agreeing to it, shall have, by the experience of its effect, the sentiment of having been overreached brought home to its councils. We ask for no such engagement on the part of Great Britain. We have too much confidence in the wisdom and liberality of her Cabinet to believe that they would wish to obtain such an engagement from us. At every step of counteracting regulation that we have taken, or shall take, in this concern, we proceed with reluctance, because we are convinced it might be adjusted more to the mutual interest and mutual understanding by amicable arrangement than by countervailing legislation. But, to whatever arrangement we may subscribe, we are convinced it can answer no useful purpose, unless it shall prove to be founded on the reciprocity of real effects, instead of hinging upon that of words.

Your power heretofore given is considered sufficient to authorize you to sign two additional articles of the substance of those enclosed, with any person or persons duly authorized by the British Government. If agreed to, they may be declared supplementary to those of the convention of the 20th of October, and to be of the same duration. They must, of course, be submitted to the sanction of the Senate for ratification here.

I am, very respectfully, sir your most obedient servant,

JOHN Q. ADAMS.

ART. 1. The vessels of the United States and British vessels shall have liberty to import, from any of the ports of the United States to which any foreign vessels are permitted to come, into any of the following ports, namely: Kingston, Savannah le Mer, Montego bay, Santa Lucia, Antonio, Saint Anne, Falmouth, and Porta Maria, in the island of Jamaica; San Joseph, in the island of Trinidad; Scarborough, in the island of Tobago; Saint George, in the island of Granada; Kingston, in the island of Saint Vincent; Bridgetown, in the island of Barbadoes; Rosseau, in the island of Dominica; St. John's, in the island of Antigua; Road Harbor, in the island of Tortola; the principal port of Turk's Island; Nassau, in the island of New Providence; Pittstown, in Crooked Island; and the principal port of the island of Bermuda, tobacco, pitch, tar, turpentine, staves, headings, shingles, horses, mules, poultry, live stock, and provisions of all sorts, (except salted provisions of any description, whether meat, fish, or butter,) such articles being the growth, produce, or manufacture of the United States, [and any other articles of the growth, produce, or manufacture of the United States, the importation of which into the above-mentioned ports shall not be entirely prohibited from every other foreign country or place.] And the vessels of the United States and British vessels shall have liberty to export, from any of the said ports of His Britannic Majesty's dominions, to any of the aforesaid ports of the United States, rum, molasses, and salt, being of the growth, produce, or manufacture of any of the above-mentioned dominions, [and any other articles of the said growth, produce, or manufacture, the exportation of which to any other foreign country or place shall not be entirely prohibited.]

The vessels of either party, employed in the trade provided for by this article, shall be admitted in the ports of the other, as above mentioned, without paying any other or higher duties or charges than those payable in the same ports by the vessels of such other party; and they shall have liberty, respectively, to touch, during the same voyage, at one or more of the above-mentioned ports of the other party, for the purpose of disposing of their inward, and of taking on board their outward cargoes.

No other or higher duties shall be paid on the importation from the United States into the above-mentioned ports of the British colonies, or from the said ports into the United States, of any of the articles importable by virtue of this convention, when imported in the vessels of either of the two nations, than when imported in the vessels of the other; nor when imported directly between the United States and the said ports, or vice versa, than when imported in a circuitous manner. No other or higher duties shall be charged upon any of the above-mentioned articles, when imported by virtue of this convention



into the United States, or into any of the ports aforesaid, than may be charged on similar articles when imported from any foreign country into the United States, or from any other country or place whatsoever into the said ports. The same duties shall be paid, and the same bounties shall be allowed on the exportation of any articles which may, by virtue of this article, be exported from the said British ports to the United States, or from the United States to the said ports, whether in vessels of the United States or in British vessels.

ART. 2. The vessels of the United States and British vessels shall have liberty to export from any of the ports of the United States to which any foreign vessels are permitted to come, to the ports of Halifax, in Nova Scotia, and of St. John's, in New Brunswick, and to any other port within the said provinces of Nova Scotia and New Brunswick, to which vessels of any other foreign nation shall be admitted, any article of the growth, produce, or manufacture of the United States, which, by virtue of the preceding article, is importable from the United States into the British colonial ports therein named, and upon the same terms in regard to the payment of duties and charges; and they shall have liberty to import from any of the aforesaid ports within the provinces of Nova Scotia and New Brunswick, into any of the aforesaid ports of the United States, gypsum and grindstones, the produce or manufacture of the said provinces, and any other articles of the said produce or manufacture, the exportation of which from the said provinces, and the importation of which into the United States, to or from any other foreign country, shall not be altogether prohibited. The vessels of either party employed in this trade, shall pay no other or higher duties or charges than those of the other. The same duties of importation and of exportation shall be paid on the articles imported or exported by virtue of this article, and the same bounties allowed on their exportation, whether in vessels of the United States or in British vessels.

*Extract of a letter from Mr. Rush, Envoy, &c., at London, to Mr. Adams, Secretary of State, dated*

LONDON, June 14, 1819.

I was honored, on the 8th instant, with your despatch No. 17, of the 7th of May.

On the 9th I addressed a note to Lord Castlereagh, to request an interview, that I might proceed to lay before this Government, without losing any time, the determinations to which the President had come on the important subject of the commercial intercourse between the United States and the West Indies. His Lordship appointed yesterday for me to wait upon him.

I commenced with calling to mind the point at which the discussion had left off upon this branch of the negotiation last Autumn, and gave a new assurance of the President's earnest desire to see this trade opened upon a footing of entire

and liberal reciprocity, rather than stand any longer upon the conduct of arbitrary laws. In this spirit I was instructed to offer a projet, which had been carefully drawn up upon the basis of a compromise between the pretensions of the two parties, and which, indeed, would be found to fall in so entirely with the propositions of Great Britain, in some respects, and to make such an approximation to them in others, that a hope was cherished of its proving acceptable.

That, in particular, it would be found to adopt the description of naval stores and of lumber, as articles to be exported from the United States, upon which the British Plenipotentiaries had themselves insisted—confining the former to pitch, tar, and turpentine, and the latter to staves, headings, and shingles, contrary to the more enlarged signification which it had been the desire of the American Plenipotentiaries to give to them; that it acquiesced also in the exclusion of all salted provisions, including the important article of fish; that it, moreover, came wholly into the British views, in consenting to the exclusion of sugar and coffee as articles to be imported into the United States from the British West Indies; it being understood that the above traffic was to be opened upon equal terms, in all respects, to American and British vessels.

In return for such an accommodation to the colonial views of Great Britain, the projet asked, on the other hand, that the list of articles exportable from the United States to the West Indies should be the same as to Bermuda, and to the British North American colonies; that the articles exportable to the United States should be confined to such as were of the growth, produce, or manufacture of the above islands or colonies; and that the same duties, and no more, should be payable on importations from the United States into the West Indies, whether the articles were brought directly or indirectly, as on similar articles imported into the West Indies from any foreign country, or from any of the British colonies.

With this outline of its contents, I handed a copy of the projet which came enclosed in your despatch to his Lordship. The discussions between the Plenipotentiaries of the two Governments having recently been so ample on the matters which it embraces, I thought that nothing was likely to be gained by my leaving room for the possible hope that any of its essential provisions would be departed from. Accordingly, I deemed it best to say with candor, in the first instance, that as it was offered, so was it to be taken; for that my present instructions would admit of no deviations, unless on points verbal, or otherwise immaterial. I shall bear in mind that the parts within crotchets may be omitted. His Lordship received it with an assurance that a full and candid consideration would be given to it. The pressure of Parliamentary business might, he said, delay an attention to it for some weeks, but that at as early a day as was practicable it would be taken up. I replied, that I believed that the great object would be attained on our side if a decision were communicated to me in full time

to be made known to the President before the next session of Congress. Should our propositions prove acceptable, I was empowered, I added, to make them supplementary to the convention of the 20th of October, subject always to the ratification of the Senate. I here closed, having endeavored in the course of my remarks to convey to his Lordship's mind those general reasonings applicable to our propositions which are unfolded in your despatch, and to which I shall again advert on future occasions, should it become necessary. The confidential report of the 19th of February, by the Committee of Foreign Relations in the Senate, was safely received under cover of your despatch.

*Extracts of a letter from Mr. Rush to the Secretary of State, dated*

LONDON, September 17, 1819.

Lord Castlereagh came to town on the 15th instant, and granted me an interview yesterday on the business of the West India trade.

Holding in his hands the proposals I had submitted, his Lordship premised that he thought it would be perhaps best for him to answer them in the same general way that the British articles, submitted through my predecessor in 1817, had been answered; that is, not in any formal manner, but merely by a word of conversation with me. I said that I was sure that the form of the answer would make no difference; its transmission to my Government, in whatever mode his Lordship might be pleased to convey it to me, would doubtless effect every substantial purpose.

In the answer there was no hesitation. Our proposals, he said, were not of a nature to form the basis of any agreement between the two countries. They would effect an entire subversion of the British colonial system: from this system they were not prepared to depart. Their colonies were, in many respects, burdensome, and even liable to involve the country in wars. Garrisons and other establishments were constantly maintained in them, at a heavy charge. In return, it was just that they should be incumbered with regulations, the operation of which might help to meet, in part, the expenses which they created. The great principle of these regulations was known to be the reservation of an exclusive right to the benefit of all their trade—a principle, of which the free-port acts had, it was true, produced some relaxation; but it had never been the intention of this Government to do any thing more than to offer to us a participation in these acts. Some modifications of them would have been acquiesced in, suggested by local causes, and an anxious desire that our two countries might come to an understanding on this part of their intercourse. But to break down the system was no part of their plan. Our proposals, therefore, could not be accepted. Such were his remarks.

I observed, that to break down the system was not our aim. All that we desired was, that the trade, as far as it was gone into at all, should be open to the vessels of both nations upon pre-

cisely equal terms. If the system fell by such an arrangement, it was as an incident, and only showed how difficult it seemed to render its long continuance consistent with a proper measure of commercial justice towards us.

So broad and unequivocal was his Lordship's refusal, that it seemed almost superfluous to ask him to be more particular; yet, perceiving in me a wish to be made acquainted rather more specifically with the objections, he said that he would not scruple to mention them without, however, entering into details, for which he was not prepared, and which had been amply unfolded on both sides during the negotiation this time twelvemonth. The objections were three-fold. First, we asked an enumeration, by name, of all the ports in the West Indies that we desired should be open to our vessels; secondly, that the trade between the United States and the British colonies on the continent of America, and with Bermuda, should be confined within the same limits as that between the United States and the West India islands direct; and, thirdly, we asked that the duties on articles imported from the United States into the islands, in American ships, should be no higher than on the same articles when imported in British ships from the United States, or from any other country, without saying foreign country. These three provisions, particularly the second and third, would form insurmountable obstacles to the conclusion of any convention which should purport to embrace them.

I contented myself with replies as general. The communications from the joint mission last year, as well as some separate ones from this legation after it was over, will have informed the President how fully the views of our Government, on the injustice of this system, in all its past effects upon us, have heretofore been stated. On this occasion I remarked, as to the first objection, that it was plain that, if the ports were not specially named, the privilege of admission to them would, at any time, be revokable whenever Great Britain thought fit to exclude from them any other foreign vessels. It would be, in short, a privilege with nothing positive or certain in its character. As to the second, I said that, should an indirect trade be opened with the islands in any greater extent than the direct trade, nothing was more clear than that the greater part, or the whole, would soon be made to flow in the channel of the former, to the manifest advantage of British bottoms. On the third objection, I said that an explanatory remark or two was all that I should add (it would be but repetition) to what had often been urged before. That we should deny to Great Britain the common right of protecting the industry of a part of her own dominions, by laying discriminating duties in its favor, might be thought, at first blush, to wear an appearance not defensible; but it would be found, on a moment's examination, to be strictly so. The system built up by Britain must be looked at altogether. It was in itself so inverted and artificial, that principles not disputed in the abstract ceased to be just when applied to it. Though one and



*Relations with Great Britain.*

all of these colonies were, indeed, of her dominion, yet were they made to stand, with respect to us, in the light of separate and independent countries. This was the keystone of the colonial doctrine. Why should we not, in turn, adopt and apply it to Great Britain? If we stipulated not to impose upon articles imported into the United States from the British West Indies any higher duties than upon the same articles coming from any other foreign country, a similar provision by Great Britain, to impose on articles exported from the United States to her islands no higher duties than on the same articles when brought from any other foreign country, would obviously be one of but nominal reciprocity; since, after her own dominions on the continent of America, there was no other place whence such exportations to her islands would ever be made. Thus it was that this third provision, combined with the two others, became necessary to enable the United States, whilst prosecuting a trade with the British West Indies, to place their navigation upon a footing, not of verbal merely, but of real equality. It was the latter alone that could lay the foundations of a compact between the two nations that could ever be satisfactory or lasting.

His Lordship did not hold to such views, and the conversation was not prolonged. It is proper for me to add, that he requested it to be understood that, whilst our proposals were declined, it was altogether in a friendly spirit, and that no complaint would be made, as had frequently been intimated, at our resorting to any just and rightful regulations of our own which we might deem necessary to meet theirs, in relation to these islands. I rejoined, that I thought it probable that some such regulations would, before long, in addition to those existing, be adopted.

Having earnestly endeavored to fulfil all my instructions, in their full spirit of anxiety for a different result upon this subject, my duty appears now to have arrived at its close.

*Extract of a letter from Mr. Adams, Secretary of State, to Mr. Rush, Envoy, &c. at London, dated*

DEPARTMENT OF STATE, May 27, 1820.

I have the honor of transmitting, herewith, a copy of the laws passed at the last session of Congress, which closed on the 15th instant, among which you will find one, page 116, entitled "An act supplementary to an act concerning navigation," which has an important bearing upon our commercial relations with Great Britain.

The subject to which that act relates has so recently and so fully been discussed between the two Governments, that it may be superfluous, though it cannot be unseasonable, to assure the British Cabinet, as you are authorized to do, that it was adopted with a spirit in nowise unfriendly to Great Britain; and that, if at any time the disposition should be felt there to meet this country by arrangements founded on principles of reciprocity, it will be met, on the part of the United States, with an earnest wish to substitute

a system of the most liberal intercourse, instead of that of counter-prohibitions, which this act has only rendered complete.

## CONVENTION WITH GREAT BRITAIN.

The United States of America and His Majesty the King of the United Kingdom of Great Britain and Ireland, desirous to cement the good understanding which happily subsists between them, have for that purpose, named their respective Plenipotentiaries, that is to say: the President of the United States, on his part, has appointed Albert Gallatin, their Envoy Extraordinary and Minister Plenipotentiary to the Court of France; and Richard Rush, their Envoy Extraordinary and Minister Plenipotentiary to the Court of His Britannic Majesty; and His Majesty has appointed the right honorable Frederick John Robinson, treasurer of His Majesty's Navy, and president of the committee of Privy Council for trade and plantations; and Henry Goulburn, Esq., one of His Majesty's under Secretaries of State: who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

ART. 1. Whereas differences have arisen respecting the liberty, claimed by the United States for the inhabitants thereof, to take, dry, and cure fish on certain coasts, bays, harbors, and creeks of His Britannic Majesty's dominions in America, it is agreed between the high contracting parties that the inhabitants of the said United States shall have, forever, in common with the subjects of His Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Ramea islands, on the western and northern coast of Newfoundland; from the said Cape Ray to the Quirpon islands; on the shores of the Magdalen islands; and also on the coasts, bays, harbors, and creeks, from Mount Joli, on the southern coast of Labrador, to and through the straits of Belleisle, and thence northwardly, indefinitely, along the coast, without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company: and that the American fishermen shall also have liberty, forever, to dry and cure fish in any of the unsettled bays, harbors, and creeks of the southern part of the coast of Newfoundland, hereabove described, and of the coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the ground. And the United States hereby renounce, forever, any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks, or harbors of His Britannic Majesty's dominions in America, not included within the above-mentioned limits: *Provided, however,* That the American fishermen shall be admitted to enter such bays or harbors for the purpose of shelter

*Relations with Spain.*

and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

ART. 2. It is agreed that a line drawn from the most northwestern point of the Lake of the Woods, along the forty-ninth parallel of north latitude, or, if the said point shall not be in the forty-ninth parallel of north latitude, then that a line drawn from the said point due north or south, as the case may be, until the said line shall intersect the said parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the line of demarcation between the territories of the United States and those of His Britannic Majesty, and that the said line shall form the northern boundary of the said territories of the United States, and the southern boundary of the territories of His Britannic Majesty, from the Lake of the Woods to the Stony mountains.

ART. 3. It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open, for the term of ten years from the date of the signature of the present convention, to the vessels, citizens, and subjects of the two Powers: it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other Power or State to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves.

ART. 4. All the provisions of the convention "to regulate the commerce between the territories of the United States and of His Britannic Majesty," concluded at London on the third day of July, in the year of our Lord one thousand eight hundred and fifteen, with the exception of the clause which limited its duration to four years, and excepting, also, so far as the same was affected by the declaration of His Majesty respecting the island of St. Helena, are hereby extended and continued in force for the term of ten years from the date of the signature of the present convention, in the same manner as if all the provisions of the said convention were herein specially recited.

ART. 5. Whereas it was agreed, by the first article of the Treaty of Ghent, that "all territory, places, and possessions, whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places,

and which shall remain therein upon the exchange of the ratifications of this treaty; or any slaves or other private property." And whereas, under the aforesaid article, the United States claim for their citizens, and as their private property, the restitution of, or full compensation for, all slaves who, at the date of the exchange of the ratifications of the said treaty, were in any territory, places, or possessions, whatsoever, directed by the said treaty to be restored to the United States, but then still occupied by the British forces, whether such slaves were, at the date aforesaid, on shore, or on board any British vessel lying in waters within the territory or jurisdiction of the United States. And whereas differences have arisen whether, by the true intent and meaning of the aforesaid article of the Treaty of Ghent, the United States are entitled to the restitution of, or full compensation for, all or any slaves, as above described, the high contracting parties hereby agree to refer the said differences to some friendly sovereign or State, to be named for that purpose; and the high contracting parties further engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters referred.

ART. 6. This convention, when the same shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, and by His Britannic Majesty, and the respective ratifications mutually exchanged, shall be binding and obligatory on the said United States and on His Majesty; and the ratifications shall be exchanged in six months from this date, or sooner, if possible.

In witness whereof the respective Plenipotentiaries have signed the same, and have hereunto affixed the seal of their arms. Done at London, this twentieth day of October, in the year of our Lord one thousand eight hundred and eighteen.

[L. S.]	ALBERT GALLATIN,
[L. S.]	RICHARD RUSH,
[L. S.]	FRED. JOHN ROBINSON,
[L. S.]	HENRY GOULBURN.

## SPAIN—RATIFICATION OF THE CONVENTION OF 1802.

[Communicated to the House, January 5, 1819.]  
To the House of Representatives  
of the United States:

I transmit to Congress a proclamation, dated the 22d of last month, of the convention made and concluded at Madrid, between the Plenipotentiaries of the United States and His Catholic Majesty, on the 11th of August, 1802, the ratifications of which were not exchanged till the 21st ultimo.

JAMES MONROE.

JANUARY 5, 1819.

BY THE PRESIDENT OF THE UNITED STATES.  
A PROCLAMATION.

Whereas a convention between the United States of America and His Catholic Majesty,



made and concluded at Madrid on the 11th day of August, in the year one thousand eight hundred and two, by Charles Pinckney, at that time Minister Plenipotentiary of the United States in Spain, and Don Pedro Cevallos, Counsellor of State, Gentleman of the Bedchamber, First Secretary of State, and Superintendent of Posts and Post Offices, fully authorized and empowered by their respective Governments, was duly ratified by the then President of the United States, by and with the advice and consent of the Senate thereof, on the ninth day of January, in the year one thousand eight hundred and four, and was ratified by the King of Spain on the 9th day of July last past: and whereas the ratifications of the two Governments were exchanged in this city on the 21st day of December, by John Quincy Adams, Secretary of State of the United States, on the part of the United States, and Don Luis de Onís, Envoy Extraordinary and Minister Plenipotentiary from Spain, on the part of Spain; which convention is, word for word, as follows:

*A Convention between His Catholic Majesty and the United States of America, for the indemnification of those who have sustained losses, damages, or injuries, in consequence of the excesses of individuals of either nation, during the late war, contrary to the existing treaty or the laws of nations.*

His Catholic Majesty and the Government of the United States of America wishing amicably to adjust the claims which have arisen from the excesses committed during the late war by individuals of either nation, contrary to the laws of nations; or the treaty existing between the two countries, His Catholic Majesty has given, for this purpose, full powers to his Excellency Don Pedro Cevallos, Counsellor of State, Gentleman of the Bedchamber in employment, First Secretary of State and Universal Despatch, and Superintendent General of the Posts and Post Offices in Spain and the Indies; and the Government of the United States of America to Charles Pinckney, a citizen of the said States, and their Minister Plenipotentiary near His Catholic Majesty, who have agreed as follows:

1. A Board of Commissioners shall be formed, composed of five Commissioners, two of whom shall be appointed by His Catholic Majesty, two others by the Government of the United States, and the fifth by common consent; and in case they should not be able to agree on a person for the fifth Commissioner, each party shall name one, and leave the decision to lot; and hereafter, in case of the death, sickness, or necessary absence, of any of those already appointed, they shall proceed in the same manner, to the appointment of persons to replace them.

2. The appointment of the Commissioners being thus made, each one of them shall take an oath to examine, discuss, and decide, on the claims which they are to judge, according to the laws of nations and the existing treaty, and with the impartiality justice may dictate.

3. The Commissioners shall meet and hold their sessions in Madrid, where, within the term of eighteen months, (to be reckoned from the day

on which they may assemble,) they shall receive all claims which, in consequence of this convention, may be made, as well by the subjects of His Catholic Majesty as by citizens of the United States of America, who may have a right to demand compensation for the losses, damages, or injuries, sustained by them, in consequence of the excesses committed by Spanish subjects or American citizens.

4. The Commissioners are authorized by the said contracting parties to hear and examine, on oath, every question relative to the said demands, and to receive as worthy of credit all testimony the authenticity of which cannot reasonably be doubted.

5. From the decisions of the Commissioners there shall be no appeal, and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of the claims as to the amount of the indemnification which may be adjudged to the claimants; the said contracting parties obliging themselves to satisfy the said awards in specie, without deduction, at the times and places pointed out, and under the conditions which may be expressed by the Board of Commissioners.

6. It not having been possible for the said Plenipotentiaries to agree upon a mode by which the above-mentioned Board of Commissioners should arbitrate the claims originating from the excesses of foreign cruisers, agents, consuls, or tribunals, in their respective territories, which might be imputable to their two Governments, they have expressly agreed that each Government shall reserve (as it does by this convention) to itself, its subjects or citizens, respectively, all the rights which they now have, and under which they may hereafter bring forward their claims, at such times as may be most convenient to them.

7. The present convention shall have no force or effect until it be ratified by the contracting parties, and the ratifications shall be exchanged as soon as possible.

In faith whereof, we, the underwritten Plenipotentiaries, have signed this convention, and have affixed thereto our respective seals. Done at Madrid this 11th day of August, 1802.

[L. S.] PEDRO CEVALLOS.

[L. S.] CHARLES PINCKNEY.

Now, therefore, be it known that I, James Monroe, President of the United States, have caused the said convention to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed. Done at the City of [L. S.] Washington, this twenty-second day of December, in the year of our Lord one thousand eight hundred and eighteen, and of independence the forty-third.

JAMES MONROE,

By the President:

J. Q. ADAMS.

# GREAT BRITAIN—WEST INDIA TRADE.

[Communicated to the Senate, January 27, 1819.]

[The following Acts of the British Parliament were communicated to the Senate by the Committee of Foreign Relations:]

An Act to consolidate and extend the several laws now in force for allowing the importation and exportation of certain goods and merchandise into and from certain ports of the West Indies. [June 27, 1805.]

Whereas, by an act passed in the twenty-seventh year of his present Majesty's reign, entitled "An act for allowing the importation and exportation of certain goods, wares, and merchandise, in the ports of Kingston, Savannah le Mer, Montego Bay, and Santa Lucia, in the island of Jamaica; in the port of Saint George, in the island of Granada; in the port of Rosseau, in the island of Dominica; and in the port of Nassau, in the island of New Providence, one of the Bahama islands;" and by several other acts passed subsequently thereto, the ports of Kingston, Savannah le Mer, Montego Bay, Santa Lucia, and Port Antonio, in the island of Jamaica; the port of Saint George, in the island of Granada; the port of Rosseau, in the island of Dominica; the port of Saint Johns, in the island of Antigua; the port of San Josef, in the island of Trinidad; the port of Scarborough, in the island of Tobago; the port of Nassau, in the island of New Providence, one of the Bahama islands; and the port of Road Harbor, in the island of Tortola, were opened for the importation of certain goods and merchandise, under certain regulations and restrictions; and whereas, it is expedient that such of the provisions of the said acts relating to the importation or exportation of any goods, wares, or merchandise, to or from the aforesaid ports, or any of them, or to the admission of any ships or vessels into the said ports, or any of them, or to any duties payable on such importation, exportation, or admission, as are now in force, should be consolidated into one act, and that such of the said laws as are now temporary should be made perpetual; and that, in addition to the aforesaid ports, the port of Saint Anne, in the island of Jamaica; the port of Pittstown, in Portland harbor, in Crooked Island, another of the Bahama islands; the port of Kingston, in the island of Saint Vincent; and the principal port in the island of Bermuda, should be opened under certain regulations and restrictions. May it, therefore, please your Majesty that it may be enacted, and

*Be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by authority of the same, That, from and after the passing of this act, wool, cotton wool, indigo, cochineal, drugs of all sorts, cocoa, logwood, fustic, and all sorts of wood for dyers' use, hides, skins, and tallow, beaver, and all sorts of furs, tortoise-shell, hard wood, or mill-timber, mahogany, and all other woods for cabinet ware, horses, asses, mules, and cattle, being the growth, or pro-*

duction of any of the colonies or plantations in America, or of any country on the continent of America belonging to or under the dominion of any foreign European Sovereign or State, and all coin and bullion, diamonds and precious stones, may be imported from any of the said countries into the several ports of Kingston, Savannah le Mer, Montego Bay, Santa Lucia, Antonia, and Saint Anne, in the island of Jamaica; the port of Saint George, in the island of Granada; the port of Rosseau, in the island of Dominica; the port of St. John's, in the island of Antigua; the port of San Josef, in the island of Trinidad; the port of Scarborough, in the island of Tobago; the port of Road Harbor, in the island of Tortola; the port of Nassau, in the island of New Providence, one of the Bahama islands; the port of Pittstown, in Portland harbor, in Crooked Island, another of the Bahama islands; the port of Kingston, in the island of Saint Vincent; and the principal port in the island of Bermuda, in any foreign sloop, schooner, or other vessel whatever, not having more than one deck, and being owned and navigated by persons inhabiting any of the said colonies or plantations in America, or countries on the continent of America belonging to or under the dominion of any foreign European Sovereign or State, any law, custom, or usage to the contrary notwithstanding.

2. *And be it further enacted, That, from and after the passing of this act, tobacco, being the growth or production of any island in the West Indies, or of any country on the continent of America belonging to or under the dominion of any foreign European Sovereign or State, may be imported from any of the said islands or countries into any of the said ports hereinbefore enumerated, in the like foreign ships and vessels, and be again exported from thence to any part of the United Kingdom, under the same rules, regulations, and restrictions, and subject to the like penalties and forfeitures as are in this act mentioned and contained, with regard to the goods, wares, and merchandise, hereinbefore enumerated.*

5. *And be it further enacted, That all such tobacco so imported into any of the said ports shall, when imported into any part of the United Kingdom from any of the said ports, pay the same duties of customs and excise, and none other, as tobacco the growth or production of any of His Majesty's plantations in the West Indies, or of the territories of the United States of America, and be subject to the same rules, regulations, conditions, and restrictions, and be liable to the same forfeitures and penalties for the breach thereof.*

4. *And be it further enacted, That it shall and may be lawful, from and after the passing of this act, to import into the said port of Nassau, in the island of New Providence, and into the said port of Pittstown, in Portland harbor, in Crooked Island, and into such other port or ports in the said Bahama islands, and into the principal port in the island of Bermuda, and into such port or ports in the islands called Caicos,*



as shall be approved by His Majesty in Council: sugar and coffee, the produce of any foreign country or plantation, in such foreign ships or vessels, and subject to such rules, regulations, and restrictions as are prescribed in this act with respect to the goods, wares, and merchandise hereinbefore enumerated.

5. *And be it further enacted*, That sugar and coffee which shall be imported into the port of Nassau, in the island of New Providence, or the port of Pittstown, in Crooked Island, or into such port or ports in the said Bahama islands, or into the principal port in the island of Bermuda, or into any such port or ports in the said islands called Caicos, as have been, or may hereafter be, approved by His Majesty in Council, may be imported into and again exported from any of the said ports, without payment of any duties of customs whatever, any law, custom, or usage to the contrary notwithstanding.

6. *And be it further enacted*, That, on the importation of any sugar or coffee into any part of the United Kingdom from the said port of Nassau, in the island of New Providence, or the said port of Pittstown, in Crooked Island, or such other port or ports in the Bahama islands, or the island of Bermuda, or any such ports in the said islands called Caicos, such sugar or coffee shall, respectively, be deemed to be not of the British plantations, and shall be liable to, and shall pay, duty of customs and excise as such, and may be warehoused in like manner, and shall be subject to the regulations of any act or acts of Parliament in force at the time of importation of such sugar or coffee, so far as they relate to sugar or coffee not of the British plantations.

7. *And be it further enacted*, That, from and after the passing of this act, no goods, wares, or merchandise, except such as are hereinbefore enumerated, shall be imported in any foreign ship, sloop, schooner, or vessel whatever, from any of the colonies or plantations in America, or any countries on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, into any of the before-mentioned ports, upon any pretence whatever, upon pain of forfeiting the same, together with the ship, sloop, schooner, or vessel in which the same shall be imported, and the guns, tackle, apparel, and furniture of such ship, sloop, schooner, or vessel; and, in every such case, the same shall and may be seized by any officer or officers of His Majesty's customs or navy, who are or shall be authorized or empowered to make seizures in cases of forfeiture, and shall and may be prosecuted in such manner as hereinafter directed.

8. *And be it further enacted*, That it shall and may be lawful, from and after the passing of this act, to export from any of the said ports to any of the colonies or plantations in America, or any countries on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, in any sloop, schooner, or other vessel whatever, not having more than one deck, and being owned and navigated by persons inhabiting any such colony, plantation,

or country, rum of the produce of any British island, and also negroes who shall have been brought into the said islands, respectively, in British built ships, owned, navigated, and registered according to law; and all manner of goods, wares, or merchandise, which shall have been legally imported into the said islands, respectively, except masts, yards, or bowsprits, pitch, tar, and turpentine, and also except such iron as shall have been brought from the British colonies or plantations in America, any law, custom, or usage to the contrary in anywise notwithstanding.

9. *And be it further enacted*, That, from and after the passing of this act, it shall be lawful to export, in any British ship or vessel, owned and navigated according to law, from any of the said islands in this act enumerated to any British colony or plantation in America or the West Indies, any goods or commodities whatever of the manufacture of Europe, and also any goods, wares, or merchandise, which shall have been legally imported into any of the said islands from any of the colonies or plantations in America or any country on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State.

10. *Provided always, and be it further enacted*, That, if any doubts shall arise whether any such goods, wares, or merchandise, intended to be so exported, shall have been legally imported into the said islands, respectively, in this act enumerated, the legality of such importation shall be made appear to the satisfaction of the collector and comptroller, or other principal officer of the customs at the port of exportation, before such goods, wares, or merchandise shall be suffered to be shipped for exportation.

11. *And it is hereby further enacted*, That, from and after the passing of this act, all wool, cotton wool, indigo, cochineal, drugs of all sorts, cocoa, logwood, fustic, and all sorts of wood for dyers' use, hides, skins, and tallow, beaver, and all sorts of furs, tortoise-shell, mahogany, and all other woods for cabinet ware, of the growth or production of any of the colonies or plantations in America, or countries on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, shall be allowed to be exported from any of the said islands in this act enumerated to any part of the United Kingdom of Great Britain and Ireland, under the rules, regulations, securities, restrictions, penalties, and forfeitures, particularly mentioned and provided in an act of Parliament made in the twelfth year of the reign of King Charles II., entitled "An act for encouraging and increasing shipping and navigation," and in another act of Parliament made in the twenty-second and twenty-third years of the reign of King Charles II., entitled "An act to prevent the planting of tobacco in England, and for regulating the plantation trade," and in another act of Parliament made in the twentieth year of his present Majesty's reign, entitled "An act to allow the trade between Ireland and the British colonies and plantations in America and the West Indies and the British

settlement on the coast of Africa to be carried on in like manner as it is now carried on between Great Britain and the said colonies and settlements," or in any of the said acts with respect to the goods, wares, and merchandise, therein enumerated or described.

12. *And be it further enacted*, That, from and after the passing of this act, no goods or commodities whatever, of the growth, production, or manufacture of the East Indies, or other places beyond the Cape of Good Hope, shall, upon any pretence whatever, be exported from any of the ports enumerated in this act, to any other British colony or plantation in America or the West Indies, upon pain of forfeiting such goods or commodities, together with the ship or vessel in which the same shall be so exported, and the guns, tackle, apparel, and furniture of such ship or vessel.

13. *And be it further enacted*, That, from and after the passing of this act, if any foreign ship or vessel as aforesaid, arriving at or in any of the aforesaid ports, shall have on board any goods or commodities whatever of the growth, production, or manufacture of the East Indies, or other places beyond the Cape of Good Hope, such goods or commodities shall be forfeited, together with the ship or vessel in which the same shall be brought, and all her guns, ammunition, tackle, and apparel, whether such goods or commodities shall be intended to be landed or not, or whether bulk shall have been broken or not.

14. *And be it further enacted*, That no duty of gunpowder, nor any fee or reward whatever, shall be demanded, taken, or received by any officer or officers whatever in the said islands, respectively, in this act enumerated, for any entry, cocket, clearance, or passport, for any foreign ship or vessel, or for any goods, wares, or merchandise imported into or exported from the said islands, respectively, in such foreign ships or vessels, under the like pains and penalties as are inflicted upon officers exacting or receiving greater fees than are allowed by any act or acts of Parliament now in force for regulating the fees of the officers of the customs in His Majesty's colonies and plantations in America.

15. *And be it further enacted*, That all penalties and forfeitures imposed by this act shall and may be respectively prosecuted, sued for, recovered, and divided, in Great Britain, Guernsey, Jersey, or the Isle of Man, or in any of His Majesty's colonies or islands in America, in the same manner and form, and by the same rules and regulations in all respects, in so far as the same are applicable, as any other penalties and forfeitures imposed by any act or acts of Parliament made for the security of the revenue of the customs, or for the regulation or improvement thereof, or for the regulation of trade or navigation, and which were in force immediately before the passing of this act, may be respectively prosecuted, sued for, recovered, and divided, in Great Britain, Guernsey, Jersey, or the Isle of Man, or in any of His Majesty's colonies or islands in America.

15th CON. 2d SESS.—51

16. *And be it further enacted*, That all such clauses, provisions, articles, matters, and things, in any former act or acts of Parliament contained, as relate to the opening and establishing any ports in the islands hereinbefore mentioned, or any of them, for the more free importation and exportation of the goods, wares, and merchandise in this act enumerated, shall, from and after the passing of this act, be, and the same are hereby, repealed.

An Act to permit the importation of rice, grain, and flour from any foreign colonies on the continent of America into certain ports in the West Indies, and to allow certain articles to be imported from the United States of America into the British provinces in North America, for the purpose of exportation to the British islands in the West Indies. [June 30, 1808.]

Whereas, by an act passed in the twenty-eighth year of his present Majesty's reign, entitled An act for regulating the trade between the subjects of His Majesty's colonies and plantations in North America and in the West India islands, and the countries belonging to the United States of America, and between His Majesty's said subjects and the foreign islands in the West Indies, it is enacted, that it shall and may be lawful in certain cases for any of the Governors of the provinces in British North America, therein enumerated, with the advice and consent of their respective councils, to authorize the importation of certain articles, for a limited time, from any of the territories belonging to the United States of America, for the supply of the inhabitants of the said provinces, respectively: and whereas it is expedient that the importation of such articles should be allowed for the purpose of supplying other of His Majesty's colonies than are therein mentioned:

*Be it enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same*, That it shall and may be lawful for any of the Governors, Lieutenant Governors, or Commander-in-Chief for the time being, of the provinces of Nova Scotia or New Brunswick, or of the islands of Cape Breton or St. John's, with the advice and consent of their respective councils, to authorize the importation of the articles enumerated in the said recited act for a limited time, from any of the territories of the United States of America, for the purpose of the same being re-exported to any other of His Majesty's colonies or plantations.

2. And whereas it is provided by an act passed in the forty-fifth year of his present Majesty's reign, entitled An act to consolidate and extend the several laws now in force for allowing the importation and exportation of certain goods and merchandise into and from certain ports in the West Indies, that certain articles therein enumerated may be imported into the several ports therein named from foreign colonies in the West Indies, and it is expedient that the permission for



## Great Britain—West India Trade.

such importation should be extended: *Be it enacted*, That, in addition to the articles enumerated in the said act, it shall be lawful to import, under the like authority, restrictions, rules, regulations, penalties, and forfeitures provided in the said recited act, the articles of rice, grain of all sorts, and flour, from any colonies or plantations in America, belonging to or under the dominion of any foreign European Sovereign or State, into any of the free ports in colonies or plantations belonging to His Majesty in the West Indies, which are particularly named in the said act, or in another act passed in the forty-seventh year of His Majesty, respecting the port of Amsterdam, in the island of Curaçoa, in any foreign ship, schooner, or other foreign vessel whatever, not having more than one deck, and being manned and navigated by persons inhabiting any of the said colonies or plantations belonging to any foreign Sovereign or State.

An Act to allow British plantation sugar and coffee, imported into Bermuda in British ships, to be exported to the territories of the United States of America in foreign ships or vessels, and to permit articles the production of the said United States to be imported into the said island in foreign ships or vessels. [July 1, 1812.]

Whereas it is expedient to allow sugar and coffee, the produce of any British colony or plantation in the West Indies, imported into the island of Bermuda in British ships or vessels, to be exported from the port of Saint George, in the said island, to the territories of the United States of America, in foreign ships or vessels; and to allow certain articles of the growth or production of the territories of the said United States to be imported into the said island in foreign ships or vessels, and to be re-exported from thence in British built ships or vessels, to British islands in the West Indies:

*Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in the present Parliament assembled, and by the authority of the same*, That it shall be lawful for sugar and coffee, the produce of any British colony or plantation in the West Indies, imported into the island of Bermuda in any British ship or vessel, to be exported from the port of St. George in the said island of Bermuda, to any part of the territories of the United States of America, in any foreign ship or vessel belonging to any country in amity with His Majesty, above the burden of sixty tons, any law now in force to the contrary notwithstanding.

2. *And be it further enacted*, That it shall and may be lawful to import tobacco, pitch, tar, turpentine, hemp, flax, masts, yards, bowsprits, staves, heading-boards, and plank, timber, shingles, and lumber of any sort, horses, neat cattle, sheep, hogs, poultry, and live stock of any sort, bread, biscuit, flour, pease, beans, potatoes, wheat, rice, oats, barley, and grain of any sort, such commodities being of the growth or production of the territories be-

longing the United States of America, from the said territories to the port of St. George, in the island of Bermuda, in any foreign ship or vessel belonging to any country in amity with His Majesty, anything in an act passed in the twenty-eighth year of His present Majesty's reign, entitled "An act for regulating the trade between the subjects of His Majesty's colonies and plantations in North America and in the West India islands, and the countries belonging to the United States of America, and between His Majesty's said subjects and the foreign islands in the West Indies," or in any other act to the contrary notwithstanding.

3. *And be it further enacted*, That it shall and may be lawful to and for any of His Majesty's subjects to export any of the articles before enumerated, which shall have been imported in any foreign ship or vessel from the territories of the United States into the island of Bermuda from said port of St. George to any of His Majesty's islands or dominions in the West Indies, in British built ships and vessels, owned and navigated according to law.

[By a subsequent act, the port of Hamilton is placed on the same situation as the port of Saint George.]

An Act to permit the importation of certain articles into His Majesty's colonies or plantations in the West Indies, or on the continent of South America; and also certain articles into certain ports in the West Indies. [May 23, 1818.]

Whereas it is expedient to allow the importation of certain articles into His Majesty's colonies or plantations in the West Indies, or on the continent of South America:

*Be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same*, That it shall and may be lawful to import tobacco, rice, grain, pease, beans, and flour, into any of His Majesty's colonies or plantations in the West Indies, or on the continent of South America, for the supply of the inhabitants thereof, in British built ships, owned, registered, and navigated according to law, from any colony or possession in the West Indies, or on the continent of America, under the dominion of any foreign European Sovereign or State.

2. *And be it further enacted*, That it shall and may be lawful to import pease and beans, being the growth or production of any of the colonies or possessions in the West Indies, or on the continent of America, belonging to or under the dominion of any foreign European Sovereign or State, into any of the ports in His Majesty's colonies or plantations in the West Indies, enumerated in an act passed in the forty-fifth year of the reign of his present Majesty, entitled an act to consolidate and extend the several laws now in force for allowing the importation and exportation of certain goods and merchandise into and

## Independent Governments of South America.

from certain ports in the West Indies; and in another act, passed in the forty-sixth year of the reign of his said Majesty, entitled an act for enabling His Majesty to permit the importation and exportation of certain goods and commodities into and from the port of Road Harbor, in the island of Tortola; and likewise in another act, passed in the forty-ninth year of his present Majesty's reign, entitled an act for allowing the importation and exportation of certain goods and commodities into and from the port of Falmouth, in the island of Jamaica; and in another act, passed in the fifty-second year of his said Majesty's reign, entitled an act for allowing certain articles to be imported into the Bahama islands, and exported therefrom in foreign vessels, and for encouraging the exportation of salt from the said islands; and in another act, passed in the fifty-seventh year of the reign of his said Majesty, entitled an act to extend several acts for allowing the importation and exportation of certain goods and merchandise to Porto Maria, in the island of Jamaica, and to the port of Bridgetown, in the island of Barbadoes, in vessels of the like description, and subject to the like rules, regulations, and restrictions, as are required by the aforesaid acts permitting certain articles to be imported into the ports enumerated therein, and in vessels of the like description, and subject to the like rules, regulations, and restrictions, as are required in an act passed in the fiftieth year of his said Majesty's reign, entitled an act for amending, and continuing so amended until the twenty-fifth day of March, one thousand eight hundred and twelve, an act of the forty-fifth year of his present Majesty, for consolidating and extending the several laws in force for allowing the importation and exportation of certain goods and merchandise into and from certain ports in the West Indies, which was afterwards continued by an act passed in the fifty-second year of his said Majesty's reign, until the twenty-fifth day of March, one thousand eight hundred and fourteen, and revived and made perpetual by another act passed in the fifty-fourth year of the reign of his said Majesty, entitled an act to revive and make perpetual certain acts for consolidating and extending the several laws in force for allowing the importation and exportation of certain articles into and from certain ports in the West Indies.

## INDEPENDENT GOVERNMENTS OF SOUTH AMERICA.

[Communicated to the House, January 30, 1819.]

WASHINGTON, January 29, 1819.

I transmit to the House of Representatives, in compliance with their resolution of the 14th of this month, a report from the Secretary of State concerning the applications which have been made by any of the independent Governments of South America to have a Minister or Consul General accredited by the Government of the

United States, with the answers of this Government to the applications addressed to it.

JAMES MONROE.

DEPARTMENT OF STATE, Jan. 28, 1819.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 14th instant, requesting of the President information whether any application has been made by any of the independent Governments of South America to have a Minister or Consul General accredited by the Government of the United States, and what was the answer given to such application, has the honor of submitting copies of applications made by Don Lino de Clemente to be received as the representative of the Republic of Venezuela; and of David C. De Forest, a citizen of the United States, to be accredited as Consul General of the United Provinces of South America, with the answers respectively returned to them. The reply of Mr. De Forest is likewise enclosed, and copies of the papers, signed and avowed by Mr. Clemente which the President considered as rendering any communication between this Department and him, other than that now enclosed, improper.

It is to be observed that, while Mr. Clemente, in March, 1817, was assuming, with the name of deputy from Venezuela, to exercise with the United States powers transcending the lawful authority of any ambassador, and while, in January, 1818, he was commissioning, in language disrespectful to this Government, Vicente Pazos, in the name of the Republic of Venezuela, to "protest against the invasion of Amelia Island, and all such further acts of the Government of the United States as were contrary to the rights and interests of the several republics and the persons sailing under their respective flags duly commissioned," he had himself not only never been received by the Government of the United States as deputy from Venezuela, but had never presented himself to it in that character, or offered to exhibit any evidence whatsoever of his being invested with it. The issuing of commissions authorizing acts of war against a foreign nation is a power which not even a sovereign can lawfully exercise within the dominions of another in amity with him, without his consent. Mr. Pazos, in his memorial to the President, communicating the commission signed by Mr. Clemente at Philadelphia, and given to General McGregor, alleges, in its justification, the example of the illustrious Franklin in Europe; but this example, instead of furnishing an exception, affords a direct confirmation of the principle now advanced. The commissions issued by the diplomatic agents of the United States in France, during our Revolutionary war, were granted with the knowledge and consent of the French Government, of which the following resolution from the Secret Journal of Congress of 23d December, 1776, is decisive proof:

"Resolved, That the commissioners [at the Court of France] be authorized to arm and fit for war



any number of vessels, not exceeding six, at the expense of the United States, to war upon British property; and that commissions and warrants be for this purpose sent to the commissioners: provided the commissioners be well satisfied this measure will not be disagreeable to the Court of France."

It is also now ascertained, by the express declaration of the Supreme Chief, Bolivar, to the agent of the United States at Angostura, "that the Government of Venezuela had never authorized the expedition of General McGregor, nor any other enterprise, against Florida or Amelia." Instructions have been forwarded to the same agent to give suitable explanations to the Government of Venezuela of the motives for declining further communication with Mr. Clemente, and assurances that it will readily be held with any person not liable to the same or like objection.

The application of Mr. De Forest to be accredited as Consul General of the United Provinces of South America was first made in May last; his credential was a letter from the Supreme Director of Buenos Ayres, Pueyrredon, announcing his appointment by virtue of articles concluded in the names of the United States of America and of the United Provinces of Rio de la Plata, between persons authorized by him, and W. G. D. Worthington, as agent of this Government, who neither had, nor indeed pretended to have, any power to negotiate such articles. Mr. De Forest was informed, and requested to make known to the Supreme Director, that Mr. Worthington had no authority whatsoever to negotiate on the part of the United States any articles to be obligatory on them, and had never pretended to possess any full power to that effect; that any communication interesting to the Supreme Director, or to the people of Buenos Ayres, would readily be held with Mr. De Forest; but that the recognition of him as a Consul General from the United Provinces of South America could not be granted, either upon the stipulation of supposed articles, which were a nullity, or upon the commission or credential letter of the Supreme Director, without recognising thereby the authority from which it emanated as a sovereign and independent Power.

With this determination, Mr. De Forest then declared himself entirely satisfied. But, shortly after the commencement of the present session of Congress, he renewed his solicitations, by the note dated the 9th of December, to be accredited as the Consul General of the United Provinces of South America, founding his claim on the credentials from his Government, which had been laid before the President last May.

A conversation was shortly afterwards held with him, by direction of the President, in which the reasons were fully explained to him upon which the formal acknowledgment of the Government of Buenos Ayres for the present was not deemed expedient. They were also, at his request, generally stated in the note dated the 31st of December.

It has not been thought necessary, on the part of this Government, to pursue the correspondence with Mr. De Forest any further, particularly as he declares himself unauthorized to agitate or discuss the question with regard to the recognition of Buenos Ayres as an independent nation. Some observations, however, may be proper, with reference to circumstances alleged by him, as arguing that a Consul General may be accredited without acknowledging the independence of the Government from which he has his appointment. The Consul of the United States, who has resided at Buenos Ayres, had no other credential than his commission. It implied no recognition by the United States of any particular Government; and it was issued before the Buenos Ayrean declaration of independence, and while all the acts of the authorities there were in the name of the King of Spain.

During the period while this Government declined to receive Mr. Onis as the Minister of Spain, no Consul received an exequatur under a commission from the same authority. The Spanish Consuls, who had been received before the contest for the Government of Spain had arisen, were suffered to continue the exercise of their functions, for which no new recognition was necessary. A similar remark may be made with regard to the inequality alleged by Mr. De Forest to result from the admission of Spanish Consuls officially to protest before our judicial tribunals the rights of Spanish subjects generally, while he is not admitted to the same privileges with regard to those of the citizens of Buenos Ayres. The equality of rights to which the two parties to a civil war are entitled, in their relations with neutral Powers, does not extend to the rights enjoyed by one of them, by virtue of treaty stipulations contracted before the war; neither can it extend to rights, the enjoyment of which essentially depends upon the issue of the war. That Spain is a sovereign and independent Power, is not contested by Buenos Ayres, and is recognised by the United States, who are bound by treaty to receive her Consuls. Mr. De Forest's credential letter asks that he may be received by virtue of a stipulation in supposed articles concluded by Mr. Worthington, but which he was not authorized to make; so that the reception of Mr. De Forest, upon the credential on which he founds his claim, would imply a recognition, not only of the Government of the Supreme Director, Pueyrredon, but a compact as binding upon the United States, which is a mere nullity.

Consuls are, indeed, received by the Government of the United States from acknowledged sovereign Powers with whom they have no treaty. But the exequatur for a Consul General can obviously not be granted without recognising the authority from whom his appointment proceeds as Sovereign. "The Consul," says Vattel, (book 2, chap. 2, § 34,) "is not a public Minister; but as he is charged with a commission from his Sovereign, and received in that

quality by him where he resides, he should enjoy, to a certain extent, the protection of the law of nations."

If, from this state of things, the inhabitants of Buenos Ayres cannot enjoy the advantage of being officially represented before the courts of the United States by a Consul, while the subjects of Spain are entitled to that privilege, it is an inequality resulting from the nature of the contest in which they are engaged, and not from any denial of their rights as parties to a civil war. The recognition of them, as such, and the consequent admission of their vessels into the ports of the United States, operate with an inequality against the other party to that contest, and in their favor.

It was stated in conversation to Mr. De Forest, and afterwards in the note of 31st December, that it would be desirable to the United States to understand whether Buenos Ayres itself claims an entire, or only an imperfect independence; that the necessity of an explanation upon this point arose from the fact that, in the negotiation of the supposed article with Mr. Worthington, the Supreme Director had declined contracting the engagement, though with the offer of reciprocity, that the United States should enjoy at Buenos Ayres the advantages and privileges of the most favored nation; that the reason given by him for refusing such an engagement was, that Spain having claims of sovereignty over Buenos Ayres, the right must be reserved of granting special favors to her for renouncing them, which other nations, having no such claims to renounce, could not justly expect to obtain. Without discussing the correctness of this principle, it was observed that the United States, in acknowledging Buenos Ayres as independent, would expect to be treated on the footing of the most favored nation, or to know the extent and character of the benefits which were to be allowed to others and denied to them; and that, while an indefinite power should be reserved, of granting to any nation advantages to be withheld from the United States, an acknowledgment of independence must be considered premature.

Mr. De Forest answers that this reservation must appear to every one contrary to the inclination as well as the interest of the Government of Buenos Ayres; that it must have been only a proposition of a temporary nature, not extending to the acknowledgment by the United States of the independence of South America, which he is confident would have rendered any such reservation altogether unnecessary, in the opinion of the Government of Buenos Ayres, who must have seen they were treating with an unauthorized person, and suggested the idea from an opinion of its good policy; and, he adds, that Portugal is acknowledged by the United States as an independent Power, although their commerce is taxed higher in the ports of Brazil than that of Great Britain.

It had not been intended to suggest to Mr. De Forest that it was, in any manner, incompatible

with the independence or sovereignty of a nation to grant commercial advantages to one foreign State, and to withhold them from another. If any such advantage is granted for an equivalent, other nations can have no right to claim its enjoyment, even though entitled to be treated as the most favored nations, unless by the reciprocal grant of the same equivalent. Neither had it been meant to say that a nation forfeited its character of acknowledged sovereignty, even by granting, without equivalent, commercial advantages to one foreign Power, and withholding them from another. However absurd and unjust the policy of a nation granting to one, and refusing to another, such gratuitous concessions might be deemed, the question whether they affected its independence or not would rest upon the nature of the concessions themselves. The idea meant to be conveyed was, that the reservation of an indefinite right to grant hereafter special favors to Spain for the remuneration of her claims of sovereignty, left it uncertain whether the independence of Buenos Ayres would be complete or imperfect, and it was suggested with a view to give the opportunity to the Supreme Director of explaining his intentions in this respect, and to intimate to him that, while such an indefinite right was reserved, an acknowledgment of independence must be considered as premature. This caution was thought the more necessary, inasmuch as it was known that, at the same time while the Supreme Director was insisting upon this reservation, a mediation between Spain and her colonies had been solicited by Spain, and agreed to by the five principal Powers of Europe, the basis of which was understood to be a compromise between the Spanish claim to sovereignty and the colonial claim to independence.

Mr. De Forest was understood to have said that the Congress at Tucuman had determined to offer a grant of special privileges to the nation which should be the first to acknowledge the independence of Buenos Ayres. He stated in his notes that he knew nothing of any such resolution by that Congress, but that it was a prevailing opinion at Buenos Ayres, and his own opinion also, that such special privileges would be granted to the first recognising Power, if demanded. It has invariably been avowed by the Government of the United States that they would neither ask nor accept of any special privilege or advantage for their acknowledgment of South American independence; but it appears that the Supreme Director of Buenos Ayres, far from being prepared to grant special favors to the United States for taking the lead in the acknowledgment, declined even a reciprocal stipulation that they should enjoy the same advantages as other nations. Nor was this reservation, as Mr. De Forest supposes, defeasible by the acknowledgment on the part of the United States of South American independence. The Supreme Director could not be so ignorant that it was impossible for this Government to ratify the articles prepared by his authority with Mr. Worthington, and yet to withhold the acknowledg-



ment of independence. He knew that, if that instrument should be ratified, the United States must thereby necessarily be the first to grant the acknowledgment; yet he declined inserting in it an article securing to each party in the ports of the other the advantages of the most favored nation. It is, nevertheless, in conformity to one of those same articles that Mr. De Forest claimed to be received in the formal character of Consul General.

With regard to the irregularities and excesses committed by armed vessels sailing under the flag of Buenos Ayres, complained of in the note of the 1st of January, it was not expected that Mr. De Forest would have the power of restraining them, otherwise than by representing them to the Supreme Director, in whom the authority to apply the proper remedy is supposed to be vested. The admission of Mr. De Forest in the character of Consul General would give him no additional means of suppressing the evil. Its principal aggravation arises from the circumstance that the cruisers of Buenos Ayres are almost, if not quite, universally manned and officered by foreigners, having no permanent connexion with that country, or interest in its cause. But the complaint was not confined to the misconduct of the cruisers; it was stated that blank commissions for privateers, their commanders and officers, had been transmitted to this country, with the blanks left to be filled up here, for fitting out, arming, and equipping them for purposes prohibited by the laws of the United States, and in violation of the laws of nations. It was observed, that this practice being alike irreconcilable with the rights and the obligations of the United States, it was expected by the President that, being made known to the Supreme Director, no instance of it would again occur hereafter. No reply to this part of the note has been made by Mr. De Forest; for it is not supposed that he meant to disclaim all responsibility of himself or of the Government of Buenos Ayres concerning it, unless his character of Consul General should be recognised. As he states that he has transmitted a copy of the note itself to Buenos Ayres, the expectation may be indulged that the exclusive sovereign authority of the United States within their own jurisdiction will hereafter be respected.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

No. 1.

*Don Lino de Clemente to the Secretary of State.*  
WASHINGTON, December 11.  
Eighth year of the Republic, A. D. 1818.

MOST EXCELLENT SIR: Having been appointed by the Government of the Republic of Venezuela its representative near the United States of North America, I have the honor to inform you of my arrival in this city for the purpose of discharging the trust committed to me; to effect this, I have to request that you will be pleased to inform me at what time it will be convenient for you to afford me an opportunity of present-

ing my respects to you personally, and of communicating to you the object of my arrival in the federal city.

I avail myself of this occasion to tender to you the assurance of the high respect and consideration with which I have the honor to be, sir,  
Your most obedient, humble servant,

LINO DE CLEMENTE.

HON. JOHN QUINCY ADAMS,  
Secretary of State.

No. 2.

*The Secretary of State to Don Lino de Clemente.*

DEPARTMENT OF STATE,

Washington, Dec. 16, 1818.

SIR: Your note of the 11th instant has been laid before the President of the United States, by whose direction I have to inform you that your name having been avowedly affixed to a paper, drawn up within the United States, purporting to be a commission to a foreign officer for undertaking and executing an expedition in violation of the laws of the United States, and also to another paper avowing that act, and otherwise insulting to this Government, which papers have been transmitted to Congress by the Message of the President of the 25th of March last, I am not authorized to confer with you, and that no further communication will be received from you at this Department.

I am, with due consideration, sir, your very obedient servant,

JOHN QUINCY ADAMS.

DON LINO DE CLEMENTE.

No. 3.

*No. 1. Translation of Sir Gregor McGregor's commission.*

The Deputies of free America, resident in the United States of the North, to their compatriot Gregor McGregor, General of Brigade in the service of the United Provinces of New Granada and Venezuela, greeting:

Whereas it is highly important to the interests of the people whom we have the honor to represent, that possession should be taken, without loss of time, of East and West Florida, and the blessings of free institutions and the security of their natural rights imparted to their inhabitants, in pursuance of our instructions, and in conformity to the desires of our respective Governments, we have commissioned Brigadier General Gregor McGregor for the purpose of carrying into execution, either wholly or in part, an enterprise so interesting to the glorious cause in which we are engaged:

Therefore, taking into consideration your zeal and devotion to the Republic, we request you, in the name of our constituents, to proceed, on your own responsibility and that of the above-named provinces to adopt such measures as in your judgment may most effectually tend to procure for our brethren of both the Floridas, East and West, the speedy enjoyment of those benefits to which they are invited by the importance of their geo-

graphical situation; and for that purpose we authorize you, without departing from the usages and customs of civilized nations in like cases, and the due observance of the laws of the United States, and particularly those regulating their neutrality with foreign Powers, to cause vessels to be armed without the limits of their jurisdiction, and provisionally to grant rank to naval and military officers, until the Government to be established by the free will of the said people can provide in the most suitable mode for the arrangement of their several departments; in the execution of all which, the instructions delivered to you of this date will serve as your guide.

Signed, sealed, and delivered, at the city of Philadelphia, the 31st of March, 1817.

LINO DE CLEMENTE,  
Deputy for Venezuela.

PEDRO GUAL,

*Deputy from New Granada, and as proxy for F. Zarate, Deputy from Mexico.*

MARTIN THOMPSON,  
Deputy from Rio de la Plata.

PHILADELPHIA, January 15, 1818—8th.

A true copy of the original in my possession:

LINO DE CLEMENTE.

A true copy: PAZOS.

No. 4.

*From Don Lino de Clemente to Don Vincente Pazos.*

PHILADELPHIA, Jan. 15, 1818—8th.

By letters from General Don Luis de Aury and Don Pedro Gual, dated at Fernandina, the 26th December last, I have been informed that they have commissioned you, for the purpose of presenting to the President of the United States, a protest in the name of the Independent Government of South America, against the invasion of Amelia Island by a naval and military force of the United States, on the 23d of December last, and to demand the restitution of the vessels captured from the enemy, which have been detained, and sent to different ports by American vessels of war.

Although the Government of Venezuela, of whose powers I am bearer, is included in your commission jointly with those in whose name possession was taken of Amelia Island, yet it has seemed to me to be proper specially to authorize you, as I do hereby, to protest, in the name of my said Government, against the invasion of Amelia, and all such further acts of the Government of the United States as are contrary to the rights and interests of the several republics, and the persons sailing under their respective flags, duly commissioned.

And to enable you satisfactorily to prove that Amelia Island was taken from the Spaniards by a competent authority, I enclose a copy of the commission granted to General McGregor on the 31st of March last by the deputies of the independent republics.

The motives alleged by the Government of the United States, in justification of their hostile

measure, serve to prove their own futility, and clearly demonstrate that the sole object was the acquisition of the Floridas, without forming any other calculations than those founded on the more or less exhausted state to which the patriots may reduce the Spanish Government; and, in consequence, the pretext of a want of authority in the parties who took possession of Amelia and Galveston, was one while resorted to; and, at others, that those establishments were formed to serve as a shelter to pirates and smugglers; finally, that no foreign Power could be permitted to establish itself in the Floridas, alleging a secret act passed in 1811, which is applicable to the present case.

I flatter myself it will be very easy for you to prove that the United States have no other grounds for this step than their own convenience, supported by force.

I have repeatedly transmitted an account to my Government of the occurrences at Amelia Island, after its occupation by General McGregor, requesting it to communicate the same to the Government of New Granada, at Casanare; and to enable me to continue my communications, which existing circumstances make interesting, I request, sir, you will be pleased to inform me, as speedily as possible, of the result of your mission.

I have the honor to be, with the highest consideration, sir, your most obedient servant,

LINO DE CLEMENTE.

A true copy: PAZOS.

To SENOR DON VICENTE PAZOS.

No. 5.

*Mr. De Forest to the Secretary of State.*

GEORGETOWN, Dec. 9, 1818.

I have the honor to announce to Mr. Adams that I have again arrived in this District, in order to renew my solicitations to be accredited by this Government as the Consul General of the United Provinces of South America, founding my claim on the credentials from my Government, which were laid before the President in the month of May last.

The information recently acquired by this Government respecting the provinces of South America, I presume has established the fact beyond a doubt, that Buenos Ayres, their capital, and a large proportion of their territory, are and have been free and independent of the Government of Spain for more than eight years, and possess ample ability to support their independence in future; that a regular system of government is established by their inhabitants, who show themselves, by the wisdom of their institutions, sufficiently enlightened for self-government; and that they look up to this great Republic as a model, and their elder sister, from whose sympathies and friendship they hope and expect ordinary protection at least.

The messages of the President of the United States, as well the last as the present year, have created a general belief that the United States



have placed us on an equal footing with Spain, as it respects our commercial operations; but, sir, it is found not to be the case. A Consul of Spain is known and respected as such by your tribunals of justice, which enables him, *ex officio*, to protect and defend the interests of his countrymen; whereas the verbal permission I have to act in the duties of my office will not avail in your tribunals; and a number of instances have already occurred, where the property of my absent fellow-citizens has been jeopardized for want of a legally authorized protector. The case of the Spanish schooner —, a prize to our armed vessels Buenos Ayres and Tucuman, which was brought into Scituate, some time since, by her mutinous crew, after having murdered the captain and mate, by throwing them overboard, is a striking instance of the necessity of there being resident here an accredited agent to superintend the commercial concerns of South America, and without such accredited agent our citizens cannot be considered as completely protected in their rights.

I request you, sir, to lay this communication before the President of the United States as early as it may be convenient, and to assure him that I duly appreciate the friendly reception I met with from his Government on my arrival in this country; and that, as circumstances have since materially altered, I have no doubt but I shall receive his permission to act in the accustomed form.

While I remain, with the highest consideration and respect, your most obedient servant,

DAVID C. DE FOREST.

HON. J. Q. ADAMS, *Sec. of State*.

No. 6.

Mr. De Forest to the Secretary of State.

GEORGETOWN, December 12, 1818.

I took the liberty on the 9th instant of addressing a note to Mr. Secretary Adams, requesting to be accredited as the Consul General of the United Provinces of South America; and have now the honor of informing Mr. Adams that I have lately received an official communication from the Government of Buenos Ayres directing me to inform the Government of this country that the supposed conspiracy against the person of the Supreme Director proves to have originated with an obscure and disappointed individual, who, to gain adherents, pretended to be connected with people of the first respectability and influence, several of whom he named, but who have convinced the Government that they had no knowledge whatever of his base project.

The Supreme Director, anxious to do away any unfavorable impressions which the report of such an affair might cause at this distance, has ordered me to assure the President of the United States that the Government of South America was never more firmly supported, nor its prospects more brilliant, than at the present time.

I have the honor to subscribe myself, with every sentiment of respect and esteem, Mr. Adams's most obedient and most humble servant,

DAVID C. DE FOREST.

HON. JOHN Q. ADAMS, *Sec. of State*.

No. 7.

Mr. Adams to Mr. De Forest.

WASHINGTON, Dec. 31, 1818.

Mr. Adams presents his compliments to Mr. De Forest, and has the honor of assuring him, by direction of the President of the United States, of the continued interest that he takes in the welfare and prosperity of the provinces of La Plata, and of his disposition to recognise the independent Government of Buenos Ayres as soon as the time shall have arrived when the step may be taken with advantage to the interests of South America as well as of the United States.

In the mean time, he regrets that an exequatur to Mr. De Forest, as Consul General of the United Provinces of South America, cannot be issued, for reasons stated in part by the President, in his Message to Congress at the commencement of their present session; and further explained to Mr. De Forest by Mr. Adams, in the conversation which he has had the honor of holding with him. Mr. De Forest must have seen that any privileges which may be attached to the consular character cannot avail, in the judicial tribunals of this country, to influence in any manner the administration of justice; and, with regard to the schooner brought into Scituate, such measures have been taken, and will be taken, by the authorities of the United States, as are warranted by the circumstances of the case and by the existing laws.

With respect to the acknowledgment of the Government of Buenos Ayres, it has been suggested to Mr. De Forest, that, when adopted, it will be merely the recognition of a fact, without pronouncing or implying an opinion with regard to the extent of the territory or provinces under their authority, and particularly without being understood to decide upon their claim to control over the Banda Oriental, Santa Fe, Paraguay, or any other provinces disclaiming their supremacy or dominion. It was also observed that in acknowledging that Government as independent, it would be necessary for the United States to understand whether Buenos Ayres claims itself an entire, or only an imperfect independence. From certain transactions between persons authorized by the Supreme Director, and an agent of the United States, (though unauthorized by their Government,) after the declaration of independence by the Congress at Tucuman, and within the last year, it appears that the Supreme Director declined contracting the engagement that the United States should hereafter enjoy at Buenos Ayres the advantages and privileges of the most favored nation, although with the offer of a reciprocal stipulation on the part of the United States. The reason assigned by the Supreme Director was, that Spain having claims to the sovereignty of Buenos Ayres, special privileges and advantages might ultimately be granted to the Spanish nation as a consideration for the renunciation of those claims. It is desirable that it should be submitted to the consideration of the Government of Buenos Ayres whether, while

such a power is reserved, their independence is complete; and how far other Powers can rely that the authority of Spain might not be eventually restored. It has been stated by Mr. De Forest that the Congress at Tucuman had passed a resolution to offer special advantages to the nation which should first acknowledge their independence; upon which the question was proposed whether such a resolution, if carried into effect, would not be rather a transfer of dependence from one nation to another, than the establishment of independence? rather to purchase support than to obtain recognition? The United States have no intention of exacting favors of Buenos Ayres for the acknowledgment of its independence; but, in acknowledging it, they will expect either to enjoy, in their intercourse with it, the same privileges and advantages as other foreign nations, or to know precisely the extent and character of the benefits which are to be allowed to others, and denied to them. It should, indeed, be known to the Supreme Director that, while such an indefinite power is reserved, of granting to any nation advantages to be withheld from the United States, an acknowledgment of independence must be considered premature.

In adverting to these principles, it was observed to Mr. De Forest that their importance could not but be peculiarly felt by the United States, as having been invariably and conspicuously exemplified in their own practice, both in relation to the country whose colonies they had been, and to that which was the first to acknowledge their independence. In the words of their declaration, issued on the 4th of July, 1776, they resolved thenceforth "to hold the British nation, as they hold the rest of mankind—enemies in war, in peace friends;" and in the treaty of amity and commerce, concluded on the 6th of February, 1778, between the United States and France, being the first acknowledgment by a foreign Power of the independence of the United States, and the first treaty to which they were a party, the preamble declares that the King of France and the United States, "willing to fix, in an equitable and permanent manner, the rules which ought to be followed relative to the correspondence and commerce which the two parties desire to establish between their respective countries, States, and subjects, have judged that the said end could not be better obtained than by taking, for the basis of their agreement, the most perfect equality and reciprocity, and by carefully avoiding all those burdensome preferences which are usually sources of debate, embarrassment, and discontent; by leaving also each party at liberty to make, respecting commerce and navigation, those interior regulations which it shall find most convenient to itself; and by founding the advantage of commerce solely upon reciprocal utility, and the just rules of free intercourse; reserving, withal, to each party the liberty of admitting, at its pleasure, other nations to a participation of the same advantage."

In the second article of the same treaty it was also stipulated that neither the United States nor

France should thenceforth grant any particular favor to other nations, in respect of commerce and navigation, which should not immediately become common to the other nations, freely, if the concession was free, or for the same compensation if additional.

In answer to Mr. De Forest's note of the 12th instant, Mr. Adams has the honor of assuring him that the President has received with much satisfaction the information contained in it, and will derive great pleasure from every event which shall contribute to the stability and honor of the Government of Buenos Ayres.

Mr. Adams requests Mr. De Forest to accept the assurance of his distinguished consideration.

D. C. DE FOREST, *Georgetown*.

No. 8.

Mr. Adams to Mr. De Forest.

WASHINGTON, January 1, 1819.

Mr. Adams presents his compliments to Mr. De Forest, and, in reference to the case of the schooner brought into Scituate, mentioned in Mr. De Forest's communication of the 9th instant, as well as to several others which have occurred of a similar character, requests him to have the goodness to impress upon the Government of Buenos Ayres the necessity of taking measures to repress the excesses and irregularities committed by many armed vessels sailing under their flag and bearing their commissions. The Government of the United States having reason to believe that many of these vessels have been fitted out, armed, equipped, and manned in the ports of the United States, and in direct violation of their laws.

Of the persons composing the prize crew of the vessel at Scituate, and now in confinement upon charges of murder and piracy, it is understood that three are British subjects, and one a citizen of the United States. It is known that commissions for private armed vessels to be fitted out, armed, and manned in this country, have been sent from Buenos Ayres to the United States, with the names of the vessels, commanders, and officers in blank, to be filled up here, and have been offered to the avidity of speculators, stimulated more by the thirst for plunder than by any regard for the South American cause.

Of such vessels it is obvious that neither the captains, officers, nor crews can have any permanent connexion with Buenos Ayres; and, from the characters of those who alone could be induced to engage in such enterprises, there is too much reason to expect acts of atrocity, such as those alleged against the persons implicated in the case of the vessel at Scituate.

The President wishes to believe that this practice has been without the privity of the Government of Buenos Ayres, and he wishes their attention may be drawn to the sentiment, that it is incompatible both with the rights and the obligations of the United States; with their rights, as an offensive exercise of sovereign authority by foreigners within their jurisdiction, and without their consent; with their obligations, as involv-



*Independent Governments of South America.*

ing a violation of the neutrality which they have invariably avowed, and which it is their determination to maintain. The President expects, from the friendly disposition manifested by the Supreme Director towards the United States, that no instance of this cause of complaint will hereafter be given.

Mr. Adams requests Mr. De Forest to accept the renewed assurances of his distinguished consideration.

DAVID C. DE FOREST, Esq.

No. 9.

GEORGETOWN, January 8, 1819.

SIR: It is not my intention to give any unnecessary trouble to the Department of State; but having had the honor of receiving two notes from Mr. Secretary Adams on the 4th instant, dated December 31 and January 1, some explanation appears to be necessary.

In the first place, I do not suppose "that any privileges which may be attached to the consular character can avail in the judicial tribunals of this country to influence in any manner the administration of justice." But I suppose that a Consul duly accredited is, *ex officio*, the legal representative of his fellow-citizens not otherwise represented by an express power; and that the tribunals of justice do and will admit the legality of such representation. Mr. Adams has misunderstood me in another observation, which was, in substance, that there was a general opinion prevailing at Buenos Ayres that the Power first recognising our independence would expect some extraordinary privilege or advantage therefor; and that in my opinion, the Government of Buenos Ayres would readily grant it if demanded. I know nothing, however, of any resolution having been passed on this subject by the Congress at Tucuman.

It appears, from the relation of a fact in Mr. Adams' note of the 31st ultimo, that the Government of Buenos Ayres had intimated a desire (in the course of a negotiation with an agent of the United States) to reserve the right of granting more extraordinary privileges to Spain on the settlement of a general peace, which must appear to every one contrary to their inclination as well as interest; and it can be accounted for only by supposing that the proposition of the United States' agent was merely of a temporary nature, and did not extend to an acknowledgment by the United States of the independence of South America; which act, I am confident, would have rendered any such reservation altogether unnecessary in the opinion of the Government of Buenos Ayres, who must have seen that they were treating with an unauthorized person, and must have thought it good policy at this time to suggest such an idea. Indeed, were the Government of Buenos Ayres to pursue that course, they would plead the example of a neighboring Power acknowledged to be independent by the United States, and its chief both illustrious and legitimate. It is well known that the Government of Brazil taxes the commerce of the United States about sixty per

cent. higher than that of Great Britain. It may be that Great Britain is entitled to this preference on account of important services rendered by her to the King of Portugal; and permit me to ask you, sir, what services could be rendered to any nation already in existence so great, as would be the acknowledgment by Great Britain, or by the United States, of the independence of South America? Such recognition merely, by either of these Powers, would probably have the immediate effect of putting an end to the cruel and destructive war now raging between Spain and South America, and crown with never-fading laurels the nation thus first using its influence in favor of an oppressed but high-minded people.

The account given by Mr. Adams in his note of the 1st instant, respecting the irregular conduct of vessels sailing under the Buenos Ayres flag, has caused me much mortification, and has already been transmitted to my Government by the Plattsburg; as also a copy of Mr. Adams' frank and friendly communication of the 31st ultimo. The Supreme Director will certainly be desirous to adopt the most prompt and efficacious measures within his power to remedy the evils complained of. But pray, sir, what can he do more than has already been done? The Government of Buenos Ayres have established the most just rules and regulations for the government of their vessels of war, as well as of commerce, and have sent me to this country invested with the title and powers of their Consul General, as well to guard against any breach of those rules and regulations by their citizens and vessels frequenting these seas and the ports of these United States, as to protect them in their rights; but, sir, without a recognition of my powers on the part of this Government, I can have no right whatever to question any individual on the subject of his conduct; nor can any responsibility justly attach to me nor to my Government, during such a state of things, for the irregularities committed.

A considerable number of our seamen are foreigners by birth, who have voluntarily entered our service; therefore it is not a matter of surprise that, of the mutineers of the prize crew of the vessel at Scituate, three should have been born Englishmen, and one a North American. It is, however, an absolute fact, to which I am personally knowing, that the captors of that prize (the Buenos Ayres and Tucuman privateers) were legally fitted out at Buenos Ayres early in the last year, from which port they sailed on a cruise off Cadiz; and it will afford the Government of South America much satisfaction to learn that the United States will prosecute those mutineers, and punish such as are found guilty of crimes, according to the laws.

Before I close this note I beg leave to make a few observations, in answer to one of the reasons for not accrediting me, given by Mr. Adams, by direction of the President of the United States, in a conversation which I have had the honor of holding with him, viz: "That the act of accrediting me as Consul General would be tantamount to the formal acknowledgment of the independ-

*Prussia, Hamburg, and Bremen.*

ence of the Government which sent me." I do not profess to be skilled in the laws of nations, nor of diplomacy; nor would I doubt the correctness of any opinion expressed by the President, for whose person and character I have ever entertained the most profound respect; yet I must say, that I cannot understand the difference between the sending of a consular agent duly authorized to Buenos Ayres, where one was accredited from this country, four or five years ago, and has continued ever since in the exercise of the duties of his office, and the reception of a similar agent here. I also beg leave to mention that I was in this country soon after the arrival of the present Minister of Spain, the Chevalier De Onis; and to have heard it observed that, being a political agent, he was not accredited, because the sovereignty of Spain was in dispute; but that the Consuls who acknowledged the same Government (one of the claimants to the sovereignty, and the one not actually in possession of it) were allowed to exercise their functions. If this was the case at that time, the Government of the United States must then have had a different opinion on this subject from what it now has. Mr. Adams will please to bear in mind that I have only solicited to be accredited as a Consular Agent, having never agitated the question of an acknowledgment of our independence as a nation, which most certainly is anxiously desired by the Government and people of South America, but which, being a political question, I have never asked.

Mr. Adams will also be pleased to accept the renewed assurances of my most distinguished consideration and respect.

DAVID C. DE FOREST.

No. 10.

*The Supreme Director of the United Provinces of La Plata, to His Excellency the President of the United States of North America.*

MOST EXCELLENT SIR: The Supreme Government of these provinces have long exerted their zealous efforts to establish the closest and most amicable relations with the United States of America, to which the most obvious interests seem mutually to invite them. This desirable object has hitherto been frustrated by the events of the times; but the moment appears at length to have arrived, which presents to the people of these provinces the flattering prospect of seeing their ardent wishes accomplished. In consideration of these circumstances, and in conformity with the twenty-third of the articles agreed upon with citizen William G. D. Worthington, the agent of your Government in these provinces, I have nominated citizen David C. De Forest, their Consul General to the United States, with the powers specified in his commission and instructions respectively. I therefore request your excellency to grant him the attention and consideration which, in the like case, will be afforded to the public agents of your nation, thereby laying the foundation of those relations which will in future render the name of your excellency memorable in these regions.

I avail myself of this renewed occasion of reiterating to your excellency assurances of the sentiments of respect and consideration with which I have the honor to be, your excellency's most obedient and most humble servant.

JN. MN. DE PUEYRREDON.

*PRUSSIA, HAMBURG, AND BREMEN.*

[Communicated to Congress February 8, 1819.]  
*To the Senate and House of Representatives of the United States:*

I transmit to Congress, for their consideration, applications which have been received from the Minister resident of Prussia, and from the Senates of the free and Hanseatic cities of Hamburg and Bremen; the object of which is, that the advantages secured by the act of Congress of the 20th of April last, to the vessels and merchandise of the Netherlands, should be extended to those of Prussia, Hamburg, and Bremen. It will appear from the documents that the vessels of the United States, and the merchandise laden in them, are, in the ports of those Governments, respectively, entitled to the same advantages in respect to imposts and duties as those of the native subjects of the countries themselves. The principle of reciprocity appears to entitle them to the return of the same favor on the part of the United States, and I recommend it to Congress that provision to that effect may be made.

JAMES MONROE.

FEBRUARY 6, 1819.

*PRUSSIA.*

*The Minister Resident of Prussia to the Secretary of State.*

WASHINGTON, November 14, 1818.

The undersigned, Minister resident of His Majesty the King of Prussia, had the honor, on the 21st of November last, to address to the Secretary of State a note, in conformity with the orders of his Government, proposing to the Government of the United States, in relation to the commerce between the two nations, the adoption of the principle of perfect reciprocity as established by the act of 3d March, 1815.

This subject was recommended to the Congress by the President of the United States, in his Message of 19th March last, conjointly with similar propositions made by the Government of the Netherlands, and by the Hanse towns of Hamburg and Bremen. But the act of Congress of 20th April, regulating this object, applied only to the commerce of the Netherlands. By the President's proclamation of 25th July last, the same principle was adopted in regard to Bremen, and, by a subsequent proclamation of the 1st of August as to Hamburg, with this difference: that these proclamations only speak of the produce and manufactures of those two towns; whereas the act of 20th April declares that not only the produce and manufactures of the king-



*Prussia, Hamburg, and Bremen.*

dom of the Netherlands, imported into the United States in Dutch vessels, but such produce and manufactures generally, as can only be, or most usually are, shipped from a port or place in the kingdom of the Netherlands, should be subjected to no higher import duties than if imported in vessels of the United States.

Now, the cities of Hamburg and Bremen, more favorably situated for commerce with the United States than the ports of Prussia on the Baltic, are the chief ports of export of the Prussian trade; consequently, the adoption of the principle of perfect commercial reciprocity, between the States of Prussia and the United States, would have but a very partial effect if the produce and manufactures of Prussia, exported in Bremen and Hamburg vessels, did not enjoy similar advantages on importation into the United States in Prussian bottoms.

The object of the present note having been specially recommended to the undersigned in a memoir of the Chancellor of State of His Majesty the King of Prussia, an extract of which was annexed to the note of the 21st of November above referred to, and subsequently by His Majesty's Minister of Foreign Affairs, he had the honor to address the Secretary of State anew, and to repeat the request stated in his aforesaid note. He has to add, that the Government of Prussia, the more confidently expects that the Government of the United States will adopt suitable measures to terminate this affair, as, in the ports of Prussia, there exists no discrimination on this point between Prussian vessels and those of the United States and their cargoes.

The undersigned eagerly avails himself of this occasion to offer to the Secretary of State the renewed assurances of his highest consideration.

F. GREUHM.

*Mr. Greuhm to Mr. Adams.*

WASHINGTON, November 21, 1818.

The undersigned, Minister resident of His Majesty the King of Prussia, conceives that he cannot better fulfil the orders of his Government, relative to the re-establishment and extension of the commerce of the States of Prussia with the United States, than by transmitting to the Secretary of State the copy of a memoir, in the form of an instruction, addressed to him at his departure from Berlin by His Majesty's Chancellor of State, the Prince of Hardenberg.

He begs leave to recommend it to the suitable attention of the Secretary of State until he can favor him with the honor of a conference on the subject of its contents; and he avails himself of this occasion to tender to him the assurances of his highest consideration.

F. GREUHM.

BERLIN, June 30, 1817.

With a view to extend the commercial relation of Prussia and the United States of America by promoting the exchange of their produce and manufactures, and thereby rendering the trade

of the two nations reciprocally as beneficial as possible, Mr. Greuhm shall propose to the Government of the United States—

1st. That Prussian vessels shall be subjected in the ports of the United States to no other imposts, charges, and duties than are paid by American vessels.

2d. That articles of Prussian manufacture imported into the United States in Prussian vessels shall pay no higher duties than those imported in American vessels.

Mr. Greuhm is therefore authorized to declare to the Government of the United States that the Government of Prussia is willing to establish a perfect reciprocity in this respect; that is to say, that vessels of the United States shall pay in the ports of the Prussian States no other imposts, charges, and duties than those paid by Prussian vessels, as well for ships as for cargoes, provided Prussian vessels and cargoes shall enjoy the same favors in the ports of the Republic.

This principle of perfect reciprocity having already been formally and generally established by the act of 3d March, 1815, copy of which is annexed, no other formality will consequently be necessary than an authentic declaration on the part of Prussia to obtain the adoption of it in her favor by the United States.

The commerce between the United States and Prussia will by this measure be rendered direct and immediate and be exempt in future from the necessity of resorting to the intervention of any foreign nation for that purpose; and thus the Americans, instead of importing Prussian goods through the medium of the Hamburgers and others, will send their own ships and cargoes directly to Stettin, Dantzic, &c., for those goods. It will further tend to promote their national navigation, by opening a new and beneficial channel of trade. Coming themselves to procure such Prussian goods as they may want, and receiving them from the first hand, they will obtain them of better quality and at more moderate prices.

HARDENBERG.

HAMBURGH.

*The Burgomasters and Senate of Hamburg to the President of the United States.*

PRESIDENT: The blessings of peace having been restored to the world, and Hamburg having resumed her pristine liberty and independence, it was amongst our foremost and most ardent wishes not only to renew our friendly intercourse with the Government of the United States, but, if possible, to make it more intimate and extensive. It is with a view of expressing these sentiments that we take the liberty of addressing your excellency, in full confidence that the friendship which the Government of the United States has formerly shown to us and our citizens is not changed by the severe misfortunes of which our city has been the victim of late years. We presume to rely the more on those sentiments, as we require the support of friendly Powers, and in particular

*Prussia, Hamburg, and Bremen.*

of mercantile States, in order to raise us again to our former useful importance. It will be an object of our greatest care to improve our friendly relations with the Government of the United States, and nothing would give us more satisfaction than the mercantile intercourse which connects our town with the United States assuming the greatest importance, and resting upon the most solid foundation. To promote this desirable object, we have, immediately after the reorganization of the constitutional Government of this Republic, caused the custom-house laws to be reported, and the duties to be determined as moderate as possible. These custom-house laws, which establish for the inhabitants of the United States, in respect of their ships, goods, and importations, a perfect equality with our own citizens, and the importations under our own flag, have passed and have already been promulgated last year. We are led, however, to dwell upon them at present, and to refer to these laws, the board of trade of this place having called our attention to an act of Congress dated the 3d of March, entitled "An act to repeal so much of the several acts imposing duties on the tonnage of ships and vessels, and on goods, wares, and merchandise imported into the United States, as imposes a discriminating duty on tonnage between foreign vessels and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States;" desiring we might give to your excellency the assurance required by the said act of Congress of the 3d of March. To this effect we certify to your excellency by these presents:

That, by virtue of the existing laws of Hamburg, and particularly the custom-house laws, the American ships, their loading and importations, are not subject in our city and its ports to any higher duties on the tonnage and on the goods than our own Hamburg ships, their loading and importations; and beg leave to request that your excellency may please to order that the trade and navigation of this city, as much as respects German produce and manufactures, may be relieved from the additional burdens which have till now been exacted, and that they may be admitted to the same privileges which have been bestowed on the trade and navigation of other nations in amity with the United States.

We have the honor to sign, with the sentiments of high consideration and respect, your excellency's most obedient servants, the Burgomasters and Senate of the free Hanseatic city of Hamburg,

WILHELM AMSINCK,  
Burgomaster, President.  
T. H. HEISED, Secretary.

Given the 13th of November, 1815.

*Mr. Buck to the Secretary of State.*

HAMBURGH CONSULATE GENERAL,  
Philadelphia, August 1, 1818.

SIR: Under date of the 25th May last, I had the honor to acknowledge the receipt of your let-

ter of the 11th of the same month, conveying to me the exequator as Consul General for the Republic of Hamburg. At the same time, I took the liberty to renew my application to be informed from your department of the determination of his excellency the President of the United States relative to the act of Congress of March 3, 1815, as far as it may interest the commerce with Hamburg; but till now I still remain without any communication on that subject.

The certificate which accompanied the letter of March 3, 1817, from the Senate of Hamburg, (testifying that, in the city and port of Hamburg, American ships, their loading and importations, are perfectly treated on the same footing as, and in every respect equalized with, our own Hamburg ships, their loading and importations, in regard to the custom-house and all other duties and tonnage,) I had the honor to transmit to the Department of State, and afterwards delivered the duplicate in person. This, I understood at the time, was fully satisfactory, and wanted only the determination of his excellency the President of the United States to entitle the city of Hamburg to the privileges prescribed in the act of Congress under date of March 3, 1815.

I observe now a proclamation, under date of the 24th of July last, on the same subject, relative to the Hanseatic city of Bremen, which induces me to a renewal of my application to give the same relief to the trade and navigation of Hamburg.

In expectation of a speedy, favorable reply, I have the honor to remain, with great consideration, sir, your most obedient servant.

C. N. BUCK,

Consul General from Hamburg.

HON. JOHN Q. ADAMS.

*Mr. Buck to the Secretary of State.*

HAMBURGH CONSUL GENERAL'S OFFICE,  
Philadelphia, Jan. 23, 1819.

SIR: Since I last had the honor of conferring with you on the subject of the commercial relations between the free and Hanseatic city of Hamburg and the United States of America, further advices have been received by me; in consequence of which, I take the liberty of addressing this letter to you.

I am instructed, sir, by the Senate of Hamburg to express to you that they have received the communication of the President's proclamation of the 1st August, A. D. 1818, by which all discriminating duties on the tonnage and merchandise of the respective States are abolished; that the Senate of Hamburg also derive the highest satisfaction from the manifestation of liberal and amicable dispositions on the part of the United States to their republic, and that the continuation of those friendly dispositions will always be duly appreciated by them.

But I am also instructed by the Senate of Hamburg to represent to you, sir, that the concluding part of the proclamation of the President, in which it is stated that the aforesaid discrimi-



*Prussia, Hamburg, and Bremen.*

nating or countervailing duties on merchandise imported "are repealed, so far as the same respect the produce or manufacture of the said free and Hanseatic city of Hamburg," has given to the Senate of Hamburg sincere cause of objection and regret, as they cannot but perceive in the said modification a most injurious operation in relation to their carrying trade and peculiar interests, and which would, in its necessary tendency, almost destroy totally the basis on which the Senate of Hamburg determined on the abolition of all discriminating or countervailing duties, and would almost entirely exclude their shipping from the ports of the United States.

This objection, sir, is considered by the Senate of Hamburg as being further strengthened, by perceiving that the more favorable stipulation has been entered into by the United States, in relation to the same subject, with the Government of the Netherlands; the injurious consequences of which the Senate of Hamburg are most sensibly aware of.

In addition, sir, I take the liberty of communicating to you that I am instructed by the Senate of Hamburg to have a conference with you on the above subject, and to receive from the Government of the United States a statement of their views and decisions in relation to the same.

I consequently take the liberty to request of you that the subject of the above communication will be laid before the President of the United States, with a hope that the Congress of the United States will pass an act that will meet the views of the Senate of Hamburg, to extend to them the privilege that such goods, produce, and manufactures, as most usually are first shipped from Hamburg, may be considered as their native productions, when imported in Hamburg vessels, in the ports of the United States.

With great consideration, I have the honor to renew to you, sir, the assurances of my particular respect, and, in the expectation of your answer, I remain, with great regard, sir, your most obedient servant,

C. N. BUCK,

*Consul General of Hamburg in the U. S.*HON. JOHN QUINCY ADAMS,  
*Secretary of State, U. S.*

## BREMEN.

*Mr. Wichelhausen to the Secretary of State.*

BALTIMORE, Jan. 26, 1819.

SIR: I had the honor of addressing you on the 2d and 23d of December, 1818, to which, however, I have not been favored with an answer.

I understand the collector of this port received yesterday a letter from the Treasury Department, stating circulars would be issued in a few days to give directions that Swedish vessels should be put on the same footing with American vessels, and that goods in Swedish vessels should pay no more duty than goods in American vessels. Permit me to hope that this opportunity will be seized by the Treasury Department to include the necessary instructions respecting the duty

upon goods in Bremen vessels. The collector of this port appears to be decidedly of opinion that the Treasury Department, by the act of Congress of the 3d March, 1815, is fully authorized to give the desired construction to that law, and direct the collectors accordingly.

The request of the Bremen Government being founded upon equity and justice, the Senate of Bremen was confident in the hope that it would be granted by the American Government without delay.

I did not think it necessary to proceed again to Washington for the purpose of communicating with you in person on a subject which I understand required no further discussion. However, if it is not acceptable I should address you in writing. I beg to be instructed, and I shall do myself the honor to wait upon you at Washington.

With the highest consideration, I remain, sir, your very humble servant,

H. D. WICHELHAUSEN.

HON. JOHN QUINCY ADAMS,  
*Secretary of State.*

*The Burgomasters and Senators of the Free Hanse Town of Bremen to the President of the United States:*

SIR: We have been informed by Mr. Wichelhausen, who had the honor to present to your excellency our letter of the 20th January, 1818, of the proclamation you were pleased to issue on the 24th July last, for the purpose of giving effect to the act of Congress of 3d March, 1815, in favor of Bremen vessels entering American ports.

By this formal equalization of duties, and the simultaneous reimbursement of such as have been paid since the 12th of May, 1815, so far as they exceed the equalization decreed by law, the American Government has given a new and signal proof of that spirit of justice which characterizes its proceedings. We offer to your excellency our sincere acknowledgments for this evidence of your good will towards us, and for your favorable reception of our fellow-citizen, Mr. Wichelhausen.

We presume, however, that your excellency will not hesitate to direct that the provisions of the act of the 3d March, 1815, be made applicable to such products and manufactures as, by the general course of trade carried on here, are exported from our port. The very terms of that act, referring the products or manufactures of the nation to which the foreign vessels belong, seem most clearly to designate articles of the growth or industry of Germany, as composed of a body of States, of which Bremen forms an integral part, and to stipulate the equalization of duties in favor of such goods, when exported in Bremen vessels. The treaty concluded with the Government of the Netherlands, extending the equalization of duties "to such produce or manufactures as can only be, or most usually are, first shipped from a port or place in the Kingdom," &c., as well as the tenor of the American act of naviga-

*Relations with Spain.*

tion of 1st May, 1817, seem to remove all doubt as to a correspondent application of the act of Congress to goods shipped from our port.

It is only in this view that the object of the act can be attained of removing all the obstacles which have hitherto obstructed the commerce of the Americans with foreign nations. It appearing to be highly interesting to both nations to favor, as much as possible, the trade carried on between the American ports and that of Bremen, we have submitted to your excellency the evidences of our sincere desire to grant the most special favors to the American commerce, and we therefore flatter ourselves that we shall receive the most unqualified proof of the establishment of that reciprocity which forms the avowed principle of the wise policy of the American Government—a policy eminently calculated to render their country prosperous and happy.

With these sentiments, inspired by a full and entire confidence, we recommended anew to your excellency the interest of our city; and we renew to you the assurances of the very high consideration with which we have the honor to be, sir,

Your Excellency's most devoted Burgomasters and Senators of the free Hanse Town of Bremen.

GEORGE DE GRONING,  
*Burgomaster presiding.*

## SPAIN.

## INDEMNIFICATION—LIMITS—FLORIDA.

[Communicated to the Senate, February 22, 1819.]

*To the Senate of the United States:*

I transmit to the Senate a treaty of amity, settlement, and limits, between the United States of America and His Catholic Majesty, concluded and signed this day, for the decision of the Senate as to its ratification. Copies of the correspondence between the Secretary of State and the Minister from Spain, connected with this subject, since the renewal of the negotiation, are likewise enclosed.

JAMES MONROE.

FEBRUARY 22, 1819.

*Translation of a letter from the Minister of Spain to the Secretary of State.*

WASHINGTON, Dec. 30, 1815.

SIR: The diplomatic relations between the King, my master, and the United States, being happily restored, and both Governments being disposed mutually to strengthen the ties of the most pure and perfect friendship, it is my duty to inform the President of whatever may contribute to so desirable an object, and remove the obstacles which may prevent it. On the important points on which this note must turn, I have written to you under other circumstances less favorable than the present. I will now confine myself to a plain and simple explanation of them.

The first of these points is, that the direct and official relations between Spain and the United States having been broken off since the year 1808, the affairs of both nations, as well as their respective frontiers, should now be placed in the same state and situation in which they were at that period; and that, in conformity to this principle, the part of West Florida which the United States took possession of during the glorious insurrection of Spain, and have retained until this day, should be restored to His Catholic Majesty. This just and conciliatory measure, at the same time that it will convince the King, my master, of the purity and sincerity of the sentiments of the American Government, and of their disposition to arrange and terminate amicably the several points of negotiation, will not in the least impair the right which it may believe it has to the whole or a part of the territory occupied, since it will remain subject, exactly as it was before its occupation, to a frank and friendly discussion between the two Governments.

The second point is as simple and obvious as the first, and I will treat of it with that confidence with which I ought to be inspired by the indisputable justice of my importunity, the justification of the American Government, and the importance of the affair.

It is known to you, and is universally public and notorious, that a factious band of insurgents and incendiaries continue with impunity, in the province of Louisiana, and especially in New Orleans and Natchitoches, the uninterrupted system of raising and arming troops to light the flame of revolution in the kingdom of New Spain, and to rob the pacific inhabitants of the dominions of the King, my master. The invasion of the internal provinces, the horrible assassinations committed in San Antonio de Bexar, and the names of the perfidious perpetrators of such unheard-of crimes, have acquired the publicity which great crimes always will acquire. All Louisiana has witnessed these armaments; the public enlistments, (*los enganches publicos*;) the transportation of arms; the junction of the insurgents, and their hostile and warlike march from the territory of this Republic against the possessions of a friendly and neighboring Power. Neither threats, nor the laws, nor the indignation of well-disposed citizens, nor even the proclamation of the President of the 1st of September last, intended to restrain these highway robbers, have been sufficient to stop their nefarious plans. On the contrary, they prosecute them with the greatest ardor and rancor, more and more exasperated at seeing the glorious triumphs of the Spanish nation, the adhesion of his subjects to an adored monarch, and the approaching re-establishment of the relations between our respective nations. It is known to me that they are now enlisting in New Orleans men for other expeditions, both by land and water, to invade again the dominions of His Catholic Majesty, under the direction of ringleaders Jose Alvarez de Toledo and Jose Manuel de Herrera, who has just arrived in that city with the appointment (as he says) of Minister to the United States



*Relations with Spain.*

from the self-styled Mexican Congress, who has delivered to Toledo fifteen hundred commissions in black from that body of insurgents, that he may confer them on a like number of officers which he is recruiting in the territory of this Union. I omit mentioning to you other innumerable acts of this kind, which prove the publicity of these armaments, and the impunity with which they continue. I will confine myself to stating to you that the most common practice of nations, and the authority of the best writers on public law, would give a right to the King, my master, to require of this Government to deliver up these traitors as incendiaries, enemies of all social order, and disturbers of the peace of his subjects; but as the object of my Sovereign is not to avenge himself of these banditti, but to shield his subjects against their barbarity, I confine myself to asking of you to obtain of the President orders for the prosecution of the principal persons concerned in this sedition, that is to say: Jose Alvarez de Toledo, Anaya, Ortez, the self-styled minister Manuel de Herrera, Doctors Robinson and Humbert, Majors Piere and Preire, and their followers; that they may be punished with all the rigor which the laws prescribe in cases of this kind; that the troops which they have raised may be disarmed and dispersed, and that the necessary measures be taken to prevent, in future, these evil spirits from having an opportunity of pursuing their designs, and attempting to compromise the good intelligence which subsists between our respective Governments. The President cannot but have seen with sensibility as well the total want of effect of his proclamation of the lenient measures which he had adopted against these criminals, who boast of recognising no law, subordination, or moral principle, as the protection and support which they have received, and do receive, from the authorities at New Orleans, contrary to his express orders. His Excellency, as he is encharged by this Republic with watching over its security and the observance of its treaties and laws, cannot but consider himself authorized to restrain the projects and hostile measures of a set of adventurers who make open war against a friendly Power from the territory of this Confederation, compromising its tranquillity and high character, by availing himself of the means which the Constitution, the laws, and his prudence offer to him for obliging these persons to abandon their designs, and to manifest to His Catholic Majesty the just indignation with which the United States view the hostile plans and the sedition of that band of incendiaries. I am certain that it cannot be concealed from the distinguished talents of the President and yourself, that the point of which I treat is not one under the civil (or municipal) law—in which case my Sovereign must have recourse to the ordinary tribunals—but that it is a manifest and flagrant violation of the most sacred laws which bind together nations mutually, perpetrated by the citizens or residents of the Union, of which the King, my master, gives information, with positive and notorious proofs to the Government

under whose jurisdiction it has been executed, that they may give him competent satisfaction, with a knowledge of the act, by causing the delinquents to be punished as guilty of high treason against both Governments.

The third and last point is reduced to this: that the President will be pleased to give the necessary orders to the collectors of the customs not to admit into the ports of the United States vessels under the insurrectionary flag of Carthagena, of the Mexican Congress, of Buenos Ayres, or of the other places which have revolted against the authority of the King, my master, nor those coming from them; that they should not permit them to land, or to sell in this country, the shameful proceeds of their piracy or atrocities, and much less to equip themselves in these ports, as they do, for the purpose of going to sea, to destroy and to plunder the vessels which they may meet with under the Spanish flag. This tolerance, subversive of the most solemn stipulations in the treaties between Spain and the United States, and diametrically opposed to the general principles of public security and good faith, and to the laws of nations, produces the most melancholy effects on the interest and the prosperity of the subjects of His Catholic Majesty. Certain it is that neither Carthagena, nor any other place in the Spanish dominions in this hemisphere, which has revolted, can be in communication with any Power friendly to Spain, since neither on its part, nor on that of any other Government, has their independence been acknowledged; and it is, consequently, an offence against the dignity of the Spanish monarchy, and against the sovereignty of the King, my master, to admit vessels from such places, manned and commanded by insurgents, and armed in the dominions of this Confederation; particularly as they are all pirates, who do not respect any flag, are justly considered the disgrace of the seas, and are execrated by all nations.

The three preceding points are of such established equity and justice, that it would be offensive to the delicacy of this Government to suppose that it could delay, under any pretext, to determine on them in the manner I have proposed, and which I have an express order to request (*solicitar*) in the name of the King, my master. The prompt interposition of the President, that His Majesty may be gratified, would be a new testimony of his friendly disposition towards Spain; an evident proof that he is determined to put an end to the incalculable extortions and injuries which Spain has suffered for the space of seven years, from the gang of adventurers who have assailed her from the bosom of this Republic; a means of fixing the frank and sincere system of good neighborhood which so much interests both States; and, finally, a sure preliminary to the removal of all the difficulties which may present themselves in the negotiations which ought to terminate all the pending discussions between the two Governments, and to fix forever between them a perpetual and solid friendship.

*Relations with Spain.*

If, as I flatter myself, the President gives all the attention which is due to affairs of such transcendent importance, and yields to my solicitations, I can assure his Excellency, and yourself, that there will be nothing which the King, my master, will not be disposed to do to satisfy this Republic, which may be compatible with his dignity and with the interests of his subjects.

I renew to you the assurances of my particular respect, and of my constant desire to please you, and pray God to preserve your life many years.

LUIS DE ONIS.

Hon. JAS. MONROE, &c.

*Translation which accompanied a note of the 2d January, 1816, from the Chevalier de Onis to the Secretary of State.*

SIR: Since the last note I had the honor to address you, under date of the 30th December, I have received positive information that the expedition which the traitor Toledo was preparing in New Orleans against the dominions of the King, my master, has been suspended until the arrival at that city of two bodies of troops, (one thousand men from Kentucky, and three hundred from Tennessee,) commanded by two American citizens, that were to be united in twenty-four days to the army of the insurgents. I abstain, sir, from offering to you any observations on a subject of such high importance, and so well established. I am well persuaded that his Excellency the President will easily perceive that if the States of Kentucky, Tennessee, Louisiana, and Georgia continue, as they do, allowing their citizens to commit hostilities against a friendly Power, notwithstanding the orders he has issued for dispersing and disarming the gang of *desperadoes* headed by Toledo, Humbert, Anaya, Bernardo Gutierrez, Istri, Doctor Robinson, Majors Piere and Preire, and their followers, the King, my master, will have reason to suspect that, if those meetings are not authorized by the Government, they are at least tolerated. All the assurances I may give to my Sovereign of the friendly dispositions of his Excellency the President will not suffice, when compared with the evident proofs I had the honor to communicate to you in this and my former note; particularly when His Majesty is well convinced of the resources and authority of the Federal Government, and the promptitude with which their orders are strictly observed in the whole Union. I do not entertain any apprehension of the result of the expedition of these incendiaries. The European wars being terminated, His Majesty will be able to direct all his attention, and his powerful armies, to stifle at once the growth of that insurrection; but the philanthropic heart of my Sovereign, the humanity by which he is distinguished, and which constitutes the character of the Spanish nation, induce him to wish to re-establish order among the seduced rather by mildness than by the force of arms, which cannot be effected without the effusion of the blood of his beloved subjects. This object cannot fail to be obtained as soon as

15th Con. 2d Sess.—52

the Mexican insurgents and those of the internal provinces cease to be furnished, by the citizens of this Republic, with arms, ammunition, and troops.

I shall never have the vain presumption to offer you, or the wise Magistrate that is at the head of this Administration, any observations on the consequences that might result against the interests of this Republic by the independence of Spanish America. My wishes are only directed to equal you in moderation, and to re-establish, on the most firm and permanent basis, the relations between our Governments. This sincere desire will, I hope, serve as an apology for me, while I take the liberty to present an hypothesis in this note.

I grant, for a moment, that all the Mexican empire erects itself into an independent State; that it adopts the wise Constitution of this Confederation; establishes a complete system of legislation; and, finally, that it enjoys all the blessings of liberty in the same full extent as this Republic. It is beyond question that the climate of Mexico is more temperate than that of the United States; the soil richer and more productive; the productions and fruits more abundant, rich, and of a superior quality; and that provisions, labor, wood, houses, clothing, &c., are, in consequence of the mildness and regularity of the climate, much cheaper than in this country. If this event should take place, do you not think, sir, as I do, that so many alluring prospects, and so many evident advantages, will deprive this Republic of the successive emigrations from Europe, and, what is more, of a very considerable part of the most useful and industrious inhabitants of this Confederation, who would carry with them to Mexico their flour and saw-mills, machines, manufactures, their enterprising genius—in a word, their general instruction, and all the means that actually promote and vivify the commerce of these States? I flatter myself that this event will not happen; but I am fully convinced that the consequences of this hypothesis can be demonstrated almost with a mathematical certainty; and that if the citizens of Kentucky, Tennessee, Louisiana, and Georgia, should reflect deeply on this subject, far from giving any aid to those vagabonds, greedy of the acquisition of gold, and regardless of the happiness of their country, they would unite themselves with the authorities of the King, my master, to punish that gang of perfidious traitors that hide themselves in these States with the criminal design of devastating their country. I hope, sir, you will have the goodness to overlook this digression, to which I have been carried by my warm desire of strengthening the most perfect friendship between the two nations, and to inform his Excellency the President that the orders I claim in His Catholic Majesty's name, directed to the trial and punishment of the ringleaders of those armies, and to the prohibition of exporting arms of any kind from this country to the provinces, against my Sovereign's authority, are of the greatest importance, and are supported by the existing treaty of



friendship, limits, and navigation, between Spain and the United States, especially the sixteenth article.

I expect, sir, your answer to these important points, and I have the honor to be, &c.

*The Secretary of State to the Chevalier De Onis, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty.*

DEPARTMENT OF STATE, Jan. 19, 1816.

SIR: I have had the honor to receive your letters of the 30th of December and 2d of January last, and to submit them to the President.

You demand that your Sovereign shall be put in possession of West Florida; that certain persons, whom you have mentioned, shall be arrested and tried on the charge of promoting insurrection in the Spanish provinces, and exciting citizens of the United States to join in it; and, thirdly, that the flags of Carthagena, the Mexican Congress, Buenos Ayres, and other revolting provinces, shall be excluded from the ports of the United States.

On the re-establishment of the diplomatic relations between the United States and Spain, it was hoped that your Government would not have confined its attention to the objects in which Spain is alone interested, but have extended it to the injuries of which the United States have so long and so justly complained, with a view to such reparation as it might now be able to make. The subjects are in their nature intimately connected. In some important circumstances, indeed, it is impossible to separate them, since the exposition of the wrongs of the United States affords the proper answer, in those instances, to the complaints of Spain. It is my duty to bring these wrongs into view, that they may be duly considered and provided for, in case your Government has, as I am bound to presume, invested you with adequate powers for the purpose.

At a period anterior to either of the circumstances mentioned in your letters, the United States had suffered great injury by the unlawful seizure and condemnation of their vessels in the ports of Spain. A treaty providing an indemnity for those spoliations was agreed to and signed by a Minister duly authorized by each Government; but its ratification, though negotiated and concluded in the presence of the Spanish Government, was afterwards declined by it. At an anterior period, too, the deposite at New Orleans, stipulated by the treaty of 1795, was suppressed. As the United States had done no injury to Spain, these acts, so hostile in their nature, and injurious in their effect, excited much surprise: It had been the uniform object of this Government to make such arrangements with Spain respecting the free navigation of the Mississippi and the boundaries, as, securing to our citizens the full enjoyment of their rights, would place the peace and friendship of the two countries on a solid and durable basis. With this view, it was sought to obtain of Spain, at a fair equivalent, the territory eastward of the Mississippi. Overtures to this

effect were made to the Spanish Government, and rejected. Being renewed, the Minister of the United States was informed that Spain had ceded Louisiana to France, to whom he was referred for the acquisition of such territory in that quarter as he might be instructed to make. On the last very important event, the suppression of the deposite at New Orleans, a special mission was instituted to France and Spain, the object of which was to avert, by amicable negotiation and arrangement, the calamities of war. Affairs had, more especially by this act of violence and hostility, reached a crisis which precluded the idea of temporary palliatives. A comprehensive and permanent arrangement had become indispensable, of which, it was presumed, the Governments of France and Spain would be equally sensible. The cession of Louisiana by France to the United States was the immediate consequence of this mission, with such a description of its boundaries by the treaty as, it was presumed, would leave no cause of controversy with Spain.

The mission had thus succeeded in a very important object; but there were others of a similar character which remained to be adjusted. The differences with Spain still existed, and to them was added a circumstance of much interest, proceeding from the acquisition of Louisiana—the unsettled boundaries of the province, which were now to be established with Spain. Under the influence of the same policy, the special mission was ordered soon afterwards to Madrid, to invite a negotiation for the arrangement of all these important concerns. Spain still held territory to the eastward of Perdido, which, by her cession of Louisiana, and its transfer to the United States, was separated from her other dominions, and lay, except on the side of the ocean, exclusively within our limits. The importance of this territory to Spain, in consequence of these events, in any view which might be taken of it, seemed to be much diminished, if not entirely lost; while, in certain views of which it was susceptible, it might prove highly injurious. There was danger that the continuance of a Spanish colony there might produce jealousy and variance between the two nations. On the other hand, the United States had acquired territory westward of the Mississippi, adjoining the provinces of Spain, which it was supposed she might be desirous of obtaining. By mutual cessions of territory in quarters most convenient to each other, and by forming an interval between their possessions to remain vacant, the danger of collision might be avoided, and their good understanding more effectually preserved. By rendering justice likewise to the claims of the United States, their citizens would be contented, and their Government be better enabled to control their conduct beyond their limits. Here, then, seemed to be a fair ground for amicable compromise between the parties. An opportunity was presented for terminating every difference, and securing their future harmony without loss or sacrifice by either. On the result of this mission I need not enlarge.

I shall remark only that the friendly policy which produced it was not reciprocated by your Government; it was, perhaps, not felt; it was certainly disregarded. Every proposition of the American Ministers, having these objects in view, was rejected, and none made in return by your Government.

This conduct of your Government would have justified, if it did not invite, the most decisive measures on the part of the United States. The refusal to make reparation for preceding injuries, or to surrender any portion of the territory in the possession of Spain, to which they considered their title indisputable, or to accept fair and liberal propositions for the accommodation of these differences, or to make a proposition of any kind for the purpose, left the United States perfectly free to pursue such course as, in their judgment, a just regard to the honor, rights, and interests of the nation might dictate. In the condition of Spain there was nothing to excite apprehension of the consequences, whatever might be the course decided on. Of this, the well-known state of the Peninsula at the time, and since, and of the Spanish provinces in America, affords ample proof. The friendly policy which the United States have since pursued is the more conspicuous from the consideration that your Government has inflexibly maintained the unjust and hostile attitude which it then assumed, and has even added new injuries and insults to those of which I have already complained. I refer, in this latter remark, to the breaches of the neutrality of Spain, which her Government permitted, if it did not authorize, by British troops and British agents in Florida, and, through that province, with the Creeks and other Indian tribes, in the late war with Great Britain, to the great injury of the United States. It is under these circumstances that you have made the demands above recited, to which I will now proceed to give a more particular reply.

You require that Spain shall be put into possession of West Florida, as an act of justice, before a discussion of the right of the parties to it is entered on.

It is known to your Government that the United States claim by cession, as a fair equivalent, the province of Louisiana, as it was held by France prior to the treaty of 1763, extending from the river Perdido, on the eastern side of the Mississippi, to the Bravo or Grande, on the western. To the whole territory within those limits, the United States consider their right established by well-known facts and the fair interpretation of treaties. In a like spirit may the United States demand the surrender of all the territory above described, now in the occupancy of Spain, as a condition to the commencement of any negotiation for the adjustment of differences. When we consider how long your Government has maintained what is deemed an unjust possession; more especially when we recollect that the injuries before received are still unredressed, and that others have been since rendered, there can be, it is presumed, but one opinion as to the great mod-

eration of this Government in acquiescing in it. But why restore this province to Spain, if it is the intention of your Government to make the title to it, in connexion with other differences, a subject of amicable negotiation and arrangement? May not such a negotiation be entered into as well while it is in the occupancy of the United States as if it were in that of Spain?

You demand, next, that Mr. Toledo, and others whom you mention, charged with promoting revolt in the Spanish provinces, and exciting citizens of the United States to join in it, shall be arrested and tried, their troops disarmed and dispersed.

You intimate that troops are levying in Kentucky, Tennessee, Louisiana, and Georgia, for the invasion of the Spanish provinces, of whom one thousand are from Kentucky, and three hundred from Tennessee, to be commanded by American citizens; but you do not state at what points these men are collected, or by whom commanded; and as to the forces said to be raised in Louisiana and Georgia, your communication is still more indefinite. The information recently obtained by this Department from persons of high consideration is of a very different character. It is stated that no men are collected, nor is there evidence of an attempt or design to collect any in Kentucky, Tennessee, or Georgia, for the purpose stated; and that the force said to be assembled under Mr. Toledo is very inconsiderable, and composed principally of Spaniards and Frenchmen. If any portion of it consists of citizens of the United States, their conduct is unauthorized and illegal. This force is not within the settled parts of Louisiana, but in the wilderness, between the settlements of the United States and Spain, beyond the actual operation of our laws. I have to request that you will have the goodness to state at what points in Kentucky, Tennessee, Georgia, and Louisiana, any force is collected, the number in each instance, and by whom commanded. If such force is collected, or collecting, within the United States, for the purpose suggested, or other illegal purpose, it will be dispersed, and the parties prosecuted according to law.

This Government is under no obligation, nor has it the power, by any law or treaty, to surrender any inhabitant of Spain or the Spanish provinces on the demand of the Government of Spain; nor is any such inhabitant punishable by the laws of the United States for acts committed beyond their jurisdiction, the case of pirates alone excepted. This is a fundamental law of our system. It is not, however, confined to us; it is believed to be the law of all civilized nations, where not particularly varied by treaties.

In reply to your third demand—the exclusion of the flag of the revolting provinces—I have to observe that, in consequence of the unsettled state of many countries, and repeated changes of the ruling authority in each, there being at the same time several competitors, and each party bearing its appropriate flag, the President thought it proper, some time past, to give orders to the



*Relations with Spain.*

collectors not to make the flag of any vessel a criterion or condition of its admission into the ports of the United States. Having taken no part in the differences and convulsions which have disturbed those countries, it is consistent with the just principles, as it is with the interests, of the United States to receive the vessels of all countries into their ports, to whatever party belonging, and under whatever flag sailing, pirate, excepted, requiring of them only the payment of the duties, and obedience to the laws while under their jurisdiction, without adverting to the question whether they had committed any violation of the allegiance or laws obligatory on them in the countries to which they belonged, either in assuming such flag, or in any other respect.

In the differences which have subsisted between Spain and her colonies, the United States have observed all proper respect to their friendly relations with Spain. They took no measure to indemnify themselves for losses and injuries; none to guard against the occupancy of the Spanish territory by the British forces in the late war, or to occupy the territory to which the United States considered their title good, except in the instance of West Florida; and in that instance under circumstances which made their interposition as much an act of accommodation to the Spanish authority there as of security to themselves. They have also prohibited their citizens from taking any part in the war, and the inhabitants of the colonies, and other foreigners connected with them, from recruiting men in the United States for that purpose. The proclamations which have been issued by the Governors of some of the States and Territories, at the instance of the President, and the proclamation lately issued by the President himself, are not unknown to your Government. This conduct, under such circumstances, and at such a time, is of a character too marked to be mistaken by the impartial world.

What will be the first result of the civil war which prevails between Spain and the Spanish provinces in America, is beyond the reach of human foresight. It has already existed many years, and with various success; sometimes one party prevailing, and then the other. In some of the provinces the success of the revolutionists appear to have given to their cause more stability than in others. All that your Government had a right to claim of the United States was, that they should not interfere in the contest, or promote, by any active service, the success of the revolution, admitting that they continued to overlook the injuries received from Spain, and remained at peace. This right was common to the colonists. With equal justice might they claim that we would not interfere to their disadvantage; that our ports should remain open to both parties, as they were before the commencement of the struggle; that our laws regulating commerce with foreign nations should not be changed to their injury. On these principles the United States have acted.

So much have I thought proper to state respecting the relations existing between the United States and Spain. The restoration of the diplomatic intercourse between our Governments forms an epoch which cannot fail to be important to both nations. If it does not produce a result favorable to their future friendship and good understanding, to your Government will the failure be imputable. The United States have at all times been willing to settle their differences on just principles and conditions, and they still are. Of this I informed you in my letter of the 5th of May, as I likewise did Mr. Cevallos, in a letter of the 17th of July. It will be very satisfactory to the President to find that your Government entertains now the same disposition, and has given you full power to conclude a treaty for these purposes. I have the honor to be, &c.

JAMES MONROE.

*Translation of a letter from Mr. Otis to the Secretary of State.*

PHILADELPHIA, February 22, 1816.

SIR: The letter with which you honored me on the 19th of last month, in answer to mine of the 30th of December and 2d of January, had two objects: the first to make known to me the complaints which this Government considers itself as having against Spain for a long time past; the second, to communicate the resolution of the President on the three points embraced in my notes mentioned above.

You state that the President would have wished that I should not have confined myself to bringing forward the complaints of His Majesty, but should have likewise proposed a reparation for those of the United States against Spain.

The claim for damages and injuries of which you speak would have been definitively arranged and settled if the diplomatic relations between the two Powers had not been interrupted since the memorable epoch of 1808; and this Government cannot but know that this interruption ought not to be imputed to Spain; His Majesty having made, from that time, the greatest efforts to maintain them pure and unaltered.

I have assured you verbally and in writing that His Majesty desired nothing so anxiously as to satisfy the United States for every injury they may have received from Spain, and to proceed to give this satisfaction with that generosity and high sense of honor which have at all times distinguished the Spanish character, and which have always shone conspicuously in the conduct of the Government of the King, my master; but all these points, as being anterior to the epoch I have mentioned in my notes, and since then pending between the two Cabinets, ought to be the object of a particular negotiation; and nothing is more natural or more conformable to justice and good faith than that, for facilitating this very negotiation, the state of things between the two nations should be reduced to the same footing on which it was at the epoch referred to, since, from that time, there has neither been any official corre-

*Relations with Spain.*

spondence between the two Governments, nor have the United States received the least injury from Spain; and if they have received any, it has been contrary to the will of His Majesty, and without his knowledge. Of this class, without doubt, is that which you mention in your note above cited; that is, that British troops and agents had been introduced into Florida, and had communication with the Indian enemies of this Republic in its last war with Great Britain. The rigorous neutrality which His Majesty has observed in the island of Cuba, East Florida, and his other possessions, ought to convince the President that the Governor of West Florida (who is, I suppose, the person to whom you allude) had like orders with the other chiefs to observe the most strict neutrality; and if he has failed in obeying them, he would have been severely chastised, had you have given to me the least intimation as to his conduct.

I will now pass to the second object of which your letter treats; that is to say, to the resolution which this Government has taken on the three points stated in my letters of the 30th December and 2d January.

The first was confined to a request that, in conformity to the principles I have stated, that is, that the affairs between the two nations should be placed on the same footing they were before the interruption of the diplomatic relations between them, His Majesty should be put in possession of that part of Florida which the troops of this Union had occupied. You were pleased to state, in reply, that this Government, believing that it had a well founded right not only to the part of West Florida which their troops had occupied, but to a greater extent of territory, comprehended in the limits of the viceroyalty of Mexico, had judged that, with the same propriety that the King, my master, occupied those possessions, the United States might retain that part of West Florida they held, until it was decided by a friendly convention to whom it belonged.

Permit me to observe that there is no parity in the cases. The country to which you allude, extending to the Rio Bravo, or del Norte, has been under the dominion of Spain, not only before and since France ceded Louisiana to His Majesty by the treaty of 1764, but from the time of the discovery and conquest of Mexico, without ever having passed by treaty to any other nation; whereas the Floridas ceased to be a French or Spanish possession, and passed into the hands of England, under the name of East and West Florida in the year 1763. They remained under the power of His Britannic Majesty, as such, until the year 1783, when, by conquest, the Spanish arms, and by solemn treaty, they passed under the dominion of His Catholic Majesty. From this you will infer that, be the interpretation which may be wished to be given to the treaty of *retrocession* of Louisiana, made between France and Spain in 1800, what it may, the two Floridas can never be directly or indirectly included in it; first, because these provinces being in the legitimate possession of England from the year 1763 to the

year 1783, France could not cede them to Spain by the treaty of 1764—nor Spain retrocede them to France, not having received them from her, unless there should have been an article on this point, in which express and direct mention was made of the cession; and, secondly, because the two contracting parties (Spain and France) have declared in the most solemn manner, the first, that she did not cede to France any part of the Floridas—the second, that she had not acquired them by the Treaty of St. Ildefonso, or of *retrocession* of 1800; nor had had the least intention to set up a claim to them. You know very well that, according to all the acknowledged principles of justice, no one can be put out of the possession of what he holds until the right of the person who claims it shall be proved and recognised; and that, by a natural consequence of this principle, Spain having been in possession of West Florida when the United States laid claim to it, it is proper she should keep it until this Republic shows a better right, which ought to be done in a friendly negotiation between the two Powers; and that it would be anticipating the negotiating to begin by taking possession of the territory, the right to which, so far as it respects the United States, ought to be the object of the negotiation itself. These are the grounds which support the first demand I made on you, in the name of His Majesty, in my letter of the 30th December; and I flatter myself that, reflecting on facts so well known, you cannot do less than consider them just.

I pass now to the second point. This is confined to asking the punishment, according to law, of those turbulent and seditious individuals who have taken up arms within the territory of this confederation, and from thence carrying desolation, destruction, and horror into the frontier provinces of the Crown of Spain; and not content with the atrocities they have heretofore committed, they are now actually engaged in recruiting troops, and preparing armaments in the bosom of this country, again to invade these provinces. I have named the ringleaders of these rebels, who have violated the neutrality and the most sacred laws of the United States, by the well-known fact of their having armed in their territory, and marched from thence, in military and hostile array, to subvert the peace and good order of the dominions of the King, my master. I have named Toledo, Bernardo Gutierrez, Doctor Robinson, and others, who perpetrated the horrible deeds at St. Antonio de Bexar; who recruited their troops in Louisiana, and even in the limits of New Orleans, and proceeded from thence, as an army, to assault the province of New Mexico; who committed there outrages never heard of even among savage tribes; and who, after being defeated, again took refuge in the territory of this Union, where they are now endeavoring to raise new forces to repeat the same excesses. Toledo, Bernardo Gutierrez, Dr. Robinson, and their followers, to this time, move about with impunity in Louisiana, and even in the city of New Orleans itself. The infraction of the



laws of the United States, and the violation of the dignity and honor of the American people, of which they are guilty, is public and notorious, not only in this country, but in the whole world. I stated to you, in addition, on this point, that the ringleaders I had named to you were expecting considerable reinforcements from Kentucky and Tennessee, to undertake a hostile expedition against the neighboring possessions of my sovereign; and that I had advised that these reinforcements, composed of American citizens, were raised for the purpose of uniting with them.

You were pleased to state to me, in reply, on this point, that the President had determined not to take any part in the disputes which had arisen between His Catholic Majesty and the revolted provinces on this continent; and that, in conformity to this system, the Governors of different States, as well as the President himself, had issued repeated proclamations, directing that all those who set on foot, or promoted the recruiting of adventurers, with the design of invading the possessions of His Catholic Majesty, should be prosecuted according to law; that the information received at your Department, from very respectable persons, is, that the force collected by Toledo is very inconsiderable, and composed principally of Frenchmen and Spaniards, without the territory of the United States, where their laws do not reach; that my statements on this point are not circumstantial; and that as soon as I pointed out American citizens who promoted the expeditions, collected the troops, or facilitated the supplies to which I referred, and if these collections of troops, &c., were in the territory of this Union, they should be immediately dispersed, and the persons implicated should be prosecuted according to law.

To satisfy you on this point, with that simplicity and candor which belongs to me, I will divide into two classes these seditious persons of whom I have spoken to you in my notes. I will include in the first class Toledo, Bernardo Gutierrez, and Dr. Robinson, as violators of the neutrality laws of the United States—an infraction so notorious and so evident that I should do wrong to detain you in referring to the innumerable acts which demonstrate it in an incontestable manner. It is known to you, to your Government, and to the whole country, that, with the troops they individually raised three years ago in Louisiana, they marched in military array to invade the internal provinces of the viceroyalty of Mexico; the horrible assassinations they committed, particularly those by Bernardo Gutierrez at St. Antonio de Bexar, are known. And, finally, it is known that, being defeated by the troops of the King, my master, they took refuge again in this country, and that the Government of Louisiana permitted them to remain undisturbed in the very territory whose neutrality they had violated. This single fact is, in my opinion, a sufficient reason why the law should take hold on them before they leave the jurisdiction of the United States to renew melancholy scenes. But I will give to you even new proofs that these highway

robbers have not ceased from that time to concert and to realize new projects against the tranquillity of the inhabitants of the dominions of the King, my master.

The annexed copies, marked Nos. 1, 2, and 3, of intercepted letters from Toledo, which have been officially sent to me, prove beyond doubt that Toledo had armed in New Orleans three vessels, in which he carried arms and munitions of war to give support to the insurrection in Mexico; and that he returned to that city, bringing back with him Herrera, who calls himself Minister Plenipotentiary from the revolted provinces to this Government, by asserting, in one of his said letters, that the United States only waited the arrival of the Minister of the revolutionists of Mexico to acknowledge its independence. The other ringleaders have done the same thing to deceive adventurers, both in and out of Mexico, and even citizens of the United States, seducing them by false assurances that their Government was decided to support them, and that it would proceed immediately to recognise as an independent Power that band of highway robbers and insurgents. From the extract of a letter from a person of the greatest veracity and the best character, now forwarded to you, marked No. 4, you will observe that Toledo had deferred his expedition against the provinces of the King, my master, as I stated to you in my note of the 2d January, as the thousand men he expected from Kentucky, and the three hundred from Tennessee, could not form a junction with him in less than twenty-four days; and in Nos. 5 and 6, you will see this information confirmed under a posterior date, advising me that a number of Americans came down from the States adjacent to Louisiana to join the expedition which Toledo had concerted; and that he (Toledo) would carry with him the engineer Laford, Savary, and one Soubenet.

You will also learn that provisions and a Carthaginian flag were sent to the American brig, the Tom Bowline, from New York, at the moment of her arrival at the Balize, by a gunboat of the United States, with the object, it would seem of conveying with her the vessels which should sail from New Orleans with munitions of war for the establishment at the new port of Tampico; that they had purchased in New Orleans itself five other schooners, which they are actually arming to cruise against the Spanish commerce; and that it appears that Mr. John K. West, merchant of that place, is the agent for these vessels; and, finally, that in that city there has been a revolutionary junta, at the head of which is Toledo and Herrera, from which has issued the wicked decree mentioned in these letters—that four honorable Spaniards should be put to death for every revolutionist punished by the established laws of the monarchy of the King, my master.

As respects Doctor Robinson, it is notorious that he has been one of the most infuriated enemies of Spain, and the one who has, with the greatest eagerness, promoted the rebellion of the

provinces of His Majesty. It was he who introduced himself into the internal provinces to seduce their inhabitants; it was he who sowed the seed of insurrection; it was he who procured intelligence in St. Antonio de Bexar for Bernardo Gutierrez, that he might possess himself of the place, and afterwards murder fourteen Spanish chiefs; and it was he who published, in these United States, proclamations, signed with his hand, inviting adventurers from all parts to form an army, pointing out the places of enlisting men, and the pay of those enlisted; and, in one word, declaring war himself, in a certain mode, against the Spanish nation, from the very bosom of this Republic, as you will find more in detail in the authenticated copy (No. 7) which accompanies this, the original of which is in my possession.

I include in the second class those individuals who, seduced by the imposture of the principal author of these hostile expeditions, have assisted, from the bosom of this Republic, the revolutionists of Mexico—some by furnishing them arms and munitions of war, others by enlisting themselves, in this country, in the army of the insurgents, which passed over to subvert all order in the provinces of the King, my master. In this number are those other persons whom I have mentioned to you in this and my former notes. The information which I gave you respecting some persons who were preparing hostile expeditions from Georgia against the possessions of the King, my master, you find established, officially, by the Governor of East Florida, in his letter (No. 8) which accompanies this; in which he advises me that John McIntosh and William Criach, who supported the last insurrection in that province, in the year 1812, are now recruiting in Georgia a considerable number of vagabonds, again to invade the territory under his command.

I flatter myself that this series of acts, so circumstantial, the information of which has been acquired through channels so respectable, will be sufficient to call the attention of the President to the necessity of cutting up by the roots these melancholy abuses, and shut the door against the continual, violent movements of these turbulent people, who, from the bosom of this Republic, make war on a friendly and neighboring Power. It has never been the intention of the King, my master, to request that the punishment of the laws should be inflicted on these disturbers of social order when their guilt is not fully proven. On the contrary, I have informed you that the object of His Majesty is not to take vengeance on these highway robbers, but to shelter his subjects from their barbarity. His Majesty has only thought proper to solicit from the rectitude and circumspection of this Government what might prevent the crimes which are meditated from taking effect, as otherwise it might be too late to prevent them, as the offenders will be beyond the territory of a friend, and at a distance from the arm of the law. Good order requires not only that the offences already committed should be punished, but that those which are contem-

plated should be prevented; and this is the case of the individuals I have comprehended in the second class. The personal knowledge I have of the rectitude of the President inspires me with a confidence that he will view the acts I have just stated as I do, and proceeding, in this particular case, with that integrity and humanity which is the most glorious distinction of the American character, he will be pleased to adopt those measures which he may believe most analogous to the system which, you tell me, this Government has adopted, not to mix in these dissensions, and not to permit the citizens of this Republic to take part in them, nor to permit its territory to be a shelter to foreigners who try to make war on a friendly Power.

To the third point in my notes, intended to solicit from your Government that vessels from the insurgent or revolted provinces of Spanish America should not be admitted into the ports of the Republic, as well because none of those provinces are recognised by any Power in the world, as, because the obligations of friendship and good neighborhood demand that we should not in any way contribute to protect provinces or subjects who have revolted, you have been pleased to make known to me that the President, observing the change of government which had taken place among the revolutionists in Spanish America, had adopted the measure of ordering the collectors of the customs to admit every description of vessel, without regard to her character or flag, provided she paid the duties and observed the laws of the country during the time she was in port.

With due respect for the measures adopted by the chief of this confederation, I cannot do less than state to you that the changes of government which have taken place among the revolutionists of Spanish America do not appear to me to afford a sufficient motive for altering the friendly conduct towards a Power with whom one is in peace and harmony. You cannot but know that this measure places these factionists not only on a footing of equality with the Spanish nation, but gives them advantages over all independent Powers, since, according to the laws of neutrality, the United States would not permit any independent nation to arm its vessels in their ports, nor to sell prizes in them, as is permitted to these revolutionists.

By the two acts of Congress, one of the 28th of February, 1806, and the other of the 24th of the same month in 1807, all commerce with the rebels of St. Domingo was prohibited at the request of France. As the treaties subsisting between Spain and the United States place Spain on the footing of the most favored nations, His Majesty considers himself entitled to expect that this Republic will now adopt in his favor a like measure during the disturbances in Spanish America, or for such other period as it may be considered proper to designate. Such is the spirit in which I have made the three requests to your Government, stated in my former notes. I hope that the present observations will merit a favora-



*Relations with Spain.*

ble reception from the rectitude and wisdom of the President and of yourself. I have given an account to my Government of all these particulars, sending it a copy of my notes, and of the answer I had the honor to receive from you. And in the meantime I ought to reiterate to you the most positive assurances of the disposition of the King, my master, to maintain and to strengthen the ties of friendship and good understanding with these States.

At the conclusion of your note which I am now answering, you are pleased to make known to me that this Government is anxious to terminate, by means of a friendly negotiation with the King, my master, all pending differences, and that it will be very satisfactory to the President to know that I am vested with powers to that effect. I have not lost any time in communicating to my Sovereign this desire of the President, and I will have the satisfaction of announcing to you what His Majesty may determine on this point; nevertheless, I ought to state to you, that although it would be highly flattering to me to treat with you, as your penetration and rectitude would facilitate the arrangement of these affairs, yet it appears to me that, as Mr. Erving has not yet sailed from the United States, the business would be expedited if the President would give him power and instructions to terminate the negotiations at Madrid. This arrangement cannot present great difficulties. The respective rights of each Power being once settled by common agreement, a friendly understanding being had on each point in discussion, and it being determined what are the reciprocal obligations of Spain and the United States, they would be still further obviated if you would have the goodness to inform me, frankly and plainly, as I requested in a former letter, what are the pretensions of right which the United States have against Spain, and what are those for their own convenience, which they desire to realize for an equivalent which may be advantageous to the two nations, to the end that, with the knowledge I have acquired of the mutual interest, of both, I may recommend to the attention of His Majesty these particular points.

I renew to you my respects, and pray God to preserve your life many years.

LUIS DE ONIS.

*Copy of a letter from the Secretary of State to the Chevalier De Onis.*

DEPARTMENT OF STATE, June 10, 1816.

Sir: I had the honor to receive your letter of February 22d soon after its date, and to communicate it to the President.

Anxious as this Government has been to terminate all differences with His Catholic Majesty, on conditions of reciprocal advantage, and with equal honor to both parties, it would have been very satisfactory to the President to have found that you had been vested with full power to negotiate and conclude a treaty for these purposes.

I have the honor now to state that Mr. Erving, Minister Plenipotentiary of the United States to

His Catholic Majesty, has been instructed on these important subjects, and that, as the views of this Government are just and liberal, a strong hope is entertained that your Government, bringing to the negotiation a similar disposition, will agree to such an arrangement as will be mutually advantageous and satisfactory to both nations.

However agreeable it might be to leave these high concerns in this train, without further discussion here, it is, nevertheless, proper to notice some passages in your letter of February 22d, notwithstanding the clear light in which the subjects to which they relate have been placed in former communications. You intimate, in your late letter of May 30th, a desire to receive a particular answer to that of February 22d; and it is just that you should see that my silence was imputable to the cause only which is above suggested.

You state that, as that portion of Louisiana which lies eastward of the Mississippi and the Iberville, had been ceded by France to Great Britain in 1763, and by Great Britain to Spain in 1783, it could not be comprised in the cession of Spain to France in 1800, nor of the latter to the United States in 1803; and you draw this conclusion from the supposed import of the term "retrocession" used in the two latter treaties; which, you say, applies to that portion only which Spain had received from France. My interpretation of these treaties, taking into view so much thereof as relates to this subject, is very different. As to the term "retrocession," it is evident that it was not the intention of the parties that it should have any effect whatever on the extent of the territory ceded. The import of this term is too vague, and the term itself was used in a manner too casual to admit such an inference, even had there been nothing else in the treaty between Spain and France of 1800, to show that the construction you contend for is altogether inconsistent with the manifest intention of the parties. The import of this term would, in my opinion, be satisfied, if the whole province had passed in the first instance from France to Great Britain, and been conveyed afterwards by Great Britain to Spain, and by Spain back again to France. In regard to France this last conveyance would have been a "retrocession," as, by it, the territory would have been ceded back to her. It was very natural, therefore, that this term should be used, being applicable, in the most limited sense in which it can be taken, to at least nineteen-twentieths of the province, and, in a qualified sense, to the whole.

Had it been intended to exempt any portion of the province in the possession of Spain from the operation of the Treaty of St. Ildefonso, it would have been easy to have done it, and in a manner to preclude all doubt of the intention of the parties. It might, for example, have been stated that Spain ceded back to France such part of the province as France had ceded to Spain. A stipulation to this effect would have been concise, simple, and very perspicuous; it would have rendered useless and unnecessary the other provisions of

*Relations with Spain.*

the article in regard to the point in discussion, and for any purpose whatever the first of these provisions; or they might have defined the extent of the cession by a natural boundary, which would have been equally distinct and satisfactory. Had Spain ceded to France all that portion of Louisiana which lies westward of the Mississippi, the Iberville, and the Lakes Maurepas and Pontchartrain, no controversy could ever have arisen between France and Spain respecting the eastern limits, as to what Spain had ceded in that quarter, and what she had retained; nor could there have been one between the United States and Spain. By declining to define the boundaries of Louisiana, eastward, in some one of these obvious and perspicuous modes, it is just to conclude that it was intentional; that there was an object in it; and what that object was is sufficiently apparent from a fair construction of the provisions of the article already noticed.

By the Treaty of St. Ildefonso, in 1800, the province of Louisiana is ceded to France by Spain, "with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States." And by the treaty of 1803, between the United States and France, this article of the treaty between France and Spain is inserted verbatim, by which the United States are placed precisely on the same ground on which France herself stood.

If we recur to the several provisions, we shall find that each has a distinct object, for which it would not have been necessary to provide, especially in that mode, if it had been the intention of the parties that no portion of West Florida in question should have been exempted from the cession. By stipulating first that the province was ceded "with the same extent that it now has in the hands of Spain," direct reference was made to that portion of West Florida lying between the Mississippi, the Iberville, the Lakes Maurepas and Pontchartrain, and the Perdido. This provision cannot be construed as alluding to any other part of the province, and its sole effect was intended to be to include it in the cession to France. The second provision is equally explicit, "that it had when France possessed it." It is known that France had held the province to that extent before the treaties of 1763, by which she had ceded it to Spain and Great Britain; and by this stipulation it was ceded back to her in the same extent, so far as Spain could do it. The third provision has an object equally distinct, and is the more important, because, by giving it its intended effect, the construction given to the others is fully confirmed—"such as it should be after the treaties subsequently entered into between Spain and other States." By the treaty between the United States and Spain, in 1795, the boundaries, as established between the United States and Great Britain in 1783, and the free navigation of the Mississippi are confirmed, with the addition of the right of deposit at New Orleans. This provision applies to this treaty, and

likewise to the treaty of 1783 between Great Britain and Spain, by which West Florida was ceded to the latter, whereby she was enabled to restore it, in the extent contended for, to France. In regard to its operation on the treaty of 1795, between the United States and Spain, it was a provision which the United States had a right to expect from the good faith of Spain.

This view of the subject, which was in substance taken by the Ministers of the United States in 1805, in a negotiation with your Government at Aranjuez, appears to me, as it then did, to be conclusive. You urge, however, against it, that the French Government had stated that it was not its intention to cede to the United States that portion of Louisiana which France had ceded to Great Britain by the treaty of 1763. The same declaration was made to the Ministers of the United States at Aranjuez, in 1805, for the same purpose that it is now repeated. A just regard to the rights of the United States, founded on the cession which France had made to them, with a thorough knowledge of all the circumstances attending the transaction, combined with a due respect to the Government of France, dictated the answer. Your Government was informed that the American Envoys had proposed to the French Government, in the negotiation which terminated in the cession of Louisiana by France to the United States, in 1803, that its boundaries should be defined by the treaty; to which the French Government did not accede, preferring to insert in it an extract from the Treaty of St. Ildefonso, by which the province had been ceded by Spain to France, with intention to place the United States, in regard to Spain, on the same ground precisely that France held herself under the Treaty of St. Ildefonso, unprejudiced by any opinion of her own. Nothing had occurred in the negotiation with France to excite a doubt that the Perdido was the eastern boundary of Louisiana. It had been the boundary of the province when held by France, before the treaties of 1763, and it was made so again by the Treaty of St. Ildefonso, which restored it to her. Such was the construction which the American Ministers gave to that treaty, who were engaged in the negotiation with France; and such their representation of it to their Government, after the treaty with France was concluded. It merits particular attention that when your Government was requested to cede to the United States such territory as they were desirous of obtaining prior to their acquisition of Louisiana, it replied to their Minister at Madrid, by a letter of May 3, 1803, "that, by the retrocession made to France of Louisiana, that Power regained the province with the limits it had, saving the rights acquired by other Powers; and that the United States could address themselves to the French Government to negotiate the acquisition of territories which might suit their interest." With the subject thus presented before the Government of the United States, the fair construction of the article of the Treaty of St. Ildefonso, maintained by the American Ministers in their official communication accompa-



*Relations with Spain.*

by the treaty, sanctioned, as it evidently was, by the letter of your Minister of State, the Treaty of Paris of 1803 was ratified. It could not be expected that the United States would appeal, under these circumstances, to France, for information as to the extent of the acquisition which they had made, or be governed by any opinion which her Government might express, in that stage, respecting it.

With respect to the western boundary of Louisiana, I have to remark that this Government has never doubted, since the treaty of 1803, that it extended to the Rio Bravo. Satisfied I am, if the claims of the two nations were submitted to an impartial tribunal, who, observing the principles applicable to the case, and tracing facts, as to discovery and settlement, on either side, that such would be its decision. The discovery of the Mississippi as low down as the Arkansas, in 1673, led to its mouth, in 1680, and the establishment of settlements on that river, and on the bay of St. Bernard, on the western side of the Colorado, in 1685, under the authority of France, when the nearest settlement of Spain was in the province of Panuco, are facts which place the claim of the United States on ground not to be shaken. It is shown that nothing occurred afterwards on the part of France to weaken this claim. The difference which afterwards took place between France and Spain respecting Spanish encroachments there, and the war which ensued, to which they contributed, tend to confirm it.

I have thought it proper to make these remarks in reply to your letter of February 22d, respecting the eastern and western boundary of Louisiana. The subject having been fully treated in several notes to your Government in 1805, and particularly in those of March 8th and April 20th of that year, I beg to refer you to them for a further view of the sentiments of this Government on the subject.

In answering to the parts of your letter which relate to the revolted provinces of Spain in America, and the aid which you state the revolutionary party have derived from the United States, I cannot avoid expressing equally my surprise and regret. I stated in my letter to you of January 20th, that no aid had ever been afforded them, either in men, money, or supplies of any kind, by the Government, not presuming that the gratuitous supply of provisions to the unfortunate people of Caracas, in consequence of the calamity with which they were visited, would be viewed in that light, and that aid to them from our citizens, inconsistent with the laws of the United States, and with the law of nations, had been prohibited, and that the prohibition had been enforced with care and attention. You stated in your letter of January 2d, that forces were collecting in different parts of our western and southern country, particularly in Kentucky, Tennessee, and Louisiana, for the purpose of invading the Spanish provinces. I stated to you, in reply, that I knew of no such collection of troops at any quarter, and that, from information derived from the highest authorities, I was satisfied

that none such had been made. I requested you to state at what points these troops were collected, and who were the commanders. You have sent me, in reply, extracts of letters from persons whose names are withheld, which establish none of the facts alleged as to the raising of troops in the United States, but recite only vague rumors to that effect. I have the honor to transmit to you a copy of a letter on this subject, from Mr. Dick, the attorney of the United States for the district of Louisiana, by which you will see how attentive the public authorities there have been to the execution of the laws of the United States, and to the orders of the Government, and how little they have deserved the charges made against them.

As I cannot doubt that you have taken erroneous impressions from the misrepresentation of partial or misinformed individuals, and that you have communicated the same to your Government, I rely on your candor to adopt such measures as may appear best calculated to place the whole subject before it in a true light. It is important that the effort which the President is now making to adjust our differences with Spain should have the desired result; and it is presumable that a correct knowledge of the conduct of the United States, in these circumstances, would promote it.

I have the honor to be, &c.

JAMES MONROE.

*Copy of a letter from Mr. Dick, Attorney of the United States for the district of Louisiana, to Mr. Monroe, enclosed to Mr. Onís in the Secretary of State's letter of June 10, 1816.*

NEW ORLEANS, March 1, 1816.

SIR: I have just had an opportunity of perusing the letters of the Chevalier de Onís, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty, addressed to you under dates of the 30th of December and the 2d of January. As these letters dwell largely upon transactions affecting the neutrality of the United States, which are said to have occurred, and to be still occurring here, and as they charge the public authorities of this city with giving, in the face of the President's proclamation of the 1st of September last, protection and support to the enemies of His Catholic Majesty, I think it not improper to address you in relation to these charges.

It is affirmed by the Chevalier de Onís, "and it is," says he, "universally public and notorious, that a factious band of insurgents and incendiaries continue with impunity, in the province of Louisiana, and especially in New Orleans and Natchitoches, the uninterrupted system of raising and arming troops to light the flame of revolution in the kingdom of New Spain. All Louisiana," he continues, "has witnessed these armaments, the public enlistments, the transportation of arms, the junction of the insurgents, and their hostile and warlike march from the territory of this Republic against the possessions of a friendly and neighboring Power."

*Relations with Spain.*

No troops at present are, or at any former period were, openly raised, armed, or enlisted, at Natchitoches, or at New Orleans, or at any other point within the State of Louisiana. Arms have been transported from this place, by sea and otherwise, as objects of merchandise, and probably have been disposed of to some of the revolutionary governments of New Spain. It has not been supposed here that there was any law of the United States, any provision by treaty, or any principle of national law, that prohibits this species of commerce. It was considered that the purchasing and exporting, by way of merchandise, of articles termed contraband, were free alike to both belligerents; and that, if our citizens engaged in it, they would be abandoned to the penalties which the laws of war authorize.

What is said, too, about the junction of the insurgents, and their hostile and warlike march from the territory of the United States against the possessions of Spain, is unfounded. In the Summer of the year 1812, a band of adventurers, without organization, and apparently without any definite object, made an incursion into the province of Texas, as far as San Antonio, by the way of Nacogdoches. No doubt many of the persons belonging to this party passed by the way of Natchitoches, but separately, in no kind of military array, and under such circumstances as to preclude the interference of the civil or military authorities of the United States, or of the State of Louisiana.

What could be effected in this respect was done; twice in the years 1811, '12, parties of adventurers, who had assembled between the Rio Hondo and the Sabine, (the neutral territory,) were dispersed by the garrison of Natchitoches, their huts demolished, and their whole establishment broken up.

The party that marched upon San Antonio assembled to the west of the Sabine, beyond the operation of our laws, and from thence carried on their operations. So far from troops, upon this occasion, assembling at different points, forming a junction within the territories of the United States, and marching thence, I am assured, by various and most respectable authorities, that, although it was generally understood at Natchitoches that some enterprise was on foot, it was extraordinary to see two of the persons supposed to be engaged in it together. The officer commanding at that time the United States troops at Natchitoches (Major Wolstoncraft) offered his services to the civil authorities in aid of the laws, and to preserve inviolate the neutrality which they enforce.

In consequence, several individuals found with arms were arrested; they alleged that they were hunters; and there being no evidence to the contrary, or rather no proof of their being engaged in any illegal undertaking, they were, of course, discharged. So well satisfied, indeed, were the Spanish authorities of the adjoining province that neither our Government nor its agents gave succors or countenance to this expedition, that, during the time they knew it to be organizing,

they applied to the garrison at Natchitoches for an escort to bring in some specie, which was immediately granted.

Toledo, who, at the time of its defeat, commanded the party that penetrated to San Antonio, came to this city in the Autumn of 1814, when he was immediately arrested, and recognized to answer, at the succeeding term of the federal court, to a charge of setting on foot, within the territory of the United States, a military expedition or enterprise, to be carried on from thence against the territories or dominions of the King of Spain; six months having passed, and no testimony whatever appearing against him, his recognizance was delivered up.

After the discomfiture of the party under Toledo, no enterprise destined to aid the revolutionists of New Spain appears to have been set on foot from the vicinity of the United States, until late in the Summer of last year, when it was rumored that a party, under a person of the name of Perry, was forming for that purpose somewhere on the western coast of Louisiana. Upon the first intimation that this enterprise was meditated, steps were taken here to frustrate it. Nothing occurred to justify prosecutions or arrests; a large quantity of arms, however, supposed to be intended for this party, were seized on the river, and detained at the custom-house for several months; and Commodore Patterson, commanding naval officer on this station, instructed the officers under his command, cruising in the neighborhood of the suspected place of rendezvous, (Belleisle, at the mouth of Bayou Teche,) to ascertain the truth of the rumors in circulation, and, if verified, to use the force under their respective commands in dispersing the persons assembled, and in frustrating their illegal intentions. In obedience to these orders, the coast, as far as the Sabine, was examined, and no persons discovered. It is now ascertained that Perry, Humbert, and their followers, inconsiderable in number, passed separately through Attakapas, and assembled about two leagues to the west of the Sabine. Thence they embarked for some place on the coast of Mexico, were wrecked, dispersed, and their plans, whatever they were totally defeated.

I have in the foregoing detail, sir, given, partly from information entitled to perfect confidence, and partly from my own knowledge, a brief and hurried outline of two fruitless attempts of a handful of restless and uninfluential individuals, stimulated by the desire of aiding the cause of Mexican independence, or that of bettering their own fortunes. These are the only military enterprises against the dominions of the Spanish Crown that have drawn any portion of their aid or support from Louisiana: in both, the mass of adventurers was composed of Spaniards, Frenchmen, and Italians. I need not say that these enterprises, whether in aid of the revolutionists or merely predatory, were not only feeble and insignificant, but that they were formed under circumstances which forbid a surmise of their being sanctioned or connived at. Every man acquainted with the state of public feeling throughout the southern



and western sections of the United States knows that had our Government but manifested the slightest disposition to sanction enterprises in aid of the revolutionists of New Spain, the the constitution of these provinces would not at this day be doubtful.

It is said that troops have been recently enlisted, and that expeditions have been preparing, or are preparing, in this city to invade the dominions of Spain. The enlisting of men and the preparing of enterprises, or the means for enterprises, of the kind spoken of, cannot be accomplished without means, or be carried on in the midst of a populous city in solitude and silence. Yet it is known, in the first place, that neither Mr. Toledo, nor Mr. Herrera had or have pecuniary means for such purposes; and, in the second, so far as negative proof can go, or so far as the absence of one thing implies another, it is most certain that no enlistments have taken place, and that no expeditions, or the means of expeditions, have been prepared or are preparing here.

A regard to truth makes it necessary to say that that is alleged respecting the arming and fitting out of vessels within the waters of Louisiana, to be employed in the service of the revolutionary governments against the subjects or property of the King of Spain, is unfounded. At no period since the commencement of the struggle between the Spanish colonies and the mother country have vessels, to be employed in the service of the colonies, been permitted to fit out and arm, or to augment their force at New Orleans, or elsewhere within the State of Louisiana.

On the contrary, it is notorious that to no one point of duty have the civil and military authorities of the United States directed more strenuously, or, it is believed, more successfully, their attention, than to the discovering and suppression of all attempts to violate the laws in these respects. Attempts to violate them by fitting out and arming, and by augmenting the force of vessels, have no doubt been frequent, but certainly in no instance successful, except where conducted under circumstances of concealment that eluded discovery and almost suspicion, or where carried on at some remote point of the coast beyond the reach of detection or discovery. In every instance where it was known that these illegal acts were attempting, or where it was afterwards discovered that they had been committed, the persons engaged, as far as they were known, have been prosecuted, while the vessels fitted out, or attempted to be fitted out, have been seized and labelled, under the act of the 5th of June, 1794; and when captures have been made by vessels thus fitted out and armed, or in which their force was augmented or increased within our waters, where the property taken was brought within our jurisdiction, or even found upon the high seas by our cruisers, and brought in, it has been restored to the original Spanish owners, and, in some instances, damages awarded against the captors. An enumeration of the cases in which individuals have been prosecuted for infringing, or attempting to infringe, our neutrality, in aid of

the governments of New Spain, and in which vessels have been seized and labelled, under the act of the 5th of June, 1794, together with a list of the vessels and property restored to the original Spanish owners, (confining the whole to the operations of the year commencing March, 1815, and ending February, 1816,) will show more conclusively, perhaps, than anything else can, how totally without foundation are the complaints of Spain on this head.

*The names of individuals presented in the district court of the United States for the Louisiana district, during the year 1815, for violating, or attempting to violate, the neutrality of the United States, in aid of the Governments of the United Provinces of New Granada and of the United Provinces of Mexico.*

José Alvarez de Toledo,	Romain Very,
Julius Cæsar Amazoni,	Pierre Sæmeson,
Vincent Gambie,	Bernard Bourdin,
John Robinson,	

*List of vessels labelled for illegal outfits, in aid of the same Governments, during the same period.*

Brig Flora Americana, restored.  
Schooner Presidente, condemned.  
Schooner Petit Milan, condemned.  
Schooner General Bolivar, discontinued.  
Schooner Eugenia, alias Indiana, condemned.  
Schooner Two Brothers, restored.

*Enumeration of vessels and property brought within the Louisiana district, captured under the flag and by the authority of the Governments of New Granada and of Mexico, labelled on the part of the original Spanish owners, and restored upon the ground that the capturing vessels had been fitted out and armed, or had their force augmented, within the waters of the United States.*

1. Schooner Cometa, restored April, 1815.
2. Schooner Dorada, proceeds restored 16th May, 1815, \$3,050.
3. Schooner Amiable Maria, proceeds restored 16th May, 1815, \$3,850.
4. Schooner Experimento, restored 3d August.
5. The polacre brig De Regia and cargo, proceeds restored 18th December, 1815, \$19,209 50.
- Schooner Alerta and cargo, being the proceeds of the capture of about eighteen small vessels, restored 18th December, 1815, \$62,150 05.

Damages awarded to the original owners against the captors in the two foregoing cases, \$55,272 97.

7. The cargo of the schooner Petit Milan, restored February, 1816, \$2,444 31.
8. The cargo of the Schooner Presidente, February 4, 1816, \$10,931 15.
9. Schooner Sankita and cargo, restored February 1, 1816, \$37,962 94.

The preceding account of Spanish property restored to the original proprietors, after being in possession of the enemies of Spain, is defective, inasmuch as it does not comprehend the whole of the cases of restoration that have taken place within the period to which the detail is confined; the very hasty manner in which I have made this enumeration did not admit of a more accurate statement. The principal cases, however, are

included in it. In several other cases, where the property was claimed for the original Spanish owners, the claims were dismissed, because it did not appear that any violation of our neutrality had taken place.

The capturing vessels were not armed, nor their force augmented within our jurisdiction; nor had the captures been made within a marine league of our shore. The principles that guided the decisions of the court, as well in restoring the property captured, where our neutral means had been used, as in declining all interference where that was not the case, manifest, I think, a disposition to, and an exercise of, the most rigid neutrality between the parties.

I have the honor to be, &c.

JOHN DICK.

*From the Secretary of State to George W. Erving.*  
DEPARTMENT OF STATE,  
March 11, 1816.

SIR: You will set out in discharge of the duties of your mission to Spain as soon after the receipt of this letter as circumstances will permit. Our relations with that country are, from many causes, becoming daily more and more interesting. They will require your assiduous and zealous attention as soon as you are recognized by the Spanish Government.

The restoration of the diplomatic intercourse between the two countries, long interrupted by causes well known to you, presents a favorable opportunity for the settlement of every difference with that Power. The President has already manifested his sincere desire to take advantage of it for that purpose, and hopes that the Spanish Government cherishes a similar disposition.

The primary causes of difference proceeded from spoliation on their commerce, for which Spain is held responsible, the justice of which she admitted by a convention; and from the refusal of the Spanish Government to settle on just principles the boundaries of Louisiana, and to compensate, on like principles, for the injuries arising from the suppression of the deposit at New Orleans in the breach of the treaty of 1795. The grounds of these differences have been so often discussed, and the justice of our claims so completely established in the instructions heretofore given, and in communications with the Spanish Government, that it is thought unnecessary to enter into them in this letter. Other injuries have likewise been since received from Spain, particularly in the late war with Great Britain, to which it may be proper for you to advert. I shall transmit to you, herewith, such papers relating to our claims in every instance, as will place their merits in a just light.

In a conversation with Mr. Onis, shortly after the late correspondence with him, he intimated that his Government was sincerely desirous of settling these differences, and that it might be willing to cede its claim to territory on the eastern side of the Mississippi, in satisfaction of claims, and in exchange for territory on the west-

ern side. He expressed also a desire that the negotiation might take place at Madrid, rather than in this city. It was expected that he had been already furnished with full powers to negotiate such a treaty, and it would be more agreeable to conclude it here if he had such powers, or might soon procure them, provided there was any ground to hope an early termination of it. But, from the experience we have already had, it may be fairly apprehended that a negotiation here would lead to very extraordinary delays, which it is wished to avoid.

The President will soon decide on the whole subject; after which, you shall be duly instructed of the course to be pursued, and of the measures to be taken. These instructions shall be forwarded to you at Madrid by Mr. Henry B. Smith.

*Extract of a letter from the Secretary of State to George W. Erving.*

DEPARTMENT OF STATE, May 30, 1816.

SIR: To enable you to make the experiment on which the President has again decided to settle our differences with Spain, I enclose a letter of instruction, which, being shown to the Spanish Government, will be your authority for the purpose.

As the justice of the claims of the United States in every instance has been fully established in former discussions, the documents relating to which are in your possession, I shall not enter into the subject in that view. It can hardly be presumed that the Spanish Government, after what has passed, will be desirous of resuming this discussion. Should such a disposition be manifested, those documents will enable you to place the subject in a proper light. I shall proceed, therefore, to state the conditions on which the settlement may now be made.

The United States complained, in 1805, of injuries from Spain—

- 1st. By spoliations on their commerce;
- 2d. By the suppression of the deposit at New Orleans; and,
- 3d. By the refusal of the Spanish Government to settle the boundaries of Louisiana on just principles.

Of spoliations there were two classes: the first consisted of seizures made of American vessels by Spanish cruisers; the second, of seizures of other of our vessels by French cruisers, who carried them into Spanish ports, where they were condemned by French Consuls. For the first class, provision was made by a convention between the two Governments at Madrid, bearing date on the 11th of August, 1802, which the Spanish Government afterwards refused to ratify. For the second, no provision was ever made, though the claim was specially reserved in that convention. The suppression of the deposit at New Orleans was in direct violation of an article of the treaty of 1795. By the cession of Louisiana the United States claim (and, as they think, have proved by a clear title) all the territory lying between the Perdido, on the eastern side of



*Relations with Spain.*

the Mississippi, to the Rio Bravo, on the western. They well know that France would have claimed to the same extent had she not made the cession; though as the French Government declined defining the boundaries by the treaty, as was desired, no appeal was made to it by this Government, or thought proper afterwards respecting them.

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

MADRID, August 29, 1816.

Mr. Henry B. Smith arrived at Cadiz on the 26th of July, and at Madrid on the 10th instant; by him I received your letters of May 30 and 31, the new cipher, the special power to negotiate, and the other papers therein referred to. It was after duly deliberating on those and the several instructions which had preceded them, that I formed my first note to Mr. Cevallos; this was sent to him on the 26th instant, a copy of it (No. 6) is herewith submitted.

No. 6.

*Mr. Erving to Mr. Cevallos.*

MADRID, August 26, 1816.

SIR: The President is sincerely desirous of establishing the relations of amity between the United States and Spain on a solid basis, and that every obstacle to a permanent good understanding between the two countries should be removed by arrangements honorable and advantageous to both; he does not doubt of finding corresponding dispositions on the part of His Catholic Majesty, therefore has readily acceded to the particular wishes of His Majesty by receiving Mr. Onis, and, in the same friendly confidence, has ordered me to repair to this Court.

I am specially instructed to discuss and to settle with your excellency all the ancient causes of misunderstanding, as well as the questions growing out of recent occurrences, which are of a character unfavorable to the object in view. It is desirable that no matter of future contention or jealousy should remain to put at hazard or to interrupt the good intelligence which the United States are always disposed to maintain with Spain, and to all the advantages of which His Majesty's Government cannot but be wholly sensible.

In transactions where the parties enter with such dispositions and such motives to accord, a frank exposition of all the grounds of complaint is at once the most just and the most judicious course; for to suppress or to smother any of them in condescension to temporary considerations, is but to leave the seeds of future discord, and to substitute palliatives and expedients for satisfactory and solid arrangements.

It is proper, therefore, that I should state distinctly all the points on which the United States seek for redress and indemnity, commencing with those claims which have heretofore been the subject of unsuccessful negotiation. I am well persuaded that the whole can now be settled in a

manner satisfactory to both parties, and without reviving whatever animosities they may have originally given rise to.

In the present exposition I may also forbear to enter into the details of the principal subjects to which it refers; because these have, for the most part, in some form or other, been already brought to the view of the Spanish Government; and because your excellency, in particular, has the most perfect knowledge of them.

The first point to which I must call your attention is, the claim of my Government for compensation to its citizens on account of the ravages committed on their commerce previous to the year 1802; this is an object which the United States never have, and never can, lose sight of; indeed, the justice of the claim has already been admitted by the Spanish Government in a convention negotiated and signed by your excellency on the 11th August, 1802. The United States still expect that this claim shall be adjusted upon principles of law and equity, which cannot be called into question by His Majesty's Government.

In the same manner, the United States expect that compensation will be made for all the injuries done to their commerce, under the authority of the Spanish Government, or within its jurisdiction, previous to the date of said convention, not embraced by it, and the claim for which was specially reserved by that convention, as well as for all similar injuries subsequent to its date.

The suppression of the deposit at New Orleans in the year 1802, violating the treaty of 1795, forms another claim of great importance.

Causes of misunderstanding, of a later date, and of another character, accumulated principally during the war between the United States and Great Britain. These were of so unfriendly, and, in many cases, of so violent a nature, as to threaten an immediate and serious rupture between the United States and Spain; but, happily, the pacific policy which has uniformly characterized the conduct of the United States towards Spain was still upheld by considerations highly honorable to the moral character of the American Government—considerations growing out of the then unhappy domestic state of the Peninsula, and the miseries and disorders to which a most unjust foreign invasion had made it a prey; the American Government always trusting that Spain, on the re-establishment of its national independence, and the restoration of regular government and tranquillity, would readily attend to the just demands of the United States, and cheerfully embrace their conciliatory proposals.

It will suffice for the present that I mention but succinctly the principal matters above adverted to. These are—

1st. The encouragement which was given by the Spanish authorities in East Florida to the Indian tribes in Georgia, and generally on the southern frontier, to make war on the United States.

2d. The aid given to them in that war.

*Relations with Spain.*

3d. The aid afforded to Great Britain, by permitting supplies to be sent through East Florida to the Indian tribes; and afterwards by allowing her to establish a place of arms in that province, for the purpose of encouraging and supporting the Indians in their savage war.

These acts were evident and very important violations of the neutrality which Spain was bound to observe between the belligerents.

Her duties as a neutral Power were altogether lost sight of when the United States frigate "Essex" was attacked in the bay of Valparaiso.

The seizure of American property and the imprisonment of American citizens, in various modes and under various pretexts, both in the Peninsula and in the colonies, afforded unequivocal indications of an unfriendly temper. Several of these acts may hereafter require special representations on my part; my present object is to bring them generally to your view. The President relies upon the just sense which His Majesty must entertain of the important crisis in our affairs which such events are of a nature to produce for the adoption of a policy congenial to the interests of both countries; and the President persuades himself that the same just and amicable disposition will be prompt in affording the satisfaction required for the injuries complained of, and that thus a state of lasting peace and friendly intercourse may be secured between two countries whose relative situations and interests render that state so peculiarly desirable.

Finally, the questions respecting boundaries, which have heretofore been supposed to offer some obstacles to a settlement of other differences, the American Government considers as susceptible of amicable adjustment; and I am instructed to treat with your excellency on that subject. I have the honor to be, &c.

G. W. ERVING.

*Extract of a letter from Mr. Erving to the Secretary of State, dated*

SEPTEMBER 22, 1816.

I wrote to Mr. Cevallos, on the 13th instant, a note (of which the enclosed paper No. 2 is a copy) inviting his attention to my note of August 26th; and, on the 14th instant, I again waited on that Minister, for the purpose of again urging him to reply to my said note. He made the same excuses for his delay as he had before made.

On the 15th instant I received from Mr. Cevallos a note of the same date; a copy of it (No. 3) is herewith enclosed; I also submit to you (No. 4) a copy of my reply, of the 19th instant, to that note.

You will observe, sir, that, under the circumstances of the sudden and unexpected determination of the King, as communicated by Mr. Cevallos, I thought it indispensably necessary (and my reasons will, I presume, be obvious to you) that my answer should include all that passed of importance in my intermediate conference with that Minister. I sought the interview for the

purpose of obtaining promptly explanations which, in the ordinary course of correspondence, might not have been given for months; of ascertaining, as nearly as might be, the real views of this Government in the measure adopted, and, as far as possible, of fixing Mr. Cevallos in a direct and loyal course; in fine, of forcing our business on, by one mode or another, to a conclusion of some sort. Indeed, it was impossible for me to do anything more than merely acknowledge the receipt of the note, and to transmit it in course to my Government, unless I could learn whether the measure which it proposed was or was not likely to be acceptable to you; for I have not seen your note of June 10th, to which Mr. Cevallos refers; and as the words of his note, "que el citado Don Luis estuviere autorizado para negociar," are altogether equivocal, and may receive either a past or future construction, I did not feel confident that you had really invited Mr. Onis to send for powers. Thus, I could not but be apprehensive that the object of this Government in the measure proposed was merely to relieve itself from pressure here to gain time, and indefinitely to procrastinate the settlement of our differences; and this suspicion was strengthened by many collateral considerations.

You will perceive, sir, that Mr. Cevallos says, in his note, that "correspondent orders" have been sent to Mr. Onis; by which I must understand orders corresponding to the intention of the King to satisfy the President, by conforming to the desire expressed in your note to Mr. Onis, which must be understood to mean full powers; and yet, in conversation, he allowed that such powers had not been sent, and accepted of my proposal to transmit them. However, this apparent discrepancy may have been mere inadvertency; he may have intended duplicates of his powers. I resort to this supposition, because I have just now been informed, through another channel, that "full powers" have been sent to Mr. Onis. How the fact may be, you will be able to ascertain by the date of the powers. If the powers have been sent, (unless, indeed, very lately,) it is surprising that Mr. Cevallos did not earlier communicate the measure to me.

The observations which I made to Mr. Cevallos as to my own powers to negotiate, and my proposal of a special commission—these were intended rather to test his sincerity than to alter his professed plan. I said only what, under circumstances, it had been extraordinary to have omitted. My earnestness naturally resulted from the position in which I was placed by the proposed measure; but I refrained from pushing to the extent of which they were susceptible what might be considered as my own pretensions; for, independent of the doubt in which I was as to the real intention of your note to Mr. Onis, or, that out of question, of what might best suit the views of Government, my own decided opinion was that the negotiation might be carried on to much greater advantage, and brought to a conclusion much more expeditiously at Washington than here; not only because it would be in much



abler hands than my own, but because Mr. Onís is there in a situation to see and to feel, with infinitely more force than Mr. Cevallos can in the midst of all his distractions here, the real importance, nay, absolute necessity, of a speedy adjustment of our differences. Certainly what fell from the Minister tended to strengthen that opinion; and it has been still further confirmed in a subsequent conversation. On the 21st instant, having reason to believe that he did not intend to reply to any part of my note of the 19th, I immediately called on him. I found, in fact, that the measure, which he had announced to me having been definitively determined on by the King, he considered any further correspondence on the matter as altogether superfluous; indeed, that he had but the most superficial, if any, acquaintance with the contents of that note. I then read to him a copy of it; and, having urged all the reasons which induced me to wish for his answer, he finally consented to give it. I now wait for that answer.

[Referred to in the preceding.]

No. 2.

MADRID, September, 13, 1816.

SIR: It is my indispensable duty again to invite your excellency's attention to my note of August 26th. The importance and the urgency of the matters of which it treats will, I am persuaded, sufficiently explain my earnestness on this occasion; and I most ardently desire that the determination of His Majesty upon it may correspond to the just expectations of the American Government, and lead to the establishment of lasting peace and harmony between the two countries.

I renew to your excellency the assurances of my very distinguished consideration.

GEORGE W. ERVING.

His Exc'y Don PEDRO CEVALLOS,  
First Minister of State.

[Referred to in Mr. Erving's letter of September 22.]

No. 3.

Copy of a letter from Mr. Cevallos to Mr. Erving.

SEPTEMBER 15, 1816.

SIR: Having laid before the King a note under date of the 10th June last, addressed by Mr. Monroe to Don Luis de Onís, in which he manifests the desire of his Government that Mr. Onís should be authorized to negotiate with him, His Majesty has acceded to it to gratify the President, and I have given the correspondent orders to the said Onís to the end that he may immediately enter into negotiation with Mr. Monroe, and employ all the means which are within his reach to secure a solid and durable peace, and good intelligence between the two nations. I renew, &c.

PEDRO CEVALLOS.

[Referred to in Mr. Erving's letter of September 22.]

No. 4.

Copy of a letter from Mr. Erving to Mr. Cevallos.

MADRID, Sept. 19, 1816.

SIR: By your Excellency's communication of the 15th instant, I learn that a note of Mr. Mon-

roe, Secretary of State of the United States, under date of June 10, addressed to Don Luis de Onís, in which note the desire of the American Government is expressed that the said Don Luis should be authorized to negotiate with it, having been taken into consideration by the King, His Majesty, with a view of conforming to the wishes of the President, has acceded to the desire expressed in said note, and that you have sent the correspondent orders to Don Luis, to the end that he may immediately enter into a negotiation with Mr. Monroe.

I received this, your Excellency's important communication on the day of its date, but, before finally acknowledging the receipt of it, thought proper to seek, in an interview with you, such explanations as it seemed to require; for that purpose I waited on you on Tuesday, the 17th instant. I predicated what I then said to you on the supposition that the American Government might not have expressed a particular desire to change the seat of the negotiation, but that the Secretary of State, in the note of June 10, referred to by your Excellency, had but renewed the expression of his regret that Mr. Onís should continue to urge matters of complaint on which he had not such full powers to negotiate as he was understood to be in possession of previous to his reception by the President.

As I have the competent authority of my Government to treat; am in possession of all the documents necessary to be referred to in whatever discussions may arise; as your excellency is perfectly versed in all the questions which exist between the two Governments: for these reasons, it appeared to me that an arrangement might be made here, at Madrid, more expeditiously than at Washington. I stated expressly to you that I could, in no case, be under a necessity of referring to my Government for further instructions, requesting, at the same time, to know whether it was his His Majesty's intention to place Mr. Onís in a position equally favorable to a speedy adjustment of our differences. I concluded by excusing the warmth with which I pressed the subject, assuring you that I was very far from seeking any personal gratification in this matter of high public interest, but that I looked only to the desired result; and that if this could be obtained more promptly by transferring the negotiation to Washington than by pursuing it here, I should sincerely rejoice at the transfer.

In reply to these observations, I understood your excellency to state that, owing to your being actually charged with the business of three ministries, besides the direction of the posts, and to the variety of other occupations incidental to your high employ, it was impossible for you to give the time to the affairs to be discussed which would be necessary to a satisfactory and speedy arrangement of them; that Mr. Onís was also fully acquainted with those affairs, and was in possession of all the documents relating to them; and though you could not say but that it might be necessary for that Minister to consult with his Government, yet even the loss of three months'

time on such an occasion would not prolong the negotiations to the extent which the unavoidable delays here would carry them to.

These reasons, urged by your excellency for transferring the seat of negotiation to Washington, induced me to propose that His Majesty would appoint a special minister or a commission to treat with me. I understood your excellency to reply that, as such minister or commission would be entirely uninformed, and would have everything to learn on the matters to be discussed, and hence the continual necessity of referring to you, this mode could in nowise expedite the result.

On my asking your excellency if full powers and instructions had been already sent to Mr. Onís, I understood you to say that they had not.

I then informed you that, after replying to your communication of the 15th instant, I should prepare to send a gentleman of my legation to the United States with my despatches; and I offered his services to be at the same time bearer of your despatches to Don Luis de Onís; which offer you were pleased to accept.

If I may have made any mistake in this statement of the substance of what passed in the interview which I had the honor of having with your excellency on Tuesday, the 17th instant, I beg that your excellency will be so obliging as to correct it.

I have further to request that you will be pleased to inform me whether it is your intention to reply to my notes of the 26th August and 13th September, or whether I am to consider your communication of the 15th instant as superseding the necessity of any special reply to those notes.

I have to request also that your excellency would enable me to inform my Government whether it is His Majesty's intention to send "full powers" to Don Luis de Onís to treat upon all the matters in question between the two countries, and whether the instructions to be sent to him will embrace all the points adverted to in my above-mentioned note of August 26.

As soon as possible after I shall be honored with your reply to this note, I shall send a messenger to my Government; he shall wait, however, to be at the same time the bearer of your despatches to Mr. Onís.

I renew to your excellency assurances of my very distinguished consideration.

GEO. W. ERVING.

His Excellency Don PEDRO CEVALLOS,  
First Minister of State, &c.

Extract of a letter from Mr. Erving to the Secretary of State, dated

MADRID, September 27, 1816.

You will perceive, sir, by my last communications, that there is now very little probability that I shall have occasion to use the ample documents with which I have been furnished. Whatever complaints this Government may have to make, those originating in Mr. Onís's reports will of course be sent back to him, to bring weight

15th CON. 2d SESS.—53

into his negotiations. It is equally probable that he may be instructed to answer at Washington to whatever representations I may find it my duty to make here; for it is now perfectly evident that a principal motive with Mr. Cevallos in removing the negotiation to Washington has been to get rid altogether of the weight and trouble of it here, and of whatever belongs to, or may any how be comprised in it. I hope that this was his only motive.

I see with satisfaction that your note of June 10 to Mr. Onís does not admit of any other construction than that which I conjecturally gave to it in my conversation with Mr. Cevallos. It is very evident, too, by Mr. Onís's reply of July 3d, that he has not misunderstood you. After this, is it to be imagined that Mr. Cevallos has fallen into a misconception? Certainly not. I presume, then, sir, that you will approve of my determination not to make any attempt to alter his plan, and that you will agree with me in opinion that the only chance of accommodation with this Government is by negotiation at Washington.

Extract of a letter from Mr. Erving to the Secretary of State, dated

OCTOBER 8, 1816.

In my despatch No. 18 I mentioned that Mr. Cevallos, in conversation on the 21st of September, had promised to answer my note to him of September 19th. He was afterwards for several days so wholly occupied with the marriage ceremonies, that not the least attention to any other kind of business could be expected; but these terminated on the 3d instant. I wrote to him unofficially a note, of which the enclosed paper (No. 1) is a copy; and on the 5th I again waited on him to press him for the answer which he had promised. On this occasion I observed to him that since, by his note of the 15th September, he had not assigned any sufficient motives for the determination of His Majesty to transfer the negotiations to Washington, it had been incumbent on me to ascertain what they might be, and to submit them to my Government.

It was with this intent that I had sought the interview of September 17th, and had stated the substance of our conversation in my note to him of the 19th, which, with his reply, would be sufficient for my purpose; that, without explanation, the mere notification of His Majesty's determination, contained in his Excellency's note, would have a very extraordinary appearance, to say the least: my Government had sent me with powers and instructions to negotiate; I had opened the matters to be treated on, and waited several weeks for an answer, when I was told His Majesty had determined to empower Mr. Onís. Under such circumstances, must it not be concluded either that the Spanish Government by this measure sought to avoid or to delay an arrangement, or that it had some personal objection to myself? Hence the necessity of an explanation. Mr. Cevallos answered that the motives to the measure were what he had before assigned, and that I



## Relations with Spain.

must not allow myself to imagine that either the King or himself had the least personal objection to me; on the contrary, it would give him (Mr. Cevallos) peculiar pleasure to settle the business with me, if it were possible for him to attend to it; finally, that since I considered it important that my note should be answered, I should have the answer forthwith.

Yesterday, the 7th, I received the note of the same date, of which the enclosed paper (No. 2) is a copy. In this you will observe, sir, that Mr. Cevallos speaks of "full powers" to Mr. Onís, and the object in sending them to be the more expeditious termination of existing questions. In conversation, Mr. Cevallos told me that the instructions to Mr. Onís would comprise all the matters mentioned in my note of August 26th, but he has not thought proper, in this last communication, to reply specially to the question put on that subject in my note of the 19th ultimo; indeed, it was impossible for him to answer that note, and say less than he has done; he seems to have written merely to get rid of importunity, by tranquilizing what he supposes to be my personal apprehensions.

My despatches Nos. 18, 19, and 20, will accompany this as well as those of the Spanish Government for Mr. Onís, which are to be ready within a few days. Considering the peculiar importance of these communications, I have concluded to send them by Mr. Brent to the port of Bordeaux, from whence it seems to be more probable that a speedy conveyance for the United States will be found than either from Cadiz or Lisbon. Mr. Brent will proceed to the United States, if he should find a suitable vessel bound home. On account of the lateness of the season, I have thought it right to leave this point to his own discretion, instructing him however to make the voyage, (in whatever vessel,) unless he should find at Bordeaux some American going to the United States, under whose care he shall consider these despatches to be as perfectly secure as under his own.

I beg leave, on this occasion, to express to you my particular satisfaction with the services of Mr. Brent, who unites in his character all the qualities which make a man of business and a valuable public officer.

No. 2.

Copy of a letter from Mr. Cevallos to Mr. Erving.

SIR: In answer to your note of the 19th of the last month, I have to say to you, that the determination of the King that a full power should be sent to Don Luis de Onís proceeds from the desire of sooner terminating the pending disputes, and that it is unconnected with any personal considerations. I renew to you, &c.

PEDRO CEVALLOS.

Copy of a letter from the Secretary of State to the Chevalier de Onís, dated

DEPARTMENT OF STATE, Jan. 14, 1817.

SIR: Having understood in our late conference that you would not agree to an arrangement

by which Spain should cede her claims to territory eastward of the Mississippi, unless the United States ceded their claims to all the territory westward of that river, and that even then your agreement would be restricted to a recommendation to your Government to adopt an arrangement to that effect, it is deemed unnecessary to make you any further proposition, or to prolong the negotiation on the subject of limits.

I have now to request that you will have the goodness to inform me whether you are willing to enter into a convention to provide compensation for spoliation, and for the injury resulting to the United States from the suppression of the deposite at New Orleans. I have, &c.

JAMES MONROE.

Mr. Onís to the Secretary of State.

JANUARY 16, 1817.

SIR: I have received your official letter of the 14th instant, in which you are pleased to make known to me that, having understood in our last conference that I would not accede to an arrangement by which Spain should cede her pretensions to the territory east of the Mississippi if the United States did not relinquish theirs to the west of that river, and that even in this case my accession would be limited to recommending to my Government the adoption of this project, it appeared to you useless to make me more propositions to prolong the negotiation on the subject of limits between the two Governments; and you only desire to know if I am disposed to sign a convention to provide compensation for the injuries occasioned to the United States by the cruisers of His Majesty in the late war, and for those which resulted to the United States from the suppression of the deposite at New Orleans.

In answer to this letter, you will permit me to observe, that in the conference referred to I had the honor to exhibit to you the full powers of my Sovereign, in which he authorizes me to negotiate, adjust, and sign a treaty or convention with the United States, in which should be arranged not only the indemnities due to the subjects and citizens of both nations for the injuries they had suffered from the last war between His Majesty and Great Britain to the present, in contravention of the law of nations and the existing treaty between the two Powers, but also to fix the respective limits to the satisfaction of both. The intention of His Majesty (and in this I believe the two Governments agree) is not confined to a partial arrangement, which might leave in existence the disagreements which have unhappily arisen between them from the effect of circumstances. His Majesty, fully convinced that no treaty or convention can be durable unless it is founded in equality and mutual convenience, has particularly directed me that, keeping in mind the reciprocal, political, and commercial interests which unite the two nations, I should so adjust the definitive arrangement with the person whom the President should authorize to that effect, that no controversy could ever again arise between them.

## Relations with Spain.

I cannot conceal from you that to arrive at this end it is indispensable to begin by amicably discussing and agreeing upon the rights of each of the two Powers, and that the result of this discussion is what ought to guide us in arranging the indemnities and fixing the limits which may be just and mutually convenient to the two nations. You had the goodness to say to me that this method had been adopted by you and Mr. Cevallos, and that, if we renewed it, precious time would be lost without our being able to agree. In such a dilemma, and anxious to contribute on my part to accelerate the negotiation, I took the liberty to propose to you the only other method which appeared to me to exist, besides the one which I have just mentioned, to arrange these differences, which is this: that the two Powers, throwing off all idea of aggrandizement, and sacrificing resentments and complaints of little importance, should proceed with good faith to fix limits between them which should be mutually convenient, which should not be liable to controversy, or be unknown to or violated by the respective subjects of each.

You did me the honor to applaud a proposition so frank and liberal, as dictated by equity and good faith, and made known to me with the same frankness that the United States desired to unite to its dominions all the territories which belong to Spain to the east of the Mississippi; and that for them they would offer to Spain those which were between the Rio del Norte and the Colorado. But as not only these lands, but all those which lie between the Colorado and Cape North, drawing a line by the river Mermento or Mermentao towards the Presidio of Adais, and from thence by the Arroyo Onda towards Natchitoches, are a part of the province of Texas, belonging to, and in the uninterrupted possession of, His Majesty, without there having been in relation thereto any dispute between France and Spain, (that dispute being solely as to Natchitoches, which fort the French raised unjustly in the territory of His Catholic Majesty,) it results that this proposition not only does not offer compensation to His Majesty for West and East Florida, whose cession the United States intimate would be very agreeable to them, but it involves the relinquishment of the property and possession which His Majesty has of the territory in the province of Texas, which lies between the Colorado and the vicinity of Natchitoches.

To propositions so distant from the equality and reciprocal convenience in which we have agreed to treat these affairs, I answered, that as the powers of His Majesty had been hastily sent to me by Mr. Cevallos, to take advantage of the departure of Mr. Brent, I have not received express instructions touching the entire cession of the two Floridas which the United States wished; and although they prove to me the desire of His Majesty to accommodate them in all arrangements which may be compatible with his interests, I saw myself obliged to wait for instructions on this point, of so much the greater importance, as it relates to the cession by His Majesty to the

United States of the port of Pensacola, which was the key of the Gulf of Mexico—the best port of that gulf—and which was the more necessary to His Majesty for the security of his possessions; but that, in the meantime, if you should propose to me, on the part of this Government, to make the Mississippi the frontier, I should see in that proposition a disposition on the part of the United States to offer some equivalent, and I would recommend it to the consideration of His Majesty as a fixed and stable limit to assure the peace and tranquillity of the two nations.

I hope that you will recognise in this exposition the sincerity and ingenuousness with which I proceed, and that you will on a view of it adopt, of the two modes proposed for settling on foot the negotiation, that which will be most agreeable to the United States. The first—that is to say, that of discussing and agreeing upon the reciprocal rights and pretensions of the two nations—is the safest, and that which ought to conduct us with the greatest precision to the indemnities and to the establishment of limits between them; since nothing is more easy than that, each point of justice being agreed upon, the equivalent to it should be arranged upon principles of equality and reciprocal convenience. The second is shorter, but it requires a relinquishment of all views of aggrandizement on both sides; and that each Government, adopting as a basis the *uti possidetis*, either of the year 1792, which is the one fixed on by the allied Courts in the general pacification for the recognition of the right of property in their possessions, or that of the year 1763, after the conclusion of the treaty of peace between Spain, France, and England, (in which treaty the limits of their provinces were fixed, and the two Floridas were separated—the East from Spain and the West from France—by transferring them in full sovereignty to England,) may come to a just and friendly understanding, so as to do away these disagreements, I am ready to discuss with you in the first mode just referred to. I am also ready to treat with you by adopting the second; and I flatter myself that I shall in either case give you proofs that I will not depart from what is due to justice, equity, and the mutual convenience of the two nations.

I renew to you, &c.

LUIS DE ONÍS.

Copy of a letter from the Secretary of State to the Chevalier de Onís.

DEPARTMENT OF STATE, Jan. 25, 1817.

SIR: I have had the honor to receive your letter of the 16th, in reply to mine of the 14th of this month.

It having been the invariable desire of the United States to settle all differences with Spain on just and fair conditions, it is seen with much regret that a similar disposition is not manifested on the part of your Government.

Finding by your letter that I had distinctly understood the views of your Government as explained by you in our late conference, and



stated in my last letter, and perceiving also that you still adhere to those views, which, being altogether inconsistent with the rights of the United States, are inadmissible, I have to repeat that this Government has no motive to continue the negotiation on the subject of boundaries.

In making this frank declaration, I cannot avoid expressing my surprise that you should now find it necessary to refer again to your Government for instructions on any part of this subject. These differences have long existed, and as far back as 1805 were fully discussed, as you readily admitted, in every circumstance appertaining to or connected with them, in a special mission to Madrid for the purpose. It was hoped and expected, on the restoration of the diplomatic intercourse between the two nations, that you would have been invested with full power to settle them; and it was in accord with your views, when this was found not to be the case, that the requisite authority was given to the Minister Plenipotentiary of the United States at Madrid. It could not have been doubted, as your Government had not authorized its Minister here to bring these controversies to a conclusion, that the Minister of the United States would have been promptly met in his offers to effect it at Madrid. I need not repeat to you the great disappointment which the President felt, when, after the lapse of so much time, he was informed that an expression of regret in my letter to you of the 20th of June, at the delay resulting from your want of powers, and from the necessity of transferring the negotiation to Madrid, had been misconstrued into a desire that it should be transferred again to the United States. On examining, however, the tenor of your commission, and the communications between Mr. Cevallos, both of which seemed to contemplate a prompt conclusion of the business here, the idea now brought forward in your letter, of a further resort to your Government for other instructions, was surely the last to enter into the anticipations of this Government.

It is proper to add, that I understood you to concur in our late conference, fully with me in the sentiments that any further discussion of subjects, which had been already so often discussed and completely exhausted, would be useless, since it could not be presumed that any change of opinion on any point would take place on either side. Each party understands its rights, and has, doubtless, made up its mind as to the conditions it is willing to adopt. To those suggested by you, as being worthy the consideration of your Government, this Government cannot agree.

Under these circumstances, I have again to request that you will do me the honor to inform me whether you are willing to conclude a convention to provide indemnity for spoliations, and the suppression of the deposit at New Orleans, as mentioned in my last letter.

I have the honor to be, &c.

JAMES MONROE.

CHEVALIER DE ONIS.

Mr. Onis to the Secretary of State.

FEBRUARY 10, 1817.

SIR: I have received the official letter which you did me the honor to address to me, under the date of the 25th of last month, stating that, notwithstanding the desire the President had to adjust all differences between Spain and the United States on just conditions, and to their mutual convenience, it was seen, with great regret, that a like disposition was not manifested on the part of Spain.

You support this opinion on the ground that I adhere to the same sentiments which my Government manifested in former times; and also that the President, seeing the powers with which His Majesty had been pleased to honor me, could not comprehend why I should think it necessary to recur to my Sovereign to obtain new instructions. You will permit me to observe, that the number of privateers armed in the ports of this country, to cruise under an unknown flag against Spanish commerce, have obstructed, in such a manner, the communications between the Peninsula and these States, that the accidental circumstance of Mr. Brent's having taken charge of the duplicates of His Majesty's powers has alone obtained for me the receipt of them, and that I am even yet without the originals; with which, doubtless, His Majesty sent me instructions, and communicated to me his reasons for transferring the negotiation here. I can assure you that I am entirely ignorant of what has passed in Madrid between Mr. Erving and Mr. Cevallos, and that I am not less so of the motives which have induced His Majesty to transfer the discussion here, notwithstanding I had informed him that I had myself proposed to you that authority and instructions should be given to Mr. Erving in relation to it, it being clear to me that His Majesty desired nothing with more anxiety than to see an affair terminated which must be the precursor of the reciprocal intimacy which should be established between the two Governments for the mutual benefit of their respective subjects and citizens.

If I might be permitted to conjecture the motives which have induced His Majesty to transfer the negotiation here, I believe I should not mistake in designating, as the principal one of them, the knowledge His Majesty has of your talents, of your justice, (*justificacion*.) and of the conciliatory disposition which you manifested in your conferences with Mr. Cevallos to concur in the settlement of these discussions; and, as the second, this: that in the moment of the arrival of the Queen, his august spouse, and of the festivities incident to this happy event, His Majesty could not give the attention which was requisite to these affairs, which he considered of the first importance. You are too just not to appreciate these motives, and not to see in them nothing but a new proof of the anxiety of His Majesty to avoid all delay or inactivity. The President, informed by you of these motives, will, I flatter myself, form the same opinion, and see the neces-

sity of my waiting for the necessary instructions from my Sovereign, before I subscribe to the points which ought to form the basis of this treaty. The short delay which may result from this will be amply compensated for, and with mutual advantage, if you would place me in a situation to inform my Government of the principal points on which the Government of the United States wish to see this negotiation turn. You know that as yet you have only made known to me, in our first conference, that if we were to go into a discussion of the rights of the two Powers, as was done by you and Mr. Cevallos, much time would be lost, and each of us would retain his opinion. You know that I agreed to this, but at the same time intimated that I saw no other more certain mode of accomplishing the object which the two Powers had in view, since it must be with a knowledge of the respective rights of each party that we ought to begin in fixing the indemnities and compensations which belonged to each on the principles of equity, justice, and convenience; and that the only way of avoiding this, and of shortening the negotiation, would be that the two Powers, giving up all pretensions and all idea of rivalry or aggrandizement, should agree between themselves, in good faith, to fix their limits according to equity, justice, and mutual convenience, so that they should not be liable to be violated by the subjects of the one or the other, and in a way to avoid the renewal of the complaints which had given rise to misunderstandings. You approved an idea so liberal, so generous, and so demonstrative of the disposition of the King, my master, to accommodate the United States in whatever might be agreeable to them, if not incompatible with his interests; and, in consequence, you made known to me that the United States wished to unite to their dominions the two Floridas. As, in the former negotiations, the cession of West Florida to the Rio Perdido was alone spoken of, and as His Majesty was ignorant of the new desires of this Government, I said to you that, although I did not positively know whether His Majesty would deprive himself of East Florida, and of the important port of Pensacola, which was the key of the Gulf of Mexico, yet the desire of His Majesty to gratify this Government was great, and that it was very probable he might agree to do it, provided that, on the part of the United States, there should be offered to him a just equivalent, and one of reciprocal convenience.

I leave it to your impartiality and justice, and to that of the whole world, to say if, on the part of His Majesty, a more positive proof is wanting of the interest which he takes in arranging these affairs in a friendly manner; and if I should not find myself more authorized to doubt of equal dispositions on the part of the United States, in consequence of the proposition which you made me, not only of not giving anything in exchange for the two provinces, and the cessions of which the United States desire, but requiring that His Majesty should cede to them a part of another, which has been in the uninterrupted possession

of His Majesty for more than two hundred years.

I am nevertheless, very far from judging it thus. A firm and permanent arrangement of all points of difference is equally useful and necessary to both nations. It ought to fix the basis of the happiness of their respective subjects and citizens; and, to obtain this, it ought necessarily to be founded in justice, equity, and mutual convenience. His Majesty is disposed to conclude it on these terms; and he has too much confidence in the well-known rectitude of this Administration to think that it could solicit it on other terms.

You are pleased also to inform me, in your esteemed note, that to the propositions which I have suggested as worthy of the consideration of my Government, that of the United States cannot agree; and that, abandoning the arrangement of limits, you desire only to know if I am disposed to sign a convention for settling the injury sustained by the American commerce, and for the suppression of the deposit at New Orleans.

As the propositions which I have made to you were confined solely to the leaving to your election whether we should treat by discussing and fixing in a friendly manner the respective rights of each Power, to the end that, having agreed to them, and the obligations of each upon the other being known, the compensation to which each may be entitled might be settled; or that, leaving things to remain in the state they were, we might agree in a friendly manner as to what would suit each, I cannot conceive that the United States should be of opinion that they cannot agree to any of these points.

I would offend my own delicacy if, after being assured by you that the United States were disposed to terminate all the differences which exist between the two nations by a treaty founded on justice, equity, and mutual convenience, I could believe that the United States would repel the only means which, in my opinion, exist to arrive at this end. I judge, then, that I have not explained myself with sufficient clearness, or that I have not well comprehended you; and I again renew my propositions in a plain, clear, and demonstrative manner, giving you an example which you cannot but find just.

Let us suppose (and it is a very proper supposition) that you and I are intimate friends; you have purchased an estate adjoining one of mine; (I do not now inquire whether you purchased it from a person who had a right to sell it or not—but you purchased it;) and, be it because some officious person said so, or because you thought so, you were of opinion that there was included in this purchase a part of my estate, which I worked, took care of, and possessed. As soon as you had made this purchase, and observed that possession was not given you of the land I worked, and which you believed to belong to you, you asked me to give it up to you. I observed to you that it was mine; that the land which you had purchased had also belonged to me formerly; that I had ceded it to him who had sold it such as he



had delivered it, and in no greater extent; and that, consequently, he could not transfer to you more than I had given to him. You and I refer to the seller, and he tells us that he never sold the land to you which you require, and never obtained it from me, nor had an intention of acquiring it. Notwithstanding this declaration, which is decisive and irrevocable, I, from motives of friendship for you, and to do away all doubt on the point, propose to you that we should discuss the affair in a friendly manner, and assure you that, if you present to me unquestionable documents to prove that it belongs to you, I am ready to give it up. I ask you, dispassionately, if this proposition could be considered as inadmissible? I go further. I, who am anxious to accommodate you, because you are my friend and a good neighbor, knowing that you desire to get part of my territory to round out yours, and to facilitate the exportation of your produce, as there is a navigable river passing through it, carry my friendship and condescension so far as to say to you that we will agree between ourselves, by a friendly investigation, what belongs to each; and, this being settled, I am ready to cede to you the lands you desire for an equivalent founded in equity, justice, and reciprocal convenience, fixing the limits between us in such a way that our servants should not engage us in quarrels and contests, as, it being our desire to live in the greatest harmony, we were equally interested in avoiding every subject of difference. Will you say to me that these friendly propositions are inadmissible? I believe not. Such, then, neither more nor less, are those which I have suggested to you in my former official note, and renew to you by this, hoping that, taking them into serious consideration, you will view them as just, equitable, and even generous.

You cannot but know that the convention you propose, limited to the indemnification for injuries done to the American commerce by the cruizers and tribunals of Spain, and by the suppression of the deposits at New Orleans, will not accomplish fully the object which the two nations propose to themselves, of extinguishing all disagreements. Nevertheless, to give another proof of the deference of His Majesty to the wishes of this Republic, I agree to enter into negotiation with you on these two points, and to conclude a convention as to them, in which shall be embraced the just reclamations which His Majesty shall produce against this Government, and the various arrangements he desires to place in it for the encouragement of the commerce between the two nations, and to avoid injuries such as those which, from the want of explicitness in the last treaty, have been experienced by the respective subjects of both. I will add more, and it is, that the first point to which you refer being founded in the treaty which exists between the two nations, I will subscribe to it without difficulty; and as to the second, it is of so small an amount, that if I do not succeed in demonstrating to you that these injuries have not existed, or that they are much exaggerated, and that the United States have al-

ready admitted that they were satisfied for them, I will have no difficulty even as to them. I ought, likewise, to observe to you that it will be easy to include in this same convention or treaty a provisional arrangement of limits, without detaining us to fix them with exactitude. If the United States do not desire to make an essential change in the established limits fixed by the treaties of 1763, 1764, 1783, 1795, and 1800, and that this arrangement should only apply to the uncultivated lands to the north of the Missouri, the boundaries of which were never settled between France and Spain, this question might be left for commissioners named by each party, and their decision might be considered as part of the convention; but, in any case, the most efficient method of concluding these affairs will be, that you should have the goodness to say to me, with frankness, what are the real views of the United States, what are the real and true compensations they are disposed to offer for the country they desire to obtain from His Majesty. You may be assured that I will support, earnestly, proposals that are just and reciprocally convenient, and that, on the return of the courier, I shall be able to sign, under the powers I now have, a treaty mutually satisfactory to both parties, we, in the meantime, agreeing upon all the articles of minor considerations. You cannot but know that the instructions ought to be adapted to the greater or lesser territory of His Majesty, which the United States may desire to add to their dominions; and that, if they desire none, little difficulty can occur on the subject of indemnities between two Powers animated by conciliatory and just sentiments. I am, &c.

LUIS DE ONIS.

*Copy of a letter from the Secretary of State to the Chevalier de Onis.*

DEPARTMENT OF STATE, Feb. 20, 1817.

SIR: I have had the honor to receive your letter of the 10th instant.

From full consideration of the contents of this letter, it appears that, although you expect instructions at an early date to negotiate and conclude a treaty for the adjustment of all differences between the United States and Spain, which you manifest a desire to accomplish, you do not consider yourself authorized to do so on any one point at this time. I will thank you to state whether I have understood correctly the idea which you intended to convey. In case I have, I have only to remark that, although the delay is particularly to be regretted, it is not perceived that any advantage can be derived from entering into the negotiation before you have received your instructions. I have, &c.

JAMES MONROE.

*Translation of a letter from the Chevalier de Onis to the Secretary of State.*

WASHINGTON, February 21, 1817.

SIR: In the official letter which you did me the honor to direct to me yesterday, you state

that you had taken into consideration the contents of mine of the 10th instant; and, confining yourself to one point only out of many on which it touches, of the greatest importance, as I think, to the interests of both nations, you say that if you had correctly understood the meaning of my letter, at the same time that I manifest a desire to conclude a treaty for the adjustment of all the differences existing between Spain and the United States, I do not consider myself authorized to do so until I receive the instructions from my Sovereign, of which I am in daily expectation. You ask me if this is the true idea which I had wished to give you, and add that, if it is, although we must both lament the delay, it is not perceived that any advantage can be derived from entering into the negotiation until I receive my instructions.

In my note above mentioned, I made known to you, with the candor and sincerity which characterize me, the causes to which I attributed the delay in receiving the instructions consequent on the powers which His Majesty had given me; and I do not doubt that the President will have found them as just as the reasons I stated to you, demonstrating that a partial negotiation, which did not embrace all the points of disagreement between the two nations, cannot accomplish the object of the one or the other—which is to get clear of these disagreements, and to take care that they are not renewed in future. The treaty in question ought to provide for the just reclamations of the subjects and citizens of the respective parties; in it the limits between the two Powers should be fixed agreeably to their respective rights, to equality, to justice, and reciprocal convenience. Finally, it ought to comprehend different stipulations analogous to the new state of relations of intimacy which is about to be established between the two Governments for the greater encouragement of their reciprocal commerce. You know that all these points have so intimate a connexion with each other that it is not easy to separate them; and, on the other hand, they are of such importance that I consider it necessary to wait the arrival of my instructions before I conclude definitively a treaty involving affairs of such magnitude. Nevertheless, as we cannot but feel this delay very sensibly, which most probably will be short, anxious on my part to lessen it so far as depended on me, I have suggested to you that we might begin to discuss the points of least importance, to the end of having the work in a state of forwardness when the instructions should arrive; but, since you prefer waiting for their arrival, I will agree to what you may resolve on, persuaded that you do not take less interest than I do in fixing the relations of amity between the two countries on a footing the most solid and durable.

*Don Luis de Onis to the Secretary of State.*

PHILADELPHIA, July 9, 1817.

SIR: I am under the necessity of calling your attention, and that of the President, to what has

occurred at Baltimore, in relation to the two privateers or pirates which have lately entered the bay of Chesapeake, and now are within the proper limits of the State of Maryland; the one commanded by Captain Taylor, and the other by Captain Stafford. It is notorious that these privateers, manned and armed in the ports of the Union, sailed on a cruise against the Spanish commerce, and have returned to the waters of Maryland with a part of the plunder and booty they have taken on board of Spanish and Portuguese vessels.

For the due conviction of this outrage, the necessary orders or warrants were sent, at the request of the Consul of His Catholic Majesty in Baltimore, to the marshal of that city, to proceed to the arrest of the aforesaid privateers, and for its execution a gunboat was granted by the collector of the customs. All this, however, was in vain; the marshal gave no effect to the orders issued for this arrest; and His Majesty's Consul, seeing that eight days had passed without the marshal taking a single step to fulfil the orders he was charged with, called upon him, and claimed their execution; upon which he replied, categorically, "that he was unwilling to proceed to the arrest of the said privateers, because it was not his duty to execute it, except they had entered the port of Baltimore; but by no means in the bay, although within the district of the State." The Consul lately applied to the district attorney, complaining of this conduct; and he acknowledged that indeed it was very extraordinary, but he took no steps to remedy it, or to enforce the observance of the laws of the United States in a case of so scandalous an example. These facts speak for themselves, and the mere statement of them is sufficient to make you and the President thoroughly sensible of the monstrous consequences which the irregular conduct of this marshal may lead to. It is perfectly evident that the public treaty between Spain and the United States, and the late act of Congress, sanctioned as a general law for the more strict observance of the neutrality of the same States with foreign Powers, are scandalously trampled under foot in Maryland; and that the marshal, by formally disobeying the lawful authority of the State, and that of the General Government of the Union, protected the hostilities and piracies carried on against the trade of a nation in a state of peace and amity with the United States. I cannot, therefore, do less than to remonstrate in the name of the King, my master, against so manifest a violation of the neutrality of this Republic, of its laws, and of the treaty existing between the two Powers; and to request that you will be pleased to obtain of the President the most prompt and effectual orders to cause the marshal of Baltimore to do his duty, and all requisite justice to the subjects of His Majesty.

It is my duty, also, to call your attention and that of the President to the conduct of the adventurer, Sir Gregor McGregor, who, since he was in arms with the bands of insurgents in the province of Venezuela, has come to these States,



and been constantly engaged in enterprises to invade or disturb the tranquillity of His Catholic Majesty's possessions in that part of the world. He lately recruited in Charleston a great number of adventurers, and among them several persons of note, viz: one Rouse, son of a colonel of that name, an inhabitant of that city; one Champion, who was a commissary in the service of the United States in the late war, and storekeeper of ordnance; one Heath, a lawyer of the same place; and many others whose names I pass over. He purchased, under a borrowed name, a brig of considerable burden, which he despatched with passengers to New Orleans on the 19th of last month; and on the following day he went on to Savannah in the stage, according to common report, to recruit more people. His subsequent proceedings and hostile preparations in the bosom of this Union, against the possessions of the Spanish monarchy, are notorious, and announced with a scandalous publicity in many papers of these States. I hope, then, that you and the President will apply the energy of your zeal for good order and the observance of the public laws, by restraining these excesses and vexations, which compromise the neutrality which the President has proposed to preserve in the dispute subsisting between the King, my master, and some of his provinces in rebellion, and render null, as you may imagine, the security in which the Government of His Catholic Majesty rests, in a reliance on the safeguard of the said laws, and on that of the general principles of public good faith, which serve as the basis of the tranquillity and friendly intercourse between the nations and Governments of the world. I renew, &c.

LUIS DE ONIS.

Mr. Pizarro to Mr. Erving.

PALACE, July 16, 1817.

SIR: Since the happy restoration of His Majesty to the throne of his august progenitor, one of his principal objects has been to establish, upon solid foundations, his political relations with the several Powers friendly to Spain, by removing whatever obstacles were of a nature to affect their future good understanding.

From the beginning, the state of affairs between Spain and the United States called His Majesty's attention; and as soon, during the last year, as reciprocal organs of communication were established by the recognition of their respective Ministers, the King announced his desire of making evident the right of each Power on the different points of existing reclamations.

In your note of August 26th of the last year, addressed to my predecessor, you also manifested that you were equally disposed to enter into the discussion in behalf of your Government, and to conclude a treaty honorable and satisfactory to both parties, to which end you intimated that you were authorized by ample powers and instruction; but as the various questions depending between the two Governments, and the inci-

dents of later years, which had complicated them, formed a total of objects which appeared to require a prolix examination, His Majesty thought that this might be made between his Minister Plenipotentiary at Washington and the American Secretary of State, with more despatch than in Madrid, where the Government of His Majesty found itself at the time surrounded with a multitude of pressing engagements, arising from the necessity of re-establishing the order subverted by foreign invasion, and by the very extraordinary means which had been adopted to repel it with success.

The Minister of the King in Washington was perfectly acquainted with all that happened of late years; he knew to the foundation all the rights of Spain upon each of the depending questions; he was aware how well disposed was the mind of His Majesty to attend to the reclamations of the American Government, which might be founded on justice, and even to accede to those in which he might voluntarily please the United States without injury to his vassals or to the rights of his Crown. It was, therefore, thought right to authorize him with full powers, and to make him aware that, after entering into an examination and discussion corresponding to the tenor of what he knew respecting the rights of Spain, he should proceed to an adjustment, taking for a basis the demonstrated right of each party upon each of the points discussed.

But it appears that the Government of the United States has deemed it to be superfluous to enter into an ulterior discussion of said points, after that which had taken place at a former period; and it appears also to have intimated its desire of an arrangement or conclusion upon the whole, jointly, of the respective pretensions, in which, without losing sight of the foundation of each, considerations of mutual convenience should be equally attended to, and to fix the basis of an order which could not be easily changed in future.

For this kind of arrangement, by way of conclusion, the Minister of His Majesty thought that competent instructions were wanting to him; and in fact he was in need of those which were much more detailed than those he already had, since they were intended to terminate the business, taking for a basis only the examination and knowledge of the rights of each in the different objects which the negotiation embraces.

Soliciting more ample instructions, the Minister has sent to Madrid the Secretary of his Legation, Don Luis Noeli, and His Majesty has ordered that they be prepared and arranged with all possible despatch. But as in this course, which it is desired to give to the negotiation, it is perhaps possible that you and I can arrive more readily at a result, seeing what you state in your notes of 26th August and 19th September upon the business, my desire to do whatever may contribute to a satisfactory termination induces me to ask you to please to explain whether you continue authorized to enter into con-

ference with me, and even to conclude an arrangement on the matter; for, in this case, without failing to send to His Majesty's Minister a Washington suitable instructions, which the said Secretary of Legation will carry, we can also occupy ourselves in the same business, and perhaps arrive at a definitive arrangement with more promptitude than the Minister of His Majesty at Washington, who, by some occurrence or proposition made to him, not foreseen in the instructions, may be put to the necessity of again consulting His Majesty, and thus creating delay, which cannot happen with me, who have the honor to receive daily the orders of the King.

If you feel yourself authorized to this effect, our progress in this business may be substantially the same as indicated in your note of the 26th August; for though, in the projected arrangement, we take for our guide considerations of reciprocal convenience, and the desire to avoid the reproduction of motives of disagreement for the future, a consideration of the respective rights of our Governments in the questions depending can never be lost sight of, as you also indicate in your said note; to the end that the sacrifice or relinquishment which each may think it proper to make should be correspondent and proportionate to what he may exact from the other in return.

If we shall succeed in forming the arrangement which we desire to conclude, in a perfect knowledge of the right of each, modified by considerations of reciprocal utility, it cannot be but firm and durable, and consolidate a good understanding between the two nations, both of which are interested in preserving it.

I profit of this occasion to renew to you assurances of my high consideration, and pray God, &c.

JOSE PIZARRO.

Mr. Erving to Don Jose Pizarro.

MADRID, July 19, 1817.

SIR: I had yesterday the honor to receive your excellency's note of the 16th instant.

Adverting to a late correspondence between the Secretary of State of the United States and the Chevalier de Onis, Minister Plenipotentiary of His Majesty, your excellency seems to conclude that the American Government hath declined to enter into an "ulterior discussion" of the several points of difference which present themselves for adjustment between the two countries, and to have intimated a wish to make an arrangement founded upon an aggregate view of their respective pretensions, in which, without forgetting the principles on which the right of each reposes, a due regard should be observed to considerations of mutual convenience.

For this class of arrangement you allow that Mr. Onis had not sufficient instructions; those which he had, authorizing the termination of a negotiation only upon the basis of an examination and recognition of the rights of each party

on each of the several objects which the negotiation should embrace.

But it appears, from the correspondence adverted to, not only that Mr. Onis did not conceive himself to be authorized to negotiate and sign a treaty of the kind indicated, but that he was not empowered to negotiate and settle a convention on any separate object; for, by the Secretary of State's letter to him of January 4th, he was expressly invited to enter into such arrangement respecting two important points.

In fine, it distinctly appears that Mr. Onis found himself empowered to discuss every point, but not to conclude on any one separately, or on the whole in mass. This certainly did not accord with the just expectations of my Government, founded upon the declarations of Mr. Cevallos, when he transferred the negotiation to Washington.

But I refrain from dwelling more particularly on this matter, and pass to that part of your excellency's note which contains a proposal for arranging our differences here.

With a view to the most speedy termination of these differences, you propose that, without suspending or delaying the instructions which are to be sent to Mr. Onis, we now enter upon the negotiation; and you ask me whether I feel authorized to confer with you on the matter, and to conclude an arrangement. Instructed of the invariable desire of the President to regulate by treaty all the grounds of difference which have unhappily so long subsisted between the two countries, and to establish their relations of peace on the most solid and permanent basis; and being also well persuaded of the sincerity and conciliatory disposition which dictate this proposal on the part of your excellency, it is my duty to promote the object of it as far as may be in my power; and I do not hesitate to explain myself to you on this head with the utmost frankness.

The powers and instructions which I received from my Government, as announced in my letter to Mr. Cevallos of August 26, 1816, have not been revoked; but your excellency understands perfectly well the situation in which I am placed as regards these, by the refusal of your predecessor to treat here, and by the powers which he sent to Mr. Onis. You will clearly perceive that I cannot do or consent to any act which may have the least tendency to retard, in the smallest degree, the arrangement so much desired; consequently, that I ought to avoid entering into regular discussions on the several subjects of my note of August 26th—discussions which must needs occupy a great deal of time, and consequently delay the departure of Mr. Noeli; for I presume that it cannot be within your plan that he should depart pending such discussions, and thus produce all the difficulties, embarrassments, and interminable delays of a double negotiation.

Connected with this is another consideration of major importance. Your excellency is fully aware that the transfer of negotiations from Madrid to Washington, in the last year, had the appearance of an unnecessary procrastination,



and that the subsequent discovery of the insufficiency of Mr. Onís's instructions might even seem to justify the reproach of its being a studied one. Now, the retransfer of the negotiations to Madrid, unless we are perfectly certain that they will terminate favorably, will, as far as it may tend to create further delay, necessarily have the same effect in augmented force. I am confident that such a course is neither in the policy nor character of your excellency; it is necessary, however, for me to pronounce myself explicitly on these points.

The Secretary of State of the United States, in his letter to Mr. Onís of January 25th, has observed that Mr. Onís "had agreed with him that any further discussion of subjects which had been so often discussed and completely exhausted would be useless, since it could not be presumed that any change of opinion on any point could take place on either side. Each party understands its rights, and has doubtless made up its mind as to the conditions which it is willing to adopt."

Within the rule, therefore, which this paragraph points to, I am disposed to act. I presume your excellency's plan to be substantially the same, and your proposal to have been suggested by and founded on that which you understand the Secretary of State of the United States to have made to Mr. Onís; indeed, you have expressed yourself on both of them in nearly the same terms.

Thus, when His Majesty's Cabinet shall have determined on the instructions to be given to Mr. Onís, it will have determined on the conditions on which the treaty shall be made; then, if your excellency will offer to me the basis of an adjustment, I will say instantly whether I can or cannot accede to it, or will propose to you such modifications of it as my instructions may require, and His Majesty's Government may find to be admissible.

In these transactions we shall, as your excellency has well observed, take for our guide considerations of reciprocal convenience, each of us keeping in view the rights of our respective Governments. These being perfectly understood by both of us, and no discussion being necessary to fix our knowledge of them, we shall avoid reproducing the motives of disagreement to which you allude; and by this knowledge we shall also regulate the concessions which either may be disposed to make.

Thus we may terminate instantly, and in perfect harmony, all causes of present complaint and all grounds of future misunderstanding, and, in a manner satisfactory to both Governments, lay a secure foundation for those friendly relations which they are equally desirous to maintain. I renew to your excellency, &c.

Mr. Pizarro to Mr. Erving.

PALACE, July 27, 1817.

SIR: I have received your esteemed note of the 19th instant, in which you are pleased to re-

ply to mine of the 16th; and I observe by it that we are animated with equal sentiments and desires to see the different questions pending between our two Governments satisfactorily and honorably terminated. With these dispositions on either side, it will not be difficult for us to arrive at the desired arrangement, provided it is accompanied with a due impartiality of judgment on the matter produced by each of us in support of his rights and pretensions.

I allow that a prolix discussion on the points which have been heretofore agitated may be dispensed with, although subsequent circumstances have not failed considerably to change the state of the question; but I cannot persuade myself that it will be the shortest or the easiest method to present on either side a project of an arrangement of the whole, without a previous examination or conference, in which at least the points in question, and the actual state of them, should be ascertained and settled, and those on which we agree and those on which we disagree should be determined on, and a summary view given of the reasons and grounds of our diversity of opinion. This knowledge is the only rule by which we, our Governments, and the world, can determine upon the propriety or impropriety of the conditions of settlement which may be proposed to you, or of those which, on your part, you may judge proper to propose to me, if you do not conform to those offered by me.

This, I believe, was your mode of thinking, and appears also to have been the orders and instructions of your Government, when, in your note of the 26th August last, you were pleased to say to my predecessor, "I am specially instructed to discuss and to settle with your excellency all the ancient causes of misunderstanding, as well as the questions growing out of recent occurrences, which are of a character unfavorable to the object in view;" and in another part you add: "A frank exposition of all the grounds of complaint is at once the most just and most judicious course; for, to suppress or to smother any of them, in condescension to temporary considerations, is but to leave the seeds of future discord, and to substitute palliatives and expedients for satisfactory and solid arrangements."

Though the urgent occupations which at that time engaged the attention of the ministry did not allow of its entering with you into the desired discussion, yet His Majesty did not disapprove of the method and idea proposed by you; on the contrary, the very same served as a rule for the conduct prescribed to Don Luis de Onís, the seat of negotiation only being changed; that is, instead of its being carried on at Madrid between you and the Secretary of State of His Majesty, it was to be carried on at Washington between the Secretary of State there and the Minister of the King.

Don Luis de Onís, to whom was prescribed the said conduct adequate to your proposition, could not but notice the considerable difference between what he had been thus advised of, and the manifestation which was forthwith made to him by

that Government, of its considering any discussion to be useless, since it was not to be presumed that either party would change its opinion; and this circumstance has been one of the motives which has obliged him to solicit instructions more suited to the present dispositions manifested by that Government, as I had the honor to state to you in my note of the 16th instant.

I give due weight to what you are pleased to indicate to me relative to your situation after the occurrences which have intervened; but I also think that, animated with the same zeal for the true interest of our Governments, we may in a short time do much, and, without considerably retarding the departure of Don Luis Noeli, we may arrive at some conclusive result, or at least facilitate the conclusion of the negotiation.

In my opinion, the object would be promoted by a short discussion, in which we shall establish the points of controversy, and the respective grounds of them, before presenting any plan of arrangement; but if you think differently, I have no objection to make out a project of arrangement, though it will carry with it the inconvenience of not having been preceded by an examination of the solid foundations on which, I believe, I am able to support it; at the same time, the instructions which Don Luis Noeli is to carry to the Minister, Onís, will be preparing; for the intention of His Majesty is, that no means or mode shall be neglected which may produce an arrangement, provided that the conditions of it be compatible with the interest of his vassals and the honor of his Crown. I renew, &c.

JOSE PIZARRO.

Mr. Erving to Mr. Pizarro.

MADRID, July 29, 1817.

SIR: I had the honor to receive yesterday evening your excellency's note of the 27th instant.

Respecting what is contained in my note of the 19th instant, in reply to the proposal which you were pleased to make to me in your note of the 16th instant, you observe, that though a prolix discussion of the several points in question between our two Governments may be avoided, yet that, previous to any project for the arrangement of them being presented, it might be well for us to enter into some examination, and come to some agreement upon each of them. You deem this mode to be necessary for the justification of our proceedings before our respective Governments, and you conclude that it is the one which I had in view in my note to your predecessor of August 26, 1816. You go on to remark, that though the urgent occupations of that Minister at the time prevented his adopting my plan, yet the same was given for a rule of Mr. Onís's conduct in the negotiation then transferred to Washington; and that it was not till Mr. Onís found the Government of the United States indisposed to renew discussions on subjects which had been so completely exhausted, that he thought proper to send home for such

further instructions as might enable him to treat in the mode proposed by the Secretary of State.

Your excellency will permit me to remind you that all the principal points put forward in my above-mentioned note to Mr. Cevallos had been most minutely and repeatedly examined and debated, and that one of them had been adjusted by a convention made here in the year 1802, during the ministry and through the agency of Mr. Cevallos himself; that, subsequently, viz: in the year 1805, Mr. Cevallos being still Minister, the United States, with a desire of regulating by treaty all those questions, sent Mr. Monroe (late Secretary of State) a Minister Extraordinary to this Court; and that, in the negotiations which then took place at Aranjuez, all that learning and ingenuity could produce was exhausted in controversy. Little remained then for me but to reproduce the subjects of complaint, and to support them, wherever they might be contested, by the ample materials which had been furnished by those who had gone before me. At the same time a reasonable hope, founded on the assurances of Mr. Onís, was entertained by my Government that the Spanish Cabinet would readily consent to forego all irritating questions; the same sentiment was, therefore, expressed in my communication to Mr. Cevallos, and it had evidently a view to the prompt termination of the negotiation. As to the motives which may have induced Mr. Cevallos to decline negotiation, I am bound to consider as valid those which your excellency has offered. They are not, however, such as he thought proper to allege in his note to me of September 15, 1816. He founds his determination on a passage in Mr. Monroe's letter to Mr. Onís of June 10th; the very letter in which the Secretary of State, after expressing his regret that Mr. Onís had not power to negotiate, informs him of my appointment for that purpose. How Mr. Cevallos could have construed this into a desire of the President to remove the negotiation to Washington, thus rendering useless the instruction which it was announced had just been given to me, I am wholly at a loss to conjecture; but certain it is that no other plea was offered for the very extraordinary measure then taken than His Majesty's desire to accede to the wishes of the President.

I understand your excellency to intimate that the plan of negotiation proposed by me to Mr. Cevallos having been approved by His Majesty, and given to Mr. Onís as a rule for his conduct, no change of policy or disposition in this Government is to be inferred from its removing the negotiation to Washington—that it was a mere change as to place, which is not important.

On this your excellency must allow me to observe that Mr. Onís himself, after he had received his powers, confessed, in a note of February 10th to the Secretary of State, that he was entirely ignorant of what had passed between Mr. Cevallos and me. If you will revert to the correspondence, you will find abundant proof that Mr. Onís was not placed in the situation which you have supposed.



In my note to Mr. Cevallos of August 26, 1816, I am told that I was "specially instructed to discuss and to settle." In that of September 19th, that I could "in no case be under the necessity of referring to my Government for future instructions," &c. I expressly asked the Minister whether it was His Majesty's intention to place Mr. Onís "in a position equally favorable to the speedy adjustment of our differences." Mr. Cevallos did not pretend that such was his intention; and, in fact, we find by Mr. Onís's correspondence in several places, but most distinctly in his letter of February 21st to the Secretary of State, that he had no instructions whatever. In that of February 10th, he even makes conjectures as to the mode in which they may have miscarried; in that same letter he also makes conjectures as to the motives which his Government may have had for transferring the negotiations to Washington. And thus, sir, it is also made evident that Mr. Onís has sent home for instructions, because he had them not; not because he has made any new discovery as to the views of the American Government with respect to the mode of conducting the negotiations.

Certainly, after all the discussions which had taken place upon all the points in contest between the two countries, it was no extravagant expectation in the Government of the United States that the Spanish Government was prepared for an arrangement, and that no more time was to be lost in reconsidering matters which had been so often considered. Yet, withal, in consenting, in the year 1816, to treat in this way with Mr. Onís himself on the great question of boundaries, the claims of the United States on that point are very particularly insisted on in the Secretary of State's letter to Mr. Onís of June 10th of the same year. I beg leave to call your excellency's attention to that letter. It was after that attempt to settle the point had failed, from the impossibility of coming to an agreement, created by the very extraordinary pretensions set up by Mr. Onís, and after he had declined to enter into any negotiation for the claims of the United States on account of spoliations and the suppression of the deposit at New Orleans, that the Secretary of State wrote to him the letter of January 25th, which your excellency has quoted; and even in that very letter he anew invites Mr. Onís to negotiate on the points mentioned in his preceding letter of January 14th.

Your excellency will see, then, that the American Government has never avoided discussion, when it might tend to any useful purpose, but that it has avoided all controversy which could produce nothing but irritation; and that it declined to continue to agitate these questions with Mr. Onís only when it saw that he had no authority to terminate them by an arrangement.

Had Mr. Cevallos made to me the proposal which your excellency now makes, I had readily accepted of it, and I presume that it might have led to a happy result; but, by the course which that Minister took, I have been left in a situation of peculiar delicacy; and of this I perceive that you are fully aware. It is not in my

power to treat these subjects now as I would have treated them at that time; this were to transfer the negotiation to Madrid, the inconveniences of which I have pointed out in my note of the 19th instant. To this purpose my instructions are not competent. It is therefore that, though animated by the same conciliatory dispositions which are manifested by your excellency, and though equally anxious to contribute to the desired result, I have yet felt myself obliged to confine myself to the simple proposal contained in my last note.

You are now occupied in forming instructions to Mr. Onís, which, as you are pleased to explain, are to be calculated to enable that Minister to conclude a treaty with the Government of the United States on principles of reciprocal accommodation, without renewing controversies with which both parties ought to be completely fatigued. That being so, it will be quite easy, as it appears to me, for your excellency to accede to my proposal.

Your instructions render discussions at Washington unnecessary; they cannot then be necessary here; they will contain in effect the terms of a treaty. The same may then be proposed here, with a view to saving of time, and to avoiding the possible delays pointed out in your note of the 16th. You will of course found your instructions on a thorough knowledge of antecedent discussions. I, on my part, am fully informed on the claims of my Government. You are also well acquainted with the extent of those claims, and of the ground on which they repose. I can have nothing new to offer to you on the subject. We bring into our communications a reciprocal spirit of conciliation, and a mutual conviction that the questions in dispute are susceptible of an adjustment which will establish on a solid foundation the friendly relations between the two countries. Your excellency cannot fail to conform to the wishes of your Sovereign, whose daily orders you have the advantage of receiving; and I, on my part, doubt not but that, in accepting an arrangement which shall secure the rights and honor of the United States, I shall meet with the approbation of my Government.

I renew to your excellency assurances, &c.  
G. W. ERVING.

Don Jose Pizarro to Mr. Erving.

PALACE, August 17, 1817.

SIR: In answer to your esteemed note of the 29th ultimo, and to conform with your wishes, I shall proceed to present you in this letter with my ideas as to the plan of an arrangement which may at once terminate in a friendly way, with reciprocal utility, and without leaving seeds of discord for the future, all the questions pending between the two Governments. My desire to please you induces me to make it in this form, although I am persuaded that any method of proceeding is premature which deviates from that indicated in your letter of August 26 of the last

year; and that the sure method of arriving at the arrangement desired is, as I had the honor to tell you in my note of the 16th of June last, "to take for our guide the perfect knowledge of the right of each party, modified by considerations of reciprocal utility."

Allow me to observe, first of all, that you are pleased to express in support of the mode of thinking of your Government, as to the points of discussion having been exhausted in the negotiation at Aranjuez in the year 1805, does not appear to me to be altogether well founded; for, since that epoch, so great is the mass of documents and authentic and indisputable proofs, as well French as Spanish, which His Majesty has collected respecting the subjects of that discussion, and particularly relative to the western boundary of Louisiana, that I doubt whether there be a point which is susceptible of more exact and rigorous demonstration than the determination of the dividing line, which has separated (and separates) Louisiana from the province of Texas and the other Spanish possessions in that part of the continent, as I will have the honor to show you in the event of our entering particularly into the examination of this question.

On the other hand, as I have already intimated in my note of the 27th ultimo, and as you have previously acknowledged in yours of the 26th August, the circumstances that have occurred since the year 1805 have considerably altered the state of the question in nearly all the points of controversy.

To be convinced of this, it will suffice to reflect on the augmentation since that period of the claims for indemnity on account of losses, injuries, and harm suffered by the Government and subjects of the two countries in consequence of the excesses committed by individuals of both nations against the law of nations and the existing treaty. You, on your part, in your aforementioned note of the 26th August, indicate some of these, and I will not enter here into the details of those which His Majesty and Spanish subjects have to reclaim on their part, not only because this detail would be now inopportune, but because the claims on both sides are to be subjected to the examination and judgment of the mixed commission which may be established to decide on them.

Besides this, posterior to the year 1805, the extraordinary event has occurred of His Majesty's having been unexpectedly deprived, in the year 1810, during his captivity, of the pacific possession in which he was of that part of West Florida which is between the river Iberville, the lakes Maurepas, Pontchartrain, and Borgne, on the one side, and the river Perdido, on the other. When the indisputable property of His Majesty in the said territory was demonstrated, it was proved that Spain did not acquire it of France in 1763; that she received it of England in 1783 by a solemn treaty; that it was not, and could not be, comprehended in the "retrocession of Louisiana" made to France in the year 1800; that the Government of France "has declared so officially,"

and in the most solemn manner, as well to Spain as to the United States; that the fifth article of the treaty of 1778 between France and the United States opposes itself expressly to the acquisition by France (though she had attempted it) of said territory from Spain in 1800; that the royal cedula of His Majesty, issued in Barcelona on the 15th October, 1802, for the delivery of Louisiana, (which royal cedula was in the hands of the French Government before the United States thought of acquiring the colony,) did not contemplate the delivery of territory east of the Mississippi other than that of the "island of New Orleans."

To these grounds, which have established, and do establish, in the clearest manner, the property of His Majesty in the said territory, may be added those of his pacific possession without interruption. The delivery of Louisiana took place without the least idea having occurred to the French commissioners, who received it of His Majesty for the purpose of delivering it to the United States, of aspiring to the possession of the territory between the Iberville and the Perdido; Spain continued, in the years following the delivery, exercising over it all her authority, and the United States respected this possession. A certain custom-house regulation of the United States, in the year 1804, which seemed to contain some expressions susceptible of an equivocal meaning as to the rights of His Majesty in the territory of Mobile, was declaimed against on the part of the King, and the United States agreed to give a satisfactory and honorable explanation as to the said expressions. Whatever might be then, in that state of things, the pretension of right which might be formed against it, it did not appear to conform to the principles universally acknowledged to enforce that pretension\* by means of acts, and, in truth, it was a painful duty for the faithful Ministers of His Majesty, on his return from his captivity, to explain to him by what means and circumstances he had been deprived of the peaceful possession of the greater part of West Florida without war, or any other stipulation which could authorize, having preceded it.

The King, attributing this extraordinary event to the circumstances (also extraordinary) of the epoch which had intervened, flattered himself that the United States would not defer placing things in the state which they were in at the time he left his dominions, and the invasion of the Peninsula by Bonaparte. The glory, and even the interests of the United States, might equally incline them to this restitution; for a recent and costly experience has made the world see that there are no acquisitions of territory, however extensive, which can compensate the advantages to result from the reputation which those Governments acquire who regulate their operations by principles conservatory of order and justice.

With these ideas, the King directed his Minister at Washington that, before he entered into the discussions which had remained pending, he

\* *Vias de hecho* is French phraseology—*voie de faites*.



should solicit the restoration of affairs in the state in which they were at the time of his absenting himself. This preliminary step appeared correspondent to the decorum of His Majesty, and the United States could not fail to acknowledge it to be so; it being very certain that the delicate honor of the American Government would not consent, in a similar case, to enter into other negotiations, finding itself inquired in the pacific possession of even one mile of its acknowledged territory, without first soliciting and obtaining the due restoration.

Notwithstanding this, and that the answer of the Secretary of State of the 19th January, 1816, is far from containing the satisfaction and restoration which Spain had reason to expect, His Majesty, to give unequivocal proofs of his moderation, and of his friendly dispositions towards the United States, without renouncing—as he does in no way renounce, nor will renounce, unless in the case of some compromise—the right of property and possession which he has in the said territory, has judged fit not to insist on his demand for the present, in the hope that this point, though in its nature it ought to be preliminary, may enter into the general arrangement with the others; but your penetration will acknowledge readily that on this essential point, as in others, the state of the question is not what it was in the year 1805, new occurrences of such importance having taken place since that period.

You might not then be surprised that Don Luis de Onís, seeing himself in the necessity of omitting all discussion, as well on the points already discussed in the year 1805 as on the more recent occurrences, and invited to give his judgment on plans of adjustment presented by one or the other party, should believe that the instructions which he previously had were insufficient, and even the intimation (*aviso*) conformable to the contents of your note of the 26th August, which was remitted to him with the powers; and that in this state he conceived himself without instructions to treat in the mode which, from the commencement, he knew would be agreeable to that Government; for, though you are pleased to say that it was by the note of the Secretary of State of the 25th January that Señor Onís might observe that it was desired to avoid all further discussion, I observe, by the letters which I have from that Minister, that on the 6th January he received the powers of His Majesty, and that on the 10th of the same month he advises that the Secretary of State had already in verbal conference expressed his opinion that discussion was useless, and that he had desired that proposals and plans of arrangement to be made out, which were already making out on the 12th.

But, leaving aside these incidents, which will be settled by the transmission of competent instructions to Señor Onís, I go on to propose to you, as I have offered, the principal conditions of an arrangement which, in my opinion, may terminate with reciprocal satisfaction the pending questions. Although these will be sufficient to explain my mode of thinking, you will proba-

bly notice that in some points they are diffuse, where I have thought it necessary to allude to the right from whence proceeds the proposal made; and that in other places they are succinct, where I have thought that details may be omitted for the present which it will be necessary to enter into afterwards, if it be agreed to put in form the transaction, to clothe it with the correspondent authority; in which case we shall draw it out by common consent in terms appropriate to our purpose.

#### Project of conditions or articles of arrangement.

1st. His Catholic Majesty and the United States, carrying into effect the convention which is pending since the year 1802, oblige themselves to the reciprocal indemnification of the losses, injuries, and prejudices produced to the Government or subjects of either country, in consequence of excesses committed by individuals of either nation against the law of nations or the existing treaty, comprehending in this reciprocal obligation, not only the epoch to which the said convention of 1802 refers, but also indemnities for posterior excesses of the same kind, committed by individuals of either nation, from such epoch till the day in which the present convention shall be settled and signed.

2d. To admit, to qualify, to judge, and definitely to decide on the reclamations of this kind which shall be presented, as well on the part of the Government and vassals of Spain as on the part of the Government and citizens of the United States, a commission of five members shall be created, of which two shall be freely nominated by the Government of the United States, and two in the same manner by the Government of His Catholic Majesty, and the fifth by mutual consent; and in case both Governments cannot agree on the person to be designated for fifth commissioner, one shall be named on each side, and the final election of one of these be decided by lot; but the two persons so named shall have the following qualifications: 1st. They shall be neither Spaniards nor citizens of the United States, either by birth or naturalization. 2d. They shall be, by their profession and actual occupation, judges, such as in maritime and commercial States are accustomed to examine and decide in matters of public law and maritime affairs, whether from France, England, Russia, Austria, or the Low Countries. 3d. The nomination of the person shall be accompanied with a certificate of the Government of the country to which he belongs, by which shall be accredited the opinion there entertained of his integrity and sufficiency, of his quality and actual employment of judge in the said matters, and with a certainty that he may have permission to discharge the duties of the commission in case the lot should fall on him.

In case the American Government shall prefer that the commission be composed of seven persons, then the fifth, sixth, and seventh shall be elected by the same method, and have the same qualifications as are indicated for the fifth in this article.

3d. The substance of the two preceding articles is taken almost literally from the convention drawn up in 1802, and from the same convention may be taken, strictly to the letter, all that is expressed in it respecting the rules which the commission is to observe from the moment of its installation till its dissolution, after the faithful and impartial discharge of its duty.

4th. His Catholic Majesty has no difficulty in consenting, also, that the same commission should decide on the reclamations arising from the losses said to have resulted from the suspension of the deposit at New Orleans, decreed by the Intendant of Louisiana in the year 1802, in the part of his decree which is reputed to be contrary to what is stipulated in the treaty of 1795, provided it is not desired to attribute to said suspension the prejudices produced by false rumors of a suspension in the navigation of the Mississippi, which never existed, and the rumors of an early rupture, which some bad-intentioned persons delighted to propagate at that time, in the territory of the United States; for the bad effects and prejudices resulting from such false rumors can only be attributed to the authors of them.

5th. His Catholic Majesty having received from the Government of France, on different occasions, the official and explicit declaration that the injuries supposed to have been brought on the Government and citizens of the United States by the French corsairs, agents, and tribunals, on the coast of Spain, had been comprehended and settled with all others in a convention made in 1800 between France and the United States, respecting the reclamations of the American Government, it follows, as well from this circumstance as from others which were previously manifested, that this point should be excluded altogether from the pending negotiations. But if the Government of the United States still insist in not considering itself satisfied for the said injuries, the natural course and order of the business appears to be, and has always been, that the American Government should apply on it to the Government of France, (to whose advantage, and to that of its subjects, the product of those depredations, if they existed, was converted;) and His Majesty, fulfilling on his part what is provided in this case by the sixth article of the treaty of 1795, obliges himself to employ his efforts, in union with the United States, to reclaim and cause to be restored to the legitimate proprietors the value of the vessels and goods which were taken from them, provided that these reclamations have not been extinguished by the said convention of 1800, as France has assured the Government of Spain in its repeated communications.

6th. His Catholic Majesty, master of Florida, East or West, in all the extension in which he received them from England by the treaty of 1783, and which they had in possession of Great Britain before said treaty, will be willing, for his part, to cede them with the same extension to the United States of America, in full property and perpetual sovereignty, provided that the United States are equally disposed, on their part, to

cede in the same form to His Catholic Majesty that part of Louisiana which is situated to the west of the Mississippi, and is the territory which lies between said river and the well-known limit which now separates, and has separated Louisiana, when France possessed it before 1764, and even before the death of the King of Spain, Charles II., from the Spanish province called Texas; so that, after these reciprocal cessions are verified, the course of the river Mississippi, from its source to where it discharges into the sea, will be the only limit of the dominions of His Catholic Majesty, and those of the United States; and though the King could wish that, in the most southern part of said river, where it opens different branches or channels before discharging itself into the sea, the separating line might be continued through the principal channel which passes by New Orleans, yet His Majesty desiring, in all that depends on him, to facilitate the arrangement, it may be agreed and stipulated that the dividing line in the part where the Mississippi separates itself and flows into different channels shall be established towards the western part, placing it in the middle of the arm, or channel, called La Fourche, to where it discharges itself into the sea; all the delta, or ground of alluvion, situated on the east of said channel La Fourche, remaining in the power of the United States.

7th. As, by the eighth article of the Treaty of Utrecht it is declared that, for the future, all cessions, sales, or alienations of the Spanish territory in America, shall be null and of no value, Spain herself remaining without power to make them, and England obliging herself to aid the Spaniards, that the limits of their dominions in America should be established and maintained as they were before the decease of King Charles II., and as the part of the Floridas situated on the east of the river Perdido was a Spanish possession at the time of the decease of the said King Charles II., and therefore is comprehended in the said eighth article of the Treaty of Utrecht, it is not in the power of his Catholic Majesty to effectuate by himself the cession mentioned in the preceding article, without the previous consent and agreement of the Power or Powers interested in the fulfilment of the said Treaty of Utrecht; for which reason it will be indispensable, in case that the United States shall accede to the proposed arrangement, to solicit and obtain the said consent of the Power or Powers interested, and the derogation on this occasion, and for this sole purpose of the said article of the Treaty of Utrecht, which in all other respects shall hereafter remain in full force.

8th. It shall not be permitted that vessels employed in cruising and committing hostilities against the Spanish Government and vassals, or their commerce, shall be armed or enter armed in the ports of the United States; and the vessels and effects which such armed vessels may take from the vassals of His Majesty, and which may be carried into the jurisdiction of the United States, shall be embargoed and secured by the authorities of the same, and definitively delivered



to the Minister or to the Consul of His Majesty who may be at the nearest place, to hold at the disposal of those who may prove that they are the legitimate owners. And for the purpose of preventing and prohibiting clandestine armaments, which may be made in contravention of this stipulation, the United States promise to give the strictest orders to the officers to whom it belongs to watch over and frustrate all attempts of this kind, the United States obliging themselves to detain all suspected vessels, without permitting their departure till the suspicions respecting them shall have been cleared up, or till they have given bonds to the satisfaction of the respective Consuls of His Catholic Majesty, guarantying that they shall not commit such piracies and aggressions against the vassals of His Catholic Majesty, who, on his part, obliges himself to do the same in the ports of Spain with respect to the United States.

9th. It being notorious that divers American citizens, in violation of the law of nations, and of the stipulations of the existing treaty, in its articles 9, 12, 14, and 16, have occupied themselves for some time past in hostilities against the Spanish commerce and subjects, under the pretext and cover of certain unknown flags; and that others, with equal irregularity, have carried and supplied arms, ammunition, and other aid to the rebels of some Spanish ultramarine provinces which are in a state of insurrection; several of the said citizens having gone to the extent of taking arms, and acting openly in support of said insurrection, His Catholic Majesty does not doubt but that the Government of the United States, disapproving of the conduct of the said individuals, and animated by a spirit of justice, and of a religious observance of the law of nations and of the treaty, will oblige itself, by an article of the present arrangement, to promulgate, and cause to be executed, decrees and orders, which may restrain and prevent such excesses in future; in which way, also, may be avoided the reclamations consequent on the injuries occasioned by the same excesses. And His Catholic Majesty, in just reciprocity, will oblige himself, on his part, to repress and prevent, in the same form, whatever excesses of the same or a similar nature his vassals may be guilty of, to the prejudice of the Government and citizens of the United States, or of their commerce.

The preceding articles or conditions fulfil, in my opinion, the proposed object, and embrace whatever is essential to terminate honorably, and with reciprocal utility, the pending discussions; for though there are some points of secondary and subaltern importance which ought also to be comprehended in the arrangement, it does not appear to be opportune to enter into them till we are agreed on the most essential articles; and these, if the case should happen to clothe them with due authority, we will draw out by common consent, explaining them with the clearness, exactness, and precision which is requisite in a transaction so important in itself and in its consequences.

By this communication which, pursuant to

your suggestion, I have the honor to make you as to the ideas of the Government of Spain, on an arrangement or settlement of all the pending points, you will acknowledge the disposition of His Majesty to terminate, in a manner satisfactory and reciprocally useful, the differences which have arisen; but if the American Government, or you, who have been pleased to manifest to me that you are instructed in its intentions, should not find, in this project, the reciprocal utility which Spain has believed to exist in it; in this case the King, constant to give proofs of the rectitude of his intentions, proposes, in the same spirit, another just, honorable, and conciliatory method, which the good faith of the American Government cannot decline; for it is that which is commonly adopted by civilized nations when they proceed with a sincere intention to settle, in a friendly and impartial mode, their differences. This mode, by which will be also avoided the inconvenience pointed out by the American Secretary of State to the Minister, Onís, arising from the difficulty of overcoming, in discussions, the attachment and tenacity of each party to its opinions, and to the pretensions which they have already advanced, is no other than to submit, on both sides, the points in question, and the grounds of them, to the examination and impartial judgment of one or more Powers friendly to the United States and to Spain, chosen by common consent, and who shall definitively decide upon the justice and extent of the pretensions of both Governments; to which end there shall be sent by the United States and by Spain commissioners to inform the Power or Powers chosen for arbitrators of their respective rights, each engaging in advance to abide by their decisions; or otherwise that, by common consent, they (two parties) should solicit the mediation of one, two, or more Powers, friendly to both, that by means of this impartial intervention we may arrive at the desired arrangement. The United States cannot but acknowledge the propriety of this proposal, which, besides that it carries with it the character of good faith, is substantially the same which, in a similar case, the American Government has adopted for the deciding of points of the same nature, in the articles 4, 5, 6, and 7 of the treaty concluded at Ghent on the 24th December, 1814, between the United States and Great Britain.

I persuade myself that in all I have said you will see, and your Government will also see, evident proofs of the real desires which animate His Majesty to live in harmony with the United States, establishing for the future an order of things of a nature to avoid the easy reproduction of motives of disagreement. I hope that you also, in the disagreeable event of not considering yourself to be sufficiently authorized to conclude with me here the desired arrangement in the sense of the articles stated, or to agree to the decision by arbitration, or to the mediation which I have proposed, in reporting to the Government of the United States this communication, will think fit to support it with the observations which your known earnestness to promote the harmony and

prosperity of both countries will dictate, so that Don Luis De Onís, to whom will be sent instructions analogous to the principles of justice and mutual convenience which I have laid down in this letter, may find greater facilities for arriving at the desired object, and thus we may both see established, upon solid and permanent ground, harmony between two nations which have the greatest interest in preserving it, and none in leaving seeds of discord, produced rather by unfortunate circumstances than by the intention of their respective Governments.

I cannot conclude this letter without manifesting to you another signal proof of the friendly dispositions of His Majesty towards the United States; and that is, that the re-establishment of the *statu quo* of 1792, and the annulment of various innovations and political changes, introduced by the abhorred tyrant of France in the epoch of his fatal domination, having been acknowledged by all the Powers as a base to secure the peace of the world; and, on the other hand, it being evident the artifice with which he (Napoleon) forced from Spain Louisiana, under pretext of an illusory exchange, as also the promise which he made, and soon after broke, not to alienate that colony; the King, my master, notwithstanding these considerations, and that neither the kingdom of Etruria, nor any equivalent for Louisiana, dismembered from his dominions, has been secured to him, or for the other sacrifices made at the same time, has abstained from making any demand on this point, on the ground of the *statu quo* of 1792; on the contrary, is disposed, if the United States desire it, to renew, by an express article of the convention, in which the pending questions shall be settled, the past stipulations respecting Louisiana, correcting by this means whatever defect they might have been affected with in their origin.

I profit of this occasion to renew to you, &c.  
JOSE PIZARRO.

Mr. Erring to Don Jose Pizarro.

MADRID, August 19, 1817.

SIR: I have had the honor to receive your excellency's letter of the 17th instant, in which you are pleased to communicate to me the outline of such a plan of adjustment of the several questions existing between the two Governments as you believe to be well calculated to effectuate our common object of restoring a perfect good understanding, and laying a foundation for perfect harmony.

As, in my notes of 19th and 29th July, I have fully explained to you the absolute impossibility in which I have been placed, by the transfer of the negotiations to Washington, of entering with you into regular discussions, and as your excellency has well understood, and had due consideration for the motives which have determined the course that I have observed in this respect, I might with propriety now confine myself to the merely assuring you that I am not able to accede to the basis which you have proposed, and, taking

15th CON. 2d SESS.—54

that basis as the result of the deliberations of His Catholic Majesty's cabinet, to the expression of my very sincere regret that it differs so widely from what would be reasonable in the view of my Government, I might add, that even if I were authorized anew to engage in these discussions, your excellency's project would scarcely offer me a hope of coming to such an arrangement as might satisfy the just expectations of the United States; for, as appears to me, in its leading features, it does but formalize the views more loosely exposed by Mr. Onís, on which the opinion of my Government has been already pronounced.

Nevertheless, I am induced, by the manner in which your excellency has stated the pretensions of Spain as well as by respect for your personal character, to make a few remarks upon the chief articles of your project, that you may thus be the more completely convinced that it is out of my power to adopt it, and in the hope that your dispositions to conciliation may induce you to model your instructions to Mr. Onís on a plan altogether different.

And, first, permit me to correct a misapprehension in which your excellency seems to have fallen with regard to my note of August 26, 1816, to your predecessor. You think that I have therein acknowledged that occurrences which have passed since the negotiations at Aranjuez, in the year 1805, have considerably altered the state of the question on nearly all the points of controversy. In the commencement of that note, after announcing the disposition of the President to enter into arrangements which should lay the foundation for a lasting good intelligence between the two countries, I informed Mr. Cevallos that I was "specially instructed to discuss and to settle" all causes of misunderstanding, as well of ancient as of recent date. I then proceeded to state the principal points on which I was so authorized to negotiate, and, finally, more concisely to enumerate those before alluded to as of recent date; it was my intention to show that the causes of complaint had multiplied and been aggravated, but not that the state of the question on the points which had been previously discussed at Aranjuez had been thereby altered; nor can I now see, in the circumstances particularized by your excellency as grounds of complaint on the part of Spain, any reason for assent to such an opinion. The claims of Spanish subjects on the American Government, and of the Spanish Government, for excesses committed by individual citizens, which you advert to as posterior to the convention of 1802, I was wholly unaware of. Your excellency will thus perceive that it were impossible for me to accept of your first article, providing for a species of claims never before brought into view, and for others of a nature entirely novel; hence I may abstain from any remark on the new and difficult mode of forming a commission by the second article. But much less could I pretend to engage my Government, as proposed by your fifth article, to relinquish its claim on Spain for indemnities on account of French spoliation within her jurisdiction—a claim in its



nature so indisputable—and, in lieu of it, resort to the hopeless resource of asking compensation from the French Government, which, as you state, has declared that same claim to have been already satisfied.

With respect to the very important question of limits, your excellency observes that, since the discussion at Aranjuez, this Government has accumulated documents, as well French as Spanish, more especially respecting the western boundary of Louisiana, which render that line susceptible of the most exact and rigorous demonstration. Your excellency has not defined exactly the line so made out, nor can I pretend to have an opinion respecting these new proofs, which I have not seen; but I ought to presume that they have been long since communicated to His Majesty's Minister in America, and that he has derived all the utility from them which they are capable of affording; nevertheless, I have not observed the effect of them in the various communications of that Minister to the Secretary of State of the United States, wherein the question of boundaries is discussed or touched on; and your excellency must have seen, in the Secretary of State's letter to Mr. Onís of June 10, 1816, to which, in my note of 29th July, I took the liberty of requesting your particular attention, that the claims of the United States as to the western boundary are not only reasserted in such a way as to show that they have not been affected by any new evidence which has been produced, but that, in the same letter, to avoid the useless repetition of reasoning which had not been shaken, express reference is made to the notes of March 8th and April 20th, passed at Aranjuez in the year 1804. Your excellency will perceive, also, by the Secretary of State's letter to Mr. Onís of January 14th of this year, that, even down to that date, no change of opinion had been effected by whatever, either in conversation or by writing, Mr. Onís had been able to advance in favor of the pretensions of Spain on either boundary; on the contrary, that then the discussion was closed, from the utter impossibility of coming to an agreement on the subject.

Hence your excellency will see how little in my power it can be to accede to your sixth article, founded on the supposition that the United States own but a comparatively small territory on the western bank of the Mississippi, but which, in fact, requires a cession of that vast extent which lies between the Rio Bravo and the Mississippi, in exchange for what His Majesty owns of the Floridas; and how still less possible it were for me to accept of that article, embarrassed with the conditions which your excellency would annex to it by the seventh, upon a plea which I never before heard of, and cannot now comprehend; for it appears to me that the reference which you would make is perfectly gratuitous. Your excellency speaks, I suppose, of that Treaty of Utrecht which was concluded July 13, 1713. I understand that the sole object of the eighth article of that treaty was to place the commercial relations between Spain and Great Britain

on the same footing which they had in the time of His Catholic Majesty Charles II. The more effectually to secure to Great Britain the advantages which she was to derive from that state of things, every extension of the French commerce in the Spanish American colonies is prohibited; and, consequently, any transfer of territory directly to her, or through any other Power to her, is also prohibited. The motion for this stipulation is very clearly expressed:

"Y para que la navegacion y comercio á las Indias Occidentales quedasen mas firme y ampliamente aseguradas."

These are words of the treaty, and determine the construction which is to be given to the stipulation. Consequent on this, and in pursuance of the same object, was the obligation which England entered into to solicit and aid ("solicitar y clara ayuda") with a view to restore the state of these possessions to what it was in the time of Charles II. If, perchance, they had undergone any dismemberment since that period, her obligation does not go further.

"Si acaso se hallare que en algun modo, y por algun pretexto, hubieren padecido alguna desmembracion y quiebra despues la muerte de dicho Rey Catolico Carlos Segundo."

Thus the purpose of this eighth article was nothing more than to place the commerce of the colonies, in as far as Great Britain and France were concerned, upon its former footing, and the territorial possession in the state it was left in by Charles II.; the obligation of Great Britain on this latter point ceased, of course, as soon as the object of it was attained.

With respect to the eighth and ninth articles of your excellency's project, I will only observe that no stipulations can be necessary. The United States have done, and continue to do, all that their neutral position and good faith can require; and where the existing laws of the country have been insufficient, there new provisions have been enacted, as you have seen by the law of Congress of March 3d, (called "An act more effectually to preserve the neutral relations of the United States,") which I have had the honor to communicate to you.

As to the alternative which your excellency proposes, on the supposition that your plan may not be acceded to, of referring our differences to the arbitration of other Governments, it is certainly unnecessary for me to assure you that I have no powers or instructions which can authorize my speaking on the matter.

Having, as I trust, now said enough to convince your excellency that your proposals are wholly inadmissible, I refrain from a variety of other observations which your letter has naturally suggested, desiring not to agitate questions which are only fit for discussion where there is a possibility of eliciting from it the grounds of accord.

I renew to your excellency assurances of my distinguished consideration.

GEORGE W. ERVING.

Don JOSE PIZARRO.

Don Jose Pizarro to Mr. Erving.

PALACE, August 31, 1817.

SIR: At the same time that I received your esteemed note of the 19th of this month, I received your private note of the 23d. By the first, I have seen with pain that you not only do not think that you are authorized, since the transfer of the negotiation to Washington, to enter into a methodical discussion of the questions depending between our Governments, but you do not deem admissible by you the project of arrangement which, to comply with your desire, I presented in my note of the 17th; and, finally, that you can say nothing as to the arbitration or mediation which I have at the same time proposed as the most sure means of terminating, in an honorable and conciliatory mode, the existing differences. In my opinion, it were easy to combat and to dissipate the objections which you are pleased to make to my said proposals; but, in the actual state of the business, it has appeared to me more proper to hasten the departure of Don Luis Noeli, with suitable instructions for the Minister of His Majesty in the United States, founded on the knowledge of the respective rights, in considerations of reciprocal utility, and in the desire of an arrangement by honorable, impartial, and conciliatory means. His Majesty hopes that the Government of the United States will do justice to his sentiments, and will be convinced of the rectitude of his intentions. As in your private note you are pleased to express a desire to know the exact day of departure of Don Luis Noeli, I ought to tell you that he will depart within four days, calculating from to-morrow, and that he will take charge of whatever commission you may put under his care, and execute it with the same punctuality as mine.

I profit of this opportunity to renew to you, &c.

JOSE PIZARRO.

Don Luis de Onís to the Secretary of State.

DECEMBER 6, 1817.

SIR: The Message of the President embraces two particular points in the paragraph in which he announces the actual state of the political relations between Spain and the United States, of which I wish to have a precise and exact knowledge, to reconcile their true meaning with the sincerity and purity of the sentiments of which the American Government makes profession, in conformity with those which animate His Catholic Majesty, when he anxiously seeks all possible means of settling the differences pending between the two nations, and of strengthening his friendship and good understanding with the United States on a basis which, being confirmed by the most generous principles of good faith and mutual justice, may be lasting and unalterable, without leaving the seeds of discontent, or ground for fresh differences in future.

The two points I speak of are, first, what relates to Amelia Island; and, secondly, what concerns Galveston.

The President announces, in respect to the

first, that this island having been taken possession of by a party of people who belong to no country, or, if they have belonged to any, they have, by their conduct, forfeited all right of public consideration or toleration, they having established in the said island a place of refuge, scandalous by its piracies, and seriously prejudicial, by a contraband trade, to the United States, chiefly in what regards the clandestine introduction of negroes into the territories of the Union, and the carrying off or flight of others from the same country, his excellency has, therefore, determined to put a stop to this evil, and had given orders accordingly.

It is my duty to remind you, sir, that the expedition which took possession of Amelia Island was formed and armed at Charleston and Savannah, under the command of the adventurer, Sir Gregor McGregor, and wholly composed of citizens of this Republic, in violation of the laws of the United States, the law of nations, and the existing treaty between Spain and the said States. I denounced this expedition to you at the time, and invoked the efficacious authority of the Federal Government to prevent it, and punish the offenders. The expedition proceeded, notwithstanding, from the limits and ports of the Union, to invade that island, and there committed the excesses on which the President touches. After McGregor had left Amelia Island, the district court of South Carolina issued a bench writ to apprehend him wherever he might be found within the American territories. This writ could not certainly be issued without a legal evidence of the offence, nor could the offence be more enormous or more notorious in the face of the whole Union. It results from this, that there could be no just ground of converting into an act of hostility, or of public detriment to Spain, the evils which have flowed from the toleration of similar armaments in the bosom of this Union—armaments which had for their object the invasion and plunder of the possessions of a friendly Power.

I therefore request you, sir, to be pleased to inform me of the measures the President may have taken on this point, and of his intentions in relation to it, in order that, by informing the authorities of the King in East Florida thereof, those discontents may be avoided to which an erroneous conception may give rise, and all unfortunate impressions dissipated, which might disturb the lively and sincere desire of conciliation and perfect harmony which actuates His Catholic Majesty.

On the second point, relating to Galveston, the President announces that, in that place, which it is contended falls within the limits of the United States in consequence of the acquisition of Louisiana, a number of vagrant persons had before established themselves, and committed acts of piracy very prejudicial to the trade of the United States; and that, therefore, his excellency had also taken measures to correct those abuses.

There are two things which I have to remark on this point. The first is, that the place of Gal-



veston has not been, nor ever could be, within the limits of Louisiana, because at no time did it make a part of it. It has constantly belonged to the dominions of the Crown of Spain as a territory absolutely unconnected with and distinct from Louisiana, and, as such, ought to be maintained and respected, until the United States produce documents which establish their rights, and annul the titles, until now undisputed, of property and possession on the part of Spain, from the earliest times of its discovery and conquest unto the present; and this will be determined, as there may be occasion for it, and may be just, at the time of amicably arranging the question of boundaries between the two nations, as His Catholic Majesty sincerely and earnestly desires, and as I have the hope to verify in a short time, in his royal name, by means of the negotiation which we have established.

The second thing which I have to recall to you is, that the King's troops drove off from Matagorda the vagabond freebooters who had taken possession of that point; in consequence of which the same adventurers were forced to evacuate Galveston, where they had also established themselves, so that neither of these places was afterwards attacked or infested by them or any other banditti. Moreover, if, by the occupation of Galveston at that time, the United States have sustained injuries, it is notorious that Spain has suffered much greater by the facility afforded to the pirates in capturing Spanish vessels, carrying them into that place, and there selling them to the citizens of this Union; that, from this magazine of plunder, they conveyed the Spanish property to New Orleans and other parts of the United States in American vessels, as is well known to you, sir, and to all the world. In any event, when the injuries reciprocally caused to American citizens by the Government or subjects of Spain, or to the latter by the Government or citizens of the United States, are compared or estimated, such an indemnification will be stipulated as is agreeable to justice and good faith.

These remarks, and others equally obvious, cannot fail to convince you, as I am sure they will convince the whole world that there was not the smallest motive of proceeding to acts of violence on either of the two points which form the subject of this note, and on which the President has touched in his Message. I hope that the intentions of his excellency will not differ from this opinion; and, as well to avoid the disagreeable consequences which might arise from a misunderstanding, as to communicate to the King, my master, the true state of things, I have to request of you, sir, as I now do, a precise and satisfactory explanation on the above-mentioned two points, namely, of the measures taken by the President in relation to them, and of his intentions upon the subject. I flatter myself that you will have the goodness to give me the said explanation as speedily as the case requires; and, in the meantime, allow me to renew the assurances of my high consideration and respect.

LUIS DE ONIS.

*The same to the same.*

DECEMBER 10, 1817.

SIR: Although I have but just arrived at the Federal city, as you know, I would not have lost an instant, after assembling the principal papers and documents relating to the differences pending between His Catholic Majesty's Government and that of the United States, in resuming and continuing with you, to definitive conclusion, the negotiation which, by fortuitous causes, was suspended in the beginning of the present year, if I had not hoped to give you time for being so far disengaged as to be able to devote to these important concerns all the attention they require. But I ought no longer to defer, on my part, the necessary steps to open communications of such high interest, and consequently to proceed with you to the settlement and amicable arrangement of all the points in dispute between the two Governments.

You will doubtless have been convinced of the impossibility in which I was placed of commencing this negotiation last Winter, by reason of my not being furnished with instructions suitable to the new character which ulterior circumstances had given to it, and my not having then received from my Government such as extended to this case. I despatched the secretary of this legation to Madrid to lay this deficiency before my Sovereign, and the difficulty under which it placed me of entering into a negotiation which might effectually restore the most perfect harmony between the two Powers, by putting an end to all disputes by means of a solemn transaction, which, being founded on the principles of mutual justice, and combined in good faith with those of reciprocal utility and convenience, might be completely satisfactory to both Governments and both nations. His Majesty, filled with the greatest concern on seeing that, by this unexpected accident, the negotiation was delayed, notwithstanding his most sincere and decided wishes to conclude it, and strengthen his friendship and good understanding with the United States, as he had manifested from the moment of his restoration to the throne, gave immediate orders that the necessary instructions should be communicated to me for the execution of this sovereign trust in its fullest extent; and to omit no means, on his part, which might accelerate the desired epocha of this arrangement and definitive transaction, he, at the same time, caused to be proposed, by his principal Secretary of State, to the Minister of the United States at Madrid, a project for the said transaction; but it not having been admitted by that Minister, who said that he was not authorized to resume and terminate in Spain the negotiation already transferred to Washington, and committed to me, the aforesaid secretary of legation returned without loss of time, and brought me the suitable instructions, accompanied with the positive orders of His Majesty that I should omit no means, as far as might be compatible with justice and the honor of his august character, to settle and terminate amica-

bly all pending differences, and generously to satisfy the United States in everything which might depend on the free will of His Majesty.

Such are the dispositions of the King, my master, and such the orders which he has communicated to me, anxious as he is to adjust all differences with the United States, and give them solemn proofs of his high esteem and sincere friendship.

I am ready, therefore, to resume the negotiation, and to pursue it with you in all the points embraced by it, until its final termination; and I shall be very happy if, in doing so, I can satisfy all the desires and just hopes of the United States.

In consequence, I request, sir, that you would be pleased to inform me when you are ready to enter into this important negotiation, and when it will be agreeable to you that we commence the preliminary conferences; or, in case you should consider them unnecessary, that we discuss the means of agreeing on and fixing the most simple, expeditious, and suitable mode of proceeding, with all possible despatch, to the settlement and final adjustment of all the points in dispute.

I await your answer to this note, animated by the most lively desire and the most flattering hopes of terminating all disagreements and contents between two nations which, by their mutual interests and the generosity of their sentiments, have always lived in perfect union and friendship, and ought to cement them more and more for their common happiness.

In the meanwhile, I renew to you my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis de Onis.*

DEPARTMENT OF STATE, Dec. 16, 1817.

SIR: I have had the honor of receiving your letter of the 10th instant, and shall be happy to receive you at the office of this Department the day after to-morrow, at one o'clock, to confer with you upon the subject of it. I am instructed by the President, on this occasion, to assure you of the satisfaction with which he has learned that you are furnished with instructions from your Government adequate to the adjustment of all the differences between the two countries, and of the earnestness of his desire that the negotiation may terminate in an arrangement mutually satisfactory. I am, &c.

JOHN QUINCY ADAMS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, December 29, 1817.

SIR: After I had informed you in my note of the 10th of this month, and confirmed the same in our conference on the 19th, of the frank and friendly dispositions of His Catholic Majesty's Government towards that of the United States, of his sincere desire to settle and terminate the differences pending between the two Governments in a manner just and satisfactory to both,

and the positive orders I had received, with suitable instructions to that effect, I also acquainted you that the King, my master, being disposed to oblige the United States in whatever might be compatible with the rights and honor of the monarchy, and the dignity becoming his august character, would condescend to cede the two Floridas to this Republic, in consideration of an exchange or equivalent which might be useful or convenient to Spain. But as this exchange or equivalent must consist of a territory belonging to the United States, and which may offer invariable points, marked by nature, to fix the divisional line between the possessions of the Union and those of the Crown of Spain in a manner never to admit of doubt or controversy hereafter, His Catholic Majesty caused certain proposals for the said exchange or equivalent to be made through his principal Secretary of State to the Minister of the United States at Madrid. They were decidedly declined by him on the ground of their being inadmissible; and I was informed by you that they are so considered by your Government, and that, consequently, it is necessary to have recourse to others which may be admissible in the existing state of things.

Although the proposals made by His Majesty's principal Secretary of State to the Minister of the United States at Madrid were neither absolute nor invariable, it is easy to perceive that they are founded on the perfect conviction of His Majesty as to the irrefragable and notorious rights by virtue of which the Crown of Spain has possessed both Floridas since she acquired them of England, and also the provinces and districts of country possessed by her to the westward of Louisiana, and which have ever been independent of, or absolutely unconnected with and separate from that province, without having ever passed, since their discovery, conquest, and possession, under a foreign dominion. But as the United States, since their acquisition of Louisiana, conceive they have a right to a greater extent of territory, both to the eastward and westward thereof, by setting on foot a dispute respecting the boundaries which separate them from the Spanish possessions, and pretending that they ought to include part of those possessions, it is not strange that the exchange or equivalent proposed for the Floridas did appear inadmissible. It has, therefore, become indispensably necessary to free this question of boundaries from all obscurity, and to adjust and establish the true points which divide, or ought to divide, the Spanish territories from those of this Republic. Unless this inquiry and deliberation be previously made, it is absolutely impossible to point out or judge of a just equivalent, which would be admissible and satisfactory to the two contracting parties, inasmuch as the requisite basis of a cession and its equivalent is wanting; this basis, as is obvious, must be laid in the valuation of the territory specified in the contract, which valuation must be preceded by establishing the territory belonging to Spain, and also that belonging to the United States.



You cannot, therefore, but agree with me, sir, that it is absolutely necessary we should first settle the principal points relative to the question of boundaries, before we proceed to form and offer proposals for the cession of the Floridas, and for an equivalent to their value or estimation, or for the general and definitive settlement of all pending differences. Although this matter has already been the subject of negotiation at Aranjuez, it cannot be said that the discussion should be considered as terminated or exhausted, or that the American Government having then stated its positions and opinions on the subject, it will not depart from them, although the opinions His Catholic Majesty sustains be different. It is unquestionable that, in the discussion entered into at Aranjuez, and early interrupted, not a single point or ground was touched on, on the part of the United States, that could serve as a support to their pretensions; and that, on the part of Spain, there were produced titles, dates, documents, and arguments, incontestably proving, by abundant and irresistible evidence, the rights of the monarchy to the territory in question—rights founded on property and immemorial possession, acknowledged by different Powers, and never disputed by any. This affair is, consequently, not confined to points of opinion, on which each party may respectively maintain that which is best suited to it; it is reduced to unalterable truths and positive and certain facts. I assure you, sir, in the name of my Government, and the King, my master, solemnly promises it on the inviolability of his royal word, that the moment it shall be shown and proved that any of the territories now in dispute do not belong to the Crown of Spain, and, on the contrary, that they do belong to the United States, His Majesty will, with the greatest pleasure, surrender to the disposal of the United States such territory or territories as it shall be made to appear do not belong to the Spanish monarchy, and will, in good faith, acknowledge the right of the United States to the same. His Majesty wishes for nothing that is not his own, or to which his Crown has not a lawful right. I cannot but believe that the views of your Government agree with those I have just stated, and that, consequently, we ought to lose no time in immediately resuming the discussion commenced at Aranjuez as to what relates to its principal points, and, by impartially examining the grounds established by both Governments, and the arguments and proofs which they both have to produce anew in support of their rights or pretensions, acknowledge frankly and with good faith what belongs lawfully to Spain, and what belongs lawfully to the United States. Guided by the certain principles of reason and mutual justice, it will be easy for us, by means of this investigation, to form a settled opinion and come to a just result as to the boundaries which do or ought to separate Louisiana from the Spanish possessions, and thus terminate this dispute. That which is connected with the question of losses and injuries is still more simple and easy to arrange, as you admitted when we

conversed on that point in our late conference; and it will, therefore, prove no obstacle to our agreeing on the cession desired by the United States, and proceeding to it by means of a final settlement of all pending differences, which may, at the same time, embrace whatever may be stipulated by this particular agreement.

You may perceive, sir, that the mode I propose is the most simple, just, and proper for accomplishing the negotiation to be entered upon, and is that which was adopted by Mr. Erving, the Minister of the United States, in his note of the 26th of August, 1816, in which he informed His Majesty's Government that he was ready to enter into a full and frank discussion of all the points in dispute, and pledged himself thereto. As nothing further has since been done on the part of Spain than to transfer the negotiation to Washington, the same reasons subsist which then dictated the incontestable propriety and necessity of resuming the discussion; reasons of which you are doubtless fully convinced, as they are not to be combatted by any explanations when examined with good faith, because they are self-evident, and identified with the soundest principles of justice.

As, in consideration of these reasons and principles, I hope you will have no objection to agree to a succinct examination of the question of boundaries, and to a rational and fair inquiry into the titles and grounds on which each Government rests its rights and pretensions, the natural order seems to require that we should begin this examination and inquiry with what relates to the eastern boundaries of Louisiana; that, after establishing them as they ought to be, we may proceed to examine and establish, in like manner, those which regard the western; it being, nevertheless, well understood that neither by this act, nor any one whatever of those which contribute to produce the present negotiation, it shall be inferred that His Catholic Majesty renounces, in any manner, the right he has, or may have, to reclaim against the non-fulfilment of the Treaty of St. Ildefonso, concluded between Spain and France in the year 1800, and against the solemn stipulations contained in the additional articles of the same treaty, forming an essential part of the contract between the two nations.

The boundaries of Louisiana, on that side, join those of West Florida, and are so precisely established and fixed by public treaties, that I do not think your Government can still persist in the opinion that Louisiana ought to be extended by this Spanish province to the river Perdido. If, however, the imagination, resorting to specious subtleties and abstractions, carries us back to the period when France formed settlements on the left of the Mississippi, and possessed what are now two distinct provinces, namely, Louisiana and West Florida, still the certain and incontestable fact will follow, that Spain acquired neither of the Floridas from France. That Power, while in possession of those territories, as she was until 1763, might name them,

and point out their respective limits as she thought fit. That is quite unimportant to the present question. It is certain that, by the treaty of 1763, France ceded to England all the territory possessed by her to the eastward of the Mississippi, with the exception of the island of Orleans; and it is also certain that England united, as her own, from that year, the same territory to Florida, which, by the same treaty, Spain had ceded to her; and that, having added thereto the district and port of Pensacola, she called it West Florida, by which name, and no other, it has ever since been known. In the war of 1779, Spain conquered the said territory of West Florida from England; and this right of conquest was afterwards secured by a solemn treaty between England and Spain, in September, 1783. It is by this title that West Florida belongs, until the present day, to Spain, in addition to East Florida, which was also ceded by the said treaty. It is evident, then, that Spain neither acquired nor received from France either of the Floridas, but that she acquired them both of England in 1783, classed as two distinct provinces, and universally known by the names of West Florida and East Florida. She has, from that period, possessed them separate and distinct, without having ever confounded either of them with Louisiana, either in whole or in part. They are laid down distinct and separate in the maps, charts, and geographies of all nations, from the year 1763 to the present day. In all the public acts and instruments which speak of them, they appear distinct and separate, as they do in the different treaties in which they are mentioned.

This being the case, how can your Government still maintain its opinion? The United States acquired Louisiana from France such as she had acquired it from Spain by the Treaty of St. Ildefonso. In this treaty nothing is stipulated but the retrocession of Louisiana; nor is there a single word in the whole treaty that bears the most distant allusion to West Florida, which is the object to which the dispute is reduced in that quarter. The clauses of the treaty are clear, precise, and conclusive; they fix the sense of the stipulation invariably, and leave no room for vague or specious constructions. The very title given to that treaty by the contracting parties at once pointed out the territory restored by Spain to France in exchange for the kingdom of Etruria. The title says, "Retrocession of Louisiana;" and the word "retrocession" has not, nor ever had, any other signification, in the Spanish or French language, than the act of restoring to an individual, or a nation, that which had before been received from him or from it; so that a different signification cannot be given to this word (adopted by the contracting parties to express the nature of their stipulation) without changing the proper and genuine acceptation, in both languages, of the definite term they have respectively employed, and without substantially changing the intentions which serve as the basis of the contract.

The three clauses by which they afterwards go

on to fulfil this convention agree perfectly with the said title, and, by supporting and explaining each other, they fix it in a clear and precise manner. The first clause says: "that His Catholic Majesty restores Louisiana to France, with the same extent it had when possessed by Spain." It is well known that no part of the Floridas, or other Spanish possessions, was then included in Louisiana, or annexed to it. At that time Louisiana was, in the hands of Spain, precisely what it was when ceded by France, in virtue of the treaty of 1764. In the same treaty its eastern boundaries are marked by a line running eastward from Manchac Point, thence following the course of the river Iberville, and dividing the lakes Borgne, Pontchartrain, and Maurepas, and finally terminating at the Gulf of Mexico, without leaving the smallest doubt as to the true points of the frontier. This is the territory which Spain retroceded to France, because it is the only one which she possessed under the name of Louisiana. The second clause agrees with the first, and opportunely declares and fixes its import. It says, "and with the same extent it had when possessed by France"—expressions which necessarily refer to the period of time which intervened between the cession by France to England of the territory possessed by her on the left bank of the Mississippi, and the cession made by the same Power to Spain of Louisiana. As the first of these two cessions took place in the year 1763, and the second in 1764, it is evident that, during that interval, France possessed Louisiana in the manner stated. And with the same extent did she cede it to Spain; nor could she cede it with more, as she then possessed nothing more in that part of the American continent.

If a different meaning be given to this clause, by supposing that the contracting parties allude in it to a former period, when France possessed Louisiana jointly with the territory ceded by her to England in 1763, it would place this clause in absolute contradiction with the title, and with the first clause of the treaty of retrocession; because Louisiana not having, prior to the year 1763, while in the hands of France, the same extent it had when in the hands of Spain at the time of the treaty of 1800, nor the same that it had when ceded by France to Spain in 1764, it follows that the second clause would be absurd and unmeaning if it alluded to a period of time anterior to 1763. It would be absurd and unmeaning, because, having no other object than to explain and determine more circumstantially the first clause, which is the fundamental one of the treaty, and that which governs the other, it would express a thing which could in nowise agree with the stipulations contained in it; since, by giving greater force to the import of the second clause, that which is considered the fundamental basis of the first would be rendered false and erroneous. It would be absolutely contradictory to the express object and intent of the treaty, since Spain not having received Louisiana from France with the extent in which she possessed it prior to the year 1763, but with that



which it had when it was ceded in 1764, the retrocession, which, as I have just said, is the express object and intent of the treaty, could not take place. Spain could only cede back to France what she had received from her; nor could she, moreover, add to the retrocession any other particular territory of her dominions, without expressing or mentioning it. Louisiana was ceded back to France such as it was received from her, and as she possessed it in 1800, and had possessed it since she had acquired it. In fact, if Louisiana, while in the hands of Spain, included no part of West Florida, and if Spain had received no part thereof, or of the other Florida, from France, how could she cede it back to France, or cede it without naming it, or saying a single word which could allude to this idea? Let us therefore agree that it is impossible to give an arbitrary construction to the second clause of the Treaty of St. Ildefonso, or any other than that which it has, and ought to have, in connexion with the first clause, and with the title and the express object of that instrument. You cannot but be fully convinced, sir, of this truth; and, on proceeding to the examination of the third clause, you will find what I have just stated still more comprehensively and clearly demonstrated. This clause says: "and as it ought to be after the treaties concluded between Spain and other Powers." The only treaties to which this clause could refer were the following:

1. That of 1764, by which France ceded Louisiana to Spain. In this treaty the eastern boundaries of Louisiana are marked by the course of the Mississippi, and next by the river Iberville, the lakes Borgne, Pontchartrain, and Maurepas. It was consequently proper here to recall what was set forth in this treaty. 2. That of 1783 between Spain and England, by which the latter confirmed to Spain the possession and property of West Florida, which she had conquered during the war, and ceded to her East Florida. It is a very fit moment to recall the inviolability of this treaty, since it is evident, from it, that the Floridas are two provinces independent of Louisiana, absolutely unconnected with and distinct from it; and that they came into the possession of Spain by very different titles; in consideration of which, one thing cannot be confounded with another. And the 3d is that of 1795, concluded between Spain and the United States. As in this treaty the frontiers between the United States and the Spanish possessions are described, and the Floridas are named as provinces notoriously unconnected with and distinct from Louisiana; as by it the dismemberment of Natchez, Nogales, &c., was effected; and as it is therein stipulated that the navigation of the Mississippi shall be free to the Americans and Spaniards, and a place granted in favor of the former for their commodities on the banks of the Mississippi, for which purpose New Orleans was designated for the term of three years, it was consequently thought proper to refer to this treaty, and show that it, as well as

those of 1764 and 1783, is, and ought to be, in full force and effect.

You will perceive, sir, that the three clauses stipulating the retrocession of Louisiana to France cannot be more conclusive; that they are properly connected with and support each other by declaring and explaining the intentions of the contracting parties, and the precise nature and extent of their contract; so that it is impossible to give another interpretation to any of the said clauses, as that would place them in contradiction with each other, and would, moreover, obscure the evident truth of facts, and involve a monstrous violation of public treaties, without excepting that of 1778 between France and the United States. You doubtless bear in mind, sir, that, by the sixth article of that treaty, France solemnly engages never to acquire West Florida, or any portion of the territory ceded by her to England in 1763. How, then, could she, in 1800, acquire West Florida, or any part of it, even although the Treaty of St. Ildefonso were not specifically and solely confined to the retrocession of Louisiana, such as it was at that time, and as it had been since 1764? The understanding rejects all doubt on points so clear and evident. By the Treaty of St. Ildefonso, France herself only received Louisiana such as it was in the hands of Spain, and as it was after its cession by France. It is well known that it is the act of delivery which completes the contract. France was satisfied with what was delivered to her, and neither claimed nor pretended to anything more. Would the French Government, under Napoleon, have failed to claim this additional territory, if, in that treaty, there had been found a single word of which it could avail itself, or the smallest pretext for making the claim? Certainly not. France knew perfectly well that Louisiana did not comprehend a greater extent of territory, and that all was delivered that belonged to her at the time the contract was made.

The French Government itself, after the dispute arose between the United States and Spain, which is now pending, declared, in two official notes, "that the eastern boundaries of Louisiana are pointed out by the course of the Mississippi, and by the river Iberville, and the lakes Pontchartrain and Maurepas; that Spain has ceded back nothing more to France, nor had the latter a right to pretend to more; and that, having substituted the United States in her rights, they could pretend to nothing more in virtue of the cession or sale made to them of Louisiana."

"The 12th of Fructidor, 12th year.

"The eastern boundaries of Louisiana are pointed out by the course of the Mississippi, and afterwards by the river Iberville, the lakes Pontchartrain and Maurepas. This is the line of demarcation which bounds the territory ceded by Spain to France, by the treaty of the 30th of Ventose, 9th year. Nothing beyond this limit would have been asked for by France; and as she did nothing more than substitute the United States in the rights which she had acquired, they

cannot require of Spain a more extensive cession, unless such cession be negotiated and stipulated between them and Spain by some further convention."

"The 5th of Germinal, 13th year.

"This question could not become the subject of a serious discussion between Spain and the United States, except the conditions of the treaties of cession, which have successively transferred Louisiana to France and the Americans, were lost sight of."

"Spain could only cede back to France the territory she had received from her: the rights of France were afterwards transferred to the United States, and they were so only to the same extent."

If, notwithstanding this full and irresistible demonstration, you should be of opinion, sir, that it is still necessary to clear up this point, let us have recourse to France, that she may afford all the explanations that are judged to be necessary or useful, since nothing is more proper than that she and Spain should know to what the treaty concluded at St. Ildefonso is reduced, and they alone are competent to clear up any doubts that may have arisen as to the import of the expressions employed in the said treaty. It is unquestionable that it agrees with the principle generally acknowledged, that when a law or treaty offers any doubt, from the obscurity or ambiguity of the words contained in it, the party which made the law or the treaty is the one which should explain the meaning of such words, and remove the doubt which has occurred.

I would now proceed to declare what are, or ought to be, the western boundaries of Louisiana, and what are those which separate, or ought to separate, it from the Spanish possessions, should I not apprehend to make this note too diffuse. Reserving myself, therefore, to discuss this point in a separate note, I now recall to your consideration the chief grounds and arguments on which Spain founds her exclusive right to the whole extent of West Florida, in order that, when we are agreed upon this point, we may proceed to a like examination and deliberation on the western boundaries of Louisiana.

But, although this is the order pointed out by reason and justice in the actual state of the pending differences, nevertheless, that we may judge, upon the most exact information, of the grounds and arguments of each Government, respectively, and, after agreeing on what belongs to Spain, and what belongs to the United States, we may be enabled to lay the basis of a general and final settlement of all differences, if you should think that there can be a more expeditious mode of settling and terminating them, without prejudicing the rights of the Crown of Spain, and on principles of reciprocal utility and convenience, you may communicate your ideas thereon to me, with the certainty that it is the earnest wish of His Catholic Majesty that this negotiation may be amicably terminated, for which purpose he has given me decisive orders and instructions;

and I again assure you, sir, that I shall think myself very happy if, in this negotiation, I can satisfy all the just desires and hopes of the United States, for which I shall omit nothing that is in my power, or may be compatible with the rights and honor of His Majesty's Crown.

I renew to you, sir, the assurances of my respects, and I pray God to preserve you many years.

LOUIS DE ONIS.

Don Louis de Onis to the Secretary of State.

WASHINGTON, January 5, 1818.

SIR: In my note of the 29th of last month, I proved to you, to a degree of moral demonstration which I think to be fully convincing, what are and ought to be the eastern boundaries of Louisiana; and I hope such incontrovertible, decisive reasons cannot fail to bring you fairly to acknowledge that Louisiana neither does nor can include any part of West Florida. As I have not yet received your answer to the said note, it was my intention to wait for it, and not proceed to the examination of the second point of the question of boundaries before we had agreed on and settled what relates to the first, in order to proceed methodically, and not to involve or embarrass the plain and expeditious course of this investigation; but being desirous of not losing an instant in explaining every point relative to so important a matter, I anticipate the examination of the western boundaries of Louisiana, which is the second point of the question, thereby facilitating whatever may claim your attention as to both in their respective order, and enabling you to comprehend the truth at once.

I might contend that the United States, having received the province of Louisiana from France with no greater extent than it had when France received it from Spain in 1800, and when Spain acquired it from France in 1764, that, and no other, ought to be the extent which properly belongs to it, without the necessity of recurring to any other reasons or grounds than those resulting from the Treaty of St. Ildefonso; since Spain having ceded back to France in 1800 only what she had received from her in 1764, being that which France sold to the United States, it is easy to investigate and establish what were, and in all that period continued to be, the proper extent and limits of Louisiana. But I am willing to admit that France did substitute the United States in all the rights or pretensions she had or could have at another period as to what regards the western boundaries of that colony when hers, although nothing to that effect is expressed or insinuated in the treaty between France and the United States, by which the latter acquired it; and that the contrary is evidently to be inferred from the fact that France inserted, word for word, in this treaty the conclusive clauses of that of St. Ildefonso, which speak simply and precisely of the retrocession of Louisiana. I admit (to go on to a more copious and irresistible demonstration) that the United States have succeeded to all the rights which France may



have had at another period; and I call your attention, sir, to the following observations before I enter on the examination of the data or grounds on which the United States rest their claims of extending in that quarter the boundaries of Louisiana to the Rio Bravo del Norte.

It is well known that for ages before France thought of forming establishments on the Mississippi, and therefore long before she had made any in Canada, the Crown of Spain possessed the whole territory around the Gulf of Mexico, from the peninsula of Yucatan to the southern cape of Florida. If the eastern part of said gulf, as far as Panuco, the whole of which was then known under the extensive (*generico*) name of Florida, was not actually peopled by Spaniards, it is notorious and indubitable that it was discovered by them as early as the year 1511, under the expedition of Juan Ponce de Leon; that all the coast, from the present Florida to Panuco, was explored by Francisco de Garay in 1518, and also by Hernando de Soto, and continually by other Spanish commanders until 1561, when it was explored and described by Angel de Villafane and Jorge Ceron; said discoveries and description having been made in pursuance of a royal order issued for that purpose, papers of that description being still extant; and it was confirmed that from those remote periods Spain was established as the mistress and possessor of all that coast and territory, and that she never permitted foreigners to enter the Gulf of Mexico, nor any of the territories lying around it, having repeated the royal orders by which she then enforced the said prohibition, and charged the Spanish Viceroy and Governors with the most strict observance of the same. The right and dominion of the Crown of Spain to the northwest coast of America as high up as the Californias is not less certain and indisputable, the Spaniards having explored it as far as the forty-seventh degree in the expedition under Juan de Fuca in 1592, and in that under the Admiral Fonte to the fifty-fifth degree in 1640.

The dominion of Spain in these vast regions being thus established, and her rights of discovery, conquest, and possession, being never disputed, she could scarcely possess a property founded on more respectable principles, whether of the law of nations, of public law, or any others which serve as a basis to such acquisitions as all the independent Kingdoms and States of the earth consist of.

Confining ourselves at present to the Mexican Gulf and to the Spanish provinces situated to the westward of Louisiana, we shall see in what manner Spain extended her population and founded settlements in different points of the vast territory of which she was the mistress and possessor in this part of the new world. All the country extending from the Rio de las Palmas to the confines of Panuco, in latitude forty-eight degrees, was then included under the name of Florida, and crossed the Mississippi. From the time of the expeditions undertaken to explore it in 1512 by Juan Ponce, in 1525 by Vazquez de Ayllon, in 1528 by Panfilo de Narvaez, and in 1538

by Hernando de Soto, the Spaniards were incessantly engaged in advancing their discoveries and settlements in this extensive country, not only in the time of Luis Moscoso and of Pedro Melendez, between the years 1542 and 1545, but they were constantly so in the time of all their successors. At the time of their first expeditions they landed in the bays of Santa Rosa and Espiritu Santo or St. Bernardo, surveyed the whole coast, and crossed the Mississippi. They penetrated into the countries of Hirrhigua, Moscoso, Umbaracuxi, Aurera, Ocali, Apalache, Altapalia, Cofa, Mobile, Chasquin, Guigate, Uhangue, Guachoya, and others, which it would be tedious to enumerate. The same Hernando de Soto, after having in person surveyed the coast and interior of the country, crossed the Mississippi, and penetrated as far as the Rio Negro, in 1542 died at Guachoya.

No European nation had yet attempted to disturb the Spaniards in their possessions in the new world; none had trod on any point of those territories; and the Spaniards continued extending their establishments, as the only nation which had acquired the possession and the property of that part of the American continent and islands. They gave rise to the new kingdoms of Leon and Santander in the year 1595, and to the province of Coahuila in 1600. They founded that of Texas in 1690, establishing missions, hamlets, and posts, under the name of presidios, such as those of Bahia del Refugio, St. Antonio, Espiritu Santo, St. Juan, Nacogdoches, Ayeses, and San Miguel de los Adaes, a short distance from the Rio Roxo, (Red river,) extending themselves to the banks of that river.

Long before, they had established themselves in New Mexico, where they built the capital of Santa Fe, in thirty-nine degrees north latitude, and opened and worked mines in its neighborhood. From thence they spread themselves wide of the rivers that empty from north and south into the Missouri, communicating and trading with the Indian nations; so that from that time Spain considered all the territory lying to the east and north of New Mexico as far as the Mississippi and Missouri as her property. These dominions and settlements of the Crown of Spain were connected with those which she had on the Gulf of Mexico, that is to say, with those of Florida and the coasts of the province of Texas, which, being on the same gulf, must be acknowledged to belong to Spain, since the whole circumference of the gulf was hers; which property, incontestably acquired, she had constantly maintained among her possessions, not because she occupied it throughout its whole extent, which was impossible, but on the principle generally recognised, that the property of a lake or narrow sea, and that of a country, however extensive, provided no other Power is already established in the interior, is acquired by the occupation of its principal points.

These premises being established, and not to be shaken, as they are all supported by history, ancient monuments, tradition, and irrefragable documents, let us proceed to examine for their

origin the grounds on which your Government maintains its pretensions.

As early as the commencement of the seventeenth century, France and England began to form expeditions in imitation of the Spaniards, and to discover points for settlements in that part of America. The French expeditions penetrated into Canada by the river St. Lawrence, and those of the English were directed to different parts of the coast on the Atlantic. Hence originated the basis on which the two nations afterwards founded and extended their respective settlements. I shall now only speak of those made by the French, as they serve as a support to the actual pretensions of the United States. Francis Ribaut, an adventurer of that nation, had already penetrated into Florida with some followers towards the end of the sixteenth century, and built the fort called Charles le Fort; but this rash enterprise on the territory of the Crown of Spain was immediately overthrown and dissipated, the Spanish Governor, Pedro Melendez, having attacked and taken the fort, and made prisoners of Ribaut and all his people. Mention is likewise made by some writers of another Frenchman, called Rene de Laudoniere, who is said to have landed from the squadron of Admiral Coligny, on the coast of Florida, in the year 1564, and built a fort, which he named Carolin, about the spot where Pensacola now stands; but the same writers add that the Spaniards immediately attacked the French, put them to death, and razed the fort or redoubt they had built; others say that it was on that same fort that the Spaniards afterwards built the fortress of St. Augustine; so vague and so uncertain is the information respecting these particular adventurers. The story related of a Recollet friar, called Father Hennipen, is still more ridiculous, who is said to have been made a prisoner by the Indians at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the river St. Louis or Mississippi, of which he took possession in the name of Louis XIV., and gave it the name of Louisiana, (doubtless in his secret thoughts, and by a mere mental act.) It is added that this friar escaped from the Illinois, and returned to Canada, where he related all he had seen, and afterwards published it in France more circumstantially in a memoir, which he dedicated to the celebrated Colbert. These accounts, and others of a like nature, are contemptible in themselves, even though the facts they relate were authentic, since nothing can be inferred from them that can favor the idea started by those who speak of these transient adventures and incursions.

Let us see what importance can be attached to what is said of Bernardo de la Salle, who, in 1679, descended from Canada to the Mississippi, and there built Fort Crevecoeur, according to M. Du Pratz, or Fort Prudhomme, according to others. What is certain amounts to this: that he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might

do, crossing the territories of another nation; that he returned to Quebec without any further result than that of an imperfect exploration of the country; and that he embarked at Quebec for France, from whence he returned in 1684 with an expedition composed of four vessels, commanded by Captain Beaujeau, to explore the mouth of the Mississippi. This expedition entered the Gulf of Mexico on the 12th of December of the following year. La Salle, being deceived in his reckoning by the currents of the gulf, could not find the mouth of the river, and, being overtaken by a storm on the coast of the province of Texas, he was obliged to take shelter in the Bay of St. Bernard. Two of his vessels were captured by the Spanish cruisers, another was lost in the bay, and Beaujeau returned to France in the only one that escaped. La Salle, having landed with some people and ten pieces of artillery, then built a small fort as a protection against the Indians, and was obliged to change his ground three different times; notwithstanding which, the Clancoates Indians, inhabiting the adjoining country, forced him to abandon the fort, and to retreat by the Rio de la Trinidad (Trinity river.) While on this retreat, he formed a project of penetrating into the interior of the country, to see if he could discover the fabulous mines of Santa Barbara; but he was assassinated on his route by his own people; and such was the result of the famous French expedition so much talked of. The Indians fell immediately on Fort St. Louis, and massacred the small garrison left by La Salle. The remainder of the French who accompanied him shared the same fate, being dispersed in different directions after the fall of their chief, they perished by the hands of the Indians.

In the meantime news of this incursion having reached Mexico, the Viceroy, fearful of a repetition of similar attempts, held a council of war to deliberate on the affair, in obedience to the royal order issued by Philip II., enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico. An expedition was then resolved on, to be formed at Coahuila, under the command of Alonzo de Leon, to scour the country, and hunt out the French, if any were still remaining. Having set out with the necessary force, he arrived, on the 22d of April, 1689, at the place where La Salle had built Fort St. Louis, and on the 24th at the entrance of the bay, where he fell in with the remains of the French vessel that had been wrecked. Having heard in his march that some of La Salle's companions were still wandering about the country, or had taken refuge with the Indians, he shaped his course towards the nation of the Asimaïs, and was received by them with marks of friendship and respect. He, however, found no traces of the French, as no more of them were in existence.

Alonzo de Leon treated the Asimaïs with the greatest kindness, and called them *Texas*, which in their language signifies "friends." On the 22d of May, of the same year, he wrote to the Viceroy,



informing him that there existed neither French nor any other foreigners in the whole country; that the Texas Indians possessed great attachment and good will to the Spaniards; and that it would be very proper to establish missions and garrisons throughout that country to prevent any future attempt or incursion of foreigners, and to preserve the conquest. This subject having been deliberated on in Mexico, the mission of St. Francisco de Texas was founded in 1690, after that nation had voluntarily submitted to the Crown of Spain. The Viceroy of Mexico continued to take effectual measures for protecting the country and preventing the intrusion of any French adventurers. The Court of Spain, on being informed of what had passed, renewed rigorous orders to the same effect, and also gave directions for the instruction and government of the Indians. Such were the objects of the expedition under Don Domingo de Teran, and of that which was effected under the command of Don Gregorio Salinas, in May, 1693. Since that period the province of Texas has continued in perfect tranquillity under the Spanish Government, and no further attempts were made by the French to penetrate into any part of it.

You see, sir, that the excursion of La Salle can give France no rights to that province, which had long before been acknowledged to be, and was, incorporated in the Spanish dominions. Such an excursion was, in fact, nothing more than the rash attempt of a foreigner to explore part of the territories of another nation, and is not substantially different from that made by Mr. Le Vaillant in the country of the Caffres, to the northeast of the Cape of Good Hope; by which, however France acquired no right to that part of the Dutch possessions, although they were still desert when the said Le Vaillant explored them. What territories are there in the world, especially in extensive dominions still new and thinly peopled, in which excursions of that nature have not been made by individuals of foreign countries, sometimes of neighboring nations, (which is the most common,) and sometimes of those which, although at a distance, actuated either by curiosity or ambition, undertake to explore unknown countries, inhabited by other people and governed by other Powers?

Nor can I refrain from recalling here what has been written and thoroughly investigated touching the pretended settlement of the French in the Illinois and Arkansas.

Whether they were some of the individuals of La Salle's expedition who had survived it, as M. Du Prat has it, or whether they were other adventurers from Canada, it seems beyond a doubt that some Frenchmen did penetrate as far as the Arkansas, towards the end of the seventeenth century, or the beginning of the eighteenth; on which point, however, the records of that period do not exactly agree. Enterprising people from Canada, both Frenchmen and natives, communicated with the Indian tribes, and penetrated far into the interior, to purchase cattle and for other purposes of traffic. Some of them, there-

fore, fixed themselves at the post of Arkansas, not as settlers, but as agents to carry on the trade between Canada and the natives of this district. The same took place at the post of the Illinois, long before the first foundation of the French colony of Louisiana was thought of.

Father Marquez, a Jesuit, had penetrated in 1671, as a missionary, into the Indian nation called Saulteux, as far as Chagwanigung, on Lake Superior; and in the year following one Saliet, with a view to explore the Mississippi, proceeded from Canada to Chagwanigung point. After joining Father Marquez, they both advanced and succeeded in penetrating to that river by the Ouisconsin. They met with a considerable population in the country of the Illinois, at the mouth of the river Moingora; and after promising to visit them on their return, they suggested to those Indians the idea of entering the country by the river since called the Illinois; and the Indians did so, and settled in a district known by the name of the Great Rock, or Great Penasco, about five leagues higher up than the mouth of the river. Saliet and Father Marquez could descend the Mississippi no farther than the Arkansas; and on their return from their excursion they found the Illinois encamped at the Great Penasco. Saliet continued his retreat, and Father Marquez determined to remain with these Indians, to instruct them in the principles of the Christian faith. In this attempt he was succeeded by other missionaries, who afterwards proceeded to found a church there, sufficiently regular, composed of Illinois and Canadians who had met and united with each other; these people were nowise subject to the French Government, but lived independent, in the manner of several Indian nations bordering on the United States. Several other Indians of the Miami and Shawanee tribes came and settled themselves near the Big Rock, or Great Penasco, but they disagreed, and soon after dispersed. A party of the Illinois went down the river and settled at Cahokia, on the left bank of the Mississippi, fifteen or sixteen miles below the mouth of the Illinois. Other missionaries followed them; and thus went on this kind of colony, informal or wandering, but always independent of, and unconnected with the French of Canada.

Let us now speak of the settlement of the French in the country called by them Louisiana. The first spot occupied by them in this country was the bay of Biloxi, about thirty leagues to the eastward of the Mississippi, in the year 1699, or, more strictly speaking, in 1700; and Mobile, a little farther eastward, where they established themselves, was, during two-and-twenty years, the capital of their new colony. From that time they observed the greatest caution in the settlements they formed on the banks of the Mississippi. Seventeen years had passed since the foundation of their colony, when they ventured to raise some huts on the left bank of that river; and this was on the spot now occupied by New Orleans, which five years afterwards became the capital of the colony, when the intimate relations between France and Spain, not only by virtue of

the family compact, but more particularly by the elevation of Philip V. to the throne of Spain, favored the toleration of a dexterous encroachment on a territory which was acknowledged to belong to that monarchy. In 1722 the French succeeded in fixing some German families on the right bank of the river, opposite to the settlements which they already had above and below the new city of Orleans. They afterwards settled some Acadians a little higher up, and finally some others at Point Coupée. But the whole limits of these cottages or settlements did not extend to more than fifteen or twenty acres of land upon the front of the river; so that the French, seeing a want of cattle, and feeling the necessity of establishing herds to keep up a supply, turned their views to the extensive and fertile prairies of Attakapas, and the Governor of Louisiana thereupon applied to the commandant of the interior provinces of Mexico for permission to establish some herds only, which was frankly granted to him by the Spanish commandant. In fact they had nothing more than cattle establishments in Attakapas and Opelousas, when the colony was transferred to Spain in 1764. They had never gone farther; and it is to the Spaniards that the colony is indebted for the extensive population and cultivation of that part of the territory afterwards ceded back to France, and transferred by her to the United States; as was also the case in the settlements of La Fourche, Ayoyelles, the Rapides, and Ouachita, which did not previously exist, but were formed by the Spaniards within the proper limits of the monarchy.

From hence you will clearly see, sir, that so far from Spain having retained any point belonging to French Louisiana when she ceded it back by the Treaty of St. Ildefonso, she left incorporated with it many points, settlements, and territories, which in truth did not belong, nor ever had belonged, to the said colony.

It would be too fatiguing to trace, step by step, all the incursions of the French from Canada, or from Louisiana, into other points of the Spanish dominions, by passing through Indian nations or uninhabited countries. I cannot, however, omit touching on the accidental circumstance which gave rise to their settlement at Kaskaskia, twenty leagues below Cahokia. The inhabitants of Illinois, who had no connexion or dependence whatever on Canada, at length undertook to go down the river and trade with the French at Biloxi and Mobile bay; and these traders having discovered fertile and beautiful prairies on the right of the small river Kaskaskia, several of the French settlers removed thither in the year 1703, and founded what is now the town of Kaskaskia; but they always lived independent and in alliance with the Indians, until the Louisiana company sent M. de Boisbriant, as the King's lieutenant, with troops, to reduce and direct this settlement. It was afterwards considerably increased in the hands of the French, who successively formed the settlements of Chartres, St. Philip, Prairie des Roches, and Prairie Dupont, but still, as you perceive, sir, on the left of the Mississippi; and

it was not until several years afterwards that they settled St. Genevieve, opposite Kaskaskia, on the right of the said river—an inconsiderable settlement, which made no progress until the country was ceded to England.

In fine, all the written documents and historical evidence relating to French Louisiana agree in dividing it into Upper and Lower, and proving that Lower Louisiana is bounded on the north by bayou Manchac, by which it communicates from the river Mississippi to the Iberville; and that Upper Louisiana commences above the said bayou, the post of Natchez being the principal settlement of the French in that quarter, in whose neighborhood they cultivated tobacco. The settlement of Natchitoches, which they afterwards formed, was considered as depending on Upper Louisiana.

It would be easy to prove that this latter settlement was made by the French within the Spanish territory, and merely through the condescension or sufferance of the viceroys of Mexico, and the governors of the province of Texas. Before the French had founded New Orleans, there already existed the Spanish missions and settlements of San Francisco, La Purisima Concepcion, San José, and Nuestra Señora de la Guadalupe, at a very short distance from Natchitoches; and the right of property and possession on the part of the Crown of Spain to the whole of this territory, as far as the Mississippi, was notorious.

I am aware that the French attacked the mission of Texas, during the war between France and Spain, under the regency of the Duke of Orleans; that for this purpose they proceeded from the post of Natchitoches, and that the Spaniards retreated to San Antonio de Bexar, till the governor of the province, the Marquis de Valero, advanced to chastise and keep the enemy in check. This commander marched against them in 1719, drove them from the Spanish posts, and obliged them to shut themselves up in Natchitoches.

This expedition is connected with the authentic facts of which M. Du Prat has made up a ridiculous and fabulous tale, in his history of Louisiana, when he speaks of a Frenchman of the name of St. Dennis, and supposes certain conventions entered into between him and the Duke de Linares, Viceroy of Mexico. In 1715, St. Dennis penetrated from Mobile to the Spanish garrison of San Juan Bautista, with three companions and a passport, on pretence of going to buy cattle in the missions of Texas, but in reality to carry on a contraband trade and explore the country. Both he and his companions were seized and conveyed to Mexico. After a variety of adventures, St. Dennis made his escape, and was one of those who set out from Natchitoches with other Frenchmen to attack the inhabitants of Texas, as I have before stated.

After this event the Marquis de Aguayo came to Texas, re-established the old missions, and founded new ones, viz: Pilar, Adaes, Loreto, at the bay of Espiritu Santo, or St. Bernard, and Dolores, known by the name of Orquizaco; he



greatly improved San Antonio de Bexar, and placed the whole frontier of the province in a respectable state. Thus the Spanish settlements remained tranquil until Louisiana was ceded to Spain, when the garrisons of Adaes and Orquiza were suppressed, as being no longer necessary.

As a further proof that the post of Natchitoches was acknowledged even by the French as being within the Spanish territory, I shall add two facts: the first is, that when Captain Don Domingo Ramon came with a party to Texas, after St. Denis and his followers were sent to Mexico, he paid a friendly visit to the French at Natchitoches, and entered that fort with the royal *batova* and *insignia* as a sign of the dominion and jurisdiction of Spain, to which the French made no opposition. The second fact is, that in the year 1742 the French Governor of Natchitoches being desirous to remove that fort, which had been injured by an inundation, somewhat farther from the bank of the Rio Roxo, (the Red river,) he waited on the Spanish Governor of the Adaes, Don Manuel de Sandoval, and requested the necessary permission to do so. Sandoval granted it, as the site to which he wished to remove it was no farther than a musket-shot from its former situation. Notwithstanding the Viceroy of Mexico, on being informed of this act of accommodation, highly disapproved it, and despatched Col. Don Francisco de Brito to Adaes, to supersede Governor Sandoval, and bring him under guard to Mexico, to be tried there before a court martial; which was carried into effect with all the rigor of the law.

It is unquestionable, from the historical series of facts, and the most unexceptionable documents, that the province of Texas extended to the Mississippi, and that the French never crossed the river into that district but through the sufferance or permission of the Spanish Governors; and that, in consequence of the former abusing the generosity with which they were permitted to trade with the Indians of that territory, and to hold, for that purpose only, the posts of Natchez and Natchitoches, positive orders were issued to drive the French from the whole district, and destroy the said posts. The Spanish commandant advanced with a sufficient force to execute those orders; but he acceded to the proposals of the French at Natchitoches, which were confined to this: that Arroyo Hondo, which is midway between Natchitoches and Adaes, should be considered as the dividing line, until the determination of the two Courts. In this state things remained without further change, and so continued until the cession of Louisiana to Spain relieved those provinces of Spanish America from all embarrassment and trouble from the French. But it always was an undeniable fact, established by the irresistible titles and documents, that the French neither held nor had held, to the westward of the Mississippi, in 1719, any other posts than Natchitoches, which they held merely by the condescension of Spain; and that the Spanish settlement of Adaes, only five leagues distant from the Rio Roxo,

(Red river,) existed much earlier, and did so exist until Louisiana was transferred to Spain. The parochial records of Nacogdoches and Adaes, with the registers of births, baptisms, and deaths, attest it still more circumstantially, as well as the proceedings of the pastoral visit made in 1805, by Don Primo Feliciano Marin, bishop of the new kingdom of Leon, who visited the district of Adaes, and the whole province of Texas.

The right which Spain always had to all the territories to the north and east of New Mexico, as far as the right bank of the Mississippi and the Missouri, is proved with equal certainty. All these territories, and the different branches, falls, and waters of the Mississippi, were always comprehended within the line of the Spanish dominion in that part of America from the earliest periods of its discovery and conquest. Although the French penetrated several times from Mobile and Biloxi to different parts of that line, they never acquired any right to them. Their excursions were confined to trading, or smuggling, or exploring the country. The huts or posts which they had in some Indian nations were trifling establishments, clandestine and precarious, which they were unable to preserve. The Spaniards had traded much earlier than the French with all these Indian nations; with the Missourians, extending along the river of that name; the Padoucas, beyond the river La Platte; and, still farther to the Northwest, with the Latanes; and, finally, with several others, as being within the dominions of the Crown of Spain.

The French themselves never disputed the rights of the Spaniards to possession and property, nor laid claim to injure the rights of Spain on all occasions of making grants of land within her settlement of Louisiana; and the French settlers at all times carefully respected the right bank of the Mississippi, throughout its whole extent, as the well-known property of Spain. No memorial can be found declaratory of a contrary opinion, except a decree of Louis XIV., dated at Fontainebleau, on the 14th of September, 1712, in favor of M. Crozat, ceding to him and the company formed by him the French settlement of Louisiana, with an ideal and vague demarcation of boundaries, by extending them mentally to New Mexico and the English province of Carolina, and along the Mississippi from the sea to the Illinois, &c. It is evident that the Court of France did not then possess any knowledge of the geography of that country, or that New Mexico was considered as bordering on the Mississippi, notwithstanding Louis XIV. had carried his liberality so far in that grant as to give the French company even the river Mississippi and the Missouri. He might, with equal reason, have given those of the Amazons, the La Plata, and Oronoko. You are perfectly aware, sir, the expressions of this grant are vague and absurd. They never could alter the fixed limits of French Louisiana, or of the Spanish possessions. The grant of Louis XIV. was always considered as the act of a disordered imagination. The Spaniards constantly preserved their dominion over

all the right bank of the Mississippi, and over all the territories and waters from the former to the right shore of the latter. Even the French themselves, notwithstanding this famous grant, never ventured to go beyond the certain and well-known limits of their settlement, or violate those of the territory and dominions of the Crown of Spain. It is therefore of no consequence to us if such a blunder was committed by those who penned the said grant at Fontainebleau. If a document of this nature was sufficient to dispossess a nation of its dominions, or of any part of them, what security could there be in any part of the possessions of independent Kingdoms and States? Can there be a mind capable of conceiving that such a paper can fail to be absurd and completely despicable, since it never took effect, has always been resisted as rash and extravagant, and since the incontestable rights of Spain to the property and possession of the said territories existed then, and do still exist? Certainly not.

The Court of France was immediately sensible of the extravagance of that grant, as no farther mention was made of it. On the contrary, when it ceded Louisiana to Spain, in 1764, M. Kerlet, who had been many years Governor of that Province, was ordered to draw up a memoir, containing a description of its proper extent and limits. This memoir, delivered by the Duke of Choiseul, Minister of France, to the Spanish Ambassador at Paris, as a supplement to the act of cession of Louisiana, agrees substantially with that which I have just now pointed out. I would carry this demonstration still farther, if I thought it necessary; and I will do so if you shall have anything to object to it. In the meantime, I now confine myself to declare to you, sir, and to the Government of the United States, in the name of the King, my master, that, although Spain has an original and indisputable right to all the right bank of the Mississippi, His Majesty has resolved to claim this right solely with a view to adhere to the *uti possidetis*, or state of possession in which the Crown of Spain was when she acquired Louisiana in 1764, and in which that of France was at the time she made the cession. His Majesty, paying due respect to all such treaties and conventions as have caused a change in the state of possession of the two nations in that part of America, religiously confines himself to the express period when Louisiana was circumscribed by the well-known extent and boundaries with which it passed into the hands of the United States.

As these boundaries, to the westward of the Mississippi, although always notorious and acknowledged, have not been marked out with the formality necessary to avoid doubts and arbitrary pretensions, and as it is only evident that they undoubtedly proceed from the Mexican Gulf, by the river Mermento, or Mermontayo, and Arroyo Hondo, by drawing a line between Natchitoches and Adaes, which crosses the Red river, and extends towards the Missouri, I have done no more than point out the basis for a line of demarcation; and after we have agreed on this basis, a commission,

composed of Spaniards and Americans, formally appointed and authorized by their respective Governments, can, and ought alone, to examine and fix the boundaries between the possessions of the two Powers, keeping in view the documents exhibited on both sides, and comparing them on the spot with the points to which they refer. The basis I now speak of, as necessary for this demarcation of boundaries, must be sought for precisely in the most marked, leading, and notorious points, which showed the proper direction and extent of the territories of Spain, France, and England in 1763 and 1764, since we cannot seek for them in preceding periods, the possessions of the three Powers in this part of the American continent being then very different from what they have been after those periods, in virtue of public treaties, which are, and ought to be, inviolable.

The situation, therefore, of the three Powers, until 1763, was as follows: the Crown of Spain extended its dominion to the east, over the right side of the Mississippi, from its mouth to the mouth of the Missouri; and to the north, over the right side of the latter river, from its mouth to its source. Florida, already contracted by the intrusive establishment of Louisiana, commenced at the river Perdido, and extending eastward towards the river Santa Maria, (St. Mary's,) included the whole peninsula, which extends as far as the twenty-third degree of south latitude. Its northern boundary was not yet fixed. In addition to the colony of Louisiana, such as I have shown it was, and ought then to be, France possessed the territories of Upper and Lower Canada, extending south to a line running from the river Alivamoia, and following the chain of the Alleghanies until it struck above Chaleur bay. England extended her possessions to the south of the said line, on the coast of the Atlantic, from the river St. Mary to the river St. Croix, and added to those possessions all the territory lying north of the two Canadas, as far as Hudson's bay and Lake Winnipeg, which had been ceded to her by France, at the peace of 1713.

But France, as you know, sir, was, by the treaty of 1763, excluded from the continent of North America, with the exception of Louisiana, then reduced to the island of New Orleans, and to the tract of country to the north of Missouri, and extending to the British possessions. By that treaty, she ceded to England both the Canadas and all that part of Louisiana extending over the left side of the Mississippi from its source to the bayou Manchac, and thence following the left of the river Iberville, the lakes Maurepas and Pontchartrain, the coast and islands, to the river Perdido. Spain ceded, in like manner, Florida to England, such as I have described it; and in the year 1764, which is the second period when it is necessary to distinguish and fix the basis referred to, she acquired, by cession from France, her remaining portion of old Louisiana. She afterwards acquired what France ceded to the English on the left of the Mississippi, and Florida, also, which she had ceded to them in 1763, as is proved by the treaty of 1783. This treaty, and those of



1763 and 1764, before mentioned, are those which it is necessary to keep in view, together with that of St. Ildefonso, by which Spain ceded back to France what she had received from her; and France accepted the delivery, declaring herself satisfied, and taking possession by virtue of an act of His Catholic Majesty, which expresses the retrocession of Louisiana by Spain to France such as she had received it from France in 1764.

The treaties between France and the United States, and between the latter and Spain, (the first in 1778, and the second in 1795,) must likewise be kept in view, to illustrate incontestable rights and establish unalterable principles. To the treaties just mentioned, your Government and His Catholic Majesty may add all such other titles and documents as may be thought necessary to remove or settle any doubt which may arise in the subject-matter, to the end that the basis of a demarcation may be laid down upon a due understanding, and established and fixed with the greatest possible exactness.

You are perfectly aware, sir, that there can be no other just mode of settling the dispute in relation to the question of boundaries, and that it is the one which has always been adopted by all nations in similar cases; it being the anxious wish of His Catholic Majesty that this demarcation may be so accomplished as to leave no room for doubt or controversy in future, by proceeding to it with good faith, and in a manner that may be satisfactory to both parties.

I therefore conclude this note with the same opinion expressed in my former one, namely, that it is indispensable to examine, ascertain, and agree on the points necessary and essential to the establishment of the true boundaries which separate, or ought to separate, Louisiana from the Spanish dominions; and that this can only be determined by the mode proposed. If you will be pleased to point out to me any other, which, while it fulfils that object, may be conciliatory and compatible with the rights and honor of the Crown of Spain, you may be assured, sir, that I shall adopt it with pleasure, as I shall thereby further the intentions of my Sovereign, which are to terminate as speedily as possible the disputes now pending in an amicable manner, so as to leave no spark of disagreement in future.

With these sentiments, I have the honor to offer myself to your disposal, and pray God to preserve you many years.

LUIS DE ONIS.

*The same to the same.*

WASHINGTON, January 8, 1818.

SIR: Having stated to you in my notes of the 29th of the last, and 5th of the present month, all that I thought proper and necessary on the subject of boundaries, that we may ascertain, discern, and fix with impartiality, justice, and good faith, those which divide, or ought to divide, Louisiana from the Spanish possessions situate to the east and west of that province, acquired from France by the United States, I now proceed to

discuss the different points on which your Government founds claims against those of His Catholic Majesty.

As this matter was sufficiently discussed (*ventilado*) and placed in the strongest light of evidence by the Spanish Government, in the notes addressed by it to Mr. Pinckney, at Aranjuez, and afterwards to the American commission, composed of that gentleman and Mr. Monroe, and also in those which, in the last instance were addressed by it to Mr. Erving, at Madrid, I shall resume the subject briefly and precisely, merely touching on the principal points of the dispute, and showing, with simplicity and clearness, to what the state of the question is reduced, and in what manner it should be fairly and justly arranged.

I divide into two classes the points on which your Government demands satisfaction and indemnification of His Catholic Majesty. The first comprehends the injuries, losses, and damages, suffered by American citizens from Spanish authorities and subjects, and those suffered by the subjects of the Crown of Spain from American authorities and citizens. The second comprehends the losses, damages, and injuries, sustained by American citizens from captures made by French cruisers on the coasts of Spain, and condemned by French Consuls residing in the Spanish ports. To this the whole question of indemnification is reduced.

The points embraced by the first class are as follows: 1st. The damages and injuries unlawfully caused by Spanish authorities and subjects on American citizens, and by American authorities and citizens on the subjects of the Crown of Spain, in violation of the law of nations and of the existing treaty, during the war between Spain and Great Britain, which terminated at the peace of 1801. 2dly. Damages and injuries sustained by American citizens in consequence of the interruption of the place of deposit at New Orleans, by an order of the intendant of the royal treasury of Spain in the province of Louisiana. 3dly. Injuries, damages, and losses caused to citizens of the United States by Spanish authorities and subjects, and by American authorities and citizens to Spanish subjects, directly or indirectly, from the year 1801 until the period when the correspondent convention between the two Governments on all the points embraced by the question of spoliation shall be concluded and signed.

Those which are comprehended in the first point are acknowledged to be evidently founded on justice; and, to carry them into effect, there exists ever since 1802 a convention stipulated and signed between Spain and the United States. You are aware, sir, that the suspension of this convention did not originate with His Catholic Majesty's Government. His Majesty is ready to give full effect to it; and on the basis of that convention we can establish and agree on what may be most just, suitable, and expeditious, to make a reciprocal satisfaction for the aforesaid injuries and losses, comprehending in the convention to be stipulated and signed for that pur-

pose all the injuries and losses respectively suffered since 1801 to the present, because these two points only are distinct in point of time; but, as you are perfectly aware, they are, in all other respects, of a like nature, and therefore of equal rights and justice.

The first and third points are consequently to be acknowledged as substantially forming only one, subject to the examination and decision of the joint commission which is to determine the necessary compensation, in virtue of the convention to be stipulated on the basis of that of 1802.

The second point, namely, that of the suspension of the deposit at New Orleans, might be omitted. You are aware, sir, that it lasted but a very short time, and in the depth of Winter, when the exportation of the produce of the Western States was very inconsiderable, and very hazardous and difficult; that, moreover, the order of the Intendant produced no other inconvenience to the American citizens than the trifling one of loading in the stream instead of laying their boats along the quay at New Orleans; and that the said order of the Intendant was an arbitrary act, duly disapproved of by His Catholic Majesty, and for which he directed his Minister to give suitable satisfaction to the United States in his royal name. The United States having received it, this affair ought from that time to be considered as terminated.

On the other hand, you cannot but admit that His Catholic Majesty was not bound to continue the deposit at New Orleans after the termination of the precise period stipulated by the treaty of 1795, by which His Catholic Majesty only agreed to designate another spot for the said deposit, upon the banks of the Mississippi. As this new spot was to be to the satisfaction of the United States, it was for them to point out and ask for it. The suspension ordered by the Intendant, although highly disapproved by the Spanish Government, was in consequence of the scandalous contraband and abuses by which, under cover of the deposit, enormous frauds were committed on the royal revenue. By the treaty no provision was made for this case, nor was there any stipulation relative to the time which was to intervene during the removal of the deposit from New Orleans to another spot on the bank of the Mississippi, or to the intermediate period between the suspension of the said deposit and the assigning another situation for it.

The Government of Spain was, therefore, not bound to become answerable for the losses and injuries eventually sustained by the short interruption of the deposit, since such obligations could only grow out of the stipulations of that treaty, which does not contain a single word that has the most distant allusion to such an obligation or engagement on the part of His Catholic Majesty.

Notwithstanding these reasons, and various others which I could adduce, to prove that the Government of Spain cannot be bound to make satisfaction for the aforesaid losses and damages,

15th Cox. 2d Sess.—55

His Catholic Majesty is disposed to yield to the reclamation of the United States on this point, provided they still insist on it, and to submit it, with the others spoken of, to the investigation and decision of the joint commission. There will, therefore, be no difficulty in also including this point, as far as it relates to injuries really caused by the order of the Intendant of New Orleans, in the convention to be formed and signed, if required by you, it being His Catholic Majesty's desire to give continued proofs to the United States of his frankness, good faith, and condescension. I now proceed to the claim for losses and injuries committed on citizens of the United States by French cruisers and tribunals, in the capture of American vessels on the coasts of Spain, and their condemnation in Spanish ports, forming the object of the second part of this question, or that embracing the points of the second class, in the order of the enumeration I have adopted.

This part of the question was discussed in a very luminous manner in the notes addressed by His Catholic Majesty's Government to the American Ministers on the 10th of February and 5th of March, 1805; and you are aware that no reply was made on the part of the United States, weakening in the least the force of the principles and the truth of the facts on which the opposition of His Catholic Majesty to a responsibility for those damages and injuries was grounded. You will agree with me, sir, that there is no possibility of deciding, by a general rule, the extent of the responsibility of a nation on whose coasts and ports aggressions have been committed by another against a third party, as it depends in a great degree on the circumstances of the case, and the particular stipulations binding on nations.

By the treaty between Spain and the United States, the obligation of Spain is reduced to exercise its good offices with the offending party, and to aid the claims of the party aggrieved. "Each party shall endeavor, (says the treaty,) by all means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction, by sea or by land, and shall use all their efforts to recover and cause to be restored to the right owners their vessels and effects, which may have been taken from them within the extent of their said jurisdiction, whether they are at war or not with the Power whose subjects have taken possession of the said effects."

On the part of Spain this has been done; and if her efforts have not produced the desired effect, the fault does not rest with her. Besides, the injuries done by French privateers on the coasts and in the ports of Spain to American citizens have a particular character, which relieves the Government of Spain from all obligation to indemnify them for those losses, even although such obligation had existed. The United States were not at war with France, consequently their recourse, as the aggrieved party, was always open to the Government and tribunals of the aggressor. Spain



was then in alliance with France, and both were at war with Great Britain. She, therefore, could not prevent the privateers of her ally from entering her ports, as they were not fitted out against the Americans, but against the English. If these privateers, after going on their cruise, committed aggressions on American vessels, on pretence of considering them or their cargoes as English, the Spanish Government could neither foresee nor prevent it. The injuries were already done before it was apprized of them. Neither was it in the Spanish ports where the injury was completed, but in France, by the tribunals of cassation, to which the Americans appealed from the decision of the French Consuls residing in the ports of Spain. It was unquestionably in France that the offence and injury originated, and in France were they consummated. How, then, can indemnification be claimed of Spain for such injuries, and not of France, who was the cause of them, and the Power enabled to compel the aggressors to make due satisfaction, as they were her subjects, and had given the requisite bonds in her courts for their good conduct in their cruises? You cannot but be sensible, sir, that, according to every principle of reason and justice, it would evidently and unquestionably be monstrous to claim these indemnifications of Spain, as the Power existed then, and still does exist, which caused the injuries here treated of.

I would go still further to show that, by no established principle of the law of nations, can Spain be considered responsible for such indemnifications, not even indirectly, in case France should refuse to make them. I would cite, among others, the case in which Sir W. Scott, judge of the High Court of Admiralty of Great Britain, decided that prizes made by a belligerent, and carried into the ports of a Power its ally, and there condemned, are justly and lawfully condemned according to the law of nations; and that the owners of the property prior to its condemnation have no longer a claim to it after condemnation has taken place. From this and other decisions, it follows that the Government to whose subjects the property condemned belonged has no ground to bring forward complaints or claims against the Government of the country where the prizes were made, because the condemnation is conformable to the law of nations, the sentence pronouncing it is valid, and the authority condemning the property legal, and proceeded according to rule. This doctrine is well known and acknowledged in the United States, as also the principle that, when a nation has employed its good offices, and taken such means as are in its power to procure satisfaction for the offence, and obtain compensation for the injuries committed on its coasts and in its ports, on a friendly or neutral nation, it is bound to nothing more, although its good offices and endeavors may not have produced the desired effect. This principle was applied by Mr. Jefferson, in his letter of the 5th September, 1793, to Mr. George Hammond. It is admitted by the best civilians, and agrees perfectly with the obligations of Spain towards

the United States resulting from the existing treaty between the two nations. I mean, however, in case Spain had not been the ally of France at the period, (because, even in that case, the principle I have just indicated would govern,) but, being then the ally of France in the war against Great Britain, she might certainly employ, among the exceptions exempting her from all responsibility in the case here treated of, the principle which served as the ground of Sir W. Scott's decision in the British admiralty court. But I do not consider it necessary further to illustrate these legal objections of the Government of Spain against the claim of your Government for the aforesaid injuries, inasmuch as this capital exception attends it, namely, that satisfaction for those injuries was already made to the United States by France; and, consequently, this affair is, and ought to be, considered as settled and terminated. This essential exception makes it superfluous to produce others, since the obligation spoken of, which was and could only be but one, is thereby evinced to have been extinguished. The French Government has positively declared that, "in the special convention concluded between France and the United States, this point was settled; and that the said convention, by which this claim and demand of the United States for due compensation for the losses and damages now spoken of were attended to and redeemed, was ratified in 1802, together with the treaty of cession or sale of Louisiana;" that is to say, that the amount of the said injuries and losses was then estimated and compensated in the price stipulated for Louisiana; so that full compensation was then made to the United States for all that was estimated and agreed on between the French and American Governments as forming the value of the said losses and injuries. The French Ambassador at Madrid gave a verbal assurance to this effect to His Catholic Majesty's Minister of State, and the Minister of Foreign Affairs of France gave a similar assurance to the Spanish Ambassador at Paris. His Catholic Majesty also demanded a formal and categorical answer of the French Government on this point, which formal declaration I here copy; it is thus expressed in the note transmitted by the Minister of France to the Ambassador of His Catholic Majesty:

"BOURBON L'ARCHAMBAULT,

"8th Thermidor, 12th year, (July 27, 1804.)

"MONSIEUR L'AMBAassadeUR: I have duly laid before His Imperial Majesty the note which you did me the honor to address to me, dated the 24th July, relative to the discussion which has taken place between the Court of Spain and the Government of the United States. I shall not fail immediately to submit to him the more ample explanations which your excellency announces your intentions of making to me, both verbally and in writing, on this dispute, which seems to threaten the good understanding existing between the United States and your Court. Although I might yet defer giving my opinion to your excel-

lency, in consequence of your intention to furnish me with the explanatory statements which you announce, I do not hesitate to inform you by anticipation that His Imperial Majesty cannot but be extremely sensible to the uncertain and uneasy position in which two Powers in amity with France are placed by this misunderstanding, and that he will certainly do whatever may depend on him to prevent its coming to an unfortunate issue.

"It is several months since I was informed by the Chargé d'Affaires near the Federal Government of the pretensions of that Government relative to a portion of country bordering on Florida, which has become a great object of ambition to the Americans, in relation to the establishment of their revenue system; and it seemed to me, from this information, that it was important that the Federal Government should use all the means in its power to obtain the annexation of this frontier portion of Florida to Louisiana; but the opinion due to the justice and moderation which distinguish the personal character of the President of the United States has not, nor does it yet permit me to think that menaces, provocation, and groundless hostility may be considered by him as the most suitable means to enable the United States to acquire a portion of territory belonging to a foreign Power which suits their convenience.

"Respecting the second point in dispute, which your excellency does me the honor to speak of in your note, I must say that I had previously no knowledge of it. And, indeed, if I had been informed that His Catholic Majesty's Ministers had carried their condescension for the Government of the United States so far as to engage themselves towards it for indemnifying violations pretended to have been committed by France, I should certainly have received orders from my Government to express the dissatisfaction which France must feel on the occasion of so unseemly a deference; and this dissatisfaction would have been expressed still more warmly to the Government of the United States than to that of Spain. There is every reason to suppose that the Court of Spain, by thus yielding to an improper demand, has emboldened the American Government, and determined it to become pressing, and even menacing on this occasion. As for the rest, explanations formerly given to your Court on this point, as well as those which have been authorized to be given to the Government of the United States by the Chargé d'Affaires of His Imperial Majesty, must enable you to judge of the opinion formed by His Majesty on this question, which, having already been the subject of a long negotiation, and of a formal convention between France and the United States, cannot again become a subject of discussion.

"Such, Monsieur l'Ambassadeur, are the remarks that I have thought proper to make in the first instance, in answer to the preliminary note of your excellency. In addition, I must observe that, in my opinion, the demonstrations which appear to me to have given your Government the

uneasiness it has charged you to express are somewhat exaggerated, either from the impression they have produced at Madrid, or from the construction, possibly too extensive, which the Minister of the United States to His Catholic Majesty may have, perhaps, given to his instructions. There is no room to suppose that a Government, anxious as that of the United States is to establish a general opinion of its wisdom and moderation, would resolve on engaging in an unjust war through motives of ambition; but as the United States attach great importance to the acquisition of a part of Florida suited to their convenience, it is not to be doubted that they will make every effort to obtain it. The ground of this dispute, therefore, rests entirely on this point. Perhaps the Federal Government may have thought that it would tend to promote a negotiation for exchange, by exciting a diplomatic quarrel. The wisdom of His Catholic Majesty will certainly suggest to him what is proper to be done on this occasion, with a view to terminate a dispute which, I have no doubt, will incessantly be revived, so long as no change shall take place in the actual relative position of Louisiana and the Floridas; but on this point it is for the wisdom of His Catholic Majesty to decide. The United States are not founded in making any claim on His Majesty. A positive declaration was made to them that Louisiana was delivered to them such, and with the same extent it had when acquired by France; and this declaration will again be made to them as often and as positively as His Catholic Majesty will desire it.

"I request your excellency to receive the assurances of my highest consideration.

"CHA. MAU. TALLEYRAND.

"To Admiral TRAVINA,

"Ambassador of His Catholic Majesty."

You see, sir, that this declaration of the French Government is conclusive, and that the responsibility for losses and injuries caused by French cruisers and tribunals on the coasts and in the ports of Spain is removed from the period of that agreement; and that to renew a claim for what has been already paid and satisfied would be exacting double reparation for one and the same injury, and double payment for one and the same debt. Notwithstanding, if the United States have still a claim for the complete fulfilment of this satisfaction and payment, His Catholic Majesty is ready to unite his good offices and earnest requests to this claim of your Government on that of France, in order that she may perform, and cause to be performed, whatever may be justly required in behalf of American citizens who have sustained losses and injuries by her cruisers and tribunals. To this the obligation of Spain, in the present case, is reduced; and His Catholic Majesty's Government offers immediately to sustain all the just pretensions which the Government of the United States may be desirous to form against the Government of France on this point, or to demand of it all such explanations as may be judged necessary to clear up all doubts, if any



are yet entertained by the United States, on this matter.

This point, then, being separated from those connected with the question of claims for injuries, losses, and damages, because that is already settled between France and the United States, or is to be settled with France directly, if anything still remains to be performed, we can agree upon a just and suitable mode of determining a reciprocal satisfaction for the injuries, losses, and damages, before spoken of, and included in the three points of the first class as enumerated in this note, in order that we may proceed more clearly and methodically. These three points, as I have before said, will be submitted to the judgment and decision of the joint commission, in virtue of the convention to be formed on the basis of that of 1802, simplifying and rectifying it in such manner as will insure its most expeditious and faithful execution.

In this note, and the two others which I have already had the honor to address to you, are contained all the points in dispute between the Government of His Catholic Majesty and that of the United States; and, to avoid confounding them with each other, I have treated them in their regular order, with precision, simplicity, and clearness. You can examine each of them, sir, with the impartiality and rectitude which distinguish your character; and I flatter myself that all the motives and grounds of the controversy will be completely removed by your discernment and wisdom, as you will not fail to acknowledge the irresistible force of what has been, and is now, demonstrated on the part of the Government of Spain.

When the different points treated of in each of these notes with the necessary discrimination are considered, and a decision formed on each of them, it is requisite that we should definitively settle and terminate the controversy, without leaving any room for dispute in future.

This general and definitive arrangement of all the points in dispute must, by its nature and circumstances, precede the negotiation for the exchange or cession of the Floridas, since, until it be determined and settled what are the territories on the frontier which belong to Spain, and what are those which belong to the United States, it is impossible to estimate the equivalent to be given to Spain for the two Floridas. Nevertheless, as it is the earnest desire of His Catholic Majesty to meet the wishes of the United States in everything that may be compatible with the rights and honor of his Royal Crown, you may, sir, devise and propose a mode by which we may at one and the same time adjust all the points of the controversy, and stipulate the exchange or cession of the Floridas, in case your Government should not agree to our previously settling the points connected with the question of boundaries, and establishing a convention, in conformity to the basis of that of 1802, for the mutual compensation of losses and injuries, according to the order I have adopted in my note.

I expect, therefore, your answer, sir, whether

it be confined distinctly to the subject of each one of my notes, according to their respective order, or to propose a mode embracing all the points comprehended in them, by which we may have them collectively settled in the negotiation which is to be entered upon for the exchange or cession of the Floridas. In this proceeding you will perceive, sir, a certain proof of the frankness and good faith of the Spanish Government, and of the sincere and friendly sentiments entertained by the King, my master, for the United States.

I conclude with the renewed assurances of my respects, and I pray God to preserve you many years.

LUIS DE ONIS.

*The same to the same.*

WASHINGTON, January 8, 1818.

SIR: In the National Intelligencer of the 6th of this month, I have seen published the official notice of the occupation of Amelia Island by the troops of the United States. I had already anticipated this unpleasant event, by the note which I had the honor to address you on the 6th of last month, in which I remonstrated, in the name of His Catholic Majesty, against the measures announced in that part of the President's Message to both Houses of Congress which manifested an intention to invade and forcibly seize on places and territories belonging to the Crown of Spain. Having received no answer to that note, I now feel myself obliged to repeat its contents to you, and to protest, as I now do strongly protest, in the name of the King, my master, against the occupation of Amelia Island, effected by the naval and military forces of this Republic, destined to operate against that island, forming a part of East Florida, one of the possessions of the Spanish monarchy on this continent.

Whatever may have been the motives on which the Government of the United States have founded their adoption of this measure, it cannot but be considered by all nations as a violent invasion of the dominions of Spain at the time of a profound peace, when His Catholic Majesty omits nothing to give the most generous proofs of his perfect friendship and high consideration for the United States.

I therefore trust that, upon your communicating this solemn reclamation and protest to the President, he will be pleased to direct that suitable orders be given to the American commanders at Amelia Island, and on that station, forthwith to restore the said island, together with all its dependencies, to His Catholic Majesty, and to deliver up the same to the Spanish commandant, and officers presenting themselves for that purpose, in the name of their Sovereign.

It is also my duty to represent to you, sir, that, at the time of the invasion and occupation of that island by the American troops, there was, and I believe still is, a considerable property belonging to Spanish subjects, which, in all cases, it is required by strict justice should be delivered to the owners, which, I doubt not, has already

been, or will be done, in a due and proper manner, care being taken in the mean time that it be not removed or suffer injury.

I await your reply to this reclamation and protest, that I may be enabled to give seasonable intelligence and instructions to the Governor of St. Augustine, and to the Captain General of the Island of Cuba, provided the President, as I flatter myself, will resolve on the prompt restitution and delivery of Amelia and its dependencies to His Catholic Majesty's Government.

I cannot by any means doubt that this will be effected, confiding, as I do, in the high rectitude of the President, and in the inviolable principles of public faith, on which the security of nations reposes.

I have the honor to renew the assurances of my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis De Onis.*

WASHINGTON, January 16, 1818.

SIR: Your letters of 29th December, and of 5th and 8th of the present month, have been received, and laid before the President of the United States.

He has seen, not without surprise and regret, that they consist almost entirely of renewed discussions upon the several points of difference which have so long subsisted between the United States and Spain—discussions which had been exhausted in the correspondence between the Minister Plenipotentiary of the United States at Madrid and your Government in the years 1802 and 1803, and more especially in that between Don Pedro Cevallos and the special extraordinary mission of the United States to your Court in 1805—a mission instituted by the American Government, under the influence of the most earnest desire to terminate amicably, and to the satisfaction of both the parties, all those differences, but which, after five months of negotiation at Aranjuez, issued in the refusal of Spain to give satisfaction to the United States upon any one of the causes of complaint which were to be adjusted, or even to settle the question of boundaries existing between the United States and the Spanish provinces bordering upon them. The President considers that it would be an unprofitable waste of time to enter again at large upon topics of controversy which were at that time so thoroughly debated, and upon which he perceives nothing in your notes which was not then substantially urged by Don Pedro Cevallos, and to which every reply essential to elucidate the rights, and establish the pretensions on the part of the United States, was then given. For proof of which, I beg leave merely to refer you to the letters of Mr. Monroe and Mr. Pinckney to Mr. Cevallos, of 28th January, 26th February, 8th and 16th March, 9th and 20th April, and 12th May, 1805. I am instructed by the President to propose to you an adjustment of all the differences between the two countries, by an arrangement on the following terms:

1. Spain to cede all her claims to territory eastward of the Mississippi.

2. The Colorado, from its mouth to its source, and from thence to the northern limits of Louisiana, to be the western boundary; or, to leave that boundary unsettled for future arrangement.

3. The claims of indemnities for spoiliations, whether Spanish, or French within Spanish jurisdiction, and for the suppression of the deposit at New Orleans, to be arbitrated and settled by commissioners, in the manner agreed upon in the unratified convention of 1802.

4. The lands in East Florida, and in West Florida, to the Perdido, to be made answerable for the amount of the indemnities which may be awarded by the Commissioners under this arbitration; with an option to the United States to take lands and pay the debts, or to sell the lands for the payment of the debts, distributing the amount received equally, according to the amount of their respective liquidated claims, among the claimants. No grants of land subsequent to the 11th of August, 1802, to be valid.

5. Spain to be exonerated from the payment of the debts, or any part of them.

These proposals do not materially differ from those made to Don Pedro Cevallos on the 12th of May, 1805. The President has seen nothing in any events which have since occurred, nor in the contents of your notes, which can afford a reason or a motive for departing from them. Of the motives for coming to an immediate arrangement, the urgency cannot escape your attention. The events which have recently occurred in a part of the territory which you have informed me the King of Spain is willing to cede to the United States, those which are notoriously impending over the remaining part of that territory yet in the possession of Spain, make it indispensably necessary that the ultimate determination of your Government in this negotiation should be acted on without delay. The explanations requested by your notes of the 6th December and 8th January, of the motives of this Government in the occupation of Amelia Island, have been given in the Message of the President to Congress of the 13th instant, and cannot fail of being satisfactory to your Government. You see it there distinctly and explicitly declared that the measures which this Government found itself under the necessity of adopting in relation to that island were taken not with a view to conquest from Spain. You well know that, if Spain could have kept, or recovered the possession of it from the trifling force by which it was occupied, the American Government would have been spared the necessity of the measure which was taken, and which was dictated by the duty of protecting the interests as well of this country as of those with whom we are in friendly commercial relations, including Spain herself. But Spain cannot expect that the United States should employ their forces for the defence of her territories, or to rescue them, for her exclusive advantage, from the adventurers who are projecting and in the act of executing expeditions against them from territories without



*Relations with Spain.*

the jurisdiction of the United States. Neither can the United States permit that the adjoining territories of Spain should be misused by others for purposes of annoyance to them.

Under these circumstances, the President is persuaded that you will perceive the necessity either of accepting the proposals herein contained as the basis of an adjustment of the long-standing differences between the United States and Spain, or of offering such as can, by any possibility, be acceptable to this Government, without reverting to a course of proceeding the only result of which must be further procrastination.

I pray you, sir, to accept the assurance of my very distinguished consideration.

JOHN QUINCY ADAMS.

*The Chevalier Don Luis de Onís to the Secretary of State.*

WASHINGTON, January 24, 1818.

SIR: I have received your letter of the 16th of this month, by which I see, with great regret, that, in acknowledging the receipt of those I had the honor to address to you on the 29th of last month, and the 5th and 8th of the present, you omit to answer them, and decline taking into consideration the indisputable facts and grounds, and the irresistible arguments advanced in them, in relation to each of the points embraced by the dispute set on foot by the Government of the United States. You say it is useless again to discuss the facts, reasons, and arguments produced by the Spanish Government in the years 1802 and 1803, and in 1805, the American Plenipotentiaries, and the special extraordinary mission conjointly with them, having then replied to the different points of the notes of the Spanish Ministry in a manner capable of elucidating the respective rights of each of the two Powers, and establishing the pretensions of the Government of the United States; for proof of which you refer me to the letters of Messrs. Monroe and Pinckney to His Catholic Majesty's Minister, Don Pedro Cevallos, of the 28th of January, 26th of February, 8th and 16th of March, 9th and 20th of April, and 12th of May, 1805.

I think it proper to observe, in the first place, that although the facts, grounds, and arguments then produced by the Spanish Government do not differ essentially from those stated in my notes, their irresistible and conclusive force is neither altered nor in any manner impaired. Truth is of all times; and reason and justice are founded on immutable principles. It is on these principles that the rights of the Crown of Spain are founded to the territories eastward and westward of Louisiana, claimed by your Government as making part of that province—rights of immemorial property and possession, never disputed, but always notorious, and acknowledged by other nations.

In the second place, I must remark to you that, throughout the whole correspondence on this subject between the Ministry of the United States and that of His Catholic Majesty, there is not a

single fact, or a single argument, that can affect the certainty or decisive force of the facts, grounds, and reasons which support and determine the aforesaid rights of the Crown of Spain. There does not appear to be a single incident to give the smallest support to the pretensions of your Government. All the vague positions on which it has been attempted to found them have been refuted and dissipated by the Spanish Government, by a demonstration so luminous and convincing as to leave no alternative to reason to resist it.

To lay all this aside, and merely to say "that it is a matter already thoroughly debated, on which nothing further essential can be urged, and that the American Government insists on maintaining a contrary opinion," is to adopt an arbitrary course, because, this opinion not being supported by any solid foundation, and being, as it is, diametrically opposite to the unquestionable result of facts, and to the most incontestable principles and arguments, does not, nor can it, give to the United States any right to the pretensions they have formed. Neither can it be required that the Government of Spain should subscribe to this opinion, and renounce its rights to the territory which the United States wish to possess in the Spanish provinces bordering on those States, since that opinion, as I have already said, is altogether groundless and arbitrary, and since, on those rights, there neither does nor can there fall any doubt.

It is the sincere wish of His Catholic Majesty that a just mode of amicably settling all pending differences may be adopted, and he has authorized me for this purpose; but neither the powers he has conferred on me, nor my own sense of duty, permit me to enter into an arrangement which is not based upon the principles of common justice, combined in good faith with the suitable considerations of reciprocal utility or convenience. Being anxiously desirous of carrying the wishes and frank dispositions of my Sovereign into execution, I suggested to you, in our last verbal conference, the expediency of your making to me such proposals as you might think fit to reconcile the rights and interests of both Powers, by a definitive arrangement of the differences pending between them. Since you communicated the present state of things to the President, you have proposed to me in your note a plan of arrangement or adjustment embracing the question of boundaries, and that of indemnities, which is as follows:

To settle the former, you propose "that Spain shall cede all her claims to territory eastward of the Mississippi, (that is to say, the two Floridas;) and that the Colorado, from its mouth to its source, and from thence to the northern limits of Louisiana, shall be the western boundary of that province."

I have expressed in one proposal what you have stated in two, as both are reduced to the cession of territory by Spain. It is not only proposed that Spain shall cede both Floridas to the United States, but that she shall likewise cede to them

*Relations with Spain.*

the vast extent of Spanish territory comprehended within the line following the whole course of the Colorado. I presume that it is the river Colorado of Natchitoches you speak of, and not of another bearing the same name, and which is still farther within the limits of the Spanish provinces. I leave it to you, sir, to examine the import of these two proposals, and to see whether they are compatible with the principles of justice, or with those of reciprocal utility or convenience. It is demanded of Spain to cede provinces and territories of the highest importance, not only to the eastward, but to the westward of Louisiana, and that without proposing any equivalent or compensation.

To settle the question of indemnities, you make the following proposals:

1. That indemnity for spoliations on American citizens, committed by Spaniards or French within the jurisdiction of Spain, as well as for injuries sustained by American citizens by the interruption of the deposit at New Orleans, shall be settled by a joint commission, as agreed upon in the convention of 1802.

2. The lands in East Florida, and in West Florida to the Perdido, to be made answerable to the United States for the amount of the indemnities which may appear to be due by Spain to American citizens on the settlement to be made by commissioners appointed according to the convention of 1802; it being at the option of the United States to take the lands and pay the amount of the indemnities according to the award on the claims, or to sell the lands, and effect the payment with the proceeds of the sales. To this proposal you add, that all grants of land subsequent to the 11th of August, 1802, are to be null and void.

3. That Spain shall be exonerated from the payment of the debts, or any part of them.

Before I reply to these three proposals, I must repeat the uniform declaration of the Spanish Government to the United States, that His Catholic Majesty is, and always has been, ready to settle the question of indemnities, with a view to the full satisfaction of the just claims of the parties interested; and that His Majesty has always manifested the same sincere desire to settle definitively the question of boundaries to the satisfaction of both Powers; and that, if neither of these objects has been accomplished, it has not depended upon the Government of Spain. The contrary is evident, beyond the possibility of denial, from the official correspondence between His Catholic Majesty's Minister of State, and the Plenipotentiaries of the American Government, who suspended and broke off the negotiation at Aranjuez, after having obstinately refused to accept the modifications founded on strict justice which were proposed by the Spanish Government.

I now proceed to state the most obvious and essential difficulties which render your three proposals for the settlement of indemnities inadmissible. I observe that, in speaking of them, you only mention the indemnity for spoliations suf-

fered by American citizens, and omit that which is equally due to Spaniards for spoliations committed on them by the citizens and authorities of this Republic, in violation of the law of nations and the existing treaty. I also observe that you not only omit this indispensable basis of reciprocity and common justice, but propose the immediate cession of both the Floridas, which two Spanish provinces are to be retained by the United States as an indemnity or payment of what may appear to be due by Spain to American citizens, according to the arbitration of the joint commission.

You cannot fail to admit, sir, that this proposal, independent of its injustice, is offensive to the dignity and honor of His Catholic Majesty. It is unjust, because it demands an indemnity or anticipated payment of claims yet to be proved and liquidated, while, at the same time, it provides for no correspondent indemnity or payment of what may be due by the United States to Spanish subjects. It is offensive to the dignity and honor of Spain, because, by the very fact of demanding this anticipation, a want of confidence in the integrity and punctuality in His Catholic Majesty's Government is manifested, whereas a single instance does not exist of Spain having failed in fulfilling her engagements; the most scrupulous exactness, good faith, and strict observance of the point of honor, having at all times invariably formed the distinguishing traits of her character. It therefore becomes unnecessary to point out to you the enormous disproportion between the value of the two Floridas, and that of the probable amount of the claims of American citizens on the Government of Spain, after they are ascertained and liquidated. This disproportion will be still more enormous when you consider that, in the first of the three proposals, to which I am now replying, is included the indemnity for spoliations on citizens of this Republic by French cruisers and consuls on the coasts and in the ports of Spain, and by the tribunals of cassation in France, confirming the condemnation of American prizes.

It has been proved to mathematical demonstration that Spain neither is nor can be responsible in any way for this indemnity. It is France which must be responsible, if she has not already satisfied the claim, as her Government assures she has done.

Nor can I omit to declare to you, sir, that the pretension of annulling the grants of lands in Florida since August, 1802, would be in opposition to all the principles of justice. These grants are made in a lawful manner, and by a lawful authority. Spain was the owner and peaceful possessor of those lands. She had then an indisputable right to make the grants you allude to, as she now has to the property of the territory afterwards forcibly taken possession of by the United States, since a violent dispossession never deprives an individual or nation of their lawful rights. I proceed to your last proposal, which is, that on the admission of those preceding, Spain shall be exonerated from all obligation to pay the debts or



claims which may be due to American citizens on their settlement and liquidation by the joint commission. I conceive this to be the import of the expressions, stating that "Spain shall be exonerated from the payment of the debts, or any part of them." This proposition is a corollary of the two preceding it, since, if Spain should cede the two Floridas to the United States as an indemnity or compensation for the losses and injuries done to the citizens of this Republic, she would necessarily be exonerated from this responsibility, the cession being, in such case, equivalent to a final discharge of the claims referred to. I go farther. Supposing your last two proposals for the definitive adjustment of the question of indemnities to be admitted and carried into effect, the one preceding, namely, that which refers this business to the award of commissioners to be appointed by both Governments, agreeably to the convention of 1802, would be useless and contradictory. As none of the proposals offered by you provide any indemnity for the losses and injuries caused to Spaniards, nor even make any mention of them; and as by the two last proposals, if admitted, the losses and injuries sustained by American citizens would be indemnified and compensated, according to the wishes of your Government, and Spain would consequently be exonerated from all responsibility on this head, it is clear that the business would then be settled and canceled, and there would be no necessity for recurring to arbitration.

Finally, I cannot refrain from expressing my great concern at not being able in any degree to reconcile the proposals you have made me by order of the President with the inviolable principles of common justice; and on perceiving that on the part of the United States no basis is presented of a due reciprocity for the adjustment of the differences pending, the said proposals being altogether inadmissible.

I repeat to you, sir, that the King, my master, being desirous to meet the wishes of the United States, in respect to the cession of the Floridas, although it is well known how highly important those two provinces are to cover and secure the possessions of Spain in that part of America, His Majesty is ready to cede them, provided he be compensated by an equivalent in territory belonging to the United States, and bordering on the Spanish possessions; and it is under this idea that the powers and instructions I have from my Government are conceived. But you cannot fail to admit that the plan of adjustment proposed involves exorbitant and enormous sacrifices to the prejudice of Spain, since, without offering any equivalent or compensation on the part of the United States, it requires not only the cession of both the Floridas, but also that of immense territories belonging to the Spanish monarchy westward of Louisiana; and that, in relation to the question of reciprocal indemnities, it only comprehends those respecting American citizens, omitting those due to the Crown and subjects of His Catholic Majesty. This plan of adjustment would amount to the following one: "Give me

all I wish to ask, and give up all you may justly claim or show is yours." I am, however, perfectly persuaded that this neither is nor can be your intention, or that of your Government; and that, in making these proposals for an adjustment, your only object was to afford me an opportunity to make such as you might consider just and admissible.

I shall, therefore, point out to you such as I conceive to be founded in justice and reciprocal convenience, and therefore cannot fail to meet the wishes of the United States.

1. "The dividing line between Louisiana and the Spanish possessions to be established in one of the branches of the Mississippi, either that of La Fourche, or of the Atchafalaya, following the course of that river to its source. Spain to cede the two Floridas to the United States in full and complete sovereignty."

In case this proposal should not appear admissible to your Government, the following may be substituted: "The *uti possidetis*, or state of possession in 1763, to form the basis, and the western line of division to be established from the sea, at a point between the rivers Carcasa and the Mermento, or Mermentao, running thence by Arroyo Hondo, till it crosses the Colorado of Natchitoches, between that point and Adaes, thence northward to a point to be fixed and laid down by commissioners respectively appointed for the purpose."

2. His Catholic Majesty to ratify the convention of 1802, and both Governments to abide by the decision of the joint commission on the question of indemnities, classing as such those which regard American citizens and the Crown and subjects of His Catholic Majesty, for spoiliations reciprocally committed to the period of the said convention, and thereafter, to the date of the confirmation of the adjustment by the joint commission. Five or seven members to compose the commission, with this condition, that if they are five, each Government shall respectively nominate a person for the fifth member, to be chosen by lot, provided they cannot agree on the person to be so chosen; the same to take place for the fifth, sixth, and seventh, if there be seven members; but the fifth, in the first instance, and the fifth, sixth, and seventh, in the second, shall neither be Spaniards nor citizens of the United States by birth or naturalization. They shall moreover be, by their profession and office, judges, of the number of those subjects who, among maritime and commercial nations, are usually employed to judge and decide on matters connected with maritime law and the law of nations, whether in France, England, Russia, Austria, or the Netherlands; in both cases, the person so designated to be provided with a certificate of the Government of the country he belongs to, proving the opinion entertained of his integrity and capacity, his quality and actual profession as a judge in the matters referred to, and also the assurance that permission shall be granted to him for discharging the duties of the commission, in case the said person shall be chosen by lot.

With these modifications, suggested by prudence, impartiality, and the most perfect rectitude, and excluding, as is just, the indemnity for the spoiliations committed on the commerce of this Republic by French privateers and consuls on the coasts and in the ports of Spain, and by the tribunals of cassation in France, the convention of 1802 to be ratified and carried into execution.

3. His Catholic Majesty to unite with the United States in using their best endeavors to obtain from France the correspondent indemnity for the spoiliations just mentioned, in case that question has not already been settled between the French and American Governments.

4. The Government of the United States to engage to take effectual measures to prevent all hostile armaments in their ports and territory against the commerce and possessions of Spain, either by Americans or any other Power, or by adventurers of any other nations, or by the rebels of Spanish America; and, for their due execution, the President to issue positive orders to all persons employed by the Government, charging them, on their responsibility, to guard against any infraction or violation of them whatsoever, extending the same measures to the preventing of any vessels employed in cruising against the Spanish commerce, or otherwise hostilely engaged against the Government and subjects of His Catholic Majesty, from arming in, or entering armed, the harbors and waters of the United States. Every vessel of this description found within the jurisdiction of the United States to be seized without remission, and subjected to the rigor of the law by the American officers and authorities; and the vessels and property so captured, belonging to the subjects of the Crown of Spain, to be laid under attachment, and definitively delivered up to His Majesty's Minister, or the nearest Spanish Consul, to be held by them at the disposal of the lawful owners. This proposal contains nothing beyond the obligations already imposed by the laws of the United States, the law of nations, and the existing treaty. But as it is evident to you, and to the whole world, that abuses and infractions of these laws and solemn compacts have been, and continue to be, frequently practised, it is absolutely necessary that suitable measures be adopted, fully and effectually to prevent the repetition of similar abuses and infractions.

By these four proposals the rights and interests of both Powers are reconciled upon principles of manifest justice and reciprocal utility; they settle and terminate all pending differences, in my judgment, satisfactorily to both nations; and I must presume that the President will view them in the same light, and substantially admit them. In case there be any other question of secondary or minor importance to be in like manner included in the general and definitive adjustment, it will be easy, and follow of course, after we have agreed on the most essential articles or points; we will then also determine the true import of the several propositions laid down,

and explain each one of them with the necessary clearness, accuracy, and precision.

If, however, you should find any difficulty or obstacle to the acceptance of the proposals I have now the honor to make to you, and are of opinion that by any other mode we may attain the desired object, without deviating from the fundamental principles and basis of justice and reciprocal convenience, I will, with great pleasure, be ready to adopt it, provided it be compatible with the powers given me by the King, my master. In this view you can propose such changes or modifications as you may see fit, as are calculated to remove all difficulties on both sides, and reconcile the rights, interests, and wishes of both Powers.

In the meantime, I hope that the course pursued by the President (*en la marcha de su conducta*) will correspond with the sentiments and uniform profession of amity and perfect harmony existing between His Majesty and the United States; and I am, therefore, constrained to reclaim and protest, formally, as I now do, against all measures whatsoever injurious to the rights of the Crown of Spain, and to renew, as I hereby do, the protest already made against the occupation of Amelia Island, and against the orders to occupy Galveston, inasmuch as the United States having no right whatever either to the said island or to Galveston, they neither had, nor could have, a just motive or cause to sanction similar acts of violence in the midst of peace.

I await your answer to this note in order that we may accelerate the moment of agreeing on just and fit measures for carrying the definitive settlement of all pending differences into effect.

In the meantime, I renew to you, sir, the assurances of my constant respect.

God preserve you many years.

LUIS DE ONIS.

*The same to the same.*

WASHINGTON, Feb. 10, 1818.

SIR: The multiplicity of business which I believe has, and still does engage your attention, from the necessity of preparing and laying before the Congress the papers and information called for on different subjects, must assuredly have prevented you from replying as yet to my note of the 24th of last month; it is, therefore, unnecessary for me to trouble you, by trespassing on your attention, to urge the importance of your answer, as I feel assured you are as fully aware of it as I am. But the earnest wish I have to accelerate the negotiation that has been opened, and thereby to come to a final settlement of the differences pending between His Catholic Majesty's Government and yours, impels me to take this step. I therefore request you, sir, to be pleased to inform me, as soon as you possibly can, whether the proposals offered in my aforesaid note come up to or approach the wishes of this Republic, and if, with the view of satisfying them, you can devise another just mode cal-



*Relations with Spain.*

culated to reconcile the rights of both nations upon some principle of reciprocal utility and convenience, I hope you will communicate it to me, in full confidence that I shall not hesitate a moment to accede to any modification or expedient founded on a basis of acknowledged justice and mutual utility, because it is to such a basis that all the instructions and powers I have received from my Sovereign refer.

The United States having manifested a wish to obtain the Floridas, His Catholic Majesty has condescended to accede thereto, as a proof of his friendship and high consideration for the United States, and has authorized me to stipulate the cession of those two provinces for an equivalent of territory westward of the Mississippi. Having proved on the part of His Majesty's Government, by the most complete evidence of which moral facts are susceptible, and by a conviction in nowise inferior to that of mathematical truths, that the proper boundaries of Louisiana, eastward of the Mississippi, are defined by the course of that river, and thence by the Iberville and the Lakes Maurepas and Pontchartrain; and that to the westward they never did nor could extend beyond the rivers Carcass and Mermonto, or Mermonto, running between Natchitoches and Adaes, across Red river, and thence northward to a line not yet fixed, and to be settled by commissioners to be appointed by both Governments, it is clear that the proposals offered in my note for the final settlement of the question of boundaries cannot fail to appear advantageous to your Government, and satisfactory to the just wishes of the United States. But if, for their greater satisfaction, you can point out an expedient by which the said proposals may be still further modified, without detracting from the acknowledged principles of common justice and reciprocal convenience, I am ready to attend to and stipulate it immediately, if it come within the sphere of my powers and instructions; and in case it should not, by presenting, perchance, combinations which could not be foreseen by His Catholic Majesty, I will immediately despatch a courier to Madrid, to inform my Government of the demands of yours, and request more ample powers adapted to them.

The question of indemnities can be attended with no difficulty. The Spanish Government has always been willing to give due satisfaction for the losses and injuries sustained by citizens of this Republic, and committed by Spaniards, contrary to the law of nations and the existing treaty; but it cannot relinquish its claim to comprehend, in like manner, in the adjustment of those losses and injuries, such as have been committed by citizens and authorities of this Republic on the Crown and subjects of Spain, in violation of the same right and treaty. Your Government, sensible of the justice of this demand, cannot fail to accede to it; thus by ratifying the convention agreed on in 1802, as I have already proposed to you, the question of indemnities will be easily settled and determined.

The King, my master, being desirous of giving the United States and the whole world incontest-

able proofs of the rectitude and sincerity of his dispositions, and of his love of justice and good faith, is ready to submit all the questions embraced by the pending differences to the arbitration of one or more of the Powers of Europe in whom the United States may have the greatest confidence, they and His Majesty respectively engaging to abide irrevocably by the decision of such arbitration. In cases where justice alone is sought for, this reference must be particularly desirable, and has been frequently resorted to, as well by individuals as by the most respectable nations, on controverted questions.

The British Government, on being informed of the difficulties attending the negotiation pending between Spain and the United States, made an offer of its mediation for the purpose of reconciling them, and the President has not been pleased to accept it, as I have been lately informed by the Minister of England to these States. From this refusal I am to infer that the President is willing, on his part, to remove all the obstacles which oppose the prompt and happy termination of the negotiation pending; and, under this impression, which is due to the uprightness, rectitude, and good faith of the American Government, I flatter myself that it will not be necessary to have recourse to the mediation or arbitration of friendly or neutral Powers to settle and terminate on principles of justice the existing differences between the United States and Spain; and if unfortunately this should not be the case, I also flatter myself that your Government will approve of one of those modes, as being dictated by a sincere love of peace and justice due to such occasions.

I therefore hope, sir, that you will reply as soon as possible to the proposals made in my last note, and communicate to me whatever you may think most conducive to the happy termination of the pending negotiation, and still further to strengthen the bonds of friendship and good understanding between the two nations.

In the mean while, I have the honor to renew to you the assurances of my respect, and I pray God to preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis de Onis, Envoy Extraordinary and Minister Plenipotentiary from Spain.*

MARCH 12, 1818.

SIR: The admission, in your letter of the 24th of January, that all the facts, grounds, and arguments, alleged in your previous notes of 29th of December and of the 5th and 8th of January, in support of the pretensions of your Government upon the several points of difference which have so long subsisted between the United States and Spain, are essentially the same as had already been advanced and discussed at the period of the extraordinary mission to Spain in 1805, while it justifies the reluctance, on the part of the American Government, manifested in my letter of the 16th of January, to the renewal of an exhausted

*Relations with Spain.*

discussion, cannot but excite some surprise, as comporting so little with the professions of the earnest desire of your Government to bring those differences to a speedy and happy termination which have been so strongly and so repeatedly expressed as well in your notes as in the recent communications from Don Francisco Pizarro to the Minister of the United States at Madrid. The observation, that truth is of all times, and that reason and justice are founded upon immutable principles, has never been contested by the United States; but neither truth, reason, nor justice consists in stubbornness of assertion, nor in the multiplied repetition of error. I referred you to the letters from the extraordinary mission of 1805 to Don Pedro Cevallos, for an ample and satisfactory refutation of the supposed facts, grounds, and arguments now reproduced by you. You reply by telling me that "there does not appear to be a single incident to give the smallest support to the pretensions of my Government; that all the vague positions on which it has been attempted to found them have been refuted and dissipated by the Spanish Government, by a demonstration so luminous and convincing as to leave no alternative to reason to resist it." And you, more than once, intimate that the American Government does not itself believe in the validity of the statements and arguments used by its Ministers in support of the claims of the United States, as asserted by them.

To language and sentiments such as these the Government of the United States cannot reply; nor can it, without an effort, continue at all a discussion sullied by such unworthy and groundless imputations.

I am directed by the President to confine the observations upon your late notes to those parts of them which have relation to the essential subjects of controversy between the two nations.

To give a single instance of that course of argument which you represent as equivalent to mathematical demonstration in favor of Spain, it will be sufficient to refer to your assertions in relation to the question of the eastern boundaries of Louisiana, as retroceded to France by the Treaty of St. Ildefonso in 1800, and ceded by France to the United States in 1803. The claim of the United States, under that cession, to the territory east of the Mississippi, as far as the river Perdido, rests, as you well know, upon the words in the two treaties describing the colony or province of Louisiana ceded by them, as having the same extent, not only that it had at the time of the retrocession in the hands of Spain, but also that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States. You know also with what force it was urged by the Ministers of the United States at Aranjuez, in 1805, that those words (referring to the primitive possession of the province by France) could have had no other meaning than that of extending the retrocession to the Perdido, because the province had always had that extent when in the possession of France. And what is your reply to this

argument, which you are pleased to include under the general censure of vague and groundless positions? It is no other than a supposition of a treaty of 1764, by virtue of which, you say, France ceded the western remnant of Louisiana to Spain a year after having ceded the eastern part of it, from the Mississippi to the Perdido, to England. With the aid of this treaty you are enabled, first, to discover an interval of time between the two cessions, and during which France possessed Louisiana, bounded eastward by the Mississippi; and, secondly, to include this treaty between Spain and France among those described in the article of the Treaty of St. Ildefonso, as "the treaties subsequently entered into between Spain and other States."

There is reason to believe that no such treaty of 1764 ever existed. That the cessions of Louisiana, westward of the Mississippi, to Spain, and eastward of that river to the Perdido, to England, were made by France both on the 3d of November, 1762, is certain; and that the acceptance by the King of Spain of the cession made to him took place on the 13th of the same November, 1762; the proof of which is in the very order from the King of France to L'Abbadie, for the delivery of the province to the officers of the King of Spain. The province had never belonged to France a single day, without extending to the Perdido. Nor can it be necessary to remind you that the very treaty of cession, by which France surrendered her possession of Louisiana to Spain, cannot be comprehended in the description of treaties subsequently entered into between Spain and other States.

As this simple reference to a notorious and unquestionable fact annihilates all that course of reasoning upon which your understanding rejects all doubt, so a recurrence to another fact, equally notorious, replies as decisively to your appeal to the treaty of 6th February, 1778, between the United States and France. You say that in the year 1800 France could not have acquired any territory east of the Mississippi, without a monstrous violation of that treaty; forgetting that that treaty, and all its obligations upon France, had, before the year 1800, ceased to exist.

The fact that the cessions of the two parts of Louisiana to Spain and England were made on the same day, may serve no less as a reply to all the verbal criticisms so gravely urged by Mr. Cevallos, and now repeated by you, on the force of the terms *retrocede* and *retrocession*, used in the Treaty of St. Ildefonso. The plain import of the words is neither more or less than giving back, restoring. It does not, and cannot be made to imply that both the parties to the restoration must, of necessity, be the same as both the parties to the grant. They only imply that the object and the party granting, and the party receiving it, as restored, are the same. To use an illustration from the concerns of individual life, suppose A, by two separate deeds, grants half an acre of land to B, and the other half to C. B, by subsequent purchase, obtains the half acre granted to C, and then regrants the whole acre back to A. By whatever



## Relations with Spain.

denomination the two half acres may have been called, in the interval between the first grant and the restoration, B might, with the most perfect propriety, be said to retrocede the whole; and if in the act of restoration the acre should be called by the same name, and expressly described as having the same extent as when it had been first owned by A, with what shadow of justice could B pretend that his regrant was only of the half acre he had first received from A, because the other half acre had, in the interval, been called by another name, and for some time owned by another person? That the term retrocession is in common use in this sense, take the following passage from the English translation of Alcedo's Dictionary:

"By a treaty in 1783, Great Britain retroceded to Spain all the territory which both Spain and France had ceded to Great Britain in 1763."

There would then be nothing in the terms *retrocede* and *retrocession* which could limit the territories restored by Spain to the boundaries under which she had first received part of them from France, even if the original cessions of the two parts had been made at different times, and even if those words, "with the same extent it had when in the hands of France," had not been inserted in the Treaty of St. Ildefonso. But when it is considered that the cessions by France of the two parts of Louisiana were made to Spain and to England on the same day; when we know that the cession of the part ceded to England had been made for the benefit of Spain, as it was an equivalent for the restoration by England of the island of Cuba to Spain; and when we seek for any possible meaning to the words referring to the extent of Louisiana when before owned by France, to our minds, sir, the conclusion is irresistible that the terms *retrocede* and *retrocession* can have, in this case, no other meaning than that for which we contend, and that they include the giving back to France the whole of Louisiana which had ever belonged to France, and which it was, at the time of the signature of the Treaty of St. Ildefonso, in the power of Spain to restore.

By the words in the third article of the Treaty of St. Ildefonso, adopted in the treaty of cession of 1803 to the United States, Spain retrocedes to France the colony or province of Louisiana, with the same extent that it "now has in the hands of Spain, and that it had when France possessed it, and such as it ought to be after the treaties subsequently entered into between Spain and other States." At the negotiation of Aranjuez, in 1805, your alleged treaty of 1764 never occurred to the imagination of Mr. Cevallos as one of these subsequent treaties; for, after citing this clause of the article, he says, in his letter to Messrs. Pinckney and Monroe, of the 24th February, 1805: "the treaties here alluded to are not, nor can be, others than those of 1783, between Spain and England, and 1795, between Spain and the United States." The American Ministers, in their answer of the 8th March, 1805, explicitly agree in opinion with Mr. Cevallos on this point;

and your intimation of a treaty of 1764, to which you suppose the clause also to apply, is as incompatible with the pretensions of your own Government in 1805, as with those of the United States at this day.

To account for the peculiar phraseology used in this description, inserted in the third article of the Treaty of St. Ildefonso, we must advert to the peculiar situation of the territory to be conveyed, and to what must have been the intention of the parties. It was a colony or province to be restored; and therefore the object of France could have been no other than to obtain the restoration of the whole original colony, so far as it was in the power of Spain to restore it. But there was a part of the original colony which had been ceded by France to England, which had in process of time become a part of the United States, and which, not being in the hands of Spain, she could not restore: there was another part which had been ceded by France directly to Spain, which still remained in her hands, but subject to certain conditions stipulated by Spain in a treaty with the United States; and there was a third part, which France had ceded to England in 1762, but which had afterwards fallen into the hands of Spain, and which she was equally competent to restore, as if it had been ceded by France to herself. As the boundaries of this colony or province never had been precisely defined, and had been, from its first settlement, a subject of dispute between France and Spain, the parties had no means of recurring to any former definition of boundaries to carry their intention into effect; as they had no geographical lines or landmarks to which they now recur, they assumed their definition from circumstances incidental to the present and past time. If the intention had been to cede back the province only with the extent it actually had in the hands of Spain, the parties would have said so, and omitted the other clause, which, in that case, would have been not merely superfluous, but tending to perplex that which would have been clear without it. If it had been intended that Spain should restore to France only what she had received from France, nothing could have been more clear and easy than to have said so; but then, the reference to the extent of the colony when France possessed it would have been not merely absurd, but contradictory to that intention. The very use of both the terms *province* and *colony* shows that the parties were looking to the original state, as well as to the actual condition of the territory to be restored. Louisiana, the actual Spanish province, was one thing, and Louisiana, the original French colony, was another; the adoption of both the words is of itself a strong presumption that the intention was to restore not only the actual province, but so much of any other province as was then in the hands of Spain, and had formed part of the original French colony.

Assume the intention of the parties to have been that for which we contend, and under the existing circumstances they could scarcely have

## Relations with Spain.

expressed it by any other words than those which are found in the article—assume that they had any other intention, and you can find no rational meaning for their words. The province was to be restored, with the extent it actually had in the hands of Spain; the colony was to be restored, with the extent it had when formerly possessed by France. Spain could not restore the parts of the original colony which were not in her actual possession, and which already formed parts of the Western States and Territories of this Union; but she could restore that part of the colony of which she had become possessed by a treaty of 1783 with Great Britain. Mr. Cevallos urged, with some earnestness, that the first clause having marked the extent of the colony or province, such "as it then had in the hands of Spain," it would be inconsistent and absurd to suppose that the words "and that it had when France possessed it" could be intended to mark a greater extent, because it would be saying, in one breath, that the cession was of the same extent, and of more than the same extent, that it had in the possession of Spain. But there is no absurdity or inconsistency in modifying, by one clause of a definition, an extent described in another clause of the same definition; no more than, in the description of a surface, the line in breadth is inconsistent with the line in length. According to this argument of Mr. Cevallos, the words "and that it had when France possessed it" had no meaning at all; they merely repeated what had been fully and completely expressed by the preceding clause; but if they had no meaning, what possible motive could the parties have for inserting them, when it must have been perfectly familiar to the memory of both that the extent of the province or colony, when in the hands of France, had included West Florida to the Perdido, which territory was also then in the actual possession of Spain? If it were possible to suppose that the Ministers of France and Spain, in the very article defining the extent of the country to be conveyed, could have been so careless as to admit an idle waste of words, the very composition of this article carries internal evidence with it that no such improvidence is imputable to those by whom it was drawn up. The reference to the extent of the colony in the primitive possession of France could not be to a time when the property of it had been no longer hers. It could not be to say over again what had been said in the immediately preceding clause. Every word of the description carries with it evidence of deep deliberation and significance. The first clause marks the intention of the parties, by the incident of actual possession by Spain, all of which was to be restored; the second clause modifies by enlarging the extent, from the incident of original possession by France; and the third clause modifies, by restricting the grant to the conditions which Spain had stipulated concerning the territory of other States. Altogether, the clear and explicit meaning of the whole article is, that Spain should restore to France as much of old French Louisiana as she had to re-

store, but under such restrictions as the engagements contracted by Spain with other Powers required of her good faith to secure.

Let us pass to the consideration of the western boundaries of Louisiana.

With the note of Messrs. Monroe and Pinckney, to Don Pedro Cevallos, of the 28th January, 1805, a memoir upon these boundaries was presented to that Minister, proving that they extended eastward to the Perdido, and westward to the Rio Bravo, or Grande del Norte. They observed in that note that "the facts and principles which justify this conclusion are so satisfactory to their Government as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory thus described."

In their note of the 20th of April, 1805, to the same Minister, replying to his argument in support of the pretensions of your Government with regard to those limits, they lay down and establish by a chain of reasoning which neither Mr. Cevallos at the time nor your Government at any period since has ever attempted to break, three principles, sanctioned alike by immutable justice and the general practice of the European nations which have formed settlements and held possessions in this hemisphere; and by the application of which to the facts also stated in their note this question of the western boundary ought then to have been and eventually must be settled. These principles were—

First. "That, when any European nation takes possession of any extent of seacoast, that possession is understood as extending to the interior country, to the sources of the rivers emptying within that coast, to all their branches and the country they cover, and to give it a right in exclusion of all other nations to the same."

Secondly. "That, whenever one European nation makes a discovery, and takes possession of any portion of this continent, and another afterwards does the same at some distance from it, where the boundary between them is not determined by the principle above mentioned, the middle distance becomes such of course."

Thirdly. "That, whenever any European nation has thus acquired a right to any portion of territory on this continent, that right can never be diminished or affected by any other Power, by virtue of purchases made, by grants or conquests of the natives within the limits thereof."

The facts stated in this last-mentioned note, and to which these principles were applied in support of the claim of the United States, under the cession of Louisiana by France to them, were—

1. That the Mississippi, in its whole length to the ocean, was discovered by French subjects from Canada, in 1683.

2. That La Salle, a Frenchman, with a commission and authority from Louis XIV., discovered the bay of St. Bernard, and formed a settlement there on the western side of the river Colorado, in the year 1685, and that the possession thus taken in the bay of St. Bernard, in



## Relations with Spain.

connexion with that on the Mississippi, had always been understood, as of right it ought, to extend to the Rio Bravo.

3. That the boundary, thus founded upon possession, was described as forming the limits of Louisiana, in the grant by Louis XIV. to Crozat, in 1712.

4. That it was supported by the testimony of the historical writers, Du Pratz and Champigny; by an historical and political memoir on Louisiana, written by the Count de Vergennes, the Minister of Louis XVI.; by a chart of Louisiana, published in 1762, by Don Thomas Lopez, geographer to the King of Spain; and by a map of De Lisle, of the Academy of Sciences at Paris, revised and republished there in 1782.

To these principles, thus clear, equitable, and explicit; to these facts, thus precise, authentic, and unsophisticated, what was opposed by Don Pedro Cevallos at that time, and what is now alleged by you?

Mr. Cevallos began by admitting that the western limits of Louisiana had never been exactly fixed; and alleged that, in the year 1690, five or six years after the possession taken, and the settlement formed by La Salle, Captain Alonzo de Leon, under a commission from the Viceroy of Mexico, examined the Bay of Espiritu Santo, (St. Bernard,) took possession of the territory, and founded the mission of St. Francisco de Texas. Mr. Cevallos asserted that it would be very easy to make it appear that France never had claimed this extent for Louisiana, but he did not make it appear. He also said that, if France had claimed it, Spain had never recognised, and was not bound to acknowledge the claim.

Mr. Cevallos said that the limits between Louisiana and the Texas had always been known, even when the French possessed Louisiana, but he had just before acknowledged that they had never been fixed. He spoke of missions founded near the beginning of the last century by the venerable Margel, of the order of St. Francisco; he alluded to plans, and documents, and historical relations which were not to be found in his department, but many of which, he added, were in the department of the interior, besides those which were in the Viceroyalty of Mexico. But he never pretended a possession, by Spain, of the territories in question, of an earlier date than 1690.

And what are these plans, and documents, and historical relations, which, after the lapse of thirteen years, you have drawn forth from all the archives of Spain, and all the historical disquisitions upon the discovery and conquest of the new world? Is it to that catalogue, biographical, and geographical, of Spanish adventurers, and of the numberless regions explored by them in the 16th century, which swells your note of the 5th of January, that we are to look for the limits of Louisiana and Texas? Or is it to that "royal order issued by Philip II., enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico," by virtue of which the Viceroy fitted out the expedition to scour the country and

hunt out the French of La Salle's settlement? Is it to that royal order that you appeal for proof of the prior title of Spain? It is even so. But as the voyages of Ponce de Leon in 1511, of Francisco de Garay in 1518, and of Hernando de Soto in 1538, have no more bearing upon this question than the voyages of Christopher Columbus and Sebastian Cabot, so you must be sensible that the royal exterminating order of Philip II., if it proved anything, would prove fatal to the whole province or colony of Louisiana. If that order could have been carried into execution, no such colony as that of Louisiana could ever have been established by France. That order, and any proceeding of the Viceroy of Mexico under it, can no more affect the right of the United States to the limits marked by the settlement of La Salle, than it can impair their title to the island of New Orleans. Far more honorable would it be, sir, to the character of your nation and the credit of your Government, to bury in the profoundest oblivion the memory of that atrocious order, than at this day to produce it for the purpose of bolstering up a title for which you have in vain ransacked the records of the Spanish monarchy to discover a better support.

To the efficacy, however, of this royal order, your whole argument, in behalf of the pretensions of your Government, perpetually recurs; for, although in some passages of your note you appear disposed to allow to the colony of Louisiana at least the eastern banks of the Mississippi, yet you are as frequently shrinking even from this concession, and representing the whole colony as an encroachment upon the dominion of Spain; at one time representing it as a profound stratagem of Louis XIV., seizing with rapacious avidity the unsuspecting moment of confidence of his grandson Philip V., while placing him upon the Throne of Spain; and, at another, holding it up as the act of a disordered imagination of the same Louis XIV., manifested in the grant of 1712 to Crozat. This grant you pronounce to be absurd and completely despicable; but for what reason it is not easy to conjecture. It certainly does not favor the pretensions of your Government, and it has none of the exterminating features of the royal order of Philip II.; but we consider it, as it has always been considered by the world, as a document not only indicative of sound judgment and discretion, but as marking the limits of Louisiana, as always claimed by France, and transferred, as relates to the western limits, with her title to that province, to the United States.

It is remarkable that, in imitation of Mr. Cevallos, you also, after repeatedly insisting that the boundaries of Louisiana were well known, and always acknowledged by France, finally conclude by admitting that they never were fixed or agreed upon. You repeat, time after time, that the French never disputed the right of Spain to all the territory westward of the Mississippi, while you cannot deny the settlement of La Salle at the bay of St. Bernard, in 1684; nor that the French settlements of Natchez and Natchitoches

## Relations with Spain.

were made and maintained in spite of all the military expeditions, rigorous executions, and exterminating orders which the Viceroy of Mexico could send against them.

We may admit that, so long as the Spanish Viceroy could exterminate every foreigner who dared to penetrate into the Gulf of Mexico, they had the royal order of Philip II. for so doing. The bull of Pope Alexander VI. is a document of still earlier date, and at least of less disgusting import, upon which Spain once rested her claims to yet more extensive dominion in this western world. With equal show of reason, and with less outrage upon the rights of humanity, might you have alleged that bull as the incontrovertible proof of the Spanish claims, as to bring forth at this day, for its only substitute, that royal order of Philip II.

You know, sir, and your own notes furnish, themselves, the most decisive proofs that France, while she held the colony of Louisiana, never did acknowledge the Mississippi as the western boundary of that province. The claim of France always did extend westward to the Rio Bravo; and the only boundaries ever acknowledged by her, before the cession to Spain of November 3, 1762, were those marked out in the grant from Louis XIV. to Crozat. She always claimed the territory which you call Texas as being within the limits and forming part of Louisiana, which in that grant, is declared to be bounded westward by New Mexico, eastward by Carolina, and extending inward to the Illinois and to the sources of the Mississippi and of its principal branches.

Mr. Cevallos says that these claims of France were never admitted nor recognised by Spain. Be it so. Neither were the claims of Spain ever acknowledged or admitted by France; the boundary was disputed and never settled; it still remains to be settled; and here is a simple statement of the grounds alleged by each of the parties in support of their claims:

## On the part of the United States.

1. The discovery of the Mississippi, from near its source to the ocean, by the French from Canada, in 1683.
2. The possession taken, and establishment made, by La Salle, at the bay of St. Bernard, west of the rivers Trinity and Colorado, by authority from Louis XIV., in 1685.
3. The charter of Louis XIV. to Crozat, in 1712.
4. The historical authority of Du Pratz and of the Count de Vergennes.
5. The geographical authority of De Lisle's map, and especially that of the map of Don Thomas Lopez, Geographer to the King of Spain, published in 1762.

These documents were all referred to in the letter from Messrs. Pinckney and Monroe to Mr. Cevallos, of 20th of April, 1805. Since which time, and in further confirmation of the same claims, the Government of the United States are enabled to refer you to the following:

6. A map published by Homann, at Nuremberg, in 1712.

7. A geographical work, published in 1717 at London, entitled "Atlas Geographicus, or a Complete System of Geography, Ancient and Modern," in which the map of Louisiana marks its extent from the Rio Bravo to the Perdido. In both these maps the fort built by La Salle is laid down on the spot now called Matagorda.

8. An official British map, published in 1755, by Bowen, intended to point out the boundaries of the British, Spanish, and French colonies in North America.

9. The narratives published at Paris, of Hennepin, in 1683; of Tonti, in 1697; and of Joutel, in 1713.

10. The letter from Colonel La Harpe to Don Martin D'Alarconne, of 8th July, 1719. (A. No. 1. B. No. 2.)

11. The order from the French Governor of Louisiana, Bienville, to La Harpe, of August 10, 1721. (C. No. 3.)

12. The geographical work of Don Antonio de Alcedo, a Spanish geographer of the highest eminence. This work and the map of Lopez, having been published after the cession of Louisiana to Spain, in 1762, afford decisive evidence of what Spain herself considered as the western boundary of Louisiana, when she had no interest in contesting it against another State. (D. No. 4.)

## On the part of Spain.

1. The voyages of Ponce de Leon, Vasquez de Ayllon, Panfilo de Narvaez, Hernando de Soto, Luis Moscoso, and other Spanish travellers in the sixteenth century, who never made any settlement upon any of the territories in question, but who travelled, as you observed, into countries too tedious to enumerate.

2. The establishment of the new kingdoms of Leon and Santander in 1595, and the Province of Coahuila in 1600.

3. The Province of Texas, founded in 1690. Here, you will please to observe, begins the conflict with the claims of France to the western boundary of Louisiana, transferred by the cession of the province to the United States. The presidios, or settlements of Las Texas, were, by your own statement, adverse settlements to that of La Salle, who, six years before, had taken formal possession of the country in the name of and by authority of a charter from Louis XIV. They were preceded by an expedition from Mexico the year before, (that is, 1689,) to hunt out the French remaining of the settlement of La Salle. Now, what right had the Viceroy of Mexico to hunt out the French who had formed a settlement under the sanction of their Sovereign's authority? You will tell me that, from the time when Santa Fe, the capital of New Mexico, was built, Spain considered all the territory east and north of that province, as far as the Mississippi and the Missouri, as her property; that the whole circumference of the Gulf of Mexico was hers; and that Philip II. had issued a royal order to exterminate every foreigner who should dare to penetrate to it; so that the whole question of right between the United States and Spain, with re-



gard to this boundary, centres in this: the naked pretension of Spain to the whole circumference of the Gulf of Mexico, with the exterminating order of Philip II. on one side, and the actual occupancy of France, by a solemn charter from Louis XIV. on the other. Well might Messrs. Pinckney and Monroe write to Mr. Cevallos, in 1805, that the claim of the United States to the boundary of the Rio Bravo was as clear as their right to the island of New Orleans.

In the letter of Messrs. Pinckney and Monroe to Mr. Cevallos of the twentieth of April, 1805, referring to the historical documents relative to the discovery and naming of Louisiana, they state that the Mississippi was discovered, with "its waters and dependent country as low down the river as the Arkansas, by the Sieurs Joliet and Marquette, from Canada, as early as the year 1673, and to its mouth by the Father Hennepin, in 1680; and by De la Salle and Tonti, who descended the river with sixty men to the ocean, and called the country Louisiana, in 1682; and, in respect to the bay of St. Bernard, in 1685;" that this was done at these periods, in the name and under the authority of France, by acts which proclaimed her sovereignty over the whole country to other Powers, in a manner the most public and solemn, such as making settlements and building forts within it."

To this, Mr. Cevallos made no reply in 1805. But you, after giving an account of the murder by Spaniards of René de Laudonnière, observe, that "the story related of a Recollet friar, called Father Hennepin, is still more ridiculous, who is said to have been made a prisoner by the Indians at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the river St. Louis, or Mississippi, of which he took possession in the name of Louis XIV., and gave it the name of Louisiana, (doubtless in his secret thoughts, and by a mere mental act.)" You add that these accounts, and others of the like nature, are "contemptible in themselves, even although the facts they relate were authentic; since nothing can be inferred from them that can favor the idea started by those who speak of those transient adventures and incursions."

I have, in my possession, sir, (and it shall, when you please, be subject to your inspection,) a volume, published at Paris in the year 1683, the title of which is, "Description de la Louisiane, nouvellement découverte, au Sudouest de la Nouvelle France, par ordre du Roy, dédiée à Sa Majesté; par le R. P. Louis Hennepin, Missionnaire Recollet et Notaire Apostolique." (Description of Louisiana, recently discovered, to the southwest of New France, by order of the King; dedicated to His Majesty by the Rev. Father Louis Hennepin, a Recollet missionary and apostolic notary.) In the preface to the King, the author says: "Sire, I should never have dared to take the liberty of offering to your Majesty the narrative of a new discovery, which the Sieur de la Salle, governor of Fort Frontenac,

my companions, and myself, have just made to the southwest of New France, if it had not been undertaken by your orders." "We have given the name of Louisiana to this great discovery, being persuaded that your Majesty would not disapprove that a part of the earth, watered by a river of more than eight hundred leagues, and much greater than Europe, which may be called the delight of America, and which is capable of forming a great empire, should henceforth be known by the august name of Louis, that it may thereby have a sort of right to your protection, and hope for the advantage of belonging to you."

Now, sir, permit me to request you to compare this authentic statement with that perversion of all historical evidence by which you have styled and have attempted to make the story of Father Hennepin's discovery of Louisiana ridiculous. Here is a book published at Paris, dedicated to Louis XIV., at the most glorious period of his reign, declaring to the world the discovery of Louisiana; declaring that it was made by his orders, and called by his name, for the express purpose of entitling it to become his property. Is this contemptible? Is this a secret thought, or a mere mental act? Is this a transient adventure or incursion? And, after calling this information too vague and uncertain upon which to found a title, can you talk of the rights of possession derived to Spain from the travels of Ponce de Leon, Francisco de Garay, and Vasquez de Ayllon?

Your view of the expeditions and adventures of La Salle is equally remote from the real and well-authenticated facts. "Let us see," you say, "what importance can be attached to what is said of Bernard [Robert] de la Salle, who, in 1679, descended from Canada to the Mississippi, and there built Fort Crèvecoeur, according to M. Du Pratz, or Fort Prud'homme, according to others. What is certain amounts to this: that he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might do, crossing the territories of another nation, that he returned to Quebec, without any further result than that of an imperfect exploration of the country; and that he embarked at Quebec for France, from whence he returned in 1684, with an expedition composed of four vessels, commanded by Captain Beaujeau, to explore the mouth of the Mississippi," &c. In this passage you represent—

1. The facts attending the expedition of La Salle as uncertain.
2. That he only made a rapid incursion, as a private adventurer, and, so far as related to his exploring expedition, with an imperfect result.
3. That he only went from Canada to the Mississippi, and thence returned to Quebec, whence he embarked for France.
4. That he only crossed the territories of another nation, (meaning Spain.)

I examine this part of your note with a minuteness which will be tedious to you, because it is precisely upon the character of La Salle's ex-

peditions that the grant of Louisiana to Crozat by Louis XIV. is, in express terms, founded; because you have represented these expeditions in the colors thus marked with the avowed purpose of weakening the original title of Louisiana; and because you know that the characters, diametrically opposite, which I shall now prove to have belonged to them, must lead to the result of an incontestable title in France, and, consequently, at this time, in the United States. I answer the above insinuations in the order in which they have been stated.

There are three narratives of the expeditions of La Salle, all published at Paris, by persons who accompanied him in them.

The first in 1683, by Father Louis Hennepin; the same volume from which I have already presented you an extract.

The second by the Chevalier Tonti, Governor of Fort St. Louis, at the Illinois, published in 1697.

The third by Joutel, who was with him in his last expedition, and almost by his side when he fell by the hands of an assassin.

Of all the heroic enterprises which, in the sixteenth and seventeenth centuries, signalized the discoveries of Europeans upon this continent, there is not one of which the evidence is more certain, authentic, and particular, than those of La Salle.

La Salle, after having resided many years in Canada, as Governor of Fort Frontenac, formed the project of exploring the country from thence to the Gulf of Mexico, and of taking possession of it in the name of his Sovereign. He went to France for the purpose of obtaining the sanction to his enterprise. "His Majesty," (says Tonti,) not content with merely approving his design, caused orders to be given to him, granting him permission to go and put it in execution; and, to assist him to carry so vast a project into effect, shortly after the necessary succors were furnished him, with entire liberty to dispose of all the countries which he might discover."

He sailed from La Rochelle the 14th of July, 1678, and arrived at Quebec the 15th of September. On the 18th of November of the same year he left Fort Frontenac, to proceed upon his expedition, with thirty men, Tonti and Father Hennepin being of the company. After spending more than a year in traversing the four lakes, now known by the names of Ontario, Erie, Huron, and Michigan, and erecting forts at suitable places, where he landed, from them he embarked upon the Illinois river, and, having descended it for some distance, was obliged to stop, from the disappointment of losing a boat from which he expected supplies. Here, upon the Illinois river, he built Fort Crèvecoeur, divided his company into two separate parties—one for ascending the Mississippi to its source, and the other for proceeding down that river. Father Hennepin was of the former of these parties, and in their progress upwards, which they accomplished higher than the falls of St. Anthony, was taken prisoner by the Indians,

and, after some time, was released by them, found his way back to Quebec, and thence returned to France, and published the book of which I have spoken. In this book, published in 1683, at Paris, and marked as having been finished printing the 5th of January of that year, three months before La Salle had reached the mouth of the Mississippi, there is a map of the river as far down as Hennepin descended it, after he parted from La Salle, and upwards to the falls of St. Anthony, and the river St. Francis above them; at some distance above which, within a few leagues of its source, is the oak tree upon which the arms of France were carved by the detachment from La Salle's expedition, authenticating, with the most minute precision, the discovery of the Mississippi, to within a small distance of its source, as well as its course to the Gulf of Mexico. On the same map are also marked the fort at the Miamies, and that of Crèvecoeur, on the Illinois river, constructed by La Salle's orders.

In the meanwhile La Salle was obliged to leave the other part of his company, under the command of Tonti, and go back to Fort Frontenac for the supplies and reinforcements which had failed him by the loss of his boat. He returned and joined them again in November, 1682, proceeded down to the Mississippi, and to the mouth of the Wabash, where they built the Fort Prud'homme, (which you have confounded with that of Crèvecoeur,) after which they continued descending and successively meeting the Cappa, Arkansas, Tensas, Abenake, Tacucas, and Natchez Indians, and, on the 7th of April, 1683, reached the mouth of the Mississippi, where, after the religious solemnity of a Te Deum, they took formal possession of the country, erected a cross, fastened the arms of France upon a tree, and built several huts, which they surrounded with suitable intrenchments. La Salle, having thus accomplished the object of his expedition, returned by the same way, ascending the river to his fort of Prud'homme, which he reached on the 12th of May, and where he was some time detained by sickness. "On his arrival at Quebec, (again says Tonti,) he informed the whole city of his great discoveries, and of the voluntary submission of so many different Indian nations to the power of the King. A Te Deum was celebrated as a thanksgiving for this happy accession to the glory of the Crown. The eagerness of M. de la Salle to go and make known to the King and his Ministers the success of his travels obliged him to hasten his departure. He left Canada in the beginning of October, 1683." On his return to France, he was received with many marks of distinction by the King and his Ministers, and a new expedition was fitted out of four vessels and nearly three hundred persons, for the purpose of forming a colony at the mouth of the Mississippi. One of these ships was a frigate of the King, of forty guns, commanded by M. de Beaujeau, in which La Salle himself, his brother Cavelier, and the principal persons belonging to the expedition embarked; another was a smaller armed vessel, which the King had given to La Salle; the third, a flute of



three hundred tons, laden with all the articles necessary for the settlement of the country; and the fourth a small sloop of thirty tons, freighted for St. Domingo, where the expedition stopped on its way, but before their arrival at which this last vessel was taken by Spanish cruisers. This expedition sailed from La Rochelle on the 24th of July, 1684.

They failed in finding the mouth of the Mississippi, their destination—an accident similar to that which had happened to the first settlers of New England; and, after many disasters, landed and built a fort in February, 1685, at the head of the bay of St. Bernard, or, as they call it, of St. Louis, and westward of the river Colorado. Beaujeu returned with the frigate to France; the two other vessels were lost in the bay; and La Salle, after several unsuccessful attempts to find the Mississippi, on the 12th of January, 1687, left at his fort twenty persons, including seven women, under the command of Le Barbier, and took his departure with sixteen others, to go by land to the Illinois, and thence through Canada to France, to seek further reinforcement and supplies. On this journey he was basely assassinated on the 19th of March, 1687, by two of his own men, and left a name among the illustrious discoverers of the new world second only to that of Columbus, with whose history and adventures his own bear in many particulars a striking resemblance. His brother Cavelier, however, with Joutel, Father Anastase, and several others of the party with whom he had commenced the journey, successfully accomplished it, arrived at the French fort at the Illinois, where they found Tonti still in command, after having again been down to the mouth of the Mississippi, conformably to his orders from La Salle, to meet the expedition from Europe, and, after waiting some time there, returning to his post. From the fort at the Illinois, Cavelier, Joutel, and Father Anastase proceeded to Quebec, and thence returned to France, where they arrived in October, 1688, and where Joutel published the narrative of the expedition to which I have referred.

From this work of Joutel it likewise appears that the fort and colony left by La Salle at the westward of the Colorado was destroyed, not as you state by the Indians, but by the Spaniards from Mexico, who, until that time, had never had any settlement of any kind nearer than Panuco, and who, by your own account, had no other right or authority for this act than the royal order of Philip II. to exterminate all foreigners penetrating into the Gulf of Mexico.

The settlements of La Salle, therefore, at the head of the bay of St. Bernard, westward of the river which he called Rivière aux Bœufs, but which you call Colorado of Texas, was not, as you have represented it, the unauthorized incursion of a private adventurer into the territories of Spain, but an establishment having every character that could sanction the formation of any European colony upon this continent; and the Viceroy of Mexico had no more right to destroy it by a military force than the present

Viceroy would have to send an army and destroy the city of New Orleans. It was a part of Louisiana, discovered by La Salle, under formal and express authority from the King of France; and the royal exterminating order of Philip II. was but one of the multitude of sanguinary acts which signalized the reign and name of that monarch, while the name of La Salle is entitled to stand high in the glorious roll of the benefactors of mankind. After this statement, founded upon the most authentic documents, the foundation of the presidio of Texas, in 1693, was, by your own showing, an unlawful encroachment upon the territories of France, which, by the first of the three principles laid down by Messrs. Pinckney and Monroe at Aranjuez, and above referred to, extended on the coast of the Gulf of Mexico, half-way to the nearest Spanish settlement of Panuco, namely, to the Rio Bravo.

Your "thorough investigation" of the history of the original French settlements at the Illinois and the Arkansas is as unfortunate and as wide from the facts as all the rest of your dissertation upon the history of Louisiana. The following translated extracts from the work entitled "*Dernières Découvertes dans l'Amérique Septentrionale de M. de la Salle, mises au jour par M. le Chevalier de Tonti, gouverneur du Fort St. Louis, aux Illinois.*" (Last discoveries in North America of Mr. de la Salle, published by the Chevalier Tonti, governor of Fort St. Louis at the Illinois: Paris, 1697.) will furnish you more correct ideas upon the subject.

When La Salle left his fort, Crève-cœur, on the 8th of November, 1680, to go back to Canada for supplies, "on the third day (says Tonti) he arrived at the great village of the Illinois, where, after having observed the situation of the country, in the midst of several nations of the Miamies, Kickapoos, Ainoos, Mescontaws, and several others, watered by a beautiful river, he thought he ought to build a fort upon a height commanding the whole country, as well to make himself master of all these different tribes as to serve as a retreat and a rampart for our French people." (p. 94.) M. de la Salle, after learning that his boat was "lost, was not in the least discomposed, but wrote to me immediately, sent me with his letter the plan of the fort that he had designed; and ordered me to come and set to work upon it without delay. Tonti accordingly went, and began the building of the fort, which, from various untoward events, he was soon obliged to abandon. La Salle afterwards, before rejoining Tonti to proceed down the river, went to the new fort, and left several workmen to continue, and some soldiers to guard it. But it was upon his return from the mouth of the Mississippi, on leaving Michilimackinac, to go to France, that he gave orders to Tonti to finish the fort.

"He charged me with the duty to go and finish Fort St. Louis, of which he gave me the government, with a full power to dispose of the lands in the neighborhood, and left all his people under my command, with the exception of six French-

men, whom he took with him to accompany him to Quebec. We departed on the same day—he for Canada, and I for the Illinois."

Tonti accordingly finished the fort, round which a regular and rapid settlement was formed; and a new Governor in Canada having displaced him in the command of the fort, he was restored to it through the influence of La Salle, by a regular commission from the King, Louis XIV.

So much for the settlement at the Illinois. You have seen that when La Salle, in 1683, returned to France, to fit out the new expedition for the mouth of the Mississippi, he ordered Tonti, at the proper time, to go down from Fort St. Louis and meet him there. In the autumn of 1684 Tonti was informed by the Governor of Canada that La Salle had sailed from La Rochelle with four ships for the Gulf of Mexico. He therefore took with him forty men from Fort St. Louis, and went down the river to the gulf, where he waited until Easter Monday, 1685, for La Salle's arrival. He was obliged to go back disappointed, and, on his way upwards, when he came to the Arkansas, he says: "My French companions, delighted with the beauty of the climate, asked my permission to settle there. As our intention was only to humanize and civilize the savages, by associating with them, I readily gave my consent. I formed the plan of a house for myself at the Arkansas. I left ten Frenchmen of my company there, with four Indians, to proceed with the building, and I gave them leave to lodge there themselves, and to cultivate as much of the land as they could clear. This little colony has since then so much increased and multiplied that it has become a resting place for the Frenchmen who travel in that country."

I trust, sir, we shall hear no more of the independent and unconnected Indian colonies of the Illinois and the Arkansas, nor of the pretended settlement of the French there.

You consider the charter of Louis XIV. to Crozat as a solitary document, warranted by nothing that had preceded, and supported by nothing that followed it; and you appear to believe that the first expedition to Louisiana was that of 1699 and 1700. I have shown you, sir, that that expedition was fitted out, as it is represented in the grant to Crozat, merely to carry into execution the project originally formed by La Salle. The Mississippi, from near its source to the ocean, had been discovered by him in an expedition meditated by him for many years before, for which he obtained the authority from Louis XIV., through the influence and patronage of Colbert. The expedition of Joliet, in 1673, Hennepin says, was only an envious rival attempt to forestall the great design which was even then known to be intended by La Salle, and for which he had already been making laborious and expensive preparations. Joliet reached the Mississippi, and returned without making any other discovery or any settlement; but La Salle's undertaking has every characteristic of sublime genius, magnanimous enterprise, and heroic execution. To him, and to him alone, the people

of this continent are indebted for the discovery from its source to the ocean, of the Mississippi, the father of the floods; and of the numberless millions of freemen destined in this and future ages to sail on his bosom, and dwell along his banks, and those of his tributary streams, there is not one but will be deeply indebted for a large portion of the comforts and enjoyments of life to the genius and energy of La Salle.

It was in the order of Providence that he should not live to accomplish the whole of his undertaking, but that he should so nearly accomplish it as to place it beyond the power of events that it should perish with him. His project was revived immediately after the peace of Ryswick, and settlements were effected by D'Iberville and his brother, near the mouth of the Mississippi, upon the Gulf of Mexico. They languished, as they naturally must, during the war of the Spanish succession. The grant to Crozat, after a very few years, was transferred to the Mississippi Company, and soon after the peace of Utrecht the city of New Orleans was founded.

There is no doubt that, if the Viceroy of Mexico could have exterminated D'Iberville and his expedition, no French settlement on the gulf would have been made. The Spanish establishment at Pensacola had been made only one month before he arrived there, and, solely for the purpose of preventing him, the Spaniards protested even against his entering the Mississippi. So it was afterwards; when the French settlement was made at Natchitoches, immediately afterwards was founded the post at Adaes.—Wherever a Frenchman took a seat, there appeared a Spaniard from Mexico to dispute his right to it; but the original usurpation, which vitiated all those that followed, was the foundation of the presidio of Texas, after extirpating the settlement of La Salle at the Bay of St. Bernard. And so far was France from renouncing or abdicating any part of the right asserted in the charter to Crozat, that, under the Mississippi Company, M. de Bourmon was appointed, with a salary, as commandant on the Missouri, and Bernard la Harpe commandant for the Bay of St. Bernard. In August, 1721, he went there, and left a new impression of the arms of France, as a continued assertion of the title. A vessel, commanded by Berenger, had been sent there, and had left a sergeant and three men the year before. The correspondence between De la Harpe and D'Alarconne shows the respective claims both of France and Spain at that time; nor do they appear to have been, nor have you exhibited any document to show that they had been, in any manner varied, until the cession of the province to Spain, in November, 1762.

You affirm that, from the year 1693, the province of Texas has continued in perfect tranquillity under the Spanish Government, and no further attempts were made by the French to penetrate into any part of it." The letter of M. de la Harpe to Don Martin D'Alarconne, of 8th July, 1719, is sufficient to refute this assertion.

You assert that the French settlements of Nat-



chez and Natchitoches were made only through the sufferance or permission of the Spanish Governors, for the sole purpose of trading with the Indians. We say that you have not a particle of evidence to support this assertion, and that the whole tenor of the historical evidence is to the contrary—that the post of Natchitoches, particularly, was established with the deliberate purpose of preventing a Spanish establishment there, and that the mission of St. Michael at the Adaes was founded after it, and in opposition to it. You admit, yourself, that although positive orders were issued by the Spanish Governors to drive the French from the whole district, and to destroy both the posts of Natchez and Natchitoches, yet the officer charged with the execution of the orders, after advancing with a sufficient force for that purpose, acceded to the proposals of the French at Natchitoches, that Arroyo Hondo, midway between Natchitoches and Adaes, should be considered as the dividing line until the determination of the two Courts; which state of things, you say, continued until the cession of Louisiana to Spain, in 1762. What clearer proof could be required that the French never renounced their claim to the countries watered by the Mississippi and its branches; and that Spain has nothing to oppose to that claim, which she might, not with as much force oppose to the right of France to every other part of the colony of Louisiana?

You allege that, upon the cession of Louisiana to Spain, a memoir of its proper extent and limits was drawn up by Mr. Kerlet, who had been many years Governor of the province, and delivered by the Duke de Choiseul to the Spanish Ambassador at Paris, as a supplement to the act of cession; that this memoir contained a description of its proper extent and limits, and agreed substantially with your assertions. Permit me to observe, that, had you produced the memoir itself, it might be a subject of reply or of remark; that, not having produced it, you cannot expect it should be considered as possibly differing in substance from the charter of Louis XIV., by which alone Louisiana had been held, or from the subsequent memoir of the Count de Vergennes; and that the rights of the United States can as little be affected by secret memoirs as by imaginary treaties or exterminating royal orders of Philip V. With regard to your offer of further demonstrations of the Spanish title, if they are of the like description with these, you will do well to spare yourself and me the waste of time which it would take to produce and to notice them. You have the goodness to inform me, in the name of the King, your master, that Spain has an indisputable right to all the right bank of the Mississippi, but that His Majesty has resolved to claim it solely with a view to adhere to the *uti possidetis* of 1764. If, sir, you will exhibit any evidence of right in Spain to the right bank of the Mississippi, it will be considered by the Government of the United States with all the attention to which it can be entitled. In the meantime, you cannot but perceive that this pre-

tension is utterly incompatible both with that advanced in another part of your note, of a right in Spain to the whole circumference of the Gulf of Mexico, and with that of the *uti possidetis* of 1764.

The question of disputed boundaries between European settlements in America is not new. From the nature of those settlements, the imperfect geographical knowledge possessed by all the parties to them of the countries where they formed their establishments, and the grasping spirit by which they were all more or less animated in forming them, it was inevitable that disputed boundaries should be an appendage to them all. Of this spirit of boundless ambition Spain gave the most memorable example by the original pretension of engrossing to herself the whole American hemisphere. The common sense and common feeling of mankind could not, and did not, long tolerate this assumption. With what lingering reluctance, and by what ungracious gradations, Spain was compelled to recede from it, is notorious in the annals of the last three centuries; but it is among the most curious characteristics of your notes to show that she clings to these long-exploded pretensions still. You have not scrupled, even at this day, to style the most ancient settlements of other European nations in America "attempts to disturb the Spaniards in their possessions in the new world."

You recall to mind, with exultation, as if pointing to the most splendid monuments of Spanish glory, the ferociousness with which they attacked, and made prisoners, and put to death, and overthrew, dissipated, and destroyed the forts and settlements of Francis Ribaut, and René de Laudonnière, the companion of Coligny. You recite with triumph the expedition of Alonzo de Leon to scour the country and hunt out the wretched remnant of the brave and enterprising but unfortunate La Salle's establishment. You record, as one of your proudest title-deeds, the rigorous execution of the sentence of a court martial upon the Spanish Governor of Adaes, Sandoval, for yielding a musket-shot's length of ground to the French Governor of Natchitoches, suffering under the calamity of an inundation. You call the whole colony of Louisiana an intrusive establishment; style the authentic charter of Louis XIV. the absurd and despicable act of a disordered imagination; assert more than once a right of Spain to the whole circumference of the Gulf of Mexico; and talk of the territory and dominions of the Crown of Spain as if we were living in the age of Ferdinand the Catholic, or of Charles the Fifth.

To all such pretensions on the part of Spain, I am directed to inform you that the United States can never accede. The President is willing to hope that the time will come when your Government will become sensible of the uselessness of resorting to them.

From the time when the establishments of European nations on these continents became common, and their respective claims of territory under the charters of their Sovereigns were

found to interfere with one another, reason, justice, and necessity, concurred in pointing out to them certain rules and principles for the adjustment of their conflicting claims. By these rules and principles we are willing that the question of the western boundary of Louisiana may be decided. Till Spain, who has repeatedly acceded to them heretofore, shall be prepared to abide by them on this occasion, it will be of little avail to pursue a discussion upon which the principles of the parties are utterly irreconcilable together.

With regard to the third of the subjects of difference between Spain and the United States that remain to be adjusted, the claims of indemnification for injuries, losses, and damages, suffered by American citizens from Spanish authorities and subjects, and within Spanish jurisdiction, I flatter myself, from the tenor of your note, devoted particularly to the consideration of this point, that it is not absolutely unsusceptible of being brought to a favorable issue. You express the willingness of your Government to resume the unratified convention of 1802, and to extend its stipulations to the cases of complaint of a similar character to those provided for in it, which have since that time accrued. It is undoubtedly the intention of this Government that its engagements should be reciprocal; and if this was not expressly declared in my note of the 16th of January, it was merely because the President was not aware that any such claims of Spanish subjects for indemnities from the American Government were in existence. I am authorized to assure you that there will be no difficulty in including any such as may exist in the convention, and in making the United States answerable for all indemnities which may be justly due by them. As you have also been empowered to include the cases of injuries and losses of the citizens of the United States, in consequence of the suppression by the Spanish intendant of the deposite at New Orleans, as stipulated by the treaty of 27th of October, 1795, it cannot be necessary for me to reply to your objections against the admission of those claims. I the more readily pass over that argument, because, as it is merely a repetition of what was urged on the same point by Mr. Cevallos in 1805, it may suffice to refer you, for a full and complete refutation of it, to the letter from Messrs. Pinckney and Monroe to him of the 26th of February of that year.

But even upon this branch of the negotiation, it is with regret that the President perceives a persevering determination of your Government to exclude from the consideration of the commissioners for settling indemnities the cases of American sufferers by French spoliations committed within the jurisdiction of Spain. In answer to your reference to the arguments of Mr. Cevallos on this point, in his notes to Messrs. Pinckney and Monroe of February 10 and March 5, [4.] 1805, it will be sufficient for me to refer you to their letters to him of 28th January, 12th and 26th February, 8th March, 9th April, and

12th May, with the statement then made by them of French captures of American vessels carried into the ports of Spain, and the demonstration that no indemnity for any one of those cases had even been demanded by the American Government of France, much less provided for in the conventions between the United States and France of 1800 and 1803. When you say that "no reply was made, on the part of the United States, weakening in the least the force of the principles and the truth of the facts on which the opposition of Spain to a responsibility for those damages and injuries was founded," it is impossible to account for your assertion but by supposing you have not been furnished by your Government with a copy of the above-mentioned statement. I therefore now enclose (E. No. 5) a copy of it, in which you will find how grossly mistaken, with regard to the facts, are all the allegations in the letter of the French Minister of Foreign Relations to Admiral Gravina, of 27th July, 1804, of which you have inserted in your note an entire copy, and of which Mr. Cevallos had already favored Messrs. Pinckney and Monroe with an extract.

It may be proper here to present some obvious remarks upon the frequent appeals to the opinions and assertions of France, (under the government of Napoleon,) in reference to the controversy between the United States and Spain, which were made by Mr. Cevallos at Aranjuez, in 1805, and which are now repeated by you with as much confidence as if you considered France, as then governed, the most impartial of umpires, and the most disinterested of friends.

At that time, when these opinions and representations of France were alleged by Mr. Cevallos, they were answered by the American Ministers with the firmness which became the representatives of a great and independent nation, and with the sentiment at once of their country's dignity, and of the respect due to the Government of France, with which the United States were in amity. With regard to the eastern limits of Louisiana, they observed that, the question depending upon the construction of a treaty to which the United States were a party, the opinion of France concerning it could be of no more weight in itself than that of the United States; that, in adopting the phraseology of the Treaty of St. Ildefonso, when France declined substituting a more specific definition of boundaries, the United States could not be supposed to have subjected themselves to the subsequent explanatory restriction by France of that which she then chose to leave standing upon the force of the terms themselves; and that, the delivery of the province by the commissioner of France to the United States having been without any limitation, it was obvious that he had received it alike without limitation.

With respect to the French spoliations within Spanish jurisdiction, while the interest of France was so immediate and direct as to take from her opinion all right to the consideration due to an impartial arbitrator, it was supposed that the



proper view of the subject had not been presented to the Emperor; and the most unequivocal demonstration was given that no indemnity or satisfaction had been received, or even demanded, from France by the United States for this description of injuries.

At this day your Government must be aware that the jumpirage, and even the opinions, of France upon these questions, was liable to other and still more decisive objections. Of the use which France was already making, and was further contemplating to make, of Spain, of her revenues and possessions, not only in Europe, but in every other quarter of the globe, little needs to be said. That she was converting to purposes of her own all the resources of Spain, has been, since then, too signally manifested to the world to require further elucidation. It was impossible for her to recognise that Spain was bound to indemnify the United States for the spoiliations of French cruisers within Spanish jurisdiction, without acknowledging herself the debtor of Spain to the same amount. To call for her testimony, therefore, was to claim her as a witness in her own cause; to appeal to her opinions, was to make her the judge of her own delinquencies. By countenancing Spain in the denial of justice to others, she did but reserve her as a richer spoil for herself; nor can it be dissembled that the recourse of Spain, on that occasion, was rather to the predominating power than to the justice of France. These observations are made, not with the view of reproaching Spain now for the compliances with which she then sought and obtained the declarations of France in her favor upon her controversies with the United States, but to show the solid and irrefragable grounds upon which the United States may refuse all deference for the opinions, and disclaim all credit to the statements of France.

At the time when France had ceded Louisiana to the United States, her good offices with Spain to secure the acquisition of Florida to the United States had been explicitly promised. The letter of Mr. Monroe to Mr. Talleyrand, of 8th November, 1804, in reminding him of that engagement, had sufficiently shown that the Government of the United States, in calling upon France for the performance of her promise, had no intention of admitting her to arbitrate upon the extent of the concession which had been made by herself. True it is that she not only espoused the side of Spain, as considering it her own, but she even stimulated Spain to the denial of justice to the United States. As her motives, if Spain could be doubtful of them then, must be abundantly notorious now, it could scarcely have been expected that Spain should still recur to them as entitled to the slightest consideration or credit.

There is no principle of the law of nations more firmly established than that which entitles the property of strangers within the jurisdiction of a country in friendship with their own to the protection of its Sovereign by all the efforts in his power. This common rule of intercourse between all civilized nations has, between the

United States and Spain, the further and solemn sanction of an express stipulation by treaty. In violation both of the common usage of nations and of the express promise of Spain in the treaty, nearly two hundred vessels and their cargoes, belonging to citizens of the United States, were seized, many of them within the territorial limits of Spain, and under the cannon of her fortresses, by French cruisers; and all of them were condemned within Spanish jurisdiction.

You allege, *first*, that Spain has, in the cases to which reference is now made, actually carried into effect the obligations contracted by treaty; that she has used all her efforts for the defence and protection of this property. But in what have these efforts consisted? These were not cases of vessels seized by sudden violence, and carried away beyond her jurisdiction, before the officers appointed for the execution of her laws could be apprized of the wrong, and summoned to the performance of their duties. They are not cases of clandestine depredations, eluding the vigilance of the magistrates; they are cases of friendly merchants and navigators, frequenting the ports of Spain upon the faith of treaties, and for purposes of a mutual beneficial intercourse—seized, some of them, in the very harbors of Spain, by foreign cruisers, dragged on Spanish ground before a foreign Consul, and there plundered of their property before the face of all the lawful authorities of Spain, who neither raise a voice nor lift an arm for their defence. What, then, have been all the efforts of Spain for the protection of this property, conformably to the treaty?

You say, *secondly*, that Spain was not responsible for these depredations, because they were made by a nation with which the United States were not at war; and this you say immediately after quoting the words of the sixth article of the treaty, expressly stipulating protection and defence in the ports of Spain to the vessels and other effects of citizens of the United States, "whether they are at war or not with the Power whose subjects have taken possession of the said effects."

You observe, *thirdly*, that France and Spain were then allies in a war against England, and that Spain could not prevent the privateers of her ally from entering her ports. But it is not that the French privateers were allowed to enter the ports of Spain of which the United States complain, but that they were suffered to make prizes, and the French Consuls to condemn them within the territorial jurisdiction of Spain. You refer to the decision of a subordinate British court of admiralty that the prizes of a belligerent may be carried into the ports of an ally, and there lawfully condemned; but surely you do not mean to contend that the decisions of an admiralty court of one nation constitute the law of nations, or can even be adduced as authority for others. Of this principle, at least, there can be no doubt, that an alliance between two nations cannot absolve either of them from the obliga-

tions of previous treaties. Now, the treaty between Spain and the United States, by which Spain was bound to protect the property of American citizens within her jurisdiction, was concluded before the alliance between Spain and France had been contracted; and the alliance could in no wise impair the rights of the citizens of the United States to the protection of their property, stipulated in their favor by the antecedent engagement of Spain.

Your fourth and last expedient for relieving Spain from responsibility for these losses and injuries, suffered by American citizens upon her territory, is the positive assertion that satisfaction has already been made for them by France; your only voucher for which is the letter of 27th July, 1804, from Mr. Talleyrand to Admiral Gravina. The assertions of that letter I have shown, by reference to indisputable documents, are utterly without foundation.

Your subsequent offer of the good offices of your Government near that of the present Court of France to obtain indemnities for American citizens for French depredations committed within Spanish jurisdiction, by virtue of an alliance between Spain and Napoleon, you doubtless did not expect to be accepted. It is to Spain alone, sir, that the United States still look, and will continue to look, as they always have looked, for those indemnities for which Spain alone is responsible to them. I am instructed to renew to you the declaration repeatedly made by the Minister of the United States to your Government at Aranjuez, in 1805, that no satisfactory arrangement can be made of the differences between the two countries which shall not include the adjustment of these injuries.

Before bringing this reply to your four successive notes to a close, it is necessary to advert to several incidental assertions and remarks, which you have made in relation to the negotiation at Aranjuez, equally destitute of foundation with the claims and pretensions to which this letter has already replied.

In your note of the 29th December, you affirm that the negotiation at Aranjuez was "early interrupted;" and in that of the 24th January, to confirm the assertion, that, if all the differences between the two countries have not long since been adjusted, it has not depended upon the Government of Spain, you say that this is "evident, beyond the possibility of denial, from the official correspondence between His Catholic Majesty's Minister of State and the Plenipotentiaries of the American Government, who suspended and gave up the negotiation at Aranjuez, after having obstinately refused to accept the modifications, founded on strict justice, which were proposed by the Spanish Government."

The negotiation of the special mission of the United States at Aranjuez, in 1805, occupied a period of nearly five months, from the beginning of January, when Mr. Monroe arrived at Madrid, to the 22d of May, when he took leave of the King to return to London. In his address to the King on that occasion, he said: "On my arrival

here I had the honor to assure your Majesty of the high consideration of my Government for your Majesty's person and Government. I then hoped to have had the honor to conclude the special mission with which I was charged, in conjunction with the Minister Plenipotentiary near your Majesty, to the advantage and satisfaction of both parties; but, being disappointed in this respect, all our propositions having been rejected, and none others ever offered on the part of your Majesty's Government, though often invited, it is my duty to return to my station at London."

This assertion, made to the King of Spain in person, at the close of that mission, was fully warranted by the transactions under it. Every one of the topics now included in your four notes, as embracing all the subjects of difference between the two countries, was discussed at great length, much in the same manner which you have now insisted upon repeating. The questions of indemnities for spoiliations, Spanish and French, and for the suppression of the deposite at New Orleans, of the eastern and of the western boundary of Louisiana, were descanted upon with pertinacity as indefatigably by Don Pedro Cevallos as by yourself. He bestowed as many pages upon the terms *retrocede* and *retrocession* as you have done. He appealed with equal confidence and alacrity to the opinions, and cited with equal complacency the testimonials of the Ministers of Napoleon, and reminded Messrs. Monroe and Pinckney, with a satisfaction not inferior to your own, of the "very pointed" manner in which the French Minister of Foreign Relations, Mr. Talleyrand, announcing the sentiments of His Imperial Majesty, observed, that "to make known the rights which France had acquired, was to indicate the extent and the limits of those which she transmitted to the Federal Government." To everything that had the semblance of reason and argument, adduced in the successive notes of Mr. Cevallos, the American Ministers temperately and patiently replied; they unfolded, with a clearness and precision to which nothing can now be added, the claims of the United States, and the facts and principles by which they were supported. They proposed, at the commencement of the negotiation, a projet of a convention for the adjustment of all the interests in dispute. After all the subjects had been thoroughly discussed they presented a second projet, modified in the most conciliatory spirit of accommodation to Spain. They invited, and reiterated, almost to importunity, the invitation to a counter-projet, or proposals on the part of the Spanish Government. These unwearied efforts were met by a constant, invariable, inflexible refusal, either to accept their proposals, or to make to them any whatsoever in return.

You speak of the titles, dates, documents, and arguments, produced on the "part of Spain, at that negotiation, incontestably proving, by abundant and irresistible evidence, the rights of the Spanish monarchy to the territory in question."

If such had been the facts, where would be the pretence that the American Ministers had pre-



maturely suspended or given up the negotiation? But Mr. Cevallos produced no such titles, dates, or documents; the only title ever alleged by him in support of the pretensions of Spain was the title of retrocession, applied to the Treaty of St. Ildefonso; the only date was that of 1690, which he assigned as the period of the first Spanish settlement of Texas, which date was five years later than the settlement of La Salle, at the head of the bay of St. Bernard; and the only documents were the dictatorial and menacing testimonials of the French Minister of Foreign Relations. That all the titles, dates, and documents then referred to were insufficient, in the estimation of your own Government, to establish the rights which you have claimed, is manifest from the efforts which you have made to bring forward others, and from the character of those to which you have resorted—an unknown, and, as it is believed, imaginary treaty of 1764, and a royal exterminating order of Philip V.

You perceive, sir, that the Government of the United States is not prepared either to renounce any of the claims which it has been so long urging upon the justice of Spain, or to acquiesce in any of those arguments which appear to you so luminous and irresistible.

Determined to pursue the establishment of their rights as long as by any possibility they can be pursued through the paths of peace, they have acquiesced, as the Message of the President at the commencement of the present session of Congress has informed you, in that policy of Spain which has hitherto procrastinated the amicable adjustment of these interests, not from any insensibility to their importance to this Union, nor from any indifference to the object of being upon cordial terms of harmony with Spain, but because peace is among the dearest and most earnest objects of their policy; and because they have considered, and still consider it more congenial to the principles of humanity, and to the permanent welfare of both nations, to wait for the favorable operation of time upon the prejudices and passions opposed to them, than to resort to the unnecessary agency of force. After a lapse of thirteen years of patient forbearance, in waiting for the moment when Spain shall find it expedient to meet their constant desire of bringing to a happy and harmonious termination all the conflicting interests between them, it will need little additional effort to wait somewhat longer with the same expectation. The President deems this course even more advisable than that of referring the questions depending between the two nations to the arbitration or mediation of one or more friendly European Powers, as you have been authorized to propose. The statement in your note of the 10th of February, in reference to this subject, is not altogether correct. It is not the British Government which, on this occasion, has offered; but your Government, which, without first consulting or asking the concurrence of the United States, has requested the mediation of Great Britain. The British Government, as must be well known to you, have declined the offer of their mediation,

unless it should be requested by both parties; and have communicated to the Government of the United States this overture on the part of Spain.

The President has thought proper, from motives which he has no doubt will be deemed satisfactory both to Great Britain and Spain, to decline uniting in this request. He is indeed, fully persuaded that, notwithstanding any prepossessions which the British Government may have heretofore entertained with regard to any of the points in controversy, they would have been entirely discarded in assuming the office of a mediator. But it has hitherto been the policy, both of Europe and of the United States, to keep aloof from the general federative system of each other. The European States are combined together, and connected with one another by a multitude of important interests and relations with which the United States have no concern, with which they have always manifested the determination not to interfere, and of which, no communication being made to them by the Governments of Europe, they have not information competent to enable them to estimate their extent and bearings. The United States, in justice to themselves, in justice to that harmony which they earnestly desire to cultivate with all the Powers of Europe, in justice to that fundamental system of policy which forbids them from entering the labyrinth of European politics, must decline soliciting or acceding to the interference of any other Government of Europe for the settlement of their differences with Spain.

But however discouraging the tenor and character of your recent notes have been to the hopes which the promises and professions of your Government had excited, that the time for adjustment of these differences with Spain herself had at length arrived, the United States will not abandon the expectation that more correct views of the subject will ultimately be suggested to your Government, and they will always be disposed to meet them in the spirit of justice and amity. With regard to those parts of the province of Louisiana which have been incorporated within the State of that name, it is time that the discussion should cease. Forming part of the territory of a sovereign and independent State of this Union, to dispose of them is not within the competency of the Executive Government of the United States, nor will the discussion be hereafter continued. But if you have proposals to make, to which it is possible for the Government of the United States to listen with a prospect of bringing them to any practicable conclusion, I am authorized to receive them, and to conclude with you a treaty for the adjustment of all the differences between the two nations, upon terms which may be satisfactory to both.

With regard to the motives for the occupation of Amelia Island, the Messages from the President of the United States to Congress, and my letter to you of 16th January, have given the explanations which, it is presumed, will be satisfactory to your Government. The exposed and feeble situation of that island, as well as of the remainder of East Florida, with their local posi-

tion in the neighborhood of the United States, have always been among the primary inducements of the United States for urging to Spain the expediency to the interests of both nations that Spain should cede them for a just and suitable equivalent to the United States. In the letter of the 28th of January, 1805, from Messrs. Pinckney and Monroe to Mr. Cevallos, the following passage stands prominent among the arguments used by them to that effect: "Should Spain," say they, "not place a strong force in Florida, it will not escape your excellency's attention that it will be much exposed to the danger of being taken possession of by some other Power, who might wish to hold it with very different views towards Spain than those which animate the Government of the United States. Without a strong force being there, it might even become an asylum for adventurers and freebooters, to the great annoyance of both nations."

You know, sir, how far the events, thus anticipated, and pointed out so early as in January, 1805, to the prudent forecast of Spain, have been realized. Pensacola has been occupied by another Power, for the purpose of carrying on war from it against the United States; and Amelia Island has been occupied by adventurers, to the great annoyance of both nations, and of all others engaged in lawful commerce upon the Gulf of Mexico. Before these events occurred the Congress of the United States, aware of the great and growing danger of them, which had been so long before distinctly foreseen, had made it the duty of the Executive Government, in the case of such a contingency, to take the temporary possession of the country, which might be necessary to avert the injuries that must result from it. Amelia Island was taken, not from the possession of Spain, but of those from whom she had been equally incapable of keeping or of recovering its possession, and who were using it for purposes incompatible with the laws of nations and of the United States. No purpose, either of taking or of retaining it as a conquest from Spain, has ever been entertained; and, unless ceded by Spain to the United States, it will be restored whenever the danger of its being again thus occupied and misused shall have ceased.

It is needless to add, that the proposal that the United States should take any further measures than those already provided for by law, for preventing armaments hostile to Spain within the territories of the United States is inadmissible. The measures already taken, and the laws already existing against all hostile armaments within our jurisdiction, incompatible with the obligations of neutrality, are sufficient for its preservation, and the necessary means will continue to be used, as they have been, to carry them faithfully into execution. I have the honor to be, &c.

JOHN Q. ADAMS.

A. No. 1.

Don Martin D'Alarconne to M. De la Harpe.

TRINITY RIVER, May 20, 1719.

MONSIEUR: I am very sensible of the politeness

that M. De Bienville and yourself have had the goodness to show to me. The orders I have received from the King, my master, are to maintain a good understanding with the French of Louisiana; my own inclinations lead me equally to afford them all the services that depend upon me, but I am compelled to say that your arrival at the Nassonite village surprises me very much.

Your Governor could not be ignorant that the post you occupy belongs to my Government, and that all the lands west of the Nassonites depend upon New Mexico.

I counsel you to give advice of this to M. Bienville, or you will force me to oblige you to abandon lands that the French have no right to occupy.

I have the honor to be, &c.

D'ALARCONNE.

B. No. 2.

Monsieur de la Harpe to Don Martin D'Alarconne.

NASSONITE, July 8, 1719.

MONSIEUR: The order from His Catholic Majesty to maintain a good understanding with the French of Louisiana, and the kind intentions you have yourself expressed towards them, accord but little with your proceedings. Permit me to inform you that M. de Bienville is perfectly informed of the limits of his government, and is very certain that the post of Nassonite depends not upon the dominions of His Catholic Majesty. He knows, also, that the province of Lastekas, in which you say you are Governor, is a part of Louisiana. M. de la Salle took possession in 1685, in the name of His Most Christian Majesty; and, since the above epoch, possession has been renewed from time to time.

Respecting the post of Nassonite, I cannot comprehend by what right you pretend that it forms a part of New Mexico. I beg leave to represent to you that Don Antoine du Miroir, who discovered New Mexico in 1683, never penetrated east of that province or the Rio Bravo. It was the French who first made alliances with the savage tribes in this region; and it is natural to conclude that a river that flows into the Mississippi, and the lands it waters, belong to the King, my master.

If you will do me the pleasure to come into this quarter, I will convince you I hold a post I know how to defend.

I have the honor to be &c.

DE LA HARPE.

C. No. 3.

On the 10th of August, 1721, M. de la Harpe received the following order:

We, John Baptiste de Bienville, chevalier of the military order of St. Louis, and commandant general for the King in the province Louisiana:

It is hereby decreed that M. de la Harpe, commandant of the bay of St. Bernard, shall embark in the packet the Subtile, commanded by Berenger, with a detachment of twenty soldiers under M. de la Belile, and shall proceed forthwith to the bay of St. Bernard, belonging to this province, in the name of the King, and the west company shall plant the arms of the King in the



## Relations with Spain.

ground, and build a fort upon whatever spot appears most advantageous for the defence of the place.

If the Spaniards, or any other nation, have taken possession, M. de la Harpe will signify to them that they have no right to the country; it being well known that possession was taken in 1685 by M. de la Salle, in the name of the King of France, &c.

BIENVILLE.

## D. No. 4.

*Extracts translated from the "Diccionario Geografico Historico de las Indias Occidentales ó America," by Colonel Don Antonio de Alcedo, captain of the royal Spanish guards; printed at Madrid in 1786-89, by the permission of Government, and dedicated to the Prince of Asturias, afterwards Charles the Fourth.*

"*Louisiana*, a province and government of North America, one of the two which form new France, bounded on the south by the Gulf of Mexico, on the north by the river Illinois and the Indian tribes of the Pamasus, Paducas, Osages, Tronones, Tecagas, Chavanons, and others; on the east by West Florida, Georgia, and Carolina; and on the west by New Mexico and New Spain. Its extent from north to south is about fifteen degrees; that is to say, from the twenty-fifth to the fortieth degree of north latitude; and from east to west ten or eleven degrees, between the eighty-sixth and ninety-sixth degrees of west longitude; its limits, however, not being precisely fixed, M. de Lisle gives it a much greater extent, particularly towards the north, where it borders on Canada; and, according to him, it is afterwards bounded by New York, Pennsylvania, Virginia, &c., and to the west by the rivers Bravo and Salado."

"*Missouri*, an Indian tribe of the province and government of Louisiana, inhabiting the banks of the river of the same name, on which a fort was built by the French for defence of that establishment."

"*Natchitoches*, or *Natihetoches*, as pronounced by some a tribe of Indians of the province and government of Louisiana, in North America, living fifty leagues up the Red river, by which name they are sometimes called. This tribe has always been friendly to the French, and hostile to the Spaniards; is very numerous, and has upwards of two hundred cabins. The French soldiers who had completed their time of service settled in an island in the Red river, where they built a fort, and called it Natchitoches; but having planted tobacco, and discovered that the sand blown on it by the wind gave it a bad quality, they removed their settlement to the main land, where they succeeded in cultivating that plant, so as to give it a particular estimation; it is sixty leagues from New Orleans."

"*Rouge*, (Red river,) a large and rapid river of the province and government of Louisiana, in North America, takes its rise about the tribe of the Caneisis, runs southeast, and, after receiving other streams, changes its course to the south as far as the tribe and fort of Natchitoches, where

it again turns to the southeast, forms several lakes and islands, and thence, running eastward, joins the Mississippi much increased, near where the river empties into the sea."

## E. No. 5.

*Extract from a paper communicated by Messrs. Pinckney and Monroe to Mr. Cevallos, dated*

ARANJUEZ, May 12, 1805.

From the 1st of October, 1796, until the —, there were brought into the ports of His Catholic Majesty, in Europe and Africa, by the French, 168 vessels.

Of the above have been condemned	-	-	74
Acquitted, ransomed, or compromised	-	-	23
Cases of violation of the Spanish territory, condemned	-	-	13
Run ashore and lost	-	-	1
Unaccounted for	-	-	7
Result not known	-	-	50

Total - - - - - 168

*A statement of facts relative to American vessels taken by French privateers, and condemned in Spanish ports, obtained from the most authentic sources.*

Of the French spoliations, there have been fifty appeals from the consular judgments in Spain to the Council of Prizes at Paris, of which thirty have been released, nine condemned, and twelve are yet depending. Not one *sous* has been paid in any case, nor is there a single case of such spoliations on the list of liquidations now at the French treasury, which are to participate of the twenty millions of livres to be paid by the United States to their citizens, under the treaty of 1803, on account of French spoliations. The American Minister never did demand payment of French spoliations made in Spain, knowing them as such; nor did the American agent ever demand it by his order or knowledge. The first intelligence which the American Government had of appeals being permitted from the French consular tribunals in Spain to the Council of Prizes in France was received from Spain herself.

As soon as it was received, the Secretary of State wrote to the American Minister in Paris to know what the fact was, and instructed him, at the same time, to prohibit the agent from acting in such cases; it having been, at all times, the opinion of the Government that Spain alone was answerable, of whom only has the recompense been demanded.

Don Luis de Onís to the Secretary of State.

MARCH 23, 1818.

SIR: I have read with deliberate reflection the note which you addressed to me on the 12th of this month, in reply to those which I had the honor to write to you on the 29th December, and on the 5th, 8th, and 24th January, of the present year, on the different points embraced in the dispute hitherto pending between the Government of the United States and that of Spain.

## Relations with Spain.

After examining, with the strictest impartiality, all the data and arguments advanced by you, without yielding to any other impressions than those inspired by the sincere desire of ascertaining the truth of facts, and the propriety of their application to the several points in dispute, I cannot but express to you, sir, that it has not been possible for my reason to discover anything capable of forming a just exception to the principles and grounds which support the rights sustained by His Catholic Majesty's Government, as notorious, and hitherto undisputed with the Crown of Spain.

I perceive that, on the question of boundaries, you still maintain the same pretensions as those advanced by Messrs. Pinckney and Monroe, at Aranjuez, to the Spanish Government—pretensions which it appears to me impossible to exist, after weighing the arguments adduced by the Secretary of State of His Catholic Majesty, Don Pedro Cevallos, and again urged more at length and with sufficient conviction, in my judgment, in the notes which I had the honor to address to you.

On the subject of the eastern boundaries of Louisiana, you insist they should be extended by West Florida to the river Perdido, although this pretension has no other foundation than the particular and specious interpretation attempted to be given to the clauses of the treaty concluded between France and Spain in 1800, for the retrocession of Louisiana. But I do not conceive how these clauses can admit such an interpretation, because it gives a strained interpretation to and inverts its proper import, is contradictory to the intention of the contracting parties, and attributes to their contract a latitude which does not appear in it. How can it be imagined that West Florida, or any part of it, should be the object of the treaty of 1800, when, throughout the whole of it, there does not appear a single word referring or alluding to that province, or any mention being made of it? Did there ever exist a public treaty, or even a simple transaction between private persons, stipulating a thing of which the slightest mention is not made? Certainly not. Besides, the two contracting parties declare and maintain that it was not their intention to include, nor did they include, Florida, or any part of it, in the retrocession. How, then, can the contrary be maintained, merely by the help of a particular conception or conjecture? The objections you make against the personal character of the Minister Talleyrand, and the temper of the French Cabinet at the time of Napoleon, can never weaken the authority of the solemn declaration of the Government of France. You will also recollect that the same Government gave the assurance that it had ordered them to be communicated to that of the United States, and that the Spanish Government brought them forward as soon as the present dispute was set on foot, which they could not be before, as the possibility of this case did not enter into their contemplation, nor could they calculate on its being objected to without necessity or just reason.

Notwithstanding, therefore, your ingenious ar-

guments, I continue in the firm persuasion that the three clauses of the Treaty of San Ildefonso neither can nor do in any manner admit of the comment or abstract interpretation which is now attempted to be given to them, and that it is impossible to vary the obviously genuine and literal sense in which they have ever been understood by the Governments of France and Spain.

You say, and affirm decisively, that the secret convention between Spain and France, by which the Most Catholic King ceded Louisiana to His Christian Majesty, did not take effect in 1764, but in 1762, one year before the general treaty of peace concluded at Paris 10th February, 1763, by which the Floridas were ceded to Great Britain. If that be so, I confess I cannot comprehend or reconcile the concluding clauses inserted in the seventh article of the same treaty, which run as follows: "The Most Christian King cedes to His Britannic Majesty, in full property, the river and port of Mobile, and all that he possessed or ought to have possessed on the left side of the river Mississippi, with the exception of the city of New Orleans, and of the island in which it is situated, which shall remain to France." How is it, then, that in this treaty the bay and port of Mobile are ceded to England, and all that France possessed or ought to have possessed on the left of the Mississippi, with the exception of the island and city of New Orleans, which are expressly to remain in France? How could they remain to France, if in the former year they had been ceded to Spain? We must deny the faith of this treaty, or admit that the cession made to Spain did not take effect until a subsequent period; and by a necessary consequence, that when France made the said cession to the Crown of Spain, she possessed nothing more in that part of the American continent, since she had before ceded all to Great Britain; it being notorious, moreover, that France continued in the dominion and possession of the delta of Louisiana until the 19th of August, 1769, at which time she delivered up that province to Spain, and into the hands of General O'Reilly. By this we are convinced of the true understanding of the three clauses of the treaty of 1800. Louisiana did not then include, in the hands of Spain, any part of the Floridas, nor did France possess more than the delta of New Orleans when she ceded and delivered it to Spain. To these two undeniable facts do the first and second clauses of that treaty refer; the third refers to what appears in the treaties which afterwards followed between Spain and other Powers. If it is not wished to introduce confusion where there is none, it is necessary to ascertain the precise period at which the time began that this clause refers to. I do not see that any other can be found than that when France ceased to possess the delta of Louisiana; and if the cession made by her to Spain was effected after that made by France and Spain to England on the 10th of February, 1763, it is evident that this clause could not refer to the Treaty of Paris concluded the same day and year, but to those which were subsequent to it, as the same clause expressly declares.



In my note of the 5th of January last, I cited the treaties to which this treaty could and did refer, and pointed out at the same time the meaning and object of the contracting parties in framing its stipulation, by referring to the treaties themselves. I discover nothing to weaken the force and propriety of what I then proved to you, nor do I think that there can be anything advanced without altering or destroying the decisive sense of the clauses of the Treaty of St. Ildefonso.

The ingenuity of logic may suggest evasions, but never can furnish solid arguments to maintain the contrary; and as it is our duty only to ascertain the truth, we must confine ourselves to the literal text of the treaty of retrocession, and to that of others referred to in it. Notwithstanding Don Pedro Cevallos, in his letter of 24th February, 1805, to Messrs. Pinckney and Monroe, only spoke of the treaties concluded between Spain and England in 1783, and between Spain and the United States in 1795, that neither is nor can be a reason why we may not now refer to some other treaty capable of shedding light on the point in question. In fine, I consider it as a point fully demonstrated and indisputable, that Spain retroceded Louisiana to France only as she had received it from her, and as she then possessed it without any connexion whatever with Florida.

I cannot conceive how the plain and decisive clauses of the treaty of 1800 can be susceptible of any other interpretation which is in perfect accord with the tenor of the royal cedula issued by His Catholic Majesty, at Barcelona, on the 15th of October, 1802, for the purpose of completing and carrying into effect the act of the retrocession of Louisiana. His Catholic Majesty therein declares that he has retroceded Louisiana, and gives orders for its delivery, with the same extent it now has, and that it had under the dominion of France, when ceded by that Power to his Royal Crown. You are aware, sir, that it was by virtue of the royal cedula that the retrocession of the said province took place, and that it is a document regulating and explanatory of the contract passed at St. Ildefonso. As such was it received by France, who, on taking possession of Louisiana in virtue of the said royal cedula, and in conformity thereto, never exacted or pretended to anything more.

In consideration, therefore, of treaties, documents, and acts of so solemn a nature, which decide the question with the greatest precision and clearness, no room is left for personal doubts or individual opinions.

I now pass, sir, to your observations on the question of the western boundaries of Louisiana.

I have before said, and now repeat it to you, that the King, my master, glories in the religious observance of all existing treaties between Spain and other Powers, and sincerely desires that, in conformity with them, and the inviolable principles of general justice and public good faith, the limits which separate or ought to separate Louisiana from the provinces and territories possessed by His Majesty to the westward thereof should be carefully examined, investigated, and deter-

mined. He has proposed as a basis of this inquiry the *uti possidetis*, or state of possession by France when she ceded Louisiana to the Crown of Spain, and has moreover admitted in the basis all that Spain delivered to France, as incorporated in Louisiana, and all that was stipulated in favor of the United States by the treaty of 1795. I conceive there can be no other basis of an examination, investigation, and final demarcation of the said boundaries, if we are to regulate them agreeably to public treaties, and the solemn principles of justice and good faith. This basis being admitted, such as I propose it, all the equivocal expressions and interminable disputes to which the contradictory narratives of the early French missionaries and settlers who penetrated into this part of America have opened so wide a field, would at once be put an end to. In fact I cannot persuade myself that such narratives are entitled to a place either in diplomacy or in sound criticism.

In my note on the question of the western limits of Louisiana, I likewise touched on the principal facts, data, and grounds on which the notorious right of the Crown of Spain to the territories in dispute is founded. These facts, data, and grounds, do not receive their credit or support from the tales or narratives of travellers, missionaries, or adventurers who may have made excursions in America, nor from the memoirs or writings which have since been published, and are merely copies of these narratives and marvellous tales.

They receive their credit and support from titles and documents of the most unexceptionable character, as will be shown in due time, having confined myself to indicating them to you, and conceived that it was not absolutely necessary to accompany my notes with the volumes of books, papers, and documents, extant on the subject, because that would have been too troublesome, and because the Crown of Spain being from time immemorial in possession of the territories to which your Government forms pretensions, that fact alone was sufficient to resist them, seeing that on the part of the United States no documents or titles were exhibited which could support their right to the territories in question. Let us see, then, on what your Government founds these pretensions, and how they are supported by you in your note of the 12th instant. The following are the data stated by you, and on which you say the United States found their claims:

1. The discovery of the Mississippi from near its source to the ocean by the French from Canada, in 1683.

2. The possession taken, and establishment made by La Salle, at the bay of St. Bernard, west of the rivers Trinity and Colorado, by authority from Louis XIV., in 1685.

3. The charter from Louis XIV. to Crozat, in 1712.

4. The historical authority of Du Pratz and Champigny, and of the Count de Vergennes.

5. The geographical authority of De Lisle's map, and especially that of the map of Don Thos.

Lopez, geographer to the King of Spain, published in 1764, [1762.]

Such are the data or grounds alleged by you in support of the pretensions of your Government, and to refute what I have advanced in defence of the rights of Spain.

I now proceed to answer each one of these data, or grounds, by reproducing those which I urged in my former note, and presenting them in their aspect and true light.

As to the first, I maintain that long before Joliet, Marquette, and Hennepin, or any other Frenchman, had penetrated from Canada as far as the banks of the Mississippi and Arkansas, the Spaniards had discovered and explored both those rivers in different and repeated expeditions which took place from the time that Juan Ponce de Leon discovered the coast and country of Florida, and took possession of them in the name of the King of Spain, in 1512. These expeditions were not, as you say, made by travellers, but by Spanish commanders, acting under the orders and authority of their Government, and with vessels, troops, artillery, and other means necessary for carrying their enterprises into execution. Consequently it is of little consequence that Joliet, Marquette, and Hennepin, or others, may have traversed the country from Canada, and met with rivers and territories which, many years before, had already been discovered by Spaniards, and included in the dominions of the monarchy. What armies did Joliet, Marquette, and Hennepin, take with them to dispute this country and its rivers with the Crown of Spain? What settlements did they found and maintain there? Such excursions as these neither give nor could give France any right to those rivers and countries, nor could she have any secure dominion over the soil, if we admit the principle that such invasions confer the right of property on the nation to which the individuals making them happen to belong.

Nor is the argument deduced by you from the expedition undertaken by La Salle more fortunate. It is the second of the grounds on which your Government founds its claims. I also maintain that La Salle never made but one excursion into the country already known to the Spaniards, and incorporated in the dominions of the monarchy. There exists sufficient documents and testimony to prove that the Spaniards had entered the bay of St. Bernard long before, and had taken possession of it and of the whole country on the coast and into the interior. The fort built by La Salle for his defence against the Indians could confer no right on France to that bay, or to that country; and it is a certain fact that the Viceroy of New Spain, on receiving advice of this incursion, immediately despatched a force; they had been unfortunate; they no longer existed; and the expedition sent from New Mexico met with nothing more than the shattered fragments of one of their vessels at the entrance of the bay. More effectual measures were afterwards adopted by the Government of Spain for the defence of the coast and preservation of the interior of the country; so

that there is no recollection, even in the narratives and wonderful romances of the early French settlers and travellers, of any individual of that nation having afterwards made the smallest attempt against the bay of St. Bernard.

The third ground cited by you is the famous charter granted by Louis XIV. to M. Crozat. A wretched document, indeed! It may in truth be said that this charter of Louis XIV. is very like that you mention, granted by the Pope's bull, in which, seated on his chair at Rome, he divides unknown seas and lands between Spain and Portugal. By what authority could Louis XIV. bestow on Crozat the territories and rivers discovered and possessed by Spain in that part of the new world? From everything that appears, it is plain that they who granted this cession or charter in the name of Louis XIV., had no knowledge nor any exact idea of the situation, extent, or circumstances of the country they were speaking of. They were equally ignorant of the extent of the acquisitions and dominions of Spain in that part of America, and proceeded under the impression of the tales and flattering narratives of the early French explorers, and principally that collected by the missionary Hennepin from his own imagination, published at Paris, and dedicated to Colbert, or, it may be, to Louis XIV. The Spanish Government always viewed this grant with contempt, and went on in the peaceable possession of those dominions, extending their settlements as circumstances permitted, and founding towns and forts as they found it convenient. It always opposed the invasions and incursions of the French, and I cannot conceive how the royal orders issued by Philip II., which you term *sanguinary*, or those successively issued by other Spanish monarchs to preserve and defend their dominions by expelling the foreigners who attempted to invade them, can be called sanguinary acts. The fact is, that these royal orders were duly carried into execution; whereas the grant, so much cried up, remained a dead letter.

In my letter of January last, I stated to you the manner in which the French got a footing in the bay of Biloxi, and afterwards spread themselves on the lower shores of the Mississippi, by the permission or toleration of the Spanish Government. It is, therefore, superfluous to dwell longer on this point.

4th. As to what regards the fourth ground which you have adduced, I am at a loss to perceive how it can answer the purpose intended. Whatever authority Du Pratz, Champigny, and the Count de Vergennes, may be entitled to in matters of history, it is unquestionable that all they wrote on Louisiana and countries adjacent was taken from the incorrect, exaggerated, and marvellous narratives of the early French travellers, explorers, and settlers; and it is no less so that their assertions or notions are contradicted by facts and truths of the most decided authenticity and notoriety.

In addition to what has been laid down by the most respectable Spanish historians and chroniclers of those early times, and by subsequent wri-



ters, there exist unexceptionable acts, despatches, and documents, transmitted by the Council of the Indies in Spain to the tribunals, secretaries, officers, and others in Mexico, as well as to those in other parts, and also to several in the island of Cuba, which prove the facts I have pointed out to you in my aforesaid note of the 5th of January last. Nor are there wanting documents and proofs to be found in different writings and memoirs by foreigners, corroborating the certainty of the same facts, and completely confuting and destroying the idle tales and fanciful description which the missionary Hennepin has foisted into his memoir dedicated to the French Government. Nothing is to be found in the famous grant of Louis XIV., in the writings of Du Pratz and Champigny, or in the memoir of the Count de Vergennes, invoked by you in support of the pretensions of your Government, which is not a multiplied repetition of what has been imagined and written by that French missionary. These tales and flattering descriptions pass from mouth to mouth among the adventurers, traders, and settlers from Canada to Biloxi; and as that nation has an itch for writing and publishing everything that flatters the imagination, it is not surprising that we find the same wanderings, fables, or errors in many writings published by them. But you are sensible, sir, that tales and narratives of this description are inadmissible, both in diplomacy and sound criticism, which will only admit unexceptionable titles and legal documents. The same remark will apply to what was written by the Chevalier Tonti, cited by you as a decisive and incontrovertible proof of your assertions. Although the fact, or things referred to in it were admitted, they would prove nothing in favor of their intended application, nor in the least weaken the force of antecedent titles and facts, on which the Spanish Government found their resistance to the unbanded and absolute pretensions of the United States.

I proceed to the fifth ground advanced by you—"the geographical authority of Mr. De Lisle and of Don Thomas Lopez." I think there can be little doubt that Mr. De Lisle framed his map on the same erroneous data and fabulous description I have spoken of in the preceding paragraph. It is a well known fact that Don Thomas Lopez, wholly uninformed respecting the country he wished to delineate on his map, copied from that of Mr. De Lisle all the errors remarked in it; and the same happened, with little variation, to Don Antonio Alcedo. You cannot but have noticed, sir, the numerous errors, ambiguities, and extravagances, which are to be found in the works of a multitude of geographers and writers who treat of subjects they have never seen, or taken the pains to verify with critical exactness. The circumstance of Don Thomas Lopez having been Geographer to the King of Spain neither adds nor gives any authority to his map, because he neither drew it up nor published it under the authority or by order of His Majesty's Government; and the errors into which he or Alcedo may have fallen, do not, nor can they in the least, prejudice

the rights of the Crown of Spain, or change the nature of things, or the positive certainty of facts. In opposition to the errors of that Spanish geographer, to those of Alcedo, and of the Frenchman De Lisle, from whom they copied them, we have the testimony, in everything substantial, of all the maps and charts that have been published from the most accurate knowledge of the country, and conformably to the treaties concluded between those Powers which possess or did possess dominions in that part of America. Among the French themselves, you may examine the maps of D'Anville, Janvier, Bonne, and others; likewise that published at London in 1757, by Emanuel Bowen, Geographer to His Britannic Majesty; that published at London by Carrington Bowles, according to the observations of the Royal Academy of Sciences; the American Atlas, or geographical description of the whole American continent, according to the observations and researches of Major Holland, Lewis Sevens, [Evans,] Julian Scull, &c., published at London in 1778, by Thomas Jeffreys, Geographer to the King, and others; the large map of New Spain, and countries bordering on it, published by Baron Humboldt; and the map published by I. B. Pierson in 1811, from the former.

I might cite many others, not only by Spanish geographers, but also by foreigners; but I deem it superfluous, under a thorough conviction that nothing can be found in opposition to the data and grounds I have advanced, but what appears in writings and maps composed at pleasure, and wholly incompatible with public treaties, and the most notorious and undeniable facts and truths.

The observations I have just made appear to me sufficient to destroy the weight of the data you have laid down as forming the grounds of the pretensions of your Government. I am aware that they have been already advanced, as you remark, by Messrs. Pinckney and Monroe, at the time of the discussion at Aranjuez; but as they were then completely refuted, I did not suppose they would be again brought forward. I have, indeed, seen the same data referred to in several writings published in this country since the acquisition of Louisiana by the United States, and maps formed here on bases assumed by those formerly published, abounding in errors and unsupported positions; but I did not, nor do I, conceive that they can have the smallest weight when opposed by facts and the principles most respected among nations.

You state that the United States can cite to me the geographical work, published at London in 1712, [1717,] entitled *Atlas Geographicus*; the British map, published in 1755, by Bowen; the narratives, published at Paris, of Hennepin, in 1683; of Tonti, in 1697; and of Joutel, [Joutel,] in 1713; the letter from Colonel La Harpe to Don Martin de Alarconne, of 6th [8th] July, 1719; the order from the French Governor of Louisiana, Bienville, to La Harpe, of 10th August, 1721; and, finally, the geographical work of Don Antonio Alcedo, and the map of Don Thomas Lopez. It is very certain that the United States

may cite these writings and maps, and many others, founded upon the data above alluded to; but it is no less certain that such writings and maps are wholly undeserving of credit, being founded on narratives void of truth, or on the most doubtful ideas, in direct contradiction to public facts and the most solemn treaties, and completely disproved by the authentic and unquestionable history of the Spanish discoveries and settlements, as well as by an immense number of documents, beyond the reach of contradiction, which prove my assertion. I am perfectly aware of the attempts of the French to encroach on the Spanish dominions when they were in Louisiana, and to give a color to their pretensions by recurring to the vague expressions of Louis XIV., and the romances of Hennepin and others, but which were never formally urged or sustained by his Government, and were always treated as absurd by Spain. The wish of the French speculators, traders, and settlers, to spread themselves in the territories of the Crown of Spain, and countries bordering on them, and make incursions into those territories, has nothing wonderful in it; because, the greater part of those territories being desert, and the French being then exclusively engaged in the navigation of the Mississippi, it was quite natural for them to penetrate into the adjacent countries, for the purpose of trading with the Indians, as it was for them to wish to establish posts or settlements for the benefit of their trade. But this, assuredly, has no connexion with the right you state they acquired to the whole of the immense country extending to the river Bravo.

The fact, which neither can nor does admit a doubt, is, that Spain has constantly been the mistress and possessor of that country, and of all the territories now contended for by the United States, during the whole period that Louisiana was held by France, and much earlier, with the exception of the points and districts which have been taken possession of by the United States. The French themselves never carried their pretensions beyond the space comprehended between the left bank of the Rio Roxo, (Red River,) as far as the point of Natchitoches, the bank of the Mississippi, the adjacent coast, where the river Caricut, or Calcasia, empties into the gulf, and the left bank of that river, which was always considered the boundary, to its source, between the Spanish province of Texas and French Louisiana; and this is the reason why France never made the smallest opposition to the building of the three presidios or forts, Nacogdoches, Orcoquezac, and San Miguel de los Adaes, by Spain. How, then, could it be contended that, in the face of facts so undeniable, of titles of property of the most genuine character, and of uninterrupted possession from time immemorial, the vague pretensions of the French should be entitled to any weight, since they have no other foundation than the incorrect, contradictory, and absurd narratives of the early travellers, explorers, and traders of that nation, who made momentary excursions from Canada and the bay of Biloxi

into that vast country? I shall now present the data extracted by you from my note of the 5th January last in their genuine sense and true aspect.

1. Discovery of the Mississippi, of the Arkansas, and of the Rio Negro to its source, by the Spaniards, under Don Alonzo de Soto, in 1541. Discovery of Florida, and possession taken of the eastern part thereof by the Spaniards, under Don Juan Ponce de Leon, in 1512. Continuation of discoveries and settlements in Florida by the Spaniards, in 1525, under Vasquez de Ayllon; in 1527, under Panfilo de Narvaez; in 1538, under Adelantado Hernando de Soto; and successively by the Spanish governors of that province, which then comprehended the whole country from the Rio de las Palmas, which is the boundary of Panuco, to latitude 48°, extending more than six hundred leagues, and crossing the Mississippi; the whole being carried on by means of regular expeditions, composed of vessels, troops, artillery, and every requisite for carrying them into execution.

2. Dominion of the Crown of Spain over the whole coast of the Gulf of Mexico, and the vast regions in the interior of Florida and Mexico, from the beginning of the sixteenth century; the Kingdoms of Leon and Santander, founded in 1579 and following years; the Kingdom of New Mexico, founded in 1595; the province of Cohaguila, a few years afterwards; and that of Texas, after 1690.

3. Successive increase by Spain of settlements, towns, and forts, at the places judged most suitable, in the interior provinces of Mexico and in Florida; she remaining in possession of the whole coast, and defending it, as often as occasion required, against the invasion or incursions of foreigners, down to the latter times.

In support of these data, there is alleged, on the part of Spain, a notorious and indisputable right of first discovery and first occupation or conquest, and that of uninterrupted possession to the present time, which refer to a long course of public facts and authentic documents, and by which they are identified and proved, on the highest testimony of which human events are susceptible. And what has been replied to all this, on the part of the American Ministers at the Court of Spain? They threw themselves back, if I may say so, upon the same data and allegations which they had at first advanced, and are now again brought forward by you, without producing any additional facts that can strengthen your pretensions—the famous grant of Louis XIV. to Crozat; the transient incursions, or, if you are pleased to call them so, the formal expeditions of Bernard de la Salle; some point or another occupied by the French, at distinct periods, on the coast of Florida and on the lower shores of the Mississippi; the post they were permitted to hold in Illinois; and those they also obtained in the immediate neighborhood of the Rio Roxo (Red River) and the Arkansas. That is all; and that is considered sufficient to confer on France the right of property to the whole extent of those



immense territories, and to dispossess Spain of the ancient possession and dominion over them! I am at a loss to conceive on what this mode of reasoning can be founded.

The grant of Louis neither has nor can have any value, no more than any other grant issued by another monarch or government, in like cases, could be valid, if the countries thus disposed of were not in possession of Louis XIV., or if France had no well-founded right to them. Now, then, the countries to which your Government forms pretensions, westward of the present Louisiana to the Rio Bravo, were never in the possession of Louis XIV., nor of any other monarch of France, as you will certainly admit. As to which forms the point of right, I know of nothing on which Louis XIV. could have founded it but the incursions of La Salle, and those of some trader or missionary.

I wish not to rob La Salle of the glory you are disposed to allow him for his brilliant enterprises and sublime philanthropy. But what I have alleged, and can prove by the fullest evidence of which facts of this nature are susceptible, is, that La Salle did nothing more than traverse from Frontenac to the shores of the Mississippi, through territories which, although included in the dominions of the Crown of Spain, were still desert, and without forts or garrisons to check the incursions of that French adventurer; that nothing resulted from them. The fort of Crèvecoeur, which was necessary for his protection against the Indians, was immediately destroyed by them; and that said to have been left under the command of Ribaut, was destroyed by the Spaniards, who, headed by Governor Melendez, attacked it without loss of time, and made prisoners of Ribaut and his whole party. The same happened in the case of the unfortunate shipwreck of La Salle on the coast of the province of Texas. He was enabled to save himself by landing at the bay of St. Bernard; and, flying from the Indians, proceeded upwards by the banks of the Trinidad river. He then raised a redoubt or fort to defend himself against their attack, and, leaving several of his party there, he advanced into the interior of the country, and fell a victim of assassination. The Indians immediately demolished the fort, and barbarously sacrificed the few French in it who had not been able to make their escape. An expedition was despatched by the Viceroy of Mexico, with a competent force, to repel La Salle's invasion, the moment he received notice of it. This expedition advanced a great distance into the country, and descended as low as the bay of St. Bernard, as I have already said, but met no Frenchmen, or other foreigners. From that time the dominion of the Crown of Spain to that whole coast, and all the territories of that province, was preserved with perfect tranquillity; and towns were quickly founded, and forts built wherever they appeared necessary for defence. Can there be a reason, then, for attributing to the French a right to that whole coast, and those extensive territories, from the simple occurrence of these momentary incursions, or, it may be,

expeditions, which miscarried without effecting anything?

I declare, too, that I do not wish to derogate from the veneration and confidence with which you consider Father Hennepin. But I can never believe the fabulous tales and fictions which abound in his narrative dedicated to Colbert. We may judge of the confidence it deserves from the following tales:

1. His descent from the mouth of the Illinois river to the mouth of the Mississippi (a distance of more than 1,350 American miles) in seventeen days, passing the nights on shore, and delaying a considerable time among the Indians, and in search of provisions.

2. He and two others, in a canoe, stemming the current of the Mississippi from the mouth of that river to the Illinois in twenty days. It is unnecessary to cite the other absurdities and fables scattered throughout his narrative, and I shall content myself with reminding you that, on the testimony of the Swedish naturalist Kalm, the opinion entertained of Hennepin, in Canada, is expressed in the following words: "The name of honor they give him there is *the great liar*; he writes of what he saw in places *where he never was*."

In fine, I think it easy to prove that all which of right belongs to the United States is Louisiana such as it was ceded and delivered to Spain by the Government of France, with the addition of those points and districts with which Spain retroceded it to France, and of such as, by public treaties, were annexed to it in favor of the United States. I go farther: although France might have an unquestionable right to other points and districts eastward and westward of that province, (which is not admitted,) she lost it from the moment she ceded and delivered to England all she possessed in Florida, and to the left of the Mississippi, with the exception of the city and island of New Orleans. By this cession and delivery, all the rights whatsoever which France could have beyond the delta of Louisiana were transferred to the Crown of England; and as Spain only retroceded to France what she had received from her, to nothing more could France have a right in virtue of the treaty of 1800. Whatever abstract reasoning or subtle arguments may be resorted to, it will be impossible to prove anything else, because it is impossible now to alter or amend the treaty, or to claim that which is not stipulated in it. I, therefore, have said, and I now repeat, that, to terminate this controversy, nothing is more just and natural than to recur to the period when France completed the cession and delivery of Louisiana to Spain, to establish what France then ceded to Spain, and what she retroceded and delivered in virtue of the treaty of St. Ildefonso. These preliminary points being determined, and the bases laid down which are their natural consequences, the subsequent arrangements will be attended with no difficulty.

The Government of Spain is prepared to produce all the titles and documents which I have cited, and many others I did not hitherto cite,

judging it unnecessary. It is the anxious wish of the Spanish Government that a suitable opportunity may be afforded to it for the production of those titles and documents, that they may be compared and confronted with those which may be produced on the part of the United States, (for hitherto they have been merely referred to,) as neither the state of the discussion, nor what has been advanced by the United States, has permitted or required anything further.

I cannot pass over, without remark, your observations tending to prove a contradiction between Don Pedro Cevallos and what I have laid down. You state therein that I have said that the boundaries of Louisiana were most notorious and acknowledged by France; and that I finally conclude by admitting that those same boundaries have never been fixed or agreed on. That which has been said by Don Pedro Cevallos and by me, and which can admit of no doubt, is, that the western boundaries of Louisiana have always been notorious and acknowledged between Spain and France; from the ocean by a line drawn between the rivers Mermento and Calcasia, running by Arroyo Hondo, between the Adaes and Natchitoches, crossing the Rio Roxo, (Red River,) and ascending towards the north. It is the boundaries between French Louisiana and the Spanish possessions after that line has crossed Rio Roxo, (Red River,) which have never been fixed, and it is proper not to confound one thing with another.

At the same time it is proper to remark that this same divisional line between the possessions of Spain and France has not been fixed by any treaty between the two Powers, but has always been considered as such from the time that the French established themselves on the right bank of the Mississippi until they ceded and delivered that province (that is to say, the delta of Louisiana) to Spain; the said divisional line from the ocean to the point I have shown having at all times been notorious and acknowledged, both by the authorities and inhabitants of each of the territories, respectively. I can, therefore, discover nothing contradictory in what was advanced by Don Pedro Cevallos and myself in the note referred to by you, and only see in our assertions a truth of facts which it is impossible to deny. Indeed, I do not comprehend what solid reason there could be to combat this truth; and the only matter susceptible of discussion is that which refers to the points that it may be just to examine, fix, and establish for the continuation of the line northward after it has crossed the Rio Roxo (Red River.) All this may be easily adjusted if, as I have before said, the basis be admitted which I have proposed, and that is, to recur to the state of possession of France when she completed the cession and delivery of Louisiana to Spain. I remark, however, that what you have communicated is opposed to this, namely, that the United States will no longer entertain a discussion relating to the territories included in the State of Louisiana. If this were the only difficulty, I do not doubt, knowing as I do the desire of the King to do whatever might be ac-

ceptable to the United States as far it may be practicable, and comport with the dignity of his august station, that His Majesty will agree thereto; and although he will not assume the lofty and dictatorial tone which you attribute to the Spanish Government at the time of Charles V. and Philip II., if he had on this occasion adopted the same principle on which the resolution of your Government, according to your communication, has been formed, yet His Catholic Majesty is ready to hear all that can be advanced by the United States in support of their pretensions, and to relinquish any point or territory whatsoever which may lawfully belong to them, although it be comprehended and incorporated in the ancient dominions of his royal Crown.

I forbear to analyze the three principles laid down by you as being founded on the immutable basis of justice, and on the general practice of European nations which have formed settlements and acquired possessions in this hemisphere. It is sufficient to read them to be satisfied that they are wholly inapplicable to the case to which you refer; and that they are, besides, conceived with too vast a latitude to be exempt from absurdities and contradictions, not only of the general practice of nations, but of the most venerable rules of justice, and even of common sense. Fortunately, the question at issue is not in that state to render it necessary or possible for your Government to recur to those principles, because I flatter myself that the principal points on which the dispute turns are already sufficiently clear to admit of their being brought to an amicable conclusion and equitable arrangement.

Let us now pass to the subject of claims. It gives me great satisfaction to observe that we agree as to what regards claims for losses and injuries reciprocally caused by Spaniards and Americans, contrary to the law of nations and existing treaties. The convention of 1802, between the Plenipotentiaries of the United States at the Court of Spain, and His Catholic Majesty's Secretary of State, was specially formed for the settlement of these reciprocal indemnities; and, consequently, it not only from that moment established the certainty of losses and injuries caused by Americans to Spaniards, in violation of the law of nations and the existing treaties, but also exhibited and admitted the right of the said Spaniards to claim adequate indemnity. This point, therefore, will be attended with no difficulty in settling it on the basis of the above-mentioned convention, with the additions as proposed to you in my note of the 24th of January, and which you state there is no difficulty in admitting. But I have at the same time to regret that we have not been able to agree on the point relating to the spoliations committed by French cruisers on the coast of Spain, and by French Consuls in Spanish ports. As it is notorious and unquestionable that these spoliations were committed by the French under the authority of their Government, I can discover no reason why Spain should be made responsible for them when the nation exists by whom they were committed.



Even the American citizens have admitted that their right was against France directly, and addressed themselves to her, by laying their claims before the competent tribunals of that nation. The United States also claimed of the French Government on the same subject. In fact, Frenchmen were the aggressors. By the French Government they were authorized. It was in French tribunals that the privateers committing the excesses complained of gave the usual bonds; they were French subjects, subject only to the laws of France, and amenable only to the Government and authorities of France. It was France alone which reaped the benefit of the produce of their captures; all which, combined with the argument I have touched on in my note in relation to this matter, cannot fail to convince you, if they be impartially attended to, that it is France, and not Spain, which should be responsible to the United States for the spoiliations in question; or, what amounts to the same thing, while France exists, there can be no right whatever to have recourse on Spain, and claim of her indemnity and compensation for those spoiliations. If the responsibility for this indemnity and compensation has not been redeemed by France, in her conventions with the United States, as you assure me, my opinion continues unchanged, that the right of the United States, or that of their citizens, can only in justice be applied to France; and I am at present no farther authorized in this case than to offer the co-operation of Spain in promoting the favorable issue of the claims of the United States on the Government of France.

Before I conclude this note, I think it fit to impress on your mind that, the United States being at peace with France at the period the occurrences now spoken of took place, there could be no difficulty in the American citizens having recourse on the Government and tribunals of France; and they, in fact, had such recourse in all those cases in which they consider themselves well founded in resorting to it; and that, notwithstanding Spain was likewise at peace with the United States, she could not ascertain whether the American vessels brought into her ports by the privateers of France, her ally, had violated the law of nations, and thereby forfeited their right to the protection due to them by Spain, in conformity to the existing treaty and the public law of nations. It was for her to believe that this point would be ascertained by the Consuls of France, and finally determined by the tribunals of cassation there. She was further to believe so by the consideration that their citizens enjoyed the benefit of a recourse to her tribunals, of which they availed themselves as often as was requisite. To this simple idea are the observations reduced, which I laid before you in my note of the 8th of January, and which you appear to consider as in contradiction with others stated in the same note—a contradiction which I do not conceive can be discovered in them.

It is my duty to repeat, from a thorough consideration, that His Catholic Majesty is earnestly

desirous to satisfy the United States, and amicably to settle and adjust all pending differences, and that it is no less certain that His Majesty extends his sincere wishes, in that respect, even so far as to be willing to make every sacrifice in favor of the United States, consistent with the indisputable rights of the monarchy, and the dignity of his august character. I have already offered you these assurances; I now renew them in the most positive manner. But I cannot, however, refrain from expressing to you my great regret on perceiving that the Government of the United States seem resolved not to agree to submit the pending differences to the judgment and impartial decision of friendly Powers, or admit the mediation of any of them, as appears by your communication to me. My regret is greatly increased, when I reflect and see that the two modes pointed out are the most simple, proper, and just, which could be resorted to to terminate a dispute in which each of the parties proceeds with good faith, and conceives it is in the right. It was one which was admitted by the United States themselves, when, in the late war, they accepted the mediation of Russia, for the purpose of settling and adjusting, under the auspices of that mediation, the points on which they had not been able to agree. Nor can I more easily comprehend why there should be any obstacle to admitting one of those two modes because the United States have no communications made to them, by the Governments of Europe, of the order and state of their negotiations, and their system of policy has no interest or relation with that pursued by those Powers; it being considered expedient, as you assure me, to avoid entering into the labyrinth of European politics. As the points in dispute between your Government and that of Spain are not entangled in this labyrinth, and as the Government of the United States is confident, as you state, that their rights are clear, and their arguments invincible, I cannot conceive what inconvenience can result from referring these rights and these arguments to an impartial third party, in whom the United States have the greatest confidence, and submitting the case to its judgment and decision; or from conferring on the points embraced by the present case, and settling and adjusting them under the mediation of such Power or Powers as, in the face of the world, are most entitled to the confidence of your Government. I was told by Mr. Monroe, in one of his early notes, that if this case were submitted to the judgment of an impartial tribunal, disposed to take it into due consideration, he was confident the decision would be in favor of the United States. I know not, for my part, what would be the result; but what I can assure you is, that, whatever might be the decision of the tribunal to which the two Governments had agreed to refer their differences, it would meet the approbation of His Catholic Majesty, and relieve him from the anxiety created by this business.

Why not, then, make choice of a tribunal, and submit to its decision? Is it possible there can-

not be found in the whole universe a Government, or a number of individuals, worthy of confidence in such a case? I am satisfied that your Government neither does nor can think so; and that its love of peace and amity with all Powers, its firm adherence to the principles of equity and justice, and its humane sentiments, offer the best grounded hopes that the present difficulties will be overcome, and the wished for moment is at hand when all the differences pending will be finally settled to the entire satisfaction of both Governments.

Seeing, therefore, by your communications to me, that the opinions still maintained by the Government of the United States are derogatory to the indisputable rights of the Crown of Spain, and that you propose no basis capable of reconciling the contradictory views respectively taken by each Government of the subject, I find myself unprovided with suitable powers and instructions finally to agree on and stipulate in the present case. I am, therefore, under the necessity of despatching a courier to Madrid to inform my Sovereign of the actual state of this negotiation, and to request of him the necessary orders and instructions, by increasing my powers, as may be deemed requisite, in reference to existing circumstances.

In the meantime, I confidently hope that the Government of the United States will rely on the honor and good faith of the Spanish Government, and in the earnest desire of His Catholic Majesty to satisfy the United States, and strengthen the ties of the most perfect harmony and good understanding.

As the partial gazettes throughout the Union unfortunately endeavor to scatter the seeds of animosity in the minds of unguarded persons, or such as are uninformed on the points embraced by the differences pending; and as the Congress has requested information of the President on the present state of those differences, who has laid before the House of Representatives the official correspondence on these subjects, both here and at Madrid, it would be desirable that his Excellency would be pleased also to lay the present note before Congress, as it forms a part, and is the complement of that correspondence, and presents the most unquestionable view of the amicable dispositions of Spain, and of the determination of His Catholic Majesty to omit nothing to meet the just wishes and hopes of the United States. I therefore hope that the President will be pleased to direct this measure, and that you will contribute to its adoption.

In the meantime, it is my most ardent wish that you may suggest a just mode by which we may be enabled to approach the necessary basis for the settlement of all the differences pending, by removing the principal difficulties which have hitherto obstructed our progress, as I shall, notwithstanding the deficiency of my powers and instructions, with the greatest pleasure, take into due consideration, without waiting for new orders from my Sovereign. You must be aware, sir, that those I am already furnished with cannot

extend to the case presented by the proposals contained in your note of the 16th January, since Spain never imagined that the *Rio Colorado*, hitherto spoken of by the Minister of this Republic, could be any other than that of Natchitoches; and I did not even think you meant to speak of any other in your note, until I was more exactly informed by you; the river which you wished to designate being known by the name of San Marcos, or de las Canas. This circumstance, taken in connexion with the other respecting the cession of the Floridas without any equivalent or retribution whatever, produces an infinite difference in the view to be taken of the first proposals made on the part of your Government to that of His Catholic Majesty; and I am unable to stipulate such sacrifices, on points of such magnitude, until I have previously consulted my Court, and received orders and instructions adapted to the purpose. Hence I find myself under the necessity of despatching a messenger to Madrid with all possible expedition. But to prevent the loss of time, in the meanwhile, this need not prevent our continuing the negotiation, and employing every proper means to bring it to a conclusion, on principles of common justice and reciprocal convenience, to the satisfaction of both Governments. To attain this, I conceive it will not be difficult, provided we confine ourselves to the essential objects of the dispute, and honorably reject whatever has no important connexion with it, or cannot contribute to the end in view.

I flatter myself, sir, that both you and your Government will proceed under the influence of similar sentiments. Reposing in this hope, I renew to you the assurances of my distinguished esteem and respect. God preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, March 27, 1818.

SIR: In the President's Message transmitted to Congress on the 25th instant, on the state of the present war with the Seminole Indians, it is declared by his excellency that the greater number of those Indians inhabit within the limits of Florida, and that Spain was consequently bound to restrain them, and prevent their committing hostilities against the United States; but that it is painful to observe that she has failed to fulfil this obligation; that it is yet unknown whether the Spanish Government has attempted to fulfil it agreeably to the stipulation of its treaty with this Republic; that His Catholic Majesty not having kept up a sufficient force in Florida to restrain those Indians, the United States had a fair right to enter the territory of that Spanish province with an armed force in order to chastise them, which will be effected, showing due respect to the Spanish authorities where they may exist, and evacuating the province as soon as the object of the war and the entry into the Spanish territory shall be obtained.

It is my duty to state to you, for the informa-



*Relations with Spain.*

tion of the President, that the Governor of Florida uniformly observed the most scrupulous neutrality throughout all that province during the late war between the United States and Great Britain and constantly employed every becoming and practicable means to avoid all manner of hostilities on the part of the Indians, alluded to by the President in his Message, against the people or citizens of the United States; in proof of which, I have the honor to enclose a letter received by me from the Governor of St. Augustine, with a correspondence also received from him in relation to this particular subject. I am yet un-informed that any complaint of the authorities or citizens of the United States had been made to that officer of the Seminole Indians, or that any demand had been made of him to restrain and compel them to make satisfaction to the United States for any injuries they may have committed. From the Governor's correspondence, a literal copy of which is enclosed, it is evident that he used the utmost attention in recommending them to observe peace and the most perfect harmony with the citizens of this Republic, in appeasing all their bickerings and jealousies, and in dissuading them from every hostile feeling towards the persons or property of the citizens of the United States. He would also at once have employed forcible means to effect this, in case any complaint had been made to him of those Indians, stating the excesses they may have committed, and the grounds there existed of obliging them to make reparation for the injuries sustained, and of punishing them for their outrages. As nothing of this kind took place, I cannot perceive how a failure in this case can be attributed to the Government of Spain.

As to what relates to His Catholic Majesty's not keeping up a more considerable force in Florida, you must be aware, sir, that Spain has reposed full confidence in the peace and good understanding subsisting with the United States, and that, relying thereon, her attention has been confined to keeping up such garrisons as were absolutely necessary to preserve good order and public tranquillity; of course, she never entertained the idea of putting that province on a war establishment. Its garrisons, being in the neighborhood of a friendly and respectable Power, were competent to the purposes they were intended for, and to keeping the Indians dependent on them within their duty, and to enforcing that peace and orderly conduct they were bound to observe, as well towards the territories and subjects of His Catholic Majesty as towards those of the United States.

It is therefore to be presumed that the information or advices communicated to the President are without foundation; and I therefore hope that his excellency, on correcting the truth of facts by an examination of the correspondence, (copy of which is herewith transmitted,) as well as by other suitable means, will be pleased to prevent any violation of the territory of Florida, or any other part of the dominions of Spain, by

the troops of the United States. If that fact should unfortunately be realized, it would be my duty to enter my solemn protest against it, in the name of the King, my master; but confidently relying on the rectitude and wisdom of your Government, I trust that its measures will conform to the strict principles of justice and that good faith in which His Catholic Majesty places full confidence. Spain has at all times strictly fulfilled her engagements stipulated by the treaty with the United States, and, while she prides herself on a religious observance of them, in every particular relating to the Indians inhabiting within the territories of the monarchy, she is also desirous of protecting those unfortunates, and of acquitting herself towards them of every duty dictated by humanity. She has never permitted them to be molested by the Spanish authorities, nor a single step to be taken tending to their extermination, the dispossessing them of their properties, or disturbing them in the free enjoyment of their customs and government. The philanthropic sentiments of the American Government and people are assuredly in unison with those of His Catholic Majesty on this point. I therefore hope that those Indians, on being punished for the violences or injuries they may have committed, will be viewed with that indulgence by the President which their ignorance and rusticity seem to claim for them.

I renew the assurances of my perfect respect, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Jose Coppinger, Governor of St. Augustine, to Don Luis De Onis.*

ST. AUGUSTINE, FLORIDA,  
February 10, 1818.

MOST EXCELLENT SIR: I have most attentively examined the contents of your letter of the 17th of December last, in relation to the complaints of the Government of the United States against that of the province under my command, founded on the protection alleged to have been afforded to the English in their late war with that nation; also, on the hostilities committed by the Indians under the protection of our Government, and affirmed to be fomented by the Spaniards.

The occasion furnishes a theme for ample and well-founded discussion, were I to undertake to point out to you the motives of these complaints, and if I could contrast the conduct of the Government of this province, as to what regards the United States, with theirs in respect to the Spanish nation, on those different occasions on which they have hitherto and still do give proofs of their proceedings upon the subject of neutrality; but leaving this to your enlightened and judicious investigation, I now proceed to submit to you such information and documents as are in my reach, in compliance with your request.

In order to answer you categorically, I have had recourse to the archives of the Secretary's office for this Government, and have collected such documents as are essential, copies of which

*Relations with Spain.*

are herewith transmitted, marked No. 1 to 14. They will readily solve the two problems brought into discussion, and show that the system of this Government has been diametrically opposite to the proceedings attributed to it, which are wholly without solid or even plausible foundation.

In fact, what more convincing proof can be offered of the observance of the strictest neutrality than the total ignorance of any complaint ever being made here by the Government of the United States, their officers and citizens, of any infractions? The letters of Brigadier Don Sebastian Kindelan, then governor of this province, to the different officers under his command, recommending the observance of the strictest neutrality towards the belligerents, offer similar proofs of this spirit. The letter of John Brown, a citizen of the United States, written at that period, the claim made of the commander of the English squadron, and the copy of a letter addressed to George Woodbine, captain of infantry, and British agent with the Indian nations, at the time he came here, forming part of the documents now transmitted, are additional evidence of the protection afforded to American citizens, in conformity to the laws of nations and the sixth article of the treaty of amity, limits, and commerce, concluded between the King of Spain and the American nation on the 27th of October, 1795.

If your excellency attends for a moment to the charge of hostilities committed by Indians inhabiting this province on citizens of the United States in consequence, as is alleged, of the hostile feelings suggested and fomented by the Spaniards, it will be no difficult matter to repel it, and refute an insinuation so injurious to the Spanish character. Truth needs no circumlocution to prove it; in communicating, therefore, evidence on this point, it will suffice to lay before you my correspondence with Boleck, a Seminole chief, making part of the enclosed documents, for the purpose of enjoining on him a strict observance of peace, good order, and friendship with the people of the United States. This will demonstrate to them and to the world that the Government and inhabitants of this province, so far from being instigators of hostility and discord, have performed the office of friends and peace-makers, and that the political conduct of the superior officers in East Florida has been founded on the principles of reason, justice, and friendship. Influenced by the sentiments of honor and good faith which have ever characterized the Spanish nation, I was solely animated by them when I invited the chief Boleck to come and see me, which he did. I then recommended to him most earnestly to refuse any retreat or asylum within his territory to the fugitive slaves from the United States, and offered to act as a mediator in his differences, if he had any. To which he replied, that he had no other than those connected with his endeavors to preserve his cattle, which were daily stolen from him by the Americans, who, besides, were endeavoring to dislodge him from his territories.

I leave it to the discernment and decision of

politicians to pronounce whether, in the course of the events alluded to, the most unimpeachable neutrality and good faith have not been observed by the Government of this province. The proofs referred to in support of this are so clear and convincing that I refrain from trespassing further on you, satisfied as I am that your accurate judgment will give the proper direction to the affair in question.

God preserve you many years.

JOSE COPPINGER.

No. 1.

ST. AUGUSTINE, January 11, 1815.

SIR: I have received yours of the 8th instant, informing me of the arrival of the King's schooner the Empezinada; also of the appearance off the bar of seven frigates, three brigs, and two schooners, supposed to be English. In reply to the first part of your letter, I have to request that you will afford the commander of the Empezinada all the facilities in your power for the repair of his vessel; and to the second, that, as His Majesty has recommended to me the observance of the strictest neutrality, you will firmly maintain it in a becoming manner, by not permitting any foreign troops to land within the Spanish territory, or affording any aid or assistance directly or indirectly, the said troops being at war with the United States. You will not fail to give me immediate advice of whatever may occur.

God preserve you many years.

SEBASTIAN KINDELAN.

To Don FERNANDO DE LA PUENTE.

A true copy:

TOMAS DE AGUILAR.

No. 2.

ST. AUGUSTINE, FLORIDA,  
January 21, 1815.

SIR: I am happy to learn the amendment of your health, announced in yours of the 17th instant, and hope it is now perfectly re-established; but, in case it is not, you will take charge of the command provisionally, and of course open the correspondence I have directed to you, as well as any future communications, to give all due effect to their contents. I further inform you that, as circumstances have rendered it necessary to prohibit the export of provisions from the province, you will not permit any to be taken off, and on this ground, as well as that of necessity, you will, in the most civil manner, decline offering or affording any supplies to the English, of provisions, arms, warlike stores, or anything else to be hostilely employed against the United States, or any aid or assistance for their remaining in their present position, pointing out to them, in the most attentive and becoming way, the necessity we are under of observing the strictest neutrality, recommended to us by our Court on the most serious responsibility; and that, in consequence, and to avoid the compromise of this province, it would be desirable they should cease their visits and communications with the



## Relations with Spain.

inhabitants. In case the commandant is in a state of duty, you will deliver him the original of this letter for his government.

God grant you many years.

SEBASTIAN KINDELAN.

To Don CRISTOBAL BRABO.

A true copy:

TOMAS DE AGUILAR.

No. 3.

St. AUGUSTINE, Jan. 21, 1815.

SIR: I approve of your conduct in endeavoring to prevent the approach of the English ships of war into your river, and you will inform them that on no account whatever are they to enter therein, or station themselves within hail. If discovered in these attempts, they will lose their claim to that name for which they have a reputation. I have also to direct you that, in case they wish to water their ships, you will decline it in an attentive and polite manner, and explain to them the difficulties which oppose their receiving supplies; in one word, you will, in your communication with them, avoid whatever may compromise the neutrality which is so strictly enjoined on us. God preserve you many years.

SEBASTIAN KINDELAN.

To Don PEDRO MIRANDA,

Harbor Master at Amelia Island.

A true copy:

TOMAS DE AGUILAR.

No. 4.

St. AUGUSTINE, Feb. 4, 1815.

MOST EXCELLENT SIR: A complaint has been laid before me by Robert Harding, a citizen of the United States of America, stating the capture, by His Britannic Majesty's forces under your command, of his boat, called the Maria Teresa, then a, anchor within the Spanish waters of Bell's river, at the spot known by the name of Roun's Bluff, and claiming the protection of the Spanish Government, to which he conceives himself entitled, both by the law of nations and the sixth article of the treaty of amity, limits, and navigation, concluded between His Catholic Majesty the King of Spain and the United States of America, at San Lorenzo el Real, on the 27th of October, 1795, in order that a due inquiry may be made of the facts, to obtain the restoration of said boat. You will readily admit the propriety there is in my attending to this claim, and the importance attached to the maintenance of national jurisdiction and the faithful observance of treaties. This affair, being important, cannot be viewed with indifference, as silence would give room for conjectures unfavorable to the honor of the Spanish character, and to the good faith with which it observes treaties of compacts. The English nation, being in strict alliance and amity with Spain, cannot fail to disapprove such proceedings, which have a tendency to affect their friendship and that favor and protection which are justly due to so close a union. I trust, therefore, that your excellency, penetrated with the sentiments

inseparable from these unshaken principles, will have the goodness to take this claim into consideration; and, relying on the mutual good understanding subsisting between Spain and England, I venture to request you will be pleased to give orders for the restoration of the above-mentioned vessel, as I have a satisfaction in reflecting that your well-known zeal and reputation will be a sure pledge of your respect for the honor of the Spanish nation, which reposes full confidence in the fidelity of its friends and allies.

I request you to receive the assurances of the high consideration with which I am, sir, your most obedient servant,

SEBASTIAN KINDELAN.

Sir GEORGE COCKBURN,

Rear Admiral of H. B. M. squadron.

A true copy: TOMAS DE AGUILAR.

No. 5.

HEADQUARTERS, CUMBERLAND ISLAND,

February 13, 1815.

MOST EXCELLENT SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 4th instant, soliciting, on the grounds therein stated, the restoration of the Maria Teresa, a vessel belonging to Robert Harding, a citizen of the United States, captured by the force under my command. This affair took place before my arrival; and His Majesty's officers who made the capture affirm that the vessel was navigating the waters of the St. Mary's river, in violation of the blockade, at the moment they gave chase to her. They, consequently, thought themselves justified in capturing her; and it is, therefore, necessary she should be sent to some port where an admiralty court is established for the decision of such cases. In this view of the case, the impartial justice administered in the courts of His Britannic Majesty, as is well known to you, forbids any apprehension that this incident can interrupt the friendship and good understanding happily subsisting between the two Governments. It may, however, not be superfluous to call your attention to the inconsistency of such a claim on behalf of a citizen of the United States by the Spanish nation, and particularly through the medium of your excellency, when we reflect that the Americans have, in a hostile manner, possessed themselves of a considerable portion of the territory under your immediate command; and, further, that a number of them, styled patriots, were, at the very moment of the occurrence complained of, in possession of the territory surrounding the spot you allude to, (Rose's Bluff.) And although the Government of the United States, after having ordered Fernandina and part of East Florida to be occupied by their troops for a year, has thought fit to disclaim any authority for the invasion of the Spanish territory, you cannot be ignorant that the officer who co-operated with the gunboats in the hostile movements of the said Americans, styled patriots, still retained the command of that flotilla, which it is not pre-

## Relations with Spain.

sumable would have been permitted had he not acted conformably to his orders. A late occurrence at Pensacola, in West Florida, followed by the destruction of Fort Barancas, is an additional proof how little the Americans are disposed to respect the neutrality of Spain, except in cases like the present, in which they are likely to gain something. I beg your excellency, however, to be persuaded that, although I consider the foregoing remarks as indispensable, since they prove the slender foundation these people have to claim the protection of a neutrality which they have so recently and so extensively violated, yet it is my anxious wish to respect as sacred and inviolable not only the neutrality of the province under your government, but also all the rights you may claim of me in behalf of the Spanish nation, when they do not interfere with my duty to my own.

I beg leave to assure your excellency of the high consideration and respect with which I have the honor to be, your excellency's faithful and obedient servant,

GEORGE COCKBURN,

Rear Admiral.

His Ex'cy Don SEBASTIAN KINDELAN, &c.

A true copy: T. DE AGUILAR.

No. 6.

PROTEST.

FERNANDINA, Amelia Island, E. F.

This third day of April, one thousand eight hundred and fifteen, appeared before Don Jose Pacot, captain of the regiment of Cuba infantry, military and civil commandant and deputy of the royal treasury (*hacienda*) at said place, John Brown, late captain of the American ship Sabine, captured on the 30th of January by the British forces, who declared his wish to enter his protest against said capture, noted at this command, on the 23d of the same month, for the like cause, and in presence of the witnesses Don Jose Maria Ugarte, an inhabitant of this province, and Juan de Rosello, corporal of infantry, appointed to act in the want of a notary public, having first declared his acceptance and taken oath in due form, through the medium of Don Jorge Clark, appointed interpreter, on the Holy Bible, according to the Protestant faith, of which he is a member, to speak the truth, and nothing but the truth, deposes: That the said ship Sabine, formerly the Countess of Harcourt, was captured in the late war by the United States privateer schooner Sabine, and carried into St. Marys, in Georgia, where she was tried before the Court of Admiralty for the State of Georgia, and condemned as good prize, put up at public sale the 5th October, 1814, and bought by Messrs. Diego Williams, Juan Gooding, and Juan Donnell, merchants of Baltimore, as duly appears by the documents to be referred to. That the said purchasers of the prize, being apprehensive that she would be attacked by the British force, as actually happened, took measures to shelter, and

did shelter, her within the Spanish territory, by making her fast in a creek connected with the Spanish river, Santa Maria la Chica, (Little St. Marys) in the firm belief that, under the protection of a neutral Power in amity both with Great Britain and the United States, she was not exposed to attack or injury, from the respect it was thought would be observed to her while within the Spanish limits. She was carried four miles up said creek, and made fast to the trees. In this situation she was boarded by a British force, detached by Admiral George Cockburn, who was in possession of the country towards St. Marys, with his headquarters at Cumberland Island. They carried off by force part of the property on board said ship, and the next day took full possession of her, and carried her off from the Spanish territory to Cumberland Island, where she had a cargo of negroes put on board of her, and was sent, as deponent was informed, to a British port, supposed to be Bermuda, for adjudication as prize of war; and as neither the deponent nor any one on board committed any act whatever that could serve as a motive for the proceedings of the captors in violation of the justice of Spain, and her dignity and absolute neutrality towards both nations, nor made the smallest resistance to the seizure, as is public and notorious, he therefore protests, once, twice, thrice, and as often as may be necessary, both on behalf of himself and of all those interested in the said ship, against the proceedings of the said Admiral Cockburn, as well as against all others of whom he may and ought of right to claim for the damages and losses sustained by this illegal seizure, and also against the violation of the neutrality of the province of East Florida, to the injury of the parties interested in the said prize before the seizure, declaring, as he now does, that he refers to the note of this protest, made on the 23d of January, which was made with all possible expedition at this command. All which he declares and confirms upon the oath he has taken; and having required this original document to take his recourse therewith, I have granted him complete and ample testimony of the same, and signed it, together with the said commander and interpreter, to which we witnesses present bear testimony.

GIL JOSE PACOT,

JOHN BROWN,

JORGE CLARK,

JOSE MARIA UGARTE,

JUAN DE ROSELLO.

MEMORIAL.

May it please your Excellency:

Mr. John Brown, late captain of the American ship Sabine, formerly the Countess of Harcourt, with all due respect submits: That the said vessel being within the shelter and refuge of a creek of the river called Santa Maria la Chica, (Little St. Marys,) within the limits of the dominions of Spain, was attacked and seized on by the forces of His Britannic Majesty, under the command



## Relations with Spain.

of Admiral George Cockburn, in the mode and manner duly set forth in the annexed protest, made and entered before the military and civil commander of the town of Fernandina, and attested by proper witnesses, in the want of a public notary. The said river being within the limits of the dominions of His Catholic Majesty, and the vessel seized on when that Power was in a state of peace and amity both with His Britannic Majesty and the United States of America, the offence committed by this outrageous act is evident, as well as the violation of the neutral territory, to which a sacred respect was due, and of those universal laws which are maintained and acknowledged by all independent States and Princes. It being the duty of this memorialist to claim of your excellency a demand of the restoration of said vessel, in virtue of the protection afforded to him by the stipulation contained in the sixth article of the treaty of amity, limits, and navigation, concluded between His Majesty the King of Spain and the United States of America, at San Lorenzo el Real, October 27, 1795, expressly applicable to cases of this nature. He, therefore, entreats your excellency to be pleased to cause the necessary orders to be issued, and therewith to employ all due efforts and energy, claiming the recovery and restoration of the said vessel, and addressing the same to the Lords Commissioners of the Admiralty of Great Britain, the judges of the several courts of admiralty or vice-admiralty, and all civil and military officers and functionaries authorized to take cognizance of such matters, to the end that, on the exhibition of such proofs as may be produced and appear satisfactory and competent to substantiate the contents of the afore-mentioned protest, the said ship may be restored, together with everything belonging to her at the time of her capture. All which is hoped from your justice.

JOHN BROWN.

ST. AUGUSTINE, Fla., April 6, 1815.

DECREE.—St. Augustine, 6th April, 1815. Referred to the Auditor of the War Department.

KINDELAN.

NOTIFICATION.—Before me, Juan de Entralgo, Government notary *pro tem*. At St. Augustine, on the same day, and in the same month and year, I attest that I notified the foregoing decree to Captain John Brown.

ENTRALGO.

## OPINION.

May I, please your Excellency:

This petition is the third that has been presented in this superior tribunal, of like nature to that submitted by Mr. John Brown. In the two former cases, a letter was addressed to the English Admiral then at Cumberland Island, in which it was requested, with all the politeness and respect due to the existing alliance, to be pleased to cause to be restored to their respective owners the vessels claimed by each one, on the ground of their having been captured in our waters, it

being essentially important to extend to them when so situated, the protection of our Government, in conformity to the sixth article of the treaty of amity, limits, and navigation, concluded between our Court and the United States on the 27th of October, 1795, which runs thus: [Here follow the words of the article.] But having been informed extrajudicially, not only that the vessels so captured within the Spanish waters have not been restored, but that the interposition of our Government has been received with indifference, it is expedient that the claim should be made with all the energy required by the case, and the honor of the nation asserted, by causing due respect to be paid to the inviolable rights of neutrality. By a reference to the foregoing article, it is abundantly proved that the citizens of the United States are entitled to the protection of our Government while within the Spanish territory, and, consequently, to resort to it in claiming for them the restitution of such property as may have been taken from them within the limits of our jurisdiction; it is therefore evident and incontrovertible that, as the said treaty remains in full force, it is indispensable to maintain and observe its whole tenor and stipulations.

But setting aside so decisive an authority in support of the protection due to a friendly Power so circumstanced, it is sufficient to view the case as connected with the principles of the laws of nations—a subject so thoroughly discussed by all politicians, that no one possessing any ideas upon international law dissents from the general opinion of all the civilians as to the degree of aid to be afforded to those who take shelter in the ports or within the limits of a friendly Power; and, according to the opinion of a native of the Kingdom, any vessel taking shelter under the cannon of a neutral port ought to be defended by it, by keeping the pursuers at the distance of cannon shot. And would it not be a stain on the character of our nation to pretend to misunderstand the fact of a friendly vessel being taken out of the Spanish waters, although only made fast to the trees of our territory, by a force belonging to a Power which, although our ally, was, however, then at war with the other? Such an indifference would give rise to all manner of conjectures, which every one would interpret as they pleased, but all tending to throw discredit on our national character. Doubts, at least, would be entertained of our good faith in observing our compacts, which delicate point is the distinguishing principle that has ever characterized the Spanish name; and it is well known how important it is for a nation faithfully to observe her treaties. The sixth article, above referred to, is so clear and explicit as to leave no room for the slightest misinterpretation; and if it were now to give it a sense different from that expressed in it, the mischievous consequences would be easily seen.

The general opinion of all political writers is, that, by a violation of a single article of a treaty, it is doubtful whether the whole ought not to be considered as violated. This point has been sufficiently discussed by all the civilians. It can-

## Relations with Spain.

No. 7.

ST. AUGUSTINE, December 30, 1814.

SIR: At the time you stated to me verbally the motives of your coming to this place, I had the honor to represent to you, in like manner, the orders I had received from my Government to observe the strictest neutrality; that I could not, therefore, permit any communication with the English vessels which might appear off the bar; that I would give you every facility for a passage to Providence; that you would be pleased to discharge the escort of the people of color, which, under an erroneous idea of this province being invaded, you had obtained from the Seminoles as a safeguard on your journey; all which I repeat to you officially for your information and government; and I now add that, by the treaty of peace of 1763, both the Floridas were ceded to Spain by Great Britain, with the same rights therein as possessed by the latter; and that by the Treaty of St. Ildefonso with the United States of America in 1796, the northern boundaries of those provinces were defined, namely, by a line commencing at the east bank of the Mississippi, at the thirty-first degree of latitude, and running thence to the river Chatahoochee, and from the junction of that river and the Flint, by a right line, to the head of the St. Mary's, in the State of Georgia; therefore, all the Indians inhabiting the country to the south of said line are under the dominion and protection of the Spanish nation; and such of them as inhabit eastward of the river Appalachee are included within the limits of the eastern province, under my government; in consequence of which, I have to inform you that any disembarkation of troops within those limits, or expedition directed towards this province for the purpose of attacking the United States, will be considered as a rupture on the part of Great Britain; and that in such case I shall conduct myself as becomes my duty.

ST. AUGUSTINE, April 11, 1815.

DECREE.—St. Augustine, 11th April, 1815. Opinion of the Auditor at War in the foregoing dictamen.

KINDELAN.

Before me, Juan de Entralgo, notary *pro tem*. of the Government.

NOTE.—I certify that on the same day the application above referred to was made out and delivered to the party interested.

ENTRALGO.

I certify that the foregoing are conformable to the originals deposited in the archives under my charge, to which I refer; and that by order of Don Jose Coppinger, colonel of the royal marines, civil and military governor of this fortified place and province, for His Majesty, the present documents have been made out, which I sign on eight sheets of common paper, not having used stamped paper.

JUAN DE ENTRALGO,

Secretary of the Government.

ST. AUGUSTINE, FLORIDA, Feb. 4, 1818.

I have the honor to assure you of my respect, and to request you will have the goodness to inform me in writing of your intentions.

God preserve you may years.

SEBASTIAN KINDELAN.

To Capt. GEORGE WOODBINE.

A true copy: TOMAS DE AGUILAR.

No. 8.

Captain Woodbine to Governor Kindelan.

ST. AUGUSTINE, Dec. 30, 1814.

SIR: I have the honor to acknowledge the receipt of your two notes of this date. In reply to the former, permit me to assure you that I have never used any endeavors to induce the colored people (*los morenos*) of the province to desert; on the contrary, my instructions, since I have been in the Indian territory, have been to give every aid (as far as requisite) to the cause of our good and faithful ally, the Spanish nation; I am only authorized, in case any deserters should come in from the United States of America, to protect and recruit them for the service of His Britannic



Majesty, agreeably to the proclamation of Vice Admiral Sir Alexander Cochrane; copy of which I enclose for your information. With respect to the few Indian and colored people (*morenos*) who attended me as an escort, as their appearance seems to have produced some sensation among the inhabitants, from an uneasiness about their slaves, I have given them orders to withdraw immediately to a greater distance from their neighborhood, and, if possible, I will leave this place in the evening. I should not have brought this small escort with me if I had not been informed by the Seminole chief Bowlegs that he had certain intelligence that a party of mounted banditti were committing hostilities against the Spanish authorities in this neighborhood. I am greatly obliged by the honor you do me by acquainting me with the boundaries of the territory which Spain considers as hers, which I shall communicate to my commanding officer.

I beg you to accept my sincere acknowledgments for your politeness and that you would believe me to be your most devoted humble servant,

GEORGE WOODBINE.

*Captain Royal Marines, &c.*

His Ex<sup>y</sup> Don S. KINDELAN, &c.

No. 9.

*Letter of Boleck (Bowlegs) to the Governor of Florida.*

MAY 7.

Be pleased to inform me if it is your wish I should go and see you, and be so good as to write to me. I cannot leave this now, as I do not know but I shall soon have the enemy upon me; I therefore cannot go at present; please to inform me if it is for His Majesty's business or not. I also wish you would advise me what I am to do with these Americans who come and steal my property. I wish you to send me a letter from your own hand.

BOLECK, *Chief of the nation.*

No. 10.

*The Governor of East Florida to the Indian Chief Boleck.*

ST. AUGUSTINE, FLORIDA, May 31, 1816.

*Friend and brother Boleck, Chief of the Seminole Nation:* The wish I have constantly had since my entrance into this Government to become known to you, in consequence of the satisfactory information given me by my predecessor, Don Juan Jose de Estrada, of the friendship and good understanding he has experienced in his intercourse with the Seminole nation, of which you are the chief, induced me to express to you by one of your warriors the pleasure I would have in receiving a visit from you whenever circumstances may permit you. I now repeat the same to you in writing, in consequence of the desire you manifest in your letter of the 7th instant, which was delivered to me by one of your people, to which you add a request that I would give you my advice as to the measures you should take relative to the continual robbery of your cattle;

to which I reply, that you may prevent it by resolutely driving off the persons who plunder you. Whereupon, I assure you of my good will and sincere desire to serve you.

JOSE COPPINGER.

A true copy: TOMAS DE AGUILAR.

No. 11.

*Letter of the Chief Boleck.*

SUWANEE, September 10, 1816.

DEAR FRIEND: I received your letter dated in May, and I am much gratified by the favorable opinion you are pleased to entertain of me. I did not expect to see the English here, but on their arrival they gave us good advice, which was to molest no one, and when they were gone to look on the Spaniards as our friends, since they and the Spaniards were as one. When we were at war with the Americans, all the Indians did us injury; I therefore remain quiet till I see what they will do. You are still calling for me, but it is not in my power to go; every day there are talks in the nation, and I cannot leave them. You will greatly oblige me by seeing to the payment of old July, as that is a just debt. I often write you, but I never receive an answer.

No. 12.

*The Governor of East Florida to the Chief Boleck.*

ST. AUGUSTINE, FLORIDA, Sept. 26, 1816.

*Friend and brother Boleck, Chief of the Seminole nation:* In consequence of your recommendation, and of the justice of the claim of your negro slave July, for the payment of the sum due him by Don Francisco Pellicer, I ordered it to be made, and it has accordingly been done, as I have been assured. This is very agreeable to me, as it has procured me the satisfaction of proving the friendship I have for you, which would never allow me to leave unanswered the letters which you say you have written me, if I had received them. My wish that we should see each other arises solely from the pleasure I should have in knowing you; and if your sentiments are the same, when your duties permit, I shall take that opportunity of giving you my opinion as to the runaway negroes who have taken refuge in your territory—an affair which cannot fail to produce disagreeable consequences with the American nation, as I have seen that they lately destroyed the establishment at Appalachicola, as I have been informed by several of your warriors, and I am sorry to observe that some of them have fallen there. It gives me pleasure to send you some paper, and to assure you of my sincere friendship and good wishes.

JOSE COPPINGER.

To our good friend and brother Boleck,

*Chief of the Seminole nation.*

A true copy: TOMAS DE AGUILAR.

No. 13.

NOVEMBER 18, 1816.

SIR: I had the honor of receiving your letter of September, but the impossibility of finding a

person to write an answer is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you, and I hope you will, when occasion offers, advise me of such things as may be of service to myself and my people. My warriors and others who go to St. Augustine return with false reports tending to harass and disturb my people, and prevent them attending to their usual avocations. At one time, the Americans, supported by a force of three thousand men, and such of our brethren as they have compelled to join them, are running lines far within our territory; at another, they are collecting a large force at Fort Mitchell, in the forks of the Flint and Chatahoochee rivers, to fall on the towns that may not join them. Now, sir, we know of no reason they can have for attacking an inoffensive and unoffending people, whose wish it is to inhabit their woods, without disturbing or being disturbed by any one. We have none of their slaves; we have taken none of their property since they made peace with our good father, King George; we have followed the orders of the officer of our father, who was among us, Colonel Edward Nicholls, and in nowise molested the Americans, though we daily see them encroaching on our lands, stealing our cattle, and murdering or carrying off our people. We were told by the same officer that, as allies of our father, we were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before the war; but, so far from complying with the ninth article of that treaty, they are making daily encroachments, and forging treaties (which they pretend are concluded with our people) for cessions and grants of land which never were in existence, and the signatures to which are unknown to the chiefs of the Creek nation, who alone have a right to assign or transfer the common property. The want of a proper person among our people to acquaint us with these transactions is the cause of our long silence on them, and leads the world, as well as our friends, to think we are in league with the Americans.

The principal chiefs of the nation assembled lately at my town of Sawahna, and resolved to inform the Minister of King George at Washington of our grievances, and of the conduct and usurpation of the Americans, which was accordingly done, and copies sent to England. Until we have one or more persons among our people to watch over our rights and interest, we shall continue to be exposed to the same conduct on the part of the Americans, whose system appears to be the destruction of our peace and tranquility, and expelling us from our native land.

You desired that I would chase off those who steal my cattle, &c. Some of my people have lately driven away several Americans who were endeavoring to settle at Lachua, and I do not doubt they will represent that as an act of hostility, although you well know that Lachua is in the heart of my territory, and was, until the Amer-

icans killed my brother, our chief town. I return you my thanks for your letter,

And am, with great respect, your most obedient, humble servant,

Mark of + BOLECK,

*Chief of Seminole nation at Sawahna.*

His Ex<sup>y</sup> Don JOSE COPPINGER,  
*Governor of St. Augustine.*

No. 14.

ST. AUGUSTINE, FLORIDA,

December 20, 1816.

FRIEND AND BROTHER BOLECK:

Your letter of the 18th November was delivered to me yesterday by one of your servants, in which you inform me of the receipt of mine of the 26th September last, and other circumstances which give you and your warriors uneasiness. I see with pain that the whole comes from the information of persons in whom you ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing you and your people from their daily labors. In consequence of this, and of what you tell me of your desire to keep up the best understanding and correspondence with me, and of your hope that the opportunities will not be wanting, let me give you such counsel as may be useful to you, your people, and warriors. I will do so from the sentiments of sincere friendship I bear towards you—fearful, however, that the sentiments of others who come into the territory under the appearance of friendship, but with bad intentions, may influence your minds, and obtain your confidence, by their flattering representations. It is ascertained here that two persons have lately presented themselves as commissioners of the English nation, who have carried off several runaway negroes, belonging to subjects of the King my master and your friend; among whom was one of Don Francisco Pellicer's, and another of Bunch's—both inhabitants of this province. This did not seem credible to me, as I could not suppose that so good a friend to our nation as you are could consent to such proceedings. But, in case they have really happened, you will be sensible of their great impropriety, and of the just grounds of complaint on the part of the persons so injured, who are desirous, as well as myself, of assuring you of the sincere good will and friendship we have for the Seminole tribe of Indians, of which you are the chief.

I am, with great respect, your most affectionate and faithful servant,

JOSE COPPINGER.

Friend and Brother Boleck,

*Chief of the Seminole tribe of Indians.*

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, May 7, 1818.

SIR: I have received official advice, through different channels, that the expedition of French adventurers which left Philadelphia towards the end of last year, with the apparent intention of



*Relations with Spain.*

going to Tombigbee, but in reality to Galveston, is now receiving, at the former place, a considerable number of recruits, and large supplies of military stores from the ports of New Orleans, Charleston, Savannah, and others within this Republic; from whence they proceed in small parties to Galveston, and thus elude the vigilance of the Government.

From the period at which (namely, on the 6th of September last) I announced to you the preparations for this expedition, referring for its unquestionable certainty to the plan communicated to this Government by the Minister of France, which offered the most indubitable proof that Joseph Bonaparte was at the head of it, with the rash project of being crowned King of Mexico, I have relied on your assurances to the same Ambassador, and which were forthwith communicated by him to me, that the most effectual measures had been taken by the Government to prevent its execution. But, perceiving that this expedition daily takes a greater consistence, and that the recruiting and supplies clandestinely sent from this Republic are not put a stop to, I can no longer refrain from again calling your attention, and, through you, that of the President, to the enormous abuse of the hospitality offered by this Republic, on the part of Joseph Bonaparte and his adherents, with a view to disturb the tranquillity of Europe, and especially that of the possessions of the King, my master.

I would have considered myself dispensed from the necessity of again pressing this subject on your attention, if it had appeared possible for me to restrain these armaments by the employment of judicial means; but, unfortunately, the act of Congress of the 20th April last for preserving neutrality with foreign nations, and others already in force, although highly judicious, are easily eluded; and although these practices are public and notorious throughout the whole Union, His Majesty's Consuls advise me that, through a deficiency of evidence, they cannot be retained by a regular application of the law.

Convinced, however, as I am, that nothing is more remote from the intention of the President than to tolerate hostile expeditions within the territories of the Republic, directed against Powers with which it is in a state of profound peace, I cannot for a moment doubt that his excellency will take into his most serious consideration what is due to the demand which I now make in the name of my Sovereign, that Joseph Bonaparte, the Generals Lallemant, and other Frenchmen now residing in this country, be compelled to keep themselves within the bounds prescribed by the hospitality and generosity with which they have been received, and prevented from continuing to organize expeditions for the purpose of invading the territory of His Catholic Majesty, and disturbing the peace enjoyed by his subjects.

I therefore hope that you will be pleased, sir, to inform me of the measures which may be taken on this subject, in order that, in communicating them to my Sovereign, His Majesty may see in

them a confirmation of the amicable sentiments of this Republic towards his monarchy.

I renew to you the assurances of my respects, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State,*

BRISTOL, June 9, 1818.

SIR: At my passage through Baltimore, on my way to Philadelphia, it was represented to me by his Catholic Majesty's Consul for the State of Maryland that there were then in that port four pirates or privateers, if you please so to call them, namely, the "Independencia del Sud," Captain Grennolds; the "Pueyrredon," alias "Mangore," Captain Barnes; the "Republicano," Captain Chase; and the schooner "Alerta," Captain Chaytor. These pirates, denominated privateers or vessels of war of the pretended Government of Buenos Ayres, have entered the port of Baltimore for the purpose of dividing the spoil resulting from their depredations on Spanish commerce, and of refitting and arming to renew these excesses on the high seas. It is a matter of universal notoriety at Baltimore that three of the above-named vessels were fitted out there, and the fourth is a schooner captured by them from Spanish subjects. It is no less so that their commanders and the greater part of the crews are American citizens, and that there is scarcely a single individual belonging to Buenos Ayres to be found among them.

Whoever has read the so-called constitution of the provisional laws existing at Buenos Ayres, (for there is nothing there but what is provisional,) must know that no vessel of the rebels can sail under their flag unless the captain and one-half of the crew be natives of that country; and that no foreigner can be naturalized there till after five years' residence. I submit to your judgment, sir, whether on such grounds the vessels in question can be admitted to be Buenos Ayrean privateers, or whether the American captains and crews that man them, commissioned or not by that rebel Government, can be considered as citizens of that country; and whether, agreeably to the laws of nations and the existing treaty between His Majesty and this Republic, they can be viewed in any other light than as pirates; and if it be possible for you to conceal from your discernment that the captains and crews of these vessels have violated the laws of this Union in perpetrating these atrocities to the dishonor of the American name. I repeat that I submit it to your consideration to determine whether the prizes made by vessels under these circumstances ought not to be restored to their lawful owners, or that these persons ought to be indemnified by the United States, seeing that they have tolerated such armaments in violation of their laws, of the laws of nations, and of the existing treaty between Spain and this Republic.

I am aware, sir, that you will tell me that the courts are open to the recognizance of claims of this nature, and ready to apply the law to such

*Relations with Spain.*

*Don Luis de Onis to the Secretary of State.*

BRISTOL, June 17, 1818.

SIR: It is now some time since information has been circulated through the medium of the newspapers, and through private channels, of different incursions and acts of hostility committed within the territory of the Crown of Spain by divisions of the army under the command of General Jackson, destined, as it appeared, to pursue and chastise the Seminole Indians; but I believed until now that this information, although constantly repeated and augmented, doubtless proceeded from vague and unfounded rumors, as I could not persuade myself that such acts of violence and hostility could be committed by the United States against a friendly Power, and in the midst of the most profound peace. How was it possible to believe that, at the very moment of a negotiation for settling and terminating amicably all the pending differences between the two nations, and while Spain was exhibiting the most eminent and generous proofs of a good understanding, and the most faithful observance of all the duties of good neighborhood, the troops of the United States should invade the Spanish provinces, insult the commanders and officers of their garrisons, and forcibly seize on the military posts and places in those provinces? Notwithstanding this, the official advices I have just received from the Governor of West Florida, confirm what I had conceived to be impossible.

General Jackson and his officers have made demands on the Governor of that Spanish province in the most unbecoming and insulting tone; they have in different places violated the Spanish territory and its waters; they have committed enormous vexations, unexampled in history. With considerable force they fell upon the fort of St. Mark, and compelled the Spanish garrison to surrender prisoners of war; they took possession of that fortress, with all the artillery, warlike stores, and effects, without drawing up an inventory of the same, and have extended their military possession over the bay of St. Mark and the adjacent country. In speaking of the conduct of the American General and his officers, I confine myself to what relates to the act of hostility and violence committed within the territory of the Crown of Spain, to the violation of peace, and the forcible occupation of the aforesaid country and fort.

Under the pretext of making war against the Indians on complaints or motives which have neither been communicated to the Governor of those provinces, nor to the Captain General of the island of Cuba, who is also Governor of them, nor to any other Spanish officer or public functionary, the dominions of East Florida have likewise been invaded, and the Spanish territory entered as if it was an enemy's country; in fine, General Jackson has omitted nothing that characterizes a haughty conqueror but the circumstance of adding to these monstrous acts of hostility the contradictory expressions of peace and friendship with Spain.

I seize this occasion to renew, &c.

LUIS DE ONIS.



*Relations with Spain.*

I therefore find myself under the necessity of protesting strongly and solemnly, as I now do, in the name of the King, my master, against the invasion of the Floridas, and against the taking possession of the fort and bay of St. Mark by the troops of this Republic; and I request you, sir, to lay before the President this my protest, in full confidence that his excellency will cause things in both the Floridas to be reinstated and placed in *statu quo*; the fort of St. Mark to be delivered up to the Spanish commandant, together with all the ordnance, warlike stores, and effects found in that fortress; and all damages and injuries caused in the Floridas by the officers and troops of this Union to be fully indemnified and compensated. In the meantime, I repeat this most solemn protest in the name of my Sovereign, all which I shall duly communicate to His Majesty in the discharge of my duty.

I trust, sir, that you will be pleased to acknowledge the receipt of this note, and inform me of the resolution taken by the President thereon. In the meantime, I renew the expressions of my particular respect, and pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, June 24, 1818.

Sir: In the National Intelligencer, which is considered in this country as the Government paper, I have seen the publication of the attack, assault, and capture of the place of Pensacola by the American troops under the command of General Jackson; which publication is repeated in other papers of the Union, and of which I have yet seen no contradiction, either in the Government paper or in any other. Notwithstanding which, the fact appears to be so improbable, from its very enormity, that I cannot but think the publication has originated in some ill-founded rumor; and, under this impression, I have deferred proceeding to the Federal city, in the hope that some light might be thrown upon what has really taken place; but as I have yet received no official advice from the Governor of Pensacola, or any other Spanish authority upon this point, and as the publication in the Government paper is still circulating extensively, I cannot avoid applying to you, sir, and requesting that you would be pleased to inform me, in a positive, distinct, and explicit manner, what has occurred in this matter, together with all the circumstances relating to it.

I await your answer on this subject, as well as that in relation to my protest and reclamation concerning the seizure of the fort and bay of St. Mark to which you have not yet been pleased to reply. I use this occasion to renew, &c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, July 8, 1818.

Sir: The article published in the National In-

telligencer, and reprinted in other papers of the Union, referred to in my late letter written at Bristol, has unfortunately been confirmed. General Jackson, with the American forces under his command, has not only violated the Spanish territory under the pretext of pursuing and chastising the Seminole Indians, but he has taken possession by force of arms, of the fort and bay of St. Mark, driven the Spanish garrison from those places, and sent them as prisoners to Pensacola, the capital of West Florida. Not satisfied with this enormous outrage, he marched against the latter place, and has, by open rupture and bloodshed, violated the peace existing between Spain and the United States. He demanded the surrender of Pensacola, as if war had been declared between the two nations; and on the refusal of the Spanish Governor to surrender or deliver up the place, the American commander, availing himself of his superior force, attacked it, and bombarded the castle of Barancas, whither the Governor had retired with his small garrison and such of the inhabitants as chose to follow him. Having surrounded that fortress, he gave orders for the assault, and carried it. The Governor, with all his people, were made prisoners of war, and were sent off, as it appears by the American General, to Havana, who proceeded to extend his authority over the whole of West Florida, by hoisting on its forts the flag of the United States.

Thus has peace been violated, and rights trampled under foot, which have hitherto been held as most sacred and inviolable by all nations.

These facts need no comment; they are notorious, and speak for themselves: their enormity has filled even the people of this Union with wonder and surprise, and cannot fail to excite the astonishment of all nations and Governments.

The American General can have neither pretext nor subterfuge, of which he can avail himself, to give the least color for this invasion and excessive aggression, unexampled in the history of nations. Whatever pretexts may be resorted to, to mislead and impose on the vulgar, will be frivolous, contradictory, and falsified by the very course of events, public and notorious. It cannot be supposed that the Indians, against whom the American commander directed his operations, received protection in Florida. They never received either favor or protection from the Spanish authorities, either within or without the territory under their jurisdiction.

It is notorious that several atrocious offenders and ringleaders of the South American rebels have repeatedly taken refuge within the limits of this Republic, when, being pursued by His Catholic Majesty's troops, they were on the point of falling into their hands. No one can be ignorant that the asylum granted to the unfortunate in cases of this nature has ever been respected by all civilized nations, not one of which ever took up arms to go and tear them from the foreign territory in which they had found an asylum, and still less to invade and take possession of such territory, in violation of an existing peace, and in contempt of all the laws and sacred prin-

*Relations with Spain.*

ciples on which the mutual security of independent States reposes; but it is superfluous to insist on venerable truths and axioms, which form an essential part of the law of nations, inasmuch as the cases to which I refer do not occur to require their application.

The Governor of Pensacola had conducted himself with the most scrupulous circumspection, to avoid giving the slightest ground of complaint to General Jackson, his officers, and troops. Neither he nor the Governor of East Florida was notified of the war against the Seminole Indians, nor were they informed of the just causes of that war; nor was any call made upon them to seek and punish those Indians in case of their having committed aggressions upon the lands or citizens of this Republic. Notwithstanding the total omission of all this, which was to have been expected as a regular and necessary consequence of the stipulations of the existing treaty, the aforesaid Governor granted no favor to the Indians, but forbade them to enter the Spanish territory; and when a small number of them came to Pensacola to receive the annual presents, the Governor allowed only a few of them to enter the place, without their arms, and immediately after dismissed them. He further took every necessary precaution to prevent their being supplied with arms and ammunition within His Majesty's territories. These facts being of public notoriety, and impossible to refute, there can be no excuse, pretext, or subterfuge offered to palliate a series of such unheard of outrages.

I refrain from entering into a minute detail of the particular excesses committed by the American commander, his officers, and troops. On taking a view of them, it would be inferred that the war against the Indians has been merely a pretext for General Jackson to fall, as a conqueror, upon the Spanish provinces, unprovided as they now are, and reposing in perfect security, for the purpose of establishing therein the dominion of this Republic upon the odious basis of violence and bloodshed. I confine myself, for the present, to the scandalous capture of the fort and bay of St. Mark, and to the attack and occupation of Pensacola and Barancas, by the American commander, who, carrying his military measures to their utmost extent, has reduced the whole of West Florida, driven off the Spanish Governor, troops, military and civil officers, and established, in their room, the laws and authorities of this Republic.

I am persuaded that the Government of the United States cannot have authorized this hostile, bloody, and ferocious invasion of the dominions of Spain; and in this belief I only do justice to its humane feelings, and the enlightened and upright principles which govern its policy. In the President's Message to Congress of the 25th of March last, I observe that "orders have been given to pursue and chastise the Seminole Indians; and that if, in the course of the war, it should be necessary to enter the Spanish territory, the authorities of Spain are to be respected, and the territory evacuated the moment the war

is at an end." I observe, too, that, in your official correspondence, you have given me assurances of the pacific views of your Government, and of the sincere desire of the President to preserve friendship and good understanding with the Government of Spain. Under these fortunate auspices, the most profound peace has subsisted between the two nations, to cultivate which has been the constant endeavor of His Catholic Majesty; and, at the same time, to give generous proofs of his high esteem, distinguished consideration, and perfect friendship for the United States, negotiations have been entered into with a view to terminate the existing differences between the two Governments to their mutual satisfaction; and the President will assuredly have been apprized of the generosity and frankness displayed by His Majesty in everything connected with the wishes manifested by this Republic, as far as the same have been compatible with the honor of his Royal Crown.

All these circumstances impress me with the belief that General Jackson has acted contrary to the orders of the President, tarnished the American name, and committed the reputation of his Government in the face of the universe. It is, therefore, my duty to protest, and I do hereby solemnly protest, in the name of the King, my master, against these public acts of hostility and invasion; and I demand, through you, of the President, in the name of my Sovereign, the prompt restitution of the fort and bay of St. Mark, also of Pensacola, Barancas, and other places in Florida, violently attacked and wrested from the Crown of Spain by the forces under General Jackson, in the midst of peace and the most positive assurances of friendship and harmony. In like manner, I demand the faithful delivery of all the artillery, warlike stores, and property, both public and private, taken at Pensacola, and other forts and places taken possession of by the American commander; indemnity for all the injuries and losses sustained by the Crown of Spain and the subjects of His Catholic Majesty in consequence of this act of invasion, and a satisfaction proportioned to the enormity of these offences; together with the lawful punishment of the General and the officers of this Republic by whom they were committed.

I therefore hope that the President, penetrated with indignation by acts of such enormity, will immediately comply with my demand, founded on such strict justice; and I impatiently await your answer to this note, which will communicate the resolution of the President for my information, in order that I may transmit the same to my Government with all requisite despatch.

In the meantime, I renew the assurances of my distinguished consideration and respect, and I pray God to preserve you many years.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, July 21, 1818.

Sir: With a view to avoid any delay in trans-



*Relations with Spain.*

mitting to my court official information of the events which have occurred in Florida, I have despatched to Madrid the courier I spoke to you of; and I greatly regretted that it was not in my power to forward, by the same opportunity, the answer of your Government to the reclamations and protests which, in the name of my Sovereign, I have presented to you, on the invasion and occupation of West Florida by the American army under General Jackson.

I have stated to my Government that I would send the said answer the moment I received it; and as one of the gentlemen attached to this legation will embark for Spain in a few days, I request you will be pleased, sir, to hasten your answer to my last note, that I may transmit it by this conveyance to the Government of the King, my master.

You must be aware of the expediency of a prompt and categorical answer; Spain expects it will not be delayed; and all the Powers await it, in expectation of those *eclaircissemens* which are claimed by the laws of nations, in consequence of an act of hostility enormous in itself, and incalculable in its consequences.

I anxiously await your answer, and in the meantime I seize this occasion to renew to you the assurances of my most distinguished consideration. God preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis De Onis.*

DEPARTMENT OF STATE,  
Washington, July 23, 1818.

SIR: I have had the honor of receiving your letters of the 24th June and 8th instant, complaining of the conduct of Major General Jackson in entering West Florida with the forces under his command, taking the Spanish posts of St. Mark and Pensacola, &c.

Without recurring to the long standing and heavy causes of complaint which the United States have had against Spain; to the forbearance with which they have been borne, without despairing of obtaining justice from her by amicable means; to the efforts equally unceasing and unavailing which they have made to obtain that justice; or to the extraordinary delays by which it has been protracted and is still withheld, it is thought proper on this occasion to call your attention to a series of events which necessitated and justified the entrance of the troops of the United States upon the Spanish boundary of Florida, and gave occasion to those transactions of the commander of the American forces against which you complain.

It cannot be unknown to you that, for a considerable time before the Government of the United States issued the orders for military operations in that quarter, the inhabitants of their frontier had been exposed to the depredations, murders, and massacres of a tribe of savages, a small part of which lived within the limits of the United States, far the greater number of them dwelling within the borders of Florida. The barbarous,

unrelenting, and exterminating character of Indian hostility is also well known to you; and, from the peculiar local position of these tribes, it was obvious that there could be no possible security for the lives of the white inhabitants of those borders, unless the United States and Spain should be reciprocally bound to restrain the portion of the Indians respectively within their territories from committing robbery and butchery upon the citizens and subjects of the other party. So forcibly was the necessity felt by both, that in the fifth article of the treaty of 27th October, 1795, the following remarkable stipulation is contained:

"The two high contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the country adjacent to the lines and rivers which, by the preceding articles, form the boundaries of the two Floridas; and, the better to obtain this effect, both parties oblige themselves expressly to restrain by force all hostilities on the part of the Indian nations living within their boundaries; so that Spain will not suffer her Indians to attack the citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last-mentioned Indians to commence hostilities against the subjects of His Catholic Majesty, or his Indians, in any manner whatever."

Notwithstanding this precise, express, and solemn compact of Spain, numbers, painful to recollect, of the citizens of the United States inhabiting the frontier—numbers, not merely of persons in active manhood, but of the tender sex, of defenceless age, and helpless infancy, had at various times been butchered, with all the aggravation and horrors of savage cruelty, by Seminole Indians, and by a banditti of negroes sallying from within the Spanish border, and retreating to it again with the horrid fruits of their crimes.

At a former period the Governor of Pensacola had been called upon, by letter from Major General Jackson, conformably to the stipulated engagement of Spain and to the duties of good neighborhood, to interpose by force and break up a stronghold of which this horde of savages and fugitive slaves had possessed themselves on the territory of Florida. The answer acknowledged the obligation, but pleaded an incompetency of force for its fulfilment. Copies of these important documents are herewith transmitted to you; and it may be within your knowledge and recollection that the orders and the competent force which Governor Zuniga stated in his letter that he had solicited from his Governor General, and without which he declared himself unable to destroy this fort, created upon Spanish territory for the purposes of united civilized, and savage, and servile war against the United States, were never furnished; and that the United States were finally compelled to accomplish its destruction by their own force.

The permanent and unvarying policy of the United States, with regard to all the Indian tribes within their borders, is that of peace,

*Relations with Spain.*

friendship, and liberality; and so successful has this policy been, that, for many years, no instance has occurred of their being in hostility with any Indian tribe, unless stimulated by the influence of foreign incendiaries. Even after the repeated commission of these depredations and massacres by the Seminole Indians, at the very moment when the Government of the United States was reluctantly compelled to employ their own military force for the protection of their people, offers of peace were tendered to them, and rejected.

Nor has the respect manifested by this Government for the territorial rights of Spain been less signal and conspicuous, even after the full and formal notice, by the Governor of Pensacola, of the incompetency of his force either to perform the duties of neutrality, or to fulfil the obligations of the treaty. When it became necessary to employ the military force of the United States for the protection of their frontier, on the 30th October last, the commanding officer in that quarter, while directed to take other measures for suppressing the hostilities of the Indians, was expressly instructed not on that account to pass the line, and make an attack upon them within the limits of Florida, without further orders. On the 2d of December instructions to the same effect were repeated. On the 9th of December they were again renewed, with the modification suggested by the continuation of Indian outrages, that, should the Indians assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, the American officer was authorized in that event to exercise a sound discretion as to the propriety of crossing the line, for the purpose of attacking them, and breaking up their towns. On the 16th of December, upon information that an officer of the United States, with a detachment of forty men, had been attacked, and all destroyed, with the exception of six who made their escape, four of whom were wounded, the instruction, of which the following is a copy, was issued from the Department of War to the American General then in command:

"On receipt of this letter, should the Seminole Indians still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President that you consider yourself at liberty to march across the Florida line, and to attack them within its limits, should it be found necessary, unless they should shelter themselves under a Spanish fort. In the last event, you will immediately notify this Department."

These, with a subsequent instruction of the 26th of December to the Commander-in-chief, referring to them, and directing him, with a view to them, to adopt the necessary measures to terminate a conflict which it had ever been the desire of the President, from considerations of humanity, to avoid, but which was made necessary by the settled hostilities of the Indians, are all the instructions given in relation to Florida.

By the ordinary laws and usages of nations,  
15th CON. 2d Sess.—58

the right of pursuing an enemy who seeks refuge from actual conflict within a neutral territory, is incontestable. But, in this case, the territory of Florida was not even neutral. It was itself, as far as Indian savages possess territorial right, the territory of Indians with whom the United States were at war. It was their place of abode; and Spain was bound by treaty to restrain them by force from committing hostilities against the United States—an engagement which the commanding officer of Spain in Florida had acknowledged himself unable to fulfil. Of the necessity there was for crossing the line, what stronger proofs could be adduced than that it was within that line the American General met the principal resistance from the Indians which he encountered in the whole campaign; that within that line, at their towns which he destroyed, he found displayed, as barbarous trophies, the mutilated remnants of our wretched fellow-citizens, the murdered women and children, the accumulated barbarities of many years?

You have seen that no instruction or authority, inconsistent with the declaration of the Message of the President of the United States of the 25th of March last to Congress, was ever issued to the commander of the American forces. The possession which he took of the fort of St. Mark, and subsequently of Pensacola, was upon motives which he himself has explained, and upon his own responsibility. For his justification in the adoption of both those measures, he states them to have been necessary upon the immutable principles of self-defence:

That, at an early period of his operations, he had given full notice of their object to the Governor of Pensacola, by communication, dated the 25th of March last, warning him that every attempt on his part to succor the Indians, or prevent the passage of provisions for the American troops in the Escambia, would be viewed as acts of hostility:

That, in defiance of this admonition, the Governor of Pensacola did both give succor to the Indians, and delay the passage of the provisions to the American army, and thereby subjected them to the severest privations:

That the Governor of Pensacola had caused it to be directly reported to the American General that Fort St. Mark had been threatened by the Indians and negroes; and expressed serious apprehensions, from the weakness of the garrison and defenceless state of the works, for its safety:

That this information was confirmed to the American General from other sources, upon which he could rely, and completely warranted the amicable occupation by him of that fort:

That, upon his entering the fort, evidence, clear, unequivocal, and manifold, was evinced of the duplicity and unfriendly feeling of the commandant—evidence demonstrating, beyond the power of denial, that, far from acting in the spirit of that sacred engagement of his Sovereign, to restrain by force his Indians from hostilities against the United States, he had made himself, by every act



*Relations with Spain.*

in his power, a partner and accomplice of the hostile Indians, and of their foreign instigators:

That the same spirit of hostility to the United States was discovered by the Governor of Pensacola himself, by his refusal to permit, unless by the payment of exorbitant duties, the passage of provisions to the American army; by the reception and succors given to the Indians at various times; and, finally, by a letter which he sent to the American General, denouncing his entry into Florida as an aggression against Spain, and threatening, unless he should immediately withdraw from it, and should he continue what he thus styled aggression, that he would repel force by force. This was so open an indication of hostile feeling on the part of Governor Mazot, after he had been early and well advised of the object of General Jackson's operations, that this officer no longer hesitated on the measures to be adopted—the occupation of Pensacola and the Fort of Barancas.

The charges alleged by General Jackson against the commandant of St. Mark's, are not known even to have been denied. The Governor of Pensacola has partly, and but partly, contradicted those which applied to himself. He assured General Jackson that the information received by him, of the numbers of Indians who had been received and harbored at Pensacola was erroneous. It is possible that the numbers may have been somewhat exaggerated in the reports which General Jackson had received. But within ten days after the time stated in his letter to the Governor of Pensacola of this assemblage of Indians at that place, a large body of them were overtaken, surprised, and defeated by the forces of the United States, within one mile of Pensacola. Nor was it until after that event that the Governor issued his proclamation for refusing them supplies, and gave them the advice under which eighty-seven of them surrendered themselves to the American officer. But the measures of General Jackson were not founded upon one solitary fact. A combination of circumstances, all tending to convince him of the hostile spirit of the Governor, remains yet uncontradicted; and the General has furnished proofs that Governor Mazot's assertion, that there had been, since the surrender of those eighty-seven Indians to Captain Young, only two in Pensacola, and those in jail, was itself very incorrect. Besides the Alabama chief, included in the capitulation, one wounded Indian was found in the fort at Barancas. Holmes, a noted Red Stick chief, left Pensacola but the day before the American troops took possession, and a number of other Indians were seen about the same time within a few miles of Pensacola, and succeeded, with the aid of Spanish officers, in eluding the pursuit of the American troops.

A conduct not only so contrary to the express engagements of Spain, but so unequivocally hostile to the United States, justly authorizes them to call upon His Catholic Majesty for the punishment of those officers who, the President is persuaded, have therein acted contrary to the express orders of their Sovereign. In the full con-

fidence that your Government will render to the United States ample justice in this regard, the President has directed all the proofs relating thereto to be embodied, as the ground of an application to that effect to your Government.

In the meantime, I am instructed by the President to inform you that Pensacola will be restored to the possession of any person duly authorized on the part of Spain to receive it; that the fort of St. Mark, being in the heart of the Indian country, and remote from any Spanish settlement, can be surrendered only to a force sufficiently strong to hold it against the attack of the hostile Indians; upon the appearance of which force it will also be restored.

In communicating to you this decision, I am also directed to assure you that it has been made under the fullest conviction, which he trusts will be felt by your Government, that the preservation of peace between the two nations indispensably requires that henceforth the stipulations by Spain to restrain by force her Indians from all hostilities against the United States should be faithfully and effectually fulfilled.

I pray you to accept the assurance of my high consideration.

JOHN QUINCY ADAMS.

HEADQ'RS, DIVISION OF THE SOUTH,  
Washington, M. T., April 23, 1816.

SIR: I am charged by my Government to make known to you that a negro fort, erected during our late war with Britain, at or near the junction of the Chatahochee and Flint rivers, has been strengthened since that period, and is now occupied by upwards of two hundred and fifty negroes, many of whom have been enticed from the service of their masters, citizens of the United States; all of whom are well clothed and disciplined. Secret practices to inveigle negroes from the citizens of Georgia, as well as from the Cherokee and Creek nations of Indians, are still continued by this banditti and the hostile Creeks. This is a state of things which cannot fail to produce much injury in the neighboring settlements, and excite irritations which eventually may endanger the peace of the nation, and interrupt that good understanding which so happily exists between our Governments.

The principles of good faith, which always insure good neighborhood between nations, require the immediate and prompt interference of the Spanish authority to destroy or remove from our frontier this banditti, put an end to an evil of so serious a nature, and return to our citizens and friendly Indians inhabiting our territory those negroes now in said fort, and which have been stolen and enticed from them. I cannot permit myself to indulge a belief that the Governor of Pensacola, or the military commander at that place, will hesitate a moment in giving orders for this banditti to be dispersed, and the property of the citizens of the United States forthwith restored to them and our friendly Indians; particularly when I reflect that the conduct of this

*Relations with Spain.*

banditti is such as will not be tolerated by our Government, and, if not put down by Spanish authority, will compel us, in self-defence, to destroy them. This communication is intrusted to Captain Amelung, of the 1st regiment United States infantry, who is charged to bring back such answer as you may be pleased to make to this letter. In your answer you will be pleased to state whether that fort has been built by the Government of Spain, and whether those negroes who garrison it are considered as the subjects of His Catholic Majesty, and, if not by His Catholic Majesty, by whom, and under whose orders, it has been erected.

ANDREW JACKSON,

Major Gen., com. Div. of the South.

To the GOVERNOR of Pensacola,

Or Military Com. of that place.

A true copy:

ISAAC L. BAKER, Aid-de-camp.

PENSACOLA, March 26, 1816.

MOST EXCELLENT SIR: On the 24th of the present month, Captain Amelung, of the 1st United States regiment, put into my hands your excellency's letter, dated at Washington, Mississippi Territory, on the 23d of April last, in which, after apprizing me that your Government had given it in charge to you to inform me that the fort of the negroes, erected during the late war with Great Britain, near the junction of the Chatahochee and Flint rivers, had been reinforced, and was now occupied by more than two hundred and fifty negroes, many of whom were seduced from the service of their masters, (who are citizens of the United States,) and that all of them are well armed, provisioned, and disciplined, you make many wise reflections with respect to the serious injuries which may result from tolerating such an establishment, not only to those in the immediate neighborhood of it, by disturbing the peace of the nation, but likewise to the good understanding which happily exists between our respective Governments; you enter into an investigation to show what the Spanish authorities ought to do to put an end to an evil of so serious a nature, in the mode prescribed by those principles of good faith which are the foundation of friendly neighborhood among nations; you distinctly state what this Government ought immediately to do, in failure of which your Government will be obliged to do it, to insure the safety of the inhabitants of the United States; and you conclude by requesting me to state, in my answer to your letter, whether the said fort has been constructed by the Spanish Government, and whether the negroes who compose its garrison are deemed subjects of His Catholic Majesty, and, if the fort was not built by Spanish authority, to state by what authority, and by whose order, it was built.

In answer to your excellency, I will state, with the veracity which comports with the character of an honorable officer, in which class I rank

myself, that having arrived at this place nearly at the close of the month of March preceding, and being informed of what your excellency has communicated to me, with this difference, that the fort, instead of being where you place it, is to be found on the eastern bank of the Appalachicola, at about fifteen miles from its mouth, or entrance into the sea, I lost no time in proposing to my Captain General the measures which appeared to me proper, as well for securing the inhabitants of the country under my command from damages, losses, and injuries, which they have suffered and still suffer from this establishment, as to prevent the American citizens and the friendly Indians of the neighborhood from continuing to experience them. I have hitherto received no answer; and, consequently, your excellency, who knows how limited are the powers of a subordinate officer, cannot be surprised that I should make known to you that, although my mode of thinking exactly corresponds with yours as to the dislodging of the negroes from the fort, the occupying it with Spanish troops, or destroying it, and delivering the negroes who may be collected to their lawful owners, I shall not be able to act until I receive the orders of my Captain General, and the assistance necessary to enable me to undertake the enterprise with a moral certainty of accomplishing the end. I am persuaded that the determination of the said chief cannot be long delayed; and, should it authorize me to act, your excellency may rest assured and persuaded that I will not lose an instant in adopting, on my part, the most efficacious measures for cutting up by the root an evil which is felt to the full extent stated in your letter by the inhabitants of this province, who are subjects of my Sovereign, and whose prosperity and tranquillity it is my duty to preserve and protect.

With this explanation your beforenamed letter may be considered fully answered, as it gives you to understand that, thinking as your excellency thinks, with respect to the necessity of destroying the negroes, the fort of Appalachicola, occupied by them, was not constructed by order of the Spanish Government; and that the negroes, although in part belonging to the inhabitants of this province, and as rational beings, may be subjects of the King, my master, and deemed by me insurgents or rebels against the authority, not only of His Catholic Majesty, but also of the proprietors from whose service they have withdrawn themselves—some seduced by the English Colonel Edward Nicholls, Major Woodbine, and their agents, and others from their inclination to run off. But as your excellency manifests a particular desire that, in case the fort was not erected by Spanish authority, I should state by what authority and by whose order it was erected, I have no difficulty in satisfying your curiosity, by informing you that I have understood, ever since my arrival at this place, that the said fort, and another near the confluence of the Chatahochee and Flint rivers, which it appears no longer exists, were built by the order of the beforenamed Colonel Nicholls. I will not assure you that he



did it under authority from his Government; but I can say that he proceeded to place artillery, munitions, and provisions in it, by the arrangement of Vice Admiral Malcolm; and that, when Colonel Nicholls and the troops of his detachment, after the conclusion of the expedition against Louisiana, withdrew from that point, he left orders with the negroes, totally contrary to the incontestable right of sovereignty which the King, my master, exercises from the line of thirty-first degree of north latitude to the south. My predecessors in this Government have given an account of all these actions to the authorities on whom they depended, that the satisfaction which the violation required might be demanded by those on whom this duty devolves.

I think I have answered your excellency's letter satisfactorily, and in terms which cannot leave a doubt of the sincerity of my intentions in favor of the common cause of the American and Spanish inhabitants, and that my present inaction does not proceed from a want of inclination. I likewise flatter myself that, until my Captain General decides, no steps will be taken by the Government of the United States, or by your excellency, which may be prejudicial to the sovereignty of the King, my master, in the district of Appalacnicola, which is a dependency of this Government; and, finally, I conclude by assuring your excellency that it will afford me particular satisfaction to have opportunities of evincing my desire, not only to contribute, so far as depends on me, to the cementing of the good understanding which subsists between our respective Governments, but also to prove to your excellency the high opinion I entertain of your virtues and military talents.

God preserve your excellency many years.  
MAURICIO DE ZUNIGA.  
His Excellency A. JACKSON.

Don Luis de Onis to the Secretary of State.  
BRISTOL, July 27, 1818.

Sir: It is some time since I have received positive and circumstantial information that a person, acting under a commission from the rebels at Buenos Ayres, had given orders for the building of two frigates, of twenty-eight or thirty guns each, at New York; and that, armed, equipped, and manned with citizens of this Republic, they are to proceed from that port on a cruise against the commerce and subjects of His Catholic Majesty.

Although so manifest a violation of the laws of the United States, to the injury of my Sovereign, imposed on me the duty of immediately soliciting of the President such measures as are in conformity with the laws of the Union and the peace and good understanding existing between the two nations, and would put a stop to this evil; yet, faithful to the system I have laid down of not trespassing on the attention of your Government, except in cases of indispensable necessity, I directed His Majesty's Consul at New York, after he had obtained all the legal

evidence required by the courts, to have recourse to them with that calmness and confidence with which the justice of his cause should inspire him when submitted to impartial and enlightened magistrates.

His Majesty's Consul has just informed me that, agreeably to my instructions, he had applied to the district attorney, stating that he was possessed of sundry declarations of persons, corroborating each other, showing that the laws of the United States had been violated, and requesting him to cause the said vessels to be stopped and proceeded against, together with the parties concerned in their equipment, in the manner prescribed by the act of Congress of the twentieth of April last, section 11. The district attorney appears not to have been very anxious to carry the act into execution, as he replied that he would not do so, although fifty such declarations were presented to him. I do not pretend to inquire into the motives of the attorney's feelings or conduct, which, to say the least, was very extraordinary; but I deem it indispensable to transmit to you four of the original declarations referred to, that they may be laid before the President, and that he may be pleased to direct, with the urgency required by the case, the collector of the customs at New York to stop the above-mentioned vessels, in order that they, as well as the parties engaged in their outfit, may be proceeded against in due form of law, and the necessary force employed for the faithful execution of his duty.

This demand, which I renew in the name of my Sovereign, being in strict conformity with the laws of this Republic, I cannot for a moment doubt that the President will readily comply with it; and that you will have the goodness to advise me of its having been carried into effect, that I may direct the Consul to produce the necessary testimony for the elucidation and decision of a case transcendently important to the interests of my Sovereign.

I renew to you the assurances of my respect, and I pray God to preserve you many years.  
LUIS DE ONIS.

STATE OF NEW YORK, City of New York, ss:

Samuel Samuels, by profession a mariner, at present in the city of New York, being duly sworn, says: That, about the 11th or 12th of July instant, deponent was at Dominick Morris's house, where they were shipping hands for the Curiazo; he met there a Mr. Brown, who was the man who attended on shore to the enlisting and shipping of the crew; this gentleman asked deponent whether he did not wish to ship on board of the Curiazo, and upon this requested him to walk up stairs, and he would inform deponent all about the object of the vessel; they went up stairs, and Mr. Brown then said that the Curiazo was destined to go around Cape Horn, or would go to Buenos Ayres in the patriot service; that she would join the other ship, which was lying in North river, named the Horatio, and they would be absent about two years; de-

ponent signed articles, at the office of the notary, Mr. Palmer; he did not read the articles at the time of signing; the wages were fourteen dollars a month, and two months' advance, which sum is paid in like manner to all the crew, fourteen dollars at the time of signing the articles, and fourteen dollars after getting on board; he went on board on Tuesday, the 21st of July instant, and found sixty hands on board, agreeably to the muster which was made; and there were others on shore who had enlisted but not yet come aboard; there were a captain, several lieutenants, a sailingmaster, many midshipmen, a boatswain, boatswain's mates, boatswain's yeomen, several quartermasters, a gunner, gunner's mate, and two quarter-gunners, two captains for each of the tops—fore-top, mizen-top, and main-top, two captains of the fore-castle, two captains of the after-guard, a captain of the hold, and green hands to form a company of marines; deponent was captain of the main-top of the larboard watch; the hands were exercised every day in loosing and handling the sails; some of the hands were employed in making wads for the cannon; the guns were not yet come on board, but they were expected daily, and the hands conversed about the stations which they would hold at the guns; the exercising of the crews, which he has before mentioned, was the same as is customary in the service of the United States on board their vessels of war; there was a regular watch kept up during the day and night, one-half of the crew being on watch all the night; the hands were all piped by the boatswain and the boatswain's mate at their several meals; when officers came on board, the sides were manned for them by way of salute; and, in every respect, the discipline and duty kept up was the same as is practised in the navy service.

When the deponent shipped, the notary told him to leave a will and power to enable the landlord to receive the prize money which deponent might become entitled to; which deponent did accordingly in favor of Dominick Morris. The general understanding on board the vessel is, that they were to cruise along the coast of South America after their arrival at Buenos Ayres. The vessel is built in every respect as a vessel of war; the water below is secured exactly in the manner that it is done on board a man-of-war, which is different from what is usual in the merchant service. Deponent further saith not.

S. SAMUELS, his X mark.

Subscribed and sworn to before me, this 23d day of July, 1818.

JAMES HOPSON, S. Justice.

STATE OF NEW YORK, City of New York, ss:

George W. Lynch, of the city of New York, merchant, being duly sworn, says: That on the 23d day of July instant, he went on board the ship Curiazo, lying in the North river, in this port, in company with a Mr. Atkinson, who said he was the purser of the said vessel; deponent counted thirty cannon lying on the deck, and a

number of new gun-carriages which were lying upon one another, and appeared to be equally numerous; he was presented to the several officers, was told by them that there were a captain, four lieutenants, and a number of midshipmen; that the captain was named Delano, the first lieutenant is named Van Beuren, the second Grinnel, the third Smith, and the fourth Cobbett; he was told by the purser that the vessel, together with the Horatio, another ship lying near, was bound to Buenos Ayres; there appeared to be a great number of men on board; he was told by said purser that it was their intention to take one hundred men; that the crew were paid two months' advance, and that, as a further inducement to them to ship, they had the prospect of prize money. In conversation with a Mr. Sullivan, who is at the head of the surgical department for the two vessels, and was now on board the Curiazo, he (Mr. Sullivan) said, "I am sorry that the guns are not carronades instead of gunnades;" but then immediately added, "however, it is better as it is; we shall want long guns to fight the Spaniards." Deponent was carried through the vessel, and the different parts of it were pointed out to him; the captain's room, the lieutenants' room, and the midshipmen's room, were severally and respectively designated; there was a quantity of cannon balls between the decks; all hands were piped by the boatswain while deponent was on board. This vessel is newly built, has been launched but a short time, and is now preparing for her first voyage; she is pierced for many guns, and is built in every respect like a frigate.

Deponent left this vessel in company with the surgeon, Mr. Sullivan, and proceeded with him to the other ship, the Horatio. This gentleman is the surgeon of the Horatio, and told deponent that he had selected the surgeons for this and the other vessel, (the Curiazo;) that he had examined them in order to ascertain that they were duly qualified; he mentioned that the crews of each vessel would consist at present of one hundred men for each, but that their complement was three hundred men for each; that the medical list which was handed to him for both vessels was for six hundred men; he showed deponent his medicine chest, his tools, and other implements, and said that he had everything in complete order; he showed deponent into a room below the cabin, which he said would be his station in time of action; deponent said he supposed there would be little fighting, to which Mr. Sullivan answered, "I don't know, the Spaniards have got a fine frigate out there with five hundred men." Deponent was told on board of this vessel by the said surgeon, and by another officer, the second lieutenant, that, besides the captain, Skinner, who was Commodore of the two vessels, the Horatio had four lieutenants and a number of midshipmen; the first lieutenant is named Currie, and the second Eakin; deponent was shown into the several rooms of the captain, lieutenants, and midshipmen; the cannon had not yet been brought on board of this vessel, but the officers



*Relations with Spain.*

told deponent they expected them shortly; this vessel resembles the other in every respect, was built at the same time, and has never yet been to sea. Speaking about the complement of men for these vessels, Mr. Eakin, the second lieutenant, told the deponent that although they would take out for the present only one hundred men each, they would have no difficulty in making up the full number, which would be three hundred, at Buenos Ayres, because sailors there would leave the privateers to enter these vessels. He said that if Mr. Aguirre, when he commenced the building of these vessels, had employed a merchant, instead of making the contract himself, he would have saved a great deal of money, at least fifteen per cent.; that Dacy and Didier, of Baltimore had received money from Aguirre, and had offered to transact all the business of these vessels, and to bond them for five per cent., but that he was unwilling to allow them more than two and a half per cent.; they offered also to allow him bank interest for his money while it was in their hands; but they came to no agreement, owing to the smallness of the commission which Aguirre was willing to allow them; and that the vessels had cost him a very large sum of money, everything having been fitted up in the most costly manner; that the cannon had been made by Mason, of Washington. The surgeon, Mr. Sullivan, speaking of the discipline of the two vessels, said that of the Horatio was superior to the Curiazo; that, on board of the Horatio, the medical returns were made daily, the same as on board a man of war. When deponent went on board of the Horatio, the sides were manned, which was also done when he left it; this ceremony is a compliment or salute to the person who comes on board, and is customary on board vessels of war, and not in merchant vessels.

While on board the Horatio, the said Eakin said that he had always been treated well by the Spaniards, but said some other words, the import of which was that this was a speculation, and that he must do the best he could for himself; Mr. Currie, the first lieutenant, also said that he had always been well treated by the Spaniards, and that he would treat them so until he could not help doing otherwise—alluding to what he would do in time of battle.

Mr. Wynans, of the firm of Ten Eyck, Wynans & Co., told deponent that they, together with two other block-makers, made the blocks for both of the said ships; they were employed by Captain Skinner and Mr. Aguirre jointly, both being together; but Mr. Aguirre gave the directions to Skinner, and appeared to be the owner; that he (Wynans) called frequently upon Aguirre for directions; and, when all the work was done, Aguirre paid him.

Mr. Wakewell, a sailmaker, told deponent that Mr. Aguirre made the agreement with him for the sails of one of the ships, and paid him the amount.

GEORGE W. LYNCH.

Sworn this 25th day of July, 1818, before me,  
CHARLES CHRISTIAN.

STATE OF NEW YORK, City of New York, ss.:

John B. Sickles, being duly sworn, says: That on the 22d of July instant he called upon Joseph Skinner, whom he understood to be the captain or commander of the two vessels named the Curiazo and Horatio, which are fitting in this port for Buenos Ayres; he met him in the neighborhood of Washington Hall, at his residence, and found a number of gentlemen collected; there were about twenty, among whom was Mr. Aaron H. Palmer, the notary; the conversation was exclusively relating to those vessels, their arms and equipment, some saying that a portion of the guns were larger than others. On the 23d of July he saw Captain Skinner again, and asked him to provide the deponent with an officer's berth on board of one of the said vessels; Captain Skinner referred him to Mr. Palmer, who said that all the officers' stations were full; deponent repeated his desire to be employed, and Skinner told him he might go as supernumerary in the capacity of acting midshipman. During this conversation Mr. Palmer told Captain Skinner that he was short of funds; to which Skinner replied, "You must go to Mr. Aguirre for them, you know I am not the owner." On the 24th of July deponent saw Captain Skinner again at Palmer's office; deponent asked when he should go on board. Skinner told him during the course of the day. Deponent accordingly went on board on the 24th, in company with William Nesbit, a young man, who was also told by Captain Skinner that he might go as supernumerary; when deponent got on board of the ship Horatio, which was lying in the stream, he reported himself to Lieutenant Currie, who was the first lieutenant on board thereof. Currie told deponent and the said Nesbit that he could not receive them unless they brought a written order from the captain, because they had so many officers already; deponent remained on board about four hours, during which time he got into conversation with several of the officers; one of them, named Weed, told deponent that he is the captain of marines on board; that when the vessels arrived out at Buenos Ayres the officers expected to receive their warrants from the Buenos Ayrean Government; that Captain Skinner had promised them that he would get them from that Government for these officers; deponent was told by Mr. Weed that there were three lieutenants on board, that there were eight midshipmen on the list, and twelve supernumeraries besides deponent and Mr. Nesbit; that after the vessels got out to sea, if these persons were wanted, they would be turned forward; this deponent understood to allude to their being wanted in time of action. He said they had on board at present ninety-five men, and they intended to get more; he said he expected that it would be a troublesome job for him to exercise his marines, which he would have to do soon; the discipline on board this vessel is the same as that on board a vessel of war; the watch was changed while deponent was on board, and the lieutenants also changed their watch, the hands being piped by the boatswain; the arm chest, containing guns,

*Relations with Spain.*

pistols, cutlasses, &c., was brought on board while deponent was there; he was told that the great guns were expected on the following day, (the 25th,) that the guns of the Curiazo were eighteen pounders, between carronades and gunnades, but that those of the Horatio were long eighteens, that being the Commodore's ship; that they were brass guns, and had been selected for this vessel; that these guns were different from those of the other vessel, because these were intended for long fighting, or fighting at a distance, and the others for close engagement. After being on board for several hours, deponent came ashore with the said William Nesbit, and called upon Captain Skinner, told him what Lieutenant Currie had said, and asked him for an order, which Captain Skinner gave, and which is in the words following: "Mr. Currie: Sir, you will please to receive Mr. J. B. Sickles and William Nesbit on board the ship Horatio as supernumeraries, and you will oblige yours, Joseph Skinner. July 24, 1818." This note is directed "Mr. William Currie, ship Horatio." Deponent further says, that when he was on board the Horatio on the 24th, the officers were speaking about the cannon which was expected on board the Horatio, and that which was on board of the Curiazo, and said that they would mount it, because they did not expect that there would be any opposition from the Spanish Consul; there was a large quantity of potatoes on board, which they were employed in assorting, and, while thus engaged, one of the officers said those were very bad potatoes for a cruise; the number of barrels deponent supposes nearly two hundred. And further the deponent saith not.

JOHN B. SICKLES.

Sworn this 25th day of July, 1818, before me,  
C. CHRISTIAN, S. Justice.

Don Luis De Onis to the Secretary of State.

BRISTOL, July 28, 1818.

I had the honor yesterday to transmit to you the declarations of four individuals, affording the most positive proof of the violation which has taken place in the port of New York of the laws of this Republic, to the signal injury of the interests of my Sovereign. I now enclose three other declarations, corroborating the former, and establishing the fact to which I refer.

I assure myself that, in consideration of these circumstances, you will have no doubt of the justice of the demand I now make, in the name of the King, my master, or of the urgency with which I claim of the President to issue the necessary orders to the collector of the customs at New York to detain the two Buenos Ayres armed ships alluded to, and the requisite instructions to have the case immediately brought before the proper tribunal.

I trust, sir, that you will have the goodness to transmit to the aforesaid collector the seven declarations forwarded to you, for the purpose of preventing the escape of these two armed vessels, as they have already endeavored to do; it being

confidently relied on that, if the suit be once instituted, nothing can save them from the impartial justice of the court.

I beg you to pardon this trespass on your time to which circumstances have compelled me, and that you will accept the fresh assurances of my constant respect. God preserve you many years.  
LUIS DE ONIS.

STATE OF NEW YORK, City of New York, ss.:

James Young, by profession a mariner, at present in the city of New York, being duly sworn, says: That about three weeks ago the deponent was requested by a former shipmate of deponent's, named David Rees, to enlist on board the ship Curiazo. Deponent went on board that vessel, and there saw Mr. Grinnel, who was the second lieutenant thereof. This gentleman gave deponent a note to Mr. Brown, who was the shipping officer of the vessels, recommending him to take the deponent as boatswain's mate for the said vessel. Deponent saw Mr. Brown, who told him there was no vacancy for boatswain's mate, because he had already shipped two, but that he might have the birth of quarter-gunner; this birth deponent accepted, and afterwards went to the office of the notary in Pine street, whose name deponent believes is Palmer. At this time deponent was told by Mr. Brown that the vessel was going to Buenos Ayres or to the Cape of Good Hope. Deponent did not read the articles when he signed them, which was about the same time before mentioned. Deponent went on board the said vessel, the Curiazo, which is commanded by Captain Paul Delano. This vessel is pierced for thirty-two guns, although there may be more, as deponent has never counted the number of ports. Since deponent has been on board, they have taken in a great quantity of extra spars and rigging, and a quantity of cordage, more than is used in the merchant service. She has a long-boat, yawl, and sundry other boats, six or seven in number altogether. Deponent continued on board until last Friday, the 17th instant. There are on board, and in the service of the vessels, a captain, three persons whom deponent knows to be lieutenants, a sailingmaster, master's mate, and more than half a dozen midshipmen, but how many precisely deponent does not know. When he left the vessel there were about seventy hands or sailors on board; and deponent was informed on board, by the people generally, that the number was to be increased to one hundred and fifty more. The third lieutenant said, in deponent's presence, that when they had one hundred and fifty more they would look quite smart. There are a boatswain and two boatswain's mates, four quartermasters, two captains of the fore-top, two of the main-top, and two of the mizen-top, two captains of the after-guard, two quarter-gunners, of which the deponent was one, a captain of the hold, and boatswain's yeoman. The crew are mustered every Sunday; the hands are piped to breakfast, dinner, and supper; and when an officer comes on board, the boatswain attends the side, and the whole service and duty is performed in every respect



the same as is done on board a man-of-war, which deponent is conversant with, having served in the English navy nearly five years. A quartermaster is kept constantly on the look out, to prevent any persons coming on board without leave, and at night some watch forward, and some aft. It is the understanding of all hands on board, that when they arrive at Buenos Ayres they will be employed in the service there; and the officers have said they will make their fortunes by it. The boatswain, Mr. Crisp, told deponent yesterday that, the night before, the cannon were taken off board. James Johnson, the quartermaster, told deponent the same thing, and that thirty-two eighteen pounders had been taken on board, besides the quantity of shot. The same was mentioned by the boatswain's mate. He further says that the above deposition has been this day read to him, and that he declares the same to be in every respect correct. The Curiazo is a new vessel, just built in the port of New York, and has never been to sea. Captain Joseph Skinner, deponent has heard and believes, is captain of another ship, also lately built in the port of New York, and which has not yet sailed, but which is intended to go on the same service with the Curiazo. The name of the first lieutenant is Mr. Van Beuren.

JAMES YOUNG.

Sworn this 25th day of July, before me,  
GEO. W. MORTON,  
U. S. Commissioner, S. D. N. Y.

STATE OF NEW YORK, City of New York, ss:

David Rees being duly sworn, says: That he had heard, read, and examined the preceding deposition of James Young; that all the facts therein stated, relating to the condition and armament of the said ship Curiazo, are correct and true in every respect; that deponent is employed at present on board the said ship Curiazo in the capacity of boatswain's yeoman; he was shipped by Mr. Brown, the shipping officer of the vessel; he signed articles at Mr. Palmer's; has been on board the Curiazo since the 11th of July instant. On the 22d and 23d of July, the great guns were taken off board; last evening, and until a late hour of night, these cannon were taken from on board again, and also the shot, and were put on board of a sloop which, it was mentioned, and generally understood on board, was going down towards Sandy Hook, to be put on board again there. Captain Paul Delano commands the Curiazo; that a few days ago deponent told said captain that he would wait no longer, and would not go with the vessel; Delano urged him to remain, said he was only waiting for his sweetmeats, (meaning his cannon,) and that, as soon as they were got on board, they would show the Spaniards play; that at present they cleared out for Buenos Ayres, and all hands shipped as seamen, because they did not dare to do otherwise; but that as soon as the vessels got out to sea, then the several stations would be assigned to the men, respectively. This vessel is completely a frigate,

duty is done on board the same as in the State service, and she has forty-two different signals, many of which deponent has seen. Captain Joseph Skinner commands the other ship, called the Horatio, which is to be used in the same service; he is the commodore of both vessels. Deponent was going to hoist a pennant one morning on board the Curiazo, when the lieutenant ordered him to stop and see whether the commodore (meaning the other ship, the Horatio) would hoist, and, finding that he did not, deponent stopped, and the pennant was not hoisted.

Both these vessels were lately built in New York; they have not yet been to sea.

DAVID REES.

Sworn this 25th day of July, 1818.

GEORGE W. MORTON.

Commissioner in the circuit court S. D. N. Y.

CITY OF NEW YORK, ss:

James Stoughton, being duly sworn, says: That the preceding are correct copies of original depositions now in the possession of deponent, and which he retains for greater safety in the matters therein mentioned.

JAMES STOUGHTON.

Sworn this 26th day of July, 1818, before me,  
GEO. WILSON, N. P. New York.

STATE OF NEW YORK, City of York, ss:

Thomas Stoughton, Consul of Spain, being duly sworn, says: On the 1st day of September last, (1817,) he had a conversation with Mr. Noah Brown, of the city of New York, who told him that Don Manuel Hermenegildo de Aguirre, the agent or representative from the Buenos Ayres Government, had contracted with him (Brown) and with Mr. Cheeseman, of this city, to build two vessels, of twenty-eight guns each, for the use of the Government of Buenos Ayres; that their tonnage would be seven hundred tons each, for which he would pay forty dollars a ton for the hulls; that they would be launched about the 30th December, 1817; that they would cost, when armed, about eighty thousand dollars each.

THOMAS STOUGHTON.

Sworn this 26th July, 1818, before me,  
GEO. WILSON, N. P., New York.

Don Luis de Onis to the Secretary of State.

BRISTOL, August 5, 1818.

SIR: I have received your note dated the 23d July, by which you are pleased to reply to mine of the 24th of June and the 8th of July last, on the subject of the invasion of West Florida by the American forces under the command of General Jackson, in the midst of peace, and the most solemn assurances of amity and good understanding repeatedly given to His Catholic Majesty by this Republic.

It is very painful to me to observe, by your answer, that the President does not view in the same light I do the enormous outrages committed by that officer; and that, in citing the specious

motives of which he has availed himself to gloss them over, you present them as fully justifying the conduct of the General, and exonerating the United States from all responsibility in the case. I shall take up these pretended motives in the same order you have arranged them, and demonstrate, in a simple manner, their total want of foundation, and their incompetency to palliate, in the slightest degree, the invasion of a province of a friendly Power reposing in the security of peace, under the safeguard of the public faith.

You begin by reproducing the old grievances complained of by the United States, and which have been brought forward by your Government, among the subjects of dispute now pending between the Governments. Conceiving it superfluous to resume the arguments which have been formerly advanced to refute them, I shall for the present merely refer to them.

You state, in the first place, "that it cannot be unknown to me that, a considerable time before the Government of the United States issued the orders for military operations in that quarter, the inhabitants of their frontier had been exposed to the depredations and massacres of a tribe of savages, the greater number of whom dwelt within the borders of Florida." It is true that in the newspapers I saw accounts of such depredations and massacres, but I never knew the certain motives which had occasioned them. In the correspondence of the Spanish Governors of the Floridas, I observe continual complaints of the Indians to those Governors, stating the incessant injuries and vexations committed on them by the citizens of this Republic inhabiting the frontiers of both the Floridas; the proofs of which, to a certain extent, have been already laid before you, in the copies of the original documents accompanying my former communications. The Spanish Governors, being near observers of these transactions, were fully enabled to judge of the facts. It is from their correspondence alone that I can form an opinion on these points, while at the same time I feel every disposition to respect the decisions of your Government.

I admit, with you, sir, the imperious necessity which induced the two high contracting parties, in the treaty of 27th October, 1795, to stipulate the agreement contained in the seventh article, which imposes on them, reciprocally, the obligation of restraining, by force if necessary, the Indians inhabiting within the territories of Spain and of the United States from committing hostilities upon American citizens or Spanish subjects. But this stipulation could only be fulfilled upon the most satisfactory proofs of an existing necessity. It would have been an act of injustice and cruelty in Spain, had she drawn the sword to chastise the Indians living under her protection, without knowing what offences they had committed, and fully ascertaining their unquestionable certainty.

In the second place, "that, during the confusion of the late war between the United States and Great Britain, the Governor of Pensacola was called upon, by letter from General Jackson,

to interpose by force, and break up a stronghold which the savages and a horde of fugitive slaves had possessed themselves of in the territory of Florida; that the Governor acknowledged the obligation, but pleaded an incompetency of force; that the orders and competent force which he had solicited from the Governor General of Cuba were never furnished; and that the United States were finally compelled to accomplish its destruction by its own force."

I am not thoroughly acquainted with all the circumstances of this affair; but what I perfectly well know is, that the application should have been made to his superior, or to the Spanish Government through my channel, or through that of the Minister of the United States at Madrid, if the importance of the case required it, or if the Governor of Pensacola declined dislodging this assemblage of savages and slaves. This affair, however, having then come to an issue, cannot now be considered as a ground to justify the recent outrages of General Jackson in Florida, because the fort has long since been destroyed; and whatever may have been the individual omission or failure of the Governor of Florida, the proper recourse was to his Government, to punish him if he deserved it, or to obtain a suitable reparation for the injury complained of.

Thirdly. "That, at an early period of his operations, General Jackson had given full notice of their object to the Governor of Pensacola, warning him that every attempt on his part to succor the Indians, or prevent the passage of provisions for the American troops, would be viewed as acts of hostility; and that, in defiance of this admonition, the Governor of Pensacola did both give succor to the Indians, and delay the passage of the provisions to the American army." Strange, indeed, must it appear to the whole world that General Jackson should arrogate to himself the authority of issuing orders and imposing restrictions on the Governor of Pensacola, when he should have confined himself to the communication of positive facts and unquestionable proofs of the offences committed by the Indians, and to a request of the co-operation of the Governor for the punishment and reparation of the injury. The Spanish Governor, un-influenced, however, by this dictatorial summons, proceeded, by every means in his power, to carry into effect the demands of the General. But the assertion of his having given succor to the Indians, and delayed the passage of provisions for the American troops in the Escambia, is wholly without foundation; the very reverse is proved by the official correspondence transmitted to me; and, in fact, such an assertion, lightly made, and unsupported by proof, is an additional insult to the person and public character of the Governor of West Florida, and a striking evidence of the animosity of the American commander. The Nos. 1, 2, 3, of the enclosed correspondence, evince extraordinary deference for the United States, and condescension for the General.

Fourthly. "That the Governor of Pensacola has caused it to be directly reported to the Ameri-



*Relations with Spain.*

can General that Fort St. Mark had been threatened by the Indians and negroes, and expressed serious apprehensions, from the weakness of the garrison and defenceless state of the work, for its safety; and that this information was confirmed to the American general from other sources upon which he could rely." The Governor of Pensacola is wholly silent in his correspondence on the state of the fort; and, besides, it is a well-known fact, that neither that Spanish fort, nor any other in Florida, was ever attacked by the Indians and negroes alluded to.

*Fifthly.* "That, upon his entering the fort, unequal vocal evidence was evinced of the duplicity and unfriendly feeling of the commandant—evidence demonstrating, beyond the power of denial, that he had made himself, by every act in his power, a partner and accomplice of the hostile Indians, and of their foreign instigators." It is important that a charge of such a nature should be fully substantiated; and I, therefore, must request of you, sir, to have the goodness to transmit to me the documents in support of it. I repeat that, in such a case, the proper course was an application to the superior of that commandant that he might be tried according to law, and on the exhibition of the testimony and documents produced against him.

*Sixthly.* "That the same spirit of hostility to the United States was discovered by the Governor of Pensacola himself, by his refusal to permit, unless by the payment of exorbitant duties, the passage of provisions to the American army; by the reception and succors given to the Indians at various times; and, finally, by a letter which he sent to the American General, denouncing his entry into Florida as an aggression against Spain, and threatening, unless he should immediately withdraw from it, and should he continue what he thus styled aggressions, that he would repel force by force." I am wholly at a loss to comprehend how these expressions of the Governor of Pensacola can be deemed censurable. The passage of provisions or foreign troops through the territory and waters of the Floridas was strictly forbidden by the Spanish Government. The Governor of Pensacola had no authority to dispense with this regulation in any case whatever; and he, therefore, gave a proof of extreme condescension in favor of the American army, in permitting, on his own responsibility, the passage of the provisions, as appears by the documents above referred to, Nos. 1, 2, 3. The demand of payment of the duties fixed by the regulations and tariffs of the Spanish Government was an obligation impossible for him to evade without a criminal breach of duty. It is the first instance I have seen of a charge brought against an officer for the faithful discharge of his duty. In all events, the moment that the Governor of Pensacola signified to General Jackson his want of authority to grant his request, that General, or his Government, should have asked it of the Government of His Catholic Majesty.

Such are the grounds upon which General Jackson rests his justification, and which your

Government appears to consider sufficient to exonerate him from any charge, and all responsibility to the United States, by reason of the invasion of West Florida; and these grounds, you add, are still further strengthened in favor of the General by the following facts: 1st. That "the charges alleged by General Jackson against the commandant of St. Mark's are not known even to have been denied." It would, indeed, have been difficult for him to have contradicted them without having first acquired a thorough knowledge of, and then minutely investigated, all the details connected with them. Nothing like this was allowed by the operations of General Jackson, who, in a moment, fell, like an impetuous conqueror, upon the chief place and military posts of Florida with his whole force, supported by a train of field and battering artillery—a train which can hardly have been thought necessary for battering the cabins of miserable Indians. 2d. That "the Governor of Pensacola assured General Jackson that the information received by him of the number of Indians who had been received and harbored at Pensacola was erroneous; and, notwithstanding this assertion, a large body of them were overtaken, surprised, and defeated by the forces of the United States, within one mile of Pensacola, within ten days after the time stated, in his letter to the Governor, of this assemblage of Indians at that place; nor was it until after that event that the Governor issued his proclamation for refusing them supplies, and gave them the advice under which eighty-seven of them surrendered themselves to the American officer; and that since their surrender there had been only two Indians in Pensacola, and those in jail, which was incorrect, as, besides the Alabama chief included in the capitulation, one wounded Indian was found in the fort of Barancas; and, further, that Holmes, a noted Red Stick chief, left Pensacola but the day before the American troops took possession, and a number of other Indians were seen, about the same time, within a few miles of Pensacola, and succeeded, with the aid of Spanish officers, in eluding the pursuit of the American troops." It seems to me that the bare recital of these trifling circumstances is sufficient to enable any one to judge of their utter insignificance. Let us suppose there were two or three, four or five, or several more Indians in Pensacola, or in any other Spanish post; and what is there remarkable or improper in that? What law or principle is there prohibiting the Governor of Pensacola from communicating with the Indians, and allowing them to bring in the usual supplies? The duty of the Spanish Governor was confined solely to withholding aid and assistance to the hostile Indians, and exhorting them all to preserve peace and abstain from any acts of injury or violence to the citizens of the United States. This duty he has religiously discharged; and nothing has yet been advanced that proves the contrary. Is it a crime to permit a wounded Indian, a wretched fugitive, disarmed and defenceless, to take refuge under the protection of Spain, and avoid the fate impending over his whole

*Relations with Spain.*

nation? Is it a crime to show humanity to such unfortunates, and not deliver them up to punishment? A different conduct ought surely to be considered a crime and an eternal disgrace.

And here I would not be understood as denying the cruelties exercised by the savages, or the horrors committed by them on the citizens of this Republic. I view with horror every act of barbarity and blind fury. Be pleased, however, sir, to compare the evils complained of with those which have, and do daily flow from those successive shoals of desperate adventurers, freebooters, assassins, and banditti, which have so long thronged from the American territory towards the adjoining provinces of the Spanish monarchy, and with the frightful swarms of corsairs, and pirates, who, after arming and equipping in the ports of this Republic, daily sail forth to infest the seas, destroy the Spanish commerce, and rifle every defenceless vessel they meet. To yourself and to the whole world it is notorious what deplorable atrocities have been committed by these barbarous and bloody wretches. I leave it to you to decide whether there can be any comparison between these excesses and those alluded to by General Jackson in his proclamation.

In fine, the very reasons assigned by General Jackson in justification of his conduct serve only to enhance its enormity. How can personal piques or disputes between subordinate officers possibly justify the invasion of a province, with all the apparatus and the fury of war, in the midst of peace? How can they justify the effusion of blood, the bombardment and capture of its fortresses and strongholds? How! is General Jackson an independent sovereign, or is the commandant of St. Mark's, or the Governor of Pensacola? Should not every altercation, disagreement, or complaint between these officers have been submitted to their respective Governments, by them to be decided? Most assuredly they should; and I cannot refrain from repeating that outrages of such a nature admit neither excuse or palliation. I am fully persuaded that the President, as you assure me, gave General Jackson no orders or instructions to commit such acts of violence and injustice, nor to depart from the course which the President, in his Message to Congress of 24th March last, announced it was his intention to pursue. It therefore follows, by a necessary inference, that General Jackson acted upon the impulse of his own mind, and took upon himself, as you say, the whole responsibility.

It is very satisfactory to me to be informed by you that the President agrees to restore Pensacola to the possession of any person duly authorized on the part of Spain to receive it; also, the fort of St. Mark, as soon as a Spanish force sufficiently strong to hold it against the attack of the hostile Indians shall make its appearance for the same purpose. I shall lose no time in transmitting the answer of the President to my Government, in order that, on taking it into consideration in relation to that point, it may give such orders as may be required by the case. But with a view to prevent any difficulty in the execution of this

just measure adopted by your Government, I have to request you, and, through your ministry, the President, to give the necessary orders to the American commandant and officers now holding that province to deliver it up to the Spanish Governor, officers, and troops, who may be duly authorized to receive possession of it. At the same time, I persuade myself that the President, being disposed to take this first step in making satisfaction to Spain, will not refuse such others as will make that satisfaction complete and effective. I therefore renew, in the name of the King, my master, my instant requests and reclamations of due reparation for all the losses and injuries sustained by the Crown and subjects of His Majesty in consequence of the proceedings of the American General and the troops under his command in Florida; and, moreover, of his lawful punishment, with that of any other officer who may appear to be responsible by his participation in the acts complained of.

On the other hand, I assure you, sir, that whatever complaint the Government of the United States may have against the Governor of Pensacola, the commandant of St. Mark's, or against any other Spanish military or civil officer, it will be promptly attended to by His Catholic Majesty's Government, and orders issued for any inquiry into their conduct; and should it satisfactorily appear to be reprehensible, they shall be punished with all the severity of the law.

In concluding this note, I forbear to repeat to you assurances of the sincere and strong desire of His Catholic Majesty to see all pending differences speedily brought to an amicable conclusion. You are aware that, in April last, I despatched a courier to my Government, with full information on the state of the negotiation, submitting, agreeably to what you stated to me, and with a view of expediting the proceeding, its final arrangement by the Ministry of the King, my master, and the Minister of the United States at Madrid. On the first official notice of the result of that proposition, although it has not yet had the desired effect, I have no doubt that we shall be able to come to an understanding by means of my new instructions, and agree on the basis of a treaty mutually satisfactory.

In the mean time, I confine myself to offering you the renewed assurance of my constant respect, and I pray God to preserve you many years.

LUIS DE ONIS.

No. 1.

*Copy of a note of the Governor of West Florida to his Excellency Andrew Jackson.*

PENSACOLA, April 15, 1818.

MOST EXCELLENT SIR: Your excellency's letter of the 25th of last month has been delivered to me, also that of the 16th, in answer to mine of the 16th of February preceding. I now have the honor to acknowledge the receipt of both, and to reply to the former.

In the month of May last, yielding to a spirit of conciliation, I gave permission to the schooner



*Relations with Spain.*

Victory, from New Orleans, to pass up the Escambia to the American fort with a cargo of provisions; prompted by the same sentiment, I gave a similar permission in January last to Captain Call, of the schooner *Italiana*, to proceed to the same place; and subsequently, pursuing the same friendly and conciliatory feeling, I allowed Lieutenant Eddy, belonging to the garrison of the fort above alluded to, who had been commissioned for that purpose by Major Youngs, the commandant, to supply himself here with sixty barrels of provisions. The cargo of the schooner *Italiana* being still deposited here, I conceive that the introduction of the further supply requested by your excellency is not necessary at present. Notwithstanding this, as I infer from your excellency's letter that the said provisions are now on the way, and am disposed to grant the same indulgence as heretofore, while it is not less my duty to enforce the established regulations and restrictions, which require that the supplies should be consigned to a Spanish trading-house, which will undertake to forward them and secure the payment of the royal import and export duties, I will give permission for them to pass in like manner as the first; it being, however well understood that, neither now nor hereafter, the United States can pretend to or acquire any right in consequence of these indulgences, which are perfectly gratuitous, and granted solely in consequence of existing circumstances, which, as your excellency states to me, prevent the arrival of supplies to the said Fort Crawford, through any other channel. In addition, you are pleased to remark that you are not disposed to enter into any discussion with me on the subject of the right which may be claimed by the United States to the free navigation of the Escambia.

To a discussion of this nature I am no less averse than your excellency; because it is one not within my province, and because it is my duty, as a subordinate officer, to conform to the orders of my superior; therefore, until I receive orders to the contrary, I am bound, in reference to this point, strictly to adhere to the existing treaties between the United States and Spain. On referring to the last treaty of amity, limits, and navigation, I perceive nothing that stipulates the free navigation of the river alluded to; but, on the contrary, that the sovereignty of the King, my master, in and over all the territories, coasts, rivers, ports, and bays, situate to the south of the thirty-first degree of north latitude, is solemnly and explicitly acknowledged by the United States; and if, in consideration of the present extraordinary circumstances, further momentary concessions are required, I request your excellency to have the goodness to apply for that purpose, in future, to the authority on whom they may depend, as I am wholly unauthorized in this matter.

God preserve you many years.

JOSE MAZOT.

His Exc'y Gen. ANDREW JACKSON.

True copies of the documents deposited in this

command, at Pensacola, May 2, 1818, in the absence of the secretary, (by indisposition.)

B. DUBREUIL.

No. 2.

*The Commandant of West Florida to Major Youngs, encamped on the banks of the Escambia.*

PENSACOLA, April 27, 1818.

SIR: Your letters of the 27th instant, dated Camp on the Escambia and Fort Crawford, enclosing a proclamation, were this day delivered to me at 3 o'clock P. M. by an artificer, (a man of color,) whose immediate return does not allow me at present to reply particularly to them; and I shall only state that the few peaceful Indians who were at this place and in its neighborhood left it on the 26th, and at daybreak several of them were murdered by the troops of the United States, and among them some women and children. As I am unable to account for this act, and the violation resulting from it, I have to inform you that I shall transmit an account of the whole transaction to my superior; and I hope that in the meantime you will not permit any further hostilities to be committed on any pretence in this territory; and, in case the Indians give any reason for complaint, that you will inform me of it, that I may chastise them for it, as far as it depends on my authority.

If there be Indians still remaining in this territory, I will have them sought for, and communicate your letter to them, and advise you of the result. I do assure you on my word that your statement of the aggressions committed by the Indians is the first intelligence I have had of it, and that when I agreed to the passage of the escort of which you speak, those Indians of whom Lieutenant Eddy was apprehensive were the only ones pointed out to me.

I must repeat to you that all my wishes and efforts are directed to preserving the peace happily subsisting between our Governments, and relying on your friendly sentiments towards me, I offer you in return the assurances of mine.

God preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS.

*The same to the same.*

PENSACOLA, April 30, 1818.

SIR: In consequence of the request contained in your letter of the 27th instant, I assembled the principal chiefs of the Upper Creek towns of Colome, Canaan, Corvalle, and Forsythe, and communicated its contents to them; they all replied that they had long been very unhappy and miserable, without shelter or country; but that, at last, by the advice of a good friend, they had found one; that they all cheerfully adopted it, and were very grateful for the offers you had made them. These Indians amount to about eighty-seven, including women and children. I have settled that they should divide into two companies, and they will set out as soon as your

*Relations with Spain.*

answer is received, which they think it prudent to keep, as you will, when informed of their acceptance of your offer, be enabled to give proper orders for their safety on their journey, and their avoiding any unpleasant rencontre with the Choctaws, who, if not duly informed of it, might attack them; in which case, the measures taken for the peaceful arrangements that we both have so much at heart would be defeated.

Opahi-hola, an Alabamian chief, on account of his age and infirmities, will remain here for the present with his family. I have given orders for his relief, and pledge myself for his good behavior.

You will always find me ready to unite with you in such measures as may be beneficial to our respective countries, and are conformable to existing treaties. I renew the assurances of my respect, and pray God to preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS.

No. 3.

*Copy of a letter from the Commandant of West Florida to his Excellency Andrew Jackson.*

PENSACOLA, May 18, 1818.

MOST EXCELLENT SIR: On the 10th instant I received your letter of the 27th of April last, informing me that on board a small schooner detached from this port for Appalache there were found several articles of clothing, such as are used by the United States troops, and which you suppose were taken in the boat in which Lieutenant Eddy was unfortunately cut off, together with his escort. You inquire of me how I became possessed of those articles of clothing, and you proceed to state that you regret the necessity which compels you to inform me that, from written and other proofs obtained at St. Johns, the quantity of American cattle found at St. Marks, and the active communication kept up between the latter place and the hostile Indians, there appears sufficient ground to believe that they were encouraged and excited to this savage warfare against the United States by the Spanish officers. You add that there exist positive proofs that the Indians were supplied with ammunition by the late commandant of St. Marks; and you conclude by declaring that shelter and protection have been given at this place to the persons and property of the Indians who are in hostility with the United States, and have fled from the American territory; that these facts, and the refusal to allow the passage of provisions for the supply of your troops, fully evince the unjust conduct of the Spanish agent in the Floridas.

To these several charges I shall reply in their order, frankly, unreservedly, and unequivocally. The first relates to the articles of clothing found on board the schooner *Maria*, and detained on the presumption of their being the property of the United States. A part of these, as is proved by the copy No. 1, was purchased at New Orleans in May last; a part came from Havana and

a part was bought here; all which being fully substantiated, the charge is consequently disproved, and your inquiry satisfactorily answered. The second is more serious, and refers to the conduct of the commandant of St. Marks, at a recent period. I immediately demanded of him an account of his proceedings; his report of which is enclosed under the No. 2. But as I am desirous that you would bring forward unquestionable proof of the misconduct of that officer, I have to request you to furnish me with it, in order that, if his misconduct be established, he may receive condign punishment; hereby assuring your excellency, with that sincerity that belongs to me, that in such an event he has acted entirely contrary to his instructions; and that on receiving the evidence required he shall be tried by a court martial, and punished in an exemplary manner, according to the merits of the case. Your sense of equity will, however, satisfy you that the Spanish Government cannot be held responsible for the misconduct of its agents while it does not support them in it, nor tolerate their errors when proved. Your subsequent complaints are directed personally and pointedly against me, and relate to the shelter and protection alleged to have been afforded to the persons and property of fugitive Indians, and to the passage of provisions up the Escambia. The best mode of giving a satisfactory answer to these charges will be to offer you a brief and faithful statement of facts. With respect to the Indians, you have assuredly not been correctly informed; for, although some few remained permanently here, chiefly consisting of women and children employed in supplying the inhabitants with fish, fuel, and other trifling articles, and had been living here long before the present war with the Seminoles, it is a fact that, when I sent round to assemble them for the purpose of communicating to them the proposal of Major Youngs, their whole number amounted but to eighty-seven; and surely the small proportion of men among them unarmed, miserable, and defenceless, could not be considered as objects of hostility to the United States; a proof of which was shown in the continual passage of American citizens to this place, travelling unarmed and alone, without a single instance of accident happening either to their persons or property. In regard to the passage of provisions up the Escambia, so far from suspending it, I facilitated it, as far as depended on me, even to committing myself; since, as a subordinate officer, I could not becomingly allow a proceeding which was not fully authorized. I therefore, in consideration of circumstances, took that responsibility upon myself, as I stated to your excellency in my letter of the 15th ultimo, by Major Perault, to which I beg your reference. But, with a view to the benefit of this place, by means of a free intercourse with the interior, I hereby declare that in future the merchants and traders belonging to it shall pass freely from hence to Fort Crawford, and other places on the frontier, and transport all necessary supplies, either by land or water; by which means it is to be expected



*Relations with Spain.*

they will be abundantly provided, and your excellency entirely satisfied.

In offering you these explanations and details, I flatter myself I have given so full and satisfactory an answer to your excellency's letter as to leave no doubt of the sincerity of my intentions, and at the same time to have presented a certain pledge that it is my earnest wish to contribute, by every means in my power, to the maintenance of the good understanding happily subsisting between our two Governments. God preserve you many years.

JOSE MAZOT.

HIS EXCELLENCY ANDREW JACKSON.

Pensacola, 31st May, 1818. A true copy of the original deposited in the office of the secretary of the government of this Province, under my charge.

CARLOS REGGIO.

*Secretary of State to Don Louis de Onis.*

DEPARTMENT OF STATE,

WASHINGTON, August 24, 1818.

SIR: I have received your letters of the 27th ultimo and of the 5th instant, with their respective enclosures, all of which have been laid before the President. With regard to the two vessels alleged to have been equipped at New York for the purpose of cruising under the flag of Buenos Ayres against Spanish subjects, the result of the examination which has taken place before a judge of the Supreme Court of the United States has doubtless convinced you that no prosecution commenced by the Government of the United States against the persons charged with a violation of their laws and their neutrality could have been necessary or useful to you, no transgression of the law having been proved against them.

It would be equally superfluous and unreasonable to pursue the discussion with you relative to the proceedings of the American Commander-in-Chief in entering Florida, and his conduct there, and to the misconduct of the Governor of Pensacola and of the commandant of St. Marks in aiding and abetting the savage enemies of the United States, whom Spain had, by solemn treaty, bound herself to restrain by force from committing hostilities against them. But you will permit me to observe that the obligation of Spain was positive and unqualified, and that an attempt to evade its force by the allegation that Spain could not carry it into effect until she knew what hostilities they had committed, and the possible causes of or provocations to them, would be equally unwarranted by the express terms of the article, and by the intentions of the contracting parties to the treaty. The stipulation of Spain was, not to punish her Indians for murders committed upon the aged and the infirm, the women and children of the United States, but to restrain them by force from committing them; and the insinuation that the Indians themselves had been provoked to such atrocious acts would be as disingenuous on the part of Spain to escape from

the sacred duties of her compact as it would be unfounded in point of fact.

The letter from General Jackson to the Governor of Pensacola, a copy of which was transmitted to you in mine of the 23d ultimo, and its answer, were written, not as you allege, at the turbulent period of the late war between the United States and Great Britain, but, as their dates will show, more than a year after the conclusion of the peace. The fort had been built upon Spanish territory, under the sufferance of Spanish authorities, by British officers, during the war, for annoyance against the United States. After the peace it remained the stronghold of fugitive negro and Indian robbers and murderers, which the Governor of Pensacola, when summoned by General Jackson to destroy, alleged his inability to do it without reinforcement and further orders, which, as the event proved, were never received.

I have the honor to inform you that orders have already been forwarded to the commanding officers at Pensacola and St. Marks to deliver up those places, conformably to the notice in my letter to you of the 23d ultimo, to the former Governor of Pensacola and commandant of St. Marks, respectively, or to any person duly authorized from you or from the Governor General of the Havana to receive them.

I am further instructed by the President to assure you of the satisfaction with which he has seen, in the last paragraph of your letter, your expectation of being speedily enabled to make proposals containing the basis of a treaty which may adjust, to mutual satisfaction, all the existing differences between our two nations, and his earnest hope that this expectation, in the fulfilment of which this Government have confided, and adopted measures corresponding with it, may be realized at an early day.

I have the honor to be, with high consideration, sir, your very humble and obedient servant,  
JOHN QUINCY ADAMS.

*Don Luis de Onis to the Secretary of State.*

BRISTOL, September 11, 1818.

SIR: I have received your official note of the 24th of August last, in reply to mine of the 5th of that month and 27th of July preceding; and I coincide with you in opinion that it is superfluous to continue the discussion on the conduct of the American General in the invasion of Florida, since the simple knowledge of acts of this description and notoriety sufficiently indicates that justice which I am persuaded cannot be dissembled in the view of unprejudiced reason.

I shall, therefore, not dwell further on the well-founded arguments and documents I have produced in my notes on this subject; but, merely referring to them, I have to insist on, and demand of the Government of the United States that most just satisfaction which I have already required of them, in the name of my Sovereign, and is imperiously claimed by the integrity of his monarchy and the honor of his Crown.

*Relations with Spain.*

I immediately communicated to my Government the determination which you did me the honor to state to me, that orders had been given to the American commanding officers to deliver up the posts of Pensacola and St. Marks to such Spanish authorities as might be duly appointed to receive them, that it may, on a knowledge of that fact, adopt the measures requisite to the case.

Anxiously desirous to see the basis of a treaty established to the satisfaction of both Governments, I await the result of the negotiation pending, as you know, at Madrid, (information of which must soon be received here,) that we may proceed in conformity to it; and, it being fully evinced that the King, my master, has the most earnest wish to do what may be agreeable to this Republic, even to the diminution of his own interests, as far as is compatible with his honor and dignity, I doubt not that, in one shape or another, we may attain the most equitable mode of effecting a settlement on terms mutually satisfactory.

I reiterate the assurances of my distinguished consideration, and pray God to preserve you many years.

LUIS DE ONIS.

*Extract of a letter from Mr. Erving, Minister Plenipotentiary from the United States in Spain, to Mr. Adams, dated*

MADRID, February 10, 1818.

The King has lately made large grants of land in East Florida to several of his favorite servants. I am credibly informed that, within these few days, he has, by a sweeping grant, given all the remainder to the Duke of Alagon, captain of his guards, and the Count of Punon Rostro, one of his chamberlains. This is, perhaps, his mode of preparing for a cheap cession of the territory to the United States.

*Extract of a letter from Mr. Erving to Mr. Adams, Secretary of State, dated*

MADRID, February 26, 1818.

The King has lately made large grants of land in the Floridas to several of his favorite servants. The enclosed papers (A and B) have been furnished to me as extracts from the deeds to the principal grantees—the Duke of Alagon, captain of the body guards, and the Count of Punon Rostro, one of the chamberlains. Mr. Vargas, treasurer of the household, has another grant. In fine, I am led to believe that His Majesty has given away the whole of the lands in that quarter which had not been previously granted.

A.

*To the Duke of Alagon.*

All the uncultivated land not ceded in East Florida, which lies between the banks of the river St. Louisa and that of St. John, as far as the mouths by which they empty themselves into the sea, and the coast of the Gulf of Florida, and the adjacent islands, with the mouth of the river

Hijuelos, in the twenty-sixth degree of latitude, following the left bank up to its source, drawing a line from Lake Macao, and then descending along the road from the river St. John to the Lake Valdes, crossing another line from the extreme north of said lake to the source of the river Amurama, following its right bank as far as its mouth, in the twenty-eighth and twenty-fifth degrees of latitude, and running along the seacoast, with all the adjacent islands, up to the mouth of the river Hijuelos.

B.

*To the Count of Punon Rostro.*

All the uncultivated land not ceded in Florida, comprehended between the river Perdido to the west of the Gulf of Mexico, and the rivers Amurama and St. John, from Poca, until they empty themselves into the sea on the eastern side; by the north, the line of demarcation with the United States; and on the south by the Gulf of Mexico, including the desert islands on the coast.

*Extract of a letter from Mr. Erving to Mr. Adams, dated*

MADRID, April 5, 1818.

In my despatch No. 60, [of February 26,] I mentioned the grants of land in Florida lately made by the King of Spain to several of his courtiers, and enclosed extracts from those in favor of the Duke of Alagon and the Count of Punon Rostro. I have just now obtained a copy of that in favor of Don Pedro de Vargas, treasurer of the household, and it is herewith transmitted. I hope soon to be able to obtain full copies of the grants to Alagon and Punon Rostro.

THE KING:

My Governor and Captain General of the island of Cuba and its district, Don Pedro de Vargas, under date of the 25th of January last, manifested to me as follows:

"SIRE: Don Pedro de Vargas, knight of the royal military order of Alcantara, treasurer general of the royal house and patrimony of your Majesty, with the most profound respect, at your royal feet exposes: That there is a quantity of vacant and unpeopled land in the Territory of the Floridas, and desiring that if your Majesty shall deign to reward his passable services, and the proofs which he has given of his loyalty, it may be without the least burden on the public treasury, or in the prejudice of any third person, as may be done at present by some lands of that country, he beseeches your Majesty that, by effect of your sovereign goodness, you would deign to grant to him the property of the land which lies comprised within the following limits: that is to say, from the mouth of the river Perdido, and its bay in the Gulf of Mexico, following the seacoast, and ascending by the bays of Buen Socorro and of Mobile, continuing along the Mobile till it touches the northern line of the United States, and descending by that in a



## Relations with Spain.

right line to the source of the river Perdido, and following the river Mobile in its lower part, and the bay of that name, returning by the seacoast towards the west, comprehending all the creeks, entries, and islands adjacent, which actually belong to Spain, till it reaches the west line of the United States, then, returning by their northern line, comprehending all the waste lands which belong, or may belong to Spain, and which are in dispute or reclamation with the United States, according to the tenor of the treaties; and, also, all the waste land not ceded to any other individual, which is between the river Hijuelos, in East Florida, and the river St. Lucia, drawing a line from the source of one river to the source of the other, and following, by the coast of the Gulf of Mexico, from the mouth of the Hijuelos to the point of Tancha, and, doubling this, by the coast of the Gulf of Florida, to the mouth of the river St. Lucia, with the islands, &c., adjacent."

Considering the contents of this exposition, and attending to the merit of the individual, and his accredited zeal for my royal service, as also to the advantages to result to the State from peopling the said countries, I have thought proper to accede to the favor which he solicits, in as far as it be not opposed to the laws of these my dominions, and I communicated it to my Council of the Indies, for its fulfilment, in a royal order of the 2d of February last. Consequently, I command and charge you, by this my royal scroll (*cedula*), that, conforming to the laws which regulate in these affairs, and without prejudice to third persons, you efficaciously aid the execution of the said grant or favor, taking all the measures which may conduce to its due effect, as also to the augmentation of the population, agriculture, and commerce of the aforesaid possessions, giving account, from time to time, of the progress made; for this is my will, and that due notice shall be taken of this *cedula* in the Accountant General's Department of the Indies.

Dated at the Palace, March 10, 1818.

I, THE KING.

It is rubricated by order of our Lord the King:  
ESTEVAN VAREA.

It is rubricated—fees two hundred and forty reals of plate.

[Here follow four signatures.]

To the GOVERNOR and CAPTAIN GENERAL of the island of Cuba and its district, that he may do what is suitable, to the end that the favor granted to Don Pedro de Vargas of various lands situated in the Floridas, and other things therein mentioned, may have effect.

Registered:

[Here follows a signature.]

Taken notice of this in the Department of the Accountant General of the Indies, Madrid, March 13, 1818.

JOSEF DE TEXADA.

It is rubricated: fees gratis.

[Here is another signature.]

Extract of a letter from Mr. Erving to Mr. Adams, dated

MADRID, April 26, 1818.

I perceive that Mr. Pizarro would be very glad to terminate it [the negotiation] here. In the meantime, I shall continue to work with him, to the end that his communications to Mr. Onis may be made as favorable as possible to a prompt adjustment of it at Washington. In this view, I asked him yesterday what had been said respecting Florida. He answered vaguely; but I perceived that there was some question of passing it to the United States in compensation for the claims. I therefore begged him to prepare, in his instructions to Mr. Onis, for a difficulty which must certainly arise if any "transaction" of that kind should be proposed; that the claims in question would probably be liquidated by the United States, in such form, by commission or otherwise, as might be most convenient to themselves; but that, finally, they must be paid out of the sale of the lands. Now, the King had lately given all those lands away, (as I had duly informed my Government;) to complete the "transaction," it would, therefore, be absolutely necessary that the whole of those grants should be cancelled. Mr. Pizarro here held me a long discourse about sovereignty, territorial property, &c. I told him that we had no difference of opinion about those distinctions, and the other matter connected with them, but that his error was in supposing we meant to pay for the sovereignty only. We did not estimate that so highly as he imagined. I enlarged very much upon whatever relates to these points, and brought him to consent that these grants might be cancelled, and indemnity given to the grantees in New Spain, or elsewhere. I say "brought him to consent"—I mean that he said enough to convince me that there will be no difficulty on this head. I am not so certain that I have induced him to send, by this courier, such instructions on it to Mr. Onis as may render another reference to his Government unnecessary; but I propose to see him again to-morrow, and to re-urge the matter.

Extract of a letter from the same to the same, dated

MADRID, May 14, 1818.

In my last private letter (which was dated April 26) I related to you what passed between Mr. Pizarro and myself upon the subject of the grants of lands in the Floridas, lately made by the King, and I mentioned that I should see him the day following, and endeavor to press my opinion on that point in such way as, if possible, to obtain that he might in advance instruct Mr. Onis in conformity to it. I saw him on the 27th, as I proposed, before the departure of his courier; whether I produced the desired effect, or not, I cannot positively say; but, immediately after, he wrote to the Council of the Indies, in consequence of which the council sent orders to the Duke of Alagon and the Count de Punon Rostro, directing them not to make sales of the lands

## Relations with Spain.

granted to them; this fact, which I had received through a private channel, I ascertained yesterday in conversation with Mr. Pizarro. I cannot find that the council has written to the other grantee, Vargas, but Mr. Pizarro said that it should have done so. Be that as it may, all sales made by the grantees are, *ab initio*, void, by the laws of the Indies; there are obligations, also, of a very onerous kind, imposed by those laws on all grantees, calculated, in fine, to produce the objects which such grants have in view, viz. the population and cultivation of the territory—obligations which grantees of large tracts (under a prohibition to make sale) cannot possibly fulfil; least of all such grantees as these, who, besides not having a cent, are overwhelmed with debt.

Extract of a letter from the same to the same, dated

MADRID, June 12, 1818.

He [Mr. Pizarro] then entered into the principal matters in question, and, first, spoke of the limits on the side of Florida. He concluded this subject by saying that though the King, with a desire to accommodate himself to the views of the United States, had concluded to make the cession, and to make it as valuable as possible to the United States, as I had seen in the promptitude with which he had acted on my suggestion, and given orders to the Council of Indies relative to the late grants, (as particularly communicated to you in my private letters of May 14,) yet His Majesty was fully aware that the value of the public lands in the territory to be ceded would be infinitely beyond what the United States could demand under the head of indemnities; hence, it was reasonable to expect that the difference should be made up to him by concessions on the other side.

Don Jose Pizarro to Mr. Erving.

PALACE, July 8, 1818.

The First Secretary of State has the honor of transmitting to the Minister of the United States the copy of a paragraph of a note of the 7th of February, 1803, (and propositions which accompanied it,) to Don Pedro Cevallos; and he avails himself of this occasion to repeat the assurance of his consideration.

Copy of some paragraphs of a note directed to Don Pedro Cevallos, on the 7th February, 1803, by Mr. Charles Pinckney, Minister of the United States.

To obtain this, they have authorized me to say that, should His Majesty be now inclined to sell to the United States his possessions on the east side of the Mississippi, or between that and the river Mobile, (agreeably to the propositions enclosed,) the United States will make to His Majesty, and I do now make, in their name, the important offer of guarantying to him and his successors his dominions beyond the Mississippi.

Propositions on the part of the United States.

1st. The United States will purchase the post-  
15th CON. 2d SESS.—59

sessions of His Catholic Majesty on the east side of the river Mississippi, for which they will pay — dollars.

2d. They will purchase these possessions, for which they will pay — dollars; and, moreover, guaranty to His Majesty and his successors his possessions beyond the Mississippi.

3d. They will purchase the country between the rivers Mississippi and Mobile, belonging to His Catholic Majesty, and also places of deposit near the mouths of the other navigable rivers passing from their territory through either of the Floridas, for which they will pay — dollars, or enter into other obligations which may be thought equivalent to the acquisition.

4th. If neither of these propositions can be acceded to, they will then purchase certain tracts of country on the banks of the Mississippi, and the other rivers passing from their territory into that of His Catholic Majesty, for which they will pay — dollars, or enter into other obligations which may be thought equivalent to the acquisition.

Mr. Erving to Don Jose Pizarro.

MADRID, July 9, 1818.

SIR: I have had the honor to receive your excellency's note of yesterday's date, enclosing a paragraph from a note addressed to this Government on the 7th of February, 1803, by Mr. Pinckney, at that time Minister of the United States at this Court, together with certain proposals of the same Minister, to which the paragraph cited refers.

Though I find that these proposals are as explicit in their form as your excellency in conversation stated them to be, yet I also find, as I presumed, that they were not made or renewed by the special mission which treated with Mr. Cevallos in the year 1805, and that they do not affect and cannot receive any application to the great questions now under consideration. They, in fact, offer the United States as guarantee of His Majesty's possessions on the right bank of the Mississippi, in part consideration for cessions which he was to make of the whole of his then possessions, or certain districts of them to the eastward of that river; but posterior to this offer, namely, on the 30th April, 1803, the greater part of the territory thus proposed to be purchased, and the whole thus proposed to be guaranteed, passed into the possession of, and now make part of the United States. Thus the state of possession in that quarter having been changed, the motive to guaranty on one side, and the necessity to receive a guaranty on the other having ceased, all that passed upon the subject heretofore is as though it were obliterated from the records.

The only security which occurs to me as possible to be stipulated, under present circumstances, is that of the thirty leagues desert, which I mentioned in our two last conversations; and, in fact, this kind of material security in transactions between two great nations ought, according to my apprehension, always to have the preference over



*Relations with Spain.*

the other kind of stipulations; for, though such stipulations should be most religiously observed, even in the extreme cases wherein, by the universal practice of nations, they are deviated from or altogether dispensed with, yet, in the still greater extremity of war, they cease to be binding, of course, and cannot be renewed but after the war, and then the inducement to renew them may have ceased; whereas the material security of which I speak always remains. War does not cultivate deserts, but it makes them. However, these and other important considerations belonging to the subject will be duly deliberated on by His Majesty's Government. I can only say that, if my suggestion should be adopted, I shall be ready to put it into form, and with that I consider that the only great difficulty to a happy termination of our differences is removed.

I renew to your excellency assurances of my very distinguished consideration.

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, July 9, 1818.

SIR: In several late conferences with you I have had the honor to manifest to you the regrets of His Majesty that it had not been possible yet to terminate the discussions depending between the two Governments, as His Majesty flattered himself might be done in consequence of the instructions given to his Minister Plenipotentiary, especially since, on the part of the King, there had not been, nor is there, any objection to carry into effect the arrangement of the indemnities reciprocally claimed by Spaniards and Americans; nor to proceed to the settlement of limits upon grounds conforming to the treaties and to continual and uninterrupted possession; nor for Spain to cede to the United States the two Floridas for a reasonable equivalent exchange in territory to the west of the Mississippi; nor, finally, in case of not being able to come to accord on all the pending questions, and especially those of limits, to refer to the arbitration or mediation of one, two, or more Powers, friends of both parties, without preventing, after the limit which should appear to be just should be settled by such arbitration or mediation, that we should proceed to effect, by means of the same mediation; or without it, if it should accommodate the United States, an exchange of the two Floridas for equivalent territory to the west of the Mississippi.

The King thought of this arbitration as the most certain and prompt mean of terminating the discussion of limits, each party exposing before the arbitrating or mediating Powers the title or grounds on which it rested its rights and pretensions; and he has not been able to change his opinion on seeing the answer given upon this point by the Secretary of State of the United States to Don Luis de Onis; for, in the proposal made by that Minister Plenipotentiary, by express order of His Majesty, respecting said mediation or arbitration, there has not been, nor is

there, question, as Mr. Adams seems to suppose, of inviting the United States to take part in relations or ramifications belonging to any interests of the European Powers, nor in what he calls the labyrinth of their politics, but merely that one or more impartial Governments, friendly to both parties, should take cognizance of the data of fact and right on which they found respectively the demarcation of limits which each pretends to substantiate; which measure is, in effect, the same as that which the United States adopted in its last treaty with Great Britain for adjustments of a similar kind, there being no other difference between the two cases but in the greater or less importance of the territories in dispute.

In this state of things, and His Majesty animated with the most efficacious desire to employ whatever means are in his power to terminate satisfactorily all and every one of the points in question, I represented to His Majesty that you and I, in our late conferences, had been of opinion that it might contribute to facilitate the arrangement of those points on which, hitherto, both Governments have not been able to come to accord, to carry forthwith into effect that on which they are already agreed; that is, the settlement of the reciprocal indemnities of Americans and Spaniards which were the object of the convention of 1802, for which only was wanting the ratification on the part of Spain, suspended for reasons and by circumstances which are notorious. The King instantly applauded this suggestion of mine and yours, and, desirous of giving to the United States efficient proofs of his desire of an arrangement on all the points, commanded me immediately to draw out a ratification of the said convention of August 11, 1802, to be sent to Don Luis de Onis, to the end that he may present the same, and exchange it for that of the United States; and I have the honor to enclose the adjoined copy for your due information.

The termination of this point, already agreed on, in no respect can embarrass the ulterior progress of the negotiation upon the others; and if Don Luis de Onis, pursuant to his first instructions, or to the explanations which subsequently on two occasions have been given to him, or because the Government of the United States has reduced its demands to terms more compatible with the rights of Spain, shall, on the arrival of said ratification, have already settled this point conjointly with the others, there will not therefore result any kind of embarrassment or contradiction, since the recognition of the reciprocal indemnities between Spaniards and Americans, and the mode of liquidating them, (the only objects comprehended by the convention of 1802,) will always have to enter in the new arrangement which may have been effected or may take place; and only in the manner of paying the debt which shall result from the liquidations made can there be or arise hereafter any alteration, in case the territorial arrangements should be combined with the other indemnifications.

His Majesty hopes that the United States will see in this measure a proof of his friendly dispo-

*Relations with Spain.*

sitions, and, if he may flatter himself with others equal and reciprocal on the part of the Government of the United States, he does not doubt that shortly will disappear the difficulties which hitherto have opposed themselves to the desired arrangements. The political, commercial, and territorial interest of the United States and Spain are not opposed to each other; extraneous circumstances, and independent, perhaps, of the will of both Governments, have been able to complicate and embarrass their political relations; a sincere desire to understand each other, and to approximate cordially, each ceding something of that which he supposes that he has a right to exact of the other, may perhaps be the commencement of a new order of things, in which the Government of Spain and that of the United States, far from occupying themselves in disagreeable discussions, will mutually contribute to augment the prosperity and well-being of both nations.

No occupation will be to me more agreeable than that of employing my weak efforts in serving the King, my master, in so interesting an object; and I should not do the justice which I owe to your rights, and conciliatory and friendly dispositions, if I were not persuaded that you will lay the whole before your Government in the same temper.

As Don Jose Martinez, who came from the United States last month with despatches from Don Luis de Onis, is to return thither, I notify you thereof, that you may, if you please, profit of this opportunity to send yours to that country.

I renew to you, &c.

JOSE PIZARRO.

*Copy of the ratification given by His Catholic Majesty to the convention settled on the 11th of August, 1802, between Don Pedro Cevallos, First Secretary of State and Despatch, as Plenipotentiary of Don Carlos IV., and Mr. Charles Pinckney, as Plenipotentiary of the United States of America.*

Whereas, on the 11th day of August, 1802, there was concluded and signed in Madrid, between Don Pedro Cevallos, First Secretary of State of the King, my august father and lord, and Mr. Charles Pinckney, Minister Plenipotentiary of my great and good friends the United States of America, competently authorized thereto by their respective Governments, a convention, which had for its object the reciprocal indemnity for losses, damages, and injuries which had accrued during the war then concluded, in consequence of excesses committed by individuals of both nations against the law of nations or the existing treaty; and no determined time having been fixed for the correspondent ratification, the said convention was ratified by the President of the United States, with consent of the Senate of the same, a year and a half after its conclusion; and on the part of Spain the ratification was further deferred, on account of the desire manifested to regulate at one and the same time, not only the points determined on by the said convention, but also those which had remained

undecided on in the same, and others of a different nature, though of not less importance, which could not take effect on account of posterior occurrences in Spain, which are quite notorious; and I, now considering that in the present circumstances to carry forthwith into pure and due effect the stipulations of the said convention of 11th August, 1802, far from impeding the course and desired termination of the other questions depending between the two Governments, may contribute to facilitate the most prompt and satisfactory arrangement of all of them, and having seen and examined the said convention, which contains seven articles, the form and tenor of which is as follows:

[Here the convention is copied.]

Therefore have concluded to approve and ratify whatever the said convention contains in its seven articles, as in virtue of these presents I do approve and ratify, in the best and most ample form that I can, promising, on the faith and word of a King, to fulfil it and observe it, and to cause it to be fulfilled and observed, wholly, as though I myself had made and signed it. In testimony whereof, I have ordered to be despatched the present, signed with my hand, sealed with my secret seal, and attested by my underwritten Councillor and First Secretary of State and Despatch. Given in Madrid this 9th of July, 1818.

YO, EL REY.  
JOSE PIZARRO.

Subscribed:

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 16, 1818.

SIR: It was not till the evening of the 13th instant that I had the honor to receive your excellency's note of the 9th, communicating to me a copy of His Catholic Majesty's ratification of the convention made between the United States and Spain on the 11th August, 1802.

In the late conferences which I have had with you, I have received with great satisfaction the assurances which you have given to me of your sincere desire to terminate, by a general arrangement, all the questions in discussion between our two Governments. I do full justice to the conciliatory dispositions of your excellency, and am persuaded that the pressing importance of such an adjustment has not escaped your enlightened mind; but, however painful may be the disappointment of His Majesty at finding that a favorable conclusion to the negotiations has not resulted from the instructions heretofore sent to Don Luis de Onis, I cannot but remind you that I have not omitted to assure His Majesty's Cabinet, through you, that those instructions would be found to be wholly inadequate to the object. The causes of their failure are so perfectly apparent in the correspondence between the Minister and the Secretary of State of the United States, which, by order of the President, has been laid before Congress, that I may be excused from entering further into the matter.



*Relations with Spain.*

I receive with pleasure whatever may contribute to the great object in view; and though the convention of 1803 embraces but a portion of the claims of the United States of the same nature, yet, considering it as a preliminary to a similar adjustment of the whole of such claims, as well as of those for French spoliations specially reserved by it, and trusting that it may, as your excellency hopes, lay a foundation for an amicable settlement of the territorial questions now in discussion, I have lost no time in transmitting a copy of your communication to my Government.

I understand, also, with your excellency, that this ratification can be no obstacle to any general transaction on the whole of the matters in dispute which may be hereafter made, and that it is not to interfere with, but to be made wholly subordinate and subservient to, whatever arrangement Mr. Onís may possibly have entered into with my Government, in pursuance of the instructions which you have lately sent to that Minister.

I desire to avail myself of your obliging offer to transmit my despatches for the United States by Don Jose Martinez, and request that you will be pleased to inform me when that gentleman will leave Madrid.

I renew to your excellency assurances of my very distinguished consideration.

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

SACEDON, July 19, 1818.

SIR: In one of our late conferences I had the honor to state to you anew His Majesty's readiness to cede both of the Floridas to the United States, the acquisition of which appeared to be so essential to the growth and prosperity of the American Union, in consideration of a suitable equivalent to be made to His Majesty in a district of territory situated to the westward of the Mississippi. In adverting to the great importance of this cession, I was naturally led to recall to your recollection the contents of different notes addressed by the Minister of the United States, Mr. Charles Pinckney, to His Majesty's Government upon this subject, and particularly of that of the 7th of February, 1803, in which, having earnestly solicited, as he had already done in several preceding notes, the decision of His Majesty to sell to the American Government both Floridas, or at least that part of West Florida lying between the Mississippi and the Mobile, he offered formally, in the name and on the behalf of the United States, not only to pay in money the value of the territory so ceded, but that the United States, in case the said cession should take effect, would further guaranty to the King and his successors his dominions situated beyond the Mississippi. The cession of the two Floridas being one of the objects contemplated in the proposed adjustment, I stated to you that the contingency appeared to have approached, in consideration of which the formal offer had been made

to His Majesty, on the part of the United States, of the guaranty of his dominions situated beyond the Mississippi, or otherwise beyond the western boundary line, to be agreed upon in the final adjustment; the guaranty of which, forming a part of the stipulations of that adjustment, would, in my opinion, be a more effectual means of facilitating the final conclusion of the points depending, not only from its essential importance, but as being the most conclusive evidence of a desire on the part of the United States to preserve and perpetuate a good intelligence with the Government of Spain; and the more agreeable to His Majesty, as being a spontaneous offer of the United States, on whose behalf the proposition was formally made without any previous transaction or request on the part of the Spanish Government.

Upon which you were pleased to state to me that you had no previous knowledge of the said offer of a guaranty being made by your predecessor on behalf of the United States, which you attributed to the dispersion and loss of a considerable part of the archives of the American legation at the time of the invasion of the French. I then offered to furnish you with a copy of the proposals made by Mr. Pinckney, and of that part of the note of 7th February, 1803, which enclosed them and specified their object; which copies were sent to you on the 8th instant.

In your answer of the 9th, you were pleased to acknowledge the receipt of those copies, and at the same time you had the goodness to enter into the subject-matter, not only on the particular point of the proffered guaranty, but you also offered other observations connected with the matters depending between the two Governments, the adjustment of which is so interesting to both countries.

In adverting to your observations, you will permit me to remark that I cannot agree with you so far as to persuade myself that the guaranty offered to His Majesty by the United States, on the 7th of February, 1803, in case of his disposition to sell to them the Floridas, or a part of West Florida, was confined to the guaranty of the left bank of the Mississippi, or of Western Louisiana, as you conceive; and that the United States having acquired the whole of Louisiana by the treaty of the 30th of April, 1803, and the territory offered to be guaranteed having been severed from His Majesty's dominions, the said offer had been annulled, or become extinct of itself, or by the want of its particular object.

If you will take the trouble to examine attentively that offer and the proposals accompanying it, (for which purpose I think it proper to enclose a copy of the whole note of the 7th of February, 1803,) you will distinctly see that what the United States offered to guaranty to His Majesty was not the right bank of the Mississippi, but his dominions situated beyond the Mississippi—his dominions beyond the Mississippi, as expressed in the said note, or his possessions beyond the Mississippi, as expressed in the proposals. A proof that that offer embraced generally all the

*Relations with Spain.*

dominions of His Majesty in America, or at least on the continent of North America, is the great importance attached in the same note to the offer, which would have been not only unimportant, but delusive and of no value, if applied to the western bank of the Mississippi; which, independent of its being sufficiently guarantied by its local position, had been, as was well known in February, 1803, retroceded to France some three years before, and that Mr. Monroe was at Paris, or on his way thither, to acquire it from France, whose sovereignty was already acknowledged by the United States. It is, therefore, evident that the guaranty offered must have been of the territories on the North American continent belonging to His Majesty, to the westward of the Mississippi, and of Louisiana, which no longer belonged to Spain at the time the said offer was made; and nothing so clearly evinces the understanding of the United States and of Mr. Pinckney as the very expressions employed by him in his note to prove the magnitude of the offer. He says: "The immense importance of this offer to the Crown of Spain merits the serious consideration of His Majesty and his Ministers, when we reflect that no other nation can make an offer so highly advantageous. It is one which the United States would never have decided on making, but from a conviction that the territories they now solicit of Spain are indispensably necessary to them."

You can judge how far these expressions were applicable in February, 1803, to the guaranty of the right bank of the Mississippi, which no longer belonged to His Majesty since 1800, which was retroceded to France, and the acquisition of which by the United States was then negotiating at Paris, by Mr. Monroe; and whether their obvious and literal meaning and the magnitude of the object of the guaranty could be applicable to anything other than that of all the possessions of His Majesty in America, or at least of the dominions of Spain on the continent of North America westward of the Mississippi, in exchange for the advantages which the United States contemplated on deriving by the purchase of the two Floridas, or at least that part of West Florida lying between the Mississippi and the Mobile. You cannot, therefore, be surprised that, as His Majesty is now deliberating on a general adjustment with the American Government, including an article by which it is proposed to cede the two Floridas to the United States for a suitable equivalent to the westward of the Mississippi, he should advert to the formal offer of a guaranty made by the United States, for this special purpose, of his dominions and possessions beyond the Mississippi, (that is, beyond the western line stipulated in the same general adjustment,) as the boundary between the American territories and those of His Majesty on the continent of North America.

In consequence of the abovementioned note of Mr. Pinckney, and the communication made to His Majesty's Government by the Government of the United States on the 7th of February, 1803, I deem it necessary further to remark that,

in 1803, nearly three years after His Majesty had ceded back Louisiana to France, and when Mr. Monroe was about concluding the purchase of Louisiana at Paris with the Government of Bonaparte, the American Government admitted, in the most formal manner, that the territory situated between the Mississippi and the Mobile belonged to His Catholic Majesty, and formed a part of West Florida, and not of Louisiana, as it has since been wished to be supposed, His Majesty having been violently deprived of the peaceful possession of the same, during his absence from the kingdom. You will be pleased, sir, to recollect that while Mr. Monroe was negotiating the purchase of Louisiana at Paris, in 1803, Mr. Pinckney at Madrid solemnly offered the King of Spain the guaranty of his dominions beyond the Mississippi, in case His Majesty would agree to sell to the United States at least the territory lying between the Mississippi and the Mobile belonging to His Catholic Majesty—they will purchase the country between the rivers Mississippi and Mobile belonging to His Catholic Majesty. It is impossible more explicitly to acknowledge the sovereignty of His Majesty over that territory, in addition to the acknowledgment implied by the very act of applying to the King for the purchase of it, since no one purchases but of the owner of the object wished to be purchased. If the territory in question had belonged to France as an integral part of Louisiana, would it not have been more natural that Mr. Monroe should have negotiated the purchase of it at Paris, where he then was, than that Mr. Pinckney should have solicited it at Madrid at the same time? His Majesty, therefore, taking into consideration the important fact that his right of sovereignty to the said territory remains unimpaired, notwithstanding his being dispossessed of the same under well-known circumstances, he cannot omit to declare, on all occasions, that it never has been nor will be his intention to relinquish his claim to his rights in that quarter, while he is at the same time willing, by means of a suitable arrangement in the proposed adjustment, or for a satisfactory equivalent, to cede the said territory, together with the rest of the Floridas, to the United States, as well from a desire to meet their wishes, as from a conviction of its importance to the American Government, as was formerly stated in the strongest terms by Mr. Pinckney in his note just referred to.

You are pleased to point out in your note, as a mode for settling the question of boundaries more certain than that of any guaranty, the establishment of a desert of thirty leagues between the frontier of Louisiana and that of the Spanish possessions. Although His Majesty has a due respect for the good faith and strict punctuality of the American Government, yet he does not perceive any security preferable to the guaranty, nor that there would be any difficulty in connecting the one with the other; and, with a view to avoid disagreements on the frontiers, in stipulating the establishment of such a desert, provided both Governments could agree on the requisite



## Relations with Spain.

measures for preventing this intermediary desert from being converted into a rallying point for adventurers and banditti, where they might exercise their pernicious activity in disturbing the peace of His Majesty's dominions as well as that of the United States. But the principal difficulty still subsists, namely: that although the establishment of this desert might be considered expedient, yet we may not agree on the exact line of division, keeping in view the rights of each party to the territory west of the Mississippi, and to that which ought to afford to His Majesty in that quarter an equivalent for the two Floridas, which are proposed to be ceded to the United States in consideration of such equivalent.

If I rightly comprehend your verbal communications relative to the establishment of this intermediary desert, I persuade myself that the understanding is, that the thirty leagues intended to be comprehended in it will be fixed to the eastward of the bay of St. Bernard; and, under the impression that in your note of the 9th instant you offer to enter into official explanations upon these subjects, I invite you, in the name of union and good understanding, to be pleased to present them to me; since, although I consider the communications which you had the goodness to make to me in your abovementioned note as important, I hitherto conceive them to be only verbal communications resulting from the intimation you were pleased to give me. I therefore hope that you will be so good as to present its contents in a more formal shape, in the expectation that the employment of your talents and good wishes, combined with my earnest endeavors, may finally terminate these painful disputes on principles mutually honorable and satisfactory.

I avail myself of this occasion to renew to you the assurances of my very distinguished consideration, and I pray God to preserve you many years.

JOSE PIZARRO.

*Extract of a letter from Mr. Erving to Don Jose Pizarro, dated*

MADRID, July 22, 1818.

The convention had scarcely been ratified, when I was alarmed by information, which I received from a good source, that the King had rescinded the prohibition placed on the late grantees of land in Florida, as communicated to you by my private letter of May 14. On this occasion I wrote a confidential note to Mr. Pizarro, pointing out the evil to result from such a procedure. He replied to me in a way to tranquillize me, and to confirm my opinion of his good faith. Copies of that correspondence are herewith enclosed.

*Mr. Erving to Mr. Pizarro.—Private.*

MADRID, July 18, 1818.

Your excellency will recollect that Messrs. Alagon, Punon Rostro, and Vargas, were placed by an office from the Department of Indies under

certain prohibitions relative to the land given to them by the King. Those prohibitions were considered by you and by me as annulling the grants; on the importance of this measure we are already agreed. Now I am informed that Mr. Vargas has received another office from the same department, (Indies,) by which office the difficulty with regard to him is removed; that is, he is actually free to sell the lands in question, or to profit of them, (always in conformity to the laws,) as may best suit them. I know not whether Messrs. Alagon and Punon Rostro have received similar offices; it is to be presumed. This news alarms me, because I foresee that this transaction will throw new difficulties in the way of the negotiation at Washington. It is in vain to expect that we shall arrive at a state of harmony without a transaction which shall embrace all the points in discussion. The cession of Florida must make necessarily an article in this transaction; and it is quite certain that the United States in such case cannot receive Florida as indemnity for its reclamations if all the cessions to individuals since the date of the convention (1802) are not annulled. According to a statement which I have just received through an indirect channel from Philadelphia, these reclamations may amount to the enormous sum of twenty-five millions of piastres.

The office written to Mr. Vargas is, I am persuaded, unknown to you, and cannot have resulted from our late accord relative to the convention; but your excellency will instantly perceive that it will take that character or appearance, and do infinite mischief. I have already informed my Government of what has passed between your excellency and me relative to the affair of Messrs. Alagon and others. Ought I at present to think that everything is changed since the ratification? I cannot too much lament the results. I yet hope that I may have been badly informed relative to the fact in question, but I have my information from a person who is interested with Vargas, one to whom he had ceded a portion of his interest in the land, before he received the first office. Be it as it may, knowing your excellency is in good faith, and that the affair is worthy of your attention, I have thought it my duty to expose it to you.

Yours, with much respect and esteem,  
GEORGE W. ERVING.

*Reply of Mr. Pizarro.*

SACEDON, July 19, 1818.

SIR: I have just received your esteemed letter which you addressed to me under yesterday's date, communicating to me your apprehensions respecting the alienation of the lands in Florida granted to several individuals. I repeat to you all that I have said on this subject; consequently, you may be tranquil, and I flatter myself that nothing will happen which can injure the negotiations with the Government of the United States, which ought to have been persuaded, long since, of the sincerity which directs the march

## Relations with Spain.

and policy of the Spanish Government, and of its earnest desire of a happy termination of all the points in discussion, by means of a friendly arrangement. I renew to you, &c.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, July 24, 1818.

SIR: I had the honor to receive yesterday your excellency's note of the 19th instant, replying to mine of the 9th instant, which contains some remarks upon the proposals made to the Spanish Government by Mr. Pinckney, on the 7th February, 1803, and transmitted to me by your note of the 8th instant.

I declare to your excellency that, after the best consideration which I was able to give to those proposals, not having the archives of the legation to refer to, and correct my judgment whenever it might err, I was compelled to conclude that Mr. Pinckney was at that time uninformed of the retrocession of Louisiana to France, which had been previously made by Spain. On this hypothesis, I wrote to you on the 9th instant, and it will explain whatever may appear to you incongruous in that note. It was not possible for me otherwise to understand the offer made by Mr. Pinckney, because it was not possible to suppose that he had been authorized by the American Government, or that it had ever entered into his own imagination, to guaranty the possessions of His Majesty to the westward of Louisiana on both American continents, or even as far down as the isthmus of Panama. Besides that, such a guaranty was beyond the power of the United States, and therefore not worth the acceptance of Spain. He meant then what was within the reach and competency of the United States—a guaranty of that part of Louisiana which is on the right bank of the Mississippi. This is made still more evident by the words he used—"beyond the Mississippi;" for in the other supposition, and had he been aware of the transfer of Louisiana to France, he would have said "beyond Louisiana." Again, is it to be supposed that he could be treating for the purchase of territory on the left bank of the Mississippi, within the limits of Louisiana, when he knew that the whole province had passed into the hands of France? For, whatever claims Spain may yet make to that territory, it could not but be known to Mr. Pinckney that it was in fact a part of Louisiana. The conclusion which I have made is still further and more particularly forced upon me by Mr. Pinckney's fourth proposal, which is thus:

4th. "If neither of these propositions can be acceded to, they will then purchase certain tracts of country on the banks of the Mississippi, and the other rivers passing from their territory to that of His Catholic Majesty, for which they will pay," &c.

What certain tracts on the banks of the Mississippi could be purchased by Spain after Louisiana had been transferred to France? What rivers, passing through the territory of the Uni-

ted States, went into those of His Majesty? This part of the argument is confirmed by what your excellency says in your last note, to prove to me that Mr. Pinckney meant to offer a guaranty of all His Majesty's possessions. You observe that he could have meant only those immediately on the west bank of the Mississippi; for that "such an offer had been not only unimportant, but vain and illusory, applied to the west bank; which, besides being sufficiently guarantied by its locality, it was notorious in February, 1803, that it had been for three years then past retroceded to France." I say, then, that if this notoriety had reached Mr. Pinckney, he could not have mentioned the banks of the Mississippi as belonging to His Majesty, or have spoken of that and other rivers from the United States passing through his territory.

The opinion that Mr. Pinckney meant to guaranty all the possessions of Spain, you find to be confirmed by the great importance which he gives to that offer in the words which you quote from his note; but allow me to observe that, though he intended only a guaranty of that part of Louisiana which lies westward of the Mississippi, his proposal merits all the importance which he has given to it. Again; how could he pretend to offer to such a Power as Spain a guaranty of her possessions to the westward of Louisiana, knowing that the territory of such a Power as France interposed between the United States and the possessions to be guarantied? Such a proposal would have been preposterous and offensive.

These observations render it unnecessary for me to reply specially to the inferences which your excellency is pleased to draw in favor of the Spanish pretensions to East Florida from the offers made by Mr. Pinckney; for those offers, even though they had not originated in an acquaintance with, or a misapprehension of, the then state of affairs, cannot now impugn the right or affect the claims of the United States.

The context of Mr. Pinckney's note and proposals shows that he was then under an impression that His Catholic Majesty was yet master of Louisiana and the Floridas. He speaks of the banks of the Mississippi as he speaks of the Floridas, and equally acknowledges the sovereignty of His Majesty in both territories by proposing to purchase in both. But, whatever may have been his impressions, and whatever value might belong to such a kind of acknowledgment whilst Louisiana was in possession of France, these became of no importance after the province was transferred to the United States; for the claims of the United States do not rest upon the opinions of Mr. Pinckney, but on the transfer made by France.

I do but justice, then, to the good faith of the Spanish Government when I suppose that it declined Mr. Pinckney's offer because it had already disposed of the country proposed to be purchased, as well as of that proposed to be guarantied. I should not do justice to its political forecast if I could suppose that, being the sovereign of East Florida, it had declined to sell it for a reasonable



equivalent in money, superadded to a guaranty ("inmensely important," as Mr. Pinckney well says) of His Majesty's remaining possessions on that continent. With respect more particularly to the guaranty, whatever might have been the disposition of Mr. Pinckney, or even of the American Government, at the epoch referred to, your excellency must be sensible that the relative state of possessions is at this time so altogether different, that no motive sufficiently powerful can be found to induce the United States to enter into any similar obligation as to any portion of His Majesty's territories west of Louisiana.

Referring to a suggestion made in my last note, as well as in our two previous conferences, respecting a desert of thirty leagues, between the confines of Louisiana and the Spanish possessions, as a better security than a guaranty, your excellency is pleased to inform me that though His Majesty thinks that no security is better than a guaranty, yet he has no objection that the one kind should be added to the other; and, though the principal difficulty remains, that is to say, where this desert shall be established, your excellency invites me to put my suggestion in the shape of a formal proposal. I beg leave to remind your excellency that, in my note of the 9th, I have said that this plan of a desert is the only kind of security which occurs to me. It was not then my intention, nor can it be now, as you will observe by what is above said, to add this to any other kind of security; nor was it my intention to offer this, but upon the supposition that His Majesty's Government should consent to the Colorado as the western limit of Louisiana, not doubting but, that point agreed on, we should be able to arrange all the others with great facility. I have no hesitation in expressing myself to your excellency in writing explicitly and frankly, as I have always done in conversation; and nothing would make me so happy as to unite my most earnest efforts with yours, directed by your conciliatory temper and superior intelligence, to bring to an honorable and harmonious conclusion the differences which unhappily exist between our two countries.

My Government will never consent, upon any consideration whatever, to give any guaranty to His Majesty of any part of his possessions; but I will undertake, on its part, to stipulate that a desert shall be placed between his possessions and those of the United States, if by that means we can arrive at an accord with regard to the western boundary, as well as on all the other existing questions; and, whenever your excellency will inform me that the pretension to receive any other species of security is withdrawn, I will then state where I propose that this desert should be placed.

I renew, &c.

GEORGE W. ERVING.

Don Jose Pizarro to Mr. Erving.

SACEDON, July 26, 1818.

SIR: It is some days since this Government has received intelligence, in an unofficial way, that

the American troops under the command of General Jackson had entered His Majesty's territory in the Floridas, and stating that he had demanded the surrender of the Spanish fort of St. Marks, at Appalache, the feeble garrison of which is said to have been surrendered to him as prisoners of war. Notwithstanding the circumstantial details of this intelligence, and the probability attached to them, from the recollection of what took place in 1810, in West Florida, to the westward of the Perdido, and more recently at Amelia Island, His Majesty could not persuade himself, that at the very time when he was so zealously and faithfully promoting, as must be evident to you, the satisfactory termination of the negotiations pending between the two Governments, the generals and officers of the United States would conduct themselves in so hostile a manner, by violating and attacking, in a state of profound peace, the territories and establishments of a friendly Power.

But subsequent confidential advices which have been received of these occurrences not only confirm the truth of former reports, but present circumstances of the most serious character respecting the violation of the Spanish territory, the capture of the fort of St. Marks, and the surrender of the garrison as prisoners of war; on which particular circumstance His Majesty finds himself under the necessity of demanding an immediate explanation of the Government of the United States. Information has also been received of an intimation of a most violent nature, made to the commandant of Pensacola by General Jackson, who seems to have taken an attitude indicating a determination to pursue the course of his unprovoked violence and aggressions.

The contrast presented by the moderate and friendly conduct of the Spanish Government with that of the American generals and officers in that quarter has excited feelings of the most painful kind in the mind of His Majesty; and as a final and solid arrangement can only be produced by the reciprocal combination of conciliatory dispositions on both sides, and as these dispositions do not appear, from a view of the facts and circumstances just alluded to, to be manifested by the United States, I have received His Majesty's commands to make this frank communication to you, in order that your answer may serve for his government upon the matter in question.

The King, nevertheless, entertains the hope that the American Government, actuated by those principles of justice which constitute the only real and solid support of all Governments, will not hesitate to disapprove proceedings which are not only repugnant to the laws of nations, and the principles which regulate the conduct of all civilized Powers, but, by the experience of all ages, not excepting our own, ultimately produce the most serious evils to those which commit them, or tolerate their commission. His Majesty therefore flatters himself that the Government of the United States, anxious to preserve its just reputation for good faith, will, in giving positive orders for the evacuation by the American troops of the fort of St. Marks and the whole Spanish

territory, likewise take effectual measures to prevent the recurrence of similar proceedings, which, if authorized and countenanced, must inevitably produce a suspension of all negotiation.

Under this impression, I have to request that, if you are authorized to give any explanation upon these occurrences, you will communicate them to me for His Majesty's information; and, in case you are not, that you will have the goodness to transmit this communication to your Government, in order to obtain an answer which may fix His Majesty's ideas upon a subject of such high importance, and direct his views in relation to the definitive negotiation now carrying on, the prosecution of which must, in one way or other, be decisively influenced by the spirit in which these events are viewed by the American Government.

I reiterate to you, sir, the assurances of my distinguished respect, and pray God to preserve you many years.

JOSE PIZARRO.

Mr. Erving to Don Jose Pizarro.

MADRID, July 27, 1818.

SIR: I have had the honor to receive your excellency's note of the 22d instant, enclosing an entire copy of Mr. Pinckney's letter of February 7, 1803, adverted to, and intended to have been transmitted to me in your note of the 19th instant. On reading that letter, I remain confirmed in the opinion which I expressed to you in my reply of the 24th instant, that Mr. Pinckney could not have been aware, when he wrote it, of the retrocession to France which had been made by Spain. The manner in which he treats of the misconduct of the Intendant at New Orleans, and of the necessity thence arising of the United States acquiring a permanent establishment on the Mississippi, leaves not a possibility of supposing that he was acquainted with the transfer to France. Evidently, according to his understanding, New Orleans belonged to Spain; he of course considered Louisiana as belonging to Spain; hence his proposal to purchase certain tracts of that colony on the east bank of the Mississippi; and if such a virtual recognition of the sovereignty of Spain at that time in East Florida, founded on an unacquaintance with facts, could be worth anything, it were equally good as regards New Orleans, respecting which, indeed, it was more formal, for there he demanded the interposition of the Sovereign's authority to remedy an evil arising out of the misconduct of the Intendant.

I renew, &c.

GEORGE W. ERVING.

Mr. Erving to Don Jose Pizarro.

MADRID, July 28, 1818.

SIR: I have had the honor to receive your excellency's note of the 26th instant, stating the unofficial and confidential information which has been given to this Government respecting the conduct of General Jackson in Florida. Being now for a long time without advices from my

Government, I am wholly unable to give the explanation which you require; but shall not fail, in pursuance of your desire, to transmit to the United States, without loss of time, a copy of your communication. In the meanwhile, if your excellency can see any prospect of terminating, by a friendly arrangement, to be made either here or at Washington, the negotiations pending between the two Governments, I trust that these reports can be no obstacle to its success. It ought to be presumed that my Government, whose just sentiments His Majesty is well persuaded of, has acted on sufficient motives; or that, if its officers have transgressed its orders, their conduct will be disapproved of. The outrages and violence practised on the persons and property of American citizens for many years past, by governors and other officers of His Majesty in his American colonies, in contempt of the rights of individuals, of the law of nations, and the existing treaty, have excited the constant reclamations of the American Government, renewed by me in a note to you as late as the twelfth instant. Does your excellency's reply to that note give the satisfaction required? Yet the moderation and conciliatory policy of my Government has never relinquished the hope of obtaining, by conciliatory means, a reparation of the wrongs which it has suffered; and these have never been taken as a ground for suspending negotiation. However, then, the facts now in question may prove to have been, I hope that they will not be made an impediment to such an amicable prompt adjustment of all the points in discussion between the two countries as may remove all possibility of future collision, and lay the foundation of permanent friendship; and the less an impediment, as His Majesty having long since signified his disposition to cede Florida to the United States, the military operations which the United States may be forced to in the war made on them by the savages and others from that territory cannot be considered important as affecting the permanent interests of Spain.

I renew, &c.

GEORGE W. ERVING.

Don Jose Pizarro to Mr. Erving.

PALACE, August 6, 1818.

SIR: I have received your esteemed note under date of the 28th of the last month, in reply to mine of the 26th of the same month, touching the positive, although as yet unofficial, information which this Government has respecting the entrance of the American army, under the command of General Jackson, into the Spanish territory, and the taking of the fort of St. Mark and its garrison as prisoners of war, with other circumstances as disagreeable as they are contrary to the laws of nations.

You are pleased to make known to me that you want information and instructions from your Government on this affair, and, consequently, that you are not in a situation to give me the explanations which His Majesty might desire;



but I promise myself, from your good faith, that you will not fail, without loss of time, to communicate the contents of my note to your Government, that this new and unexpected obstacle which presents itself to the course of the pending negotiation may be removed. Led, no doubt, by the same desire which animates me, to arrive at the wished-for arrangement, you have believed that there could be no difficulty in the continuation of the pending negotiations, whatever may have been the nature of the occurrences in the Floridas; and in support of this opinion, you are pleased to add, that inasmuch as the negotiation was not interrupted in consequence of any of the acts committed in former times by the Spanish authorities against the property and persons of American citizens, so neither ought it to be suspended in this case on account of the aforesaid events, of whatever nature they may have been. But I ask you to consider what an immense difference there is between the two cases. Partial violence or injustice, if it did take place against one or more individuals and their property, although it may indirectly fall upon and touch the Government to which they belong, and authorize it to set up claims, and even to ask indemnity, is not in any manner equal to the direct offence which is offered to the majesty of a Sovereign, and that of the nation he governs, when his territory is invaded by an armed force, his fortified towns besieged and taken, and their garrisons made prisoners of war. These acts, essentially hostile, do not admit of any other explanation than the disapprobation of the conduct of the military chief who has committed them, and the evacuation of the invaded territory; and unless this is first done, it is incompatible with decorum and the dignity of the offended nation to continue other negotiations; for these are acts of political friendship, which must necessarily, at least, be very much cooled by the aforesaid excesses, until the Governments come to an understanding upon a point which is preliminary to friendship.

If the United States have continued the negotiations, notwithstanding any particular acts of violence which may have occurred, and for which the King has never refused to make satisfaction by legitimate means, Spain has given no less proofs of moderation on her part, by continuing the negotiations notwithstanding the invasion of West Florida in 1810, of the island of Amelia more recently, and the immense damages which the commerce and the subjects of Spain have sustained in consequence of the armaments made in the ports of the United States, in contravention of the laws of nations and the existing treaty. Without renouncing (for His Majesty never can renounce) the just claims and rights which he holds to be manifest on these points, he has continued the negotiation, although prompt justice has not been done to him on them; because the circumstances under which some of them took place may, without committing, in any great degree, the dignity of his august character, give room to hope for the arrangement of the whole of them, in the final

decision of pending affairs. It is not so with the recent aggression which took place in the midst of peace and of negotiations; it was unprovoked, and was committed upon a territory to which the United States have never set up the least pretension, well or ill-founded; and was the act of a considerable corps of the army, which, with all the apparatus of war, proceeded to besiege the forts, and to make prisoners of their small garrisons, who, in the confidence of peace, could only have been suspicious of an attack from some party of savage Indians.

The circumstance of His Majesty's having offered to the United States to exchange the Floridas for a reasonable equivalent, far from exculpating the irregular conduct of General Jackson, as you suppose, contributes to aggravate it beyond measure; because it is the height of violence and of insult to seize by force the very thing which, by legal and honorable means, through an exchange mutually beneficial, might have been promptly and easily obtained. His Majesty hopes, then, that the Government of the United States, on seeing the representation made to you by me, and that which will have been likewise made by his Minister at Washington, will disapprove the conduct of General Jackson, and give orders for the evacuation of the Spanish territory; not only because the dignity of the King and the laws of nations require it, but on account of the interest which the American Government must feel in sustaining before the world the opinion of its good faith, by preserving without a stain that reputation which is as essential to Governments as to individuals.

While this hope lasts, I shall have no objection to continue discussions with you upon all or any one of the points of the pending negotiation, as I have indicated in my other note of this date; but if the American Government, on being informed as to the conduct of General Jackson in Florida, should not disapprove it, by causing the territory of His Majesty to be evacuated, I do not see by what mode the prior and preliminary nature of this new occurrence can be conciliated with further discussions and negotiations, until that incident is terminated in a manner proper and corresponding with the character and dignity of both Governments.

I renew to you the assurances, &c.

JOSE PIZARRO.

Don Jose Pizarro to Mr. Erving.

PALACE, August 6, 1818.

SIR: In your two esteemed notes of the 24th and 27th ultimo, you were pleased to reply to mine of the 19th, relative to the guaranty of His Majesty's possessions, formally offered by Mr. Pinckney, Minister Plenipotentiary of the United States, and on their behalf, in the event of His Majesty's agreeing to sell or cede in any other manner to the United States the two Floridas, or that part of West Florida lying between the Mississippi and the Mobile.

The said cession being one of the objects of the pending negotiation which His Majesty contemplated making to the United States in consideration of a just equivalent, it was very natural that he should recur to the offer made to him by the American Government in this contingency, the accomplishment of which would tend to remove many difficulties, as affording an unequivocal proof that the United States still preferred those conciliatory dispositions which had produced that spontaneous offer on the part of the United States, and wholly unsolicited by His Majesty.

In replying to your note, it is not my intention to trouble you by engaging in a discussion of the opinion you have advanced, that the guaranty offered applied only to West Louisiana; and I shall merely recall to your attention that, in the year 1803, when more than three years had elapsed since the retrocession of Louisiana to France, this fact was so universally known that no one, either in Europe or America, could be ignorant of it. In addition to the treaty of 1800, a public and solemn act had been issued, under the sign-manual of His Majesty, in 1802, for the delivery of the colony to France; all the acts and publications of the Congress of the United States of the same year, (1802,) and the commencement of 1803, were full of the same subject; and the arrival of Mr. Monroe in Europe, for the purpose of purchasing the colony of the French Government, was matter of notoriety. How, then, could a public character, in the situation of Mr. Pinckney, be ignorant of a fact constantly referred to in the correspondence of his Government, and familiar to every one, even moderately conversant with politics, who would read the gazettes of the day?

It is therefore beyond a doubt that Mr. Pinckney knew that Louisiana belonged to France, and that the guaranty offered by him to His Majesty was that of his possessions on the continent of North America beyond the Mississippi, or to the westward of Louisiana—a guaranty the more interesting at that period, as the establishment on that continent of a great Power, like that of France, was the motive which appeared to give greater importance to the acquisition of the Floridas by the United States, and to the guaranty offered to Spain, as part of their purchase of them.

The contradiction which you conceive exists between this explanation and the terms employed in Mr. Pinckney's offer, is, in my judgment, entirely without foundation. All your difficulty consists in the inquiry, what were the places on the Mississippi that Mr. Pinckney might demand of Spain, which did not form part of Louisiana? or what was pointed out by him in the phrase "certain tracts of country on the banks of the Mississippi?" &c. To which I reply that they were Manchac, Baton Rouge, and the whole left bank of the river from Manchac to the river Iberville, which communicates with the lakes Maurepas, Pontchartrain, and Borgne. You likewise inquire what were the rivers which rise in

the United States, and run through the Spanish territory? I reply that Mr. Pinckney pointed out, or, to speak more properly, expressly named, all those between the Mississippi and the Mobile, which rise beyond the thirty-first degree, and empty into the Gulf of Mexico, namely, the Amite, the Pearl, the Pascagoula, and the Mobile itself, together with other smaller intermediary streams. The territory watered by them was that which Mr. Pinckney wished to purchase of Spain at the time that Mr. Monroe was negotiating the purchase of Louisiana at Paris. This was, and is, the territory forming part of West Florida, as admitted by Mr. Pinckney; it is that which is expressly declared by the American geographer, Mr. Ellicott, to belong to His Catholic Majesty after the acquisition of Louisiana by the United States; and it is that which Spain continued in possession of, even after the delivery of Louisiana to France and to the United States, until she was violently dispossessed of it in 1810, during His Majesty's absence.

What is stated in Mr. Pinckney's letter, in relation to the proceedings of the Intendant at New Orleans, by no means proves that that Minister understood that Louisiana was still to continue in the possession of Spain, as it merely referred to a fact connected with the actual possession and exercise of jurisdiction, which Spain still preserved so long as the delivery of the colony to France was not actually carried into execution.

These points being established in relation to the aforementioned guaranty, its objects, and circumstances, His Majesty's attention has necessarily been called to the positive certainty which you appear to lay down in your answer, that the United States will not agree to any kind of guaranty, notwithstanding the offer above referred to; and to the demand you seem to advance, as a preliminary condition of your stating your ideas on the establishment of the intermediary desert or neutral territory between the possessions of the two countries, that His Majesty shall renounce all further pretensions in relation to the said guaranty.

The offer of it, as I have had the honor repeatedly to state, having been voluntarily made on the part of the United States, in contemplation of an event now under consideration, and it being one of the means best calculated to promote a final adjustment, His Majesty has also charged his Minister in the United States to negotiate with their Government upon that point. It therefore appears to be unseasonable to give up this pretension, which you seem to require to enable you to explain yourself upon other points wholly unconnected with it; and, as I have not expressed to you that the said guaranty is to be a condition *sine qua non* of the definitive arrangement, although your Government objects to it, I do not at present see any inconvenience in your explaining yourself at once upon other points, as I have already invited you to do in my note of the 19th ultimo, without prejudice to what may be agreed upon between Don



*Relations with Spain.*

Luis de Onís and the American Government, as well in respect to the said guaranty as to the other objects of the negotiation.

I persuade myself that, in the present communication, as well as in those which have preceded it, you will discover fresh proofs of His Majesty's desire to conclude an arrangement upon terms mutually satisfactory; and I seize this opportunity of renewing to you the assurances of my distinguished respect.

I pray God to preserve you many years.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, August 9, 1818.

SIR: On the evening of the 7th, I had the honor to receive your excellency's two notes of the 6th instant.

It is not my intention to call in question the importance of those circumstances which you enumerate as of a nature to have rendered universally notorious, in 1803, the cession of Louisiana to France in 1800; but not having in my hands the correspondence of Mr. Pinckney with the Government of the United States, from which I might be able to ascertain what knowledge he may have had on the subject; to what an extent and at what period he was instructed relative to the proposals which he made to Cevallos, I have been forced to conclude that such notoriety had not reached him, or that he was not aware of the true boundaries of Louisiana. It may have been, also, that notwithstanding the treaty of 1800, and notwithstanding the royal cedula of 1802, that Minister may have doubted in 1803 of the *bona fide* transfer to France, seeing that the colony then still remained under the Government of Spain. It is only by such suppositions that I can account for his proposing to purchase of Spain territories which had been ceded to France, and to guaranty territories of His Catholic Majesty on the west of the Mississippi, which could be no other than Louisiana; it not being possible for me to imagine that he intended any country beyond Louisiana, much less all the vast colonies of Spain.

I beg your excellency to observe, that it nowhere appears in Mr. Pinckney's communication that the acquisition made by France had given, as you conjecture, importance in the mind of that Minister to the acquisition sought for by the United States: on the contrary, he is very explicit in the motives which he assigns for his offer; these arose out of the misconduct of the Intendant at New Orleans, which had confirmed an opinion previously entertained in the United States, that it was absolutely necessary for them to acquire some permanent establishment on the east-side of the Mississippi, or on the Mobile. To that end Mr. Pinckney asks for the whole of His Majesty's possessions to the eastward of the Mississippi, or for what is "between that river and the Mobile." This proposal includes New Orleans of course. And, again, he speaks of the "indispensable necessity of their (the United

States) possessing a suitable establishment on that river," meaning the Mississippi. Here also he alludes to New Orleans, or, if not, to other points within the territory of Louisiana. Now, though it should be allowed that Mr. Pinckney, as well as Mr. Ellicott, had fallen into the error of supposing that, after the cession of Louisiana to France, the whole of West Florida yet belonged to Spain, neither he nor Mr. Ellicott could have supposed that, after such cession, New Orleans belonged to Spain, or, indeed, any other such point on the Mississippi as Mr. Pinckney sought to obtain.

The replies of your excellency to these questions of mine, which you consider as constituting the principal force of my argument, but which offer to you no difficulty, only prove that our opinions, as to what districts are comprised within the limits of Louisiana, are at variance; and since they prove nothing more, I may be excused from now entering into the various reasonings by which either Government has supported its pretensions.

Your excellency supposes that Mr. Pinckney's negotiation was concurrent with that contemplated, and then on the point of being made, with the French Government, for the purchase of Louisiana; that it was therefore he sought to procure "places of deposit on the mouths of navigable rivers" passing through the Floridas. But, Louisiana purchased of France, Mr. Pinckney's great purpose to "secure to the citizens of one-half of the United States the certain means of exporting their products" was obtained. He wanted a "permanent establishment" on the Mississippi; he could not have desired a better than New Orleans. It was not by the acquisition of points of entrepot on such streams as the Amite, the Pearl, and the Pascagoula, and those intermediate, which are too diminutive to find a place on the chart, or a name, that Mr. Pinckney could have thought of effecting his object, "to secure to the citizens of one-half of the United States the certain means of exporting their products;" these were not the "navigable rivers" which he spoke of; he could not be desirous of obtaining these little spots, while Mr. Monroe was purchasing at Paris real entrepôts, rich territories on both the banks of the Mississippi, rivers which come some hundred leagues from the interior, which may carry on their capacious surfaces the products, not of America only, but of the whole world; while the United States were acquiring, in fine, (according to their construction,) the very territory in which the above-mentioned rivulets as well as the more important Mobile run.

But whatever may have been Mr. Pinckney's knowledge of the then state of affairs, whatever were his views or offers, his plan of a guaranty was not reproduced in the negotiation which soon afterwards took place at Aranjuez, by the special mission of which he was a member; the actual negotiations are but a renewal of that which then failed. If the United States then abstained from offering, or refused to give a guaranty, *a fortiori*,

*Relations with Spain.*

they will do so now. Under no circumstances whatever could the offer made by Mr. Pinckney, not accepted at the time, have been binding upon the United States, or have formed a rule for its conduct in subsequent negotiations; much less can that offer be admitted to consideration at this day, under a total change of circumstances and of relative possession in the territories which were then the subject of negotiation.

Your excellency seems surprised at the confidence with which I assure you that the United States will not give any guaranty of any part of His Majesty's possessions. I beg your excellency to be persuaded that I have not spoken at hazard. I am perfectly certain that no such guaranty will be given, upon any consideration whatever; and, therefore, nothing was more reasonable than that, in treating with you, I should pretend to have it altogether excluded from our view. In the present state of the negotiation, after it has been repeatedly transferred and retransferred from Madrid to Washington, it were, on my part, worse than a waste of time to encourage a discussion on an article which I know to be in any form inadmissible. It would be a procrastination almost criminal in this most pressing and difficult crisis of our affairs; nor would it comport with the sincerity which has marked all my communications with your excellency, since, as no reason for taking the guaranty into consideration in the year 1818 can be derived from what the Minister of the United States proposed in the year 1803, even "voluntarily," in "the most plain terms," or by the express orders of his Government, such a course, far from facilitating a general arrangement, as you have supposed, could not but retard it, and might possibly so retard it as to be fatal to it. Your excellency ought, then, to conclude that the answer which will be given to His Majesty's Minister on this point will, in substance, conform to that which I have given; and since, as you inform me, the guaranty is not made a *sine qua non* by His Majesty's Government, I trust that it will be altogether put aside.

Your excellency's other note, respecting the conduct of General Jackson, I shall hasten to transmit to my Government, together with your note of 26th July on the same subject. Though I should allow all force to the distinction which your excellency makes between this case and those acts of His Majesty's viceroys, and other officers in America, of which the Government of the United States and its citizens have had such frequent reasons to complain, and though it should not be allowed that an accumulation of such wrongs makes a case as strong as can be stated, yet it would suffice to show that, amongst the acts referred to, could be found at any time pretexts for breaking off negotiation; and this would not be difficult. The moderation and conciliatory policy of the American Government has been put to the severest trials; but, far from desiring to make out such acts a plea for discontinuing negotiation, they seem to me to press upon us the necessity of hastening to its conclusion.

If, then, your excellency is now prepared to

make any such proposals for a general arrangement of the points in discussion specified in Mr. Adams's letter to Mr. Onís of January 16th as I am authorized to accept, I shall adopt them without hesitation; but if, from whatever cause, your excellency should not be disposed to offer such proposals, then I entreat you, considering the great importance of the matter, and the delicacy of my situation in regard to it, as explained to you on a similar occasion last year, that you would be pleased to make to me such an explicit communication as will enable me to show to my Government, with as little delay as possible, that it is out of my power to conclude a treaty here.

To give to your excellency the most convincing proof of my earnestness to contribute as far as possible to the desired object, I will accede to your instances by stating, in precise terms, my proposal of the desert which I first suggested to you in our conferences of the 3d and 5th July, after your excellency had assured me of His Majesty's intention to ratify the convention of 1802. That important point being settled, and, at the same time, His Majesty's dispositions to cede his possessions to the east of the Mississippi for a reasonable equivalent being announced, it appeared to me that the remaining reclamations of the United States might easily be adjusted in the "transaction;" and, therefore, that the only real existing difficulty was to establish the boundary on the west, between the possessions of His Majesty and those of the United States; or, in other words, to determine the extent of territory east of the Rio del Norte to be ceded to His Majesty. The line of the Colorado appeared to be objectionable to His Majesty's Government, without a guaranty, such as it is impossible for the United States to give. I proposed to substitute for it what I considered as better for Spain—a barrier between its possessions and those of the United States. I now propose, then, that the desert, which is to form this barrier, be of thirty leagues breadth; that is, fifteen leagues on the right bank, and fifteen leagues on the left bank of the Colorado, and extending in length from the mouth of that river as high up towards its source as the thirty-second degree of latitude. If Spain should not consider it necessary that the desert should be as broad as thirty leagues, she may diminish it on her own side of the river as much as she may judge fit. Within the desert no persons shall be admitted to settle or establish themselves; and each party may establish military posts on its own portion of the desert for the purpose of keeping off intruders or settlers of any kind.

This proposal, which originates in a sincere desire on my part to meet as nearly as possible the views of your excellency, I hope may prove acceptable to His Majesty's Government; but, in making it, I must at the same time beg leave to state, explicitly, that in case it should not be accepted, and become the means, as I trust it will, of enabling us to settle by treaty, to be now made here, all the other points in discussion, then it cannot be recurred to or have any force in



*Relations with Spain.*

future negotiations, either here or at Washington, or be considered at any time hereafter as in anywise binding my Government, either in what relates to the Colorado instead of the Rio del Norte as the boundary of the United States, or in what relates to a desert on that boundary.

I renew to your excellency assurances of my very distinguished consideration,

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, August 11, 1818.

The letters of Don Luis de Onis, under date of 20th June last, assure us that it was publicly known in the United States, and inserted in the gazettes of that country, that General Jackson, continuing his hostile incursions within the territory of His Majesty in the Floridas, had taken by assault the fortified town (*plaza*) of Pensacola, whose small garrison, it is said, did its duty and preserved the honor of the King's arms, by forcibly resisting, as far as it was possible for it to do, the unjust and unexpected aggressor.

Although, as yet, no direct information has been received from the Floridas respecting these disagreeable events, no doubt now remains that General Jackson, trampling under foot all laws, has committed in the territory of His Majesty outrages and excesses of which there are few examples in the civilized world. It will one day or other be stated with surprise, that the theatre of such devastation and unprovoked offence, in the midst of peace, was the very same on which Spain, not many years since, shed her blood and poured out her treasures for the United States, in the days of their calamity.

After what I have had the honor of stating to you in my notes of the 26th of last, and 6th of the present month, in consequence of the first hostilities and excesses of General Jackson in the Floridas, I will only now add, that, in consequence of the occurrence at Pensacola, the King has commended me to communicate to his Minister in Washington the most express orders that, at the same time he presents to the Government there the most solemn protest, in the name of His Majesty, against the invasion of the Floridas, and against the taking of the forts of St. Mark and Pensacola by the American troops, he should solicit that the things be placed in the same state and situation in which they were before the invasion; and that the artillery, munitions, and effects which were found in St. Mark's and Pensacola at the time of their surrender, should be delivered to the Spanish governors of that territory; that reparation be made by the American Government for what may have been destroyed in them, and that it be accountable for the damages and injuries occasioned by the said aggressions; and I have likewise, by royal order, apprized the said Don Luis de Onis that he should give advice of the result of these proceedings without delay, that it may be known to His Majesty.

The King persuades himself that the Govern-

ment of the United States will not refuse an act of justice so becoming its good faith; and I send to you this exposition, to the end that you may transmit it to your Government in connexion with those which preceded it, and with the same object.

I renew to you the assurances of my most distinguished consideration, &c.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, August 14, 1818.

SIR: I have had the honor to receive your excellency's note of the 11th instant, containing the information which you have received from His Majesty's Minister in the United States, respecting an assault made on the place of Pensacola by General Jackson, and communicating to me the orders which His Majesty has consequently given to that Minister. I shall not lose a moment in transmitting to my Government a copy of your excellency's note, having already despatched your two former communications relative to the anterior proceedings of General Jackson.

I renew to your excellency assurances of my distinguished consideration.

GEORGE W. ERVING.

*Don Jose Pizarro to Mr. Erving.*

PALACE, August 29, 1818.

SIR: A continuation of disagreeable intelligence on the nature and circumstances of the late events in the Floridas, and on the hostile proceedings of the American General, Jackson, and the troops under his command, within the limits of those provinces belonging to His Majesty, has been received at this office. In addition to the facts to which I called your attention in my notes of 26th July and 6th and 11th instant, I have now before me a copy of the capitulation which appears to have resulted from the hostilities committed by the General before the place of Pensacola, in consequence of which the Spanish garrison has been sent to Havana.

In my former notes I had the honor to state to you that, notwithstanding the particular character of violence which appears to have marked the operations of General Jackson from his first movements in Florida, His Majesty, willing to attribute those acts to the arbitrary conduct of that officer, was persuaded that the Government of the United States would not hesitate to disapprove, as soon as they should be informed of them, and that, in consequence, suitable orders would be given, not only for the evacuation of the invaded territory, but also for the indemnity of all injuries sustained, and the restoration of the property belonging as well to the Spanish Government as to its subjects, and likewise that of foreigners then under the protection of His Majesty's Government. It was not to be presumed, without offering an insult to the good faith of the American Government, that they would delay to give this satisfaction to a friendly Power,

*Relations with Spain.*

and this testimony to all civilized nations of their respect for the principles of social order.

It is with great regret that His Majesty perceives, by subsequent advices from his Minister at Washington, that the first excesses of General Jackson having received no marks of disapprobation, he had not hesitated to pursue his violence by forcibly taking possession of everything within the Spanish territory, when he met with resistance from the few feeble garrisons, attacked in a state of profound peace by a large force, which their honor rendered an indispensable duty. In fine, His Majesty's territory has been shamefully invaded; his forts and places have been violently seized on; their garrisons made prisoners, and conveyed out of the province in which they were employed in His Majesty's service; and on the Spanish soil sanguinary executions have taken place of the subjects of Powers in amity with the King—an act of barbarity glossed over with the forms of justice, and thereby rendered, on considering the nature of the place and other circumstances, a refinement of cruelty.

It cannot be doubted that these excesses have come to the knowledge of the Government at Washington; but as yet it does not appear that any measures have been taken to restrain them, or give the Spanish Government the only satisfaction admissible. In this state of things, His Majesty has thought it becoming his honor, and that of the nation, to direct me to renew to you, as I now do, the most solemn protest against the whole proceedings of General Jackson from the moment of his entry into the Floridas; and, moreover, to the end that you may in like manner lay the same before your Government, that, in consideration of the nature of the said injuries and acts essentially hostile, the course of the pending negotiations between the two Governments shall be, and accordingly is, suspended and interrupted, until the Government of the United States shall mark the conduct of General Jackson in a manner correspondent with its good faith, which appears to be no other than by disapproving the afore-mentioned excesses, giving orders to reinstate everything as it was previous to the invasion, and inflicting a suitable punishment on the author of such flagrant disorders.

It is a matter of great concern to His Majesty to be under the necessity of making this declaration, which is more the necessary effect of the nature of things than an act of his royal will; it having been his constant wish and endeavor to combine a suitable arrangement of the point in discussion between the two Governments with an activity which is evident; but the partial world cannot fail to admit the impropriety, in the present posture of things, of continuing negotiations which suppose a state of perfect political friendship at the very moment when enormous injuries are committed, equally unprovoked and unprecedented.

The occupation of the greater and the best part of West Florida by the United States in 1810, by which His Majesty was dispossessed, during his captivity, of the peaceful occupation of

that territory, under the pretence of claims which, even if well founded, ought never to have been enforced by acts of violence, and the more recent invasion of Amelia Island, were acts of the same nature and tendency with those alluded to; equally unjust in their principles, and in like manner remonstrated and protested against by Spain; but as, from the mode and circumstances attending them, they were less offensive, His Majesty, actuated by sentiments of moderation, thought that he might await the period of the definite arrangement of the pending differences, which was speedily looked for.

But nothing of the same nature has occurred in the present case. No claim to the territory invaded by General Jackson, whether founded or unfounded, has been advanced by the American Government. No revolution of the inhabitants, real or supposed, offered a pretext; no previous aggressions by banditti, as was urged on the occasion of the unjust occupation of Amelia Island. The Spanish flag waved on the fortresses of St. Mark and Pensacola at the time they were attacked; and, to complete the offence, that territory was seized on by violence which His Majesty had offered to cede to the United States, in the pending negotiation, by means of an honorable arrangement: from which it appears that a forcible occupation was preferred to a peaceful acquisition, resulting from the generous friendship of the King.

It is these extraordinary circumstances which have convinced His Majesty that it is incompatible with the honor of his august character to pursue further negotiation, until a suitable termination be put to an incident which, from its nature, is of primary importance, and claims a preference to all other matters now treated of between the two Governments—an incident which, from its transcendent moment, is capable of producing an essential and thorough change in the political relations of the two countries.

At the same time, to evince the moderate and conciliating disposition which characterizes the conduct of the Spanish Government, I have to add that His Majesty, in directing me to communicate to his Minister at Washington this suspension of the negotiation, has likewise charged me to inform him that, in case the Government of the United States should have given, or will give, the only satisfaction which is admissible in the present case, and which His Majesty has a right to expect from the justice and good faith of that Government, he will be at liberty to proceed in the negotiation which has been carried on, without being under the necessity of consulting His Majesty, or of awaiting fresh instructions authorizing him to continue it.

In making this communication to you, sir, I cannot refrain from expressing the deep regret I have felt at the unfortunate occurrence which has thus produced an unexpected interruption, at the moment I flattered myself with the hope of seeing the political relations of the two Governments established on the solid basis of the most perfect harmony and good understanding.



*Relations with Spain.*

I renew the assurances of my distinguished consideration, and pray God to preserve you many years.

JOSE PIZARRO.

*Mr. Erving to Don Jose Pizarro.*

MADRID, August 31, 1818.

SIR: I had the honor to receive yesterday your excellency's note of the 30th [29th] instant, and shall not lose a moment in submitting a copy of it to my Government.

I cannot but express to your excellency my sincere regret on seeing the determination taken by His Majesty to suspend the negotiations, in consequence of the military operations of General Jackson in Florida; which regret is augmented by considering that, on the 6th of August, when your excellency, after insisting at large on what you considered to be the violent character and unjustifiable nature of those proceedings, nevertheless, at the same time, invited me to continue the negotiation here, by acquiescing in the desire expressed in your note of July 19th, and stating, in precise terms, my proposal of a barrier on the western frontier of Louisiana—an invitation which, relying on the good faith in which it was made, and having entire confidence in the conciliatory dispositions of your excellency, I had no hesitation to accept. My proposal was formally stated in my note of August 9th, to which your excellency has not seen fit to reply. It only remains, then, for me, in this place, to renew the reserve expressed at the end of that note, and to declare that the said proposal cannot be considered as in any sort binding on my Government in any future negotiation.

I renew to your excellency assurances of my distinguished consideration.

GEORGE W. ERVING.

*Extract of a letter from Mr Erving to Mr. Adams dated*

MADRID, September 20, 1818.

The paper herewith enclosed is a copy of the King of Spain's grant of lands to the Count of Punon Rostro.

THE KING:

My Governor of the Floridas, brigadier the Count de Punon Rostro, submitted to me, on the 3d of November last, what follows:

"Sire: The brigadier Count de Punon Rostro, grandee of Spain of the first class, and your gentleman of the bedchamber in actual attendance, &c., with the most profound respect, submits to your Majesty: That, prompted by the desire of promoting, by all possible means, the improvement of the extensive waste and unsettled land possessed by your Majesty in the Americas, which, by their fertility, offer the greatest advantages, not only to your memorialist, but to the State, provided due effect, as is hoped, be given to the noble project formed by your Majesty's memorialist of converting a small portion of those deserts into the abode of peaceable Christian inhabitants,

whose industry will increase the population of your kingdoms, promote agriculture and commerce, and thereby add immensely to your royal revenues. This enterprise should be conducted by a person who, with a knowledge of the country, would combine the intelligence necessary for comparing the progress made by other nations in similar situations, and particularly by the United States, which, within a very recent period, have advanced their power to an extraordinary height, and especially in the instance of the Mobile country, adjoining Florida, which, in the last six years, has received such an influx of emigrants, as to be converted from a desert waste into a rich commercial province, highly improved, and peopled with more than three hundred thousand souls. A similar change would be effected in Florida, within eighteen or twenty years, by the adoption of judicious arrangements, and by those exertions which your Majesty's memorialist proposes to employ for the promotion of his personal interest, and, consequently, that of the State. Relying, then, on the merits of the case, in the lively interest felt by your Majesty in the national prosperity, and on the services and sacrifices of your Majesty's memorialist, he humbly requests your Majesty, that, taking them into consideration, you would be graciously pleased to grant and cede to him, in full right and property, and the mode and manner required by law, all the waste lands not heretofore ceded in Florida, lying between the river Perdido, westward of the Gulf of Mexico, and the rivers Amuraja and St. John, from Popa to the point where it empties into the ocean, for the eastern limit; and for the northern, the boundary line of the United States; and to the south, by the Gulf of Mexico, including the desert islands on the coast. He therefore humbly prays, in consideration of the premises, and the unquestionable advantages to be derived by the nation, that your Majesty will be pleased to grant this his petition, and thereupon direct the necessary orders to be given to the local authorities to afford him all due aid and protection, as well in designating the territory referred to, as in giving full effect to the whole enterprise: all which he hopes from the munificence of your Majesty."

Having taken the premises into consideration, and bearing in mind the distinguished merits of the memorialist, and his signal zeal for my royal service, as well as the benefits to be derived by the State from an increase of population in the countries the cession whereof he has solicited, I have judged fit to grant to him the same, in so far as is conformable to the laws of these my kingdoms, and to make it known to my Council of the Indies, for its due execution, by a royal order of the 17th December, in the year aforementioned; wherefore, I charge and command you, by this my royal cedula, with due observance of the laws to such cases pertaining, to give full and effectual aid to the execution of the said cession, taking all requisite measures for its accomplishment, without injury to any third party, and to the end that the said Count of Punon Rostro

*Relations with Spain.*

may forthwith carry his plans into execution, in conformity with my beneficent desires in favor of the agriculture and commerce of the said territories, which require a population proportioned to the fertility of the soil and the defence and security of the coasts, he giving regular accounts of his proceedings: for such is my will, and that due note be taken of the present cedula in the office of the Accountant General of the Indies.

Done at the Palace, the 6th of February, 1818.

I, THE KING.

By command of our lord the King:

ESTEVAN VAREA.

To the GOVERNOR OF THE FLORIDAS, that he may take the necessary measures to give due effect to the grant in favor of the Count of Punon Rostro of a tract of country situate in West Florida, as above specified.

Duly noted in the office of the Accountant General of North America, Madrid, March 13, 1818.

JOSEF DE TEXADA.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, October 18, 1818

SIR: Whilst I make known to you that I have received new orders and instructions from my Court to resume the negotiation pending between the Government of the United States and that of Spain, and to agree with you as to everything that may be convenient and proper to give effect, in as short a time as possible, to the desired general and definitive arrangement of all the differences which exist between the two Governments, I ought also to inform you that His Catholic Majesty ratified, on the 9th of July last, the convention signed on the 11th August, 1802, and ratified a year and a half afterwards by the President and Senate of the United States. I have received the ratification by His Majesty, and am ready to proceed with you to the corresponding exchange, if the President deems it proper; but I think I ought, before it is done, to make to you some observations on this point.

The King, my master, agreed to ratify, at the time he did, the convention of 1802, as well in compliance with the verbal intimations given to his Secretary of State by Mr. Erving, Minister Plenipotentiary of this Republic, as from a desire not to omit on his part anything which might be agreeable to your Government. It also occurred to His Majesty that there might be some obstacle or delay in the desired arrangement and definitive agreement respecting the pending differences between the two Governments; and the aforesaid ratification of that convention being represented to him as a conciliatory measure, and very agreeable to the United States, he did not delay an instant in acceding to it. But you know very well that all the points comprehended in that convention form part of the pending negotiation, and that the general and definitive arrangement which I hope soon to conclude with you being intended to embrace all the claims to which

15th CON. 2d SESS.—60

either Power has a right against the other, and all the differences which exist or have heretofore existed between them, that convention will necessarily be abrogated, the points to which it is limited being included in the said arrangement and definitive treaty. For these reasons, which are obvious and entirely convincing, I leave it to your consideration whether we should proceed to the exchange of the ratifications of the said convention, or wait until, the first basis being settled and agreed upon by means of propositions I will instantly make to you, we may be able to judge whether the general and definitive treaty, which must put an end in a solid and permanent manner to all these discussions, will be concluded as quickly as we desire.

I await your answer, and in the meantime I renew to you the assurances of my constant desire to serve you.

God preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis de Onis.*

DEPARTMENT OF STATE,

Washington, October 23, 1818.

SIR: I have had the honor of receiving your letter of the 18th instant, and am directed by the President to assure you of the great satisfaction with which he has learned that you are prepared to exchange the ratifications of the convention of 1802.

Anxiously desirous as he is of seeing brought to a termination mutually satisfactory all the subjects which have been so long in discussion between the two Governments, the President receives this ratification as an earnest on the part of His Catholic Majesty of that conciliatory disposition which he flatters himself cannot fail to extend to a more general and satisfactory adjustment of all the other objects in controversy between us. He directs me, therefore, to accede to your proposal of postponing the exchange of the ratifications, and to assure you that I shall be ready to receive, whenever it may be agreeable to you, the propositions which you inform me you are prepared to make, and which will be considered with the most earnest desire of establishing, by a prompt and honorable agreement, the most perfect good understanding and harmony between our countries.

I tender to you, sir, the renewed assurance of my very distinguished consideration.

JOHN QUINCY ADAMS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, October 24, 1818.

SIR: Notwithstanding the unfortunate events which have occurred since April last, I have received from my Court solemn assurances of the sincere desire of His Catholic Majesty to see every ground of complaint and disagreement between the United States and Spain completely removed, and of his earnest wish to strengthen and cement a good understanding and the most



cordial friendship between the two nations. Having transmitted to His Majesty's Government the whole correspondence which lately passed between us here, it has been examined with the most profound attention to all the points embraced in it. A multitude of authentic papers and original documents, of the most unexceptionable authority, on each of the several points involved in the controversy between the Government of the United States and that of His Majesty, were examined, offering incontestable evidence of all the rights hitherto sustained by the Crown of Spain, and refuting, with the clearness of truths universally admitted, and by facts and vouchers equally notorious and unquestionable, the reasoning and arguments upon which your Government found their claims.

It was the earnest wish of His Catholic Majesty that the whole dispute should be adjusted by his Secretary of State, Mr. Pizarro, and Mr. Erving, the Minister Plenipotentiary of this Republic, and that they should proceed to a final arrangement of all existing differences by means of a definitive treaty, which should combine, to the satisfaction of both Governments, the inviolable principles of general justice with the equitable views of reciprocal convenience and utility. His Majesty offered, on his part, to do everything that might be possible, or compatible with the rights and dignity of his Royal Crown, liberally to satisfy the desires expressed by the United States. But Mr. Erving has declined acceding to this adjustment, although the correspondence between him and the Secretary of State was still carried on with a view to that result at the departure of the messenger who was despatched to me from Madrid on the 21st of July last. His Majesty, being apprehensive, notwithstanding his wishes, that the amicable termination of these important affairs might suffer delay, has been pleased to give me such instructions and orders as may enable me to adjust with you all pending differences between the two Governments, and effect the desired arrangement by means of a definitive treaty. For this purpose, His Majesty gave orders that the documents and proofs should be transmitted to me, which were necessary to convince the United States of the unquestionable rights of the Crown of Spain to the territories and waters claimed by your Government as forming an integral part of Louisiana. I have received a considerable number of the said documents and proofs, and an examination of many others was taking place in Spain, which are to be sent to me. The result of this inquiry established what I stated to you in my notes during my late abode at Washington, and especially in that which I addressed to you on the 23d March at the same period, in answer to that which I received from you of the 12th of the same month, upon all the points in dispute. It exhibited an incontrovertible series of facts from the earliest periods of discoveries, conquest, or occupation, and the successive establishments of the Crown of Spain, in that part of America, to the present day. It proved that Spain, long prior to any other na-

tion, discovered Florida, that is, all the vast and beautiful country extending from what is now termed East Florida to the Rio Bravo, or Rio Grande del Norte, which was then the boundary of the kingdom of Mexico, of which she was already in peaceable possession. From the period of the discovery of this extensive region by Ponce de Leon, in 1512, and the establishment of the first act of possession in the name of the Crown of Spain, repeated and regular expeditions were formed, composed of troops, artillery, and everything necessary for penetrating through the whole country, examining all its positions from the coast to the interior, and all its rivers, creeks, and bays, reducing the natives, or establishing trade and friendship with them; and for occupying all such places as might appear best calculated to bring and preserve under the dominion of Spain the said country throughout its whole extent. I stated to you in my said notes (and am enabled to prove it by the most ample documents) that this was the object of the expeditions of Vasquez de Ayllon, in 1520, and of Panfilo de Narvaez, in 1528. The latter obtained from Charles I. of Spain and Emperor of Germany a solemn authority to reduce the whole country from the bay of Espiritu Santo, in East Florida, to the river Palmas. He arrived in the said region with a respectable force, and examined it from east to west. In this he had been preceded by Francisco de Garay, who passed through it by land from the bay of Espiritu Santo to Panuco. Hernando de Soto was soon afterwards appointed Governor General of Florida, the name then given to the whole of this vast country. He entered it with a powerful force, and repeated the solemn acts of taking possession of it in behalf of Spain. He afterwards examined its extensive limits, and founded several settlements. He was succeeded in his Government by Moscoso, who continued to explore the country and extend the settlements. These two first Governors General of Florida traversed and examined it, as I have said, from east to west; from the point, or cape of that Florida now called East Florida, to the Rio Bravo, crossing the Mississippi, which was then called the Palisada, and all the others which empty into it, or into the Gulf of Mexico. From that period Spain has uniformly continued in the dominion and possession of all that country, in which she successively founded the province of Cohaguila, the kingdom of New Leon, that of New Mexico, &c.; also the province of Texas, which she has retained until the present time. It is an unquestionable fact, and of universal notoriety, that the whole country I am now speaking of was known from the beginning by the general denomination of Florida, and included all the coast from the point of Florida now called East Florida to the Rio Bravo, and all the country and the waters of the interior; of this a full and uniform proof is afforded by the history and most respectable documents of those times. During the lapse of two centuries the whole of this vast country was known to the nations of Europe under no other name. Not only the Spaniards,

but all foreigners, laid it down in their maps and charts under this name, and with the same limits. I might here cite the English traveller, Dampier, and several others, who thus denominate and lay down this beautiful region in their maps and descriptions; but why should I now dwell on what never admitted of a doubt or change until the Frenchman De Lisle, through ignorance, erroneous information, or partial motives, extended in his idea and map the boundaries of French Louisiana to the Rio Bravo? This error or extravagance has ever since been adopted by all those who have had an interest in supporting the illusion, or have carelessly or unguardedly copied the gratuitous suppositions of that geographer. But as this is in direct contradiction to the history of those early times, and the most unquestionable documents which established the contrary, these chimerical and absurd suppositions are entitled to no credit whatever, although they have been advanced with great gravity and ostentation.

It is, moreover, a fact beyond all dispute, that the Crown of Spain was established as the lawful owner and possessor of all the aforesaid region, and that it has uniformly been preserved under her dominion to this day, with the exception of such parts of it as, by treaties, conventions, and other solemn acts, she has transferred to foreign Powers.

As the introduction of the French into part of that region has formed the ground of the claims of your Government, I shall confine my remarks to them. In the course of our late correspondence, I stated to you in my notes the manner in which the French got a footing in that part of the Spanish dominions, and how they proceeded to form the colony to which they gave the name of Louisiana.

But to form a just idea of the establishment of that colony, and of its precise extent and boundaries, it is necessary to take a view of it at three different periods: 1st, under the direction of the Government of France; 2dly, under that of Crozat and the French Western Company; and 3dly, under the Government of the Crown of France.

I do not deem it necessary now to detail minutely the first attempt of the French on the old Florida, in 1562. It is well known that John Ribaut, to whom the conduct of the expedition was committed, through the influence of Admiral Coligny, was completely routed by the Spaniards under General Melendez de Abyles. This General having attacked the French in their fort of Carolina, all those who escaped the assault were made prisoners of war; and, having pursued their vessels, he and stormy weather put an end to the wretched remains of this French expedition. Abyles founded the castle and forts of St. Augustine, which then became the capital of all Florida; established various other posts; and enforced a respect for the dominion of Spain over all the coast and territories of that vast region. The French never again returned there, until the last attempt of the celebrated La Salle, who, towards the close of 1684, sailed from France

with an expedition to discover the mouths of the Mississippi. At this period, the French had already established themselves in the lower part of Canada. Fearful of meeting a fate like that of Ribaut, they avoided an interference with the countries belonging to the Crown of Spain, and confined their establishments to the coasts of the Atlantic. The savages, or aborigines of Canada, had a knowledge of other Indian nations inhabiting beyond the Lakes, and of a very remote country watered by a great river, which, as they said, ran neither to the east, to the west, nor to the north, but which might probably run to the south, and empty into the Gulf of Mexico. It was they who, in 1660, gave the French of Canada an idea of this country and river, although very limited, vague, and obscure; and excited in the minds of Joliet, an inhabitant of Quebec, and of the missionary Marquette, the project of crossing the lakes, and penetrating into the said country to explore it and the river. They realized their project, embarked on Lake Michigan, ascended the river Zoras to its source, afterwards travelled by land, and, returning to the entrance of the same river, navigated to the westward, and on the 2d June, 1673, they struck the Mississippi. They then descended this river as low as the Arkansas, in thirty-three degrees north latitude; but, fearful of falling into the hands of the Spaniards, they afterwards retreated to Canada, and on their return passed through the country inhabited by the Illinois, whom they found disposed to trade with the French of that colony.

This excursion produced no result whatever, and would have been wholly forgotten at the death of Marquette, but the famous La Salle, an enterprising and resolute man, who had come to Canada with the design of exploring a passage from thence to Japan, or China, having heard of Joliet's narrative, conceived the project of repeating the same journey. He embarked for France, and on his arrival at Paris proposed his plan to the Prince of Conde. Patronized by him and the Government, he returned to Quebec with a company of thirty associates, and the Chevalier Tonti, a brave and experienced officer. At Quebec he was joined by Father Hennepin, and, at the head of this party, set out on the journey formerly made by Joliet and Marquette. Having encountered extraordinary difficulties, he employed several years in accomplishing it. On the 4th of March, 1681, he arrived at the Arkansas. In April of the following year, he proceeded as low down as the mouth of the Mississippi; and in the Spring of 1683, he returned to France to give an account of his discoveries. With all due ceremony he took possession of the Arkansas and the Mississippi, in the name of the Crown of France, although it was well known that all those countries were under the dominion of Spain. In performing this journey, La Salle did no more than explore distant countries, and that in a clandestine and secret manner, being under the necessity of defending himself both against the Spaniards and the English, who repeatedly fell in with and attacked him.



*Relations with Spain.*

La Salle, having given an exaggerated account of his discoveries in this part of America, was authorized by his Court to search for the mouths of the Mississippi, and occupy some position on its banks. This was the object of the maritime expedition with which he sailed from France under the command of Beaujeau, for the Gulf of Mexico, which he entered on the 12th of December, 1684. In the notes I lately addressed you at Washington, I stated the result of this expedition, and of the labors of La Salle. Driven on the coast of the province of Texas, it was with difficulty this distinguished adventurer found safety in the bay of St. Bernard. He crossed by the Trinity river, and constructed a redoubt to defend himself against the Indians; but, not being able to defend it, he determined on abandoning the country, and was assassinated by his own party. The Indians attacked the fort or redoubt, in which he had left some of his people, demolished it, and massacred them. Of this unfortunate expedition, seven men only escaped; five of whom succeeded in reaching the Arkansas on the 20th of July, 1687, and returned to Montreal in May following. The others found their way among the Cenis or Asinais Indians.

I presume that I have fully proved to you in my former notes that this shipwreck of La Salle on the coast of Texas, and his entry into the bay of St. Bernard and adjacent country, can give no right to France to that bay and country, they being already under the dominion of the Crown of Spain. In fact, what right could France have to extend herself from her remote colony of Canada to those territories? But France only authorized La Salle to search for the mouths of the Mississippi, doubtless in the belief that this river was not within the Spanish possessions. I also stated to you that the most effectual measures were instantly taken by the Viceroy of Mexico and the Spanish Government to drive the French from any position they might have occupied on the Gulf of Mexico, or in the interior. This was one of the special objects of the successive expeditions of Alonzo de Leon, Domingo Teran, and Gregorio Salinas. I say that this was one of the objects of these expeditions, because they were likewise charged with forming different establishments in the province of Texas, or of the Asinais, and securing the whole coast from any incursion of foreigners. They executed the object of their mission; so that the French made no further attempts from that time to the expedition of Iberville, in 1698, the period when the French first established themselves on the Gulf of Mexico. Iberville, an experienced seaman, who had distinguished himself by his fortunate expedition to Hudson's Bay, in 1697, appeared off Pensacola with his squadron, but, discovering that the Spaniards were occupied in fortifying that place, he shaped his course for the river of Mobile. He entered it on the 2d of February of the same year, and took possession of Massacre Island, which he called Dauphin Island. On the 2d of March, 1699, he entered the Mississippi, and ascended as high as the Bluffs; he there received

a letter from the Chevalier Tonti, by which he ascertained that this was really the Mississippi, and that the Indian nations which he had communicated with showed a very favorable disposition to trade with the French. He then returned to Mobile, and, leaving that place in the charge of Sauvole and Bienville, proceeded to France to give an account of his expedition. The Court of Spain, having been already informed of these enterprises, determined to expel the French forever from those positions, and from all the Gulf of Mexico; but this being about to be executed, the death of Charles II. occurred, and the Duke of Anjou succeeded to the Crown under the name of Philip V. Spain being then embarrassed with the war of succession, and united by a close friendship with France, overlooked the establishment at Mobile. In January, 1700, Iberville returned there, but made no progress in his projects, from the want of means and the badness of the climate. This feeble colony continued to languish without any prospect of realizing the extravagant expectations at first formed by the French. Louis XIV., setting little value on it, conferred the entire property of it on Crozat, in 1712. It is unnecessary to point out the errors and absurdities contained in the grant of Louis XIV. to Crozat, as I have already stated them to you in detail; I shall, therefore, only have to speak of the second period, that of the establishment of this colony, and show its progress. La Motte Condillac being appointed Governor, and Ducloux intendant of this famous establishment, they formed with Crozat a supreme tribunal for all civil and criminal cases. It was at that time that the excursion of the Frenchman St. Dennis into the interior of New Spain took place, in which he passed through various Indian nations from the Mississippi to the Rio Grande. In my former communications I stated what appeared to be necessary on the character and movements of this celebrated adventurer. I shall only add here, that although his apparent object was the establishment of a traffic with the people of New Spain, yet it merely served to cover the design of exploring the Spanish territories, and of extending the settlements of his countrymen therein. As soon as his views were discovered, measures were taken in Mexico to counteract them, and rigorous orders issued by the Court for the same purpose. It was this incident which produced the vigorous measures of the Viceroy of Mexico, the Duke of Linares, and the despatch of the troops and missionaries to the province of Texas, forming the fifth expedition of the Spaniards to that province—a fact which serves as a complete refutation of all that has been advanced by Du Pratz and other French writers. Alonzo de Leon informed the Spanish Governor Alarconne, from Texas, on the 21st May, 1717, that he had just founded two establishments there, one of them within ten leagues of the Natchitooch; and that he was about to proceed to the Caudachos in consequence of having received information that the French were endeavoring to make a settlement there, and that there were already ten men of his

*Relations with Spain.*

nation among the Natchitooch. The chief object in forming this Spanish settlement was to observe and check the French; and it was soon after increased by the construction of a fort called San Miguel de los Adaes, which was garrisoned by a competent force.

St. Dennis promoted the settlement of several Frenchmen among the Natchitooch, for the purpose of serving as an intermediary point in his journeys to the Rio Grande. He called this settlement San Miguel, and this gave rise to the error of Champigny, who has confounded this paltry establishment with that of the Adaes. That which was formed by the French cannot be considered of any importance until May, 1717, when the Governor of Mobile first sent a commandant with a party of ten men as a garrison, at which time the Spanish fort of the Adaes was already built. Such was the origin of the French settlement and fort at Natchitooch—the only acquisition made by the colony of Biloxi, or Mobile, in the neighborhood of the Rio Roxo, (Red river,) under Crozat or the Western Company. In 1718, the company laid the foundation of New Orleans, to which the general government of the colony was transferred in 1722, and the settlement at Biloxi abandoned. In June, 1723, Bienville endeavored to take possession of the bay of St. Joseph; but, being opposed by Salinas, the Spanish Governor of Pensacola, he desisted from his attempt. Thus the colony went on without making any progress, until the French company, tired out with the disasters and losses it had suffered in the wars with the neighboring Indians, and convinced of the inutility of that establishment, surrendered their privilege to the Crown in 1730 or 1734, which forms the last period of that colony.

I have made no mention of the French settlements in the Arkansas and the Illinois, as they were formed by people from Canada, and tolerated by Spain merely as places occupied for the purpose of trading with the Indians, because, from the reasons I have touched on, it is evident that France could have no right to occupy them but through the permission or toleration of Spain. Louis XIV. had declared to His Catholic Majesty's Government that he occupied Mobile and other places in that region solely with a view to aid Spain in case of a war with the English; and having requested permission of His Catholic Majesty to keep a force at Mobile for that purpose, it was refused, by the advice of the Council of the Indies. The situation of the French colony did not improve under the immediate administration of the Government; part of it was ceded by His Catholic Majesty to England, in 1763; and the other part, that is, the city and island of New Orleans, was, as you know, ceded and delivered to Spain in 1769. That colony was considerably improved in the hands of Spain, by the establishment of several new settlements. It was retroceded, together with them, to France in 1800, by virtue of a treaty, in which it was stipulated that Spain retroceded it with the same extent it had when in the possession of France, and which

it had at the conclusion of that treaty in the hands of His Catholic Majesty. I consider all I have already stated to you on this point as repeated here; and I shall only add, that although the secret convention for the cession of Louisiana to Spain was concluded in 1763, the two high contracting parties reserved to themselves the right of afterwards agreeing on the suitable time for its delivery to Spain; in consequence of which, France continued in possession of it until 1769. As this act is undisputed, and completed and realized the cession, it is clear that it could not comprehend the territories ceded six years before to Great Britain. As a further proof, we have to adduce the royal cedula of His Catholic Majesty, issued at Barcelona, and communicated to the French Government, in which His Catholic Majesty declares that he retroceded Louisiana with the same extent it had when he received it from France; which declaration serves as an addition to the Treaty of St. Ildefonso, and was conformed to by the French Government, who made use of the said royal cedula of His Catholic Majesty in taking possession of the province thus retroceded, without any other claim or demand on their part.

In the simple epitome which I have presented of the principle and progress of the French settlements in this part of the American continent, I have only touched on the capital points, such as are sufficient to remove all grounds of the present dispute. I am ready to prove in the most ample manner all that I have advanced, by a multitude of indisputable documents, which I will produce, if necessary, the moment that it may be agreeable to you; and you will inform me of your wish to confront them with what I have stated. All the errors which have been disseminated in the narratives and maps of the French authors, and other foreigners who have committed such enormous deviations through ignorance, interest, or the influence of national prejudice, will then be corrected, and the fact established beyond all doubt that France never possessed anything to the left of the Mississippi; and that to the right, she held the posts of Natchitooch, Natchez, Arkansas, and the Illinois, solely by the permission or toleration of Spain, as I have before stated. The settlements at Opelousas, Avoyelles, and Attakapas, were not yet formed in 1762, as is admitted and affirmed by M. Bossu, of the French navy, who did not leave Louisiana until that year, and who afterwards published his voyages to the West Indies; nor were there any commandants of those settlements appointed by that Government, except under the dominion of Spain. La Fourche, which is situated much nearer to New Orleans, was only begun to be occupied by the French in 1763. Villemont, a Frenchman, established himself on the river Ouachita, or the Black river, (Rio Negro,) during the second period of Louisiana, by occupying a small valley; but this private settlement was not kept up, but afterwards abandoned. What took place at the Arkansas, Illinois, and the Missouri, could give France no right what-



*Relations with Spain.*

ever to the posts which she happened to establish and retain, and which were not claimed by Spain. All the rest could not be considered as an integral part of French Louisiana, until the period of the cession to England, and of the restitution and delivery to Spain. It is, therefore, easy to ascertain and determine what was the extent of Louisiana in the possession of the French, and what were its exact boundaries. Moreover, although the hypothesis be admitted that she had or might have some right to other parts of this vast country, she transferred it to England by the cession she made of it in 1763; and when Spain acquired from England the territory ceded to the latter, she included therein this right, such as it might be. Having retroceded to France in 1800 only what she had received from her, it is evident that she could not restore to her this pretended right. Under whatever aspect, therefore, we view the question, the rights hitherto sustained by the Government of His Catholic Majesty in the present dispute remain unquestionable. I allude to them merely to give you the most satisfactory proofs of this truth, and to establish, in respect to the *uti possidetis*, or state of possession in 1763 and 1769, the basis which it is indispensable to lay down for the general and definitive settlement of all pending differences between the two Governments. In that basis will likewise be comprehended all the augmentation with which Spain delivered Louisiana to France, and all that by treaties or other lawful acts has been ceded to the United States.

His Majesty, carrying his particular consideration for the United States, and his sincere desire to meet the wishes of your Government, as far as is compatible with the rights and dignity of his Crown, has authorized me to remove the principal difficulties, and to offer the Government of this Republic the liberal proposals which I have the honor to enclose in a separate paper.

If these proposals should, as I hope, appear admissible and satisfactory to your Government, all the rest which it will be requisite to change, or add, to perfect the definitive adjustment between the two Powers, cannot fail to follow of course, and be easy to arrange. Finally, if there should arise any difficulty or doubt in the mind of the President upon any one of them, which I can remove or clear up, I shall be happy to be made acquainted with it, and most cheerfully do for that purpose whatever may be within the limits of my powers and instructions. I conceive that what I now propose is best calculated to conciliate all the different views and claims, and to adjust all pending differences upon just and liberal principles; it being evident, moreover, that the advantages are wholly in favor of the United States.

In concluding this note, I beg leave to repeat that if, before we agree on what is requisite to effect the desired arrangement, and with a view to proceed to it with a more perfect conviction of the unquestionable rights of each one of the two Powers, you should think it advisable that we should modify and correct any points stated

in the present note, by the production and examination of the documentary proofs which I have offered, I am ready to submit them the moment I receive such intimation from you.

In the meantime, I repeat the assurances of my respect, and pray God to preserve you many years.

LUIS DE ONIS.

*Translation of propositions received in Mr. Onis's letter of October 24, 1818.*

1. The United States declare that they deeply regret the violation of the Spanish territory by the troops under the command of General Jackson, and that, it being done without their orders, and, as the General states, with a view of terminating more promptly the war against the Indians, the United States will restore the town of Pensacola, and the forts of Barancas and St. Mark, and the other territory occupied by their troops in the Floridas, to the Spanish officers duly authorized by His Catholic Majesty to take possession of them: the United States being answerable, as is just, for the injuries caused by the incursions of the troops of the Union, as well to the Crown of Spain as to its subjects; upon which point the proper stipulations shall be inserted in the treaty.

2. His Catholic Majesty, to give an eminent proof of his generosity, and of the desire which animates him to strengthen the ties of friendship and of good understanding with the United States, and to put an end to the differences which now exist between the two Governments, cedes to them, in full property and sovereignty, the provinces of East and West Florida, with all their towns and forts, such as they were ceded by Great Britain in 1783, and with the limits which designated them in the treaty of limits and navigation concluded between Spain and the United States on the 27th October, 1795. The donations or sales of lands made by the Government of His Majesty, or by legal authorities, until this time, are, nevertheless, to be recognised as valid.

3. To avoid all cause of dispute in future, the limits of the respective possessions of both Governments to the west of the Mississippi shall be designated by a line, beginning on the Gulf of Mexico, between the rivers Mermento and Calcasia, following the Arroyo Hondo, between the Adaes and Natchitoches, crossing the Rio or Red river at the 32d degree of latitude, and 93d of longitude from London, according to Melish's map, and thence running directly north, crossing the Arkansas, the White, and the Osage rivers, till it strikes the Missouri, and then following the middle of that river to its source, so that the territory on the right bank of the said river will belong to Spain, and that on the left bank to the United States. The navigation, as well of the Missouri as of the Mississippi and Mermento, shall remain free to the subjects of both parties. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a sur-

*Relations with Spain.*

veyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line in conformity to what is above agreed upon and stipulated; they shall make out plans and keep journals of their proceedings; and the result, agreed upon by them, shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to these persons, and also as to their respective escorts, should such be deemed necessary.

4. The two contracting parties, animated by the most sincere desire of conciliation, and with the view of eradicating all the discussions which exist between them, and to hasten the conclusion of a definitive and prompt arrangement, by which the good understanding they desire perpetually to maintain with each other may be strengthened, reciprocally renounce all claims for damages or injuries which they themselves, or their respective subjects or citizens, may have suffered, of whatsoever nature they may be, whether they have or have not been presented or made until this date, so that they are to be considered as entirely cancelled and adjusted, excepting those which are specified in first article.

5. The treaty of limits and of navigation of 1795 remains in force, in all and each one of its articles; but to avoid questions in future as to the meaning of the fifteenth article, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this may be so understood with respect to those Powers who recognise this principle; but, if one of the belligerents should not recognise it, the above cited clause of the said fifteenth article shall not remain obligatory on either of the two contracting parties, who may act as they think proper on this point, without giving room for complaints or claims, or being considered as infringing the before-mentioned fifteenth article.

6. Although the two high contracting parties oblige themselves to cause the stipulations contained in this treaty, and in that of limits and navigation of 1795, to be complied with in all their parts, nevertheless, desirous of avoiding all doubt or misinterpretation of their respective clauses, they oblige themselves to make the declarations or laws requisite for the most exact observance of all that is above stipulated, as good faith and the honor of both Governments require, adopting the most efficacious measures to remedy and cut up by the roots the abuses which, contrary to the laws of nations, and contrary to what is expressly stipulated in the treaty of 1795, above cited, daily occur in some parts in this Union, in consequence of the vague and arbitrary interpretation which, it seems, the measures until now adopted are susceptible of, and by which means the law is eluded.

7. In consideration of the sacrifices which His Catholic Majesty makes by depriving himself, in favor of the United States, of the important

provinces of the two Floridas, to satisfy and to cancel forever all their claims, the United States will certify, in due form, that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain; and they will present an authentic statement of the prizes made, and of their true value, that Spain may claim from France the return of this amount.

*The Secretary of State to Don Luis de Onis.*

DEPARTMENT OF STATE,

Washington, October 31, 1818.

SIR: Your letter of the 24th instant, and the proposals contained in it, offered as the basis of a treaty for the adjustment of all the subjects in discussion between the United States and Spain, have been received, and laid before the President of the United States.

I am directed by him to forbear entering into any examination of the historical disquisition concerning the original pretensions of Spain to all the territories bordering on the Gulf of Mexico, and the whole country included in the French colony of Louisiana, which you have thought proper to introduce into your note. The right of the United States to the river Mississippi, and all the waters flowing into it, and to all the territories watered by them, remains as entire and unshaken by anything now adduced by you as by anything which had ever preceded it in the discussions between the two Governments. It is established beyond the power of further controversy; nor could it answer any useful purpose to reproduce proofs which have already more than once been shown, and which, remaining unimpaired, must henceforth be considered by the United States as not susceptible of refutation.

In confining my attention to the propositions which you offer as the basis of a treaty, I have to observe that any further proceedings upon the first of them have been rendered unnecessary by the determination promptly taken by this Government, and communicated to you, to restore the forts of Barancas and St. Mark, together with Pensacola, to any person duly authorized by you, or otherwise by your Government to receive them. You have been informed of the evidence inculcating the Governors of those places, not only as having utterly neglected to carry into effect the stipulation in the treaty of 1795, by which Spain was bound to restrain, by force, the Indians within her territories from committing hostilities against the United States or their citizens, but as having deeply participated in the hostilities of those same Indians. You have been informed that these were the real and only causes of the occupation of those places by the commander of the American forces. Under these circumstances, however, the United States may regret the necessity of that occupation, it is for the Spanish officers themselves to answer to their own Sovereign for the consequences of their own conduct; and the forbear-



*Relations with Spain.*

ance of the United States, as well as their respect for the rights and the honor of Spain, are sufficiently manifested by their readiness to restore the possession, and to consign to oblivion the hostile conduct of those officers of His Catholic Majesty.

The uselessness of any stipulation on the subject of this first proposition is further demonstrated by the nature of the second, in which you announce your authority to cede all the property and sovereignty possessed by Spain in and over the Floridas. The effect of this measure being necessarily to remove all cause of contention between the contracting parties with regard to the possession of these territories, and to everything incidental to them, it would be worse than superfluous to stipulate for restoring them to Spain in the very treaty by which they are to be ceded in full sovereignty and possession to the United States. Neither can the United States recognise as valid all the grants of land until this time, and at the same time renounce all their claims, and those of their citizens, for damages and injuries sustained by them, and for the reparation of which Spain is answerable to them. It is well known to you, sir, that notice has been given by the Minister of the United States in Spain to your Government that all the grants of land lately alleged to have been made by your Government within those territories must be cancelled, unless your Government should provide some other adequate fund, from which the claims above referred to of the United States and their citizens may be satisfied.

From the answers of Don Jose Pizarro to this notice, we have reason to expect that you will be sensible of that necessity, and that some time must be agreed upon subsequent to which no grant of the lands within the territories in question shall be considered as valid.

The boundary line proposed by you, west of the Mississippi, can as little be assented to by the United States. Instead of it, I am authorized to propose to you the following, and to assure you that it is to be considered as the final offer on the part of the United States:

Beginning at the mouth of the river Sabine, on the Gulf of Mexico, following the course of said river to the thirty-second degree of latitude; the eastern bank and all the islands in said river to belong to the United States, and the western bank to Spain; thence, due north, to the northernmost part of the thirty-third degree of north latitude, and until it strikes the Rio Roxo, or Red river; thence, following the course of the said river, to its source, touching the chain of the Snow mountains, in latitude thirty-seven degrees twenty-five minutes north, longitude one hundred and six degrees fifteen minutes west, or thereabouts, as marked on Melish's map; thence to the summit of the said mountains, and following the chain of the same to the forty-first parallel of latitude; thence, following the said parallel of latitude forty-one degrees, to the South sea. The northern bank of the said Red river, and all the islands therein, to belong to the United

States, and the southern bank of the same to Spain.

It is believed that this line will render the appointment of commissioners for fixing it more precisely unnecessary, unless it be for the purpose of ascertaining the spot where the river Sabine falls upon latitude thirty-two degrees north, and the line thence due north to the Red river, and the point of latitude forty-one degrees north on the ridge of the Snow mountains; to which appointment of commissioners this Government will readily agree.

The United States will agree to the proposal that the contracting parties shall mutually renounce all claims for damages or injuries which they, their citizens, or subjects, have received from each other, until the date of the treaty; it being understood that all grants of lands in any part of the territories to be ceded by Spain to the United States subsequent to the year 1802 are to be held null and void.

This renunciation on the part of the United States will be understood to extend—

1st. To all the cases provided for by the convention of 1802.

2d. To all cases of claims on account of captures by French privateers, and condemnations by French consuls, within the territorial jurisdiction of Spain.

3d. To all claims of indemnities, on account of the suspension of the right of deposit at New Orleans, in 1802.

4th. And to all claims of citizens of the United States upon the Government of Spain, statements of which, soliciting the interposition of the Government of the United States, shall have been, before the date of this treaty, and since the date of the convention of 1802, presented either to the Department of State of the United States, or to the Minister of the United States in Spain; but not to claims which the individuals of the United States may have against those of Spain, or against the Spanish Government, on any other account.

The United States will exonerate Spain from all demands in future on account of the above-mentioned claims, and undertake to make satisfaction for the same to an amount not exceeding five millions of dollars.

To ascertain the full amount and validity of those claims, a commission, to consist of three commissioners, shall be appointed by the President of the United States, by and with the advice and consent of the Senate; which commission shall meet at Washington, and within the space of three years shall receive, examine, and decide upon the amount and validity of all claims coming within the descriptions above-mentioned. And the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of justice; the said documents to be specified when demanded at the instance of the said commissioners.

Your fifth proposition is, that the treaty of limits and navigation of 1795 shall remain in force in all and each of its articles, with the exception

*Relations with Spain.*

of that part of the fifteenth article which stipulates that the flag shall cover the property.

The 2d, 3d, 4th, 21st, and the second clause of the 22d articles of the treaty of 1795, have either received their entire execution, and can no longer be considered as remaining in force, or have been rendered inoperative by subsequent events. Whatever relates in them to limits or to the navigation of the Mississippi, has been extinguished by the cession of Louisiana to France, and by her to the United States; with the exception of the line between the United States and Florida, which will also be annulled by the cession of Florida, which you now propose. I am authorized to agree to the confirmation and recognition of all the remaining articles of that treaty as still in force, and to assent to the exception proposed by you of part of the fifteenth article, to this extent: that if, hereafter, either of the contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments recognise the same principle, and not of others.

Your sixth proposition is inadmissible. The United States do not know that any additional laws or declarations are necessary to secure the fulfilment, on the part of Spain, of her engagements in the treaty of 1795. Numerous and just as their complaints have been of the violations of that treaty, under the authority of Spain, they consider the Spanish Government fully competent to make reparation for them, and to secure the faithful observance of their engagements in future without new laws or declarations. Nor are they aware of any vague or arbitrary interpretation in any of the ports of this Union, by which, contrary to the laws of nations, or to the stipulations of the treaty of 1795, the law is eluded. The interpretation or construction given to the stipulations of the treaty of 1795 within the United States is subject to the decisions of the judicial tribunals of the United States, who are bound to consider all treaties as the supreme law of the land. Their proceedings are all public, and their decisions upon all questions of interpretation are recorded and published. In this there is surely nothing vague or arbitrary; nothing requiring new laws or declarations. Of the many complaints which you have addressed to this Government in relation to alleged transactions in our ports, the deficiency has been, not in the meaning or interpretation of the treaty, but in the proofs of the facts which you have stated, or which have been reported to you, to bring the cases of complaint within the scope of the stipulations of the treaty.

In consideration of the cession of the Floridas by Spain, to redress and cancel the claims of the United States and their citizens upon Spain, and always understood that the late grants of the lands for which the indemnity for those claims is to be sought shall be held null and void, the Government of the United States will certify that they have not received any compensation from France for the injuries suffered from French privateers, Consuls, and tribunals, on the coasts

and in the ports of Spain, and will present an authentic statement of the prizes made, and of their value, that Spain may avail herself of it in such manner as she may deem just and proper. Upon the basis offered by your propositions, modified conformably to the observations now submitted to you, I am authorized to conclude a treaty with you; but, as the session of Congress is at hand, I am directed to request your immediate and frank reply to this communication. The President is deeply penetrated with the conviction that further protracted discussion of the points at issue between our Governments cannot terminate in a manner satisfactory to them. From your answer to this letter, he must conclude whether a final adjustment of all our differences is now to be accomplished, or whether all hope of such a desirable result is, on the part of the United States, to be abandoned.

I pray you to accept the assurance of my distinguished consideration.

JOHN Q. ADAMS.

*Don Luis de Onís to the Secretary of State.*

WASHINGTON, November 16, 1818.

SIR: I have attentively perused the note of the 31st of October last, which you addressed to me by order of your Government, in answer to mine of the 24th of the same month, by which I perceive that you have received the President's orders not to take into consideration the legal titles and grounds on which Spain rests her rights and claims to the sovereignty of the territories and waters claimed by your Government as forming an integral part of Louisiana, as it was retroceded by His Catholic Majesty to France in 1800, and sold or ceded by the Government of that nation to the United States in 1803. As these rights and claims rest on a basis as solid and as venerable as that which can be presented by the most equitable Government on earth to demonstrate its legitimate property to the country it possesses, I should be wanting in my duty were I not to maintain the same principles which I advanced in my former notes to you on this head. Being self-evident, they are as incontrovertible and invariable as the fundamental principles of universal justice. It is impossible to reject or impugn them without attacking those original and primitive titles which do, and ever have sanctioned, throughout the whole world, the rights of property and complete sovereignty enjoyed by all independent States and Kingdoms in their respective acquisitions. You assert the indisputable right of the United States to the river Mississippi. I say, and the fact is obvious, that even admitting your assertion in its fullest latitude, notwithstanding no argument has ever been advanced by the United States to establish it, and that it is contradicted by the most unquestionable documents and proof, the pretension to extend your claims beyond the Missouri would always be inconsistent and exorbitant. Even the absurd and extravagant grant of Louis XIV. to Crozat does not point out a greater extent, and respects



## Relations with Spain.

the frontiers of New Mexico and other Spanish settlements and possessions, which existed long before the time that grant was made, and before the famous expedition of M. de la Salle. Keeping, therefore, in view the truth of facts, and the immutable principles of things, and endeavoring to reconcile them with the sincere and uniform desire of His Catholic Majesty to remove, on his part, the obstacles that have opposed the amicable adjustment of all existing differences between the two Powers, as far as is consistent with the rights and dignity of his Royal Crown, I will approximate my proposals, as nearly as is possible for me, to those you have made me on the part of your Government.

The first refers to the satisfaction due by the United States to His Catholic Majesty and to his subjects, in consequence of the invasion and capture of Pensacola and other forts and territories in the Floridas. You must be sensible that it is impossible for me to desist from the demand of a just and adequate reparation or indemnity to His Majesty and the inhabitants of both provinces, and particularly those of Pensacola, for all losses and injuries by them sustained from the officers and troops of the United States. No principle can be adduced to support or justify the hostile proceedings of General Jackson in Florida, marked as they are by a series of outrages unprecedented and unknown in history. The American commander, on that occasion, as your Government itself admits, acted contrary to the orders and instructions given to him. Public opinion in the United States has uniformly reprobated these excesses, as well as all the specious pretexts with which he has endeavored to gloss them over. The charges artfully produced against the Spanish commandants and officers are entirely frivolous, and are contradicted by the well-known truth of facts, and the formal declarations and statements of those same Spanish officers; so that, in every view of the case, the United States are in justice bound by the most solemn obligations to make satisfaction to the Crown and subjects of Spain for the said losses and injuries. The Spanish Government are in like manner entitled to the full amount of all revenue collected and received by the United States in the places and territories occupied by them in the said provinces; since, as the sovereignty of Spain is indisputable, she could in no wise be dispossessed of her right to receive her revenues; and this point was from that time reserved as an object of future discussion. I shall be happy to contribute as far as is in my power to this arrangement, and to the stipulation of a fair sum to be paid by the United States for all such damages, that all discussion may thus be speedily and amicably terminated.

My second proposal has been admitted by your Government, with this modification; that all grants and sales of lands made by His Catholic Majesty, or by lawful Spanish authorities in the Floridas, from the year 1802 to the present, shall be null and void. To this modification, in its absolute sense, I cannot assent, inasmuch as it is offensive to the dignity and imprescriptible rights

of the Crown of Spain, which, as the legitimate owner of both the Floridas, had a right to dispose of those lands as it pleased; and further, as the said modification would be productive of incalculable injury to the *bona fide* possessors, who have acquired, settled, and improved these tracts of land.

The extent of what I can agree to is, that the late grants made by His Majesty in the Floridas since the 24th of January last, the date of my first note announcing His Majesty's willingness to cede them to the United States, (the said grants having been made with a view to promote population, cultivation, and industry, and not with that of alienating them,) shall be declared null and void, in consideration of the grantees not having complied with the essential conditions of the cession, as has been the fact.

My third proposal refers to the boundary line to be established between the possessions of the Crown of Spain and those of the United States. Acceding, as far as is possible for me to do, to the modifications proposed by you, and with a view of offering to the United States an additional proof of my wish to remove existing difficulties, I will undertake to admit the river Sabine instead of the Mermento as the boundary between the two Powers, from the Gulf of Mexico, on condition that the same line proposed by you shall run due north from the point where it crosses the Rio Roxo (Red river) until it strikes the Mississippi, and extend thence along the middle of the latter to its source, leaving to Spain the territory lying to the right, and to the United States the territory lying to the left of the same.

What you add respecting the extension of the same line beyond the Missouri along the Spanish possessions to the Pacific ocean exceeds, by its magnitude and its transcendancy, all former demands and pretensions started by the United States. Confining myself, therefore, to the powers granted to me by my Sovereign, I am unable to stipulate anything on this point which may remain open for further negotiation, as I have no doubt of His Majesty's disposition to agree to the appointment of a joint commission to determine and establish the future boundaries from the source of the Mississippi to the north and west, in a manner conformably to the titles and documents of property and possession respectively exhibited. Leaving, therefore, this point unsettled, as I have just observed, I conceive that my proposal for the adjustment of boundaries will not be attended with any difficulty whatever.

My fourth proposal to your Government has for its object the renunciation by both Governments and nations of all claims for spoiliations respectively suffered by either of the two Powers or their subjects until the signing of the treaty. This proposal has been admitted by your Government, with the exception of such claims as American citizens may have on the subjects of His Catholic Majesty or on the Spanish Government, and which have not been laid before the Department of State of the United States, or their

## Relations with Spain.

Minister at the Court of Spain. I have no hesitation in assenting to this exception, but it should be made reciprocal for the subjects of the Crown of Spain, who may be entitled to claims on American citizens, or on the Government of the United States, and which have not yet been presented in due form to His Majesty's Secretary of State, or his Minister near the United States. My proposal will thus be free from difficulty, and conform to the modifications you have suggested.

Nor do I find any difficulty in agreeing to the modifications you offer to my fifth proposal, and proceeding to the sixth, the object of which is to remedy the abuses and violations, repeated pernicious examples of which have occurred in different parts of this Republic, through the toleration and countenance given therein to piratical and privateering armaments, against the commerce and navigation of Spain. I observe you state that what I propose is inadmissible; but I have received orders from my Sovereign to insist on this point, and to claim of your Government such measures as are imperiously called for by the very nature of these abuses and violations, as they not only contravene the existing treaty, but are in direct opposition to the most respectable compacts founded on international and public law.

Whatever may be the forecast, wisdom, and justice conspicuous in the laws of the United States, it is universally notorious that a system of pillage and aggression has been organized in several parts of the Union against the vessels and property of the Spanish nation; and it is equally so that all the legal suits hitherto instituted by His Catholic Majesty's Consuls in the courts of their respective districts, for its prevention, or the recovery of the property when brought into this country, have been and still are completely unavailing. The artifices and evasions, by means of which the letter of the law has on these occasions been constantly eluded, are sufficiently known, and even the combination of interest in persons who are well known, among whom are some holding public offices. With a view to afford you and the President more complete demonstration of the abuses, aggressions, and piracies alluded to, I enclose you correct lists, extracted from authentic documents deposited in the archives of this legation, exhibiting the number of privateers or pirates fitted out in the United States against Spain, and of the prizes brought by them into the ports of the Union, as well as of those sent to other ports, together with the result of the claims made by Spanish Consuls in the courts of this country. Among them you will find the case of two armed ships, the *Horatio* and *Curiazo*, built at New York, and detained by His Majesty's Consul there, on the ground of their having on board thirty pieces of cannon concealed, with their carriages, and a crew of one hundred and sixty men; on which occasion it was pretended that it could not be proved that these guns were not an article of commerce, and they finally put to sea without them, the extraordinary number of officers and crew passing for passengers. The

number of privateers or pirates fitted out and protected in the ports of this Republic, as well as of the Spanish prizes made by them, far exceeds that contained in the within lists; but I only lay before your Government those of which I have certain and satisfactory proofs. The right of Spain to an adequate indemnity for all the spoiliations committed by these privateers or pirates on the Crown and subjects of His Catholic Majesty is undeniable; but I now submit it to your Government only to point out the extreme necessity of putting an end to these continued acts of hostility and depredation, and of cutting short these enormous and flagrant abuses and evils, by the adoption of such effectual precautions and remedies as will put it out of the power of cupidity or iniquity to defeat or elude them. In vain should we endeavor amicably to settle and accommodate all existing differences, and thus establish peace and good understanding between the two nations, if the practice of these abuses, and the course of these hostilities and piracies on the commerce and navigation of Spain should, as heretofore, continue uninterrupted in the United States. From the tenor of the documents now enclosed, and of the reflections suggested by the very nature and state of things, the President cannot hesitate to assent to my proposal on this subject; and as the Congress is now in session, I feel assured that the proper opportunity is afforded for the adoption of the necessary measures I have alluded to, and which I solicit as an essential basis of securing and maintaining a mutual friendship and good understanding between the two nations.

My seventh proposal having likewise been accepted by your Government, I agree to what you propose in answer thereto.

If my proposals, thus modified, should be agreed to by your Government, I am ready to sign them, after they are corrected and reduced to proper form, and augmented by such others, although inferior and of minor importance, as are consequent upon them, and essential in giving due solidity to the inestimable blessings of peace and good understanding between the two Governments, and in avoiding every difficulty and disagreement in future between the individuals and authorities of either nation.

I flatter myself that, by what I have just submitted, I give you and every impartial person a convincing proof of the generosity, frankness, and good faith of His Catholic Majesty's Government in the present negotiation, and of my sincere and uniform desire to terminate it to the satisfaction of both Powers. I shall add that, relying on His Catholic Majesty's wish to see a final arrangement speedily and amicably effected, if it should be proposed only to draw the line from the point mentioned on the Red river (Rio Roxo) somewhat obliquely (*con alguna oblicuidad*) to the westward of the right line due north, which I offer as the boundary of the two countries, I shall not hesitate to take upon myself the arrangement upon this point; it being always understood that the proposed line shall strike the Missouri.



## Relations with Spain.

Having thus approximated my proposals to the modifications offered by you, as closely as my duty and power permit me, I have to hope that they will be accepted by your Government, as they offer great sacrifices on the part of Spain in favor of the United States. But if, unfortunately, they should not, and the President should still insist on those which you communicated to me, as well as on the peremptory declaration that neither they nor the documents which I have offered to produce in support of the sovereignty of the Crown of Spain to all the territory claimed by the United States, can be further discussed, the only discretionary power left to me is to request of the President, in the name of my Sov-

ereign, that the negotiation, in its actual state, may be submitted to the decision of the great monarchs now assembled in Congress at Aix la Chapelle; in either of which cases, I will immediately despatch a courier to my Court with all necessary information for His Catholic Majesty, that His Majesty may decide on the measures most proper to be adopted on the occasion.

I trust that you will communicate to me the decision of the President. In the mean time, I offer you the renewed assurances of my respect and distinguished consideration.

God preserve you many years.

LUIS DE ONIS.

## Relations with Spain.

No. 1.  
List of Spanish vessels captured by pirates and brought into the United States, stating the result or actual state of the claims made for their restitution to the lawful owners, with the cargoes brought in by some of them.

Names of vessels.	Cargoes.	By whom captured.	Where arrived.	Issue or present state of claims.
Ship Alerta, -	153 slaves, -	L'Epine privateer, -	New Orleans, -	Restored to the owners.
Polacre San Francisco de Paula, -	Wine, brandy, &c. -	Felix privateer, -	New Orleans, -	Restored to the owners.
Schooner Amable Maria, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.
Schooner Cometa, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.
Schooner Dorada, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.
Schooner Caridad, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.
Schooner Bolivar, -	Colonial produce, -	Barrataria privateers, -	New Orleans, -	These two vessels sold by orders of the admiralty court; proceeds ordered to be paid to the owners.
Schooner Santa Rita, -	Nothing, -	Barrataria privateers, -	New Orleans, -	Restored to the owners.
Ship Junta Central, alias Bruch, -	Nothing, -	Carthagena privateer, -	New Orleans, -	Court declared its incompetency to take cognizance; property retained by the pirates.
H. C. M.'s corvette Indagadora, alias Cary Mary, -	Nothing, -	Decoyed on the Costa Firme, -	New Orleans, -	Do. do do do
Polacre Regla, -	Quicksilver, public & private property, -	Schooner Alerta, -	New Orleans, -	Amount of vessel and cargo ordered to be restored to the owners.
Ship Cleopatra, -	Wine, brandy, &c. -	Carthagena privateer, -	New Orleans, -	Court declared its incompetency to take cognizance; property retained by the pirates.
Schooner Alerta, -	Wine and specie, -	Barrataria privateer, -	New Orleans, -	Ordered to be restored to the owners.
Schooner Estrella, -	Unknown, -	Barrataria privateer, -	New Orleans, -	Ordered to be restored, but still pending.
Polacre Virgen del Mar, -	Unknown, -	Caracas privateer, -	New Orleans, -	Ordered to be restored, but still pending.
Schooner San Felipe, -	Unknown, -	Venezuela privateer, -	New Orleans, -	Ordered to be restored, but still pending.
Schooner San Antonio, -	32 slaves, -	Venezuela privateer, -	New Orleans, -	Ordered to be restored, but still pending.
Schooner Politana, -	109 slaves, -	Amelia privateer, -	Savannah, -	Depending.
Brig Monserrat, -	Unknown, -	Amelia privateer, -	Savannah, -	Depending.
Brig Maria Francisca, -	Sugar, -	Amelia privateer, -	Savannah, -	Depending.
Brig Concepcion, -	Wine, &c. -	Commodore Champlin, -	Savannah, -	Depending.
Schooner Sirena, -	Unknown, -	Commodore Champlin, -	Savannah, -	Depending.
San Jose Animas, -	Unknown, -	Galveston privateer, -	Charleston, -	Ordered to be restored to the owners.
Schooner Camila, -	Unknown, -	Galveston privateer, -	Charleston, -	Depending.
Schooner Isabela, -	Nothing, -	Amelia privateer, -	Charleston, -	Ordered to be delivered to the owners.
Schooner Pilotina, -	Slaves, -	Brig Patriot, Taylor, -	Norfolk, -	Depending.
Polacre brig La Cruz de Mayo, -	Salt from Canaries, -	Mongore, Barnes, -	Norfolk, -	Sold by order of the court; proceeds ordered to be paid to the owners.
Ship Providencia, -	Home commodities, -			
Brig Sereno, -	Sugar, -	Congreso, Almeyda, -	Baltimore, -	Depending.
Schooner Intrepida, alias La Leona, -	Nothing, -	Congreso, Almeyda, -	New York, -	Depending.
Schooner San Roman, -	Unknown, -	Congreso, Almeyda, -	Providence, R.I. -	Depending.
Polacre Divina Pastora, -	Unknown, -	Congreso, Almeyda, -	Boston, -	Depending.
Ship Industria, alias La Rafaela, -	Unknown, -	Congreso, Almeyda, -	Portland, -	Depending.

WASHINGTON, November 16, 1818.



## Relations with Spain.

## No. 2.

List of vessels armed or equipped in the ports of the United States, or within their jurisdiction, agreeably to documents deposited in the archives of His Catholic Majesty's Minister, under my charge, to wit:

Names of vessels.	Captains' names.	Ports of armament or equipment.	Destination.
Schooner L'Epine - - - - -	Belligne - -	New Orleans	Gulf of Mexico.
Schooner Felix - - - - -	Debray - -	New Orleans	Gulf of Mexico.
Schooner Petit Milan - - - - -	Amigory - -	New Orleans	Nautla.
Schooner Presidente - - - - -	La Maison - -	New Orleans	Nautla.
Schooner La Guerriere, alias La Creole - - - - -	Rartigue - -	New Orleans	
Pilot-boat La Couleuvre - - - - -	Drouet - -	New Orleans	
Pilot-boat Josephine - - - - -	Domingue - -	New Orleans	
Schooner Alerta, alias General Morelos - - - - -	Semet - -	Barrataria	Gulf of Mexico.
Schooner Jupiter - - - - -	- - - - -	Charleston	Amelia Island.
Schooner Rebecca - - - - -	- - - - -	Charleston	Amelia Island.
Schooner Lovely Lydia - - - - -	Hodson - -	Philadelphia	West Indies.
Schooner Hornet, alias Gernudis - - - - -	John Smith - -	Philadelphia	Atlantic.
Schooner Orb, alias Congreso de Buenos Ayres - - - - -	Joseph Almeyda - -	Baltimore	Coast of Spain.
Brig Calypso, alias Calipsou - - - - -	Thomas Boyle - -	Baltimore	Gulf of Mexico.
Brig Fourth of July, alias El Patriota - - - - -	Thomas Taylor - -	Baltimore	Coast of Cuba.
Brig Paz alias El Patriota - - - - -	Joseph Stafford - -	Baltimore	Coast of Spain.
Brig Mammoth of Balt., alias La Independencia del Sud - - - - -	James Chaytor - -	Baltimore	Coast of Spain.
Brig Clifton - - - - -	Davy - -	Baltimore	Buenos Ayres.
Schooner Swift, alias Mongore - - - - -	James Barnes - -	Baltimore	Coast of Spain.
Schooner Spartan, alias Potosi - - - - -	John Chase - -	Baltimore	Coast of Spain.
Brig Regent, alias Tupacamaro - - - - -	Francis Mason - -	Baltimore	Coast of Spain.
Schooner Romp, alias Santafecino - - - - -	Fisk - -	Baltimore	Norfolk.
Schooner Felix Cubana, alias Aret - - - - -	Revilla - -	Baltimore	Port-au-Prince.
Schooner Young Spartan - - - - -	Moore - -	Baltimore	Straits Bahama.
Brig True-blooded Yankee - - - - -	David Tewet - -	New York	Savannah.
Schooner Capelin, alias Artega, alias Minerva - - - - -	Champlin - -	New York	Unknown.
Corvette Horatio - - - - -	Skinner - -	New York	Buenos Ayres.
Corvette Curiazo - - - - -	Delana - -	New York	Buenos Ayres.

WASHINGTON, November 16, 1818.

## No. 3.

A summary statement of money and property taken out of Spanish vessels, known to have been brought into the United States in American vessels, and the privateers by which they were plundered; exhibiting the result or present state of the claims to obtain restitution thereof, to wit:

At New Orleans. Restoration of seventy slaves of the cargo of the bark Volador, clandestinely conveyed there by the piratical captors, claimed and obtained by Don Vincente Ordozgoiti, of Pensacola.

At the same place. Certain property found on board a vessel abandoned by the American troops to the Barrataria pirates, claimed by Don Diego Morphy, Vice Consul, ordered to be delivered to him.

At the same place. Restoration of certain Spanish property, brought there in the Petit Milan privateer, claimed and obtained by the same Consul.

At the same place. Restoration of certain property, brought there by the Presidente privateer,

claimed and obtained by the same Consul, for account of the lawful owners.

At the same place. Restoration of thirteen casks of clothing, brought there by the American brig Alonzo from Galveston, and two hundred and eighty-five pieces of Madras handkerchiefs, claimed by His Majesty's Consul, Don Felipe Fatio, both still pending.

Claim by the same Consul of thirty boxes of sugar, brought to New Orleans from Galveston; result yet unknown.

Claim by the same of sundry merchandise, brought to New Orleans on board the Mount Vernon; not decided on.

At Charleston. Claim of property saved from the Spanish prize brig Jupiter, lost after capture by pirates at the entrance of that river; order for its restoration yet unknown.

In the year 1812, the Anglo-American privateer Revenge, Captain Butler, after having committed numerous acts of piracy, boarded, under English colors, the Spanish ship Iris, bound from Havana, or Carthagena, in South America, to Spain, with a cargo of fifty-five thousand dol-

## Relations with Spain.

lars in specie, of provincial money, silver in bars, and other valuable articles. There exists almost positive proof that the captain of the Revenge, not satisfied with robbing the Spaniards of their property, endeavored to choke the pumps, and sink the ship, with all the crew. The captain and some of the crew were arrested, and confined in jail at Charleston; but, notwithstanding the satisfactory evidence produced by His Majesty's Consul on the trial, he was liberated, and only a thousand and some odd dollars, found on board the privateer, recovered. Don Felipe Aldaytarriaga, agent for the Iris, had recourse afterwards to the courts at Philadelphia, which confirmed the sentence of the court at Charleston, for the liberation of Captain Butler and his crew, freed the owners of the Revenge from all responsibility to the owners of the Iris, and even ordered the money found on board the Revenge to be restored to the crew. An official representation of this transaction was made to the President, but without effect.

Don Antonio Argote Villalobos, Consul at Charleston, and vested with full powers, claimed an obtained an attachment on one hundred and twenty boxes of sugar, fifty-five barrels of coffee, and four packages of white wax, brought there by the Amelia Island pirates, through St. Mary's, in Georgia; which claim is still pending.

Towards the close of the last year, the same Consul, through the medium of an agent despatched to St. Mary's, had an attachment laid on certain Spanish property brought there from Amelia Island, amounting to one hundred thousand dollars, among which was a quantity of snuff and cigars, public property, shipped on board the Spanish ship Union Carmelita, Captain Es. Roura, captured by the insurgents; this case still pending.

At Norfolk. Claim by Don Pablo Chacou, Consul there, of money and property brought there by the privateer Potosi, alias the Spartan, of Baltimore, Captain John Chase, supposed to belong to the Spanish ship "Ciencia," captured by that privateer, on her passage from Havana to Cadiz; failed for want of evidence.

At the same place. Claim by Don Antonio Argote Villalobos, when Consul there, of a large sum of money, and eighty-seven ceroons of cochineal, mostly belonging to the Spanish vessels the Santander and the Santissima Trinidad, alias the Manso, captured by the privateers Independencia del Sud and the Altavella, alias the Romp, Captains Chaytor and Greenolds, on their passage from Vera Cruz to Havana; still pending.

At the same place. Claim by Don Pablo Chacou of the restitution of one hundred and ninety-three ceroons of barks, twenty-eight cases of extract of Brazil, and thirteen bags of cotton, on board the Venezuela privateer the America Libre, alias the Neptuno, Captain Bernard, arrived from Margarita; restitution not obtained, as well from want of proof to identify the property, as the refusal of the authorities at Norfolk to attach it, agreeably to the demand of the Consul.

Don Pablo Chacou claimed and obtained an attachment on forty-seven boxes of white Havana sugar, arrived at Norfolk on board the American schooner Atlantic, Captain Butler, from Port-au-Prince, the said sugar having been taken from on board the Spanish brig San Antonio by the pirate called the Invincible; this suit still pending.

At Baltimore. Claim by Don Pablo Chacou, when Consul there, of the restitution of two cases of silks, declared to have been taken on the high seas, and two boxes of lace, brought in by the piratical schooner Mongore, Captain Barnes; failed for want of proof.

The American schooner Remittance, Captain Rogers, arrived at Baltimore from Port-au-Prince, with the following property, taken by the pirate Potosi, Captain John Chase, from on board the Spanish ship "Ciencia," captured on her voyage from Havana to Cadiz, namely: three cases of wrought plate, one of jewelry thirty-three bundles of cochineal, three of jalap, and various other valuable articles. Claim by Mr. Chacou of the restitution of this property to the lawful owners still pending.

At the same port of Baltimore arrived the brig Hibernia, with several bags of cotton and some coffee on board, taken by the pirate the Patriota, Captain Thomas Taylor, from a Spanish boat going to St. Jago de Cuba. Powers sent by the owners to a merchant at Baltimore, who lodged a claim without delay, but has yet obtained no decision in the case.

Into the same port of Baltimore the following property was brought on board the American schooner the Evening Post, Captain Williams, from Galveston, having been transhipped on board that vessel from the Spanish polacre Santa Maria, Captain Jose Fort y Blanch, captured by the pirate Patriota, Captain Stafford, to wit: one hundred and thirty-eight boxes of lump sugar, eighty-three ditto white, five half boxes of ditto, nine packages of cotton, and one hundred and twenty pieces Campeachy wood. This property was immediately secreted by the consignee, Mr. John Laborde, and escaped the search of the Consul, Don Joaquim Zamorano, who took the necessary steps to have an attachment laid on it.

At the same port there arrived another schooner, the Amatea, Captain Forbes, from Galveston, with fifty-four boxes of white sugar, seventy-three ditto lump, and three hundred and fifty-nine hides, taken from on board the polacre Santa Maria by the pirate Stafford, and consigned to the said John Laborde, who, in consequence of the dilatory proceeding of the marshal of the district, found time to secrete them, and evade the attachment granted at the request of Mr. Consul Zamorano.

The pirate Patriota, Captain Taylor, arrived in the Chesapeake, and privately landed above \$22,000 in gold, together with five slaves, taken from on board the Spanish schooner San Miguel, Captain Juan Velasquez, bound from Maracaibo to St. Jago de Cuba; and, notwithstanding every exertion used by Don J. Zamorano to discover



## Relations with Spain.

the place of deposit of the money and slaves, his search proved fruitless.

The same pirate, the Patriota, commanded by Captain Stafford, attempted, on another occasion of his arriving in the Chesapeake, privately to land five hundred boxes of sugar, taken from on board the polacre Santa Maria, but was able to land only forty-five, which were seized and condemned by the custom-house at Baltimore. The efforts of the Consul to stop the privateer Patriota were rendered abortive by the misconduct of the marshal of the district.

The American schooner Harriet, Captain Southcomb, arrived at Baltimore from Galveston with the following property shipped on board her there, belonging to the aforesaid polacre Santa Maria, to wit: twenty-two boxes of white sugar, ten half boxes ditto, one hundred and nineteen boxes of powdered sugar, thirteen half boxes ditto, thirteen cases of wine, one ton of Campeachy wood, and twenty-five logs of mahogany. The whole claimed by Don Joaquim Zamorano, and still pending.

The privateer St. Martin, Captain John Dieter, brought into Baltimore to the amount of \$11,000 in gold and silver, belonging, as has since appeared, to Don Cristoval Cruzat, merchant at Malaga, and taken from on board a polacre, also belonging to him, captured by the said privateer June 12, 1817. The Consul Zamorano having been unable to trace this property, no recovery has been made.

The American schooner Hornet, Captain Ring, arrived at Baltimore from St. Mary's, in Georgia, with the following property, shipped at Amelia Island: one hundred and seventeen boxes of sugar, twenty-four ceroons of indigo, and a parcel of Campeachy wood, consigned to the said John Laborde; attachment on which could not be laid, the marshal's place then being vacant; and, before the aid of the sheriff could be brought in, Laborde found means to remove the whole.

The privateer Rio de la Plata, Captain Davy, landed at the same port the sum of \$8,000, the property of which could not be ascertained by Don Joaquim Zamorano.

A vessel found deserted at the entrance of the Delaware, apparently a Spaniard, from her build and some remains of cargo. Claimed by Don Bdne. Renguenet, Consul at Philadelphia, on behalf of her lawful owners; affair still pending.

At Boston, Don Juan Stoughton attached a part of the cargo of the Spanish brig San Jose, captured by the pirate Romp, of Baltimore; and, although he obtained an order for her restitution to her owners, it has not yet been effected, owing to the absence of the district attorney.

The same Consul entered a claim at Boston for a part of the cargo of the brig Nuestra Señora del Buen Suceso, Captain Jose Roldam, captured by the pirate Rio de la Plata, Captain Davy, and carried into Marblehead by a fishing schooner. Claim still pending.

WASHINGTON, November 16, 1818.

## Extracts from the Buenos Ayres Gazette.

[No. 43. Buenos Ayres Gazette, Saturday, November 1, 1817.]

*Account of the vessels sent in by privateers of this country for adjudication by the Prize Court charged therewith, to wit:*

No. 1. Ship Monserrat, captured August 13, 1815, by the privateer corvette the Zephir, Don Tomas Feles, commander; declared a good prize the 13th October following, and the cargo thereupon delivered to Don Guillermo G. Miller, agent.

No. 2. Schooner Divina Pastora, captured 14th September, 1815, by the same corvette and commander, informally declared bad prize on the 16th October, and, after regular proceedings, a good one on the 8th November, following; cargo delivered to the order of the commander, Don T. Feles.

No. 3. June 18, 1816, arrived here ship Consequencia, captured by the privateer corvette the Alcon, commanded by sergeant-major Don Hipolito Buchard, in company with the ship Hercules and brig Trinidad, under the command of Colonel Guillermo Brown, and manned off Callao; declared good prize, together with the schooner Andaluz, arrived in October following; which sentences are in the possession of Don Leonardo Agrelo, notary, appointed in consequence of the circumstance which occurred after declaration.

[Gazette extraordinary, Buenos Ayres, Thursday, November 6, 1817.]

*Minute of the cargo of the Spanish prize ship Perla, from Cadiz, mounting 16 guns, brought into Valparaiso.*

412 rough boxes of ironmongery, steel, nails, and tin plates; 654 rough boxes of different articles; 385 casks of spirits; 80 small casks, contents unknown; 80 cakes of wax; 90 cases of stamped paper; 82 bales of linen; 32 boxes of tow linen; 6 bales of tow linen; 24 cases, (medicines;) 100 empty liquor cases.

VALPARAISO, October 8, 1817.

F. DE LA LASTRA.  
A true copy: GUIDO.

[No. 44. Buenos Ayres Gazette, Saturday, November 8, 1817.]

*Account of vessels sent in by privateers of this country for adjudication by the Prize Court, charged therewith, to wit:*

\* No. 4. Schooner Leona, captured 25th June, 1816, by the schooner privateer Congreso, Captain Jose Almeyda; declared good prize 31st August following; cargo ordered to be delivered to Don David Cortes De Forest, owner of said privateer.

\* No. 5. Brig San Andero, captured June 21, 1816, by the above privateer; declared good prize 30th September following; ordered to be delivered to De Forest.

\* No. 6. Ship Nuestra Señora de Gracia, alias La Atrevida, captured by the above privateer on the 24th June; declared good prize 29th October

## Relations with Spain.

following; cargo ordered to be delivered to De Forest.

No. 7. Zebec San Jose y Animas, alias El Valiente, and brig Nuestra Señora del Rosario, captured by the schooner privateer Independencia, Captain Miguel Ferreres; the former on the 27th June, and the latter on the 12th August, 1816; declared good prizes on the 29th October; cargoes delivered to Don Juan Pedro Aguirre.

No. 8. October 29, 1816, goods and merchandise, brought in by the privateer schooner Congreso, Captain Almeyda, declared good prize; eight registers exhibited by him of vessels fallen in with on his cruise, to establish his claim to them as prizes. The said goods ordered to be delivered to De Forest.

\* No. 9. Ship Carlota, captured the 24th July, 1816, by the same privateer, (Congreso;) declared good prize 14th November; cargo delivered to De Forest.

\* No. 10. Brig San Buenaventura, alias Leonidas, captured 22d August, 1816, by the privateer Independencia del Sud, Capt. Don Diego Chaytor; declared good prize 24th November; cargo ordered to be delivered to Don Adam Guy, agent for said privateer.

\* No. 11. Brig Concepcion, captured the 25th August, 1815, by the same privateer, (Independencia del Sud); declared good prize 24th November; cargo ordered to be delivered to the agent, Guy.

\* No. 12. Brig Sereno, captured by the schooner privateer Congreso, Captain Jose Almeyda; declared good prize the 1st February, 1818, at the instance of Don David Cortes De Forest; said vessel ordered to this port, but proceeded to North America, where ship and cargo are deposited.

\* No. 13. Brig Los Tres Amigos, captured by the same privateer; declared good prize the 1st February, 1818, at the instance of the aforesaid De Forest. Not arrived within these waters, and presumed to have borne away for a port in North America.

No. 14. Schooner Nuestra Señora del Carmer, alias La Antonia, captured 14th November by the privateer brig Montezuma, Captain Jorge Ross; declared good prize 27th February; cargo ordered to be delivered to the owner of the privateer, Don Jorge Macfarlane.

No. 15. Brig Carmer y Animas, captured off Cadiz by the same privateer; declared good prize 21st May last; cargo delivered to Macfarlane.

\* No. 16. Ship Triton, captured 25th January by the privateer brig Tupac-Amaru, Captain Marcena Monron; declared good prize the 17th April following; cargo ordered to be delivered to Don David Cortes De Forest.

\* No. 17. Brig Antrevido, captured by the privateer brig Independencia del Sud, Captain Diego Chaytor, 27th July last; declared good prize at the instance of Don David C. De Forest, agent for said privateer; ordered here, but carried into a port of England by the prize master.

No. 18. May 21st, goods proceeding from three prizes captured by the privateer brig Montezuma.

15th CON. 2d SESS.—61

ma, Captain George Ross; declared good prize; registers deposited by him; goods ordered to be delivered to the owner of the privateer, Don Jorge Macfarlane.

\* No. 19. Ship Ciencia, captured 5th October by the privateer schooner Potosi, Captain John Chace; declared good prize 21st May; vessel and cargo sold at Port-au-Prince; proceeds deposited till further advice from that Government.

\* No. 20. Ship Santander, alias Los Santos Martires, captured 6th May by the privateer brig Invincible, David Jewett, commander and owner; declared good prize 29th August; cargo ordered to be delivered to Don David C. De Forest, agent.

\* No. 21. Polacre Jita, captured 1st March by the aforesaid privateer, Captain David Jewett; declared good prize 15th September following.

No. 22. Ship Ferera, alias La Roig, captured 1st July by the privateers Independencia and San Martin; declared good prize 15th September; cargo ordered to be delivered to Adam Guy and John Higinbotham, agents.

[No. 46. Buenos Ayres Gazette, Saturday, November, 2, 1817.]

*Letter of the commander of the privateer Tucuman to the Minister at War.*

ARMED SCHOONER TUCUMAN,

at anchor off Tenerife, Sept. 10, 1817.

SIR: I have the pleasure to inform you that I sailed on the 3d of June from New Orleans, with a Government commission, on a cruise, first off Havana, and thence off Cadiz, in which I captured twenty-four Spanish vessels, four of which were ordered to Buenos Ayres, one burnt, and the rest, being of little value, given up to the prisoners. On my cruise, I boarded 26 English, 24 American, 10 French, 2 Venezuela, 2 Portuguese, 1 Austrian, 2 Swedish, 1 Danish, 1 Genoese, and 24 Spanish vessels. I have the honor to be, &c.

GEORGE WILSON.

*Account of vessels sent in by privateers of this country for adjudication by the Prize Court charged therewith, continued, to wit:*

No. 23. Schooner Nuestra Señora de Mercedes, alias La Corsa, captured 29th June, by the two privateers above mentioned; declared good prize 20th September; cargo ordered to be delivered to the same agents.

No. 24. Ship Iris, captured 3d July by the privateer schooner Tucuman, Captain Don Franco. Tourner; declared good prize 25th September; cargo ordered to be delivered to Don Juan Pedro Aguirre, owner.

\* No. 25. Brig Sto. Cristo de la Salud, captured 17th June by the privateer schooner San Martin, Captain Isaac W. Martin; declared good prize 1st October; cargo ordered to be delivered to Don Juan Higinbotham, owner.

\* No. 26. Brig Tenerife, captured 3d July by the privateer schooner Congreso, Captain Jose Almeyda; declared good prize 9th October; cargo ordered to be delivered to Don Juan Pedro Aguirre, owner.



*Relations with Spain.*

N. B. In like manner were adjudicated and condemned as good prizes the following vessels, viz:

Ship Nuestra Señora de los Dolores, *alias* Primera, from Havana to Cadiz, captured by the privateer Independencia; case pending on a claim put in by Don Jose Maria de la Carrera, for amount of the vessel and freight.

Ship Nuestra Señora del Buen Suceso, *alias* La E-peranza, from Cadiz to Manilla, captured by the Independencia and Mongore privateers; cases now before your excellency, by appeal from the agents of both privateers, as to the portion they are to receive of the whole proceeds.

Signed by order of the Minister of State for the Department of War and the Marine.

JUAN JOSE DE ECHEVARRIA.

BUENOS AYRES, October 14, 1817.

*Account of vessels arrived here from sea, from the 13th instant to this date.*

18th. Prize polacre San Franco, de Asis, *alias* Los Dos Hermanos, from Havana to Cadiz, captured at Terceira by the national privateer schooner Congreso, Captain Ezra Drew, with a cargo of sugar and Campeachy wood, consigned to Don Juan Pedro Aguirre.

BUENOS AYRES, Nov. 20, 1817.—Anesategui.

[No. 47. Buenos Ayres Gazette, Saturday, November, 29, 1817.]

*Account of vessels arrived here from sea, from Thursday, the 20th, to this date.*

\* 22d. Spanish prize-ship Jesus, from Havana to Cadiz, captured 24th July last, off Terceira, by the national cruiser San Martin, Capt. Sprague, with a cargo of 628 pipes of brandy, and 34 boxes of sugar; consigned to Don Juan Higinbotham.

24th. Spanish prize-brig Gerona, captured 10th August last, off the Western islands, on her voyage from Havana to Malaga, by the national cruiser brig Rio de la Plata, Captain Clemente B. Durell, with 1,157 boxes sugar, 20 bags coffee, 1,140 hides, 287 quintals Campeachy wood, and 6 logs of mahogany; consigned to Don Juan Higinbotham.

Same date. National cruiser schooner Congreso, Captain Jose Joaquin Almeyda, from a cruise off the Canary islands, which she left on the 18th ultimo, with 3 boxes, containing correspondence captured from the enemy; consigned to Don Juan Pedro Aguirre.

[No. 48. Buenos Ayres Gazette, Saturday, December 6, 1817.]

*Accounts of vessels arrived from sea, from Thursday, 27th ultimo, to this date.*

\* November 29. Spanish prize brig Sto. Cristo, from Lima to Cadiz, captured 1st September off Santa Maria, Terceiras, by the national cruiser brig Tupac Amaru, Captain Juan Magfudole, with a cargo of cotton, copper, Jesuit's bark, and cocoa; consigned to Don David C. De Forest & Co.

\* December 3. Prize ship Diana, Captain Jacobo Barten, from Havana to Cadiz, captured

off the Balearic islands by the schooner privateer Congreso, with a cargo of sugar, coffee, cochineal, tortoise-shell, tarza, hides, and Campeachy wood; consigned to Don Juan Pedro Aguirre.

\* —. Prize brig Hermosa Maria, Captain Thomas Traske, from Laguayra to Cadiz, captured 4th October last, off Cape Santa Maria, by the schooner privateer Congreso; cargo, cotton and cocoa; consigned to Don Juan Pedro Aguirre.

\* —. Prize brig Beloz, from Barcelona to Cadiz, thence to Havana, captured off Cape Spartel by the schooner privateer Tucuman, Captain Williams; cargo, wine; consigned to Don David C. De Forest & Co.

— Privateer schooner Tucuman, Captain Jorge Williams, from a cruise off Cadiz; left the 12th October last; cargo, wine and sundries; consigned to Don David C. De Forest & Co.

[No. 49. Buenos Ayres Gazette, Saturday, December 13, 1817.]

*Account of vessels arrived here from sea, from Thursday, the 4th instant, to this date.*

\* 6th. Spanish prize brig San Francisco de Paula, Captain Guillermo Barrs, from Vigo to Barcelona, captured 2d September last, off Cape Santa Maria, by the privateer schooner Congreso; cargo, 270 pressed bundles of Sardinias; consigned to Don Juan Pedro Aguirre.

\* Same date. Spanish prize brig Maria Josefa, Captain Julian Chevas, captured by the privateer schooner Tucuman off Cadiz; cargo, 150 casks of Sardinias, and 80 bundles of leather; consigned to Don David C. De Forest & Co.

[No. 51. Buenos Ayres Gazette, Saturday, December 27, 1817.]

*Account of vessels arrived here from sea, from Thursday, 18th instant, to this date.*

19th. Spanish prize ship Mariana, *alias* La Veloz, Captain Jose Miers, captured off Cadiz by the national cruiser schooner Congreso; cargo, 512 boxes white sugar, 349 powdered ditto, and 40 logs of mahogany; consigned to Don Juan Pedro Aguirre.

[No. 23. Buenos Ayres Gazette, Saturday, January 10, 1818.]

*Account of vessels arrived here from sea, from Thursday, 1st instant, to this date.*

5th. National cruiser El General San Martin, from a cruise off Cadiz; left 18th October last, having captured two Spanish ships, the Maria Josefa, *alias* La Veloz, and the Paraguay, both from Havana to Cadiz; cargoes, sugar, coffee, cocoa, and dye woods; consigned to Don Juan Higinbotham.

WASHINGTON, November 16, 1818.

The Secretary of State to George W. Erving, Esq.

DEPARTMENT OF STATE.

Washington, November 28, 1818.

SIR: Your despatches to No. 92, inclusive, with their enclosures, have been received at this Department. Among these enclosures are the

*Relations with Spain.*

several notes addressed to you by Mr. Pizarro in relation to the transactions during the campaign of General Jackson against the Seminole Indians, and the banditti of negroes combined with them, and particularly to his proceedings in Florida without the boundaries of the United States.

In the fourth and last of these notes of Mr. Pizarro, he has given formal notice that the King, his master, has issued orders for the suspension of the negotiation between the United States and Spain until satisfaction shall have been made by the American Government to him for these proceedings of General Jackson, which he considers as acts of unequivocal hostility against him, and as outrages upon his honor and dignity; the only acceptable atonement for which is stated to consist in a disavowal of the acts of the American General thus complained of, the infliction upon him of suitable punishment for his supposed misconduct, and the restitution of the posts and territories taken by him from the Spanish authorities, with indemnity for all the property taken, and all damages and injuries, public or private, sustained in consequence of it.

Within a very few days after this notification, Mr. Pizarro must have received, with copies of the correspondence between Mr. Onis and this Department, the determination which had been taken by the President to restore the places of Pensacola, with the fort of Barancas, to any person properly authorized on the part of Spain to receive them, and the fort of St. Mark to any Spanish force adequate to its protection against the Indians, by whom its forcible occupation had been threatened for purposes of hostility against the United States. The officer commanding at the post has been directed to consider two hundred and fifty men as such adequate force, and, in case of their appearance with proper authority, to deliver it up to their commander accordingly.

From the last-mentioned correspondence, the Spanish Government must likewise have been satisfied that the occupation of these places in Spanish Florida by the commander of the American forces was not by virtue of any orders received by him from this Government to that effect, nor with any view of wresting the province from the possession of Spain, nor in any spirit of hostility to the Spanish Government; that it arose from incidents which occurred in the prosecution of the war against the Indians, from the imminent danger in which the fort of St. Mark was of being seized by the Indians themselves, and from the manifestations of hostility to the United States by the commandant of St. Mark's and the Governor of Pensacola, the proofs of which were made known to General Jackson, and impelled him, from the necessities of self-defence, to the steps of which the Spanish Government complains.

It might be sufficient to leave the vindication of these measures upon those grounds, and to furnish, in the enclosed copies of General Jackson's letters, and the vouchers by which they are supported, the evidence of that hostile spirit on

the part of the Spanish commanders, but for the terms in which Mr. Pizarro speaks of the execution of two British subjects taken, one at the fort of St. Mark, and the other at Suwanee, and the intimation that these transactions may lead to a change in the relations between the two nations, which is doubtless intended to be understood as a menace of war.

It may be, therefore, proper to remind the Government of His Catholic Majesty of the incidents in which this Seminole war originated, as well as of the circumstances connected with it in the relations between Spain and her ally, whom she supposes to have been injured by the proceedings of General Jackson; and to give to the Spanish Cabinet some precise information of the nature of the business, peculiarly interesting to Spain, in which these subjects of her allies, in whose favor she takes this interest, were engaged, when their projects of every kind were terminated in consequence of their falling into the hands of General Jackson.

In the month of August, 1814, while a war existed between the United States and Great Britain, to which Spain had formally declared herself neutral, a British force, not in the fresh pursuit of a defeated and flying enemy, not overstepping an imaginary and equivocal boundary between their own territories and those belonging, in some sort, as much to their enemy as to Spain, but approaching by sea, and by a broad and open invasion of the Spanish province, at a thousand miles or an ocean's distance from any British territory, landed in Florida, took possession of Pensacola and the fort of Barancas, and invited, by public proclamations, (document No. 1.) all the runaway negroes, all the savage Indians, all the pirates, and all the traitors to their country whom they knew or imagined to exist within reach of their summons, to join their standard, and wage an exterminating war against the portion of the United States immediately bordering upon this neutral and thus violated territory of Spain. The land commander of this British force was a certain Colonel Nicholls, who, driven from Pensacola by the approach of General Jackson, actually left to be blown up the Spanish fort of Barancas when he found it could not afford him protection; and, evacuating that part of the province, landed at another, established himself on the Appalachicola river, and there erected a fort from which to sally forth with his motley tribe of black, white, and red combatants against the defenceless borders of the United States in that vicinity. A part of this force consisted of a corps of colonial marines, levied in the British colonies, in which George Woodbine was a captain, and Robert Christie Ambrister was a lieutenant. (Nos. 2 b. 59, 60.)

As between the United States and Great Britain, we should be willing to bury this transaction in the same grave of oblivion with other transactions of that war, had the hostilities of Colonel Nicholls terminated with the war; but he did not consider the peace which ensued between the United States and Great Britain as having



*Relations with Spain.*

put an end, either to his military occupations, or to his negotiations with the Indians against the United States. Several months after the ratification of the Treaty of Ghent, he retained his post, and his party-colored forces in military array. By the ninth article of that treaty (No. 2 b.) the United States had stipulated to put an end, immediately after its ratification, to hostilities with all the tribes or nations of Indians with whom they might be at war at the time of the ratification, and to restore to them all the possessions which they had enjoyed in the year 1811. This article had no application to the Creek nation, with whom the United States had already made peace, by a treaty concluded on the 9th day of August, 1814, more than four months before the Treaty of Ghent was signed. Yet Colonel Nicholls not only affected to consider it as applying to the Seminoles of Florida, and the outlawed Red Sticks, whom he had induced to join him there, but actually persuaded them that they were entitled, by virtue of the Treaty of Ghent, to all the lands which had belonged to the Creek nation within the United States in the year 1811, and that the Government of Great Britain would support them in that pretension. He asserted (No. 2. a. c.) also this doctrine in a correspondence with Colonel Hawkins, then the agent of the United States with the Creeks, and gave him notice in their name, with a mockery of solemnity, (No. 9.) that they had concluded a treaty of alliance, offensive and defensive, and a treaty of navigation and commerce, with Great Britain, of which more was to be heard after it should be ratified in England. Colonel Nicholls then evacuated his fort, which, in some of the enclosed papers, is called the Fort at Prospect Bluff, but which he had denominated the British post on the Appalachicola; took with him the white portion of his force, and embarked for England with several of the wretched savages whom he was thus deluding to their fate, among whom was the prophet Francis or Hillis Hadjo, and left the fort, amply supplied with military stores and ammunitions, to the negro department of his allies. It afterwards was known by the name of the Negro Fort.

Colonel Hawkins immediately communicated to this Government the correspondence between him and Nicholls, here referred to, (copies of which, marked Nos. 1 to 5, are herewith enclosed,) upon which, Mr. Monroe, then Secretary of State, addressed a letter (No. 10) to Mr. Baker, the British Chargé d'Affaires at Washington, complaining of Nicholls's conduct, and showing that his pretence that the ninth article of the Treaty of Ghent could have any application to his Indians was utterly destitute of foundation. Copies of the same correspondence were transmitted to the Minister of the United States, then in England, with instructions (No. 11) to remonstrate with the British Government against these proceedings of Nicholls, and to show how incompatible they were with the peace which had been concluded between the two nations. These remonstrances were accordingly made, first in per-

sonal interview with Earl Bathurst and Lord Castlereagh, and afterwards in written notes addressed successively to them, (copies of which, [Nos. 12 a. b, 13 a. b.] together with extracts from the despatches of the American Ministers to the Secretary of State, reporting what passed at those interviews, are enclosed.) Lord Bathurst, in the most unequivocal manner, confirmed the facts, and disavowed the misconduct of Nicholls; declared his disapprobation of the pretended treaty of alliance, offensive and defensive, which he had made; assured the American Minister that the British Government had refused to ratify that treaty, and would send back the Indians whom Nicholls had brought with him, with advice to make their peace on such terms as they could obtain. Lord Castlereagh confirmed the assurances that the treaty would not be ratified; and if, at the same time that these assurances were given, certain distinctions of public notoriety were shown to the prophet Hillis Hadjo, and he was actually honored with a commission as a British officer, it is to be presumed that these favors were granted him as rewards of past services, and not as an encouragement to expect any support from Great Britain in a continuance of savage hostilities against the United States; all intention of giving any such support having been repeatedly and earnestly disavowed.

The negro fort, however, abandoned by Colonel Nicholls, remained on the Spanish territory, occupied by the banditti to whom he had left it, and held by them as a post from whence to commit depredations, outrages, and murders, and as a receptacle for fugitive slaves and malefactors, (No. 14,) to the great annoyance both of the United States and of Spanish Florida. In April, 1816, General Jackson wrote a letter to the Governor of Pensacola, calling upon him to put down this common nuisance to the peaceable inhabitants of both countries. That letter, together with the answer of the Governor of Pensacola, (No. 15,) has already been communicated to the Spanish Minister here, and by him doubtless to his Government. Copies of them are, nevertheless, now again enclosed; particularly as the letter from the Governor explicitly admits that this fort, constructed by Nicholls in violation both of the territory and neutrality of Spain, was still no less obnoxious to his Government than to the United States; but that he had neither sufficient force nor authority, without orders from the Governor General of Havana, to destroy it. It was afterwards, (No. 23,) on the 27th of July, 1816, destroyed by a cannon shot from a gun vessel of the United States, which, in its passage up the river, was fired upon from it. It was blown up with an English flag still flying as its standard, and immediately after the barbarous murder of a boat's crew belonging to the Navy of the United States, by the banditti left in it by Nicholls.

In the year 1817, Alexander Arbuthnot, of the island of New Providence, a British subject, first appeared as an English trader in Spanish Florida, and as the successor of Colonel Nicholls in the employment of instigating the Seminole and out-

*Relations with Spain.*

lawed Red Sticks to Indian hostilities against the United States, by reviving the pretence that they were entitled to all the lands which had been ceded by the Creek nation to the United States in August, 1814. As a mere Indian trader, the intrusion of this man into a Spanish province was contrary to the policy observed by all the European Powers in this hemisphere, and by none more rigorously than by Spain, of excluding all foreigners from intercourse with the Indians within their territories. It must be known to the Spanish Government whether Arbuthnot had a Spanish license for trading with the Indians in Spanish Florida, or not; but they also know that Spain was bound by treaty to restrain by force all hostilities on the part of those Indians against the citizens of the United States; and it is for them to explain how, consistently with those engagements, Spain could, contrary to all the maxims of her ordinary policy, grant such a license to a foreign incendiary, whose principal if not his only object appears to have been to stimulate those hostilities which Spain had expressly stipulated by force to restrain. In his infernal instigations he was but too successful, (No. 49.) No sooner did he make his appearance among the Indians, accompanied by the prophet Hillis Hadjo, returned from his expedition to England, (No. 50,) than the peaceful inhabitants on the borders of the United States were visited with all the horrors of savage war—the robbery of their property, and the barbarous and indiscriminate murder of women, infancy, and age.

After the repeated expostulations, warnings, and offers of peace, through the Summer and Autumn of 1817, on the part of the United States, had been answered only by renewed outrages, and after a detachment of forty men, under Lieutenant Scott, (No. 51 a.) accompanied by seven women, had been waylaid and murdered by the Indians, (No. 61,) orders were given to General Jackson, and an adequate force was placed at his disposal to terminate the war. It was ascertained that the Spanish force in Florida was inadequate for the protection even of the Spanish territory itself against this mingled horde of lawless Indians and negroes; and, although their devastations were committed within the limits of the United States, they immediately sought refuge within the Florida line, and there only were to be overtaken. The necessity of crossing the line was indispensable; for it was from beyond the line that the Indians made their murderous incursions within that of the United States. It was there that they had their abode; and the territory belonged, in fact, to them, although within the borders of the Spanish jurisdiction. There it was that the American commander met the principal resistance from them; there it was that were found (No. 38) the still bleeding scalps of our citizens, freshly butchered by them; there it was that he released the only woman who had been suffered to survive the massacre of the party under Lieutenant Scott. But it was not anticipated by this Government that the commanding officers of Spain in Florida, whose especial duty it was, in

conformity to the solemn engagements contracted by their nation, to restrain by force those Indians from hostilities against the United States, would be found encouraging, aiding, and abetting them, and furnishing them supplies for carrying on such hostilities. The officer in command immediately before General Jackson was, therefore, specially instructed to respect, as far as possible, the Spanish authority, wherever it was maintained; and copies of those orders were also furnished to General Jackson, upon his taking the command.

In the course of his pursuit, as he approached St. Marks, he was informed direct from the Governor of Pensacola that a party of the hostile Indians had threatened to seize that fort, and that he apprehended the Spanish garrison there was not in strength sufficient to defend it against them. This information was confirmed from other sources, and, by the evidence produced upon the trial of Ambrister, is proved to have been exactly true. By all the laws of neutrality and of war, as well as of prudence and of humanity, he was warranted in anticipating his enemy by the amicable, and, that being refused, by the forcible occupation of the fort. There will need no citations from printed treatises on international law to prove the correctness of this principle. It is engraved in adamant on the common sense of mankind. No writer upon the laws of nations ever pretended to contradict it. None, of any reputation or authority, ever omitted to assert it.

At Fort St. Mark, Alexander Arbuthnot, the British Indian trader from beyond the seas, the firebrand by whose touch this negro-Indian war against our borders had been rekindled, was found (No. 34) an inmate of the commandant's family; and it was also found that, by the commandant himself, councils of war had been permitted to be held within it by the savage chiefs and warriors; that the Spanish storehouses had been appropriated to their use; that it was an open market for cattle known to have been robbed by them from citizens of the United States, and which had been contracted for and purchased by the officers of the garrison; that information had been afforded from this fort by Arbuthnot to the enemy of the strength and movements of the American army; that the date of departure of express had been noted by the Spanish commissary; and ammunition, munitions of war, and all necessary supplies furnished to the Indians.

The conduct of the Governor of Pensacola was not less marked by a disposition of enmity to the United States, and by an utter disregard to the obligations of the treaty, by which he was bound to restrain, by force, the Indians from hostilities against them. When called upon to vindicate the territorial rights and authority of Spain, by the destruction of the negro fort, his predecessor had declared it to be not less annoying and pernicious to the Spanish subjects in Florida than to the United States, but had pleaded his inability to subdue it. He himself had expressed his apprehensions that Fort St. Mark would be forcibly taken by the savages from its Spanish gar-



*Relations with Spain.*

rison; yet, at the same time, he had refused the passage up the Escambia river, unless upon the payment of excessive duties, to provisions destined as supplies for the American army, which, by the detention of them, was subjected to the most distressing privations. He had permitted free ingress and egress at Pensacola to the avowed savage enemies of the United States. Supplies of ammunition, munitions of war, and provisions, had been received by them from thence. They had been received and sheltered there from the pursuit of the American forces, and suffered again to sally thence, to enter upon the American territory, and commit new murders. Finally, on the approach of General Jackson to Pensacola, the Governor sent him a letter (No. 33) denouncing his entry upon the territory of Florida as a violent outrage upon the rights of Spain, commanding him to depart and withdraw from the same, and threatening, in case of his non-compliance, to employ force to expel him.

It became, therefore, in the opinion of General Jackson, (No. 54,) indispensably necessary to take from the Governor of Pensacola the means of carrying his threat into execution. Before the forces under his command, the savage enemies of his country had disappeared. But he knew that the moment those forces should be disbanded, if sheltered by Spanish fortresses, if furnished with ammunition and supplies by Spanish officers, and if aided and supported by the instigation of Spanish encouragement, as he had every reason to expect they would be, they would reappear, and, fired, in addition to their ordinary ferociousness, with revenge for the chastisement they had so recently received, would again rush with the war-hatchet and the scalping-knife into the borders of the United States, and mark every footstep with the blood of their defenceless citizens. So far as all the native resources of the savage extended, the war was at an end; and General Jackson was about to restore to their families and their homes the brave volunteers who had followed his standard, and who had constituted the principal part of his force. This could be done with safety, leaving the regular portion of his troops to garrison his line of forts, and two small detachments of volunteer cavalry to scour the country round Pensacola, and sweep off the lurking remnant of savages who had been scattered and dispersed before him. This was sufficient to keep in check the remnant of the banditti against whom he had marched, so long as they should be destitute of other aid and support. It was, in his judgment, not sufficient, if they should be suffered to rally their numbers under the protection of Spanish forts, and to derive new strength from the impotence or the ill-will against the United States of the Spanish authorities.

He took possession, therefore, of Pensacola and of the fort of Barancas, as he had done of St. Mark, not in a spirit of hostility to Spain, but as a necessary measure of self-defence; giving notice that they should be restored whenever Spain should place commanders and a force

there able and willing to fulfil the engagements of Spain towards the United States, or of restraining by force the Florida Indians from hostilities against their citizens. The President of the United States, to give a signal manifestation of his confidence in the disposition of the King of Spain to perform with good faith this indispensable engagement, and to demonstrate to the world that neither the desire of conquest, nor hostility to Spain, had any influence in the councils of the United States, has directed the unconditional restoration, to any Spanish officer duly authorized to receive them, of Pensacola and the Barancas, and that of St. Mark's, to any Spanish force adequate to its defence against the attack of the savages. But the President will neither inflict punishment, nor pass a censure upon General Jackson, for that conduct, the motives for which were founded in the purest patriotism; of the necessity for which he had the most immediate and effectual means of forming a judgment; and the vindication of which is written in every page of the law of nations, as well as in the first law of nature—self-defence. He thinks it, on the contrary, due to the justice which the United States have a right to claim from Spain, and you are accordingly instructed to demand of the Spanish Government that inquiry shall be instituted into the conduct of Don Jose Mazot, Governor of Pensacola, and of Don Francisco C. Luengo, commandant of St. Mark's, and a suitable punishment inflicted upon them, for having, in defiance and violation of the engagements of Spain with the United States, aided and assisted these hordes of savages in those very hostilities against the United States which it was their official duty to restrain. This inquiry is due to the character of those officers themselves, and to the honor of the Spanish Government. The obligation of Spain to restrain, by force, the Indians of Florida from hostilities against the United States and their citizens, is explicit, is positive, is unqualified. The fact that, for a series of years, they have received shelter, assistance, supplies, and protection, in the practice of such hostilities, from the Spanish commanders in Florida, is clear and unequivocal. If, as the commanders both at Pensacola and St. Marks have alleged, (Nos. 32, 42,) this has been the result of their weakness rather than of their will; if they have assisted the Indians against the United States to avert their hostilities from the province which they had not sufficient force to defend against them, it may serve in some measure to exculpate, individually, those officers; but it must carry demonstration irresistible to the Spanish Government, that the right of the United States can as little compound with impotence as with perfidy, and that Spain must immediately make her election, either to place a force in Florida adequate at once to the protection of her territory, and to the fulfilment of her engagements, or cede to the United States a province, of which she retains nothing but the nominal possession, but which is, in fact, a derelict, open to the occupancy of every enemy, civilized or

*Relations with Spain.*

savage, of the United States, and serving no other earthly purpose than as a post of annoyance to them.

That the purposes, as well of the negro-Indian banditti, with whom we have been contending, as of the British invaders of Florida, who first assembled and employed them, and of the British intruding and pretended traders, since the peace, who have instigated and betrayed them to destruction, have been not less hostile to Spain than to the United States, the proofs contained in the documents herewith enclosed are conclusive. Mr. Pizarro's note of 29th August speaks of His Catholic Majesty's profound indignation at the "sanguinary executions on the Spanish soil of the subjects of Powers in amity with the King;" meaning Arbuthnot and Ambrister. Let Mr. Pizarro's successor take the trouble of reading the enclosed documents, (Nos. 49, 58,) and he will discover who Arbuthnot and Ambrister were, and what were their purposes; that Arbuthnot was only the successor of Nicholls, and Ambrister the agent of Woodbine, and the subaltern of McGregor. Mr. Pizarro qualifies General Jackson's necessary pursuit of a defeated savage enemy beyond the Spanish Florida line as a shameful invasion of His Majesty's territory. Yet that territory was the territory also of the savage enemy, and Spain was bound to restrain them by force from hostilities against the United States; and it was the failure of Spain to fulfil this engagement which had made it necessary for General Jackson to pursue the savage across the line. What, then, was the character of Nicholls's invasion of His Majesty's territory? And where was His Majesty's profound indignation at that? Mr. Pizarro says, His Majesty's forts and places have been violently seized on by General Jackson. Had they not been seized on, nay, had not the principal of his forts been blown up by Nicholls, and a British fort on the same Spanish territory been erected during the war, and left standing as a negro fort, in defiance of Spanish authority, after the peace? Where was His Majesty's profound indignation at that? Has His Majesty suspended formally all negotiation with the Sovereign of Colonel Nicholls for this shameful invasion of his territory, without color of provocation, without pretence of necessity, without shadow or even avowal of a pretext? Has His Majesty given solemn warning to the British Government that these were incidents "of transcendent moment, capable of producing an essential and thorough change in the political relations of the two countries?" Nicholls and Woodbine, in their invitations and promises to the slaves to run away from their masters and join them, did not confine themselves to the slaves of the United States. They received with as hearty a welcome, and employed with equal readiness, the fugitives from their masters in Florida as those from Georgia. Against this special injury the Governor of Pensacola did earnestly remonstrate with the British admiral, Cockburn. (See document marked No. 25.) But against the shameful invasion of the territory;

against the violent seizure of the forts and places; against the blowing up of the Barancas, and the erection and maintenance, under British banners, of the negro fort on Spanish soil; against the negotiation by a British officer, in the midst of peace, of pretended treaties, offensive and defensive, and of navigation and commerce, upon Spanish territory, between Great Britain and Spanish Indians, whom Spain was bound to control and restrain—if a whisper of expostulation was ever wafted from Madrid to London, it was not loud enough to be heard across the Atlantic, nor energetic enough to transpire beyond the walls of the palaces from which it issued, and to which it was borne.

The connexion between Arbuthnot and Nicholls, and between Ambrister, Woodbine, and McGregor, is established beyond all question, by the evidence produced at the trials before the court-martial. I have already remarked to you on the very extraordinary circumstance that a British trader from beyond the sea should be permitted by the Spanish authorities to trade with the Indians of Florida. From his letter to Hambly, dated 3d May, 1817, (see the document marked G, in the proceedings of the court-martial,) it appears that his trading was but a pretence, and that his principal purpose was to act as the agent of the Indians of Florida, and outlaws from the Creeks, to obtain the aid of the British Government in their hostilities against the United States. He expressly tells Hambly there that the chief of those outlaws was the principal cause of his (Arbuthnot's) being in the country, and that he had come with an answer from Earl Bathurst, delivered to him by Governor Cameron, of New Providence, to certain Indian talks, in which the aid of the British Government had been solicited.

Hambly himself had been left by Nicholls as the agent between the Indians and the British Government; but having found that Nicholls had failed in his attempt to prevail upon the British Government to pursue this clandestine war in the midst of peace, and that they were not prepared to support his pretence that half a dozen outlawed fugitives from the Creeks were the Creek nation; when Arbuthnot, the incendiary, came, and was instigating them, by promises of support from Great Britain, to commence their murderous incursions into the United States, Hambly, at the request of the chiefs of the Creeks themselves, wrote to him, (Nos. 47, 6,) warning him to withdraw from among that band of outlaws, and giving him a solemn foreboding of the doom that awaited him from the hand of justice if he persevered in the course that he pursued. Arbuthnot nevertheless persisted; and while he was deluding the wretched Indians with the promise of support from England, he was writing letters for them (No. 49 B C D E F) to the British Minister in the United States, to Governor Cameron, of New Providence, to Colonel Nicholls, to be laid before the British Government, and even to the Spanish Governor of St. Augustine, and the Governor General of the



*Relations with Spain.*

Havana, (H n. 2.) soliciting, in all quarters, aid and support, arms and ammunition, for the Indians against the United States, bewailing the destruction of the negro fort, and charging the British Government with having drawn the Indians into war with the United States, and deserting them after the peace.

You will remark among the papers produced on his trial, a power of attorney (No. 49 n. 1) dated June 17, 1817, given him by twelve Indians, partly of Florida, and partly of the fugitive outlaws from the United States. He states that his power and his instructions were to memorialize the British Government and the Governor General of the Havana. These papers are not only substantially proved as of his handwriting on the trial, but, in the daily newspapers of London of the 24th and 25th of August last, his letter to Nicholls (compare Nos. 47 a. and 49 F.) is published, (somewhat curiously garbled,) with a copy (No. 47 b.) of Hambly's above-mentioned letter to him, and a reference to this Indian power of attorney to him, (compare Nos. 47 c. and 49 n. 1,) approved by the commandant of St. Mark's, F. C. Luengo. Another of the papers is a letter written in the name of the same chiefs, by Arbuthnot, to the Governor General of the Havana, (No. 49 H.) asking of him permission for Arbuthnot to establish a warehouse on the Appalachian, bitterly and falsely complaining that the Americans had made settlements on their lands within the Spanish lines, and calling upon the Governor General to give orders to displace them, and send them back to their own country. In this letter, they assign as a reason for asking the license for Arbuthnot, their want of a person to put in writing for them their talks of grievances against the Americans, and they add: "The commander of the fort of St. Mark has heard of all our talks and complaints. He approves of what we have done and what we are doing, and it is by his recommendation we have thus presumed to address your excellency." You will find these papers in the printed newspapers enclosed, and in the proceedings of the court-martial, and will point them out to the Spanish Government, not only as decisive proofs of the unexampled compliances of the Spanish officers in Florida to foreign intrusive agents and instigators of Indian hostilities against the United States, but as placing beyond a doubt that participation of this hostile spirit in the commandant of St. Mark's which General Jackson so justly complains of, and of which we have so well-founded a right to demand the punishment. Here is the commandant of a Spanish fort, bound by the sacred engagement of a treaty to restrain by force the Indians within his command from committing hostilities against the United States, conspiring with those same Indians, and deliberately giving his written approbation to their appointment of a foreigner, a British subject, as their agent to solicit assistance and supplies from the Governor General of the Havana, and from the British, for carrying on those same hostilities.

Let us come to the case of Ambrister. He was taken in arms, leading and commanding the Indians in the war against the American troops; and to that charge, upon his trial, pleaded guilty. But the primary object of his coming there was still more hostile to Spain than to the United States. You find (No. 58) that he told three of the witnesses who testified at his trial that he had come to this country upon Mr. Woodbine's business at Tampa bay, to see the negroes righted; and one of them, that he had a commission in the patriot army under McGregor, and that he had expected a captaincy. And what was the intended business of McGregor and Woodbine at Tampa bay? It was the conquest of Florida from Spain, by the use of those very Indians and negroes whom the commandant of St. Mark's was so ready to aid and support in war against the United States. The chain of proof that establishes this fact is contained in the documents communicated by the President to Congress at their last session, relating to the occupation of Amelia Island by McGregor. From these documents you will find (Nos. 56, 57 a.) that while McGregor was there, Woodbine went from New Providence in a schooner of his own to join him; that he arrived at Amelia Island just as McGregor, abandoning the companions of his achievement there, was leaving it; that McGregor, quitting the vessel in which he had embarked at Amelia, went on board that of Woodbine, and returned with him to New Providence; that Woodbine had persuaded him they could yet accomplish the conquest of Florida with soldiers to be recruited at Nassau from the corps of colonial marines which had served under Nicholls during the late war with the United States, which corps had been lately disbanded, and with negroes to be found at Tampa bay, and 1,500 Indians already then engaged to Woodbine, who pretended that they had made a grant of all their lands there to him. Among the papers, the originals of which are in our possession, are, in McGregor's own handwriting, instructions (No. 57 b.) for sailing into Tampa bay, with the assertion that he calculated to be there by the last of April or first of May of the present year; a letter (c) dated 27th December last, to one of his acquaintances in this country, disclosing the same intention; and the extract of a proclamation (d.) which was to have been issued at Tampa bay, to the inhabitants of Florida, by the person charged with making the settlement there before his arrival, announcing his approach for the purpose of liberating them from the despotism of Spain, and of enabling them to form a Government for themselves. He had persuaded those who would listen to him here that his ultimate object was to sell the Floridas to the United States. There is some reason to suppose that he had made indirect overtures of a similar nature to the British Government. This was Ambrister's business in Florida. He arrived there in March, the precursor of McGregor and Woodbine; and immediately upon his arrival he is found (No. 49) seizing upon Arbuthnot's goods, and distributing them among the negroes and In-

*Relations with Spain.*

dians; seizing upon his vessel, and compelling its master to pilot him, with a body of armed negroes, towards the fort of St. Mark, with the declared purpose of taking it by surprise in the night; writing letters to Governor Cameron, of New Providence, urgently calling for supplies of munitions of war and of cannon for the war against the Americans, and letters to Colonel Nicholls, renewing the same demands of supplies, informing him that he is with 300 negroes, "a few of our Bluff people," who had stuck to the cause, and were relying upon the faith of Nicholls's promises. "Our Bluff people" were the people of the negro fort, collected by Nicholls and Woodbine's proclamations during the American and English war; and "the cause" to which they stuck was the savage, servile, exterminating war against the United States.

Among the agents and actors of such virtuous enterprises as are here unveiled, it was hardly to be expected that there would be found remarkable evidences of their respect, confidence, and good faith towards one another. Accordingly, besides the violent seizure and distribution by Ambrister of Arbuthnot's property, his letters to Cameron and to Nicholls are filled with the distrust and suspicions of the Indians that they were deceived and betrayed by Arbuthnot; while, in Arbuthnot's letters to the same Nicholls, (No. 49 F) he accuses Woodbine of having taken charge of poor Francis the prophet, or Hillis Hadjo, upon his return from England to New Providence, and, under pretence of taking care of him and his affairs, of having defrauded him of a large portion of the presents which had been delivered out from the King's stores to him for Francis's use. This is one of the passages of Arbuthnot's letter (No. 47 a.) to Nicholls, omitted in the publication of it last August in the London newspapers.

Is this narrative of dark and complicated depravity; this creeping and insidious war, both against Spain and the United States; this mockery of patriotism; these political filters to fugitive slaves and Indian outlaws; these perfidies and treacheries of villains incapable of keeping their faith even to each other; all in the name of South American liberty, of the rights of runaway negroes, and the wrongs of savage murderers—all combined and projected to plunder Spain of her province, and to spread massacre and devastation along the borders of the United States—is all this sufficient to cool the sympathies of His Catholic Majesty's Government, excited by the execution of these two "subjects of a Power in amity with the King!" The Spanish Government is not at this day to be informed that, cruel as war in its mildest forms must be, it is, and necessarily must be, doubly cruel when waged with savages; that savages make no prisoners but to torture them; that they give no quarters; that they put to death, without discrimination of age or sex. That these ordinary characteristics of Indian warfare have been applicable, in their most heart-sickening horrors to that war left us by Nicholls as his legacy, rekindled by Wood-

bine, Arbuthnot, and Ambrister, and stimulated by the approbation, encouragement, and aid of the Spanish commandant at St. Marks, is proof required? Entreat the Spanish Minister of State for a moment to overcome the feelings which details like these must excite; and to reflect, if possible, with composure, upon the facts stated in the following extracts from the documents enclosed:

Letter from sailingmaster Jairus Loomis to Commodore Daniel T. Patterson, 13th August, 1816, reporting the destruction of the negro fort. (No. 23.)

"On examining the prisoners, they stated that Edward Daniels, ordinary seaman, who was made prisoner in the boat on the 17th July, was tarred and burnt alive."

Letter from Archibald Clarke to Gen. Gaines, 26th February, 1817. (Message from the President of the United States to Congress, 25th March, 1818.)

"On the 24th instant the house of Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, (Georgia,) was attacked, during his absence, near the middle of the day, by this party, (of Indians,) consisting of about fifteen, who shot Mrs. Garret in two places, and then despatched her by stabbing and scalping. Her two children, one about three years, the other two months, were also murdered, and the eldest scalped; the house was then plundered of every article of value, and set on fire."

Letter from Peter B. Cook (Arbuthnot's clerk) to Eliz. A. Carney, at Nassau, dated Suwanee, 19th January, 1818, giving an account of their operations with the Indians against the Americans, and their massacre of Lieutenant Scott and his party, (No. 61.)

"There was a boat that was taken by the Indians, that had in it thirty men, seven women, and four small children. There were six of the men got clear, and one woman saved, and all the rest of them got killed. The children were taken by the leg, and their brains dashed out against the boat."

If the bare recital of scenes like these cannot be perused without shuddering, what must be the agonized feelings of those whose wives and children are from day to day, and from night to night, exposed to be the victims of the same barbarity? Has mercy a voice to plead for the perpetrators and instigators of deeds like these? Should inquiry hereafter be made why, within three months after this event, the savage Hamathli-Meico, upon being taken by the American troops, was by order of their commander immediately hung, let it be told that that savage was the commander of the party by whom those women were butchered, and those helpless infants were thus dashed against the boat. Contending with such enemies, although humanity revolts at entire retaliation upon them, and spares the lives of their feeble and defenceless women and children, yet mercy herself surrenders to retributive justice the lives of their leading warriors taken in arms, and, still more, the lives of the foreign white incendiaries!



*Relations with Spain.*

who, disowned by their own Governments, and disowning their own natures, degrade themselves beneath the savage character by voluntarily descending to its level. Is not this the dictate of common sense? Is it not the usage of legitimate warfare? Is it not consonant to the soundest authorities of national law? "When at war, (says Vattel) with a ferocious nation which observes no rules, and grants no quarter, they may be chastised in the persons of those of them who may be taken; they are of the number of the guilty; and by this rigor the attempt may be made of bringing them to a sense of the laws of humanity." And again: "As a General has the right of sacrificing the lives of his enemies to his own safety, or that of his people, if he has to contend with an inhuman enemy, often guilty of such excesses, he may take the lives of some of his prisoners, and treat them as his own people have been treated." The justification of these principles is found in their salutary efficacy for terror and for example.

It is thus only that the barbarities of Indians can be successfully encountered. It is thus only that the worse than Indian barbarities of European impostors, pretending authority from their Governments, but always disavowed, can be punished and arrested. Great Britain yet engages the alliance and co-operation of savages in war; but her Government has invariably disclaimed all countenance or authorization to her subjects to instigate them against us in time of peace. Yet, so it has happened, that, from the period of our established independence to this day, all the Indian wars with which we have been afflicted have been distinctly traceable to the instigation of English traders or agents. Always disavowed, yet always felt; more than once detected, but never before punished; two of them, offenders of the deepest dye, after solemn warning to their Government, and individually to one of them, have fallen, *flagrante delicto*, into the hands of an American General; and the punishment inflicted upon them has fixed them on high, as an example awful in its exhibition, but, we trust, auspicious in its results, of that which awaits unauthorized pretenders of European agency to stimulate and interpose in wars between the United States and the Indians within their control.

This exposition of the origin, the causes, and the character of the war with the Seminole Indians and part of the Creeks, combined with McGregor's mock patriots and Nicholls's negroes, which necessarily led our troops into Florida, and gave rise to all those incidents of which Mr. Pizarro so vehemently complains, will, it is hoped, enable you to present other and sounder views of the subject to his Catholic Majesty's Government.

It will enable you to show that the occupation of Pensacola and St. Marks was occasioned neither by a spirit of hostility to Spain, nor with a view to extort prematurely the province from her possession; that it was rendered necessary by the neglect of Spain to perform her engagements of

restraining the Indians from hostilities against the United States, and by the culpable countenance, encouragement, and assistance given to those Indians, in their hostilities, by the Spanish governor and commandant at those places; that the United States have a right to demand, as the President does demand, of Spain the punishment of those officers for this misconduct; and he further demands of Spain a just and reasonable indemnity to the United States for the heavy and necessary expenses which they have been compelled to incur by the failure of Spain to perform her engagements to restrain the Indians, aggravated by this demonstrated complicity of her commanding officers with them in their hostilities against the United States; that the two Englishmen executed by order of General Jackson were not only identified with the savages, with whom they were carrying on the war against the United States, but that one of them was the mover and fomentor of the war, which, without his interference, and false promises to the Indians of support from the British Government, never would have happened; that the other was the instrument of war against Spain as well as the United States, commissioned by McGregor, and expedited by Woodbine, upon their project of conquering Florida with these Indians and negroes; that, as accomplices of the savages, and sinning against their better knowledge, worse than savages, General Jackson, possessed of their persons and of the proofs of their guilt, might, by the lawful and ordinary usages of war, have hung them both without the formality of a trial; that, to allow them every possible opportunity of refuting the proofs, or of showing any circumstance in extenuation of their crimes, he gave them the benefit of trial by a court martial of highly respectable officers; that the defence of one consisted solely and exclusively of technical cavils at the nature of part of the evidence against him, and the other confessed his guilt; finally, that, in restoring Pensacola and St. Marks to Spain, the President gives the most signal proof of his confidence that, hereafter, her engagement to restrain by force the Indians of Florida from all hostilities against the United States will be effectually fulfilled; that there will be no more murders, no more robberies, within our borders, by savages prowling along the Spanish line, and seeking shelter within it, to display in their villages the scalps of our women and children, their victims, and to sell, with shameless effrontery, the plunder from our citizens in Spanish forts and cities; that we shall hear no more apologies from Spanish governors and commandants of their inability to perform the duties of their office and the solemn contracts of their country—no more excuses for compliances to the savage enemies of the United States, from the dread of their attacks upon themselves—no more harboring of foreign impostors upon compulsion; that a strength sufficient will be kept in the province to restrain the Indians by force, and officers empowered and instructed to employ it effectually to maintain the good faith of the na-

*Relations with Spain.*

tion by the effective fulfilment of the treaty. The duty of this Government to protect the persons and property of our fellow-citizens on the borders of the United States is imperative—it must be discharged. And if, after all the warnings that Spain has had; if, after the prostration of all her territorial rights and neutral obligations by Nicholls and his banditti during war, and of all her treaty stipulations by Arbuthnot and Ambrister, abetted by her own commanding officers, during peace, to the cruel annoyance of the United States; if the necessities of self-defence should again compel the United States to take possession of the Spanish forts and places in Florida, declare, with the frankness and candor that become us, that another unconditional restoration of them must not be expected; that even the President's confidence in the good faith and ultimate justice of the Spanish Government will yield to the painful experience of continual disappointment; and that, after unwearied and almost unnumbered appeals to them for the performance of their stipulated duties in vain, the United States will be reluctantly compelled to rely for the protection of their borders upon themselves alone.

You are authorized to communicate the whole of this letter, and the accompanying documents, to the Spanish Government.

I have the honor, &c.

JOHN Q. ADAMS.

G. W. ERVING, Minister to Spain.

*The Secretary of State to Don Luis De Onis.*

DEPARTMENT OF STATE,  
Washington, November 30, 1818.

SIR: I have had the honor of receiving your letter of the 16th instant, and am directed by the President to inform you that, in making to you the proposal contained in my letter of the 31st of last month, with regard to the western boundary between the United States and the bordering territory of Spain, it was with the view, by the magnitude of the sacrifice which it involved on the part of the United States, to manifest the deep solicitude which he felt in terminating, by a general adjustment of all the differences which have been so long in discussion between the two nations, a state of things so unpropitious to the good understanding between them, and so much to be regretted by both.

As it was believed this article could alone present an ultimate obstacle to the agreement thus earnestly desired, I was directed frankly to present you at once the utmost extent to which the Government of the United States felt itself warranted, consistently with its duties to the rights and interests of the nation, to concede, of those unquestionable rights, to accommodate the wishes and to quiet the pretensions of your Sovereign; but, in yielding thus much, you were explicitly notified that the proposition was final, and that upon your acceptance of it depended the only remaining hope, in the mind of the President, of a

termination to this negotiation satisfactory to both parties.

As you have now declared that you are not authorized to agree, either to the course of the Red river (Rio Roxo) for the boundary, or to the forty-first parallel of latitude, from the Snow mountains to the Pacific ocean, the President deems it useless to pursue any further the attempt at an adjustment of this object by the present negotiation. I am therefore directed to state to you that the offer of a line for the western boundary, made to you in my last letter, is no longer obligatory upon this Government.

Reserving, then, all the rights of the United States to the ancient western boundary of the colony of Louisiana by the course of the Rio Bravo del Norte, I am yet authorized to conclude a convention or treaty with you upon the other subjects of existing difference. But it is proper, in the first instance, and in reference to the first of the propositions made by you on the 24th of last month, to correct an erroneous impression which you entertain, and which is certainly not warranted by any communication which you have received from this Government. You have been informed that the contingencies upon which General Jackson adopted those measures, which you represent as hostilities and outrages, not having been anticipated, had been provided for in his instructions; that they were unforeseen emergencies upon which, judging measures of energy necessary he had resorted to them upon his own responsibility, and upon motives which he had himself explained; that these measures were dictated by the hostile spirit, not of the American commander against Spain, but of the Spanish commanders against the United States. I informed you that the President of the United States had directed that the proofs of this hostility to the United States of these Spanish officers, furnished by General Jackson, should be embodied and presented to the Government of His Catholic Majesty, with a demand that the misconduct of those officers should be suitably punished. I have now the honor of stating to you that it has accordingly been done; that the proofs collected by General Jackson, together with other accumulating demonstration of the justice of his charges against Don Jose Mazot, Governor of Pensacola, and Don Francisco C. Luengo, Commandant of St. Mark's, have been forwarded to the Minister of the United States in Spain, with instructions to lay them before your Government, and to call for their just animadversion upon the violation, by those officers, of the solemn engagements of their country to the United States.

After a full and deliberate examination of these proofs, the President deems them irresistibly conclusive that the horrible combination of robbery, murder, and war, with which the frontier of the United States bordering upon Florida has for several years past been visited, is ascribable altogether to the total and lamentable failure of Spain to fulfil the fifth article of the treaty of 1795, by which she stipulated to restrain, by force,



her Indians from hostilities against the citizens of the United States. Without adverting to the transactions of the late war between the United States and Great Britain, who can mistake the character of the fact that a fort on Spanish soil was garrisoned by hundreds of negroes and Indians, with an English banner flying upon its wall, for the desolation of the American border; and that, sixteen months after the peace of America and of England, the Governor of Pensacola, called upon by General Jackson to break up this lair of human tigers, pleaded his inability, and want of orders from his Governor General, to comply with the request? Who can mistake the character of the fact, that, six months after the stronghold of these savage banditti had been blown up by a shot from an American gun-vessel, a pretended Indian trader, foreigner both to Florida and to Spain, was permitted to come into a Spanish province, there to bribe the savages by presents, and to stimulate them by the grossest falsehoods and absurdest misrepresentations to war against the Americans? Do the Governors of Florida, the instant they learn the appearance of this intruding incendiary within their jurisdiction, seize and imprison him? Do they even command him to depart from the province? Nay, do they so much as require him to obey the laws and respect the engagements of their nation, and the duties of their stations? Far from it. Alexander Arbuthnot, a British subject from the island of New Providence, lands in the Spanish province of Florida, and there opens a warehouse for traffic with the Indians; by whose license or permission? It has not been the custom of Spain to allow the subjects of foreign Powers to intrude upon her colonial possessions; and more than one American citizen is, at this moment, pining, in the dungeons of Spain for having set his foot upon her soil; by whose permission, then, was Arbuthnot allowed to intermeddle in the province of Florida, even had it been only for the purpose of innocent trade with the Indians? Had he a license, or had, he not? If he had, it is for the governors of Florida to explain by whom and upon what motive it was granted. If he had not, it is for them to show why he was suffered, within their jurisdiction, to trample upon the laws of Spain with impunity. But innocent traffic was not the real purpose of Arbuthnot. He was there to stimulate as well the Indians of Florida as the fugitive outlaws from the Creek nation among them to war against the United States. He was goading them by the absurd pretence that the United States were bound by the Treaty of Ghent to give up to them the lands within the borders of the United States which had been ceded by the Creek nation to the United States six months before the Treaty of Ghent was signed. With the profoundest treachery to those Indians themselves, he was promising them that the British Government would support them in this pretence, and was writing letters to the Governor of New Providence, to the British Minister here, and through Colonel Nicholls, in England, to the British Government,

soliciting arms and ammunition for war against the United States. Nor was this all. He obtained from a number of Indian chiefs a power of attorney authorizing him to write letters and deliver talks in their name and behalf; and to the copy of that power, transmitted by him to England to be laid before the British Government, were affixed the signature and approbation of F. C. Luengo, commandant of St. Marks. By virtue of the same power, he wrote, in the name of those Indians, a letter to the Governor General of the Havana, falsely pretending that the Americans were settling upon their lands, within the Spanish territory, and calling upon him for force to drive them out. This letter, too, asserts that its contents were sanctioned by the approbation of the commandant of St. Marks.

Arbuthnot was taken by General Jackson at St. Marks, and was then an inmate of the family of the commandant. Among his papers was found a letter from the commandant, written shortly before, styling him his *friend*, giving him notice of the approach of the American force, and advising him to come and provide for the safety of his *little affairs*, and hold consultation with him upon subjects which could not with prudence be committed to writing. What consciousness of participation in the abominable purposes of Arbuthnot is betrayed in those few words! What were those common concerns of an English Indian trader and of the Spanish commandant of a fort, which required so thick a veil of mystery to conceal them from detection that this officer should be afraid to expose them to the possibility of discovery by committing them to paper? They were, that St. Marks was the centre of Arbuthnot's intrigues with the Indians against the United States; that councils of the hostile Indians were held at the commandant's quarters, at which he personally attended; that white men, Spanish subjects, inhabitants of Florida, had been taken prisoners by the Indians, under the influence and by the direction of Arbuthnot; reserved by the Indians for torture; delivered as prisoners to the custody of the commandant of St. Marks; received by him as prisoners, and held as such until delivered by General Jackson's approach to that place. They were, in fine, that St. Marks had, in substance, become an Indian fort under a Spanish standard; and to such an extent did the commandant countenance the savages in their depredations upon the borders of the United States, that he actually contracted with some of them to purchase cattle to be robbed by them from the citizens of Georgia, actually purchased them after they had been robbed, and actually sold them as his private property to the purveying officers of General Jackson's army after he took possession of the fort.

It is to the artifices and instigations of Arbuthnot, thus, to say the least, tolerated by the Governor of Pensacola, and thus aided and abetted by the commandant of St. Marks, that this war with the Seminole Indians has been due. But for them it would undoubtedly never have happened. If no direct proof has appeared that the Governor

of Pensacola was implicated in the criminal proceedings of Arbuthnot as the commandant of St. Marks, ample evidence has been produced of his having aided, assisted, and sheltered the Indians; of his having, as long as he dared, furnished them with supplies, including munitions of war. And his hostility to the United States has been sufficiently manifested by his exposing their army to the danger of famine, from the impediments opposed by his orders to the passage up the Escambia river of their supplies. That he harbored one Indian chief hostile to the United States, and not even belonging to Florida, is apparent by the article of capitulation which he obtained in his favor. That he suffered another, George Perryman, to escape from Pensacola upon General Jackson's approach, and go to England, there to renew, if possible, the negotiations of the prophet Francis, is announced as a late article of news in the English journals. That a number of other Indians were enabled, by the assistance of officers under his command, to escape from Pensacola on the very day that it was taken by General Jackson, is proved by the certificates of several witnesses. And, lastly, he did not hesitate to write a letter to that commander, before he took Pensacola, threatening, in the event of his not withdrawing immediately from Florida, to resist what he termed his aggressions by force.

It is therefore to the conduct of her own commanding officers that Spain must impute the necessity under which General Jackson found himself of occupying the places of their command. Had the engagements of Spain been fulfilled, the United States would have had no Seminole war. Far, then, from being under obligation to indemnify the Crown of Spain for any losses which it may have sustained in consequence of this necessity, the United States are entitled to demand, and the Minister of the United States at Madrid has been instructed accordingly, that the Crown of Spain should indemnify them for the extraordinary and indispensable expenses which they have been compelled to incur by the prosecution of this war, which Spain was bound to prevent. The revenue collected in the places occupied is very far from being adequate to that object. As to the losses or injuries to the inhabitants, as private property, both at St. Mark's and Pensacola, has been inviolably respected, no injury can have happened to them for which the United States should be responsible.

With respect to the other articles suggested in your propositions of 24th October, and your observations upon the modifications to them, proposed by me, as well as to other objects of minor concernment, to which your last note alludes, I am not aware of any insuperable obstacle to our coming to an agreement upon them. Should your instructions authorize you to waive the further consideration of the two articles upon which I have now communicated to you the final determination of the President, and to proceed in the discussion of the rest, I shall be happy to confer with you verbally concerning them as soon as may suit your convenience. After the explicit

answer given you in my note of the 12th March last to your proposal of referring the differences between our Governments to the mediation of Great Britain, and the reasons there assigned for declining that overture, the offer which you make of referring them to the allied monarchs, whom you state to be now assembled at Aix-la-Chapelle, was not to be expected. As you have, however, thought proper to make it, I refer you to my above-mentioned note for the grounds upon which it is declined. If you do not feel yourself at liberty to proceed in the negotiation on the terms herein proposed, postponing the articles relative to the Western boundary, and the late transactions in Florida, I shall be ready, at your convenience, to exchange with you the ratifications of the convention of 1802.

I embrace with pleasure the occasion of renewing to you the assurances of my distinguished consideration.

JOHN QUINCY ADAMS.

Extract of a letter from Mr. Adams to Mr. Erving, dated

DEPARTMENT OF STATE,  
Washington, December 2, 1818.

On the 27th March last, the Spanish Minister here, Mr. Onis, addressed a letter to this Department, for the professed purpose of vindicating the character and conduct of the Spanish commanding officers in Florida, and of proving that they had invariably discharged their duties of friendly proceeding towards the United States, and the obligations of the treaty of 1795, by which Spain was bound to restrain, by force, the hostilities of her Indians in Florida against the United States. To this letter are annexed fourteen documents, the greater part of which consist of remonstrances, addressed during the late war between the United States and Great Britain to British officers, against their continual violations of the neutrality of the Spanish territory. It is not, however, to those documents, but to the two (numbered 13 and 14) as annexed to that letter, (Nos. 66, 67,) that I wish to invite your attention. No. 13 is the translation of a letter purporting to be from Bowlegs, one of the Seminole Indian chiefs, most inveterately hostile to the United States, to Don Jose Coppinger, Governor of St. Augustine. A translation! you will say. Why a translation; and from what language? Neither Governor Coppinger nor Mr. Onis has furnished the means of answering that question. They are furnished, however, by the papers of Arbuthnot, which fell into General Jackson's hands. The language was English, and the original was written by Arbuthnot. The draught was found among his papers, and was produced to the court martial upon his trial, (No. 49—No. 2.) We naturally suppose that Governor Coppinger, upon receiving a letter in English from a Seminole Indian chief, must have been surprised, unless he knew from whom and whence it came. The substance of his answer shows that he did know both whence it came and the character of him by



*Relations with Spain.*

whom it was written. By the copies of the two letters, which are enclosed, you will see in that of Bowlegs a part of the systematic intrigues of Arbuthnot to instigate as well the Spanish commanders in Florida as the savages against the United States; and, in that of Governor Coppinger, a direct declaration to the Indians that all his supposed cause of alarm and complaint proceed "from the information of persons in whom he ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing him and his people from their daily labor." After offering his own friendly advice, the Governor adds: "I am fearful, however, that the sentiments of those who come into the territory under the appearance of friendship, but with bad intentions, may influence your minds and obtain your confidence by their flattering representations." And, finally, he complains that two persons had lately presented themselves as commissioners of the English nation, and carried off several runaway negroes belonging to inhabitants of the province. It is apparent, from this letter, that Governor Coppinger was well informed of the operations of Arbuthnot and Woodbine, and that he saw them in their true colors. How, then, does it happen that, a year afterwards, the Spanish commandant at St. Mark's is found so entirely leagued with Arbuthnot as to sign his name to the approbation of a power of attorney, given to him by the hostile chiefs, to write letters and deliver talks in their names; to hold councils of war with them at his quarters; to hold as prisoners white persons, inhabitants of the province, taken by them; and to write a letter to Arbuthnot, asking him to come and confer with him upon subjects which could not be committed to paper? The original of that letter, which is in bad French, and in the handwriting of the commandant of St. Mark's, signed by him, is in our possession, (No. 48.) A copy of it is among the papers enclosed. We cannot doubt that the Spanish Government will consider it as a proof of the conspiracy of the commandant of St. Mark's, with Arbuthnot and the Indians, against the United States. Should he be put upon his trial, as you are instructed to demand, the original letter itself will be transmitted to be exhibited to the court.

It is to be observed that the original draught in Arbuthnot's handwriting of the letter from Bowlegs to Governor Coppinger differs in several paragraphs from the translation communicated by Mr. Onis as received by him from Governor Coppinger. The following passage particularly, which appears in the draught produced before the court-martial, is not in the translation furnished by Governor Coppinger: "The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the governors I shall always entertain the greatest regard; but for the people, they do not act so as to merit my esteem and protection." The remainder of the letter is nearly the same. We do not suppose that the omission was made by the Governor; but rather that Arbuthnot, yet uncer-

tain how such a reflection would be received, omitted it from the letter itself which was transmitted to the Governor.

The papers marked Nos. 62, 63, 64, and 68, are copies of originals, in the handwriting of Arbuthnot, taken with the rest of his papers, but not exhibited before the court-martial. The sheet of his journal is of some importance, as establishing his connexion and dissatisfaction with Woodbine. No. 65 is a letter from him, said to be to an officer of rank in England, (no doubt Nicholls,) dated January 30, 1818, only three months before he was taken.

The sheet of the journal shows that Arbuthnot arrived with Woodbine from New Providence at Suwanee about the last of October, 1816, and that they immediately commenced their operations with the Indians against the United States. Bowlegs's letter to Governor Coppinger is dated November 18 of that year, and apologizes for his not having sooner answered a letter of September, from the Governor, by the impossibility he had been under of finding a person to write the answer for him. Among other complaints against Woodbine in this journal, there is one, distinctly, that he had promised the savages assistance from the British Government, without authority, and by direct falsehood; and he expresses an apprehension that when the Indians find out that none of those promises are realized, their fury will fall upon himself.

## No. 1.

*Nicholls's Letter and Proclamation.*

HEADQUARTERS, PENSACOLA,  
August 31, 1814.

SIR: I have arrived in the Floridas for the purpose of annoying the only enemy Great Britain has in the world. As France and England are now friends, I call on you, with your brave followers, to enter into the service of Great Britain, in which you shall have the rank of captain. Lands will be given to you all, in proportion to your respective ranks, on a peace taking place; and I invite you out on the following terms: your property shall be guaranteed to you, and your persons protected. In return for which, I ask you to cease all hostilities against Spain or the allies of Great Britain. Your ships and vessels to be placed under the orders of the commanding officer on the station until the commander-in-chief's pleasure is known; but I guaranty their fair value at all events.

I herewith enclose you a copy of my proclamation to the inhabitants of Louisiana, which will, I trust, point out to you the honorable intentions of my Government. You may be a useful assistant to me in forwarding them; therefore, if you determine, lose no time. The bearer of this, Captain McWilliams, will satisfy you on any other points you may be anxious to learn, as will Captain Lockyer, of the Sophia, who carries him to you. We have a powerful reinforcement on the way here, and I hope to cut out some other work for the Americans than oppressing the inhabitants of Louisiana. Be expeditious on your

*Relations with Spain.*

resolves, and rely upon the veracity of your humble servant,

EDWARD NICHOLLS,  
Lieut. Col. Com'g H. B. M.'s forces.

To Monsieur LAFFITE,  
or the Commandant at Barrataria.

By Lieutenant Colonel Edward Nicholls, commanding  
His Britannic Majesty's forces in the Floridas.

Natives of Louisiana, on you the first call is made to assist in liberating from a faithless and imbecile Government your paternal soil. Spaniards, Frenchmen, Italians, and British, whether settled or residing for a time in Louisiana, on you I also call to aid me in the just cause. The American usurpation in this country must be abolished, and the lawful owners of the soil put in possession. I am at the head of a large body of Indians, well armed, disciplined, and commanded by British officers; a good train of artillery, with every requisite, seconded by the powerful aid of a numerous British and Spanish squadron of ships and vessels of war. Be not alarmed, inhabitants of the country, at our approach; the same good faith and disinterestedness which have distinguished the conduct of Britons in Europe accompany them here. You will have no fear of litigious taxes imposed on you for the purpose of carrying on an unnatural and unjust war; your property, your laws, the peace and tranquility of your country, will be guaranteed to you by men who will suffer no infringement of theirs; rest assured that these brave men only burn with an ardent desire of satisfaction for the wrongs they have suffered from the Americans to join you in liberating these Southern frontiers from their yoke, and drive them into the limits formerly prescribed by my Sovereign. The Indians have pledged themselves in the most solemn manner not to injure in the slightest degree the persons or properties of any but enemies to their Spanish or English fathers. A flag over every door, whether Spanish, French, or British, will be a sure protection. Nor dare any Indian put his foot on the threshold thereof, under penalty of death from his own countrymen. Not even an enemy will an Indian put to death, except resisting in arms; and as for injuring helpless women and children, the red men, by their good conduct and treatment to them, will, if it be possible, make the Americans blush for their more than inhuman conduct lately on the Escambia, and within a neutral territory.

Inhabitants of Kentucky, you have too long borne with grievous impositions. The whole brunt of the war has fallen on your brave sons; be imposed on no more; but either range yourselves under the standard of your forefathers, or observe a strict neutrality. If you comply with either of these offers, whatever provisions you send down will be paid for in dollars, and the safety of the persons bringing it, as well as the free navigation of the Mississippi, guaranteed to you. Men of Kentucky, let me call to your view, and, I trust, to your abhorrence, the conduct

of those factions which hurried you into this cruel, unjust, and unnatural war. At a time when Great Britain was straining every nerve in the defence of her own, and the liberties of the world; when the bravest of her sons were fighting and bleeding in so sacred a cause; when she was spending millions of her treasure in endeavoring to pull down one of the most formidable and dangerous tyrants that ever disgraced the form of man; when groaning Europe was almost in her last gasp; when Britain alone showed an undaunted front, basely did these assassins endeavor to stab her from the rear. She has turned on them, renovated from the bloody but successful struggle. Europe is happy and free, and she now hastens justly to avenge unprovoked insults. Show them that you are not collectively unjust; leave that contemptible few to shift for themselves; let those slaves of the tyrant send an embassy to Elba, and implore his aid; but let every honest, upright American spurn them with merited contempt. After the experience of twenty-one years, can you any longer support those brawlers for liberty, who call it freedom, and know not when themselves are free? Be no longer their dupes; accept of my offer; everything I have promised in this paper I guaranty to you on the sacred honor of a British officer.

Given under my hand, at my headquarters,  
Pensacola, the 29th of August, 1814.

EDWARD NICHOLLS.

## No. 2 a.

Copy of a letter from Col. Nicholls to Col. Hawkins.

APPALACHICOLA, April 28, 1815.

Being absent from this post when your letter of the 19th ultimo arrived, I take this opportunity to answer it. On the subject of the negroes lately owned by the citizens of the United States, or Indians in hostility to the British forces, I have to acquaint you that, according to orders, I have sent them to the British colonies, where they are received as free settlers, and lands given to them. The newspaper you sent me is, I rather think, incorrect; at all events, an American newspaper cannot be authority for a British officer. I herewith enclose you a copy of a part of the ninth article of the treaty of peace relative to the Indians in alliance with us; they have signed and accepted it as an independent people, solemnly protesting to suspend all hostilities against the people of the United States. Within these few days I have had a complaint from the Seminoles' chief, Bowlegs. He states that a party of American horse have made an incursion into the town, killed one man, wounded another, and stolen some of his cattle; also, that they have plundered some of his people on their peaceable way from St. Augustine. May I request of you to inquire into this affair, and cause justice to be done to the murderer, and have the cattle restored? I strictly promise you that, for any mischief done by the Creeks under me, I shall do all in my power to punish the delinquents, and have the property restored.



## Relations with Spain.

The chiefs here have requested me further to declare to you that, in order to prevent any disagreeable circumstances from happening in future, they have come to a determination not to permit the least intercourse between their people and those of the United States. They have, in consequence, ordered them to cease all communication, directly or indirectly, with the territory or citizens of the United States; and they do take this public mode of warning the citizens of the United States from entering their territory, or communicating directly or indirectly with the Creek people. They also request that you will understand their territories to be as they stood in the year 1811. In my absence, I have directed First Lieutenant William Hambly, the head interpreter, to communicate with you on any point relative to the Creeks; and I have given him my most positive orders that he shall at all times do his best to keep peace and good neighborhood between the Creeks and your citizens.

I am, sir, your very humble servant,  
EDWARD NICHOLLS,  
Com'g British forces in Florida.

## No. 2 b.

[Paper enclosed in the above letter.]

Part of the ninth article of the treaty of peace between His Britannic Majesty and the United States, relative to the Indians who have been in alliance with Great Britain, and in hostility with the U. States.

The United States of America engage to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore such tribes or nations, respectively, all the possessions, rights, and privileges which they may have enjoyed or been entitled to in 1811, previous to such hostilities: *Provided always*, That such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

We, the undersigned, chiefs of the Muscogee nation, declared by His Britannic Majesty to be a free and independent people, do, in the name of the said nation, agree to the ninth article of the treaty of peace between His Britannic Majesty and the United States; and we do further declare that we have given most strict and positive orders to all our people that they desist from hostilities of every kind against the citizens or subjects of the United States.

Given under our hands at the British fort on the Appalachicola, the 2d day of April, 1815.

HEPOAETH MEICO, his X mark.

CAPPACHIMICO, his X mark.

HOPOY MEICO, T. P., his X mark.

Witnesses:

ED. NICHOLLS, Lt. Col. Com'g Indians.

R. BANKS, Com'g H. M. Brig Forward.

G. WOODBINE, Capt. 1st. brig. R. C. M.

WM. HAMBLY, Lt., and head interpreter.

I certify, on honor, that this is a true copy of the original.

ELI LESTER,  
U. S. Storekeeper, Fort Lawrence.

## No. 3.

Colonel Nicholls to Colonel Hawkins.  
BRITISH POST, APPALACHICOLA RIVER.  
May 12, 1815.

In my letter to you of the 28th ultimo, I requested you would be so good as to make inquiry into the murder and robberies committed on the Seminoles belonging to the chief called Bowlegs; at the same time declaring my determination of punishing, with the utmost rigor of the law, any one of our side who broke it. Of this a melancholy proof has been given, in the execution of an Indian of the Ataphalga town, by Hothly Poya Tustunnuggee, chief of Ockmulgees, who found him driving off a gang of cattle belonging to your citizens; and for which act of justice I have given him double presents, and a chief's gun, in the open square before the whole of the chiefs, and highly extolled him. These, sir, are the steps I am daily taking to keep the peace with sincerity; but I am sorry to say the same line is not taken on your side, nor have you written to say what steps you are taking, or intend to take, to secure this mutual good. Since the last complaint from Bowlegs, I have had another from him, to say your citizens have again attacked and murdered two of his people; that they had stolen a gang of his cattle, but that he had succeeded in regaining them.

I asked him what proof they had of their being killed. They said they had found their bloody clothes in the American camp, which was hastily evacuated on their approach. Now, sir, if these enormities are suffered to be carried on in a Christian country, what are you to expect by showing such an example to the uncultivated native of the woods? (for savage I will not call them—their conduct entitles them to a better epithet.) I have, however, ordered them to stand on the defensive, and have sent them a large supply of arms and ammunition, and told them to put to death without mercy, any one molesting them; but at all times to be careful and not put a foot over the American line; in the mean time, that I should complain to you, that I was convinced you would do your best to curb such infamous conduct; also, that those people who did such deeds would, I was convinced, be disowned by the Government of the United States, and severely punished. They have given their consent to await your answer before they take revenge; but, sir, they are impatient for it, and, well armed as the whole nation now is, and stored with ammunition and provisions, having a stronghold to retire upon in case of a superior force appearing, picture to yourself, sir, the miseries that may be suffered by good and innocent citizens on your frontiers, and I am sure you will lend me your best aid in keeping the bad spirits in subjection. Yesterday, in a full assem-

## Relations with Spain.

bly of the chiefs, I got them to pass a law for four resolute chiefs to be appointed in different parts of the nation, something in the character of our sheriffs, for the purpose of inflicting condign punishment on such people as broke the law; and I will say this much for them, that I never saw men execute laws better than they do. I am also desired to say to you, by the chiefs, that they do not find that your citizens are evacuating their lands, according to the ninth article of the treaty of peace, but that they were fresh provisioning the forts. This point, sir, I beg of you to look into. They also request me to inform you that they have signed a treaty of offensive and defensive alliance with Great Britain, as well as one of commerce and navigation, which, as soon as it is ratified at home, you shall be made more fully acquainted with.

I am, sir, your very humble servant,  
EDWARD NICHOLLS,  
Com'g H. B. M. forces, Creek nation.  
To Colonel BENJAMIN HAWKINS,  
Commanding at Fort Hawkins.

## No. 4.

Colonel Hawkins to Colonel Nicholls.  
CREEK AGENCY, May 24, 1815.

On the 18th I had the pleasure to receive your communication of the 28th ultimo. I expected, from the tenor of your orders, which I conveyed to you from Admirals Cochrane and Cockburn, on the 19th of March, that you had left the Floridas ere this with the British troops under your command, and that Spain and the United States would have no more of British interference in the management of their Indian affairs. The newspaper I sent you was one in which the official acts of our Government are published. There could be no motive for falsification; your deeming it incorrect must have proceeded from a knowledge that your conduct, in relation to the negroes, was at variance with it. It would have been acceptable in the communication relative to the disposition of "the negroes taken from the citizens of the United States, or Indians in hostility to the British," to have received the number, particularly belonging to the latter. As peace is restored between Great Britain and the United States, I feel a reluctance to put on paper anything that may have the tendency to tarnish the British character, or that of any officer of its Government; but I owe it to the occasion to state the declaration of Captain Henry, that "the English are sent out by their great father and King to restore his Indian people to their lands, and we are desired by him not to take away their negroes, unless they freely give them to us, or sell them for money," is violated. It is proper, also, to add, I did not enrol any Indians into the service of the United States until after the negroes of Marshall, Stedham, and Kinnard, three half-breeds, were taken from them, by force or stratagem, by British officers. Your restriction, of the Captain's declaration, to negroes belonging to Indians friendly to Great Britain, if by that is meant Indians hos-

15th Con. 2d Sess.—62

tile to the United States, is an erroneous one, as there is not one Creek who has negroes so situated.

The Creek chiefs (to use a courtly phrase) have just cause, at least, to say this is an "unjustifiable aggression." You having acted by orders, and it being now beyond your control, a remedy must and will be sought for elsewhere.

The documents you enclose, signed by three chiefs, purporting to be the agreement of the Muscogee nation to the ninth article of the treaty of peace, I shall lay before the chiefs of the nation, at a convention soon to be held at Coweta, and send you the result of their deliberations on it. The result of my reflections, with due deference, I give you, as on the envelope it purports to be on his Britannic Majesty's service. It is within my knowledge that one of the chiefs is a Seminole of East Florida, and has never resided in the United States; and that neither of the three has ever attended the national councils of the Creeks, or is in any way a part of their executive government. If the four witnesses had signed it as principals, and the three chiefs as witnesses, it would have been entitled to equal respect from me.\* Could you be serious in communicating such a nullity with their mock determination not to permit the least intercourse between their people (meaning the Creek nation) and those of the United States? &c. As to the territory of the Seminoles, it being out of the United States, it is an affair between them and the Government of Spain; and that of the Creeks is as fixed and guaranteed in their treaty stipulations with the States. I do not know that any occurrences can happen which will render it necessary for me to communicate with Lieutenant William Hambly. If by doing so I can render acts of kindness to Indians or others, it would afford me pleasure; but, under present impressions, the fifth article of the treaty of friendship, limits, and navigation between the United States and the King of Spain will govern me in all cases respecting the Indians in the two Floridas.

I am, with due regard, sir, your ob'dt servant,  
BENJAMIN HAWKINS.

## No. 5.

Colonel Hawkins to Colonel Nicholls.  
CREEK AGENCY, May 28, 1815.

On the 24th I wrote to you in reply to yours of the 28th ultimo, and since have had the pleasure to receive yours of the 12th. I had received from Bowlegs, direct, a complaint of an outrage committed "by the people of Georgia, who had gone into East Florida, driven off his cattle, and destroyed his property." I have sent this complaint to the Governor of Georgia, who will readily cooperate with the officers of the General Government to cause justice to be done to the injured, if the complaint is true. The laws of the United States provide completely for the protection of

The witnesses, we believe, were Colonel Nicholls, Captain Woodbine, Lieutenant Hambly, and Captain Henry.



*Relations with Spain.*

the Indian rights, and those intrusted with their execution have the power of doing it. All that is wanted is a proof against the transgressors.

The Indians of Aulotchwau, who, without provocation, murdered and plundered a number of the subjects of Spain on St. John's, have engendered such a deadly feud between the parties that it will be long before the descendants of the injured can forget and forgive. Spain, from her internal commotions, has not found it convenient to settle a peace between them; and these people, it is probable, are taken for Georgians. The Indians of this agency, as well as those in the Floridas, have long known they have to apply through their chiefs to me for a redress of their grievances. The government of the Creeks is not an ephemeral one. Its last modification is of more than ten years standing. It was the work and choice of the nation, and has a check on the conduct of the Seminoles.

In 1799 a gentleman arrived where you are from England, who had been an officer on half pay. He came in the Fox sloop-of-war, furnished by the Admiral on the Jamaica station, by order of the Admiralty, "to facilitate to him a passage to his nation, (the Creeks.)" This gentleman, after attempting in various ways with the Seminoles to usurp the government of the Creeks without success, created himself director general of Muscogee, declared war against Spain, murdered some of his subjects, and took St. Mark's. He ordered me, with my assistants in the plan of civilization, out of the Creek nation.

I communicated his proceedings to the national councils, who had been previously acquainted with him, and who replied to him that he "had a title among them, which he well merited, Capetum-nee-lox-au, (the Prince of Liars,) and no other." This director general of Muscogee, after playing a farce for two years, experienced a tragic scene, which deprived him of his liberty. He was put in irons by order of the council whose government he attempted to usurp, and sent to the Governor General of Louisiana, to answer for crimes. His Seminole chiefs were glad to retire with impunity. After this, it was unanimously determined, in a national council of distinguished chiefs from every town and a deputation of Choctaws, Chickasaws, and Cherokees, that the warriors should be classed, and held in readiness to execute the orders of the executive council, and that the agent for Indian affairs should have the power of executing the treaty stipulations of the Creeks with their white neighbors. Tookaubatche and Coweta, alternately, as the occasion required, were appointed the permanent seat of the national councils, where national affairs alone could be transacted. They have now two speakers. When the council meets at Coweta, Tustunnuggee Hopole, as speaker for the Lower Creeks, is speaker for the nation; and when they meet at Tookaubatche, Tustunnuggee Thlucco, of the Upper Creeks, is speaker for the nation. Coweta is headquarters for the present. The agent for Indian affairs can convene the council.

To this council I communicated, in your own words, the pretensions of your three chiefs. They answer, "We have had Colonel Nicholls's communication before us, that Hapoith Micco, and Caupachau Micco, and Hopoie Micco are the sovereigns of this nation. We know nothing about them as such. We have often invited them to attend our talks. They never would come forward, and Hapoith Micco is a hostile Indian. They have nothing to do with our affairs. They reside in the Spanish territory."

After mentioning a solitary effort of yours "to keep the peace," you say "I am very sorry to say the same line is not taken on your side, nor have you written to me to say what steps you are taking, or intend to take, to secure this mutual good." You could not have expected I should communicate with you, when, from your orders, you were so soon to leave the country. I have communicated to the national council several outrages committed by banditti from the Seminoles and other parts, upon the post road and frontiers, of Georgia, repeatedly. They have in two instances had the guilty shot, and sent armed parties after others. As late as the 17th of April one man was killed and four wounded on the post road; our wagons twice attacked, and one wagoner killed, several horses taken and carried, as reported, to your depot, at the very time the wagons were carrying seed corn for the Indians, and flour for the support of nearly five thousand totally destitute of food.

The measure in operation here to preserve peace is with an efficient force, red and white troops, to pursue, apprehend, and punish all violators of the public peace. The executive council of the Creeks are continually at Coweta, with an assistant agent to take orders with the warriors when the necessity is apparent, and to call on me when the aid of regular troops is necessary. We do not rely on the exertions of any one but ourselves to preserve peace among the Creeks, and between them and their neighbors of the United States and the Floridas. We examine fairly, spare the innocent, and punish the guilty, and in no case suffer revenge to carve for itself.

On an *ex parte* hearing, you have "armed the Seminoles, and given orders to put to death, without mercy, any one molesting them." This is cruelty without example—scalping men, women, and children, for troubling or vexing only, and the executioners the judges! To gratify their revenge, the good and innocent citizens on the frontiers are to be the victims of such barbarity. Suppose a banditti were to commit a violent outrage, such as that of the 17th April; are we to charge it on the unoffending people of the frontiers, and kill them without mercy, if we could not find out the guilty? You have issued the order, provided and issued munitions of war for its execution, prepared and provisioned a stronghold to retire upon, in case of superior force appearing, to protect them in this mode of gratifying their revenge. You will be held responsible, and your strongholds will certainly not avail. If you are really on the service of His

*Relations with Spain.*

Britannic Majesty, it is an act of hostility which will require to be speedily met, and speedily crushed. But, sir, I am satisfied you are acting for yourself, on some speculative project of your own. The Sovereign of Great Britain could not, from his love of justice in time of peace, his systematic perseverance in support of legitimate Sovereigns, almost to the impoverishing of his own nation, suffer any of his officers to go into a neutral country to disturb its peace.

If the Seminole Indians have complaints to make, if they will do it through the chiefs of the Creek nations, or direct to me, or through an officer of His Catholic Majesty, as heretofore, I will cause justice to be done. In cases of murder, the guilty, if practicable, shall be punished; in case of theft, restitution shall be made.

The treaties you have made for the Creek nation, with the authority created by yourself for the purpose, must be a novelty. It would surprise me much to see your Sovereign ratify such as you have described them to be, with a people such as I know them to be, in the territories of His Catholic Majesty. I shall communicate what has passed on the subject between us to the officers of Spain in my neighborhood, that they may be apprized of what you are doing.

As you may not have recent news from Europe, I send you some newspapers detailing important events there on the 4th of April.

I am, &c.,  
BEN. HAWKINS,  
Agent for Indian Affairs.

To Col. NICHOLLS,  
Com'g H. B. M. forces, Appalachicola.

No. 6 a.

General Gaines to the Secretary of War.

HEADQUARTERS, FORT STODDERT,  
Mississippi Territory, May 14, 1815.

SIR: I have the honor to enclose herewith the deposition of Samuel Jervais, which, taken in connexion with other accounts recently received from Appalachicola, and a letter from Lieutenant Colonel Saffold, of the Territorial militia, a copy of which is also enclosed, leave little doubt that these deluded savages meditate a renewal of the war upon our frontier inhabitants.

I shall visit Forts Montgomery and Claiborne, and endeavor to ascertain, without loss of time, the real designs of the Indians; and, should they be for war, shall assemble a force to meet them.

The remains of the second and third regiments of infantry are at the Pass Christian, and may be brought to this frontier in a few days, and, added to the remains of the twenty-fourth and thirtieth, now at Fort Montgomery, will give us a force of near one thousand men. With this force I shall be able to keep the Indians in check; and with another thousand, to consist of Choctaws and volunteers, I should feel sufficiently strong to make a decisive stroke upon the depots at Appalachicola, which I persuade myself the Government may be at liberty to sanction; for, until these depots (if they really exist) are

destroyed, our frontier cannot but continue extremely insecure.

I am unable to say how far the statement of Jervais is entitled to credit; but I have examined him attentively, and am under a strong impression that he has stated the truth, and that the supplies mentioned in his deposition are not mistaken for those delivered last Fall, but have really been delivered since the ratification of the treaty had been officially announced to the British troops at Appalachicola. These supplies were, however, brought to Appalachicola previous to the ratification of the treaty.

I have ordered the commanding officers of corps and posts to hold their commands ready for active service, and have taken measures to prepare a small train of light artillery, with a proper supply of fixed ammunition, tools, camp equipage, &c., for an Indian campaign. Whilst Spain permits our enemy to assemble forces, and make military depots for our annoyance within her territory, surely she can make no reasonable objection to our visiting those depots. Besides, Spain is expressly bound by treaty "to restrain by force all hostilities on the part of the Indian nations living within her boundary." If she does not restrain them, we may conclude that she has endeavored to do so, but is unable. Can she blame us, then, for restraining them ourselves?

I have the honor to be, with the greatest respect and esteem, sir, your obedient servant,

EDMUND P. GAINES,  
Major General by brevet.

P. S. I have written to Major General Jackson upon the same subject; but as he is probably on his way to Washington, I have thought proper to address you direct. E. P. G.

Hon. A. J. DALLAS,  
Acting Secretary of War.

No. 6 b.

Deposition of Samuel Jervais, enclosed in the above letter.

Samuel Jervais, being duly sworn, states: That he has been a sergeant of marines in the British service for thirteen years past; that about a month ago he left Appalachicola, where he had been stationed for several months; that the English colonel (Nicholls) had promised the hostile Indians at that place a supply of arms and ammunition, a large quantity of which had been delivered to them a few days before his departure, and after the news of a peace between England and the United States being confirmed had reached Appalachicola; that, among the articles delivered, were, of cannon, four twelve-pounders, one howitzer, and two cohorts; about three thousand stands of small arms, and near three thousand barrels of powder and ball; that the British left with the Indians between three and four hundred negroes, taken from the United States, principally from Louisiana; that the arms and ammunition were for the use of the Indians and negroes, for the purposes, as it was understood, of war with the United States; that the Indians were



## Relations with Spain.

assured by the British commander that, according to the Treaty of Ghent, all the lands ceded by the Creeks, in treaty with General Jackson, were to be restored; otherwise, the Indians must fight for those lands, and that the British would in a short time assist them.

his  
SAMUEL X JERVAIS,  
mark.

Sworn and subscribed to before me, this 19th May, 1815, at the town of Mobile.

L. JUDSON, J. P.

No. 7.

General Gaines to A. J. Dallas, Acting Secretary of War.

HEADQUARTERS, FORT STODDERT, M. T.,  
May 22, 1815.

SIR: I returned last night from Fort Montgomery, where, though unable to obtain satisfactory information as to the hostile intentions of the Creek Indians, I learned that two of the party mentioned in my last had been killed, and some others wounded; and that the Indians had afterwards killed two of our citizens, a Mr. West, and another whose name my informant (Colonel Files, from the settlement of Alabama, near where the act was perpetrated) had forgotten.

Some negro men belonging to Don McGill, of Mobile, taken some months ago to Appalachicola by the British, voluntarily returned a few days past. Their statement of the supplies and negroes left by the British corresponds with that contained in the deposition of Jervais, enclosed in the letter which I had the honor to address to you on the 14th instant. The negroes add that there are at Appalachicola nearly eight hundred Indian warriors, and that the negroes were permitted to remain with the Indians as freemen, or to return to their masters, as they should elect, and that but few had agreed to return.

I feel convinced that the Indians are generally under the impression that the lands ceded to the United States by the treaty with General Jackson must be restored, or that a war must ensue; and that their friends, the British, will re-establish them in the possession of these lands.

So industriously have these impressions been circulated by the British and Spanish agents among the Indians, that, so far as I can learn, not only the chiefs, but the common warriors, are in the habit of saying that the British treaty with the Americans gives the Indians their lands taken by the treaty with General Jackson.

Since writing the above, I have been furnished with the enclosed deposition of S. Dale, who is a major of militia.

I have the honor to be, most respectfully, sir, your obedient servant,

EDMUND P. GAINES,  
Major General by brevet.

P. S.—Since closing my letter, I learn that Nicholls, said to be a colonel in the British service, is still at Appalachicola, and that he has

nine hundred Indians and four hundred and fifty negroes under arms. This account is brought by a very intelligent negro man belonging to D. Kennedy, at Mobile. I think it goes to strengthen the accounts heretofore given in my letter of the 14th instant.

E. P. GAINES.

The Hon. A. J. DALLAS,  
Act'g Sec'y at War, Washington.

No. 8.

Memorandum of a gentleman of respectability at Bermuda.

ST. GEORGE, BERMUDA, May 21, 1815.

Captain Rawlins, of His Majesty's ship Borer, has stated to me in the course of various conversations, that, at the time of his departure from Appalachicola, (which appears to have been about the 20th to the 28th April,) the British had collected upwards of three hundred persons at or near Prospect Bluff, partly deserters from the United States, and partly from the Spanish provinces of East and West Florida. These people had been received and protected by Colonel Nicholls, of the royal marines, who was stationed at that place, and who appears to have been under the impression (at least he said so) that the British authorities had no right to the country in that vicinity.

Admiral Cochrane, however, appears to have disapproved of Nicholls's conduct in affording protection to the Spanish slaves, and had sent the Hon. Captain Spencer to Pensacola for the purpose of making arrangements for their restoration; who accordingly proceeded to Appalachicola, with Captain Pentado, named commissioner on the part of the Spaniards.

It does not appear that these gentlemen were successful in their mission, as it was understood that the refugees were not to be coerced, but merely such facilities afforded to those who voluntarily agreed to return, as might be found necessary.

Much altercation has arisen out of this commission, in consequence of many officers having espoused the cause of the slaves; and at one time the life of Captain Spencer had been threatened by the negroes. Captain Rawlins adds that much ammunition, and a good many stands of arms, with some pieces of artillery, had been left with them; and that the fort constructed by Colonel Nicholls "would not be destroyed."

I have since learned that the Carron, which must have sailed from Appalachicola previous to the Borer, is arrived at Nassau, on her way to Bermuda, with one hundred and seventy-six slaves of all ages. As she is daily expected, and as Captain Spencer is now on his way here, it might be as well to wait their arrival before you make any official communication to your Government on the subject. It is however obvious, that were you in possession of the whole facts, no time ought to be lost in recommending the adoption of speedy, energetic measures, for the destruction of a thing held so likely to become

## Relations with Spain.

dangerous to the State of Georgia. The Spaniards are not in a situation to do it, but I dare say would co-operate. I have learned that the whole of the slaves brought from the United States have been sent to Nova Scotia, with the exception of a few that were lately shipped to the island of Trinidad, in His Majesty's ship the *Levant*, and such as have enlisted in the colonial marines were in these islands. A few stragglers have contrived to get on shore in the Bermudas, and by the connivance of their colonized friends to remain, very contrary to the wishes of the inhabitants, who are in general desirous of getting rid of them.

It has been whispered (I know not with what truth) that the people expected in the Carron, who are from Louisiana and West Florida, are also to be sent to Trinidad.

The Carron is arrived; and this morning I understood from Messrs. James and Michael Carron, the agents of Sir Alexander Cochrane, the Carron was going to some port of the West Indies—unquestionably to Trinidad.

No. 9.

Address to the King of England from the Indians, published in the English newspapers of the 15th of August, 1818.

We, the chiefs of the Muscogee nation, in full council assembled, on behalf of ourselves and our people, do make the following requests of our good father, King George, and declare to him certain resolutions we have come to, with our reasons for so doing.

We conceive it to be indispensably necessary for our good, as well as to make us useful allies of Great Britain, that officers should be constantly kept among us; and we request that our good father will grant us this favor. Since Colonel Brown left us, we have been a prey to civil dissensions, fomented and kept up by our inveterate and never-to-be-satisfied foe, the Americans; by their bad advice has brother been in the act of shedding the blood of brother; and when the land becomes thus desolated, they possess themselves of it, so that we shall soon be driven to the desert sands of the sea from the fertile fields of our forefathers; and we are told that the Spaniards will not let us trade with the British from the mouths of our rivers; we, therefore, further request that our good father will secure for us the mouths of the rivers Appalachicola, Alabama, and St. Mary's; for, if our communication is once more cut off from his children, we shall be totally ruined. We have fought and bled for him against the Americans, by which we have made them our more bitter enemies; and, as he has stood the friend of the oppressed nations beyond the great waters, he will surely not forget the sufferings of his once happy children here. We therefore rely on his future protection and fatherly kindness; we will truly keep the talks which his chief has given us, if he is graciously pleased to continue his protection. Famine is now devouring up ourselves and our children, by reason of our Upper Town brethren being driven down upon us in the

time the corn was green; and now their miseries and necessities cause them to root up the seeds of our future crop, so that what we sow in the day we are obliged to watch at night. Were it not for the powder we get from your chief, the whole of the nation would be in dust. The Red Sticks have shot and eaten up almost the whole of our cattle, for they have seen their children digging in the woods for want; and who can blame them, when they are pressed by such cruel necessity? Thus we are situated, and we are only looking to the departure or the stay of your children as the signal of our destruction or prosperity. In former times, after the British left us, to show our love and regard for their nation, we made a grant of our lands to the house of Panton, Leslie, & Co., and latterly to the house of John Forbes & Co., on certain terms—that they were to settle the lands with British men, and keep up a sufficient and good assortment of all sorts of merchandise suitable to our wants; but, instead of their doing this, they have attempted to settle our lands with Americans, and have refused to supply us with powder when we were attacked by our enemies, and have urged us to declare for the Americans against the British, and have offered rewards to us for that purpose; and they have actually written to their agents who reside among us, desiring them to obstruct the British officers all in their power from assisting us, and to represent to them, also, how impossible it would be for them to succeed against the Americans; and we, having intercepted their letters, did deliver them to Lieutenant Colonel Nicholls, who is our witness; and the said letters were delivered by an Indian to John Forbes, at St. Augustine, to be forwarded by him as aforesaid; and, as it does stand thus, on unquestionable proof, that the said house of Forbes & Co. have shamefully broken their contracts with us, we do, in this our full assembly, declare all their property in our nation to be confiscated to the nation; and we further annul and declare void our grant or grants of lands accordingly, warning them, and all belonging to them, never to appear again in the nation. And the United States, or some part thereof, have thought proper to run a line or wagon road through the Indian nation, from Hartford, in Georgia, to Mobile, in West Florida, without our consent, and to our great hurt and annoyance.

We implore our good father that he will cause them to disuse the said road, and to cease all communication between them and us, as we are determined to cease having any communication with them; and we warn all Americans to keep out of this nation. And whereas that a young chief, called McIntosh, was sent with a message of remonstrance against the abovementioned road being run, and of several other encroachments on the Tombigbee, Coosa, and Alabama rivers, instead of his making such remonstrance, he suffered himself to be tricked by our enemy, and unlawfully sold to them large tracts of land on and about the rivers Oconee and Ockmulgee, which tracts of land we implore our good father



*Relations with Spain.*

to use his endeavor in getting restored, and that the Americans may be obliged to withdraw from them. The abovementioned McIntosh holds a commission as Major in the American army, and of the Creek regiment; he has caused much blood to be spilt, for which we denounce him to the whole nation, and will give the usual reward of the brave to any one who may kill him, he having, on a recent occasion, killed and scalped a brother, who was on an errand of peace to our Cherokee brethren, for no other reason alleged against him than his having British arms about him; and in this, we are told, he has been encouraged by Colonel Hawkins, although long after peace was declared, and all hostility ordered to cease. We further request Lieutenant Colonel Nicholls will return our grateful thanks to our good father and his chiefs, by sea and land, for the useful and good presents he has sent to us by them; and also that the Lieutenant Colonel, and the officers with him in this nation, will receive our thanks for their brotherly conduct to us. And whereas our good father having made a peace with the United States of America, and, according to his true talk, he has not forgotten the interests of us his children, but has caused to be respected our lands, and guaranteed the integrity of them to us, we do declare them or him to be traitors to this nation who shall, without his aid and our consent, sell or make over to any foreign Power any part thereof; and we do further declare whosoever shall endeavor, directly or indirectly, to separate us from him or his children, to be the enemy of us and our children, and that we will not trade or barter with any other than the British nation if the above requests be complied with; and we do promise to give grants of land to all such British men as our good father shall give permission to stay amongst us, and that we will do our best to protect and defend them in their laws and property; and we send as our representative our brave brother Hillis Hadjo (Francis) to our father, who is authorized to ratify this treaty.

Given under our hands, at the British fort at the confluence of the Chatahoochee and Flint rivers, this 10th March, 1815.

Hopoth Mico, *King of the Four Nations*,  
his x mark.

Hopy Mico, his x mark.

Nehemathla, 1st, his x mark.

Justomic Hago, his x mark.

Onus Hago, his x mark.

Nehemathla, 2d, his x mark.

Nehemathla, 3d, his x mark.

Justomic Emathla, his x mark.

Octaithge Hago, his x mark.

Acophegemathlo, his x mark.

Tatao Mico, his x mark.

Hopothla Justanuggee, his x mark.

Conope Mathla, his x mark.

Yatoule Mathla, his x mark.

Johnson, his x mark.

Hillis Hadjo, his x mark.

And fourteen other chiefs.

Witnesses—Ed. Nicholls, Lieutenant Colonel;

H. Boss, Captain Rifle Corps; Jos. Roche, Captain 1st West India Regiment; Wm. Hamblly, Lieutenant and 1st Interpreter.

## No. 10.

*Extract of a letter from the Secretary of State to Mr. Baker, dated*

JULY 10, 1815.

The conduct of Colonel Nicholls, who has taken a position on the Appalachicola, within the Spanish territory, is, on the same principle, entitled to particular attention. I transmit to you a copy of a correspondence between him and Colonel Hawkins, agent of the United States with the Creeks, and also an extract of a letter from Major General Gaines, with the affidavit of Samuel Jervais, which show the nature and effect of his extraordinary and unjustifiable interference with that nation. It appears, by Colonel Nicholls's letter, that he considers our treaty with the Creeks, though made several months before the treaty with Great Britain, as rendered void by the latter, and that he is endeavoring to impress that opinion on them, and to excite them to hostility in support of it; that he has supplied them with arms and munitions of war, and had actually formed a treaty of alliance, offensive and defensive, with certain Indians, whom he calls the Creek nation, which he has sent to his Government for ratification; that, in short, he had made Appalachicola a military station, at which he had collected a large body of Indians and fugitive slaves from the United States, evidently for hostile purposes against the United States. The conduct of this officer is of too marked a character to require any comment. His proceedings are utterly and evidently incompatible with the late treaty with Great Britain, and with the amicable relations established by it between our countries.

In calling your attention to these proceedings, it is not my object to dwell on each particular act of which I complain. I shall remark, generally, that, as the treaty with the Creeks was concluded before the treaty of peace with Great Britain, the ninth article of that treaty has no bearing with that nation; and that any interference of Nicholls, or other British agent, with the Creeks, however slight, is improper and unjustifiable.

The President cannot doubt that the conduct of Colonel Nicholls and of the other British agents, as stated in the correspondence which is communicated, is unauthorized by your Government, and that they will be justly censured and punished by it. In the meantime, as you were particularly empowered to act in all circumstances, connected with the execution of the late treaty of peace, I am persuaded that you will readily interpose your authority to put an end to proceedings of a nature so unwarrantable, and which have already produced such injurious effects.

## No. 11.

*Extract of a letter from the Secretary of State to Mr. Adams, dated*

DEPARTMENT OF STATE, July 21, 1815.

The conduct of Colonel Nicholls to the south

*Relations with Spain.*

is still more extraordinary. Having noticed it in sufficient detail in my letter to Mr. Baker, I refer you to that paper for the necessary information respecting it.

It may be fairly presumed that these acts were not authorized by the British Government; that they are imputable only to Indian agents, and those under whom they act in this country. They nevertheless deserve reprehension, which it is expected that the British Government will not hesitate to inflict.

## No. 2. a.

*Extracts of a letter from Mr. Adams to the Secretary of State, stating the substance of a conversation with Earl Bathurst, dated*

LONDON, Sept. 19, 1815.

I said that the American Government had been peculiarly concerned at the proceedings of Colonel Nicholls, because they appeared to be marked with unequivocal and extraordinary marks of hostility. "Why," said Lord Bathurst, "to tell you the truth, Colonel Nicholls is, I believe, a man of activity and spirit, but a very wild fellow. He did make and send over to me a treaty, offensive and defensive, with some Indians; and he is now come over here, and has brought over some of those Indians. I sent for answer that he had no authority whatever to make a treaty, offensive and defensive, with Indians, and that this Government would make no such treaty. I have sent him word that I could not see him upon any such project. The Indians are here in distress, indeed; but we shall only furnish them with the means of returning home, and advise them to make their terms with the United States as well as they can." Perceiving that I had particularly noticed his declaration that he had declined seeing Colonel Nicholls, he said that he should perhaps see him upon the general subject of his transactions, but that he declined seeing him in regard to his treaty with the Indians.

In this conversation Lord Bathurst's manner, like that of Lord Liverpool, in the conference which I had about a month before with him, was altogether good humored and conciliatory. The conduct of all the officers and persons complained of was explicitly disavowed; and I understood, at first, the observation of Lord Bathurst, that he had declined seeing Colonel Nicholls, as an intimation that it was intended to exhibit towards that officer unequivocal marks of displeasure. But the subsequent explanation left me to conclude that, although the disapprobation of his proceedings was strongly expressed to me, the utmost extent of it that would be shown to him would be the refusal to ratify his treaty, offensive and defensive, with the Indians.

## No. 12 b.

*Extract of a note from Mr. Adams to Earl Bathurst, dated*

LONDON, Sept. 25, 1815.

In the conference with your Lordship with which I was honored on the 14th instant, I represented to you, conformably to the instructions

which I had received from the Government of the United States, the proceedings of several British officers in America, and upon the American coast, marked with characters incompatible, not only with those amicable relations which it is the earnest desire of the American Government to restore and to cultivate, but even with the condition of peace which had been restored between the two countries by the Treaty of Ghent.

It was with the highest satisfaction that I understood your Lordship, in the name of the British Government to disavow the proceedings of all those officers, of which it had been my duty to complain; and that I received from you the assurance that orders had long since been given for the restoration of the post of Michilimackinac to the United States; that instructions had been given to promote, by all suitable means, the restoration of peace between the Indians and the United States; and, particularly, that Colonel Nicholls, in pretending to conclude a treaty, offensive and defensive, with certain Indians belonging within the jurisdiction of the United States, had not only acted without authority, but incurred the disapprobation of His Majesty's Government.

## No. 13 a.

*Extract of a letter from Mr. Adams to the Secretary of State, containing the substance of a conversation with Lord Castlereagh, dated*

LONDON, Feb. 8, 1816.

I next observed that, at the other extremity of the United States, the Indians again appeared in the shape of disturbers of the peace between our countries. I recapitulated your remonstrances to Mr. Baker, and mine, by your order, to Lord Bathurst, against the conduct of Colonel Nicholls; that officer's pretended treaties of alliance, offensive and defensive, and commerce and navigation, with certain runaway Indians, whom he had seen fit to style the Creek nation; and the very exceptionable manner in which he had notified his transactions to the agent of the United States with the Creeks, with an intimation that we were to hear more about the treaties when they should be ratified in England. I mentioned that Lord Bathurst had, in the most candid and explicit manner verbally disavowed to me these proceedings of Colonel Nicholls; had told me that the pretended treaty of alliance, offensive and defensive, had been indeed transmitted by the Colonel for ratification; but this Government had refused to ratify it, and informed Colonel Nicholls that they would agree to no such treaty; that the Colonel had even brought over some of his Indians here, who would be sent back, with advice to make their terms with the United States as they could. These verbal assurances I had reported to my Government, and presumed they had been received with much satisfaction. Whether they had been repeated in a more formal manner, and in any written communication, I had not been informed. I had noticed the conduct of Colonel Nicholls in one of my notes to



*Relations with Spain.*

Lord Bathurst, and to that part of the note had received no answer. As the complaint had also been made through Mr. Baker, a written answer might, perhaps, have been returned through that channel. My motive for referring to the subject now was, that, by the President's Message to Congress at the opening of the session, I perceived that the conduct of the Indians in that part of the United States still threatened hostilities, and because there, as in the more northern parts, the Indians would certainly be disposed to tranquillity and peace with the United States, unless they should have encouragement to rely upon the support of Great Britain. Lord Castlereagh said, with a smile, that he had a good many treaties to lay before Parliament, but none such as those I described were among them.

No. 13 b.

*Extract of a letter from Mr. Adams to Lord Castlereagh, dated*

LONDON, March 21, 1816.

It has been more than once a painful part of the duty of the undersigned to represent to His Majesty's Government the unfriendly dispositions manifested by British military officers in America towards the United States since the peace between the two countries; and to point out specific and unequivocal facts, by which those officers, far from exerting themselves to carry into effect the avowed object of their own Government, of securing to the Indians who had followed the British standard during the war the blessings of the pacification, have labored with an activity as restless, and a zeal as ardent, as they could have done in the heat of war, to instigate Indians belonging within the territorial jurisdiction of the United States to continued or renewed hostility against them. When, in the course of last Summer, the undersigned had the honor of exposing to Earl Bathurst the transactions deeply marked with this character of Colonel Nicholls, he was happy to receive from his Lordship, verbally, at once the confirmation of the facts, and the disavowal of the measures. Colonel Nicholls, after the conclusion of the peace between his Sovereign and the United States, not only used every effort in his power to urge to war against the United States tribes of Indians with whom they were then at peace, and who were far remote from any British possession whatever, but actually concluded a pretended treaty of alliance, offensive and defensive, between some of them and Great Britain against the United States. Of this treaty, Earl Bathurst, in a conference with the undersigned, expressed himself in terms of unqualified disapprobation; adding that it had not been ratified or approved, and that no such treaty would be made or agreed to by Great Britain. In the pursuit of his projects, Colonel Nicholls brought over some of these Indians to England; but as Lord Bathurst, in the most explicit manner, assured the undersigned that no use of them hostile to the United States would be made by Great Britain, the undersigned is persuaded that that

determination has not been departed from by His Majesty's Government.

How far the threat of Indian vengeance is becoming to the humanity of British officers, or the dignity of their Government, in a correspondence with the officers of a civilized nation, and in a time of peace, the undersigned leaves to His Majesty's Government to decide. Neither Colonel Nicholls nor Colonel James was ashamed to use it; and it would be treated by the undersigned as it was by the officers of the United States to whom it was addressed, were it not his duty to remark that, in condescending to be the heralds of this menace, those officers sufficiently indicated that they understood its being carried into execution or not depended upon them; that they viewed themselves as the regulators to restrain or to license Indian barbarity at their discretion; that they (British military officers) called upon the civil authority of the United States to satisfy the revenge of Indian savages belonging within the American jurisdiction, for acts committed upon the American territory; threatening, as the alternative, to let loose those savages to wreak their own vengeance, in all its fury, upon American women and children.

Independently of the very serious character of these transactions in themselves, the undersigned entreats the attention of the British Government to the spirit by which they were dictated. This excessive earnestness of British authorities, military and civil, to hold themselves forth as the protectors, through right and through wrong, of Indians not belonging to British territories, however politic it may be deemed to imbricate enmities and to provoke hostilities between the Indians and the Americans, cannot but excite animosities far more formidable between the British and American nations. If persevered in, it must eventually prove most pernicious and fatal to the Indians themselves. The occasion will justify the expression of the hope that orders and instructions will be issued to the local authorities of the British colonies in North America, which will leave no doubt on the minds of those invested with them that the real intention of Great Britain towards the United States is peace.

No. 14.

*General Jackson to the Governor of Pensacola.*

HEADQ'RS DIVISION OF THE SOUTH,  
Washington, M. T., April 23, 1816.

SIR: I am charged by my Government to make known to you that a negro fort, erected during our late war with Great Britain, at or near the junction of the Chatahoochee and Flint rivers, has been strengthened since that period, and is now occupied by upwards of two hundred and fifty negroes, many of whom have been enticed away from the service of their masters, citizens of the United States; all of whom are well clothed and disciplined. Secret practices to inveigle negroes from the citizens of Georgia, as well as from the Cherokee and Creek nations of Indians, are still continued by this banditti and the hostile Creeks.

*Relations with Spain.*

This is a state of things which cannot fail to produce much injury to the neighboring settlements, and excite irritations which eventually may endanger the peace of the nation, and interrupt that good understanding which so happily exists between our Governments.

The principles of good faith, which always insure good neighborhood between nations, require the immediate and prompt interference of the Spanish authority to destroy or remove from our frontier this banditti, put an end to an evil of so serious a nature, and return to our citizens and friendly Indians inhabiting our territory those negroes now in said fort, and which have been stolen and enticed from them. I cannot permit myself to indulge a belief that the Governor of Pensacola, or the military commander at that place, will hesitate a moment in giving orders for this banditti to be dispersed, and the property of the citizens of the United States forthwith restored to them and our friendly Indians; particularly when I reflect that the conduct of this banditti is such as will not be tolerated by our Government, and, if not put down by Spanish authority, will compel us, in self-defence, to destroy them. This communication is intrusted to Captain Amelung, of the first regiment of the United States infantry, who is charged to bring back such answer as you may be pleased to make to this letter. In your answer you will be pleased to state whether that fort has been built by the Government of Spain, and whether those negroes who garrison it are considered as the subjects of His Catholic Majesty, and, if not by His Catholic Majesty, by whom, and under whose orders, it has been erected.

ANDREW JACKSON,

*Major Gen. Com'g Div. of the South.*

To the GOVERNOR of Pensacola,

*Or Military Com. of that place.*

A true copy:

ISAAC L. BAKER, *Aid-de-camp.*

No. 15.

*Governor Zuniga to General Jackson.*

PENSACOLA, March 26, 1816.

MOST EXCELLENT SIR: On the 24th of the present month, Captain Amelung, of the 1st United States regiment, put into my hands your excellency's letter, dated at Washington, Mississippi Territory, on the 23d of April last, in which, after apprising me that your Government had given it in charge to you to inform me that the fort of the negroes, erected during the late war with Great Britain, near the junction of the Chatahoochee and Flint rivers, had been reinforced, and was now occupied by more than two hundred and fifty negroes, many of whom were seduced from the service of their masters, (who are citizens of the United States,) and that all of them are well armed, provisioned, and disciplined, you make many wise reflections with respect to the serious injuries which may result from tolerating such an establishment, not only to those in the immediate neighborhood of

it, by disturbing the peace of the nation, but likewise to the good understanding which happily exists between our respective Governments; you enter into an investigation to show what the Spanish authorities ought to do to put an end to an evil of so serious a nature, in the mode prescribed by those principles of good faith which are the foundation of friendly neighborhood among nations; you distinctly state what this Government ought immediately to do, in failure of which your Government will be obliged to do it, to insure the safety of the inhabitants of the United States; and you conclude by requesting me to state, in my answer to your letter, whether the said fort has been constructed by the Spanish Government, and whether the negroes who compose its garrison are deemed subjects of His Catholic Majesty, and, if the fort was not built by Spanish authority, to state by what authority, and by whose order, it was built.

In answer to your excellency, I will state, with the veracity which comports with the character of an honorable officer, in which class I rank myself that, having arrived at this place nearly at the close of the month of March preceding, and being informed of what your excellency has communicated to me, (with this difference, that the fort, instead of being where you place it, is to be found on the eastern bank of the Appalachicola, at about fifteen miles from its mouth or entrance into the sea,) I lost no time in proposing to my Captain General the measures which appeared to me proper, as well for securing the inhabitants of the country under my command from the damages, losses, and injuries which they have suffered, and still suffer, from this establishment, as to prevent the American citizens and the friendly Indians of the neighborhood from continuing to experience them. I have hitherto received no answer, and consequently your excellency (who knows how limited are the powers of a subordinate officer) cannot be surprised that I should make known to you that, although my mode of thinking exactly corresponds with yours as to dislodging the negroes from the fort, the occupying it with Spanish troops, or destroying it, and delivering the negroes who may be collected to their lawful owners, I shall not be able to act until I receive the orders of my Captain General, and the assistance necessary to enable me to undertake the enterprise with a moral certainty of accomplishing the end. I am persuaded that the determination of the said chief cannot be long delayed; and, should it authorize me to act, your excellency may rest assured and persuaded that I will not lose an instant in adopting, on my part, the most efficacious measures for cutting up by the root an evil which is felt to the full extent stated in your letter by the inhabitants of this province, who are the subjects of my Sovereign, and whose prosperity and tranquillity it is my duty to preserve and protect.

With this explanation, your before-named letter may be considered as fully answered, as it



*Relations with Spain.*

gives me pleasure to understand that, thinking as your excellency thinks with respect to the necessity of destroying the negroes, the fort at Appalachicola occupied by them was not constructed by orders of the Spanish Government; and that the negroes, although in part belonging to inhabitants of this province, and as rational beings, may be the subjects of the King, my master, are deemed by me insurgents or rebels against the authority, not only of His Catholic Majesty, but also of the proprietors from whose service they have withdrawn themselves; some seduced by the English Colonel Nicholls, Major Woodbine, and their agents, and others from their inclination to run off. But as your excellency manifests a particular desire that, in case the fort was not erected by Spanish authority, I should state by what authority and by whose orders it was erected, I have no difficulty in satisfying your curiosity, by informing you that I have understood, ever since my arrival at this place, that the said fort, and another near the confluence of the Chatahoochee and Flint rivers (which it appears no longer exists,) were built by the order of the before-named Colonel Nicholls. I will not assure you that he did it under authority from his Government; but I can say that he proceeded to place artillery, munitions, and provisions in it, by the arrangement of Vice Admiral Malcolm; and that when Colonel Nicholls and the troops of his detachment, after the conclusion of the expedition against Louisiana, withdrew from that point, he left orders with the negroes, totally contrary to the incontestable right of sovereignty which the King, my master, exercises from the line of the thirty-first degree of north latitude to the South. My predecessors in this Government have given an account of all these actions to the authorities on whom they depended, that the satisfaction which the violation required might be demanded by those on whom this duty devolves. I think I have answered your excellency's letter satisfactorily, and in terms which cannot leave a doubt of the sincerity of my intentions in favor of the common cause of the American and Spanish inhabitants; and that my present inaction does not proceed from a want of inclination. I likewise flatter myself that, until my Captain General decides, no steps will be taken by the Government of the United States, or by your excellency, which may be prejudicial to the sovereignty of the King, my master, or the district of Appalachicola, which is a dependency of this Government. And, finally, I conclude by assuring your excellency that it will afford me particular satisfaction to have opportunities of evincing my desire, not only to contribute, so far as depends on me, to the cementing of the good understanding which subsists between our respective Governments, but also to prove to your excellency the high opinion I entertain of your virtues and military talents. God preserve your excellency many years.

MAURICIO DE ZUNIGA.  
His Exc'y ANDREW JACKSON.  
Major General, &c.

No. 16.

*Report of Captain Amelung to General Jackson.*

NEW ORLEANS, June 4, 1816.

SIR: In obedience to your order, received on the 6th of May last, I proceeded the next day for Pensacola; but owing to adverse winds, (having to wait twelve days at the bay of St. Louis,) I only arrived at that place on the 24th May. I was received and treated with great attention by the Governor and his officers, and, after receiving his answer to your letter, I left there on the 27th, and arrived here on the 2d instant.

I have the honor to transmit herewith the answer of the Governor, which, I think, embraces all the points touched upon in your letter; and also take the liberty to subjoin a translation thereof, as it might happen that no person is near you understanding the Spanish language. I am firmly of opinion that the Governor asserts the truth in his communication; and am convinced that the inhabitants of Pensacola have suffered, and do now suffer, more than our citizens, from the existence of the fort and its garrison.

I also take the liberty of communicating such intelligence as I have been able to collect from good authority, and which might perhaps be of some use.

The fort in question is situated at Bonavista, on the eastern branch of the Appalachicola river, 15 miles above its mouth, and 120 miles east of Pensacola. The river discharges itself into St. George's Sound, and vessels drawing not more than ten feet water may come in between St. George's and St. Vincent's islands; the bar, however, is dangerous, and requires skilful pilots.

The fort was constructed by Nicholls and Woodbine, and the British occasionally resorted thither; but, on their final evacuation of this country, left it in the possession of a garrison composed of negroes and Indians, with four pieces of heavy ordnance, and 10,000 pounds of powder, &c. About twenty Choctaws, a number of Seminoles, and a great number of runaway negroes are supposed to have been there some time ago, but a great part of these brigands have abandoned the fort on account of scarcity of provisions, and have gone to Savannah (alias St. Joseph's) river, in East Florida, whither they will, no doubt, all retire, in case of an attack by land, as they have a schooner and several large boats to make good their retreat by sea, if not interrupted.

From this spot they can easily annoy our settlements on Flint river, and the whole Georgia frontier, and are in a country where they can procure subsistence with facility.

Pensacola itself is, I can assure you, entirely defenceless. The garrison consists of from 80 to 100 effective men, exclusive of a battalion of colored troops, say about 150 men, of whom the inhabitants themselves stand in constant dread. They have about 150 serviceable muskets, about 500 musket cartridges, and not enough gunpow-

*Relations with Spain.*

der to fire a salute; one gun was mounting at Barancas on the day I left there. To this is to be added the dissatisfaction of the inhabitants, and even of a number of the officers of Government, and the desire of a majority to see a change effected. I must not forget to present to you, on the part of the Governor, the thanks of the inhabitants of Pensacola for the exemplary and humane conduct of the army under your command at Pensacola, and I verily believe their professions to be sincere.

The Governor also, on my mentioning in conversation that I was persuaded you would willingly assist in destroying the fort, said, if the object was of sufficient importance to require the presence of General Jackson, he would be proud to be commanded by you; and that, if the Captain General of Cuba could not furnish him with the necessary means, he might perhaps apply to you for assistance.

Having nothing further to add, I remain, very respectfully, your obedient servant.

VERO Z. AMELUNG,  
A true copy: Captain 1st Infantry.

JAMES T. DENT,  
Judge Advocate, Division of the South.

No. 17.

*General Jackson to the Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, June 15, 1816.

SIR: I have this moment received the answer of the commanding officer and Governor of Pensacola to mine of the 23d of April, which I hasten to forward for your information, as well as the copy of the report of Captain Amelung, of the 1st infantry, who was the bearer of my letter. I send you the original, retaining a copy in English forwarded to me by Captain Amelung.

The answer bears the marks of candor and breathes the spirit of friendship; and as those marauders on our frontier are acknowledged officially as rebels against the Government of Spain, there can be no fear of disturbing the good understanding that exists between us and Spain, by destroying the negro fort, and restoring to the owners the negroes that may be captured.

The 4th and 7th infantry will be sufficient to destroy it. A few troops from the 1st infantry, with a small naval force, will prevent their escape, and capture those vessels named by Captain Amelung in his report. I shall await your order on this subject, which shall be promptly obeyed and executed.

I am, respectfully, &c.

ANDREW JACKSON,  
Major Gen., com'g Div. of the South.  
Hon. WM. H. CRAWFORD,  
Secretary of War.

No. 18 a.

*General Gaines to the Secretary of War.*

CAMP NEAR FORT JACKSON,  
April 30, 1816.

SIR: I have just now received a letter from

Lieutenant Colonel Clinch, dated near the mouth of Summochichoba, the 26th instant, enclosing a communication from the Little Prince, a copy of which I enclose herewith.

This chief is on a tour down the river to visit the Seminole chiefs near the Appalachicola.

The ostensible object of the visit was to adopt measures to take the negro fort; and as Colonel Hawkins had confidence in the promises of the Indians to effect this object, I sanctioned a requisition for supplying them with three hundred bushels of corn, to serve as rations. That I have little faith in their promises, I will not deny; but it seemed to me proper to encourage them in the prosecution of a measure which I felt persuaded would, if successful, be attended with great benefit to our southern frontier inhabitants, as well as the Indians themselves.

I have the honor to be, &c.

EDMUND P. GAINES.  
Hon. WM. H. CRAWFORD,  
Secretary of War.

No. 18 b.

*Talk from the Little Prince, Tustenuggee Hopoy, to the Commander of the United States forces in the Indian nation.*

SIR: Jackson and Hawkins spoke to us, and told us we were their children. At the Tuskegee meeting you told us you would have the land as far down as the Summochichoba; but we chiefs did not agree to it. You did not tell us then you would build forts along the river bank down to the fork; but we heard, since, you issued orders to that effect. We do not think it friendly for one friend to take anything from another forcibly. The Commander and Hawkins did not tell us anything about building of these forts. Did you know these things, and keep them hidden from me? We told our friend Hawkins we would hold a meeting at this place on our way down. We were [told] at the fort at Summochichoba, built by the commanding officer, that he had orders to build three forts. Our friend Hawkins told us to go down to the fort of the blacks, and take them out of it, and give them to their masters; which we are at this present, when we have heard of Jackson's orders about building these forts. We hear of your meeting at Tuskegee. We hope you will detain the forces at the places they are at at present, and wait on the Indians, as I am sure they will be able to settle everything; but all the chiefs are not yet met. You know that we are slow in our movements. I spoke to the commanding officer at Summochichoba. He will read this, and write it off on a clean sheet, and send it on to the Commander-in-chief and Colonel Hawkins. I beg you will send me back an answer, and a sheet of paper, and a little ink, in order to enable me to write you again, if it should be necessary. I remain your friend,

TUSTENNUGGEE HOPOY.  
A true copy: ROB. R. RUFFIN,  
Lieut. Artillery, Aid-de-camp.



## Relations with Spain.

Written as spoken, by William Hambly, 26th April, 1816.

W. S. PENDLETON.

No. 19.

General Gaines to Colonel Clinch.

HEADQ'RS, FORT MONTGOMERY,  
Mississippi Territory, May 23, 1816.

SIR: Your letters up to the 9th instant have been received. The British agent, Hambly, and the Little Prince and others, are acting a part which I have been at a loss for some time past to understand. Are they not endeavoring to amuse and divert us from our main object? Their tricks, if they be so, have assumed a serious aspect, and may lead to their destruction; but we have little to apprehend from them. They must be watched with an eye of vigilance. The post near the junction of the rivers, to which I called your attention in the last month, must be established speedily, even if we have to fight our way to it through the ranks of the whole nation.

The surveyors have commenced laying off the land to be sold and settled, and they must be protected. The force of the whole nation cannot arrest your movement down the river on board the boats, if secured up the sides with two-inch plank, and covered over with clapboards; nor could all the nation prevent your landing and constructing a stockade work, sufficient to secure you, unless they should previously know the spot at which you intended to land, and had actually assembled at that place previous to or within four hours of your landing; but your force is not sufficient to warrant your march to the different villages, as suggested, by land. The whole of your force (except about forty men, or one company, for the defence of Fort Gaines) should be kept near your boats and supplies until the new post shall be established. You may then strike at any hostile party near you, with all your disposable force; but even then you should not go more than one or two day's march from your fort.

If your supplies of provisions and ammunition have reached you, let your detachment move as directed in my letter of the 28th of last month. You can venture to move with twenty-five days' rations; but you should order a supply to the agency, or Fort Gaines, where a boat should be built, and held in readiness to send down, in case any accident should prevent or delay the arrival of a supply which I have ordered from New Orleans.

I enclose you an extract of a letter containing an arrangement for the supply by water, and have to direct that you\* will provide a boat, and despatch it with an officer and fifty men to meet the vessels from New Orleans, as soon as you are advised of their being on the river. One of your large boats will answer the purpose, provided you

\* Thirty thousand rations have been ordered from New Orleans up the Appalachicola, and Commodore Patterson requested to send a convoy of one or two gun-vessels.

have no barge or keel-boat. Should the boats meet with opposition at what is called the Negro fort, arrangements will immediately be made for its destruction; and for that purpose you will be supplied with two eighteen-pounders and one howitzer, with fixed ammunition, and implements complete, to be sent in a vessel to accompany the provisions. I have, likewise, ordered fifty thousand musket cartridges, some rifles, swords, &c. Should you be compelled to go against the Negro fort, you will land at a convenient point above it, and force a communication with the commanding officer of the vessels below, and arrange with him your plan of attack. Upon this subject you shall hear from me again, as soon as I am notified of the time at which the vessels will sail from New Orleans.

With great respect and esteem, &c.

EDMUND P. GAINES,

Major General com'g.

Lt. Col. D. L. CLINCH,

or Officer com'g on the Chatahoochee.

A true copy:

ROB. R. RUFFIN,

Aid-de-Camp.

No. 20.

General Gaines to Commodore Patterson.

FORT MONTGOMERY, May 22, 1816.

SIR: By a letter I have received from Lieutenant Colonel Clinch, commanding a battalion of the 4th regiment of infantry on the Chatahoochee, I learn that, in the early part of the present month, a party of Indians surprised and took from the immediate vicinity of his camp two privates sent out to guard a drove of beef cattle purchased for the subsistence of the troops. The cattle, amounting to thirty head, were also taken. The Indians were pursued forty-five miles, on a path leading to St. Mark's, but, being mounted, and having travelled all night, escaped with their prisoners and booty.

This outrage, preceded by the murder of two of our citizens, Johnson and McGaskey, by Indians below the lines, and followed by certain indications of general hostility, such as the *war dance*, and drinking *war physic*, leaves no doubt that we shall be compelled to destroy the hostile towns.

The detached situation of the post which I have ordered Lieutenant Colonel Clinch to establish near the Appalachicola will expose us to great inconvenience and hazard in obtaining supplies by land, particularly in the event of war, as the road will be bad, and the distance from the settlement of Georgia near one hundred and fifty miles.

Having advised with the Commander-in-Chief of the division upon this subject, I have determined upon an experiment by water, and for this purpose have to request your co-operation; should you feel authorized to detach a small gun-vessel or two as a convoy to the boats charged with our supplies up the Appalachicola, I am persuaded that, in doing so, you will contribute much to

## Relations with Spain.

the benefit of the service, and accommodation of my immediate command in this quarter. The transports will be under the direction of the officer of the gun-vessel, and the whole should be provided against an attack by small arms from shore. To guard against accidents, I will direct Lieutenant Colonel Clinch to have in readiness a boat sufficient to carry fifty men, to meet the vessels on the river and assist them up.

Should you find it convenient to send a convoy, I will thank you to inform me of the date of its departure, and the time which, in your judgment, it will take to arrive at the mouth of the river, (Appalachicola.)

Enclosed you will receive the best account I can give you, from the information I have received of the negro fort upon the Appalachicola. Should we meet with opposition from that fort, it shall be destroyed; and, for this purpose, the commanding officer above will be ordered to prepare all his disposable force to meet the boats at or just below the fort, and he will confer with the commanding officer of the gun-vessels upon the plan of attack.

I am, with great consideration and esteem, your obedient servant,

EDMUND P. GAINES,

Major General by brevet.

Com. D. T. PATTERSON,

U. S. Navy, New Orleans station.

No. 31.

Commodore Patterson to Lieutenant Commandant Crawley.

NEW ORLEANS, June 19, 1816.

SIR: The enclosed copy of a letter from Major General Gaines, commanding the United States military forces in the Creek nation, fully informs you of his situation, and his expectation of immediate commencement of hostilities on the part of those Indians.

In consequence of the information contained in that letter, I have promised the convoy therein requested; you will therefore take under your command gun-boat No. 149, and, with that letter for your guide, convoy the transports with ordnance, provisions, &c., up the Appalachicola and Chatahoochee, to such point or points as may be required, if practicable. Should you meet with opposition from the negro fort, situated, as stated in the letter, on the former river, the military commanding officer will have orders to destroy it, in which you will co-operate; the plan of attack to be concerted between yourself and him: the transports will be under your direction entirely.

In the event of hostilities between the Indians and the United States, you will, if practicable, afford any aid with your vessels in your power to the army. Remain in that river, and co-operate with them, until it shall be necessary to return here for provisions; but, if you cannot aid them in their operations, you will then return immediately, bringing with you the transports.

The transports will rendezvous at the Pass

Christian, and consist of the following vessels: schooner Semilante, laden with ordnance; schooner General Pike, laden with provisions.

By late information, the negro fort mounts only six pieces of cannon, with about one hundred men in and about it planting corn, and I apprehend no opposition from them whatever; in the event of your remaining to act with the army, you will communicate with me by mail through General Gaines. Should the boat, mentioned in General Gaines's letter, not meet you prior to your arrival at or near the negro fort, and you have cause to expect opposition, you will wait her arrival before you attempt to pass it.

Very respectfully, &c.

DANIEL T. PATTERSON.

Lieut. Com. CHARLES E. CRAWLEY,

U. S. cutter Fox.

No. 22.

Commodore Patterson to J. Loomis.

NEW ORLEANS, June 19, 1816.

SIR: The enclosed despatch for Lieutenant Commandant Crawley is transmitted under cover to you, lest he might not arrive at the Pass Christian by the time the transports laden with ordnance, provisions, &c., mentioned to you verbally when here, shall arrive, and be ready to proceed to their place of destination; in which case, you will consider them as addressed to you, and act accordingly; in that event, you will take under your command gunboat No. 154, together with the transports, and proceed in execution of these instructions.

In the performance of the duties therein pointed out, it will be necessary to act with vigor and judgment; and you will refrain from any act of hostilities against the Spanish force, or violation of their rights and laws. You will make no delay in your departure from the Pass Christian, after the arrival there of No. 154 and the transports. Very respectfully, &c.

DANIEL T. PATTERSON.

Sailingmaster JAIROS LOOMIS,

Com'g U. S. gunboat No. 149.

No. 23.

J. Loomis to Commodore Patterson.

UNITED STATES GUN-VESSEL, No. 149,  
Bay St. Louis, August 13, 1816.

SIR: In conformity with your orders of the 24th of June, I have the honor to report that, with this vessel and No. 154, Sailingmaster James Bassett, I took under convoy the schooners General Pike and Semilante, laden with provisions and military stores, and proceeded for Appalachicola river; off the mouth of which we arrived on the 10th July. At this place I received despatches from Lieutenant Colonel Clinch, commanding the fourth regiment United States infantry, on the Chatahoochee river, borne by an Indian, requesting me to remain off the mouth of the river until he could arrive with a party of men to assist in getting up the transports; desiring me,



*Relations with Spain.*

also, to detain all vessels and boats that might attempt to descend the river.

On the 15th, I discovered a boat pulling out of the river, and, being anxious to ascertain whether we should be permitted peaceably to pass the fort above us, I despatched a boat with an officer to gain the necessary information; on nearing her, she fired a volley of musketry into my boat, and immediately pulled in for the river; I immediately opened a fire on them from the gun-vessels, but with no effect.

On the 17th, at 5 A. M. I manned and armed a boat with a swivel and musketry and four men, and gave her in charge of Midshipman Luffborough, for the purpose of procuring fresh water, having run short of that article. At 11 A. M. Sailingmaster Bassett, who had been on a similar expedition, came alongside with the body of John Burgess, ordinary seaman, who had been sent in the boat with Midshipman Luffborough; his body was found near the mouth of the river, shot through the heart. At 4 P. M. discovered a man at the mouth of the river on a sand bar, sent a boat and brought him on board; he proved to be John Lopaz, ordinary seaman, the only survivor of the boat's crew sent with Midshipman Luffborough. He reports that, on entering the river, they discovered a negro on the beach near a plantation; that Mr. Luffborough ordered the boat to be pulled directly for him; that on touching the shore he spoke to the negro, and directly received a volley of musketry from two divisions of negroes and Indians, who lay concealed in the bushes on the margin of the river; Mr. Luffborough, Robert Maitland, and John Burgess were killed on the spot; Lopaz made his escape by swimming, and states that he saw the other seaman, Edward Daniels, made prisoner. Lopaz supposed there must have been forty negroes and Indians concerned in the capture of the boat.

On the 20th of July, I received, by a canoe with five Indians, despatches from Colonel Clinch, advising that he had arrived with a party of troops and Indians at a position about a mile above the negro fort, requesting that I would ascend the river and join him with the gun-vessels.

He further informed me that he had taken a negro bearing the scalp of one of my unfortunate crew to one of the unfriendly Indian chiefs. On the 22d, there was a heavy canonading in the direction of the fort. On the 23d, I received a verbal message from Colonel Clinch, by a white man and two Indians, who stated that Colonel Clinch wished me to ascend the river to a certain bluff, and wait there until I saw him. Considering that, by so doing, a narrow and crooked river, from both sides of which my decks could be commanded, and exposed to the fire of musketry, without enabling me to act in my own defence, and also that something like treachery might be on foot, from the nature of the message, I declined acting, retained the white man and one of the Indians as hostages, and despatched the other, with my reasons for so doing, to Col. Clinch, stating that his views and communica-

tions to me in future must be made in writing, and by an officer of the army.

Lieutenant Wilson and thirteen men joined me on the 24th, to assist in getting up with the transports; he likewise informed me that Col. Clinch had sent the canoe the day before.

On the 25th, I arrived with the convoy at Duelling bluff, about four miles below the fort, where I was met by Colonel Clinch; he informed me that, in attempting to pass within gunshot of the fortifications, he had been fired upon by the negroes, and that he had also been fired upon for the last four or five days, whenever any of his troops appeared in view. We immediately reconnoitred the fort, and determined on a site to erect a small battery of two eighteen pounders to assist the gun-vessels to force the navigation of the river, as it was evident from their hostility we should be obliged to do.

On the 26th the Colonel began to clear away the brushwood for the erection of the battery; he, however, stated to me that he was not acquainted with artillery, but that he thought the distance was too great to do execution. On this subject we unfortunately differed totally in opinion, as we were within point-blank range; he, however, ordered his men to desist from further operations; I then told him that the gun vessels would attempt the passage of the fort in the morning, without his aid. At 4 a. m., on the morning of the 27th, we began warping the gun vessels to a proper position; at 5, getting within gunshot, the fort opened upon us, which we returned, and, after ascertaining our real distance with cold shot, we commenced with hot, (having cleared away our coppers for that purpose,) the first one of which, entering their magazine, blew up and completely destroyed the fort. The negroes fought under the English jack, accompanied with the red or bloody flag.

This was a regularly constructed fortification, built under the immediate eye and direction of Colonel Nicholls, of the British army; there were mounted on the walls, and in a complete state of equipment for service, four long twenty-four-pounder cannon; four long six-pounder cannon; one four-pounder field-piece, and a five and a half inch brass howitzer, with three hundred negroes, men, women, and children, and about twenty Indian warriors of the renegade Choctaws; of these, two hundred and seventy were killed, and the greater part of the rest mortally wounded, but three escaped unhurt; among the prisoners were the two chiefs of the negroes and Indians. On examining the prisoners, they stated that Edward Daniels, ordinary seaman, who was made prisoner in the boat on the 17th July, was tarred and burnt alive. In consequence of this savage act, both the chiefs were executed on the spot by the friendly Indians.

From the best information we could ascertain, there were 2,500 stands of musketry, with accoutrements complete; 500 carbines; 500 steel scabbard swords; 4 cases, containing two hundred pairs pistols; 300 quarter casks rifle powder; 762 barrels of cannon powder, besides a large quantity

*Relations with Spain.*

of military stores and clothing that I was not able to collect any account of, owing to an engagement made by Colonel Clinch with the Indians, in which he promised them all the property captured, except the cannon and shot.

The property captured on the 27th July, according to the best information we could obtain, and at the lowest calculation, could not have been less than \$200,000 in value; the remnant of the property, that the Indians did not take, was transported to Fort Crawford and to this place, an inventory of which I have the honor to transmit for your further information.

On sounding the river, I found it impassable for vessels drawing more than four and a half feet water; consequently, Colonel Clinch took the provisions from the General Pike into flats, and lightened the Semillante, so as to enable her to ascend the river as high as Fort Crawford. On the 3d August, after setting fire to the remaining parts of the fort and village, I left the river and arrived at this anchorage on the 12th current.

I cannot close this letter without expressing to you my entire approbation of the conduct of Sailingmaster James Bassett, commanding gun vessel No. 154, for his cool, deliberate, and masterly conduct, and the support I received from him in all cases of difficulty and danger. In fact, sir, every man and officer did his duty.

Very respectfully, &c.

J. LOOMIS.

Commodore DANIEL T. PATTERSON,  
Com'g U. S. naval forces, N. O. station.

No. 24.

Commodore Patterson to the Secretary of the Navy  
NEW ORLEANS, August 15, 1916.

SIR: It is with great satisfaction I do myself the honor to transmit herewith a copy of the report of operations of two gun-vessels, under the command of Sailingmaster Jairus Loomis, despatched at the request of Major General Gaines, commanding the United States army in the Creek nation, to convoy two transports, laden with ordnance stores and provisions, up the rivers Appalachicola and Chatahooche, to Fort Crawford, for the use of the army; as also copies of the Major General's letter to me, and of my instructions to Mr. Loomis.

You will perceive by Mr. Loomis's statement that the unprovoked and wanton aggression committed by a party of negroes on his boats, as also their hostile disposition and conduct to the army and the gun-vessels, and their approaching the fort, evinced in the strongest manner their intention to dispute his passage past their fort, and rendered it necessary to silence their fire and capture the fort. The very able manner and short time in which this was so effectually accomplished, with a force so very inferior, reflects the greatest credit upon Mr. Loomis and the officers and men under his command, the ninth shot and first hot one producing the explo-

sion; and unless the fort had surrendered or been destroyed, it would have been impossible for the army to have received those supplies, of which they stood so much in need, and without which their operations against the hostile Indians must necessarily have been materially retarded, if not totally suspended; and it was from the very great importance, as detailed by General Gaines, that those stores and provisions should reach the army in safety, that I felt it a duty incumbent upon me, when thus called upon, to afford the requisite convoy for their protection.

The service rendered by the destruction of this fort, and the band of negroes who held it, and the country in its vicinity, is of great and manifest importance to the United States, and particularly those States bordering on the Creek nation, as it had become the general rendezvous for runaway slaves and disaffected Indians; an asylum where they were assured of being received; a stronghold where they found arms and ammunition to protect themselves against their owners and the Government. This hold being destroyed, they have no longer a place to fly to, and will not be so liable to abscond. The able manner in which this enterprise was conducted cannot but impress the hostile Indians also with a dread of our arms, and increase the confidence of those who are friendly; add to which, that the force of the negroes was daily increasing; and they felt themselves so strong and secure that they had commenced several plantations on the fertile banks of the Appalachicola, which would have yielded them every article of sustenance, and which would, consequently, in a short time have rendered their establishment quite formidable and highly injurious to the neighboring States.

The English union jack and red or bloody flags, under which they committed their unprovoked hostilities against the American flag, are in my possession, and I shall have the satisfaction of forwarding them to the Department by the first safe conveyance. It appears very extraordinary, and remains with the English Government to explain the authority for their flag being thus hoisted by a band of outlaws, as also their officer, Colonel Nicholls, having placed so strong a work, and with so large a supply of arms, (most of which were perfectly new and in their cases,) ammunition, and every other implement requisite to enable the negroes and Indians to prosecute offensive operations against the United States—in possession of negroes, too, known to be runaways from the United States; and that, too, some time after peace had taken place.

Herewith is transmitted a copy of the inventory of the articles saved from the explosion, designating those furnished the army for public use, and those brought off and deposited here.

I regret extremely the loss of Mr. Luffborough, killed in the service, who, though much indisposed, and having sent in his resignation to the Department, very handsomely volunteered his services and accompanied the expedition. Mr.



*Relations with Spain.*

Loomis reports his conduct in the highest terms of approbation.

I avail myself of this occasion, with great satisfaction, to recommend to the particular notice of the Department Sailingmaster Jairus Loomis and James Bassett, commanding the gunboats on this expedition, as highly meritorious officers.

I cannot but lament exceedingly the great loss of lives occasioned by the destruction of the fort, though caused by their opposition to a passage of the river, and hostilities most wickedly commenced upon a friendly flag, under which not the slightest aggression would have been offered them.

The course pursued in this service, and the result, will, I trust, meet the approbation of the President of the United States.

I have the honor to be, &c.

DANIEL T. PATTERSON.

Hon. B. W. CROWNSHIELD,  
Secretary of the Navy.

No. 25.

Governor Kindelan to G. Cockburn.

ST. AUGUSTINE, EAST FLORIDA,  
February 18, 1815.

**MOST EXCELLENT SIR:** The support and protection which the subaltern officers of the troops under my command now on Cumberland Island afford to the runaway slaves of this province under my charge, inviting them to desert their masters and enlist as soldiers, with the tempting promise of the liberty which they will enjoy when once they are transported to His Britannic Majesty's colonies, have filled with consternation the peaceable inhabitants, subjects of His Catholic Majesty; to which may be added the aggravation offered them by the manner in which the restoration has been eluded, as to answer the claim which their masters make personally, by saying that they might take those that would accompany them voluntarily, is the same thing as to refuse their restoration; for where is the slave that will voluntarily return to slavery if left to his election? For my part, even if there did not exist that good understanding, concord, and friendship between our respective nations, I should feel very averse to suppose that the British Government, generous England, would tolerate in its subjects the spoliation of this property belonging to the pacific, industrious, and defenceless planter, not only of a friendly Power, but (excepting in certain cases) I conceive they would not permit it towards an enemy. I pronounce it as undeniable that this laudable maxim has ever been so religiously observed by civilized and enlightened people, that until now it has always been considered as an inviolable principle of the laws of nations.

This abuse or disorder, most excellent sir, from its important nature, demands from your Excellency the most prompt and efficacious remedy in your power, in order to do away those appearances of hostility which such unusual proceedings manifest, as well as to avoid the consequences

which must result from them, and which, for my part, I shall endeavor to obviate by every means in my power; requesting your excellency again to order the restoration, without restriction, of the aforesaid Spanish property, which I now demand of you, officially, for the second time.

Permit me to offer to your excellency, personally, my sentiments of high consideration, whose life I pray God to preserve many years.

SOB. KINDELAN.

His Exc'y GEORGE COCKBURN, &c.

No. 28.

General Jackson to Governor Mazot.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Gadsden, March 25, 1818.

**SIR:** I have ordered a supply of provisions to be sent from New Orleans, via Pensacola, to Fort Crawford, on the Conecub. This route has been adopted as the most speedy one of provisioning one of my garrisons, which must be maintained during the present contest against our mutual enemies, the Seminole Indians; and I cannot but express a hope that no attempt will be made to interrupt the free passage of my transports to that post. I am not disposed to enter into any controversy with you on the right which our Government may claim to the free navigation of such watercourses as head within her limits, but flow through the territory of His Catholic Majesty; preferring to leave these subjects to be settled by those legally authorized. But as it is necessary for me to make use of the Escambia river in passing up provisions to the garrison at Fort Crawford, I wish to be distinctly understood that any attempt to interrupt the passage of my transports cannot be received in any other light than as a hostile act on your part. I will not permit myself for a moment to believe that you would commit an act so contrary to the interests of the King, your master. His Catholic Majesty, as well as the United States, are alike interested in chastising a savage foe, who have too long warred with impunity against his subjects as well as the citizens of this Republic; and I feel persuaded that every aid which you can give to promote this object will be cheerfully tendered.

I am, with sentiments of respect, your obedient servant,

ANDREW JACKSON,  
Major General commanding.

DON JOSE MAZOT,  
Governor of Pensacola.

No. 29.

Governor Mazot to General Jackson.

PENSACOLA, April 15, 1818.

**MOST EXCELLENT SIR:** Your excellency's letter of the 25th of last month has been delivered to me; also that of the 16th, in answer to mine of the 16th of February preceding. I now have the honor to acknowledge the receipt of both, and to reply to the former.

*Relations with Spain.*

In the month of May last, yielding to a spirit of conciliation, I gave permission to the schooner Victory, from New Orleans, to pass up the Escambia to the American fort with a cargo of provisions; prompted by the same sentiment, I gave a similar permission in January last to Captain Call, of the schooner Italiana, to proceed to the same place; and subsequently, pursuing the same friendly and conciliatory feeling, I allowed Lieutenant Eddy, belonging to the garrison of the fort above alluded to, who had been commissioned for that purpose by Major Youngs, the commandant, to supply himself here with sixty barrels of provisions. The cargo of the schooner Italiana being still deposited here, I conceive that the introduction of the further supply requested by your excellency is not necessary at present. Notwithstanding this, as I infer from your excellency's letter that the said provisions are now on the way, and am disposed to grant the same indulgence as heretofore, while it is not less my duty to enforce the established regulations and restrictions, which require that the supplies should be consigned to a Spanish trading-house, which will undertake to forward them and secure the payment of the royal import and export duties, I will give permission for them to pass in like manner as the first; it being, however well understood that, neither now nor hereafter, the United States can pretend to or acquire any right in consequence of these indulgences, which are perfectly gratuitous, and granted solely in consequence of existing circumstances, which, as your excellency states to me, prevent the arrival of supplies to the said Fort Crawford, through any other channel. In addition, you are pleased to remark that you are not disposed to enter into any discussion with me on the subject of the right which may be claimed by the United States to the free navigation of the Escambia.

To a discussion of this nature I am no less averse than your excellency; because it is one not within my province, and because it is my duty, as a subordinate officer, to conform to the orders of my superior; therefore, until I receive orders to the contrary, I am bound, in reference to this point, strictly to adhere to the existing treaties between the United States and Spain. On referring to the last treaty of amity, limits, and navigation, I perceive nothing that stipulates the free navigation of the river alluded to; but, on the contrary, that the sovereignty of the King, my master, in and over all the territories, coasts, rivers, ports, and bays, situate to the south of the thirty-first degree of north latitude, is solemnly and explicitly acknowledged by the United States; and if, in consideration of the present extraordinary circumstances, further momentary concessions are required, I request your excellency to have the goodness to apply for that purpose, in future, to the authority on whom they may depend, as I am wholly unauthorized in this matter.

God preserve you many years.

JOSE MAZOT.

His Exc'y Gen. ANDREW JACKSON.  
15th CON. 2d SESS.—63

True copies of the documents deposited in this command. Pensacola, May 2, 1818, in the absence of the secretary, by indisposition:

BUENA. DUBREUIL.

No. 30.

General Jackson to Governor Mazot.

HEADQ'RS, DIVISION OF THE SOUTH,  
St. Marks April 27, 1818.

**SIR:** After I left this post for St. Juan, to disperse and destroy the mutual enemy of Spain and the United States, a small schooner with men and supplies arrived from Pensacola, and was taken possession of and detained by my officer left in command. This vessel has been liberated, with all her effects, excepting some clothing of the United States, (unaccompanied with any invoice,) and which has been detained as supposed to be a part of that taken in the boat, within the territory of this Republic, in which Lieutenant Scott, of the United States Army, with his command, was so inhumanly massacred.

I regret being compelled to state to you that from the papers and other proofs taken at San Juan, the quantity of American cattle found at St. Marks, and purchased by me from the commissary of the post, and the intercourse kept up between this post and the hostile Indians, there is too much ground to believe that the Indians have been encouraged, aided, and abetted by the officers of Spain in this cruel war against the United States. Proof positive exists that the Indians were supplied with ammunition by the late commandant of St. Marks. The United States clothing being found on board of a vessel in the employ of the Government of Spain, sailing from Pensacola direct from this post, compels me to call on you for a statement in what manner you came possessed of said clothing.

The good understanding that so happily exists between His Catholic Majesty and the United States formed a just ground to believe that his agents would have discountenanced this cruel and savage war, waged against the citizens of this Republic. Too weak to comply with her treaties with the United States, or chastise her own savage subjects waging war against a friendly nation, it was scarcely to be believed that her officers would have been detected in aiding and abetting this enemy, assisting him with intelligence of our movements, and purchasing of him the property depredated of us. America, just to her treaties, and anxious to maintain peace with the world, cannot and will not permit such a savage war to be carried on in disguise any longer.

Asylums have been granted to the persons and property of our Indian foe, (fugitives from the territory of the United States.) Facilities deemed by me necessary to terminate a war, which, under existing treaties, should have been maintained by Spain, for feeding my troops, and liberating the subjects of Spain imprisoned by the Indians, have all been denied by the officers of His Catholic Majesty. All these facts prove the unjust conduct of Spanish agents in the Floridas.



*Relations with Spain.*

It cannot be longer tolerated; and although a Republic fond of peace, the United States know their rights, and at the expense of war will maintain them.

ANDREW JACKSON,

Major General Commanding.

Don JOSE MAZOT,

Governor of Pensacola.

No. 31.

Governor Mazot to Major Youngs.

PENSACOLA, April 27, 1818.

SIR: Your letters of the 27th instant, dated Camp on the Escambia and Fort Crawford, enclosing a proclamation, were this day delivered to me at 3 o'clock P. M. by an artificer, (a man of color,) whose immediate return does not allow me at present to reply particularly to them; and I shall only state that the few peaceful Indians who were at this place and in its neighborhood left it on the 26th, and at daybreak several of them were murdered by the troops of the United States, and among them some women and children. As I am unable to account for this act, and the violation resulting from it, I have to inform you that I shall transmit an account of the whole transaction to my superior; and I hope that in the meantime you will not permit any further hostilities to be committed on any pretence in this territory; and, in case the Indians give any reason for complaint, that you will inform me of it, that I may chastise them for it, as far as it depends on my authority.

If there be Indians still remaining in this territory, I will have them sought for, and communicate your letter to them, and advise you of the result. I do assure you on my word that your statement of the aggressions committed by the Indians is the first intelligence I have had of it, and that when I agreed to the passage of the escort of which you speak, those Indians of whom Lieutenant Eddy was apprehensive were the only ones pointed out to me.

I must repeat to you that all my wishes and efforts are directed to preserving the peace happily subsisting between our Governments, and relying on your friendly sentiments towards me, I offer you in return the assurances of mine.

God preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS,

Com'g U. S. troops on the Escambia.

Governor Mazot to Major Youngs.

PENSACOLA, April 30, 1818.

SIR: In consequence of the request contained in your letter of the 27th instant, I assembled the principal chiefs of the Upper Creek towns of Colome, Canaan, Corvalle, and Forsythe, and communicated its contents to them; they all replied that they had long been very unhappy and miserable, without shelter or country; but that, at last, by the advice of a good friend, they had found one; that they all cheerfully adopted it,

and were very grateful for the offers you had made them. These Indians amount to about eighty-seven, including women and children. I have settled that they should divide into two companies, and they will set out as soon as your answer is received, which they think it prudent to keep, as you will, when informed of their acceptance of your offer, be enabled to give proper orders for their safety on their journey, and their avoiding any unpleasant rencontre with the Choctaws, who, if not duly informed of it, might attack them; in which case, the measures taken for the peaceful arrangements that we both have so much at heart would be defeated.

Opabi-hola, an Alabamian chief, on account of his age and infirmities, will remain here for the present with his family. I have given orders for his relief, and pledge myself for his good behavior.

You will always find me ready to unite with you in such measures as may be beneficial to our respective countries, and are conformable to existing treaties.

I renew the assurances of my respect, and pray God to preserve you many years.

JOSE MAZOT.

To Major WHITE YOUNGS.

No. 32 a.

The Governor of West Florida to his Excellency Andrew Jackson.

PENSACOLA, May 18, 1818.

MOST EXCELLENT SIR: On the 10th instant I received your letter of the 27th of April last, informing me that on board a small schooner despatched from this port for Appalache there were found several articles of clothing, such as are used by the United States troops, and which you suppose were taken in the boat in which Lieutenant Eddy was unfortunately cut off, together with his escort. You inquire of me how I became possessed of those articles of clothing, and you proceed to state that you regret the necessity which compels you to inform me that, from written and other proofs obtained at St. Johns, the quantity of American cattle found at St. Marks, and the active communication kept up between the latter place and the hostile Indians, there appears sufficient ground to believe that they were encouraged and excited to this savage warfare against the United States by the Spanish officers. You add that there exist positive proofs that the Indians were supplied with ammunition by the late commandant of St. Marks; and you conclude by declaring that shelter and protection have been given at this place to the persons and property of the Indians who are in hostility with the United States, and have fled from the American territory; that these facts, and the refusal to allow the passage of provisions for the supply of your troops, fully evince the unjust conduct of the Spanish agents in the Floridas.

To these several charges I shall reply in their order, frankly, unreservedly, and unequivocally. The first relates to the articles of clothing found

*Relations with Spain.*

on board the schooner Maria, and detained on the presumption of their being the property of the United States. A part of these, as is proved by the copy No. 1, was purchased at New Orleans in May last; a part came from Havana and a part was bought here; all which being fully substantiated the charge is consequently disproved, and your inquiry satisfactorily answered. The second is more serious, and refers to the conduct of the commandant of St. Marks, at a recent period. I immediately demanded of him an account of his proceedings; his report of which is enclosed under the No. 2. But as I am desirous that you would bring forward unquestionable proof of the misconduct of that officer, I have to request you to furnish me with it, in order that, if his misconduct be established, he may receive condign punishment; hereby assuring your excellency, with that sincerity that belongs to me, that in such an event he has acted entirely contrary to his instructions; and that on receiving the evidence required he shall be tried by a court martial, and punished in an exemplary manner, according to the merits of the case. Your sense of equity will, however, satisfy you that the Spanish Government cannot be held responsible for the misconduct of its agents while it does not support them in it, nor tolerate their errors when proved. Your subsequent complaints are directed personally and pointedly against me, and relate to the shelter and protection alleged to have been afforded to the persons and property of fugitive Indians, and to the passage of provisions up the Escambia. The best mode of giving a satisfactory answer to these charges will be to offer you a brief and faithful statement of facts. With respect to the Indians, you have assuredly not been correctly informed; for, although some few remained permanently here, chiefly consisting of women and children employed in supplying the inhabitants with fish, fuel, and other trifling articles, and had been living here long before the present war with the Seminoles, it is a fact that, when I sent round to assemble them for the purpose of communicating to them the proposal of Major Youngs, their whole number amounted but to eighty-seven; and surely the small proportion of men among them, unarmed, miserable, and defenceless, could not be considered as objects of hostility to the United States; a proof of which was shown in the continual passage of American citizens to this place, travelling unarmed and alone, without a single instance of accident happening either to their persons or property. In regard to the passage of provisions up the Escambia, so far from suspending it, I facilitated it, as far as depended on me, even to committing myself; since, as a subordinate officer, I could not becomingly allow a proceeding which was not fully authorized. I therefore, in consideration of circumstances, took that responsibility upon myself, as I stated to your excellency in my letter of the 15th ultimo, by Major Perault, to which I beg your reference. But, with a view to the benefit of this place, by means of a free intercourse with the interior, I hereby

declare that in future the merchants and traders belonging to it shall pass freely from hence to Fort Crawford, and other places on the frontier, and transport all necessary supplies, either by land or water; by which means it is to be expected they will be abundantly provided, and your excellency entirely satisfied.

In offering you these explanations and details, I flatter myself I have given so full and satisfactory an answer to your excellency's letter as to leave no doubt of the sincerity of my intentions, and at the same time to have presented a certain pledge that it is my earnest wish to contribute, by every means in my power, to the maintenance of the good understanding happily subsisting between our two Governments.

God preserve you many years.

JOSE MAZOT.

His Exc'y ANDREW JACKSON.

PENSACOLA, May 18, 1818.

A true copy of the original deposited in the office of the secretary of the government of this Province, under my charge.

CARLOS REGGIO.

No. 32 b.

Certificates from New Orleans and Pensacola.

PENSACOLA, May 31, 1818.

Having observed, among other things, what is stated to you by Major General Andrew Jackson, of the United States troops, in his note of the 27th April last, communicated to me in yours of the 13th instant, in which you request me to inform you of what description the articles referred to by the said General were, also by whom the coats worn by the men belonging to the gray and brown companies (*de pardos y morenos*) from the Havana, under my command, were sold or brought to this place, they being the same uniform as that worn by the troops of the United States, I have to inform you, in reply, that with respect to the articles of clothing shipped on board the schooner Maria, for the supply of a detachment from the aforesaid companies at Appalache, and detained by General Jackson, they consisted of fifteen four-point woollen blankets, and were brought here in His Majesty's schooner brigantine "El Almirante," arrived in this port 2d January last; twenty-five pairs of French shoes, bought here of Don Henrique Grandpré, as per exhibit No. 1, annexed; fifteen common negro hats, bought of Don Henrique Michelet, per exhibit No. 2; and twenty shirts of Crea linen, and the same number of pantaloons, received by the above-named vessel, with the exception of three or four of the latter articles, which were made in North America for the use of their troops, and came into my possession in the manner I shall presently explain to you. All which clothing I requested you, in mine of the 7th April, to be pleased to direct the proper department to have inserted in the clearance, as being for its account and risk. By the voucher annexed (No. 3) you will perceive, that on the 1st and 4th of May last, and 29th of July, there were shipped to me



## Relations with Spain.

by Don Pedro Dalharte y Clareria, merchant of New Orleans, the hundred and thirty-one coats of the uniform reformed there, according to his letter of advice; also, twenty-eight pair of shoes, twenty Russia sheeting waistcoats, two hundred and fifty-three leathern caps for the use of the chasseurs, and a quantity of half boots and leathern stocks; all which articles were purchased from the military storekeeper at New Orleans, and brought here in the schooners Maria and Jalousie, under the charge of their skippers, Bartolome Alberty and Jose Medina, who included them in the manifests they exhibited on their arrival, and the duties on them were secured, as appears by their appraisement by the proper officers on the 19th May and 11th August last. Hence, it is evident that the conjecture formed by General Jackson that the articles of clothing detained by him were part of those captured from the escort of Lieutenant Scott, at the time he was cut off within the limits of the territory of the Republic, is entirely disproved; inasmuch as the unfortunate accident of that officer and his escort happened on the Appalachicola in December last, and the articles of clothing alluded to were purchased in New Orleans in May and July preceding, as is fully proved by the letters of advice and invoices comprised in exhibit No. 3, to which I have referred above.

God preserve you many years.

BENIGNO G. CALDERON.

To JOSE MAZOT.

(No. 1.)

I hereby certify that, on the 10th of February last, I sold to Captain Don Benigno Garcia Calderon, commanding the gray and brown companies from Havana, two hundred and eighteen pairs of French shoes, iron shod, for the use of the men belonging to the said companies; and, at the request of the said officer, I have delivered him the present certificate, dated at Pensacola, this 18th day of May, 1818.

HENRIQUE DE GRANDPRE.

(No. 2.)

I hereby certify that, on the 12th of February last, I sold to Captain Don Benigno Garcia Calderon, commanding the gray and brown companies from the Havana, nine dozen round negro hats, for the use of the men belonging to the said companies; and, at the request of the said officer, I have delivered him the present certificate, dated at Pensacola, this 18th of May, 1818.

HENRIQUE MICHELET.

(No. 3.)

NEW ORLEANS, April 30, 1817.

To DON BENIGNO GARCIA CALDERON, Pensacola:

Enclosed you have an account of the cost and charges of fifty-four shirts and twenty-eight pairs of shoes, for amount whereof you are debited in account of fifty-three dollars. Although I had no orders from you for the shirts, I was induced to purchase them by the low prices and the proba-

bility of your employing them to advantage. In the sack they are put up in, you will find a uniform coat which has been re-formed here, and can be set by the storekeeper at twelve rials. I think it would answer. There are one hundred and twenty of them. I am offered by the same storekeeper fifty field-tents, nearly new, at three dollars; and a parcel of strong leathern caps, such as are worn by the chasseurs, that can be set at less than two rials, of which there about two hundred. The storekeeper having made me a second offer of the shirts, I proposed to take them in barter for coffee at ten or eight and a half; even at ten I am persuaded it would be a good bargain, as it would give the opportunity of putting off the coffee, its inferior quality making it rather dull sale. The quality most called for is the green, which is much superior, and that hardly commands twenty dollars. The cost and charges of the said shipment of shirts, by schooner Maria, are carried to your debit in account current, viz., \$176 13.

Account of costs and charges of sundries shipped on board the schooner Maria, Captain Alberty, for account and risk of, and to be delivered to, Don Benigno Garcia de Calderon, Pensacola, viz:

C No. 1. 1 sack containing 28 pairs shoes, at 6 rials	\$21 00
2. 1 sack containing 54 shirts, at 4 rials	27 00
1 coat	1 50
Sack, twine, and packing	1 00
	50 50
Commission, 5 per cent.	2 50
Amount to the debit of Don B. Garcia Calderon	53 00

P. DALHARTE Y CLARERIA.

NEW ORLEANS, May 1, 1817.

Account of costs and charges of ten sacks, containing one hundred and thirty-one coats, shipped on board the schooner Maria, Captain Grandpierre, for the risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz:

C No. 3 a 12. 10 sacks containing 131 coats, at 10 rials	\$163 75
Sacks, twine, and packing	4 00
	167 75
Commission, 5 per cent.	8 38
Amount to the debit of Don Benigno Garcia Calderon	176 13

P. DALHARTE Y CLARERIA.

NEW ORLEANS, May 29, 1817.

To DON BENIGNO G. DE CALDERON, Pensacola:

NEW ORLEANS, July 29, 1817.

At the receipt of yours, the caps were already agreed for, with some other articles of clothing,

## Relations with Spain.

amounting, as per invoice annexed, to \$317 16½, to your debit in account. I suspended the purchase of the hats, which run from eight to ten dollars per dozen.

Account of costs and charges of sundries, shipped in two hogsheads, three barrels, two cases, and one sack, on board the schooner Jalousie, Jose Medina, master, for account and risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz:

25 cottonade pantaloons, at 50 cents	\$12 50
236 flannel under-waistcoats, at 37½ c.	88 50
253 caps, at 18½ cents	47 43½
A parcel of leathern gaiters and spatterdashes	15 00
20 Russia sheeting short vests	106
51 pantaloons	pieces 106 00
35 cotton shirts	at \$1
29 do do, at 75 cents	21 37½
Cord, cooperage, &c.	3 50
	302 06½
Commission, at 5 per cent.	15 10

Amount to the debit of Don Benigno

Garcia Calderon \$317 16½

P. DALHARTE Y CLARERIA.

We, the subscribers, merchants of Pensacola, hereby certify that the foregoing paragraphs of letters of advice and invoices are true copies of the originals exhibited to us by Captain Don Benigno Garcia Calderon, commanding the gray and brown companies from Havana, and that the signatures thereto subscribed are in the true handwriting of Don Pedro Dalharte y Clareria, a citizen of the United States, and merchant at New Orleans.

In testimony whereof, we have given the present certificate, at the request of the aforesaid Captain Calderon, at Pensacola, this 18th day of May, 1818.

HENRIQUE MICHELET,  
VIC. DE ORDOZGOITTI,  
VTE. BASTLONGUE.

No. 32 c.

Defence of F. C. Luengo, Commandant of St. Mark's.

PENSACOLA, May 14, 1818.

In replying to your letter of yesterday's date, in which, among other things connected with its subject, you communicate to me the several points treated of by Major General Jackson in his letter of the 27th ultimo, and on which he founds his assertion that the Indians not only received succors at Appalache, but that they were excited to commit hostilities against the forces of the United States, and of whose movements they were exactly informed, I have to express my utter astonishment at this business, in which imposture and malevolence have been equally employed to criminate the parties alluded to in the General's letter. It is stated by the General, that, from written and other proofs obtained at St. John's, the number of American cattle found

at St. Mark's, and brought by the commissary there, and the constant intercourse kept up between that place and the hostile Indians, there appear sufficient grounds to believe that they were encouraged and excited to this savage warfare by the Spaniards. To this I have to reply that it has never come to my knowledge that any person belonging to the fort had any connexion, directly or indirectly, with St. John's. And although it is true I wrote two letters to Mr. Arbuthnot, an English merchant, one of them was merely to thank him for the three letters he wrote me, informing me of the proceedings of the insurgents at Amelia Island, and of Captain Woodbine, who, I informed you by express, was one of the two chiefs who were hung the day I left Appalache; and the purport of the other was to request him to come or send immediately for the property, which, at the request of the Indian chiefs, and to avoid increasing their suspicions, I gave permission to be deposited in the fort, and to withdraw O-Kelagne, in whose custody that property was placed. And although, in taking this step, I ran the risk of incurring the resentment of both parties, yet it was one which did not seem likely to incur suspicion. Nor does the charge of a purchase of an extraordinary number of American cattle, alleged to have been made at St. Mark's, authorize greater room for suspicion, since it is notorious that, from the time of its establishment, its supplies were obtained from the droves of cattle brought there for sale by the Indians, who had very large ones towards Mickasuky and the neighboring country. It seldom happened that we considered ourselves as fully supplied for several months together; and if the supplies were in fact derived from the plunder committed on the Americans, the sellers took good care to conceal that fact, as they were known to have droves, and were in the habit of bringing them for sale. It may be remarked that very little care was manifested by the American commandant or magistrate within whose district these excesses were committed, to be placed in a situation to complain of them to the commandant of St. Mark's, and to send him the marks of the cattle, which would have shown from whence they came, and have tended to prevent the purchase of them. With respect to the intercourse kept up between the fort and the Indians, complained of by General Jackson, and the excitement and encouragement given them by the Spaniards to commit hostilities, the charge is altogether inadmissible. An intercourse and good understanding with the Indians were at all times strongly recommended by the Government, and never were they more necessary than in the circumstances in which we have lately been placed at the fort; General Jackson having founded on them a demand of its occupation by his troops, and suggesting that such a step could not fail to receive the approbation of His Catholic Majesty. In the same letter, he stated that he had been informed by an Indian woman, a prisoner, that the hostile Indians and negroes had received considerable supplies of ammunition at the fort. I pre-



*Relations with Spain.*

sumed that I had convinced him of the contrary in my answer, in which I represented to him that no one better than Mr. William Hambly, who, during his stay here, repeatedly interpreted to me the anxiety of the chiefs to obtain such supplies, could undeceive him on this point, as well as on that of the counsel I uniformly gave them to avoid the destruction that awaited them, and which I foresaw from the first. But it appears he is not yet satisfied, and persists in his charge. A reference to the returns of the public storekeeper will show that, from the month of May last, and prior to the receipt of your orders, there had been issued to a few of the most noted chiefs, and that merely from motives of policy, only three pounds of powder, three pounds of ball, and fourteen flints. The interpreter, Juan Sandoval, and his son, Francisco, through whom I communicated with the Indians, can testify to the truth of this statement—a step which I request of you to take in support of my refutation of General Jackson's charges. He cannot but know that a short time before the negro fort on the Appalachicola was blown up, all the chiefs of the neighboring tribes went there and supplied themselves with powder and ball, left for them by the English; and that at Miccasuky, and the huts thereabouts, there was a considerable quantity. Having thus obtained a large supply of the kind of powder and ball they most esteemed, they set little value on ours, which, in fact, they view with such indifference that it is only a chance hunter among those who come to the fort with venison, wild fowl, &c., that is willing to use it. And although, as I formerly stated in an official communication, a supply was repeatedly demanded of me by the chief Kinache, with a view to prove, by the refusal of it, that the American interest prevailed in the fort, he did not succeed in it. In consequence, we, whom they considered as American partisans to the last, were reproached with it, and have even to put up with some impertinences from them. I shall, however, in a strict adherence to truth, and because the circumstances may have given birth to these suspicions, proceed to state that the chief Pelisacho, who was executed, received, among things, at the fort, from Mr. Arbuthnot, an English merchant, when he came from Suwanee, to request aid against the negroes, from whom he apprehended an attack, a small barrel of powder, which might contain from twenty to twenty-five pounds, and was placed, with other property, under the charge of O-Kelaghe. What he did with it, I know not; but I well know that the chief caused me extreme perplexity and vexation, by surrounding the fort with a body of four or five hundred Indians.

I never had an idea that he employed it against the Americans, but that he used it in the purchase of peltry, which he was collecting for the said Arbuthnot at the time of the arrival of the Americans. The charge alleged against the officers at St. Mark's in exciting and stirring up the Indians, and in giving them information of the movements of the Americans, is the effect of a disordered imagination; for how or whence could

their movements be better known at the fort than from the Indians themselves? Thither they came and went, and passed and repassed incessantly; and their reports were so various that they deserved very little attention; as a proof of which, nothing certain was known of their operations until the different columns of their troops appeared at the mouth of the Pinar; and, although three of their boats were at anchor there for three or four days, they kept English colors flying until the day before the arrival of the army. My different communications to you are pledges that I took no part in the contest between the Americans and the Indians. I, however, had great cause of complaint against the latter. How, then, is it possible to believe that I gave them that aid of which General Jackson complains; or how can the steps I took to liberate Messrs. Edmund Doyle and William Hambly, by which I exposed myself and my garrison to the vengeance of the Indians, be reconciled with the idea of affording them succor and aid, or the fact of rescuing from them, at the most critical moment, an American soldier whom they would otherwise have put to death? I leave it to impartial observers to decide if these be not proofs of the existence at St. Mark's of a bias in favor of the American interest; and of this I trust General Jackson will be thoroughly convinced on deliberately reflecting upon the subject. I shall not attempt to deny that I have observed towards those barbarians a policy which had the appearance of a warm friendship, but by which I have incurred a considerable expense. If, however, my situation be attentively examined in its different points of view, it will be seen that all this was necessary to restrain them from doing what they had at one time premeditated, on the pretext I have just alluded to, and on others suggested to them by some persons who had gone from hence to those parts of the country. Although I have, as I conceive, given entire satisfaction on all the points embraced by Major General Jackson, I beg leave to request that, for the purpose of corroborating my statement, you will be pleased to give orders for having the declarations taken of the interpreter and of his son, of the subaltern Don Miguel Ordonez, of Don Anastasia Montes de Oca, the public storekeeper, and of Surgeon Don Diego de Barrios, as the persons who have the necessary knowledge of the subjects in question.

God preserve you many years.

F. CASO Y LUENGO.

To Don JOSE MAZOT.

A true copy:

JOSE MAZOT.

No. 33.

Governor Mazot to General Jackson.

PENSACOLA, May 23, 1818.

Having received information that you have passed the frontiers with the troops under your command, and are now within the territory of this province of West Florida, which is under my Government, I have solemnly to protest against this proceeding as an offence against my

*Relations with Spain.*

Sovereign; and I do exhort you, and require of you forthwith to withdraw from the same; in default of which, and in case of a continuance of your aggression, I shall repel force by force.

In this event, the consequences will doubtless be the effusion of blood, and the interruption of the good understanding which has hitherto subsisted between our two nations; but as the party repelling an insult is never deemed the aggressor, you will be responsible before God and men for all the fatal consequences which may ensue.

God preserve you many years.

JOSE MAZOT.

No. 34.

General Jackson to Governor Mazot.

HEADQUARTERS, DIVISION OF THE SOUTH,

On the line of march, May 23, '18.

SIR: The southern frontier of the United States has, for more than twelve months, been exposed to all the horrors of a cruel and savage war. A party of outlaws and refugees from the Creek nation; negroes who have fled from their masters, citizens of the United States, and sought an asylum in Florida; and the Seminole Indians inhabiting the territory of Spain, all uniting, have raised the tomahawk, and, in the character of savage warfare, have neither regarded sex nor age. Helpless women have been massacred, and the cradle crimsoned with the blood of innocence. The United States, true to their engagements, and confiding in the faith of Spain to enforce existing treaties, never entertained a doubt but that these atrocities would early attract the attention of the Spanish Government, and that speedy and effectual measures would have been adopted for their suppression. Under this persuasion a cordon of military posts was established, to give immediate protection to such of our frontier settlers as were peculiarly exposed, and strict injunctions issued to the American officers to respect the territory of Spain, and not to attempt operations within its limits. These instructions were most scrupulously observed; and, notwithstanding the inactivity of the American troops had encouraged the Indians to the most daring and outrageous act of violence against our citizens, the Government of the United States was still disposed to respect the territory of Spain, and confide in the ability of the Spanish Government to execute existing treaties, until advised through you that, with every disposition, the Spanish authorities had not the power of controlling the Indians in Florida; that their acts of late were viewed as equally hostile to the interests of Spain as those of the United States; that Spanish subjects were not exempted from the evils of which we complained; and that the negro establishments on the Appalachicola and St. Juan rivers were founded by British agents, contrary to the will of Spain. These representations determined the President of the United States to adopt effectual measures to restore tranquillity to the southern frontier of the American Republic; and, pursuant to his orders, justifiable by the immutable

laws of self-defence, I have penetrated into Florida, reduced to ashes the Seminole villages, destroyed their magazines of provisions, beaten their warriors whenever they hazarded a contest, dispersed some, and expelled others across the river.

In the course of my operations it became necessary to visit the Spanish fortress of St. Mark's. Entering the territory of Spain to fight her battles, to relieve from bondage her subjects, and to chastise an Indian tribe whom she acknowledged, under existing treaties, she was bound to preserve at peace with the United States, I had every reason to expect that the American army would have been received as friends, and every facility afforded to insure success to operations so interesting to both Governments.

My expectations have not been realized. It had been reported to me, direct from you, that Fort St. Mark's had been threatened by the Indians and negroes; and you expressed sincere apprehensions, from the weakness of the garrison and defenceless state of the work, for its safety. From other sources to be relied on, the same information had been furnished me. It became necessary, therefore, to anticipate the movements of the enemy, and amicably to get possession of a work, dislodging the enemy from which might have cost me much precious blood. On entering St. Mark's evidence of the duplicity and unfriendly feelings of the commandant evinced itself. I found that the gates of this fort had been thrown open to the avowed savage enemies of the United States; that councils of war had been permitted to be held within his own quarters by the chiefs and warriors; that the Spanish storehouses had been appropriated to the use, and were then filled with goods belonging to the hostile party; that cattle knowingly plundered from citizens of the United States had been contracted for and purchased by the officers of the garrison from the Spanish thieves; that foreign agents had free access within the walls of St. Mark's; and a Mr. Arbuthnot, condemned and executed as the instigator of this war, an inmate in the commandant's family.

From this fort was information afforded the enemy of the strength and movements of my army by the said Arbuthnot, the date of departure of express noted by the Spanish commissary, and ammunition, munitions of war, and all necessary supplies furnished.

On my return from my operations east, your letter was received, positively refusing to permit (unless exorbitant duties were paid) any provisions passing up to the American fort on the Escambia. Connected with this strong indication of your unfriendly disposition on your part, I have it, from the most unquestionable authority, that the city of Pensacola has, for some months past, been entirely under the control of Indians; that free ingress and egress are permitted to the avowed savage enemies of the United States; that supplies of ammunition, munitions of war, and provisions, have been received by them from thence; that, on the 15th of April last, there were no less than five hundred Indians in Pensacola, many of them known to be hostile to the United



*Relations with Spain.*

States, and who had but lately escaped my pursuit. The late massacre of eighteen individuals on the Federal road was committed by Indians direct from their return to Pensacola, who were received by you, and transported across the bay, to elude the pursuit of the American troops. The Americans returning, the savages were permitted to return. An Indian, wounded in pursuit by a party for having killed a citizen of the United States, was openly, in the sight of many Americans, received by you, and every comfort administered. Such practice, if authorized by the King, would justify me in open hostilities. Disposed, however, to believe that it was one of the unauthorized acts of his agents, I deem it politic and necessary to occupy Pensacola and the Barancas with an American garrison until the Spanish Government can be advised of the circumstance, and have force sufficient to maintain, and agents disposed to enforce existing treaties.

This is the third time the American troops have been compelled to enter Pensacola from the same causes. Twice had the enemy been expelled, and the place left in quiet possession of those who had permitted the irregular occupancy. This time it must be held until Spain has the power or will to maintain her neutrality. This is justifiable on the immutable principles of self-defence. The Government of the United States is bound to protect her citizens; but weak would be all her efforts, and ineffectual the best advised measures, if the Floridas are to be free to every enemy, and, on the pretext of policy or neutrality, Spanish fortresses are to be opened to their use, and every aid and comfort afforded. I have been explicit, to preclude the necessity of a tedious negotiation. My resolution is fixed, and I have strength enough to enforce it. My army now occupies the old Fort St. Michael, commanding Pensacola. If the town and Barancas are peaceably surrendered, an inventory of all the property, ammunition, arms, &c., shall be taken by officers appointed by both parties, and the amount received for by me to be accounted for by the American Government. The property of Spanish subjects shall be respected; their religion and laws guaranteed to them; the civil government permitted to remain as now established, subject to the control of the military authority of the United States; the ingress and egress open to all individuals; commerce free to the subjects of Spain, as usual; and the military furnished with transportation to Cuba.

If the peaceable surrender be refused, I shall enter Pensacola by violence, and assume the government until the transaction can be amicably adjusted by the two Governments. The military, in this case, must be treated as prisoners of war.

The proof supporting the accusation against your official station will justify this procedure.

In reply to your communication of the 22d instant I have only to observe, that the clothing detained will be a subject for future friendly settlement.

How far the Indians permitted to remain in the

neighborhood of Pensacola were friendly disposed to the citizens of the United States, is tested by the late massacre committed by them on the Alabama. The Red Ground chiefs, Muldecoxy and Holmes, avowedly hostile to the United States, were but lately seen in Pensacola, and a body of Indians desecrated, a few days since, in the vicinity of the Barancas, in presence of several Spanish officers. They have not delivered themselves up, and these Red Sticks who have surrendered were not advised to this measure by you, until intelligence of my movements had been received.

By a reference to my communications of the 25th March, you will see how far I have been the aggressor in the measure protested against.

You are there distinctly advised of the objects of my operations, and that every attempt on your part to succor the Indians, or to prevent the passage of my provisions in the Escambia, would be viewed in no other light than as hostile acts on your part.

You have done both, and exposed my troops to the severest privations, by the detention occasioned in the exaction of duties on my provision vessels in Pensacola. You have, therefore, been the aggressor, and the blood which may be shed by a useless resistance on your part to my demand will rest on your head. Before God and man you will be responsible.

This will be handed to you by my aid-de-camp, Captain Gadsden, by whom an answer is expected.

ANDREW JACKSON,

*Maj. Gen. commandin.*

DON JOSE MAZOT,

*Governor of Pensacola.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Pensacola, May 24, 1818*

SIR: The enclosed communication was forwarded to you by my aid-de-camp, Capt. Gadsden, last evening; not finding you, however, in Pensacola, its delivery was delayed.

I have entered Pensacola to provision my troops. I have only to add, that an immediate compliance with my demand is expected. Resistance on your part would be a needless sacrifice of men.

ANDREW JACKSON,

*Maj. Gen. commanding.*

DON JOSE MAZOT,

*Governor of Pensacola.*

No. 35.

*Governor Mazot to General Jackson.*

FORT ST. CARLOS OF BARANCAS,  
*May 24, 1818.*

MOST EXCELLENT SIR: Your two notes dated the 23d and on this day, were delivered to me at ten o'clock this morning, by your aid-de-camp, Captain Gadsden. Having, in mine of the 18th instant, answered the former in a satisfactory manner, I shall only add that, as to what relates to the Indians, you have been much misinformed, the facts alluded to by you being for the most

*Relations with Spain.*

part unfounded; in proof of which I have to state, that the only two Indians who have been here since the peace negotiated by me, exclusive of the eighty-seven sent off to Major Youngs, are the two who are in the jail, with three women and children; and, further, that long prior to your movements I had sent orders to Appalache, to prevent any succors being given to the Seminoles, and had also given public notice to the same effect in Pensacola, where those unfortunates had from time immemorial received regular supplies.

Your excellency is disposed to lay to my charge the blood which may be shed in consequence of my refusal to deliver up this province. A compliance with your demand would dishonor the close of my life and long military career; and I feel assured that, if placed in a similar situation, your conduct would be the same, from your natural desire to preserve unsullied your well-earned laurels.

Whatever motives may be assigned, no nation is authorized in violating the territory of another, before due representations have been made to its Government.

Your excellency has violated the Spanish territory at Appalache, by seizing on that fort and hoisting your flag—a proceeding in complete hostility with the good understanding subsisting between our respective Governments.

On the 21st instant, by your excellency's orders, Don Pedro Philibert and other inhabitants were made prisoners on their parole of honor, and this day, before Captain Gadsden's arrival at Pensacola, your army advanced upon it, and made prisoner, on his parole of honor, Don Pedro de Alba, the interpreter, the same who translated your two letters above-mentioned. These persons, and other military men, whose presence was important to the tranquillity of the place, have thus been seized in an unjustifiable manner.

These facts being established, I ask, who but your excellency will have to answer for the bloodshed which may ensue in consequence of the determination announced in your letter of taking possession of Pensacola and Barancas? I protest before God and men that my conduct is blameless, and that my sincere wishes ever have been to maintain peace and amity between our respective nations. The sincerity of my intentions is founded upon the President's Message of 25th March last to Congress; the tenor of which holds out assurances that no aggressions were to be expected from the troops of the United States. Unfortunately, however, their operations have violated the tranquillity and peace of the province.

I expect, from the generosity of your excellency, that you will leave the officers and troops of the garrison of Pensacola at perfect liberty; that your army, after receiving the necessary supplies, will evacuate the province as speedily as possible; and that you will not carry on a partial warfare against West Florida at a time when our two nations are in a state of profound peace.

Lieutenant Colonel Don Leni Piernas, provisional commandant of Pensacola, is duly authorized to represent me, and to receive any commu-

nications your excellency may be pleased to make. To all such the most prompt answers shall be given, through the ministry of the bearer, the interpreter, Don Pedro de Alba. In conclusion, if, contrary to my hopes, your excellency should persist in your intention to take possession of this fortress, I am resolved to repel force by force, and defend it to the last extremity. He who resists aggression can never be deemed the aggressor.

God preserve your excellency many years.

JOSE MAZOT.

His Ex'cy Major Gen. A. JACKSON.

No. 36.

*General Jackson to Governor Mazot.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Pensacola, May 25, 1818.*

SIR: The accusations against you are founded on the most unquestionable evidence. I have the certificate of individuals, who, on the 23d instant, at or near the Little Bayou, counted seventeen Indians in company of several Spanish officers. I have only to repeat that the Barancas must be occupied by an American garrison, and again to tender you the terms offered, if amicably surrendered; resistance would be a wanton sacrifice of blood, for which you and your garrison will have to atone. You cannot expect to defend yourself successfully, and the first shot from your fort must draw down upon you the vengeance of an irritated soldiery. I am well advised of your strength, and cannot but remark on the inconsistency of presuming yourself capable of resisting an army which has conquered the Indian tribes, too strong, according to your own acknowledgment, to be controlled by you. If the force which you are now disposed wantonly to sacrifice had been wielded against the Seminoles, the American troops had never entered the Floridas. I applaud your feeling as a soldier, in wishing to defend your post; but where resistance is ineffectual, and the opposing force overwhelming, the sacrifice of a few brave men is an act of wantonness, for which the commanding officer must be accountable to his God.

ANDREW JACKSON,

*Major Gen. com'g Div. of the South.*

DON JOSE MAZOT,

*Commanding Barancas.*

*Certificates and Declarations.*

No. 37 a.

We certify that, being in Fort St. Mark's, Barancas, on the 28th of May, 1818, in the afternoon, soon after the American troops took possession of the works, and as the Spanish troops were marching out, we saw an Indian carried out by some of the Spanish soldiers; he was laid on the beach, to be put on board a boat. He was wounded in his leg or thigh, and had every appearance of having been engaged in the defence of the fort.

WM. RUSSELL,  
JAS. L. BELL.



## Relations with Spain.

No. 37 b.

I certify that, on the 23d of May, being in the bayou which enters Pensacola bay, one and a half mile from the town, I saw at the ferry, on the road to Barancas, a number of Indians (I think about seventeen) in company with four Spanish officers. The officers were carried over, and the boat returned to ferry over the Indians. I saw one boat-load landed on the side next the Barancas. The Indians concealed themselves in the bushes on discovering us.

RICHARD BRICKHAM.

Witness: T. CROSS,  
Lieut. 1st Infantry.

I certify that I was in the boat with Brickham, at the place and time mentioned in the above certificate; that I saw several Indians in company with four Spanish officers. The officers were ferried over with one Indian. I did not see the Indians ferried over; they concealed themselves on discovering us.

JOHN BONNER, his X mark.

Witness: T. CROSS,  
Lieut. 1st Infantry.

Witness to both certificates:  
WM. S. FULTON,  
Private Sec'y to Com'g Gen.

No. 37 c.

FORT MONTGOMERY, June 2, 1818.

I certify that, between the 5th and 7th of May, 1818, while at Fort Gadsden, on the Appalachicola river, I was informed by a Mr. Larua and Benneto Gassea, both citizens of, and at that time direct from Pensacola, that at the time of their departure thence there were about five hundred Indians in and about Pensacola; and I further certify that, on my arrival at Pensacola, on the 23d of May, I was informed by Mr. Skeate and other citizens of that place, that on the 22d, which was the day before my arrival, Holmes (a noted Red Stick) with his party had left Pensacola to proceed to the Choctawhatchy for safety, having been for several days previous in town. All which I certify on honor.

WM. HAMBLBY.

Witness: WM. S. FULTON,  
Private Sec'y to Com'g Gen.

No. 37 d.

PROVINCE OF WEST FLORIDA,  
Town of Pensacola, Sept. 15, 1818.

In pursuance with an order to me directed by Colonel William King, civil and military governor of said province, (a copy whereof is hereto annexed,) I caused to appear before me, at the quarters of Captain Hugh Young, of the army of the United States, in this town, the following persons, viz: Manuel Gonzales, Dr. Brosnaham, William Cooper, J. Dauphin, — Skeate, Feippa Prieto, Joachim Barreлас, P. Alba, junior, Jose Bonefi, (Marian,) and Charles Le Jeune, to answer, on oath, such interrogatories, not tending

to criminate themselves, as might be propounded to them by Captain Young, relating to the intercourse which took place between the late Spanish authorities of this province and the hostile Indians during the recent war with the United States.

JOACHIM BARRELAS, being duly sworn, declares that he has frequently seen parties of Indians in the town of Pensacola since the month of November, 1817; says that parties of Indians have been provisioned by the late authorities at this place on several occasions: has frequently heard and believed that the Indians were in the habit of bringing into this place horses, cattle, &c., for the purpose of selling them and other plunder. Says he was at Barancas at the time that General Jackson came to Pensacola, in May last; deponent acted there as commissary, and knows that several Indians went from town down to Barancas with the Spanish forces, and took refuge in the fort; that, at the same time, several small parties were encamped about the Barancas; that, upon the arrival of General Jackson before the Barancas, Tapaulca and family were also in the fort. Deponent has seen said chief several times in Pensacola, and believes him to be either a Creek or Seminole Indian; that, while deponent was at Barancas, and subsequently to the said month of November, 1817, he saw an Indian, named Luna, an express from St. Marks, cross over from Santa Rosa island to Barancas, with despatches for the Governor here; says that, since the said month of November, 1817, Governor Mazot, being himself at Barancas, did order this deponent to give rations to several parties of Indians then there, of at least from thirty to forty strong—men, women, and children.

JOACHIM BARRELAS.

GEORGE SKEATE, being duly sworn, declares that he has constantly resided in the town of Pensacola since November, 1817; since which he has repeatedly seen, at different times, in said town, from thirty to forty Indians; has not seen any ammunition given to the Indians within the period alluded to; has heard and believes that horses, cattle, &c., were brought into this place by the Indians and sold, which deponent however did not see. Deponent believes that the late Governor (Mazot) was well acquainted with the several murders that were committed on the neighboring American frontier; knows of no supplies furnished by order of the Spanish Government since about the month of March, 1817, when a supply of knives, a few blankets, and some copper kettles, were furnished and delivered to a party of Indians, for the purpose, as was then said, of acting against the insurgents who were expected; that the said party of Indians shortly disappeared, and nothing more was heard of them. Deponent saw, on the day that Major Youngs attacked a party of Indians in the neighborhood of this town, a number of Indians who he believes were sent (or went themselves) across the bay in a boat belonging to Don Antonio Molina, captain of the port.

GEORGE SKEATE.

## Relations with Spain.

CHARLES LE JEUNE, being duly sworn, declares that he has resided in Pensacola since November, 1817; since which he has frequently seen in this town or its vicinity parties of upwards of a hundred Indians encamped; that these parties were armed either with rifles or with the arms that were furnished them by the English; that although he cannot state that these parties had received ammunition from the Spanish Government here, he nevertheless can and does state that the said parties were provisioned from the King's stores by Prieto, King's storekeeper; that, previous to November, 1817, the Government was regularly in the habit of giving out ammunition to the Indians from a store which was expressly for that purpose here; that, on the day that Major Youngs attacked the Indians near this town, there was a considerable number encamped near the water side in town, who, upon hearing the report of fire-arms, crossed the bay in their own boats, and in other larger boats belonging to others.

CARLOS LE JEUNE.

WILLIAM COOPER, being duly sworn, declares that he has resided in Pensacola since November, 1817; during which period he has frequently seen in town and its vicinity several parties of Indians; saw one in particular with some sheet lead, and has heard that the Indians had introduced some clothes in town that looked like American manufacture; states also that Tapaulca was a Red Stick chief, and had been frequently about Pensacola for several years past.

WILLIAM COOPER.

PENSACOLA, September 19, 1818.

I certify that the foregoing depositions were sworn to and subscribed before me, on this day.  
M. McKENNEY, SEN., J. P.

No. 37 c.

JOHN DUFFY, being duly sworn, declares as follows:

Question. Have you resided in and about Pensacola since November, 1817?

Answer. I have.

Q. Have you seen in said town or its vicinity, within or since that period, any Indians?

A. I have.

Q. How many did you see at any particular time?

A. About the latter end of that Spring I saw in town from fifty to sixty Indians; but few of these were armed, because they were prohibited coming into town armed. I suppose their arms were left in their camps in the neighborhood.

Q. How did these Indians subsist themselves, and how did they procure ammunition?

A. Probably from the Government here; of this, however, I am not certain.

Q. Did you see any horses, cattle, or other plunder, brought into this place by the Indians?

A. No.

Q. How many Indians were in Pensacola and its neighborhood at the time that Major Youngs attacked a party near this town?

A. Of all descriptions, viz: men, women, and

children, there must have been a considerable number; not less, probably, than one hundred and fifty or sixty.

Q. When Major Youngs attacked a party near town, how did those in town find means to escape across the bay?

A. I have understood and believe that they were sent across the bay by order of the Governor.

SANTIAGO DAUPHIN.

A true copy: R. K. CALL, A. D. C.

JOSEPH BONEFI, being duly sworn, declares as follows, viz:

Question. Have you lived in Pensacola since November, 1817?

Answer. I have.

Q. Have you not, between that period and the approach of the American forces under Major General Jackson, repeatedly seen divers parties of hostile Indians in this town or its neighborhood?

A. I have. Indeed, between the said month of November and the time that the hostile party surrendered to Major Youngs, there were more or less in town; sometimes in numbers considerable, sometimes fewer.

Q. How or by whom were those Indians subsisted; and from whom or by what means did they procure ammunition and other warlike stores or weapons?

A. I have understood and do believe that they were fed by the Government here; as to ammunition, &c., I cannot state how they procured supplies, except it might have been from the stores about town.

Q. Have you seen or been informed of any horses, cattle, or other plunder, having been brought in here by the Indians within the time above alluded to?

A. No.

JOSEPH BONEFI.

PENSACOLA.

Both depositions sworn to and subscribed before me, the 19th September, 1818.

M. McKENNEY, SEN., J. P.

A true copy: R. K. CALL, A. D. C.

No. 37 f.

PIERRE SENAC, being solemnly sworn, declares as follows: That he has resided in the town of Pensacola constantly since the month of November last past; that, since that time, and until the arrival of Major Youngs near this town, there were always considerable numbers of hostile Indians in or near the town; that, on many occasions within that period, he has seen from one hundred and fifty to two hundred Indians here; that their forces were regularly provisioned from the King's store here; that he has seen large quantities of sheet lead in the possession of the Indians, and considers it as greatly resembling the lead aprons of cannon; that the Government must have furnished the lead in question, as there were no other means here of getting such lead, and



that the said lead was run off into balls, which this deponent saw; that, on the day Maj. Youngs attacked a party of Indians near this town, there were then in town a considerable number more, who were sent across the bay in boats provided for that purpose by the Spanish Governor.

Deponent further states that, about the first of March last past, three considerable parties of hostile Indians—one party under the command of Leon Lesassier, another under the command of Arnaud Gilmer, (both lieutenants in His Catholic Majesty's service,) and the third commanded by an Indian chief—retired out of this town, and went down towards the neighborhood of Barancas, where provisions and ammunition were regularly supplied them by the Spanish Government; that the said Indians were armed with guns which they had received from the English during the late war, and that they remained encamped within from one to three leagues off Barancas for the space of nearly a month; that these Indians, besides being armed with guns, had also tomahawks, which deponent understood and believes were furnished by John Innerarity; and that, when the Government caused the said parties to be thus assembled and equipped, they were collected at Barancas for the purpose, as deponent conceives, of eluding the vigilance of such individuals in Pensacola as would not concur in such measures.

Deponent further states that, since the said month of November last past, he has seen brought to here by the Indians a quantity of cottonade and women's clothing, brought or said to have been brought from the American frontier; that these things were publicly sold in this town, notwithstanding it was notoriously known here that those articles and property had just been taken from those whom the Indians had killed on the American frontier.

P. SENAC.

Attest: J. ROBINSON,  
Interpreter, Pensacola.

Sworn to and subscribed before me, this 19th day of September, 1818.

M. McKENNEY, SEN., J. P.

No. 37 g.

JOSE E. CARO, a citizen of Pensacola, being sworn, states that, early in the present year, (1818,) a party of hostile Indians were in Pensacola, their numbers not known, but probably fifty; that, on hearing of the approach of the American army under General Jackson, the Governor of Pensacola furnished those Indians with provision and ammunition, and sent them in public boats across the bay; the deponent saw the rations issued and the party embarked. The deponent further states that, subsequent to this, he saw three parties of hostile Indians furnished with provisions, the ostensible object of which was to enable those Indians to march to the interior and give themselves up, but it was very generally believed that those Indians had no such intention. The deponent saw those In-

dians set out, and states that they had their arms.

JOSE ESTEVAN CARO.

Sworn and subscribed before me, at Pensacola, 10th September, 1818.

H. YOUNG, Capt. Top. Eng.

No. 37 h.

CHARLES BARON, a resident of Pensacola, being sworn, states that, about the latter end of April or beginning of May, 1818, a party of Indians, amounting to near one hundred, were in Pensacola with a quantity of plunder which, it was generally believed, was taken at the time Stoke's family were murdered on the Escambia. The Indians sold this plunder openly to the inhabitants of Pensacola, and the deponent could not learn that the Spanish authorities at Pensacola made any inquiries respecting it. The deponent further states that, at several times in the present year, (1818,) he saw parties of Indians furnished with provisions and ammunition from the King's stores; but he does not recollect the dates of these transactions. The deponent further states that he has frequently heard Spanish officers at Pensacola justify the conduct of the Indians towards the United States, manifesting in their conversation a decided hostility towards the Americans.

CARLOS BARON.

Sworn before me, at Pensacola, September 13, 1818.

H. YOUNG, Capt. Top. Eng.

No. 38.

General Jackson to the Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Gadsden, March 25, 1818.

SIR: At seven o'clock P. M., on the 9th instant, I reached Fort Scott with the brigade of Georgia militia, nine hundred bayonets strong, and some of the friendly Creeks who had joined me on my march a few days before, where, finding but one quart of corn per man and a few poor cattle, which, added to the live pork I brought along, would give us three days' rations of meat, determined me at once to use this small supply to the best advantage. Accordingly, having been advised by Colonel Gibson, Quartermaster General, that he would sail from New Orleans on the 12th February, with the supplies, and being also advised that two sloops, with provisions, were in the bay, and an officer had been despatched from Fort Scott, in a large keel-boat, to bring up a part of their lading, and deeming that the preservation of those supplies would be to preserve the army, and enable me to prosecute the campaign, I assumed the command on the morning of the 10th, ordered the live stock slaughtered and issued to the troops, with one quart of corn to each man, and the line of march to be taken up at twelve, meridian. Having to cross the Flint river, and it being very high, combined with some neglect in returning the boats during a very dark night, I was unable to

move from the opposite bank until nine o'clock on the morning of the 11th, when I took up my line of march down the east bank of the river for this place, touching the river as often as practicable, looking for the provision boat which was ascending, and which I was fortunate enough to meet on the 13th instant, when I ordered an extra ration to the troops, they not having received a full one of meal or flour since their arrival at Fort Early. On that day my patrols captured three prisoners, and found some hidden corn. On the morning of the 14th I ordered the boat down the river to this place, whilst I descended by land, and reached here, without interruption, on the morning of the 16th. The eligibility of this spot as a depot determined me, and I immediately directed my aid-de-camp, Lieutenant Gadsden, of the engineer corps, to furnish a plan for and superintend the erection of a fortification. His talents and indefatigable zeal displayed in the execution of this order induced me to name it Fort Gadsden, to which he is justly entitled.

On my arrival here, I immediately despatched the boat to the bay for the balance of provisions known to be there, and to ascertain whether the flotilla in charge of Colonel Gibson had reached there; and which returned on the 19th, with the unpleasant intelligence that nothing had been heard of the flotilla from New Orleans since it was seen passing Fort Bowyer. I immediately put the troops on half rations, and pushed the completion of the fort for the protection of the provisions; in the event of their arrival, intending to march forthwith to the heart of the enemy, and endeavor to subvert upon him. In the meantime, I despatched Major Fanning, of the corps of artillery, to take another look into the bay; whose return, on the morning of the 23d, brought the information that Colonel Gibson, with one gunboat and three transports, and others in sight, were in the bay. On the same night I received other information that no more had arrived. I am, therefore, apprehensive that some of the smaller vessels have been lost, as one gunboat went to pieces, and another, when last spoken, had one foot water in her hold. All of the vessels had been spoken after the gale which dispersed them. A north and northwest wind has prevailed for six days, but has fortunately changed this morning. I am now awaiting a boat from the bay, (which is expected to-day,) to complete eight days' rations for my troops, upon which I mean to march.

From information received from Pensacola and New Orleans, I have no doubt but that St. Mark's is in possession of the Indians. The Governor of Pensacola informed Captain Call, of the first infantry, (now here,) that the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Mark's of the commandant, and that he presumed possession would be given from inability to defend it. The Spanish Government is bound by treaty to keep the Indians at peace with us; they have acknowledged their incompetency to do this, and are consequently bound by the law of nature and

nations to yield us all facilities to reduce them. Under this consideration, should I be able, I will take possession of the garrison as a depot for my supplies, should it be found in the hands of the Spanish garrison, they having supplied the Indians; but if in the hands of our enemy, I will possess it for the benefit of the United States, as a necessary position for me to hold, to give peace and security to this frontier, and put a final end to Indian warfare in the South.

Finding it very difficult to supply Fort Crawford, on the Conecuh river, by land, I have ordered the supplies for that garrison by water, and written to the Governor of Pensacola that if he interrupts them during the present Indian war, I shall view it as aiding our enemy, and treat it as an act of hostility; and stated to him the propriety, under existing circumstances, of his affording all facilities to put down their own as well as our enemies, and that our Governments, whilst negotiating, can take this subject under consideration; but, in the mean time, our provisions must pass to Fort Crawford without interruption.

In mine of the 14th February, from Hartford, I informed you of the measures adopted to procure supplies, and in my last of the 26th, from Fort Early, I informed you of their situation. To those communications I beg leave to refer you. I have only to add, that I left Fort Early for Fort Scott, and subsisted my troops on ground peas, corn, and some pork, that I could occasionally procure from the Indians, with some pork that I had on foot, the whole subsistence for man and horse not costing five hundred dollars. Of all the supplies purchased for the relief of Fort Scott, and the support of the Georgia militia, not one pound was received until I passed Fort Scott. I said in my last that blame rested somewhere; the cause of those failures will in due time be a subject of investigation, and Colonel Brearly has been arrested on the application of Gen. Gaines.

By some strange fatality, unaccountable to me, the Tennessee volunteers have not yet joined me. They promptly left their homes, and through the inclement weather reached Fort Mitchell, where I had ordered them supplies, and where Colonel Hayne, who led them, met my instructions to pass by Fort Gaines, where he would get a supply of corn that would enable him to reach Fort Scott; but the idea of starvation had stalked abroad; a panic appears to have spread itself everywhere, and he was told that they were starving at Forts Gaines and Scott, and was induced to pass into Georgia for supplies. His men and officers, as reported to me, were willing to risk the worst of consequences on what they had to join me; however, they have been marched from their supplies, to a country stripped of them, when every consideration should have induced his advisers to have urged him on to secure the supplies in the bay, and preserved themselves and Fort Scott from starvation. I have a hope that they will join me before I reach St. Mark's, or the Mickasuky towns; this would be desirable, as the troops ordered from New Orleans to protect the supplies have not reached the bay, and leaving



garrisons at Forts Scott and Gadsden weakens my force much, the whole effective strength of the regulars being but three hundred and sixty privates.

In mine of the 26th ultimo, from Fort Early, I informed you that despatches received by General Gaines on the 19th ultimo from the commanding officer at Fort Scott induced him to set out that night for Fort Scott, to prevent its abandonment, &c. In his passage down the Flint river he was shipwrecked, by which he lost his assistant adjutant general, Major C. Wright, and two soldiers, (drowned.) The General reached me six days after, nearly exhausted with hunger and cold, having lost his baggage and clothing, and being compelled to wander in the woods four and a half days without anything to subsist on, or any clothing except a pair of pantaloons. I am happy to have it in my power to say that he is now with me at the head of his brigade in good health.

The great scarcity of subaltern officers in the 4th and 7th regiments of infantry has induced me to appoint several young men (present) as second lieutenants in those regiments, who, from personal knowledge and good recommendations, I have no doubt will prove themselves worthy; and trust the measure will meet the approbation of the President. A list of their names, and the regiments to which they are attached, will be furnished the adjutant and inspector general by my adjutant general. I have the honor to be, &c.

A. JACKSON, *Maj. Gen.*

Hon. JOHN C. CALHOUN.

P. S.—Since writing the above, I have the pleasure to inform you that the boat from the bay has arrived with provisions, also Colonel Gibson and Captain McKeever of the navy. I shall move to-morrow, having made the necessary arrangements with Captain McKeever for his co-operation in transporting my supplies around to the bay of St. Mark, from which place I shall do myself the honor to communicate to you. Should our enemy attempt to escape with his supplies and booty to the small islands, and from thence to carry on a predatory warfare, the assistance of the navy will prevent his escape. General William McIntosh, commanding the friendly Creeks who had been ordered to reconnoitre the right bank of the Appalachicola, reported to me on the 19th instant that he had captured, without the fire of a gun, one hundred and eighty women and children, and fifty-three warriors of the Red Ground chief's party, with their cattle and supplies; the chief and thirty warriors making their escape on horseback; ten of the warriors, attempting their escape after they had surrendered, were killed by the General.

A. J.

No. 39.

General Jackson to the Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Montgomery, June 2, 1818.

SIR: The Seminole war having terminated, I

deem it politic and advisable to send to Washington John Blunt and his Indian comrades, who have acted as pilots to me during the late campaign. John Blunt is a Tuckabatchee Indian, has long been friendly to the United States, and, in consequence of his opposition to the Red Stick party during the Creek war, has drawn down upon himself their vengeance during the late contest. His settlement being in an exposed situation on the Appalachicola river, he was early attacked by the Seminoles, his property destroyed, and his family rifled from him. Alone he escaped, and fled to Fort Scott, where, joining the American standard, he has proven himself a most zealous friend and faithful pilot to this period. In justice to him, I am bound to state that, to his correct knowledge of the country, and zealous attachment to the cause in which we were engaged, am I measurably indebted for the success of the present campaign.

Mr. Hambly accompanies John Blunt. Mr. Hambly is a Spanish subject by birth, and has long been a resident as a trader on the Appalachicola river. In consequence of his attachment to the American cause, and his active exertions to check the hostile feelings of those Indians disposed to war against the United States, he drew down upon himself and family their vengeance. He was forcibly taken from his home at an early period of the war; his property, goods, and negroes taken from him, and he violently transported from Mickasuky, Suwanee, and St. Mark's, until finally relieved by Captain McKeever, of the American navy. Since which period, he has been attached to my army as Indian interpreter. You will find him an honest and faithful friend to our Government, and valuable for the information which he can afford of Spanish policy and intrigue. He is well acquainted with all the transactions of foreign agents in this country, of their practices, &c., and how far encouraged by the Spanish authorities, &c.

With respect, your obedient servant,

ANDREW JACKSON,  
*Maj. Gen. commanding.*

The Hon. J. C. CALHOUN,  
*Secretary of War.*

No. 40.

General Jackson to the Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Camp near St. Mark's, April 8, 1818.

SIR: I wrote you from Fort Gadsden, communicating the embarrassments under which I had labored previous to my arrival at that post, and my determination, being then in a situation to commence active operations, to penetrate immediately into the centre of the Seminole towns. My army marched on the 26th ultimo, and on the 1st of April was reinforced by the friendly Creek warriors under General McIntosh, and a detachment of Tennessee volunteers, commanded by Colonel Elliott. On the same day, a mile and a half in advance of the Mickasukian villages, a small party of hostile Indians were discovered

judiciously located on a point of land projecting into an extensive marshy pond—the position designated, as since understood, for the concentrating of the negro and Indian forces to give us battle. They maintained for a short period a spirited attack from my advanced spy companies, but fled and dispersed in every direction upon coming in contact with my flank columns, and discovering a movement to encircle them. The pursuit was continued through the Mickasukian towns, until night compelled me to encamp my army. The next day detachments were sent out in every direction to reconnoitre the country, secure all supplies found, and reduce to ashes the villages. This duty was executed to my satisfaction; nearly three hundred houses were consumed, and the greatest abundance of corn, cattle, &c. brought in. Every indication of a hostile spirit was found in the habitations of the chiefs; in the council-houses of Kenhegee's town, the king of the Mickasukians, more than fifty fresh scalps were found; and in the centre of the public square, the old Red Stick's standard, a red pole was erected, crowned with scalps, recognised by the hair as torn from the heads of the unfortunate companions of Scott.

As I had reason to believe that a portion of the hostile Indians had fled to St. Mark's, I directed my march towards that fortress. As advised, I found that the Indians and negroes combined had demanded the surrender of that work. The Spanish garrison was too weak to defend it; and there were circumstances reported, producing a strong conviction in my mind that, if not instigated by the Spanish authorities, the Indians had received the means of carrying on the war from that quarter; foreign agents, who have been long practising their intrigues and villainies in this country, had free access into the camp; St. Mark's was necessary as a depot to insure success to my operations. These considerations determined me to occupy it with an American force. An inventory of the Spanish property, munitions of war, &c., has been taken and receipted for, and the commandant and garrison furnished with transportation to Pensacola. My correspondence with the Spanish commandant, the evidences under which I acted, and a detailed account of my operations, will be furnished you as early as practicable. Success depends upon the rapidity of my movements; and to-morrow I shall march for the Suwanee river, the destroying the establishments on which will, in my opinion, put a final close to this savage war. Captain McKeever, of the navy, cruising at my request on this coast, has been fortunate enough in securing Francis, or Hillis Hadjo, the great prophet, and Homathlemico, an old Red Stick. They visited his vessels, under an impression that they were English, from whom, as they stated, supplies of munitions of war, &c., under late promises, were expected. Arbuthnot, a Scotchman, and suspected as one of the instigators of this savage war, was found in St. Mark's; he is in confinement until evidences of guilt can be collected. With respect, &c.

A. JACKSON, *Maj. Gen.*

No. 41.

General Jackson to F. C. Luengo.

HEADQ'RS, DIVISION OF THE SOUTH,  
Before St. Mark's, April 6, 1818.

SIR: To chastise a savage foe, who, combined with a lawless band of negro brigands, have, for some time past, been carrying on a cruel and unprovoked war against the citizens of the United States, has compelled the President to direct me to march my army into Florida. I have penetrated to the Mickasuky towns, and reduced them to ashes.

In these towns I found many indications of a hostile spirit. On a red pole, in the centre of the council-house of Kenhegee's town, more than fifty fresh scalps of all ages, from the infant to the aged matron, were found suspended.

In addition to this, upwards of three hundred old scalps were found in the dwellings of the different chiefs settled on the Mickasuky pond. Those barbarians who have escaped death have fled. From information communicated by the Governor of Pensacola to two of my captains, (Gordon and Call,) I was induced to believe that they had fled to St. Mark's for protection. The Governor stated that the Indians and negroes had demanded of you large supplies of munitions of war, with a threat, in the event of a refusal, of taking possession of your fortress. He further expressed an apprehension that, from your defenceless state, they were already in possession of St. Mark's. The wife of Chenubby, a noted chief, now a prisoner in my camp, informed me that the hostile Indians and negroes obtained their supply of ammunition from St. Mark's.

To prevent the recurrence of so gross a violation of neutrality, and to exclude our savage enemies from so strong a hold as St. Mark's, I deemed it expedient to garrison that fortress with American troops until the close of the present war. This measure is justifiable on the immutable principle of self-defence, and cannot but be satisfactory, under existing circumstances, to His Catholic Majesty the King of Spain. Under existing treaties between our two Governments, the King of Spain is bound to preserve in peace, with the citizens of the United States, not only his own subjects, but all Indian tribes residing within his territory. When called upon to fulfil that part of the treaty in relation to a savage tribe who have long depredated, with impunity, on the American frontier, incompetency is alleged, with an acknowledgment that the same tribe have acted in open hostility to the laws, and invaded the rights of His Catholic Majesty. As a mutual enemy, therefore, it is expected that every facility will be afforded by the agents of the King of Spain, to chastise these lawless and inhuman savages. In this light is the possession of St. Mark's by the American forces to be viewed.

I come not as the enemy, but as the friend of Spain. Spanish rights and property will be respected. The property and rights of Spanish subjects will be guaranteed them. An inventory of all public property, munitions of war, &c.,



shall be made out, and certified by an officer appointed by each of us, and a receipt given for the same, to be accounted for to His Catholic Majesty by the United States. The subject of my possession of the garrison of St. Mark's will be referred to our respective Governments for amicable adjustment. Some armed vessels of the United States are in the bay of St. Mark, with whom I wish to communicate. You will, I trust, furnish me with a small vessel to convey a letter as well as some sick and wounded that are with me. As our mutual savage enemies are concentrating their forces near or on the Suwanee, an early and prompt answer is requested to this letter, with an English translation, as neither myself nor staff are acquainted with the Spanish. This will be handed you by my aid-de-camp, Lieutenant James Gadsden, by whom an answer is expected. I have, &c.

ANDREW JACKSON,

Major Gen. commanding.

The Com'g Officer at St. Mark's.

No. 42.

P. C. Luengo to General Jackson.

ST. MARK'S OF APPALACHE,

April 7, 1818.

MOST EXCELLENT SIR: Being made to understand, although with the greatest difficulty, the contents of the letter with which your excellency honored me yesterday evening, delivered to me by your aid-de-camp, James Gadsden, I will declare to your excellency the satisfaction the knowledge of your expedition against Mickasuky has afforded me. That such would be the event could not be doubted, on considering the superior talents and skilful conduct of your excellency, and to these must be attributed the success, on which I tender you my most cordial congratulations.

My chief, the Governor of Pensacola, had in truth reason to mention to your captains (Gordon and Call) what your excellency states to me, and to entertain fears for the fate of this fort, menaced by Indians and negroes, for some months past, and particularly since they have been disappointed in their expectations of obtaining powder and ball, which they have so repeatedly solicited, and to which they thought themselves entitled, from the practice which existed of supplying them annually therewith. This proves how entirely unfounded is the assertion of the wife of the chief Chenubby, that the Indians have been supplied with munitions in this fort since I was advised and determined to maintain the most perfect neutrality. No one can better remove from your excellency's mind any unfavorable impressions you may have formed on this subject than the bearer, William Hambly, as he has at various times interpreted to me the solicitations of the several Indian chiefs in my neighborhood; and he can also inform you of the advice I always gave them to avoid the destruction which has overtaken them, and which I foresaw from the beginning.

This being realized, and there being now no motive to fear any insult to the fort from these barbarians and the negroes, I beg permission of your excellency to call your attention to the difficulty I should involve myself in with my Government if I were presently to assent to what your excellency proposes to me—to garrison this fort with the troops of the United States without first receiving its orders. Such I will solicit immediately an opportunity offers, and I do not for a moment doubt that they will be given to me, so zealous is my Government to comply with the stipulations between her and the United States. In the interim, I hope your excellency will desist from your intention, and be firmly persuaded of the good faith and harmony which will reign between this garrison and whatever troops you may think fit to leave in this vicinity, who may assist me in the defence of this fort on any unforeseen event.

The sick your Excellency sent in are lodged in the royal hospital, and I have afforded them every aid which circumstances admit. I hope your Excellency will give me other opportunities of evincing the desire I have to satisfy you. I trust your Excellency will pardon my not answering you as soon as requested, for reasons which have been given you by your aid-de-camp. I do not accompany this with an English translation, as your Excellency desires, because there is no one in the fort capable thereof; but the before-named Wm. Hambly proposes to translate it to your Excellency in the best manner he can.

May our Lord preserve your Excellency many years, such is my prayer. Most excellent sir, I kiss your Excellency's hands. Your most devoted and obedient servant.

FR. CASO Y LUENGO.

The Most Excellent A. JACKSON,

General-in-chief, &c.

No. 43 a.

General Jackson to F. C. Luengo.

HEADQUARTERS, DIVISION OF THE SOUTH,  
Camp near St. Mark's, April 7, 1818.

SIR: I refer you to my communication of yesterday for the motives which have compelled me to occupy the fort of St. Mark. I again repeat that I have entered the territory of Spain as a friend, to chastise a mutual enemy of both nations, and whom His Catholic Majesty was bound, under the most sacred of treaties, to have punished himself. Peculiar circumstances, however, have prevented, and it was therefore expected that every facility would have been given to the American arms to have insured success to their operations. The occupation of St. Mark's is essential to the accomplishment of my campaign, and is peculiarly so at this period, when evidence is derived from every source of the designs of the negroes and Indians against that fortress. They are now concentrating with the intention of taking possession of St. Mark's the moment my army moves from its vicinity; the dislodging them from which will cost me more

American blood than I am disposed should be shed. Success to my operations requires despatch; you will excuse me, therefore, in refusing your request that a suspension should be granted until a permit is obtained from your Government, and in insisting that St. Mark's should be immediately occupied by American troops.

Major Fanning, my inspector general, and Lieutenant Simmons, of the ordnance department, are appointed to act with one or two officers nominated on your part, to take an inventory of and inspect all public property in the fort of St. Mark, for which receipts will be given in the name of the American Government.

Any disposition which you would wish made with the private property of yourself, officers, and soldiers, or any other arrangements gratifying to yourself, will be settled by my aids de-camp, Lieutenants Gadsden and Glassell.

ANDREW JACKSON,

Major Gen. commanding.

DON FRANCISCO CASO Y LUENGO,  
Commanding Fort St. Mark's.

No. 43 b.

General Jackson to F. C. Luengo.

HEADQ'RS, DIVISION OF THE SOUTH,  
Camp near St. Mark's, April 7, 1818.

SIR: I have received your protest against my proceedings. The occupancy of Fort St. Mark's by my troops previous to your assenting to the measure became necessary from the difficulties thrown in the way of an amicable adjustment, notwithstanding my assurances that every arrangement should be made to your satisfaction, and expressing a wish that my movements against our common enemy should not be retarded by a tedious negotiation. I again repeat what has been reiterated to you through my aid-de-camp, Lieutenant Gadsden, that your personal rights and private property shall be respected, that your situation shall be made as comfortable as practicable while compelled to remain in Fort St. Mark's, and that transports shall be furnished as soon as they can be obtained to convey yourself, family, and command to Pensacola.

I daily expect some vessels from the Bay of Appalachicola; as soon as they arrive, the most suitable shall be selected for said purpose.

ANDREW JACKSON,

Major Gen. commanding.

DON FRANCISCO CASO Y LUENGO,  
Governor of St. Mark's.

No. 44.

F. C. Luengo to General Jackson.

APPALACHICOLA, April 7, 1818.

MOST EXCELLENT SIR: I should insist on what I stated to your excellency in my letter of this morning, as to the necessity of awaiting orders from the Governor of Pensacola for the delivery of the fort under my command, were I not, in addition to what your excellency says in your answer, threatened by your aid-de-camp and the

15th CON. 2d SESS.—64

officers appointed to negotiate on the subject, and had not so large a body of troops entered without awaiting my permission, and taken possession of all the stores and posts, lowering the Spanish flag, and hoisting the American. So manifest a violation of the territory of His Catholic Majesty obliges me to complain of it, and to protest against it; and I accordingly do protest it, and beg of your excellency to provide, as speedily as possible, the vessels necessary to transport me to Pensacola, together with the troops and those persons who are in the royal employ; and also to give orders that, in the interim, the private property and effects of every Spanish individual here be respected. With respect to the public property of His Catholic Majesty, I have nominated the subaltern of the detachment and commissary of the fort to make, with three officers whom you name to me, an inventory thereof.

I repeat to your excellency my respects, and pray to God to preserve your life many years.

Most excellent sir, I kiss your excellency's hands. Your most obedient and devoted servant,

F. CASO Y LUENGO.

The Most Excellent A. JACKSON.

45.

W. Hambly's certificate, July 24, 1818.

I do hereby certify that, during my long residence on the river Appalachicola, my knowledge of the Indian language, and my intimate acquaintance with the different chiefs, gave me many opportunities of knowing through them the advice given them, from time to time, by the Governors of West Florida hostile to the United States. In the year 1812 or 1813, I saw a letter from the Governor of Pensacola to the late chief of the Seminoles, Thomas Perryman, advising him to collect his forces and join his Upper Town brethren, who he said had come to a determination to rise in arms and shake off the American yoke; he would supply their arms and ammunition; and he said he was sure that, in less than a month, their fathers and protectors, the Spaniards, would have a sufficient army in the field to aid and protect them. Not long after I saw this letter, a large party of Indians went down to Pensacola, where they received a large supply of ammunition and some arms. It was but shortly after this when they attacked and destroyed the garrison of Fort Mimms; this was the commencement of the first Indian war. On the 13th of December last, when on my plantation on the Appalachicola, I was made a prisoner by a party of Seminole Indians, and was taken up to the Ocheehee bluffs in company with Mr. Doyle, who was made a prisoner with me; they kept us there three days, during which time they were busily engaged with some transports which were then ascending the river to Fort Scott; from thence they took us to the Mickasuky, where the Indians informed me that they had been told by the commandant of St. Mark's that war was declared between Spain and the United States. From this place we were carried to the Suwanee, where Kenhagee,



*Relations with Spain.*

principal chief of the Seminoles, told me that we had been taken and robbed by order of Arbuthnot; and brought there to be tried by him; shortly after we reached this, Arbuthnot arrived from Providence, when we were tried and sentenced by said Arbuthnot to be tortured; this sentence was not put in execution by the friendly interference of Mr. Cook, clerk to Arbuthnot, and the negro chief Nero; we were then conducted back to the Mickasuky; then Kenhagee went down to the Fort St. Mark's to consult the commandant if he would take us as prisoners to keep at his order; they held a council among the neighboring chiefs, and on the fifth day he returned, and ordered us to be conducted down next morning; we arrived at St. Mark's on the 12th February, at night; the Spanish officers received us kindly, but the commandant did not forget to remind us that we were still prisoners, and marked out that night the limits of our prison, which he rigidly kept during the time of our stay.

Next morning, the first thing that presented itself to my view was my saddle-horse which had been taken from me by the Indians; he was in the possession of the commissary. I mentioned it to the commandant, but he said that he bought him of an Indian, and he could do nothing in it. A few days after, in the course of conversation, I mentioned it to the Spanish doctor; he assured me that two-thirds of the property taken from us by the Indians had been bought by them and others in the fort. The plundered property from Georgia was every day briskly bought by the commandant and others. I know one instance of an Indian making an engagement with the commandant for cattle that he was going then to plunder, and in fourteen or fifteen days brought them in and sold them. On our first arrival at St. Mark's, we had, by help of a friendly Indian, conveyed intelligence to our friends in Pensacola of our situation, and they sent us on a small vessel to effect our escape; on her arrival, the commandant said to us that he had no objection to our getting out of the power of the Indians, but that he should first demand a written obligation that we should never return to that country, nor hold any communication, direct or indirect, with the United States Government, or any of her officers. This being settled, we left St. Mark's on the night of the 28th of March, and joined Captain McKeever, in his gunboats, in the bay of Appalachicola; on the 30th returned with him to St. Mark's, where we found General Jackson, on the 6th of April. Given under my hand the 24th July.

WILLIAM HAMBLY.

No. 46 a.

W. Hambly and E. Doyle to General Jackson.

FORT GADSDEN, May 2, 1818.

Sir: We beg leave to submit to you the following facts:

On the 13th of December, 1817, we were violently torn from our settlement on the Appalachicola river, by a number of Indians, headed by

Chenubby, a chief of the Fowl Town tribe, carried to Mickasuky, and delivered to Kenhagee, King of the Mickasukians. Kenhagee carried us to the negro towns on the Suwanee, and thence to the Spanish fort, St. Mark's, to the commandant of which he delivered us as prisoners of war, captured under the orders of a Mr. Arbuthnot, reported to us as a British agent. At St. Mark's we were treated as prisoners, and not permitted to wander beyond the walls of the garrison. While at that post, the ingress and egress of Indians hostile to the United States were unrestrained, and several councils were held, at one of which, Kenhagee, King of the Mickasukians, Francis, or Hillis Hadjo, Hamathlemico, the chief of Kolemies, all of the old Red Stick party, and Jack Mealy, chief of the Ochewas, were present. When it was reported that these chiefs and their warriors were entering Fort St. Mark's for the purpose of holding a council, Hambly represented to the commandant the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve and enforce the treaties existing between the King of Spain and the United States. He replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request we were confined. The council was held in the commandant's quarters. He, the commandant, was present, but strictly forbade the intrusion of any of the officers of the garrison. The Indians were in the habit of driving to Fort St. Mark's, and disposing of cattle to the commandant and other Spanish officers. While at that post, three or four droves were brought in, acknowledged by the Indians to have been stolen from the citizens of the United States, and purchased by the Spanish officers. We were present at most of these contracts, and Hambly was often referred to as an interpreter between the purchaser and seller. Chenubby, a Fowl Town Indian, once applied to Hambly to mention to the commandant that he was about visiting the frontiers of Georgia on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in and disposed of eleven head of cattle to the Spanish commandant of Fort St. Mark's. These same cattle were those purchased by you from the commandant as his private property.

WILLIAM HAMBLY,  
EDWARD DOYLE.

No. 46 b.

J. Gadsden to General Jackson.

FORT GADSDEN, May 3, 1818.

Sir: In conversation with the commandant of Fort St. Mark's, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort the hostile party of Indians had received, as reported from him; that they had free access within the walls of his fort; and that it was well known no small supplies of

*Relations with Spain.*

ammunition had been received from that quarter. In reply, he stated that his conduct had been governed by policy: the defenceless state of his works, and the weakness of his garrison, compelled him to conciliate the friendship of the Indians, to supply their wants, to grant what he had not the power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence; that he had been repeatedly threatened by Indians and negroes; and that his security depended upon exhibiting an external friendship. After Fort St. Mark's was occupied by the American troops, a black man and Spanish soldier was reported to me as having been arrested, clad in American uniform, recognised as part of the clothing of the 4th and 7th regiments, captured in the boat commanded by Lieutenant Scott, in ascending the Appalachicola river.

In explanation, the Spanish commandant observed that his soldiers and the Seminole Indians were in the habit of trading with each other, and that this negro, with others of his garrison, had received his permission to purchase some clothing reported to have been brought in by the Indians. Respectfully, your obedient servant,

J. GADSDEN, *Aid-de-camp.*

Maj. Gen. A. JACKSON,

No. 46 c.

Major Twiggs to General Jackson,

FORT GADSDEN, May 3, 1818.

Sir: After the occupancy of Fort St. Mark's with American troops, on the 7th of April last, it became my duty to take charge of some goods found in one of the public stores.

These goods were pointed out by the Spanish commandant, who, through Mr. Hambly as interpreter, separated several of the articles claimed as his own private property, and designated others as the property of Francis, or Hillis Hadjo, and Arbuthnot, a British agent or trader. An inventory of these was taken, and deposited with the American officer left in command of Fort St. Mark's. With respect, &c.

D. E. TWIGGS,

*Brev. Maj. 7th Infantry.*

I certify that I acted as interpreter in the transaction above alluded to, and that two separate parcels of goods were designated by the Spanish commandant of St. Mark's as belonging to Hillis Hadjo and Arbuthnot.

WILLIAM HAMBLY.

No. 46 d.

J. R. Brooks and P. Cone to General Jackson.

We, the undersigned, do hereby certify that, at the capture of Fort St. Mark's, East Florida, by Major General A. Jackson, on the 7th of April, 1818, there were some cattle purchased on account of the United States, and turned over to us, which we are of opinion had been driven from the frontiers of Georgia, (a part of them at least;) and we were strengthened in our opinion

by a number of officers and men from Georgia offering to swear to a number of them as the property of their neighbors and friends.

Given under our hands, at Fort Gadsden, this 3d May, 1818.

JACOB R. BROOKS,  
*Acting Contractor's Agent, U. S. A.*  
PETER CONE,  
*Assistant Commissary.*

No. 46 e.

Andrew F. Fraser and Daniel F. Sullivan to General Jackson.

We, the undersigned officers and men of the Georgia militia in the service of the United States, do hereby certify that we were at Fort St. Mark's, East Florida, at the time of its capture by Major General Andrew Jackson, on the 7th April, 1818, and saw some cattle that were purchased on account of the United States from the Spanish authorities, which we were ready to swear to as the property of our friends and neighbors in Georgia.

Given under our hands, at Fort Gadsden, this 3d May, 1818.

A. W. FRASER, *Captain.*  
D. F. SULLIVAN, *G. M. S.*

No. 47 a.

A. Arbuthnot to Lieutenant Colonel Nicholls.

NASSAU, N. P., August 26, 1817.

Sir: I am especially authorized to address you by the chiefs of the Creek nation whose names I affix to the present.

They desire it to be made known that they have implicitly followed our advice in living friendly with the Americans who were their neighbors, and nowise attempted to molest them, though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood; rather than make resistance, they have retired lower in the peninsula. The town of Ecan Halloway, on the Chatahoochee, where Otomisco was chief, is one instance of the encroachments of the Americans. This town is situated under the guns of Fort Gaines, and Mico was desired to submit to the Americans, or his town would be blown to atoms. Rather than do this he retired, is now living in the lower nation, and his fields, where the town stood, are ploughed up by the Americans. They complain of the English Government neglecting them, after having drawn them into a war with America; that the promise made them of sending people to reside among them has not been kept; and if they have not some person or persons to reside in the nation to watch over their interests, they will soon be driven to the extremity of the peninsula. You left Mr. Hambly to watch over the interests of the Creek nation, but you had hardly left the nation when he turned traitor, and was led by Forbes to take the part of the Americans. His letter (No. 47 b.) to me, of which I annex a copy, will show you what



*Relations with Spain.*

lengths he would go if he had the means. It is Hambly and Doyle who gave the Indians all the trouble they experience. They send their emissaries among the Lower Creeks, and make them believe that the Cowetas, aided by the Americans, are coming down on them. They send to the Cowetas, and report that the lower nation is arming against them. Thus both are put in fear, and their fields are neglected, and hunting is not thought of. I have endeavored to do away this fear, by writing to the chiefs of Coweta town that they ought to live on friendly terms with their brethren of the lower nation, whose wish it was to be on good terms with them, and not to listen to any bad talks, but to chase those that give them from among them. My letter was answered by them rather favorably; and I hope the talk that was sent to the Big Warrior last June will heal the differences between them.

Hillis Hadjo arrived in my schooner at Ochlochnee Sound last June, and was well received by all the chiefs and others who came to welcome him home. In consequence of his arrival, a talk was held, the substance of which I put on paper for them, and it was sent, with a pipe of peace, to the other nations.

Hillis Hadjo wished to return to Nassau with me, but I prevailed on him to stay with the nation and keep them all at peace.

I am desired to return Hillis Hadjo's warmest acknowledgments for the very handsome manner in which you treated him in England; and he begs his prayers may be laid at the foot of His Royal Highness the Prince Regent. I left him and all his family well on the 20th of June.

Old Cappachimico desired me to send you his best respects, and requests you will send him out some people to live among them, and all the land they took from Forbes shall be theirs. At all events, they must have an agent among them, to see that the Americans adhere to the treaty, and permit them to live unmolested on their own land. This agent should be authorized by His Majesty's Government, or he will not be attended to by the Americans.

In the gazettes of Georgia, the Americans report that the Seminole Indians are continually committing murders on their borders, and making incursions into the State. These are publications tending to irritate the American Government against the poor Indians; for, during the time I was in the nation, there was only one American killed; and he, with two others, was in the act of driving off cattle belonging to Boleck, chief of Suwanee; whereas, three men and a boy were killed last June, by a party of cattle-stealers, while in their hunting-camps; the boy they scalped; and one of Boleck's headmen was killed on St. John's river in July. The backwoods Georgians, and those resident on the borders of the Indian nation are continually entering it and driving off cattle. They have in some instances made settlements, and particularly on the Choctawhatchy river, where a considerable number have descended.

By the treaty with Great Britain, the Ameri-

cans were to give up to the Indians all the lands that may have been taken during the war, and place them on the same footing they were in Choctawhatchy in 1811. It appears that they have not done so; that Fort Gaines, on the Chatahoochee river, and Camp Crawford, on the Flint river, are both on Indian territory that was not in possession of the Americans in 1811.

They are fearful that, before any aid is given them by the English Government, they will no longer be in possession of any territory. I wrote last January to his excellency the Hon. Charles Bagot, representing the encroachments of the Americans, (as I was informed, by the copy of a letter from the Right Hon. Earl Bathurst, handed me by his excellency Governor Cameron, that His Majesty's ambassadors had received orders to watch over the interests of the Indians.) Since my return here, I have received from Mr. Moodie, of Charleston, an extract of a letter from the Hon. Charles Bagot, that the expense of postage is so considerable that any further communications of the same nature must be sent him by private hands. Now, sir, as no person goes direct from this to Washington, how am I to be able to comply with this desire? Thus, he will be kept ignorant of the real situation of the poor Indians, and the encroachments made on their lands by American settlers, while we may be told by the American Government that no encroachments have been made, and that the forts they still hold are necessary to check the unruly Seminoles. Thus, the persons appointed to watch over the poor Indians have no other means of information than from the parties interested in their destruction; and, from seeing, from time to time, in the American gazettes, accounts of cruel murders, &c., committed by the Indians on the frontier settlers of the United States, he apprehends the Indians merit all the Americans do to them. But let His Majesty's Government appoint an agent with full powers, and to correspond with His Majesty's ambassador at Washington, and his eyes will then be open as to the motives that influence American individuals, as well as the Government, in vilifying the Indians.

The powers given me and the instructions were to memorialize His Majesty's Government, as well as the Governor General of Havana; but if you will be pleased to lay this letter before His Majesty's Secretary of State, it will save the necessity of the first, and I fear that a memorial to the Governor General would be of no use. Referring you to the enclosed, (No. 47 b,) I remain, most respectfully, your obedient servant.

A. ARBUTHNOT.

To Lt. Col. NICHOLLS.

No. 47 b.

Extract of a letter from W. Hambly to A. Arbuthnot, received at Ochlochnee Sound, dated

SPANISH BLUFF, May 10, 1817.

SIR: I am desired by the chiefs of the nation to request you will extricate yourselves from among a band of outlaws, among whom you now

*Relations with Spain.*

are, for the arm of justice is lifted up against them, and it will, ere long, fall heavy upon them, you, and your property. They say they would have no objection to your settling any way the west of Appalachicola river; but, where you now are, you are among a set of outlaws. They have lately committed twenty most cruel murders on women and children on the frontiers of the United States, and stolen one hundred horses; and they say it is by your desire.

W. HAMBLY.

No. 47. c.

Signatures of the chiefs of the Creek nation to a power given to A. Arbuthnot, dated the 17th June, 1817.

Cappachimico,	Inhimithaluchy,
Inhimathlo,	Lahoe Himathlo,
Charle Tustonaky,	Homathlemico,
Otosmico,	Talmuches Hatcho,
Ochacona Tustonaky,	Hillis Hadjo,
Imathluche,	Opothlimico.

Interpreter, PETER SHUGERT.

Approved of by F. C. LUENGO,  
Commandant of St. Marks.

No. 48.

Luengo to Arbuthnot.

APPALACHICOLA, Dec. 25, 1817.

SIR AND FRIEND: Affairs having assumed a serious aspect between the savages and the Americans, and not doubting that the storm will pass this way, I entertain apprehensions for the safety of your little objects, and believe it to be your interest not to lose a moment in removing them from hence.

I shall be happy to see you, that I may have the pleasure of embracing you, and an opportunity of conversing with you on the politics of the day; which, under existing circumstances, it is improper to commit to paper. In the expectation of this pleasure, I am, with my little family,

Sir, your very affectionate servant and friend.

FR. CASO Y LUENGO.

No. 49.

Minutes of the proceedings of a special court, organized agreeably to the following order, viz:

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen.'s Office, Ft. St. Mark's,  
April 26, 1818.

GENERAL ORDER.

The following detail will compose a special court, to convene at this post, at the hour of 12 M., for the purpose of investigating the charges exhibited against A. Arbuthnot, Robert Christie Ambrister, and such others who are similarly situated, as may be brought before it:

The court will record all the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoners; and what punishment, if any, should be inflicted.

DETAIL.

Major General E. P. Gaines, president.

Members.

Colonel King, 4th infantry.  
Colonel Williamson, Tennessee volunteers.  
Lieutenant Col. Gibson, Tennessee volunteers.  
Major Muhlenberg, 4th infantry.  
Major Montgomery, 7th infantry.  
Captain Vashon, 7th infantry.  
Colonel Dyer, Tennessee volunteers.  
Lieutenant Colonel Lindsay, corps artillery.  
Lieut. Col. Elliott, Tennessee volunteers.  
Major Fanning, corps artillery.  
Major Minton, Georgia militia.  
Captain Crittenden, Kentucky volunteers.  
Lieut. J. M. Glassell, 4th infantry, recorder.

An orderly will be detailed from Gen. Gaines's brigade; and the court will sit without regard to hours.

By order of Maj. Gen. JACKSON:  
ROBERT BUTLER,  
Adjutant General.

FORT ST. MARK'S, April 26, 1818.

The court convened, pursuant to the foregoing order; when, being duly sworn in the presence of the prisoner, and he being asked if he had any objections to any member thereof, and replying in the negative, the following charges and specifications were read, viz:

Charges against A. Arbuthnot, now in custody, and who says he is a British subject.

CHARGE 1. Exciting and stirring up the Creek Indians to war against the United States and her citizens, he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

Specification. That the said A. Arbuthnot, between the months of May and July, or some time in June, 1817, wrote a letter to the Little Prince, exhorting and advising him not to comply with the treaty of Fort Jackson, stating that the citizens of the United States were infringing on the Treaty of Ghent, as he believed, without the knowledge of the Chief Magistrate of the United States, and advising the Upper and Lower Creeks to unite and be friendly, stating that William Hambly was the cause of their disputes; also advising the Little Prince to write to the Governor of New Providence, who would write to His Royal Highness the Prince Regent, through whom the United States would be called to a compliance with the Treaty of Ghent, and advising them not to give up their lands under the Treaty of Fort Jackson, for that the American citizens would be compelled to give up to them all their lands under the Treaty of Ghent.

CHARGE 2. Acting as a spy, and aiding, abetting, and comforting the enemy, supplying them with the means of war.

Specification 1. In writing a letter from St. Mark's fort, dated April 2, 1818, to his son John, at Suwanee, (marked A,) detailing the advance of the army under General Jackson, stating their force, probable movements, and intentions, to be communicated to Bowlegs, the chief of the Suwanee towns, for his government.



*Relations with Spain.*

**Specification 2.** In writing the letters marked B, without date, and C, with enclosures, Jan. 27, 1818; and D, called "a note of Indian talks;" and E, without date, applying to the British Government, through Governor Cameron, for munitions of war and assistance for our enemies; making false representations, and also applying to Mr. Bagot, British Ambassador, for his interference, with a statement, on the back of one of the letters, of munitions of war for the enemy.

**CHARGE 3.** Exciting the Indians to murder and destroy William Hambly and Edmund Doyle, and causing their arrest, with a view to their condemnation to death, and the seizure of their property, on account of their active and zealous exertions to maintain peace between Spain, the United States, and the Indians, they being citizens of the Spanish Government.

**Specification 1.** In writing the letters marked F, dated August 26, 1817; G, dated May 13, 1817; and H, threatening them with death, alleging against them false and infamous charges, and using every means in his power to procure their arrest; all which writings and sayings excited, and had a tendency to excite, the Indians and negroes to acts of hostility with the United States.

By order of the court:

J. M. GLASSELL,  
*Recorder.*

To which charges and specifications the prisoner pleaded not guilty.

The prisoner having made application for counsel, it was granted him, when the court proceeded to the examination of the evidence.

JOHN WINSLETT, a witness on the part of the prosecution, being duly sworn, stated that some time before last July the Little Prince received a letter, signed by a Mr. Arbuthnot, advising the upper part of the nation to unite with the lower chiefs in amity, and stating that the best mode for them to repossess themselves of their lands would be to write to him, (Arbuthnot,) and he would send on their complaints to the Governor of Providence, whence it would be forwarded to His Britannic Majesty, and he would have the terms of the Treaty of Ghent attended to; he, moreover, stated his belief that the encroachments on the Indian lands were unknown to the President of the United States. The witness also identified the signature of the letter of the prisoner to his son, marked A, referred to in the first specification to the second charge, and heretofore noted as being the same with that sent to the Little Prince.

The witness, on being further interrogated, stated the language of the letter alluded to to be, that the British Government, on application, would cause to be restored to them their lands they held in 1811, agreeably to the terms of the Treaty of Ghent.

**Question by the prisoner.** Who is the Little Prince, or is he known by any other name?

**Answer.** He is known by the name of Tustenuggee Hopoy, and is the second chief of the nation.

**Question.** Where is the letter you allude to, or in whose possession?

**Answer.** It was left in the possession of the Little Prince when I last saw it.

**Question.** Has this Little Prince no other name than what you state?

**Answer.** Not that I know of.

**Question.** Do you swear that the letter alluded to was addressed to the Little Prince?

**Answer.** I do not. It was presented to me by the Little Prince to read and interpret for him, which I did.

**Question.** Are you certain that the letter stated that the Chief Magistrate of the United States could have had no knowledge of settlements made on Indian land, or injuries committed?

**Answer.** The letter stated that to be the belief of the writer.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated, with regard to the first specification of the second charge, that, being at Suwanee, in the town, about the 6th or 7th of April, he was awakened early in the morning by Mr. Ambrister's receiving, by the hands of a negro, who got it from an Indian, a letter from St. Marks, at that time stated by Ambrister to be from the prisoner.

**Question by the prisoner.** Did you see that letter, or hear it read?

**Answer.** I did see the paper, but I did not hear it read.

**Question by the prisoner.** Did you state that the letter was received by an Indian express?

**Answer.** So the black man that delivered it said.

A question being raised by a member of the court as to their jurisdiction on the third charge, and its specification, the doors were closed, and, after mature deliberation, they decided that this court is incompetent to take cognizance of the offences alleged in that charge and specification.

PETER B. COOK, a former clerk to the prisoner, and a witness on the part of the prosecution, being duly sworn, stated that, about December or January last, the prisoner had a large quantity of powder and lead brought to Suwanee in his vessel, which he sold to the Indians and negroes; that subsequent to that time, which he cannot recollect, Ambrister brought for the prisoner in his (the prisoner's) vessel nine kegs of powder, and a large quantity of lead, which were taken possession of by the negroes. The witness also identified the letters referred to in the foregoing charges and specifications, marked A, B, C, D, E, F, G, and H; also, the power of attorney, No. 1, granted by the Indians to A. Arbuthnot, being the prisoner's handwriting.

**Question by the court.** Have you at any time within the last twelve months heard any conversation between the prisoner and the chief called Bowlegs relating to the war between the United States and the Seminoles?

**Answer.** I heard the prisoner tell Bowlegs that he had sent letters to the Prince Regent, and expected soon to have an answer. Some time afterwards, some of the negroes doubted his car-

*Relations with Spain.*

rying those letters, when the prisoner stated that he had, but, the distance being great, it would take some time to receive an answer.

By the court. State to the court when and where you first saw the letter signed A. Arbuthnot, dated April 2, 1818, referred to in the first specification of the second charge.

**Answer.** About the 6th of April, a black man, who said he had received it from an Indian gave it to Mr. Ambrister, whom I saw reading it.

**Question by the court.** Do you know by what means that letter was conveyed to Suwanee?

**Answer.** I understood by an Indian who was sent from Fort St. Mark's.

**Question by the court.** Who paid the Indian for carrying the letter referred to in the last interrogatory?

**Answer.** I do not know.

**Question by the court.** What steps were taken by the negroes and Indians on the receipt of the letter?

**Answer.** They at first believed the bearer an enemy, and confined him, but, learning the contrary, began to prepare for the enemy, and the removal of their families and effects across the river; the Indians lived on the opposite side.

**Question by the court.** Did the Indians and negroes act together in the performance of military duty?

**Answer.** No; but they always said they would fight together.

**Question by the court.** Did not Nero command the blacks, and did not Bowlegs own Nero, and was not the latter under the immediate command of Bowlegs?

**Answer.** Nero commanded the blacks, and was owned and commanded by Bowlegs; but there were some negro captains who obeyed none but Nero.

**Question by the court.** What vessel brought to Suwanee the ammunition which you said was sold by the prisoner to the Indians and negroes?

**Answer.** The schooner Chance, now lying at the wharf; she is a foretopsail vessel belonging to the prisoner.

The witness also identified the manuscript of the prisoner in a paper granting him full power to act in all cases for the Indians, numbered 1; and, also, a letter, without signature, to the Governor of St. Augustine, numbered 2; further, a letter, without date, to Mr. Mitchell, Indian agent, numbered 3; and an unsigned petition of the chiefs of the Lower Creek nation to Governor Cameron, praying his aid in men and munitions of war, numbered 4; all of which the witness stated to be in the handwriting of the prisoner.

The court then adjourned to meet to-morrow morning at 7 o'clock.

FORT ST. MARK'S, April 27, 1818.

The court convened pursuant to adjournment. Present: Major General E. P. GAINES, President.

Members:

Colonel King.

Lieut. Colonel Gibson,

Colonel Williamson, Major Muhlenberg,  
Major Montgomery, Lieut. Col. Elliott,  
Captain Vashon, Major Fanning,  
Colonel Dyer, Major Minton,  
Lieut. Col. Lindsay, Captain Crittenden.

Lieutenant J. M. Glassell, Recorder.

When the further examination of the witness, PETER B. COOK, took place, viz:

**Question by the prisoner.** How long have you been acquainted with the settlement on the Suwanee?

**Answer.** Between six and seven months.

**Question.** For what term of years did you engage to live with the prisoner?

**Answer.** For no stated period: I was taken by the year.

**Question.** Were you not discharged by the prisoner from his employ?

**Answer.** He told me he had no further use for me after I had written the letters to Providence.

**Question.** Where did you stay after you were discharged?

**Answer.** I staid in a small house belonging to a boy called St. John, under the protection of Nero.

**Question.** What was the subject-matter of the letters you wrote to Providence?

**Answer.** After being refused by the prisoner a small venture to Providence, I wrote to my friends for the means to trade by myself.

**Question.** Do you believe the prisoner had knowledge of the venture being on board the schooner?

**Answer.** I do not believe he had; it was small and in my trunk.

**Question.** Do you know that Ambrister was the agent of the prisoner?

**Answer.** I do not.

**Question.** Do you think that the powder and lead shipped would more than supply the Indians and negro hunters?

**Answer.** I did not see the powder and lead myself, but was told by Bowlegs that he had a great quantity; he had three kegs, keeping to fight with.

**Question.** Did the Indians reside on the east side of the river?

**Answer.** They did.

**Question.** You were asked of the negroes and Indians, when the letter marked A was communicated, if they did not take up arms; had they received information of the defeat of the Indians at Mickasuky prior to this date?

**Answer.** It was afterwards, I believe, that they received the information.

**Question.** Did not Bowlegs keep other powder than that got from the prisoner?

**Answer.** He had some he got from the Bluff, which was nearly done; he said his hunters were always bothering him about powder.

**Question.** Did you state that, at the time Ambrister ascended the river, there was no other vessel at the mouth of the river?

**Answer.** There was none other there; there was one had sailed.

**Question.** There is a letter (A) spoken of;



*Relations with Spain.*

how do you know that the son of the prisoner had that letter in his possession?

Answer. I saw him with it, which he dropped, and a boy called John picked it up and gave it to me.

Question. You stated that the Indians and negroes doubted the fidelity of the prisoner in sending letters to the Prince Regent; do you think that the prisoner would have been punished by them had he not complied with their wishes?

Answer. I do not know.

Question. Do you believe that the prisoner was compelled to write the Indian communications?

Answer. He was not compelled.

WILLIAM HAMBLY, a witness on the part of the prosecution, being duly sworn, and commencing a statement of what he heard the chiefs say, and the prisoner objecting to hearsay evidence of that kind, the court was cleared, in order to take the question; when it was decided that the prisoner's objection was not valid. The witness was, therefore, recalled, and stated that, fifteen or twenty days after the prisoner's arrival at Ochlochnee, the Seminole Indians began to steal horses from the United States settlements, and commit murders on the Satilla river, which, he was informed by them, was at the instigation of the prisoner.

The chiefs of the little villages in the witness's neighborhood then desired him to write a few lines to the prisoner, stating those reports, and that he did not know that those Indians he was exciting had long been outlawed, and cautioned him against such proceedings, or he might be involved in their ruin. This the witness did, when the prisoner wrote him a long and insulting letter, (which was lost,) upbraiding the witness for calling those Indians outlaws, and accusing him of exciting the Indians to cruel war. The witness was told by all the chiefs and Indians who had seen the prisoner that he advised them to go to war with the United States if they did not surrender the lands which had been taken from them, and that the British Government would support them in it.

The Indians who took the witness and a Mr. Doyle prisoners, which happened on the thirteenth day of December last, told them it was by the prisoner's order; and on their arrival at Mickasuky, (as prisoners,) Kenhagee, and all his chiefs, told them it was by the prisoner's orders they were taken and robbed. On their arrival at Suwanee, they were told by the Indian and negro chiefs, who sat in council over them, that the prisoner had advised that he should be given up to five or six Choctaw Indians, who were saved from the negro fort, who would revenge themselves for the loss of their friends at that place. On their return from Suwanee, the chief Kenhagee told them that he had got the prisoner to write several letters for him; one to the Governor of Providence, one to the British Minister at Washington, one to the Secretary of State in London, and one to the American agent for Indian affairs, protesting against the proceedings of the commanding officer at Fort Scott.

While the witness was at Suwanee, the Indian chief told him that the prisoner had arrived at that place with ten kegs of powder on board of his vessel; and, while in Fort St. Mark's, sometime in March, Hillis Hadjo, or Francis, brought an order from the prisoner to the commandant for two kegs of powder, with other articles, which were in his possession.

Question by the court. Were any murders or depredations committed on the white settlements by the Indians previous to the prisoner's arrival at Ochlochnee?

Answer. None, except one murder near Fort Gaines, which was before or about the time of the prisoner's arrival.

Question. How long have you resided among the Indians? State to the court whether you are acquainted with the Indian language, and how long since you learned it?

Answer. I have resided among them fourteen years, and have understood their language twelve years.

Question. Do you believe the Seminoles would have commenced the business of murder and depredation on the white settlements had it not been at the instigation of the prisoner, and a promise, on his part, of British protection?

Answer. I do not believe they would without being assured of British protection.

Question. What was the light in which the prisoner was viewed by the hostile Seminoles; was it that of an authorized agent of the British Government?

Answer. The different chiefs always represented him to me as such.

The witness recognised the letter marked G, and signed A. Arbuthnot, as being a copy of the one alluded to in his testimony as lost.

Question by the president. Are you acquainted with the prisoner's handwriting?

Answer. I have seen it, but cannot say I am acquainted with it.

Question. Is that which you have just seen, and say is the copy of the one you lost, the prisoner's handwriting?

Answer. It looks to be his handwriting, but I cannot say positively.

Question. Was the prisoner considered as the agent of the Seminoles at the time those murders were committed?

Answer. I had not seen the prisoner at that time; the Indian chiefs told me that the prisoner had reported himself to them as an English agent.

Question. Where did you understand the prisoner to be when you were taken prisoner?

Answer. The Indians told us that he had gone over to Providence, but was expected back by the time we should arrive at Suwanee.

Question. Did you not request Kenhagee to prevail upon the prisoner to give you a passage in his schooner to Providence?

Answer. Yes; but was told that the prisoner refused it, stating that, if we were forced upon him, he would blindfold us, and make us walk overboard.

Question. What were the reasons given by

*Relations with Spain.*

Kenhagee for the prisoner's not granting your request?

Answer. Kenhagee stated that the prisoner was fearful of meeting with an American vessel, when we should be taken out, and he thereby lose his schooner.

EDMUND DOYLE, a witness on the part of the prosecution, being duly sworn, was questioned as follows:

Question by the judge advocate. Do you know anything that would tend to substantiate the charges against the prisoner now before you?

Answer. I know nothing but from common report.

WILLIAM S. FULTON, an evidence on the part of the prosecution, being duly sworn, testified to the copy of a letter from A. Arbuthnot to General Mitchell, agent for Indian affairs, dated Suwanee, January 19, 1818, and marked No. 6, as acknowledged by the prisoner to be the same, in substance, as one written by himself at that time; an extract from that letter was then read to the court.

Question by the president. Where did the prisoner acknowledge the letter just read to be a copy of the one written by himself?

Answer. In the encampment before this place, about the 6th or 7th instant.

Question. Was not the acknowledgment made when he was a prisoner?

Answer. It was.

Question by the president. Did you hear a gentleman say to the prisoner, whilst in custody, that those who recommended the scalping-knife and tomahawk should feel their keenest edge?

Answer. I did hear a gentleman say that those who excited the Indians to the murder of the unoffending should feel the keenest edge of the scalping-knife; but, as well as I recollect, that observation was not made until after the repeated acknowledgments of the prisoner of having written the letter.

Question by the court. Was not the confession of the prisoner to this letter made voluntarily, and without any constraint whatever?

Answer. I conceive it was.

The evidence on the part of the prosecution being closed, the prisoner requested, as a witness, Robert C. Ambrister as one of his witnesses, against whom criminal charges had been filed, and was in custody on account thereof; to which the judge advocate objecting, the court was cleared to take its sense, when it was decided that Robert C. Ambrister, now in custody for similar offences with the prisoner, cannot be examined as evidence before the court.

JOHN LEWIS PHENIX, a previous witness, now on the part of the prisoner, being again sworn, was questioned as follows, viz:

Question by the prisoner. Was there any other vessel at the mouth of the Suwanee river when Ambrister seized your schooner?

Answer. Yes.

Question. What vessel was it? Was it not the vessel which Ambrister came in?

Answer. It was a sloop, and I understand Ambrister came in her.

Question. Did Ambrister ever mention to you who recommended him to seize the prisoner's schooner, or who assisted him in stimulating the negroes to do so?

Answer. No; I understood he came on board of his own accord.

Question by the court. Have you, since you commanded the prisoner's vessel, ever brought any arms to that part of the country?

Answer. No; I brought a quantity of lead and ten kegs of powder in the last trip.

JOHN WINSLETT, a former witness on the part of the prosecution, being recalled on behalf of the prisoner, was questioned as follows, viz:

Question by the prisoner. Are you not of opinion that the letter which you say was written by the prisoner to the Little Prince is now in the possession of the Little Prince?

Answer. After reading it, I returned it to him, and I believe it to be still in his possession, as Indians seldom destroy papers of that kind.

The prisoner requesting some time to make up his defence, he was given until to-morrow evening, at four o'clock.

FORT ST. MARK'S, April 28, 1818,  
Four o'clock P. M.

The recorder having read over the proceedings of the court with closed doors, the prisoner was recalled into court, and made the defence marked K, and attached to these proceedings. The doors were then closed, and, after the most mature deliberation on the evidence adduced, the court find the prisoner, Alexander Arbuthnot, guilty of the first specification to the first charge, and guilty of the first charge; guilty of the first and second specifications to the second charge, and guilty of the second charge, leaving out the words "acting as a spy;" they, therefore, do, on the most mature reflection, sentence the prisoner, Alexander Arbuthnot, to be *suspended by the neck until he is dead*; two-thirds of the court concurring therein.

EDMUND P. GAINES,  
Major General, Pres. of the Court.  
J. M. GLASSELL, Recorder.

A.

From A. Arbuthnot to his son, John Arbuthnot.

FORT ST. MARK'S, April 2, 1818,  
nine o'clock in the morning.

DEAR JOHN: As I am ill able to write a long letter, it is necessary to be brief. Before my arrival here, the commandant had received an express from the Governor of Pensacola, informing him of a large embarkation of troops, &c, under the immediate command of General Jackson; and the boat that brought the despatch reckoned eighteen sail of vessels off Appalachicola. By a deserter that was brought here by the Indians, the commandant was informed that three thousand men, under the orders of General Jackson, one thousand foot and sixteen hundred horse, un-



der General Gaines, and five hundred under another General, were at Prospect Bluff, where they are rebuilding the burnt fort; that one thousand Indians, of different nations, were at Spanish Bluff, building another fort under the direction of American officers; that, so soon as these forts were built, they intended to march—they have commenced. Yesterday morning advice was received that they had appeared near—and taken two of the sons of McQueen and an Indian. Late in the afternoon three schooners came to anchor at the mouth of the river, and this morning the American flag is seen flying on the largest.

I am blockaded here; no Indians will come with me; and I am now suffering from the fatigue of coming here alone.

The main drift of the Americans is to destroy the black population of Suwanee. Tell my friend Boleck that it is throwing away his people to attempt to resist such a powerful force as will be down on Suwanee; and, as the troops advance by land, so will the vessels by sea. Endeavor to get all the goods over the river in a place of security, as also the skins of all sorts; the corn must be left to its fate. So soon as the Suwanee is destroyed, I expect the Americans will be satisfied, and retire; this is only my opinion; but I think it is conformable to the demand made by General Gaines of Kenhagee some months since. In fact, do all you can to save all you can; save the books particularly. It is probable the commandant will receive some communication from the vessels to-day, when he will know more certainly what are their motives in coming off the fort. I think it is only to shut up the passage to the Indians. Twenty canoes went down the river yesterday, and were forced to return. The road between this and Mickasuky is said to be stopped. Hillis Hadjo and Homathlemipo were here late last night to hear what vessel; they will remove all their cattle and effects across St. Mark's river this morning, and perhaps wait near thereto for the event.

I have been as brief as I can, to give you the substance of what appear facts that cannot be doubted; to enter into details in the present moment is useless. If the schooner is returned, get all the goods on board of her, and let her start off for Manatee creek, in the bottom of Cedar Key bay; you will then only have the skins to hide away. But no delay must take place, as the vessels will, no doubt, follow the land army, and perhaps even now some are gone round. I pray your strictest attention, for the more that is saved will be eventually more to your interest. Let the bearer have as much calico as will make him two shirts, for his trouble; he has promised to deliver this in three, but I give him four days.

I am yours, affectionately,

A. ARBUTHNOT.

B.

From A. Arbuthnot to Charles Cameron, Governor of Bahamas.

SIR: Being empowered by the chiefs of the

Lower Creek nation to represent the state of their nation to your excellency, that you may be pleased to forward the same for the information of His Majesty's Government, to whom alone they look up for protection against the aggressions and encroachments of the Americans, I beg leave to submit to your excellency the enclosed representations, humbly praying that your excellency will be pleased to take an early opportunity of forwarding the same to Great Britain.

I am also instructed by Boleck, chief of Suwanee, to make the demand herein enclosed, he never having had any share of the presents distributed at Prospect Bluff, though he rendered equally essential services as any of the other chiefs to the British cause while at war with America, and was at New Orleans with a part of his warriors. His frontiers being more exposed to the predatory incursions of the back Georgians, who enter his territory and drive off his cattle, he is obliged to have large parties out to watch their motions, and prevent their plundering; and being now deficient of ammunition, he prays your excellency will grant his small demand.

Humbly submitting the same, I have the honor to remain your excellency's most humble servant,  
A. A.

*The humble representations of the chiefs of the Creek nation to His Excellency Governor Cameron.*

First, we beg leave to represent that Edmund Doyle and William Hambly, late clerks at Prospect Bluff to Messrs. Forbes, and who still reside on the Appalachicola river, we consider as the principal cause of our present troubles and uneasiness. Hambly was the instrumental cause of the fort at Prospect Bluff being destroyed by the Americans, by which we lost the supplies intended for our future wants. Since then both these men have kept emissaries among us, tending to harass and disturb our repose, and that of our brethren of the Middle and Upper nations; they spread among us reports that the Cowetas, aided by the Americans, are descending to drive us off our land; they equally propagate false.

C.

From A. Arbuthnot to Benjamin Moodie, Esq., enclosing letters to Charles Bagot, Esq., British Minister at Washington.

SUWANEE, IN THE CREEK NATION,  
January 27, 1818.

SIR: The enclosed containing matter of serious moment, and demanding the immediate attention of his excellency the British Ambassador, I trust he will, for this time, forgive the trifling expense of postage, which I have endeavored to prevent as much as possible by comprising much matter in one sheet of paper. Should you, sir, be put to any trouble or expense by this trouble I give you, on being made acquainted with the same, I will instruct Bain, Dunshee, & Co., to order payment of the same.

I have the honor to be, &c.,

A. ARBUTHNOT.

From A. Arbuthnot to the Hon. Charles Bagot.

SIR: It is with pain I again obtrude myself upon your excellency's notice; but the pressing solicitations of the chiefs of the Creek nation, and the deplorable situation in which they are placed by the wanton aggressions of the Americans, I trust your excellency will take as a sufficient apology for the present intrusion.

In August last, the head chief of the Seminole Indians received a letter from General Gaines, of which I have taken the liberty of annexing your excellency the contents, as delivered me by the chief's head English interpreter, with Kenhagee's reply thereto.

This letter appears to have been intended to sound the disposition of the chief, and ascertain the force necessary to overrun the nation, for from then until an actual attack was made on Fowl Town, the same General, with General Jackson, seems to have been collecting troops and settlers in various quarters.

If your excellency desires to have further information respecting the situation of this country and its inhabitants, I can, from time to time, inform your excellency of such facts and circumstances as are stated to me by chiefs of known veracity, or which may come under my own observation; and your excellency's orders addressed to me at New Providence will either find me there, or be forwarded me to this country.

With great respect, I have the honor to be, &c.,  
A. A.

[The following memoranda were on the back of the foregoing letter.]

Kenhagee, 1,000; Boleck, 1,500; Oso Hatcho, Choctawhatchy, 500; Himashy Mico, Chatahoochee, 500;—at present with Hillis Hadjo. At present under arms, 1,000 and more, and attacking those Americans who have made inroads into their territory.

A quantity of gunpowder, lead, muskets, and flints, sufficient to arm one thousand to two thousand men.

Muskets, 1,000, more smaller pieces, if possible; 10,000 flints, a proportion for rifle put up separate; 50 casks gunpowder, a proportion for rifle; 2,000 knives, six to nine-inch blades, good quality; 1,000 tomahawks; 1000 pounds vermilion; 2,000 pounds lead, independent of ball for muskets.

KENHAGEE,  
BOLECK.

(No. 1.)

From General Gaines to the Seminole Chiefs.

TO THE SEMINOLE CHIEFS: Your Seminoles are very bad people; don't say whom; you have murdered many of my people, and stolen my cattle; and many good houses, that have cost me money, you have burnt for me; and now that you see my writing, you will think I have spoken right. I know it is so—you know it is so; for now you may say I will not go upon you at random; but just give me the murderers, and I will show them my law; and when that is finished and passed, if you will come about any of my people, you will see your friends; and if you see me, you will see your friend. But there is something out in the sea, a bird with a forked tongue; whip him back before he lands, for he will be the ruin of you yet; perhaps you do not know who or what I mean—I mean the name of Englishmen.

I tell you this, that if you do not give me up the murderers who have murdered my people, I say I have got good strong warriors with scalping knives and tomahawks. You harbor a great many of my black people among you at Suwanee. If you give me leave to go by you against them, I shall not hurt anything belonging to you.

GENERAL GAINES.

(No. 2.)

From Kenhagee to General Gaines, in answer to the foregoing.

You charge me with killing your people, stealing your cattle, and burning your houses. It is I that have cause to complain of the Americans. While one American has been justly killed while in the act of stealing cattle, more than four Indians have been murdered while hunting by those lawless freebooters. I harbor no negroes. When the Englishmen were at war with America, some took shelter among them; and it is for you white people to settle those things among yourselves, and not to trouble us with what we know nothing about. I shall use force to stop any armed Americans from passing my towns or on my lands.

KENHAGEE.

To General GAINES.

D.

"Note of Indian talks."

In August, Cap had a letter from General Gaines, in substance as annexed, No. 1, and returned the answer as by No. 2. Nothing further was said on either side. The end of October, a party of Americans from a fort on Flint river surrounded Fowl Town during the night, and began burning it; the Indians then in it fled to the swamp, and in their flight had three persons killed by fire from the Americans; they rallied their people, and forced the Americans to retire some distance, but not before they had two more persons killed. The Americans built a block-house or fort where they had fallen back to, and immediately sent to the forts up the country for assistance, stating the Indians were the aggressors. One of those letters falling into the hands of General Mitchell, he made inquiry, and found his people were the aggressors, and also settled with Inhimathlo for the loss his people had suffered; at the same time sending a talk to Kenhagee, by a headman, Opony, that he would put things in such a train as to prevent further encroachments, and get those Americans to leave the forts. But no sooner was this good talk given, and before the bearer of it returned home, than hundreds of Americans came pouring down on the Indians. Roused to a sense of their own



danger, they flew to arms, and have been compelled to support them ever since. It is not alone from the country, but by vessels entering Appalachicola river, that troops and settlers are pouring into the Indian territory, and, if permitted to continue, will soon overrun the whole of the Indian lands.

From the talk sent Kenhagee by General Mitchell, I am in hopes that those aggressions of the Americans on the Indian territory are not countenanced by the American Government, but originate with men devoid of principle, who set laws and instructions at defiance, and stick at no cruelty and oppressions to obtain their ends. Against such oppressors the American Government must use not only all their influence, but, if necessary, force, or their names must be handed down to posterity as a nation more cruel and savage to the unfortunate aborigines of this country than ever were the Spaniards, in more dark ages, to the natives of South America.

The English Government, as the special protectors of the Indian nations, and on whom alone they rely for assistance, ought to step forward and save those unfortunate people from ruin; and as you, sir, are appointed to watch over those interests, it is my duty, as an Englishman, and the only one in this part of the Indian nation, to instruct you of the talks the chiefs bring me for your information; and I sincerely trust, sir, you will use the powers you are vested with for the service and protection of these unfortunate people, who look up to you as their saviour. I have written General Mitchell, who I learn is an excellent man, and, as he acts as Indian agent, I hope his influence will stop the torrent of innovators, and give peace and quietness to the Creek nation.

I pray your excellency will pardon this intrusion, which nothing but the urgency of the case would have induced me to make.

I have the honor to be, &c.

A. A.

E.

*From Capparechimico and Boleck to Governor Cameron.*

It is with pain we are again obliged to obtrude ourselves on your excellency's notice, in consequence of the cruel war we have been forced into by the irruption of the Americans into the heart of our lands. It will be first necessary to state to your excellency that one head chief, Kenhagee, received a letter from General Gaines in August last, a copy of which is enclosed, with the answer returned thereto. This letter only appears to have been a prelude to plans determined on by the said General and General Jackson, to bring on troops and settlers to drive us from our lands and take possession of them; for, in the end of October, a party of Americans surrounded Fowl Town during the night, and in the morning began setting fire to it, making the unfortunate inhabitants fly to the swamp, and who, in their flight, had three persons killed by the fire of the Americans. Our Indians, rallying, drove the Americans from the town, but, in their

exertions, had two more of their people killed. The Americans retired some distance and built a fort or block-house to protect themselves until the assistance they had sent for to the forts up the country should arrive. A letter falling into the hands of General Mitchell, the Indian agent, which stated the Indians to have been the aggressors, he suspected its truth, and, on inquiry, found it was the reverse; in consequence, he made satisfaction to Inhimathlo, the chief of Fowl Town, and his people, for the injuries and losses they had sustained; at the same time he desired a talk to be sent to our head chiefs, stating his wish to see all the Indians friends, and that in twenty days he would send and get the Americans to retire from the forts. But this had no effect on the lawless invaders of our soil, for, before the bearer of the talk could return home, he met hundreds of Americans descending on us; they have also settlers and troops which come from Mobile, and go up the Appalachicola river. Thus, seeing no end to those inroads, necessity compelled us to have recourse to arms, and our brethren are now fighting for the land they inherited from their fathers, for their families and friends. But what will our exertions do without assistance? Our sinews of war are almost spent; and harassed as we have been for years, we have not been able to lay by the means to provide for our extraordinary wants; and to whom can we look up to for protection and support, but to those friends who have at all former times held forth their hands to uphold us, and who have sworn, in their late treaty with the Americans, to see our just rights and privileges respected and protected from insult and aggression? We now call on your excellency, as the representative of our father, King George, to send such aid in ammunition as we are absolutely in want of, as our brother chief, Hillis Hadjo, was informed, when in England, that, when ammunition was wanted to enable us to protect our just rights, your excellency would supply us with what was necessary. We have applied to the Spanish officer at the fort of St. Mark, but his small supply prevents his being able to assist us, and we have only on your excellency to depend. We likewise pray your excellency would be pleased to send an officer or person to lead us right, and to apportion the supply you may be pleased to send us agreeably to our proper wants.

In praying your excellency will lend an ear to our demand, and despatch it without delay, we remain your excellency's most obedient friends and servants.

CAPPACHIMICO,  
BOLECK,

*For ourselves and all the other chiefs  
of the Lower Creek nation.*  
His Exc'y Governor CAMERON.

F.

*Letter from A. Arbuthnot to Colonel E. Nicholls.*

NASSAU, N. P., August 26, 1817.

Sir: Especially authorized by the chiefs of the

Lower Creek nation, whose names I affix to the present, I am desired to address you, that you may lay their complaint before His Majesty's Government. They desire it to be made known that they have implicitly followed your advice in living friendly with the Americans, who were their neighbors, and nowise attempted to molest them, though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood, on the Chatahoochee; rather than make resistance, they have retired lower in the peninsula. The town of Ecan Halloway, where Otis Mico was chief, is one instance of the encroachments of the Americans. This town is situated under the guns of Fort Gaines; and Mico was desired to submit to the Americans, or his town would be blown to atoms; rather than do so, he retired, and is now living in the lower nation; and his fields, and even where the town stood, is ploughed up by the Americans. They complain of the English Government neglecting them after having drawn them into a war with America; that you, sir, have not kept your promise of sending people to reside among them; and that, if they have not some person or persons resident in the nation to watch over their interests, they will soon be driven to the extremity of the peninsula. You left Mr. Hambly to watch over the interests of the Creek nation, but you had hardly left the nation when he turned traitor, and was led by Forbes to take the part of the Americans. His letter to me, of which I annex you a copy, will show you what lengths he could go if he had the means. It is Hambly and Doyle who give the Indians all the trouble they experience; they send their emissaries among the Lower Creeks, and make them believe the Cowetas, aided by the Americans, are arming against them: thus both are put in fear; and their fields are neglected, and hunting is not thought of. I have endeavored to do away this fear, by writing the chief of the Coweta towns that they ought to live on friendly terms with their brethren of the lower nation, whose wishes were to be on good terms with them, and not to listen to any bad talks, but to chase those that give them from among them. My letter was answered by them rather favorably, and I hope the talk that was sent to the Big Warrior last June will heal the difference between them.

Hillis Hadjo arrived in my schooner at Ochlochnee Sound last June, and was well received by all the chiefs and others who came to welcome him home. In consequence of his arrival, a talk was held, the substance of which I put on paper for them, and it was sent with a pipe of peace to the other nations. Hillis Hadjo wished to return to Nassau with me, but I prevailed on him to stay in the nation, and keep them all at peace. I regret, sir, to notice this poor man's affairs, though by his desire: it appears that he arrived in Nassau a short time after I had left it, in January, and Captain W. being here, took charge of him, his goods and money, prevailing on the Governor to let him stay with him until he went down to

the nation, which it was his intention to do. Of the money received of Governor Cameron, he had only given him eighty dollars, by Captain W., a barrel of sugar, a bag of coffee, and a small keg of rum; and the interpreter, Shugert, informed me that when Hillis Hadjo asked for an account, Captain W. refused, it, saying it would be useless to a man who could not read. He also misses two cases, one of which contained, he thinks, crockery; I have made inquiry of His Majesty's ordnance storekeeper, and he informs me the whole were delivered to Captain W.; they are therefore lost to Hillis Hadjo.

I am desired to return Hillis Hadjo's warmest acknowledgments for the very handsome manner you treated him in England, and he begs his prayer may be laid at the foot of His Royal Highness the Prince Regent. I left him and all his family well on the 20th of June. Old Capparechimico desires me to send his best respects, and requests that you would send out people to live among them, and all the land they took from Forbes shall be theirs. At all events, they must have an agent among them, to see that the Americans adhere to the treaty, and permit them to live unmolested on their own lands. This agent should be authorized by His Majesty's Government, or he will not be attended to by the Americans. In the gazettes of Georgia, the Americans report the Seminole Indians are continually committing murders on their borders, and making incursions into the State. These are fabrications tending to irritate the American Government against the poor Indians; for, during the time I was in the nation, there was only one American killed, and he, with two others, was in the act of driving off cattle belonging to Bowlegs, chief of Suwanee; whereas three men and a boy were killed last June, by a party of American cattle-stealers, while in their hunting-camps; the boy they scalped; and one of Bowlegs' headmen was killed on St. John's river, in July. The back-woods Georgians, and those resident on the borders of the Indian nation, are continually entering it, and driving off cattle. They have, in some instances, made settlements, and particularly on the Choctowhatchy river, where a considerable number have descended.

By the treaty with Great Britain, the Americans were to give up to the Indians all the lands that they may have taken from them during the war, and place them on the same footing they were in 1811. It appears they have not done so; that Fort Gaines, on the Chatahoochee river, and Camp Crawford, on the Flint river, are both on Indian territory, that was not in possession of the Americans in 1811. They are fearful that, before any aid is given by the English Government, they will no longer be in possession of any territory.

I wrote last January to his excellency the honorable Charles Bagot, respecting the encroachments of the Americans; as I was informed by the copy of a letter from the right honorable Earl Bathurst, handed me by his excellency Governor Cameron, that His Majesty's ambassador



had received orders to watch over the interests of the Indians. Since my return here, I have received of Mr. Moodie, of Charleston, an extract of a letter from the honorable Charles Bagot, stating that the expense of postage is so considerable, that any further communications of the same nature must be sent him by private hands. Now, sir, as no person goes direct from this to Washington, how am I to be able to comply with his desire? Thus he will be kept ignorant of the real situation of the poor Indians, and the encroachments daily made on their lands by American settlers: while he may be told by the American Government that no encroachments have been made, and that the forts they still hold are necessary to check the unruly Seminoles. Thus the person appointed to watch over the interests of the Indians having no other means of information than from the parties interested in their destruction, and seeing from time to time, in the American gazettes, accounts of cruel murders, &c. committed by the Indians on the frontier settlements of the United States, he apprehends the Indians merit all the Americans do to them.

But let His Majesty's Government appoint an agent, with full powers, and to correspond with His Majesty's ambassador at Washington, and his eyes will then be opened as to the motives that influence American individuals, as well as the Government, in vilifying the Indians. The powers given me and the instructions were to memorialize His Majesty's Government as well as the Governor General of Havana; but if you will be pleased to lay this letter before His Majesty's Secretary of State, it will save the necessity of the first; and I fear that a memorial to the Governor General would be of no use. Referring you to the answer,\* I am, most respectfully, sir, your obedient servant.

A. ARBUTHNOT.

Lt. Col. E. NICHOLLS.

G.

From A. Arbuthnot to William Hambly.

OCHLOCHNEE SOUND, May 3, 1817.

SIR: On my return here this day, I received a letter signed by you, and dated the 23d March. As you therein take the liberty of advising me, as you say, by order of the chiefs of the Creek nation, I am glad of, and shall embrace this opening you give me, and reply to you at some length. First, sir, let me premise that, when you lived at Prospect Bluff, a clerk to Messrs. Forbes & Co., you did not consider Cappachimico, McQueen, or any other of the chiefs of the Lower Creek nation, as outlaws, nor have they ever been considered as such by the English Government, who are the especial protectors of the Indian nations; and it ill becomes Mr. Hambly to call Cappachimico an outlaw—that man who has ever been his friend, and by his authority has prolonged his life. Yes, sir, the young chiefs and warriors of the Creek nation, considering you as the chief

\* See the unsigned paper, No. 71.

cause of their troubles, would have long ere this had possession of you, and, perhaps, with your life made you pay the forfeit for the injuries heaped on them, had not that man, who has been your friend from your early youth, stepped in as your protector. Yet this is the man whom Mr. Hambly presumes to call an outlaw! A pardoned villain, when going to the gallows, would bless the hand that saved his life; but Mr. Hambly blasphemes his saviour!

As Mr. Hambly's generous friend is the principal cause of my being in this country, as an honest man I shall endeavor to fulfil my promise to him and the other chiefs. The guilty alone have fear; an honest and upright man dreads no danger, fears no evil, as he commits no ill; and your arm of justice ought to be applied where it would rightly fall—on the heads of the really guilty. Your mean and vile insinuation, that I have been the cause of thefts and murders, comes ill from him who has been the cause of the murder of hundreds. Though your usage was made villainous at the fort, yet your revenge was too savage and sanguinary. If your conduct, sir, to the Indians were guided by as pure motives as mine, you would endeavor to influence them to esteem and respect each other as brothers, and live in harmony and friendship; cultivating their lands in Summer, and taking their diversions of hunting in Winter; respecting their neighbors, and making yourself respected by them. If thus, sir, you would act, (and by your knowledge of their language you have much more in your power than any other man,) you would then be the true friend of the Indians. Were I an instigator to theft and murder, would I hold the language I have done to the chiefs and others who have called on me? Ask the lieutenant commanding at Fort Gaines if my letter to him breathed the strains of a murderer; ask Opony Hatcho, or Dany, his interpreter, if the commendatory note I sent him by order of Opony could be written by an instigator to murder; ask Opony himself if my language to him was that of a murderer; ask Mappalitchy, a chief residing among the Americans on Ockmulgee, if my language and advice to him savored of that of a murderer. All those, and every Indian who has heard my talks, will contradict your vile assertions.

But Mappalitchy has given me a clue by which I can unravel from whence the aspersions come: not from Opony Hatcho, or any of the chiefs of the upper towns, but from him who endeavors to lead them to mischiefs and quarrels with each other. Did not the chiefs hear my note read with respect, and perfectly accord with my sentiments of being all as brethren, uniting in the bonds of friendship and love? Did not they agree to smoke the pipe of peace with their brethren of the lower nation, and live in future as brothers? What made some of them alter their minds afterwards? The interference of a humane man, who caused them to write a letter to me demanding my removal from a band of outlaws, and which letter is signed "William Hambly."

I shall only make one more observation, and that will show from whence I came, and whether I came amongst the Indians as a revenger, or as the friend of peace and harmony.

In the Spring of 1816, Mr. Hambly sent Governor Cameron a letter containing talks of the chiefs of the Indian nations: they were forwarded to England, and his excellency handed me, on my leaving Providence, an answer thereto from the right honorable Earl Bathurst, one of His Majesty's chief Secretaries of State, that I might make the same known to the chiefs on my arrival in the nation. What will Governor Cameron think of the man who, in 1816, could write against the encroachments of the Americans on the Indian nation, and in the Spring of 1817 call the chiefs of that nation, for whom he more especially wrote, outlaws? Mr. Hambly may sell his services to America, but no man can expatriate himself from the allegiance due to his native country; and a Government may call on a friendly nation to give up a subject that has seriously wronged her.

I recommend Mr. Hambly to be content with the *douceur* he may have received, and permit the unlettered Indian to live quietly and peaceably on his native land.

I shall send a copy of this letter with the one from you, to be read to the chiefs of the nation, and shall, at the same time, take an opportunity of explaining myself more fully than I did in the note sent by Opony. Wishing you a speedy recantation of your errors, and a return to your former way of thinking, I am your obedient servant,

A. ARBUTHNOT.

H.

Letter from A. Arbuthnot to the Governor of Havana.

The chiefs of the Creek nation, whose names are hereunto annexed, beg leave to approach your excellency and represent their complaints. Long imposed on by the persons keeping stores in this country, in charging us exorbitant prices for their goods, while they only allowed us a very trifling one for our peltry, we have found it necessary to look out for a person that will deal fairly with us, and we wish to establish a store for him on Appalache river. We have made application to the commandant of St. Mark's, and he has referred us to your excellency. It is not alone the impositions that have been practised upon us that has made us presume to address your excellency; we have complaints of a more serious nature against the persons employed by the only house that has been established among us, that of Mr. Forbes. In the first place, some years back, under false pretences, they attempted to rob us of a very large portion of our best lands, and we the more readily acceded to it, from the faithful promise given us that they would get English people to settle it and live among us; but far from doing this, Mr. Forbes attempted to sell it to the American Government, and settle it with Americans. Thus finding ourselves de-

ceived and imposed on, we withdrew our grant about three years since, which, from the stipulations contained therein not being fulfilled on the part of Mr. Forbes, we conceived we had a right to do. Secondly, Mr. Doyle and Mr. William Hambly, the two persons left in the nation to carry on Mr. Forbes's business have, for more than two years, been endeavoring to influence us to join the Americans; and finding that fair means would not swerve us from our attachments to our ancient friends, the English, they have recently had recourse to threats of bringing the Americans down upon us; and that people only want a pretext to attack us, which the said Doyle and Hambly attempt to give them by spreading false reports of our murdering the Americans, stealing their cattle, and preparing for war against them, while, in fact, it is the Americans who murder our red brethren, steal our cattle by hundreds at a time, and are daily encroaching on our lands, and maintaining the settlers in their ill-gotten possessions by armed force.

On the Choctawhatchy river there is a large body of Americans, forming settlements, and more are daily joining them. As this river is far within that line marked out by your excellency's Government and the Americans some years since, (though that line was unknown to us until very lately, and we never gave our sanction, nor, in fact, knew of any sale of our lands being made to the Americans,) we trust your excellency will give orders to displace them from within the line, and send them back to their own country. Our delaying to address your excellency to represent the afore-mentioned grievances has been owing to the want of a person to attend to our talks, and put them in writing for us. The commandant of the fort of St. Mark has heard all our talks and complaints. He approves of what we have done and what we are doing, and it is by his recommendation we have thus presumed to address your excellency.

We have the honor to be your excellency's most obedient and very humble servants,

A. ARBUTHNOT.

His Ex'cy the GOVERNOR GENERAL, &c.

No. 1.

Power of attorney from the Indian chiefs to A. Arbuthnot.

Know all men by these presents, that we, chiefs of the Creek nation, whose names are affixed to this power, having full faith and confidence in Alexander Arbuthnot, of New Providence, who, knowing all our talks, is fully acquainted with our intentions and wishes, do hereby, by these presents, constitute and appoint him, the said Alexander Arbuthnot, our attorney and agent, with full power and authority to act for us and in our names in all affairs relating to our nation, and also to write such letters and papers as to him may appear necessary and proper for our benefit, and that of the Creek nation.

Given at Ochlochnee Sound, in the Creek na-



## Relations with Spain.

tion, this seventeenth day of June, one thousand eight hundred and seventeen.

Cappachimico, his x mark; Kenhagee, chief of the Mickasukies.

Inhimathlo, his x mark; chief of the Fowl towns.

Charle Tustonaky, his x mark; Charle Nishomatti, second chief of the Ockmulgee towns.

Otos Mico, his x mark; chief of the Conholoway, below Fort Gaines.

Ochacona Tustonaky, his x mark; Opony, chief of the Ockmulgee towns.

Imathluche, his x mark; chief of the Attapulgas.

Inhimathluchy, his x mark; chief of the Palatchocoleys.

Lahoe Himathlo, his x mark; chief of the Chehaws.

Homathlemico, his x mark; chief of the Red Sticks.

Talmuches Hatcho, his x mark; Peter McQueen, chief of the Tallapasses, (an old Red Stick.)

Hillis Hadjo, his x mark; Francis, the prophet.

Opoithlimico, his x mark; a Red Stick, created chief by the lower towns.

Witness: PETER SHUGERT, Interpreter.

I certify that the Indian chiefs whose signatures are placed above to the full powers granted to Alexander Arbuthnot are the chiefs of the towns and places above named.

WILLIAM HAMBLY.

Witness: WILLIAM S. FULTON,  
Private Secretary to Com'g General.

## No. 2.

[Supposed to be from Bowlegs to the Governor of St. Augustine.]

Sir: I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer to the same is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you, and hope you will, when occasion offers, advise me of such things as may be of service to myself and people. My warriors and others that go to St. Augustine return with false reports tending to harass and distress my people, and preventing them from attending to their usual avocations. At one time the Americans and upper Indians, supported by a force of about three thousand men, were running lines far within the Indian territory; at another time, they were collecting a force at Fort Mitchell, in the forks of Flint and Chatahoochee rivers, to fall on the towns below. Now, sir, we know of no reason the Americans can have to attack us, an inoffensive and unoffending people. We have none of their slaves; we have taken none of their property since the Americans made peace with our good father, King George. We have followed the orders of his officer that was with us, (Lieutenant Colonel Edward Nicholls,)

and in nowise molested the Americans, though we see them daily encroaching on our territory, stealing our cattle, and murdering and carrying off our people. That same officer also told us, we, as allies to the great King, our father, were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before and during the war. Yet, so far from complying with the ninth article of that treaty, they are daily making encroachments on our land, getting persons who are not known to the chiefs, and without any power or authority to grant and sign over lands to them. Thus they deceive the world, and make our very friends believe we are in league with them.

The principal chiefs of the nation, with the head warriors, assembled at my town on the 8th instant, and came to the resolution of informing the British Minister at Washington of the conduct of the Americans and the officers of their Government towards us; it has been done accordingly, and copies sent to England. We demand of the King, our father, to fix some of his people among us, who may inform him from time to time of what is passing, and see the Americans do not extend themselves on our lands. The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the Governors I shall always entertain the greatest regard; but for the people, they do not act so as to merit my esteem and protection. You desire I would chase those marauders who steal my cattle: my people have lately driven some Americans from Lahhewary, and I have no doubt the Americans will lay hold of this as a pretext to make war on us, as they have before done, in stating we harbor their runaway slaves.\*

To His Ex'cy Don JOSE COPPINGER,  
Governor of St. Augustine.

## No. 3.

Sir: Kenhagee, the head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and American people. But, far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but ascending the Appalachicola in vessel-loads. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders. Your known philanthropy and goodwill to the Indians induce the head chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands, and order that those who have already presumed to seize our fields may retire therefrom.

\* See this letter, (No. 66,) and Governor Coppinger's answer.

## Relations with Spain.

The Indians have seized two persons who they think have been greatly instrumental in bringing the Americans upon them, and they are now in their possession as prisoners. It is even reported they have made sales of Indian lands without the knowledge, consent, or approbation of the chiefs of the nation; and, from their long residence in the nation, and the great influence that one of those people formerly enjoyed among the chiefs as their chief, there is some reason to believe he has been guilty of improper conduct with regard to the Indian nation.\*

General MITCHELL,  
Agent for Indian Affairs.

## No. 4.

Petition of the chiefs of the Lower Creek nation to Governor Cameron.

We, the undersigned, have been deputed by the chiefs of the Creek nation to wait on your excellency, and lay before you their heavy complaints. To the English we have always looked up as friends, as protectors; and on them we now call to aid us in repelling the approaches of the Americans, who, regardless of treaties, are daily seizing our lands and robbing our people. They have already built seven forts on our lands; they are making roads and running lines into the very heart of our country; and, without the interference of the English, we shall soon be driven from the land we inherited from our forefathers.

The Americans tell us the English will regard us no more, and that we had better submit to them; but we cannot submit to their shackles, and will rather die in defence of our country.

When peace was made between the English and Americans, we were told by Lieutenant Colonel E. Nicholls that the Americans were to give up our lands they had taken, and we were desired to live quietly and peaceably, in nowise molesting the Americans. We have strictly followed these orders; but the Americans have not complied with the treaty. Colonel Nicholls left William Hamby in charge of the fort at Prospect Bluff, with orders to hear us, if any cause of complaint, and represent the same to the British Government; but he turned traitor, and brought the Americans down on the fort, which was blown up, and many of our red brethren destroyed in it. The ammunition and stores intended for our use were either destroyed or taken off by the Americans. We have sent several messengers to inform your excellency of these proceedings of the Americans, but they have never returned to us with an answer. Three of our red brethren have lately been killed by the Americans, while hunting on our own lands; and they threaten to attack the towns of Mickasuky and Suwanee, the only two large towns left us in the Creek nation; and, without aid from your excellency, we cannot repel their attack. We are therefore deputed to demand of your excellency the assistance of troops and ammunition, that we

may be able effectually to repel the attack of the Americans, and prevent their further encroachments; and if we return without assistance, the Americans, who have their spies among us, will the more quickly come upon us. We most humbly pray your excellency will send such a force as will be respected and make us respectable.\*

[The following endorsed on the foregoing.]

Charles Cameron, Esq., Governor, Commander-in-chief, &c.

I beg leave to represent to your excellency the necessity of my again returning to the Indian nation with the deputies from the chiefs; and as my trouble and expense can only be defrayed by permission to take goods to dispose of among them, I pray your excellency will be pleased to grant me such letter or license as will prevent me from being captured, in case of meeting with any Spanish cruiser on the coast of Florida.

## No. 5.

B. Moodie to A. Arbuthnot.

BRITISH CONSULATE, CHARLESTON, S. C.,  
February 7, 1817.

Sir: I duly received your letter, dated the 8th January, with an enclosure, which I forwarded to His Majesty's Envoy, the Hon. Charles Bagot, at Washington. Since that time I have received a few lines from him, under date of the 29th ultimo, and at his desire I transmit you a copy of it annexed. I am, &c.

BENJAMIN MOODIE.

To A. BOUDINOT, Esq., Nassau.

Mr. Bagot to Mr. Moodie.

WASHINGTON, Jan. 29, 1817.

Sir: I duly received your letter of the 20th instant, enclosing one from Nassau. I shall be obliged to you if you will take an immediate opportunity of writing to the gentleman from whom you received that letter, acquainting him from me that the expenses of postage are so considerable that I must request, if he has occasion to write to me again upon the same subject, he will forward his letters by private opportunities only.

I am, sir, your obedient, humble servant.

CHARLES BAGOT.

B. MOODIE, Esq.

## No. 6.

Copy of a letter from A. Arbuthnot to General Mitchell, (enclosed by Col. Brearly, 27th February, 1818.)

SUWANEE, LOWER CREEK NATION,  
January 19, 1818.

Sir: Kenhagee, head chief of the Lower Creek nation, had called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the

\* The paper following (No. 71) is supposed to be the answer to this petition.

\* For the remainder of this letter see No. 6.  
15th CON. 2d SESS.—65



borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but both troops and settlers ascending the Appalachicola river in vessels. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and goodwill towards the Indians in general induce the chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands and paternal birthright, and also order that those who have already seized on their fields may retire therefrom.

The Indians have seized two persons known to have been greatly instrumental in bringing the Americans down on their lands, and they are now in their possession as prisoners; and they have it in report that sales of their lands have been made by those two people without the consent, approbation, or knowledge of the chiefs; and from their long residence in the nation, and the one having enjoyed great confidence in the nation, and with the chiefs, as English interpreters, there is some reason to believe those reports, when leagued with the swarms of Americans coming from Mobile and other places, seizing the best of the Indian lands. Such improper sales have actually been made.

In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me I have no wish but to see an end put to a war which, if persisted in, I foresee must eventually be their ruin, and, as they were not the aggressors, if, in the height of their rage, they committed any excesses, that you will overlook them as the just ebullition of an indignant spirit against an invading foe.

I have the honor to be, &c.

A. ARBUTHNOT.

By order of Kenhagee and Bowlegs,  
acting for themselves and the other chiefs.

To Gen. MITCHELL, Agent Indian Affairs.

CAMP BEFORE ST. MARK'S,  
April 8, 1818.

The foregoing letter was produced to A. Arbuthnot, on his examination before me, and acknowledged by him to have been written by him to General Mitchell, agent for the Creek nation.

ANDREW JACKSON.

Present: Mr. FULTON.

K.

DEFENCE.

May it please this Honorable Court:

The prisoner arraigned before you is sensible of the indulgence granted by this honorable court in the examination of the case now before them. It is not the wish of the prisoner, in making his

defence, to tire the patience of the court by a minute reference to the voluminous documents and papers, or to recapitulate the whole of the testimony which has come before this honorable court in the course of this investigation. Nor is it the intention of the prisoner to waste the invaluable time of this court by appeals to their feelings or sympathy, though I am persuaded that sympathy nowhere more abounds than in a generous American breast. My only appeal is to the sound and impartial judgment of this honorable court, the purity and uprightness of their hearts, that they will dispassionately and patiently weigh the evidence which they have before them, apply the law, and on these, and these alone, pronounce their judgment.

If this honorable court please, I shall now proceed to examine the law and evidence that is relied on by this honorable court in support of the first charge and specification.

Winslett, a witness on the part of the prosecution, says: The Little Prince showed him a letter written in June last, signed A. Arbuthnot, requesting his friendship with the lower nation of Indians. The same witness stated he believed the letter to be now in the possession of the Little Prince. Here, may it please this honorable court, I would call their attention to the law relating to evidence; first premising that the rules of evidence are the same, whether in civil or military tribunals. (McCom. 99.) This point being conceded, the next inquiry is, what are the rules of evidence with respect to the admission of letters or papers of private correspondence in a court of criminal jurisdiction? May it please this honorable court, must you not produce the original letters and papers, if they are not lost or mislaid so that they cannot be obtained? And, in case they are lost, proof must be made of the handwriting being the same as that of the original, before they can be received as evidence. (McCom. on Courts-Martial. Peake's Evidence. Gilbert's Law of Evidence.) No instance can be cited where a copy of a letter was read as evidence when the original could be obtained, much less the giving in evidence the contents of such letter from bare recollection. The only proof that this honorable court has of the existence of such a letter being in the hands of any person, or its contents being known, is the vagrant memory of a vagrant individual. Make this a rule of evidence, and I ask you where would implication, construction, and invention stop? Whose property, whose reputation, or whose life, would be safe? Here I would beg leave to mention a remark made by the president of this court in the course of this investigation, which was, that, notwithstanding the letter was proved by the witness to be in the possession of the Little Prince, this court could not notice that circumstance, because there was no means by which it could be obtained. I would ask the honorable court what means have they adopted, or what exertions have they made to procure this letter? If the honorable court please, I shall here close the defence on the first charge and specification, believing

that they are neither supported by law nor evidence.

May it please the honorable court, I will now come to the second charge, and first specification of that charge. In support of this charge and specification, the evidence before the court is a letter written to my son. If the court please, this letter was written in consequence of the situation of my property at Suwanee, and the large debts that were due me from Bowlegs and his people. Nothing, I believe, of an inflammatory nature can be found on reading the document marked A, authorizing the opinion that I was prompting the Indians to war. On the contrary, if the honorable court will examine the document marked A, they will see that I wish to lull their fears, by informing them that it was the negroes and not the Indians that the Americans were principally moving against.

If the honorable court please, I will make a few remarks upon the second specification, and then close my defence. In proof of this charge, the court have before them the evidence of Hambly, Cook, and sundry letters purporting to be written by myself to different individuals. May it please the court, what does Cook prove? Why, that I had ten kegs of powder at Suwanee. Let me appeal to the experience of the court, if they think that this quantity of powder would supply one thousand Indians, and an equal number of blacks, more than two months for hunting. As to the letters named in this specification, may it please the court, the rules of evidence laid down in the first part of this defence will apply with equal force in the present case. It remains now, may it please the court, to say something as to Hambly's testimony. And may it please this honorable court, the rule laid down in this case as to hearsay evidence will be found without a precedent. A strong case was stated by an intelligent member of this court, on the examination of this part of the evidence; that is, "would you receive as testimony what a third person had said, who, if present, you would reject as incompetent?" Apply this principle to the present case; could an Indian be examined on oath in our courts of judicature? If, then, the testimony of savages is inadmissible, Hambly proves nothing.

Here, may it please the honorable court, I close my reply to the charges and specifications preferred against me, being fully persuaded that, should there be cause for censure, my judges will, in the language of the law, lean to the side of mercy.

Continuation of the minutes of the proceedings of a special court, whereof Major General Gaines is president, convened by order of the 26th April, 1818.

FORT ST. MARK'S, April 27 1818.

The court proceeded to the trial of Robert C. Ambrister, a British subject, who, being asked if he had any objections to any one of the members of the court, and replying in the negative, was arraigned on the following charges and specifications, viz:

Charges against Robert C. Ambrister, now in custody, who says he is a British subject.

CHARGE 1. Aiding, abetting, and comforting the enemy, supplying them with the means of war, he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

Specification 1. That the said Robert C. Ambrister did give intelligence of the movements and operations of the American army between the 1st and 20th March, 1818, and did excite them (the negroes and Indians) to war against the Army of the United States, by sending their warriors to meet and fight the American army, whose Government was in peace and friendship with the United States, and all her citizens.

CHARGE 2. Leading and commanding the Lower Creek Indians in carrying on war against the United States.

Specification 1. That the said Robert C. Ambrister, a subject of Great Britain, which Government was in peace and amity with the United States and all her citizens, did, between the 1st of February and 20th of March, 1818, levy a war against the United States, by assuming command of the Indians in hostility and open war with the United States, and ordering a party of them to meet the army of the United States, and give them battle, as will appear by his letters to Governor Cameron, of New Providence, dated 20th March, 1818, which are marked A, C, and D; and the testimony of Mr. Peter B. Cook, and Captain Lewis, of the schooner Chance.

By order of the court:

J. M. GLASSELL, Recorder.

To which charges and specifications, the prisoner pleaded as follows, viz:

To the first charge and specification, not guilty.

To the second charge and specification, guilty, and justification.

The court adjourned until to-morrow morning, at seven o'clock.

FORT ST. MARK'S, April 28, 1818.

The court met pursuant to adjournment. Present:

Major General GAINES, President.

Members.

Colonel King,	Colonel Dyer,
Colonel Williams,	Lieut. Col. Lindsay,
Lieut. Col. Gibson,	Lieut. Col. Elliott,
Major Muhlenberg,	Major Fanning,
Major Montgomery,	Major Minton,
Captain Vashon,	Captain Crittenden,
Lieutenant J. M. Glassell,	Recorder.

The recorder then read to the court the following order, viz:

HEADQ'RS. DIVISION OF THE SOUTH,  
Adj't Gen.'s Office, near St. Mark's,  
April 28, 1818.

GENERAL ORDER.

Captain Allison, of the 7th infantry, is de-



tailed to form a supernumerary member of the special court now sitting at Fort St. Mark's.

By order:

ROBERT BUTLER, *Adj't Gen.*

Pursuant to the above order, the supernumerary member took his seat.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated that, about the 5th or 6th of April, 1818, his vessel and himself having been captured by the prisoner, and he brought to Suwanee as a prisoner, there was an alarm among the negroes and Indians, created by learning some news from Mickasuky, at which time the prisoner appeared active in giving orders and sending a detachment to meet the army. The witness also stated that the prisoner appeared to be a person invested with authority among the negro leaders, and gave orders for their preparation for war, procuring ammunition, &c., and that the leaders came to him for orders; the prisoner furnished them with powder and lead, and recommended to them the making of balls, &c. very quickly. The witness also stated that the prisoner occasionally dressed in uniform, with his sword, and that on the first alarm, which he understood was from Mickasuky, by a negro woman, he put on his uniform. The witness further stated that, some time about the 20th of March, 1818, the prisoner with an armed body of negroes (twenty-four in number) came on board his vessel, and ordered him to pilot them to Fort St. Mark's, which he stated he intended to capture before the Americans could get there, threatening to hang the witness if he did not obey.

Question by the court. Did you ever understand by whose authority and for what purpose the accused came into the country?

Answer. I have frequently heard him say that he came to attend to Mr. Woodbine's business at the bay of Tampa.

Question by the prisoner. Did I not tell you, when I came on board the schooner Chance, I wished you to pilot me to St. Mark's, as I was informed that two Americans, by the names of Hambly and Doyle, were confined there, and I wished to have them released from their confinement?

Answer. You stated you wanted to get Hambly and Doyle from St. Mark's; I do not know what were your intentions in so doing.

Question. Did I not tell you that I expected the Indians would fire on me when I arrived at St. Mark's?

Answer. You did not; you stated that you intended to take the fort in the night by surprise.

Question. Did you see me give ammunition to the negroes and Indians; if so, how much, and at what time?

Answer. I saw you give powder and lead to the negroes when you came on board, and advised them to make balls; and I saw you give liquor and paint to the Indians.

Question. Have you not often heard me say,

between the 1st and 20th of April, that I would not have anything to do with the negroes and Indians in exciting them to war with the United States?

Answer. About the fifteenth of April I heard you say you would not have anything to do with the negroes and Indians; I heard nothing about exciting them to war.

Question. Can you read writing?

Answer. Not English writing.

Question. Did you not hear me say, when arriving at Suwanee, that I wished to be off immediately for Providence?

Answer. I did not; after the alarm, you said you wished to be off for Tampa.

Question. Did you not say to the accused you wished to visit Mr. Arbuthnot at his store on Suwanee, and get provisions yourself?

Answer. I did not; I stated I wanted provisions.

Question. Did I send or command any Indians to go and fight the Americans?

Answer. I do not exactly know that you sent them; the Indians and negroes were crowding before your door, and you were dividing the paint, &c. among them; and I understood a party was going to march.

Question. Did I not give up the schooner in charge to you as captain?

Answer. After our return from Suwanee town, you directed me to take charge of her to go to Tampa.

JOHN J. ARBUTHNOT, a witness on the part of the prosecution, being duly sworn, stated that, some time about the 23d of March, the prisoner came with a body of negroes, partly armed, to his father's store, on Suwanee river, and told the witness that he had come to do justice to the country, by taking the goods and distributing them among the negroes and Indians, which the witness saw the prisoner do; and that the prisoner stated to him that he had come to the country on Woodbine's business, to see the negroes righted. The witness has further known the prisoner to give orders to the negroes; and that, at his suggestion, a party was sent from Suwanee to meet the Americans to give them battle; which party returned on meeting the Mickasuky Indians in their flight. The witness also testified to the handwriting of the letter marked A, and referred to in the specification of the second charge as the writing of the prisoner.

Question by the prisoner. Did you hear me say that I came on Woodbine's business?

Answer. I did.

Question by the prisoner. Were not the negroes alluded to at Arbuthnot's store before I arrived?

Answer. No, you came with them.

PETER B. COOK, a witness on the part of the prosecution, being duly sworn, stated that he never heard the prisoner give any orders to Indians or negroes; that the prisoner did distribute Arbuthnot's goods, and also paint, to the negroes and Indians; also, that some powder was brought from Suwanee by the prisoner; and distributed among the negroes by Nero. Some time in March the prisoner took Arbuthnot's schooner,

and, with an armed party of negroes, about twenty-four in number, set out for St. Mark's for the purpose of taking Arbuthnot's goods at that place, and that he would compel the commandant to give them up. On hearing of the approach of the American army, the prisoner told the negroes it was useless for them to run; for if they ran any farther, they would be driven into the sea.

The prisoner told the witness that he had been a lieutenant in the British army under Colonel Nicholls. The prisoner was sent by Woodbine to Tampa to see about those negroes he had left there. The prisoner told the witness he had written a letter to Governor Cameron for ammunition for the Indians some time in March, and also told the witness that he had a commission in the patriot army under McGregor, and that he expected a captaincy. The witness testified that the letters marked A, B, C, and D, and referred to in the specification to the second charge, were in the handwriting of the prisoner; also one marked E.

Question by the prisoner. Did you not frequently hear me say that I would have nothing to do with the Indians in exciting them to war with the United States?

Answer. I do not recollect.

Question. Are you acquainted with Lewis Phenix, and have you not heard him express ill-will against me in consequence of my wishing him to pilot me to St. Mark's?

Answer. I never did.

Question. Do you know of my sending troops at any time to fight against the United States; and have I not been constantly with you, so that you would have had an opportunity of knowing if there had been any sent by me?

Answer. I have not. They might have been sent without my knowledge.

JACOB HARMON, a witness on the part of the prosecution, being duly sworn, stated that, some time in the latter end of March, or 1st of April, the prisoner took possession of the schooner Chance, with an armed party of negroes, and stated his intentions of taking St. Mark's. On his way thither, on going ashore, he learned from some Indians that Arbuthnot had gone to St. Mark's, which induced him to return. The witness also stated that while the prisoner was on board, he had complete command of the negroes, who considered him as their captain. The prisoner took the cargo of the vessel up towards Suwanee, which consisted of, with other articles, nine kegs of powder and five hundred pounds of lead.

The evidence on both sides being closed, the prisoner was allowed until five o'clock this evening to make his defence.

The time allowed the prisoner for the preparation of his defence having expired, he was brought before the court, and made the defence marked M, which is attached to these proceedings.

The court was then cleared, and the proceedings read over by the recorder, when, after due deliberation on the testimony brought forward,

the court found the prisoner, Robert C. Ambrister, guilty of so much of the specification to the first charge as follows, viz: "And did excite them to war with the United States, by sending their warriors to meet and fight the American army, he being a subject of Great Britain, which Government was at peace and friendship with the United States and all her citizens;" but not guilty of the other part of the specification; guilty of the first charge; guilty of the specification of the second charge, and guilty of the second charge; and do therefore sentence the prisoner, Robert C. Ambrister, to suffer death, by being shot, two-thirds of the members of the court concurring therein.

One of the members of the court requesting a reconsideration of his vote on the sentence, the sense of the court was taken thereon, and decided in the affirmative; when the vote was again taken, and the court sentenced the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months.

The court adjourned *sine die*.

EDMUND P. GAINES,  
Major Gen. President of the court.  
J. M. GLASSELL, Recorder.

A.

From Robert C. Ambrister to His Excellency, Charles Cameron, Governor of Bahamas.

SUWANEE, NEAR FORT ST. MARK'S,  
March 20, 1818.

SIR: I am requested particularly by all our Indian chiefs to acquaint your excellency that the Americans have commenced hostilities with them two years ago, and have advanced some considerable distance in their country, and are now making daily progress. They say they sent a number of letters to your excellency by Arbuthnot, but have never received one answer, which makes them believe that he never delivered them, and you will oblige them much if you will let them know whether he did or not. The purport of the letters was, begging your excellency to be kind enough to send them down some gunpowder, muskets, balls, lead, cannon, &c., as they are now completely out of those articles. The Americans may march through the whole territory in one month, and, without arms, &c., they must surrender. Hillis Hadjo, or Francis, the Indian chief, the one that was in England, tells me to let your excellency know that the Prince Regent told him that whenever he wanted ammunition your excellency would supply him with as much as he wanted. They beg me to press upon your excellency's mind to send the above-mentioned articles down by the vessel that brings this to you, as she will sail for this place immediately, and let the Prince Regent know of their situation. Any letters that your excellency may send down be good enough to direct to me, as they have great dependence in my writing. Any news that your excellency may have respecting them and America, you will be doing a great favor to let me know, that I may send among them.



## Relations with Spain.

There is now a very large body of Americans and Indians, which I expect will attack us every day, and God only knows how it will be decided; but I must only say that this will be the last effort with us. There has been a body of Indians gone to meet them, and I have sent another party. I hope your excellency will be pleased to grant the favor they request. I have nothing further to add, but am, sir, with due respect, your obedient, humble servant.

ROBERT C. AMBRISTER.

B.

From Robert C. Ambrister to Major Edward Nicholls.

SUWANEE, NEAR RIVER APPALACHICOLA.

DEAR SIR: Francis and all the Indian chiefs have requested me particularly to acquaint you that the Americans have commenced hostilities with them these two years past, and are making daily progress in this territory, and say they will proceed; that you are the only friend they have in that part of the world, and hope you will exert yourself in their behalf, and ask for as much assistance as can be had; that the Americans are at the forks of the river Appalachicola; they have written a number of times to England and Providence, but have never received one answer; they expect the man never delivered the letters, but they have full hopes in my writing; they request you will make the Prince Regent acquainted with their deplorable situation. The Americans have been very cruel ever since they have commenced, and hope you will not lose a single moment in forwarding their views; they say they will be extremely happy to see you out; nothing would give them greater pleasure than to see you out at this present time. If they should not see you, send them out all news and directions, that they may be guided by them. There are about three hundred blacks at this place, and a few of our bluff people; they beg me to say they depend on your promises, and expect you are on the way out; they have stuck to the cause, and will always believe in the faith of you, and any directions you may give. Send to me at this place, and I will do what I can.

I remain, my dear sir, most truly yours,

ROBERT C. AMBRISTER.

N. B. Francis says you must bring the horses when you come out that you promised, and that his house has been burnt down, and with it his uniform clothes.

R. C. A.

C.

Robert C. Ambrister to Governor Cameron.

MARCH 20, 1818.

SIR: I am requested particularly by the Indian chiefs to acquaint your excellency that the Americans have commenced hostilities with them a long time since, and have advanced some distance in their territory, and are still continuing to advance; that they, the chiefs of Florida, have sent repeatedly to your excellency, and have never received one answer; they suspect Mr. Arbuthnot has never delivered the papers to your excel-

lency; they wish me to state to you that they are completely out of ammunition, muskets, &c., begging your excellency will be pleased to send them the articles above-mentioned, with a few cannon, as the Americans build their boats so strong that their rifle balls cannot penetrate their sides. To the captain of the vessel, who will come down again, I have given an order to make your excellency acquainted with what time the vessel will sail for this place. Your excellency will, I hope, be good enough to make the Prince Regent acquainted with their situation, and ask for assistance, which they have pressed me very hard to press on your excellency's mind, and likewise to send them down what news may be respecting them and the country, which will be a great satisfaction to them.

I have the honor to be, sir, with due respect, your most obedient, humble servant,

ROBERT C. AMBRISTER.

N. B.—They beg your excellency will be as expeditious as possible. Your excellency is the only dependence they have, and who the Prince Regent told them would give them every assistance that lay in your power.

R. C. A.

His Excellency Governor CAMERON, &c.

D.

Robert C. Ambrister to Governor Cameron.

SUWANEE, NEAR FORT ST. MARK'S,  
March 20, 1818.

SIR: I am requested by Francis, and all the Indian chiefs, to acquaint your excellency that they are at war with the Americans, and have been some time back; that they are in great distress, for the want of ammunition, balls, arms, &c., and have written by Mr. Arbuthnot several times, but they suppose he never delivered them to your excellency. You will oblige them much to let them know whether he did or not. I expect the Americans and Indians will attack us daily. I have sent a party of men to oppose them.

They beg me to press on your excellency's mind to lay the situation of the country before the Prince Regent, and ask for assistance. All news respecting them your excellency will do a favor to let me know by the first opportunity, that I may make them acquainted. I have given directions to the captain to let your excellency know when the vessel will sail for this place.

I hope your excellency will be pleased to send them the ammunition. I expect, if they don't procure some very shortly, that the Americans will march through the country. I have nothing further to add, but am, dear sir, your most obedient, humble servant.

ROBERT C. AMBRISTER.

His Excellency Governor CAMERON.

E.

Robert C. Ambrister to Peter B. Cook.

MOUTH OF THE RIVER,  
Tuesday, 3 o'clock.

DEAR COOK: The boat arrived here about

## Relations with Spain.

three o'clock on Thursday. The wind has been ahead ever since I have been down; the rudder of the vessel is in a bad condition, but I will manage to have it done to-night. The wind, I am in hopes, will be fair in the morning, when I will get under way, and make all possible despatch. I will make old Lewis pilot me safe. If those Indians do not conduct themselves strait, I would use rigorous measures with them. Beware of Mr. Jerry; I found him on board when I came; keep a good look out. I have sent two kegs of powder, and a bar of lead.

Yours, &c.

R. C. A.

M.

DEFENCE.

FORT ST. MARK'S, April 28, 1818.

The United States of America vs. Robert Christie Ambrister.

Who being arraigned before a special court-martial upon the following charges, to wit:

CHARGE 1. Aiding, abetting, and comforting the enemy, supplying them with the means of war, he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

CHARGE 2. Leading and commanding the Lower Creek Indians in carrying on war against the United States.

To the first charge, the prisoner at the bar pleaded not guilty; and as to the second charge, he pleaded guilty, and justification. The prisoner at the bar feels grateful to this honorable court for their goodness in giving a sufficiency of time to deliberate and arrange his defence on the above charges.

The prisoner at the bar here avails himself of the opportunity of stating to this court, that, inasmuch as the testimony which was introduced in this case was very explicit, and went to every point the prisoner could possibly wish, he has nothing further to offer in his defence, but puts himself upon the mercy of this honorable court.

ROBERT C. AMBRISTER.

HEADQ'RS, DIVISION OF THE SOUTH,  
ADJUTANT GENERAL'S OFFICE,  
Camp four miles north of St.  
Mark's, April 29, 1818.

GENERAL ORDERS.

At a special court-martial, commenced on the 26th instant, at St. Mark's, and continued until the night of the 28th, of which Brevet Major General E. P. Gaines is president, was tried A. Arbuthnot, on the following charges and specifications, viz:

CHARGE 1. Exciting and stirring up the Creek Indians to war against the United States and her citizens, he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

CHARGE 2. Acting as a spy, aiding, abetting, and comforting the enemy, and supplying them with the means of war.

CHARGE 3. Exciting the Indians to murder and

destroy William Hambly and Edmund Doyle, confiscate their property, and causing their arrest, with a view to their condemnation to death, and the seizure of their property, they being citizens of Spain, on account of their active and zealous exertions to maintain peace between Spain, the United States, and the Indians.

To which charges the prisoner pleaded not guilty.

The court, after mature deliberation on the evidence adduced, find the prisoner, A. Arbuthnot, guilty of the first charge, and guilty of the second charge, leaving out the words "acting as a spy;" and, after mature reflection, sentence him, A. Arbuthnot, to be suspended by the neck until he is dead.

Was also tried Robert C. Ambrister, on the following charges, viz:

CHARGE 1. Aiding, abetting, and comforting the enemy, and supplying them with the means of war, he being a subject of Great Britain, at peace with the United States, and late an officer of the British colonial marines.

CHARGE 2. Leading and commanding the Lower Creek Indians in carrying on war against the United States.

To which charges the prisoner pleaded as follows, viz:

To the first charge, not guilty. To the second charge, guilty, and justification.

The court, on examination of the evidence, and on mature deliberation, find the prisoner, Robert C. Ambrister, guilty of the first and second charges, and do, therefore, sentence him to suffer death, by being shot. One of the members requesting a reconsideration of the vote on this sentence, and it being had, they sentence the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months.

The commanding General approves the finding and sentence of the court in the case of A. Arbuthnot; and approves the finding and first sentence of the court in the case of Robert C. Ambrister; and disapproves the reconsideration of the sentence of the honorable court in his case; it appearing, from the evidence and pleading of the prisoner, that he did lead and command within the territory of Spain (being a subject of Great Britain) the Indians in war against the United States, these nations being at peace. It is an established principle of the law of nations, that any individual of a nation, making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and pirate. This is the case of Robert C. Ambrister, clearly shown by the evidence adduced.

The commanding General orders that Brevet Major A. C. W. Fanning, of the corps of artillery, will have, between the hours of 8 and 9 o'clock a. m., A. Arbuthnot suspended by the neck with a rope until he is dead; and Robert C. Ambrister to be shot to death, agreeably to the sentence of the court.

John James Arbuthnot will be furnished with a passage to Pensacola by the first vessel.



*Relations with Spain.*

Captain R. K. Call, of the first regiment of infantry, is appointed volunteer aid-de-camp to the commanding General, until further orders.

The special court, of which Brevet Major General F. P. Gaines is president, is dissolved.

By order of Major General A. JACKSON:

ROBERT BUTLER, *Adj't General.*

No. 50.

[Extracts from Message of 25th March, 1818.]

*Extract of a letter from the Governor of Georgia to General Gaines, dated*

MILLEDGEVILLE, February 5, 1817.

You no doubt have already been informed that the notorious Woodbine has recently made his appearance again, at the mouth of the Appalachicola, and that he has an agent now among the Seminole Indians and negroes in that quarter, stirring them up to acts of hostility against this country; and that Woodbine himself has gone, in an armed vessel, to some part of the West Indies for supplies. Connected with this fact is another, which may serve as an intimation of the future conduct of these people, when once in the possession of the supplies which it is said they expect on the return of Woodbine. About ten or twelve days ago, a small party of those Indians entered the frontier of Wayne county, and stole two horses and some cattle; they were pursued by some of the inhabitants, who peaceably demanded restoration of the stolen property; and, instead of a compliance on the part of the Indians, they immediately fired upon the whites, who retired without returning a shot. One of the whites was mortally wounded.

*Extract of a letter from George Perryman to Lieutenant Sands, dated*

FEBRUARY 24, 1817.

The charge given me by Colonel Clinch and yourself, and other officers of the United States, induces me to believe there is a confidence placed in me which I ought not to deceive; I therefore think it my duty as well as my inclination to give you the following information: There was a friend of mine, not long since, in the Fowl Town on Flint, and he saw many horses, cattle, and hogs that had come immediately from the State of Georgia; and they are bringing them away continually. They speak in the most contemptuous manner of the Americans, and threaten to have satisfaction for what has been done—meaning the destruction of the Negro fort. There is another of my acquaintances returned immediately from the Seminole towns, and saw the negroes in parade there; he counted about six hundred that bore arms; they have chosen officers of every description, and endeavor to keep up a regular discipline, and are very strict in punishing violators of their military rules. There is said to be about the same number of Indians belonging to their party, and there are both negroes and Indians daily going to their standard. They say they are in complete fix for fighting,

and wish for an engagement with the Americans, or McIntosh's troops; they would let them know they had something more to do than they had at Appalachicola. They have chosen Bowlegs for their head, and nominated him King, and pay him all kind of monarchical respect, almost to idolatry, keeping a picket guard at the distance of five miles. They have a number of the likeliest American horses. But there are one or two chiefs that are not of the choir; Kenhagee, the Mickasuky chief, is one that is an exception.

*Extract of a letter from Archibald Clarke, Intendant of St. Mary's Georgia, to General Gaines, dated*

FEBRUARY 26, 1817.

On the 25th instant the house of Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, was attacked during his absence, near the middle of the day, by this party, consisting of about fifteen, who shot Mrs. Garret in two places, and despatched her by stabbing and scalping. Her two children, one about three years, the other two months, were also murdered, and the eldest scalped; the house was then plundered of every article of value, and set on fire.

*Extract of a letter from Richard M. Sands, 4th infantry, commanding at Fort Gaines, Georgia, to Colonel William King, or officer commanding the 4th regiment of infantry, dated*

MARCH 15, 1817.

I enclose, for your information, two letters which I received a few days since. Yesterday William Perryman, accompanied by two of the Lower chiefs, arrived here; he informs me that McQueen, the chief mentioned in one of the enclosed letters, is at present one of the heads of the hostilities; that they are anxious for war, and have lately murdered a woman and two children. He likewise says that he expects the news in George Perryman's letter is true, for there are talks going through the towns that the English are to be at Ochlochnee river in three months.

*Extract of a letter from David B. Mitchell, Indian agent, to the Secretary of War, dated*

MILLEDGEVILLE, GEORGIA.

March 30, 1817.

By yesterday's mail I received a letter from Mr. Timothy Barnard, who resides at Flint river, in the Indian country, a considerable distance below the agency, in which he observes: "I have been informed two days past, from below, where the Red Stick class reside, that a party has been down near St. Mary's, and murdered a woman and two children, and brought off some horses." "I will further state that I have received information from other persons at and near Fort Gaines, that a British agent is now among these hostile Indians, and that he has been sending insolent messages to the friendly Indians and white men settled above the Spanish line; he is

*Relations with Spain.*

also charged with stimulating the Indians to their present hostile aspect; but whether he is an acknowledged agent of any foreign Power, or a mere adventurer, I do not pretend to determine, but am disposed to believe him the latter."

*Extract of a letter from General Gaines to the Secretary of War, dated*

CAMP MONTGOMERY, M. T.,

April 3, 1817.

I received by the last mail a letter from Archibald Clarke, Esq., Intendant of the town of St. Marys, by which it appears that another outrage, of uncommon cruelty, has recently been perpetrated by a party of Indians upon the Southern frontier, near the boundary of Wayne county. They have massacred a woman, (Mrs. Garret,) and two of her children; the mother and eldest child were scalped; the house plundered and burnt.

*Extract of a letter from A. Culloh to General Gaines, written at Fort Gaines.*

We are hourly told by every source of information, by the friendly Indians, by letters from William Hambly and Edmund Doyle, who reside low down on the Appalachicola, that all the lower tribes of Indians have imbodyed, and are drying their meats to come on to the attack of this post. The British agent at Ochlochnee Sound is giving presents to the Indians. We have among us Indians who have been down and received powder, lead, tomahawks, knives and a drum for each town, with the royal coat of arms painted on it. We have at this time at least five hundred Indians skulking in this neighborhood, within three or four miles of us, who will not act for themselves, and who are evidently waiting for the signal to strike an effectual blow. They have stolen almost every horse belonging to the citizens. They have scared them from the fields which they have cleared, and have taken possession of their houses. They are now stealing horses, cattle, and hogs, from the Georgia lines, and have killed one or two families on the Satilla.

*Extract of a letter from General Gaines to Major General Andrew Jackson, dated*

FORT SCOTT, GEORGIA,

November 21, 1817.

The first brigade arrived at this place on the 19th instant. I had previously sent an Indian runner, to notify the first town chief, E-me-hemant-by, of my arrival, and, with a view to ascertain whether his hostile temper had abated, requesting him to visit me. He replied that he had already said to the commanding officer here all he had to say, and he would not come.

Among the articles found in the house of the chief was a British uniform coat (scarlet) with a pair of gold epaulets, and a certificate signed by a British captain of marines, "Robert White, in the absence of Colonel Nicholls," stating that the

chief had always been a true and faithful friend to the British.

The reports of friendly Indians concur in estimating the number of hostile warriors, including the Red Sticks and Seminoles, at more than two thousand, besides the blacks, amounting to near four hundred men, and increasing by runaways from Georgia. They have been promised, as several Indians inform me, assistance from the English at New Providence. This promise, though made by Woodbine, is relied on by most of the Seminole Indians. I have not a doubt but they will sue for peace as soon as they find their hopes of British aid to be without a foundation.

No. 51. a.

*General Gaines to the Secretary of War—with a talk.*

HEADQ'RS, FORT SCOTT, GEORGIA,

December 2, 1817.

SIR: I had the honor to receive, on the 26th ultimo, your communication of the 30th October.

I am very happy to find that the President approves of my movement, but I much regret that his just expectations as to the effect there was reason to believe would be produced on the minds of the Indians by this movement have not been realized. I am now quite convinced that the hostility of these Indians is, and has long since been, of so deep a character as to leave no ground to calculate upon tranquillity, or the future security of our frontier settlements, until the towns south and east of this place shall receive a signal proof of our willingness to retaliate for every outrage. It is now my painful duty to report an affair of a more serious and decisive nature than has heretofore occurred, and which leaves no doubt of the necessity of an immediate application of force, and active measures on our part. A large party of Seminole Indians on the 30th ultimo formed an ambuscade upon the Appalachicola river, a mile below the junction of the Flint and Chatahoochee, attacked one of our boats ascending near the shore, and killed, wounded, and took the greater part of the detachment, consisting of forty men, commanded by Lieutenant R. W. Scott, of the 7th infantry. There were also on board, killed or taken, seven women, the wives of soldiers. Six men of the detachment only escaped, four of whom were wounded. They report that the strength of the current at the point of attack had obliged the lieutenant to keep his boat near the shore; that the Indians had formed along the banks of the river, and were not discovered till their fire had commenced, in the first volley of which Lieutenant Scott and his most valuable men fell.

The lieutenant and his party had been sent from this place some days before to assist Major Muhlenberg in ascending the river with three vessels laden with military stores brought from Montgomery and Mobile. The Major, instead of retaining the party to assist him, as I had advised, (see enclosure No. 2,) retained only about twenty men, and in their place put a like number of sick, with the women, and some regimental clothing. The boat, thus laden, was detached



alone for this place. It is due to Major Muhlenberg to observe that, at the time he detached the boat, I have reason to believe he was not apprized of any recent hostilities having taken place in this quarter. It appears, however, from Lieutenant Scott's letter, received about the hour in which he was attacked, (see enclosure No. 3.) that he had been warned of the danger. Upon the receipt of this letter, I had two boats fitted up with covers and port-holes for defence, and detached Captain Clinch with an officer and forty men, with an order to secure the movement of Lieutenant Scott, and then to assist Major Muhlenberg.

This detachment embarked on the evening of the 30th, and must have passed the scene of action below at night, and some hours after the affair terminated. I have not yet heard from Captain Clinch. I shall immediately strengthen the detachment under Major Muhlenberg with another boat, secured against the enemy's fire. He will, therefore, move up with safety, keeping near the middle of the river. I shall moreover, take a position with my principal force at the junction of the river, near the line; and shall attack any vessel that may attempt to intercept our vessel and supplies below, as I feel persuaded the order of the President, prohibiting an attack upon the Indians below the line, has reference only to the past, and not to the present or future outrages, such as the one just now perpetrated, and such as shall place our troops strictly within the pale of natural law, where self-defence is sanctioned by the privilege of self-preservation. The wounded men who made their escape concur in the opinion that they had seen upwards of five hundred hostile Indian warriors at different places below the point of attack. Of the force engaged they differ in opinion; but all agree that the number was very considerable, extending about one hundred and fifty yards along the shore, in the edge of a swamp or thick woods. I am assured by the friendly chief that the hostile warriors of every town upon the Chatahoochee prepared canoes and pushed off down the river to join the Seminoles as soon as the account of my movement from the Alabama reached them.

The Indians now remaining upon the Chatahoochee, I have reason to believe, are well disposed. One of the new settlers, however, has recently been killed; but it has been clearly proved that the murderer had belonged to the hostile party. The friendly chiefs in the neighborhood, when apprized of the murder assembled a party, and sent in pursuit of the offender, and followed him to the Flint river, on the route to Mickasuky, whither he escaped. Onishajo and several other friendly chiefs, have offered me their services, with their warriors, to go against the Seminoles. I have promised to give them notice of the time that may be fixed for my departure, and then to accept their services. The enclosure No. 1 contains the substance of what I have said to the chiefs who have visited me; several of whom reside south of the Spanish line, and west of Appalachicola river. It was expected by the

chiefs that I should communicate to them my views and wishes. I felt authorized to say but little, and I deemed it necessary, in what I should say, to endeavor to counteract the erroneous impressions by which they have been misled by pretended British agents.

I hope the President will see in what I have said nothing to disapprove. I feel persuaded a report of the various talks which I received from the chiefs would show the propriety of what I have said to them; such a report I have not a moment's time now to make. The Indians are at this moment firing at our camp from the opposite side of the river.

I have the honor to be, most respectfully, your obedient servant,

EDMUND P. GAINES,  
Major General commanding.

Talk enclosed in 51 a, (No. 1.)

CHIEFS AND WARRIORS: The President of the United States has been informed of the murders and thefts committed by hostile Indians in this part of the country. He has authorized General Jackson to arrest the offenders, and cause justice to be done. The Indians have been required to deliver up the murderers of our citizens and the stolen property, but they refused to deliver either. They have had a council at Mickasuky, in which they have determined upon war; they have been at war against helpless women and children; let them now calculate upon fighting men. We have long known that we had enemies east of this river; we likewise know we have some friends, but they are so mixed together we cannot always distinguish the one from the other. The President, wishing to do justice to his red friends and children, has given orders for the bad to be separated from the good. Those who have taken up arms against him, and such as have listened to the bad talks of the people beyond the sea, must go to Mickasuky, Suwanee, where we wish to find them together. But all those who were our friends in the war will sit still at their homes in peace. We will pay them for what corn and meat they have to sell us. We will be their friends, and when they are hungry we will give them meat. The hostile party pretend to calculate upon help from the British—as well look for soldiers from the moon to help them. Their warriors were beaten and driven from our country by American troops. The English are not able to help themselves; how, then, should they help the old "Red Sticks," whom they have ruined by pretended friendship?

No. 51 b, (No. 2.)

General Gaines to Major Muhlenberg.

FORT SCOTT, November, 1817.

SIR: The waters having risen sufficiently high to enable you to ascend the river with all the vessels, I wish you to do so, though it should take longer than I had anticipated. You can avail yourself of the aid of Lieutenant Scott's detachment to expedite your movement hither. Keep

your vessels near to each other; and, should you meet any insuperable obstacle, endeavor to apprise me thereof, and you shall have additional relief. Wishing to see you soon, with your fleet, I remain, with great regard, your obedient servant,

E. P. GAINES.

To Major MUHLENBERG,  
Commanding United States troops.

No. 51 c, (No. 3.)

Lieutenant Scott to General Gaines.

SPANISH BLUFF, November 28, 1817.

SIR: Enclosed you will receive Major Muhlenberg's communication, which he directs me to forward to you by express from this place. Mr. Hambly informs me that Indians are assembling at the junction of the river, where they intend to make a stand against those vessels coming up the river. Should this be the case, I am not able to make a stand against them. My command does not exceed forty men, and one-half sick and without arms. I leave this immediately.

I am, respectfully, your obedient servant,

R. W. SCOTT,

Lieut. 7th Infantry, com'g detachment.

NOTE.—The bearer of this is entitled to three dollars on delivering this letter. The Indians have a report here that the Indians have beaten the white people.

No. 51 d.

General Gaines to Captain Clinch.

HEADQUARTERS, FORT SCOTT,  
November 30, 1817.

SIR: You will embark with the party assigned you on board the covered boats; descend the river until you meet with Lieutenant Scott; deliver to him a cover for his boat, and give him such assistance as, in your judgment, shall be necessary to secure his party, and expedite his movement to this place. You will then proceed, with the residue of your command, down the river, until you meet with Major Muhlenberg; report to him, and act under his orders. You will, in no case, put your command in the power of the Indians near the shore. Be constantly on the alert. Remember that United States troops can never be surprised by Indians without a loss of honor, to say nothing of the loss of strength that might ensue.

To Col. CLINCH, 7th Infantry.

No. 52.

General Jackson to the Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Bowlegs's Town, Suwanee river,  
April 20, 1818.

SIR: My last communication, dated Camp before St. Mark's, 8th April, and those to which it referred, advised you of my movements and operations up to that date, and, as I then advised you, I marched from that place on the morning

of the 9th. On the evening of the 10th I was joined by the rear of the Tennessee volunteers, also by the Indians under General McIntosh, whom I had left at Mickasuky to scour the country around that place. Although the weather has been dry and pleasant, and the waters had subsided in a great degree, our march might be said to have been through water, which kept the infantry wet to the middle; and the depth of the swamps, added to the want of forage, occasioned the horses to give out daily in great numbers. On the morning of the 12th, near Econfinnah, or Natural Bridge, a party of Indians were discovered on the margin of a swamp, and attacked by General McIntosh and about fifty Tennessee volunteers, who routed them, killing thirty-seven warriors, and capturing six men and ninety-seven women and children; also recapturing a white woman who had been taken at the massacre of Scott. The friendly Indians also took some horses and about five hundred head of cattle from the enemy, who proved to be McQueen's party. Upon the application of an old woman of the prisoners, I agreed that if McQueen was tied and carried to the commandant of St. Mark's, her people should be received in peace, carried to the upper tribes of the Creek nation, and there provisioned until they could raise their own crops. She appeared much pleased with those terms, and I set her at liberty, with written instructions to the commandant of St. Mark's to that effect. Having received no further intelligence from McQueen, I am induced to believe the old woman has complied with her part of the obligation.

From St. Mark's I marched with eight days' rations, those that joined me having but five; this was done under the expectation of reaching this place in that time, founded on the report of my faithful Indian guide, which I should have accomplished but for the poverty of my horses and the continued sheets of water through which we had to pass. On the morning of the 15th my scouts overtook a small party of Indians, killing one man and capturing the residue, consisting of one man and woman and two children, and on that evening I encamped, as my guide supposed, within twelve miles of Suwanee. I marched very early on the 16th, under the hope of being able to encompass and attack the Indian and negro towns by one o'clock, P. M., but, much to my regret, at three o'clock, and after marching sixteen miles, we reached a remarkable pond, which my guide recollected, and reported to be distant six miles from the object of my march; here I should have halted for the night, had not six mounted Indians, (supposed to be spies,) who were discovered, effected their escape: this determined me to attempt, by a forced movement, to prevent the removal of their effects, and, if possible, themselves from crossing the river, for my rations being out, it was all-important to secure their supplies for the subsistence of my troops. Accordingly, my lines of attack were instantly formed and put in motion, and about sunset my left flank column, composed



*Relations with Spain.*

of the second regiment of Tennessee volunteers, commanded by Colonel Williamson, and a part of the friendly Indians, under Colonel Kanard, having approached the left flank of the centre town and commenced their attack, caused me to quicken the pace of the centre, composed of the regulars, Georgia militia, and my volunteer Kentucky and Tennessee guards, in order to press the enemy in his centre, while the right column, composed of the first regiment of Tennessee volunteers, under Colonel Dyer, and a part of the friendly Indians, headed by General McIntosh, who had preceded me, were endeavoring to turn his left and cut off his retreat to the river; they, however, having been previously informed of our force, by a precipitate retreat soon crossed the river, where, it is believed, Colonel Kanard, with his Indians, did them considerable injury. Nine negroes and two Indians were found dead, and two negro men made prisoners.

On the 17th foraging parties were sent out, who found a considerable quantity of corn and some cattle. The 18th, having obtained some small craft, I ordered General Gaines across the river with a strong detachment and two days' provision to pursue the enemy. The precipitancy of their flight was soon discovered by the great quantity of goods, corn, &c., strewn through the swamps, and convinced General Gaines that pursuit was in vain. Nine Indians and five negro prisoners were taken by our Indians. The evidence of haste with which the enemy had fled induced the General to confine his reconnoissance to search for cattle and horses, both of which were much wanted by the army. About thirty head of cattle were procured; but, from the reports accompanying General Gaines's, which will in due time be forwarded to you, and the disobedience of his orders by the Indians, not one pound was brought into camp.

As soon as time will permit, I shall forward a detailed account of the various little affairs with the enemy, accompanied with reports of the commanding officers of the detachment. Suffice it for the present to add, that every officer and soldier under my command, when danger appeared, showed a steady firmness, which convinced me that, in the event of a stubborn conflict, they would have realized the best hopes of their country and General.

I believe I may say that the destruction of this place, with the possession of St. Mark's, having, on the night of the 18th, captured the late Lieutenant Ambrister, of the British marine corps, and, as represented by Arbuthnot, successor to Woodbine, will end the Indian war for the present; and should it be renewed, the position taken, which ought to be held, will enable a small party to put it down promptly.

I shall order, or take myself, a reconnoissance west of the Appalachicola at Pensacola point, where, I am informed, there are a few Red Sticks assembled, who are fed and supported by the Governor of Pensacola. My health being impaired, as soon as this duty is performed, the positions taken, well garrisoned, and security given to the

southern frontiers, (if the Government have not active employment for me,) I shall return to Nashville to regain my health. The health of the troops is much impaired, and I have ordered the Georgia troops to Hartford to be mustered, paid, and discharged; the General having communicated his wishes, and that of his troops, to be ordered directly there, and reporting that they have a plenty of corn and beef to subsist them to that point. I have written to the Governor of Georgia to obtain from the State the necessary funds to pay General Glascock's brigade when discharged, and that the Government will promptly refund it. I am compelled to this mode to have them promptly paid, Mr. Hogan, the paymaster of the seventh infantry, (for whom I received from Mr. Brent an enclosure said to contain \$50,000,) not having reached me.

From the information received from Ambrister and a Mr. Cook, who was captured with him, that A. Arbuthnot's schooner was at the mouth of this river, preparing to sail for the bay of Tampa, my aid-de-camp, Lieutenant Gadsden, volunteered his services with a small detachment to descend the river and capture her. The importance of this vessel to transport my sick to St. Mark's, as well as to destroy the means used by the enemy, induced me to grant his request; he sailed yesterday, and I expected to have heard from him this morning. I only await his report to take up the line of march on my return for St. Mark's. The Georgia brigade, by whom I send this, being about to march, compels me to close it without the report of Lieutenant Gadsden.

I have the honor to be, &c.,

ANDREW JACKSON.

Major General commanding.

HON. JOHN C. CALHOUN,  
Department of War.

No. 53.

General Jackson to the Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort St. Marks, April 26, 1818.

SIR: I wrote you from Bowlegs' Town on the 20th instant. On the night of the same day I received the expected despatch from my aid-de-camp, Lieutenant Gadsden, communicating the success of his expedition: and, on the next day, as soon as the sick of my army were despatched down the Suwanee river, to be conveyed in the captured schooner to St. Mark's, I took up the line of march for that fort. I arrived at this place last evening, performing a march of one hundred and seven miles in less than five days. Lieutenant Gadsden had reached it a few hours before me. He communicates having found, among the papers of Arbuthnot, Ambrister, and Cook, letters, memorials, &c., all pointing out the instigators of this savage war, and, in some measure, involving the British Government in the agency. These will be forwarded you in a detailed report I purpose communicating to you as early as practicable.

The old woman spoken of in my last commu-

*Relations with Spain.*

nication to you, who promised to use her influence in having McQueen captured and delivered up, has not been heard of. From signs discovered on the opposite shore of the St. Mark's river, I am induced to believe that the Indian party is still in this neighborhood. A detachment will be sent out to reconnoitre the country, to receive them as friends if disposed to surrender, or inflict merited chastisement if still hostile.

I shall leave this in two or three days for Fort Gadsden, and, after making all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Appalachicola, I shall proceed direct for Nashville. My presence in this country can no longer be necessary. The Indian forces have been divided and scattered, cut off from all communication with those unprincipled agents of foreign nations who had deluded them to their ruin; they have not the power, if the will remains, of again annoying our frontier.

I remain, &c.

ANDREW JACKSON.

No. 54.

General Jackson to the Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Gadsden, May 5, 1818.

SIR: I returned to this post with my army on the evening of the 2d instant, and embrace an early opportunity of furnishing you a detailed report of my operations to the east of the Appalachicola river. In the several communications addressed to you from Hartford, Fort Scott, and this place, I have stated the condition of the army on my assuming the immediate command, the embarrassment occasioned from the want of provisions, the privations of my troops on their march from the frontiers of Georgia, and the circumstances which compelled me to move directly down the Appalachicola river to meet with and protect the expected supplies from New Orleans. These were received on the 25th of March, and on the next day I was prepared for active operations. For a detailed account of my movements from that period to this day you are respectfully referred to the report prepared by my adjutant general, accompanied with Captain Hugh Young's topographical sketch of the route and distance performed. This has been principally a war of movements. The enemy, cut off from their strongholds, or deceived in the promised foreign aid, have uniformly avoided a general engagement. Their resistance has generally been feeble; and in the partial rencontres into which they seem to have been involuntarily forced, the regulars, volunteers, and militia, under my command, realized my expectations; every privation, fatigue, and exposure was encountered with the spirit of soldiers, and danger was met with a degree of fortitude calculated to strengthen the confidence I had reposed in them.

On the commencement of my operations, I was strongly impressed with a belief that this Indian war has been excited by some unprincipled

foreign or private agents. The outlaws of the old Red Stick party had been too severely convinced, and the Seminoles were too weak in numbers to believe that they could possibly alone maintain a war with even partial success against the United States. Firmly convinced, therefore, that succor had been promised from some quarter, or that they had been deluded into a belief that America dare not violate the neutrality of Spain by penetrating to their towns, I early determined to ascertain these facts, and so direct my movements as to undeceive the Indians. After the destruction of the Mickasukian villages, I marched for St. Mark's. The correspondence between myself and the Spanish commandant, in which I demanded the occupancy of that fortress with an American garrison, accompanies this. It had been reported to me, direct from the Governor of Pensacola, that the Indians and negroes unfriendly to the United States had demanded of the commandant of St. Mark's a supply of ammunition, munitions of war, &c., threatening, in the event of a noncompliance, to take possession of the fort. The Spanish commandant acknowledged the defenceless state of his fortress, and his inability to defend it; and the Governor of Pensacola expressed similar apprehensions. The Spanish agents throughout the Floridas had uniformly disavowed having any connexion with the Indians, and acknowledged the obligations of His Catholic Majesty, under existing treaties, to restrain their outrages against the citizens of the United States. Indeed, they declared that the Seminole Indians were viewed as alike hostile to the Spanish Government, and that the will remained, though the power was wanting, to inflict merited chastisement on this lawless tribe. It was, therefore, to be supposed that the American army, impelled by the immutable laws of self-defence to penetrate the territory of His Catholic Majesty, to fight his battles, and even to relieve from a cruel bondage some of his own subjects, would have been received as allies, hailed as deliverers, and every facility afforded to them to terminate speedily and successfully this savage war. Fort St. Mark's could not be maintained by the Spanish force garrisoning it. The Indians and negroes viewed it as an asylum, if driven from their towns, and were preparing to occupy it in this event. It was necessary to anticipate their movements, independent of the position being deemed essential as a depot, on which the success of my future operations measurably depended. In the spirit of friendship, therefore, I demanded its surrender to the army of the United States until the close of the Seminole war. The Spanish commandant required time to reflect. It was granted. A negotiation ensued, and an effort was made to protract it to an unreasonable length. In the conversations between my aid-de-camp, Lieutenant Gadsden, and the Spanish commandant, circumstances transpired convicting him of a disposition to favor the Indians, and of having taken an active part in aiding and abetting them in this war. I hesitated, therefore, no longer; and as I could not be received



*Relations with Spain.*

in friendship, I entered the fort by violence. Two light companies of the 7th regiment of infantry, and one of the 4th, under the command of Major Twiggs, were ordered to advance, lower the Spanish colors, and hoist the star-spangled banner on the ramparts of Fort St. Mark's. The order was executed promptly. No resistance was attempted on the part of the Spanish garrison. The duplicity of the Spanish commandant of St. Mark's, in professing friendship towards the United States while he was actually aiding and supplying her savage enemies, throwing open the gates of his garrison to their free access, appropriating the King's stores to their use, issuing ammunition and munitions of war to them, and knowingly purchasing of them property plundered from the citizens of the United States, is clearly evinced by the documents accompanying my correspondence. In Fort St. Mark's, as an inmate of the family of the Spanish commandant, an Englishman, by the name of Arbuthnot, was found. Unable satisfactorily to explain the objects of his visiting this country, and there being a combination of circumstances to justify a suspicion that his views were not honest, he was ordered into close confinement. The capture of his schooner, near the mouth of Suwanee river, by my aid-de-camp, Mr. Gadsden, and the papers found on board, unveiled his corrupt transactions, as well as those of a Captain Ambrister, late of the British colonial marine corps, taken as a prisoner near Bowlegs' town. Those individuals were tried, under my orders, by a special court of select officers, legally convicted as ex-citizens of this savage and negro war, legally condemned, and most justly punished for their iniquities. The proceedings of the court-martial in this case, with the volume of testimony justifying their condemnation, present scenes of wickedness, corruption and barbarity, at which the heart sickens, and in which, in this enlightened age, it ought not scarcely to be believed that a Christian nation would have participated; and yet the British Government is involved in the agency. If Arbuthnot and Ambrister are not convicted as the authorized agents of Great Britain, there is no room to doubt but that that Government had a knowledge of their assumed character, and was well advised of the measures which they had adopted to excite the negroes and Indians in East Florida to war against the United States. I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain (if slow) retribution awaits these unchristian wretches, who, by false promises, delude, and excite an Indian tribe to all the horrid deeds of savage war.

Previous to my leaving Fort Gadsden, I had occasion to address a communication to the Governor of Pensacola on the subject of permitting supplies to pass up the Escambia river to Fort Crawford. This letter, with a second from St. Mark's, on the subject of some United

States' clothing, shipped in a vessel in the employ of the Spanish Government, to that post, I now enclose, with his reply. The Governor of Pensacola's refusal of my demand cannot but be viewed as evincing a hostile feeling on his part, particularly in connexion with some circumstances reported to me from the most unquestionable authority. It has been stated that the Indians at war with the United States have free access into Pensacola; that they are kept advised from that quarter of all our movements; that they are supplied from thence with ammunition and munitions of war; and that they are now collecting in large bodies, to the amount of four or five hundred warriors, in that city; that inroads from thence have lately been made on the Alabama, in one of which eighteen settlers fell by the tomahawk. These statements compel me to make a movement to the west of the Appalachicola; and, should they prove correct, Pensacola must be occupied with an American force, the Governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in Fort St. Mark's, Fort Gadsden, and Fort Scott; and in Pensacola, should it become necessary to possess it.

It becomes my duty to state it as my confirmed opinion that, so long as Spain has not the power or will to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier, without occupying a cordon of posts along the seashore. The moment the American army returns from Florida, the war hatchet will be again raised, and the same scenes of indiscriminate murder with which our frontier settlers have been visited will be repeated. So long as the Indians within the territory of Spain are exposed to the delusions of false prophets, and the poison of foreign intrigue; so long as they can receive ammunition, munitions of war, &c., from pretended traders, or Spanish commandants, it will be impossible to restrain their outrages. The burning of their towns, the destroying of their stock and provisions, will produce but temporary embarrassments; resupplied by Spanish authorities, they may concentrate or disperse at will, and keep up a lasting predatory warfare against the frontiers of the United States, as expensive as harassing to her troops. The savages, therefore, must be made dependant on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence.

I trust, therefore, that the measures which have been pursued will meet the approbation of the President of the United States. They have been adopted in pursuance of your instructions, under a firm conviction that they alone were calculated to insure "peace and security to the southern frontier of Georgia."

The army will move on the 7th from hence, crossing the Appalachicola river at the Ochesee bluff, about thirty miles above.

ANDREW JACKSON.

*Relations with Spain.*

No. 55.

General Jackson to the Secretary of War.

HEADQUARTERS, DIVISION OF THE SOUTH,  
Fort Montgomery, June 2, 1818.

SIR: In a communication to you of the 5th of May, I detailed at length the operations of my army up to that period. Leaving a strong garrison of regulars in Forts Scott and Gadsden, I resumed my march, with a small detachment of the 4th regiment of infantry, one company of artillery, and the effectives of the Tennessee volunteers, the whole not exceeding twelve hundred men, to fulfil my intentions, communicated to you, of scouring the country west of the Appalachicola river. On the 10th of May, my army crossed that river at the Ochesee village, and, after a fatiguing, tedious, and circuitous march of twelve days, misled by the ignorance of our pilots, and exposed to the severest of privations, we finally reached and effected a passage over the Escambia. On my march, on the 22d of May, a protest from the Governor of Pensacola was delivered me by a Spanish officer, remonstrating in warm terms against my proceedings, and ordering me and my forces instantly to quit the territory of His Catholic Majesty, with a threat to apply force in the event of a non-compliance. This was so open an indication of a hostile feeling on his part, after having been early and well advised of the object of my operations, that I hesitated no longer on the measures to be adopted. I marched for and entered Pensacola with only the show of resistance, on the 24th of May. The Governor had previously fled to Fort Carlos de Barancas, where, it was said, he had resolved upon a most desperate resistance. A correspondence ensued between us, (accompanying this, marked A,) detailing at length my motives for wishing and demanding that Pensacola and its dependencies be occupied with an American garrison. The package marked B are documents substantiating the charges, in part, against the conduct of the Spanish Governor, having knowingly and willingly admitted the savages, avowedly hostile to the United States, within the town of Pensacola.

The peaceable surrender of the fort of Barancas was denied. I marched for and invested it on the evening of the 25th of May, and on the same night pushed reconnoitering parties under its very guns. On the morning of the 26th, a military reconnoissance was taken; and on the same night, a lodgement was made, under a fire from the Spanish garrison, by Captain Gadsden of the engineers, aided by Captains Call and Young, on a commanding position, within three hundred and eighty-five yards of the Spanish works, and a nine-pounder mounted. A howitzer battery was simultaneously established on the capitol, and within seven hundred and sixty yards of the fort. At daylight on the 27th, the Spanish garrison opened their artillery on our batteries; a parley was sounded, a flag sent in,

and the surrender of Fort Carlos de Barancas again demanded; the favorable positions obtained were pointed out, and the inutility of resistance urged. Anxious to avoid an open contest, and to save the effusion of blood, the same terms previously offered were again tendered. These were rejected, and offensive operations recommenced. A spirited and well-directed fire was kept up the greater part of the morning, and at intervals during the afternoon. In the evening a flag was sent from the Spanish commandant, offering to capitulate, and a suspension of hostilities was granted until eight o'clock next day, when the enclosed articles of capitulation (marked C) were signed and agreed to. The terms are more favorable than a conquered enemy would have merited; but, under the peculiar circumstances of the case, my object obtained, there was no motive for wounding the feelings of those whose military pride or honor had prompted to the resistance made. The articles, with but one condition, amount to a complete cession to the United States of that portion of the Floridas hitherto under the government of Don Jose Mazot.

The arrangement which I have made to secure Pensacola and its dependencies are contained in the general orders, marked D. I deemed it most advisable to retain, for the present, the same government to which the people had been accustomed, until such time as the Executive of the United States may order otherwise. It was necessary, however, to establish the revenue laws of the United States, to check the smuggling which had been carried on successfully in this quarter for many years past, and to admit the American merchant to an equal participation in a trade which would have been denied under the partial operations of the Spanish commercial code.

Capt. Gadsden was appointed by me collector, and he has organized and left the department in the charge of officers on whom the greatest confidence may be reposed.

Though the Seminole Indians have been scattered, and literally so divided and reduced as no longer to be viewed as a formidable enemy, yet, as there are still many small marauding parties supposed to be concealed in the swamps of the Perdido, Choctawhatchy, and Chapouley who might make occasional and sudden inroads on our frontier settlers, massacring women and children, I have deemed it advisable to call into service for six months, if not sooner discharged, two companies of volunteer rangers, under Captains McGirt and Boyles, with instructions to scour the country between the Mobile and Appalachicola rivers, exterminating every hostile party who dare resist, or will not surrender and remove with their families above the thirty-first degree of latitude.

The Seminole war may now be considered as at a close, tranquillity again restored to the southern frontier of the United States; and, as long as a cordon of military posts is maintained along



## Relations with Spain.

the Gulf of Mexico, America has nothing to apprehend from either foreign or Indian hostilities. Indeed, sir, to attempt to fortify or protect an imaginary line, or to suppose that a frontier on the thirty-first degree of latitude, in a wilderness, can be secured by a cordon of military posts while the Floridas lay open to an enemy, is visionary in the extreme.

Under this firm belief, I have bottomed all my operations. Spain had disregarded the treaties existing with the American Government, or had not power to enforce them; the Indian tribes within her territory, and which she was bound to keep at peace, had visited our citizens with all the horrors of savage war; negro brigands were establishing themselves when and where they pleased; and foreign agents were openly and knowingly practising their intrigues in this neutral territory.

The immutable principles, therefore, of self-defence justified the occupancy of the Floridas, and the same principles will warrant the American Government in holding it until such time as Spain can guaranty, by an adequate military force, the maintaining her authority within the colony.

A topographical sketch of the country from the Appalachicola to Pensacola accompanies this. Captain Young will prepare, as soon as practicable, a topographical memoir of that part of the Floridas in which my army has operated, with a map of the country.

Captain Gadsden is instructed to prepare a report on the necessary defences of the country, as far as the military reconnoissance he has taken will permit, accompanied with plans of existing works, what additions or improvements are necessary, and what new works should, in his opinion, be erected to give permanent security to this important territorial addition to our Republic.

As soon as this report is prepared, Captain Gadsden will receive orders to repair to Washington City with some other documents which I may wish to confide to his charge.

At the close of a campaign which has terminated so honorably and happily, it gives me pleasure to express my approbation generally of the officers and soldiers of every species of corps which I have had the honor to command. The patience with which they endured fatigue and submitted to privations, and the determination with which they encountered and vanquished every difficulty, are the strongest indication of the existence of that patriotic feeling which no circumstances can change, and of that irresistible ardor for the defence of their country which will prove her strength and bulwark under any exposure. I should do violence to my feelings if I did not particularly notice the exertions of my Quartermaster General, Colonel George Gibson, who, under the most embarrassing circumstances, relieved the necessities of my army, and to whose exertions I was indebted for the supplies received. His zeal and integrity in this campaign, as well as in the uniform discharge of his duties since

his connexion with my staff, merit the approbation and gratitude of his country.

With respect, your most obedient servant,  
ANDREW JACKSON,  
Major General Commanding.  
The Hon. J. C. CALHOUN,  
Secretary of War.

No. 56.

*Extract of a letter from Thomas Wayne, Esq., purser on board the United States brig Saranac, to Benjamin Romans, dated*

ST. MARY'S RIVER, Sept. 27, 1817.

"On our arrival here, we found General McGregor in command of Amelia Island. A few days afterwards he decamped, and embarked on board the privateer McGregor, formerly the San Josef."

"The noted Woodbine, of infamous memory, arrived here from Nassau, with a view, as was said, to join the patriots; but his friend McGregor having left the cause, he was disappointed, and embarked with McGregor, who sailed a few days since for Nassau, to commence some new expedition, which, it is generally supposed, will be to the bay of Espiritu Santo, or bay of Tampa, in latitude 28 degrees 18 minutes north, and longitude 76 degrees 30 minutes west. This is an extensive bay, and capable of admitting ships of any size, contiguous to which are the finest lands in Florida, which Woodbine pretends belong to him by virtue of a grant from the Indians. He says he has surveyed the whole of the Gulf of Mexico, and Tampa bay is the only place into which large ships can enter."

No. 57 a.

[Extracts from Message of 26th March, 1818.]

*Extracts of a letter to the Secretary of State, dated*  
DECEMBER 24, 1817.

"My informants, I have no doubt, are possessed of as much information of the views and plans of McGregor and Woodbine as any person in the United States." "They sailed from Amelia in September, in company with a schooner belonging to Woodbine, he being on board. Some time after they had got to sea, General McGregor and family were put on board the schooner with Woodbine, and steered for New Providence."

"From what has been written, it may readily be supposed that my friends had an opportunity of learning something of the plan of the future operations of McGregor and Woodbine, and they believe it to be as follows: Woodbine persuaded McGregor that he could find friends and funds in New Providence, and that a British regiment had lately been disbanded there; that they would pick up as many of the soldiers as possible, and, with what negroes and others they could gather, would make a tolerable force. They were then to sail for Tampa bay, a fine harbor to the north-westward of Cape Florida, where they were to be joined by 1,500 Indians, already engaged to Woodbine, and invade Florida from that point; they were then to march across, and attack St. Augustine."

## Relations with Spain.

No. 57 b.

*Instructions for sailing in Tampa bay, in McGregor's handwriting.*

[Enclosed in letter of December 24, 1817.]

The vessels must be at Tampa bay, commonly called Espiritu Santo. I calculate to be at Tampa bay by the latter end of April, or 1st day of May, 1818. There are three bars: the northernmost bar is best, having five fathom water; keep on the larboard shore, going in. There is a small sandy key between the northern and middle channels; upon this sandy key there will be a flag-staff, and, on hoisting your signal, you will be answered by the Florida flag, and a pilot will come off.

No. 57 c.

*Extracts of a letter to a gentleman in the District of Columbia.*

BALTIMORE, July 30, 1817.

Allow me now to relate, in detail, the particulars of my intercourse with General McGregor whilst in this city, in regard to his objects. He declared his object to be, in the first place, to take possession of Amelia; thence to wrest the Floridas from Spain, when he should immediately call on the inhabitants, by proclamation, to designate some of their most respectable fellow-citizens to form a constitution on the model of some of the adjoining States; that, so far as it might depend on him, he would encourage the existing disposition of the people in that section to confederate with the United States; leaving it to the will and policy of this [our] Government, and to political circumstances, as they might arise, to indicate the most favorable time for their admission into the Union.

No. 57 d.

*From G. McGregor to the writer of the above, dated*  
NASSAU, December 27, 1817.

"You know my objects." "On the other side, you have the extract of a proclamation about to be published by the person in charge of making the settlement. I leave this to-day for England, to arrange my private affairs, which, from the many years that I have been in South America, have not improved by my absence; my family remain here until my return."

No. 57 e.

*Extract from Proclamation.*

"Inhabitants of the Floridas! I expect soon to see General McGregor among you again. He was animated by a sincere wish for your happiness, and only desired to see you free from the yoke of Spain, in order that you might legislate for yourselves."

No. 58.

*Extracts from the minutes of the proceedings of the court martial in the trial of Ambrister.*

From the examination of JOHN LEWIS PHENIX, a witness on the part of the prosecution:

Question by the court. Did you ever under-  
15th CON. 2d SESS.—66

stand by whose authority, and for what purpose, the accused came into the country?

Answer. I have frequently heard him say he came to attend to Mr. Woodbine's business at the bay of Tampa.

From the examination of JOHN J. ARBUTHNOT, a witness on the part of the prosecution:

"And that the prisoner stated to him that he had come to the country on Woodbine's business to see the negroes righted."

Question by the prisoner. Did you hear me say that I came on Woodbine's business?

Answer. I did.

From the examination of PETER B. COOK, a witness on the part of the prosecution:

"The prisoner told the witness that he had been a lieutenant in the British Army, under Colonel Nicholls. The prisoner was sent by Woodbine to Tampa, to see about those negroes he had left there. The prisoner told the witness that he had written a letter to Governor Cameron for ammunition for the Indians, some time in March; and also told the witness that he had a commission in the patriot army under McGregor, and that he expected a captaincy."

No. 59.

*Ambrister's memorial to the Duke of York.*

BAHAMA ISLAND:

To His Royal Highness Frederick, Duke of York, Commander-in-chief, &c., the memorial of Robert Christie Ambrister, of the Island of New Providence, gentleman, humbly sheweth:

That your memorialist, a British subject, and son of James Ambrister, Esq., lieutenant colonel, and commanding the militia of New Providence, having served for nearly four years past as midshipman in the British navy, on board His Majesty's ships Sparrow, Captain Edward Burt, Rhodan, Captain George Mowbray, Reindeer, Captain J. P. Douglass, and Bramble, Captain William P. Poyson; from which last-mentioned ship he obtained his discharge in England in 1813, and returned to the island of New Providence, where his friends reside; that Major Nicholls, of the royal marines, having shortly after arrived at the said island of New Providence, in His Majesty's ship Hermes, in company with His Majesty's ship Carron, for the purpose of raising recruits for a corps denominated the corps of colonial marines, destined to serve during the American war in such parts of the Indian territory bordering upon the United States of America, or in the States themselves, as circumstances should render it necessary, your memorialist applied for, and obtained, a commission of auxiliary second lieutenant in that regiment, which he immediately joined, and proceeded, under the command of the said Major Edward Nicholls, to Appalachicola, from whence he proceeded to the Creek nation, where he served until those forces were disbanded upon the termination of hostilities with the Americans, when he returned to the said island of New Providence.

And your memorialist further sheweth, that



## Relations with Spain.

having been assured by the said Major Nicholls, at the time of his accepting the above-mentioned commission, (a copy of which he begs leave to annex,) that he had no doubt but he would be placed upon half-pay when his services were no longer required, your memorialist is desirous either of obtaining half-pay, or of being more actively employed, and of obtaining a commission either in one of His Majesty's West India regiments, or in such other of His Majesty's regiments as to your Royal Highness shall see fit.

Your memorialist, therefore, humbly prays your Royal Highness to take into your consideration this his memorial, and he shall ever pray.

ROBERT C. AMBRISTER.

No. 60.

*Ambrister's commission as auxiliary second lieutenant.*

By the honorable Sir Alexander Cochrane, Knight of the Bath, Vice Admiral of the Red, and Commander-in-chief of His Majesty's ships and vessels employed, and to be employed, on the North American station, &c., to Mr. Robert C. Ambrister, hereby appointed auxiliary second lieutenant of the corps of colonial marines to be raised upon the continent of North America:

Whereas I have thought fit to send a detachment of the royal marine corps to the Creek nations for the purpose of training to arms such Indians and others as may be friendly to, and willing to fight under the standard of His Majesty, I do, by these presents, constitute and appoint you an auxiliary second lieutenant of such corps of colonial marines as may be raised upon the continent of North America, to hold such local rank while actually employed upon the said continent, until further orders. You are therefore carefully and diligently to discharge the duty of auxiliary second lieutenant, by exercising and well-disciplining both the inferior officers and marines of the said corps; and I do hereby command them to obey you as their second auxiliary lieutenant. And you are to observe and follow such orders and directions from me, or any other of your superior officers, according to the rules and discipline of war, in pursuance of the trust hereby reposed in you.

Given under my hand and seal, at Bermuda, this 25th day of July, 1814, in the fifty fourth year of His Majesty's reign.

[L. S.] ALEXANDER COCHRANE.

By command of the Vice Admiral:

W. BALHETCHET, Secretary.

No. 61.

*P. B. Cook to Elizabeth A. Carney.*

SUWANEE, January 19, 1818.

MY DEAR AMELIA: I have embraced this opportunity of writing you, hoping to find you well, as it leaves me at present; and I am very sorry to inform you of the times at present. We are threatened every day by the d—d Americans; not threatened only, but they have made an at-

tempt, which we have stopped. On 1st December I marched with thirty men to go against them. After seven days' march we arrived at the fort; and, after our men got rested I went against it. We had an engagement for four hours, and seeing that we could do no good with them, we retreated and came off. The balls flew like hail stones; there was a ball that had like to have done my job; it just cleared my breast. For six days and six nights we had to encamp in the wild woods, and it was constantly raining night and day; and as for the cold, I suffered very much by it; in the morning the water would be frozen about an inch thick. There was a boat that was taken by the Indians which had in it thirty men, seven women, and four small children; there were six of the men who got clear, and one woman saved, and all the rest of them got killed; the children were taken by the heels, and their brains dashed out against the boat. We have got Mr. Hambly and Doyle prisoners, and we are going to send them to Nassau to stand their trial, as they have caused all this disturbance. Hambly told me that it was published in the American newspapers that they were to take possession of the nation in March; and if that be the case, you will see us sooner than you expected. If they should come when the vessel is away, we shall have to take to and run in our canoes, as we have some very fine ones here. One knows not hardly what to do for those d—d puppies, as we may call them, for they are no better.

We find that what I have mentioned is all d—d lies. But Arbuthnot has threatened my life once or twice; but, on my return, I will punish him by the law. You must excuse my bad writing, as I am in a hurry. Give my love to your mother and your sister, and Mrs. Roberts, and all inquiring friends. I have nothing more to say at present, as times will not admit.

I remain yours, forever,

PETER B. COOK.

[Addressed on the back to]

Miss E. A. CARNEY, Nassau, N. Providence.

No. 62.

*A. Arbuthnot to W. Hambly.*

OCHLOCHNEE SOUND, May 3, 1817.

SIR: On my return here this day, I received a letter signed by you, and dated the 23d March last. As you have taken the trouble of advising me, you will, of course, expect my reply; and I embrace the opportunity of doing it at length. First let me premise, sir, that when you lived at Prospect Bluff, a clerk to Messrs. Forbes & Co., you did not consider Cappachimico, McQueen, or any other of the chiefs of the Lower Creek nation, as outlaws. Does the man whom the attachment of Cappachimico has saved from the hands of retributive justice presume to call him an outlaw? For shame, sir! The most hardened villain would not thus calumniate the saviour of his life. Your generous friend, sir, and the other chiefs, have called me to this coun-

## Relations with Spain.

try. They insist on the fulfilment of my promise; and, as an honest man, I will endeavor to do it. Let your arm of justice fall on the guilty. An honest and upright man, who harms no man, and endeavors to do all the good he can, fears no man or judge; his acts are open to inspection, and will bear the test of scrutiny. Thus, sir, I answer your insinuation, that, since my arrival in this country, I have instigated persons to steal and murder. Ask the lieutenant commanding at Fort Gaines if the letter I wrote him bears the features of an instigator to murder. Ask Opoy Hatcho if the recommendatory note I sent him, by order of Opoy, breathes the strains of a murderer. Ask Opoy himself if my language and advice to him was that of a murderer. Ask Mappalitchy, a chief residing on the Ockmulgee, among the Americans, what my advice was. All those will contradict your vile insinuation. But Mappalitchy informed me the Cowetas were all pleased with the letter and my note Opoy sent them, and perfectly accorded with my sentiments of living as brethren, and as one large family, respecting their neighbors, but, at the same time, at all times ready to protect their property. Yet several of them, a few days afterwards, (no doubt influenced by some humane and good man,) recanted their promise, and ordered a letter to be written me; which letter, I presume, I have this day received, signed by you. Now, sir, if your principles were as humane as mine—if you took as much pleasure in fostering any spark of friendship the upper Indians may show to their brethren of the lower nation as you do in fomenting the quarrels between them, you would then be their friend and benefactor. You, sir, that speak their language fluently, have much in your power; but I fear you use that power to the injury of all, and, eventually, to your own ruin. Let me advise you to change your tone and mode of acting. How much more creditable would it be for you to propagate friendly actions, and create an attachment among the Indians of all nations one to the other, than to endeavor to foment quarrels, and have your emissaries in every quarter of the nation spreading false reports, tending to harass and disturb them. Now, sir, with regard to your and Mr. Doyle's reporting that I am no Englishman, and only one of those wild adventurers who risk life and property for lucre, be pleased to come down to Ochlochnee, and I will show you a letter written by Earl Bathurst to Governor Cameron, (and which I received from him to read to the chiefs of the Creek nation,) an answer to a letter, I believe, written by you, early in the Spring of 1816.

I shall not reflect on the part you took in blowing up the fort at Prospect Bluff; it is not my business. I know the blacks used you shamefully, as they did all that went near them, yet I think the revenge you took savors much of a savage.

Do not think, sir, that I am to be frightened away from this place while I have the protection of the Spaniards, and the support of honest men. An upright man is not easily daunted.

I keep a copy of this letter, and send a copy of

yours, with my answer, to Opoy Hatcho, and, as I am in daily expectation of letters from New Providence, perhaps they may induce me to write you further.

I am, sir, your obedient servant,

A. ARBUTHNOT.

The murders and thefts you talk of I do not believe. There are a parcel of outlaws calling themselves Americans, who are continually coming into the nation, stealing cattle, &c., and lately, I hear, one was killed out of three, and his horse taken and publicly sold while in the act of stealing and driving off cattle.

A. A.

To Mr. WM. HAMBLY.

No. 63.

*Indian Talk.*

*To our good brother the Chief Tustonaky Thlucco, the Big Warrior:*

Your brothers, chiefs of the Creek nation, whose names are put to the talk we now send you, have found it necessary to hold the same, that their sentiments and opinions may be known to all their red brethren of the four nations, and stop the mouths of bad men who are continually sending false and bad talks to us as well as to our brethren, for the purpose of making ill-blood between us. Know, then, we have met at Ochlochnee Sound with our warriors and young chiefs, and have held our talk, which is this:

The red brethren of the four nations are all descended from the same fathers, and ought to live as brothers; and for this reason we now take them by the hand, to live henceforth at peace and united to each other, and let no bad talks be listened to, or come among us.

When Colonel Nicholls, the English officer who was last among us, went away, he gave us a good talk, desiring us to live well with all our brethren, and never permit ill-blood to be between us, and to respect the Americans that were our neighbors, and not molest them, or permit our people to steal. We have carefully kept this talk, followed his advice, &c.

It is nearly three years since we received a white bead from the Cherokees; we have held it sacred, and it has been in our — at all our talks; we now send you, that you may forward to their head, Minichico Mico, a pipe from his old friends; you will also send him the present talk, and from him let it be sent to the Chickasaws, and from them to the Choctaws.

Colonel Nicholls promised us to send people from England to keep stores in different parts of the nation to furnish us with goods; he had found people willing to come, but when they heard that the fort of Appalachicola was destroyed, they were fearful of coming, and withdrew their promise.

Let us protect all white men that give us good talks, but let us not regard or listen to those who give us bad ones, but rather send them from among us, for he must be a bad man who wishes ill-blood between brothers.



From this time, therefore, let us not listen to any bad talks; let us all hold each other fast by the hand of peace, and each brother hold the other in his heart.

This is sent with a good will, and will be kept by us.

Opothlimico,	Imathluche,
Cappachimico,	Inhimathluchy, Palo
Inhimathlo, Fowl Town,	Chipely,
Charles Tustonaky,	Lahoe Himathlo,
Otosmico,	Homathlemico,
Ochaona Tustonaky,	Talmuches Hatcho,
Euch Tustonaky,	Hillis Hadjo.

No. 64.

Mr. Arbuthnot to the Honorable Charles Bagot.

[Found with Arbuthnot's papers.]

SIR: On my return to this from the Indian nation, about a month since, I received a letter from Mr. Moodie, annexing an extract from a letter of your excellency, and which in future shall be attended to, when I have occasion to write on Indian affairs.

As I am now especially authorized by the chiefs whose names I beg leave to annex to the present to make such representations as may be of service to the nation, and learning by the copy of a letter from the right honorable Earl Bathurst, handed me by his excellency Governor Cameron, that your excellency is instructed to watch over the interests of the four nations, I shall take the liberty to lay before your excellency such matters as have come under my own observation, and what has been reported to me by chiefs in whose veracity I can place some confidence. On my arrival at Ochlochee Sound last January, I was met by several of the principal chiefs, who reiterated the complaints that were stated to your excellency in their letter of last November. On the Chatahoochee particularly, they stated the Americans were descending in numbers, driving the poor Indian from his habitation. The report was confirmed some weeks after by Otosmico, the chief of the town of Ecan Halloway, on the Chatahoochee, who informed me that the officer commanding at Fort Gaines had repeatedly sent messages to him, desiring he would submit to live under the American Government, and threatening that his non-compliance would force him to turn the guns of the fort against the town and drive them out. These threats, and swarms of American settlers descending, drove the poor Indians from their homes, and thirty-six fields in a state of cultivation were occupied by the new settlers, and where the houses stood the plough has passed over.

On the Choctawhatchy, which is far within the Indian territory, Americans have formed a large settlement, which, if persisted in, will soon drive the Indians to the extremity of the peninsula.

Agreeably to the treaty between Great Britain and America, the latter were to confine themselves to the same boundaries they enjoyed in 812, prior to the war. This they have not done,

but encroached on almost every point of the Indian territory. The chiefs think that it is impossible the conduct of the persons acting so contrary to the treaty can be known to the American Government; and, the more to blind the Government, and to mislead them as to the true state and disposition of the Indians, they are continually spreading reports in the public gazettes, of Georgia, &c., of cruelty committed by the Seminole Indians on inhabitants living on the borders of the United States; whereas it is persons in the back settlements of Georgia who enter the Seminole territory in large parties to steal cattle, which they frequently drive off in gangs of fifty and one hundred at a time; and if in these excursions the Indians meet them and oppose these predatory plunderers, blood sometimes has been spilt, which was the case in April last, when a party of Mickasuky Indians met three men driving off cattle, and attacked them, killing one, and retaking the cattle. But those bloodthirsty back-settlers of Georgia soon retaliated on the poor Indians, for early in June they returned to plunder, and meeting with an Indian encampment they killed one man; another making his escape, they pursued him to another encampment, where they killed two others and a boy; the boy they scalped. Early in July a headman of the town of Suwanee was killed on St. John's river, while hunting, but the chief does not reckon the persons who killed him true Americans. For the better showing your excellency how those poor Indians are abused, I beg leave to enclose you paragraphs taken from American papers, the whole of which are complete fabrications, tending to mislead the American Government. I also beg your excellency's attention to a letter from an American officer, dated at Fort Gaines, with Cappachimico, the head chief of the Seminoles' answer thereto; but notwithstanding it is stated to be by authority of the President of the United States, the gentleman waited no time to receive an answer, but, prior to the chief's messenger arriving at the fort, had continued his road for St. Mary's, leaving them ignorant of what talk he was authorized to give them; and I have since learned that Mr. Dinkins was an officer of General Jackson's staff, travelling through the nation.

HON. CHARLES BAGOT,  
H. B. M.'s Ambassador, Washington.

No. 65.

A. Arbuthnot to a person of rank in England.

[Taken from the London Times newspaper of 7th August, 1818.]

SUWANEE, LOWER CREEK NATION,  
January 30, 1818.

When I last took the liberty of writing to you, by desire of the chiefs of the Creek nation, I little expected that war would so soon have commenced between the Americans and them. It is, however, actually begun, by the wanton aggressions of the former, in an attack on Fowl Town, during the night. Though this wanton attack has been disavowed by General Mitchell, the

American agent for Indian affairs, and he has made reparation for the injury and loss sustained by Inhimathlo and his people, yet the continued aggressions of the Americans, and the numbers pouring into the nation, not from the land side alone, but from Mobile and elsewhere, by the Apalachicola river, have compelled the Indians to take arms as their only resource from oppression.

Your friend Hillis Hadjo has been called by his people to put himself at their head, and he is now encamped at Spanish Bluff, the residence of Doyle and Hambly, which is now in the possession of the Indians, with from one thousand to one thousand two hundred men; those men are principally Red Sticks, who are scattered about in the nation, and who have collected and put themselves under his command, with a few hundred Upper Indians who have joined them.

I cannot allow myself to believe that those encroachments on Indian territory are made with the knowledge of the American Government, and General Mitchell's conduct and message to Kenhagee assure me it is not so. But there are persons who wish to get hold of the Indian lands, and they stick at no means, however cruel and oppressive, to obtain their ends. General Gaines's letter, of August last, to Kenhagee, clearly shows that he and General Jackson are determined, if possible, to get hold of the whole Indian lands. After falsely accusing them of murders, thefts, burning houses, &c., he says: "But there is something out in the sea, a bird with a forked tongue; whip him back before he lands, for he will be the ruin of you yet. Perhaps you do not know what or whom I mean. I mean the name of Englishman."

The other contents of this letter plainly show me that those two Generals have formed a plan of possessing themselves of the whole Indian lands. That this plan has originated with Forbes, Inneraritys, or those of their subordinate agents, I have little doubt, as every part of the conduct of those inferior actors, shows they have been employed for the express purpose of rooting out the poor Indian from his paternal inheritance. The report of Hambly having made sales, in the name of the chiefs, of all the lands from Pensacola to St. Augustine, comes from St. Mark's fort. I shall soon be there, and learn from what source they derive their information.

That false and improper sales have been made, I have no doubt; without such had been the case, the Americans would never have poured into the Indian nation by the Apalachicola.

It is reported that John Forbes has withdrawn from all Indian concerns; but the Inneraritys are enough, with their subordinate agents, to disturb the whole Indian nation; and I have not the least doubt that through them the present troubles come.

The chiefs have written to Governor Cameron for a supply of ammunition, and which Kenhagee informs me Hillis Hadjo, when in England, had orders to demand, in case of actual need. It is really necessary the English Government should do something for those people. In the late war they drew them into their quarrel against Amer-

ica; at the peace they agreed to see them protected in their rights and privileges, and placed on the same footing as before the war; since then they have never troubled themselves about them, thinking it enough that His Majesty's Ambassador had orders to see that those people were protected in their rights and privileges. But how is his excellency the British Ambassador to know if the Indian is righted, and permitted to live quietly on his own land? He interdicts the correspondence of any private individual on Indian affairs, unless it can be put into his hand without any expense. Does he expect a true account of what passes in the Indian nation from the American Government, or from the hiring gazettes of the towns of Upper Georgia? It is the interest of both to deceive, and unless the door is opened for British subjects to speak what they know, and instruct his excellency of such matters respecting the Creek nation as they are certain to be true, he can never have the means of judging what is proper to be done.

I have, by desire of the chiefs, written to his excellency the honorable Charles Bagot on their affairs, and also Governor Cameron, with a demand for a small supply, [of arms, munitions, &c.] of which they stand greatly in need. I trust, sir, you will make such representations to His Majesty's Government as the circumstances of the case require, that those unfortunate people, who look up to you as their friend, may soon rest peaceably and quiet in their country.

You will pardon the liberty I take, which nothing but the pressing solicitations of Kenhagee would have induced me to take; and, with much respect, I am, sir, &c.

A. ARBUTHNOT.

No. 66.

Boleck to Governor Coppinger.

[Translation from the Spanish translation received from Governor Coppinger, and communicated by Mr. De Onis, enclosed in his letter of the 27th March, 1818, to the Secretary of State. For the original, in English, see No. 49, court-martial proceedings, No. 2.]

SUWANEE, November 18, 1816.

SIR: I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you; and I hope you will, when occasion offers, advise me of such things as may be of service to myself and my people. My warriors and others who go to St. Augustine return with false reports, tending to harass and disturb my people, and prevent them attending to their usual avocations. At one time, the Americans, supported by a force of three thousand men, and such of our brethren as they have compelled to join them, are running lines far within our territory; at another, they are collecting a large force at Fort Mitchell, in the forks of the Flint and Chatahoochee rivers, to fall on the towns that may not join them. Now, sir, we



know of no reason they can have for attacking an inoffensive and unoffending people, whose wish is to inhabit their woods, without disturbing or being disturbed by any one. We have none of their slaves; we have taken none of their property since they made peace with our good father, King George. We have followed the orders of the officer of our father who was among us, Colonel Edward Nicholls, and in nowise molested the Americans, though we daily see them encroaching on our lands, stealing our cattle, and murdering or carrying off our people. We were told by the same officer that, as allies of our father, we were included in the treaty of peace between our good father and the Americans, and that the latter were to give up all the territory that had been taken from us before the war; but, so far from complying with the ninth article of that treaty, they are making daily encroachments, and forging treaties (which they pretend are concluded with our people) for cessions and grants of lands which never were in existence, and the signatures of which are unknown to the chiefs of the Creek nation, who alone have a right to assign or transfer the common property. The want of a proper person among our people to acquaint us with these transactions is the cause of our long silence on them, and leads the world, as well as our friends, to think we are in league with the Americans.

The principal chiefs of the nation assembled lately at my town of Suwanee, and resolved to inform the Minister of King George at Washington of our grievances, and of the conduct and usurpation of the Americans; which was accordingly done, and copies sent to England. Until we have one or more persons among our people to watch over our rights and interests, we shall continue to be exposed to the same conduct on the part of the Americans, whose system appears to be the destruction of our peace and tranquillity, and expelling us from our native land.

You desire that I would chase off those who steal my cattle, &c. Some of my people have lately driven away several Americans who were endeavoring to settle at Lachua; and I do not doubt they will represent that as an act of hostility, although you well know that Lachua is in the heart of my territory, and was, until the Americans killed my brother, our chief town. I return you my thanks for your letter,

And am, with great respect, your most obedient, humble servant,

BOLECK, his X mark,  
Chief of the Seminole nation.

No. 67.

Governor Coppinger to the chief Boleck, (Bowlegs).  
ST. AUGUSTINE, IN FLORIDA,  
December 20, 1816.

FRIEND AND BROTHER BOLECK: Your letter of the 18th of November was delivered to me yesterday by one of your servants, in which you inform me of the receipt of mine of the 26th September last, and other circumstances which give

you and your warriors uneasiness. I see with pain that the whole comes from the information of persons in whom you ought not to place the smallest confidence, it being their principle to employ such opportunities for the purpose of seducing you and your people from their daily labors. In consequence of this, and of what you tell me of your desire to keep up the best understanding and correspondence with me, and of your hope that the opportunities will not be wanting, let me give you such counsel as may be useful to you, your people, and warriors. I will do so from the sentiments of sincere friendship I bear towards you, fearful, however, that the sentiments of others, who come into the territory under the appearance of friendship, but with bad intentions, may influence your minds and obtain your confidence by their flattering representations. It is ascertained here that two persons have lately presented themselves as commissioners of the English nation, who have carried off several runaway negroes belonging to the subjects of the King, my master, and your friend, among whom was one of Don Francisco Pellicer's, and another of Mr. Bunch's, both inhabitants of this province. This did not seem credible to me, as I could not suppose that so good a friend to our nation as you are could consent to such proceedings; but, in case they have really happened, you will be sensible of their great impropriety, and of the just grounds of complaint on the part of the persons so injured, who are desirous, as well as myself, of assuring you of the sincere good-will and friendship we have for the Seminole tribe of Indians, of which you are the chief.

I am, with great respect, your most affectionate and faithful servant,

JOSE COPPINGER.

To Friend and Brother BOLECK,  
Chief of the Seminole tribe of Indians.

No. 68.

Copy of a sheet of Arbuthnot's journal, found among his papers.

October 23d (continued.) They had a long talk with Captain W., and stopped all night; this day, meridian, observed in latitude 29° 21', Suwanee bearing northeast three miles. 24th. Started with two men in boat to survey if any entrance to the west branch of the river; found all shallow; pulled boat over the mud, and entered west branch; made poles to mark the easternmost outlet, and descended, but could not this day find the direct channel through the oyster bank, the tide having flowed too much. 25th, at 2 A. M., wind shifted to east, and by 8 A. M. to southeast, when we got under way, and stood off to sea, wind freshening and a nasty short sea rising; at 10 tacked in shore, three fathoms, Suwanee northeast seven miles; the north point of the bay north ten miles, Cedar Keys south seven miles; from sundown to midnight, heavy squalls, with rain and much thunder and lightning; at 0 anchored in four fathoms, no wind, and heavy swell. 26th. First part rainy and squally; at 10 A. M., got

under way, Cedar Keys just in sight from deck; stood east-northeast, and at 2 P. M. hove to, to wait for canoes seen coming off; came to anchor in two fathoms; six canoes came on board full of Indians and blacks, Billy and Jack among them, with several negroes that were at the bluff; found that Bowlegs and Doherty had started in a canoe last night; this day at meridian observation good, latitude 29° 13', Cedar Keys, the outermost, bearing east-southeast six miles. At 6 P. M. Bowlegs, with retinue, consisting of five canoes, came on board, and continued all night; had a very long talk with Captain W. 27th. The brother-in-law of Bowlegs desired Captain W. to listen to what he had heard from the Spaniards of the Americans' intention of attacking them; they wished to live quietly and attend to their cattle, &c., but could not for the Americans and revolted Spaniards, who daily killed their cattle, &c. This day bought six deer skins, sixteen racoon skins, and three pounds wax, paid in taffia. Bowlegs and retinue left me at 2 P. M.; Captain W. had started about an hour before for Suwanee. At 8 P. M. began to blow fresh from southeast, continued blowing all night. 28th, at 2 P. M., got under way and stood to sea. 29th. Wind north-west, blowing hard and squally, all day beating off and on, double-reefed foresail, reefed mainsail, &c.; at 4 P. M. struck on a shallow bank six miles southeast from the mouth of the river; bore up and stood off; lowered jib and mainsail, and repaired latter, which had given way near the gaff; wore and stood in shore, and came to anchor in fourteen feet water, Great Cedar Key bearing southeast six miles. 30th, at 7 A. M., got under way, and stood for the entrance between the two large keys, luffing and bearing away so as to keep in two fathoms; came to anchor at 9 A. M., a mile and a half from islands. Captain went to sound channel; returned and reported channel to the southward, and that the large island must be brought to bear northeast. At 11 A. M., a canoe, two men, three women and their children, from Cape Anetole; got under way, rounded the bank, and grounded between two banks, where we lay all night. 31st October, warped into a deep channel, with much difficulty drawing her through the mud; wrote W. and Auchisee Indians, and also fishermen; cut poles to stake out channel. 1st November. Wind northeast, extremely cold, again warping, but did not succeed in getting into anchorage; observed meridian, latitude 29° 11', the south end of the Great Cedar Key north-west by north, three-quarters of a mile; the outer or southwest point of the high or South Key southeast and by south one and a half mile; lay quite dry at low water; at 10 P. M. floated off, and stood into a good channel, but laying the warp too far out she tailed on the west side, where we lay for the night, after bowing taut our best bower, laid in mid channel. 2d. Floated off at 10 A. M., and pulled up to good anchorage under the lee of the island; boat went to an inshore key to look for water, and returned two casks full. 3d. Self and captain on shore until

half-past 11 A. M.; caught nothing; observation good, latitude 29° 11'; the high part of South Key due east two miles, the sandy beach of Great Cedar Key west half a mile. At sundown, Captain W. arrived from Suwanee; several canoes with negroes at the point; captain returned from fishing on point; some good fish. 4th. Idle all day; afternoon prepared rum, sugar, coffee, and molasses to send Robin Creighton, per colored lad named Charles, (see note thereof;) during the night the wind shifted to the north and north-northeast, drizzling rain and very cold. 5th. Wind north-northeast, rain, and very cold; cleared up before midday; at 4 P. M. two canoes from Suwanee; one came on board, reported Cappachimico and all the chiefs waited for Captain W.; prepared sundry articles for Suwanee, and sent a canoe off to get Frank's canoe to go with Captain W. and self. 6th, at 12 o'clock M., started for Suwanee, in Frank's canoe, camped for the night at the little island, mouth of the river; a canoe, with several men and women, camped at same place, bound for schooner, with corn, &c. 7th. At 4 o'clock A. M. started up the river; at 8 o'clock A. M., camped and breakfasted at Pine bluff, and at 2 o'clock P. M. arrived at Buera landing, took through the pine barren, and lost our way to Christophertown; again getting to the river, at half past 4 P. M. arrived at Robert's; Captain W. and guide had arrived a little before; visited Cappachimico and McQueen at Indiantown. 8th. A long talk with Indians; their complaints of the conduct of the Americans. McQueen mentioned they had taken one of his negroes and confined him in the fort at the forks. A chief from Chehaw said that they had killed three Indians in his neighborhood, on their own ground, and taken eleven horses; several others stated losses in cattle and horses, and the Seminole chiefs in particular; a chief — of — said that, in confidence of the treaty being faithfully fulfilled on the part of the Americans, a half-breed man, named Moses, before the war, settled near the forks, returned to take possession of his fields, and was murdered by the Americans. The chiefs ordered a letter, in way of memorial, to be written to our ambassador in America, and copies to be sent to England, representing the conduct of Americans; the same was done agreeably to the substance of their talk, read and interpreted to them by their own interpreters afterwards; each chief put his mark in my presence, which I certified. 9th. Cold and clear; Cappachimico, McQueen, and the other chiefs met, and had a long talk, more fully particularizing their particular grievances; they also stated the number of forts (seven) the Americans had built, and the roads they had cut, and were still continuing to cut, within their territory.

McQueen stated that McIntosh and the Coweta Indians were the cause of the Americans' conduct; that, after the peace, a deputation had been sent up to have a talk with the commander at Fort Mitchell, in the forks, who were instructed to inform him of what Colonel Nicholls had stated to them with regard to their rights to the



territory, prior to the war being guaranteed by the treaty between England and the United States, and to request that he, the commandant, would refrain from further encroachments, and give orders that their lands should be respected. The answer they received from the commander was, that it was all true they had told him, but that he had orders to act as he did. A chief of the Fowl Town Indians stated that the American troops, returning from the destruction of the fort at Prospect Bluff, burnt one entire town and murdered several of their people, because they would not join them when going down the river. The Tiger warrior, and two other men of note, spoke, stating the circumstances of aggression and cruelty that had come to their knowledge. Cappachimico, McQueen, and the others, further stated what reports they had from Doyle, Hambly, &c., and all were of opinion, and firmly believed, that Hambly, a clerk to and influenced by Forbes, was the cause of the destruction of the fort at the bluff; and that Hambly went down the river as a guide to the American army, and was particularly instrumental in its being blown up, as he pointed out to the American officers where the magazines were placed, that they might play their shells against them. Such few negroes as were saved from the explosion unhurt were carried off by the Americans, with cannon, ammunition, arms, &c., that were found in the fort.

N. B. I take no notice of Captain W.'s talk to the Indians, because I doubt much of what he stated was not founded in fact, and was only mentioned by him to strengthen the chiefs in their attachment to the British Government. I say no further on this head. Of his promises, I fear he has also gone too far; and, perhaps, at a future time, when the Indians find them unperformed, the rage for their disappointment may fall on me as a party aiding and abetting Captain W. in his deception. I have gone beyond my promise to Captain W.; I have been deceived in almost everything; and yet he thinks every thing and person must be subservient to him. I have had himself and aid-de-camp on board since the 31st August; in any expedition, in canoe or boat, I have supplied his wants. I kept three negroes on board more than two months on his account. I presented the chiefs for him and on his account. I have seen my provisions taken and given away when we were on short allowance; for Captain W. gives liberally when it is not out of his own pocket, but is extremely covetous when anything is wanted from home.

10th. Cappachimico and McQueen gave me a note of the most necessary articles they wanted immediately, and which I promised them to bring, if possible, by the end of December, and land them as agreed. Gave them a card with seals &c., as a token that, when they received a messenger with the duplicate thereof in R. W., he came with the straight talk from me; made each a present of rum, sugar, coffee, and one hundred cigars; also, the Tiger warrior and two others and the rest had a good lot of cigars each; gave them a parting glass; took leave at twelve, midday.

They all started on horseback. The two deputies that go to Nassau with me left behind.

These men are children of nature; leave them in their forests to till their fields and hunt the stag and graze their cattle, their ideas will extend no farther; and the honest trader, in supplying their moderate wants, may make a handsome profit of them.

They have been ill-treated by the English, and robbed by the Americans; cheated by those who have dealt with them, receiving goods and other articles at most exorbitant prices for their peltry, which has been much undervalued. I say the English ill-treat them: after making them parties in the war with America, they leave them without a pilot, to be robbed and ill-treated by their natural and sworn enemies, the Americans. When the English officer, Colonel Nicholls, left Prospect Bluff, on the Appalachicola river, he left particular orders with Cappachimico and the other chiefs not on any account to enter on the territory of the Americans; while, at the same time, he informed them the Americans were to give up that territory they had taken possession of during the war; but, while he informed the Indians how they should act, and what the Americans were to do in compliance with the treaty, he left no person to guide them in their conduct in case the latter should not comply, or continue to extend their encroachments and commit aggressions. When such was the case, they had none to represent their case to the British Government but William Hambly, the clerk of John Forbes, and Doyle, another of his clerks, both of whom had long before the conclusion of the war sold themselves to the American Government, and, while they were receiving *British pay*, acted as spies to the Americans. These persons were not likely to represent the conduct and encroachment of the Americans in their true light. No, they attempted to influence the chiefs to join the Americans. Doyle stated, in a talk at St. Mark's, that in four years no Englishman durst set his foot in the Floridas; yet these were the only persons to whom the poor untutored Indian could apply to represent their grievances to the British Government, or any governor of their islands; and it was not likely they, the tools of the Americans, would give a just and true account of the Indian grievances. Hambly, the Indian interpreter, was ordered to write to the Governor of New Providence, demanding his interference; and, by an intercepted letter from his brother, dated at Regla, in February last, it appears he had written a letter to New Providence; but to whom?

No. 69.

Arbuthnot to the commanding officer at Fort Gaines.

OCHLOCHNEE SOUND, March 3, 1817.

SIR: I am desired by Peter McQueen, an unfortunate chief, who was some years since obliged to fly from his town of Tuckabatchee, on the Tallapoohatche river, to claim of your friendship the delivery of a negro man named Joe, (taken away from him since the peace,) whom he states

to be in Fort Gaines. When McQueen left Tuckabatchee, his property was considerable, both in negroes and cattle; of the former, ten grown negroes were taken by a half-breed man named Barney; nine of whom he learns were sold, and one, a girl, is still in possession of said Barney. Twenty able-bodied negroes were taken by a chief named Colonel, or Auchi Hatche, who acts also as an interpreter; and, as he never had possession of any of those persons' property, nor ever did them any injury, to his knowledge, he claims a further proof of your friendship, that you will use your influence in procuring these negroes for him; and, should they be given up by the persons holding them, there is one faithful negro among them, named Charle, who will bring them to him at Ochlochnee river.

The American headmen and officers, that were accustomed to live near him, can testify to his civility and good fellowship with them; and there are none of them, he is convinced, that would not serve him if in their power. As he owes nothing, nor ever took any person's property, none have a right to retain him; and he hopes that, through your influence, those persons now holding his negroes will be induced to give them up.

While I am thus advocating the cause of one unfortunate individual, allow me to claim an extension of your philanthropy to all the Indians within your circle, by your representing to them the folly of their quarrels, and that they ought to live quietly and peaceably with each other.

The Lower Creeks seem to wish to live peaceably and quietly, and in good friendship with the others; but there are some designing and evil-minded persons, self-interested, who are endeavoring to create quarrels between the Upper and Lower Creek Indians, contrary to their interest, their happiness, and welfare. Such people belong to no nation, and ought not to be countenanced by any Government.

The head chiefs request I will inquire of you why American settlers are descending the Chatahoochee, driving the poor Indian from his habitation, and taking possession of his home and cultivated fields.

Without authority, I can claim nothing of you; but a humane and philanthropic principle guiding me, I hope the same will influence you, and, if such is really the case, and that the line marked out by the treaty of peace between Great Britain and the United States, respecting the Indian nations, has been infringed upon by the subjects of the latter, that you will represent to them their improper conduct, and prevent its continuance.

I hold in my possession a letter received from the Governor of New Providence, addressed to him by His Britannic Majesty's chief Secretary of State, informing him of the orders given to the British Ambassador at Washington to watch over the interests of the Indian nations, and see that their rights are faithfully attended to and protected, agreeably to the treaty of peace between the British and Americans.

I am in hopes that ere this there is arrived at

New Providence a person from Great Britain with authority to act as agent for the Indian nations; and, if so, it will devolve on him to see that the boundary lines, as marked out by the treaty, are not infringed upon.

I hope you will not think these observations, made by desire of the chiefs, any improper interference; and requesting the favor of an answer, I am, respectfully, sir, your obedient servant.

A. ARBUTHNOT.

P. S. McQueen states that the offspring of the negroes when he left Tuckabatchee were seven of those taken by Barney, and nine of those taken by Auchi Hatche, and he supposes they have increased.

No. 70.

A. Culloh to Arbuthnot, (answer to No. 69,) found among Arbuthnot's papers.

FORT GAINES, May 1, 1817.

DEAR SIR: On being informed by the commanding officer that you had written, in behalf of Peter McQueen, for a negro man once in the possession of myself at this place, requiring the return of said negro to (as you said) the rightful owner, I take the liberty of informing you that the said negro is now at Fort Hawkins, Oakmulgee river, claimed by an American citizen by the name of Bowen White. He remained with us; he was a deposite of some of the Indians, to be given to the said Bowen when called for. Further of his origin, or manner in which he was claimed as property, I cannot tell anything. You inquired why citizens were descending this river. In answer, I say in right of and conformably to a late treaty between the United States and the Creek nation; for this part of the territory was ceded to us as a compensation for expenses and aid furnished and incurred by the friendly Creek Indians against McQueen and his party, not having any reference or touching any article or part of the treaty between the United States and Great Britain. As to McQueen's having any claims on the good feeling and philanthropy of any citizen of the United States, it is a mockery and a farce; on the contrary, he has incurred both the ill-will and hatred of his own people and them, and has, in fact, been the cause of the destruction and loss of his native country.

Your obedient servant,

AM. CULLOH.

A. ARBUTHNOT,  
Ochlochnee Sound, Florida Keys.

No. 71.

Copy of a paper, without date or signature, found among Arbuthnot's papers; supposed to be the answer to No. 4, in the proceedings of the court-martial on the trial of Arbuthnot.

It is not in my power to comply with your wishes without the King's command, but you may be assured that I shall lose no time in submitting the representation you have now made to the consideration of His Majesty's Government.



## Relations with Spain.

No. 72.

A. Arbuthnot to General Mitchell, agent of Indian Affairs.

SUWANEE, LOWER CREEK NATION,  
January 19, 1818.

SIR: Kenhagee, head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but, far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side but both troops and settlers ascending the Appalachicola river in vessel-loads. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and good-will towards the Indians in general induce the chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands and paternal birthright, and also order that those who have already seized on their fields may retire therefrom. The Indians have seized two persons known to have been greatly instrumental in bringing the Americans down on their lands, and they are now in their possession as prisoners; and they have it in report that sales of their lands have been made by those two people, without consent, approbation, or knowledge of the chiefs; and, from their long residence in the nation, and the one having enjoyed great confidence in the nation and with the chiefs, as English interpreter, there is some reason to believe those reports, when leagued with the swarms of Americans coming from Mobile and other places seizing the best of the Indian lands. Such improper sales have actually been made.

In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me I have no wish but to see an end put to a war which, if persisted in, I foresee must eventually be their ruin; and as they were not the aggressor, if, in the height of their rage, they commit any excesses, that you will overlook them as the just ebullitions of an indignant spirit against an invading foe. I have the honor to be, &c.

A. ARBUTHNOT,

By order of Kenhagee and Bowlegs,  
acting for themselves and the other chiefs.CAMP BEFORE ST. MARK'S,  
April 8, 1818.

The foregoing letter was produced to A. Arbuthnot, on his examination before me, and acknowledged by him to have been written by him to General Mitchell, agent of the Creek nation.

ANDREW JACKSON.

Present: Mr. FULFON.

Supplementary documents received since the letter to Mr. Erving was forwarded.

[From the Public Ledger and Daily Advertiser (of August 27, 1818.)]

MR. ARBUTHNOT.

The following letters, in addition to those already made public, tend to show the deep interest which this unfortunate gentleman took in procuring redress for what he conceived to be the unprovoked aggressions of the American back settlers on the Indian boundary line.

A. Arbuthnot to the commanding officer at Fort Gaines.

[This is an extract from the letter No. 69 in this collection, consisting of the four paragraphs before the last, which is omitted. See the document No. 69, and the answer to it, No. 70.]

Copy of a talk sent from the British agents in East Florida to the Big Warrior, head chief of the Creek nation of Indians.\*

OCHLOCHNEE RIVER, March 3, 1817.

When the English made peace with the Americans, they included the whole of the Indian nations, viz: Creek, Choctaw, Chickasaw, and Cherokee. Those nations were guaranteed in the quiet possession of their lands, and the Americans engaged to give up such lands of the Indians as they had taken possession of during the war.

If they have not done so, or if they have been making further encroachments, the chiefs have only to represent their complaints and the aggressions of the Americans to the Governor of New Providence, who will forward them to England, or get them conveyed to the British Minister at Washington, who has orders from the King of England to see that the rights of the nations above mentioned are protected, and the stipulations contained in the treaty, in their favor, are faithfully carried into execution.

The Americans have no wish to go to war; they will not, therefore, do anything contrary to the treaty; and what encroachments have been made must be without the knowledge of the chief of the American Government; and, so soon as he is informed thereof by the British Minister at Washington, he will order the American people who have taken possession of Indian lands to draw back to their own possessions.

The Indian nations are all one great family; they possess lands their great forefathers handed down to them, and they ought to hand them down entire to their children. If they sell their land, what do they receive for it? Nothing that will last. It is wasted away in a few years. Whether, therefore, they sell, or give it away, they are robbing their children of the inheritance they had a right to expect. As a great family, they ought to live as such with each other. Let the four

\* This appears to be the same talk with the letter to the Little Prince, mentioned in the proceedings of the court-martial on Arbuthnot's trial.

## Relations with Spain.

nations join in bonds of brotherly love; let them smoke the pipe of peace; let the cultivation of their lands be their chief object during Spring and Summer, and hunting their diversion during Winter; and the produce of their labor will be bought by good people, who will come and deal with them when they know there is anything to be purchased for goods or money.

If the Americans or other nations live near them, let them live in friendship with them, and keep up a good understanding, but on no account sell or give away any of their lands. I recommend this as a friend of humanity and of good order.

A. ARBUTHNOT.

The head chiefs of the Upper Creek nation have desired me, Opony, to get the straight talk for them; what is written in the foregoing I believe to be the true and straight talk received from an Englishman,\* who carried two deputies to New Providence, and returned with them to Ochlochnee. I, Opony, have been sent by you, the head chiefs of the Upper Creek nation, to see the Seminole Indians. I have done so; they live quietly and peaceably, and wish to do so, with all their red brethren, in every part of the nation.

Opony Hatcho has desired me to see those things; I have done so; and see all quiet, and had the talk I now send you, and shaken hands with the friend who gave it me.

That the friend I have met came over with goods by desire of the chiefs of the lower towns, and is a true friend to the Indians. The various and untrue talks that you sent me from time to time must be made by some person an enemy to us, all red brethren, and ought not to be listened to; let me know who they are, and send me an answer as soon as possible to the present talk.

OPONY, his X mark.

Written by order of the aforesaid Opony, the 11th of March, 1817.

A. ARBUTHNOT.

Witness: AARON MORRIS.

Don Luis de Onis to the Secretary of State.

WASHINGTON, Dec. 12, 1818.

SIR: I have had the honor to receive your note of the 30th ultimo, in reply to mine of the 24th of the same month, by which I perceive, with great concern, the failure of the flattering hope I had formed of seeing a speedy and amicable termination of the differences existing between our respective Governments. But I leave to those who may impartially inquire into the state of things, their origin, nature, and all the circumstances hitherto attending them—to those who form their judgments upon the principles of justice, the dictates of conscience, and the most established rules of human reason, whether,

\* See Arbuthnot's Journal, No. 68.

on my part, I have not done even more than could be hoped for at once to terminate a controversy no less unpleasant than it is injurious to the interest of both nations.

It was painful to His Catholic Majesty's Government to find that the differences which originated in the pretensions first formed by the United States in the year 1805 were not then definitively settled; but the tenaciousness of the American Plenipotentiaries in maintaining them, and their refusal to accede to those advanced by His Majesty, in conformity with the most inviolable duties of his Royal Crown, as a preliminary to the ratification of the convention of 1802, threw insurmountable obstacles in the way of both; these obstacles still existed on the part of the United States at the period of the revolution in Spain, in 1808. From that time, and until the latter part of 1815, you are aware, sir, that the Government of the United States declined to acknowledge His Catholic Majesty's Minister, and that the diplomatic intercourse between the two Powers was interrupted. From the moment your Government resolved on changing its course, and receiving the Minister of Spain, my Government has employed the most unceasing efforts to adjust all existing differences, and establish on a just and solid basis the most perfect harmony and lasting friendship. For this I appeal to the correspondence between His Catholic Majesty's Minister of State and the Plenipotentiaries of the United States at Madrid, and to that I have had the honor to carry on here with yourself and your predecessor. I leave it to the judgment of any impartial person who may be disposed to analyze it, rejecting whatsoever is irrelevant or unfounded, to determine who has reason and justice on his side, and decide whether it is possible that any nation in the world, similarly situated, could act with greater generosity and good faith than Spain, or offer greater sacrifices to meet the wishes of the United States, with a view to putting an end to the controversy between them.

As you stated to me, in your note of 31st of October last, that the proposals you then made me by order of your Government comprehended everything which the President conceived it possible, within the compass of his powers and duty, to offer for the final arrangement of the pending differences, I endeavored, in my letter of the 16th of November last, to modify the proposals made in yours of the 31st of October, and approximate them to yours to the utmost extent of my powers. I even expressed my earnest desire to conclude the negotiation, so far as to admit the removal of the boundary line from the Gulf of Mexico, on the river Sabine, as proposed by you; and I only added that it should run more or less obliquely to the Missouri, thereby still keeping in view the consideration of conciliating the wish that your Government might have of retaining such other settlement as might have been formed on the bank of that river, and observing, nevertheless, that it was not to pass by New Mexico, or any other provinces or dominions of the Crown of Spain. Notwithstanding this, and the further



advantages offered in the said proposals, I now observe that they still appear insufficient to meet the wishes and views of your Government; which is the more a subject of regret to me, as the reasons and grounds on which I founded a hope of a different result were, and still are, of the greatest weight.

What you now state, namely, that your proposal relative to the western boundary between the two Powers involved a great sacrifice on the part of the United States in favor of Spain, appears incomprehensible to me. That proposal, even modified and adapted to that which I made to you on the 24th of last month, included in favor of the United States a considerable extent of territory to the right and left of the Mississippi, to which they neither had nor can have any right whatever; and that fact being, as assuredly it is, beyond all contradiction or doubt, I cannot conceive in what consists the sacrifice made by the United States to Spain in the proposal offered by you. In fact, how can it be denied that Spain has ever been in the peaceable possession of all the countries lying to the westward of the Mermento, the boundary between the Spanish dominions and those of France, in that quarter, being a line running due north from the said river to the Rio Roxo (Red river) between the Adaes and Natchitoches, and thence to the Missouri, although it was not exactly determined whether it was to ascend until that river emptied into the Mississippi, or to some other point? Has the Government of France, peradventure, ever taken any step or contested with His Catholic Majesty's Crown, or carried her pretensions beyond those limits? Is it not universally notorious that this dividing line was always respected by both nations; and that, even after the acquisition of Louisiana by the United States, the different Governors of Louisiana and Texas, with a view to avoid disputes, came to an agreement to consider the territory between the Mermento and the Sabine as neutral, and that it should remain unsettled? Is there the least probability that the United States would propose such an arrangement if they conceived themselves to be the owners of the immense country lying between that river and the Rio del Norte? I cannot but think you must admit these facts. As to the other points of the frontier separating the possessions of both Powers, they are equally well known, being accurately determined and defined in solemn treaties, and particularly in that of 1795, between Spain and the United States. The dividing line between the dominions of the two Powers to the eastward of the Mississippi was fixed on that river to the northernmost part of the thirty-first degree of north latitude, running thence due east to the mid-stream of the river Appalachicola or Chatahochee; thence along the mid-stream of that river to its junction with the Flint; thence in a right line to the head-waters of the St. Mary's river, and following the course of the same to the Atlantic ocean. On the side of the Gulf of Mexico the line has also been accurately determined, so as to prevent its ever being confounded or mis-

understood. It follows the course of the Mississippi to the Iberville, running through it, and the lakes Maurepas, Pontchartrain, and Borgne, to the Gulf of Mexico. In opposition to facts of such notoriety, unfounded assertions can have no weight. The offer of the United States, made through the medium of the French Government, to require of Spain the territory lying between the Mississippi and the Perdido, at the time the United States were already in possession of Louisiana, is an additional proof tending to demonstrate the certainty and notoriety of the boundaries I have just alluded to. And the French Government, which sold Louisiana to the United States, solemnly declared to this Government, in a note addressed to Mr. Monroe, dated the 21st December, 1804, not only what was its extent, but that it had delivered that province to the United States, such as Spain had retroceded it to France; and that, so far from having sold to this Republic any part of the territory east of the Mississippi, known and possessed by England and by Spain under the name of West Florida, His Imperial Majesty, with a full knowledge of what belonged to His Catholic Majesty, early in the eleventh year of the Republic, authorized General Bournonville, his Ambassador at Madrid, to open a negotiation with Spain for the purchase or cession of the Floridas. From what I have just pointed out, as well as from what I have repeatedly stated in the course of my correspondence, it evidently follows that the real and unquestionable sacrifice was that made by His Catholic Majesty in favor of the United States, as expressed in the above-mentioned proposal.

The continued persistence of your Government in its pretensions to all the territory lying between the Mermento and the river Bravo del Norte is not sufficient to invalidate the titles of property and possession which establish the right and dominion of Spain therein, when the English colonies composing the Republic of the United States were not yet in existence, nor the French settlements, which serve as the pretext for the amazing pretensions of your Government. For, what titles and proofs have been produced to justify them? The disastrous expedition of M. de la Salle; the absurd grant in favor of Crozat; and the erroneous narratives of travellers with maps formed at pleasure, by uninformed and interested geographers—such as Melish and others—who ran their lines as they were dictated to them, and thus disposed of the dominions of Spain as suited their wishes. When did La Salle enter the Rio Bravo, and take possession of the extensive countries between it and the Sabine? Was not his expedition, the sole object of which was to discover the mouths of the Mississippi, lost on the coast of the province of Texas? Did not the Spanish troops immediately advance from Mexico to expel these adventurers? What establishment did France, or any other nation, ever hold on the Bravo or the Colorado? The grant of Louis XIV., no less contemptible than the tales and fables of the missionary Hennepin—will it perchance name the river Bravo, the Colorado, or

the Columbia? It only makes mention of the Mississippi, or river of St. Louis, and of the waters emptying therein; and if, under the sanction of that grant, it were allowable to include, without reserve, all the lands washed by those waters, or all those which might come in contact with them, it would perhaps be no difficult matter to extend that pretension to the remotest rocks of Patagonia, and even to the South pole.

I have demonstrated, by the most abundant evidence, what are the unquestionable boundaries which divide the Spanish possessions from those of this Republic; and notwithstanding nothing has been produced by the United States to establish their pretensions, and that the rights of Spain have hitherto been acknowledged and notorious, without any Power ever having disputed the property which she has, and always has had, since the sixteenth century, in the aforesaid territories, the Government of His Catholic Majesty is, and at all times has been, ready to produce the titles and documents in support of its rights, for the greater conviction and satisfaction of your Government, and for the impartial comparison of them with those which may be presented by the United States. You have declined these, in consequence, as you inform me, of the order you have received from the President, which only requires that I should subscribe to what he has been pleased to decide on; and, in case I do not agree to this, nothing further is wished to be heard in support of the rights of Spain; and that your Government retracts the proposals it has made for the adjustment of the question of boundaries. In consequence of so peremptory and categorical a declaration, and of proposals which have never been advanced in the course of the present negotiation, until your letter of 31st October last, to which it is impossible I should yet have received an answer from my Court, I had no other alternative than to transmit a copy of your letter to my Sovereign, which I have done by the Secretary of this Legation; and it will be very satisfactory to me to learn that His Majesty, animated as he is by the most lively desire to terminate these matters amicably, and on being informed that we are already agreed upon all the other points, may, in his wisdom, find means to conciliate the wishes of the United States with the interests and dignity of his Crown. In the meanwhile, it is necessary I should inform you that as the proposals made to me in the name of the President are, as you signify, no longer obligatory, in like manner do those cease to be obligatory which I have made to you by the order of my Government; and that, consequently, the rights of the Crown of Spain are entirely free as to whatsoever appertains to it.

I cannot, however, refrain from expressing to you my inability to comprehend upon what grounds the United States decline the proposal of submitting the pending differences, in their actual state, to the judgment and decision of one or more friendly Powers in whom the United States may place full confidence. I have read with the greatest attention the note referred to

by you, and I candidly confess that I have continued in the same uncertainty. When two nations cannot meet on points upon which they may disagree, a spirit of equity and the love of justice require, and the law of nations points out, a recourse to the arbitrament of an impartial third party. This maxim, so deserving of respect, was adopted by the United States themselves on the occasion of their acceptance of the mediation of Russia in their differences with Great Britain; and also on that of their agreement with the latter Power to submit to arbitrament whatever difficulties might arise in the settlement of their boundaries. A similar course has been adopted by all nations under similar circumstances; and, in fact, what mode is there, when two nations (or two individuals in particular cases) cannot agree upon a certain point, each one conceiving they have reason and justice on their side, but to submit the question to the impartial judgment and decision of a third party, chosen to their mutual satisfaction? Spain, convinced that this mode was the fairest and most expeditious, was anxious to adopt it, with all the sincerity and good faith which have characterized her; and in the event of its not being adopted, through the unalterable opposition of your Government, there can be no room for apprehension or regret as to the opinion which will be formed by the impartial world on this point.

In reference to what you state respecting the transmission, by order of the President, to the Minister of the United States at Madrid, of all the evidence and documents relative to the conduct of the Governor of Pensacola and the Commandant of St. Marks, with instructions to lay them before His Catholic Majesty's Government; and the demand, in consequence of the nature of the facts therein exhibited, of the condign punishment of those officers, I abstain from offering further proofs in addition to those I have already presented of the good conduct, honorable proceeding, and strict discharge of duty, on the part of those individuals acting under the authority of the King, my master, and in conformity with the existing treaty between the two nations, as the opportunity will be afforded of examining and comparing at Madrid the evidence adduced by Mr. Erving with that which my Government has received, or may receive, from the authorities whose duty it is to transmit it. If, upon such examination and comparison, it should appear that the Governor of West Florida and his officers have conducted themselves improperly, I am confident that due punishment will be inflicted on them; and if, on the other hand, the American General and his officers should be found to have acted in an unjustifiable manner, the United States cannot hesitate to proceed against them, nor to indemnify Spain for the losses and injuries sustained in consequence of the aggression complained of.

With respect to the conduct of General Jackson in the invasion of Florida, and the excesses committed there in violation of the sovereignty and dignity of a friendly Power, as they are pub-



lie and notorious, and sufficiently reprobated by public opinion, and as they are identified with the subject which has just been referred to, I likewise abstain from answering the arguments by which you have endeavored to justify that officer in the note I have the honor to reply to. Whatever may be the causes which, in the view of your Government, justified the war against the Seminoles, you cannot fail to admit how improbable it is that those miserable Indians, feeble, and wholly destitute as they are, could have provoked it. In the letter of the chief Boleck to the Governor of St. Augustine, of the 20th December, 1816, a copy of which I had the honor to transmit to you on the 27th March last, you must have remarked that he speaks of assassinations, carrying off of men and cattle, usurpations of his territory, and even forging of treaties for the cession of lands, signed or marked by the names of persons unknown to the chiefs of the Creek nation, who, he adds, are alone authorized to transfer the general property; of all which he accuses the Americans. Besides, the friendship and good understanding existing between the two nations, and the treaty itself, on the authority of which the measures of General Jackson are supported, decisively required that any complaints which there might be against the Indians should be laid before His Majesty's Government, or before his Ministry near this Republic, previous to the adoption of violent measures; as it was scarcely possible that those excesses could be restrained by His Majesty so long as he remained ignorant of them, and was only informed of the complaints of the continual vexations exercised towards the miserable Indians by the citizens of this Union.

I refrain from attempting any refutation of your remarks on the admission, by the Spanish Governor of Florida, of two English traders into that province, without orders from His Catholic Majesty's Government, or without notifying General Jackson thereof. It is evident that, if he admitted them by order of the King's Government, he was under no obligation to notify the American General of it; and if he admitted them without the necessary order, he was solely responsible to his Sovereign for his conduct. The unquestionable fact is, that General Jackson, at the head of his army, fell upon Florida as a haughty invader and conqueror, regardless of the laws of humanity and the feelings of nature, and put to a cruel death two foreigners, who there enjoyed the protection of Spain, and an asylum which has ever been held sacred by all civilized nations; thereby offering an unexampled insult to the sovereignty and independence of Spain; trampling under foot the most solemn compacts, founded on the laws of nations; and contemptuously driving from that province the Spanish commandants and troops in garrison there. Your further remarks on the restrictive system of the Spanish Government are not strictly conformable to the fact; since you cannot be ignorant that explorations, travellers, and even American officers with troops, have, at different periods, traversed the provinces and territories of the Crown of Spain

in that part of America; and that only such persons have been arrested as have been found violating the laws of the country, or aiding, with arms in their hands, banditti and rebels, for the purpose of subverting good order and public tranquillity.

Before I conclude this note, I have to state that, if the project of the definitive adjustment of all the differences pending between the two Governments, which I presented to you on the part of mine, also included the claims for American captures made by the French on the coasts of Spain, or carried by them into Spanish ports, and there condemned in the first instance by French consuls, it was a sacrifice agreed to by Spain, with a view to terminate, once for all, these unpleasant disputes, and, by this additional proof of her condescension and generous friendship for the United States, to conciliate a correspondent proceeding on the part of your Government, from a respect to national law and the solemn principles of justice and equity, as it regards Spain. But this sacrifice, as well as that offered by me on the subject of boundaries and the cession of the Floridas, ceased to have any effect or force from the moment your Government refused to admit the said project, and, consequently, His Catholic Majesty relinquishes to the United States all the rights they may have to claim of France for the said prizes condemned by her consuls and tribunals. Whilst that nation exists, no recourse can in equity be had on Spain for indemnity for those spoliations. The recourse on Spain can in nowise be considered but as secondary. France, being the aggressor, comes under the obligation as a principal. It was she who derived the benefit of those prizes, and on her devolves the responsibility for their amount; and Spain has only become accountable in this concern as the security or caution of France. In conformity with this principle, an opinion has been given by three of the most eminent advocates of this country, who were consulted on the subject. It is also in strict conformity with the principles of natural law, and the venerable canons of common justice. It is in vain that reference is had to the letter of the existing treaty to suppose and insist on the contrary. That treaty can never receive an interpretation contradictory of those principles and the dictates of human reason.

The obligation of Spain cannot extend farther than to claiming of France, in behalf of the United States, and employing her best endeavors to obtain for them a settlement and satisfaction from that nation; which, however, is to be understood only in case the United States have not already been indemnified by France, as has been repeatedly declared by the French Government, or may have adjusted or abandoned that right by the treaty of 1800, and in subsequent conventions, as I have seen it stated in several public writings in this country.

Until I receive fresh orders, it is my duty to insist on the adoption of such measures by your Government as will promptly and effectually put a stop to the piracies which, for a series of years

have been carried on in various parts of this Union against the commerce of Spain. This system of plunder has been carried to a height unexampled in history; and the clamors of the reflecting part of the people of the United States denounce it to the whole world as a public calamity.

As to the exchange of the ratifications of the convention of 1802, I am ready to proceed to execute it with you, whenever you will be pleased to name a time for that purpose.

In the mean while, I renew to you the assurance of my distinguished consideration, and I pray God, &c.

LUIS DE ONIS.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, January 11, 1819.

SIR: I have just received a courier extraordinary of my Government; and, by the despatches he has brought me, I am authorized by His Majesty to give a greater extent to the proposals which I made to you for adjusting and terminating amicably all the subjects in dispute between the two Powers.

As the great difficulty which has hitherto opposed this desirable arrangement is the exact demarcation of the line which divides, or should divide, the dominions of the Crown of Spain from the territory of the United States westward of the Mississippi, and as you were pleased to state to me, in your note of the 30th September last, that the principal motive which induced the President to withdraw the proposals which you had made to me by his direction, was the want of instructions authorizing me to extend the boundary line to the Pacific ocean, I have the honor to inform you that His Majesty, although then unacquainted with the proposals made by you to me in your note of the 31st October, with a view to give an eminent proof of his sincere and generous friendship for this Republic, has been pleased to authorize me to settle this point and others embraced by former proposals. If the President should agree to your entering into an amicable arrangement of them, and also to modify on his part the proposals you have made to me, I do not doubt that, either by correspondence or in conference, we may speedily attain the desired object—the termination of this interesting affair. I flatter myself that the President, as well as the whole American people, cannot but fail to acknowledge, in this disposition of His Majesty, (before he had a knowledge of the exorbitant pretensions of your Government,) the good faith and generosity of his proceeding, and to admit that a measure at once so frank and so decided claims a correspondent feeling on the part of this Republic; the maintenance of perfect amity and good correspondence between the two Powers being obviously calculated to promote the best interests of both.

In the expectation of being soon favored with the decision of the President, I beg leave to renew to you the assurances of my high respect; and I pray God to preserve you many years.

*Don Luis de Onis to the Secretary of State.*

WASHINGTON, January 16, 1819.

SIR: In consequence of the wish expressed by you yesterday, in the interview to which you were pleased to invite me, that I would state the proposals for which I am authorized by the fresh instructions I have received by a special messenger from my Government, and relying on your assurances that, notwithstanding the proposals you had made to me, the President would take those into consideration which I might make anew for the purpose of settling amicably all pending differences, I have the honor to confirm to you those which I made in my note of the 16th of November last, and to add thereto that His Majesty will agree that the boundary line between the two States shall extend from the source of the Missouri, westward, to the Columbia river, and along the middle thereof to the Pacific ocean. If this basis should be accepted by the President, (as I trust it will, inasmuch as it presents the means of realizing his great plan of extending a navigation from the Pacific to the remotest points of the Northern States and of the ocean, and of enlarging the dominions of the Republic by the acquisition of both the Floridas,) I will have no hesitation in agreeing to an arrangement honorable and satisfactory to both nations, upon the point on which we differ, relating to the indemnity claimed for the injuries resulting from the occupation of the territories of the King by the forces of this Union.

I conceive that you, as well as the President and the whole American people, cannot but see, in this evidence of the spirit of conciliation by which His Catholic Majesty is actuated, a certain pledge of his desire to strengthen and cement the ties of friendship with this Republic; and I trust that the answer of the President will correspond with the sacrifices made by His Majesty, as well with a view to the prompt satisfaction of the citizens of the United States for whatever injuries they may have sustained, as to the complete removal of every cause of future disagreement between the two nations. But if, contrary to my expectations, this should not be the case, I shall feel a sincere regret in seeing this desirable arrangement protracted until His Majesty, on being made acquainted with the extraordinary pretensions of your Government by the despatches of which Don Luis Noeli, the secretary of this legation, was the bearer, may transmit to me such orders as he may deem expedient.

I renew to you the assurances of my distinguished consideration, and I pray God to preserve you many years.

LUIS DE ONIS.

*The Secretary of State to Don Luis de Onis.*

DEPARTMENT OF STATE,

Washington, January 29, 1819.

SIR: Your letter of the 16th instant has been submitted to the consideration of the President of the United States by whose directions I have the honor of informing you that the proposal to



draw the western boundary line between the United States and the Spanish territories on this continent, from the source of the Missouri to the Columbia river, cannot be admitted. I have to add, that, for the purpose of an immediate arrangement of affairs with Spain, this Government repeats the proposal contained in my letter to you of the 31st October last;\* and if you are not authorized to agree to it, we are willing to adjust the other subjects of difference, leaving that to be settled hereafter. But if your powers are incompetent to accept either of these offers, the President thinks it useless to pursue the discussion any further of subjects upon which there can be no hope entertained of concluding an agreement between us.

Be pleased to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

*Don Luis de Onís to the Secretary of State.*

WASHINGTON, February 1, 1819.

SIR: I have received your note of the 29th January, in which you are pleased to state to me, that, having laid before the President my note of the 16th, he has directed you to inform me that my proposal to fix the boundary between the two States, by a line from the source of the river Missouri to the Columbia, and along the course of the latter to the Pacific, is inadmissible; but that, with a view to an immediate arrangement of affairs with Spain, you repeat to me the proposal contained in your note of the 31st October last, and add, that, if I am not authorized to agree to it, we may adjust the other subjects of difference, leaving that to be settled hereafter.

My powers authorize me to adjust all such differences as His Majesty was apprized of at the date of my last despatches, which are the 4th November. The proposal referred to by you is of the 31st October preceding, and in all probability no answer to it can be expected before the middle or end of March. Taking into consideration, however, on the one hand, the earnest desire of His Catholic Majesty to terminate these matters before the rising of Congress, and thereby to avoid a further delay of a twelvemonth in settling the indemnities claimed by citizens of the Union, and, on the other, the probable anxiety of your Government to carry into execution the establishments contemplated in the Floridas, I am prepared to take upon myself the definitive settlement of the points in controversy, provided the President, animated by correspondent feelings, is willing to modify the proposals made to me, so as to render them consistent and compatible with the interests of both Powers.

I have proved to you, in the most satisfactory manner, that neither the Red river of Natchitoches nor the Columbia, ever formed the boundary of Louisiana; but, as you have intimated to me that it is useless to pursue the discussion any further, I acquiesce with you therein; and I agree that,

\* Communicated to Congress, 14th December, 1818.

keeping out of view the rights which either Power may have to the territory in dispute, we should confine ourselves to the settlement of those points which may be for the mutual interest and convenience of both.

Upon this view, therefore, of the subject, and considering that the motive for declining to admit my proposal of extending the boundary line from the Missouri to the Columbia, and along that river to the Pacific, appears to be the wish of the President to include within the limits of the Union all the branches and rivers emptying into the said river Columbia, I will adapt my proposals on this point so as fully to satisfy the demand of the United States, without losing sight of the essential object, namely, that the boundary line shall, as far as possible, be natural and clearly defined, and leave no room for dispute to the inhabitants on either side.

Having thus declared to you my readiness to meet the views of the United States in the essential point of their demand, I have to state to you that His Majesty is unable to agree to the admission of the Red river to its source, as proposed by you. This river rises within a few leagues of Santa Fe, the capital of New Mexico; and as I flatter myself the United States have no hostile intentions towards Spain, at the moment we are using all our efforts to strengthen the existing friendship between the two nations, it must be indifferent to them to accept the Arkansas instead of the Red river as the boundary. This opinion is strengthened by the well-known fact, that the intermediate space between those two rivers is so much impregnated with nitre as scarcely to be susceptible of improvement.

In consideration of these obvious reasons, I propose to you, that, drawing the boundary line from the Gulf of Mexico, by the river Sabine, as laid down by you, it shall follow the course of that river to its source; thence, by the ninety-fourth degree of longitude, to the Red river of Natchitoches, and along the same to the ninety-fifth degree; and crossing it at that point, to run by a line due north to the Arkansas, and along it to its source; thence, by a line due west, till it strikes the source of the river San Clemente, or Multnomah, in latitude 41°, and along that river to the Pacific ocean; the whole agreeably to Melish's map.

In case this basis, which not only approximates your proposals, but fulfils, in every essential point, the wishes you have stated to me, be admitted by the President, His Majesty, with a view to give the United States a more convincing proof of his generosity, and his desire to strengthen the bonds of amity with this Republic, consents to relinquish the claim of indemnity for the injuries sustained by his treasury in consequence of the invasion of the Floridas, reserving only to the inhabitants of the same their right to what may appear to be justly due to them for their losses by that event.

It is understood that the convention of 1802, lately ratified, is annulled as far as it relates to the indemnity for injuries and losses claimed by

the United States or their citizens of Spain; inasmuch as full compensation for the same is to be made to them from the sales of the lands in the two Floridas, and of the immense possessions westward of the Mississippi, ceded by His Majesty in virtue of that treaty; and that the United States, actuated by the most sincere desire to remove every cause of difference between the two nations in future, will take into consideration the necessity of establishing such regulations as, in their wisdom, they may deem most expedient to prevent the evasion of the laws of the Republic, to the injury of the commerce of the subjects of His Catholic Majesty.

I renew to you, sir, the assurances of my distinguished consideration, and I pray God to preserve you many years.

LUIS DE ONÍS.

HON. JOHN Q. ADAMS,  
Secretary of State.

*Project of an article describing the western boundary, communicated to Don Luis de Onís by the Secretary of State, February 6, 1819.*

ARTICLE.—It is agreed that the western boundary between the United States and the territories of Spain shall be as follows: Beginning at the mouth of the river Sabine, on the Gulf of Mexico; following the course of said river to the thirty-second degree of latitude, the eastern bank and all the islands in the river to belong to the United States, and the western bank to Spain; thence, due north, to the northernmost part of the thirty-third degree of north latitude, and until it strikes the Rio Roxo, or Red river; thence, following the course of said river, to the northernmost point of the bend, between longitude 101 and 102 degrees; thence, by the shortest line, to the southernmost point of the bend of the river Arkansas, between the same degrees of longitude 101 and 102; thence, following the course of the river Arkansas, to its source, in latitude 41 degrees north; thence, following the same parallel of latitude 41 degrees, to the South sea. The northern banks and all the islands in the said Red and Arkansas rivers, on the said boundary line, to belong to the United States, and their southern banks to Spain; the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818. But, if the source of the Arkansas river should fall south or north of latitude 41 degrees, then the line from the said source shall run due north or south, as the case may be, till it meets the said parallel of latitude, and thence, as aforesaid, to the South sea. And it is further agreed that no Spanish settlement shall be made on any part of the said Red or Arkansas rivers, nor on any of the waters flowing into the same, nor any east of the chain of Snow mountains between the latitudes 31 and 41 degrees, inclusively; and that the navigation of said rivers shall belong exclusively to the United States forever.

15th CON. 2d SESS.—67

*Project of a treaty delivered by Don Luis de Onís to the Secretary of State, February 9, 1819.*

[Translation sent by Don Luis de Onís.]

His Catholic Majesty and the United States of America, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevail between the two parties, have determined to settle and terminate all their differences and pretensions by a treaty, which shall designate with precision the limits of the one and the other, the settlement whereof will be productive of general advantage and reciprocal utility to both nations.

With this intention, His Catholic Majesty has appointed the most excellent Don Luis de Onís Gonzales y Vara, Lord of the town of Rayaces, perpetual regidor of the corporation of the city of Salamanca, knight grand cross of the royal American order of Isabella the Catholic, decorated with the lys of La Vendée, knight-pensioner of the royal and distinguished Spanish order of Charles the Third, member of the supreme assembly of the said royal order, of the council of His Catholic Majesty, his secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America; and the President of the United States, with the advice and consent of their Senate, has appointed Mr. John Quincy Adams, Secretary of State of the United States. And the Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE 1. There shall be a firm and inviolable peace and sincere friendship between His Catholic Majesty, his successors and subjects, and the United States and their citizens, without exception of persons or places.

ART. 2. His Catholic Majesty, desiring to give a distinguished proof of his friendship to the United States, cedes to them, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the names of East and West Florida, such as they were ceded to him by Great Britain in 1783, and with the limits by which they are designated in the treaty of limits and navigation concluded between Spain and the United States on the 27th October, 1795.

ART. 3. The adjacent islands dependent on said provinces, places, public squares, public edifices, fortifications, barracks, and other buildings which are not the property of some private individual, archives and documents which relate directly to the property and sovereignty of said provinces, are included in this article.

ART. 4. That at no time whatever there may be any dispute or mistake in the boundaries which shall separate in future the territories of His Catholic Majesty and those of the United States to the westward of the Mississippi, the two high contracting parties have agreed to fix them in the following manner: The boundary line between the two countries shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in



the sea, continuing north, along the middle of that river, to the thirty-second degree of latitude; thence, by a line due north, to the thirty-third degree of latitude, where it strikes the Rio Roxo of Natchitoches, (Red river,) following the course of the Rio Roxo, to the westward, to the hundredth degree of longitude, and thirty-three and one-fourth degree of latitude, where it crosses that river; thence, by a line due north, by the said one hundredth degree of longitude from London, according to Melish's map, till it enters the river Arkansas; thence, along the middle of the Arkansas, to the forty-second degree of latitude; thence, a line shall be drawn to the westward, by the same parallel of latitude, to the source of the river San Clemente, or Multnomah, following the course of that river to the forty-third degree of latitude; and thence, by a line due west, to the Pacific ocean. All the country belonging to His Catholic Majesty, included in the said line to the eastward, His Majesty cedes to the United States, in full property and sovereignty, forever; as also the islands in the rivers Sabine, Red river of Natchitoches, Arkansas, and Multnomah, that may be situated within the limits which are here pointed out: both parties to maintain the navigation of all of them free as respects the parts thereof which constitute their frontiers.

ART. 5. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line in conformity to what is above agreed upon and stipulated; they shall make out plans and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to these persons, and also as to their respective escorts, should such be deemed necessary.

ART. 6. The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject in either case to duties.

ART. 7. The inhabitants of the two provinces aforesaid, and those in all the territories which His Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States as soon as possible, agreeably to the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the other States.

ART. 8. The territories of the two Floridas, which, at the time of the delivery which is to be made of them to the United States, should be occupied by the troops or authorities of the Re-

public, shall be delivered to the commissioners which His Catholic Majesty or the Captain General of the Havana may send for that purpose, in order that the said territories may be delivered up in a regular manner to the commissioners or officers appointed by the United States to receive them.

ART. 9. All the grants of lands made by His Catholic Majesty, or by his legitimate authorities, in the aforesaid territories of the two Floridas, and others which His Majesty cedes to the United States, shall be confirmed and acknowledged as valid, excepting those grants which may have been made after the 24th of January of last year, the date that the first proposals were made for the cession of these provinces, which shall be held null, in consideration of the grantees not having complied with the conditions of the cession.

ART. 10. The two contracting parties, animated by the most sincere desire of conciliation, and with a view of eradicating all the dissensions which have existed between them, and to secure that good harmony which they desire perpetually to maintain with each other, reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective subjects and citizens, may have suffered until the time of signing this treaty.

The renunciation of the United States will extend—

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To all claims of prizes made by French privateers, and condemned by French Consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans.

4. And to all the claims of citizens of the United States upon the Government of Spain, in which the interposition of the Government of the United States may have been solicited before the date of this treaty, and since the date of the convention of 1802, and which may have been made to the Department of State of this Republic, or to the Minister of the United States in Spain.

The renunciation of His Catholic Majesty extends—

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, fitted out and equipped at New York.

4. To the revenue collected by the United States in the territories of Florida that have been occupied by their troops, and to the indemnities which His Catholic Majesty is entitled to for the injuries caused to his Royal Crown by those invasions.

Finally, to all claims of subjects of His Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic

Majesty's Government has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.

ART. 11. The convention entered into between the two Governments on the 11th August, 1802, ratifications of which were exchanged on the 21st December, 1818, is annulled in that part which relates to the payment of the injuries which the United States and their citizens claim; it being agreed between the two high contracting parties that these injuries shall be paid integrally by the United States from the proceeds of the public or crown lands of the two Floridas and other territories ceded by His Majesty in this treaty; so that both Governments consider all their claims, and those of their subjects and citizens, as cancelled from this date, excepting those claims which the citizens of the United States may have against Spanish individuals, or which the latter may have upon the citizens of this Republic.

ART. 12. The treaty of limits and navigation of 1795 remains confirmed in all and each one of its articles, excepting the second, third, fourth, twenty-first, and the second clause of the twenty-second article, which, having been altered by this treaty, are no longer valid.

With respect to the fifteenth article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this may be so understood with respect to those Powers who recognise this principle; but, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Government acknowledge this principle, and not of others.

ART. 13. In order to avoid frauds, and the great evils which arise from concealing the destination of vessels by clearing out, in general terms, for the West Indies, Spanish main, Europe, &c., the two high contracting parties have agreed that, in future, all merchant vessels belonging to their respective subjects or citizens shall be cleared out for a special port, either at their respective custom-houses or in those of other Powers, from whose ports said vessels may depart in continuation of their primitive voyage, or in case they should undertake a new one; and the merchant vessels of either of the two nations that, in violation of their clearances, should enter other ports, without justifying the motives which induced them to it, or should be met with on the high seas by their vessels of war or privateers cleared out in violation of this article, shall be detained, proceeded against, and, upon conviction, forfeited.

ART. 14. In case there shall be just cause to suspect the character of the vessels, or which should not be cleared out for a specified port, as is stipulated in the preceding article, or that the cargo belongs to enemies of either of the con-

tracting parties whose Governments do not recognise the principle that the flag covers the property, or which shall consist of articles contraband of war, such vessels may be detained and sent to the nearest and most convenient port to which the ship of war or privateer that may have detained such a vessel belongs, where she shall be adjudged agreeably to the law of nations, and the practice established by other maritime Powers. And it is agreed that adjudication shall be had with the least delay possible; and if it shall be proved that the detention or capture was unjust, it shall not only be the duty of the tribunal where the case was tried to release the vessel and cargo, but it shall decide the corresponding indemnity for the damages and injuries that may have been sustained, to be paid by the captors, and, in their defect, by the Government by whom they shall be commissioned.

ART. 15. Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other shall be arrested and delivered up at the instance of the Consul, who shall prove, nevertheless, that the deserters belong to the vessels that claim them, exhibiting the document that is customary in their nation; that is to say, that the Spanish Consul in an American port shall exhibit the roll of the vessel, and the American Consul in a Spanish port the document known by the name of *articles*; and if the name of the deserter or deserters who are claimed shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel which they shall belong.

ART. 16. His Catholic Majesty having condescended to make the cessions to the United States which are specified in the present treaty, in compliment to the United States, with the object of cancelling all the claims they have demanded of the Royal Crown, the United States will certify, in due form, that they have not received any compensation from France for the injuries they suffered from her privateers, Consuls, and tribunals, on the coasts and in the ports of Spain; and they will present an authentic statement of the prizes made, and of their true value, that Spain may claim from France the return of this amount.

ART. 17. It being mutually advantageous to the commerce of Spain and of the United States to facilitate the communication between both nations for a limited time in the territories ceded by this treaty, until they can agree upon the regulations relating to commerce which may be best adapted to favor the same, the two high contracting parties agree that Spanish vessels which may arrive loaded solely with the produce or manufactures of Spain, directly from the ports or colonies, shall be admitted into all the ports of the two Floridas that may be lawfully open to the trade of other nations, for the space of twelve years, without paying more duties for their produce or merchandise, or greater ton-



*Relations with Spain.*

nage duty, than what are paid by vessels of the United States.

During said time no other nation shall be entitled to the same privileges in the ceded territories. The twelve years shall begin three months after exchanging the ratifications of the present treaty; at the expiration of said time, Spanish vessels shall be received in said territories on the same footing as the most favored nations.

ART. 9. The present treaty shall not be in force until ratified in due form by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, we, the undersigned Plenipotentiaries of His Catholic Majesty and of the United States of America, have signed, by virtue of our powers, the present treaty of friendship and limits, and have thereunto affixed our seals, respectively.

Done at Washington, this — day of February, 1819.

*Counter-projet of a treaty, communicated by Mr. Adams to Don Luis de Onís the 12th of February, 1819.*

The United States of America and His Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevail between the two parties, have determined to settle and terminate all their differences and pretensions, by a treaty, which shall designate with precision the limits of their respective bordering territories in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said United States; and His Catholic Majesty has appointed the most excellent Lord Don Luis de Onís, Gonzales Lopez y Vara, Lord of the town of Rayces, perpetual regidor of the corporation of the city of Salamanca, knight grand cross of the royal American order of Isabella the Catholic, decorated with the lys of La Vendée, knight-pensioner of the royal and distinguished Spanish order of Charles the Third, member of the Supreme Assembly of the said royal order, of the council of His Catholic Majesty, his Secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE 1. There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens, and His Catholic Majesty, his successors and subjects, without exception of persons or places.

ART. 2. His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the names of East and West Florida. The adjacent islands, dependent on said provinces, all public

lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissioners or officers of the United States duly authorized to receive them.

ART. 3. The boundary line between the two countries, west of the Mississippi, shall begin on the Gulf of Mexico at the mouth of the river Sabine, in the sea; continuing north, along the western bank of that river, to the thirty-second degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or Red river; thence, following the course of the Rio Roxo westward, to the degree of longitude one hundred and two degrees west from London, and twenty-five degrees from Washington; then, crossing the said Red river, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude forty-one degrees north; and thence, by the parallel of latitude, to the South sea: the whole being as laid down in Melish's map of the United States, published in Philadelphia, improved to the 1st of January, 1818. But, if the source of the Arkansas river should be found to fall north or south of latitude forty-one degrees, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude forty-one degrees; and thence, along the said parallel, to the South sea; the Sabine and the said Red and Arkansas rivers, and all the islands in the same, throughout the course thus described, to belong to the United States; and the western bank of the Sabine, and the southern banks of the said Red and Arkansas rivers, throughout the line thus described, to belong to Spain. And the United States hereby cede to His Catholic Majesty all their rights, claims, and pretensions to the territories lying west and south of the above described line; and His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line, and, for himself, his heirs, and successors, renounces all claim to the said territories forever.

ART. 4. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet, before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line from the mouth of the Sabine to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated; they shall make out plans and keep journals of their proceedings, and the result agreed upon by

*Relations with Spain.*

them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ART. 5. The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject, in either cases, to duties.

ART. 6. The inhabitants of the territories which His Catholic Majesty cedes to the United States by this treaty shall be incorporated into the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

ART. 7. The officers and troops of His Catholic Majesty in the territories hereby ceded by him to the United States shall be withdrawn, and possession of the places occupied by them shall be given, within six months after the ratification of this treaty, or sooner if possible, by the officers of His Catholic Majesty, to the commissioners or officers of the United States duly appointed to receive them.

ART. 8. All grants of land made by or in the name of His Catholic Majesty in the aforesaid territories, after the 24th of January, 1818, shall be held null, the conditions of the said grants not having been performed by the grantees. All grants made before that date by His Catholic Majesty, or by his legitimate authorities, in the said territories, the conditions of which shall have been performed by the grantees according to the tenor of the respective grants, and none other, shall be confirmed and acknowledged as valid.

ART. 9. The two contracting parties reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered, until the time of signing this treaty.

The renunciation of the United States will extend—

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French Consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans in 1802.

4. To all claims of citizens of the United States upon the Government of Spain, arising from the unlawful seizures at sea, and from the unlawful seizure of vessels or cargoes belonging to citizens of the United States in the ports and territories of Spain or the Spanish colonies.

The renunciation of His Catholic Majesty extends—

1. To all the injuries mentioned in the convention of the 11th August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.

Finally, to all the claims of subjects of His Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic Majesty's Government has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.

And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

ART. 10. The convention entered into between the two Governments on the 11th August, 1802, the ratifications of which were exchanged on the 21st December, 1818, is annulled.

ART. 11. The United States, exonerating Spain from all demands in future on account of the claims of their citizens to which the renunciations herein contained extend, undertake to make satisfaction for the same to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of these claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate; which commission shall meet at the city of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings; for the faithful and diligent discharge of their duties; and, in case of the death, sickness, or necessary absence of any such commissioner, his place may be supplied by the appointment as aforesaid, or by the President of the United States during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same; and the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of 27th October, 1795; the said documents to be specified when demanded at the instance of the said commissioners.

The payment of such claims as may be admitted and adjusted by the said commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the



## Relations with Spain.

United States, either immediately at their Treasury, or by the creation of stock bearing an interest of six per centum per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said commissioners, together with vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States, and copies of them, or any part of them, shall be furnished to the Spanish Government, if required, at the demand of the Spanish Minister in the United States.

ART. 13. The treaty of limits and navigation of 1795 remains confirmed in all and each one of its articles, excepting the second, third, fourth, twenty-first, and the second clause of the twenty-second article; which, having been altered by this treaty, or having received their entire execution, are no longer valid.

With respect to the fifteenth article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this shall be so understood with respect to those Powers who recognise this principle. But, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

ART. 14. Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their re-

spective merchant vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other shall be arrested and delivered up at the instance of the Consul, who shall prove, nevertheless, that the deserters belong to the vessels that claim them, exhibiting the document that is customary in their nation; that is to say, the American Consul in a Spanish port shall exhibit the document known by the name of *artículo*, and the Spanish Consul in an American port the roll of the vessel; and if the name of the deserter or deserters who are claimed shall appear in the one or the other, they shall be arrested, held in custody, and be delivered to the vessel to which they shall belong.

ART. 14. The United States hereby certify that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same, in such manner as she may deem just and proper.

ART. 15. The present treaty shall be ratified, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, the underwritten Plenipotentiaries of the United States of America and of His Catholic Majesty have signed, by virtue of their powers, the present treaty of amity, settlement, and limits, and have thereunto affixed their seals, respectively.

Done at Washington, this — day of February, 1819.

† Paper received by the Secretary of State from Mr. Hyde de Neuville, 16th February, 1819.

Remarks of the Chevalier de Onis.

Remarks of the Secretary of State.

ART. 1. Agreed to.\*

ART. 2. Requires a more explicit explanation.\*

ART. 3. The Chevalier de Onis requires that the boundary between the two countries shall be the middle of the rivers, and that the navigation of the said rivers shall be common to both nations.

The Secretary of State maintains that the United States have always intended that the property of the river should belong to them. He insists on this point, as an essential condition, as the means of avoiding all collision, and as a prin-

† Mr. De Onis being at this time confined by indisposition, at his request Mr. Hyde de Neuville had a personal interview with the Secretary of State on the 15th of February, at which there was a full and free discussion of the projet of Mr. De Onis, delivered February 9th, and of the counter-projet communicated by him to Mr. De Onis, February 13th. Immediately after this interview, Mr. De Neuville reduced to writing this paper, in which are noted the objections of Mr. De Onis to parts of the counter-projet, the replies to those objections by the Secretary of State, and the points to which both parties were agreed. He sent a copy of the paper the next morning to the Secretary of State, and another copy to Mr. De Onis. Being intended merely as a private minute, that both parties might be satisfied of the correctness in which their respective remarks were stated, it was drawn up partly in French, and partly in our own language. The passages here marked with asterisks are in English in the original paper. The rest is translated.

The minutes upon the eighth article, compared with the draught in the projet of Mr. De Onis, with that of the counter-projet by the Secretary of State, and with the article as finally expressed in the treaty, fully elucidate the understanding of the parties that the grants of land dated before, as well as after the 24th January, 1818, were annulled, excepting those upon which settlements had been commenced, the completion of which had been prevented by the circumstances of Spain, and the recent revolutions in Europe.

## Relations with Spain.

ciple adopted henceforth by the Union in its treaties with its neighbors. He agrees, however, that the navigation of the said rivers to the sea shall be common to both people. The Secretary of State conceives that in this clause there is nothing humiliating to Spain, as seemed to be thought; since it is not intended to impose on her an onerous stipulation, but to fix a territorial limit, which, in fact, might be extended beyond the rivers mentioned. He considers this clause as indispensable, and as eminently calculated to preserve a good understanding between the two people.

Agreed.

The Minister of Spain agrees to the one hundredth degree of longitude, and to remove all difficulties, to admit the forty-second instead of the forty-third degree of latitude, from the Arkansas to the Pacific ocean.

ART. 4. Agreed, as proposed by the Secretary of State.

ART. 5. Agreed.

ART. 6. Agreed.

ART. 7. Agreed, with the addition that the United States shall furnish transports and the necessary escort for conveying the aforesaid troops of His Catholic Majesty, and their baggage, to the Havana.\*

ART. 8. This article cannot be varied from what is contained in the Chevalier's projet, as the object of the last clause therein is merely to save the honor and dignity of the sovereignty of His Catholic Majesty.\*

Agreed.

Agreed, with the following explanation: that all grants of land which shall not be annulled by this convention are valid to the same extent as they are binding on His Catholic Majesty.\*

REMARKS.—The Secretary of State observed to me that the Federal Government would most assuredly never entertain the idea of disturbing individuals who were vested with a *bona fide* title to their property; but, as a treaty ought not to cover fraudulent practices, so no more could be asked of the United States than could be offered by His Catholic Majesty; that, being in this case substituted for His Majesty, they would scrupulously fulfil their engagements; but that more could not be expected of them.

The Secretary of State even proposes, if Mr. De Onis wishes it, that the article shall be inserted in the treaty, as proposed by the Minister of Spain, on condition that the above explanation shall be given in the form of a note. The Federal Government, unwilling to leave anything in a state of doubt or uncertainty, only wishes to place on the most secure footing whatever is just and honorable, and is, at the same time, perfectly satisfied that His Catholic Majesty neither asks nor wishes more.

ART. 9. Mr. De Onis requires that the article should run thus:

"To all claims of citizens of the United States upon the Government of Spain arising from [un] lawful seizures at sea, and in the ports or territories of His Catholic Majesty in Spain or in his colonies."\*

Agreed.\*

And the high contracting parties respectively renounce all claims to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.\*

To the above claim Mr. De Onis adds that the United States will satisfy all the just claims which the inhabitants and Spanish officers of the Floridas may have upon them in consequence of the damages they may have sustained by the operations and proceedings of the American army, as is customary with the citizens of the United States under similar circumstances.\*

Agreed.\*

ART. 10. Agreed, as it is proposed by the Secretary of State.\*

Agreed.\*



*Relations with Spain.*

ART. 11. The Chevalier desires that the stipulation of five millions of dollars contained in this article may be stricken out, for he is aware that the territories ceded are sufficient to pay triple that sum; and, by agreeing to that stipulation, it would appear that Spain, in consideration only of the said amount, has ceded the two Floridas and other territories, when she would not have ceded them for twenty millions were it not her desire to arrange and terminate all differences with the United States.

The remaining parts of this article are agreed to.\*

ARTS. 12, 13, 14, and 15. Agreed.\*

ART. 16.

REMARKS.—This article, which I have not before me, is I believe, that in which Mr. De Onis requires that American vessels shall only receive clearances for a specified port. It appears that this article cannot be assented to by the Federal Government, and is, therefore, as observed by Mr. Adams, wholly inadmissible in the present treaty.

ART. 17. Mr. De Onis requires that Spanish vessels shall be admitted for twelve years into all the ports of the ceded territories upon the same footing as the vessels of the United States.

2. That no nation shall enjoy the like privilege during the said term of twelve years.

3. That, at the expiration of the said term, Spanish vessels shall be received in said territories on the same footing as the most favored nations.

N. B. It is agreed by both parties that the articles stipulating the cession of the Floridas shall be so framed as to cover the honor of both countries, and prove that the treaty is an amicable transaction, divested of all mental reservations, disguise, or recrimination.

The writer of these hasty notes believes that he perfectly comprehended, and has faithfully stated, the conversation he had this morning with the Secretary of State.

He will be equally attentive in stating to-morrow the answer of the Minister of Spain. He flatters himself that all obstacles are nearly removed, and he deems it no small satisfaction in having been invited, by the confidence manifested in him by both parties, to co-operate, however feebly, in an event which cannot fail to have a powerful influence on the peace and happiness of both hemispheres.

WASHINGTON, February 15, 1819.

Mr. De Neuville to the Secretary of State.

WASHINGTON, February 16, 1819.

Mr. De Neuville has the honor to present his respects to Mr. Adams, and to enclose the statement hastily drawn up by him yesterday evening. Mr. De Neuville believes he has omitted nothing of what Mr. Adams did him the honor to communicate to him. He will see Mr. De Onis to-day at one o'clock, and afterwards, that is, between two and three, he will call at the office of the Department, and hand to Mr. Adams the projet sent by him to Mr. De Onis. Mr. De N. hopes that Mr. De Onis will remove the remaining unimportant difficulties, for which nothing on the part of Mr. De N. will be omitted. He avails himself with pleasure of this occasion to offer to Mr. Adams the renewed assurances of his high consideration.

The Secretary of State does not appear to find a positive objection to agreeing to the alteration required. However, as he conceives this article to be more important to the United States than to Spain, he will examine the question, and see whether the request of the Minister of Spain may or may not be agreed to.

Agreed.\*

Agreed, as to the ports of St. Augustine and Pensacola.

Agreed.

Refused.

G. H. DE N.

JAMES MONROE, President of the United States of America, to all whom these presents shall concern, Greeting:

Know ye, that I have given and granted, and do hereby give and grant, to John Quincy Adams, Secretary of State of the United States, full power and authority, and also a general and special command, to meet and confer with the Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty residing in the United States, being furnished with the like full powers of and concerning the limits between the territories of the United States and those of his said Catholic Majesty in North America, and any mutual cessions of part of the same; of and concerning all matters of difference between the said United States and His Catholic Majesty, and concerning the relations of navigation and commerce

\* The passages marked thus (\*) are in English in the paper received from Mr. De Neuville.

*Relations with Spain.*

between the said United States and His Catholic Majesty; and to conclude a treaty touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate thereof, if such advice and consent be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand at the City of [L. S.] Washington, the sixteenth day of February, A. D. 1819, and of the independence of the United States the forty-third.

JAMES MONROE.

By the President:

JOHN Q. ADAMS,  
Secretary of State.

Full power of the King of Spain to Don Luis de Onís.

Don Ferdinand, by the grace of God, King, &c., &c., &c., desiring to consolidate the friendship and good understanding which happily prevail between my kingdoms and the United States of America, through the mutual interests existing between the two Governments, and reposing full confidence in you, Don Luis de Onís, Knight of the royal and distinguished order of Charles III., and my Minister Plenipotentiary to the United States of America, by reason of your fidelity, distinguished zeal, and approved capacity, in the arduous concerns committed to you, have granted, and by these presents do grant, to you full power, in the most ample form, to treat, of yourself, and without other intermediate authority, with such person or persons as may be authorized by the President of the United States, and on the principles of the most perfect equality and fitness, to conclude and sign a treaty of amity, whereby past differences may be adjusted, and a firm and lasting peace established between the two Governments; obliging ourselves, as we do hereby oblige ourselves and promise, on the faith and word of a King, to approve, ratify, and fulfil, and to cause to be inviolably observed and fulfilled, whatsoever may be stipulated and signed by you; to which intent and purpose I grant you all authority and full power, in the most ample form, thereby and of right required.

In faith whereof, we have given command to issue the present, signed with our royal hand, sealed with our privy seal, and countersigned by our underwritten first Secretary of State, and of universal despatch.

Given at Madrid, the 10th day of September, 1816.

[L. S.]

FERDINAND.  
PEDRO CEVALLOS.

Treaty of Amity, Settlement, and Limits, between the United States of America and His Catholic Majesty.

The United States of America and His Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevail between the two

parties, have determined to settle and terminate all their differences and pretensions by a treaty, which shall designate, with precision, the limits of their respective bordering territories in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said United States, and His Catholic Majesty has appointed the most excellent Lord Don Luis de Onís Gonzales Lopez y Vara, Lord of the town of Rayaces, perpetual regidor of the corporation of the city of Salamanca, Knight grand cross of the royal American order of Isabella, the Catholic, decorated with the lys of La Vendée, knight-pensioner of the royal and distinguished order of Charles III., member of the supreme assembly of the said royal order, of the council of His Catholic Majesty, his secretary, with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE 1. There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens, and His Catholic Majesty and subjects, without exception of persons or places.

ART. 2. His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the names of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, archives, and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissioners or officers of the United States duly authorized to receive them.

ART. 3. The boundary line between the two countries west of the Mississippi, shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in the sea; continuing north, along the western bank of that river, to the thirty-second degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or Red river; then, following the course of the Rio Roxo, westward, to the degree of longitude one hundred west from London, and twenty-three from Washington; then, crossing the said Red river, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas to its source, in latitude forty-two degrees north; and thence, by that parallel of latitude, to the South sea; the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the 1st of January, 1818. But if the source of the Arkansas river shall be found to fall north or south of lati-



tude forty-two degrees, then the line shall run from the said source, due south or north, as the case may be, till it meets the said parallel of latitude of forty-two degrees; and thence, along the said parallel, to the South sea; all the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations. The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line, that is to say: The United States hereby cede to His Catholic Majesty, and renounce forever, all the rights, claims, and pretensions, to the territories lying west and south of the above described line; and, in like manner, His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line, and, for himself, his heirs, and successors, renounces all claim to the said territories forever.

ART. 4. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet, before the termination of one year from the date of the ratification of the treaty, at Natchitoches, on Red river, and proceed to run and mark the said line, from the mouth of the Sabine to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated, and the line of latitude forty-two degrees, to the South sea; they shall make out plans and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also to their respective escorts, should such be deemed necessary.

ART. 5. The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject, in either case, to duties.

ART. 6. The inhabitants of the territories which His Catholic Majesty cedes to the United States by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States.

ART. 7. The officers and troops of His Catholic Majesty in the territories hereby ceded by him to the United States shall be withdrawn, and

possession of the places occupied by them shall be given within six months after the exchange of the ratifications of this treaty, or sooner if possible, by the officers of His Catholic Majesty, to the commissioners or officers of the United States duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops and their baggage to the Havana.

ART. 8. All the grants of land made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities, in the said territories ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty. But the owners in possession of such lands, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited for the same, respectively, from the date of this treaty; in default of which the said grants shall be null and void. All grants made since the 24th day of January, 1818, when the first proposal, on the part of His Catholic Majesty, for the cession of the Floridas was made, are hereby declared and agreed to be null and void.

ART. 9. The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish forever to be maintained between them, reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered, until the time of signing this treaty.

The renunciation of the United States will extend—

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French consuls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans, in 1802.

4. To all claims of citizens of the United States upon the Government of Spain, arising from the unlawful seizures at sea, and in the ports and territories of Spain or the Spanish colonies.

5. To all claims of citizens of the United States upon the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the Minister of the United States in Spain, since the date of the convention of 1802, and until the signature of this treaty.

The renunciation of His Catholic Majesty extends—

1. To all the injuries mentioned in the convention of the 11th of August, 1802.

2. To the sums which His Catholic Majesty advanced for the return of Captain Pike from the Provincias Internas.

3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.

4. To all claims of Spanish subjects upon the Government of the United States, arising from unlawful seizures at sea, or within the ports and territorial jurisdiction of the United States.

Finally to all the claims of subjects of His Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic Majesty's Government has been solicited before the date of this treaty, and since the date of the convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the United States.

And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers, and individual Spanish inhabitants, by the late operations of the American army in Florida.

ART. 10. The convention entered into between the two Governments on the 11th of August, 1802, the ratifications of which were exchanged the 21st December, 1818, is annulled.

ART. 11. The United States, exonerating Spain from all demands in future, on account of the claims of their citizens, to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate; which commission shall meet at the City of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and in case of the death, sickness, or necessary absence of any such commissioner, his place may be supplied by the appointment as aforesaid, or by the President of the United States during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorized to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish Government shall furnish all such documents and elucidations

as may be in their possession, for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties, of 27th October, 1795; the said documents to be specified when demanded at the instance of the said commissioners.

The payment of such claims as may be admitted and adjusted by the said commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the United States, either immediately at their Treasury, or by the creation of stock bearing an interest of six per cent. per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them, or any part of them, shall be furnished to the Spanish Government, if required, at the demand of the Spanish Minister in the United States.

ART. 12. The treaty of limits and navigation of 1795 remains confirmed in all and each one of its articles, excepting the second, third, fourth, and twenty-first, and the second clause of the twenty-second article, which, having been altered by this treaty, or having received their entire execution, are no longer valid.

With respect to the fifteenth article of the same treaty of friendship, limits, and navigation, of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree that this shall be so understood with respect to those Powers who recognise this principle; but, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Government acknowledges this principle, and not of others.

ART. 13. Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed that the sailors who shall desert from their vessels in the ports of the other shall be arrested and delivered up, at the instance of the consul, who shall prove, nevertheless, that the deserters belonged to the vessels that claimed them, exhibiting the document that is customary in their nation; that is to say, the American Consul in a Spanish port shall exhibit the document known by the name of *articles*, and the Spanish Consul in American ports the roll of the vessel; and if the name of the deserter or deserters, who are claimed, shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

ART. 14. The United States hereby certify that they have not received any compensation from



*Defeat of the Seminole Indians, &c.*

France; for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain may avail herself of the same in such manner as she may deem just and proper.

ART. 15. The United States, to give His Catholic Majesty a proof of their desire to cement the relations of amity subsisting between the two nations, and to favor the commerce of the subjects of His Catholic Majesty, agree that Spanish vessels, coming laden only with productions of Spanish growth or manufactures, directly from the ports of Spain or of her colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Florida, without paying other or higher duties on their cargoes, or of tonnage, than will be paid by the vessels of the United States. During the said term, no other nation shall enjoy the same privileges within the ceded territories. The twelve years shall commence three months after the exchange of the ratifications of this treaty.

ART. 16. The present treaty shall be ratified, in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In witness whereof, we, the undersigned Plenipotentiaries of the United States of America and of His Catholic Majesty, have signed, by virtue of our powers, the present treaty of amity, settlement, and limits, and have thereunto affixed our seals, respectively. Done at Washington, this twenty-second day of February, one thousand eight hundred and nineteen.

JOHN QUINCY ADAMS. [SEAL.]  
LUIS DE ONIS. [SEAL.]

*Resolution of the Senate advising ratification.*

IN SENATE OF THE UNITED STATES,  
February 24, 1819.

Resolved, (two-thirds of the Senators present concurring therein,) That the Senate do advise and consent to the ratification of the treaty of amity, settlement, and limits, made and concluded at Washington, on the 22d day of February, 1819, between the United States and His Catholic Majesty.

Attest: CHARLES CUTTS,  
Secretary.

*Ratification by the President of the United States.*

JAMES MONROE, President of the United States of America: To all, and singular, who shall see these presents, greeting:

Whereas a treaty of amity, settlement, and limits, between the United States of America and His Catholic Majesty, was concluded and signed between their plenipotentiaries in this city, on the twenty-second day of the present month of February, which treaty is word for word as

follows: [Here follows the treaty, as before.] And whereas the Senate of the United States, by their resolution of the twenty-fourth day of the same month, (two-thirds of the Senators then present concurring,) did advise and consent to the ratification of the said treaty:

Now, therefore, I, James Monroe, President of the United States of America, having seen and considered the treaty above recited, do, in pursuance of the aforesaid advice and consent of the Senate of the United States, by these presents accept, ratify, and confirm the said treaty, and every clause and article thereof, as the same are hereinbefore set forth.

In faith whereof, I have caused the seal of the United States to be hereto affixed. Given under my hand, at the City of Washington, [L. S.] this twenty-fifth day of February, in the year of our Lord, one thousand eight hundred and nineteen, and of the independence of the said States the forty-third.

JAMES MONROE.

DEFEAT OF THE SEMINOLE INDIANS—  
CAPTURE OF SPANISH POSTS IN FLORIDA—ARBUTHNOT AND AMBRISTER.

[Communicated to Congress, by the President of the United States, with his opening Message of the 17th of November, 1818.]

Extract of a letter from R. Sands, commanding Fort Gaines, to the officer of Fort Hawkins, dated

FEBRUARY 2, 1817.

When the Colonel, with the troops, left Fort Scott, he gave the buildings in charge of one of the Perrymans, from whom I have just received a letter, handed me by his brother, who arrived here after I had commenced writing this.

Perryman states in his letter that the Red Sticks, (or hostiles,) after we had left the fort, came in companies, and carried off everything we had left with him, and what he had purchased of Butler, burnt three houses, and threatened, if he did not leave the place, to burn it over his head. He got what few articles he could, with his family, in a canoe, and came to his brother's, who informs me that there is at present about three hundred Indians imbodyed at the Forks, and others constantly joining them. He does not know their intentions, but understood a party was going out to steal horses, &c.

This morning, (3d,) one of the settlers waited on me to advise in what manner to act, as eight or ten Indians had been at his house, and ordered him off; telling him that in six days they would come back, and, if he was not gone, they would drive him away.

Extract of a letter from the Governor of Georgia to General Gaines, dated

MILLEDGEVILLE, February 5, 1817.

You, no doubt, have already been informed that the notorious Woodbine has recently made

*Defeat of the Seminole Indians, &c.*

his appearance again at the mouth of the Appalachicola, and that he has an agent now among the Seminole Indians and negroes in that quarter, stirring them up to acts of hostility against this country; and that Woodbine himself has gone in an armed vessel to some part of the West Indies for supplies. Connected with this fact is another, which may serve as an intimation of the future conduct of these people, when once in possession of the supplies which it is said they expect on the return of Woodbine. About ten or twelve days ago, a small party of those Indians entered the frontier of Wayne county, and stole two horses and some cattle. They were pursued by some of the inhabitants, who peaceably demanded a restoration of the stolen property; and, instead of a compliance on the part of the Indians, they immediately fired upon the whites, who retired without returning a shot. One of the whites was mortally wounded.

Copy of a letter from General Gaines to the Governor of Georgia, dated

MILLEDGEVILLE, February 5, 1817.

I have the honor to acknowledge the receipt of your excellency's letter of this date.

The facts which you have been pleased to communicate, in relation to the late hostile conduct of the Seminole Indians, must and shall receive my immediate and particular attention. I am not authorized to change the destination of the 4th infantry, but, should I receive no authority to recall a part of that corps, I shall order one or two companies of artillery (to do duty as infantry) from Charleston to the southern frontier of this State, with instructions to check Indian hostilities, and at the same time to remove from Indian land such intruders as may remain, after being duly notified to remove.

Extract of a letter from George Perryman to Lieutenant Sands, dated

FEBRUARY 24, 1817.

The charge given me by Colonel Clinch and yourself, and other officers of the United States, induces me to believe there is a confidence placed in me which I ought not to deceive. I therefore think it my duty, as well as my inclination, to give you the following information:

There was a friend of mine not long since in the Fowltown, on Flint, and he saw many horses, cattle, and hogs, that had come immediately from the State of Georgia, and they are bringing them away continually. They speak in the most contemptuous manner of the Americans, and threaten to have satisfaction for what has been done—meaning the destruction of the negro fort. There is another of my acquaintances returned immediately from the Seminole towns, and saw the negroes on parade there. He counted about six hundred that bore arms. They have chosen officers of every description, and endeavor to keep up a regular discipline, and are very strict in punishing violators of their military rules. There is

said to be about the same number of Indians belonging to their party, and there are both negroes and Indians daily going to their standard. They say they are in complete fix for fighting, and wish an engagement with the Americans, or McIntosh's troops; they would let them know they had something more to do than they had at Appalachicola. They have chosen Bowlegs for their head, and nominated him King, and pay him all kind of monarchical respect, almost to idolatry, keeping a picket guard at the distance of five miles. They have a number of the likeliest American horses; but there are one or two chiefs who are not of the choir. Kenhijah, the Missioukey chief, is one that is an exception.

Copy of a letter from Archibald Clarke, Intendant, St. Mary's, Georgia, to General Gaines, dated

FEBRUARY 26, 1817.

SIR: In consequence of a recent and most obnoxious act perpetrated by a party of Indians, (supposed to be of the Lower Creeks,) in this county, in the murder of an unfortunate white woman and her two infant children, by which the defenceless inhabitants on our frontier have been thrown into a distressing state of alarm, I avail myself of the earliest opportunity in giving information that may be relied on, under the fullest assurance that immediate measures will be adopted to guard and prevent a repetition of such cruel and barbarous acts.

On the 24th instant, the house of a Mr. Garret, residing in the upper part of this county, near the boundary of Wayne county, was attacked during his absence, near the middle of the day, by this party, consisting of about fifteen, who shot Mrs. Garret in two places, and then despatched her by stabbing and scalping. Her two children (one about three years, the other two months) were also murdered, and the eldest scalped. The house was then plundered of every article of value, and set on fire. A young man in this neighborhood, hearing the report of guns, went immediately towards the house, where he discovered the murdered family. The flames having only commenced, they were extinguished, and he spread the alarm. The workmen from my mills and a few others assembled to pursue; but, having but few arms, and not otherwise equipped, their pursuit proved fruitless. The Indians were attacked as far as the men dared venture. Their course was parallel with the western branch of Spanish creek, which induces the belief of their being Indians of the lower tribes.

On this open, extensive, and entirely unprotected frontier, the poor and innocent inhabitants have ever been exposed to these calamities. Representation after representation to the several Governors of this State, of cruel and unprovoked murders in this quarter by the Indians, have been made. A momentary disposition was manifested to afford relief; but a little time, however, would elapse before the alarm would subside, and the subject never more thought of, until again revived by an occurrence such as I have just related.



*Defeat of the Seminole Indians, &c.*

To you, sir, therefore, the inhabitants on the frontier, as well as others, through me, appeal for some protection. A small detachment of troops upon the head of the St. Mary's would answer a most valuable purpose, by at once checking the inroads of the savages, and preventing our abandoned and unprotected citizens from adventuring into the Indian country, and driving in herds of cattle.

*Copy of a letter from R. Arbuthnot to the officer commanding at Fort Gaines, dated*

OKOLOKNE SOUND, March 3, 1817.

SIR: I am desired by Peter McQueen, an unfortunate Indian chief, who was some years since obliged to fly from the town of Tucky Batche, on the Tallapoohatch river, to claim of your friendship the delivery of a negro man named Joe, (taken away from him since the peace,) whom he stated to be in Fort Gaines. When McQueen left Tucky Batche, his property was considerable, both in negroes and cattle; of the former, ten grown negroes were taken by a half-breed man named Barney, nine of which, he learns, were sold, and one (a girl) is still in possession of said Barney. Twenty able negroes were taken by a chief named Colonel, or Auchi Hache, who acts also as an interpreter; and as he never had possession of any of those persons' property, nor ever did them an injury to his knowledge, he claims, as a further proof of your friendship, that you will use your influence in procuring those negroes for him; and, should they be given up by the persons holding them, there is one faithful negro among them, named Charles, who will bring them to him at Okolokne river.

The American headmen and officers that were accustomed to live near him can testify to his civility and good fellowship with them, and there are none of them, he is convinced, that would not serve him if in their power. As he owes nothing, nor ever took any person's property, none have a right to retain him; and he hopes that, through your influence, those persons now holding his negroes will be induced to give them up.

While I am thus advocating the cause of an unfortunate individual, allow me to claim an extension of your philanthropy to all the Indians within your circle, by your representing to them the folly of their quarrels, and that they ought to live quietly and peaceably with each other.

The Lower Creeks seem to wish to live peaceably and quietly, and in good friendship with the others; but there are some designing and evil-minded persons, self-interested, who are endeavoring to create quarrels between the Upper and Lower Creek Indians, contrary to their interest, their happiness, and welfare. Such people belong to no nation, and ought not to be countenanced by any Government.

The head chiefs request I will inquire of you why American settlers are descending the Chatahoochee, driving the poor Indian from his habitation, and taking possession of his home and cultivated fields?

Without authority, I can claim nothing of you; but a humane and philanthropic spirit guiding me, I hope the same will influence you; and if such is really the case, and that the line marked out by the treaty between Great Britain and the United States respecting the Indian nations has been infringed upon by the subjects of the latter, that you will represent to them their improper conduct, and prevent its continuance.

I hold in my possession a letter received from the Governor of New Providence, addressed to him by His Britannic Majesty's chief Secretary, informing him of the orders given to the British Ambassador at Washington, to watch over the interests of the Indian nations, and see that their rights are faithfully attended to and protected, agreeably to the treaty of peace made between the British and Americans.

I am in hopes that ere this there is arrived at New Providence a person from Great Britain with authority to act as agent for the Indian nation; and, if so, it will devolve on him to see that the boundary lines, as marked out by the treaty, are not infringed upon.

I hope you will not think these observations, made by desire of the chiefs, any improper interference, and requesting the favor of an answer, I am, respectfully, &c.

P. S. McQueen states that the offspring of the negroes, when he left Tucky Batche, were seven of those taken by Barney, and nine of those taken by Auchi Hache, and he supposes they have increased.

*Copy of a letter from Lieutenant Richard M. Sands, fourth infantry, commanding at Fort Gaines, Georgia, to Colonel William King, or officer commanding the fourth regiment of infantry, dated*

MARCH 15, 1817.

SIR: I enclose for your information two letters which I received a few days since. Yesterday, William Perryman, accompanied by two of the lower chiefs, arrived here. He informs me that McQueen, the chief mentioned in one of the enclosed letters, is at present one of the heads of the hostiles; that they are anxious for war, and have lately murdered a woman and two children. He likewise says that he expects the news in George Perryman's letter is true; for there are talks going through the towns that the English are to be at Okoloking river in three months.

I have sent an Indian runner to Okoloking, to ascertain what preparations the hostiles are making. I have the honor to be, &c.

*Extract of a letter from David B. Mitchell, Indian agent to the Secretary of War, dated*

MILLEDGEVILLE, GEORGIA.

March 30, 1817.

By yesterday's mail I received a letter from Mr. Timothy Barnard, who resides on Flint river, in the Indian country, a considerable distance below the agency, in which he observes: "I have been informed two days past, from below, where

*Defeat of the Seminole Indians, &c.*

the Red Stick class reside, that a party has been down near St. Mary's, and murdered a woman and two children, and brought off some horses. I have heard for some time past that the Red Stick party have commenced their Red Stick dances again, which is a proof that they mean to commence hostilities. Our forts, Crawford and Gaines, having been evacuated, I believe, has been the cause of the Red Stick class beginning again to commence hostilities. They think that our troops were afraid to continue there."

The murder of the woman and two children, spoken of by Mr. Barnard, had been previously communicated to me by the magistrates of Camden county; and I have no doubt but it was perpetrated in retaliation for the killing of an Indian about three or four weeks previous, on the Florida side of the St. Mary's river, by some worthless white men who reside on the frontiers of East Florida, and who live by plunder. They have for some time past been a perfect nuisance to the frontier of Georgia in that quarter; and although repeated complaints of their bad conduct have been made to the Governor of the province, yet, either from the want of ability or inclination, they have not been suppressed; but I believe that their impunity is attributable to the first, viz: inability on his part to apprehend and punish them.

The single fact of this murder being easily accounted for on the Indian principle of retaliation, I should dread no further bad consequences from it; but the other facts stated by Mr. Barnard can only be attributed to a settled plan of hostility on the part of the Indians, and that such a disposition has been encouraged by the removal of the troops from Camp Crawford. And I have the more reliance upon the intelligence as coming from Mr. Barnard, who has resided nearly fifty years in the Indian country, and is perfectly well acquainted with their habits and customs, and whose family connexion gives him the best and surest means of correct information.

As an additional inducement to this measure, I will further state that I have received information from other persons at and near Fort Gaines, that a British agent is now among these hostile Indians, and that he has been sending insolent messages to the friendly Indians and white men settled above the Spanish line. He is also charged with stimulating the Indians to their present hostile aspect; but, whether he is an acknowledged agent of any foreign Power, or a mere adventurer, I do not pretend to determine, but am disposed to believe him the latter. But be that as it may, and let the hostile disposition of the Indians proceed from what it may, a moderate regular force stationed at Camp Crawford, or any other suitable position in that quarter, will I am confident keep all quiet, and without it some serious mischief will result.

*Extract—Gen. Gaines to the Secretary of War.*

CAMP MONTGOMERY, M. T., April 3, 1817.

I received by the last mail a letter from Archi-

bald Clarke, Esq., intendant of the town of St. Mary's, by which it appears that another outrage of uncommon cruelty has recently been perpetrated by a party of Indians upon the Southern frontier, near the boundary of Wayne county. They have massacred a woman (Mrs. Garrett) and two of her children; the mother and eldest child were scalped, the house plundered and burnt.

MONTGOMERY, April 3, 1817.

SIR: The enclosed letter contains some additional information upon the subject of my communication of this date.

Most respectfully, &c.

EDMUND P. GAINES.

HON. SECRETARY OF WAR.

FORT GAINES.

GENERAL GAINES: I am requested by all the citizens to inform you of our situation, believing that no communication has been forwarded giving a detail of the information received, our distress, and the prospect of approaching destruction.

We are hourly told, by every source of information, by the friendly Indians, by letters from William Hambly and Edmund Doyle, who reside low down on the Appalachicola, that all the lower tribes of Indians are imbedded, and are drying their meats to come on to the attack of this post. The British agent at Okelocknes Sound is giving presents to the Indians. We have among us Indians who have been down, and received powder, lead, tomahawks, knives, and a drum for each town, with the royal coat of arms painted on it. We have, at this time, at least five hundred Indians skulking in this neighborhood, within three or four miles of us, who will not act for themselves, and who are evidently waiting the signal to strike an effectual blow. They have stolen almost every horse belonging to the citizens. They have scared them from the fields which they have cleared, and have taken possession of their houses. They are now stealing horses, cattle, and hogs, from the Georgia lines, and have killed one or two families on the St. Tillas.

The citizens have all assembled near the fort, not able to return to the States, nor no prospect of making crops. The Indians have all returned to their towns below the line, and this post is unable to remove them. The troops are scarce of provisions, and no prospect of the early arrival of more.

Nothing but speedy relief, by troops, can quiet the people, or save this country from destruction. Respectfully, yours, &c.

A. CULLOH.

*Copy of a letter from G. Leftwich, adjutant seventh infantry, to General Gaines, dated*

CAMP MONTGOMERY, M. T.,

July 28, 1817.

SIR: Agreeably to your instructions of the 26th instant, I proceeded to the Burnt Corn spring,



*Defeat of the Seminole Indians, &c.*

near the place where the recent murder was committed by an Indian; and, from the best information received, I have the honor to make the following report:

1. It does not appear that any misunderstanding existed between the Indians and the citizen killed, (Mr. Glass.)

2. It appears that the Indians made the first assault, and that without any provocation on the part of the citizens.

3. From the information received, it appears that Mr. Glass heard four or five guns fire some short distance from his house. He was under the impression that the Indians were doing some mischief, and went out for the purpose of ascertaining what the firing was at. He had proceeded but a short distance when he discovered an Indian woman; he went towards her, and inquired if she knew who it was that was shooting; she made him no answer; he asked her several times and received no answer. She said something, and an Indian that was concealed in the bushes, not more than fifteen steps from Mr. Glass, rose up and shot him through the body. He snatched his gun at the Indian, who immediately ran off. He then fired at the woman as she was running after the man, but does not know whether he killed her or not. His wound being very painful, he dropped his gun and shot-bag, and attempted to return home. He had not proceeded more than three hundred yards when he fainted, and remained until found by a traveller. This was on Saturday, and he died Sunday morning, leaving a widow and eight children to lament his untimely death. He was a man who supported a good character in his neighborhood, though in limited circumstances. On the following day there was a cow found near the place where Mr. Glass was shot, with four balls shot through her.

4. There was only one Indian man seen by Mr. Glass; but from the circumstances of his hearing four guns, and the cow being found near that place with four balls shot through her, induces a belief that he had several companions with him, although they were not seen by Mr. Glass. From the report of the friendly Indians, it is believed they are fifty or sixty in number, and that they have returned to the camp on Pine Barren creek, occupied by them at the time they murdered Johnson and Magasky, as a part of them were met by several persons near the Pine Barren spring a few days after the murder was committed.

Colonel Dale's party pursued them to their camp on the Sappallogas, but found it deserted apparently several days. They have several small fields of corn growing at the place. From the sign left, it is believed they have a number of horses, and some of the largest description. The Indian who acted as guide states they have at this time a negro boy and a horse belonging to Johnson and Magasky. It appears to be the prevailing opinion among the inhabitants that they may be found on Pine Barren creek.

I have the honor to be, sir, your most obedient servant.

*Extract of a letter from General Gaines to the Secretary of War, dated*

CAMP MONTGOMERY, M. T.,  
August 25, 1817.

Having received several communications from persons settled upon the public land, within the tract acquired by the treaty at Fort Jackson, containing general accusations against the Indians; that they had killed cattle and hogs, and stolen corn, &c., from the inhabitants, and requesting the interposition of military authority, I have uniformly referred them to the civil magistrates, because I have in no instance during the present year heard of anything like an assemblage of force among the Indians in this part of the Territory. Nor could I see any reason why persons who had obtruded themselves upon the public land, and contrary to law, should be allowed military protection against the petty offences of which these people complained, especially as it did not appear that the civil authority had been opposed nor even resorted to by the complainants.

The enclosure, marked A, contains a copy of my reply to the inhabitants of Murder Creek, and in this you will find the substance of my other replies, both written and verbal. Since the date of this reply, and, as I have reason to believe, some days after it reached the settlement of Murder Creek, a Mr. Glass, near that place, was killed by an Indian, who was said to be accompanied by three others.

On receiving this information, I immediately despatched a discreet officer, Lieutenant Leftwich, to ascertain the particulars of the outrage, with a view to send a party in pursuit of the offenders, in case they should not have been arrested by the civil authority.

A.

*To the inhabitants of Murder Creek, Alabama Territory.*

HEADQUARTERS, CAMP MONTGOMERY, M. T.,  
July 12, 1817.

GENTLEMEN: I have received your communication of the 21st of last month, stating that the Indians residing upon the Conaka had killed cattle and hogs belonging to the inhabitants of Murder Creek, and had broke into their houses, and taken from them some provisions, corn, &c.

In reply, I have to observe, that all Indians within the lately acquired territory are amenable to our laws, and may be prosecuted for the offences of which you complain, in the same manner as if they were white inhabitants.

The lands cultivated by friendly Indians within the ceded territory have been reserved and guaranteed to them by treaty; and by a late act of Congress, the agent of Indian affairs has been authorized to settle the respective claims to such reservations. Until this is effected, there exists no where any sort of authority to drive off such Indians settled upon the public land.

Governor Mitchell, the agent, will in a short time enter upon the examination and adjustment of those claims.

*Defeat of the Seminole Indians, &c.*

The disposition which you have manifested to abstain from "rash measures" towards those Indians, affords ground to hope that, viewing them as a part of the human family, possessing the right of residing among us, you will make allowance for their ignorance and their wants, which are calculated rather to awaken our commiseration than to excite in us a spirit of hostility towards them.

That you may have peace and prosperity throughout your settlement, is the sincere wish of your obedient servant,

EDMUND P. GAINES.

*Extract of a letter from Major Twiggs to General Gaines, dated*

FORT SCOTT, September 17, 1817.

Your communication to the Indians on the east side of Flint river was read and explained to the principal chief of the Mickasukles, the 6th of this month. He promised to give an answer in ten days at furthest. I have detained the express until this time, in expectation of sending it on by him, but have been disappointed. I have not heard from them since. The interpreter informed me the principal warriors were absent when he was there, but what were present said they never heard of Indians being given up to be punished by the whites; that they had heard of their being sometimes killed by themselves, for offences committed, but seemed to think that giving them up was out of the question; but said they would have a meeting, and would answer the letter in a few days. As they have not done so, I think but one construction can be put on their conduct. The young seemed to dislike the communication very much; and when Gregory was about leaving the town, he offered his hand to an Indian, who held out his with a knife in it, and refused to shake hands with him. He staid so short a time among them, that it was impossible for him to give much information respecting them. Captain Donoho has returned; he has been sick in Hartford, which was the cause of his delay. On his return the Indians were very rude to him, and frequently threatened his guide, and once caught hold of the Captain's bridle in a threatening manner.

*Extract of a letter from General Gaines to the Secretary of War, dated*

CAMP MONTGOMERY, M. T.,  
October 1, 1817.

I have the honor to lay before you a copy of a letter which I have received from the chiefs of ten of the Seminole towns, in reply to my demand for the delivery of the murderers of our citizens.

By this communication it appears that, instead of a compliance with my demand, the chiefs have set up a claim against us for the lives of three Indians, for whom they allege they have not yet

\* The inhabitants promised not to resort to "rash measures."

15th CON. 2d SESS.—68

*Defeat of the Seminole Indians, &c.*

taken satisfaction. They charge us with having killed ten of their warriors, and, claiming a balance of three to be due them, they admit, by necessary implication, that they have killed seven of our citizens.

They acknowledge the murder of a woman (Mrs. Garret) and her two children. But the chiefs attempt to justify this act upon the ground that the warriors who committed the outrage had just before lost some friends; had entered our settlements to take satisfaction; found at the house of Garret a kettle belonging to the Indians who had been killed, and from this circumstance supposed the murder had been committed by the "husband of the woman;" they therefore killed her and her two children!

By a letter from Major Twiggs, the commandant of Fort Scott, I learn that he had been warned, some weeks past, by the principal chiefs of the Fowltown, (fifteen miles above the fort, and twenty above the national boundary,) not to cut another stick on the east side of the Flint river; adding, that the land was his, and he was directed by the Powers above to protect and defend it, and should do so; and it would be seen talking could not frighten him. Major Twiggs adds, he had not seen the chief, nor any of his people, since he made this threat. The Major states, in another letter, that this town had been detected in stealing one hundred head of cattle in one drove, all of which they had killed.

*Major Twiggs to General Gaines, dated*

FORT SCOTT, September 18, 1817.

Since I started the express this morning, the Indians have delivered the enclosed letter to me.

I have the honor to be, &c.

*To the commanding officer at Fort Hawkins.*

SEPTEMBER, the 11th day, 1817.

DEAR SIR: Since the last war, after you sent word we must quit the war, we, the red people, have come over on this side. The white people have carried all the red people's cattle off. After the war, I sent to all my people to let white people alone, and stay on this side of the river and they did so; but the white people still continue to carry off their cattle. Barnard's son was here, and I inquired of him what was to be done; and he said we must go to the head man of the white people, and complain. I did so, and there was no head white man, and there was no law in this case. The whites first began, and there is nothing said about that, but great complaint made about what the Indians do. This is now three years since the white people killed three Indians. Since that they have killed three other Indians, and taken their horses, and what they had; and this Summer they killed three more; and very lately they killed one more. We sent word to the white people that these murders were done, and the answer was, that they were people that were outlaws, and we ought to go and kill them. The white people killed our people first, the Indians then took satisfaction. There are yet three



*Defeat of the Seminole Indians, &c.*

men that the red people have never taken satisfaction for. You have wrote that there were houses burnt, but we know of no such thing being done; the truth, in such cases, ought to be told; but this appears otherwise. On that side of the river the white people have killed five Indians; but there is nothing said about that, and all that the Indians have done is brought up. All the mischief the white people have done ought to be told to their head man. When there is anything done you write to us, but never write to your head man what the white people do. When the red people send talks, or write, they always send the truth. You have sent to us for your horses, and we sent all that we could find; but there were some dead; it appears that all the mischief is laid on this town, but all the mischief that has been done by this town is two horses; one of them is dead, and the other was sent back. The cattle that we were accused of taking, were cattle that the white people took from us; our young men went out and brought them back, with the same marks and brands. There were some of our young men out hunting, and they were killed; others went to take satisfaction, and the kettle of one of the men that was killed was found in the house where the woman and two children were killed; and they supposed it had been her husband who had killed the Indians, and took their satisfaction there. We are accused of killing up Americans, and so on; but since the word was sent to us that peace was made, we stay steady at home, and meddle with no person. You have sent to us respecting the black people on the Suwannee river; we have nothing to do with them. They were put there by the English, and to them you ought to apply for anything about them. We do not wish our country desolated by an army passing through it, for the concern of other people. The Indians have slaves there also—a great many of them. When we have an opportunity we shall apply to the English for them, but we cannot get them now. This is what we have to say at present.

Sir, I conclude by subscribing myself, &c.

P. S. There are ten towns have read this letter, and this is the answer.

*Extract of a letter from George Graham, acting Secretary of War, to Brevet Major General Edmund P. Gaines, Fort Hawkins, Georgia, dated*  
OCTOBER 30, 1817.

I have the honor to acknowledge the receipt of your letter of the 1st instant, covering a copy of the reply which was made by ten of the Seminole towns, to the demand made by you on them for the surrender of the murderers of some of our citizens.

These papers have been submitted to the President, and I am instructed by him to inform you that he approves of the movement of the troops from Fort Montgomery to Fort Scott; the appearance of this additional force, he flatters himself, will at least have the effect of restraining the Seminoles from committing further depreda-

tions, and perhaps of inducing them to make reparation for the murders which they have committed. Should they, however, persevere in their refusal to make such reparation, it is the wish of the President that you should not, on that account, pass the line, and make an attack upon them within the limits of Florida, until you shall have received instructions from this Department.

You are authorized to remove the Indians still remaining on the lands ceded by the treaty made by General Jackson with the Creeks; and, in doing so, it may be proper to retain some of them as hostages until reparation may be made for the depredations which have been committed. On this subject, however, as well as to the manner of removing them, you will exercise your discretion. McIntosh, and the other chiefs of the Creek nation, who were here some time since, expressed then, decidedly, their unwillingness to permit any of the hostile Indians to return to their nation.

P. S. The authority to remove the Indians will, of course, not extend to those Indians and their families who have claims to reservations of lands under the treaty.

*Extract of letter from General Gaines to the Secretary of War.*

CHATAHOOCHEE, November 9, 1817.

From various reports from the Seminole Indians I can only learn that they are determined to deliver up none of their offenders; nor will they restore stolen property, except one town, the Mickasukees, the chief of which professes to be friendly. By the enclosed letter from Major Twiggs it appears that they are determined to attack us as soon as we pass Flint river; and that they have two thousand seven hundred warriors. Although I feel little faith in their threats, and believe their numbers to be overrated, yet I deem it proper to be provided with additional force. I have therefore requested of his excellency the Governor of Georgia a regiment of infantry and a squadron of cavalry, which, he has informed me, are held in readiness to march.

*Extract of a letter from General Edmund P. Gaines to Major General Andrew Jackson.*

HEADQUARTERS, FORT GAINES, GEORGIA,  
November 9, 1817.

Previous to my leaving the Coroka I ascertained that the accounts I had received respecting the Seminole Indians being at Pensacola were incorrect, and that the number of Indians of different tribes there did not exceed what had been usual at this season of the year. This statement was soon after confirmed by Mr. Denson and the interpreter Cornels. The latter, however, states that he had seen and conversed with the hostile party of Ochu warriors, part of whom killed Johnston, and Magasky, and Mr. Glass. They now consist of about thirty warriors, or thirty-five. They were, a few days past, at the mouth of Yellow Water; had several stolen horses

*Defeat of the Seminole Indians, &c.*

which they offered for sale, and declared their determination to be always hostile towards our citizens.

From Major Twiggs I learn that he has received information, upon which he places reliance, that the Indians have recently had a meeting at the Mickasukee town, of near two thousand seven hundred warriors, when it was determined they would attack us as soon as we should cross the Flint river. Although I put little faith in these threats, and believe their numbers to be overrated, yet I deem it proper, keeping an eye to the safe side, to be provided with additional force; and have therefore desired the Governor of Georgia to send me the regiment of infantry and squadron of cavalry held in readiness for that purpose: for, in a war with savages, I think little should be hazarded; as every little advantage which we suffer them to acquire tends to add, in an extraordinary degree, to their strength and confidence.

*Extract of a letter from General Gaines to Major General Andrew Jackson.*

FORT SCOTT, GEORGIA,  
November 21, 1817.

The first brigade arrived at this place on the 19th instant. I had previously sent an Indian runner to notify the first town chief, E-me-hemaut-by, of my arrival, and with a view to ascertain whether his hostile temper had abated, requested him to visit me. He replied, that he had already said to the commanding officer here all he had to say, and he would not come.

He had warned Major Twiggs not to cross or cut a stick of wood on the east side of Flint river, alleging that the land was his; that he was directed, by the Powers above and below, to protect and defend it, and should do so. This being the talk referred to, and his town having continued to be hostile ever since the last war, having participated, as the friendly Indians assert, in the predatory war carried on for some time past against the Georgia frontier, I yesterday detached two hundred and fifty men, (supposed to be about the strength of the town,) under the command of Major Twiggs, with orders to bring me the chief and warriors, and, in the event of resistance, to treat them as enemies.

The detachment arrived at the town early this morning, and were instantly fired upon, but without effect. The fire was briskly returned by the detachment, and the Indians put to flight, with the loss of four warriors slain; and, as there is reason to believe, many were wounded.

It is with deep regret I have to add, that a woman was accidentally shot, with some warriors, in the act of forcing their way through our line, formed for the purpose of arresting their flight. The unfortunate woman had a blanket fastened around her, (as many of the warriors had,) which, amidst the smoke in which they were enveloped, rendered it impossible, as I am assured by the officers present, to distinguish her from the warriors.

Among the articles found in the house of the chief, was a British uniform coat, (scarlet,) with a pair of gold epaulettes, and a certificate signed by a British captain of marines, "Robert White, in the absence of Colonel Nicholls," stating that the chief had always been a true and faithful friend to the British.

The reports of friendly Indians concur in estimating the number of hostile warriors, including the Red Sticks and Seminoles, at more than two thousand, besides the blacks, amounting to near four hundred men, and increasing by runaways from Georgia. They have been promised, as several Indians inform me, assistance from the British at New Providence. This promise, though made by Woodbine, is relied on by most of the Seminole Indians. I have not a doubt but they will sue for peace, as soon as they find their hopes of British aid to be without foundation.

*Extract of a letter from General Gaines to the Secretary of War.*

FORT SCOTT, GEORGIA,  
November 26, 1817.

With a view to ascertain the strength of the hostile Indians in the vicinity of Fowl Town, and to reconnoitre the adjacent country, I, a few days past, detached Lieutenant Colonel Arbuckle, with three hundred officers and men. The colonel reports that the Indians had placed themselves in a swamp, out of which about sixty warriors made their appearance near the town, and, with the war-whoop, commenced a brisk fire upon our troops, which they returned in a spirited manner. The fire continued but fifteen or twenty minutes, when the Indians were silenced, and retired into the swamp, with a loss, which the colonel estimates at six or eight killed, and a greater number wounded. We had one man killed, and two wounded.

DEPARTMENT OF WAR, Dec. 2, 1817.

SIR: Your letter of the 9th ult. advising of the call on the Governor of Georgia to assemble the auxiliary force, which had been previously required by you, at Fort Hawkins, on the 25th ultimo, has been received.

It is hoped that the letter addressed to you from this Department, on the 30th of October, will have been received, and that you will confine your operations to the objects stated in that communication, and to such a disposition of the regular force under your command as will deter the Seminole Indians from making further depredations on the frontiers of Georgia.

The state of our negotiations with Spain, and the temper manifested by the principal European Powers, make it impolitic, in the opinion of the President, to move a force at this time, into the Spanish possessions, for the mere purpose of chastising the Seminoles for depredations which have heretofore been committed by them.

I have the honor to be, &c.

GEO. GRAHAM.  
Major Gen. EDMUND P. GAINES.



*Defeat of the Seminole Indians, &c.**General Gaines to the Secretary of War.*HEADQUARTERS, FORT SCOTT, GEORGIA,  
December 2, 1817.

SIR: I had the honor to receive, on the 26th ultimo, your communication of the 30th October. I am very happy to find that the President approves of my movement. But I much regret that his just expectations, as to the effect there was reason to believe would be produced on the minds of the Indians, by this movement, have not been realized. I am now quite convinced that the hostility of these Indians is, and has long been, of so deep a character, as to leave no ground to calculate upon tranquillity, or the future security of our frontier settlements, until the towns south and east of this place shall receive a signal proof of ability and willingness to retaliate for every outrage. It is now my painful duty to report an affair of a more serious and decisive nature than has heretofore occurred, and which leaves no doubt of the necessity of an immediate application of force and active measures on our part. A large party of Seminole Indians, on the 30th ultimo, formed in ambuscade, upon the Appalachicola river, a mile below the junction of the Flint and Chatahoochee, attacked one of our boats, ascending the river near the shore, and killed, wounded, and took, the greater part of the detachment consisting of forty men, commanded by Lieutenant R. W. Scott of the 7th infantry. There were also on board, killed or taken, seven women, the wives of soldiers. Six men of the detachment only escaped, four of whom were wounded. They report that the strength of the current, at the point of attack, had obliged the Lieutenant to keep his boat near the shore; that the Indians had formed along the bank of the river, and were not discovered until their fire commenced; in the first volley of which Lieutenant Scott and his most valuable men fell. The Lieutenant and his party had been sent from this place, some days before, to assist Major Muhlenburg in ascending the river with three vessels laden with military stores, brought from Montgomery and Mobile. The Major, instead of retaining the party to assist him, as I had advised, (see the enclosure No. 1,) retained only about twenty men; and, in their place, put a like number of sick, with the women, and some regimental clothing. The boat thus laden was detached alone for this place. It is due to Major Muhlenburg to observe, that, at the time he detached the boat, I have reason to believe, he was not apprized of any recent hostilities having taken place in this quarter. It appears, however, from Lieutenant Scott's letter, received about the hour he was attacked, (enclosure No. 2,) that he had been warned of the danger. Upon the receipt of this letter, I had two boats filled up with covers, and with port-holes for defence; and detached Capt. Clinch, with an officer and forty men, with an order to secure the movement of Lieut. Scott, and then to assist Major Muhlenburg; this detachment embarked late in the evening of the 30th, and must have passed the scene of action below at night,

and some hours after the affair terminated. I have not yet heard from Captain Clinch; I shall immediately strengthen the detachment under Major Muhlenburg with another boat secured against the enemy's fire. He will, therefore, move up with safety, keeping near the middle of the river; I shall, moreover, take a position, with my principal force, at the junction of the rivers, near the line; and shall attack any force that may attempt to intercept our vessels and supplies below; as I feel persuaded the order of the President, prohibiting an attack upon the Indians below the line, has reference only to the past, and not to the present or future outrages, such as the one just now perpetrated, and such as shall place our troops strictly within the pale of natural law, when self defence is sanctioned by the privilege of self preservation. The wounded men who made their escape concur in the opinion, that they had seen upwards of five hundred hostile Indian warriors at different places below the point of attack; of the force engaged, they differ in opinion, but all agree that the number was very considerable, extending about one hundred and fifty yards along the shore, in the edge of a swamp or thick woods. I am assured by the friendly chief, that the hostile warriors of every town upon the Chatahoochee prepared canoes and pushed off down the river to join the Seminoles, as soon as the account of my movement from the Alabama reached them.

The Indians, now remaining upon the Chatahoochee, I have reason to believe, are well disposed. One of the new settlers, however, has recently been killed; but it has been clearly proved that the murderer had belonged to the hostile party. The friendly chiefs in the neighborhood, when apprized of the murder, assembled a party and sent in pursuit of the offender; and followed him to Flint river, on the route to Mickasukee, whither he escaped. Orrishajo, and several other friendly chiefs, have offered me their services, with their warriors, to go against the Seminoles. I have promised to give them notice of the time that may be fixed for my departure, and then to accept their services. The enclosure (No 3) contains the substance of what I have said to the chiefs who have visited me, several of whom reside south of the Spanish line and west of the Appalachicola river. It was expected by the chiefs, that I should communicate to them my views and wishes. I felt authorized to say but little, and I deemed it necessary, in what I should say, to endeavor to counteract the erroneous impressions by which they have been misled by pretended British agents. I hope the President will see, in what I have said, nothing to disapprove. I feel persuaded a report of the various talks, which I received from the chiefs, would show the propriety of what I have said to them; such a report I have not a moment's time now to make. The Indians are, at this moment, firing at our camp from the opposite line of the river. I have the honor to be, &c.

EDMUND P. GAINES,  
Maj. Gen. by Brevet, commanding.*Defeat of the Seminole Indians, &c.*

No. 1.

*General Gaines to Major Muhlenburg.*

FORT SCOTT, NOV. 1817.

SIR: The waters having risen sufficiently high to enable you to ascend the river with all the vessels, I wish you to do so, though it should take longer than I had anticipated. You can avail yourself of the aid of Lieutenant Scott's detachment to expedite your movements hither. Keep your vessels near to each other; and should you meet with any insuperable obstacle, endeavor to apprise me thereof, and you shall have additional relief. Wishing to see you soon with your fleet, I remain yours, &c. E. P. GAINES.

SPANISH BLUFF, NOV. 28, 1817.

SIR: Enclosed you will receive Major Muhlenburg's communication, which he directs me to forward to you by express from this place. Mr. Hambly informs me that Indians are assembling at the junction of the river, where they intend to make a stand against those vessels coming up the river; should this be the case, I am not able to make a stand against them. My command does not exceed forty men, and one half sick, and without arms. I leave this immediately. I am, &c.

R. W. SCOTT,  
Lieutenant 7th Infantry.

NOTE.—The bearer of this is entitled to three dollars on delivering this letter. The Indians have a report here that the Indians have beaten the white people.

CHIEFS AND WARRIORS: The President of the United States has been informed of the murders and thefts committed by the hostile Indians in this part of the country. He has authorized General Jackson to arrest the offenders, and cause justice to be done. The Indians have been required to deliver up the murderers of our citizens, and the stolen property, but they refused to deliver either; they have had a council at Mickasukee, in which they have determined upon war; they have been at war on helpless women and children, let them now calculate upon fighting men. We have long known that we had enemies east of this river: we likewise know we have some friends; but they are so mixed together we cannot always distinguish the one from the other. The President, wishing to do justice to his red friends and children, has given orders for the bad to be separated from the good. Those who have taken up arms against him, and such as have listened to the bad talks of the people beyond the sea, must go to Mickasukee Suwany, where we wish to find them together. But all those who were our friends in the war will sit at their homes in peace; we will pay them for what corn and meat they have to sell us; we will be their friends, and when they are hungry we will give them meat. The hostile party pretend to calculate upon help from the British! they may as well look for soldiers from the moon to help them. Their warriors were beaten, and driven from our

country by American troops. The English are not able to help themselves; how, then, should they help the old "Red Sticks," whom they have ruined by pretended friendship?

*Extract of a letter from General Gaines to the Secretary of War, dated*

FORT SCOTT, GEO., DEC. 4, 1817.

I would much more willingly devote my time and humble faculties in the delightful occupation of bringing over savage man to the walks of civil life, where this is practicable without force, than to contribute to the destruction of any one of the human race; but every effort in the work of civilization, to be effectual, must accord with the immutable principles of justice. The savage must be taught and compelled to do that which is right, and to abstain from doing that which is wrong. The poisonous cup of barbarism cannot be taken from the lips of the savage by the mild voice of reason alone; the strong mandate of justice must be resorted to and enforced.

After all that the wisdom and philanthropy of our country and Government, aided by millions of money, have yet been able to effect, it is a melancholy truth, that in no Indian nation within my knowledge, (the Chickasaws excepted,) has the scalping knife been laid aside for any considerable length of time, until their every hope of using it with impunity had been defeated.

DEPARTMENT OF WAR, DEC. 9, 1817.

SIR: Your letter, bearing date the 21st ultimo, advising of the first brigade at Fort Scott on the 19th ultimo, and of the subsequent attack with the Indians at Fowltown, has been received. Although the necessity of this attack, and the consequent effusion of blood, is exceedingly to be regretted, yet it is hoped that the prompt measures which were taken by you on your arrival at Fort Scott, and the display of such an efficient force in that quarter, will induce the Indians to abstain from further depredations, and sue for peace.

Referring to the letters addressed to you from this Department on the 30th of October and 2d of December, as manifesting the views of the President, I have to request that you conform to instructions therein given. Should the Indians, however, assemble in force on the Spanish side of the line, and persevere in committing hostilities within the limits of the United States, you will, in that event, exercise a sound discretion as to the propriety of crossing the line for the purpose of attacking them, and breaking up their town. I have the honor to be, &c.

GEORGE GRAHAM.

Major Gen. EDMUND P. GAINES.

*Extract of a letter from David B. Mitchell, Indian agent, to George Graham, acting Secretary of War, dated*

CREEK AGENCY, DEC. 14, 1817.

I have the honor to acknowledge the receipt of your two letters of the 31st of October, and 3d



*Defeat of the Seminole Indians, &c.*

November last. Before the receipt of those letters, a meeting of the principal chiefs had been called by the Little Prince, at the town of Thla-tah-cau, on the Chatahoochee river, near Fort Mitchell, at which I attended; the object of which was to take into consideration the state of the nation, and particularly the measures which it could be proper for them to take in relation to those Indians residing between Fort Gaines and the Spanish line; and also the conduct they could pursue with regard to the war with the Seminoles. They unanimously confessed much regret that hostilities should have commenced between the troops under General Gaines and the Seminole Indians, who reside within our boundaries; because these Indians, although they did not unite with the friendly ones during the late war, neither did they join the Red Sticks, and had recently expressed a great desire to become decidedly friendly. They were, however, perfectly willing that their warriors should join General Gaines against the Seminoles. I stated to them that it was not the desire of the President to go to war with the Seminoles, but he could honorably avoid it; and, at the present moment, he would not consent to their going against the Seminoles within the Spanish territory, under authority of the United States; that they must wait, therefore, until I gave them the order to march. At the same time, I advised them to send a confidential and trusty chief down to the Indians living between Fort Gaines and the Spanish line, and desired them immediately to remove above the line of Jackson's treaty; and that the same chief should then proceed directly to the Micasukee town, the headquarters of the Seminoles and Red Sticks of the late war, and propose to them certain terms of peace, and a cessation of their force to go against the negro camp. The objects which this chief was instructed to hold out to those Indians as attainable, by adopting this course, were various, and of sufficient importance, in the view of those making the proposition, to induce a belief that they would be favorably received; in which event, I should proceed to Fort Scott to adjust their differences. This course of proceeding was immediately adopted, and the head man of the Osoc-hes, Hopoi-Haijo, set out on the same day, charged with the mission. To afford time to ascertain the result of this plan, and that I might be able to communicate with the War Department, another meeting was assigned for the 11th of next month, at this place, when all the friendly warriors, with McIntosh at their head, will attend to receive their final orders. But, on my return to this place, I fortunately fell in with General Gaines, on his way to Fort Hawkins, from whom I learned the fatal disaster which had befallen a detachment of his troops, under Lieutenant Scott, on the 30th of last month; the particulars of which he informed me he had communicated, which renders a detail from me unnecessary.

In speaking with General Gaines upon the subject of the road from Fort Hawkins to Fort

Stoddert, he informed me that it was not this road to which he referred in his communication to the War Department, but ninety miles of new road, which he had made between Fort Montgomery and Fort Scott, and by which he recently marched the troops from the former to the latter post. As soon as I receive the five thousand dollars which you have ordered to be remitted to me, I shall endeavor to lay it out to the very best advantage in repairing the bridges and roads; and General Gaines has assured me that, as soon as the troops can be spared, a detachment shall be ordered to assist.

*Copy of a letter from Major General E. P. Gaines to the Secretary of War, dated*

HEADQ'RS, FORT HAWKINS, GEORGIA,  
December 15, 1817.

SIR: I arrived at this place the day before yesterday morning. In the afternoon of the same day, I reviewed the detachment of Georgia militia, under the command of Brigadier General Glascock. They look well, and are ready to march; but the inattention on the part of the contractor's agent to the requisitions for a supply of rations will, I apprehend, according to custom, delay the movement of the militia until some part of the frontier settlements suffer by the Indians, who, I have no doubt, will detach considerable parties for this purpose as soon as they find themselves unable to succeed in any attempt against the regular troops at Fort Scott; and I think it cannot be long before they are convinced of this. But, although I consider the regular troops secure in the positions they occupy, yet I am satisfied their numbers will not warrant their being detached, or leaving their places of defence, except to a very small extent.

I have just now received Mr. Graham's letter of the 2d instant.

The views of the President, so far as may depend on me, shall be scrupulously observed. I should instantly discharge the Georgia militia, were I not strongly impressed with a belief that such a step would hazard the safety of the frontier settlements. The Seminole Indians, however strange and absurd it may appear to those who understand little of their real character and extreme ignorance, entertain a notion that they cannot be beaten by our troops. They confidently assert that we have never beaten them, or any of their people, except when we have been assisted by "red people." This will appear the less extraordinary when it is recollected that they have little or no means of knowing the strength and resources of our country; they have not travelled through it; they read neither books nor newspapers; nor have they opportunities of conversing with persons able to inform them. I feel warranted, from all I know of these savages, in saying that they do not believe we can beat them. This error of theirs has led them, from time to time, for many years past, to massacre our frontier citizens, often the unoffending and helpless mother and babes. I felt myself

*Defeat of the Seminole Indians, &c.*

fully authorized to adopt the only measures which long experience has proved to be adequate to put a stop to these outrages. I was pleased with the prospect of being instrumental in effecting an object of so much importance to our exposed frontier settlements, and which I felt, and still feel, persuaded would, in the end, benefit the Indians. The steps I have taken are known to the Department of War. You can more readily conceive than I can describe the mortification and disappointment I have experienced in being compelled to suspend or abandon my measures at a moment when the loss of Lieutenant Scott and his party had given the enemy an occasion of triumph, and a certain prospect of increasing his strength, by enlisting against us all who had before wavered or hesitated. Permit me, then, to repeat my request that I may be permitted to return.

There is little ground to apprehend that we shall find it necessary to follow the Indians far beyond the national boundary. They are now to be found in very considerable parties on our side of the line.

I have not a doubt of the necessity of sending to Flint river, by way of Hartford, the detachment of militia under General Glascock. My endeavors to put the detachment in motion will delay my own movement until the 17th instant, at which time I shall resume my march to Point Petre.

An opinion prevails among the well-informed of this part of the country (who have, by some means unknown to me, been advised of our intention to take Amelia Island) that our troops there will meet with no opposition. Should this be the case, I shall return to Fort Scott without delay. I have the honor, &c.

EDMUND P. GAINES,  
Maj. Gen. commanding.

Hon. J. C. CALHOUN, Sec'y of War.

*Extract of a letter from Major General Andrew Jackson to George Graham, Acting Secretary of War, dated*

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, December 16, 1817.

I am in hopes that this check to the savages may incline them to peace. Should it not, and their hostility continue, the protection of our citizens will require that the wolf be struck in his den; for, rest assured, if ever the Indians find out that the territorial boundary of Spain is to be a sanctuary, their murders will be multiplied to a degree that our citizens on the southern frontier cannot bear. Spain is bound by treaties to keep the Indians, within her territory, at peace with us; having failed to do this, necessity will justify the measure, after giving her due notice, to follow the marauders and punish them in their retreat. The war hatchet having been raised, unless the Indians sue for peace, your frontier cannot be protected without entering their country; from long experience, this result has been fully established.

DEPARTMENT OF WAR, Dec. 16, 1817.

SIR: On the receipt of this letter, should the Seminole Indians still refuse to make reparation for their outrages and depredations on the citizens of the United States, it is the wish of the President that you consider yourself at liberty to march across the Florida line and to attack them within its limits, should it be found necessary, unless they should shelter themselves under a Spanish post. In the last event, you will immediately notify this department.

I have the honor to be, &c.

J. C. CALHOUN.

Gen. EDMUND P. GAINES,  
Fort Scott, Georgia.

DEPARTMENT OF WAR, Dec. 26, 1817.

SIR: Your letters of November the 26th, and of the 2d and 3d instant, were received by this morning's mail. The fate of the detachment under Lieutenant Scott is much to be regretted; but, under all the circumstances, no blame can attach to yourself or the officers immediately concerned. When the order of the 12th November was given, directing you to repair to Amelia Island, it was hoped that the Seminoles would have been brought to their reason without an actual use of force, and that their hostility would not assume so serious an aspect. It is now a subject of much regret, that the service in that quarter has been deprived of your well known skill and vigilance.

Before this will reach you, it is hoped that the views of the President in relation to the settlement on Amelia Island will have been effected. Should that be the case, it is his wish that you should immediately repair to Fort Scott, and resume the command till General Jackson's arrival, to whom orders have this day been sent to command there; or, if you should think the force under your command sufficient, and other circumstances will admit, to penetrate through Florida, and co-operate in the attack on the Seminoles. I am not sufficiently acquainted with the topography of the country between Amelia and their towns, to say whether it is practicable, or what would be the best route; but it is not improbable that some advantage might be taken of the St. John's river, to effect the object. Should it be practicable, it is probable efficient aid might be given to the attack on them, as the attention of their warriors must be wholly directed towards Fort Scott. Should you think it practicable and advisable to co-operate, with the force under your command, you will leave a sufficient number at Amelia Island to retain the possession of that place.

I have the honor to be, &c.

J. C. CALHOUN.

Major Gen. EDMUND P. GAINES.

DEPARTMENT OF WAR, Dec. 26, 1817.

SIR: You will repair, with as little delay as practicable, to Fort Scott, and assume the im-



*Defeat of the Seminole Indians, &c.*

mediate command of the forces in that section of the Southern division.

The increasing display of hostile intentions, by the Seminole Indians, may render it necessary to concentrate all the contiguous and disposable force of your division upon that quarter. The regular force now there is about eight hundred strong, and one thousand militia of the State of Georgia are called into service. General Gaines estimates the strength of the Indians at a thousand seven hundred. Should you be of opinion that your numbers are too small to meet the enemy, you will call on the Executives of adjacent States for such an additional militia force as you may deem requisite.

General Gaines had been ordered, early in last month, to repair to Amelia Island. It is presumed that he has, therefore, relinquished the command at Fort Scott. Subsequent orders have been given to General Gaines, (copies of which will be furnished you,) advising him that you would be directed to take command, and directing him to reassume, should he deem the public interest to require it, the command at Fort Scott, until you should arrive there. If, however, the General should have progressed to Florida before these subsequent orders may have reached him, he was instructed to penetrate to the Seminole towns through the Floridas, provided the strength of his command at Amelia could justify his engaging in offensive operations.

With this view, you may be prepared to concentrate your forces, and to adopt the necessary measures to terminate a conflict which it has been the desire of the President, from considerations of humanity, to avoid, but which is now made necessary by their settled hostilities.

With great respect, I have the honor to be, your most obedient servant.

J. C. CALHOUN.

Major Gen. ANDREW JACKSON.

*Extract of a letter from General Gaines to the Secretary of War, dated*

HENRYS, HARTFORD, GEORGIA,  
January 9, 1818.

SIR: I had the honor to receive, on my way to this place, the 5th instant, by express, from Fort Hawkins, your very acceptable letters of the 9th and 16th of last month.

The instructions they contain shall be regarded with the attention which their importance demands.

I received, by the same express several reports, up to the 21st December, from Lieutenant Colonel Arbuckle and Major Muhlenburg, copies of which I enclose herewith, Nos. 1, 2, 3, and 4.

By these reports it appears that the principal force of the enemy (between eight hundred and twelve hundred) has been assembled on the Apalachicola, with a view to cut off our supplies ordered up that river, and that the detachment with the vessels has suffered severe annoyance and some loss.

I do not apprehend that we shall lose a vessel, or that any serious consequences to the troops at Fort Scott will result from the delay and difficulty of obtaining supplies by that channel. The supply of flour is more than sufficient for the present month, and there is likewise a considerable supply of corn at the fort, and beef cattle in the neighborhood. Of salted pork there can be but little until the arrival in the river of thirty thousand rations, and with every other requisite supply ordered in the early part of last month from Mobile, and which may be brought up the river in the covered ball-proof boats which have been prepared for the purpose. But to guard against every untoward obstacle in that quarter, I have ordered supplies from this place and Fort Hawkins, part of which are now on the way, and will be deposited at a work now constructing by the detachment under General Glasscock, on Flint river, at the Chehaw village, sixty miles above Fort Scott, whence the supplies will be taken in ball-proof boats; and I have strong ground to believe they will be at Fort Scott by the 24th of the present month, at which time I calculate upon being able to concentrate my force, and shall lose no time in attempting a decisive blow, which I trust will terminate the war.

I have received information, that a party of Indians entered the settlement near Traders' Hill, a few days past, killed a woman, and took off some three or four negroes. I had previously ordered a detachment of artillery from Amelia Island, with two companies of militia taken from General Floyd's division, to take post at Traders' Hill, for the defence of that settlement. I have reason to believe the artillery arrived at the Hill about the time the murder was committed, and the militia soon after, and that the Indians were pursued.

The residue of militia taken from General Floyd's division (five companies) are ordered to this place to reinforce General Glasscock's command, excepting one company, which will be posted near the big bend of Oakmulgee.

The detachment under General Glasscock, delayed by rainy weather, bad roads, and want of punctuality in the contractor's department, may not be able to form a junction with the United States troops in time to put an end to the war before their term of service expires, which will be early in next month. I have therefore requested of his Excellency the Governor of this State an additional force, to assemble at this place the first of next month, to consist of four battalions of infantry and four companies of riflemen, for three months, which I hope will meet your approbation.

No. 1.

FORT SCOTT, December 20, 1817.

SIR: Since the day of your departure I have not received the least information, except by Indians, from Fort Gaines, and I have no information whatever of the Georgia militia or McIntosh's Indians.

You will herewith receive a copy of Brevet

*Defeat of the Seminole Indians, &c.*

Major Muhlenburg's letter to me, of the 16th instant, which will apprise you of his situation. The armed boat I sent down yesterday, under the command of Captain Blackstone, with a supply of fifteen days' provisions for the men on board the vessel, and some materials to better secure them from the fire of the enemy. I had the boat so altered as to make her convenient to carry forward an anchor, by which means the vessels will be enabled to progress slowly, and I think will reach this in eight or ten days, unassisted by the wind; they are about thirty miles below.

I shall do everything the force under my command will permit, without hazarding too much, to draw the attention of the enemy from the vessels, whose force, from the best information I have been able to obtain, is between eight hundred and twelve hundred Indians and negroes, and increasing daily. On the 13th instant, Hamby and Doyle were made prisoners by this party, and I presume killed, and their property of every description taken possession of. The chief, William Perryman, who had gone down with a party to protect Hamby and Doyle, was killed, and his men forced to join the opposite party. All the Indians on the Chattahoochee, below Fort Gaines, who are not disposed to go to war, I fear will be compelled to remove above for security.

The present war with these Indians will require a much greater force than was contemplated to bring it to a speedy and favorable conclusion. Capechinico, or the principal chief of the Mickasukee town, is in command of all the hostile Indians.

I have a large keel-boat on the stocks, and should I not be deceived will have her in a condition for service in twenty days at farthest; she will transport from three to four hundred barrels, and will be constructed to navigate the Apalachicola river with safety and despatch.

In consequence of the situation of our vessels, and the difficulty of supplying Fort Hughes, I have thought it best to recall the command. During the time Captain McIntosh commanded that post, he was surrounded by a large force, and his arrangements were such as to do him much credit; he did the enemy some injury, and had no men killed or wounded.

There is but about twenty days' rations of meat on hand at this post. I have sent the contractor's agent to Fort Gaines to forward beef, and, if he should be disappointed there, have directed him to proceed further. I am, sir, &c.

M. ARBUCKLE,  
Lieut. Col. com'g.

Major Gen. GAINES.

No. 2.

FORT SCOTT, Dec. 21, 1817.

SIR: Since closing my letter, the keel-boat arrived from the vessels below with some wounded.

Major Muhlenburg states it is impossible for the vessels to get up, the shore being lined on both sides of the river with Indians and negroes who keep up a constant fire on them. He has

determined, if the boat does not return to him this evening, to drop down, and try to get to the bay. The boat will leave this under the command of Major Twiggs at 12 o'clock to-day, and will reach them by sundown, provided it is not interrupted in its descent.

I shall endeavor to keep up an intercourse with them (by means of the keel-boat) until we can get the ammunition from on board, and, in the last extremity, they will be compelled to drop down to the bay; in doing which, I am apprehensive they will suffer severely.

You have, herewith, a copy of Brevet Major Muhlenburg's letter of the 19th instant. He appears dissatisfied that more has not been done for his relief; in this nothing shall be omitted that the force here can effect.

Should I attempt to march against the enemy with all the force here, with the intention of removing him from the river, I am confident I should not succeed, and, at least, would sustain a very considerable loss.

Men and means of every description are greatly wanting here, and should any misfortune happen to the vessels we have not half a supply of ammunition, and not a single stand of spare arms.

I have not heard a word from you since your departure. I am, sir, &c.

M. ARBUCKLE,  
Lieut. Col. com'g.

Major Gen. E. P. GAINES.

No. 3.

NEAR THE OCHESEE TOWN,  
Tuesday evening, Dec. 16, 1817.

SIR: On Monday morning the transports were attacked by the Indians from both sides of the river, with a heavy fire of small arms. We returned their fire; the firing has continued ever since. We have lost two killed and thirteen wounded, most of them severely; whether we have injured them any, I am unable to say. We are now compelled to remain here, as it is impossible for us to carry out a warp, as a man cannot show himself above the bulwark without being fired on. I can assure you that our present situation is not the most pleasant, not knowing how soon, or whether, we are to receive succor from above.

The wounded are in but a bad situation, owing to the vessels being much crowded, and it is impossible to make them any ways comfortable on board. Not having any other means to communicate to you, I am compelled to despatch the keel-boat under the command of Captain Clinch, with instructions to make the best of his way to Fort Scott.

I hope to hear from you soon with instructions how I am to proceed in my present situation.

With respect, &c.

P. MUHLENBURG, Major.

P. S. We have but a few days' provision on hand; the men have been on half allowance for some time.



*Defeat of the Seminole Indians, &c.*

No. 4.

NEW OCHESEE TOWN, Dec. 19, 1817.

SIR: Yours by Captain Blackston was received at 12 o'clock this morning, and was in hopes that you would have been able to afford some relief to the command, as our situation demanded that something should have been done immediately. That we are not able to progress is evident, as we have the enemy on both sides of the river, and, therefore, impracticable to carry out a warp. Had we not heard from you by the keel-boat this morning, it was decided that we should have attempted to return to the bay this evening. I shall now despatch the keel-boat under the command of Lieutenant Gray, and try to retain our present position until the night of the 21st.

In case we should not hear from you, or be reinforced by land, we shall make the attempt to reach the bay. For further particulars, I refer you to Lieutenant Gray. With respect, &c.

P. MUHLENBURG, Major.

Lieut. Colonel ARBUCKLE.

Extract of a letter to Brevet Major General Edmund P. Gaines, dated

DEPARTMENT OF WAR, Jan. 16, 1818.

The honor of the United States requires that the war with the Seminoles should be terminated speedily, and with exemplary punishment for hostilities so unprovoked. Orders were issued soon after my arrival here, directing the war to be carried on within the limits of Florida, should it be necessary to its speedy and effectual termination. The orders, I presume, have been received.

As soon as it was known that you had repaired to Amelia Island, in obedience to orders, and it being uncertain how long you might be detained there, the state of things at Fort Scott made it necessary to order General Jackson to take command there. From his known promptitude, it is presumable that his arrival may be soon expected; and, in the meantime, full confidence is placed in your well established military talents. I hope the junction of the militia will enable you to carry on offensive operations, and to restrain the enemy from depredations on the frontier.

J. C. CALHOUN.

HEADQ'RS, HARTFORD, GEORGIA,  
January 23, 1818.

SIR: I have received this day from Lieutenant Colonel Arbuckle reports of the state of his command, up to the 18th of the present month, and from Brigadier General Glascock up to yesterday's date, copies of which I have the honor to enclose herewith, No. 1 to 6.

By these communications you will perceive that, whatever has been or can be said of the desire of the Seminole Indians to lay down their arms and make peace, there is in reality no prospect of peace, without beating them into a conviction of the danger and evil effects of a war with us; and I feel persuaded that a peace made with them at this time would be followed by

scenes of more daring outrage than those which our frontier settlements have heretofore suffered.

I have learned from an officer lately at Fort Hawkins, that there is in the post-office at that place a letter from the Department of War to Major General Jackson. The hope of seeing him, and ascertaining his views upon the subject of our operations in this quarter, and to provide for supplying the additional detachment of militia ordered to this place, I have delayed my movement to Fort Scott until I see or hear from the General, or from the Department of War.

I have, &amp;c.

EDMUND P. GAINES.

HON. J. C. CALHOUN,  
Secretary of War.

No. 1.

FORT GAINES, Dec. 23, 1817.

SIR: I received yours by Mr. Laycock last evening, expressing a wish to hear from this post. This is the third attempt that I have made to give you news from here; this same man was made prisoner on his way to your post, and a second time compelled to return back.

You are anxious to know of the movements of the militia and Indians. I will give you what I have heard on that subject; it was brought from Fort Mitchell by an Indian on express; he received it from Sam Sells, direct from Fort Hawkins; he states that the militia were to leave the Agency on last Thursday; no word of them here yet. He stated that there was considerable confusion amongst them about marching, and that some had refused to march; and that the agent had told the Indians that General Gaines had no business to go to the Indian towns and fire on them in the night; that he had acted like the Indians themselves in doing so. McIntosh had come as far as Fort Mitchell on his way, and the agent has sent him home, and told him to meet him at the Agency for a talk, in thirty days, eighteen of which yet remains, and that he should not move until the General Government should give the order. This I expect is the case; for they have sent Onis Horyo a talk that he was doing wrong to be in service in this country, till the agent should give him orders. He further states that the agent has sent a talk in Seminole, to the chiefs to meet him, and he would make peace for them, and the white people should have no satisfaction for what was done. This is the news here as it respects the Indians. I am induced to believe that they are not coming; nothing new here since you heard from this post. After all that I have said to the citizens, they are going from the fort to their houses. General Gaines directed me to send you the census of the people at this post. A few days since there were two hundred and eighty-five persons in the fort, sixty of which have left it. The General directed me to have a large corn house built for the reception of the people's corn; I have done so, but they have no disposition to do so. I am constantly advising the people to secure their provisions, but they will not take advice till it will

*Defeat of the Seminole Indians, &c.*

be too late. So soon as they are done with the schooner, I shall expect a visit in this neighborhood. Six — will be sufficient to destroy all the corn in this part of the country, as it all remains at the people's houses without any protection.

An Indian report here says that Mr. Arbuthnot's son is with the Indians, giving them instructions, and that it was his doings that Doyle and Hambly were taken; they state that he is with Kenhija, and that his orders were to take them to him. The chiefs below here sent word to those above that they have heard that they were in the white people's service, and that they will pay them a visit after a little, and reward them for their conduct. Finding that those above are not coming down soon, they are considerably alarmed for fear they will fall on them.

ROBERT IRVIN.

Col. ARBUCKLE, com'g Fort Scott.

No. 2.

FORT SCOTT, Dec. 27, 1817.

SIR: Enclosed you will receive a copy of a letter I received yesterday from Captain Irvin. Can the information given by the Indian express be true?

The armed boat returned from the vessel in the Appalachicola river yesterday; and, although they have not progressed much, I was greatly gratified to be informed that no men had been killed or wounded on board of them, except those I informed you of in my communications of the 20th and 21st instant.

I consider the situation of those vessels much more safe than when I wrote to you last, and have little doubt I shall have them here in ten days from this time, or, if not, I can unload them with safety below, and have them returned to the bay.

I have had no information respecting the Georgia militia, or McIntosh and his Indians, except what is contained in the enclosed.

I have not heard of provisions being on the way from Fort Hawkins, nor have I received a line from you since your departure from this post. I am, &c.

M. ARBUCKLE, Lieut. Col. Com.

Major General E. P. GAINES,  
St. Marys, Georgia.

No. 3.

FORT MITCHELL, Dec. 30, 1817.

MY FRIEND: The messenger which was sent to the Mickasukeys has returned with an answer to our talk. The Mickasukeys say it was not them that began the war; they were sitting down in peace, and the white people came on them in the night and fired on them. The Mickasukeys are all sitting in their town and doing no mischief, and waiting to see if the white people will make peace with them. The people that shot at the boat, and killed all the white people, were the old Red Sticks from the Upper town—those that turned hostile last war. The man that was sent to the Mickasukeys (Hoopie Haija) with a peace-

talk met the Mickasukeys at the half-way ground, coming with a peace-talk to us.

Mr. Hambly and Mr. Doyle were taken prisoners; Hoopie Haija saw them; Tustennogee Chepeo has gone to release them, and carry them to the fort at St. Mark's. I have sent you this little talk now; our meeting that you appointed will soon be, and then every thing will be made straight.

The Chehaws have received two letters from the army, and they had nobody to read them, and they do not know the contents, and wish the army could be stopped until our meeting is over.

TUSTENOGEE HOPOIE,  
HOPOIE HAIJA.

No. 4.

CAMP CUMMING, January 10, 1818.

SIR: Yours of the 8th is just received, and I am extremely gratified to hear of your arrival at Hartford, as I already feel considerably relieved. The many difficulties which have occurred since you left us, from contractors, together with the want of experience, I can assure you, has caused me to feel the responsibility attached to my command; but, with your instructions, I flatter myself I shall now be able to get on.

We are now encamped about four miles from Fort Blackshear, on a very beautiful and commanding spot, with a considerable creek on each side, about four miles distant, neither of which can be crossed with wagons. A bridge was erected on the one in our rear, but it is entirely gone; so soon as the one in our front falls sufficiently, it will be bridged. I have thought it advisable to have the roads repaired, which will be done immediately.

Upolicha, a confidential Indian, has just arrived with a talk from Conard, the purport of which is as follows: He states, that since the principal chiefs left home for the Agency, the whole of the property of one of them was taken off by some of the Fowltown Indians, and that Conard is considerably alarmed for his own property. He has advised us to be on our guard, particularly so far as it relates to the soldiers strolling from the camp, which, for fear of danger, will be attended to. We have not now on hand ten bushels of corn. Brockman is of opinion that it will be dangerous to go again to the Chehaw, in consequence of which I have, at his particular request, sent him with this express. I must refer you to him for further information as to the corn and provisions to be procured in the nation.

I am almost fearful, when I recollect for a moment, that the time of service for which this detachment has been called on, will expire before your object can be accomplished, as the officers, with a few exceptions, are governed by the men, and not the men by the officers. I am in hopes, however, that should your object not be accomplished by the first of next month, I shall be able to render you an essential service, by volunteers from my command, should it be deemed neces-



*Defeat of the Seminole Indians, &c.*

sary. I will, however, have a personal interview with you on the subject, on your arrival at our camp.

Not having calculated on moving from this place for six or seven days, for want of provisions, &c., I gave a furlough to Captain Melvin; should you deem it necessary for us to move before that time, I would be glad that he would return. I am yours, &c.

THOMAS GLASSCOCK.

Brig. Gen. Com'g D. G. M. U. S. S.  
Maj. Gen. E. P. GAINES.

No. 5.

CEDAR CREEK, 5 o'clock, Jan. 22, 1818.

SIR: I was ordered this evening by General Glasscock to take five men, and proceed immediately to meet Captain Leigh, who was packed from Hartford with provisions. I proceeded accordingly, and met him about two miles on the east side of this creek, and Captain Leigh, five men and myself, proceeded on to Blackshear's works, in considerable haste; when we reached the creek, we made a halt to fix on a pack, which was likely to fall, before we crossed. During this stay, Captain Leigh and a private of Captain Avery's company, by the name of Samuel Loftis, started to cross. I called to the Captain, and observed that he was probably going into danger; he replied not. As my party and self had crossed not more than half an hour before, I proceeded, and accompanied by this man Loftis, they had not gotten entirely across the creek, when they were fired on by a party of Indians, the number I suppose to be twenty or thirty, from the report of their guns, and both shot dead on the spot; I immediately rode back and ordered the provisions, together with Cornet Isaac Brown's command, consisting of twenty men, to a corner of General Blackshear's old works, on the east side of the creek, where we took shelter in a small breastwork, determined to secure the provisions if possible: this was the only alternative, as they were planted on the swamp, which was at least one hundred yards across, and I not having more than twenty-seven men under my command with guns. When we completed our works, Captain Snother and Mr. John Bridges proceeded down the creek, in order to make their way across to the army, that General Glasscock might be informed of the murder, and we reinforced: that reinforcement has just reached our works, commanded by Major Joseph Morgan. I, with Captain Donnelly's company, will proceed with the provisions to the army, and Major Morgan will pursue the trail.

I hope, sir, as this was written by a torch, that you will excuse, or correct, any mistake.

I am sir, your obedient servant,

F. E. HEARD, *Brigade Major.*

No. 6.

HEADQ'RS, HARTFORD, GEORGIA,  
January 26, 1818.

SIR: In obedience to your order to me of the 2d instant, I proceeded to Savannah, when, to

my great mortification, I found the draught little further advanced than when the order first issued from the Executive department. In a conference with Lieutenant Colonel Marshall, I learned that the draught has been made, but that a number of desertions had since taken place, which, with forty-seven determined exempt from duty, have reduced the quota one-half, and that he knows of no steps that can be adopted, without a flagrant violation of the civil law, to cause their attendance at the general rendezvous, if they refuse to go, which they do, almost unanimously. The draught from the 35th regiment have progressed further in their preparations for the service, though I was informed by Lieutenant Colonel Harrison that it would be some days before they could leave their homes, as an inquiry into exemption, and a second draught, would be necessary to fill their ranks.

On my leaving Savannah, Colonel Marshall assured me, that as soon as a second draught had been effected, and the necessary arrangements made for their movements, he would address to me a report to that effect, at Fort Hawkins, which has not been received, and I am left to conclude that the arrangements referred to have not been carried into effect. Captain Russell reported to me that he was prepared to furnish the transportation necessary for their movements, if it should be required. I have the honor, &c.

CLINTON WRIGHT,

*Major United States Army.*

General E. P. GAINES.

HEADQ'RS, HARTFORD, GEORGIA,  
January 30, 1818.

SIR: I had the honor to receive yesterday your letters of the 26th December, and 16th of the present month, the first having followed me from Amelia Island.

I have, for some months past, endeavored to inform myself of the topography of the country between the Appalachicola and St. John's; but have received only the apparently imperfect accounts of some half-blooded blacks, and Indians, as to the western part of that tract of country. The eastern part is well known to many of the inhabitants of this State, with whom I have conversed. From Amelia Island to the Lochway, the country is, for the most part, what is here called pine barren, nearly level, intersected with creeks and ponds, bordered in many places with rich hammock land, which increases in quantity and quality as you approach the Lochway towns. From thence to St. Mark's and Appalachicola, the hammock land is found in very considerable bodies; much the largest portion of the country, however, is poor, sandy, pine barren. The hammock lands afford great quantities of live oak, some cedar, and other valuable timber. There are several large swamps on the route between the Lochway and St. Mark's, which, during a season of rainy weather, are impracticable, without the aid of boats; but the country being generally open, will admit of good roads, when the

*Defeat of the Seminole Indians, &c.*

weather is moderately dry. I have not a doubt but the army may march with considerable facility, from the Appalachicola to St. John's, or Amelia Island, with the aid of a few vessels to send provisions, &c., from Fort Scott down the river, and thence coastwise to the mouth of the Suwanee river, 130 miles east of the Appalachicola, and about 140 miles west, southwest from Amelia Island. The last mentioned distance may be marched in eight days, without wagons or baggage, the troops carrying their own provisions in their haversacks. A movement from Amelia Island, by the way of St. John's and Lochway, as you have suggested, would, I think, produce the desired effect, in co-operation with the troops from Fort Scott; upon this subject, I shall confer with the commander-in-chief of the division.

By a letter from Major Bankhead, dated the 17th of this month, I learn that two thousand Spanish troops are reported to have arrived at St. Augustine. Although little reliance can be placed in the report received by Major Bankhead, yet, whether it be true or not, I am satisfied his command (220 men) is quite too small to admit of any detachment, other than that at Trader's Hill. There should, indeed, be not less than this number stationed at and in the immediate vicinity of the Hill, and a much greater number upon the frontier between that point and this. By a letter from W. Harris, Esq., of Telfair, I am informed that a party of Indians killed a Mr. Daniel Dikes and his family, a few days past, on the St. Tilla, about forty miles from the town of Jackson, Telfair court-house. I immediately detached a troop of cavalry in pursuit of the Indians, and at the same time sent out a detachment of infantry to reconnoitre the country, and secure the intermediate frontier from a similar outrage.

Accompanying this I enclose a monthly return of the detachment of Georgia militia under Brigadier General Glasscock, which was not received until this day; I had confidently believed that the proper returns of this detachment had been duly forwarded by Major Nicks, who mustered and inspected the same, to the Adjutant and Inspector General's office.

With extreme regret, I have to state that the expected co-operation on the part of that detachment has entirely failed. An attempt to obtain volunteers to continue in service until the arrival of the detachment from Major General Floyd's division, produced but forty men. The enclosed report of Major Wright, assistant adjutant general, contains a discouraging picture of that detachment. It cannot be expected at this place before the 10th of next month, nor is it probable that more than two hundred and fifty or three hundred out of the five hundred called for, can be got into service.

The enclosed papers, No. 1 to 4, contain copies of my last correspondence with the contractor's agent.

The acting quartermaster, Lieutenant Keiser, has purchased the greater part of the provisions

issued during the present month, and is now engaged in the purchase of thirty thousand rations, the greater part of which is now on the way to Fort Scott, by the way of Flint river. To pay for these supplies, I have been under the necessity of borrowing ten thousand dollars from the Governor of Georgia, upon a promise to replace the amount in three months from the 23d instant. I had taken the liberty to send to Augusta a draft upon the Department of War for fifteen thousand dollars, but could not obtain money on the draft without suffering a discount of 2½ per cent. which was totally inadmissible.

The fifteen thousand dollars, forwarded by your order, being required to pay the expense of transportation, for which this sum will be insufficient, I have to request that you will be pleased to order the sum of ten thousand dollars, on account of the supply of rations to be forwarded to his excellency Governor Rabun, to replace that sum advanced by him. I have, &c.

EDMUND P. GAINES.

The Hon. JOHN C. CALHOUN,  
*Secretary of War.*

No. 1.

HEADQ'RS, HARTFORD, GEORGIA,  
January 12, 1818.

SIR: I have received your report, in which you state that you have some rations "on the way," but you do not state where, or in what quantities, they are to be found. Let me be informed upon this subject without delay.

Having been informed by Brigadier General Glasscock that he has not been regularly supplied with rations by you; that he had advanced you two thousand dollars to purchase pork for the detachment of Georgia militia under his command, (which I directed you to forward to this place for that detachment,) I learn that you have not complied with my requisition or order. Should this apparent neglect remain longer unexplained, your continuance as contractor's agent, or as sutler, within the limits of my command, will be no longer tolerated.

EDMUND P. GAINES,

*Major General commanding.*

Captain O. W. CALLIS,  
*Contractor's Agent, Fort Hawkins.*

No. 2.

HARTFORD, January 24, 1818.

SIR: Your communication of the 12th is received. To the several subjects therein referred, and to others, I have the honor to reply as follows:

The rations reported to have been on hand were at Fort Hawkins, Creek Agency, Fort Mitchell, and Fort Gaines; estimated, at Fort Hawkins, say ten or fifteen thousand rations of pork and beef, and of flour four or five thousand rations; at the agency, nine thousand rations of flour, with a considerable quantity of the smaller parts; at Fort Mitchell, ten thousand rations of flour, with a very small quantity of vinegar; and



*Defeat of the Seminole Indians, &c.*

at Fort Gaines, say six or seven thousand rations of flour.

The two thousand dollars received of General Glasscock I did not understand were to be applied exclusively to the purchase of pork. My disbursements in the purchase of provision have considerably exceeded that sum since the receipt of it, which was on the 10th of December last. Of this fact I shall be able to convince the General, by a reference to my books, and other vouchers on that subject. It is true that the balance of pork left at Fort Hawkins was not forwarded to this place in compliance with your orders; this non-compliance proceeded from no disposition to evade or treat with indifference the orders of the General, but for want of immediate means of transporting it. In short, allow me to assure you, sir, this if I have, or if I may disobey your orders, it is alone ascribable to the want of the means for compliance. With regard to the flour refused at Fort Hawkins, afterwards transported to and sold at this place to the troops, by Mr. Lavake, I report that it was never the property of the contractor; that it was inspected and refused as his; that it was transported and sold by him, without the knowledge or consent of the contractor or his agent.

I have the honor to be, &c.

O. W. CALLIS,

*Contractor's Agent.*

Major Gen. E. P. GAINES, &c.

No. 3.

HEADQ'RS, HARTFORD, GEORGIA,  
January 19, 1818.

The army contractor is hereby required to provide for the daily issue of two thousand complete rations to the United States' troops and militia, at the new fort now building on Flint river, near the Chehaw village, and to have in store at that fort, by the 20th day of the next month, (February,) sixty thousand complete rations; the meat part of which to consist of good pickled pork or bacon.

EDMUND P. GAINES,  
*Major General Com'g*

BENJAMIN G. ORR, Esq.,  
*Army Contractor, or his Agent.*

No. 4.

HARTFORD, January 24, 1818.

SIR: I have the honor to acknowledge the receipt of your requisition, under date of the 19th, and to report that the contractor cannot comply with it in full; but that there is engaged to the contract to have been delivered at Fort Hawkins, on the 20th of this month, seventy thousand rations of pork, which, together with the provisions the money I have, or may have, will procure, shall be furnished the troops.

I have the honor to be, &c.

O. W. CALLIS,

*Contractor's Agent.*

Major General GAINES.

FORT SCOTT, January 12, 1818.

SIR: On the 16th instant I had the honor to inform you of the arrival of the vessels in charge of Brevet Major Muhlenburg, and to enclose to you the resignation of 1st Lieutenant Sharp, of the corps of artillery, the acceptance of which I recommended, on account of his intemperate habits. Since that period, Lieutenant Johnson, of the same corps, has tendered his resignation, which is herewith enclosed. I would also recommend that his wish to leave the service should be gratified, as his conduct in a skirmish with the Indians some time since was not such as to evidence his being well qualified for the profession of arms.

I have permitted him and Lieutenant Sharp to be absent until the acceptance of their resignations may be published, unless otherwise ordered; and herewith enclosed is a copy of Lieutenant Sharp's letter of resignation.

On the 4th instant I crossed the Flint river, about fourteen miles above this post, and proceeded to Fowltown, which had been deserted. I burnt it, and on the next day arrived at Allapulgus, a small town about fourteen miles southeast of this post. It had also been abandoned, and the cattle and stock of every kind removed, as had been the case at Fowltown. I am informed they have gone to or beyond the Okolokne river, there to place their women and property in greater security, and better prepare themselves for war. They continue to have considerable intercourse with the Indians at Chatahoochee, many of whom were with them, and assisted in the destruction of Lieutenant Scott and his party, and in the attack on our vessels ascending the river, under the command of Brevet Major Muhlenburg. You have herewith a copy of a letter from Mr. Irving, commanding at Fort Gaines. I cannot believe the information it contains, yet I have been informed, a few days since, that the Indians on the Chatahoochee, below Fort Gaines, have received information from the agent of the Creek nation that they are to use their pleasure in joining us, as we are the aggressors. But few of them require great inducement to act in the war, but most if on our side; and should the war with the Lower Creeks terminate on the terms represented by Mr. Irvin, it will be risking but little to say the peace will be of short duration. The force of this place is much too small to advance against the enemy, and I have not received the least information of the Georgia militia or McIntosh's Indians, except what is contained in Mr. Irvin's letter, or a line from General Gaines since his departure.

I have but about two days' rations of meat, and something upwards of thirty days' rations of flour on hand, and without advice of additional supplies being on the way; and should Captain Birch, who is now at Fort Gaines with a command of one hundred and twenty men, for the purpose of obtaining beef, not succeed, and the contractor's agents persist in neglecting their duty much longer, the consequences must be

*Defeat of the Seminole Indians, &c.*

greatly disastrous to the inhabitants of the Chatahoochee.

I have sent Captain Cummings to the bay, for the purpose of obtaining information should any vessel arrive there with provision, and will do all in my power to maintain my position; yet I do greatly fear my best exertions to do so will fail. I detached a sergeant and four mounted men, on express, to Fort Hawkins, on the 21st ultimo, and have not since heard of them. I shall write to the Creek agent by the present opportunity, and enclose to him a copy of Mr. Irvin's letter.

I am, sir, very respectfully, &c.

M. ARBUCKLE,

*Lieut. Col. 7th Inf. commanding.*

Major Gen. ANDREW JACKSON,  
Nashville, Tennessee.

N. B. Since writing the above, I have received a letter from General Gaines, dated on the 20th ultimo, at Hartford. The contractor's agent in that quarter, I am informed, has failed, and the militia are now about thirty miles above this, badly supplied with provision. Captain Birch has informed me that he will be able to obtain thirty or forty head of beef cattle at Fort Gaines; he will be compelled to take them, as the people refuse to sell.

M. A.

FORT SCOTT, January 13, 1818.

SIR: I received your letter of the 20th ultimo, yesterday, after writing to Major General Jackson; a copy of my letter to him is enclosed, which will exhibit to you the state of things in this quarter.

I have heard nothing more of Colonel Brearly or the militia, except that they were within twenty-five miles of the Flint river on the 4th instant. Brockman wrote to me on that date, and informed me that he was engaged procuring provisions for the militia, the contractor having failed to supply. This, with the information you gave on that subject, has induced me to contract with Mr. McCulloh to deliver fifteen thousand rations of meat at this post, in twenty days from this time, at twelve and a half cents per ration. Should he fulfil his agreement, and Captain Birch succeed in procuring thirty or forty head of beef cattle, I think that supply will last the troops until provisions are received from New Orleans. Our horses have a distemper among them, which I fear will destroy a great number of them.

I am, sir, very respectfully, &c.

M. ARBUCKLE, *Lt. Col. Com'g.*

Major Gen. E. P. GAINES,  
St. Mary's, Georgia.

FORT SCOTT, January 18, 1818.

SIR: I have received information this evening, which I have no doubt may be relied on, that the whole or the greater portion of the hostile Indians are to have a meeting somewhere near the mouth of Flint river, on the 21st instant, for the purpose of concerting measures for the destruction of the

inhabitants on the Chatahoochee, and the reduction of this post. In the latter object they expect to succeed, owing to our want of supplies; and their calculations are not without a reasonable prospect of success, should not uncommon exertions be made to supply us from your quarter, as this command has been without meat at this time for five or six days, and have barely a hope of receiving a temporary supply, by a command sent to Fort Gaines for the purpose of collecting a few beef cattle.

I have heard from the bay this evening; one vessel has arrived there with clothing and military stores, having on board very little, if any, more provisions than will be required by the command on board of her, and without certain information of other vessels being on the way.

I have to request you will let me hear from you without loss of time, and that you will inform me of a prospect of supplies from your quarter.

I am, sir, most respectfully, &c.

M. ARBUCKLE, *Lt. Col. Com'g.*

Brigadier General GLASSCOCK,  
Chehaw town, Flint river.

DEPARTMENT OF WAR, Aug. 14, 1818.

SIR: The President having determined to restore St. Marks and Pensacola, with the Barancas, to the Spanish authority, I am directed to issue orders to carry this determination into effect. You will, accordingly, give the necessary orders to the commandant at Pensacola to surrender that place, with the Barancas, to any Spanish officer properly authorized to receive them. Authority from the Governor General at the Havana, or the Spanish Minister, Don Oniz, is considered sufficient; or, in case the Governor, late in possession of West Florida, Don Jose Mazot, should himself appear to receive possession, it will be restored to him on his own authority. St. Marks will be restored to the late Spanish commandant, should he appear to receive it, or to any officer having similar authority, as in the case of Pensacola; provided he is accompanied with a sufficient force to garrison it, so as to prevent the post from being seized by the hostile Indians. Its situation in the midst of the hostile Indians renders this precaution necessary. You, who have an accurate knowledge of the strength of the Indians, and of the post, will be able to give precise instructions on this point. It is sufficient that the Spanish force be so considerable as will probably prevent any attempt by the Indians to occupy it.

Public property will be restored in the condition, as far as practicable, in which it was taken possession of. On evacuating these posts, you will make such arrangements as will be the best calculated to hold the Indians, still remaining hostile, in check, and to cover our frontier. To effect these objects, it is thought that it will not be necessary to take post to the west of the Apalachicola, within the Florida line, as the Indians in that quarter are said to be very inconsiderable. You will, accordingly, station the troops which may be thought to be necessary for the



*Defeat of the Seminole Indians, &c.*

protection of that portion of the frontier on our side of the line, unless your impression should be decidedly different from that I have stated; in which event, you will take post at any point which you may judge proper within the country possessed by the Indians. On the east of the Appalachicola you may station the troops on either side of the line, as you may judge proper. Fort Gadsden, besides admitting of great facility for supplies, appears to be a very commanding position, and ought not to be evacuated. Should you think so, you will retain it, and garrison it with a sufficient force.

I trust you will be able to make such a distribution of your command as to afford, with vigilance, effectual protection to the frontier, without resorting to the militia. It is of great importance, if the militia can be dispensed with, not to call them into actual service, as it is harassing to them and exhausting to the Treasury. Protection is the first object, and the second is protection by the regular force. I have, &c.

J. C. CALHOUN.

Brevet Major Gen. E. P. GAINES,  
Fort Hawkins, Georgia.

DEPARTMENT OF WAR,  
August 19, 1818.

SIR: I send the enclosed extract from the letter of the Secretary of State to the Spanish Minister, in relation to St. Mark's and Pensacola. My instructions to you, of the 14th instant, contained the substance of this extract; and my object in communicating it now, is, that you may be in possession of the precise ideas communicated to the Spanish Minister, in case any difficulty should occur. I have, &c.

J. C. CALHOUN.

General E. P. GAINES.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 20, 1818.

SIR: In a communication to you of the 12th instant, I acknowledged the receipt of your order of the 26th ultimo, and advised you of the appeal I had made to the patriotism of the West Tennesseans. On yesterday, the officers who had so gallantly headed the Tennessee mounted volunteers, during the Creek campaigns, met me at this place, and gave every assurance of their ability to assemble two regiments of mounted gun-men by the 31st instant, at any designated point within the western part of this State. I have ordered them to rendezvous at Fayetteville, and as many as may appear on the 31st instant, or the 1st of February, to be mustered and received into service for six months (if not sooner discharged) by my inspector general. The contractor has instructions to issue to these troops twenty days' rations, and every measure has been adopted to facilitate their march, via Fort Jackson, by the most practicable route, to Fort Scott. These troops will be well supplied as far

as Fort Jackson, and there the necessary provisions may be obtained and packed to answer their immediate wants, until they are intercepted by supplies from below. Major Fanning has been despatched to Fort Hawkins to purchase and forward on these supplies to the most convenient point of interception. I have advanced to him two thousand dollars, with authority to draw on the quartermaster general for any additional sums wanted, and imposed upon him the temporary duties of deputy quartermaster general. I am compelled to this arrangement from an impression that there can be no officer of the quartermaster's department in the vicinity of Fort Hawkins, and Colonel Gibson could not possibly reach that neighborhood to effect the objects wished.

My inspector general, Colonel Hayne, (no brigadier general having volunteered his services,) is charged with conducting the march of the two regiments of Tennessee volunteers to the southern frontier.

From the contents of Colonel Arbuckle's and Major Muhlenburg's letters, copies of which are herewith enclosed, you will readily perceive that the former must remain inactive, and that the latter is in a dangerous situation. Every information from our southern frontier justifies the decisive measures I have taken, and urges the prompt movement of the volunteers called into service. I trust you will view the subject in the same light, and that my arrangements may meet with your entire approbation.

The troops now assembled on our southern boundary, reinforced with the Tennessee volunteers called into service, will enable me to inflict speedy and merited chastisement on the deluded Seminoles. I remain here to facilitate every arrangement for the prompt movement of the Tennessee detachment, but will leave this on the 22d instant for Fort Scott, via Fort Hawkins.

From Colonel Arbuckle's letter I am advised of the departure of General Gaines from Fort Scott; and the newspapers communicate the information of the Georgia contingency being commanded by a Brigadier General. As he must, consequently, be the commanding officer of the forces in the neighborhood of Fort Scott, I have this day directed instructions to him by no means to precipitate himself into a general engagement with the Seminoles, but at all hazards to relieve, if possible, Major Muhlenburg from his present situation, and cover his ascent up the Appalachicola river. I have further advised him of my movements, and directed that he should remain on the defensive, collect all the necessary supplies, and have every preparation made for an active campaign as soon as reinforced by the Tennesseans.

General Gaines has been notified of this order. I have no later advices from him than that of the 2d of December, informing me of the catastrophe of Lieutenant Scott and party.

Your letter, enclosing your general order of the 29th ultimo, has been received. Like yourself, I have no other feelings to gratify than those con-

*Defeat of the Seminole Indians, &c.*

nected with the public good, and it gives me pleasure to find that we coincide in those opinions calculated to produce it. Responsibility now rests where it should, on the officer issuing the order; and the principle acknowledged is calculated to insure that subordination so necessary to the harmonious movement of every part of the military machine.

It would afford me much pleasure to communicate with you on all military points which my experience may enable me to elucidate.

With respect, &c.

ANDREW JACKSON.

Major General commanding.

Hon. JOHN C. CALHOUN, Sec'y of War.

Extract of a letter from J. C. Calhoun, Secretary of War, to Major General Andrew Jackson, dated

JANUARY 29, 1818.

Your letters of the 12th and 13th instant are received. The measures you have taken to bring an efficient force into the field are approbated; and a confident hope is entertained that a speedy and successful termination of the Indian war will follow your exertions.

Extract of of a letter from the Secretary of War to Major General Andrew Jackson, dated

DEPARTMENT OF WAR, Feb. 6, 1818.

I have the honor to acknowledge the receipt of your letter of the 20th ultimo, and to acquaint you with the entire approbation of the President of all the measures which you have adopted to terminate the rupture with the Indians. The honor of our arms, as well as the interest of our country, requires that it should be as speedily terminated as practicable; and the confidence reposed in your skill and promptitude assures us that peace will be restored on such conditions as will make it honorable and permanent.

Extract of a letter from General Andrew Jackson to the Secretary of War, dated

FORT HAWKINS, February 10, 1818.

I reached this place last evening, when I learned, by sundry communications received from Brevet Major General Gaines, that the Georgia militia, under General Glascock, had all returned home, leaving the frontier in a very exposed situation. The regular troops at Fort Scott have been out of provisions, but the means adopted by Major General Gaines to remedy that evil, induces a strong presumption that they are by this time supplied; which, with the stores ordered by me from New Orleans, will, I trust, afford us an ample supply for the campaign.

The contractor having failed, General Gaines has, by my order, directed the quartermaster to purchase provisions, in which he has succeeded so far as to procure one thousand one hundred hogs, and a sufficiency of bread stuff; this will march the troops to and from the seat of war.

I am without any official advice as to the preparation and march of the late requisition from the State of Georgia.

15th CON. 2d Sess.—69

Extract of a letter from General Jackson to the Secretary of War, dated

HARTFORD, GEORGIA, Feb. 14, 1818.

I arrived at this place on the evening of the 12th, and here met with General Gaines. From a letter received from the Governor of Georgia, advising of the movement of the militia from the several counties to the designated point of rendezvous, as well as the punctuality with which the troops have assembled here under General Gaines's requisition, has induced a hope that I shall be enabled to make a prompt and speedy march for the relief of Fort Scott.

I enclose you a copy of a letter from Colonel B. G. Orr to Captain Callis, contractor's agent at Fort Hawkins. From the sum with which he states to have furnished his agents in this country, you can judge how far efficient means have been adopted to insure the necessary supplies to the troops heretofore in service, as well as those summoned to the field under the late requisition. The mode of provisioning an army by contract is not adapted to the prompt and efficient movement of troops. It may answer in time of profound peace, where a failure or delay cannot produce any serious ill consequences; but where active operations are necessary, and success dependent on prompt and quick movements, there is no dependence to be placed on the contractor. His views are purely mercenary; and where the supplies will not insure him a profit, he hesitates not on a failure, never regarding how far it may defeat the best devised plans of the commander-in-chief. Experience has confirmed me in this opinion, and the recent failure has prompted me again to express it.

The plan which has been adopted to procure the necessary supplies for the army, to transport them to Fort Scott, and the quantity otherwise ordered to that point, will, I hope, relieve me from any embarrassment on that account, until a decisive blow has been struck upon the enemy. I have been so frequently embarrassed from the failures of contractors, that I cannot but express a hope that some other more efficient and certain mode of supplying our army may be adopted: such a plan as will render those charged with the execution of so important a trust responsible to military authority, and exposed to severe and merited chastisements, whenever defaulters, at the discretion of a court-martial.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Early, February 26, 1818.

SIR: In my last letter from Hartford, Georgia, of the 14th instant, I expressed a hope that the plans adopted to procure supplies for the detachment from Georgia to transport them to Fort Scott, together with the quantity ordered to that point, would relieve me from many embarrassments on that account, until a decisive blow could be struck upon the enemy.

The Georgia detachment marched from their encampment near Hartford on the 19th instant, and on that night General Gaines received a let-



*Defeat of the Seminole Indians, &c.*

er from Lieutenant Colonel Arbuckle, commanding at Fort Scott, containing such intelligence of his intention to abandon that post, in the event of not receiving supplies in a short given time, as induced him (General Gaines) to set out that night, and if possible, by reaching the place in time to prevent such a disastrous movement.

The General has, as he communicated to me, ordered a large supply of provisions to the Creek Agency to be transported in boats to Fort Scott and this place, which would serve until that ordered from Mobile (by himself) should arrive; and under that order did calculate on meeting two boats loaded with flour, on his reaching this place, but was deceived, having arrived here on the night of the 20th, which he left on the evening of the 21st, in a small boat with twelve men. On the night of the 22d I received by express a letter directed to General Gaines, and dated the 19th instant, from Captain Melvin, of the 4th infantry, who had been charged by General Gaines to build the boats at the agency, and have the provisions transported thence, stating that two boats would be finished in two days which would transport upwards of one hundred barrels of flour each; these I had strongly calculated on, but they have not arrived. The excessive rains have rendered the roads so bad that I ordered the troops, on their march here, to take their baggage on the wagon horses, and abandon the wagons; this facilitated their march to this place, which they reached to-day; and eleven hundred men are now here without a barrel of flour or bushel of corn. We have pork on foot; and to-morrow I shall proceed to Fort Scott, and endeavor to procure from the Indians a supply of corn that will aid in subsisting the detachment until we reach that place. How those failures have happened under the superintendence of regular officers I cannot imagine, but blame must rest somewhere, and it shall be strictly investigated as soon as circumstances will permit.

The waters are unusually high, and the ground so rotten that it is with much difficulty that even pack-horses can pass. Every stream we are compelled either to bridge or swim.

I have the honor to be, &c.

ANDREW JACKSON,  
Major General commanding.  
Hon. J. C. CALHOUN, Sec'y of War.

HEADQUARTERS, DIVISION OF THE SOUTH,  
Fort Gadsden, March 25, 1818.

SIR: At 7 o'clock P. M., on the 9th instant, I reached Fort Scott, with the brigade of Georgia militia one hundred bayonets strong, and some of the friendly Creeks who had joined me on my march a few days before, where finding but one quart of corn per man, and a few poor cattle, which, added to the live pork I brought along, would give us three days' rations of meat, determined me at once to use this small supply to the best advantage. Accordingly, having been advised by Colonel Gibson, quartermaster general, that he would sail from New Orleans on the 12th

of February with supplies, and being also advised that two sloops with provisions were in the bay, and an officer had been despatched from Fort Scott in a large keel-boat to bring up a part of their loading, and deeming that the preservation of these supplies would be to preserve the army, and enable me to prosecute the campaign, I assumed the command on the morning of the 10th; ordered the live stock slaughtered, and issued to the troops with one quart of corn to each man, and the line of march to be taken up at twelve meridian. Having to cross the Flint river, which was very high, combined with some neglect in returning the boats during a very dark night, I was unable to move from the opposite bank until nine o'clock, on the morning of the 11th, when I took up my line of march down the east bank of the river for this place, touching the river as often as practicable, looking for the provision boats which were ascending, and which I was fortunate enough to meet on the 13th, when I ordered an extra ration to the troops, they not having received a full one of meal or flour since their arrival at Fort Early.

On that day my patrols captured three prisoners, and found some hidden corn. On the morning of the 14th I ordered the boat down the river to this place, whilst I descended by land, and reached here, without interruption, on the 16th. The eligibility of this spot as a depot determined me, and I immediately directed my aide-camp, Lieutenant Gadsden, of the engineer corps, to furnish a plan for, and superintend the erection of, a fortification. His talents and indefatigable zeal, displayed in the execution of this order, induced me to name it Fort Gadsden, to which he is justly entitled. On my arrival here I immediately despatched the boat to the bay for the balance of the provisions known to be there, and to ascertain whether the flotilla, in charge of Colonel Gibson, had reached there, and which returned on the 19th with the unpleasant intelligence that nothing had been heard from the flotilla from New Orleans, since it was seen passing Fort Bowyer. I immediately put the troops on half rations, and pushed the completion of the fort for the protection of the provisions, in the event of their arrival, intending to march forthwith to the heart of the enemy, and endeavor to subsist upon him. In the mean time, I despatched Major Fanning, of the corps of artillery, to take another look into the bay, whose return, on the morning of the 23d, brought the information that Colonel Gibson, with one gunboat and three transports, and others, in sight, were in the bay. On the same night I received other information that no more had arrived. I am, therefore, apprehensive that some of the smaller vessels have been lost, as one gunboat went to pieces, and another, when last spoken, had one foot of water in her hold; all the vessels had been spoken after a gale that dispersed them. A north and northwest wind has prevailed for six days, but has fortunately changed this morning. I am now awaiting a boat from the bay (which is expected to-day) to complete eight days' rations for my troops,

*Defeat of the Seminole Indians, &c.*

upon which I mean to march. From information received from Pensacola and New Orleans I have no doubt but that St. Marks is in possession of the Indians. The Governor of Pensacola informed Captain Call, of the 1st infantry, (now here,) that the Indians had demanded arms, ammunition, and provisions, or the possession of the garrison of St. Marks of the commandant, and that he presumed possession would be given from inability to defend it. The Spanish Government is bound by treaty to keep her Indians at peace with us. They have acknowledged their incompetency to do this, and are consequently bound, by the law of nations, to yield us all facilities to reduce them. Under this consideration, should I be able, I shall take possession of the garrison as a depot for my supplies, should it be found in the hands of the Spaniards, they having supplied the Indians; but if in the hands of the enemy I will possess it, for the benefit of the United States, as a necessary position for me to hold, to give peace and security to this frontier, and put a final end to the Indian warfare in the South.

Finding it very difficult to supply Fort Crawford on the Canecub by land I have ordered the supplies for that garrison by water, and written to the Governor of Pensacola, that, if he interrupts them during the present Indian war, I shall view it as aiding our enemy, and treat it as an act of hostility; and stated to him the propriety, under existing circumstances, of his affording all facilities to put down their own as well as our enemies, and that our Governments, while negotiating, can take the subject under consideration, but, in the mean time, our provisions must pass to Fort Crawford by water without interruption.

In mine of the 14th February, from Hartford, I informed you of the means adopted to procure supplies, and in my last of the 26th, from Fort Early, I informed you of their situation. To those communications I beg leave to refer you. I have only to add that I left Fort Early for Fort Scott, and subsisted my troops on ground peas, corn, and pork, that I could occasionally procure from the Indians, with some pork I had on foot, the whole subsistence for man and horse not costing five hundred dollars. Of all the supplies purchased for the relief of Fort Scott, and the support of the Georgia militia, not one pound was received until I passed Fort Scott. I said in my last that blame rested somewhere. The cause of those failures will, in due time, be a subject of investigation, and Colonel Brearly has been arrested on the application of General Gaines.

By some strange fatality, unaccountable to me, the Tennessee volunteers have not yet joined me; they promptly left their homes, and through the inclement weather reached Fort Mitchell, where I had ordered them supplies, and where Colonel Hayne, who led them, met my instructions to pass by Fort Gaines, where he would get a supply of corn that would enable him to reach Fort Scott; but the idea of starvation had stalked abroad, a panic appears to have spread itself everywhere, and he was told that they were starving at Fort Gaines and Fort Scott, and he was in-

duced to pass into Georgia for supplies. His men and officers, as reported to me, were willing to risk the worst of consequences on what they had to join me; however, they have been marched from their supplies to a country stripped of them, when every consideration should have induced his advisers to have urged him on to secure the supplies in the bay, and preserve themselves and Fort Scott from starvation. I have a hope they will join me before I reach St. Marks, or the Mickasuky towns; this would be desirable, as the troops ordered from New Orleans, to protect the supplies, have not reached the bay, and leaving garrisons at Forts Scott and Gadsden weakens my force much; the whole effective strength of the regulars being but three hundred and sixty privates.

In mine of the 26th ultimo, from Fort Early, I stated that despatches received by General Gaines on the 19th instant, from the commanding officer at Fort Scott, induced him to set out that night for Fort Scott to prevent its abandonment, &c. In his passage down the Flint he was shipwrecked, by which he lost his assistant adjutant general, Major C. Wright, and two soldiers, (drowned.) The General reached me six days after, nearly exhausted by hunger and cold, having lost his baggage and clothing, and being compelled to wander in the woods four and a half days without anything to subsist on, or any clothing except a pair of pantaloons. I am happy to have it in my power to say that he is now with me, at the head of his brigade, in good health.

The great scarcity of subaltern officers, in the 4th and 7th regiments of infantry, has induced me to appoint several young men, present, as second lieutenants in the regiments, who, from personal knowledge, and good recommendations, I have no doubt, will prove themselves worthy, and, I trust, will meet with the approbation of the President. A list of their names, and the regiments to which they are attached, will be furnished the adjutant and inspector general, by my adjutant general.

ANDREW JACKSON,  
Major Gen. commanding.

P. S.—Since writing the above, I have the pleasure to inform you that the boat from the bay has arrived with provisions; also Colonel Gibson and Captain McKeever of the Navy. I shall move to-morrow, having made the necessary arrangements with Captain McKeever for his co-operation in transporting my supplies around to the bay of St. Marks, from which place I shall do myself the honor of communicating with you. Should our enemy attempt to escape with his supplies and booty to the small islands, and from thence carry on a predatory warfare, the assistance of the navy will prevent his escape.

General McIntosh, commanding the friendly Creeks, who had been ordered to reconnoitre the right bank of the Apalachicola, reported to me on the 19th that he had captured, without the fire of a gun, one hundred and eighty women and



*Defeat of the Seminole Indians, &c.*

children and fifty-three warriors of the Red Ground chief's party, with their cattle and supplies; the chief and thirty warriors making their escape on horseback. Ten of the warriors, attempting to escape after they had surrendered, were killed by the General.

A. J.

Hon. J. C. CALHOUN, *Sec'y of War.*

COOSADA, NEAR FORT JACKSON,  
March 27, 1818.

SIR: Having arranged the affairs of the territory, as far as was practicable, I left St. Stephen's the 14th instant, with the intention of proceeding to Georgia for my family. At the town of Claiborne, the next day, intelligence reached me that, on the night of the 13th, a party of Indians had attacked a house on the Federal road, about sixty-five miles distant from that place, and murdered eight persons. I immediately ordered a detachment of mounted militia into service, and proceeded with them to the place. At the same time, apprehending the murderers might attempt to escape to Florida, the asylum for our enemies, I transmitted a communication, by express, to the commanding officer at Fort Crawford, notifying him of my arrangements, and desiring a force to be sent from the fort, in two detachments, along certain routes, to the place of rendezvous. The express was also instructed to overtake me. I accordingly received information from Major Young that my request had been executed. The detachments were marched with a promptitude honorable to the major, and I trust they will be enabled, with the aid of the militia, to arrest the progress of the hostile party.

Understanding that the inhabitants, in this quarter, considered themselves in much danger, I issued the necessary orders for the disposition of the troops, and proceeded hither. I have since been correctly informed, that the morning I left the place of rendezvous, five men, riding on the road in that neighborhood, were fired on by the Indians—three killed, and one wounded; in this state of things it is indispensable to the safety of the country, that troops should be stationed at several points; and I have taken measures, as far as I can, for that object. I have also issued an order, that all Indians who are hunting in our woods depart forthwith to their nation. It has become necessary to their safety, and to the repose of the inhabitants. We cannot distinguish the hostile from the friendly party; and such is the state of alarm, that the sight of an Indian creates among the women and children the most frightful apprehensions. I have sent a letter to the Big Warrior, requesting him to call his people home, and assuring him that my order is dictated by the most friendly motives.

Is it not probable that when the Seminoles are pressed by General Jackson, in the neighborhood of Appalachicola, they will retreat to our frontiers, and take revenge on our defenceless inhabitants? I look for it, and am without the means of resistance. There are not more than one hun-

dred regulars at Fort Crawford, and two-thirds of the militia of the territory are not yet organized. Nor can I organize them, and appoint the officers, until the country is laid off into proper beats. So soon as the Legislature arranged the counties, I issued the necessary instructions on that subject; but owing to high waters, and the want of bridges, it is impossible to have them executed at present. There is not, moreover, nor has there been one dollar in our treasury. You will readily perceive my embarrassments, and I earnestly entreat you to place funds at my disposal for the protection of the people, and, if practicable, to order a much larger number of regular troops to our frontiers.

I shall make this my headquarters for some weeks. I have the honor to be, &c.

WM. W. BIBB.

Hon. JOHN C. CALHOUN,  
*Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Camp near St. Mark's, April 8, 1818.

SIR: I wrote you from Fort Gadsden, communicating the embarrassments under which I had labored, previous to my arrival at that post, and my determination, being then in a situation to commence active operations, to penetrate immediately into the centre of the Seminole towns. My army marched on the 26th ultimo, and, on the 1st of April, was reinforced by the friendly Creek warriors, under General McIntosh, and a detachment of Tennessee volunteers, commanded by Colonel Elliott. On the same day, a mile and a half in advance of the Mickasukian villages, a small party of hostile Indians were discovered judiciously located on a point of land projecting into an extensive marshy pond; the position designated, as since understood, for the concentrating of the negro and Indian forces to give us battle. They sustained, for a short period, a spirited attack from my advanced spy companies, but fled and dispersed in every direction, upon coming in contact with my flank columns, and discovering a movement to encircle them. The pursuit was continued through the Mickasukian towns, until night compelled me to encamp my army. The next day detachments were sent out, in every direction, to reconnoitre the country, secure all supplies found, and reduce to ashes the villages. The duty was executed to my satisfaction; nearly three hundred houses were consumed, and the greatest abundance of corn, cattle, &c., brought in. Every indication of a hostile spirit was found in the habitations of their chiefs. In the council house of Kenhagee's town, the King of the Mickasukians, more than fifty fresh scalps were found; and, in the centre of the public square, the old Red Stick's standard, a red pole, was erected, crowned with the scalps, recognised by the hair, as torn from the heads of the unfortunate companions of Scott. As I had reason to believe that a portion of the hostile Indians had fled to St. Marks, I directed my march towards that fortress. As advised, I

*Defeat of the Seminole Indians, &c.*

found that the Indians and negroes combined had demanded a surrender of that work; the Spanish garrison was too weak to defend it, and there were circumstances reported producing a strong conviction in my mind, that, if not instigated by the Spanish authorities, the Indians had received the means of carrying on the war from that quarter; foreign agents, who have been long practising their intrigues and villainies in this country, had free access into the fort; St. Marks was necessary, as a depot, to insure success to my operations. These considerations determined me to occupy it with an American force. An inventory of Spanish property, munitions of war, &c., has been taken and receipted for; personal rights and private property have been respected; and the commandant and garrison furnished with transportation to Pensacola. My correspondence with the Spanish commandants, the evidences under which I acted, and a detailed account of my operations, will be furnished you as early as practicable. Success depends upon the rapidity of my movements; to-morrow I shall march for the Suwanee river, the destroying of the establishments on which will, in my opinion, put a final close to this savage war.

Captain McKeever, of the Navy, cruising at my request on this coast, has been fortunate enough to secure Francis, or Hillis Hajo, the great prophet, and Hornattlemied, an old Red Stick chief. They visited his vessel under an impression they were English; from whom, as they stated, supplies of munitions of war, &c., under late promises, were expected. Arbuthnot, a Scotchman, and suspected as an instigator of this savage war, was found in St. Marks; he is in confinement, until evidences of his guilt can be collected. I am your most obedient servant,

ANDREW JACKSON,  
*Major Gen. commanding.*

CAMP, 14 MILES FROM ST. MARKS,  
On march to Suwanee, April 9, 1818.

From evidences furnished me by a Mr. Hambley, there is little room to doubt but that one of the chiefs, found slain on the field, in advance of the Mickasukian villages, was Kenhagee. Francis, or Hillis Hajo, and Hornattlemied, the prime instigators of this war, have been hung. The latter commanded the party who so inhumanly sacrificed Scott and his companions. Colonel Dyer, with the remainder of the Tennessee volunteers, is in the neighborhood, and will unite with me to-morrow.

AT MANACKS, April 15, 1818.

DEAR SIR: Since I last wrote to you I have received intelligence which makes it necessary for me to return to St. Stephens. I learn that the Indians who committed the late murders in this neighborhood were seen a few days since at Pensacola. My situation is extremely unpleasant. I am without funds for the protection of the territory, and totally ignorant of the views of the Government with respect to Florida. A friendly

and intelligent Indian has informed me that the hostile party, by whom we have been annoyed, are two miles south of the Florida line, on a creek called Yellow Water, from whence they make incursions upon us. And yet I have received no intimation from the Executive of the United States which authorizes me to send troops into the Spanish territory. What orders have been issued to General Jackson on that subject I know not; nor indeed am I acquainted in any degree with the arrangements on the part of the United States for prosecuting the present war.

I should be glad to ascertain the views of the Government. We have no mails at present, and I send this letter to Georgia by travellers whom I have met this evening on my route to St. Stephens.

WM. W. BIBB.

Hon. JOHN C. CALHOUN,  
*Secretary of War.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Bowlegs' Town, Suwanee river, April 20, '18.

SIR: My last communication, dated Camp, before St. Mark's, April 8, and those to which it referred, advised you of my movements and operations up to that date; and, as I then advised you, I marched from that place on the morning of the 9th. On the evening of the 10th I was joined by the rear of the Tennessee volunteers, also by the Indians under General McIntosh, whom I had left at Mickasukee to scour the country around that place. Although the weather has been dry and pleasant, and the waters had subsided in a great degree, our march might be said to have been through water, which kept the infantry wet to the middle, and the depth of the swamps, added to the want of forage, occasioned the horses to give out daily in great numbers.

On the morning of the 12th, near Econfinnah, or Natural Bridge, a party of Indians were discovered on the margin of a swamp, and attacked by General McIntosh, and about fifty Tennessee volunteers, who routed them, killing thirty-seven warriors, and capturing six men and ninety-seven women and children; also recapturing a white woman who had been taken at the massacre of Scott. The friendly Indians also took some horses and about five hundred head of cattle from the enemy, who proved to be McQueen's party. Upon the application of an old woman of the prisoners, I agreed that if McQueen was tied and carried to the commandant of St. Mark's, her people should be received in peace, carried to the upper tribes of the Creek nation, and there provisioned until they could raise their own crops. She appeared much pleased with these terms, and I set her at liberty, with written instructions to the commandant of St. Mark's to that effect. Having received no further intelligence from McQueen, I am induced to believe the old woman has complied with her part of the obligation.

From St. Mark's I marched with eight days' rations, those that joined me having but five; this was done under the expectation of reaching this place in that time, founded on the report of



*Defeat of the Seminole Indians, &c.*

my faithful Indian guide, which I should have accomplished but for the poverty of my horses, and the continued sheets of water through which we had to pass. On the morning of the 15th, my scouts overtook a small party of Indians, killing one man, and capturing the residue, consisting of one man, and one woman and two children; and on that evening I encamped, as my guide supposed, within twelve miles of Suwanee. I marched very early on the 15th, under the hope of being able to encompass and attack the Indian and negro towns by one o'clock P. M., but much to my regret, at three o'clock, and after marching sixteen miles, we reached a remarkable pond, which my guide recollected, and reported to be distant six miles of the object of my march; here I should have halted for the night, had not six mounted Indians, (supposed to be spies,) who were discovered, effected their escape; this determined me to attempt, by a forced movement, to prevent the removal of their effects, and, if possible, themselves, from crossing the river; for my rations being out, it was all important to secure their supplies for the subsistence of my troops. Accordingly my lines of attack were instantly formed and put in motion; and about sunset my left flank column, composed of the 2d regiment of Tennessee volunteers, commanded by Col. Williamson, and a part of the friendly Indians under Col. Kanard, having approached the left flank of the centre town and commenced their attack, caused me to quicken the pace of the centre, composed of the regulars, Georgia militia, and my volunteer Kentucky and Tennessee guards, in order to press the enemy in his centre, whilst the right column, composed of the 1st regiment of Tennessee volunteers, under Colonel Dyer, and a part of the friendly Indians, headed by General McIntosh, who had preceded me, were endeavoring to turn his left and cut off his retreat to the river. They, however, having been previously informed of our force, by a precipitate retreat, soon crossed the river, where it is believed Colonel Kanard, with his Indians, did him considerable injury. Nine negroes and two Indians were found dead, and two negro men made prisoners. On the 17th, foraging parties were sent out, who found a considerable quantity of corn and some cattle. On the 18th, having obtained some small craft, I ordered General Gaines across the river with a strong detachment, and two days' provision, to pursue the enemy; the precipitancy of their flight was soon discovered by the great quantity of goods, corn, &c., strewed through the swamps, and convinced General Gaines that pursuit was in vain; nine Indians and five negro prisoners were taken by our Indians. The evidence of the haste with which the enemy had fled induced the General to confine his reconnoissance to search for cattle and horses; both of which were much wanted by the army. About thirty head of cattle were procured, but, from the reports accompanying General Gaines's, which, in due time, will be forwarded to you, and the disobedience of his orders by the Indians, not one pound was brought into camp.

As soon as time will permit, I shall forward you a detailed account of the various little affairs with the enemy, accompanied with reports of the commanding officers of detachments; suffice it for the present to add that every officer and soldier under my command, when danger appeared, showed a steady firmness, which convinced me that, in the event of a stubborn conflict, they would have realized the best hopes of their country and General.

I believe I may say that the destruction of this place, with the possession of St. Marks, having on the night of the 18th captured the late Lieutenant Ambrister, of the British marine corps, and, as represented by Arbuthnot, successor to Woodbine, will end the Indian war for the present; and should it be renewed, the position taken, which ought to be held, will enable a small party to put it down promptly.

I shall order, or take myself a reconnoissance west of the Appalachicola, at Pensacola point, where, I am informed, there are a few Red Sticks assembled, who are fed and supplied by the Governor of Pensacola. My health being impaired, as soon as the duty is performed, the positions taken, well garrisoned, and security given to the southern frontier, (if the Government have not active employ for me,) I shall return to Nashville to regain my health. The health of the troops is much impaired, and I have ordered the Georgia troops to Hartford to be mustered, paid, and discharged, the General having communicated his wishes, and that of his troops, to be ordered directly there, and reporting that they have plenty of corn and beef to subsist them to that point. I have written to the Governor of Georgia to obtain from the State the necessary funds to pay General Glascock's brigade when discharged, and that the Government will promptly refund it. I am compelled to this mode to have them promptly paid, Mr. Hogan, the paymaster of the 7th infantry, (for whom I received from Mr. Brent an enclosure said to contain fifty thousand dollars,) not having reached me.

From the information received from Ambrister, and Mr. Cook, who was captured with him, that A. Arbuthnot's schooner was at the mouth of this river preparing to sail for the bay of Tampa, my aid-de-camp, Lieutenant Gadsden, volunteered his services with a small detachment to descend the river and capture her. The importance of this vessel to transport my sick to St. Marks, as well as to destroy the means used by the enemy, induced me to grant his request. He sailed yesterday, and I expected to have heard from him this morning. I only await his report to take up the line of march on my return to St. Marks. The Georgia brigade, by whom I send this, being about to march, compels me to close it without the report of Lieutenant Gadsden.

I have, &c.

ANDREW JACKSON,  
Major General commanding.

Hon. JOHN C. CALHOUN,  
Secretary of War.

*Defeat of the Seminole Indians, &c.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort St. Mark's, April 20, 1818.

SIR: I wrote you from Bowlegstown on the 20th instant. On the night of the same day, I received the expected despatch from my aid-de-camp, Lieutenant Gadsden, communicating the success of his expedition, and on the next day, as soon as the sick of my army were despatched down the Suwanee river, to be conveyed in the captured schooner to St. Mark's, I took up the line of march for that fort. I arrived at this place last evening, performing a march of one hundred and seven miles in less than five days. Lieutenant Gadsden had reached it a few hours before me. He communicates having found among the papers of Arbuthnot, Ambrister, and Cook, letters, memorials, &c., all pointing out the instigators of this savage war, and, in some measure, involving the British Government in the agency. These will be forwarded you in a detailed report I purpose communicating to you as early as practicable.

The old woman spoken of in my last communication to you, who had promised to use her influence in having McQueen captured and delivered up, has not been heard of. From signs discovered on the opposite shore of the St. Mark's river, I am induced to believe that that Indian party is still in this neighborhood. A detachment will be sent out to reconnoitre the country, to receive them as friends, if disposed to surrender, or inflict merited chastisement, if still hostile.

I shall leave this in two or three days for Fort Gadsden, and after making all necessary arrangements for the security of the positions occupied, and detaching a force to scour the country west of the Appalachicola, I shall proceed direct for Nashville. My presence in this country can be no longer necessary. The Indian forces have been divided and scattered, and cut off from all communication with those unprincipled agents of foreign nations who have deluded them to their ruin; they have not the power, if the will remain, of again annoying our frontier.

I remain, &c.

ANDREW JACKSON,  
Major Gen. commanding.

Hon. J. C. CALHOUN,  
Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Gadsden, May 5, 1818.

SIR: I returned to this post with my army on the evening of the 2d instant, and embrace an early opportunity of furnishing you a detailed report of my operations to the east of the Appalachicola river. In the several communications addressed to you from Hartford, Fort Scott, and this place, I have stated the condition of the army on my assuming the immediate command, the embarrassment occasioned from the want of provisions, the privations of my troops on their march from the frontiers of Georgia, and the circumstances which compelled me to move di-

rectly down the Appalachicola river to meet with and protect the expected supplies from New Orleans. These were received on the 25th of March, and on the next day I was prepared for active operations. For a detailed account of my movements from that period to this day you are respectfully referred to the report prepared by my adjutant general, accompanied with Captain Hugh Young's topographical sketch of the route and distance performed. This has been principally a war of movements. The enemy, cut off from their strongholds, or deceived in the promised foreign aid, have uniformly avoided a general engagement. Their resistance has generally been feeble; and in the partial rencontres into which they seem to have been involuntarily forced, the regulars, volunteers, and militia, under my command, realized my expectations; every privation, fatigue, and exposure was encountered with the spirit of soldiers, and danger was met with a degree of fortitude calculated to strengthen the confidence I had reposed in them.

On the commencement of my operations, I was strongly impressed with a belief that this Indian war has been excited by some unprincipled foreign or private agents. The outlaws of the old Red Stick party had been too severely convinced, and the Seminoles were too weak in numbers to believe that they could possibly alone maintain a war with even partial success against the United States. Firmly convinced, therefore, that succor had been promised from some quarter, or that they had been deluded into a belief that America dare not violate the neutrality of Spain by penetrating to their towns, I early determined to ascertain these facts, and so direct my movements as to undeceive the Indians. After the destruction of the Mickasukian villages, I marched for St. Mark's. The correspondence between myself and the Spanish commandant, in which I demanded the occupancy of that fortress with an American garrison, accompanies this. It had been reported to me, direct from the Governor of Pensacola, that the Indians and negroes unfriendly to the United States had demanded of the commandant of St. Mark's a supply of ammunition, munitions of war, &c., threatening, in the event of a noncompliance, to take possession of the fort. The Spanish commandant acknowledged the defenceless state of his fortress, and his inability to defend it; and the Governor of Pensacola expressed similar apprehensions. The Spanish agents throughout the Floridas had uniformly disavowed having any connexion with the Indians, and acknowledged the obligations of His Catholic Majesty, under existing treaties, to restrain their outrages against the citizens of the United States. Indeed, they declared that the Seminole Indians were viewed as alike hostile to the Spanish Government, and that the will remained, though the power was wanting, to inflict merited chastisement on this lawless tribe. It was, therefore, to be supposed that the American army, impelled by the immutable laws of self-defence to penetrate the territory of His Catholic Majesty, to fight his battles, and even to relieve from a cruel



*Defeat of the Seminole Indians, &c.*

andage some of his own subjects, would have been received as allies, bailed as deliverers, and every facility afforded to them to terminate speedily and successfully this savage war. Fort St. Mark's could not be maintained by the Spanish force garrisoning it. The Indians and negroes viewed it as an asylum, if driven from their towns, and were preparing to occupy it in this event. It was necessary to anticipate their movements, independent of the position being deemed essential as a depot, on which the success of my future operations measurably depended. In the spirit of friendship, therefore, I demanded its surrender to the army of the United States until the close of the Seminole war. The Spanish commandant required time to reflect. It was granted. A negotiation ensued, and an effort was made to protract it to an unreasonable length. In the conversations between my aide-camp, Lieutenant Gadsden, and the Spanish commandant, circumstances transpired convicting him of a disposition to favor the Indians, and of having taken an active part in aiding and abetting them in this war. I hesitated, therefore, no longer; and as I could not be received in friendship, I entered the fort by violence. Two light companies of the 7th regiment of infantry, and one of the 4th, under the command of Major Twiggs, were ordered to advance, lower the Spanish colors, and hoist the star-spangled banner on the ramparts of Fort St. Mark's. The order was executed promptly. No resistance was attempted on the part of the Spanish garrison. The duplicity of the Spanish commandant of St. Mark's, in professing friendship towards the United States while he was actually aiding and supplying her savage enemies, throwing open the gates of his garrison to their free access, appropriating the King's stores to their use, issuing ammunition and munitions of war to them, and knowingly purchasing of them property plundered from the citizens of the United States, is clearly evinced by the documents accompanying my correspondence.

In Fort Saint Mark's, as an inmate in the family of the Spanish commandant, an Englishman, by the name of Arbuthnot, was found. Unable satisfactorily to explain the objects of his visiting this country, and there being a combination of circumstances to justify a suspicion that his views were not honest, he was ordered in close confinement. The capture of his schooner, near the mouth of Suwanee river, by my aide-camp, Lieutenant Gadsden, and the papers found on board, unveiled his corrupt transactions, as well as those of a Captain Ambrister, late of the British colonial marine corps, taken as a prisoner near Bowlegs' town. These individuals were tried, under my orders, by a special court of select officers, legally convicted as ex-citizens of this savage and negro war, legally condemned, and most justly punished for their iniquities. The proceedings of the court-martial in this case, with the volume of testimony justifying their condemnation, present scenes of

wickedness, corruption and barbarity, at which the heart sickens, and in which, in this enlightened age, it ought not scarcely to be believed that a Christian nation would have participated; and yet the British Government is involved in the agency. If Arbuthnot and Ambrister are not convicted as the authorized agents of Great Britain, there is no room to doubt but that that Government had a knowledge of their assumed character, and was well advised of the measures which they had adopted to excite the negroes and Indians in East Florida to war against the United States. I hope the execution of these two unprincipled villains will prove an awful example to the world, and convince the Government of Great Britain, as well as her subjects, that certain, though slow retribution awaits those unchristian wretches, who, by false promises, delude and excite an Indian tribe to all the horrid deeds of savage war.

Previous to my leaving Fort Gadsden, I had occasion to address a communication to the Governor of Pensacola on the subject of permitting supplies to pass up the Escambia river to Fort Crawford. This letter, with another from St. Mark's, on the subject of some United States' clothing, shipped in a vessel in the employ of the Spanish Government, to that post, I now enclose, with his reply. The Governor of Pensacola's refusal of my demand cannot but be viewed as evincing a hostile feeling on his part, particularly in connexion with some circumstances reported to me from the most unquestionable authority. It has been stated that the Indians at war with the United States have free access into Pensacola; that they are kept advised from that quarter of all our movements; that they are supplied from thence with ammunition and munitions of war; and that they are now collecting in large bodies, to the amount of four or five hundred warriors, in that city; that inroads from thence have lately been made on the Alabama, in one of which eighteen settlers fell by the tomahawk. These statements compel me to make a movement to the west of the Appalachicola; and, should they prove correct, Pensacola must be occupied with an American force, the Governor treated according to his deserts, or as policy may dictate. I shall leave strong garrisons in Fort St. Mark's, Fort Gadsden, and Fort Scott; and in Pensacola, should it become necessary to possess it.

It becomes my duty to state it as my confirmed opinion that, so long as Spain has not the power or will to enforce the treaties by which she is solemnly bound to preserve the Indians within her territory at peace with the United States, no security can be given to our southern frontier, without occupying a cordon of posts along the seashore. The moment the American army retires from Florida, the war hatchet will be again raised, and the same scenes of indiscriminate massacre with which our frontier settlers have been visited will be repeated. So long as the Indians within the territory of Spain are exposed to the delusions of false prophets, and the poison of

*Defeat of the Seminole Indians, &c.*

foreign intrigue; so long as they can receive ammunition, munitions of war, &c., from pretended traders, or Spanish commandants, it will be impossible to restrain their outrages. The burning of their towns, the destroying of their stock and provisions, will produce but temporary embarrassments; resupplied by Spanish authorities, they may concentrate or disperse at will, and keep up a lasting predatory warfare against the frontiers of the United States, as expensive to our Government as harassing to our troops. The savages, therefore, must be made dependant on us, and cannot be kept at peace without being persuaded of the certainty of chastisement being inflicted on the commission of the first offence.

I trust, therefore, that the measures which have been pursued will meet the approbation of the President of the United States. They have been adopted in pursuance of your instructions, and under a firm conviction that they alone were calculated to insure "peace and security to the southern frontier of Georgia."

The army will move on the 7th from hence, crossing the Appalachicola river at the Ocheese bluff, about thirty miles above this.

ANDREW JACKSON,

*Major Gen. commanding.*

Hon. J. C. CALHOUN,  
*Secretary of War.*

HEADQ'RS. DIVISION OF THE SOUTH,  
*Adj't Gen's Office, Fort Gadsden.*  
*Appalachicola river, May 3, 1818.*

SIR: I have the honor to report that the army under the immediate command of Major General Andrew Jackson took up the line of march on the 26th day of March last, with eight days' rations, and lay in advance of this post about six miles on the 29th, at Okolokne river, when nineteen canoes were made, and the principal part of the army crossed by eight o'clock, P. M., the residue next morning; when the march was again resumed at eleven o'clock, A. M. On this evening Brevet Major Twiggs of the 7th infantry was detached with one company and about two hundred warriors, with orders to advance on an Indian village called Tallahassie, and surprise it at day-break. On his near approach, he despatched a party to ascertain its situation, who reported it evacuated some days before. On the morning of the 31st he entered the village, having previously sent out parties to reconnoitre. Two of the enemy were made prisoners, one of whom made his escape from the Indians before he was brought into camp. The army passed the village about twelve o'clock, and encamped near Mickasuky, when intelligence was received of the approach of a detachment of mounted volunteers from Tennessee, under the command of Lieutenant Colonel Elliott, near four hundred strong. On the morning of the 1st of April the army formed and halted until their arrival, when they were ordered to form the advance of each flank, with Captains Russell and Evans's companies, as spies, with Captain John Gordon. The army

now advanced within a mile and a half of King-hajah's town, when a number of Indians were discovered herding cattle on the margin of a large pond. The General ordered the right and left columns to advance, with a view of cutting off their retreat, and at the same time instructed the advance light company, under Major Muhlenburg, the guard, under Major Nicks, together with the small companies composing his life guard, under Captains Dunlap and Crittenden, to advance in support of the spies, in the event of a general engagement. The spy companies commenced the attack, and a brisk running fire was kept up on both sides for some minutes, when the enemy divided, the spy companies pursuing those on the right; and Lieutenant Colonel Elliott having turned their flank, became generally engaged, and bore them over to the left column, under the command of Lieutenant Colonel Mitchell, within half gunshot of each other, when they were assailed by both flanks, and would all have fallen, had not the volunteers taken up the impression, from the similarity of dress, that some of the friendly warriors had reached in pursuit of the enemy, which occasioned the firing to cease for a short time, when a number made good their retreat into the swamp. Captain Crittenden's company, being on horseback, was unable to reach the head of Lieutenant Colonel Elliott's column, when they dismounted, and operated against the enemy. Major Muhlenburg's company, the advance guard, and Captain Dunlap's company, being on foot, were not able to reach the scene of action in time. The right column of Georgia militia, on nearing the pond, filed round it; and Colonel King, with his regiment, was ordered to advance through it, to support the column of horse, should it be found necessary; which was executed by the colonel with great promptness. The conduct of the officers and soldiers engaged on this occasion was, in every respect, praiseworthy; our loss, one man of Captain Andrews's company killed, and four of Captain Evans's company of Tennessee volunteers wounded. The reports give fourteen killed and several wounded of the enemy, and four women prisoners, from whom we learned that three hundred warriors had advanced from the town to aid those engaged, and, on seeing the advance of an army, fled precipitately. The army now advanced upon the town, which was found deserted by the enemy; and, on reaching the square, discovered a red pole planted at the council-house, on which were suspended about fifty fresh scalps, taken from the heads of extreme age down to the tender infant of both sexes, and, in an adjacent house, near three hundred more, which bore the appearance of having been the barbarous trophies of settled hostility for three or four years past.

The army continued the pursuit to a large pond of water, which is eight miles in length, varying in width from six hundred to four thousand yards, and from two to five feet deep, through which the army passed, when the approach of night induced the commanding General to draw off his troops. On the succeeding morning, Brevet Ma-



*Defeat of the Seminole Indians, &c.*

for General E. P. Gaines, with a large command, was ordered to pass the lake or pond, and attack the other towns, but which he found abandoned by the enemy. The red pole was again found planted in the square of Fowltown, barbarously decorated with human scalps of both sexes, taken within the last six months from the heads of our unfortunate citizens. General McIntosh, who was with General Gaines, routed a small party of savages near Fowltown, killed one negro, and took three prisoners, on one of whom was found the coat of James Champion, of Captain Cummings's company, (4th regiment of infantry,) who was killed by the Indians on board one of our boats descending the river to the relief of Major Muhlenburg. This coat, with nearly all Captain Cummings's company's clothing, was lost on board of Lieutenant Scott's boat, when he and his party were massacred, on the 30th of November last. The pocket-book of Mr. Thomas Leigh, who was murdered at Cedar Creek on the 21st of January last, was found in Kinghajah's town, containing several letters addressed to the deceased, and one to General Glasscock. About one thousand head of cattle fell into our hands, many of which were recognised by the Georgia militia as the brands and marks of their citizens. Near three thousand bushels of corn were found, with other articles useful to the army. Upwards of three hundred houses were consumed, leaving a tract of fertile country in ruin, where these wretches might have lived in plenty, but for the infernal machinations of foreign traders, if not agents. The army remained at this point until the morning of the 5th, when the march was resumed for St. Marks, before which it arrived on the evening of the 6th, and, after communicating with the commanding officer, took possession of that fortress on the following morning. Captain McKeever, of the navy, having sailed for St. Marks with some vessels containing supplies for the army, was fortunate enough to entice on board his vessel, in the river, Francis, or Hillis Hadjo, and Homathlamicco, hostile chiefs of the Creek nation, and whose settled hostility has been severely felt by our citizens. The commanding General had them brought on shore, and ordered them to be hung, as an example to deter others from exciting these deluded wretches to future scenes of butchery. A man of the name of A. Arbuthnot was also taken on the arrival of the army, and placed in close confinement.

The troops having again received eight days' rations, and a garrison detached for Fort St. Marks, the army marched on the 9th of April, destined for Suwanee. On the morning of the 12th, the officer of the day reported that the sentinels had heard the lowing of cattle and barking of dogs during the night; from which the General was induced to send a runner to General McIntosh, who was encamped a short distance in rear of the army, with instructions to have the country below examined. In the mean time, the army moved slowly in advance. General McIntosh dispatched Major Kanard with a party, who returned to him a runner reporting the dis-

covery of a hostile party too strong for his little band of warriors. McIntosh moved against them with his whole force. A small detachment of different companies of the Tennessee volunteers, under Colonels Dyer and Williamson, (they having joined the army on the evening of the 10th,) were left at our encampment to search for horses, and, on hearing the report of Major Kanard, formed themselves into a company under Captain Bell, who was with them, and moved to attack the enemy, whom they found near a large swamp, endeavoring to move off. A spirited engagement ensued, which resulted in the death of thirty-seven, and six men and ninety-eight women and children prisoners; and our loss, three killed and four wounded of the friendly Indians. The only woman out of seven whose life was spared at the massacre of Lieutenant Scott was here recaptured by Major Kanard. General McIntosh individually killed three of the enemy and captured one. The little band of Tennessee volunteers acted on this occasion as becomes their character. At the commencement of the action the army was halted, and a runner despatched to inform General McIntosh that any aid he might deem necessary would be afforded, and that the army would remain until his arrival, which was not until we encamped for the night. The enemy abandoned a number of horses, hogs, corn, and about six hundred head of cattle.

The army moved on the morning of the 13th, and on the succeeding day our spies surprised a camp consisting of two men, a woman, and two children. One of the men was killed; the other, with a small boy, slightly wounded; and the woman, unfortunately, not being distinguished in the swamp, received a wound of which she died. At three o'clock, P. M. on the 16th, the army arrived at a large pond within six miles of Bowlegs town, on Suwanee river, where a few Indians well mounted discovered our advance. An attempt was made to overtake them, but the enfeebled state of our horses rendered it impracticable. Under these circumstances, the General deemed it advisable to take the town by a forced march, not allowing the enemy time to cross the river and destroy their supplies. The manner of attack having been previously arranged, the army moved rapidly, until arriving near the large — which flanks the towns, when the troops changed position, conformably to previous orders, and moved forward. The left flank, composed of Colonel Williamson's regiment of Tennessee volunteers, at the head of which was a force of Indian warriors under Major (now Colonel) Kanard, soon came in contact, and warmly engaged the Indians and negroes; whilst the right flank, composed of Colonel Dyer's regiment of Tennessee volunteers, with a like force of warriors under General McIntosh, advanced near the river, to prevent the enemy from crossing. The centre advanced in excellent order, and under the expectation of having to combat with the strength of these towns and the fugitives from Mickasuky; but, on reaching Bowlegs town, found it abandoned. The left flank, from the nature of the

*Defeat of the Seminole Indians, &c.*

ground they had to traverse, and Colonel Kanard not adhering entirely to the route designated, drove the Indians and negroes (about three hundred) into the river, before the right flank could occupy the desired position. The reports give eleven killed and three prisoners on the field, and it is believed many were killed and drowned in swimming the river, it being nearly three hundred yards wide. Colonel Kanard had thirteen wounded, but one dangerously. About twenty-seven hundred bushels of corn were obtained in the towns and neighboring swamps, near ninety head of cattle, and a number of horses. Our sentinels, on the night of the 17th, took prisoners two white men (Ambrister and Cook) and one negro, who had just returned from Arbuthnot's vessel at the mouth of Suwanee; from the latter we obtained a letter written by A. Arbuthnot to his son, in which he enumerates the army of the United States under the General's command, and requires him to inform his friend Bowlegs that resistance would be fruitless against such an overwhelming force, and to make over the river with all despatch; admonishing his son, at the same time, to remove and secrete everything which could be moved. From Cook we learned that this letter was read to the negroes and Indians, when they immediately commenced crossing their families, and had just finished as we entered their towns. Upwards of three hundred houses were here consumed, the most of which were well built and somewhat regular, extending near three miles up the river. On the morning of the 18th General Gaines was ordered, with a select command, and a number of warriors under General McIntosh, to cross the Suwanee river in pursuit of the enemy; but found, on advancing about six miles, that they had dispersed in every direction, from the numerous trails, and too far advanced to overtake them, his command being short of supplies. A detachment of the warriors, having advanced some distance, fell in with a small party of the enemy, killed three warriors, took some women and children and five negroes. On the same morning, Lieutenant James Gadsden, aid-de-camp to the commanding General, descended the Suwanee river to its mouth, with Captain Dunlap's and a few of Captain Crittenden's companies of the life-guard, and a small detachment of regulars, and captured, without difficulty, the schooner of A. Arbuthnot, which had brought supplies of powder and lead to the Indians and negroes settled at Suwanee. This vessel afforded the means of transporting our sick back to St. Marks. On the evening of the 20th, General Glasscock was ordered, at his request, to march his brigade by Mickasuky to Hartford, in Georgia, and Captain Bell ordered to muster them out of service; and the army moved about three-quarters of a mile preparatory to its return. On the 24th General McIntosh was ordered to proceed direct to Fort Scott, on Flint river, and an order furnished him to the commanding officer to muster his warriors out of service.

The army reached Fort St. Marks on the 25th, having marched twenty-eight miles on that day,

and we were agreeably surprised in finding Lieutenant Gadsden had arrived safely that evening from the mouth of Suwanee. On the 26th a special court was ordered for the trial of A. Arbuthnot and Robert C. Ambrister; which court, on the documents and evidence adduced, sentenced the first to be hung, and the latter to be shot. They were accordingly executed on the morning of the 29th. The army moved and encamped four miles from St. Marks on the evening of the 28th, and arrived at Fort Gadsden on the 2d instant; the General having previously detached a garrison of two hundred men, under the command of Brevet Major Fanning, to occupy Fort St. Marks. I have only to add, that this army has borne hardships and privations to a great extent, in a manner becoming soldiers and citizens of a nation proud of their liberties. The assistant topographical engineer will furnish a topographical report of the country through which the army operated; and I refer you to the enclosed sketches for information of our order of movement, and have the honor to be, very respectfully, your obedient servant.

R. BUTLER, *Adj. Gen.*

Brig. Gen. DANIEL PARKER,  
*Adjutant and Inspector General.*

HEADQ'RS, DIVISION OF THE SOUTH,  
*Fort Gadsden, March 25, 1818.*

SIR: I have ordered a supply of provisions to be sent from New Orleans, via Pensacola, to Fort Crawford, on the Caneuco. This route has been adopted as the most speedy one of provisioning one of my garrisons which must be maintained during the present conflict against our mutual enemies, the Seminole Indians, and I cannot but express a hope that no attempt will be made to interrupt the free passage of my transports to that post. I am not disposed to enter into any controversy with you on the rights which our Government may claim to the free navigation of such water-courses as head within her limits, but flow through the territory of His Catholic Majesty, preferring to leave these subjects to be settled by those legally authorized; but as it is necessary for me to make use of the Escambia river in passing up provisions to the garrison at Fort Crawford, I wish it to be distinctly understood, that any attempt to interrupt the passage of transports cannot be viewed in any other light than as a hostile act on your part. I will not permit myself for a moment to believe that you would commit an act so contrary to the interest of the King your master. His Catholic Majesty, as well as the Government of the United States, are alike interested in chastising a savage foe, who have too long warred with impunity against his subjects as well as the citizens of this Republic, and I feel persuaded that every aid which you can give, to promote this object, will be cheerfully tendered.

ANDREW JACKSON,  
*Major General commanding.*

DON JOSE MAZOT, *Governor of Pensacola.*



*Defeat of the Seminole Indians, &c.*

HEADQ'RS. DIVISION OF THE SOUTH,  
Before St Marks, April 6, 1818.

SIR: To chastise a savage foe, who, combined with a lawless band of negro brigands, have for some time past been carrying on a cruel and unprovoked war against the citizens of the United States, has compelled the President to direct me to march my army into Florida. I have penetrated to the Mickasuky towns, and reduced them to ashes. In these towns I found many indications of a hostile spirit. On a red pole in the centre of the council-houses of Kenhagas town, more than fifty fresh scalps, of all ages, from the infant to the aged matron, were found suspended. In addition to this, upwards of three hundred old scalps were found in the dwellings of the different chiefs settled on the Mickasuky pond. Those barbarians who escaped death have fled. From information communicated by the Governor of Pensacola to two of my captains, Gordon and Call, I was induced to believe they had fled to St. Marks for protection. The Governor stated that the Indians and negroes had demanded of you large supplies of munitions of war, with a threat, in the event of a refusal, of taking possession of your fortress. He further expressed an apprehension that, from your defenceless state, they were already in possession of St. Marks. The wife of Chenubby, a noted chief, now a prisoner in my camp, informed me that the hostile Indians and negroes obtained their supply of ammunition from St. Marks. To prevent the recurrence of so gross a violation of neutrality, and to exclude our savage enemies from so strong a hold as St. Marks, I deem it expedient to garrison that fortress with American troops, until the close of the present war. This measure is justifiable on the immutable principle of self-defence, and cannot but be satisfactory, under existing circumstances, to His Catholic Majesty, the King of Spain. Under existing treaties between our two Governments, His Catholic Majesty, the King of Spain, is bound to preserve in peace with the citizens of the United States not only his own subjects, but all Indian tribes residing within his territory. When called upon to fulfil that part of the treaty in relation to a savage tribe who have long depredated with impunity on the American frontier, incompetency is alleged, with an acknowledgment that the same tribe have acted in open hostility to the laws, and invaded the rights of His Catholic Majesty. As a mutual enemy, therefore, it is expected that every facility will be afforded by the agents of the King of Spain to chastise these lawless and inhuman savages. In this light is the possession of St. Marks by the American forces to be viewed. I come not as the enemy but as the friend of Spain. Spanish rights and property will be respected. The property and rights of Spanish subjects will be guaranteed them. An inventory of all public property, munitions of war, &c., shall be made out and certified by an officer appointed by each of us, and a receipt given for the same, to be accounted for to His Catholic Majesty by the United States. The subject of my possession of the garrison of St.

Marks will be referred to our respective Governments, for amicable adjustment. Some armed vessels of the United States are in the bay of St. Marks, with whom I wish to communicate. You will, I trust, furnish me with a small vessel to convey a letter, as well as some sick and wounded that are with me. As our mutual savage enemies are concentrating their forces near or on the Suwaney, an early and prompt answer is requested to this letter, with an English translation, as neither myself nor staff are acquainted with the Spanish.

This will be handed to you by Aid-de-camp Lieutenant James Gadsden, by whom an answer is expected, I have, &c.

ANDREW JACKSON,  
Major General commanding.

The COMM'G OFFICER, St. Marks.

ST. MARKS, OFF APPALACHIE,  
April 7, 1818.

MOST EXCELLENT SIR: Being made to understand, although with the greatest difficulty, the contents of a letter with which your excellency honored me yesterday evening, delivered to me by your aid-de-camp James Gadsden, I will declare to your excellency the satisfaction the knowledge of the result of your expedition against Mickasuky has afforded me. That such would be the event could not be doubted, on considering the superior talents and skilful conduct of your excellency; and to these must be attributed the success, on which I tender you my most cordial congratulation.

My chief, the Governor of Pensacola, had in truth reason to mention to your captains, Gordon and Call, what your excellency states to me, and to entertain fears for the fate of this fort, menaced by Indians and negroes for some months past, and particularly since they have been disappointed in their expectations of obtaining powder and balls, which they have so repeatedly solicited, and to which they thought themselves entitled, from the practice which subsisted of supplying them annually therewith. This proves how entirely unfounded is the assertion of the wife of the chief Chenubby, that the Indians have been supplied with munitions in this fort since I was advised and I determined to maintain the most perfect neutrality. No one can better remove from your excellency's mind any unfavorable opinion you may have formed on this subject than the bearer, William Hambly, as he has at various times interpreted to me the solicitations of the several Indian chiefs in my neighborhood; and he can also inform you of the advice I always gave them—to avoid the destruction which has overtaken them, and which I foresaw from the beginning.

This being realized, and there being now no motive to fear any insult to the fort from these barbarians and the negroes, I beg permission of your excellency to call your attention to the difficulty I should involve myself in with my Government, if I were presently to assent to what your excellency proposes to me, to garrison this

*Defeat of the Seminole Indians, &c.*

fort with the troops of the United States, without first receiving its orders. Such I will solicit immediately an opportunity offers, and I do not for a moment doubt that they will be given to me; so zealous is my Government to comply with the stipulations between her and the United States. In the interim I hope your excellency will desist from your intention, and be firmly persuaded of the good faith and harmony which will reign between this garrison and whatever troops you may think fit to leave in this vicinity, who may assist me in the defence of this fort on any unforeseen event.

The sick your excellency sent in are lodged in the royal hospital, and I have afforded them every aid which circumstances admit. I hope your excellency will give me other opportunities of evincing the desire I have to satisfy you.

I trust your excellency will pardon my not answering you as soon as requested, for reasons which have been given you by your aid-de-camp. I do not accompany this with an English translation, as your excellency desires, because there is no one in the fort capable thereof; but the before named William Hambly proposes to translate it to your excellency in the best manner he can.

May our Lord preserve your excellency many years. Such is my prayer. Most excellent sir, I kiss your excellency's hands, and am your most obedient and devoted servant,

F. CASO Y LUENGO.

The Most Ex't A. JACKSON,  
General-in-Chief, &c.

HEADQ'RS. DIVISION OF THE SOUTH,  
Camp near St. Mark's, April 7, '18.

SIR: I refer you to my communications of yesterday, for the motives which have compelled me to occupy the fort of St. Mark's. I again repeat that I have entered the territory of Spain as a friend, to chastise a mutual enemy of both nations, and whom His Catholic Majesty was bound, under the most sacred of treaties, to have punished himself. Peculiar circumstances, however, have prevented, and it was therefore expected that every facility would have been given to the American arms, to have insured success to their operations. The occupation of St. Mark's is essential to the accomplishment of my campaign, and is peculiarly so at this period, when evidence is derived from every source of the designs of the negroes and Indians against that fortress. They are now concentrating with the intention of taking possession of St. Marks the moment my army moves from its vicinity, the dislodging them from which will cost me more American blood than I am disposed should be shed. Success to my operations requires despatch; you will excuse me, therefore, in refusing your request that a suspension should be granted until a permit is obtained from your Government, and on insisting that Fort St. Marks should be immediately occupied by American troops.

Major Fanning, my inspector general, and

Lieut. Simmons, of the Ordnance Department, are appointed to act, with one or two officers nominated on your part, to take an inventory of, and inspect all public property in the fort of St. Marks, for which receipts will be given in the name of the American Government. Any disposition which you would wish made with the private property of yourself, officers, and soldiers, or any other arrangements gratifying to yourself, will be settled by my aid-de-camps, Lieutenants Gadsden and Glassell.

ANDREW JACKSON,  
Major General commanding.

Don F. CASO LUENGO,  
Commanding Fort St. Marks.

APPALACHIE, April 7, 1818.

MOST EXCELLENT SIR: I should insist on what I stated to your excellency in my letter of this morning, as to the necessity of awaiting orders from the Governor of Pensacola for the delivery of this fort under my command, were I not, in addition to what your excellency says in your answer, threatened by your aid-de-camp and the other officers appointed to negotiate on the subject; and had not so large a body of troops entered, without awaiting my permission, and taken possession of all the stores and posts, lowering the Spanish flag, and hoisting the American.

So manifest a violation of the territory of His Catholic Majesty obliges me to complain of it, and to protest against it; and I accordingly do protest against it, and beg of your excellency to provide me, as speedily as possible, the vessels necessary to transport me to Pensacola, together with the troops and those persons who are in the royal employ; and also to give orders that, in the interim, the private property and effects of every Spanish individual here be respected. With respect to the public property of His Catholic Majesty, I have nominated the subaltern officer of this detachment and commissary of the fort to make, with the three officers whom you name to me, an inventory thereof.

I repeat to your excellency my respects, and prayers to God to preserve your life many years. Most excellent sir, I kiss your excellency's hands. Your most obedient and devoted servant,

FR. CASO Y LUENGO.

The Most Ex't A. JACKSON,  
General U. S. troops before St. Marks.

HEADQ'RS. DIVISION OF THE SOUTH,  
Camp, near St. Marks, April 7, 1818.

SIR: I have received your protest against my proceedings. The occupancy of Fort St. Marks by my troops, previous to your assenting to the measure, became necessary from the difficulties thrown in the way of an amicable adjustment, notwithstanding my assurances that every arrangement should be made to your satisfaction, and expressing a wish that my movements against our common enemy should not be retarded by a tedious negotiation. I again repeat what has



*Defeat of the Seminole Indians, &c.*

been reiterated to you through my aid-de-camp, Lieutenant Gadsden, that your personal rights and private property shall be respected; that your situation shall be made as comfortable as practicable while compelled to remain in Fort St. Marks; and that transports shall be furnished, as soon as they can be obtained, to convey yourself, family, and command, to Pensacola. I daily expect some vessels from the bay of Appalachicola; as soon as they arrive, the most suitable shall be selected for said purpose.

ANDREW JACKSON,  
Major General commanding.

DON. FR. CASO Y LUENGO,  
Governor of St. Marks.

PENSACOLA, April 16, 1818.

MOST EXCELLENT SIR: Your excellency's letter of the 25th of the last month has been delivered to me, and also that of the 26th, in answer to mine, of the 16th of February last. I have the honor to advise your excellency of the receipt of both, and to answer the former.

In the month of May, of the last year, from a spirit of conciliation I permitted a cargo of provisions, which the schooner *Mobiterra* had brought from New Orleans to this place, to pass up the Escambia to Fort Crawford. Influenced by the same sentiments, I made a similar concession to Captain Call, assenting to the transporting of the cargo brought by the schooner *Italiana*, in January last, to the said destination; and, more lately, in continuance of the same amicable and conciliatory spirit, I consented that Lieutenant Eddy, of the garrison of the before named fort, (commissioned by its commander, Major Young, for the purpose,) should procure sixty barrels of provisions in this place; and the cargo of the schooner *Italiana* (which is, or ought to be, deposited here) not being yet exported, I do not think the further introduction of provisions, which your excellency asks at present necessary; but, nevertheless, as I infer from your excellency's letter that these provisions are already on their passage, in pursuance of the sufferance hitherto accorded, and observing the restrictions and course established, that is, to consign them to a Spanish commercial house, who will take care to forward them, and pay the royal duties of import and export, I will allow the same destination to be given to them as to the former, provided that the Government of the United States shall not set up, or derive any right, either now or hereafter, from these purely gratuitous concessions, as I make them from the obligation of existing circumstances, which do not admit of supplying the garrison of the before named Fort Crawford by any other way.

In accordance with the declaration of your excellency, when you add it is not your intention to enter into a discussion with me in relation to the right which the United States may claim to the free navigation of the Escambia, so neither is it mine to discuss this subject with your excellency, as well because it does not fall within my

duties, as that, being a subordinate officer, I am bound to obey the superior on whom I depend, it being my duty, until I receive instructions to the contrary, to be governed on this head by the treaties existing between the United States and Spain; and in the last, of amity, limits, and navigation, I do not see the before named river mentioned, but the sovereignty of the King, my master, over all the territories, rivers, coasts, ports, and harbors lying South of 31° North, solemnly and explicitly recognised by the United States; and, if extraordinary and existing circumstances should require any further temporary concessions, not explained in the said treaty, I request your excellency to have the goodness to apply, in future, for the obtaining of them, to the proper authority, as I, for my part, possess no power whatever in relation thereto.

May God preserve your excellency many years.

JOSE MAZOT.

His Ex'cy A. JACKSON,  
Major General, &c.

HEADQ'RS. DIVISION OF THE SOUTH,  
Fort St. Mark's, April 27, 1818.

SIR: After I left this port for St. Juan, to disperse and destroy the mutual enemy of Spain and the United States, a small schooner, with men and supplies, arrived from Pensacola, and was taken possession of and detained by my officer left in command. This vessel has been liberated with all her effects, excepting some clothing of the United States unaccompanied with any invoice, and which has been detained, as supposed to be a part of that taken on board the boats within the territory of this Republic, in which Lieutenant Scott, of the United States army, with his command, were so inhumanly massacred.

I regret being compelled to state to you, that, from the papers and proofs taken at San Juan's; the quantity of American cattle found at St. Marks, and purchased by me from the commissary of the post; and the intercourse kept up between this post and the hostile Indians, there is too much ground to believe that the Indians have been encouraged, aided, and abetted by the officers of Spain in this cruel war against the United States. Proof positive exists that the Indians were supplied with ammunition by the late commandant of St. Marks. The United States clothing being found on board of a vessel in the employ of the Government of Spain, sailing from Pensacola direct for this port, compels me to call on you for a statement in what manner you came possessed of said clothing. The good understanding that so happily exists between His Catholic Majesty and the United States formed a just ground to believe that his agents would have discountenanced this cruel and savage war against the citizens of this Republic. Spain, too weak to comply with her treaties with the United States, or chastise her own savage subjects, waging war against a friendly nation, it was scarcely to be believed that her officers would have been detected in aiding and abetting the enemy, assisting

*Defeat of the Seminole Indians, &c.*

with the intelligence of our movements, and purchasing the property depredated of us. America, just to her treaties, and anxious to maintain peace with the world, cannot and will not permit such a savage war to be carried on in disguise any longer. Asylums have been granted to the persons and property of an Indian foe, (fugitives from the territory of the United States;) facilities, deemed by me necessary to terminate a war which, under existing treaties, should have been maintained by Spain; for feeding my troops; and liberating the subjects of Spain imprisoned by the Indians; have all been denied by the officers of His Catholic Majesty. All these facts prove the unjust conduct of Spanish agents in Florida. It cannot be longer tolerated, and although a Republic fond of peace, the United States know their rights and at the expense of war will maintain them.

Your obedient servant,

ANDREW JACKSON,  
Major General commanding.

DON JOSE MAZOT,  
Governor of Pensacola.

No. 2.

Copy of a note of the Commandant of West Florida to Major Young, at the encampment, banks of the Escambia.

PENSACOLA, April 27, 1818.

SIR: Your note of the 27th, dated encampment on the Escambia and Fort Crawford, accompanying the proclamation which you were pleased to enclose, were delivered to me at three o'clock this afternoon by an artificer, a man of color, whose speedy return not allowing me at present to answer them in detail, I shall merely state, that the small number of peaceful Indians who were in this place and in its vicinity retired on the 26th, at the dawn of which day several of them, both women and children, were killed by the troops of the United States. As it is not my purpose to investigate the motives of this act, or of the violation, resulting from it, I shall only say that, in compliance with my duty, I shall give an account of the whole proceeding to my superior; and, in the meantime, I hope you will allow no further hostilities to be committed on this territory, on any pretence whatever. If the Indians should give any further cause of complaint, I trust you will inform me of it, that they may receive due punishment, should that depend on my authority. If there are any Indians still remaining within this territory, I will have them sought for and informed of your letter, and advise you of the result. I can assure you, both under my hand and on my word, that the information, as stated in your letter, of the aggressions committed by the Indians is the first I have had of them, for at the time I agreed to the return of the escort referred to, I had no knowledge of any others than those who were concerned in the attack on Lieutenant Eddy. I repeat to you the assurance that my wishes and efforts are wholly directed to preserve the peace happily subsisting between our Governments. In

a full confidence in your favorable sentiments, I beg leave to offer you my respectful salutations.

God preserve you many years.

JOSE MAZOT.

To Major W. YOUNG,  
Com'g Am. troops on the Escambia

Copy of a note from Jose Mazot to Major W. Young.  
PENSACOLA, April 30, 1818.

SIR: In consequence of the request expressed in your letter of the 27th instant, I assembled the chiefs of the Upper Creeks at the villages of Colome, Canaan, Cowale, and Forsatche, and communicated to them the contents of your letter. They all replied that they had for a long time been very miserable and wretched, without shelter or home, that by the counsel of a good friend they had at length found one, that they had listened attentively to it, and accepted with gratitude the offers you had made them. These Indians are about eighty-seven in number, including women and children. They agreed to divide themselves into three parties, and set out on their march, as soon as I received your answer, which they thought it would be prudent for them to keep; and that when you were informed of their resolution, you would give the necessary orders for their safe progress, and avoiding any rencounter with the Choctaws, who, if not seasonably apprized of the circumstances, might attack them, in which case the pacific arrangements, in which we both take so strong an interest, would be entirely defeated. Opahi-hola, an Ali-liamon chief, on account of his advanced age, and infirmities will, for the present, remain here with his family. I have given orders for his relief, and pledge myself for his good behaviour. You will always find me disposed, sir, to promote any measure conducive to the mutual interests of our two countries, which may, at the same time, be in conformity with existing treaties. I offer you the renewed assurances of my respect, and I pray God to preserve you.

JOSE MAZOT.

To Major WHITE YOUNG.

PENSACOLA, May 2, 1818.

True copies of the letter and documents deposited in the archives of this command.

In the absence of the Secretary, (by indisposition,)

BUEN. DUBIEUIL.

HEADQ'RS. DIVISION OF THE SOUTH,  
Fort Montgomery, June 2, 1818.

SIR: The Seminole war having terminated, I deem it politic and advisable to send to Washington John Blunt and his Indian comrades, who have acted as pilots to me during the late campaign. John Blunt is a Tuckabatchee Indian, has long been friendly to the United States, and in consequence of his opposition to the Red Stick party during the Creek war has drawn down upon himself their vengeance during the



late contest. His settlement being in an exposed situation on the Apalachicola river, he was early attacked by Seminoles, his property destroyed, and his family rifled from him; alone he escaped and fled to Fort Scott, where, joining the American standard, he has proved himself a most zealous friend and faithful pilot to this period. In justice to him I am bound to state, that to his correct knowledge of the country and zealous attachment to the cause in which we were engaged, I am measurably indebted for the success of the present campaign.

Mr. H. amply accompanies John Blunt. Mr. H. is a Spanish subject by birth, and has long been a resident as a trader on the Apalachicola river. In consequence of his attachment to the American cause, and his active exertions to check the hostile feelings of those Indians disposed to war against the United States, he drew down upon himself and family their vengeance. He was forcibly taken from his house at an early period of the war; his property, goods, and negroes taken from him, and he violently transported from Mickasukee, Suwanee, and St. Marks, until finally relieved by Captain McKeever of the American Navy; since which period he has been attached to my army as Indian interpreter. You will find him an honest and faithful friend of our Government, and valuable for the information which he can afford of Spanish policy and intrigue. He is well acquainted with all the transactions of foreign agents in this country, of their practices, &c., and how far encouraged by the Spanish authority, &c. With respect, &c.

ANDREW JACKSON,

Major General commanding.

Hon. J. C. CALHOUN, Sec'y of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
Fort Montgomery, June 2, 1818.

SIR: In a communication to you of the 5th of May, I detailed at length the operations of my army up to that period. Leaving a strong garrison of regulars in Forts Scott and Gadsden, I resumed my march, with a small detachment of the 4th regiment of infantry, one company of artillery, and the effectives of the Tennessee volunteers, the whole not exceeding twelve hundred men, to fulfil my intentions, communicated to you, of scouring the country west of the Apalachicola river. On the 10th of May, my army crossed that river at the Ocheseec village, and, after a fatiguing, tedious, and circuitous march of twelve days, misled by the ignorance of our pilots, and exposed to the severest of privations, we finally reached and effected a passage over the Escambia. On my march, on the 22d of May, a protest from the Governor of Pensacola was delivered me by a Spanish officer, remonstrating in warm terms against my proceedings, and ordering me and my forces instantly to quit the territory of His Catholic Majesty, with a threat to apply force in the event of a non-compliance. This was so open an indication of hostile feeling on his part, after having

been early and well advised of the object of my operations, that I hesitated no longer on the measures to be adopted. I marched for and entered Pensacola with only the show of resistance, on the 24th of May. The Governor had previously fled to Fort Carlos de Barancas, where, it was said, he had resolved upon a most desperate resistance. A correspondence ensued between us, (accompanying this, marked A,) detailing at length my motives for wishing and demanding that Pensacola and its dependencies be occupied with an American garrison. The package marked B are documents substantiating the charges, in part, against the conduct of the Spanish Governor, having knowingly and willingly admitted the savages, avowedly hostile to the United States, within the town of Pensacola.

The peaceable surrender of the fort at the Barancas was denied. I marched for and invested it on the evening of the 25th of May, and on the same night pushed reconnoitering parties under its very guns. On the morning of the 26th, a military reconnoissance was taken; and on the same night, a lodgement was made, under a fire from the Spanish garrison, by Captain Gadsden of the engineers, aided by Captains Call and Young, on a commanding position, within three hundred and eighty-five yards of the Spanish works, and a nine-pounder mounted. A howitzer battery was simultaneously established on the capitol of, and within seven hundred and fifty yards of the fort. At daylight on the 27th, the Spanish garrison opened their artillery on our batteries; a parley was sounded, a flag sent in, and the surrender of Fort Carlos de Barancas again demanded; the favorable positions obtained were pointed out, and the inutilty of resistance urged. Anxious to avoid an open contest, and to save the effusion of blood, the same terms previously offered were again tendered. These were rejected, and offensive operations recommenced. A spirited and well-directed fire was kept up the greater part of the morning, and at intervals during the afternoon. In the evening a flag was sent from the Spanish commandant, offering to capitulate, and a suspension of hostilities was granted until eight o'clock next day, when the enclosed articles of capitulation (marked C) were signed and agreed to. The terms are more favorable than a conquered enemy would have merited; but, under the peculiar circumstances of the case, my object obtained, there was no motive for wounding the feelings of those whose military pride or honor had prompted to the resistance made. The articles, with but one condition, amounted to a complete cession to the United States of that portion of the Floridas hitherto under the government of Don Jose Mazot.

The arrangements which I have made to secure Pensacola and its dependencies are contained in the general orders, marked D. I deemed it most advisable to retain, for the present, the same government to which the people had been accustomed, until such time as the Executive of the

United States may order otherwise. It was necessary, however, to establish the revenue laws of the United States, to check the smuggling which had been carried on successfully in this quarter for many years past, and to admit the American merchant to an equal participation in a trade which would have been denied under the partial operations of the Spanish commercial code.

Capt. Gadsden was appointed by me collector, and he has organized and left the department in the charge of officers on whom the greatest confidence may be reposed.

Though the Seminole Indians have been scattered, and literally so divided and reduced as no longer to be viewed as a formidable enemy, yet, as there are still many small marauding parties supposed to be concealed in the swamps of the Perdido, Choctawhatchy, and Chapouley, who might make occasional and sudden inroads on our frontier settlers, massacring women and children, I have deemed it advisable to call into service for six months, if not sooner discharged, two companies of volunteer rangers, under Captains McGirt and Boyles, with instructions to scour the country between the Mobile and Apalachicola rivers, exterminating every hostile party who dare resist, or will not surrender and remove with their families above the thirty-first degree of latitude.

The Seminole war may now be considered as at a close, tranquillity again restored to the southern frontier of the United States; and, as long as a cordon of military posts is maintained along the Gulf of Mexico, America has nothing to apprehend from either foreign or Indian hostilities. Indeed, sir, to attempt to fortify or protect an imaginary line, or to suppose that a frontier on the thirty-first degree of latitude, in a wilderness, can be secured by a cordon of military posts, whilst the Spanish authorities were not maintained in the Floridas, and the country lay open to the use and excitement of any enemy, is visionary in the extreme. On the immutable principles, therefore, of self defence, authorized by the law of nature and of nations, have I bottomed all my operations; on the fact that the Spanish officers had aided and abetted the Indian enemy, and thereby became a party in hostilities against us, do I justify my occupying the Spanish fortresses. Spain had disregarded the treaties existing with the American Government, or had not power to enforce them; the Indian tribes within her territory, and which she was bound to keep at peace, had visited our citizens with all the horrors of savage war; negro brigands were establishing themselves when and where they pleased; and foreign agents were openly and knowingly practising their intrigues in this neutral territory. The immutable principles of self-defence justified, therefore, the occupancy of the Floridas, and the same principles will warrant the American Government in holding it until such time as Spain can guarantee, by an adequate military force, the maintaining her authority within the colony.

15th CON. 2d Sess.—70

A topographical sketch, of the country from the Apalachicola to Pensacola Bay, accompanies this. Captain Young will prepare, as soon as practicable, a topographical memoir of that part of the Floridas in which my army has operated, with a map of the country. Captain Gadsden is instructed to prepare a report on the necessary defences of the country, as far as the military reconnoissance will permit, accompanied with plans of existing works, what additions or improvements are necessary, and what new works should, in his opinion, be erected to give permanent security to this important territorial addition to our Republic. As soon as this report is prepared, Captain Gadsden will receive orders to repair to Washington City with some other documents which I may wish to confide to his charge.

At the close of a campaign which has terminated so honorably and happily, it gives me pleasure to express my approbation generally of the officers and soldiers of every species of corps which I have had the honor to command. The patience with which they endured fatigue and submitted to privations, and the determination with which they encountered and vanquished every difficulty, are the strongest indication of the existence of that patriotic feeling which no circumstances can change, and of that irresistible ardor in the defence of their country which will prove her strength and bulwark under any exposure. I should do violence to my feelings if I did not particularly notice the exertions of my quartermaster general, Colonel George Gibson, who, under the most embarrassing circumstances, relieved the necessities of my army, and to whose exertions I was indebted for the supplies received. His zeal and integrity in this campaign, as well as in the uniform discharge of his duties since his connexion with my staff, merit the approbation and gratitude of his country.

With respect, yours, &c.

ANDREW JACKSON,

Major General commanding.

Hon. J. C. CALHOUN, Sec'y of War.

PENSACOLA, May 18, 1818.

MOST EXCELLENT SIR: On the 10th instant I received your excellency's letter of the 27th of April last, informing me that some articles of clothing used by the troops of the United States, and supposed to be part of those taken in the boat in which Lieutenant Scott and his escort were so inhumanly murdered, were found in a small schooner despatched from this port for that of Appalachee with provisions.

Your excellency inquires of me in what manner these articles came into my possession; and you further state that you feel yourself obliged to inform me that the documents and the proofs found in St. Juan, the detention of American cattle, found in St. Marks, and the correspondence carried on between this post and the hostile Indians, are sufficient to create a belief that they were



*Defeat of the Seminole Indians, &c.*

armed and incited to this cruel war against the United States by the Spanish officers.

Your excellency adds that there exists positive proofs that the Indians were supplied with munitions by the last commander of St. Marks; and you conclude by saying that an asylum has been granted here to the persons and property of the Indians, who are enemies to the United States, and fugitives from the American territory; and that these proceedings, and the refusing to allow the passage of provisions for your troops, prove the unjust conduct of the Spanish agents in the Floridas.

I shall answer the charges alleged in their proper order, and without evasion or reservation.

The first complaint made by your excellency is relative to the articles of clothing found on board the schooner Maria, and which have been detained on the supposition that they are the property of the United States.

Part of these articles, as is proved by copy No. 1, were purchased at New Orleans in the month of May, last year; part came from the Havana; and part were purchased in this place. All this is established. The charge is, of course, done away, and your excellency's question is satisfactorily answered.

The succeeding one is more serious, and relates to the course observed of late by the Governor of St. Marks.

I immediately required of him an account of his conduct, and he made me the communication found in copy No. 2. However, your excellency affirms that you possess positive proofs of the misconduct of this officer, I must, as a necessary consequence, entreat you to submit them to me, that, the fact being established, I may inflict on him deserved punishment. I assure your excellency, with the sincerity natural to me, that he has acted in entire opposition to his instructions; and that, if your excellency will transmit the proofs I request, he shall be brought before a council of war, and punished with all the severity his transgressions deserve; but your excellency will be just enough to allow that the Spanish Government cannot be responsible for the misconduct of its agents, when it neither upholds them therein, nor suffers their mal-practices, being ascertained, to pass unpunished.

The last complaints of your excellency have a personal and direct application to myself, and are relative to the asylum granted to the persons and property of the fugitive Indians, and to the passage of provisions up the Escambia. It is easy for me to remove these charges, and I think your excellency will be satisfied with a short and true relation of facts.

With respect to the Indians, your excellency has been assuredly misinformed, as, although it is true that some remained here, the greater part of them were women and children, who procured a subsistence by furnishing the inhabitants with wood, fish, and other trifling objects, and were here before the present war with the Seminoles. Others, now and then, assembled on account of the war, but in very small numbers; as, when I

had them collected, in compliance with the proposition made by Major Young, they, altogether, amounted to eighty-seven, and, assuredly, these few unarmed and miserable men were not hostile to the United States. The continual passing of American citizens from the frontier to this people, who travelled alone and unarmed among them, without being, at any time, insulted or molested in their persons or property, is a proof of this.

With respect to the passage of provisions up the Escambia, I have not hitherto prevented it, but, on the contrary, have facilitated it so far as I was able, and my limited powers have permitted, even to the compromising of myself; for, being only a subordinate officer, I could not consent to it, as it is unauthorized, but I took the responsibility on myself, in consideration of existing circumstances, and so I stated to your excellency in my letter of the 15th of last month, which I wrote to you by Major Perault, and to which I refer you in support of my assertion. Now, that the free commerce of this people with those of the interior is declared admissible by higher authority, there will, in future, be no difficulty in allowing the merchants to transport from hence to Fort Crawford, and other forts on the frontier, as well by water as by land, whatever provisions and effects they may need or desire; by which means these posts will readily be provisioned, and your excellency will be satisfied.

I think I have answered your excellency's letter satisfactorily, and in a manner which can leave no doubt of the sincerity of my intentions, and which evinces my desire to contribute, so far as depends on me, to the good understanding existing between our respective Governments.

God preserve your excellency many years.

JOSE MAZOT.

His Exc<sup>y</sup> ANDREW JACKSON,  
Major General U. S. Army.

## No. 1.

PENSACOLA, May 18, 1818.

Being informed of what, amongst other subjects, Major General Andrew Jackson, of the United States troops, states to you in his letter of the 27th of April last, and communicated to me in yours of the 13th instant, in which you direct me to explain to you what description the articles were, referred to by the said General, and by whom the coats worn by the men belonging to the Grey and Brown companies, (de pardos y morenos,) from the Havana, under my command, were sold or brought to this place, they being the same uniform as that worn by the troops of the United States, I have to inform you, in reply, that the articles of clothing shipped on board the schooner Maria, for the supply of a detachment from the aforesaid companies at Appalachicola, and detained by General Jackson, consisted of fifteen four-point woollen blankets, brought here in His Majesty's hermaphrodite brig El Don Henrique Granpré, as is shown by voucher No. 1, annexed; 15 common black hats, bought of Don

*Defeat of the Seminole Indians, &c.*

Henrique Michelet, as is proved by voucher No. 2; and 20 shirts of Crea linen, and the same number of pantaloons, received by the above named hermaphrodite armed brig, with the exception of three or four of the latter articles, which were made in North America for the use of their troops, and came into my possession in the manner I shall explain to you. All which clothing I requested you, in mine of the 7th April last, to report to the Department of Royal Finance, that they might be regularly entered in the clearance, on account, and at the risk, of the same. By voucher No. 3, annexed, you will perceive that, on the 1st and 6th of May, and 29th of July last, there were shipped for me, from New Orleans, by Don Pedro Dalhaste y Claveria, merchant and citizen of the United States, one hundred and thirty-one coats of the uniform altered there, as is stated in his letter of advice; also twenty-eight pairs of shoes; one hundred and eighteen shirts; seventy-six pairs of pantaloons; two hundred and thirty-six woollen waistcoats, without sleeves; twenty Russia jackets; two hundred and fifty-three leather caps, for the use of the Chasseurs; and a quantity of leather gaiters and stocks; which articles were purchased from the military storekeeper at New Orleans, and brought here in the schooners Maria and Jalouse, under the charge of their masters, Bartolome Alberty and Joze Medina, who included them in the manifests they presented to the custom-house here, and the duties on them were paid, as appears from the estimate of them, made by the Department on the 19th of May and the 11th of August last. It follows, from this statement, that the conjecture formed by General Jackson, that the articles of clothing detained by him were part of those taken from the escort of Lieutenant Scott at the time he was killed, within the territory of the Republic, is deprived of all foundation, as the unfortunate fate of that officer and his escort happened on the Appalachicola in December last; and the articles of clothing alluded to were purchased in New Orleans in May and July of the same year, as is proved by the letters of advice and invoices comprised in voucher No. 3, to which I have referred. God preserve you many years.

B. GARCIA CALDERON.

To Don JOSE MAZOT.

## No. 1.

I hereby certify that, on the 10th of February last, I sold to Captain Don Benigno Garcia Calderon, commanding the Grey and Brown companies from Havana, two hundred and eighteen pairs of French shoes, iron shod, for the use of the men belonging to the said companies; and, at the request of the said officer, I give him the present certificate, at Pensacola, this 18th day of May, 1818.

HENRIQUE DE GRANPRE.

## No. 2.

I hereby certify that, on the 12th of February last, I sold to Captain Don Benigno Garcia Cal-

deron, commanding the Grey and Brown companies from the Havana, nine dozen round black hats, for the use of the men belonging to the said companies; and, at the request of the said officer, I give him the present certificate, at Pensacola, this 18th day of May, 1818.

HENRIQUE MICHELET.

## No. 3.

NEW ORLEANS, April 30, 1817.

Annexed you have an account of cost and charges of fifty-four shirts and twenty-eight pairs of shoes, for amount whereof you are debited, in account, fifty-three dollars. Although I had no orders from you for the shirts, I was induced to purchase them by the low price, and the probability of your employing them to advantage. In the sack which contains them, you will find a uniform coat, altered here, and which can be obtained of the storekeeper at twelve rials. I think this would answer. There are about a hundred and twenty of them. I am offered by the same storekeeper fifty field-tents, nearly new, at three dollars, and a parcel of strong leathern caps, such as are worn by the Chasseurs, and which he will sell at less than two rials; of these there are about two hundred. The storekeeper having made me a second offer of the coats, I proposed to take them in barter for coffee, at eighteen and a half. At ten rials, I am persuaded it would be a good bargain, and would afford an opportunity of putting off the coffee, the low quality of which makes it a dull sale. The only quality asked for, and which sells with great difficulty at twenty dollars, is the very superior green coffee. I enclose the account of the cost and charges of the said coats, which you will receive by the schooner Maria, and whose amount is charged to your debit, in account current, viz: \$176 13.

Account of cost and charges of the following articles, shipped on board the schooner Maria, Captain Elberty, bound to Pensacola, on account and at the risk of, and to be delivered to, Don Benigno Garcia Calderon:

## C.—No. 1.

One sack, containing twenty-eight pairs of shoes, at six rials - - - - - \$21 00

## C.—No. 2.

One sack, containing fifty-four shirts, at four rials - - - - - 27 00  
One coat - - - - - 1 50  
Sacks, sewing, and transportation - - - - - 1 00

50 50  
Commission, at five per cent. - - - - - 2 50

Amount to the debit of Don. B. G. Calderon - - - - - \$53 00

P. DALHASTE Y CLAVERIA.

To Don B. G. CALDERON, Pensacola.

Account of cost and charges of ten sacks, containing one hundred and thirty-one coats, shipped on board the schooner Maria, Captain Gran-



*Defeat of the Seminole Indians, &c.*

ort, on account and at the risk of Don Benigno Garcia Calderon, at Pensacola, and to be delivered to him there, viz:

C.—No. 3 to 12.	
Ten sacks containing one hundred and thirty-one coats, at ten rials	\$163 75
Sacks, sewing, and transportation	4 00
	167 75
Commission, at five per cent.	8 38

Amount to the debit of Don B. G. Calderon - - - - - \$176 13

P. DALHASTE Y CLAVERIA.  
NEW ORLEANS, May 29, 1817.

NEW ORLEANS, July 29, 1817.

On the receipt of yours, the caps were already agreed for with some other articles of clothing, amounting, as per invoice annexed, to \$317 16½, and which is charged to you in account. I have suspended the purchase of the hats, which ran at from eight to ten dollars, until further orders. Account of cost and charges of the following articles, shipped in two hogsheds, three barrels, two cases, and one sack, on board the schooner Jalouze, Jose Medina, master, bound to Pensacola, on account and at the risk of Don Benigno Garcia Calderon, and to be delivered to him on his order, viz:

Twenty-five pairs of cotton pantaloons, at fifty rials	\$12 50
Two hundred and thirty-six flannel waistcoats, at three hundred and seventy-two rials	88 50
Two hundred and fifty-three caps, at 18½ rials	47 43½
A parcel of leather gaiters and coyars	15 00
Twenty Russia vests or jackets, fifty-one pairs of pantaloons, thirty-five cotton shirts—106 pieces at one dollar each	106 00
Twenty-nine cotton shirts, at seventy-five rials	21 37½
Cooperage and transportation	3 50
	302 06½
Commission, at five per cent.	15 10

Amount to the debit of Don B. G. Calderon - - - - - \$317 16½

P. DALHASTE Y CLAVERIA.  
Don B. G. CALDERON, Pensacola.

We, the undersigned, merchants of this place, hereby certify that the foregoing copies of paragraphs of letters of advice and of invoices are perfectly conformable to the originals exhibited to us by Captain Don Benigno Garcia Calderon, commanding the Grey and Brown companies from Havana; and that the signatures thereto subscribed are in the genuine handwriting of Don Pedro Dalhaste y Claveria, a citizen of the

United States and merchant at New Orleans. In testimony whereof we give the present certificate at the desire and request of the aforesaid Captain Calderon, at Pensacola, this 18th day of May, 1818.

HENRIQUE MICHELET,  
VINCENTE DE ORDOZGOITTI,  
VINCENTE BATLOQUE.

No. 2.

PENSACOLA, May 14, 1818.

Instructed, by your letter of yesterday, of the points treated of by Major General Jackson in his letter of the 27th ultimo, and on which he founds his positive assertions, that the Indians not only received succors at Appalachie, but that they were excited to commit their outrages against them, [the United States,] were advised of his movements, &c. I have, in answer, to express the astonishment this affair has caused me, and which has solely arisen from the imposture employed, by some malicious person, to asperse the parties criminated by the letter of the said General. His excellency states, that, from the papers and other proofs taken at St. John's, the detention of American cattle found at St. Mark's, and purchased of the commissary there, and the intercourse carried on between that place and the hostile Indians, it is evident that they were inspirited and excited to this cruel war by the Spaniards. To this I have to reply, that it has never come to my knowledge that any person belonging to the fort had any intercourse, directly or indirectly, with St. John's; and although I wrote two letters to Mr. Arbuthnot, an English merchant, one of them was merely to thank him for the three copies [exemplars] he sent me from thence or Savannah, and for the information he gave me of the intention of the insurgents at Amelia Island, and of Captain Woodbine, who I informed you by express was one of the two chiefs hung on the day I left Appalachie, or on the preceding one; and the other was to request him to come or send as speedily as possible for the effects which, at the request of the Indian chiefs, and to avoid increasing their suspicions, I permitted to be deposited in the fort on the departure of O'Kelagne, who had them in charge; and although by this step I ran some risk, from the state of excitement of both parties, it was one which does not appear to me to give any just ground for suspicion. Nor does the finding of American cattle, which his excellency states he purchased at St. Mark's, afford greater cause of suspicion, as it is notorious that, from the time of its establishment, its supplies were obtained from the droves of cattle brought there for sale by the Indians; and that they had many is shown from those found in Mickaskey and its vicinity. Purchases were only occasionally made, because we considered ourselves sufficiently supplied for some months; and if the cattle were stolen from the Americans, the sellers took good care to conceal that fact, and were all of them known to have droves, and were

*Defeat of the Seminole Indians, &c.*

in the habit of bringing them for sale; and very seldom was it that the American commandant or magistrate, within whose district these excesses were committed, was known to complain of them to the commandant at St. Mark's, and send him the marks of the cattle, that it might be seen from whence they came, and the purchase of them be avoided. Nor does the intercourse between the fort and the Indians, complained of by General Jackson, afford any better evidence of what he asserts, that from this it is inferable that they were inspirited and excited to this cruel war by the Spaniards. Such intercourse and good understanding were at all times recommended by the Government, and never more necessary than in the circumstances in which we were placed in the fort; and on this, amongst other reasons, General Jackson, in his first letter, founded his demand that it should be occupied by his troops, and added, that on this account such a course could not fail to be approved by His Catholic Majesty. In the same letter he stated to me, that he had been informed by an Indian woman, a prisoner, that the Indians and negroes had received large supplies of munitions from the fort. I thought I had convinced him of the contrary in my answer, in which I represented to him that no one could better remove from his mind any unfavorable impressions on this point, than the bearer of it, Mr. William Hambly, who, during his stay here, repeatedly interpreted to me the anxiety of the chiefs to obtain such supplies; and that he could also inform him, that I uniformly counselled them to avoid the destruction which has overtaken them, and which I foresaw from the first. But as it appears he is not yet satisfied, and persists in his charge, a reference to the returns of the public storekeeper will show that, from the month of May last, and prior to the receipt of your orders, there had been issued to some chiefs and head men, and that merely from motives of policy, only three pounds of powder, three pounds of balls, and fourteen flints; and the interpreter belonging to the fort, Juan Sandoval, and his son Francisco, through whom I communicated with the Indians, can also testify to the truth of this statement, whose evidence I request of you to have taken, in refutation of General Jackson's charge against me. He cannot but know that, a short time before the Negro fort on the Appalachicola was blown up, all the chiefs of the tribes in its immediate vicinity went there and supplied themselves with powder and ball left for them by the English; and that at Mickaskey, and the houses in the neighborhood, there was a great quantity. Having thus obtained so large a supply of the kind of powder and ball they most esteemed, what value could they set on ours, which they in fact view with such indifference and contempt, that only those hunters, of whom now and then one comes to the fort to supply us with venison, geese, &c., will use it; and although, as I stated in my communication to you, some was repeatedly requested of me by the chief Kinache, for the purpose of showing, by the refusal of it, that the American

interest prevailed in the fort, he did not obtain it; in consequence of which we were considered as American partisans to the last, were reproached with it, and had even to put up with some impertinences from them. I shall, however, in strict adherence to truth, and because the circumstance may have given rise to these suspicions, state that the chief Petisacho, who was hung, received, among other things, at the fort, from Mr. Arbuthnot, an English merchant, when he came from Savannah to request aid against the negroes from him on account of their molestation, a small barrel of powder, which might contain from twenty to twenty-five pounds, and which was kept with the other effects brought from O'Kelagne's, and which he had in charge. What he did with it I know not, but I well know that the chief occasioned me much fear and anxiety, by being so near the fort with four or five hundred Indians of his party. I never had an idea that he employed it against the Americans, but supposed that they used it in the purchase of peltry for the said Arbuthnot, which was his avowed object, and in which he was engaged on the arrival of the Americans. The idea that the officers of St. Mark's lent themselves to aid and excite the Indians, by giving them information of the movements of the Americans, is highly ridiculous; for how, or from whence, could their movements be better known at the fort than from the Indians themselves? Thither they passed, and from thence repassed, incessantly, and their reports were so various that they deserved very little attention; as a proof of which, nothing certain was known of the operations of the Americans until the different columns of their troops appeared. At the mouth of the Pinar, although their three vessels were at anchor there for three or four days previous, they kept English colors flying until the day before the arrival of the army. My different communications to you are pledges that I took no part in the contest between the Americans and the Indians; nevertheless, my mistrust of the latter evinced to which I gave a preference. How, then, is it possible to believe that I gave them the aid of which General Jackson complains, or how can such aid be reconciled with the tenor of my letters and the steps I took to liberate Messrs. Edmund Doyle and William Hambly, by which I exposed myself and my garrison to the vengeance of the Indians? Or, lastly, with the fact of my having ransomed, at a most critical moment, an American soldier, whom they declared to me they would otherwise put to death? I leave it to the most impartial to decide, if these be not proofs of the existence, at St. Mark's, of a bias in favor of the American interest; and of this, I am persuaded, General Jackson will be convinced on deliberately reflecting on the subject. I shall not deny that I have observed towards those barbarians a policy which had the appearance of a warm friendship, and by which I have incurred considerable expenses. If, however, all the circumstances attendant on my situation be duly weighed, it will be seen that all this was neces-



*Defeat of the Seminole Indians, &c.*

to restrain them from doing what they had one time premeditated, on the pretext I have alluded to, and on others suggested to them by some persons who had gone hence to those parts of the country. Although I have, as I conceive, given satisfaction on all the points embraced by Major General Jackson in his letter, I beg leave to request that, for fuller evidence of what I allege, you will be pleased to give orders for having the testimony taken of the interpreter and his sons of the subaltern Don Miguel Ordóñez, of Don Anastasio Montes de Oca, the military storekeeper, and of surgeon Don Diego de Barrios, as these persons have some knowledge of the subject in question. God preserve, &c.

FR. CASO Y LUENGO.

Don José MAZOT.

PENSACOLA, May 23, 1818.

It having come to my knowledge that you have passed the frontiers with the troops under your command, and that you are within the territory of this province of West Florida, which is subject to my government, I solemnly protest against this procedure as an offence against my sovereign, exhorting you, and requiring of you, in his name, to retire from it; as, if you do not, and continue your aggressions, I shall repel force by force.

The consequence in this case will, doubtless, be the effusion of blood, and also an interruption of the harmony which has hitherto reigned between our respective nations; but, as the repeller of an insult has never been deemed the aggressor, you will be responsible, both to God and man, for all the fatal consequences which may result. God preserve you many years.

JOSE MAZOT.

*The Commander of the U. S. troops.*

A copy of this protest was addressed to General Andrew Jackson, and sent by a Spanish officer, meeting the American army, shortly after it had passed the Escambia river.

J. GADSDEN, *Aid-de-camp.*HEADQ'RS, DIVISION OF THE SOUTH,  
Pensacola, May 24, 1818.

SIR: The enclosed communication was forwarded to you by my aid-de-camp, Captain Gadsden, last evening; not finding you, however, in Pensacola, its delivery was delayed.

I have entered Pensacola to provision my troops. I have only to add, that an immediate compliance with my demand is expected. Resistance on your part would be a needless sacrifice of men.

ANDREW JACKSON,  
Major General commanding.Don José MAZOT,  
Fort St. Charles, Barancas.HEADQ'RS, DIVISION OF THE SOUTH,  
On the line of march, May 23, 1818.

SIR: The Southern frontier of the United States has, for more than twelve months, been

exposed to all the horrors of a cruel and savage war. A party of outlaws and refugees from the Creek nation, negroes who have fled from their masters, citizens of the United States, and sought an asylum in Florida, and the Seminole Indians, inhabiting the territory of Spain, all uniting, have raised the tomahawk, and, in the character of savage warfare, have neither regarded sex nor age; helpless women have been massacred, and the cradle crimsoned with the blood of innocence. The United States, true to their own engagements, and confiding in the faith of Spain to enforce existing treaties, never entertained a doubt but that these atrocities would early attract the attention of the Spanish Government, and that speedy and effectual measures would have been adopted for their suppression. Under this persuasion, a cordon of military posts was established to give immediate protection to such of our frontier settlers as were peculiarly exposed, and strict injunctions issued to the American officers to respect the territory of Spain, and not to attempt operations within its limits. These instructions were most scrupulously observed; and, notwithstanding the inactivity of the American troops had encouraged the Indians to the most daring and outrageous acts of violence against our citizens, the Government of the United States was still disposed to respect the territory of Spain, and confide in the ability of the Spanish Government to execute existing treaties, until advised through you that, with every disposition, the Spanish authorities had not the power of controlling the Indians in Florida; that their acts of late were viewed as equally hostile to the interests of Spain as those of the United States; that Spanish subjects were not exempted from the evils of which we complained, and that the negro establishment on the Appalachicola, and St. Juan rivers, were founded by British agents, contrary to the will of Spain. Those representations determined the President of the United States to adopt effectual measures to restore tranquillity to the Southern frontier of the American Republic; and, pursuant to his orders, justifiable by the immutable laws of self-defence, I have penetrated into Florida, reduced to ashes the Seminole villages, destroyed their magazines of provisions, beaten their warriors whenever they hazarded a contest, dispersed some, and expelled others across the river.

In the course of my operations, it became necessary to visit the Spanish fortress of St. Mark's. Entering the territory of Spain to fight her battles, to relieve from bondage her subjects, and to chastise an Indian tribe whom she acknowledged, under existing treaties, she was bound to preserve at peace with the United States, I had every reason to expect that the American army would have been received as friends, and every facility afforded to insure success to operations so interesting to both Governments.

My expectations have not been realized. It had been reported to me, direct from you, that Fort St. Mark's had been threatened by the Indians and negroes, and you expressed serious ap-

*Defeat of the Seminole Indians, &c.*

prehensions, from the weakness of the garrison, and defenceless state of the works, for its safety. From other sources, to be relied on, the same information had been furnished me. It became necessary, therefore, to anticipate the movements of the enemy, and amicably to get possession of a work, the dislodging the enemy from which might cost me much precious blood.

On entering St. Mark's, evidence of the duplicity and unfriendly feelings of the commandant evinced itself. I found that the gates of his fort had been thrown open to the avowed savage enemies of the United States. That councils of war had been permitted to be held within his own quarters by the chiefs and warriors. That the Spanish store houses had been appropriated to the use, and were then filled with goods belonging to the hostile party. That cattle, knowingly plundered from the citizens of the United States, had been contracted for and purchased by the officers of the garrison, from the Spanish thieves. That foreign agents had free access within the walls of St. Mark's, and a Mr. Arbuthnot, condemned and executed as the instigator of this war, an inmate in the commandant's family.

From this fort was information afforded the enemy of the strength and movements of my army by the said Arbuthnot, the date of departure of express noted by the Spanish commissary, and ammunition, munitions of war, and all necessary supplies furnished.

On my return from my operations east, your letter was received, positively refusing to permit (unless exorbitant duties were paid) any provisions passing up to the American fort on the Escambia. Connected with this strong indication of an unfriendly disposition on your part, I have learnt, from the most unquestionable authority, that the city of Pensacola has, for some months past, been entirely under the control of the Indians; that free ingress and egress is permitted to the avowed savage enemy of the United States; the supplies of ammunition, munitions of war, and provisions, have been received by them from thence; that on the 15th of April last there were no less than five hundred Indians in Pensacola, many of them known to be hostile to the United States, and who had but lately escaped my pursuit. The late massacre of eighteen individuals on the Federal road was committed by Indians, direct from their return to Pensacola, who were received by you and transported across the bay, to elude the pursuit of the American troops. The Americans returning, the savages were permitted to return. An Indian, wounded in pursuit by a party, for having killed a citizen of the United States, was openly, in the sight of many Americans, received by you, and every comfort administered. Such practices, if authorized by the King, would justify me in open hostilities. Disposed, however, to believe that it was one of the unauthorized acts of agents, I deem it politic and necessary to occupy Pensacola and the Barancas with an American garrison, until the Spanish Government can be advised of the circumstance, and have force sufficient to main-

tain, and agents disposed to enforce, existing treaties.

This is the third time that the American troops have been compelled to visit Pensacola from the same causes. Twice had the enemy been expelled, and the place left in quiet possession of those who had permitted the irregular occupancy. This time it must be held until Spain has the power or will to maintain her neutrality.

This is justifiable on the immutable principles of self-defence. The Government of the United States is bound to protect her citizens; but weak would be all its efforts, and ineffectual the best advised measures, if the Floridas are to be free to every enemy, and on the pretext of policy or necessity, Spanish fortresses are to be opened to their use, and every aid and comfort afforded. I have been explicit, to preclude the necessity of a tedious negotiation. My resolution is fixed, and I have strength enough to enforce it. My army now occupies the old fort St. Michael, commanding Pensacola. If the town and the Barancas are peaceably surrendered, an inventory of all the property, ammunition, arms, &c. shall be taken by officers appointed by both parties, and the amount receipted for by me, to be accounted for by the American Government. The property of Spanish subjects shall be respected; their religion and laws guaranteed to them; the civil Government permitted to remain as now established, subject to the control of the military authority of the United States; the ingress and egress open to all individuals; commerce free to the subjects of Spain as usual; and the military furnished with transportation to Cuba.

If the peaceable surrender be refused, I shall enter Pensacola by violence, and assume the government until the transaction can be amicably adjusted by the two Governments. The military in this case must be treated as prisoners of war.

The proof supporting the accusation against your official station will justify this procedure.

In reply to your communication of the 22d instant, I have only to observe that the clothing detained will be a subject of future friendly settlement.

How far the Indians, permitted to remain in the neighborhood of Pensacola, were friendly disposed to the citizens of the United States, is tested by the late massacre committed by them on the Alabama.

The Red Ground chiefs, Muldecoxy and Holmer, avowedly hostile to the United States, were but lately seen in Pensacola, and a body of Indians desecrated a few days since in the vicinity of Barancas, in presence of several Spanish officers.

By a reference to my communications of the 25th of March, you will see how far I have been the aggressor in the measure protested against. You are there distinctly advised of the objects of my operations, and that every attempt on your part to succor the Indians, or prevent the passage of my provisions in the Escambia, would be viewed in no other light than as hostile acts on your part.

You have done both, and exposed my troops to



*Defeat of the Seminole Indians, &c.*

the severest privations, by the detention occasioned by the exaction of duties on my provisions and vessels in Pensacola. You have, therefore, been the aggressor, and the blood which may be shed by a useless resistance on your part to my demand will rest on your head. Before God and man you will be responsible.

This will be handed to you by my aid-de-camp, Captain Gadsden, by whom an answer is expected.

ANDREW JACKSON,  
Major General commanding.

Don JOSE MAZOT,  
Governor of Pensacola.

FORTRESS OF ST. CHARLES, OF BARANCAS,  
May 24, 1818.

MOST EXCELLENT SIR: I received, at 10 o'clock this morning, the two communications of your excellency of the 23d and of this day. As I have, on mine of the 18th instant, satisfactorily answered all the charges your excellency alleges in the former, I shall only add, with respect to the Indians, that I notice your excellency is greatly misinformed, as the circumstances to which you refer are, for the most part, unfounded; in proof of which I will state, that the only two Indians I have found since the peace negotiated by me, and the delivery of the eighty-seven to Major Young, are two who are in the prison, with three women and children. I ought to inform you that, long before the movements of your excellency, I had given orders at Appalachee that the Seminole Indians should not be succored, and even had placards posted up in Pensacola for the same purpose; passing over without notice only some unfortunate beings who, from time immemorial, had furnished the people with wood, as I have stated.

Your excellency lays to my charge the blood which may be shed by my refusal to deliver up the province, as your excellency requests; which I shall never do, nor can I, without covering myself with dishonor at the close of my life and of my long military career. I am firmly persuaded your excellency would, in my case, do the same, as you would not venture to stain the honorable laurels with which you are adorned. No nation, whatever may be its motives, can violate the territory of another, especially when no demands have previously been made of its Government. Your excellency has violated the Spanish territory in Appalachee, by taking possession of that fort, and pulling down its flag, when you could have adopted more conciliatory measures, which would more and more have cemented and strengthened the good understanding existing between our respective Governments.

On the 21st of the present month, by your excellency's order, Don Pedro Philibert, and other inhabitants, remained prisoners in their houses, on their parole of honor. To-day, at 11 o'clock, before Captain Gadsden arrived at Pensacola, your excellency's army entered, and made prisoners on parole Don Pedro de Alba, the interpreter, (who translated your before named communica-

tions, and who is the bearer of these.) and I believe all the military, and of course broke up the seven posts [punta] stationed with the same number of officers and two chiefs for the maintenance of the tranquillity of the place.

These facts being incontrovertible, I ask who but your excellency will be responsible for the blood that may be shed, as you declare, in your letter, that you are about to take possession of Pensacola and Barancas? I protest before God and man that my conduct is blameless, and that my ardent desires are, as they ever have been, to contribute to the peace and tranquillity of our respective nations; for, besides the sincerity of my intentions, I have in view the Message of the President to the Congress of the United States on the 25th of March last, and its tenor assured me that no aggressions were to be expected from the troops of the said States. Such, however, this province has unfortunately suffered from the operations of your excellency in Appalachee and Pensacola.

I expect from the generosity of your excellency, first, that you will set the officers and troops which garrisoned Pensacola at liberty; and that, after supplying your army with provisions, you will shortly evacuate the territory of this province, and not carry on a partial war against West Florida at a time when our nations are in profound peace.

Lieutenant Colonel Don Lui Piemas, temporarily commandant of Pensacola, is duly authorized to exercise my functions, and to receive the communications of your excellency, which he will faithfully remit to me, and to which I will give the promptest answers, to be transmitted to you through the bearer of this, the interpreter, Don Pedro de Alba. Finally, if, contrary to my hopes, your excellency should persist in your intention to occupy this fortress, which I am resolved to defend to the last extremity, I shall repel force by force; and he who resists aggression can never be considered an aggressor.

God preserve your excellency many years.

JOSE MAZOT.  
His Ex'cy ANDREW JACKSON,  
Major General com'g U. S. Army.

HEADQ'RS, DIVISION OF THE SOUTH,  
Pensacola, May 25, 1818.

SIR: The accusations against you are founded on the most unquestionable evidence. I have the certificates of individuals who, on the 23d instant, at or near the little bayou, counted seventeen Indians in company of several Spanish officers.

I have only to repeat that the Barancas must be occupied by an American garrison, and again to tender you the terms offered, if amicably surrendered. Resistance would be a wanton sacrifice of blood, for which you and your garrison will have to atone. You cannot expect to defend yourself successfully, and the first shot from your fort must draw down upon you the vengeance of an irritated soldiery. I am well advised of your strength, and cannot but remark on the inconsis-

*Defeat of the Seminole Indians, &c.*

tency of presuming yourself capable of resisting an army which has conquered the Indian tribes, too strong, agreeably to your own acknowledgment, to be controlled by you. If the force which you are now disposed wantonly to sacrifice had been wielded against the Seminoles, the American troops had never entered the Floridas.

I applaud your feeling as a soldier in wishing to defend your post; but when resistance is ineffectual, and the opposing force overwhelming, the sacrifice of a few brave men is an act of wantonness, for which the commanding officer must be accountable to his God.

ANDREW JACKSON,  
Major Gen. com'g Division of the South.  
Don JOSE MAZOT, Com'g Barancas.

PENSACOLA, May 26, 1818.

MOST EXCELLENT SIR: On the 24th of the present month, Captain Amelung, of the 1st United States regiment, put into my hands your excellency's letter, dated at Washington, Mississippi Territory, on the 23d of April last; in which, after apprizing me that your Government had given it in charge to you to inform me that the fort of the Negroes, erected during the late war with Great Britain, near the junction of the Chatahoochee and Flint rivers, had been reinforced, and was now occupied by more than two hundred and fifty negroes, many of whom were seduced from the service of their masters, (who are citizens of the United States,) and that all of them are well armed, provisioned, and disciplined, you make many wise reflections with respect to the serious injuries which may result from tolerating such an establishment, not only to those in the immediate neighborhood of it, by destroying the peace of the nation, but likewise to the good understanding which happily exists between our respective Governments. You enter into an investigation to show what the Spanish authorities ought to do to put an end to an evil of so serious a nature, in a mode prescribed by those principles of good faith, which are the foundation of friendly neighborhood among nations. You distinctly state what this Government ought immediately to do; in failure of which, your Government will be obliged to do it, to insure the safety of the inhabitants of the United States; and you conclude by requesting me to state, in my answer to your letter, whether the said fort has been constructed by the Spanish Government, and whether the negroes who composed the garrison were deemed subjects of His Catholic Majesty; and if the fort was not built by Spanish authority, to state by what authority and by whose order it was built.

In answer to your excellency I will state (with the veracity which comports with the character of an honorable officer, in which class I rank myself) that, having arrived at the place nearly at the close of the month of March preceding, and being informed of what your excellency has communicated to me, (with this difference, that the fort, instead of being where you placed it, is to be found on the eastern bank of the Appalachicola, at about

15 miles from its mouth or entrance into the sea,) I lost no time in proposing to my Captain General the measures which appeared to me proper, as well for securing the inhabitants of the country under my command from the damage, loss, and injuries which they have suffered, and still suffer, from this establishment, as to prevent the American citizens and the friendly Indians of the neighborhood from continuing to experience them. I have hitherto received no answer, and, consequently, your excellency (who knows how limited are the powers of a subordinate officer) cannot be surprised that I should make known to you that, although my mode of thinking exactly corresponds with yours as to the dislodging of the negroes from the fort, the occupying it with Spanish troops, or destroying it, and delivering the negroes who may be collected to their lawful owners, I shall not be able to act until I receive the orders of my Captain General, and the assistance necessary to enable me to undertake the enterprise with a moral certainty of accomplishing the end. I am persuaded that the determination of the said chief cannot be long delayed, and, should it authorize me to act, your excellency may rest assured and persuaded that I will not lose an instant in adopting, on my part, the most efficacious measures for cutting up by the root an evil which is felt to the full extent stated in your letter by the inhabitants of this province, who are subjects of my Sovereign, and whose prosperity and tranquillity it is my duty to preserve and protect.

With this explanation, your before named letter may be considered fully answered, as it gives you to understand that, thinking as your excellency thinks with respect to the necessity of destroying the negroes, the fort of Appalachicola, occupied by them, was not constructed by order of the Spanish Government; and that the negroes, although in part belonging to inhabitants of this province, and, as rational beings, may be subjects of the King, my master, are deemed by me insurgents or rebels against the authority not only of His Catholic Majesty, but also of the proprietors from whose service they have withdrawn themselves; some seduced by the English Colonel Edward Nicholls, Major Woodbine, and their agents; and others from their inclination to run off.

But as your excellency manifests a particular desire that, in case the fort was not erected by Spanish authority, I should state by whose order it was erected, I have no difficulty in satisfying your curiosity, by informing you that I have understood, ever since my arrival at this place, that the said fort, and another near the confluence of the Chatahoochee and Flint rivers, (which it appears no longer exists,) were built by the orders of the before named Colonel Nicholls. I will not assure you he did it under authority from his Government; but I can say he proceeded to place artillery, munitions, and provisions in it, by the arrangement of Vice Admiral Malcolm, and that when Colonel Nicholls and the troops of his detachment, after the conclusion of the expedition



*Defeat of the Seminole Indians, &c.*

against Louisiana, withdrew from that point, he left orders with the negroes totally contrary to the incontestable right of sovereignty which the King, my master, exercises from the line of the thirty-first degree of north latitude to the south. My predecessors in the Government have given an account of all these actions to the authorities on whom they depended, that the satisfaction which the violation required might be demanded by those on whom this duty devolves.

I think I have answered your excellency's letter satisfactorily, and in terms which cannot leave a doubt of the sincerity of my intentions in favor of the common cause of the American and Spanish inhabitants, and that my present inaction does not proceed from a want of inclination.

I likewise flatter myself that, until my Captain General decides, no steps will be taken by the Government of the United States, or by your excellency, which may be prejudicial to the sovereignty of the King, my master, in the district of Appalachicola, which is a dependency of this Government. And, finally, I conclude, by assuring your excellency that it will afford me particular satisfaction to have opportunities of evincing my desire not only to contribute, so far as depends on me, to the cementing of the good understanding which subsists between our respective Governments, but also to prove to your excellency the high opinion I entertain of your virtues and military talents.

God preserve your excellency many years.

MAURICIO DE ZUNIGA.

His Excy A. JACKSON.

FORT GADSDEN, May 2, 1818.

SIR: We beg leave to submit to you the following statement of facts: On the 13th December, 1817, we were violently torn from our settlements on the Appalachicola river by a number of Indians, headed by Chenubby, a chief from the Fowltown tribe, carried to Mickasuky, and delivered to Kenhajah, King of the Mickasukians. Kenhajah carried us to the negro towns on Suwaney, and thence to the Spanish fort St. Marks, to the commandant of which he delivered us as prisoners, captured under the orders of a Mr. Arbuthnot, reported to us as a British agent. At St. Marks we were treated as prisoners, and not permitted to wander beyond the walls of the garrison.

Whilst at that port the ingress and egress of the Indians, hostile to the United States, was unrestrained, and several councils were held, at one of which Kenhajah, King of the Mickasukians, Francis or Hillis Hago, Hamathlemeco, the chief of Autesses, and the chief of the Kolemies, all of the old Red Stick party; and Jack Mealy, chief of the Ochewas, were present. When it was reported that the chiefs, and that warriors were entering Fort St. Marks for the purpose of holding a council, Hambly represented to the commandant the impropriety of permitting such proceedings within the walls of a Spanish fortress, the officer of which was bound to preserve and

enforce the treaties existing between the King of Spain and the United States; he replied to Hambly with some degree of warmth, observing that it was not in his power to prevent it. On the Indians coming into the fort, at their request, we were confined. The council was held in the commandant's quarters, he, the commandant, was present, but strictly forbade the intrusion of any of the officers of the garrison.

The Indians were in the habit of driving to Fort St. Marks, and disposing of cattle to the commandant and other Spanish officers. While at that post three or four droves were brought in, acknowledged by the Indians to have been stolen from the citizens of the United States, and purchased by the Spanish officers.

We were present at most of these contracts, and Hambly often referred to as an interpreter between the purchaser and seller.

Chenubby, a Fowltown Indian, once applied to Hambly to mention to the commandant that he was about visiting the frontiers of Georgia on a plundering expedition, and wished to know whether he would purchase the cattle brought in. A contract was entered into, and Chenubby, some time after, brought in and disposed of eleven head of cattle to the Spanish commandant of Fort St. Marks. These same cattle were those purchased by you from the commandant as his private property.

WM. HAMBLY,  
EDM'D DOYLE.

FORT GADSDEN, May 3, 1818.

SIR: In conversation with the commandant at Fort St. Marks, on the subject of having that work occupied by an American garrison, I had occasion to notice the aid and comfort that the hostile party of Indians had received as reported from him; that they had free access within the walls of his fort, and it was known no small supplies of ammunition had been received from that quarter.

In reply he stated that his conduct had been governed by policy, the defenceless state of his work and the weakness of his garrison compelled him to conciliate the friendship of the Indians, to supply their wants, to grant what he had not the power to deny, and to throw open, with apparent willingness, the gates of his fortress, lest they should be forced by violence.

That he had been repeatedly threatened by Indians and negroes, and that his security depended upon exhibiting an external friendship. After Fort St. Marks was occupied by the American troops a black man and Spanish soldier was reported to me as having been arrested clad in the American uniform, recognised as part of the clothing of the fourth and seventh regiments, captured in the boat commanded by Lieutenant Scott, in ascending the Appalachicola river.

In explanation, the Spanish commandant observed, that his soldiers and the Seminole Indians were in the habit of trading with each other, and that this negro, with others of his gar-

*Defeat of the Seminole Indians, &c.*

rison, had received his permission to purchase some clothing reported to have been brought in by the Indians. Respectfully, &c.

JAMES GADSDEN, *Aid-de-camp.*

Major General A. JACKSON,  
*Com'g Southern Division U. S. A.*

I certify that, on the 23d of May, being in the Bayou which enters Pensacola Bay, one and a half miles from the town, I saw at the ferry, on the Barancas, a number of Indians, I think about seventeen, in company with four Spanish officers. The officers were carried over, and the boat returned to ferry over the Indians. I saw one boat-load landed on the side next the Barancas. The Indians concealed themselves in the bushes on discovering us.

RICHARD BRICKHAM.

Witness: T. CROSS, *Lieut. of Infantry.*

I certify that I was in the boat with Brickham at the place and time mentioned in the above certificate; that I saw several Indians in company with four Spanish officers. The officers were ferried over with one Indian. I did not see the Indians ferried over; they concealed themselves on discovering us.

JOHN BONNER, *his X mark.*

Witness: T. CROSS, *Lieut. of Infantry.*

Witness to both certificates:

W. S. FULTON, *Sec'y to Com. Gen.*

We certify that, being in Fort St. Charles, Barancas, on the 28th of May, 1818, in the afternoon, soon after the American troops took possession of the work, and as the Spanish troops were marching out, we saw an Indian carried out by some Spanish soldiers; he was laid on his back to put on board a boat; he was wounded in the leg or thigh, and had every appearance of having been engaged in the defence of the fort.

WM. RUSSELL, *Captain of Spies.*

JAMES L. BELL, *Captain, &c.*

Witness: WM. S. FULTON,  
*Sec'y to Commanding General.*

We, the undersigned, do hereby certify that, at the capture of Fort St. Marks East Florida, by Major General Andrew Jackson, on the 7th April, 1818, there were some cattle purchased on account of the United States, and turned over to us, which we are of an opinion had been driven from the frontiers of Georgia, (a part of them at least) and we were strengthened in our opinion by a number of officers and men from Georgia offering to swear to a number of them as the property of their neighbors and friends.

Given under our hands, at Fort Gadsden, this 3d of May, 1818.

JACOB R. BROOKS,  
*Act. Cont. Agent. U. S. Army.*  
PETER CONE,  
*Assistant Commissary.*

We, the undersigned officers and men of the Georgia militia, in the service of the United

States, do hereby certify that we were at Fort St. Marks, East Florida, at the time of its capture by Major General A. Jackson, on the 7th April, 1818, and saw some cattle that were purchased on account of the United States, from the Spanish authorities, which we were ready to swear to as the property of our friends and neighbors in Georgia.

ANDREW FRAZIER, *Captain.*  
DANIEL F. SULLIVAN, *G. M. S.*

FORT GADSDEN, May 3, 1818.

SIR: After the occupancy of Fort St. Marks with the American troops, on the 7th of April last, it became my duty to take charge of some goods found in one of the public stores.

These goods were pointed out by the Spanish commandant, who, through Mr. Hambly as interpreter, separated several of the articles claimed as his own private property, and designated others as the property of Francis or Hillis Hajo, and Arbuthnot, a British agent or trader: an inventory of these were taken, and deposited with the American officer left in command at Fort St. Marks. With respect, &c.,

D. E. TWIGGS,  
*Brevet Major 7th Infantry.*

I certify that I acted as interpreter in the transaction above alluded to, and two separate parcels of goods were designated by the Spanish commandant of St. Marks as belonging to Hillis Hajo and Arbuthnot.

WM. HAMBLY.

FORT MONTGOMERY, June 2, 1818.

I certify that between the 5th and 17th of May, 1818, whilst at Fort Gadsden on the Appalachicola river, I was informed by a Mr. Larua and Benneto Gassea, both citizens of, and at that time direct from, Pensacola, that, at the time of their departure thence, there were five hundred Indians in and about Pensacola; and I further certify that, on my arrival at Pensacola on the 23d of May, I was informed by Mr. Skeets, and other citizens of that place, that, on the 22d, which was the day before my arrival, Holmes, a noted Red Stick, with his party, had left Pensacola to proceed to the Choctawhatchy for safety, having been for several days previous in town.

All which I certify on honor.

WM. HAMBLY.

Witness—WM. S. FULTON,  
*Private Secretary of the Com'g General.*

I do hereby certify that, during my long residence on the river Appalachicola, my knowledge of the Indian language, and my intimate acquaintance with the different chiefs, gave me many opportunities of knowing, through them, the advices given them from time to time by the Governors of West Florida, hostile to the United States. In the year 1812 or 1813, I saw a letter from the Governor of Pensacola to the late chief of the Seminoles, T. Perryman, advising him to collect his forces and join his upper town brethren, whom he said had come to a determination to rise in arms and shake off the American yoke; he would supply



*Defeat of the Seminole Indians, &c.*

them in arms and ammunition, and he said he was sure that in less than a month their fathers and protectors, the Spaniards, would have a sufficient army in the field to aid and protect them. Not long after I saw this letter, a large party of Indians went down to Pensacola, where they received a large supply of ammunition and some arms; it was but shortly after this, when they attacked and destroyed the garrison of Fort Mims; this was the commencement of the first Indian war; on the 13th of December last, when on my plantation on the Appalachicola, I was made a prisoner of by a party of Seminole Indians, and was taken up to the Ochesee Bluff in company with Mr. Doyle, who was made a prisoner of with me. They kept us there three days, during which time they were busily engaged with some transports, which were then ascending the river to Fort Scott; from thence they took us to the Mickasukee, where the Indians informed me that they had been told by the commandant of St. Mark's that war was declared between Spain and the United States. From this place we were carried to the Suwanee, when Kenhagee, principal chief of the Seminoles, told me that we had been taken and robbed by order of Arbuthnot, and brought there to be tried by him. Shortly after we reached this, Arbuthnot arrived from Providence, when we were tried and sentenced by said Arbuthnot to be tortured. This sentence was not put in execution by the friendly interference of Mr. Cook, clerk to Arbuthnot, and the negro chief Nero. We were then conducted back to the Mickasukee, then Kenhagee went down to the fort of St. Mark's to consult the commandant if he would take us as prisoners, to keep at his order. They held a council among the neighboring chiefs, and on the fifth day he returned and ordered us to be conducted down next morning. We arrived at St. Mark's on the 12th of February at night. The Spanish officers received us kindly, but the commandant did not forget to remind us that we were still prisoners, and marked out that night the limits of our prison they rigidly kept during the time of our stay. Next morning the first thing that presented itself to my view, was my saddle horse, which had been taken from me by the Indians; he was in the possession of the commissary. I mentioned it to the commandant, but he said he bought him of an Indian, and he could do nothing in it. A few days after, in the course of a conversation, I mentioned it to the Spanish Doctor; he assured me that two-thirds of the property taken from us by the Indians had been bought by the commissary and others in the fort; the plundered property taken from Georgia, was every day luckily bought by the commandant and others; I knew one instance of an Indian making an engagement with the commandant for cattle, that he was then going to plunder, and in fourteen or fifteen days brought them in and sold them. On our first arrival at St. Mark's we had, by help of a friendly Indian, conveyed intelligence to our friends in Pensacola of our situation, and they sent us in a small vessel to effect our escape. At

her arrival, the commandant said to us that he had no objection to our getting out of the power of the Indians, but that he should first demand a written obligation that we should never return to that country, nor hold communication directly or indirectly with the United States Government, or any of her officers; this being settled, we left St. Mark's in the night of the 28th March, and joined Captain McKeever in his gunboats in the Bay of Appalachicola; on the 30th returned with him to St. Mark's, where we joined General Jackson on the 6th of April.

Given under my hand this 24th of July.

WM. HAMBLY.

PROVINCE OF WEST FLORIDA,  
*Town of Pensacola, Sept. 18, 1818.*

In pursuance with an order to me directed by Colonel William King, civil and military Governor of said province, (a copy whereof is hereto annexed,) I caused to appear before me, at the quarters of Captain Hugh Young, of the army of the United States, in this town, the following persons, viz: Manuel Gonzales, Dr. Brosnahan, William Cooper, J. Dauphin, — Skeate, Felipe Prieto, Joachim Barreлас, P. Alba, Jun., Jose Bonefi, (Marian) and Charles Leseau, to answer, on oath, such interrogatories, not tending to criminate themselves, as might be propounded to them by Captain Young, relating to the intercourse which took place between the late Spanish authorities of this province, and the hostile Indians, during the recent war with the United States.

Joachim Barreлас, being duly sworn, declares, that he has frequently seen parties of Indians in the town of Pensacola since the month of November, 1817; says that parties of Indians have been provisioned by the late authorities at this place, on several occasions; has frequently heard, and believed, that the Indians were in the habit of bringing into this place, horses, cattle, &c., for the purpose of selling them and other plunder; says he was at Barancas at the time that General Jackson came to Pensacola, in May last; deponent acted there as commissary, and knows that several Indians went from town down to Barancas, with the Spanish forces, and took refuge in the fort; that at the same time several small parties were encamped about the Barancas; that, upon the arrival of General Jackson before the Barancas, Tapaulca and family were also in the fort; deponent has seen said chief several times in Pensacola, and believes him to be either a Creek or Seminole Indian; that while deponent was at Barancas, and subsequently to the said month of November, 1817, he saw an Indian named Lunæ, an express from St. Marks, cross over from Santa Rosa island, to Barancas, with despatches for the Governor here; says that since the said month of November, 1817, Governor Mazot, being himself at Barancas, did order this deponent to give rations to several parties of Indians then there, of at least from thirty to forty strong, men, women, and children.

JOACHIM BARRELAS.

*Defeat of the Seminole Indians, &c.*

George Skeate, being duly sworn, declares, that he has constantly resided in the town of Pensacola since November, 1817, since which, he has repeatedly seen at different times in said town, from thirty to forty Indians; has not seen any ammunition given to the Indians within the period above alluded to; has heard, and believes, that horses, cattle, &c., were brought into this place by the Indians and sold, which deponent, however, did not see. Deponent believes that the late Governor Mazot was well acquainted with the several murders that were committed on the neighboring American frontier; knows of no supplies furnished by order of the Spanish Government, since about the month of March, 1817, when a supply of knives, a few blankets, and some copper kettles, were furnished and delivered to a party of Indians, for the purpose, as was then said, of acting against the insurgents who were expected; that the said party of Indians shortly after disappeared, and nothing more was heard of them. Deponent saw, on the day that Major Young attacked a party of Indians in the neighborhood of this town, a number of Indians whom he believes were sent (or went themselves) across the bay in a boat belonging to Don Antonio Modina, Captain of the port.

GEORGE SKEATE.

Mr. Charles Le Jeune, being duly sworn, declares, that he has resided in Pensacola since November, 1817, since which he has frequently seen in this town, or its vicinity, parties of upwards of a hundred Indians encamped; that these parties were armed with rifles, or with the arms that were furnished them by the English; that although he cannot state that those parties had received ammunition from the Spanish Government here, he nevertheless can, and does state, that the said parties were provisioned from the King's stores, by Prieto, King's storekeeper; that previous to November, 1817, the Government was regularly in the habit of giving out ammunition to the Indians, from a store which was expressly for that purpose here; that on the day that Major Young attacked the Indians near this town, there was a considerable number encamped near the water side in town, who, upon hearing the report of the fire-arms, crossed the bay in their own boats, and in other larger boats belonging to others.

CHARLES LE JEUNE.

William Cooper, being duly sworn, declares, that he has resided in Pensacola since November, 1817, during which period he has frequently seen in town and its vicinity, several parties of Indians—saw one in particular with some sheet lead, and has heard that the Indians had introduced some clothes into town that looked like American manufacture; states, also, that Tapaulca was Red Stick chief, and had been frequently about Pensacola, for several years past.

WILLIAM COOPER.

JOHN DUFFY, being duly sworn, declares as follows:

Question. Have you resided in and about Pensacola since November, 1817?—Answer. I have.

Question. Have you seen in said town, or its vicinity, within or since that period, any Indians? Answer. I have.

Question. How many did you see at any particular time?

Answer. About the latter end of last Spring I saw in town from fifty to sixty Indians, but few of them were armed, because they were prohibited from coming into town armed. I suppose their arms were left in their camps in the neighborhood.

Question. How did these Indians subsist themselves, and how did they procure ammunition?

Answer. Probably from Government here; of this, however, I am not certain.

Question. Did you see any horses, cattle, or other plunder, brought into this place by the Indians?—Answer. No.

Question. How many Indians were in Pensacola, and its neighborhood, at the time that Major Young attacked a party near this town?

Answer. Of all descriptions, viz: men, women, and children, there must have been a considerable number; not less probably than one hundred and fifty or sixty.

Question. When Major Young attacked the party near town, how did those in town find means to escape across the bay?

Answer. I have understood, and believe, that they were set across by order of the Governor.

SANTIAGO PAUPHIN.

A true copy: R. K. CALL, A. L. C.

JOSEPH BONEFI, being duly sworn, declares as follows, viz:

Question. Have you lived in Pensacola since November, 1817?—Answer. I have.

Question. Have you not between that period and the approach of the American forces, under Major General Jackson, repeatedly seen divers parties of hostile Indians in this town or its neighborhood?

Answer. I have. Indeed, between the said month of November and the time that the hostile party surrendered to Major Young, there were more or less in town; sometimes in numbers considerable, sometimes fewer.

Question. How, or by whom, were those Indians subsisted, and from whom, or by what means, did they procure ammunition and other warlike stores or weapons?

Answer. I have understood, and do believe, that they were fed by the Government here; as to ammunition, &c., I cannot state how they procured supplies, except it might have been from the stores about town.

Question. Have you seen or been informed of any horses, cattle, or other plunder, having been brought in here by the Indians within the time above alluded to?—Answer. No.

JOSEPH BONEFI.

PENSACOLA, Sept. 19, 1818.

I certify that the foregoing depositions were sworn to and subscribed before me on this day.

M. McKENSEY, SEN., J. P.

A true copy: R. K. CALL, A. L. C.



### Defeat of the Seminole Indians, &c.

[illegible]

*Field Report of the operating Army under the immediate command of Major General Andrew Jackson, at Pensacola, May 24, 1818.*

**STAFF, CORPS, AND REGIMENTS.**

Lieutenants Ripley and Cross, of the 8th department, joined at Pensacola, and marched with the army, not included in the above report. The companies of Life Guards, with a detachment of Tennessee volunteers, in all one hundred men, formed a guard for the protection of Pensacola. The sick of the different corps, amounting to thirty-six men, were detached, leaving an aggregate of nine hundred and fifty-six to operate against the fortress of Barracas.

ROBERT BUTLER, *Adjutant General.*

**ROBERT BUTLER, Adjutant General.**

### Defeat of the Seminole Indians, &c.

*Proposals which the Civil and Military Commandant of the Province of West Florida makes to His Excellency Andrew Jackson, General-in-Chief of the American Army, before the Fort San Carlos de Barancas.*

1st. The fort of Barancas will be delivered to the troops of the United States, under the following conditions:

[Approved, with the exceptions made following each article, and possession given at one o'clock past morning this day.]

2d. The garrison of the fort of Barancas will march out, to be transported to the Havana, on the day and hour which shall be agreed upon, with all the honors of war; drums beating; with arms and baggage. Those employed in the Royal Finance, and others attached to this department, shall also be transported to the same port.

[A roster to be furnished of all the military and civil officers of the garrisons of Fort Barancas; the troops to march out as expressed in this article; their arms to be stacked at the foot of the glacis, and left in possession of the American army until the day of embarkation, when they will be restored.]

3d. The commandant of the province, the officers of his staff of the artillery and engineers, the officers and troops, shall carry with them their arms and personal effects, and shall also have the liberty of disposing of their property of every kind, with perfect security to the purchasers.

[All titles for property legally derived from the Crown of Spain will be respected.]

4th. The garrison shall be embarked on account of the United States; every person of the military class, or of the Royal Finance, shall receive, during the passage, such rations as are allowed to every grade by the regulations of Spain.

[Approved, as far as relates to the transportation of the garrison, and the Spanish rations allowed, provided they do not exceed the American ration, in which case the American ration only will be allowed.]

5th. A competent number of vessels shall be furnished for embarking the personal effects, papers, and other property belonging to the commandant, officers, and others in the Royal employ, and particularly the papers of the Secretary's office of the Government, which are in Pensacola; those of the Department of the Royal Finance, and of the civil and military employ. These papers shall not be subjected to any inspection or recognisance, under the pledge of their containing nothing foreign to the functions of the said persons.

[Approved. An estimate of the necessary transportation to be furnished, agreeably to established usage.]

6th. The sick, wounded, and all those who are now, or may fall sick previous to the embarkation of the troops for the Havana, shall be maintained by the Government of the United States until cured, and shall have the same privileges as the rest of the garrison; those who are in a situation shall be embarked at the same time with it, and

all shall be under the care of, and attended by, the surgeon and other individuals of the Spanish military hospital.

[Approved.]

7th. The garrison of Pensacola, and the prisoners, as also those in the employ of the Royal Finance, shall enjoy the same privileges as the garrison of Barancas, and shall likewise be transported to the Havana, uniting the former to the latter, and all shall remain in the quarters they occupied in Pensacola until the moment of embarkation for the port of Havana.

[Approved. An estimate of the necessary transportation to be furnished, and included in estimate, for the garrison of Fort Barancas.]

8th. During their stay the United States will furnish to the King's storekeeper, under documents from the Royal officers, such articles of provisions as may be deficient or not in the King's stores, to complete the rations of the troops dependants; those in the King's employ, and their respective families, according to the allowance made by the regulations of Spain; the reimbursement thereof remaining subject to the decision of the Governments of Spain and the United States.

[An inventory of the provisions in possession of the Spanish commissary to be forthwith furnished. The rations allowed subject to the limitation in the fourth article.]

9th. The provisions actually existing in the King's stores of Pensacola and Barancas shall be transported to the former, in order that they may serve for the said supply of rations.

[Approved.]

10th. An inventory, and a duplicate thereof, shall be made by the military storekeeper, and such officer of artillery as the commandant of this corps may name, and such other as may be appointed by the General of the troops of the United States, of the artillery, powder, military stores, and other effects belonging to this department, in Pensacola, and Barancas.

[Approved. Major Peters, of the artillery, appointed on the part of the American Government.]

11th. Persons and property shall be respected; concessions and sales of land made by the competent authorities shall be valid and guaranteed by the American Government at whatever time they may have been made, and until the date hereof.

[All titles legally derived from the Crown of Spain, prior to this date, guarantied and respected.]

12th. The commandant of engineers shall name an officer, who, with another whom the General of the American army may appoint, shall make an inventory, and a duplicate thereof, of the number and state of the royal edifices, in the same manner as is stated for the department of artillery.

[Approved, and Lieutenant Sands of the artillery appointed on the part of the American Government.]

13th. The military officers, and those in the service of all and the several departments, may embark with them their wives, children, and



*Defeat of the Seminole Indians, &c.*

servants; in which number are to be included the families of those of the said classes who may be absent. Those who have property to dispose of, or affairs to settle, may remain the time necessary for these purposes. American authority shall afford them every protection during their stay, and they shall enjoy the same privileges as the rest of the garrison, and be transported to the Havana on account of the United States.

[Inadmissible, so far as it regards transportation being allowed to the families of those officers not present, and servants not attending upon the persons of the officers and their families. Those individuals disposed to remain in Florida will be respected, and protected in all civil and personal rights; and, if not embracing the transportation allowed at the present period, they must furnish their own at a future period.]

14th. The storekeeper general shall form an inventory of the small vessels and craft, and of the other effects under his charge, in the same way as stated for the department of artillery.

[Approved, and Lieutenant Parkhurst, quartermaster of artillery, appointed on behalf of the American Government.]

15th. The officers and troops of this garrison, with their equipage, shall be transported to Pensacola, where they shall remain, as already stated, until embarked for the Havana.

[Approved.]

17th. The Alabama chief, with his family, now in this fort, and who has been reported to Major Young, shall be included in this capitulation, and transported to the Havana.

[Approved. His name to be entered in an article, and the Spanish Government guarantying that he never returns to the Floridas.]

18th. The Catholic religion shall be maintained, with its ministers, and free exercise.

[A free toleration to all religions guaranteed.]

19th. This capitulation is made under the confidence that the General of the American troops will comply with his offer of returning integral this province, in the state of which he receives it, as explained in his official letters.

[Approved, and the restoration made under the conditions expressed in General Jackson's communication to the Governor of Pensacola, the 23d of May.]

20th. If any doubt should arise as to the meaning of the articles of this capitulation, they shall be construed in the manner most favorable to the Spanish garrison.

[The above articles to be interpreted agreeably to their literal and expressed meaning.]

21st. The present capitulation shall be signed and exchanged by the General of the American army and the commandant of this province, as soon as possible, and, at latest, by five o'clock in the afternoon; each party respectively being in possession of an original.—[Approved.]

PORT OF SAN CARLOS DE BARANCAS,  
May 28, 1818.—7 o'clock in the morning.

JOSE MAZOT.

CAMP NEAR FORT BARANCAS, May 28, 1818.  
A. JACKSON, Maj. Gen. comd'g.

*Additional articles, which are to have the same force as the primary, and which extend to the fulfilment of what has been agreed upon.*

1st. The name required of the Alabama chief is Opayhola. The commandant of this province engages, in the name of his Government, that the said chief shall never return to the Floridas.

[Approved.]

2d. If any vessels of war of His Catholic Majesty, destined for this port, should arrive with a supply of provisions or money, they shall be freely admitted, as well as Spanish merchant vessels.

SAN CARLOS DE BARANCAS,

May 28, 1818.—5 o'clock in the afternoon.

JOSE MAZOT.

CAMP, NEAR FORT BARANCAS, May 28, 1818.

ANDREW JACKSON,

Major General commanding.

HEADQ'RS, DIVISION OF THE SOUTH,  
Adjutant General's Office, Barancas,  
May 29, 1818.

FELLOW SOLDIERS: You were called into the field to punish savages and negroes, who had, in a sanguinary manner, used the tomahawk and scalping-knife upon our helpless citizens upon the frontier. You have pursued them to Mickaskey, St. Mark's, Suwaney, and lastly to this place, through an unexplored wilderness, encountering immense difficulties and privations, which you met with the spirit of American soldiers, without a murmur.

Your General anticipated a close of the campaign on his return to Fort Gadsden, and hailed the hour with feelings of gratitude to Heaven, at the prospect of relieving you from your labors, by placing you in quarters, and returning you to your homes; but how great was the disappointment, when he heard of the recent murders committed on the Alabama, by a party of the enemy from Pensacola, where they were furnished with provisions and ammunition by a friendly Power. Under this state of things, you were marched here, encountering difficulties which you alone can properly appreciate, meeting on the way the protest of the Governor of West Florida, threatening to employ force if we did not immediately evacuate the country. This new and unexpected enemy was soon taught to feel the impotence of his threats. You entered Pensacola without resistance, and the strong fortress of the Barancas could hold out but one day against your determined courage. Your General cannot help admiring the spirit and military zeal manifested, when it was signified that a resort to storming would be necessary; and would do injustice to his feelings, did he not particularly notice the judgment displayed by his aid-de-camp, Captain Gadsden of the engineers, in the selection of the positions for the batteries, and the gallantry of his second aid, Captain McCall, and Captain Young of the topographical engineers, in aiding him to erect the works, under the fire of heavy batteries within four hundred yards, as well as

*Defeat of the Seminole Indians, &c.*

the skill and gallantry of Captain Peters, Lieutenants Minton and Spencer, in the direction and management of the nine pounder, and that of Lieutenants Sands and Scallon, charged with the management of the howitzer. Captain McKeever, of the navy, merits, as he has on several occasions, his warmest thanks for his zealous co-operation and activity in landing two of his guns, (should an additional battering train have been necessary,) and gallantly offering to lay his vessel before the water battery, in the event of storming the upper works; his officers and crew deserve his confidence.

The General assigns to Colonel King the government of Pensacola and its dependencies, and that part of the 7th department lying west of the Appalachicola and Chatahoochee rivers, until otherwise ordered by General Gaines.

The Colonel will take measures to have the volunteers now at Pensacola relieved, preparatory to their return march. The Tennessee volunteers will be rationed for five days, and will forthwith move for Fort Montgomery, where they will receive further orders.

The General, in taking leave of Colonel King and his command, tenders to the officers and soldiers an affectionate farewell.

By order: ROBERT BUTLER,  
Adjutant General.

HEADQ'RS, DIVISION OF THE SOUTH,  
May 29, 1818.

Major General Andrew Jackson has found it necessary to take possession of Pensacola; he has not been prompted to this measure from a wish to extend the territorial limits of the United States, or from any unfriendly feeling on the part of the American Republic to the Spanish Government. The Seminole Indians, inhabiting the territories of Spain, have, for more than two years past, visited our frontier settlements with all the horrors of savage massacre; helpless women have been butchered, and the cradle stained with the blood of innocence. These atrocities, it was expected, would have early attracted the attention of the Spanish Government, and, faithful to existing treaties, speedy measures adopted for their suppression. That, so far from being able to control, the Spanish authorities were often compelled, from policy or necessity, to issue munitions of war to these savages: thus enabling, if not exciting, them to raise the tomahawk against us. The immutable laws of self-defence, therefore, compelled the American Government to take possession of such parts of the Floridas in which the Spanish authority could not be maintained. Pensacola was found in that situation, and will be held until Spain can furnish military strength sufficient to enforce existing treaties. Spanish subjects will be respected; Spanish laws will govern in all cases affecting property and person; a free toleration to all religions guaranteed, and trade alike to all nations.

Colonel King will assume the command of Pensacola, as military and civil Governor. The

15th Con. 2d Sess.—71

Spanish laws, so far as they affect personal rights and property will be enforced. Colonel King will take possession of the archives of the province, and appoint some confidential individual to preserve them. It is all important that the record of titles and property should be carefully secured. He will cause an inquiry to be made into all the landed property belonging to the King of Spain, and hold possession of it. The claims to property, within the range of gunshot of Fort St. Charles de Barancas, will be scrupulously examined into; and, should this prove valid, a rent allowed, but possession in nowise given. This property is necessary for the United States, and under its laws may be held, and an equivalent paid. The revenue laws of the United States will be established, and Captain Gadsden appointed to act as collector; with full power to nominate such sub-officers as, in his opinion, will be necessary to the faithful discharge of the trust reposed in him. He will apply to the Governor of Pensacola for military aid in all cases where it may be necessary to correct attempts at an illicit trade.

ANDREW JACKSON,  
Major Gen. com. Div. of the South.

*Minutes of the proceedings of a special court, organized agreeably to the following order, viz:*

HEADQ'RS, DIVISION OF THE SOUTH,  
Adjutant General's Office,  
Fort St. Marks, April 26, 1818.  
GENERAL ORDER.

The following detail will compose a special court, to convene at this post, at the hour of 12 o'clock M, for the purpose of investigating the charges against A. Arbuthnot, Robert Christy Ambrister, and such others who are similarly situated, as may be brought before it:

The court will record all the documents and testimony in the several cases; and their opinion as to the guilt or innocence of the prisoners; and what punishment, if any, should be inflicted.

## DETAIL.

Major General E. P. GAINES, President.  
Members.

Colonel King, 4th infantry,  
Colonel Williams, Tennessee volunteers,  
Lieut. Colonel Gibson, Tennessee volunteers,  
Major Muhlenburg, 4th infantry,  
Major Montgomery, 7th infantry,  
Captain Vashon, 7th infantry,  
Colonel Dyer, Tennessee volunteers,  
Lieut. Col. Lindsay, corps of artillery,  
Lieut. Col. Elliott, Tennessee volunteers,  
Major Fanning, corps of artillery,  
Major Minton, Georgia militia,  
Captain Crittenden, Kentucky volunteers,  
Lieut. J. M. Glassell, 4th infantry, Recorder.

An orderly will be detailed from General Gaines's brigade; and the court will sit without regard to hours.

By order of Major General JACKSON:  
ROBERT BUTLER, Adj. Gen.



FORT ST. MARK'S, April 26, 1818.

The court convened pursuant to the foregoing order; when, being duly sworn in the presence of the prisoner, and he being asked if he had any objection to any member thereof, and replying in the negative, the following charges and specifications were read, viz:

Charges vs. A. Arbuthnot, now in custody, who says he is a British subject.

CHARGE 1st. Exciting and stirring up the Creek Indians to war against the United States and her citizens; he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

Specification. That the said A. Arbuthnot, between the months of May and July, or some time in June, 1817, wrote a letter to the Little Prince, exhorting and advising him not to comply with the Treaty of Fort Jackson, stating that the citizens of the United States were infringing on the Treaty of Ghent, as he believed, without the knowledge of the Chief Magistrate of the United States; and advising the Upper and the Lower Creeks to unite and be friendly; stating that William Hamby was the cause of their disputes. Also, advising the Little Prince to write to the Governor of New Providence, who would write to His Majesty the Prince Regent, through whom the United States would be called to a compliance with the Treaty of Ghent; and advising not to give up their lands under the Treaty of Fort Jackson, for that the American citizens would be compelled to give up to them all their lands under the Treaty of Ghent.

CHARGE 2d. Acting as a spy, and aiding, abetting, and comforting the enemy—supplying them with the means of war.

Specification 1st. In writing a letter from St. Mark's fort, dated the 2d April, 1818, to his son John, at Suwanee, (marked A,) detailing the advance of the army under General Jackson, stating their force, probable movements and intentions, to be communicated to Bowlegs, the chief of the Suwanee towns, for his government.

Specification 2d. In writing the letters, marked B (without date) and C, with enclosures of January 27, 1818; and D, called "a Note of Indian Talks;" and E, without date, applying to the British Government, through Governor Cameron, for munitions of war, and assistance for our enemies, making false representations. And also applying to Mr. Bagot, British Ambassador, for his interference, with a statement on the back of one of the letters of munitions of war for the enemy.

CHARGE 3d. Exciting the Indians to murder and destroy William Hamby and Edmund Doyle, and causing their arrest, with a view to their condemnation to death; and the seizure of their property, on account of their active and zealous exertions to maintain peace between Spain and the United States and the Indians, they being citizens of the Spanish Government.

Specification 1st. In writing the letters marked F, dated the 26th August, 1817; G, dated the 13th May, 1817; and H, threatening them with death, alleging against them false and infamous

charges, and using every means in his power to procure their arrest; all which writings and sayings excited, and had a tendency to excite, the negroes and Indians to acts of hostility with the United States. By order of the court:

J. M. GLASSELL, Recorder.

To which charges and specifications the prisoner pleaded *not guilty*.

The prisoner having made application for counsel, it was granted him; when the court proceeded to the examination of the evidence.

JOHN WINSLETT, a witness on the part of the prosecution, being duly sworn, stated that some time before last July the Little Prince received a letter, signed by Mr. Arbuthnot, advising the upper part of the nation to unite with the lower chiefs in amity; and stating that the best mode for them to repossess themselves of their lands would be to write to him, Arbuthnot, and he would send on their complaints to the Governor of Providence, whence it would be forwarded to His Britannic Majesty, and he would have the terms of the Treaty of Ghent attended to; he, moreover, stated his belief that the encroachments on the Indian lands were unknown to the President of the United States; the witness also identified the signature of the letter of the prisoner to his son, (marked A,) referred to in the first specification to the second charge, and heretofore noted as being the same with that sent to the Little Prince.

The witness, on being further interrogated, stated the language of the letter alluded to to be, that the British Government, on application would cause to be restored to them their lands they held in 1811, agreeably to the terms of the Treaty of Ghent.

Question by the prisoner. Who is the Little Prince, or is he known by any other name?

Answer. He is known by the name of Tus-tenuk-ke Hopin, and is the second chief of the nation.

Question by the prisoner. Where is the letter you allude to, or in whose possession?

Answer. It was left in the possession of the Little Prince when I last saw it.

Question by the prisoner. Has this Little Prince no other name than what you state?

Answer. Not that I know of.

Question by the prisoner. Do you swear that the letter alluded to was addressed to the Little Prince?

Answer. I do not. It was presented me by the Little Prince to read and interpret for him, which I did.

Question by the prisoner. Are you certain that the letter stated that the Chief Magistrate of the United States could have had no knowledge of settlements made on Indian lands, or injuries committed?

Answer. The letter stated that to be the belief of the writer.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated, with regard to the first specification of the second

charge, that, being at Suwanee, in the towns, about the 6th or 7th of April, he was awakened early in the morning by Mr. Ambrister's receiving, by the hands of a negro, who got it from an Indian, a letter from St. Mark's, at that time stated by Ambrister to be from the prisoner.

Question by the prisoner. Did you see that letter, or hear it read?

Answer. I did see the paper, but did not hear it read.

Question by the prisoner. Did you state that the letter was received by an Indian express?

Answer. So the black man that delivered it said.

A question being raised by a member of the court as to their jurisdiction on the third charge and its specifications, the doors were closed, and, after mature deliberation, they decided that this court are incompetent to take cognizance of the offences alleged in that charge and specifications.

PETER B. COOK, a former clerk to the prisoner, and a witness on the part of the prosecution, being duly sworn, stated, that, about December or January last, the prisoner had a large quantity of powder and lead brought to Suwanee in his vessel, which he sold to the Indians and negroes; that, subsequent to that time, which he cannot recollect, Ambrister brought for the prisoner, in his (the prisoner's) vessel, nine kegs of powder and a large quantity of lead, which were taken possession of by the negroes; the witness also identified the following letters referred to in the foregoing charges and specifications, marked A, B, C, D, E, F, G, and H, as being the prisoner's handwriting; also the power of attorney, No. 1, granted by the Indians to A. Arbuthnot.

A.

From A. Arbuthnot to his son, John Arbuthnot.

FORT ST. MARK'S, APRIL 2, 1818,

9 o'clock in the morning.

DEAR JOHN: As I am ill able to write a long letter, it is necessary to be brief. Before my arrival here, the commandant had received an express from the Governor of Pensacola, informing him of a large embarkation of troops, &c., under the immediate command of General Jackson; and the boat that brought the despatch reckoned eighteen sail of vessels off Appalachicola. By a deserter that was brought here by the Indians, the commandant was informed that three thousand men, under the orders of General Jackson; one thousand foot and one thousand six hundred horse, under General Gaines; five hundred under another General; were at Prospect Bluff, where they are rebuilding the burnt fort. That one thousand Indians of different nations were at Spanish Bluff building another fort, under the direction of American officers; that, as soon as these forts were built, they intended to march—they have commenced. Yesterday morning advice was received that they had appeared near —, and two of the sons of McQueen and an Indian. Late in the afternoon three schooners came to anchor

at the mouth of the river; and this morning the American flag is seen flying on the largest. I am blocked here; no Indians will come with me; and I am now suffering from the fatigue of coming here alone.

The main drift of the Americans is to destroy the black population of Suwanee. Tell my friend Bowleck that it is throwing away his people to attempt to resist such a powerful force as will be down on Suwanee; and as the troops advance by land, so will the vessels by sea. Endeavor to get all the goods over the river to a place of security, as also the skins of all sorts; the corn must be left to its fate. So soon as the Suwanee is destroyed, I expect the Americans will be satisfied and retire; this is only my opinion; but I think it is conformable to the demand made by General Gaines of King Hatchy some months since. In fact, do all you can to save all you can; save the books particularly. It is probable the commandant will receive some communication from the vessels to-day, when he will know more certainly what are their motives in coming off the fort. I think it is only to shut the passage to the Indians. Twenty canoes went down the river yesterday, and were forced to return. The road between this and the Mickasukee is said to be stopped. Hillis Hadjo and Himathlo Mico were here last night to hear what vessels; they will remove all their cattle and effects across St. Mark's river this morning, and perhaps wait near thereto for the event.

I have been as brief as I can, to give you the substance of what appears facts that cannot be doubted. To enter into details in the present moment is useless. If the schooner is returned, get all the goods on board of her, and let her start off for Mount-ater creek, in the bottom of Cedar Key bay. You will there only have the skins to hide away. But no delay must take place, as the vessels will no doubt follow the land army; and perhaps even now some have gone round. I pray your strictest attention, for the more that is saved will be eventually more to your interest.

Let the bearer have as much calico as will make him two shirts for his trouble. He has promised to deliver this in three, but I give him four days. I am yours, affectionately,

A. ARBUTHNOT.

B.

From A. Arbuthnot to Charles Cameron, Governor of Bahamas.

SIR: Being empowered by the chiefs of the Lower Creek nation to represent the state of their nation to your excellency, that you may be pleased to forward the same for the information of His Majesty's Government, to whom alone they look for protection against the aggressions and encroachments of the Americans, I beg leave to submit to your excellency the enclosed representations, humbly praying that your excellency will be pleased to take an early opportunity of forwarding the same to Great Britain.

I am also instructed by Bowleck, chief of the Suwanee, to make the demand herein enclosed;



*Defeat of the Seminole Indians, &c.*

he never having had any share of the presents distributed at Prospect Bluff, though he rendered equally essential services as any of the other chiefs to the British cause, while at war with America; and was at New Orleans with a part of his warriors. His frontiers being more exposed to the predatory incursions of the back Georgians, who enter his territory and drive off his cattle, he is obliged to have large parties out to watch their motions and prevent their plundering; and, being deficient of ammunition, he prays your excellency will grant his small demand.

Humbly submitting the same, I have the honor to be, your excellency's most humble servant,

A. A.

*The humble representations of the chiefs of the Creek nation to his excellency Governor Cameron.*

First. We beg leave to represent that Edmund Doyle and William Hambly, lately clerks at Prospect Bluff to Messrs. Forbes, &c., and who still reside on the Appalachicola river, we consider as the principal cause of our present troubles and uneasiness. Hambly was the instrumental cause of the fort at Prospect Bluff being destroyed by the Americans, by which we lost the supplies intended for our future wars. Since then both these men have kept emissaries among us, tending to harass and disturb our repose, and that of our brethren of the Middle and Upper nation; they spread among us reports that the Cowetas, aided by the Americans, are descending to drive us off our lands; they equally propagate false.

C.

*From A. Arbuthnot to Benjamin Moodie, enclosing letters to Charles Bagot, Esquire, British Minister at Washington.*

SHAWNEE, CREEK NATION,  
January 27, 1818.

SIR: The enclosed, containing matter of serious moment, and demanding the immediate attention of his excellency the British Ambassador, I trust he will, for this time, forgive the trifling expense of postage, which I have endeavored to prevent as much as possible by compressing much matter in one sheet of paper. Should you, sir, be put to any trouble or expense, by this trouble I give you, by being made acquainted with the same, I will instruct B. M. Dunshee, & Co., to order payment of the same.

I have the honor to be, &c.

A. ARBUTHNOT.

*From A. Arbuthnot to the Honorable Charles Bagot.*

SIR: It is with pain I again obtrude myself upon your excellency's notice; but the pressing solicitations of the chiefs of the Creek nation, and the deplorable situation in which they are placed by the wanton aggressions of the Americans, I trust your excellency will take as a sufficient apology for the present intrusion.

In August last, the head chief of the Seminole Indians received a letter from General Gaines, of which I have taken the liberty of annexing your

excellency the contents as delivered me by the chief's head English interpreter, with King Hatchy's reply thereto.

This letter appears to have been intended to sound the disposition of the chief, and ascertain the force necessary to overrun the nation; for, from then, until the actual attack was made on Fowltown, the same General, with General Jackson, seem to have been collecting troops and settling in various quarters.

If your excellency desires to have further information respecting the situation of this country and its inhabitants, I can, from time to time, inform your excellency of such facts and circumstances as are stated to me by chiefs of known veracity, or which may come under my own observation; and your excellency's order, addressed to me at New Providence, will either find me there, or be forwarded me to this country.

With great respect, I have the honor to be, your excellency's most obedient servant,

A. A.

The following memorandum was on the back of the foregoing letter:

King Hatchy, 1,000; Boleck, 1,500; Oso Hatjo Choctawhachy, 500; Himashy Miso Chattichy, 500; at present with Hillisajo —; at present under arms, 1,000 and more; attacking those Americans who have made inroads on their territory.

A quantity of gunpowder, lead, muskets, and flints, sufficient to arm one thousand or two thousand men.

Muskets, 1,000; arms smaller, if possible.

10,000 flints, a proportion of rifle put up separate.

50 casks gunpowder, a proportion for rifle.

2,000 knives, six to nine inch blade, good quality.

1,000 tomahawks.

100 pounds vermilion.

2,000 pounds lead, independent of ball for musket.

KING HATCHY,  
BOLECK.

*From General Gaines to the Seminole Chief.*

Your Seminoles are very bad people; I don't say whom. You have murdered many of my people, and stolen my cattle and many good horses, that cost me money; and many good houses that cost me money you have burnt for me; and now, that you see my writing, you'll think I have spoken right. I know it is so; you know it is so; for now you may say I will go upon you at random; but just give me the murderers, and I will show them my law; and, when that is finished and past, if you will come about any of my people, you will see your friends; and, if you see me, you will see your friend. But there is something out in the sea—a bird with a forked tongue—whip him back before he lands, for he will be the ruin of you yet. Perhaps you do not understand who or what I mean—I mean the name of Englishman.

I tell you this, that if you do not give me up

*Defeat of the Seminole Indians, &c.*

the murderers who murdered my people, I say I have got good strong warriors, with scalping-knives and tomahawks. You harbor a great many of my black people among you at Sawwahnee. If you give me leave to go by you against them, I shall not hurt anything belonging to you.

GENERAL GAINES.

To the SEMINOLE CHIEF.

*From King Hatchy to General Gaines, in answer to the foregoing.*

You charge me with killing your people, stealing your cattle, and burning your houses; it is I that have cause to complain of the Americans. While one American has been justly killed, while in the act of stealing cattle, more than four Indians while hunting have been murdered by these lawless freebooters. I harbor no negroes. When the Englishmen were at war with America, some took shelter among them; and it is for you white people to settle those things among yourselves, and not trouble us with what we know nothing about. I shall use force to stop any armed Americans from passing my towns or my lands.

KING HATCHY.

To General E. P. GAINES.

D.

*Note of Indian Talks.*

In August, Capp had a letter from General Gaines, in substance as annexed, No. 1; and returned the answer, as by No. 2: nothing further was said on either side. The end of October, a party of Americans from a fort on Flint river surrounded Fowltown during the night, and began burning it. The Indians then in it fled to the swamp, and in their flight had three persons killed by fire from the Americans; they rallied their people, and forced the Americans to retire some distance, but not before they had two more persons killed. The Americans built a blockhouse or fort where they had fallen back to, and immediately sent to the fort up the country for assistance, stating the Indians were the aggressors; and also settled with Inhemocklo, for the loss his people had suffered; at the same time sending a talk to King Hatchy, by a head man, Apiny, that he would put things in such a train as to prevent further encroachments, and get those Americans to leave the fort. But no sooner was the good talk given, and before the bearer of it returned home, than hundreds of Americans came pouring down on the Indians, roused them to a sense of their own danger, they flew to arms, and have been compelled to support them ever since. It is not alone from the country, but by vessels entering Appalachicola river with troops, and settlers are pouring into the Indian territory, and, if permitted to continue, will soon overrun the whole of the Indian lands. From the talk sent King Hatchy, by Governor Mitchell, I am in hopes that those aggressions of the Americans on the Indian territory are not countenanced by the American Government, but originate with men devoid of principle, who set laws and instructions at defiance, and stick at no cruelty

and oppression to obtain their ends. Against such oppressions the American Government must use not only all their influence, but, if necessary, force, or their names will be handed down to posterity as a nation more cruel and savage to the unfortunate aborigines of this country, than ever were the Spaniards in more dark ages to the nations of South America.

The English Government, as the special protectors of the Indian nations, and on whom alone they rely for assistance, ought to step forward and save those unfortunate people from ruin. And as you, sir, are appointed to watch over their interests, it is my duty as an Englishman, and the only one in this part of the Indian nation, to instruct you of the talks the chiefs bring me for your information; and I sincerely trust, sir, you will use the powers you are vested with for the service and protection of those unfortunate people, who look up to you as their saviour. I have written General Mitchell, who I hear is an excellent man, and, as he acts as Indian agent, I hope his influence will stop the torrent of innovators, and give peace and quietness to the Creek nation.

I pray your excellency will pardon this intrusion, which nothing but the urgency of the case would have induced me to make.

I have the honor to be, yours, &c.

A. A.

E.

*From Cappichimieco and Boleck to Governor Cameron.*

It is with pain we are again obliged to obtrude ourselves on your excellency's notice, in consequence of the cruel war we have been forced into by the irruptions of the Americans into the heart of our lands. It will be first necessary to state to your excellency, that one head chief, Kinhiyah, received a letter from General Gaines in August last; a copy of which is enclosed, with the answer returned thereto. This letter only appears to have been a prelude to plans determined on by the said General and General Jackson, to bring on troops and settlers to drive us from our lands, and take possession of them; for, in the end of October, a party of Americans surrounded Fowltown during the night, and in the morning began setting fire to it, making the unfortunate inhabitants fly to the swamp, and who in their flight had three persons killed by the fire of the Americans. Our Indians rallying, drove the Americans from the town, but in their exertions had two more of their people killed. The Americans retired some distance, and built a fort or blockhouse to protect themselves, until the assistance they had sent for to the fort up the country should arrive. A letter falling into the hands of General Mitchell, the Indian agent, which states the Indians to have been the aggressors, he suspected its truth, and, on inquiry, found it was the reverse; in consequence, he made satisfaction to Inhinoothla, the chief of Fowltown, and his people, for the injuries they had sustained: at the same time, he desired a talk to be sent to our head chief, stating



his wish to see all the Indians friends, and that in twenty days he would send and get the Americans to retire from the forts. But this has had no effect on the lawless invaders of our soil; for before the bearer of our talks could return home, he met hundreds of Americans descending on us. They have also settlers and troops which come from Mobile, and go up the Appalachicola river. Thus, seeing no end to those inroads, necessity compels us to have recourse to arms; and our brethren are now fighting for the lands they inherited from their fathers, for their families and friends.

But what will our exertions do without assistance? Our sinews of war are almost spent; and harassed as we have been for years, we have not been able to lay by the means for our extraordinary wants; and to whom can we look up to for protection and support, but to those friends who have at all former times held forth their hands to uphold us, and who have sworn in their late treaty with the Americans to see our just rights and privileges respected and protected from insult and aggression? We now call on your excellency, as the representative of our good father King George, to send us such aid in ammunition as we are absolutely in want of; and, as our brother chief, Hillisajo, was informed, when in England, that when ammunition was wanted to enable us to protect our just rights, that your excellency would supply us with what was necessary. We have applied to the Spanish officer at the fort of St. Mark's, but his small supply prevented his being able to assist us, and we have only on your excellency to depend. We likewise pray your excellency would be pleased to send an officer or person to lead us right, and to apportion the supply you may be pleased to send us agreeably to our proper wants.

In paying your excellency will lend an ear to our demand, and despatch it without delay, we remain your excellency's faithful and most obedient friends and servants,

CAPPICHIMICCO,  
BOLECK,

*For ourselves and all the other  
chiefs of the Lower Creek nation.*

F.

*Letter from A. Arbuthnot to Colonel Edwards Nicholls.*

NASSAU, N. P. August 26, 1817.

SIR: Especially authorized by the chiefs of the Creek nation, whose names I affix to the present, I am desired to address you, that you may lay their complaint before His Majesty's Government. They desire it to be made known that they have implicitly followed your advice in living friendly with the Americans who were their neighbors, and have attempted to molest them, though they have seen the Americans encroach on their territory, burning their towns, and making fields where their houses stood. Rather than make resistance they have retired lower in the peninsula. The town of Eahallaway, on the Chatahoochee, where Olismicco was chief, is one in-

stance of the encroachments of the Americans. This town is situated under the guns of Fort Gaines; and Micco was desired to submit to the Americans or his town would be blown to atoms. Rather than do so, he retired, and is now living in the lower nation, and his fields, and even where the town stood, is ploughed up by the Americans. They complain of the English Government neglecting them, after having drawn them into a war with America; that you, sir, have not kept your promise of sending people to reside among them; and that if they have not some person or persons resident in the nation to watch over their interest, they will soon be driven to the extremity of the peninsula. You left Mr. Hambly to watch over the interest of the Creek nation, but you had hardly left the nation when he turned traitor, and was led by Forbes to take the part of the Americans. His letter to me, of which I annex you a copy, will show you what length he could go if he had the means. It is Hambly and Doyle who give the Indians all the trouble they experience. They send their emissaries among the Lower Creeks, and make them believe the Cowetas, aided by the Americans, are coming to destroy them. Thus both are put in fear, and their fields are neglected, and hunting is not thought of. I have endeavored to do away this fear, by writing the chief of the Coweta towns that they ought to live on friendly terms with their brethren of the lower nation, whose wishes were to be on good terms with them, and not to listen to any bad talks, but to chase those that give them from among them. My letter was answered from them rather favorably; and I hope the talk that was sent to the Big Warrior last June will heal the difference between them. Hillisajo arrived in my schooner at the Ocklocknee Sound last June, and was well received by all the chiefs and others who came to welcome him home. In consequence of his arrival a talk was held, the substance of which was put on paper for them; and it was sent, with a pipe of peace, to the other nations. Hillisajo wished to return to Nassau with me, but I prevailed on him to stay in the nation, and keep them at peace. I regret, sir, to notice this poor man's affairs, though, by his desire, it appeared that he arrived at Nassau a short time after I had left it in January, and Captain W. being here took charge of him, his goods, and money, prevailing on the Governor to let him stay with him until he went down to the nation, which it was his intention to do. Of the money received of Governor Cameron, he had only given him eighty dollars, by Captain W. a barrel of sugar, a bag of coffee, and a small keg of rum. And the interpreter, Thugart, informed that when Hillisajo asked for an account, Captain W. refused it, saying it would be useless to a man who could not read. He also misses two cases; one of which contains, he thinks, crockery. I have made inquiry of His Majesty's ordnance storekeeper, and he informs me the whole were delivered to Captain W.; they are, therefore, lost to Hillisajo.

I am desired to return Hillisajo's warmest ac-

knowledgments for the very handsome manner you treated him in England, and he begs his prayer may be laid at the foot of His Royal Highness the Prince Regent. I left him and all his family well on the 20th June. Old Cappichimicco desires me to send his best respects, and requests that you will send out some people to live among them, and all the land they took from Forbes shall be theirs; at all events, they must have an agent among them to see that the Americans adhere to the treaty, and permit them to live unmolested on their own lands. This agent should be authorized by His Majesty's Government, or he will not be attended to by the Americans. In the gazettes of Georgia the Americans report the Seminole Indians are continually committing murders on their borders, and making incursions into the State. These are fabrications, tending to irritate the American Government against the poor Indians; for, during the time I was in the nation, there was only one American killed, and he with two others were in the act of driving off cattle belonging to Bowlegs, chief of Suwanee; whereas, three men and a boy were killed last June by a party of American cattle stealers, while in their hunting camps; the boy they scalped, and one of Bowlegs' head men was killed in St. John's river, in July. The backwood Georgians, and those resident on the borders of the Indian nation, are continually entering it, and driving off cattle. They have, in some instances, made settlements, and particularly on the Choctahatchy river, where a considerable number have descended.

By the treaty with Great Britain, the Americans were to give up to the Indians all the lands that may have been taken from them during the war, and place them on the same footing they were in 1811. It appears they have not done so; that Fort Gaines, on the Chatahoochee, and Camp Crawford, on the Flint river, are both on Indian territory, that was not in possession of America in 1811. They are fearful that, before any aid is given by the English Government, they will no longer be in possession of any territory. I wrote last January to his excellency the honorable Charles Bagot, respecting the encroachments of the Americans, as I was informed, by the copy of a letter from the right honorable Earl Bathurst, handed me by his excellency Governor Cameron, that His Majesty's Ambassador had received orders to watch over the interests of the Indians. Since my return here I have received of Mr. Moodie, of Charleston, an extract of a letter from the honorable Charles Bagot, that the expense of postage is so considerable, any further communications of the same nature must be sent him by private hands. Now, sir, as no person goes from this direct to Washington, how am I to be able to comply with his desire? Thus he will be kept ignorant of the situation of the poor Indians, and the encroachments daily made on their lands by the American settlers, while he may be told by the American Government that no encroachments have been made, and that the forts they still hold are necessary to check the

unruly Seminoles. Thus the person appointed to watch over the interest of the Indians having no other means of information than from the parties interested in their destruction, and seeing, from time to time, in the American gazettes, accounts of cruel murders, &c., committed by the Indians on the frontier settlements of the United States, he apprehends the Indians merit all the Americans do to them.

But let His Majesty's Government appoint an agent, with full powers to correspond with His Majesty's Ambassador at Washington, and his eyes will then be opened as to the motives of that influence, American individuals as well as the Government, in vilifying the Indians.

The power given me, and the instructions, were to memorialize His Majesty's Government, as well as the Governor General at Havana; but if you will be pleased to lay this letter before His Majesty's Secretary of State, it will save the necessity of the first; and I fear that a memorial to the Governor General would be of no use.

Referring you to the answer, I am, &c.

A. ARBUTHNOT.

To Lieut. Col. EDWARD NICHOLLS.

G.

*From A. Arbuthnot to William Hambly.*

OCKLOCKNEE SOUND, May 3, 1817.

SIR: On my return home, this day, I received a letter signed by you, and dated 23d March. As you therein take the liberty of advising me, as you say, by order of the chiefs of the Creek nation, I am glad of, and shall embrace this opening you gave me, and reply to you at some length; and, sir, let me premise that, when you lived at Prospect Bluff, a clerk to Messrs. Forbes & Co., you did not consider Cappichimicco, McQueen, or any other of the chiefs of the lower nation, as outlaws, nor have they ever been considered as such by the English Government, who are the especial protectors of the Indian nation; and it ill becomes Mr. Hambly to call Cappichimicco an outlaw, that man who has ever been his friend, and by his authority has prolonged his life. Yet, sir, the young chiefs and warriors of the Creek nation, considering you as the chief cause of their troubles, would have long ere this had possession of you, and perhaps with your life made you pay the forfeit for the injuries heaped on them, had not that man, who has been your friend from your early youth, stepped in as your protector. Yes, this is the man who Mr. Hambly presumes to call an outlaw. A pardoned villain, when going to the gallows, would bless the hand that saved his life; but Mr. Hambly blasphemes his saviour.

As Mr. Hambly's generous friend is the principal cause of my being in this country, as an honest man I shall endeavor to fulfil my promise to him and the other chiefs. The guilty alone have fear; an honest and upright man dreads no danger, fears no evil, as he commits no ill; and your arm of justice ought to be applied where it would rightly fall on the heads of the really guilty. Your mean and vile insinuations, that have been the cause of thefts and murders, come ill from him



who has been the cause of the murder of hundreds. Though your usage was made villanous at the fort, yet your revenge was too savage and sanguinary. If your conduct, sir, to the Indians were guided by as pure motives as mine, you would endeavor to influence them, and respect each other as brothers, and live in harmony and friendship, cultivating their lands in Summer, and taking their diversions of hunting in Winter, respecting their neighbors, and making yourselves respected by them. If thus, sir, you would act, (and by your knowledge of their language you have much more in your power than any other man.) you would then be the true friend of the Indians. Were I an instigator of thefts and murder, would I hold the language I have done to the chiefs and others who have called on me? Ask the lieutenant commanding at Fort Gaines, if my letter to him breathed the strains of murder? Ask Opy Hatchy, or Dany, his interpreter, if the recomendatory note I sent him by order of Apiny, could be written by an instigator of murder? Ask Apiny himself if my language to him was that of a murderer? Ask Mappalitchy, a chief residing among the Americans on Oakmulgee, if my language and advice to him favored that of a murderer? All those and every Indian who has heard my talks, will contradict your vile assertions.

But Mappalitchy has given me a clue by which I can unravel from whence the aspersions come, not from Apiny, Hatchy, or any of the chiefs of the upper towns, but from him who endeavors to lead them to mischief and quarrels with each other.

Did not the chiefs hear my note read with respect, and perfectly according to my sentiments of being all as brethren, uniting in the bonds of friendship and love? Did not they agree to smoke the pipe of peace with their brethren of the lower nation, and live in future as brothers? What made some of them alter their minds afterwards? The interference of a humane man, who counsels them to write me, demanding my removal from a bang of outlaws, and which letter is signed "William Hambly."

I shall only make one more observation, and that will show from whence I came, and whether I came among the Indians as a revenger or as the friend of peace and harmony.

In the Spring of 1816, Mr. Hambly sent Governor Cameron a letter, containing talks of the chiefs of the Indian nations; they were forwarded to England, and his excellency handed me, on my leaving Providence, an answer thereto from the right honorable Earl Bathurst, one of His Majesty's chief Secretaries of State, that I might make the same known to the chiefs on my arrival in the nation. What will Governor Cameron think of the man who, in 1816, could write against the encroachments of the Americans on the Indian nation, and, in the Spring of 1817, call the chiefs of that nation, for whom he more especially wrote, outlaws? Mr. Hambly may sell his services to America; but no man can expatriate himself from that allegiance due to his native coun-

try; and a government may call on a friendly nation to give up a subject that has seriously wronged her. I recommend Mr. Hambly to be content with the *douceur* he may have received, and permit the unlettered Indian to live quietly and peaceably on his native land.

I shall send a copy of this letter, with the one from you, to be read by the chiefs of this nation, and shall, at the same time, take an opportunity of expressing myself more fully than I did in the note sent by Apiny.

Wishing you a speedy recantation of your errors, and a return to your former way of thinking, I am your obedient servant,

A. ARBUTHNOT.

H.

*Letter from A. Arbuthnot to the Governor of Havana.*

The chiefs of the Creek nation, whose names are hereunto annexed, beg leave to approach your excellency, and represent their complaints. Long imposed on by the persons keeping stores in this country, in charging us exorbitant prices for their goods, while they only allow us a very trifling one for our peltry, we have found it necessary to look out for a person that will deal fairly with us, and we wish to establish a store for him on Appalachicola river. We have made application to the commander of St. Mark's, and he referred us to your excellency. It is not alone the imposition that has been practised upon us, that has made us presume to address your excellency; we have complaints of a more serious nature against the persons employed by the only house that has been established among us, that of Mr. Forbes.

In the first place, some years back, under false pretences, they attempted to rob us of a very large portion of our best lands; and we the more readily acceded to it, from the faithful promise given us that they would get English people to settle it, and live among us, but, far from doing this, Mr. Forbes attempted to sell it to the American Government, and settle it with Americans. Thus finding ourselves deceived and imposed on, we withdrew our grant about three years since, which, from the stipulations contained therein not being fulfilled on the part of Mr. Forbes, we conceived we had a right to do. Secondly, Mr. Doyle and Mr. Hambly, the two persons left in the nation to carry on Mr. Forbes's business, have, for more than two years, been endeavoring to influence us to join the Americans; and finding that fair means would not secure us from our attachments to our ancient friends the English, they have recently had recourse to threats of bringing the Americans down upon us; and that people only want a pretext to attack us, which the said Doyle and Hambly attempt to give them, by spreading false reports of our murdering the Americans, stealing their cattle, and preparing for war against them, while, in fact, it is the Americans who murder our red brethren, steal our cattle by hundreds at a time, and are daily encroaching on our lands, and maintaining the

settlers in their ill-gotten possessions by armed force.

On the Choctahatchy river there are a large body of Americans forming settlements, and more are daily joining them. As this river is far within that line marked out by your excellency's Government and the Americans, some years since, (although that line was unknown to us until very lately, and we never gave our sanction, nor, in fact, knew of any sale of our lands made to the Americans,) we trust your excellency will give order to displace them from within the line, and send them back to their own country. Our delaying to address your excellency to represent the forementioned grievances has been owing to the want of a person to attend to our talks, and put them in writing for us. The commander of the fort at St. Mark's has heard all of our talks and complaints. He approves of what we have done and what we are doing; and it is by his recommendation we have thus presumed to address your excellency.

We have the honor to be, &c.

A. ARBUTHNOT.

His Exc'y the GOVERNOR GENERAL, &c.

No. 1.

*Power of attorney from the Indian chiefs to A. Arbuthnot.*

Know all men by these presents, that we, chiefs of the Creek nation, whose names are affixed to this power, having full faith and confidence in Alexander Arbuthnot, of New Providence, who, knowing all our talks, is fully acquainted with our intentions and wishes, do hereby, by these presents, constitute and appoint him, the said Alexander Arbuthnot, our attorney and agent, with full power and authority to act for us, and in our names, in all affairs relating to our nation, and also to write such letters and papers as to him may appear necessary and proper for our benefit and that of the Creek nation.

Given at Ocklocknee Sound, in the Creek nation, this seventeenth day of June, one thousand eight hundred and seventeen.

- 1 Cappachimico, his x mark.
- 2 Inhimathlo, his x mark.
- 3 Charle Tustonaky, his x mark.
- 4 Otusmico, his x mark.
- 5 Ochacona Tustonoky, his x mark.
- 6 Imathlucho, his x mark.
- 7 Inhimatchluchy, his x mark.
- 8 Lahoe Inhamatchlo, his x mark.
- 9 Hourathee Micho, his x mark.
- 10 Hillisajo, his x mark.
- 11 Tamuches Haho, his x mark.
- 12 Opöthlimico, his x mark.

Witness: PETER SHUGERT, Interpreter.

*Certified explanation of names and towns to which the foregoing chiefs belong, agreeably to the numbers set opposite thereto.*

1. Kiahigee, chief of Mickasukee.
2. Inhemthlo, chief of Fowltown.
3. Charle Tustonoky, second chief of Oakmulgee Town.

4. Chief on the Conholoway, below Fort Gaines.
5. Oponey, chief of the Oakmulgee Town.
6. Chief of the Atlapalga.
7. Chief of the Pallatchacoley.
8. Chief of the Chehaws.
9. Chief of the Red Sticks.
10. Francis, (the prophet.)
11. Peter McQueen, chief of the Tallahasses, (an old Red Stick.)
12. A Red Stick, created chief by the lower towns.

Question by the court. Have you, at any time within the last twelve months, heard any conversation between the prisoner and the chief called Bowlegs, relating to the war between the United States and the Seminoles?

Answer. I heard the prisoner tell Bowlegs that he had sent letters to the Prince Regent, and expected soon to have an answer. Some time afterwards, some of the negroes doubted his carrying those letters, when the prisoner stated that he had, but the distance being great, it would take some time to receive an answer.

By the court. State to the court when and where you first saw the letter signed "A. Arbuthnot," dated April 2, 1818, referred to in the first specification of the second charge.

Answer. About the 6th of April, a black man, who said he had received it from an Indian, gave it to Mr. Ambrister, whom I saw reading it.

Question by the court. Do you know by what means that letter was conveyed to Suwanee?

Answer. I understood by an Indian who was sent from Fort St. Mark's.

Question by the court. Who paid the Indian for carrying the letter referred to in the last interrogatory?

Answer. I do not know.

Question by the court. What steps were taken by the negroes and Indians on the receipt of the letter?

Answer. They first believed the bearer to be an enemy, and confined him; but, learning the contrary, began to prepare for the enemy, and the removal of their families and effects across the river. The Indians lived on the opposite side.

Question by the court. Did the Indians and negroes act together in the performance of military duty?

Answer. No; but they always said they would fight together.

Question by the court. Did not Nero command the blacks, and did not Bowlegs own Nero; and was not the latter under the immediate command of Bowlegs?

Answer. Nero commanded the blacks, and was owned and commanded by Bowlegs; but there were some negro captains who obeyed none but Nero.

Question by the court. What vessel brought to Suwanee the ammunition which you said was sold by the prisoner to the Indians and negroes?

Answer. The schooner Chance, now lying at this wharf. She is a foretopsail vessel, belonging to the prisoner.



*Defeat of the Seminole Indians, &c.*

The witness also identified the manuscript of the prisoner on the following documents, viz: No. 1, granting him full power to act in all cases for the Indians, as recorded before; and also a letter, without signature, to the Governor of St. Augustine, numbered 2; and further, a letter, without date, to Mr. Mitchell, the Indian agent, numbered 3; an unsigned petition of the chiefs of the Lower Creek nation to Governor Cameron, praying his aid in men and munitions of war numbered 4; all of which the witness stated to be in the handwriting of the prisoner.

## No. 2.

[*Supposed to be from Bowlegs to the Governor of St. Augustine.*]

SIR: I had the honor of receiving your letter of September, but the impossibility of finding a person to write an answer to the same is the cause of this apparent neglect.

I shall be very happy to keep up a good understanding and correspondence with you; and hope you will, when occasion offers, advise me of such things as may be of service to myself and people. My warriors and others that go to St. Augustine, return with false reports, tending to harass and distress my people, and preventing them from attending to their usual avocations. At one time, the Americans and Upper Indians, supported by a force of about three thousand men, were running lines far within the Indian territory; at another time, are collecting a force at Fort Mitchell, in the forks of Flint and Chatahoochee rivers, to fall on the towns below.

Now, sir, we know of no reason the Americans can have to attack us, an inoffensive and unoffending people. We have none of their slaves; we have taken none of their property since the Americans made peace with our good father, King George. We have followed the orders of his officer that was with us, Lieut. Colonel Edward Nicholls, and in nowise molested the Americans, though we daily see them encroaching on our territory, stealing our cattle, and murdering and carrying off our people. That same officer also told us, we, as allies to the great King, our father, were included in the treaty of peace between our good father and the Americans; and that the latter were to give up all the territory that had been taken from us before and during the war. Yet, so far from complying with the ninth article of that treaty, they are daily making encroachments on our land, getting persons, who are not known to the chiefs, and, without any power or authority, to grant and sign over lands to them. Thus they deceive the world, and make our very friends believe we are in league with them.

The principal chiefs of the nation, with the head warrior, assembled at my town on the 8th instant, and came to the resolution of informing the British Minister at Washington of the conduct of the Americans and the officers of their Government towards us. It has been done accordingly, and copies sent to England.

We demand of the King, our father, to fix some of his people among us, who may inform him, from time to time, of what is passing, and see the Americans do not extend themselves on our lands.

The Spanish subjects in the Floridas are too much in the interests of the Americans to be our friends. For the Governors, I shall always entertain the greatest regard; but for the people, they do not act so as to merit any esteem and protection. You desire I would chase those marauders who steal my cattle. My people have lately driven some Americans from Lahheway, and I have no doubt the Americans will lay hold of this as a pretext to make war on us, as they have before done, in stating we harbor their runaway slaves.

To DON JOSE COPPINGER,  
Governor of St. Augustine.

## No. 3.

SIR: King Hatchy, the head chief of the Lower Creek nation, has called on me to request I would represent to you the cruel and oppressive conduct of the American people living on the borders of the Indian nation, and which he was in hopes, from a talk you were pleased to send him some weeks since, would have been put a stop to, and peace restored between the Indians and the American people; but, far from any stop being put to their inroads and encroachments, they are pouring in by hundreds at a time, not only from the land side, but ascending the Appalachicola in vessel-loads. Thus, the Indians have been compelled to take up arms to defend their homes from a set of lawless invaders.

Your known philanthropy and good-will to the Indians induces the head chiefs to hope that you will lose no time in using your influence to put a stop to those invasions of their lands and order that those who have already presumed to seize our fields may retire therefrom.

The Indians have seized two persons they think have been greatly instrumental in bringing the Americans upon them, and they are now in their possession as prisoners. It is even reported they have made sales of Indian lands without the knowledge, consent, or approbation, of the chiefs of the nation; and, from their long residence in the nation, and the great influence one of those people formerly enjoyed among the chiefs as their chief, there is some reason to believe he has been guilty of improper conduct to the Indian nation.

Gen. MITCHELL, *Ag't for Indian Affairs.*

## No. 4.

*Petition of the chiefs of the Lower Creek nation to Governor Cameron.*

We, the undersigned, are deputed by the chiefs of the Creek nation to wait on your excellency, and lay before you their heavy complaints.

To the English we have always looked up as friends, as protectors, and on them we now call to aid us in repelling the approaches of the Americans, who, regardless of treaties, are daily seizing

*Defeat of the Seminole Indians, &c.*

on our lands and robbing our people. They have already built seven forts on our land; they are making roads and running lines into the very heart of our country; and, without the interference of the English, we shall soon be driven from the land we inherited from our forefathers.

The Americans tell us the English will regard us no more, and we had better submit to them; but we cannot submit to their shackles, and will rather die in defence of our country.

When peace was made between the English and Americans, we were told by Lieutenant Colonel Nicholls that the Americans were to give up our lands they had taken from us, and we were desired to live quietly and peaceably, in nowise molesting the Americans. We have strictly followed those orders, but the Americans have not complied with the treaty. Colonel Nicholls left Mr. Hamblly in charge of the fort at Prospect Bluff, with orders to hear us if any cause of complaints, and represent the same to the British Government; but he turned traitor and brought the Americans down on the fort, which was blown up, and many of our red brethren destroyed in it. The ammunition stores intended for our use were either destroyed or taken off by the Americans. We have sent several messengers to inform your excellency of these proceedings of the Americans, but they have never returned to us with an answer. Three of our red brethren have lately been killed by the Americans while hunting on our lands, and they threaten to attack the towns of Mickaskey and Suwanee, the only two large towns left us in the Creek nation; and without aid from your excellency, we cannot repel their attack.

We are therefore deputed to demand of your excellency the assistance of troops and ammunition, that we may be able effectually to repel the attack of the Americans, and prevent their further encroachments; and, if we return without assistance, the Americans, who have their spies among us, will the more quickly come upon us.

We most humbly pray your excellency will send such a force as will be respected and make us respectable.

[*The following endorsed on the foregoing.*]

CHARLES CAMERON, Esq.,  
Governor, Commander-in-chief, &c.

I beg leave to represent to your excellency the necessity of my again returning to the Indian nation with the deputies from the chiefs; and, as my trouble and expense can only be defrayed by permission to take goods to dispose of among them, I pray your excellency will be pleased to grant me such a letter or license as will prevent me from being captured, in case of meeting any Spanish cruiser on the coast of Florida.

The court adjourned to meet to-morrow morning, at 7 o'clock.

FORT ST. MARK'S, April 27, 1818.

The court convened pursuant to adjournment.  
Present:

Major General E. P. GAINES, *President.*

*Members.*

Colonel King,	Colonel Dyer,
Colonel Williams,	Lieut. Col. Lindsay,
Lieut. Col. Gibson,	Lieut. Col. Elliott,
Major Muhlenburg,	Major Fanning,
Major Montgomery,	Major Minton,
Captain Vashon,	Captain Crittenden,
Lieutenant J. M. Glassell,	<i>Recorder.</i>

When the further examination of the witness, PETER B. COOK, took place, viz:

Question by the prisoner. How long have you been acquainted with the settlements on the Sawahnee?

Answer. Between six and seven months.

Question by the prisoner. For what term of years did you engage to live with the prisoner?

Answer. For no stated period; I was taken by the year.

Question by the prisoner. Were you not discharged by the prisoner from his employ?

Answer. He told me he had no further use for me after I had written the letters to Providence.

Question. Where did you stay after you were discharged?

Answer. I stayed in a small house belonging to a boy called St. John, under the protection of Nero.

Question. What was the subject-matter of the letters you wrote to Providence?

Answer. After being refused by the prisoner a small venture to Providence, I wrote to my friends for the means to trade by myself.

Question by the prisoner. Do you believe the prisoner had knowledge of the venture being on board the schooner?

Answer. I do not believe he did; it was small, and in my trunk.

Question by the prisoner. Do you know that Ambrister was the agent of the prisoner?

Answer. I do not.

Question. Do you think that the powder and lead shipped would more than supply the Indian and negro hunters?

Answer. I did not see the powder and lead myself, but was told by Bowlegs that he had a great quantity; he had them keeping to fight with.

Question. Did the Indians reside on the east side of the river?—Answer. They did.

Question. You were asked if the negroes and Indians, when the letter marked A was communicated, did not take up arms. Had they received information of the defeat of the Indians at Mickaskey prior to that time?

Answer. It was afterwards, I believe, they received the information.

Question. Did not Bowlegs keep other powder than that got from the prisoner?

Answer. He had some he got from the bluff, which was nearly done; he said his hunters were always bothering him about powder.

Question. Did you state that, at the time Ambrister ascended the river, there was no other vessel at the mouth of the river?



Answer. There was none other there; there was one had sailed.

Question. There is a letter A spoken of; how do you know that the son of the prisoner had that letter in his possession?

Answer. I saw him with it, which he dropped, and a boy called John picked it up and gave it to me.

Question. You stated that the Indians and negroes doubted the fidelity of the prisoner in sending letters to the Prince Regent; do you think the prisoner would have been punished by them had he not complied with their wishes?

Answer. I do not know.

Question. Do you believe the prisoner was compelled to write the Indian communications?

Answer. He was not compelled.

WILLIAM HAMBLY, a witness for the prosecution, being duly sworn, and commencing a statement of what he heard the chiefs say, and the prisoner objecting to hearsay evidence of that kind, the court was cleared in order to take the question when they decided that the prisoner's objection was not valid. The witness was therefore recalled, and stated that, fifteen or twenty days after the prisoner arrived at Ocklocknee, the Seminole Indians began to steal horses from the United States' settlements, and committed murders on the Satilla river, which, he was informed by them, was at the instigation of the prisoner. The chiefs of the Little Villages, in witness's neighborhood, then desired him to write a few lines to the prisoner, stating those reports, and that he did not know that those Indians he was exciting had long been outlawed, and cautioned him against such proceedings, or he might be involved in their ruin. This the witness did; when the prisoner wrote him a long and insulting letter, which was lost, upbraiding the witness for calling those Indians outlaws, and accusing him of exciting the Indians to cruel war. The witness was told by chiefs and Indians, who had seen the prisoner, that he advised them to go to war with the United States, if they did not surrender them the lands which had been taken from them, and that the British Government would support them in it.

The Indians that took the witness and a certain Mr. Doyle prisoners, which happened on the 3th of December last, told them it was by the prisoner's order; and, on their arrival at the Mickasuby, (as prisoners,) King Hijah and all his chiefs told them it was by the prisoner's orders they were taken and robbed. On their arrival at Suwamy, they were told by the Indian and negro chiefs, who sat in council over them, that the prisoner had advised he should be given up to five or six Choctaw Indians, who were saved from the negro fort, who would revenge themselves for the loss of their friends at that place. On their return from Suwamy, the chief King Hijah, told them that he had got the prisoner to write several letters for him; one to the Governor of Providence, one to the British Minister at Washington, one to the Secretary of State in London, and one to the American agent for In-

dian affairs, protesting against the proceedings of the commanding officer at Fort Scott. While the witness was at Suwamy, the Indian chiefs told him that the prisoner had arrived at that place with ten kegs of powder on board his vessel; and, whilst in Fort St. Mark's, some time in March, Hillis Hajo, or Francis, brought an order from the prisoner to the commandant for two kegs of powder, with other articles, which were in his possession.

Question by the court. Were any murders or depredations committed on the white settlements by the Indians previous to the prisoner's arrival at Ocklocknee?

Answer. None, except one murder at Fort Gaines, which was before or about the time of the prisoner's arrival.

Question. How long have you resided among the Indians? State to the court whether you are acquainted with the Indian language, and how long since you learned it?

Answer. I have resided among them fourteen years, and have understood their language twelve years.

Question. Do you believe the Seminoles would have commenced the business of murder and depredation on the white settlements had it not been at the instigation of the prisoner, and a promise, on his part, of British protection?

Answer. I do not believe they would without they had been assured of British protection.

Question by the court. What was the light in which the prisoner was viewed by the hostile Seminoles? Was it that of an authorized agent of the British Government?

Answer. The different chiefs always represented him to me as such. The witness recognised the letter marked G, and signed A. Arbuthnot, as being a copy of the one alluded to in his testimony as lost.

Question by the prisoner. Are you acquainted with the prisoner's handwriting?

Answer. I have seen it, but cannot say I am acquainted with it.

Question. Is that which you have just seen, and say is the copy of the one you lost, the prisoner's handwriting?

Answer. It looks to be his handwriting, but I cannot say positively.

Question. Was the prisoner considered as the agent of the Seminoles at the time those murders were committed?

Answer. I had not seen the prisoner at that time. The Indian chiefs told me that the prisoner had reported himself to them as an English agent.

Question. Where did you understand the prisoner to be when you were taken prisoner?

Answer. The Indians told us that he had gone over to Providence, but was expected back by the time we should arrive at Suwanee.

Question. Did you not request King Hijah to prevail upon the prisoner to give you a passage in his schooner to Providence?

Answer. Yes, but was told that the prisoner refused it; stating that, if we were forced upon

him, he would blindfold us, and make us walk overboard.

Question. What were the reasons given by King Hijah for the prisoner's not granting your request?

Answer. King Hijah stated that the prisoner was fearful of meeting with an American vessel, when we should be taken out, and he thereby lose his schooner.

EDMUND DOYLE, a witness on the part of the prosecution, being duly sworn, was questioned as follows:

Question by the Judge Advocate. Do you know anything that would lead to substantiate the charges against the prisoner now before you?

Answer. I know nothing but from common report.

WILLIAM FULTON, an evidence in the present prosecution, being duly sworn, testified to the copy of a letter from A. Arbuthnot to General Mitchell, agent for Indian affairs, dated Suwanee, January 19, 1818, and marked No. 6, as acknowledged by the prisoner to be the same in substance as one written by himself at that time. An extract from the letter was then read.

#### No. 6.

*Extract from a letter written by A. Arbuthnot to General Mitchell, American agent for the Creek nation of Indians, dated*

*SUWANEE, January 19, 1818.*

In taking this liberty of addressing you, sir, in behalf of the unfortunate Indians, believe me I have no wish but to see an end put to a war, which, if persisted in, I foresee must eventually be their ruin; and as they were not the aggressors, if, in the height of their rage, they commit any excesses, that you will overlook them as the just ebullitions of an indignant spirit against an invading foe. I have the honor, &c.

A. ARBUTHNOT.

*By order of King Hijah and Bowlegs, acting for themselves and the other Chiefs.*

Question by the prisoner. Where did the prisoner acknowledge the letter just read to be a copy of the one written by himself?

Answer. In the encampment before this place, about the 6th or 7th instant.

Question by the prisoner. Was not the acknowledgment when he was a prisoner?

Answer. It was.

Question by the prisoner. Did you hear a gentleman say to the prisoner, whilst in custody, that those who recommended the scalping-knife and tomahawk should feel their keenest edge?

Answer. I did hear a gentleman say that those who excited the Indians to the murder of the unoffending should feel the keenest edge of the scalping-knife; but, as well as I recollect, that observation was not made until after the repeated acknowledgments of the prisoner of having written the letter.

Question by the court. Was not the confession of the prisoner to this letter made voluntary, and without any constraint whatever?

Answer. I conceive it was.

The evidence on the part of the prosecution being closed, the prisoner required Robert C. Ambrister as one of his witnesses, against whom criminal charges had been filed, and who was in custody on account thereof; to which the Judge Advocate objecting, the court was cleared to take its sense; when it was decided that Robert C. Ambrister, now in custody for similar offences with the prisoner, cannot be examined as evidence before this court.

JOHN LEWIS PHENIX, a previous witness, now on the part of the prisoner, being again sworn, was questioned as follows, viz:

Question by the prisoner. Was there any other vessel at the mouth of the Suwanee river when Ambrister seized your schooner?—Answer. Yes.

Question. What vessel was it? Was it not the vessel which Ambrister came in?

Answer. It was a sloop, and I understood Ambrister came in her.

Question. Did Ambrister ever mention to you who recommended him to seize the prisoner's schooner, or who assisted him in stimulating the negroes to do so?

Answer. No; I understood he came on board of his own accord.

Question by the court. Have you, since you commanded the prisoner's vessel, ever brought any arms to that part of the country?

Answer. No; I brought a quantity of lead and ten kegs of powder in the last trip.

JOHN WINSLET, a former witness on the part of the prosecution, being recalled on behalf of the prisoner, was questioned as follows, viz:

Question by the prisoner. Are you not of opinion that the letter which you say was written by the prisoner to the Little Prince is now in the possession of the Little Prince?

Answer. After reading it, I returned to him, and believe it to be still in his possession, as Indians seldom destroy papers of that kind.

The prisoner requesting some time to make up his defence, he was given until to-morrow evening, at four o'clock.

*FORT ST. MARK'S,  
April 28, four o'clock, P. M.*

The Recorder having read over the proceedings of the court with closed doors, the prisoner was recalled into court, and made the defence, marked K, and attached to these proceedings. The doors were then closed, and, after most mature deliberation on the evidence adduced, the court find the prisoner, Alexander Arbuthnot, guilty of the first specification to the first charge, and guilty of the first charge; guilty of the first and second specifications of the second charge, and guilty of the second charge, leaving out the words "acting as a spy;" they therefore do, on the most mature reflections, sentence the prisoner, Alexander Arbuthnot, to be hanged by the neck until he is dead; two-thirds of the court concurring.

EDMUND P. GAINES,  
Major Gen., Pres't of the Court.  
S. M. GLASSELL, Recorder.



K.  
DEFENCE.

*May it please this Honorable Court:* The prisoner arraigned before you is sensible of the indulgence granted by this honorable court in the examination of the case now before them. It is not the wish of the prisoner, in making his defence, to tire the patience of the court by a minute reference to the voluminous documents and papers, or to recapitulate the whole of the testimony which has come before the honorable court in the course of this investigation. Nor is it the intention of the prisoner to waste the invaluable time of this court by appeals to their feelings or sympathy, though I am persuaded that sympathy nowhere more abounds than in a generous American breast. My only appeal is to the sound and impartial judgment of this honorable court, the purity and uprightness of their hearts, that they will dispassionately and patiently weigh the evidence they have before them, apply the law, and on these, and these alone, pronounce their judgment.

If this honorable court please, I shall now proceed to examine the law and evidence that is relied on by this honorable court in support of the first charge and specification. Winslet, a witness on the part of the prosecution, says, the Little Prince showed him a letter written in June last, signed A. Arbuthnot, requesting his friendship with the lower nation of Indians; the same witness stated that he believed the letter to be now in the possession of the Little Prince. Here, may it please this honorable court, I would call their attention to the law relating to evidence; first presuming that the rules of evidence are the same, whether in civil or military tribunals.—*Macomb, 99.*

This point being concluded, the next inquiry is, what are the rules of evidence with respect to the admission of letters, or papers of private correspondence, in a court of criminal jurisdiction? May it please this honorable court, must you not produce the original letters and papers, if they are not lost or mislaid, so that they cannot be obtained; and, in case they are lost, proof must be made of the handwriting being the same as that of the original before they can be received as evidence.—(*Macomb on Courts Martial; Peake's Evidence; Gilbert's Laws of Evidence.*) No instance can be cited where a copy of a letter was read as evidence when the original could be obtained, much less the giving in evidence the contents of such letter from bare recollection. The only proof that this honorable court has of the existence of such a letter being in the hands of any person, or its contents being known, is the vagrant memory of a vagrant individual. Make this a rule of evidence, and, I ask you, when would implication, construction, and invention stop? whose property, whose reputation, and whose life would be safe? Here I would beg leave to mention a remark made by the president of this court in the course of this investigation, which was, that, notwithstanding the letter was

proved by the witness to be in the possession of the Little Prince, this court could not notice that circumstance, because there was no means by which it could be obtained. I would ask the honorable court what means they have adopted, or what exertions have they made, to procure this letter? If the honorable court please, I shall here close the defence on the first charge and specification, believing that they are neither supported by law nor evidence.

May it please the honorable court, I will now come to the second charge, and first specification of that charge. In support of this charge and specification, the evidence is a letter written to my son. If the court please, this letter was written in consequence of the situation of my property at Sawahnee, and the large debts that were due me from Bowlegs and his people. Nothing, I believe, of an inflammatory nature can be found on reading the document marked A, authorizing the opinion that I was prompting the Indians to war. On the contrary, if the honorable court will examine the document marked A, they will see that I wished to lull their fears, by informing them that it was the negroes, and not the Indians, the Americans were principally moving against.

If the honorable court please, I will make a few remarks on the second specification, and here close my defence. In proof of this charge, the court have before them the evidence of Hambly, Cook, and sundry letters purporting to be written by myself to different individuals. May it please the court, what does Cook prove? Why, that I had ten kegs of powder at Sawahnee. Let me appeal to the experience of this court, if they think this quantity of powder would supply one thousand Indians, and an equal number of blacks, more than two months for hunting?

As to the letters named in this specification, may it please the honorable court, the rules of evidence laid down in the first part of this defence will apply with equal force in the present case. It remains now, may it please the honorable court, to say something as to Hambly's testimony; and, may it please this honorable court, the rule laid down in this case as to hearsay evidence will be found without a precedent. A strong case was stated by an intelligent member of this court, on the examination of this part of the evidence; that is, would you receive as testimony what a third person had said, who, if present, you would reject as incompetent? Apply this principle to the present case; could an Indian be examined on oath in our courts of judicature? If, then, the testimony of savages is inadmissible, Hambly proves nothing.

Here, may it please this honorable court, I close my reply to the charges and specifications preferred against me; being fully persuaded that, should there be cause of censure, my judges will, in the language of the law, lean to the side of mercy.

A. ARBUTHNOT.

*Continuation of the minutes of the proceedings of a special court, whereof Major General Gaines is President, convened by order of the 26th of April, 1818.*

FORT ST. MARK'S, April 27, 1818.

The court proceeded to the trial of Robert C. Ambrister, a British subject, who, being asked if he had any objections to any one of the members of the court, and replying in the negative, was arraigned on the following charges and specifications, viz:

*Charges against Robert C. Ambrister, now in custody, who says he is a British subject.*

**CHARGE 1st.** Aiding, abetting, and comforting the enemy, supplying them with means of war, he being a subject of Great Britain, at peace with the United States, and lately an officer in the British colonial marines.

**Specification 1st.** That the said Robert C. Ambrister did give intelligence of the movements and operations of the American army between the 1st and 20th of March, 1818, and did excite them (the negroes and Indians) to war against the army of the United States, by sending their warriors to meet and fight the American army, whose Government was at peace and friendship with the United States and all her citizens.

**CHARGE 2d.** Leading and commanding the Lower Creeks in carrying on a war against the United States.

**Specification 1st.** That the said Robert C. Ambrister, a subject of Great Britain, which Government was in peace and amity with the United States and all her citizens, did, between the 1st of February, and 20th of March, 1818, levy war against the United States, by assuming command of the Indians, in hostility and open war with the United States, and ordering a party of them to meet the army of the United States, and give them battle, as will appear by his letters to Governor Cameron, of New Providence, dated 20th March, 1818, which are marked A, B, C, and D, and the testimony of Mr. Peter B. Cook, and Captain Lewis, of the schooner Chance. By order of the court,

J. M. GLASSELL, Recorder.

To which charges and specifications pleaded as follows, viz:

To the 1st charge and specification, *not guilty.*  
To the 2d charge and specification, *guilty, and justification.*

Adjourned until to-morrow morning at 7 o'clock.

FORT ST. MARKS, April 28, 1818.

The court met pursuant to the adjournment. Present:

Major General GAINES, President.

Members.

Colonel King,	Colonel Dyer,
Colonel Williams,	Lieut. Col. Lindsay,
Lieut. Col. Gibson,	Lieut. Col. Elliott,
Major Muhlenburg,	Major Fanning,
Major Montgomery,	Major Minton,
Captain Vashon,	Captain Crittenden,
Lieutenant J. M. Glassell,	Recorder.

The Recorder then read to the court the following order, viz:

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen's Office, near St. Marks,  
April 28, 1818.

## GENERAL ORDER.

Captain Allison, of the 7th infantry, is detailed to form a supernumerary member of the special court now sitting at Fort St. Marks.

By order:

ROBERT BUTLER, Adj't Gen.

Pursuant to the above order, the supernumerary member took his seat.

JOHN LEWIS PHENIX, a witness on the part of the prosecution, being duly sworn, stated, that about the 5th or 6th of April, 1818, his vessel and himself having been captured by the prisoner, and he brought to Suwanee as a prisoner, there was an alarm among the negroes and Indians, created by learning some news from Mickasuky, at which time the prisoner appeared active in sending orders, and sending a detachment to meet the American army. The witness also stated, that the prisoner appeared to be a person vested with authority among the negro leaders, and gave orders for their preparation for war, procuring ammunition, &c., and that the leaders came to him for orders; the prisoner furnished them with powder and lead, and recommended to them the making of ball, &c., very quickly. The witness also stated, that the prisoner occasionally dressed in uniform, with his sword; and that on the first alarm, which he understood was from Mickasuky by a negro woman, he put on the uniform. The witness further stated, that some time about the 20th March, 1818, the prisoner, with an armed body of negroes, (twenty-four in number,) came on board his vessel, and ordered him to pilot them to Fort St. Marks, which he stated he intended to capture before the Americans could get there, threatening to hang the witness if he did not obey.

Question by the court. Did you ever understand by whose authority, and for what purpose, the accused came into the country?

Answer. I have frequently heard him say he came to attend to Mr. Woodbine's business at the bay of Tampa.

Question by the prisoner. Did I not tell you, when I came on board the schooner Chance, I wished you to pilot me to St. Mark's, as I was informed that two Americans, by the names of Hambly and Doyle, were confined there, and I wished to have them relieved from their confinement?

Answer. You stated you wanted to get Hambly and Doyle from St. Mark's. I do not know what were your intentions in so doing.

Question. Did I not tell you that I expected the Indians would fire upon me when arriving at St. Mark's?

Answer. You did not. You stated that you intended to take the fort in the night by surprise.

Question. Did you see me give ammunition



to the negroes and Indians? if so, how much, and at what time?

Answer. I saw you give powder and lead to the negroes when you came on board, and advised them to make balls; and I saw you give liquor and paint to the Indians.

Question. Have you not often heard me say, between the 1st and 20th of April, that I would not have anything to do with the negroes and Indians in exciting them to war with the United States?

Answer. About the 15th of April I heard you say you would not have anything to do with the negroes and Indians; I heard nothing about exciting them to war.

Question. Can you read writing?

Answer. Not English writing.

Question. Did you not hear me say, when arriving at Suwaney, that I wished to be off immediately for Providence?

Answer. I did not. After the alarm, you said you wished to be off for Tampa.

Question. Did you not say to the accused you wished to visit Mr. Arbuthnot, at his store, on Suwaney, and get provisions yourself?

Answer. I did not. I stated I wanted provisions.

Question. Did I send or command any Indians to go and fight the Americans?

Answer. I did not exactly know that you sent them; the Indians and negroes were crowding before your door, and you were dividing the paint, &c. among them; and I understood a party was going to march.

Question. Did I not give up the schooner in charge to you as captain?

Answer. After our return from Suwaney town, you directed me to take charge of her to go to Tampa.

JONAS J. ARBUTHNOT, a witness on the part of the prosecution, being duly sworn, stated, that some time about the 23d of March, the prisoner came with a body of negroes, partly armed, to his father's store on Suwaney river, and told the witness that he had come to do justice to the country by taking the goods and distributing them among the negroes and Indians, which the witness saw the prisoner do; and that the prisoner stated to him that he had come to the country on Woodbine's business to see the negroes righted. The witness has further known the prisoner to give orders to the negroes; and that, at his suggestion, a party was sent from Suwaney to meet the Americans to give them battle, which party returned on meeting the Mickasuky Indians in their flight. The witness also testified to the following letter, marked A, and referred to in the specification of the 2d charge as the writing of the prisoner.

A.

Robert C. Ambrister to Governor Cameron.

SAWANEE, (near St. Mark's fort),

March 20, 1818.

SIR: I am requested particularly by all our Indian chiefs, to acquaint your excellency that

the Americans have commenced hostilities with them two years ago, and have advanced some considerable distance in their country, and are now making daily progress. They say they sent a number of letters to your excellency by Mr. Arbuthnot, but have never received one answer, which makes them believe that he never delivered them, and will oblige them much if you will let them know whether he did or not. The purport of the letters was begging your excellency to be kind enough to send them down some gunpowder, muskets, balls, lead, cannon, &c., as they are now completely out of those articles; the Americans may march through the whole territory in one month, and, without arms, &c., they must surrender. Hillis Hajo, or Francis, the Indian chief, the one that was in England, tells me to let your excellency know that the Prince Regent told him that whenever he wanted ammunition, your excellency would supply him with as much as he wanted. They beg me to press upon your excellency's mind to send the above-mentioned articles down by the vessel that brings this to you, as she will sail for this place immediately, and let the Prince Regent know of their situation. Any letters that your excellency may send down, be good enough to direct to me, as they have great dependence in my writing. Any news that your excellency may have respecting them and America, you will be doing a great favor to let me know, that I may send among them.

There is now a very large body of Americans and Indians, who I expect will attack us every day, and God only knows how it will be decided; but I must only say this will be the last effort with us. There has been a body of Indians gone to meet them, and I have sent another party. I hope your excellency will be pleased to grant the favor they request. I have nothing further to add, but am, sir, with due respect, your obedient humble servant.

ROBERT C. AMBRISTER.

Question by the prisoner. Did you hear me say that I came on Woodbine's business?

Answer. I did.

Question by the prisoner. Were not the negroes alluded to, at Arbuthnot's store before I arrived?

Answer. No. You came with them.

PETER B. COOK, a witness on the part of the prosecution, being duly sworn, stated, that he never heard the prisoner give any orders to negroes or Indians; that the prisoner distributed Arbuthnot's goods, and also paint, to the negroes and Indians; also that some powder was brought from the vessel to Suwaney by the prisoner, and distributed among the negroes by Nero. Some time in March the prisoner took Arbuthnot's schooner, and, with an armed party of negroes, (twenty-four in number,) set out for St. Marks, for the purpose of taking Arbuthnot's goods at that place, and stated that he would compel the commandant to deliver them up. On hearing of the approach of the American army, the prisoner told the negroes it was useless to run; for, if they

ran any further, they would be driven into the sea. The prisoner told the witness that he had been a lieutenant in the British army, under Colonel Nicholls. The prisoner was sent by Woodbine to Tampa to see about those negroes he had left there. The prisoner told the witness that he had written a letter to Governor Cameron for ammunition for the Indians some time in March; and also told the witness that he had a commission in the patriot army, under McGregor, and that he had expected a captaincy. The witness testified that the following letters, marked A, B, C, and D, and referred to in the specification to the 2d charge, were in the handwriting of the prisoner, and one marked E.

NOTE.—The letter marked A, is copied in a previous part of these proceedings.

B.

From Robert C. Ambrister to Maj. Edward Nicholls.

SUWANEE, NEAR RIVER APPALACHICOLA.

DEAR SIR: Francis, and all the Indian chiefs, have requested me particularly to acquaint you that the Americans have commenced hostilities with them these two years past, and are making daily progress in their territory, and say they will proceed; that you are the only friend they have in that part of the world, and hope that you will exert yourself in their behalf, and ask for as much assistance as can be had; that the Americans are at the forks of the river Appalachicola; they have written a number of times to England and Providence, but have never received one answer; they expect the man never delivered the letters, but they have full hopes in my writing; they request you to make the Prince Regent acquainted with their deplorable situation; the Americans have been very cruel since they commenced, and I hope you will not lose a single moment in forwarding their views; they say they will be extremely happy to see you; nothing would give them greater pleasure than to see you out at this present time. If they should not see you, to send them out all news and directions, that they may be guided by it. There are about three hundred blacks at this place, and a few of our bluff people; they beg me to say they depend on your promises, and expect you are on the way out; they have stuck to the cause, and will always believe in the faith of you, and any directions you may give. Send to me at this place and I will do what I can.

And remain, my dear sir, most truly yours,

ROBERT C. AMBRISTER.

N. B. Francis says you must bring the horses when you come out, that you promised, and that his house has been burnt down, and burnt his uniform clothes.

R. A.

C.

From Robert C. Ambrister to Governor Cameron.

MARCH 20, 1818.

SIR: I am requested particularly by the Indian chiefs to acquaint your excellency that the Americans have commenced hostilities with them a

15th CON. 2d SESS.—72

long time since, and have advanced some distance in their territory, and are still continuing to advance; that they (the chiefs of Florida) have sent repeatedly to your excellency, and have never received one answer; they suspect Mr. Arbuthnot has never delivered the papers to your excellency; they wish me to state to you that they are completely out of ammunition, muskets, &c., begging your excellency will be pleased to send them the articles above mentioned, with a few cannon, as the Americans build their boats so strong that their rifle balls cannot penetrate their sides. The captain of the vessel, who will come down again, I have given orders to make your excellency acquainted with the time the vessel will sail for this place. Your excellency will, I hope, be good enough to make the Prince Regent acquainted with their situation, and ask for assistance, which have pressed me very hard to press on your excellency's mind, and likewise to send them down what news may be respecting them and the country, which will be a great satisfaction to them. I have the honor to be, &c.

ROBERT C. AMBRISTER.

N. B. They beg your excellency will be as expeditious as possible; that your excellency is the only dependence they have, and whom the Prince Regent told them would give them every assistance that laid in your power.

R. C. A.

D.

From Robert C. Ambrister to Governor Cameron.

SUWANEE, NEAR FORT ST. MARK'S,

March 20, 1818.

I am requested by Francis and all the Indian chiefs to acquaint your excellency that they are at war with the Americans, and have been some time back; that they are in great distress for want of ammunition, balls, arms, &c., and have wrote by Mr. Arbuthnot several times, but they suppose he never delivers them to your excellency. You will oblige them much to let them know whether he did or not.

I expect the Americans and Indians will attack us daily; I have sent a party of men to oppose them; they beg of me to press on your excellency's mind to lay the situation of the country before the Prince Regent and ask for assistance. All news respecting them, your excellency will do a favor to let us know by the first opportunity, that I may make them acquainted; I have given direction to the captain to let your excellency know when the vessel will sail for this place. I hope your excellency will be pleased to send them the ammunition; I expect if they do not procure some very shortly, that the Americans will march through the country. I have nothing further to add. I am, dear sir, &c.

ROBERT C. AMBRISTER.

E.

From Robert C. Ambrister to Peter B. Cook.

MOUTH OF THE RIVER, Tuesday 3 o'clock.

DEAR COOK: The boat arrived here about three o'clock on Thursday; the wind has been



ahead ever since I have been down; the rudder of the vessel is in a bad condition, but I will manage to have it done to-night; the wind, I am in hopes, will be fair in the morning, when I will get under weigh and make all possible despatch. I will make old Lewis pilot me safe. If these Indians don't conduct themselves straight, I would use rigorous means with them; beware of Mr. Jerry; I found him on board when I came; keep a good look out. I have sent two kegs of powder, and one bar of lead. Yours, &c.

R. C. A.

Question by the prisoner. Did you not frequently hear me say that I would have nothing to do with the Indians in exciting them to war with the United States?

Answer. I do not recollect.

Question by the prisoner. Are you acquainted with Lewis Phenix, and have you not heard him express ill-will against me in consequence of my wishing him to pilot me to St. Mark's?

Answer. I never did.

Question. Do you know of my sending troops at any time to fight against the United States, and have I not been constantly with you, so that you would have had an opportunity of knowing if here had been any sent by me?

Answer. I have not; they might have been sent without my knowledge.

JACOB HARMON, a witness on the part of the prosecution, being duly sworn, stated that, some time in the latter end of March, or first of April, the prisoner took possession of the schooner Chance, with an armed party of negroes, and stated his intentions of taking St. Mark's; on his way thither, going ashore, he learned from some Indians that Arbuthnot had gone on to St. Mark's, which induced him to return. The witness also stated that, while the prisoner was on board, he had complete command of the negroes who considered him as their captain. The prisoner took the cargo of the vessel up towards Suwanee, which consisted of, with other articles, nine kegs of powder and five hundred pounds of lead.

The evidence on both sides being closed, the prisoner was allowed until five o'clock this evening to make his defence.

The time allowed the prisoner for the preparation of his defence having expired he was brought before the court, and made the defence marked A, which is attached to these proceedings.

The court was then cleared, and the proceedings read over by the recorder, when, after due deliberation on the testimony brought forward, the court find the prisoner, Robert C. Ambrister, guilty of so much of the specification to the first charge as follows, viz: "and did excite them to war with the United States by sending their warriors to meet and fight the American army, he being a subject of Great Britain, which Government was at peace and friendship with the United States and all her citizens;" but not guilty of the other part of the specification: guilty of the first charge; guilty of the specification of the second

charge, and guilty of the second charge; and do therefore sentence the prisoner, Robert C. Ambrister, to suffer death by being shot, two-thirds of the court concurring therein.

One of the members of the court requesting a reconsideration of his vote on the sentence, the sense of the court was taken thereon, and decided in the affirmative; when the vote was again taken, and the court sentence the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months.

The court adjourned *sine die*.

EDMUND P. GAINES,  
Major General, Pres't of the Court.  
J. M. GLASSELL, Recorder.

#### DEFENCE M.

FORT ST. MARKS, April 28, 1818.

The United States of America vs. Robert Christy Ambrister.

Who being arraigned before a special court-martial upon the following charges, to wit:

1st. Aiding, abetting, and comforting the enemy; supplying them with the means of war; he being a subject of Great Britain at peace with the United States, and lately an officer in the British colonial marines.

CHARGE 2d. Sending and commanding the Lower Creek Indians in carrying on war against the United States.

To the first charge the prisoner at the bar pleaded not guilty, and as to the second charge he pleaded guilty, and justification. The prisoner at the bar feels grateful to this honorable court for their goodness in giving him a sufficient time to deliberate, and arrange his defence on the above charges. The prisoner at the bar here avails himself of the opportunity of stating to this court that, inasmuch as the testimony which was introduced in this case was very explicit, and went to every point the prisoner could wish, he has nothing further to offer in his defence, but puts himself upon the mercy of the honorable court.

ROBERT C. AMBRISTER.

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen's Office, camp 4 miles north of  
St. Mark's, April 29, 1818.

#### GENERAL ORDERS.

At a special court-martial, commenced on the 26th instant at St. Mark's, and continued until the 28th, of which brevet Major General E. P. Gaines is president, was tried A. Arbuthnot on the following charges and specifications, viz:

CHARGE 1st. Exciting and stirring up the Creek Indians to war against the United States and her citizens; he, A. Arbuthnot, being a subject of Great Britain, with whom the United States are at peace.

CHARGE 2d. Acting as a spy, aiding, abetting, and comforting the enemy, and supplying them with the means of war.

CHARGE 3d. Exciting the Indians to murder

and destroy William Hambly and Edward Doyle, confiscate their property, and causing their arrest with a view to their condemnation to death, and the seizure of their property, they being citizens of Spain, on account of their active and zealous exertions to maintain peace between Spain, the United States, and the Indians.

To which charges the prisoner pleaded not guilty. The court, after mature deliberation on the evidence adduced, find the prisoner, A. Arbuthnot, guilty of the first charge, and guilty of the second charge, leaving out the words "acting as a spy;" and, after mature reflection, sentence him, A. Arbuthnot, to be suspended by the neck until he is dead.

Was also tried Robert C. Ambrister on the following charges, viz:

CHARGE 1st. Aiding, abetting, and comforting the enemy, and supplying them with the means of war, he being a subject of Great Britain, (who are at peace with the United States,) and late an officer in the British colonial marines.

CHARGE 2d. Leading and commanding the Lower Creek Indians in carrying on a war against the United States.

To which charges the prisoner pleaded as follows, viz: To the first charge not guilty; to the second charge guilty, and justification.

The court, on examination of evidence, and on mature deliberation, find the prisoner, Robert C. Ambrister, guilty of the first and second charges, and do therefore sentence him to suffer death by being shot. The members requesting a reconsideration of the vote on this sentence, and it being had, they sentence the prisoner to receive fifty stripes on his bare back, and be confined with a ball and chain to hard labor for twelve calendar months.

The Commanding General approves the finding and sentence of the court in the case of A. Arbuthnot, and approves the finding and first sentence of the court in the case of Robert C. Ambrister, and disapproves the reconsideration of the sentence of the honorable court in this case. It appears from the evidence and pleading of the prisoner that he did lead and command, within the territory of Spain, (being a subject of Great Britain,) the Indians in war against the United States, those nations being at peace. It is an established principle of the laws of nations that any individual of a nation making war against the citizens of another nation, they being at peace, forfeits his allegiance, and becomes an outlaw and pirate; this is the case of Robert C. Ambrister, clearly shown by the evidence adduced.

The Commanding General orders, that Brevet A. C. W. Fanning, of the corps of artillery, will have, between the hours of eight and nine o'clock, A. M., A. Arbuthnot suspended by the neck, with a rope until he is dead, and Robert C. Ambrister to be shot to death, agreeably to the sentence of the court.

John James Arbuthnot will be furnished with a passage to Pensacola by the first vessel.

The special court, of which Brevet Major General E. P. Gaines is President, is dissolved.

By order of Major General Jackson.

ROBERT BUTLER, Adj. Gen.

ADJ'T AND INS. GEN'S OFFICE,

September 23, 1818.

A true copy from the original papers on file in this office.

DEPARTMENT OF WAR, Aug. 14, 1818.

SIR: I enclose for your information a copy of the orders to General Gaines, growing out of the late decision of the President, relative to St. Mark's and Pensacola. [See letter to General Gaines of August 14, 1818.]

I was directed by the President to wait the reply of the Spanish Minister to Mr. Adams's letter to him, which, not being received until the day before yesterday has caused so great a delay as to render it necessary to send the orders direct to General Gaines, without passing them through you. I have, &c.

J. C. CALHOUN.

Major Gen. ANDREW JACKSON.

Nashville Tennessee.

The following depositions and documents accompanied Mr. Lacock's report made to the Senate on the 24th of February, 1818:

#### No. 1.

DEPARTMENT OF WAR, Feb. 10, 1819.

SIR: Agreeably to the request made in your letter of the 8th instant, I now transmit an extract of General Jackson's letter of the 10th of August last, and a copy of General Jackson's order to General Gaines, of the 7th of last August, in relation to St. Augustine; a copy of the order to General Gaines, of the 1st of September; and an extract of the answer to General Jackson's letter of the 10th of August, 1818; which comprehend all the information required by the committee.

I have the honor to be, &c.

J. C. CALHOUN.

Hon. ABNER LACOCK, Chairman, &c.

#### No. 2.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 12, 1818.

SIR: I have the honor to acknowledge the receipt of your order of the 26th ultimo, which reached me last night; its contents are duly noted, and will be promptly attended to.

I have received no late advices from General Gaines, although I have for some time expected the return of the express sent to him on the 24th of November last. Taking into view the strength of the Seminoles and their adherents, as reported to you by General Gaines, and the aggregate of his strength, regulars and militia, amounting to but one thousand eight hundred men, which cannot possibly afford a like number of effectives; considering, likewise, that the greater portion of



*Defeat of the Seminole Indians, &c.*

this force, are draughted militia, from Georgia, who may apply for their discharge at the expiration of three months from the time they were first mustered, and who may be disposed to claim this right, and abandon the campaign, about the time I could reach Fort Scott, I have deemed it both prudent and advisable to call from the west end of the State of Tennessee for one thousand volunteer mounted gun-men, to serve during the campaign. With this force, in conjunction with the regular troops, I can act promptly, and, with the smiles of Heaven, successfully, against any force that can be concentrated by the Seminoles and their auxiliaries. Viewing, however, the lives of our citizens as too precious to be risked in a contest with savages, with the odds of two to one, unless where real necessity demands the exposure, I have therefore written to the Governor of Georgia to continue in the field the one thousand men required by General Gaines.

The result of the appeal I have made to the patriotism of those brave men in West Tennessee, who have so often followed me to the field of danger, will be known by the 19th instant, and I hope to leave this for Fort Scott on the 22d. Of my movements, and success in raising the mounted volunteers, you shall be advised.

It may appear to the Government, on the first view, that mounted men are the most expensive; but when we consider the rapidity of their movements, the amount of quartermaster's expenditures for pack-horses, baggage-wagons, and other means of transport indispensable to footmen, in this instance saved, mounted gun-men, as auxiliaries in such a campaign as the one contemplated, will be found to save both blood and treasure to the United States. The volunteers that have been invited to the field are of tried materials, and such as can be relied on in the day of danger and trial. With respect, &c.

ANDREW JACKSON,  
Major General commanding.

Hon. J. C. CALHOUN, Sec'y of War.

I feel myself much at a loss for correct topographical information of the country occupied by the Seminole Indians, and particularly of that portion which may possibly become the seat of war. Should there be any maps, plans, or charts, of the section of country alluded to, in the secret bureau of the War Department, you will oblige me by having a copy transmitted to Fort Scott as early as practicable.

A. J.

No. 3.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 13, 1818.

Sir: Being advised that the assistant deputy quartermaster general of General Gaines's brigade has resigned, and being unadvised as to quartermaster's funds within the seventh department, I have to request that necessary funds be forwarded to Quartermaster General Gibson, at Fort Scott, whom I have ordered to meet me at that place without loss of time.

Should the one thousand volunteer mounted gun-men attend to my appeal to their patriotism, I shall send on a confidential agent to Georgia, to have the necessary supplies for them procured and forwarded by the quartermaster, if any there, to Fort Gaines; and, if none, by the agent sent, with instructions to draw on Quartermaster General Gibson for the amount of his purchases; this is done to facilitate the march of the volunteers called for. I need not observe that, without quartermaster's funds, an army cannot be wielded either with promptitude or effect. Promptitude in the present campaign will be a great saving to the United States, both in character and purse.

I have the honor to be, &c.

ANDREW JACKSON,

Major General Commanding.

Hon. JOHN C. CALHOUN, Sec'y of War.

No. 5.

Extract of a letter from Major General Jackson to Brevet Major General Gaines, dated

Nashville, August 7, 1818.

I am happy to find that the notorious Micco de Cozey is at length destroyed. The distress of the Indians for provisions I expected. Your providing for their wants meets my entire approbation; it will meet the entire approbation of the Government, as it corresponds with the usual humanity extended to the suffering Indians.

I have noted with attention Major Twigg's letter, marked No. 5. I contemplated that the agents of Spain, or the officers of Fort St. Augustine, would excite the Indians to hostility, and furnish them with the means of war. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take, and garrison, Fort St. Augustine with American troops, and hold the garrison prisoners until you hear from the President of the United States, or transport them to Cuba, as, in your judgment, under existing circumstances, you may think best.

Let it be remembered, that the proceedings carried on by me, or this order, are not on the ground that we are at war with Spain. It is on the ground of self-preservation, bottomed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontier; hence the necessity of procuring evidence of the fact of the agents or officers of Spain having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war. This evidence being obtained, you will (if your force is sufficient) permit nothing to prevent you from reducing Fort St. Augustine, except a positive order from the Department of War.

Orders, some time since, have been given to the officer of the ordnance commanding at Charleston, to have in readiness a complete battering train, the number and caliber of the guns pointed out. I have no doubt you will find them in readiness.

*Defeat of the Seminole Indians, &c.*

I enclose you the report of Captain Henley of the naval force on that station. You will open a correspondence with Commandant A. G. Dallas, to insure his co-operation, provided it should be required. I trust, before this reaches you, you will have destroyed the settlement collected at Suwanee; this can easily be done by a *coup de main*, provided secrecy of your movements be observed, and a great expedition of march used. Without expedition of movement, and great caution, you will be discovered, and the enemy will flee, or endeavor to ambuscade you; both of which ought to be guarded against.

Have a careful eye to your supplies on hand, that, before they are consumed, others may be ordered and reach you. Without necessary supplies, an army cannot operate with effect. The late scarcity ought to teach us a lesson on this head, never to be forgotten. I therefore expect that no scarcity will happen at any place, post, or garrison, intrusted to your care. I shall expect to hear from you shortly; and that you and your brigade may be successful in all your operations, and cover yourselves with glory, is my heartfelt wish.

I am, very respectfully, yours, &c.

ANDREW JACKSON,

Major General commanding.

No. 6.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, August 10, 1818.

Captain Gadsden will likewise deliver you his report, made in pursuance of my order, accompanied with the plans of the fortifications thought necessary for the defence of the Floridas, in connexion with the line of defence on our Southern frontier. This was done under the belief that Government will never jeopardize the safety of the Union, or the security of our frontier, by surrendering those posts, unless upon a sure guaranty, agreeably to the stipulations of the articles of capitulation, that will insure permanent peace, tranquillity, and security, to our Southern frontier. It is believed that Spain can never furnish this guaranty. As long as there are Indians in Florida, and it possessed by Spain, they will be excited to war and the indiscriminate murder of our citizens, by foreign agents and Spanish officers. The conduct of Spain for the last six years fully proves this. It was under the belief that the Floridas would be held, that my orders to make the report were given to Captain Gadsden. To this I refer you; its perusal will show you how important it is, not only to the defence and security of the frontier, but to the whole United States. It points to our vulnerable points, and shows our country can and was intended to be invaded, during the last war, from this quarter; and that the attempt would have been made, had not the Creek Indians been subdued previous to the arrival of the British troops; and, afterwards, their attempt to gain possession of Mobile bay was frustrated by the repulse they met with at Fort Bowyer. If possession is given of

the points now occupied by our troops, and a war ensues, an attempt will no doubt be made to penetrate our country by the Appalachicola, and, by the aid of the Indians, to reach the Mississippi at or above the Chickasaw Bluffs. Should this be done with a formidable force, in our unprepared state, it is highly probable that the enemy might reach the banks of the Mississippi. Occupying these points will prevent the danger of such an occurrence; surrender them, and I would not, without a much stronger force, hold myself responsible for the safety of my division. But with those points fortified as recommended, and with an effective force of five thousand men, I pledge my life upon defending the country, from St. Mary's to the Barrataire, against all the machinations and attacks of the *Holy Alliance* and combined Europe.

By Captain Gadsden you will receive some letters, lately enclosed to me, detailing the information that the Spaniards at Fort St. Augustine were again exciting the Indians to war against us, and a copy of my order to General Gaines upon this subject. It is what I expected, and proves the necessity and sound policy of not only holding the posts which we are now in possession of, but likewise of our possessing ourselves of Fort St. Augustine. This alone can insure peace and security on our Southern frontier.

It is alone by a just and bold course of conduct that we can expect to obtain and insure respect from Europe, and not by a timid, temporizing policy. The first commands admiration and esteem, the latter contempt. But, from the composition of the present Administration, I can never suppose that they will abandon rights, or assume a timid and temporizing course of policy. I therefore conclude that the posts will never be surrendered, unless upon the terms agreed on in the capitulation, and then it guaranteed that those terms will be punctually fulfilled; particularly when it is recollected that, unless this is done, our frontier will be exposed to all the scenes of blood and massacre heretofore experienced; and to regain them will cost us much blood and treasure, in the event of a war. The security of the Western States renders it necessary that they should be held: the voice of the people will demand it. But upon this, as well as every other subject, I refer you to Captain Gadsden.

I have the honor to be, &c.

ANDREW JACKSON,

Major General commanding.

Hon. J. C. CALHOUN, Sec'y of War.

No. 7.

DEPARTMENT OF WAR, Sept 1, 1818.

Sir: General Jackson has transmitted to this Department a copy of his letter to you of the 7th ultimo. It is to be presumed that his orders in relation to St. Augustine were given before he was apprized of the decision of the President in relation to St. Mark's and Pensacola; as the principle on which that decision was made would equally extend to the case of St. Augustine. You



will accordingly not carry that part of General Jackson's order into execution, except to collect with care the evidence of such facts as go to prove any countenance or assistance from the Spanish authority in St. Augustine to the hostile Indians; and should you ascertain that they have afforded any, you will report the facts, properly supported by evidence, to this Department. You will also report the facts on which you ordered the issue of rations to the Indians, and the extent of the issue—I refer to the issue which is alluded to in General Jackson's letter to you of the 7th ultimo, as the Department has not yet received any information on the subject. I have, &c.

JOHN C. CALHOUN.

Gen. G. P. GAINES.

No. 8.

*Extract of a letter from J. C. Calhoun, Secretary of War, to Major General Andrew Jackson, dated*

SEPTEMBER 8, 1818.

I enclose a copy of my orders of the 14th ultimo to General Gaines for your information. I concur in the view which you have taken in relation to the importance of Florida to the effectual peace and security of our Southern frontier; and such, I believe, is the opinion of every member of the Administration. In fact, the grounds assumed are very far from being feeble. St. Mark's will be retained until Spain shall be ready to garrison it with a sufficient force; and Fort Gadsden, and any other position in East or West Florida, within the Indian country, which may be deemed eligible, will be retained so long as there is any danger; which, it is hoped, will afford the desired security. We ought, it is true, never to resort to timid measures to avoid war; but it appears to me that a certain degree of caution (not from the fear of the Holy Alliance) ought, at this time, to mark our policy. A war with Spain, were it to continue with her alone, and were there no great neutral Powers to avail themselves of the opportunity of embarrassing us, would be nothing; but such a war would not continue long without involving other parties, and it certainly would, in a few years, be an English war. In such a war I would not fear for the fate of our country; but, certainly, if it can be prudently and honorably avoided for the present, it ought to be. We want time—time to grow, to perfect our fortifications, to enlarge our navy, to replenish our depots, and to pay our debts. I speak to you frankly, knowing your zeal for our country, with whose glory yours is now identified. No one who has examined my political course will, I am sure, think that these opinions are influenced by timid councils.

[NOTE: The order of the 14th of August, referred to in the above extract, has been already communicated to Congress.]

No. 9.

FORT CRAWFORD, May 19, 1818.

DEAR SIR: Proceeding to Georgia for the purpose of bringing my family to this Territory, and

desirous to provide for the safety of the inhabitants on the frontiers during my absence, I have sought an interview with the officer in command at this place. At Camp Montgomery I learned that you would probably reach this place in a few days, and indulged the hope of seeing you. An interview with you would have been to me a source of much pleasure, and I regret that my arrangements will not permit me to await your arrival.

The Indians commenced their murderous incursions on the frontier settlements in January last, when two men were killed in this neighborhood. No events occurred afterwards to excite apprehension until the 14th of March, when a house on the Federal Road, near Poplar Spring, was attacked, and eight persons killed. This intelligence reached me at Claiborne, from whence a detachment of mounted riflemen was immediately ordered to the place, for one month's service. A few days afterwards five men, while travelling the road, were fired at, and three killed; from whom fifteen hundred or two thousand dollars were taken. The people, for the most part, were flying for safety in every direction, and all communication by mail, or otherwise, with Georgia, wholly suspended. The Indians were known to be still in that quarter. In this state of things, three posts were established by my order, at which there are in the whole about one hundred men, who have instructions to scour the woods from day to day. A fortnight since they found a camp; but, on their approach, the enemy fled to a contiguous swamp, from whence they fired, and killed one man. The commanding officer informs me that he thinks the number of Indians now in the neighborhood considerable. I should have mentioned that, in April, a house, within fifteen or twenty miles of Claiborne, was attacked; the husband killed, and wife and two daughters wounded. Thirty dollars, a quantity of bacon, and every article which could be conveyed away, taken and carried to Pensacola, where I believe the murderers might still be found.

I yesterday learned that one Indian was killed, and another wounded, near the Poplar Spring. This detail of events however was probably unnecessary, as you will receive from Major Young every intelligence upon the subject. My principal object is to state that, in my efforts to protect the people over whom I preside, the territorial treasury being destitute of funds, has afforded me no supplies whatsoever; nor has it been in the power of the commanding officer here to render the aid which he has uniformly manifested the best disposition to afford. I am desirous that the troops should be considered as in the service of the United States, and the accounts adjusted when their term of service expires. One company rendezvoused at Poplar Spring, for three months' service, on the 10th April, and a detachment of twenty-five at Sepulger lately, for the same term of service. The expenditures incurred have been considerable, and altogether beyond my means of paying. You will readily perceive how unpleasant has been my situation

without the means of affording the protection necessary to keep the inhabitants at their homes. The regular force in this quarter has been insufficient for the defence of the country; the militia I have not had time to organize; and, above all, not a dollar in the treasury. My views of the necessity of forwarding men and money to this section of the country have been repeatedly stated to Colonel Trimble, but I apprehend it has not been in his power to meet them.

Having endeavored in vain, with my limited resources, to arrest the enemy after their successive murders; and being satisfied that they sought refuge in Florida, I determined to raise a volunteer force, and order them to attack the hostile Indians without regard to our boundary. A part of the force is now under the command of Major Young, and Captain Stull is in possession of my order. Had I been furnished with funds, the enemy would have been driven from that retreat long before this time—persuaded as I am that it is the only effectual method of affording security to this territory.

I have this moment received intelligence which leaves no doubt of your approach to this quarter; and I shall now leave the Territory perfectly satisfied that the people will not suffer by my absence. Mr. Henry Hitchcock is appointed Territorial Secretary, and will act as Governor after I set out from Fort Jackson, which will be on the 26th or 27th of this month. I may however be detained a few days longer in arranging with the Big Warrior the reception of a party of Indians who have sued for peace, and delivered themselves to Major Young. This they did so soon as the Major convinced them, by a well-timed and well-executed expedition, that they would no longer be permitted to murder our citizens, and find refuge in the Spanish territory.

There are at this place forty volunteers, and the same number of militia at Camp Montgomery. Should you need any additional aid from the Territory it would be promptly furnished, should you notify me at Fort Jackson before my departure.

I enclose to you letters I have received from the commanding officer of the militia near Poplar Spring, which will present to you the state of things in that quarter.

Excuse this hasty scrawl, and accept the assurances of my regard and esteem.

WILLIAM W. BIBB.

No. 10.

PAYMASTER GENERAL'S OFFICE,  
City of Washington, Feb. 20, 1819.

SIR: In answer to your letter of the 17th of the present month I have the honor to state:

1st. That "the numbers and grades of the officers who commanded the detachment of Indians employed under McIntosh, and the whole number of Indians," appear, from the accounts of the agent who paid them, to have been—

One Brigadier General.  
Two Colonels.

Two Lieutenant Colonels.  
Two Majors.  
One Assistant Adjutant General.  
Four Assistant Commissaries.  
Twenty-eight Captains.  
Twenty-eight First Lieutenants.  
Twenty-eight Second Lieutenants.  
One thousand five hundred and seventeen rank and file, (or other warriors.)

2d. That "the number and grades of the officers, who commanded the Tennessee and Kentucky volunteers," appear, from the rolls which mustered them into service, to have been—

One Assistant Adjutant General.  
One Assistant Inspector General.  
One Assistant Deputy Quartermaster General.  
One Chaplain.  
One Foragemaster.  
One Assistant Foragemaster.  
One Judge Advocate.  
Two Colonels.  
Four Lieutenant Colonels.  
Four Majors.  
Four Adjutants, (regimental.)  
Two Quartermasters, (regimental.)  
Two Surgeons, (regimental.)  
Four Surgeon's mates, (regimental.)  
Four Sergeant majors, (regimental.)  
Four Quartermaster sergeants.  
Twenty Captains.  
Twenty First Lieutenants.  
Eighteen Second Lieutenants.  
Eleven Third Lieutenants.  
Seventeen Cornets.

Of whom one Captain and one First Lieutenant appear to have belonged to Kentucky; the others to Tennessee.

3d. That "the number and grades of the officers who commanded (or served with) the two companies of rangers," under Captains Boyle and McGirt, appear, from a communication of the paymaster of the 4th regiment of infantry, dated the 23d of September, 1818, to have been—

Two Captains.  
Two First Lieutenants.  
Two Second Lieutenants.  
One Surgeon's mate.

I am, very respectfully, &c.

NATH'L FRYE, JR.,  
Chief Clerk.

HON. ABNER LACOCK,  
Chairman of Committee, &c.

No. 11.

PAYMASTER GENERAL'S OFFICE,  
City of Washington, Feb. 23, 1819.

SIR: Your letter of yesterday's date is now before me; and, with reference to my note of the 20th instant, I have to state that "the whole number of men (rank and file) employed as volunteers from Tennessee and Kentucky," appears, from the muster-rolls, to have been one thousand one hundred and sixty-three; the number employed in Captain Boyle's and Captain McGirt's companies of rangers one hundred and forty.



With sentiments of much respect, I am, sir,  
your most obedient,

NATH'L FRYE, Jr.,  
Chief Clerk.

HON. ABNER LACOCK,  
Chairman of Committee, &c.

No. 12.

WASHINGTON CITY, Feb. 5, 1819.

SIR: I have the honor to acknowledge the receipt of your letter of the present date, enclosing a communication from the chairman of the committee of the Senate, requesting of you a copy of the letter addressed by Major White Young to Governor Mazot, on the 27th April, 1818. Not having received a report from Major Young relative to the correspondence with Governor Mazot, or his attack on the hostile Indians in the vicinity of Pensacola, the only information I possess on the subject is contained in the letter of Governor Bibb, dated on the 19th of May, 1818, to which I beg leave to refer to you.

On my return from Suwanee to St. Mark's, I was informed (through the medium of Mr. Hamblly) by the captain of a vessel direct from Pensacola, that a number of hostile Indians had assembled at that place. On interrogating the captain, he reluctantly stated that, at the time of his sailing, there were in Pensacola four hundred and fifty or five hundred Indians; that they had been fed and furnished with munitions of war, and were committing depredations on the persons and property of the citizens on the frontiers of Alabama, and also on the subjects of Spain. After receiving this information I informed you, in my letter dated at St. Mark's, on the 26th April, that I should leave that place for Fort Gadsden in two or three days, and, after making all necessary arrangements for the security of the position occupied, and detaching a force to scour the country west of the Appalachicola, I should proceed direct to Nashville. I then ordered Captain Sands to Mobile, to prepare and hold in readiness a train of artillery, should circumstances arising out of facts disclosed render its use in the field necessary. On this occasion, as on all others, I thought it my duty to be prepared fully to execute my orders in putting an end to the conflict.

On my arrival at Fort Gadsden my quartermaster general, Colonel George Gibson, who was charged with the defence of that post, handed me several letters, brought from Fort Montgomery by Major Hogan, from respectable citizens, confirming the report made by the captain of the schooner while at St. Mark's, and detailing the murder of eighteen of our citizens on the Sepulger, and the destruction of a family near Fort Claiborne. Major Hogan also confirmed this information, and added that the citizens at Montgomery were fortifying themselves. Similar information was received from two gentlemen who arrived in a vessel laden with sutler's stores for the troops at Fort Gadsden, but whose names are not now recollected, and by the captains of the sloop Hector and barge Peacock, direct from Mobile. In addition to the foregoing I was shown

a letter (confidentially written) from a person of high respectability in Pensacola, detailing the facts as stated by the captain of the schooner at St. Mark's.

This information, corroborated by so many persons, determined me to go in person to Pensacola; and I ordered Colonel Gibson forthwith to Mobile, with instructions to give every facility to Captain Sands in having the artillery secretly moved to Fort Montgomery, there to await my orders; and immediately organized a force sufficient for the execution of my orders, under date of 26th December, 1817.

After crossing the Choctawhatchy, I despatched an Indian guide with a soldier express to Fort Crawford, with orders to Colonel Gibson and Captain Sands, at Fort Montgomery, to move on the artillery, and form a junction with me after I crossed the Escambia river; which order was promptly executed. On my reaching the Escambia I was met by Captain Boyle, express from Governor Bibb, with the letter of the 19th of May above mentioned, and, on reaching the west bank, received information that Holmes and his warriors were then in Pensacola, for which place I immediately marched. For my proceedings thereafter I refer you to my detailed report.

Should you wish information on any other points growing out of my military operations during that campaign, it will afford me much pleasure to give it to you.

I am sir, yours, &c.

ANDREW JACKSON,  
Major General commanding.

The Hon. J. C. CALHOUN.

No. 13.

FORT COVINGTON, NEAR BALTIMORE,  
February 5, 1819.

SIR: Yesterday I had the honor to receive your letter of the 3d instant, on the subject of the late war with the Seminole Indians, and, in answer to your interrogatories, on all of which I am unable to give you the information required. I was however, with the troops at Fort Scott, under the command of General Gaines, at the commencement of hostilities. I was never ordered with any detachment to remove the Indians from the lands of the United States. Brevet Major Twiggs, of the 7th regiment United States' infantry, commanded the first detachment that visited the Indian village called Fowltown, situated on the east side of Flint river, by the order of the General; the nature of his orders I know not, neither can I say who fired the first gun. I understood at the time, that, on the approach of our troops, the Indians fled from their houses to an adjacent swamp; they were fired on, and two warriors and, unfortunately, one woman were killed; there was one prisoner taken by the detachment, on its march to Fowltown, and who was afterwards confined as a prisoner at Fort Scott. This detachment brought, on their return, three or four Indian horses.

The second detachment that visited the village

of Fowltown, was placed under the command of Lieutenant Colonel Arbuckle, of the 7th infantry, who, on a near approach, detached me with a command to advance on the village by a different route from that which he took; my orders from him were to take prisoners, if possible, but if an attempt to escape was made, to fire; and to examine all the buildings for corn. We were, however, discovered when within two hundred yards, and the Indians took to flight, giving the war whoop, and firing alarm guns. Corn, cattle, and other provisions, I have no hesitation in saying, was the object of this visit. We had one or two wagons with the detachment, which were loading with corn from the cribs of the Indians, when an attack was commenced by them, in which we had one man killed; as the Indians fought in the edge of the swamp, their loss was not ascertained, otherwise than by their own acknowledgment, which was afterwards said to be five or six warriors killed. We brought off all the corn which we conveniently could, and, perhaps, fifteen or eighteen head of cattle, and a few horses. Previous to our return to Fort Scott, the detachment was halted on the Flint river, three miles from Fowltown, and twelve from Fort Scott, where they remained four or five days in building a small picket work, called Fort Hughes. The provisions thus taken was just sufficient for the support of the troops during their absence from Fort Scott.

The third and last visit paid the village by our troops, was during the absence of General Gaines, who was at Amelia Island. This detachment was also commanded by Lieutenant Colonel Arbuckle, and, on our arrival, finding the place entirely abandoned by the Indians, it was destroyed by fire.

The horses taken by the detachment under Major Twiggs, as well as those taken by that under the command of Lieutenant Colonel Arbuckle, were considered of no value, but were ordered by the General to be turned into the quartermaster's hands. I afterwards saw some of them in his possession; others were claimed by the friendly Indians as their property, which were given up to them by the General's order. I believe, sir, that this is all the information which it is in my power to give on the subject that you have requested. I am, sir, &c.

JOHN N. MCINTOSH,  
Captain 4th regt. U. S. Inf.

The Hon. A. LACOCK.

No. 14.

EXECUTIVE DEPARTMENT,  
Milledgeville, Ga. Feb. 6, 1817.

SIR: I understand that the 4th regiment of the United States' infantry, which, for some time past, has been stationed on the frontier of this State, near the junction of the Flint and Chatahoochee rivers, is ordered to Fort Montgomery, on the waters of Mobile, and I have not heard of any other troops being ordered to supply their place. By this movement, not only the frontier of

Georgia is left without defence, but the restless and dissatisfied part of the Creeks, who are concentrated within the Spanish line, and at no great distance from the post (Camp Crawford) lately occupied by the 4th regiment, under Lieutenant Colonel Clinch, will be without any check, and I have no doubt will indulge their propensity for mischief, by acts of murder or rapine, upon defenceless travellers and frontier settlers. It is a fact well known to Lieutenant Colonel Clinch, and to every officer with him at Camp Crawford, that nothing has kept those Seminole Indians, who have been joined by the most inveterate of the hostile fellows from the upper towns in check, but the presence of the troops; and, if they are removed, some serious consequences are to be apprehended. Besides, it is very evident that, by the removal of the troops from Camp Crawford and the neighboring country, that portion of the territory acquired by Jackson's treaty, as it is usually called, lying east of the Chatahoochee, and which, of course, falls to Georgia, will be abandoned to the Indians.

Against measures which, in my judgment, will produce these results, it is my duty, as chief magistrate of Georgia, to protest. I am very far, however, from believing that it is the intention of the President, with knowledge of the fact, to leave Georgia, as a frontier State, on the Indians and the Spanish provinces of Florida, unprotected; and that if the removal of the troops, under Lieutenant Colonel Clinch has been by him deemed indispensable, he will order their place to be supplied by a competent force.

I have to request that the substance of this letter may be communicated to the President, and that his determination thereon may be transmitted to the Executive of Georgia, with as little delay as possible. I am, sir, &c.

D. B. MITCHELL.

Hon. the SECRETARY OF WAR.

No. 15.

EXECUTIVE DEPARTMENT, GEORGIA,  
Milledgeville, Feb. 5, 1817.

SIR: Understanding that you are thus far on your way to Fort Montgomery, I avail myself of the present opportunity to communicate some facts, in the expectation that you will have it in your power, if your judgment approve, to adopt the measures I am about to propose.

You, no doubt, have already been informed that the notorious Woodbine has recently made his appearance again at the mouth of the Appalachicola, and that he has an agent now among the Seminole Indians and negroes in that quarter, stirring them up to acts of hostility against this country; and that Woodbine himself has gone in an armed vessel to some part of the West Indies for supplies. Connected with this fact is another, which may serve as an intimation of the future conduct of these people, when once in possession of the supplies, which it is said they expect on the return of Woodbine. About ten or twelve days ago, a small party of those Indians entered



the frontier of Wayne county, and stole two horses and some cattle. They were pursued by some of the inhabitants, who peaceably demanded a restoration of the stolen property, and, instead of a compliance on the part of the Indians, they immediately fired upon the whites, who retired without firing a shot; one of the whites was mortally wounded.

Before this last circumstance came to my knowledge, I had addressed the acting Secretary of War, and desired the contents of my letter to be communicated to the President, in which I represented the evil consequences that were likely to result to Georgia, in particular, by the removal of the 4th regiment from Camp Crawford, without their place being supplied by an adequate force from some other quarter; and requested the order for the removal of that regiment might be countermanded, or their place supplied. To this communication there has not yet been time to receive an answer. One object of my present address is to know if you cannot suspend the march of the 4th regiment until I can hear from the War Department, if you do not feel authorized or disposed to order them back to their former station at Camp Crawford. Another object of the present address grows out of the following fact: some of our people have gone over the Ocklawaha, and settled between that river and the line run under the late treaty with the Creeks, on or near Goose creek, of which the Indians complain. I have appointed an agent to go and order them off, and bring me the names of all such as refuse to move from the Indian land. I am doubtful from the character of those intruders, that they will not remove without force is used to compel them; and it is doubtful whether I can legally apply that force; and the United States can. I have to request, if consistent with your duty, or the orders of the General Government, that you will order a detachment of troops to proceed to the spot, and remove those intruders. I am unwilling to give the Indians any just cause of complaint against us, and the more so, because I am determined, as long as I hold the station I now occupy, never to permit any aggression on their part to pass with impunity. I hold it a good rule, however, "to do as I would be done by," and am desirous of conforming to this rule in the present instance. I am, sir, yours, &c.

D. B. MITCHELL.

Major Gen. EDMUND P. GAINES.

No. 16.

Having been summoned to attend a committee of the honorable the Senate of the United States, to give evidence touching the Seminole war, I did attend accordingly, and, after a verbal statement, and examination by the committee, the following questions were asked me, with a request that I would answer in writing:

First, as to "the origin of the Seminole war, and the Fowltown affair."

It is, no doubt, within the knowledge of the honorable the committee, that, during the late war with the British and Creeks, posts were es-

tablished and occupied on the Appalachicola by British officers and agents, and a considerable force there organized for the purpose of annoying the Southern frontier of the United States. It is also known that the hostile Indians of the Creek war, who had not embraced the terms of peace proposed by General Pinckney, and finally settled by the treaty of Fort Jackson, had taken shelter in the Floridas. From their resentment, and the motley crew collected by Nicholls, much mischief was to be apprehended by the inhabitants on the frontier of Georgia; and the post of Fort Scott, situate in the fork of the Flint and Chatahoochee rivers, and near their junction, was established and occupied by a considerable force of United States troops, for the protection of that frontier; and the same troops, with the aid of some naval force which ascended the Appalachicola, destroyed a fort about sixty miles below, built by Colonel Nicholls, occupied and defended by negroes. The blowing up of this fort, with its negro garrison, (for, except a few Choctaw Indians, who were taken, it is believed that no other Indians were in the fort,) had a salutary influence in restraining the fugitives from the Creek war, and those under the influence of Nicholls and his partisans. I say the fugitives from the Creek war and the partisans of Nicholls, because it is well understood that the Seminoles took no part in the Creek war, unless the receipt of goods, &c. from Nicholls or his sub-agents be considered as proof of this fact; but the truth is, they will receive presents from any party, without any intention of adopting his projects; and such, I have no doubt, was the case with the Seminoles upon this occasion. The troops occupying Fort Scott were, however, soon after removed, and the post abandoned, or so nearly so, that it was in the power of the Indians at any time, to have destroyed it. Filling, at that time, the Executive chair of Georgia, I addressed the then Secretary of War on the subject of the removal of the troops, pointing out some of the evils which were likely to result, and urging the necessity of the re-occupation of the post by a respectable force. To this communication an answer was received, by which I was informed that, although it was the intention of the Government to concentrate a respectable force further to the west, yet it never was contemplated to leave the frontier of Georgia exposed.

The peace of the frontier of Georgia has always been exposed and disturbed, more or less, by acts of violence, committed as well by the whites as the Indians; and a spirit of retaliation has mutually prevailed. These petty acts of aggression were increased and multiplied by a set of lawless and abandoned characters, who had taken refuge on both sides of the St. Mary's river, living principally by plunder. I believe the first outrage committed on the frontier of Georgia, after the treaty of Fort Jackson, was by these banditti, who plundered a party of the Seminole Indians, on their way to Georgia for the purpose of trade, and killed one of them. This produced retaliation on the part of the Indians, and hence

the killing of Mrs. Garret and her child. The evidence of these plunderings and murders is on the files of the Executive of Georgia.

Early in March, 1817, I resigned the Government of Georgia, and accepted my present appointment; and, in July, of the same year, called a general meeting of the Creek nation, at Fort Hawkins. At this meeting I endeavored to impress upon the minds of the Indians the necessity, on their part, of preserving peace; that many of the people of the lower towns had been led astray by evil counsel, had received presents from the British agent, Colonel Nicholls; and although it was acknowledged that they had not taken an active part with the Red Sticks in the Creek war, yet their conduct had made them, in some measure, obnoxious to the friendly part of their own nation, and to the United States; and that it was the duty of the friendly chiefs to reclaim those people, and restrain the restless spirits among them, whose conduct might eventually, if not checked in time, bring them into much trouble, if not utter ruin; assuring them, at the same time, that the United States would punctually fulfil all their engagements with them, of which I had then given them substantial proof; and that all, except murderers, who should return to their duty, and renew their friendly relations with the nation, should receive protection and forgiveness.

I state these particulars on account of their connexion with what immediately follows: About the last of August of the same year, say something more than one month after the meeting at Fort Hawkins, I received a letter from Major Twigg, then at Fort Scott, dated the 4th of that month, written, as he says, at the request of the chiefs of three towns near that place, expressive of their willingness to agree to the talk delivered by me, in July, at Fort Hawkins. A copy of Major Twigg's letter, and the memorandum enclosed therein, is herewith exhibited. Of the three towns referred to, the Fowltown was one; but, before I had an opportunity of sending for those chiefs, or of taking any measures for meeting their proposition, General Gaines arrived with a detachment of troops from the West, sent for the chief of Fowltown, and for his contumacy in not immediately appearing before him, the town was attacked and destroyed by the troops of the United States, by order of General Gaines. This fact was, I conceive, the immediate cause of the Seminole war. The reasons assigned for the destruction of Fowltown, in addition to the contumacy of the chief, were, the refusal of the chiefs of the Seminoles to give up some murderers, and the hostile aspect which they had assumed. Of this demand and refusal I know nothing more than what has been published; but truth compels me to say, that, before the attack on Fowltown, aggressions of this kind were as frequent on the part of the whites as on the part of the Indians, the evidence of which can be furnished from the files of the Executive of Georgia, to which I have before referred.

The second question put by the committee is,

"the organization of McIntosh's brigade, how and by whom done, with a roster of the field and other officers; with the notice thereof given to the War Department; what answer, if any, was received?"

At the meeting at Fort Hawkins, in July, 1817, Colonel Brearly, of the 7th Infantry, attended, and stated to me that he was directed by General Gaines to apply for the assistance or services of General McIntosh and five or six hundred of his friendly warriors, in case he should go against the Seminoles. I immediately communicated the application to the chiefs in council, and received for answer that they would leave that business to McIntosh and myself. I then told McIntosh that he must hold himself and his warriors in readiness to join the United States' troops whenever ordered. This he readily agreed to. Whether I received a written communication from General Gaines upon this subject or not, I do not recollect; but I was told by some one that he had written to McIntosh for his assistance. However, before a call was made on the warriors to take the field, I received a letter from the then acting Secretary of War, communicating the fact to me that General Gaines was prohibited from crossing the Spanish line, without a special order from that Department. This I considered as notice, or rather as an order, to me not to permit the friendly warriors to cross the line under sanction of, or in the service of, the United States. This letter, I think I received some time in November; and a meeting of the chiefs having been called by the Little Prince, to take into consideration the affair of Fowltown, I informed them of the determination of the Government in this particular, and desired them to remain quiet until they heard from me again. This meeting was held in December, at the Broken Arrow, on the Chatahoochee; and, on my return to the Agency, I fell in with General Gaines to whom I communicated the contents of the Acting Secretary's letter and the course I had taken with the Indians. The General then informed me that he had received the order spoken of, but that, from the representations he had made, he did not doubt but that the prohibition to crossing the Spanish line would be removed. I had appointed another meeting with the Indians, to take place at the Agency, at the end of twenty-five days, expecting to hear from the War Department in the meantime; but, upon the subject of crossing the Spanish line, I received no immediate answer. A meeting was accordingly held at the Agency, which commenced on the 9th of January, 1819, at which Colonel Brearly attended; and, although he brought no communication in writing from General Gaines, yet he informed me that he knew the prohibition to crossing the Spanish line had been withdrawn, and that General Gaines had ordered him to muster as many of the friendly Indians into service as were willing to engage. Arrangements were immediately made, and a day assigned, for enrolling the friendly warriors, and Colonel Brearly attended at Fort Mitchell, for that purpose, and there mustered the greater part



of them. Some companies were mustered into service at several other places, which were more convenient for the purpose, owing to the local situation of the Indians. The first organization was that of a regiment; but, on getting into the field, they were recognised by General Jackson as a brigade. All these proceedings were communicated to the War Department from time to time, to some of which answers were received, and some not. The rolls made out on mustering the brigade out of service are in the office of the Paymaster General, or, at least, were sent to that office by me. The staff of the brigade consisted of one brigadier general, two colonels, two lieutenant colonels, two majors, one assistant adjutant general, four assistant commissaries of purchases, and one aid-de-camp, who was omitted in the muster roll. The force of the brigade about fifteen hundred strong.

The third question put by the committee, is, "The force of the hostile Seminole Indians."

From the accounts I have been able to receive, from Indians and others, I have never estimated the number of the Seminoles at more than seven hundred warriors, and I doubt whether they have that number, exclusive of those towns on the Chatahoochee who were considered hostile during that war. The negroes have been estimated at two hundred and fifty or three hundred effective.

When General McIntosh and his warriors were mustered at Fort Mitchell, he divided his force, and, with that part which he retained under his own command, he descended the Chatahoochee on the western bank, and, on reaching the town called Red Ground, encountered their chief and warriors. In this affair he took fifty-three warriors, and one hundred and thirty women and children. The chief made his escape with a few warriors. Colonel Lovett, with the rest of the warriors mustered at Fort Mitchell, descended the Chatahoochee on the eastern bank, and, General McIntosh crossing the river below the fork, the two detachments united on their march to Mickasukee, where they all joined General Jackson. At Mickasukee, the Indians had generally fled, and but few were found at the town. On the march to Suwanee, McIntosh, with his warriors, encountered about two hundred of the hostile party, under Peter McQueen, of whom he killed thirty-seven, and made six warriors and one hundred and six women and children prisoners. The next enemy engaged were the negroes at Suwanee, amounting to about two hundred and fifty, of whom eleven or twelve were killed, and three made prisoners. The Indians of this part of the country fled before the army, and here ended the Seminole campaign, as far as the Indians were concerned. I will here observe that the Mickasukee Indians are not considered by the Creek nation as Seminoles. Those Indians under Bowlegs, are the only ones considered by them as Seminoles, although, in speaking generally of the Seminoles, in relation to the Seminole war, I include all the Indians who had a share in that war.

Being asked what became of the prisoners taken

by McIntosh, I answer, they were generally sent into the nation, and are now there.

D. B. MITCHELL.

Sworn and subscribed, 23d February, 1819.

No. 2.

FORT SCOTT, August 4, 1817.

SIR: Some of the chiefs of the lower towns on the Chatahoochee met at this place to-day. The chiefs of three towns were present, who had not been to Fort Hawkins at the time the stipend was delivered to them. They requested me to forward their names, and the names of their towns, to you, and inform you that the talk given to the Indians at that place they would agree to.

With respect, your obedient servant,

D. E. TWIGGS, Major Com'g.

I certify the foregoing to be a true copy of the original, now in my possession, 22d February, 1819.

D. B. MITCHELL,

Agent for Indian Affairs.

No. 3.

Towns.

Chiefs.

Con-chatee,	Wacksee Micco,
	Capetan Micco,
Choco-nuklee,	Tallessee Tustunnuggee,
	Cow Merchant,
Oche-see,	Tuskeenehau,
	Holoth Emauthlau.

I certify the foregoing to be a true copy of the original memorandum enclosed to me in the foregoing letter, by Major Twiggs, 22d February, 1819.

D. B. MITCHELL,

Agent for Indian Affairs.

No. 17.

ROBERT BUTLER, Adjutant General of the southern division of the Army of the United States, being duly sworn, testifies, that, in the Summer of 1817, Mr. John Donnelson, of the neighborhood of Nashville, went to Pensacola and purchased lots of land there, with the approbation of the Governor. That the deponent has heard that Mr. James Jackson of Nashville was concerned with him, and was the only person concerned. He also understood that Donnelson's first view in going to Pensacola, was for the benefit of his health. That Mr. Donnelson is nephew of General Jackson's wife. That he does not know the amount of Donnelson's purchase. That he does not know, nor does he believe, that General Jackson had, or expected to have, any interest in said purchase; nor did he ever hear it suggested.

The deponent further saith, that there were two regiments of mounted gun-men, volunteers, raised by General Jackson in January, 1818. That General Jackson appointed the colonels, and most or all of the field officers. That Colonel Haynes appointed the platoon and staff officers. That there were also two companies of volunteers, called life guards, who appointed their own officers, and tendered their services to the General, by whom they were accepted. Tha

according to the best of the deponent's recollection, the Governor of Tennessee was at Nashville at the time the officers of the gun-men were appointed.

That General Jackson's first determination to go to Pensacola was made at Fort Gadsden, after his return from Suwanee, and was made in consequence of information that there were, on or about the 15th of April, five hundred hostile Indians at Pensacola, who received ammunition and provisions from the Governor; and, also, information of several murders having been committed on the Federal road. That, on the march to Pensacola, General Jackson told the deponent, that if, on his arrival, he found the information true he would demand the surrender of the place. That, at Fort Gadsden, General Jackson saw a letter, which deponent thinks was from Innerarity, one of the house of Forbes, Leslie, & Co. at Pensacola, to Doyle, a trader, then at Fort Gadsden, giving information as to the number of Indians at Pensacola. That the letter also stated, that the property of the people of Pensacola was every day depredated on by the Indians. That, when General Jackson formed the determination to go to Pensacola, he ordered Lieutenant Sands to Mobile, to prepare artillery, to meet him after he should have crossed the Escambia, on his march to Pensacola, which order was executed.

That, at the time the army attacked Mickasukee, there were not more than five hundred Indian warriors embodied; nor does the deponent believe there were, at any time during the war, more than five or six hundred embodied at any one place. That, from the nature of the subject, this statement must be conjectural. That the enemy's warriors were in general well armed. That deponent was told there were about thirteen hundred souls at Suwanee, of which two hundred and fifty or three hundred were fighting men. That our army had one man killed and four wounded, in actions with the Indians, during the campaign, and two killed at the Barancas.

Deponent further says, that General Jackson received from a private source, a plan of the fortress of St. Augustine; and, as the deponent believes, it was sent to the General, at St. Marks, or Fort Gadsden, after his return from Suwanee.

That General Jackson had under his command, in Florida, about eighteen hundred militia, volunteers, and regulars, and fifteen hundred Indians under McIntosh. That these Indians were received into the service while General Gaines commanded, and were regularly mustered, in and out of service, by the United States officers.

No. 18.

Colonel GEORGE GIBSON, of the United States Army, being duly sworn, testifies and says, that he acted as quartermaster general in General Jackson's campaign against the Seminoles. That, on the 29th day of January, 1818, at New Orleans, he received an order from General Jackson to procure, and bring to Fort Scott a supply of rations, ordnance, and quartermaster's and hospital

stores. That he joined the General at Fort Gadsden, on the 25th of March. That the General then placed him in command of the post, with orders to send stores round to Fort St. Mark's, which was done. That, in April, Major Hogan, paymaster, joined the army. He brought information of the murders committed in Alabama, and on the Sapogus, a branch of the Conecuh, by the Indians. About the same time information was brought by the sloop Hector to Fort Gadsden, from Mobile, that a large number of Indians were in Pensacola. This was confirmed by Captain Rogers, of the Peacock, from Mobile. In consequence of this information, the deponent held the transport in readiness, and sent thirty-three thousand rations to Fort Scott, believing, from the information he had, that the army would move to the West. On the arrival of General Jackson the deponent gave him the above-mentioned information, and a number of letters on the subject of the Indian war to the westward of the Appalachicola. That, on the 6th of May, the General ordered the deponent to Mobile, by water, with instructions to send artillery and ammunition to Fort Montgomery, and to be there ready himself to meet him with artillery, forage, and provisions. The General was to advise the deponent by express of the point at which he was to meet him. That the deponent accordingly received an express, and met the General twelve miles from Pensacola. The deponent further says, that he thinks it probable, that news of the assemblage of Indians at Pensacola reached General Jackson at or near St. Mark's by a schooner which went from Pensacola, and was sent by Innerarity, and was a trading schooner loaded with sutler's stores. That she arrived at Fort Gadsden, after leaving St. Mark's, between the 1st and 4th of May. That Lieutenant Sands was sent from St. Mark's to Mobile for ammunition and artillery, as deponent understood and believes, and conducted it to an artillery officer. That the army entered Pensacola on the day after the deponent joined, viz: on the twenty-third day of May.

That the deponent was at New Orleans at the time Captain Call was sent to Pensacola in February. That the schooner Italiana arrived at Pensacola in January with a load of provisions from the contractor, which were landed at Pensacola, and the duties paid by Innerarity, that a few months before this the contractor had been refused permission to send provisions up the Escambia, and had been obliged to carry them by land from Fort Montgomery to Fort Crawford. That, in the opinion of the deponent, it was impracticable to supply Fort Crawford in the Winter by land, and as that place was in a suffering condition for want of provisions, the attempt was renewed by water. That it is about sixty miles from Fort Montgomery to Fort Crawford. That Arbuthnot's schooner, as deponent understood, was given by him to Colonel Brady, who assisted him in his trial, and was sold, as he heard, for about three or four hundred dollars.



## Defeat of the Seminole Indians, &amp;c.

No. 19.

## Statement of Doctor Bronaugh.

I was attached to General Jackson's staff during the whole Seminole campaign. At St. Mark's the General received information, by a vessel from Pensacola, of a large number of Indians having collected there; where they were furnished with provisions, arms, and munitions of war. Believe that Captain Sands was sent from St. Mark's for Mobile, in quest of a train of artillery, to have it at Fort Montgomery, subject to the General's orders. I understood from the General that he would have all his arrangements made and entered into, that everything might be in complete readiness, provided he should ultimately come to the conclusion to visit Pensacola. I am impressed with the belief that an actual determination to occupy this place, and the Barancas, was never formed until the protest of Governor Mazot was received on the line of March.

J. C. BRONAUGH, U. S. Army.

No. 20.

RICHARD K. CALL, captain United States 1st infantry, acting as an aid to General Jackson, being duly sworn, testifies and says, that, in the campaign against the Seminoles, he first joined General Jackson at Fort Gadsden, and afterwards, on the arrival of the Tennessee volunteers, he joined him again near St. Mark's; that he understood that General Jackson determined upon going to Pensacola, on hearing that the Governor of that place had protested against the passage of supplies up the Escambia river, and in consequence of subsequent information relative to the assemblage of Indians at Pensacola; that the deponent had been at Pensacola by orders of Colonel Trimble, commanding at New Orleans; that he arrived there on the 21st of February, 1818, and remained there until the 26th; that his orders were to obtain a passage for supplies up the Escambia to Fort Crawford; that the Governor of Pensacola stated to the deponent, that he considered it unsafe for him to give the privilege asked for, as he was under great apprehensions, if he did so, the Indians would take possession of St. Mark's, or give the Spaniards in that place great annoyance; that deponent made report of the above to Colonel Trimble, and also gave information of this protest or objection of the Governor to General Jackson; that, on the return of the army from Suwanee, Lieutenant Sands was sent from St. Mark's to Mobile for cannon; that, at Fort Gadsden or St. Marks, deponent heard that General Jackson had a letter from Innerarity to Doyle or Hambly, informing that there were a number of hostile Indians at Pensacola; the number he thinks was said to be five hundred.

Deponent further says, that Arbuthnot's schooner was given by him to Colonel William Brady, who, as the deponent understood, defended him before the court-martial; that he does not know what became of the property on board of the

schooner, consisting of skins and some wearing apparel, among which was Ambrister's uniform; that the property taken at Suwanee consisted principally of horses and cattle; that the army subsisted on the cattle, and that the other property was given to the friendly Indians; that the negroes taken were given to the Indians; that, as he understood, Colonel Arbuckle gave fifty dollars a head to the Indians for every negro delivered to him at Fort Gadsden, intending to deliver them to their owners when called for. Deponent further says, that General Starks, from Georgia, purchased some of the surrendered property.

No. 21.

## Statement of John H. Eaton.

Some time in the Fall of 1817, I proposed to Mr. James Jackson, of Nashville, to join with me in the purchase of lots in Pensacola, and lands in and about there: he united with me; and six other gentlemen were afterwards associated. We employed John Donnelson (who became also concerned) to proceed to Pensacola and make the purchases, taking care not to extend them beyond sixteen thousand dollars. My inducement to making this adventure was, that I believed the country would ultimately belong to the United States, and I was impressed with the belief that it would be at no distant period; this, however, was a mere impression, and founded on information derived from no source except my own opinions.

I proposed asking a letter of introduction from General Jackson to the Governor of Pensacola, which the General gave; this was thought by us necessary from a knowledge that the Indians frequently interrupted American citizens while in that city; and this danger we believed would be avoided by having the protection of the Governor, which we supposed could and would be attained by introductory letters from respectable sources. I think it was some time in November that Mr. Donnelson proceeded on his mission from Nashville, in company with a Mr. Gordon, who we employed to go with him.

The purchases were made, consisting of a number of unimproved lots in Pensacola, sixty acres of ground adjoining the town, on the lower side, and about two thousand acres on the bay two or three miles out. The deeds I have seen, and are now at Nashville, written in the Spanish language, made to Mr. Donnelson, and by him since conveyed to the eight gentlemen interested originally. Mr. Donnelson stated to me that his first purchase was refused to be acquiesced in by the Governor of Pensacola, alleging that American citizens should not buy lands there; his objection, however, was withdrawn afterwards, and Mr. Donnelson was permitted to go on and complete his purchases.

I aver that General Jackson is not, nor ever was, in any manner concerned with this company; nor was it entered into from any conversation, hint, or opinion ever given by General

## Defeat of the Seminole Indians, &amp;c.

Jackson, but arose entirely from the circumstances first stated in this affidavit—the belief that the country would, ere long, belong to this Government; and that, if so, the speculation would prove a beneficial one.

The eight gentlemen concerned are as follows:

James Jackson, sen.,	John McCray,
James Jackson, jr.,	John Jackson,
John H. Eaton,	Thos. Childress,
John C. McLemore,	John Donnelson.

The above gentlemen bearing the same name are in nowise connected or related to General Jackson; the General, in fact, has no relatives; all his family having perished during the Revolutionary war, in this country, as I have ever understood. Mr. Donnelson is nephew to Mrs. Jackson, the wife of General Jackson.

Question. Did you have any conversation with General Jackson before or after getting his orders to go to the Seminole war?

Answer. After getting his orders I did not; shortly after our association was formed I saw General Jackson, and named to him what had been done; and his remark was, that he had no doubt but that our project would turn out advantageously, or in words to this effect; but General Jackson's opinion rested on no better foundation than our own, a belief prevailing through the country at that time that the country was about to be ceded. Many purchases were made in Pensacola last Fall, I have understood, founded, no doubt, on this general public impression.

Sworn to:

JNO. H. EATON.

No. 22.

## Colonel King to Major General Jackson.

PENSACOLA, October 15, 1818.

SIR: Captain Boyles returned to this place on the 13th, having been wounded in an affair with a party of hostile Indians near the Choctawhatchy.

He reports, that, on the 6th instant, he left his boats in Yellow Water, and, with a detachment of twenty-two men on foot, pursued a party of Indians whose track he had discovered. He overtook them on the 8th, about twenty-five in number, attacked and defeated them, killing four, wounding many, and making some prisoners. A large quantity of ammunition, and all their plunder, fell into his hands.

The following morning, just before day, the party defeated the day before, supposed to have been reinforced, attacked him in his camp; but he succeeded in repulsing them with loss, notwithstanding one-half of his men fled at the first onset, and were never again brought into action. In this affair, the captain himself received a musket ball in the side, and had one of his men dangerously wounded; this, together with the want of provisions, compelled him to return to Pensacola, bringing with him sixteen prisoners. He reports to have made seven scalps during the expedition.

The rangers being very much fatigued, I shall permit them to rest a few days. I hope Captain Boyles will be sufficiently recovered to resume his command. I shall then once more order him to the Choctawhatchy, where he is of opinion a party is concealed, of from forty to fifty warriors, who have resolved never to surrender, confiding in the expected return of the Spaniards, when they are sure of protection and supplies, and will again commence their depredations on our settlements. This expedition, I flatter myself, of Captain Boyles's will disappoint and render them harmless, before the province is evacuated.

I cannot close this communication without again calling your attention to the meritorious conduct of Captain Boyles. In zeal, activity, and perseverance, he is surpassed by no partisan I have ever known.

W. KING, Col. 4th regiment.

Major Gen. A. JACKSON,  
Com. Division of the South.

Major Fanning, commanding St. Mark's, to Major General Gaines.

FORT ST. MARK'S, EAST FLORIDA.

November 27, 1818.

SIR: From an Indian family arrived here yesterday, from Tampa Bay, I learn that the Seminoles have received from St. Augustine ten pack-horse loads of ammunition, and that it was distributed among them sixteen days ago. That an English trading vessel was at Tampa a month since. Some provisions and ammunition were procured from her by the enemy. That, ten days past, two English trading vessels were at Snake island, not far from the mouth of Sukaney river.

Thus, there can be but little doubt of the Seminoles being now well supplied with ammunition and provisions.

The Spaniards recommended to the enemy united and vigorous operations against us, telling them that they themselves were going to take St. Marks, which they expected to do without fighting, in the same manner it was taken from them. That from St. Mark's they would go to Fort Gadsden, where they expected some little resistance, and finally to Pensacola.

These circumstances have put new life among the Sukaney Indians, but Kinbajah says he has heard such talks too long, and that he will collect his people and go back to his old situation, and be on friendly terms with the United States. The other Indians who left their towns and went to Sukaney, during our last campaign, are moving, or about to move, back again, and wish to have nothing further to do with the war.

There is too much appearance of truth in this relation, not to deserve attention; and, in conformity to the spirit of the general order of the 16th September, I shall not give up this post to the Spaniards, should they arrive, until I may be convinced of the falsehood of the report respect-



*Defeat of the Seminole Indians, &c.*

ing their conduct, or until I may receive orders so to do from superior authority.

I have the honor to be, yours, &c.

A. C. W. FANNING,  
Commanding St. Mark's.

Major General E. P. GAINES.

Certified:

DANIEL E. BURCH, A. D. C.

*Extract of a letter from General Jackson to the Secretary of War, dated*

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, November 28, 1818.

I enclose you a copy of a letter from Colonel King, detailing a conflict between Capt. Boyles, of the Rangers, and a detachment of hostile warriors. The conduct of the captain, in this affair, was meritorious, and I trust, ere this, he has recovered from his wound, and disappointed the hopes of the warriors of the Choctawhatchy. A short time since every mail from the South reported the pleasing intelligence of the general submission of the Seminoles; the cause of the resumption of hostilities is stated in the Colonel's communication. The fact that the news of the restoration of Pensacola to Spain had revived their hopes, and again excited them to war, is an additional evidence of the propriety of my operations in the Floridas, and has confirmed me in my unalterable opinion, that the Seminole conflict could not have been terminated by any other means than those adopted. My only apprehensions are, that my operations were not sufficiently extensive to insure permanent tranquillity in the South. St. Augustine is still in possession of the Spaniards, and the whole peninsula is beyond the control of our garrisons. The situation of Florida, in relation to our country, is peculiar, and demands the early attention of our Government. Bordering almost on the Creek nation, and within the vicinity of the four southern tribes of Indians, her territory will always prove an asylum to the disaffected and restless savages, as well as to a more dangerous population, unless some energetic Government can be established to control or exclude these interlopers. The savages and negroes who have not submitted to our authority have fled east of the Suwanoy river, and whether settled in the Atoch-away plains, near St. Augustine, or more southwardly, we have yet to learn. Their force, no doubt, is too inconsiderable to create any serious disturbances with this country; but, if unmolested, they may acquire confidence with their strength, and prove a destructive enemy to our frontier settlers. They should be pursued before they recover from the panic of our last operations.

I submit to your consideration military operations for this Spring, connected with the occupancy of the bay of Tampa. The plan proposed is to embark, from Fort Gadsden or Pensacola, five hundred regulars, for the bay of Tampa, to-

gether with a force, say one hundred and fifty or two hundred men, adequate to the maintaining of the work to be constructed at that point. Simultaneous with this movement, to push a force of five or six hundred men up to the St. John's, and occupy a position at or near the old Indian town Pecolota. This force, as soon as strongly fortified, to be actively employed in scouring the country as far west as Suwanoy, forcing to, or receiving the submission of the hostile Indians, who will be sent into the interior of the Creek nation. The troops detached to the bay of Tampa having constructed and garrisoned a suitable work, having reconnoitered the neighboring country, and destroyed Woodbine's negro establishment, to march to the position occupied on the St. John's, deviating only where Indian villages or settlements (if there are any in the country) invite their attention. From the best information I can collect, the march from Tampa to the point proposed on the St. John's would not exceed seven days. Each man, from my own experience, can march with eight days' rations on his back, which, with due economy, will last twelve—time sufficient to perform the operation intended. The expense of the expedition would be trifling, as it is proposed that none but regulars should be employed, and the advantage to the nation incalculable, as finally crushing savage hostilities in the South, and affording active service to some of our regiments who have grown sluggish from the inactivity of garrison duties.

Major General Gaines to Governor Coppingier.

HEADQ'RS, AMELIA ISLAND,  
December 28, 1818.

Sir: I have received information that Augustus Santee, a sergeant of the United States artillery, who had obtained from his commanding officer a temporary leave of absence, was a few days since fired on, arrested, and imprisoned, by a party of armed men at St. John's, headed by a person assuming the rank and character of a Spanish officer.

It is likewise reported, that two citizens of the United States were by the same party fired on, wounded, and imprisoned; and that the perpetrators of this outrage, with a view to shelter their conduct under the veil of Spanish authority, took the sergeant and citizen by force towards St. Augustine, whither it was understood they were to be carried, under a pretext that they would there be arraigned and tried as offenders.

Presuming that the information given me upon this subject is correct, I hasten to demand of you the immediate liberation of the sergeant and citizens thus arrested, wounded, and imprisoned, within your government.

Major James M. Glassell, of the general staff of the army of the United States, is instructed to hand you this letter, and to take charge of, and order to this place, the persons confined; and, by this officer, I shall expect to receive from you a proper explanation, with the assurance that the

*Defeat of the Seminole Indians, &c.*

perpetrators of this outrage will be punished as its enormity demands. I have, &c.

E. P. GAINES, Maj. Gen. com'd'g.

His Ex'y Gov. COPPINGIER, St. Augustine.

HEADQ'RS, FERNANDINA, E. F.,  
December 29, 1818.

Sir: I have received information from several persons, lately from St. Augustine, that a party of armed men, headed by a person called Captain Miller, assuming the rank and authority of a Spanish officer, about the 23d instant, fired upon Augustus Santee, a sergeant of the United States artillery, with two citizens of the State of Georgia. The sergeant had obtained a short leave of absence, to accompany his brother on a visit to St. John's. This brother and the other citizen are reported to have been badly wounded. The sergeant and one of his companions (the other being unable to travel) were seen on the 24th, marching under guard towards St. Augustine.

I have addressed a note to Governor Coppingier, demanding the immediate liberation of the sergeant and other persons confined; a copy is enclosed herewith, marked No. 1.

The Captain Miller above mentioned is reported to be a deserter from our service; he is, nevertheless, understood to be a captain of the Florida militia, and to have acted under the authority of the Spanish Governor.

The sergeant was absent without my knowledge; the unfortunate citizens who were wounded are represented to be disorderly men, and are suspected of having gone to Florida with a design to arrest some fugitive offender who had escaped from prison in Georgia. This impression, however, appears to be founded only in vague rumor. Be this as it may, there is, notwithstanding, much ground to believe that the Spanish authorities only want the means to enable them to give us open and unequivocal proofs of their settled hostility, and intimate connexion with our red enemies. In support of this opinion, I enclose herewith No. 2, a copy of a letter from Major Fanning, commanding St. Marks, received by the last mail. By this it appears, from Indian testimony, that the Spaniards at St. Augustine, with all their affected purity, have lately furnished hostile Indians, at the bay of Tampa, with ten horse-loads of ammunition, recommending to them united and vigorous operations against us. I shall hold myself in readiness to do what can be done with the limited means under my control, and shall strike at any force that may present itself.

Permit me to request, that an officer of the Quartermaster General's department may be ordered to join me, with the sum of twenty thousand dollars, for defraying the expenses of that department; and that a battalion of infantry may be ordered to this place, in addition to my present command. I have the honor to be, &c.

EDMUND P. GAINES.

Hon. J. C. CALHOUN, Secretary of War.  
15th CON. 2d SESS.—73

[Mr. Lacock communicated the following additional documents to the Senate, March 3, 1819.]

WASHINGTON, March 3, 1819.

On an examination before the Special Committee of the Senate, on the subject of the Seminole war, I was told by the honorable Mr. Burrell, one of the committee, that what he (Mr. Burrell) then took down of my testimony was a memorandum; and if used, that my deposition should be written out, and submitted to me for correction. The deposition was not submitted, but was sent at once to the printer, who, believing that several words were omitted, sent it to me for revision. I then waited on two of the committee Mr. Lacock and Mr. Burrell, and obtained leave to strike out a part; but they would not permit me to make any additions. The parts struck out were not material. What I wished to add was the substance of an order, the following extract from which I beg leave to make a part of this deposition.

GEORGE GIBSON.

*Extract of an order to Colonel Gibson, dated*

CAMP, 26 miles east of St. Mark's,  
24th April, 1818.

General McIntosh and his warriors will be at Fort Scott, and will probably take much of the supplies ordered up, and as the Tennessee volunteers will pass from Gadsden to that point, he wishes you to despatch a boat with a further supply, and should the corn have arrived from New Orleans last ordered, you will forward a considerable quantity also to enable the volunteers' horses to reach Fort Hawkins.

ROBERT BUTLER, Adj't Gen.

The order from which this extract is made, together with the order from which the following is extracted, were submitted through Mr. Eaton to the committee. I beg leave also to make the second extract a part of this deposition, to wit:

*Extract of another letter to Colonel Gibson, dated*

BEFORE ST. MARK'S, April 9, 1818.

This is caused by one of those deluded wretches who have asked for peace, and it is granted them. Seventeen men, eighteen women, and thirty children, have surrendered; and they ask permission to pass by water to Fort Gadsden. This is granted them, and they will remain here until the runner returns by whom you will write to the commanding officer of St. Mark's, Captain Vashon, under what badge you know them.

ANDREW JACKSON.

DISTRICT OF COLUMBIA,  
County of Washington, to wit:

On this 3d day of March, 1819, George Gibson personally appeared before the subscriber, a justice of the peace in and for the county aforesaid and made oath, in due form of law, that the matters and things, as set forth in the annexed statement, are true as stated.

Sworn before

JOSEPH FORREST.



ROBERT BUTLER, adjutant general of the southern division of the Army of the United States, being duly sworn, testifies that, in the Summer or Fall of 1817, Mr. John Donnelson, of the neighborhood of Nashville, went to Pensacola, and purchased lots of land there, with the approbation of the Government; that the deponent had heard that Mr. James Jackson, of Nashville, was concerned with him, and was the only person concerned; he also understood that Donnelson's first view in going to Pensacola was for the benefit of his health; that Mr. Donnelson is nephew of General Jackson's wife; that he does not know the amount of Donnelson's purchase; that he does not know, nor does he believe, that General Jackson had, or expected to have, any interest in said purchase, nor did he ever hear it even suggested.

The deponent further saith, that, on the 10th January, 1818, General Jackson addressed a circular to the old volunteer officers, to raise volunteers for the Seminole campaign, in which the following clause is found: "The grade of the officers to be determined by themselves, or the platoon officers of the regiment. The officers raising companies to command." The deponent has heard that an election was held, and the rank of the field officers established in that way, and not appointed by General Jackson, as stated in the deponent's affidavit, before the committee of the Senate, as positive, when the deponent then stated it as matter of opinion only. Also, that the Governor of Tennessee was at Nashville, which appears, from reference to papers, was not the case. The deponent further states that General Jackson received information at St. Mark's, on his return from Suwanee, that there were about five hundred hostile Indians at Pensacola who received ammunition and provisions from the Governor. In consequence of which, the General ordered Lieutenant Sands, of the artillery, to Mobile, to hold two field pieces of field artillery in readiness for his orders. On the arrival of the army at Fort Gadsden, the General received information of several murders having been committed on the Federal Road, and was shown a letter, said to be private, from a gentleman at Pensacola to Mr. Doyle, as the deponent believes, stating that a large number of Indians were in Pensacola, and depredating on the property of the citizens; this information determined the General to change his route for Tennessee by Pensacola, and orders were given to Colonel Gibson to proceed to Mobile, and afford Lieutenant Sands every facility in moving the artillery to Fort Montgomery to await the General's order, which was given, on nearing the Escambia, by express, requiring the artillery to form a junction with the army, after crossing that river, which was executed. The General remarked to the deponent, on march to Pensacola, that if he found the information true on reaching that place, he would demand a surrender of it; and the deponent believes that the determination of the General to occupy Pensacola and Barancas was made on receiving the protest of the Governor,

and learning that his provisions were stopped by him at the former place. That at the time the army attacked Mickasuky, there were not more than five hundred Indian warriors imbodyed, nor does the deponent believe there were, at any time during the war, more than five or six hundred imbodyed at any one place; that, from the nature of the subject, this statement must be conjectural; that the enemy's warriors were in general well armed; that deponent was told there were about thirteen hundred souls at Suwanee, of which two hundred and fifty, or three hundred, were fighting men; that our army had one man killed and four wounded, in actions with the Indians during the campaign, and two killed at the Barancas. Deponent further says, that General Jackson received from a private source a plan of the fortress of St. Augustine; and, as the deponent believes, it was sent to the General at St. Mark's, or Fort Gadsden, after his return from Suwanee; that General Jackson had under his command in Florida, from recollection, about eighteen hundred regulars, volunteers, and militia, and about fifteen hundred Indians under McIntosh; and that the Indians were received and mustered into the service of the United States, under the orders of Brevet Major General Gaines, and mustered out of service under orders of Major General Jackson, by a regular officer.

This deponent deems it due to himself to state that the deposition published with the report of the committee of the Senate, under his name, was not written by him, but was taken down by Mr. Burrell of that committee, and a promise given to the deponent that, when it was thrown into form, it would be submitted for correction and signature, which was not done, although the committee were twice informed, by one of its members, at the request of this deponent, that parts thereof were not correct, hence the deponent was not able to give the necessary correction which he would have done from an examination of papers, and necessary reflection.

ROBERT BUTLER.

DISTRICT OF COLUMBIA,

County of Washington, to wit:

On this 3d day of March, 1819, Robert Butler personally appeared before the undersigned, a Justice of the peace in and for the county aforesaid, and made oath on the Holy Evangelists of Almighty God, that the matters and things, as set forth in the foregoing, are true as stated.

Sworn before

JOSEPH FORREST.

[On the 23d of February, 1820, Mr. Rufus King presented to the Senate the following memorial and documents:]

*Memorial of Andrew Jackson, Major General in the Army of the United States, and Commander of the Southern Division.*

To the honorable the Senate of the United States:

On the 18th of December, 1818, your honorable body resolved "that the Message of the

President, and documents relative to the Seminole war, be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States troops into West Florida; whether the officers in command at Pensacola and St. Mark's were amenable to, and under the control of Spain; and particularly what circumstances existed to authorize or justify the commanding General in taking possession of those posts."

In conformity with this resolution, a select committee of five persons of your honorable body was appointed, who, on the 24th of February, 1819, made a report.

The committee had ample time for a correct examination of the subject submitted to their consideration, and means by which to have been fully satisfied of the innocence of your respondent; yet, in their report, has he been accused of crimes against the laws and constitution of his country. Upon a review of that document, your respondent is free to declare that both the narrative of facts, and the arguments deduced from them, are unsound and erroneous. The incorrect impressions with which the committee seem to have labored have, in the opinion of your memorialist, given to this subject a distorted aspect, and thrown around it a deceptive coloring.

With striking a deadly blow at the liberty of his country, and with acts of wanton usurpation, which, for their enormity, would vie with the most absolute despots—with the Directory of France, during their short career of madness and folly—has your respondent been charged. These accusations have for their object the rendering your respondent obnoxious to his fellow-citizens. Still, he will not so far forget the duty he owes himself, and the respect due the Senate and the American people, as to indulge recrimination. It is not the means by which truth can be arrived at, or the cause of justice and impartiality promoted. But, to vindicate himself from reproach, to ward off unmerited imputations, and to stand in opposition to a report of a committee of your body, which casts the severest censure, is a right secured to him, because it is the right of every citizen.

With all the respect, therefore, that is due to an august branch of the Government, but with that frankness and sincerity which conscious innocence demands to assume, does he present himself. It is a duty which he owes to himself, to his office, to his family, nay, to his country, for which he has encountered privations, and whose interest has always been dear and paramount to all other considerations. In doing this, he will not depart from that respect which is proper to be observed; nor will he hesitate to believe but that the Senate, on an impartial examination of the facts, will come to conclusions different from what their committee have arrived at.

The manner in which the inquiry was conducted by the committee is believed to have been novel; a mass of testimony, tending seriously to affect the reputation of an individual, was

collected; and, although it was proposed, yet was an opportunity denied him, of appearing before them to offer any statement or explanation in his power, in relation to those subjects upon which doubts and difficulties might arise. He was deprived, by this refusal, of the privilege of confronting his accusers, and of interrogating and cross-examining witnesses summoned for his conviction. Such testimony only as the committee chose to select was heard, and, when published to the world, declared a language different from what the witness intended.

By refusing the accused an opportunity to confront and cross-examine witnesses, how easily may be indulged in rancorous invective, and occasions sought to vent malignant and implacable resentments. Your respondent does not pretend to assert that anything of the kind occurred during the present investigation, but has barely adverted to it as forming a portion of the evil consequences which might arise from so informal a method of inquiry. To adopt such a course, is to prostrate the rules of judicial proceedings, to violate every maxim of justice, and to trample down all the sacred guaranties of the Constitution. He has been taught to believe that, agreeably to the provisions of our *magna charta*, every individual was secure in his life, liberty, property, and reputation; and that he could not be tried before any constituted authority of the nation without being heard in his defence, permitted to introduce exculpatory evidence, to cross-examine and confront his accusers. This is one of the choicest fruits of our republican institutions, and is an essential preservative of liberty; it should be guarded with vestal vigilance, and for no purpose whatever subjected to violation by any branch or department of the Government. In its maintenance there is safety, but danger in departure.

The committee, whilst advertent to the origin of the Seminole war, have omitted to enumerate the Spanish and Indian aggressions on our rights, as a justification of the measures which were adopted in its prosecution. They have rather employed palliatives for the outrages of the enemy, and given an aggravated aspect to the measures which were adopted for the peace and security of our frontiers. Add to this the manner in which the testimony was collected, the misconception of facts and incorrect arguments contained in the report, the time at which it was published, and the style in which it was composed; and your respondent cannot forego the belief that it evinces an hostility to the Executive, and to the military officers under his command.

It is a subject of no small surprise that this spirit of opposition should have diffused itself, after the luminous arrangement of facts, with the conclusive reasoning and inferences arising from the laws of nations and the United States, by Mr. Secretary Adams, as well as the ample and satisfactory discussion in the House of Representatives, the great inquest of the nation. Moreover, Congress had made provision for a vigorous pro-



secution of the Seminole war in the Spring of 1813, in conformity to the suggestion of the President in his Message of the month of March, when he detailed to them every information in relation to that subject. The citizens of Georgia and Alabama had made repeated calls on the General Government for protection; and, with a full knowledge of all the circumstances touching the causes and progress of that war, Congress authorized the calling out an additional brigade of militia, and made liberal appropriations for the payment of the Georgia troops then in service. The President, too, who is commander-in-chief of the army and navy of the United States, and who should be the proper judge to determine whether his orders be faithfully executed, had made the acts of his officers his own, not only by the express authority which he had conferred, but by subsequent adoption also.

With a large majority of the people of the United States the defensive measures adopted by the Government, as also the reasons by which they had been governed, were entirely satisfactory, in consequence of its being perceived that no other course could have been pursued which would have secured the indispensable purposes for which the Seminole war had been prosecuted. That those measures should be denounced as a violation of the laws and Constitution, by those very persons who originally gave them their suffrages, is certainly calculated to excite the astonishment of every impartial observer.

Under such circumstances it was to have been anticipated that all controversy, relative to the agency of your respondent in giving rise to the war, would have been completely put to rest. It was confidently expected that he would have escaped the censure of your committee; reproaches which, if sanctioned by your honorable body, are little inferior to cashiering; besides, no instance is to be found on record where a similar course was adopted in relation to any of the Indian wars in which the United States have been engaged.

After all the above circumstances had transpired, and it was supposed that the subject of the Seminole war had been finally disposed of in the House of Representatives, your committee took it up with avidity, prosecuted it with an assiduity that was unexampled, and animadverted upon the conduct of the Executive, and his official agents, in a manner which is believed to be altogether strange and novel. By reiterations of mal-conduct they seem to have evinced a disposition to stamp upon the whole transaction, and those connected with it, infamy and disgrace.

Should the time ever arrive when a majority of any of the superior tribunals of the nation, influenced by party feelings, shall proceed to criminate a public officer, or effect his removal, in order to create a vacancy, or to gratify the ambition of a favorite partisan, then may private resentment, and the most angry passions, acquire an unbounded and dangerous control over their proceedings. Every sentiment of justice and humanity will be completely stifled, as well as all

regard for the Constitution and laws. The patriot will have ample cause to tremble for the honor of his country, and the perpetuity of her republican institutions. The venerable fabric of our liberties, which has been consecrated by the blood of our heroes, and the wisdom of our sages, will be imminently endangered, if not entirely buried in ruins.

That the charges preferred should have been published to the world, at a time to preclude all investigation, is a circumstance but little calculated to impart consolation, or to quiet the alarms of reputation assailed. No other sentiment can be indulged than that it was intended, by counteracting the decision of the House of Representatives previously made, to produce an unfavorable impression on the public mind, before anything could be offered as an antidote to the impressions it was intended to disseminate. Twelve months have almost elapsed since the publication of the report; all investigation has been necessarily postponed, and hence has additional, unmerited injury been sustained. The effect has been to excite prejudice, and thereby prevent that impartial examination which is so essential to correct determination. Calumny has been aided, suspicion left free to act, and the means of exciting public odium amply afforded. Resting on the eternal principles of truth and justice, and claiming for himself the high prerogative secured by the Constitution, this respondent asks to appear in his own vindication, and to submit the grounds of his defence, and the "motives" by which he has been actuated.

The first consideration which presents itself, is the authority under which your committee acted. Three propositions only are contained in the resolution of your honorable body, upon the second of which no report has been made, nor has your committee stated "what circumstances existed to authorize or justify the commanding General in taking possession of the Spanish posts." Instead of confining themselves within the pale of their powers, they have travelled over the whole ground occupied by the House of Representatives, in search of new subjects of inquiry not before touched on, or embraced within their powers.

So far as the committee have embraced within their investigation the original causes of the war; the withdrawal of the regular troops from the frontiers of Georgia; the employment of volunteers and friendly Indians; the execution of Arbuthnot and Ambrister; the order to take possession of St. Augustine, and the reasons and motives of your respondent in the conduct and management of the war, it is believed to be an act of supererogation, and a departure from sound practice. This objection is not made by your respondent upon the ground that he considers his conduct vulnerable, or from a wish to elude inquiry; but is barely mentioned as presumption of the strong disposition of your committee to affix censure upon his motives and actions.

Upon a careful examination of the discretionary orders which were directed to your respon-

dent from the Department of War, there can be no question but that they authorized and justified every measure which was adopted during the Seminole war, and should, at once, have acquitted him of all censure and responsibility. He was ordered to engage in offensive operations; to bring the war with the Seminoles to a speedy and successful termination, with exemplary punishment for hostilities so unprovoked; and to establish a peace on such conditions as would make it honorable and permanent. He was, in effect, charged with the management of the war, and vested with the powers necessary to give it effect. No orders could have been more ample, as to the selection of means, as well as to their application.

The massacre of Mrs. Garret and children, and the butchery of Lieutenant Scott and comrades, your respondent is informed, were the events which induced the Government to order him to take command of the operating army, and to prosecute the war with vigor and effect. They had determined to abandon the cautious and defensive policy hitherto adopted, and to pursue a new system of operations against the enemy. The orders directed to your respondent and General Gaines, subsequent to those tragical events, were entirely different from former ones; inasmuch as they were peremptory as to carrying on operations in Florida against the Seminole Indians.

The first order to your respondent had no reference to those issued to General Gaines, save that of the same date with his own, which was directed to him at Amelia Island, requiring his co-operation in the attack upon the Seminoles. In no part of it was a reference to any previous order to your respondent, or any other person, pointing out the most advisable means to be adopted, or limiting him in their choice or application. And even had the orders of General Gaines been obligatory, as the case which they contemplated never occurred, they must entirely have lost their force and effect. An order to perform a particular service, or to effect a specific object, without any limitation as to the means to be employed, leaves, it is conceived, an entire discretion with the officer as to their character and application—it then becomes a general power. It is also believed to be true that the limits of such an order cannot be transcended without an entire desertion of the object contemplated. The orders of your respondent completely superseded those directed to General Gaines; and, if so, he must stand acquitted of the high charge of having been guilty of their violation. Yet, if any doubt could exist upon this subject, the subsequent approval of the measures and motives of your respondent, by the Executive of the United States, completely settles all controversy.

In the first page of the report an effort is made to induce a belief that the Treaty of Fort Jackson was negotiated by your respondent, and that the hostilities of the Seminoles proceeded from its unjust and tyrannical demands. Upon this branch of the subject your respondent begs leave

to remark, that the General Government had some time previously settled the terms of capitulation, and your respondent, not as a commissioner or negotiator, but as the conqueror of the country, received their submission upon those terms—terms which demanded the surrender of their prophets, as well as the instigators of the war.

Those Indians, having been routed at Hoithle-wallee, in April, 1814, fled to Pensacola, where they were protected, clothed, fed, and supplied with munitions of war, by the Spanish authorities. They never were parties to the treaty at Fort Jackson; and, however they might have been dissatisfied with its conditions, as demanded by the Government, their dissatisfaction and hostility were excited by Spanish agents and British emissaries resident among them; one of whom was the infamous Woodbine, who was then engaged in enlisting them in his service by the distribution of presents, and in disciplining them for war. These facts might have been ascertained by a reference to the correspondence between your respondent and the Governor of Pensacola, which were on file in the War Department.

Upon the subject of occupying the Spanish posts your respondent thinks proper to observe, that he deemed it essentially necessary to the execution of his orders. It would have been impossible to have obtained a speedy and effectual termination of the war, so long as the commandants of those fortresses furnished the enemy with supplies and munitions of war, and aided, abetted, and encouraged them in their savage hostilities against our frontier settlements.

They had both become the rendezvous for embodying hostile negroes and Indians, and for giving them comfort and protection. According to the acknowledgments of her own commanding officers, the authority of Spain over Florida had ceased, and was to be considered as *derelict* to all intents and purposes. Your respondent did not believe himself under any obligation to respect an authority that did not exist; a sovereignty that was not asserted or exercised; reason nor law could require him to respect rights that were suffered to be usurped for the purpose of promoting a most cruel and sanguinary war against the citizens of the United States. These posts had been alternately substituted for the fort, on the Appalachicola, and thither the negroes and Indians had retreated for shelter and protection, after their defeats at Mickasuky. They constituted the laboratories of the war, and there were their materials collected and organized for active service. They were in reality Indian forts and store-houses, attempted to be protected by the Spanish flag; and had they been in the exclusive possession of our savage enemies, they could not have derived greater advantages, been more benefited, nor be more seriously injured.

Against such an enemy, what measures were to be adopted under orders that required a speedy and effectual termination of the war; and which were to give permanent peace and security to our Southern frontier? They were not to be



met and fought in the open plain, where a decisive blow might be given, and the contest ended; but were to be sought for in the fortresses of Spain, and in the swamps of a wilderness, where they might contend at leisure, and recede from the contest, the moment it became hazardous. Partial remedies to prevent such evils had already been adopted by the American Government. During the war of 1812, Spain had suffered Great Britain to violate her neutrality in Florida, to the injury and annoyance of the United States. In 1814, Pensacola was entered by United States troops, and a lesson, it was hoped, enforced, that however this Government was disposed to cultivate peace, she could not preserve it by permitting Spain, regardless of existing treaties, to outrage her dearest rights. She was called upon to maintain her neutrality according to the injunctions of the law of nations, and the provisions of the treaty of 1795. She pleaded inability to comply, and the American Government forgave the injury. Peace was at length restored to the United States; yet still Spain, regardless of her obligations, permitted British agents to reside within the bosom of Florida, and to excite the Indians and negroes to pillage and to bloodshed. Remonstrance was again employed, but in vain. Inability was still the pretext, and the same tragical scenes, witnessed in 1814, were now repeated. The savages who had causelessly made war, and who were shedding the blood of our border settlers, being thus openly received and comforted by the Spanish authorities, were such acts of hostility, were so flagrant a violation of the good understanding existing between the United States and Spain, as, in the opinion of your respondent, wholly to merge the neutral character. And your respondent considers that he would have been guilty of a dereliction of duty, had he drawn up his troops by way of cordon, and remained on the Georgia frontier, receiving the reports of Indian robberies and massacres, only that he might transmit them to the Secretary of War; for he could have done no more.

Both of those fortresses were clearly identified as "associates" in the war, and were both equally under the control of the negroes and Indians. Ambrister had appeared before St. Mark's with four or five hundred under his command; and an equal number had been seen about Pensacola, the most of whom were equipped for war by Governor Mazot. In both instances, the strength of the enemy was amply sufficient for a forcible occupation of the posts. Moreover, the Governor of Pensacola had refused the passage of provisions up the Escambia, destined for our starving troops at Fort Crawford. An United States schooner, called the *Amelia*, had been detained at that place until the town was taken, when were obtained from her provisions for the troops. Another provision vessel, ordered into the *Perdido*, had been captured by boats sent from the *Barancas*, and placed under the guns of the fort, but fortunately made her escape under cover of the darkness of the night.

In this state of things, had your respondent been compelled to suspend operations, and to wait for additional orders from the War Department, the object of anticipating the enemy would have been entirely defeated. He would have been compelled to retrograde to the interior, for the want of supplies, leaving many points of the frontier exposed to the ruthless barbarities of exasperated savages. The militia force would have become inactive and discontented; their time would have expired before anything effectual could have been done; and the campaign thus rendered completely abortive. If St. Mark's was necessary to the defence of the frontier of Georgia, Pensacola was much more so for the peace and security of Alabama. In consequence, too, of its being located on the seaboard, it afforded much greater facilities to our enemies, for it commanded the navigation of the Escambia, up which had, necessarily, to pass, all the supplies for our forts erected on its tributary streams. The occupation of this post was not determined upon, until the reception of Governor Bibb's letter, at the Escambia, detailing many outrages, and communicating the intelligence that Holmes and his warriors were then in Pensacola; as also, the receipt of Governor Mazot's protest, complaining of a violation of his neutrality, and ordering your respondent to retire from West Florida, accompanied with a threat to coerce him, if he did not comply. Lieutenant Sands had been despatched from St. Mark's, with orders to hold his artillery in readiness to meet future contingencies, should they occur; but he never was directed to convey it to a given point, until after your respondent reached the Choctawhatchy.

Nor were those proceedings considered acts of war, as represented by the committee. By adverting to the correspondence with the commandant of St. Mark's, the Governor of Pensacola, and the Secretary of War, it may be distinctly seen, that your respondent entered the territory of Spain as a friend, to chastise an enemy of both nations, and to enforce those obligations and duties which the Spanish authorities had pleaded inability to perform; that all his operations were bottomed on the broad principle of self-defence, authorized by the law of nature and of nations. They were not directed against the Government of Spain, but against the fortresses which had become the strongholds, the rendezvous, of negroes and Indians, and whose neutrality was prostrated to the basest purposes. They were seized because they were Indian posts to all intents and purposes. Spain has disavowed the conduct of her official agents; and the American Government has declared that a war was not intended with that nation.

Although the Spanish authorities were guilty of many open and undisguised acts of hostility, yet the sovereignty of Spain over Florida was altogether ideal. Her commandants had repeatedly acknowledged that they were unable to restrain the savages, and that the Indian chiefs and British emissaries were proceeding contrary to their wishes, and in violation of their laws;

hence were these fortresses occupied, as the only measure which could give a speedy and permanent peace to our bleeding frontiers. The Spanish Government did not consider it an act of war, nor did Mr. Pizarro or Don Onis complain of it as a measure of that description. The two Governments have acknowledged themselves at peace, and have since kept up a regular and friendly intercourse with each other in the shape of negotiation.

Neither were the garrisons made prisoners of war, or treated like conquered enemies, as is stated by your committee. The contrary will be made clearly apparent, by an examination of the conditions upon which the Spanish posts were occupied; to which your respondent begs leave to refer. Your committee acknowledge that the Spanish authorities in Florida were guilty of acts of war against the United States; but that her neutral character was not wholly merged in that of the enemy, in consequence of her employing moral and not physical force. If giving the negroes and Indians encouragement in their outrages, by the purchase of their plunder; furnishing them with aid and protection, supplies and munitions of war, did not wholly merge the neutrality of the Spanish authorities, and make them associates in the war, your respondent confesses that he is at a loss for a definition of terms.

Agreeably to this idea, it would be improper to consider the population of a nation, with whom we were at war, as enemies, save those who were in the field; for it is only the latter who resort to "physical force." This distinction is entirely new, and is in contradiction to many of the most clear and long established principles of good sense and national law.

It is stated by your committee, that all authority at Pensacola was put down by the sword, and that a new Government was established, "the powers of which, both civil and military, were vested in military officers." Every one would be induced to understand, from this, that the terms of capitulation were arbitrarily and tyrannically imposed upon Governor Mazot, when, in fact, they were proposed by himself, and the civil and military Government was dissolved at his own instance. The temporary Governor, Colonel King, was an officer of the United States' army; but civil officers were appointed to the different departments from among the citizens; and Mr. McKinsey, a citizen of Mobile, was placed at the head of the magistracy. All that was contemplated was to organize some kind of civil authority for the protection of the lives, liberty, and property, of the citizens, during the temporary occupancy of the fortress. The same Government to which the people had been accustomed was retained. It became absolutely necessary to establish the revenue laws of the United States, in order to check the smuggling which had been carried on successfully in this quarter for many years, as well as to admit the American merchant to an equal participation in trade, which would have

been denied under the partial operations of the Spanish commercial code.

The executions of the Indian chiefs and British outlaws are justifiable on the ground of precedent and the laws of nations. One of the former was a prophet, who had employed his superstitious influence, and the promises of his transatlantic friends, to stimulate his deluded brethren to deeds of rapine and massacre. The other commanded in person the party who perpetrated the cold-blooded butchery of Lieutenant Scott and his unfortunate companions. Both had been engaged in most of the murders committed, and were active instigators of the savage war which raged on our defenceless frontier.

Acting as chiefs of the negroes and Indians, Arbuthnot and Ambrister, by numerous acts of atrocity, had become identified with those monsters—*associates* in the war. They were the principal authors of the hostilities of the ferocious savages, who observed none of the rules of civilized warfare, who never gave quarter, and only took prisoners for the purpose of torturing! They were, without authority, principals in an unlawful war. Their mode of carrying it on was characterized by plunder, massacre, destruction, and revenge; and was in open violation of the laws of war and of nations. Great Britain would not interfere to prevent those miscreants from instigating the fugitive negroes and the Indians from burning, and pillaging, and scalping, the inhabitants of Georgia and Alabama; but she disowned them, and left them to their fate. The Spanish authorities would not, or could not, interfere, and the Indians regarded them as friends and associates. Both acted as chiefs of the motley banditti, giving them counsel and exciting them to war; and one of them actually led those black and red combatants to battle. They both officiated as Indian agents, in writing to Spanish Governors and British Ministers, stating their grievances, and soliciting assistance; and sometimes as quartermasters, procuring supplies, and furnishing munitions of war.

Under these circumstances, it is believed that they merited death, whether they were placed upon an equality with the outlawed Red Sticks, or fugitive negroes, who were in a state of open rebellion. Indeed, their criminality was of a deeper dye than that of the Indian chiefs. They were the paymasters for human scalps; and, to discharge that high trust, had exiled themselves from their native land, plunged into the recesses of the wilderness, and groped their way to the Indian camp, for the express purpose of working upon the feelings of the ignorant and untutored savages, to instigate them to lay waste the abodes of industry and innocence, and stain our soil with the blood of slaughtered women and children! Enjoying the light of education, yet devoted to this infamous employment, the active agents in a war which was marked in its progress by plunder and massacre! Should mercy have been extended to wretches who excited such a war, and who, within a short period, would have renewed the same tragical scenes? As associates



*Defeat of the Seminole Indians, &c.*

of savages, who respected none of the laws of civilized warfare, they could not claim the benefit or protection of those laws, for they were not parties. They were as much outlaws to all its provisions, as a pirate of the ocean. Such wretches are more criminal than any painted Red Stick; and to pardon them would be treachery to mankind. If, in the ordinary course of justice, it has been deemed wise and politic to take the life of an offender for the murder of a single individual, both religion and humanity must recommend the infliction of the same penalty upon him who has been conspicuously instrumental in the murder of every age, sex, and condition. Although retaliation might have been employed upon the innocent, for such horrid crimes, yet, in these cases, it fell upon the guilty. Let it be borne in mind, that the Indian chiefs and British outlaws were the monsters demanded to be surrendered by the treaty of Fort Jackson, the terms of which had been antecedently settled by the Government, ratified by your honorable body, and carried into effect by the Congress of the United States; and let it also be recollected, that these were the prophets and instigators of the war, upon whom was ordered to be inflicted "exemplary punishment for hostilities so unprovoked."

The two British incendiaries were not executed upon the general charge alone of "exciting the Indians to war," as stated by your committee, but upon that and other general charges subjoined hereto, which they omitted to notice, but which may be seen by a reference to the proceedings of the court of inquiry on that occasion.

The case of Arbuthnot and Ambrister was not within the reach of any rules or articles of war. The rights and privileges here secured belonged only to our own countrymen; and, as the offences charged were committed by foreigners beyond our own territorial limits and jurisdiction, our municipal code contained nothing by which to visit the offence. To it the principles of national law was alone applicable, which attached no penalty to their crimes other than death. In organizing the court of inquiry, it was only intended (as in councils of war) that the opinion should operate directory, and as advice, not to become binding. In the second sentence pronounced by the special court upon Ambrister, there was a departure from the rules of that law upon which alone it was believed jurisdiction was had of the offence. Nor was it less a violation of the rules and articles of war; for those rules had denounced corporal punishment. The sentence, therefore, was void, because known to be no law. Your respondent, therefore, conceived himself authorized to carry into execution the first sentence, because it awarded the only punishment that was legal to be inflicted; and because his lawless, guilty conduct entitled him to die. Besides, Ambrister was the most criminal. He had commanded, in person, a corps of negroes, with the view of anticipating your respondent in the occupation of St. Mark's, and was actually taken in arms against the forces of the United States.

The General commanding, as in all such cases, possessed the right, by the law of nations, to retaliate and to punish; nor could the organizing of the court deprive him of the power. The court of inquiry derived its existence, and its whole authority, from the order for its organization; and no more could they exercise a power not delegated to them, than could a committee of your honorable body inquire into matters not contained in the resolution which created them. The order calls it a special court, and directs it to perform special duties. It only asks for opinions; and gives no right to carry those opinions into execution. It details a recorder, by which a court of inquiry is ever distinguished from courts martial; the latter having a judge advocate, without which no proceedings can be had, and no sentence pronounced.

Censure is endeavored to be attached, in consequence of the withdrawal of the regular troops from the posts on the Georgia frontier, and concentrating them at Fort Montgomery, on the Alabama river, a considerable distance west of the Georgia line. In the commission of this military error your respondent had no participation; it was done in pursuance of an order of Mr. Crawford, then Secretary of War; an order which he was bound to obey, although contrary to his own opinion.

Upon the subject of raising and organizing the volunteers of West Tennessee, which has called forth the severest animadversions, your respondent did not, as he conceives, "disregard the orders of the War Department, the Constitution, and laws." His orders were, to call upon the Governors of the adjacent States for such additional military force as he might deem necessary to beat the enemy. The order was entirely discretionary, as no number or description of troops were mentioned. In the language of the Secretary of War's letter to Governor Bibb, your respondent was "vested with full powers to conduct the war in the manner he might judge best."

When his appeal was made to the citizens of West Tennessee, the frontier settlements were threatened on every side with danger and distress, as well as our troops at Fort Scott and on the Appalachicola. Major Muhlenberg was endeavoring to ascend that river with provisions, &c., and was arrested in his progress, and surrounded, by eight or twelve hundred Indians. Colonel Arbuckle, commandant at Fort Scott, was also about to abandon his post for want of supplies. The one thousand Georgia militia, who had been called out for sixty days, after advancing forty miles from Hartford, to the neighborhood of Fort Early, were returning home, leaving the command of Colonel Arbuckle, as also the Georgia frontier, in an exposed and perilous condition. Not only from the public journals, but from the communications of Colonel Arbuckle, had this intelligence been received. Under these circumstances, Major Fanning was despatched to Georgia, with a request that the Governor should continue those troops in the field for an additional period, or supply the defi-

*Defeat of the Seminole Indians, &c.*

ciency, as early as practicable, by an equal number of volunteers.

As it was not known, at this time, whether the Governor of Tennessee was at Knoxville or in the Cherokee nation, your respondent made his appeal to his old and tried comrades in arms, desiring them to follow him to the field, in defence of their invaded country. In affording the desired relief, no time was to be lost. Delay was replete with danger; and defeat and disaster would have been the result, had the dilatory process of draughting been resorted to. The same day on which the appeal was made, the Governor of Tennessee was written to, and apprized of the attempt to obtain volunteers; and that one thousand draughted militia would be required, should the appeal not be promptly and successfully answered. In reply, the Governor gave his entire approbation to the measure, and co-operated in raising an additional company of mounted volunteers, which was commanded by Captain Dunlap, and which joined the army at Fort Gadsden.

All the volunteers were raised and organized under the laws of Tennessee, the officers of whom were elected by themselves, and not appointed by your respondent, as asserted by your committee. Although earnestly solicited to appoint them, he peremptorily refused. To the officers who had served him in the late Creek and British war, he stated, not only in his appeal, but also upon their meeting at Nashville, that they were to organize themselves in the manner they might think proper; that the grade of the officers was to be determined by themselves; and that those raising companies were to command them. The only agency of your respondent, in the whole transaction, was the appointment of Colonel Hayne, inspector general of the Southern division, to superintend their organization, and lead them to Fort Scott, where he took the command. Every measure touching the raising and organizing this volunteer corps was regularly communicated to the Secretary of War, and received his unqualified approbation.

The committee admit, that the laws of Congress authorize the President to call on the Governors of the different States for such portions of the militia as he may deem requisite; but deny that there is any law in existence vesting him with authority to accept the services of volunteers. Here they have endeavored to make an impression on the nation, that volunteers are not militia; and that the circumstance of volunteering their services, in preference to being draughted, essentially and radically changes their character. There is certainly no position more unsound; as is clearly evinced by the fact, that most of the calls of the General Government have been met in this way, by the patriotic and gallant yeomanry of our country; until now, it has never been complained of.

When a requisition is made by the President on any State in the Union, for a quota of militia, it is sufficient if they are forthcoming; and it is believed that he has no authority, under the laws

or Constitution of the United States, to inquire into the mode in which they have been raised and organized. This is a question to be determined exclusively between the Governor of a State and its own citizens. It is one of the attributes of State sovereignty, guaranteed by the Federal Constitution, and with which the Executive and Congress cannot interfere. If an officer of the United States' Army should be guilty of an infringement of this State prerogative, the complaint of its Governor or Legislature should be considered as the only basis to authorize an inquiry into his official conduct.

It is stated by your committee, that it was not found necessary to furnish the President with a list of the names of the militia officers; "and not until the pay-rolls were made out, and payment demanded, were the persons known to the Department of War." A majority of your committee were within reach of all the information necessary to the correction of this error. Colonel Hayne's communications to the Secretary of War were on file in that office; from which they might have been informed of the number and grade of the officers, as well as of every particular relative to the organization of the volunteers; together with the express and decided approbation of that department of the Government. Appended to the report are the pay-rolls, filed in the office of the Paymaster General. Why they omitted to examine the muster-roll in the War Office, from which the pay-roll was transcribed, your respondent is at a loss to determine. Upon an examination of the pay-rolls, they should have known that, agreeably to the rules and articles of war, they must have been made out from the muster-rolls, which designate, by name, the number and grade of the officers mustered into service. The muster-roll, together with the letters of Colonel Hayne, would have satisfied the committee that the volunteers had been organized agreeably to the laws of Tennessee; and that it was a procedure over which the General Government could exercise no control.

By the rules and articles of war, "troops of all descriptions shall be mustered once in two months, for payment; nor shall any payment be made, but upon muster-rolls, signed by the inspector general or his assistant; or, in the absence of these, by some officer of the Army of the United States, especially assigned to this duty by the general or other officer commanding the department in which the troops so mustered shall be."

Again, "the officers and soldiers of any troops, whether militia or others, being mustered, and in the pay of the United States, shall, at all times, and in all places, when joined or acting in conjunction with the regular forces of the United States, be governed by the rules and articles of war, and shall be subject to be tried by courts-martial, in like manner with the officers and soldiers of the regular forces, save only that such courts-martial shall be composed entirely of militia officers."

From these extracts it must appear evident, that no payment can be made, but upon muster-



rolls, signed by the inspector general, &c.; and that, from the time they are made out and received at the War Office, the militia are considered in the service of the United States. Neither Congress nor the President have any authority to inquire how their officers have been appointed; whether they have been received as volunteers, or raised by the more tedious and vexatious method of draughting. Were the idea of your committee correct upon this subject, the people of the different States would be deprived of the invaluable privilege of selecting between these two modes of complying with the calls made upon them for the defence of our common country. The General Government had the services of those troops, which is all that can be required; and they have long since been mustered out of service, and paid from the public Treasury.

The committee confess that the Secretary of War approved the manner in which the Tennessee volunteers were raised and organized; but say, that "it is but justice to the Department to state, that it was not until the officers that had assisted in thus officering and organizing this corps were examined by the committee, that they were apprized of the illegality of the measure." Surely, the Secretary of War must have examined the communications of Colonel Hayne and your respondent, stating every particular touching the mode agreeably to which they were raised and organized, as also the muster-rolls, giving the grade and number of the officers by name; all of which were transmitted, and acknowledged to have been received, at an early period, at that office. He certainly could not have compromised himself so far, as to give his approbation to a measure before he was made acquainted with its nature and tendency.

Troops, of the same description of the Tennessee volunteers, were received and employed by the Government, on our northern frontier and southern borders during the late struggle with England, and in the war with the Creek nation of Indians. They fought the battles of Talladega, Emucklaw, the Horseshoe, and New Orleans, and protected Mobile from British visitation. Volunteers, similarly raised and organized, were commanded by Governors Shelby, Harrison, Edwards, and General Porter, of New York, during the same period. The field officers of the Georgia militia were appointed in the same manner on the west bank of the Ockmulgee; and one of the present Senators from Tennessee actually appointed the officers of his own regiment, which he raised without any authority, and which he commanded on an expedition against the Seminole Indians, in 1812. The most of these troops were paid off by the United States, received the approbation of the General Government, and the applause of the nation.

It is stated in the report of the committee to the Senate, that the "whole strength of this miserable, undisciplined banditti of deluded Indians and fugitive slaves, when combined, did not exceed one thousand men. Opposed to whom, previous to General Jackson's taking command,

and under General Gaines, were a force of one thousand eight hundred regulars and militia, besides the one thousand five hundred friendly Indians illegally subsidized by the last mentioned General; what, then, in this case, becomes of the plea of necessity?" It is plainly to be inferred, then, that this motley horde of negroes and Indians were too inconsiderable to justify raising the volunteer force which was employed in reducing them to a state of submission.

It is well known to all those acquainted with the character of Indians, and their peculiar mode of warfare, that it is almost impossible to form a correct estimate of their aggregate force, until the termination of the war. In this case, General Gaines had computed them at two thousand eight hundred; and Arbuthnot, who officiated as a military chief of the savages, had represented them, in a communication to the British Minister, Mr. Bagot, to be three thousand five hundred strong. This calculation was by no means extravagant, when it is considered that from eight to twelve hundred had been concentrated at a single point, when Lieutenant Scott and party were attacked, and that they were daily increasing in number. Whatever might have been their whole effective strength, at any period of the war, it could have been augmented by auxiliary bands in Florida; and it was certainly the duty of the commanding General to call out such additional force as should insure success in every emergency. Furthermore, the greatest portion of the Georgia militia, then in the field, could be retained in service only for about three months. And it was expected that they would apply for discharges so soon as their time expired. Your respondent considered the lives of our citizens as too precious to be risked, in a contest with Indians, where there was an odds of two to one, unless dire necessity demanded the exposure. The consequence of an opposite policy was, that the decisive and rapid movement of our overwhelming numbers distracted and dispersed the enemy, compelled them to seek refuge in the Spanish fortresses, woods, and swamps; and they never were afforded an opportunity to display their whole force by concentration. The war was speedily and effectually terminated, and much blood and treasure saved to the nation.

With regard to the Indian and militia force, under the command of General Gaines, previous to the time your respondent assumed the command of the army, he has to remark that, until a few days anterior to his arrival at Fort Scott, not a single Indian warrior had joined the standard of the United States; nor had the first requisition of Georgia militia ever united with the command of General Gaines; the latter had returned home, in consequence of which it became absolutely necessary, on the part of General Gaines, to make a second call on the Governor of that State, for the double purpose of defending the frontier and occupying Amelia Island.

A few of the friendly Indians joined your respondent before he reached Fort Scott, and a considerable number at that place, making, in the

aggregate, about four or five hundred. The balance of the force under his command was not, at that time, more than nine hundred effectives; and he confidently affirms that, when he took up the line of march from Fort Gadsden, on the 25th of March, 1818, his whole command, fit for duty, consisted only of three hundred and sixty privates of the regulars, about eight hundred Georgia militia, and Major Lovet's detachment of friendly Creeks. McIntosh and his warriors were organized at Fort Mitchell, after the arrival of your respondent at Fort Hawkins, and never united with him until the 1st of April, about six miles in the rear of Mickasukv. All these facts were accessible to your committee, had they been disposed to examine the letters of your respondent on file in the Department of War. To this Department all his communications were made; and there they should have applied for correct information, if it had been wanted.

The next subject which has exposed your respondent to bitter reproach from the committee, is the order which was directed to General Gaines, to occupy St. Augustine. A letter from Major Twiggs had conveyed the intelligence that our savage enemies had been fed and furnished from that garrison; and it was rendered highly probable that, aided, abetted, and encouraged, by the commandant, they were recruiting and embodying at that place, with a view of renewing hostilities. A strong presumption was created, that this, like the other Spanish posts, had become a depot and rallying point for negroes and Indians, to which they had retreated for refuge and protection, after being driven from Negro Fort, St. Mark's, and Pensacola.

The order given to General Gaines was entirely conditional and prospective; and had the facts reported been established, as directed, there would have existed the same incontrovertible reason for the occupancy of St. Augustine as of the Spanish fortresses. The orders of your respondent had undergone no modification; and the measure would have been indispensably necessary to their execution, as well as to the peace and security of our frontiers. Besides, he had transmitted to the War Department regular information of his proceedings in Florida, with the reasons and motives by which he had been governed, from the 25th of March to the 7th of August, without a sentence of dissatisfaction ever having been expressed by the Government.

Your committee also report that, "long before this period, the commanding General had, by his letter to the Secretary of War, declared the Seminole war at an end; and, after which, not a single new act of hostility had been committed." It is true, after the defeat of the negroes and Indians at Mickasuky, the destruction of Suwanee, and the asylum of St. Mark's had been wrested out of their occupation, that your respondent persuaded himself that the war was ended. But subsequent information proved this opinion to be erroneous. The letter of Governor Bibb, appended to the report of the Senate, as well as the deposition of Charles Baron, details

sundry outrages committed subsequent to the date of your respondent's letter to the Secretary of War; and it is also known that *six men were murdered in the interior*, which it is believed was communicated by General Gaines to the War Department. The communications of General Gaines and Major Fanning, annexed to the report, also give a very different aspect to this question, and to which your respondent begs leave to refer your honorable body.

In the animadversions upon the motives of your respondent, he cannot withhold the opinion that there has been exhibited an unusual share of asperity, as also a want of charity and forbearance, which was not to have been anticipated from members of so august and enlightened a body as the Senate of the United States, deliberating upon a subject which they have represented to be of great national magnitude. Leaving the motives of the committee on this occasion to their own private review and examination, your respondent will barely observe that they have imperfectly recognised the maxim that innocence is always presumed until the contrary appears by proof. Why they should have inquired into the motives of your respondent at all he is at a loss to determine, as it was a matter entirely beyond their control and jurisdiction. The only subject of investigation was the legality of his official acts, as designated in the resolution of the Senate of the 18th of December.

Your respondent has no objection to this course, except as a pernicious precedent, and a violation of authority. He has no secrets, and will never shrink from a rigid and impartial examination into his official conduct. Had the committee adverted to the order to take possession of St. Augustine, as well as the communications of your respondent to the Secretary of War upon the subject of his military operations, they must have been satisfied that his motives were to promote the public good; to obey his orders, by carrying on a vigorous and efficient war against the savage enemies of the United States, by which the blood and treasure of the nation was to be economized; to establish a peace that would be honorable and permanent, and to give repose and security to our exposed and defenceless borders.

In this instance, as well as in some others, the report of the committee is contradicted by the evidence of its own documents. The depositions of Colonel Butler and Major Eaton (a member of the committee) conclusively prove that your respondent had no agency in speculating in Florida lands, which is in direct opposition to the inference drawn by your committee. No member of that committee can, for a moment, seriously and candidly harbor the opinion that your respondent would lead a gallant army into the field, jeopardize the lives of valuable citizens, risk the ruin of health and reputation, and "violate the Constitution" of his country, for the purpose of speculating with security in Spanish lands. The "motives of his own, unconnected with his military functions," were, a desire to end speedily a savage war, and to save the blood and treasure of



*Defeat of the Seminole Indians, &c.*

the country; and not, as charged, to adventure his health and reputation, and the lives of brave men, in quest of titles to Florida lands. The supposition is unwarranted and unjust, and has its refutation in the very testimony which the committee have published. The dignity of his office, which, at every exposure, he has sought to maintain, never has been prostituted to the purposes of speculation in any way, and it never will. Strange, then, that honorable men should make so foul an accusation without proof, nay, without even circumstances to support it.

Your respondent would beg leave, in this place, to remark upon the depositions annexed to the report. He ventures the opinion that such documents never before have been published to the world as evidence upon which to predicate a report. Eaton's and Mitchell's are the only depositions presented in legal form. To those two gentlemen regular interrogatories were proposed, to which they deliberately responded and affixed their signatures, as required by law; Doctor Brounagh's deposition is signed, but not given under oath; Colonel Butler's, Colonel Gibson's, and Captain Call's, are neither sworn to nor signed. The depositions of the last four gentlemen were published without their knowledge, although they had received a promise from the members of the committee who took down the testimony that it should be copied, and again submitted to them for correction and signature.

Until depositions are fully examined, amended, and signed by the witnesses, they cannot be considered good and complete evidence. This is a rule which, it is believed, is uniformly adhered to in all judicial tribunals; it never should be departed from on any occasion, as it is essentially necessary to an impartial administration of justice. Every opportunity should be given the witnesses to make a fair and full disclosure of the facts; to consider the force and effect of their expressions, as well as the import of every sentence. By an opposite procedure, irreparable injustice may be done, and the rights of a public agent sacrificed by those who should afford him security and protection.

There are several minor points touched upon by the committee, to which your respondent considers it unnecessary to give a particular reply, as they are of inconsiderable importance, and could not be noticed without swelling this memorial to an unwieldy size. He flatters himself they have been satisfactorily answered in the discussion of the other subjects out of which they have accidentally arisen. They will all, however, be more amply and minutely explained by an examination of the documents heretofore communicated to Congress relative to the Seminole war, and others on file in the War Office, and to those accompanying this memorial; to all of which your respondent respectfully refers your honorable body.

To conclude: your respondent has devoted his services to the cause of his country, and to the perpetuation of her liberties. Her Constitution and laws are objects of his sincere veneration,

and every anxiety of his heart has been enlisted to promote the glory and happiness of his country. How far he has been instrumental, under the guidance of Providence, in effecting those desirable objects, he submits to the decision of his enlightened fellow-citizens. He does not pretend to be exempt from the errors common to human nature. Surrounded as he was by every privation and embarrassment, in all the hurry and bustle of war, it was next to impossible to attend particularly to every minor consideration. But, upon the great errors charged—a breach of his orders, a departure from the Constitution, and a violation of the rights of humanity—he openly maintains his innocence, and denies that the charges are correctly made. He calls upon the Senate, by the high claims they prefer to unanimity, to protect his reputation from the unmerited censure cast by their committee. He asks for justice, and nothing more; to extend it is due to your respondent, to the Senate, and to the nation.

ANDREW JACKSON,  
Major General com. Southern Div.

WAR DEPARTMENT, March 24, 1814.

SIR: Since the date of my last letter it has occurred to me that the proposed treaty with the Creeks should take a form altogether military, and be in the nature of a *capitulation*; in which case, the whole authority of making and concluding the terms will be in you, exclusively, as commanding General. In this transaction, should it take place, Colonel Hawkins, as agent, may be usefully employed.

I am, very respectfully, &c.

JOHN ARMSTRONG.

Maj. Gen. PINCKNEY.

True copy.

R. K. CALL, *Aid-de camp.*

WAR DEPARTMENT, May 24, 1814.

SIR: In the event of your acceptance of the appointment suggested by my letter of the 22d instant, I have to suggest the wish of the President that you should proceed, without delay, to Fort Jackson, and consummate the arrangements committed to Major General Pinckney, in relation to the hostile Creeks. A copy of the instructions given to General Pinckney is enclosed.

JOHN ARMSTRONG.

Major Gen. JACKSON.

True copy.

R. K. CALL, *Aid-de camp.*

WAR DEPARTMENT, March 17, 1814.

The policy dictated, as well by the unprovoked and ungrateful conduct of the hostile Creeks, as by a due regard to the future safety of the South-western frontier, may be brought under the following heads, viz:

1st. An indemnification, (for expenses incurred

*Defeat of the Seminole Indians, &c.*

by the United States, in prosecuting the war,) by such cession, or cessions of land, as may be deemed an equivalent for said expenses.

2d. A stipulation on their part that they will cease all intercourse with any Spanish post, garrison, or town; and that they will not admit among them any agent or trader who does not derive his authority or license from the United States.

3d. An acknowledgment of a right in the United States to open roads through their territory; and also to establish therein such military posts and trading houses as may be deemed necessary and proper; and

4th. A surrender of the prophets, or other instigators of the war, who will be held subject to the orders of the President.

With these outlines as your guide you are authorized, in conjunction with Colonel Hawkins, to open and conclude a treaty of peace with the hostile Creeks, as soon as they shall express a desire to put an end to the war.

I am, sir, very respectfully, &c.

JOHN ARMSTRONG.

Major General PINCKNEY.

True copy.

R. K. CALL, *Aid-de camp.*

I, James Gadsden, a captain in the army of the United States, on oath declare, that during the whole period in which the transactions below detailed took place, I was an aid-de-camp to Major General Andrew Jackson, and that the following narrative contains a true statement of facts to my knowledge:

Early in January, 1818, General Jackson received orders from the War Department to repair to Fort Scott, assume the command of the army, and to bring the conflict with the Seminole Indians to a speedy termination. The Secretary of War stated the enemy's force to be two thousand seven hundred, or two thousand eight hundred strong, and gave authority to the General to call, from the neighboring States, such a force as would insure the desired object. The regular brigade under General Gaines, did not, according to the last reports, exceed six hundred men. He had called upon Georgia for not more than one thousand two hundred militia; and it was uncertain at that period whether the friendly Creek warriors would accept the invitation tendered. Some additional force was therefore deemed necessary, and the speediest mode of raising it was a subject of solicitude to General Jackson. Governor McMinn, of Tennessee, was engaged about this period in carrying into effect a treaty with the Cherokee nation; and it was a matter of great uncertainty whether a letter would find him at his usual place of residence, near Knoxville, or not. He was not at the capital of the State; and his friends in and about Nashville were generally under the impression that he was still in the Cherokee nation. General Jackson determined therefore to make an appeal to his old companions in arms; many of whom held

commissions in the militia of the State. His circular to these men, and his letter to the Governor, notifying him of what he had done, have been published.

I was present at the meeting of field officers of the volunteers at Nashville, and heard no remarks of General Jackson calculated to control or influence them in the selection of their officers. The only subject of anxiety with him appeared to be that the men should be raised by the first of February. He desired that the number should be completed; that the men should be satisfied with their officers; that they should rendezvous at Fayetteville; be mustered into service, and overtake their General on the frontiers of Georgia. Colonel Hayne, inspector general, was instructed to command the detachment on their march to Fort Scott. He received authority to appoint no other officers than those attached to his personal staff; a privilege enjoyed alike by regular and militia commanders. The Nashville company elected their own officers; and the Kentucky company was raised without even the knowledge of General Jackson. Their own feelings led them into the field upon the mere knowledge of the fact that the frontier was exposed to Indian aggressions.

I accompanied General Jackson through a part of Tennessee, previous to his departure South. In every village we passed through, much interest was taken in the approaching campaign; and the citizens were generally inquisitive as to the nature of the appeal to their patriotism. I was directed by General Jackson to explain its character; and, in every instance, expressed but one opinion, as derived from him; that one thousand men were wanted to put a speedy close to the Seminole war; that, in consequence of the confidence which the General had in his old comrades in arms, and the facility with which volunteers could be raised, he had made this appeal; that they must be satisfied with their commanders, and elect their own officers. On this subject I found many individuals exceedingly scrupulous. They were assured that no intention was entertained to impose commanders on them; that the men were wanted, and the General was well aware that, to be efficient, they must be contented with their officers.

General Jackson left Nashville with one company of Tennesseans. A company of Kentuckians overtook him in the Cherokee nation; and the Tennessee brigade had orders to join him, as soon as organized, on the frontiers of Georgia. From Hartford Gen. Jackson moved with the Georgia brigade, and was reinforced, on his march to Fort Scott, by about six hundred friendly Creeks.

From Fort Gadsden, where the operations of the campaign may have been said to have commenced, the movement was made with a force of regulars, Georgians, and Indians, not exceeding two thousand men. The strength of the enemy was not known, at this time, to be less than that stated by the Secretary of War, two thousand seven hundred. A detachment of Tennes-



*Defeat of the Seminole Indians, &c.*

seans, and General McIntosh's warriors, overtook the army on the morning of the attack on the Mickasuky villages; and all the troops called into the service were not finally concentrated until the day after the movement from St. Mark's towards the towns on the Savannah river. The actual force of the enemy was never ascertained, until their final dispersion from the Savannah river. Rumor often magnified their strength beyond that stated by the Secretary of War.

The demand of the surrender of St. Mark's was made in amity. General Jackson received intimation that the Indians and negroes, combined, wished to throw themselves into that work, as a dernier retreat; and the Governor of Pensacola had stated that the work and garrison were both too weak to resist their meditated attacks. He was intrusted with the communication to the Spanish commandant of St. Mark's, and directed to urge the propriety of an amicable permit for the fort to be occupied by an American garrison, until the close of the war, on the ground that the Seminole Indians were enemies to both nations; and that every facility should be afforded the American arms in closing a war so injurious to both parties. In the course of the negotiation facts disclosed themselves developing the real character of the Spanish commandant, and, in a measure, implicating him as a party in the war. These facts were reported to the General; and, not until then, was the order issued for entering the fort by violence.

On the return of the army to Fort St. Mark's, from the towns on the Savannah river, General Jackson expressed to me his determination to return to Nashville, conceiving that the war was closed. On the next day information was given, by the captain of a small schooner from Pensacola, that hostile Indians were lurking about that town; that they had frequently sought refuge to the west of the Appalachicola river, and were committing depredations on the road leading from Georgia to the Alabama. On this information General Jackson observed, that it would be necessary to leave strong garrisons in St. Mark's, Forts Gadsden, and Scott, and send a party to scour the country west of the Appalachicola; but he still expressed his intention to return to Nashville. So well persuaded were the officers, generally, that all operations were over, that many of them sought leave of absence. An officer attached to General Jackson's staff, as volunteer aid-de-camp, left him at this place for New Orleans. Previous to his departure, he was told by General Jackson that his services would no longer be necessary, as he was determined to return to Nashville.

Lieutenant Sands was not sent to Mobile to forward on a train of artillery to a given point. This officer had commanded for many years in Mobile; and, being attached to the place, expressed a wish to visit it, with a view of being reinstated in the command, if possible. His request was granted, and he received an order, at the same time, to have a few pieces of ordnance as a condition for field service. Colonel Gibson

received instructions, subsequently, from Fort Gadsden, to have the artillery, ammunition, provisions, &c., transported to Fort Montgomery.

On the return of the army to Fort Gadsden, General Jackson received a reply from the Governor of Pensacola, to his letter relative to provisions ascending the Escambia river. At the same time letters were received by individuals, and further information from the captain of the schooner, that Pensacola was under the control of the Indians; that more than four hundred warriors were in the vicinity, preparing for the renewal of hostilities on the Alabama frontier. Major Hogan, who had recently arrived from Fort Montgomery, reported some murders lately committed by Indians direct from Pensacola, and who had returned with their plunder and scalps to that place. On the receipt of this information, General Jackson observed to me that he must himself command the troops destined to scour the country west of the Appalachicola. He did not at that time intimate an intention of occupying Pensacola. To give security to the frontiers of Alabama was his object; and that his operations must be governed by circumstances which might occur.

On the third or fourth day of March, an express was sent to Colonel Gibson, at Fort Montgomery, to endeavor to join the army with the artillery and provisions, at or near Durand's Bluff, the lower crossing place on the Escambia.

At this place a letter was received, by express, from Governor Bibb, detailing the murders which had been committed by hostile chiefs from Pensacola; and the next day after the army had crossed the Escambia, the protest of the Governor of Pensacola was received. The bearer was despatched with a note, promising a reply to the protest that night. The same day I was sent to Pensacola with a reply. The Governor had left his capital. The next day the communication demanding the occupancy of Pensacola and its dependencies, until Spain should control, by an adequate military force, the Indians within Florida, was delivered to the Governor at the Barancas; and on his refusal to accede to the terms of that communication, the army took up its line of march for that place. The result is known.

The plan of St. Augustine was sent to General Jackson at my request, and is now in my possession. As an engineer attached to the Seminole army, it was my duty to be prepared for any events, by obtaining accurate knowledge of the country which might be the scene of operations. I did not request the plan of the proprietor, from any intimation from General Jackson that he intended or wished to visit that fortress.

JAMES GADSDEN.

True copy: R. K. CALL, *Aid-de-camp.*

STATE OF LOUISIANA,  
*City and Parish of New Orleans:*

Be it known that, on this 30th day of June, 1819, before me, John Lynd, notary public in and for said city and parish, duly commissioned, personally appeared James Gadsden, who in my pre-

*Defeat of the Seminole Indians, &c.*

sence signed his name to the foregoing instrument of writing, and, having been duly sworn, deposed that the contents thereof are true and correct. In faith whereof I grant these presents, under my signature and seal of office.

JOHN LYND, *Notary Public.*

Mr. Sebastiano Caro, a citizen of Pensacola, being sworn, states that, being in Mobile during the early part of the Seminole campaign, he knew nothing of the Indians being at that time in Pensacola; that in the Spring of 1814, about two hundred Indians were in Pensacola, and it was generally understood by the citizens, and believed by them, that those Indians procured ammunition and provisions from the public stores, for the purpose of carrying on their depredations on the American frontier; and that this proceeding was much commented on by the citizens, and generally condemned. Mr. Caro did not himself see ammunition and provisions issued to the Indians; but it was a thing of public notoriety.

SEBASTIAN CARO.

A true copy:

R. K. CALL, *Aid-de-camp.*

Sworn and subscribed to before me, at Pensacola, September 7, 1818.

H. YOUNG, *Capt. Top. Eng.*

Jose S. Caro, a citizen of Pensacola, being sworn, states that, early in the present year, 1818, a party of hostile Indians were in Pensacola, their numbers not known, but probably fifty; that, on hearing of the approach of the American army under General Jackson, the Governor of Pensacola furnished those Indians with provisions and ammunition, and sent them in public boats across the bay. The deponent saw the rations issued, and the party embarked. The deponent further states, that, subsequent to this, he saw three parties of hostile Indians furnished with provisions, the ostensible object of which was, to enable those Indians to march to the interior, and give themselves up; but it was generally believed, that those Indians had no such intention. The deponent saw those Indians set out, and states that they had their arms.

JOSEPH ESTEEVEN CARO.

A true copy:

R. K. CALL, *Aid-de-camp.*

Sworn and subscribed to before me, at Pensacola, September 10, 1818.

H. YOUNG, *Capt. Top. Eng.*

Charles Baron, a resident of Pensacola, being sworn, states that, about the latter end of April or beginning of May, 1818, a party of Indians, amounting to near one hundred, were in Pensacola, with a quantity of plunder, which, it was generally believed, was taken at the time Stokes's family were murdered on the Escambia. The Indians sold this plunder, openly, to the inhabitants of Pensacola; and the deponent could not learn that the Spanish authorities at Pensacola

made any inquiries respecting it. The deponent further states, that, at several times in the present year, 1818, he saw parties of Indians furnished with provisions and ammunition, from the King's stores; but he does not recollect the dates of these transactions.

The deponent further states, that he has frequently heard Spanish officers at Pensacola justify the conduct of the Indians towards the United States, manifesting, in their conversation, a decided hostility towards the Americans.

CARLOS BARON.

A true copy:

R. K. CALL, *Aid-de-camp.*

Sworn before me, at Pensacola, September 13, 1818.

H. YOUNG, *Capt. Top. Eng.*

Pierre Senac, being solemnly sworn, declares as follows: That he has resided in the town of Pensacola constantly since the month of November last past; that, since that time, and until the arrival of Major Young near this town, there were always considerable numbers of hostile Indians in or near the town; that, on many occasions within that period, he has seen from one hundred and fifty to two hundred Indians here; that their forces were regularly provisioned from the King's store here; that he has seen large quantities of sheet lead in possession of the Indians, and considers it as greatly resembling the lead aprons of cannon; that the Government must have furnished the lead in question, as there were no other means here of getting such lead; and that the said lead was run off into balls, which the deponent saw.

That on the day that Major Young attacked a party of Indians near this town, there was then in town a considerable number more, who were set across the bay, in boats provided for that purpose, by the Spanish Governor.

Deponent further states, that, about the 1st of March last past, three considerable parties of hostile Indians, one party under the command of Leon Lesassier, another under the command of Arnaud Gilmar, (both lieutenants in His Catholic Majesty's service,) and the third commanded by an Indian chief, retired out of this town, and went down towards the neighborhood of Barancas, where provisions and ammunition were regularly supplied to them by the Spanish Government; that the said Indians were armed with guns, which they had received from the English during the late war; and that they remained encamped within from one to three leagues from Barancas for the space of nearly a month; that these Indians, besides being armed with guns, had also tomahawks, which deponent understood and believes were furnished by John Inerarity; and that, when the Government caused the said parties to be thus assembled and equipped, they were collected at Barancas, for the purpose, as deponent conceives, to elude the vigilance of such individuals in Pensacola as would not concur in such measures.



*Defeat of the Seminole Indians, &c.*

Deponent further states, that, since the said month of November last past, he has seen brought in here, by the Indians, a quantity of cottonade and women's clothing, brought, or said to have been brought, from the American frontier; that these things were publicly sold in this town, notwithstanding it was notoriously known here that those articles and property had just been taken from those whom the Indians had killed on the American frontier.

PEDRO SENAC.

Attest: J. B. ROBINSON, *Interpreter.*

PENSACOLA.

Sworn to and subscribed before me, this 19th day of September, 1818.

M. MCKINSEY, SEN., J. P.

I, Isaac McKeever, a lieutenant in the Navy of the United States, on oath declare, that the following narration contains a true statement of facts, to the best of my knowledge. I commanded the naval force which convoyed the store-ships, transports, &c., from New Orleans to Fort Gadsden, and from thence to the bay of St. Mark's during the Seminole war. I arrived in the said bay on the 1st of April, 1818, with British colors flying at my masthead; on the next day I was visited by a Spanish lieutenant, the second in command at Fort St. Mark's. The lieutenant was inquisitive as to the character of my vessels and the nature of my visit, and wished to know whether I had any authority from the Captain General of Cuba for entering the territories of His Catholic Majesty. In reply, I asked him if he had seen my colors on entering the bay of St. Mark's, and intimated that the nature of my visit could not be satisfactorily explained until the arrival of Captain Woodbine, at the same time intimating that it was of an illicit character, and that succor, aid, &c., to Hillis Hajo and his warriors, in their present distress, was intended. At the mention of this he expressed much satisfaction, stated that Captain Woodbine and the Spanish commandant of St. Mark's were good friends, and voluntarily gave me every information as to the movements of General Jackson's force, and his strength; the situation of the hostile Indians he detailed at length, and stated what rejoicing the reception of the long promised and expected succor would occasion. He stated that Hillis Hajo and the Spanish commandant were on intimate terms; that the former was then in the vicinity, and had lately been at the fort of St. Mark's, when he had urged, with menaces, the commandant to send on board to ascertain to demonstration the character of the strangers; and, having satisfied himself, he would see Hillis Hajo that evening, after which we might expect a visit from the latter, who accordingly came on board the following morning. He likewise informed me that Arbuthnot, a friend to the hostile Indians, and an acquaintance of Woodbine's, was at Fort St. Mark's. On my expressing to him some apprehension of being blockaded by an American squadron reported to be on the coast,

or of my retreat being cut off by Jackson, he replied, that the latter was impossible; that Jackson had but five pieces of artillery, and the impracticability of the swamp would prevent his assuming any position below me; but that I need apprehend no danger from any quarter; that, as allies, by anchoring under the guns of the fort, protection would be afforded me.

About this time we were informed by the Spanish officers and Indians who came on board, that, on our arrival within the bay, the Indian camp demonstrated much joy at the approach of their expected supplies of munitions, &c.

I. MCKEEVER.

NEW ORLEANS, June 5, 1819.

Sworn this 5th June, 1819.

DOM. A. HALL,

*Dist. Judge U. S. Louisiana Dist.*

*The following statement is made by request:*

About the 1st of May, 1818, I was sent by the officer commanding at New Orleans in charge of a public transport schooner, with provisions for the garrison at Fort Crawford, with orders to touch at Pensacola, and obtain permission of the Governor of that place to ascend the bay of Pensacola and the Escambia river, through the Spanish territory, to my destination. I arrived at Pensacola on the 16th of May, and immediately reported the schooner, her cargo, and destination, to the Governor; notifying him, at the same time, of my wish to proceed without delay. On the 18th the Governor informed me that he was not authorized to let the provisions proceed without the payment of a transit duty of two per cent., and required an invoice of the cargo to be rendered at the custom-house, in order that an estimate might be made of the duties imposed. I remonstrated with him against the payment of duties on public supplies, on board a public vessel, and designed for public service; and urged a free passage as an act of friendship only, which neighboring nations at peace were bound, in common justice, to extend to each other—all without avail. Fort Crawford being then short of provisions, I was forced by necessity to accept the passage on the terms offered; and, accordingly, entered the cargo at the custom-house, and paid the duties required into the royal treasury.

I inquired of the Governor whether transports, charged with public supplies, and destined for Fort Crawford, would thereafter be suffered to pass Pensacola free of the duties imposed in the present instance; and was informed that a categorical answer could not then be given to the inquiry, as the Captain General of Cuba had not yet given a decision on that point, and whatever he might resolve would be communicated.

When the transport came to anchor in the port of Pensacola, I distinctly discovered several groups of Indians on the water's edge; and, aware of the impotency of the Spanish authority, I was apprehensive I should not be permitted to land in safety. Before I was ready to leave the vessel, however, the Governor's aid came on board, and

*Defeat of the Seminole Indians, &c.*

before we reached the shore the Indians had mostly disappeared. I was afterwards informed that, at the time the transport came to anchor, there were upwards of a hundred in the town, who immediately retired to the neighboring woods by order of the Governor. I was further informed, by a respectable citizen of Pensacola, that, a few days preceding my arrival, a considerable number of Indians, who had taken refuge in that place, had been transported, by the Governor's authority, to St. Rose island, on the opposite side of the bay.

The undersigned certifies, upon honor, to the correctness of the substance of the foregoing statement.

T. CROSS, *Capt. U. S. A.*

WASHINGTON CITY, Feb. 1, 1820.

I was Quartermaster General of the southern division on the Seminole campaign. At Fort Gadsden I received orders to proceed to Mobile and Fort Montgomery, for the purpose of forwarding supplies to the army, then on its march west. From Mobile I sent the schooner Little Sally, Captain Pastes, loaded with provisions, to the Perdido river, with instructions to remain there until the approach of the army, or until further orders. Two days after we arrived at the Barancas, Captain Pastes joined, and informed us, that his vessel had been taken by a Spanish launch near the mouth of Perdido, and brought under the guns of the Fort Barancas, and detained several days. This was confirmed by several Spanish officers after we took possession of the fort.

I certify, on my honor, to the truth of the above statement.

G. GIBSON,

*Lieut. Q. M. G. of Southern Division.*

WASHINGTON, Feb. 1, 1820.

NAVY DEPARTMENT, March 27, 1818.

SIR: In the present state of hostilities between the Indians and the United States, your aid and co-operation may be required by the General commanding the United States army in the South; you will therefore afford all the aid and support in your power, and keep up a correspondence for this purpose.

Despatch immediately two gunboats and two of the smaller vessels to Mobile and to the Appalachicola, to protect the convoys of supplies, and to remove any obstructions to a free communication between the forts and forces of the United States. It will be your duty also to adopt such further measures as the circumstances of the case or the development of events may render necessary.

B. W. CROWNINSHIELD.

P. S.—Commandant J. D. Henley is also ordered to send one of the small vessels of his squadron to the Appalachicola, which vessel will be subject to your order.

Com. D. T. PATTERSON,

*Com. Naval Station, N. O.*

A true copy: R. K. CALL, *Aid-de-camp.*

15th CON. 2d SESS.—74

HEADQ'RS, DIVISION OF THE SOUTH,  
Adj't Gen's Office, Fort St. Mark's,  
April 26, 1818.

## GENERAL ORDER.

The following detail will compose a special court, to convene at this post, at the hour of 12 o'clock, M., for the purpose of investigating the charges exhibited against A. Arbuthnot, Robert Christy Ambrister, and such others who are similarly situated, as may be brought before it. The court will record all the documents and testimony in the several cases, and their opinion as to the guilt or innocence of the prisoner, and what punishment, if any, should be inflicted.

## DETAIL.

Major General E. P. GAINES, *President.*

## Members.

Colonel King, 4th infantry.  
Lieut. Colonel Gibson, Tennessee volunteers.  
Major Montgomery, 7th infantry.  
Colonel Dyer, Tennessee volunteers.  
Lieut. Colonel Elliott, Tennessee volunteers.  
Major Minton, Georgia militia.  
Colonel Williamson, Tennessee volunteers.  
Major Muhlenburg, 4th infantry.  
Captain Vashon, 7th infantry.  
Lieutenant Colonel Lindsay, corps of artillery.  
Major Fanning, corps of artillery.  
Captain, Crittenden, Kentucky volunteers.  
Lieutenant J. M. Glassell, 4th inf., *Recorder.*

An orderly will be detailed from Gen. Gaines's brigade, and the court will sit without regard to hours.

By order of Major General Jackson:

ROBERT BUTLER,

*Adjutant General.*

A true copy:

R. K. CALL, *Aid-de-camp.*

WAR DEPARTMENT, Oct. 2, 1816.

SIR: Your communication of the — ultimo, with its enclosures, have been received, and submitted to the President, as well as my letter of the 27th ultimo to you.

Since the date of that letter information has been received directly from Spain, which gives additional force to the impressions entertained in relation to Colonel Jesup's communications. The improbability of the information given by that officer will not, in the opinion of the President, justify any arrangement which is calculated to produce public excitement.

A judicious disposition of the force under your command, with a view to meet an event of that nature, is all that is considered necessary at the present moment, except the transportation of the arms and munitions of war to the menaced point of attack, which such a measure renders indispensable.

These dispositions you will carry into execution agreeably to the instructions contained in my letter of the 27th ultimo, with such modifica-



*Defeat of the Seminole Indians, &c.*

tions as the actual state of the posts, and a true regard to the public interest may require.

I have the honor to be, &c.

WM. H. CRAWFORD.

A. JACKSON, Major Gen., &c.

A true copy from the original.

R. I. EASTER, A. D. C.

*Extract of a letter from William H. Crawford, Secretary of War, to Major General Andrew Jackson, dated 27th September, 1816.*

The destruction of the Negro fort, at the junction of the Appalachicola and Flint rivers, may have removed the necessity of keeping up so large a force in that quarter. It must, however, be admitted, that every means of exciting those Indians to hostility will be resorted to in the event of a Spanish war. But even in that event, it is questionable whether we should keep so large a portion of our active force pent up in a fort, acting on the defensive, when, in fact, there is nothing worth defending. The militia of Georgia would be competent to the chastisement of the hostile Indians in that quarter. If the danger becomes more threatening, all the posts in the interior of the Indian country may be occupied by the militia of that State and Tennessee, so as to admit of the assemblage of the whole regular force at the point immediately menaced. Your knowledge of the situation of the posts within your command, will enable you to adopt the necessary measures to secure the object presented in this communication.

In withdrawing forces from posts now occupied, you will keep in view the preservation of the military stores which may have been deposited in them, which can only be done by transporting them with the troops, or by leaving a sufficient number of them for their protection, until the post can be manned by the militia, or troops brought from the northern division.

True copy: R. K. CALL, *Aid-de-camp.*

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 20, 1818.

SIR: I have received your letter of the 18th ultimo, and have to regret the situation in which you are unfortunately placed. Every effort will be made, however, to relieve you. I shall leave this place for Fort Hawkins on the 22d, and two regiments of mounted volunteers will rendezvous at Fayetteville, Tennessee on the 31st instant, and proceed, by forced marches, direct to our southern frontier.

The commanding officer of the Georgia militia has instructions this day not to invite a general engagement with the Indians, but at all hazards to aid you in relieving Major Muhlenburg.

ANDREW JACKSON,

Maj. Gen. Com'g Div. of the South.

Col ARBUCKLE, Com'g at Fort Scott.

True copy: R. K. CALL, *Aid-de-camp.*

*Extract of a letter from Major General Jackson to Brevet Major General Gaines, dated*

HEADQ'RS, NASHVILLE, Aug. 17, 1818.

DEAR SIR: I am happy to find that the notorious Mecodicoxy is at length destroyed. The distresses of the Indians for provisions I expected. Your providing for their wants meets my entire approbation. It will meet the full approbation of the Government, as it corresponds with their usual humanity, always extended to the suffering Indian.

I have noted with attention Major Twigg's letter, marked No. 5. I contemplated that the agents of Spain, or the officers of Fort St. Augustine, would excite the Indians to hostility, and furnish them with the means. It will be necessary to obtain evidence substantiating this fact, and that the hostile Indians have been fed and furnished from the garrison of the fort of St. Augustine. This being obtained, should you deem your force sufficient, you will proceed to take, and garrison, with American troops, Fort St. Augustine, and hold the garrison prisoners, until you hear from the President of the United States, or transport them to Cuba, as in your judgment, under existing circumstances, you may think best.

Let it be remembered, that the proceedings heretofore carried on by me, or this order, is not on the ground that we are at war with Spain; it is on the ground of self defence, bottomed on the broad basis of the law of nature and of nations, and justified by giving peace and security to our frontier. Hence the necessity of procuring evidence of the fact of the agents or officers of Spain having excited the Indians to continue the war against us, and that they have furnished them with the means of carrying on the war. This evidence being obtained, you will (if your force is sufficient) permit nothing to prevent you from reducing fort St. Augustine, except a positive order from the War Department.

Orders, some time since, have been given to officers of the ordnance commanding at Charleston, to have in readiness a complete battering train, the number and caliber of the guns pointed out; I have no doubt but that you will find them in readiness. I enclose you the report of Captain Henley, of the naval force on that station; you will open a correspondence with Commandant A. J. Dallas, to insure his co-operation, provided it should be required.

I trust, before this reaches you, you will have destroyed the settlement collected at Suwanee. This can easily be done by a *coup-de-main*, provided secrecy be observed, and great expedition of march used; without expedition of movement, and great secrecy is observed, you will be discovered, and the enemy will either flee or endeavor to ambuscade you; both of which ought to be guarded against.

Have a careful eye to your supplies on hand, that before they are consumed others may be ordered, and reach you: without necessary supplies an army cannot operate with effect. The late scarcity ought to teach us a lesson on this

*Defeat of the Seminole Indians, &c.*

head never to be forgotten; I shall, therefore, expect that no scarcity will exist at any place, post, or garrison intrusted to your care.

I shall expect to hear from you shortly, and that you and your brigade may be successful in all your operations, and cover itself with glory, is my heartfelt wish; and, with this feeling, I am, very respectfully, &c.

ANDREW JACKSON,

Major General commanding.

Brevet Major Gen. GAINES.

True copy: R. K. CALL, *Aid-de-camp.*

*Extract of a letter from the Secretary of War to the Hon. W. Lowndes, Chairman of the Committee of Ways and Means, dated 13th April, 1819.*

The estimate formerly transmitted for the expense of calling out the militia during the present year, was made for infantry; but as upwards of twelve hundred men of the present militia force in the field are mounted volunteers, an additional sum of ninety thousand dollars will be necessary to meet the increased expense.

DEPARTMENT OF WAR, Dec. 21, 1819.

A true copy from the records of this Department.

C. VANDEVENTER.

HEADQ'RS, TENN. VOLUNTEERS,  
South side of the Tenn. river,  
February 13, 1818.

SIR: I have the honor to transmit to you the muster-rolls of the volunteer mounted gun-men, of West Tennessee; also, a consolidated morning report of the brigade. I have had much trouble in procuring these returns.

I have the honor, to be, &c.

A. P. HAYNE, *Insp. Gen.*

To Brig. Gen. D. PARKER,  
Adjutant and *Insp. Gen.*

True copy on file in my office.

A. P. HAYNE,  
Inspector General U. S. Army.

DEPARTMENT OF WAR, March 7, 1818.

SIR: I have had the honor to receive your letter of the 9th, and three of the 15th instant. I have the pleasure of expressing to you my entire approbation of all the measures you have adopted to insure a prompt movement of the patriotic volunteers confided to your command.

It is a subject of regret that there is no public arsenal in that section of the country, from which arms and equipments could be drawn. The course which you have taken to remedy the evil, I trust, will be effectual. So far as it may be practicable, let the arms be preserved and returned, after the campaign closes, to the owners. Where this cannot be done, let the account, properly vouched, be paid by the quartermaster's department.

The bills drawn on account of supplies of every

kind will be paid when presented to this Department. Upwards of one hundred thousand dollars have been forwarded to the paymasters of the fourth and seventh regiments, for the payment of the militia, before they are discharged. General Jackson will adopt such measures as will be proper to secure this object. The desire of the President, that the disbursing officers of the regular forces should be charged with the expenditures of the campaign, is the only obstacle to appointing the gentlemen recommended by the officers of the Tennessee brigade. Every attention will be given to secure the object of their wishes.

I am well aware of the difficulties to be overcome to organize efficiently, and satisfactorily to the officers and men, a volunteer corps for the field. In the present instance, the pride and spirit of veterans, aided by patriotism, and directed by superior intelligence, have handsomely surmounted every obstacle. The alacrity with which the brave Tennesseans have again resumed their arms in defence of their country, is a sufficient earnest that their efforts will be successful, and that their efficiency, joined with the gallant exertions of other corps, will speedily terminate the conflict. I have the honor, &c.

JOHN C. CALHOUN.

To Colonel A. P. HAYNE,

*Insp. Gen., com'g Tenn. brigade.*

True copy, taken from the original on file in my office.

A. P. HAYNE,

*Insp. Gen. U. S. Army.*

I, Richard K. Call, captain of the United States army, and aid-de-camp to Major General Jackson, do swear, that, some time during the last session of Congress, I was summoned to appear before a committee of the Senate of the United States, to give evidence in relation to the occurrences of the Seminole campaign; that, after giving the statement, which appeared as one of the documents accompanying the report of the committee, (which statement was taken in writing by one of its members,) I was told by Mr. Lacock, chairman of the committee, that my testimony could not then be copied in order to receive my signature, but that by the next morning at ten o'clock it should be prepared; at which time I should have an opportunity of comparing it with the original, and of correcting any mistake which might arise in its being transcribed. I accordingly repaired on the day appointed to the Senate Chamber, and was informed by Mr. Lacock, chairman, that the committee would not meet that day, and that my testimony was not yet copied. I again mentioned to him, that, from the number of mutilations and erasures which had been made in recording my evidence, if it was copied, I should expect the right of seeing it before it should be given to the public. He replied that he did not know that the committee would make any use whatever of my deposition; but if they should ultimately determine to introduce it as a document on which a report would



*Defeat of the Seminole Indians, &c.*

be framed, it should be previously copied, submitted to my inspection, and receive my signature; none of which promises were complied with. After my interview with Mr. Lacock, I remained in Washington five or six days, to the best of my recollection, during which time I heard nothing from Mr. Lacock or my deposition; neither did I learn that my statement had been applied to any purpose until my return from Philadelphia to Baltimore, at which place I saw it attached to the report of the committee.

My deposition, however, though published without my having an opportunity of correcting errors which might arise in transcribing it, and in direct violation of Mr. Lacock's promise, is, according to my recollection, correct, with a trivial exception. It is not, however, without error; and this error will be found in the omission of the expression, *I believe*. When interrogated by the committee, in relation to the purpose for which Lieutenant Sands had been ordered to Mobile, my answer was, *I believe* he was ordered there for artillery; and not positive to the fact. I, moreover, observed to the committee, that I did not, at that time, belong to the personal staff of General Jackson; my duties were remote from his person, and therefore I was little acquainted with the views and opinions of the commanding General.

R. K. CALL.

Sworn to, this 30th day of July, 1819, before  
W. TANNEHILL, J. P.

True copy:

R. K. CALL, *Aid-de-camp*.

NASHVILLE, July 29, 1819

I, James C. Bronaugh, of the United States army, and attached to the staff of Major General Andrew Jackson, do swear, that, during the last Winter, whilst at the City of Washington, I was summoned to appear before the committee of the Senate, in pursuance of their resolution of the 18th December last, "that the Message of the President, and documents relative to the Seminole war be referred to a select committee, who shall have authority, if necessary, to send for persons and papers; that said committee inquire relative to the advance of the United States troops into West Florida, whether the officers in command at Pensacola and St. Mark's were amenable to, and under the control of, Spain; and particularly what circumstances existed to authorize or justify the commanding General in taking possession of those posts." That, when I appeared before said committee, I was questioned upon the subjects contained in my deposition, which is published in the documents accompanying their report of the 24th February, 1819; that the substance of my answers was taken down by Major John H. Eaton, a member of the committee; and that it was expressly declared to me by John Forsyth, another member, "that if my testimony was used by the committee, I should have timely information, for the purpose of affording me an opportunity of correcting it." That this promise

made me by Mr. Forsyth was violated; and that I never saw the deposition afterwards, until it was published in the documents accompanying the report.

JAS. C. BRONAUGH, U. S. A.

Sworn to, and subscribed before me, this 24th day of July, 1819.

R. C. FOSTER, J. P.

True copy:

R. I. EASTER, *Aid-de-camp*.

R. K. CALL, *Aid-de-camp*.

NASHVILLE, April 21, 1819.

SIR: In a conversation with Mr. Forsyth on the subject of the report of the committee of the Senate, I stated that the committee had misstated several facts in relation to the occurrences of the Seminole war. "First. That the Governor of Tennessee was in Nashville when you received your instructions to call for a portion of the militia of the State, and that you neglected to make any requisition upon him for the number for which you were authorized to call; informing him that he was not then in Nashville, and that you had written him immediately on receiving your instructions. I further told him that you were prepared to prove that you had not appointed the officers to their respective commands as alleged by the committee." To all which Mr. Forsyth replied, that it was much to be regretted that, in an investigation so important to the country and the character of the individual, evidence so closely connected with the matter in consideration had not been earlier before the committee. I am, sir, respectfully, &c.

RICHARD I. EASTER.

Major Gen. A. JACKSON.

True copy:

R. K. CALL, *Aid-de-camp*.

DUNLAPSVILLE, TENNESSEE,  
March 30, 1819.

SIR: On the 22d of February, 1819, Governor McMinn came to Kingston. Immediately on his arrival I informed him of my intention to raise a volunteer company, to join your army on its march to Fort Scott. The Governor went to John Laya's tavern, and made a public and animated appeal to the patriotism of the people of Kingston and its vicinity; and assured all those who would go with me, or go from any part of the State, that they went with his warmest wishes, as he felt anxious to facilitate every movement of the volunteers at so important a crisis. Governor McMinn pledged his faith and reputation, as Governor of the State of Tennessee, to those who went with me, that remuneration should be made for their services.

I am, with respect, yours, &c.

RICHARD G. DUNLAP.

General JACKSON.

A true copy:

R. K. CALL, *Aid-de-camp*.

*Defeat of the Seminole Indians, &c.*

HEADQ'RS, SOUTHERN DIVISION,  
Nashville, Jan. 11, 1819.

SIR: I have just received orders from the President of the United States to repair to Fort Scott, Georgia, with instructions to call on the Governors of the neighboring States for such additional militia force as may be deemed necessary to co-operate with the disposable regular troops of the southern division, against the Seminoles.

I have this night addressed circulars to several of those brave officers who served with me during the Creek campaign, under a hope that a timely address to the patriotism of our citizens will enable me to effect, by voluntary enlistment, what would otherwise have to be done by draughts.

I have called for one thousand mounted men; and, should the appeal prove inefficacious, will embrace the earliest opportunity of making a requisition on you for a like number of draughted militia.

I have received your letter of the 4th instant, and am happy to hear of the ratification of the treaty with the Cherokee Indians.

Respectfully yours, &c.

ANDREW JACKSON,

Major General commanding.

Governor McMINN.

A true copy:

R. K. CALL, *Aid-de-camp*.

[CIRCULAR.]

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 11, 1818.

SIR: The Seminole Indians have raised the war hatchet. They have stained our land with the blood of our citizens; their war spirit must be put down, and they taught to know that their safety depends upon the friendship and protection of the United States. To accomplish this, the aid of one regiment of mounted gun-men, of one thousand strong, completely armed and equipped, and to serve during the campaign, is asked from West Tennessee. Can you raise them, and be ready for the field, in ten days? If you can, your General, who led you to victory on the plains of Talledega, Emuckfau, and Tohopeka, asks you to accompany him to the heart of the Seminole towns, and there aid in giving peace and safety to the southern frontier. An answer is expected in five days, and it is anticipated that the number required is now ready. This is a private appeal to the patriotism of West Tennessee, and is not to appear in a newspaper. If the regiment is raised and marched, all expenses for expresses shall be paid. By the return of the express you are expected to give your opinion of the probability of the result, that preparations may be made accordingly. Colonel R. H. Dyer, Colonel Gibson, Colonel Williamson, Colonel George Elliott, Major William Mitchell, Major John Smith, of Montgomery county, Colonel Martin, of Williamson, and Captain F. Ellis, of Dixon county, have alone been addressed on this subject. The grade of the officers to be determined by themselves or

the platoon officers of the regiment. The officers raising companies to command them. Upon further reflection, it is requested that those officers named above, and all such as can raise a company, will meet me at this place on the 19th of the present month. Punctuality in this is much desired; and it is further requested, that all those officers, who have served in the late war will be confidentially notified of the foregoing.

I have the honor to be, &c.

ANDREW JACKSON,

Major General commanding.

A true copy: R. K. CALL, *Aid-de-camp*.

NASHVILLE, January 19, 1818.

SIR: In my last I informed you of the late order received from the President of the United States, and the appeal I had made to the patriotism of West Tennessee. This day the officers who heretofore commanded the volunteers met me, and report, that two regiments of mounted gun-men will rendezvous, on the 31st instant, at Fayetteville, prepared and equipped for a tour of six months. Thus you see, that my best hopes of Tennessee are realized. Had circumstances permitted, and time allowed, and the emergency demanded an appeal to the whole State, I have no doubt but five thousand men could have been raised. There appears no difficulty but the want of arms. With those two regiments, and the regulars, should the time of the Georgia troops have expired, I will be able to act promptly, and, I hope, with effect.

The last account from Fort Scott, on the 19th ultimo, left the regular force in an unpleasant situation. I set out on the 22d, in the morning.

I have the honor to be, yours, &c.

ANDREW JACKSON.

His Excellency Governor McMINN.

True copy: R. K. CALL, *Aid-de-camp*.

Act of the Legislature of Tennessee. [See chap cxviii, sec. 112.]

Be it enacted, That, when it may be conceived that the public good eminently requires it, the Governor is hereby authorized to call out such parts of the cavalry of this State as he thinks proper; and, when so called out, they shall be considered, ruled, and regulated, as mounted gun-men, for the time he may so order them.

True copy:

R. K. CALL, *Aid-de-camp*.

Extract of a letter from Governor McMinn, dated  
JUNE 20, 1818.

DEAR SIR: I am happy to hear of your return, as also those brave men who volunteered their services with you.

I have never heard from you since you left the Lookout Mountain; but hope, from what I have learned from others, that you have silenced the disturbers of our peace. I am prodigiously pleased



*Defeat of the Seminole Indians, &c.*

to hear of your leaving the posts of St. Mark's, and Pensacola in possession of the Americans out of which I trust in God they will never be taken.

JOS. McMINN.

General JACKSON.

True copy: R. K. CALL, *Aid-de-camp.*

*Extracts of two letters from the Governor of Tennessee to Major General Andrew Jackson, dated MURFREESBOROUGH, April 6, 1819.*

Your favor of the 3d instant is now before me, and with pleasure I make the following reply:

Your letter, dated Nashville, 11th January, 1818, reached me at Knoxville, seat of Government.

Your letters of the 11th and 19th January both reached me by due course of mail; the former advising of your having received instructions from the President of the United States to call on the Governors of the neighboring States for such militia force as you might deem necessary, to co-operate with the regular troops of the southern division against the Seminole Indians; but that you had made an appeal to the officers who had served with you in the Creek campaign, by which you expected that the necessity of calling on the State of Tennessee for one thousand draughted men would be superseded; which expectation must have been realized, by the advice contained in your letter of the 19th above referred to; in which you state that the officers have given you assurances that they would furnish two regiments at the earliest notice. Your mode of raising those regiments met my entire approbation; and I gave it my support in aiding Captain Dunlap in raising a company of mounted volunteers, at Southwest Point, which I have since learned joined your army at Fort Gadsden.

True extract: R. K. CALL, *Aid-de-camp.*

DEPARTMENT OF WAR, Feb. 5, 1819.

SIR: The enclosed is a copy of a letter from the chairman of the committee of the Senate, on the subject of the Seminole war.

Governor Bibb's letter to you of the 19th of May last is all the information now in the possession of this Department relative to the inquiry of the committee.

I will thank you to communicate, as early as practicable, whatever information you may possess on all the points of inquiry contained in the letter of the chairman, and not comprehended in the letter referred to.

I have, &c.

J. C. CALHOUN.

Major Gen. ANDREW JACKSON,  
Washington City.

A true copy: R. K. CALL, *Aid-de-camp.*

Arthur P. Hayne, inspector general of the southern division of the Army of the United States, and late commandant of the Tennessee volunteers, being duly sworn, testifies: That, in the month of

January, 1818, Major General Andrew Jackson, of the United States' Army, addressed circular letters to Colonels Dyer, Williamson, Elliott, Mitchell, Phillips, and others; and stated to them that the southwestern frontier was in danger, and that he had determined to make an appeal to the patriotism of the people of West Tennessee; that it was his wish to raise two regiments for that object. And deponent further testifies, that, on the arrival of the field officers at Nashville, they, the said field officers, settled among themselves their own rank; and the deponent further declares that the said field officers were not, in any way or manner, either directly or indirectly, mediately or immediately, controlled, governed, or influenced by the said Major General A. Jackson; and the deponent further testifies, that the field officers determined, at their first meeting at Nashville, that individuals who first succeeded in bringing to the rendezvous full companies should rank as captains, and command their own men; and that the same principle should govern the election of subalterns. And the deponent further testifies, that he never received any authority from Major General Andrew Jackson, nor was he concerned himself, any way or manner whatever, either directly or indirectly, mediately or immediately, in any of the appointments of the officers of the Tennessee brigade, with the exception of those of his immediate staff, a privilege allowed to all commanding officers, either in regular or militia service. The deponent further testifies, that the muster-rolls of the Tennessee brigade were forwarded on to the Adjutant and Inspector General's Office, at Washington City, on the 13th of February, 1818, from Ditto's landing, on the Tennessee river; that the said rolls reached Washington in safety, and in the ordinary course of mail.

A. P. HAYNE.

True copy: R. K. CALL, *Aid-de-camp.*

Sworn to and subscribed before the undersigned, judge of the first judicial district of the State of Louisiana, this 12th of June, 1819.

JOSHUA LEWIS.

Certified: R. I. EASTER, *Aid-de-camp.*

ELM GROVE, May 21, 1819.

DEAR GENERAL: I have just returned home from the western district, and have recently seen the report of the Senate of the United States relative to the Seminole war, wherein I find you charged, by a committee of that honorable body, of organizing and appointing the officers to take the command of the volunteers from this State engaged in that war. Certainly that committee could not have received the proper information respecting the particular subject; and, believing that you, sir, have a wish that the facts should be stated in all questions wherein you are concerned, I have thought proper to make the following statement, which every field officer belonging to the two regiments, I have no doubt, will recollect to be facts.

*Seminole War—Strictures on Mr. Lacock's Report.*

In the month of January, 1818, you made an appeal to a number of those officers who had accompanied you in the Creek war, and to Mobile, Pensacola, and New Orleans, and named to them that there were one thousand men wanting, and that volunteer mounted men would be received; and requested that those officers would meet at Nashville, on the 19th January, 1818; at which time and place a number of officers met. After assuring you that the men could be raised with ease, it was proposed by myself, and some other officers then present, for you to name the officers to command those troops. This you refused, and said, "Agree among yourselves on your officers;" and then stated to the officers present that you would appoint Colonel A. P. Hayne to lead us on to Fort Scott, and, on our arrival at that point, you would then take the command yourself. We then left you, and withdrew to a room, where it was agreed that I should take the command of the first regiment, and Colonel Thomas Williamson should take the command of the second regiment, and that we should officer and organize them in the same way that the volunteer mounted gun-men were organized in 1814, when we marched to Mobile, Pensacola, and New Orleans; the other field-officers were then agreed on, and our names reported to you, in writing, who would command the two regiments. You then named to the officers the law regulating the Peace Establishment, and how the regiments were officered under that law. It was then named to you by myself, together with several other officers, that, by experience, we had found that horsemen required more officers than footmen, on account of horsemen covering a much larger space. You then said, "Organize yourselves in a way that you may think proper; it will rest with the Government." A number of those officers you made the appeal to were commissioned by James Madison, Esq., then President of the United States, in 1812; and a part of them, under all privations, stuck to the service with you, without a murmur, during the war with Great Britain and the hostile Creek Indians.

I am, sir, with great respect, yours, &c.

R. H. DYER,

*Late Colonel 1st reg't Tenn. volunteers.*

The facts stated in the above letter are known by the undersigned, who was present at the time alluded to, to be correct.

THOMAS WILLIAMSON,

*Late Colonel 2d reg't Tenn. Volunteers.*

MURFREESBOROUGH, Sept. 23, 1819.

SIR: In answer to your note of this date, just received, I have to reply that I was of the volunteer corps raised in East Tennessee, in the latter part of the year 1812, by Colonel John Williams, and marched into East Florida in the same year, or in January in the year 1813, as well as I recollect. I was an officer in the said corps, and held a commission signed by Colonel John Williams.

This volunteer corps was raised under the influence of Colonel Williams, organized by him, and the officers commissioned by him. We marched into East Florida, and had an engagement with the Indians and negroes. This campaign was approved by the General Government, and the officers and men paid for their services.

I am, respectfully, your obedient servant,  
SAMUEL BUNCH.

Major General JACKSON.

A true copy:

R. K. CALL, *Aid-de-camp.*

Major General ANDREW JACKSON:

In answer to the interrogatories this day proposed by you to me, I declare I held no office or appointment whatever under Colonel John Williams, or any other person, in the Florida or Seminole campaign, commonly so called, set on foot and commanded by Colonel John Williams, in 1812.

I was one of the privates composing that service, and my services were wholly voluntary. I did not know that any commissions were made out in form for the officers; but I know that the officers were selected or named by Colonel John Williams, and I know those selected by him served in the capacity for which they were selected. I know it, because I was consulted on that occasion; the selection having been made, as I believe, with a view, in part, to the feelings and interest of the individuals composing the command. We had an engagement with Indians, and perhaps negroes; but I do not know that there were any negroes in the engagement. I received my pay from the General Government, and I believe all others did. I know of no authority given by the General Government to raise such company, nor have I ever understood that there was any; and I believe the same to have been wholly voluntary.

Given under my hand, this 22d of September, 1819.

P. M. MILLER.

A true copy:

R. K. CALL, *Aid-de-camp.*

*From the National Intelligencer of March 8, 1819.*

[Communicated for publication.]

STRICTURES ON MR. LACOCK'S REPORT  
ON THE SEMINOLE WAR.

The author of this article has had access to documents, the perusal of which convinced him that the report of the select committee of the Senate, on the Seminole War, is alike unjustifiable in temper, argument, and statements. Its temper is harsh and vindictive, its arguments are childishly weak, and its statements are, in many instances, grossly and unaccountably erroneous.

The report has been read with astonishment and regret; regret that such a document should



go before the world unanswered in Senatorial discussion; and astonishment, as well as the institution of such an inquiry into the conduct of General Jackson as at the anomalous and unfair manner in which the investigation has been conducted.

But independently of the peculiar hue of this instrument, it is also objectionable—1st. Because it is designed to impute the cause of the war to our own officers and Executive, laying aside all provocation and aggression on the part of the Indians; 2d. Because it directly implicates the President and Secretary of War; for, although they were not, in the first instance, guilty of what the committee calls "a gross violation of the Constitution," yet they made the act theirs by adoption; and, if this implied accusation is just, those officers ought to be impeached; and, 3d. Because the Senate should not prejudge a case which they may be required to examine judicially; and on which this anticipation of censure would disqualify them to act.

This subject was, on the 18th November, referred, by the House of Representatives, to two committees, the military and foreign; and, one month after, on the 18th December, Mr. Lacock moved, in the Senate, for a committee on the same subject. He appears to have been the moving principle throughout the whole investigation in the Senate. To his exertions are the public indebted for the commencement of the business, its peculiar character of virulence, and the singular document by which it is terminated.\*

The Seminole war was discussed in the lower House for more than three weeks, and yet not a single member suggested the slightest censure either on General Jackson, for the employment of volunteers, or on General Gaines, for the unauthorized call on the Creek nation. It was reserved for Mr. Lacock to make the discovery of a violation of the Constitution in these acts; and the hostility of his views, in advancing such a charge, is to be found in the time at which he made his report—when the Senate had but six days to sit, and it could not be discussed; and in declining to annex the customary resolution, so as to admit of discussion and afford the friends of General Jackson an opportunity for defence. In fine, it was obviously intended to counteract the effects apprehended from the vote of the House and the force of public opinion; and was, incontestably, designed to inflict a wanton blow on the feelings and character of General Jackson, under the imposing sanction of a regard for public duty.

It is needless to consume time in an exposition of reasons for thinking such a trial of any man's motives and conduct unfair and unconstitutional. It is enough to remark, that justice consists, not merely in awarding punishment for crime, but in giving to individuals accused of misconduct

\* Mr. Lacock's son was contractor's agent, and failed in supplying Fort Scott. It has been intimated that the father was interested in the contract.

a full and impartial hearing, and an opportunity of advancing all accessible testimony for the elucidation of their acts and the uprightness and innocence of their intentions. This justice has been denied to General Jackson. His public acts and private character have both been made the subjects of systematic investigation; and, without a hearing, he has been pronounced guilty of the awful crime of striking at the liberties of his country, by an infraction of its Constitution; and has received, in a sentence of censure, the cruellest punishment that can pierce the bosom of a soldier.

And what is the motive to which all the General's acts in Florida have been attributed? His operations, say the committee, were conducted "on reasons of his own, unconnected with his military functions"—and these "reasons" were mercenary views and speculations, which the occupancy of the Spanish territory would facilitate and mature! It is to be hoped that General Jackson will never degrade himself by answering a charge as foul as it is ridiculous—a charge totally unsupported by any of the documents, and abundantly refuted both by them and by his character. No man in public life, who marches steady and erect along the path of duty, can fail to awaken enmity among those who envy his reputation, without ability to emulate his virtues. But, surely, the deadliest foe of General Jackson cannot, for a moment, credit such a charge as this. I dare venture to assert, that not a single member of the select committee, malignant as appears to be the hostility of some of them to the General, believes that he led an army to the field, and jeopardized the lives of valuable citizens, in order to speculate with security in Spanish lands; or that he risked the ruin both of health and reputation, and prostrated the Constitution, to secure the paltry advantage of buying a few acres in Florida. We read of men whose dangerous political ambition prompted to the commission of awful crimes towards their country; but the monstrous act of overturning a free constitution and making unauthorized war, with the despicable view of trifling pecuniary emolument, is yet, and may it long be, unheard of and unrecorded. If that committee do not believe the charge they have advanced, what can be their views, and how will they explain their motives to their country? It would be both indecorous and useless to indulge in the language of resentment and recrimination; but it would be injustice to the country to withhold the expression of a deep conviction, that this most unjust and illegal trial originated in dishonest motives—from feelings of personal hostility in one of the members, and, in others, of a disposition to gratify a junta. It is right to state, that two members of the committee were opposed to the report. One of those, who was not personally acquainted with the General, and who sat in the convention which framed the Constitution, was too well acquainted with the principles of that sacred instrument, to sanction any proceeding calculated to do it vital injury; and the other had too long known Gen. Jackson to en-

ertain any doubt of his purity. When the course of these gentlemen is contrasted with that of the majority in the committee, the people will have no difficulty in conceiving the impure motives by which that majority were governed.

The principles which guided the Commander-in-Chief, in the movements of the Seminole campaign, have been so ably developed and supported by men of integrity and talents, that it is deemed unnecessary now to review them. The orders which governed him are before the world. The selection and use of the means for their complete execution are well known. If he left anything undone which was necessary "to give peace and security to the Southern frontier;" or if he unnecessarily superadded to the sufficient means of effecting this object any act injurious to the country and destructive of the Constitution, the grounds for a fair judgment are with the nation, and its award, either of blame or approbation, will doubtless be just. This article shall be confined to the elucidation of some obscurities, and the correction of several misstatements of facts in the narrative of the report. The argumentative part shall only be touched incidentally.

It is stated in the first page of the report "that, in the Spring or Summer of 1817, the regular troops were withdrawn from the posts on the Georgia frontier, and concentrated at Fort Montgomery, on the Alabama river, a considerable distance west of the Georgia line." This is calculated to create an impression that General Jackson issued the order for evacuating the posts south of Georgia, and thereby jeopardized that frontier, by opening the way for savage incursions. But, in the commission of this military error he was no way instrumental. The order for the movement of the troops to the Alabama was issued from the War Department, by Mr. Crawford, contrary to the General's opinion, who considered the movement both dangerous and impolitic.

In page 2 it is stated that General Gaines ordered Major Twigg "to surround and take an Indian village, called Fowl Town, about fourteen miles from Fort Scott, and near the Florida line." The order to Major Twigg was, to bring to Fort Scott the chief of Fowl Town, who had repeatedly been called to an interview, and as often contumaciously refused to appear. The object of General Gaines was to have a definitive understanding with the Chief, respecting his hostile or friendly intentions; and the importance of such an understanding induced the General to order his forcible capture, if gentle means proved inefficient.

In the same page is this remarkable paragraph: "On the receipt of this order," (the order under which General Jackson proceeded on the Seminole campaign,) "General Jackson, instead of observing the orders of the Department of War, by calling on the Governor of Tennessee, then in Nashville, near the place of his residence, chose to appeal (to use his own expressions) to the patriotism of the West Tennesseans, who had served under him in the last war. One thousand mounted gunmen and two companies of what

were called *life-guards*, with the utmost alacrity volunteered their services, from the States of Tennessee and Kentucky, and repaired to his standard. Officers were appointed to command this corps by the General himself, or other persons acting under his authority. Thus organized, they were mustered into the service of the United States."

At the time this order was received, the Governor of Tennessee was either in Knoxville or the Cherokee nation; and to have waited the result of the usual process of draughting would have produced the two evils, of much loss of valuable time and the raising of a force reluctant in disposition and inefficient in character and equipment. General Jackson immediately despatched a letter to Governor McMinn, apprizing him of the call for volunteers, and informing him that in case the call should not be promptly and effectually answered, he should require of him one thousand draughted militia.\* The Governor warmly approved the step the General had taken, and added to his force one company of mounted volunteers, who joined the army at Fort Gadsden. General Jackson's letter of the 12th January, apprized the Department of the measure, and the Secretary approved and sanctioned it.†

Corps of the same character with the Tennessee volunteers were raised in other parts of the country, and under different officers, during the late war with Great Britain. In the Northwestern campaign, General Harrison was joined by a body of volunteers, led by Colonel Johnson; and Governor Shelby authorized the General to form them into corps, and appoint such officers as the men might elect. Another body of men, from Ohio, joined the army on the march of General Harrison for the relief of Fort Wayne, without any authority, and uncommissioned by the State Executive. These organized themselves and appointed their officers. Their services were accepted for ten days, and they received pay for that period.

It is well known that exactly the same kind of troops followed General Jackson into the Creek nation, and achieved the victories of Taledaga, Emucklaw, and the Horse-Shoe. The same men who penetrated the swamps of Florida, covered Mobile from British visitation; and the same troops, officers, and men,‡ defeated Wellington's veterans on the shore of the Mississippi, and saved New Orleans from incendiary pollution. Did Congress, then, adjudge the act of raising them "unconstitutional," or did they approve the mea-

\* See Doc. B. † See Docs. C. D. L. K. I.

‡ It is worthy of remark, that the same regiments, similarly officered, and nearly the same men who were at New Orleans, were in the Seminole campaign. They assembled in 1814, at the call for volunteers, chose their officers, and cheerfully obeyed them, although none were commissioned. They followed the same course exactly in 1817-18, and, in both cases, victory followed their march.

The muster rolls of the volunteers, in 1814 and 1818, now on file in the War Office, establish this fact.



sure and make appropriation for paying them? I will not say that the sanctioning an act by one Congress obliges every succeeding Congress to approve all similar proceedings. But, where a measure of important necessity is adopted on personal responsibility, and approved by the Government or the nation, it must be some motive, different from a regard for principle, that could prompt a committee of Congress, at another period, to censure a similar measure, urged by similar necessity, and productive of similar benefit.

It is thought unnecessary to enter minutely into an inquiry on the powers of either the War Department or a Major General Commanding, to raise, on emergency, a body of mounted volunteers. We shall leave this discussion to those who are fond of cavilling at forms, and raising technical objections to the most important and necessary measures. Suffice it to say, that General Jackson had to choose between two modes of raising the requisite force: the one productive of pernicious delay,\* and calculated to insure ultimate defeat; the other, more simple, less expensive, and creative of an army, fraught with ardent enterprise, and willing to endure every privation in giving safety to their brethren of the South. To select was not difficult. It was a choice between defeat and victory; the full performance of an urgent duty, or the disgrace of the General and the destruction of his army.

The committee are grossly erroneous in asserting that General Jackson appointed the officers of the volunteer corps.† He did not appoint one of them. It is true that he appealed to the officers who had gallantly fought with him in the wilderness of the Creek nation, and on the plains of New Orleans, and again roused them to the defence of their frontiers.‡ But their appointments to command were in all cases made by the choice of the men they brought into the field; and many of the officers, high in rank, accepted subordinate commissions. Colonel Hayne was ordered to take command of the volunteers, to organize, muster, and march them to the frontier. It may be well to remark, before quitting this subject, that the field officers of the Georgia troops were appointed by choice of the men, after the concentration of the militia on the west bank of Ockmulgee, and beyond the civil jurisdiction of Georgia.

In page 5, the committee remark that the whole strength of the Seminoles, when combined, did not exceed one thousand men, opposed to whom, under General Gaines, were "1800 regulars and militia, besides 1500 Indians, illegally subsidized by the last mentioned General. What, then, in this state of the case, becomes of the plea of necessity?" I will ask, if the committee did not know, that correct information of the numbers and positions of the Indians was only obtained

\* See Doc. A. † See Doc. M.

‡ The importance of rapid movement, at that time, is best proved by a reference to Doc. F. containing an extract of a letter to Colonel Arbuckle, then at Fort Scott, in an extremely difficult situation.

after the termination of the campaign? General Gaines was led to believe, from his inquiries on this subject, that the number of the Seminoles exceeded 2,800 warriors. Would it have been prudent to march half this number of men to the frontier, had the General even believed the numbers of the enemy to be exaggerated? The strength of the Seminoles might easily have been augmented by auxiliary bands from the more easterly parts of Florida, and it became General Jackson's duty, under this consideration, to raise such a force as would insure success in every emergency. Can it be wrong to act against an enemy, with a larger force than his own: or is it impolitic and unamilitary to use that superiority which will insure success? Such a principle may govern those who lead men to battle to gratify ambition, and weave barren laurels for their brows. But such battles General Jackson never has fought, and never will fight. He has too dear a regard for the character of his country and the lives of her citizens, to endanger either in useless contests; and far may it ever be from him, to draw either on the purse or the blood of the Republic, to purchase the wreath of unprofitable glory.

It is said that the Indians were illegally subsidized by General Gaines. General Mitchell's letter of the 14th December, 1817, to the Secretary of War, apprizes the Department that the friendly Indians should be employed; and General Gaines, in a letter of the 2d December, also informs the Secretary of the contemplated employment of Indians; which communication was received at Washington, on the 26th December. If, then, the Executive were early apprized of General Gaines's intention, the Secretary, by not disapproving the measure, adopted it; and the committee knowing this fact, in attributing improper and illegal views to General Jackson, only afford an additional display of splenetic hostility to the army, and the most wanton and studied disregard of truth.

The committee accuse the General of disobedience of orders, inasmuch as he disregarded the injunction to General Gaines to abstain from attacking Spanish garrisons, without special instructions from the Department.

It is a clear principle that no order given to one officer can be made part of an order subsequently given to another officer, for the performance of the same duty, without a special reference to the first, and an express direction to be governed by it. Jackson's orders were general: he was told to terminate the conflict, and give tranquillity to the frontier; and, in these orders, no instructions can be found for his government by the orders previously given to General Gaines. In selecting the means of accomplishing the objects of the campaign, the commanding General's powers were discretionary, and for his judgment, in using those powers, was he alone responsible. The only mode in which he could have disobeyed the order, was either to have remained inactive at Nashville, or to have adopted such measures as would have been more pernicious than inac-

tivity. In either case, his conduct would have been justly reprehensible.

But admit the orders of General Gaines to be obligatory on General Jackson—the case contemplated by these orders never occurred. The Indians were not found under the guns of the Spanish fort, but were sheltered within it. It was their depot, from whence they drew their public stores, both of ammunition and provision. Spanish officers escorted parties of Indians to place them in security from our attacks. The war was planned in St. Mark's. The Indian power of attorney was executed there, and countersigned by F. C. Luengo, the commandant; and the councils for the arrangement of every warlike movement were held in the quarters of that officer.

If these facts had been known at the War Office, it is not to be doubted, that an order would have been issued for the seizure of St. Mark's. For when they, and the acts of the General induced by them, were known, the President approved of the measure. It had not been conceived that the Spanish officers had made themselves parties in the war; and no previous order could have been expected to meet a case which was not supposed to exist.

In page 6, the committee remark, that "here also at (St. Mark's) were taken two Indian chiefs, one of whom pretended to possess the spirit of prophecy; they were hung without trial, and with little ceremony." The committee have forborne to state, that Francis the Prophet had long been one of our direst and most dangerous foes—that he had a Brigadier's commission from Great Britain—and that he successfully employed his superstitious influence and the promises of his trans-atlantic friends to instigate his deluded brethren to deeds of rapine and massacre. They seem also to have forgotten that Homathlimico, the other chief, had headed the party who in cold blood murdered Scott and his unhappy companions—struck the reeking tomahawk into the bosoms of defenceless women, and "dashed out the brains of their infants against the boat."

Was it mere "technical retaliation" under which these monsters were executed, or, was their death an awful but just punishment for their unhallowed crimes? It is wrong to speak of the policy of executions; and I trust that mere policy shall never be urged as an excuse for depriving a fellow-being of existence; but criminals are executed both for example and punishment, and the awful example made of Francis and Homathlimico had a wide-spread influence. Two Indians had been taken with them and released; and, in a few days, the whole Ocheese tribe surrendered at discretion. They were treated humanely, furnished with transportation and provision, and sent into the Creek nation.

An effort is made by the committee to show, that, at the time General Jackson believed the war to be ended, he had resolved on occupying Pensacola. To establish this charge, they more than once refer to extracts from his letters, wherein he states that the Seminoles are dispersed and their means of annoyance destroyed. It will

be recollected, that these letters were written after the end of that part of the campaign which was conducted in East Florida, and had a necessary reference to the General's success in securing that portion of our frontier immediately open to the incursions of the Eastern Seminoles. At the time the despatches were written, the numbers of hostile Indians in West Florida were unknown; and, without attributing to General Jackson the powers of prophecy and magic, it was impossible, in stating "the Seminole war was ended," that he meant to extend the remark to all future aggressions, both on the eastern and western extremities of our Southern border. The Seminoles in East Florida were dispersed, not exterminated; their towns were burnt and their cattle taken from them; of course, when scattered and in a state of starvation, the commanding General safely said the war with them was at an end. But the means of subsistence they might soon again procure from labor and the sympathy of their Spanish friends east of Savannah—and, these obtained, they still possessed the power of concentration and incursion; although it was confidently trusted that the awful lesson which they received would have a permanent salutary influence.

In West Florida, the same outrages had for some time been committed, almost daily, on the frontier of Alabama; and the letter from Governor Bibb of the 19th May, which was received on the arrival of the army at the Escambia, plainly showed that the territorial border called as loudly for defence and security as the frontier of Georgia.

East and West Florida were similarly situated; both were inhabited by Indians hostile to the United States, in both had British instigation cherished and matured this spirit of hostility, and in each, had the savages a depot, whence they drew their warlike munition, and on which they could retire in case of defeat. Of all these facts, the General had the fullest proofs; and with these proofs before him, he had to choose between retiring from Florida into Tennessee, content with doing half his duty by securing half the frontier, or executing his orders entire, by pursuing the same course to tranquillize the West, which he had successfully adopted in the East.

I mean not now to enter upon a defence of the occupancy of Pensacola. General Jackson believed it necessary, and therefore he did it. If it saved the life of a single frontier settler, it was right; and it can only be proved wrong by showing, that there was not a single body of Indians in West Florida at the time Pensacola was occupied. The savages west of Pensacola Bay were scattered in the swamps, obtaining, after their dispersion by the movements of Major Young's and General Jackson's advance into the country, a miserable subsistence by hunting and depredating on the cattle of the inhabitants. Had these Indians, irritated by defeat, been granted access to their old depot, they would, in parties of ten and twenty, have committed more murders on our open borders than could ever have sat easy on General Jackson's conscience, had any act



*Seminole War—Strictures on Mr. Lacock's Report.*

or neglect of his facilitated their commission. Common sense as well as national law prohibits any violation of neutrality to prevent an evil remotely prospective. But, where the expected danger is both of vital character and certain occurrence, to neglect any means of preventing it is not only falsely generous but grossly criminal. Individuals may make such sacrifices, when mere personal danger or inconvenience is apprehended, but to avert so dreadful an evil as the murderous incursion of a savage foe, all accessible means of security and prevention are imperiously called for. Men, who know the Indian character, are well aware of the folly of defensive operations to restrain their massacres and predatory expeditions. If the whole army had been extended in a cordon, along the Southern frontier, they would have been laughed at by the Indians. Relieved from all apprehension of attack, and the privation of their Spanish depots, they would have leisurely concentrated their forces, and broken the cordon at almost any point. It was then necessary to attack them, and, as in West Florida they never were imbodyed the General had either to march his whole army in pursuit of each little squad of warriors, and exterminate them in detail, or to adopt such measures as would relieve his army from useless toil and bloodshed, and his country from unnecessary expense. This measure was the provisional occupation of Florida. It was an act of necessity; the necessity we were under, in all cases, to protect the lives and liberties of our citizens. If the occupation of Amelia Island is justifiable, the seizure of Pensacola is still more so; for the lives of our citizens are of infinitely greater importance than the plunder of our commerce, and the security of a frontier from Indian invasion, of much greater interest than the prevention of smuggling.

To destroy the scattered parties in West Florida, Captain Boyles, with two companies of rangers, was ordered to scour the country, and his gallantry and success are well known.

In page seven of the report there is a sentence calculated to induce a belief that the terms of capitulation were forcibly imposed upon the Governor and garrison of Pensacola. These terms were proposed by the Governor himself, before surrendering the Barancas; and were fully acceded to, except in such points as affected the security of the occupancy, and the objects of the campaign.

It was unnecessary to remark that General Jackson abolished the revenue laws of Spain, (p. 6.) The capitulation engaged for the transportation of all the officers of Government, civil and military, to Havana. What then became of their revenue laws? The Governor virtually abolished them himself.

It is not a fact that all the officers of the new Government were military men. The temporary Governor, Colonel King, is an officer of the Army; but civil officers were appointed in the different departments from among citizens; and Mr. McKenzie, a native of Mobile, was placed at the head of the magistracy. The civil rights of the

inhabitants were secured to them, and in some instances particular privileges of individuals were held sacred, which were totally repugnant to the nature of our political institutions.

In the ninth page of the report, there is a remark, that, before General Jackson could make a hostile movement on the Spanish possessions, they must have "opposed him by physical, not by moral force." It is not easy to understand this distinction; but I presume the committee mean by *moral force*, the use of persuasion and instigation among the Indians, and furnishing them with arms and ammunition. If the use of such a *moral force* is not to be opposed and avenged without an infraction of natural law and the Constitution, in what a situation are we placed! The adoption of such a principle forever puts a stop to frontier emigration, and the proud spread of our hardy population. It declares to the enterprising settler of the wilderness, that it is illegal to protect him from Indian incursion; and it says to the infamous emissaries of Britain, Your safety is now secure; go among our Indians, and by gold and superstition spirit them to reiterated outrage; deluge our frontier in blood—we dare not touch you—standing under the shelter of our Constitution, your punishment would be a stab to the liberties of our country.

In regard to General Jackson's order to General Gaines to occupy St. Augustine, it is only necessary to say, that it was issued in conformity to the same principle which governed the General in all his movements in Florida, viz: That, where the Spaniards identified themselves with the Indians, by arming or sheltering them, they were to be treated as enemies in our own defence—one of the most sacred necessities imposed on man.

In page eleven, the committee ask, "If these things are admitted in the South, will not they be considered as authorized in the North? I answer, yes.

It is needless to remark on that part of the report which regards the execution of Arbuthnot and Ambrister. The committee admit, "that, having left their country and united their fate with savages with whom the United States were at war, they forfeited their claim to the protection of their own Government, and subjected themselves to the same treatment which ought, according to the principles and practice of the American Government, to be extended towards those with whom they were associated." If their crimes merited punishment, (and where in the catalogue of depravity can we find a blacker crime than the excitement of savages to butcher women and children?) and the civil powers of our country had no jurisdiction over their acts, it remains only to state, that General Jackson had the right and the power to execute the law of nature and nations upon them. If the two great points are admitted—the guilt of the prisoners and the power of the General—what object have we in cavilling at the mode of their trial? An error in the formal part of the proceedings would not

*Seminole War—Strictures on Mr. Lacock's Report.*

have proved the innocence of the accused, and of course could not vitiate the whole transaction. If the conduct of these men had been such as was imputed to them, their death was richly merited. And if it is even admitted that General Jackson in punishing such monsters erred in formalities, the establishment of their guilt and the application of the corrective not only consummated his duty, but repaired all the insubstantial defects which might have given impunity to crime.

To conclude: these remarks are presented to the world from a deep conviction that the report of the committee not only does the greatest injustice to General Jackson, but in its character and tendency is destructive of our dearest rights. Every citizen of the Republic is wanting in duty to his country who does not solemnly protest against so novel and unconstitutional a proceeding. If inquisitorial investigations can be instituted into the character of individuals, at the will of the legislative branch of our Government, why did the great framers of our Constitution give us a Judiciary and Executive? If the Senate can assume the judicial and Executive functions, why may not the President usurp the legislative power? If such a precedent is acquiesced in by the honorable body from one of whose committees it emanated, it is greatly to be feared that such an usurpation will be infinitely more dangerous than the open efforts of ambition, even when supported by the licentiousness of standing armies.

WASHINGTON, March 5, 1819.

P. S. It has been intimated that some gentlemen of the committee have expressed their regret, that all the facts on the subject of their inquiry had not been obtained before they made their report. No excuse is left them for not procuring all the facts; for, General Jackson stated to one of the select committee that he was willing to appear before them as a witness, and expose to them all the documents in his possession. It should be recollected that the General himself furnished the copy of his order to General Gaines respecting the seizure of St. Augustine.

## CIRCULAR. A.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, Jan. 11, 1818.

SIR: The Seminole Indians have raised the war-hatchet. They have stained our land with the blood of our citizens. Their war spirit must be put down, and they taught to know that their safety depends upon the friendship and protection of the United States. To accomplish this, the aid of one regiment of mounted gun-men, of one thousand men, completely armed and equipped, and to serve during the campaign, is asked from West Tennessee. Can you raise them, and be ready for the field in ten days? If you can, your General, who led you to victory on the plains of Talledega, Emuckfau, and Tohopeka, asks you to accompany him to the heart of the Seminole towns, and there aid in giving peace and safety to the Southern frontier. An answer is expected

in five days, and it is anticipated that the number required is now ready. This is a private appeal to the patriotism of West Tennessee, and is not to appear in a newspaper. If the regiment is raised and marched, all expenses for expresses shall be paid. By the return of the express, you are expected to give your opinion of the probability of the result, that preparations may be made accordingly. Colonel H. Dyer, Colonel Gibson, Colonel Williamson, Colonel George Elliott, Major William Mitchell, Major John Smith, of Montgomery county, Colonel Martin, of Williamson, and Captain F. Ellis, of Dixon county, have alone been addressed on this subject. The grade of the officers to be determined by themselves, or the platoon officers of the regiment. The officers raising companies to command them. Upon further reflection, it is requested that those officers named above, and all such as can raise a company, will meet me at this place on the 19th of the present month. Punctuality in this is much desired; and it is further requested that all those officers who have served in the late war will be confidentially notified of the foregoing. I have the honor, &c.

ANDREW JACKSON,  
Major General commanding.

True copy—J. C. BRONAUGH, U. S. A.

## B.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, Jan. 11, 1818.

SIR: I have just received orders from the President of the United States to repair to Fort Scott, Georgia, with instructions to call upon the Governors of the neighboring States for such additional militia force as may be deemed necessary to co-operate with all the disposable regular troops of the Southern division, against the Seminoles. I have this night addressed circulars to several of those brave officers who served with me during the Creek campaign, under a hope that a timely address to the patriotism of our citizens will enable me to effect, by voluntary enlistment what would otherwise have to be done by drafts. I have called for one thousand mounted men, and, should the appeal prove inefficacious, will embrace the earliest opportunity of making the requisition on you for a like number of drafted militia.

I have received your letter of the 4th instant, and am happy to hear of the ratification of the treaty with the Cherokee Indians.

With respect, your most obedient servant,  
ANDREW JACKSON,  
Major General commanding.

Gov. McMinn, of Tennessee.  
True copy—J. C. BRONAUGH, U. S. A.

## C.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 12, 1818.

SIR: I have the honor to acknowledge the receipt of your order of the 26th ultimo, which



*Seminole War—Strictures on Mr. Lacock's Report.*

reached me last night; its contents are duly noted, and will be promptly attended to.

I have received no late advices from General Gaines, although I have for some time expected the return of the express sent to him on the 24th of November last. Taking into view the strength of the Seminoles and their adherents, as reported to you by General Gaines, and the aggregate of his strength, regulars and militia, amounting to about one thousand eight hundred men, which cannot possibly afford a like number of effectives; considering, likewise, that the greater portion of his forces are draughted militia, from Georgia, who may apply for their discharge at the expiration of three months from the time they were first mustered, and who may be disposed to claim this right, and abandon the campaign, about the time I could reach Fort Scott, I have deemed it both prudent and advisable to call from the west end of the State of Tennessee for one thousand volunteer mounted gun-men, to serve during the campaign. With this force, in conjunction with the regular troops, I can act promptly, and, with the smiles of Heaven, successfully, against any force that can be concentrated by the Seminoles and their auxiliaries. Viewing, however, the lives of our citizens as too precious to be risked in a contest with savages, with the odds of two to one, unless where real necessity demands the exposure, I have therefore written to the Governor of Georgia to continue in the field the one thousand men required by General Gaines.

The result of the appeal I have made to the patriotism of those brave men in West Tennessee, who have so often followed me to the field of danger, will be known by the 19th instant, and I hope to leave this for Fort Scott on the 22d. Of my movements, and success in raising the mounted volunteers, you shall be advised.

It may appear to the Government, on the first view, that mounted men are the most expensive; but when we consider the rapidity of their movements, the amount of quartermaster's expenditures for pack-horses, baggage-wagons, and other means of transport indispensable to footmen, in this instance saved, mounted gun-men, as auxiliaries in such a campaign as the one contemplated, will be found to save both blood and treasure to the United States. The volunteers that have been invited to the field are of tried materials, and such as can be relied on in the day of danger and trial. With respect, &c.

ANDREW JACKSON,  
Major General commanding.

Hon. J. C. CALHOUN, Sec'y of War.

True copy:

J. C. BRONAUGH, U. S. Army.

D.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 13, 1818.

Sir: Being advised that the assistant deputy quartermaster general of General Gaines's brigade has resigned, and being unadvised as to quartermaster's funds within the seventh department, I have to request that necessary funds be

forwarded to Quartermaster General Gibson, at Fort Scott, whom I have ordered to meet me at that place without loss of time.

Should the one thousand volunteer mounted gun-men attend to my appeal to their patriotism, I shall send on a confidential agent to Georgia, to have the necessary supplies for them procured and forwarded by the quartermaster, if any there, to Fort Gaines; and, if none, by the agent sent, with instructions to draw on Quartermaster General Gibson for the amount of his purchases; this is done to facilitate the march of the volunteers called for. I need not observe that, without quartermaster's funds, an army cannot be wielded either with promptitude or effect. Promptitude in the present campaign will be a great saving to the United States, both in character and purse.

I have the honor to be, &c.

ANDREW JACKSON,  
Major General commanding.

Hon. JOHN C. CALHOUN, Sec'y of War.

True copy:

J. C. BRONAUGH, U. S. Army.

E.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 19, 1818.

Sir: I am instructed by the commanding General to direct that you march your volunteer regiment of mounted gun-men to Fayetteville, to be there on the 31st instant, completely armed and equipped, and prepared to march for Fort Scott, in Georgia, for a six months' tour. Your troops will furnish themselves until they reach Fayetteville, with their own provisions and forage; the former of which will be reimbursed them by the contractor, and the latter by the Quartermaster.

I have the honor to be, &c.

J. M. GLASSELL, Aid-de-camp.

To Colonels DYER & WILLIAMSON.

True copy:

J. C. BRONAUGH, U. S. Army.

F.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 20, 1818.

Sir: I have received your letter of the 18th ultimo, and have to regret the situation in which you are unfortunately placed. Every effort will be made, however, to relieve you. I shall leave this for Fort Hawkins on the 22d; and two regiments of mounted volunteers will rendezvous at Fayetteville, Tennessee, on the 31st instant, and proceed, by forced march, direct to our Southern frontier.

The commanding officer of the Georgia militia has instructions, this day, not to invite a general engagement with the Indians, but at all hazard to aid you in relieving Major Muhlenburg.

ANDREW JACKSON,  
Maj. Gen. com'g Div. of the South.

Col. ARBUCKLE, com'g at Fort Scott.

True copy:

J. C. BRONAUGH, U. S. Army.

*Seminole War—Strictures on Mr. Lacock's Report.*

H.

HEADQ'RS, DIVISION OF THE SOUTH,  
Nashville, January 21, 1818.

Sir: You will repair to Fayetteville, Tennessee, on the 31st instant, and there muster and receive into the service of the United States for six months, if not sooner discharged, two regiments of mounted volunteers. As soon as mustered, you will assume the command of these troops, and make every preparation to facilitate their march, via Fort Jackson by the most direct and practicable route to Fort Scott, on the Flint river. You are authorized to organize and appoint such a brigade staff as you may deem necessary to the accomplishment of the duties assigned you. Every confidence is placed in your known activity and skill—and you are clothed with all discretionary power to facilitate the march of the volunteers to the designated post.

ANDREW JACKSON,  
Maj. Gen. com'g Div. of the South.

Col. A. P. HAYNE, Inspector General.

True copy:

J. C. BRONAUGH, U. S. Army.

I.

DEPARTMENT OF WAR, March 7, 1818.

Sir: I have had the honor to receive your letter of the 9th, and that of the 15th ultimo.

I have the pleasure of expressing to you my entire approbation of the measures you have adopted to insure a prompt movement of the patriotic volunteers confided to your command.

It is a subject of regret that there is no public arsenal for that section of the country, from which arms and equipments could be drawn. The course which you have taken to remedy the evil, I trust, will be effectual. So far as it may be practicable, let the arms be preserved, and returned after the campaign closes to the owners. Where this cannot be done, let the account, properly vouched, be paid by the Quartermaster's Department.

The bill drawn on account of supplies of every kind will be paid when presented to this Department. Upwards of one hundred thousand dollars have been forwarded to the paymasters of the fourth and seventh regiments, for the payment of the militia before they are discharged. General Jackson will adopt such measures as may be proper to secure this object. The desire of the President, that the disbursing officers of the regular forces should be charged with the expenditures of the campaign, is the only obstacle to appointing the gentlemen recommended by the officers of the Tennessee brigade. Every attention will be given to secure the object of their wishes.

I am well aware of the difficulties to be overcome, to organize efficiently and satisfactorily to the officers and men, a volunteer corps for the field. In the present instance, the pride and spirit of veterans, aided by patriotism, and directed by experienced intelligence, have handsomely surmounted every obstacle. The alacrity with which the brave Tennesseans have again re-

sumed their arms in defence of the country, is a sufficient earnest that their efforts will be successful, and that their efficiency, joined to the gallant exertions of other corps, will speedily terminate the conflict. I have the honor to be, &c.

J. C. CALHOUN.

Col. A. P. HAYNE,  
Inspector Gen., Fort Scott, Ga.

K.

Extract of a letter from J. C. Calhoun, Secretary of War, to Major General Andrew Jackson, dated 29th January, 1818.

"Your letters of the 12th and 13th instant are received. The measures you have taken to bring an efficient force into the field are approved, and a confident hope is entertained, that a speedy and successful termination of the Indian war will follow your exertions."

[EXTRACT.]

DEPARTMENT OF WAR, Feb. 6, 1818.

Sir: I have the honor to acknowledge the receipt of your letter of the 20th ultimo, and to acquaint you of the entire approbation of the President, of all the measures which you have adopted to terminate the rupture with the Indians.

The honor of our army, as well as the interest of our country, requires that it should be as speedily terminated as practicable; and the confidence reposed in your skill and promptitude assures us that peace will be restored on such conditions as will make it honorable and permanent.

I have the honor, &c.

J. C. CALHOUN.

Major Gen. A. JACKSON,  
Fort Scott, Georgia.

M.

ROBERT BUTLER, Adjutant General of the southern division of the Army of the United States, being duly sworn, testifies, that, in the Summer or Fall of 1817, Mr. John Donelson, of the neighborhood of Nashville, went to Pensacola and purchased lots of land there, with the approbation of the Governor. That the deponent has heard that Mr. James Jackson of Nashville was concerned with him, and was the only person concerned. He also understood that Donelson's first view in going to Pensacola, was for the benefit of his health. That Mr. Donelson is nephew of General Jackson's wife. That he does not know the amount of Donelson's purchase. That he does not know, nor does he believe, that General Jackson had, or expected to have, any interest in said purchase; nor did he ever hear it suggested.

The deponent further saith, that on the 11th January, 1818, General Jackson addressed a circular to the old volunteer officers, to raise volunteers for the Seminole campaign, in which the following clause is found: "The grade of the officers to be determined by themselves, or the platoon officers of the regiment—the officers raising companies to command." The deponent has



heard that an election was held, and the rank of the field officers established in that way, and not appointed by General Jackson, as stated in the deponent's affidavit before the committee of the Senate as positive, when the deponent then stated it as matter of opinion only; also, that the Governor of Tennessee was at Nashville, which it appears from reference to papers was not the case. The deponent further states, that General Jackson received information at St. Mark's on his return from Suwanee, that there were about six hundred hostile Indians at Pensacola, who received ammunition and provisions from the Governor; in consequence of which the General ordered Lieutenant Sands, of the artillery, to Mobile, to hold two pieces of the field artillery in readiness for his orders. On the arrival of the army at Fort Gadsden, the General received information of several murders having been committed on the Federal road, and was shown a letter, said to be private, from a gentleman at Pensacola to Mr. Doyle, as the deponent believes, stating that a large number of Indians were then in Pensacola, and depredating on the property of the citizens; this information determined the General to change his route for Tennessee by Pensacola, and orders were given to Colonel Gibson to proceed to Mobile, and afford Lieutenant Sands every facility in moving the artillery to Fort Montgomery, to await the General's order, which was given on nearing the Escambia by express, requiring the artillery to form a junction with the army after crossing that river, which was executed. The General remarked to the deponent on march to Pensacola, that, if he found the information true on reaching that place, he would demand a surrender of it; and the deponent believes that the determination of the General to occupy Pensacola and Barancas, was made on receiving the protest of the Governor, and learning that his provisions were stopped by him at the former place.

That, at the time the army attacked Mickasukee, there were not more than five hundred Indian warriors embodied; nor does the deponent believe there were, at any time during the war, more than five or six hundred embodied at any one place. That, from the nature of the subject, this statement must be conjectural. That the enemy's warriors were in general well armed. That deponent was told there were about thirteen hundred souls at Suwanee, of which two hundred and fifty or three hundred were fighting men. That our army had one man killed and four wounded, in actions with the Indians, during the campaign, and two killed at the Barancas.

Deponent further says, that General Jackson received from a private source, a plan of the fortress of St. Augustine; and, as the deponent believes, it was sent to the General, at St. Mark's, or Fort Gadsden, after his return from Suwanee.

That General Jackson had under his command, in Florida, from recollection, about eighteen hundred regulars, volunteers, and militia, and about fifteen hundred Indians under McIntosh; and that the Indians were received and mustered

into the service of the United States, under the orders of brevet Major General Gaines, and mustered out of service, under the orders of Major General Jackson, by a regular officer.

This deponent deems it due to himself to state, that the deposition published with the report of the committee of the Senate, under his name, was not written by him, but was taken down by Mr. Burrill, of that committee, and a promise given to the deponent that, when it was thrown into form, it would be submitted for correction and signature, which was not done, although the committee were twice informed by one of its members, at the request of the deponent, that parts thereof were not correct; hence the deponent was not able to give the necessary correction which he would have done, from an examination of papers and necessary reflection.

ROBERT BUTLER.

N.

WASHINGTON, March 3, 1819.

On an examination before the special committee of the Senate, on the subject of the Seminole war, I was told by the honorable Mr. Burrill, one of the committee, that what he (Mr. Burrill) then took down of my testimony, was a memorandum; and if used, that my deposition should be written out, and submitted to me for correction. The deposition was not submitted; but was sent at once to the printer; who, believing that several words were omitted, sent it to me for revision; I then waited on two of the committee, Mr. Lacock and Mr. Burrill, and obtained leave to strike out a part, but they would not permit me to make any additions. The parts struck out were not material. What I wished to add, was the substance of an order, the following extract from which I beg leave to make a part of this deposition.

Extract of an order to Colonel Gibson, dated

"CAMP, 26 MILES EAST OF ST. MARK'S,  
April 24, 1818.

"General McIntosh and his warriors will be at Fort Scott, and will probably take much of the supplies ordered up; and, as the Tennessee volunteers will pass from Gadsden to that point, he wishes you to despatch a boat with a further supply; and should the corn have arrived from New Orleans last ordered, you will forward a considerable quantity, also, to enable the volunteers' horses to reach Fort Hawkins."

"ROBERT BUTLER,

Adjutant General."

The order from which this extract is made, together with the order from which the following is extracted, were submitted through Mr. Eaton to the committee. I beg leave also to make the second extract a part of this deposition, to wit:

Extract of another letter to Colonel Gibson, dated

"BEFORE ST. MARK'S, April 9, 1818.

"This is carried by one of those deluded wretches who have asked for peace, and it is

granted them—17 men, 18 women, and 30 children have surrendered, and they ask permission to pass by water to Fort Gadsden; this is granted them, and they will remain here until the runner returns, by whom you will write to the commanding officer of St. Mark's, Captain Vashon, under what badge you will know them.

"ANDREW JACKSON."

Signed, GEO. GIBSON.

DISTRICT OF COLUMBIA,  
County of Washington, to wit:

On this third day of March, 1819, George Gibson personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, and made oath, in due form of law, that the matters and things as set forth in the annexed statement, are true as stated.

Sworn before JOSEPH FORREST.

From the National Intelligencer of March 20, 1819.

MR. LACOCK'S REPLY TO THE FOREGOING  
"STRICTURES," &c.

Having recently seen, in the National Intelligencer, Strictures of an erroneous character, upon a report made by a select committee of the Senate, on the subject of the Seminole war, and being the only member of that committee now at the Seat of Government, it seems to be a duty I owe to the Senate of the United States, to the committee of which I was a member, and to my own character, to offer some remarks on those Strictures. In the first place it is necessary to observe, that, on applying to the editors of the National Intelligencer, I was informed by them, in writing, that they were authorized to give up, as the authors of the strictures, the names of two officers of the Army of the United States. Could I have brought myself to believe that those young men\* were the real, as they were the ostensible, authors of those strictures, they would have been treated with silent pity and commiseration, and their production would have remained forever unnoticed by me. But charity for those men, and the peculiar circumstances of the case, forbid this conclusion. We must look to a higher source for their author. Those young men were aids to General Jackson, or belonged to his military family. Some of the documents annexed to the strictures were, it seems, furnished from his own private bureau, for they could not be obtained in the War Office. The personal invectives indulged

\* Those officers were examined by the committee; they discovered (but more especially one of them) talents, and much energy of character, that, if tempered with prudence, cannot fail to make them useful members of society; and a tenderness for them, bordering on parental regard, has induced me to withhold their names from the public, knowing that "public rebuke hardens the heart," and believing that, when they have numbered my years, they will look back on the unguarded follies of youth with sorrow and remorse.

15th CON. 2d Sess.—75

in, in the strictures, correspond entirely with his previous observations in the public taverns and ball-rooms of Washington; for it is a fact notorious, and cannot be denied, that on those occasions he was vociferous in his imprecations, and violent in his threats, of personal vengeance, even to cutting off the ears of some of the members of the select committee, and this while the subject was before the Senate; and some members of the House of Representatives who dared to animadvert upon his conduct, or even to doubt his infallibility, were menaced in nearly a similar manner. Under these circumstances, there seems to be no unfairness in considering that General Jackson is the real author of those strictures, or at least that he approved of and assented to the publication;† and that those gentlemen (with more gallantry than prudence) were induced to step forward and take upon themselves a responsibility that the General himself felt unwilling to encounter. And it is for him to decide how far it was just and proper for age and experience to take advantage of the exuberant ardor of youthful feelings and attachments, and by this means induce the officers in question to hazard their reputation and future prospects in the Army, by acts of inconsiderate rashness. As citizens of the United States, they were entitled to equal privileges with all others. As military officers, they were held strictly subordinate to the civil power. An act of Congress declares, that every officer shall be cashiered, or otherwise punished by court-martial, who shall even speak contemptuous or disrespectful words of the Congress of the United States, or of the Legislatures or Governors of any of the States in the Union. And, by rules and regulations established in the Army of the United States, the officers are forbidden, under like penalties, from publishing in newspapers, or otherwise, observations disrespectful of each other.

And it is believed that this is the first instance in which a military officer, whose conduct was the subject of investigation before the Congress of the United States, has ventured to charge that body with a violation of the Constitution, and with exercising inquisitorial power.‡ Or that a committee of either branch of the National Legislature has been charged with the "most wanton and studied disregard to truth," and the most "foul" and "dishonest motives." But how far it is either for the honor or interest of the nation thus to submit to military dragooning and newspaper chastisement, by military officers who, it is believed, visited the Seat of Government for that purpose; and how far a committee of the Senate of the United States should be subject to this kind of discipline, for the conscientious discharge of official duties, imposed by the unani-

† If the reader entertains any doubts as to the authorship of the Strictures, they will be removed on reading the deposition of Colonel Orr, in which it will be seen, that General Jackson obtained from him a fact which he asked leave to make use of, and that the fact is made use of in the Strictures.

‡ See the last paragraph of the Strictures.



mous voice of that body, is for the proper authorities to determine.

I shall now state faithfully the proceedings had in the Senate and before the committee, on this subject, pledging myself, and appealing to others, for the correctness of every fact stated.

On the 18th November, 1818, the President's Message to both Houses of Congress was received. In this Message the President refers to the Seminole war, and promises to present to Congress the documents respecting it.

On the 4th December, 1818, this volume of documents was received in manuscript and sent to the printer. On this day (and not on the 18th, as stated erroneously in the strictures) the resolution was offered in the Senate, for raising the committee on this subject; it was considered on the 7th, and postponed from time to time, until the 18th December, when it was modified and enlarged, on motion of Mr. Eaton, and unanimously adopted. This delay was occasioned by the Senate's not having previously received the documents from the printer.

There had, however, been made, in the Senate, a call on the President, for further information on this subject, and this resolution, offered on the 16th December, was agreed to on the 17th, and the call was complied with on the 28th December, by Message, and another volume of documents furnished.

These documents were not received from the printer until the 1st or 2d February, 1819. But a copy of them had been received by each member of the Senate, through the medium of the House of Representatives, to whom they were first sent, on the 27th or 28th January, and, on the day they were received, the committee were called together. At this meeting all the members being present, Mr. King made a motion that the committee should ask the Senate to discharge them from the further consideration of the subject. The question on the motion was put, and, four members voting in the negative, it was of course lost.

And, at this time, the committee ordered, under the authority of the resolution of the Senate, that the Aids of General Jackson, and such other persons as the chairman might think necessary, should be summoned before the committee for examination.

This order was complied with, witnesses were summoned, and the examination proceeded, from day to day, as the witnesses appeared, subject only to the delay and interruption that arose from the indispensable necessity the members of the committee were under, of attending to their other official duties.

Thus the inquiry was prosecuted, until the committee were told by the chairman, that he knew of no other evidence that it was in his power to obtain. And at this time, as on former occasions, particular inquiry was made of the members of the committee generally, and of Mr. Eaton particularly, whether it was known that further testimony could be obtained, or whether they wished that other witnesses should be sum-

moned, and the answers to these inquiries were, in the negative.

The testimony being thus considered as closed the nature of the report to be made to the Senate was then discussed, and all the points involved by the conduct of General Jackson, on which there could be any doubt, were distinctly stated in writing, and separate questions taken on each of them. On the first point, of raising and organizing the volunteers, the unanimous voice of the committee was, that it was illegal. The second point, the right to pursue the enemy into Florida, was decided unanimously in the affirmative. And on several other points, the committee were divided, three disapproving the conduct of the commanding General, and two justifying or excusing it.

The decision of the committee being thus had, the chairman was ordered to prepare a report in conformity to the principles established by the committee. About this time, however, another circumstance took place, which necessarily occasioned some delay in obtaining further evidence.

Mr. Eaton informed the chairman of the committee, that he had heard General Jackson say, at his lodgings, that, after he had left the Florida, he had issued an order to General Gaines, to take possession of St. Augustine, and that this order had been countermanded by the Department of War.

The chairman having ascertained this to be the fact, by a letter dated February 8, called on the Department for this correspondence, which was furnished on the evening of the 12th of the same month.

These documents never before having been called for, were not previously transmitted; nor was this design of taking St. Augustine, (after the close of the war,) known to the committee until this disclosure; and it was thought necessary that the documents should accompany, and be taken notice of in the report. If further evidence be necessary to convince the most incredulous "that no improper or unnecessary delay was observed in making the report," it will be furnished by the following facts: The Senate of the United States is connected, by the Constitution, with the Executive, in the exercise of the treaty-making power.

On the 9th or 10th of February, the chairman of the committee was confidentially informed that the treaty with Spain would probably be brought to a favorable result, in a short time; and a suggestion was made, that a report on the subject of the occupation of Florida might, by possibility, affect the negotiation, if made previous to the signing of the treaty.

These facts and suggestions were immediately communicated to a majority of the members of the committee, and more especially to Mr. King, whose experience in diplomatic concerns gave him a full opportunity of forming a correct judgment on the subject.

This gentleman, with two other members of the committee, besides the chairman, agreed that the report should be kept back a few days, until

the treaty was received. On Monday, the 22d of February, this treaty was sent to the Senate; on the 24th, it was ratified; and, on the same day, the report was made. And this accounts for the only delay that was not occasioned by the difficulty of obtaining the evidence proper to an understanding of the case, and which it was impossible for the committee sooner to obtain.

Thus it appears that the charge, in the strictures, that the report was kept back to injure General Jackson, is totally without foundation. And it is equally untrue that "his friends" on the committee had no opportunity of making a defence. The same time was afforded them to make a defence, that was given to the chairman to write the report. They were present when the decision of the committee was made, and the chairman received his instructions. A counter statement might have been prepared and offered, in the manner pursued by Colonel Johnson, in the House of Representatives; or, if this course should have been thought ineligible, or irregular when the report was made to the Senate, it might have been called up at any time, and a resolution offered, approving or excusing the conduct of General Jackson, and this resolution might have been prefaced by reasons at large, in opposition to the reasons offered by the committee, and thus the minority on the committee would have had a full opportunity of laying before the public the result of their deliberate opinions on the subject. Neither is it true, "that the chairman declined annexing the customary resolutions to the report." But, on the contrary, the fact is known to every member of the committee that, when the chairman presented the report, the question was put by him, whether resolutions should be annexed, and the committee decided unanimously in the negative. But it appears, by the strictures, that the chairman of the committee has been almost the sole actor on this occasion, and has had the entire control of the committee, and of the Senate.

The author of the strictures, in thus giving importance to the individual concerned, has unintentionally done him too much honor, the acceptance of which, at the expense of the Senate, he begs leave to decline, desirous, as it relates to himself, of being only considered what the Senate had constituted him—the chairman of the select committee. As their organ, he was subject to their control, and acted in conformity to their instructions; as, in like manner, the committee was controlled by the Senate, and bound to observe the instructions received from that body.

And it was a source of no small gratification to the committee to find that their conduct in the investigation was approved by the Senate, and that it was so approved is manifest from the following facts:

\* The word "friends," is used as a quotation from the strictures. It is certain that General Jackson had not an enemy on the committee, although his conduct was disapproved.

On the 17th February, 1819, Mr. Forsyth, a member of the select committee, resigned his seat in the Senate, and of course was no longer a member of the committee; and, on the same day, a resolution was offered in the Senate proposing that another member should be added to the committee in the place of Mr. Forsyth. On this question a discussion took place, and it was expressly and repeatedly stated that the remaining members of the committee were equally divided; that, unless the vacancy was filled, no report could be made to the Senate. The nature of the report to be made, and the additional evidence procured, was also fully disclosed.

The members of the committee opposed to the report, particularly Mr. King, stated to the Senate that his object was, that the committee should be discharged; and, that the Senate's refusing to add another member to the committee would be equivalent to discharging the committee; and, with this understanding, to try the principle, and take the sense of the Senate in discharging the committee, Mr. Eaton moved the postponement of the resolution before the Senate to a day beyond the session, and on this question the yeas and nays were called—16 members voting in favor of the postponement, and 21 against it.\*

Thus it appears that the select committee of the Senate was appointed by the unanimous voice of that body; that they were with the same unanimity vested with powers to send for persons and papers, and specially instructed to make the investigation; and that, after the investigation had been made, the facts disclosed, and the substance of the report, then prepared, were made known to the Senate.

That body, by a strong majority, refused to release them, and held them to a discharge of their duty; so that it is not the committee alone, but the Senate of the United States, that should be considered, as they really are, responsible for this transaction, not, unfortunately, to a military chieftain, or subalterns in the army, but to the American people.

It is not the fact, as stated by the author of the strictures, that General Jackson was charged in the report, with acting from mercenary motives and views of speculation in Florida lands. No such charge was made; neither can such a charge be fairly inferred from any part of the report.

The words selected by the writer, and which are tortured into such a charge, are these: "The tendency of these measures of the commanding General seems to have been to involve the nation in a war without her consent, and for reasons of his own unconnected with his military functions."

In these observations, there is no charge of the nature complained of, either expressed or implied, nor was any such designed; and it must have been extreme sensibility on this subject that could have induced the author to have

\* See the annexed extract from the Journals of the Senate.



drawn such an inference. The plain and obvious meaning of these words are, that General Jackson, as a military officer, had no right to judge what was cause of war with a neutral, and his attempting to reason and act on this subject was an usurpation of the civil powers of the Government, and, of course, unconnected with his military functions.

But, since so much anxiety has been discovered on this branch of the subject, and so much pains taken to refute a charge never made on General Jackson, but by the author of the strictures, it may not be amiss to state, that, had the committee been disposed to receive and give credit to such hearsay evidence as that on which Arbuthnot was hung, there might have been more necessity for the elaborate defence set up on this point.

And thus it must be seen, notwithstanding what is said in the Strictures, that the committee were disposed to deal, not only with fairness, but with tenderness, towards General Jackson. He was heard by his staff; his bosom friends, and the members of his own family, were selected as the witnesses; and, when a call was made in writing on the Secretary of War, for information, it was sent to General Jackson, and the inquiries made by the committee were answered by him; and he goes at large into the reasons that induced him to occupy Pensacola. This letter of General Jackson's was received and considered by the committee, and will be found among the documents accompanying their report. Thus, it must appear, to every unprejudiced mind, that General Jackson had not only an opportunity of being heard before the committee, and of furnishing all the documents in his possession, but that the committee were anxious, as well on his account as on account of the character of the nation, to obtain evidence in justification of his conduct.

It now becomes necessary to take some notice of the deposition of Colonel Butler annexed to the Strictures. This gentleman was examined before the committee, and his testimony was taken down by Mr. Burrill, a member, and afterwards read to him, and he assented to it as written. After which, on a subsequent day, when some other witnesses were examined, it appeared there was a material variance, on a particular fact, between their evidence and that of Colonel Butler; and it was mentioned to Mr. Eaton, by the chairman, that the probability was, that the Colonel had been mistaken as to that fact, and advised him to mention the circumstance to him, that if, on reflection, he should think he had fallen into an error, he might be able to correct it. This information was given to Colonel Butler, as Mr. Eaton afterwards stated, and the Colonel sent word, by Mr. Eaton, that he had, on reflection, discovered his mistake, and desired the committee to alter his deposition; but Mr. Eaton was requested to inform the Colonel that he must attend to it himself; that it could not be done in his absence, and on the suggestion of another.

It is true that Mr. Burrill did state to the officer examined, that he would write out his deposition in a fairer hand, and he would be called upon to sign it. But it is a fact equally true, and which should have been stated in Colonel Butler's last deposition, that those officers left the city before time was given for the depositions to be made out, and remained absent until near the close of the session, and after the report and documents were printed. It was not to have been expected that, after the fairness, as well as the kindness, of the committee, towards Colonel Butler, as it regarded his testimony, that he would, on his oath, afterwards have indulged himself in any reflections on that committee; more especially when it is considered (if the Strictures be true, and it is believed they were written under his eye) that he was mistaken in another fact that was stated by him—that of the Governor of Tennessee being in Nashville when General Jackson called out and organized the volunteers. There is no disposition felt to injure the feelings of Colonel Butler, but he should not have invited discussion on a subject of such delicacy to himself.

But, to silence forever all clamor on the subject of depositions, and to remove every doubt from the minds of the most suspicious, they are referred to the original depositions themselves, on file in the office of the Secretary of the Senate, and in the very words used by them, and written by Mr. Burrill, and examined and approved by the witnesses themselves. And, if the trouble be taken to compare the original depositions with the printed copies, it will be found that not a single alteration was made but those of a verbal nature, except in the deposition of General Gibson, in two paragraphs, which were made by himself, and at his own hand, in the presence of Mr. Burrill and the chairman, and after his deposition was in the hands of the printer.

Having already observed that General Gibson had made some alteration in his first deposition, it is necessary, for a correct knowledge and explanation of this subject, to refer to his second deposition, as it appeared in the Intelligencer of the 10th March. In this it is stated, that Mr. Burrill and the chairman had refused to let him add to his statement two letters that he considered necessary to illustrate the subject. It is true that General Gibson was told, that he might strike out what he thought proper from the deposition, but he could not add any new facts; for that could only be done by a majority of the committee when authorized to call for and examine witnesses; that the committee on the subject of the Seminole war, having made their report, was out of existence, and no power remained with those members who had composed that committee more than any others of the Senate. General Gibson then stated, that "he had given the letters in question to Mr. Eaton, of the committee, some considerable time before, and requested him to lay them before the committee and have them attached to his deposition." General Gib-

son was then informed that "no such letters had been put in possession of the committee by Mr. Eaton." This conversation took place in the Secretary's office, while the Senate was in session. On my return to the Senate Chamber, Mr. Eaton was asked by me, privately, whether or not such letters had been received by him from General Gibson, he said, "they had, and he had not thought proper to lay them before the committee."

All those facts relative to the letter were afterwards stated by me, in my place, when the Senate was in session; and Mr. Eaton was called upon to state whether he had not received such letters and withheld them from the committee; and he stated to the Senate that he had, and that he never had submitted them to the committee. Thus it will appear that, so far from refusing to admit the introduction of those papers into the statement of General Gibson, the committee never knew of their existence until after the report was made. It is but fair to observe that General Gibson has been long known to me, and no one is more willing to subscribe to his correctness as an officer, and private worth as a man; and it is confidently believed, that, when convinced of the fact, that he has charged the committee with an impropriety of conduct, that, if improper, can but attach to a single member, he will rejoice at having an opportunity of correcting the error.

In a postscript to the Strictures, it is stated that General Jackson told a member of the committee that he was willing to go before them and disclose all the documents in his possession.

If General Jackson did say this to a member, it must have been designed as an insult to the committee and to the Senate; he must have considered that body in the light of subalterns in the Army, and he therefore condescends to tell them that he is willing to appear before their committee.

That committee was vested by the Senate with full power to call every officer in the Government before them, and it was not necessary for the General to have given this evidence of his great condescension, to have put them in mind of the extent of their powers, or their obligations of duty to the Senate.

The reasons for not calling General Jackson before the committee were of a different character, arising from the peculiar situation in which he officially stood, and his connexion with the subject of inquiry. But, if the General was willing to disclose other documents to the committee, why were not those documents transmitted to the Executive Department of the Government and filed in the War Office, from which they might have been obtained; or, are we left to presume that General Jackson is in possession of facts of an official nature, that he will not condescend to lay before the President of the United States, to whom he should feel himself responsible for his conduct?

There is one charge in the Strictures that applies exclusively to the chairman of the committee—that of being a partner with the contractor; the fallacy of this charge, as well as its deliberate

design to inflict a private injury on a man, whose only offence was an independent discharge of official duties, is fully proven by the annexed deposition of the contractor himself, Colonel Benjamin G. Orr, who is now the Mayor of the City of Washington.

I shall now close these observations, which have been extorted from me by the peculiar and violent character of the Strictures in question, and the source from whence they emanated. It is hoped, for the honor of the nation, as it is the first, that it may be the last occasion that may occur, to impose a similar duty on a member of the National Legislature: that in future no military officer of Government, either humble or exalted, will so far lose sight of the duty and respect due to the civil authorities of the nation, as to fall into similar errors; and, if reason were for a moment allowed to assume its empire in the minds of the most violent among them, it would be discovered, that inevitable disgrace to the individual concerned would be the consequence of such measures, perhaps the prostration of the army, whose very existence does and ought to depend on a conviction in the public mind, that the Military Department of the Government is subject to and subordinate to the civil powers.

While this principle is practically observed by officers of the army, that establishment will be found useful, but, once abandoned, the army becomes dangerous to public liberty, and ought and should be reduced.

These observations arise not, as is alleged, from "spleenetic hostility to the army," but from a sincere desire to preserve and make it useful; and time will discover, unless a change of conduct is observed, that the deadliest enemies of the army are to be found in some of the officers who command it. And under these impressions, and in the spirit of sincere friendship to those officers, the writer ventures to tender to them this honest advice: That they chasten and moderate their tempers, and restrain the violence of their rage against the civil officers of Government, and, instead of cutting off the ears of members of Congress, sharpen their swords to meet their country's enemies in the field, when they shall be so directed by the civil powers. Let them "cease to do evil, and learn to do well;" never forgetting that they too are subject to legal control, and but, at best, "subordinate" servants in the great political household.

If this advice be taken, their former transgressions may be forgiven and forgotten by a magnanimous people, who still remember, with gratitude and pride, their former services. But if this wholesome and friendly advice be disregarded; and if, in despite of the dictates of prudence and reason, they will persevere in this career of madness and folly, they must perish in their military sins, and will perhaps, when it is too late, be fully convinced that it would have contributed to their true interest and honor, to have listened to and followed the frank and candid admonitions of their friend, &c.

A. LACOCK.



*Arrest of Captain Obed Wright.**Extract from the Journal of the Senate.*

WEDNESDAY, February 17, 1819.

Mr. LACOCK submitted the following motion:  
*Resolved*, That a member be added to the committee already appointed on the subject of the Seminole war, in place of Mr. Forsyth, who has recently been appointed to a foreign mission.

On motion of Mr. Eaton,  
 That the further consideration thereof be postponed until the 5th day of March next, it was determined in the negative—yeas 16, nays 21.

On motion of Mr. Lacock,  
 The yeas and nays being required by one-fifth of the members present, those who voted in the affirmative, are—

Messrs. Crittenden, Dickerson, Eaton, Edwards, Fromentin, Johnson, King, Leake, Morrow, Otis, Ruggles, Sanford, Stokes, Storer, Williams of Mississippi, and Wilson.

Those who voted in the negative, are—  
 Messrs. Barbour, Burrill, Daggett, Eppes, Gailard, Goldsborough, Horsey, Hunter, Lacock, Macon, Mellen, Noble, Palmer, Roberts, Tait, Talbot, Taylor, Thomas, Tichenor, Vandyke, and Williams of Tennessee.

The motion having been agreed to—  
*Ordered*, That Mr. Eppes be the member.

WASHINGTON COUNTY,

*District of Columbia, to wit:*

Personally appeared before the subscriber, a Justice of the Peace for the county aforesaid, Benjamin G. Orr, and made oath on the Holy Evangelists of Almighty God, that Abner Lacock, Esq., late a Senator from the State of Pennsylvania, was not directly nor indirectly concerned with him in any contract which he has had with the War Department, at any time, and particularly with that for the State of Georgia, which the author of the Strictures, on the report of the select committee, says "it has been intimated that" he "was interested" in, neither was his son at all concerned further than as an agent, at a stated salary per annum.

The deponent further says, that, a few days prior to the appearance of the "strictures," in conversation with General Jackson, on the subject of the report of the committee of the Senate, he was asked by the General, if Mr. Lacock, who had been his agent at Fort Scott, was the son of the Senator of that name, and, on being answered in the affirmative, he further asked, if he might so state it; the deponent replied, that as a fact, he might depose of it as he pleased; but that he could not perceive any connexion between it and the subject of the report of the committee; and, having been told that morning that a suspicion was entertained that General Lacock had been a partner in his Georgia contract, the deponent took that opportunity of assuring General Jackson that it was wholly without foundation, which the General admitted he had been apprized of. And further this deponent saith not.

Sworn before me, this 17th day of March, 1819.  
 JOSEPH FORREST.

## ARREST OF CAPTAIN OBED WRIGHT, OF THE GEORGIA MILITIA.

[Communicated to the House, December 18, 1818.]

*To the House of Representatives of the United States:*

In compliance with the resolution of the House of the 10th instant, I transmit a report of the Secretary of War, with copies of the correspondence between the Governor of Georgia and Major General Jackson, on the subject of the arrest of Captain Obed Wright.

JAMES MONROE.

DECEMBER 12, 1818.

WAR DEPARTMENT, Dec. 12, 1818.

In compliance with the resolution of the House of Representatives of the 10th instant, the Secretary of War has the honor to transmit to the President of the United States copies of the correspondence between the Governor of the State of Georgia and Major General Jackson, relative to the arrest of Captain Obed Wright, transmitted by them to this Department.

J. C. CALHOUN.

EXECUTIVE DEPARTMENT, GEORGIA.

*Milledgeville, June 1, 1818.*

SIR: You will no doubt have been informed by General Jackson, ere this reaches you, of an unfortunate attack recently made by a detachment of Georgia militia, under command of Captain Obed Wright, on a village in the Creek nation of Indians, situated on the west side of Flint river, generally known by the name of Chehaw.

In order to bring the circumstances of this transaction fully before you, I must beg leave to refer you to a copy of a letter written by myself to General Jackson, (herewith enclosed,) by which you will perceive, that soon after the army entered the nation, and passed Fort Early, the Indians in that neighborhood, especially from two towns situated on the east side of Flint river, generally denominated Hopaunees, and Philemees, from chiefs of that name, had recommenced their depredations on our frontier. After having waited a considerable time in expectation of receiving an answer from the General, but in vain; and being repeatedly and earnestly requested by the distressed inhabitants of that frontier to afford them protection against the inroads of the savages; and being fully satisfied by letters from respectable citizens from that quarter, that the murders and depredations committed were by Indians from the above-named towns, I took upon myself the responsibility of ordering a detachment into service for the special purpose of destroying them, having been convinced, by experience, that small detachments, stationed on the frontiers, were not sufficient to insure protection to the inhabitants, as the Indians, acquainted with their situation, watched favorable opportunities for coming in on some unguarded point, committing murders, and returning with impunity. On the 24th of

*Arrest of Captain Obed Wright.*

November last, I received a requisition from the War Department, requesting me to cause to be detailed, from Major General Floyd's division, five hundred men, for the special purpose of assisting in the reduction of Amelia Island. Orders for this purpose were immediately given to Major General Floyd, who, viewing it, as I did, a case of emergency, drew the whole of the requisition from the first brigade of his division, under the impression that their services would be required on that occasion only. Before the organization of the troops could be completed, Amelia Island fell into the hands of the regular force sent against it. General Floyd, notwithstanding, completed the organization, and, without consulting me at all, they were ordered to the frontier at different points. Some were ordered to Hartford to join the two regiments, which were then organizing to go against the Indians, agreeably to a request of General Gaines. Among these was Captain Wright's company from Savannah. At the time they marched, however, the captain, from ill-health, was unable to accompany them, but shortly after followed on to Hartford, and assumed the command of a small detachment left there, although it since appears he had never been mustered into the service of the United States. Captain Wright having tendered his services to lead the expedition, and, from circumstances above mentioned, believing I had the right to command him, they were accepted. I accordingly ordered two companies of cavalry from two adjacent counties, and two companies of infantry, which I had previously ordered to different posts on the frontier, to rendezvous at Hartford, and report themselves to Capt. Wright, and also directed Captain Wright to call on Captain Bothwell, then in the service of the United States, stationed at Fort Early, for assistance, should it be necessary. The only reason I have to offer for calling on the troops in the service of the United States is, the danger to which the frontier was exposed, and the necessity for putting a stop to the incursions of the savages, which could only be done by the destruction of their towns, in order that the inhabitants might return to their homes, and prepare their farms for cultivation, the season for doing so having then commenced. The party, on their march learning that Hopaunee had left his own village, and had taken up his residence at the Chehaw town, took on themselves the responsibility of pursuing him there; and, having reached the town, commenced an attack on it; the result of which was, that several of the friendly Indians were killed. As the detachment was ordered into service by the State's authority, and as they had violated their orders by destroying a friendly town, I had ordered an investigation of the conduct of the commanding officer before a military tribunal; but I have since determined to stay all further proceedings until the pleasure of the President of the United States should be known on the subject. Captain Wright was arrested by order of General Jackson, but was released by the civil authority. I have since had him arrested, and

shall keep him confined to await the President's decision. I have the honor to transmit a copy of General Jackson's letter to me, demanding forthwith the delivery of Captain Wright to the officers sent by him to arrest and confine him. It is a production as inflammatory and indecorous, as it is unbecoming a gentleman and a soldier. Enclosed you will also receive a copy of my letter to the General in reply.

Should it meet the approbation of the President, I would prefer that the case of Captain Wright be referred to the circuit court of the United States, which will be held in Savannah, in December next.

With great respect, I am, &amp;c.

WM. RABUN.

Hon. J. C. CALHOUN,  
 Secretary of War, Washington.

EXECUTIVE DEPARTMENT, GEORGIA,  
*Milledgeville, March, 21, 1818.*

SIR: Your have no doubt been apprized that, since your departure from Hartford with the Georgia militia, the Indians have been hovering on the frontier of Telfair county; that they have killed a Mr. Bush, and wounded his son, and, being pursued by the citizens of that country, have met in hostile array, when an engagement took place, which lasted near an hour, in which our little detachment, consisting of only thirty-four men, lost seven killed and a number badly wounded. This rencounter has excited considerable alarm on that frontier, and the inhabitants are, in many instances, flying from their homes, for the want of protection.

The object of this communication is to request that you will be so good as to station some troops near the Big Bend of the Ockmulgee, and at or near the most assailable points below that place. If it is not convenient for you to furnish the necessary force, you will please give directions for supplying such detachments as may, in that event, be ordered into the service, under the authority of the State, with rations, &c. I hope you will write me on this subject without delay, as great alarm has been produced by the hostile attitude which the enemy has assumed.

I have the honor to be, respectfully, your obedient servant,

WM. RABUN.

Maj. Gen. ANDREW JACKSON,  
 U. S. Army, Creek nation.

EXECUTIVE DEPARTMENT, GEORGIA,  
*Milledgeville, June 1, 1818.*

SIR: I have lately had the honor to receive yours of the 7th ultimo, founded on a communication from General Glasscock, relative to an attack recently made on the Chehaw village. Had you, sir, or General Glasscock, been in possession of the facts which produced the affair, it is to be presumed, at least, that you would not have indulged in a strain so indecorous and unbecoming. I had, on the 21st of March last, stated the situa-



*Arrest of Captain Obed Wright.*

tion of our bleeding frontier to you, and requested you, in respectful terms, to detach a part of your overwhelming force for our protection, or that you would furnish supplies, and I would order out more troops; to which you have never yet deigned to reply. You state, in a very haughty tone, that "I, as Governor of a State, within your military division, have no right to give a military order whilst you are in the field." Wretched and contemptible, indeed, must be our situation, if that be the fact. When the liberties of the people of Georgia shall have been prostrated at the feet of military despotism, then, and not till then, will this imperious doctrine be tamely submitted to. You may rest assured, that, if the savages continue their depredations on our unprotected frontier, I shall think and act for myself in that respect.

You demand that Captain Wright be delivered in irons to your agent, Major Davis. If you, sir, are unacquainted with the fact, I beg leave to inform you, that Captain Wright was not under your command, for he had been appointed an officer in the Chatham county militia, which had been draughted for the special purpose of assisting General Gaines in reducing Amelia Island. That object having been accomplished before our militia had taken the field, General Gaines, as soon as their organization was completed, assumed the right to order them to the frontier, without ever consulting the State authority on the subject. Captain Wright, at that time being in a state of debility, failed to march, and of course was not mustered into the service of the United States. He, however, followed on to Hartford, where, finding himself not likely to be received into the service of the United States, tendered his services to command the contemplated expedition, which were accordingly accepted. Having violated his orders by destroying the Chehaw village, instead of Hopaunees and Philemmee towns, against which the expedition was directed, I had, previous to receiving your demand, ordered him to be arrested; but before he was apprehended agreeably to my orders, he was taken by your agent, and afterwards liberated by the civil authority. I have since had him arrested and confined, and shall communicate the whole transaction to the President of the United States, together with a copy of your letters.

I have the honor to be, &c.

WM. RABUN.

Maj. Gen. ANDREW JACKSON.

FORT HAWKINS, GEORGIA,  
May 17, 1818.

Sir: I was ordered on the 6th instant from Fort Gadsden to Georgia; on the 8th instant, I was overtaken by an express from Major General A. Jackson, with the enclosed communications; I proceeded without delay to Hartford; Captain Wright was gone before I arrived. I now hasten to Milledgeville to deliver General Jackson's letter to the Governor of Georgia.

Captain Wright, I understand, has gone to Sa-

vannah, where I intend to pursue him; if he is taken, I will notify you immediately.

I have the honor to be, &c.

JOHN M. DAVIS,  
Assistant Inspector General.

Hon. J. C. CALHOUN,  
Secretary of War.

HEADQ'RS, DIVISION OF THE SOUTH,  
May 7, 1818.

Sir: You will send, or deliver personally, as you may deem most advisable, the enclosed talk to Kanard, with instructions to explain the substance to the Chehaw warriors.

You will proceed thence to Hartford, in Georgia, and use your endeavors to arrest, and deliver over in irons to the military authority at Fort Hawkins, Captain Wright, of the Georgia militia, who has been guilty of the outrage against the women and superannuated men of the Chehaw village. Should Wright have left Hartford, you will call upon the Governor of Georgia to aid you in his arrest.

To enable you to execute the above, you are authorized to take in company with you the Tennesseans that went from hence lately for Fort Scott, and await, if you think it necessary, the arrival of the Georgians, now on march under Major Porter.

You will direct the officer commanding at Fort Hawkins to keep Captain Wright in close confinement until the will of the President be known. The accompanying letters of the Secretary of War and the Governor of Georgia you will take charge of until you reach a post office.

ANDREW JACKSON,  
Major General commanding.

Major DAVIS.

Sir: Send, with the accompanying letter, to the Secretary of War, a copy of the talk to the Chehaw nation, the order to you, and the letter to the Governor of Georgia: they are left open for this purpose.

The copies of Glasscock's letters will accompany that to the Secretary of War and the letter to the Governor of Georgia. Yours, &c.,

J. GADSDEN, *Aid-de-camp.*

HEADQ'RS, DIVISION OF THE SOUTH,  
May 7, 1818.

[7 miles from Fort Gadsden, 12 o'clock.]

Sir: I halt my army to enclose you a communication which has this moment been received by express from General Glasscock. The outrage which has been committed upon the superannuated warriors, women, and children, whose sons were then in the field in the service of the United States, merits the severest chastisement. The interference, too, of the Governor of Georgia with the duties imposed on me, claims the earliest attention of the President.

All the effects of my campaign may, by this

*Arrest of Captain Obed Wright.*

one act, be destroyed, and the same scenes of massacre and murder, with which our frontier settlers have been visited, again repeated.

On my march from Hartford to Fort Scott, the necessities of my army were first relieved at the Chehaw village, and every act of friendship characterized the conduct of their old chiefs. The young warriors immediately entered, and were mustered into the service of the United States; and, under the command of Colonel Kanard, were esteemed one of the most efficient corps of friendly Indians. What must be their feelings, on returning to the vicinity of their homes, after the privations, fatigues, and dangers of a long march, in the service of the United States, to find their houses consumed, their families dispersed, and their old warriors and chiefs butcherously and inhumanly murdered, you must well know how to estimate.

I have written to Hartford to have Captain Wright arrested and ironed, until the will of the President of the United States is known; and I have requested of the Governor of Georgia to aid in the execution of this order, should Wright have left that place.

I shall send a talk to the Chehaws, explaining, as satisfactorily as possible, this most iniquitous proceeding.

Copies of the above are enclosed.

Yours, respectfully,

ANDREW JACKSON.

Hon. J. C. CALHOUN,  
Secretary of War.

FORT EARLY, April 30, 1818.

Sir: I have the pleasure to inform you that my command has safely reached this place, having suffered some little for the want of meat. The gods have proved equally propitious to us, on our return as on our advance at Mickasuky. Some of my men were nearly out of corn, and, searching about some old houses that had not been consumed, to see if they could make any discovery, in entering one of them, to their great astonishment and surprise, they came across the man who was lost from Captain Watkin's company, on the 2d of April. It appears, from his statement, that he was taken with a kind of cramp, and was unable to move and became senseless. When he recovered, he became completely bewildered, and never could reach the camp; he therefore concluded it was prudent to secrete himself in some swamp, and, after wandering about some time, came across a parcel of corn, on which he subsisted until we found him; he was very much reduced, and apparently perfectly wild. On that night Gray struck a trail, pursued it about a mile and a half, came to a small hut, which fortunately contained fifty or sixty bushels of corn, some potatoes and peas, which enabled us to reach the Flint, opposite Chehaw village; when, arriving within thirty miles of the place, I sent on Major Robinson, with a detachment of twenty men, to procure beef. On his arriving there, the Indians had fled in every direction;

the Chehaw town having been consumed about four days before, by a party of men consisting of two hundred and thirty, under a Captain Wright, now in command of Hartford.

It appears that, after he assumed the command of that place, he obtained the certificates of several men on the frontier, that the Chehaw Indians were engaged in a skirmish on the Big Bend. He immediately sent or went to the Governor, and received orders to destroy the towns of Philemmee and Opaunee. Two companies of cavalry were immediately ordered out and placed under his command, and on the 22d he reached this place. He ordered Captain Bothwell to furnish him with twenty-five or thirty men to accompany him, having been authorized to do so by the Governor. The order was complied with. Captain Bothwell told him that he could not accompany him, disapproved the plan, and informed Captain Wright that there could be no doubt of the friendship of the Indians in that quarter; and stated that Opaunee had brought in a public horse that had been lost that day. This availed nothing; mock patriotism burned in their breasts; they crossed the river that night, and pushed for the town. When arrived there, an Indian was discovered grazing some cattle; he was made a prisoner. I am informed by Sergeant Jones, that the Indian immediately proposed to go with the interpreter, and bring any of the chiefs for the captain to talk with. It was not attended to. An advance was ordered, the cavalry rushed forward and commenced the massacre. Even after the firing and murder commenced, Major Howard, an old chief, who furnished you with corn, came out of his house with a white flag in front of the line. It was not respected. An order was given for a general fire, and nearly four hundred guns were discharged at him before one took effect. He fell, and was bayoneted; his son was also killed. These are the circumstances relative to the transaction. Seven men were killed, one woman, and two children. Since then three of my command, who were left at Fort Scott, obtained a furlough, and on their way one of them was shot, in endeavoring to obtain a canoe to cross the Flint. I have sent on an express to the officer commanding Fort Scott, apprizing him of the affair, and one to Adjutant Porter, to put him on his guard. On arriving opposite Chehaw, I sent a runner to get some of them in, and succeeded in doing so. They are at a loss to know the cause of the displeasure of the white people. Wolf has gone to the agent to have it inquired into. We obtained from them a sufficient quantity of beef to last us to Hartford, at which place I am informed there is a plentiful supply of provisions.

I have the honor to be, &c.

THOMAS GLASSCOCK,

Brig. Gen. com'g Ga. militia, U. S. S.

Major General ANDREW JACKSON.

ON MY MARCH WEST OF APPALACHICOLA,

May 7, 1818.

FRIENDS AND BROTHERS: I have this moment received, by express, the intelligence of the un-



*Arrest of Captain Obed Wright.*

warantable attack of a party of Georgians on the Chehaw village, burning it, and killing six men and one woman.

Friends and Brothers: The above news fills my heart with regret, and my eyes with tears: when I passed through your village, you treated me with friendship, and furnished my army with all the supplies you could spare; and your old chiefs sent their young warriors with me to fight, and put down our common enemy. I promised you protection; I promised you the protection and fostering friendship of the United States, so long as you continued to hold your father, the President of the United States, by the hand of friendship.

Friends and Brothers: I did not suppose there was any American so base as not to respect a flag, but I find I am mistaken. I find that Captain Wright of Georgia has not done it. I cannot bring your old men and women to life, but I have written to your father, the President of the United States, the whole circumstance of your case, and I have ordered Captain Wright to be arrested and put in irons, until your father, the President of the United States, makes known his will on this distressing subject.

Friends and Brothers: Return to your village; there you shall be protected, and Capt. Wright will be tried and punished for this daring outrage of the treaty and murder of your people; and you shall also be paid for your houses and other property that have been destroyed; but you must not attempt to take satisfaction yourselves; this is contrary to the treaty, and you may rely on my friendship, and that of your father, the President of the United States.

I send you my friend, Major Davis, who is accompanied by a few of my people, and who is charged with the arrest and confinement of Captain Wright: treat them friendly; they are your friends; you must not permit your people to kill any of the whites; they will bring down on you destruction. Justice shall be done you; you must remain in peace and friendship with the United States. The excuse that Captain Wright has made for this attack on your village is, that some of your people were concerned in some murders on the frontiers of Georgia; this will not excuse him. I have ordered Captain Wright, and all the officers concerned in this transaction, in confinement, if found at Hartford. If you send some of your people with Major Davis, you will see them put in irons. Let me hear from you at Fort Montgomery. I am your friend and brother.

ANDREW JACKSON,  
Major Gen. commanding.

ON MARCH TOWARDS PENSACOLA,  
7 miles advanced of Fort Gadsden,  
May 7, 1818.

SIR: I have this moment received, by express, the letter of General Glasscock, a copy of which is enclosed, detailing the base, cowardly, and inhuman attack on the old women and men of the Chehaw village, whilst the warriors of that vil-

lage were with me fighting the battles of our country against the common enemy, and at a time, too, when undoubted testimony had been obtained, and was in my possession, and also in possession of General Glasscock, of their innocence of the charge of killing Leigh and the other Georgian at Cedar creek.

That a Governor of a State should assume the right to make war against an Indian tribe, in perfect peace with, and under the protection of, the United States, is assuming a responsibility that I trust you will be able to excuse to the Government of the United States, to which you will have to answer; and through which I had so recently passed, promising the aged that remained at home my protection, and taking the warriors with me on the campaign, is as unwarrantable as strange. But it is still more strange that there could exist within the United States a cowardly monster, in human shape, that could violate the sanctity of a flag when borne by any person, but more particularly when in the hands of a superannuated Indian chief, worn down with age. Such base cowardice and murderous conduct as this transaction affords, has not its parallel in history, and should meet with its merited punishment.

You, sir, as Governor of a State within my military division, have no right to give a military order whilst I am in the field; and this being an open and violent infringement of the treaty with the Creek Indians, Captain Wright must be prosecuted and punished for this outrageous murder; and I have ordered him to be arrested and confined in irons until the pleasure of the President is known upon the subject. If he has left Hartford before my order reaches, I call upon you, as Governor of Georgia, to aid in carrying into effect my order for his arrest and confinement, which I trust will be afforded, and Captain Wright brought to condign punishment for this unprecedented murder. It is strange that this hero had not followed the trail of the murderers of your citizens; it would have led him to the Mickasuky, where we found the bleeding scalps of your citizens; but there might have been more danger in this than attacking a village containing a few superannuated women and men, and a few young women without arms or protectors.

This act will, to the last ages, fix a stain upon the character of Georgia. I have the honor, &c.

ANDREW JACKSON,  
Major General commanding.

His Ex<sup>y</sup> Wm. Rabun,  
Governor of Georgia.

FORT HAWKINS, May 30, 1818.

SIR: In pursuance of my order from General Jackson, dated May 7, 1818, (which has heretofore been enclosed to you,) I came up with Captain Obed Wright, of the Georgia militia, in Dublin, on the 24th instant. I arrested him, and brought him on as far towards Fort Hawkins as Milledgeville, where the civil authority interfered and discharged him.

*Arrest of Captain Obed Wright.*

A copy of the proceedings is herewith enclosed, together with a copy of my letter to the Governor of Georgia, and Wright's arrest.

I have notified Major General Jackson of the circumstances. I have the honor to be, &c.

JOHN M. DAVIS,  
Assistant Inspector General.  
Hon. J. C. CALHOUN, Sec'y of War.

CHAMBERS, May 28, 1818.

Present: Their honors Robert Wynn, William Bevin, and James Fleming, Justices.

The court met for the purpose of hearing Obed Wright, who was brought up before them upon a writ of *habeas corpus*, which is as follows:

GEORGIA, Baldwin county.

To any Justice of the Inferior Court.

The petition of Obed Wright sheweth: That he is detained in confinement by Major Davis, an officer in the United States service, and he therefore prays the benefit of a *habeas corpus*, to inquire into the cause of his confinement and detention.

SEABORN JONES,  
Attorney for petitioner.

GEORGIA, Baldwin county:

It appears, from the petition of Obed Wright, that he is now kept in custody by you, and he having prayed a writ of *habeas corpus*, you are, therefore hereby commanded, that you bring before me, at the court-house of the county, by the hour of 11 o'clock of the forenoon of the day, the body of the said Obed Wright, by whatever title he may be known to you, together with the cause of his commitment and detention, that he may be dealt with according to law. Fail not, and have you then and there this writ.

Given under my hand and seal, the 28th of May, 1818.

WILLIAM BEVIN, J. J. C.

*Habeas corpus*, by the Constitution of the United States, and of the State of Georgia.

To Major DAVIS,  
an officer in the United States service.

MILLEDGEVILLE, May 28, 1818.

I have the said Obed Wright in court, together with the cause of his commitment and detention.

JOHN M. DAVIS,  
Ass't Inspector General U. S. A.

Major John M. Davis, assistant inspector general of the United States' Army, in obedience to a writ of *habeas corpus*, this day served on him, having produced the body of said Obed Wright, mentioned in the *habeas corpus*, before the court, together with the cause of his commitment and detention:

And the court, on consideration, deeming that no sufficient cause is shown for his detention: on motion, ordered, that he be discharged forthwith.

ROBERT WYNN.  
WILLIAM BEVIN.  
JAMES FLEMING.

GEORGIA, Baldwin county:

I, Thomas H. Kenan, clerk of the Inferior Court for said county, do hereby certify, the preceding pages contain a true copy of the proceedings of the trial of Obed Wright, in consequence of his confinement and detention.

Given under my hand and seal, this 28th day of May, 1818. THOMAS H. KENAN,  
Clerk Inferior Court.

MILLEDGEVILLE, May 29, 1818.

SIR: In pursuance of Major General Jackson's order to me of the 7th instant, a copy of which is herewith enclosed, I arrested Captain Obed Wright, of the Georgia militia, in Dublin, on the 24th instant, and brought him thus far, on my way to Fort Hawkins, when a writ of *habeas corpus* was served on me, by which Captain Wright has been released from confinement.

I do now hereby call on you to have Captain Wright delivered to me, that I may be able to keep him in confinement until the will of the President of the United States be known.

I have the honor to be, &c.

JOHN M. DAVIS,  
Ass't Inspector General U. S. A.

His Excellency Wm. Rabun,  
Governor of Georgia.

DUBLIN, GEORGIA, May 24, 1818.

SIR: I am directed by Major General Jackson, commanding the division of the South, to arrest you and conduct you to Fort Hawkins, where you are to remain until the pleasure of the President of the United States be known on your case.

You will, therefore, consider yourself in arrest, and proceed accordingly. I am, &c.

JOHN M. DAVIS,  
Ass't Inspector General U. S. A.  
Capt. Obed Wright, Georgia Militia.

[The following Message was sent to the House of Representatives, January 4, 1819.]

To the House of Representatives  
of the United States:

In compliance with a resolution of the House of Representatives, of the 24th instant, requesting me to lay before it "copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former, dated on the 1st of June of the present year, communicated to the House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date of 7th May, 1818; also communicated to the House on the 12th instant," I transmit a report from the Secretary of War, with a copy of an extract of a letter from Major Vandeventer, chief clerk in the Department of War, in reply to General Jackson's letter of the 7th of May, 1818.

JAMES MONROE.

DECEMBER 31, 1818.



## Report of the Surgeon General.

DEPARTMENT OF WAR, Dec. 30, 1818.

The Secretary of War, to whom was referred the resolution of the House of Representatives, of the 24th instant, requesting the President of the United States to cause to be laid before this House (if, in his opinion, the same should not be inconsistent with the public interest) copies of the correspondence, if any, between the Department of War and the Governor of Georgia, in answer to the letter of the latter to the former dated on the first of June of the present year, communicated to this House on the 12th instant; and also the correspondence, if any, between the Department of War and General Andrew Jackson, in answer to the letter of the latter, of the date of the 7th of May, 1818; also communicated to this House on the 12th instant," has the honor to transmit an extract of a letter written by Major Vandevanter, chief clerk in the Department of War, in reply to General Jackson's letter of the 7th of May, 1818, and to state that no letter was addressed by this Department to the Governor of Georgia, in answer to his letter of the 1st of June, 1818.

J. C. CALHOUN.

The President of the United States.

Extract of a letter from Major C. Vandevanter, chief clerk, to Major General Andrew Jackson, dated

DEPARTMENT OF WAR, June 2, 1818.

Your letters of the 7th of April, (one without date,) from Fort Gadsden, and of the 26th of April, are received.

The President of the United States and the Secretary of War are out of town. The former will return about the 15th instant; the latter not before the middle of next month. So soon as the President returns, your despatches, together with your order to Major Davis, commanding the arrest of Captain Wright, and a copy of your letter to the Governor of Georgia, in relation to the horrid and atrocious destruction of the Chehaw village, will be laid before him. In the meantime, I am advised to communicate the "opinion" that the trial of Captain Wright by court-martial is decidedly preferable to a civil prosecution in the Federal court.

## REPORT OF THE SURGEON GENERAL ON THE ARMY RATIONS.

SURGEON GENERAL'S OFFICE,  
November 16, 1818.

To the Secretary of War:

Sir: In compliance with your instructions, I have the honor to submit the following report:

In deciding upon the component parts of the ration to be furnished the army, it must be obvious that, so far as the health of the troops is concerned, those will of course be the best which afford the greatest quantity of good nutritious matter from a given quantity of food; but, as the soldier is in general his own cook, it is also

necessary that they be of such a nature as to enable him effectually to extract this nutriment in the easiest and most simple manner. The first will depend upon the habits of the soldier previous to enlistment, and the last upon the mode of cooking which the experience of the army has found most convenient and advantageous.

It is a well known fact that every animal, in order to enjoy health, strength, and vigor, must be supplied with food adapted to its habits, whether *natural* or *acquired*. The former cannot in most cases be essentially changed without serious consequences; the lion, for example, cannot subsist on hay, or the ox on game: while in others the digestive organs may, by degrees, become so accustomed to unnatural food, as to render it not only consistent with but necessary to health: thus the horse may be taught to live on meat. Hence it follows that a ration perfectly adapted to the wants of a Cossack, might be totally useless, and perhaps injurious, to an American; for man may in this respect be considered a genus, the several species of which are determined by the age, country, or tribe, to which he belongs: the Greenlander and the Hindoo, the ancient Spartan and the modern epicure, would find nearly as much difficulty in subsisting upon the same food as the wolf and the sheep.

Such being the effect of custom, it must be evident that whenever a man has confirmed his natural propensities by long habit, any change, especially a sudden one, will be attended with most injurious, if not fatal effects; and this is precisely the condition of the American soldier; for, if the natural diet of man is altogether vegetable, and if the people of the country differ but little in their mode of living from that pointed out by nature, and are also accustomed to a great variety, and consequently too frequent changes in the several articles of their diet, it must be obvious that a ration, composed of bread and meat only, and chiefly of the latter, cannot be consistent either with "comfort, convenience, or health."

That man was not originally carnivorous, is proved by history, both sacred and profane; and this is confirmed by the fact that nearly all those animals whose usefulness depends upon their health, strength, and vigor, or upon the nutritious quality of their solids, such as the horse, elephant, camel, mule, sheep, and most of those used for food, subsist upon vegetables; while the carnivorous species, as the tiger, wolf, dog, and even the lion, though they possess a greater degree of agility, from their natural conformation, have nothing of that real strength and vigor which renders the former animals important assistants to us during life, nor of that healthy embonpoint which makes some of them equally useful after death.

The same is true with respect to man in his present unnatural state. The natives of this country, who subsist principally on game; those tribes of Bedouins, whose deserts scarcely afford food for their cattle; and the Greenlander, whom necessity has taught to live upon dried fish and blubber, are all, from their general habits, hardy; but they are, *ceteris paribus*, inferior to the Hin-

## Report of the Surgeon General.

doos, whose fear of feeding upon his grandsire confines him to pulse and light vegetables; much less have they the stamina of those whom our second nature, habit, has accustomed to a judicious mixture of both these kinds of food.

Custom, it is true, renders a certain portion of animal food necessary to produce the highest state of health and vigor; but it is believed the quantity required for this purpose has been exceedingly overrated. This has arisen from observing that certain classes of men, noted for their health and strength, indulge largely in such kind of diet. But the conclusion by no means follows from the premises; for these same men will also indulge in large potations of ardent spirits, and various other excesses, without apparent injury; this therefore only proves what they can bear, and not what is *best* for them.

The correctness of the position will further appear from the diet found necessary for the delicate and the valetudinarian. There the great difficulty is to procure food sufficiently light, that is, of sufficient bulk to satisfy hunger, without too much nutriment to suppress digestion; for physiologists, when discoursing upon the digestive organs, and the quality of food best suited to them, have shown that the former requires from the latter what they have termed the stimulus of *distension*, as well as a due degree of excitement from nutritious matter, to excite healthy action. That a certain bulk is as necessary as a certain quantity of nutriment; and that so far as one of these is increased at the expense of the other, so far the diet varies from the healthy standard. Thus, it not only appears that a vegetable diet is natural to man, but we are taught its *modus operandi*; and that, although it actually contains much less nourishment than animal matter, yet, from its being in a state of subdivision, it is so diluted, as it were, as to be fully acted upon by the stomach; whereas, in a more concentrated form, it becomes an unnatural stimulus, and destroys the powers of the digestive organs.

Now we may conclude, *a priori*, that the diet of the people of this country will be that which is best suited to them; for such is the facility of obtaining the means of subsistence, that even the laborers in our cities, probably the poorest class of men among us, are enabled to procure most of the articles supplied in the markets; and such is the profusion with which we are blessed, that these consist of almost everything the palate can desire or the stomach digest. Being, therefore, under no restraint from poverty or scarcity, it is to be presumed they would follow, in a great measure, the indications of nature; and that this is a fact will appear from a cursory reflection upon the modes of living in the different parts of the country; for when we take into account the quantity of farinacea employed in bread, pudding, &c., the great variety and abundance of fruits, and of the lighter vegetables, in addition to the more nutritious ones, as peas, beans, rice, potatoes, and many roots, it is probable four-fifths of our diet is vegetable, and perhaps two-thirds in every case. Even at dinner, when meat is

most used, it is generally in this proportion, and it constitutes but a small part of our morning and evening meals. There are no doubt exceptions, but these proportions will be found in general correct.

The cheapness of living, however, not only enables the mass of our population to procure food of the best kind, but also to obtain a great variety of the essential articles, and many even of the luxuries of life; there are few who, to fish and poultry, and almost all the vegetables in use, do not add tea, coffee, sugar, spices, and other condiments; and with this variety of food they are accustomed to no small variety in the mode of preparing it. The very general use of tea, or some other warm infusion, at the morning and evening meals, is a point of no small importance, and nothing but experience can fully convince one how severely the want of it is felt, and of course how necessary that, or a substitute, is for the health of the soldier.

But, secondly, the experience of the army proves, that not only the habits of the soldier previous to enlistment, but also the mode of cooking found most effectual and convenient, requires a material change in the component parts of the ration; for, since the business of cooking belongs, in civil life, almost entirely to females, when a man is confined to bread and meat, he is not only suddenly deprived of his accustomed means, but is entirely ignorant of the best mode of employing those afforded him; and one of the last things a young officer or soldier learns, is how to manage his domestic concerns, though he soon becomes acquainted with the necessity of this knowledge, both for his health and his comfort.

When a recruit receives his ration, if the meat be fresh, he broils it to a cinder on the coals, on the end of his ramrod; if salt pork, he eats it raw; and if salt beef, he boils it, and, with his bread, will make a pretty good meal for some time; but in the morning and evening he feels the want of his usual infusion of tea, and at noon of his customary supply of vegetables. As a substitute for the former, he warms the stomach with a gill of undiluted, corroding whiskey; and, after living a few weeks in this way, is sent to the surgeon, worn down with dysentery, diarrhoea, and other complaints of the stomach and bowels. If the surgeon be sufficiently acquainted with his duty to give him a light diet of soup, fresh vegetables, and hospital stores, instead of loading him with medicine, he is shortly restored to health; and, from the same causes as before, is shortly returned to the hospital, and, after being for some months a burden to himself and the community, he is either buried or discharged service, and perhaps pensioned. This is a process which every one on duty, during the late war, has repeatedly witnessed; which occurred with the majority of those enlisted, and which rendered the muster rolls of the Army a mere list of invalids.

Whenever the mortality was great, during the late war, it was attributed to the *quality* of the ration; but the fact is, it was, on an average, as



good at these places as usual; and, that this was the case, is proved from the circumstance that the regiments at these stations, commanded by experienced officers, as well as those in the vicinity, were often, in a great measure, exempted from disease.

There were two corps, one noted for their good police, and the other for their depredations on the fields and gardens of the citizens, who were a continual proof of the true cause of this difference in the health of the men; for experience soon taught both officers and men the importance of preparing their food in the form of *soupe*; and whenever this was done, either in consequence of police regulations, or from the soldiers obtaining a supply of the necessary ingredients, the good effects were constantly observed; and from what has been adverted to, relative to the diet natural to man, and the rationale of its operation, the reasons must be obvious.

It is true, the same judicious arrangements which not only obliged the men to cook their provisions in the best manner, but also provided them with the necessary ingredients, would conduce to their health in various ways; but when, as was the case in the corps above alluded to, change of position or circumstances produced the same result upon those who had no police at all, and the only apparent difference in their situation arose from their being able to obtain a variety of articles, in addition to their ration, and to prepare them in a suitable manner, there can be no doubt that the *nature*, and not the *quality*, of the ration, was the true cause of its effects. This is also confirmed by the practice found most beneficial in the hospitals, as most patients required only a proper diet to restore them to health, while animal food, in a solid form, was generally nauseated.

One of the divisions of the French Army, in 1810, was so far reduced by diarrhoea and dysentery, as to produce a full and satisfactory investigation of its causes; and it was clearly shown, in a memoir of the Surgeon General of the division, to arise entirely from the ration to which they had for some time been confined. Being unable to obtain the usual supply of vegetables, they were furnished, like our Army, with bread and meat only, and principally the latter, which was in general salted pork; so that the effects of such a diet are not peculiar to our own country.

In fact, if we compare our ration with that of the French and English, (the two nations probably best instructed in most military matters,) the defects of the former will be apparent.

They are as follows:

*French*.—Bread 24 1-10 oz., or biscuit 17½ oz.; fresh meat or salt beef 8 oz., or salt pork 6½ oz.; rice 1 oz.; dried pulse 2 oz.; wine 2 gills, (nearly); brandy ½ gill, (nearly.)

*English*.—Flour or bread 24 oz.; beef 16 oz., or pork 8 oz.; peas 1 gill; butter or cheese 1 oz.; rice 1 oz.

*American*.—Flour 18 oz.; beef 20 oz.; pork 12 oz.; whiskey 1 gill.

From this it appears the American has more

than twice as much meat as the French, and more even than the British soldier, while our ration of bread is about two-thirds of theirs, although we have no other vegetable. It should also be observed that the British issue no ardent spirits, and the French but a small portion, though their habits, in this respect, render such an allowance at least harmless.

Since then, the health, and of course the efficiency of an army depends so much upon the ration, this subject becomes one of no small political importance; and an "old soldier" of our country, in his "advice to young generals," has very pertinently commenced with "the belly;" as he considers a man's stomach, to have an essential effect both upon his ability and his inclination to fight, and, among other causes, of the almost universal success of the armies of barbarians, and especially of semi-civilized nations, their being subject to little or no change in their mode of living when in actual service, is a very prominent one; for they are not only less liable to be diminished by disease, but they add to the full enjoyment of all their physical powers, the no less important *moral effect* of high health and consequent good spirits; and the want of which, generally completes the destruction of a beaten and retreating army.

Among the ancients, the ration of a soldier was principally, if not entirely, vegetable; and it is well known what immense burdens they carried, what fatigues they underwent, and what surprising marches they often performed. This, however, probably depended, in a great measure, like the success of the armies above alluded to, upon the little change required in their mode of living when called from their homes to the field.

Whenever, therefore, the progress of civilization, or the natural fertility of a country, enables the mass of the population to habituate themselves to a degree of luxury in living, it becomes necessary in time of war to put in requisition the wealth and means these very circumstances produce in time of peace, to counteract the evil. If an army of barbarians required less in the field, they had also fewer resources; and since experience has shown the impossibility of accommodating our habits to our supplies, it becomes necessary to adapt our supplies to our habits. The truth of these remarks will appear from considering that, in the progress of almost every nation from barbarism to civilization, the point at which their armies have been most formidable and efficient, is that where they unite the hardihood of the former to the resources of the latter; where they have the use of wealth and science, without having learned to abuse them. This may be exemplified in the history of the Russian empire, since the time of Peter the Great.

Although not immediately connected with this subject, it may be well to observe, that what has been advanced in relation to the ration, is applicable, in the fullest extent, to the medical attendance and supplies of our Army. The soldier who, previous to enlistment, had no physician but nature, no nurse, but what chance or charity

furnished, and who never knew what comfort and convenience were, will easily struggle through a disease that would be inevitably fatal to one who had been from his infancy accustomed to every assistance that professional skill and the solicitude of friends, aided by a competency at least, can afford.

But, from the multiplicity of charitable institutions among us, even our paupers are better attended and furnished when sick, than the soldier can possibly be, without liberal supplies from the public, assisted by an effectual organization of the medical staff, a rigid observance of regulations, and a strict attention to duty. Policy and economy, therefore, no less than humanity, require attention to this subject, since, in addition to the loss of much time, it costs the public several hundred dollars to supply the place of a good soldier, who might often have been saved for the twentieth part of the sum.

*Sutling*, also, is a subject that deserves to be particularly noticed, since it is of nearly as much importance to the health, comfort, and convenience of the Army, as the nature of the component parts of the ration; to the officers it is more so; for both in time of peace and in active service they are generally stationed so far from cities and villages as to render them altogether dependent upon the occasional supplies of the irregular followers of a camp; and too often money cannot procure a decent meal. From the experience of the late war, there can be no doubt but this circumstance alone rendered the service on the frontier more unpleasant and unpopular, and caused more desertion, if it may be so termed, than all others together. In fact, it often amounted to absolute want, for, after living a few weeks upon a soldier's ration, diarrhoea and dysentery would render bread and meat as useless as stocks and stones. And even when the camp was surrounded with hucksters, they extorted, in a short time, all the money an officer possessed for supplying him with a bare subsistence, so that it too often happened that those, particularly in the subordinate grades, were, from absolute poverty, obliged to descend to habits and practices totally inconsistent with the character of officers or gentlemen. It would frequently require nearly all the pay and emoluments of a captain to discharge his mess bill; the situation of subalterns, therefore, may well be imagined, since the scarcity of supplies rendered it impossible to adapt one's living to his means.

Feeling the importance of this subject, commanding officers repeatedly attempted to obtain and secure regular sutlers, who, from having the exclusive right to sell to their corps, might be able and willing to furnish them regularly at a low rate. But this was found impracticable; in the first place, from the irregularity with which the Army was paid; and secondly from the small security the sutler had for his money. The former was, of course, the chief cause of the latter.

I have known an honest and faithful man lose from eight hundred to one thousand dollars, by

the death, desertion, and discharge of soldiers, who had not been paid for many months, and some of them for two years. The consequence was obvious; the sutler was soon obliged to quit his business, and, in the mean time, to charge an enormous profit, to make up for these losses, in addition to those arising from the necessity of borrowing money or purchasing at a long credit, and of course at a great advance.

In actual service, perhaps, the troops cannot always be regularly paid: some mode should therefore be adopted to secure the sutler his just and authorized demands, in all cases, which I apprehend might be easily effected. If this were done, he could furnish a mess of ten men with all the groceries, &c., they require for ten dollars per month; whereas they now spend one-half their pay for occasional supplies of the worst kind; and, at the same time, a mess of officers might live better for three dollars per week than they often do for four or five times that sum.

In the British army this subject has received the attention it deserves; so that one of their regiments is generally better supplied, and at a cheaper rate than any of the neighboring citizens, and it surely is of equal importance to us, if without costing the public a cent, we can, by suitable laws and regulations, enable both officers and men to purchase health and comfort for half the money they now pay for imposition and disease. Before quitting this point, it should be observed, that no important arrangement for the Army can be considered in the abstract, there is such a mutual dependence of all military regulations that it is often impossible to foresee the consequences of bad ones.

From the want of proper and regular supplies, for example, the important subject of *messing* has been almost entirely neglected. An officer, instead of finding his regimental mess a comfortable home, in which he feels an interest, and to which he is pleased to return, submits with reluctance to a few months of privation and hardship, and then commences his operations to effect a retreat to the interior, and leaves his place to be temporarily supplied by another equally discontented sojourner; and it is a fact, no less important than true, that those commanding officers who have made the greatest progress in regimental police have the least trouble in calling home their wandering officers, and keeping them there. It is in vain to say, as is often the case, that a soldier must expect these things, for, like all others, he will, to a certain extent, consult his own convenience. The camp at French Mills, in the Fall of 1813, was sufficient proof that the comforts of officers are of no small importance to the public; for, as soon as they found themselves in the wilderness, without food or houses, they not only quitted their posts upon the most trifling pretences; but many who would have faced the enemy with pleasure fled from privation in a manner that came little short of desertion. After what has been observed upon the nature of the ration, the necessity for a regimental grocery, for the health as well as comfort



*Report of the Surgeon General.*

both of officers and men, will not probably require further proof.

With regard to the articles best suited to compose the ration, it is necessary that they be not only adapted to the habits of the soldier, but also of such a nature as to be easily procured, of a good quality, and capable of being preserved from injury in the several parts of the country where they are to be used. Wheat flour is easily damaged in all places, and in that state is extremely prejudicial to health. Most of the diseases of the troops during the late war were, by general consent, attributed to the ration; but, though by no means true to the extent believed, it was too often so, and, nine times in ten, damaged flour was the noxious article. At French Mills particularly, where the mortality was almost incredible, the flour was unfit for any human stomach. Where it can be obtained, therefore, kiln-dried corn-meal is far preferable to flour in every respect; but where it cannot, the evil may in a great measure be remedied by causing the latter to be baked in the form of hard biscuits, which can not only be preserved a much longer time, but are more palatable and less injurious when damaged, and far more nutritious when good than the soft bread furnished to or made by the soldiers.

This, it is believed, is a matter of no small importance, not only on account of the bad effects of damaged flour, but from the fact, well known to many valetudinarians and most physicians, that hard bread or soft bread toasted is much more easily digested, and affords more nutriment than in any other form, however good the quality may be; and, since a pound of this bread will be equal to a pound of flour, the baking will be but little, if any, additional expense.

For the same reason that kiln-dried corn-meal should, in many cases, be substituted for flour, bacon ought to be furnished instead of salt beef and pork; at the South, particularly, this change appears absolutely necessary for the health of the troops. With this alteration, and a proper reduction of the quantity of the meat, this part of the ration, provided a due proportion of it be fresh, would be as good as can possibly be required.

As to the additional vegetables that may be substituted for part of the meat, the kinds best adapted to this purpose, on every account, are those used by the British and French, viz: peas, beans, and rice; they may be obtained in abundance, and generally at a low rate; and, if issued either regularly or occasionally, would not only promote the health and comfort of the soldier, by approaching near to his accustomed food, but by enabling him to introduce frequent changes in his mode of preparing it.

The deleterious effects of ardent spirits, particularly in the army, are well known; for, in the reports of sick, "sudden death from intoxication," is no small item. It is suggested, therefore, whether this troublesome poison should not be altogether excluded, and the healthy drinks of molasses and water, or beer, substituted for it; if

I am rightly informed, by supplying molasses and the essence of spruce, one quart of beer may be furnished for about the same sum as one gill of whiskey. The necessity of this will be more evident when it is remembered, that in fact the soldier has, at present, only water with his meals, for, notwithstanding all regulations, he will make a morning dram of his whiskey, which is one chief cause of its injurious effects.

At the request of a surgeon attending a post, where the men were severely attacked with dysentery this last Summer, the commanding officer stopped the whiskey altogether, and an immediate check was given to the disease. This, however, is but one of many instances of the good consequences resulting from such orders, and particularly at the South, during the Summer months.

Almost all classes of men among us are accustomed to the free use of spices and other condiments, particularly of pickles; which, on account of the vegetable acid they contain, are both a pleasant and healthy stimulus to the stomach. Indeed, vinegar is of great use on many accounts; it is one of the best correctors of the superabundance of bile, induced by an unnatural or long continued stimulus; whether it be the excessive heat of a warm climate, an abundance of animal food, or that of a crude consistence, or a too free use of ardent spirits; in the latter case, as well as where laudanum, or other narcotics, have been taken, it seems to act as a specific. Whenever, therefore, the soldiers are supplied with the lighter vegetables, as cabbages, beets, cucumbers, &c., which may, by suitable arrangements, easily be done, especially on the peace establishment, there can be no doubt of the benefit of allowing a sufficient quantity of vinegar, to furnish them with a regular supply of pickles; and even without these it might be used with great advantage, and would generally be very acceptable in its simple form.

If, from these considerations, it should appear that the health of the army requires alterations in the ration, they will be of still greater weight when we remember that, from the nature of our public institutions, the greater part of our force in actual service does, and will for many years, consist of militia—of men who must, necessarily, in all cases, be suddenly taken from their customary habits and comforts, and exposed to all the hardships and privations of the soldier, without any of his advantages. The effects of this have been too lately and too severely felt, to be soon forgotten; and it is suggested, whether this circumstance be not of sufficient importance to have a very considerable influence in deciding not only the nature of the ration, but of all those supplies upon which militia, when on duty, are equally as dependent as the regular soldiers; and as every able-bodied citizen is liable, at a moment's warning, to feel the necessity of having these supplies as good as practicable, he will have less objection to furnish his portion of any additional expense that may be necessary to insure their provision. All which is submitted.

J. LOVELL, *Surgeon Gen.*

*The Militia of the United States.*

## THE MILITIA.

[Communicated to the House, January 22, 1819.  
Mr. HARRISON, from the committee upon the improvement in the organization and discipline of the militia, made the following report:

That, having had the subject under their consideration, and finding that a bill containing a system of organization and discipline, reported at the last session, was before the House, they have nothing further to offer on the particular points contained in the bill. But as it is their opinion that, if the bill should be adopted, it will be advancing but a single step towards the attainment of the important object of rendering the militia, in all cases, a substitute for a standing army, they have directed their attention towards some ulterior measure by which it might be effected. They have been enabled to devise none better than that which is contained in the report made to this House on the 17th January, 1817; and they beg that the following extract therefrom may form a part of their report:

"The great difficulty to be encountered is the application of a system of discipline or military instruction to a great population scattered over an immense territory.

"The accomplishment of this object, at once, is evidently not within the power of the Government. To instruct the present militia of the country, to any useful extent, would require a larger portion of their time than they can possibly spare from the duty of providing for their families, unless they are liberally paid: to pay them would absorb all the resources of the nation. The alternative appears to be to direct the efforts of the Government to instruct such a portion of the militia as their means will allow, and which would produce the most beneficial result upon the whole mass; leaving to the effects of another system the gradual instruction of those military acquirements which, in a republican Government, it is so essential for every citizen to possess. Acting upon this principle, and believing that the instruction which it is in the power of the Government to give would be more usefully bestowed upon the whole of the officers and sergeants of the militia, than upon any particular class, the sections of the bill which relate to this part of the subject have been adopted by the committee. They have also considered it to be proper to annex some estimates of the annual expense of the system they recommend.

"Although it may be considered that, by presenting a bill for the organization and classification of the militia, and the exposition of their motives which accompany it, the committee have performed the task assigned them by the resolution under which they acted, they have, nevertheless, believed it to be their duty to submit some further views, the result of their deliberations upon this important subject.

"This course may be more excusable, as the committee have no hesitation in acknowledging that the plan embraced by the bill is a mere ex-

pedient—a choice of difficulties—a system which, although it will place the militia upon a much better footing they have before stood on, yet is not likely to produce that great desideratum—that indispensable requisite in a Government constituted like ours—the diffusion of a military spirit and military information throughout the great mass of the people.

"The part of the subject which still remains to be discussed will be best understood by dividing it into two distinct propositions:

"1st. Is it desirable that the whole male population of the United States, of the proper age should be trained to the use of arms, so as to supersede, under any circumstances, the necessity of a standing army?

"2d. Is it practicable?

"The solicitude which has been manifested by the great men who have successively filled the office of Chief Magistrate of the United States, for the adoption of a system of military discipline for the militia, which would produce the effect contemplated by the first proposition, sufficiently manifests their sense of its importance. The subject was often and warmly recommended by the Father of his Country, and, at an early period of his Administration, a plan for the purpose was proposed by the Secretary of War, and being corrected agreeably to his suggestions, was submitted to the National Legislature. It is believed that objections to the expense and supposed difficulty of executing this plan, and to its object, was the cause of its being rejected. Is the opinion which prevailed at that period, that an energetic national militia was to be regarded as the capital security of a free republic, less apparent at the present? Has anything since occurred, either in the history of our own or of any other country, to show that a standing "army, forming a distinct class in the community," is the proper defence of a Government constructed like ours? Do the events of the late war show that discipline is not necessary for the militia? or does the present aspect of the political world afford so much security as to justify the indifference which prevails in providing an effectual national defence?

"It is impossible that any American can recur to many of the events, and particularly to the concluding scenes of the late war, without feeling that elevation of mind which a recollection of his country's glory is calculated to produce. There are, however, others, and not a few, that are eminently calculated to show that an immense sacrifice of blood and treasure can be distinctly traced to the want of discipline in the militia. The glorious success which, in several instances, crowned their efforts, was the result of uncommon valor, or of valor united with the advantage of a position suited to their peculiar character. The greater part of the American militia, accustomed from their early youth to the use of fire-arms, are doubtless more formidable than any other troops in the world in the defence of a line or rampart. Victories in the field are gained by other qualities; by those disciplined evolutions which give harmony and concert to numerous bodies of men,



*The Militia of the United States.*

and enable whole armies to move with the activity and address of single combatants. Let our militia be instructed, and America would be equal to a contest with the rest of the world united. The improvements which have been made in the art of war since the commencement of the French revolution give greater advantage to invading and disciplined armies, acting against those of a contrary character, than they before possessed. This arises from their increased activity, produced by the great multiplication of their light troops; the celerity of movement given to the artillery; and, above all, to the improvements in the staff, placing the subsistence of large armies upon a footing of security beyond what was formerly supposed to be possible. An improvement in tactics, which gives advantages to the professed soldier who fights for conquest over the citizen who bears arms only in the defence of his country, is perhaps to be regretted, and no alternative is left to the latter but to perfect himself in the same arts and discipline. It is believed that there is no instance on record of a republic whose citizens had been trained to the use of arms, having been conquered by a nation possessing a different form of government. Small republics have been overthrown by those who were more powerful, as Saguntum destroyed by Carthage, and Numantia by Rome: but it has been observed of those Governments, that 'their walls and towers became their funeral piles, leaving nothing to their conquerors but their ashes.'

"The committee cannot conceive that any aspect, however pacific it may be, which the Governments of Europe may for the present have assumed towards this country, should be used as an argument to procrastinate, even for a day, any measure calculated to render their future hostility abortive. It cannot be believed that any real friendship can exist in the breasts of the sovereigns of that continent for a Government which has been founded upon principles so opposite to theirs, and which, by the happiness it diffuses, affords an eternal satire and reproach upon their conduct. Whatever security, then, may be derived from their forbearance, whenever, from a change of circumstances, they may think it proper to change their policy. The liberties of America must, then, be preserved as they were won—by the arms, the discipline, and the valor of her free-born sons.

"But the defence of our country against a foreign enemy does not constitute the only (perhaps not the chief) motive of military improvements to the extent contemplated by the proposition we are considering. The safety of a republic depends as much upon the equality in the use of arms amongst its citizens, as upon the equality of rights; nothing can be more dangerous in such a Government than to have a knowledge of the military art confined to a part of the people, for sooner or later that part will govern.

"The effects of discipline possessed by a few, to control numbers without, is to be seen in all the despotic governments of modern as well as ancient times.

"In general, however, the subjects of those despotic governments, which preserve their authority by standing armies, are not allowed the use of arms; but the use of arms is not alone sufficient. A striking example of this is to be found in one of the Grecian republics. The Spartans were enabled, by the force of discipline alone, to keep in subjection for ages the Helots, and other ancient inhabitants of Laconia. These men were not only allowed the use of arms, but upon almost every occasion formed the greater part of the Lacedemonian army; nor were they deficient in bravery, but they were not permitted to learn that admirable discipline which distinguished the Oplites, or heavy armed infantry of Sparta.

"Another important consideration, urging the diffusion of a military spirit amongst our citizens is, the counterpoise it will afford to that inordinate desire of wealth which seems to have pervaded the whole nation, bringing with it habits of luxury, manners, and principles, highly unfavorable to our republican institutions.

"The first effect of this state of society is the substitution of a standing army for a national militia. Upon this subject the committee beg leave to make a quotation from the report of General Knox, corrected by President Washington. 'It is,' says the patriotic Secretary, 'the introduction of vice and corruption of manners into the mass of the people, that renders a standing army necessary. It is when public spirit is despised, and avarice, indolence, and effeminacy of manners predominate, and prevent the establishment of institutions which would elevate the minds of youth in the paths of virtue and honor, that a standing army is formed and riveted forever.' So true is the principle here contended for, that it is believed there is no instance in history of a nation losing its liberties where the military spirit of the people did not decline in the same proportion that the corruption of manners advanced. Nor was any free government ever overturned by an internal convulsion, until the destruction of that spirit had been first produced in the body of the people. It was not until the amusements of the theatre, the baths, and the public gardens, had superseded the exercises of the Campus Martius, that a Roman army dared to revolt against its country, and with the power of the sword to substitute for its free institutions the arbitrary will of a dictator; eighty years before the successful usurpation of Cæsar, the revolt of an army could have produced no such consequence.

"But the habits of the people had been changed; no longer in every Roman citizen was to be found a trained and practised soldier; the higher tactics were cultivated, indeed, with zeal and success by a martial nobility. No period has been more prolific of great generals. At none had the discipline of the legions been so perfect; but they were no longer filled by citizens taking their routine of service. The military had become a distinct profession; composed of men, who, in the habits of war and pillage, had forgotten the sacred obliga-

*The Militia of the United States.*

tions attached to their character as citizens, and who were ever as ready, upon the suggestion of their leader, to turn their arms against their country, as the enemy whom they were raised to oppose.

"As in every age, then, and in every country, the same cause will produce the same effects, the palladium of American liberty must be the diffusion of military discipline, and a military spirit through the whole body of the people.

"But, secondly; is the object attainable?

"That it is not attainable by any of the systems which have heretofore been in use in the United States, is very evident from the little success which have attended them. The late war repeatedly exhibited the melancholy fact of large corps of militia going to the battle field without understanding a single elementary principle, and without being able to perform a single evolution. Yet militia laws exist, and have existed, in all the States since the war of the Revolution, which set apart, with great precision, a number of days in each year for the purposes of training and discipline. But from this plan no good fruit has ever been produced. It was an error, indeed, common to all the militia systems in use in the United States, that the periods for training were too short and too distant from each other to produce much benefit.

"To remedy this defect camps of discipline have been recommended. One of the reasons which governed the committee in rejecting that part of the Secretary of War's recommendation has been explained above; but, if that objection should be overcome, the committee are far from thinking that the object could be at all accomplished in that way. There is another more formidable obstacle to success; more formidable, because it arises from the nature of our Government, and the constitution of the human character. The sentiments and habits of a free country necessarily produces amongst the citizens a superior restlessness under restraint, than is to be met with in the subjects of a monarchy. This spirit frequently manifests itself even in a career of military services, where the high interests involved, (and in which they largely partake,) and the evident necessity of discipline might be supposed able to correct it. There can scarcely be a restraint more vexatious and disgusting to a grown man than the initiatory lessons of the military art. Military discipline consists in the observance of a number of minute particulars which, to the novice in arms, have no apparent object, but which form the links of a beautiful and connected system. It is believed that to this cause is to be attributed the little progress which has been made in training the militia of the United States; nor is there much prospect that any change of system could, with regard to the present militia, produce the result at which we aim.

"In searching for landmarks to guide us to our object, it will be in vain that we direct our attention to the modern nations of Europe; from them we can borrow nothing to aid our purpose; governments formed upon artificial distinctions

in society, which estimate their security by the inability of their subjects to resist oppression, can furnish a free people with no guides in organizing a system of defence which shall be purely national. We are not, however, without resource.

"The ancient republics, from which we have drawn many of the choicest maxims upon which to found our civil institutions, will furnish also a most perfect model for our system of national defence. The whole secret of ancient military glory—the foundation of that wonderful combination of military skill and exalted valor which enabled the petty republic of Athens to resist the mighty torrent of Persian invasion, which formed the walls of Sparta, and conducted the Roman legions (influenced, indeed, by unhallowed motives) to the conquest of the world—will be found in the military education of their youth. The victories of Marathon and Platea, of Cynocéphale and Pydna, were the practical results of the exercises of the Campus Martius and Gymnasia. It is on a foundation of this kind, and of this kind only, that an energetic national militia can be established.

"An examination into the employments and obligations of individuals comprising the society,' says General Knox, 'will evince the impossibility of diffusing an adequate knowledge of the art of war by any other means than a course of discipline during the period of non-age; the time necessary to acquire this important knowledge cannot be afforded at any other period of life with so little injury to the public or private interests.' Nothing is more true than what is here advanced; and yet it is most singular that the amiable and patriotic Secretary should have founded his plan upon a course of instruction, to commence within the limits of non-age, indeed, but at so advanced a period of it, that all the objections which could be made to disciplining the militia at a more advanced age will apply to it, with the addition of others which are more cogent, and which are supposed to be inherent in the system itself. Of his advanced corps, composed of the youth of 18, 19, and 20 years of age, those of 18 and 19 are to be drawn out for thirty days in each year, and those of 20 for ten days, to be instructed in camps of discipline.

"It has been strongly urged against this plan, that the separation of the youth, at that critical age, from the superintending vigilance of their parents and guardians, would be a very dangerous step, and that the loss of time from the pursuit of their professions and occupations would prove to them a most serious evil.

"Whatever force there may be in these objections, the committee are fully persuaded that the improvement to be derived from the execution of this plan would not compensate for the expense and loss of time it would occasion. The perfection of discipline, as it regards the soldier, is the grace, the precision, and address, with which he performs certain evolutions. To arrive at this perfection, long continued practice is essential.

"And since it must be evident that the time necessary for this purpose cannot be taken from



the avocations of our citizens, after they have arrived at the age of manhood, the only alternative is to devise a system of military instruction, which shall be grafted on and form a part of the ordinary education of our youth.

"The organization of a system, thus extensive in its operations, must necessarily be a work of some time and difficulty. The want of statistical information will prevent the committee from submitting to the House, at this time, more than the outline of their plan. It is embraced in the following propositions:

"As the important advantages of the military part of the education of the youth will accrue to the community, and not to the individuals who require it, it is proper that the whole expense of the establishment should be borne by the public treasury.

"That to comport with the equality, which is the basis of our Constitution, the organization of the establishment should be such as to extend, without exception, to every individual of the proper age.

"That, to secure this, the contemplated military instruction should not be given in distinct schools, established for that purpose, but that it should form a branch of education in every school within the United States.

"That a corps of the military institutions should be formed to attend to the gymnastic and elementary part of education in every school in the United States, whilst the more scientific part of the art of war shall be communicated by professors of tactics, to be established in all the higher seminaries.

"The committee are fully aware that the establishment of an institution, which, from its nature, is calculated to produce an important change in the manners and habits of the nation, will be received with caution and distrust by a people jealous of their liberties, and who boast of a Government which executes its powers with the least possible sacrifice of individual right. An encroachment upon individual rights forms no part of their system. It is not a conscription which withdraws from an anxious parent a son, for whose morals he fears more than for his life. It is not a Persian or Turkish mandate to educate the youth within the purlieus of a corrupt court, but a system as purely republican in practice as in principle.

"The means are furnished by the Government, and the American youth are called upon to qualify themselves, under the immediate inspection of their parents, or of tutors chosen by their parents, for the sacred task of defending the liberties of their country.

"Although the system of General Knox widely differs from that which has been recommended by the committee, his opinion of the effects to be produced by it is conceived to be more particularly applicable to the latter. 'If the United States,' says he, 'possess the vigor of mind to establish the first institution, for the military instruction of the youth, it may reasonably be expected to produce the most unequivocal advan-

tages. A glorious national spirit will be introduced, with its extensive train of political consequences. The youth will imbibe a love of their country, reverence and obedience to its laws, courage and elevation of mind, openness and liberality of character, accompanied by a just spirit of honor. In addition to which, their bodies will acquire a robustness, greatly conducive to their personal happiness; while habit, with its silent but efficacious operations, will durably cement the system.'

"That the House may possess all the information necessary to act upon this important subject, the committee respectfully recommend the adoption of the following resolution:

"Resolved, That the Secretary of War be required to prepare and lay before this House, at the next session of Congress, a plan for the military instruction of all the youth of the United States, in the way which is best calculated for the purpose, with as little injury as possible to the ordinary course of education."

#### *Estimates of training the Officers and Sergeants of the Militia of the United States.*

These estimates are made on a supposed number of one hundred thousand men, divided equally, as nearly as may be, into twenty-five brigades.

1st. Estimate upon the supposition that the officers and sergeants receive full pay, without rations, or an allowance for rations and forage, except to the sergeants, for whom rations might be necessary.

Each brigade containing, according to estimate, four thousand men, will be composed of four regiments, or forty companies.

There would, then, be the following field and staff officers, who should attend the training:

1 Brigadier full pay, \$104 . . .	\$104 00
1 Brigade inspector, with the pay of major . . .	50 00
4 Colonels, at \$75 . . .	300 00
4 Lieutenant colonels, at \$60 . . .	240 00
4 Majors, at \$50 . . .	200 00
40 Captains, at \$40 . . .	1,600 00
40 Lieutenants, at \$30 . . .	1,200 00
40 Second lieutenants, at \$25 . . .	1,000 00
160 Sergeants, \$8 pay, and \$6 for rations . . .	2,240 00

Amount of expenses of one brigade \$6,934 00

The adjutant to be taken from the line.

Brigades, twenty-five.

Expense of training officers for one month, at full pay, of twenty-five brigades, or one hundred thousand men . . . \$173,850 00

And estimating the United States militia at a million, then the total expense of training the officers of the whole militia would be some hundred thousand dollars less than two millions.

The following estimate is made on the supposition of the officers receiving only half-pay; the estimate proceeds, however, upon a supposition

that no officer is to receive less than thirty dollars per month; and the sergeants full pay and rations.

Second estimate for 100,000 men:

1 Brigadier, half pay . . .	\$52 00
1 Brigade inspector . . .	30 00
4 Colonels, half-pay . . .	150 00
4 Lieut. colonels, half-pay . . .	120 00
4 Majors, \$30 each . . .	120 00
120 Captain and lieuten'ts, at \$30 . . .	3,600 00
160 Sergeants, pay and rations . . .	2,240 00

For officers of one brigade . . . \$6,312 00

For twenty-five brigades . . . \$157,800 00

And for 1,000,000 . . . \$1,578,000 00

And thirty dollars per month, except sergeants, and leaving them on full pay and rations, then the amount would be varied, as will appear by the third estimate, viz:

134 officers in a brigade of 4,000, at \$30 . . .	\$4,020 00
160 sergeants on full pay and rations . . .	2,240 00

One brigade . . . 6,260 00

For 100,000, making twenty-five brigades . . . 156,500 00

And for 1,000,000 . . . 1,565,000 00

*Copy of General Knox's report on the arrangement and classification of the militia, made to the House of Representatives, on the 18th January, 1790.*

WAR OFFICE, January 18, 1790.

SIR: Having submitted to your consideration a plan for the arrangement of the militia of the United States, which I had presented to the late Congress, and you having approved the general principles thereof, with certain exceptions, I now respectfully lay the same before you, modified according to the alterations you were pleased to suggest.

It has been my anxious desire to devise a national system of defence, adequate to the probable exigencies of the United States, whether arising from internal or external causes; and, at the same time, to erect a standard of republican magnanimity, independent of and superior to the powerful influence of wealth.

The convulsive events generated by the inordinate pursuit of riches or ambition require that the Government should possess a strong corrective arm.

The idea is therefore submitted, whether an efficient military branch of government can be invented with safety to the great principles of liberty, unless the same shall be formed of the people themselves, and supported by their habits and manners. I have the honor to be, &c.,

H. KNOX, Secretary of War.  
The President of the United States.

#### THE INTRODUCTION.

That a well constituted republic is more favorable to the liberties of society, and that its principles give a higher elevation to the human mind than any other form of government, has generally been acknowledged by the unprejudiced and enlightened part of mankind.

But it is at the same time acknowledged that, unless a republic prepares itself, by proper arrangements, to meet those exigencies to which all States are in a degree liable, its peace and existence are more precarious than the forms of government in which the will of one directs the conduct of the whole for the defence of the nation.

A Government whose measures must be the result of multiplied deliberations is seldom in a situation to produce instantly those exertions which the occasion may demand; therefore, it ought to possess such energetic establishments as should enable it, by the vigor of its own citizens, to control events as they arise, instead of being convulsed or subverted by them.

It is the misfortune of modern ages that Governments have been formed by chance and events instead of system; that, without fixed principles, they are braced or relaxed, from time to time, according to the predominating power of the rulers or the ruled; the rulers possessing separate interests from the people, excepting in some of the high-toned monarchies, in which all opposition to the will of the prince seems annihilated.

Hence, we look round Europe in vain for an extensive Government, rising on the power inherent in the people, and performing its operations entirely for their benefit. But we find artificial force governing everywhere, and the people generally made subservient to the elevation and caprice of the few; almost every nation appearing to be busily employed in conducting some external war, grappling with internal commotion, and endeavoring to extricate itself from impending debts which threaten to overwhelm it with ruin. Princes and Ministers seem neither to have leisure nor inclination to bring forward institutions for diffusing general strength, knowledge, and happiness; but they seem to understand well the Machiavelian maxim of politics—divide and govern.

May the United States avoid the errors and crimes of other Governments, and possess the wisdom to embrace the present invaluable opportunity of establishing such institutions as shall invigorate, exalt, and perpetuate the great principles of freedom; an opportunity pregnant with the fate of millions, but rapidly borne on the wings of time, and may never again return.

The public mind, unbiassed by superstition or prejudice, seems happily prepared to receive the impressions of wisdom. The latent springs of human action, ascertained by the standard of experience, may be regulated and made subservient to the noble purpose of forming a dignified national character.

The causes by which nations have ascended and declined, through the various ages of the



world, may be calmly and accurately determined; and the United States may be placed in the singularly fortunate condition of commencing their career of empire, with the accumulated knowledge of all the known societies and Governments of the globe.

The strength of the Government, like the strength of any other vast and complicated machine, will depend on a due adjustment of its several parts. Its agriculture, its commerce, its laws, its finance, its system of defence, and its manners and habits, all require consideration, and the highest exercise of political wisdom.

It is the intention of the present attempt to suggest the most efficient system of defence which may be compatible with the interests of a free people; a system which shall not only produce the expected effect, but which, in its operations, shall also produce those habits and manners which will impart strength and durability to the whole Government.

The modern practice of Europe, with respect to the employment of standing armies, has created such a mass of opinion in their favor, that even philosophers and the advocates for liberty have frequently confessed their use and necessity in certain cases.

But whoever seriously and candidly estimates the power of discipline and the tendency of military habits will be constrained to confess that, whatever may be the efficiency of a standing army in war, it cannot in peace be considered as friendly to the rights of human nature. The recent instance in France cannot, with propriety, be brought to overturn the general principle built upon the uniform experience of mankind. It may be found, on examining the causes that appear to have influenced the military of France, that, while the springs of power were wound up in the nation to the highest pitch, the discipline of the army was proportionably relaxed. But any argument on this head may be considered as unnecessary to the enlightened citizens of the United States.

A small corps of well disciplined and well informed artillerists and engineers, and a legion for the protection of the frontiers and the magazines and arsenals, are all the military establishment which may be required for the present use of the United States.

The privates of the corps to be enlisted for a certain period, and after the expiration of which to return to the mass of the citizens.

An energetic national militia is to be regarded as the capital security of a free republic; and not a standing army, forming a distinct class in the community.

It is the introduction and diffusion of vice and corruption of manners into the mass of the people that render a standing army necessary. It is when public spirit is despised, and avarice, indolence, and effeminacy of manners, predominate, and prevent the establishment of institutions which would elevate the minds of the youths in the paths of virtue and honor, that a standing army is formed and riveted forever.

While the human character remains unchanged, and society and Governments of considerable extent are formed, a principle ever ready to execute the laws and defend the State must constantly exist. Without this vital principle the Government would be invaded or overturned, and trampled upon by the bold and ambitious. No community can be long held together, unless its arrangements are adequate to its probable exigencies.

If it should be decided to reject a standing army for the military branch of the Government of the United States, as possessing too fierce an aspect, and being hostile to the principles of liberty, it will follow that a well constituted militia ought to be established.

A consideration of the subject will show the impracticability of disciplining at once the mass of the people. All discussions on the subject of a powerful militia will result in one or other of the following principles:

1st. Either efficient institutions must be established for the military education of the youth, and that the knowledge acquired therein shall be diffused throughout the community by the means of rotation; or,

2dly. That the militia must be formed of substitutes, after the manner of the militia of Great Britain.

If the United States possess the vigor of mind to establish the first institution, it may reasonably be expected to produce the most unequivocal advantages. A glorious national spirit will be introduced, with its extensive train of political consequences. The youth will imbibe a love of their country; reverence and obedience to its laws; courage and elevation of mind; openness and liberality of character, accompanied by a just spirit of honor; in addition to which their bodies will acquire a robustness greatly conducive to their personal happiness, as well as the defence of their country; while habit, with its silent but efficacious operations, will durably cement the system.

Habit, that powerful and universal law, incessantly acting on the human race, well deserves the attention of legislators. Formed at first in individuals, by separate and almost imperceptible impulses, until at length it acquires a force which controls with irresistible sway. The effects of salutary or pernicious habits operating on a whole nation are immense, and decide its rank and character in the world.

Hence, the science of legislation teaches to scrutinize every national institution, as it may introduce proper or improper habits, to adopt with religious zeal the former, and reject with horror the latter.

A republic, constructed on the principles herein stated, would be uninjured by events sufficient to overturn a Government supported solely by the uncertain power of a standing army.

The well-informed members of the community, actuated by the highest motives of self-love, would form the real defence of the country. Rebellions would be prevented, or suppressed

with ease. Invasions of such a Government would be undertaken only by madmen, and the virtues and knowledge of the people would effectually oppose the introduction of tyranny.

But the second principle (a militia of substitutes) is pregnant, in a degree, with the mischiefs of a standing army, as it is highly probable the substitutes, from time to time, will be nearly the same men, and the most idle and worthless part of the community. Wealthy families, proud of distinctions, which riches may confer, will prevent their sons from serving in the militia of substitutes; the plan will degenerate into habitual contempt; a standing army will be introduced, and the liberties of the people subjected to all the contingencies of events.

The expense attending an energetic establishment of militia may be strongly urged as an objection to the institution. But it is to be remembered that this objection is levelled at both systems, whether by rotation or by substitutes; for, if the numbers are equal, the expense will also be equal. The estimate of the expense will show its unimportance when compared with the magnitude and beneficial effects of the institution.

But the people of the United States will cheerfully consent to the expenses of a measure calculated to serve as a perpetual barrier to their liberties; especially as they well know that the disbursements will be made among the members of the same community, and therefore cannot be injurious.

Every intelligent mind would rejoice in the establishment of an institution, under whose auspices the youth and vigor of the constitution would be renewed with each successive generation, and which would appear to secure the great principles of freedom and happiness against the injuries of time and events.

The following plan is formed on these general principles:

1st. That it is the indispensable duty of every nation to establish all necessary institutions for its own perfection and defence.

2dly. That it is a capital security to a free State for the great body of the people to possess a competent knowledge of the military art.

3dly. That this knowledge cannot be attained in the present state of society, but by establishing adequate institutions for the military education of youth; and that the knowledge acquired therein should be diffused throughout the community by the principles of rotation.

4thly. That every man of the proper age and ability of body is firmly bound by the social compact, to perform, personally, his proportion of military duty for the defence of the State.

5thly. That all men of the legal military age, should be armed, enrolled, and held responsible for different degrees of military service.

And 6thly. That, agreeably to the Constitution, the United States are to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appoint-

ment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

#### THE PLAN.

The period of life on which military service shall be required of the citizens of the United States, to commence at eighteen, and terminate at the age of sixty years.

The men comprehended by this description, exclusive of such exceptions as the Legislatures of the respective States may think proper to make, and all actual mariners, shall be enrolled for different degrees of military duty, and divided into three distinct classes.

The first class shall comprehend the youth of eighteen, nineteen, and twenty years of age, to be denominated the advanced corps.

The second class shall include the men from twenty-one to forty-five years of age, to be denominated the main corps.

The third class shall comprehend, inclusively, the men from forty-six to sixty years of age, to be denominated the reserved corps.

All the militia of the United States shall assume the form of the legion, which shall be the permanent establishment thereof.

A legion shall consist of one hundred and fifty-three commissioned officers, and two thousand eight hundred and eighty non-commissioned officers and privates, formed in the following manner:

1. *The legionary staff.*—One legionary, or major general; two aids-de-camp of the rank of major, one of whom to be the legionary quartermaster; one inspector and deputy adjutant general, of the rank of lieutenant colonel; one chaplain.

2. *The brigade staff.*—One brigadier general; one brigade inspector, to serve as an aid-de-camp.

3. *The regimental staff.*—One lieutenant colonel commandant; two majors; one adjutant; one paymaster, or agent; one quartermaster.

4. *Two brigades of infantry.*—Each brigade of two regiments; each regiment of eight companies, forming two battalions; each company of a captain, lieutenant, ensign, six sergeants, one drum, one fife, and sixty-four rank and file.

5. *Two companies of riflemen.*—Each company to have a captain, lieutenant, ensign, six sergeants, a bugle-horn, one drum, and sixty-four rank and file.

6. *A battalion of artillery.*—Consisting of four companies, each to have a captain, captain-lieutenant, one lieutenant, six sergeants, twelve artificers, and fifty-two rank and file.

7. *A squadron of cavalry.*—Consisting of two troops, each troop to have a captain, two lieutenants, a cornet, six sergeants, one farrier, one saddler, one trumpeter, and sixty-four dragoons.

In case the whole number of the advanced corps in any State should be insufficient to form a legion of this extent, yet the component parts must be preserved, and the reduction proportioned, as nearly as may be, to each part.

The companies of all the corps shall be divided



*The Militia of the United States.*

into sections of twelve each. It is proposed by this division to establish one uniform vital principle, which, in peace and war, shall pervade the militia of the United States.

All requisitions for men to form an army, either for State or federal purposes, shall be furnished by the advanced and main corps, by means of the sections.

The Executive Government, or Commander-in-chief of the militia of each State, will assess the numbers required on the respective legions of these corps.

The legionary General will direct the proportions to be furnished by each part of his command. Should the demand be so great as to require one man from each section, then the operation hereby directed shall be performed by single sections. But if a less number should be required, they will be furnished by an association of sections or companies, according to the demand. In any case, it is probable that mutual convenience may dictate an agreement with an individual to perform the service required. If, however, no agreement can be made, one must be detached by an indiscriminate draught, and the others shall pay him a sum of money, equal to the average sum which shall be paid in the same legion for the voluntary performance of the service required.

In case any sections, or companies of a legion, after having furnished its own quota, should have more men willing to engage for the service required, other companies of the same legion shall have permission to engage them. The same rule to extend to the different legions in the State.

The legionary General must be responsible to the Commander-in-chief of the militia of the State, that the men furnished are according to the description, and that they are equipped in the manner, and marched to the rendezvous, conformably to the orders for that purpose.

The men who may be draughted shall not serve more than three years at one time.

The reserved corps, being destined for the domestic defence of the State, shall not be obliged to furnish men, excepting in cases of actual invasion or rebellion, and then the men required shall be furnished by means of the sections.

The actual commissioned officers of the respective corps shall not be included in the sections, nor in any of the operations thereof.

The respective States shall be divided into portions or districts, each of which to contain, as nearly as may be, some complete part of a legion.

Every citizen of the United States, who shall serve his country in the field, for the space of one year, either as an officer or soldier, shall, if under the age of twenty-one years, be exempted from the service required in the advanced corps. If he shall be above the age of twenty-one years, then every year he shall so serve in the field shall be estimated as equal to six years' service in the main or reserved corps, and shall accordingly exempt him from every service therein for

the said term of six years, except in cases of actual invasion of or rebellion within the State in which he resides. And it shall also be a permanent establishment, that six years' actual service in the field shall entirely free every citizen from any further demands of service, either in the militia or in the field, unless in cases of invasion or rebellion.

All actual mariners or seamen, in the respective States, shall be registered in districts, and divided into two classes; the first class to consist of all seamen, from the age of sixteen to thirty years, inclusively; the second class to consist of all those of the age of thirty-one to forty-five, inclusively.

The first class shall be responsible to serve three years on board of some public armed vessel or ship of war, as a commissioned officer, warrant officer, or private mariner; for which service, they shall receive the customary wages and emoluments.

But should the State not demand the said three years' service during the above period, from the age of sixteen to thirty years, then the party to be exempted entirely therefrom.

The person so serving shall receive a certificate of his service, on parchment, according to the form which shall be directed, which shall exempt him from any other than voluntary service, unless on such exigencies as may require the services of all the members of the community.

The second class shall be responsible for a proportion of service in those cases to which the first class shall be unequal.

The numbers required shall be furnished by sections, in the same manner as is prescribed for the sections of the militia.

*Of the Advanced Corps.*

The advanced corps are designed, not only as a school, in which the youth of the United States are to be instructed in the art of war, but they are, in all cases of exigence, to serve as an actual defence to the community.

The whole of the armed corps shall be clothed according to the manner hereafter directed, armed and subsisted, at the expense of the United States; and all the youth of the said corps, in each State, shall be encamped together, if practicable, or by legions; which encampments shall be denominated the annual camps of discipline.

The youth of eighteen and nineteen years shall be disciplined for thirty days successively in each year; and those of twenty years shall be disciplined only for ten days of the annual encampments.

The non-commissioned officers and privates are not to receive any pay during the said time; but the commissioned officers will receive the pay of their relative ranks, agreeably to the Federal establishment for the time being.

In order that the plan shall effectually answer the end proposed, the first day of January shall be the fixed period, for all who attain the age of eighteen years in any part or during the course of each year, to be enrolled in the advanced

*The Militia of the United States.*

corps, and to take the necessary oaths to perform, personally, such legal military service as may be directed, for the full and complete term of three years, to be estimated from the time of entrance into the said corps; and also to take an oath of allegiance to the State, and to the United States.

The commanding officer, or general of the advanced legions of the district, shall regulate the manner of the service of the youth, respectively, whether it shall be in the infantry, artillery, or cavalry; but after having entered into either of them, no change should be allowed.

Each individual, at his first joining the annual camps of discipline, will receive complete arms and accoutrements, all of which, previously to his being discharged from the said camps, he must return to the regimental quartermaster, on the penalty of — dollars, or — months' imprisonment.

The said arms and accoutrements shall be marked in some conspicuous place with the letters M. U. S. And all sales or purchases of any of said arms or accoutrements shall be severely punished according to law.

And each individual shall, also, on his first entrance into the advanced corps, receive the following clothing: one hat, one uniform short coat, one waistcoat, and one pair of overalls, which he shall retain in his own possession, and for which he shall be held accountable, and be compelled to replace all deficiencies during his service in the annual camps of discipline.

Those who shall serve in the cavalry shall be at the expense of their own horses, and uniform helmets, and horse furniture; but they shall receive forage for their horses, swords, pistols, and clothing, equal in value to the infantry.

At the age of twenty-one years, every individual having served in the manner and for the time prescribed shall receive an honorary certificate thereof, on parchment, and signed by the legionary general and inspector.

The names of all persons to whom such certificates shall be given shall be fairly registered in books to be provided for that purpose.

And the said certificate, or an attested copy of the register aforesaid, shall be required as an indispensable qualification for exercising any of the rights of a free citizen, until after the age of — years.

The advanced legions, in all cases of invasion or rebellion, shall, on requisition of lawful authority, be obliged to march to any place within the United States; to remain imbodyed for such time as shall be directed, not to exceed one year, to be computed from the time of marching from the regimental parades, during the period of their being on such service; to be placed on the continental establishment of pay, subsistence, clothing, forage, tents, camp equipage, and all such other allowances as are made to the federal troops, at the same time, and under the same circumstances.

If the military service so required should be for such a short period as to render an actual issue of clothing unnecessary, then an allowance should

be made in proportion to the annual cost of clothing for the federal soldier, according to estimates to be furnished for that purpose from the War Office of the United States.

In case the legions of the advanced corps should march to any place, in consequence of a requisition of the General Government, all legal and proper expenses of such march shall be paid by the United States. But should they be imbodyed and march in consequence of an order derived from the authority of the States to which they belong, and for State purposes, then the expenses will be borne by the State.

The advanced corps shall be constituted on such principles that, when completed, it will receive one-third part, and discharge one-third part of its numbers annually. By this arrangement, two-thirds of the corps will at all times be considerably disciplined; but as it will only receive those of eighteen years, it will not be completed until the third year after its institution. Those who have already attained the ages of nineteen and twenty years will, in the first instance, be enrolled in the main corps.

But one-half of the legionary officers to be appointed the first, and the other the second year of the establishment.

The officers of each grade in the States, respectively, shall be divided into three classes, which shall by lot be numbered one, two, and three; one of the said classes, according to their numbers, shall be deranged every third year. In the first period of nine years one-third part will have to serve three, one-third part six, and one-third part nine years; but after the said first period, the several classes will serve nine years, which shall be the limitation of service by virtue of the same appointment; and in such cases where there may not be three officers of the same grade, the limitation of nine years' service shall be observed. All vacancies occasioned by the aforesaid derangements, or any casualties, shall be immediately filled by new appointments.

The captains and subalterns of the advanced corps shall not be less than twenty-one, nor more than thirty-five; and the field officers shall not exceed forty-five years of age.

Each company, battalion, and regiment shall have a fixed parade or place at which to assemble. The companies shall assemble at their own parade, and march to the parade of the battalion, and the battalions to the regimental parade; and, when thus imbodyed, the regiment will march to the rendezvous of the legion. Every officer of a company, battalion, and regiment will be accountable to his superior officer that his command is in the most perfect order.

The officers to receive subsistence money in lieu of provision, in proportion to their respective grades; and those whose duties require them to be on horseback will receive forage in the same proportion.

Every legion must have a chaplain, of respectable talents and character, who, besides his religious functions, should impress on the minds of youths, at stated periods, in concise discourses,



*The Militia of the United States.*

the eminent advantages of free Governments to the happiness of society, and that such Governments can only be supported by the knowledge, spirit, and virtuous conduct of the youths; to be illustrated by the most conspicuous examples of history.

No amusements should be admitted in camp but those which correspond with war—the swimming of men and horses, running, wrestling, and such other exercises as should render the body flexible and vigorous.

The camps should, if possible, be formed near a river, and remote from large cities. The first is necessary for the practice of the manoeuvres; the second to avoid the vices of populous places.

The time of the annual encampments shall be divided into six parts or periods, of five days each; the first of which shall be occupied in acquiring the air, attitudes, and first principles of a soldier; the second, in learning the manual exercise, and to march individually, and in small squads; the third and fourth, in exercising and manoeuvring in detail, and by battalions and regiments; in the fifth, the youth of twenty having been disciplined during the two preceding annual encampments are to be included. This period is to be employed in the exercise and tactics of the legion, or, if more than one, in executing the grand manoeuvres of the whole body—marching, attacking, and defending, in various forms, different grounds and positions; in fine, in representing all the real images of war, excepting the effusion of blood.

The guards, and every other circumstance of the camp, to be perfectly regulated.

Each State will determine on the season in which its respective annual encampments shall be formed, so as best to suit the health of the men and the general interests of the society.

The United States to make an adequate provision to supply the arms, clothing, rations, artillery, ammunition, forage, straw, tents, camp equipages, including every requisite for the annual camps of discipline; and also for the pay and subsistence of the legionary officers, and for the following general staff: one inspector general, one adjutant general, one quartermaster general, with a deputy for each State.

These officers will be essential to the uniformity, economy, and efficacy of the system; to be appointed in the manner prescribed by the Constitution of the United States.

The quartermaster general shall be responsible to the United States for the public property of every species delivered to him for the annual camps of discipline; and his deputy in each State shall be responsible to him.

At the commencement of the annual camps of discipline, the deputy quartermaster will make regular issues to the legionary or regimental quartermasters, as the case may be, of all the articles of every species provided by the United States.

The return for the said articles to be examined and certified by the highest legionary or regimental officer, as the case may be, who shall be responsible for the accuracy thereof.

At the expiration of the annual camps of discipline, all public property (clothing excepted) shall be returned to the deputy quartermaster of the State, who shall hold the legionary quartermaster accountable for all deficiencies. All the apparatus and property so returned shall be carefully examined, repaired, and deposited in a magazine, to be provided in each State for that purpose, under the charge of the said deputy quartermaster, until the ensuing annual encampment, on any occasion which may render a new issue necessary.

Corporal punishments shall never be inflicted in the annual camps of discipline; but a system of fines and imprisonment shall be formed for the regular government of said camps.

*Of the Main Corps.*

As the main and reserved corps are to be replenished, by the principle of rotation, from the advanced corps, and ultimately to consist of men who have received their military education therein, it is proper that one uniform arrangement should pervade the several classes.

It is for this reason the legion is established, as the common form of all the corps of the militia.

The main legions, consisting of a great majority of the men of the military age, will form the principal defence of the country.

They are to be responsible for their proportion of men, to form an army whenever necessity shall dictate the measure; and, on every sudden occasion, to which the advanced corps shall be incompetent, an adequate number of non-commissioned officers and privates shall be added thereto from the main corps, by means of the sections.

The main corps will be perfectly armed in the first instance, and will practice the exercise and manoeuvres four days in each year; and will assemble in their respective districts, by companies, battalions, regiments, or legions, as shall be directed by the legionary general; but it must be a fixed rule that, in the populous parts of the States, the regiments must assemble once annually, and the legions once in three years.

Although the main corps cannot acquire a great degree of military knowledge in the few days prescribed for its annual exercise, yet, by the constant accession of the youth from the advanced corps, it will soon command respect for its discipline as well as its numbers.

When the youth are transferred from the advanced corps, they shall invariably join the flank companies, the cavalry, or artillery of the main corps, according to the nature of their former services.

*Of the Reserved Corps.*

The reserved corps will assemble only twice annually, for the inspection of arms, by companies, battalions, or regiments, as shall be directed by each State. It will assemble by legions, whenever the defence of the State may render the measure necessary.

Such are the propositions of the plan, to which it may be necessary to add some explanations.

*The Militia of the United States.*

Although the substantial political maxim, which requires personal service of all the members of the community for the defence of the State is obligatory under all forms of society, and is the main pillar of a free Government, yet the degrees thereof may vary at the different periods of life, consistently with the general welfare. The public convenience may also dictate a relaxation of the general obligation, as it respects the principal magistrates and the ministers of justice and of religion, and perhaps some religious sects. But it ought to be remembered, that the measures of national importance never should be frustrated by the accommodation of individuals.

The military age has generally commenced at sixteen, and terminated at the age of sixty years; but the youth of sixteen do not commonly attain such a degree of robust strength as to enable them to sustain, without injury, the hardships incident to the field; therefore the commencement of military service is herein fixed at eighteen, and the termination, as usual, at sixty years of age.

As the plan proposes that the militia shall be divided into three capital classes, and that each class shall be formed into legions, the reasons for it shall be given in succession.

The advance corps, and annual camps of discipline, are instituted in order to introduce an operative military spirit in the community; to establish a course of honorable military service, which will at the same time mould the minds of the young men to a due obedience of the laws; instruct them in the art of war; and, by the manly exercise of the field, form a race of hardy citizens, equal to the dignified task of defending their country.

An examination into the employments and obligations of the individuals composing the society, will evince the impossibility of diffusing an adequate knowledge of the art of war by any other means than a course of discipline, during the period of non-age. The time necessary to acquire this important knowledge cannot be afforded at any other period of life, with so little injury to the public or private interests.

Without descending to minute distinctions, the body of the people of the United States may be divided into two parts: the yeomanry of the country, and the men of various employments resident in towns and cities. In both parts it is usual for the male children, from the age of fourteen to twenty-one years, to learn some trade or employment, under the direction of a parent or master. In general, the labor or service of the youth during this period, besides amply repaying the trouble of tuition, leaves a large profit to the tutor. This circumstance is stated to show that no great hardships will arise in the first operations of the proposed plan; a little practice will render the measure perfectly equal, and remove every difficulty.

Youth is the time for the State to avail itself of those services which it has a right to demand, and by which it is to be invigorated and preserved; in this season, the passions and affections are strongly influenced by the splendor of mili-

tary parade. The impressions the mind receives will be retained through life. The young man will repair with pride and pleasure to the field of exercise; while the head of a family, anxious for its general welfare, and perhaps its immediate subsistence, will reluctantly quit his domestic duties for any length of time.

The habits of industry will be rather strengthened than relaxed by the establishment of the annual camps of discipline, as all the time will be occupied by the various military duties. Idleness and dissipation will be regarded as disgraceful, and punished accordingly. As soon as the youth attain the age of manhood, a natural solicitude to establish themselves in the society will occur in its full force. The public claims for military service will be too inconsiderable to injure their industry. It will be sufficiently stimulated to proper exertions, by the prospects of opulence attending on the cultivation of a fertile soil, or the pursuits of a productive commerce.

It is presumed that thirty days, annually, during the eighteenth and nineteenth, and ten days during the twentieth year, is the least time that ought to be appropriated by the youth to the acquisition of the military art. The same number of days might be added during the twentieth as during the two preceding years, were not the expense an objection.

Every means will be provided by the public to facilitate the military education of the youth, which it is proposed shall be an indispensable qualification of a free citizen; therefore they will not be entitled to any pay. But the officers, being of the main corps, are in a different predicament; they are supposed to have passed through the course of discipline required by the laws, and to be competent to instruct others in the military art. As the public will have but small claims for personal services on them, and as they must incur considerable expenses to prepare themselves to execute properly their respective offices, they ought to be paid while on actual duty.

As soon as the service of the youth expires in the advanced corps, they are to be enrolled in the main corps. On this occasion the Republic receives disciplined and free citizens, who understand their public rights, and are prepared to defend them.

The main corps is instituted to preserve and circulate throughout the community the military discipline acquired in the advanced corps—to arm the people, and fix firmly, by practice and habit, those forms and maxims which are essential to the life and energy of a free Government.

The reserved corps is instituted to prevent men being sent to the field whose strength is unequal to sustain the severities of an active campaign; but by organizing and rendering them eligible for domestic service, a greater proportion of the younger and robust part of the community may be enabled, in cases of necessity, to encounter the more urgent duties of war.

It would be difficult, previously to the actual formation of the annual camps of discipline, to ascertain the number in each State of which it would



*The Militia of the United States.*

be composed. The frontier counties of several States are thinly inhabited, and require all their internal force for their immediate defence. There are other infant settlements from which it might be injurious to draw away their youth annually for the purpose of discipline.

No evil would result, if the establishment of the advanced corps should be omitted in such districts for a few years. Besides, the forbearance in this respect would lessen the expense, and render the institution more compatible with the public finances.

The several State Legislatures, therefore, as best understanding their local interests, might be invested with a discretionary power to omit the enrolments for the advanced corps in such of their frontier and thinly-inhabited counties as they may judge proper.

If the number of three millions may be assumed as the total number of inhabitants within the United States, half a million may be deducted therefrom for blacks; and, pursuant to the foregoing ideas, another half million may be deducted on account of the thinly-settled parts of the country.

The proportion of men of the military age, from eighteen to sixty years, inclusively, of two millions of people, of all ages and sexes, may be estimated at four hundred thousand. There may be deducted from this number, as actual mariners, about fifty thousand, and a further number of twenty-five thousand, to include exempted of religious sects, and of every other sort which the respective States may think proper to make.

Three hundred and twenty-five thousand, therefore, may be assumed as the number of operative fencible men to compose the militia. The proportion of the several classes of which would be nearly as follows:

Firstly. The advanced corps, one-tenth composed of the youth of the ages of eighteen, nineteen, and twenty years - 32,500  
Secondly. The main corps, six-tenths and one-twentieth - 211,250  
Thirdly. The reserved corps, two-tenths and one-twentieth - 81,250

325,000

The following estimate is formed, for the purpose of exhibiting the annual expense of the institution of the advanced corps, stating the same at thirty thousand men.

Estimate of the expense of the annual camps of discipline, as proposed in the foregoing plan, arising on each of the first three years, and, after that period, of the annual expense of the institution.

*The first year.*

10,000 suits of uniform clothing, stated at eight dollars, each suit of which shall serve for three years' discipline - \$80,000

10,000 rations per day for thirty days, each ration stated at ten cents - 30,000

The expense of four complete corps of legionary officers of all descriptions for thirty days, including pay, subsistence, and forage - 27,870

Forage for the cavalry - - - - -	4,800
Straw, camp-kettles, bowls, axes, canteens, and fuel - - - - -	20,000
Annual proportion of the expense of tents for officers and soldiers, which may serve for eight annual encampments - - - - -	3,000
Four legionary standards - - - - -	2,000
Regimental colors - - - - -	1,000
Consumption of powder and ball, shot and shells, damage to arms and accoutrements, and artillery, and transportation of the same, stated at - - - - -	25,000
Hospital department - - - - -	5,000
Contingencies of the Quartermaster's and other departments - - - - -	15,000
General staff, Adjutant General, Quartermaster General, Inspector General, and their deputies - - - - -	12,000

Entire expenses of the first year - \$225,670

*Additional expenses on the second year.*

10,000 rations per day for thirty days, are 300,000 rations, at 10 cents - - - - -	\$30,000
The expense of four complete corps of legionary officers, of all descriptions, for thirty days, including pay, subsistence, and forage - - - - -	27,870
Four legionary standards - - - - -	2,000
Regimental colors - - - - -	1,000
Forage for the cavalry - - - - -	4,800
Tents, straw, camp-kettles, bowls, axes, canteens, and fuel - - - - -	26,000
Hospital department - - - - -	5,000
Contingencies in Quartermaster's and other departments - - - - -	15,000
Ammunition, damage to arms and accoutrements - - - - -	15,000

Expense of the first year - 120,670  
225,670

Combined expenses of the first and second years - \$346,340

*Additional expenses on the third year.*

The expense of 10,000 rations for ten days, is 100,000 rations, at 10 cents - - - - -	\$10,000
Forage - - - - -	1,600
For the camp equipage - - - - -	10,000
Tents - - - - -	1,500
Hospital stores - - - - -	1,000
Ammunition, damage to arms and accoutrements - - - - -	10,000
Contingencies in the Quartermaster's and other departments - - - - -	10,000

Combined expenses of the first and second years - 44,100  
346,340

The total expense of the first three years - \$390,440

It is to be observed, that the officers for four legions will be adequate to command the youth of eighteen who commence their discipline the first year, and that the same number of officers will be required for the second year. The youth

*The Militia of the United States.*

of the third year may be incorporated by sections, in the existing corps, so that no additional officers will be required on their account.

Hence it appears that the expense of 10,000 men for one year, amounts to - \$225,670  
Twenty thousand, for the second year, to - 346,340  
Thirty thousand, for the third year, to - 390,440

If the youth of the three ages of eighteen, nineteen, and twenty, be disciplined at once, the last mentioned sum will be about the fixed annual expense of the camps of discipline; from which, however, is to be deducted \$6,000, being the expense of the standards and colors, the former of which will be of a durable nature, and the latter will not require to be replaced oftener than once in twenty years - 6,000

The annual expense of the advance corps - 384,440

Thus, for a sum less than four hundred thousand dollars annually, which, apportioned on three millions of people, would be little more than one-eighth of a dollar each, an energetic republican militia may be durably established; the invaluable principles of liberty secured and perpetuated; and a dignified national fabric erected on the solid foundation of public virtue.

The main and reserved corps must be perfectly organized in the first instance, but the advanced corps will not be completed until the third year of its institution.

The combination of troops, of various descriptions, into one body, so as to invest it with the highest and greatest number of powers, in every possible situation, has long been a subject of discussion and difference of opinion. But no other form appears so well to have sustained the criterion of time and severe examination, as the Roman legion. This formidable organization, accommodated to the purposes of modern war, still retains its original energy and superiority. Of the ancients, Polybius and Vegetius have described and given the highest encomiums of the legion. The former, particularly, in his comparative view of the advantages and disadvantages of the Macedonian and Roman arms, and their respective orders of battle, has left to mankind an instructive and important legacy. Of the moderns, the illustrious Mareschal Saxe has modelled the legion for the use of fire-arms, and strenuously urges its adoption, in preference to any other form. And the respectable and intelligent veteran, late Inspector General of the armies of the United States, recommends the adoption of the legion.

"Upon a review," says he, "of all the military of Europe, there does not appear to be a single form which could be safely adopted by the United States. They are unexceptionably different from each other, and, like all other human institutions, seem to have started as much out of accident as design. The local situation of the country, the spirit of the Government, the character of the nation, and, in many instances, the character of

the prince, have all had their influence in settling the foundation and discipline of their respective troops, and render it impossible that we should take either as a model. The legion alone has not been adopted by any; and yet I am confident in asserting, that whether it be examined as applicable to all countries, or as it may immediately apply to the existing or probable necessity of this, it will be found strikingly superior to any other:

"1st. Being a complete and little army of itself, it is ready to begin its operations on the shortest notice, or slightest alarm.

"2d. Having all the component parts of the largest army of any possible description, it is prepared to meet every species of war that may present itself; and

"3d. As in every case of detachment, the first constitutional principle will be preserved, and the embarrassments of draughting and detail, which, in armies differently framed, too often distract the commanding officer, will be avoided."

It may easily suggest itself from this sketch, that, in forming a legion, the most difficult task is to determine the necessary proportion of each species of soldiers which is to compose it.

This must obviously depend upon what will be the theatre, and what the style of the war. On the plains of Poland, whole brigades of cavalry would be necessary against every enemy; but in the forests and among the hills of America, a single regiment would be more than sufficient against any. And as there are but two kinds of war to which we are much exposed, viz: an attack from the sea side by a European Power, aided by our sworn enemies settled on our extreme left, and an invasion of our back settlements by an Indian enemy, it follows, of course, that musketeers and light infantry should make the greatest part of our army.

The institution of the section is intended to interest the patriotism and pride of every individual in the militia; to support the legal measures of a free Government; to render every man active in the public cause, by introducing the spirit of emulation, and a degree of personal responsibility.

The common mode of recruiting is attended with too great destruction of morals to be tolerated, and is too uncertain to be the principal resource of a wise nation in time of danger. The public faith is frequently wounded by unworthy individuals, who hold out delusive promises which can never be realized. By such means, an unprincipled banditti are often collected for the purpose of defending everything that should be dear to freemen. The consequences are natural; such men either desert in time of danger, or are even ready, on the slightest disgust, to turn their arms against their country.

By the establishment of the sections, an ample and permanent source is opened, whence the State, in every exigence, may be supplied with men whose all depends upon the prosperity of their country.

In cases of necessity, an army may be formed of citizens, whose previous knowledge of discip-



## Additional Military Academy.

line will enable it to proceed to an immediate accomplishment of the designs of the State, instead of exhausting the public resources by wasting whole years in preparing to face the enemy.

The previous arrangements necessary to form and maintain the annual encampments, as well as the discipline acquired therein, will be an excellent preparation for war.

The artillery and its numerous appendages, arms, and accoutrements of every kind, and all species of ammunition, ought to be manufactured within the United States. It is of high importance that the present period should be embraced to establish adequate institutions to produce the necessary apparatus of war.

It is unworthy the dignity of a rising and free empire to depend on foreign and fortuitous supplies of the essential means of defence.

The clothing for the troops could, with ease, be manufactured within the United States, and the establishment in that respect would tend to the encouragement of important manufactories.

The disbursements made in each State for the rations, forage, and other necessary articles for the annual camps of discipline, would most beneficially circulate the money arising from the public revenue.

The local circumstances of the United States, their numerous seaports, and the protection of their commerce, require a naval armament. Hence, the necessity of the proposed plan, embracing the idea of the States obtaining men on republican principles, for the marine as well as the land service. But one may be accomplished with much greater facility than the other, as the preparation of a soldier for the field requires a degree of discipline which cannot be learned without much time and labor; whereas, the common course of sea service on board of merchant vessels differs but little from the service required on board of armed ships; therefore, the education for war, in this respect, will be obtained without any expense to the State. All that seems to be requisite on the head of marine service is, that an efficient regulation should be established in the respective States to register all actual seamen, and to render those of a certain age amenable to the public for personal service, if demanded within a given period.

The constitutions of the respective States, and of the United States, having directed the modes in which the officers of the militia shall be appointed, no alteration can be made therein. Although it may be supposed that some modes of appointment are better calculated than others to inspire the highest propriety of conduct, yet there are none so defective as to serve as a sufficient reason for rejecting an efficient system for the militia. It is certain that the choice of officers is the point on which the reputation and importance of a corps must depend. Therefore, every person who may be concerned in the appointment should consider himself as responsible to his country for a proper choice.

The wisdom of the States will be manifested by inducing those citizens of whom the late

American army was composed to accept of appointments in the militia. The high degree of military knowledge which they possess was acquired at too great a price, and is too precious, to be buried in oblivion; it ought to be cherished, and rendered permanently beneficial to the community.

The vigor and importance of the proposed plan will entirely depend on the laws relative thereto; unless the laws shall be equal to the object, and rigidly enforced, no energetic national militia can be established.

If wealth be admitted as a principle of exemption, the plan cannot be executed. It is the wisdom of political establishments to make the wealth of individuals subservient to the general good, and not to suffer it to corrupt or attain undue indulgence.

It is conceded that people, solicitous to be exonerated from their proportion of public duty, may exclaim against the proposed arrangement as an intolerable hardship. But it ought to be strongly impressed, that while society has its charms, it also has its indispensable obligations. That to attempt such a degree of refinement as to exonerate the members of the community from all personal service, is to render them incapable of the exercise, and unworthy of the characters of freemen.

Every State possesses not only the right of personal service from its members, but the right to regulate the service on principles of equality for the general defence. All being bound, none can complain of injustice, on being obliged to perform his equal proportion. Therefore, it ought to be a permanent rule, that those who in youth decline or refuse to subject themselves to the course of military education established by the laws, should be considered as unworthy of public trust or public honors, and be excluded therefrom accordingly.

If the majesty of the laws should be preserved inviolate in this respect, the operations of the proposed plan would foster a glorious public spirit, infuse the principles of energy and stability in the body politic, and give a high degree of political splendor to the national character.

## ADDITIONAL MILITARY ACADEMY.

[Communicated to the House January 29, 1819.]  
*Letter from the Secretary of War to the Chairman of the Military Committee, on the subject of an additional Military Academy, and a School of Practice.*

DEPARTMENT OF WAR, Jan. 15, 1819.

SIR: In reply to that part of your letter of the 20th of November, which requests my opinion on the expediency of establishing one or more additional military academies, and their places of location, and such other information and facts as I may deem proper to communicate on these subjects, with the probable annual expenses of these establishments, I have the honor to make the following statement:

## Additional Military Academy.

The number of cadets now authorized by law is two hundred and fifty, who are divided into four classes; the cadets of one of which every year terminate their studies, and are promoted into the Army. As the academy is now nearly full, it is probable that the number which will annually terminate their studies, and, consequently, will be candidates for promotion, will not be much short of fifty. The number of vacancies in the Army which have occurred, from the 1st of August, 1816, to the 1st of May, 1818, has been one hundred and forty-eight, or about eighty-four per annum; but, as it is probable that the causes which have operated to produce so many vacancies in this time have been accidental and consequent on the change from active service to the inactivities of a peace establishment, there will not, it is believed, in future, be so many; and that the cadets who will annually terminate their studies at West Point, will be equal, or nearly so, to the annual average vacancies. In this view of the subject, an additional military academy would not now be required. But it seems to me that the question ought not to be determined by a reference simply to the wants of our military peace establishment, which, from our geographical position, and the policy of our Government, will always bear a small proportion to the population of the country, and to our military establishment in time of war. So far from graduating the number or extent of our military academies by the wants of the Army in time of peace, the opposite principle would, probably, be more correct; that, in proportion as our regular military establishment is small, the Government ought to be careful to disseminate, by education, a knowledge of the art of war. The Army itself is a practical school of this art, which, except in the higher branches, may, where it bears a large proportion to the population of the country supersede other modes of perpetuating or disseminating this indispensable art. But, in a country situated as ours is, with a small standing army, and far removed from any Power from which we have much to fear, the important knowledge of the art of defending our shores, will, in a long peace, without the particular patronage of the Government, be nearly lost. The establishment of military academies is the cheapest and safest mode of procuring and perpetuating this knowledge. The Government ought to furnish the means to those who are willing to bestow their time to acquire it. The cadets who cannot be provided for in the Army will return to private life; but, in the event of war, their knowledge will not be lost to the country. The Government may then avail itself of their military science, and, though they may not be practically acquainted with all the details of duty in an army, they will acquire it in a much shorter time than those who have not had the advantage of a military education. No truth is better supported by history than that, other things being nearly equal, victory will be on the side of those who have the best instructed officers. The duties of a soldier are few and simple, and, with well instructed officers, they can

be acquired in a short time, as our own experience, and that of other countries has satisfactorily proved. To form competent officers, in the present improved state of the art of war, is much more difficult; as an officer, besides a knowledge of the duties belonging to the soldier, has others of a more difficult nature to acquire, and which can only be acquired by long experience, or by a regular military education.

With these views, I would recommend one additional military academy. It ought to be placed where it would mutually accommodate the Southern and Western portions of our country, which are the most remote from the present institution.

Besides an additional academy, I would submit, for the consideration of the committee, the propriety of establishing a school of practice, to be fixed near the Seat of Government. On this important subject I respectfully annex, as a part of this communication, a report from General Bernard and Colonel McRee, to this Department, in which the subject is so fully discussed as to supersede the necessity of any further observations.

The expenses of erecting the necessary buildings for an additional military academy, on a scale as extensive as that of West Point, would cost about one hundred and thirty thousand dollars, of which sum, however, but a small part would be required for this year. The current expenses of this institution would (excluding the pay of the cadets, which is sixteen dollars per month, and two rations per day,) probably amount to about twenty-two thousand dollars per annum.

For the school of practice there would be but little expense, except the erection of the necessary buildings for the accommodation of the institution. The pay of the superintendent and professors, should they be even taken from the citizens, would not exceed eight thousand five hundred dollars, which would constitute nearly the whole of the current expense, as the lieutenants of artillery and engineers, while at the institution, will not receive any additional pay or emoluments. The expense of the buildings may be estimated at eighty thousand dollars, of which, however, but a small part would be required for the present year.

I have the honor to be, &c.

J. C. CALHOUN.

Hon. R. M. JOHNSON,  
Chairman Com. Military Affairs.

*Considerations on the course of instruction necessary for the officers of the different arms of an Army.*

Circumstances of locality, the nature of the operations of war, and the variety of the means employed for the purposes of destruction and preservation, have naturally led to the subdivision of an army into several parts, which differ in their manner of combating, but which are also intended to render reciprocal aid to each other, to co-operate most efficaciously to the same end, and to constitute, when in action, but one combined whole.

This subdivision existed among the ancients, as it does among the moderns; and with both, (the



absolute and relative numerical force of these subdivisions being supposed nearly equal) the systems of war have been uniformly more perfect, and productive of greater results, in proportion as the several parts were better calculated to act with promptitude, precision, and in concert. These parts are designated in modern armies by the word arm; and consist of infantry, cavalry, artillery, and engineers. Each of these arms acts occasionally as principal or accessory. In a battle the infantry is, in general, the principal arm; while the three others are more or less accessories; in the pursuit of a retreating army, the cavalry becomes the principal; and in a siege, the artillery and engineers are the principal arms, and the rest are merely great auxiliaries.

Among the means which modern discipline employs to give the greatest effect to the combined action of these arms, is instruction. And here the same motives which have resorted to a subdivision of labor, as a powerful cause of perfection in objects of general industry, have also led to a subdivision of military instruction, as most productive of that concert and efficiency desirable in the operation of an army. This instruction, and the objects and advantages of its subdivision, are the subjects of present consideration.

To obtain, by the aid of military instruction, greater effect in the particular or combined employment of the different arms, two modes immediately present themselves: *First*, That each arm should be composed of individuals versed exclusively in the theory and practice of that arm; *Second*, That the individuals composing each arm should be instructed equally in the theory and practice of all other arms. The first of these methods is insufficient; because, in giving to each individual merely the knowledge necessary to the duties of his own arm, it leaves him deficient of what is necessary to connect the operations of that arm with the operations of the rest, as parts of one general system. The second is impracticable; because it is the privilege of but few individuals to possess that facility of intellect which is requisite to embrace four branches of knowledge as extensive as are those in question, and to practise them all with that correctness and promptitude which is the peculiar advantage of such as devote themselves principally to but one of these branches. In order to avoid both of these inconveniences, the theoretical and practical knowledge necessary in the conduct and operations of an army has been divided into two distinct classes: the one embracing whatever is common to all other arms; the other confined to what particularly appertains to each arm. A consequent and similar division has followed in the instruction; the first branch to include what is necessary and useful to the service of every arm; the second to include the theory and practice of each arm in particular. Hence the necessity of an elementary or common school, where the knowledge common to every arm should be given alike to all who are intended for the army; and a school of a higher order for the purpose of increasing, when necessary, the elementary knowledge which has pre-

viously been acquired to the extent demanded; and teaching its application to the particular objects and duties of each arm, which constitute a school of application. In those countries which have large military establishments, there is a school of application for each arm. But those nations who in time of peace kept but a feeble military force on foot, find it advantageous to unite, as far as possible, these different schools of application in one; where such as are admitted for the service of those arms which demand a more advanced theoretical, or more varied practical knowledge, receive their last degree of academical instruction. In this last case, the students at the school of application receive likewise two kinds of instruction: *First*, that which is common to the several arms to which they are destined; and, *second*, that which is exclusively necessary to the arm in which they are respectively to serve.

Among all nations possessing military academies, the schools of application for such as are destined for the infantry and cavalry, are the regiments of the army in which they are to serve. It is on joining and doing duty with their respective regiments, that they learn to apply the instruction received at the elementary school, and acquire whatsoever relates to the discipline, the conduct, administration, and legislation of troops.\*

This cannot be the case, however, with those destined for the artillery and engineers, or the topographical corps. They are all more or less liable to be employed separately, and immediately after leaving the school; and are deprived of the advantages peculiar to the officer of infantry or cavalry, of making their first essays in their professional duties, under the eyes of their chiefs, or of those who have preceded them; and being unassisted by the advice or opinions of their superiors in rank, knowledge, and experience, they are not only left without the means of obtaining the instruction of which they are yet deficient, but are also frequently exposed in the execution of the duties confided to them, to compromise the public service by the commission of errors, which too often lead to irreparable misfortunes, and which are productive at least of a wasteful expenditure of public property, always beyond, sometimes exceeding a hundred fold the expense of giving a proper education to the individual who has not been qualified to exercise his profession with satisfaction to himself or utility to his country.

These considerations alone appear to us sufficient to show the advantage, if not necessity, of dividing the course of military instruction between two schools; the one elementary and the other a school of application.

The elementary school at West Point has hith-

\* In the military schools of infantry and cavalry in France, theoretical lessons in these branches of military instruction were given to the scholars; and, for the sake of uniformity in that instruction, these courses were very useful. The service of the despot served afterwards as a school of application.

erto been very inferior as such; and altogether inadequate to the objects for which it was established. A project has been presented, however, calculated to place this school upon the footing of the most perfect of the kind which exist. As to the school of application there is none. The degree of instruction given to the cadets at the school of West Point, has heretofore been for the most part limited to a general acquaintance with those branches of knowledge, which are common to all the arms of an army; and which ought to have been extended, and applied to artillery, fortification, and topography. The consequence has been, that the officers of infantry, artillery, engineers, and of the topographical corps, have had the same degree and kind of instruction; and the only real difference which existed between them on leaving the school, consisted in the uniform of their respective corps or regiments. If any have been so fortunate as to render themselves serviceable, either in the artillery or engineers, the cause must be sought for in their own industry, and not in the education received by them at West Point, which was barely sufficient to excite a desire for military inquiries and of military pursuits.

It remains to enumerate the branches of knowledge which are common to all the arms; and those which are necessary, and appertain more or less exclusively to each or several of these arms. The subjoined table exhibits the two principal divisions of the instructions. The first part includes the branches of knowledge that are necessary to all who are destined for any arm of the military establishment; either as officers in the exercise of their immediate professional duties, or as men of information, liable, in the course of their military career, to be intrusted with other interests. It is, therefore, that the mathematics, for instance, are extended further than is strictly necessary to the officer of infantry; that natural and experimental philosophy and chemistry are inserted under the elementary division, rather as forming part of a liberal education than of mere military utility; and, finally, the several kinds of drawings are only taught in the elementary division, as an advantageous introduction to the prompt acquisition and exercise of the art of topographical delineations. This division, or elementary part of the instruction, will require five professors, three teachers, and two instructors. The number of assistants, &c. depends upon the number of individuals at the school.

The same table presents the second part of the instruction, which is in addition to the first, and is necessary to those destined to the engineers, artillery, or topographical corps. Here the mathematics are carried to a higher degree, which is rendered necessary by their application to machines, the theory of artillery, the construction of charts, &c. Descriptive geometry is applied to machines and fortification. Fortification is taught to the extent which is exclusively necessary to the officer of engineers; and artillery to the extent that is only required for the officers at that arm. Geometry and trigonometry receive their applications to topographical operations;

and spherical trigonometry and descriptive geometry, to the projection, &c., of charts. This part of the instruction will demand four professors. Because, either these two divisions of the instruction will be taught at one school, or two separate schools. In the first case, the professors of the elementary course will be insufficient, and cannot attend to a course of instruction thus extended: in the second case, the four professors before mentioned become absolutely necessary. But whether the entire course (or both of these divisions of the instruction) shall be taught at the same, or at two separate schools, it will not be the less indispensable that a division of it, similar to that here established, should exist in fact. The question is, therefore, reduced to this: shall the elementary, or first part of the course of the instruction, be taught at West Point, and the second part at a separate school, to be established elsewhere? Or shall the second part constitute an additional class or classes, at the school of West Point, to consist of those cadets only who are destined for the engineers, artillery, and topographical corps, and who shall have previously passed through the elementary classes?

The second division of the course of instruction exhibited by the annexed table, and which must constitute either a school, or classes of application, is practical as well as theoretical. The application of the elementary branches of instruction, and the branches of mathematics, to the theory of artillery, fortification, and topography, forms the theoretical or academic part of the division of the course of instruction, while the application of these theories to the circumstances of the ground, &c., requires, and must be taught to the students, by a course of actual experiments, and practical exemplifications in the field. It is necessary to make this remark, in order to a just appreciation of all the considerations which should influence in the decision of the present question.

The advantages which may be derived from a union of the school of application, in the shape of additional classes, to the elementary school, are almost exclusively those of economy, and admit of being correctly ascertained; they consist—

1st. In having certain duties that are common and necessary to both establishments performed by the same individuals who are now employed for those purposes at West Point. Such are the duties of the superintendent, most of the officers of the military staff, and disbursing department.

2d. In the purchase of an additional site, which will be avoided.

3d. In saving the additional expense of quarters, academical, and any other buildings, to the extent that they now exist at West Point, beyond the wants of that establishment.

4th. In saving the expense of purchasing a library, instruments, &c., to the extent of those now on hand at West Point.

5. In saving the travelling and other expenses to which the graduates of the elementary school would be subjected, in order to join and com-



## Additional Military Academy.

mence their course at the school of application, if these institutions were separate; and,

6th. In avoiding a loss of time on the part of the graduates, which would take place on their transfer to the school of application in the case just supposed.

The following are the considerations which oppose a union, and which consequently urge a separation of these two schools.

1st. The classes of application will consist of those individuals destined for the artillery, engineers, and topographical corps, who shall have graduated at the termination of the elementary course of instruction, and who will consequently be then promoted, by brevet or otherwise, in the same manner as those destined for the infantry. There must probably be two classes of application; and the number of students of which they ought to consist, in order to supply the annual vacancies in their respective arms, will not be less than seventy. The school will, therefore, be augmented to this amount, and will be composed of commissioned officers and cadets, whose rights, interests, and occupations, will be more or less dissimilar; and who must, consequently, be governed by regulations, &c., essentially different, which will at once destroy that unity of system necessary to all military institutions.

2d. The difference in point of rank, in the students of the elementary classes, and those composing the classes of application, will originate claims to precedence and superiority on the one part, and resistance to such pretensions on the other, which no regulations can restrain within proper limits.

3d. It will be necessary to have two sets of professors at the same school, and in several instances two professors of the same department of science, who will be independent of each other. Hence, increased occasions of discord. Individual interest and feelings must of necessity, and frequently will be brought into collision; which experience has sufficiently proved, would lead, first to divisions among the academic staff, and finally to the formation of parties among the officers and cadets, destructive of that harmony and order which should prevail, and are believed essential to the successful operations of the school.

4th. The duties of the two sets of professors, the studies and occupations of the officers and cadets, being different in their character, and requiring to be arranged differently, as to time and other circumstances, will render two distinct systems of organization and police indispensable, which frequently cannot be made to accord, without incurring some inconvenience or injury, or without the sacrifice of some advantage on the part of one or the other division of the school, and perhaps of both. The superintendent will, in fact, have two schools to govern and conduct. His time and attention will, therefore, be divided, alternately occupied with the peculiar concerns of each, and frequently employed in reconciling conflicting interests. The whole system of administration for the two schools will be more or

less controlled or influenced by the inconvenient and unnecessary relations in which they are placed to each other.

The advantages and disadvantages here enumerated, as attending the union of the two divisions of the course of military instruction, at the same school, are obviously too different in their kind to admit of being compared; nor is it necessary that they should be. The expense attending the separate establishment of a school of application might be offered as a reason for rejecting it altogether, but by no means for uniting it to the elementary school, when the operations of both would be obstructed in consequence of so doing, and their ultimate success rendered more than doubtful.

Among the advantages that will be derived from the establishment of a school of application, are the means it will afford of providing for other departments of national service, besides those which have been mentioned; and, by locating it immediately under the eyes of the Government, the measures necessary to enlarge, or to adapt it to the particular objects in view, will be more readily ascertained, and applied with greater certainty of effect. The necessity of this institution will become urgent, in the event of one or more additional elementary schools being created. It will then be expedient for those very reasons of economy which now form the only objections that can be opposed to it; and it will be necessary, because it will enable the respective candidates for the engineer, artillery, and topographical corps, to be assembled at the same school, and to receive, in common, their last degree of instruction; and because that by no other means can that uniformity in the instruction and duties of each of these arms be attained, which is essential to their perfection.

We are, therefore, of opinion, that a school of application is decidedly necessary to the military service of the country; that, to be rendered efficient, it ought to be separate from all immediate connexion with any other institution; and that it should have a central location, and as little removed as possible from under the observation of Government.

Which is respectfully submitted to the honorable J. C. Calhoun, Secretary of War.

BERNARD, *Brigadier General.*  
WM. McREE, *Maj. of Engineers.*

## TABLE OF A COURSE OF INSTRUCTION FOR OFFICERS OF THE VARIOUS ARMS OF AN ARMY.

## Division of Instruction common to Infantry, Artillery, Engineers, and Topographical Corps.

Mathematics.	Arithmetic, including logarithms; geometry, algebra, plane trigonometry, and mechanical powers.	1 professor.
Chemistry.	Animals, vegetables, and mineralogy.	1 professor.

## Military Academy at West Point.

## MILITARY ACADEMY AT WEST POINT.

[Communicated to the Senate, February 5, 1819.]

To the Senate of the United States:

In compliance with a resolution of the Senate of the 25th of last month, requesting me "to cause to be laid before it a copy of the rules and regulations adopted for the government of the Military Academy at West Point; also, how many cadets have been admitted into the Academy; the time of the residence of each cadet at that institution; and how many of them have been appointed officers in the Army and Navy of the United States," I transmit a report from the Secretary of War, which, with the accompanying documents, will afford all the information required by the said resolution.

JAMES MONROE.

FEBRUARY 5, 1819.

## DEPARTMENT OF WAR, Feb. 4, 1819.

The Secretary of War, to whom was referred the resolution of the Senate of the 25th January last, "that the President of the United States be requested to cause to be laid before the Senate a copy of the rules and regulations adopted for the government of the Military Academy at West Point; also, how many cadets have been admitted into the Academy; the time of the residence of each cadet at that institution; and how many of them have been appointed officers in the Army and Navy of the United States," has the honor to transmit, herewith, a list of cadets who have been admitted at the Military Academy at West Point, in the State of New York; the time of their admission, and promotion, &c.; and the time they remained at that institution; and a copy of the rules and regulations adopted for the government of the Military Academy at West Point.

The cadets are under the government of the rules and articles of war, so far as they are applicable, and under the orders of the superintendent of the Academy.

JOHN C. CALHOUN.

lery; but they do not seem to me to enter into the necessary education of an officer of infantry, otherwise than as forming part of the general information of which it is proper that no gentleman should be entirely ignorant.

If it would not be presumptuous in me to offer an improvement on the proposed plans of so excellent a judge as General Bernard, I would suggest that another course requiring another instructor for teaching military administration and legislation, an abstract of the American Constitution, of our militia laws, would be useful to all the young officers in the school; and more particularly so to the officers of infantry, than chemistry and natural philosophy.

† In addition to these lessons, I think the same instructor, who should be some experienced officer, might give some lessons of the service of the infantry in garrison and in the field, of daily discipline; and more particularly of the service of the light infantry and riflemen, adapted to Indian warfare, &c.

Natural & experimental philosophy.	Of bodies; laws of motion and forces, gravity and attraction, &c.; properties and theory of air, water, light, heat, &c.; theory of electric, galvanic, and magnetic fluids; geology; and elements of astronomy.	1 profes'r.*
Descriptive geometry and fortification.	Elements of descriptive geometry; castrametation & field fortification; attack and defence of field fortifications and retrenched posts, &c.; and military reconnoiterings.	1 professor.
Artillery.	Elements of artillery; garrison and field services of artillery, &c.	1 instructor.
Infantry.	Drill of the soldier; school of the platoon and battalion; evolutions of the line, &c.; and elements of grand tactics and strategy.	1 instructor.†
Drawing.	Human figure, landscape, and topographical delineations.	1 master.
French language.		1 master.
Riding and sword exercise.		1 master.
Division of Instruction necessary to the Artillery, Engineers, and Topographical Corps.		
Mathematics.	Conic sections, spherical trigonometry, fluxions, mechanics, and application of fluxions and mechanics to machines.	1 professor.
Descriptive geometry and fortification.	Application of descriptive geometry to machines and to fortifications; fortification (permanent) of places, sea-coasts, and retrenched camps; attack and defence of fortresses, &c.; mines; construction of works, of fortifications, and military edifices.	1 professor.
Artillery.	Construction of small arms, cannon, mortars, howitzers, &c.; gun-carriages, caissons, &c.; service in sieges, in the field, &c.; preparation of munitions of war, fire-works, &c.	1 professor.
Topography.	Application of descriptive geometry, &c., to the projection of geographical charts; geodesy; topographical surveys and representations of ground; knowledge and practice of instruments employed in the operations of topography, geography, and geodesy.	1 professor.

NOTE.—This presents only the heads of instruction. An analysis of each would enlarge the table to a volume.

\* These courses are highly useful, and indeed indispensable, for forming engineers and officers of artillery.



*Military Academy at West Point.*

DEPARTMENT OF WAR, July 1, 1816.

SIR: I have the honor to return the regulations defining a complete course of education, drawn up by the academical staff, and transmitted by you to this department, which has been approved, with such modifications as have been judged necessary, by the President.

From the age at which cadets are admitted into the Academy, the study of the English grammar is deemed indispensable to give them a correct and intimate knowledge of the structure of their own language.

Although a critical knowledge of the Latin and Greek languages is not considered essentially necessary, yet, where the cadets have studied those languages before their appointments, it is believed that the review of those languages during the last year of study will add to the reputation of the institution, and cannot fail to be useful to the cadets.

It is expected that the duties required by these additions will be performed by the chaplain employed in the Academy. The performance of these duties, it is hoped, will be an inducement with Congress, when this subject shall again be brought under their consideration, to make the appointment permanent, not only at West Point, but at such other establishment of that nature as shall be deemed necessary by that body.

If, in the opinion of the academical staff, these branches of education can be advantageously prosecuted at periods different from those fixed in the regulations, their suggestions will be attended to with pleasure.

The inducement to the other alterations will readily suggest itself to your mind. That a cadet, who having been thrown into a class below him, and subsequently in the course of his education finds himself placed in the same situation, will not be qualified for an engineer, may be readily conceived; but it by no means follows that he may not possess many of the qualifications of a general in a higher degree than some of those who greatly excel him in his studies. The absolute dismissal for that cause has, therefore, been changed into a reference to the War Department.

These regulations will apply to all cases where the cadet presents himself for admission after they are received at the Academy, notwithstanding their appointments may be of anterior date.

The regulation requiring the unmarried professors, teachers, and assistants to eat with the cadets, is believed to be conformable to the general usage of colleges, and ought not to be considered onerous. I understand, also, that Captain Partridge is himself a bachelor, and of course subject to the regulation. From his signing some of his acts as superintendent of the Academy, he may have supposed that he was not embraced by the rule. This, however, is a mistake. No officer, as long as the law remains as it is, can be the superintendent of the institution but the principal officer of the corps of engineers, or the next in command of that corps, in case of his absence. If, however, in your opinion, the proposition

made by the academical staff to attend the mess-houses, and make daily reports of the fare, will protect the cadets from imposition, you are authorized to suspend the rule until further orders.

I have the honor, &c.

WILLIAM H. CRAWFORD.

Gen. JOSEPH G. SWIFT, New York.

UNITED STATES MILITARY ACADEMY,  
West Point, May 22, 1816.

The following branches of science and instruction shall be considered as comprising a complete course of education at the Military Academy at West Point, State of New York:

The English and French languages, and the review of the Latin and Greek languages, mathematics, military drawing, natural and experimental philosophy, including astronomy, engineering, geography, history, ethics, military instruction, and the sword exercises.

*English language.*—A course of English shall embrace English grammar and composition.

*French language.*—A course of French shall consist in pronouncing the language tolerably, and translating from French into English, and from English into French, with accuracy.

*Latin and Greek languages.*—A course of Latin and Greek shall embrace the review of the Latin and Greek authors usually taught in academies.

No cadet shall be compelled to study these languages who shall not have been taught them previously to his appointment.

*Mathematics.*—A complete course of mathematics shall embrace the following branches, viz: The nature and construction of logarithms and the use of the tables; algebra, to include the solution of cubic equations, with all the preceding rules; geometry, to include plane and solid geometry, also ratios and proportions, and the construction of geometrical problems; application of algebra to geometry; practical geometry on the ground; mensuration of planes and solids; plane trigonometry, with its application to surveying and measuring heights and distances; spherical trigonometry, with its application to the solution of spherical problems; the doctrine of infinite series; conic sections, with their application to military and other projectiles; fluxions, to be taught and studied at the option of the professor and student.

*Drawing.*—A complete course of drawing shall include the elementary drawing of figures; rules and practice of perspective plans and profiles of permanent fortifications; of every kind of field works; and, also, topographical plans.

*Philosophy.*—A complete course of philosophy shall embrace the following branches, viz: The principles of mechanics, with their general application; hydrostatics, hydraulics, pneumatics, optics; the elements of chemistry, electricity, magnetism, and astronomy.

*Engineering.*—A complete course of engineering shall embrace the following branches, viz: Military and civil architecture; permanent and

*Military Academy at West Point.*

field fortification; field works, generally; rules for the labor, time, and materials necessary for the construction of different kinds of works; also, rules for the construction of all the appendages necessary in field works; the construction of mines and fougasses, and the different modes of attacking and defending fortified places; also, castrametation.

*Geography.*—A complete course of geography shall embrace the solution of the several problems of the spheres, usually prefixed to the systems of geography, by means of the globe. A knowledge of the grand divisions of the earth; of the extent, boundaries, and relative situations of the several countries situated in each of these grand divisions; embracing, likewise, a knowledge of their natural productions, commerce, manufactures, government, naval and military strength, relative importance, and the use of the maps, &c.

*History.*—A complete course of history shall embrace a course of universal history; the history of America generally; the history of the American Revolutionary war, &c.; the history of the United States, or such particular States as the professor in that department shall judge proper.

*Ethics.*—A course of ethics shall include the elements of moral science, also of natural and political law.

*Military instruction.*—A complete course of military instruction shall embrace a general course of tactics; a knowledge of infantry duty, to commence with the elementary drill of the soldier, and to include the discipline and police of the battalion and platoon in all their parts; a knowledge of artillery duty, including the artillery drill; practical gunnery; and, also, all the performance of all the regular duties of the camp.

*Sword exercise.*—Under the sword exercise shall be included the broad sword exercise, and the cut and thrust, or small sword, either or both, according to circumstances.

*Assignment of duties.*—Each professor and instructor shall be limited in the discharge of his official duties to his own department, and not to interfere with any other department. Each professor and teacher, at the head of a separate department, shall be the judge of the proper mode of conveying instruction in his own department, and shall be held responsible for the correctness of this mode.

*Division of time.*—To complete the preceding course of studies will require four years. The branches to be pursued, and the course to be completed in each year, shall be as follows:

*First year.*—The course of the first year shall embrace English grammar and composition, and the French language, logarithms, algebra, and plane geometry, to include ratios and proportions.

*Second year.*—The course of the second year shall embrace a continuation of the French language; the geometry of planes and solids, and the construction of geometrical problems; the

application of algebra to geometry, and the mensuration of planes and solids; plane and spherical trigonometry, with their applications; conic sections; practical geometry and drawing.

*Third year.*—A course for the third year shall embrace natural and experimental philosophy, astronomy, engineering, and drawing continued.

*Fourth year.*—A course for the fourth year shall embrace geography, history, and ethics, the review of the English grammar, and of the Latin and Greek languages; also, a general review of the most important branches in each of the departments.

*Rules for classification.*—The cadets at the Military Academy shall constitute four classes. All the cadets who are admitted as members of the academy in each year shall constitute the first lower class. If, however, at the general examination next ensuing the time of admission, it shall appear that any cadet is sufficiently advanced in his studies, he may be admitted into the next higher class. On the contrary, if, at either of the general examinations, any cadet shall be found unqualified to proceed with his class, he shall be put back into the next lower class. No intermediate classes will, in any case, be allowed.

*Qualifications necessary for admission.*—Each cadet, previous to his being admitted a member of the Military Academy, must be able to read distinctly and pronounce correctly; to write a fair legible hand; and to perform with facility and accuracy the various operations of the ground rules of arithmetic, both simple and compound; of the rules of reduction of single and compound proportion, and also of vulgar and decimal fractions.

*Promiscuous regulations.*—1st. Every cadet, when he shall have completed the foregoing course of studies, shall be entitled to his diploma signed by the academic staff, agreeably to law and existing regulations.

2d. The military instruction of the cadet shall be under the immediate direction of the superintendent of the academy, and shall be attended to at such times as will interfere the least with their other academic duties.

3d. The particular course of studies to be completed by the classes, between the general examinations in each year, shall be determined by the superintendent and academic staff, in such manner as experience shall point out to be the most conducive to the interests of the institution.

4th. Any cadet who shall have been reduced to a lower class, and shall, upon a second examination, be found unqualified to advance with this class to the next higher grade, shall, unless he shall have been prevented from attending to his studies by sickness, necessary absence, or some other evident necessity, be reported to the Secretary of the Department of War by the academic staff, stating the branches of science in which he is most deficient, those in which he has made the greatest proficiency, as well as the general inclination, temper, and habits, which appear to predominate in his actions; and especially whether



*Report on Roads and Canals.*

his dominant propensities impel him to the profession of arms. Upon this report he shall be dismissed, or retained, at the will of the President.

5th. The superintendent of the academy and the academic staff shall be at liberty to propose to the Secretary of War such alterations and amendments to the foregoing course of studies as they shall, at any time, conjointly deem necessary for the good of the institution; the whole, or a majority of them, agreeing to such alterations and amendments.

6th. Should it be found, by experience, that too large a portion of study or instruction is assigned in the preceding course of studies to any particular year, the superintendent and academic staff conjointly shall be at liberty to transfer, from the course of one year to that of another, such particular portions of study or instruction as may appear necessary to produce an equality; the whole, or a majority of them, agreeing to such transfer.

The foregoing course of studies and instructions is respectfully submitted to the honorable Secretary of War.

*Rules with respect to the promotion of cadets of the United States Military Academy.*

1. That, in the governmental promotion of the cadets, the lineal rank of each graduating class shall be established in conformity to the principle of general merit, as ascertained by a competent board of examiners.

2. That the distribution of cadets to the several corps of the army at the time of promotion, shall be made according to their particular talents and qualifications ascertained in like manner; provided, that this distribution be allowed, in no instance, to interfere with the principle of rank according to general merit.

3. No cadet to be promoted from the academy until he shall have completed his course of studies at the same, and received the diploma of the academic staff to that effect.

4. No cadet who shall resign his warrant, or otherwise be separated from the academy, before the completion of his studies, shall, on any account, receive an appointment in the Army of the United States, until after the promotion of the class to which he belonged; nor then, if such appointment interfere in the smallest degree with the rank of any member of that class.

5. No cadet who shall be dismissed from the institution, or compelled to resign on account of idleness, neglect of duty, or any species of bad conduct, shall be eligible to any office or post in the Army of the United States, until at least five years after the promotion of the class to which he belonged.

**ROADS AND CANALS.—REPORT OF THE SECRETARY OF WAR.**

[Communicated to the House, January 14, 1819.]

DEPARTMENT OF WAR, Jan. 7, 1819.

SIR: In compliance with a resolution of the House of Representatives of the 4th of April,

1818, instructing the Secretary of War to report to that House, at their next session, "a plan for the application of such means as are within the power of Congress for the purpose of opening and constructing such roads and canals as may deserve and require the aid of Government, with a view to military operations in time of war; the transportation of munitions of war; and also a statement of the works of the nature above-mentioned which have been commenced, the progress which has been made, and the means and prospect of their completion; together with such information as, in the opinion of the Secretary, shall be material in relation to the objects of the resolution," I have the honor to make the following report:

A judicious system of roads and canals, constructed for the convenience of commerce and the transportation of the mail only, without any reference to military operations, is itself among the most efficient means for "the more complete defence of the United States." Without advertent to the fact, that the roads and canals which such a system would require are, with few exceptions, precisely those which would be required for the operations of war, such a system, by consolidating our Union, increasing our wealth and fiscal capacity, would add greatly to our resources in war. It is in a state of war when a nation is compelled to put all of its resources, in men, money, skill, and devotion to country, into requisition, that its Government realizes, in its security, the beneficial effects from a people made prosperous and happy by a wise direction of its resources in peace. But I forbear to pursue this subject, though so interesting, and which, the further it is pursued, will the more clearly establish the intimate connexion between the defence and safety of the country and its improvement and prosperity, as I do not conceive that it constitutes the immediate object of this report.

There is no country to which a good system of military roads and canals is more indispensable than to the United States. As great as our military capacity is, when compared with the number of our people, yet, when considered in relation to the vast extent of our country, it is very small; and, if so great an extent of territory renders it very difficult to conquer us, as has been frequently observed, it ought not to be forgotten that it renders it no less difficult for the Government to afford protection to every portion of the community. In the very nature of things, the difficulty of protecting every part, so long as our population bears so small a proportion to the extent of the country, cannot be entirely overcome; but it may be very greatly diminished by a good system of military roads and canals. The necessity of such a system is still more apparent if we take into consideration the character of our political maxims and institutions. Opposed in principle to a large standing army, our main reliance for defence must be on the militia, to be called out frequently from a great distance, and under the pressure of an actual invasion. The

*Report on Roads and Canals.*

experience of the late war amply proves, in the present state of our internal improvements, the delay, the uncertainty, the anxiety, and exhausting effects of such calls. The facts are too recent to require details, and the impression too deep to be soon forgotten. As it is the part of wisdom to profit by experience, so it is of the utmost importance to prevent a recurrence of a similar state of things, by the application of a portion of our means to the construction of such roads and canals as are required "with a view to military operations in time of war, the transportation of the munitions of war, and more complete defence of the United States."

In all questions of military preparation, three of our frontiers require special attention; the Eastern or Atlantic frontier; the Northern, or the Canadian frontier; and the Southern, or the frontier of the Gulf of Mexico. On the West and Northwest we are secure, except against Indian hostilities; and the only military preparations required in that quarter, are such as are necessary to keep the Indian tribes in awe, and to protect the frontier from their ravages. All of our great military efforts, growing out of a war with an European Power, must, for the present, be directed towards our Eastern, Northern, or Southern frontiers; and the roads and canals which will enable the Government to concentrate its means for defence, promptly and cheaply, on the vulnerable points of either of those frontiers, are those which in a military point of view, require the aid of Government. I propose to consider each of those frontiers separately, beginning with the Atlantic, which, in many respects, is the weakest and most exposed.

From the mouth of St. Croix to that of St. Marys, the two extremes of this frontier, is a distance, along the line of the coast and principal bays, without following their sinuosities, of about two thousand one hundred miles. On this line, including its navigable rivers and bays, are situated our most populous cities, the great depots of the wealth and commerce of the country. That portion of it which extends to the south of the Chesapeake has, with the exceptions of the cities and their immediate neighborhood, a sparse population, with a low marshy country, extending back from 100 to 150 miles. To the north of the Chesapeake, inclusive, it affords, everywhere, deep and bold navigable bays and rivers, which readily admit vessels of any size. Against a line so long, so weak, so exposed, and presenting such strong motives for depredations, hostilities the most harassing and exhausting may be carried on by a naval Power; and, should the subjugation of the country ever be attempted, it is probable that against this frontier, facing Europe, the seat of the great Powers of the world, the principal efforts would be turned. Thus circumstanced, it is the duty of the Government to render it as secure as possible. For much of this security we ought to look to a navy, and a judicious and strong system of fortifications; but not to the neglect of such roads and canals as will enable the Government to concentrate,

promptly and cheaply, at any point which may be menaced, the necessary force and means for defence.

To resist ordinary hostilities, having for their object the destruction of our towns and the exhaustion of our means, the force ought to be drawn from the country lying between the coasts and the sources of the principal rivers which discharge through it into the ocean; but, to resist greater efforts, aiming at conquest, should it ever be attempted, the force and resources of the whole community must be brought into resistance. To concentrate, then, a sufficient force, on any point of this frontier which may be invaded, troops must be marched, and munitions of war transported, either along the line of the coast, or from the interior of the Atlantic States to the coast, or, should the invading force be of such magnitude as to require it, from the Western States; and the roads and canals necessary for the defence of this frontier are those which will render these operations prompt, certain, and economical.

From the coast to the Alleghany mountains and the high land separating the streams which enter into the St. Lawrence from those of the Atlantic, in which the principal Atlantic rivers take their rise, the distance may be averaged at about 250 miles; and the whole extent, from the St. Marys to the St. Croix, is intersected, at short intervals, by large navigable rivers and the principal roads of this portion of our country, through which its great commercial operations are carried on. These, aided by the steamboats, now introduced on almost all of our great rivers, present great facilities to collect the militia from the interior, and to transport the necessary supplies and munitions of war.

Much undoubtedly remains to be done to perfect the roads and improve the navigation of the rivers; but this, for the most part, may be safely left to the States and the commercial cities particularly interested, as the appropriate objects of their care and exertions. The attention of both have recently been much turned towards these objects, and a few years will probably add much to facilitate the intercourse between the coast and the interior of the Atlantic States. Very different is the case with the great and important line of communication, extending along the coast, through the Atlantic States. No object of the kind is more important; and there is none to which State or individual capacity is more inadequate. It must be perfected by the General Government, or not perfected at all, at least for many years. No one or two States have a sufficient interest. It is immediately beneficial to more than half of the States of the Union, and, without the aid of the General Government, would require their co-operation. It is, at all times, a most important object to the nation; and, in a war with a naval Power, is almost indispensable to our military, commercial, and financial operations. It may, in a single view, be considered the great artery of the country; and, when the coasting trade is suspended by war, the vast



*Report on Roads and Canals.*

intercourse between the North and South, which annually requires five hundred thousand tons of shipping, and which is necessary to the commerce, the agriculture, and manufactures of more than half of the Union, seeks this channel of communication. If it were thoroughly opened by land and water; if Louisiana were connected, by a durable and well finished road, with Maine; and Boston with Savannah, by a well established line of inland navigation, for which so many facilities are presented, more than half of the pressure of war would be removed. A country so vast in its means, and abounding, in its various latitudes, with almost all the products of the globe, is a world of itself; and, with that facility of intercourse, to perfect which, the disposable means of the country is adequate, would flourish and prosper under the pressure of a war with any Power. But, dropping this more elevated view, and considering the subject only as it regards "military operations in time of war, and the transportation of the munitions of war," what could contribute so much as this communication to the effectual and cheap defence of our Atlantic frontier? Take the line of inland navigation along the coast, the whole of which, it is estimated, could be completed, for sea vessels; by digging one hundred miles, and at the expense of \$3,000,000, the advantage which an enemy with a naval force now has, by rapidly moving along the coast, and harassing and exhausting the country, would be in a great measure lost to him. In fact, the capacity for rapid and prompt movements and concentration, would be, to the full, as much in our power. We would have, in most of the points of attack, a shorter line to move over, in order to concentrate our means; and, aided by steamboats, would have the capacity to pass it in a shorter time, and with greater certainty, than what an enemy, even with a naval superiority, would have, to attack us. Suppose the fleet of such an enemy should appear off the Capes of Delaware; before it could possibly approach and attack Philadelphia, information, by telegraphic communication, might be given to Baltimore and New York, and the forces stationed there thrown in for its relief. The same might take place if Baltimore or New York should be invaded; and, should an attack be made on any of our cities, the militia and regular forces, at a great distance along the coast, could, in a short time, be thrown in for its relief. By this speedy communication, the regular forces, with the militia of the cities and their neighborhood, would be sufficient to repel ordinary invasions, and would either prevent, or greatly diminish, the harassing calls upon the militia of the interior. If to these considerations we add the character of the southern position of the Atlantic frontier, so fatal to those whose constitutions are not inured to it, the value of this system of defence, by the regular troops and the militia accustomed to the climate, will be greatly enhanced. Should this line of inland navigation be constructed, to enjoy its benefits fully, it will be necessary to cover it against the naval operations of an enemy. It is thought that

this may be easily effected, to the south of the Chesapeake, by land and steam batteries. That bay is itself one of the most important links in this line of communication; and its defence against a naval force ought, if practicable, to be rendered complete. It was carefully surveyed, the last Summer, by skilful officers, for this purpose in part, and it is expected that their report will throw much light upon this important subject. Long Island Sound, another part of the line which is exposed, can be fully defended by a naval force only.

It remains, in relation to the defence of the Atlantic frontier, to consider the means of communication between it and the Western States, which require the aid of the Government. Most of the observations made relative to the increased strength and capacity of the country to bear up under the pressure of war, from the coastwise communication, are applicable in a high degree at present, and are daily becoming more so, to those with the Western States; and should a war for conquest ever be waged against us, an event not probable, but not to be laid entirely out of view, the roads and canals necessary to complete the communication with that portion of our country would be of the utmost importance.

The interest of commerce, and the spirit of rivalry between the great Atlantic cities, will do much to perfect the means of intercourse with the West. The most important lines of communication appear to be from Albany to the Lakes; from Philadelphia, Baltimore, Washington, and Richmond, to the Ohio river; and from Charleston and Augusta, to the Tennessee; all of which are now commanding the attention, in a greater or less degree, of the sections of the country immediately interested. But in such great undertakings, so interesting in every point of view to the whole Union, and which may ultimately become necessary to its defence, the expense ought not to fall wholly on the portions of the country more immediately interested. As the Government has a deep stake in them, and as the system of defence will not be perfect without their completion, it ought at least to bear a proportional share of the expense of their construction.

I proceed next to consider the roads and canals connected with the defence of our Northern frontier. That portion of it which extends to the east of Lake Champlain has not heretofore been the scene of extensive military operations; and I am not sufficiently acquainted with the nature of the country, to venture an opinion whether we may hereafter be called on to make considerable military efforts in that quarter. Without, then, designating any military improvements, as connected with this portion of our Northern frontier, I would suggest the propriety, should Congress approve of the plan for a military survey of the country to be hereafter proposed, to make a survey of it the duty of the engineers who may be designated for that purpose.

For the defence of the other part of this line of frontier, the most important objects are, a canal or water communication between Albany and

*Report on Roads and Canals.*

Lake George, and Lake Ontario, and between Pittsburgh and Lake Erie. The two former have been commenced by the State of New York, and will, when completed, connected with the great inland navigation along the coast, enable the Government, at a moderate expense, and in a short time, to transport munitions of war, and to concentrate its troops from any portion of the Atlantic States, fresh and unexhausted by the fatigue of marching on the inland frontier of the State of New York. The road commenced, by order of the Executive, from Plattsburg to Sackett's Harbor, is essentially connected with military operations on this portion of the Northern frontier. A water communication from Pittsburgh to Lake Erie, would greatly increase our power on the upper Lakes. The Alleghany river, by its main branch, is said to be navigable within seven miles of Lake Erie, and by French creek, within sixteen miles. Pittsburgh is the great military depot of the country to the west of the Alleghany, and, if it were connected by a canal with Lake Erie, would furnish military supplies with facility to the upper lakes, as well as to the country watered by the Mississippi. If to these communications we add a road from Detroit to Ohio, which has already been commenced, and a canal from the Illinois river to Lake Michigan, which the growing population of the State of Illinois renders very important, all the facilities which would be essential "to carry on military operations in the time of war, and the transportation of the munitions of war" for the defence of the western portion of our Northern frontier, would be afforded.

It only remains to consider the system of roads and canals connected with the defence of our Southern frontier, or that on the Gulf of Mexico. For the defence of this portion of our country, though at present weak of itself, nature has done much. The bay of Mobile, and the entrance into the Mississippi through all of its channels, are highly capable of defence. A military survey has been made, and the necessary fortifications have been commenced, and will be in a few years completed. But the real strength of this frontier is the Mississippi, which is no less the cause of its security than that of its commerce and wealth. Its rapid stream, aided by the force of steam, can, in the hour of danger, concentrate at once an irresistible force. Made strong by this noble river, little remains to be done by roads and canals, for the defence of our Southern frontier. The continuation of the road along the Atlantic coast, from Milledgeville to New Orleans, and the completion of the road which has already been commenced from Tennessee river to the same place, with the inland navigation through the canal of Carondelet, Lake Pontchartrain, and the islands along the coast of Mobile, covered against the operations of a naval force, every facility required for the transportation of munitions of war, and movement and concentration of troops, to protect this distant and important frontier, would be afforded.

Such are the roads and canals which military operations in time of war, the transportation of

the munitions of war, and the more complete defence of the United States, require.

Many of the roads and canals which have been suggested, are no doubt of the first importance to the commerce, the manufactures, the agriculture, and political prosperity of the country; but are not, for that reason, less useful or necessary for military purposes. It is, in fact, one of the great advantages of our country, enjoying so many others, that, whether we regard its internal improvements in relation to military, civil, or political purposes, very nearly the same system, in all its parts, is required. The road or canal can scarcely be designated, which is highly useful for military operations, which is not equally required for the industry or political prosperity of the community. If those roads or canals had been pointed out, which are necessary for military purposes only, the list would have been small indeed. I have, therefore, presented all, without regarding the fact that they might be employed for other uses, which, in the event of war, would be necessary to give economy, certainty, and success to our military operations; and which, if they had been completed before the late war, would, by their saving in that single contest, in men, money, and reputation, have more than indemnified the country for the expense of their construction. I have not prepared an estimate of expenses, nor pointed out the particular routes for the roads or canals recommended, as I conceive that this can be ascertained with satisfaction only by able and skilful engineers, after a careful survey and examination.

I would, therefore, respectfully suggest, as the basis of the system, and the first measure in the "plan for the application of such means as are in the power of Congress," that Congress should direct such a survey and estimate to be made, and the result to be laid before them as soon as practicable. The expense would be inconsiderable; for, as the army can furnish able military and topographical engineers, it would be principally confined to the employment of one or more skilful civil engineers, to be associated with them. By their combined skill, an efficient system of military roads and canals would be presented in detail, accompanied with such estimates of expenses as may be relied on. Thus full and satisfactory information would be had; and though some time might be lost in the commencement of the system, it would be more than compensated by its assured efficiency when completed.

For the construction of the roads and canals, which Congress may choose to direct, the army, to a certain extent, may be brought in aid of the moneyed resources of the country. The propriety of employing the army on works of public utility cannot be doubted. Labor adds to its usefulness and health. A mere garrison life is equally hostile to its vigor and discipline. Both officers and men become the subjects of its deleterious effects. But when the vast extent of our country is compared with the extent of our military establishments, and taking into consideration the necessity of employing the soldiers on fortifications, bar-



*Report on Roads and Canals.*

racks, and roads, connected with remote frontier posts, we ought not to be sanguine in the expectation of aid to be derived from the army in the construction of permanent military roads and canals, at a distance from the frontiers. When our military posts come to be extended up the Mississippi and Missouri, as far as is contemplated, the military frontier of the United States, not including sinuosities, and the coasts of navigable bays and lakes opening into our country, as was stated in a former report, will present a line of more than nine thousand miles, and, including them, of more than eleven thousand. Thinly scattered along so extensive a frontier, it will be impossible, I fear, without having some points exposed, to collect any considerable bodies in the interior of the country, to construct roads and canals.

As connected with this subject, I would respectfully suggest the propriety of making an adequate provision for the soldiers, while regularly and continually employed in constructing works of public utility. The present allowance is fifteen cents a day, which is considered sufficient in occasional fatigue duty, such as is now done at most of the posts; but if systematic employ, on permanent works, should be made the regular duty of the soldiers who can be spared for that purpose, a compensation, taking into the estimate the obligation of the Government to provide medical attendance and pensions to the deceased and disabled soldiers, not much short of the wages of daily labor ought to be granted to them. Without such provision, which is dictated by justice, an increase of desertion and difficulty in obtaining recruits ought to be expected. Among the leading inducements to enlist is the exemption from labor; and, if the life of a soldier should be equally subject to it as that of other citizens in the same grade, he will prefer, if the wages are much inferior, to labor for himself to laboring for the public. The pay of a soldier is sixty dollars per annum; and if he were allowed, when employed permanently on fatigue, twenty-five cents a day, and suppose him to be employed two hundred days in the year, his compensation, including his pay, would be \$110 per annum—a sum, it is thought, considerably short of the average wages of labor. If this sum should be allowed, the greater portion of it ought to be paid at the expiration of the term of enlistment. If fifteen cents a day were so reserved, and the soldier should be employed one thousand days in the five years for which he is enlisted, it would constitute a sum of one hundred and fifty dollars, to be paid at the expiration of his term, which ought, in the same manner as the bounty land, be made to depend on an honorable discharge. This would furnish an important hold on the fidelity of the soldier, and would be a powerful check to the great and growing crime of desertion. An honorable discharge is now worth but little to the soldier, and the consequence is, that desertions are more frequent with those enlisted since the war, than those who were then enlisted, and are entitled to the bounty in land on their honorable discharge. The

latter patiently awaits the expiration of his term of service, while the former frequently seizes the first favorable opportunity for desertion.

Should Congress think proper to commence a system of roads and canals for the "more complete defence of the United States," the disbursement of the sums appropriated for the purpose might be made by the Department of War, under direction of the President. Where incorporate companies are already formed, or the road or canal commenced under the superintendence of a State, it perhaps would be advisable to direct a subscription on the part of the United States, on such terms and conditions as might be thought proper. In other cases, and where the army cannot be made to execute it, the work ought to be done by contract, under the superintendence and inspection of officers of the engineer corps, to be detailed for that purpose. It is thus the Government will be able, it is thought, to construct upon terms at least as favorable as corporate companies. The system of constructing all public works, which admit of it, by contract, would be attended with important advantages. It has recently been adopted in the construction of fortifications, and it is expected will be attended with beneficial results. The principal works at Mobile and New Orleans have been contracted for on terms considerably under the estimates of the engineers. Such a system, extended to military roads and canals, combined with a careful inspection and superintendence by skilful engineers, will enable the Government to complete them with economy, durability, and despatch.

In the view which has been taken I have thought it improper, under the resolution of the House, to discuss the Constitutional question, or how far the system of internal improvements which has been presented may be carried into effect on the principle of our Government; and, therefore, the whole of the arguments which are used, and the measures proposed, must be considered as depending on the decision of that question.

The only military roads which have been commenced are from Plattsburg to Sackett's Harbor, through the Chateaugay country; from the southern boundary of the State of Tennessee, and crossing the Tennessee river near the Muscle Shoals, to Madisonville, Louisiana; and from Detroit to Fort Meigs, at the foot of the Rapids of the Miami of the Lakes. Documents marked A, B, C, show the progress which have been made. These roads have been commenced, and thus far completed by the labor of the soldiers, who, while they are so employed, receive fifteen cents per day, with an extra allowance of a gill of whiskey. The labor of the troops is the only means within the reach of the Department of completing these roads; and, as the troops are so employed, only when they are not engaged in active service, it is impossible to state, with accuracy, when the roads will be completed.

J. C. CALHOUN.

Hon. HENRY CLAY,  
*Speaker of the House of Reps.*

*Report on Roads and Canals.*

A.

HEADQUARTERS, BROWNSVILLE,  
December 6, 1818.

Sir: Your letter, covering a copy of one of the 11th of August, calling for a report of the labor performed on the road leading from Sackett's Harbor, through the Chateaugay country, is before me.

My letter of the 29th of November will inform you what has been done, but I fear will not exhibit the progress of this work to the extent you have expected. It may, therefore, be proper to state, in this place, that when the President, in the Autumn of 1817, directed the road in question to be opened and improved, I did not understand that the second regiment were to be ordered from the duty they were then upon. This regiment, at the time referred to, were employed, enclosing with pickets the public ground at Sackett's Harbor, and that duty occupied them the remainder of the season. Expecting the troops at the Harbor would have been employed in completing the barracks at that place this year, they were not put upon the road, but allowed to be engaged in improving the public grounds for gardens; and, as these grounds were new, it required much labor to put them in good condition.

These causes, and the reasons assigned in my letters from this place and Plattsburg, produced the delay that has occurred in putting Colonel Brady's command upon the road, and, if your letter of the 11th of August had not been received upon my return to this place, I fear that this work would not yet have commenced.

I pray you to believe, that I regret the delay, and I beg you to see good cause for it in the reasons I have endeavored to assign.

It is due to the command of Colonel Brady and Colonel Atkinson to say, that they have discovered not only a becoming cheerfulness in obeying the orders received for perfecting the Plattsburg and Sackett's Harbor road, but much zeal in the performance of this duty, and, if these regiments are continued upon this important work the next season, more than double the length of way will be completed, that has been passed the last and the present year.

With respect, I have the honor to be, &c.,  
JAC. BROWN.

Hon. J. C. CALHOUN,  
*Secretary of War.*

B.

HEADQ'RS, DIVISION OF THE SOUTH,  
ADJUTANT GENERAL'S OFFICE,  
Nashville, Sept. 19, 1818.

Sir: On the eve of setting out for the Chickasaw Territory, I deem it necessary to inform you that no reports have been received as yet, of a particular character, in relation to the military road now opening from Columbia, Tennessee, to Madisonville; but I am enabled to inform you, officially, that fifty miles have been completed by

the troops on the lower part of the road, making many causeways and bridges of the most durable materials; and the detachment on this end have progressed about forty miles south of the Tennessee river, making in like manner many bridges and causeways.

It is considered that the most laborious part of the road has been completed; and, from every information, it has been done in the best manner. An increase of men has been recently afforded to the detachment south of Tennessee river, which enables it to progress with much greater facility.

Should I receive minute reports shortly, I shall communicate their contents without delay.

And have the honor to be, &c.,  
ROBERT BUTLER,  
*Adjutant General.*

Hon. J. C. CALHOUN,  
*Secretary of War.*

C.

HEADQUARTERS, DETROIT,  
November 2, 1819.

Sir: I have the honor to report that the military way, directed to be opened from this place to the Rapids of the Miami, has progressed as far as the Eight Mile Creek, that is, within eight miles of the Rapids, making in all a distance of seventy miles. The road is truly a magnificent one, being eighty feet wide, cleared of all the logs and underbush, every low place causewayed, and all the creeks and rivers requiring it bridged in a substantial manner. The number of causeways exceeds sixty, and the bridges are of considerable length. The one on which the troops are now employed is four hundred and fifty feet in length, constructed of strong oak framed work. It was found impossible to complete the road to the Rapids this season, on account of the time and labor required in throwing bridges over the larger streams: it was also deemed more essential to complete the bridges, than cut the road this season to the Rapids, as the road would be useless without the means of crossing the large streams.

The officers and soldiers who have been employed in this service deserve much credit for the zeal and perseverance they have displayed on this occasion. The work they have performed has proved highly beneficial, both to the people of the country and of the Government. Besides greatly adding to the defence and strength of this frontier, the road has been the means of developing the richness of the public lands in this Territory, and greatly augmenting their value.

As soon as Major Anderson, topographical engineer, can complete the survey of the road, a more minute and particular description of the work will be forwarded.

I have the honor to be, &c.,  
ALEX. MACOMB.

Hon. J. C. CALHOUN,  
*Secretary of War.*



*Trade with the Indians.*

## INDIAN TRADE.

*Report from the War Department.*

DEPARTMENT OF WAR,  
December 5, 1818.

SIR: In compliance with a resolution of the House of Representatives, of the 4th of April, 1818, directing the Secretary of War to prepare and report, at their next session, "a system providing for the abolition of the existing Indian trade establishments of the United States, and providing for the opening of the trade with the Indians to individuals, under suitable regulations," I have the honor to make the following report:

The nations of Indians who inhabit this portion of our continent were, on its first discovery, in a state of the most perfect commercial independence. Their knowledge of the useful arts was, indeed, very limited; but it was commensurate with their wants and desires. With their rude implements of husbandry, their hook, and bow, in the construction of which they were well instructed, they drew a scanty, but for them a sufficient supply from the soil, the water, and the forest. A great change has since taken place, such as appears to be inevitable, by a fixed law of nature, in the intercourse between a civilized and savage people. Helplessness has succeeded independence. While their wants have been greatly multiplied and enlarged, by their intercourse with their more civilized neighbors, their knowledge even of their former rude arts has been lost, without acquiring those which are necessary in their new condition. The manufacture of the axe and the hoe, by which they now clear and cultivate the soil, and the gun and ammunition, by which they take their game, are far above their skill; and with the exhaustion of the present stock, without a new supply, they would be reduced to extreme want. On trade, then, with those from whom they can draw these and other supplies, they are wholly dependent. We have the exclusive right to trade with those within our limits; and cut off, as the southern tribes are, by our acquisition in the late war, from intercourse with foreigners on the side of the Gulf of Mexico, we have the means, by a proper extension of our posts, on the Lakes, the Mississippi, and the Missouri, (to effect which measures have already been taken,) to enforce effectually, without much additional expense, this important right. The period seems, then, to have arrived, to give to our control over the Indians, through an exclusive supply of their wants, the greatest efficiency; and to promote theirs and our interest, by a judicious system of trade, fairly and justly directed.

A similar view of this branch of our trade seems to have been taken at an early period by our Government. It directed its attention to this interesting and important subject, as early as the year 1775, when a committee was appointed by Congress to devise a plan for carrying on trade with the Indians. In the next year a very con-

siderable purchase of goods was directed to be made for the Indian trade; and trade with them, except under license or bond, was strictly prohibited. The subject was frequently acted on during the Confederation; but no systematic effort was made to regulate it till 1786, when an ordinance was passed, dividing the Indian department into two districts, and appointing a superintendent, with a deputy to each. It was made their duty to execute such regulations as Congress might establish in relation to Indian affairs; to correspond with the Secretary of War, through whom their communications were directed to be made to Congress; to obey the instructions of the War Department; and to grant license to trade with Indians. This ordinance directed that no license should be granted to foreigners, and only to citizens whose good moral character should be certified by the Governor of a State, under the seal of the State, and that bonds should be given to conform to established regulations. Licenses were granted, to continue in force for one year only, and upon the payment of fifty dollars. To trade without license incurred a penalty of five hundred dollars, and forfeiture of goods. The superintendents and their deputies were prohibited from engaging in trade.

The change in the form of the Government, a few years after the passing of this ordinance, and the debility into which public affairs fell, about the termination of the Confederation, prevented this judicious system from being carried into effect.

Under the present Constitution, the subject of Indian trade attracted the attention of Congress, as early as the year 1790. The system of trade by licenses was retained: they were directed to be granted for two years, by persons to be appointed by the President, to applicants of good character, who gave bonds to conform to regulations; and trading without license was subjected to a forfeiture of merchandise. The act contains no prohibitions to foreigners, and requires nothing to be paid for the licenses. In the years 1793 and 1796, acts were passed, very similar in their provisions to the one just recited; and in the year 1802, an act repealing former acts, and which still continues in force, was passed. It inflicts a fine of one hundred dollars, and imprisonment not exceeding thirty days, in addition to the forfeiture of goods, for trading without license; and directs licenses to be granted on bond, with sufficient security to conform to law and regulations, without making a good character or citizenship a requisite.

By an act of 1816, the last passed on this subject, foreigners are prohibited from trading with the Indians, except permitted by the President, and under such regulations as he should establish. Instructions have been given under this act to prohibit foreigners from passing into the Indian country, except as boatmen, and, under certain conditions, as interpreters.

The system of trade by public factors, now proposed to be abolished, commenced in the year 1796; but without superseding the original mode

*Trade with the Indians.*

of carrying on the trade by license. The President was authorized to establish trading-houses, and to appoint an agent to each house to carry on, as the act states, "a liberal trade with the Indians." The act appropriated \$150,000, as the capital of this trade, and the additional sum of \$8,000 annually for the payment of agents and clerks; and directed the trade to be carried on, so as not to diminish the capital. It was limited to two years; but was, by a subsequent act, continued in force till 1806. A Superintendent of Indians was then appointed, and the capital increased to \$260,000, and \$13,000 were annually appropriated for the payment of superintendent, agents, and clerks. This act was limited to three years; but afterwards continued in force till 1811. The capital was then increased to three hundred thousand dollars, with an annual appropriation of \$19,250 for the payment of superintendent, agents, and clerks. It was limited to three years, but has been extended by subsequent acts to the first of March next.

The capital at present is distributed among eight trading-houses, or factories, established at the following places: Fort Mitchell; the Chickasaw Bluffs; Fort Confederation, on the Tombigbee; Fort Osage, on the Missouri; Prairie du Chien, on the Mississippi; Sulphur Fork, on Red river; Green Bay; and Chicago.

Such is the rise, progress, and present condition of our Indian trade. It was commenced and has been continued from motives both of prudence and humanity; and though it may not have fully realized the expectations of its friends, it has no doubt produced beneficial effects. If wars have not been entirely prevented by it, they probably, without it, would have been more frequent; and, if the Indians have made but little advances in civilization, they probably without it would have made less. If greater effects have not resulted, it is to be attributed not to a want of dependence on the part of the Indians on commercial supplies, but to defects in the system itself, or in its administration. Scarcely any attempt has been made till lately to exclude foreigners, and the granting of licenses has not been subject to those checks which are necessary to give to it the most salutary effects.

Should it be thought unadvisable to continue the present trading system by factories, by permitting the act to expire, by its limitation, on the first of March next, it will then of course terminate. In winding up its concerns, two points are to be regarded: to sustain as little loss as possible, and to withdraw from the trade gradually, in order that the capital employed may be supplied from other sources. To effect both of these objects, I would suggest, that so much of the act of 1811 as authorizes the appointment of a superintendent and factors, be continued in force for one year; and that they be authorized to make sales, as heretofore, of the goods and effects on hand, and those which may be acquired from the Indians.

The Superintendent of Indian trade should also be authorized and directed to exhibit at his office,

for inspection, an inventory of the stock in trade, with the property attached to the respective factories; and he should be directed to sell the same on the best terms offered, provided the sales can be effected at cost and charges. It would be proper to allow considerable credit upon approved bonds and security; and the President ought to be empowered to annex, as the condition of the sale, if he should think it advisable to sell the goods to the Indians, at the place at which the factory is established, a provision that the sales be effected within the period of one year. The factory at Fort Clark, being established by a treaty with the Great and Little Osages in the year 1808, must be continued by the Government, or sold out, subject to the condition of being continued so long as the Indians may desire it. It would perhaps be advisable to direct a new treaty, rescinding, on suitable compensation, the stipulation referred to.

The establishment would by these means terminate gradually, without the hazard of any considerable losses.

To provide for opening the trade to individuals, under suitable regulations, is a task of much greater difficulty. The vast extent of the country inhabited by the Indians; and the numbers and variety of the tribes, render it impossible to apply, with propriety, any uniform system to the whole. The various tribes, for the purpose of trade, may, however, be comprehended in two classes. Those in our immediate neighborhood, surrounded by our settlements and our military posts, and who, from long intercourse with us, have become partially civilized; and those more remote, who still retain their original character and customs. In the former are comprehended the four southern tribes, the Osages and the small tribes, immediately west of the Mississippi, those within the limits of Illinois, Indiana, Ohio, and that part of the Michigan Territory east of Lake Michigan. The latter comprehends all the tribes without those limits. I propose to consider the system of trade best calculated for each division, beginning with the former.

After giving the subject that full consideration which its importance merits, it appears to me that the provisions of the ordinance of 1786, with a few additions and modifications, particularly in the administrative part, so as to adjust it to our present form of Government, are, for this division of our Indian trade, the best that can be devised. The provisions of the acts now in force, in relation to licenses, are not as well guarded or as efficient as those of the ordinance referred to. The introduction of the factories seems to have relaxed the attention of Government to the system of trade under license. I would then propose to assume the provisions of the ordinance referred to, as the basis of a system to open the trade with the contiguous tribes of Indians to individual enterprise. Instead, however, of appointing two superintendents, I would propose a Superintendent of Indian affairs to be attached to the War Department, with a salary of \$3,000 per annum; the superintendent to be under the



control of the Secretary of War, and to be charged, subject to such regulations as the President may prescribe, with the correspondence, superintendence, and general management of Indian affairs; and to be authorized, with the approbation of the Secretary of War, to grant licenses to trade with the Indians. Licenses to be granted to citizens of good moral character, and to continue in force till revoked. A sum not less than one hundred dollars, nor more than five hundred dollars, to be determined under regulations to be prescribed by the President, to be paid, for the privilege of using it, at the time of granting the license, and annually during its continuance; and bonds with sufficient security to be taken, to conform to law and regulations. Licenses to be revoked by the President whenever he may judge proper. To trade without license to subject to a fine not exceeding one thousand dollars, and imprisonment not to exceed six months, with a forfeiture of the goods. Licenses to be granted to trade at specified places, to be selected by the applicants, and not to be changed without the consent of the superintendent. All peddling and sales of spirituous liquors to be strictly prohibited. Each trading-house, or establishment, to require a separate license; and books to be kept at the establishment, in which the prices of the goods sold, and the articles purchased, should be regularly and fairly entered, and to be subject at all times to the inspection of the Indian agent, or such person as the superintendent may appoint.

The reasons for most of these provisions are so obvious as to require no illustration. They will all be passed over, accordingly, without observation, except the provision which requires the payment of an annual sum for the use of license, and that which requires the trading establishment to be fixed. The former provision is taken from the ordinance of 1786, which directed licenses to be granted for one year only, and on payment of fifty dollars to the superintendent, for the use of the United States; a sum nearly equal to that now proposed, if the value of money at that time be taken into consideration.

But it will probably be objected, that it is our interest, and, as we propose to monopolize their trade, our duty, too, to furnish the Indians with goods on as moderate terms as possible; and that the sum to be paid for a license, by acting as a duty on the goods sold under it, will tend to enhance their price. In answer to which, it may be justly observed, that it is not a matter of so much importance that they should obtain their supplies for a few cents more or less, as that the trade should, as far as practicable, be put effectually under the control of the Government, in order that they may be protected against the fraud and the violence to which their ignorance and weakness would, without such protection, expose them. It is this very ignorance and weakness which render it necessary for the Government to interfere; and if such interference is proper at all, it ought to be rendered effectual. Such will be the tendency of this provision. Its first and obvious effects will be to diminish more certain-

ly, and with less injurious effect, than any other provision which can be devised, the number of traders; and to increase the amount of capital which each would employ. The profit of a small capital of a few hundred dollars would scarcely pay for the license; while that on a large one would not be much diminished by it. Both of these effects, the diminution of the number of traders and the increase of the capital, would add greatly to the control of the Government over the trade. It would be almost impossible to inspect the conduct, and, consequently, control the actions of the multitude of traders, with small capitals, diffused over the Indian country, and settled at remote and obscure places. The greatest vigilance, on the part of the superintendent and his agents, would be unequal to the task. By diminishing the number, and bringing each more permanently before the view of the Government, a due inspection and superintendence becomes practicable. Again: what control can the Government have over the conduct of a trader with a capital of a few hundred dollars only? Suppose he should violate the express injunctions of law and regulations, what serious loss would he sustain by the revocation of his license, or by the putting his bond in suit? To him it would be nothing to wind up his business and give his capital another direction; and, as to the bond, in such distant and obscure transactions, he might pretty safely calculate on escaping its penalty. Very different would be the case with the trader of a large capital. To revoke his license would be a serious evil, which must subject him to certain loss; and, should he break the conditions of his bond, he would be much more in danger of feeling its penalty. The control of the Government would not only be greater over such traders, but, what is of equal importance, their influence with the Indians would have a more salutary direction. A war between them and us would, in all cases, be injurious, and, in many cases, would be ruinous to the trader of a large capital; but not so with one of small capital; a single profitable speculation may be of more importance to him than the continuance of peace. From the effects of war he can as easily escape as from the revocation of his license, or the penalty of his bond. Let the character of the former be what it may, he must, from interest, be the advocate of peace, and the influence of his own government; while the latter, unless influenced by virtuous motives, would feel in either but little interest.

From the nature of the trade, the more it can be concentrated, provided there is reasonable competition, the better it will be for the Indians and ourselves. The very opposite, it is true, would be the fact, if they had the capacity and intelligence to take care of their own interest, without our protection; but, situated as they are, indefinite competition would be no less injurious to them than to our citizens; and such appear to be their sentiments. The Chickasaws, in a late treaty, complained of the injury which they had sustained from pedlars and small traders; and they had a stipulation inserted against the granting of

any license trade with their nation, as the only effectual means which suggested itself to prevent it.

The reasons for fixing the trading establishments are no less strong. By rendering them stationary, and compelling the proprietors to keep books, containing regular entries of all their sales and purchases, important checks will be presented to prevent fraud and exorbitant charges. It will also strongly tend to prevent collision between the traders, and, consequently, the creation of parties among the Indians, for or against particular traders; a state of things unfriendly to their interest, and dangerous to the peace of the frontier. Besides, the trading establishments being fixed, as they will be, in the most advantageous positions, each will, in time, become the nucleus of Indian settlements, which, by giving greater density and steadiness to their population, will tend to introduce a division of real property, and thus hasten their ultimate civilization.

Such are the provisions under which the trade with those tribes of Indians in our immediate neighborhood may with safety and advantage be opened to individual enterprise. With a vigilant administration, it will produce results equally salutary to the Indians and ourselves. In fact, the knowledge of the use of money, and the prices of most of the ordinary articles of trade, is so far advanced among them, as to guard them, to a considerable extent, against mere fraud and imposition; and, with the control which the Government may exercise over the trade with them, they would generally receive their supplies on fair and moderate terms. The system is not less calculated to secure peace. The regular traders, who have paid for the use of their licenses, will be the most active to prevent vexatious peddling and retailing of spirituous liquors, which are the bane of the frontier. They will, besides, become the most active promoters of industry, for the almost total destruction of game has rendered the amount of peltries and furs of little value in this branch of Indian trade, and the capacity of paying for the goods purchased must, consequently, in a great measure, depend on the product of the soil. In fact, the neighboring tribes are becoming daily less warlike, and more helpless and dependent on us through their numerous wants, and they are rendered still more pacific by the fear of forfeiting their lands and annuities. They have, in a great measure, ceased to be an object of terror, and have become that of commiseration. The time seems to have arrived, when our policy towards them should undergo an important change. They neither are in fact, nor ought to be, considered as independent nations. Our views of their interest, and not their own, ought to govern them. By a proper combination of force and persuasion, of punishments and rewards, they ought to be brought within the pales of law and civilization. Left to themselves, they will never reach that desirable condition. Before the slow operation of reason and experience can convince them of its superior advantages, they must be overwhelmed by the mighty torrent of our popu-

lation. Such small bodies, with savage customs and character, cannot, and ought not, to be permitted to exist in an independent condition in the midst of civilized society. Our laws and manners ought to supersede their present savage manners and customs. Beginning with those most advanced in civilization, and surrounded by our people, they ought to be made to contract their settlements within reasonable bounds, with a distinct understanding, that the United States intended to make no further acquisition of land from them, and that the settlements reserved are intended for their permanent home. The land ought to be divided among families, and the idea of individual property in the soil carefully inculcated. Their annuities would constitute an ample school fund, and education, comprehending as well the common arts of life, as reading, writing, and arithmetic, ought not to be left discretionary with the parents. Those who might not choose to submit, ought to be permitted and aided in forming new settlements at a distance from ours. When sufficiently advanced in civilization, they would be permitted to participate in such civil and political rights as the respective States within whose limits they are situated might safely extend to them. It is only by causing our opinion of their interest to prevail, that they can be civilized, and saved from extinction. Under the present policy they are continually decreasing and degenerating, notwithstanding the Government has, under all its administrations, been actuated by the most sincere desire to promote their happiness and civilization. The fault has been, not in the want of zeal, but in the mode in which it has been attempted to effect these desirable objects. The Indians are not so situated as to leave it to time and experience to effect their civilization. By selecting prudently the occasion for the change, by establishing a few essential regulations, and by appointing persons to administer them fairly and honestly, our efforts could scarcely fail of success. Nor ought it to be feared that the power would be abused on our part, for, in addition to the dictates of benevolence, we have a strong interest in their civilization. The enmity even of the frontier settlers towards them, is caused principally by the imperfections of the present system; and, under the one which I have suggested, it will greatly abate if not entirely subside. The natural humanity and generosity of the American character would no longer be weakened by the disorders and savage cruelty to which our frontiers are now exposed. A deep conviction of the importance of the subject, and a strong desire to arrest the current of events which, if permitted to flow in their present channel, must end in the annihilation of those who were once the proprietors of this prosperous country, must be my apology for this digression.

It remains to consider in what manner our trade can be most successfully prosecuted with the numerous Indian tribes who occupy the vast region extending west to the Pacific Ocean. It is obvious that the system proposed for the partially civilized tribes, bordering on our settle-



ments, would prove altogether inadequate to this branch of our Indian trade. It will require a system of far more energy to effect the great objects which ought to be pursued through it. To establish a decided control over the numerous and savage tribes within these vast limits, and to give to our trade with them its utmost extension, are deemed to be objects of great national importance. It is believed, that within our limits, along the range of the Rocky Mountains, quite to the Mexican frontier, is the best region for furs and peltries on this continent. With proper efforts the whole of this valuable trade, extending quite across to the great Western Ocean, would, in a few years, be exclusively in our possession. To produce these desirable results, foreign adventurers, whose influence must at all times be hostile to our interests, and dangerous to our peace, must be excluded. With this view, and to protect our own trade, means have been taken to extend our military posts on the Mississippi and Missouri. Whatever character our trade in that quarter may assume, the extension of our posts, as contemplated, will be indispensable to its enlarged and successful prosecution; but it is believed that with all the advantages which they will afford, unless the trade be properly and efficiently organized, we shall not be able to compete, with entire success, with the British companies on the North, nor to acquire that decided control over the Indians, which is indispensable to its complete success.

In order to have just ideas on this subject, it is necessary to take into consideration not only the vast extent and remoteness of the region, over which it is proposed to extend our trade, but the character of the numerous tribes who inhabit it. They are all more or less migratory; in the Summer moving towards the North, and in the Winter to the South, in pursuit of the buffalo, and other game. They are thus, in the Summer, brought into the neighborhood of the British establishment to the north of our limits, where, notwithstanding our military posts and the advantage of our position, much of the trade and influence over these fierce and warlike tribes will centre, unless our means of carrying it on should be as well organized and efficient as theirs. The difficulty, though of an opposite kind, is no less considerable on the Southern frontier of this portion of our country. The line between us and the Spanish possessions in Mexico, is, in its whole extent, a subject of discussion; and, even should it be adjusted, will probably, to a considerable extent, be without natural and visible boundaries. To a trade thus situated, extending over so vast a region, inhabited by numerous tribes not less warlike than savage, with the competition of powerful and long established companies on one side, and danger of collision on the other, the unorganized efforts of individuals, always with jarring, and frequently with opposing interests, appear to be wholly inadequate to its successful, or safe prosecution. The rivalry of trade, which, in well regulated communities, gives the greatest prosperity to commerce, would,

in these distant regions, beyond the control of law, or superior authority, among fierce and ignorant savages, lead to the most fatal consequences. Each trader, or association of traders, would endeavor to monopolize the trade within certain limits, and would exert their cunning and influence to render the savages their partisans, and the enemies of their rivals in trade. Among a people at once so fierce and so easily duped, the result may be readily anticipated. A state of disorder and violence would universally prevail, equally unfortunate to the Indians and ourselves; and which would strongly tend to turn the trade, and with it the influence over the Indians, to the well-organized foreign fur companies near our limits.

If these observations are correct; if the uncombined efforts of individuals are inadequate to a successful competition with the British fur companies; if they will endanger our peace with our Southern neighbors, and lead to fierce and dangerous rivalry among themselves, it only remains to consider, whether a mode can be devised of carrying on this branch of our Indian trade, which will obviate these evils, and accomplish the desirable objects of giving the greatest extension to it, accompanied with the most efficient control over the Indians themselves.

The united influence and combined efforts of the fur companies referred to, can be met successfully, it is believed, only by an equal concentration of influence, and efforts on our part; the jealous rivalry of independent traders, with its fatal consequences, can be obviated only by removing the diversity of interest by which it would be excited, and the danger of collision, on our southern limits, by subjecting the trade completely to the will and control of the Government. The mode, then, which I would propose, would be to vest the trade in a company with sufficient capital; to be divided into shares of one hundred dollars each; and to be limited to the term of twenty years; to pay an annual tax on its subscribed capital, for the privilege of exclusive trade, and to be subject, in like manner, as private traders, to such rules and regulations as may be prescribed. It is thus that most of the evils to be apprehended by leaving the trade open to the competition of private adventurers would, it is believed, be avoided. The efforts of the company, undisturbed by rival interests, would be directed to establish its control over the various tribes of Indians—to exclude foreign adventurers, and to give the greatest degree of profit to its trade. The success of such a company, properly conducted, scarcely admits of a doubt. Our position in regard to this trade; the facility which the navigation of our great and numerous rivers in that quarter would afford; and the protection from our military posts, would speedily destroy all foreign competition, and would, in a few years, push our trade to the Pacific Ocean. The most profitable fur and peltry trade in the world would be ours, accompanied with a decided influence over the numerous and warlike tribes inhabiting those extensive regions. The mere ob-

jection that it would create a monopoly ought not to outweigh so many advantages. The trade with the Indians has never been opened without restrictions to our citizens. Licenses from the Government have at all times been required, and the Government has itself, through its factories, to a considerable extent, monopolized the trade; and, by an extension of its capital only, might engross the whole of it. All of these provisions, however necessary in the Indian trade, would be absurd in any other branch of our commerce. Besides, the profit of the trade with the Indians has, at all times, been confined to a few individuals; and it is highly probable that a greater portion of the community would participate in it by carrying it on in the manner proposed, than in any other mode. In fact, absurd as commercial monopoly would be, where law and authority exist to repress the mischievous effects, which might spring from unbounded rivalry, and to give to such rivalry salutary consequences; just in the same degree, would it be wise and advantageous to carry on the trade under consideration by an incorporated company. A nation discovers its wisdom no less in departing from general maxims, where it is no longer wise to adhere to them, than in an adherence to them in ordinary circumstances. In fact, it evinces a greater effort of reason. The first advance of a nation is marked by the establishment of maxims, which are deemed universal, but which further experience and reflection teach to be only general, admitting of occasional modifications and exceptions.

Should the House, however, not adopt these views, but prefer to open the trade to the enterprise of single individuals, or such associations as might be formed for the purpose, I would suggest the provisions already proposed for the trade with

the neighboring tribes of Indians, as the most advisable, with the exception of the provisions, which require the trader to be located, and that regular books of sales and purchases should be kept. In lieu of which provisions, I would propose that the goods intended for this branch of Indian trade, and the articles acquired by purchase from the Indians, should be entered under oath, the former with a copy of the invoice, and the latter, with a statement of prices, with the Indian agent at Mackinaw, St. Louis, Belle Point, on the Arkansas river, or Natchitoches, on Red river; or such other places as the President may designate.

The entry can be made without much inconvenience to the trader, as the geography of the country is such as to make it necessary for the trade to pass by one or the other of the points proposed, at each of which there is now an agent.

It is believed that these provisions would be as effectual as any that can be devised, short of a company incorporated for the purpose; but it is proper to observe, that they are open to the objections which have already been stated. In fact, they equally apply to any system, so long as the trade is exposed to the effects which must flow from the jealous rivalry of independent traders, where law and authority cannot step in to restrain its consequences within proper bounds. The Indians themselves are not proper judges of their own interests, and so far from restraining the effects of such rivalry, they would become the instruments of the most cunning and vicious of the traders, to wreak their vengeance on such as might stand in the way of their profits.

All which is respectfully submitted.

J. C. CALHOUN.

The Hon. HENRY CLAY,  
Speaker of the House of Reps.

#### SINKING FUND.

[Communicated to the Senate, February 5, 1819.]

The Commissioners of the Sinking Fund respectfully report to Congress: That the measures which have been authorized by the board, subsequent to the last report of the 7th of February, 1818, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this board, dated the 4th day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as a part of this report.

DANIEL D. TOMPKINS, *Vice President of the United States.*

JOHN QUINCY ADAMS, *Secretary of State.*

WILLIAM H. CRAWFORD, *Secretary of the Treasury.*

WILLIAM. WIRT, *Attorney General of the United States.*

WASHINGTON, February 5, 1819.

The SECRETARY OF THE TREASURY respectfully reports to the Commissioners of the Sinking Fund:

That the balance of moneys advanced on account of the public debt, remaining unexpended at the close of the year 1816, and applicable to the payments falling due after that year, which balance, as appears by statement B, annexed to the last annual report, amounted to \$520,496 80  
And the sums disbursed from the Treasury during the year 1817, on account of the principal and interest of the public debt, which sums, as appears by statement C, annexed to the said report, amounted to 25,883,600 92

15th CON. 2d Sess.—78



*State of the Sinking Fund.*

Together with the gain on remittances to Europe during the year 1817, as appears by statements D and D d, thereunto also annexed, amounted, as per statement D, to \$1,379 80, and D d, to \$2,132 79	\$3,512 59
Together with a further sum, arising from damages and interest on a protested bill of exchange, being the difference between the amount of said bill at par, and the amount received into the Treasury in repayment thereof	416 00
And with a further sum, arising from interest on Treasury notes, placed in the hands of the late Commissioner of Loans in Massachusetts, for the payment of dividends, which interest accrued thereon previously to their being demanded by the stockholders, as per Treasury report No. 34,957	5,042 12

Amounting together, to - - - - - \$26,413,068 43

Have been accounted for in the following manner, viz:

1. There was repaid into the Treasury, during the year 1817, on account of the principal of moneys heretofore advanced for the payment of the principal and interest of the public debt, as appears by statement E, annexed to the report of last year, the sum of	\$460,564 80
There was also repaid into the Treasury, on account of the interest arising on Treasury notes, placed in the hands of the late Commissioner of Loans for Massachusetts, for the payment of dividends, but remaining unapplied, as appears by Treasury settlement No. 36,606, the sum of	5,845 33
	<u>\$466,410 13</u>

2. The sums actually applied during the year 1817 to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to this Department, amounted, as appears by the annexed statement A, to the sum of	26,639,716 75
---	---------------

In the reimbursement of the principal of the old 6 per cent. and deferred stocks	\$1,699,430 66
In the redemption of the domestic debt	14,951,842 28
In the reimbursement of temporary loans	550,000 00
Payment of the principal of Treasury notes	3,057,234 00

	20,258,506 94
On account of the interest and charges of the same	6,381,209 81
	<u>26,639,716 75</u>

As the funds in the banks, out of which a part of the interest arising on the funded debt was paid, were not covered by warrants until after the 31st December, 1817, the amount short provided, as appears by the annexed statement B, forms a deduction of	693,058 45
--	------------

25,946,658 30

\$26,413,068 43

That, during the year 1818, the following disbursements were made out of the Treasury on account of the principal and interest of the public debt:

On account of the interest on the funded domestic debt and reimbursement of the principal of the old 6 per cent. and deferred stocks	\$7,355,061 38
On account of the principal and interest of Treasury notes	9,148,237 40
On account of the redemption of the Louisiana stock	4,750,598 12
On account of the interest on the same payable in Europe	67,226 50
On account of the purchase of the domestic debt	274,967 92
On account of certain parts of the domestic debt	792 36

Amounting together, as will appear by the annexed list of warrants marked C, to the sum of \$21,596,783 68

Which disbursements were made out of the following funds, viz:

1. From the annual appropriation of ten millions of dollars for the year 1818, agreeably to the second section of the act to provide for the redemption of the public debt, passed the 3d March, 1817	\$10,000,000 00
Deduct amount paid in anticipation of 1817, as per last report	2,830,108 52
	<u>7,169,891 48</u>

And so much of the surplus money in the Treasury, appropriated agreeably to the fourth section of the said act, and includes so much actually applied of the sum of \$1,030,606 97, estimated in the last annual report	4,978,177 16
	<u>\$12,148,068 64</u>

*State of the Sinking Fund.*

2. From repayments into the Treasury on account of moneys heretofore advanced for the purchase of bills of exchange, for the payment of interest and reimbursement of the funded debt, and of Treasury notes	\$300,477 64
3. From the appropriations in relation to Treasury notes, being the amount of payments on account of the principal and interest thereof, as per statement C, above recited	9,148,237 40

Making the amount paid upon warrants, as before stated - - - - - \$21,596,783 68

Have been accounted for, as far as respects the redemption of the funded debt, under the act passed the 3d March, 1817, and as exhibited in statement I, annexed, and which is rendered as a part of this report	415,993 87
--	------------

The residuary balance of - - - - - 21,180,789 81

\$21,596,783 68

Will be accounted for in the next annual report, in conformity to the accounts which shall have been rendered to this Department.

In the meantime, the manner in which the said balance has been applied is estimated as follows:

There is estimated to have been applied to the payment of the deficiencies of the provisions, at the end of the year 1817, as above stated, the sum of	\$693,058 45
In the reimbursement of the old and deferred 6 per cent. stocks in 1818	\$1,191,805 42
Towards the redemption of the Louisiana 6 per cent. stock, (a)	4,750,598 12
In the payment of the principal of Treasury notes	8,426,769 00
In payment of certain parts of domestic debt	792 36

14,369,964 90

In the payment of interest on the funded debt and Treasury notes, as per estimate F	5,996,360 93
---	--------------

20,366,325 83

In the next annual statement the repayment in 1818 will be exhibited as a deduction from the total amount of warrants issued for public debt for the year, and of which they form a part, to the amount of	300,477 64
--	------------

And there is estimated, as remaining unapplied in the hands of the agents in Europe, and in protested bills, on the 1st January, 1810, as per estimate G, the sum of	240,840 81
--	------------

20,907,644 28

From which deduct so much included, as above stated, for the payment of principal and interest of the public debt, not covered by warrants on the Treasurer, viz:

For so much, being Louisiana stock purchased by the agents in London, more than the amount remitted for that object	\$110,498 63
---	--------------

For so much, being the estimated amount of warrants short issued to the banks, for the payment of dividends, to 31st December, 1818	71,711 29
---	-----------

And this sum, short provided, on account of unclaimed dividends, payable, but not demanded at the Treasury	237,703 00
--	------------

419,912 92

20,487,731 36

\$21,180,789 81

(a) Amount of Louisiana stock originally issued	11,250,000 00
---	---------------

Whereof there was purchased by the Commissioners of the Sinking Fund, prior to the 21st October, 1818

1,294,100 00

One moiety of the residue (\$9,955,900) directed by the Board of Commissioners to be paid on the 21st October, 1818, amounted to	\$4,977,950 00
--	----------------

Whereof there has been applied for and paid as above	4,750,598 12
Leaving to be applied for	227,351 88

4,977,950 00

Residue to be provided for	4,977,950 00
----------------------------	--------------

\$11,250,000 00



*State of the Sinking Fund.*

The statement G, accompanying this report, exhibits a sum provided abroad, to be applied to the payment of the interest on the Louisiana 6 per cent. stock at London and Amsterdam, to the amount of	\$136,903 07
The amount of protested bills returned for non-payment, and which remain to be covered, as per list herewith included in statement G	103,937 74
	<hr/> \$240,840 81 <hr/>

That funds remain unexpended for the redemption of outstanding Treasury notes.

That, in compliance with the sixth section of the act of the 3d March, 1817, for the redemption of the public debt, certificates of the public debt, which, by payment or purchase, have become the property of the United States, are regularly cancelled.

A statement marked H is annexed, which exhibits the amount of the debt of the United States on the 1st January, 1819. All which is respectfully submitted.

WM. H. CRAWFORD, *Secretary of the Treasury.*

## PUBLIC ACTS OF CONGRESS;

PASSED AT THE SECOND SESSION OF THE FIFTEENTH CONGRESS, BEGUN AND  
HELD AT THE CITY OF WASHINGTON, MONDAY, NOVEMBER 16, 1818.

An Act to provide for the removal of the Library of Congress to the north wing of the Capitol.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the joint Library Committee of Congress be, and they are hereby, authorized to cause suitable apartments in the north wing of the Capitol to be fitted up and furnished for the temporary reception of the Library of Congress, and to cause the said Library to be removed to and placed in the same.

SEC. 2. *And be it further enacted,* That the accounting officers of the Treasury be, and they are hereby, authorized and directed to settle the accounts of the expenditures which may be incurred under this act; and that the amount, so settled, be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 3. *And be it further enacted,* That the sum of two thousand dollars be, and the same is hereby, appropriated to the further purchase of books for the said Library.

Approved, December 3, 1818.

An Act to increase the number of Clerks in the Department of War.

*Be it enacted, &c.,* That the Secretary of the Department of War be, and he is hereby, authorized and empowered to employ an additional number of clerks in his Department, not exceeding twelve; and that the sum of twelve thousand dollars be, and the same is hereby, appropriated for their compensation; to be paid out of any money in the Treasury not otherwise appropriated. This act to continue in force for one year, and no longer.

Approved, December 5, 1818.

An Act making a partial appropriation for the military service of the United States, for the year one thousand eight hundred and nineteen, and to make good a deficit in the appropriation for holding treaties with the Indians.

*Be it enacted, &c.,* That the following sums be, and they are hereby appropriated to the objects herein specified, to wit:

For subsistence of the Army of the United States, two hundred thousand dollars.

For holding treaties with the Indian tribes, being a deficit in the appropriations for that object

in the year one thousand eight hundred and eighteen, fifty thousand dollars.

SEC. 2. *And be it further enacted,* That the said sums be paid out of any money in the Treasury not otherwise appropriated.

Approved, December 16, 1818.

An Act concerning the Western District Court of Pennsylvania.

*Be it enacted, &c.,* That no suit, action, plea, process, or proceeding, at law or in equity, which, on the twentieth day of April last, was depending and undetermined in the district or circuit court of the United States for the district of Pennsylvania, and by law directed to be removed to the district court of the United States for the western district of Pennsylvania, shall be discontinued or abated on account of the said court not having been opened or holden on the first Monday in June last, agreeably to the act of Congress passed on the twentieth day of April last; but that all such suits, actions, pleas, process, and proceedings, both at law and in equity, shall be deemed, taken, and, to all intents and purposes, be held to be depending in the said district court for the western district of Pennsylvania, as fully and effectually as if the said court had been opened and holden on the said first Monday of June last.

SEC. 2. *And be it further enacted,* That the said court be, and is hereby, authorized and empowered, from time to time, to make all such rules and orders touching such suits, actions, pleas, process, and proceedings, at law and in equity, as they might or could have done, if said court had been opened or holden on the said first Monday of June.

SEC. 3. *And be it further enacted,* That all suits, actions, pleas, process, and proceedings, aforesaid, which may be hereafter certified and transferred from the district or circuit court of the United States for the district of Pennsylvania, to the district court of the United States for the western district of Pennsylvania, shall, to all intents and purposes, be deemed and taken to be depending in the said court on the said first Monday of June last, and the same proceedings may be had therein as if the same had been on that day entered in the said court agreeably to the act of Congress aforesaid.

Approved, December 16, 1818.



## Public Acts of Congress.

An Act to establish a Judicial District in Virginia, west of the Alleghany Mountain.

*Be it enacted, &c.,* That so much of the State of Virginia as is situate west of the summit of the mountains which separate the waters emptying into the Chesapeake bay and Roanoke river from the waters which fall into the Ohio river, shall be one judicial district; and there shall be a district court therein, to consist of one judge, who shall reside in the said district, and be called a district judge, and annually hold six sessions, as follows: At Clarksburg on the fourth Mondays of March and September; at Lewisburg, on the second Mondays of April and October; and at Wythe Courthouse, on the first Mondays of May and November.

SEC. 2. *And be it further enacted,* That the said court shall, besides the ordinary jurisdiction of a district court, have jurisdiction of all causes, except of appeals and writs of error, cognizable by law in a circuit court, and shall proceed therein in the same manner as a circuit court; and writs of error shall be from decisions therein to the Supreme Court, in the same manner as from circuit courts.

SEC. 3. *And be it further enacted,* That there shall be a clerk appointed for the said court; and that a district attorney and marshal be appointed for the said district, in like manner as in other judicial districts.

SEC. 4. *And be it further enacted,* That there shall be allowed to the said judge of the said district court, the yearly compensation of one thousand six hundred dollars, to commence from the date of his appointment; that there shall be allowed to the said district attorney, the yearly compensation of two hundred dollars, to commence from the date of his appointment; and there shall be allowed to the said marshal the yearly sum of two hundred dollars, to commence from the date of his appointment; to be paid quarterly at the Treasury of the United States.

Approved, February 4, 1819.

An Act to authorize the payment, in certain cases, on account of the Treasury notes which have been lost or destroyed.

*Be it enacted, &c.,* That, whenever proof shall be exhibited, to the satisfaction of the Secretary of the Treasury, of the loss or destruction of any Treasury note, issued under the authority of any act of Congress, it shall be lawful for the said Secretary, upon receiving bond, with sufficient security to indemnify the United States against any other claim on account of the Treasury note alleged to be so lost or destroyed, to pay the amount due on such note, to the person who had lost it, or in whose possession it has been destroyed.

SEC. 2. *And be it further enacted,* That, whenever proof shall be exhibited, to the satisfaction of the Secretary of the Treasury, of the loss or destruction of any certificate of Mississippi stock, it shall be lawful to issue, to the person who had lost it, or in whose possession it was destroyed,

a new certificate of the same value with the one lost or destroyed; the person claiming such renewal complying with the rules and regulations at present established at the Treasury Department, for the renewal of certificates of stock lost or destroyed.

Approved, February 4, 1819.

An Act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren.

*Be it enacted, &c.,* That the sum of two thousand five hundred dollars is hereby appropriated, out of any money in the Treasury, not otherwise appropriated; which sum shall be distributed by the Secretary of the Navy, as prize money, among the representatives of Commodore Edward Preble, deceased, and Captain Charles Stewart, the officers and crew of the brig-of-war Syren, or to the representatives of such as may be dead, on account of their proportion of the sum of five thousand dollars, the appraised value of the brig Transfer, captured by the said brig Syren, for a breach of the blockade of the port of Tripoli, in the year eighteen hundred and four, during the war carried on by the United States against that Power; the said brig Transfer having been taken into the service of the United States by Commodore Edward Preble, commander of the blockading squadron; which brig was regularly condemned, as a good prize, by sentence of a court of admiralty.

Approved, February 4, 1819.

An Act making appropriations for the military service of the United States for the year eighteen hundred and nineteen.

*Be it enacted, &c.,* That the following sums be, and the same are hereby, respectively, appropriated:

For the pay of the Army of the United States, one million of dollars.

For subsistence, in addition to two hundred thousand dollars already appropriated, seven hundred and eighty-nine thousand two hundred and thirteen dollars.

For forage for officers, twenty-six thousand four hundred and ninety-six dollars.

For clothing, four hundred thousand dollars.

For bounties and premiums, sixty-two thousand five hundred dollars.

For the medical and hospital department, fifty thousand dollars.

For the quartermaster's department, five hundred and forty thousand dollars.

For arrearages, arising from a deficiency in the appropriation for the quartermaster's department, during the year eighteen hundred and eighteen, twenty-six thousand dollars.

For extra pay to non-commissioned officers and soldiers employed in the construction and repairs of military roads, ten thousand dollars.

For contingencies of the army, sixty thousand dollars.

For arrearages arising from a deficiency in the

## Public Acts of Congress.

appropriation to pay outstanding claims, one hundred and twenty-six thousand two hundred and seven dollars.

For fortifications, five hundred thousand dollars.

For making a survey of the water-courses tributary to, and west of, the Mississippi; also those tributary to the same river, and northwest of the Ohio; six thousand five hundred dollars.

For the current expenses of the ordnance department, one hundred thousand dollars.

For the armories at Springfield and Harper's Ferry, three hundred and seventy-five thousand dollars.

For the erection and completion of arsenals, to wit: for completing the arsenal at Augusta, in Georgia, fifty thousand dollars; for erecting a powder magazine at Frankford, near Philadelphia, fifteen thousand dollars; for completing the arsenal and other works at Watertown, near Boston, twenty thousand dollars; for completing the arsenal and other works at Pittsburg, Pennsylvania, five thousand dollars; for a levee round the arsenal at Watervliet, New York, six thousand dollars; for building a powder magazine at Baton Rouge, twenty thousand dollars.

For cannon, powder, and shot, to fulfil existing contracts, for mounting cannon, and for purchase of lead, one hundred and ninety-one thousand two hundred dollars.

To provide for the payment of the retained bounty, and the per diem travelling allowance of pay and subsistence to soldiers discharged from the army, in the year eighteen hundred and nineteen, ninety-two thousand five hundred dollars.

For the purchase of maps, plans, books, and instruments, for the War Department, one thousand five hundred dollars.

For fuel, maps, plans, books, erection of quarters, and other buildings, and for contingent expenses for the academy at West Point, thirty-five thousand six hundred and forty dollars.

For marking and running the boundary line of the several cessions of land made by the Indians, fifteen thousand dollars.

For the payment of the half pay pensions to widows and orphans, two hundred thousand dollars.

For the annual allowance to the invalid pensioners of the United States, three hundred and sixty-eight thousand and thirty-nine dollars.

For the annual allowance to the Revolutionary pensioners, under the law of March eighteenth, one thousand eight hundred and eighteen, one million seven hundred and eight thousand five hundred dollars.

For arrearages arising from a deficiency in the appropriation for paying the Revolutionary pensions in the year eighteen hundred and eighteen, one hundred and thirty-nine thousand four hundred dollars and eighty-five cents.

For the Indian department, including arrearages incurred by holding Indian treaties, two hundred and forty thousand two hundred and seventy-nine dollars, including twenty thousand

dollars to defray an expense incurred under the Chickasaw treaty lately concluded; and, including, also, the further sum of seven thousand two hundred and seventy-nine dollars, being the aggregate amount of certain sums stipulated to be paid, within sixty days, to certain individuals named in the abovementioned treaty.

For annuity to the Creek nation, under the treaty of one thousand eight hundred and two, three thousand dollars.

SEC. 2. *And be it further enacted,* That the several appropriations hereinbefore made, shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 15, 1819.

An Act to extend the jurisdiction of the Circuit Courts of the United States to cases arising under the law relating to Patents.

*Be it enacted, &c.,* That the circuit courts of the United States shall have original cognizance, as well in equity as at law, of all actions, suits, controversies, and cases, arising under any law of the United States, granting or confirming to authors or inventors the exclusive right to their respective writings, inventions, and discoveries; and upon any bill in equity, filed by any party aggrieved in any such cases, shall have authority to grant injunctions, according to the course and principles of courts of equity, to prevent the violation of the rights of any authors or inventors, secured to them by any laws of the United States, on such terms and conditions as the said courts may deem fit and reasonable: *Provided, however,* That from all judgments and decrees of any circuit courts, rendered in the premises, a writ of error or appeal, as the case may require, shall lie to the Supreme Court of the United States, in the same manner, and under the same circumstances, as is now provided by law in other judgments and decrees of such circuit courts.

Approved, February 15, 1819.

An Act to authorize the President and Managers of the Rockville and Washington Turnpike Road Company, of the State of Maryland, to extend and make their turnpike road to or from the boundary of the city of Washington, in the District of Columbia, through the said District, to the line thereof.

*Be it enacted, &c.,* That so much of the law of the State of Maryland, entitled "An act to incorporate companies to make certain turnpike roads through the counties of Montgomery, Frederick, and Washington, and for other purposes," passed at December session, one thousand eight hundred and seventeen, as relates to the Rockville and Washington Turnpike Road Company, be, and it hereby is, declared to be in full force within the District of Columbia.

SEC. 2. *And be it further enacted,* That the president and managers of the said turnpike road company be, and they are hereby, authorized to make said road from the boundary of the District of Columbia to the boundary of the city of Washington.



SEC. 3. *And be it further enacted*, That, in relation to the process of constructing said road, and to toll-gates, and the rates of tolls thereon, the said company shall be, and hereby is, invested with all the rights, privileges, and immunities, and shall be subject to all the obligations, which, by the act of Congress, "to incorporate a company for making certain turnpike roads in the District of Columbia," passed April twenty-fifth, one thousand eight hundred and ten, are given, granted, imposed on, and vested in, the Company of the Columbia Turnpike Roads, had that company proceeded to make the said road according to the terms of the act of Congress aforesaid: *Provided*, That the formal written release, by the company last mentioned, of their right to make said road, according to their act of incorporation, be filed, within ten days after the passing of this act, in the office of the clerk of the Circuit court of the United States for Washington county, in the District of Columbia.

SEC. 4. *And be it further enacted*, That the Corporation of Washington are hereby authorized and empowered, at any time, to purchase out the said road herein authorized to be made, with all the rights and profits thereto belonging, on paying to the said company a sum which shall be equal to the total amount expended on said road, with six per cent. interest thereon from the date of its expenditure.

Approved, February 15, 1819.

An Act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory.

*Be it enacted, &c.*, That the citizens of the Michigan Territory be, and they are hereby, authorized to elect one Delegate to the Congress of the United States, who shall possess the qualifications, and exercise the privileges, heretofore required of, and granted to, the Delegates from the several Territories of the United States.

SEC. 2. *And be it further enacted*, That every free white male citizen of said Territory, above the age of twenty-one years, who shall have resided therein one year next preceding an election, and who shall have paid a county or territorial tax, shall be entitled to vote at such election for a Delegate to the Congress of the United States, in such manner, and at such times and places, as shall be prescribed by the Governor and Judges of said Territory.

SEC. 3. *And be it further enacted*, That the person, duly qualified according to law, who shall receive the greatest number of votes at such election, shall be furnished, by the Governor of said Territory, with a certificate, under his official seal, setting forth that he is duly elected, by the qualified electors, the Delegate from said Territory to the Congress of the United States, for the term of two years from the date of said certificate, which shall entitle the person to whom the same shall be given to take his seat in the House of Representatives in that capacity.

Approved, February 16, 1819.

An Act to incorporate the Medical Society of the District of Columbia.

*Be it enacted, &c.*, That Charles Worthington, James H. Blake, John T. Shaaff, Thomas Sim, Frederick May, Joel T. Gustine, Elisha Harrison, Peregrine Warfield, Alexander McWilliams, George Clark, Henry Hunt, Thomas Henderson, John Harrison, Benjamin S. Bohrer, Samuel Horseley, Nicholas W. Worthington, William Jones, James T. Johnson, Richard Weightman, George May, Robert French, and such persons as they may, from time to time, elect, and their successors, are hereby declared to be a community, corporation, and body politic, forever, by and under the name and title of the Medical Society of the District of Columbia; and by and under the same name and title they shall be able and capable in law to purchase, take, have, and enjoy, to them and their successors, in fee or for lease, estate or estates, any land, tenements, rents, annuities, chattels, bank stock, registered debts, or other public securities within the District, by the gift, bargain, sale, or demise, of any person or persons bodies politic or corporate, capable to make the same, and the same, at their pleasure, to alien, sell, transfer, or lease and apply, to such purposes as they may adjudge most conducive to the promoting and disseminating medical and surgical knowledge, and for no other purpose whatever: *Provided, nevertheless*, That the said society, or body politic, shall not, at any one time, hold or possess property, real, personal, or mixed, exceeding, in total value, the sum of six thousand dollars per annum.

SEC. 2. *And be it further enacted*, That the members of the said society above designated, shall hold, in the city of Washington, four stated meetings in every year, viz., on the first Mondays in January, April, July, and October; the officers of the society to consist of a president, two vice presidents, one corresponding secretary, one recording secretary, one treasurer, and one librarian, who shall be appointed on the second Monday in March, one thousand eight hundred and nineteen, and on the annual meeting in January forever thereafter, (not less than seven members being present at such meeting.) And the society may make a common seal, and may elect into their body such medical and chirological practitioners, within the District of Columbia, as they may deem qualified to become members of the society; it being understood that the officers of the society now elected, are to remain in office until the next election after the passage of this act.

SEC. 3. *And be it further enacted*, That it shall and may be lawful for the said medical society, or any number of them attending, (no less than seven,) to elect, by ballot, five persons, residents of the District, who shall be styled the Medical Board of Examiners of the District of Columbia; whose duty it shall be to grant licenses to such medical and chirological gentlemen as they may, upon a full examination, judge adequate to commence the practice of the medical and chirological arts, or as may produce diplomas from some

respectable college or society; each person so obtaining a certificate to pay a sum not exceeding ten dollars, to be fixed on or ascertained by the society.

SEC. 4. *And be it further enacted*, That any three of the examiners shall constitute a board for examining such candidates as may apply, and shall subscribe their names to each certificate by them granted, which certificate shall also be countersigned by the president of the society, and have the seal of the society affixed thereto by the secretary, upon paying into the hands of the treasurer the sum of money to be ascertained, as above, by the society; and any one of the said examiners may grant a license to practise, until a board, in conformity to this act, can be held: *Provided*, That nothing herein contained shall authorize the said corporation in anywise to regulate the price of medical or surgical attendance on such persons as may need those services.

SEC. 5. *And be it further enacted*, That after the appointment of the aforesaid medical board, no person, not heretofore a practitioner of medicine or surgery within the District of Columbia, shall be allowed to practice within the said District, in either of the said branches, and receive payment for his services, without first having obtained a license, testified as by this law directed, or without the production of a diploma, as aforesaid, under the penalty of fifty dollars for each offence, to be recovered in the county court where he may reside, by bill of presentment and indictment; one half for the use of the society and the other for that of the informer.

SEC. 6. *And be it further enacted*, That every person who, upon application, shall be elected a member of the Medical Society, shall pay a sum not exceeding ten dollars, to be ascertained by the society.

SEC. 7. *And be it further enacted*, That the Medical Society be, and are hereby, empowered, from time to time to make such by-laws, rules, and regulations, as they may find requisite, to break or alter their common seal, to fix the times and places for the meetings of the board, and to do and perform such other things as may be requisite for carrying this act into execution, and which may not be repugnant to the Constitution and laws of the United States: *Provided*, That nothing herein contained shall extend, or be construed to extend, to prohibit any person, during his actual residence in any of the United States, and who, by the laws of the State wherein he doth or may reside, is not prohibited from practising in this District: *Provided always*, That it shall and may be lawful for any person, resident as aforesaid, and not prohibited as aforesaid, when specially sent for, to come into any part of this District, and administer or prescribe medicine, or perform any operation, for the relief of such to whose assistance he may be sent for.

SEC. 8. *And be it further enacted*, That Congress may, at any time, alter, amend, or annul, this act of incorporation of said society at pleasure.

Approved, February 16, 1819.

An Act making appropriations for the support of the Navy of the United States for the year one thousand eight hundred and nineteen.

*Be it enacted, &c.*, That for defraying the expenses of the navy for the year one thousand eight hundred and nineteen, the following sums be, and the same are hereby, appropriated:

For pay and subsistence of the officers and pay of the seamen, nine hundred and eighty-six thousand three hundred and seventy-two dollars and seventy-five cents.

For provisions, four hundred and five thousand five hundred and fifteen dollars.

For medicines, hospital stores, and all expenses on account of the sick, including the marine corps, thirty-six thousand dollars.

For repairs of vessels, three hundred and seventy-five thousand dollars.

For contingent expenses, three hundred thousand dollars.

For repairs of navy-yards, docks, and wharves, one hundred and fifty thousand dollars.

For completing medals and swords, seven thousand five hundred dollars.

For pay and subsistence of the marine corps, one hundred and twenty-two thousand eight hundred and ninety-eight dollars.

For clothing the same, two thousand and thirty dollars and ten cents.

For military stores for the same, one thousand and eighty-seven dollars and fifty cents.

For contingent expenses for the same, eighteen thousand six hundred dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made shall be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 16, 1819.

An Act to incorporate the Provident Association of Clerks in the Civil Department of the Government of the United States in the District of Columbia.

*Be it enacted, &c.*, That, from and after the passage of this act, all those persons who are, or shall hereafter become members of the Provident Association of Clerks, employed in the civil department of the Government of the United States within the District of Columbia, be, and they are hereby, made a body corporate and politic, by the name and style of "The Provident Association of Clerks," and shall so continue until the third day of March, one thousand eight hundred and thirty-four, and by that name shall have perpetual succession, and by that name may sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record and in any other place whatsoever; and by that name may make, have, and use, a common seal, and the same may break, alter, and renew, at pleasure; and shall have power to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation, not being contrary to law nor the constitution thereof, and generally to do and exe-



ecute all acts necessary or proper for the objects of said corporation, subject to the rules, regulations, restrictions, limitations, and provisions herein described and declared.

Sec. 2. *And be it further enacted*, That the following rules, regulations, restrictions, limitations, and provisions, shall form, and be fundamental articles of, the constitution of the said corporation, to wit:

1st. The association shall be composed of clerks, employed in the civil department of the Government of the United States, within the District of Columbia; and its object shall be the benefit of the families of such clerks after their decease; and the funds thereof shall be applied agreeably to the provisions of this act, and for no other use or purpose whatever.

2d. Every such clerk shall, before he is considered a member of the association, sign these articles.

3d. Every member shall pay, on or before the fifth day of January, April, July, and October, respectively, the sum of two dollars and fifty cents.

4th. In addition to the payments mentioned in the preceding article, every member is at liberty to pay such further sums as he may think proper, which payments shall form a separate and special fund, and, on the death of any member by whom such payments shall have been made, his family shall, in addition to the relief provided by other articles of the association, be entitled to an annuity on other benefit out of the special fund, proportionate to the amount of the payments made thereto by such member.

5th. Any member who shall omit to pay his quarterly subscription, within the time prescribed by the third article, shall forfeit and pay, for the benefit of the association, the sum of fifty cents, and the like sum for every quarter during which the said subscription shall remain unpaid. And if any member shall omit, for more than one year, to pay the subscriptions required by these articles, together with such fines as he may have incurred, he shall thereby forfeit, both for himself and his family, all rights to any of the benefits of the association, together with all the moneys which he may have previously paid, and shall cease to be a member.

6th. Any member ceasing to be a clerk, or removing out of the District of Columbia, shall not thereby be deprived of his membership.

7th. The officers of the association shall consist of a president, six directors, a secretary, and treasurer, to be elected by ballot, at a general meeting of the association, on the last Saturday in March, annually; and they shall form a board, to be called the president and board of officers. In all elections for officers, the person having the greatest number of votes shall be considered as elected; but when two or more persons have an equal number of votes, the balloting shall be repeated to fill the office or offices for which no choice shall have been made. If any vacancy shall occur among the officers, a general meeting shall be called to fill the same.

8th. It shall be the duty of the president to preside at all meetings of the association, and of the board of officers. In the absence of the president, his duties shall be performed by the director present, senior on the list.

9th. The secretary [shall] keep a journal of the proceedings of the association, and of the president and board of officers; and he shall perform such other duties as may be assigned to him, either by the association or by the president and board of officers.

10th. The treasurer shall receive and pay all moneys of the association; he shall keep an account of its receipts and disbursements, and shall lay before the association, at its annual meeting in the month of March, a general statement of all its moneyed transactions, as also a list of those members who are two quarters or upwards in arrear, which list and accounts shall be read and examined previously to the election of officers.

11th. The quarterly subscriptions, and all other moneys received on account of the association, shall be paid to the treasurer, and shall be by him deposited, as soon as may be thereafter, in such bank as shall be fixed on by the president and board of officers; and shall, from time to time, be vested in the public stocks of the United States, or in loans to individuals, secured upon real estate, or in the stocks of any incorporated banking institution; and the moneys so deposited shall be drawn out of the bank only on the order of the treasurer, countersigned by the secretary, and approved by the president.

12th. The funds of the association shall be appropriated and paid to the families of deceased members, at the following rates, to wit: to the families of those members who may die after the expiration of the first year, and within five years from the time of their admission, twice the amount of the subscription which shall have been paid by such members, respectively: to the families of those members who may die within the sixth year, from the time of their admission, respectively, the sum of two hundred dollars; to the families of those members who may die within the seventh year, from the time of their admission, respectively, the sum of three hundred dollars; to the families of those members who may die within the eighth year, from the time of their admission, respectively, the sum of four hundred dollars; to the families of those members who may die within the ninth year, from the time of their admission, respectively, the sum of five hundred dollars; to the families of those members who may die within the tenth year, from the time of their admission, respectively, the sum of six hundred dollars; to the families of those members who may die within the eleventh year, from the time of their admission, respectively, the sum of seven hundred dollars; to the families of those members who may die after the expiration of the eleventh year from the time of their admission, not less than eight hundred dollars.

13th. In all cases the widow and children of a

deceased member shall be deemed his family, and as such entitled to the relief provided under the foregoing article; but a member having no wife or children, may adopt any other person or persons as his family, for all the purposes of this association, by giving notice in writing, to the president and board of officers, of the name and residence of such person or persons.

14th. The relief to which the families of deceased members shall be entitled, may be granted either by the payment of a certain sum of money, as prescribed by the twelfth article, or by annuity, the terms of which shall be fixed by the claimant, and the president and board of officers.

15th. In addition to the pecuniary relief to which the families of the deceased members are entitled, the members of this association pledge themselves to endeavor to provide for the permanent establishment in society of the persons composing such families.

16th. A general meeting of the association shall be held on the last Saturday in March, annually; but the president and board of officers may call a general meeting whenever they shall think it necessary.

17th. The regular meetings of the president and board of officers shall be on the first Saturday of January, April, July, and October, annually; but a special meeting of the board of officers may be called by the president, on a requisition in writing from any member thereof.

18th. In all cases where it is not otherwise expressly provided, a majority of the votes of the members of the association, assembled at any meeting, shall prevail.

19th. All legacies or donations made to the association, shall be appropriated to the general purposes thereof.

20th. The president and board of officers shall have power to make by-laws for their government, provided the same be consistent with these articles.

21st. If the association shall be dissolved by any event, or in any manner whatsoever, otherwise than by the expiration of the charter, the funds then belonging to it shall, after all claims and demands thereon are satisfied, be divided among the families of deceased members, according to the sums paid in by such such members respectively.

22d. The debts which the said corporation may, at any time, owe, shall not exceed the value of the property lawfully held and owned by them; and, in case of excess, the directors who may have been assenting thereto, shall be liable for the same in their natural and individual capacities; and an action of debt may, in such case, be brought against them, or any of them, in the proper court, by any creditor or creditors, of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant, or agreement, to the contrary notwithstanding: And the property of the corporation shall also be liable for and chargeable with the excess.

23d. It shall not be lawful for the said corporation to deal or trade in the manner of a bank,

nor issue any note in the nature of a bank note, nor transact any other kind of business, or deal in any other manner or thing, than is expressly authorized by the eleventh article of the second section of this act; and any director or directors, who shall have assented to any such dealing or trade, shall, on conviction thereof, in the proper court, forfeit and pay the sum of one thousand dollars; one-half to the use of the poor of the City of Washington, and the other half to the use of the person who may prosecute for the same: *Provided always*, That Congress may, at any time, amend, alter, or annul, this act.

Approved, February 15, 1819.

An Act to increase the salaries of certain officers of Government.

*Be it enacted, &c.*, That, instead of the salaries now allowed by law to the following officers, there shall be paid to them, quarterly, the following annual salaries respectively; that is to say: to the Secretary of State, six thousand dollars; to the Secretary of the Treasury, six thousand dollars; to the Secretary of War, six thousand dollars; to the Secretary of the Navy, six thousand dollars; to the Attorney General, three thousand five hundred dollars; to the Postmaster General, four thousand dollars; to the Chief Justice of the United States, five thousand dollars; and to each of the Judges of the Supreme Court of the United States, four thousand five hundred dollars; and to the Assistant Postmaster General, and Additional Assistant Postmaster General, two thousand five hundred dollars each; to commence the first day of January, one thousand eight hundred and nineteen; and to be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 20, 1819.

An Act authorizing the President of the United States to purchase the lands reserved by the act of the third of March, eighteen hundred and seventeen, to certain Chiefs, Warriors, or other Indians, of the Creek nation.

*Be it enacted, &c.*, That it shall be lawful for the President of the United States to purchase for, and on behalf of, the United States, any tract or tracts of land, reserved by the act of the third day of March, eighteen hundred and seventeen, to the chiefs, warriors, or other Indians, of the Creek nation, which they, or either of them, may be disposed to sell; and the amount of such purchase shall be paid out of any money in the Treasury not otherwise appropriated.

Sec. 2. *And be it further enacted*, That any tract or tracts of land, the title to which may be acquired by the United States, by virtue of this act, shall be offered at public sale, at the land offices of the district in which they may be situated, upon such day or days as the President shall, by proclamation, designate for that purpose, in the same manner, and on the same conditions and terms of credit, as is provided by law for the



## Public Acts of Congress.

sale of public lands of the United States; and patents shall be granted therefor, as for other public lands and town lots sold by the United States.

Approved, February 20, 1819.

An Act for the relief of Adam Kinsley, Thomas French, and Charles S. Leonard.

*Be it enacted, &c.*, That the Secretary of War, and he is hereby, authorized to pay unto Adam Kinsley, and Thomas French, such sum of money, in addition to that already paid, under a contract entered into on the twentieth day of October, one thousand eight hundred and eight, between Tench Cox, on the part of the United States, with the said Adam Kinsley and Thomas French, for the manufacture of four thousand stand of arms, as shall increase the price of each stand of arms, delivered under the said contract, to a sum equal to that allowed to others who entered into contracts to manufacture and deliver arms to the United States, on or about the same time, keeping in view the quality of the arms delivered by each; and that the same be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the said Secretary make the like additional compensation to Charles S. Leonard, out of any moneys in the Treasury not otherwise appropriated, for arms manufactured and delivered by him, under a contract entered into on or about the time abovementioned, keeping in view the rules prescribed in the preceding section.

Approved, February 20, 1819.

An Act providing for a grant of land for the seat of government in the State of Mississippi, and for the support of a seminary of learning within the said State.

*Be it enacted, &c.*, That there shall be granted to the State of Mississippi, two entire sections of land, or fractional sections, or quarter sections, not exceeding the quantity contained in two entire sections, for a seat of government in the said State; which land shall be located in one entire tract, at such place as, under the authority of the said State, shall be designated for the seat of government therein, whenever the Indian title shall have been extinguished thereto, and before the commencement of the public sales of the adjoining and surrounding lands belonging to the United States.

SEC. 5. *And be it further enacted*, That, in addition to the township of land granted for the support of Jefferson College, there shall be granted, in the said State, another township, or a quantity of land equal thereto, to be located in tracts of not less than four entire sections each, which shall be vested in the Legislature of the said State, in trust, for the support of a seminary of learning therein; which lands shall be located by the Secretary of the Treasury of the United States, whenever an extinguishment of Indian title shall be made for lands, suitable, in his

opinion, for that purpose, in the said State: which grant, hereby provided to be made, shall be considered as made in lieu of a township directed to be reserved by the fifth section of an act, entitled "An act to provide for the ascertaining and surveying of the boundary lines fixed by the treaty with the Creek Indians, and for other purposes," passed March three, one thousand eight hundred and fifteen; and which reserve of one township, provided to be made by the aforesaid fifth section of said act, shall be offered for sale, in the same manner as the other public lands in the same district.

Approved, February 20, 1819.

An Act directing the payment of certain bills drawn by General Armstrong in favor of William Morgan.

*Be it enacted, &c.*, That there shall be paid to Thomas Griffin, administrator of William Morgan, deceased, and trustee of Alexander Macaulay, out of any moneys in the Treasury not otherwise appropriated, the sum of five thousand two hundred and nine dollars and twenty-one cents, being the amount of certain bills of exchange drawn by General John Armstrong, in favor of said William Morgan, master of the ship Louisa, for the value of said ship Louisa, and cargo, under the Louisiana convention, and which bills were delivered to Joseph Fenwick, late Consul of the United States at Bordeaux: *Provided always*, That before such payment shall be made, the said Thomas Griffin shall give bond, with one or more sureties, to be approved by the Secretary of the Treasury, to indemnify the United States for such payment, against all persons whatsoever, who may hereafter make any claim on account of the said bills, or either of them.

Approved, February 20, 1819.

An Act supplemental to the act, entitled "An act further to amend the charter of the City of Washington."

*Be it enacted, &c.*, That any lot, or part of a lot, or other real estate whatsoever, in the City of Washington, heretofore sold, or hereafter to be sold, for any tax due to the corporation of said city, or laid or assessed under the authority of the said corporation, pursuant to the powers vested in it by virtue of the act to which this is a supplement, or of any other act, passed, or to be passed, shall and may be redeemed, so as effectually to reinstate and invest the proprietor, or his legal representatives, in and with all his former estate, as fully and effectually as if such sale had never been made, upon payment, or tender of payment, being made, at any time within two years from the time of such sale, by such proprietor, or by his heirs, executors, or administrators, or by any other person, in his or their behalf, to the purchaser of such lot or part of a lot, or other real estate, his executors or administrators, of the money actually paid by him for the same, with the addition of interest, at the rate of ten per cen-

## Public Acts of Congress.

tum per annum, to be computed from the time of the payment of the said money by such purchaser; and if such purchaser, his executors, or administrators, have no known place of residence within the District of Columbia, or be not to be found at such place of residence, at the time such redemption is desired to be made; or if such proprietor, his heirs, executors, or administrators, or any other person in his behalf, shall offer to pay such money, with interest as aforesaid, and such purchaser, his executors, or administrators, shall refuse to accept the same, and give a sufficient receipt and acquittance in writing for the same, by way of redemption aforesaid, then, and in every such case, it shall and may be lawful for such proprietor, his heirs, executors, or administrators, or other person in his or their behalf, to make the redemption aforesaid, as effectually, by paying the said money, with interest as aforesaid, to the clerk of the circuit court for the county of Washington; whose duty it shall be to make report of the same to the said court, immediately, if in session, otherwise on the first day of session then next ensuing, and to deposit the said money for safe-keeping, and pay the same over to such purchaser, or his legal representatives, under the direction of the said court: *Provided*, That nothing in this act contained shall be construed to affect the right of any person now entitled, under any law heretofore enacted, to receive any higher or other premium than an interest of ten per centum per annum, as aforesaid, upon the redemption of any real estate, other than vacant and unimproved lots heretofore sold for taxes, nor to affect the vested legal right of such person to hold such real estate clear of such right of redemption, at any time less than two years from the time of the sale, such legal right being vested prior to the passing of this act; and that the said court may require such higher or other premium to be paid, by the person redeeming, to the purchaser, in any case wherein it shall appear to the said court that a vested legal right to such premium existed before the passing of this act.

SEC. 2. *And be it further enacted*, That the several collectors of the said taxes, or such other officer of the said corporation as shall be charged with the duty of selling any such real estate for taxes, shall, within ten days after every such sale, transmit to the clerk of the said court an accurate report in writing, certified by the clerk or register of the said corporation, containing a particular description of the property sold, the amount of taxes for the raising of which it has been sold, the names and residence of the person or persons to whom such property belongs, or to whom such taxes have been assessed, and of the purchaser or purchasers, the amount of the purchase money; distinguishing how much has been actually paid, and the clear surplus, if any, coming to the proprietor; which report it shall be the duty of the clerk of the said court forthwith to record among the land records of the said county, and the expense thereof shall be paid by the party who redeems the same.

Approved, February 20, 1819.

An Act providing additional penalties for false entries for the benefit of drawback, or bounty on exportation.

*Be it enacted, &c.*, That, in addition to the forfeitures and penalties heretofore provided by law, for making a false entry with the collector of any district, of any goods, wares, or merchandise, for the benefit of drawback or bounty on exportation, the person making such false entry shall, (except in the cases heretofore excepted by law,) forfeit and pay to the United States a sum equal to the value of the articles mentioned or described in such entry; to be sued for, recovered, distributed, and accounted for, in the manner prescribed by the act, entitled "An act to regulate the duties on imports and tonnage," passed on the second day of March, one thousand seven hundred and ninety-nine.

Approved, February 20, 1819.

An Act for the relief of Thomas Hall Jervey.

*Be it enacted, &c.*, That the Secretary of the Treasury shall cause to be paid to Thomas Hall Jervey, surveyor of the port of Charleston, one-half of the amount received by the United States on account of the condemnation of the schooner the *Lovely Cordelia*, and of the *James and Elizabeth*, and that an amount, not exceeding five thousand dollars, be appropriated for this purpose, to be paid out of any money in the Treasury not otherwise appropriated.

Approved, February 24, 1819.

An Act concerning the heirs and legatees of Thomas Turner, deceased.

*Be it enacted, &c.*, That the Commissioners of the Navy Pension Fund are hereby authorized and required to pay, out of the said fund, to the executors of Thomas Turner, deceased, for the benefit of the heirs and legatees of the said Thomas Turner, deceased, the sum of one thousand five hundred dollars; the said sum being in consideration of services rendered by the said Thomas Turner, deceased, as accountant of the Navy Department, in receiving and settling all accounts respecting the said fund, and for which no compensation has heretofore been made.

Approved, February 24, 1819.

An Act for the relief of Kenzie and Forsyth.

*Be it enacted, &c.*, That the accounting officers of the Treasury Department be authorized and directed to settle the accounts of Kenzie and Forsyth, for three mules and ten horses which were lost in the public service at the evacuation of Chicago during the late war; and that the sum found due to said Kenzie and Forsyth be paid to them out of any unappropriated money in the Treasury.

Approved, February 24, 1819.

An Act making provision for the claim of M. Poirrey.

*Be it enacted, &c.*, That the accounting officers of the Treasury be, and they are hereby, author-



## Public Acts of Congress.

ized to liquidate, settle, and allow the claim of M. Poiray, as secretary and aid-de-camp to Major General Lafayette, during the time of his service, in those capacities, in the time of the Revolutionary war between the United States of America and Great Britain.

Approved, February 24, 1819.

An Act allowing further time to complete the issuing and locating of Military Land Warrants.

*Be it enacted, &c.*, That the authority granted to the Secretary for the Department of War, by the second section of the act to provide for designating, surveying, and granting, the military bounty lands, approved the sixth day of May, one thousand eight hundred and twelve, and by the fourth section of the act making further provision for filling the ranks of the Army of the United States, approved December tenth, one thousand eight hundred and fourteen, to issue warrants for the military land bounties to persons entitled thereto, shall be revived and continued in force for the term of five years from and after the fourth day of March next.

*Sec. 2. And be it further enacted*, That the time limited by the act supplementary to the act further extending the time for issuing and locating military land warrants, and for other purposes, approved March ninth, one thousand eight hundred and eighteen, for issuing military land warrants, shall be extended to the fourth day of March, one thousand eight hundred and twenty-one, and the time limited by the said act for the location of unlocated military land warrants, shall be extended to the first day of October thereafter.

Approved, February 24, 1819.

An Act making provision for the claim of M. de Vienne.

*Be it enacted, &c.*, That the accounting officers of the War Department be, and they are hereby, authorized to liquidate, settle, and allow the claim of M. de Vienne, for the pay, appointments, and emoluments of lieutenant colonel, for seven months' service during the Revolutionary war between the United States and Great Britain.

Approved, February 24, 1819.

An Act supplementary to the act, entitled "An act to provide for the prompt settlement of Public Accounts."

*Be it enacted, &c.*, That, from and after the third day of March next, it shall be the duty of the second auditor of the Treasury to receive all unsettled accounts arising out of Indian affairs, with the exception of those appertaining to the Indian trade, and examine the same, and thereafter certify the balance, and transmit the accounts, with the vouchers and certificates, to the second comptroller, for his decision thereon: *Provided*, That if in the opinion of the President of the United States the public interest and convenience would be promoted by assigning all, or any part of, the said accounts to the third auditor, he

shall be, and hereby is, authorized to make such assignment accordingly.

*Sec. 2. And be it further enacted*, That it shall be the duty of the auditor charged with the examination of the accounts, as aforesaid, to keep all accounts of the receipts and expenditures of the public money in regard to them; to receive from the second comptroller the accounts which shall have been finally adjusted, and to preserve such accounts, with the vouchers and certificates. And it shall be the duty of the said auditor to make such reports on the business hereby assigned to him, as the Secretary of War may deem necessary, and require, from time to time, for the service of the War Department.

*Sec. 3. And be it further enacted*, That the Treasurer of the United States shall disburse all such moneys as shall have been previously ordered for the use of the Indian Department, with the exception of those relating to Indian trade beforementioned, by warrants from the Treasury; which disbursements shall be made pursuant to warrants drawn by the Secretary of War, and countersigned by the second comptroller, and registered by the second and third auditor, as the case may be.

*Sec. 4. And be it further enacted*, That so much of the act to which this is a supplement, as is inconsistent with this act, be, and the same is hereby, repealed.

Approved, February 24, 1819.

An Act to incorporate a company to build a bridge over the Eastern Branch of Potomac, between Eleventh and Twelfth streets East, in the City of Washington.

*Be it enacted, &c.*, That the following persons, viz: William Prout, William Marbury, Samuel N. Smallwood, Timothy Winn, and Adam Lindsay, or any three of them, be, and are hereby, constituted a board of commissioners, with full power and authority to open, or cause to be opened, books for receiving and entering subscriptions, for raising a capital stock, not exceeding twenty-five thousand dollars, in shares of one hundred dollars each, for the purpose of erecting a bridge between Eleventh and Twelfth streets East, in the City of Washington, over the Eastern Branch, to the most convenient landing on the opposite shore, and making such other incidental works, and defraying such other incidental expenses, as shall be required by this act, or deemed necessary or expedient by the company hereinafter named; the time, place, and manner, of receiving and entering such subscriptions, to be ascertained by the said board of commissioners, and duly advertised in such newspapers as they may deem expedient: *Provided*, That the time to be fixed upon, by the said board of commissioners, for opening books for receiving said subscriptions, shall be on or before the second Monday in March next; and that no subscription shall be received, unless the sum of ten dollars be first paid into the hands of the person authorized to receive the same, on each share subscribed for.

## Public Acts of Congress.

*Sec. 2. And be it further enacted*, That, whenever two hundred of the said shares shall be subscribed for, all persons who may then be, or thereafter may become, the actual holders or proprietors of shares in the said capital stock, either as subscribers for the same, or as the legal representatives, successors, or assignees, of such subscribers, shall be, and they are hereby, made and created a body politic and corporate, by the name and style of "The Navy Yard Bridge Company;" and by that name may sue and be sued, implead and be impleaded, and do and suffer all acts, matters, and things, which a body politic and corporate may lawfully do and suffer; and may have a common seal, and the same may break and alter at pleasure, and may make all by-laws, rules, and regulations, and ordinances, for the good government of said company, and for carrying into effect the objects of their institution, so that such by-laws, rules, regulations, and ordinances, be not repugnant to the laws of the United States in force within the District of Columbia.

*Sec. 3. And be it further enacted*, That at all elections for directors and officers of said company, each and every member of the said company shall be entitled to as many votes as he or she may hold shares of the capital stock of said company, and may vote by proxy, executed under their hands and seals, in the presence of two witnesses; and that when two hundred of the said shares shall be subscribed for, as aforesaid, or as soon after as may be, the said board of commissioners shall call a meeting of the company, at some convenient place in the City of Washington, giving at least three weeks' notice thereof, by public advertisement, in one or more newspapers published in the District of Columbia; and the said company shall then and there elect, by ballot, five directors and a treasurer, and such other officers, agents, and servants, as the company may think fit to appoint; and as soon thereafter as a board of directors shall be formed, they shall elect one of their body to be president of the said board of directors; and all the powers, authority, and duties, whatsoever, by this act vested in the said board of commissioners, shall cease and determine, and thenceforward become vested in the president and directors for the time being of the said company; and the said board of commissioners shall account to the president and directors of the said company, at their first meeting, for all moneys received by them or their agents, on account of subscriptions, and shall immediately pay over the same to the treasurer of said company. And the said directors and treasurer shall hold their offices until the first Tuesday in October next, and until a new election shall be made by the company. And there shall be holden on that day, and annually thereafter, on every first Tuesday in October, a meeting of the said company, for the purpose of electing five directors and a treasurer, and other officers and agents, as aforesaid.

*Sec. 4. And be it further enacted*, That the said shares shall be negotiable and transferrable

from one to another, by assignments in writing, executed before two witnesses, at least, and authenticated and registered, as the said company may prescribe and direct in their by-laws and regulations, and shall be deemed personal, and not real, property; and that the shares held by any individual shall be liable to be attached, or taken by fieri facias, to satisfy the debts due from such individual, in like manner as other personal property may be.

*Sec. 5. And be it further enacted*, That a meeting of the said company may, at any time, be called, at some convenient place in the City of Washington, by a majority of the directors of the company, for the time being, and by one-third of the members of the said company, or by the proprietors of one-third of the shares actually subscribed for, or the legal representatives or proprietors: *Provided, however*, That no meeting of the said company shall be legal or valid, unless a quorum shall be formed, consisting of the majority of the members of said company, or of the proprietors of at least two-thirds of the number of shares actually subscribed for, their legal representatives, successors, or proxies, nor unless the time of such meeting be previously advertised, for three weeks successively, in one or more gazettes in the District of Columbia; and the said company shall have power, at any meeting legally called and constituted in pursuance of this act, to displace any of their directors or officers, and to supply, by a new election, all vacancies that may happen among the directors or officers of the company; and a majority of the said directors may provisionally supply, by their own election, any vacancies that may happen among the number of directors, or among the number of the officers of the company; and the person so elected, by the said directors, may continue in office till the next legal meeting of the company.

*Sec. 6. And be it further enacted*, That the amount of each share shall be paid by instalments of ten dollars, at such time as the said company shall direct; and in case any instalment or instalments shall not be paid at the time appointed by the said company, or within ten days thereafter, the same may be recovered in the name of the said company, by warrant from a justice of the peace, if the amount due shall not exceed twenty dollars, and if the sum so due shall exceed twenty dollars, the same may be recovered by motion in the name of the said company, on ten days' notice, in any court of record in the county or district where the debtor should be found; and in all such warrants and motions, the certificate of the clerk of the said company, authenticated by the president, under the common seal of the said company, shall be conclusive evidence of the defendant's being a member of the company, and prima facie evidence of the amount due on the shares held by such defendant; and if such instalment be not paid within sixty days after the time limited for the payment of the same, and advertisement for four weeks, successively, in one or more newspapers published in the Dis-



## Public Acts of Congress.

trict of Columbia, the president and directors of the said company may proceed to forfeit, for the use of the company, the share or shares of the person or persons so failing to pay.

SEC. 7. *And be it further enacted*, That the said company be, and they are hereby, authorized and empowered to erect and build, or cause to be erected and built, over the Eastern Branch, between Eleventh and Twelfth streets East, in the City of Washington, and the land of William Marbury, on the opposite shore of the said Eastern Branch, a good and sufficient bridge, at least twenty-five feet wide, of sound and suitable materials, and in all respects adequate for the passage of travellers, horses, cattle, and carriages, with a secure railing on each side, at least four feet high.

SEC. 8. *And be it further enacted*, That the said company shall cause to be built, and maintained in good repair, a convenient and sufficient draw, or passage way, at least thirty feet wide, in the said bridge, over the main channel of the Branch, for the passing and repassing of vessels by day and by night. And the said company shall, at their own cost, and without toll, cause the said draw or passage way to be hoisted, or removed, without delay, for the passage of all vessels with masts, that are unable to pass under the same; and if, through the unskillfulness or negligence of the person or persons employed by the said company, to hoist or remove the said draw, any vessel shall be unjustly or unreasonably hindered or delayed, or shall be damaged in her hull, spars, or rigging, in passing the said draw, the said company shall be liable to the master, or the owner or owners, of such vessel, for damages, at the rate of six cents per ton of such vessel, for each and every hour such vessel shall be hindered or delayed, and for all damages in her hull, masts, and rigging, as aforesaid, to be ascertained and recovered, in a special action on the case, in any court of competent jurisdiction.

SEC. 9. *And be it further enacted*, That as soon the said bridge shall be erected and built, and completed as required by this act, the said company shall be entitled to demand and receive, by their proper agents, servants, or officers, tolls at the following rates, viz: For each foot passenger, three cents; for each person and a horse, six and one quarter of a cent; for carriages, wagons, or carts, seven cents for each wheel, and three cents for each horse, mule, or ox, drawing the same; for every other horse or mule, three cents; for cattle, three cents per head; for hogs and sheep, two cents each: *Provided*, That no toll shall be exacted at the said bridge, for the passage of any wagon or carriage laden with the property of the United States, or for the drivers thereof, or for the passage of any troops of the United States, or the militia of any State, or of the District of Columbia, marching in a body, or any cannon, or military equipments belonging to the United States: *Provided also*, That if the number of two hundred shares shall not be subscribed within one year from the time of opening subscription books by the commissioners, as hereinbefore directed; or if

the said bridge be not erected and built, and furnished and completed, by this act, within three years from and after the first day of October next; or if it should remain, at any time thereafter, so out of repair, for two years, as to be unsafe for travelling; then, and in that case, all the powers, authority, privileges, emoluments, and immunities, whatsoever, by this act granted to said company, shall cease and determine, and shall become absolutely forfeited.

Approved, February 24, 1819.

An Act to regulate the pay of the Army when employed on fatigue duty.

*Be it enacted, &c.*, That, whenever it shall be found expedient to employ the army at work on fortifications, in surveys, in cutting roads, and other constant labor, of not less than ten days, the non-commissioned officers, musicians, and privates, so employed, shall be allowed fifteen cents, and an extra gill of whiskey or spirits, each, per day, while so employed.

Approved, March 2, 1819.

An Act regulating passenger ships and vessels.

*Be it enacted, &c.*, That if the master or other person on board of any ship or vessel, owned in the whole or in part by a citizen or citizens of the United States, or the Territories thereof, or by a subject or subjects, citizen or citizens, of any foreign country, shall, after the first day of January next, take on board of such ship or vessel, at any foreign port or place, or shall bring or convey into the United States, or the Territories thereof, from any foreign port or place; or shall carry, convey, or transport, from the United States, or the Territories thereof, to any foreign port or place, a greater number of passengers than two for every five tons of such ship or vessel, according to custom-house measurement, every such master, or other person so offending, and the owner or owners of such ship or vessel, shall severally forfeit and pay to the United States the sum of one hundred and fifty dollars, for each and every passenger so taken on board of such ship or vessel over and above the aforesaid number of two to every five tons of such ship or vessel; to be recovered by suit, in any circuit or district court of the United States, where the said vessel may arrive, or where the owner or owners aforesaid may reside: *Provided, nevertheless*, That nothing in this act shall be taken to apply to the complement of men usually and ordinarily employed in navigating such ship or vessel.

SEC. 2. *And be it further enacted*, That if the number of passengers so taken on board of any ship or vessel as aforesaid, or conveyed or brought into the United States, or transported therefrom as aforesaid, shall exceed the said proportion of two to every five tons of such ship or vessel, by the number of twenty passengers, in the whole, every such ship or vessel shall be deemed and taken to be forfeited to the United States, and

## Public Acts of Congress.

shall be prosecuted and distributed in the same manner in which the forfeitures and penalties are recovered and distributed under the provisions of the act, entitled "An act to regulate the collection of duties on imports and tonnage."

SEC. 3. *And be it further enacted*, That every ship or vessel bound on a voyage from the United States to any port on the continent of Europe, at the time of leaving the last port whence such ship or vessel shall sail, shall have on board, well secured under deck, at least sixty gallons of water, one hundred pounds of salted provisions, one gallon of vinegar, and one hundred pounds of wholesome ship bread, for each and every passenger on board such ship or vessel, over and above such other provisions, stores, and live stock, as may be put on board by such master or passenger for their use, or that of the crew of such ship or vessel; and in like proportion for a shorter or longer voyage; and if the passengers, on board of such ship or vessel in which the proportion of provisions herein directed shall not have been provided, shall at any time be put on short allowance, in water, flesh, vinegar, or bread, during any voyage aforesaid, the master and owner of such ship or vessel shall severally pay to each and every passenger who shall have been put on short allowance as aforesaid, the sum of three dollars for each and every day they may have been on such short allowance; to be recovered in the same manner as seamen's wages are, or may be, recovered.

SEC. 4. *And be it further enacted*, That the captain or master of any ship or vessel arriving in the United States, or any of the Territories thereof, from any foreign place whatever, at the same time that he delivers a manifest of the cargo, and, if there be no cargo, then at the time of making report or entry of the ship or vessel, pursuant to the existing laws of the United States, shall also deliver and report, to the collector of the district in which such ship or vessel shall arrive, a list or manifest of all the passengers taken on board of the said ship or vessel at any foreign port or place; in which list or manifest it shall be the duty of the said master to designate, particularly, the age, sex, and occupation of the said passengers, respectively, the country to which they severally belong, and that of which it is their intention to become inhabitants; and shall further set forth whether any, and what number, have died on the voyage; which report and manifest shall be sworn to by the said master, in the same manner as is directed by the existing laws of the United States, in relation to the manifest of the cargo; and that the refusal or neglect of the master aforesaid, to comply with the provisions of this section, shall incur the same penalties, disabilities, and forfeitures, as are at present provided for a refusal or neglect to report and deliver a manifest of the cargo aforesaid.

SEC. 5. *And be it further enacted*, That each and every collector of the customs, to whom such manifest or list of passengers as aforesaid shall be delivered, shall, quarter-yearly, return copies thereof to the Secretary of State of the United

States, by whom statements of the same shall be laid before Congress at each and every session.

Approved, March 2, 1819.

An Act to enable the people of the Alabama Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

*Be it enacted, &c.*, That the inhabitants of the Territory of Alabama be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they may deem proper; and that the said Territory, when formed into a State, shall be admitted into the Union upon the same footing with the original States in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the point where the thirty-first degree of north latitude intersects the Perdido river; thence, east, to the western boundary line of the State of Georgia; thence, along said line, to the southern boundary line of the State of Tennessee; thence, west, along said boundary line, to the Tennessee river; thence, up the same, to the mouth of Bear creek; thence, by a direct line, to the northwest corner of Washington county; thence, due south, to the Gulf of Mexico; thence, eastwardly, including all islands within six leagues of the shore, to the Perdido river; and thence, up the same, to the beginning.

SEC. 3. *And be it further enacted*, That it shall be the duty of the surveyor of the lands of the United States south of the State of Tennessee, and the surveyor of the public lands in the Alabama Territory, to run and cut out the line of demarcation between the State of Mississippi and the State to be formed of the Alabama Territory; and if it should appear to said surveyors, that so much of said line designated in the preceding section, running due south, from the northwest corner of Washington county to the Gulf of Mexico, will encroach on the counties of Wayne, Green, or Jackson, in said State of Mississippi, then the same shall be so altered as to run in a direct line from the northwest corner of Washington county to a point on the Gulf of Mexico, ten miles east of the mouth of the river Pascagoula.

SEC. 4. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory three months previous to the day of election, and all persons having, in other respects, the legal qualifications to vote for representatives in the General Assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a constitution, who shall be appointed among the several counties as follows:

From the county of Madison, eight representatives.

From the county of Monroe, four representatives.



From the county of Blount, three representatives.

From the county of Limestone, three representatives.

From the county of Shelby, two representatives.

From the county of Montgomery, two representatives.

From the county of Washington, two representatives.

From the county of Tuscaloosa, two representatives.

From the county of Lawrence, two representatives.

From the county of Franklin, two representatives.

From the county of Catoosa, two representatives.

From the county of Clark, two representatives.

From the county of Baldwin, one representative.

From the county of Cawhauba, one representative.

From the county of Conecuh, one representative.

From the county of Dallas, one representative.

From the county of Marengo, one representative.

From the county of Marion, one representative.

From the county of Mobile, one representative.

From the county of Lauderdale, one representative.

From the county of St. Clair, one representative.

From the county of Autauga, one representative.

And the election for the representatives aforesaid shall be holden on the first Monday and Tuesday in May next, throughout the several counties in the said Territory, and shall be conducted in the same manner, and under the same regulations, as prescribed by the laws of the said Territory, regulating elections therein for the members of the House of Representatives.

SEC. 5. *And be it further enacted*, That the members of the convention, thus duly elected be, and they are hereby, authorized to meet at the town of Huntsville, on the first Monday in July next; which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient, at that time, to form a constitution and State government for the people within the said Territory: And if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government: *Provided*, That the same, when formed, shall be republican, and not repugnant to the principles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, between the people and States of the territory northwest of the river Ohio, so far as the same

has been extended to the said Territory, by the articles of agreement between the United States and the State of Georgia, or of the Constitution of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby offered to the convention of the said Territory of Alabama, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States.

First. That the section numbered sixteen in every township, and when such section has been sold, granted, or disposed of, other lands equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools.

Second. That all salt springs within the said Territory, and the lands reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt springs, not exceeding in the whole the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used, under such terms, conditions, and regulations, as the Legislature of the said State shall direct: *Provided*, The said Legislature shall never sell, nor lease the same for a longer term than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress from and after the first day of September, in the year one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for making public roads, canals, and improving the navigation of rivers, of which three-fifths shall be applied to those objects within the said State, under the direction of the Legislature thereof, and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress.

Fourth. That thirty-six sections, or one entire township, to be designated by the Secretary of the Treasury, under the direction of the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the Legislature of the said State, to be appropriated solely to the use of such seminary by the said Legislature. And the Secretary of the Treasury, under the direction as aforesaid, may reserve the seventy-two sections, or two townships, hereby set apart for the support of a seminary of learning, in small tracts: *Provided*, That no tract shall consist of less than two sections: *And provided, always*, That the said convention shall provide, by an ordinance irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare that they forever disclaim all right to the waste or unappropriated lands lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and moreover, that each and

every tract of land sold by the United States after the first day of September, in the year one thousand eight hundred and nineteen, shall be and remain exempt from any tax laid by the order, or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof; and that the lands belonging to citizens of the United States, residing within the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no tax shall be imposed on lands the property of the United States; and that all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State.

SEC. 7. *And be it further enacted*, That in lieu of a section of land, provided to be reserved for the seat of government of the said Territory, by an act, entitled "An act respecting the surveying and sale of the public lands in the Alabama Territory," there be granted to the said State, for the seat of the government thereof, a tract of land containing sixteen hundred and twenty acres, and consisting of sundry fractions and a quarter section, in sections thirty-one and thirty-two, in township sixteen, and range ten, and in sections five and six, in township fifteen, and range ten, and in sections twenty-nine and thirty, in the same township and range, lying on both sides of the Alabama and Cahawba rivers, and including the mouth of the river Cahawba, and which heretofore has been reserved from public sale, by order of the President of the United States.

SEC. 8. *And be it further enacted*, That, until the next general census shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

SEC. 9. *And be it further enacted*, That, in case the said convention shall form a constitution and State government for the people of the Territory of Alabama, the said convention, as soon thereafter as may be, shall cause a true and attested copy of such constitution or frame of government as shall be framed or provided, to be transmitted to Congress for its approbation.

Approved, March 2, 1819.

An Act supplementary to the acts concerning the Coasting Trade.

*Be it enacted, &c.*, That, for the more convenient regulation of the coasting trade, the seacoast and navigable rivers of the United States be, and hereby are, divided into two great districts: the first, to include all the districts on the seacoast and navigable rivers, between the eastern limits of the United States and the southern limits of Georgia; and the second, to include all the districts on the seacoast and navigable rivers, between the river Perdido and the western limits of the United States.

SEC. 2. *And be it further enacted*, That every ship or vessel, of the burden of twenty tons or

upwards, licensed to trade between the different districts of the United States, shall be, and is hereby, authorized to carry on such trade between the districts included within the aforesaid great districts, respectively, and between a State in one, and another adjoining State in another great district, in manner, and subject only to the regulations that are now by law required to be observed by such ships or vessels, in trading from one district to another in the same State, or from a district in one State to a district in the next adjoining State, anything in any law to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That every ship or vessel, of the burden of twenty tons or upwards, licensed to trade as aforesaid, shall be, and is hereby, required, in trading from one to another great district, other than between a State in one, and an adjoining State in another great district, to conform to and observe the regulations that, at the time of passing this act, are required to be observed by such vessels in trading from a district in one State to a district in any other than an adjoining State.

SEC. 4. *And be it further enacted*, That the trade between the districts not included in either of the two great districts aforesaid, shall continue to be carried on in the manner, and subject to the regulations already provided for this purpose.

SEC. 5. *And be it further enacted*, That this act shall commence and be in force from and after the thirtieth day of June next after the passing thereof.

Approved, March 2, 1819.

An Act to establish a separate Territorial Government in the southern part of the Territory of Missouri.

*Be it enacted, &c.*, That, from and after the fourth day of July next, all that part of the Territory of Missouri which lies south of a line beginning on the Mississippi river, at thirty-six degrees north latitude, running thence west to the river St. Francois; thence, up the same, to thirty-six degrees thirty minutes north latitude; and thence, west, to the western boundary line; shall, for the purposes of a territorial government, constitute a separate Territory, and be called the Arkansas Territory.

SEC. 2. *And be it further enacted*, That there shall be established in the said Territory of Arkansas, a temporary government, to consist of three departments, the Executive, the Legislative, and the Judiciary.

SEC. 3. *And be it further enacted*, That the executive power shall be vested in a Governor, who shall reside in the said Territory, and shall hold his office during three years, unless sooner removed by the President of the United States: he shall be Commander-in-Chief of the militia of said Territory, shall have power to appoint and commission all officers required by law to be appointed for said Territory, whose appointments are not otherwise provided for by this act; shall take care that the laws be faithfully executed; shall have power to grant pardons for



offences against the said Territory, and reprieves for those against the United States, until the decision of the President thereon shall have been made known; shall, on extraordinary occasions, have power to convene the General Assembly, hereinafter provided for, after one shall have been organized in conformity to law; shall, ex officio, be superintendent of Indian affairs, and shall have such other powers, and perform such further duties, as are by law given to, and imposed on, the Governor of the Missouri Territory, in all cases in which they shall become legally applicable to the Territory of Arkansas.

SEC. 4. *And be it further enacted*, That there shall be a secretary for the said Territory, who shall reside therein, and continue in office for the term of four years, unless sooner removed by the President: he shall perform all the duties imposed on the secretary for the Territory of Missouri, by an act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of Missouri."

SEC. 5. *And be it further enacted*, That the legislative power shall, until the organization of the General Assembly, hereinafter provided for, be vested in the Governor and the judges of the superior court of the Territory, who shall have power to pass any law for the administration of justice in said Territory, which shall not be repugnant to this act, or inconsistent with the Constitution of the United States: *Provided*, That whenever the General Assembly shall be organized, all the legislative power of the Territory shall be vested in, and be exercised by, the said General Assembly.

SEC. 6. *And be it further enacted*, That so much of the act of Congress of the fourth of June, eighteen hundred and twelve, entitled "An act providing for the government of the Territory of Missouri," as relates to the organization of a General Assembly therein, prescribes the powers and privileges thereof, the mode of election, and period of service, of the members thereof, and defines the qualifications and privileges of the electors and elected, shall be in full force and operation in the Arkansas Territory, to the extent of its application, so soon as the Governor thereof shall be satisfied that such is the desire of a majority of freeholders thereof, and not until then: *Provided*, That, until there shall be five thousand free white males, of the age of twenty-one years and upwards, resident in the said Territory, the whole number of representatives shall not exceed nine.

SEC. 7. *And be it further enacted*, That the judicial power of the Territory shall be vested in a superior court, and in such inferior courts as the legislative department of the Territory shall, from time to time, institute and establish, and in justices of the peace. The superior court shall be composed of three judges, who shall reside in the Territory, and continue in office for the term of four years, unless sooner removed by the President. The superior court shall have jurisdiction in all criminal and penal cases, and exclusive cognizance of all capital cases, and shall have

and exercise original jurisdiction, concurrently with the inferior courts, and exclusive appellate jurisdiction in all civil cases in which the amount in controversy shall be one hundred dollars or upwards. The superior court shall be holden at such times and place, or places, as the legislative department shall direct, and continue in session until the business therein shall be disposed of, or as long as shall be prescribed by law: *Provided*, That any two of the judges shall constitute a court of appellate, and any one a court of original jurisdiction.

SEC. 8. *And be it further enacted*, That the Governor, secretary, judges, and all other officers of the Territory, civil and military, shall, before they enter on the duties of their respective offices, take an oath or affirmation to support the Constitution of the United States, and to discharge, with fidelity, the duties of their offices; the Governor, before a judge of the supreme or district court of the United States, or a judge of the superior court of the said Territory; the secretary and judges, before the said Governor, or a judge of the Supreme or district court of the United States; and all other officers, before the Governor, or any of the judges of the supreme or inferior courts, or justices of said Territory.

SEC. 9. *And be it further enacted*, That the Governor, secretary, and judges of the superior court authorized for said Territory, during the temporary government thereof, shall be appointed by the President of the United States, with the advice and consent of the Senate: *Provided*, That the President shall have full power, during the recess of the Senate, to commission all or any of the said officers, until the end of the session of Congress next succeeding the date of the commission. The Governor, secretary, and judges of the superior court, shall receive the same compensation, payable quarter-yearly, which the Governor, secretary, and superior judges, of the Missouri Territory, are entitled to by law.

SEC. 10. *And be it further enacted*, That all the laws which shall be in force in the Territory of Missouri, on the fourth day of July next, not inconsistent with the provisions of this act, and which shall be applicable to the Territory of Arkansas, shall be, and continue, in force in the latter Territory, until modified or repealed by the legislative authority thereof.

SEC. 11. *And be it further enacted*, That the bounty lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from all taxes, for the term of three years from and after the date of the patents, respectively.

SEC. 12. *And be it further enacted*, That whenever, according to the provisions of this act, the people of the Arkansas Territory shall have a right to elect members of the House of Representatives of their General Assembly, they shall also have the right to elect a Delegate from the said Territory to the Congress of the United States, who shall possess the same powers, enjoy the same privileges, and receive the same compensa-

tion, granted and secured by law to the Delegates from other Territories.

SEC. 13. *And be it further enacted*, That, until otherwise directed by the legislative department of the said Territory of Arkansas, the seat of the Territorial government thereof shall be the post of Arkansas, on the Arkansas river.

SEC. 14. *And be it further enacted*, That the line now established, by law, between the land offices at the seat of justice in the county of Lawrence, and at the town of Jackson, in the county of Cape Girardeau, shall, from and after the passage of this act, be so altered as to run, be the same, and correspond with the northern line of the said Territory of Arkansas, anything in the act, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," passed the seventeenth day of February, one thousand eight hundred and eighteen, to the contrary notwithstanding.

Approved, March 2, 1819.

An Act authorizing the Postmaster General to contract, as in other cases, for carrying the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky.

*Be it enacted, &c.*, That the Postmaster General may, and he is hereby, authorized to contract for the transportation of the mail in steamboats, between New Orleans, in the State of Louisiana, and Louisville, in the State of Kentucky, for any term of time, not exceeding four years in any one contract, in the same way and manner as he lawfully may, for the carriage of it by land; but the whole expense of sending the mail in steamboats shall not exceed that of transmitting the same by land.

Approved, March 2, 1819.

An Act making appropriations for the support of Government for the year one thousand eight hundred and nineteen.

*Be it enacted, &c.*, That the following sums be, and the same are hereby, respectively appropriated; that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, three hundred and sixty thousand and ten dollars.

For the expenses of firewood, stationery, printing, and other contingent expenses, of the two Houses of Congress, forty-two thousand dollars.

For the expenses of the Library of Congress, including the Librarian's allowance, one thousand nine hundred and fifty dollars.

For compensation to the President of the United States, twenty-five thousand dollars.

For compensation to the Vice President of the United States, five thousand dollars.

For compensation to the Secretary of State, six thousand dollars.

For compensation to the clerks in the Department of State, per act of twentieth April, eight-

teen hundred and eighteen, fifteen thousand nine hundred dollars.

For additional clerk hire, to cover expenses of copying, in the Department of State, one thousand five hundred dollars.

For the contingent and incidental expenses of the said Department, including expenses of printing and distributing copies of the Laws of the second session of the fifteenth Congress, and printing the laws in newspapers, twenty-four thousand one hundred and thirty dollars.

For compensation to the messengers in said office, including the messenger to the Patent office, six hundred and sixty dollars.

For compensation to the Secretary of the Treasury, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Treasury, per act of twentieth April, eighteen hundred and eighteen, ten thousand four hundred dollars.

For compensation to the messengers in said office, seven hundred and ten dollars.

For compensation to the First Comptroller of the Treasury, three thousand five hundred dollars.

For compensation to the clerks in the office of the First Comptroller, per act of twentieth April, one thousand eight hundred and eighteen, seventeen thousand eight hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Comptroller of the Treasury, three thousand dollars.

For compensation to the clerks in said office, per act of twentieth April, eighteen hundred and eighteen, twelve thousand five hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the First Auditor of the Treasury, three thousand dollars.

For compensation to the clerks in the office of the First Auditor, per act of twentieth April, eighteen hundred and eighteen, fifteen thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Second Auditor, three thousand dollars.

For compensation to the clerks in the office of the Second Auditor, per act of twentieth April, eighteen hundred and eighteen, seventeen thousand two hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Third Auditor, three thousand dollars.

For compensation to the clerks in the Third Auditor's office, per act of twentieth April, eighteen hundred and eighteen, thirty-seven thousand dollars.

For compensation to the messengers in said office, seven hundred and ten dollars.

For compensation to the Fourth Auditor, three thousand dollars.



For compensation to the clerks in the Fourth Auditor's office, per act of twentieth April, eighteen hundred and eighteen, fifteen thousand and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Fifth Auditor, three thousand dollars.

For compensation to the clerks in the Fifth Auditor's office, per act of twentieth April, eighteen hundred and eighteen, ten thousand five hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Treasurer of the United States, three thousand dollars.

For compensation to the clerks in the Treasurer's office, per act of twentieth April, eighteen hundred and eighteen, five thousand two hundred and fifty dollars.

For additional clerk hire, being for an arrearage of pay to an assistant to the chief clerk in said office, three hundred dollars.

For a further allowance for clerk hire, being for the salary of said assistant, for the year eighteen hundred and nineteen, four hundred dollars.

For compensation to an additional clerk in said office, eight hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioner of the General Land Office, three thousand dollars.

For compensation to the clerks in the office of said commissioner, per act of twentieth April, eighteen hundred and eighteen, twenty-two thousand five hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioner of the Revenue, three thousand dollars.

For compensation to the clerks in said commissioner's office, per act of twentieth April, eighteen hundred and eighteen, four thousand three hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Register of the Treasury, three thousand dollars.

For compensation to the clerks in the Register's office, per act of twentieth April, eighteen hundred and eighteen, twenty-two thousand one hundred and fifty dollars.

For compensation to the messengers in said office, including the sum of ninety dollars for stamping ships' registers, five hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For allowance to the person employed in transmitting passports and sea-letters, for expense of translating foreign languages in the office of the Secretary of the Treasury, for printing, fuel, and other contingent expenses, in the Treasury Department, and in the several offices therein, forty thousand and fifty dollars.

For compensation to a superintendent and two

watchmen, employed for the security of the Treasury buildings, and for repairs of engines, hose, and fire-buckets, one thousand one hundred dollars.

For compensation to the Secretary of War, six thousand dollars.

For compensation to the clerks in the office of the Secretary of War, per act of twentieth April, eighteen hundred and eighteen, twenty-five thousand eight hundred dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, five thousand dollars.

For arrearages of contingent expenses in said office, prior to the year eighteen hundred and nineteen, one thousand dollars.

For compensation to the messenger and his assistants in said office, seven hundred and ten dollars.

For compensation to the Paymaster General, two thousand five hundred dollars.

For compensation to the clerks in the Paymaster General's office, per act of twentieth April, eighteen hundred and eighteen, nine thousand two hundred dollars.

For arrearages to the clerks in said office, for the year eighteen hundred and seventeen, nine hundred and forty dollars and forty cents.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, two thousand dollars.

For compensation to the clerks in the office of the Adjutant General, two thousand one hundred and fifty dollars.

For compensation to the clerks in the office of the Ordnance Department, per act of twentieth April, eighteen hundred and eighteen, two thousand nine hundred and fifty dollars.

For the contingent expenses of said office, eight hundred and seventy dollars.

For compensation to the clerks in the office of the Engineer Department, two thousand one hundred and fifty dollars.

For fuel, stationery, printing, and other contingent expenses of said office, one thousand seven hundred and ninety dollars.

For compensation to the clerks employed in the office of the Surgeon General, one thousand one hundred and fifty dollars.

For the contingent expenses of said office, three hundred and seventy-four dollars.

For compensation to the Secretary of the Navy, six thousand dollars.

For compensation to the clerks in the office of the Secretary of the Navy, per act of twentieth April, eighteen hundred and eighteen, eight thousand two hundred dollars.

For expense of fuel, stationery, and other contingent expenses, in said office, two thousand five hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For compensation to the Commissioners of the Navy Board, ten thousand five hundred dollars.

For compensation to their secretary, two thousand dollars.

For compensation to the clerks in the office of said commissioners, per act of twentieth April, eighteen hundred and eighteen, three thousand five hundred and fifty dollars.

For an addition to the allowance of clerk hire in said office, four thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For the contingent expenses of said office, two thousand dollars.

For compensation to a superintendent, and two watchmen, and for other expenses incurred for the security of the State, War, and Navy Departments, one thousand one hundred dollars.

For compensation to the Postmaster General, four thousand dollars.

For compensation to the clerks in the office of the Postmaster General, per act of twentieth April, eighteen hundred and eighteen, twenty-two thousand seven hundred dollars.

For compensation to the messengers in the General Post Office, six hundred and sixty dollars.

For compensation to the Assistant Postmaster General, two thousand five hundred dollars.

For compensation to the second Assistant Postmaster General, two thousand five hundred dollars.

For the contingent expenses of the General Post Office, four thousand dollars.

For compensation to the Surveyor General, two thousand dollars.

For compensation to the clerks in the office of the Surveyor General, two thousand one hundred dollars.

For compensation to the surveyor south of Tennessee, two thousand dollars.

For compensation to the clerks in his office, and for contingent expenses, one thousand seven hundred dollars.

For compensation to the surveyor in the State of Illinois and the Missouri Territory, two thousand dollars.

For compensation to his clerks, per act of third April, eighteen hundred and eighteen, two thousand dollars.

For compensation to the surveyor in the Alabama Territory, two thousand dollars.

For compensation to his clerks, one thousand five hundred dollars.

For compensation to the Commissioner of the Public Buildings at Washington, two thousand dollars.

For compensation to the officers and clerks of the Mint, nine thousand six hundred dollars.

For wages of the persons employed in the different operations of the Mint, ten thousand and seventy-five dollars.

For repairs, cost of iron and machinery, rents, and other contingent expenses, of the Mint, five thousand four hundred dollars.

For allowance of wastage in the gold and silver coinage of the Mint, three thousand dollars.

For compensation to the Governor, Judges,

and Secretary, of the Missouri Territory, seven thousand eight hundred dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary of the Alabama Territory, seven thousand one hundred and thirty-three dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For compensation to the Governor, Judges, and Secretary, of the Michigan Territory, six thousand six hundred dollars.

For the contingent expenses of said Territory, three hundred and fifty dollars.

For the discharge of such claims against the United States, on account of the Civil Department, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, two thousand dollars.

For compensation to the Chief Justice, the Associate Judges, and District Judges of the United States, including the chief justice and associate judges of the District of Columbia, seventy-five thousand nine hundred and fourteen dollars and twenty-eight cents.

For compensation to the Attorney General of the United States, three thousand five hundred dollars.

For compensation to his clerk, per act of twentieth April, eighteen hundred and eighteen, one thousand dollars.

For the contingent expenses of his office, five hundred dollars.

For compensation to sundry district attorneys and marshals, as granted by law, including those in the several Territories, eight thousand two hundred dollars.

For compensation to the reporter of the decisions of the Supreme Court of the United States, for the year eighteen hundred and nineteen, one thousand dollars.

For the payment of sundry pensions granted by the late and present Governments, two thousand and ninety dollars.

For the payment of balances due to certain collectors of the old internal revenue, pursuant to the provisions of the act of thirteenth of February, eighteen hundred and fifteen, fifteen thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, stakeage of channels, bars, and shoals, including the purchase and transportation of oil, keepers' salaries, repairs, and improvements, and contingent expenses, and including, also, balances of former appropriations for Savannah river, Lake Erie, and Little Gull Island, which were carried to the surplus fund the thirty-first of December last, seventy-four thousand three hundred and sixty-two dollars twenty-seven cents.

For the purchase or erection of custom-houses and public warehouses, one hundred thousand dollars.

For claims due, and becoming due, under existing contracts for constructing the United States' road from Cumberland to the Ohio river



two hundred and fifty thousand dollars; and for completing the said road, the sum of two hundred and eighty-five thousand dollars: which several sums, hereby appropriated, together with the amount heretofore advanced by the United States for making said road, shall be repaid out of the fund reserved for laying out and making roads to the States of Ohio, Indiana, and Illinois, by virtue of the several acts for the admission of the aforesaid States into the Union.

For surveying the public lands of the United States, one hundred and sixty thousand dollars.

For expenses attending the occupancy of the new Executive buildings, including fuel, furniture, and other incidental expenses, twenty-three thousand two hundred and ninety-seven dollars fifty-nine cents.

For covering with slate the two Executive buildings now occupied by the State, Treasury, War and Navy Departments, ten thousand dollars.

For the discharge of such miscellaneous claims against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, six thousand dollars.

For additional compensation allowed to the clerks in the office of the Superintendent of Indian Trade, per act of twentieth April, eighteen hundred and eighteen, four hundred and fifty dollars.

For compensation to the clerks in the office of the Commissary General of Purchases, two thousand eight hundred dollars.

For compensation to the messenger in said office, three hundred and sixty dollars.

For expense of fuel, stationery, printing, and other contingent expenses, in said office, nine hundred and thirty dollars.

For allowance to the clerks in the office of the Commissary General of Subsistence, two thousand one hundred and fifty dollars.

For the contingent expenses of said office, two thousand seven hundred dollars.

For salaries to the Ministers of the United States to London, Paris, St. Petersburg, Rio Janeiro, and Madrid, with the salaries of their several Secretaries of Legation, and the salary of a Chargé des Affaires at the Hague and at Stockholm, and for the usual allowance of three months' salary to the Minister at Stockholm, payable on his return home, sixty-six thousand two hundred and fifty dollars.

For outfit for a Minister Plenipotentiary at Rio Janeiro, and Madrid, and also for the Chargé des Affaires at London, the Hague, and Stockholm, thirty-one thousand five hundred dollars.

For the contingent expenses of the missions aforesaid, ten thousand dollars.

For a deficiency in the appropriations of former years, for the payment of expenses on foreign intercourse, including losses on drafts, and the difference of exchange, twenty-five thousand dollars.

For the contingent expenses of intercourse between the United States and foreign nations, thirty thousand dollars.

For the expenses of intercourse with the Barbary Powers, forty-two thousand dollars.

For the expenses, during the present year, for carrying into effect the fifth, sixth, and seventh, articles of the treaty of peace, concluded with His Britannic Majesty on the 24th day of December, one thousand eight hundred and fourteen, including the compensation of the commissioners, agents, and surveyors, and their contingent expenses, forty thousand dollars.

For the salaries of the agents for claims on account of spoliation, and for seamen, at London and at Paris, four thousand dollars.

For the relief of distressed American seamen in foreign countries, eighty thousand dollars.

For cost of paper, engraving, and printing certificates of registry, and lists of crews for vessels of the United States, per provisions of the act of third March, eighteen hundred and thirteen, five thousand dollars.

To indemnify the insurers of the British ship *Brio de Mar*, taken and burnt by the *Peacock*, after the period fixed by the Treaty of Ghent for the termination of hostilities between the United States and Great Britain and her dependencies, fifteen thousand dollars.

For the second payment to John Trumbull, for paintings, agreeably to his contract with the Secretary of State, made in pursuance of a resolution of Congress, of the sixth of February, eighteen hundred and seventeen, six thousand dollars.

To indemnify the owners and underwriters of the British ship *Union*, Captain Robert Hall, taken and burnt by the American ship of war *Peacock*, after the period fixed by the Treaty of Ghent for the termination of hostilities between the United States and Great Britain and her dependencies, sixty-one thousand four hundred and fifty-one dollars.

For enabling the Secretary of the Treasury to repay to John G. Brown, of New Brunswick, the amount of a forfeiture remitted by Mr. Dallas, while Secretary of the Treasury, a sum not exceeding two hundred and twenty-eight dollars, shall be, and the same is hereby, appropriated.

For carrying into effect a resolution directing a survey of certain parts of the coast of North Carolina, passed December the twenty-fourth, one thousand eight hundred and eighteen, the sum of five thousand dollars shall be, and the same is hereby, appropriated.

SEC. 2. *And be it further enacted*, That the several appropriations, hereinbefore made, shall be paid, and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," and out of any moneys not otherwise appropriated.

Approved, March 3, 1819.

An Act for the relief of Phebe Stuart.

*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, directed to place on the pension list, Phebe Stuart, widow of James Stuart,

deceased, under the provisions of an act, passed the sixteenth day of April, one thousand eight hundred and sixteen, making provision for the widows and orphans of the militia who had died in the service of the United States.

Approved, March 3, 1819.

An Act in behalf of the Connecticut Asylum for the Deaf and Dumb.

*Be it enacted, &c.*, That there be granted to the Connecticut Asylum for the education and instruction of deaf and dumb persons, a township of land, or a tract of land equal thereto, to be located, under the direction of the Secretary of the Treasury, in tracts of not less than four entire sections each, in any of the unlocated lands of the United States to which the Indian title has been extinguished; which land shall be and forever remain to the use of said asylum, for the education and instruction of deaf and dumb persons; or, if said asylum shall sell said land, which they are authorized to do, the money arising from such sale shall be and remain forever to the same use.

Approved, March 3, 1819.

An Act extending the term of half-pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service.

*Be it enacted, &c.*, That, in all cases where provision has been made by law for five years half-pay to the widows and children, of officers, seamen, and marines, who were killed in battle, or died of wounds received in battle, or who died in the naval service of the United States, during the late war, the said provision shall be continued for the additional term of five years, to commence at the end of the first term of five years, in each case, respectively, making the provision equal to ten years half-pay: which shall be paid in the manner, and out of the fund, heretofore designated by law; and the said pensions shall also cease for the reasons mentioned in the said law.

Approved, March 3, 1819.

An Act for the relief of Hannah Ring and others.

*Be it enacted, &c.*, That the act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war, passed the eighteenth day of March, eighteen hundred and eighteen, shall be construed to authorize the Secretary of War to place on the pension list Jonathan Ring, a soldier in the Revolutionary war, now insane, of the date of the 11th day of July, eighteen hundred and eighteen, and that the receipt of Hannah Ring, his wife, during his insanity, shall be sufficient for the pension allowed by the said act.

SEC. 2. *And be it further enacted*, That the said act shall be also construed to authorize the Secretary of War to place on the pension list John Frink, a soldier in the Revolutionary war, now insane, of the date of the first of May, eighteen hundred and eighteen, and that the receipt of Lu-

ther Frink, his son, shall be sufficient for the pension allowed by the said act.

SEC. 3. *And be it further enacted*, That the said act shall be also construed to authorize the Secretary of War to place on the pension list Abraham Edwards, a mariner in the Revolutionary war, now insane, of the date of the first of July, eighteen hundred and eighteen, and the receipt of Joseph Edwards, his son, shall be sufficient for the pension allowed by this act.

SEC. 4. *And be it further enacted*, That the said act shall be also construed to authorize the Secretary of War to place on the pension list Thomas Lucas, a soldier in the Revolutionary war, now insane, of the date of the fourteenth of January, eighteen hundred and nineteen, and that the receipt of the wife of the said Thomas Lucas, or his guardian, shall be sufficient for the pension allowed by the said act.

Approved, March 3, 1819.

An Act to provide for the due execution of the laws of the United States within the State of Illinois.

*Be it enacted, &c.*, That the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the State of Illinois as elsewhere within the United States.

SEC. 2. *And be it further enacted*, That the said State shall be one district, and be called the Illinois district. And a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold at the seat of government of the said State two sessions annually, on the first Mondays in May and December; and he shall in all things have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act, entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district, who shall reside and keep the records of the court at the place of holding the same, and shall receive for the services performed by him the same fees to which the clerk of the Kentucky district is entitled for similar services.

SEC. 3. *And be it further enacted*, That there shall be allowed to the judge of the said district court the annual compensation of one thousand dollars, to commence from the date of his appointment, to be paid quarter-yearly at the Treasury of the United States.

SEC. 4. *And be it further enacted*, That there shall be appointed in the said district a person learned in the law to act as attorney for the United States, who shall, in addition to his stated fees, be paid by the United States two hundred dollars, as a full compensation for all extra services.

SEC. 5. *And be it further enacted*, That a marshal be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed to marshals in other



## Public Acts of Congress.

districts; and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

Approved, March 3, 1819.

An Act supplementary to the act, entitled "An act to authorize the President and Managers of the Washington Turnpike Company of the State of Maryland, when organized, to extend and make the turnpike road to or from Georgetown, in the District of Columbia, through the said District, to the line thereof.

*Be it enacted, &c.*, That the law of the State of Maryland, entitled "A supplement to an act, entitled 'An act to incorporate a company to make a turnpike road from the line of the District of Columbia, where it crosses the post road leading from Georgetown to Fredericktown, through Montgomery and Frederick counties, to Fredericktown,'" passed in the year one thousand eight hundred and eighteen, be, and the same is hereby declared to be, in full force within the District of Columbia.

Approved, March 3, 1819.

An Act to alter and establish certain Post Roads.

*Be it enacted, &c.*, That the following post roads be, and the same are hereby, discontinued—that is to say:

From Brunswick, by Topsham, to Starbird's corner, in Bowdoin, in Maine.

From Plymouth, by Carver and Plympton, to Middleborough, and from Medford to Reading, in Massachusetts.

From Worthington to Urbana, in Ohio.

From Hagerstown, in Maryland, to McConnells-town, in Pennsylvania.

From Currituck Courthouse to Knott's Island, in North Carolina.

SEC. 2. *And be it further enacted*, That the following be established post roads—that is to say:

*In New Hampshire*—From Sanborntown bridge, through Gilmantown, by the house of Judge Badger and New Durham bridge to the post office in Farmington.

From Boston, in Massachusetts, on the Medford, Andover, and Londonderry turnpike roads, and over Isle of Hookset bridge, to Concord, in New Hampshire.

From Bartlett, in New Hampshire, to Fryeburg, in Maine.

From Warner, by Sutton and New London, to Stickney's Inn, in Springfield.

From Washington, by Leinster and Unity, to Claremont.

From Concord, in Rockingham county, by London, Pittsfield, Gilmanton Iron-works, Alton, and Wolfesborough, to Tuftonborough.

From Franconia, by Littleton village, to Littleton bridge.

*In Vermont*—That the post road from Danville to Lancaster pass by Littleton bridge.

From Barnet, by Waterford village, at Mann's store, to Concord.

From Jamaica, by Winhall, to Manchester.

From Richford to Berkshire, in the county of Franklin.

*In Maine*—From Freeport, by Little River village, in Lisbon, to Starbird's corner, in Bowdoin.

That the post road from Parsonsfield to Effingham pass by Porter bridge.

That the post road from Portland to Fryeburg pass by Bridgetown and Denmark.

*In Massachusetts*—From the south parish of Bridgewater, by the Four Corners, in Middleborough, to New Bedford.

From Williamstown to Hancock.

From the house of Thomas B. Harrub, in Plympton, by Carver, to Wareham.

From Worcester, by West Boylston, Westminster, and Gardner, to Templeton.

From Falley's cross-roads, in Chester, by Norwich and Westhampton, to Northampton.

From Concord, by Harvard, Shirley, Lunenburg, Fitchburg, and Ashburnham, to Winchendon.

From Worcester, by West Boylston, Princeton, Westminster, and Gardner, to Templeton.

From the head of Accushnet river to the village of Fairhaven.

*In Connecticut*—From Winstead, by Colebrook central meeting-house, Sandisford, and Otis west meeting-house and Tyringham, to Stockbridge, in Massachusetts.

From Colchester, by Hebron, Andover, and Coventry, to Tolland.

From Lebanon, by Windham and Hampton, to Woodstock.

From Litchfield, by Goshen, East street, to Norfolk.

*In New York*—From Albany, by Spencertown, to Sheffield, in Massachusetts.

From Troy, on the Hoosick road, by Brunswick, Grafton, and Petersburg, to Williamstown, in Massachusetts.

From the city of Schenectady to Utica, on the south side of the Mohawk river.

From Cherry Valley, by Long Patent, Westford, and Decatur, to Worcester.

From Great Bend, Pennsylvania, by Harmony and Windsor, to Deposit.

From Troy, by Brunswick and Greenbush, to Sand Lake.

From Cambridge, by Hoosick, Petersburg, Berlin, and Stephenstown, to Lebanon.

From Waterford, by Orange, to Ballston.

From Pine Plains, on the Ulster and Delaware turnpike, to North Amenia.

From Waterloo to Port Glasgow, by Clyde village, town of Galen.

From the village of Peekskill, by Crumpond, to Somerstown, in the county of West Chester.

From South Nunda, by McClure's to Ellicottville, in the county of Cattaraugus.

*In New Jersey*—From Newton, in Sussex county, by Stillwater, Marksborough, Butt's bridge, to Columbia glass manufactory, on the Delaware river.

From Baskenridge, by Liberty Corner, to Doughty's mills, in Morris county.

## Public Acts of Congress.

From the city of New York, across Staten Island, by the Richmond and Woodbridge turnpike roads, to New Brunswick.

*In Pennsylvania*—From Fannetsburg, in Franklin county, by Mifflintown, McAllisterstown, and Stroupstown, to Selinsgrove.

From New Bedford to New Castle.

That the mail from Chambersburg to Huntington, return by Trough Creek, Three Springs Valley, and Fort Littleton, to the Burnt Cabins.

From Allentown, by McKeanburg, Orwigsburg, and Hamburg, to Cootstown.

That the mail from Washington to New Lisbon, pass on from Bricelands, by Manchester, and from thence by Hookstown, Georgetown, and Little Beaver Bridge.

From the Yellow Springs, in Huntingdon county, by Williamsburg and Martinsburg, to Bloody Run.

That the post road from Womelsdorf to Sunbury, pass by Gratz.

From Easton, by the Wind Gap, Hamilton, Pocono, Sterling, Salem, Canaan, and Mount Republic, to Mount Pleasant.

From Mount Republic to the Courthouse in Bethany.

From Halifax, in Dauphin county, to Sunbury, in Northumberland county, on the east side of the Susquehanna river.

From Greensburg, by Salem cross-roads, Crawford's mills, Freeport, Kittanning Courthouse, Woodward's mills, Indiana Courthouse, Conomaugh salt-works and New Alexandria, to Greensburg.

From Chester, in Delaware county, by Newtown, Spread Eagle, and King of Prussia, to Norristown, in Montgomery.

From Philadelphia, by Merion, Mill Creek, Gulf Mills, Lowry, Elliott's, and Mason's tavern, to Kimberton.

*In Maryland*—From Hancock to Bath, in Berkeley county, in Virginia.

From Port Tobacco, by Bryantown, to Benedict.

That the mail pass on the turnpike road between Hagerstown and Cumberland.

From Bladensburg to Magruder's tavern, in Maryland.

From Fredericksburg, by Cartersville, Cumberland Courthouse, Prince Edward Courthouse and Halifax Courthouse, in Virginia, by Milton, Salisbury, and Charlotte, in North Carolina, by York Courthouse, Pinckneyville, Union Courthouse, Lawrence Courthouse, and Abbeville Courthouse, in South Carolina; and by Petersburg, Washington, Powelton, and Sparta, to Milledgeville, in Georgia.

*In Virginia*—From Bowling Green, in Caroline county, by Golansville, to Oxford.

That the post road called the Three Notched Road, from Richmond to Milton, shall pass by Price's store, N. J. Poindexter & Co.'s store, and Dobb's store.

From Morgantown, by Barnes's mill and Shinston, to Clarksburg.

From Moorfield's, by Smith's and the German settlement, to Kingwood.

From Preston to Howell's mill on the Little Kenhawa.

From Petersburg, by Moody's, Bevil's bridge, Amelia Courthouse, Painesville, and Jameston, to Farmville, in the county of Prince Edward.

From York to Warwick.

From Kempsville to London bridge.

From Great bridge, by Blackwater, to Knott's Island, North Carolina.

From Lewisburg, by Nicholas Courthouse, to Charleston, in Kenhawa county.

From Perkinsonville, in Amelia county, by Jennings' Ordinary, in Nottoway, Miller's tavern, and Moore's Ordinary, in Prince Edward county, and Key's tavern, in Charlotte county, to Charlotte Courthouse.

From Hanover Courthouse to Taylorsville, in the county of Hanover.

From Lynchburg to the store of Richard Davis, in Bedford county.

*In North Carolina*—From Rutherfordton, by Mumford's Cove and Harmonville, to Mackeysville, in Burk county.

From Lumberton, by Philadelphus, McPhauls-ville, Montpelier, McEachin's bridge, Cowper Hill, Stewartsville, Queensdale, and Alfordsville, to Lumberton.

From Haywood Courthouse, at Waynesville, to Houghstonville, in South Carolina.

From Newbern, by Tilman's mill, to Bay river.

From Tarboro' to Williamstown.

From Louisburg, by Haysville and Healthseat, to Oxford.

From Ashville, North Carolina, to Pendleton Courthouse, in South Carolina.

From Knott's Island, by Kempsville, to Norfolk, in Virginia.

From Statesville, by Campbell's Grove, to Morgantown.

From Salem, North Carolina, by Perkins, Good Spur, and Poplar Camp, to Wythe Courthouse, Virginia.

From Oxford, in Granville county, to Louisburg, in the county of Franklin.

From Chapel Hill, in Orange county, to Lexington, in the county of Rowan.

*In South Carolina*—From Parker's Ferry, by Walterboro, to Barnwell Courthouse.

From Columbia, by Lexington, Edgefield, Newbury, and Laurens, to Greenville Courthouse.

From Adam Eifert's, by Mount Willing, R. Coleman's, William Wilson's, Charles Chappel's, on Saluda river, J. Cook's store, and H. Gray's, to Greenville.

From John Thompson's, jr., in Marion district, by Richard Howard's, to Godfrey's Ferry, on Big Pee-Dee river.

From York Courthouse, by Fullenwider's store, at Gordan's Old Place, to Lincolnton, in North Carolina; and from thence to Morgantown.

*In Georgia*—From Milledgeville, by Bollin's ferry, Devereaux, Baxter's bridge, and Greensboro', to Athens.



From Port Hawkins, by Clinton and Monticello, to Madison.

*In Ohio*—From Dresden, by Washington cross roads, West Bedford and Darling's, to Mansfield.

From Berkshire, by Delaware, to Urbana.

From Ravenna, by Rootstown and Randolph, to Canton.

From Newark to Mount Vernon.

From Urbana to the county seat in Logan county.

From Columbus, by Urbana and Piqua, to Greenville.

From Troy, by Piqua, St. Mary's, Fort Wayne, and Fort Defiance, to Fort Meigs.

From Zanesville, by Plainfield, to White Eyes Plains, on the east side of the Muskingum.

From Wellsburg, Virginia, by Philipsburg and Smithfield, to Cadiz.

From New Lexington to Greenville.

From Coshocton, by Mechanicstown and Millersburg, to Wooster.

From Piqua to Hardin, in Shelby county.

From Hamilton, by Oxford, Dover, Eaton, and New Paris, to Greenville.

From Cadiz to Rumby.

*In Kentucky*—From Cattlesburg, by the mouth of Blaine creek, and the mouth of Louisa, Fork of Sandy, to Floyd Courthouse.

From Lexington, by the way of the Burnt Tavern, to Lancaster.

From Princeton, by Bellsford, to Madisonville.

From Falmouth to Neville, in Ohio.

From Millersburg, by Ruddel's mill, to Cynthia.

From Louisville, by Mount Vernon, Fairfield, and Bloomfield, to Springfield.

From Greensburg, by Monroesville, to Glasgow.

From Newburg, by Ewingsville and Trenton, to Port Royal, in Tennessee.

From Trenton, in Christian county, to Clarksville.

That the mail from Glasgow to Berksville, shall pass by Martinsburg.

From Tompkinsville, by Martinsburg, to Burksville.

*In Tennessee*—From Clinton, by Morgan Courthouse, to Burksville, in Kentucky.

From Columbia, in Maury county, to Waynesboro', in Wayne county.

From the Boat Yard, by Embree's iron works, to Jonesborough.

*In Indiana*—From Princeton, by Columbia, Petersburg, and the seat of justice in Dubois county, to Paoli.

From Vincennes, by Palestine, to York, in Illinois.

From Lexington to Vernon.

From Jeffersonville, by Greenville, Fredericksburg, Paoli, and Washington, to Vincennes.

From Vincennes, by Carlisle and Belville, in Illinois, to St. Louis, in the Missouri Territory.

From Jacksonborough, in the county of Wayne, to the county seat for Randolph county.

From Lawrenceburg, in Indiana, to Petersburg and Burlington, in Kentucky.

From Brookville to Vernon; thence, by Brownstown and Salem, to Geneva.

From Corydon, by Mount Sterling, Portersville, Petersburg, and Columbia, to Princeton.

From Elizabeth, Hardin county, Kentucky, by Fredonia, and Mount Sterling, to Paoli, in Indiana.

*In Illinois*—From Edwardsville, by Alton, to St. Charles, in the Missouri Territory; and from Edwardsville, by Ripley, to Perryville.

That the post road from Vincennes to Shawneetown, pass by the English Prairie, or section No. 10, of township No. 2, range 10, east.

From Vincennes, by Palestine, to York, in Illinois.

*In Mississippi*—From Winchester, by Green Courthouse, Fords on Pearl River, Marion Courthouse, Holmesville, and Liberty, to Woodville.

From Port Gibson, by Franklin Courthouse and Liberty, to Madisonville, in the State of Louisiana.

*In the Missouri Territory*—From St. Charles, by Clark's Fort, Stout's Fort, Lincoln Courthouse, and Clarksville, to Louisiana, at the mouth of Salt River, in Pike county.

From St. Charles, by Montgomery Courthouse, to Howard Courthouse.

From St. Louis, by Franklin Courthouse, Cooper Courthouse, to Howard Courthouse.

From Cadron, by Pulaski Courthouse, Little Rock, Clark Courthouse, and Hempstead Courthouse, to Washita Courthouse, in Louisiana.

From Franklin Courthouse to Montgomery Courthouse.

From St. Michael, by the seat of justice in Wayne county, to Hix's Ferry.

From Jackson, to the seat of justice in Wayne county.

From St. Louis, by Belle Fontain, and Portage de Sioux, to the seat of justice in Lincoln county.

From Potosi, by Belleview, to Murphy's Settlement.

*In the Alabama Territory*—From Huntsville, to Moorsville, in Limestone County.

From Cahaba to St. Stephens.

From Burnt Corn Springs, Monroe county, by Blakely, to Mobile, in Mobile county.

From Cahaba to Tuskaloosa.

From Huntsville, in Alabama Territory, by Shelbyville and Fayetteville, to Murfreesborough, in Tennessee.

Sec. 3. *And be it further enacted*, That the military road commenced by the troops of the United States, under the command of General Jackson, and leading from Huntsville, in the Alabama Territory, to Madisonville, in the State of Louisiana, be established a post route when the same shall be completed.

Approved, March 3, 1819.

An Act further to suspend, for a limited time, the sale or forfeiture of lands for failure in completing the payment thereon.

*Be it enacted, &c.*, That the operation of the sixth condition of the fifth section of the act,

entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States northwest of the Ohio, and above the mouth of Kentucky river,' be, and the same is hereby, suspended until the thirty-first day of March, one thousand eight hundred and twenty, in favor of the purchasers of public lands at any of the land offices of the United States: *Provided*, That the benefit of this act shall not be extended to any one purchaser for a greater quantity than six hundred and forty acres of land.

Approved, March 3, 1819.

An Act to enforce those provisions of the act, entitled "An act to incorporate the subscribers to the Bank of the United States," which relate to the right of voting for directors, and for other purposes.

*Be it enacted, &c.*, That, in all elections of directors of the Bank of the United States, hereafter to be held, under, and by virtue of, the "Act to incorporate the subscribers to the Bank of the United States," whenever any person shall offer to the judges of such elections more than thirty votes in the whole, including those offered in his own right, and those offered by him as attorney, proxy, or agent, for any others, the said judges of the elections, or any one of them, are hereby authorized and required to administer to the said person, so offering to vote, the following oath or affirmation, viz:

I, —, do solemnly swear, (or affirm, as the case may be,) that I have no interest, directly or indirectly, in the shares upon which I shall vote at this election, as attorney for others; that those shares are, to the best of my knowledge and belief, truly, and in good faith, owned by the persons in whose names they now stand; and that, in voting at this election, I shall not, in any manner, violate the first fundamental article of the "Act to incorporate the subscribers to the Bank of the United States." And the said judges of elections, or any one of them, shall be authorized and empowered, in their discretion, or at the instance of any stockholder of the bank, to administer the said oath or affirmation to any person offering to vote at any such election.

Sec. 2. *And be it further enacted*, That no person shall be entitled to vote at any such election, as attorney, proxy, or agent, for any other person, copartnership, or body politic, without a power, for that purpose, being duly executed, in the presence of a witness, and filed in the bank, and on which power shall be endorsed the oath or affirmation of the person, or one of the copartners, or of the head, or some of the officers, of the body politic granting such power, in the words following: "I —, do solemnly swear, (or affirm, as the case may be,) that I am (or that the copartnership, consisting of myself and —, are, or that the corporation known by the name of —, is, as the case may be, (truly, and in good faith, the owner, (or owners, as the case may be,) of the shares in the capital stock of the Bank of the United States, specified in the within power of attorney, and of no other shares;

that no other person has any interest in the said shares, directly or indirectly, except as stated in the said power; and that no other power has been given to any person which is now in force, to vote for me (or for the copartnership aforesaid, or for the body politic aforesaid, as the case may be,) at any election of directors of the said bank;" which oath or affirmation may be taken before a notary public, judge, or justice of the peace, and shall be certified by him.

Sec. 3. *And be it further enacted*, That if the judges of any election of directors, to be held as aforesaid, shall permit any person to give more than thirty votes, in the whole, at any such election, without the said person's having taken the aforesaid oath or affirmation, or shall suffer any person whatever to vote as attorney, agent, or proxy, for any other person, or for any copartnership, or body politic, without a power for that purpose, as prescribed in the foregoing section, with the oath or affirmation and certificate aforesaid; such of the said judges as shall consent thereto, shall severally be deemed guilty of a misdemeanor, and, on due conviction thereof, shall be subject to a fine not exceeding two thousand dollars, or to imprisonment not exceeding one year, at the discretion of the court before which such conviction shall be had. And if any person shall wilfully and absolutely swear or affirm falsely, in taking any oath or affirmation prescribed by this act, such person so offending, shall, upon due conviction thereof, be subject to the pains and penalties which are by law prescribed for the punishment of wilful and corrupt perjury.

Sec. 4. *And be it further enacted*, That if any person shall, directly or indirectly, give any sum or sums of money, or any other bribe, present, or reward, or any promise, contract, obligation, or security, for the payment or delivery of any money, present, or reward, or anything to obtain or procure the opinion, vote, or interest, of the president of the Bank of the United States, or either of the directors thereof, or the president or a director of either of the branches of the said bank, in any election, question, matter, or thing, which shall come before the said president and directors for decision, in relation to the interest and management of the business of said bank, and shall be thereof convicted; such person or persons, so giving, promising, contracting, or securing to be given, paid, or delivered, any sum or sums of money, present, reward, or other bribe, as aforesaid, and the president or director who shall in anywise, accept or receive the same, on conviction thereof, shall be fined and imprisoned at the discretion of the court, and shall forever be disqualified to hold any office of trust or profit under the said corporation, and shall, also, forever be disqualified to hold any office of honor, trust, or profit, under the United States.

Approved, March 3, 1819.

An Act in addition to "An act concerning tonnage and discriminating duties in certain cases."

*Be it enacted, &c.*, That the act passed on the twentieth of April, one thousand eight hundred



and eighteen, entitled "An act concerning tonnage and discriminating duties in certain cases," be, and the same hereby is, extended, in all its provisions and limitations, to the vessels of Prussia, of the city of Hamburg, and of the city of Bremen.

SEC. 2. *And be it further enacted*, That the act passed on the third of March, eighteen hundred and fifteen, entitled "An act to repeal so much of the several acts imposing duties on the tonnage on [of] ships and vessels, [and on goods, wares, and merchandise, imported into the United States, as imposes a discriminating duty on tonnage between foreign vessels] and vessels of the United States, and between goods imported into the United States in foreign vessels and vessels of the United States," and also the act to which this is an addition, together with this act, shall cease and expire on the first day of January, eighteen hundred and twenty-four.

Approved, March 3, 1819.

An Act to protect the commerce of the United States, and punish the crime of piracy.

*Be it enacted, &c.*, That the President of the United States be, and he hereby is, authorized and requested to employ so many of the public armed vessels, as, in his judgment, the service may require, with suitable instructions to the commanders thereof, in protecting the merchant vessels of the United States and their crews from piratical aggressions and depredations.

SEC. 2. *And be it further enacted*, That the President of the United States be, and hereby is, authorized to instruct the commanders of the public armed vessels of the United States to subdue, seize, take, and send into any port of the United States, any armed vessel or boat, or any vessel or boat, the crew whereof shall be armed, and which shall have attempted or committed any piratical aggression, search, restraint, depredation, or seizure, upon any vessel of the United States, or of the citizens thereof, or upon any other vessel; and also to retake any vessel of the United States, or its citizens, which may have been unlawfully captured upon the high seas.

SEC. 3. *And be it further enacted*, That the commander and crew of any merchant vessel of the United States, owned wholly, or in part, by a citizen thereof, may oppose and defend against any aggression, search, restraint, depredation, or seizure, which shall be attempted upon such vessel, or upon any other vessel owned as aforesaid, by the commander or crew of any armed vessel whatsoever, not being a public armed vessel of some nation in amity with the United States; and may subdue and capture the same; and may also retake any vessel, owned as aforesaid, which may have been captured by the commander or crew of any such armed vessel, and send the same into any port of the United States.

SEC. 4. *And be it further enacted*, That whenever any vessel or boat, from which any piratical aggression, search, restraint, depredation, or seizure, shall have been first attempted or made,

shall be captured and brought into any port of the United States, the same shall and may be adjudged and condemned to their use, and that of the captors, after due process and trial, in any court having admiralty jurisdiction, and which shall be holden for the district in which such captured vessel shall be brought; and the same court shall thereupon order a sale and distribution thereof accordingly, and at their discretion.

SEC. 5. *And be it further enacted*, That if any person or persons whatsoever, shall, on the high seas, commit the crime of piracy, as defined by the law of nations, and such offender or offenders shall afterwards be brought into, or found in, the United States, every such offender or offenders shall, upon conviction thereof before the circuit court of the United States for the district into which he or they may be brought, or in which he or they shall be found, be punished with death.

SEC. 6. *And be it further enacted*, That this act shall be in force until the end of the next session of Congress.

Approved, March 3, 1819.

An Act to continue in force for a further term the act entitled "An act for establishing trading-houses with the Indian tribes," and for other purposes.

*Be it enacted, &c.*, That the act entitled, "An act for establishing trading-houses with the Indian tribes," passed on the second day of March, one thousand eight hundred and eleven, and which was, by subsequent acts, continued in force until the first day of March, one thousand eight hundred and nineteen, shall be, and the same is hereby, further continued in force until the first day of March, one thousand eight hundred and twenty, and no longer.

SEC. 2. *And be it further enacted*, That the President of the United States shall have power, and he is hereby authorized, in every case where he shall judge it expedient, to transfer any of the Indian agents, whose compensation was fixed by the act, entitled "An act fixing the compensation of Indian agents and factors," from the places designated by the said act, for the discharge of their duties, respectively, to such other places as the public service may require; and shall also have power to appoint, by and with the consent and advice of the Senate, an Indian agent for the Upper Missouri, whose annual compensation shall be one thousand eight hundred dollars.

Approved, March 3, 1819.

An Act regulating the payments to Invalid Pensioners.

*Be it enacted, &c.*, That in all cases of application for the payment of pensions to invalids, under the several laws of Congress granting pensions to invalids, the affidavit of two surgeons or physicians, whose credibility, as such, shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the rate of such dis-

ability at the time of making the affidavit, shall accompany the application of the first payment which shall fall due after the fourth day of March next, and at the end of every two years thereafter; and if, in a case of a continued disability, it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause, which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment: *And provided also*, That this act shall not extend to the invalids of the Revolution, who have been, or shall be, placed on the pension list pursuant to an act of Congress, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the Revolutionary war," approved the eighteenth day of March, in the year of our Lord one thousand eight hundred and eight.

Approved, March 3, 1819.

An Act to regulate the duties on certain Wines.

*Be it enacted, &c.*, That, from and after the thirtieth day of June, one thousand eight hundred and nineteen, the duties now by law levied, collected, and paid, on wine not enumerated in the "Act to regulate the duties on imports and tonnage," passed the twenty-seventh day of April, one thousand eight hundred and sixteen, when imported in bottles or cases, of seventy cents per gallon, and on wine not enumerated in said act, when imported otherwise than in bottles or cases, of twenty-five cents per gallon, shall cease and determine; and there shall be levied, collected, and paid, in lieu thereof, the several and specific duties hereinafter mentioned; that is to say, on wines not enumerated in the act aforesaid, when imported in bottles or cases, thirty cents per gallon, and when imported otherwise than in bottles or cases, fifteen cents per gallon.

SEC. 2. *And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified, and imposed upon the several goods, wares, and merchandise, aforesaid, which, after the said thirtieth day of June, one thousand eight hundred and nineteen, shall be imported in ships or vessels not of the United States: *Provided*, That this additional duty shall not apply to such goods, wares, and merchandise, imported in ships or vessels not of the United States, entitled by treaty, or by any act or acts of Congress, to be entered in the ports of the United States, on the payment of the same duties as are paid on goods, wares, and merchandise, imported in ships or vessels of the United States.

SEC. 3. *And be it further enacted*, That there shall be allowed a drawback of the duties by this act imposed on goods, wares, and merchandise, imported into the United States, upon the exportation thereof, within the time, and in the man-

ner, prescribed in the fourth section of the act, entitled "An act to regulate the duties on imports and tonnage," passed on the twenty-seventh day of April, one thousand eight hundred and sixteen.

SEC. 4. *And be it further enacted*, That the existing laws shall extend to, and be in force for, the collection of the duties, imposed by this act on goods, wares, and merchandise, imported into the United States; and for the recovery, collection, distribution, and remission, of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, restriction, penalty, forfeiture, provision, clause, matter, and thing, in the existing laws contained, had been inserted in, and reenacted by this act.

SEC. 5. *And be it further enacted*, That wines and distilled spirits, imported and deposited in the public stores, under the direction of the surveyor, in the manner prescribed by the "Act providing for the deposit of wines and distilled spirits in public warehouses," passed the twentieth April, one thousand eight hundred and eighteen, may be transported coastwise, from the public warehouses in one district, to those in another district, under such regulations as the Secretary of the Treasury may prescribe, without loss of debenture.

Approved, March 3, 1819.

An Act respecting the location of certain sections of land to be granted for the seat of government in the State of Indiana.

*Be it enacted, &c.*, That, instead of four sections, provided to be located under the direction of the Legislature of the State of Indiana, and to be granted for the purpose of fixing thereon the seat of government for that State, it shall be lawful to locate, for that purpose, under the direction of the Legislature aforesaid, any contiguous quarter sections, fractions, or parts of sections, not to exceed, in the whole, the quantity contained in four entire sections: Such locations shall be made before the commencement of the public sales of the adjoining and surrounding lands, belonging to the United States.

Approved, March 3, 1819.

An Act making appropriations for the public buildings, for the purchase of a lot of land, and furnishing a supply of water for the use of certain public buildings.

*Be it enacted, &c.*, That there be appropriated for finishing the wings of the Capitol, in addition to the sums already appropriated, the further sum of fifty-one thousand three hundred and thirty-two dollars.

For erecting the centre building of the Capitol one hundred and thirty-six thousand six hundred and forty-four dollars.

For finishing the gates, the iron railing, and the enclosure north of the President's house, five thousand three hundred and forty-four dollars.

For enlarging the offices west of the President's house, eight thousand one hundred and thirty-seven dollars.



For purchasing a lot of land, and for constructing pipes, for supplying the Executive offices and President's house with water, nine thousand one hundred and twenty-five dollars.

Which said several sums of money, hereby appropriated, shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the several sums hereby appropriated, shall be expended under the direction of the President of the United States.

Approved, March 3, 1819.

An Act making provision for the civilization of the Indian tribes adjoining the frontier settlements.

*Be it enacted, &c.*, That, for the purpose of providing against the further decline and final extinction of the Indian tribes, adjoining to the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the President of the United States shall be, and he is hereby, authorized, in every case where he shall judge improvement in the habits and condition of such Indians practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing, and arithmetic, and for performing such other duties as may be enjoined, according to such instructions and rules as the President may give and prescribe for the regulation of their conduct, in the discharge of their duties.

SEC. 2. *And be it further enacted*, That the annual sum of ten thousand dollars be, and the same is hereby, appropriated, for the purpose of carrying into effect the provisions of this act; and an account of the expenditure of the money, and proceedings, in execution of the foregoing provisions, shall be laid annually before Congress.

Approved, March 3, 1819.

An Act explanatory of the act, entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri."

*Be it enacted, &c.*, That the provisions of the fifth section of the act of Congress, entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri," passed the twelfth day of April, one thousand eight hundred and fourteen, shall be so construed as to extend to the citizens of the county of Howard, in the Missouri Territory, as established by the act of the Legislature of the Territory, passed the twenty-third day of January, one thousand eight hundred and sixteen, any construction to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That the right of pre-emption given by the aforesaid provisions, as explained and extended by this act, shall not be so construed as to affect any right derived from the United States, by purchase, at public or private sale, of the lands claimed under the aforesaid act.

SEC. 3. *And be it further enacted*, That any person or persons who have settled on, and improved, any of the lands in the said Territory, reserved for the use of schools, before the survey of such lands were actually made, and who would have had the right of pre-emption thereto by the existing laws had not the same been so reserved, shall have the right of pre-emption thereto, under the same terms and conditions, and subject to the same restrictions, provided for other cases of a right of pre-emption in said Territory; and the register of the land office, and receiver of public moneys, for the district, shall have power to select any other vacant and unappropriated lands, in the same township, and as near adjacent as lands of equal quantity and like quality can be obtained, in lieu of the section, or parts of a section, which shall have been entered in right of pre-emption, according to the provision of this section.

Approved, March 3, 1819.

An Act making appropriations to carry into effect treaties concluded with several Indian tribes therein mentioned.

*Be it enacted, &c.*, That, for the purpose of carrying into effect a treaty between the United States and the Wyandot, Seneca, Delaware, Shawanee, Pattawatima, Ottawa, and Chippewa, tribes of Indians, concluded at the foot of the Rapids of the Miami of Lake Erie, on the twenty-ninth day of September, eighteen hundred and seventeen, and the supplementary treaty concluded with said tribes, at St. Mary's, in the State of Ohio, on the seventeenth of September, eighteen hundred and eighteen, the following sums be, and the same are hereby, appropriated, in conformity with the stipulations contained in said treaty and supplement, to wit:

The sum of thirteen thousand three hundred dollars, for the payment of the annuities granted to said tribes, in the manner and proportions following:

To the Wyandot tribe, annually, forever, at Upper Sandusky, four thousand five hundred dollars.

To the Seneca tribe, annually, forever, at Lower Sandusky, one thousand dollars.

To the Shawanee tribe, annually, forever, at Wapaghkonetta, two thousand dollars.

To the Shawanees and Senecas of Lewistown, annually, forever, one thousand dollars.

To the Pattawatimas, annually, for fifteen years, at Detroit, one thousand three hundred dollars.

To the Ottawas, annually, for fifteen years, at Detroit, one thousand dollars; and the further annual sum of one thousand five hundred dollars, forever.

To the Chippewa tribe, annually, for fifteen years, at Detroit, one thousand dollars.

And the sum of three thousand dollars, to be paid in the course of the year eighteen hundred and eighteen, to the Delaware and Wyandot tribes, to wit:

To the Delaware tribe, at Wapaghkonetta, five hundred dollars.

To the Wyandot tribe, two thousand five hundred dollars.

For the payment of the amount of damages, assessed by authority of the Secretary of War, in favor of several tribes and individuals of Indians, whose property was injured or destroyed during the late war, fourteen thousand four hundred and eighty dollars thirteen cents; to be paid in the manner following:

To the Wyandots, at Upper Sandusky, four thousand three hundred and nineteen dollars thirty-nine cents.

To the Senecas, at Lower Sandusky, three thousand nine hundred and eighty-nine dollars twenty-four cents.

To the Indians at Lewis and Scoutash towns, one thousand two hundred and twenty-seven dollars fifty cents.

To the Delawares, for the use of the Indians who suffered losses at Greentown, and at Jeremestown, at Wapaghkonetta, three thousand nine hundred and fifty dollars and fifty cents.

To the representatives of Hembis, a Delaware Indian, at Wapaghkonetta, three hundred and forty-eight dollars and fifty cents.

To the Shawanees, an additional sum, at Wapaghkonetta, of four hundred and twenty dollars.

To the Senecas, an additional sum, at Wapaghkonetta, of two hundred and nineteen dollars.

SEC. 2. *And be it further enacted*, That, for the purpose of carrying into effect the treaty between the United States and the Chickasaw nation of Indians, concluded on the nineteenth of October, eighteen hundred and eighteen, the following sum be, and the same is hereby, appropriated, in conformity with the stipulations contained in said treaty; that is to say:

To the Chickasaw nation, annually, for fifteen successive years, twenty thousand dollars.

SEC. 3. *And be it further enacted*, That, for the purpose of carrying into effect the treaties concluded at St. Mary's, in the State of Ohio, with the Wea tribe, on the second of October, eighteen hundred and eighteen; the Pattawatima tribe, on the second of October, eighteen hundred and eighteen; the Delaware tribe, on the third of October, eighteen hundred and eighteen; and with the Miami tribe, on the sixth of October, eighteen hundred and eighteen; the following sums be, and the same are hereby, appropriated, in conformity with the stipulations contained in said treaties; that is to say:

To the Wea tribe, the annual sum of one thousand eight hundred and fifty dollars; which sum, in addition to their former annuity of eleven hundred and fifty dollars, will make a sum total of three thousand dollars.

To the Pattawatima tribe, the annual sum of two thousand five hundred dollars.

To the Delaware tribe, the annual sum of four thousand dollars.

And a sum not exceeding thirteen thousand three hundred and twelve dollars twenty-five cents, to satisfy certain claims against the Delaware nation, stipulated to be paid by the United States, and to be expended by the Indian agent

15th CON. 2d Sess.—80

at Piqua and Fort Wayne, agreeably to a schedule examined and approved by the commissioners.

To the Miami tribe, the annual sum of fifteen thousand dollars.

SEC. 4. *And be it further enacted*, That, for the purpose of carrying into effect the treaty concluded on the fourth [24th] of August, eighteen hundred and eighteen, with the Quapaw tribe of Indians; and the treaty concluded on the twenty-fifth September, eighteen hundred and eighteen, with the Peoria, Kaskaskia, Michigania, Cahokia, and Tamarois, tribes of the Illinois nation of Indians; the following sums be, and the same are hereby, appropriated, in conformity with the stipulations contained in the said treaties; that is to say:

To the Quapaw tribe, the sum of four thousand dollars, and the further annual sum of one thousand dollars.

To the Peoria, Kaskaskia, the Michigania, Cahokia, and Tamarois, tribes of the Illinois nation, the annual sum of three hundred dollars.

SEC. 5. *And be it further enacted*, That, for the purpose of carrying into effect the treaty concluded on the twenty-fifth of September, eighteen hundred and eighteen, with the Great and Little Osage nation of Indians, a sum, not exceeding four thousand dollars, be, and the same is hereby, appropriated, to satisfy claims of citizens of the United States, for property stolen or destroyed by the Osages, agreeably to the stipulation contained in said treaty.

SEC. 6. *And be it further enacted*, That, for the payment of the annuity granted to the Creek nation of Indians, by the treaty concluded near Fort Wilkinson, on the Oconee, the sixteenth of June, one thousand eight hundred and two, and for which no appropriation has heretofore been made, the annual sum of three thousand dollars be, and the same is hereby, appropriated; and that, for the purpose of carrying into effect the treaty concluded with said nation at the Creek agency, on the twenty-second day of January, one thousand eight hundred and eighteen, the further annual sum of ten thousand dollars, for the term of ten successive years, be, and the same is hereby, appropriated, conformably to the stipulations contained in the said treaty.

SEC. 7. *And be it further enacted*, That, for the purpose of carrying into effect sundry other stipulations, contained in several of the treaties hereinbefore mentioned, the sum of twenty-five thousand dollars be, and the same is hereby, appropriated.

SEC. 8. *And be it further enacted*, That there be appointed, agreeably to the ninth article of the treaty concluded with the Wyandot, Seneca, Delaware, Shawanee, Pattawatima, Ottawa, and Chippewa, tribes of Indians, on the twenty-ninth day of September, one thousand eight hundred and seventeen, an agent, to reside among or near the Wyandots, who shall also execute the duties of agent for the Senecas, and the Delawares on the Sandusky river; and an agent to reside among or near the Shawanees; who shall each



receive twelve hundred dollars per annum, as a full compensation for their services.

SEC. 9. *And be it further enacted*, That the several sums hereinbefore appropriated, be paid out of any moneys in the Treasury not otherwise appropriated.—Approved, March 3, 1819.

An Act authorizing the sale of certain military sites.

*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to cause to be sold such military sites, belonging to the United States, as may have been found, or become useless for military purposes. And the Secretary of War is hereby authorized, on the payment of the consideration agreed for, into the Treasury of the United States, to make, execute, and deliver, all needful instruments, conveying and transferring the same in fee; and the jurisdiction, which had been specially ceded, for military purposes, to the United States, by a State, over such site or sites, shall thereafter cease.

Approved, March 3, 1819.

An Act in addition to, and alteration of an act, entitled "An act laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries."

*Be it enacted, &c.*, That, from and after the passing of this act, there shall be paid, on the last day of December, annually, to the owner of every fishing boat or vessel, or his agent, by the collector of the district where such boat or vessel may belong, that shall be qualified, agreeably to law, for carrying on the Bank and other Cod fisheries, and that shall actually have been employed therein, at sea, for the term of four months, at least, of the fishing season next preceding, which season is accounted to be from the last day of February to the last day of November in every year, for each and every ton of such boats or vessels, burdened according to her admeasurement as licensed or enrolled, if of more than five tons, and not exceeding thirty tons, three dollars and fifty cents; if above thirty tons, four dollars; and if above thirty tons, and having had a crew of not less than ten persons, and having actually been employed in the cod fishery, at sea, for the term of three and one-half months, at the least, but less than four months, of the season, at least, three dollars and fifty cents: *Provided*, That the allowance aforesaid on any one vessel, for one season, shall not exceed three hundred and sixty dollars.

SEC. 2. *And be it further enacted*, That such parts of the fifth and sixth sections of the act hereby amended, as are contrary to the provisions of this act, be, and the same are hereby, repealed.—Approved, March 3, 1819.

An Act to authorize the Secretary at War to appoint an additional agent for paying pensioners of the United States in the State of Tennessee.

*Be it enacted, &c.*, That, from and after the passing of this act, the Secretary for the Depart-

ment of War be, and he is hereby, authorized, to appoint an agent, in addition to the one already appointed in the State of Tennessee, under the act of the twenty-fourth of April, one thousand eight hundred and sixteen, for the purpose of paying pensioners of the United States, residing in East Tennessee; whose duties shall be, in all respects, similar to those appointed under the aforementioned act.

Approved, March 3, 1819.

An Act to authorize the Secretary of War to convey a lot or parcel of land, belonging to the United States, lying in Jefferson county, in the State of Virginia.

*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, authorized to convey, by deed, in fee simple, to a certain John Peacher, a lot, or parcel of land, with the appurtenances belonging to the same, lying in Jefferson county, in the State of Virginia, called the Keep-Tryst Furnace, and containing two hundred and twenty-one acres, belonging to the United States, upon such terms as he may think most conducive to the interest of the United States; and the money arising from the sale thereof, to deposit in the Treasury of the United States.

Approved, March 3, 1819.

An Act to designate the boundaries of districts, and establish land offices, for the disposal of the public lands not heretofore offered for sale in the States of Ohio and Indiana.

*Be it further enacted, &c.*, That, for the sale of the unappropriated public lands, in the State of Ohio, to which the Indian title is extinguished, the following districts shall be formed, and land offices therefor established: All the public lands, as aforesaid, lying between the western boundary line of the State of Ohio, and a north and south line to be drawn at forty-eight miles east of the said boundary line, and bounded on the south by the Indian boundary established by the Treaty of Greenville, and on the north by the northern boundary of the State of Ohio, shall form a district, for which a land office shall be established at Piqua. And all the public lands, as aforesaid, lying between the above described district and the western limits of the Connecticut Reserve and Canton land district as first established, and bounded on the south by the Indian boundary established by the Treaty of Greenville, and on the north by the northern boundary of the State of Ohio, shall form a district, for which a land office shall be established at the town of Delaware. And for the disposal of the unappropriated public lands in the State of Indiana, to which the Indian title is extinguished, the following districts shall be formed, and land offices established: All the public lands, as aforesaid, to which the Indian title was extinguished by the treaties concluded at St. Mary's, in the month of October, eighteen hundred and eighteen, lying east of the range line, separating the first and second ranges, east

of the second principal meridian extended north to the present Indian boundary, and north of a line to be run, separating the ninth and tenth tiers of townships north of the base line, shall form a district, for which a land office shall be established at Brookville. And all the public lands, as aforesaid, the Indian title to which was extinguished by the treaties aforesaid, and lying west of the last described district, shall form a district, for which a land office shall be established at the town of Terre Haute. And all the public lands, as aforesaid, the Indian title to which was extinguished by the treaties aforesaid, lying east of the second principal meridian, and south of a line, to be run, separating the ninth and tenth tiers of townships north of the base line, shall be, and are hereby, attached to the district of Jeffersonville; and the said lands shall be offered for sale, with the same exceptions, and on the terms and conditions, in every respect, both at public and private sales, as is provided for the sale of the lands in the districts aforesaid: *Provided, also*, That the President of the United States shall have power, and he is hereby authorized, to remove, whenever he shall judge it expedient so to do, the land office from Jeffersonville, to some central and suitable place within the district.

SEC. 2. *And be it further enacted*, That the President is hereby authorized to appoint, by and with the consent and advice of the Senate, for each of the districts aforesaid, a register of the land office and receiver of public moneys; which appointments shall not be made, for any of the aforesaid respective land districts, until a sufficient quantity of public lands shall have been surveyed within such district as to authorize, in the opinion of the President, a public sale of land within the same; which registers of the land office and receivers of public moneys, when appointed, shall each, respectively, give security, in the same sums, and in the same manner, and whose compensation, emoluments, and duties, and authority, shall, in every respect, be the same, in respect to the lands which shall be disposed of at their offices, as are or may be provided by law in relation to the registers and receivers of public moneys in the several land offices, established for the disposal of the public lands of the United States, in the States of Ohio and Indiana.

SEC. 3. *And be it further enacted*, That all the public lands within the aforesaid several districts, to which the Indian title has been extinguished, and which have not been granted to, or reserved for, the use of any individual or individuals, or appropriated and reserved for any other purpose, by any existing treaties or laws, and, with the exception of section numbered sixteen, in each township, which shall be reserved for the support of schools therein, shall be offered for sale, to the highest bidder, at the land offices for the respective districts, under the direction of the register of the land office and receiver of public moneys, on such day or days as shall, by proclamation of the President of the United States, be designated for that purpose: the sales shall remain open at

each place for three weeks, and no longer; the lands shall not be sold for less than two dollars an acre; and shall, in every other respect, be sold in tracts of the same size, on the same terms and conditions as have been, or may be, by law, provided for the sale of the lands of the United States in the States of Ohio and Indiana. All the public lands in the said districts, with these exceptions abovementioned, remaining unsold at the close of the public sales, may be disposed of at private sale, by the register of the respective land offices, in the same manner, under the same regulations, for the same price, and on the same terms and conditions, in every respect, as are or may be provided by law for the sale of the lands of the United States in the States of Ohio and Indiana. And patents shall be obtained, for the lands sold in the said districts, in the same manner, and on the same terms, as are or may be by law provided for other public lands in the States of Ohio and Indiana.

SEC. 4. *And be it further enacted*, That the President of the United States shall have power, and he is hereby authorized, to remove, whenever he shall judge it expedient so to do, any and each of the land offices established by this act, to such suitable place, within the district for which it was established, as he shall judge most proper.

SEC. 5. *And be it further enacted* That each of the registers of the land office, and receivers of public moneys, shall receive five dollars for each day's attendance in superintending the public sales in their respective districts.

Approved, March 3, 1819.

An Act to authorize the President of the United States to take possession of East and West Florida, and establish a temporary government therein.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territories of East and West Florida, and the appendages and appurtenances thereof; and to remove and transport the officers and soldiers of the King of Spain, being there, to the Havana, agreeably to the stipulations of a treaty between the United States and Spain, executed at Washington, on the twenty-second day of February, in the year one thousand eight hundred and nineteen, providing for the cession of said territories to the United States; and he may, for these purposes, and in order to maintain in said territories the authority of the United States, employ any part of the army and navy of the United States, and the militia of any State or Territory which he may deem necessary.

SEC. 2. *And be it further enacted*, That, until the end of the first session of the next Congress, unless provision for the temporary government of said territories be sooner made by Congress all the military, civil, and judicial powers, exercised by the officers of the existing government of the same territories, shall be vested in such person and persons, and shall be exercised in such



manner, as the President of the United States shall direct, for the maintaining the inhabitants of said territories in the free enjoyment of their liberty, property, and religion; and the laws of the United States, relative to the collection of revenue, and the importation of persons of color, shall be extended to the said territories; and the President of the United States shall be, and he is hereby, authorized, within the term aforesaid, to establish such districts for the collection of the revenue, and, during the recess of Congress, to appoint such officers, whose commissions shall expire at the end of the next session of Congress, to enforce the said laws, as to him shall seem expedient.

SEC. 3. *And be it further enacted*, That the sum of twenty thousand dollars is hereby appropriated for the purpose of carrying this act into effect, to be paid out of any moneys in the Treasury not otherwise appropriated, and to be applied under the direction of the President of the United States.

SEC. 4. *And be it further enacted*, That this act shall take effect and be in force whenever the aforesaid treaty, providing for the cession of said territories to the United States, shall have been ratified by the King of Spain, and the ratifications exchanged, and the King of Spain shall be ready to surrender said territory to the United States, according to the provisions of said treaty.

Approved, March 3, 1819.

An Act concerning the allowance of pensions upon a relinquishment of bounty lands.

*Be it enacted, &c.*, That the second section of the act making further provision for military services during the late war, and for other purposes, approved April sixteenth, one thousand eight hundred and sixteen, and so much of the act to amend the same, approved March third, one thousand eight hundred and seventeen, as relates to the subject of that section, shall be continued in force for the term of three years from and after the passing of this act: *Provided, nevertheless*, That no pension shall be granted under the said acts after the sixteenth day of April next, unless, at the time of relinquishing the bounty land, in the manner therein described, the children, for whose benefit the same may be granted, or one of them, shall be under sixteen years of age: *And provided, also*, That the pensions shall commence at the date of the relinquishments respectively.

Approved, March 3, 1819.

An Act granting a donation of land to the State of Illinois, for the seat of government of said State.

*Be it enacted, &c.*, That there shall be granted to the State of Illinois four sections of land, or contiguous quarter sections and fractions, not exceeding the quantity contained in four entire sections, for the purpose of fixing thereon the seat of government for the said State; which lands shall be selected in the manner provided in the thirtieth section of the schedule to the constitution of

the said State: *Provided*, That such selection shall be made before the public sale of the adjoining public lands shall have taken place.

Approved, March 3, 1819.

An Act authorizing the purchase of fire engines, and for building houses for the safekeeping of the same.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized and requested to cause to be purchased two fire engines, of the first class, with proper copper suction pipes, and six hundred feet of rivet leathern hose, for the purpose of protecting the public and other buildings in the city of Washington from fire.

SEC. 2. *And be it further enacted*, That the President of the United States cause to be built two good and sufficient houses, for the safekeeping of the said engines; one to be located on the Capitol Hill, near the Capitol, and one near the President's house and public offices.

SEC. 3. *And be it further enacted*, That, for defraying the expenses of the same, the sum of four thousand five hundred dollars be, and is hereby, appropriated, out of any unappropriated money in the Treasury.

Approved, March 3, 1819.

An Act to continue in force an act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France and five-franc pieces.

*Be it enacted, &c.*, That the gold coins of Great Britain and Portugal, of their present standard, shall be a legal tender in the payment of all debts, at the rate of one hundred cents for every twenty-seven grains, or eighty-eight cents and eight-ninths per penny weight: the gold coins of France, of their present standard, at the rate of one hundred cents for every twenty-seven and a half grains, or eighty-seven and a quarter cents per penny weight: the gold coins of Spain at the rate of one hundred cents for every twenty-eight and a half grains, or eighty-four cents per penny weight, until the first day of November next: and that, from and after that day, foreign gold coins shall cease to be a tender within the United States, for the payment of debts or demands.

SEC. 2. *And be it further enacted*, That so much of the act entitled "An act regulating the currency within the United States of the gold coins of Great Britain, France, Portugal, and Spain," passed on the twenty-ninth day of April, eighteen hundred and sixteen, as relates to foreign silver coins, shall be, and the same is hereby, continued in force for two years from and after the twenty-ninth day of April next, and no longer.

Approved, March 3, 1819.

An Act providing for the correction of errors in making entries of land at the land offices.

*Be it enacted, &c.*, That in every case of a purchaser of public lands, at private sale, having entered at the land office a tract different from

that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land office; and if it shall appear, from testimony satisfactory to the register and receiver of public moneys, that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at the corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office; the said register and receiver of public moneys shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Treasury, who shall have power to direct, if in his opinion it shall be proper, that the purchaser shall be at liberty to withdraw the entry so erroneously made, and that the moneys which had been paid, shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which shall have been purchased at the same office.

Approved, March 3, 1819.

An Act concerning Invalid Pensions.

*Be it enacted, &c.*, That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to and receive pensions, according to the rates, and commencing at the times, hereinafter mentioned; that is to say:

Benijah Abro, at the rate of four dollars per month, to commence on the eleventh of October one thousand eight hundred and seventeen.

Robert Craighead, at the rate of four dollars per month, to commence on the thirty-first of January, one thousand eight hundred and eighteen.

Solomon Van Renssalaer, at the rate of thirty dollars per month, to commence on the thirteenth day of October, in eighteen hundred and twelve, and the sum of two thousand five hundred and eighty dollars, the amount of pension to him at the rate of twenty dollars per month, commencing on the thirtieth of January, one thousand eight hundred and two, and ending on the thirteenth of October, one thousand eight hundred and twelve, in consequence of wounds received while serving as a captain of dragoons under General Wayne, in a battle with the Indians, on the twentieth of August, one thousand seven hundred and ninety-four.

Thomas Bailey, at the rate of eight dollars per month, to commence on the ninth December, one thousand eight hundred and seventeen.

Benjamin Pincin, at the rate of eight dollars per month, to commence on the seventeenth of March, one thousand eight hundred and eighteen.

Caleb J. Whaley, at the rate of six dollars and fifty cents per month, to commence on the thirtieth of December, one thousand eight hundred and thirteen.

William Earnest, whose father died of wounds received in battle during the late war, to be ap-

plied, under the direction of the Secretary for the Department of War, in the education of the said William, at the Connecticut asylum for the education and instruction of deaf and dumb persons, for a period not exceeding five years, at the rate of two hundred and fifty dollars per annum.

John Low, at the rate of eight dollars per month, to commence on the twentieth day of January, one thousand eight hundred and seventeen.

Jeremiah Burnham, at the rate of eight dollars per month, to commence on the twentieth day of January, one thousand eight hundred and seventeen.

John Sargent, of Vermont, at the rate of four dollars per month, to commence on the sixth day of March, one thousand eight hundred and eighteen.

Peter Francisco, of Virginia, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and nineteen.

SEC. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, be increased to the sums herein respectively affixed to their names; the said increase to commence at the time hereinafter mentioned, and be in lieu of pensions they at present receive; that is to say:

Benjamin Merrill, at the rate of eight dollars per month, to commence on the twenty-eighth of November, one thousand eight hundred and seventeen.

Timothy Mix, at the rate of eight dollars per month, to commence on the eighteenth of April, one thousand eight hundred and seventeen.

William Lackin, at the rate of six dollars per month, to commence on the eighteenth of February, one thousand eight hundred and seventeen.

John Wright, at the rate of six dollars per month, to commence on the fourth of February, one thousand eight hundred and eighteen.

Samuel Key Kendall, at the rate of twenty dollars per month, to commence on the tenth day of March, one thousand eight hundred and eighteen.

James Campbell, at the rate of six dollars per month, to commence on the thirtieth of September, one thousand eight hundred and seventeen.

Philip Krugh, at the rate of eight dollars per month, to commence on the fifth of June, one thousand eight hundred and seventeen.

George Pierson, at the rate of eight dollars per month, to commence on the tenth of September, one thousand eight hundred and seventeen.

John Long, at the rate of eight dollars per month, to commence on the twenty-eighth of February, one thousand eight hundred and seventeen.

Thomas McBarney, at the rate of eight dollars per month, to commence on the twelfth of September, one thousand eight hundred and seventeen.

William Simpson, at the rate of eight dollars per month, to commence on the fifth of September, one thousand eight hundred and seventeen.

James C. Wingard, at the rate of eight dollars



per month, to commence on the thirtieth of November, one thousand eight hundred and sixteen.

William Arnold, at the rate of seven dollars and fifty cents per month, to commence on the first day of April, one thousand eight hundred and eighteen.

Joseph S. Van Driesen, at the rate of twenty dollars per month, to commence on the tenth day of January, one thousand eight hundred and eighteen.

John Tilton, at the rate of thirteen dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eighteen.

Joseph Westcott, at the rate of twenty dollars per month, to commence on the twentieth day of October, one thousand eight hundred and seventeen.

Aaron Stafford, at the rate of ten dollars per month, to commence on the twentieth day of February, one thousand eight hundred and eighteen.

SEC. 2. *And be it further enacted*, That any pension granted by this act, or any other act hereafter to be passed, to any officer, soldier, or marine, who served in the Revolutionary war, shall cease and be discontinued, in case the individual to whom the same may be granted hath availed himself, or shall hereafter avail himself, of the provisions of an act, passed the eighteenth day of March, one thousand eight hundred and eighteen, entitled "An act to provide for certain persons engaged in the land and naval service of the United States, in the Revolutionary war."

SEC. 8. *And be it further enacted*, That all persons entitled to pensions in conformity with the provision of the act, entitled "An act to provide for persons disabled by known wounds during the Revolutionary war," passed April the eighteenth, eighteen hundred and six, and also, the fourth section of an act, entitled "An act concerning invalid pensioners," passed the twenty-fifth of April, one thousand eight hundred and eight, may be placed on the pension list by the Secretary of War without reporting the same to Congress.

Approved, March 3, 1819.

An Act for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans.

*Be it enacted, &c.*, That all the claims to land founded on complete grants from the Spanish Government, reported to the Secretary of the Treasury by the commissioners from the districts east and west of Pearl river, appointed under the authority of an act, entitled "An act for ascertaining the titles and claims to lands in that part of Louisiana, which lies east of the river Mississippi and island of New Orleans," which are contained in the several reports of the commissioners, and which are, in the opinion of the commissioners, valid, agreeably to the laws, usages, and customs of the said Government, be, and the same are hereby, recognised as valid and complete titles, against any claim on the part of the United

States, or right derived from the United States: And that all claims founded on British grants, contained in the said reports, which have been sold and conveyed according to the provisions of the treaty of peace between Great Britain and Spain, of the third of September, one thousand seven hundred and eighty-three, by which that part of Louisiana, lying east of the island of Orleans, was ceded to Spain, under the denomination of West Florida, or which were settled and cultivated by the person having the legal title therein, at the date of said treaty, are recognised as valid and complete titles against any claim on the part of the United States, or derived from the United States.

SEC. 2. *And be it further enacted* That all claims, reported as aforesaid, and contained in the several reports of the said commissioners, founded on any order of survey, requette, permission to settle, or any written evidence of claim, derived from the Spanish authorities, which ought, in the opinion of the commissioners, to be confirmed, and which, by the said reports, appear to be derived from the Spanish Government before the twentieth day of December, one thousand eight hundred and three, and the land claimed to have been cultivated and inhabited on or before that day, shall be confirmed in the same manner as if the title had been completed: *Provided*, That, in all such claims where the plat and certificate of survey made prior to the fifteenth day of April, one thousand eight hundred and thirteen, under the authority of the Spanish Government, in pursuance of such claim, has not been filed with the said commissioners, such claim shall not be confirmed to any one person for more than twelve hundred and eighty acres; and that for all the other claims to land comprised in the reports aforesaid, and which ought, in the opinion of the commissioners, to be confirmed, the claimant to such lands shall be entitled to a grant therefor as a donation: *Provided*, That such grant, as a donation, shall not be made to any one person for more than twelve hundred and eighty acres; which confirmation of the said incomplete titles and grants of donations, hereby provided to be made, shall amount only to a relinquishment forever, on the part of the United States, of any claim whatever to the tract of land so confirmed or granted: *And provided, also*, That no such claim shall be confirmed to any person to whom the title to any tract of land shall have been recognised under the preceding provisions.

SEC. 3. *And be it further enacted*, That every person, or his or her legal representative, whose claim is comprised in the lists or register of claims, reported by the said commissioners, and the persons embraced in the list of actual settlers, or their legal representatives, not having any written evidence of claim reported as aforesaid, shall, where it appears, by the said reports, or by the said lists, that the land claimed or settled on had been actually inhabited or cultivated, by such person or persons in whose rights he claims, on or before the fifteenth day of April, one thousand eight hundred and thirteen, be entitled to a grant

for the land so claimed, or settled on, as a donation: *Provided*, That not more than one tract shall be thus granted to any one person, and the same shall not contain more than six hundred and forty acres; and that no lands shall be thus granted which are claimed or recognised by the preceding sections of this act.

SEC. 4. *And be it further enacted*, That every person comprised in the said list of actual settlers, not having any written evidence of claim to land in said districts, and who, on the twelfth day of April, one thousand eight hundred and fourteen, shall have inhabited or cultivated a tract of land in either of the said districts, not claimed by virtue of either of the preceding sections of this act, shall be entitled to a preference, on becoming a purchaser, from the United States, of such tract of land, on the same terms and conditions, and at the same price, for which the other public lands are sold at private sale: *Provided*, That the first instalment of the purchase money shall be paid to the receiver of public moneys of the district within which the land lies, within two years after the opening of the land office for such district.

SEC. 5. *And be it further enacted*, That, for the purpose of adjusting the titles and claims to lands in the districts aforesaid, and for the disposal of the lands which may remain the property of the United States therein, a land office shall be established in each of the said districts, to be kept for the western district, at St. Helena Courthouse, and, for the eastern district, at Jackson Courthouse; and a register and receiver of public moneys shall be appointed for each of the said land offices, who shall give security in the same manner, and in the same sums, and whose compensation, duties, and authority, shall, in every respect, be the same, in relation to the lands which shall hereafter be disposed of, at their respective offices, as are by law provided in relation to the other registers and receivers of public moneys for the several land offices of the United States.

SEC. 6. *And be it further enacted*, That every person or persons, claiming lands in either of the said districts, whose claims have not heretofore been filed with the commissioner of the land office, of the district wherein the lands lie, shall be allowed until the first day of July, one thousand eight hundred and twenty, to deliver notices in writing, and the evidences of their claims, in the said districts, respectively, to the register of the land office at Jackson Courthouse and at St. Helena Courthouse; and the notices and evidences so delivered, within the time limited by this act, shall be recorded in the same manner, and on the payment of the same fees, as if the same had been delivered before the commissioners closed their said registers.

SEC. 7. *And be it further enacted*, That every person or persons, who had filed his or their notice of claims to land, within either of the said districts, with the commissioner of the land office, according to the former laws, but have not exhibited sufficient testimony in support of the same,

and whose claim has not been recommended for confirmation, shall be allowed until the first day of July, one thousand eight hundred and twenty, to deliver written evidence, or other testimony, in support of his or their claim, the notice of which had been filed as aforesaid, to the register of the land office at St. Helena, for lands lying in the district west of Pearl river, and to the register of the land office at Jackson Courthouse, for the lands lying in the district east of Pearl river; and the evidence of claims, the notice whereof had been filed, as aforesaid, for lands lying in the said district, delivered, within the time limited by this section, to the said registers, shall be recorded by them, respectively, in the same manner as was directed by former acts, on receiving the same fees allowed by said acts, for recording evidence of claims to lands in the same districts.

SEC. 8. *And be it further enacted*, That the register and receiver of public moneys of the said respective land offices, at Jackson Courthouse and at St. Helena Courthouse, shall have the same powers, and perform the same duties, in every respect, in relation to the claims that may be filed in virtue of the sixth section of this act, and in relation to the claims, the notices of which had been filed under former acts, as well as to the additional evidence which shall be adduced in support thereof, agreeably to the seventh section of this act, as the commissioners for the districts east and west of Pearl river would have had, or should have performed, if such notices had been filed, and such evidence adduced, before the said commissioners closed their registers.

SEC. 9. *And be it further enacted*, That it shall be the duty of the register of each of the said land offices, respectively, to make, to the Commissioner of the General Land Office, a report of all the claims filed with the register aforesaid, with the substance of the evidence in support thereof; and of the claims formerly filed, in support of which additional evidence shall have been received, with the substance of such evidence; and also their opinion, and such remarks respecting the claim as they may think proper to make; which report, together with a list of the claims, which, in the opinion of the register and receiver, ought to be confirmed, and also a list of actual settlers, prior to the passage of this act, noting the time of their respective settlements, shall be laid, by the Commissioner of the General Land Office, before Congress, at their next session, for their determination thereon.

SEC. 10. *And be it further enacted*, That the said registers and receivers shall, respectively, have power to appoint a clerk, who shall be a person capable of translating the French and Spanish languages, and who shall perform the duty of translator, when required by said registers and receivers; and each of the said registers and receivers shall be allowed, as a compensation for their services in relation to the said claims, at the rate of fifteen hundred dollars a year; and each of the clerks at the rate of one thousand dollars a year: *Provided*, That not more than eighteen months' compensation be thus allowed



to the register, receiver, and clerk, for the district east of Pearl river; nor more than eighteen months' compensation be allowed to the register, receiver, and clerk, of the district west of Pearl river.

SEC. 11. *And be it further enacted*, That the surveyor for the lands south of the State of Tennessee shall, with the consent and approbation of the President of the United States, appoint a principal deputy surveyor for the lands within the said districts, who shall receive an annual salary of five hundred dollars, and, in addition thereto, the following fees; that is to say: for examining and recording the surveys executed by any of the deputies, at the rate of twenty-five cents for every mile of the boundary line of such survey; and for a certified copy of any plat of a survey in the office, twenty-five cents; and whose duty it shall be to survey, or cause to be surveyed, by his other deputies, the lands, the claims to which are confirmed, and that are directed to be granted as donations, where the same have not been already surveyed, and the lands which may be claimed by right of pre-emption, whenever directed by the register and receiver, and to execute such other surveys as may be necessary for the ascertainment of the lands, the title or claim to which is embraced in the report of the commissioners aforesaid. And the said principal deputy surveyor shall make out particular plats of the surveys directed by this act, which he shall return to the register of the proper district; and also, a general and connected plat, which he shall return to the surveyor of the lands south of the State of Tennessee; and the expense of surveying shall be paid by the United States: *Provided*, The same shall not exceed, in the whole, four dollars a mile, for every mile which shall be actually surveyed and marked.

SEC. 12. *And be it further enacted*, That the books of the former commissioners, in which the claims, and evidence of claims, are recorded, shall be lodged with the registers of the land office, for the respective districts; and the register and receiver of public moneys, in each respective district, shall have power to examine the claims recognized, confirmed, or provided to be granted, by the provisions of this act, as also, claims to the right of pre-emption; and they shall make out to each claimant, entitled, in their opinion, thereto, a certificate, according to the nature of the case, under such instructions as they may receive from the Commissioner of the General Land Office; and on presentation at the General Land Office of such certificate for a confirmed claim, or for a donation, according to the provisions of this act; and where it shall appear, to the satisfaction of the Commissioner of the General Land Office, that the certificate has been fairly obtained, according to the true intent and meaning of this act, then, and in that case, a patent shall be granted, in like manner as for other lands of the United States.

SEC. 13. *And be it further enacted*, That the President shall have power to appoint the register and receiver of public moneys for the said dis-

tricts in the recess of the Senate, who shall be nominated to them at their next meeting.

Approved, March 3, 1819.

An Act in addition to the acts prohibiting the Slave Trade.

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized, whenever he shall deem it expedient, to cause any of the armed vessels of the United States to be employed to cruise on any of the coasts of the United States, or Territories thereof, or of the coast of Africa, or elsewhere, where he may judge attempts may be made to carry on the slave trade by citizens or residents of the United States, in contravention of the acts of Congress prohibiting the same, and to instruct and direct the commanders of all armed vessels of the United States, to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro, mulatto, or person of color, in violation of any of the provisions of the act, entitled "An act in addition to an act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight, and to repeal certain parts of the same," or of any other act or acts prohibiting the traffic in slaves, to be proceeded against according to law. And the proceeds of all ships and vessels, their tackle, apparel, and furniture, and the goods and effects on board of them, which shall be so seized, prosecuted, and condemned, shall be divided equally between the United States and the officers and men who shall seize, take, or bring, the same into port for condemnation, whether such seizure be made by an armed vessel of the United States or revenue cutter thereof. And the same shall be distributed in like manner as is provided by law for the distribution of prizes taken from an enemy. *Provided*, That the officers and men, to be entitled to one half of the proceeds aforesaid, shall safe keep every negro, mulatto, or person of color, found on board of any ship or vessel so seized, taken, or brought into port, for condemnation, and shall deliver every such negro, mulatto, or person of color, to the marshal of the district in which they are brought, if into a port of the United States, or, if elsewhere, to such person or persons as shall be lawfully appointed by the President of the United States, in the manner hereinafter directed, transmitting to the President of the United States, as soon as may be after such delivery, a descriptive list of such negroes, mulattoes, or persons of color, that he may give directions for the disposal of them. *And provided further*, That the commanders of such commissioned vessels do cause to be apprehended, and taken into custody, every person found on board of such vessel, so seized and taken, being of the officers or crew thereof, and him or them convey, as soon as con-

veniently may be, to the civil authority of the United States, to be proceeded against, in due course of law, in some of the districts thereof.

SEC. 2. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, to make such regulations and arrangements, as he may deem expedient, for the safekeeping, support, and removal beyond the limits of the United States, of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within their jurisdiction; and to appoint a proper person or persons, residing upon the coast of Africa, as agent or agents for receiving the negroes, mulattoes, or persons of color, delivered from on board vessels, seized in the prosecution of the slave trade, by commanders of the United States' armed vessels.

SEC. 3. *And be it further enacted*, That a bounty of twenty-five dollars be paid to the officers and crews of the commissioned vessels of the United States, or revenue cutters, for each and every negro, mulatto, or person of color, who shall have been, as hereinbefore provided, delivered to the marshal or agent duly appointed to receive them: And the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, to such officers and crews, or their agent, the aforesaid bounty, for each person delivered as aforesaid.

SEC. 4. *And be it further enacted*, That when any citizen, or other person, shall lodge information with the attorney for the district of any State or Territory, as the case may be, that any negro, mulatto, or person of color, has been imported therein, contrary to the provisions of the acts in such case made and provided, it shall be the duty of the said attorney forthwith to commence a prosecution, by information; and process shall issue against the person charged with holding such negro, negroes, mulatto, mulattoes, person or persons of color, so alleged to be imported contrary to the provisions of the acts aforesaid: And if, upon the return of the process executed, it shall be ascertained, by the verdict of a jury, that such negro, negroes, mulatto, mulattoes, person or persons of color, have been brought in, contrary to the true intent and meaning of the acts in such cases made and provided, then the court shall direct the marshal of the said district to take the said negroes, mulattoes, or persons of color, into his custody, for safekeeping, subject to the orders of the President of the United States: and the informer or informers, who shall have lodged the information, shall be entitled to receive, over and above the portion of the penalties accruing to him or them by the provisions of the acts in such case made and provided, a bounty of fifty dollars, for each and every negro, mulatto, or person of color, who shall have been delivered into the custody of the marshal; and the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, the aforesaid bounty, upon the certificate of the clerk of the court for the district where the prosecution may have been had, with the seal of office thereto annexed, stating the

number of negroes, mulattoes, or persons of color, so delivered.

SEC. 5. *And be it further enacted*, That it shall be the duty of the commander of any armed vessel of the United States, whenever he shall make any capture under the provisions of this act, to bring the vessel and her cargo, for adjudication, into some of the ports of the State or Territory to which such vessel, so captured, shall belong, if he can ascertain the same; if not, then to be sent into any convenient port of the United States.

SEC. 6. *And be it further enacted*, That all such acts, or parts of acts, as may be repugnant to the provisions of this act, shall be, and the same are hereby, repealed.

SEC. 7. *And be it further enacted*, That a sum not exceeding one hundred thousand dollars, be, and the same is hereby, appropriated to carry this law into effect.

Approved, March 3, 1819.

An Act to authorize the building, erecting, and placing light-houses, beacons, and buoys, on places designated in Boston, Buzzard, and Chesapeake Bays, Lakes Ontario and Erie, and for other purposes.

*Be it enacted, &c.*, That it shall be the duty of the Secretary of the Treasury to provide, by contract, which shall be approved by the President of the United States, for building light-houses, erecting beacons or landmarks, and placing light vessels or boats, on the following sites or shoals, to wit:

A light-house on Long Island Head, and a beacon or landmark on Half-way Rock, in Boston Bay; and also a light-house on Bird's Island, in Buzzard's Bay, in the State of Massachusetts.

A light-house on Galloo Island, near the outlet of Lake Ontario, in the State of New York.

A light-house, at a proper place, at or between the mouth of Grand River, in the State of Ohio, and the mouth of Detroit River, in the Territory of Michigan.

Three light-houses, on the following sites: one on the Bodkin, one on North Point, and one on Sparrow's Point, in the State of Maryland.

A light-house on Windmill Point, at the mouth of Rappahannock river, or a light vessel or boat on the Wolf-trap shoals, if the latter shall be deemed preferable to a light-house on Windmill Point; a light-house on Craney Island, at the mouth of Elizabeth river, and a light vessel, or boat, on Willoughby's Spit, between Lynnhaven Bay and Hampton Roads, in the State of Virginia: And a beacon, or landmark, on Wolf Island, near the port of Darien, in the State of Georgia.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause three buoys to be placed in such manner as to mark out the channel leading into the harbor of Boston, and one buoy to be placed on West Island Ledge, in Buzzard's Bay; a spindle, or buoy, on the outer rock of the reef run-



## Public Acts of Congress.

ning from Cochney's Island to Eastern Norwalk Island; another spindle, or buoy, on the reef running about southwest from the western point of the Western Norwalk Island; and a spindle on the rock off the point of Fairweather Island, in the State of Connecticut: And twenty buoys in the Chesapeake Bay, and Patapsco river, for designating the shoals and channel, in the State of Maryland.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause a pier to be carried out to nine feet water, at the light-house heretofore authorized to be erected at the mouth of the Mississippi; and, also, that he cause the present wood tower, at the Seguin light-house, in the State of Massachusetts, to be replaced with one of stone.

SEC. 4. *And be it further enacted*, That there be appropriated, out of any moneys in the Treasury of the United States, not otherwise appropriated, the following sums of money, to accomplish the purposes heretofore enumerated in this act, to wit: For the erection and establishment of light-houses on Long Island Head, on Bird's Island, and a beacon or landmark on Half-way Rock, eleven thousand five hundred dollars: For a light-house on Galloo Island, near the outlet of Lake Ontario, twelve thousand five hundred dollars: For a light-house, at a proper place, at or between the mouth of Grand river and Detroit river, five thousand dollars: For three light-houses, one on the Bodkin, one on North Point, and one on Sparrow's Point, in the Chesapeake Bay, and on the Patapsco river, nine thousand dollars: For a light-house on Windmill Point, or light vessel or boat on the Wolf-trap shoals, a light vessel or boat on Willoughby's Spit, between Lynnhaven Bay and Hampton Roads, and a light-house on Craney Island, at the mouth of Elizabeth river, twelve thousand dollars: For three buoys, to mark out the channel leading into Boston harbor, and for one to be placed on West Island Ledge, in Buzzard's Bay, sixteen hundred dollars: For the spindles or buoys on the reef running from Cochney's Island; for that on the reef running about southwest from the western point of the Western Norwalk's Island, and for that on the rock off the point of Fairweather Island, twelve hundred dollars: For twenty buoys, to be placed in the Chesapeake Bay and Patapsco river, eight thousand dollars: For the pier to be carried out from the light-house at the mouth of the Mississippi, four thousand dollars; and for replacing the tower at the Seguin light-house, twenty-five hundred dollars; and for a beacon or landmark on Wolf Island, near the port of Darien, in the State of Georgia, one thousand dollars.

SEC. 5. *And be it further enacted*, That, to make up the deficiencies of the appropriations heretofore made, for the purposes following, the several sums, respectively named, be, and they are hereby, appropriated, payable out of any money in the Treasury not otherwise appropriated, to wit: To pay for the land, and erecting the light-house, at Holmes's Hole, sixty-three dol-

lars: For erecting a light-house on the south point of Sapelo Island, two thousand five hundred and five dollars.

SEC. 6. *And be it further enacted*, That the sum of three thousand and twenty-seven dollars be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, in addition to the sums heretofore appropriated, to pay the salaries to the several keepers of the light-houses within the United States; to be applied, under the direction of the Secretary of the Treasury, so as to fix the annual salary of each keeper aforesaid, at the rate of three hundred and fifty dollars per annum.

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury, in case he shall deem it expedient and proper, may cause the light-house heretofore authorized to be erected on the south point of Sapelo Island, to be changed to, and placed on, Wolf's Island.

Approved, March 3, 1819

An Act to repeal part of an passed on the twenty-seventh day of February, one thousand eight hundred and thirteen, entitled "An act in addition to 'An act regulating the Post Office Establishment.'"

*Be it enacted, &c.*, That so much of the last clause of the "Act in addition to 'An act regulating the Post Office Establishment,'" passed the twenty-seventh day of February, one thousand eight hundred and thirteen, as contains these words, being the concluding words of the clause, namely: "And that such contracts shall secure the regular transportation of the mail throughout the year;" be, and the same is hereby, annulled and repealed.

Approved, March 3, 1819.

## RESOLUTIONS.

Resolution declaring the admission of the State of Illinois into the Union.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, whereas, in pursuance of an act of Congress, passed on the eighteenth day of April, one thousand eight hundred and eighteen, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," the people of said Territory did, on the twenty-sixth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven: *Resolved by the Sen-*

## Resolutions.

*ate and House of Representatives of the United States of America in Congress assembled*, That the State of Illinois shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

Approved, December 3, 1818.

Resolution authorizing the transmission of certain documents free of postage.

*Resolved, &c.*, That the members of Congress, the Delegates from Territories, the Secretary of the Senate, and the Clerk of the House of Representatives, be, and they are hereby, authorized to transmit, free of postage, to any post office within the United States or the Territories thereof, any documents which have been, or may be, communicated to either House of Congress, during the present session, by the President of the United States or either of the Heads of Departments, and printed for the use of Congress.

Approved, December 5, 1818.

Resolution directing a survey of certain parts of the coast of North Carolina.

*Resolved, &c.*, That the President of the United States be, and he hereby is, requested to cause surveys to be made of the points of Cape Hatteras, Cape Lookout, and Cape Fear, and of the shoals of those capes, respectively; and to cause such an examination to be made of those capes and shoals, respectively, as will ascertain the practicability of erecting light-houses, beacons, or buoys, on or near the extreme points of them, or either of them; and also to cause the latitude and longitude of the said capes, extreme points, and shoals, respectively, to be ascertained with as much exactness as may be practicable; and that the results of such surveys and examinations be reported to Congress.

Approved, January 19, 1819.

Resolution for the distribution of Seybert's Statistical Annals; and directing Pitkin's Commercial Statistics to be deposited in the Library.

*Resolved, &c.*, That the Secretary of State cause to be distributed one copy of Seybert's Statistical Annals to the President of the United States; to the Vice President of the United States, and to the Executive of each State and Territory, one copy; two copies for the use of each of the Departments, viz: State, Treasury, War, and Navy; one copy for the use of the Attorney General of the United States; and one copy to each member and delegate of the Fifteenth Congress; and one copy to each college and university in the United States, if applied for by such college or university; and the residue of the five hundred copies of the Annals aforesaid, together with the two hundred and fifty copies of Pitkin's Commercial Statistics, shall be de-

posited in the Library of Congress, for the use of the members.

Approved, January 23, 1819.

Resolutions authorizing the transmission of the documents accompanying the report of the committee to examine into the proceedings of the Bank of the United States, free of postage.

*Resolved, &c.*, That the Members of Congress, the Delegates from Territories, the Secretary of the Senate, and Clerk of the House of Representatives, be, and they are hereby, authorized, to transmit, free of postage, to any post office within the United States, or the Territories thereof, the documents accompanying the report of the committee appointed by the House of Representatives to examine into the proceedings of the Bank of the United States.

Approved, February 15, 1819.

Resolutions directing the manner in which the printing of Congress shall be executed, fixing the prices thereof, and providing for the appointment of a printer or printers.

*Resolved, &c.*, That the printing of Congress, unless when otherwise specially ordered, shall be done in the following form and manner, viz:

Bills, as heretofore, with English type, on foolscap paper. Rule or table-work, in royal octavo size, where it can be brought into that size, by any type not smaller than brevier; and where it cannot, in such form as to fold conveniently into the volume. All other printing with a small pica type, on royal paper, in pages of the same size as those of the last edition of the laws of the United States, including the marginal notes.

And the following prices shall be allowed and paid for the above described work: For the composition of every page of bills, one dollar; of every page of small pica, plain work, one dollar; of every page of small pica, rule-work, two dollars; every page of brevier, rule-work, three dollars and fifty cents; and for a larger form of brevier rule-work, in proportion.

For the press-work of bills, including paper, folding, and stitching—for fifty copies, twenty-five cents per page; for four hundred copies, one dollar and twenty-five cents per page; for the press-work of tables, other than those in the regular octavo form, for six hundred copies, including as above, five dollars and fifty cents, per form; for the press-work of the Journals, of nine hundred copies, including as above, one dollar per page; for all other printing, in the octavo form, of six hundred copies, including as above, eighty-seven and a half cents per page; and for a larger or smaller number, in proportion.

That, as soon as this resolution shall have been approved by the President of the United States, each House shall proceed to ballot for a printer, to execute its work during the next Congress; and the person having the greater number of votes shall be considered duly elected, and shall give bond, with sureties, to the satisfaction of the Secretary of the Senate and Clerk of the



## Resolutions.

House of Representatives, respectively, for the prompt, accurate, and neat execution of the work; and in case any inconvenient delay should be, at any time, experienced by either House, in the delivery of its work, the Secretary and Clerk, respectively, may be authorized to employ another printer to execute any portion of the work of the Senate or House, and charge the excess, in the account of such printer, for executing such work, above what is herein allowed, to the printer guilty of such negligence and delay: *Provided*, That nothing herein contained shall preclude the choice of the same printer by the Senate and by the House of Representatives.

Approved, March 3, 1819.

Resolution declaring the manner in which the vessels composing the Navy of the United States shall be named.

*Resolved, &c.*, That all ships of the Navy of the United States, now building, or hereafter to be built, shall be named by the Secretary of the Navy, under the direction of the President of the United States, according to the following rule, to wit: Those of the first class shall be called after the States of this Union; those of the second class after the rivers; and those of the third class after the principal cities and towns; taking care that no two vessels in the Navy shall bear the same name.

Approved, March 3, 1819.

## INDEX

TO THE PROCEEDINGS AND DEBATES OF THE SECOND SESSION OF  
THE FIFTEENTH CONGRESS.

## SENATE.

A.		Page.			Page.
Abbott, Samuel, Mr. Edwards presented the petition of		281	American Manufactures, the memorial of the Delaware Society for the promotion of, was presented, read, and referred		231
Abolition of Slavery, Mr. Roberts presented the memorial of the American Convention for the promotion of the, referred		85	Armory, National, Mr. Johnson presented the petition of, referred		29
Aborn, Joseph, Mr. Burrill presented the petition of, referred		21	committee discharged, and leave granted to withdraw the papers		82
Accounts, appointment of the Committee of		12	Anderson, John, Mr. Ruggles presented the petition of, referred		169
Adjournment, the usual resolutions preparatory to		288	a favorable report thereon		205
Agent for paying Pensioners, a bill from the House of Representatives to authorize the Secretary of War to appoint an additional, in the State of Tennessee, read		213	concurrent in, and a bill ordered		209
read a second time, and referred		214	a bill for relief of, read		211
reported without amendment		223	read a second time		214
ordered to a third reading		275	ordered to a third reading		269
read the third time, and passed		279	read the third time, and passed		272
Alabama Territory, Mr. Tait presented the memorial of the Legislature of, praying admission into the Union as a State, &c., referred to a select committee		66	Arbuthnot and Ambrister. (See Seminole War.)		
a bill to enable the people of, to form a State government, &c., read		75	Armstrong, John, a bill from the House of Representatives directing payment of certain bills drawn by, in favor of William Morgan, read		80
read a second time		79	read a second time, and referred		81
ordered to a third reading		114	reported without amendment		167
read the third time, and passed		121	ordered to a third reading		224
returned from the House of Representatives with amendments		252	read the third time, and passed		227
read, and concurred in		253	Army Register, a letter from the Secretary of War transmitting a copy of the, for each member		97
Alburgh and Champlain, Mr. Tichenor submitted a resolution instructing the Committee of Commerce and Manufactures to inquire into the expediency of erecting the two districts of, into one		211	Arnold, Thomas, Mr. Hunter presented the petition of, referred		66
considered, and agreed to		214	adverse report thereon		78
Allbin, John, Mr. Otis presented the petition of, referred		255	considered and concurred in		198
the committee discharged therefrom		276	Attorney General, Mr. Roberts submitted a resolution to inquire into the expediency of placing all criminal and other prosecutions, in which the United States shall be a party, under the direction of the		176
Alleghany Mountains, a bill from the House of Representatives to establish a judicial district in Virginia, west of the, read		26	agreed to, and referred		190
read a second time, and referred		29	Austin, Caleb, adverse report on the petition of		161
reported without amendment		37	indefinitely postponed		214
referred to the Judiciary Committee		79	Axon, Samuel J., Mr. Forsyth presented the petition of, referred		85
reported with amendments		102	a bill for the relief of, read		273
ordered to a third reading		186	read a second time		281
read the third time, and passed as amended		188	indefinitely postponed		287
Amelung, Ferdinand L., Mr. Johnson presented the petition of, referred		186			
B.					
			Ball, Mottram, a bill from the House of Representatives for relief of, read the first and second time, and referred		80
			reported with an amendment		97
			ordered to a third reading		123
			read the third time, and passed as amended		137



## Senate Proceedings and Debates.

	Page.		Page.
Bank of the United States, a report from the Secretary of the Treasury, with sundry statements respecting the, made in obedience to a resolution of the last session	42	Birdseye, N. G., &c.—continued.	
Mr. King presented a memorial of certain stockholders of the, which was read	234, 276	read a second time	203
a bill from the House of Representatives respecting the, read	270	ordered to a third reading	256
read a second time, and referred	271	read the third time, and passed	269
reported without amendment	276	Bombardiers, &c., Mr. Fromentin submitted a resolution respecting a grant of bounty lands to	70
read the third time, and passed	285	agreed to, and referred to the Committee of Public Lands	71
Bannon, Michael, on motion of Mr. Lacock, the Committee of Pensions, &c., were discharged from the consideration of the petition of	97	Bonds for Duties, Mr. Williams, of Mississippi, submitted a resolution calling for an abstract of all	225
Barbour, James, of Virginia, took his seat	11	agreed to, and referred to the Secretary of the Treasury	229
remarks of, on the bill to increase the salaries of certain officers	27	Bougard, Antoine. (See Dozet, Joseph.)	
speech of, on the case of Matthew Lyon	49	Boundaries of Districts, bill to designate the, read	191
speech of, on the bill for the organization of the courts	91	read a second time	198
speech of, on a proposed amendment to the Constitution	151	ordered to a third reading	241
election of, as President of Senate <i>pro tem.</i>	232	read the third time, and passed	246
thanks of the Senate voted to	287	returned from the House of Representatives with an amendment	270
address of, in reply	288	considered and disagreed to	272
Barrow, Matthew, Mr. Eaton presented the petition of, referred	30	Brady, James, Mr. Lacock presented the petition of, referred	179
a bill for the relief of, read	37	Brewster, John, and others, Mr. Dickerson presented the petition of, referred	211
read a second time	41	British Claims to Lands in Mississippi, Mr. Leake presented the memorial of the Legislature of said State, respecting, read	245
ordered to a third reading	59	British Parliament, Mr. Macon communicated to the Senate three acts of the, read	187
read the third time, and passed	68	British Subjects, a Message from the President of the United States with copies of applications received from the British Minister in behalf of certain, &c., read and referred to the Committee of Claims	205
Barton, William, a bill from the House of Representatives for the relief of, read	58	Brook, George M., and Edmund P. Kennedy, a bill from the House of Representatives for the relief of, read	255
read a second time, and referred	64	read a second time, and referred	268
reported without amendment	66	ordered to a third reading	271
ordered to a third reading	68	read the third time, and passed	275
read the third time, and passed	70	Brown, John, Mr. Roberts presented the petition of, referred	20
Batman, Henry, a bill from the House of Representatives for relief of, read	233	adverse report thereon	35
read a second time, and referred	235	considered, and concurred in	38
reported with amendments	281	Brown, Nicholas, and Thomas P. Ives, Mr. Burrill presented the memorial of, referred	22
read the third time, and passed as amended	284	adverse report thereon	89
Bay, Elisha Halle, Mr. Smith presented the petition of, referred	110	considered, and concurred in	177
Bayly, Mountjoy, Doorkeeper and Sergeant-at-Arms, Mr. Morrill submitted a resolution authorizing, to appoint an assistant, &c., read twice	11	Brown, John G., Mr. Mellen presented the petition of, referred	29
read the third time, and passed	19	adverse report thereon	37
Beck, Paul, jr., and Thomas Sparks, Mr. Tichenor presented the petition of	88	considered, and concurred in	40
Ball, George, Mr. Sanford submitted a resolution instructing the Committee of Pensions, &c., to inquire into the expediency of granting a pension to	33	Mr. Mellen presented another petition of, referred to the same committee, and included in the above report	37
resolution agreed to	33	Brown, Frederick, a bill from the House of Representatives for relief of	59
adverse report thereon concurred in	85	read a first time	64
Bell, William, Mr. Ruggles presented the petition of, referred	81	read a second time, and referred	66
adverse report thereon	179	reported without an amendment	78
considered and concurred in	191	ordered to a third reading	99
Bernard, Hyacinth, Mr. Johnson presented the memorial of, referred	225	amended, read the third time, and passed as amended	101
Biggar, James. (See Rangers.)		Brown, Noah, and others, Mr. King presented the memorial of, referred	204
Birdseye, Nathan G., and Daniel Booth, Mr. Daggett presented the petition of, referred	197	a bill for the relief of, read	225
a bill for the relief of, read	200	indefinitely postponed	277

## Senate Proceedings and Debates.

	Page.		Page.
Buchanan, John, and Hugh Milling, Mr. Smith presented the petition of, referred	97	Certain crimes—continued.	
adverse reports thereon	111	read a second time	41
considered and concurred in	113	referred to the Judiciary Committee	65
Burghart, Adolphus, a bill from the House of Representatives for relief of, read	58	reported without amendment	100
read a second time, and referred	64	ordered to a third reading	191
reported without amendment	78	read a third time	200
indefinitely postponed	86	recommitted to the Judiciary Committee	209
Burnett, Mark. (See Perry, Wm. N.)		reported with amendments	211
Burrill, James, jr., from Rhode Island, attended remarks of, on the bill to increase certain salaries	9	ordered to be engrossed as amended	214
speech of, on the case of Matthew Lyon	48	read the third time, and passed	224
remarks of, on the bill concerning controversies between States	195	Chaplains, on motion of Mr. Wilson, a joint resolution for the appointment of two, was adopted	10
on the bill to provide for sick seamen	202	Chapman, Thomas, Mr. Smith presented the petition of, referred	21
Business, a joint resolution from the House of Representatives for a committee to inquire concerning the, necessary to be transacted, &c., read three times by consent, agreed to, and a joint committee appointed	233	adverse report thereon	41
report of said joint committee, read	251	considered, and concurred in	58
Butler, Robert, Adjutant General, &c., a communication from, in relation to his testimony before the Seminole committee, read, and ordered to be printed	284	Chickasaw and Choctaw Agencies, Mr. Williams, of Mississippi, submitted a resolution respecting extra allowances to the postmasters at the	268
Callan, Patrick, a bill from the House of Representatives for relief of, read	238	agreed to, and referred to the proper committee	270
read a second time, and referred	240	Chivois, William, the memorial of, was read, and referred	30
reported without amendment	254	Circuit Courts, a bill to extend the jurisdiction of the, read	100
read the third time, and passed	284	read a second time	102
C.		ordered to a third reading	178
Capitol Square, Mr. Mellen submitted a resolution instructing the Committee on the District of Columbia to inquire into the expediency of providing for surrounding the, with a stone footway	90	read the third time, and passed	185
considered, and agreed to	98	Claims, appointment of the standing committee of	20
Carrere, John and Henry Measonier, Mr. Johnson presented the petition of	29	Clark, Rev. John, election of, as Chaplain	19
Cassin, Mary, Mr. Smith presented the petition of, referred	35	Clark, James H., Mr. Stone presented the petition of, referred	28
committee discharged, and petition referred to the Secretary of War	191	committee discharged, and the Committee of Claims substituted	31
report of said officer referred to a committee the committee discharged	211	adverse report from said committee	65
Cast-Iron Pipes, Mr. Roberts presented the memorial of the City Councils of Philadelphia, praying remission of duty on, referred	234	the petition recommitted	68
adverse report thereon concurred in	271	adverse report repeated	69
Causes depending in the Courts, Mr. Sanford submitted a resolution directing the Attorney General to procure and report, at next session, a list of, &c.	113	the report reversed, and a bill ordered	98
modified, and agreed to	165	a bill for the relief of, read	101
Cavalier, Anthony, and Peter Pettit, on motion of Mr. Fromentin the petition of, presented at last session, was referred to the Committee on Public Lands	26	read a second time	111
a bill confirming certain lands to, read	160	ordered to a third reading	201
read a second time	164	read the third time, and passed	203
ordered to a third reading	213	Clark, John, Mr. Roberts presented the petition of, referred	81
read the third time, and passed	214	a bill for the relief of, read	121
Certain crimes against the United States, a bill more effectually to provide for the punishment of, read	34	read a second time	137
		ordered to a third reading	210
		read the third time, and passed	212
		Clerks, a bill from the House of Representatives to increase the number of, in the War Department, read twice, and referred	29
		reported without amendment	30
		ordered to a third reading	32
		read the third time, and passed	34
		report from the Navy Department in relation to its	111
		report from the Treasury Department	163
		Clothing the Army, Mr. Ruggles submitted a resolution instructing the Military Committee to inquire into the expediency of, in domestic manufactures	33
		considered, and agreed to	37
		said committee reported it inexpedient	102
		a motion to recommit the report was made and withdrawn	168



## Senate Proceedings and Debates.

	Page.		Page.
Coasting-Trade, Mr. King submitted a resolution concerning the	68	Cooper, Jacob, Mr. Morrow presented the petition of, referred	174
agreed to, and subject referred	69	Cottineau, Lucy, Mr. Roberts presented the petition of, referred	20
a bill, supplemental to the act concerning the, read	111	adverse report thereon	35
read a second time	122	considered and concurred in	113
ordered to a third reading	228	Crawford, William, Mr. Noble presented the petition of, referred	26
read the third time, and passed	230	committee discharged	269
returned from the House of Representatives with amendments	252	Credit on Lands, Mr. King submitted a resolution to abolish the	77
considered, and concurred in	253	agreed to, and referred to the Committee of Public Lands	79
Cole, Mehitable, a bill from the House of Representatives granting the lands therein mentioned to, read	35	Crittenden, J. J., of Kentucky, attended	19
read a third time, and referred	39	remarks of, in the case of Matthew Lyon	48
reported without amendment	66	speech of, in reply to Mr. Morrill and others on the bill relative to controversies, &c.	192, 193, 196
ordered to a third reading	68	eulogy pronounced by, on Mr. Morrow	245
read the third time, and passed	70	Crook, William and James, a bill for relief of, twice read	225
Collectors of Customs, Mr. Storer submitted a resolution relative to the compensation of agreed to, and referred to a committee	170	referred to the Finance Committee	238
the committee discharged	192	Customs, report from the Secretary of the Treasury of the offices of, that may be suppressed	35
a report from the Secretary of the Treasury exhibiting the emoluments of the	256	referred to the Committee on Finance	197
Columbian Institute, Mr. Goldsborough presented the petition of, referred	200	Cutting, Nathaniel, Mr. Hunter presented the memorial of, referred	225
the committee discharged	278	committee discharged	277
Columbian United Abolition Society, Mr. Noble presented the petition of the	161		
Commerce and Manufactures, appointment of the standing committee of	19	D.	
Conant, Shubael, Mr. Ruggles presented the petition of, referred	67	Daggett, David, of Connecticut, attended	11
Congress, a bill to fix the time for the next meeting of, read	270	remarks of, on the bill to extend the judicial system	40
read a second time	275	on the resolution to amend the Constitution	207
read the third time, and passed	282	Dana, Samuel W., of Connecticut, attended	251
Constitution, Mr. Sanford offered certain proceedings and instructions of the Legislature of New York, proposing an amendment to the	23	Davis, John, and others, Mr. Goldsborough presented the petition of, referred	80
Mr. Storer the same, from the Legislature of New Hampshire	24	Davis, Henry, a bill from the House of Representatives for relief of, read	161
Mr. Dickerson submitted a resolution to amend the, read	33	read a second time, and referred	164
read a second time, and referred	39	reported without amendment	174
reported without amendment	70	ordered to a third reading	230
ordered to a third reading	159	read the third time, and passed	232
vote reconsidered, and resolution referred to a select committee	162	Davis, William, a letter from, offering himself as a candidate for the printing	282
reported with amendments	174	Deaf and Dumb, a bill from the House of Representatives in behalf of the Connecticut Asylum for the, read	279
ordered to a third reading as amended	190	read a second time, and ordered to a third reading	280
recommitted to same	197	read the third time, and passed	282
reported with amendments, and ordered to a third reading	203	Dearborn, Benjamin, Mr. Otis presented the petition of, referred	230
read the third time, and passed	207	committee discharged	286
Mr. Daggett communicated resolutions of the Legislature of Connecticut relating to an amendment of the	42	De Kraft, Edward, a letter from, offering for the printing	278
Contracts, report of, made by Commissioners of the Navy	111	Dequindre, Louis, and Antoine, a bill for the relief of, read	71
report of, by the War Department	268	read a second time	74
Controversies between States, a bill prescribing the mode of deciding, &c., read	74	ordered to a third reading	77
read a second time	82	read the third time, and passed	79
referred to the Judiciary Committee	113	Derangement of the Currency, Mr. Goldsborough presented the memorial of sundry citizens of Maryland, relating to a, &c., referred	245
reported with amendments	120	Deslonde, Rosalie P., Mr. Johnson presented the petition of, referred	29
indefinitely postponed	200	a bill for the relief of, read	197

## Senate Proceedings and Debates.

	Page.		Page.
Deslonde, Rosalie P.—continued.		Duties on Tonnage, a bill further supplementary to the act to regulate the collection of, read	231
bill read a second time	201	read a second time	237
ordered to a third reading	256	read the third time, and passed	283
read the third time, and passed	269	Duverge, Barthelemy, Mr. Johnson presented the petition of, referred	29
Destrahan, Noel, Mr. Johnson presented the petition of, referred	40	a bill for the relief of, read	212
Detroit, a bill to revive the powers of the Commissioners for ascertaining and deciding claims to lands in the District of, read	225	read a second time	214
read a second time	232	ordered to a third reading	269
ordered to a third reading	274	read the third time, and passed	283
read the third time, and passed	279		
Dickerson, Mahlon, of New Jersey, attended	9	E.	
speech of, on his resolution to amend the Constitution	137	Eastern Branch Bridge Company, a bill from the House of Representatives to incorporate the, read	74
Direct Tax, Mr. Mellen submitted a resolution relative to amending the law laying a	178	read a second time, and referred	76
agreed to, and referred	190	reported without amendment	173
District of Columbia, appointment of the standing committee on the	20	ordered to a third reading	233
Dix, John A., Mr. Storrs presented the petition of, referred	120	read the third time, and passed	236
a bill for the relief of, read	159	East Florida, Mr. Johnson submitted a resolution, authorizing the President of the United States to take provisional possession of	40
read a second time	164	the resolution withdrawn	59
ordered to a third reading	211	(See <i>Floridas</i> .)	
read the third time, and passed	212	Eaton, John Henry, appointed a Senator by the Executive of Tennessee, in place of G. W. Campbell, resigned, was qualified, &c.	11
Documents, Mr. Burrill submitted a resolution requesting the President of the United States to lay before the Senate copies of the several papers and, referred to in his Message	26	remarks of, on the bill concerning controversies between the States	195
agreed to, and a committee appointed to present the resolution	31	on Mr. Lacock's motion to appoint, a member of the Seminole committee, in place of Mr. Forsyth resigned	238
a Message from the President, in reply	35	Edgar, William, and Alexander Macomb, Mr. Sandford presented the petition of, referred	184
ditto, with additional papers, and	85	committee discharged	223
a resolution from the House of Representatives, authorizing the transmission of certain, free of postage, read twice	26	Edwards, Ninian, appointed a Senator by the Legislature of Illinois, produced his credentials, &c.	38
referred to the Committee on Post Offices and Post Roads	30	drew the lot for his term to expire March 3, 1819	38
reported, without amendments	31	Edwards, Abraham, on motion of Mr. Tichenor, the Committee of Pensions, &c., were instructed to inquire into the expediency of authorizing the Secretary of War to place, on the pension list	208
ordered to a third reading	32	report of said committee, read	223
read the third time, and passed	34	Electors of President and Vice President. (See <i>Constitution</i> , Mr. Dickerson's amendment.)	
Domestic Manufactures, on motion of Mr. Ruggles, a committee was appointed to wait on the President of the United States, and request him to lay before the Senate, at its next session, a report of facts, as to the expediency of clothing the army in	168	Elliot, Jonathan, letter from, offering for the printing	281
Douglas, Hannah, Mr. Daggett presented the petition of, referred	21	Engrossed Bills, appointment of the Committee on	12
Dozet, Joseph, and Antoine Bougard, a bill for the relief of, read	203	Entries of Lands, a bill to provide for the correction of errors in, read	223
read a second time	306	read a second time	226
ordered to a third reading	256	ordered to a third reading	276
read the third time, and passed	269	read the third time, and passed	279
Duel, Mr. Morrill submitted a resolution, requesting the President of the United States to strike from the rolls of the Army and Navy all those officers who aided or counselled the, between A. T. Mason and John M. McCarty	212	Eppea, John W., of Virginia, attended	11
Duelling, Mr. Morrill also submitted a resolution, instructing the Judiciary Committee to inquire into the expediency of providing, by law, for the punishment of all persons concerned in, within the District of Columbia	222	remarks of, on the bill concerning controversies	193, 194, 196



## Senate Proceedings and Debates.

	Page.		Page.
Expenditure and Application of Moneys, report of the Secretary of the Navy, on -	111	Florida, East and West—continued.	
report of the Secretary of War on -	166	bill read the third time, and passed -	282
Exportation of United States Coins, Mr. Forsyth submitted a resolution concerning -	32	House of Representatives concurred in all the amendments except one, from which the Senate receded -	286
agreed to, and referred to the Finance Committee -	34	Floridas, Mr. Johnson submitted a resolution requesting of the President of the United States copies of any correspondence with the Government of Spain, in relation to the cession of the -	59
the report in full of said committee -	179	the resolution withdrawn -	110
letter from the Secretary of the Treasury on the subject of the -	181	Ford, Nathan, Mr. King presented the petition of, referred -	120
the Senate resolve that it is not expedient to legislate on the subject -	198	a bill for the relief of, read -	191
Exports and Imports, Mr. Sanford submitted a resolution respecting the -	70	read a second time -	192
agreed to, and referred to the Committee of Commerce and Manufactures -	74	ordered to a third reading -	237
Extra Compensation, Mr. Lacock submitted a resolution for allowance of, to messengers and servants of the Senate, read -	276	read the third time, and passed -	238
read a second time, and passed -	281	Foreign Coins, Mr. Sanford submitted a resolution concerning the currency of -	30
F.		agreed to, and referred to the Finance Committee -	32
False Entries for Drawback, a bill from the House of Representatives, providing additional penalties for, read -	213	a bill to regulate the currency of, read -	177
read a second time, and referred -	214	read a second time -	185
reported without amendment, and ordered to a third reading -	228	ordered to a third reading -	201
read the third time, and passed -	252	read the third time, and passed -	203
Parish, Thomas B., a bill from the House of Representatives for relief of, read -	75	returned from the House of Representatives with amendments, and concurred in -	280
read a second time, and referred -	76	Foreign Relations, appointment of the standing committee of -	19
reported with amendments -	97	Forfeiture of Lands, Mr. Noble submitted a resolution instructing the Committee of Public Lands to inquire into the expediency of continuing in force the act to suspend for a limited time the sale of, for non-payment -	22
ordered to a third reading as amended -	170	considered and agreed to -	23
read the third time, and passed with amendments -	174	a bill in relation to, read -	37
Fatigue Duty, a bill to regulate the pay of the Army when employed on, read -	187	read a second time -	40
read a second time -	188	on motion of Mr. Noble, the Secretary of the Treasury was directed to furnish certain information on the subject -	84
ordered to a third reading -	236	report of the Secretary in obedience -	100
read the third time, and passed -	238	the bill ordered to a third reading -	122
Felonies on the high seas, on motion of Mr. Floyd, the Judiciary Committee were instructed to inquire into the expediency of a law to define piracies, and -	464	read the third time, and passed -	137
Felts, Archibald, Mr. Crittenden presented the petition of, referred -	230	Forrest, Joseph, Mr. Goldsborough presented the petition of, referred -	32
an adverse report concurred in -	235	a bill for the relief of, read -	85
Finance, appointment of the standing committee of -	19	read the second time -	87
Fires in the City of Washington, Mr. Morrill submitted a resolution respecting the extinguishment of -	76	the third reading negatived -	204
agreed to, and referred to the District Committee -	78	Forsyth, John, appointed a Senator by the Legislature of Georgia, in place of George M. Troup, resigned, was qualified, &c. -	20
a bill authorizing the purchase of fire engines, &c., read -	210	remarks of, on the resolution to amend the Constitution -	207
read a second time -	212	a letter from, giving notice of his resignation -	237
ordered to a third reading -	269	Forsyth, M. B., and others, Mr. Tait presented the memorial of, referred -	67
read the third time, and passed -	272	Forsyth, Elizabeth B. H., Mr. Williams of Tennessee presented the petition of, referred -	101
Fisk, Experians, Mr. Palmer presented the petition of, referred -	173	adverse report thereon -	246
committee discharged -	269	considered and concurred in -	251
Florida, East and West, a bill from the House of Representatives to authorize the President of the United States to take possession of, read -	279	Fowler, Christopher, Mr. Hunter presented the memorial of, referred -	77
read a second time, and ordered to a third reading -	280	adverse report thereon -	203
		the report reversed, and a bill ordered -	208
		a bill for the relief of, read -	211
		read a second time -	214
		ordered to a third reading -	269
		read the third time, and passed -	272

## Senate Proceedings and Debates.

	Page.		Page.
Francisco, Peter, on motion of Mr. Eppes, the Committee of Pensions, &c., were instructed to inquire into the expediency of granting a pension to -	170	Government—continued.	
adverse report thereon -	191	bill read a second time, and referred -	232
French, Thomas. (See Kinsley, Adams.)		ordered to a third reading -	255
Friends, Mr. Otis presented the memorial of the Society of, in New England, referred -	64	read a third time, passed with amendments the House of Representatives agree to all the amendments except one, from which the Senate receded -	275
Mr. King do. of, in N. York, referred to same -	71	Grant, Vincent, Mr. Sanford presented the petition of, referred -	110
Mr. Morrill do. of, in Baltimore, referred to same -	73	a bill for relief of, read -	232
Mr. Ruggles do. of, in Ohio, Indiana, and Illinois -	87	read a second time -	235
Mr. Roberts do. of, in Pennsylvania, Delaware, and Maryland -	120	ordered to a third reading -	277
Frink, Luther. (See King, Hannah.)		read the third time, and passed -	279
Fromentin, Elegius, of Louisiana, attended -	9	Green, James, & Company, Mr. Wilson presented the petition of, referred -	169
remarks of, on the bill for the relief of General Stark -	72	Green Bay, Mr. Morrow presented the memorial of sundry inhabitants of, concerning titles to land, &c., referred -	200
on the bill relating to State controversies -	192	Greenleaf, Abner, Mr. Storer presented the petition of, referred -	77
Fuller, Stephen, Mr. Morrill presented the petition of, referred -	26	adverse report thereon -	85
adverse report thereon -	37	considered, and concurred in -	91
considered, and concurred in -	41	Guerlin, Lewis H., Mr. Johnson presented the petition of, referred -	29
G.		a bill for the relief of, read -	197
Gaillard, John, of South Carolina, attended -	11	read a second time -	201
the President of the Senate communicated the credentials of, read, &c. -	268	ordered to a third reading -	256
vote of thanks to, as President pro tem. -	287	read the third time, and passed -	269
address of thereon -	288	Gunboats No. 149 and No. 154, a bill from the House of Representatives authorizing the payment of a sum of money to the officers and crews of, read -	161
Gales & Seaton, letter from, offering for the printing -	282	read a second time, and referred -	164
the election of, as printers to the Senate -	286	reported without amendment -	167
Gardiner, John, a letter from, presenting maps of Alabama and the bounty lands of Missouri -	39	the third reading negatived -	213
Georgetown, Delaware, on motion of Mr. Van Dyke, the Committee on Post Offices, &c., were instructed to inquire into the expediency of making an additional allowance to the postmasters, &c. -	187	H.	
Gibson, George, Commissary General, a communication from, relative to his testimony before the Seminole committee, which was ordered to be printed -	284	Half-pay Pensions, a bill from the House of Representatives extending the term of, to the widows and children of certain officers, seamen, &c., read -	274
Giles, Aquilla, Mr. King presented the petition of, referred -	69	read a second time, and referred -	275
a bill for the relief of, read -	78	reported without amendment -	277
read a second time -	80	read the third time, and passed -	284
ordered to a third reading -	83	Hanseatic Cities, a Message from the President of the United States, transmitting applications from the Minister resident of Prussia and the, read and referred to the Committee of Foreign Relations -	226
read the third time, and passed -	84	Hanson, Alexander C., attended -	13
Gill, George, Mr. Morrow presented the memorial of, referred -	111	Harbaugh, William, and E. Potter, Mr. Ruggles presented the petition of, referred -	210
Goddard, Nathaniel and others, Mr. Otis presented the petition of, referred -	21	adverse report thereon -	213
adverse report thereon -	73	considered, and concurred in -	226
considered, and concurred in -	188	Hardinsville, Kentucky, Mr. Talbot presented the petition of sundry inhabitants of, praying the establishment of a post office at, referred -	200
leave granted to withdraw the papers -	213	Harper, Samuel H., a bill from the House of Representatives for relief of, read -	75
Godfrey, Gabriel, Mr. Ruggles presented the petition of, referred -	35	read a second time, and referred -	76
a bill for the relief of, read -	189	reported without amendment -	97
read a second time -	192	ordered to a third reading -	166
ordered to a third reading -	237	read the third time, and passed -	168
read a third time, and passed -	238	Hart, Eli, Mr. Sanford presented the petition of, referred -	110
Goldsborough, Robert H., of Maryland, attended -	11	a favorable report thereon -	189
Government, a bill from the House of Representatives making appropriations for the support of, read -	231	ordered that a bill be reported -	198
		a bill for the relief of, read -	200
		read a second time -	203



## Senate Proceedings and Debates.

	Page.		Page.
Hart, Eli—continued.		Illinois—continued.	
bill ordered to a third reading -	256	agreed to, and the committee so instructed	69
read the third time, and passed -	269	a bill for the due execution of the laws of	
Haslett, John, Mr. Roberts presented the petition		the United States within the State of,	
of, referred -	120	read -	74
adverse report thereon -	163	read a second time, and ordered to a third	
Hatteras, &c., Mr. Macon submitted a resolution,		reading -	76
instructing the Naval Committee to in-		read the third time, and passed -	79
quire into the expediency of authorizing		a bill granting certain land to the State of,	
the President of the United States to cause		for the seat of government, &c., read	
a survey to be made of the shoals of Cape	27	twice, and referred -	268
agreed to, and committee so instructed -	29	reported without amendments -	269
(See <i>North Carolina</i> .)		amended, and ordered to a third reading -	270
Hay, John, and others, Mr. Edwards presented		read the third time, and passed -	273
the petition of, referred -	174	a bill to establish a new land office in, read	272
Hayti, Mr. Otis submitted a resolution of inquiry		read a second time, and referred -	275
concerning seizures, &c., of American		reported with amendments -	281
vessels by the Government of -	113	read the third time, and passed -	286
agreed to, and committee appointed -	121	a bill from the House of Representatives	
Heath, Nathaniel H. (See <i>Renner, Daniel</i> .)		confirming certain claims to land in the	
Henley, David, Mr. Roberts presented the peti-		State of, read twice, and referred -	274
tion of, referred -	160	indefinitely postponed -	286
a bill for the relief of, read -	191	Importation of Slaves, Mr. Eaton submitted a	
read a second time -	192	resolution concerning the -	68
ordered to a third reading -	237	agreed to, and a committee appointed -	69
read the third time, and passed -	238	Mr. Lacock presented a petition of a num-	
Higgins, Charles, Mr. Lacock presented the pe-		ber of citizens of New York and Penn-	
tion of, referred -	77	sylvania, praying a revision of the act	
adverse report thereon -	101	relating to the, referred -	77
considered, and concurred in -	164	Mr. Lacock also presented a similar petition	
Hill, Rees, Mr. Lacock presented the petition of,		from Carlisle, referred -	88
referred -	89	Mr. Lacock presented another petition on	
a bill for the relief of, read -	184	the same subject, referred -	90
read a second time -	188	Mr. Hunter, the same from inhabitants of	
ordered to a third reading -	236	Newport, referred -	97
read the third time, and passed -	238	Mr. Daggett, the same from Connecticut,	
Hodgson, Rebecca, Mr. Roberts presented the		referred -	113, 197
petition of, referred -	226	Mr. Burrill, the same from Massachusetts,	
committee discharged -	278	referred -	162
Hogan, Michael, Mr. Goldsborough presented		Mr. Dickerson, the same from New Jersey,	
the petition of, referred -	81	referred -	167
a bill for the relief of, read -	173	Mr. Roberts also presented a similar peti-	
read a second time -	176	tion, referred -	173, 189
ordered to a third reading -	231	Mr. Wilson, the same from New Jersey, re-	
read the third time, and passed -	232	ferred -	176
returned from the House of Representatives		a bill supplemental to the act to prohibit	
amended, and concurred in -	284	the, read -	213
Hooker, Samuel F., Mr. Daggett presented the		read a second time -	224
petition of, referred -	20	the bill amended -	269
report thereon read -	32	Imported Salt, a bill from the House of Repre-	
a bill for the relief of, read -	88	sentatives in addition to the act laying	
read a second time, and referred -	98	duties on, &c., read three times, and	
reported without amendment -	160	passed -	286
ordered to a third reading -	210	Imports and Tonnage, the bill from the House	
read the third time, and passed -	212	of Representatives further supplementary	
Horsey, Outerbridge, of Delaware, attended -	22	to the act to regulate the collection of	
Hunter, William, of Rhode Island, attended -	36	duties on, read twice and indefinitely	
		postponed -	287
I.		Indian Tribes, appointment of a select commit-	
Illinois, a resolution from the House of Repre-		tee on the -	24
sentatives declaring the admission of the		a bill making appropriations to carry into	
State of, into the Union, twice read, and		effect treaties with the, read twice -	205
referred -	23	ordered to a third reading -	224
reported without amendment -	26	read the third time, and passed -	227
ordered to a third reading -	31	a bill making provision for the civilization	
read the third time, and passed -	32	of the, adjoining the frontier settlements,	
on motion of Mr. Sanford, the Judiciary		read -	246
Committee were instructed to inquire con-		read a second time -	251
cerning the operation of the laws of the		ordered to a third reading -	270
United States within -	67	read the third time, and passed -	273

## Senate Proceedings and Debates.

	Page.		Page.
Indiana, Mr. Noble submitted a resolution in-		Jervy, Thomas Hall, a bill from the House of	
structing the Committee of Public Lands		Representatives for relief of, read -	122
to inquire into the expediency of amend-		read a second time, and referred -	137
ing the act for enabling the people of, to		reported without amendment -	189
form a State government, &c. -	78	read the third time, and passed -	237
agreed to -	80	Johnson, Henry, of Louisiana, attended -	9
Mr. Noble presented the memorial of the		Jones, William, President of the Bank of the	
Legislature of, praying for the appoint-		United States, letters from, to the Secre-	
ment of an additional Surveyor General	167	tary of the Treasury, on affairs of the	
a bill relating to the location of certain sec-		bank -	43, 46
tions of land granted to, for the seat of		Jones, John Rice, Mr. Edwards presented the	
government, &c., read -	179	petition of, referred -	70
read a second time -	185	a bill for the relief of, read -	82
ordered to a third reading -	233	read a second time -	84
read the third time, and passed -	236	ordered to a third reading -	86
Indians, Mr. Sanford presented the memorial of		read the third time, and passed -	87
various religious societies in New York,		Jones, Richard J., Mr. Goldsborough presented	
praying the adoption of such measures as		the petition of, referred -	84
may best secure the protection of the,		committee discharged -	228
referred -	165	Jouett, Matthew H. (See <i>McCalla, Robert</i> .)	
Mr. Morrow presented several petitions from		Jourdan, B. and P., Mr. Johnson presented the	
Ohio of the same tenor, referred -	170	petition of, referred -	29
Ingraham, Kinsy, Mr. Gaillard presented the pe-		a bill for the relief of, read -	168
tion of, referred -	176	read a second time -	173
adverse report thereon -	197	ordered to a third reading -	231
considered and concurred in -	203	read the third time, and passed -	232
Internal Duties and Direct Tax, report from the		Judicial System, Mr. Tichenor submitted a reso-	
Secretary of the Treasury on the subject		lution concerning the -	30
of, in obedience to law -	78	the resolution withdrawn -	34
Invalid Pensions, a bill from the House of Rep-		a bill to extend the, read -	31
resentatives concerning, read -	28	read a second time -	38
read a second time, and referred -	31	referred to the Judiciary Committee -	40
reported with amendments -	84	reported without amendment -	100
read the third time, and passed amended -	279	ordered to a third reading -	178
Invalid Pensioners, a bill from the House of		read the third time, and passed -	186
Representatives regulating payments to,		Judiciary, appointment of the standing commit-	
read -	186	tee on the -	20
read a second time, and referred -	187	Jurisdiction of Military and Naval Sites, on mo-	
reported with an amendment -	205	tion of Mr. Storer, the President of the	
ordered to a third reading -	268	United States was requested to procure	
read the third time, and passed as amended	275	the cession of the, to the United States -	229
a bill from the House of Representatives			
concerning, read, and indefinitely post-		K.	
poned -	286	Kennebunk, Maine, Mr. Mellen submitted a res-	
Invalids, a bill from the House of Representatives		olution instructing the Committee on	
respecting -	59	Post Offices, &c., to inquire into the ex-	
read -	64	pediency of increasing the compensation	
read a second time, and referred -	66	of the postmaster at -	65
reported without amendment -	163	agreed to, and referred -	68
indefinitely postponed -	211	adverse report of said committee -	83
Island of New Orleans, a bill for adjusting claims		considered, and concurred in -	85
to land in the district east of the, read -	110	Kenzie and Forsyth, a bill from the House of	
read a second time -	121	Representatives for the relief of, read -	161
ordered to a third reading -	204	read a second time, and referred -	164
read the third time, and passed -	206	reported with an amendment -	169
Ives, Thomas P. (See <i>Brown, Nicholas</i> .)		ordered to a third reading -	230
		read the third time, and passed -	232
J.		Kermion, Labedoyere de, Mr. Fromentin pre-	
Jackson, Andrew, and others, Mr. Tait present-		sented the petition of, referred -	227
ed the memorial of, referred -	67	a bill for the relief of, read -	229
Jamison, John, Mr. Barbour presented the peti-		read a second time -	232
tion of, referred -	25	ordered to a third reading -	277
Jefferson county, Virginia, a bill from the House		read the third time, and passed -	279
of Representatives authorizing the Secre-		Kidd, Robert, and others, a bill from the House	
tary of War to convey a parcel of land		of Representatives for relief of, read -	274
belonging to the United States in, read -	224	read a second time, and referred -	275
read a second time, and referred -	225	reported without amendment -	280
read the third time, and passed -	287	read the third time, and passed -	283



## Senate Proceedings and Debates.

	Page.		Page.
King, Rufus, of New York, attended	9	Langston, William, Mr. Eaton presented the petition of, referred	136
remarks of, on the bill for relief of Major General Stark	72	committee discharged	234
on the bill making provision for sick seamen	202	Languille, Francis B., Mr. Johnson presented the petition of, referred	29
King, William, a bill from the House of Representatives for relief of, read	58	a bill for the relief of, read	197
read a second time, and referred	64	read a second time	201
reported without amendment	78	ordered to a third reading	256
further consideration postponed	82	read a third time, and passed	268
bill indefinitely postponed	86	Latitude of 36° 30' north, Mr. Barbour offered a joint resolution requesting the President of the United States to employ a skillful artist to ascertain the, on the west bank of Tennessee river, read	197
King, Sampson S., a bill from the House of Representatives for relief of, read	89	read a second time	201
read a second time, and referred	98	read the third time, and passed	254
reported with an amendment	111	Latrobe, Benjamin H., the memorial of, referred to the Committee on the District of Columbia,	97
ordered to a third reading	178	Leake, Walter, of Mississippi attended	9
read the third time, and passed as amended	185	Le Baron, Francis, Mr. Goldsborough presented the petition of, referred	167
Kinsley, Adam, Thomas French and Charles Leonard, a bill from the House of Representatives for relief of, read	161	Lee, Richard Bland, on motion of Mr. Barbour, the memorial of, presented at last session, was referred to the Committee of Claims	112
read the second time, and referred	164	adverse report thereon	136
reported without amendment	170	considered, and concurred in	159
ordered to a third reading	230	Lefevre, Joseph, Mr. Johnson presented the petition of, referred	29
read the third time, and passed	232	adverse report thereon	212
Kritzman, Joseph, the memorial of, was referred to the Committee of Claims	225	the report reversed, and a bill ordered	229
said committee discharged, and papers referred to the Committee on Foreign Relations	229	a bill for the relief of read	234
that committee also discharged, and the claims referred to the Secretary of State	234	read a second time	235
L.		ordered to a third reading	277
Lacock, Abner, of Pennsylvania, attended	9	read a third time, and passed	279
speech of, on the bill for organization of the courts	130	Leonard, Charles S. (See Kinsley, Adam.)	
remarks of, on the bill relating to State controversies	196	Lewis, Wm. B., a bill from the House of Representatives for the relief of	59
La Coste, Peter, Mr. Johnson presented the petition of, referred	40	read	64
adverse report thereon	81	read a second time, and referred	66
considered and concurred in	177	reported without amendment	78
indefinitely postponed	253	ordered to a third reading	86
Lambert, William, Mr. Dickerson presented the memorial of, referred	21	read a third time and passed, with an amendment	87
a letter from, transmitting fifty copies of his abstracts, &c., relating to the longitude of the Capitol	111	Library, Mr. Morrill submitted a resolution to appoint a joint committee on the, read twice	10
Land Laws, the Committee on the Public Lands were instructed to inquire into the expediency of amending the, in respect to the disposal of the public land	38	read a third time, and passed	11
(See Sales of Public Lands.)		a bill to provide for the removal of the, to the north wing of the Capitol, read twice	22
Land Warrants, a bill from the House of Representatives allowing further time for issuing and locating, read	169	ordered to a third reading	23
read a second time, and referred	173	read the third time, and passed	26
reported without amendment	185	Mr. Fromentin submitted a resolution further extending the privilege of using the books in the	232
ordered to a third reading	234	agreed to and referred to the Library Committee	236
read a third time, and passed	236	committee discharged from its further consideration	276
Lands reserved, a bill authorizing the President of the United States to purchase certain, read	189	Lieutenants of Marines, acting under warrant, Mr. Daggett submitted a resolution allowing to, the benefit of the provision made for those of the Navy acting under commission	79
read a second time	192	Lighthouses, beacons, &c., a bill from the House of Representatives authorizing certain, read	274
ordered to a third reading	211	read a second time, and referred	275
read a third time, and passed	214	reported without amendment, and ordered to a third reading	278
Landon, Joseph, Mr. Sanford presented the memorial of, referred	110		
committee discharged	269		

## Senate Proceedings and Debates.

	Page.		Page.
Light-houses, &c.—continued.		Macon, Nathaniel, of North Carolina, attended	9
amended, read the third time, and passed, amended	282	speech of, on the memorial of Matthew Lyon	56
Limitation of official term, on motion of Mr. Dickerson, the Committee of Finance were instructed to inquire into the expediency of altering the laws in respect to appointing certain officers	212	on the colonial trade	249
Linton, John, Mr. Williams, of Mississippi, presented the petition of, read	234	Manumission of Slaves, Mr. Sanford presented the memorial of New York Society for the, referred	83
Litt, Absalom, Mr. Ruggles presented the petition of, referred	136	Mark and Conant, Mr. Ruggles presented the petition of, referred	88
Live oak timber, Mr. Tait submitted a resolution instructing the Naval Committee to inquire into the expediency of authorizing the purchase of, for building sloops-of-war, &c.	88	adverse report thereon	191
a bill authorizing the purchase of, read	187	considered and concurred in	200
read a second time	188	Marquand, Joseph, Mr. Otis presented the petition of, referred	64
ordered to a third reading	237	report of the Secretary of the Treasury on the claim of, read	70
read the third time, and passed	238	referred to the Committee of Commerce and Manufactures	77
Longitude of the Capitol, a resolution from the House of Representatives authorizing the President of the United States to cause to be ascertained the, read	270	Mason, John, and others, Mr. Goldsborough presented the memorial of, referred	110
read a second time, and referred	272	committee discharged from the further consideration	278
reported with an amendment	275	Mayhew, Thaddeus, Mr. Johnson presented the petition of, referred	29
indefinitely postponed	285	Medical Society, District of Columbia, a bill from the House of Representatives, to incorporate the, read	101
Lord, Archibald B., and others, Mr. Gaillard presented the memorial of, referred	162	read a second time, and referred	102
adverse report thereon	187	reported with amendment	112
Louisiana, Mr. Johnson presented a memorial of a number of inhabitants of, praying confirmation of land titles, referred	159	ordered to a third reading	209
a bill from the House of Representatives explanatory of the acts for the final adjustment of land titles in, and Missouri Territory	75	read a third time, and passed as amended	212
read	169	Mellen, Prentiss, appointed a Senator by the Legislature of Massachusetts in the place of Eli P. Ashmun resigned, was qualified, &c.	9
read a second time, and referred	175	remarks of, on the bill relating to State controversies	195
reported with amendments	210	Merchandise and Tonnage, report from the Secretary of the Treasury, showing the gross amount of duties on, for a specified time	205
ordered to a third reading	268	Merrill, Daniel, Mr. Morrill presented the petition of, referred	83
read a third time, and passed as amended	271	adverse report thereon	164
Lowrie, Walter, the credentials of, appointed a Senator by the Legislature of Pennsylvania, were read, and ordered to be filed	190	considered and concurred in	165
Lucas, Thomas, on motion of Mr. Daggett, the Committee of Pensions, &c., were instructed to inquire into the expediency of placing the name of, on the list of pensioners	206	Message, the President's annual	11
report thereon read	223	two thousand copies of the, ordered to be printed	16
Lyon, Matthew, the memorial of, was referred to the Judiciary Committee	22	Messier, Henry, Mr. Johnson presented the petition of, referred	29
an adverse report thereon	30	Michigan Territory, Mr. Talbot presented the memorial of sundry inhabitants of, praying that a delegate from said Territory may be authorized, referred	81
concurred in	64	a bill from the House of Representatives authorizing a delegate from, read	89
M.		read a third time, and referred	98
Macarty, L. B., Mr. Johnson presented the petition of	29	reported with amendments	103
Macomb, Alexander, Mr. Ruggles presented the petition of, referred	70	ordered to a third reading	202
a favorable report thereon	161	read a third time, and passed as amended	203
concurred in, and a bill ordered	165	Mr. Ruggles submitted a resolution respecting a district court in	176
a bill confirming the claim of, to a certain tract of land, read	170	agreed to, and referred to the Judiciary Committee	189
read a second time	173	Military Academy, a bill for the better organization of the, read	169
ordered to a third reading	230	read a second time	176
read a third time, and passed	232	indefinitely postponed	251



## Senate Proceedings and Debates.

	Page.		Page.
<b>Military Academy—continued.</b>		<b>Mississippi—continued.</b>	
on motion of Mr. Williams of Tennessee, the President of the United States was requested to cause to be laid before the Senate a copy of the rules, &c., for the government of the	175	Mr. Williams submitted a resolution, instructing the Committee on Public Lands to inquire into the expediency of granting certain portions of land to the State of, for the seat of government, &c.	82
a Message from the President transmitting a report in reply	209	resolution agreed to	84
<b>Military Affairs, appointment of the standing Committee on</b>	20	a bill according to instructions, read	121
said committee were instructed to prepare and report a bill to regulate the compensation of the army	179	read a second time	164
<b>Military Establishment, Mr. Tichenor submitted a resolution directing the Secretary of War to lay before the Senate a statement of the effective force of the, &amp;c.</b>	90	ordered to a third reading	213
amended and agreed to	98	read the third time, and passed	214
the statement asked for, agreed to	121	<b>Missouri, a bill from the House of Representatives to enable the people of, to form a State government, &amp;c., read twice, and referred</b>	238
<b>Military Service, a bill from the House of Representatives making partial appropriations for the, &amp;c., read</b>	59	reported with amendments	251
read a second time, and referred	64	the restriction on slavery struck out	273
reported without amendment, read the third time, and passed	66	ordered to a third reading	275
a bill from the House of Representatives, making appropriations for the, for the year 1819, read	122	read the third time, and passed as amended the House of Representatives agreed to all the amendments except one, to which the Senate adhered; a message that the House of Representatives also adhered	282
read a second time, and referred	137	a bill from the House of Representatives, to establish a separate territorial government in the southern part of, read twice, and referred	252
reported with amendments	164	reported without amendment	253
ordered to a third reading, as amended	175	ordered to a third reading	270
read the third time, and passed with amendments	177	read the third time	272
<b>Military Sites, a bill from the House of Representatives, authorizing the sale of certain, read</b>	279	and passed	274
read a second time	290	<b>Montgomery, Alexander, a bill from the House of Representatives for relief of legal representatives of, read</b>	80
read the third time, and passed	287	read a second time, and referred	80
<b>Militia, appointment of the standing committee on</b>	20	reported without amendment	83
report from the Secretary of War, showing the organization and strength of the, in the several States	25	ordered to a third reading	86
on motion of Mr. Wilson, a resolution was adopted providing for accurate annual returns of the, referred to a committee	208	read the third time, and passed	87
the committee discharged	276	<b>Morgan, William. (See Armstrong, John.)</b>	
<b>Milling, Hugh. (See Buchanan, John.)</b>		<b>Morril, Daniel L., of New Hampshire, attended speech of, on the case of Matthew Lyon</b>	9
<b>Milne, Alexander, Mr. Johnson presented the petition of, referred</b>	29	on the bill for the relief of General Stark	73
a bill for the relief of, read	212	on his resolution concerning duelling	218
read a second time	214	Morrow, Jeremiah, of Ohio, attended	10
ordered to a third reading	269	Mr. Crittenden's eulogy upon	246
read the third time, and passed	272	<b>Moss, Daniel, a bill from the House of Representatives for relief of, read</b>	122
<b>Minis, Isaac, and others, a bill from the House of Representatives for relief of, read</b>	224	read a second time, and referred	137
read a second time, and referred	225	reported without amendment	246
reported without amendment	278	read the third time, and passed	283
read the third time, and passed	283	<b>Mumford, George, a message from the House of Representatives, announcing the death of</b>	89
<b>Mint, report of the Director of the, referred to the Finance Committee</b>	58	<b>McCalla, Robert, and M. H. Jouett, a bill from the House of Representatives for relief of, read</b>	186
<b>Mississippi, Mr. Leake presented a memorial of the convention of, praying an extension of limits</b>	67	read a second time, and referred	187
Mr. L. also presented a memorial of the Legislature of Alabama, remonstrating against the extension prayed for, both of which were referred	67	reported with an amendment	214
		ordered to a third reading	269
		read the third time, and passed with amendment	272
		<b>McCarty, Edward, a bill for the relief of the heirs of, read</b>	177
		read a second time	185
		ordered to a third reading	231
		read the third time, and passed	237
		<b>McCausland, John, a bill from the House of Representatives for relief of, read</b>	274
		read a second time, and referred	275
		reported without amendment	278
		read the third time, and passed	286

## Senate Proceedings and Debates.

	Page.		Page.
<b>McCormick, Alexander, Mr. Roberts presented the petition of, referred</b>	120	<b>O'Connor, John, Mr. Johnson presented the petition of the heirs and executors of, referred</b>	110
adverse report thereon	168	<b>Ogden, Thomas Ludlow, Mr. King presented the petition of, referred</b>	68
considered and concurred in	174	adverse report thereon	173
<b>McFarland, William, Mr. Dickerson presented the petition of</b>	167	considered and concurred in	177
adverse report thereon concurred in	198	<b>Organization of the Courts, a bill for the more convenient, read</b>	31
<b>McNeil, Joseph, Mr. Johnson presented the petition of, referred</b>	29	read a second time	35
a bill for the relief of, read	197	ordered to a third reading	160
read a second time	201	read the third time, and passed	164
ordered to a third reading	256	<b>Orr, James, a bill from the House of Representatives for relief of, read twice, and referred</b>	274
read the third time, and passed	269	reported without amendment	277
		read the third time, and passed	286
<b>N.</b>		<b>Otis, Harrison Gray, of Massachusetts, attended speech of, on the case of Matthew Lyon</b>	18
<b>Naming of Vessels of War, a resolution from the House of Representatives declaring what shall be the mode of, read twice and referred</b>	252	in reply to Mr. Crittenden	63
reported without amendment	255	remarks of, on the bill relating to State controversies	194
read the third time, and passed	278		
<b>National Bank, Mr. Lacock submitted a resolution directing the Secretary to procure, and cause to be printed, copies of the documents accompanying the report to the House of Representatives on the</b>	174	<b>P.</b>	
amended and agreed to	178	<b>Page, Thomas. (See Kidd, Robert.)</b>	
a bill from the House of Representatives authorizing the transmission of the documents in relation to the, free of postage, read three times and passed	224	<b>Palmer, William A., appointed a Senator by the Legislature of Vermont, in place of James Fisk, resigned, produced his credentials, &amp;c.</b>	9
<b>Mr. Wilson submitted a resolution directing the Secretary to procure, for the use of the Senate, copies of the memorial of William Jones late President of the, to the House of Representatives</b>	227	other credentials, for a new term, presented and filed	281
the resolution negatived	229	<b>Parker, John, and others, Mr. Noble presented the memorial of, referred</b>	64
<b>Naval Affairs, appointment of the standing committee of</b>	20	<b>Parrot, John F., the credentials of, as Senator appointed by the Legislature of New Hampshire, were read and filed</b>	277
<b>Naval Register, a letter from the Secretary of the Navy, transmitting a copy of the, for each member</b>	99	<b>Pascagoula River, Mr. Williams of Mississippi presented a petition praying that a port of entry may be established at, read</b>	253
<b>Navy, a bill from the House of Representatives making appropriations for the support of the, for the year 1819, read</b>	81	<b>Passenger Ships, &amp;c., a bill from the House of Representatives, regulating, read</b>	80
read a second time, and referred	83	read a second time, and referred	80
reported with amendments	171	reported with amendments	113
ordered to a third reading	177	ordered to a third reading	205
read the third time, and passed as amended	185	read the third time, and passed as amended	206
<b>Navy Pension Fund, report of the Commissioners of the</b>	122	House of Representatives agreed to the amendments with an amendment which was concurred in	255
<b>New York Hospital, Mr. King presented the memorial of the governors of the, in relation to sick seamen, referred to the Secretary of the Treasury</b>	34	<b>Patapsco River and Chesapeake Bay, Mr. Goldsborough presented the petition of the Marine Insurance Company of Baltimore, praying the improvement of the navigation of the, referred</b>	97
report of said officers, referred to the Committee of Commerce and Manufactures	65	<b>Patuxet, Rhode Island, a bill to increase the compensation of the surveyor of the port of, read</b>	47
<b>Noble, James, of Indiana, attended</b>	11	read a second time	64
<b>North Carolina, a bill to authorize the survey of certain parts of the coast of, along Cape Hatteras, &amp;c., read</b>	33	ordered to a third reading	66
read a second time	38	read the third time, and passed	68
ordered to a third reading	45	<b>Pay of the Army, Mr. Williams of Tennessee submitted a resolution instructing the Military Committee to inquire into the expediency of increasing the</b>	23
read the third time, and passed	59	considered and agreed to	26
<b>Mr. Macon presented certain acts of the Legislature of, to which the assent of Congress was asked</b>	63	<b>Pearl River, a report from the Secretary of the Treasury relative to land claims east and west of, referred</b>	47
		the report ordered to be printed	67



## Senate Proceedings and Debates.

	Page.		Page.
Pearl River—continued.		Post Office Establishment, a bill to repeal part	
Mr. Leake presented the memorial of the		of the act establishing the, read - - -	173
Legislature of Mississippi, praying the	245	read a second time - - - - -	177
establishment of a port of entry at or near		ordered to a third reading - - - - -	231
Pennsylvania, a bill from the House of Repre-		read the third time, and passed - - -	254
sentatives concerning the western district		Post Offices and Post Roads, appointment of the	
of, read - - - - -	28	standing committee on - - - - -	20
read a second time, and referred - - -	29	Post Roads, a bill from the House of Represent-	
reported without amendment - - - - -	40	atives to alter and establish certain, read	272
read the third time, and passed - - -	65	read a second time, and referred - - -	275
Pensions, appointment of the standing commit-		reported with amendments, and ordered to	
tee on - - - - -	20	a third reading - - - - -	281
the said committee were instructed to in-		read the third time, and passed as amended	282
quire into the expediency of amending		Post Route, the Committee on Post Offices and	
the act providing for certain persons, &c.	80	Post Roads were instructed to inquire into	
Perkins, Nicholas, Mr. Eaton presented the pe-		the expediency of establishing a certain	190
tion of, referred - - - - -	67	Potter, Elderkin, Mr. Ruggles presented the pe-	
Perry, Wm. N., and Mark Burnett, Mr. Taylor		tion of, referred - - - - -	209
presented the petition of, referred - - -	112	committee discharged - - - - -	278
adverse report thereon - - - - -	179	Preble, Com. Edward, a bill from the House of	
considered and concurred in - - - - -	191	Representatives authorizing the distribu-	
Perth Amboy, the committee were discharged		tion of a sum of money among the repre-	
from the petition of the inhabitants for a		sentatives of, and the officers and crew of	
session of the district court at - - -	276	the Syren, read - - - - -	69
Pettibone, Daniel, Mr. Tichenor presented the		read a second time, and referred - - -	71
petition of, referred - - - - -	87	reported without amendment - - - - -	83
a bill for the relief of, read - - - - -	163	ordered to a third reading - - - - -	178
read a second time - - - - -	165	read the third time, and passed - - -	186
ordered to a third reading - - - - -	224	Pre-emption Claims, Mr. Morrow presented the	
read the third time, and passed - - -	227	memorial of the Legislature of Missouri	
Pettit, John, Mr. Johnson presented the petition		Territory in relation to, referred - - -	111
of, referred - - - - -	29	Mr. Thomas presented a petition from Illi-	
a bill for the relief of, read - - - - -	212	nois of the same tenor, read - - - - -	281
read a second time - - - - -	214	President of the United States, a joint committee	
ordered to a third reading - - - - -	269	appointed to wait on the - - - - -	10
read the third time, and passed - - -	272	Mr. Sanford submitted a resolution respect-	
Pike, James, Mr. Morrill presented the petition		ing the signature of the, to land patents	19
of, referred - - - - -	26	agreed to, and referred to the Committee on	
Piracy, a bill to protect the commerce of the		Public Lands - - - - -	21
United States and for the punishment of,		Preyst, Solomon, Mr. Johnson presented the	
read twice, and referred - - - - -	246	petition of, referred - - - - -	40
reported with amendments, and ordered to a		a bill for the relief of, read - - - - -	212
third reading - - - - -	253	read a second time - - - - -	214
read the third time, and passed - - -	256	ordered to a third reading - - - - -	269
Pitkin's Commercial Statistics, a resolution from		read the third time, and passed - - -	272
the House of Representatives directing,		Printing, Mr. Wilson submitted a resolution	
to be deposited in the Library, read - - -	101	concerning the, ordered by the two Houses,	
read a second time - - - - -	102	read twice - - - - -	37
amended and ordered to a third reading -	137	read the third time, and passed - - -	40
read the third time, and passed as amended	162	returned from the House of Representatives	
Poirey, M., a bill from the House of Representa-		with an amendment, and agreed to - - -	50
tives making provision for the claim of,		Mr. Lacock also submitted a resolution re-	
read - - - - -	169	lating to the - - - - -	37
read a second time, and referred - - -	173	which was agreed to - - - - -	40
reported without amendment - - - - -	189	a message from the House of Representa-	
ordered to a third reading - - - - -	237	tives that they have appointed a joint com-	
read the third time, and passed - - -	238	mittee on the, concurred in, and commit-	
Pool, Benjamin, a bill from the House of Repre-		tee appointed - - - - -	69
sentatives for relief of, read - - - - -	161	report of the joint committee, read and	
read a second time - - - - -	164	agreed to - - - - -	75
reported without amendment - - - - -	173	Mr. Fromentin submitted a resolution to re-	
ordered to a third reading - - - - -	230	scind - - - - -	166
read the third time, and passed - - -	232	considered and disagreed to - - - - -	170
Portland, Maine, Mr. Mellen submitted a reso-		Protection of the Mails, on motion of Mr. Tal-	
lution instructing the Committee on the		bot, the Committee on Post Offices, &c.,	
Judiciary to inquire into the expediency		were instructed to inquire into the expe-	
of establishing a circuit court to be held at	22	diency of authorizing the Postmaster Gen-	
considered and agreed to - - - - -	23	eral to employ an armed guard for the -	206

## Senate Proceedings and Debates.

	Page.		Page.
Protection of the Mails—continued.		R.	
inexpediency of doing so reported - - -	235	Rabun, Governor, a Message from the President	
considered and concurred in - - - - -	251	of the United States, transmitting the	
Prout, William, Mr. Daggett, presented the pe-		copy of a letter from - - - - -	89
tion of, referred - - - - -	101	Rangers, Mr. Noble presented the petition of a	
a bill to authorize, to institute a suit in equity		company of, commanded by James Big-	
against the Commissioner of Public		gar, referred - - - - -	198
Buildings, &c., read - - - - -	190	adverse report thereon - - - - -	246
read a second time - - - - -	192	considered, and concurred in - - -	253
ordered to a third reading - - - - -	237	Rapine, Daniel, a letter from, offering for the	
read the third time, and passed - - -	238	printing - - - - -	281
Provident Association of Clerks, a bill from the		Receivers and Registers, Mr. Eaton presented a	
House of Representatives to incorporate		memorial praying a revision of the act	
the, read - - - - -	101	changing the compensation of, referred -	74
read a second time, and referred - - -	103	a bill to fix the compensation of, read -	402
reported with an amendment - - - - -	112	read a second time, and ordered to a third	
ordered to a third reading - - - - -	207	reading - - - - -	259
read the third time, and passed as amended	210	read the third time, and passed - - -	269
Public Accounts, a bill from the House of Repre-		Relinquishment of Bounty Lands, a bill from the	
sentatives supplementary to the act for		House of Representatives concerning pen-	
prompt settlement of, read - - - - -	174	sions upon a, read - - - - -	252
read a second time, and referred - - -	176	read a second time, and referred - - -	234
reported without amendment - - - - -	192	reported without amendment - - - - -	246
ordered to a third reading - - - - -	241	read the third time, and passed - - -	283
read the third time, and passed - - -	246	Renner, Daniel, and Nathaniel H. Heath, a bill	
Public Buildings, a Message from the President		from the House of Representatives for the	
of the United States transmitting the an-		relief of, read - - - - -	81
nuual report of the Commissioner of the -	28	read a second time, and referred - - -	83
a bill from the House of Representatives		reported with an amendment - - - - -	101
making appropriations for repairs, &c., of		ordered to a third reading - - - - -	178
the, read - - - - -	270	read the third time, and passed as amended	185
read a second time, and referred - - -	271	Restitution of Slaves, Mr. Fromentin submitted	
reported without amendment - - - - -	276	a resolution requesting information of the	
read the third time, and passed - - -	283	President of the United States, touching	
Public Lands, appointment of the standing Com-		the execution of the first article of the treaty	
mittee on - - - - -	20	with Great Britain, in relation to the -	21
Mr. Ruggles presented the petition of sun-		agreed to, and committee appointed to wait	
dry inhabitants of Ohio, praying an ex-		on the President - - - - -	23
extension of time for completing payments		a Message from the President in reply -	36
on, which was read - - - - -	100	Revolutionary War, on motion of Mr. Ruggles,	
Mr. Noble presented a similar petition, from		the Committee on Pensions were instruct-	
Indiana - - - - -	120	ed to inquire into the expediency of amend-	
Public Printing, report of the joint committee		ing the act to provide for certain persons	
on the subject of the - - - - -	247	engaged in the, &c. - - - - -	100
considered and agreed to - - - - -	254	said committee ask to be discharged -	161
a resolution directing the manner of, read		and are accordingly discharged - - -	165
three times, and passed - - - - -	281	Rice, Henry, Mr. Otis presented the petition of,	
Purkhill, Jacob, Mr. Crittenden presented the		referred - - - - -	255
petition of, referred - - - - -	120	committee discharged - - - - -	276
adverse report thereon - - - - -	168	Ring, Hannah, and Luther Frink, a bill from the	
the report reversed, and bill ordered -	175	House of Representatives for the relief of,	
a bill for the benefit of, read - - - - -	177	read a first and second time, and referred	198
read a second time - - - - -	185	reported with amendments - - - - -	223
ordered to a third reading - - - - -	246	ordered to a third reading - - - - -	276
read the third time and passed - - -	254	read the third time, and passed with amend-	
Putney, Benjamin, Mr. Macon presented the pe-		ments - - - - -	279
tion of, referred - - - - -	170	Roberts, Jonathan, of Pennsylvania, attended	11
adverse report thereon - - - - -	201	remarks of, on the bill for the relief of Gen-	
considered, and concurred in - - - - -	210	eral Stark - - - - -	72
Pyle, Edward, Mr. Taylor presented the peti-		speech of, on the bill for the more convenient	
tion of - - - - -	163	organization of the courts - - - - -	103
Quarter Sections, Mr. Leake submitted a resolu-		Robertson, William, Mr. Wilson presented the	
tion relating to fractions of - - - - -	23	petition of, referred - - - - -	65
Quartering Soldiers in time of War, Mr. Forsyth		committee discharged, and the petition re-	
submitted a resolution on the subject of -	159	ferred to the Naval Committee - - -	84
Quorum, a message sent to the House of Repre-		adverse report thereon - - - - -	90
sentatives announcing the formation of a	12	considered, and concurred in - - - - -	98



## Senate Proceedings and Debates.

	Page.		Page.
Rockville and Washington Turnpike Company, a bill from the House of Representatives authorizing the, to extend their road through the District of Columbia, read -	101	Seminole War, Mr. Lacock submitted a resolution that the Message and documents relating to the, be referred to a select committee -	37
read a second time, and referred -	102	amended and agreed to, and a committee appointed -	76
reported without amendment -	112	Mr. L. submitted another resolution asking of the President copies of the correspondence with Spain in relation to the modified and agreed to -	70
ordered to a third reading -	202	a Message from the President transmitting a copy of a letter from Governor Bibb to General Jackson -	227
read the third time, and passed -	204	report of the committee in full -	256
Rodriguez, John, Mr. Johnson presented the petition of, referred -	29	Senate, opening of the second session of the, (fifteenth Congress) -	9
a bill for the relief of, read -	201	adjournment of the -	288
read a second time -	203	Sewall, Robert, Mr. Hanson presented the petition of, referred -	90
ordered to a third reading -	256	adverse report thereon -	176
read the third time, and passed -	269	considered, and concurred in -	189
Ronde, Pierre D. de la, Mr. Johnson presented the petition of, referred -	29	Seybert's Statistical Annals, a resolution from the House of Representatives for the distribution of, read -	101
a bill for the relief of, read -	186	read a second time -	102
read a second time -	188	amended, and ordered to a third reading -	137
ordered to a third reading -	236	read the third time, and passed as amended -	162
read the third time, and passed -	238	Shawneetown, Mr. Thomas presented the memorial of the Register and Receiver at, praying an increase of compensation, referred -	209
Ruggles, Benjamin, of Ohio, attended -	11	Sick and disabled Seamen, a bill to provide for, read -	97
speech of, on his resolution to clothe the Army in domestic manufactures -	114	read a second time -	101
Rules and Regulations for the Navy, the report of the Secretary of the Navy, made at the last session, on the, was referred to the Naval Committee -	39	considered -	111
Mr. Roberts submitted a resolution instructing said committee to inquire whether said, are in conformity with military laws, &c. considered, and agreed to -	87	ordered to a third reading -	203
the committee reported a resolution requiring the Secretary of the Navy, under the direction of the President, to report at the next session, a reply to the inquiry -	208	read the third time, and passed -	210
considered, and agreed to -	212	Simpson, James, Mr. Daggett presented the petition of, referred -	161
Runaways, on motion of Mr. Forsyth, the Committee on the District of Columbia were instructed to inquire into the expediency of annulling the laws regulating the seizure of persons of color suspected to be said committee discharged -	208	committee discharged -	246
	278	Sinking Fund, annual report on the state of the Slave Trade, a bill from the House of Representatives in addition to the act to prohibit the, read -	279
S.		read a second time, and referred -	280
Sackett, Augustus, Mr. King presented the petition of, referred -	89	reported without amendment; read the third time, and passed -	280
adverse report thereon -	205	Slaves impressed into the Public Service, Mr. Macon submitted a resolution concerning -	174
considered, and concurred in -	209	agreed to, and referred to a committee -	177
Salaries of certain Officers, a bill to increase the, read twice -	22	the committee discharged -	278
read the third time, and passed -	29	Slocum, John, Mr. Burrill presented the petition of, referred -	22
returned from the House of Representatives with amendments -	231	Smith, William, of South Carolina, attended -	9
considered, and concurred in -	236	speech of, on the case of Matthew Lyon -	54
Sales of Public Lands, letter from the Secretary of the Treasury with a statement of the report of the Committee on Public Lands of the -	215	in explanation -	37, 63
a bill making further provision for the, read -	215	on the bill for the relief of General Stark -	72
read a second time; ordered to a third reading -	244	on the bill for more convenient organization of the courts -	123
read the third time, and passed -	246	Smith, James, Mr. Roberts presented the petition of, referred -	234
Sanford, Nathan, of New York, attended -	9	Smyth, Harold, a bill from the House of Representatives for relief of, read -	88
remarks of, on the bill providing for sick seamen -	202	read a second time, and referred -	98
Schoonmaker, Cornelia, and P. M. Greene, the petition of, referred -	169	reported without amendment -	228
adverse report thereon -	190	ordered to a third reading -	277
indefinitely postponed -	226	read the third time, and passed -	278

## Senate Proceedings and Debates.

	Page.		Page.
Smyth, Richard, Mr. Dickerson presented the memorial of, referred -	200	St. Andrew's Society of Charleston, the petition of, praying a remission of duties, referred to the Finance Committee -	75
Spain, a Message from the President, transmitting a copy of his proclamation of the convention with -	99	adverse report thereon -	163
Sparks, Thomas. (See Beck, Paul.)		considered and concurred in -	177
Standing Committees, appointment of the several -	19	St. Stephen's, Mr. Williams, of Mississippi, presented the petition of the inhabitants of, praying that a port of entry may be established at -	39
Standing Rules, Mr. Sanford offered an amendment to the -	159	T.	
considered, and agreed to -	162	Tait, Charles, of Georgia, attended -	65
Stark, Major General John, a bill from the House of Representatives for the relief of, read -	35	remarks of, on the bill providing for sick seamen -	202
read a second time, and referred -	39	Talbot, Isham, of Kentucky, attended -	30
reported without amendment -	40	remarks of, on the bill for deciding State controversies -	192, 195, 196
ordered to a third reading -	73	Taylor, Waller, of Indiana, attended -	11
read the third time, and passed -	76	the credentials of, for a new term, presented and filed -	253
Steamboats, on motion of Mr. Talbot the Committee on Post Offices and Post Roads were instructed to inquire into the expediency of authorizing the Postmaster General to transmit the mail in -	89	Tennessee, a bill from the House of Representatives to amend the act supplementary to the act authorizing the State of, to issue grants, &c., read -	223
a bill from the House authorizing the Postmaster General to contract for carrying the mail in, &c., read -	174	read a second time, and referred -	225
read a second time, and referred -	176	reported without amendment -	272
reported with amendments -	185	indefinitely postponed -	285
ordered to a third reading -	251	Thomas, Jesse B., appointed a Senator by the Legislature of Illinois, produced his credentials, &c. -	38
read the third time, and passed -	254	Thorn, Joseph, Mr. Forsyth presented the petition of, referred -	88
Stephens, David, Mr. Morrill presented the petition of, referred -	29	a bill for the relief of, read -	163
Stephens, Otho, Mr. Palmer presented the petition of, referred -	173	read a second time -	165
adverse report thereon -	185	the third reading negatived -	213
considered and concurred in -	198	Thornton, William, Mr. Epes presented the memorial of, referred -	209
Sterrett, Samuel, Mr. Noble presented the petition of, referred -	246	a bill concerning the Patent Office, and to increase the salary of, the superintendent thereof, read -	223
adverse report thereon -	254	read a second time -	226
considered and concurred in -	255	ordered to a third reading -	277
Stokes, Mountford, of North Carolina, attended -	33	read the third time, and passed -	279
Stone, George, Mr. Morrill presented the petition of, referred -	22	Tichenor, Isaac, of Vermont, attended -	11
adverse report thereon, read -	34	Timberlake, John B., Mr. Williams, of Mississippi, presented the petition of, referred -	86
and concurred in -	38	a bill for the relief of, read -	160
Storer, Clement, of New Hampshire, attended -	19	read a second time -	164
Streets, a bill from the House of Representatives authorizing the corporation of Washington to extend certain, through public reservations, read -	101	ordered to a third reading -	211
read a second time, and referred -	102	read the third time, and passed -	212
reported without amendment -	136	Tompkins, Daniel D., Vice President, took the chair -	99
indefinitely postponed -	210	sketch of his remarks on giving the casting vote on the appropriation for a military road -	171
Stuart, Phoebe, a bill from the House of Representatives for relief of, read -	186	retirement of, from the chair -	232
read a second time, and referred -	187	Tonnage and Discriminating Duties, a bill in addition to the act concerning, read -	234
reported without amendment -	251	read a second time -	237
read the third time, and passed -	283	ordered to a third reading -	254
Sturges, Rachel, Mr. Dickerson presented the petition of, referred -	167	read the third time, and passed -	255
adverse report thereon -	185	Trading-houses with the Indian Tribes, a bill to continue in force for a further time the act concerning, read -	241
considered and concurred in -	198	read a second time -	246
Supervisors and Collectors of the old Direct Tax, Mr. Tichenor submitted a resolution of inquiry relating to balances due from agreed to, and committee appointed to present it to the President -	136	ordered to a third reading -	254
a Message from the President transmitting statement in reply -	204	read the third time, and passed -	255
		Transportation of persons of color, &c., a bill respecting the, read -	58



## Senate Proceedings and Debates.

	Page.		Page.
Transportation—continued.		Wait's State Papers—continued.	
bill read a second time	68	bill read a second time, and ordered to a	
referred to the committee on the importation		third reading -	206
of slaves	69	read the third time, and passed -	210
Mr. Wilson submitted a resolution instruct-		Ward, Samuel, a bill for the relief of, read -	87
ing said committee	76	read a second time, and referred -	88
considered and agreed to -	78	reported without amendment -	160
a bill respecting the, read -	192	ordered to a third reading -	211
read a second time -	198	read the third time, and passed -	212
ordered to a third reading -	252	Warnack, Frederick C., Mr. Williams, of Ten-	
read the third time, and passed -	254	nessee, presented the petition of, referred	90
Treasurer, the general account of the, presented	231	Washington, Mr. Goldsborough submitted a re-	
Treasury Department, report of the Secretary in		solution to erect a monument over the re-	
obedience to the act establishing the	21	mains of General, read -	23
another report, according to law	163	read a second time -	26
a bill for the better organization of the, read	192	referred to a select committee -	31
read a second time, and referred	192	reported with amendments -	33
reported without amendment -	200	recommitted with instructions -	112
ordered to a third reading -	254	a bill to erect an equestrian statue of, in	
read the third time, and passed -	256	the Capitol square, read -	162
Treasury Notes lost or destroyed, a bill from the		read a second time -	164
House of Representatives to authorize		ordered to a third reading -	228
payment in certain cases on account of,		read the third time, and passed -	229
read -	89	Mr. Iacock presented the petition of the	
read a second time, and referred	98	Mayor, &c., of the City of, praying a re-	
reported with an amendment -	163	newal of their charter, referred -	30
ordered to a third reading -	185	a bill supplementary to the act further to	
read the third time, and passed as amended	188	amend the charter of the City of, read -	112
Troop, John, Mr. Sanford presented the petition		read a second time -	122
of, referred -	77	ordered to a third reading -	210
adverse report thereon -	88	read the third time, and passed -	212
on motion of Mr. Goldsborough, the said re-		Washington Turnpike Company, a bill from the	
port was withdrawn -	89	House of Representatives to empower the,	
a resolution reported that the petitioner have		to extend their road through the District	
leave to withdraw his papers -	97	of Columbia, read -	169
considered and concurred in -	100	read a second time, and referred -	173
Turner, Thomas, a bill from the House of Rep-		reported without amendment -	277
resentatives concerning the heirs and le-		read the third time, and passed -	284
gates of, read -	161	Way, Andrew, jr., letter from, offering for the	
read a second time, and referred	164	printing -	282
reported without amendment -	176	Webber, Seth. (See Kidd, Robert.)	
ordered to a third reading -	233	Wells, Benjamin, a bill from the House of Rep-	
read the third time, and passed -	236	resentatives supplementary to the act for	
V.		the relief of, read -	255
Van Dyke, Nicholas, from Delaware, attended -	20	read a second time, and referred -	268
Vienne, M. de, a bill from the House of Rep-		indefinitely postponed -	285
resentatives making provision for the claim		Wetzell, Jacob, Mr. Noble presented the petition	
of, read -	169	of, referred -	85
read a second time, and referred	173	adverse report thereon -	100
reported without amendment -	189	considered and concurred in -	102
ordered to a third reading -	237	Wheaton, Joseph, a bill from the House of Rep-	
read the third time, and passed -	238	resentatives for relief of, read -	231
Villero, Jacques, Mr. Johnson presented the pe-		read a second time, and referred	232
tition of, referred -	29	reported without amendment -	246
Vincennes University, Mr. Taylor presented the		read the third time, and passed -	283
memorial of, referred -	169	Whitmore, Martha, an adverse report on the	
Vreeland, Ann, and others, Mr. Dickerson pre-		petition of, concurred in -	84
sented the petition of, referred -	167	Widows and Orphans of Soldiers, &c., a bill	
a bill for relief of the heirs and representa-		from the House of Representatives to ex-	
tives of Nicholas Vreeland, read -	185	tend, for a further term, the pensions to	
read a second time -	188	the, read -	74
ordered to a third reading -	236	read a second time, and referred	76
read the third time, and passed -	238	reported without amendment -	78
W.		indefinitely postponed -	214
Wait's State Papers, a bill authorizing subscrip-		Widows of Militia, a bill from the House of Rep-	
tion for the 11th and 12th volumes of,		resentatives concerning the, read -	69
read -	200	read a second time, and referred	71
		reported without amendment -	78
		indefinitely postponed -	223

## House Proceedings and Debates.

	Page.		Page.
Wilde, Richard H., Mr. Forsyth presented the		Yeas and Nays—continued.	
petition of, referred -	22	on amending the bill concerning forfeiture	
a bill to authorize the settlement of the ac-		of lands, &c. -	122
counts of James Wilde, read -	33	on recommitting the bill for organization of	
read a second time -	38	the courts -	160
recommitted to the committee that report-		on ordering the same to a third reading -	160
ed it -	40	on Mr. Barbour's amendment to the resolu-	
reported with an amendment -	47	tion to amend the Constitution -	162
ordered to a third reading -	65	on the final passage of the bill for the organ-	
read the third time, and passed -	67	ization of the courts -	164
Williams, John, of Tennessee, attended -	11	on amending the bill making appropriations	
remarks of, on the bill relating to State con-		for the military service -	171
troversies -	192, 196	on a motion to reverse the report on peti-	
Williams, Thomas K., of Mississippi, attended -	11	tion of Jacob Perhill -	175
Wilson, James J., of New Jersey, attended -	11	on concurring in the adverse report in case	
remarks of, on a resolution to instruct the		of Nathaniel Goddard -	188
committee on the slave trade -	75	on indefinite postponement of the bill rela-	
on introducing his resolution concerning the		ting to State controversies -	196, 200
militia -	207	on the final passage of the resolution to	
Wilson, Thomas, a bill from the House of Rep-		amend the Constitution -	207
resentatives in addition to the act supple-		on indefinite postponement of the widows	
mentary to the act for relief of, read -	252	and orphans' bill -	214
read a second time, and referred -	252	on indefinite postponement of the bill to	
reported without amendment -	255	erect an equestrian statue of Washing-	
read the third time, and passed -	284	ton -	224, 228, 229
Wines, a bill from the House of Representatives		on the third reading of the same -	228
to regulate the duties on certain, read -	270	on concurring in the Senate's amendment	
read a second time, and referred -	271	to the bill concerning the salaries of cer-	
reported without amendment -	276	tain officers -	235, 236
read the third time, and passed -	282	on appointing a member to supply the	
Witnesses, a resolution from the House of Rep-		place of Mr. Forsyth on the Seminole	
resentatives requesting the Senate to per-		committee -	239
mit two of its members to attend a select		on amending the bill concerning sales of	
committee of the House as, read -	186	public lands -	242, 243, 244
read a second time, and agreed to -	188	on indefinite postponement of the bill re-	
Y.		specting the transportation of persons of	
Yeas and Nays, on Mr. Crittenden's resolution,		color -	252
in the case of Matthew Lyon -	62	on striking out a section in the Missouri	
on the third reading of the bill for relief of		bill -	273
General Stark -	73	on the third reading of the bill to revise the	
on Mr. Barbour's amendment to the bill for		powers of the commissioners, &c., in the	
organization of the courts -	96	district of Detroit -	274
on Mr. Roberts's motion to recommit said		on recommitting the bill for a separate ter-	
bill -	109	ritorial government in the southern part	
on recommitting with instructions the bill		of Missouri -	274
for a monument to Washington -	112	on amending the bill fixing the time for the	
on amending the bill to enable the people		next meeting of Congress -	282
of Alabama to form a State govern-		Z.	
ment, &c. -	114	Zorger, Michael, Mr. Roberts presented the pe-	
		tition of, referred -	253

## HOUSE OF REPRESENTATIVES AND APPENDIX.

	Page.		Page.
A.		Adams, J. Q.—continued.	
Abbott, Joel, of Georgia, attended -	323	correspondence of, with Albert Gallatin -	1503
Abolition of Slavery, Mr. Sergeant presented the		instructions of, to Messrs. Gallatin and	
memorial of the American convention for		Rush -	1514
the, referred -	430	correspondence of, with the Chevalier Don	
Accounts, appointment of the standing commit-		Luis de Onis -	1941
tee of -	292	correspondence of, with Mr. Ewing, Minister	
Adams, John Q., correspondence of, with the		at Madrid -	1924
Secretary of State -	1447, 1491, 1965	Additional Military Academy, a bill to establish	
correspondence of, with Earl Bathurst -	1454	an, read twice -	1167
with Lord Castlereagh -	1480, 1495	a letter from the Secretary of War, on the	
with Mr. Rush, Envoy at London -	1500	subject of an, &c. -	2428



## House Proceedings and Debates.

	Pages.		Page.
Agent for Pensions, a bill to authorize the Secretary of War to appoint an additional, in Tennessee, read twice	1036	Arbuthnot, A.—continued.	
read the third time, and passed	1074	his defence before the court-martial	2051
Alabama Territory, on motion of Mr. Poindexter, the Secretary of the Treasury was directed to lay before the House a statement of the sales of public lands in	341	letter from, to W. Hambly	2084
letter from the Secretary with the statement asked for	411	letter from, to the Hon. Charles Bagot	2087
the Speaker presented the petition of the Legislature of, accompanied by a census of the inhabitants, praying admission into the Union as a State, referred	344	letter from, to a person of rank in England	2088
the Speaker also presented a petition of the same, praying an alteration in their judicial system, referred to the Judiciary Committee	370	copy of a sheet of his journal, found among his papers	2092
a letter from the Secretary of the Treasury in relation to the lands reserved in	1101	letter from, to the commanding officers at Fort Gaines	2096
a bill from the Senate to enable the people of, to form a State government, &c.	514	a letter from A. Culloh to, found among his papers	2098
twice read, and referred	541	a letter from, to General Mitchell, agent of Indian affairs	2099
reported with amendments	1236	Arbuthnot and Ambrister, so much of the Message as relates to, referred to the Military Committee	293
ordered to a third reading	1240	Mr. Colston submitted a resolution requesting of the President copies of any correspondence which may have been held with Great Britain on the subject of	398
read the third time, and passed as amended	1272	Arkansas, Mr. Scott presented the petition of sundry inhabitants of, praying a separate territorial government, referred	911
Alleghany Mountains, the bill reported at last session for erecting a separate judicial district in Virginia west of the, was ordered to a third reading	314	a bill to provide a separate territorial government for the southern part of Missouri, by the name of, read twice	1119
read the third time, and passed	315	debated and referred	1222
returned from the Senate with amendment, and concurred in	871	reported with amendments	1236
Allen, Samuel C., of Massachusetts, attended	311	recommitted to a select committee	1273
Allen, Heman, the Speaker presented a letter from, stating that he had resigned his seat in the House	415	reported and ordered to a third reading	1282
Allison, Rev. Burgess, election of, as Chaplain	294	read the third time, and passed	1283
Ambrister, Robert C., copy of charges and specifications against, and trial of	2054	Armory, on the Western waters, a bill authorizing the establishment of a national, read twice, and referred	339
letter from, to Governor Cameron	2058	Mr. Johnson submitted a letter from the Secretary of War on the subject of an, referred to the same committee	345
letter from, to Major Nicholls	2059	Armstrong, John, the bill of last session authorizing the payment of certain drafts drawn by, in favor of Wm. Morgan, was taken up, and ordered to a third reading	412
letter from, to Peter B. Cook	2060	read the third time, and passed	416
defence of, before the court-martial	2061	Army, report from the Secretary of War, with a statement of the officers of the, their grade, station, &c.	295
sentence pronounced upon, and general order thereon	2061	on motion of Mr. Mercer, the Secretary of War was directed to report the present strength and distribution of the	445
memorial of, to the Duke of York	2082	Mr. Williams, of North Carolina, submitted a resolution instructing the Military Committee to report a bill to reduce the	1155
Amelung, Captain V. Z., report of, to General Jackson	1972	the resolution laid on the table	1156
Amendment to the Constitution, a resolution from the Senate proposing an, read twice	1038	Assessors, a bill providing compensation to, in certain cases, read twice	1167
debate on the resolution	1419	Assistants Postmaster General, on motion of Mr. Johnson, of Kentucky, the Committee on Post Offices, &c., were instructed to inquire into the expediency of increasing the salaries of the	295
laid on the table	1420	a bill to increase the salaries of the, read twice	464
American Colonization Society, the Speaker presented a letter from a committee of the, referred	721	Attorney General, on motion of Mr. Holmes, the Secretary of the Treasury was requested to inform the House what sums had been paid to the, for extra services	1421
Anderson, Richard C., of Kentucky, attended	296	a letter from the Secretary of the Treasury in reply	1442
speech of, on the resolution to admit Illinois into the Union	309		
remarks of, on the resolution for a monument to De Kalb	722		
speech of, on the Seminole report	897		
Anderson, John, a bill from the Senate for the relief of, read twice	1422		
Arbuthnot, A., letter from, to Lieutenant Colonel Nicholls	2022, 2040		
copy of the charges against	2026		
letter from, to his son	2034		

## House Proceedings and Debates.

	Pages.		Page.
B.		Barbour, Mr., remarks of—continued.	
Bagot, Sir Charles, correspondence of, with the Secretary of State	1486	on the sale of lots in the city of Washington	543
Baker, Anthony St. John, correspondence of, with the Secretary of State	1445	on the Seminole report	764
extract of a letter from the Secretary of State to	1964	on the Missouri bill	1184
Balamy, Aaron, the Committee of Claims was instructed to inquire into, and report on, the claim of	386	Barbour, Philip, of South Carolina, a bill for the relief of, twice read, &c.	343
Balances transferred, a letter from the Secretary of the Treasury in reply to the inquiry as to what part of the, from the Treasury to the Bank of the United States had been drawn from the latter, by any department of the Government, &c.	1409	Baron, Carlos, affidavit of	2008
Baldwin, Henry, from Pennsylvania, attended	289	Barrow, Matthew, a bill from the Senate for relief of, twice read, and referred	392
speech of, on the Seminole report	1035	reported without amendment	411
Ball, William Lee, from Virginia, attended	321	Barton, William, a bill for the relief of, read twice	346
Ball, Dr. Mattrom, the bill reported at last session for relief of, was ordered to a third reading	412	read the third time, and passed	367
read the third time, and passed	416	Bassett, Burwell, of Virginia, attended	292
returned from the Senate with an amendment, and concurred in	540	remarks of, on the Beaumarchais claim	521
Bank of the United States, Mr. Spencer submitted a resolution for the appointment of a committee to inspect the books and proceedings of the	317	on his motion to admit Joseph Lancaster to a seat within the bar of the House	787
amended and agreed to, and committee appointed	335	Bathurst, Earl, correspondence of, with Mr. Adams	1460
report in full of said committee	552	Batman, Henry, a bill for the relief of, read twice	1152
two thousand five hundred copies of the report ordered to be printed	579	read the third time, and passed	1155
a bill to enforce the provisions of the act to incorporate the, read twice	579	returned from the Senate with an amendment, and concurred in	1440
ordered to a third reading	1415	Beall, Samuel B., a bill for the relief of, read twice	546
read the third time, and passed	1419	Beaulieu, J. S., a bill for the relief of, read twice	662
Mr. Trimble submitted a resolution directing a scire facias to be issued against the the consideration of the resolution negatived	600	Beaumarchais, the bill of the last session for relief of the heirs of, was taken up and discussed	321, 343
called up, and debated	1407	the third reading of the bill negatived	344
the adoption of the resolution rejected	1409	Beecher, Philemon, of Ohio, attended	291
Mr. Spencer submitted another resolution relating to the	922	remarks of, on his amendment to the Appropriation bill	490
ordered to lie on the table	1416	Bellinger, Mr., reported a bill making appropriations for the public buildings, &c.	464
memorial of the President of the, read	1102	Bennett, Malcolm, a bill for the relief of, read twice	437
Mr. Wendover presented sundry petitions, praying the continuance of the	1166	Bennett, Samuel, a bill directing the name of, to be placed on the pension list, read twice	597
Mr. Johnson, of Virginia, presented a resolution to repeal the charter of the	1140	Berlin and Milan Decrees, Mr. Sergeant presented the petition of sundry merchants, praying indemnity for seizures under the, referred to the Secretary of State	1166
the resolution negatived	1406	Bermuda Hundred, of Virginia, a bill to authorize the sale of a lot of ground, the property of the United States, at, read twice	935
Bankruptcy. (See Uniform system of.)		Bibb, W. W., Governor of Georgia, copy of a letter from, to General Andrew Jackson	1075
Banks of the District of Columbia, on motion of Mr. Herbert, the Secretary of the Treasury was directed to report the state of the	464	Bickley, Daniel, and Catharine Clark, a bill for relief of, read twice	418
letter from the Secretary of the Treasury in reply	515	Birdseye, Nathaniel G., and Daniel Booth, a bill from the Senate for relief of	1411
another letter from the same, on the subject of the	630	read twice	1417
Barber, Levi, of Ohio, attended	291	ordered to a third reading	1431
Barbour, Mr. of Virginia, remarks of, on the proposed inquiry into the affairs of the Bank of the United States	333	read the third time, and passed	1432
speech of, on the Military Appropriation bill	452, 456	Bland, Theodorick, the report of, on the condition of South America, was ordered to be printed	936
on the appropriation for military roads	512	Blount, William G., of Tennessee, attended	292
15th Con. 2d Sess.—C		Booth, Daniel. (See Birdseye, &c.)	
		Boundaries of Land Districts, a bill from the Senate designating the, twice read, and referred	1272
		reported with amendments, and ordered to a third reading	1402
		read the third time, and passed as amended	1410
		the Senate disagreed to the amendments	1422
		and the House of Representatives receded	1423



## House Proceedings and Debates.

	Page.		Page.
Bounty Land, a bill extending the allowance of, read twice -	411	Census, on motion of Mr. Campbell, a select committee was appointed to prepare a bill for taking the fourth -	385
Bourgoud, Antoine. (See Dozet, Joseph.)		a bill to provide, &c., accordingly, read twice -	422
Bowie and Kurtz, and others, adverse report on the petition of -	391	Certain Crimes against the United States, a bill from the Senate, more effectually to provide for the punishment of, read twice -	1149
Bremen, letter from the Burgomaster and Senators of, to the President of the United States, relating to commercial reciprocities -	1628	Chambers, Samuel, commander of the British ship-of-war <i>Dee</i> , a letter from, to Rear Admiral Sir David Milne, on the subject of the Newfoundland fisheries -	1499
British Subjects, a Message from the President of the United States, transmitting copies of applications made by the British Minister in behalf of certain -	1038	Champe, Phebe, Mr. Barber, of Ohio, presented the petition of, referred -	545
Bronaugh, J. C., United States Army, affidavit of -	2343	adverse report thereon concurred in -	1074
Brook, George M., and Edmund P. Kennedy, a bill for relief of, read twice -	1139	Chaplain, election of a, for the House of Representatives -	294
read the third time, and passed -	1403	Chesapeake and Delaware Canal Company, the bill of last session, authorizing a subscription to the stock of the, was referred -	434
Brown, Frederick, a bill for the relief of, read twice -	366	Child, Ezra, a bill for the relief of, twice read -	430
read the third time, and passed -	370	Choctaw Tribe, on motion of Mr. Poindexter, the Committee on Public Lands were instructed to inquire concerning the statement of the -	297
returned from the Senate, with an amendment, and agreed to -	464	Circuit Courts of the United States, a bill from the Senate further to extend the jurisdiction of the, read twice -	832
Bryan, Mr., of North Carolina, was, on his own motion, excused from serving on the Bank Committee, on the ground of being a stockholder -	340	ordered to a third reading -	871
Buenos Ayres Gazette, sundry extracts from the -	1920	read the third time, and passed -	911
Burch, Samuel, letter from, to General Jackson -	2349	Claims, appointment of the standing committee of -	291
Burghart, Adolphus, the bill of the last session for relief of, ordered to a third reading -	346	Clark, John, Mr. Allen presented the petition of a bill from the Senate for the relief of, read twice -	1139
read the third time, and passed -	367	ordered to a third reading -	1153
Burr, Samuel, a bill for the relief of, read twice on the third reading rejected -	346	read the third time, and passed -	1155
Butler, Thomas, of Louisiana, elected a member in the place of Mr. Robertson, resigned, was qualified, &c. -	290	Clark, Isaac, a bill for the relief of, twice read -	389
remarks of, on the bill granting a pension to General Stark -	339	Clark, Catharine. (See Bickley, Daniel.)	
on the military appropriations -	477	Clark, James H., a bill from the Senate for relief of, read twice, and referred -	1037
C.		reported without amendment -	1271
Cadets, the bill of last session concerning the admission of, into the Military Academy, was taken up in Committee of the Whole -	387	Clay, Henry, Speaker, took his seat -	289
reported to the House, and laid on the table -	389	speech of, on the bill providing for seamen in reply to Mr. Whitman -	364
a bill extending the allowance of pensions to, twice read -	870	remarks of, on the bill concerning cadets on the Massachusetts claim -	389
the third reading negatived -	872	speech of, on the military appropriations -	419
Caldwell, Elias B. (See American Colonization Society.)		451, 454, 477	
Callan, Patrick, a bill for the relief of, twice read -	422	on the Seminole report -	631
ordered to a third reading -	1167	on acknowledging the South American independence -	1148
read the third time, and passed -	1194	on the bill for the occupation of Florida -	1429
Campbell, Mr., of Ohio, remarks of, on the Massachusetts claim -	420	thanks of the House to, and address of, on adjournment -	1442
on the Military Appropriation bill -	478	Clerks, on motion of Mr. Harrison, a committee was appointed to inquire into the expediency of authorizing the employment of an additional number, in the War Department -	299
on the resolution concerning the instigation of Indian hostilities -	548	a bill to increase the number of, &c., read twice -	312
Caro, Jose Estevan, affidavit of -	1007	ordered to a third reading -	316
Carr, Thomas, and others, a bill for the benefit of, twice read, &c. -	392	read the third time, and passed -	320
Carter, John D., a bill for the relief of, read twice -	546	on motion of Mr. Tallmadge, the Committee on the Judiciary were instructed to inquire into the expediency of providing by law for the appointment of, of the district courts, by the President -	431
Castlereagh, Lord, correspondence of, with Mr. Adams -	1485		
Catlett, Dr. Hanson, Mr. Johnson presented the petition of, referred -	422		
Cavalier, Anthony, and Peter Pettit, a bill from the Senate confirming the claim of, &c., read twice, and referred -	1147		

## House Proceedings and Debates.

	Page.		Page.
Coasting Trade, a bill from the Senate supplementary to the act concerning the, read twice, and referred -	1155	Copy-Rights, a bill concerning suits brought on, read twice -	434
reported without amendment -	1217	Cowan, John, an adverse report in the case of, reversed, and a bill ordered -	386
ordered to a third reading, -	1283	a bill for the relief of, read twice, &c. -	391
read the third time, and passed -	1328	Cranch, William, a bill for the benefit of, read twice, &c. -	870
Cobb, Thomas W., of Georgia, attended -	291	Creek Nation, a bill from the Senate authorizing the purchase of certain lands reserved to the chiefs of the, read twice -	1147
remarks of, on the bill granting a pension to General Stark -	337, 338	ordered to a third reading -	1153
on referring certain documents from one committee to another -	369, 371	read the third time, and passed -	1155
speech of, on the motion to postpone the subject indefinitely -	373	Cross, T., Captain United States Army, a statement made upon honor, by -	2336
on his motion to refer the two reports of the Seminole committee to a Committee of the Whole -	527	Crowell, John, Delegate from Alabama Territory, attended -	290
remarks of, on the bill concerning the sale of lots in Washington -	542	Couger, Daniel, of New York, attended -	298
speech of, on the Seminole resolutions -	583	Cumberland Road, a notice to insert an appropriation for the, in the general appropriation bill, carried -	1148
on the motion for indefinite postponement on adhering to the rejection of the Senate's amendment to the bill to admit Missouri into the Union -	1436	Currituck Sound, on motion of Mr. Sawyer the Committee of Commerce and Manufactures were instructed to inquire into the expediency of staking the channel of -	295
Coffin, William, and others, on motion of Mr. Folger, the Committee of Ways and Means were instructed to inquire into the expediency of allowing the benefit of drawback to -	336	D.	
a bill for the relief of, read twice -	425	Davidson, William, a new member from North Carolina, in place of Daniel M. Forney, was qualified, &c. -	339
Coins, United States and foreign, on motion of Mr. Lowndes, a committee was appointed to inquire into the expediency of regulating -	322	Davis, Henry, the bill of last session for the relief of, ordered to a third reading -	541
detailed report of said committee -	788	read the third time, and passed -	545
a bill to regulate, &c., read twice -	796	Deaf and Dumb, a bill in behalf of the Connecticut Asylum for the, read twice -	1329
(See Foreign Coins.)		ordered to a third reading -	1427
Colburn, Reuben, on motion of Mr. Gage, the Committee on Pensions, &c., were directed to inquire into the expediency of making compensation to -	428	read a third time, and passed -	1431
Cole, Mehitabel, the bill of last session for the relief of, was ordered to a third reading -	321	De Forest, David C., correspondence of, with the Secretary of State -	1614
read the third time, and passed -	324	De Kalb, Baron, Mr. Reed, of Maryland, submitted a resolution respecting the monument to the late Major General -	721
Colston, Edward, of Virginia, attended -	291	laid on the table -	722
remarks of, on Mr. Linn's resolutions concerning the migration of slaves -	337	De Kraft, Edward, the Speaker presented a letter from, remonstrating against an alleged violation of his contract for printing -	340
on the bill relating to the military establishment -	535	De lafield, John, a bill for the relief of, twice read -	436
speech of, on the Seminole resolutions -	624	a third reading rejected -	445
Columbian Institute, Mr. Herbert presented the petition of, referred -	1139	De la Ronde, Pierre Dennis, a bill from the Senate for the relief of -	1217
Commerce and Manufactures, appointment of the standing committee on -	291	twice read, and referred -	1237
Commissary, Abraham, an Onondaga Indian, Mr. Ogden presented the petition of -	1074	reported with amendments -	1328
Congress, a bill from the Senate fixing the time for the next meeting of, read twice, and indefinitely postponed -	1440	Delaware and Chesapeake Canal Company, a bill authorizing subscription to the stock of the, read twice -	488
usual resolutions preparatory to the close of the session -	1441	Denton, Little & Co., and Harmon Kendricks, a bill for relief of, twice read -	324
adjournment of, <i>sine die</i> -	1444	Dequindre, Louis and Antoine, a bill from the Senate for the relief of, read twice, and referred -	423
Constitution, a resolution from the Senate, proposing an amendment of the, read twice -	1038	reported without amendment -	1424
debated in Committee of the Whole -	1419	Desha, Mr., remarks of, on Mr. Holmes's resolution -	372
laid on the table -	1420	on the motion to refer the Seminole reports -	529
Convention, copy of the, with Great Britain -	1592	speech of, on the bill concerning the military establishment -	535
Coppersmiths, of Boston, adverse report on the petition of, agreed to -	324	on the Seminole resolutions -	1038
		Deslande, Rosalie P., a bill from the Senate for the relief of -	1411



House Proceedings and Debates.

	Page.		Page.
Deslande, Rosalie P.—continued.		E.	
bill twice read, and referred	1417	Earle, Elias, of South Carolina, attended	298
reported without amendment	1431	Easter, Richard J., letter from, to Gen. Jackson	2344
Detroit, a bill from the Senate to revive the powers of the commissioners for deciding claims to land in the district of, read twice	1433	Eastern Branch Bridge Company, the bill of last session to incorporate the, was ordered to a third reading	410
Direct Tax and Internal Duties, a bill concerning the, read twice, &c.	580	read the third time, and passed	412
Discontinuance of Suits, on motion of Mr. Baldwin, the Judiciary Committee were instructed to inquire into the expediency of making provision for the	299	returned from the Senate with amendments and agreed to	1216
a bill to prevent the, twice read, and ordered to a third reading	315	Edwards, Mr., remarks of, on the motion to postpone indefinitely Mr. Holmes' resolution	375
District of Columbia, appointment of the standing committee on the	291	on his resolution of inquiry relative to Florida	581, 582
the Speaker presented a letter from Judge Cranch, transmitting a code of jurisprudence for the, prepared by him in obedience to a resolution of Congress	299	Elections, appointment of the standing Committee of	291
on motion of Mr. Herbert the Clerk was directed to contract for the printing of two hundred and fifty copies of said code	324	Electors of President, &c. (See Constitution, Mr. Dickerson's amendment.)	
referred to the judges of the circuit court and district attorney	870	Ellicott, Benjamin, of New York, attended	291
bill concerning the Banks of the, twice read	1154	Entries of Land, a bill from the Senate providing for the correction of errors in making, read twice	1432
Dix, John A., a bill from the Senate for relief of, read twice, and referred	1139	read the third time, and passed	1433
reported without amendment	1149	Equestrian Statue of Washington, a bill from the Senate to erect an, in the Capitol square, read twice	1155
Documents, Mr. Taylor submitted a joint resolution authorizing the franking of certain, read a third time, and passed	312	Ervin, James, of South Carolina, attended	298
returned from the Senate with an amendment, agreed to	340	speech of, on the Seminole resolutions	1118
Mr. Holmes submitted a similar resolution in relation to the documents on the subject of the Bank of the United States, read twice	380	Erving, George W., correspondence of, with the Secretary of State	1657, 1853
read a third time, and passed	1146	correspondence of, with Don Pedro Cevallos	1659
Dougherty, Thomas, Clerk of the House, took his seat	289	correspondence of, with Don Jose Pizarro	1679, 1857
Dox, Jacob, letter from, referred to the Committee of Claims	312	Expenditures for captures at sea, a letter from the Secretary of the Navy with statements of the, in obedience to a resolution of the last session	415
a bill for the relief of, twice read &c.	344	Export Entry and Oath, on motion of Mr. Silbee, the Committee of Ways and Means were instructed to inquire respecting the time allowed for completing the	314
Dozet, Joseph, and Antoine Bourgoud, a bill from the Senate for relief of	1411	(See Revenue.)	
twice read, and referred	1417	Exports, a letter from the Secretary of the Treasury with a statement of	438
reported with amendments	1421	Extension of Streets, a bill authorizing the, in certain cases, by the Corporation of Washington, read twice	434
Drake, John R., of New York, attended	292	read the third time, and passed	438
Dufour, John James, and his associates, Mr. Hendricks presented the petition of, referred	424	Extra Allowances, on motion of Mr. H. Nelson, the Committee of Accounts were authorized to make to the servants, &c., of the House the same as were made at the last session	1417
a bill for the benefit of, read twice, and ordered to a third reading	427	Extra labor of Soldiers, a report from the Secretary of War relative to	547
read a third time, and rejected	429		
on motion of Mr. Pindall the vote of rejection was reconsidered and the bill referred to a select committee	433	F.	
committee discharged, and the bill laid on the table	435	False Entries for benefit of Drawback, a bill providing additional penalties for, twice read	1006
Dunlap, Richard G., letter from, to General Jackson	2344	read the third time, and passed	1038
Dunn, Thomas, Sergeant-at-Arms, the Speaker was authorized and requested to employ counsel to defend, in the suit brought against him by John Anderson	433	Farish, Thomas B., the bill of last session for relief of, was ordered to a third reading	410
Duverge, Bartholomew, a bill from the Senate for relief of, read twice	1422	read the third time, and passed	412
Dyer, R. H., late Colonel of Tennessee volunteers, letter from, to General Jackson	2348	returned from the Senate amended, and agreed to	721
		Fatigue Duty, a bill from the Senate to regulate the pay of the Army when employed on	1217
		twice read, and ordered to a third reading	1237
		read the third time, and passed	1272

House Proceedings and Debates.

	Page.		Page.
Finances, annual Treasury report of the state of the	300	France, a bill continuing the currency of the crowns and 5-franc pieces of, read twice	796
Fire Engines, a bill from the Senate authorizing the purchase of, twice read	1422	See (Foreign Coins.)	
read the third time, and passed	1440	Franking Privilege, on motion of Mr. Garnett, the Committee on Post Offices, &c., were instructed to inquire into the expediency of extending the, to agricultural societies in their correspondence with each other	1037
First Comptroller, a letter from the, with a list of persons who have not rendered their accounts for settlement	444	a bill in conformity thereto, was twice read	1153
Fisher, Charles, a new member from South Carolina, in place of George Mumford, deceased, was qualified, &c.	1149	a third reading negatived	1394
Florida, Mr. Hopkinson submitted a motion requesting of the President of the United States copies of the correspondence of our Minister at Madrid in relation to the proceedings of the army in	392	French, Thomas. (See Kinsley, Adam.)	
amended and agreed to, and a committee appointed	408	Friendly Creek Indians, a letter from the Secretary of War in relation to the claims of the	581
Mr. Edwards submitted a resolution of inquiry in relation to the military posts of, in possession of the United States	581	Prink, Luther. (See Ring, Hannah.)	
amended and agreed to	583	Fugitive Slaves, on motion of Mr. Pindall, a committee was appointed to inquire into the expediency of providing, by law, for the delivering up of, &c.	546
a Message from the President of the United States in reply	911	a bill to that effect read twice	551
Mr. Poindexter submitted a resolution concerning a provisional government for	1419	Fugitives, on motion of Mr. H. Nelson, the Committee on the Judiciary were instructed to inquire into the expediency of authorizing the President of the United States to demand, &c.	1139
a bill authorizing the President to take possession of, twice read	1423	Fuller, Timothy, of Massachusetts, attended	342
read the third time, and passed	1430	speech of, on the military appropriations	499
returned from the Senate with amendments, and concurred in with an exception	1440	on the Seminole resolutions	985
Floyd, Mr., remarks of, on Mr. Holmes's resolution	371, 376	on the Missouri bill	1179
remarks of, on taking up the military appropriations	450	G.	
remarks of, on Mr. Cobb's motion to refer the Seminole reports to the Committee of the Whole	528	Gadsden, J., Aid-de-camp, letter from, to General Jackson	2020
speech of, on the resolutions	1104	affidavit made by	2329
Folger, Walter, of Massachusetts, attended	291	Gaines, General E. P., letter from, to the Secretary of War	1957, 2066
Ford, Nathan, a bill from the Senate for relief of, twice read, and referred	1237	letter from, to Colonel Clinch	1975
reported with amendments	1416	to Commodore Patterson	1976
Foreign Affairs, appointment of a select committee of	293	to General Jackson	2065
Foreign Coins, a bill from the Senate to continue in force the act to regulate the currency of, read twice	1038	Gales and Seaton, election of, as printers to the House	1441
amended, read the third time, and passed	1426	a message from the Senate, that they have elected, also as printers	1441
Foreign Merchandise, the bill of last session relating to the duties on, was indefinitely postponed	418	Gallatin and Rush, Messrs., the President's commission investing, with plenary powers, to form a commercial treaty with Great Britain	1505
Foreign Seamen, the bill of last session authorizing the apprehension of, deserting, was read	359	instructions from the Secretary of State to	1514
Forfeiture of Land, &c., Mr. Harrison submitted a resolution instructing the Committee of Public Lands to inquire into the expediency of continuing the act to suspend the, read twice, and referred	541	copy of a letter from, to the Secretary of State	1525
reported without amendment	546	protocols of their conferences with the British Plenipotentiaries	1533
read the third time, and passed	1424	further instructions to, from the Secretary of State	1573
Forsyth, John, of Georgia, the Speaker communicated a letter from, containing notice that he has resigned his seat in the House	299	Galloo Island, a bill for erecting a lighthouse on, read twice	1423
Fowler, Christopher, a bill from the Senate for relief of, read twice	1422	read the third time, and passed	1425
		returned from the Senate with amendments, and agreed to	1440
		Gardiner, John, the Speaker presented a letter from, transmitting a map of Alabama Territory, and of the military bounty lands	346
		a proposition to furnish soldiers with copies of the latter at a reasonable price, was rejected	370



## House Proceedings and Debates.

	Page.		Page.
Georgia, on motion of Mr. Cobb, a committee was appointed to request of the President copies of the correspondence between the Department of War and the Governor of a Message, transmitting the correspondence asked for -	428	Hall, William, of Delaware, attended -	391
another Message, with copies of a letter from the Governor of, to General Jackson -	1073	Hambly, W., certificates of -	2018
Gibbs, Samuel, a bill for the relief of, twice read -	391	Hamburgh, application to the President from the Burgomaster and Senate of, in relation to commercial reciprocities -	1624
Gilbert, Sylvester, a new member from Connecticut, in place of Mr. Holmes, resigned, attended, and was qualified, &c. -	270	Hamilton, A. W., leave to withdraw his papers granted to -	390
Giles, Aquilla, a bill from the Senate for the relief of, read twice -	429	Hanseatic Towns, a Message from the President in relation to the, referred to the Committee of Ways and Means -	1101
reported without amendment -	515	Harper, Samuel H., the bill of last session for relief of, ordered to a third reading -	410
read the third time, and passed -	1440	read the third time, and passed -	412
Glasscock, General Thomas, commanding the Georgia militia, letter from, to General Jackson -	2385	Harrison, William H., of Ohio, attended -	289
Godfrey, Gabriel, a bill from the Senate for relief of -	1217	remarks of, on the admission of the Representative from Illinois -	296
read twice, and referred -	1237	speech of, on the resolution to admit Illinois into the Union -	310
rejection of the bill recommended by the committee -	1416	remarks of, on the bill for additional clerks in the War Department -	316
Gooding, John, and James Williams, a bill for relief of, read twice -	443	on the bill granting a pension to General Stark -	337
Government, a bill making appropriations for the support of, for the year 1819, read twice ordered to a third reading -	787	on his motion relating to forfeiture and sale of lands -	340
read the third time, and passed -	1151	on a resolution concerning the trial of Arbuthnot and Ambrister -	369
returned from the Senate with amendments read, and referred -	1403	speech of, on the Half-pay Pension bill -	377
agreement reported, with one exception -	1416	remarks of, on the bill concerning Cadets -	388
the House concurred with the committee in the exception -	1424	speech of, on the bill to extend the term of pensions, &c. -	394
Grand River, on motion of Mr. Hitchcock, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry at the mouth of -	398	remarks of, on the military establishment introductory of a resolution respecting military punishment -	535
Grant, Vincent, a bill from the Senate for relief of, read twice -	1432	speech of, on the Seminole resolutions -	1012
Great Britain, papers relating to the convention of the 20th October, 1818, between the United States and -	1445	remarks of, on the motion to divide the question -	1135
Guerlain, Lewis H., a bill from the Senate for the relief of -	1411	in defence of Colonel Trumbull -	1194
read twice, and referred -	1417	on the bill relating to forfeiture of lands, &c. -	1424
Gunboats Nos. 149 and 154, the bill of last session, authorizing the payment of money to the officers and crews of, ordered to a third reading -	541	Hart, Eli, a bill from the Senate for relief of -	1411
read the third time, and passed -	545	read twice, and referred -	1417
Gunpowder, a bill to prohibit the allowance of drawback on the exportation of. (See Imported Cotton, in which bill it is included.)		the committee recommend rejection of the bill -	1421
H.		Haskell, Lois, an adverse report on the petition of, agreed to -	1074
Hadfield, George, the Speaker presented the petition of, referred -	1194	Hawkins, Colonel Benjamin, letters from, to Colonel Nicholls -	1953
Haile, John, the report of the Committee of Claims at the last session, adverse to the petition of, was concurred in -	346	Heister, Joseph, of Pennsylvania, attended -	339
Half-pay Pensions, a bill extending the time of, to the widows and children of certain officers, seamen, and marines, twice read -	319	Henley, David, a bill from the Senate for relief of -	1217
ordered to a third reading -	384	read twice, and referred -	1237
read the third time, and passed -	1426	reported without amendment -	1271
		Herbert, John C., of Maryland, attended -	289
		remarks of, on the bill concerning the sale of reserved lots in the City of Washington -	316, 543
		Herrick, Samuel, of Ohio, attended -	319
		Hill, Rees, a bill from the Senate for relief of -	1217
		read twice, and referred -	1237
		reported without amendment -	1282
		read the third time, and passed -	1440
		Hinds, Bartlett, a bill for the relief of, read twice -	544
		Hitchcock, Peter, of Ohio, attended -	344
		Hogan, Michael, a bill from the Senate for relief of -	1167
		read twice, and referred -	1194
		reported with an amendment -	1328
		read the third time, and passed as amended -	1439

## House Proceedings and Debates.

	Page.		Page.
Hogg, Samuel, of Tennessee, attended -	291	Imported Salt, the Committee of Ways and Means were instructed to inquire into the expediency of abolishing the duty on -	297
Holmes, Mr., remarks of, introducing a resolution respecting the Seminole war -	367, 371	a report against the expediency -	339
on the resolution of inquiry in relation to Florida -	581	on motion of Mr. Sampson, the same committee were instructed to inquire into the expediency of amending the act relating to a bill in addition to the act laying a duty on, read twice -	1101
speech of, on the Seminole report -	600	read the third time, and passed -	1439
remarks of, on the motion for indefinite postponement of the same -	1134	Imports from Canada, Mr. Palmer, of New York, submitted a resolution instructing the Committee of Ways and Means to inquire concerning -	440
on the bill authorizing the occupation of Florida -	1429	resolution agreed to -	442
Hooker, Samuel F., the bill of last session for relief of, ordered to a third reading -	434	Imports and Tonnage, a bill supplementary to the act to continue in force the act to provide for the collection of duties on, read twice -	543
read the third time, and passed -	436	a bill further to establish the compensation of officers employed in the collection of duties on, read twice, and referred -	1036
Hopkinson, Mr., remarks of, introducing a bill to establish a uniform system of bankruptcy on Mr. Holmes's resolution -	312	Independent Governments of South America, a report from the Secretary of State showing the applications made by, to have a Minister or Consul General accredited by the United States -	1600
speech of, on the Seminole report -	872	Indian Trading Establishments, a report from the Secretary of War of a system providing for the abolition of the existing, referred -	366
on the bill for the occupation of Florida -	1428	a bill concerning the abolition of, read twice -	546
Hostetter, Jacob, of Pennsylvania, a new member, in place of Mr. Spangler, resigned, was qualified, and took his seat -	290	Indian Tribes, appointment of a select committee on the -	293
House of Representatives, list of members who attended the opening of the -	289	Mr. Herrick presented a memorial praying that provision may be made for establishing schools among the, referred -	426
Hughes, James, a bill for the relief of, twice read -	1006	on motion of Mr. Lincoln the select committee were instructed to obtain and report annual information concerning the a bill to authorize the President to select such, as he may think best prepared for the change, and to adopt such measures as he may deem best to civilize the same, read twice -	546
Hutchins, Alpheus, Mr. Livermore presented the petition of, referred -	427	a bill from the Senate of similar character, read twice, and referred -	1427
I.		reported without amendment -	1432
Illinois, the Speaker presented a copy of the constitution of -	290	read the third time, and passed -	1435
referred to a select committee for examination, and report -	296	a bill from the Senate making appropriations to carry into effect treaties with, read twice, and referred -	1153
report of a resolution to admit, read twice debated, and ordered to a third reading -	298	reported without amendment -	1431
read the third time, and passed -	311	read the third time, and passed -	1435
Mr. McLean presented a petition of the Legislature of, concerning persons settled on reserved lands, referred -	344	Indiana, a bill supplemental to the act admitting the State of, into the Union, read twice -	428
adverse report thereon concurred in -	389	a bill from the Senate respecting the location of certain lands granted to, for a seat of government, read twice -	1216
Mr. McLean also presented a petition of the same, praying a donation of land for a seat of government, referred -	389	ordered to a third reading -	1402
a bill granting land for the purpose prayed for, read twice -	411	read the third time, and passed -	1410
ordered to a third reading -	422	Instigating Indians to hostilities, Mr. Campbell submitted a resolution instructing the Judiciary Committee to inquire into the expediency of punishing as spies white men who may be found -	547
read the third time, and passed -	1426	considered, and negatived -	548
a bill from the Senate to provide for the due execution of the laws of the United States within the State of, read twice, and referred -	423		
reported without amendment -	421		
read the third time, and passed -	1436		
a bill confirming certain claims to land in, read three times, and passed -	1426		
a bill from the Senate to establish a new land office in -	1440		
on proceeding to read the bill, it was found that there was not a quorum present -	1441		
Importation of Slaves, on motion of Mr. Middleton, the bill of last session supplementary to the act to prohibit the, was referred -	320		
Mr. Hostetter, of Pennsylvania, presented a petition, on the subject of the, referred to the same committee -	426		
(See Slave Trade.)			
Imported Cotton, a bill to increase the duties on, read twice, and referred -	426		



## House Proceedings and Debates.

	Page.		Page.
Instructions to Boards of Land Commissioners, a letter from the Secretary of the Treasury, transmitting copies of his	431	Jervais, Samuel, the deposition of, enclosed in a letter from General Gaines to the Secretary of War	1958
Internal Duties and Direct Tax, a letter from the same, transmitting sundry statements in relation to	418	Jervay, Thomas Hall, the bill of last session for relief of, was taken up and ordered to a third reading	465
Internal Improvement, appointment of a select committee on	294	read the third time, and passed	479
a bill to appropriate a fund for, read twice	474	Johnson, Richard M., of Kentucky, Chairman of Military Committee	293
Invalid Pensions, a bill concerning read three times, and passed	319	remarks of, on the resolution concerning Arbuthnot and Ambriater	368, 369
Invalid Pensioners, a bill concerning, read twice	1036	on the bill concerning widows, &c.	395
read the third time, and passed	1439	on the motion to take up the military appropriation bill	447
a bill regulating payments to, read twice	755	speech of, on the said bill	463
read the third time, and passed	787	on the motion to refer the Seminole reports on striking out the first section of the bill relative to the Military Establishment	529
returned from the Senate with amendments considered, and concurred in	1422	on the Seminole resolutions	531
Invalids of the Revolution, the bill of last session concerning, was taken up, and ordered to a third reading	1423	remarks of, on the motion to refer Mr. Spencer's Bank resolution	655, 663
read the third time, and passed	367		924
Irish Settlers in Illinois, Mr. Clagett submitted a resolution concerning	370	Johnson, James, of Virginia, attended	314
consideration negatived	412	speech of, on the military appropriation bill	461
Island of New Orleans, a bill from the Senate for adjusting claims to land, &c., in the district east of, read twice	413	in reply to Mr. Smith of Maryland	468
reported without amendment	1037	on the Seminole reports	620
read the third time, and passed	1153	on his resolution to repeal the Bank charter	1146, 1241
	1435	on the bill for the occupation of Florida	1430
J.		Jones, John Rice, a bill for the relief of, twice read	391
Jackson, Major General Andrew, on motion of Mr. Rhea, the Message of the President in 1816, recommending a confirmation of the grant of land made by the Creek Indians to, was referred to the Committee on Public Lands	297	a bill from the Senate of the same tenor, twice read, and referred	434
on motion of Mr. Cobb a committee was appointed to request of the President copies of any correspondence that may have passed between the Secretary of War and, as well as of any letters between the Governor of Georgia and the same	428	reported without amendment	443
a Message transmitting the report of the Secretary of War in reply	439	read the third time, and passed	1439
correspondence of, with the Governor of Pensacola	1828, 1968	Jones, Mr., of Tennessee, speech of, on the Seminole reports	704
letter from, to the Secretary of War	1973, 2008, 2069	Jones, Walter. (See <i>American Colonization Society</i> .)	
letter from, to Governor Mazot	1984	Jones, William, President of the United States Bank, the memorial of	1103
to the Commandant of St. Mark's	2014	Jouett, Matthew H. (See <i>McCalla, Robert</i> .)	
the memorial of, to the Senate, presented by Mr. Rufus King	2308	Jourdan, B., and P., a bill from the Senate for relief of,	1167
Jackson, William, Mr. Johnson, of Kentucky, presented the petition of, on behalf of the Revolutionary survivors, referred	298	read twice, and referred	1194
report thereon in full	347	reported without amendment	1423
another petition from the same, praying that the report may be acted on	1421	read the third time, and passed	1423
indefinitely postponed	1427	Judiciary, appointment of the standing Committee on the	292
Jarrett, Nicholas, a bill for the relief of, read twice &c.	540	Judicial System of the United States, a bill from the Senate further to extend the, twice read, and referred	832
Jefferson County, Virginia, a bill to authorize the Secretary of War to convey a lot of land, the property of the United States, lying in, read twice	1139	reported without amendment	935
read the third time, and passed	1147	K.	
		Kellogg, Giles, the unfavorable report, of last session, on the petition of, was concurred in	417
		Kendricks, Harman. (See <i>Denton, Little, &amp; Co.</i> )	
		Kennedy, Edmund P. (See <i>Brook, George M.</i> )	
		Kenzie and Forsyth, the bill of last session for the relief of, ordered to a third reading	541
		read the third time, and passed	545
		returned from the Senate with an amendment	1167
		read and referred	1194
		agreement reported and concurred in	1216
		Kermion, Labadoyere, a bill from the Senate for relief of, read twice, &c.	1232
		Key, F. S. (See <i>American Colonization Society</i> .)	

## House Proceedings and Debates.

	Page.		Page.
Kidd, Robert, a bill for the relief of, twice read	935	Leonard, Charles S. (See <i>Kinsley, Adam</i> .)	
ordered to a third reading	1423	Lewis, William B., the bill of last session for the relief of, ordered to a third reading	367
read the third time, and passed	1426	read the third time, and passed	370
Kindelan, Governor Sob., a letter from, to his Excellency George Cockburn	1983	returned from the Senate with amendment, and agreed to	434
King, William, the bill of last session for the relief of, ordered to a third reading	346	Library, a resolution from the Senate for a joint committee on, agreed to, and the same appointed	294
read the third time, and passed	367	a bill from the Senate to provide for the removal of the, to the north wing of the Capitol, read twice, and referred	320
King, Sampson S., the bill of last session for relief of, ordered to a third reading	434	reported without amendment, read a third time, and passed	321
read the third time, and passed	436	Lincoln, Enoch, of Massachusetts, elected in place of Mr. Parria, resigned, was qualified, &c.	290
returned from the Senate with an amendment, and concurred in	832	speech of, on the motion to reconsider the vote rejecting the bill for the relief of Du-four and others	432
Kinsley, Adam, and Thomas French, the bill of last session for relief of, was taken up, amended by adding the name of C. S. Leonard, and ordered to third reading	515	on the military appropriation bill	468
read the third time, and passed	541	Linn, John, of New Jersey, attended	289
		remarks of, on his resolution concerning the migration of slaves	336
L.		Little Prince, Tustanuggee, a talk from, to the American commander in the Indian nation	1974
Lacock, Mr., strictures on the report by, on the Seminole war	2350	Live Oak Timber, a bill authorizing the purchase of, read twice	437
reply of, to the same	2369	a bill from the Senate of the same tenor	1217
Lafitte, commandant at Barrataria, letter from Colonel Nicholls, to	1948	read twice, and referred	1237
Lambert, William, Mr. H. Nelson presented the memorial of, referred	298	reported without amendment	1402
report of the committee thereon	1403	Livermore, Arthur, of New Hampshire, attended	289
(See <i>Longitude of the Capitol</i> .)		remarks of, on the bill granting a pension to General Stark	338
Lancaster, Joseph, on motion of Mr. Bassett, was admitted to a seat within the bar of the House	787	on the resolution to repeal the act to establish the districts of Memphremagog, Oswegatchie, &c.	345
the Speaker presented a letter from, expressing gratitude, &c.	1037	on the appropriation for Trumbull's paintings	1144
Land Laws, on motion of Mr. Poindexter, the Clerk was directed to furnish to each of the standing committees, a copy of the	320	speech of, on the Seminole reports	1191
Land and Naval Service, a bill to provide for certain persons engaged in the, read twice, and referred	1236	Longitude of the Capitol, the Speaker presented a letter from Mr. Lambert, accompanied with two hundred copies of abstracts of calculations to ascertain the	1188
Lands Sold, northwest of Ohio river, a letter from the Secretary of the Treasury transmitting statements of, &c.	418	a joint resolution authorizing the President to cause astronomical observations to be made to ascertain the, read twice	1403
Languille, Francis B., a bill from the Senate for relief of	1411	read the third time, and passed	1410
twice read, and referred	1417	Loomis, Jairus, correspondence of, with Commodore Patterson	1978
reported with an amendment	1431	Louisiana, a bill for the final adjustment of certain land claims in Missouri Territory and State of, read twice	343
Latitude of 36° 30' N., a resolution from the Senate requesting the President of the United States to employ an artist to ascertain the, on the west bank of Tennessee river	1403	report from the Secretary of the Treasury, with a draft of a bill, referred	366
read twice, and referred	1410	a bill explanatory of the act for the final adjustment of land titles in Missouri Territory and, read twice	389
reported with amendments; laid on the table	1431	ordered to a third reading	547
Latrobe, Benjamin H., the Speaker presented a letter from, referred	443	read the third time, and passed	551
Lawrence, William, the report on the petition of, made at last session, was referred to the Secretary of War	341	returned with amendments	1421
Lawyer, Mr., of New York, attended	289	considered, and concurred in	1422
remarks of, on the report in the case of Giles Kellogg	417	Lovell, J., Surgeon General, report of, on the Army rations	2391
Lee, Richard Bland, the Speaker presented a letter from, enclosing the claim of Jacob Dox, referred to the Committee of Claims	312	Lower Creek Nation, petition of the, to Governor Cameron	2049
Lefevre, Joseph, a bill from the Senate for the relief of, read twice	1432	Lowndes, William, of South Carolina, attended	314
Leftwich, Adjutant General, copy of a letter from, to General Gaines	2142		



## House Proceedings and Debates.

	Page.		Page.
Lowndes, William—continued.		Medical Society of the District of Columbia, the	
speech of, on Mr. Spencer's bank resolutions	328, 334	bill of last session to incorporate the, was taken up, and ordered to a third reading	436
on the military appropriation bill	470, 485	read the third time, and passed	438
on the Seminole reports	912	returned from the Senate with amendments	1140
remarks of, on the motion to postpone the same indefinitely	1133	considered, and concurred in	1146
on an item in the appropriation bill	1143	Mercer, Charles F., of Virginia, attended	289
speech of, on the resolution to repeal the bank charter	1283	remarks of, on his resolution relative to the slave trade	442
Lucas, John B. C., and Clement B. Penrose, a bill for the relief of, read twice	398	on taking up the military appropriation bill	446
ordered to a third reading	541	speech of, on the said bill	457
Luengo, F. Caso Y., Commandant of St. Mark's, the defence of	1993	remarks of, on a proposed amendment	474
letter from, to General Jackson	2200	speech of, on the construction of military roads	483
Eyon, Matthew, the Speaker presented the memorial of, referred	297	remarks of, on the motion to refer the Seminole reports	529
adverse report thereon	312	on the resolution respecting a monument to De Kalb	721
		speech of, on the Seminole resolutions	797
M.		Merchandise and Tonnage, a letter from the Secretary of the Treasury to the chairman of the Committee of Ways and Means, with statements of the gross amount of duties on, for a specified period	1036
Mackay, James, a letter from the Secretary of the Treasury in reference to	429	Merrill, Orsamus C., of Vermont, attended	289
a bill for the relief of, read twice	580	Merrill, Joseph, on motion of Mr. Wilkin, the claim of, as assignee of John Cameron, was referred to the Committee on Pensions, &c.	479
Macay, William P., of Pennsylvania, attended	289	Message, the President's annual (in Senate proceedings)	11
remarks of, on the bill granting a pension to General Stark	337	on motion of Mr. Taylor, the, was referred to appropriate committees	292
on a resolution concerning the documents relating to Arbuthnot and Ambrister	368	Michigan Territory, on motion of Mr. Johnson, of Kentucky, a committee was appointed to inquire into the expediency of allowing a delegate in Congress to	295
Macay, William, of Pennsylvania, attended	295	a bill to authorize the election of a delegate from, read twice	312
Macomb, Alexander, a bill from the Senate confirming the claim of	1167	ordered to a third reading	425
read twice	1194	read the third time, and passed	429
ordered to a third reading	1216	returned from the Senate with amendments, and concurred in	1037
read the third time, and passed	1237	Middleton, Henry, of South Carolina, attended	290
Madrid, a Message from the President, transmitting a copy of his proclamation of the convention concluded at	444	Milford and Oswego Turnpike Company, Mr. Wilson, of Pennsylvania, presented the petition of the	314
Major Generals, Mr. Mercer submitted a resolution instructing the Military Committee to prepare a report to reduce the number of, to one	465	Military Academy, on motion of Mr. Rich, the Secretary of War was instructed to report at next session a copy of the rules and regulations for the	1418
Manly, Daniel, and Aaron Walker, the adverse report, at last session, on the petition of, was considered and concurred in	313	Military Affairs, appointment of a select committee on	293
Manufactured Articles, a bill to increase the duties on certain, imported, read twice, and referred	911	Military Establishment, report from the Secretary of War on the subject of the	399
Manumission of Slaves, Mr. Irving presented the memorial of the New York Society for promoting the, referred	430	a bill concerning the, read twice	422
referred to the Committee of Foreign Affairs that committee discharged, and subject referred to Committee of the Whole	551	first section struck out, and bill laid on the table	540
Marr, George W. L., of Tennessee, attended	427	Military Land Warrants, a bill allowing further time for issuing and locating, read twice	597
Mason, Jonathan, of Massachusetts, attended	289	read the third time, and passed	630
remarks of, on the Massachusetts claim	419	Military Punishments, on motion of Mr. Harrison, the Judiciary Committee were instructed to inquire into the expediency of providing by law for	912
Mason, James B., of Rhode Island, attended	323	Military Service, a bill making a partial appropriation for the, and to make good a deficit in former appropriations, read twice	342
Massachusetts Claim, discussion of the	419		
Mayhew, Thaddeus, the bill of last session for relief of, was taken up, amended, and ordered to a third reading	422		
read a third time, and recommitted	422		
report thereon	430		
Mazot, Jose, Governor of West Florida, copy of a note from	1846		
letter from, to Major White Youngs	1848		
correspondence of, with General Jackson 1848, 1994, 2203, 2210			

## House Proceedings and Debates.

	Page.		Page.
Military Service—continued.		Missouri, Legislature of—continued.	
bill ordered to a third reading	346	the Speaker presented the memorial of the Legislature of, praying to be admitted into the Union, &c. referred	418
read the third time, and passed	367	a bill to enable the people of the, to form a State government, &c., read twice	1166
a bill making appropriations for the, for the year 1819, twice read	425	debate on the bill	1170
ordered to a third reading	514	ordered to a third reading	1216
read the third time, and passed	530	read a third time, and passed	1217
returned from the Senate with amendments considered, and concurred in	831	returned from the Senate with amendments, which were all concurred in except one	1435
Military Services during the late War, on motion of Mr. Sawyer, the Military Committee were instructed to inquire whether any alterations or amendments are necessary in the act making provision for	336	both Houses adhere, and the bill lost	1438
Military Sites, on motion of Mr. Whitman, the Military Committee were instructed to inquire into the expediency of authorizing the sale of certain	546	a bill to establish a separate Territorial government for the southern part of, read twice, &c.	422
a bill to authorize the sale of certain, read twice	1426	Mitchell, David B., copy of a letter to, from A. Arbuthnot	2050
read the third time, and passed	1433	extract of a letter from, to the Secretary of War	2064, 2140, 2289
Militia, appointment of a select committee on the organization and discipline of the	293	extract of a letter from, to George Graham, acting Secretary of War	2154
a bill for the organization of the, read	545	extract of a letter from, to General Gaines	2290
Mr. Harrison's report on the organization and discipline of the	2401	answer in writing of, to certain interrogatories put by the Senate committee on the Seminole campaign	2291
Miller, Stephen D., of South Carolina, attended	415	Mobile, adverse report on the petition of sundry inhabitants of, concurred in	319
speech of, on the military appropriation bill	510	Montgomery, Alexander, on motion of Mr. Poin-dexter, the Committee on Public Lands were instructed to inquire into the expediency of authorizing the land officers west of Pearl river to receive additional evidence in the case of the claim of the legal representatives of	345
Miller, P. M., letter from, to General Jackson	2350	a bill for the relief of the legal representatives of, read twice, and referred	391
Mills, Elijah K., of Massachusetts, attended	366	reported without amendment	418
speech of, on the appropriation for military roads	484	read the third time, and passed	422
remarks of, on the resolution relating to the instigating the Indians, &c.	548	Moore, Samuel, of Pennsylvania, elected in place of Mr. Ingham, resigned, was qualified, and took his seat	290
on the appropriation for Trumbull's paintings	1144	Moore, Robert, of Pennsylvania, attended	289
Milne, Alexander, a bill from the Senate for the relief of, read twice	1482	remarks of, on his motion respecting the Pittsburgh and Waterford road	1075
Milne, Sir David, rear admiral, &c., correspondence of, with Captain Chambers, of His Britannic Majesty's ship Dee, in relation to the fisheries	1499	Morgan, William. (See Armstrong, John.)	
Minis, Isaac, and others, a bill for the relief of, read twice	1139	Morton, Marcus, of Massachusetts, attended	289
read the third time, and passed	1147	Moseley, Jonathan O., of Connecticut, attended	289
Minors, enlisted, on motion of Mr. Walker, the Military Committee were instructed to inquire into the expediency of providing for granting the land bounty to	542	Moss, Daniel, a bill for the relief of, read twice	479
Mint, report of the Director of the	370	read the third time, and passed	488
Mississippi, on motion of Mr. Poindexter, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of giving effect to a law of the State of	312	Muhlenberg, Major, copy of a letter to, from General Gaines	2068
the memorial of the Legislature of, praying an extension of limits, was, on motion of the same, referred to the committee on the admission of Alabama Territory	370	Mumford, George, of North Carolina, attended	290
a bill from the Senate granting land to, for certain purposes, was read twice	1147	the death of, announced to the House, &c.	436
ordered to a third reading	1153	Mumphremagog, &c., on motion of Mr. Livermore, the Committee of Ways and Means were instructed to inquire into the expediency of repealing the act establishing the districts of	345
read the third time, and passed	1155	Murder Creek, reply of General Gaines to the inhabitants of	2144
Missouri, Mr. Robertson, of Kentucky, submitted a resolution for a committee to inquire into the expediency of creating a separate territorial government on that part of, called the Arkansas country	413	Muscle Shoals, Mr. Blount presented the petition of sundry inhabitants of East Tennessee, praying an appropriation to defray the expense of removing obstructions to the navigation in the, referred	398
agreed to, and a committee appointed	414	Muscogee Nation, address of the chiefs of the, to the King of England	1961
(See Arkansas Territory.)		Muse, Lawrence, the petition of, referred to the Committee of Ways and Means	1037



## House Proceedings and Debates.

	Page.		Page.
McCalla, Robert, and Matthew H. Jouett, a bill for the relief of, read twice - - -	754	Navy—continued.	
read the third time, and passed - - -	787	bill read the third time, and passed - - -	426
returned from the Senate with an amendment - - -	1422	returned from the Senate with amendments - - -	832
considered and concurred in - - -	1423	considered and concurred in - - -	872
McCarty, Edward, a bill from the Senate for relief of - - -	1167	Navy Agents, on motion of Mr. Tallmadge, the Naval Committee were instructed to inquire into the expediency of increasing the amount of security required from - - -	340
read twice, and referred - - -	1194	a bill concerning, read twice - - -	443
reported without amendment - - -	1216	a letter from the Secretary of the Navy, with a list of, who have discharged the balances against them - - -	935
McCauley, Matthew, adverse report on the petition of - - -	430	Navy Pension Fund, sundry statements from the Secretary of the Navy, showing the condition of the - - -	299
McCauland, John, a bill for the relief of, read twice - - -	935	additional papers from the same on the subject of the - - -	385
ordered to a third reading - - -	1423	a letter from the same, with the annual report of the Commissioners of the - - -	515
read the third time, and passed - - -	1426	report of the Naval Committee thereon - - -	1432
McCoy, William, of Virginia, attended - - -	289	Negro Fort, East Florida, a letter from the Secretary of the Navy, with sundry papers relating to the destruction of the - - -	922
McDonald, Captain James, a bill authorizing the equitable settlement of the accounts of the State, twice read, &c. - - -	580	Nelson, Thomas M., of Virginia, attended - - -	291
McGregor, Sir Gregor, translation of the commission of, as Brigadier General in the service of the united provinces of New Granada and Venezuela - - -	1612	remarks of, on the bill extending the time of pensions to widows, &c. - - -	394
McIntosh, Lachlan, and others, Mr. Cobb presented the petition of the Legislature of Georgia, praying that the lands granted to, as commissioners appointed by said State for surveying certain lands, &c., may be confirmed, referred - - -	341	on the bill regulating pensions - - -	415
McIntosh, John N., letter from, to the Hon. A. Lacock - - -	2288	speech of, on the Seminole reports - - -	615
McKeever, Lieutenant J., affidavit of - - -	2336	Nelson, Hugh, of Virginia, attended - - -	289
McLane, Lewis, of Delaware, attended - - -	291	presented the memorial of William Lambert - - -	298
remarks of, on the motion to inspect the books of the United States Bank, &c. - - -	319	speech of, on the military appropriations - - -	502
speech of, on his amendment of the same - - -	325	Nelson, Jeremiah, of Massachusetts, attended - - -	295
speech of, on the bill for erecting a Territorial government in Arkansas - - -	1227	Nesbit, Wilson, of South Carolina, attended - - -	370
speech of, on the motion to repeal the Bank charter - - -	1330	Neuville, Baron Hyde de, a paper received from, by the Secretary of State - - -	2123
McLean, John, of Illinois, was qualified, &c. - - -	342	a letter from, to the same - - -	2127
report of the Committee of Elections, confirming the election of - - -	349	Newspapers, on motion of Mr. Newton, the Clerk was directed to furnish the usual number of, to members - - -	291
McMinn, Joseph, extract of a letter from Governor, to General Jackson - - -	2346	Newton, Thomas, of Virginia, attended - - -	289
McNeil, Joseph, a bill from the Senate for relief of - - -	1411	named chairman of the Committee of Commerce and Manufactures - - -	292
read twice, and referred - - -	1417	remarks of, in explanation of the bill concerning foreign seamen - - -	359, 362
N.		on the bill to regulate passenger ships - - -	414
Naming the Vessels of the Navy, a joint resolution prescribing the manner of, twice read - - -	1282	on the Massachusetts claim - - -	421
read the third time, and passed - - -	1328	New York, the bill of last session to alter the time for holding the circuit court of, which had been returned from the Senate with amendments, was indefinitely postponed - - -	545
National Bank. (See <i>Bank of the United States</i> .)		Nicholls, Colonel Edward, commanding the British forces at Pensacola, copy of the proclamation of - - -	1918
Navy, appointment of a select committee on affairs of the - - -	293	copy of a letter from, to Colonel Hawkins - - -	1950
on motion of Mr. Pleasants, the President of the United States was requested to cause to be laid before the House a statement of what had been done under the act for the gradual increase of the - - -	345	copy of a letter from A. Arbuthnot to, 2022, 2251 - - -	2251
a Message from the President, transmitting a report in reply - - -	437	copy of a letter from Robert C. Ambrister to, 2273 - - -	2273
a bill making appropriations for the support of the, for the year 1819, twice read, and ordered to a third reading - - -	423	Nimmo, William T., a bill for relief of, read twice, &c. - - -	314
		Norris, Isaac W., Mr. Sergeant presented the petition of - - -	542
		North Carolina, a joint resolution from the Senate directing a survey of certain parts of the coast of, read twice, and referred - - -	386
		reported without amendment, and ordered to a third reading - - -	428
		read the third time, and passed - - -	429

## House Proceedings and Debates.

	Page.		Page.
Officers of the Customs, on motion of Mr. Holmes, the report of the Secretary of the Treasury on the emoluments of, communicated at the last session, was referred to the Committee of Ways and Means - - -	324	Pegram, John, of Virginia, elected a Representative in place of Mr. Goodwyn, deceased, was qualified, and took his seat - - -	290
that committee discharged, and subject referred to the Committee of Commerce and Manufactures - - -	366	Pennsylvania, a bill concerning western district court of, twice read - - -	311
Ogden, David A., of New York, attended - - -	291	read the third time, and passed - - -	320
Ogle, Alexander, of Pennsylvania, attended - - -	289	a bill concerning the marshal, attorney, and clerk, of the same, read twice - - -	415
remarks of, on the bill concerning widows - - -	397	Penrose, Clement, a bill for the relief of, twice read - - -	398
Ohio, Mr. Harrison submitted a resolution concerning the sessions of the circuit court of, referred to the Judiciary Committee - - -	345	indefinitely postponed - - -	542
unfavorable report thereon - - -	398	Pension List, report from the War Department of persons placed on the - - -	322, 438
Onis, the Chevalier Don Luis, &c., correspondence of, with the Secretary of State - - -	1629, 1889, 2101	Pensions, the bill of last session regulating, ordered to a third reading - - -	415
Order, detailing the general court-martial for the trial of Arbuthnot and Ambrister - - -	2242	read the third time, and recommitted - - -	416
Ordinance, territorial, Mr. Sergeant submitted a resolution instructing the Judiciary Committee to inquire into the expediency of enacting a general, &c. - - -	547	Pensions and Revolutionary Claims, appointment of the standing committee of - - -	291
Organization of the Courts, a bill from the Senate for the more convenient, read twice, and referred - - -	598	Pensions of persons under guardianship, a bill to provide for payment of, read twice - - -	540
reported without amendment - - -	704	Perryman, George, extract of a letter from, to Lieutenant Sands - - -	2063
Orr, Benjamin, of Massachusetts, attended - - -	289	Pettibone, Daniel, the bill from the Senate for relief of, read twice - - -	1153
remarks of, on the Massachusetts claim - - -	421	laid on the table - - -	1433
Orr, James, a bill for the relief of, read twice - - -	1423	Pettit, Peter. (See <i>Cavalier, Anthony</i> .)	
read the third time, and passed - - -	1426	Pettit, John, a bill from the Senate for relief of, read twice - - -	1422
Owen, James, of North Carolina, attended - - -	291	Phenix, John Lewis, examination of, before the general court martial - - -	2270
P.		Pindall, James, of Virginia, attended - - -	290
Palmer, John, of New York, attended - - -	289	remarks of, introductory of a resolution to reconsider the rejection of the bill for the benefit of Dufour, &c. - - -	431
speech of, introductory of a resolution concerning imports from Canada - - -	440	speech of, on the military appropriations - - -	411
Parephin, Santiago, examination taken before - - -	2233	on the resolution to repeal the bank charter - - -	1251
Parkhill, Jacob, a bill from the Senate for relief of - - -	1393	in reply to Messrs. Sergeant and Lowndes - - -	1394
read twice, and referred - - -	1402	Piracy, a bill from the Senate, to protect commerce, and to punish - - -	1403
indefinite postponement recommended - - -	1421	twice read, and referred - - -	1410
Parrot, John T., of New Hampshire, attended - - -	289	reported without amendment, and ordered to a third reading - - -	1415
Passenger Ships, the bill of last session to regulate, was taken up, and ordered to a third reading - - -	415	read the third time, and passed - - -	1417
read the third time, and passed - - -	416	Pitkin, Timothy, of Connecticut, attended - - -	289
returned from the Senate with amendments - - -	1037	remarks of, on Mr. Taylor's motion for certain committees - - -	294
agreed to, with an amendment - - -	1393	on the propriety of admitting the Representative from Illinois - - -	296
Patent Office, a bill from the Senate relative to the, read twice - - -	1432	on the Beaumarchais claim - - -	321, 323
Patterson, Thomas, of Pennsylvania, attended - - -	289	on the bill extending the term of pensions to widows - - -	395
Patterson, Daniel T., a letter to, from General Gaines - - -	1976	on the Massachusetts claim - - -	421
a letter from, to Lieutenant Crawley - - -	1977	speech of, on the military appropriations - - -	480
correspondence of, with Sailingmaster Loomis - - -	1978	in defence of Colonel Trumbull - - -	1143
letter from, to the Secretary of the Navy - - -	1981	Pittsburg and Waterford Road, on motion of Mr. R. Moore, the Committee on Roads and Canals were instructed to inquire into the expediency of authorizing a subscription to the stock of the - - -	1074
Patuxent, a bill from the Senate, to increase the compensation of the surveyor of the port of, read twice, and referred - - -	392	Plan, report of a, for the organization and discipline of the militia - - -	2414
reported without amendment, and ordered to lie on the table - - -	1402	Pleasants, James, of Virginia, attended - - -	289
Pawling, Levi, of Pennsylvania, attended - - -	341	Poindexter, George, of Mississippi, attended - - -	290
Pearl River, Mr. Poindexter presented a petition of the Legislature of Mississippi, praying that a port of entry may be established at the mouth of - - -	1149	remarks of, on admitting the Representative from Illinois - - -	296
		speech of, on the resolution to admit the same - - -	308



## House Proceedings and Debates.

	Page.		Page.
Poin Dexter, George—continued.		President of the United States, Messrs. Taylor and Baldwin were appointed a committee to wait on the, and inform him of the readiness of the House to receive any communication he may have to make to them	290
remarks of, on the resolution concerning the migration of slaves	336	report that they have performed the duty	290
on the reference of certain documents from one committee to another	371	Presque Isle, on motion of Mr. Moore, the Secretary of the Navy was instructed to report at the next session touching the bar at the mouth of the harbor of	1417
on the military appropriations	486	Prevost, Solomon, a bill from the Senate for the relief of, read twice,	1422
on Mr. Cobb's resolution to refer the Seminole reports	528	Price, James, a bill for the relief of, read twice, and referred	1036
speech of, on the resolutions in that case	936	Printing for the two Houses, a joint resolution from the Senate for appointing a joint committee to consider the subject of, read three times, and passed	367
remarks of, on his motion for indefinite postponement	1133	committee appointed on the part of the House	386
on the occupation of Florida	1428	report of the joint committee concurred in	416
Poinsett, J. R., the correspondence of, with the Secretary of State, on the South American States, ordered to be printed	936	the vote of concurrence reconsidered, and the report recommitted	418
Poiry, M., the bill of last session for the relief of, was taken up, and ordered to a third reading	545	same report again handed in	435
read the third time, and passed	547	a joint resolution from the Senate directing the manner of, &c., was read three times, and passed	1436
Polerezky, John L., Mr. Gage presented the petition of, referred	323	Private Land Claims, appointment of the standing committee on	291
Poole, Benjamin, the bill of last session, for the relief of, was taken up, and ordered to a third reading	541	Property Lost and Destroyed, on motion of Mr. Jones, the Military Committee were instructed to inquire into the expediency of providing for the payment for	295
read the third time, and passed	544	a bill in pursuance thereof read twice, and committed	411
Porter, James, of New York, attended	292	Proposals made to General Jackson by the civil and military Governor of West Florida	2237
Porter, John, the unfavorable report on the petition of, at the last session, was considered, and concurred in	390	Prosecution of Suits, &c., a bill to authorize the, &c.	443
Ports of Entry and Delivery, on motion of Mr. Newton, the Committee of Commerce and Manufactures were instructed to inquire into the several acts establishing	389	Prout, William, a bill from the Senate authorizing, to bring suit against the Commissioner of the Public Buildings	1217
Postage, the British Minister rebukes one of his correspondents for the heavy expense for, imposed on him	2050	read twice	1237
Postmasters, on motion of Mr. Simkins, the Committee on the Post Office, &c., were instructed to inquire into the expediency of increasing the allowance to, on the main route, &c.	340	ordered to a third reading	1393
Mr. Livermore presented the petition of certain	1193	read the third time, and passed	1393
Post Office Establishment, a bill to amend the act regulating the, read twice	1282	Provident Association of Clerks, a bill to incorporate the, read twice	425
a bill from the Senate to repeal part of the act in addition to the act to regulate the	1393	ordered to a third reading	436
read twice	1402	read the third time, and passed	438
ordered to a third reading	1410	returned from the Senate with an amendment	1074
read the third time, and passed	1417	considered and concurred in	1146
Post Office and Post Roads, appointment of the standing committee on	291	Prussia, Hamburg, and Bremen, applications received from the Governments of, in relation to commercial reciprocities	1622
Post Roads, a bill to alter and establish certain, read twice	1146	Public Accounts, a bill to provide for the prompt settlement of, read twice	583
ordered to a third reading	1416	read the third time, and passed	662
read the third time, and passed	1422	Public Buildings, appointment of a select committee on the	294
returned from the Senate with amendments and concurred in	1440	a message, transmitting the report of the Commissioner of the	320
Preble, Commodore Edward, officers, and crew, the bill of last session authorizing the distribution of a sum of money among, was ordered to a third reading	391	a bill making appropriations for the, &c., read twice	464
read the third time, and passed	392	ordered to a third reading	1411
Pre-emption Rights, the Speaker presented a petition of the Legislature of Missouri relative to	703	read the third time, and passed	1418
he also presented another, relating to their additional judge	703	Public Expenditures, appointment of the standing committee on	291

## House Proceedings and Debates.

	Page.		Page.
Public Lands, appointment of the standing committee on	291	Revisal and Unfinished Business, appointment of the standing committee on	292
Public Printing, the report of the joint committee on, considered and concurred in, and a committee appointed to carry the same into effect	1418	Revolutionary Survivors, a select committee appointed to consider and report on the laws concerning	293
Q.		Mr. Storrs presented the petition of the Governor of New York, and others, in behalf of, referred to same committee	391
Quarles, Tunstall, of Kentucky, attended	290	Rhea, John, of Tennessee, attended	290
remarks of, on the indefinite postponement of the Seminole report	1134	remarks of, on Mr. Holmes's resolution	372
R.		on his motion to amend the military appropriation bill	478
Rabun, William, Governor of Georgia, a letter from, to the Secretary of War on the subject of Captain Obed Wright's attack on an Indian village	2381	speech of, on the Seminole report	855
letter from General Jackson on the same subject	2382	remarks of, on the motion to postpone the same indefinitely	1135
Rations, report of the Surgeon General on the army	2391	Rich, Charles, of Vermont, attended	289
Receipts and Expenditures, annual statement of the, from the Secretary of the Treasury	292	remarks of, on the bill extending the pension term to widows, &c.	395
Receivers and Registers, on motion of Mr. Herrick, the Committee on Public Lands were instructed to inquire into the expediency of amending the act changing the compensation of	390	on the resolution to repeal the Bank charter	1141
a bill from the Senate to fix the salaries of	1411	Richards, Mark, of Vermont, attended	289
read twice, and referred	1417	Ring, Hannah, and Luther Frink, a bill for relief of, read twice	428
indefinitely postponed	1431	ordered to a third reading	788
Reduction of the Army, Mr. Williams, of North Carolina, submitted a motion that the Military Committee be instructed to inquire into the expediency of a	390	read the third time, and passed	832
considered and agreed to	1140	returned from the Senate with amendments, and concurred in	1433
committee discharged from its further consideration	1149	Ringgold, Samuel, of Maryland, attended	344
Reed, Philip, of Maryland, attended	289	Roads and Canals, a report from the Secretary of War, concerning	544
remarks of, on taking up the military appropriations	450, 478	a letter from the same on the subject of constructing	2443
on his resolution respecting the memorial to De Kalb	722	Robertson, George, of Kentucky, attended	290
speech of, on the Seminole report	1061	remarks of, introductory of a resolution relative to the creation of a separate territorial government for a part of Missouri	413
Reed, Robert Raymond, of Georgia, elected to supply the place of J. Forsyth, resigned, was qualified, &c.	1236	Rockville and Washington Turnpike Company, Mr. Herbert presented the petition of, referred	424
Reed, William, a bill for relief of the heirs of, read twice	1282	a bill to authorize the Company to extend their road through the District of Columbia read twice, and committed	434
read a third time, and rejected	1328	ordered to a third reading	444
vote reconsidered, and bill laid on the table	1393	read the third time, and passed	445
Regnier, John B., a bill for the relief of, read twice, &c.	435	Rodriguez, John, a bill from the Senate for relief of, read twice, &c.	1417
Relinquishment of Bounty Lands, a bill concerning the allowance of pensions upon a, read twice	1152	Rogers, Thomas J., of Pennsylvania, attended	289
read the third time, and passed	1155	Ruggles, Nathaniel, of Massachusetts, attended	289
Renner and Heath, the bill of last session, for the relief of, was taken up and ordered to a third reading	424	Rush, Richard, acting Secretary of State, correspondence of, with Mr. Bagot	1496
read the third time, and passed	425	letters from, as Minister at London, to the Secretary of State, 1507, 1572, 1578, 1587	
returned from the Senate with an amendment, and concurred in	832	S.	
Reply, Mr. Lacock's, to the strictures on his report, copied from the National Intelligencer	2369	Salaries of certain officers, a bill from the Senate to increase the	325
Revenue, a bill in addition to the act to regulate the collection of, read twice, and committed	324	read twice, and committed	336
		blanks filled and reported to the House	1149
		ordered to a third reading	1152
		read a third time, and passed	1154
		Sale of Public Lands, Mr. Simkins offered a resolution concerning the	347
		agreed to, and referred to the Secretary of the Treasury	386
		a bill from the Senate making further provision for the, twice read and referred	1272
		reported with an amendment	1409
		ordered to lie on the table	1439







## House Proceedings and Debates.

	Page.	Yeas and Nays—continued.	Page.
Williams, Lewis—continued.		on the third reading of the bill to extend for a further term certain pensions -	397
remarks of, introductory of his motion respecting a reduction of the Army -	390	on indefinite postponement of the same -	408
remarks of, on the report in case of Kellogg	417	on recommitting the same with instructions on the final passage of the same -	409
remarks of, on taking up the military appropriations -	446, 449	on the third reading of the bill for the benefit of Dufour and associates -	427
speech of, on the bill making the same	460, 480	on the question of its passage -	429
Williams, James. (See Gooding, John.)		on the third reading of the bill for relief of E. Stevens and others -	433
Williams, Thomas S., of Connecticut, attended	289	on the appropriation for military roads -	514
speech of, on the Seminole reports -	1077	on the final passage of the Military Appropriation bill -	530
Williams, George, a director in the Bank of the United States, the Speaker presented the memorial of -	1167	on concurring with the Committee of the Whole in the resolution concerning the execution of Arbuthnot -	1136
Wilson, John, of Massachusetts, attended	291	on concurring with the Committee of the Whole in the case of Ambrister -	1136
Wilson, William, of Pennsylvania, attended	289	on indefinite postponement of the question on Mr. Cobb's resolution -	1137
Wilson, Thomas, a bill in addition to the act for relief of, twice read -	1282	on amending the item of appropriation for the Cumberland road -	1138
read the third time, and passed -	1328	on indefinite postponement of the bill to increase certain salaries -	1150
Windmill Point, on motion of Mr. Newton, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of erecting a lighthouse on -	398	on the final passage of the same -	1151
Wines, &c., a bill to reduce the duty on certain, read twice -	366	on laying on the table Mr. Williams's resolution to reduce the Army -	1154
laid on the table -	1402	on Mr. Tallmadge's motion to amend the Missouri bill -	1165
taken up, and ordered to a third reading -	1411	on the third reading of said bill -	1214
read the third time, and passed -	1417	on amending the Arkansas bill 1237, 1238, 1239	1215
Witnesses, on motion of Mr. Spencer, a message was sent to the Senate to request of that body to permit two of its members to attend a committee of the House, as -	787	on recommitting the same -	1272
a message from the Senate according permission -	871	on amending the Missouri bill -	1273, 1280
Worthington, Gad, a bill for the relief of, twice read -	322	on concurring in the rejection of the resolution to repeal the Bank charter -	1411
Wright, Obed, on motion of Mr. Storrs, a committee was appointed to request of the President copies of any correspondence which may have passed between the Governor of Georgia and General Jackson relative to the arrest of -	385	on concurring in the rejection of Mr. Trimble's motion for a <i>scire facias</i> -	1412
a message transmitting the correspondence asked for -	392	on Mr. Johnson's motion to add a new section to the Bank bill -	1414
copies of the documents on the subject of -	2383	on the third reading of the said bill -	1415
Wright, Major Clinton, letter from, to General Gaines -	2167	on the Senate resolution to amend the Constitution -	1420
Y.		on indefinite postponement of the Missouri bill -	1433
Yeas and Nays, on the final passage of the resolution to admit Illinois -	311	on concurring in the Senate's amendment to the same -	1434
on amending the resolution concerning the Bank -	335	on adhering to the rejection of the Senate's amendment -	1438
on the third reading of the half-pay Pension bill -	384	on the second reading of the Senate bill to establish a new land office in Illinois -	1441
on recommitting the bill concerning widows of militia -	387	Young, Major W., copy of a note to, from Governor Mazot -	2205
Z.			
Zuniga, Mauricio de, copy of a letter from, to General Jackson -	1822, 2225		

## Public Acts and Resolutions.

## PUBLIC ACTS AND RESOLUTIONS.

	Page.		Page.
A.		G.	
Additional Agent for paying Pensions, an act to authorize the Secretary of War to appoint an, in the State of Tennessee -	2531	Government, an act making appropriations for the support of, for the year 1819 -	2505
Alabama Territory, an act to enable the people of, to form a constitution and State government -	2498	H.	
Alleghany Mountains, a bill to establish a judicial district in Virginia, west of the -	2475	Half-pay Pensions, an act extending the term of, in certain cases -	2513
Arkansas, an act to establish the Territory of -	2502	I.	
Armstrong, General, an act directing payment of certain bills drawn by, in favor of William Morgan -	2488	Illinois, an act to provide for the due execution of the laws of the United States within the State of -	2514
B.		an act granting a donation of land to the State of, for the seat of government of said State -	2535
Bank of the United States, an act to enforce the provisions of the act to incorporate the subscribers to the -	2521	a joint resolution declaring the admission of the State of, into the Union -	2548
a joint resolution authorizing the transmission of the documents accompanying the report of the committee to examine into the proceedings of the, free of postage -	2550	Imported Salt, an act in addition to and alteration of an act laying a duty on, granting a bounty on pickled fish, &c. -	2531
Boundaries of Districts, &c., an act to designate the, in the States of Ohio and Indiana -	2532	Indiana, an act respecting the location of certain sections of land to be granted for the seat of government in the State of -	2526
C.		Indian Tribes, an act making provision for the civilization of certain -	2527
Clerks, an act to increase the number of, in the Department of War -	2473	Invalid Pensioners, an act regulating payments to -	2524
(See <i>Provident Association of</i> .)		Invalid Pensions, an act concerning -	2537
Coasting Trade, an act supplementary to the act concerning the -	2501	J.	
Coins of Great Britain, France, Portugal, and Spain, an act to continue in force an act regulating the currency within the United States of the gold, &c. -	2536	Jefferson County, Virginia, an act to authorize the Secretary of War to convey a lot of land in -	2532
Creek Nation, an act authorizing the sale of certain lands reserved to certain chiefs, warriors, &c., of the -	2486	Jervy, Thomas Hall, an act for the relief of -	2490
D.		K.	
Deaf and Dumb, an act for the benefit of the Connecticut Asylum for the -	2513	Kenzie and Forsyth, an act for the relief of -	2490
Documents, a joint resolution authorizing the transmission of certain, free of postage -	2549	Kinsley, Adam, Thomas French, and Charles S. Leonard, an act for the relief of -	2487
E.		L.	
Eastern Branch Bridge Company, an act to incorporate the -	2492	Library of Congress, an act to provide for the removal of the, to the north wing of the Capitol -	2473
Errors in making entries of land at the Land Offices, an act providing for the correction of -	2536	Lighthouses, Beacons, and Buoys, an act to authorize the building, erecting, and placing, &c. -	2546
F.		Louisiana, an act explanatory of the act for the final adjustment of land titles in the State of, and Territory of Missouri -	2527
False Entries for the benefit of Drawback, an act to provide additional penalties for -	2490	M.	
Fatigue Duty, an act to regulate the pay of the Army when employed in -	2496	Medical Society of the District of Columbia, an act to incorporate the -	2480
Fire Engines, &c., an act authorizing the purchase of -	2536	Michigan Territory, an act authorizing the election of a Delegate to Congress from -	2479
Florida, East and West, an act to authorize the President to take possession of, and to establish a temporary government therein -	2534	Military Land Warrants, an act allowing further time to complete the issuing and locating of -	2491
Forfeiture of Lands, an act to suspend for a limited time the sale or, for failure to complete payments, &c. -	2520	Military Service, an act making partial appropriations for the, &c. -	2473
		an act making appropriations for the year 1819 for the -	2476
		Military Sites, an act authorizing the sale of certain -	2531



*Public Acts and Resolutions.*

N.	Page.		Page.
Naming Vessels in the Navy, a joint resolution declaring the manner of	2552	Ring, Hannah, and others, an act for the relief of	2513
Navy, an act making appropriations for the support of the, for the year 1819	2482	Rockville and Washington Turnpike Company, an act to authorize the, to extend their road through the District of Columbia	2478
New Orleans, an act for adjusting claims to land, &c., in the districts east of the Island of	2539	S.	
North Carolina, a joint resolution directing a survey of certain parts of the coast of	2549	Salaries of certain Officers of the Government, an act to increase the	2486
P.		Seybert's Statistical Annals, and Pitkin's Commercial Statistics, a joint resolution for the distribution of the former, and directing the latter to be deposited in the Library	2549
Passenger Ships and Vessels, an act regulating	2496	Slave Trade, an act in addition to the acts prohibiting the	2544
Patents, an act to extend the jurisdiction of the circuit courts of the United States, to cases arising under the law relating to	2478	Steamboats, an act authorizing the Postmaster General to contract for carrying the mail, between New Orleans and Louisville, in	2505
Pennsylvania, an act concerning the Western District court of	2474	Stuart, Phoebe, an act for the relief of	2512
Piracy, an act to protect commerce and to punish the crime of	2524	T.	
Poirer, M., an act making provision for the claim of	2490	Tonnage and Discriminating Duties, an act in addition to the act concerning	2522
Post Office Establishment, an act to repeal part of an act, in addition to an act regulating the	2548	Trading-Houses with the Indian Tribes, an act to continue in force for a further time the act establishing	2524
Post Roads, an act to alter and establish certain	2515	Treasury Notes lost or destroyed, an act to authorize payment in certain cases on account of	2475
Preble, Commodore Edward, an act to authorize the distribution of a sum of money among the representatives of, and officers and crew of the Syren	2476	Turner, Thomas, an act concerning the heirs and legatees of	2490
Printing of Congress, joint resolutions directing the manner in which the, shall be executed, &c.	2550	V.	
Provident Association of Clerks, &c., an act to incorporate the	2482	Vienne, M. de, an act making provision for the claim of	2491
Public Accounts, an act supplementary to the act to provide for the prompt settlement of	2491	W.	
Public Buildings, an act making appropriations for the, &c.	2526	Washington, an act supplemental to the act to amend the charter of the City of	2488
R.		Washington Turnpike Company, of Maryland, an act supplemental to the act to authorize the, to extend their road, &c.	2515
Relinquishment of Bounty Lands, an act concerning the allowance of pensions upon a	2535	Wines, an act to regulate the duties on certain	2525